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

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6 ROYAL FARMS #411 KENT VILLAGE : Case No. SE-4834  
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:  
8 -----x

A hearing in the above-entitled matter was held on  
October 20, 2021, at the Prince George's County Office of  
Zoning, County Administration Building, Room 2174, Upper  
Marlboro, Maryland 20772 before:

Maurene McNeil  
Hearing Examiner

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23

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~~— P E A R A N C E S —~~

On Behalf of the Applicant:

Matthew Tedesco, Esq.

On Behalf of People's Zoning:

Stan Brown

\* \* \* \* \*

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\* \* \* \* \*

P R O C E E D I N G S

MS. MCNEIL: Good morning everyone, I'm Maurene  
3 McNeil and I'll be the Hearing Examiner today, and today  
4 we're here on a request for a special exception and  
variance  
5 filed by application RF Landover, Inc. and they're  
6 requesting approval of a special exception to operate a gas

24  
25

7 station and a food or beverage store in Landover, Maryland  
8 and a variance from the requirement that the gas station be  
9 set back a number of feet from a playground on an  
adjoining

10 property. Did I mention it's October 20th, it's  
really

11 Halloween but we'll talk about that in a minute.  
But it's

12 October 20th and if counsel would identify  
themselves for

13 the record?

14 MR. TEDESCO: Good morning --

15 MR. BROWN: Good morning.

16 MR. TEDESCO: Sorry, Mr. Brown. Good morning,  
17 Madam Examiner, for the record Matthew Tedesco,  
with the law

18 firm of McNamee Hosea in Greenbelt, Maryland on  
behalf of 19 the applicant, RF Landover, LLC.

20 MR. BROWN: Stan Brown, People's Zoning Council. 21

MS. MCNEIL: Okay. So just before we begin and  
22 Mr. Tedesco will explain why we're here, I want to note for  
23 the record that at least Exhibit 29 in our file is not part  
of this case. So I'm letting you now that because we will  
be taking it out and then the other numbers to the exhibits

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may change. I just want something on the record to note that if the numbers are different when you look at the 3 binder later, it's only because we had to extract exhibits 4 that had nothing to do with this case.

5

Now Mr. Tedesco, you want to do something with an

6

exhibit that does have something to do with this

case, so 7 you may begin.

8

MR. TEDESCO: Yes, Madam Examiner and thank you

9

just for housekeeping and I know we're kind of under the

10

clock a little bit today. I know Madam Examiner has another

11

hearing this afternoon, so we're endeavoring to be a

12

thorough but efficient at the same time. So just very

13

quickly, in light of that announcement, there will be some

14

testimony today in referencing to exhibits. We are going to

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15 refer to the exhibit numbers as they exist today,  
16 notwithstanding a potential change to the  
numbering after

17 the fact, after 29.

18 In other words, I'm not going through -- 19 MS.

MCNEIL: Wait a second, Mr. Tedesco, that's to 20 make it  
easier on you, at least 29 it'll appear as void. 21 There  
won't be a 29 and then that won't throw off your other  
22 numbers.

23 MR. TEDESCO: Perfect.

MS. MCNEIL: And I'm explaining that for the record.  
Okay. Go ahead.

MR. TEDESCO: Yes, Madam Examiner, that actually  
would be preferred if we would just void 29 but hold it as  
a  
3 placeholder so that all the numbers are sequentially 4  
matching with the testimony, that might be easier for the 5  
record.

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Also in preparation of this hearing this morning,

7

I noticed that in your binder on line the version of the

8

statement of justification from May 20th, that is referenced

9

as Exhibit 4, for whatever reason the formatting of when I

10

guess it was converted to an PDF from a Word to a PDF and

11

sent from Park and Planning, in the record there was some

12

formatting anomalies, some of the text, the font changed,

13

some of the pictures are granular and it just, it was

14

difficult to read so I had e-mailed this morning to both

15

you, your staff and the People's Zoning Council, an exact

16

duplicate of Exhibit 4 just our PDF version is much more

17

legible in many aspects than what's in your binder. So I

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18 just wanted to just note that for the record. You  
do have

19 that, like I said there was some formatting  
anomalies that

20 just made it some passages difficult to read for  
whatever

21 reason that occurred. So you have a much cleaner  
version

22 sent to you this morning, I apologize that that  
was not

23 caught sooner, but I did want to note that for the  
record. MS. MCNEIL: Okay. No problem.

I need to also state that since this is a virtual  
hearing if there is

anyone here in opposition or at least not one of  
applicant's witnesses, you have the opportunity to let me  
know by going

3 in the chat and then that means you'd be able to ask

4 questions of any witness. You would also be able to

5 testify. So could I ask at this time if anyone present is

6 opposed to this request or has questions about the request  
24

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7 and is not an applicant witness? Okay. Thank you. Go 8  
ahead, Mr. Tedesco.

9

MR. TEDESCO: Thank you, Madam Examiner. If it's  
with your permission, we're ready to proceed.

10

11

MS. MCNEIL: You may proceed.

12

MR. TEDESCO: Thank you. Again, Madam Examiner,  
People's Zoning Council, ZHE staff and  
representatives of

13

14

the Clerk's Office, good morning and thank you  
for having

15

us. This case was continued to today from two  
weeks ago, we

16

appreciate your indulgence for a scheduling  
conflict. We do

17

have five witnesses with us today that will  
testify on this

18

matter.

19

As I mentioned, we understand the timing

20

associated with this case this morning, we will  
be thorough

21

but efficient at the same time inasmuch as we can

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22 incorporate and adopt testimony from the written exhibits,

23 we will. But just briefly I wanted to just give a real quick overview of why we're here.

As you explained this morning, we are here for a special exception variance associated with a proposed food and beverage store in combination with a gas station on 3 behalf of the applicant RF Landover, LLC doing business as a 4 Royal Farms.

5 The property which you will see and we will get into much greater detail is located at 7401 and 7415

7 Landover Road, as well as 2500 Kent Town Place in Hyattsville, Maryland. It's at the southwest quadrant of

9 the intersection of Maryland 202 and Kent Town Drive. It's

10 known as Parcels G-9, H and part of K. The special

11 exception area which does not exactly match the parcel lines

24

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which is permitted by the Zoning Ordinance makes up 4.479

13

acres, which is the subject property and again the special

14

exception boundary 4.479 acres. It is located in the C-S-C

15

Zone. And in particular the subject property is previously

16

subdivided and currently contains approximately 4,011 square

17

feet of existing development. All existing structures in

18

the special exception boundary of the property are proposed

19

to be razed and replaced with a new 4,649 square foot food 20 or beverage store with eight multiproduct fueling dispensers

21

to accommodate a new Royal Farms at this location.

22

You will hear testimony this morning from five

23

witnesses, three expert witnesses and two fact

24

witnesses. We believe and will contend that at

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the conclusion of the hearing in addition to the  
evidence that's already provided

in your record which is fairly voluminous, to the expert  
testimony that you'll receive and other testimony you'll  
3 receive today that substantial evidence will exist to 4  
support the required findings in Section 27-317, 27-355, 275  
358 and 27-230.

6

And before I call my first witness I did just  
want

7

to just publically thank Ms. Poteat for her  
efforts in

8

helping us get the record in the format that it's  
currently 9 in. There was a lot of different  
exhibits provided from

10

both Park and Planning as well as the applicant, and I want

11

to thank her for her efforts. I know that's no easy task

12

virtually collating all of those things and I did want

13

to publically thank her.

14

With that, Madam Examiner, we're prepared to call

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15 our first witness which would be Mr. Thomas Rosen  
(phonetic 16 sp.).

17 MS. MCNEIL: Okay. So we thank you as well.

18 Where is Thomas? Mr. Rosen, okay.

19 MR. TEDESCO: Yes.

20 MS. MCNEIL: Mr. Rosen, do you swear or affirm 21  
under the penalties of perjury that the testimony  
you shall

22 give will be the truth and nothing but the truth?

23 MR. ROSEN: I do.

MR. TEDESCO: Thank you. May I call you Tom?

MR. ROSEN: Yes, how's it going Matt?

MR. TEDESCO: Thank you. Tom, where are you  
currently employed?

3 MR. ROSEN: Royal Farms, Two Farms Inc. 4

MR. TEDESCO: And what is your business address  
5 for the record?

6 MR. ROSEN: 3611 Roland Avenue, Baltimore, 7 Maryland  
21211.

24

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8 MR. TEDESCO: And what's your job title? 9

MR. ROSEN: I'm the fuel and environmental leader 10 for Royal  
Farms.

11 MR. TEDESCO: And what are your responsibilities 12  
in that capacity?

13 MR. ROSEN: I'm responsible for, I'm first of all  
14 a member of the development team, so I'm involved  
in new,

15 development of new Royal Farms. My specific role  
in that

16 team is to do environmental studies on the  
properties that

17 we acquire and intend to develop a Royal Farms.  
I also

18 procure fuel equipment and design the fuel  
systems in, in

19 connection with our engineers. A few, perform  
startups and

20 trainings, coordinate all that and also I'm  
responsible for

21 the, for the maintenance and compliance of the  
fuel systems 22 after the store is opened.

24

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23 MR. TEDESCO: Does Royal Farms currently own the subject  
property?

MR. ROSEN: No, we do not.

MR. TEDESCO: And is there a contract to purchase or  
is this a ground lease arrangement?

3

MR. ROSEN: This will be a leased site for us. 4

5

MR. TEDESCO: And are you authorized to testify on  
behalf of RF Landover, LLC today?

6

MR. ROSEN: Yes.

7

MR. TEDESCO: And Madam Examiner, we had  
premarked

8

as Exhibit 37 a limited power of attorney for  
both Mr. Rosen 9 and for Mr. Bainbridge (phonetic  
sp.) who is not with us

10

this morning, but Mr. Rosen is, and that was  
Exhibit 37, his

11

limited power of attorney authorizing him to  
testify at this

12

hearing. Is RF Landover, LLC, going forward I'll  
refer to

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13

that as the applicant. Is the applicant registered to do

14

business in the State of Maryland and in good standing?

15

MR. ROSEN: Yes.

16

MR. TEDESCO: And Madam Examiner, we had their

17

certificate of good standing for that entity premarked as

18

Exhibit 40, and would ask for that to be accepted into the

19

record. Were you involved in the decision to acquire --

20

MS. MCNEIL: I'm sorry, Mr. Tedesco, I'm so sorry.

21

MR. TEDESCO: Okay.

22

MS. MCNEIL: I'm assuming that all the premarked

23

exhibits that are part of the record, unless there's been an objection from someone, so I haven't heard any, so.

MR. TEDESCO: Okay. I'll assume that as well.

MS. MCNEIL: Okay.

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MR. TEDESCO: Okay. Thank you. Tom, were you  
3 involved in the decision to acquire and redevelop this 4  
property with a new food and beverage store in combination 5  
with a gas station?

6 MR. ROSEN: Not directly. Our director of real  
7 estate, Jeff Bainbridge, makes those types of decisions,  
but

8 I am familiar with the reasons why we would select this 9  
property and I feel will be a good asset to the community 10  
that we intend to serve by building our store there.

11 MR. TEDESCO: And can you just explain why this  
12 site was chosen to redevelop with a new food and  
beverage 13 store and gas station as a Royal  
Farms?

14 MR. ROSEN: Sure. It, it's within our, our, you  
15 know, our footprint, we're a Maryland company so  
we build a  
16 lot of stores in Maryland. There is certain, you  
know,

24

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17 criteria that we look at like car count, the size  
of the

18 property, the zoning of the property, certain  
other

19 businesses and rooftops in the area. Also our  
location

20 between 50 and 295 is, is very, was very helpful  
in

21 selecting this location. It's also on a corner  
with, with a

22 controlled intersection, and the size of the  
property you

23 know fits our, our, our operation. So we also  
thought that, you know, we'd be a great addition  
to the community and fill, fill a, basically fill  
a need and bring, bring an

offering that's not currently there.

MR. TEDESCO: And did you personally attend 3  
community meetings in the area?

4

MR. ROSEN: I did not due to some personal

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5

conflicts, but we had some consultants attend the meeting 6 with Ridges at Landover and Metro Point Community on August 7 31st.

8

MR. TEDESCO: And in response to those meetings,

9

did the applicant provide written responses to inquiries

10

that were received by the community members during that

11

meeting?

12

MR. ROSEN: Yes. Mr. Tedesco did respond and, and

13

provide follow up to some questions from the Ridges at

14

Landover and Metro Point Community Association sent that to

15

the president, Curtis Davis (phonetic sp.). We feel we

16

addressed everything that they, that they had requested.

17

MR. TEDESCO: Madam Examiner, those

18

correspondences are in the record as Exhibits 61 and 62.

19

Tom, if successful and the Royal Farms is, if this

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20 application is approved and the Royal Farms is  
built, 21 approximately how many employees will  
Royal Farms employ at

22 this location?

23 MR. ROSEN: Approximately 30 to 40 people. MR.

TEDESCO: And what other benefits will the store bring to  
the local community?

MR. ROSEN: We're going to repurpose an outdated  
property that's far outlived its usefulness. We're going to  
3 redevelopment, redevelop it with modern designs, like  
storm

4 water management, new landscaping and the storm water  
5 management is going to provide water quality controls and,  
6 and quantity as well. We're also going to provide  
motorists

7 along 202 with other fuel and food options at competitive  
8 gas prices, of course our world famous fried chicken.  
We'll

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9 increase the, the county tax base with our, with our 10  
operation and provide 24/7 convenience option for the 11  
residents of that community.

12

MR. TEDESCO: And did Royal Farms hire a third  
party to conduct a separate market analysis to  
determine

13

14

whether the gas use in this market area is  
necessary and 15 whether the food and beverage  
store is reasonably convenient

16

or expedient?

17

MR. ROSEN: Yes, we did.

18

MR. TEDESCO: And have you reviewed the statement  
of justification which is Exhibit 4 in this case?

19

20

MR. ROSEN: Yes.

21

MR. TEDESCO: And do you incorporate and adopt as  
your additional testimony here today that  
justification

22

23

statement?

MR. ROSEN: I do.

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MR. TEDESCO: I have no further questions, Madam  
Examiner.

MS. MCNEIL: Mr. Brown?

3

MR. BROWN: No questions, thank you.

4

MS. MCNEIL: Thank you, Mr. Rosen.

5

MR. ROSEN: Thank you.

6

MR. TEDESCO: Thank you. Our next witness would  
be, with your indulgence, Ms. Emily Dean from  
Kimley-Horne 8 (phonetic sp.).

7

9

MS. DEAN: Good morning, can you hear me? I'm 10  
having issues with my camera. There it is.

11

MR. TEDESCO: We have you. Good morning, Emily,  
how are you?

12

13

MS. DEAN: I'm good, thank you.

14

MS. MCNEIL: Good morning, Ms. Dean. Do you  
swear

15

or --

16

MS. DEAN: Good morning.

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MS. MCNEIL: I'm sorry. Do you swear or affirm  
18 under the penalties of perjury that the  
testimony you shall

19

give will be the truth and nothing but the truth?

20

MS. DEAN: I do.

21

MR. TEDESCO: Ms. Dean, could you please state

22

your name, address and occupation for the record?

23

MS. DEAN: Yes, my name is Emily Dean, my  
business address is 215 Washington Avenue, Suite  
500, in Towson,

Maryland 21204 and I'm a civil engineer.

MR. TEDESCO: And whom are you currently employed  
by?

3

MS. DEAN: Kimley-Horn and Associates. 4

MR. TEDESCO: Are you a licensed professional

5

engineer in the field of civil engineering?

6

MS. DEAN: I am.

7

MR. TEDESCO: And when does your license expire?

8

MS. DEAN: December 19, 2022.

24

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9 MR. TEDESCO: I presume it will be renewed after  
10 that?

11 MS. DEAN: Yes.

12 MR. TEDESCO: Were you employed by the applicant  
13 to perform certain services associated with this  
14 application?

15 MS. DEAN: Yes.

16 MR. TEDESCO: And are you familiar with the 17  
special exception that's the subject of this  
hearing today?

18 MS. DEAN: I am.

19 MR. TEDESCO: And did you or someone in your firm  
20 under your supervision prepare the Special  
Exception Site  
21 Plan and Landscape Plan associated with this  
case?

22 MS. DEAN: Yes.

23 MR. TEDESCO: And Madam Examiner, we'd just note  
that the Site Plan that's responsive to the

24

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Technical Staff Report is marked as Exhibit 57, and if needed the existing conditions exhibit is Exhibit 17. Ms. Dean, please describe the subject property for us and orient the Examiner as to the location of the property, although I gave a brief

4 summary of that a moment ago. If you could just for your 5 testimony provide the Examiner with that information?

6

MS. DEAN: Sure. The subject property is located

7

at 7415 Landover Road in Landover, Maryland and is made up

8

of Parcels G, H and a portion of Parcel K in the Kent

9

Village Subdivision. The subject property is bound by

10

Landover Road or Maryland Route 202 to the north, Kent Town

11

Place to the east, Kent Town Drive and the remainder of

12

Parcel K to the south and west.

13

MR. TEDESCO: And did you make a field inspection

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14 on the property?

15 MS. DEAN: I did.

16 MR. TEDESCO: Can you just describe the nature of  
17 the existing improvements on the property?

18 MS. DEAN: Sure. The site is currently occupied  
19 by a Checker's fast food restaurant with a drive-  
thru,

20 outdoor seating and associated parking, as well  
as a Lenny's

21 Carryout restaurant with parking facilities. And  
then there

22 is an area of open space on the southern portion  
of the

23 property. I did note while I was there, there is  
significant grade change on site with the lowest  
area being towards the south of the site where  
the open space is

located. There's also existing storm drain network,  
however, that does not appear to be any existing storm water 3

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management on the site. There are also sidewalks around a 4 majority of the existing site.

5

MR. TEDESCO: In light of that, could you explain to the Examiner and People's Zoning Council what improvements are proposed with this special exception?

6

7

8

MS. DEAN: Sure. We are proposing to demolish both the Checkers and Lenny's restaurants and construct a

9

10

4,649 square foot food and beverage store as well as eight

11

multiproduct dispenser gas station. We'll also be

12

installing underground fuel tanks and enclosed dumpster

13

facility, parking areas and new sidewalk around the majority

14

of the site. The proposed improvements will also include

15

surface storm water management facilities for quality

16

treatment as well as an underground storm water management

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facility for 100 year storm control. New storm drain,

18

water, sewer, electric and gas utilities will also be

19

installed to serve the site. And then landscaping will also

20

be installed in compliance with the Prince George's County 21 Landscape Manual.

22

MR. TEDESCO: Ms. Dean, are you familiar with

23

Section 27-358 of the Zoning Ordinance?

MS. DEAN: I am.

MR. TEDESCO: And that section are the specific special exception findings or improvements that must be made in conformance with this proposed use for a gas station, is

3

that correct?

4

MS. DEAN: Yes.

5

MR. TEDESCO: And does the Site Plan that you

6

prepared or had prepared, does it comply with all of the

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requirements, the applicable requirements of  
Section 278 358(a)?

9

10

MS. DEAN: The Site Plan complies with all the  
requirements except for the one that stipulates we  
need to 11 have at least 300 feet between our  
property and any property 12 with a school,  
playground, library or hospital.

13

14

MR. TEDESCO: And in reference to that one, how  
far away is the property that has the playground,  
if you 15 know from the special exception  
boundary?

16

MS. DEAN: I don't have that number in front of 17 me.

18

19

MR. TEDESCO: Madam Examiner, I would just note  
for the record for your indulgence, the special  
exception

20

boundary to the parcel that has the playground on  
the south

21

side of Hawthorn is approximately 229 feet from  
the special

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22 exception boundary, so a variance of  
approximately 71 feet

23 is requested. And there are exhibits in the  
record as part of our statement of justification  
that articulate that.

MS. MCNEIL: I believe there's an exhibit showing  
an arrow --

MS. DEAN: Correct.

3

MS. MCNEIL: -- from the playground to, okay.

4

MR. TEDESCO: Correct.

5

MS. MCNEIL: Do you want to put up any exhibit  
for 6 Ms. Dean?

7

MR. TEDESCO: If we could put up, yes, if we  
could

8

put up Exhibit 57 as she's testifying that might  
be useful 9 and helpful.

10 MS. BAH: Can someone please grant me access to 11 share my  
screen? Please. Thank you.

12

MS. MCNEIL: While Ms. Bah is doing that, I do

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13

want to also thank the clerk staff, we had  
illness in our

14

office and they've stepped up to assist and  
that's why she

15

probably said someone but thank you all everyone  
working 16 today, thank you all so much.

17

MR. TEDESCO: Yes, thank you. So if we could go

18

to, Ms. Dean, if you could direct them to any  
particular

19

sheet, perhaps let me see --

20

MS. DEAN: Sure. Sheet 4 shows the proposed 21  
development.

22

MR. TEDESCO: Yes, thank you. If somebody could

23

scroll to sheet 4 of the, thank you. No, I'm  
sorry, it was Exhibit 57, just sheet 4 of Exhibit  
57. Yes, so if you go down to the tab it says.

MS. BAH: Okay. So this is Exhibit 57.

MR. TEDESCO: Yes.

3

UNIDENTIFIED PERSON: Yeah.

4

MS. BAH: Okay. So --

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5 MR. TEDESCO: So that's sheet 1, you got to go 6  
down.

7

UNIDENTIFIED PERSON: I'm using the bookmarks on 8  
the lap to get (indiscernible).

9

MR. TEDESCO: That's fine, that'll work, madam, 10 thank  
you.

11

MS. BAH: You're welcome. Thank you, Miss Donna.

12

13

MR. TEDESCO: So Ms. Dean, so looking at what's  
marked as Exhibit 57, sheet 4A which is the truck  
turning 14 exhibit, the special exception  
boundary is reflected in the  
red dash line, is that correct?

15

16

MS. DEAN: Correct.

17

18

MR. TEDESCO: And then I see a black dashed line  
going towards the bottom of the special exception  
boundary 19 or the southern portion of the  
special exception boundary, 20 what is that line?

24

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21 MS. DEAN: That one represents existing easements 22  
on, on the property.

23 MR. TEDESCO: No, I'm sorry the line that bisects the  
special exception boundary in the parking lot and Kent  
Town Place.

MS. DEAN: Oh. That is the line that indicates the  
300 foot setback from the property with the playground. 3

MR. TEDESCO: So there's a portion of the special  
4 exception boundary that is within that 300 foot  
area?

5 MS. DEAN: Correct.

6 MR. TEDESCO: Correct? And what are the 7  
improvements within that area of the special  
exception that 8 are within that 300 feet?

9 MS. DEAN: Within that area we are proposing the  
10 dumpster facility will be located there, a storm  
water

11 management surface facility as well as a pylon  
sign. 12 MR. TEDESCO: There is actually

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no gas station 13 facilities within that area, is that correct?

14 MS. DEAN: Correct. The gas facilities are 15 located up on the northern portion of the site, closer to 16 Landover Road.

17 MR. TEDESCO: So this is a perfect exhibit for the

18 next question. This is the, otherwise notwithstanding that

19 information on this sheet this also shows the truck turning

20 movements, is that correct?

21 MS. DEAN: Correct.

22 MR. TEDESCO: Could you please explain this exhibit and what changes were made to the site layout to accommodate the truck turning movements on site?

MS. DEAN: Sure. This exhibit shows the gas truck entering this site off of Landover Road, circulating

24

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through this site to the underground fuel tanks and then exiting

3

this site via Kent Town Place to that controlled

4

intersection at Landover Road and Kent Town Place. We

5

modified this site to ensure that the entrances were wide 6

enough to accommodate the truck as well the turning, the 7

radii into the site at each entrance were large enough to 8

allow the trucks to move efficiently throughout. 9

10

MR. TEDESCO: And did you prepare or cause to be prepared a Landscape Plan in this case?

11

MS. DEAN: Yes.

12

MR. TEDESCO: That would be sheet 8, I don't know 13 if Ms. Bah if you continue to scroll down if we could get to

14

sheet 8, because I don't see it in the tabs.

15

MS. BAH: It doesn't look like it's there.

16

MR. TEDESCO: I think, go the other way, I'm sorry, not up, yes, down. Keep going. Keep going. Keep

17

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18 going. Okay. That's it, thank you. Thank you.  
Madam

19 Examiner, what's on the screen is Exhibit 57,  
sheet 8 of 13.

20 Ms. Dean does the site comport to the Landscape  
Manual?

21 MS. DEAN: Yes.

22 MR. TEDESCO: And is an alternative compliance  
for

23 any landscape schedule being requested?

MS. DEAN: No.

MR. TEDESCO: All buffer yards and landscape  
planting requirements are being met, is that correct?

MS. DEAN: Yes.

3 MR. TEDESCO: With respect to the Technical Staff

4 Report, did you have an opportunity to review  
that?

5 MS. DEAN: I did.

6 MR. TEDESCO: And Condition 2 in particular

7 requests that prior to certification the Section  
4.10

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8

schedule be replaced for Section 4.2 in the landscape

9

planting for Kent Town Drive be made if it's a public right-

10

of-way. Could you explain what was done in response to that

11

condition on the Exhibit 57?

12

MS. DEAN: Yeah. Kent Town Drive is a private

13

right-of-way or private easement within Parcel K and so we

14

have left the 4.10 schedule on the plan to show compliance

15

with the private right-of-way section of the Landscape

16

Manual.

17

MR. TEDESCO: So is it your testimony that Section

18

4.10 is applicable and being provided?

19

MS. DEAN: Yes.

20

MR. TEDESCO: In that regard, is it your testimony

21

that Condition 2 should be deleted from the Staff Report?

24

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22 MS. DEAN: Yes.

23 MR. TEDESCO: And referencing to staff's  
Condition 3, prior to certification of this  
Special Exception Site

Plan revisions shall be made to the Site and Landscape Plan  
by providing a schedule to demonstrate conformance  
with Section 4.6 of the Landscape Manual. Do you have  
any 3 thoughts on that?

4 MS. DEAN: Yeah, the plan that we submitted for  
5 review to staff did include Schedule 4.6 or  
Landover Road  
6 which is considered a historic roadway, so I  
believe that 7 condition should also be removed.

8 MR. TEDESCO: And in reference to Condition 1A  
9 provide new Signage Plan including clearly  
identifying the  
10 number and location of freestanding signs and  
demonstrate 11 conformance with the applicable  
requirements of Part 12, do 12 you have any  
thoughts on that?

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13 MS. DEAN: Yes, we included the total length of  
14 the frontage of the property around Landover  
Road, Kent Town

15 Place and Kent Town Drive in our calculation for  
the allowed

16 freestanding signage on site. Because we are  
providing

17 landscaping for Kent Town Drive we are treating  
it as a

18 private street. We feel that it should be  
included in that 19 calculation which then  
affords us two freestanding signs on 20 site  
instead of just one.

21 MR. TEDESCO: And Condition 1B of the Technical  
22 Staff Report references the Tree Canopy Coverage  
23 requirements. Could you provide the Examiner  
with an explanation of the TCC schedule that was  
provided on Exhibit 57?

MS. DEAN: Sure. We reviewed Section 25-128(c) of  
the Zoning Ordinance, which permits redevelopment of

24

25

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2

3 previously developed sites to calculate the required Tree  
4 Canopy Coverage based on the limits of disturbance and not  
5 the overall area of the, the site or the parcel lines. So  
6 we revised our tree canopy coverage worksheet to reflect  
7 the limits of disturbance and then provided trees on site to 8  
8 comply with that revised requirement.

9 MR. TEDESCO: Madam Examiner, I have no further 10  
10 questions for Ms. Dean.

11 MS. MCNEIL: Just before I turn to Mr. Brown, that 12  
12 last condition was which one? I can't go into my file at 13  
13 all, something's wrong with the internet and I don't want to 14  
14 lose all of you.

15 MR. TEDESCO: Yes, so Madam Examiner, in short we  
16 believe that all of staff's recommended  
17 conditions could be  
18 omitted based upon the revisions made and the  
19 testimony  
20 provided but specifically Condition 1A deals with  
21 part 12

24

25



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2

19 and assigns. Condition 1B deals with the tree  
canopy

20 coverage requirement. Condition 2 deals with the  
4.10

21 landscape schedule and Condition 3 dealt with the  
4.6

22 landscape schedule. We believe and the testimony  
you heard

23 that all of those are satisfactorily addressed  
and or provided and no longer needed to be  
conditions.

MS. MCNEIL: Okay. Ms. Dean, who benefits from  
that private easement? What is it for?

MS. DEAN: It's just, it's a part of Parcel K, I,  
3 I would have to confirm whether there's a separate  
4 delineation for the street, but it was, there was an 5  
abandonment of the easement and it was absorbed into Parcel  
6 K.

7

MS. MCNEIL: Okay. And when counsel, I meant to

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ask him that, when counsel started off saying  
that the 9 special exception boundary does not  
exactly match the lot

10

lines, is that what's left out some part of  
Parcel K?

11

MS. DEAN: That's correct.

12

MS. MCNEIL: Matt, you can answer or proffer, I  
just wanted --

13

14

MR. TEDESCO: Yes, I would proffer that that is

15

correct and Mr. Ferguson is on as well, he'll be  
our

16

concluding witness and he can provide additional  
thoughts on

17

that. But yes, just to be clear for the record,  
Parcel H

18

and Parcel G-9 as they exist in their entirety  
are part of 19 the special exception boundary and  
only a portion of Parcel 20 K is part of the  
special exception boundary.

21

MS. MCNEIL: Okay. And then the last question I

24

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22 had, let me see my notes. You don't want the  
easement area

23

to be counted, wait a sec, you don't want it  
counted as part of the Landscape Plan but you do  
want it counted as part of the size of your sign  
and tell me why that's permissible

again, quickly. I don't mean quickly, but.

3

MS. DEAN: No, we, we are providing landscape for  
it in compliance with the 4.2 section, hold on one second.

4

We are providing landscape for Kent Town Drive in  
compliance

5

with Section 4.10 of the Landscape Manual for private, 6  
private roadways and therefore would like it also included

7

in the calculation for the signage as well.

8

MS. MCNEIL: Okay. Mr. Brown?

9

MR. BROWN: Yes, good morning, Ms. Dean.

10

MS. DEAN: Good morning.

11

MR. BROWN: Just a couple of questions here. Let  
me ask you concerning the lots themselves of the  
proposed

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13 special exception, are there three lots currently  
or two 14 lots?

15 MS. DEAN: There are three lots currently.

16 MR. BROWN: All right. So looking at what is on  
17 the screen now if that is oriented to the north,  
I don't

18 know, but at the top of the screen the two lots  
there and

19 then there's a third lot on the bottom, the  
convenience

20 store is proposed on one lot currently, is that  
correct?

21 MS. DEAN: Correct. The convenience store is 22  
located on a portion of Parcel K and the, the gas  
facility 23 spans G and H.

MR. BROWN: All right. Do we have an aerial that  
shows graphically the proposed uses and the playground?

MR. TEDESCO: Yes, we do, Mr. Brown. Your indulgence  
for a second, I think probably the best depiction 3 of that  
would be on page 13 of Exhibit 4 which is the

24

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4 statement of justification.

5 MR. BROWN: All right. I have that, let me just 6 look at  
it, you said page what?

7

MR. TEDESCO: Page 13 of Exhibit 4, page 13 of  
the

8

statement of justification which is Exhibit 4.

9

MS. MCNEIL: If I may to make sure we're all

10

seeing the same thing that Mr. Brown will be  
looking at, are

11

you finished with this exhibit, Mr. Brown, or can

we -- 12 MR. BROWN: No. Let me ask this  
quick question 13 because the issues are related.

14

MS. MCNEIL: Okay. Keep this up but could we see

15

Exhibit 4 page 13?

16

MR. TEDESCO: 13.

17

UNIDENTIFIED PERSON: Well you can go and click  
on

18

the page number and type it in and that would  
eliminate you 19 having to go up or down.

24

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20 MR. TEDESCO: So one more page, it's 14 on that 21  
version because that's the version, go down one more page.

22 There you go. You can zoom in. That's an aerial, Mr.

23 Brown, that shows the playground in yellow and the special  
exception boundary in red.

MR. BROWN: So I did hear or rather I did read  
correctly that the playground is separated visually from  
the subject property by the existing apartment units, is

that

3

correct?

4

MS. DEAN: Yes, that is correct.

5

MR. BROWN: And the roadway, I can't read that

6

that bisects this exhibit, which roadway is  
that?

7

MR. TEDESCO: That's Hawthorn.

8

MR. BROWN: Hawthorn Drive. Okay.

9

MR. TEDESCO: Yes.

10

MS. DEAN: Yes.

24

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11

MR. BROWN: And that playground is 229 feet from  
12 the subject property you're telling me, is  
that correct? 13 MR. TEDESCO: Well it's 229  
feet from the special 14 exception boundary.

15

MR. BROWN: Right. And this goes to the question

16

I wanted to ask Ms. Dean and that is the gas  
station has a

17

requirement that the gas station be 300 feet from  
the

18

playground. The convenience store, although  
requires a

19

special exception has no such requirement that  
the

20

convenience store be 300 feet from a playground.  
So I'm

21

going to assume that at some point you want to  
combine the

22

three existing lots into one special exception  
lot but it's

23

not really required and so it begs the question  
even though you have applied for one special

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exception to include the gas station and the  
convenience store, is it not possible

that you can be approved for a special exception for the  
two northern lots, I'm going to call them because I don't  
know

3

the label right now and then have a separate special

4

exception within this application for the convenience store

5

and then there would not be a need for a variance, because

6

the convenience store special exception is within 300 feet

7

but the gas station which has the requirement for a 300

foot

8

setback is not within 300 feet. Would that not  
be accurate?

9

MR. TEDESCO: Madam Examiner, may I respond to

10

that?

11

MS. MCNEIL: Please.

12

MR. TEDESCO: I think it's appropriate.

13

MS. MCNEIL: Please.

14

MR. TEDESCO: Yes. Mr. Brown, with your

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15 permission I'd like to respond to that.

16 MR. BROWN: Yes.

17 MR. TEDESCO: No, I think that's an acute, an

18 astute observation with respect to the gas  
station facility

19 is currently on Parcels H and G-9 which that

property is 20 not, I mean it's beyond 300 feet  
from any property with a

21 playground.

22 MR. BROWN: Right.

23 MR. TEDESCO: However, the way that this use has  
historically analyzed and reviewed and approved  
by this

Examiner and the Council and other applications, they don't

differentiate those two uses because I have argued

previously that we should not need a special exception for

3 the food and beverage store because that use is permitted  
by

4 right in the C-S-C Zone. There is no need for a special

5 exception for food and beverage in the C-S-C. However,

24

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6 because the use table uses the word in combination with  
this

7 use of gas station in combination with a food and beverage

8 store, the interpretation of that against my objection has

9 been that the special exception needs to include both and

10 you also need the special exception to cover both Section

11 27-358 for the gas and 355 for the food and beverage.

12 Although I would submit to you that I agree that the food

13 and beverage should not be subject to any special exception

14 required findings, but that is not how historically these

15 applications have been reviewed and previously approved

in 16 the county.

17           So for consistency with how it's been done, we

18           have filed this application similarly to other C-  
S-C zoned

19           applications for this type of use. But I would  
agree with

20           you and I would say also right now there are no  
plans to

21           replat this property and so that does under your  
line of

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questioning would render the variance moot.  
However, in the

23

abundance of caution because it says the subject  
property and these uses are in combination with  
each other we felt it was necessary to request  
the variance.

MR. BROWN: All right. Yes, because I thought the  
variance was moot based upon my analysis. Do you anyone

3

have --

4

MR. TEDESCO: And I wouldn't disagree but --

5

MS. MCNEIL: Okay. All right. Could we move 6  
along because I don't know if the Examiner agrees  
with you 7 two on that part, so what's your next  
question?

8

MR. BROWN: I'm going to assume the measurements

9

that have been done by the staff and the applicant  
are

10

accurate with regards to 300 feet but I mean  
myself just

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11           eyeballing it, it doesn't look like, hell it looks  
like it's 12 a lot further than 300 feet. But  
we'll go beyond that,

13 that's all right. There was one other question I had  
wanted

14 to ask and it just escapes me, it'll come back to me, I 15  
think I actually had it for Mr. Ferguson. So those are all  
16 the questions I have, thank you.

17           MS. MCNEIL: Okay. So we don't need to pull the 18  
other exhibit again for Ms. Dean. We don't have any further  
19 questions. Thank you, Ms. Dean.

20           MS. DEAN: All right. Thank you.

21           MR. TEDESCO: Thank you, Ms. Dean. Thank you,  
Mr.

22           Brown. Our next witness would be Mr. Mike  
Lenhart.

23           MR. LENHART: Good morning everyone.                   MS.

MCNEIL: Good morning. Ms. Bah, I think you can  
take the exhibit down now. We might have another  
one

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for Mr. Lenhart, maybe. Mr. Lenhart, do you swear or  
affirm under the penalties of perjury that the testimony  
you shall

3

give will be the truth and nothing but the truth?

4

MR. LENHART: I do.

5

MS. MCNEIL: Thank you.

6

MR. TEDESCO: Mr. Lenhart, could you please state  
your address and occupation where you are  
employed for the 8 record?

7

9

MR. LENHART: Yes. Michael Lenhart with Lenhart  
Traffic Consulting at 645 Baltimore Annapolis  
Boulevard, 11 Suite 214, Severna Park, Maryland  
21146.

10

12

MR. TEDESCO: Madam Examiner, Mr. Lenhart has

13

previously qualified as an expert in the field of  
expert

14

traffic engineer and planning numerous times, and  
we would

15

request that he be accepted in this case as an  
expert in 16 that field.

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17 MS. MCNEIL: Okay. I usually accept you as an 18  
expert in transportation planning, you need me to add the

19 engineering?

20 MR. TEDESCO: Transportation planning is  
21 acceptable, thank you.

22 MS. MCNEIL: Okay.

23 MR. LENHART: Yes.

MR. TEDESCO: And Madam Examiner, Mr. Lenhart's CV is  
in the record as Exhibit 39. Mr. Lenhart, are you familiar  
with the application that's the subject of this hearing  
today?

3

MR. LENHART: Yes, I am.

4

MR. TEDESCO: Were you employed by the applicant  
to perform certain services associated with the  
subject

6

property?

7

MR. LENHART: Yes, we were.

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MR. TEDESCO: And did you make a personal 9  
inspection of the property and the transportation  
network?

10

MR. LENHART: Yes.

11

MR. TEDESCO: And are you familiar with the 12  
transportation network in the immediate  
vicinity of the

13

subject property?

14

MR. LENHART: Yes.

15

MR. TEDESCO: And are you familiar with the  
applicant's Site Plan and Development Plans?

16

17

MR. LENHART: Yes.

18

MR. TEDESCO: Could you summarize very briefly  
the

19

transportation network including the road  
classifications 20 and the traffic volumes in the  
area?

21

MR. LENHART: Certainly. Maryland 202 is a state

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22 route, it's a master planned arterial roadway, A-20. It is

23 built out to the full Master Plan recommendation of a six lane divided highway. The average daily traffic volumes based upon the State Highway Administration Maps show that

the traffic on Maryland 202 in this area is approximately 51,000 vehicles per day. Kent Town Place is a local road

3 with approximate right-of-way of 70 feet and 48 feet of

4 paving curb to curb along that property front. 5

MR. TEDESCO: I was muted. Is the traffic impact

6 analysis required for this particular special exception?

7 MR. LENHART: No.

8 MR. TEDESCO: Were you asked to prepare one in this case?

10 MR. LENHART: We were, yes.

11 MR. TEDESCO: For what purpose?

12 MR. LENHART: So the Zoning Ordinance identifies

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13 certain uses that require a traffic impact study  
such as

14 amusement parks, asphalt, concrete mixing plants,  
concrete 15 recycling facilities, sand and gravel  
plants, and so on.

16 This use does not require a traffic impact study, however,  
17 the guidelines do note that the transportation impact study  
18 guidelines note that in cases where new traffic exceeds 100  
19 vehicle trips per hour, applicants are encouraged, and may  
20 be requested, to provide a traffic impact study and the  
21 language says to ensure that applicant's agencies and  
public  
22 are aware of the impacts and to consider conditions that  
may  
23 be needed to protect surrounding properties or the general  
neighborhood as it relates to traffic issues.

And so this use does generate more than 100 peak  
hour trips but again an impact study is not specifically  
required and was never requested. However, the applicant 3

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felt that it would be good to have one on the record just in 4  
case any questions arose.

5

MR. TEDESCO: And that study is Exhibit 31, dated

6

May 8, 2020, is that correct?

7

MR. LENHART: Yes.

8

MR. TEDESCO: And could you just again briefly 9  
summarize the findings and conclusions of your  
report?

10

MR. LENHART: Certainly, we included all major

11

intersections along Maryland 202 between US 50  
and Maryland

12

704, in total of eight intersections along  
Maryland 202 and

13

we also included site access points and local

intersections 14 along Kent Town Drive back to

Kent Village Drive. 15 All of the study

intersections operate at a level 16 of service D

or better under existing traffic conditions.

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17 And this site is located inside the Capital Beltway and the  
18 allowable threshold is up to and including a level of  
19 service E is considered adequate inside the beltway and all  
20 of the intersections under existing and future traffic  
21 conditions with and without proposed special exception will  
22 operate at acceptable levels of service. But the majority  
23 of the intersections operate at level of service D or  
better. One intersection at the intersection of Maryland  
202 and Kent Town Drive is projected to operate a level of  
service E with or without this proposed special exception.

Again, that is acceptable. And this proposed development  
3 does not deteriorate that level of service, and all the  
4 unsignalized intersections are deemed adequate based upon  
5 the unsignalized methodology that's required in the  
6 guidelines.

7 MR. TEDESCO: Did your TIA make any  
8 recommendations for improvements to any intersections?

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9 MR. LENHART: It did not because all of the 10  
intersections were deemed to be adequate.

11 MR. TEDESCO: Did the Transportation Planning 12  
Section and the State Highway Administration review your  
13 traffic impact analysis?

14 MR. LENHART: Yes, they did.

15 MR. TEDESCO: And Madam Examiner, just for your  
16 edification those referrals are Exhibits 63 and  
28, 17 respectively. Could you just summarize  
those for the  
18 Examiner?

19 MR. LENHART: Yes So the Transportation Planning  
20 Staff memo dated May 25th of 2021 made findings  
based upon  
21 our traffic study that all of the study  
intersections would  
22 operate at acceptable levels of service and the  
plan is  
23 acceptable and meets the findings required for a  
special exception per subtitle 27 of the Code.

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3 And the TPS transportation staff also noted that  
4 no adequacy test is required for a special  
5 exception, and however they did look at the  
6 existing trips, the underlying trip cap and the  
7 proposed trips and they made a finding that the use would  
8 fit within the presumed trip cap for the underlying  
9 subdivision. The State Highway -- 6 MR. TEDESCO: I'm  
10 sorry.

7

MR. LENHART: Sorry. And the State Highway 8  
Administration also reviewed the traffic study and approved  
9 the study.

10

11

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MR. TEDESCO: If this special exception is

approved and the development is built, in your  
opinion will

it be compatible with traffic conditions and the  
road

network in the surrounding area?

MR. LENHART: Yes.

MR. TEDESCO: From the perspective of traffic

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planning, will the granting of this application be consistent with the standards required in the ordinance for

18

the use in question?

19

MR. LENHART: Yes, it will.

20

MR. TEDESCO: And from the perspective of traffic planning, will approval of the application cause any adverse

21

22

effect upon adjacent properties or the surrounding

23

neighborhood?

MR. LENHART: No.

MR. TEDESCO: Why not?

3

MR. LENHART: As testified, the traffic impact study is not required and one was not requested, but the study that was proffered and offered by the applicant and

4

approved by both state and Park and Planning Transportation

5

staff, concurred that the study intersections will operate

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6 at acceptable levels and that the site will not have a 7  
significant impact on traffic operations.

8

MR. TEDESCO: Did you look at the access points  
that were proposed with this application?

9

10

MR. LENHART: We did.

11

MR. TEDESCO: And did you find any health, safety  
12 or general welfare issues with the locations  
of those access 13 points as designed?

14

MR. LENHART: We did not and the agencies have  
agreed with the access points and approved the  
access

15

16

points. We are consolidating the access on Route  
202 and

17

eliminating access points which improves the  
safety in and

18

out of the site, and the access on 202, that has  
been

19

reviewed and approved by the state. The county  
DPW had some 20 questions about one, the original  
proposed access on Kent

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21 Town and we actually eliminated that access point to  
address

22 their concerns and we have approvals from all operating 23  
agencies.

MR. TEDESCO: I have no further questions, Madam  
Examiner.

MS. MCNEIL: Mr. Brown (indiscernible)?

MR. BROWN: May we put up the exhibit that shows 3  
the access points?

4 MR. TEDESCO: Probably the best exhibit for  
that,

5 Ms. Bah, would be Exhibit 57, sheet 4A which was  
the truck

6 turning exhibit would probably be the best, I  
would assume.

7 MS. BAH: What was that number again, I'm sorry?

8 MR. TEDESCO: No problem, Exhibit 57 sheet 4A.

9 Thank you.

10 MS. BAH: You're welcome.

11 MR. BROWN: So Mr. Lenhart, I thought I read  
that

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there were four access points. Are there three or four? I cannot quite determine where in the exhibit.

14

MR. LENHART: There are, pardon me, you mean under

15

the existing or proposed conditions?

16

MR. BROWN: Proposed. Proposed.

17

MR. LENHART: Proposed conditions, that would be four access points. One right in right out on Maryland 202,

19

that's at the top of the site there.

20

MR. BROWN: Right.

21

MR. LENHART: And then if you go down Kent Town there's one access into the front of the C store and behind

the fueling positions there.

MR. BROWN: Right.

MR. LENHART: And then if you go down Hawthorn

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Street from Route 202 there's one access point into the front of the C store and behind the fueling positions. And 3 then if you go further down Hawthorn there's one driveway 4 into the rear of the C store.

5

MR. TEDESCO: Just a point of clarification, 6 that's not Hawthorn. Hawthorn is a public right-of-way.

7

MR. BROWN: Yes, (indiscernible) right.

8

MR. LENHART: Hawthorn is the public right-of-way.

9

The two other access points are accessing off the private

10

drive, Mr. Ferguson can speak to that more, but yes there's

11

one on 202, one on Kent Town and two off of the private 12 drive that used to be Kent Town Drive.

13

MR. BROWN: I see. And just to orient myself,

14

across Landover Road is that the funeral home?

15

MR. LENHART: Yes.

24

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16 MR. BROWN: And the Fire Department going up 17  
Landover Road, approximately how far away is that  
from this

18 property? Approximately.

19 MR. LENHART: I'm trying to find the Fire 20 Department.

21 MR. TEDESCO: I've got P.G. Atlas up, if I'm  
22 allowed to proffer, and I'm happy to proffer  
that.

23 MR. BROWN: Yes. Yes, please.

MR. TEDESCO: It's approximately 1,840 feet from the --

MR. BROWN: All right.

MR. TEDESCO: -- from the closest point of the 3  
intersection.

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6

MR. BROWN: Okay. Thank you. And when Ms. Dean  
had testified earlier about this line toward the  
bottom of  
the exhibit that is on the screen now, what is  
that line 7 again?

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8 MR. TEDESCO: Again, if I may proffer? That is 9  
the line that we had added to the Site Plan showing the 300

10 foot radius from the property that contains the  
playground.

11 MR. BROWN: All right. And so Mr. Lenhart, given  
12 that you have four access points and each of  
those access

13 points are wide enough to accommodate the fueling  
trucks

14 that will be coming into this property, is that  
correct?

15 MR. LENHART: That's correct. And as you can see  
16 from this exhibit this shows the truck turning  
template

17 accessing, entering the site and then leaving the  
site and

18 that reflects that these access points are  
adequate. And it 19 comes in off of 202 and then  
exits out to the right back out 20 to the traffic  
signal.

21 MR. BROWN: So given that there's a requirement

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22 for 300 foot setback from the playground ignoring  
whether or

23 not that is necessary, the fueling trucks will  
not act as the private driveway at the entrances  
on the private driveway and therefore will have  
no adverse impacts on the playground, is that  
correct?

MR. LENHART: That's correct based on the 3  
anticipated access and circulation through this site that 4  
would not have an impact, correct.

5 MR. BROWN: And Mr. Tedesco, you don't have to  
6 answer now but I would probably like to know from the  
7 applicant would they have any concerns with a condition  
that  
8 prohibits or precludes the fueling trucks from entering  
9 private driveway and the access points on that private 10  
driveway.

11 MR. TEDESCO: I'm happy to answer that now. So  
12 the private drive closest to that 300 foot mark  
doesn't even

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13 provide access to the underground tanks. So  
there would be

14 no objection to that. The private drive that is  
to the

15 northwest, not anywhere near that 300 foot arch,  
is

16 sufficient to serve the fueling trucks but we  
would accept a

17 condition that the fueling trucks maneuver  
through the site

18 as provided on this exhibit, because I think  
that's the way 19 it's been designed and that's  
what we would require.

20 MR. BROWN: All right. And looking at the route,  
21 if you will, on the Site Plan where the trucks  
would come 22 just around the fueling pumps, that  
dark area, is that the

23 underground pumps there?

MR. TEDESCO: Yes.

MR. BROWN: All right. All right, no other  
questions, thank you, Mr. Lenhart.

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MR. LENHART: Thank you.

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MS. MCNEIL: Mr. Lenhart, with this exhibit up, where was the access that you removed because of DPW&T's 5 concerns?

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7

MR. LENHART: It was the parking lot to the south or to the rear of the C store.

8

MS. MCNEIL: Yes.

9

10

MR. LENHART: Originally it had an additional access point going out to the east of the site onto Kent

11

Town and where that driveway was located was right in the

12

middle of a speed hump for traffic calming purposes and DPW

13

was not supportive of the access being right at the speed 14 hump.

15

MS. MCNEIL: Okay. So to go back to what Mr.

16

Brown said, and I'm sure I'll see this when I look at the

17

real exhibit, there's one in and out on Landover and there's

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18 still two along Kent Town Place, or are the two  
along Kent 19 Town Drive?

20 MR. LENHART: There is one on Landover, one on  
21 Kent Town Place and then two on the private drive  
--

22 MS. MCNEIL: Got it. Okay.

23 MR. LENHART: -- to the west side of the site.

MS. MCNEIL: Okay. Thank you. No further  
questions.

MR. TEDESCO: Thank you, Mr. Brown and Madam  
Examiner. Thank you, Mr. Lenhart. Our next witness and

3 Madam Examiner just for time purposes we have two  
more

4 witnesses left, so we are doing well. Mr. Ed  
Steere

5 (phonetic sp.).

6 MR. STEERE: Good morning.

7 MS. MCNEIL: Good morning, Mr. Steere. Do you

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swear or affirm under the penalties of perjury  
that the 9 testimony you shall give will be the  
truth and nothing but

10

the truth?

11

MR. STEERE: I do.

12

MS. MCNEIL: Thank you.

13

MR. TEDESCO: Mr. Steere, could you please  
provide

14

your name and address and business and  
occupation?

15

MR. STEERE: My name is Edward Steere, I'm the  
Senior Managing Director of Valbridge Property  
Advisors,

17

we're located at 11100 Dovedale Court,  
Marriottsville,

18

Maryland 21104. I'm a land planner and market  
analyst.

19

MR. TEDESCO: And Madam Examiner, Mr. Steere has  
20 been qualified and accepted as an expert in  
the field of 21 market analysis before this body,

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and we would ask that he 22 be accepted in that capacity here today.

23

MS. MCNEIL: He will be accepted as an expert in the area of market analysis.

MR. TEDESCO: Thank you. And his CV is marked as Exhibit 60 for the record. Mr. Steere, are you familiar with the application that's the subject of this hearing today?

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4

MR. STEERE: Yes, I am.

5

MR. TEDESCO: And were you employed by the 6 applicant to perform certain services associated with the

7

subject property?

8

MR. STEERE: Yes, I was.

9

MR. TEDESCO: And what were those services?

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MR. STEERE: I was employed to perform the market

11

need analysis requirements for the special exception for a

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gas station and for a convenience store  
associated with a 13 gas station.

14

MR. TEDESCO: And did you prepare a written  
analysis and report in this case?

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16

MR. STEERE: Yes, I did.

17

MR. TEDESCO: And was this analysis report  
recently updated?

18

19

MR. STEERE: It was, yes, in September of 2021.

20

MR. TEDESCO: And Madam Examiner that report is  
Exhibit 16 in the record. Mr. Steere, did you  
conduct an 22 investigation into the needs for  
the uses in questions?

21

23

MR. STEERE: I did, yes.

MR. TEDESCO: And in the trade, excuse me, and  
determined what the trade area is for each of those uses?

MR. STEERE: Yes, I did. I created a trade area  
for each use.

3

MR. TEDESCO: And could you describe the trade

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area for each use? I know that's a loaded question, because

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it has two different answers, but if you could try to 6 explain that, summarize that for the Hearing Examiner and 7 for the People's Zoning Council?

8

MR. STEERE: Okay. First off, the caveat that

9

there are several different approaches to determining need

10

relative to supply and demand, but also necessary 11 convenience for a community, so in my report, I blended 12 those.

13

So for the gas station part of the report, I

14

created a trade area that on the north side is roughly the

15

interchange of Route 50 and I-95, the beltway and the east

16

side would have been the Capital Beltway, the south side of

17

it was Bright Seat Road and Sheriff Road and the west side 18 is Route 50.

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19 For the convenience store I used a much smaller  
20 area, I can explain that a little later when we  
get to that.

21 MR. TEDESCO: So let's break those out. So for  
22 the gas station, you know, understanding that the  
Zoning

23 Ordinance requires this analysis under 27-358,  
could you provide us with the demographics of  
that particular market area that you studied with  
respect to that use?

MR. STEERE: Sure. So I would refer you to page  
16 of my report which discusses the demographics and  
3 residential or demand for this use. So we have here I  
4 charted the population and households from 2000 through  
5 projected through 2026. It's a very stable community,  
6 roughly 22,000 residents, 23,000 residents. And then just  
7 short of, or right now just around 8,000 households. So  
8 it's a very stable community, not really any growth and  
not  
9 any decline. Just to be sure, we all know that the Metro

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10 Point Development is pretty new and it's probably not  
11 reflected well in the census data yet, which is always a  
12 couple years old, but it is reflected in the Maryland, or  
13 I'm sorry, the Metropolitan Washington Council  
Government's 14 projections where they projected another  
400-some households 15 in 2025, by 2025.

16

So what we have is generally, I charted out here  
17 the median household income at \$56,297, the  
average

18

household size 2.86 persons, it's actually large,  
the low

19

homeownership rate of 41.1 percent and an average  
of 1.4

20

vehicles per household and nearly three-quarters  
of people

21

in this community drive to work, even though  
there's a metro

22

station across the street. And the travel time  
to work is

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greater than 30 minutes, is more than half of those people. But of course with congestion in the area, they may not be going all that far.

3

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5

What I noted in this particular trade area is the household numbers are low for the mass of the geography we have, the area, because a large portion of this area is industrial. So we have a high workforce number here, the daily population is much higher than the resident 6 population.

7

MR. TEDESCO: And could you -- go ahead.

8

MR. STEERE: And just to clarify, you know because 9 I was talking about the difference between a gas trade area

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and a convenience store trade area coming up, this gas trade area is roughly similar to what a six minute drive time would be, because that is the standard that people are using now to try and gas at the cheapest price. They will drive

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14 six minutes to get their gas. They won't drive six minutes  
15 to get convenience food and things like that. So that's  
why

16 there's a difference there in that, so. 17

MR. TEDESCO: And could you describe the

18 competitive supply in the trade area for gas?

19 MR. STEERE: Sure. We talk about that on page 22  
20 of the report. There are 10 other, yes, 10 other  
gas

21 stations in the area that we've talked about here  
and

22 they're mapped out on page 24. You'll see that  
they're

23 basically lined up along Landover Road or Martin  
Luther King Boulevard with one exception. And  
that's important because that's the only place  
they can be, this is a commercial

strip, Landover Road, Route 202 is where people will  
migrate to for their goods and services and gasoline. So  
we have

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3 basically it's important to note as I talk about these  
4 stations that on page 22 we talk about the standard  
5 classifications for gas stations from a small kiosk to a  
6 hyper convenience store which is what Royal Farms  
7 represents, roughly 4,000 to 5,000 square feet with fresh  
8 food. That there are none of those in this trade area,  
9 there's no other store of the same nature in this trade  
10 area  
11 offering the same services and goods that Royal Farms will  
12 offer.

12

The other stores on average are 30-some years old.

13

They have on average only four and a half multiproduct

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dispensers, MPD's for fuel and they're all on average about

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1,700 square feet and that includes a few of these that have

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service garages. So what we're dealing with is an existing 17 supply of old, small gas stations, some with service bays

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18 and some with just a kiosk in the middle of a bunch of fuel  
19 pumps and only six of them have diesel fuel as well. So  
20 with that, we further broke it down into based on the  
styles  
21 and averages, national averages that we have, we figured  
22 out, we ranked each of these gas stations to determine what  
23 their typical supply is, to calculate an estimated supply  
and we came to a supply of about 12.1 million gallons per  
year.

That could be a conservative number, the data from  
the actual gas stations is not available publically so we're  
3 using other sources of data collection from National  
4 Association of Convenience Stores on what production is 5  
comparatively between an old service station to a new  
modern  
6 convenience store.

7 MR. TEDESCO: And what was and explain your  
8 analysis in determining the trade area demand.

9 MR. STEERE: So the trade area demand is we look  
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at it in four different categories. We have the

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residential, we have workers the daytime

population and then 12 we had the commercial

traffic and then we had pass-thru

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traffic and as we now this road is a major commuter  
arterial

14

road. So, on the residential side we have approximately

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8,000 households. We've computed that they purchased 665

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gallons per year on average. That's based on page 17 we

17

determined that from census that they spent \$1,850 on

18

gasoline and diesel fuels in an average year in this trade

19

area, each household. So computing that back on a price of

20

about \$2.78 per gallon at the time, we computed that they

21

purchased abo 665 gallons per household per year. That 22

computes out to 5,320,000 gallons for residential, just for

23 the household side.

We have a daytime worker population of over 20,000  
persons and we figured out that 2.2 percent of them live in

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the area based on some commuter traffic patterns data that we have, and that's approximately 15,000 vehicles. And giving them one fill up per week, that's about 11.6 million gallons per year. So the employment side of this community purchases twice as much fuel as the residential side.

6

Based on the truck traffic data from the Maryland Department of Transportation we are estimating about 3 percent of the demand will be from commercial truck traffic that's passing through here and then on pass-thru traffic we're noting that there's approximately 50,000 vehicles per day passing by this site over the course of a year on weekdays. So we're attributing about 5 percent of the demand from pass-thru traffic and commuters. Now we believe that's, we cut that because some of that traffic passing by here is also local traffic passing by here is also local traffic. So that's not an absolute number.

17

What we came down to is a total demand of about

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18 18.4 million gallons per year, and that's an  
unmet demand of

19 about 6.3 million gallons. That like I was  
saying at the

20 very beginning of my testimony is one method of  
determining

21 need but it's not the only and it's not the  
absolute.

22

23 MR. TEDESCO: Would you like to elaborate more on that?

MR. STEERE: Sure. So well, I mean we look at  
what the real definition of need is that we have to prove  
is going to be the necessary convenience for the community  
if

3 something that makes it more convenient to purchase fuels

4 here than they could at somewhere else, for example. And  
so

5 as Mr. Lenhart and Ms. Dean pointed out, there's new access

6 points to this site that will be more functional. The site

7 will be well lit and organized in a way that makes it  
easier

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8 for people to get in and out. The studies have shown that  
9 more than half of people now, 52 percent of gas  
purchasers

10 are going into a store to purchase foods or other goods,  
and

11 they have to be able to do that in a convenient and fast

12 way. And so, you know, going to some of the older

13 facilities won't be as efficient and fast. And so this is

14 state of the art, this becomes a much greater convenience

15 item for the community and it will improve some other  
issues

16 in the community such as access, whereas now you have four

17 access points on Landover Road you're coming down to one.

18 You know, so it becomes one of the factors that we look at

19 in determining need and the convenience as per Prince 20

George's County case law.

21 The other would be, well actually that kind of

22 covers it. We're talking about supply and demand

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calculations, the traffic and the use itself so.

MR. TEDESCO: Based upon that and your conclusions in your report, did you have an opinion as whether or not

the need for the gas station is met in this trade area?

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MR. STEERE: I believe that the need is met in this trade area. There is no other station like it in the trade area at this point. I will point out I think in full disclosure I have to point out that Royal Farms has received approval for a gas station at the far north end of this 7 trade area at Pennsy Drive and Ardmore Ardwick (phonetic 8 sp.) that's no under construction yet.

9

MR. TEDESCO: Mr. Steere, you had testified 10 previously that there was different trade areas for the

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convenient and you started to elaborate on why that was. Could you expound upon that a little bit more and then go into describing what the trade area is for the convenience 14 store and what your findings were?

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15 MR. STEERE: Sure. So the convenience store as I  
16 pointed out before, people will drive, they'll  
drive even  
17 more than six minutes, they'll drive 10 minutes  
out of their  
18 way to save pennies per gallon on gas. But  
convenience  
19 store goods are pretty much a static expense  
across all  
20 different vendors. So you know you could walk  
into the 7-  
21 Eleven and find the same soda for roughly the  
same price as  
22 you would at the Royal Farms. So people won't go  
as far out  
23 of their way to go to a convenience store. Now  
they will go out of their way to get to this  
convenience store because it offers fresh foods  
that the other stores in the area do not offer.  
So we reduced the trade area for the convenience  
store and I believe that it's illustrated on page  
29.

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3 Basically the north side of it is the residential area,  
4 Dodge Park and the metro station sites and some of the 5  
industrial and then the southern part is, I'm drawing a  
6 blank on the name, hold on.

7

MR. TEDESCO: Columbia Park?

8

MR. STEERE: Columbia Park Drive. So it's taking  
9 in a much more residential neighborhood and  
less industrial

10 because they'll go in different directions. So once again  
11 it could have been to the other side of Route 50 towards  
12 Cheverly, either trade area could have gone on the other  
13 side of Route 50 to Cheverly, given that there's a dirge of  
14 commercial uses available along Landover Road between Route  
15 50 and the BW Parkway. But we didn't go across there and  
we  
16 found that it was sufficiently necessary or needed in this  
17 particular market area. So we just computed on a smaller  
18 area.

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19 Now our areas are a little jagged in shape  
because

20 we used census tracker, census block groups as a  
very solid

21 source of data, rather than a custom number.

22 MR. TEDESCO: And could you summarize your

23 conclusion with respect to reasonable convenience  
for the food and beverage?

MR. STEERE: Yes. So in my opinion this  
particular store, the Royal Farms convenience store with  
fresh foods is unlike any other store in the community. 3  
It's sitting on the side of a major commuter highway and  
4 also in front of a large residential high density  
5 development. It is a convenient and necessary element to 6  
this community and you know that's what I have. 7 MR.

TEDESCO: I have no further questions, Madam 8 Examiner.

9 MS. MCNEIL: Mr. Steere, I just have one. I  
think

10 I know the answer, but I think I'll use the  
expert. And

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11 that is on one of your pages you said the price  
of gas has

12 gone down so you expect, where is that --

13 MR. STEERE: Say that again?

14 MS. MCNEIL: -- the price of gas had gone down.

15 On one of the pages you say the price of gas has  
gone down

16 and so that would impact, the price of gas has  
gone up 17 slightly, does that change anything  
within this document to 18 any real degree?

19 MR. STEERE: It doesn't. Really people that spend 20  
the money on gas that commute are going to spend the money  
21 on gas to commute regardless of the price. They'll  
complain

22 about it until the end of the day, I get it, I do too. But  
23 it's going to make the particular per household expense  
change, but it's not going to, if it goes up then the per  
household expense is going to go up and it's going to still  
compute out to roughly the same gallonage (phonetic sp.),

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because the miles per gallon is what they're working off of.

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MS. MCNEIL: Okay.

4

MR. STEERE: There is definitely delay in data

5

that comes through, you know, it's not absolute, I'll be

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honest with you. I mean some of the stuff is a couple years

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old, some of it's a year old, we take the latest numbers we

8

can on price of fuel and we put that in the

report and say 9 as of this particular date, you

know, the report, because we

10 can't determine when the next oil spill is going to be. 11

MS. MCNEIL: And my next statement is just a

12

comment and really more of a joke but a lot of parents who

13

can't get on the school bus are speeding along 202 to get to

14

Dematha, so you probably would have some fast food traffic

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15 that goes further beyond 50. Okay.

16 MR. STEERE: Oh yes.

17 MS. MCNEIL: I'll turn it over to Mr. Brown. 18

MR. BROWN: That's from someone who had a  
child at

19 Dematha. Good morning, Mr. Steere.

20 MR. STEERE: Good morning.

21 MR. BROWN: Just two or three questions  
concerning

22 the trade area for the convenience store and the  
gas

23 station. You did mention very quickly that there  
is a proposed Royal Farms at Pennsy Drive and  
Ardwick Ardmore

Road. I think that your report on page 25 should be amended  
to illustrate that proposed facility and if it changes any  
of the facts in your document that should be noted. I  
doubt

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if it changes the facts, but I think you need to  
include it.

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MR. STEERE: I believe there's a reference to it in the report, I don't think we put it in the chart, but we

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wrote it in the report. Yes, it's on page 27 in the first 7 full paragraph.

8

MS. MCNEIL: I would like to note for the record 9 that these page numbers appear to be slightly different if 10 you print the document.

11

MR. TEDESCO: They are. I was just getting ready to say Mr. Brown, I think if you have it printed it's page

12

13

28.

14

MR. BROWN: Page 28. Okay.

15

MR. TEDESCO: Page 28, so everything is off by one 16 page from Mr. Steere's testimony and the actual report once 17 printed. Page 28 at the top of the page, it's the paragraph

18

that starts our review of the development pipeline.

19

MR. BROWN: Yes. All right. At least you

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addressed it textually. But amend what is my page 25, the

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aerial photograph, at least identify it on that diagram and

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submit that in the record. The other question I had was

23

with regards to a convenience store trade area. You did not include, at least I didn't read it, the proposed Exxon convenience store at the intersection of Martin Luther King Route 704 and Ardwick Ardmore Road, which is proposed. The gas station exists, the convenience store is proposed.

3

MR. STEERE: No, I wasn't aware of that one. 4

5

MR. BROWN: Yes. Please include that in your

6

report concerning the convenience store analysis. If it changes any of your facts, then you know so indicate. And

7

then also in the convenience store --

8

MR. TEDESCO: Mr. Brown? Mr. Brown? Where was 9 that again, I'm sorry?

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10 MR. BROWN: It's the Exxon at the intersection of  
11 Route 704 Martin Luther King Avenue and Ardwick  
Ardmore Road

12

--

13

MR. TEDESCO: Okay.

14

15

MR. BROWN: -- in what will probably be the  
northwest corner of that intersection.

16

MR. TEDESCO: Okay.

17

MR. BROWN: It has been approved for a  
convenience

18

store.

19

MR. TEDESCO: Thank you.

20

21

MR. STEERE: Just to clarify that I will, I mean  
we included that gas station clearly, the  
convenience store

22

there --

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MR. BROWN: That's why I said it related to the  
convenience store, you did include the gas  
station.

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MR. STEERE: Right. It's not in the convenience



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store trade area that I came up, it's outside of that, so I'm not expecting that this is going to have a direct impact 3 one way or the other on our convenience store proposal.

4

5

MR. BROWN: All right. And then also looking at your convenience store trade area, did you indicate that it 6 terminates at the Capital Beltway and Route 202 with regards

7

to that side of the trade area, is that correct?

8

MR. STEERE: I'm sorry, explain that again. 9

MR. BROWN: All right. I was looking at your 10 trade area on page, my page 30, neighborhood trade area.

11

MR. STEERE: Okay.

12

MR. BROWN: Is that the trade area you have for the convenience store?

13

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MR. STEERE: Correct, yes.

15

16

MR. BROWN: All right. And you said the trade area for the convenience store, it's smaller than for the 17 gas station given that six minute drive analysis, is that

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18 correct?

19 MR. STEERE: Yes, more or less, yes.

20 MR. BROWN: Yes. So the 7-Eleven gas station but  
21 my concern really is the convenience store the 7-  
Eleven

22 convenience store proposed at St. Joseph's Drive  
and Ruby

23 Lockhart Drive would not be in your trade area,  
is that correct?

MR. STEERE: I don't believe so, no. The 7-  
Eleven at Saint, oh yes, no. You mean on Bright Seat Road  
at Ruby Lockhart or no (indiscernible).

3 MR. BROWN: No, Ruby Lockhart Drive and St.

4 Joseph's Drive I believe it is.

5 MR. TEDESCO: Yes, that's up by Woodmore Town  
6 Center.

7 MR. BROWN: Right.

8 MR. STEERE: Right. No, no, right. Okay. Yes,  
9 no there's a 7-Eleven up there and I think a  
Royal Farms was

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approved up there as well. But they're well  
outside,

11

they're outside of the beltway.

12

MR. BROWN: All right.

13

MR. STEERE: Different market.

14

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

15

MR. TEDESCO: Thank you, Mr. Brown. 16

17

MS. MCNEIL: Thank you, Mr. Steere. You don't  
have other redirect, correct?

18

MR. TEDESCO: I don't.

19

MS. MCNEIL: Okay. Thank you, Mr. Steere.

20

MR. STEERE: Thank you.

21

MR. TEDESCO: Thank you, Madam Examiner. And our  
22 final witness would be Mr. Mark Ferguson.

23

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

24

MR. FERGUSON: I do.

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MS. MCNEIL: There's no reflection on Mr. Ferguson's ability to speak, but I need a three minute break, if you all don't mind. So could we take just a three minute break?

6

MR. TEDESCO: Absolutely, Madam Examiner. Thank you.

7

8

MS. MCNEIL: Don't turn off. Okay.

9

(Off the record.)

10

(On the record.)

11

MS. MCNEIL: Okay. So Mr. Ferguson has been sworn in and I thank you all for the break.

13

MR. TEDESCO: Yes. Thank you. It's sad to say I couldn't remember if we swore him in already or not. Mr. Ferguson, forgive me for duplicating, but please state your name, address and occupation for the record.

17

MR. FERGUSON: My name is Mark Ferguson, my business address is 9500 Medical Center Drive, Suite 480 in Largo, Maryland.

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20 MR. TEDESCO: Madam Examiner, Mr. Ferguson on  
21 numerous occasions has qualified as an expert  
land planner  
22 and we would ask that he be accepted in that  
capacity this 23 morning.

MS. MCNEIL: He will be accepted as an expert in the  
area of land use planning.

MR. TEDESCO: His CV for the record is Exhibit 38.  
Mr. Ferguson, are you familiar with the special exception  
3 application that's the subject of this hearing?

3

4

MR. FERGUSON: Yes, I am.

5

MR. TEDESCO: And could you tell us just briefly  
6 the development history of the subject  
property?

7

MR. FERGUSON: So going back in time, I believe in  
8 the early 1960's the Parcel G-9, the northeastern  
corner was

8

9

actually a mini-golf course. Subsequently it was  
10 redeveloped into what is now the Lenny's  
restaurant and even

10

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11           though I have driven by this property twice a day  
for 32

12           years, and including the time before the  
development of the

13           Checkers, I've been trying to remember what was on  
the

14           property before it was a Checkers, and the best I  
can come

15           up with was an Arby's, but I could be mistaken on  
that. But

16           at any rate it was a fast food use of some sort,  
which then

17           in 1998 was taken down and redeveloped into the  
Checkers

18           which is on the property at the current time. So  
the 19 properties were recorded in plats  
throughout the early and 20 mid-1960's.

21           Originally, what is now Kent Town Drive which is

22           the private road on the west of this special  
exception area,

24

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23

had been a public road which had been there for a long time, so it really lead down through Kent Village and Columbia

Park down to Columbia Park Road and ultimately to what was then Palmer Highway, now Martin Luther King Boulevard. In I believe the 1980's it was formally vacated and its land area

3 was incorporated into what is now Parcel K, but it's, you 4 know, historically of long standing public road that's now 5 private.

6

MR. TEDESCO: And it operates that way, correct?

7

MR. FERGUSON: It does. I mean it still looks

8

like a public road, it still has the public speed limit

9

signage on it that presumably was there before its vacation.

10

It does have curb and gutters still and it's no longer

24

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11

signed, you know as Kent Town Drive. But if you look at it, 12 it looks like a public road, it acts like a public road.

13

14

When there were accidents at the intersection of Kent Town Place as there was last week, people go down it and then 15 come back to get around the accident, so.

16

17

MR. TEDESCO: And did you prepare a land planning report for this application?

18

MR. FERGUSON: I did.

19

MR. TEDESCO: In addition to any testimony that 20 you provide today, do you further incorporate and adopt as

21

your testimony that land planning report?

22

MR. FERGUSON: I do.

23

MR. TEDESCO: And Madam Examiner, that's been marked as Exhibit 58. You heard testimony today from Ms.

Dean and do you agree with her description of the existing conditions and adjoining uses?

24

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MR. FERGUSON: I did. She didn't really talk much  
3 about the adjoining uses, there are shopping centers to  
4 either side of the property, the Kent Town Village to the  
5 west, which it also is on part of parcel, the other part of  
6 Parcel K, if you will, as well as other parcels. To the  
7 east is the Stadium Station Shopping Center. There are gas  
8 stations at either end of each and then certainly as you go  
9 throughout the rest of the neighborhood, there's actually  
10 quite an eclectic mix of uses including the metro station,  
11 including industrial uses, including service commercial,

12

auto storage, auto repair uses, retail  
residential ranging

13

from duplexes through towns to multifamily. And  
of course,

14

the fire station that was referred to earlier,  
it's about a

15

quarter mile up the road so it's a very eclectic

16

neighborhood.

17

MS. MCNEIL: Mr. Tedesco, if I can stop right

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18 there because he reminded me of something I was  
going to ask

19 earlier. I don't get on enough of the metros but  
when the

20 witness said the metro station is across the  
street, isn't

21 it sort of like across the street and some  
distance back?

22 MR. FERGUSON: Yes. So immediately across

23 Landover Road there's a strip of service uses in  
between New Landover Road and Old Landover Road  
and then actually WMATA has some of that property  
and then of course their station begins right  
above it. But it is a ways up actually, Pennsy  
Drive.

3 MR. TEDESCO: No, good question. Just to proffer

4 it, as the crow flies the center of the platform  
for the

5 metro station to this property is over 2,700 feet  
away, as

6 the crow flies and you know and you know that  
goes over

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7

Metro Point and Industrial across Pennsy and then obviously 8 the parking lot. So pedestrian and or vehicular it's

9

farther than that, but it's 2,700 feet as the crow flies.

10

Mr. Ferguson, you've touched on neighborhood or character of the neighborhood. Do you have an opinion as to

11

12

the neighborhood as it's required from the special exception 13 standpoint, the zoning standpoint?

14

MR. FERGUSON: Well, from a land use perspective, 15

I do. I think the staff got a little lost in their

16 definition. They refer to Baltimore Avenue as being one of

17 the edges, which mystified me to be candid. And then just

18 really they looked at the neighborhood as the limits of the

19 property. So you know I'm not sure what happened there, but

20 the way that I look at it, I would run on the west down to

21 the railroad tracks of Route 50, on the east out to Martin

24

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22 Luther King Boulevard. The south is, you have a choice, a  
23 number of choices I chose Cattail Branch which is a stream  
that is near the property, been enclosed by fencing into a  
concrete channel. So really --

3

MS. MCNEIL: So you chose it because you know I  
couldn't picture it. I know this area well, but where is  
that again?

4

MR. FERGUSON: So it really --

5

MS. MCNEIL: What else is near it? Go ahead.

6

MR. FERGUSON: It is just to the south of, it  
runs

7

behind the shopping center, it cuts through the  
Kent Town

8

Village Apartments, dividing the Kent Town  
Village

9

Apartments into two sides that are separated by  
this fenced

10

off concrete channel and then goes running back  
through Kent

11

Town really to the south and east. So it's a

24

pretty 12 particularly given the fencing, it's a

25

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pretty substantial 13 barrier, so that's what I chose.

14

The playground that's in question is actually on

15

the far side of Cattail Branch, even though Parcel K which

16

is within the property limits of Parcel K are within 300

17

feet of the subject property, it's the eastern portion 18 across the floodplain or across the Cattail Branch Channel, 19 which is within that 300 foot limit.

20

MS. MCNEIL: So excuse me again. Well, I have a

21

right to pepper you with questions, sorry, Matt.

22

MR. FERGUSON: Yes, indeed.

23

MS. MCNEIL: So, are you saying that the playground --

MR. FERGUSON: I enjoy it, Madam Examiner.

MS. MCNEIL: Are you saying the playground is beyond our neighborhood or it is still --

3

MR. FERGUSON: I am.

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MS. MCNEIL: -- in the neighborhood?

5

MR. FERGUSON: I am so you know what -- 6

MS. MCNEIL: Well, we need to have the  
playground 7 in the neighborhood.

8

MR. FERGUSON: Well, so if that were the case then

9

I would say Madam Examiner, you could reasonably  
extend the

10

neighborhood down to Hawthorn Street once it  
crosses, well

11

actually even Hawthorn. It would be on the other  
side of

12

Hawthorn Street. You could go a block south to, a  
block

13

south of Hawthorn is like -- 14 MR. TEDESCO:  
Forest.

15

MR. FERGUSON: -- Forest Road. So you could

16

reasonably --

17

MS. MCNEIL: So but do you have a problem with

18

Hawthorn and then you could like some of the  
staff's

19

neighborhood?

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20 MR. FERGUSON: No, I would not have a problem  
with

21 that.

22 MS. MCNEIL: Okay. Okay, sorry.

23 MR. FERGUSON: Yes.

MR. TEDESCO: And I believe we are allowed to look at  
things just beyond the neighborhood from a zoning  
perspective, if that is needed for the playground. But  
again and Madam Examiner, there's pictorial representations

3 of Mr. Ferguson's testimony in the justification  
statement.

4 We provided street view exhibits that really show  
that

5 Cattail Channel fenced off and it's a pretty  
substantial

6 demarcation, but it is in the justification  
statement and

7 there's some aerial photos within the  
justification

8 statement as well for your edification.

9 MR. FERGUSON: And then I did include, by the  
way,

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the properties even though Landover Road is an arterial and

11

a divided arterial. I did include the properties on the 12 north side of Landover Road, which extend from Dodge Park 13 all the way down to the metro station.

14

MR. TEDESCO: How would you generally characterize 15 your zoning neighborhood?

16

MR. FERGUSON: Yes, so its core is the Landover

17

Road commercial strip in between 704 and US 50 or the

18

railroad tracks. But as a whole it is very

eclectic, as I 19 testified earlier. There's

every range of land use type you

20

can find here.

21

MR. TEDESCO: What Sector Plan governs this 22 property?

23

MR. FERGUSON: The Landover, I'm sorry, the Landover Metro Area 202 Corridor Sector Plan which was approved in 2014.

24

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MR. TEDESCO: And have you had an opportunity to review that document?

3

MR. FERGUSON: Yes, I have.

4

MR. TEDESCO: And what land uses does the Sector 5 Plan recommend for the property?

6 MR. FERGUSON: For the subject property and the

7 Landover South area which is the area of the Sector Plan

8 south of Landover Road, it recommends mixed-use residential

9 land use, which is described as being principally 10

residential but with neighborhoods serving retail and 11

commercial uses as well throughout the area.

12

MR. TEDESCO: And what is your opinion with

13

respect to that recommendation and this proposed

14

application?

15

MR. FERGUSON: Well like the planning staff, I

16

believe that we're in conformance, so certainly the land use

17

recommendation is not intended and staff agrees with this to

24

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18 be parcel specific, but rather a description of  
the whole

19 area. So if you have on a comparatively small  
site let me

20 actually digress for a moment. You stated in  
your opening

21 statement and the Staff Report states as well  
that the real

22 estate agent of the special exception is four and  
a half

23 acres. That's actually incorrect. The special  
exception area as to limited on the Special  
Exception Site Plan is only 1.87 acres. And the  
Special Exception Site Plan does

in fact say that. The entirety of Parcel K, Parcel G-9 and  
Parcel H is in fact 4.48, but only a portion of that is the  
3 special exception area and the Zoning Ordinance specifies  
4 that for a special exception the property is the special 5  
exception area and the special exception area is only 1.87  
6 acres.

7

24

So to back off my digression for a property of

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just that size, that would comfortably fit within  
a

9

horizontal mix of uses throughout the south  
Landover area.

10

MR. TEDESCO: And based upon your familiarity  
with 11 the application and your land planning  
report, in addition

12 to your testimony and the testimony that you heard  
today, do

13 you believe that this application complies with the 14  
recommendations contained in that Sector Plan?

15 MR. FERGUSON: I do. I do. And there are a

16 number of other more specific recommendations  
that sort of

17 amplify that land use recommendation, so there  
are

18 transportation recommendations. One of the  
things that the

19 transportation recommendations specifically seek  
to do is to

20 minimize the number of entrances on Landover  
Road, which

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21 this application really is doing very, very well.  
We're

22 going along the Landover Road frontage from four  
existing

23 entrances down to one. The new entrance will be  
at a greater distance from the Kent Town Place  
intersection which will provide greater safety  
and better intersection

operation. And it will speak to one of the other Master  
Plan recommendations which is to improve the crosswalks

3 across Route 301. So the Master Plan  
specifically

4 recommends --

5 MR. TEDESCO: Mr. Ferguson, real quick, you said  
6 across Route 301.

7 MR. FERGUSON: 202, I apologize.

8 MR. TEDESCO: Well if you were correcting me, I 9  
thought I'd correct you.

10 MR. FERGUSON: Then I'm happy to take, thank you.

24

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11 It specifically recommends closure of the eastern  
most

12 entrance on this property to improve the  
crosswalk across 13 Route 202. So certainly that  
eastern most entrance is being

14 closed here as well as two others.

15 The Master Plan makes environmental

16 recommendations about the redevelopment of this  
area,

17 including the incorporation of environmental site  
design

18 methods for storm water management, which this  
application

19 proposes. It includes meeting or exceeding the  
tree canopy

20 coverage requirements, which this application  
proposes as

21 well. So there are a number of very specific

22 recommendations in addition to the land use

recommendation 23 that this plan will actively  
implement.

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MR. TEDESCO: And all of those items are provided in your analysis in greater detail?

MR. FERGUSON: They are.

3

MR. TEDESCO: Turning to the required findings under 27-358, Ms. Dean testified to, generally testified to

4

the conformity of those requirements, would you care to

5

elaborate any further on any of those?

6

MR. FERGUSON: So let me go back to start with the

7

separation requirement. Mr. Brown's legal mind is acute,

8

his eyes for distance are also acute when he said it looks

9

like the playground is a lot further than 229 feet. That is

10

correct. The playground is approximately 700 feet distance

11

from the limits of the proposed special exception. That I

24

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think is also shown on one of Ms. Dean's exhibits as well, 13 that may have gotten muddied in some of the testimony.

14

I believe that the architecture is something that

15

I can speak to as well. Certainly, the Royal Farms

16

architecture here is compatible with the commercial

17

character of the Landover strip. It will actually be newer

18

and nicer, one of the things that made me laugh a little bit

19

about this application is that the Checkers is probably the

20

newest and nicest of all of the development along the 202

21

corridor, so it's ironic that that's the one that's being

22

redeveloped. But you know there we are, so this will again

24

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be the newest and nicest thing along this part of  
202. MR. TEDESCO: Are you familiar  
with the requirements of 27-317?

MR. FERGUSON: I am.

3

MR. TEDESCO: And does your report go into detail  
with respect to those findings?

4

MR. FERGUSON: It does.

5

MR. TEDESCO: And did the statement of  
justification do that as well?

6

7

MR. FERGUSON: It did, yes.

8

MR. TEDESCO: And for brevity, would you 9  
incorporate and adopt that written testimony as  
your

10

testimony or would you like to elaborate on  
anything?

11

MR. FERGUSON: I do. No, I think that points  
that

12

would need to be emphasized are really sort of  
the Schultz

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13 v. Pritz (phonetic sp.) points you know which are  
14 simply

15 given the very diverse character of uses in the

16 neighborhood, the combination of the vehicular

17 entrances to 16 improve safety, the provision of

18 modern storm water

19 management where there is none, and the augmented Landscape

20 Plan to suggest that this property would have less of an

21 adverse impact here than at a generic C-S-C Zone site and  
22 so

23 really that's sort of, I believe the court has sort of

24 summed up all of those special exception requirements into

25 you know that requirement and those I think are the points

26 to emphasize.

MR. TEDESCO: Turning to the requested variance, and  
were you present when Mr. Brown was questioning Ms. Dean  
with respect to the location of the gas pumps and the  
applicability or the potential mootness of the variance and

3

did you hear that testimony and commentary?

4

MR. FERGUSON: I did hear all of that, yes.

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MR. TEDESCO: And did you have any thoughts on 6  
that from your expertise and or as a practitioner  
to provide 7 any insight on that?

8

MR. FERGUSON: So I certainly would have preferred

9

Mr. Brown's analysis to have carried forward in  
how the

10

aspartations (phonetic sp.) have been regulated and  
reviewed.

11

But I do agree with your summary as well that they  
in fact

12

have been reviewed comprehensively so that the  
special

13

exception limit for the combined store of the food  
and

14

beverage and the gas is what seems to have  
governed in the

15

past. And so therefore we have this property to  
property

16

separation of less than 300 feet even though as  
Mr. Brown

17

did observe, the playground itself is  
substantively more 18 distant.

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19 MR. TEDESCO: Did your land, strike that. Did  
you

20 review the analysis provided in the statement  
of 21 justification with respect to the  
requested variance?

22 MR. FERGUSON: I did.

23 MR. TEDESCO: And did you prepare your own  
analysis in your land planning report regarding the  
variance?

MR. FERGUSON: I did.

MR. TEDESCO: And could you summarize or provide  
3 additional thoughts or testimony with respect to the 4  
requested variance and how, strike that, and whether it 5  
meets Section 27-230 of the Code?

6 MR. FERGUSON: So my opinion is that it does and  
7 there are a couple of criteria actually that speak  
to it.

8 First of all, you have some exceptional shape,  
which is the

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9 triangular nature of the site and it's really the  
point of

10 the triangle which is substantively unoccupied,  
which

11 extends down into the 300 foot limit. So as was  
testified

12 earlier all of the actual activity whether it's  
for the

13 convenience or for the gas, is well outside of  
that area and

14 were this property regularly shaped, you know, we  
wouldn't 15 be talking about this.

16 The second extraordinary condition, frankly, is  
17 the barrier of Cattail Branch, which separates  
the parking

18 lot, I'm sorry, which separates the playground  
from the

19 subject property as a barrier. So were the Kent  
Village

20 Apartments to be developed today, that floodplain  
would be a 21 separate parcel, separating  
apartments on the one side of

24

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22 Cattail Branch from apartments on the other. But because of  
23 the age of it, Parcel K just extends right across Cattail  
Branch leaving the eastern part within the dimensional limit  
whereas the playground on the western part, even though it's  
substantially separated nonetheless occupies the same piece  
of property. That wouldn't happen today, so that's an 3  
extraordinary situation or condition in my opinion.

4 MR. TEDESCO: And with respect to the other 5 required  
findings it's your opinion that those have been 6 met?

7

MR. FERGUSON: It is and this would not impair  
the

8

Master Plan in any way. It doesn't affect, you  
know, the

9

conformance of this use with the Master Plan's

10

recommendation and obviously not being able to  
put a gas

11

station on this site would be a peculiar and  
unusual 12 practical difficulty or an exceptional  
and undue hardship, 13 in my opinion.

14

MR. TEDESCO: Just a final question. You heard

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15 Ms. Dean testify with respect to the conditions  
of approval.

16 Have you had an opportunity to review those  
proposed

17 conditions from the Staff Report in reference --

18 MR. FERGUSON: I have.

19 MR. TEDESCO: -- to the Exhibit 57 the Revised  
20 Site Plan?

21 MR. FERGUSON: I have.

22 MR. TEDESCO: And do you have any thoughts or  
23 opinions with respect to the applicability of  
those conditions?

MR. FERGUSON: So I agree with Ms. Dean's  
testimony, you know, the signs are indicated on the plan.  
The canopy coverage schedule is correct with regard to the  
3 provision of Subtitle 25, which not permits, it requires in  
4 redevelopment situations to use the limit of disturbance.  
5 The 4.10 landscape schedule is correct because it reflects  
6 the private road frontage along Kent Town Drive. And the 7

24

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4.6 schedule for the historic planting along Landover Road 8  
is also there.

9 MR. TEDESCO: I have no further questions, Madam 10

Examiner.

11

MS. MCNEIL: One quick question for both of you

12

then and I'm sorry that I guess I didn't have  
enough coffee

13

this morning. So because you basically feel the  
staff was

14

incorrect on the conditions, your Site Plan  
wasn't changed

15

in any manner from the one reviewed by staff, was  
it? I 16 thought you had a new Site Plan. It's  
the same one, right?

17

It was reviewed by staff?

18

MR. TEDESCO: I would have to recall Ms. Dean to  
answer that efficiently or effectively.

19

20

MS. MCNEIL: I'm sorry.

21

MR. TEDESCO: That's okay. Ms. Dean -- 22

MS. MCNEIL: Is she still here?

24

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23 MR. TEDESCO: Yes, she's still here. I'm  
reminding you you're still under oath, did you hear that  
question from the Examiner?

3

4

MS. DEAN: I did. I believe the only change that was  
made to address the comments from staff was the revision  
of the tree canopy coverage schedule to change the, the  
area  
of analysis from the overall parcel area to the limits of 5  
disturbance. But no changes were made to the landscape and  
6 buffer schedules.

7

MS. MCNEIL: Thank you for that. And Mr. Tedesco, 8 is it  
possible for me to get an actual copy of that Site 9 Plan delivered  
to the drop box, whenever it's convenient for 10 you all?

11

11 by 17 okay?

13

MS. MCNEIL: That's better than what's on this 14  
computer, yes, 11 by 17.

15

16

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25

MR. TEDESCO: I can get 11 by 17 to you to the  
drop box today. But --



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17 MS. MCNEIL: Well, I won't go today, but whenever  
18 you can.

19 MR. TEDESCO: Well, I mean, I drive by it on my  
20 way home so I can drop it off on the way home  
today and then

21 Ms. Dean if you could overnight a full set and  
then we'll 22 drop that off on Thursday.

23 MS. DEAN: Sure. Do you want me to overnight it to you,  
Matt?

MR. TEDESCO: Yes, please, yes.

MS. MCNEIL: Thank you all.

MR. TEDESCO: But yes, Madam Examiner.

3

MS. MCNEIL: Thank you all. I actually don't

4

think I have another question of Mr. Ferguson.  
Mr. Brown?

5

MR. BROWN: Yes, good morning, Mr. Ferguson.

6

MR. FERGUSON: Good morning, Mr. Brown.

7

MR. BROWN: So my first question is since you  
have

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8

driven past this property for the past 30 years  
--

9

MR. FERGUSON: Yes.

10

MR. BROWN: -- have you ever had the pleasure of  
stopping at the playground and partaking in the  
facilities?

11

12

MR. FERGUSON: I have not. It is as the  
statement

13

of justification says kind of tucked away but I  
believe it's 14 right now it's principally a  
basketball court.

15

MR. BROWN: And that's really where my question  
is

16

going. Has anybody actually taken a photograph  
of the

17

playground? What facilities are on the  
playground?

18

MR. FERGUSON: Yes. From my inspection was of  
the

19

playground itself was aerial. It looks awfully  
like a

20

basketball court.

24

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21 MR. BROWN: And --

22 MR. TEDESCO: Yes, if I may? We did an analysis

23 of the aerial and there is a basketball as well  
as a playground facility with swings and a slide.

MR. BROWN: All right. Because I mean in my  
youthful days, I've been on that apartment complex many  
times. I don't recall the playground, but of that having  
3 been said, my issue is you know, is a playground part of  
the

4 Site Plan for Block F which is Kent Village Apartments, do  
5 you know?

6 MR. FERGUSON: I do not know. I mean I think  
the

7 age, so that was developed in I believe the  
early 60's,

8 which I would expect for that use predated a  
Site Plan

9 requirement.

10 MR. BROWN: Right.

24

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MR. FERGUSON: Let me pull out my Historic  
Zoning 12 Ordinance and verify that.

13

MS. MCNEIL: If only we could have gone back to 14 that  
size.

15

MR. FERGUSON: Yes. I do not see under the R-18  
Zone requirements and they're only three pages  
long, that

16

17

was the good old days, a requirement for approval  
of a Site

18

Plan and there were no Detailed Site Plans, you  
know, with a

19

capital D back then. So unless that property was  
subject to

20

a condition of rezoning which required Site Plan  
approval,

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which I do not have any knowledge of, I would  
suspect that 22 was just done under a building  
permit.

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MR. BROWN: And that begs the question that if a plot of  
ground is utilized as a basketball court, if there is no  
permit for quote unquote a playground and there are no

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facilities that we normally would identify as playground facilities, is it truly a playground? And I'm not trying to be funny, but simply because the ordinance indicates that your use must be within 300 feet or more than 300 feet from the lot line, I mean anybody can put up a playground and say

6 this is a playground.

7 MR. FERGUSON: That's correct.

8 MR. BROWN: And so you know if you guys could take  
9 photographs of this playground and put that in the record  
10 just so that we have it that'll be helpful.

11 MR. FERGUSON: Yes. I would agree with your  
12 analysis, Mr. Brown, it's been problematic. I  
have been  
13 involved in cases that we didn't even bring to  
this Examiner  
14 because an adjoining property owner put up a  
playground just  
15 because they thought it would be a good idea  
subsequent to a

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16 Site Plan approval. And you know, right next to  
the site, I

17 was like okay you know, what can we do about  
that, but

18 didn't have the same sort of topographic and  
physical

19 separations.

20 MR. BROWN: Yes.

21 MR. TEDESCO: I think we're kind of going -- 22

MR. FERGUSON: Astray?

23 MR. TEDESCO: -- there is a definition in the Zoning  
Ordinance for playground that does exempt, you know a  
playground associated with single family detached but not  
necessary playgrounds associated with apartment complexes  
and or other types of, you know, rec facilities. But I was  
3 looking through our justification statement because we do  
4 have street view images, Mr. Brown, and unfortunately none  
5 of the street view images that we have capture the  
6 playground primarily because it's screened from the  
streets.

7 However, there is one that we could supplement if the

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8 Hearing Examiner so desires that does show it and it does  
9 have a slide and swing set associated with it. But we can  
10 also take photographs and submit those in the record as 11  
well.

12 MR. FERGUSON: I can get one this evening on my 13 way home.

14 MR. TEDESCO: And yes, I would proffer I guess  
one

15 of the luxuries of having these remotely or  
virtual is that

16 I have the ability to go on P.G. Atlas while  
people are

17 testifying and I did go through the aerial  
photographs from

18 1965. In various forms throughout the last 50  
years, 40

19 years, excuse me --

20 MR. FERGUSON: 50.

21 MR. TEDESCO: -- actually 50 years --

22 (Off the record.)

23 (On the record.)

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MS. MCNEIL: And so maybe you'd have to argue that the law is wrong so, do you have other questions, Mr. Brown?

MR. BROWN: Yes. The last question, Mr. Ferguson, Kent Village Apartments Block F, does it include multiple  
3 lots?

4 MR. FERGUSON: No, it's just one big parcel. 5 MR.  
BROWN: All right.

6 MR. FERGUSON: You're speaking of the property  
7 with the playground on it on the south side of Hawthorn 8 Road, I don't have the plat open in front of me. Right?

9 MR. BROWN: Right.

10 MR. FERGUSON: Yes, that's one big parcel.

11 MR. BROWN: Okay.

12 MR. FERGUSON: No subdivision of it.

13 MR. BROWN: All right. No further questions.

14 Thank you.

15 MR. TEDESCO: Thank you, Mr. Brown.

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16 MS. MCNEIL: Thank you, Mr. Ferguson.

17 MR. FERGUSON: Thank you everybody.

18 MR. TEDESCO: Thank you, Mr. Ferguson. Madam

19 Examiner, we would submit, we have no further  
witnesses. I

20 would note that I don't see anybody else in the  
attendee

21 list, but we did have one gentleman but he left  
about an

22 hour ago. So I don't have any further witnesses.  
I'm

23 prepared to close with just a closing statement.

MS. MCNEIL: Please proceed.

MR. TEDESCO: Thank you, Madam Examiner. So with  
the testimony that you've heard this morning as well as all  
the exhibits in the record, as I mentioned at the outset in  
3 our opening, we do believe that there is substantial  
4 evidence in the record to support the request of special  
5 exception. Inasmuch as it is applicable, the variance from  
6 Section 27-358(a)(2) as all findings required for approval

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7 under 27-317, 27-355, 27-358, as well as 27-230 for the 8  
variance we believe have been met and there is substantial

9 evidence in the record to support the same.

10 I want to thank you for your review of this

11 application, for Mr. Brown's attendance as well  
as his

12 questioning of the witnesses to ensure a complete  
and

13 thorough record and with that, Madam Examiner, we  
would

14 respectfully request your recommendation and  
hopeful

15 ultimate approval of this application. Thank  
you.

16 MS. MCNEIL: Okay. And just to clarify for the  
17 record, tell me if I'm wrong, is everyone gone?  
Oh there

18 you are. Something covered your face. Tell me  
if I'm wrong

19 but we, just to make the record clear, you  
submitted a new

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20 Exhibit 4 that we swapped in for the old 4?  
Exhibit 29 will

21 stay blank, there will be nothing there and  
everyone knows 22 it's because we had to delete  
something that did not belong

23 in this record. Can you submit a picture of the playground?

MR. TEDESCO: Yes, I can do that. I probably can do  
it before Mark can and get it to your staff this  
afternoon.

MS. MCNEIL: Okay. And is Mr. Steere able to 3  
submit a revised page to show the other Royal Farms, not  
4 just in the wording, but in the chart?

5 MR. TEDESCO: So I did have a question on that -- 6

MS. MCNEIL: The gas station planning.

7 MR. TEDESCO: -- because, I did have a question  
on

8 that whether that was needed because as Mr.  
Steere

9 testified, I think Mr. Brown acknowledged, that  
additional

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10 Royal Farms although referenced in the gas  
station analysis

11 was, excuse me, I think it was for the Exxon, the  
Exxon for

12 the convenience store was outside the trade area.  
But I

13 wasn't sure if we needed to include pictorially  
the gas, the

14 Royal Farms that's not yet built on the chart,  
even though

15 it was provided.

16 MS. MCNEIL: Oh it's not, oh.

17 MR. TEDESCO: It's not built yet. It's soon to  
be 18 under construction but not built yet.

19 MR. BROWN: Yes, I don't have a problem, we don't  
20 need it, I didn't see the text that Mr. Steere  
directed us

21 to so since he identified it on a different page,  
we've

22 acknowledged it, there's no problem, I don't need  
the

23 illustration.

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MR. TEDESCO: And then there was a request for the trade area for the convenience to include the Exxon that was recently approved for convenience, but that was outside of our trade area, so I didn't know if that was also acceptable as is or if that was being requested to be revised. 4

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MS. MCNEIL: No, we wouldn't have needed that because it's outside of the trade area.

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MR. TEDESCO: Fair enough.

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MS. MCNEIL: And his record reflects, you know, the transcript reflects all of this discussion.

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MR. TEDESCO: Yes. Fair enough.

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MS. MCNEIL: Okay. And I thank you all for being here --

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MR. TEDESCO: I think all we owe you is a picture of the playground which we will have today.

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MS. MCNEIL: Yes. And so I thank you all for 15 being here, I thank everybody behind the scenes for all you 16 did and I'll see some of you later, including you Mr. Brown.

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17 Thank you all.

18 MR. TEDESCO: Thank you all.

19 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the

3 attached pages represent an accurate transcript of the

4 electronic sound recording of the proceedings before the 5

Prince George's County Office of the Zoning Hearing

Examiner

6 in the matter of:

7

ROYAL FARMS #411 KENT VILLAGE

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Case No. SE-4834

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By:

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*Diane Wilson*

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Diane Wilson, Transcriber

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