

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

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:  
BHC INC. c/o MID ATLANTIC BUILDERS/: Case Nos. A-9802-C  
KENWOOD VILLAGE : and A-9803-C  
:  
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A hearing in the above-entitled matter was held on  
November 2, 2022, at the Prince George's County Office of  
Zoning, County Administration Building, Room 2174, Upper  
Marlboro, Maryland 20772 before:

Joyce Nichols  
Hearing Examiner

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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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1 I'm showing is the Site Vicinity Map which was taken from  
 2 the PowerPoint presentation presented to the Planning Board.  
 3 It's part of Exhibit 23, which is the Staff Report. And as  
 4 it shows, the property is outlined in red and it is located  
 5 on the southside of White House Road just to the east of the  
 6 interchange with the Beltway and Ritchie Marlboro Road.  
 7 The original basic plans for this property, A-  
 8 9802, A-9803, were approved on January 29, 1993. The  
 9 project was called Kenwood Village and those, both of those  
 10 basic plans were adopted at that time. When the plans were  
 11 approved, the decision of the District Council referenced an  
 12 exhibit in the record as the basic plan. That exhibit was  
 13 J-1113, and that was Exhibit 19 of the, of our record. And  
 14 I'm depicting the basic plan that was referenced as Exhibit  
 15 J-1113, and we submitted this, we got this from the  
 16 Council's record and we submitted this with our application.  
 17 We were, subsequently, contacted by Hearing Examiner  
 18 McNeill, who noted that the plan was not certified and did  
 19 not reflect conditions of the original approval; and she  
 20 requested that we modify the plan to show, reflect those  
 21 notes; and as a result, we submitted a revised basic plan  
 22 for the original approval which contains several notes, I'll  
 23 have Mr. Dunlap go through what was added to the plan; but  
 24 this plan then was subsequently certified by the Hearing  
 25 Examiner on October 26, 2022. So, this is the plan that we

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1 P R O C E E D I N G S

2 AUTOMATED SPEAKER: This conference will now be  
 3 recorded.

4 MADAM EXAMINER: All right. All right, good  
 5 morning, everybody. It is approximately 9:31 on the 2nd of  
 6 November, and we are here to amend, on an application to  
 7 amend the conditions for A-9802 and A-9803. And, Mr.  
 8 Haller, it's a pleasure to see you.

9 MR. HALLER: Good morning, Madame Examiner. I'm  
 10 pleased to be here this morning and I'd like to start out  
 11 with just a brief opening statement on an application for  
 12 contact. I'm sharing my screen and what I'm depicting is  
 13 just the vicinity view of the property taken from Exhibit 23  
 14 which is the Planning Board's back-up from the  
 15 (unintelligible).

16 MADAM EXAMINER: Okay. Let me stop you for just  
 17 one second because, because you're not sharing your screen.

18 MR. HALLER: Oh, I, well, it --

19 MADAM EXAMINER: So, does Tom have --

20 MR. HALLER: (Unintelligible.)

21 MADAM EXAMINER: Yeah.

22 MR. HALLER: Susie made me an administrator, but,  
 23 okay, hold on. Can you see it now?

24 MADAM EXAMINER: I can, yes, thank you.

25 MR. HALLER: There we go. Okay. So, the, what

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1 are proposing to revise as part of this application.  
 2 I would note for the record that the reason that  
 3 there were two Zoning Map Amendment applications all in the  
 4 same zone is that when the applications were originally  
 5 submitted, there was originally a request to rezone a  
 6 portion of the property from the RE Zone to the RM Zone, and  
 7 then the, another portion of the property from the RE Zone  
 8 to the LAC Zone. Ultimately, the plans were both modified  
 9 to request a rezoning from the RE Zone to the RS Zone, and  
 10 that is what was approved; and at the lower density range of  
 11 1.6 to 2.6 units per acre. And the basic plan that was  
 12 approved was approved for a, a maximum density of 2.18 units  
 13 per acre, which based upon the property information at the  
 14 time was a maximum of 126 dwelling units.

15 So, after the approval of the basic plan, the  
 16 property sat for several years. Ultimately a CDP was  
 17 approved in 2005, a Preliminary Plan of Subdivision was  
 18 approved in 2007 and the SDP was approved in 2013; and  
 19 although the basic plan was approved for up to 126 lots,  
 20 only 72 lots were ultimately approved by the Preliminary  
 21 Plan and the SDT, and this was in large part due to  
 22 Condition 7 of the basic plan which established minimum lot  
 23 sizes of 6,000 square feet and 10,000 square feet. And, but  
 24 notwithstanding those prior approval, the property remains  
 25 undeveloped; and, in fact, the SDP expired in, on 12/31 of

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1 '21.  
2 So, the property is now under contract with BHC,  
3 Inc., which as noted in the justification statement, is an,  
4 is affiliated with Mid Atlantic Homes; and the application  
5 before you today requests amendments to three conditions and  
6 the deletion of a fourth condition of the original basic  
7 plan to allow for the introduction of a new single-family  
8 detached home product type which Mid Atlantic is designing.  
9 And so, the conditions which we are proposing to  
10 delete is Condition 4, which relates to trails; and then the  
11 three conditions we are proposing to modify are Condition 7,  
12 which established the minimum lot sizes; Condition 8 which  
13 established non-disturbance buffers along the eastern and  
14 southern property boundaries; and Condition 13, which  
15 established a 50-foot setback from streams and flood plain  
16 areas. If these changes are approved, they would allow for  
17 the number of lots to be increased to 124 lots, and minor  
18 revisions to the basic plan are, are proposed to reflect the  
19 proposed modification of the conditions.  
20 For the revised basic plan that was originally  
21 submitted into the record is, is shown on the screen and is  
22 Exhibit 21; and that was the one that was submitted with the  
23 application; and then that has subsequently been modified  
24 for basically two reasons: One, because they reflect the  
25 changes that the Examiner requested to the original basic

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1 plan; and also, to reflect conditions which were recommended  
2 by Park and Planning; and the revised basic plan is now in  
3 the record as Exhibit 42, and that's what's shown on the  
4 screen here. So, Exhibit 42 is the basic plan that we are  
5 seeking approval of today.  
6 So, so, from, from an exhibit standpoint, the two  
7 key, basic plan exhibits are Exhibit 33-C, which is the  
8 signed and certified original basic plan; and Exhibit 42,  
9 which is the revised basic plan that would correspond to the  
10 application that's before you this morning.  
11 I have four witnesses this morning. I have Mr.  
12 Jason Dunlap with CPJ and Associates, who is going to  
13 discuss the revisions to the plans; Mr. Kevin Flemming is  
14 with BHC, Inc., and is going to discuss the proposed  
15 revisions; Mike Lenhart is going to address the traffic  
16 issues; and Mr. Mark Ferguson, the planning issues. So, I'd  
17 like to start this morning by calling Mr. Jason Dunlap, CPJ  
18 and Associates.  
19 MR. DUNLAP: Good morning, everyone.  
20 MADAM EXAMINER: Hi, good morning, Mr. Dunlap. I  
21 need you to raise your right hand. I need to swear you in,  
22 please. Thank you. Do you promise you swear and affirm in  
23 the matter now pending to tell the truth, the whole truth  
24 and nothing but the truth?  
25 MR. DUNLAP: I do.

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1 MADAM EXAMINER: Thank you. Please state your  
2 name and business address for the record.  
3 MR. DUNLAP: Jason Dunlap, Charles P. Johnson and  
4 Associates. The address is 1751 Elton Road, Suite 300,  
5 Silver Spring, Maryland 20903.  
6 MADAM EXAMINER: Thank you.  
7 MR. HALLER: Thank you. Jason, how long, I mean  
8 how, what is your position with Charles P. Johnson &  
9 Associates?  
10 MR. DUNLAP: I'm a Senior Landscape Architect and  
11 Project Manager.  
12 MR. HALLER: And how long have you held that  
13 position?  
14 MR. DUNLAP: Since March of 2021.  
15 MR. HALLER: And prior to joining CPJ, who were  
16 you with prior to that?  
17 MR. DUNLAP: I was with Ben Dyer Associates for 18  
18 years.  
19 MR. HALLER: And were your responsibilities  
20 related to landscape architecture similar with Ben Dyer  
21 Associates as they are with Charles P. Johnson & Associates?  
22 MR. DUNLAP: Correct, preparing site plans,  
23 landscape plans, specific site plans, detailed site plans,  
24 special exception site plans, mandatory referrals,  
25 comprehensive design plans, all the above.

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1 MR. HALLER: Okay. And are you a registered  
2 landscape architect licensed by the state of Maryland?  
3 MR. DUNLAP: Yes.  
4 MR. HALLER: And when were you first registered as  
5 a landscape architect in Maryland?  
6 MR. DUNLAP: In 2007.  
7 MR. HALLER: Okay. And, and as you noted, during  
8 your years with Ben Dyer and with CPJ, you have been  
9 responsible for preparing site and landscape plans for  
10 various types of applications?  
11 MR. DUNLAP: Correct. The majority of my work has  
12 been in Prince George's County.  
13 MR. HALLER: And are you familiar with the  
14 provisions of the Prince George's County Code generally  
15 related to the preparation of site and landscape plans,  
16 including preliminary plans of subdivision, detailed site  
17 plans, basic plans, comprehensive design plans and specific  
18 design plans?  
19 MR. DUNLAP: Yes.  
20 MR. HALLER: Madam Examiner, I have submitted into  
21 the record Exhibit 37, which is Mr. Dunlap's resume, and  
22 would ask that, that that be accepted into the record as his  
23 resume.  
24 MADAM EXAMINER: I can accept his resume, yes.  
25 MR. HALLER: And what I would request is that,

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1 premised upon Mr. Dunlap's experience developing plans and  
2 being a registered landscape architect, that he be accepted  
3 as a registered landscape architect qualified to prepare  
4 site and landscape plans in Prince George's County.  
5 MADAM EXAMINER: Mr. Brown?  
6 MR. BROWN: And, Mr. Dunlap, did you assist in the  
7 preparation of the Basic Plan and other graphic detail  
8 that's part of this application today?  
9 MR. DUNLAP: Yes.  
10 MR. BROWN: I have no objection to qualification  
11 of Mr. Dunlap in the field of landscape architecture.  
12 MADAM EXAMINER: Have you ever testified before a  
13 body under oath?  
14 MR. DUNLAP: Not before, no.  
15 MADAM EXAMINER: Have you ever testified before a  
16 body not under oath?  
17 MR. DUNLAP: I don't believe so.  
18 MADAM EXAMINER: This is your first foire?  
19 MR. DUNLAP: Yes.  
20 MADAM EXAMINER: All right, Mr. Haller, I am going  
21 to accept Mr. Dunlap as an expert in the field of landscape  
22 architecture.  
23 MR. HALLER: Thank you, Madam Examiner. Jason,  
24 has Charles P. Johnson & Associates been retained by the  
25 Applicant BHC, Inc. in this case to provide landscape

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1 architecture and project design services related to the  
2 proposed development?  
3 MR. DUNLAP: Yes, we have.  
4 MR. HALLER: And were you asked by the Applicant  
5 in this application to prepare an amended Basic Plan for  
6 Kenwood Village?  
7 MR. DUNLAP: Yes.  
8 MR. HALLER: And did you prepare the Amended Basic  
9 Plan included with the Application?  
10 MR. DUNLAP: I did, along with help with a few  
11 people under, under my supervision.  
12 MR. HALLER: And what is --  
13 MADAM EXAMINER: Just for clarifying, you prepared  
14 Exhibit 42?  
15 MR. DUNLAP: We prepared Exhibit 42, the Final  
16 Plan, the Revised Basic Plan, but also the Amended Basic  
17 Plan that was submitted to be put on record.  
18 MADAM EXAMINER: That would be Exhibit 21?  
19 MR. DUNLAP: Correct.  
20 MR. HALLER: I think it's part of 33-C.  
21 MADAM EXAMINER: 33-C, I thought was the original  
22 Basic Plan?  
23 MR. HALLER: That is the original Basic Plan that  
24 was modified to reflect, it's the one that showed on the  
25 screen; it was modified to reflect the conditions of

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1 approval.  
2 MADAM EXAMINER: Right. Okay. That's the one Ms.  
3 McNeill found that wasn't certified. All right. And so,  
4 but important to this conversation is Exhibit 42, and Mr. --  
5 MR. HALLER: Correct.  
6 MADAM EXAMINER: -- Dunlap, Mr. Dunlap prepared  
7 Exhibit 42?  
8 MR. DUNLAP: Yes, along with the changes to 33-C  
9 so that it could be certified.  
10 MADAM EXAMINER: Okay.  
11 MR. HALLER: Okay. Thank you, Mr. Dunlap. What  
12 is the current zoning of the property?  
13 MR. DUNLAP: The current zoning is LCD, Legacy  
14 Comprehensive Design; and, previously, it was RS.  
15 MR. HALLER: Okay. And are you familiar with the  
16 current Basic Plan for Kenwood Village?  
17 MR. DUNLAP: I am.  
18 MR. HALLER: And is that Basic Plan the one that  
19 was referenced in the prior record as Exhibit J-113?  
20 MR. DUNLAP: Correct.  
21 MR. HALLER: And I, let me pull up again Exhibit  
22 21, which is the original Basic Plan exhibit. Mr. Dunlap,  
23 do you recognize this as the Basic Plan that was found in  
24 the District Council file?  
25 MR. DUNLAP: Yes, that was Exhibit J-113.

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1 MR. HALLER: Okay. And were you asked to modify  
2 this plan?  
3 MR. DUNLAP: We were. The Basic Plan originally  
4 didn't reflect the conditions of the approval by District  
5 Council, so we were asked -- and it was also never  
6 certified, so we were asked by the Zoning Hearing Examiner  
7 to update it to reflect the Basic Plan as approved so that  
8 it could be certified.  
9 MR. HALLER: And I'm going to pull up Exhibit 33-  
10 C. And is this, is this a copy of the, of the revised Basic  
11 Plan that you've prepared?  
12 MR. DUNLAP: Yes, it is.  
13 MR. HALLER: Can you identify specifically the  
14 modifications that were made to Exhibit 33-C as compared to  
15 the old Exhibit J-113?  
16 MR. DUNLAP: Sure. The first modification that we  
17 made was to locate and label the 50-foot non-disturbed  
18 buffers on the south and eastern border. After that, we  
19 added the notes that are shown on the top half of the plan.  
20 Note No. 1 states that no direct access to any residential  
21 lots would be permitted from White House Road or Harry S.  
22 Truman Drive, and that reflects Condition 1 of the Council,  
23 District Council decision. Note No. 2 states that the  
24 minimum lot size, the minimum lot sizes that were required,  
25 that were set forth in Condition 7 of the District Council

1 decision; Note 3 states that a 50-foot non-disturbance  
2 buffer will be provided along the east and southern  
3 boundaries; and then there would also be a 6-foot-high  
4 black, vinyl-coated chain link fence along those borders;  
5 and that was part of Condition 8 of the District Council  
6 decision; and No. 4 was added to reflect that the same 50-  
7 foot non-disturbance should apply to all streams, expanded  
8 buffers, 100-year flood plain, the steep slopes and erodible  
9 soils, and that was established by Condition 13 of the  
10 District Council decision; and then Note No. 5 was also  
11 indicated, or added to show that all remaining conditions  
12 and considerations of the District Council decision would be  
13 addressed at later stages of the development.

14 Oh, and then also, also at the bottom, the site  
15 data, we modified that to separate the land use quantities  
16 and land use types that were added to the plan, including,  
17 stating that the cap on density was the 2.18 dwelling units  
18 per acre, and the maximum of 126, 126 dwelling units.

19 MR. HALLER: So, is it your understanding that the  
20 revised Basic Plan now reflects the conditions of approval  
21 set forth in the final adopted orders by the District  
22 Council?

23 MR. DUNLAP: Yes.

24 MR. HALLER: And, and as reflected on this  
25 exhibit, the Madam Hearing Examiner has now certified the

1 plan, is that correct?

2 MR. DUNLAP: Correct, October 26th.

3 MR. HALLER: All right. Let me now pull up  
4 Exhibit 21 which I'm going to ask if you can identify by  
5 this document?

6 MR. DUNLAP: Sure. And that's the amended,  
7 revised Basic Plan that CPJ prepared.

8 MR. HALLER: And that was submitted with the  
9 initial application?

10 MR. DUNLAP: Correct.

11 MR. HALLER: And can you describe the changes to  
12 the amended Basic Plan from what was originally approved on  
13 the Basic Plan?

14 MR. DUNLAP: Sure. This one updates the Site Data  
15 Table at the bottom to reflect the new maximum of 124 units,  
16 all single-family detached, similar to the previous. It  
17 also removes the 50-foot non-disturbance buffer along the  
18 southern side. It re-establishes that a development  
19 envelope based on the current conceptual layout that we've  
20 prepared; and it also shows along the southern boundary of  
21 the site, it shows the proposed Washington Gas line that's  
22 currently under construction.

23 MR. HALLER: Okay. And now I'd like to pull up  
24 Exhibit 42 and ask if you can identify this, this drawing?

25 MR. DUNLAP: Yep. That's the one that was further

1 modified with coordination with the Zoning Hearing Examiner.  
2 MR. HALLER: And why did you make -- what  
3 modifications did you make to this plan and why did you make  
4 it?

5 MR. DUNLAP: First, when we submitted to the  
6 Zoning Hearing Examiner, they asked for the original Basic  
7 Plan to include the notes that I described earlier, the  
8 Notes 1 through 5, which noted the specific conditions out  
9 of the District Council decision. So, we justified this one  
10 to make sure that the same notes applied on the site towards  
11 the bottom right; and then we also, per coordination  
12 planning, they wanted the second, secondary access point  
13 shown where it connects to Harry S. Truman Drive.

14 MR. HALLER: Okay. And does the road come, does  
15 the revised Amended Basic Plan continue to show the abutting  
16 Master Plan rights of way consistent with the Master Plan of  
17 Transportation?

18 MR. DUNLAP: Yes. Yeah, the property still abuts  
19 White House Road and the future Harry S. Truman Drive  
20 extension which are both considered arterial roads for the  
21 Master Plan of Transportation.

22 MR. HALLER: And has the right-of-way for both of  
23 these roads already been dedicated?

24 MR. DUNLAP: Yes, it's already been dedicated and  
25 this plan reflects the current right-of-way dedications.

1 MR. HALLER: Okay. And where is the revised  
2 Amended Basic Plan conceptually show access points to the  
3 subject property?

4 MR. DUNLAP: The primary access point is on White  
5 House Road to the northeast corner exactly in the same spot  
6 as the previously approved plans.

7 MR. HALLER: Okay. And is there also an area of  
8 land which is located west of the proposed extension of  
9 Harry S. Truman Drive and can you describe what that area  
10 is?

11 MR. DUNLAP: That area was shown on the original  
12 Basic Plan as being proposed to be dedicated to Park and  
13 Planning. At that time, the Basic Plan was approved, the  
14 area was calculated to be 14.1 as shown on the original  
15 Basic Plan and we've updated per this latest Amended Basic  
16 Plan to show that it's previously dedicated since it's  
17 already gone through; and we updated the square footage to  
18 accurately reflect it's 19.1 instead of 14.

19 MR. HALLER: All right. And can you, now can you  
20 describe any environmental features which may be located  
21 within the boundaries of the Amended Basic Plan?

22 MR. DUNLAP: Sure. Everything towards the north,  
23 along the northern border of White House Road where Mr.  
24 Haller is moving the cursor, that's all an environmental  
25 area that includes jurisdictional streams, wetlands, and

1 then it proceeds through the center of the site towards the,  
2 towards the southern boundary.

3 MR. HALLER: Okay. And, and with regard to these  
4 regulated environmental features that exist on the subject  
5 property, will these features and the impacts of them be  
6 evaluated at future stages of the development review  
7 process?

8 MR. DUNLAP: Correct. All the impacts will, to  
9 any of the regulated environmental features will be assessed  
10 and evaluated during the future stages.

11 MR. HALLER: Okay. And in your opinion as a  
12 landscape architect, does the Amended Basic Plan conform  
13 with all the technical requirements of the Zoning Ordinance?

14 MR. DUNLAP: Yes, it does.

15 MR. HALLER: Okay. And then one additional  
16 exhibit that was pre-filed by the Applicant, I would like  
17 you to describe what it depicts and that, specifically, it's  
18 Exhibit 20, and is labeled, Concept Rendering. I'll pull it  
19 up. Can you please identify what this document is, Mr.  
20 Dunlap?

21 MR. DUNLAP: Yes. That's the Conceptual Site Plan  
22 that shows our current proposed development of 124 lots on  
23 the property if the Basic Plan, if the conditions are  
24 approved.

25 MR. HALLER: And, and was this document prepared

1 by you or by someone under your supervision?

2 MR. DUNLAP: Yes.

3 MR. HALLER: And does the rendering retain the  
4 same points of access, the same point of access that White  
5 House was approved originally for Kenwood Village at the  
6 time that it was previously subdivided?

7 MR. DUNLAP: Yep, it, yes, it shows the same point  
8 of access to White House Road identical to the recorded  
9 subdivision plats and the interior, the interior circulation  
10 is approximately the same as what was shown previously.

11 MR. HALLER: All right. Thank you very much. I  
12 have no further questions, Madam Examiner.

13 MADAM EXAMINER: Mr. Brown?

14 MR. BROWN: Just one question, and if Mr. Dunlap  
15 cannot answer it, Mr. Ferguson can answer it when he  
16 testifies. You testified that this property is zoned LCD,  
17 Legacy Comprehensive Design Zone; but, in actuality, is the  
18 Applicant not proceeding under the ordinance that was in  
19 effect prior to April 1, 2022?

20 MR. DUNLAP: Correct, we're proceeding under the  
21 previous zoning ordinance because it is going through the  
22 Basic Plan, the CDP process and SDP process.

23 MR. BROWN: And the zoning prior to April 1, 2022,  
24 is what?

25 MR. DUNLAP: RS.

1 MR. BROWN: All right. And so, really all of the  
2 requirements of the prior Zoning Ordinance are what we are  
3 concerned with as opposed to the LCD Zone, is that accurate?

4 MR. DUNLAP: Correct.

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

7 MADAM EXAMINER: All right. I have no questions.  
8 Thank you very much.

9 MR. HALLER: All right. Thank you, Mr. Dunlap.

10 MR. DUNLAP: Thank you for your time.

11 MR. HALLER: Now I'd like to call Kevin Flemming.

12 MADAM EXAMINER: All right, Mr. Flemming, I need  
13 you to turn on your mike and raise your right hand. Thank  
14 you. Do you solemnly swear or affirm under the penalties of  
15 perjury that in the matter now pending you shall tell the  
16 truth, the whole truth and nothing but the truth?

17 MR. FLEMMING: I do.

18 MADAM EXAMINER: Thank you. Please state your  
19 name and business address for the record.

20 MR. FLEMMING: Sure. Kevin Flemming, BHC, Inc.,  
21 11611 Old Georgetown Road, Second Floor, Rockville, Maryland  
22 20852.

23 MADAM EXAMINER: Thank you.

24 MR. HALLER: Thank you, Mr. Flemming. What is  
25 your occupation?

1 MR. FLEMMING: I am the Vice President of Land  
2 Acquisition for Mid Atlantic Builders and BHC is a related  
3 company to Mid Atlantic Builders.

4 MR. HALLER: Okay. And the Applicant in this case  
5 is BHC, Inc.?

6 MR. FLEMMING: That's correct.

7 MR. HALLER: And you indicated that they are  
8 affiliated with Mid Atlantic Builders?

9 MR. FLEMMING: It is.

10 MR. HALLER: And what his BHC's relationship to  
11 the property which is the subject of today's application?

12 MR. FLEMMING: It is the contract purchaser of the  
13 property.

14 MR. HALLER: Okay. And is BHC an entity in good  
15 standing in the state of Maryland?

16 MR. FLEMMING: It is.

17 MR. HALLER: All right. I would -- have you  
18 obtained a certificate of good standing for BHC, Inc.?

19 MR. FLEMMING: We have.

20 MR. HALLER: Okay. I'm showing on the screen a  
21 copy of Exhibit 40 and ask if you can identify this  
22 document?

23 MR. FLEMMING: That is the copy of the  
24 certification of good standing for BHC, Incorporated.

25 MR. HALLER: All right. Thank you very much. And

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1 are you authorized by BHC, Inc., to testify today before the  
2 Zoning Hearing Examiner regarding this application?  
3 MR. FLEMMING: I am.  
4 MR. HALLER: Okay. I would like to first ask you  
5 some questions about Mid Atlantic Builders. How long has  
6 Mid Atlantic Builders been building homes in Prince George's  
7 County?  
8 MR. FLEMMING: Since the 1980s.  
9 MR. HALLER: Yeah. I'm going to ask if you could,  
10 I'm going to pull up an exhibit and ask if you can identify  
11 this, it's Exhibit 39 in the record; and can you identify  
12 what this document reflects?  
13 MR. FLEMMING: Sure. This is a listing of all the  
14 communities that we have built or developed in the County.  
15 I believe it represents 33 communities and approximately  
16 2,300 homes since the, the 1980s.  
17 MR. HALLER: Okay. And I'm going to also pull up  
18 Exhibit 38 and ask if you can identify that document?  
19 MR. FLEMMING: Sure. This is the exhibit, this is  
20 one photograph of, of, I think we submitted 15 or 20  
21 different house pictures of homes that we've constructed  
22 throughout the County. I think this is kind of a  
23 representation of the, of our architecture breadth, of our  
24 library, our styles, our looks, and it includes, again,  
25 pictures from - that's a current picture from our current

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1 community called the Villages at Savannah in Brandywine.  
2 MR. HALLER: Now when you develop projects, are  
3 there any signature features that Mid Atlantic is known for?  
4 MR. FLEMMING: Sure. The first thing we start  
5 with is the community itself. We try to include a unique  
6 entrance feature. I think if, if, if, Mr. Haller, if you  
7 scroll to the end, you'll see some of our communities where  
8 we have done water features; we have a community called  
9 Woodmore, which is Woodmore North, which is on 450 in Bowie  
10 where we've done an extensive entrance feature with water.  
11 The other project that we just talked about, the Villages of  
12 Savannah, which is the next, one more picture, I think,  
13 there it is, this is our current community under  
14 development. We've done additional water features on this  
15 and we actually just won an award from the Builder's  
16 Association for this for, for a land development project for  
17 the year, for 2021.  
18 So, we, we take the cue from the entrance features  
19 and, and the lifestyle, and then we incorporate that same  
20 forward-thinking into our designs. And so, in most all of  
21 our communities, we're, we're designing unique and different  
22 product for that community to address the needs that, that  
23 we see in that community. Recently, we've been building  
24 considerably more townhomes which is what's kind of brought  
25 us to, to Kenwood where we were building in Westphalia Town

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1 Center and in Parkside at Westphalia, which are communities  
2 to the south of Kenwood that incorporated townhome  
3 communities where we have been kind of incorporating what we  
4 think are kind of the latest kind of in urban design and  
5 open concept living in indoor/outdoor space.  
6 MR. HALLER: Is it fair to say that Mid Atlantic  
7 Homes does not have one style of townhouse or one style of  
8 single-family home that it builds in every community that  
9 it, it, it builds projects in, or builds homes in?  
10 MR. FLEMMING: That's fair to say. I think we  
11 tried to develop new designs and new architecture for the  
12 uniqueness of the community that we're going into.  
13 MR. HALLER: And you indicated that you're doing  
14 work in the Westphalia area that generated your interest in  
15 the subject Kenwood Village property?  
16 MR. FLEMMING: It was. We, we developed, or we  
17 built in two communities, as I mentioned, Westphalia Town  
18 Center where we build a hundred homes, two different styles  
19 of townhomes, and then Parkside at Westphalia, where I  
20 believe we built about 150 homes between single families and  
21 towns, and the, the experience in, in both those  
22 communities, and primarily in the Westphalia community where  
23 we designed two different styles of townhouses, and one  
24 specific style that really lived more like a single-family  
25 home, that really became the beginning of our thought

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1 process for how we could do something unique at Kenwood  
2 Village.  
3 MR. HALLER: Okay. And how long have you been,  
4 been actually looking at Kenwood Village?  
5 MR. FLEMMING: We've been looking at the project  
6 since 2013.  
7 MR. HALLER: And are you aware that the property  
8 is currently platted for 72 single-family detached dwelling  
9 units?  
10 MR. FLEMMING: I am.  
11 MR. HALLER: And did you evaluate the feasibility  
12 of purchasing the property as it is currently platted and  
13 simply limiting the development to 72 lots that were  
14 platted?  
15 MR. FLEMMING: We have.  
16 MR. HALLER: And what prevented you from doing  
17 that?  
18 MR. FLEMMING: We determined after kind of  
19 extensive review of the 72-lot design that the current  
20 product that was proposed did not really, did not create a  
21 circumstance where we could get to a, a price point of  
22 feasibility for the project based on where the current  
23 market conditions were; and, and, additionally, the, the  
24 project has a requirement to build some off-site road  
25 improvements to White House Road that weren't feasible under

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1 that current density of design.  
2 MR. HALLER: So, you mentioned the road  
3 improvements. What road improvements are you referring to?  
4 MR. FLEMMING: So, there's a requirement to build  
5 a half section of White House Road across the frontage of  
6 the property.  
7 MR. HALLER: And are you aware of any prior  
8 discussions with DPIE regarding what frontage improvements  
9 would be required in conjunction with the development of the  
10 property?  
11 MR. FLEMMING: I am.  
12 MR. HALLER: And were those road improvement plans  
13 actually approved?  
14 MR. FLEMMING: To the best of my knowledge, they  
15 were, yes.  
16 MR. HALLER: And that was done by the prior  
17 owners, or the current owner of the property?  
18 MR. FLEMMING: Yeah, the, yes, the prior owners  
19 took the project, I believe with, all the way through full  
20 approvals. Ultimately, the project didn't get its final  
21 approval because it was, I guess this was in the, in the  
22 change when the County Zoning Ordinance over stormwater  
23 management, it was unable to get itself grandfathered; and  
24 so, that plan, those final plans were not -- the project was  
25 never able to go forward because of that.

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1 MR. HALLER: And have you obtained any preliminary  
2 estimates for the cost of constructing the road improvements  
3 that are required?  
4 MR. FLEMMING: We have. We anticipate that those  
5 costs are somewhere between 1 1/2 and, and approximately \$2  
6 million to build the offsite roads.  
7 MR. HALLER: And you've indicated that in your  
8 experience, a 72-lot subdivision could not absorb those  
9 costs?  
10 MR. FLEMMING: That's correct. When you kind of  
11 look at the cost of that, that represents about 30 percent  
12 of what a typical land development cost would be for a  
13 single-family detached community and when you add that  
14 additional 30 percent on top of the normal development  
15 costs, we determined it, it was not feasible.  
16 MR. HALLER: Okay. Now, you mentioned that the  
17 product type that was originally approved really didn't fit  
18 the market today. Can you explain your (unintelligible)  
19 you're exploring?  
20 MR. FLEMMING: Sure. Sure. So, so, we think that  
21 we're very fortunate because of the, of the RS Zone, which  
22 really encourages and is designed to kind of create unique  
23 product, and there are not many opportunities to do that  
24 throughout the County, that we were kind of presented with  
25 a, with a wonderful opportunity to, to design something

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1 unique and different and take advantage of the flexibility  
2 of that, of that zone. And in looking at that kind of  
3 opportunity on the product, we also recognized that we  
4 needed to address these offsite road improvements. So, we  
5 felt that if we could come up with a creative and unique  
6 product design that could allow us to get closer to the  
7 approved density at 124 units, that we could basically  
8 create a product solution that was unique and different,  
9 creative, and at the time same create the, the financial  
10 resources to be able to lead to all the offsite road  
11 improvement.  
12 MR. HALLER: And what do you envision the market  
13 being for the units that you're proposing here?  
14 MR. FLEMMING: So, we, we anticipate that our  
15 buyer profile here is going to likely be young families with  
16 children. We also, that was based on our experience at  
17 Westphalia and Parkside. We expect we'll also see couples  
18 without children. We also think we'll see some move-down  
19 buyers because the product that we're proposing has more of  
20 a convenience lifestyle to it; a little bit more of what we  
21 call lock and leave, less lawn maintenance, less exterior  
22 maintenance, and we have put the, the indoor/outdoor spaces  
23 kind of in the, in the back of the home which gives people  
24 their, their privacy; and, and what we're also trying to  
25 achieve here, and you see it in this picture, we're trying

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1 to get the amenities, we're trying to get the, if you will,  
2 the, the swing sets and the things like that over in the  
3 common areas, not necessarily in backyards. So, we feel  
4 like based on what we've learned at Parkside and Westphalia,  
5 we can aggregate the common area amenities into one location  
6 and then we can give people more of this convenience  
7 lifestyle which we're hearing more and more from our  
8 customers is the, you know, they don't want to mow as much  
9 grass, if you will. So, we're looking for ways to, to  
10 design houses that are more accommodating of that kind of  
11 lock and leave convenience lifestyle.  
12 MR. HALLER: Okay. And so, are the amendments to  
13 the Basic Plan, which have been proposed, and the amendments  
14 to the conditions intended to address both the product-type  
15 issue, as well as the constructability of the road  
16 improvements?  
17 MR. FLEMMING: Yes, they are.  
18 MR. HALLER: And if the Basic Plan Amendment that  
19 you thought is approved, is it your intention to construct  
20 the road improvements that were approved by DPIE for this  
21 project?  
22 MR. FLEMMING: Yes, it is.  
23 MR. HALLER: Okay. So, let me address each of the  
24 conditions which you have requested to modify, which is what  
25 the Examiner wanted us to focus on. The first condition is

1 Condition 7, which says that the minimum lot sizes shall be  
2 6,000 square feet in development envelopes A through D, and  
3 10,000 square feet in development N below P. What changes  
4 are you proposing to make to this minimum lot size?

5 MR. FLEMMING: We'd like to address, adjust the  
6 minimum lot size from those down to 4,200 square feet which  
7 would basically be a lot that's 42-foot wide and a hundred  
8 feet deep. And that --

9 MADAM EXAMINER: That's for all the lots?

10 MR. FLEMMING: That's correct, ma'am.

11 MADAM EXAMINER: All --

12 MR. FLEMMING: Yes, all lots. All lots would go,  
13 all lots would be 42 by 100, which would give us a 4,200  
14 square foot lot, which is sufficient to accommodate our  
15 proposed designs, our house designs which are approximately  
16 30-foot wide and 60-foot deep.

17 MR. HALLER: And, and the, have you asked your  
18 engineer to prepare a concept layout of what that would look  
19 like?

20 MR. FLEMMING: We have and it's before you.

21 MR. HALLER: Okay. And this is the concept layout  
22 that we pulled earlier which is Exhibit, hold on, 20. It's  
23 Exhibit 20. And could you walk us through the Concept Plan  
24 and describe what it depicts?

25 MR. FLEMMING: Sure. So, if you start, so we have

1 maintained the connection that was previously approved at  
2 White House Road. We will have a divided median that we  
3 anticipate landscaping extensively. We will do, our, our  
4 plan is to have a signature entrance feature similar to what  
5 we have done in our past at, at the front of the community.  
6 As you arrive in the community, you'll have, you'll have  
7 this very similar road network to what was previously  
8 approved. We tried to manage within the original areas of  
9 disturbance that were in the, in the preceding plan. On the  
10 eastern boundary, I think you've already talked to it.

11 We've asked, we've, we've, we've maintained the same buffer  
12 with the allow, with the ability to put stormwater  
13 management into that buffer. That stormwater management  
14 pond will still be screened by, there's some landscaping on  
15 the Rauch property; so, additionally, across the southern  
16 boundary, we've asked to address that buffer from 50 feet to  
17 25 feet; and now we're going to landscape that buffer; and  
18 that was all predicated, two things, the, there's a gas  
19 easement that's now been installed offsite that is creating  
20 a natural buffer; and the, that, the ability to modify that  
21 buffer allowed the design of the lot sizes that we were  
22 proposing to be accommodated.

23 And, additionally, the, we have gone to a single  
24 point of access maintained, which is similar to the original  
25 approval; and, and based on our understanding of the

1 transportation, we have more than enough capacity within the  
2 124 lots that we're proposing to be accommodated by that  
3 single point of access.

4 MR. HALLER: Okay. Now have you developed the  
5 product which you can build on these lots?

6 MR. FLEMMING: We have. We're currently in the  
7 concepts of those. I don't know if you want to share those.  
8 We can talk through them.

9 MR. HALLER: Okay. Is this the first time, let  
10 me, this is --

11 MR. FLEMMING: All right.

12 MR. HALLER: -- Exhibit 47; and is, is, before you  
13 address the concept, is this the first time that you've  
14 designed a product in Prince George's County that's  
15 responsive to changing market price?

16 MR. FLEMMING: No, not at all. As I mentioned  
17 previously, in most of our communities, we are designing new  
18 concepts for each of the communities. So, in the case of  
19 the Westphalia product that I referenced, those were all new  
20 designs. Parkside community was all new design. We're  
21 currently building homes in a new project called South Lake.  
22 Those are all new designs. So, we tend to, to start with,  
23 with a new design or a, at worst, we're adapting something  
24 else to the, to the circumstances that we have; but in the  
25 case of Kenwood, this is a complete, or this is a complete

1 new design to, to meet the configuration of the lot sizes  
2 that we're proposing.

3 MR. HALLER: Okay. Can you, using this exhibit,  
4 can you describe the proposed homes; how, how they function  
5 and how it meets the needs of the buyers in the current  
6 marketplace?

7 MR. FLEMMING: Sure. So, what, what we learned  
8 at, at, at, at Westphalia was that our customers were, were  
9 asking us for more convenient locations. They wanted to be  
10 proximate to the Beltway; they wanted to be closer to retain  
11 and shopping; and they were willing to consider living in  
12 houses that were a different configuration than what I would  
13 call like typical single-family; and so, we looked at, at  
14 how those townhouses were living at, at Westphalia and  
15 determined that we could detach those houses and we were,  
16 we're essentially taking a single-family house that normally  
17 lives kind of wide and shallow. We're going to turn it 90  
18 degrees on itself and it's going to live what we call narrow  
19 and deep. And what this gives you, as you can see in this  
20 floorplan, is it gives you a very, it gives you a deeper  
21 home, but it gives you a much more open concept home; and  
22 that's where we think, that's where our customers are today,  
23 is they're looking to have less formality in the floorplan  
24 and have all the rooms kind of integrated amongst  
25 themselves. And, additionally, in this concept, as you can

1 see it again, the house is 30 feet, and this one is 54.  
 2 We're going to show you some other ones. These are the  
 3 elevations that we're currently working on developing. The  
 4 concept for this is more of a craftsman, modern farmhouse;  
 5 but what these plans are really showing you is we're, we're,  
 6 we've, we've got an offering or collection of homes here  
 7 that are three to 4-bedroom homes; they're going to, we  
 8 believe that will be somewhere between 2,200 and call it  
 9 3,000 square feet, probably by the time we're all done on,  
 10 on the, on the two living levels. We'll have the  
 11 opportunity for multiple bedrooms.

12 If you keep sliding down a little further, we,  
 13 we've, this next plan introduces what we've kind of done in  
 14 our other communities where we're going to introduce a  
 15 primary suite or a study, basically, a bedroom on the lower  
 16 level. We call this multi-generation. We see a dramatic  
 17 need in the County with our customers for, for being able to  
 18 have family members move back in and want to be on the, on  
 19 the, on the primary level of the house; and so, this concept  
 20 incorporates that kind of multi-generational function down  
 21 on this house and, and this is a 4-bedroom design as well.  
 22 And, again, it's, it's the combination of really the open  
 23 concept, the, if you look to the rear of the house, we've  
 24 got the indoor/outdoor space that we're seeing so much as  
 25 desired by our customers. So, we're, we're trying to take,

1 if you will, all of the things that we've learned from the  
 2 customers, our focus groups to kind of incorporate into a  
 3 house design that, to the best of our knowledge, has not  
 4 been built in the County; but we, we think based on, on the,  
 5 on the lessons that we've learned elsewhere, that this  
 6 lifestyle, this programming style is going to be very, very  
 7 well-received.

8 MR. HALLER: Okay. Let me just see. Are there  
 9 any other highlights you want to reference on the --

10 MR. FLEMMING: I think, I think as you, as you  
 11 move through these house plans, what you're seeing is the,  
 12 we're adding a bedroom; we're adding a bed, we're adding a  
 13 bedroom upstairs; we're adding a bedroom downstairs; we're  
 14 changing some of the, the openness of the, of the  
 15 staircases. Again, we've, we've, in one of the plans we've  
 16 introduced our signature spa bathroom. So, we're trying to  
 17 come up with different structural features and interior  
 18 features that will allow this kind of collection of houses  
 19 to, to create a more affordability across a spectrum of  
 20 square footage.

21 MR. HALLER: Okay. Will each of the homes have 2-  
 22 car garages?

23 MR. FLEMMING: Yes, that, that's one of our  
 24 requirements is that we, we want two cars, plus storage in  
 25 the garage. These houses will have basements, at least we

1 anticipate will have basements. So, there will be even  
 2 additional storage there. And then we, we designed the site  
 3 so that not only can we get two spaces in the garage, but  
 4 we'll have two spaces in the driveway. We recognize that  
 5 our customers like their automobiles. So, we've designed  
 6 for it.

7 MR. HALLER: All right. Thank you. Now the next  
 8 two conditions which you're proposing to modify are  
 9 Conditions 8 and 13, which relate to the buffers. Condition  
 10 8 requires the 50-foot buffers along the east and southern  
 11 boundaries, and requires, or, and requires that they be non-  
 12 disturbance buffers. I'm going to pull back up the Concept  
 13 Plan, and you referenced this earlier. Just, again, to  
 14 reiterate what you're proposing to modify with regard to  
 15 Condition 8?

16 MR. FLEMMING: So, the, so, the buffers on the  
 17 east side of the site against the Rauch property, we're  
 18 going to maintain the same buffer that was there before;  
 19 we've just asked the ability to allow us to install the  
 20 stormwater management pond inside that buffer. And then the  
 21 buffer to the south, we have asked to reduce that from a 50-  
 22 foot buffer to a 25-foot landscape buffer; and the reason  
 23 that we did that was that with the installation of the gas  
 24 line, it's created a natural buffer on the south side of the  
 25 property; and so, we, we felt that, that, that any future

1 housing or any future development on that side of the  
 2 property would be buffered from us now because of the gas  
 3 lines.

4 MR. HALLER: Okay. And the, one question. The,  
 5 the conditions also mentioned a black, vinyl-clad, chain-  
 6 link fence along the property. Are you proposing to, to  
 7 continue to, to fence the property as well?

8 MR. FLEMMING: Yeah, we will, we will fence it. I  
 9 don't think we will use a black, vinyl, chain-link fence.  
 10 That's not necessarily a material that, that would be our  
 11 preference; but, but we're happy to put fencing, you know,  
 12 in those buffers.

13 MR. HALLER: Did you learn where that condition  
 14 came from?

15 MR. FLEMMING: I believe that condition came from  
 16 Mrs. Rauch who wanted a, a, a buffer, or, or actually a  
 17 fence to keep the livestock from her property to coming onto  
 18 the property. So, I think that's where the chain-link fence  
 19 came in.

20 MR. HALLER: Okay. And, but you just wanted the  
 21 flexibility to be able to upgrade that fence a little bit  
 22 from chain-link?

23 MR. FLEMMING: If we can upgrade the fence, I  
 24 think that's our expectation, that we would upgrade the  
 25 fence.

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1 MR. HALLER: Okay. The Condition 13 referenced a  
2 50-foot non-disturbance buffer along the streams and the  
3 flood plains and what revision have you proposed to make for  
4 this condition?  
5 MR. FLEMMING: So, the, the, my understanding, the  
6 current ordinance requires that to be 75 feet, so we've gone  
7 ahead and addressed our design to accommodate 75-foot  
8 buffer.  
9 MR. HALLER: Okay. The final conditions that  
10 you've asked to modify, or actually to delete is Condition  
11 4.  
12 MADAM EXAMINER: Whoa, whoa, whoa, whoa, whoa.  
13 MR. HALLER: I'm sorry. I'm sorry.  
14 MADAME EXAMINER: I'm sorry, back up, 75-foot  
15 undisturbed buffer?  
16 MR. HALLER: I'll, along the environmental  
17 features.  
18 MADAME EXAMINER: I thought you wanted a 25-foot  
19 landscaped buffer?  
20 MR. HALLER: No, that, there, there are actually,  
21 there's actually three separate buffers that are referenced  
22 in the former conditions. There's a non-disturbance buffer  
23 along the eastern boundary line.  
24 MADAME EXAMINER: That's 50 feet?  
25 MR. HALLER: Right. And then there was a, a non-

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1 disturbance buffer along the southern boundary line which  
2 we're asking Mr. Flemming say that they want to have reduced  
3 to 25 feet; and then instead of being non-disturbance, be a  
4 landscape buffer --  
5 MADAM EXAMINER: Okay.  
6 MR. HALLER: -- and then, and then the third  
7 buffer, which is -- and those two buffers are referenced in  
8 Condition 8. Condition 13 says a 50-foot, non-disturbance  
9 buffer along streams and flood plain, not a non-disturbance  
10 buffer, but just a buffer; and that's, and, and it's the  
11 buffer from environmental features that's now 75 feet, not  
12 50.  
13 MADAM EXAMINER: All right. So, you want to  
14 modify that, well, you're going to have 50 feet undisturbed  
15 buffer along the east side. You want to modify the second  
16 one to decrease it to a 25-foot landscape buffer on the  
17 southside and you are agreeing to the 75-foot buffer along  
18 the environmental features?  
19 MR. HALLER: Correct, yes.  
20 MADAM EXAMINER: Okay. So, really, the only part  
21 of that that gets amended would be the, the southside, which  
22 will be decreased to 25 feet with a landscape buffer?  
23 MR. HALLER: Correct. And, and the, the wording  
24 for the proposed revisions is on the revised Basic Plan that  
25 was at Exhibit 42; and then the, and also in our

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1 justification statement; but the examiner may recall the,  
2 when the environmental regulations were updated in 2010, the  
3 buffers increased from 50 feet to 75 feet.  
4 MADAM EXAMINER: Yeah.  
5 MR. HALLER: I think this property was originally,  
6 I mean grandfathered under the prior subdivision, but a new  
7 subdivision will be required; so, the grandfather will be  
8 lost. So --  
9 MADAM EXAMINER: Yeah.  
10 MR. HALLER: -- it's just, there's just a  
11 different requirement now; and so, the condition that was in  
12 the former Basic Plan, while it reflected what was required  
13 back in 1993, it, it conflicts with what the current  
14 regulations are, so there's no point in the way it was.  
15 MADAM EXAMINER: Okay. Great. Okay. Thank you.  
16 MR. HALLER: All right. So, Mr. Flemming, I was,  
17 I was referencing Condition 4, which required that the  
18 location with the internal trails proposed shall be  
19 evaluated and determined by the trails coordinator prior to  
20 the Phase 2 approval and you requested that condition be  
21 deleted. Why did you make that request?  
22 MR. FLEMMING: In the subsequent approvals of  
23 Kenwood Village previously, the, the trail conditions were  
24 removed; and so, we took the position that since they were  
25 removed as it went through the prior development

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1 applications, that, and it was approved that way, we would  
2 just ask to have the removed. We didn't also see any  
3 connectivity here with anything else, so it seemed logical  
4 to ask for that to be removed.  
5 MR. HALLER: Okay. Now have you had an  
6 opportunity to review the Technical Staff Report prepared by  
7 Park and Planning?  
8 MR. FLEMMING: I have.  
9 MR. HALLER: And do you accept and agree to  
10 additional conditions of approval as referenced in the Staff  
11 Report?  
12 MR. FLEMMING: We do. We would, we would like to  
13 have some conditions consolidated as it relates to the  
14 second point of access.  
15 MR. HALLER: Okay. Well, let me just go through  
16 the four new conditions that Park and Planning has proposed,  
17 which are Conditions 14 to 17. Condition 14 says that at  
18 the time of review of the Preliminary Plan of Subdivision,  
19 the Applicant shall allocate developable areas to provide  
20 adequate, onsite recreational facilities. Do you object to  
21 this condition?  
22 MR. FLEMMING: We do not.  
23 MR. HALLER: Okay. And have you, do you have  
24 locations where you can allocate space for facilities?  
25 MR. FLEMMING: Yes, we're, we're, we will, we

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1 anticipate we're going to move some things around; but our  
2 goal and our plan is to, to have recreation amenities here  
3 in the community that, specifically, tot lots to accommodate  
4 the 2 to 5-year-old group; and then the pre-teens, the 5 to  
5 12-year-olds as well.

6 MR. HALLER: Okay. And let me, so now let me  
7 address Conditions 15 and 16 which relate to access.  
8 Condition 15 states that the Basic Plan Amendment shall be  
9 modified to show two vehicular access connections to the  
10 site. Condition 16 states that the Applicant shall  
11 demonstrate the feasibility of reducing the number of access  
12 connections to the site through an operational and queuing  
13 analysis which shall be evaluated with future development  
14 applications. What's, what's your concern about those  
15 conditions?

16 MR. FLEMMING: Well, I know you're going to have  
17 Mr. Lenhart kind of talk a little bit more about  
18 transportation, but our general concern was, it basically  
19 were two conditions where we're asking for a second point of  
20 access; and then an additional condition that basically  
21 creates the test to whether you have to have that access or  
22 not; and our preference would be for, to, to avoid  
23 confusion, to consolidate those into one condition where we,  
24 we, we, we will do a test to determine whether or not we  
25 need a second point of ingress or egress.

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1 MR. HALLER: Okay. And I would note for the  
2 Examiner that we did submit a proposed language to  
3 consolidate those into one, into one condition. I think  
4 that's Exhibit 41; and Mr. Lenhart will address that.

5 MADAM EXAMINER: I have that. Okay.

6 MR. HALLER: All right. And then Condition 17  
7 states that the Applicant shall provide an interconnected  
8 network of pedestrian and bike way facilities in term with  
9 the site. The exact location of the design of these  
10 facilities shall be evaluated at future applications. Do  
11 you object to that condition?

12 MR. FLEMMING: No, we do not.

13 MR. HALLER: Okay. I have no further questions of  
14 Mr. Flemming.

15 MADAM EXAMINER: All right. With regard, I'm  
16 sorry, Mr. Brown, go ahead.

17 MR. BROWN: Just two or three clarifying  
18 questions, Mr. Flemming. You testified about the road  
19 improvements that are required along White House Road. That  
20 one to \$2 million number that you quoted, would that deal  
21 with all of the frontage that includes the Park and Planning  
22 property or just the frontage on where you're siting the  
23 lots?

24 MR. FLEMMING: That would include the frontage in  
25 front of the Park and Planning, and in front of the lots.

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1 MR. BROWN: All right. So, the current  
2 requirement is that the property owner improve White House  
3 Road in front of its entire frontage on White House Road?

4 MR. FLEMMING: That's correct.

5 MR. BROWN: All right. You also testified about  
6 stormwater management requirements that were no  
7 grandfathered when the prior owner, or the current owner,  
8 attempted to process a plan. How does that new stormwater  
9 management, those laws impact this development?

10 MR. FLEMMING: Well, so, for this --

11 MR. BROWN: Go ahead.

12 MR. FLEMMING: So, for this particular project, as  
13 you can see on this Concept Plan, there are, there are  
14 little green areas in between and behind the lots --

15 MR. BROWN: Right.

16 MR. FLEMMING: -- and so, to be consistent with  
17 the now current regulations, we have created these different  
18 areas throughout the project to capture stormwater  
19 management. So, it's going to be designed under the current  
20 regulations and requirements.

21 MR. BROWN: And all of these proposed structures  
22 have garages, is that correct?

23 MR. FLEMMING: That's correct.

24 MR. BROWN: One or two-car garages?

25 MR. FLEMMING: Two car garage. Mr. Brown, we know

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1 our customers like their cars, so we made sure.

2 MR. BROWN: All right. And I'm just looking at  
3 that plan and it's very dense; and I know we're not at SDP  
4 stage yet, but there doesn't appear to be any off-street  
5 parking at all provided. Is that accurate?

6 MR. FLEMMING: There, that's correct, there's no  
7 off-street parking. We believe there will be sufficient on-  
8 street between the, between the parking spaces in the  
9 driveways and the on-street opportunities we think will be  
10 more than capable of accommodating the, the requirements.

11 MR. BROWN: And you testified that your, I guess,  
12 the market for this are young families; and so, let's assume  
13 it's, you know, two cars per home; and you testified the  
14 lots would be 4,200 square feet, 42 by 100; and in looking  
15 at one of the renderings you put up, I, with my bad eyes,  
16 saw 30-foot by 40-foot building footprint. Is that what the  
17 building footprint is, 30 by 40 for all of the units, or  
18 just some of them?

19 MR. FLEMMING: So, we have, we have, right now we  
20 have four floor plans that we're working through the  
21 concepts of. One of the floor plans is, or all the houses  
22 will be 30-foot wide.

23 MR. BROWN: Right.

24 MR. FLEMMING: It's just about how deep will they  
25 be. We have some concepts to have the house at 54-foot

1 deep; and we have some concepts where the house is 60-feet  
2 deep; but the width of the houses will all be the same.

3 MR. BROWN: So, excluding the garage, on average,  
4 the living area square footage for these units is about  
5 what?

6 MR. FLEMMING: So, the, the series that we've got  
7 is between, what, the plans that are in front of you are  
8 between 2,200 and 2,800 square feet.

9 MR. BROWN: And I don't have a problem with that,  
10 but I'm just wondering, have you developed any RS Zone in  
11 any of your other projects in Prince George's County, if you  
12 recall?

13 MR. FLEMMING: I don't specifically recall if it's  
14 the RS Zone. We've got some, we've got a lot of projects  
15 where we have, kind of in these Master Plan communities, but  
16 I can't recall if they're specifically RS Zones.

17 MR. BROWN: Uh-huh. Are any of those units in  
18 other projects as small as 2,200 square feet?

19 MR. FLEMMING: Yes, they are.

20 MR. BROWN: And, Mr. Haller, go back to the Site  
21 Plan again.

22 MR. HALLER: Is this the one you want?

23 MR. BROWN: Yes, yes, yes. You had testified that  
24 the south boundary line, the adjacent neighbor wanted a  
25 fence to protect livestock. I mean I drive by there every

1 single day to and from work. I have never seen livestock on  
2 that property. It doesn't seem to be fit for livestock.  
3 And so, I'm just wondering, I know that's not your property  
4 and you cannot align your entrance with Harry S. Truman  
5 Drive on White House Road, but to your knowledge, what is  
6 that adjacent property used for on the south? I'm sorry,  
7 no, that would be the east.

8 MR. FLEMMING: When we, when we met with Mrs.  
9 Rauch, I believe she's got an active farm over there, and I  
10 probably, if like if I; and, Mr. Haller, correct me if I'm  
11 wrong, but I thought she had horses; and she had mentioned  
12 that, that that, that was the concern about were horses  
13 would walk off the property. So, I, I believe that was the,  
14 the basis for the original request.

15 MR. BROWN: All Right. You're, you're correct. I  
16 didn't mean the southside. Yeah, the southside there is a  
17 farm. I meant on the east side.

18 MR. FLEMMING: Right. Well, that, that's Mrs.  
19 Rauch's property on the east side, so she has --

20 MR. BROWN: Okay.

21 MR. FLEMMING: -- she has the, yes, yes, there.

22 MR. BROWN: All right. But that, just looking at  
23 everything, it seems to be in the flood plain. Is it? Do  
24 you know?

25 MR. FLEMMING: That I don't know for certain. I,

1 there's obviously flood plain closer to White House Road and  
2 in the frontage of our property; but I don't know how far up  
3 the flood plain would travel.

4 MR. BROWN: And looking over at the west side  
5 where the Washington Gas line right-of-way is currently  
6 under construction, you are not utilizing any of the  
7 Washington Gas line right-of-way to satisfy any green area  
8 for this project, are you?

9 MR. FLEMMING: I don't know that answer. The,  
10 the, the gas line does go through a corner of our, of our  
11 property right there; but I don't know whether that's  
12 included in the calculations for the green space.

13 MR. BROWN: All right. I'm looking at, in  
14 referencing the north to south right-of-way, that, isn't  
15 that the Washington Gas line right-of-way as well?

16 MR. FLEMMING: Yes, but that's in the, that's in  
17 the park property now.

18 MR. BROWN: Oh, that's on the park property?

19 MR. FLEMMING: Yes, if you see the little, there's  
20 a little piece of the right-of-way between Harry Truman and  
21 the, here you go, Tom. Yeah, thank you, thank you. There's  
22 a little component of the right-of-way, or the easement,  
23 going through our property. Whether or not that, that area  
24 is included in our green space, I'll have to defer to, to,  
25 to Mr. Dunlap or others to confirm that; but that's, that's

1 the one component that does go through our property.

2 MR. BROWN: Yeah, I was, wasn't concerned about  
3 that so much as the large right-of-way that's running north  
4 to south.

5 MR. FLEMMING: Yeah, that's, that's all in the,  
6 inside the park property now.

7 MR. BROWN: Uh-huh. And as Mr. Dunlap testified  
8 earlier, the park property has already been dedicated to  
9 Park and Planning?

10 MR. FLEMMING: It has been dedicated and conveyed,  
11 yes.

12 MR. BROWN: All right. Thank you. No other  
13 questions.

14 MADAM EXAMINER: All right, sir, I'm going to  
15 address, ask you to direct your attention back to the  
16 Technical Staff Report. And so, the Technical Staff Report  
17 has 17 conditions and four considerations. You have  
18 indicated that you are requesting, or the modification of 15  
19 and 16, Conditions 15 and 16, and consolidate them into one.  
20 So, the remaining 16 conditions are in accordance with your  
21 request that contain all the modifications of the prior  
22 conditions that you are asking for today?

23 MR. FLEMMING: They do.

24 MADAM EXAMINER: All right. And you have no  
25 problems with the considerations either?

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1 MR. FLEMMING: We do not.  
2 MADAM EXAMINER: All right. Okay. Thank you.  
3 That's all.  
4 MR. HALLER: Okay. Thank you very much, Mr.  
5 Flemming. I'd like to call Mike Lenhart.  
6 MR. LENHART: Good morning.  
7 MADAM EXAMINER: There you are, Mike. All right.  
8 Good morning, Mike. I need you to -- thank you so much. Do  
9 you solemnly swear or affirm under the penalties of perjury  
10 in the matter now before you to tell the truth, the whole  
11 truth and nothing but the truth?  
12 MR. LENHART: I do.  
13 MADAM EXAMINER: Thank you. Please state your  
14 name and business address for the record.  
15 MR. LENHART. Yes, Michael Lenhart, 645 Baltimore  
16 Annapolis Boulevard, Suite 214, Severna Park, Maryland  
17 21146.  
18 MADAM EXAMINER: Thank you.  
19 MR. HALLER: Thank you, Mr. Lenhart. What is your  
20 occupation?  
21 MR. LENHART: A traffic engineer and  
22 transportation planner.  
23 MR. HALLER: And by whom are you employed?  
24 MR. LENHART: Lenhart Traffic Consulting.  
25 MR. HALLER: And we had submitted into the record

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1 a document which has been marked as Applicant's Exhibit 46  
2 which is your resume. And have you qualified as an expert  
3 previously before the Zoning Hearing Examiner, as --  
4 MR. LENHART: Yes.  
5 MADAM EXAMINER: Mr. Lenhart will continue as an  
6 expert witness in the field of traffic and transportation.  
7 MR. HALLER: Okay. Thank you --  
8 MR. LENHART: Thank you.  
9 MR. HALLER: -- Madam Examiner. Have you been  
10 retained by the Applicant in this case to serve as their  
11 transportation planner and engineer?  
12 MR. LENHART: Yes.  
13 MR. HALLER: And are you familiar with the  
14 property which is subject of today's hearing?  
15 MR. LENHART: Yes.  
16 MR. HALLER: And are you familiar with the prior  
17 approvals concerning the subject property?  
18 MR. LENHART: Yes.  
19 MR. HALLER: Are you familiar with the road  
20 network in the area?  
21 MR. LENHART: Yes, I am.  
22 MR. HALLER: And have you personally inspected the  
23 subject property and the surrounding road network?  
24 MR. LENHART: Yes.  
25 MR. HALLER: Can you please explain the access

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1 points and public road networks which affect and will serve  
2 the subject property?  
3 MR. LENHART: Yes. So, the property has frontage  
4 along White House Road which is an arterial roadway in the  
5 County Master Plan. It's existing roadway and access is  
6 planned at the east end of the property on White House Road  
7 as shown on this Site Plan.  
8 The property also has a new arterial, A-39, which  
9 is shown on the southside of White House Road opposite Harry  
10 S. Truman. That, that roadway is ultimately planned to be  
11 the relocation of Ritchie Marlboro Road, which would be  
12 ultimately, when the Master Plan is realized, Ritchie  
13 Marlboro Road intersects to the west of this property a  
14 thousand feet or so; and that road would be terminated and  
15 Ritchie Marlboro relocated to that point.  
16 MR. HALLER: Let me -- okay. Thank you very much.  
17 And did you prepare a traffic analysis marked as Exhibit 43?  
18 MR. LENHART: Yes, we did.  
19 MR. HALLER: And could you please summarize the  
20 findings regarding transportation facilities that are set  
21 forth in Exhibit 43?  
22 MR. LENHART: Certainly. So, we scoped out the  
23 traffic impact study with Park and Planning Staff and  
24 obtained an approved scoping agreement. That study included  
25 the intersections of Ritchie Marlboro Road at Sansbury Road;

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1 Ritchie Marlboro Road at White House Road; White House Road  
2 at Harry S. Truman Drive; and site access with Harry S.  
3 Truman, I'm sorry, at White House Road.  
4 We conducted new traffic counts. We included  
5 approved, but unbuilt background developments that were  
6 identified in the scoping agreement; and then we included  
7 site traffic from the 124-unit subdivision; and the results  
8 of that study showed that all of the study intersections  
9 operate at acceptable levels of service based on the full  
10 build-out of this project and all of the approved and  
11 unbuilt background developments.  
12 MR. HALLER: Okay. And in your opinion, would the  
13 proposed development in this application, with the frontage  
14 improvements anticipated as part of this development be  
15 adequate to handle the traffic generated by the project?  
16 MR. LENHART: Yes, it would be.  
17 MR. HALLER: And have you reviewed the conditions  
18 of approval recommended by Staff pertaining to this  
19 application related to transportation?  
20 MR. LENHART: Yes.  
21 MR. HALLER: And are there any issues with the  
22 conditions as they're currently written from a  
23 transportation standpoint?  
24 MR. LENHART: Yes, there are.  
25

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1 MR. HALLER: And what are the issues that you're  
2 concerned about?

3 MR. LENHART: So, Staff proposed to add new  
4 conditions, 15 and 16. Condition 15 states that the Basic  
5 Plan Amendment shall be modified to show two vehicular  
6 access connections to the site. While Condition 16 states  
7 that the Applicant shall demonstrate the feasibility of  
8 reducing the number of access connections to the site  
9 through an operational and queuing analysis which shall be  
10 evaluated with future development applications. And if, if  
11 you look at those two conditions, we believe that they, they  
12 could lead to confusion because they seem to conflict with  
13 each other. One is saying you must provide two access  
14 points and the other one is saying do a study to try to  
15 reduce the access points.

16 MR. HALLER: So, what would you recommend as to  
17 alleviate that confusion?

18 MR. LENHART: We, we understand that the Basic  
19 Plan was originally approved, had, had two access points,  
20 one to Harry S. Truman extended through the site and one to  
21 White House Road; but during the processing of those CDP and  
22 Preliminary Plans, it was determined that only one access  
23 point was needed. And so, we would recommend that those two  
24 conditions, 15 and 16, be combined into a single condition  
25 that clearly states that the Basic Plan should be amended to

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1 conceptually show a second access in the event that it is  
2 determined at later stages at the second access point as  
3 needed based upon the operational and queuing analysis.

4 MR. HALLER: Okay. So, I'm going to pull up  
5 Exhibit 41, which is -- here it is. Condition, I mean  
6 Exhibit 41 is a proposed consolidation of those conditions.  
7 Is that the language that you would recommend to address  
8 that, to alleviate that confusion?

9 MR. LENHART: Yes.

10 MR. HALLER: And have you, assuming that, that  
11 this condition is approved and requires an evaluation of  
12 whether a second point of access may be required, have you  
13 looked at that issue about whether a second point of access  
14 would be necessary?

15 MR. LENHART: Yes, we have. The Traffic Impact  
16 Study that we completed, I think it was Exhibit 43, it  
17 evaluated the site as if it only has one access that, as  
18 currently proposed on White House Road; and so, there are  
19 two things that I would offer. One is that that site access  
20 point operates at acceptable levels of service that's deemed  
21 adequate based upon the Transportation Review Guidelines as  
22 a single point of access and, therefore, would operate  
23 acceptably.

24 The, the second thing that I would state is that  
25 the Transportation Review Guidelines has a section that is

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1 specifically addresses access to subdivisions, and that's in  
2 Section 9.B and it discusses the number of access points  
3 that would be required based upon various criteria; and one  
4 of the criteria is that it states that for single-family  
5 residential developments, a single access point should be  
6 limited to daily traffic volumes of 2,000 trips per day.  
7 And so, for single-family subdivisions, when the access  
8 exceeds 2,000 trips per day, they suggest consideration for  
9 a second access point.

10 In this case, 124 single-family dwelling units,  
11 the subdivision would generate 1,116 trips per day, which is  
12 just slightly over half of the threshold that would suggest  
13 a consideration for a second access point. So, this  
14 operates well below that threshold; and given those two,  
15 those two issues, both show that it operates acceptably at  
16 a, as a single access point.

17 MR. HALLER: Okay. Thank you very much. Are you  
18 familiar with the requirements of approval for Basic Plan  
19 related to transportation and public facility adequacy as  
20 set forth in Section 27-195(b)(1)(C)?

21 MR. LENHART: Yes.

22 MR. HALLER: And can you please summarize what  
23 those requirements are?

24 MADAM EXAMINER: I, I know what the requirements  
25 are.

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1 MR. HALLER: All right. All right. So, all  
2 right, so, Mr. Lenhart, in your opinion, does the subject  
3 property satisfy the transportation requirements as set  
4 forth in the Zoning Ordinance concerning approval, the Basic  
5 Plan?

6 MR. LENHART: Yes. Yes, it does; and that's  
7 backed up by our traffic study that shows that  
8 transportation facilities will be adequate to carry the, the  
9 traffic generated by this project.

10 MR. HALLER: All right. Thank you. I have no  
11 further questions.

12 MADAM EXAMINER: Mr. Brown?

13 MR. BROWN: Just one of wordsmith, this proposed  
14 condition, or combination Condition 15 and 16, Mr. Lenhart.  
15 As I read it here, the Basic Plan shall be modified to  
16 conceptually show -- I think we should delete the word A-N-  
17 D, and, and just show a second entrance. Do you see that?

18 MR. LENHART: Yes.

19 MADAM EXAMINER: Yeah.

20 MR. LENHART: I can do that. Sorry about that.

21 MR. BROWN: And then go to the second sentence,  
22 "At the time of future development applications," the second  
23 entrance, I think, would be much clearer, "Shall not be  
24 required," as opposed to saying, this entrance --

25 MR. LENHART: Yeah.

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1 MR. BROWN: -- the second entrance.  
2 MR. LENHART: I think I'm fine with that, sure.  
3 That is more clear.  
4 MR. BROWN: Other than that, no other questions.  
5 MADAM EXAMINER: All right. I have no questions.  
6 Thank you, Mr. Lenhart. Nice to see you as usual.  
7 MR. LENHART: Thank you. You, too.  
8 MR. HALLER: All right. Thank you, Madam  
9 Examiner. Now I'd finally like to call Mr. Mark Ferguson.  
10 MADAM EXAMINER: Mr. Ferguson, you're batting  
11 clean-up today.  
12 MR. FERGUSON: Good morning, Madam Examiner, so it  
13 seems.  
14 MADAM EXAMINER: Good morning. All right. Thank  
15 you. Do you solemnly swear or affirm under the penalties of  
16 perjury in the matter now pending to tell the truth, the  
17 whole truth and nothing but the truth?  
18 MR. FERGUSON: I do.  
19 MADAM EXAMINER: All right. Would you please  
20 state your name and business address for the record?  
21 MR. FERGUSON: My name is Mark Ferguson. My  
22 business address is 5407 Water Street, Suite 206, back in  
23 historic, downtown Upper Marlboro, Maryland.  
24 MADAM EXAMINER: All right. And you continue in  
25 your designation as land planner extraordinaire, expert

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1 witness.  
2 MR. FERGUSON: Thank you, Madam Examiner.  
3 MR. HALLER: Thank you, Madam Examiner. Mr.  
4 Ferguson, have you been retained as the Applicant's expert  
5 land planner in this case?  
6 MR. FERGUSON: I have.  
7 MR. HALLER: Are you familiar with the property  
8 which is the subject of the application?  
9 MR. FERGUSON: Yes, I am.  
10 MR. HALLER: And have you made a personal  
11 inspection of the property and the surrounding area?  
12 MR. FERGUSON: I have.  
13 MR. HALLER: And what is the current zoning of the  
14 property?  
15 MR. FERGUSON: As Mr. Dunlap testified, it is  
16 currently zoned LCD, which was the receiving zone for areas  
17 that were formerly zoned in this case RS, residential, I  
18 forget what RS stood for, but RS.  
19 MR. HALLER: And what is the acreage of the  
20 Kenwood Village property?  
21 MR. FERGUSON: Approximately 63, what do I say  
22 here, 63.1 in my report. I do think it's actually worth  
23 noting that of the 63.1 acres which was encompassed by the,  
24 the Basic Plan which covered the two zoning applications,  
25 almost 20 acres, 19.05, has already been dedicated and

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1 conveyed to the Park and Planning Commission; and over 10  
2 acres has already been dedicated as public rights-of-way for  
3 the widening of White House Road and, and the extension of  
4 Harry S. Truman Drive. So, that's really close to 30 acres  
5 of that 63 is, is already gone. There's, there's only  
6 approximately half which is left for the conventional  
7 development envelope which, which also, obviously, includes  
8 the fairly significant area of regulated natural features;  
9 and then, of course, the interior subdivision streets as  
10 well. So, that's, that's --  
11 MR. HALLER: All right.  
12 MR. FERGUSON: -- really a fairly unusual amount  
13 of, of public acreage with the application boundary.  
14 MR. HALLER: Okay. Thank you. Could you please  
15 orient the Examiner to the property which is subject to the  
16 application and is there any particular exhibit you'd like  
17 me to pull up to do that?  
18 MR. FERGUSON: I can. If you would pull up  
19 Exhibit 45, please? And Exhibit 45 is the current aerial  
20 topography, or aerial photograph of the surrounding area,  
21 extending from the Capital Beltway, which was the western  
22 limit of the neighborhood in the original Zoning  
23 Application, out to Maryland 202 and Brown Station Road on  
24 the right, which were the original eastern boundaries of the  
25 subdivision of the, the original Zoning Application. The

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1 southern boundary was a, a, a watershed divide, which is  
2 roughly, it's, obviously, uneven; but roughly contiguous  
3 with the bottom of the photograph. The norther part of the,  
4 of the neighborhood was Campus Drive, which is off to the  
5 north. This exhibit only goes as far north as Mount  
6 Lubentia Way; but you can see the neighborhood context.  
7 One thing to note, the area outlined in red is  
8 only the eastern portion of the Basic Plan area. The Basic  
9 Plan extended to the west across the extension of Marlboro  
10 Drive to include the area that's now been dedicated. It's  
11 worth noting, by the way, that the original Basic Plan did  
12 cover two original requests for Zoning Map Amendment. 9-802  
13 sought, originally, the approval of the RM Zone and that,  
14 basically, corresponds to the remaining development area  
15 that's, that's outlined in red.  
16 Application 9-803 originally sought the LAC Zone,  
17 which roughly corresponds to the area that was conveyed to  
18 the Park and Planning Commission. There's, the, I don't  
19 know that there was ever a hard boundary established between  
20 these, those two. I did review the record of those original  
21 cases, but it's 800 pages long and I couldn't scroll past a  
22 formal Zoning Map. The boundary between the two was,  
23 however, intended to be the center line of the extension of  
24 Harry S. Truman Drive, although the configuration of that,  
25 of that road dedication certainly changed from the original

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1 Basic Plan delineation to the final form of its dedication.  
2 It's also worth noting that the original Zoning  
3 Applications were submitted and approved under the 1973  
4 version of the Master Plan for Subregion 6. Just after  
5 their approval, the '93 Master Plan was approved several  
6 months after; and then, of course, we have a new Master Plan  
7 in 2013 that we must comply with today.  
8 MR. HALLER: Okay. Thank you. And are you  
9 familiar with the various referrals by the Divisions of Park  
10 and Planning, the other agencies which were provided as the  
11 basis for the Staff Report and --  
12 MR. FERGUSON: I am.  
13 MR. HALLER: -- 23?  
14 MR. FERGUSON: I am.  
15 MR. HALLER: And you've indicated you're familiar  
16 with the original Basic Plan for this property. In, in your  
17 own words, can you describe the purposes of the amendment?  
18 MR. FERGUSON: Well, the amendment is, is  
19 principally to accommodate the new housing type that Mr.  
20 Flemming described which requires some smaller lots and,  
21 therefore, the amendment of Condition, old condition, I  
22 believe it was 7; as well as the buffers referred to in old  
23 Conditions 8 and 13 that, that was also discussed earlier.  
24 It is to be noted that the density proposed by the new Basic  
25 Plan will actually not change the density that was approved

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1 under the old Basic Plan, the limitations of the lot size  
2 requirement, principally; but also, the buffer limitations  
3 kept and, and, truthfully, the, the really large amount of  
4 public dedications for the park and the road, the road  
5 dedications kept the project from being able to achieve its  
6 approved density.  
7 MR. HALLER: Okay. And, and are you, have you  
8 prepared a report that addresses conformance of the proposed  
9 Basic Plan Amendment with the applicable planning documents  
10 and the requirements of the Zoning Ordinance?  
11 MR. FERGUSON: I have.  
12 MR. HALLER: And I believe that that report has  
13 been marked as Exhibit 46?  
14 MR. FERGUSON: I believe that's correct, yes.  
15 MR. HALLER: And can you just quickly summarize  
16 the contents of your report for the Examiner?  
17 MR. FERGUSON: I will. And, briefly, what, what  
18 an amendment such as this is required to do is essentially  
19 conform to the original criteria for approval for, in this  
20 case, the RS Zone which are found in Section 27-195(b). And  
21 my report simply goes through those conditions. I don't go  
22 through the transportation findings because that's Mr.  
23 Lenhart's area of expertise; and I do discuss the, the  
24 conditions that are proposed to be amended; the conformance  
25 of all of those to the criteria and the purposes of the

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1 zone; and I find that, that this amended application would  
2 continue to meet those criteria of Section 27-195 of the old  
3 (unintelligible).  
4 MR. HALLER: Okay. And one other thing, you did  
5 note that the Basic Plan was originally approved in 1993;  
6 and I know one of the exhibits we submitted was the 1993  
7 aerial. Would you like me to show that just to be able to,  
8 to demonstrate the changes?  
9 MR. FERGUSON: I mean we, sure, you can -- but  
10 what, what we can see back on, on, on the, on the 2003  
11 aerial first, however, is to, to go back to the current  
12 aerial, if you could, Tom? So, what, what you see in the  
13 current situation, obviously, is the interchange at Ritchie  
14 Marlboro Road and the Beltway on the left side of the  
15 drawing. In the southeast quadrant of that intersection,  
16 you see a townhouse development. In the northeast quadrant,  
17 you see a church; and if you look in every closely, you'll  
18 see the property lines on that exhibit do exist. They're  
19 in, they're in a lighter color. And you can see a recently  
20 approved townhouse development there. You can see a Royal  
21 Farms gasoline station at the southeast corner of the  
22 intersection of Sansbury Road and Ritchie Marlboro Road; and  
23 some surrounding commercial lots which are as yet unbuilt  
24 upon. They're partially developed, but unbuilt upon.  
25 And to the, to the north of White House Road, to

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1 the north of the subject property, you can see subdivisions  
2 in the Presidential Woods and Largo Park subdivisions. Now  
3 if you travel back in time to 1993, you see much of that  
4 disappears. So, the interchange was not in place; the  
5 Westphalia Road development was not in place; the church,  
6 whose name is escaping me, is not in place; they have a long  
7 name. Obviously, the, the commercial development, the Royal  
8 Farms are not in place; and even the single-family  
9 subdivisions in the R-80 Zone were not in place back in  
10 1993. So, the character of the, of the neighborhood is  
11 really, has really changed. It's worth noting that the  
12 subdivisions in the R-80 Zone are, in fact, even more dense  
13 than what's being proposed here.  
14 It's also worth noting, by the way, that back in  
15 1990, I'm sorry, back in 1973, there was, in fact, a local  
16 activity center that was proposed by the Master Plan for the  
17 site, and that's why there was an LAC application for it;  
18 but, ultimately, the decision was, was taken to scale back  
19 to the RS development. And the only other thing that's,  
20 that's probably worth mentioning, you can sort of see the  
21 rural character south of Route, of White House Road which,  
22 which largely remains the, the subject property, of course,  
23 LCD, former RS. The properties to the south owned by the  
24 Darcy's and another, another development company has  
25 purchased the one immediately to the south. R zoned AG, in

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1 conformance with the former RA zoning, but the Master Plan  
2 does recommend residential low development for all of that  
3 area to the south and to the east, very much in, in exact  
4 keeping with what's recommended for the subject property.  
5 So, the zoning to the south and the east simply doesn't,  
6 doesn't, it's, it's less dense than what is recommended by  
7 the Master Plan.  
8 MR. HALLER: Okay. Thank you. Is there any other  
9 items that you would like to add specifically regarding  
10 this, this request?  
11 MR. FERGUSON: No, I mean I think, I think it's,  
12 it's pretty clear; and I, I certainly adopt the contents of  
13 my, of my report is my testimony here.  
14 MR. HALLER: All right. Thank you very much. I  
15 have no further questions of Mr. Ferguson.  
16 MADAM EXAMINER: Mr. Brown?  
17 MR. BROWN: Good morning, Mr. Ferguson, but I have  
18 no questions. Thank you.  
19 MR. FERGUSON: Thank you, Mr. Brown. Good seeing  
20 you, however.  
21 MADAM EXAMINER: All right, Mr. Ferguson, always a  
22 pleasure to see you. Glad you're doing well. I have no  
23 questions. Thank you.  
24 MR. FERGUSON: Thank you, Madam Examiner.  
25 MADAM EXAMINER: Mr. Haller?

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1 MR. HALLER: That would conclude our presentation,  
2 Madam Examiner. I'm happy to answer any other questions you  
3 may have.  
4 MADAM EXAMINER: I think I understand the  
5 application. Mr. Brown, do you have any follow-up  
6 questions?  
7 MR. HALLER: I do not. Thank you.  
8 MADAM EXAMINER: All right. Then we'll determine  
9 that the hearing in this matter will deemed to have been  
10 concluded. The record --  
11 (Unintelligible.)  
12 MADAM EXAMINER: Whoa, whoa, whoa, oh, Mr.  
13 Renninger, Mr. Renninger, yes, Mr. Renninger, let me swear  
14 you in, sir.  
15 MR. RENNINGER: How can you forget me?  
16 MADAM EXAMINER: No, I, I don't know. You know,  
17 it's a senior moment. Mr. Renninger, I need you to raise  
18 your right hand. Thank you, sir. Do you solemnly swear or  
19 affirm in the matter now pending to tell the truth, the  
20 whole truth and nothing but the truth?  
21 MR. RENNINGER: I do.  
22 MADAM EXAMINER: Thank you. Mr. Renninger, would  
23 you please give me your name and address, sir?  
24 MR. RENNINGER: For the record, my name is Charles  
25 Renninger. My address is 1220 Pickering Circle, Largo,

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1 Maryland. Pickering Circle is within probably a quarter to  
2 a half mile of this property right off of White House Road.  
3 I could walk to it on any given day.  
4 For the record, I will say that Largo Civic  
5 Association has been involved with the development of this  
6 proposal probably back to the original CDP's and Detailed  
7 Site Plans. I, I have had the occasion to meet with Mr.  
8 Haller and his clients on at least two occasions. Mr.  
9 Haller and his clients have also briefed the Civic  
10 Association as recently as our October meeting. We do not  
11 oppose the application. In fact, we are looking forward to  
12 the development of the property so that the road  
13 improvements that are called for on White House Road can be  
14 made.  
15 We have long sought to have White House Road  
16 improved in that particular area. The intersection at Harry  
17 Truman and White House is very dangerous on most days,  
18 particularly right now with WSSC having the water line torn  
19 up and the gas line tearing up the neighborhoods. So, we  
20 were looking forward to having the road improvements made.  
21 We recognize that the cost of making those  
22 improvements is significant and has gone up considerably  
23 since the original proposal for this property, and recognize  
24 that increased density is probably required to accomplish  
25 financially for the Applicant. So, we do not oppose the

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1 increase in density.  
2 There were a couple questions that, I know Mr.  
3 Brown raised one about the fencing and the, the farm to the  
4 east of this property. In fact, Mr. Brown, there are horses  
5 that are in that pasture or greenspace, whatever you want to  
6 call it, on a daily basis. Mrs. Rauch owns that farm, as  
7 well as where she lives, and she rents out space to  
8 individuals who stable horses right off of White House Road;  
9 and they do, in fact, allow the horses to roam around in the  
10 field or the pasture, whatever you want to call it, which is  
11 immediately adjacent to this property. So, that was the  
12 reason that they requested the fencing.  
13 I'm sure there would be no objection to upgrading  
14 the fencing from something other than black vinyl. That was  
15 proposed by the original Applicant when they came through  
16 with the plan and it was accepted; but if there's an upgrade  
17 that can be done, that would be acceptable; but definitely  
18 fencing is needed in that area, again, because of the active  
19 farming area.  
20 We do not oppose removal of trails through the  
21 property. There are going to be sidewalks through the  
22 property and, in fact, one of the issues that was raised  
23 going back to the original approval of this site was where  
24 would those trails go because they'd have to dead-end either  
25 at the Rauch property or the Dorsey property, and both of

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1 those individuals objected to any further extension of the  
2 trails and would not grant trails use on their property.  
3 So, to put a lot of money into creating some additional  
4 trails through that property if they're not actually  
5 sidewalks or something else would be a waste of somebody's  
6 money.  
7 With that, I'd be happy to answer any questions  
8 that anyone may have.  
9 MADAM EXAMINER: Mr. Brown?  
10 MR. RENNINGER: Oh, I will add for the record, the  
11 Civic Association did consider the request at its October  
12 meeting and did not object to this proposal.  
13 MR. BROWN: Yes, good morning, Mr. Renninger.  
14 That was going to be my only question. I did not see in the  
15 record, it may be there, but was there a letter that  
16 documented the Largo Park Civic Association's  
17 recommendation?  
18 MR. RENNINGER: We did not submit a letter to the  
19 record. Again, we just had this meeting a couple of weeks  
20 ago. It was the meeting in October, I believe the date was  
21 the 19th, and we did not submit a record, a letter for the  
22 record because I was planning to come and testify on the  
23 record on behalf of the Association. So, there is no, no  
24 letter in the record.  
25 MR. BROWN: All right. If you could, could you

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1 submit to the Examiner by the end of the week just a short  
2 letter confirming the Association's recommendation?  
3 MR. RENNINGER: If I can type. Right now, I have  
4 a problem.  
5 MR. BROWN: Oh, I --  
6 MR. RENNINGER: Yeah. I fell on Sunday and came  
7 down on my wrist, and I was originally told I had three  
8 broken bones, one in my hand and two in my wrist. They  
9 later came back, no, they're not broken, so they put me in  
10 this cast of sorts. So, I'm limited to use of this hand.  
11 MR. BROWN: All right. We'll take your word for  
12 it. Thank you. No, no problem. Don't forget about the  
13 letter.  
14 MADAM EXAMINER: All right. Yeah, I'm going to  
15 take Mr. Renninger's word for it. Okay. And I'm sorry for  
16 potentially skipping you, but I'm glad you participated.  
17 I'm glad you're happy with the project and I'm looking at  
18 you and glad that you're doing well because we've missed  
19 you.  
20 MR. RENNINGER: Thank you.  
21 MADAM EXAMINER: All right. That being said --  
22 Mr. Haller, can I close the record?  
23 MR. HALLER: You may.  
24 MADAM EXAMINER: Okay. Then the hearing in this  
25 matter will deemed to have been concluded; and I'm going to

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1 close the record as of today. A decision will be  
2 forthcoming. I thank everybody --  
3 MR. HALLER: Thank you very much.  
4 MADAM EXAMINER: -- for participating. Thank you  
5 all. Take care.  
6 MR. HALLER: Goodbye.  
7 MADAM EXAMINER: Bye.  
8 MR. HALLER: Thank you.  
9 (Whereupon, the hearing was concluded.)  
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C E R T I F I C A T E

1  
2 DEPOSITION SERVICES, INC., hereby certifies that the  
3 attached pages represent an accurate transcript of the  
4 electronic sound recording of the proceedings before the  
5 Prince George's County Office of the Zoning Hearing Examiner  
6 in the matter of:  
7  
8 BHC, INC. c/o MID ATLANTIC BUILDERS/KENWOOD VILLAGE  
9 Case No. A-9002-C and A-9003-C  
10  
11 By:  
12  
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Tracy, Hahn Transcriber

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