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

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WESTPHALIA MEADOWS, LLC : Case No. A-9973-01
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A hearing in the above-entitled matter was held on
December 1, 2021, at the Prince George's County Office of
Zoning, 14741 Governor Oden Bowie Drive, L-200, Upper
Marlboro, Maryland 20772 before:

Joyce Nichols
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Applicant:

Tom Haller, Esq.

On Behalf of People's Zoning:

Stan Brown

* * * * *

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MS. NICHOLS: All right, good afternoon, everybody. It is approximately noon on the 1st of December. We are here for application A-9973-01. Mr. Haller, are you with us?

MR. HALLER: Good morning, Madam Examiner, I am here, thank you very much.

MS. NICHOLS: All right and thank you very much. All right, it is your case, so I will allow you to proceed.

MR. HALLER: Thank you very much, and for the record, Madam Examiner, good morning, my name is Thomas Haller, I'm an attorney with offices in Largo, and I'm here today representing Westphalia Meadows, LLC, which is the owner of 63.3 acres of land located on the south side of Westphalia Road. This property is the subject of the proposed amendment to basic plan A-9973 which was approved for a larger project known as Woodside Village. I will be having three witnesses this morning, Mr. Ryan Day, who is a representative of the property owner, Mr. Michael Lenhart, who is our traffic consultant, and Mr. Ken Dunn who will be testifying both as a landscape architect and as a land planner. As a preliminary matter, I just wanted to provide a little bit of background with regard to the project and the property. The original basic plan for Woodside Village included approximately 282 acres. On September 29th of

1 2021, the Zoning Hearing Examiner heard a similar case to
2 the one before you today referenced as application A-997302.
3 This request was filed for 158 acres of the original 382 at
4 Woodside Village Development. Their request, as is ours, is
5 to amend the basic plan to allow the properties to proceed
6 as separate and distinct basic plans. That application was
7 recommended for approval by the Zoning Hearing Examiner in a
8 decision dated October 29th of 2021. And the District
9 Council adopted the removal of approval on November 15th,
10 2021, so the case is now final. A request of the Zoning
11 Hearing Examiner take administrative notice of the District
12 Council's action in A-9973-02. Now the application that's
13 before the Examiner today, A-9973-01, is virtually identical
14 to the other case, A-9973-02. In fact the expert witnesses
15 presented to you today are the same witnesses that testified
16 in that case. Obviously, this is a separate tract of land
17 under separate ownership, and so there are a few minor
18 differences which we will address this morning in the
19 testimony. It is my understanding as well, that the hearing
20 Examiner, Madam Examiner is also familiar with the project
21 because you heard the original zoning map amendment
22 application prior to its approval in 2007. As you will
23 recall, the case was recommended for approval and forwarded
24 to District Council shortly before the adoption of the
25 Westphalia Sector Plan. The District Council remanded the

1 case for consideration as part of a sector plan, and when
2 the sector plan was approved, pursuant to CR27 2007, A-9973
3 was included in that approval. A copy of CR2 2007 is
4 included in the record as Exhibit 2, excuse me, 11. If I
5 could, I would like to ask staff to pull up Exhibit 41,
6 which is a copy or the basic plan that was approved in 2007.

7 MS. NICHOLS: You want to add that now?

8 MR. HALLER: No, it's in the record, it's Exhibit
9 41.

10 MS. NICHOLS: Okay. Give me one second please.

11 And Tom, what was the exhibit number?

12 MR. HALLER: Exhibit 41.

13 MS. NICHOLS: Thank you. I'm having issues with
14 my internet. Can someone pull it up please, if you can?
15 Fatima, can you please pull that up?

16 MS. BAH: I'm looking at it now Joyce, I'm sorry.

17 MS. NICHOLS: Thank you.

18 MS. BAH: Can you give me permission as presenter,
19 please. Forty-one, Tom?

20 MR. HALLER: Yes.

21 MS. BAH: I have it here, let me see.

22 MR. HALLER: That's it.

23 MS. BAH: Yes, you see it?

24 MR. HALLER: We can see it. Is there any way you
25 can make it larger?

1 MS. BAH: Give me a second here.

2 MS. NICHOLS: So Tom, on the right part of your
3 screen, you should be able to zoom in.

4 MR. HALLER: Okay, I mean that's fine, I just
5 wanted to make sure everybody else can see it, that's fine.
6 This will be fine. I just wanted to show a copy of the
7 original basic plan for location contacts just so everybody
8 is aware of what property that we are here discussing. As
9 you can see from this drawing, the property that was
10 included in the original basic plan was T-shaped, with the
11 top of the T running along the south side of Westphalia
12 Road.

13 There were five properties that comprised the
14 basic plan. On the bottom of the T is the Suit property,
15 which is identified on this basic plan as parcel 42. On the
16 upper right side of the T is the Bean property which is
17 identified as parcel 14. And the Bean property is the
18 subject of the application that is before the Examiner
19 today. The left side of the T is comprised of the Case
20 property and the Yourgat (phonetic sp.) property, Case
21 property is parcel 19, the Yourgat property is parcel 5.
22 And then the fifth property that comprised the original
23 basic plan is called the Wholly property, W-H-O-L-L-Y, and
24 that was identified as parcel 13, and it's between the
25 Yourgat property on the left and the Bean property on the

1 right. This basic plan was approved to rezone the property
2 to the RM zone with a density range of 3.6 to 5.8 units per
3 acre. And the range of units that was approved was 1,422 to
4 1.497 dwelling units. The approved dwelling units included
5 single family detached homes, single family attached homes
6 in the form of townhouses, also two over two townhouse
7 condominiums and multi-family condominiums as well.

8 As the record in this case reflects, there was
9 also a conference and design plan that was approved
10 subsequently for Woodside Village Woodside Village property,
11 that was referenced as Conference and Design Plan CDP0601.
12 A copy of the District Council's order of approval is
13 included in the record as Exhibit 19. However, the project
14 did not move forward at that time due to the recession, it
15 shortly followed these approvals. As outlined in the
16 statement of justification, between 2015 and 2019, the
17 Maryland National Capital Park and Planning Commission
18 acquired approximately 160 acres of the Woodside Village
19 project. They acquired the Suit property and the Wholly
20 property, leaving three parcels not under public ownership.
21 Two of those parcels were the subject of A-9973-02, which
22 are the Case and Yourgat properties in the upper left-hand
23 portion of the T, and the third parcel was the subject of
24 this application, which at that time was owned by the Bean
25 family and was referenced as the Bean property. Due to the

1 acquisition of the large portion of the property by Park and
2 Planning, moving forward under the basic plan as approved,
3 it became problematic. By moving forward on any QCSP was
4 not possible because there are ignitions attached to the CDP
5 which can no longer be satisfied.

6 Most significantly relating to the conveyance by
7 the applicant of 61 acres of land for a park, school site
8 and construction of recreational facilities on property
9 which is no longer part of the project. We met with Park
10 and Planning shortly afterwards Westphalia Meadows acquired
11 the property to see if there was a path forward which would
12 allow us to keep the basic plan and the CDP in place, and
13 just move forward with a preliminary plan of subdivision.
14 But after reviewing the conditions of both approvals, it was
15 determined that the only path forward was to file a new CDP
16 only for the separate private use land. Unfortunately,
17 Section 27516 of the planning ordinance, provides that CDP
18 can only be filed on less than an entire area included in
19 the basic plan if it has been, if the basic plan has been
20 split pursuant to Section 27197(b) of the design ordinance.
21 As a result, this application as was A997302 was filed under
22 the provisions of Section 27197(b) which allows a true basic
23 plan to be separated into two or more basic plans where a
24 significant change in circumstances create practical
25 difficulties which prevent the applicant from proceeding

1 with the development, unless the basic plan is amended.

2 Also, this change in circumstances cannot be self-created.

3 In this case, the applicant submits its
4 acquisition of 160 acres to Park and Planning after the
5 basic plan was approved, is a significant change in
6 circumstances which is not self-created, prevents the
7 property from proceeding to development. It was these same
8 circumstances that led to the application filed in A-9973-02
9 and the decision in A-9973-02 makes that exact finding. So,
10 the amended basic plan for the Westphalia Meadows property
11 in this application is consistent with the previous plan.
12 The density permitted in drawings zoned to this property is
13 a base of 228 dwelling units to a maximum of 367 dwelling
14 units. The basic plan we submitted proposes a range of 228
15 to 354 dwelling units, slightly under the maximum allowable.
16 We are proposing two minor changes in the unit base. The
17 first is that the original basic plan accrued single-family
18 detached townhouses and two-over-two townhouses within the
19 property. We are proposing only townhouses and single
20 family detached homes as the approved dwelling unit. We are
21 not seeking approval to construct two-over-two townhouse
22 condominiums.

23 The second change is that we are proposing that
24 the development could be all single-family detached, could
25 be all single-family attached in the form of townhouses, or

1 a mixture of the two types in order to provide flexibility
2 as the project is marketed going forward. Regardless of the
3 unit, the maximum density would not be exceeded. Finally,
4 as you will hear in the testimony, the most basic plan
5 conforms to each of the criteria of approval which are set
6 forth in Sections 27-197(b) as well as Section 27-195(b).
7 The staff report in this case was presented to the Planning
8 Board at their meeting on September 30, 2021, and was
9 transmitted to the following hearing Examiner without
10 revision.

11 We concur with the findings, conclusions and
12 recommendations contained in the staff report, and with all
13 of the proposed conditions of approval with the exception of
14 one which is condition 4F as in Frank, 2. And we will be
15 addressing this in our testimony. Finally, I would like to
16 thank your staff for working with us to make sure that the
17 exhibit list and the binder contains all of the relevant
18 documents. One thing that I do want to note for the record
19 is that when this application was originally filed, the
20 amended basic plan included to sheets. Those sheets can be
21 found at page 605 and 606 of binder one. But during the
22 review of the application by Park and Planning, they
23 requested that the basic plan be revised to ensure that the
24 roadway network conforms to the master plan of
25 transportation. The revised amended basic plan was

1 submitted to Park and Planning and is now referenced as
2 Exhibits 47 and 48 in the record. Because the differences
3 in the plans are subtle, it's kind of hard to necessarily
4 see the differences, but I wanted the Examiner and People's
5 Zoning Council, and all the parties of reference to be aware
6 that Exhibits 47 and 48 are the amended basic plan that goes
7 before you today.

8 Lastly, as the Examiner is aware that this
9 application was originally scheduled to be heard on November
10 3rd of 2021 but was continued because there was an error in
11 the signs that were posted along Westphalia Road. Several
12 residents of the community across the street in West Oak
13 Manor expressed concern about confusion associated with the
14 posting and requested a continuance, and I wanted to inform
15 the Examiner that the applicant did reach out to
16 representatives of the West Oak Manor community, and we
17 attended a community meeting with them on November 21st to
18 review the property's history and the application. So, I
19 thank you for indulging me in these opening comments and I
20 would now prepare to call my first witness who is Mr. Ryan
21 Day.

22 MS. NICHOLS: All right, let's see, where are you?
23 Yes, can you give us a screen back?

24 MS. BAH: The same document?

25 MS. NICHOLS: You can just shut that down. Mr.

1 Day, I need you to raise your right hand, I'm going to swear
2 you in. Do you solemnly swear or affirm in the matter now
3 pending to tell the truth, the whole truth, and nothing but
4 the truth?

5 MR. DAY: I do.

6 MS. NICHOLS: Thank you, please state your name
7 and business address for the record.

8 MR. DAY: Sure, my name is Ryan Day, my business
9 address is 2077 Sommerville Road, Suite 206, Annapolis,
10 Maryland 21401.

11 MS. NICHOLS: Thank you.

12 MR. HALLER: Thank you, Mr. Day, would you please
13 describe your relationship to the entity that owns the
14 subject property Westphalia Meadows, LLC?

15 MR. DAY: Yes, I am general counsel of Pro B
16 Companies, and this is an affiliated project. I manage the
17 day-to-day operations of the LLC along with Kyle Devan
18 Spenser, I'm also part owner for the LLC.

19 MR. HALLER: Okay, and is Westphalia Meadows, LLC
20 an entity in good standing in the State of Maryland?

21 MR. DAY: Yes, it is.

22 MR. HALLER: Have you obtained a certificate of
23 good standing representing the fact and submitted to me for
24 inclusion in the record?

25 MR. DAY: Yes, I have, it's Exhibit 34 in the

1 binder.

2 MR. HALLER: Thank you. I don't, if Madam
3 Examiner needs to pull it up, but Exhibit 34 is a copy of
4 the certification of good standing for Westphalia Meadows,
5 LLC.

6 MS. NICHOLS: What was the number?

7 MR. HALLER: Exhibit 34.

8 MS. NICHOLS: Thank you, okay. Thank you, I don't
9 need to see it.

10 MR. HALLER: Okay, and Mr. Day, are you authorized
11 by Westphalia Meadows, LLC to testify today before the
12 Zoning Hearing Examiner regarding this application?

13 MR. DAY: Yes, I am.

14 MR. HALLER: And when was the property purchased
15 by Westphalia Meadows, LLC?

16 MR. DAY: July 15th of 2019.

17 MR. HALLER: Okay, and is the subject property
18 currently developed?

19 MR. DAY: No, it is not. It has been utilized as
20 agricultural prior to our purchase.

21 MR. HALLER: Okay, and at the time that the
22 property was purchased, were you aware that the property was
23 part of a larger assemblance of land that was previously
24 known as Woodside Village?

25 MR. DAY: Yes, we were aware.

1 MR. HALLER: And what is your understanding as to
2 why this basic plan amendment application was filed, and
3 what would result if it is approved?

4 MR. DAY: Sure, so subsequent acquisitions of land
5 filed MNCPPC for parcels to be used as part of the
6 Westphalia Central Park, rendering the existing basic plan
7 impractical. In 2015, MNCPPC acquired 111.928 of the 148
8 acres property to the southwest of ours. In 2019, MNCPPC
9 acquired the remaining 36.79 acres of the Suit property as
10 well as the adjacent Wholly property which was 11.56 acres
11 that's directly to the west of our site. In all, Parks and
12 Planning acquired 41 percent of the land that was covered by
13 the existing basic plan and through these acquisitions,
14 bifurcated the remaining (indiscernible). difficulty in
15 implementing this plan which was created by us or opposed by
16 us. We met with County staff to discuss whether our
17 development should proceed to the preliminary plan and
18 specific design plan stages process utilizing the existing
19 CDP, but staff indicated that we needed to amend the basic
20 plans to see if we could standalone CDP given that the
21 conditions of the existing CDP could no longer be satisfied
22 as the result of the public ownership of the Suit and Wholly
23 properties. So this basic plan amendment was filed so that
24 we may proceed with a standalone CDP and develop the
25 property independently, the remainder of the Woodside

1 Village.

2 MR. BROWN: Mr. Day, Mr. Day, let me interrupt you
3 for a moment. I'm getting a lot of feedback. I think some
4 other people are as well. Do you have two microphones on,
5 on your desk?

6 MR. DAY: I do not.

7 MR. BROWN: All right, if everyone can try to turn
8 off their mics because I can't, I only hear every other word
9 from you. Thank you.

10 MR. HALLER: Do you want me to have him readdress
11 the --

12 MR. BROWN: I understood what he said, but I just
13 didn't want it to continue going further. All right, you
14 can go ahead.

15 MR. DAY: I'd be happy to dial in by the call-in
16 number, if that will be helpful.

17 MR. BROWN: No, let's just go ahead and continue.
18 We might be able to correct it. Go ahead.

19 MR. DAY: Okay, thank you.

20 MR. HALLER: No problem, all right thank you, Mr.
21 Day. You had an opportunity to review Exhibit 48 with the
22 amended basic plan that I referred earlier?

23 MR. DAY: Yes, I have.

24 MR. HALLER: And what are the intentions of the
25 owner with regard to how the property will be developed?

1 MR. DAY: Sure, we are seen to develop the
2 property in a manner that is generally consistent with the
3 existing basic plan and comprehensive design plan back
4 affecting the property. We were contemplating a mix of up
5 to 354 single-family attached and detached dwellings
6 consistent of both problems in real towns. The existing
7 basic plan allows for a total of up to 355 units with a mix
8 of towns two-over-twos and single-families. We are not
9 anticipating utilizing two-over-twos in this plan. The
10 existing plans also contemplated towns along Westphalia
11 Road, which is what we anticipate doing as well.

12 MR. HALLER: Now are you seeking flexibility in
13 the ultimate type of building unit that will ultimately get
14 constructed on the property?

15 MR. DAY: Yes, that's right. So we have not yet
16 selected a builder for the projects. We are seeking
17 flexibility to develop in some combination of single-family
18 detached and attached, in an average general consistent with
19 the preexisting basic plan. Flexibility is also necessary
20 for us to create space for recreational amenities like
21 playgrounds and that sort of thing. The builder will
22 ultimately determine the appropriate mix in light of prime
23 market demands and that will be established due to the
24 approvals process.

25 MR. HALLER: Okay, thank you. Have you had an

1 opportunity to review the technical staff report prepared by
2 the Maryland National Capital Park and Planning Commission
3 for this application which is identified as Exhibit 2 in the
4 record?

5 MR. DAY: Yes, I have.

6 MR. HALLER: Do you accept and agree with the
7 conditions of approval as contained in the staff report?

8 MR. DAY: Generally, yes. There's one condition
9 with which we couldn't get issuance.

10 MR. HALLER: And what condition do you object to?

11 MR. DAY: It's condition 4F2.

12 MR. HALLER: Okay, and I would like to note for
13 the record that condition 4F2 can be found on page 22 of the
14 staff report, and it's on page 23 of binder 1, which is
15 included in the record. Mr. Day, what is your concern with
16 condition 4F2?

17 MR. DAY: This condition was a condition of the
18 original basic plan approval and it applied to the entire
19 Woodside Village assemblage which contained 382 acres. It
20 requires that the woodland conservation threshold be
21 increased from 20 percent to 25 percent and be satisfied on
22 site.

23 MR. HALLER: What would be the -- I'm sorry, go
24 ahead.

25 MR. DAY: I was just going to say and the issue

1 with it was that in the original condition was made to the
2 Woodside Village basic plan that the majority of the onsite
3 preservation was on the Suit property. It wasn't
4 anticipated on being on our 63-acre portion of the overall
5 site. So that needs to be taken into account.

6 MR. HALLER: Okay, and is it your understanding
7 that the developable portions of the subject property are
8 essentially the same as was shown on your initial basic
9 plan?

10 MR. DAY: Yes, the area we propose to develop is
11 essentially the same, but we believe there will actually be
12 preserving more woodlands than what was contemplated in the
13 existing basic plan, and Ken Dunn will provide further
14 detail on that issue.

15 MR. HALLER: And so, it's your understanding,
16 based upon the current status of the design concept that
17 development of the property would not result in a smaller
18 area of trees being preserved on the subject property than
19 was originally proposed under the basic plan?

20 MR. DAY: Yes, that's correct.

21 MR. HALLER: And so you're requesting that
22 condition 4F to be deleted, is that correct?

23 MR. DAY: Yes, that's correct.

24 MR. HALLER: I have no further questions of Mr.
25 Day.

1 MS. NICHOLS: Mr. Brown?

2 MR. BROWN: Yes, good afternoon, Mr. Day. Going
3 backwards from your last comments concerning condition 4F on
4 page 22 of the staff report concerning tree preservation.
5 Was that particular provision in the 02 revision, changed in
6 the same sense that you guys are requesting it to be
7 changed? And Mr. Haller, you can answer it if he doesn't
8 know.

9 MR. DAY: It was not recommended as sufficient in
10 the 02 revision.

11 MR. BROWN: And so I'm sort of confused. If it
12 applies to the entire 300 plus acres, all right it would
13 seem appropriate that it would have been changed in the
14 first case as well.

15 MR. DAY: Well it was changed in that it was not
16 included as a condition of their approval.

17 MR. BROWN: Oh, it wasn't even included attached
18 to their property?

19 MR. DAY: No, staff did not recommend that
20 condition in their case. They recommended it be retained in
21 our case. We had different staff writers, so we had
22 different conditions.

23 MR. BROWN: I got you, okay.

24 MS. NICHOLS: I think Mr. Brown's question is did
25 they provide the 25 percent in the 02 so it didn't have to

1 be a condition?

2 MR. DAY: That I don't know the answer to, but Mr.
3 Dunn would probably know the answer as he was the, he also
4 testified on that case as well.

5 MS. NICHOLS: Okay, thank you.

6 MR. BROWN: All right, my other question is also a
7 question for Mr. Day, but Mr. Dunn will probably have to
8 answer it later. And that is, on page -- one second. Yeah,
9 on page 10 of the staff report, one of the criteria for
10 approving this petition subparagraph 4, in approving the
11 petition the applicant shall establish and the District
12 Council shall find that a) the approval of the amended basic
13 plan will not result in a change in land area. I don't
14 think the staff addressed this first part of the
15 parenthetical. How is this not a change in land area, Mr.
16 Day?

17 MR. DAY: The entire concept behind an amendment
18 of the basic plan is to address breaking it apart so that to
19 cover, so in subset of the whole of the original basic plan.
20 I mean I would say that it's not resulting in a change in
21 the land area in the sense that the portion of the property
22 that we are contemplating developing remains essentially the
23 same as what was shown on the original basic plan, and in
24 fact, we anticipate considerable, to have more trees than
25 was shown on that plan. So I would say we would satisfy

1 that condition.

2 MR. BROWN: Well, not trying to be hard here, but
3 if part of the original basic plan was purchased by Park and
4 Planning Commission, it could have been a change in land
5 area in that your basic plan does not include the Park and
6 Planning property, and of course it doesn't include the 02
7 property as well. I'm not making a big deal of it, but if
8 Mr. Dunn can sort of address that issue when he testifies,
9 I'd like to hear an additional explanation. No other
10 questions, thank you.

11 MR. DAY: Thank you.

12 MS. NICHOLS: Any redirect, Mr. Haller?

13 MR. HALLER: No, no redirect.

14 MS. NICHOLS: All right, thank you. All right
15 your next witness?

16 MR. HALLER: Thank you, I'd like to now call Mr.
17 Michael Lenhart.

18 MS. NICHOLS: All right, Mr. Lenhart.

19 MR. LENHART: Yes, good afternoon.

20 MS. NICHOLS: There you are. Gosh, your video is
21 difficult. Yeah, thank you very much. Do you solemnly
22 swear or affirm in the matter now pending to tell the truth,
23 the whole truth, and nothing but the truth?

24 MR. LENHART: I do.

25 MS. NICHOLS: Okay, thank you. Please state your

1 name and business address for the record?

2 MR. LENHART: Yes, Michael Lenhart of Lenhart
3 Traffic Consulting, 645 Baltimore Annapolis Boulevard, Suite
4 214, Severna Park, Maryland 21146.

5 MS. NICHOLS: Okay, Mr. Lenhart, I would like to
6 indicate that you have previously qualified as an expert in
7 the field of transportation and you're going to continue in
8 that designation today. I'm going to ask you the same
9 question that was asked of Mr. Day. We're getting a lot of
10 feedback from you. Do you have anything else open besides
11 your --

12 MR. LENHART: No, I am checking here, there's
13 nothing else open and I hear you clearly, I hear everyone
14 clearly and my video seems to be working. Would you like me
15 to close my video, or do you have to have that open?

16 MS. NICHOLS: No, I have to have that open.

17 MR. LENHART: Okay.

18 MS. NICHOLS: Your video looks like you have a
19 filter on it to make yourself look -- we're clearly having
20 resonating problems today. It must be the program.

21 MR. LENHART: Let me turn my light off and see if
22 that helps. I don't know if that's any better?

23 MS. NICHOLS: It helps a lot, thank you very much,
24 that did help. All right, Mr. Haller, are you with us?

25 MR. HALLER: Thank you very much, Madam Examiner.

1 Mr. Lenhart, have you been retained by the applicant
2 Westphalia Meadows, LLC in this case to serve as their
3 transportation planner?

4 MR. LENHART: Yes.

5 MR. HALLER: Are you familiar with the property
6 which is the subject of today's hearing?

7 MR. LENHART: Yes.

8 MR. HALLER: Are you familiar with the prior
9 approvals concerning the subject property?

10 MR. LENHART: Yes.

11 MR. HALLER: Are you familiar with the road
12 network in the area?

13 MR. LENHART: Yes, I am.

14 MR. HALLER: Have you personally inspected the
15 subject property and the surrounding road network?

16 MR. LENHART: Yes.

17 MR. HALLER: Will you please explain the access
18 points and public road networks which affect and will serve
19 the subject property?

20 MR. LENHART: Certainly, the property has frontage
21 along Westphalia Road, along the north side of the property.
22 And Westphalia Road is a collector road C626. A new major
23 collector roadway is master plan road that runs north, south
24 through the western portion of the property, and that's
25 MC631. That intersects with Westphalia Road, runs down

1 through the property and then to the southwest where it ties
2 into MC631 continues and ties into the new interchange at
3 Maryland 4 and Suitland Parkway interchange. Maryland C631
4 from the property at Westphalia Road, then continues north
5 of Westphalia Road and ties into Richie Marlboro Road. And
6 there's a portion of primary master plan roadway P617 which
7 is to the southeast of this property is the Marlboro Ridge
8 Tull Brothers development. The northern area of Marlboro
9 Ridge has North Riding Road, which is P617, which intersects
10 with Ritchie Marlboro Road, and it continues westerly from
11 Ritchie Marlboro Road through the northern part of Marlboro
12 Ridge, and it is currently built and stubbed out to the
13 southern portion of this property where it would be extended
14 all through this property and continue west into the Case
15 and Yourgat properties.

16 MR. HALLER: Madam Examiner, would it be helpful
17 for you and for the other parties that are watching, to be
18 able to see an exhibit that shows these roadways?

19 MS. NICHOLS: Yes.

20 MR. HALLER: If I can ask staff to pull up Exhibit
21 42.

22 UNIDENTIFIED SPEAKER: It's in binder 2 Fatima, in
23 the file. It's not on LDIS.

24 MS. BAH: Okay, thank you. Can you pull it up, if
25 you're able to pull it up fast, because I have to look for

1 it.

2 MS. NICHOLS: Can you pull it up please?

3 MR. HALLER: I'm working on it right now.

4 MS. BAH: I'm sorry, Tom, did you want 42?

5 MR. HALLER: Forty-two.

6 MS. BAH: This?

7 MR. HALLER: We aren't seeing it yet.

8 MS. BAH: Oh, did they submit me as presenter?

9 Did they give me permission as presenter?

10 MS. NICHOLS: Well, perfect.

11 MS. BAH: Thank you. Can you see my screen?

12 MR. HALLER: No, not yet.

13 MS. BAH: You can't?

14 MS. NICHOLS: No.

15 MR. BROWN: Mr. Lenhart, you have the same

16 exhibit, don't you?

17 MR. LENHART: I know I do, if we need to show it.

18 MR. BROWN: If we can somehow let Mr. Haller be

19 the presenter for that exhibit.

20 MR. HALLER: Yeah. I'm sorry, can you do that

21 again, I accidentally clicked out of that.

22 MS. NICHOLS: Did you get it Tom?

23 MR. HALLER: I was looking for the exhibit, oh

24 here it is, okay yes, I can do it. Here we go. Can

25 everybody see my screen?

1 MS. NICHOLS: Yes.

2 MR. HALLER: Okay, so Mr. Lenhart, you referenced
3 several roadway classifications. This map, if you could
4 reference this map, you can discuss where each of those is
5 located.

6 MR. LENHART: Yes, so P617 is to the bottom
7 righthand side of the screen. It exists through, it's North
8 Riding Road that comes through, go down a little further,
9 down into the Marlboro Ridge property, yeah. That is North
10 Riding Road is built, that will be extended out through the
11 property and that runs west through the Case and Yourgat
12 properties. MC631 is the blue line that depicts the
13 alignment of that new major collector road that's master
14 planned. And then Westphalia Road is a collector road that
15 runs east, west through the middle of the exhibit.

16 MR. HALLER: Okay, thank you very much. Did you
17 prepare a tract analysis in this case which is marked for
18 the record as Exhibit 21?

19 MR. LENHART: Yes, we prepared a letter report
20 that was dated July 29th, 2021, that compared the density of
21 the underlining original ZMA approval to the proposed ZMA
22 amendment at this time. The original CDP showed
23 approximately 355 dwelling units on this Westphalia Meadows
24 portion of Bean property of Woodside Village. And the
25 current ZMA would result in approximately the same number of

1 dwelling units, therefore, the density is consistent with
2 what was originally approved, and if this ZMA is approved,
3 it would really result in no substantial change or increase
4 in traffic on the road network.

5 MR. HALLER: Okay and did you also testify in the
6 application for basic plan amendment references A997302?

7 MR. LENHART: Yes.

8 MR. HALLER: And did you prepare a more detailed
9 traffic impact analysis in that case?

10 MR. LENHART: Yes, we did. It was not required,
11 however we prepared full traffic impact analysis on the path
12 of that applicant's request in case any questions arose,
13 they wanted to be prepared and have that information. That
14 traffic impact study was dated April 15th of 2021.

15 MR. HALLER: Yes, and I would note for the
16 Examiner and the record that, that was referred to actually
17 in the staff report, and a copy of that traffic analysis has
18 been marked as Applicant's Exhibit No. 35. So Mr. Lenhart,
19 does that traffic analysis evaluate the same intersections
20 as you referenced in Exhibit 21 to prepare for this
21 application?

22 MR. LENHART: The intersections were similar, but
23 not identical. It should be noted again that full traffic
24 impact study was not required for the case in Yourgat CMA,
25 and it's not required, or it was not required or requested

1 for this CMA. It will be required for both of those
2 projects when they move through conceptual design plan, the
3 CDP and preliminary plans. There will be a requirement for
4 traffic impact studies. We'll have to do scoping agreements
5 with our planning staff for both projects. We anticipate
6 that it would require the same study intersections.

7 MR. HALLER: Okay, and are the conclusions in the
8 traffic impact analysis marked as Exhibit 21 that you
9 prepared for this case, consistent with the conclusions that
10 were contained in Exhibit 35 which is the traffic impact
11 analysis you prepared for the other application?

12 MR. LENHART: Yes.

13 MR. HALLER: And for the record, can you summarize
14 your findings regarding transportation facilities as set
15 forth in the analysis that you prepared for the two
16 applications?

17 MR. LENHART: Yes. Again, as previously
18 testified, to simplify, both applications essentially rely
19 on the fact that the underlining ZMA approvals for the
20 original Woodside Village and an approval for a certain
21 density of the units. The proposed ZMA doesn't
22 substantially change or alter the allowable density, but at
23 the end of the day, it's roughly the same traffic, the same
24 impact on master plan roads, and therefore would not change
25 or lower the level of service on the master plan roads.

1 MR. HALLER: Okay, in your opinion, would the
2 proposed development in this application, including the
3 access points, be adequate to handle the development
4 generated by the project?

5 MR. LENHART: Yes.

6 MR. HALLER: And have you reviewed the conditions
7 of approval recommended by staff pertaining to
8 transportation-related facilities, including pedestrian and
9 bicycle facilities as they relate to this application?

10 MR. LENHART: Yes.

11 MR. HALLER: And do you agree with all of the
12 conditions of the staff report regarding transportation
13 facilities?

14 MR. LENHART: Yes.

15 MR. HALLER: And are you familiar with the
16 requirements of approval of a basic plan related to
17 transportation and public facility adequacy which is set
18 forth in Section 27195(b)(1)(C) of the Zoning Ordinance?

19 MR. LENHART: Yes.

20 MR. HALLER: And can you please summarize those
21 requirements?

22 MR. LENHART: Certainly, 27195(b)(1)(C) states
23 that transportation facilities, including streets and other
24 transit which are existing, which are under construction or
25 for which 100 percent of the construction funds are

1 allocated within the adopted county CIP, or in the state
2 CTP, or would be provided by the applicant, will be adequate
3 to carry the anticipated traffic generated by the
4 development based on the maximum proposed density. And it
5 further states that the uses proposed will not generate
6 traffic which would lower the level of service anticipated
7 by the land use, and circulation system shown on the
8 approved general or area master plans.

9 MR. HALLER: In your opinion, based upon the
10 studies and the analyses that you've performed, does the
11 subject application satisfy the transportation requirements
12 that are set forth in the Zoning Ordinance concerning
13 approval with the basic plan?

14 MR. LENHART: Yes, it does, for the reasons
15 testified, again this ZMA, if approved, would not
16 substantially alter the underlying approvals for the density
17 and the number of units and would have no significant impact
18 on the master plan roads. And further, it will be tested at
19 the time of preliminary plan, to go through a typical
20 adequate of the facilities test and it will be required to
21 ensure that all facilities are adequate or participate in
22 improvements to make them adequate.

23 MR. HALLER: And does staff concur with your
24 findings in the staff report?

25 MR. LENHART: Yes.

1 MR. HALLER: Thank you, Mr. Lenhart, I have no
2 further questions at this time.

3 MR. LENHART: Thank you.

4 MS. NICHOLS: Mr. Brown.

5 MR. BROWN: When you say that staff concurred with
6 your findings, you don't mean that they concurred with the
7 findings in the full traffic report 02 case, right?

8 MR. LENHART: Well they utilized the traffic
9 impact study from the 02 case as part of the findings in the
10 staff report that they reviewed and made their own
11 independent assessment based on the impact study that was
12 included in that case, and made a finding that they agreed
13 with our analysis and that it would be adequate based upon -
14 - or that would not lower the level of service to the master
15 plan roadways.

16 MR. BROWN: But again, this is not a preliminary
17 plan of subdivisions.

18 MR. LENHART: Correct.

19 MR. BROWN: So conclusions reached in that traffic
20 report and the concurrence by the technical staff is really
21 --

22 MS. NICHOLS: We're getting a lot of feedback from
23 you, I need you to turn off your mic please.

24 MR. LENHART: So yeah, the traffic impact study is
25 really premature. A formal traffic impact study will be

1 required at the time again of CDP and preliminary plan.
2 That is typically used for adequate public facilities
3 analyses. At the time of this ZMA, the traffic impact study
4 was more informal or informative to show that the underlying
5 approved density was in line and consistent with what is
6 currently proposed and would not lower the level of service
7 on the master plan road. So it's not, this was not really
8 an adequacy test, although the impact study was provided
9 before informative purposes.

10 MR. BROWN: And for informative purposes,
11 Westphalia Road is designated historical roadway, is it not?

12 MR. LENHART: I believe that is correct yes, but
13 it's a collector road in the master plan.

14 MR. BROWN: Well tell me, in your traffic report
15 in the 02 case, and/or any other analysis you've done, is it
16 contemplated that historic Westphalia Road would be widened
17 in order to reach adequacy?

18 MR. LENHART: Not to reach adequacy. We would
19 expect that it's a different issue. The frontage
20 improvements that will be required along the frontage of the
21 property would be consistent with the master plan
22 requirements which are collector road status, and that
23 typically is a four-lane roadway, four lane undivided
24 roadway. So we would expect our frontage to be widened, a
25 right-of-way dedicated at the time of preliminary plan and

1 then when we go to permits with DPWT that the frontage
2 improvements would be dictated by DPWT and DEPI, and we
3 would improve from the center line of the roadway south into
4 a frontage consistent with a collector road section.

5 MR. BROWN: And again, refresh my memory, a
6 collector has how many lanes?

7 MR. LENHART: It can be two lanes, usually its
8 four lanes undivided. But sometimes collector roads are
9 identified as two to four lanes, but typically they're four
10 lanes.

11 MR. BROWN: And so what you're suggesting, and I'm
12 not trying to hold you to it, that it's possible that
13 Westphalia Road, a historic roadway, may be four lanes along
14 the frontage of this property initially?

15 MR. LENHART: Yes, that's possible, and I would
16 say it's likely. There are sections, bear with me, I'm
17 pulling up PG atlas so I can refer this properly, but there
18 are sections of Westphalia Road, if you pardon me for a
19 second. If you look further west there was a property
20 recently that was approved by the DEPI property, this is on
21 the south side of Westphalia Road, to the west of Darcy.
22 They were required to dedicate, and I believe will be
23 required to construct a half section on the south side. If
24 you go further west, there was the 8711 Westphalia Road
25 property which is the old Pepco building which in the past

1 several years, went through a few preliminary plans. And
2 there is the Apple Electric is to be relocating to that
3 property with a warehouse. The frontage of that property in
4 its almost entirety, is improved already to a collector road
5 status as well as the property on the north side of
6 Westphalia opposite 8711 Westphalia Road, and that's in the
7 vicinity of Chester Grove Road is also already built to a
8 collector road status, that's a four-lane roadway, two in
9 each direction.

10 MR. BROWN: Well that's Pennsylvania Avenue and
11 that's been collector road status for a while. I'm just
12 trying to get an understanding and I think you've given it
13 to me that Westphalia Road will not exist in its current
14 format assuming these basic plans are ultimately built out
15 and what have you, is that correct?

16 MR. LENHART: That's correct, and there are a few
17 locations where Westphalia Road has horizontal alignments
18 that don't meet County design standards for a collector road
19 and those will be straightened out. In particular to the
20 east of here, to the east of this subject property on the
21 north side of Westphalia Road is the preserves at Westphalia
22 which has an approval that will be straightening out
23 Westphalia Road and widening it.

24 MR. BROWN: That's a popular road, correct?

25 MR. LENHART: Exactly, it's in the immediate

1 northwest quadrant of Ritchie Marlboro of Westphalia.

2 MR. BROWN: Right, right.

3 MR. LENHART: Yes, that's correct and also Ritchie
4 Marlboro Road at, I'm sorry, Westphalia Road at Ritchie
5 Marlboro Road is being relocated about 200-feet to the north
6 to align opposite or Orien Lane. That's a project that is
7 permitted by Toll Brothers on behalf of the Marlboro Ridge
8 property and it's going to widen Westphalia Road as it
9 approaches Ritchie Marlboro Road, and then the preserves at
10 Westphalia will extend that widening and make some
11 adjustments to Westphalia Road throughout their front.

12 MR. BROWN: Right, I understood that. All right,
13 thank you. No other questions.

14 MR. LENHART: Sure.

15 MS. NICHOLS: All right, I don't have any
16 questions. Mr. Haller, any redirect?

17 MR. HALLER: No redirect. For the record, Mr.
18 Lenhart's resume is Exhibit 36 in the record.

19 MS. NICHOLS: Okay, thank you.

20 MR. LENHART: Thank you.

21 MR. HALLER: My next witness is Mr. Ken Dunn.

22 MR. DUNN: Good morning.

23 MS. NICHOLS: Mr. Dunn, good to see you. Let me
24 find you, there we go. Okay, do you solemnly swear or
25 affirm under the penalties of perjury, that the testimony

1 you shall give in the matter now pending shall be the truth,
2 the whole truth, and nothing but the truth?

3 MR. DUNN: I do.

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

6 MR. DUNN: Warren Kenneth Dunn, Civil Engineering
7 Services with Soltesz, 4300 Forbes Boulevard in Lanham,
8 Maryland 20706.

9 MS. NICHOLS: Thank you very much.

10 MR. DUNN: You're welcome.

11 MR. HALLER: Madam Examiner, I just want to note
12 that I'm going to ask Mr. Dunn to refer to several exhibits
13 and I don't know if it would be helpful if I provide the
14 numbers, or we'll just go through them as we get to them?

15 MS. NICHOLS: All right, well the easier way to do
16 this is either make Tom the presenter or can the presenter
17 and let them pull the documents up because we're not doing
18 well the other way. So which one of you needs to be in
19 charge of pulling the documents up?

20 MR. HALLER: I can pull the documents up. Could
21 you possibly give me a couple of minutes just to find them
22 first to get them set up?

23 MS. NICHOLS: Yes, absolutely, so if we could
24 please Tom a presenter and he'll be in charge of our screen.
25 Tom Haller, not Kenda. Yes, good job.

1 MR. HALLER: Okay, it's going to take me a couple
2 of minutes in order to find them, however.

3 MS. NICHOLS: Okay.

4 MR. HALLER: Hold on for a second. Can we
5 possibly take just a couple minute recess so I can do this?

6 MS. NICHOLS: Sure, why don't we take a 10-minute
7 recess, how about that, come back at 1:10.

8 MR. HALLER: That's fine, thank you.

9 MS. NICHOLS: Okay, all right.

10 (Whereupon, a brief recess was taken.)

11 MS. NICHOLS: Tom, are you ready?

12 MR. HALLER: Yes, you have stained every ounce of
13 my technological knowledge.

14 MS. NICHOLS: Well let me say we provided you no
15 backup as we should have, so yeah. All right, are you ready
16 to go forward with Mr. Dunn?

17 MR. HALLER: Yes, ma'am, I am.

18 MS. NICHOLS: Okay, all right, Mr. Dunn, I remind
19 you, you continue under oath here.

20 MR. DUNN: Thank you.

21 MR. HALLER: Okay, Mr. Dunn, has Soltesz been
22 retained by the applicant Westphalia Meadows, LLC in this
23 case to provide landscape, architectural and land planning
24 services related to the proposed development?

25 MR. DUNN: Yes, we have.

1 MR. HALLER: And are you familiar with the
2 requirements set forth in the Prince George's County Zoning
3 Ordinance for the preparation of a basic plan?

4 MR. DUNN: Yes, I am.

5 MR. HALLER: And were you asked by the property
6 owner of this application to prepare an amended basic plan
7 for the property owned by Westphalia Meadows, LLC which is
8 referenced as parcel 14 on tax map 91, and which is within
9 the larger Woodside Village basic plan?

10 MR. DUNN: Yes.

11 MR. HALLER: And have you reviewed the submitted
12 basic plan, the application, the site plan, the statement of
13 justification, and the other exhibits included in this
14 application?

15 MR. DUNN: Yes, I have.

16 MR. HALLER: Okay, what is the current zone of the
17 property which is the subject of the application?

18 MR. DUNN: The property's currently zoned RM.

19 MR. HALLER: Let me first ask you to refer to the
20 exhibit that's on the screen which is referenced as Exhibit
21 47 in the record. Could you please explain what is shown on
22 Exhibit 47?

23 MR. DUNN: Okay, thank you, that is the amended
24 basic plan application that we've submitted in support of
25 this property. This particular page of it is demonstrating

1 the portions of the larger case or the original case. If we
2 recall, this property was part of the original base rezoning
3 application 9973. So the red area is the area that has been
4 removed or is proposed to be removed from the application,
5 and the black area is the actual property that we're talking
6 about here.

7 MR. HALLER: Okay, so then the second page of the
8 amended basic plan which references Exhibit 48, would you
9 please describe what this is intended to depict?

10 MR. DUNN: Yes, so page 2 of 2 of the application
11 is intended to depict a generalistic and conceptual layout
12 of the roads and lotting pattern that would ultimately be
13 built here.

14 MR. HALLER: Are there any parcels included in the
15 original basic plan which are not in this basic plan
16 amendment application?

17 MR. DUNN: There are parcels that were included in
18 the original basic plan that are not in this specific
19 application to remove this property. So the case in
20 Yourgat, Suit properties and Wholly properties are not
21 included in page 2 of 2.

22 MR. HALLER: Okay. Now will you please describe
23 the proposed development shown on the amended basic plan and
24 explain the unit types, ranges, locations and other
25 features?

1 MR. DUNN: Yes. So we have on this property a
2 total range of 228 to 354 units which would be a mix of
3 single-family attached and single-family detached units.
4 The plan also provides for some master plan roads and 20 and
5 a half acres, 20.5 acres of open space.

6 MR. HALLER: Okay and utilizing sheet 2 of the
7 amended basic plan which is Exhibit 40 which is on the
8 screen now, please explain the existing and proposed public
9 road networks which affect and will serve the subject
10 property.

11 MR. DUNN: The Westphalia Meadows property has
12 approximately 1,400 linear feet of sun age on Westphalia
13 Road, which is labelled as on the master plan of
14 transportation as a collector roadway C626. It's also
15 impacted by tow proposed master plan right of way for a
16 special road which extends from the Westphalia Towne Center
17 south of the subject property, which is proposed to extend
18 through the northwest corner of the subject property. This
19 road is classified as a major collector on the master plan
20 of transportation is referenced as MC631. There's also a
21 roadway which extends west to east through the Woodside
22 Village property and impacts the southwest corner of the
23 subject property. The road is designated on the master plan
24 of transportation as P637. P637 is composed to connect with
25 the Marlboro Riding Subdivision just to the south of the

1 subject property.

2 MR. HALLER: Does the amended basic plan show
3 these master plan rights-of-way consistent with the master
4 plan of transportation?

5 MR. DUNN: Yes, they do, yes, it does.

6 MR. HALLER: And where does the basic plan
7 conceptually show access points from the subject property to
8 the same proposed public road network?

9 MR. DUNN: The basic plan depicts one access
10 directly under Westphalia Road, right where you have your
11 counter, that's actually just to the right of center. Sort
12 of in the northeast corner of the site, and one access from
13 the major collector 631. And then three additional
14 connections to primary street 617 in the southwest corner of
15 the subject property.

16 MR. HALLER: Okay, can you please provide any
17 environmental features which may be located within the
18 boundaries of the amended basic plan, which is on the screen
19 now?

20 MR. DUNN: There is a series of jurisdictional
21 streams and wetlands located in the southeast corner of the
22 property along with their associated buffers and steep
23 slopes, they form what is commonly referred to as a primary
24 management area, or PMA. The PMA is an environmentally
25 protected area and has been approved by the Environmental

1 Planning Section of Park and Planning, as to its location.

2 MR. HALLER: Now, regarding these regulated
3 environmental features that exist within the boundaries of
4 the property, will these features and any impacts to them be
5 evaluated at different stages of the development?

6 MR. DUNN: Yes. Any impacts that are proposed for
7 the development of the subdivision will be evaluated during
8 future stages of the development process. Specifically, the
9 subdivision.

10 MR. HALLER: Right, so none of those, no potential
11 impacts have been, are being approved as part of this
12 application?

13 MR. DUNN: That's correct.

14 MR. HALLER: Are the amendments proposed in
15 A997301 intended to only apply to the Westphalia Meadows
16 property, would be subject to today's hearing?

17 MR. DUNN: That is correct, yes.

18 MR. HALLER: Okay, so in your opinion as a
19 landscape architect, does the amended basic plan conform to
20 all of the technical requirements of the Zoning Ordinance?

21 MR. DUNN: Yes, it does.

22 MR. HALLER: Okay. Now I want to ask you some
23 land planning questions, and I'm going to refer to several
24 documents. And so I'd first like to have you identify what
25 those documents are, just for context purposes. So, this

1 next document is identified as Exhibit 45, excuse me, 44.
2 Can you please identify what this document is intended to
3 depict?

4 MR. DUNN: Yes, this document at Exhibit 44
5 depicts all of the property that was included in the
6 original basic plan for the Woodside Village, attached in
7 black. And the subject property that we're talking about
8 today which was a portion of the original approval, is
9 outlined in red.

10 MR. HALLER: Okay. All right now I'm going to
11 show you another exhibit and ask if you could identify
12 what's depicted on this exhibit.

13 MR. DUNN: This is Exhibit 45?

14 MR. HALLER: It's Exhibit 45, I'm sorry.

15 MR. DUNN: So this exhibit shows a closer view of
16 the subject property, and its outlined and labelled in red.
17 And it shows, and the two properties that are subject to
18 basic plan amendment A997-02, which are to the west or left,
19 and you can see those labelled in black. This exhibit also
20 shows the zoning category of the subject properties and the
21 surrounding properties, as well as the master plan roadways
22 which impact the subject property. So that's labelled. You
23 can see the labels there as zoned RM for the most part.

24 MR. HALLER: Okay, and this exhibit also shows the
25 same right-of-ways that we showed on our prior exhibit that

1 was used with Mr. Lenhart, correct?

2 MR. DUNN: Yes, it does indeed.

3 MR. HALLER: Okay so I won't pull that exhibit up
4 now. And then the next exhibit that I'd like for you to
5 identify is Exhibit 41, and that is the original basic plan
6 that I referred to earlier. Could you just please review
7 again what the purpose of that document is and what it
8 shows?

9 MR. DUNN: So, exhibit 41 shows the original land
10 bay of the zoning application that was filed several years
11 ago that includes the Case, the Yourgat, the Suit, the
12 Wholly and the Bean property. And this plan supported the
13 application to rezone those properties to the RN zone.

14 MR. HALLER: Okay, and so just to be clear so that
15 everybody is following along and since I have the cursor, is
16 the area on the southern part of so much that I am
17 highlighting with my cursor, that's the Suit property, is
18 that correct?

19 MR. DUNN: That is correct.

20 MR. HALLER: Okay, and then the Case property is
21 located to the west of the assemblage?

22 MR. DUNN: That's correct.

23 MR. HALLER: The Yourgat property is in the center
24 of the assemblage?

25 MR. DUNN: That is correct.

1 MR. HALLER: Okay, the Bean property, which is the
2 subject of today's hearing is on the eastern edge of the
3 assemblage?

4 MR. DUNN: That is correct.

5 MR. HALLER: Okay, and then the Wholly property is
6 located between the Yourgat property and the Bean property,
7 is that correct?

8 MR. DUNN: That is correct.

9 MR. HALLER: Okay, now the next document that I'm
10 going to show is, would you please identify what this
11 exhibit shows?

12 MR. DUNN: This exhibit is --

13 MR. HALLER: I'm' sorry, this is Exhibit 40.

14 MR. DUNN: Yeah, this exhibit shows the property
15 which was acquired by Park and Planning, and which is still
16 owned by them. And that's identified with the cross section
17 that you can see, and what we've referred to as the Suit
18 property and the Wholly property.

19 MR. HALLER: Okay and then the final exhibit that
20 I wanted to show you is, I'll get it correct, no that's not
21 it, hold on. Yes, this one, this is Exhibit 39.

22 MR. DUNN: All right, Exhibit 39 shows the
23 property which would be removed from the Woodside Village
24 basic plan, if this amendment is approved. And that is
25 what's identified that property is identified again by the

1 black crawl patch.

2 MR. HALLER: All right, so now that we've
3 identified each of these exhibits, I have a few questions
4 for you regarding -- let me start back with this one. So
5 what is the acreage of the Westphalia Meadows property?

6 MR. DUNN: 63.3 acres.

7 MR. HALLER: Can you please orient the hearing
8 Examiner to the property, which is the subject of this
9 application, and then the other properties which were the
10 subject of the original basic plan of the abutting
11 properties including the existing zoning and any development
12 made just on these properties.

13 MR. DUNN: So the subject property labelled in red
14 on the property exhibit currently up on the screen is the
15 Bean property, parcel 14 that we've been discussing today.
16 To the east of that, you have the Woodrow Wilson Bean Farm,
17 zoned RE, single-family detached. To the south of that you
18 have the Marlboro Ridge property which is a subdivision that
19 has been previously approved. To the west or I guess the
20 southwest, you have Park and Planning property that is we've
21 referred to it as the Suit property, it's zoned RN. To the
22 west you have a combination of Park and Planning owned
23 property, the Wholly property, zoned RM, and just to the
24 left of that, you have what was the subject of the O2
25 revision, which is the Case and Yourgat, zoned RM

1 properties. And then of course north, across Westphalia,
2 you have an existing subdivision, a Westphalia Woods, zoned
3 RE. And then just to the right, which is built, and then to
4 the right of that you have another property zoned RM, it's
5 single-family detached at the moment.

6 MR. HALLER: Okay, so are you familiar with the
7 various referrals by the divisions of the Park and Planning
8 Commission and the other agencies that were provided as the
9 basis for the staff report, and the staff report is marked
10 as Exhibit 2?

11 MR. DUNN: Yes, I am.

12 MR. HALLER: Are you familiar with the original
13 basic plan of proof of the property?

14 MR. DUNN: Yes, I am.

15 MR. HALLER: And just to reiterate from your
16 earlier testimony, what is the zoning of the property that
17 we're referring to today?

18 MR. DUNN: RM.

19 MR. HALLER: Okay, and in your words, what are the
20 purposes of the basic plan amendment that's before the
21 Examiner today?

22 MR. DUNN: So we filed this amendment in order to
23 separate the remaining undeveloped properties one from
24 another in order to facilitate the advancement of the
25 properties by ensuring that allowed and approved densities

1 and obligations are assigned to the correct properties of
2 the overall development.

3 MR. HALLER: And what is the maximum density that
4 the applicant is seeking?

5 MR. DUNN: 4.8 dwelling units per acre.

6 MR. HALLER: Okay, and is this density consistent
7 with the ranges allowed in the underlying form in the
8 current approved basic plan?

9 MR. DUNN: Yes, it is. The RM zone allows a
10 maximum density of 5.8 dwelling unit per acre. So the
11 submittal is consistent with that allowance. The original
12 base plan's density a total of four acres spread out over a
13 much large land bay.

14 MR. HALLER: Okay, are you familiar with all of
15 the material submitted by the applicant as part of the basic
16 plan amendment application?

17 MR. DUNN: Yes.

18 MR. HALLER: And are you familiar with the
19 recommendation of the 2007 West 30th Sector plan?

20 MR. DUNN: Yes.

21 MR. HALLER: Is the subject property governed by
22 the 2007 West 30th Sector plan?

23 MR. DUNN: It is.

24 MR. HALLER: In your words, please state what the
25 recommendations are in the 2007 West 30th Sector plan for

1 this property?

2 MR. DUNN: For this specific property, the 2007
3 West 30th Sector plan indicated the property zoned RM is
4 consistent with the recommendation of a low-density
5 residential development integrated with open space. So this
6 property, this proposal remains consistent with that
7 discussion in the 2007 West 30th Sector plan.

8 MR. HALLER: And are you familiar with Section
9 27197(b) of the Zoning Ordinance which permits an approved
10 basic plan to be divided into one or more separate basic
11 plans?

12 MR. DUNN: Yes.

13 MR. HALLER: And are you familiar with the
14 criteria of approval for a division of the basic plan that's
15 set forth in Section 27197(b)(4), subsections A through F,
16 as in Frank?

17 MR. DUNN: Yes.

18 MR. HALLER: I'm going to ask you to address each
19 one of these subsections. So relative to Section
20 27197(b)(4)(A), was this basic plan as approved result in a
21 change of land area or increase in land use density overall
22 area included in the original basic plan?

23 MR. DUNN: No.

24 MR. HALLER: Now following up on Mr. Brown's
25 question to you earlier, the original area of the basic plan

1 was how many acres?

2 MR. DUNN: It was, bear with me one second, can
3 you bring up the original basic plan please. The original
4 total area was 381 acres.

5 MR. HALLER: Okay, and so the removal of this
6 portion of that overall basic plan will not change the
7 acreage of that original basic plan, is that correct?

8 MR. DUNN: No, no, it would not.

9 MR. HALLER: Okay, relative to Section
10 27197(B) (4) (b), would this basic plan, if its approved,
11 substantially impair the character of the original approved
12 basic plan with respect to land uses, density, sensitivity
13 ranges, unit types, circulation or accessibility, public
14 facilities, or public benefit features in open space?

15 MR. DUNN: No, it would not.

16 MR. HALLER: And relative to Section
17 27197(b) (4) (C), would this basic plan as approved, conform
18 with the requirements of Section 27195(b) of the Zoning
19 Ordinance, and if you could, please summarized those
20 requirements and how the proposed amendment will conform to
21 them?

22 MR. DUNN: Sure, thank you. So the subject to the
23 satisfaction of the District Council basic plan application
24 can be approved under several specific conditions listed in
25 the Zoning Code under 27195(b). Those found, allows that an

1 application has to be in conformance with the general plan,
2 the area master plan, or an urban renewal plan. In this
3 case, the area master plan, the aforementioned 2007 West
4 30th Master plan indicates that the site is in conformance
5 with that plan. And I think I testified to that a little
6 earlier. Section 1B is not applicable, as no retail
7 component is proposed. Section 1C relates to the
8 transportation which Mr. Lenhart testified to already and
9 that the proposed basic plan amendment conforms to this
10 criteria. Section 1D relates to other existing or planned,
11 private and public facilities. The staff report reflects
12 that staff analyzed all existing or planned private and
13 public facilities that found that they were adequate for the
14 uses that we proposed. And finally, Section 1E relates to
15 environmental compatibility. The basic plan amendment does
16 not propose any revisions that would alter the findings of
17 conformance made in A9973, and as I testified a little
18 earlier, property will be evaluated for impacts to PMAs at a
19 later stage and ensure that regulated environmental features
20 are preserved.

21 MR. HALLER: Okay, well thank you. Relative to
22 Section 27197(b)(4)(D), would this basic plan as approved be
23 capable of standing by itself as an individual cohesive
24 development?

25 MR. DUNN: Yes, it would.

1 MR. HALLER: And relative to Section
2 27197(b) (4) (E), was there a staging plan approved with the
3 original basic plan, and if so, can it be implemented?

4 MR. DUNN: The staging plan that was presented
5 with original approvals can no longer be implemented because
6 the property is requested to be separated from the original
7 owner single applicant concept. Because Park and Planning
8 as an entity came in and purchased a large or significant
9 portion of the property, any staging that was approved under
10 the original basic plan can't be adhered to.

11 MR. HALLER: Okay, well then finally, relative to
12 Section 27197(b) (4) (F), will the owner of any property
13 including in the original basic plan be denied reasonable
14 use of property as a result of this basic plan being
15 approved?

16 MR. DUNN: No.

17 MR. HALLER: Okay, now I wanted to ask you to
18 refer back to Mr. Day's testimony. He talked about proposed
19 condition 4(f) (2). Can you explain what that condition
20 would require from a land planning and landscape
21 architecture standpoint?

22 MR. DUNN: That particular condition would require
23 that the woodland conservation threshold that is applicable
24 to an RM zoned property be increased from 20 percent to 25
25 percent. And that all woodland conservation requirements be

1 satisfied on site.

2 MR. HALLER: So, what additional requirements if
3 any does that condition impose that would otherwise apply to
4 developing land in the RM zone in Prince George's County?

5 MR. DUNN: Well the RM zone requires, normally
6 requires a willing conservation threshold of 20 percent,
7 plus the condition would require that more woodlands be
8 established or preserved than are normally required in any
9 other RM zoned property including the previous amendment
10 application. In addition, this condition would require that
11 woodland conservation requirements be satisfied on site.
12 This would prevent areas previously proposed for development
13 under the original basic plan from now being developed.
14 That's not a traditional requirement for any woodland
15 conservation obligation.

16 MR. HALLER: Now were you involved in the original
17 Woodside Village development approvals?

18 MR. DUNN: Yes.

19 MR. HALLER: And was this a condition that was
20 imposed at the time of the original basic plan approval?

21 MR. DUNN: It was condition 3Q2 of the original
22 basic plan.

23 MR. HALLER: Okay, and are you familiar with how
24 the larger Woodside Village development was able to comply
25 with this requirement?

1 MR. DUNN: The original basic plan was a much
2 larger land bay commanding of 381 acres. And there were
3 several environmental features and stream values which
4 provided us the opportunity to preserve onsite woodlands and
5 satisfy the woodland conservation threshold on site through
6 the, across the overall original base plan.

7 MR. HALLER: Okay, and did the original Woodside
8 Village development proceed to the conference and design
9 plan A?

10 MR. DUNN: Yes, it did.

11 MR. HALLER: And do you know what the application
12 number was?

13 MR. DUNN: It was CDP0601.

14 MR. HALLER: And was a TCP1 submitted as part of
15 that application?

16 MR. DUNN: It was, yes.

17 MR. HALLER: Okay, I just placed up on the screen
18 a document that is included in the record as Exhibit 38, and
19 ask if you can identify that document?

20 MR. DUNN: That is the tree conservation plan type
21 1 that was submitted with the aforementioned CDP.

22 MR. HALLER: Was the overall development
23 consistent of 382 acres able to conform with the condition
24 of the original basic plan that you referenced in condition
25 3Q2 related to meeting the higher woodland conservation

1 threshold on site?

2 MR. DUNN: Yes, it was.

3 MR. HALLER: And did the 63 acres, which is the
4 subject of this application, meet that 25 percent threshold
5 in and of itself?

6 MR. DUNN: No, no, and if you look at the TCP for
7 TCP0601, we've highlighted the portions of the Woodside
8 Village property which were proposed for woodland
9 conservation, they are there in red. A total of five acres
10 out a total of 63 acres were proposed for woodland
11 conservation on the Bean property, parcel 14.

12 MR. HALLER: So if the condition that was approved
13 with the original basic plan, if it had applied each
14 individual parcel which was part of the original basic plan,
15 that requirement would not have been satisfied as to each
16 individual parcel, is that correct?

17 MR. DUNN: That is correct.

18 MR. HALLER: Is the amended basic plan that's been
19 submitted in this case proposed to remove more woodlands
20 than the original basic plan?

21 MR. DUNN: No, in fact we anticipate that more
22 woodlands will be preserved than in the original basic plan
23 within the boundaries of this particular property.

24 MR. HALLER: I put up on the screen now an Exhibit
25 43, and ask if you can describe what this exhibit shows?

1 MR. DUNN: Yes, this is a copy of the amended
2 basic plan, and it's been highlighted to show the woodland
3 conservation which was proposed on the original basic plan.
4 And then the projected amount of woodland conservation on
5 the amended base plan. So, it shows where we originally
6 proposed conservation and where we are now proposing
7 conservation, and you'll see that in the red.

8 MR. HALLER: Okay, and does this exhibit reflect a
9 decrease or an increase in woodland preservation on this
10 property?

11 MR. DUNN: This exhibit projects an increase in
12 woodland preservation in two locations on the property. We
13 project that if the amended basic plan is approved that 7.25
14 acres of woodlands will be preserved on site. This is an
15 increase over the previous PCP approval.

16 MR. HALLER: Will this increase in pre-
17 conservation meet the 25 percent threshold that would be
18 required under the proposed condition?

19 MR. DUNN: No.

20 MR. HALLER: And so if this were required to
21 comply with that condition's standalone basic plan, what
22 would be the approximately impact in terms of developable
23 area?

24 MR. DUNN: So it would require another two acres
25 of property to be allocated to pre-conservation that was not

1 previously allocated under the original approvals.

2 MR. HALLER: And now, does the amended basic plan
3 which you have prepared, propose to develop any areas which
4 were not proposed for development under the original basic
5 plan?

6 MR. DUNN: No.

7 MR. HALLER: Okay. In your opinion, if condition
8 4F2 is deleted, would development of the subject property in
9 the amended basic plan still conform to the development
10 approved under the original basic plan?

11 MR. DUNN: Yes. I mean, not only would more
12 woodland be preserved within the subject property but
13 imposing the condition would significantly and negatively
14 alter what was approved for the subject property.

15 MR. HALLER: Okay, thank you. All right, I'd now
16 like to call your attention to one other condition in the
17 basic plan, the original basic plan that was approved,
18 condition 3E. And I wanted to bring this up to make sure
19 that the record was clear. This condition is contained for
20 a benefit of the Examiner and People's Zoning Council on
21 page 20 of CR2007 which is found on page 447 of the binder.
22 And this condition reads, the CDP shall demonstrate that a
23 majority of the lots located along Westphalia Road, a
24 single-family detached lots in order to be compatible with
25 the surrounding land use pattern and to preserve a rural

1 character as recommended in the WCCP study. So, Mr. Dunn,
2 does the original basic plan show single-family detached
3 lots along the Westphalia Road frontage for the subject
4 property?

5 MR. DUNN: No.

6 MR. HALLER: Are you familiar with why that is the
7 case?

8 MR. DUNN: Yeah, there was a subsequent revisory
9 petition that was approved by the District Council, Zoning
10 Ordinance number 5-2007, the revised condition 3E to read,
11 the CDP shall demonstrate that the frontage lots along
12 Westphalia Road subdivision shall be single-family detached
13 lots in order to ensure compatibility with the character and
14 density of the dwellings in the Westphalia Woods
15 subdivision.

16 MR. HALLER: And you had referenced the Westphalia
17 Road subdivision previously, and just so that we're all
18 familiar, can you identify the location of the Westphalia
19 Woods subdivision on the property in Exhibit 44?

20 MR. DUNN: If you look at the property exhibit,
21 the Westphalia Woods subdivision is directly across
22 Westphalia Road, from the Case, Yourgat, and Wholly
23 properties. It is not opposite the Bean or Westphalia
24 Meadows property. And further, the proposed major collector
25 road separates the subdivision from any development on the

1 subject property.

2 MR. HALLER: Okay, and I would note for the record
3 that a copy of Zoning Ordinance No. 5-2007 that Mr. Dunn
4 just referenced is included in the record as Exhibit 46. So
5 as a result, Mr. Dunn, is it your opinion that as modified
6 by the revised petition, the proposed amended basic plan
7 conforms to the conditions of the basic plan related to
8 where townhouses could be located along Westphalia Road?

9 MR. DUNN: Yes, yes, that's my opinion.

10 MR. HALLER: All right, thank you, Mr. Dunn. I
11 have no further questions at this time.

12 MS. NICHOLS: Mr. Brown.

13 MR. BROWN: Mr. Dunn, following up on that last
14 question, as I understood your recitation of the revisory
15 petition, it was the same as the original basic plan. Can
16 you explain that again? In other words, the original basic
17 plan required there to be single-family homes fronting on
18 Westphalia Road on this subject property. There was a
19 revisory petition filed and that's where you lost me. I
20 thought the revisory petition you just cited said the same
21 thing.

22 MR. DUNN: The revisory petition, it was revised
23 so that condition 3E reads that it shall demonstrate that
24 the frontage routes along Westphalia Road, that will be
25 single-family detach lots, in order to ensure compatibility

1 with the character and density of the dwellings in
2 Westphalia Wood subdivision.

3 MR. BROWN: But the amended basic plan prosed
4 today proposes townhouses on Westphalia Road, is that
5 correct?

6 MR. DUNN: No, not necessarily. We have single-
7 family detached and single-family attached.

8 MR. BROWN: On Westphalia Road?

9 MR. DUNN: That's correct.

10 MR. BROWN: Oh alright, that's what I missed. I
11 thought you were saying they were townhouses on Westphalia
12 Road.

13 MR. DUNN: Well potentially, but single-family
14 detached.

15 MR. BROWN: All right and going back to my
16 original question on page 10 of 27 of the staff report
17 27195(b)(4)(A). The approval of the amended basic plan will
18 not result in a change in land area. I mean I understand
19 that section is not dramatically clear, but it sounds to me
20 like it's impossible to amend the basic plan because in
21 every instant, there's going to be a change in land are if
22 you divide something in two or three parts, correct?

23 MR. DUNN: Well, when you read, I think you're
24 right, the grammar or the language, the way it's written is
25 a little confusing, but I think the guidance there is

1 actually trying to tell you that its specifically written so
2 that when there is a change in the land bay, you have an
3 opportunity to amend the basic plan.

4 MR. BROWN: All right.

5 MR. DUNN: If you look at 27197(a)(1), if an
6 amendment ever proved basic plan involves a change in land
7 area or an increase in the land use density, so that
8 language in and of itself tells me that this situation was
9 contemplated and therefore an appropriate application can be
10 made.

11 MR. BROWN: All right. Looking at the exhibit
12 that we have on the screen now, the blue area, that's the
13 master plan 631, is that correct?

14 MR. DUNN: That's correct.

15 MR. BROWN: And your client, the property owner,
16 plans to construct that portion of that master plan 631 that
17 perverses its property, correct?

18 MR. DUNN: It's a portion of our application, our
19 subdivision, you know, we have design elements that are
20 associated with it, yes.

21 MR. BROWN: Okay.

22 MR. DUNN: The construction of it will up, you
23 know, this is a basic plan that we're talking about, and we
24 still have the CDP and the preliminary plan, and the SDP,
25 and construction documents that need to be gone through. So

1 the Governmental agencies will be weighing in on, the
2 operating agency will be weighing in on that as well.

3 MR. BROWN: Right, and you made reference to
4 condition 4F2 related to the 24 percent woodland
5 conservation threshold, and you testified that you were a
6 participant in the original basic plan for the entire 381
7 plus or minus acres, correct?

8 MR. DUNN: Yes, sir.

9 MR. BROWN: And are you generally familiar with
10 the 02 application for the amended basic plan for the
11 Yourgat property?

12 MR. DUNN: Yes, sir.

13 MR. BROWN: Just generally here, with the
14 exception of condition 4F2, are all of the other conditions
15 proposed by staff in this staff report, I don't like to use
16 the word identical, but I'm going to have to use it. Are
17 they identical to the Yourgat conditions?

18 MR. DUNN: You know, I haven't done that exact
19 analysis, but my expectation is that they are similar enough
20 to be identical with the exception of that one.

21 MR. BROWN: Can you speculate as to why staff
22 required condition 4F2 in this application and not in the
23 Yourgat property?

24 MR. DUNN: I can't, I mean I could speculate, but
25 I don't have a valid answer because I don't know what they

1 were necessarily thinking.

2 MR. BROWN: Because in the original 380 basic
3 plan, 380 acres plus or minus, I would think the 25 percent
4 would have been spread over that entire 380 plus or minus
5 acres, correct?

6 MR. DUNN: That's correct, yes.

7 MR. BROWN: And so your argument is clearly that
8 should not apply just to the Westphalia Meadows property,
9 right?

10 MR. DUNN: That's correct. You can't take
11 something that was meant to apply to an entire larger parcel
12 with different opportunities, and then require a single
13 individual parcel to be overall to continue with that
14 requirement.

15 MR. BROWN: And under the original basic plan, the
16 green area that was applicable to the Westphalia Meadows
17 property was approximately, was it four or five acres?

18 MR. DUNN: It was about five acres.

19 MR. BROWN: And what is proposed now is
20 approximately seven acres, is that correct?

21 MR. DUNN: We are between seven acres of open
22 space per area.

23 MR. BROWN: Open space, right. All right. There
24 was one other question I had here, let me see if I can
25 remember it. Oh yeah, it was again with regards to

1 27195(b) (4) (A) which says the approval of the amended basic
2 plan will not result in a change in land area, and this is
3 why I want to question now, or an increase in land use
4 density or intensity. I am assuming that the Park and
5 Planning Commission property that was deleted from the
6 original basic plan of course, is not going to have any
7 dwelling units on it. So, have you done an actual analysis
8 to determine that the land use density and intensity will in
9 fact not increase? That is, a comparison of Yourgat, Case,
10 Wholly I think the property is, and your property?

11 MR. DUNN: Yes, we have. We have actually done
12 that, and we can say with confidence that we are not
13 increasing the overall density allowances. We're not
14 requesting that. So everything will be within the original
15 approvals. It's just spread out differently now.

16 MR. BROWN: Right, I mean I didn't see it in the
17 file, it may be, but can you put in this file if it's not
18 already in there, the calculations that actually show X
19 density, intensity on Yourgat, Y on Case, Z on Westphalia
20 Meadows, so we have clearly in the record there is not an
21 intensity or density increase?

22 MR. DUNN: Yes. That's not in the file, but we
23 can provide that.

24 MR. BROWN: All right, no other questions, thank
25 you.

1 MS. NICHOLS: All right, Mr. Dunn, did you prepare
2 a report for this application?

3 MR. DUNN: Yes, well we provided the plans, the
4 necessary accompanying information, or we assisted Mr.
5 Haller with it, and Mr. Lenhart.

6 MS. NICHOLS: Right, but you testified, you gave
7 your opinion as to how as a land planner, this application
8 met the criteria required for me to find. Did you prepare a
9 report containing these findings?

10 MR. DUNN: There is a, there is no correct, I did
11 not prepare any written statement that answers that direct
12 question.

13 MS. NICHOLS: Okay. Tell me, 02, what was the
14 ultimate conclusion in 02? 02 was approved by the Council,
15 and it did what?

16 MR. DUNN: As 02 did something very similar to
17 what we're requesting here in 01. It was a separation of
18 the two other properties that we referred to as Case and
19 Yourgat. It's the same process, same sort of request, you
20 know, we got a positive referral from the ZHE, and the
21 District Council then ultimately approved it.

22 MS. NICHOLS: Okay, so now Case basically has its
23 own basic plan?

24 MR. DUNN: Case, Yourgat has their own, I would
25 think of it as, its own basic plan and set of approvals.

1 MS. NICHOLS: Okay, and you're asking in this
2 particular application that the Westphalia Meadows end up
3 with their own basic plan, is that correct?

4 MR. DUNN: That's correct.

5 MS. NICHOLS: And then are there any other
6 properties out there that would make up a third basic plan?
7 Mean, the Park and Planning property or the Wholly property?

8 MR. DUNN: The Wholly property and Suit property,
9 the two remaining properties under this application, and
10 they're owned by Park and Planning, so in that sense, you
11 have three separate approvals, two of which are development
12 opportunities and one of which is a public space park
13 opportunity that remains approved under the original plan.
14 I would speculate that Park and Planning has no intention to
15 develop the properties that they own

16 MS. NICHOLS: Okay, but you would agree that if
17 this application were granted, the original basic plan would
18 result in three smaller basic plans?

19 MR. DUNN: I would agree, yes.

20 MS. NICHOLS: Okay, all right thank you. I don't
21 have any further questions, thank you. Mr. Haller, do you
22 have redirect?

23 MR. HALLER: I do have a couple of minor
24 questions. I just want to make sure that everything is
25 clear. I'm going to refer back to the original basic plan

1 that was approved in 2007, and this relates to the question
2 about the condition of the original plan related to where
3 townhouses should be located. And so Mr. Dunn, you
4 testified earlier that the original condition in the basic
5 plan essentially said that single-family detached lots
6 should front on Westphalia Road. And then the original
7 basic plan that was approved that is on the screen now, does
8 the original basic plan that was ultimately served show
9 townhouses along Westphalia Road within the Bean property?

10 MR. DUNN: It does. It's the orange area, the
11 orange stands for townhouses on that particular plan.

12 MR. HALLER: So the plan that was ultimately
13 approved by the District Council and served as a result of
14 the revised repetition, now allowing townhouses along the
15 frontage that's not across from the Westphalia Wood
16 subdivision, that basic plan was consistent with the revised
17 repetition?

18 MR. DUNN: That's correct, yeah.

19 MR. HALLER: And so the basic plan that we're
20 proposing in this case which would allow either single-
21 family detached or townhouses to front on Westphalia Road,
22 in your opinion, that is also consistent with the revised
23 repetition?

24 MR. DUNN: That's correct.

25 MR. HALLER: Okay, I have no further questions.

1 MS. NICHOLS: All right, thank you, Mr. Dunn.

2 MR. DUNN: Thank you.

3 MS. NICHOLS: Have you concluded your case, Mr.
4 Haller?

5 MR. HALLER: I have, Madam Examiner, I have.

6 MS. NICHOLS: All right. We have some citizens
7 present today and if there is anybody that wishes to
8 testify, would you please let me know and we'll call on you
9 and give you the opportunity to testify today.

10 MS. GOLDSBY: Yes, I'd like to speak.

11 MS. NICHOLS: Okay, and your name please?

12 MS. GOLDSBY: My name is Terri Goldsby.

13 MS. NICHOLS: Okay, Ms. Goldsby, let's find you.
14 Okay, I don't see you. There you go, can you move your
15 camera down so we can see your face, thank you very much.
16 All right, thank you, good. I need to swear you in. You
17 need to -- thank you. Do you solemnly swear or affirm in
18 the matter now pending to tell under the truth, the whole
19 truth, and nothing but the truth?

20 MS. GOLDSBY: Yes, I do.

21 MS. NICHOLS: Okay, thank you, please state your
22 name and address for the record.

23 MS. GOLDSBY: My name is Terri Goldsby, I live at
24 2806 Matapeake Drive, Upper Marlboro, Maryland 20774.

25 MS. NICHOLS: Thank you. What would you like to

1 say today?

2 MS. GOLDSBY: So I would like to say that having
3 lived here back in the 2006-2007 era, I and many of my other
4 neighbors attended Surettes (phonetic sp.) for the
5 Westphalia --

6 MS. NICHOLS: Can you adjust your camera again so
7 we can see you, because I need to see you.

8 MS. GOLDSBY: Okay.

9 MS. NICHOLS: There you go.

10 MS. GOLDSBY: We attended Surettes, and although
11 we were hesitant about the changing of our neighborhood from
12 rural to urban, we were convinced by a lot of time, and a
13 lot of effort, and a lot of pictures, and maps, and
14 discussions, and we were able to secure the concept of
15 having single family homes up against Westphalia Road. That
16 was one of the things. So, it's my perception that through
17 the depression of the 2008, the project died more or less,
18 but in intervening years, it was developers resuscitated it.
19 And while it seems like back in 2007 and even in your
20 hearing for 01, you indicated that we were using hybrid
21 rules of planning and to my, hybrid mean arbitrary, and that
22 when it suits you, you make a change here and there, but
23 that it's not --

24 MS. NICHOLS: Just so you know, I wasn't the
25 hearing Examiner in that case so, you're not repeating

1 anything I said.

2 MS. GOLDSBY: So we perceived that there are
3 additions to the density grading -- since that time, lots of
4 different changes have happened. For instance, on your maps
5 and your exhibits, you show a road, but where is the gas
6 line, is the gas line going to go through your property? Is
7 that a utilities, and where is it on your maps? I've seen
8 two of your exhibits and I see the major road 631 has
9 several different paths, and one of the them, you claim it's
10 a very minor, it's like way up next to your border, but on
11 other ones, it cuts right through. And so are you going to
12 have a four-lane road going through your townhouses? And so
13 in addition to the hybrid, the problem with the hybrid and
14 us not having, being part of all of the details. In October
15 when I heard about this meeting, I went to the Government, I
16 went to Upper Marlboro to the CAB building to try and get
17 access to the entire record. I want to see every document,
18 I want to see every map, I want to see every staff report,
19 every piece of testimony, all of it, but your Government was
20 closed, it was shutdown. The CAB building, the Government
21 isn't there anymore. You were in transition from there to
22 some place over, over on McCormick. And so we don't have
23 access to the facts, and I think that's a basis for
24 challenging the entire process. Now we realized that
25 development is going to happen, but what we need to be is,

1 we need to be treated with respect, the same type of respect
2 that we had back in 2007 where we could see every detail,
3 ask questions about the shape, the number, like how big is
4 that, those 631 that's going through, I guess it's going to
5 go on top of the gas line, because that's where the gas line
6 is going. So, to the extent that your reports and y our
7 details are inconsistent, they're bogus and you know you all
8 could change it when you want to, well we need to be part of
9 that, and we need to have full access to the entire record
10 before we approve. This is a stumbling block, you know, you
11 probably should have done it before, but you screwed up and
12 you waited until now. So you want us to give you approval
13 to go forward with stuff that's not in our interest, I don't
14 think so. That's all.

15 MS. NICHOLS: All right, thank you. Mr. Haller,
16 do you have any questions of Ms. Goldsby?

17 MR. HALLER: I have no questions.

18 MS. NICHOLS: Mr. Brown, do you have any questions
19 of Ms. Goldsby?

20 MR. BROWN: Yes. Ms. Goldsby, did you give us
21 your address?

22 MS. GOLDSBY: I did.

23 MR. BROWN: All right, thank you.

24 MS. NICHOLS: All right, thank you. I understand
25 Bobby wishes to speak, so Bobby could you please put your

1 mic on and your camera on?

2 MS. ALLEN: I am here, can you hear me?

3 MS. NICHOLS: Oh yes, thank you very much. I'm
4 going to ask you to raise your right hand please. Do you
5 solemnly swear or affirm under the penalties of perjury,
6 that the testimony you shall give in the matter now pending
7 should be the truth, the whole truth, and nothing but the
8 truth?

9 MS. ALLEN: Yes.

10 MS. NICHOLS: Thank you. Please state your name
11 and address for the record?

12 MS. ALLEN: My name is Andrea Bobbi Allen. My
13 address is 10009 Howell Drive, Upper Marlboro, Maryland
14 20774.

15 MS. NICHOLS: Thank you very much. What would you
16 like to say today?

17 MS. ALLEN: I just wanted to get on the record as
18 someone that had a speaking role as a concerned resident. I
19 just recently moved to this neighborhood at Westphalia
20 Woods, which is the neighborhood across the street from
21 where you guys are developing. I moved here in August of
22 2019, so some of my concerns is, what obligation did you
23 guys have to notify me as a new resident, or even on the
24 home buying process that these plans were in the works. I
25 know that you guys said that you noticed the residents but

1 were there any obligations to notice the ones that came
2 onboard after the fact because I surely was thrown for a
3 loop when all of this stuff came to my door from my
4 neighbors. They were the one that brought me mainly aware
5 of this stuff. The other issue that I had was about the I
6 guess the décor. You guys say that you're wanting to keep
7 the single-family lots visible from Westphalia Road so that
8 it can be compatible with our neighborhood, but our
9 neighborhood has mostly one acre or more lots, so I'm sorry,
10 our neighborhood has one or more acre lots, so I wondered
11 how compatible can it be if you're not giving them your
12 single-family lots equivalent size. The other issue that I
13 have, I'm sorry, I'm going through all of these, I'm trying
14 to be organized here. In my home particularly, I have a 20-
15 foot commercial utility drain in front of my home to manage
16 flooding issues. And if you're building into the ground
17 added to the gas line that's going to be created, what is
18 that going to mean for me. Is that going to mean that I
19 have to increase my flood insurance, and am I going to be
20 more susceptible to basement flooding? These are some of
21 the concerns that I have. The school bus stops, that's
22 another issue. Our Prince George's County Public School
23 System, CCO Monica Goldstein, I think that's her name. She
24 has implemented something called a centralized bus plan.
25 The centralized bus plan basically means that our kids can

1 catch a --

2 MS. NICHOLS: Ma'am, I can't let you talk about
3 the bus plan, that's not relevant to the findings that have
4 to made --

5 MS. ALLEN: It is relevant.

6 MS. NICHOLS: Okay, could you move on to another
7 topic please.

8 MS. ALLEN: No, my kid's school bus stop is
9 relevant to this situation, and I can explain how.

10 MS. NICHOLS: Ma'am, it's not, so if you could
11 move onto another subject, I'd appreciate it.

12 MS. ALLEN: There's a new subdivision being built
13 across from me, correct? Correct? Tom, are you there? You
14 guys are building a subdivision across the street from my
15 neighborhood?

16 MS. NICHOLS: This is an opportunity for you to
17 testify on this particular application. So --

18 MS. ALLEN: Well then, I would like to be able to
19 have that opportunity. You're telling me that I can't talk
20 about something that is relevant and you haven't even
21 allowed me an opportunity to speak about it.

22 MS. NICHOLS: Right, at this moment, the bus stops
23 are not relevant. If there is another --

24 MS. ALLEN: Okay, I'll phrase it this way for you
25 there Joyce. There are going to be residents, some of them

1 may include minor residents. Those added minor residents
2 are going to be factored into where a bus stop is located.

3 MS. NICHOLS: Okay, again, if you'd like to talk
4 on a different subject, you can continue, but otherwise, if
5 you can't move on, I'll have to move onto another speaker.

6 MS. ALLEN: Okay, I wanted to, well this is being
7 recorded that you are suppressing my voice. So, I'll move
8 onto another issue then Joyce. The fact that we have a
9 family of bald eagles living in this area that is right on
10 the land where you guys are wanting to develop. Is that
11 relevant, Joyce?

12 MS. NICHOLS: Is there anything further you would
13 like to testify to?

14 MS. ALLEN: I would like to testify to a lot of
15 things, but I'm not certain if you're going to allow it. So
16 I'm asking you, are the family of bald eagles that are
17 living on that land, is that relevant? Can I speak on that?
18 Ma'am, you need to make comments with regard to what the
19 application is in front of me. Do I have the opportunity to
20 discuss or make a finding on bald eagles, no.

21 MS. ALLEN: Okay, well I would like to say that I
22 am concerned about having this property built across the
23 street from my neighborhood when I have visible seen a
24 family of bald eagles living there, and I have reported that
25 family of bald eagles to the Maryland Department of, I think

1 it's a natural conservation service. So, they are aware of
2 that, and I reported it to them weeks ago because I wanted
3 to ensure their safety. So, moving to the next issue. The
4 road expansion, that road expansion causes me concerns, well
5 there's a couple of things. It causes me concern because I
6 worry that we're going to have children having to cross the
7 street at that intersection because of the busing situation.
8 And especially, I have not heard anyone say that they are
9 planning to put in new sidewalks, because currently we don't
10 have sidewalks and the kids are already having to walk up
11 and down a muddy street to get to the school bus. Also, we
12 have a huge amount of traffic already on Westphalia, and
13 it's not so much about the quantity of the traffic, it's
14 more about the speed. People are not paying attention to
15 the speed limits, and I know that you said something about
16 maybe trying to straighten the road, but I think
17 straightening the road is just going to cause people to
18 speed even more. They go from speeding on a winding road to
19 a straight road, they're just going to increase their
20 acceleration. And again, like I said, there are kids that
21 are walking that road to get to their school bus, it's just
22 a disaster. When I first moved into my neighborhood within
23 one week, there was a car crash right at the intersection of
24 my neighborhood and I was not able to get in. I was sitting
25 outside because the police would not let me into my

1 neighborhood for at least 30 minutes, and I just think that
2 this is just a disaster. So, basically to sum up what my
3 issues are, the single-family lots, I don't think are going
4 to be equivalent in size. I worry about this family of bald
5 eagles because I do see them flying around pretty often. I
6 worry about the safety of the children walking on Westphalia
7 Road, even if the road is expanded, if there's no sidewalks,
8 it's still going to be an issue for me. I worry about the
9 sidewalks and also about the flooding issue because like I
10 said, before this Washington Gas issue, and also now with
11 more building coming into the area, I just feel like this is
12 going to increase my potential for basement flooding and I
13 already have this 20-foot commercial utility drain outside
14 my house. Not to mention flood insurance, I just feel like
15 this is going to be more cost bearing for me. That's all,
16 Joyce.

17 MS. NICHOLS: Mr. Haller, do you have any
18 questions? Mr. Haller?

19 MR. HALLER: I have no questions, Madam Examiner.

20 MS. NICHOLS: Mr. Brown, do you have any
21 questions?

22 MR. BROWN: Yes, just for the record, I apologize
23 by addressing you as Bobbi, but would you state your full
24 first and last name?

25 MS. ALLEN: My name is Andrea Bobbi Allen.

1 MR. BROWN: Okay, so Ms. Allen, just for the
2 record so that you understand the process and I'm not saying
3 you don't understand, but I just want to make the record
4 clear. This is a request by the applicant to amend an
5 original basic plan of 380 plus or minus acres. They are
6 essentially dividing that original basic plan into what is
7 now a second or a third basic plan. And that's all they are
8 doing is amending a basic plan. At a future point in time,
9 assuming this may be approved, if it is approved, they must
10 apply for what's called a preliminary plan of subdivision.
11 In that case, you will be allowed to participate, and they
12 will then put forth a full traffic report and they will show
13 where all the roads are, the widths, the lengths, and what
14 have you. And at that time it would be appropriate for you
15 to ask questions related to bus stops and things of that
16 nature. So, there will be an opportunity to address traffic
17 related issues. Concerning bald eagles and compatibility,
18 the applicant will be required to file what's called a
19 comprehensive design plan where they will fine tune their
20 application which will show architectural renderings, lot
21 sizes, a whole host of issues that will address many of the
22 issues that you've raised here today, and so you'll be able
23 to participate in these subsequent entitlement processes to
24 raise many of those issues. So I don't want you to think
25 that today, because you are not able to address certain

1 issues, that you will be foreclosed in the future in
2 addressing those issues. All right?

3 MS. ALLEN: When you say I would be able to
4 address those issues at a later time, that's all assuming
5 that I will have an opportunity with my personal schedule.
6 You know, like I've been on this call now, I don't even
7 remember when this meeting started honestly, but I haven't
8 done any work. I'm supposed to be teleworking, I have a
9 different job. So whenever I have the opportunity to voice
10 my opinion while I'm here, I have to do that.

11 MR. BROWN: No, I understand. I just want to make
12 sure you understood, there's a longer process. All right,
13 thank you, no other questions.

14 MS. NICHOLS: All thank you. All right, Ms.
15 Ashley, you're up next. If you could please turn on your
16 mic, there you go. All right, I need to swear you in
17 please. Thank you so much. Do you solemnly swear or affirm
18 under the penalties of perjury, that the testimony you
19 should give in the matter now pending shall be the truth,
20 the whole truth, and nothing but the truth?

21 MS. ASHLEY: I do.

22 MS. NICHOLS: Thank you very much. Please state
23 your name and address for the record?

24 MS. ASHLEY: My name is Holly Ashley. My address
25 is 2902 Matapeake Drive in Upper Marlboro, Maryland. I am

1 speaking on behalf of myself and my husband who was here
2 earlier, Michael, and we just want the record to show that
3 we are here as concerned citizens and that it is our plan to
4 be vigilant in the process, to follow the process as it
5 relates to, you know, as it goes through the different
6 phases of development. So, I, you know, gave an invite to
7 Mr. Haller and Ryan Day, and Mr. Setzer, Kevin Setzer, and
8 they showed up for our community meeting, and you know, they
9 invited us to participate in the process. So that's why I'm
10 here. We are going to participate in the process and follow
11 it through.

12 MS. NICHOLS: Wonderful, that is great to hear,
13 thank you very much. Mr. Haller, Mr. Brown, I assume you
14 have no questions?

15 MR. HALLER: No questions.

16 MR. BROWN: No questions.

17 MS. NICHOLS: Okay. Ms. Ashley, and please
18 continue to participate. Is there anybody else here today
19 that wishes to testify?

20 MS. MURRAY: Yes, my name is Murray --

21 MS. NICHOLS: Wait a minute, okay, there we go.
22 Okay, can you please turn on your camera please?

23 MS. MURRAY: Okay. My name is Lavenia, I'm
24 Lavenia Murray.

25 MS. NICHOLS: Before you testify, okay, very much.

1 Okay, do you solemnly swear or affirm under the penalties of
2 perjury that the testimony you should give in the matter now
3 pending shall be the truth, the whole truth, and nothing but
4 the truth?

5 MS. MURRAY: Yes.

6 MS. NICHOLS: Thank you. Please state your name
7 and address for the record?

8 MS. MURRAY: Lavenia Murray, I live at 2805
9 Hatboro Place, Upper Marlboro, Maryland. I'm a part of the
10 Westphalia Manor Community Association. And I want, I
11 guess, clarification. I have this question that I want to
12 be clear on and that's one, concerning the, I know Mr. Brown
13 you mentioned this was a hearing on zoning, because of the
14 separation of this particular development from the original
15 plan. Would that zoning approval include the fact that it's
16 a possibility of townhomes being built on the front of
17 Westphalia Road?

18 MR. BROWN: Yes, it's a possibility and again,
19 that's something that you will be able to talk with the Park
20 and Planning Commission as well as the applicant once,
21 assuming comprehensive design plan is actually submitted.

22 MS. MURRAY: Okay, so it's not something that
23 you're approving, a part of the application that they are
24 applying for today?

25 MR. BROWN: Not necessarily.

1 MS. MURRAY: Not necessarily?

2 MR. BROWN: In other words, there will be
3 townhouses on this property. Specifically where, is not
4 being determined today.

5 MS. MURRAY: Oh okay, okay, that's what I wanted
6 clarification on. The second question was in the original
7 plan, it was a requirement for 25 percent woodland reserved
8 during the guess development process. Again, you're saying
9 that, that in their mentioning that they plan to do a seven
10 percent woodland reservation, would that, that's not a part
11 of this particular process, the zoning process. The
12 approval of that is not part of this process, is that
13 correct?

14 MR. BROWN: It is a part of this process and their
15 witnesses have attempted to explain that.

16 MS. MURRAY: So, they would be approved for only a
17 seven percent woodland reservation versus 25 percent?
18 Because 25 percent of the original plan would apply to 25
19 percent of their part of the original plan as well. And I
20 think today they mentioned that they plan to do a seven
21 percent woodland reservation. I'm only concerned because we
22 have a lot of activity in this area that impacts the
23 environment. And the woodland is important in terms of
24 keeping the safety of the environment in this area. The
25 reservation of woodland. You have a landfill here, we have,

1 it's a lot going on that would add to the pollution, and I'm
2 concerned about them doing a seven percent reservation of
3 woodland versus 25 percent.

4 MS. NICHOLS: Okay, I understand. Is there
5 anything further that you would like to say Ms. Murray?

6 MS. MURRAY: No, that's it, that's all, just those
7 two issues about the woodland reservation and the property,
8 what's going to be on Westphalia Road, the property.

9 MS. NICHOLS: Okay thank you, I understand your
10 concerns. Mr. Haller, Mr. Brown, do you have any questions
11 of Ms. Murray?

12 MR. HALLER: No questions, thank you.

13 MR. BROWN: Yes, Ms. Murray. I met with your
14 organization Westphalia Manor Civic Association by zoom a
15 couple of weeks ago. And there were some issues with regard
16 to whether or not you guys had a formal civic association.
17 So I just want to be clear that today you are testifying in
18 your individual capacity, correct?

19 MS. MURRAY: Yes, I am, but representing that this
20 community as well.

21 MR. BROWN: But again though, you guys really
22 don't have a formal civic association formed as of today's
23 date, correct?

24 MS. MURRAY: That's correct.

25 MR. BROWN: All right so for the record, you

1 really are testifying on your own individual behalf, am I
2 right?

3 MS. MURRAY: Okay, uh-huh.

4 MR. BROWN: Thank you.

5 MS. NICHOLS: All right, okay thank you, Ms.
6 Murray for participating in the process. Is there anybody
7 else that wishes to testify that hasn't already spoken?

8 MS. JAMISON: Yes, I would like to testify.

9 MS. NICHOLS: Okay, Ms. Jamison, okay could you
10 turn your video on please?

11 MS. JAMISON: Yes, hello, good afternoon.

12 MS. NICHOLS: Good afternoon. We're waiting on
13 the video.

14 MS. JAMISON: It's on.

15 MS. NICHOLS: Not so far. There we go. All
16 right, Ms. Emerick, can you turn off your mic please. And
17 Ms. Jamison, I need you to raise your right hand and repeat
18 after me. Do you solemnly swear or affirm under the
19 penalties of perjury in the matter now pending, you shall
20 tell under the truth, the whole truth, and nothing but the
21 truth?

22 MS. JAMISON: Yes, I do.

23 MS. NICHOLS: Thank you very much. Please state
24 your name and address for the record?

25 MS. JAMISON: Danias Jamison, 2805 Matapeake

1 Drive, Upper Marlboro, Maryland 20774.

2 MS. NICHOLS: Thank you, what would you like to
3 say today?

4 MS. JAMISON: I would just like to say as a health
5 care provider for over 30 years in Prince George's County, I
6 would like to know will there be any kind of safety
7 consultation group involved along the entire process for the
8 development?

9 MS. NICHOLS: Okay, so the only thing we have in
10 front of us at this moment is the basic planning and there
11 is no required findings or no reference to what you're
12 suggesting. So, at this moment, there is nothing.

13 MS. JAMISON: Okay, I would also like to recognize
14 that I would like to be a person of interest, and I would
15 like to be informed of notifications of future meetings.

16 MS. NICHOLS: Yes, did you sign-up in writing to
17 be a person of interest?

18 MS. JAMISON: Yes, I did, Your Honor.

19 MS. NICHOLS: Okay, then yes, you are, and you
20 will get notifications every time anything happens.

21 MS. JAMISON: Okay, thank you so much.

22 MS. NICHOLS: Thank you very much. Thank you for
23 participating.

24 MS. JAMISON: You're welcome.

25 MS. NICHOLS: Is there anybody further that would

1 like to testify here today that hasn't already spoken? All
2 right, seeing no one, Mr. Haller, do you have anything
3 further?

4 MR. HALLER: Madam Examiner, I have nothing
5 further to add.

6 MS. NICHOLS: Okay, all right then we'll consider
7 the hearing in this matter to have been concluded and let's
8 see, the record was being held open for one thing, and that
9 was, Mr. Brown wanted a tabulation of what between the
10 three?

11 MR. BROWN: Of the density and intensity changes
12 or comparisons between Yourgat and this property, and any
13 other basic plan amendment compared to the original 384
14 acres.

15 MS. NICHOLS: All right, Mr. Dunn said he was able
16 to provide that, just hadn't done it, but can provide it.
17 All right, that being said, the hearing in this matter will
18 deem to have been concluded, and the record will remain open
19 for that analysis. And upon receipt of that, that record
20 will close, and a recommendation will be forthcoming.

21 MR. HALLER: Thank you very much.

22 MS. NICHOLS: All right, I thank everybody for
23 participating. Have a good day.

24 MR. HALLER: Thank you very much.

25 (Whereupon, the hearing was concluded.)

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:

WESTPHALIA MEADOWS, LLC

Case No. A-9973-01

By:



Pat Purnell, Transcriber

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