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OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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NATIONAL CAPITAL BUSINESS PARK : Case No. A-9968-03
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A hearing in the above-entitled matter was held on
February 23, 2022, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Joyce Nichols
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Robert Antonetti, Esq.

On Behalf of People's Zoning:

Stan Brown

* * * * *

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MS. NICHOLS: Fatima, just be prepared to pull up Exhibit 41, that's going to pull up first. Okay.

MS. BAH: Okay, Joyce, I am ready if you're ready.

MS. NICHOLS: Okay. I am ready.

MS. BAH: Hold it, hold it, hold it, my start button won't go. We're on. Thank you.

MS. NICHOLS: Okay. Thank you so much. All right. Good morning everybody, we had some technical difficulties there, which has been, well they've been worked out. And it is the 23rd of January, excuse me, February, let's get the right date, 23rd of February. We are here for application A-9968-03. Mr. Antonetti, good to see you.

MR. ANTONETTI: Good morning, Madam Examiner. Good morning, Mr. Brown.

MS. NICHOLS: And you can just proceed.

MR. ANTONETTI: Okay. Thank you. Again, good morning. For the record, my name is Robert Antonetti with the law firm of Shipley and Horne, P.A. With me today is my partner, Arthur J. Horne, and our senior paralegal and land planner, Mr. John Ferrante. Together we're pleased to represent the applicant NCBP Property, LLC, for the project known as the National Capital Business Park. Today with us we have members of our development team, four of which will be testifying today. We have Mr. Cole Schnorf,

1 representative of the applicant, Mr. Chris Rizzi from Bohler
2 Engineering, Mr. Mike Lenhart from Lenhart Traffic
3 Consultants and Mr. Mark Ferguson, land planner with Site
4 Design, Inc.

5 The applicant for this Basic Plan Amendment is
6 NCBP Property, it's the same applicant for the previous
7 Basic Plan Amendment, A 9968-02, approved by the District
8 Council on April 12, 2021.

9 Please note that the applicant continues to be in
10 good standing with the State Department of Assessments and
11 Taxation as reflected in I believe is marked as Exhibit 42,
12 certificate of good standing.

13 Madam Examiner, you're likely very familiar with
14 this project as you presided over the public hearing and
15 drafted the decision in A-9968-02, approving with conditions
16 up to 3.5 million gross square feet of E-I-A uses in the R-S
17 Zone portion of the property. Such uses are allowed
18 pursuant to the current Zoning Ordinance and authorized per
19 legislation styled CB-22-2020 which amended regulations in
20 the R-S Zone to allow E-I-A uses on certain qualifying
21 properties within the county. The subject property does
22 qualify within the county, I'm sorry within the Zoning
23 Ordinance provisions as mentioned and allows for these types
24 of uses to be placed within the National Capital Business
25 Park.

1 The proposal before you today simply follows the
2 same procedure and looks for the same types of uses, but
3 looks for more of those uses, specifically the prior Basic
4 Plan approved 3.5 million gross square feet, we are
5 currently requesting 5.58 million gross square feet of
6 warehouse distribution, office, light industrial
7 manufacturing and/or institutional use. It's the same use
8 types that were approved in the prior application but we're
9 requesting 2 million gross square feet more as a maximum in
10 the approved land use quantities for the project.

11 It should be noted that there continues to be no
12 retail commercial proposed for the National Capital Business
13 Park as part of this application. You'll hear testimony
14 today that the total potential or maximum square footage for
15 the project will occur within the same limits of disturbance
16 proposed in previous entitlement applications. You will
17 also hear testimony that the potential for such square
18 footage will likely be achieved via multistory buildings or
19 structures with above ground mezzanine space.

20 Further, the National Capital Business Park will
21 continue to provide the 20 acre public park required
22 pursuant to the Prince George's County Zoning Ordinance
23 provisions and maintain its street connections for
24 employment uses directly through the adjacent Collington
25 Employment --

1 MS. NICHOLS: Rob, I think you're frozen.

2 MR. FERRANTE: Arthur, do you have a copy of his
3 text?

4 MR. HORNE: I don't have a copy, but Madam
5 Examiner, I will text him or call him and let him know that
6 he's frozen. This is Arthur Horne, speaking.

7 MS. NICHOLS: Yes. Yes, thank you.

8 MR. HORNE: Yes.

9 MR. FERRANTE: I just texted him, Arthur.

10 MR. HORNE: Okay.

11 MS. NICHOLS: It must be his location, because
12 he's the only one that's having difficulty.

13 MR. HORNE: Yes.

14 MR. FERRANTE: It's odd though because we have
15 multiple meetings with him and haven't had this problem with
16 him before.

17 MR. HORNE: (Sound.)

18 MS. NICHOLS: It may be the GoTo Meeting format.

19 MR. HORNE: There you go, okay, thank you. It's
20 going to dial, and maybe he can dial in. GoTo Meetings has
21 a dial in as well, correct?

22 MS. NICHOLS: Yes. Yes, they do and I don't need
23 to see him necessarily. There he is. All right. There you
24 are, Rob.

25 MR. ANTONETTI: Am I back?

1 MR. HORNE: Yes.

2 MS. NICHOLS: Yes.

3 MR. ANTONETTI: I am so sorry. I have now
4 switched to another device. We've been having some power
5 outages up here in my hometown. So I apologize for that.

6 So without further ado, I think that's technology
7 telling me to get on it on with it, so I will. If I could
8 call Mr. Rizzi as the first witness in this case.

9 MS. NICHOLS: All right. Mr. Rizzi, I need to
10 swear you in, please.

11 MR. RIZZI: Good morning, Madam Examiner.

12 MS. NICHOLS: Good morning. Could you please
13 raise your right hand? Thank you. Do you solemnly swear
14 under the penalties of perjury in the matter now pending to
15 tell the truth, the whole truth and nothing but the truth?

16 MR. RIZZI: I do.

17 MS. NICHOLS: Thank you. Please state your name
18 and business address for the record.

19 MR. RIZZI: My name is Christopher Rizzi and my
20 business address is Bohler, 16701 Melford Boulevard, in
21 Bowie, Maryland 20715.

22 MS. NICHOLS: Thank you.

23 MR. ANTONETTI: And Mr. Rizzi, what is your
24 position with Bohler Engineering?

25 MR. RIZZI: I'm an associate as well as Divisional

1 Director of Landscape Architecture and Planning for the Mid-
2 Atlantic Region.

3 MR. ANTONETTI: Thank you. Have you provided
4 testimony as a landscape architect before the Zoning Hearing
5 Examiner and did you testify in the prior Basic Plan
6 Amendment of this property?

7 MR. RIZZI: Yes to both of those questions.

8 MR. ANTONETTI: Okay. Madam Examiner, Mr. Brown,
9 I'd like to move Mr. Rizzi as an expert in landscape
10 architecture.

11 MS. NICHOLS: So accepted.

12 MR. ANTONETTI: Okay. Mr. Rizzi, are you familiar
13 with the drawing requirements for the preparation of a Basic
14 Plan?

15 MR. RIZZI: Yes.

16 MR. ANTONETTI: Were you asked by the property
17 owner in this application to prepare an Amended Basic Plan
18 for the National Capital Business Park project?

19 MR. RIZZI: Yes we were contracted by the
20 applicant to prepare said Basic Plan Amendment.

21 MR. ANTONETTI: Okay. Are you familiar with
22 what's marked as Exhibit 41 Basic Plan in A-9968-03?

23 MR. RIZZI: I don't see it on the screen any
24 longer but yes, I am, that's the 03 revision to the Basic
25 Plan.

1 MR. ANTONETTI: Okay. Have you reviewed the
2 instant Basic Plan application, Site Plan and its related
3 statement of justification and other exhibits in support of
4 the application?

5 MR. RIZZI: Yes. Yes, I have.

6 MR. ANTONETTI: Could you please quickly confirm
7 the current zone of the property that makes up the National
8 Capital Business Park?

9 MR. RIZZI: Sure. So the entirety of the property
10 is actually comprised of three zones, predominately the R-S
11 Zone which is slightly over 426 acres of the overall
12 property, and there is also a small portion of the property
13 that is zoned R-A, approximately under 7 acres out to the
14 west and then there's also a portion of the property zoned
15 I-1 approximately 15 acres to the southeast portion of the
16 property.

17 MR. ANTONETTI: Okay. Thank you. So Madam
18 Examiner, is it possible to pull up 41, the Basic Plan?
19 I'll have Mr. Rizzi quickly go through what that plan
20 implies.

21 MS. NICHOLS: Fatima, could you please do that?

22 UNIDENTIFIED PERSON: Hi, so it's saying that the
23 file is damaged, let me show you what it's saying.

24 MR. ANTONETTI: Mr. Rizzi, I don't know if you're
25 able to, Chris, able to pull it up on your end and just have

1 it ready in case we can screen share from your end.

2 MS. NICHOLS: I'm good with that if Chris can do
3 it.

4 UNIDENTIFIED PERSON: Yes, it's saying that
5 there's an error that could not be repaired, let me try --

6 MR. ANTONETTI: And Chris if you have any trouble
7 I can ask John to do it.

8 UNIDENTIFIED PERSON: Yes, it's not opening. I'm
9 sorry.

10 MR. RIZZI: If John's able to get to it, that
11 would be helpful because I'm --

12 MS. NICHOLS: John, can you get to it?

13 MR. FERRANTE: Yes, ma'am, it's loading now.

14 UNIDENTIFIED PERSON: Thank you.

15 MR. FERRANTE: I do not see the option to share
16 screen though.

17 MS. NICHOLS: John? Who's speaking? Who's going
18 to present it? John's now the presenter. Okay.

19 MR. ANTONETTI: All right. John Ferrante would
20 share screen if he's giving permission and then Chris Rizzi
21 will speak to it if that's possible.

22 UNIDENTIFIED PERSON: Yes, I'm just making him a
23 presenter.

24 MS. NICHOLS: Yes, John's a presenter now.

25 MR. FERRANTE: Okay. Bear with me one second.

1 MR. RIZZI: I printed out an old school paper copy
2 for this purpose just in case we had electronic issues.

3 MS. NICHOLS: I still do that.

4 UNIDENTIFIED PERSON: Was the exhibit 43 or 40?
5 Okay. There we go.

6 MR. FERRANTE: Can everyone see that okay?

7 MR. RIZZI: We can, I think we can see both
8 monitors, John.

9 MS. NICHOLS: Yes.

10 MR. FERRANTE: Wow.

11 MR. RIZZI: Regardless, I can speak to it either
12 way.

13 MR. ANTONETTI: Okay. All right. Well then we'll
14 proceed, unless John, if you can close to one monitor if
15 that's possible, if not we'll go with what's on the screen.
16 Would you like, do you think, okay, there's one monitor.

17 MR. FERRANTE: I'm trying.

18 MR. ANTONETTI: Can you drag that image over?

19 MR. FERGUSON: John, Mark Ferguson, if you control
20 L-N Acrobat, that should probably full screen it.

21 MR. FERRANTE: If you want to go, Rob, I'll keep
22 trying to work on it here.

23 MR. ANTONETTI: Yes, thank you. Okay. What's on
24 the screen is Exhibit 41. Mr. Rizzi, can you tell the
25 Examiner and Mr. Brown what 41 represents?

1 MR. RIZZI: Sure. This is representative of the
2 03 revision to the Basic Plan for the property.

3 MR. ANTONETTI: And was this exhibit prepared by
4 you or under your direction?

5 MR. RIZZI: Yes.

6 MR. ANTONETTI: Just for a quick orientation, can
7 you point, explain to the Zoning Hearing Examiner where the
8 subject property is located within the county?

9 MR. RIZZI: Sure. Just to the right of the
10 exhibit you can see existing U.S. Route 301 running along
11 the plan right side of the page. And then Leland Road
12 intersects with Route 301 and just about a quarter of a mile
13 or so down the road from Leland Road, you can see the
14 beginning of the property.

15 MR. FERRANTE: I'm sorry, Mark that is not working
16 for me.

17 MR. ANTONETTI: It's fine, John, we'll go with
18 what we have (indiscernible) --

19 MR. RIZZI: Yes, we can use the words, that's
20 fine. The property fronts on the north side of existing
21 Leland Road.

22 MR. ANTONETTI: Okay. And can you explain the
23 gross acreage of the property subject to his Basic Plan
24 Amendment?

25 MR. RIZZI: Sure. So as stated previously, there

1 are three zones that comprise the entirety of this property.
2 Those three zones in combination add up to 442.3 acres
3 total. The subject plan itself pertains, I believe, to the
4 R-S Zone specifically which is approximately 426.5 acres of
5 that 442, and that constitutes the bulk of the interior
6 entirety of the property. To the southeast corner of the
7 property there is an area of I-1 Zone that is approximately
8 15 acres. It has a little bit different pattern to it on
9 the exhibit itself to identify that area and is labeled as
10 such the I-1 Zone. And then there is also to the far west,
11 on the west side of the existing railroad tracks there is a
12 small area, .78 acres of R-A Zone as well.

13 MR. ANTONETTI: Okay. So I don't see the exhibit
14 on the screen, I don't know if everybody else sees it, it's
15 not on my screen anymore.

16 MS. NICHOLS: No, Betty is going to try to pull it
17 up. If not, I know you're making your record, Rob, but I am
18 familiar with the property. And for the purposes of this
19 hearing, let's incorporate the record of A-9968-02, which
20 has substantially the same location, background, et cetera,
21 et cetera as the instant application. So we'll put that
22 record into this record, so in case we have any technical
23 difficulties they hopefully are obviated by that record.
24 How about that?

25 MR. ANTONETTI: Very (indiscernible) thank you and

1 for that purpose since we're incorporating the record I
2 would rely on the testimony in that case for establishing
3 the eligibility for this property to develop with the E-I-A
4 uses being sought today.

5 MS. NICHOLS: Yes, that's acceptable.

6 MR. ANTONETTI: Thank you. Mr. Rizzi, can you
7 please describe the proposed development shown on the
8 instant Basic Plan marked as Exhibit 41, and specifically
9 any amendments that are reflected in that plan versus the 02
10 amendment that was previously approved?

11 MR. RIZZI: Sure. So when we prepared the 02 one
12 of the more significant amendments is that the maximum land
13 use quantity has been increased from 3.5 million to 5.5
14 million gross square footage. In addition, just mentioning,
15 I think you mentioned previously that the proposed uses
16 remain consistent. One additional item that has changed on
17 this plan relates specifically to General Note Number 27
18 which identifies the alignments of Road A and Road B both
19 being subject to future potential refinement pursuant to
20 future entitlement applications, such as a CDP or SDP's that
21 will follow. And these are introduced into this plan
22 specifically you can, I know the exhibit's not on the page,
23 but Road A is you know essentially the road to the most
24 western portion of the main portion of the site and Road B
25 is a small cul-de-sac off of future Queen's Court that is to

1 the south portion of the main body of the plan itself. And
2 each of these may in future applications be adjusted in
3 order to accommodate the final development pursuant to
4 tenants that may be coming into this park.

5 This plan also identifies to the far west just
6 east of the railroad tracks, a 20 acre public park.

7 MR. ANTONETTI: Okay. Can you describe the
8 circulation patterns with the instant Basic Plan Amendment
9 versus the 02 approved amendment?

10 MR. RIZZI: Circulation patterns between the two
11 remain the same in the sense that the main access point is
12 still from Queen's Court off of Prince George's Boulevard.
13 There is no access proposed from Leland Road and then Roads
14 A and B are also shown within the internal circulation of
15 the park itself. There would be a separate access point to
16 the 20 acre park itself, the public park further down. That
17 is not directly accessed from the actual development park
18 area.

19 MR. ANTONETTI: Is the Master Plan Road I-300
20 known also as Prince George's Boulevard reflected on this
21 plan?

22 MR. RIZZI: It is to the southeast portion of the
23 site adjacent to the I-1 Zone. We have noted that
24 alignment.

25 MR. ANTONETTI: And has the applicant applied for

1 a waiver from the Director of DPIE to not construct any
2 portion of I-300 beyond the cul-de-sac shown on the plan
3 itself?

4 MR. RIZZI: We have. We have, in fact and the
5 waiver was granted last year, I believe June of last year
6 and to avoid some of those significant environmental impacts
7 in that area.

8 MR. ANTONETTI: And is that waiver noted on
9 General Note 26?

10 MR. RIZZI: That is reflected in Note 26 in the
11 General Notes on this exhibit, yes.

12 MR. ANTONETTI: And will any of the employment
13 uses proposed in this Basic Plan have direct access to
14 Leland Road?

15 MR. RIZZI: No, they will not.

16 MR. ANTONETTI: And have you reviewed the
17 Technical Staff Report dated January 26, 2022 and the
18 additional backup dated February 8, 2022 for this
19 application?

20 MR. RIZZI: Yes, I have.

21 MR. ANTONETTI: And does this instant Basic Plan
22 in your opinion, as a professional landscape architect,
23 satisfy all technical drawing requirements for a Basic Plan
24 set forth in the County Zoning Ordinance?

25 MR. RIZZI: Yes, it does.

1 MR. ANTONETTI: Thank you. Madam Examiner, I have
2 no further questions at this time.

3 MS. NICHOLS: Mr. Brown?

4 MR. BROWN: Yes, good morning. Mr. Rizzi, I had
5 asked this question during the previous iterations of the
6 amendment of the Basic Plan concerning access to Leland Road
7 and/or access to, I can't recall the name of the street near
8 Queen Anne's Road, I guess it is. When you say there will
9 be no direct access to Leland Road, clarify that for me what
10 you mean by direct access. Will there be any access?

11 MR. RIZZI: There are no public rights-of-way for
12 vehicular circulation proposed whatsoever for the proposed
13 uses for warehouse and distribution uses, E-I-A uses on this
14 property. There is no vehicular access nor public rights-
15 of-way proposed to connect to Leland Road. They are all
16 proposed to access through Queen's Court that intersects
17 with Prince George's Boulevard to the east of this site.
18 And the only access point to Leland Road is via a pedestrian
19 trail system that is part of the ultimate design of this
20 plan.

21 MR. BROWN: I don't have the plat in front of me,
22 but tell me again what are the names of the streets that
23 front on this property on all sides.

24 MR. RIZZI: Leland Road is the existing road to
25 the south, Prince George's Boulevard exists to the east, and

1 then the extension of existing Queen's Court from Prince
2 George's Boulevard to our property is the direct access
3 point that we propose for primary vehicular access into the
4 site and then on the eastern side of the property there is
5 an existing Pope's Creek Drive.

6 MR. BROWN: Is it Pope's Creek Drive that leads to
7 the residential properties adjacent to this site?

8 MR. RIZZI: It does not. No, that leads into an
9 E-I-A Collington Center.

10 MR. BROWN: All right. The residential uses that
11 are nearest this site, I don't recall whether it's north,
12 south, east or west, but what is the name of that
13 subdivision?

14 MR. RIZZI: So there is across Leland Road to the
15 south there is Beech Tree, further up the road also on the
16 south side and partially on the north side of Leland Road is
17 Locust Hill. And then further not directly adjacent to but
18 further northwest is Oak Creek Club.

19 MR. BROWN: All right. I think it was the Oak
20 Creek Club that I had concerns with last time. But you're
21 telling me again today there will be no access to or through
22 the Oak Creek Club subdivision from this property, right?

23 MR. RIZZI: That is correct. That is correct.

24 MR. BROWN: No other questions, thank you.

25 MR. ANTONETTI: Thank you, Madam Examiner, I do

1 have one follow up question. Mr. Rizzi, will there be
2 direct access from the public park to Leland Road and would
3 that be the only access from this property to Leland Road?

4 MR. RIZZI: Yes. There will be a separate
5 dedicated access point to the public park that provides
6 access only to the public park from Leland Road.

7 MR. BROWN: And so the access to the public park
8 will be for all types of vehicular traffic, including trucks
9 and trailers, what have you?

10 MR. RIZZI: No. The public park is designed for
11 use of sports fields and walking paths and that sort of use,
12 recreational type uses. There is no access from that point
13 where the 20 acre park fronts Leland Road to connect to the
14 other industrial warehouse distribution uses for the rest of
15 the site. They're actually divided by the Collington Branch
16 Stream Valley.

17 MR. BROWN: Thank you.

18 MR. ANTONETTI: Okay. No further questions.

19 Thank you, Mr. Rizzi.

20 MS. NICHOLS: All right. Mr. Antonetti, will you
21 prepare your next witness, I need to take a two minute break
22 to send something. So if we could just take a very, very
23 tiny break I will be right back.

24 MR. ANTONETTI: No problem. Thank you.

25 MS. NICHOLS: Thank you.

1 (Off the record.)

2 (On the record.)

3 MR. ANTONETTI: 2022?

4 MR. LENHART: Yes.

5 MR. ANTONETTI: Do you agree with the findings,
6 conditions and considerations in the Technical Staff Report
7 and additional backup regarding transportation improvements?

8 MR. LENHART: Yes.

9 MR. ANTONETTI: Can you explain for the Zoning
10 Hearing Examiner why Condition Number 2 in the Technical
11 Staff Report requires that all intersections evaluated as
12 part of this Basic Plan be reevaluated at the time of CDP?

13 MR. LENHART: Yes. As stated on page 5 of the
14 Technical Staff Report in the next to last paragraph and I'm
15 quoting from that section, the subject application seeks to
16 amend a previously approved application which considered
17 county warehouse rates. As additional phases of this
18 development with more specific land uses are proposed, trip
19 rates from the Institute of Transportation Engineer's Trip
20 Generation Manual may be substituted for rates which may not
21 be available in the Department's Transportation Review
22 Guidelines, end quote.

23 And that language is specifically included in the
24 Staff Report because the Institute for Transportation
25 Engineers released the 11th edition of the ITE Trip

1 Generation Manual in the fall of 2021. We had extensive
2 conversations with staff over the past several months or so
3 subsequent to the release of that new, the 11th Edition of
4 the Trip General Manual and staff at the time of this
5 submittal for this zoning amendment, staff had not yet
6 formally adopted the use of the 11th Edition, they were
7 still reviewing it. That has since been resolved. Staff
8 has made a formal opinion and statement that now that the
9 11th Edition is acceptable for use in all traffic studies.
10 So that's going to be evaluated in more detail at the time
11 of CDP and Preliminary Plan and it does have an impact,
12 because they've added some different uses that would be
13 applicable in this case.

14 MR. ANTONETTI: And at time of CDP and Preliminary
15 Plan, will there be a trip cap established and associated
16 road improvements for the total 5.5 million square feet
17 requested in this application?

18 MR. LENHART: Yes.

19 MR. ANTONETTI: Okay. Are you familiar with the
20 criteria of approval for a Basic Plan Amendment related to
21 transportation and public facility adequacy as set forth in
22 Section 27-195(b) of the Zoning Ordinance?

23 MR. LENHART: Yes. 27-195(b) (1) states that prior
24 to the approval of the application on a Basic Plan, the
25 applicant shall demonstrate to the satisfaction of the

1 District Council that the entire develop meets the following
2 criteria and Subsection C under that is related to
3 transportation facilities and it states that transportation
4 facilities, including streets and public transit which are
5 existing, which are under constructed or for which are 100
6 percent the construction funds are allocated within the
7 adopted County Capital Improvement Program or within this
8 current State Consolidated Transportation Program, or will
9 be provided by the applicant will be adequate to carry the
10 anticipated traffic generated by the development, based upon
11 the maximum proposed density.

12 And so our traffic study shows that the existing
13 facilities for which are included in the County Capital
14 Improvement Program with this applicant providing
15 improvements subject to that CIP project will be adequate to
16 carry the anticipated traffic generated by this development.

17
18 MR. ANTONETTI: So in conclusion, is it your
19 opinion and your testimony that the subject application
20 satisfies all transportation requirements set forth in the
21 Zoning Ordinance concerning the approval of a Basic Plan?

22 MR. LENHART: Yes.

23 MR. ANTONETTI: I have no further questions of Mr.
24 Lenhart at this time.

25 MS. NICHOLS: All right, thank you. Mr. Brown, do

1 you have any questions?

2 MR. BROWN: Yes. Good morning, Mr. Lenhart.

3 MR. LENHART: Good morning.

4 MR. BROWN: I don't want to get into the weeds,
5 but I'm just curious, this new is it 2021 Trip Generation
6 Manual or 2020?

7 MR. LENHART: '21.

8 MR. BROWN: '21. What are the new uses that are
9 utilized in this latest edition?

10 MR. LENHART: Well they're not necessarily new
11 uses, they are uses that were also in the 10th Edition, but
12 there's much better direction and much more empirical data
13 on those uses and it's types of warehouses, high cube,
14 fulfillment center houses, different types of you know just
15 different types of warehouses. They have different trip
16 generation rates than what the county's standard general
17 warehouse rate is, and the county's rate for standard
18 general warehouses it goes back 25 or 30 years probably that
19 they've used that same rate. It has not changed at the
20 local rate, that was adopted by Prince George's County and
21 it's been used forever for warehouses. And what ITE has
22 over the past five or so years has started to include more
23 specific types of warehouses so those can be better
24 evaluated, you know, cold storage facilities, short term
25 warehouses, fulfillment centers and the trip generation

1 manual is based on empirical data. It's actual traffic
2 counts that are conducted at these types of uses across the
3 country and this 11th Edition contains much more data and
4 much better direction than the 10th Edition, so.

5 MR. BROWN: Does the new manual have any text
6 concerning multistory warehouses as proposed here now?

7 MR. LENHART: It does have language regarding the
8 multiple levels above ground floor. I mean it specifies
9 that there's ground floor floor area and then there's non-
10 ground floor floor area which is multiple mezzanine levels
11 and upper levels that are covered with high levels of
12 automation. And so yes it does include and anticipate those
13 types of uses.

14 MR. BROWN: Does the new manual use the term
15 logistics warehouses, I think that's the term of the day in
16 the last two or three years.

17 MR. LENHART: I believe that the one that came out
18 in 2018, bear with me here for a moment, '17 or '18 was the
19 10th Edition and the language in that one is high cube and
20 there's a number of different high cubes, a high cube means
21 you know it's got a high ceiling to it with multiple
22 mezzanine and upper levels. There's a high cube trans load
23 and short term storage high cube fulfillment center
24 warehouse, high cube parcel hub warehouse, high cube cold
25 storage warehouse. When you reference logistics centers

1 there's never been a logistics center land use in ITE. I
2 think that there's probably been a lot of people, lay people
3 or other that have referred to them as logistic centers, but
4 that's not how ITE classifies them.

5 MR. BROWN: Yes, that's what I thought. You know
6 looking back at the past Staff Reports concerning this
7 application, you know the term is often used in the staff
8 reports modern logistics warehouses, which as you just
9 concluded, there's really no such term in the ITE and I
10 don't even think there's a term in the Zoning Ordinance for
11 that. But I guess it's going to be your opinion that the
12 multistory warehouses fits within one or more of the labels
13 you just described concerning different types of warehouses,
14 correct?

15 MR. LENHART: That's correct and I think that the
16 throwing around of the term logistics facility or logistics
17 warehouse, I mean many of these newer uses are logistics in
18 nature because they have a very high level of automation and
19 goods management and delivery. And so you know I think
20 that's why they're kind of related to as logistic centers.

21 MR. BROWN: And all of this traffic analysis will
22 be fine-tuned at the Preliminary Plan stage, correct?

23 MR. LENHART: That's correct.

24 MR. BROWN: No other questions, thank you.

25 MS. NICHOLS: Thank you. Mr. Antonetti?

1 MR. ANTONETTI: Just one question as a follow up.
2 Mr. Lenhart, is the ITE manual an acceptable evaluation tool
3 for traffic impact studies pursuant to the transportation
4 guidelines?

5 MR. LENHART: Yes, it is, the accepted source for
6 trip generation rates for hundreds of different uses. Many
7 local jurisdictions have local trip generation rates such as
8 Prince George's County. Most of the other jurisdictions
9 across the State of Maryland defer solely to the ITE Trip
10 Generation Manual. Prince George's County has some generic
11 local rates they have for single family homes, townhomes,
12 multifamily residential, general office, medical office,
13 warehouse, light industrial, heavy industrial. Those are
14 the local rates that the county has and I think some student
15 housing and the big churches specific to what's popped up
16 over the last 10 or so years in Prince George's County. But
17 none of those local rates have really been updated and so as
18 ITE expands its database and includes different uses, it
19 provides more information that the county can use to have a
20 better look at what would be anticipated.

21 MR. ANTONETTI: And again the guidelines
22 anticipate and allow for the ITE Manual to be utilized as a
23 source for evaluation of transportation studies?

24 MR. LENHART: That's correct. It specifically
25 calls out the ITE Manual.

1 MR. ANTONETTI: Okay. Thank you. No further
2 questions.

3 MS. NICHOLS: All right. Mr. Lenhart, thank you
4 very much. Good seeing you again.

5 MR. LENHART: You too. Yes, have a good day.

6 MS. NICHOLS: You too. Mr. Ferguson, are you up
7 next?

8 MR. ANTONETTI: Yes, ma'am.

9 MR. FERGUSON: If I am, good morning.

10 MS. NICHOLS: All right. Whoever has this on the
11 screen, they can put it down. And Mr. Ferguson, I'm going
12 to ask you to raise your right hand, please. Do you
13 solemnly swear under the penalty of perjury to tell the
14 truth, the whole truth and nothing but the truth in the
15 matter now pending?

16 MR. FERGUSON: I do.

17 MS. NICHOLS: Thank you. Please state your name
18 and business address for the record.

19 MR. FERGUSON: My name is Mark Ferguson, my
20 business address as of today is 9500 Medical Center Drive,
21 Suite 480 in Largo, 20774 as of tomorrow it will be 5407
22 Water Street, Suite 206, Upper Marlboro, Maryland 20772.

23 MS. NICHOLS: Thank you. I hope everybody took
24 note of your new address.

25 MR. ANTONETTI: Thank you, Madam Examiner. Mr.

1 Ferguson, what is your position with Site Design, Inc.,
2 doing business as RDA?

3 MR. FERGUSON: I am a land planner.

4 MR. ANTONETTI: Okay. And Madam Examiner, he was
5 qualified previously.

6 MS. NICHOLS: Yes. I'm sorry I was remiss, Mr.
7 Ferguson has previously been qualified as an expert in the
8 field of land planning and will continue in that designation
9 today.

10 MR. FERGUSON: Thank you, Madam Examiner.

11 MR. ANTONETTI: Yes, thank you. Mr. Ferguson, do
12 you recognize Exhibit 41 marked as the Amended Basic Plan in
13 the Zoning Hearing Examiner record?

14 MR. FERGUSON: That was shown earlier, yes, I do.

15 MR. ANTONETTI: Just for a brief orientation, can
16 you describe the adjoining properties including zone and any
17 development, including existing or proposed associated with
18 such properties?

19 MR. FERGUSON: So Mr. Rizzi went through, there's
20 some undeveloped properties to the west in the I believe O-S
21 Zone. Collington Center really surrounds the property to
22 the north and east in the E-I-A Zone. There are a number of
23 warehouses in the facility including the former Safeway
24 facility, which I understand is now owned by Target. To the
25 east there is an Amazon facility as well as the FedEx Ground

1 and a number of others. To the south is the Beech Tree
2 residential development. At the time of the 02 revision
3 there was a triangular property which had been retained in
4 the E-I-A Zone since the 2006 SMA that has been since
5 acquired by the applicant. That property is undeveloped.
6 And essentially unchanged, the Target changed Target/Safeway
7 changing ownership and the triangular piece has been a
8 change of ownership but otherwise remains as it was a year
9 ago in the 02 revision case.

10 MR. ANTONETTI: And Mr. Ferguson are you familiar
11 with the Technical Staff Report dated January 26, 2022 and
12 the additional backup dated February 8, 2022 for this case?

13 MR. FERGUSON: I am.

14 MR. ANTONETTI: Based on the testimony today and
15 your opinion, does the subject property qualify to develop
16 with uses and standards pursuant to the E-I-A Zone under 27-
17 515(b) footnote 38 of the County Zoning Ordinance?

18 MR. FERGUSON: It does and those criteria remain
19 as they were in the 02 revision. I believe I went through
20 those in some detail at that time.

21 MR. ANTONETTI: And what uses and quantities of
22 uses are being sought for the subject property for this
23 application?

24 MR. FERGUSON: So the uses will be simply an
25 expansion of uses which we proposed under the 02 revision,

1 principally industrial warehousing with the opportunity for
2 some I guess institutional uses and office uses. But
3 principally warehouse, and then of course increasing in
4 quantity as you heard testified from three and a half
5 million that was approved under the 02 revision to five and
6 a half million square feet which is being proposed under
7 this application.

8 MR. ANTONETTI: Is the maximum of 5.5 million
9 square feet of said uses, are they consistent with the
10 ranges allowed within the zone of the property?

11 MR. FERGUSON: They are. The zone provides
12 regulations, the R-S Zone by its reference to the E-I-A Zone
13 regulations tour, E-I-A uses in the R-S Zone on a particular
14 properties, i.e., this one don't have a maximum use
15 limitation that's left to the requirements for adequacy of
16 public facilities. There is a requirement for a minimum
17 amount of open space, which this Basic Plan does meet.

18 MR. ANTONETTI: In your opinion, is this Basic
19 Plan Amendment required to conform to Master Plan
20 recommendations applicable to the property?

21 MR. FERGUSON: No, and I think this is actually a
22 worthy time to go into a little bit of detail about the
23 Master Plan situation. So as of the date of this hearing,
24 as of February 23rd, the relevant Master Plan is the same as
25 it was a year ago under the 02 revision which is to say the

1 2006 Bowie and Vicinity Master Plan.

2 The provisions of 27-197(c) provided for the
3 approval of the E-I-A uses in the R-S Zone as distinct from
4 a specific Master Plan recommendation.

5 Now, the one thing that has changed in the year
6 since the writing is the adoption of a new Master Plan by
7 the Planning Board or I'm sorry, the approval of a Master
8 Plan by the Planning Board, I get those reversed and have
9 probably just done so again. And that is currently under
10 study by the District Council, so the District Council has
11 had a work session already on the testimony that was put
12 into the record of the Planning Board's approval. I am not
13 aware of a specific time table they have for further
14 consideration of it, but it's not out of the question that
15 they approve and adopt this new Master Plan for Bowie,
16 Mitchellville and vicinity before they act on this
17 application.

18 So even though as of the date of this hearing
19 nothing has changed in the planning context from a year ago,
20 there is still at least potential that by the time the
21 District Council acts there will be a new Master Plan.
22 While the criteria for approval of this zone provides a
23 disjunctive criterion for the E-I-A Zone, I think it's still
24 instructive to look at what the new Master Plan would say,
25 namely, that the 2021 approved, the Planning Board's Master

1 Plan returns the land use recommendation to industrial and
2 employment uses, which is what it was in the 1991 Master
3 Plan, really the outlier was the current 2006 Master Plan
4 which was a response to the acquisition of the property by
5 Toll Brothers at that time, who wanted to develop it for
6 residential use. So that didn't eventuate and you know here
7 we are returning to essentially the consistent policy of the
8 county for many, many years that this be a part of the
9 employment land use of the larger Collington Center.

10 And so this property is proposed to go into the
11 Collington Local Employment Area by the new Master Plan.
12 It's proposed to have industrial employment land use
13 recommendation, in fact, the new plan makes a policy
14 recommendation to quote transform, this is Policy LU-13 in
15 the new plan, transform the Collington Local Employment Area
16 into a regional transportation logistics and warehousing
17 hub. And that is what this application seeks to make
18 happen.

19 MR. ANTONETTI: Mr. Ferguson, are you familiar
20 with Section 27-197(c) of the Zoning Ordinance as it
21 pertains to the approval of an amendment to an approved
22 Basic Plan?

23 MR. FERGUSON: I am.

24 MR. ANTONETTI: Are you familiar with Section 27-
25 195 of the Zoning Ordinance as it pertains to the criteria

1 of approval for an amendment to an approved Basic Plan?

2 MR. FERGUSON: Yes, I am.

3 MR. ANTONETTI: In your opinion, does the instant
4 application meet these criteria?

5 MR. FERGUSON: I do. Yes, it does and I do
6 include a discussion in particular to that in the land use,
7 in the land planning analysis, which I believe has been
8 submitted into the record, and which I adopt as my full
9 testimony today.

10 MR. ANTONETTI: And would that be the land use
11 planning (indiscernible) planning analysis dated February
12 14, 2022, marked as Exhibit 45 in the ZHE record?

13 MR. FERGUSON: That is the case. Now I know it's
14 Exhibit 45, thank you.

15 MR. ANTONETTI: (Indiscernible) have you heard and
16 understood the testimony provided by the other witnesses in
17 this case that have appeared before the ZHE today?

18 MR. FERGUSON: Yes, I have.

19 MR. ANTONETTI: Do you agree with the Planning
20 Board's recommended findings and conditions of approval set
21 forth in the Technical Staff Report dated January 26, 2022
22 as modified by the additional backup dated February 8, 2022?

23 MR. FERGUSON: Yes, I do.

24 MR. ANTONETTI: And based upon your review of the
25 application materials, the recommended conditions of

1 approval as modified by the additional backup of February
2 8th, your analysis and your land planning analysis and your
3 understanding of the testimony from the witnesses that have
4 testified in this case, is it your opinion that this
5 application meets all requirements and criteria for approval
6 of the Basic Plan Amendment as set forth in the Zoning
7 Ordinance?

8 MR. FERGUSON: Yes, that is my opinion.

9 MR. ANTONETTI: Madam Examiner, I have no further
10 questions of Mr. Ferguson at this time.

11 MS. NICHOLS: All right. Thank you very much.
12 Mr. Brown, do you have any questions?

13 MR. BROWN: Yes. Good morning, Mr. Ferguson.

14 MR. FERGUSON: Good morning, Mr. Brown.

15 MR. BROWN: So as of today's date, there is no
16 requirement that this property comply with the Master Plan,
17 however, if the District Council adopts what has been
18 proposed by the Planning Board warehouses uses on this site
19 then it would be in compliance with the Master Plan even
20 though it's not required.

21 MR. FERGUSON: That's correct.

22 MR. BROWN: I'm trying to find a way to spin that
23 against you, but I can't.

24 MR. FERGUSON: No, I think you know the outlier
25 and I think the reason why we've all scratched our heads a

1 little bit over this case is the Toll proposal which for I
2 guess was attracted for a number of years, but you know the
3 wisdom of the marketplace, frankly, the environmental
4 shortcomings of the subject site were just really too
5 difficult for residential proposal to overcome. And the
6 wisdom of the planners from really as much as 50 years ago I
7 think is being proven by the return to what had long been
8 proposed before Toll came along.

9 MR. BROWN: Thank you. No other questions.

10 MR. FERGUSON: Yes, thank you.

11 MS. NICHOLS: All right. Any further questions,
12 Mr. Antonetti?

13 MR. ANTONETTI: No, Madam Examiner, that would
14 conclude my questions of Mr. Ferguson.

15 MS. NICHOLS: All right. Thank you, Mr. Ferguson.

16 MR. FERGUSON: Thank you, Madam Examiner. A
17 pleasure to see you and Mr. Brown.

18 MS. NICHOLS: A pleasure to see you.

19 MR. ANTONETTI: So Madam Examiner, that would
20 conclude our case in chief and our witnesses, and if I could
21 just briefly in a conclusion statement. Based on the
22 evidence in the record, including the testimony here today,
23 the applicant respectfully requests that Madam Examiner
24 approve Basic Plan A-9968-03 consistent with the applicant's
25 statement of justification, the Technical Staff Report as

1 modified by staff's additional backup from February, and as
2 reflected in ZHE Exhibit 39 and 40, respectively.

3 We do thank you for your consideration of this
4 application and your patience with the technical glitches
5 that I hopefully overcame by the conclusion of this hearing.

6 MS. NICHOLS: Well I thank you for your
7 presentation today and for the technical glitches on the
8 government's side. So the hearing in this matter will
9 deemed to have been concluded, the record does not need to
10 remain open, it will close today and a decision will be
11 forthcoming.

12 MR. ANTONETTI: Wonderful. Thank you very much.

13 MS. NICHOLS: I thank everybody for their
14 participation.

15 MR. ANTONETTI: Will do.

16 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Prince George's County Office of the Zoning Hearing Examiner in the matter of:

NATIONAL CAPITAL BUSINESS PARK

Case No. A-9968-03

By:

Diane Wilson

Diane Wilson, Transcriber