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

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VISTA 95 LOGISTICS CENTER : Case No. A-9706-C-01
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A hearing in the above-entitled matter was held on
July 28, 2021, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Maurene McNeil
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Robert Antonetti, 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: Okay. Everyone, good morning. I'm
Maurene McNeil, I will be the Examiner today. Something I
was going to say three sentences from now, I will say at
this moment and that is if you're not speaking you need to
be muted, because we get feedback. So if everybody would
mute their selves. Thank you.

Okay. Today is September 28, 2021, we're here on
the virtual hearing of A-9706-C-01. We forgot to add the 01
earlier but because we're revising a condition, that's how
we number these cases. The applicant is FV Flowers Road,
LLC, and the development name is Vista 95 Logistic Center.
It's a request to amend 16 of the 20 conditions imposed by
the District Council in its 1989 approval of A-9706-C.

It's a virtual hearing again, if you're not
speaking, please remain muted. Please keep your telephone
and your TV muted. If for any reason you get bumped out of
this hearing, you ought to be able to come back in on the
same link. If for any reason we continue the hearing, there
will be a different link. And if anyone present is opposed
to the request, please go into the chat, let us know you're
opposed and let us know if you have any questions of a
witness. And just before counsel identifies themselves for
the record, Dennis and Naomi, I think you two need to go
into the chat just to tell us your last names. So I thank

1 you all and will counsel identify themselves for the record?

2 MR. ANTONETTI: Good morning, Madam Examiner,
3 People's Zoning Council, for the record my name is Robert
4 Antonetti with the Law Firm of Shipley and Horne. I'm
5 pleased to be here on behalf of the applicant, FV Flowers
6 Road LLC. I believe Dennis, Madam Examiner, is Dennis
7 Whitley (phonetic sp.).

8 MS. MCNEIL: Okay. Well, go in the chat like I
9 told him to, thank you.

10 MR. ANTONETTI: Fair enough.

11 MS. MCNEIL: Mr. Brown?

12 MR. BROWN: Yes, good morning everyone. Stan
13 Brown, People's Zoning Council.

14 MS. MCNEIL: Okay. Mr. Antonetti, you may
15 proceed.

16 MR. ANTONETTI: Yes, thank you very much. Sorry,
17 I'm fighting a little bit of a cold, so hopefully my voice
18 isn't too hoarse and able to be understood. Again, I'm here
19 from the Law Firm of Shipley and Horne on behalf of the
20 applicant in the case of -9706-C. I have here today with me
21 my partner Dennis Whitley, III, and Mr. John Ferrante,
22 Senior Land Planner with the firm. Also we have
23 representing at the Flower Road LLC is Mr. Eric May, who is
24 here today and will provide some brief testimony. We also
25 have five other witnesses that will be called in order but

1 they're also here to support the application.

2 Just for a little bit of background and context,
3 Flower Road LLC is the contract purchaser of the property
4 subject to the rezoning that was approved July 10, 1989 with
5 20 conditions, as Madam Examiner correctly referenced. In
6 our letter dated May 14, 2021, the applicant sets forth its
7 rationale for why good cause exists to amend certain
8 conditions in the original decision, pursuant to Section 27-
9 135(c) (1).

10 This case is not a rezoning. The property has
11 already been zoned I-1 it is strictly an amendment of
12 conditions associated with that underlying zone. A
13 Preliminary Plan of Subdivision will be required for this
14 case. A Detailed Site Plan will be required for this case.
15 There is no specific development proposal that will be
16 approved as part of this amendment request. However, we
17 will show and present evidence that will give illustrative
18 examples of what the applicant would like to do and will
19 seek to hopefully implement through a Preliminary Plan of
20 Subdivision and Detailed Site Plan, if this case were to be
21 approved.

22 The subject property consists of approximately 48
23 acres of land. It says 47 acres but you'll hear some
24 testimony that due to recent boundary survey information
25 it's actually closer to 48 acres. It is zoned I-1, light

1 industrial. It has significant frontage on I-495 and is
2 largely only visible from that roadway. It is also in the
3 Military Installation Overlay Zone, and it is in the
4 Accident Potential Zone 2, the Noise Contour Zone and the
5 Height Limitation Zone within the M-I-O-Z.

6 The applicant intends to develop the property with
7 two modern warehouse logistics buildings, which are
8 permitted by right in the underling zone subject to those
9 other title and applications that I mentioned. The name of
10 the project will be the Vista 95 Logistic Center. In order
11 to do this, the amendments that are requested need to be
12 updated in order to be consistent with modern regulations to
13 facilitate the development of a modern logistics center.

14 At the time of the approval of this case, you'll
15 hear testimony, this is 32 years ago that the property at
16 the time could have been developed without a Preliminary
17 Plan of Subdivision due to a loophole, we'll call it, in the
18 existing Subdivision Regulations in 1989. That loophole is
19 closed.

20 At the time of the rezoning in the 2007 Sector
21 Plan and its recommendations did not exist. Similarly, MC-
22 634, the Master Plan Road known as Presidential Parkway, did
23 not exist either in structure or as a constant. The County
24 Landscape Manual did not exist at the time this was
25 approved. Certain environmental regulations such as the

1 State Forest Preservation Act did not exist. The County
2 Noise Ordinance did not exist, and the Military Installation
3 Overlay Zone did not exist, just to name a few examples of
4 things that have happened since 1989, which impact and
5 control how a site like this might otherwise develop.

6 Further, there are several conditions of approval
7 that involve a former local community group known as the
8 Westphalia Community Coordination Council. Madam Examiner,
9 Mr. Brown, you may be familiar with that name, it's
10 something that along the Westphalia Corridor they're
11 somewhat of a legacy where their name is inserted in
12 conditions on other properties and they've been involved
13 historically in other development applications along the
14 Westphalia Corridor. But that group no longer exists. That
15 group no longer is organized and as a result, conditions
16 specify that approvals or monitoring be done by that group
17 or payments be made to that group in association with the
18 development of this site is no longer appropriate.

19 Specifically, conditions related to, Condition 10,
20 Condition 13, Condition 14, 16 and 17, again, 10, 13, 14,
21 16, and 17, should be modified or deleted as they relate to
22 the Westphalia Community Coordination Council, due to the
23 fact that they don't exist anymore as a functioning entity.

24 I will point to you in the record what's marked as
25 Examiner's Exhibit 26, which is a screenshot from July 21,

1 2021 from the State Department of Assessments and Taxation
2 which shows ta the Westphalia Community Coordination
3 Council, LLC has been forfeited, therefore it's no longer
4 recognized as a legal entity pursuant to state law.

5 I will also point your attention to the proposed
6 condition revisions included in Exhibit 21. I understand
7 that we are seeking to amend and or delete 16 of the 20
8 original conditions. But at the end of the day, we will end
9 up, well, Condition 21 goes 11 conditions. I do want to
10 state that there's three conditions we wish to add based on
11 further consultation with the applicant, outreach to the
12 community and other considerations that we'd like to add as
13 well just to make it clear that certain things will remain.

14 For example, in addition to Exhibit 21 and I
15 could, if the record could be kept open I could submit
16 something typed up that would add these three conditions
17 specifically. But --

18 MS. MCNEIL: Please do that after the hearing.
19 Thank you.

20 MR. ANTONETTI: Will do, thank you very much. We
21 would like to add a condition that would state, and this is
22 a modification of existing Condition 1, which in our letter
23 requesting amendment sought to delete the entire condition.
24 But we are looking to resurrect the first sentence of that
25 condition which states, vehicular access to the subject

1 property shall be prohibited from Oak Street, Poplar Drive
2 and Willow Avenue. This is in recognition that to the south
3 and east of the property there is residential streets which
4 this project when it was zoned in 1989 was not to access,
5 and will continue not to access if this application or
6 request for amendment is approved. So that first sentence
7 we would like to bring back into the fold as part of our
8 amendment request.

9 Similarly, we would like to request a condition
10 related to noise analysis, consistent with the County Noise
11 Ordinance. It would read, prior to acceptance of a
12 Preliminary Plan of Subdivision a noise analysis shall be
13 provided and shall demonstrate that outdoor noise levels
14 will meet all applicable county noise regulations for the
15 propose industrial use. All required noise mitigation
16 structures shall be reflected on a Detailed Site Plan.

17 And then lastly, and thank you for your
18 indulgence, we would like an amendment of existing Condition
19 16, which required coordination of minority participation
20 with the Westphalia Community Coordination Council and other
21 specifics. Where we would, in lieu of deletion of 16,
22 existing Condition 16, we would represent a request that the
23 applicant shall encourage participation in the development
24 of the subject property by minority, women and or
25 disadvantaged business owners in conformance with the

1 strategies of the 2008 Westphalia Sector Plan. For the
2 record, the applicant is not opposed to minority
3 participation or participation by disadvantaged business
4 entities and looks forward to developing that and developing
5 this site consistent with the goals and strategies of the
6 2007 Westphalia Sector Plan relative to minority and
7 disadvantaged business participation.

8 So those would be three, you know, additions to
9 what is now labeled as Exhibit 21, which would be in total
10 14 conditions if this amendment request were to be approved.

11 Our team will do its very best and I don't know if
12 I'm doing a good job of it, to be succinct in its collective
13 testimony. Today, I would like to call six witnesses and
14 beginning with Mr. Chris Rizzi, and again we'll move as
15 efficiently as we can to get through this, but I appreciate
16 your consideration of the request and I'm ready to proceed
17 when you feel it's appropriate, Madam Examiner.

18 MS. MCNEIL: Mr. Brown, I can't remember were you
19 able to identify yourself for the record?

20 MR. ANTONETTI: Yes.

21 MS. MCNEIL: He did? Okay.

22 MR. BROWN: Yes, I did.

23 MS. MCNEIL: Okay, Rob. Okay then Mr. Antonetti,
24 you may proceed.

25 MR. ANTONETTI: Okay. Thank you very much. I call

1 Mr. Chris Rizzi, please.

2 MR. RIZZI: Good morning.

3 MS. MCNEIL: Good morning. Mr. Rizzi, do you
4 swear or affirm under the penalties of perjury that the
5 testimony you shall give will be the truth and nothing but
6 the truth?

7 MR. RIZZI: I do.

8 MS. MCNEIL: Thank you.

9 MR. ANTONETTI: Thank you. Mr. Rizzi, could you
10 please state your professional address for the record,
11 please?

12 MR. RIZZI: Sure. I'm with Bohler Engineering at
13 16701 Melford Boulevard, Suite 310 in Bowie, Maryland.

14 MR. ANTONETTI: Great. And have you provided
15 testimony as a landscape architect before any boards,
16 hearing examiners, or commissions?

17 MR. RIZZI: Yes, I have.

18 MR. ANTONETTI: Okay. And in the record marked as
19 Zoning Hearing Examiner Exhibit 16, is a copy of your
20 resume, is that correct?

21 MR. RIZZI: Yes, it is, thank you.

22 MR. ANTONETTI: Have you testified before the
23 Zoning Hearing Examiner as a landscape architect?

24 MR. RIZZI: Yes, I have numerous times.

25 MR. ANTONETTI: I'd like to move Mr. Rizzi as an

1 expert in the field of landscape architecture.

2 MS. MCNEIL: There's no objection, he'll be
3 accepted as an, Mr. Brown, did you?

4 MR. BROWN: No objection.

5 MS. MCNEIL: Okay. You will be accepted as an
6 expert in the area of landscape architecture.

7 MR. RIZZI: Thank you.

8 MR. ANTONETTI: Thank you. Mr. Rizzi, have you
9 prepared entitlement plans in your professional experience
10 pursuant to the Prince George's County Zoning Ordinance and
11 Subdivision Regulations?

12 MR. RIZZI: Yes, I have.

13 MR. ANTONETTI: Are you familiar with the property
14 that is subject to the decision known as A-9706-C?

15 MR. RIZZI: Yes.

16 MR. ANTONETTI: And were you asked by the
17 applicant in this case to prepare an Illustrative Concept
18 Plan and Illustrative Landscape Plan in support of today's,
19 or this application's request to amend conditions?

20 MR. RIZZI: Yes, we were.

21 MR. ANTONETTI: And have you reviewed the prior
22 conditions of approval for A-9706-C, the current letter
23 requesting an amendment to conditions and other exhibits in
24 support of this application?

25 MR. RIZZI: Yes, I have.

1 MR. ANTONETTI: Mr. Rizzi, what's the current zone
2 of the property?

3 MR. RIZZI: This property is currently zoned I-1.

4 MR. ANTONETTI: Thank you. And Madam Examiner, I
5 would be grateful if your staff could please bring up what
6 is marked as Exhibit 2 on the screen, if possible. Thank
7 you. Excellent. Hopefully everyone can see that. I can
8 see it. Mr. Rizzi, do you recognize what's marked as
9 Exhibit 2C and shown on this screen as Exhibit 2 Concept
10 Plan?

11 MR. RIZZI: I do.

12 MR. ANTONETTI: Can you please tell the Examiner
13 and People's Zoning Council what Exhibit 2C represents?

14 MR. RIZZI: So this exhibit in particular
15 represents a Concept Plan for the subject site that includes
16 both site and layout as well as perimeter landscaping
17 associated with the subject proposal.

18 MR. ANTONETTI: And was Exhibit 2C prepared by you
19 or under your direction?

20 MR. RIZZI: Yes, it was.

21 MR. ANTONETTI: Can you please orient for the
22 Zoning Hearing Examiner and the People's Zoning Council as
23 to where the subject property is within the county?

24 MR. RIZZI: Sure. So just first off, this exhibit
25 in particular, north is plan left, just to orient everybody

1 relative to this particular Concept Plan. To the plan right
2 or south of this concept is existing Westphalia Road and
3 this, and to the plan south or east side is the Capital
4 Beltway. So this project is located with a sole access
5 point along Westphalia Road just east of the Capital Beltway
6 and on the north side of Westphalia Road.

7 MR. ANTONETTI: And could you describe the
8 adjoining properties including zone and any developments
9 existing or proposed that associated with the adjoining
10 properties?

11 MR. RIZZI: Sure. So the existing zone of this
12 property is I-1, as I had mentioned. Additionally, the sole
13 access point off of Westphalia Road, which is via MC-634, to
14 the west side of that access point is also zoned I-1. To
15 the east side there is a residential portion that is zoned
16 R-R. And then once you come into the wider larger portion
17 of the site itself to the east of that portion the property
18 line the zoning changes to R-18. And then to the very north
19 end of the site, the zoning is also R-R. And to the west is
20 the Capital Beltway as I had mentioned earlier.

21 MR. ANTONETTI: Does the subject property abut the
22 Capital Beltway?

23 MR. RIZZI: It does.

24 MR. ANTONETTI: Yes. And is the Concept Plan
25 marked Exhibit 2C, is this only illustrative of potential

1 development?

2 MR. RIZZI: It is, yes, that's correct.

3 MR. ANTONETTI: Okay. Can you describe the
4 circulation pattern within the Concept Plan?

5 MR. RIZZI: Sure. The sole access point to this
6 proposed site as illustrated here in this concept is via
7 West Westphalia Road. There is a pipe stem area there MC-
8 634 that is relatively narrow compared to the rest of the
9 site, and that is the sole vehicular access point to the
10 site. It continues into the site approximately halfway as
11 shown past what we're referring to as Building Number 1 and
12 then there is a private access road that continues to the
13 east that crosses over eastward on the site toward what
14 we're referring to as Building 2 and there are associated
15 parking areas with each of those buildings as well, to
16 provide for vehicular circulation for both trucks and cars.

17 MR. ANTONETTI: Can you describe the proposed
18 development structures that are shown in the Illustrative
19 Concept Plan, they're illustrative intended use, the square
20 footage range, et cetera?

21 MR. RIZZI: Sure. So both of those structures
22 that are shown are suggested as logistics warehouse uses.
23 They both have vehicular parking for cars on one side as
24 well as truck bays and loading bays on the other side and
25 provide for circulation of both vehicles. The total range

1 in square footage is maximum of approximately 378,000
2 between the two buildings.

3 MR. ANTONETTI: Okay. And the loading facilities
4 on this illustrative, are they facing interior to the site?

5 MR. RIZZI: They both are, that is correct. Yes.

6 MR. ANTONETTI: And, pardon me, thank you. And
7 was it your testimony that the sole access to the site would
8 be from Westphalia Road via future Presidential Parkway?

9 MR. RIZZI: That is correct, Yes.

10 MR. ANTONETTI: Madam Examiner, I'd be
11 appreciative again if your team could bring up Applicant's
12 Exhibit 2D. Excellent. Thank you. Mr. Rizzi, did you
13 prepare an Illustrative Landscape Plan marked as Applicant's
14 Exhibit 2D?

15 MR. RIZZI: Yes, I did.

16 MR. ANTONETTI: And can you describe for the
17 Zoning Hearing Examiner and People's Zoning Council the
18 landscape buffers proposed for the property and whether said
19 buffers meet or exceed the requirements of the Landscape
20 Manual for the development shown in the Concept Plan?

21 MR. RIZZI: Sure. So the Landscape Manual
22 requirements in this particular relative to the proposed use
23 and in reference to the adjoining existing uses from Section
24 4.7 of the Landscape Manual require a landscape buffer yard
25 Type D along the southern property line and the eastern

1 property line as shown on this exhibit, which are plan north
2 and plan right. We have indicated that that requires a 50
3 foot building setback as well as a 40 foot wide landscape
4 buffer yard in those areas.

5 In this particular case, we are indicating via the
6 plant schedules and the planting graphics that are shown on
7 the plan that we are not only meeting that landscape buffer
8 yard requirement but in fact 20 percent in excess of the
9 required landscape buffer yards in these areas, based on the
10 density of the plant material that is proposed as indicated
11 on those schedules. Along both the southern and eastern
12 property lines.

13 MR. ANTONETTI: And Mr. Rizzi, do the
14 (indiscernible) do the conceptual building locations meet
15 or exceed the building setback requirements of the Landscape
16 Manual?

17 MR. RIZZI: Both of those buildings as shown on
18 this exhibit exceed the minimum setbacks.

19 MR. ANTONETTI: And will the proposed landscaping
20 as shown on this Exhibit 2D in your opinion, affectively
21 screen the development shown in the Concept Plan from
22 neighboring properties?

23 MR. RIZZI: They will. That's exactly the intent
24 of both the location, the density and the types of plant
25 material that we have selected in this exhibit. There is a

1 combination of both deciduous and evergreen and varying
2 heights of plant material that when clustered in the manner
3 depicted in conjunction with existing plant material and in
4 consideration of the vertical difference between the
5 adjoining properties and the much lower proposed property
6 development will provide a visual screen from the adjoining
7 properties into our site.

8 MR. ANTONETTI: Very good. And will these
9 landscaping details be confirmed at time of Detailed Site
10 Plan if this application and this development moves forward?

11 MR. RIZZI: Yes, that would be a requirement of
12 the Detailed Site Plan process.

13 MR. ANTONETTI: And could you quickly describe the
14 existing and proposed grades for the development in the
15 Concept Plan and how those grades might impact views into
16 the site from adjoining properties?

17 MR. RIZZI: Sure. In general, both from the
18 southern and from the eastern existing property areas coming
19 into the site, there is a significant topographical drop in
20 elevation. The adjoining properties are substantially
21 higher in grade than the proposed buildings in the existing
22 site. And so I guess in combination with the landscaping
23 that is both existing and the proposed plant material along
24 those southern and eastern buffer yards the eye line of
25 anybody, for example, on the adjoining property would be

1 screened and or looking over the top of the proposed
2 development within the site.

3 MR. ANTONETTI: Okay. And Mr. Rizzi, does the
4 proposed development of the Concept Plan and Landscape Plan
5 exhibit as marked in the record, in your opinion as a
6 professional landscape architect satisfy all the design
7 regulations of the I-1 Zone set forth in the Zoning
8 Ordinance?

9 MR. RIZZI: Yes, it does.

10 MR. ANTONETTI: Thank you. Madam Examiner, I have
11 no further questions at this point for Mr. Rizzi.

12 MS. MCNEIL: Mr. Brown?

13 MR. BROWN: Are there any persons in opposition,
14 Madam Examiner, that wanted to ask questions?

15 MS. MCNEIL: No one put anything in the chat.

16 MR. BROWN: All right.

17 MS. MCNEIL: So if there is any person in
18 opposition and you would like to question this witness, how
19 would be the time to let us know in the chat. Go ahead, Mr.
20 Brown.

21 MR. BROWN: All right. Good morning, Mr. Rizzi,
22 how are you?

23 MR. RIZZI: Good morning. Thank you. I'm doing
24 well, how about you?

25 MR. BROWN: Doing well. Just a couple of

1 clarifying questions here in response to your testimony as
2 well as the comments that were made by Mr. Antonetti in his
3 opening. Looking at Exhibit 2C, the Concept Plan, and I see
4 illustrated on that plan the streets of Flowers Road, Poplar
5 Drive, Willow Avenue and Oak Street and turning your
6 attention to Condition Number 1 of the original A-9706
7 approval in 1989, you guys suggested this Condition Number 1
8 should be deleted in its entirety as the development will
9 not use Flowers Road for access. My question to you is,
10 looking at that condition I don't have a problem with
11 deleting it. However, do we not still want a condition that
12 prohibits any access to the property from Oak Street, Willow
13 Avenue and Poplar Drive and Flowers Road since you do not
14 anticipate utilizing those streets anyway?

15 MR. RIZZI: You are correct in that we do not
16 propose access from any of those points. I would defer to
17 Mr. Antonetti regarding implementation of that as a
18 condition. But there is no need for access from any of
19 those roads that you've mentioned to this site that is not
20 part of our proposed development.

21 MR. BROWN: All right. I mean Mr. Antonetti
22 doesn't need to respond now, but at some point before this
23 hearing is over it would be my suggestion that you replace
24 Condition 1 with a condition that prohibits access or rather
25 ingress and egress to this site from the four roads,

1 streets, avenue or drives that I just identified.

2 MR. ANTONETTI: For the record, Mr. Brown, we have
3 no objection to that. That would be an appropriate
4 additional condition.

5 MR. BROWN: All right, great. Also, Mr. Rizzi,
6 looking at Condition Number 3, I'm sorry, Condition Number 2
7 it looks like of the original rezoning, I'm looking at
8 Exhibit 1 which was your request to amend conditions. Do
9 you have that in front of you?

10 MR. RIZZI: Condition Number 2?

11 MR. BROWN: Yes, let's look at Condition Number 2
12 first.

13 MR. RIZZI: Okay. I do have that.

14 MR. BROWN: Mr. Antonetti correctly indicated the
15 Landscape Manual was adopted subsequent to 1989 and so is it
16 your testimony that what is proposed is consistent with the
17 current Landscape Manual?

18 MR. RIZZI: The proposal shown in the landscape
19 buffer exhibit that is on the screen currently exceeds the
20 requirements of the Landscape Manual.

21 MR. BROWN: And it is the applicant's intention to
22 adopt both the Concept Plan and the Landscape Plan, which is
23 really a concept as well, as part of any future Detailed
24 Site Plan, is that correct?

25 MR. RIZZI: That is correct.

1 MR. BROWN: Because this is an application to
2 amend conditions and so these conditions, if amended, would
3 have to show up on a future Detailed Site Plan in the form
4 that you have them in the Illustrative Concept Plan and the
5 Illustrative Landscape Plan, is that correct?

6 MR. RIZZI: That is correct, and just to further
7 clarify that the plant schedules that are shown on this
8 exhibit are the specific plant schedules that would be
9 required during the Detailed Site Plan process as well.

10 MR. BROWN: All right. Looking at Condition 3 on
11 your Exhibit 1 concerning visible outdoor storage
12 prohibited, are you guys comment and you referenced this a
13 moment ago, that outdoor storage shall not be visible from a
14 street. I don't have 27-469(c) in front of me which is the
15 requirement in the I-1 Zone for outdoor storage. Does this
16 applicant plan to have outdoor storage on this property?

17 MR. RIZZI: We are currently proposing to have
18 places for trailers to be parked in the interior portion of
19 the site relative to the loading areas. Those are screened
20 by both the buildings and by the topographical difference
21 and the landscape screening that are indicated on this
22 exhibit.

23 MR. BROWN: That's really my question. One of
24 your witnesses or yourself can correct me if I'm wrong, but
25 parking of trailers is not considered outdoor storage. And

1 so my question is does the applicant plan to have outdoor
2 storage on this property which begs another question which I
3 think needs to be explained by the applicant and that is you
4 have identified the name of this application as what is it
5 Logistics 95, is that correct?

6 MR. ANTONETTI: Vista 95 Logistics Center.

7 MR. BROWN: Right. And there is no use in the
8 Zoning Ordinance defined as a logistics center. And so for
9 the purposes of this hearing, what is the use that is
10 proposed under these proposed conditions, amended condition?

11 MR. RIZZI: This particular proposal in front of
12 you, Mr. Brown, is warehouse use and this does not propose
13 in either of these exhibits or proposals any additional
14 storage outdoors beyond just the trailer park.

15 MR. BROWN: All right. I assumed it was a
16 warehouse use. So you don't propose any outdoor storage, so
17 that's the reason we don't have any objection to including
18 Section 27-469(c) a prohibition on outdoor storage from any
19 street, is that correct?

20 MR. RIZZI: Correct.

21 MR. BROWN: Looking at Condition Number 4 in your
22 Exhibit Number 1, you, that is the applicant, suggested
23 heights of buildings shall not exceed 50 feet. I know we
24 haven't gotten to the architectural render yet, but what is
25 the height of the proposed two buildings?

1 MR. RIZZI: So these buildings vary in height and
2 I will defer to the architectural exhibits themselves, but I
3 believe on these exhibits they're noted as just over 30
4 feet, 32 foot height, I believe was what was noted on these
5 exhibits.

6 MR. BROWN: All right. Going down to --

7 MS. MCNEIL: Mr. Brown? Mr. Brown, can I stop you
8 one second, I apologize. My dining room table office is
9 full of paper. Our exhibit list has 1 as the letter from
10 the clerk. So what you're really looking at is which
11 exhibit on the exhibit list?

12 MR. BROWN: Yes, I'm sorry, I received from Mr.
13 Antonetti as a courtesy, a copy of what he submitted in the
14 file. So it's not going to be consistent with the --

15 MS. MCNEIL: Okay. So you're thinking 2A, Mr.
16 Antonetti, the statement of justification or --

17 MR. BROWN: It's not the statement of
18 justification, it's the request to amend conditions with his
19 comments to each condition.

20 MS. MCNEIL: Okay. Continue, I'll find it.

21 MR. ANTONETTI: I believe 2B, Madam Examiner --

22 MS. MCNEIL: Okay. Thank you.

23 MR. ANTONETTI: -- is (indiscernible).

24 MR. BROWN: All right, 2B.

25 MS. MCNEIL: Go ahead, I'm sorry.

1 MR. BROWN: That's all right. So Mr. Rizzi, going
2 to the original Condition Number 6 which provides heavy
3 truck deliveries shall be prohibited between 9:00 p.m. and
4 6:00 a.m. along Flowers Road and you guys suggest this
5 condition should be deleted in its entirety. Again, since
6 you don't plan to use Flowers Road, would there be any
7 objection to retaining that condition as part of this
8 proposal?

9 MR. RIZZI: We don't intend to use Flowers Road, I
10 don't know that there's any opposition to that particular
11 aspect of it, Mr. Brown.

12 MR. ANTONETTI: Mr. Brown, I would, if you could,
13 either I can ask that question of the applicant or you could
14 as well, who I plan on calling next.

15 MR. BROWN: All right. That's fine. Because
16 again I just don't want to have an issue where we delete
17 that condition in its entirety now and down the road since
18 looking at the Concept Plan Flowers Road is pretty close to
19 the northwest corner of this property. I don't want trucks
20 to at that point access the property along Flowers Road.
21 Which also is another question with regards to Condition
22 Number 7, the original one, Mr. Rizzi, you testified a
23 moment ago about the future Presidential Parkway and the
24 Master Plan Presidential Parkway. I understand your
25 applicant plans to build the future Presidential Parkway,

1 but is it accurate that you also plan to build the Master
2 Plan Presidential Parkway up to Westphalia Road?

3 MR. RIZZI: We plan that this proposal proposes to
4 connect that Master Plan Road on the north side of
5 Westphalia Road and continue it northward into the site.

6 MR. BROWN: All right. And please tell us, I
7 don't recall that Presidential Parkway exists south of
8 Westphalia Road in any shape, fashion or form, is that
9 correct or not?

10 MR. RIZZI: It does not exist physically at the
11 current time.

12 MR. BROWN: All right. That's what I thought.

13 MR. ANTONETTI: Well, we can ask there's some
14 testimony, there is some small stretch of Presidential
15 Parkway that does exist well south, closer to the town
16 center core, but not abutting this property.

17 MR. BROWN: All right. Looking at Condition
18 Number 9 on Exhibit 2B, Mr. Rizzi, which basically involves
19 the issue of employing WSSC to run a water and sewer line
20 along Flowers Road. I don't have any problem with the
21 deletion of that condition, however, tell me, the people on
22 Flowers Road I'm assuming they have water and sewer now, do
23 they not?

24 UNIDENTIFIED PERSON: Hi, how are you?

25 MR. RIZZI: I cannot confirm which of those

1 particular houses actively have public water and sewer at
2 this time. I just know that we are not coming through
3 anything to do with Flowers Road with any of our utilities
4 or with our vehicular access or construction for this
5 particular site.

6 MR. BROWN: Yes. And Mr. Antonetti made comment
7 about the Westphalia Community Coordination Council and
8 asked that document that indicated that entity was
9 forfeited. Mr. Antonetti, when was that entity forfeited?

10 MR. ANTONETTI: I can, it was some time ago I can
11 pull that up.

12 MR. BROWN: Just before the record closes, I'd
13 like to know the exact date.

14 MR. ANTONETTI: Sure.

15 MR. BROWN: Because my question is whether or not
16 the residents on Flowers Road, Popular Drive, Willow Avenue,
17 Oak Street, Chester Grove Road are members are some type of
18 community organization, even though it may not be Washington
19 Community Coordination Council. And Mr. Rizzi, I think I
20 had one other question, let me just see what it was.

21 MR. ANTONETTI: Mr. Brown, sorry if I interject.
22 Based on the SCAT website --

23 MR. BROWN: Yes.

24 MR. ANTONETTI: -- the SCAT Department of Action
25 of Forfeiture occurred on October 7, 2003.

1 MR. BROWN: All right. All right, no other
2 questions at this time. Thank you.

3 MR. RIZZI: Thank you.

4 MS. MCNEIL: Mr. Rizzi, just before I call Ms.
5 Brown up, she has one question for you, I note that you're
6 going to exceed the Landscape Manual, but the Landscape
7 Manual itself is the minimum that can be imposed, correct?

8 MR. RIZZI: The Landscape Manual establishes a
9 minimum building setback, a minimum buffer yard width and a
10 minimum plant density and we exceed all of those in the way
11 of the density, in the way of the building setback.

12 MS. MCNEIL: And if I pull up that document later,
13 I'll be able to read how much you exceed? I can't tell
14 right now.

15 MR. RIZZI: Yes, I can share that with you. It
16 exceeds the minimum requirements for both density by 20
17 percent of the plant material. So it provides --

18 MS. MCNEIL: How about the setback? Okay. Go
19 ahead.

20 MR. RIZZI: The setback varies depending on the
21 particular point that it's measured from, but it varies at
22 the minimum by just a couple of feet to as much as more than
23 double what the minimum setback is.

24 MS. MCNEIL: So from a few feet to 100?

25 MR. RIZZI: Approximately 55 feet, I believe, at

1 the max.

2 MS. MCNEIL: Oh to 55 feet. And can you explain
3 then, you know, just give a little testimony as to why you
4 all think you have good cause not to do the 150 foot wide
5 buffer.

6 MR. RIZZI: Sure, happy to. So, I can't speak to
7 any prior development proposals but in this particular
8 proposal the intent is to provide adequate buffering of the
9 adjoining uses from one another and between the combination
10 of the vertical topographical difference, which is fairly
11 substantial between the adjoining properties that are
12 existing, the residential properties and this proposal as
13 well as the density of the screening and the extensive
14 evergreen material as well as the higher canopy, higher
15 branching deciduous and semi-evergreen material. These
16 plant buffer yards as well as the vertical difference
17 between them will provide a sight line that basically looks
18 over top of this development and it will not be visible, so
19 it's essentially less of an issue of the number of feet than
20 the fact that we've effectively screened this proposed use
21 completely from these adjoining residential properties.

22 MS. MCNEIL: Okay. And Ms. Brown wasn't sure if
23 she wants to be opposed but her question is if she's a lower
24 property, she states that she's not one of the higher
25 properties, how will she be protected from any flooding or

1 other adverse impact, if this change is made. And if that's
2 not a question for you, we could wait.

3 MR. RIZZI: I'd be happy to look at exactly which
4 property she's at if that's clear.

5 MS. MCNEIL: Okay. Then wait a second. Ms.
6 Brown, could you turn your mic on and camera for a second?

7 MS. BROWN: Good morning.

8 MS. MCNEIL: Good morning.

9 MR. RIZZI: Good morning.

10 MS. BROWN: Yes, I --

11 MS. MCNEIL: Okay, wait a minute. Wait a minute,
12 now that I see Ms. Brown, I want to say for the record that
13 I know her, but it would not affect this at all, and I had
14 no idea. So Mr. Antonetti, if you don't have a problem, or
15 Mr. Brown?

16 MR. ANTONETTI: No objection.

17 MS. MCNEIL: Okay.

18 MS. BROWN: Okay. Great.

19 MS. MCNEIL: Okay. Go ahead, Ms. Brown, tell them
20 your question. And are you opposed or you want an answer
21 before you determine that you're opposed to this?

22 MS. BROWN: Right. I'd like an answer. I'm not
23 opposed, I'm just deeply concerned because my property sits
24 at a lower level than others on Willow Avenue. There is a
25 pond, it seems to be some type of pond directly behind my

1 house and I'm just concerned that with grading, and you know
2 the, the development that somehow I could experience
3 flooding and sinkholes. Because at one time there was a, a
4 well in my yard and lately --

5 MS. MCNEIL: Ms. Brown, I have to stop you there
6 for a second. I have to let them answer questions.

7 MS. BROWN: Oh, okay.

8 MS. MCNEIL: And you'll be able to testify later
9 if you'd like.

10 MS. BROWN: All right.

11 MS. MCNEIL: So Mr. Rizzi, do you think that, can
12 you tell, go ahead Mr. Rizzi, can you address anything from
13 what she's stated thus far?

14 MR. RIZZI: I will certainly do my best. I don't
15 know exactly which lot but I'm looking at the existing
16 topographical elevations along Willow Avenue right now.

17 MS. BROWN: Uh-huh.

18 MR. RIZZI: And those elevations, you are and
19 there is a wetland area existing right now that is on our
20 property that extends kind of in the general direction of
21 that property line. But I can tell you that from a vertical
22 different standpoint depending on which specific lot you're
23 on, you are somewhere between 15 to 25 feet higher than any
24 of those low-lying areas. And still that much above any of
25 the closest areas of the proposed development here.

1 MS. BROWN: Okay.

2 MR. RIZZI: So there's still a pretty significant
3 vertical difference between where your backyard, so to
4 speak, would be and where the existing topography and the
5 proposed topography would place this relative to your house.

6 MS. BROWN: Okay.

7 MR. RIZZI: Does that help?

8 MS. BROWN: Yes. But I'm going to think about it
9 a little bit more to see if I have any other questions
10 regarding that.

11 MR. BROWN: Mr. Rizzi, if you could and Fatima, if
12 you could bring up the cursor to show the contour lines on
13 the Landscape Plan between Willow Avenue and the subject
14 property and I think that will give Ms. Brown some comfort
15 when you explain the contour lines between Willow Avenue and
16 this property.

17 MR. RIZZI: Sure, I'm happy to. I don't know if
18 you can see my cursor moving on the screen.

19 MR. BROWN: Yes, I do. All right.

20 MR. RIZZI: But Willow Avenue is right here and
21 the elevations of these homes in this area vary roughly
22 between 270, an elevation of 270 to 280 feet of elevation.
23 And the existing areas, the area that Ms. Brown was
24 referring to is approximately, depending on which lot in
25 particular that is, is in this area right here and that's

1 approximately 15 to 25 feet, if not more, below the
2 elevation of her backyard.

3 MR. BROWN: So Ms. Brown, in looking at that plat,
4 I know you don't understand contour lines, but the closer
5 the lines are together the steeper the grade changing. And
6 looking at this plan, the grade changes going downhill
7 toward --

8 MS. BROWN: Uh-huh.

9 MR. BROWN: -- so any --

10 MR. RIZZI: That's correct.

11 MR. BROWN: -- water that's running off is not
12 going to run away from the subject property to your house,
13 but it's going to run toward the subject property.

14 MS. BROWN: Okay.

15 MR. RIZZI: And to further clarify as well, the
16 way that this water course is draining is away from your
17 property as well.

18 MS. BROWN: Okay.

19 MR. RIZZI: That flows north.

20 MS. BROWN: Thank you for that.

21 MR. RIZZI: You're welcome.

22 MS. BROWN: All right.

23 MS. MCNEIL: Okay. Mr. Antonetti, if you don't
24 have further questions.

25 MR. ANTONETTI: I have one.

1 MS. MCNEIL: Okay. Go ahead.

2 MR. ANTONETTI: Sorry. Mr. Rizzi, for the record,
3 could you confirm whether this development as illustratively
4 shown if it were to move forward to construction, would it
5 be required to conform to current storm water management
6 requirements, sediment control requirements that would
7 otherwise capture or require the treatment of all storm
8 water runoff generated from the impervious surfaces on the
9 site?

10 MR. RIZZI: Yes, that is correct.

11 MR. ANTONETTI: Okay. Thank you. I have no
12 further questions.

13 MS. MCNEIL: Okay. Then we can remove the exhibit
14 and call your next witness.

15 MR. ANTONETTI: Yes, ma'am, thank you. I'd like
16 to call Mr. Eric May, please.

17 MR. MAY: Good morning.

18 MS. MCNEIL: Good morning, Mr. May, do you swear
19 or affirm under the penalties of perjury that the testimony
20 you shall give will be the truth and nothing but the truth?

21 MR. MAY: I do.

22 MR. ANTONETTI: Mr. May, could you please state
23 your professional address?

24 MR. MAY: Sure. It's 2201 Wisconsin Avenue,
25 Northwest, Washington, D.C.

1 MR. ANTONETTI: And are you a representative of
2 the applicant, FV Flowers Road, LLC in this case?

3 MR. MAY: I am.

4 MR. ANTONETTI: Are you authorized by FV Flowers
5 Road, LLC to testify today before the Zoning Hearing
6 Examiner regarding this application?

7 MR. MAY: I am.

8 MR. ANTONETTI: Does the unanimous resolution
9 dated July 20, 2021, provide such authorization for your
10 testimony?

11 MR. MAY: It does.

12 MR. ANTONETTI: And I refer to Exhibit 22 in the
13 Zoning Hearing Examiner's record, such resolution. Mr. May,
14 is FV Flowers Road, LLC the contract purchaser of the
15 subject property?

16 MR. MAY: It is.

17 MR. ANTONETTI: In your own words, what are the
18 main reasons FV Flowers Road is requesting amendments to
19 conditions set forth in A-9706-C?

20 MR. MAY: Generally, as, as Mr. Antonetti has,
21 has, has mentioned thus far, some of these conditions are
22 either inconsistent or inappropriate as it relates to
23 current development standards. And so the, that
24 necessitates modification as it relates to current
25 development standards. There are also some environmental

1 features on this property that we're forced to work around
2 that kind of make navigating development of this site much
3 more difficult with the existing conditions as written. And
4 lastly, you know, this is a, a viable site for warehouse and
5 logistics activities given its proximity to, to the beltway
6 and so you know what we've proffered in terms of proposals
7 for amendments are those changes that will help allow for
8 the appropriate development of, of this property.

9 MR. ANTONETTI: And Mr. May, are you familiar with
10 the Illustrative Concept Plan that was referred to by Mr.
11 Rizzi, marked as Exhibit 2C in the record?

12 MR. MAY: Yes.

13 MR. ANTONETTI: And is this plan indicative of the
14 type of development that the applicant would like to build
15 on the property if this application were approved?

16 MR. MAY: It is.

17 MR. ANTONETTI: And can you briefly explain the
18 development concept that FV Flowers would like to pursue at
19 the property and in that answer, if you could please
20 identify the type of use, so make it clear what warehouse or
21 logistics might mean in today's market.

22 MR. MAY: Sure. So we, we are proposing two
23 buildings totaling about 387,000 potential square feet. The
24 larger of the two buildings being pushed up against the
25 beltway, so the further western building. These buildings

1 will serve for kind of modern logistics warehousing given
2 again the proximity to the beltway and the proximity to the
3 urban core of D.C. and, and the surrounding areas. So we
4 would expect tenancy here to be probably multitenant. Most
5 likely doing short delivery of materials or goods to again
6 the urban core which, which this site is so proximate to.

7 MR. ANTONETTI: And when you speak of tenants
8 multitenants, single tenants, are there any tenants that are
9 known or identified at this time for this site?

10 MR. MAY: There are not.

11 MR. ANTONETTI: And you eluded to this in your two
12 questions back, why are the two proposed buildings on the
13 Concept Plan shown in the location that they're in?

14 MR. MAY: Right. So we, the, the buildings are
15 shown where they are primarily due to the significant
16 environmental limitations that exist on the site. We did a
17 comprehensive wetlands and floodplain analysis identified
18 areas of, of critical concern and have sited these buildings
19 in a manner to avoid as much as, as much as possible
20 interaction with any of those environmentally sensitive
21 locations. So the buildings themselves sit completely
22 outside of any environmental conditions.

23 MR. ANTONETTI: Are you aware that the property is
24 impacted by the alignment of Master Plan Road MC-634,
25 Presidential Parkway?

1 MR. MAY: Yes.

2 MR. ANTONETTI: And are you aware that as the
3 developer of the property, the potential developer of the
4 property, that there's a requirement pursuant to County Code
5 Regulations that you build and or pay a fee in lieu for
6 construction of this roadway as it is aligned on your site?

7 MR. MAY: Yes.

8 MR. ANTONETTI: Has your layout in the Concept
9 Plan considered surrounding land uses and how does the
10 proposed layout make any design accommodations based on
11 those adjoining land uses?

12 MR. MAY: Yes, so in addition to the environmental
13 constraints on the property we've been heavily focused on,
14 on siting these buildings in this development in a manner to
15 minimize impact to surrounding properties, both from a, a
16 size configuration and noise abatement standpoint. So as
17 was previously mentioned by Mr. Antonetti, the, the
18 configuration is such that the loading activities of these
19 buildings are inwardly focused. The buildings themselves
20 end up becoming significant sound buffers to existing
21 beltway noise, which as the property currently stands there
22 is no buffering. And so, the reality is these, these
23 buildings in addition to some sound attenuation, fencing and
24 walls that will be constructed, will actually reduce the
25 amount of sound coming off the beltway sheeting up this

1 property towards the neighboring properties, so will, will
2 benefit the neighbors from a sound attenuation standpoint.
3 And then we've, we've worked with Mr. Rizzi and others to
4 site these buildings and use the grade to our advantage to
5 lower these buildings on the land such that they give the
6 appearance of being much shorter than the 32 foot clear
7 height that they are currently designed to.

8 MR. ANTONETTI: Okay. And Madam Examiner, I'm
9 going to ask for assistance again, if Exhibit 9A could be
10 brought up on the screen. Okay. I could ask some other
11 questions and come back to that while that's happening, if
12 that's okay?

13 MS. MCNEIL: Thank you, Mr. Antonetti, we're
14 getting it right to you and I take this opportunity to let
15 the watching world know that the Examiner doesn't know how
16 to pull up anything. So the wonderful staff in the
17 background is handling it. Thank you.

18 MR. ANTONETTI: Okay. And I --

19 MS. BAH: My computer just went blank, so I'm not
20 aware what's going on right now. Did you all ask for
21 something?

22 MR. ANTONETTI: I'm sorry, Exhibit 9A possibly if
23 it could be brought up. Okay. There we go. And could that
24 be rotated, Ms. Bah? Is that possible? There we go.
25 Again, thank you for your assistance with this. I struggle

1 mightily as well bringing up documents on this particular
2 platform, so I do appreciate your help. I think it's
3 loading.

4 MS. BAH: I don't see anything. I see it's a
5 blank screen.

6 MR. FERGUSON: Madam Examiner --

7 MS. MCNEIL: Mr. Antonetti? If you all, maybe we
8 need --

9 MR. ANTONETTI: (Indiscernible).

10 MS. MCNEIL: I hear you, Mr. Ferguson, but maybe
11 we just need a five minute break?

12 MR. ANTONETTI: Yes, and I might suggest that we
13 maybe close some of the open exhibits, because there may be
14 too many open for it to project.

15 MS. MCNEIL: Okay.

16 MR. ANTONETTI: You know they all --

17 MS. MCNEIL: We will take a break and everyone can
18 just, you know, keep their screen up but silent. Get right
19 back to you in five minutes. Thank you.

20 MR. ANTONETTI: Okay.

21 (Off the record.)

22 (On the record.)

23 AUTOMATED RECORDING: This conference is no longer
24 being recorded.

25 MR. FERGUSON: Fatima, it's Mark Ferguson, I was

1 just going to suggest if you close Acrobat and then reopen,
2 it just looks like you've probably got too much memory and
3 that happens to me a fair amount.

4 MS. MCNEIL: Everybody back? Okay.

5 MR. ANTONETTI: Okay. Madam Examiner, should I
6 proceed?

7 MS. MCNEIL: Yes, please.

8 MR. ANTONETTI: Thank you. And thank you, Ms.
9 Bah, for bringing this up. Again, I apologize for any
10 inconvenience. Mr. May, are you familiar with the
11 illustrative item shown as Exhibit 9A on the screen before
12 you?

13 MR. MAY: Yes.

14 MR. ANTONETTI: And was this exhibit commissioned
15 by the applicant to reflect the Concept Plan?

16 MR. MAY: It was.

17 MR. ANTONETTI: And can you quickly describe what
18 is illustratively shown in these exhibits for the Zoning
19 Hearing Examiner and People's Zoning Council, and if we
20 could start with this and if, you might be able to control
21 the cursor and pull these slides down in succession.

22 MR. MAY: Okay. Well, we'll start with what's on
23 the screen currently. So what this is meant to show is a
24 view looking from the east to the west towards the beltway,
25 so kind of oriented from Chester Grove starting at the north

1 with Section A, working to the south with Section C, each of
2 which is meant to show a couple of things. One, the
3 landscape buffer, the, the distance to the building face off
4 of the property line which in each instance as it relates
5 to, to Building 2 is 111 feet. The distance then from the
6 property line to the adjoining structure and then probably
7 most importantly, the grade difference that we've been
8 speaking to her intermittently, and as you work from the
9 north to the south you can see the grade delta grows a bit,
10 and it's hard to see but there's a dashed line here on each
11 section that's meant to show a sight line kind of angular
12 towards the building that is, is, is hope, hopefully
13 depicting the fact that these buildings are not going to
14 look and feel as if they're 40 feet. And by the way, the,
15 the 40 feet that we're depicting is 32 feet of clear story
16 building height and then an 8 foot parapet wall to block and
17 screen any roof top equipment that may end up on these
18 roofs. And so this, this imagery is meant to show that
19 despite 40 feet of vertical construction from the
20 neighboring properties to the east they're going to look and
21 feel much shorter than 40 feet.

22 MR. ANTONETTI: Okay. Can we proceed to the next
23 slide, please?

24 MR. MAY: Yeah, I, I don't have control. There
25 should be another sight line slide.

1 MR. ANTONETTI: Yes I think if we can go to page 2
2 of 3, just the slide, just before that, Fatima. Great,
3 thank you.

4 MR. MAY: So this is, this is the one we just,
5 it'll be the next, the next slide, I believe.

6 MR. ANTONETTI: Okay. This is 1 of 6, if we can
7 go to 2 of 6.

8 MR. MAY: Perfect.

9 MR. ANTONETTI: Thank you.

10 MR. MAY: All right. So this is depicting the
11 same conceptual imagery now looking from the south along
12 Willow to the north of the, of the property. And again
13 depicting that here the building face, if you're starting at
14 the Building 2 which is the eastern most of the two
15 buildings, so section, I'm sorry, Section D, the, the
16 western most building, which is Building 1, you'll see that
17 again that you have some gray delta, it's a bit more abrupt
18 here, it kind of falls off as opposed to more of a gradual
19 hill. But significant setback to building face, significant
20 setback to adjoining property structure and same in a, in a
21 greater extent for Section EE, as it relates to Building 2.
22 They are much more gradual reduction. But in all in terms
23 of elevation, but in all instances, elevation of this site
24 works to the benefit of kind of hiding and sinking these
25 buildings from adjoining structures.

1 MR. ANTONETTI: Okay. If we could go to the next
2 slide as well, please. Okay.

3 MR. MAY: So these, these are architectural
4 renderings that the architect has prepared to illustrate
5 conceptually what the view shed may look like or should look
6 like from adjacent properties. Again, this is looking off
7 of Chester Grove, the, the townhouse and condo communities
8 that exist there looking from the east to the west towards
9 these buildings and, and illustrates that again these
10 buildings are, are sunk down, there's a great amount of
11 distance between them and the adjacent structures. And
12 this, this probably doesn't do quite justice to the amount
13 of foliage that does exist and will be added to, to screen
14 the view shed and what this is missing which we've now
15 certainly agreed to with respect to all neighbors that are,
16 are adjacent to this property is the introduction of a, of a
17 6 foot board to board visually screening fence that we'll
18 construct and maintain, that will help again to, to shield
19 any views from, from adjacent properties to this, to this
20 development.

21 MR. ANTONETTI: And the 6 to 7 foot fence and
22 depending on the area where it's located, will that also
23 serve a sound mitigation function for various portions of
24 the boundaries of the site?

25 MR. MAY: It will.

1 MR. ANTONETTI: Okay. If we can go to the next
2 slide as well. Okay.

3 MR. MAY: So this is just another similar image as
4 we're moving a bit south so now centered on Building 2
5 looking to the west, again depicting that with the buildings
6 where they're set, that the existing foliage, foliage what's
7 going to be added that the, the view shed is, is more or
8 less fully obstructed.

9 MR. ANTONETTI: Okay. Here's the next slide.

10 MR. MAY: Again, similar image now we're at the
11 southern end of Building 2, again depicting here you have a,
12 a great deal of distance from the adjoining structure and,
13 and, and again the, the buildings being virtually not
14 visible from, from this perspective.

15 MR. ANTONETTI: Okay. If we can go to the next
16 slide.

17 MR. MAY: So now, now we're looking from the south
18 on Willow to the north towards, towards the, towards
19 Building 1, which we, we have a, a good deal of distance
20 again showing that the buildings as sunken into this
21 existing topography are not readily visible.

22 MR. ANTONETTI: Thank you. Madam Examiner, I'd
23 also like to bring up Exhibit 9B in the record, the
24 illustrative building rendered sections, for a quick
25 reference. Thank you, Ms. Bah. Mr. May, for the record, do

1 you recognize Exhibit 9B and if you do can you explain what
2 that exhibit represents?

3 MR. MAY: I do recognize the exhibit and so this
4 represents architectural renderings of, of prospective
5 building materials and imagery. Our desire is to create a
6 Class A modern logistics warehouse building using, you know,
7 quality materials, high end materials and so this is meant
8 to illustrate a concept of, of what these buildings could
9 look like.

10 MR. ANTONETTI: Okay. And if we can go to the
11 next slide.

12 MR. MAY: Yeah, so similar image now looking at
13 Building 2 from the southeast corner and this is meant to
14 depict again similar imagery in terms of quality of
15 construction, quality of materials, qualities of aesthetic.
16 This is, this would be logically the office portion of
17 whomever takes this portion of the building and so it's
18 meant to show kind of an, an entrance to Building 2.

19 MR. ANTONETTI: Okay. All right. I think that
20 covers those two exhibits. And Mr. May can you confirm that
21 the illustrative shows the passenger vehicle parking facing
22 outward towards the east on Building 2 and that the truck
23 courts are reflected or intended to be internal to the site.

24 MR. MAY: That is correct.

25 MR. ANTONETTI: Mr. May, are you aware that your

1 proposed development, if this application is approved, will
2 require the approval of a Preliminary Plan of Subdivision
3 and a Detailed Site Plan?

4 MR. MAY: I am.

5 MR. ANTONETTI: Based on your perspective as the
6 applicant and in your words and your experience in the
7 development field, what are the benefits of the proposed
8 development, potentially, of this subject property?

9 MR. MAY: I think the benefits are multiple. I
10 think the largest being jobs creation. We, we project based
11 on antidotal evidence from similar properties that, that
12 this project can create 300 to 500 permanent jobs out of,
13 out of this development. Obviously, there will be interim
14 job creation through the development and construction of the
15 project. A significant increase in, in tax revenue to, to
16 the county. And, and I think importantly you know the
17 construction of a portion of the Master Plan Roadway and
18 Presidential Parkway. No impacts on schools and, and the
19 ability through development here to actually mitigate sound
20 as it relates to the surrounding neighbors. I think that
21 the summation of those, those benefits are pretty
22 significant.

23 MR. ANTONETTI: And with regards to a previous
24 question, are you familiar with existing Condition 6 of A-
25 9706-C which you had asked to be deleted, which states heavy

1 truck deliveries shall be prohibited between 9:00 p.m. and
2 6:00 a.m. along Flowers Road. Are you familiar with that
3 language?

4 MR. MAY: Yes.

5 MR. ANTONETTI: In your opinion would that
6 condition similarly worded be appropriate for any deliveries
7 along the major collector to be known as Presidential
8 Parkway M-634 on the site?

9 MR. MAY: Right. The, the, the, the short answer
10 is we don't believe it's applicable and the reason being is
11 that a master planned public roadway dictated to be a major
12 collector. And so if and when at some point in the future
13 there's connection made for this roadway there will be
14 traffic generated on that roadway that is, is outside of the
15 use of this development. And so obviously there's no
16 ability to control traffic travelling on that road that is
17 outside of, of the development itself. And so we, we've
18 been focused on sound mitigation to ensure that the use of
19 this road does not, does not increase sound as it relates to
20 neighboring properties and have come up with solutions to
21 ensure that doesn't happen. And so the combination of sound
22 attenuation methods that can be implemented, coupled with
23 the fact that it is a public roadway to be maintained and
24 ultimately used by others that don't specifically use this
25 project, we think the, the, the condition isn't applicable

1 to this roadway.

2 MR. ANTONETTI: And Mr. May, are you familiar with
3 what is labeled as Exhibit 21 titled proposed conditions
4 exhibit?

5 MR. MAY: I am.

6 MR. ANTONETTI: And does this document reflect
7 revised condition language that the applicant would support
8 for this case?

9 MR. MAY: It does.

10 MR. ANTONETTI: Would the applicant also accept an
11 amended condition of approval that would prohibit direct
12 vehicular access from the subject property to the
13 residential streets known as Oak Street, Poplar Drive, and
14 Willow Avenue?

15 MR. MAY: We will, yes.

16 MR. ANTONETTI: Would the applicant also accept an
17 amended condition of approval that would require that any
18 specific development be compliant with the county's noise
19 ordinance and that any required noise mitigation structures
20 be provided as part of the development and shown at time of
21 Detailed Site Plan?

22 MR. MAY: Yes.

23 MR. ANTONETTI: And would the applicant accept an
24 additional condition or a revised condition of existing
25 Condition 16 regarding the encouragement and participation

1 of minority women or disadvantaged business owners in the
2 development of the property and project?

3 MR. MAY: Yes.

4 MR. ANTONETTI: I have no further questions of Mr.
5 May at this time.

6 MS. MCNEIL: Before I turn to Mr. Brown, Mr. May
7 and is Mr. Rizzo still here? I meant to ask him earlier,
8 whoever can answer this. You all are saying that you're
9 showing that elevation and landscaping et cetera will make
10 the buildings almost invisible from the adjacent residences.
11 But is that true if it were 50 feet tall as proposed?
12 Because you all had mentioned like 32 feet, 36 feet, are we
13 still pretty invisible at 50 feet? Does anybody know?

14 UNIDENTIFIED PERSON: (Indiscernible).

15 MS. MCNEIL: I'm sorry, I said Rizzo, I think
16 that's a character in something I was watching, sorry.

17 MR. RIZZI: Yes, I'm happy to weigh in on that,
18 certainly. Thank you. So the sight line from the adjoining
19 property would be such whether standing in the backyard or
20 you know in the house would be such that the landscaping
21 itself proposed in the buffer yards as we showed on the
22 exhibit would break the sight line from an individual
23 standing in that area looking towards the site. And if they
24 were to say look over the top of the trees the angle of that
25 sight line would project above the height of the buildings.

1 So essentially --

2 MS. MCNEIL: But I was asking is that true at 50
3 feet as well because --

4 MR. RIZZI: Yes, it is.

5 MS. MCNEIL: Okay.

6 MR. RIZZI: Yes, it is.

7 MS. MCNEIL: And Flowers Avenue, there's no way
8 you all are going to connect to that, correct? It's only
9 going to be Presidential Parkway?

10 MR. RIZZI: That is correct.

11 MR. MAY: Correct.

12 MS. MCNEIL: So is it okay to include Flowers
13 Avenue in the list of streets that won't be used?

14 MR. MAY: Yeah, from my standpoint it, it
15 certainly is.

16 MR. ANTONETTI: Madam Examiner --

17 MS. MCNEIL: Mr. Antonetti, you can tell me later
18 if you disagree. I'm just wondering.

19 MR. ANTONETTI: I would defer to the applicant but
20 for the initial access for construction. I think that road
21 abuts the property, but for the use of any developed site,
22 that would be appropriate.

23 MR. MAY: Agreed.

24 MS. MCNEIL: I had another one, but Mr. Brown, oh
25 why do we keep talking about six buildings? It still is

1 possible to do six buildings and meet everything mentioned
2 in all of the proposed conditions?

3 MR. ANTONETTI: Madam Examiner, six buildings that
4 was a legacy condition from 1989 and I think is indicative
5 of the lack of or the absence of current regulation, where
6 different parts of the site may have been developed back
7 then. But today, you know the developable areas are
8 essentially where we show them on the Concept Plan, but it
9 was a legacy condition. I was already amending a good
10 amount so we have no opposition to the current language.

11 MS. MCNEIL: Wait a minute, now. You're amending
12 other legacy conditions, so I'm just asking. Is it going to
13 be two? Because what you're showing is based on two. I
14 guess as long as there's some condition that everything
15 still applies if there were to be six, is that what you want
16 it to be?

17 MR. ANTONETTI: Yes.

18 MS. MCNEIL: Okay. Thank you. Mr. Brown?

19 MR. BROWN: Yes, good Mr. May, I just have two or
20 three very quick questions.

21 MR. MAY: Sure.

22 MR. BROWN: I think you and Mr. Antonetti were
23 confused by my comment concerning Condition Number 6 on the
24 original zoning which is heavy truck delivery shall be
25 prohibited between 9:00 p.m. and 6:00 a.m. along Flowers

1 Road. I was not suggesting that that condition apply to the
2 Master Plan Presidential Parkway. So no, I'm in agreement,
3 you know, there's no need to have a prohibition for any time
4 slot for heavy trucks on Presidential Parkway. My issue
5 with regards to Flowers Road after the use is up and
6 running, but as you have commented, you are in agreement
7 that Flowers Road shall not be utilized by this property for
8 any truck deliveries, and therefore you don't have any
9 objection to an amendment of the condition that continues to
10 prohibit truck use on Flowers Road, Willow Avenue, Poplar
11 Drive and Oak Street after construction is completed, is
12 that correct?

13 MR. MAY: That is correct.

14 MR. BROWN: The other question I had was with
15 regards to the sight lines and Exhibit 9A. You showed us
16 sight lines from the south, east and you didn't show us
17 anything from the north which is probably not necessarily
18 relevant, but I didn't see sight lines from the west which
19 is from the Capital Beltway. And the only reason I raise
20 the issue you guys have placed a noise study in the file,
21 you've commented on the noise mitigation as it impacts
22 residential properties on the south and the east. But it's
23 sort of like talking out of both sides of your mouth in the
24 sense that if the buildings are below grade to improve the
25 sight lines and the view shed from the residential

1 properties on the south and the east, then the noise from
2 the Capital Beltway will travel, in my commonsense
3 understanding, over top of the structures and toward the
4 properties on the east and the south.

5 So I was just wondering in your noise study, if
6 you've read it, are the sight lines from the Capital Beltway
7 below grade to your property and the structures, or is it at
8 grade, the same grade level?

9 MR. MAY: So generally, Mr. Brown, the, the
10 beltway, the Capital Beltway sits lower than our property.
11 So as you work your way from the east to the west, the grade
12 continues to fall towards the beltway. So the beltway as it
13 relates to our property is, is at the lowest point.

14 MR. BROWN: All right. So if that's the case then
15 your logic would make sense, so I'm going to take you at
16 your word on that. The other issue I had with regards to
17 minority participation, Mr. Antonetti, I actually believe
18 that all of that should be deleted from any condition. It's
19 really not, those are legal conditions, I don't know why
20 they were placed in there in 1989, as long as the applicant
21 is bound by county law with regards to minority procurement
22 then he doesn't have to put it in this amended condition
23 statement. The same thing with regards to --

24 MR. ANTONETTI: And that would be Condition 16,
25 Mr. Brown?

1 MR. BROWN: 16, yes, that's correct. The other
2 question I had still that's sort of just hanging out there
3 is and if you know, Mr. May, and maybe Ms. Brown when she
4 testifies early can tell us I know that there has been a
5 water and sewer issue over there with regards to some of the
6 residents, they've never had public water and sewer, but I'm
7 just wondering whether or not the residents on Flowers Road
8 have public water and sewer at this time. Do you know, by
9 any chance?

10 MR. MAY: I, I don't know with, with specificity.
11 We, we have spoken to the majority of, of owners along
12 Flowers. Much of Flowers is now industrial.

13 MR. BROWN: Yes.

14 MR. MAY: There's, there's a number of contractors
15 and commercial parking lots over there. There are four
16 residents that remain and to my knowledge, all four of those
17 residential properties, save for maybe one, has, has full
18 water and sewer access.

19 MR. BROWN: All right. And at your Exhibit 2C,
20 the Concept Plan, the existing self-storage facility
21 recently built in the last two years, is that west of your
22 property along the beltway, going towards Pennsylvania
23 Avenue?

24 MR. MAY: The Cube Smart, is that the facility
25 you're referring to?

1 MR. BROWN: Yes.

2 MR. MAY: That, that would be west of our
3 property, correct.

4 MR. BROWN: West of your property, right. All
5 right. And so going northeast from your property, I guess
6 that's going to be just primarily forest land. There are no
7 additional residential properties up there, are there?

8 MR. MAY: North, to the north of our property --

9 MR. BROWN: Running along the beltway.

10 MR. MAY: -- is, that is currently under
11 development as a residential community, called West Ridge, I
12 believe. Is that correct? Yes.

13 MR. BROWN: That's proposed?

14 MR. MAY: It, it is.

15 MR. ANTONETTI: It's under development, Mr. Brown.

16 MR. BROWN: Under development. Are there any
17 issues with regards to sight lines from your property to
18 that proposed development?

19 MR. MAY: There, there are not. We haven't
20 studied it as intensely as, as the other view sheds. They,
21 are the north end of our property is where the predominance
22 of the environmental conditions exist and those
23 environmental conditions extend over the northern property
24 line. And so they're development is stopping, and I don't
25 know the exact location, but something relative to about 300

1 feet short of their property line. So --

2 MR. BROWN: Yes, I got you.

3 MR. MAY: -- there's a pretty vast difference
4 where their development ends and our starts.

5 MR. BROWN: Right. Because you've got the PMA
6 along that stream on the north side.

7 MR. MAY: Correct. Exactly.

8 MR. BROWN: All right. No other questions, thank
9 you.

10 MR. MAY: Thank you, sir.

11 MS. MCNEIL: Wait a minute, you're not off the
12 hook yet, gave me time to get my other questions and that is
13 there's a condition saying things won't be visible from any
14 street. Let me find it. And I'm wondering is there any
15 property that's not separated from you all by a street that
16 might be impacted by the view shed?

17 MR. MAY: There is not any property that, that,
18 well those, the folks who live along Willow, their street is
19 to the south of them, so their property is fully abut, as is
20 the case on the east side as well with, with those townhouse
21 communities. But beyond that, there, there is no other
22 instance where that would be the case.

23 MS. MCNEIL: And I'm sorry, this is the one about
24 visible outdoor storage. I just wondered why we've changed
25 it from prohibited to not visible from a street.

1 MR. ANTONETTI: Because that's --

2 MS. MCNEIL: And maybe that's, go ahead Mr.
3 Antonetti.

4 MR. ANTONETTI: Sorry, Madam Examiner. That's the
5 standard in the I-1 Zone. And I'm not sure if that standard
6 existed at the time of this zoning, but that, as the letter
7 points out, the section dealing with that in the Zoning
8 Ordinance that is the language, I believe it's Section 27-
9 469(c) of the Zoning Ordinance, which prohibits the
10 visibility of outdoor storage from a street.

11 MS. MCNEIL: Yes.

12 MR. ANTONETTI: Just trying to be consistent.

13 MS. MCNEIL: Okay. But also is it your testimony
14 or proffer that there would be no property that is not
15 separated from you by a street currently that could be
16 impacted by outdoor storage?

17 MR. MAY: That is correct.

18 MR. ANTONETTI: That's correct.

19 MS. MCNEIL: Thank you. Now I believe there was
20 an issue in the chat and if Ms. Brown can just wait until,
21 we will get some brief testimony from you because you can't
22 use the chat as part of this record. So it's not really a
23 question, she was answering something one of you all asked,
24 but I'll get her to do it on the record.

25 MR. ANTONETTI: Okay.

1 MS. MCNEIL: Okay. Thank you, Mr. May.

2 MR. MAY: Thank you.

3 MR. ANTONETTI: Unless there's any other
4 questions, I have no further questions of Mr. May.

5 MS. MCNEIL: Okay. Thank you, Mr. May. Your next
6 witness?

7 MR. ANTONETTI: Thank you. I'd like to call Mr.
8 Mike Klebasko (phonetic sp.) please.

9 MR. KLEBASKO: Good morning, everyone.

10 MS. MCNEIL: Good morning, Mr. Klebasko. Do you
11 swear or affirm under the penalties of perjury that the
12 testimony you shall give will be the truth and nothing but
13 the truth?

14 MR. KLEBASKO: I do.

15 MR. ANTONETTI: Mr. Clabasco, good morning. Can
16 you please state your professional address for the record?

17 MR. KLEBASKO: Yeah, I'm with Wetland Studies and
18 Solutions, 1131 Ben Field Boulevard, Suite L, Millersville,
19 Maryland 21108.9

20 MR. ANTONETTI: Thank you. And what is your
21 position with Wetland Studies and Solutions?

22 MR. KLEBASKO: I'm the manager, manager of our
23 Maryland office's Environmental Science Section.

24 MR. ANTONETTI: And have you provided testimony as
25 an environmental scientist before any boards, hearing

1 examiners or commissions?

2 MR. KLEBASKO: I have.

3 MR. ANTONETTI: Have you testified as an expert
4 before the Zoning Hearing Examiner as an expert in the field
5 of environmental science?

6 MR. KLEBASKO: Yes.

7 MR. ANTONETTI: Is your resume marked as Exhibit
8 15, representative of your professional and educational
9 experience?

10 MR. KLEBASKO: It is.

11 MR. ANTONETTI: I'd like to move Mr. Klebasko as
12 an expert in the field of environmental science.

13 MS. MCNEIL: Assuming no objection?

14 MR. BROWN: Very quickly, Mr. Klebasko. I'm
15 sorry, I don't recall meeting you. You said you've
16 testified before the Examiner as an expert?

17 MR. KLEBASKO: I have. It's been some years since
18 I've, I've done it in Prince George's County but I've done
19 it in other counties, like Montgomery and Queen Anne's.

20 MR. BROWN: All right. That's what I thought, you
21 haven't done it in Prince George's County. So you were
22 qualified in another county in what particular field?

23 MR. KLEBASKO: General environmental science,
24 wetland delineations, forest stand delineations, critical
25 area studies, basic environmental studies, reports and

1 permitting.

2 MR. BROWN: And which counties in particular?

3 MR. KLEBASKO: Montgomery, Prince George's County,
4 Anne Arundel, Queen Anne's, and I'm sure there's a few
5 others that, that I've done as well. I work all over the
6 State of Maryland, I have for 30 years.

7 MR. BROWN: I understand. But when you say Prince
8 George's you've never been qualified as an expert before the
9 Zoning Hearing Examiner, is that correct?

10 MR. KLEBASKO: No, I believe I have, but it's
11 been, it could be about 20 years ago when that happened. If
12 I recall correctly, it may have been for the Beech Tree
13 project a long time ago.

14 MR. BROWN: All right. I'm looking at your resume
15 here. I only see four projects that you highlight here.
16 I'm assuming you have dozens more projects, is that correct?

17 MR. KLEBASKO: I would say thousands.

18 MR. BROWN: And Mr. Antonetti, you're offering him
19 as an expert in specifically in what field?

20 MR. ANTONETTI: Environmental science,
21 particularly wetland delineations and environmental
22 features.

23 MR. BROWN: Do we really need to qualify him today
24 to talk about that?

25 MR. ANTONETTI: To the extent that he's going to

1 reference a wetland delineation to identify the sensitive
2 features we've heard from some other witnesses.

3 MR. BROWN: All right. I will reserving
4 objection, I don't have any strong opinion opposing him as
5 an expert in that field based upon his one-page resume. But
6 Mr. Klebasko, before this record closes, if you could give
7 us a more robust resume that identifies some of the projects
8 you've testified on, that would be helpful.

9 MR. KLEBASKO: Oh that is no problem at all.

10 MS. MCNEIL: I'm going to ask this follow up, have
11 you been rejected as an expert in environmental science
12 before anybody?

13 MR. KLEBASKO: Never.

14 MS. MCNEIL: Okay. Then I will accept you as
15 expert in environmental science, understanding that you will
16 be talking about the environmental constraints on the
17 property. Thank you.

18 MR. KLEBASKO: Thank you.

19 MR. ANTONETTI: Thank you. Thank you for those
20 questions and we will supplement the record after these
21 proceedings to provide that information. Mr. Klebasko, are
22 you familiar with the property subject to A-9706-C?

23 MR. KLEBASKO: Yes.

24 MR. ANTONETTI: Were you asked by the property
25 owner in this application to prepare a natural resources

1 inventory and a wetland delineation for the subject
2 property?

3 MR. KLEBASKO: Yes.

4 MR. ANTONETTI: And what is the current zone of
5 the property?

6 MR. KLEBASKO: It is I-1.

7 MR. ANTONETTI: Mr. Klebasko, you've heard
8 testimony and you're aware that the property was zoned in
9 1989 to the I-1 Zone, is that correct?

10 MR. KLEBASKO: Yes, I have.

11 MR. ANTONETTI: And has there been in your expert
12 opinion, has there been any increased or altered or
13 different regulations restrictions pertaining to
14 environmental features on the property since 1989?

15 MR. KLEBASKO: Oh yes, absolutely. In 1991 the
16 Maryland Forest Conservation Act was passed, which
17 established standards for local agencies to enforce during
18 the development process. And it is a means to protect not
19 only forest and trees but also the environmentally sensitive
20 areas of the site. For instance, in Prince George's County
21 you now have to prepare or perform natural resource
22 inventory studies, and they're required for all projects
23 such as this. And the NRI planned that accompanies that
24 study has to show all the significant and sensitive
25 environmental features on the site, wetlands, streams, PMA

1 buffers, steep slopes floodplains, specimen trees, et
2 cetera. These features now must generally be avoided for
3 our projects and they can greatly restrict the amount of
4 developable area.

5 Another piece of legislation that was enacted was
6 the Maryland Nontitle Wetlands Protection Act, and now you
7 need to get authorization from the Maryland Department of
8 the Environment should you impact any wetlands, streams, 25
9 foot wetland buffers, 100 year floodplain. These stricter
10 regulatory reviews make it much more difficult to obtain
11 permits and to impact wetlands and streams than you would
12 have been able to in 1989.

13 MR. ANTONETTI: Okay. Mr. Klebasko, Madam
14 Examiner and Ms. Bah if we could bring up Exhibit 24, the
15 wetlands delineation and I will go through this quickly. I
16 appreciate that if that could be brought up on the screen.
17 And when it does I'd like to, once it's identified by Mr.
18 Klebasko I'd like to move to Attachment 1, which is at the
19 end of the wetlands delineation. Yes, if we can just keep,
20 yes. Well first of all, Mr. Klebasko, do you recognize what
21 is on the screen and marked as Exhibit 24?

22 MR. KLEBASKO: Yes, that's our wetlands
23 delineation report.

24 MR. ANTONETTI: And was this prepared by you or
25 under your supervision?

1 MR. KLEBASKO: It was.

2 MR. ANTONETTI: And has it been submitted to any
3 governmental agency for review and approval?

4 MR. KLEBASKO: Yes, it was submitted to both the
5 U.S. Army Corps of Engineers and the Maryland Department of
6 the Environment and representatives from both agencies came
7 out into the field and confirmed our delineation on March
8 16th of 2021. And then the Corps of Engineers followed up
9 with a formal approval dated April 27, 2021 when they sent
10 us their written jurisdictional determination letter.

11 MR. ANTONETTI: Okay. And I'd like to, Ms. Bah,
12 if we could scroll to the bottom of that exhibit.

13 MR. KLEBASKO: That's a different exhibit.

14 MR. ANTONETTI: Yes, that's a different exhibit,
15 I'm sorry. If we can, there's an appendix or attachment to
16 the back of the report, I'd like to just scroll to that.
17 There we go. Sorry.

18 MR. KLEBASKO: I believe it's the last page of the
19 report.

20 MR. ANTONETTI: Right there. Back up, just
21 attached to one, if we can just go down just slightly.
22 Right there, just, okay, and I'm not sure if we're able to
23 see that on the screen entirely. There you go, perfect.
24 Thank you, Ms. Bah. I need to buy you a cup of coffee when
25 this is all done, I apologize for the --

1 MS. BAH: You're welcome, it's not a problem.

2 MR. ANTONETTI: Thank you. Thank you. Mr.

3 Klebasko, can you identify utilizing what's known as
4 Attachment A from your wetlands delineation report, can you
5 identify the significant environmental features on the
6 subject property?

7 MR. KLEBASKO: Yes. They're generally highlighted
8 in green, tan and blue on this plan. If we start in the
9 northeast corner there is a wetland, a big green wetland
10 system with a blue stream running through the center of it,
11 flowing along the northern property line in a westerly
12 direction toward the Capital Beltway. That's the main
13 stream and wetland system that's on this property, or the
14 larger one. There's also a second perennial stream that
15 enters the property down in the southeast corner and flows
16 in a northerly direction where it empties into the larger
17 first stream that I spoke about.

18 You'll notice that along both of the blue streams
19 are numerous green areas, and those are forested wetlands
20 that are immediately adjacent to and draining into the
21 streams. There's also two smaller wetland areas along the
22 western property line. Along the west central, next to the
23 Capital Beltway is a long skinny green forested wetland and
24 then down in the extreme southwest corner is a small
25 isolated wetland pocket right where existing Flowers Road

1 intersects the property corner.

2 These are the, all this significant wetland and
3 stream features located on this site.

4 MR. ANTONETTI: And Mr. Klebasko based on your
5 experience, are the areas of the subject property shown in
6 this exhibit and in your wetland delineation report
7 containing environmental features, sensitive environmental
8 features, are they allowed to be developed pursuant to
9 current federal, state or county regulations? And why or
10 why not?

11 MR. KLEBASKO: Well not without permits, but
12 typically the regulatory agencies will not allow what's
13 called lot fill or the placement of buildings or parking
14 lots, those types of features in any of these jurisdictional
15 areas. And it would be incredibly difficult to be able to
16 do so both from a federal, state and county perspective, all
17 three agencies would be very reluctant to allow that.

18 MR. ANTONETTI: And that being said, can
19 authorization be obtained from the appropriate federal,
20 state or county agencies to allow minor impacts to
21 environmental areas to allow for things such as utility
22 placement or road crossings?

23 MR. KLEBASKO: Yes, the agencies do allow for,
24 that would be considered infrastructure, so road crossings,
25 utility lines, storm drain outfalls, those are

1 jurisdictional impacts that the agencies typically
2 authorize, and I believe would do so for this project as
3 well.

4 MR. ANTONETTI: And have you reviewed the prior
5 Concept Plan marked as Exhibit 2C, prepared by Bohler
6 Engineering for this project?

7 MR. KLEBASKO: I did.

8 MR. ANTONETTI: And is the proposed development
9 reflected in that Concept Plan located in the areas of the
10 subject property that would largely avoid the sensitive
11 environmental features identified in your wetland
12 delineation report and other studies?

13 MR. KLEBASKO: Yes, most definitely.

14 MR. ANTONETTI: And would you consider the area
15 shown on the Concept Plan that are depicting the two
16 warehouse buildings as being the, for lack of a better term,
17 the developable areas of the site, at least in terms of
18 avoiding regulated environmental features?

19 MR. KLEBASKO: Yes, they are.

20 MR. ANTONETTI: And will future impacts to
21 environmental features on this site be further evaluated as
22 part of the required Preliminary Plan of Subdivision or
23 Detailed Site Plan for the property?

24 MR. KLEBASKO: They will.

25 MR. ANTONETTI: And that's all the questions I

1 have right now for Mr. Klebasko.

2 MR. BROWN: Mr. Klebasko, I guess I just have one
3 question. Looking at Exhibit 2C, the Concept Plan for
4 location of the buildings and the onsite roadways, there
5 appears to be a crossing in the southeast corner of the
6 property proposed and I just have to ask you for the record,
7 I assume you don't anticipate any problems with getting the
8 permits to allow that crossing over the stream and at this
9 point do you anticipate that crossing to be above the stream
10 or what?

11 MR. KLEBASKO: I don't anticipate any problems.
12 The regulatory agencies allow you road crossings to access
13 developable portions of your property and that's the only
14 access point to get there. So there's no question in mind
15 they would authorize it. What we are proposing to do there
16 is to install a typical culvert in the stream channel and
17 that is also a typical way to install a road crossing and
18 commonly permitted by the agencies.

19 MR. BROWN: Yes. No other questions, thank you.

20 MR. ANTONETTI: Madam Examiner, I have no further
21 questions at this point of Mr. Klebasko.

22 MS. MCNEIL: Thank you. And this is probably in
23 the record and I missed it, but your property will utilize
24 WSSC water and waste? I mean, right, you'll have WSSC
25 access to your property, correct?

1 MR. ANTONETTI: Correct.

2 MS. MCNEIL: Okay. So I'm going to do a proffer
3 for you in case Ms. Brown leaves. Wait a minute, is Ms.
4 Brown here? Where is she?

5 MS. BROWN: I am here.

6 MS. MCNEIL: Okay. Can you just state, I'm sorry
7 about this Mr. Antonetti, but it's the best way to do it.
8 Do you swear or affirm under the penalties of perjury that
9 the testimony you shall give will be the truth and nothing
10 but the truth?

11 MS. BROWN: I do.

12 MS. MCNEIL: Okay. So state your address and then
13 tell them what you wanted to about your access --

14 MS. BROWN: All right.

15 MS. MCNEIL: -- to WSSC.

16 MS. BROWN: I'm located at 8612 Willow Avenue,
17 Upper Marlboro. I'm not sure which side I'm on the
18 property, I believe they said I'm east of the property, I'm
19 not sure. But earlier you had asked about sewer, water and
20 gas on Willow Avenue, we have sewer, I mean we have water.
21 We do not have sewer or gas. And I wanted to know although
22 there is sewer on parts of Oak Street, and what I wanted to
23 know is do you have plans to bring sewer and gas into the
24 community? Where we would be able to connect, not for you
25 to provide it for us, but at a place, at a point where we

1 would be able to connect.

2 MR. ANTONETTI: I would defer to Mr. May, if he's
3 able to speak to that. I believe the utilities would be
4 brought up along Presidential Parkway, but I could be
5 mistaken there.

6 MR. MAY: That, that's correct, the utilities will
7 be, will come up Presidential Parkway and enter our site and
8 so we, we are certainly willing to work with you and the
9 community to figure out how to stub off of those main runs
10 of those utilities to allow for connection along Willow, if
11 that's, if that's of interest. But the utilities that will
12 come to the site will come up Presidential Parkway, which
13 will be proximate to Willow, so it makes sense to utilize
14 that, that, that run of a main that we're going to install
15 for these utilities to tap in if that's, if that's of
16 interest.

17 MS. BROWN: Great, thank you.

18 MS. MCNEIL: Okay. Okay. Mr. Antonetti, your
19 next witness?

20 MR. ANTONETTI: Thank you. I'd like to call Mr.
21 Michael Lenhart, please, and --

22 MS. MCNEIL: Do you need this exhibit?

23 MR. ANTONETTI: I don't, thank you, Ms. Bah.

24 MS. MCNEIL: I couldn't see Mr. Lenhart.

25 MR. LENHART: (Indiscernible).

1 MS. MCNEIL: Good morning.

2 MR. LENHART: Good morning.

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

6 MR. LENHART: I do.

7 MS. MCNEIL: Okay. Thank you.

8 MR. ANTONETTI: Thank you. Mr. Lenhart, can you
9 please state your professional address?

10 MR. LENHART: Yes, 645 Baltimore Annapolis
11 Boulevard, Suite 214, Severna Park, Maryland 21142.

12 MR. ANTONETTI: And are you associated with
13 Lenhart Traffic Consultants?

14 MR. LENHART: That's correct.

15 MR. ANTONETTI: And have you been qualified as an
16 expert as a traffic engineer? I know the answer is yes --

17 MR. LENHART: Yes.

18 MR. ANTONETTI: Okay. And before the Zoning
19 Hearing Examiner as well?

20 MR. LENHART: Yes.

21 MR. ANTONETTI: I will note that Mr. Lenhart's
22 resume is marked as Exhibit 17. I'll just go ahead move him
23 as an expert witness in the area of transportation
24 engineering.

25 MS. MCNEIL: I've got news for you, I always

1 accept him as an expert in transportation planning.

2 MR. ANTONETTI: That would be appropriate as well.

3 MS. MCNEIL: Okay.

4 MR. ANTONETTI: So if that's okay, I will proceed.

5 MS. MCNEIL: Yes, he's accepted as as an expert.

6 I'm sorry, go ahead.

7 MR. ANTONETTI: Thank you very much. Mr. Lenhart,
8 do you recognize Exhibit 23 in the record, which is marked
9 as your traffic report?

10 MR. LENHART: Yes, I do.

11 MR. ANTONETTI: And are you familiar with the
12 prior conditions of approval in A-9706-C, concerning the
13 subject property?

14 MR. LENHART: Yes, I am.

15 MR. ANTONETTI: Mr. Lenhart, will a test for
16 adequate public transportation facilities be required as a
17 part of a Preliminary Plan of Subdivision to support the
18 development of the subject property if today's application
19 is approved?

20 MR. LENHART: Yes, it will.

21 MR. ANTONETTI: For the Zoning Hearing Examiner
22 and People's Zoning Council and others, can you briefly
23 describe your findings regarding traffic facilities as set
24 forth in your traffic study marked as Exhibit 23?

25 MR. LENHART: Yes. So we conducted a scoping

1 agreement with Park and Planning to identify the study
2 intersections, which included Maryland 4 at Westphalia Road,
3 the site access on Westphalia Road and Westphalia Road at
4 Darcy Road and conducted counts, added background
5 developments and then site traffic and the results show that
6 Route 4 at Westphalia fails the adequacy test. However,
7 there's a PFFIP that was adopted at that location by the
8 District Council to accept funding for an interchange and in
9 so doing that allows projects to satisfy the adequacy
10 requirements.

11 The site access on Westphalia Road and Westphalia
12 at Darcy are both unsignalized intersections and are
13 projected to pass the adequate public facilities test and
14 total total traffic conditions.

15 MR. ANTONETTI: And would this development be
16 subject to the pro rata contribution requirements
17 established by the District Council PFFIP for the Westphalia
18 Road Route 4 interchange?

19 MR. LENHART: Yes, it will and there's a fee that
20 will be calculated and conditioned at the time of approval
21 of the Preliminary Plan.

22 MR. ANTONETTI: Is MC-634 known as Presidential
23 Parkway a currently designated Master Plan Road in the
24 county's Master Plan of Transportation?

25 MR. LENHART: Yes, it is.

1 MR. ANTONETTI: And does it impact the subject
2 site?

3 MR. LENHART: Yes, it does.

4 MR. ANTONETTI: And are you familiar with the
5 County Code requirements in Section 23-103(a) regarding
6 obligations of a property owner to construct proposed Master
7 Plan Roads that front on land proposed for development?

8 MR. LENHART: Yes.

9 MR. ANTONETTI: Did your study assume that the
10 proportion of MC-634 align with the subject property would
11 either be constructed, dedicated or otherwise financially
12 provided for through the development of the site?

13 MR. LENHART: Yes. We anticipate the study
14 assumed those factors and we anticipate at the time of
15 Preliminary Plan there will be a requirement to dedicate 100
16 feet of right-of-way through this property and at the time
17 of permitting we will work with DPIE to determine exactly
18 what they want that to look like in terms of their standards
19 and specs.

20 MR. ANTONETTI: Can you explain the proposed
21 circulation pattern for the ZHE and People's Zoning Council
22 for the conceptual or illustrative uses identified for this
23 property?

24 MR. LENHART: Certainly. So the site will have
25 access, the development buildings will have access to MC-

1 634. MC-634 travels through the site from Westphalia Road
2 through Parcel 84 and then through the site to where it ties
3 into the alignment to the north of the property.

4 MR. ANTONETTI: Okay. And it's your testimony
5 today that this site will have one access point via MC-634
6 to Westphalia Road?

7 MR. LENHART: Yes, that's what as anticipated.

8 MR. ANTONETTI: Can you briefly describe the
9 current condition and dimensions of Flowers Road and whether
10 in your opinion it will be sufficient to support development
11 of a typical industrial road section to support the subject
12 property?

13 MR. LENHART: Sure. So Flowers Road is a small
14 roughly 20 foot wide roadway that is unmarked, there's no
15 pavement markings, no designations. All of the properties
16 along Flowers Road are zoned industrial, however, some of
17 them are actually residential uses, some are industrial
18 uses. The use of Flowers Road as it is today would be
19 inappropriate for the amount of traffic that would be
20 generated by our subdivision, and it would be insufficient
21 right-of-way to make any substantial improvements. And
22 furthermore, if Flowers Road were to be upgraded like in the
23 prior conditions of approval, it would not replace the
24 future requirement to construct MC-634 in its current
25 alignment. And therefore, if Flowers Road were upgraded as

1 per the prior condition and MC-634 were constructed it would
2 result in two significant intersections in very close
3 proximity, they would be about 200 feet apart and therefore
4 it would be more appropriate and make sense to leave Flowers
5 Road as it is since we are not generating traffic on that
6 roadway, we're not connecting to it. It will remain as a
7 dead-end road and to simply update or construct MC-634 as
8 required in the Master Plan.

9 MR. ANTONETTI: Thank you. Mr. Lenhart, can you
10 explain for the ZHE and People's Zoning Council in your
11 opinion, why existing Conditions 1, 5, 7 and 15 of the final
12 decision in 1989 for A-9706-C are inappropriate in light of
13 current county transportation related requirements for
14 development of the subject property. And beginning with
15 Condition 1, I will ask you to preface your answer in terms
16 that the applicant has already indicated that they would
17 accept a prohibition of vehicular access after construction
18 from Oak Street, Poplar Drive, Willow Avenue and now Flowers
19 Road.

20 MR. LENHART: Certainly. So Condition 1, the
21 majority of that condition stipulates the need to acquire
22 right-of-way from property owners in order to widen Flowers
23 Road and so as has been testified by myself and others,
24 Condition 1 must be either deleted in its entirety or
25 everything except for the first sentence. So the first

1 sentence is vehicular access to the subject property shall
2 be prohibited from Oak Street, Poplar Drive and Willow
3 Avenue and if that is amended to include Flowers Road, I
4 think that could be appropriate. Everything beyond that
5 will create conflicts and problems as it relates to Flowers
6 Road and we would request it be deleted, to be consistent
7 with our requirement to build MC-634.

8 MR. ANTONETTI: What about Condition 5?

9 MR. LENHART: Condition 5 is in conflict with the
10 Master Plan and because this site has no longer access to
11 Flowers Road, it becomes unnecessary to have Condition 5.
12 There is no need to widen Flowers Road and there's no nexus
13 from this development to have that condition because we
14 don't access Flowers Road, we have add no traffic to it. So
15 we would request that 5 be deleted.

16 Condition 7 the way Condition 7 is worded is not
17 particularly consistent with how adequacy findings and
18 conditions for offsite improvements are worded. This
19 currently states that all required offsite and road
20 improvements shall be completed prior to occupancy of any
21 building permit. Typical language that is established at
22 the time of Preliminary Plan which is when adequate public
23 facilities is tested would typically state that all, any
24 required offsite improvement shall be bonded and permitted
25 prior to the issuance of any building permits within the

1 site. That's standard language, that's something similar to
2 that is what we would request.

3 MR. ANTONETTI: Mr. Lenhart, just for a second.

4 MR. LENHART: Yes.

5 MR. ANTONETTI: On Applicant's Exhibit 21, under
6 applicant's proposed conditions, the applicant proposed the
7 following language in lieu of existing Condition 7, which
8 would read, all required offsite road improvements shall be
9 with the exception of the ultimate improvements at the
10 intersection of Westphalia Road and Maryland 4 to be funded
11 provided pursuant to CR-66-2010 shall be permitted and
12 bonded prior to issuance of any building permit. Would that
13 language be consistent with the current adequacy findings
14 and conditions typically found for development in Prince
15 George's County?

16 MR. LENHART: Yes, it would be. And then
17 Condition 15 states that no development shall take place
18 unless and until adequate public facilities are deemed to be
19 adequate by the Planning Board and Park and Planning. So
20 this language again, it's not consistent with how it's
21 typically worded. What we would propose something similar
22 to that is that no development shall take place unless and
23 until a Preliminary Plan of Subdivision is approved by the
24 Planning Board of Maryland National Capital Park and
25 Planning. You know that's a typical entitlement process we

1 would have to go through the Preliminary Plan anyway. That
2 establishes the adequacy of public facilities and should
3 satisfy the intent of Condition 15 but with better wording.

4 MR. ANTONETTI: And would emphasize the need for a
5 Preliminary Plan of Subdivision, correct?

6 MR. LENHART: Yes. Correct.

7 MR. ANTONETTI: Mr. Lenhart, in your opinion does
8 the proposed development as set forth in your study satisfy
9 all transportation requirements set forth in the County's
10 Transportation Guidelines and the County's Subdivision
11 Regulations as they pertain to adequate public
12 transportation facilities?

13 MR. LENHART: Yes, it does and it will be tested
14 again in detail at the time of Preliminary Plan.

15 MR. ANTONETTI: Thank you. Madam Examiner, I have
16 no further questions at this time for Mr. Lenhart.

17 MS. MCNEIL: Mr. Lenhart, I just have one
18 question. On Exhibit 7 and 15, I understand your all's
19 response and the need you feel to change the language. But
20 if the existing language remains, you would still satisfy
21 it, correct? I mean can you have an occupancy permit if the
22 road isn't there?

23 MR. LENHART: Well, I think that Condition 7, that
24 was created, that language created long before the PFFIP was
25 adopted at Maryland 4 and Westphalia. And so the PFFIP

1 states that you shall pay your errata share toward those
2 interchange improvements. And so the way it's worded right
3 now would kind of indicate that Maryland 4 at Westphalia has
4 to be completed as an interchange prior to occupancy
5 building permits.

6 MS. MCNEIL: Okay.

7 MR. LENHART: That's one drastic example of how
8 this could be problematic.

9 MS. MCNEIL: Okay. I see that one. But on 15?
10 I'm not saying I won't change it, I just want to be address
11 on the record exactly, you know, we're not trying to hide
12 anything, we're just using better language.

13 MR. LENHART: No, I think 15 probably would not
14 cause any issues, because adequate public facilities are
15 deemed adequate by Planning Board. I mean that will occur
16 at the time of Preliminary Plan. And so it's probably okay,
17 but we think the language we're proposing is a little
18 cleaner.

19 MR. ANTONETTI: And Madam Examiner, just the
20 language that is being suggested in Exhibit 21 to replace 15
21 does insert Preliminary Plan as a clear obligation --

22 MS. MCNEIL: Right, I understand that.

23 MR. ANTONETTI: -- which may not have been an
24 obligation in 1989. So it's an opportunity to at least
25 reinforce that, that that is part of this development moving

1 forward.

2 MS. MCNEIL: And I understand that and I think
3 it's just clearer in the record now, after asking my
4 question.

5 MR. ANTONETTI: (Indiscernible).

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

7 MR. BROWN: Yes, just one or two. How are you,
8 Mr. Lenhart?

9 MR. LENHART: I'm good, thank you. How are you?

10 MR. BROWN: Good. Going back to Condition 15, you
11 guys have a proposal there. Refresh my memory, does
12 warehouse development in the I-1 Zone require a Detailed
13 Site Plan? Mr. Antonetti or Mr. Lenhart?

14 MR. ANTONETTI: It does not, but Mr. Brown the
15 existing conditions, while not expressly stating Detailed
16 Site Plan references that Site Plan shall be reviewed by the
17 Council. So this applicant has assumed that a Detailed Site
18 Plan would be required and is in fact proposing a clarified
19 condition in Exhibit 21, that review of a Detailed Site Plan
20 in accordance with Part 3, Division 9 of the Zoning
21 Ordinance shall be required and that would be I guess
22 proposed Condition 10 on Exhibit 21. But that's the genesis
23 of how we got to that point.

24 MR. BROWN: All right. I thought you were
25 assuming that. So you placed it in Condition 10.

1 MR. ANTONETTI: Yes. Existing Condition 19, for
2 example states that all Site Plans shall be reviewed for
3 approval by the District Council.

4 MR. BROWN: All right. If you have it in your
5 proposed Condition 10 then we don't need to add it to
6 Condition 15, because as Mr. Lenhart was suggesting and at
7 your prodding him that I was going to add Detailed Site Plan
8 under Condition 15, but we don't need it since you have it
9 in proposed 10. So that's fine. Mr. Lenhart, looking at
10 the Concept Plan, Exhibit 2C, and several witnesses and
11 yourself have testified to this MC-634 Presidential Parkway
12 Master Plan Right-of-way, does that right-of-way terminate
13 on the subject property, under the county plans?

14 MR. LENHART: The right-of-way goes through the
15 property, beginning at Westphalia Road it goes through
16 Parcel 84 and then through the property and it continues MC-
17 634 continues further north, it goes beyond the property
18 line, the Master Plan Alignment, through Darcy Road and
19 beyond. And so you know it does continue on but we're only
20 talking about it within the context of our alignment --

21 MR. BROWN: No, wait a minute, I think you're a
22 little bit confused. When you say continues on Darcy Road
23 that's going south across Westphalia Road though, correct?

24 MR. LENHART: Bear with me, I'm going to pull up
25 the Master Plan here so I can make sure that I'm speaking.

1 MR. BROWN: Right, because you're going in the
2 wrong direction.

3 MR. LENHART: So if you wanted to pull up the
4 Concept Plan again so I can speak to that?

5 MR. BROWN: Exhibit 2C, Fatima.

6 MR. ANTONETTI: There you go.

7 MS. BAH: Can you stop sharing your screen,
8 please? Because I have something up already.

9 MR. LENHART: Okay. So this you can see the north
10 arrow up in the top left corner of this exhibit. The north
11 arrow is pointing to the left. So if we start down at
12 Westphalia Road which is at the, on the right side of this
13 exhibit in the center, Parcel 84 is the long pipe stem that
14 goes from Westphalia Road up to the property, that alignment
15 of that parcel is the MC-634 Alignment and then as it goes
16 through our site MC-634 ultimately goes around the
17 horizontal curve that's at the first building and then
18 continues on up through Darcy Park, Darcy North and South,
19 and it crosses Darcy Road and then continues north and ties
20 into Sansbury Road (phonetic sp.) and then continues on up
21 Ritchie Marlboro Road at White House Road, up in that area.
22 And ties in where that intersection exists today.

23 Going to the south, which would be to the right of
24 this exhibit, if you take where MC-634 intersects with
25 Westphalia Road and you continue to the right, which would

1 be south toward Westphalia Town Center that continues to the
2 south, it weaves through the old Pepco property. It goes
3 down through Cabin Branch Village and intersects
4 Presidential Parkway where Suitland Parkway extended comes
5 across at the interchange there.

6 If you'd like I can share my screen, I can show
7 you the Master Plan Alignment.

8 MR. ANTONETTI: I think (indiscernible).

9 MR. BROWN: My question is what you --

10 MS. MCNEIL: I would like it. I would like to see
11 that, while you keep asking your questions.

12 MR. LENHART: Oh sure. Can I share my screen,
13 while --

14 MS. MCNEIL: If Fatima can give it to you, yes,
15 you have control.

16 MR. LENHART: All right. Where do I ask?

17 MR. ANTONETTI: Sorry, Mr. Brown, I didn't mean to
18 interject --

19 MR. BROWN: No, that's all right. That's fine.

20 MR. LENHART: Okay. It looks like I have
21 controls.

22 MS. MCNEIL: Yes.

23 MS. BAH: So it looks like you have controls of my
24 screen, you need to control to share your screen.

25 MR. LENHART: Oh. Yes, unless --

1 MS. BAH: Yes.

2 MR. LENHART: -- yes, that's okay.

3 MS. MCNEIL: Wait, I can't see your screen unless
4 it's something in the record. Are you going to show me
5 something in the record? Or will you make it a part of the
6 record?

7 MR. LENHART: This is, I'm sharing P.G. Atlas,
8 this is the P.G. Atlas GIS System that is, you know, I think
9 you could take administrative notice of this, couldn't you?

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

11 MS. MCNEIL: Probably, if you give enough detail
12 while you're speaking.

13 MR. LENHART: Sure. And so let me turn on
14 imagery, okay, so the property, this is Parcel 84, if you
15 can see my cursor.

16 MS. MCNEIL: Yes.

17 MR. LENHART: Parcel 84 coming up from Westphalia
18 Road. Our property is right in this area and if you look to
19 the south MC-634 continues south of Westphalia Road, it cuts
20 through, this is the old Pepco building which is going to be
21 redeveloped with warehouse, 360,000 square feet of
22 warehouse, they're dedicating right-of-way through their
23 property. And then it continues south, this property down
24 here is the Cabin Branch property, they've dedicated and
25 constructed a major collector roadway through their project

1 and then State Highway Administration is rebuilding the
2 interchange of Route 4 at Suitland Parkway, and as part of
3 that Suitland Parkway extended which is Presidential Parkway
4 as it comes across here will tie into MC-634. So MC-634
5 will be built up to there and then if you go to the north.

6 MS. MCNEIL: And show me your property again to
7 the north, showing me how it's cutting through.

8 MR. LENHART: Yes. Let me do this.

9 MS. MCNEIL: Oh.

10 MR. LENHART: This is a piece of our property, I
11 can't get them all because they're different lots, so I
12 can't get them all to line up. But you --

13 MS. MCNEIL: That's fine.

14 MR. LENHART: Yes, this is one and then this piece
15 up here and this piece. So our boundary actually comes up
16 and includes these two pieces as well. And so this is the
17 Darcy project, they're dedicating a building a piece on
18 their site of MC-634. There is existing development at this
19 location and so they're unable to build that connection.
20 But it continues across, this is Darcy Road, continues
21 across Darcy Road, ties into Sansbury Road and goes up
22 Sansbury Road until it then deviates from Sansbury and will
23 meander over to Ritchie Marlboro Road, this is Ritchie
24 Marlboro at White House.

25 MS. MCNEIL: Okay. That's enough for me. Thank

1 you.

2 MR. LENHART: Yes.

3 MS. MCNEIL: Mr. Brown, do you have more? Okay.

4 MR. BROWN: Yes. So the point I was trying to
5 make, Mr. Lenhart, is Presidential Parkway as illustrated on
6 your Exhibit 2 terminates on the subject property which is
7 not accurate. Presidential Parkway continues up along on
8 your property through the primary management area and then
9 to the proposed residential property to the northeast of
10 your property. Wouldn't it not be more accurate to show on
11 this illustrative exhibit, as well as on the Landscape Plan,
12 the actual proposed Presidential Parkway in its complete
13 form?

14 MR. LENHART: Well, the Master Plan Alignment have
15 it continuing all the way through, yes. And at the time of
16 Preliminary Plan we'll be required to show the Master Plan
17 Right-of-Way and alignment and any dedication requirements.
18 So it will be shown on future plans.

19 MR. BROWN: Do you anticipate, I understand the
20 county requires it as a Master Plan Right-of-Way, but do you
21 anticipate problems with crossing those primary management
22 areas on your property for Presidential Parkway?

23 MR. LENHART: Well that would not be my area of
24 expertise, the primary management area, the environmental
25 impacts, that would be better left to others to discuss, but

1 there are, when we go through DPIE once this project gets
2 approved, we'll have to dedicate a right-of-way and then we
3 will coordinate with DPIE on what they are going to make us
4 build and what we will pay fee in lieu for or get a waiver
5 for construction based on problems with the PMA or other
6 issues. And so the actual construction will be worked out
7 at time of permitting, and that's normal.

8 MR. BROWN: I mean, yes, I agree with that. My
9 point is Mr. Antonetti, I think that your Illustrative Plan
10 be clearer so that no one is under the misimpression that
11 Presidential Parkway terminates on your property. It does
12 not. Even though it's not clear exactly where it's going to
13 be on your property and Preliminary Plan will determine
14 that, I think on these Illustrative Plan you ought to at
15 least show that it is proposed to continue along your
16 property and go offsite to the north.

17 MR. ANTONETTI: Thank you for that, Mr. Brown. I
18 think that is a detail we can add and for the reasons that
19 were stated by Mr. Lenhart, we are in discussions with DPIE
20 currently about how much more, when or in the alternative
21 you know would we be required to pay for construction in
22 lieu of construction at this point, with DPIE beyond what is
23 shown on the concept. But we could add it as a detail
24 showing, calling it future Presidential Parkway or give it
25 some, you denote it that it's what is extended beyond what

1 we're proposing to build immediately. But the obligation is
2 there that we have to either build it or pay for it, but the
3 timing and what exactly when it's and how much it's going to
4 cost to build is in discussion with DPIE right now.

5 MR. BROWN: All right. That makes sense. Thank
6 you. No other questions.

7 MR. ANTONETTI: I have no further questions of Mr.
8 Lenhart.

9 MS. MCNEIL: Thank you, Mr. Lenhart.

10 MR. LENHART: Thank you.

11 MS. MCNEIL: Your next witness will be about how
12 long? I'm thinking of breaking at 12:30, if you have many
13 more, but if you're almost finished.

14 MR. ANTONETTI: I've got two witnesses, my goal is
15 to get through it in 30 minutes, if I can, that'll be it for
16 me.

17 MS. MCNEIL: Mr. Ferguson is one of them? Okay.
18 We'll let you try, go ahead.

19 MR. ANTONETTI: All right. Okay. We'll get as
20 far as we can, but I'll do my best. I'd like to call Mr.
21 Kody Snow from Phoenix Noise and Vibration.

22 MS. MCNEIL: Good morning, Mr. Snow.

23 MR. SNOW: Good morning.

24 MS. MCNEIL: Do you swear or affirm under the
25 penalties of perjury that the testimony you shall give will

1 be the truth and nothing but the truth?

2 MR. SNOW: I do.

3 MR. ANTONETTI: Thank you.

4 MS. MCNEIL: Mr. Antonetti?

5 MR. ANTONETTI: Yes?

6 MS. MCNEIL: If possible, and you probably were
7 going to address this, but I would like to know given the
8 extension of Presidential Parkway if that changes anything
9 in the noise study. So if you could work that into your
10 questions, that would be great.

11 MR. ANTONETTI: Okay. Very good.

12 MS. MCNEIL: Thank you.

13 MR. ANTONETTI: Thank you. Mr. Snow, can you
14 please state your professional address?

15 MR. SNOW: Yes. Professional address is 5216
16 Chairman's Court, Suite 107, Frederick, Maryland 21703.

17 MR. ANTONETTI: And what is your position with
18 Phoenix Noise and Vibration?

19 MR. SNOW: I am a senior engineer with Phoenix
20 Noise and Vibration.

21 MR. ANTONETTI: Okay. Have you provided testimony
22 as an engineer or acoustical expert before any boards,
23 hearing examiners, or commissions?

24 MR. SNOW: Yes, I have.

25 MR. ANTONETTI: Have you been qualified as an

1 expert before any Zoning Hearing Examiner either in Prince
2 George's County or Montgomery County in the field of
3 acoustical testing?

4 MR. SNOW: I have not, no.

5 MR. ANTONETTI: Okay. And Exhibit 12 is your
6 professional resume. Can you describe for the Zoning
7 Hearing Examiner your educational experience and background
8 in the field of acoustical testing?

9 MR. SNOW: Yes. I have a degree in mechanical
10 engineering, which is pretty common in our field. I have
11 also been working with Phoenix Noise and Vibration as of
12 this June for the past eight years. I've worked on
13 numerous, numerous projects through Prince George's County
14 in regard to residential development and other developments.

15 MR. ANTONETTI: And have you prepared studies,
16 surveys or reports in the field of acoustical testing?

17 MR. SNOW: Yes, I have.

18 MR. ANTONETTI: Do you have any certifications or
19 professional associations in the field of acoustical
20 testing?

21 MR. SNOW: Yes. I'm a member of the Institute of
22 Noise Control Engineering. I'm also a member with the
23 Acoustical Society of America.

24 MR. ANTONETTI: And your resume states you are
25 also a member of the National Council of Acoustical

1 Consultants, is that correct?

2 MR. SNOW: That's correct, yes.

3 MR. ANTONETTI: Okay. I think at this point I'm
4 going to move Mr. Snow as an expert in the area of
5 acoustical testing.

6 MR. BROWN: Mr. Snow, I don't think there's an
7 area Mr. Antonetti, you said acoustical testing, that's
8 really not a discipline. His education and background
9 appears to be in, I guess we could say acoustical
10 engineering, would that be more accurate, Mr. Snow?

11 MR. SNOW: Yes, that would be appropriate.

12 MR. BROWN: All right. It says here that you
13 graduated in 2013, with a Bachelors of Science from
14 University of Maryland in Baltimore, mechanical engineering,
15 is that correct?

16 MR. SNOW: Correct.

17 MR. BROWN: Are you licensed in the State of
18 Maryland?

19 MR. SNOW: I, I am not, no.

20 MR. BROWN: Have you sought licensure in the State
21 of Maryland?

22 MR. SNOW: I have not, no.

23 MR. BROWN: Why not?

24 MR. SNOW: The reason is, is because in our field
25 it's, it's not really that big of a criteria. Honestly,

1 there was only one state at one time that offered a
2 professional license in acoustical engineering, and they
3 actually got rid of that. That was out west in I think
4 Oregon or Washington. So if there are other engineers in
5 our field that have the license degree, or, or a
6 professional engineer license, it's typically in something
7 outside of the acoustic specialty.

8 MR. BROWN: Yes. No, I agree. I don't think
9 Maryland licenses acoustical engineering, but they do
10 license engineers, but you don't have any type of license
11 with regard to any type of engineers, whether it's
12 mechanical, acoustical or whatever, is that correct?

13 MR. SNOW: Correct.

14 MR. BROWN: All right. Your resume also indicates
15 here, I think I saw, you testified in Washington, D.C.
16 before the Zoning Commission in 2021, were you qualified in
17 acoustical engineering in that proceeding?

18 MR. SNOW: Yes, I was.

19 MR. BROWN: And you testified in the City of
20 Alexandria for a public hearing, since that was a public
21 hearing, it probably did not require a qualification, did
22 it?

23 MR. SNOW: No, I don't, no.

24 MR. BROWN: All right. In Fairfax County you
25 testified before the Board of Zoning Appeals, were you sworn

1 as an expert in that proceeding?

2 MR. SNOW: Yes, I was.

3 MR. BROWN: And then in 2018 you testified before
4 the Planning Board in Montgomery County, were you sworn in
5 as an expert witness in that proceeding?

6 MR. SNOW: Yes.

7 MR. BROWN: Have you ever testified before a court
8 of law in the field of acoustical engineering?

9 MR. SNOW: I have not, no.

10 MR. BROWN: Well just tell me generally what are
11 your job duties at Phoenix?

12 MR. SNOW: It's, it's a very wide variety, I would
13 say related to this. A large aspect of it is measuring and
14 then determining future noise impacts upon proposed
15 residential developments, as well as similar to the analysis
16 that we completed for this site, determining if any proposed
17 alternative use sites other than residential may cause
18 impact on any surrounding areas and determining if they're
19 going to comply with Prince George's County Noise Ordinance,
20 Noise Ordinance requirements as well as other counties
21 within the state, or if that county does not have any
22 jurisdictional requirements, we also, you know, defer to
23 Komar in regard to the state's requirements.

24 MR. BROWN: So the noise study, I'm just pulling
25 it up on my screen real quick, July 20, 2021, you prepared

1 that in coordination with Kyle Pritchard (phonetic sp.) is
2 that correct?

3 MR. SNOW: That's correct, yes.

4 MR. BROWN: And did you work under his or her
5 direction, or did you guys just work together to prepare
6 that study?

7 MR. SNOW: We worked together to prepare that
8 study. Honestly, I, I'm the senior engineer and Kyle is
9 just a regular, he's at the standard engineer level, a level
10 below me. So I oversaw his duties.

11 MR. BROWN: All right. Don't say he's the regular
12 engineer, because I think he might get upset.

13 MR. SNOW: Right. Yes, he's on here.

14 MR. ANTONETTI: Strike that from the record.

15 MR. SNOW: Couldn't, couldn't think of the, the
16 appropriate title, just engineer.

17 MR. BROWN: I have no objection to his
18 qualifications.

19 MS. MCNEIL: Okay. You will be admitted as an
20 expert in acoustical engineering.

21 MR. SNOW: Thank you.

22 MR. ANTONETTI: Thank you. Mr. Snow, are you
23 familiar with the property subject to Case A-9706-C?

24 MR. SNOW: Yes.

25 MR. ANTONETTI: Were you asked by the applicant to

1 prepare an acoustical noise study for the subject property?

2 MR. SNOW: Yes.

3 MR. ANTONETTI: And what's the current zone of the
4 property?

5 MR. SNOW: I-1, light industrial.

6 MR. ANTONETTI: And have you reviewed the Concept
7 Plan marked as Exhibit 2C, referred to numerous witnesses,
8 as prepared by Bohler Engineering?

9 MR. SNOW: Yes.

10 MR. ANTONETTI: Do you recognize what is shown as,
11 marked as Exhibit 18 in the Zoning Hearing Examiner record
12 with Mr. Brown just cited to, the July 20, 2021 Vista 95
13 Logistic Center Noise Analysis?

14 MR. SNOW: Yes.

15 MR. ANTONETTI: And was Exhibit 18 prepared by you
16 or under your direction?

17 MR. SNOW: Yes.

18 MR. ANTONETTI: Does your study assess the current
19 impact of sound emanating from I-95 or 495 across the
20 subject property and onto adjoining properties?

21 MR. SNOW: Yes, it does.

22 MR. ANTONETTI: Does your noise study or study
23 assess the sound impact of future Presidential Parkway on
24 the adjacent properties?

25 MR. SNOW: Yes.

1 MR. ANTONETTI: Does your study assess the sound
2 impact of future industrial uses as depicted on the Concept
3 Plan on adjacent properties?

4 MR. SNOW: Yes, it does.

5 MR. ANTONETTI: And are the adjacent properties to
6 the subject site utilized for both residential and
7 industrial purposes?

8 MR. SNOW: Yes, that's my understanding.

9 MR. ANTONETTI: Can you explain for the ZHE and
10 the People's Zoning Council and others, what does the
11 current County Noise Ordinance require for limits of outdoor
12 noise levels for industrial development?

13 MR. SNOW: So the current limits are for the
14 proposed development noise generated by the, sorry, by the
15 proposed site upon adjacent industrial use properties is 75
16 DBA. Whether that is daytime or nighttime and that is an
17 instantaneous noise level. When evaluated upon a
18 residential property it is as a daytime requirement of 65
19 and a nighttime requirement of 55. And then there are also
20 other regulations in regard to that type of noise and it
21 provides other requirements.

22 MR. ANTONETTI: And does the County Noise
23 Ordinance contain requirements for mitigation of noise from
24 sound generated by public roads on existing residential
25 development?

1 MR. SNOW: No.

2 MR. ANTONETTI: Does your study or report
3 recommend any sound mitigation devices for the proposed
4 development reflected in the Concept Plan, marked as Exhibit
5 2C? And if it does, can you please explain what types of
6 devices and where are they to be located? And I apologize,
7 I should have done this first, Fatima, if possible could you
8 please bring up Exhibit 18? I'd like to have Mr. Snow refer
9 to the appendix at the end of that exhibit for context.

10 MR. SNOW: If you could, could you go to Drawing 2
11 please?

12 MR. ANTONETTI: Yes, it's at the end.

13 MR. SNOW: It's page 13 of the exhibit.

14 MR. ANTONETTI: You're almost there.

15 MR. SNOW: Yes.

16 MR. ANTONETTI: So if you can go back to Exhibit
17 18? Right there. Okay. If those two, the first two sheets
18 are the ones I'm going to refer to, or Mr. Snow will refer
19 to. Mr. Snow, do you want to start with the first sheet and
20 then go to the second, or how would you like to do it?

21 MR. SNOW: In regards to your last question, if we
22 could look at Drawing 2, the second sheet.

23 MR. ANTONETTI: Okay.

24 MR. SNOW: So you had asked about mitigation from
25 roadway noise upon the site as well as site generated noise

1 upon the surrounding residential areas. So as you can see
2 on the exhibit there is multiple locations where we've
3 recommended sound attenuation fencing. Nearest Building 1
4 there is that diagonal placed sound fence. That one is 15
5 feet in height. We've also placed one along the eastern
6 retaining wall for a portion of that, which is also 15 feet
7 in height. And then we've also proposed fencing along the
8 property lines for the neighboring residential properties.

9 Additionally, the construction of the two
10 buildings on the site will also provide shielding from the
11 beltway for those residences further east and north. We've
12 also made an analysis of Presidential Parkway, have looked
13 at the addition of fencing along Presidential Parkway.

14 MR. ANTONETTI: Can you please refer to your first
15 exhibit and for context sake, please describe the existing
16 noise contours as analyzed by your study, without any
17 development on this site. So and Fatima, if you could go to
18 Sheet 1, the sheet right above this for that discussion?
19 But if you could, Mr. Snow, when we get to that sheet, could
20 you please explain the existing noise levels at the site?

21 MR. SNOW: Yes, I don't know if I can do this
22 (indiscernible).

23 MR. ANTONETTI: And again, we're just trying to
24 get to the sheet just before this one that's shown.

25 MR. SNOW: Okay.

1 MR. ANTONETTI: Yes, great, perfect. Thank you.

2 MR. SNOW: One too far. As you can see the
3 property line is shown on this drawing to the east and south
4 of the property line, even you'll notice that a good bit of
5 the residences are in what we would call the light blue or
6 cyan color. This color indicates noise impact from the
7 beltway, I-95, I-495 from these properties in the 60 to 65
8 DBA LDN range. And as well as south to the site some of
9 these properties are exposed to the little bit higher noise
10 level in the 65 to 70 range. What you'll notice is then if
11 you move to Drawing 2 --

12 MR. ANTONETTI: Mr. Snow, before we get off that,
13 could --

14 MR. SNOW: Yes.

15 MR. ANTONETTI: -- you please give further context
16 since we're seeing this virtually what the colors mean on
17 this exhibit --

18 MR. SNOW: Yes.

19 MR. ANTONETTI: -- and what does the solid blue
20 line reference as well? The solid blue --

21 MR. SNOW: Yes, correct.

22 MR. ANTONETTI: -- and light blue reference,
23 excuse me.

24 MR. SNOW: Sorry, yes. So what you can't see is
25 there is also a legend on this drawing. So the colors are

1 presenting the level of noise that's generated by the
2 Capital Beltway. The dark blue line is the 65 DBA LDN
3 contour line. This is the contour line that we typically
4 use to evaluate roadway noise within the county. When
5 there's a proposed residential site within the county we're
6 required to develop, or sorry, required to evaluate roadway
7 noise impact upon that site. This is what we would use to
8 determine if mitigation upon that residential development is
9 required or not. Given that this is existing residences,
10 this requirement wouldn't apply to them but it's beneficial
11 to look at to see what the existing levels are relative to
12 noise impact upon them and then what the proposed conditions
13 do in regard to this contour.

14 MR. ANTONETTI: And is it fair to say from this
15 exhibit in your findings that the most significant current
16 noise generator in this vicinity of the property and on the
17 property is what you have marked as I-95?

18 MR. SNOW: That's correct, yes. Yes.

19 MR. ANTONETTI: And what sound levels are
20 experienced in I-95 based on this document (indiscernible)?

21 MR. SNOW: The noise generated upon the
22 surrounding residential properties ranges between, from the
23 upper, sorry, between 70 to 65 for some residences and then
24 65 to 60 DBA LDN for others. Whereas those that are even
25 further from the roadway are between 55 and 60.

1 MR. ANTONETTI: Okay. So that's the existing
2 situation. If we could go back, Fatima, to the next
3 exhibit, the one that you had previously, just scroll down
4 so we can talk about, Mr. Snow if you could then describe
5 and again point out any color changes or any changes in, you
6 know, basically the condition by placement of these
7 buildings and these mitigation devices. If you could please
8 orient us to what your findings are.

9 MR. SNOW: Yes. As you'll see from the exhibit,
10 the proposed buildings provide shielding from the Capital
11 Beltway which is indicated as I-95. The amount of area that
12 used to be exposed to the cyan or light blue color, has
13 decreased or has relatively increased overall around the
14 site, but there's also more of the purple color that's
15 indicated which is the lower noise levels, which is the 55
16 to 60 DBA LDN range. So what this exhibit shows is that the
17 proposed buildings and other mitigation on this site is
18 reducing noise from the beltway upon the existing
19 residences.

20 MR. ANTONETTI: And can you please explain your
21 analysis regarding proposed Presidential Parkway in terms of
22 the potential noise profile versus the existing noise
23 conditions on surrounding development?

24 MR. SNOW: Yes. So similar to how we evaluated
25 the Capital Beltway, we also used the same type of analysis

1 for Presidential Parkway, even though it's not a
2 requirement, just to provide a comparison between existing
3 and future noise levels. What you'll see if you could
4 scroll to Drawing 3, which is the one below this.

5 MR. ANTONETTI: Which is the very next exhibit,
6 Fatima, please. Thank you. Perfect.

7 MR. SNOW: So here are what the existing
8 conditions are, due to the Capital Beltway and then if you
9 were to move to the next exhibit right below this one, you
10 can see the addition of Presidential Parkway, which also
11 includes the fencing along the parkway. But what you'll
12 notice is that the difference in noise level is at a point
13 where it would be imperceptible between the LDN noise level
14 or the LDN evaluation. So all of those residences that were
15 previously in the 60 to 65 noise impact zone, as well as the
16 55 to 60 DBA LDN zone are very similar to what they were
17 previous to the proposed condition.

18 MR. ANTONETTI: And while we're on this exhibit,
19 are you aware that the property to the west of future
20 Presidential Parkway is zoned I-1 as well?

21 MR. SNOW: Yes.

22 MR. ANTONETTI: And to the east is zoned
23 residential.

24 MR. SNOW: That's correct.

25 MR. ANTONETTI: And to the east, are there any

1 beneficial changes from the development of this site and or
2 this roadway to the sound profile for the eastern side of
3 future Presidential Parkway pursuant to your study?

4 MR. SNOW: Yes. You'll notice that due to the 6
5 foot vinyl fence that is shown that some of the existing
6 residential properties, the area that is indicated by the 55
7 to 60 DBA LDN range increases by some amount between the
8 existing and proposed conditions.

9 MR. ANTONETTI: So it's --

10 MR. SNOW: So therefore their noise level
11 decreases in some locations.

12 MR. ANTONETTI: So through that decrease it's a
13 slight improvement over existing conditions?

14 MR. SNOW: Correct.

15 MR. ANTONETTI: In your opinion and based on the
16 findings and conclusions of your noise study, will the
17 proposed development shown in the Concept Plan as modified
18 by your recommended noise mitigation devices, be in
19 conformance with all applicable noise regulations, both
20 state and county?

21 MR. SNOW: Yes.

22 MR. ANTONETTI: Okay. I have no further questions
23 of Mr. Snow at this time.

24 MS. MCNEIL: Mr. Brown?

25 MR. BROWN: Yes, just one or two very quick

1 questions. Looking at the exhibit on the screen now, Mr.
2 Snow --

3 MR. SNOW: Yes.

4 MR. BROWN: -- and the comments that you have
5 project, if you will, does that only take into consideration
6 the trucks that would be coming to and from the subject
7 property and not the additional traffic that would be riding
8 along Presidential Parkway through the property and to the
9 north?

10 MR. SNOW: I'm sorry, one second. So from my
11 understanding it accounts for just the truck traffic on
12 Presidential Parkway.

13 MR. BROWN: That's what I thought. So it doesn't
14 take into consideration additional traffic, thru traffic if
15 you will, that will be occurring on Presidential Parkway
16 when it is completed throughout this property. In addition,
17 I notice in your report on page 5, the last paragraph, you
18 said that the proposed uses of the logistic center are
19 currently unknown. I understand that because there are no
20 tenants, therefore you have not taken any measurements of
21 any particular types of trucks to determine what noise they
22 generate, have you?

23 MR. SNOW: What we have done for this analysis is
24 that we've evaluated other similar proposed condition sites,
25 as far as logistics or shipping sites. Where we have

1 actually gone to a site and measured noise generated by a
2 tractor trailer. So like a tractor trailer idling, back up
3 beepers and other sources that occurred, we have evaluated
4 those. What we've done is because we've modeled this site
5 in a computer model, we can take those previously measured
6 noise sources and insert them into the model and then
7 evaluate them upon the surroundings.

8 MR. BROWN: What other sites did you look at?

9 MR. SNOW: So we evaluated one outside of Prince
10 George's County. I think it was up in Hartford County,
11 where it was kind of similar, they're at an existing
12 shipping facility and then they were expanding it.

13 MR. BROWN: And so that was the only other site
14 you looked at, is that correct?

15 MR. SNOW: Correct. That's the only one where
16 we've done existing noise measurements at.

17 MR. BROWN: And that study in Hartford County was
18 that a measurement of real time or average noise?

19 MR. SNOW: That is real time. Yes. So the noise
20 levels that we've used for evaluation of the trucks in this
21 report, are instantaneous noise levels. So those are, you
22 know, looking at that one second level as it occurs.

23 MR. BROWN: All right. So you did not take any
24 measurements of average time to come to the conclusions
25 you've reached in this report?

1 MR. SNOW: Correct.

2 MR. BROWN: Yes. And primarily as I understand
3 your report, it really focuses on mitigating or attenuating
4 noise coming from the Capital Beltway, is that correct?

5 MR. SNOW: It focuses on that, but it also shows
6 the anticipated impact due to the use of heavy trucks on
7 this site for shipping.

8 MR. BROWN: Mr. Antonetti, did I hear you earlier
9 indicate that you were proffering to do a noise study at the
10 time of Detailed Site Plan?

11 MR. ANTONETTI: At time of Preliminary Plan of
12 Subdivision, at which as part of the environmental analysis
13 that's a typical point of analysis and then from that any
14 conditions, mitigation devices would then be shown. Say if
15 it was a sound attenuation fence or barrier, that those
16 details will be shown on the Detailed Site Plan, location of
17 materials, things of that nature.

18 MR. BROWN: Right. So I mean it's sort of
19 conjecture and speculation at this time to really go over
20 this noise study, because the applicable noise study will
21 really be the one that's done at the time of Preliminary
22 Plan of Subdivision, is that correct, Mr. Snow?

23 MR. SNOW: I would say that there is benefit to
24 this study in that with the detail that's presented within
25 it, I would imagine that the additional study would need to

1 be further evaluated to account for other Site Plan changes.
2 But I would say that this would be a good basis for that
3 analysis.

4 MR. BROWN: All right. No other questions. Thank
5 you.

6 MR. ANTONETTI: I just --

7 MS. MCNEIL: I'm sorry, I had, well it's more of a
8 proffer that I would like from you and that, it touches on
9 what the People's Zoning Council just mentioned. Exhibit 1,
10 existing Exhibit 1 may not be worded as correctly as it
11 should be, but it seems to be the Council's attempt to
12 ensure that there was some type of noise attenuation through
13 the use of wooden barriers. And I noticed elsewhere, it
14 might have been in this report, or Mr. Ferguson's report
15 that you wouldn't want to use wooden barriers. But you
16 would not object to a condition that sort of revises one,
17 similarly to what was just mentioned by Mr. Brown that to
18 just, even though it's surplusage to say that some noise
19 evaluation should be done at the time of Preliminary Plan
20 and that it should take into consideration the extension of
21 Presidential Parkway to the north, if possible.

22 MR. ANTONETTI: We don't object to that, in fact,
23 in my opening which was a while ago, I apologize, I was
24 going to submit an updated exhibit with additional language
25 and one of the additional conditions would read that prior

1 to acceptance of a Preliminary Plan of Subdivision a noise
2 analysis shall be provided and shall demonstrate that
3 outdoor noise levels will meet all applicable county noise
4 regulations for the proposed industrial use. All required
5 noise mitigation structures shall be reflected upon a
6 Detailed Site Plan. So that is a proffer we would make and
7 if the record could be kept open we would submit that
8 specific language.

9 MS. MCNEIL: Can you add some reference to the
10 Presidential Parkway continuing to the north?

11 MR. ANTONETTI: Yes, we can reference that as
12 well.

13 MS. MCNEIL: Okay. Thank you.

14 MR. ANTONETTI: No issue with that.

15 MS. MCNEIL: Thank you. So I have no questions
16 then of the witness.

17 MR. ANTONETTI: I was going to redirect and deal
18 with the characterization of the study, but just one
19 question actually, just to sum up. Mr. Snow, did your study
20 look at instantaneous noise events from the industrial use
21 such as trucks idling, latching of trailers, back up
22 beepers, were those modeled in your study?

23 MR. SNOW: Yes, they were.

24 MR. ANTONETTI: And were they modeled upon various
25 conditions as reflected on Table 3, page 9 of your study?

1 MR. SNOW: Correct.

2 MR. ANTONETTI: I would also include Table 4, as
3 well on page 9. Okay. And were the findings regarding
4 instantaneous noise levels, did your findings conclude that
5 the industrial use exceeded the County Noise Ordinance
6 requirements? Or were at or below the County Noise
7 Ordinance requirements?

8 MR. SNOW: The findings determined that they would
9 be below the County Noise Ordinance.

10 MR. ANTONETTI: Okay. And at time of Preliminary
11 Plan, would your company, if engaged to prepare the noise
12 analysis, prepare a similar analysis that would look at
13 these events as well as the full extension of Presidential
14 Parkway, if required by condition?

15 MR. SNOW: Yes.

16 MR. ANTONETTI: Okay. No further questions.

17 MS. MCNEIL: Thank you, Mr. Snow.

18 MR. ANTONETTI: I do have Mr. Ferguson, I know
19 we're on 12:30, but he's my last witness, so I'll leave it
20 to the discretion of Madam Examiner, Mr. Brown, as to how
21 you'd like to proceed.

22 MS. MCNEIL: I would love to see this, but let's
23 call Mr. Ferguson. We're breaking at 1:00.

24 MR. FERGUSON: So good morning, Madam Examiner. I
25 was chagrined to hear that my reputation for verbosity

1 seems to have preceded me.

2 MS. MCNEIL: Good morning. Do you swear or affirm
3 under the penalties of perjury that the testimony you shall
4 give will be the truth and nothing but the truth?

5 MR. FERGUSON: I do.

6 MR. ANTONETTI: Mr. Ferguson, can you please state
7 your professional address and what company you work with?

8 MR. FERGUSON: I work with RDA Site Design at 9500
9 Medical Center Drive, Largo, Maryland.

10 MR. ANTONETTI: And what is your position with
11 Site Design or RDA?

12 MR. FERGUSON: We don't have titles here, but I
13 call myself a senior land planner.

14 MR. ANTONETTI: And have you been qualified as an
15 expert in the area of land planning?

16 MR. FERGUSON: Madam Examiner calls me an expert
17 in the field of land use planning.

18 MR. ANTONETTI: Land use planning. I apologize.
19 Mr. Ferguson's resume is marked in the exhibit list as
20 Exhibit 14. I would move Mr. Ferguson in as an expert in
21 the land use planning.

22 MS. MCNEIL: I don't hear anything from Mr. Brown,
23 so he will be accepted as an expert in the area of land use
24 planning.

25 MR. FERGUSON: Thank you, Madam Examiner.

1 MR. ANTONETTI: Mr. Ferguson, do you recognize the
2 exhibit marked as Exhibit 2C, labeled Illustrative Concept
3 Plan and Exhibit 2D as the Illustrative Landscape Plan?

4 MR. FERGUSON: I did see those in earlier
5 testimony, yes.

6 MR. ANTONETTI: Thank you. Can you briefly
7 describe these exhibits as what they represent?

8 MR. FERGUSON: Well they illustrated the
9 development that this applicant is going to propose should
10 these amendments be approved.

11 MR. ANTONETTI: And can you describe the
12 properties including zone of adjoining properties to the
13 site?

14 MR. FERGUSON: I will. So Mr. Rizzi did describe
15 it, but if we start at the northeast, there is the open
16 space and the platted extension of Presidential Parkway in
17 the West Ridge Development which is principally or maybe
18 even completely townhouses interstitial monitoring the R-R
19 Zone. To the east is single family and apartments in the R-
20 18 Zone in Chester Grove, addition or resubdivision from the
21 last 1970's. To the south are single family detached
22 dwellings in the R-R Zone in the Chester Grove addition. To
23 the southwest along the east side of Flowers Avenue are some
24 nonconforming single family dwellings in the I-1 Zone. To
25 the west is a small contractor I believe he is in the I-1

1 Zone. And then to the northwest is the Capital Beltway,
2 with properties in the I-4 Zone on the other side.

3 MR. ANTONETTI: And would these properties
4 constitute the neighborhood for this application?

5 MR. FERGUSON: Well, we're just doing amendments
6 so I don't know that you would need a zoning neighborhood.
7 I don't know what the neighborhood was in 1989. I guess
8 what I would characterize the neighborhood would be the 1994
9 Master Plan called Employment Area 2, and then I would add
10 in the Chester Grove properties, the abutting Chester Grove
11 properties as well.

12 MR. ANTONETTI: Mr. Ferguson, are you familiar
13 with the applicant's request to amend conditions, and have
14 you reviewed the materials submitted by the applicant as
15 part of this application?

16 MR. FERGUSON: I am and --

17 MR. ANTONETTI: (Indiscernible).

18 MR. FERGUSON: -- I have.

19 MR. ANTONETTI: Sorry?

20 MR. FERGUSON: I am and I have, yes.

21 MR. ANTONETTI: Okay. And what is the current
22 zone of the property?

23 MR. FERGUSON: It is I-1 with all three, the
24 triple threat of the M-I-O overlay, both noise and height
25 and the safety zones as well. There are two safety zones

1 that impact this property, the APC-1 as well as the APC-2.

2 MR. ANTONETTI: Okay. Does the property qualify
3 to develop with the uses and standards in the I-1 Zone and
4 the M-I-O-Z Overlay Zone, per the county's (indiscernible).

5 MR. FERGUSON: I mean, it does.

6 MR. ANTONETTI: And what are the uses being sought
7 for the subject property?

8 MR. FERGUSON: So as has been testified, basically
9 warehouses. Mr. May calls it a logistic center, but
10 essentially that's warehousing and distribution.

11 MR. ANTONETTI: And are these uses consistent with
12 the uses allowed in the underlying zones?

13 MR. FERGUSON: Yes, they are.

14 MR. ANTONETTI: Are you familiar with the 2007
15 Westphalia Sector Plan and Sectional Map Amendment?

16 MR. FERGUSON: I am.

17 MR. ANTONETTI: Is the subject property located
18 within the area governed by this Sector Plan?

19 MR. FERGUSON: It is.

20 MR. ANTONETTI: And what are the current Sector
21 Plan recommendations for this site and how might they
22 compare with the prior 1994 Master Plan recommendations
23 which they replaced?

24 MR. FERGUSON: So the current land use
25 recommendation for the subject property is industrial land

1 use that's shown on Map 4, page 19 of the 2007 Plan. The
2 '94 Melwood-Westphalia Plan called this light industrial and
3 office or business park use. And in fact, that was the use
4 that had been proposed in 1989, really more of an office use
5 rather than warehousing and distribution that's proposed
6 now.

7 MR. ANTONETTI: And are you familiar with Section
8 27-135(c)(1) of the Zoning Ordinance as it pertains to an
9 amendment of conditions of a prior zoning decision?

10 MR. FERGUSON: I am.

11 MR. ANTONETTI: And in your opinion, does the
12 instant application represent good cause to justify an
13 amendment of conditions in A-9706-C, as requested by the
14 applicant and as modified by the proffers discussed up into
15 your testimony, today's testimony.

16 MR. FERGUSON: Well I can speak to most of the
17 conditions. So of the 20, you know five really deal with
18 the community association that no longer exists, and I don't
19 address that in my report, which I do also adopt as my
20 testimony as well. That's Exhibit, I believe 20 in the
21 record. And you have not proposed, altered four of the
22 conditions, so of the remaining 11, I don't believe that
23 good cause does exist to modify those conditions.

24 MR. ANTONETTI: And can you succinctly explain
25 your specific findings pertaining to the amendment of

1 conditions set forth in your land planning analysis which
2 you have now adopted as part of your testimony here today
3 and is marked as Exhibit 20 in the ZHE record?

4 MR. FERGUSON: I do. And from my perspective, the
5 crux of the amendments that I address is to bring the review
6 of the property and the regulations which apply to it, into
7 line with current law. And there are a number of things
8 that have changed in between the time of the zoning and the
9 present, which really provide the necessary context for
10 that. So I do go over that on the first few pages of my
11 report, really pages 2 through 5 and the things that I
12 highlight, is at the time the subject property was rezoned
13 in 1989, Presidential Parkway now the MC-634 did not exist
14 as a part of the Master Plan of Transportation. That was
15 only created or initially proposed by the 1994 Melwood-
16 Westphalia Plan which in fact proposed it as an arterial.
17 At that time, the road was the A-66, and it was proposed
18 then to deal with a large amount of planned employment
19 industrial which that plan had proposed along the beltway.

20 The 2007 Westphalia Sector Plan did reduce some of
21 that planned employment area, most particularly the West
22 Ridge, you know, development had been proposed for
23 industrial development or had planned for industrial
24 development, if the zoning had been retained. But the
25 Westphalia Plan did retain the industrial land use

1 recommendation and the industrial zoning at the property
2 specifically because of the really severe impacts on the
3 subject property from the safety concerns from Joint Base
4 Andrews operations and the noise impacts, both from Joint
5 Base Andrews and from the beltway. So certainly the Master
6 Plan thought that given those adverse impacts, an industrial
7 use was more appropriate than even the plans previous
8 recommendation for you know office and business park use.
9 And I think there is even larger context, not just in 1989
10 at the time of the zoning but even through the 2007 Melwood-
11 Westphalia Plan, the M-I-O-Z had not yet been adopted and a
12 lot of county planning had talked about adopting regulations
13 to codify land use restrictions associated with Andrews'
14 operations. But that didn't really make it in until the
15 mid-2010's with the M-I-O-Z.

16 And when that M-I-O-Z was enacted, it included
17 land use restrictions that hadn't been part of the Master
18 Plan recommendations, specifically including limitations on
19 the density or intensity of office uses, to protect them
20 against, you know, airplanes dropping out of the sky. So
21 not only has the market changed and the desire for a
22 different type of development at the subject property, but
23 also the restrictions on the subject property for the kinds
24 of land uses that had been proposed weren't there 32 years
25 ago.

1 Another significant change in development
2 regulations was the adoption of the Landscape Manual. At
3 the time of the rezoning the Landscape Manual had not been
4 adopted. The Landscape Manual was created by CB-1-1989 but
5 CB-1 wasn't actually adopted until October. There was a lot
6 of wrangling over that which in fact I do remember from the
7 very, very early days of my practice in land development and
8 land planning and engineering. So clearly, the Council was
9 concerned at the time of the adoption of the A-9706-C
10 rezoning to protect the surrounding neighborhood, but there
11 was no standard in place at that time. So now there is and
12 as you heard Mr. Rizzi testify to not only is the applicant
13 proposing to comply but even to exceed the Landscape Manual
14 standards. The Landscape Manual had proposed 120 percent of
15 the planting requirement of a Type D buffer yard but did not
16 in fact even take into account the presence of a fence which
17 one of your proffered conditions will propose, which would
18 reduce the planning requirement by 50 percent, but as the
19 condition is written, you know, wouldn't take credit for
20 that. So there really will not just be a buffer in place
21 under the proposed conditions that does conform to the
22 standard that's been established over the past 30 years, but
23 will in fact exceed that buffering requirement to provide an
24 extra level of protection.

25 Mr. Rizzi also testified about the elevation

1 change. One of the things Madam Examiner that's important
2 to bear in mind is that the earlier proposal for office
3 development really is what you know gave rise to the six
4 buildings because the footprints of those buildings are much
5 smaller. What that allows you to do is to utilize the
6 existing topography much better than a large single
7 footprint that is now proposed. And so it's really the
8 modern use that requires you know a more level development
9 site and really creates a lot of the topographic separation
10 that wouldn't have been there under the 1989 proposal.

11 The third and Mr. Klebasko talked about the change
12 requirements for environmental, so I won't go over that
13 again.

14 The other major change that's been talked about
15 was the adequate public facilities requirement. So CB-100
16 of 1989 which was passed at the very end of 1989, is really
17 where the county made the Subdivision Ordinance apply to all
18 new development. Prior to that time and I remember this
19 very vividly because we were doing a project very similar to
20 what's being proposed here, immediately on the other side of
21 the Capital Beltway and that project was caught in a race
22 for a permit, because CB-100 granted essentially a one year
23 grandfathering to allow people to get a building permit
24 before which time the Subdivision Ordinance and the test for
25 adequacy of public facilities was then applied to really all

1 development above 5,000 square feet that exists today.

2 So at the time in 1989, CB-100 didn't yet exist
3 and it was possible to get building permits directly without
4 the subdivision process on parcels of record, as long as
5 they had been subdivided by deed prior to July of 1982. So
6 those changes, the creation of the then A-65 followed by
7 becoming in this theory of the project, the MC-634, brings
8 the planned public road through the property down what was
9 then an area that was supposed to be denied in Condition 1.

10 Condition 2 speaks to a landscape buffer where
11 there was at that time no standard, where there now is one.

12 Condition 3 speaks to the visible outdoor storage
13 being permitted. That is a condition of the Zoning
14 Ordinance that's been, I don't recall the number, but it's
15 been cited a couple of times already. You know this
16 condition essentially mirrors the existing language that is
17 present as a regulation of the I-1 Zone. Mr. Brown, I
18 believe you said earlier that you know as long as something
19 is already protected by you know the County Ordinance is a
20 supplemental redundant condition necessary. Madam Examiner,
21 that's certainly for you to decide, but that was the
22 question that I had in my report.

23 Condition 4 speaks to the finish materials and
24 again the change of the market, the change to the M-I-O-Z
25 limiting the kind of development that is, or the change to

1 the regulations to include the M-I-O-Z, you know really
2 suggests that providing office building material standards
3 is --

4 MR. ANTONETTI: Mr. Ferguson, can I stop you for a
5 second?

6 MR. FERGUSON: Yes.

7 MR. ANTONETTI: In regards to the M-I-O-Z in terms
8 of the materials, given the classification that this
9 property is in, are there any limitations on the types of
10 materials and particularly their reflectivity --

11 MR. FERGUSON: There are.

12 MR. ANTONETTI: -- (indiscernible).

13 MR. FERGUSON: For properties that are in the
14 safety zones basically you can't have something that would
15 reflect you know lights back into the pilot's eyes. So
16 there are limitations on glass on building façades, for
17 buildings located in the safety zones. The safety zones
18 don't cover all of the subject property but they do cover
19 some of the development area.

20 MR. ANTONETTI: Sorry, I cut you off as you were
21 going through your --

22 MR. FERGUSON: Not at all. So Conditions 5 and 6
23 and 9 speak to the Flowers Road and the inappropriateness of
24 using that as access, given the creation of the MC-634,
25 which did not exist at the time of the rezoning.

1 Mr. Lenhart spoke to Condition 7, requiring
2 completion of offsite road improvements. Madam Examiner,
3 this is another one that really speaks to standards that did
4 not exist at the time of the approval of the rezoning.
5 There was no provision that would have required this
6 property to go through the Subdivision Ordinance and face
7 the adequacy of public facilities tests. And now that that
8 is a requirement, I believe that it's appropriate for you
9 know this, the zoning conditions not to conflict with
10 existing law.

11 Similarly, to Condition 15 and Condition 19
12 really, Mr. Antonetti spoke to it was unclear to our reading
13 that it was a definitive requirement for a Detailed Site
14 Plan. So the applicant has proposed to clarify that to make
15 that a requirement, but the other provisions of that
16 condition put the review of adequacy of public facilities on
17 the District Council whereas now with the requirement for
18 the application of that tested subdivision process it
19 properly belongs with the Planning Board.

20 And then finally, Condition 20 is in fact dealt
21 with as well by the Landscape Manual which did not exist at
22 the time of the 1989 rezoning. So that in summary are my
23 findings and you know really from the planning perspective
24 all of the conditions that I address, the modifications are
25 just intended to bring them into line with current

1 regulation.

2 MR. ANTONETTI: Mr. Ferguson, have you heard and
3 understood the testimony and provided by other witnesses in
4 this case that have appeared before the ZHE today?

5 MR. FERGUSON: I have.

6 MR. ANTONETTI: Have you reviewed the applicant's
7 proposed revisions to conditions including in the ZHE record
8 marked as Exhibit 21?

9 MR. FERGUSON: I have.

10 MR. ANTONETTI: Do you agree with the applicant's
11 proposed revisions in Exhibit 21?

12 MR. FERGUSON: I do, with the potential exception,
13 this is not a planning concern but some of them are
14 redundant to exist in county law. So if Madam Examiner
15 finds that they are not necessary, I think that their belt
16 and suspenders.

17 MR. ANTONETTI: Okay. And based upon your review
18 of the application materials, the proposed conditions of
19 approval set forth in Exhibit 21 with your current comments
20 noted, your findings set forth in your land planning
21 analysis and your understanding of the testimony from the
22 witnesses that have testified in this case, is it your
23 opinion that this application meets all the requirements for
24 amendment of condition as set forth in Section 27-135(c) (1)
25 of the Zoning Ordinance?

1 MR. FERGUSON: That is my opinion. And the one
2 requirement is good cause, that I believe that all of the
3 substantive changes and evolutions, really in county law do
4 constitute good cause, particularly given I think you and
5 Mr. May have gone really above and beyond in giving Madam
6 Examiner evidence which would really ordinarily be presented
7 in the future at the time of these reviews to address what
8 the impacts, and the protection against the impacts that
9 these conditions were intended to address and how they would
10 they be resolved at the time of future reviews. I'm not
11 sure if that came out in English, but.

12 MR. ANTONETTI: It did. Thank you.

13 MR. FERGUSON: Thank you.

14 MR. ANTONETTI: I have no further questions of Mr.
15 Ferguson at this time.

16 MS. MCNEIL: Mr. Brown?

17 MR. BROWN: Good to see you, Mr. Ferguson, I agree
18 with probably everything you said, so I don't have any
19 questions.

20 MR. FERGUSON: Thank you, Mr. Brown. It's nice to
21 see you as well, as always.

22 MS. MCNEIL: First off, I have something I'd like
23 Mr. Antonetti to proffer if you can't answer. Mr.
24 Antonetti, does 9D satisfy the prohibitions in the M-I-O-Z
25 Zone? That's the elevation.

1 MR. ANTONETTI: Yes.

2 MS. MCNEIL: They do? Okay.

3 MR. FERGUSON: Madam Examiner, I did do a brief
4 analysis, so the subject property is 7,500 feet from the end
5 of the runways, and it's about at the same elevation, you
6 know, give or take 10 feet. So the 7,500 distance would
7 translate to a building height of 150 feet, well 140 I think
8 after you subtract for the elevation difference at the
9 highest point of the property. So yes, it would.

10 MS. MCNEIL: And the building material, that's the
11 part that caught my eye about no glass, et cetera.

12 MR. FERGUSON: Well, yes. I mean that would need
13 to be reviewed more precisely at the time of Detailed Site
14 Plan because a lot of those requirements have to do with
15 directionality.

16 UNIDENTIFIED PERSON: Yes.

17 MS. MCNEIL: And then my last question, really
18 just to get your thinking and that is if the only amendment
19 before me today was to Condition 15, do you think there is
20 good cause to change it?

21 MR. FERGUSON: I think Madam Examiner, Condition
22 15 really states today or states what the facts are today
23 and what the law is today, right.

24 MS. MCNEIL: Okay. I'm not going to belabor this,
25 but I don't know that there's good cause just for that.

1 MR. FERGUSON: Well, I mean this is --

2 MS. MCNEIL: Because the existing language still,
3 you can't do it today unless you know you're looking at a
4 Preliminary Plan, but you're still, that's when adequacy is
5 determined. Okay.

6 MR. FERGUSON: Correct. Correct.

7 MS. MCNEIL: I just wanted Mr. Antonetti from
8 having to do this in the future for just one condition like
9 that. He's smiling. Thank you, Mr. Ferguson, you made it.

10 MR. FERGUSON: Thank you, Madam. I did try to be
11 terse, uncharacteristically, perhaps.

12 MS. MCNEIL: Mr. Antonetti, do you have further
13 witnesses?

14 MR. ANTONETTI: No, ma'am.

15 MS. MCNEIL: Can I please just ask this question
16 in an abundance of caution, I know that Ms. Brown was a
17 citizen, is there anybody else here that is a citizen that
18 wanted to testify in this matter? If so you can like turn
19 on your mic, or, going once. Okay. I don't see anyone. Go
20 ahead, Mr. Antonetti.

21 MR. ANTONETTI: Madam Examiner, thank you for the
22 opportunity today to present this change before you, Mr.
23 Brown and others. Our team appreciates the opportunity and
24 the accommodation to allow us to share our exhibits and
25 findings for each of the experts that testified.

1 As simply put, well I don't think I can say it any
2 better than Mr. Ferguson, this really is a request to
3 recognize the evolution of regulation and requirements for
4 development in the I-1 Zone such as this property. The
5 conditions that were proposed in 1989 may have been
6 appropriate at the time they were proposed in 1989, but in
7 order to deliver the benefits of this modern warehouse
8 logistic center, we would respectfully request that the
9 conditions be updated to also reflect modern regulations and
10 standards.

11 But that being said, if Madam Examiner could be so
12 kind to keep the record open, that I could submit an updated
13 Condition 21, or Exhibit 21 with updated conditions, we will
14 do that. We will also endeavor, Mr. Brown, to submit a
15 Concept Plan that shows the future MC-634 through the site
16 at the northern, up to the northern boundary line for
17 clarity and context.

18 But if it could be kept open for those two items,
19 we would --

20 MS. MCNEIL: And Mr. Klebasko's robust resume.

21 MR. ANTONETTI: Yes, I'm sorry. Yes, his CV or
22 more detailed recitation of his experience and the projects
23 he's worked on, yes, we will submit that as well.

24 But with that, I would conclude our case today and
25 greatly appreciate your attention and consideration of this

1 matter.

2 MS. MCNEIL: I thank you all for being here and
3 we'll hold the record open until you submit those items.

4 MR. ANTONETTI: All right.

5 MS. MCNEIL: Thank you, staff as well.

6 MR. ANTONETTI: Yes.

7 MS. MCNEIL: And have a good day everyone.

8 UNIDENTIFIED PERSON: Thank you very much.

9 UNIDENTIFIED PERSON: Thank you much, you as well.

10 MR. ANTONETTI: Well, thank you.

11 AUTOMATED RECORDING: This conference is no longer
12 being recorded.

13 (Whereupon, the hearing was concluded.)

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C E R T I F I C A T E

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

VISTA 95 LOGISTICS CENTER

Case No. A-9706-C-01

By:

Diane Wilson

Diane Wilson, Transcriber