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

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The Mark at College Park, LLC : Case No.
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A hearing in the above-entitled matter
was held on August 6, 2025, at the Prince George's
County Office of Zoning, County Administration
Building, Upper Marlboro, Maryland 20772, via Zoom
videoconference, before:

Maurene McNeil
Zoning Hearing Officer

Transcribed by: Diana Buitrago
eScribers, LLC
Phoenix, Arizona

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Upper Marlboro, Maryland
August 6, 2025

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P R O C E E D I N G S

MS. MCNEIL: I'm Maurene McNeil.
I'll be the hearing examiner today. We're here.
And it's August 6th, 2025. We're here on a
Zoning Map Amendment 2024-002.

The applicant is The Mark at College
Park, LLC. And they have a request to rezone
property located at 4313 Knox Road and 4330
Hartwick Road in College Park from the RTOL zone,
the Regional Transit Oriented Low Intensity zone
in the edge area, to the RTOPD zone, Regional
Transit Oriented Plan Development area -- plan
development done, edge area. And the acreage is
about 4.53 acres. But we'll hear more from the
applicant on the specifics of the property.

Before we begin, I need to let you all
know that we were having technical difficulties.
And what we call Granicus, which allows this to
be streamed, is not working today. So only the
people here are seeing or participating. But we
are recording this proceeding. And I apologize

1 for any inconvenience. If counsel would identify
2 themselves for the record.

3 MR. BROWN: Stan Brown, People's
4 Zoning Counsel.

5 MR. MARTIN: Apologies. One
6 moment, my camera.

7 MS. MCNEIL: Can't even hear him.
8 Who is counsel here, for the record? Oh, there's
9 Johnthan.

10 MR. MARTIN: Johnthan Martin,
11 representing the applicant with CL Hatcher.

12 MS. MCNEIL: Okay. All right
13 then. Mr. Martin, take it away.

14 Oh, I'm sorry. One other thing. Is
15 there anyone here that's opposed to this request?
16 If you could somehow come on camera, and let me
17 know because you'll have an opportunity to cross-
18 examine witnesses and testify in opposition.

19 And let the record reflect, I don't see
20 anyone. Okay. Mr. Martin?

21 MR. HATCHER: Madam Hearing
22 Examiner, I would just like -- and People's
23 Zoning Counsel, I would just like -- as you guys
24 are aware, this is Mr. Martin's first ZHE
25 hearing. So I wanted him to -- I wanted

1 everybody to be aware and see what he can do.

2 MS. MCNEIL: And that guy was for
3 the record?

4 MR. HATCHER: For the record,
5 Chris Hatcher with CL Hatcher. Man, I thought
6 everybody knew who I was. I'm sorry, Madam
7 Examiner.

8 MS. MCNEIL: Everyone in the
9 world, yeah. Okay.

10 MR. HATCHER: At least those on
11 since it's not being live streamed, right?

12 MS. MCNEIL: It's recorded. Okay.
13 Mr. Martin, please take over.

14 MR. MARTIN: Good morning, Madam
15 Hearing Examiner, People's Zoning Counsel.

16 For the record, Johnthan Martin with CL
17 Hatcher in Laurel, Maryland. I am pleased to
18 represent the applicant, The Market College Park,
19 who is the contract purchaser of the subject
20 property and the applicant of the proposed Plan
21 Development Zoning Map Amendment, ZMA 2024-002.

22 This morning, Madam Examiner, testimony
23 will show that the subject PDZMA application
24 complies with the necessary regulations and
25 standards for approval of PDZMA applications.

1 Specifically, the property, which is the subject
2 of the proposed PDZMA application is known as
3 4330 Hartwick Road and 4313 Knox Road. And is
4 located on the south side of Knox Road and the
5 north side of Hartwick Road, approximately 500
6 feet west of Baltimore Avenue in the City of
7 College Park.

8 The property consists of approximately
9 4.53 acres and consists of parcels A and B
10 College Park towers. And is currently zoned
11 RTOLE, otherwise known as Regional Transit
12 Oriented Low Intensity edge zone, pursuant to the
13 County Zoning Ordinance. The subject PDZMA
14 application is proposed to rezone the property
15 from the RTOLE zone to the RTOPD, Regional
16 Transit Oriented Plan Development Zone, pursuant
17 to Section 27-3602 of the Zoning Ordinance for
18 the development of two high density residential
19 buildings consisting of purpose driven multi-
20 family dwellings.

21 Before I introduce the applicant's
22 witnesses, I would like to take a moment to
23 discuss some administrative matters as they
24 relate to the proposed PDZMA application.

25 First, at the early stages of review of

1 the PDZMA application, the proposed development
2 consisted of a mix of residential and
3 nonresidential uses. However, following
4 discussions with planning staff, the PDZMA
5 application was later revised to reflect only the
6 proposed multi-family residential use with no
7 nonresidential uses. Accordingly, the applicant
8 will request that the record remain open after
9 this hearing to ensure that the updated plans can
10 be submitted into the record.

11 Second, subsequent to the planning
12 boards adopting of a PGCPB Resolution Number
13 2025-037, on May 22nd, 2025, the applicant
14 determined that additional modifications to the
15 development standards, applicable to the proposed
16 RTOPD zone, beyond those reviewed and recommended
17 for approval by the planning board, were
18 necessary to develop the property in a context
19 sensitive manner. The applicant raised and
20 discussed the additional proposed development
21 standard modifications with planning staff, and
22 it was deemed appropriate to update the original
23 statement of justification, dated December 30th,
24 2024, also known as Exhibit 14 in the record, to
25 reflect the additional proposed modifications for

1 review by Madam Examiner. Accordingly, the
2 applicant submitted the updated Statement of
3 Justification, dated July 30th, into the record,
4 otherwise known as Exhibit 32, in the record,
5 which detailed the additional proposed modified
6 development standards in Exhibit A1 of that
7 document. Several of the applicant's witnesses
8 today will testify as to the additional
9 development modifications -- development standard
10 modifications.

11 Finally, following issuance of the
12 exhibit list this morning, we submitted two
13 additional documents to you, Madam Examiner and
14 members of your staff. We can either move to
15 introduce into the record -- introduce these
16 documents into the record, and assign exhibit
17 numbers now, or we can introduce each at the
18 appropriate time during the relevant witness'
19 testimony.

20 MS. MCNEIL: Okay. Our revised
21 list goes up to Exhibit 38. And that last one is
22 the resume for Anthony Clark. So do you have
23 some in addition to these?

24 MR. MARTIN: Yes. Two documents
25 that I, right before the hearing, provided to

1 Sarah. So would you like me to introduce those
2 now, or should I just do it at the appropriate
3 time during the witness testimony?

4 MS. MCNEIL: Well, Sarah can mark
5 them as, I believe, 39 and 40. And then, you're
6 going to be talking about all of them as you use
7 them.

8 MR. MARTIN: Right.

9 MS. MCNEIL: But if you're not
10 using them all, do mention why you added 39 and
11 40 through a witness. Because I don't even see
12 them yet. So --

13 MR. MARTIN: Okay.

14 UNIDENTIFIED SPEAKER: I'm sorry
15 to interrupt. One of the ones that I got was
16 just -- one of the attachments was just the
17 exhibit list. I got Mr. Ferguson's resume and
18 then the exhibit list.

19 MR. MARTIN: Apologies. Let me --
20 yeah. One moment.

21 MS. MCNEIL: Okay.

22 MR. MARTIN: I'll send --

23 MS. MCNEIL: Let me -- while
24 you're looking, let me tell you. So the first
25 binder went from Exhibit 1 to 31. 32 was your

1 updated SOJ, 33 was the certificate of status
2 from, I guess, SDAT, 34 was a resume for Mr.
3 Keene (ph.), 35 was a resume for Mr. DiMarco, 36
4 is a resume for Mr. Ferguson, 37 is his land
5 planning report, and 38 is a resume for Anthony
6 Clark. So you're saying there are two more?

7 MR. MARTIN: Yeah.

8 MS. MCNEIL: Okay.

9 MR. MARTIN: The one that was just
10 submitted, that is correctly submitted, was the
11 resume for Mike Lenhart. And then there's one
12 additional document that I will send, which is a
13 memorandum from Anthony Clark. And I will refer
14 and introduce that document during his testimony.

15 MS. MCNEIL: Okay. So do send
16 them -- have someone send them to Ms. Rawlings
17 Windsor (ph.) right now, and it'll be 39. It's
18 Mr. Lenhart's resume. And 40 is something for
19 Mr. Anthony Clark.

20 MR. MARTIN: Okay.

21 MS. MCNEIL: Okay. Thank you.

22 MR. BROWN: Please email this memo
23 to me, as well.

24 MS. MCNEIL: Yes. Sorry.

25 MR. BROWN: So I can read it

1 before he testifies.

2 MS. MCNEIL: Yeah. Mr. Brown
3 needs everything that I have. Thank you.

4 MR. MARTIN: Will do. Okay.

5 MS. MCNEIL: If you'd like to
6 proceed with a witness.

7 MR. MARTIN: Yeah. I'll proceed.
8 Yeah. I'll have Chris send that over to
9 everyone. Okay.

10 With those clarifications, I would like
11 to introduce the applicant's witnesses in
12 attendance today. The witnesses here this
13 morning include Mr. Hamilton Reynolds, the
14 applicant's representative. Mr. Reynolds will
15 testify as to the applicant's proposal.

16 The second witness will be Mr. Joe
17 DiMarco, a professional engineer with Bohler
18 Engineering, who will testify as to the proposed
19 PD Basic Plan and related documents prepared by
20 Bohler in connection with the PDZMA application.

21 The third witness today is Mr. Bob
22 Keane, a professional architect and managing
23 principal of WDG Architecture. Mr. Keane will
24 testify as to the design elements, architecture,
25 and public benefits proposed in connection with

1 the PDZMA application.

2 The fourth witness will be Mr. Mike
3 Lenhart, a traffic engineer and president of
4 Lenhart Traffic Consulting. Mr. Lenhart will
5 testify as to traffic and transportation planning
6 issues in connection with the PDZMA application.

7 The fifth witness today is Mr. Mark
8 Ferguson, a certified land planner, architect,
9 and environmental design engineer with RDA/Site
10 Design. Mr. Ferguson will testify as to a
11 description of the proposed PDZMA application,
12 the physical characteristics of the property,
13 planning and design elements of the proposed
14 PDZMA application, and the proposed developments
15 compatibility with the surrounding neighborhood.
16 Mr. Ferguson will also provide testimony
17 regarding the proposed PDZMA applications,
18 compliance with the requirements of the zoning
19 ordinance for a PDZMA application, to the
20 proposed RTOPD zone, as well as the applicant's
21 conformance with the applicable master plan.

22 The sixth and final witness today will
23 be Mr. Anthony J. Clark, attorney and partner
24 with Katz Day. Mr. Clark will testify as to the
25 application of the Maryland Condominium Act on to

1 this application.

2 I also have with us Mr. Chris Hatcher
3 of CL Hatcher. I will not necessarily call on
4 Mr. Hatcher as a witness. However, he may assist
5 with explaining necessary exhibits in order to
6 conduct this hearing virtually.

7 With that, Madam Examiner, we would
8 like to call our first witness, Mr. Hamilton
9 Reynolds.

10 Whereupon,

11 HAMILTON REYNOLDS,
12 a witness called for examination by counsel for
13 the Applicant, was duly sworn, and was examined
14 and testified as follows:

15 THE WITNESS: I do.

16 MS. MCNEIL: Okay.

17 DIRECT EXAMINATION BY MR. MARTIN:

18 Q Mr. Reynolds, will you please state
19 your full name and address for the record?

20 A Hamilton Baunes Reynolds, 315 Oconee
21 Street, Athens, Georgia, 30601.

22 Q Where are you currently employed?

23 A Landmark Properties.

24 Q What is your current position with
25 Landmark?

1 A Development manager.

2 Q Can you briefly summarize Landmark's
3 previous work in Prince George's County and more
4 specifically within the City of College Park?

5 A Sure. Yeah, we're -- we're very
6 familiar with the development process in Prince
7 George's County, more specifically, City of
8 College Park, as we recently delivered the
9 standard at College Park, which is across the
10 street from the subject property and is a similar
11 purpose driven multi-family development.

12 Q Are you authorized to testify on behalf
13 of the applicant, The Market College Park, LLC?

14 A Yes, I'm authorized to testify on
15 behalf of The Market College Park, LLC.

16 MR. MARTIN: Madam Examiner, the
17 applicant requests that Exhibit 33 be brought up
18 on the monitor.

19 UNIDENTIFIED SPEAKER: Okay. Give
20 me one second.

21 MR. MARTIN: Thank you.

22 BY MR. MARTIN:

23 Q Mr. Reynolds, are you familiar with
24 Exhibit 33? And if so can you elaborate on what
25 Exhibit 33 is?

1 A Yes. It's the certificate of status
2 from the Maryland State Department of Assessments
3 and Taxation for The Market at College Park, LLC.

4 Q Is the applicant registered to do
5 business in the State of Maryland? And is it in
6 good standing with the State of Maryland?

7 A Yes. The Market College Park, LLC, is
8 a Delaware limited liability company, which is
9 registered, authorized to do business and in good
10 standing with the State of Maryland.

11 MR. MARTIN: Madam Examiner, the
12 applicant requests that Exhibit 33 be removed
13 from the monitor.

14 BY MR. MARTIN:

15 Q Mr. Reynolds --

16 MS. MCNEIL: Generally -- excuse
17 me one second. Generally, all of them will be
18 part of the record, unless Mr. Brown or someone,
19 as they go through it or as you testify, objects.
20 So these 40 exhibits will be in the record for
21 now.

22 MR. MARTIN: Okay. Okay.

23 MS. MCNEIL: Okay.

24 MR. MARTIN: Does --

25 MS. MCNEIL: One other thing --

1 I'm so sorry to interrupt you, but this is what
2 happens. They said to get you ready for your
3 first hearing.

4 Mr. Reynolds, I saw that term
5 throughout this document. So can you tell me
6 what's meant by purpose driven development? Or
7 were you going to ask him that? I just wonder.

8 MR. MARTIN: I do intend to ask
9 about the development. But --

10 MS. MCNEIL: Okay.

11 MR. MARTIN: Yeah.

12 MS. MCNEIL: Go ahead. You take
13 it then. Alrighty.

14 BY MR. MARTIN:

15 Q Mr. Reynolds, does the Market College
16 Park, LLC own the subject property?

17 A No. The Market College Park, LLC is
18 the contract purchaser of the subject property
19 and the applicant in this proceeding.

20 Q So I'm going to ask this question in
21 two parts. Were you involved in the decision to
22 develop the proposed purpose driven multi-family
23 dwellings for this location? And in accordance
24 with Madam Examiner's question, would you also
25 explain what we mean by -- what you mean by

1 purpose driven multi-family dwellings?

2 A Yes. I am leading the development
3 efforts for the proposed development of purpose
4 driven multi-family dwellings. And purpose
5 driven multi-family dwellings is just referring
6 to the -- the fact that we're marketing primarily
7 to -- to students for our multi-family property.

8 Q Thank you. Were you -- sorry. Please
9 briefly summarize the decision process to develop
10 the proposed development of purpose driven multi-
11 family dwellings at the subject property.

12 A Sure. Like I said earlier, we recently
13 delivered the -- the standard at College Park,
14 which is across the street. We had a great
15 experience with Prince George County and the City
16 of College Park. So once this property became
17 available, we jumped at the opportunity to
18 develop another and continue our relationship
19 with the city and county.

20 Q Did the applicant perform any community
21 outreach related to this application?

22 A We've been working with city and county
23 staff throughout the design process, as well as
24 held a community meeting in the City of College
25 Park, City Hall, to openly discuss the project

1 with the community.

2 MR. MARTIN: Thank you, Mr.

3 Reynolds.

4 Madam Examiner, I have no further

5 questions for Mr. Reynolds.

6 MS. MCNEIL: Mr. Brown?

7 CROSS-EXAMINATION BY MR. BROWN:

8 Q Good morning, Mr. Reynolds. How are
9 you?

10 A I'm well. How are you?

11 Q Good, good. All right. So we have the
12 SDAT certificate of good standing for The Market
13 College Park. I did see several other
14 certificates of good standing. The owner of the
15 property, is that a limited liability company or
16 corporation?

17 A It is the condo association, which is
18 a -- a limited liability.

19 MR. BROWN: And do we have in the
20 record, Mr. Martin, a certificate of good
21 standing for the owner of the property.

22 MR. MARTIN: I am not aware of any
23 certificate of good standing for the owner.

24 BY MR. BROWN:

25 Q Yeah. I didn't see it. So before this

1 record closes, we need to have in the record a
2 certificate of good standing from SDAT for the
3 owner of the property.

4 In addition, I think I did see ethics
5 affidavits for the contract purchaser. Those are
6 in the record, are they not, Mr. Reynolds?

7 A Yes, I believe they are.

8 MR. BROWN: Since we don't have
9 the SDAT for the owner of the property, I'm going
10 to assume we don't have ethics affidavits for the
11 owner of the property. Is that accurate, Mr.
12 Martin?

13 MR. MARTIN: There is an ethics
14 affidavit, but we intend to supplement the record
15 with it.

16 MR. BROWN: All right. We need
17 the ethics affidavits for the owner, as well.

18 BY MR. BROWN:

19 Q The only other question I have is this
20 purpose driven development, quote unquote. I had
21 never heard that phrase before. I don't know
22 what it really adds to the project. I guess
23 every project has a purpose. In this case, the
24 purpose is to market to students at University of
25 Maryland and other nearby colleges. So I mean,

1 you can continue to use that phrase if you like,
2 but I don't think it adds anything. Okay?

3 A Understood.

4 MR. MARTIN: No further questions.
5 Thank you.

6 MS. MCNEIL: It appears that
7 Exhibit 19 is the ethics form for the President
8 of the College Park Tower condominium. So we do
9 have that one signed by a Paul Foldy (ph).

10 MR. HATCHER: Madam Examiner, I
11 think we have an expert or somebody who regularly
12 practices Maryland condominium law under the
13 Maryland Condominium Act, who's going to provide
14 some clarity on the various affidavits that may
15 or may not be necessary as it relates to this
16 application, in light of the public ethics laws.

17 MS. MCNEIL: Okay. Have the
18 expert tell me if I'm supposed to be voiding
19 Exhibit 19 when we get to that, too. Okay.

20 MR. HATCHER: Understood.

21 MS. MCNEIL: Thank you all.

22 MR. HATCHER: Thank you.

23 MS. MCNEIL: Excuse me one second.

24 Can you all -- I do apologize. I just need to
25 take one-minute break because -- well, you know

1 why. And I'll be right back. I'm sorry.

2 (Pause)

3 Thank you all. I'm so sorry. You
4 can proceed.

5 MR. MARTIN: Thank you, Madam
6 Examiner.

7 The applicant would now like to call
8 Mr. Joe DiMarco.

9 MR. DIMARCO: Good morning.

10 Whereupon,

11 JOE DIMARCO,

12 a witness called for examination by counsel for
13 the Applicant, was duly sworn, and was examined
14 and testified as follows:

15 THE WITNESS: I do.

16 DIRECT EXAMINATION BY MR. MARTIN:

17 Q Good morning, Mr. DiMarco. Can you
18 please state your full name and business address
19 for the record?

20 A Good morning. Joe DiMarco located at
21 16701 Melford Boulevard, Suite 430, in Bowie,
22 Maryland 20715.

23 Q Where are you currently employed?

24 A Bohler Engineering.

25 Q What is your current position with

1 Bohler Engineering?

2 A Professional engineer, and I am a
3 senior project manager of land development here.

4 Q How would you describe your role as
5 professional engineer and senior project manager
6 of Bohler?

7 A In my role, I manage day-to-day
8 operations of a team of design engineers focused
9 in the area of civil engineering for a wide range
10 of commercial, industrial, and residential
11 projects. In addition, as a senior project
12 manager, I manage client relations and financial
13 aspects of the project.

14 Q Do you have any licenses and/or
15 certifications in civil engineering?

16 A Yes. I am a professional engineer
17 licensed in the State of Maryland.

18 Q Are you familiar with the property,
19 which is the subject of this application?

20 A Yes.

21 Q Are you familiar with the proposed
22 Planned Development Zoning Map Amendment
23 Application or PDZMA?

24 A Yes, I am familiar with the proposed
25 PDZMA.

1 Q Was Bohler retained by the applicant to
2 provide land planning, land surveying, and civil
3 engineering services for the subject property and
4 proposed PDZMA application?

5 A Yes.

6 Q Did Bohler prepare the proposed PD
7 Basic Plan?

8 A Yes. We did prepare the PD Basic Plan,
9 outlining the subject site features in compliance
10 with Section 27-4301 D1 of the current zoning
11 code.

12 Q Have you reviewed the technical staff
13 report dated April 17th, 2025, as amended by
14 Applicant's Exhibit 1?

15 A Yes, I have.

16 Q From a civil engineering perspective,
17 do you agree with and adopt the findings and
18 recommendations contained in the technical staff
19 report, as amended by Applicant's Exhibit 1?

20 A Yes, I agree and adopt the findings and
21 recommendations contained in that technical staff
22 report.

23 Q Have you reviewed the Planning Board
24 Resolution Number 2025-037, dated May 22nd, 2025?

25 A Yes.

1 Q From a civil engineering perspective,
2 do you agree with and adopt the findings and
3 recommendations contained in the Planning Board
4 Resolution?

5 A Yes, I also agree and adopt the
6 findings contained in that Planning Board
7 Resolution.

8 Q Does the PD Basic Plan establish the
9 principal accessory and temporary uses permitted
10 in the RTOPZ -- the proposed RTOPD zone?

11 A Yes, it does.

12 Q What are those principal accessory and
13 temporary uses?

14 A So the permitted principal and
15 accessory uses for the development include, all
16 that are allowable in the principal and accessory
17 permitted uses in the RTO-PD zone, which are
18 listed in the zoning ordinance in tables 27-
19 5101E, 27-5201D and 27-5301D.

20 Q Okay. Are such principal accessory and
21 temporary uses consistent with the master plan
22 and purposes of the RTOPD zone?

23 A Yes, they are.

24 Q Do the principal uses, established by
25 the PD Basic Plan, include multi-family dwellings

1 of the permitted principal use?

2 A Yes.

3 Q Does the PD Basic Plan establish the
4 intensity and dimensional standards for the
5 proposed RTOPD zone?

6 A Yes.

7 Q Are you familiar with the RTOPD
8 standards provided by Section 27-4303D4 of the
9 zoning ordinance?

10 MR. BROWN: Let me just interrupt
11 for a moment, Mr. Martin. Were you going to
12 qualify Mr. DiMarco as an expert of some sort?

13 MR. MARTIN: No, we were not.

14 MR. BROWN: And so let me make
15 sure I understand that.

16 Mr. DiMarco, what did you say your
17 background was at the beginning of your
18 testimony?

19 THE WITNESS: I'm a licensed
20 professional engineer in the civil engineering
21 field.

22 MR. BROWN: All right. If he's
23 not going to be qualified as an engineer, he
24 cannot opine on these planning questions that you
25 are asking him.

1 MR. MARTIN: Okay.

2 MR. BROWN: All right.

3 MR. MARTIN: That's fine.

4 MS. MCNEIL: Sustained.

5 MR. MARTIN: So I'll go ahead, and
6 I won't review these standards then of the zoning
7 ordinance. And won't ask him to opine on the
8 zoning ordinance.

9 BY MR. MARTIN:

10 Q Mr. DiMarco, does the PDZMA application
11 propose to modify development standards within
12 the proposed RTOPD zone, as permitted by Section
13 27-4301D2?

14 A Yes, it does.

15 Q Does the PDZMA application propose to
16 modify the vehicle stacking space standards
17 provided by Section 27-6206M2 of the zoning
18 ordinance?

19 A Yes, it does. It proposes a
20 modification that would adjust the minimum
21 required stacking distance, no greater than 50
22 feet, for parking structures containing 50 or
23 more parking spaces. Given the redevelopment of
24 the property in a highly urbanized setting and in
25 conformance with the adjacent developed uses, the

1 proposed developments, this proposed development
2 standard is more appropriate in this instance.

3 MR. BROWN: And why do you know
4 that? I mean, you need to -- Mr. Martin, tell
5 us, did Mr. DiMarco supervise the people who
6 prepared the site plan concerning the stacking
7 and other elements of the plan or what? I don't
8 know what role he had here.

9 BY MR. MARTIN:

10 Q Mr. DiMarco, were you involved in the
11 process to propose the modification of the
12 vehicle stacking space standards? And did you --
13 were you involved in the preparation of the
14 exhibit, which proposes the modifications to such
15 standards?

16 A So yes. We did prepare the PD Basic
17 Plan that outlined and presented that standard,
18 yes.

19 Q And were you also involved with the
20 applicant team? Were you part of the applicant
21 team that proposed to modify -- submitted the
22 proposed modifications on the statement of
23 justification?

24 A Yes.

25 Q Were you also -- did that statement of

1 justification, which you participated in
2 preparing, also proposed to modify the minimum
3 number of off street loading berths provided by
4 Section 27-6310A?

5 MR. BROWN: Again, that's a
6 traffic engineering question. I don't think Mr.
7 DiMarco needs to testify on that.

8 What I'm trying to do, Mr. Martin --
9 I'm not trying to make it hard for you. But --

10 MR. MARTIN: Sure.

11 MR. BROWN: -- you just really
12 didn't tell us why Mr. DiMarco was going to
13 testify. If he prepared the basic plan or the
14 site plan related to this rezoning, then he can
15 testify about that. But you mixing apples and
16 oranges here, asking him planning questions,
17 traffic questions, and what have you. That's
18 just going a little bit too far afield. We can
19 probably speed it up a little bit if you just ask
20 him about the issues that he specifically worked
21 on related to the plan.

22 MR. MARTIN: Sure. The reason
23 these are included in his testimony are because
24 he was involved in the process to propose these
25 amendments and the decision making process to

1 propose these amendments together with the
2 applicant's team.

3 MR. BROWN: All right.

4 So maybe, Mr. DiMarco, if you could
5 tell us your conclusions, I think that might
6 speed it up a little.

7 MS. MCNEIL: Not that we're trying
8 to speed up the applicant --

9 MR. BROWN: I'm not trying to
10 speed it up.

11 MS. MCNEIL: Don't take People's
12 Zoning Counsel --

13 MR. MARTIN: Sure.

14 MS. MCNEIL: Okay.

15 I mean, these documents are in the
16 record, and the justifications are there. So we
17 can speed it up, as far as we don't need to --
18 necessarily need to ask these questions. We can
19 rely on what's on the record for these. The only
20 thing that I was asking Mr. DiMarco to explain
21 was what the modifications are. But if that's
22 not necessary, we can move forward.

23 MR. HATCHER: Mr. DiMarco, were
24 you involved in the preparation of the original
25 statement of justification, the supplemental

1 justification, submitted into the record?

2 THE WITNESS: Yes, I was.

3 MR. HATCHER: Are you aware of the
4 alternative development district standards that
5 were submitted in the original justification and
6 the supplemental justifications that were in the
7 amended SOJ?

8 THE WITNESS: Yes, I am.

9 MR. HATCHER: Do you adopt the
10 findings of fact and conclusions of law contained
11 in those documents, which you were intricately
12 involved in preparing?

13 THE WITNESS: Yes.

14 MR. HATCHER: There John.

15 MR. MARTIN: Okay.

16 Thank you, Mr. DiMarco. I have no
17 further questions for Mr. DiMarco, Madame
18 Examiner.

19 MS. MCNEIL: Mr. Brown?

20 MR. BROWN: With all due respect,
21 I don't really know what you testified to, I
22 mean, in terms of its relevance to this case.

23 So I have no questions.

24 MS. MCNEIL: Well, he prepared the
25 statement of justification. So when we usually

1 object that a lawyer did it, you don't have that
2 objection because this witness prepared it.

3 MR. BROWN: I was going to ask him
4 that.

5 CROSS-EXAMINATION BY MR. BROWN:

6 Q Did you sign the statement of
7 justification, Mr. DiMarco?

8 A Yes. In this particular instance, this
9 statement of justification, I did.

10 MS. MCNEIL: If it helps, I see
11 your signature on Exhibit 32.

12 THE WITNESS: Yes, I did. I
13 wanted to confirm that. Yes, I did.

14 MR. BROWN: All right. That helps
15 tremendously. No questions. Thank you.

16 THE WITNESS: Thank you.

17 MS. MCNEIL: Okay. Are you
18 leaving or you'll be around? I might have a
19 question. I jot my questions in various places,
20 and I'm trying to find them. You'll be here a
21 little longer?

22 THE WITNESS: I will certainly
23 stick around, yes.

24 MS. MCNEIL: Okay. Thank you.

25 Next witness.

1 MR. MARTIN: The applicant now
2 calls Mr. Bob Keane.

3 MS. MCNEIL: Mr. Keane.

4 MR. KEANE: Good morning
5 everybody.

6 Whereupon,

7 ROBERT KEANE,

8 a witness called for examination by counsel for
9 the Applicant, was duly sworn, and was examined
10 and testified as follows:

11 THE WITNESS: I do.

12 DIRECT EXAMINATION BY MR. MARTIN:

13 Q Mr. Keane, can you please state your
14 full name and business address for the record?

15 A Robert Christopher Keane. Business
16 address is 1025 Connecticut Avenue, Suite 300,
17 Washington, D.C. 20036.

18 Q Where are you currently employed?

19 A WDG Architecture, PLLC.

20 Q What is your current position with WDG
21 Architecture?

22 A I'm the managing principal.

23 Q How would you describe your role as
24 managing principal at WDG Architecture?

25 A I manage the day-to-day operations of

1 the business with a couple of my partners, and I
2 lead a lot of the practice with respect to urban
3 planning, architectural design, and student life
4 projects. All the work that I bring into the
5 office, I actually lead the design of. So I'm
6 very hands on. So I'm very close to all the
7 projects that I work on.

8 Q Do you have any licenses and/or
9 certifications in architecture and urban
10 planning?

11 A Yes. I'm a registered architect in
12 Maryland, Virginia, D.C., Pennsylvania, New York,
13 Indiana, Oklahoma, South Carolina, Florida,
14 Texas, and Georgia.

15 Q Have you previously been qualified as
16 an expert in urban planning and architecture
17 before the Prince George's County Zoning Hearing
18 Examiner?

19 A I've never been called an expert
20 witness, but I have a -- I have a long history
21 of -- of presenting many DSP projects and
22 presentations to the planning board in Upper
23 Marlboro over the years.

24 MR. MARTIN: Madam Examiner, the
25 applicant requests that Exhibit 34 be brought up

1 on the monitor.

2 UNIDENTIFIED SPEAKER: Okay. Just
3 give me one second.

4 BY MR. MARTIN:

5 Q Mr. Keane, is Exhibit 34, as included
6 in the ZHE record, a copy of your resume? And if
7 so, does it accurately reflect your educational
8 background and professional experience?

9 A Yes, it does.

10 Q Would you please describe your
11 experience as an architect and urban planner?

12 A Yes. I'm regarded as a national expert
13 in urban planning, multi-family and student life
14 projects. I've spoken professionally at national
15 conferences on the topics of multi-family,
16 student housing. I've also been a regular critic
17 at local architecture schools and have lectured
18 on the subjects of student life, urban planning,
19 and multi-family design at the same universities.

20 MR. MARTIN: Madam Examiner, the
21 applicant requests that Exhibit 34 be removed
22 from the monitor.

23 Madam Examiner, at this point, the
24 applicant moves to have Mr. Bob Keane qualified
25 as an expert in architecture and urban planning.

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

3 MR. BROWN: Honestly, you know, I
4 didn't read your resume. I didn't see that in my
5 file, but I'm sure it's in there.

6 I don't have any objection to his
7 qualification in the field of architecture. I
8 don't really see any qualifications in urban
9 planning. I mean, merely making presentations on
10 urban planning as it relates to student housing
11 is not really, I don't think, sufficient enough
12 to qualify him as an urban planner.

13 But Mr. Keane, do you really need to be
14 qualified as an urban planner? Do you plan to
15 testify on those types of issues?

16 THE WITNESS: I am planning to
17 testify on those issues. And you know, as you
18 know, architects just don't design buildings. We
19 actually took urban planning courses while we
20 were in school. All the -- all the work I've
21 done in my career has been large, multi-building
22 complex projects. So there's a fair amount of
23 urban design and urban planning and campus
24 planning associated with the work that I've done
25 over my 35-year career. So I -- I can say

1 with -- with great confidence that I'm a skilled
2 urban designer.

3 MR. BROWN: All right. I won't
4 object to his qualification in urban planning and
5 architecture at this time. Thank you.

6 MS. MCNEIL: I will allow it.
7 Although, I believe, you could have said all of
8 that as the architect, too, because you don't
9 just plop a building there. I'm sure you
10 consider all of the things that you consider to
11 do that. But you'll be accepted as an expert in
12 the area of urban planning and architecture.

13 MR. MARTIN: Thank you, Madam
14 Examiner.

15 BY MR. MARTIN:

16 Q Mr. Keane, are you familiar with the
17 property, which is the subject of this
18 application?

19 A I am.

20 Q Are you familiar with the proposed
21 PDZMA application?

22 A I am familiar with the PDZMA
23 application.

24 Q Was WDG Architecture retained by the
25 applicant to provide urban planning and

1 architectural design for the subject property and
2 proposed Planned Development Zoning Map
3 Amendment?

4 A Yes, we were.

5 Q Did WDG participate in the preparation
6 of the proposed PD Basic Plan and other
7 associated plans associated with the subject
8 PDZMA application?

9 A Yes.

10 Q Have you reviewed the technical staff
11 report dated April 17th, 2025, as amended by
12 Applicant's Exhibit 1?

13 A Yes, I have.

14 Q From an architecture and urban planning
15 perspective, do you agree with and adopt the
16 findings and recommendations contained in the
17 technical staff report, as amended by Applicant's
18 Exhibit 1?

19 A Yes. From an architectural urban
20 planning perspective, I -- I do agree with the
21 adopted findings and recommendations contained in
22 that report.

23 Q Have you reviewed Planning Board
24 Resolution Number 2025-037 dated May 22nd, 2025?

25 A Yes, I have.

1 Q From an architecture and urban planning
2 perspective, do you agree with and adopt the
3 findings and recommendations contained in
4 Planning Board Resolution Number 2025-037?

5 A From an architecture and urban planning
6 perspective, I do agree and adopt the findings
7 contained in the report.

8 Q In your expert opinion, does the PDZMA
9 application propose forms and patterns that
10 respect the character of the established
11 neighborhood?

12 A Yes. Our design for the project was
13 designed at a high level as it relates to the
14 surrounding context, scale, architectural
15 patterns, pedestrian movement, and vehicular
16 circulation patterns.

17 Q In your expert opinion, does the PDZMA
18 application incorporate buildings, open spaces,
19 and other site features that are arranged and
20 designed to create an inviting, walkable, safe,
21 socially interactive environment?

22 A Yes. Not only did we carefully arrange
23 the buildings to create safe street environments,
24 but we also made a dramatic park-like community
25 gathering space, which provides pedestrians with

1 a -- with a park-like setting and an accessible
2 pathway between Hartwick Road and Knox Road.

3 Q In your expert opinion, does the PDZMA
4 application include distinctive and engaging
5 public spaces that help create an identity and
6 sense of place for the proposed RTOPD zone?

7 A Yes.

8 Q Are you --

9 MR. BROWN: Again, Mr. Keane,
10 could you tell us how, instead of just giving us
11 your conclusory opinion that, yes, it does this,
12 no, it doesn't do that. How would you just --

13 THE WITNESS: Yeah. No -- yeah.
14 Yeah. I apologize.

15 So what makes -- what -- what makes
16 this distinctive is that, you know, when -- when
17 you put two large buildings on a site, you're not
18 necessarily required to create what we created.
19 So we did something that was very thoughtful.
20 There's -- there's almost 30 feet of grade change
21 between Hartwick and Knox Road. So we created an
22 accessible path that includes, you know, paths,
23 ADA ramps, sitting areas, lush landscaping, two
24 plazas at both Knox and Hartwick. There's
25 artwork. There's a range of vegetation. There's

1 going to be some art. There's going to be
2 wayfinding signage. There's going to be a little
3 bike repair station. So a lot of thought went
4 into this, and it's -- it's way over and above
5 what would be required by the -- by the base
6 zone. So what we did is -- is thoughtful and it
7 is distinctive.

8 MS. MCNEIL: If I could ask a
9 question, Mr. Keane. Help orient me. I went to
10 the University of Maryland. I have lived in this
11 county most of my life, and yet I can't tell you
12 which one is Hartwick or Knox. So if I'm on
13 Route 1, leaving the Busboy in DeMatha, do I get
14 to Hartwick first or Knox first?

15 THE WITNESS: Hartwick.

16 MS. MCNEIL: Okay, okay.

17 THE WITNESS: Yeah. Hartwick is
18 south.

19 MS. MCNEIL: And the grade is
20 lower there, right? And going up toward Knox?
21 Okay.

22 THE WITNESS: Exactly.

23 MS. MCNEIL: Thank you.

24 THE WITNESS: Exactly.

25 And so not only did we -- we very

1 consciously placed that -- this linear park in a
2 way that makes meaningful connections to the
3 University of Maryland, which is across Knox
4 Road. So there's a -- there's a -- there's a
5 passageway, a gateway, if you will, into the
6 historic South Campus. And so our -- our linear
7 park is -- is an extension of that open space
8 system. So it makes a very meaningful connection
9 from the lower Hartwick Road Plaza up through our
10 linear park, up to another plaza across Knox
11 Road. And then you enter a gateway into the
12 campus. So it's no accident that we place this
13 the way we did.

14 MS. MCNEIL: Mr. Martin?

15 BY MR. MARTIN:

16 Q Are you familiar with the RTOPD
17 standards provided by Section 27-4303D4 of the
18 zoning ordinance?

19 A Yes.

20 Q Are you aware of any RTOPD standards
21 provided by Section 27-4303D4 that the proposed
22 development will not satisfy or satisfy pursuant
23 to any relief provided by the zoning ordinance?

24 A No. I'm not aware of any standards
25 that the proposed development will not satisfy

1 pursuant to any relief provided by the zoning
2 ordinance. Excuse me.

3 MR. BROWN: Mr. Martin, when you
4 ask him whether it will not require any relief,
5 are you suggesting that it will not require a
6 variance or a departure or things of that sort?
7 Is that what you're asking?

8 MR. MARTIN: I am suggesting that
9 there are very limited concepts of relief for a
10 PDZMA application in the zoning ordinance. And
11 as you know, there's certain design that is not
12 fleshed out until later in the process. And
13 within those zones, when there's sometimes relief
14 permitted for certain items that might change at
15 a later time.

16 THE WITNESS: Yes.

17 MR. BROWN: But at this particular
18 point in time, there is no requested relief,
19 correct?

20 MR. MARTIN: Correct, correct.

21 MR. BROWN: Go ahead.

22 BY MR. MARTIN:

23 Q Does a PD Basic Plan propose to modify
24 development standards within the proposed RTOPD
25 zone, as permitted by Section 27-4301D2 of the

1 zoning ordinance?

2 A Yes, it does.

3 Q Does the PD Basic Plan propose to
4 modify the off street parking space standards
5 provided by Section 27-6305A of the zoning
6 ordinance? And before you answer that, would you
7 also provide detail as to whether WDG
8 participated in the preparation of these
9 modifications?

10 A We did participate in the
11 modifications.

12 Q Okay. And could you describe those
13 modifications?

14 A The parking modifications?

15 Q The off street parking space, correct.

16 A Right -- the -- you know, I don't --
17 I -- I'm blanking on that. Can we come back to
18 that?

19 Q Sure.

20 MR. MARTIN: Actually, would --
21 Madam Examiner, we'd ask that Exhibit 32 be
22 brought up on the monitor. Specifically, I
23 believe, it's page -- I'll find the page shortly.

24 UNIDENTIFIED SPEAKER: Yeah.
25 Pulling it up now. Just give me one second.

1 MR. MARTIN: Yeah. Specifically,
2 page 41.

3 UNIDENTIFIED SPEAKER: Are you all
4 able to see my screen?

5 MR. MARTIN: Yes. We are. Yes.

6 BY MR. MARTIN:

7 Q Mr. Keane, as you'll see --

8 A Yeah. I apologize. Yeah. I am
9 familiar with this. And we -- you know, as
10 this -- as this -- as this kind of indicates, we
11 provided a certain amount of parking for studios
12 and a certain amount of parking for all other
13 unit types that meets the -- the zoning.

14 Q Okay. Would you provide a little bit
15 of detail as to the inclusion of the comparative
16 parking spaces provided by other developments in
17 the area?

18 A Yeah. I mean, you can see below here
19 that there's -- there's a number of projects that
20 are very similar and very close to our project
21 that provide a little bit less than one space per
22 dwelling unit. So University View .92, The
23 Standard .88, The Hub .56, Aspen Heights .77, and
24 Union on Knox .97 units or spaces per dwelling
25 unit.

1 Q Are you familiar with the revised --

2 MR. MARTIN: Oh, Madam Examiner,
3 we ask that Exhibit 32 be removed from the
4 monitor.

5 BY MR. MARTIN:

6 Q Are you familiar with the revised
7 statement of justification, dated July 30th, and
8 included in the record as Exhibit 32?

9 A Yes.

10 Q Did you WDG participate in the
11 preparation of the revised or updated statement
12 of justification, dated July 30th?

13 A Yes.

14 Q From an architecture and urban planning
15 perspective, do you agree with and adopt the
16 findings and conclusions contained in the revised
17 statement of justification?

18 A We do agree with the findings, yes.

19 Q Does the revised statement of
20 justification propose additional modifications to
21 the development standards applicable to the
22 proposed RTOPD zone, above what was reviewed and
23 recommended for approval by the Planning Board?

24 A Yes.

25 Q Would you please discuss the building

1 facade design standard modifications proposed in
2 that statement of justification for Sections 27-
3 6903 E1 and E2.

4 A Yeah. So for the building facades,
5 the -- the base zone says that there's supposed
6 to be a modification to the facade of
7 approximately every 50 feet. There needs to be
8 some sort of an undulation. And we -- we
9 believe, it's our expert opinion, that that
10 requirement and the requirement to the -- to
11 the -- to the roofline, which talks about parapet
12 heights in a projection of the parapet, we
13 believe that those are really intended for a
14 smaller, lower scale buildings like townhouses or
15 low scale apartments. When you're designing high
16 rise buildings, which we are, those -- those
17 standards really aren't appropriate. In fact,
18 when we look at all the surrounding buildings
19 around our site, when we really study the -- the
20 context, none of those buildings do that. And
21 it's because, you know, to -- to ask for an
22 eight-inch projection at the top of a cornice on
23 a three-story building, that's something that you
24 might actually perceive when you're walking down
25 the sidewalk. When you're talking about an 8 or

1 10-story building, those things really don't come
2 into play, and they don't really affect the
3 pedestrian.

4 So we look at buildings a little bit
5 differently when you're doing buildings on this
6 scale. And so we've -- we've articulated these
7 buildings in a way that is appropriate.
8 There's -- there's lots of plane changes and
9 material changes and massing gestures that break
10 down the scale of the building in a way that is
11 appropriate for buildings of this size.

12 Q Okay. And just for clarity, you also
13 in your answer, describe the modification to the
14 roof design standards in 276903F2, correct?

15 A Correct.

16 Q Okay. Are you familiar with the
17 applicant's proposed PD conditions of approval
18 submitted to MNCPPC staff?

19 A Yes.

20 Q Did WDG participate in the preparation
21 of those proposed PD conditions of approval?

22 A Yes.

23 Q Do those PD conditions of approval
24 summarize the public benefits that will be
25 provided by the applicant in connection with the

1 PDZMA application?

2 A Yes.

3 Q Are you familiar with the requirements
4 and criteria for public benefits contained in
5 Section 27-4301, the criteria for public
6 benefits?

7 A I am.

8 Q Does the subject PDZMA application
9 propose as a public benefit the provision of at
10 least 25 percent fenestration for street facing
11 façade area of ground floor for each building?

12 A Yes.

13 Q Does the proposed minimum 25 percent
14 fenestration for street facing facade area of --
15 of the ground floor for each building exceed the
16 standard, otherwise applicable to the proposed
17 development?

18 A This does. There's no minimum
19 fenestration required for residential, only
20 developments in the total RTOLE base zone.

21 Q Okay. In your expert opinion, is the
22 minimum 25 percent fenestration that is proposed,
23 is it a superior feature in the RTOPD zone, the
24 benefits to the surrounding neighborhood or the
25 public in general, to a significantly greater

1 extent than would likely result from development
2 of the site under the base zone?

3 A Yes.

4 Q In your expert opinion, is the minimum
5 25 percent fenestration a benefit that is
6 tangible and quantifiable?

7 A Yes.

8 Q In your expert opinion, is the minimum
9 25 percent fenestration measurable and able to be
10 completed or arranged prior to issuance of the
11 First Certificate of Use and Occupancy?

12 A Yes.

13 Q In your expert opinion, is the minimum
14 25 percent fenestration a benefit that primarily
15 benefits the surrounding neighborhood or service
16 a critical countywide need?

17 A Yes. I think it will benefit the
18 surrounding neighborhood.

19 Q In your expert opinion, is the minimum
20 25 percent fenestration for street facing facade
21 area of the ground floor a benefit that
22 significantly exceeds the applicable standards in
23 part 27-6 of the zoning ordinance?

24 A Yes.

25 Q As another public benefit, does the

1 PDZMA application propose to provide at least
2 eight green building points?

3 A Yes, it does.

4 Q Does the provision of eight green
5 building points exceed the standard wise -- the
6 standard otherwise applicable to the proposed
7 development?

8 A Yeah. It doubles it. The requirement
9 is for green building points.

10 Q Okay. In your expert opinion, is the
11 provision of a green building points a superior
12 feature in a plan development zone that benefits
13 the surrounding neighborhood, or the public in
14 general, to a significantly greater extent than
15 would likely result from development of the base
16 zone?

17 A Yes.

18 Q Is the -- in your expert opinion, is
19 the provision of a building -- eight green
20 building points a benefit that is tangible and
21 quantifiable?

22 A Yes.

23 Q In your expert opinion, is the
24 provision of eight green building points a
25 benefit that is measurable and able to be

1 completed or arranged prior to issuance of the
2 First Certificate of Use and Occupancy?

3 A Yes.

4 Q In your expert opinion, does the
5 provision of eight green building points provide
6 a benefit that primarily benefits the surrounding
7 neighborhood or service a critical countywide
8 need?

9 A Yes, the surrounding neighborhood will
10 benefit.

11 Q In your expert opinion, is the
12 provision of eight green building points a
13 benefit that significantly exceeds applicable
14 development standards in part 27-6 of the zoning
15 ordinance?

16 A Yes.

17 Q Does the PDZMA application propose a
18 public benefit, the provision of at least 12.5
19 percent of the property being utilized for open
20 space?

21 A Yes, it does.

22 Q Does that standard -- does that 12.5
23 percent of open space exceed the standard,
24 otherwise applicable, to the development?

25 A Yes, it does. The base standard is 7.5

1 of the property being used for open space.

2 Q In your expert opinion is the minimum
3 12.5 percent of open space superior feature that
4 benefits the surrounding neighborhood or the
5 public in general to a significantly greater
6 extent than would likely result from development
7 of the site under a baseline?

8 A Yes.

9 MR. BROWN: How?

10 THE WITNESS: We're providing more
11 open space, more community gathering spaces than
12 is required. So seven -- seven and a half
13 percent of the site is required to be open space,
14 and we're providing 12 and a half percent. So I
15 think it's fair to say that having additional
16 outdoor space that is nicely landscaped and
17 nicely designed will be a public benefit to not
18 only the people living here, but the surrounding
19 community.

20 MR. BROWN: While he's completing
21 his testimony, can we put the plan up so that we
22 can see what he's talking about?

23 UNIDENTIFIED SPEAKER: Yes. I'm
24 sorry. Which exhibit number was that?

25 MR. BROWN: Mr. Keane, which

1 exhibit would best illustrate some of the points
2 that you're making?

3 THE WITNESS: I think just like an
4 illustrative site plan that shows the landscaping
5 and the building footprints would be a good one.

6 MR. BROWN: So --

7 MS. MCNEIL: Is that Exhibit 15?

8 THE WITNESS: I honestly don't
9 know. Johnthan --

10 MR. MARTIN: 15.

11 THE WITNESS: -- do you -- do you
12 have that handy?

13 MR. MARTIN: 15.

14 MR. FERGUSON: Madam Examiner,
15 Mark Ferguson, for the record. Can I suggest
16 page 12 of binder 1?

17 MS. MCNEIL: Page 12 of which, Mr.
18 Ferguson?

19 MR. BROWN: Binder --

20 MR. FERGUSON: Of binder 1.

21 MS. MCNEIL: Oh. But, you know --

22 MR. FERGUSON: I don't know what
23 exhibit number that is.

24 MS. MCNEIL: The only problem with
25 that is -- I'll try to find it. We need to say

1 exhibits because these binders can change.

2 MR. FERGUSON: Yes, Madam
3 Examiner. I just don't have the exhibit list.

4 MS. MCNEIL: I know.

5 MR. BROWN: Sarah, if you could
6 pull up Exhibit 15. I think that would
7 illustrate it.

8 UNIDENTIFIED SPEAKER: Okay.

9 MR. MARTIN: That one will
10 illustrate somewhat, but there is actually an
11 open space, like a -- an open space layout that
12 might be a little bit more clear. But we can
13 start with this and --

14 MR. BROWN: Tell me what you want,
15 Mr. Martin.

16 MR. MARTIN: No, no. Bob, what do
17 you -- would you prefer this or --

18 MR. BROWN: I want to say, I want
19 to see the thing that shows the open space, the
20 improved green area, what have you, that he just
21 testified to.

22 THE WITNESS: Yeah. What we're
23 looking at is -- is a pretty abstract
24 rudimentary -- you know, very early kind of
25 engineering level drawing. I'm looking for more

1 of a landscape drawing.

2 MR. BROWN: Right.

3 MS. MCNEIL: So while we're
4 looking for page 12, would the actual PowerPoint
5 that you all provided with parking planning help?
6 That's Exhibit 27.

7 MR. MARTIN: Page 12 of Exhibit 1
8 is the -- is a -- is part of the -- was included
9 in the SOJ and it provides --

10 MS. MCNEIL: Of Exhibit 1? Okay.

11 MR. MARTIN: Exhibit 1, yes.

12 UNIDENTIFIED SPEAKER: Okay.

13 MR. MARTIN: Page 12 of that.

14 UNIDENTIFIED SPEAKER: Page 12 of
15 Exhibit 1.

16 MR. FERGUSON: Madam -- Sarah,
17 page 15 of the PDF.

18 UNIDENTIFIED SPEAKER: Thank you.

19 MR. FERGUSON: There you go.

20 THE WITNESS: So again, this --
21 this is lacking lots of the details, but it gives
22 you a sense of -- there is a substantial open
23 space between what we call the West building on
24 the left, the East building on the right. So
25 Knox Road is on the top. Hartwick is on the

1 bottom.

2 So Hartwick is almost 30 feet below
3 Knox Road. So you can see there's a lot of ADA
4 accessible ramps that -- that allows an
5 accessible route between the two streets. You
6 can also just walk down the steps if -- if you're
7 able. There's actually bike troughs along the
8 stairs. So if you happen to be biking, you can
9 walk here, very easily walk your bike down the
10 steps in the -- in what we call the bike trough.
11 There's going to be a number of seating areas
12 along the way. This is all -- for the most part,
13 this is all like tree covered. So this is this
14 kind of a shady park from one end to the other.

15 And that lighter yellow represents
16 these paved plazas. So there's going to be
17 tables and chairs and gathering opportunities in
18 those plazas. There's going to be permanent
19 benches along the way if you want to rest in
20 between those plazas. There's -- there's the
21 ability to, you know, throw a Frisbee or a
22 football around in some of these spaces. So it's
23 meant to be both -- both active and passive.

24 The streetscapes, which you really
25 don't see here very well because there's a --

1 there's a lot of detail and thought that went
2 into these streetscapes, that meet all the
3 College Park standards for the planting strip at
4 the curb, and then the sidewalk proper street
5 lighting. So a lot of aspects of just providing
6 a very safe, well-lit, open streetscapes that tie
7 the neighborhood together.

8 So there's a pocket park in the lower
9 right corner, which is another public amenity
10 that's very unique. It's going to have either a
11 beehive or a little mini library, or it's going
12 to have some -- some art elements and a lot of
13 indigenous plants. So that's going to be a
14 unique little pocket park, as well.

15 So this starts to show the trees a
16 little bit more. This is -- someone sort of
17 rotated this. So now Knox is on the right.
18 Hartwick's on the left. But you start to see the
19 streetscapes along Knox and Hartwick. You start
20 to see that this is -- really is kind of a park-
21 like environment that traverses the terrain that
22 I described.

23 So we think it's a -- we think it's
24 going to be a very, very nice addition to the
25 neighborhood and to the open space system. If

1 you -- to really appreciate that is to know
2 what's there today, which is two long rectangular
3 buildings surrounded by parking. And there's
4 no -- there's nothing pedestrian friendly about
5 it. It's a very vehicular dominated environment.
6 So what we've done is we've taken away two, what
7 I would call, suburban buildings and replace them
8 with two very thoughtful urban buildings that
9 make very nice streetscapes and a very thoughtful
10 park environment, that is -- is not only tying
11 the two streets together, but making a meaningful
12 connection to the historic South Campus at the
13 University of Maryland.

14 And then there's the three private
15 courtyards, which really are not really in the
16 public domain. But those are highly landscaped,
17 as well.

18 MR. MARTIN: Okay.

19 May I proceed, Madam Examiner?

20 MS. MCNEIL: Yes. I just have one
21 question. And I apologize because I think you
22 did say something about this, but this rendering
23 still notes the retail space. And I remember the
24 staff thought you should, maybe, leave a
25 placeholder, if you will, to allow retail later

1 if the market suggests that. So I'm just
2 wondering what's -- what are you requesting right
3 now for that lower floor, where it says retail?
4 Or will it say retail? And you could ask this
5 witness. I'm sure he knows.

6 THE WITNESS: I don't see where it
7 says retail here.

8 MS. MCNEIL: On this -- on page 12
9 of Exhibit 1. Yeah. It still says leasing and
10 retail on one of the buildings and then fitness
11 and loading on the other. You have to make it
12 really big if you wear my kind of glasses.

13 But --

14 THE WITNESS: I -- I got you. So
15 the -- yeah. The leasing is on -- is on Hartwick
16 Road on the West building.

17 MS. MCNEIL: Okay.

18 THE WITNESS: And it's, you know,
19 it's very visible. There's a lot of glass, clear
20 signage. So it'll be clear where that is located
21 and what it -- what it is providing. And then
22 the fitness program is actually on the East
23 building, right where you see the word Hartwick
24 Road, right where we have that lower plaza. And
25 you -- it's probably hard to make it out, but

1 there -- there's actually tables and chairs in
2 this plan, sort of, sprinkled across that plaza.
3 And right adjacent to that, in the East building,
4 is where the fitness center is.

5 MS. MCNEIL: Okay. And so --

6 THE WITNESS: And again, very
7 visible, kind of, activating the street with lots
8 of glass and transparency. So that --

9 MS. MCNEIL: I was just wondering
10 about the retail. It's still showing on here,
11 too. So the new plan, it won't be showing? It's
12 right next to leasing.

13 MR. HATCHER: Correct, Madam
14 Examiner. In the new basic plan that we intend
15 to submit and the supplemental information that
16 we requested in the introduction that the records
17 stay open, that we can submit, it's going to
18 clarify that this is a purely residential
19 building, although there will be aspects of it
20 that are very transparent. And although there
21 are aspects of it that are going to have leasing,
22 and fitness related uses, this is going to be
23 consistent with the zoning ordinance, a fully
24 residential building.

25 MS. MCNEIL: Okay. So Mr. Keane,

1 I wanted to ask you as the expert urban planner.
2 I'm just throwing this out because it popped into
3 my brain. And you can tell me why it's not a
4 good idea, but I noticed that some jurisdictions
5 would add, like hotel rooms, to a use like this.
6 Is that something that urban planners in that
7 area might consider? Or is there a reason we
8 would never want that -- such a thing in these
9 buildings?

10 THE WITNESS: You know,
11 programing -- programing a project like this
12 is -- is really -- I would say it's -- that --
13 that gets back more to, like, zoning. Like,
14 urban -- urban planning takes -- takes the --
15 takes like the U.S. sector plan and takes all the
16 regulations that are -- have been developed and
17 thought out by planning and zoning in the city
18 and the county. And it just becomes, sort of,
19 part of the puzzle that we have to solve. You
20 know, we -- we're given a program by a client,
21 and we try to shape the streets and shape open
22 spaces with urban planning processes.

23 MS. MCNEIL: Say no more. I hear you. I
24 wasn't the client. And so --

25 THE WITNESS: Yeah, yeah.

1 MS. MCNEIL: Okay. Thank you.

2 THE WITNESS: So you know, people
3 smarter than us kind of tell us what will work
4 and what won't work. You know, oftentimes, you
5 know, people try to put retail where retail
6 doesn't belong, or they try to put hospitality
7 where hospitality doesn't belong. That's like a
8 whole other conversation that I -- I can't really
9 speak to as an expert on where you should -- how
10 you should program things. I can -- I can speak
11 with great confidence on how to -- how to shape
12 space. And how to -- shape buildings so that it
13 creates pleasing environments for cities and
14 towns.

15 MR. MARTIN: Madam Examiner, may I
16 proceed with the questions?

17 MS. MCNEIL: Please do.

18 BY MR. MARTIN:

19 Q Okay. So we'll just reiterate the
20 question. Or we'll go to the next question.

21 Is the minimum 12 percent open space a
22 benefit that is tangible and quantifiable?

23 A Yes.

24 Q In your expert opinion, is the minimum
25 12.5 percent of open space a benefit that is

1 measurable and able to be completed or arranged
2 prior to issuance of the First Certificate of Use
3 and Occupancy?

4 A Yes.

5 Q In your expert opinion, is the minimum
6 12.5 percent of open space a benefit that
7 primarily benefits the surrounding neighborhood
8 or services a countywide -- critical countywide
9 need?

10 A Yes, I think it will benefit the
11 surrounding neighborhood.

12 Q In your expert opinion, is the minimum
13 12.5 percent of open space a benefit that
14 significantly exceeds the applicable standards in
15 part 27-6 of the zoning ordinance?

16 A Yes.

17 Q Okay. Does the PDZMA application also
18 propose a public benefit, the provision of at
19 least 204 bicycle parking spaces?

20 A Yes, it does.

21 Q Does that -- do those proposed biking
22 spaces exceed the standard, otherwise applicable,
23 to the proposed development?

24 A Yes, it does. The standard would
25 require 104 bicycles spaces.

1 Q In your expert opinion, is the minimum
2 of 204 bicycle parking spaces superior, feature
3 in a planned development zone that benefits the
4 surrounding neighborhood, or public in general,
5 to a significantly greater extent, than would
6 likely result from development of the site under
7 a base zone?

8 A Yes.

9 Q In your expert opinion, is the minimum
10 of 204 bicycle parking spaces a benefit that is
11 tangible and quantifiable?

12 A Yes.

13 Q In your expert opinion, is the minimum
14 of 204 bicycle parking spaces a benefit that is
15 measurable and able to be completed or arranged
16 prior to issuance of the First Certificate of Use
17 and Occupancy?

18 A Yes.

19 Q And in your expert opinion, is the
20 minimum 204 bicycle parking spaces a benefit that
21 primarily benefits the surrounding neighborhood
22 or services a critical countywide need?

23 A Yes. The surrounding area.

24 Q In this instance, can you just provide
25 some detail as to how the provision of additional

1 bicycle parking can benefit the surrounding
2 neighborhood?

3 A Yeah. I think -- I think it will
4 entice people to not use cars and to use
5 bicycles. So I think it'll take cars off the
6 street, which is always a benefit to the
7 environment and air quality and just safety. So
8 yeah, more bikes. Bikes create safety.

9 Q Thank you. And lastly, for the minimum
10 of 204 bicycle parking spaces, in your expert
11 opinion, is that a benefit that significantly
12 exceeds the applicable standards in part 27-6 of
13 the zoning ordinance?

14 A Yes.

15 Q Does the PDZMA application propose the
16 public benefit, the provision of a greenway or
17 pedestrian promenade, depending on who's naming
18 it?

19 A Yes.

20 Q Would you please describe the greenway
21 public benefit?

22 A Sure. As mentioned, the greenway is a
23 central outdoor gathering space for the project
24 that connects Hartwick and Knox roads. It's a
25 park-like setting that is a pathway. It's an

1 accessible route with -- with paths, steps,
2 ramps, seating areas, the bike channel or trough
3 that I described. It also includes the paved
4 plazas at the North and South ends of the space.

5 Q Does the proposed greenway exceed the
6 requirements otherwise applicable to the proposed
7 development?

8 A Yes.

9 Q How so?

10 A Just, you know, purely by just area
11 alone. As we -- as we talked about, the
12 requirement was seven and a half percent. And
13 our project is providing 12 and a half percent of
14 the area -- of the site has been dedicated to
15 open space. So you know, we just didn't leave it
16 open to the sky. It was -- it's been very, very
17 thought out by landscape architects, engineers,
18 architects, urban planners. Lots of time and
19 energy has gone into thinking about how that
20 space has been shaped.

21 Q In your expert opinion, is the greenway
22 a superior feature, that benefits the surrounding
23 neighborhood or the public in general, to a
24 significantly greater extent than would likely
25 result from development under the base zone?

1 A Yes.

2 MR. BROWN: I mean, we've asked
3 and answered that three or four times.

4 MR. MARTIN: Sure thing.

5 BY MR. MARTIN:

6 Q And is this a benefit -- in your expert
7 opinion, is this a benefit that is tangible and
8 quantifiable?

9 A Yes.

10 Q In your expert opinion, can it be -- is
11 it measurable and able to be completed or
12 arranged prior to issuance of the First
13 Certificate of Use and Occupancy?

14 A Yes.

15 Q And in your expert opinion, does the
16 greenway primarily benefit the surrounding
17 neighborhood or service of critical countywide
18 need?

19 A Yes, the surrounding neighborhood.

20 Q And in your expert opinion, does the
21 greenway significantly exceed the standards in
22 part 27-6?

23 A Yes.

24 Q Does the PDZMA application propose as a
25 public benefit the pocket park slash green space

1 along Ancestors Lane?

2 A Yes, it does.

3 Q Would you please describe the pocket
4 park and some of the proposed programing within
5 the pocket park?

6 A Yeah. So the pocket park is a
7 pollinator garden with native and adapted plants.
8 It includes integrated seating and pathways. It
9 also includes a beehive artwork and a free little
10 art gallery.

11 Q Okay. And this pocket park, does it
12 exceed the standard, otherwise applicable, to the
13 proposed development?

14 A Yes, it does.

15 Q In your expert opinion, is a pocket
16 park together with its programing, a superior
17 feature in the PD -- RTOPD zone, that benefits
18 the surrounding neighborhood or the public in
19 general, to a significantly greater extent than
20 would likely result from development under the
21 base zone?

22 A Yes.

23 Q In your expert opinion, is the pocket
24 park and its programing a benefit that is
25 tangible and quantifiable?

1 A Yes.

2 Q In your expert opinion, is the pocket
3 park and its programming a benefit that is
4 measurable and able to be completed or arranged
5 prior to issuance of the First Certificate of Use
6 and Occupancy?

7 A Yes.

8 Q In your expert opinion, is the pocket
9 park and its programming a benefit that primarily
10 benefits the surrounding neighborhood?

11 A Yes, neighborhood

12 Q And in your expert opinion, is the
13 pocket park and its programming a benefit that
14 significantly exceeds the applicable standards in
15 part 27-6?

16 A Yes.

17 Q And finally, in your expert opinion, do
18 the public benefits, proposed in connection with
19 the PDZMA application, protect and/or advance the
20 public health safety, welfare, and convenience
21 for the county and/or surrounding neighborhood?

22 A Yes.

23 MR. MARTIN: Thank you, Mr. Keane.
24 I have no further questions for Mr. Keane, Madam
25 Examiner.

1 MS. MCNEIL: Mr. Keane, the last
2 one. Didn't you say you were going to -- you
3 might do -- you're not doing beekeeping? Did you
4 say you're doing something with bees, possibly?

5 THE WITNESS: So the -- yeah.
6 It's -- it's pretty interesting. So Livland, who
7 is our landscape architect, they're -- they're
8 very, very good. And they proposed a few of --
9 three or four potential programmatic elements to
10 the -- to the pocket -- to the pocket park. So
11 one is a beehive, one is like a little -- you
12 know, these, like, little libraries that you see
13 where people sort of share books. You've seen
14 those? And then another one is an art
15 installation where people will just, like, put
16 their own artwork on display.

17 So it's going to be some combination
18 of -- of those. It may not be all of them, but
19 it's going to be some combination of all of
20 those. It will have all these assorted native
21 plants. So it's going to be this, kind of, lush
22 colorful garden. And it's going to have some of
23 these art elements within it, as well.

24 MS. MCNEIL: Okay. I only brought
25 that up because I'm sort of looking at the

1 accessory uses while you were talking, and
2 beekeeping is not allowed. But I don't know if
3 that's considered beekeeping. But you --

4 And the last thing. I saw some type of
5 drawing where you had a -- I want to call it a
6 mirror. And I thought that was sort of cool.
7 Are you all really thinking about doing that, as
8 well?

9 THE WITNESS: I believe so.

10 MS. MCNEIL: Can you tell me a
11 little more about what that is? It's --

12 THE WITNESS: I think -- I think
13 the whole idea is -- you know, the pocket park
14 is -- is a relatively small space, and the --
15 this -- this reflective wall is meant to, sort
16 of, double -- you know, double the color, right?
17 So instead of seeing, you know, a quarter acre of
18 plants, you're going to -- it's going to look --
19 it's going to kind of feel like twice that. So
20 it's meant to, you know, enhance -- enhance, sort
21 of, this -- this little -- this little oasis. So
22 I think it's a -- kind of a clever idea, and it's
23 right up against, you know, the back of a
24 shopping center. So it's going to be this --
25 this -- this colorful garden as you're coming

1 down the sidewalk. And that will just -- it'll -
2 - it'll -- create the perception that there's
3 more -- more flowers and more, you know, artwork
4 and bees and whatever we end up putting in there.

5 MS. MCNEIL: Thank you.

6 Mr. Brown, did you have any other
7 questions?

8 MR. BROWN: Just a couple.

9 CROSS-EXAMINATION BY MR. BROWN:

10 Q Mr. Keane, you were asked, and Mr.
11 DiMarco was also asked, whether or not you adopt
12 the findings and conclusions of the staff report.
13 And whether you adopt the findings and
14 conclusions of the Planning Board Resolution.
15 There were some changes, were they not, between
16 the staff report and the Planning Board
17 Resolution?

18 A Well, there are the architectural
19 changes that we described, right? The facade
20 changes and the roof changes. So those are --
21 those are changes that were -- were made. And
22 we -- I think we -- I think we defended those
23 pretty well, with respect to -- you know, we're
24 doing large buildings and those -- those
25 requirements were, I think, more based on, sort

1 of, low density buildings. So --

2 Q I guess --

3 A You know, the parking --

4 Q My point is it's really moot to ask

5 whether or not you have adopted the staff

6 report's findings and conclusions. It's really

7 more important whether you have adopted the

8 approved Planning Board Resolution finding and

9 conclusions. And that you do adopt, correct?

10 A Correct.

11 Q All right. The other issue I had is

12 the current zone is RTOLE, correct?

13 A Yes.

14 Q And the requested zone is RTOPD?

15 A Believe so, yes.

16 Q I'm not trying to trick you. It's

17 confusing, all these damn letters. It really is.

18 A Yeah. I hear you.

19 Q But I guess my ultimate question here

20 is, in reading the documents, the only difference

21 between these two zones, the existing and the

22 proposed, is the density of approximately 46

23 dwelling units, correct?

24 A Yes.

25 Q So you can do everything you just

1 testified to under the existing zoning, as well,
2 could you not?

3 A Under the existing zoning?

4 Q Yes.

5 A I am not a zoning expert to be honest
6 with you. Johnthan, I don't know if you want to
7 weigh in on that.

8 Q No, no. That's fair. We'll ask Mr.
9 Ferguson when he comes.

10 And in terms of the density, you're
11 requesting 678 dwelling units?

12 A Yes.

13 Q With the existing zoning at 632. Is
14 that just market driven economics? In other
15 words --

16 A Yeah.

17 Q Are you trying to accomplish something
18 architecturally significant, or urban planning
19 related, that justifies the additional 46 units?

20 A Yeah. I mean, honestly, that's
21 probably a question better suited to my client.
22 As an architect and an urban planner, I'll tell
23 you that, you know, this -- this falls into the
24 bucket of smart -- sort of, smart planning and
25 smart density. You know, if you -- if you looked

1 at a map of College Park, and you asked the
2 question, where should the greatest concentration
3 of off campus student housing be, it would be on
4 this site. This is ground zero. There's no
5 place -- this is completely surrounded by other
6 student projects and/or commercial projects. So
7 there -- there isn't a better location to put a
8 high density student project in College Park.

9 Q I don't disagree with you. I think
10 it's a good example of new urbanism at this
11 location. I just need you to say that.

12 A Yeah, yeah. Yeah. No, I mean, this --
13 this makes all the sense in the world to maximize
14 this -- this real estate because of its -- its
15 location.

16 MR. BROWN: All right. No other
17 questions. Thank you.

18 MS. MCNEIL: Actually, I had one
19 last one that may be for someone else. But
20 you're reducing the size of the sidewalks. Could
21 you explain why?

22 THE WITNESS: I --

23 MS. MCNEIL: Or is that somebody
24 else? I think --

25 THE WITNESS: You know what --

1 MS. MCNEIL: Okay.

2 MR. MARTIN: I think that's a
3 question better suited for someone else.

4 THE WITNESS: Yeah.

5 MR. MARTIN: Yeah.

6 MS. MCNEIL: All right, Mr. Keane.
7 You're off the hook. Thank you very much.

8 THE WITNESS: Thank you. Thanks
9 for the questions.

10 MR. MARTIN: Thank you, Mr. Keane.
11 I have no redirect. So the applicant would now
12 like to call Mr. Mike Lenhart.

13 MR. LENHART: Good morning.

14 MS. MCNEIL: Good morning, Mr.
15 Lenhart.

16 Whereupon,

17 MICHAEL LENHART,

18 a witness called for examination by counsel for
19 the Applicant, was duly sworn, and was examined
20 and testified as follows:

21 THE WITNESS: I do.

22 DIRECT EXAMINATION BY MR. MARTIN:

23 Q Mr. Lenhart, good morning.

24 A Good morning.

25 Q Can you please state your full name and

1 business address for the record?

2 A Yes. Michael Lenhart with Lenhart
3 Traffic Consulting, 231 Najoles Road, Suite 250,
4 Millersville, Maryland 21108.

5 Q I think you just mentioned it, but are
6 you currently employed with Lenhart Traffic
7 Consulting, Inc.?

8 A That's correct, yes.

9 Q What is your current position?

10 A I am a traffic engineer and
11 transportation planner and the President of
12 Lenhart Traffic Consulting.

13 Q Have you previously been qualified as
14 an expert in transportation engineering before
15 the Prince George's County zoning hearing
16 examiner?

17 A Yes. Traffic engineering and
18 transportation planning.

19 MR. MARTIN: Madam Examiner, the
20 applicant requests that -- I believe it was
21 listed as Exhibit 39. But I -- for -- this is
22 one of the documents submitted this morning. So
23 we'd like Mr. Lenhart's resume brought up on the
24 monitor.

25 MR. BROWN: I mean --

1 MS. MCNEIL: We don't need to see
2 Mr. Lenhart's --

3 MR. BROWN: Okay. I don't
4 (indiscernible) now.

5 THE WITNESS: You're getting tired
6 of looking at it, aren't you?

7 MS. MCNEIL: So Mr. Lenhart, did
8 anybody reject you as an expert since last month
9 when I saw you?

10 THE WITNESS: No.

11 MS. MCNEIL: Okay. He will be
12 accepted as an expert in the area of traffic
13 engineering and transportation planning.

14 THE WITNESS: Thank you.

15 MR. MARTIN: Madam Examiner, do I
16 have to -- do we need to introduce that exhibit,
17 or is it -- it'll be added to the record, you
18 said?

19 MS. MCNEIL: They're all part of
20 the record now.

21 MR. MARTIN: Okay. Great. Thank
22 you. Thank you for that clarification.

23 BY MR. MARTIN:

24 Q Mr. Lenhart, are you familiar with the
25 property, which is the subject of this

1 application?

2 A Yes, I am.

3 Q Were you retained by the applicant to
4 evaluate site access and transportation issues
5 pertaining to the subject property, as it relates
6 to the development of the multi-family dwellings
7 at the subject property, and the associated PDZMA
8 application?

9 A Yes, I was retained by the applicant
10 for that purpose. And looking at the ZMA and the
11 upcoming preliminary plan entitlement, as well.

12 Q Have you reviewed Planning Board
13 Resolution Number 2025-037 dated May 22nd, 2025?

14 A Yes, I have.

15 Q Do you agree with the findings,
16 analysis, and recommendations contained in
17 Planning Board Resolution Number 2025-037?

18 A Yes, I do agree with those findings and
19 recommendations.

20 Q Are you familiar with the zoning
21 ordinances, required findings for approval of a
22 PD Zoning Map Amendment for a RTOPD zone?

23 A Yes, I am familiar with that.

24 Q Am I correct to understand that a
25 formal traffic analysis is not required for

1 approval of a PDZMA application?

2 A That's correct. Traffic impact study
3 is not required for a ZMA application. It's more
4 of an assessment of what could be developed under
5 the existing zone versus the approved or the
6 proposed zone, and what type of impact that might
7 have on the master plan of transportation.

8 Q And at what point in the development
9 review process would adequacy of public
10 facilities, including adequacy of transportation
11 facilities, be formally evaluated and
12 established?

13 A That is at the time of preliminary plan
14 of subdivision. There is a certificate of
15 adequacy that would be coordinated in conjunction
16 with the preliminary plan. And that's when the
17 traffic impact study would be provided.

18 Q Are you familiar with the basic plan
19 associated with the PDZMA application?

20 A Yes, I am.

21 Q In your expert opinion, does the PD
22 Basic Plan identify the general onsite pedestrian
23 circulation system, including any existing onsite
24 and adjacent pedestrian circulation systems,
25 including pedestrian and bicycle pathways and

1 trails, as well as how it will connect to offsite
2 pedestrian systems in ways that are consistent
3 with the purposes of the RTOPD zone and the
4 requirements of the zoning ordinance?

5 A Yes, it does -- it does comply with
6 those items. The site has frontage on Knox Road
7 to the north, Hartwick Road to the south, and
8 does not have frontage on Route 1. But Route 1
9 is about 350 feet to the East of this property.
10 The -- the existing sidewalks along the frontages
11 of Knox Road and Hartwick Road would be improved
12 as needed at the time of this project approval to
13 meet the code requirements. There is a
14 pedestrian greenway for bicycle and pedestrians
15 that is proposed between the two buildings. As
16 testified earlier, that will connect to Knox Road
17 and Hartwick Road directly through the site and
18 providing a path for not only the -- the users
19 originating and destined to this site, but also
20 those beyond this site that could use it as a
21 through path to get to points North or South.

22 Q In your expert opinion, does the PD
23 Basic Plan identify the general design and layout
24 of the onsite transportation circulation system,
25 including the general location of all public and

1 private streets, existing or projected transit
2 corridors, and how they interface with the
3 pedestrian circulation system, and connect to
4 existing and planned county regional systems in a
5 manner consistent with the RTOPD purposes?

6 A Yes, this basic plan does identify
7 those items. There's a -- in the statement of
8 justification, there's a plan called Adjacent
9 Conditions and Connectivity Plan, that provides
10 conceptual details of vehicular connections, bike
11 and ped -- the bike and ped thruway between the
12 two buildings, a general description of the
13 greenway and how that would operate, as well as
14 some discussion of the city's desire for future
15 extension of Ancestors Lane along the East side
16 of the property. That is also shown as a future
17 potential connection.

18 Q Just for clarification, the answer you
19 just gave in the PD Basic Plans identifying of
20 these items, that's also consistent with the
21 requirements of the other requirements of the
22 zoning ordinance?

23 A Yes.

24 Q In your expert opinion --

25 MS. MCNEIL: If I could interrupt

1 for one second. So the only basic plan we have
2 is an attachment to a SOJ or whatever. Could we
3 leave this record open for a standalone basic
4 plan, as well? I mean, I don't -- I only see it
5 as page 12 of whatever, so.

6 MR. MARTIN: Sure. Madam
7 Examiner, there's a --

8 MS. MCNEIL: If you have one now,
9 get somebody to email it. Thank you. Mr.
10 Hatcher needs to work. Tell him to do that for
11 me.

12 MR. MARTIN: The basic plan is
13 included in the record as Exhibit 15.

14 MS. MCNEIL: Civil site plan is
15 the basic plan. So I have to rename it. Okay.

16 MR. MARTIN: But we do intend
17 to -- that is one of the documents mentioned at
18 the -- during my opening statement.

19 MS. MCNEIL: Right.

20 MR. MARTIN: Yeah.

21 MS. MCNEIL: Okay. A revised --
22 and one more thing before Mr. Lenhart, should I
23 call the original statement of justification
24 void, or are they both in? But the latest one,
25 which is Exhibit 32, sort of, revises it? I

1 mean, is 32 then now -- is now -- is it now the
2 statement of justification and void the other?

3 MR. MARTIN: It is now what is
4 being reviewed and approved by you, Madam
5 Examiner. I'm not sure what makes sense for the
6 purposes of the record, with respect to the
7 original, which was the document that was
8 reviewed by staff and the planning board. So --

9 MS. MCNEIL: So I'll just call the
10 second one revised and -- okay. Thank you. I'm
11 sorry, Mr. Lenhart and Mr. Martin.

12 THE WITNESS: Certainly.

13 BY MR. MARTIN:

14 Q In your expert opinion, how does the
15 PDZMA application utilize the freedom and
16 flexibility provided by the RTOPD zone to select
17 the ways by which pedestrians, bicycles,
18 bicyclists, and transit users -- sorry, transit
19 users and motorists circulate?

20 A Pardon me. I -- could you repeat that
21 question, please, Johnthan?

22 Q Sure thing. In your expert opinion,
23 how does the PDZMA application utilize the
24 freedom and flexibility provided by the RTOPD
25 zone to select the ways by which pedestrians,

1 bicyclists, transit users, and motorists
2 circulate?

3 A So it is my understanding that the --
4 the PD zone would allow the flexibility for
5 additional layout, design, and -- and density to
6 support this plan, to support the -- the number
7 of units, as previously testified. This is a
8 really good location. It makes sense for student
9 housing with what surrounds it. And the
10 flexibility that's provided would allow --
11 density that would make sense here allow the
12 applicant to provide the features as -- as
13 required in the resolution, including the bicycle
14 and pedestrian greenway, the connection between
15 Hartwick and Knox. So --

16 Q In your expert opinion, from a traffic
17 and circulation perspective, does the PDZMA
18 application more efficiently use a subject
19 property with coordinated and right-sized
20 networks of streets?

21 A Yes. Knox Road is an existing right of
22 way of approximately 50 feet. Hartwick Road has
23 an existing right of way of approximately 60
24 feet. Ancestors Lane, if -- if implemented at
25 some point in the future, would potentially have

1 a future public access easement of 42 feet with
2 sidewalks along both sides and a 24 foot two-way
3 vehicular connection.

4 Q In your expert opinion, does the PDZMA
5 application enhance the functionality of
6 vehicular access circulation?

7 A Yes, it does. Consideration for a
8 potential future Ancestors Lane connection would
9 improve circulation in and around the area for
10 those users that are adjacent to the site, better
11 flexibility to get between Knox and Hartwick from
12 vehicular point of view, without having to go out
13 to Route 1 or all the way down to Guilford.

14 Q In your expert opinion, does the PDZMA
15 application establish a transit accessible
16 development that reduces automobile dependency,
17 supports walkable areas, and provides
18 opportunities for alternative modes of travel?

19 A Yes, it does for many of the previously
20 testified reasons. The proposed bike and
21 pedestrian greenway will directly benefit the
22 community and users North and South of this
23 property. The site is well located in proximity
24 to transit stops along Route 1, as well as
25 University of Maryland connector shuttles.

1 Q In your expert opinion, does the PDZMA
2 application incorporate key elements of walkable
3 and bikeable areas, that is well connected to
4 regional transportation network through a range
5 of transit options?

6 A Yes, it does, as previously discussed.

7 Q In your expert opinion, does a PDZMA
8 application provide multiple, direct, and safe
9 vehicular, bicycle, and pedestrian connections
10 between developments and prioritize transit,
11 pedestrian, and bicyclist access?

12 A Yes, it does. For again, the
13 previously testified reasons.

14 Q Okay. In your expert opinion, does the
15 proposed RTOPD zone contain any streets?

16 A Well, it contains driveway into the
17 site and then a potential for the Ancestors Lane
18 connection at some point in the future, if
19 adjacent properties were to redevelop.

20 Q Okay. And in your expert opinion, are
21 such streets organized according to a hierarchy
22 based on function, capacity, and design speed?

23 A Yes. Again, the -- as previously
24 testified to the characteristics of Knox Road and
25 Hartwick Road.

1 Q In your expert opinion, do subsidies
2 terminate at other streets within the development
3 and connect to existing and projected through
4 streets outside the development?

5 A Yeah. Yes. The Ancestor's Lane
6 connection would terminate at Knox and Hartwick
7 roads and establish an alignment for future
8 extensions in the area.

9 Q In your expert opinion, from a traffic
10 and circulation perspective, does the PDZMA
11 application and/or the proposed RTOPD zone
12 adversely impact the surrounding properties?

13 A No, it does not. The approval of this
14 ZMA, if approved, from RTOLE to RTOPD would not
15 adversely impact surrounding properties. Current
16 zone allows a density of up to 140 dwelling units
17 per acre. We're proposing a max of 150 dwelling
18 units per acre. That would be similar to an
19 increase in about approximately 45 dwelling
20 units. There -- this is a student housing
21 project. The traffic generated by student
22 housing is a fraction of what would be generated
23 by market rate housing. This -- the increase in
24 dwelling units, of 45 dwelling units, and
25 associated beds, would be a negligible increase.

1 It would be a small increase, but it would be
2 negligible. It would not impact the master plan
3 of transportation and would not have an adverse
4 impact on adjacent properties.

5 Q Okay. And finally, does the PD Basic
6 Plan show that internal vehicular, bicycle,
7 and/or pedestrian circulation systems are
8 designed to allow cross access between the
9 internal system and adjoining lots and
10 development, intending nearby or adjacent transit
11 stations?

12 A Yes, again, for all the reasons
13 testified.

14 MR. MARTIN: Okay. Madam
15 Examiner, I have no further questions for Mr.
16 Lenhart.

17 MS. MCNEIL: Mr. Lenhart, I heard
18 earlier, and let me know if you can't answer
19 this, but I heard earlier that it's being
20 marketed as student housing. Does it have to be
21 examined as normal housing? Because there's
22 no -- it doesn't appear to be any covenants or
23 anything of that nature that can limit it to
24 student housing. So when you examine it later,
25 will you be examining it as regular apartment

1 dwellings or as student housing? And that's a
2 lot in one question, but I think you understood
3 it

4 THE WITNESS: Yeah. I get the
5 question. Yes. We have already scoped the
6 traffic impact study that would be required at
7 the time of preliminary plan. That scope is
8 based upon student housing units. That has a
9 certain amount of traffic that it would generate.
10 And when the certificate of adequacy approved,
11 the trip cap would be consistent with the student
12 housing proposal, which would be less than what
13 would be generated if this were going to be a
14 market rate project. So that would be at least
15 one trigger that would hold this project to
16 student housing and not allow market rate. It
17 would be the trip cap if they come in and say,
18 you know, we changed their mind. We want to do
19 market rate housing from a transportation
20 perspective. At least, they would need a new
21 certificate of adequacy evaluating it as a market
22 rate unit.

23 MS. MCNEIL: Thank you. Mr.
24 Brown, do you have any questions?

25 MR. BROWN: No questions. Thank

1 you.

2 MR. HATCHER: Madam Examiner, it
3 is worth just sort of adding some clarification
4 for purposes of the listed uses. I know that in
5 the RTOPD zone, student housing might be one of
6 the permitted uses. But we are proposing multi-
7 family, as just in terms of the criteria of
8 approval, and just in terms of the actual use,
9 which will be specified on the detailed site plan
10 at this point.

11 MR. BROWN: I'm not sure what you
12 said, Mr. Hatcher. That seems to be different
13 from what Mr. Lenhart just testified to.

14 MR. HATCHER: I think Mr. Lenhart
15 was speaking to the certificate of adequacy and
16 the transportation associated with the
17 certificate of adequacy. So that's going to be a
18 limiting factor on the type of multi-family,
19 particularly student housing use. My comment, or
20 the applicant's comment is although it's going to
21 be proposed, essentially renting by the bed, in
22 terms of the table of uses, very similar to what
23 was done in the old U.S. one sector plan. Those
24 are actually evaluated as multi-family buildings.

25 MR. BROWN: So your client's

1 original testimony that this is purpose driven
2 development for student housing is inaccurate.
3 And in fact it is not multi-family.

4 MR. HATCHER: It is accurate.
5 That is what they are marketing for. That's what
6 they're going to do it for. But what is being
7 marketed for, and what they're doing it for, and
8 how it's evaluated in terms of the table of uses
9 in the zoning ordinance might separate.

10 MR. BROWN: So will your client be
11 amenable to a condition that requires these units
12 to be student housing?

13 MS. MCNEIL: Before you answer
14 that, maybe we should leave the record open just
15 for you to write something because --

16 MR. HATCHER: That's what I was
17 going to suggest.

18 MS. MCNEIL: -- don't you need
19 special permission to limit housing to like the
20 elderly or students.

21 MS. MCNEIL: Yes. Yeah, that's
22 the unique situation, which I was trying to --
23 even though from an adequacy perspective, and a
24 transportation perspective, Mr. Lenhart's
25 testimony is accurate. But there are different

1 covenants and different things that might need to
2 go into, sort of, limiting it from a marketing
3 perspective. So we can certainly supplement the
4 record to clarify that.

5 MS. MCNEIL: Yeah. Because Mr.
6 Brown's question is very valid. But I just
7 didn't want you to go off. I think we need
8 something in writing on all of it.

9 MR. HATCHER: It's fair. It's
10 very fair. But to the extent that we just wanted
11 to provide that clarity because I know some of
12 this testimony is going to be used in whatever
13 opinion ultimately comes out. And we just want
14 to make sure that it reflects what the proposal
15 is.

16 MS. MCNEIL: And while you're on
17 this, Mr. Martin might get this with his next
18 witness, as well. The staff had slightly
19 different acreage, and I've heard -- and I see
20 documents that say it's going to be 679. But I
21 hear people say 678, so will somebody tell me
22 exactly what the acreage is on this property and
23 the number of units. And we advertise it as
24 approximately, so I don't think there's a
25 problem. The two acres -- the acreage is very

1 close, but it would be great to know the exact
2 acreage. Thank you.

3 THE WITNESS: I think the staff
4 report says 4.52 acres and 678 dwelling units.

5 MR. BROWN: The next witness will
6 testify to that information.

7 THE WITNESS: Okay.

8 MR. MARTIN: Thank you, Mr.
9 Lenhart. The applicant now calls Mr. Mark
10 Ferguson.

11 MS. MCNEIL: Okay.

12 MR. BROWN: Could we take a --

13 MS. MCNEIL: Good time for a
14 break. Mr. Brown, were you going to request a
15 break, too?

16 MR. BROWN: I was.

17 MS. MCNEIL: Okay. Let's take a
18 15-minute break, and we're just --

19 MR. FERGUSON: Oh, Madam Examiner.

20 MS. MCNEIL: -- and we're just
21 teasing, Mr. Ferguson. Sorry. Okay, 15 minutes.
22 We'll be right back.

23 MR. FERGUSON: Thank you.

24 (Whereupon a recess was taken)

25 Whereupon,

1 MARK FERGUSON,
2 a witness called for examination by counsel for
3 the Applicant, was duly sworn, and was examined
4 and testified as follows:

5 THE WITNESS: Yes, I do.

6 MS. MCNEIL: Thank you.

7 DIRECT EXAMINATION BY MR. MARTIN:

8 Q Mr. Ferguson, would you please state
9 your full name and business address for the
10 record?

11 A My name is Mark Ferguson. My business
12 address is 5407 Water Street, Suite 206, in
13 Historic Downtown Upper Marlboro, Maryland.

14 Q Where are you currently employed?

15 A At Site Design Incorporated. We trade
16 as RDA or Older -- Older Incarnation.

17 Q What is your current position with Site
18 Design?

19 A We don't do titles, but I sign my work
20 with senior land planner.

21 Q Okay. Mr. Ferguson, have you ever been
22 qualified as an expert in land planning before
23 the Prince George's County zoning hearing
24 examiner?

25 A I have been qualified by this examiner

1 and her colleague on many occasions as an expert
2 in land use planning, yes, I have.

3 MS. MCNEIL: And so have you not
4 been accepted as an expert in land use planning
5 since we last met?

6 THE WITNESS: Only by my children,
7 Madam Examiner. Only by my children.

8 MS. MCNEIL: Okay. Mr. Ferguson
9 will be accepted as an expert in the area of land
10 use planning.

11 Oh, Mr. Brown, I guess he had nothing.

12 MR. BROWN: I might agree with his
13 children, but we'll pass.

14 MS. MCNEIL: Okay.

15 MR. MARTIN: Thank you, Madam
16 Examiner.

17 BY MR. MARTIN:

18 Q Mr. Ferguson, did you prepare a land
19 use report, included in the record as Exhibit 37,
20 associated with the subject application?

21 A Yes, I did.

22 Q And do you further incorporate and
23 adopt as your testimony here today your land use
24 report?

25 A Yes, I very much do.

1 Q Are you familiar with the property,
2 which is the subject of this application?

3 A I am.

4 Q What is the current zoning designation
5 for the subject property?

6 A Currently, it is zoned RTOL, within the
7 edge area of the University of Maryland East and
8 University of Maryland Center, local campus
9 centers, and more specifically within the
10 Innovation Corridor.

11 Q What is the acreage of the subject
12 property?

13 A According to the plat of College Park
14 Towers, it is 4.5, 301 acres.

15 Q Can you please provide Madam Hearing
16 Examiner with a description of the subject
17 property and the abutting properties, including
18 the existing zoning and any existing development
19 on these properties?

20 Q I can. And what I would like to do
21 is -- is ask --

22 MS. MCNEIL: Before -- I'm so
23 sorry to do this to you because I just want to
24 clarify this record. The staff report, the
25 planning board said 4.52. So no one caught their

1 mistake. But you know for sure it's 4.5301.

2 THE WITNESS: I -- I rely on the
3 land records for every case I do, Madam Examiner.
4 It's -- it's very often for people to round
5 things. I try to be precise for the record in --
6 in -- in every case.

7 MS. MCNEIL: Okay. Thank you.

8 THE WITNESS: So if I could ask
9 Ms. Rawlings (ph.) or Ms. Bauer (ph.) to bring up
10 page 14, PDF page 14 of binder 1, please.

11 And I will note for the record, this
12 was an exhibit. It's going to be a massing
13 exhibit you will see taken from the South, which
14 was presented at the neighborhood meeting.
15 The -- the -- the plan on page 15, which Mr.
16 Keane spoke to during his testimony, or at least
17 a part of his testimony, was also an exhibit from
18 that neighborhood meeting. And these are
19 illustrative, but not precisely conforming to the
20 current proposal.

21 So Madam Examiner, you referred in your
22 questions to the retail that was shown on page 15
23 of binder 1 on that plan. And subsequent to
24 commentary received at that neighborhood meeting
25 and commentary from staff, the applicant did

1 subsequent to that meeting amend their proposal
2 to delete that retail. So that I think is -- is
3 some of the context of that. But the plan, and
4 particularly the exhibit that I'll be speaking
5 to, certainly remains illustrative of the project
6 as a whole and more to the point of the
7 surrounding context of it. Is Ms. Bauer or Ms.
8 Rawlings with us?

9 MS. MCNEIL: Ms. Rawlings had to
10 leave.

11 The issue -- I mean, maybe -- so you're
12 saying just page 14 of the whole binder?

13 THE WITNESS: Yes.

14 MS. MCNEIL: Okay.

15 THE WITNESS: So that's page 15.
16 If we could go up one page.

17 MS. MCNEIL: 15, okay.

18 THE WITNESS: Here we go. So this
19 is a bird's eye view, roughly from the South,
20 looking at the subject property, which is shaded
21 in gray and its surroundings. So this is the
22 site of the existing College Park Towers
23 condominium buildings, which were built in the
24 early 1960s. They are in the midst of an asphalt
25 parking lot. This -- this property predates the

1 requirements for internal parking lot
2 landscaping. And so there really is very little
3 inside the building. There is, as Mr. Keane has
4 testified to, a substantial grade transition
5 across the property from Knox Road to the North,
6 down to Hartwick at the South, and some of the
7 existing green, most of it. It either surrounds
8 the existing building or provides the grade
9 transition from North to South.

10 So the surrounding uses -- the
11 buildings immediately to the North, on the North
12 side of Knox Road, which -- which are rendered
13 seemingly in a bit more detail, are on the campus
14 of the University of Maryland. That's South
15 Campus Commons, and -- or at least three of the
16 buildings from South Campus Commons. They are in
17 a collection of zones, the sort of the legacy RR
18 zone of the -- the university campus from the
19 beginning. Some RSS 65 zoned land, which they
20 subsequently acquired, as well as, I believe, a
21 slice of land that's owned LTOE at the very
22 eastern edge of -- of commons.

23 To the east of those commons buildings,
24 is the Union on Knox project, which was
25 completed, I don't know, a couple of years ago,

1 maybe a year or two ago. That is housing on top
2 of ground floor retail, of which about half is
3 occupied. There is Pho Thom, a very excellent
4 Vietnamese restaurant, that has its new space in
5 there. There's a chopped salad eating and --
6 eating and drinking establishment. There's a
7 cookie store. And as I mentioned, some -- some
8 vacant space.

9 Proceeding, sort of, counterclockwise
10 around the property to the East, is the mostly
11 one-story College Park Shopping Center. So that
12 has a pad site. So right up at the corner of
13 Knox and U.S. 1. U.S. 1 is at the right side of
14 this illustration, is the Bank of America, the
15 old suburban bank for those of us who went to
16 University of Maryland more than a few years ago.
17 And then a collection, again, mostly of eating
18 and drinking establishments in the College Park
19 Shopping Center; The Green Turtle, Cava,
20 Chipotle, Starbucks, Noodles and Company,
21 Domino's, Subway, pizza. There's a Domino's
22 Pizza and then another pizza establishment. I
23 can't remember the latest version, that's all the
24 way on the Route 1 frontage.

25 And then in the rear of the College

1 Park Shopping Center, a budding Knox Road, you
2 can see there's a little bump that projects out
3 of it. And that's a two-story office component
4 with a parking lot that one of the buildings
5 really wraps around on two sides. There is a
6 retaining wall that separates the subject
7 property from that parking lot, as well.

8 So continuing then in a
9 counterclockwise manner on -- and cut off by the
10 bottom of the frame in the -- in the corner of
11 the intersection of U.S. Route 1 and Hartwick,
12 and then extending all the way down to Guilford,
13 which you can see at the -- the bottom of the
14 screen, more to the left, is the Aster at College
15 Park development, which includes my neighborhood
16 grocery store, the Trader Joe's, a fitness
17 center, and -- and again, another collection
18 of -- of eating and drinking establishments, as
19 well as a bank and some empty retail space.

20 Those two properties -- three
21 properties, really; the -- the Union on Knox, the
22 College Park Shopping Center, and the Astor are
23 in the LTO edge zone. Continuing clockwise,
24 immediately to the South of the property, is The
25 Standard, which Mr. Reynolds referred to at

1 the -- at the beginning of their property. That
2 is principally retail. It does have one
3 commercial space, which is, from -- from my view,
4 having its tenant improvements constructed. And
5 then to the West of the subject property, both on
6 the South of Hartwick Road, North of -- of
7 Guilford, abutting to the West, and then further
8 to the West across a -- a greenway, is the
9 Terrapin Row development that is in the RTOLE
10 existing zone.

11 At the very corner of Knox and
12 Guilford, is the Aspen Heights mixed-use
13 development. I would note the -- the Terrapin
14 Row is -- is mixed-use. It contains -- there's
15 an Amazon pick-up and return facility there.
16 There's a Korean restaurant. There's a Dunkin
17 coffee shop. And there's an Asian teahouse in
18 there. But a fair amount of empty space, as
19 well.

20 Continuing clockwise, really back to
21 the North side of -- of Knox Road, you have
22 the -- the Aspen Heights project. It's the first
23 building, the hub, next to that, the Aspen
24 Heights is mixed-use. It has vacant retail as my
25 memory, but the answer is in my -- the actual

1 answer is in my report. The hub, again, mixed-
2 use. That does have a coffee shop in it. And
3 the little lone house next to Commons and next to
4 the hub is the bad boys at Phi Delta Sigma
5 fraternity and their house there.

6 So that's really the surrounding
7 context. And I think, Madam Examiner, you can
8 see that all of the properties surrounding it,
9 with the exception of the College Park Center to
10 the East, are comparable in scale use, you know,
11 form and -- and really are built out to the
12 intent expressed in the central U.S. 1 sector
13 plan.

14 MR. MARTIN: Thank you, Mr.
15 Ferguson.

16 BY MR. MARTIN:

17 Q Have you reviewed the proposed PDZMA
18 application, including the proposed PD Basic Plan
19 and proposed PD conditions of approval?

20 A I have.

21 Q Have you reviewed Planning Board
22 Resolution Number 2025-037 dated May 22nd, 2025?

23 A I have.

24 Q Do you agree with the findings,
25 analysis, and recommendations contained in the

1 Planning Board Resolution Number 2025-037?

2 A Most, but not all. And I'll -- I'll go
3 into this more in my -- in my testimony regarding
4 the planning. But the -- the staff report and
5 the resolution both refer to the subject property
6 as being within a regional transit district,
7 which it is not. The community planning division
8 in their referral, which is in the -- the backup,
9 did correctly note that this is in local centers,
10 but not in a regional transit district. The
11 regional transit district is about half of a mile
12 to the East, on the other side of the railroad
13 tracks. So the -- the College Park metro station
14 is -- is one component of the College Park Metro
15 M Square Purple Line. There's three names in
16 that -- in that regional center. And -- and
17 perhaps strangely, it was -- it was chosen to --
18 perhaps because of the historic character of Old
19 Town College Park on the West side of the -- the
20 train and metro tracks, to limit the extent of
21 the regional transit district to those metro
22 tracks and train tracks, even though the metro
23 station is really at the very western extremity
24 of that regional transit district.

25 Q Mr. Ferguson, have you reviewed the

1 applicant's revised statement of justification?

2 A I have.

3 Q Do you agree with that statement of
4 justification?

5 A I do. I -- I think it -- it did, in
6 fact, make the same error about the regional
7 transit district location. But other than that,
8 I do.

9 Q Are you familiar with the decision
10 standards contained in Section 27-3602C of the
11 zoning ordinance, which must be satisfied and
12 found by the District Counsel to approve the
13 proposed PDZMA application?

14 A Yes, I am.

15 Q Is the first PDZMA decision standard
16 whether the entire development conforms with the
17 general plan, the applicable maps -- the
18 applicable area master plan or sector plan,
19 and/or any applicable functional master plan?

20 A Yes, it is.

21 Q In your capacity as an expert in land
22 use planning, would you please discuss whether
23 and how the PDZMA application conforms with the
24 general plan, applicable area master plan, sector
25 plan, or any functional master plan?

1 A I will. And -- and what I would --
2 would certainly do is lean very heavily on the
3 contents of my written report. And that -- that
4 compliance is discussed really on a chunk of it,
5 pages 8 through 21 of the report. What I
6 think -- for -- to highlight the case, we have,
7 as I stated, this property is sort of uniquely --
8 uniquely cited from a general plan perspective
9 because it is in two local centers, would in a --
10 in a normal circumstance, be located in a -- in a
11 regional transit district just by its proximity
12 to Metro. And then, of course, it was -- it was
13 in the old general plans, Baltimore Avenue
14 Corridor. Now, that's no longer part of the
15 county's planning, but it certainly is a -- an
16 important corridor. And -- and I think all of
17 that really also needs to be viewed in the
18 context of a particular focus of the general
19 plan, which is the county's innovation corridor,
20 of which this property is -- is -- is a part.
21 And the idea of the innovation corridor is to
22 support certain key technology sectors. And a
23 lot of the research to do that is based at the
24 University of Maryland. And so you know, the
25 university is really one of the focuses of

1 activity of the innovation corridor that extends
2 out to the East, to the -- to the M Square
3 Research Park. And one of the -- the specific
4 policies of the general plan is to support the
5 activity in those areas, both in the research and
6 development areas. And a project like this, very
7 specifically by supporting the research arm in
8 the university, would -- would absolutely --
9 would absolutely do that.

10 So I certainly find that, you know, the
11 land use, while a local center might not
12 ordinarily seek the kind of density that is
13 sought here, the -- the imperative of the
14 innovation corridor really communicates the
15 intent of the general plan with regard to the
16 kind of intensity that it would like to see. I
17 would say that that's been amplified since the
18 adoption of the general plan by several things.
19 So certainly the -- the passage of the new zoning
20 ordinance really created implementation zones for
21 that innovation corridor, which have -- have
22 greater, you know, density targets than those
23 for -- for just local centers. Certainly, we
24 have the context of the passage of CD 15 of 2024
25 last year, which sought to incentivize transit

1 oriented development, which this project would --
2 would very much qualify as, by increasing maximum
3 densities in the base zones, including the RTOL
4 zone.

5 And that I think is worthy of a bit of
6 a digression. Mr. Brown, you -- you mentioned a
7 question, or you made a comment about the
8 benefits that the applicant is getting from this
9 instant rezoning, with respect to what the PD
10 zone grants, as opposed to the base zone. And I
11 think an important part of the context of that is
12 that before the passage of CB 15, when this
13 project was conceived, the maximum density in the
14 RTOL zone was only 60 units per acre. And so at
15 that time, you know, the -- the -- the density of
16 150 was determined to be the appropriate ask,
17 given the form that -- that the surrounding
18 development and the sector plan seeks to achieve.
19 And the market considerations that -- that
20 perhaps Mr. Reynolds could speak to better than
21 I.

22 So subsequent to the planning, CB 15
23 gets passed, the density -- the maximum in the
24 RTOL zone goes up to 140 units per acre. But as
25 you're well aware, CB 15 was appealed. And so

1 there was a -- certainly in this case, a sense
2 that the project needed, if you will, some
3 insurance against CB 15 being overturned. And so
4 you know, the -- the ZMA for plan development
5 application proceeded forward.

6 So I think that's the general plan.
7 The -- the sector plan is really the -- the more
8 implementing document, even though it's -- even
9 though it's older. It's shaped all of the
10 surrounding development. It specifically seeks
11 residential high land use on the subject
12 property, as opposed to the mixed-use development
13 that it -- it calls for to either side, which I
14 think also informs the choice not to include
15 retail component to -- to a certain degree.
16 There are a number of goals and -- and certainly
17 policies and strategies in that sector plan that
18 I discussed in my report, that this plan actively
19 implements and many of the standard modifications
20 speaks specifically to those, as well.

21 So I think that's -- that's really
22 the -- the -- the summary. What this -- what
23 this project does is actively seek to implement,
24 really, what both the general plan and the master
25 plan are -- are very specifically looking for at

1 this area.

2 Q Thank you, Mr. Ferguson. Is the second
3 PDZMA decision standard, whether the entire
4 development meets the purposes of the RTOPD zone?

5 A It is. And I note, as -- as I did in
6 the previous PD hearing a couple of weeks ago,
7 that even though the language of the ordinance
8 speaks only to the purposes of the PD zone,
9 which -- which I interpret as meaning
10 specifically the RTOPD zone, the ordinance does
11 have purposes for the ordinance as a whole, as
12 well as general purposes for all PD zones. I go
13 through those in my -- in my report. And I don't
14 really feel the need to go through each one
15 orally.

16 And again, I think the only point of
17 highlight is the one that I made in -- in the
18 conclusion of my answer about the master plan.
19 You know, all of these -- all of these documents,
20 whether it's the zoning ordinance or the sector
21 plan or the general plan, really do have a
22 unified vision of what the kind of dense transit
23 oriented development that is proposed here should
24 be. And you know, Mr. Keane described the
25 development as -- as, you know, thoughtful and

1 responsive. And I absolutely -- I absolutely
2 agree with that.

3 MS. MCNEIL: Mr. Martin, before
4 you move on. I did want to thank Mr. Ferguson
5 for addressing the general purposes of the zone.
6 You're correct that that language seems to have
7 fallen out of the PD requirements. But the
8 general purposes are those which the counsel and
9 case law has determined; address the public
10 health, safety, and welfare. There's still a
11 requirement that the statement of justification
12 address the public health, safety, and welfare.
13 So you're just adding to the entire application
14 because you addressed those purposes. So good
15 job. That doesn't mean anything, other than a
16 good job right now, for what you wrote. Okay.

17 THE WITNESS: Thank you, ma'am.

18 BY MR. MARTIN:

19 Q Just for clarity on the record, would
20 you be able to point to the pages that assess
21 the -- whether the PDZMA application meets the
22 purposes of the RTOPD and the general purposes of
23 PD zones?

24 A The -- the whole discussion of purposes
25 is on page 21 through 27 of my -- of my report,

1 which is Exhibit 37.

2 Q And also, for the record, your
3 conclusion in both of those instances, for the
4 general purposes, as well as the specific
5 purposes of the RTOPD zone, is that this PD
6 application meets those standards -- or meets
7 those purposes?

8 A It -- it does. It amply meets the
9 purposes, as well as meeting the -- conforming to
10 the recommendations of the general plan, the
11 master plan, functional master plans, also.
12 There weren't really any -- other than the
13 amended master plan of transportation, which was
14 amended by the sector plan. And so you know,
15 that's sort of a duplicate conformance.

16 Q Okay. Is the third PDZMA decision
17 standard, whether the entire development
18 satisfies all applicable standards of the RTOPD
19 zone?

20 A It is.

21 Q Would you please discuss whether and
22 how the PDZMA application satisfies the general
23 standards applicable to all PD zones provided by
24 Section 27-4301D?

25 A I -- I -- I will. And what I think --

1 this was the case a couple of weeks ago, and is
2 the case, you know, now.

3 THE WITNESS: And I, Madam
4 Examiner, ask for your forbearance as I -- I
5 spilled a little ink in my report on, let's call
6 it a rant, about the way that the ordinance has
7 been written, with respect to the kind of
8 information that -- that should be on the PD
9 Basic Plan and in the PD conditions of approval
10 and how that's been reviewed by staff and -- and
11 so forth. It certainly made my job harder and
12 probably everybody else's job, when they look
13 from the outside at -- at what something is
14 supposed to be, more -- more confusing. So as
15 with last week -- and -- and as far as I can
16 gather, every other case, every other PD case,
17 there is a -- a list of standards in 274301D1,
18 which says the basic plan shall. And then it has
19 a list of things A through O. And consistently
20 those things are either on the basic plan, or in
21 a statement of justification, or you know,
22 wherever. There isn't a -- you know, the -- the
23 applicant here said, well, we don't offer any at
24 the outset, didn't offer any conditions of
25 approval, which they subsequently -- which they

1 subsequently did.

2 So as with the case a couple of weeks
3 ago, however, I do find that all of the
4 information that's asked for by this standard,
5 whether the standard for the -- the PD Basic Plan
6 of 4301D1, or the standard for the conditions of
7 approval in 4301D4, is here in the application.
8 So I don't think that if it's not in the place
9 that's provided for in the ordinance, that --
10 that it's -- it's a material departure.

11 I do hope that -- that in the future,
12 as we -- as applicants, and the development
13 industry, and hopefully staff, move forward, we
14 come to a more organized way of presenting this
15 information to you and to the public. But we
16 aren't there yet clearly.

17 MS. MCNEIL: No matter what,
18 they'll need to be attached somehow, FYI, because
19 we hear cases four years down the road, where we
20 have to research and dig up the whole file
21 because everything's not there. So that's why it
22 made sense to be on the basic plan. But if it's
23 not on the basic plan, it needs to be attached to
24 the basic plan somehow.

25 THE WITNESS: And Madam Examiner,

1 we, the -- the applicant's team and I, spoke to
2 this very issue in -- in the preparation for the
3 hearing. And that's absolutely one of the -- the
4 principal reasons why Mr. Martin has asked you to
5 keep the record open, so that we can do just
6 that. So that really all of it -- because the --
7 the basic plan is directed to be recorded, and
8 it's directed that this will be the zoning
9 ordinance. So if you can't have a clear
10 presentation of all of the information, everybody
11 is going to be lost and confused down the road
12 when it's time to get permits. And the last
13 thing we want anybody to do is to have to go back
14 and listen to the -- read the transcript of my
15 testimony, or read -- or listen to this recording
16 to figure out what was -- to figure out what was
17 intended.

18 I will note that some of the standards
19 are not correct on the basic plan that is in the
20 record. So that will -- that will need to be --
21 those will need to be amended. None of the
22 standards have a material impact on your
23 findings. All of the information is -- is
24 presented in the applicant's statement of
25 justification. But again, we need to have a

1 correct record for -- for the future. And that
2 will include addition of the statement of which
3 of the allowable uses are allowable in this -- in
4 this zone. And then certainly the record of what
5 are the modified standards, whether it's to the
6 intensity and dimensional standards, or to the
7 part 6 standards are to be applicable to this
8 project. And I believe that those ideally should
9 be on -- on the basic plan document itself.

10 MR. BROWN: So --

11 THE WITNESS: Notwithstanding the
12 fact that that makes it very text heavy.

13 MR. BROWN: So the basic plan
14 that's in the record now does not identify multi-
15 family housing versus student housing?

16 THE WITNESS: It does not. And I
17 think to that point, it's -- it's worth I think
18 going back to -- to your and Madam Examiner's
19 discussion during Mr. Lenhart's testimony.
20 Student housing is not a use, a distinct use on
21 the use table. So as far as the provisions of
22 the ordinance goes, this use is multi-family
23 housing. That having been said, it's absolutely
24 the intent of the applicant to constrain the --
25 the people to whom this use will be marketed.

1 And that speaks to, I think, the intent of the
2 sector plan, not just the market. And then it
3 does speak to the modification of standards. And
4 as Mr. Lenhart testified, that will -- that --
5 that restriction will be captured by the
6 certificate of adequacy, if not actually by, you
7 know, the -- the -- the use on the basic plan.
8 So --

9 MR. BROWN: Well -- and I'm not
10 trying to make a determination now. So the basic
11 plan at some point needs to identify that quote
12 unquote student housing, as will be identified on
13 the preliminary plan, will be the use, as opposed
14 to multi-family, as it's defined in the
15 ordinance, correct?

16 THE WITNESS: I -- I -- I
17 certainly -- I think that is a -- I -- I feel
18 that that's really a legal question. And -- and
19 you hear me spluttering right now on that
20 question. I actually feel out of my depth, Mr.
21 Brown.

22 MR. BROWN: No problem. Yeah.
23 We'll deal with that when they file the amended
24 basic plan.

25 THE WITNESS: Yeah.

1 So -- so we started talking about
2 standards and their location and the -- the basic
3 plan. So one of the things that -- that the --
4 the plan development zones allow for, is
5 modification of those standards. So the
6 applicant is proposing to modify the maximum
7 density from 140 to 150. It's proposing to
8 modify -- build two lines so that it can conform
9 to the surrounding development and the -- the
10 intent of the sector plan. It's proposing to
11 modify the transparency requirement, from no
12 requirement to really impose a transparency
13 requirement, as part of its superior design. And
14 then it's proposing to modify a number of
15 standards in part 6.

16 So the standards regard several areas.
17 Number one, sort of, parking, loading circulation
18 as -- as one group. Secondly, of building form.
19 And third, of -- of -- remind me, Mr. Martin.

20 MR. MARTIN: Retaining --

21 THE WITNESS: Retaining walls.

22 Thank you. Retaining walls. So I spoke to -- I
23 spoke briefly to the retaining walls in question
24 at the -- particularly the eastern boundaries of
25 the property. And certainly that modification is

1 related to the existing walls there. And I
2 believe there may be some on the western
3 boundary, as well.

4 The zoning ordinance has some very
5 prescriptive requirements. And what this
6 application does allow for is -- is this
7 application to a PD zone, is to allow, kind of,
8 blindly prescriptive requirements to be treated
9 in a site specific planned manner. And given
10 that the sector plan is seeking the kind of high
11 quality development and redevelopment, such as
12 what is proposed, really those modifications
13 really speak very specifically to the intent of
14 the sector plan, as expressed in -- very
15 specifically expressed in some of its policies
16 and strategies.

17 So -- and to go back to -- to go back
18 to parking. Certainly, I find that -- that the
19 reduced -- the reduced parking and loading
20 requirements are very specifically an
21 implementation of one of the master plan policies
22 of the transportation element that specifically
23 says, hey, look at reducing parking to -- to an
24 amount where it's -- where it's appropriate for
25 its use and location. And given the character of

1 the student population, the proposed leasing to
2 that student population, and to the abundance of
3 transit and -- and other circulation modes,
4 pedestrian and bicycle use, certainly. But
5 there's a lot of proximate transit nearby. The
6 UM center campus, stop right by the student
7 union, is a little less than six tenths of a
8 mile. As you -- you know, I measured the path as
9 you have to weave in between all of the
10 buildings, you know, to -- to get there. The --
11 the stop over by the -- the hotel on Route 1 is
12 four tenths of a mile as you walk down the
13 sidewalks. And going straight down Hartwick to
14 Calvert Road, you're just a smidge over half a
15 mile to the entrance to the -- to the University
16 of Maryland metro stop. So certainly by -- by
17 foot and -- and absolutely by bike, there's just
18 a real richness of -- of transit accessibility
19 here.

20 Not to mention an awful lot of bus
21 service. The campus circulators serve not just
22 the University of Maryland, but even circulate
23 down into my neighborhood, in Hyattsville.
24 And -- and then certainly, bus -- metro bus
25 routes up and down U.S. 1 to the -- to the metro

1 at Hyattsville Crossing, PG Plaza, for this --
2 for us older folks, and down even at Rhode Island
3 Avenue in the district.

4 So this is -- this is just a really
5 richly transit accessible area, for which this
6 kind of development and the accommodations that
7 are being proposed are absolutely appropriate.
8 So standards modifications. I do find that the
9 modifications proposed are, as they say, in
10 keeping with the purposes of -- of the zone and
11 the intent of the sector plan. One of the other
12 standards is that public benefits be included. I
13 think there's really no need for me to replicate
14 Mr. Keane's testimony about each one and about
15 the sufficiency of their conformance to the
16 requirements for quantifiability, early
17 achievement benefit to the larger neighborhood.
18 So I won't -- I won't be duplicative there.

19 The other thing, which I feel is worth
20 highlighting, is other standards and the sidewalk
21 question. So the ordinance allows you to modify,
22 in fact, one of the sections of the subdivision
23 regulations regarding public utility easements.
24 And I think that's actually one of the
25 modifications, as well. It allows you to modify

1 provisions of part 6. It allows you to modify
2 the intentional -- intensity and dimensional
3 standards of -- of each zone. But it doesn't
4 specifically allow a basic plan to modify the
5 other standards, which, again, are described
6 per -- per each zone. I discussed those at the
7 last part of my report from pages 40 through 44.
8 So some of those standards include the locational
9 standards.

10 Where can you apply the RTOPD zone?
11 And the answer to that is in two places only.
12 Number one, in regional transit districts, but
13 then also within the innovation corridor, within
14 this portion of the City of College Park, in
15 between I-95 slash the Beltway, and the southern
16 boundary of the City of College Park. And that's
17 where this property is located. And that's why
18 this is an appropriate place for the location of
19 the RTOPD zone.

20 MR. BROWN: Let me just interrupt
21 you real quickly, though.

22 THE WITNESS: Yes, sir.

23 MR. BROWN: You said the staff
24 report, the planning board resolution, the
25 statement of justification, all incorrectly

1 identified the property as being in the regional
2 transit district. And that you have identified
3 it as being in the Innovation Corridor.

4 THE WITNESS: Yes, sir. As
5 does -- as does community planning, by the way.
6 I'm not -- I'm not -- so yeah.

7 MR. BROWN: And this zone is only
8 permitted to be plopped down in one of those two?

9 THE WITNESS: Correct.

10 MR. BROWN: Are the requirements
11 different for the regional transit district zone,
12 as opposed to the -- not the zone, but the
13 regional transit district and the Innovation
14 Corridor for allowing the PD to be a place there?

15 THE WITNESS: No. No. I mean,
16 it's -- it's -- so you have -- you have two --
17 two provisions. And I'll -- I'll quote the text
18 exactly. "An RTOPD zone may only be located on
19 lands: first bullet, within a regional transit
20 district as designated on the growth policy map
21 in the general plan, or the applicable area
22 master plan, or sector plan, as may be amended.
23 Or second bullet, within that portion of the
24 innovation corridor as designated on the
25 Strategic Investment Map in the general plan," --

1 page, I think, 22 "or the area master plan or
2 sector plan is may be amended from time to time,
3 located within that portion of the City of
4 College Park between the Capital Beltway, I-95,
5 South to the city's southern boundary." So you
6 have two places, either a regional transit
7 district or within a portion of the regional
8 transit district that's in a portion of the City
9 of College Park. And this property fits that
10 second criterion.

11 MR. BROWN: Got you. Thank you.

12 THE WITNESS: Yes, sir.

13 BY MR. MARTIN:

14 Q Mr. Ferguson, just to clarify, that
15 last statement was within -- not within a
16 regional transit district, within the City of
17 College Park in that location, but within the
18 Innovation Corridor?

19 A Correct, correct.

20 Q Okay. Just wanted to clarify that.

21 A So there are a number of other
22 standards. And I think the -- the only one that
23 requires highlight, given the earlier testimony,
24 is that there are other standards for private
25 sidewalks and private street trees. And one of

1 those standards is that sidewalks shall be at
2 least 15 feet wide along street frontages in the
3 core area, and at least 10 feet wide in the edge
4 area. Now, as -- as I've just mentioned, the
5 zoning ordinance does not grant the authority for
6 this approval to have the basic plan modify any
7 of these other standards. The -- because they
8 apply to private sidewalks and private streets,
9 Hartwick and Knox Road are public. And so it
10 doesn't really apply to them. Certainly, there
11 is a recommendation in the master plan for
12 sidewalks of 6 to 10 feet and what -- what -- and
13 what has been provided, for instance, in the
14 abutting Terrapin Road development standard,
15 the -- the development of The Standard across the
16 street, is sidewalks that are in conformance with
17 that sector plan standard. And this plan seeks
18 to continue that established streetscape pattern.

19 The question is Ancestors Lane. So
20 Ancestors Lane right now is proposed.
21 Ultimately, the -- the city wants it to be
22 extended, not just through the property, but
23 across that parking lot that serves the office
24 component of the College Park Shopping Center.
25 And to connect to Knox Road, and then, sort of,

1 after a zig, through the Union on Knox
2 development to the campus to the North. And this
3 is part of a series of things, which, again, I'd
4 like to give the applicant credit for in the
5 design of their greenway, that really promote
6 North, South pedestrian circulation so that
7 people in places like The Standard, or The
8 Graduate Gardens further to the South, or you
9 know, the redevelopment of -- of -- of the
10 College Park Shopping Center, as it happens,
11 don't have to go all the way out to Route 1 and
12 then North and then back, but they can really
13 circulate through the neighborhood. Not just
14 making it more efficient for them to walk, but
15 really enlivening the -- the street experience
16 and -- and the neighborhood experience. And I
17 think that the proposed greenway is really a
18 wonderful and elegant way to do, not just that,
19 to take advantage of the -- the -- the grade
20 change and really provide a -- a wonderful little
21 space that will be to -- to everybody's benefit.

22 MS. MCNEIL: Wait a minute. Tell
23 me again. You're saying that the sidewalk at an
24 adjacent development is -- you're trying to match
25 that sidewalk, and the greenway gives more.

1 THE WITNESS: So I'm sorry, Madam
2 Examiner. I went in three different directions.
3 And didn't tie it all up in in a bow, as I
4 intended.

5 So Ancestors Lane is intended,
6 ultimately, to be extended. Will that extension
7 be in the form of a public street or a private
8 street? At this point, not known. So if it is a
9 public street, there would be likely a desire not
10 to have a 10-foot sidewalk along Ancestors Lane.
11 Now, as noted the -- the ordinance does not give
12 you an authority to waive that standard.
13 However, there is a provision in the section on
14 variances, 273613 B1B, which explicitly grants
15 authority to -- the approving authority, which
16 would in this case, ultimately, undoubtedly be --
17 well, it might be the City of College Park, if
18 they have municipal authority under the new
19 ordinance. I don't actually know. But
20 otherwise, the planning board to grant a variance
21 to that specific standard of plan development
22 zones and the RTO zone. So that -- it's --
23 it's -- it's a weird one to me. Somebody already
24 looked ahead and said, we're going to need to
25 deal with this one. And the way to do that is a

1 variance rather than modifying a basic plan.

2 THE WITNESS: But I just didn't
3 hear you. I was just -- also, you did give
4 another reason, and that's because an adjoining
5 development has the smaller sidewalks, as well.
6 I thought I heard you say that, but I didn't
7 catch it.

8 THE WITNESS: So you -- you did,
9 but I was -- I was speaking there in the context
10 of the public sidewalks along Knox and Hartwick,
11 to which this private sidewalk standard doesn't
12 apply. So I think, you know, my finding is
13 that -- is that -- the -- the development will,
14 with the modifications, meet the standards of --
15 of the zone, of planned development zones,
16 generally. I do find that notwithstanding the
17 lack of any kind of quantifiable relationship in
18 between public benefits that are offered, or
19 perhaps exacted and -- and the resultant planned
20 development. I do certainly find that the public
21 benefits in the form of the greenway, in the form
22 of the architecture of the building, in the form
23 of the pocket park, would -- would amply exceed
24 any benefit that the -- the applicant receives in
25 return. Or I think to the point that the public

1 receives in return. I -- I don't want to wear a
2 zoning hat. But again, as I look at this
3 section, I find myself asking, how is this not
4 contract zoning? If you have a case where you're
5 trading benefits for rewards. As a planner,
6 the -- the goal of a planned development zone is
7 to implement the master plans and the sector
8 plans and provide benefits to everybody, and to
9 gauge us in a project specific way. What the
10 impacts of a development might be on
11 neighborhoods and on the public services to
12 support them and provide a appropriate response,
13 rather than a blind, uniform prescriptive
14 response that you find in Euclidean zones.

15 So while I have philosophical concerns
16 about whether the structure of the ordinance is
17 properly addressing that goal, general goal of
18 plan development zones, I certainly think that in
19 this case, the public benefits are -- are
20 appropriate and are related to the project and --
21 and do represent a -- a substantial benefit to
22 the public, in terms of the quality that is
23 sought for in the sector plan and the general
24 plan.

25 BY MR. MARTIN:

1 Q Thank you. Is the fourth and final
2 PDZMA decision standard that the entire
3 development will not adversely impact the
4 surrounding properties?

5 A It is. And I think the -- the -- the
6 visual evidence is -- you know, that page, PDF
7 page 14, in the first binder.

8 THE WITNESS: Again, I can't
9 remember the -- the exhibit number, Madam
10 Examiner. But that massing diagram that I spoke
11 from at the beginning of my testimony really just
12 shows how --

13 MS. MCNEIL: I'll double check,
14 but I think it's page 1 of Exhibit 1. Go ahead.

15 THE WITNESS: Yes, it's the
16 paginated page 11. On the PDF, it's -- it's page
17 14. It -- it -- it really illustrates that this
18 development is simply reproducing what -- what
19 surrounds it. And it is a complementary use.
20 It's complementary scale, complementary form,
21 that will be really augmented by -- by the
22 public -- by the design and the public benefits
23 that it proposes.

24 BY MR. MARTIN:

25 Q With that, based on your review of the

1 proposed PDZMA application, and in your expert
2 opinion, does the application satisfy all the
3 decision standards so as to justify rezoning the
4 subject property from the RTOLE zone to the RTOPD
5 zone?

6 A Yes, in my -- in my opinion, it -- it
7 absolutely does.

8 THE WITNESS: Madam Examiner, if
9 you remember, I closed my testimony a couple of
10 weeks ago with -- with, this should be an easy
11 one. And -- and not to be cheeky, but I feel
12 this is the case, as well. What is -- what is
13 being proposed here is exactly what all of the --
14 the planning and zoning corpus of our county
15 seek. And it's -- it's just curious to me why so
16 much ink has to be spilled to make this happen.

17 MR. MARTIN: I have no further
18 questions for Mr. Ferguson, Madam Examiner.
19 Thank you, Mr. Ferguson.

20 MS. MCNEIL: Mr. Brown?

21 MR. BROWN: I have no questions.
22 Mr. Ferguson has answered the four or five issues
23 I was going to throw at him. Thank you.

24 THE WITNESS: Okay. Thank you,
25 Mr. Brown.

1 MS. MCNEIL: I just want to
2 clarify that you did say -- because earlier
3 witnesses seemed to say something different. But
4 you do have to establish what the accessory and
5 temporary uses are, correct?

6 THE WITNESS: You do. So the way
7 that use structure -- the use tables are
8 structured in the -- in the ordinance for planned
9 development zones is that it gives a list of A
10 uses. And so an A use is a use that is
11 allowable. So you need a basic plan to say,
12 well, are the allowable uses permitted? And in
13 this case, the applicant has not chosen to
14 restrict any of those allowable uses. But I
15 think that just needs to be said.

16 MS. MCNEIL: Okay. So --

17 THE WITNESS: All the A uses are
18 effectively P uses.

19 MS. MCNEIL: Okay. So this is for
20 the attorneys and you. And since we're leaving
21 the record open, I would like someone to address
22 this. Because the exact language says, establish
23 the specific accessory and temporary uses
24 permitted in the zone. They shall be consistent
25 with the principal use tables and the purposes of

1 the particular type of zone, and be subject to
2 applicable use specific standards identified in
3 the plan. To me, for you to establish it means,
4 the counsel already said these are accessory
5 uses, but they have to meet what you're building.
6 So some of those accessory uses, I don't think
7 anybody wants you all to do them down the road,
8 like all daycare and every unit and other things.
9 But you can convince me that I'm wrong. So
10 that's still an issue for me. I think you have
11 that table, but you need to be saying which ones
12 you would like to have. That's me. And you can
13 convince me otherwise. And you can certainly
14 convince the counsel otherwise, as well. I'm
15 not -- I don't have the final say.

16 THE WITNESS: Madam Examiner --

17 MS. MCNEIL: I wasn't sure that's
18 what you're saying or not, Mr. Ferguson. That's
19 what I'm saying.

20 THE WITNESS: No. I think -- I
21 think, Madam Examiner, you're speaking exactly to
22 my diatribe, perhaps earlier about sort of the
23 evolution of the -- the preparation and review of
24 planned development projects under the new
25 ordinance. And I think the -- the shaping of use

1 tables is one thing that -- that nobody yet has
2 really focused on in, a way that it used to be
3 done, with comprehensive design zones under the
4 old ordinance. So I think your -- your -- your
5 statement here is -- is appropriate guidance to
6 hey, this is something that needs to be focused
7 on, as well.

8 MR. HATCHER: Yeah. And for the
9 record, I think, again, that's going to be one of
10 the documents, along with an updated basic plan
11 that the applicant intends to submit into the
12 record. I think there is an active debate about
13 what actually needs to be included in a basic
14 plan, whether it's the contents of the entire
15 package, or whether it has to be reflected on the
16 basic plan. That is not a debate that the
17 applicant intends to engage in. They're just
18 going to include it on the basic plan.

19 MS. MCNEIL: Okay. So then do we
20 have other witnesses?

21 MR. MARTIN: One more witness,
22 Madam Examiner.

23 MS. MCNEIL: Oh. I'm sorry.
24 Okay.

25 MR. MARTIN: Thank you, Mr.

1 Ferguson. The applicant now calls Mr. Anthony
2 Clark.

3 MS. MCNEIL: Sorry about that, Mr.
4 Clark. He's like, he's been waiting all day, and
5 he doesn't get to speak.

6 MR. CLARK: No worries.
7 Whereupon,

8 ANTHONY CLARK,
9 a witness called for examination by counsel for
10 the Applicant, was duly sworn, and was examined
11 and testified as follows:

12 THE WITNESS: Yes.

13 MS. MCNEIL: Okay.

14 DIRECT EXAMINATION BY MR. MARTIN:

15 Q Good afternoon, Mr. Clark. Can you
16 please state your full name and business address
17 for the record?

18 A Anthony J. Clark. Address -- business
19 address is 2410 Evergreen Road, Suite 105,
20 Gambrills, Maryland 21054.

21 Q Where are you currently employed?

22 A At the law firm Katz Day.

23 Q What is your current position with Katz
24 Day?

25 A I'm the -- I'm an equity partner. Run

1 the, sort of, association community development
2 group with one of my other partners.

3 Q How would you describe your role as a
4 partner and attorney at Katz Day?

5 A Sure. I deal with complex real estate
6 matters, including a focus on community
7 association and condo and development type of
8 work.

9 Q Have you --

10 A I supervise a group of different
11 attorneys and staff in that endeavor, as well.

12 Q Have you previously been qualified as
13 an expert in Maryland Condominium -- in the
14 Maryland Condominium Act before the Prince
15 George's County zoning hearing examiner?

16 A I've not.

17 MR. MARTIN: Madam Examiner, the
18 applicant requests that Exhibit 38 be brought up
19 on the monitor. Thank you.

20 BY MR. MARTIN:

21 Q Is Exhibit 38, as included in the ZHE
22 record, a copy of your resume? And if so, does
23 it accurately reflect your educational background
24 and professional experience?

25 A Yes, it does.

1 Q Do you have any licenses and/or
2 certifications in connection with your practice?

3 A Licensed in Maryland.

4 Q Would you please describe your
5 experience representing condominium associations
6 in the State of Maryland?

7 A Sure. I've done it for over a decade
8 now, which is kind of hard to believe, especially
9 after graduating University of Maryland. So this
10 project is near and dear to my heart, having
11 spent a lot of time in that area of town. I have
12 been representing community associations after
13 the developers are through on behalf of board
14 members. I've also represented the developers on
15 projects like Landmark is endeavoring on, as well
16 as national home builders, investors, different
17 sellers and purchasers. All the way from the
18 setup of the docks, at the outset during the
19 planning process, and revising those through to
20 the point where they're controlled by the owners
21 and then governed by the owners. And eventually,
22 even in this instance, dealing with terminating.

23 MR. MARTIN: Madam Examiner, the
24 applicant requests that Exhibit 38 be removed
25 from the monitor. Madam Examiner, at this point,

1 the applicant moves to have Anthony Clark
2 qualified as an expert in the Maryland
3 Condominium Act.

4 MS. MCNEIL: Mr. Brown?

5 MR. BROWN: Well, I don't think,
6 based upon the resume, that that's a unique and
7 specific area in which to qualify him as. I'm
8 assuming, looking at his resume and his testimony
9 a moment ago, you are a lawyer licensed in
10 Maryland, correct, Mr. Clark?

11 THE WITNESS: Yes, sir.

12 MR. BROWN: And your practice
13 primarily involves issues related to condominium
14 law in Maryland, correct?

15 THE WITNESS: It is a focus, yes.

16 MR. BROWN: And Mr. Martin, give
17 us a proffer. You're going to ask him questions
18 specifically related to what? Because my concern
19 is we cannot have a lawyer tell us what the law
20 is. That's not the role of this proceeding. So
21 what is he going to testify about?

22 MR. MARTIN: It is related to the
23 application of -- or the interplay between the
24 Maryland Condominium Act and how -- what the
25 public ethics law and the disclosure

1 requirements. So how a condominium -- how
2 property that is governed by a condominium
3 regime, and in Maryland, how they are due to
4 comply with the public ethics law.

5 MR. BROWN: The state ethics law
6 for the State of Maryland or the Prince George's
7 County ethics law? You --

8 MR. MARTIN: Well, it is the
9 Maryland public ethics -- Maryland state public
10 ethics law. But the special provisions related
11 to Prince George's County.

12 MR. BROWN: All right. I mean,
13 I'll reserve my objection. I don't really have
14 one yet, but we'll wait till he testifies.

15 MS. MCNEIL: Okay. What I'm
16 understanding is, Mr. Clark will tell us that
17 there's a provision of law that states that,
18 either we don't have to do it, or the person that
19 signed it already is the person that should. I
20 don't know that you have to be qualified as an
21 expert to do that. That's all. We don't mind
22 the testimony, but --

23 MR. HATCHER: That's fine.

24 MS. MCNEIL: Tell us --

25 MR. HATCHER: That's fine

1 MS. MCNEIL: -- Mr. Clark. What's
2 going on?

3 MR. HATCHER: We just want to
4 provide somebody who can -- who does this all
5 day, every day.

6 MS. MCNEIL: Right, right. But
7 he's going to cite the law.

8 MR. HATCHER: Yeah --

9 MS. MCNEIL: He's helping us, of
10 course, but he'll cite the law. And then I'll
11 read the law. And I'll say, oh, that Clark guy.
12 No. I'm playing. I like to keep it light. But
13 I don't think you have to be an expert thing. So
14 go ahead. Ask him the questions, Mr. Martin.

15 MR. MARTIN: Okay.

16 BY MR. MARTIN:

17 Q Mr. Clark, are you familiar with the
18 subject property?

19 A I am.

20 Q Is the property subject to a
21 condominium regime?

22 A It is. It was formed in 1982 when the
23 building was -- first building was initially
24 built and subsequently expanded for the second
25 building.

1 Q Have you reviewed any documents related
2 to the condominium regime?

3 A I have the declaration as amended, as
4 well as the bylaws as amended.

5 Q Okay. Is the condominium regime
6 governed by and subject to the Maryland
7 Condominium Act?

8 A Yes, it is. And I wanted to make a
9 point of clarification earlier, with respect to
10 the articles of incorporation and SDAT filings.
11 Condos in Maryland, the entities themselves, are
12 not required to file articles with SDAT. So we
13 won't actually be able to get a good standing
14 certificate from SDAT because there's no actual
15 filing for the entity. Because the entity's
16 governed by the act, as well as its governing
17 documents, the declaration of bylaws. This is
18 typical in older communities like this. Just
19 wanted to point that out and mention it since it
20 was mentioned earlier.

21 Q Thank you. Are the affairs of the
22 condominium regime governed by unit owners
23 association or a counsel of unit owners?

24 A Yes, they are.

25 Q Is the unit owners association further

1 managed by a board of directors and/or officers?

2 A Yes, they are. On behalf of the
3 owners.

4 Q Are you familiar with the Maryland
5 public ethics law regional district, special
6 provisions for the Prince George's County?

7 A I am, yes.

8 Q And you've reviewed those, as well?

9 A I have. As well as the definitions of
10 covered applicant, covered application. And
11 that's sort of what we're here talking about
12 today.

13 Q Did you prepare a memorandum in
14 connection with the subject application analyzing
15 the application of the Maryland Condominium Act
16 to the public ethics law, special provisions, for
17 the Prince George's County?

18 A I did.

19 Q And do you further incorporate and
20 adopt as your testimony here today your
21 memorandum?

22 A Did. I do. I would you give a summary
23 of that, if need be.

24 Q Sure. Would you please summarize the
25 documents and or sources you reviewed to prepare

1 the memo?

2 A Sure. The applicable provisions that
3 we've mentioned in the ethics laws, as well as
4 the Maryland Corporation Association articles,
5 the Maryland Condo Act, as well as the
6 associations declaration and bylaws. But in sum,
7 to break it down, the ethics law in PG County
8 requires a contract purchaser, which is the
9 landmark entity to file an ethics affidavit or
10 the title owner situation that might get a little
11 murky with people who aren't familiar with
12 condos, is that the association itself does not
13 own the title to the ground. It acts on behalf
14 of the fee simple title owners of each unit, and
15 those unit owners have an interest in the common
16 elements of the building. So the -- as such, the
17 unit owners are the title owner and the
18 association may, on behalf of its owners, file
19 the affidavit. And there are various provisions
20 in the condo act that says that the -- that the
21 board of directors, on behalf of the unit owners,
22 may intervene and act in administrative actions
23 that are affecting the association.

24 Furthermore, the bylaws for the
25 association, sort of, list out different -- as

1 well as the Maryland Condo Act lists out
2 different powers and authority that the board of
3 directors have, to act upon the best interests of
4 the condo, as well as the unit owners within the
5 condo. So the association acted upon behalf of
6 the unit owners in filing the entity affidavit or
7 the affidavit that's on file, which will be
8 further supplemented after this hearing.

9 Q So based on your review of the
10 Condominium Act, the public ethics law, and the
11 association's governing documents, the Unit
12 Owners Association is authorized to execute the
13 required ethics affidavits on behalf of the unit
14 owners?

15 A Absolutely. The president, who's the,
16 who's serving as the chief executive of the
17 condo, has the authority to do that. Once it's
18 filed, its typical procedures to authorize
19 certain actions by the board and the president,
20 which would include, in this instance, completion
21 of and filing the business entity affidavit.

22 MR. MARTIN: Okay. Thank you, Mr.
23 Clark. I have no further questions for Mr.
24 Clark, Madam Examiner.

25 MS. MCNEIL: And so Exhibit 15 --

1 not 15. I'm sorry. Exhibit 18 was signed by the
2 president?

3 THE WITNESS: Yes.

4 MS. MCNEIL: Okay. Thank you.

5 Mr. Brown, go ahead.

6 THE WITNESS: But that -- that is
7 going to be further supplemented.

8 Chris, go ahead if you want to speak to
9 that.

10 MR. HATCHER: Can you provide
11 clarity on what supplemental information is going
12 to be necessary in the record?

13 THE WITNESS: Sure. The -- the
14 entity that's on file right now is an individual
15 entity affidavit. Sorry -- individual affidavit,
16 as opposed to the business affidavit. The
17 business affidavit will be signed and further
18 filed, so that it's not the individual. Rather,
19 it's the association filing on behalf of the
20 owners.

21 MR. HATCHER: So right person,
22 wrong form?

23 THE WITNESS: Correct.

24 MS. MCNEIL: So let me tell you
25 all this. I have to have all of that 30 days

1 before I send anything to the clerk. So just
2 make sure you get it to me as soon as possible.

3 MR. HATCHER: It will be included
4 as part of the supplemental information,
5 including the basic plan, including analysis of
6 the use, and the broader question of the
7 development district standards on the basic plan.
8 And the final document, which was requested was
9 an overall categorization of all of the uses for
10 the basic plan associated with this PD.

11 MS. MCNEIL: Okay. Mr. Brown, I'm
12 sorry. Go ahead.

13 MR. BROWN: No problem.

14 CROSS-EXAMINATION BY MR. BROWN:

15 Q I did not see your memo, Mr. Clark,
16 identified on the exhibit list.

17 MR. BROWN: Can you tell me which
18 number it is, Mr. Hatcher or Mr. Martin?

19 MR. HATCHER: Yeah. That's a
20 great question. There was some -- there was a
21 difficulty in us submitting that information
22 earlier today. Something was inadvertently
23 submitted that wasn't that. Subsequent to that,
24 we did send over the memo, which would have --
25 which would have been transmitted shortly after

1 this hearing began. So it should have been
2 included in the record now. But for purposes of
3 this, and to make abundantly clear that it is in
4 the record -- Johnthan, can you just make sure
5 it's in the record? Can you ask the necessary
6 questions to submit it in the record?

7 MR. MARTIN: Sure.

8 MR. BROWN: Well, I mean, Sarah --
9 I think Sarah received it this morning. I don't
10 have a problem with that. But I just thought it
11 had already been in the record. So --

12 MR. MARTIN: It would be the
13 last -- it would be the last exhibit. I believe
14 it would be Exhibit 40, if I'm not mistaken.

15 MR. BROWN: All right.

16 MS. MCNEIL: So no 40 -- I'm
17 sorry. 40 is Mr. Clark. And you might have sent
18 it to Sarah, but in the future, try to add other
19 people because she didn't (indiscernible). So I
20 don't see it. But yeah.

21 MR. MARTIN: Yeah.

22 MS. MCNEIL: Go ahead.

23 MR. MARTIN: It was sent to Sarah
24 with Stan -- you were -- Mr. Brown, you were
25 cc'd. And Madam Examiner, you were cc'd, as

1 well.

2 MS. MCNEIL: I don't see it.

3 Okay. So then we have it somewhere.

4 MR. MARTIN: From Chris.

5 MR. HATCHER: What we will do is
6 part of the supplemental information is we will
7 reattach the memo and all the associated
8 documents that he referenced to come to that
9 conclusion. So it's all one very clear exhibit
10 that the People's Zoning Counsel and Madam
11 Examiner can reference as you proceed with
12 whatever you're going to do with this
13 application.

14 MS. MCNEIL: I take it back.
15 There it is. Chris sent it. We do have the memo
16 at least. You don't have to add that one.

17 MR. BROWN: That's fine. And
18 also, I just will say, though, we have never
19 insisted upon having a certificate of good
20 standing for a condominium regime.

21 MS. MCNEIL: Right.

22 BY MR. BROWN:

23 Q We have always requested that we have
24 in the file that the condominium association is,
25 in fact, created under the Condominium Act. And

1 that's what we're doing here. This is nothing
2 different, nothing new. We don't request ethics
3 affidavits from the individual fee owners within
4 a condominium.

5 A Now that -- that all makes sense. And
6 that was our understanding.

7 MR. BROWN: Right. All right. No
8 other questions. Thank you.

9 MS. MCNEIL: Okay. Thank you,
10 sir.

11 So if there are no other witnesses,
12 we'll give Mr. Hatcher -- I think you said that
13 pretty quickly. So we're going through one more
14 time everything the record is left open for.

15 MR. HATCHER: An amended and
16 updated basic plan, a list of the proposed uses
17 that we are seeking confirmation or permitted on
18 this basic plan, a list of the alternative
19 development district standards that are going to
20 be included in this, an updated ethics
21 affidavits, in plural, consistent with the
22 testimony we just heard. And I'm actually going
23 off the top of my head, so -- and I'm going to
24 need a few moments.

25 But as a point of clarification Madam

1 Examiner, when we do submit the supplemental
2 information associated with the necessary
3 information on the basic plan itself, do you want
4 that on the basic plan, or do you want it in a
5 supplemental document, like a supplement to the
6 SOJ? Or do you want it in both? We just want to
7 give you the information you need in the form you
8 need it.

9 MS. MCNEIL: Okay. What I think
10 is this is really the information you're going to
11 need, if it's approved. I think you should have
12 the basic plan. If you can't put it on there,
13 then you say on the bottom how many pages it is
14 and have another page with --

15 MR. HATCHER: I understand.

16 MS. MCNEIL: -- the condition with
17 everything.

18 MR. HATCHER: I understand.

19 MS. MCNEIL: So it's together.
20 That's the main thing. We want a document that's
21 together so that four years from now -- even
22 though I don't want to tempt fate. But I don't
23 think I'll be here. So the next person -- but I
24 mean, I hope to be on earth. But the next person
25 will have to deal with, and it'll be really brand

1 new to them. They'll be going, huh? So you want
2 it together. So that when it's time for permits,
3 everything is okay if this is approved.

4 MR. HATCHER: Yeah. And that
5 makes a lot of sense because ultimately the basic
6 plan has to be recorded against the real
7 property. And so at least it will be all in one
8 confined area. The last information that was
9 requested is an analysis of the use itself, not
10 all the uses in general that we talked about in
11 the RTOLPD, but the specific use that we are
12 proposing on the property.

13 MS. MCNEIL: An analysis saying --
14 okay.

15 MR. HATCHER: Yeah. There was a
16 question about a certificate of adequacy that
17 came up during Mr. Lenhart's analysis --

18 MS. MCNEIL: Right, right. Right.

19 MR. HATCHER: -- compared to the
20 language.

21 MS. MCNEIL: As to the type of
22 housing, student housing, and -- okay.

23 MR. HATCHER: Yeah. And again, to
24 clarify, we think it's sort of three different
25 issues. It's the issue as it's evaluated through

1 the zoning ordinance. It's an issue as it's
2 evaluated through the subdivision ordinance,
3 i.e., the certificate of adequacy. And then
4 there's the marketing issue. And so we'll just
5 provide clarity on those three things and how
6 they're all congruent.

7 MS. MCNEIL: Okay.

8 MR. HATCHER: In our opinion.

9 MS. MCNEIL: And did you have
10 anything else, Mr. Brown?

11 MR. BROWN: No, thank you.

12 MS. MCNEIL: Okay. And I thank
13 everyone for being here today. And the record
14 will be left open for those items.

15 And Mr. Martin did well. Okay. Take
16 care everybody.

17 (Whereupon, the proceedings were
18 concluded.)

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1 C E R T I F I C A T E

2

3

4 I, Diana Buitrago, certify that the foregoing
5 transcript is a true and accurate record of the
6 proceedings.

7

8

9

10 *Diana Buitrago*

11 DIANA BUITRAGO

12

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18 Date: August 18, 2025

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