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

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WOODMORE OVERLOOK, COMMERCIAL, LLC : Case No. A-10020-C-01  
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A hearing in the above-entitled matter was held on  
November 30, 2020, at the Prince George's County Office of  
Zoning, County Administration Building, Room 2174, Upper  
Marlboro, Maryland 20772 before:

Maurene McNeil  
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Norman Rivera, Esq.

On Behalf of People's Zoning:

Stan Brown

\* \* \* \* \*

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\* \* \* \* \*

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P R O C E E D I N G S

1  
2 UNIDENTIFIED SPEAKER: You may begin, Madam  
3 Examiner.

4 MS. MCNEIL: Thank you all. Today is November 30,  
5 2020, I'm Maurene McNeil and I'll be the Hearing Examiner  
6 and I have some virtual hearing remarks that I must make  
7 before we begin.

8 First of all, we're here on A-10020-C-01. The  
9 applicant is Woodmore Overlook LLC and we're here on their  
10 request to amend certain conditions imposed by the District  
11 Council when they approved the zoning for this property.

12 I have to take a moment to remind everyone of the  
13 participation guidelines for our hearings and that is  
14 primarily there's a chat feature here, I hope you all know  
15 how to access the chat feature. I would like you to go in  
16 there and give your name and your e-mail address and whether  
17 or not you would like to be a person of record. Some of you  
18 have done that already, so this is just to make sure we  
19 capture all the persons of record.

20 You should also use the chat feature to let us  
21 know if you're opposed to this request. Because if you're  
22 opposed you may be able to ask questions of witnesses, and I  
23 need to know whether or not you have a question. So when a  
24 witness is talking you should go in the chat feature to also  
25 say that you have some questions you would like to ask when

1 the witness is finished.

2           Everyone was supposed to have submitted all of  
3 their exhibits at least five business days before today's  
4 hearing. But because we had a holiday, we need to amend  
5 that rule slightly. I do know that Mr. Rivera, Mr. Dean,  
6 both had items and we have copies of those items but you all  
7 will have to move them as exhibits when you speak. And I  
8 see Mr. Benton is here as well, when we start this matter  
9 there's a short procedural issue that we need to address and  
10 then we can get right into the application.

11           Remember that this matter is being recorded, so do  
12 not speak over each other. In fact, if you're not speaking  
13 you should probably turn your mic off. And if you become  
14 disconnected you can return to the meeting using the same  
15 link or phone number that you used to get into this meeting.  
16 And if you have to leave for any reason, remember it's being  
17 recorded and streamed and can be viewed at  
18 <http://pgccouncil.us/live>, L-I-V-E. And if the hearing is  
19 continued for any reason we will be sending you a different  
20 link, this link will no longer be acceptable.

21           I think I covered everything so if counsel would  
22 identify themselves for the record.

23           MR. RIVERA: Good morning Madam Examiner and Mr.  
24 Brown, Norman Rivera here today representing Woodmore  
25 Overlook Commercial LLC, offices in Bowie, Maryland.

1 MR. BROWN: Stan Brown, People's Zoning Council.

2 MS. MCNEIL: Thank you. Mr. Rivera, could you  
3 before we start with any procedural issues there might be  
4 pending, give a very brief opening of why we're here today  
5 and the approvals thus far with this property, if you'd  
6 like. You can save it.

7 MR. RIVERA: Yes, I would. There is quite a bit  
8 of background and Mr. Brown's very well versed in the  
9 procedural history as well as the legal issues. The  
10 property was purchased by my client, Woodmore Overlook  
11 Commercial LLC on January 30, 2018. And on the revised  
12 exhibit list that I received this morning, those are deeds  
13 are 33A and 33B on the exhibit list. So on January 30, 2018  
14 Woodmore Overlook Commercial LLC purchased the property and  
15 proceeded with development.

16 The development that was subsequent was a  
17 Preliminary Plan of Subdivision which is in the record at  
18 Number 8, 4-18007, which was then also noted in Exhibit 16  
19 when it was reconsidered in March of this year. That was a  
20 Preliminary Plan of Subdivision, which as you all know and I  
21 know Mr. Dean knows that it's a subdivision to divide the  
22 property into lots for ultimate development. We then  
23 followed with a DSP, Detailed Site Plan Number 82824 as  
24 approved by the Planning Board with conditions. It went to  
25 the Council early September of 2019. On September 24th, the

1 District Council issued an order of DSP approval with  
2 conditions. Then on page 10 is where the order discusses  
3 the amendment of condition.

4 UNIDENTIFIED SPEAKER: Hey there.

5 UNIDENTIFIED SPEAKER: Hey, Jenny Colton just  
6 called and said the freeze thing that Jeff left the meeting.  
7 He said is Jeff at home, I said no, he's on the road and the  
8 signal is not good, so that's, that's the information I  
9 gave.

10 UNIDENTIFIED MALE SPEAKER: What? Sorry.

11 MR. RIVERA: Jeff, just relax for a minute. So  
12 where was I? So the DSP was approved, there was an order  
13 dated September 24th. Page 10 of the order discusses the  
14 requirement for an amendment of conditions and that was the  
15 order dated 9/24/2019 at Exhibit Number 3 and 12, and I  
16 submitted it again on Number 22.

17 But Condition 10, I mean page 10 of the order  
18 discusses that while the DSP was approved, the Preliminary  
19 Plan was approved and reconsidered there are two other  
20 issues. There is the Code which says under Section 27-213,  
21 I believe, the County Council cannot amend, have their  
22 zoning conditions amended by anybody else but the District  
23 Council. Likewise, there's case law *Rashow* (phonetic sp.)  
24 v. Maryland National Capital Park and Planning Commission,  
25 827 A.2d 927 at 2003, which also reinforces that condition

1 supposed by the District Council shall be binding for as  
2 long as the mixed-use zone remains in effect on the  
3 property, quote, unless amended by the Council, end quote.

4           So for that very reason we're here today, Madam  
5 Examiner and I filed the request earlier this year which I  
6 then supplemented and due to posting issues we're now here  
7 today. So that was July 14, 2020, my original application  
8 for today's hearing. So we are here to address the Rashow  
9 case, the fact that we have to amend certain conditions of  
10 the underlying zoning case which is A-10020-C and there's  
11 certain transportation conditions that the order referred to  
12 Conditions 4, 5A, 5B and 6, which again are in the record  
13 and subject of this application. 27-135(c) of the Code  
14 allows an applicant to file an amendment of conditions.

15           Our neighbor to the west, the Revenue Authority  
16 did one a couple years ago and we are doing the same thing  
17 in terms of amending transportation conditions. The  
18 requirements are that there has to be good cause for the  
19 Examiner and the Council to recommend approval of said  
20 request and there shall not be any enlargement or extension  
21 of the use that is proposed.

22           Excuse me. In this particular case, and I'll have  
23 witnesses for this, the good cause is that the project as it  
24 evolved from Preliminary Plan to DSP, the density was  
25 significantly reduced. The Conceptual Site Plan had over

1 404,000 square feet of commercial and that was CSP-10004 and  
2 the Preliminary Plan reflected a reduced density from that,  
3 the original Preliminary Plan 4-18007 but when we filed the  
4 DSP, the tenant mix changed, the development was reduced  
5 even further. So we filed the reconsideration of the  
6 Preliminary Plan, the Planning Board recommended approval.  
7 The Preliminary Plan does not go to the Council, but it did  
8 recommend approval recognizing the trip reduction and  
9 therefore a modification of certain transportation  
10 improvements was warranted.

11 But we still have to come to you and the District  
12 Council to implement that approval and that's why we're here  
13 today. Mr. Lenhart, who's on the zoom call, will be my  
14 primary witness and I have a representative of the owner  
15 here, if that is needed. And thank you Mr. Masog for  
16 joining. He is not my witness but he is Park and Planning  
17 Transportation Planner on this case. He's been with the  
18 county many, many years and is very well versed in what the  
19 issues are in this particular case, if you have any  
20 questions of Mr. Masog. Thank you.

21 MS. MCNEIL: Mr. Benton?

22 MR. BENTON: (No audible response.)

23 MS. MCNEIL: Okay. Well --

24 MR. BENTON: Yes.

25 MS. MCNEIL: Good morning.



1 MR. BENTON: Good morning.

2 MS. MCNEIL: You submitted several documents and I  
3 believe you have what we would call like a procedural matter  
4 I should address briefly before we get into this hearing.  
5 So would you like to tell me why you submitted those  
6 documents and what it is you wanted me to do as it pertains  
7 to this hearing?

8 MR. BENTON: Yeah. One, I submitted those  
9 documents to be submitted as part of the record. One, for  
10 the Zoning Hearing Examiner and, and the legal counsel to  
11 actually one just look at and determine if the ZHE and the  
12 District Council even actually have current jurisdiction to  
13 even hear the case. Right. As, as Norman just stated the  
14 underlying zoning actions that he is, that he's put forth to  
15 support this case which is AC-10020-C, PPS-4-18007 and also  
16 Detailed Site Plan 18024. All three of those, all three of  
17 those zoning actions are currently before the jurisdiction  
18 of the, of the Maryland Court of Special Appeals.

19 The one in particular even though, even the, the  
20 amendment because they just went in for the, for the  
21 amendment of the Preliminarily Site Plan back in March which  
22 he stated, that, that amendment is also before the Court of  
23 Special Appeals in case number CSAREG, CSAR, REG, I got to  
24 find it here but, but it's, I put it in my, in my e-mail but  
25 one, you know, I think just first off there needs to be a

1 determination of if the District Council and if the Zoning  
2 Hearing Examiner currently even have jurisdiction to even  
3 hear this case. Again, when all of the underlying cases  
4 supporting his requested change, they're all formally before  
5 the Court of Special Appeals. The applicant and the, the  
6 applicant and even the, the District Council themselves and  
7 even the Maryland Park and Planning they've all previously  
8 submitted motions to dismiss before the Court of Special  
9 Appeals which have all been denied. And all those cases are  
10 currently ongoing. They already have pending court dates  
11 and even one in particular that, that's directly related to  
12 this because the applicant is actually seeking a change to  
13 the District Council's previous ruling on DSP 18024. All  
14 right. I just submitted my briefs before the Court of  
15 Special Appeals this morning. All right. That's what I  
16 just, just, just, just e-mailed over. So again it's like  
17 we're, we're not talking about something that, that is,  
18 that, that hasn't, that, that has been appealed and is still  
19 be considered. We're talking about cases in which the Court  
20 of Special Appeals have already accepted briefs and, and the  
21 actual actions are pending before them. So how can you  
22 actually make a change to AC100-20-C if that actual case is  
23 sitting before the Court of Special Appeals?

24 I don't believe that the District Council or the  
25 ZHE actually has that jurisdiction if this were at the

1 higher court.

2 MS. MCNEIL: Okay. Thank you, Mr. Benton. Mr.  
3 Rivera, do you have any response or Mr. Harding or?

4 UNIDENTIFIED SPEAKER: (Indiscernible).

5 MR. HARDING: Good morning everybody. Can you  
6 hear me?

7 MS. MCNEIL: Yes, we can.

8 MR. HARDING: Well, thank you and good morning.

9 MS. MCNEIL: Good morning.

10 MR. HARDING: I do have a response. First of all,  
11 Mr. Benton's arguments are quite misplaced here. He does  
12 not have standing to appear before you and argue anything in  
13 this case for several reasons. Number one, and all of this  
14 has been submitted in memorandum form from me. He does not  
15 have any standing because he does not live approximate to  
16 this residence. Mr. Benton upon information and belief  
17 lives in Washington, D.C. He has used a different address  
18 far away from the project for his voting registration and  
19 it's already been determined and he has in his pleadings  
20 under oath, another case stated he does not live at the Sour  
21 Bridge Drive.

22 In addition to that, the Circuit Court for Prince  
23 George's County has determined on several occasions that he  
24 doesn't have any standing. So you can't prevent a person  
25 from being a party of record all they have to do is sign up.

1 But to go beyond that and make any arguments before this  
2 tribunal, you have to have to standing. So he's issue and  
3 claim precluded from that.

4 I've also submitted to you, Madam Examiner, what  
5 the case law and the statutes are in Maryland and that is  
6 that in all of these cases what Mr. Benton has done just to  
7 seek the delay, he has not meritorious substantive arguments  
8 on any of this, is to take judicial reviews of the steps  
9 below at the administrative side of this. Each and every  
10 one of those 100 percent of those have been dismissed by the  
11 Circuit Court. Mr. Benton then took appeals to many of  
12 those to the Court of Special Appeals, which then he took  
13 cert to the Court of Appeals all three of those certs were  
14 denied.

15 So what's pending before the Court of Special  
16 Appeals and again he's misstating the facts, there were two  
17 motions to dismiss on two of the Court of Special Appeals  
18 that were denied, and the reason that they were denied is  
19 because Mr. Benton is required to have a lawyer in  
20 representing his companies and he does not. And what the  
21 Court of Special Appeals has said is that he can proceed  
22 forward with the appeals but only on his personal individual  
23 claims which he has none because he has said many times in  
24 his pleadings that he brings these judicial reviews on  
25 behalf of his companies.

1           So as far as you having jurisdiction the statute I  
2 cited and the case law is very, very clear that Mr. Benton's  
3 frivolous appeals do not in any way divest this tribunal for  
4 jurisdiction. I'm happy to respond to any questions that  
5 the Examiner may have, but I think you have it all in either  
6 memorandum or a documented form in front of you, but I'm  
7 happy to answer any questions you may have.

8           MS. MCNEIL: Thank you. Mr. Brown, do you have  
9 anything to add?

10           MR. BROWN: Yes. Let me just deal with these  
11 issues up front so we can get beyond it and get to the  
12 merits of the case. Just one second, my voice is not  
13 working correctly, I've got to turn it up. Yes. First of  
14 all, once Mr. Benton commences to testify, we can voir dire  
15 him, either I can do it or Mr. Harding or Mr. Rivera can do  
16 it with regards to his status (indiscernible) however with  
17 regard to the issue of standing that actually is not  
18 relevant in this case. Standing is not --

19           MR. RIVERA: Starting to lose him.

20           MS. MCNEIL: Thank you, Mr. Rivera. Stan, we're  
21 not hearing you.

22           MR. BROWN: Right. I'm having problems with it.  
23 One second. Yes, standing is not relevant for this  
24 particular evidentiary hearing. Standing is relevant for  
25 appeal period purposes, whether it's an appeal to the

1 District Council or an appeal to the court. Mr. Benton is  
2 not required in any standing (indiscernible) the Zoning  
3 Hearing Examiner. However, you are correct, Mr. Harding  
4 with regards to when we are beyond this proceeding Mr.  
5 Benton is going to have problems. He must have standing and  
6 he must be aggrieved in order to appeal this case to the  
7 District Council. Even if he were to provide that, he must  
8 (indiscernible) we do not now try to go through the Circuit  
9 Court and (indiscernible).

10 MR. HARDING: I can't hear Mr. Brown, I'm sorry.

11 MS. MCNEIL: (Sound.)

12 MR. RIVERA: Maybe you just have to get closer to  
13 your mic, Stan.

14 MR. BROWN: So basically and so that it's in the  
15 record I'm going to cite to the sections of the Land Use  
16 Code and the Zoning Ordinance that relate to a person of  
17 record. 27-107.01(a) indicates who can be a person of  
18 record. Anybody who requests to be a person of record  
19 either in writing, appearance at the hearing or through an  
20 attorney. Mr. Benton can be a person of record and can  
21 testify, it's not up to us to determine whether or not his  
22 arguments are frivolous or not. He's not required to have  
23 standing under 27-107. The Land Use Code 27-201 deals with  
24 regards to who can represent whom whether it's an LLC or  
25 corporation. No, Mr. Benton, you may not represent any type

1 of corporation or LLC in this proceeding, you are not a  
2 lawyer. And so, before you commence to testify you can  
3 state on the record Mr. Rivera or myself or Mr. Harding will  
4 ask you are you representing yourself, that is the only  
5 person that you can represent. 27-125 of the Zoning Code  
6 also deals with who can represent a corporation and or be a  
7 person of record (indiscernible) the Land Use Article 27-212  
8 (indiscernible) can appeal a decision of the Examiner to the  
9 District Council or to court (indiscernible) and --

10 MR. HARDING: I'm losing you again, Mr. Brown.

11 MR. BROWN: All right. I apologize. I don't know  
12 what the problem is. I'm going to try my best to speak  
13 clearly and close to this particular, and finally 27-131  
14 deals with persons of record. So at the end of the day, all  
15 Mr. Benton has to do is be a person of record, which he is  
16 because he has requested to participate in this hearing, he  
17 technically testified to (indiscernible) he doesn't need to  
18 show any (indiscernible) standing however, Mr. Benton, I  
19 will or Mr. Harding or Mr. Rivera will voir dire on your  
20 residence so that may you win the battle but you could lose  
21 the war because of I understand what has transpired in all  
22 the legal procedures to date you are not a resident in this  
23 neighborhood and so you cannot (indiscernible) and even if  
24 you fight to pay to the death, you're not going to be able  
25 to appeal to the District Council, so I'm just letting you

1 know that up front.

2           On the other issue is with regards to Mr. Benton's  
3 has been raised concerning what the Examiner has no  
4 authority to hear the proceeding because of the other  
5 Preliminary Plans, Detailed Site Plan and whatever else may  
6 be pending in the Court of Special Appeals or the Court of  
7 Appeals. You're wrong, Mr. Benton. Until a court overturns  
8 those Preliminary Plans that are in court and remands those  
9 cases back to the Planning Board or overturns the Detailed  
10 Site Plan and remands that Detailed Site Plan back to the  
11 District Council or those administrative agencies, the  
12 Planning Board and or the District Council to overturn those  
13 decisions, those decisions are valid. And therefore we are  
14 properly here today at the applicant's request to amend  
15 conditions related to the original rezoning, because the  
16 other plans are still valid. So, it's proper Madam Examiner  
17 to go forward with Mr. Benton.

18           MS. MCNEIL: Okay. Thank you, Mr. Brown. And Mr.  
19 Benton, do you some brief statement you'd like to add in  
20 rebuttal?

21           MR. BENTON: Yes, I do. One, to correct Mr.  
22 Brown, I am a resident of Prince George's County. All  
23 right. My voting record states so. So I'm not, I'm not  
24 worried about whether someone is saying I live in D.C. or  
25 whatever, I live in Prince George's County. I voted in



1 Prince George's County. So there, therefore, I can appeal  
2 to the District Council. All right.

3           Secondly, in terms of I am like, like, like, like  
4 they said hey I got, I got standing, I, I am here  
5 representing myself in my formal capacity and, and, and in  
6 the capacity of me being the CEO of my companies. So I can  
7 represent myself in my individual capacity, that's what I'm  
8 here to do. All right. Thirdly, in terms of the things  
9 that, that's actually before, before the Court, hey, listen,  
10 when I get to my testimony and like I said I'll state my  
11 testimony on the record, all right, because according,  
12 again, according to Maryland Code, Maryland Courts and  
13 Judicial Proceedings, Section 12-308, all right, whenever  
14 those whenever those, anything is appealed before the Court  
15 of Special Appeals from the lower Circuit Court, it then  
16 becomes the jurisdiction of the Court of Appeals. And I,  
17 and in, and in my previous submittals I've already sent the  
18 actual court documents and the actual case law that actually  
19 states that if or by the ZHE or the District Council  
20 proceeding forward with the case today all right, it can  
21 actually be impeding on the best interest of justice since  
22 those same approvals, because you, because, because you're  
23 asking them to open up the record and make changes to the  
24 record when the record is already before a higher tribunal.  
25 All right. But again I'll, I'll --

1 MS. MCNEIL: Mr. Benton? Mr. Benton, if I may ask  
2 you this. Mr. Harding has alleged that no court has issued  
3 a stay of any of these proceedings. Have you gotten a stay  
4 to prevent me from proceeding today?

5 MR. BENTON: Well, have I gotten a stay, no.

6 MS. MCNEIL: In court. Okay.

7 MR. BENTON: And Mr. Harding in, in regards to, to  
8 Mr. Harding, he is inappropriately ruled that, that, that  
9 the, the Court of Special Appeals did not rule that, that I,  
10 that I, that I, that I cannot go, go forward, because  
11 otherwise we would, we wouldn't have pending hearings and  
12 everything as, as we do now. Right.

13 MS. MCNEIL: Okay. Then --

14 MR. BENTON: And that's why I actually submitted  
15 all of the documents on the record including my submitted  
16 briefs today, which is the record related to me appealing  
17 the District Council decision on DSP-18024, so.

18 MS. MCNEIL: Okay. Then I thank you all for being  
19 here today. Mr. Benton did submit several documents  
20 pertaining to the court cases and asked that we take  
21 administrative notice of them and so they do not have to be  
22 exhibits in this record. But I've heard enough today,  
23 especially since there's no stay to think that I have the  
24 right to continue and hear this request. And your  
25 opposition to that is noted for the record, but we will now

1 start the actual proceedings. So Mr. Rivera, who is your  
2 first witness?

3 MR. RIVERA: Thank you, Madam Examiner. Mr.  
4 Lenhart, who has appeared before you.

5 MR. HARDING: May I be, will the Examiner need me  
6 any further this morning? Or Mr. Rivera?

7 MR. RIVERA: Not that I can tell.

8 MS. MCNEIL: I saw you but now we don't have to  
9 hear you either, unless Mr. Rivera needs you, is that fair  
10 to say?

11 MR. RIVERA: We'll give you a call, Jeff. Thank  
12 you very much.

13 MR. HARDING: Okay. Thank you.

14 MR. RIVERA: Thanks for coming.

15 MR. HARDING: Madam Examiner, have a great day.

16 MS. MCNEIL: You too, sir. Mr. Lenhart, good  
17 morning.

18 MR. LENHART: Yes, good morning.

19 MS. MCNEIL: Do you swear or affirm under the  
20 penalties of perjury that the testimony you shall give will  
21 be the truth and nothing but the truth?

22 MR. LENHART: I do.

23 MR. RIVERA: Thank you, Madam Examiner. Mr.  
24 Lenhart, please state your name, address, business  
25 occupation for the purposes of this case.

1 MR. LENHART: Yes, Michael Lenhart at 645  
2 Baltimore Annapolis Boulevard, Suite 214, Severna Park,  
3 Maryland 21146.

4 MR. RIVERA: In your practice you've appeared in  
5 the field of traffic engineering and or planning before the  
6 Examiner and Planning Board, District Council, et cetera of  
7 Prince George's County?

8 MR. LENHART: Yes, many times.

9 MR. RIVERA: Yes, thank you. I submitted his  
10 resume earlier this morning. I move that as exhibit into  
11 the record, Madam Examiner. I guess that would be 34.

12 MS. MCNEIL: Is that correct, Ms. Bah, the number?

13 MS. BAH: Yes, that's correct.

14 MS. MCNEIL: Okay. Okay.

15 MR. RIVERA: Thank you.

16 MS. MCNEIL: His resume will be accepted as  
17 Exhibit 34.

18 (Hearing Exhibit No. 34 was  
19 marked for identification.)

20 MR. RIVERA: Great, thank you very much. So we'll  
21 go into the case in chief and as again, Mr. Lenhart, you're  
22 aware of the reason we're here to amend certain zoning  
23 conditions as to transportation. And in that regard are you  
24 familiar with the proposed development known as Woodmore  
25 Overlook?

1 MR. LENHART: Yes, I am.

2 MR. RIVERA: Yes, and that project which is in two  
3 phases is in the M-X-T Zone, is that correct?

4 MR. LENHART: Yes.

5 MR. RIVERA: And in that regard has the applicant  
6 retained you to proceed with Preliminary Plan and Detailed  
7 Site Plan, were you made familiar with the prior underlying  
8 approvals, namely A-10020, the subject of today's hearing  
9 and then there was several other approvals subsequent to Mr.  
10 King's original development. There was a CSP 10004 and a  
11 Preliminary Plan of 10022 as well as the plans that we  
12 filed. You're familiar with those?

13 MR. LENHART: Yes, I am.

14 MR. RIVERA: Right, thank you. So in regard to  
15 the Preliminary Plan 4-18007 which is, the first place where  
16 it appears is Number 8, that's the original Preliminary Plan  
17 of Subdivision that we prepared on behalf of the applicant,  
18 correct?

19 MR. LENHART: Yes, that's correct.

20 MR. RIVERA: And in that regard, you did a traffic  
21 impact study based upon a certain development program,  
22 correct?

23 MR. LENHART: That's correct.

24 MR. RIVERA: Yes. Are you aware that when the  
25 Detailed Site Plan was formally processed by the Planning

1 Board which then eventually went to the District Council,  
2 the development program was reduced by the applicant from  
3 the original Preliminary Plan to the DSP, is that correct?

4 MR. LENHART: That's correct. Yes, the original  
5 Preliminary Plan was based on a trip cap that was  
6 established in the original A-10020 and the trip cap got  
7 reduced at the time of the 4-18007 Preliminary Plan based on  
8 the Detailed Site Plan 18024 that was forthcoming at the  
9 same time and the reduced program resulted in a significant  
10 reduction in the trip cap, which was not acknowledged in the  
11 initial traffic study that we conducted for the Preliminary  
12 Plan 4-18007.

13 MR. RIVERA: Thank you, Mr. Lenhart. As I recall  
14 the original A case and the CSP and the Preliminary Plan  
15 approved by the King Family before or requested for approval  
16 and approved, it had a.m. and p.m. trip hour caps of 514  
17 a.m. and 963 p.m. peak hour trips with his original  
18 development program. Based upon the new development  
19 program, is it your understanding that the Planning Board  
20 recommended approval of a much lower trip cap of 364 a.m.  
21 and 3.47 p.m. peak hour trips for those same intersections?

22 MR. LENHART: That's correct. And the Preliminary  
23 Plan that was approved, 4-18007 at the time of the initial  
24 approval of that Preliminary Plan we were, the traffic study  
25 was still based upon 514 a.m. and 963 p.m. trips. And the

1 offsite improvements that were a condition of approval were  
2 still based upon those higher trips. The reduction of the  
3 trip cap kind of happened at the last minute, very shortly  
4 before the Planning Board hearing and we did not have time  
5 nor did we realize that the reduction in trips, the  
6 reduction in the trip cap that was applied at that  
7 Preliminary Plan resulted in fewer offsite trips that were  
8 needed. And so we conducted a revised traffic study and  
9 applied for a reconsideration based upon the lower trip cap  
10 and that reconsideration resulted in identifying the fact  
11 that fewer offsite improvements were needed.

12 MR. RIVERA: Thank you, Mr. Lenhart. Now I'm  
13 turning to the resolution dated May 12, 2020 which is  
14 Exhibit Number 16. And this is the resolution, Madam  
15 Examiner that the Planning Board issued regarding the  
16 reconsideration of the original Preliminary Plan. Is that  
17 correct, Mr. Lenhart?

18 MR. LENHART: I need to make sure I'm looking at  
19 the same document.

20 MR. RIVERA: Yes.

21 MR. LENHART: You're talking about the  
22 reconsideration of the amended resolution --

23 MR. RIVERA: Yes.

24 MR. LENHART: -- 19-32(A) for Preliminary Plan 4-  
25 18007.

1 MR. RIVERA: Yes, sir. The A means amended just  
2 for everybody's knowledge that when the Planning Board  
3 (indiscernible) there's no A, if it's reconsidered or  
4 revised in any way, they put an A for amended. Let me turn  
5 to page 3 of that resolution, Condition Number 6 and when  
6 you have it in front of you, let me know.

7 MR. LENHART: Yes. I'm good.

8 MS. MCNEIL: Mr. Rivera, is it possible for us to  
9 put that exhibit up? I didn't copy it, I'm sorry. So it's  
10 Exhibit 16? Where are you looking at? I mean we could ask  
11 staff.

12 MR. RIVERA: I used to have a piece of paper.

13 UNIDENTIFIED SPEAKER: I think mister --

14 MS. MCNEIL: How are the exhibits being displayed?

15 MR. RIVERA: Number 16, no, yes, that's it. There  
16 you go. Thank you. Page 3. Maybe that little down arrow.  
17 That's the end.

18 UNIDENTIFIED SPEAKER: I believe this is page 3.

19 MR. RIVERA: Okay. Could you go further, the  
20 next, it would be two pages after that, I believe. There  
21 we're getting close. There. So that is page 3 of the  
22 resolution 19-32(A) Exhibit 16. Mr. Lenhart, as you see  
23 there in Condition 6, are those conditions of approval  
24 related to the transportation improvements?

25 MR. LENHART: That's correct. If you can scroll



1 down just a few lines, or at the bottom half of the page,  
2 there you go that's good.

3 MR. RIVERA: Perfect.

4 MR. LENHART: So Condition 6A, B and C were the  
5 original conditions. 6A was a set of improvements that was  
6 required at Maryland 202 and Lottsford Road. That set of  
7 improvements was revised to, modifying right turn lane on  
8 eastbound Lottsford Road to a shared through right. That  
9 was replaced with constructing a third left turn lane from  
10 southbound Maryland 202 onto eastbound Lottsford Road. So  
11 that is the new Condition A, a triple left turn.

12 Condition B is improvements of Lottsford Road and  
13 Campus Way North and that condition is no longer required.  
14 The intersection of Lottsford Road at Campus Way North was  
15 determined to pass the adequate public facilities test based  
16 on the lower trip cap. And bear in mind that the trip cap  
17 was reduced by well over 50 percent, I think close to 60  
18 percent reduction in the trip cap, was a substantial  
19 reduction and that is why 6B is no longer need.

20 Condition 6C becomes 6B and that is simply to  
21 construct the I-310 roadway between northbound Maryland 2  
22 and Ruby Lockhart Boulevard.

23 MR. RIVERA: Thank you, Mr. Lenhart. Again, those  
24 conditions approved by the Planning Board reflect your  
25 revised traffic impact study, staff's review and the

1 Planning Board's review and approval, is that correct?

2 MR. LENHART: That's correct.

3 MR. RIVERA: Thank you. Now that merges or goes  
4 into our case in chief, Madam Examiner and Mr. Brown,  
5 because the revised conditions that Mr. Lenhart just  
6 explained to the audience here are what pertains to the site  
7 as of today in November of 2020. Back when the zoning case  
8 was approved in A-10020 there was a different set of  
9 conditions. So, Mr. Lenhart, if you could pull up A-10020  
10 it's Exhibit 3 but you probably have it in front of you, the  
11 original zoning case.

12 MR. LENHART: Yes. It was --

13 MR. RIVERA: Here it is.

14 MR. LENHART: -- from September 1st of 2010 was  
15 the memo from --

16 MR. RIVERA: Right. That was the District order  
17 specifically.

18 MR. LENHART: Yes.

19 MR. RIVERA: Now in that order on page 3, are the  
20 conditions related to transportation.

21 MR. LENHART: Yes.

22 MR. RIVERA: Coincidentally, very similar numbers,  
23 there's a 5A and 5B, but Conditions 4, 5A, 5B and 6, do they  
24 pertain to transportation?

25 MR. LENHART: They do.

1 MR. RIVERA: Thank you. And Condition 5A for --

2 MS. MCNEIL: Mr. Rivera? Mr. Rivera, I'm sorry,  
3 do you still need exhibit, what is it, 16?

4 MR. RIVERA: Oh no, if you could pull up Exhibit 3  
5 whoever the magical person is? Or yes, that's the A Dash  
6 case or Number 20. Number 20 might be better, Exhibit 20.  
7 And then page 3 again of that one. There we go. Madam  
8 Examiner, Mr. Brown, this is the A Dash case, page 3 of the  
9 District Council's order in the Zoning Map Amendment that  
10 rezoned the property to M-X-T. Thank you for highlighting  
11 the transportation conditions. Mr. Lenhart, can you go  
12 through 4A, 5A, 5B and then finally 6 and that relationship  
13 now of our new conditions as it relates to 4, 5A, 5B, and 6  
14 and then we'll go from there. Thank you.

15 MR. LENHART: Certainly. So Condition 4 is simply  
16 that the CSP shall show right-of-way along I-308 and I-310  
17 consistent with Master Plan recommendations and that the  
18 right-of-way shall be shown and dedicated at the time of  
19 Preliminary Plan. In fact, the Preliminary Plan has  
20 occurred for Woodmore Commercial which is the 18-007 and  
21 then Woodmore Residential which was the, I don't recall the  
22 Preliminary Plan number but it's the residential development  
23 to the east side of Ruby Lockhart Boulevard adjacent to the  
24 subject Preliminary Plan 18007 and the right-of-way for I-  
25 308 and I-310 have been fully dedicated and or deeded to the

1 county and have been constructed or not yet fully opened to  
2 traffic but they have been constructed. This condition  
3 simply says show the right-of-way and it shall be shown for  
4 dedication at time of Preliminary Plan. So this Condition 4  
5 really is satisfied. That just simply says identify the  
6 right-of-way, that has been done.

7 MR. RIVERA: Thank you.

8 MS. MCNEIL: Mr. Rivera, if I could stop you right  
9 there, your request unfortunately did not mention Condition  
10 4. If you go back and look at your request dated July 14,  
11 2020, so my question to witnesses, no one is harmed by  
12 leaving 4 in there, are you?

13 MR. LENHART: I don't believe so --

14 MR. RIVERA: By --

15 MR. LENHART: Go ahead, Norman.

16 MS. MCNEIL: But instead of us having another  
17 hearing and you amending your request, are you good with  
18 just leaving Condition 4 in?

19 MR. RIVERA: Yes, like any other condition good  
20 point if it's satisfied, it's satisfied.

21 MS. MCNEIL: Okay.

22 MR. RIVERA: So I'll take credit for leaving it  
23 there.

24 MS. MCNEIL: Thank you.

25 MR. BROWN: Well, that is problematic. I mean I

1 was going to raise the same issue, Madam Examiner, in  
2 looking at the request, you know there's no request to amend  
3 Condition 4. The whole purpose of Rashow, the case that I  
4 mentioned at the original District Council hearing on the  
5 Detailed Site Plan was to get rid of Condition 4. I  
6 understand Mr. Lenhart's analysis of 5A, 5B, 5 and 6 on the  
7 original rezoning and on the Preliminary Plan. I have no  
8 problems with those and I have no problem with 4, but at the  
9 same time you've got to get rid of 4 or Mr. Lenhart and  
10 hopefully Mr. Masog can give a rationale here and I'm not  
11 suggesting it's required, but the ramp roadway linking Ruby  
12 Lockhart Boulevard and Maryland 202. Somebody must explain  
13 with regard to Condition 4 if that is in the Master Plan is  
14 it still relevant with regard to this Condition 4. But at a  
15 minimum, Mr. Rivera, I mean we can cure that issue with you  
16 now saying you want to amend your request for  
17 reconsideration of condition to include number 4 and I don't  
18 think there's any harm in doing that, even though it wasn't  
19 advertised as such.

20 MR. DEAN: Madam --

21 MS. MCNEIL: Who's that? I'm sorry.

22 MR. RIVERA: Go ahead, Madam Examiner.

23 MR. DEAN: This is Mr. Dean.

24 MS. MCNEIL: Okay. Mr. Dean.

25 MR. DEAN: I'll let, I'll let Mr. Rivera finish

1 his testimony and then I'll, I'll follow him because I have  
2 some real major issues with this whole request for approval.

3 MS. MCNEIL: Okay.

4 MR. RIVERA: Well at this point, Madam Examiner --

5 MR. BENTON: Okay. I would, this is Mr. Benton.

6 I do want to note my objection because if they're trying to  
7 include Condition 4, it needs to be, it needs to be  
8 properly, I mean, documented and noted for the, for the  
9 public to review. And that hasn't been done prior to today.  
10 So however he wants to go, go, go forward with that, but I'm  
11 going to object and, and I'm going to raise that because  
12 again the whole purpose of, of them actually submitting  
13 their application and being specific is to not only inform  
14 the Zoning Hearing Examiner and District Council what they  
15 want to do, but the general public as well.

16 UNIDENTIFIED SPEAKER: Okay.

17 MR. BROWN: Madam Examiner?

18 MS. MCNEIL: Yes, sir?

19 MR. BROWN: Although Mr. Benton and Mr. Dean just  
20 interjected, under the rules Mr. Rivera is putting on his  
21 case and we continue to let him put on his case. But I'm  
22 just making a note Mr. Rivera, that at some point during  
23 this hearing you should (indiscernible) --

24 AUTOMATED RECORDING: Calls from (indiscernible)

25 D. Calls from (indiscernible) D.

1 MS. MCNEIL: Mr. Brown, you're correct that he  
2 could amend the application but even the Examiner wasn't  
3 aware until now about 4. So if you need to amend 4, I would  
4 be inclined to continue just for that. And we could have,  
5 we could come up with a gate today. But I do think it's  
6 unfair to these applicants, even though there was some  
7 discussion about that ramp.

8 UNIDENTIFIED SPEAKER: Madam --

9 MR. BROWN: And I agree, Madam Examiner, we can --

10 MS. MCNEIL: Okay.

11 MR. BROWN: -- go through the whole case now with  
12 regards to all of the other conditions.

13 MS. MCNEIL: Okay.

14 UNIDENTIFIED SPEAKER: (Indiscernible)

15 MS. MCNEIL: Somebody needs to mute their mic when  
16 they're not on.

17 MR. DEAN: I will mute mine and then, and you will  
18 call.

19 MS. MCNEIL: Okay. So okay, Mr. Rivera, you can  
20 proceed as to the other and we'll discuss what happens with  
21 4 a little later.

22 MR. RIVERA: Thank you, Mr. Brown.

23 MR. LENHART: If I could ask a question? I don't  
24 know if anybody else heard, Mr. Brown started saying a  
25 minimum we need to address something and then I don't know

1 if anybody else had difficulty hearing that, but that's  
2 some, some background noise kind of made it hard for me to  
3 understand.

4 MS. MCNEIL: The ramp roadway linking Ruby  
5 Lockhart and Maryland 202, he thinks you do have to address  
6 that.

7 MR. LENHART: Okay. Well, I'm happy, I think we  
8 can probably, I believe we can resolve that as we go through  
9 and answer Mr. Brown's questions.

10 MR. RIVERA: And I had --

11 MR. HARDING: Hey, hey everybody, excuse me, it's  
12 Jeff Harding, I'm back in. Thank you for allowing me to  
13 step away. I think Mr. Brown has a bad connection, maybe he  
14 can close out and come back in, because I can't hear him  
15 either. So I'll join.

16 MR. RIVERA: All right. Just mute now then  
17 please, Jeff. As I'll say, Madam Examiner, I have a line of  
18 questioning to address the ramp 310 issue. We prefer not to  
19 continue it but we'll see it when the time comes. But I  
20 would also point out that while the condition just states  
21 that we shall show the right-of-way, the public record  
22 actually shows the right-of-way being dedicated on plats  
23 owned by the county now because it's a public road. The  
24 same goes for I-310. So the bare wording of the condition  
25 states that 308, Ruby Lockhart and 310 now Grand Way



1 Boulevard, have to be shown for dedication at the time of  
2 Preliminary Plan consistent with the Master Plan  
3 recommendations. And the questions that I'll go through  
4 with Michael, you'll see that that actually has been done  
5 and hence permits have been issued to actually build those  
6 roads. So by logically speaking they had to have been  
7 dedicated otherwise we couldn't build the roads but we'll --

8 MS. MCNEIL: Okay. This is your case and if you  
9 think 4 can stay in, that's fine. Mr. Brown thought you  
10 might have to remove it. So let's just continue and see  
11 where we go with this.

12 MR. DEAN: Madam Chair?

13 MADAM CHAIR: Who's that?

14 MR. DEAN: This is Sam Dean.

15 MS. MCNEIL: Hi, Mr. Dean.

16 MR. DEAN: Because I need to speak to the I-310.

17 MS. MCNEIL: Okay. Wait a minute, Mr. Dean. If  
18 you want to do testimony I have to hold you for a second and  
19 finish with Mr. Lock, not Mr. Lockhart, Mr. Lenhart, if you  
20 don't mind.

21 MR. DEAN: Okay.

22 MS. MCNEIL: If you can like write your question,  
23 you will be allowed to speak. But right now we're just --

24 MR. DEAN: Thank you.

25 MS. MCNEIL: -- trying to figure out what's the

1 status of 4.

2 MR. DEAN: Well I'm going to speak to 4, the  
3 status of 4 when I testify.

4 MS. MCNEIL: Okay. Thank you. So --

5 MR. RIVERA: Thank you, Madam Examiner. I'd like  
6 to continue with Mr. Lenhart, we'll try to address Condition  
7 4 then we can make a decision as to whether or not we need a  
8 hearing on Condition 4 to remove it.

9 MS. MCNEIL: Okay.

10 MR. RIVERA: Mr. Lenhart, in your review of those  
11 prior conditions of approval that mentioned regarding 310 as  
12 a proposed, this is a quote from the resolution, as a  
13 proposed ramp/roadway connecting to a ramp flyover  
14 connecting McCormack Drive to St. Joseph's Drive over  
15 Maryland 202, you have been aware of that condition or those  
16 requirements, correct?

17 MR. LENHART: Yes, that's correct.

18 MR. RIVERA: And when we embark on the Preliminary  
19 Plan for the subject property we knew and you knew that I-  
20 310 was a Master Plan Road that bisected the property or  
21 crossed the property, is that correct?

22 MR. LENHART: That's correct.

23 MR. RIVERA: And as you know when you do a  
24 Preliminary Plan of Subdivision you have to be in  
25 conformance of those according to the subdivision

1 regulations. Did you approach the relevant agencies to  
2 determine the appropriate location of I-310 not only as to  
3 location along Ruby and 202 as to their access points but  
4 also to its design, i.e., width, et cetera?

5 MR. LENHART: Yes, we did. We met with  
6 transportation staff, Mr. Masog, who is available today. We  
7 met with Kwasi Woodruff (phonetic sp.) at State Highway  
8 Administration who is in charge of the access management  
9 division at State Highway Administration and we also  
10 consulted with DPIE on the location of the roadway. The  
11 primary consultation in these discussions was with State  
12 Highway Administration due to the P.G. Atlas shows the  
13 Master Plan location of I-310 at the northern property line  
14 where it connects between northbound Maryland 202 and Ruby  
15 Lockhart Boulevard. That location is located if you look at  
16 a map or an aerial photo you can see that P.G. Atlas  
17 location is within the functional area of the turn lanes at  
18 the Maryland 202 and St. Joseph's Drive intersection. State  
19 Highway Administration does not like access points to be  
20 located within the functional area of the turn lanes. And  
21 by functional area it's within the deceleration lane, the  
22 existing deceleration lane that's out there today and has  
23 been out there for many years. And so we've met with State  
24 Highway Administration to discuss the appropriate location  
25 and it was determined by the state that that access, the I-

1 310 should be shifted and it was shifted roughly 240 feet, I  
2 think is the number approximate shift and that moved I-310  
3 out of the deceleration lane from St. Joseph's Drive and  
4 allowed us to construct, or a full deceleration lane into I-  
5 310 along with an acceleration lane that then tied into the  
6 deceleration lane for St. Joseph's Drive. That was what  
7 State Highway's supported and wanted us to do. We agreed to  
8 that. We met with Mr. Masog and discussed the issue with  
9 him. Mr. Masog agreed that that made sense and as a result  
10 that is what was done.

11           Also there I could say that it is standard  
12 practice and it has been done many, many times where a  
13 Master Plan roadway that's shown on the Master Plan can be  
14 shifted and moved within a property so long as it does not  
15 encumber or affect an adjacent property. Master Plans are  
16 established through a public hearing process, all property  
17 owners and involved people are able to partake in that  
18 public hearing process and when they see a Master Plan  
19 roadway affecting their property they're able to comment and  
20 have participation in the alignment of that roadway. And so  
21 therefore when a master planned road is moved after a Master  
22 Plan has been approved and a Transportation Plan has been  
23 approved, it can't be moved such that it impacts another  
24 property, or encumbers another property when they haven't  
25 had an ability to review that through a public process.

1 That is standard practice, that's been done many times. I  
2 believe that Mr. Masog would echo those thoughts.

3           And in this case, the shifting of that I-310  
4 number one it did not affect any other properties, did not  
5 encumber any other properties. Number two, it was reviewed  
6 and approved by the operating agencies. And number three it  
7 does improve the location of the access by moving I-310 out  
8 of the functional area of adjacent intersections. And  
9 number four, it does not change the intent of the Master  
10 Plan. I-310 is not a ramp, it's not a flyover, it is an at  
11 grade connection that connects northbound Route 202 to Ruby  
12 Lockhart Boulevard at grade at both locations and the  
13 flyover in the Master Plan, when you hear the word flyover,  
14 the flyover is that there's a future desire to take St.  
15 Joseph's Drive and raise it and have it go over Route 202  
16 and then there would be roadway links on either side of 202  
17 that would provide connectivity back to 202.

18           I-310 and I-308 are nothing more than roadway  
19 links that provide connectivity so motorists could get to  
20 and from the flyover. It's not part of the flyover, it's  
21 part of the overall connectivity.

22           And so going back to Condition 4, I believe that  
23 we satisfied already Condition 4 because that simply says  
24 show the right-of-way at time of CSP, show it for dedication  
25 at time of Preliminary Plan, now consistent with Master Plan

1 recommendations that may be the term that people are getting  
2 hung up on. But again, there are numerous cases where  
3 right-of-way has been shifted. It doesn't have to be right  
4 in the exact location shown on P.G. Atlas. It can be moved  
5 and it has been moved many times when it doesn't affect  
6 other properties or the intent of the Master Plan.

7 MR. RIVERA: Thank you, Mr. Lenhart. Continuing  
8 with 310, do you understand that a street construction  
9 permit was issued by DPIE for that roadway improvement?

10 MR. LENHART: Yes.

11 MR. RIVERA: That's Exhibit Number 15, it's street  
12 permit 2300-2019. So that permit was issued?

13 MR. LENHART: That's correct.

14 MR. RIVERA: And do you understand that the road  
15 has now been substantially constructed?

16 MR. LENHART: That's correct, yes.

17 MR. RIVERA: This morning, Madam Examiner, Mr.  
18 Brown, I submitted a photograph of I-310 looking down from  
19 Ruby Lockhart Boulevard I guess it's south towards 202 and  
20 in the background you can see the DPIE building on  
21 Peppercorn Place across 202. If I could, Madam Examiner,  
22 have that introduced as Exhibit 35, just to show that the  
23 road was built pursuant to that permit in Exhibit Number 15.

24 MS. MCNEIL: Could you, okay, it'll be Exhibit 35  
25 if Ms. Bah agrees that's the number.

1 (Hearing Exhibit No. 35 was  
2 marked for identification.)

3 MS. MCNEIL: But could we just show it briefly?  
4 Because I know that area and I'm having a hard time  
5 picturing 310 and 208.

6 MR. RIVERA: Yes, the connection to 202 is not yet  
7 done because it's Pepco. We're waiting for Pepco to move  
8 the poles out there. So we can't punch it through to 202  
9 yet, but you could see if you're looking on Ruby towards 202  
10 you could see it if, I don't know who has the photograph  
11 that I submitted this morning to share it.

12 MR. LENHART: I can probably do that if you give  
13 me a moment.

14 MR. RIVERA: Oh here it is. Thank you. So that  
15 is Ruby Lockhart --

16 MS. MCNEIL: From the parking lot.

17 MR. RIVERA: This is the gray paving, the light  
18 gray paving in the front is Ruby Lockhart Boulevard and then  
19 I-310 is a 70 foot right-of-way going all the way down to  
20 202 but you can't see it from 202 because there's no actual  
21 connection until Pepco moves those poles. But we do have an  
22 access permit and once the poles are moved we can continue  
23 the work and connect to 202. So you can't see it yet, but  
24 one day you will. So that would be Exhibit 35, thank you.

25 MS. BAH: It's Exhibit 35.

1 MS. MCNEIL: Thank you.

2 MR. RIVERA: Thank you, Ms. Bah. Continuing along  
3 on the ramp flyover issue I know that in past conversations  
4 the fact that the DSP hearing last September, Mr. Brown that  
5 when the commercial part of Woodmore Overlook proceeds prior  
6 to that building permit for whatever we go with first, that  
7 triggers the requirement for I-310. So in fact, since that  
8 commercial, this is a commercial development, Mr. Lenhart,  
9 that trigger is now reached, is that correct?

10 MR. LENHART: (No audible response.)

11 MR. RIVERA: You're muted.

12 MR. LENHART: Sorry. Thank you. Yes, the trigger  
13 is the building permit and typically you need to have the  
14 roadways bonded and permitted prior to issuance of the  
15 building permit. And so in this case, we are ahead of that  
16 trigger, obviously the roadway is nearly completed.

17 MR. RIVERA: Thank you, Mr. Lenhart. And the last  
18 question as I stated at the beginning of the hearing 27-  
19 135(c) which allows an amendment of zoning conditions  
20 requires that there be a finding of good cause and no  
21 enlargement or extension of the uses proposed. In your  
22 opinion, is there good cause to reduce to traffic  
23 improvements related to this project?

24 MR. LENHART: Yes. Again, the good cause is the  
25 fact that the amount of traffic generated by the proposal as



1 now or the project does now propose and approved is much  
2 lower over half reduction, over 50 percent reduction than  
3 the original trip cap. And so the associated conditions of  
4 approval for offsite requirements should be reduced  
5 accordingly.

6 MR. RIVERA: Thank you. That was my last question  
7 on direct of Mr. Lenhart. But to address, Madam Examiner,  
8 Condition 4, I'd prefer to be cautious and make sure that I  
9 do this correctly. If it could be amended today and  
10 proceed, that'd be great. If in your opinion and or Mr.  
11 Brown, it requires a continuance, I prefer it to be short,  
12 just to address that one condition, because with this, my  
13 finish of direct of Mr. Lenhart, my case in chief is  
14 essentially done. I would just react to Mr. Dean and Mr.  
15 Benton's testimony with Mr. Lenhart. But I'll defer to your  
16 judgment and hope that a fairly quick date could be found.  
17 Thank you.

18 MS. MCNEIL: Let me think about that a little  
19 further but are you finished as to him addressing all of the  
20 conditions in the Council's approval that you want me --

21 MR. RIVERA: Yes, ma'am.

22 MS. MCNEIL: Okay.

23 MR. RIVERA: Yes. I'll have Mr. Lenhart be  
24 patient and see if anything that's raised by Mr. Dean and/or  
25 Mr. Benton and/or you all need to be addressed by Mr.

1 Lenhart. Thank you.

2 MS. MCNEIL: So I have one devil's advocate  
3 question for Mr. Lenhart and that is Condition 5A says you  
4 can't exceed those numbers. And you're not going to exceed  
5 those numbers so why --

6 MR. LENHART: Well --

7 MS. MCNEIL: -- must we do --

8 MR. LENHART: -- because Condition 5B are being  
9 reduced, the offsite requirements are being reduced.

10 MS. MCNEIL: Yes.

11 MR. LENHART: And so the trip caps shown in 5A  
12 should be reduced accordingly to reflect the improvements  
13 that are shown in 5B.

14 MS. MCNEIL: So it's, okay.

15 MR. LENHART: They're tied together.

16 MS. MCNEIL: Okay.

17 MR. RIVERA: That's a good question, but the  
18 Planning Board does that as well.

19 MS. MCNEIL: Mr. Brown, do you have any questions?

20 MR. BROWN: Mr. Lenhart, I mean I understand  
21 exactly what you said concerning the Master Plan. But as I  
22 indicated earlier, I need somebody to say that on the  
23 record, I didn't want that to be implied. My only question  
24 is and I know the answer to it, but again I want this on the  
25 record. With regards to the so-called ramp or flyover, was

1 it originally proposed as part of the original rezoning for  
2 this property in A-10020 or was it originally proposed as  
3 part of the Master Plan?

4 MR. LENHART: So the flyover at St. Joseph's Drive  
5 and Route 202 is part of the Master Plan.

6 MR. BROWN: All right.

7 MR. LENHART: The roadways I-310 and I-308 are  
8 connector roads, they're not ramps, they're connector roads  
9 and so you know I would say that the use of the word ramp in  
10 Condition 4 is really not appropriate. The roadway linking  
11 Ruby Lockhart and northbound Maryland 202 is what it is, but  
12 it's not a ramp. So if that answers your question, let me  
13 know.

14 MR. BROWN: I mean that's the critical question in  
15 this whole case and I accept your answer. Madam Examiner,  
16 if Mr. Rivera plans to ask questions of Mr. Masog, I would  
17 ask you know that he confirms that testimony by Mr. Lenhart  
18 with regards to the term ramp, as it is in in Condition 4.  
19 Because I mean that's the whole point of this case. No  
20 other questions.

21 MR. RIVERA: Thank you, Mr. Brown. Mr. Masog --

22 MS. MCNEIL: I was going to call Mr. Masog but  
23 back to the original continuance. Since you all are talking  
24 about it now you need to submit a revised application that  
25 wants 4 removed, Mr. Rivera and I would like to give anyone

1 a chance to listen and then if they have additional  
2 questions or if you have additional summary perhaps we can  
3 come back next Wednesday, which is our normal day. Oh wait  
4 a minute, is next Wednesday the 9th? Ms. Rawlings, are you  
5 out there?

6 MS. RAWLINGS: Yes, that's the 9th, Maurene. We  
7 have a hearing that day.

8 MS. MCNEIL: All right. The Council has to do  
9 their thing on Tuesday. We could do it next Monday, just if  
10 anyone has questions after hearing your testimony today you  
11 submit the revision officially asking that 4 be revised.  
12 You should explain why, you know, what about 4, why you  
13 needed the revision. Are you all all available on the 7th?

14 MR. RIVERA: I am.

15 MS. MCNEIL: Just think about it. Mr. Dean and  
16 Mr. Benton, this is really for you, it gives you more time  
17 to think about what you hear and do you have any more  
18 comments you'd like to say on Condition 4?

19 MR. DEAN: This is Mr. Dean. I don't really need  
20 to have more time to think about it. Let me testify today.

21 MS. MCNEIL: All right.

22 MR. DEAN: Thank you.

23 MS. MCNEIL: So Mr. Rivera, I will still need you  
24 to put in the record, okay? A revised application as to  
25 that. Mr. Benton?

1           MR. BENTON: Yes, what I would say is this, even  
2 if Mr. Rivera revises the application and resubmits the  
3 application that would not, in my, in my opinion, I believe  
4 that would actually constitute a reset because that means  
5 that that his revisions still need to be publically made,  
6 made publically available within the same 30 day timeframe  
7 and it needs to be reposted. Because again in making those  
8 changes, right, it's an actual change to the underlying  
9 application that they're requesting. Which the general  
10 public has the opportunity, or should have, well they should  
11 have an opportunity according to the Zoning Ordinance to  
12 comment on and to actually inform the ZHE if they want to  
13 actually you know come on and actually respond in common.

14           So you know my, my whole thing is okay if you want  
15 to make the change, that's fine, we can just continue it.  
16 But then, but then do it according to the Zoning Ordinance  
17 with the exact same notice requirements as everything, so  
18 again, not just me and Mr. Dean here as the general public,  
19 but so that other members of the general public can actually  
20 have the opportunity to respond, if they choose to. Because  
21 right, right here, this is in this, in this closed meeting  
22 they don't have that opportunity.

23           MS. MCNEIL: Mr. Benton, first of all the meeting  
24 is not closed. It's being streamed, but the notice in this  
25 case said to revise transportation conditions, 4 is a

1 transportation condition. And I'm allowing some additional  
2 time, which I have the right to continue a hearing to a set  
3 date if I do it on the record as we're doing now. So if you  
4 think you would like more time I can give until next week.  
5 You make good arguments, but I think because it was a  
6 generic notice advising the public of transportation  
7 conditions, it's really more of a technical matter but I do,  
8 I would like to give people time if they want to say  
9 anything about Condition 4 in particular.

10 MR. BENTON: Well --

11 MS. MCNEIL: So, I see your argument, but I think -  
12 -

13 MR. BENTON: Yeah, I mean I don't, I mean I, I  
14 would, I would, I, I would say well, speaking for myself I  
15 would need to actually read Attorney Rivera's changes and  
16 probably respond because I don't want to, I don't want to,  
17 to unknowingly or be uninformed in responding on the record.  
18 Which so I want to be make, make sure I respond properly and  
19 I can't right now.

20 MS. MCNEIL: Okay. So Mr. Brown and Mr. Rivera, I  
21 said Monday, but are you all available Thursday? That gives  
22 us 10 days. Do you have Planning Board --

23 MR. RIVERA: I am.

24 MS. MCNEIL: -- in other words? Mr. Benton, are  
25 you available on the, I forget what day it is now, the 10th?

1 MR. BENTON: Hold on.

2 MR. LENHART: I have a Planning Board hearing that  
3 day.

4 MS. MCNEIL: Who is that?

5 MR. LENHART: Sorry, that was Mr. Lenhart.

6 MS. MCNEIL: Do you know what time, Mr. Lenhart?

7 MR. LENHART: Well, typically they start at 10:00,  
8 and they go go, they don't generally take the order on the  
9 agenda, so it's hard to say.

10 MR. BENTON: That, the, the 10th, the 10th does  
11 not work for me.

12 MS. MCNEIL: Okay.

13 MR. BENTON: I'm one, I mentioned, we got a, we  
14 got a brief in before the, the Court of Special Appeals.

15 MS. MCNEIL: Oh, okay.

16 MR. BENTON: So they actually --

17 MS. MCNEIL: Then we'll move it back to the, what  
18 day, the 7th? Okay? So you got time, we'll do it the 7th  
19 at 9:30 and it's only as to, and but Mr. Rivera, you need to  
20 get that to us today if you can so that we can get it to  
21 everyone else.

22 MR. RIVERA: Yes, I will, thank you.

23 MS. MCNEIL: All right. So Mr. Brown, you were  
24 finished with your questions?

25 MR. BROWN: Yes.

1 MS. MCNEIL: Okay. Mr. Dean, do you have any  
2 questions of Mr. Lenhart?

3 MR. DEAN: I, I have, I have more than a question.  
4 Right now do you have any questions of Mr. Lenhart?

5 MR. DEAN: Let me kind of speak to I-310 because  
6 Mr. Rivera has come in for you all to approve the amendment  
7 that was heard on 18004. Let me kind of --

8 MR. BROWN: Mr. Dean, right now it's the time to  
9 ask questions of Mr. Lenhart not to make testimony.

10 MR. DEAN: The issue is that on, let me, I'm  
11 really frustrated. I am absolutely frustrated. Okay.  
12 Because basically what they're doing is kind of modifying  
13 what I-310 was to be. In 1987, 89604 approved --

14 MR. BROWN: Madam Examiner, if I could interrupt?

15 MS. MCNEIL: Yes. Mr. Dean, I can't let you  
16 testify yet, but Mr. Lenhart are you still going to be here?  
17 You're not leaving right now are you?

18 MR. DEAN: Wait a minute. Wait a minute.

19 MR. LENHART: I'm here as long as you need me.

20 MR. DEAN: Because you had, you let Mr. Rivera  
21 testify --

22 MS. MCNEIL: No. No. He was asking questions.  
23 If he's said any extra words, I didn't pay attention to  
24 them.

25 MR. DEAN: Okay.



1 MS. MCNEIL: I'm saying I don't listen to  
2 testimony from the attorneys, they know that.

3 MR. DEAN: Mr. Benton testified. Let me kind of  
4 share with you where I am. I'm, I'm basically frustrated on  
5 this project period. And the, and, and --

6 MS. MCNEIL: Mr. Dean? Mr. Dean please, I have to  
7 follow the order but the good thing this is the only  
8 witness, so I'm getting ready to call you for your  
9 testimony, I really am. I'm just asking does anyone have a  
10 question of Mr. Lenhart. Mr. Benton, do you have a question  
11 of Mr. Lenhart?

12 MR. DEAN: I don't have a question for anyone at  
13 this time.

14 MS. MCNEIL: Okay. Thanks, Mr. Dean. We're  
15 getting right back to you. Mr. Benton --

16 MR. BROWN: I do, I do have a question.

17 MS. MCNEIL: What's your question of Mr. Lenhart?

18 MR. BENTON: All right. So Mr. Lenhart, you  
19 actually stated that, that the Master Plan road I-310 is  
20 not, is not, it's not to be an at grade road. My question  
21 is where, where specifically in the Master Plan does, does  
22 it state that I-310 is not, it, it, it's, it's supposed,  
23 it's supposed to be an at grade road?

24 MR. LENHART: I would say it's implied by the fact  
25 that it's an industrial road section that connects to an

1 arterial roadway and there is nothing in the Master Plan  
2 that calls for an interchange or a flyover at that location.  
3 There --

4 MR. BENTON: Well --

5 MR. LENHART: -- is in the Master Plan something  
6 that calls for a flyover at Route 202 and St. Joseph's Drive  
7 and the I-310 is a, it's a connector link between northbound  
8 210 and Ruby Lockhart Boulevard. The only way to accomplish  
9 that is at grade connections, which --

10 MR. BENTON: Well --

11 MR. LENHART: -- is the standard (indiscernible).

12 MR. DEAN: And I do have a question of Mr.  
13 Lenhart.

14 MR. BENTON: -- but, but, but, okay, hold on Mr.  
15 Dean. But, but, but in the Master Plan does it specifically  
16 say at grade? Because where, you know, we, we're, we're  
17 dealing with, with the black and white words of the Master  
18 Plan, you know, we're, you know, we're, we're, you know  
19 that's what we're dealing with. And, and I'm saying that  
20 because in your testimony you stated that, that it should be  
21 at grade and that's not the language that's actually  
22 specifically listed in the Master Plan. The Master Plan  
23 does say flyover, right, and anyone that knows it's a  
24 flyover, you're flying over from one side of the road to the  
25 other, right, and, and, and even, and even being a flyover,

1 a flyover is not at grade. So I'm just, I'm just trying to  
2 clarify specifically you know where you located in the, in  
3 the Master Plan that it actually said at grade. If at grade  
4 is not in the Master Plan, right, we can state that, but I,  
5 I want you to clarify that. Is at grade listed in the  
6 Master Plan?

7 MR. LENHART: It doesn't specify the grade  
8 differential for I-310 versus Maryland 202. Typically it  
9 does not at any other location in the Master Plan throughout  
10 the county as well, unless there is a grade separation which  
11 would be an interchange or a flyover which was, which is  
12 what it does call for at 202 and St. Joseph's Drive, not at  
13 I-310. And I would add to that as well when it calls for,  
14 when the Master Plan calls for an interchange, let's say at  
15 Route 202 and the beltway, the Master Plan doesn't give, it  
16 doesn't identify specific Master Plan road names, road links  
17 for each of the ramps at the interchange, because it's  
18 implied that an interchange is going to have ramps. In this  
19 case, it does specifically call out I-310 as another roadway  
20 separate and apart from the flyover at 202 and St. Joseph's  
21 Drive, which is further evidence that it is not part of a  
22 flyover, it is a separate roadway that provides connectivity  
23 between northbound 202 and Ruby Lockhart.

24 MR. BENTON: Now when, when you read the, the  
25 Master Plan, right, because early on in the Master Plan all

1 right, well, one question. All right. In terms of the  
2 Master Plan from your knowledge, right, like who is at,  
3 like, like who actually developed and came up with the  
4 Master Plan? What body?

5 MR. LENHART: That would be Park and Planning  
6 which ultimately gets reviewed and approved by the Planning  
7 Board and the County Council and District Council.

8 MR. BENTON: Okay. So with that being said, so  
9 the District Council is the governing board who, who has the  
10 authority to actually implement the Master Plan and change  
11 the Master Plan, correct?

12 MR. LENHART: Correct.

13 MR. BENTON: All right.

14 MR. LENHART: I would (indiscernible).

15 MR. BENTON: Oh, okay. Is there, is there, is  
16 there anywhere, is there anywhere within the Master Plan  
17 language that actually says that an individual applicant, an  
18 individual developer or even a person of record can  
19 actually, can actually make changes to the Master Plan?

20 MR. LENHART: Well let me correct something. You  
21 used the word implement and establish, I think those are two  
22 different actions, in the last question. You said does the  
23 District Council implement and establish, I would correct  
24 that, they don't implement. They approve the Master Plan  
25 and then it gets implemented through the development process

1 and typically that is through the Preliminary Plan of  
2 Subdivision process where right-of-way is required to be  
3 shown on Preliminary Plan of Subdivision as either existing  
4 right-of-way, proposed, future, or to be dedicated or  
5 reserved. There's a number of actions that can be done as  
6 that gets implemented through the subdivision process.

7 MR. BENTON: Okay, well, okay, so but, but the  
8 Master Plan it's, I, I guess it's, it's actually initiated  
9 and or approved, I don't want to say initiated, it's  
10 approved by the District Council, right?

11 MR. LENHART: Right.

12 MR. BENTON: So that goes back to my, goes, that  
13 goes back to my follow up question, right. So even as we  
14 sit here today the District Council is not asking for a  
15 change to the Master Plan, right. An individual applicant  
16 or developer is asking for a change to the Master Plan. So  
17 from a transportation perspective, right, where, right,  
18 what, what, what legal authority does the applicant have to  
19 even request a change to the Master Plan that's developed  
20 and approved, well, as approved by the District Council?

21 MR. HARDING: Madam Examiner --

22 MR. LENHART: Well I think --

23 MR. HARDING: -- Madam Examiner, this is Jeff  
24 Harding. I'm going to object to this, I guess it's a line  
25 of questioning, well beyond the scope and I don't understand

1 the relevance of it. Could you please note my objection,  
2 Madam Examiner?

3 MR. BROWN: Madam Examiner, I would agree. I mean  
4 Mr. Lenhart has been qualified as an expert in  
5 transportation planning. That is what he is testifying on.  
6 He is not here to give any legal opinions, Mr. Benton.

7 MR. BENTON: And I wasn't asking for a legal  
8 opinion.

9 MR. BROWN: But you asked a legal question, you  
10 were.

11 MR. BENTON: Okay. Okay. I'll, I'll rephrase my  
12 question.

13 MS. MCNEIL: And Mr. Benton, can you go onto other  
14 questions because that is more, that's an argument that  
15 you're going to make at some point, not a question of him.

16 MR. DEAN: May I then ask a couple of questions of  
17 Mr. Lenhart?

18 MR. BENTON: Go ahead, Mr. Dean.

19 MR. DEAN: Mr. Lenhart, are you familiar with  
20 Zoning Map Amendment A-9604 that was approved in 1987?

21 MR. LENHART: Not off the top of my head, I'm not.

22 MR. DEAN: Okay. It says that the direct access  
23 shall be prohibited from Landover Road. However, this does  
24 not preclude a flyover ramp from Landover Road into the  
25 property. Okay. Are you familiar with A-9956(C) approved

1 by the District Council in 2002?

2 MR. LENHART: Not off the top of my head.

3 MR. DEAN: Okay. All right. Are you familiar  
4 with that in the Master Plan of Transportation developed by  
5 Park and Planning that I-310 is a four lane highway running  
6 from southwest to northeast?

7 MR. LENHART: Well it's an industrial roadway as  
8 identified in the Master Plan which is 44 to 46 feet of  
9 paving from curb to curb. So yes, that's --

10 MR. DEAN: But I, but running from north, north,  
11 northwest, running from southwest to northeast, right?

12 MR. LENHART: Yes.

13 MR. DEAN: Are you ready? Okay. You further said  
14 that in order for you all to come up with the, the way that  
15 Ruben, I mean the way that Grand Way Boulevard is laid out,  
16 you all bent I-310 from northwest, from southwest to  
17 northeast and bent it to make it run from east to west, is  
18 that correct?

19 MR. LENHART: I'm not sure what you mean by bent  
20 it.

21 MR. DEAN: It's really Grand Way Boulevard runs  
22 what? East to west?

23 MR. LENHART: It still runs in the same  
24 orientation that you said before southwest --

25 MR. DEAN: (Indiscernible).

1 MR. LENHART: -- to northeast.

2 MR. DEAN: In the Master Plan of Transportation  
3 the road runs from southwest to northeast. Grand Way  
4 Boulevard as I see it runs east to west. So in other words  
5 you said that you all had to bend the road in order to I  
6 guess to avoid involving, I guess certain properties and so  
7 when you bent the road, you reduced the road from a four  
8 lane highway to a two lane road, is that correct?

9 MR. LENHART: That's not correct, no.

10 MR. DEAN: No? That's a two --

11 MR. LENHART: That's not correct.

12 MR. DEAN: It was two lane.

13 MR. LENHART: So if you let me elaborate --

14 MR. DEAN: -- huh?

15 MR. LENHART: If you let me speak to your question  
16 I can, no, it's an industrial roadway, it's a 44 to 46 foot  
17 paving section from curb to curb. That's what the Master  
18 Plan calls for, that's what we built. The general  
19 orientation of I-310 is still in a southwest to northeast  
20 orientation that's, I think that the Master Plan describes  
21 it that way just because that's the cardinal directions that  
22 runs. But be that as it may, it still provides the  
23 connectivity that is identified in the Master Plan. You  
24 mentioned a moment ago that I testified that we were trying  
25 to avoid certain properties, that's not correct. We simply



1 shifted the location of the roadway several hundred feet to  
2 address the State Highway's request to have it removed out  
3 of the functional area of St. Joseph's Drive, and it doesn't  
4 affect anything else.

5 MR. DEAN: So the, so the State Highway had  
6 problems with the road running from southwest to northeast  
7 but they didn't have a problem with it running from east to  
8 west?

9 MR. LENHART: No, I don't agree with your  
10 clarification of the directions southwest to northeast or  
11 east to west. I think it's still the same and I think it's  
12 inconsequential to the intent of the Master Plan. The I-310  
13 is still constructed in that general location, it provides  
14 the same connectivity as intended by the Master Plan.  
15 There's no direct access on 202 because I-310 is a public  
16 roadway.

17 MR. DEAN: Okay. Now the issue is that in the  
18 Master Plan I-310 is a four lane highway and you're saying  
19 that it's still a four lane highway?

20 MR. LENHART: It's built to the specifications and  
21 standards of an industrial roadway, which is what's required  
22 in the Master Plan.

23 MR. DEAN: Okay. And I didn't ask that question,  
24 Mr. Lenhart, I asked the question does it replicate what's  
25 in the Master Plan? The Master Plan calls for a four lane

1 highway. Is Grand Way Boulevard a four lane highway?

2 MR. LENHART: Do you have the Master Plan  
3 available that you're saying where it calls for a four lane  
4 highway?

5 MR. DEAN: Okay. Hold on, let, let me find, let  
6 me find my papers. Let me find my papers. Hold one minute,  
7 please, oh I can't go out of there. I will provide, I, I  
8 will --

9 MR. LENHART: Let me help you out. Because I did,  
10 I just looked up the approved countywide Master Plan of  
11 Transportation, I-310 from Ruby Lockhart to Landover Road,  
12 70 feet of right-of-way, four lanes, and yes, it is still  
13 constructed to that. We are not building a two lane  
14 roadway, we are building a four lane roadway, consistent  
15 with the county's specifications and standards for  
16 industrial roadway which is 70 feet of right-of-way and 44  
17 or 46 feet of paving, which allows for a four lane roadway.

18 MR. DEAN: Let me ask another question before I  
19 get into my testimony. Did DPIE make the decision as to the  
20 Grand Way Boulevard as opposed to this being part of the  
21 Master Plan of Transportation?

22 MR. LENHART: I'm not sure exactly understand what  
23 your question is maybe.

24 MR. DEAN: My question is well, well, my question  
25 is that the applicant and now, and this is in my testimony,

1 had deeded a Parcel 27 to DPIE. DPIE in turn determined the  
2 Master Plan road of Grand Way Boulevard.

3 MR. LENHART: Is that a question? Or --

4 MR. DEAN: Not, not, not from, not from the Master  
5 Plan of Transportation from Park and Planning.

6 MR. LENHART: I'm still not sure if that was a  
7 question. That sounded like a statement.

8 MR. DEAN: Well the issue is that you're saying  
9 that the roadway going east and west replicate the width of  
10 the road in the Master Plan, is that correct?

11 MR. LENHART: That's correct.

12 MR. DEAN: I looked at it, I, I just, I drove by  
13 it since I live in this area and it appeared to me to be two  
14 lanes as opposed to four.

15 MR. LENHART: I don't know that I have the plans  
16 right in front of me so I can give you the exact width of  
17 it, but let me see if I do. Okay. Hang tight.

18 MR. HARDING: Madam Examiner, hi it's Jeff  
19 Harding. I'm going to interpose an objection here. I'm  
20 trying to figure out, I think everybody else is what's the  
21 relevance of Mr. Dean's statements. So I'm going to object  
22 to that.

23 MR. DEAN: Okay. In my testimony --

24 MS. MCNEIL: Okay. Wait a minute, Mr. Dean. I  
25 note your objection, Mr. Harding, but as you know the rules

1 are a little relaxed here and I'm going to allow a little  
2 more leeway, especially if we're going to be calling into  
3 question whether Condition 4 is going to be deleted and  
4 Condition 4 talks about these two right-of-ways.

5 MR. HARDING: Okay.

6 MS. MCNEIL: But I note your objection for the  
7 record.

8 MR. HARDING: Okay.

9 MR. DEAN: But again (indiscernible).

10 MS. MCNEIL: Overruled it.

11 MR. HARDING: Yes, ma'am, thank you.

12 MR. BROWN: Madam Examiner?

13 MS. MCNEIL: Yes, sir?

14 MR. DEAN: I hear Mr. Harding --

15 MS. MCNEIL: Wait. We're talking over each other,  
16 so Mr. Harding's finished, I guess. Yes, Mr. Brown?

17 MR. DEAN: I got --

18 MR. BROWN: Yes, I just want to raise a point of  
19 clarification for Mr. Rivera and Mr. Harding. I mean this  
20 is an evidentiary hearing and the rules are a little bit  
21 more relaxed. However, we still do require as the courts  
22 require that only one counsel of record may ask questions  
23 and make objections. And so we cannot do a tag team and  
24 have Mr. Rivera put on the case and have Mr. Harding make  
25 objections. You guys need to make a decision who's going to

1 do the case and only one counsel can act in this particular  
2 case.

3 MS. MCNEIL: Okay. I agree with Mr. Brown, I was  
4 giving that a little leeway but I thought Mr. Harding was on  
5 because of Mr. Benton's pre-filed motions. But at this  
6 point it's a zoning case so --

7 MR. DEAN: And you know, and I do have --

8 MS. MCNEIL: Wait a minute, Mr. Dean. Wait a  
9 second.

10 MR. HARDING: (Indiscernible).

11 MR. DEAN: Okay.

12 MR. RIVERA: Sorry about that.

13 MR. DEAN: Okay. May I --

14 MR. RIVERA: Thank you, Jeff, but I'll do --

15 MR. DEAN: -- so I and I think --

16 MS. MCNEIL: Wait, wait. Wait, Mr. Dean. Go  
17 Norman. Mr. Rivera?

18 MR. RIVERA: Thank you, Jeff. You can e-mail,  
19 text me if you have any questions but I'll take the  
20 objections from here. Thank you.

21 MR. DEAN: Okay.

22 MS. MCNEIL: Okay. Go ahead, Mr. Dean.

23 MR. DEAN: Say what, you, you --

24 MS. MCNEIL: I thought you had further questions  
25 of Mr. Lenhart. Or we're waiting on Mr. Lenhart's answer.

1 Mr. Lenhart, did you find out about the --

2 MR. LENHART: Yes, I did. So the plans show 70  
3 feet of right-of-way and 46 feet of paving, that is  
4 consistent with DPW&T standards for an industrial roadway  
5 which this is by the Master Plan and I-310, it's an  
6 industrial roadway. This is consistent with that  
7 requirement. 46 feet of paving is standard for four lane  
8 roadway, two in each direction.

9 MR. DEAN: Why, why did Grand Way Boulevard  
10 terminate at Ruby Lockhart?

11 MR. LENHART: That is what's shown in the Master  
12 Plan.

13 MR. DEAN: The Master Plan doesn't show the, the  
14 Master Plan of Transportation shows it running all the way  
15 over to St. Joseph's and the Master Plan of Transportation  
16 it runs from southwest to northeast. You have created the  
17 Grand Way Boulevard, Grand Way Boulevard runs from 202 to  
18 Ruby Lockhart and then it turn, it doesn't go beyond Ruby  
19 Lockhart it come back out. The way that it's structured,  
20 the way that you're proposing the structure, is that the  
21 road runs on Landover Road runs from south to north. It's  
22 an in and out road for Ruby Lockhart, you go in and you come  
23 out. It has no redeeming purpose as far as I'm concerned  
24 except you have to have Grand Way Boulevard in order to  
25 bring in a gas station.

1 MR. LENHART: Bear with me while I look at the  
2 Master Plan.

3 MR. DEAN: Tell me, how do we terminate at Ruby  
4 Lockhart as opposed to just taking the road all the way  
5 through their property.

6 MR. LENHART: You're referring to the Master Plan,  
7 it might be easier if I can pull it up and show what's in  
8 the Master Plan of Transportation as we speak. So bear with  
9 me, because I'm looking for this and then I'll --

10 MR. RIVERA: Michael, if I could Madam Examiner,  
11 Exhibit 26 of the record is the overall rendering that shows  
12 both portions of Woodmore Overlook in relationship to Ruby,  
13 310, 202, Lottsford. The property is situated as sort of an  
14 angle so rather than talk about northwest, northeast, you  
15 could actually see on that plan on Exhibit 26 what it is,  
16 but Grand Way connects Lottsford to --

17 MS. MCNEIL: Okay. Okay. Wait a second. Could  
18 we pull up Exhibit 26? There you go.

19 MR. RIVERA: Yes.

20 MS. MCNEIL: So Mr. Lenhart, could you orient us  
21 to what we're looking at in Exhibit 26?

22 MR. LENHART: Yes. Maryland 202 is, I believe  
23 it'd be easier if I could use a cursor here, but Maryland  
24 202 runs from the bottom center of the exhibit and runs in a  
25 northwesterly direction. If you can move the cursor to the

1 bottom center and move in a northwest --

2 MS. MCNEIL: Can we allow him to present? Excuse  
3 me one second. Is it okay to allow him to present this one  
4 then he could use the cursor.

5 UNIDENTIFIED SPEAKER: Yes, I just gave him  
6 control.

7 MS. MCNEIL: Okay. You got it Mr. Lenhart?

8 MR. LENHART: I don't know can you see my cursor?

9 MS. MCNEIL: Yes, it's way up in --

10 UNIDENTIFIED SPEAKER: I don't see your cursor.

11 MS. MCNEIL: -- it's off the picture.

12 MR. LENHART: Oh wait a minute, I think I have to,  
13 let's see, oh it says I'm the presenter. Okay.

14 Applications. Okay. Well, no I can't.

15 MS. MCNEIL: Okay. Don't worry. Okay.

16 MR. LENHART: Yes, I don't, it's not --

17 MS. MCNEIL: Ms. Bah, could you take back control?

18 MR. LENHART: Yes, it's not bringing up the --

19 MS. MCNEIL: Can you -- Mr. Lenhart, it's tougher  
20 than it looks to present, isn't it? I would never do it.

21 MR. LENHART: Well if I have an exhibit up on my  
22 screen, I can do it.

23 MS. MCNEIL: Right.

24 MR. LENHART: But I'm not sure how I can take that  
25 screen. Anyway, it's all right, I can do this. If you kind



1 of go back to that screen and it's, there you go. So  
2 Maryland 202, I think most of us probably know what this is  
3 when we're looking at it. But Maryland 202 starts at the  
4 bottom center of the screen, it goes in a northwesterly  
5 direction to the left center of the screen, that is a  
6 divided six lane roadway, six to eight lane roadway and then  
7 St. Joseph's Drive is runs in a southwest to northeast  
8 direction toward the left side of this page. Lottsford Road  
9 runs in a southwest to northeast direction that's right. I-  
10 310 goes through our site, the commercial property, the 4-  
11 18007 is adjacent to Route 202 and it has I-310 that kind of  
12 runs through the center of it there and ties in between  
13 northbound 202 and Ruby Lockhart Boulevard. Ruby Lockhart  
14 Boulevard is the shaded gray road that runs between St.  
15 Joseph's Drive and Lottsford Road. That's correct. And  
16 that separates the commercial piece from the residential  
17 piece to the rear which the residential piece was a separate  
18 Preliminary Plan.

19 MR. DEAN: Okay.

20 MS. MCNEIL: And it's been developed now?

21 MR. LENHART: Well it's under development.

22 MS. MCNEIL: It is that the houses I see when I  
23 come onto that site?

24 MR. LENHART: That's correct.

25 MS. MCNEIL: Okay. And so the question of you is

1 why did, I guess it's I-310 stop at Ruby Lockhart, was it  
2 ever supposed to continue along what the rest --

3 MR. LENHART: No.

4 MS. MCNEIL: -- of the townhouses?

5 MR. LENHART: No, it's not. I'm looking at the  
6 Master Plan of Transportation now, the approved Master Plan  
7 and it's on, I could e-mail a snippet of this to myself and  
8 I can show that if you'd like and discuss this. But I can  
9 describe that Ruby Lockhart Boulevard is --

10 MS. MCNEIL: (Sound.)

11 MR. LENHART: -- I-308 it's exactly as shown on  
12 this plan. I-310 is the roadway that runs through our site.  
13 It's also exactly as shown. I don't know where Mr. Dean  
14 talks about this running in an east to west orientation  
15 instead of a southwest to northeast. I don't understand how  
16 he's getting that because it still runs in the same  
17 orientation southwest to northeast as what's shown on the  
18 Master Plan. However, even if it was east to west, which  
19 it's not, it still provides the same connectivity as  
20 recommended in the Master Plan and if --

21 MR. DEAN: Okay. Let me, let me ask counsel --

22 MS. MCNEIL: Can I ask, Mr. Dean, can I ask him  
23 one question and that is what page of the Master Plan are  
24 you looking at Mr. Lenhart? Because I could look at that  
25 later.

1 MR. DEAN: I don't have it, I don't have it before  
2 me. I did have --

3 MR. LENHART: It is --

4 MS. MCNEIL: Okay.

5 MR. LENHART: It is Map 13 page 87 of the approved  
6 Master Plan and I'm going to --

7 MS. MCNEIL: Yes, if you able to e-mail that to  
8 Ms. Bah, we can make it an exhibit and show it or have it up  
9 at some point.

10 MR. LENHART: Right.

11 MR. DEAN: While we're doing it, Madam, why did  
12 you all not, since you all doing road improvements, why did  
13 you all not have Grand Way Boulevard intersection 202 and  
14 make it a left hand turn coming from north to south? Why  
15 did you just end it at Landover Road going from south to  
16 north as opposed to coming all the way through 202 for  
17 people to get in from going in the north/south direction?

18 MR. LENHART: Please forgive me, Mr. Dean, I was  
19 just sending that e-mail off to Norman and Norman if you're  
20 able to forward that to the Hearing Examiner and to their  
21 contact so they can put that up on the board? I may be able  
22 to share my screen as well here if, I know that if you make  
23 me a presenter on this I can definitely show this. All  
24 right. This exhibit is a snippet from the Master Plan of  
25 Transportation you can see at the bottom there this is the

1 approved Master Plan of Transportation, page 87, map 13.

2 Can you see my cursor?

3 MR. DEAN: No.

4 MR. LENHART: Down at the bottom left hand corner  
5 of the exhibit --

6 MS. MCNEIL: Yes.

7 MR. LENHART: -- you see a small line that it runs  
8 off, it doesn't really cover the entire map here. That's  
9 Route 202 which is a very, very small little piece that runs  
10 from southeast to northwest. You can see I-310 that is  
11 shown there as the dashed line that connects Route 202 to  
12 Ruby Lockhart Boulevard and it stops at Ruby Lockhart  
13 Boulevard, it does not go beyond. And then you can see Ruby  
14 Lockhart Boulevard that extends as a dashed line which is  
15 under construction and nearly complete, up to St. Joseph's  
16 Drive. That is the Master Plan in there, that's what's  
17 called for and so I'm confused Mr. Dean's description of it  
18 continuing on and him saying that we're not building it for  
19 the Master Plan, I would disagree with that. I would say  
20 that we are building it for the Master Plan and this is the  
21 Master Plan.

22 MR. DEAN: Again, we're talking about apples and  
23 oranges. The Master Plan had you running south, southwest  
24 to northeast. You have realigned the road and you call it I  
25 guess northeast to southwest. I don't see it that way, I

1 see it running east and west.

2           Secondly, why do you only have the entrance on  
3 Ruby Lockhart, Ruby Lockhart only intersect and the Landover  
4 Road going south to north as opposed to going all the way  
5 across where traffic going north to south can enter Ruby  
6 Lockhart, I mean Grand Way Boulevard.

7           Let me also say this, because --

8           MS. MCNEIL: Let him answer. I mean if you have  
9 an answer.

10          MR. DEAN: Okay. Go ahead.

11          MR. LENHART: Yeah, the Master Plan doesn't call  
12 for I-310 to go all the way across Route 210. It calls for  
13 it to stop at Route 210 and so we are, we're building what  
14 the Master Plan calls for. And we don't own property on the  
15 other side of 202, so even if the Master Plan did have that  
16 connecting on the other side of 202, I'm looking at Map 12  
17 right now of the Master Plan, which is that connects and you  
18 can see that I-310 here kind of goes off of Map 13. If you  
19 were to look at Map 12, you would see I-310 terminate at  
20 Route 202. And so again, we don't, we're not developing the  
21 other side of 202. If or when that develops presumably they  
22 will have to deal with the implementation of the Master  
23 Plan. And if there's something required of that property  
24 then they would, that would be implemented through those  
25 entitlements. Not a part of ours.

1           MR. DEAN: Why, why is it a right in right out on,  
2 on Landover Road? Why do we need the road? That becomes  
3 problematic for me. What is the purpose of the road if the  
4 road can only be entered on Landover Road going from south  
5 to north? What is the purpose of the road?

6           MR. LENHART: The purpose of the road is to  
7 provide a link from northbound 202 so that people to and  
8 from northbound 202 can use 310 to get to Ruby Lockhart and  
9 then to St. Joseph's and then they could go over Route 202  
10 via a flyover that would be St. Joseph's Drive raised above  
11 Route 202. On P.G. Atlas, if you look at P.G. Atlas Master  
12 Plan of Transportation I believe it does show some  
13 additional ramps over on the, other connections to  
14 southbound 202 on the other side of 202, not on our property  
15 side but the other side. However, those links are not shown  
16 in the Master Plan of Transportation.

17           MR. BENTON: Madam Examiner, I just want you to  
18 note my, my objection to Lenhart's statement because P.G.  
19 Atlas is not statute. So I don't, I don't want us to be  
20 going off of something that's not statute. P.G. Atlas is,  
21 is, is, is not statute, so I just want to note my objection.  
22 That's it.

23           MR. DEAN: And, and you know one of the things,  
24 Madam, is that I have a high level of frustration because  
25 most of the road improvements between what is now Woodmore

1 Commons, Woodmore Overlook, the Woodmore, the Woodmore  
2 Shopping Center. Much of that had been paid for by the  
3 community. The community was charged special taxing  
4 district. The community's spent over --

5 MS. MCNEIL: Okay.

6 MR. DEAN: -- 34 million dollars so I'm just  
7 saying --

8 UNIDENTIFIED SPEAKER: Objection.

9 MS. MCNEIL: Okay. Mr. Dean, but I have your  
10 written testimony that is an exhibit and you're going to  
11 testify to that, so we'll wait. Do you have any other  
12 questions?

13 MR. DEAN: No, I don't have --

14 MS. MCNEIL: Because Mr. Benton has some. And Mr.  
15 Benton, you can't just object. We have to rule on it so Mr.  
16 Rivera, do you have any replies --

17 MR. RIVERA: I would just object --

18 MS. MCNEIL: -- to his objection (sound)?

19 MR. RIVERA: I would just object to the relevance  
20 of what Mr. Dean was just saying. Now he has a perfect  
21 right to say that in his case in chief.

22 MS. MCNEIL: No, no, no. I'm so sorry. I'm so  
23 sorry. There was another objection as to using P.G. Atlas.  
24 Do you have any response to that one?

25 MR. RIVERA: Well it was just, the Master Plan of

1 Transportation is the more correct document. P.G. Atlas is  
2 not perfect, but I'm not sure we were using the context of  
3 actual engineering purposes.

4 MS. MCNEIL: Okay. Mr. Dean has withdrawn, he's  
5 going to wait and you can object about his testimony at that  
6 time. Anybody else have questions of the witness, Mr.  
7 Lenhart?

8 MR. BENTON: I do.

9 MS. MCNEIL: Okay.

10 MR. BENTON: All right.

11 MR. BROWN: All right. Just one point of  
12 clarification, maybe I missed this, but Mr. Benton, you  
13 already asked on direct exam, I mean cross-examination of  
14 Mr. Lenhart, did you not?

15 MR. BENTON: No, and I started and I was  
16 interrupted by Mr. Dean, so I did not finish. If you go  
17 back, if you, if you go back and, and well you can't --

18 MR. BROWN: All right. All right. Madam  
19 Examiner, I just don't want persons to have multiple chances  
20 of cross-examination. But all right, go ahead.

21 MS. MCNEIL: That's true, but it is in the chat,  
22 he got cut off and he said he'll let Mr. Dean go first.

23 MR. BROWN: All right.

24 MS. MCNEIL: Go ahead, sir.

25 MR. BENTON: All right (sound) let me think of a



1 question, all right, still, getting, getting back to the  
2 Master Plan. So pretty much, Mr. Lenhart, I understand that  
3 you revised the, the, the previous trip counts with a  
4 traffic impact plan from what it was previously to what it  
5 is now. All right. And I understand that, that you've done  
6 a reduced trip count. Right. And so my question it relates  
7 to your trip count and you supporting I-310, right, is, is  
8 specific to this. Part of the, part of the language within  
9 the Zoning Ordinance of the Master Plan is to make sure that  
10 the public interest and the general, to safeguard the safety  
11 of the general public. Right. So if it's to safeguard the  
12 safety of the, of the general public. All right. So, with  
13 that being, being said we're arguing about this at grade  
14 road versus what the actual language of the Master Plan says  
15 which is a flyover. Right. And so I'm, I'm asking in your  
16 professional opinion all right in terms, in, in, in terms of  
17 public safety, all right, and when we talk about public  
18 safety, we talk about it terms of, of residents,  
19 pedestrians, being able to cross over 202 safely, right, in  
20 terms of it's a fly, it's cause the Master Plan road has it  
21 as a flyover, right, when you read the language of the  
22 Master Plan, right, it's for a flyover and it also speaks  
23 specifically to --

24 MR. BROWN: Is there a question?

25 MR. RIVERA: Question please.

1           MR. BROWN: It's a question. You got to make a  
2 question, please. Ask a question.

3           MR. BENTON: Okay. My question is simply this.  
4 All right. So in terms of safeguarding the public, all  
5 right, is a at grade road, is an at grade road on one side  
6 of 202 safer than, safer than a flyover from one side to the  
7 other to 202?

8           MR. LENHART: With all due respect, you are  
9 talking about an at grade connection at I-310.

10          MR. BENTON: Uh-huh.

11          MR. LENHART: And a flyover at St. Joseph's and  
12 you're trying to tie those two together as the same issue  
13 and they are two separate issues.

14          MR. BENTON: Well, no because the flyover actually  
15 goes over 202. The flyover is --

16          MR. LENHART: At St. Joseph's Road based on the  
17 Master Plan would be elevated and go over Route 202. And  
18 then that would connect back to northbound Route 202 through  
19 a series of roadway connections culminating in an at grade  
20 connection of Route I-310 at northbound 202. And yes, it  
21 would be safe, it would be built per standards and  
22 specifications. It meets the Master Plan intent, that's  
23 exactly what the Master Plan is intending to do. The way I  
24 understand your question was is it safe to have an at grade  
25 on one side of the road and a flyover on the other side of

1 the road and that is not what the Master Plan calls for, nor  
2 would it be possible to build something in that fashion.

3 MR. BENTON: Okay. No, that's not what I'm  
4 asking. What I'm, what I'm, what I'm saying is this.  
5 What's currently approved is a flyover going over 202  
6 connecting, connecting the side of 202 where the county  
7 offices is to the other side of 202 where the Balk Hill and  
8 Woodmore community is. Right. And that --

9 MR. LENHART: That's what the Master Plan calls  
10 for.

11 MR. BENTON: -- that's what, that's what  
12 currently, that's what currently approved per the, per the  
13 transportation plan. I'm not like, I'm not so if that's  
14 what's currently approved, right, that's what, that's what  
15 the standard is, right, in terms of public safety. So how  
16 can you, so, so, what's your argument is saying that it's  
17 saying that what you are proposing in terms of at grade road  
18 is either at or above, right? Because you can't go below  
19 that standard it's either at or above that, that standard.

20 MR. LENHART: Yes, your point is off target. We  
21 are building I-310, so when you look at the Master Plan, the  
22 Master Plan is a puzzle. There's pieces of the puzzle that  
23 comes together. We are building a piece of the Master Plan  
24 puzzle, that piece that we are building is I-310 that goes  
25 through our site within our property boundaries we have all

1 along, we've been conditioned to show that right-of-way of  
2 I-310 and build that roadway subject to the entitlement  
3 process.

4 MR. BENTON: But is it --

5 MR. LENHART: We are doing that. The flyover that  
6 you're talking about at St. Joseph's, it's off site. That's  
7 800 feet or more away from --

8 MR. BENTON: (Indiscernible).

9 MR. LENHART: Let me finish my --

10 MR. BENTON: I mean according to the Master Plan,  
11 right, I-310, right it does, it does, it, it stays I-310 it  
12 says nothing about an at grade road. Nothing. Right. What  
13 you are proposing is an at grade road, right, and so, and so  
14 as part of the Zoning Ordinance, all right, if you're  
15 proposing an at grade road All right, you have to, you're,  
16 you're, whatever you're, whatever change you're proposing  
17 either has to be at with the current standard is and or  
18 higher. In terms of, and we're talking about in terms of  
19 safeguarding the the public, right, because in building a  
20 road we can't just, just look at vehicular transmission. We  
21 also have to look at pedestrian safety and transmission, so  
22 in effect --

23 MR. LENHART: I'd be able to answer that if you'd  
24 let me.

25 MR. BENTON: Okay.

1 MS. MCNEIL: Mr. Brown, go ahead.

2 MR. BROWN: Mr. Benton --

3 MR. BENTON: I'm done.

4 MR. BROWN: -- Mr. Lenhart has answered your  
5 question three or four different ways. But also I think you  
6 need to understand that we are not here on adequate public  
7 facilities with regards to Preliminary Plan. What is  
8 proposed in terms of roadways the Planning Board has decided  
9 during the Preliminary Plan process. What we are here for  
10 is there were conditions in the original rezoning that  
11 subsequent to the original rezoning related to  
12 transportation, there is an opinion by the applicant are no  
13 longer necessary because of the amount of density that is  
14 now proposed. That's the issue. So we're not here to  
15 debate whether or not a particular road is going to be safe  
16 or adequate. Only with regards to the four conditions that  
17 the applicant has proposed to amend. That's all. And so  
18 you ought to keep your questions directed to that issue.

19 MR. BENTON: Okay. That's, that's my last  
20 question. Everything else is regard to my testimony.

21 MS. MCNEIL: Thank you. Mr. Lenhart, I have one  
22 last question. Back to Condition 5A. Should it be deleted  
23 or should just address the actual trip cap?

24 MR. LENHART: Bear with me, I'm getting to that  
25 condition here. 5A, so I believe that the easy thing to do

1 would change the trip cap to what's been approved in the  
2 Preliminary Plan. Because the conditions in 5B marry up,  
3 they go along with the trip cap that we are proposing to be  
4 revised to in 5A. So I think either you would make the  
5 change that we're requesting to reduce the trip cap or you  
6 would make 5A a condition that simply says adequate public  
7 facilities must be tested at the time of Preliminary Plan and  
8 any improvements that are needed to satisfy adequacy as  
9 determined at time of the Preliminary Plan would, you know be  
10 determined at that time, something like that. It's fine --

11 MS. MCNEIL: If I did the former, it's the 364  
12 a.m. and 347 p.m., if this were approved?

13 MR. LENHART: Yes, are those the right numbers,  
14 Norman? I've got to pull it up here.

15 MR. RIVERA: Those are the right numbers, Michael.

16 MR. LENHART: 364, yes, they sound right.

17 MS. MCNEIL: Thank you.

18 MR. LENHART: Yes.

19 MS. MCNEIL: Okay. It looks like we're finished  
20 questioning Mr. Lenhart.

21 MR. DEAN: Yeah, one more for clarification. Tell  
22 me the width of the Grand Way Boulevard again. I finally  
23 found my, my Master Plan of Transportation.

24 MR. LENHART: 46 feet.

25 MR. DEAN: Say what, 40?

1 MR. LENHART: 46 feet.

2 MR. DEAN: Okay. IN the Master Plan of  
3 Transportation for I-310 it says that this is a four lane  
4 highway, the width of the road is going to be 70 feet.

5 MR. LENHART: That's the right-of-way, not the  
6 roadway.

7 MR. DEAN: Right-of-way is 70 feet, right?

8 MR. LENHART: That's right, and that's what we  
9 are, we've dedicated 70 feet.

10 MR. DEAN: With four lanes?

11 MR. LENHART: 70 feet of right-of-way, 46 feet of  
12 paving and that's correct --

13 MR. DEAN: Does that give you the four lanes?

14 MR. LENHART: -- that's what the Master Plan calls  
15 for. Yes.

16 MR. DEAN: It will give you the four lanes?

17 MR. LENHART: That's correct, yes.

18 MR. DEAN: Okay. All right. See you know I'm not  
19 one of these high paid attorneys so I don't understand all  
20 this so I'm asking the question.

21 MR. LENHART: Sure.

22 MR. DEAN: Because you, you all meet the 70 feet  
23 right-of-way, is that correct?

24 MR. LENHART: That's correct.

25 MR. DEAN: Uh-huh.

1 MS. MCNEIL: Okay.

2 MR. RIVERA: (Indiscernible).

3 MR. DEAN: That's my last question.

4 MS. MCNEIL: Norman, did you say something?

5 MR. RIVERA: (No audible response.)

6 MS. MCNEIL: Okay. Mr. Masog, are you still, are  
7 you here?

8 MR. MASOG: Yes, ma'am, present.

9 MS. MCNEIL: Good morning. I think People's  
10 Zoning Council who is still here, wanted some clarification  
11 from you. So could I swear you as a witness, please? Do  
12 you swear or affirm under the penalties of perjury that the  
13 testimony you shall give will be the truth and nothing but  
14 the truth?

15 MR. MASOG: I swear.

16 MS. MCNEIL: Okay. Mr. Brown?

17 MR. BROWN: Mr. Masog, good morning. You're  
18 generally familiar with all of these issues, I'm sure you've  
19 looked at the Preliminary Plans, the Detailed Site Plan and  
20 the rezoning. Just clarify for the record your  
21 interpretation of Condition 4 in the original rezoning as it  
22 relates to the Master Plan recommendation for quote unquote  
23 a ramp and the current condition. Tell us is it necessary  
24 at this point in time given that the Preliminary Plans have  
25 been (indiscernible) this year.



1 UNIDENTIFIED SPEAKER: (Indiscernible) give you a  
2 call back please. I got your message with reference to --

3 MR. MASOG: I really can't opine on whether it's  
4 legally necessary.

5 UNIDENTIFIED SPEAKER: -- I want to talk to you.

6 MR. MASOG: The Preliminary Plan dedicated all  
7 needed rights-of-way, it dedicated appropriate right-of-way  
8 along Ruby Lockhart, it dedicated 70 feet of right-of-way  
9 along Grand Way Boulevard. And actually, if I might just  
10 correct myself from a technical standpoint, the Preliminary  
11 Plan reflected the right-of-way along Grand Way Boulevard,  
12 it was previously dedicated by this applicant. Now, if I  
13 might go back to the Master Plan --

14 MR. BROWN: Yes, go ahead.

15 MR. MASOG: -- we have done a lot of soul  
16 searching in the Planning Department about Master Plans,  
17 P.G. Atlas and anything that sort of comes in between or  
18 outside of that. The Master Plan is, it is a guiding  
19 document. Our Associate General Counsel has told us that  
20 particularly in something from 1990 where there are no  
21 property lines you can't set up a precise alignment for any  
22 of the Master Plan facilities. Most of them are, they're  
23 shown as additional dedication along existing roads, that's  
24 easy to interpret. Roads that are on new alignments like I-  
25 310, is that I-310?

1 MR. LENHART: Yes.

2 MR. MASOG: Okay. Where they're on a new  
3 alignment where there's nothing there, it's hard to  
4 interpret those. We do the best we can on P.G. Atlas, but  
5 that's why there is some flexibility and some variability in  
6 moving those rights-of-way to the point that we feel that if  
7 it stays within a given property that's appropriate to move  
8 it as needed. The Master Plan rights-of-way were laid out  
9 initially --

10 UNIDENTIFIED SPEAKER: Got to text you --

11 MR. MASOG: -- sometimes without regard for  
12 environmental features and things like that, and so there  
13 has to be some flexibility in interpreting them and by not  
14 requiring maps with property lines and all needed features  
15 to lay out those roads. The Council allowed some  
16 flexibility and that is the opinion of our Associate General  
17 Counsel.

18 With regard to Condition 4, I believe this  
19 applicant has done what is needed in terms of --

20 UNIDENTIFIED SPEAKER: (Indiscernible).

21 MR. MASOG: -- involving rights-of-way and making  
22 sure that they're appropriately dedicated.

23 MS. MCNEIL: Give me one second, Mr. Masog. Will  
24 someone please mute themselves because we're hearing a lot  
25 of other things other than Mr. Masog. If everybody else

1 muted themselves, we might be okay. Mr. Rivera?

2 MR. RIVERA: Yes?

3 MS. MCNEIL: Mute yourself.

4 MR. RIVERA: I did.

5 MS. MCNEIL: (Sound.)

6 MR. RIVERA: (Sound.)

7 MS. MCNEIL: Okay. Now, Mr. Masog.

8 MR. MASOG: Well, I think that's all I have to say  
9 with regard to the question and I'm here to answer further  
10 questions as needed.

11 MS. MCNEIL: I'm sorry, I didn't hear anything  
12 other than as to Condition 4, so I need you to do that part  
13 again.

14 MR. MASOG: Oh, okay. As to Condition 4 it asks  
15 for the applicant to reflect the needed rights-of-way and to  
16 dedicate as needed. And that was done at the time of  
17 Preliminary Plan of Subdivision or prior to.

18 MS. MCNEIL: Anybody else have questions of Mr.  
19 Masog based on his testimony?

20 MR. RIVERA: I just have one, Madam Examiner.

21 MS. MCNEIL: Okay.

22 MR. RIVERA: Norman Rivera for the record. Mr.  
23 Masog, thank you for spending time with us this morning. I  
24 just want to clarify one point about or actually it's two.  
25 There seemed to be some confusion about the east west,

1 northwest, northeast with respect to 310 that might have  
2 been being confused with Ruby. So one, if you could just  
3 clarify in your words, we had the plan up before, the  
4 direction of both roads, Ruby which is 308 and 310 which is  
5 Grand Way. And then secondly the issue of whether or not it  
6 should be at grade or not at 202 and Ruby. So the first is  
7 just orient the audience as to your knowledge of that and  
8 then two, at the at grade issue. Thank you.

9 MR. MASOG: Okay. So Ruby Lockhart is definitely  
10 the east west. It's intended to connect at St. Joseph's to  
11 Lottsford Road and so it's east west maybe a little bit  
12 southeast to northwest. The I-310 is intended to be  
13 southwest to northeast and it's intended to connect 202 to  
14 Ruby Lockhart. And in the case of this plan, the  
15 Preliminary Plan both of those roads are generally in those  
16 same directions. Ruby Lockhart, no, what am I saying, I-310  
17 was never intended to be a flyover over 202. That always  
18 was supposed to be St. Joseph's Drive. I-310 and its sister  
19 road on the south side of 202 Pepper Corn Place, are the  
20 roads that were supposed to serve as the connectors between  
21 202 and that flyover of St. Joseph's over 202.

22 MR. RIVERA: Thank you.

23 MR. MASOG: Did I answer the question?

24 MR. RIVERA: Well one more point, just --

25 MR. DEAN: I have a question.

1 MR. RIVERA: -- to the point, 310 is now permitted  
2 and then built as at grade. Is that your understanding?

3 MR. MASOG: Yes, sir.

4 MR. RIVERA: And that would be in conformance with  
5 the concept for the whole flyover up north, correct?

6 MR. MASOG: Yes, I believe so.

7 MR. RIVERA: Thank you, Madam Examiner.

8 MS. MCNEIL: You're welcome. Mr. Benton, you had  
9 questions of Mr. Masog based on his testimony?

10 MR. DEAN: I do.

11 MS. MCNEIL: Mr. Benton doesn't, he wrote it in  
12 chat.

13 MR. DEAN: (Sound.)

14 MS. MCNEIL: We can't --

15 MR. BENTON: Can you hear me? I'm on now. All  
16 right. So, all right, Mr. Masog, all right, so as a member  
17 of the Planning Board is the Planning Board or, or, or, or  
18 is the Planning Board or, or Maryland National Park and  
19 Planning initiating this, this request of this, of this, of  
20 this change? And, and I'm asking, and, and I'm, and I'm  
21 asking that from the stand, from the standpoint of I  
22 understand that the applicant is the applicant has initiated  
23 this through the ZHE, right. But I'm, but, but I'm just  
24 being specific because I just want it documented for the  
25 record. Like is the Planning Board initiating the requested

1 change, Mr. Masog?

2 MR. MASOG: No, it is not being initiated by the  
3 Board or the planning staff.

4 MR. BENTON: Okay.

5 MR. MASOG: We react to what the applicant gives  
6 us.

7 MR. BENTON: Okay. Also, just to document it for  
8 the record and, and correct me if, if this question is not  
9 directed for you. But is the District Council initiating a  
10 request in this change?

11 MR. BROWN: Mr. Benton, Mr. Masog is a member of  
12 the technical staff for the Maryland Park and Planning  
13 Commission. He is not qualified to speak on behalf of the  
14 Planning Board or the District Council. So most of those  
15 last few questions you need to move on.

16 MR. BENTON: Well, I'm asking --

17 MS. MCNEIL: I will sustain.

18 MR. BENTON: -- well I was the only reason, let me  
19 respond and then I'll let you go. But I was, I was asking  
20 because the Planning Board, Maryland, the Maryland National  
21 Park and Planning Board and the staff are the ones that  
22 actually do the research and provide the documentation to  
23 the District Council to even make any, any decisions. So  
24 that's why, that's why I'm asking it of the Planning Board  
25 staff like how have (indiscernible) have they been directed

1 from the District Council to actually you know initiate or  
2 consider this change. That was the, the premise of my  
3 question.

4 MR. RIVERA: Objection. That's been answered.

5 MR. BROWN: Mr. Masog, just confirm, you're not  
6 responding at the direction or instruction of the District  
7 Council, are you?

8 MR. MASOG: I cannot do that.

9 MR. BROWN: And you are not responding at the  
10 instruction of the Planning Board, are you?

11 MR. MASOG: No.

12 MR. BROWN: Thank you.

13 MR. MASOG: I'm just testifying to what I know.

14 MR. BROWN: Correct.

15 MR. DEAN: I have a question.

16 MR. BENTON: I'm done.

17 MS. MCNEIL: One second, Mr. Dean. So are you  
18 finished, Mr. Benton?

19 MR. BENTON: Yes.

20 MS. MCNEIL: Okay. Thank you.

21 MR. DEAN: Yeah, two things, Mr. Masog. Are you  
22 familiar with Zoning Map Amendment A-9604? It was passed in  
23 1987, 1988 with 11 conditions, one of them says direct  
24 access shall be prohibited from Landover Road, however this  
25 does not preclude a flyover ramp from Landover Road onto the

1 property. Also, --

2 MS. MCNEIL: Mr. Dean, do you know who the  
3 applicant is? That's a lot for us to remember numbers.  
4 Does it pertain to this property?

5 MR. MASOG: Yes, I was, I was barely with the  
6 Commission at that point.

7 MS. MCNEIL: You what?

8 MR. DEAN: You were not --

9 MR. MASOG: I was barely with the Commission at  
10 that point.

11 MR. DEAN: Okay. All right. Then let me ask you  
12 another question. Are you familiar with A-9956 that was  
13 approved by the District Council in 2002?

14 MR. BROWN: Mr. Dean, what is the name of the  
15 project that you're talking about?

16 MR. DEAN: This, this is Conceptual Site Plan that  
17 was approved by the District Council, it's called A-9956C.

18 MR. BROWN: But does it have a name, a textual  
19 name? A literal name. Not a number?

20 MR. DEAN: I don't have that. I, I'm not a paid  
21 attorney so I don't have all that information. I'm, I'm,  
22 I'm a layman trying to the best I can.

23 MS. MCNEIL: And it's A what? I'm sorry.

24 MR. MASOG: I'm not a paid attorney but I think  
25 that was Balk Hill.



1 MS. MCNEIL: Oh.

2 MR. DEAN: Okay. A, A-9956C says in Condition 3C  
3 a concept for future ramps to and from the west via Ruby  
4 Lockhart Boulevard between 202 and St. Joseph's Drive.  
5 That's where the flyover is supposed to be.

6 MR. MASOG: I don't have that material in front of  
7 me, I can't testify as to actual or context.

8 MS. MCNEIL: Okay. Okay. Any other questions of  
9 Mr. Masog?

10 (No audible response.)

11 MS. MCNEIL: It appears not. Thank you so much  
12 for coming today.

13 MR. MASOG: I wouldn't be any place else.

14 MS. MCNEIL: Okay. Mr. Rivera, is that your case?

15 (No audible response.)

16 MS. MCNEIL: We can't --

17 MR. RIVERA: Hit the button. I'll rebut later,  
18 thank you.

19 MS. MCNEIL: Okay. If it's possible wonderful  
20 staff, could we take a five minute break? I don't know what  
21 I'm supposed to do but I need a five minute break.

22 MR. RIVERA: Just mute everything.

23 MS. BAH: Yes, I'll stop recording now.

24 MS. MCNEIL: Okay. Thank you.

25 AUTOMATED RECORDING: This conference is no longer

1 being recorded.

2 (Off the record.)

3 (On the record.)

4 MS. MCNEIL: Okay. We're back on the record. Mr.  
5 Dean when you, well Mr. Dean's not there. Mr. Benton, I see  
6 in the chat that you'd like to reserve your testimony until  
7 we reschedule the matter, so you can talk about everything  
8 at once?

9 MR. BENTON: Yes, ma'am.

10 MS. MCNEIL: Any real objections? Oh, let me back  
11 up, the dates we stated were not working out for everyone.  
12 As you know to put on a virtual hearing, there are a lot of  
13 individuals in the background helping and they're not all  
14 available. So the date that could work is the 14th. Is  
15 that okay with you all?

16 MR. RIVERA: (Sound.)

17 MS. MCNEIL: It's a Monday, now I hear you Norman.  
18 What?

19 MR. RIVERA: Yes, that's fine, ma'am.

20 MS. MCNEIL: Okay. Stan?

21 MR. BROWN: Yes, that's fine.

22 MS. MCNEIL: Mr. Benton?

23 MR. BENTON: I'm cool.

24 MS. MCNEIL: Okay. So we are going to continue  
25 the matter after Mr. Dean's testimony until the 14th and Mr.

1 Rivera will be submitting a revised application to address  
2 Condition 4, and at least on the 14th Mr. Benton will be  
3 allowed to do his entire testimony so he can tie what he  
4 wants to say about all of the conditions together and if you  
5 have any other witnesses at that time, Mr. Rivera. I mean  
6 we will adopt the testimony we have today but if you feel  
7 the need to have Mr. Lenhart there, I didn't ask him but I  
8 hope that day works for him.

9 MR. RIVERA: It does.

10 MS. MCNEIL: And it should be a shorter hearing  
11 and then we'll close the record and get a decision out.

12 MR. LENHART: It does work for me.

13 MR. BROWN: And in addition, Mr. Rivera you need  
14 to put in a completed business affidavit. This last  
15 affidavit you put in does not list the persons or entities  
16 with 5 percent or more interest in Woodmore Overlook  
17 Commercial LLC.

18 MR. RIVERA: Okay. Thank you.

19 MS. MCNEIL: Okay. So we're still waiting for Mr.  
20 Dean.

21 MR. RIVERA: We better wait. Well the sky is  
22 lightening up, finally.

23 MS. MCNEIL: Not here.

24 MR. LENHART: (Indiscernible).

25 MS. MCNEIL: By the way, the hearing will start at

1 9:30 on the 14th.

2 MR. RIVERA: Okay.

3 MR. BENTON: You're going to send out another  
4 notice with a separate link, correct?

5 MS. MCNEIL: Yes, you will get a separate link.

6 MR. RIVERA: So how many hearings have you had,  
7 Madam Examiner between you and Ms. Nichols during all this?

8 MS. MCNEIL: I think that Ms. Nichols has actually  
9 had three hearings. I've had two continuances and this is  
10 my second hearing. Because we had to go on the record for  
11 those two, but it wasn't a hearing.

12 MR. RIVERA: Oh, okay.

13 MS. MCNEIL: So and then Mr. Brown has had all of  
14 them.

15 MR. RIVERA: Yes, the Planning Board has had like  
16 40 something, I think.

17 MS. MCNEIL: Yes.

18 MR. MASOG: Yes, that's right. Coming close to  
19 40.

20 MS. MCNEIL: You know this is recorded and it's  
21 not really part of the record, because we're just waiting on  
22 Mr. Dean. So perhaps we shouldn't be recording, Ms.  
23 Rawlings.

24 MR. RIVERA: I'll just wait until Mr. Dean comes  
25 back.

1 MS. RAWLINGS: Yes, we can stop recording. Lenny,  
2 I'm going to stop recording again.

3 MS. MCNEIL: Sorry, you all, I guess Mr. Dean will  
4 be back shortly.

5 AUTOMATED RECORDING: This conference is no longer  
6 being recorded.

7 (Off the record.)

8 (On the record.)

9 MS. MCNEIL: Mr. Dean, do you swear or affirm  
10 under the penalties of perjury that the testimony you shall  
11 give will be the truth and nothing but the truth?

12 MR. DEAN: So help me God.

13 MS. MCNEIL: Okay. Just state your name and  
14 address for the record and tell me what you want to tell me  
15 about this request.

16 MR. DEAN: My name is Samuel H. Dean. I live at  
17 10710 Willow Oaks Drive, Mitchellville, Maryland and I'm  
18 representing of the Lake Arbor Civic Association as its Vice  
19 President. Okay.

20 MR. RIVERA: Objection.

21 MS. MCNEIL: Mr. Dean, if I could stop you right  
22 there. Maybe I need Mr. Brown to voir dire about the Lake  
23 Arbor connection. Mr. Brown, are you there?

24 MR. RIVERA: Thank you.

25 MR. BROWN: Yes. Mr. Dean, you indicated you are

1 an officer of the Lake Arbor Civic Association?

2 MR. DEAN: That's correct.

3 MR. BROWN: What is your position?

4 MR. DEAN: Vice President.

5 MR. BROWN: And has the Lake Arbor Civic  
6 Association reviewed this application request for an  
7 amendment of conditions?

8 MR. DEAN: Yes.

9 MR. BROWN: And was there a meeting held where the  
10 membership took a vote on whether to oppose or to support  
11 this application?

12 MR. DEAN: In the past, yes.

13 MR. BROWN: And when was that?

14 MR. DEAN: To put not this application, but they  
15 oppose the hearing at 10007 before the Planning Board.

16 MR. BROWN: All right. So the association has not  
17 taken a position on this specific request to amend the  
18 condition, is that correct?

19 MR. DEAN: That's correct.

20 MR. BROWN: All right. What we need you to do  
21 before the next hearing as well is to put into the record  
22 the association's position on this application.

23 MR. DEAN: Will do.

24 MR. BROWN: All right. Thank you.

25 MR. DEAN: Okay.

1 MS. MCNEIL: All right. Mr. Dean, what's your  
2 testimony?

3 MR. DEAN: Okay. I had testified for, for, for  
4 the record, I had testified before the Planning Board on the  
5 case that's being considered for reconsideration approval as  
6 the Vice President of the Lake Arbor Civic Association. So  
7 this is basically a continuation but I will get the  
8 information that Attorney Brown had requested. Now let's  
9 talk about --

10 MS. MCNEIL: Mr. Dean, I'm so sorry, you submitted  
11 written testimony for today as well --

12 MR. DEAN: Right.

13 MS. MCNEIL: -- and I did forward it to Mr. Rivera  
14 and Mr. Brown.

15 MR. DEAN: Uh-huh.

16 MS. MCNEIL: I do not know, Ms. Bah, were you able  
17 to give that an exhibit number, testimony from Mr. Dean?

18 MS. BAH: It will be Exhibit 36.

19 MS. MCNEIL: And do you all have any objections  
20 since he's here for you to cross-examine for that to be an  
21 exhibit in this matter?

22 MR. BROWN: No objections.

23 MS. MCNEIL: Okay.

24 MR. RIVERA: None here.

25 MS. MCNEIL: All right.

1 (Hearing Exhibit No. 36 was  
2 marked for identification.)

3 MS. MCNEIL: Go ahead, Mr. Dean.

4 MR. DEAN: Thank you. Let me first begin by  
5 saying one of the concerns that I'm having as a citizen and  
6 also, and also the Lake Arbor Civic Association as citizens  
7 we really are put in a very bad position because basically  
8 we rely upon certain decisions made by our elected officials  
9 as to how things are going to how things are going to  
10 develop out and in the zoning amendment A1020 talks about  
11 how Woodmore Overlook was to have been developed. It was  
12 developed in two phases, one was going to be residential,  
13 the second phase was commercial. The applicant in the case  
14 before us today purchased the second phase where it was  
15 supposed to be commercial. They subsequently got an  
16 extension of the M-X-T and what they plan to build now is a,  
17 an apartment building, 154 unit apartment building plus some  
18 gas station and some mini mall and that was basically not  
19 what had been approved early on and that's what we rely  
20 upon. So you keep getting put in a position where we have  
21 to try to keep up with what's going on as opposed to our  
22 elected officials looking out for us.

23 So let me begin my testimony. Say we are, we are  
24 opposed to your approval of the applicant's request that all  
25 conditions relating to transportation facilities in A-



1 1020(C) Woodmore Overlook be replaced with condition of  
2 approval for 4-128007 and the Zoning Map Amendment A-1020  
3 heard by Hearing Examiner Joyce Nichols states in  
4 Recommendation 4 the Conceptual Site Plan shall show right-  
5 of-way along I-308 Ruby Lockhart Boulevard, and I-310 the  
6 ramp roadway linking Ruby Lockhart Boulevard and Maryland  
7 202 consistent with the Master Plan. The Master Plan shows  
8 I-310 as a four lane, 70 feet right-of-way and I-310 runs  
9 southeast to northwest. This right-of-way shall be shown  
10 for dedication at the time of Preliminary Plan of  
11 Subdivision. In PGCP Number 19-324-1807 Resolution March  
12 2019, conditions to it states prior to issuing of any  
13 building permit within the subject property, the following  
14 road improvements shall one, have full financial assistance  
15 (B) have been permitted for construction through the  
16 operating agency access permit process and (C) have an  
17 agreed upon time table for construction with appropriate  
18 operating agency with improvement design as deemed necessary  
19 to accommodate bicycle and pedestrians.

20 Maryland 202 in this 18007 says in (A) Maryland  
21 202 at Lottsford Road convert the existing east bound right  
22 turn lane to a shared through right turn lane and (B)  
23 Lottsford Road to Campus Way North provide a second  
24 southbound left turn lane along campus way and (C) I-  
25 310/Grand Way Boulevard within the dedicated right-of-way to

1 county standards. The applicant requested a waiver and  
2 requested for reconsideration through the Planning Board in  
3 February 2020 which I testified as the Vice President of the  
4 Lake Arbor Civic Association. The Planning Board modified  
5 6A and deleted 6B but left 6C unchanged. The applicant had  
6 a hearing before the District Council DSP-18024 Woodmore  
7 Overlook Commercial in September 2019 and in its finding and  
8 conclusion the following conditions were imposed.

9           Three, applicant shall revise the Site Plan to  
10 show right-of-way along I-308, Ruby Lockhart Boulevard and  
11 I-310 Grand roadway linking Ruby Lockhart Boulevard and  
12 Maryland 202 consistent with the Master Plan recommendation.  
13 This right-of-way should be shown for dedication at the time  
14 of Preliminary Plan of Subdivision, shown in Ordinance  
15 Number 6 2010 Condition 4.

16           To get around the Planning Board's Master Plan of  
17 Transportation the applicant deeded an unapproved parcel of  
18 land bisecting Parcel 27 to the county via liber 41329,  
19 folio 467 which was recorded on September 20, 2018. The  
20 committee was never advised by the applicant or the county  
21 about this transaction. This property was subsequently used  
22 by DPIE in the applicant's application to approve a Master  
23 Plan road which the developers named Grand Way Boulevard.  
24 Since this was now county owned land and the county could do  
25 whatever it wanted with the land, notwithstanding how they

1 developed would adversely affect the community's investment,  
2 used in I-310 as its basis. I don't think DPIE realized I-  
3 310 was a ramp rather than a road when it approved a two  
4 lane Master Plan road and when it reconfigured the road to  
5 run east and west which did not match the southeast to  
6 northwest configuration in the Master Plan of  
7 Transportation.

8           They kept the applicant hope that this road would  
9 be at grade, accessing Landover Road to allow for the  
10 development of a Royal Farms gas station and 154 unit five  
11 story stick development building on this site. Entrance  
12 into this Grand Way Boulevard will only allow traffic going  
13 south and north on Landover Road to enter with an in and out  
14 design. Furthermore, it terminates at Ruby Lockhart  
15 Boulevard on this site. Even though this hearing has been  
16 scheduled for November 30th, the applicant has already  
17 started the construction of the Grand Way Boulevard at  
18 grade.

19           I believe we have come full circle on how this  
20 county favors developers as opposed to informing and or  
21 listening to its residents. The belief was that CB-12 2003  
22 would remedy that, but it is back to business as usual.  
23 Since most citizens do not understand the zoning process,  
24 particularly when they are forced to compete with high paid  
25 zoning attorneys, they rely upon their elected officials and

1 county leaders and implore to represent their interests.

2 The question. Who has final say in zoning  
3 matters? The District Council or DPIE? Further, what  
4 demonstrates to the citizens other than a road sign that  
5 black lives matter in this county? Thank you. That's my  
6 testimony.

7 MS. MCNEIL: Thank you, Mr. Dean. Anybody have  
8 questions of Mr. Dean? Mr. Rivera?

9 MR. RIVERA: No, ma'am.

10 MS. MCNEIL: Mr. Brown?

11 MR. BROWN: No questions, thank you.

12 MS. MCNEIL: Okay. Well, Mr. Dean, you were out  
13 for a while, but Mr. Benton would like to save his testimony  
14 until our next hearing. It's been set for December 14th at  
15 9:30. You will be sent a link, everyone here will be sent a  
16 link for that hearing and at that time very soon, not on the  
17 14th but very soon Mr. Rivera will revise his application to  
18 make clear what he would like to happen with Condition 4.  
19 He'll make sure that you all get copies of that and then on  
20 the 14th, we're going to allow Mr. Benton to do is entire  
21 testimony as to all the conditions and if you have any  
22 questions on Condition 4, if you want to come back and talk  
23 about that, you may.

24 MR. DEAN: Okay.

25 MS. MCNEIL: And also Mr. Rivera has another item

1 that he has to give concerning ownership of the  
2 (indiscernible) --

3 MR. DEAN: Madam --

4 MS. MCNEIL: -- with the LLC.

5 MR. DEAN: Before you move on, let me ask Mr.  
6 Rivera one question. When he did, went before the Planning  
7 Board as opposed to having A, B and C, determined by the  
8 Planning Board he only had A and B. And the question for me  
9 is why not C, which would have been the I-3 Grand Way  
10 Boulevard issue.

11 MR. RIVERA: I believe the answer is that we had  
12 three issues at Preliminary Plan 5A, B and C. One was  
13 deleted so C which was requiring us to construct 310/Grand  
14 Way became B.

15 MR. DEAN: 18007 of the Park and Planning decision  
16 they listed three, which was the --

17 MR. RIVERA: Right.

18 MR. DEAN: -- which was --

19 MR. RIVERA: It was 6A --

20 MR. DEAN: -- say what now?

21 MR. RIVERA: It was 6A and B, sir, on page 3 of  
22 the resolution, Exhibit 16. So they modified the original  
23 existing Preliminary Plan Condition 6A, they deleted 6B and  
24 then C which was the requirement for us to Grand Way 310,  
25 became B and we still have that as a condition. So that's

1 Exhibit 16 in the record --

2 MR. DEAN: Yeah A and B, that and the, they had  
3 listed, and this is Number C on page 3, they had listed  
4 Maryland 202 and Lottsford Road and they had mentioned  
5 Lottsford Road at Campus Way and they mentioned I-310 Grand  
6 Way Boulevard. When you went before the Planning Board for  
7 them to reconsider your new traffic study, you only had them  
8 to deal with the Maryland 202 Lottsford Road and the  
9 Lottsford Road Campus Way North issue, but not I-310 and the  
10 question was why did you not have the Planning Board deal  
11 with that condition at the same time.

12 MR. RIVERA: Well there was really nothing to  
13 change because 310 Grand Way as we discussed previously  
14 today was a requirement. The issue was where it was and the  
15 design. We deeded the property, got permits, went out and  
16 built it substantially. So there was no modification we  
17 sought for Grand Way.

18 MR. DEAN: But as you know in my testimony at the  
19 Board I raised the issue of 310 and the Planning Board was  
20 saying that was not an issue that they were dealing with and  
21 we had a long discussion about does a ramp look like. But  
22 anyway, thank you.

23 MR. RIVERA: You're welcome, Mr. Dean.

24 MR. BROWN: Mr. Dean, let me interject as well.

25 The primary distinction here is the Condition 4 in the

1 rezoning was a condition placed on the property by the  
2 District Council. The Planning Board has no authority to  
3 amend or delete that condition through a Preliminary Plan.  
4 And so as I recall I believe that Condition Number 4 was not  
5 in the subsequent Preliminary Plans. But even if it was,  
6 the reason the applicant is applying for an amendment of the  
7 conditions, including Condition 4, is that only the District  
8 Council may grant it, the applicant, its request to amend  
9 Condition 4 and/or to delete it.

10 MR. DEAN: Thank you for that clarification. I'm  
11 through.

12 MS. MCNEIL: Okay. Okay. Then I thank you all  
13 for being here today and I will see you again on December  
14 14th at 9:30 and a link will go out sometime shortly before  
15 that, probably the Friday or Thursday before.

16 MR. DEAN: And for me to prepare, what is the  
17 issue we're going to be dealing with at that hearing?

18 MS. MCNEIL: If you have any questions on the  
19 proposal to revise Condition 4.

20 MR. DEAN: Okay.

21 MS. MCNEIL: Now we did allow Mr. Benton to talk  
22 about everything, all the conditions so I guess if Mr.  
23 Rivera or Mr. Brown or you have questions of his testimony  
24 that's okay. But as to your testimony, it would be on  
25 Condition 4.

1 MR. DEAN: And who should I send --

2 MS. MCNEIL: Also, you want to give the  
3 information from the Lake Arbor Association, you have to put  
4 that in the records too, okay?

5 MR. DEAN: Yeah, I'm saying who should I send it  
6 to you? I'll have --

7 MS. MCNEIL: Yes, and I'll give to everybody.  
8 Yes, you can send it to us, the ZHE or me, Ms. McNeil.

9 MR. DEAN: But it will give me the approval to  
10 testify at this hearing today, is that what we're saying?

11 MS. MCNEIL: Gives you approval to talk about  
12 Condition 4 because you haven't had a chance to really read  
13 what it is they're changing it to.

14 MR. DEAN: No.

15 MS. MCNEIL: You heard testimony.

16 MR. DEAN: Okay. My understanding from Attorney  
17 Brown was that I needed to have something in the record that  
18 said that I had the authority to speak --

19 MS. MCNEIL: Oh.

20 MR. DEAN: -- for the Lake Arbor Civic Association  
21 at this hearing, is that correct?

22 MS. MCNEIL: Then that's right. And what it is,  
23 is did they vote et cetera? Go ahead, Stan, explain.

24 MR. BROWN: Yes, Mr. Dean we're not questioning  
25 your authority, but we do need a document that states they



1 met, they considered, and their position is consistent with  
2 what you're testifying to.

3 MR. DEAN: And I have no problem with it, Attorney  
4 Brown, I just wanted to make sure that what you're asking me  
5 to provide you is my understanding that something from the  
6 leadership will be sent to the Zoning Hearing Examiner  
7 and/or to you. Who should I be sending it to?

8 MR. BROWN: To the Examiner. If you want to send  
9 it to me before you send it to her --

10 MR. DEAN: All right.

11 MR. BROWN: -- just make sure it's consistent with  
12 what I'm requesting, that'll be fine.

13 MR. DEAN: Okay. I'll do that. Thank you.

14 MS. MCNEIL: Okay. Thank you all and I'll see you  
15 soon.

16 MR. RIVERA: Thank you very much, everybody.

17 MS. MCNEIL: And this hearing is over at this  
18 point, Ms. Rawlings.

19 AUTOMATED RECORDING: This conference is no longer  
20 being recorded.

21 (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:

WOODMORE OVERLOOK, COMMERCIAL, LLC

Case No. A-10020-C-01

By:

*Diane Wilson*

\_\_\_\_\_  
Diane Wilson, Transcriber