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Transcript of Administrative Hearing

Date: September 30, 2019

Case: Cheng Property

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2 (5 to 8)

<p>5</p> <p>1 PROCEEDINGS</p> <p>2 THE REPORTER: I'm on the record.</p> <p>3 EXAMINER HANNAN: Okay. Are the parties ready?</p> <p>4 MS. HARRIS: Yes.</p> <p>5 EXAMINER HANNAN: Okay. I am calling the case</p> <p>6 of local map amendment H-134, the application of</p> <p>7 Hong Cheng, LLC and Donya, LLC, requesting a local -</p> <p>8 - local map amendment to rezone two parcels totaling</p> <p>9 approximately 3.37 acres from the CRN zone to the</p> <p>10 CRTF-1.5, C-1, R-.05, H-45 zone.</p> <p>11 The properties are identified as parcel N13 and</p> <p>12 N924 in the Parcel C and D subdivision, located at</p> <p>13 15585 and 15595 Old Columbia Pike, Burtonsville,</p> <p>14 Maryland, 20866. Will the parties identify</p> <p>15 themselves for the record?</p> <p>16 MS. HARRIS: Good morning. Pat Harris with</p> <p>17 Lerch Early & Brewer.</p> <p>18 MR. COHEN: Hi. Good morning. Chris Cohen with</p> <p>19 Lerch Early & Brewer.</p> <p>20 EXAMINER HANNAN: Okay. Is there anyone here</p> <p>21 that is in opposition to his or is not going to be</p> <p>22 called by Ms. Harris?</p> <p>23 MS. HARRIS: No.</p> <p>24 EXAMINER HANNAN: Seeing none, I'm going to</p> <p>25 skip all the intro stuff and we'll go -- do you have</p>	<p>7</p> <p>1 MS. HARRIS: Thank you.</p> <p>2 EXAMINER HANNAN: Covenant. I'm just going to</p> <p>3 put revised covenants.</p> <p>4 MS. HARRIS: Okay.</p> <p>5 EXAMINER HANNAN: Okay. Go ahead.</p> <p>6 MS. HARRIS: We have planning board support in</p> <p>7 this case. I did nothing that it does not appear</p> <p>8 that the planning board report is in the record</p> <p>9 either.</p> <p>10 EXAMINER HANNAN: We -- we just got that, like,</p> <p>11 Friday at 4:00.</p> <p>12 MS. HARRIS: Okay. Okay.</p> <p>13 EXAMINER HANNAN: So I do have it.</p> <p>14 MS. HARRIS: Okay.</p> <p>15 EXAMINER HANNAN: And we were e-mailed a copy.</p> <p>16 MS. HARRIS: Okay.</p> <p>17 EXAMINER HANNAN: Do you have a copy?</p> <p>18 MS. HARRIS: I do. Would you like another one?</p> <p>19 EXAMINER HANNAN: No. I think -- okay. I'll</p> <p>20 make sure it gets in the record.</p> <p>21 MS. HARRIS: Okay.</p> <p>22 EXAMINER HANNAN: It came in late -- the</p> <p>23 original came in late Friday. So --</p> <p>24 MS. HARRIS: Okay. Yeah. I just want to make</p> <p>25 sure it's in the record.</p>
<p>6</p> <p>1 a affidavit of posting?</p> <p>2 MS. HARRIS: Yes.</p> <p>3 EXAMINER HANNAN: Very good. And I'm going to</p> <p>4 mark that as Exhibit 43. Thank you. And I hope</p> <p>5 everyone didn't have any trouble getting here today,</p> <p>6 to our new digs. Ah ha. You didn't get the memo.</p> <p>7 MR. COHEN: No. I got the memo.</p> <p>8 EXAMINER HANNAN: Aerial photo. It's an</p> <p>9 adventure. Okay. Ms. Harris. Do you want to start us</p> <p>10 off here?</p> <p>11 MS. HARRIS: Yes. Thank you. Good morning. Pat</p> <p>12 Harris with Lerch Early & Brewer here on behalf of</p> <p>13 the applicant for the local map amendment. The</p> <p>14 property is 15585 and 15595 Old Columbia Pike.</p> <p>15 As you noted it's a request for a change in the</p> <p>16 floating zone from CRN to CRT. What's important is</p> <p>17 neither the density nor the height is changing -- is</p> <p>18 requested to be changed in this case. And we do have</p> <p>19 also a revised covenant reflecting the revised</p> <p>20 binding elements.</p> <p>21 EXAMINER HANNAN: Okay.</p> <p>22 MS. HARRIS: I can submit that as well.</p> <p>23 EXAMINER HANNAN: And that'll be --</p> <p>24 MS. HARRIS: 44, I think.</p> <p>25 EXAMINER HANNAN: 44. Covenant.</p>	<p>8</p> <p>1 EXAMINER HANNAN: Yeah. It will be.</p> <p>2 MS. HARRIS: Okay. So the planning staff in</p> <p>3 this --</p> <p>4 EXAMINER HANNAN: Well, let me -- let me do</p> <p>5 this. Let me put it on the exhibit list so I can</p> <p>6 make sure it'll be 45, planning board</p> <p>7 recommendation.</p> <p>8 MS. HARRIS: This was the planning staff</p> <p>9 report.</p> <p>10 EXAMINER HANNAN: Well, we got both.</p> <p>11 MS. HARRIS: Oh, okay.</p> <p>12 EXAMINER HANNAN: And then, attached to the</p> <p>13 planning board recommendation is the planning staff.</p> <p>14 MS. HARRIS: Oh, I see. So --</p> <p>15 EXAMINER HANNAN: So --</p> <p>16 MS. HARRIS: Exhibit 38, actually, I think, was</p> <p>17 the planning board recommendation of approval.</p> <p>18 EXAMINER HANNAN: Oh, okay. I apologize. I see</p> <p>19 what you're saying. It's the planning staff report -</p> <p>20 -</p> <p>21 MS. HARRIS: Right.</p> <p>22 EXAMINER HANNAN: -- that -- okay. Then, I'll</p> <p>23 change this to planning staff report. 45 is planning</p> <p>24 staff report. I apologize for that. Okay.</p> <p>25 MS. HARRIS: Okay. So as I was saying, staff</p>

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<p>9</p> <p>1 recommended approval. Then, the planning board also 2 recommended approval. That is in Exhibit 38. We have 3 met with the community. They had no opposition. 4 EXAMINER HANNAN: Okay. 5 MS. HARRIS: As -- 6 EXAMINER HANNAN: Obviously. 7 MS. HARRIS: Yes. As obvious -- as evidenced by 8 the fact that no one's here. For our witnesses, we 9 will demonstrate that we meet the CRT requirements 10 that the u- -- that the rezone is appropriate for 11 the property, that it complies with the master plan, 12 and that it requi- -- that it complies with the 13 floating zone requirements of 597.2.1E. [ph]. 14 I think staff said it best on Page 17 of the 15 staff report. What they said is the floating zone is 16 being used to effectively address an oversight in 17 the master plan. And we'll go ahead and explain that 18 to you. 19 We'll be calling four witnesses. The first is 20 the property owner, Mr. Tony Cheng. Then, followed 21 by Kevin Foster, the landscape architect and 22 planner. Tim Longfellow, civil engineer. And then, 23 Nancy Randall, the transportation engineer. 24 EXAMINER HANNAN: Okay. 25 MS. HARRIS: And given that we do have a very</p>	<p>11</p> <p>1 EXAMINER HANNAN: Okay. Thank you. 2 MS. HARRIS: So can you please state your name 3 and your address for the record. 4 MR. CHENG: Okay. My name is Anthony Kuo Chien 5 Cheng. Middle name is spelled K-u-o C-h-i-e-n. And 6 the last name is C-h-e-n-g. My address is 9106 Shad, 7 S-h-a-d, Lane, Potomac, Maryland, 20854. 8 EXAMINER HANNAN: Okay. 9 MS. HARRIS: And are you the property owner of 10 the subject properties? 11 MR. CHENG: Yes. My wife and I are the owners 12 of the properties. And one LLC owns Parcel C. The 13 other LLC owns Parcel D. And then, both of us are 14 the owning members of the LLC. 15 MS. HARRIS: Okay. 16 EXAMINER HANNAN: Okay. 17 MS. HARRIS: And when did you acquire Parcel C, 18 which is the parcel that is improved with the gas 19 station? And -- 20 MR. CHENG: Yeah. That is the 7-Eleven. I owned 21 that is on November 6th, 1997. 22 MS. HARRIS: Okay. And then, the other parcel, 23 which is referred to as Parcel D, has the Bedding 24 Barn structure. When was that acquired? 25 MR. CHENG: I acquired that property on April</p>
<p>10</p> <p>1 in-depth land use report and a staff report, if the 2 hearing examiner so desires, we can condense a 3 little bit our presentation. I mean, we are making 4 sure that we meet all -- demonstrate how we meet all 5 the requirements. 6 EXAMINER HANNAN: Oh, I see. 7 MS. HARRIS: A little bit more abbreviated than 8 otherwise would be. 9 EXAMINER HANNAN: That would be fine. 10 MS. HARRIS: Okay. Good. So with that, I'll 11 call Mr. Tony Cheng. Do you like your -- where do 12 you like the witnesses to be? 13 EXAMINER HANNAN: Where is -- is there a mic 14 over there? If he could sit over there. 15 MS. HARRIS: Okay. 16 EXAMINER HANNAN: If that would be helpful. 17 MS. HARRIS: Okay. 18 EXAMINER HANNAN: Hi, Mr. Cheng. 19 MR. CHENG: [inaudible] 20 EXAMINER HANNAN: I'm fine. Please raise your 21 right hand. Do you solemnly affirm under penalties 22 of perjury that the statements you're about to make 23 are the truth, the whole truth, and nothing but the 24 truth? 25 MR. CHENG: Yes. I do.</p>	<p>12</p> <p>1 17th, 2015. 2 MS. HARRIS: Okay. 3 EXAMINER HANNAN: I noticed you called it the - 4 - the Bedding Barn. That's how I think of it too. I 5 -- I think it's the mattress store now. 6 MS. HARRIS: Yes. 7 MR. CHENG: Yes. 8 EXAMINER HANNAN: But -- 9 MS. HARRIS: And in fact, I think we may have 10 switched back and forth a few times in some of our 11 materials. 12 EXAMINER HANNAN: Oh, okay. 13 MS. HARRIS: But -- 14 EXAMINER HANNAN: I pass it every day, so it's 15 a landmark. Go ahead. 16 MS. HARRIS: Did you participate in the 17 Burtonsville master plan process? 18 MR. CHENG: No. I didn't participate in the 19 process because the notice was sending to the 7- -- 20 the Southland then. 21 Now, it's 7-Eleven, in Dallas, Texas. Because 22 of notice -- the real estate property ta- -- address 23 was sent to there. This, according to the parking 24 planning staff told us. And the -- I didn't own the 25 Parcel D until 2015. That is after the fact.</p>

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4 (13 to 16)

<p>13</p> <p>1 MS. HARRIS: Right.</p> <p>2 MR. CHENG: The parcels.</p> <p>3 MS. HARRIS: Thank you. And then, can you</p> <p>4 briefly explain the purpose for why you're seeing a</p> <p>5 rezoning?</p> <p>6 MR. CHENG: First, I like to restate the zoning</p> <p>7 before the master planning process so that I can</p> <p>8 keep a special exception for the gas station. And 7-</p> <p>9 Eleven's lease expired 2024.</p> <p>10 And I'm -- I prepare for finding a new tenant</p> <p>11 or that existing tenant, 7-Eleven, to stay. So I</p> <p>12 have to prepare for the site for better use of it.</p> <p>13 MS. HARRIS: Thank you. I have no other</p> <p>14 questions for Mr. Cheng.</p> <p>15 EXAMINER HANNAN: Okay. Thank you.</p> <p>16 MS. HARRIS: Thank you.</p> <p>17 MR. CHENG: Thank you.</p> <p>18 EXAMINER HANNAN: You can be excused.</p> <p>19 MS. HARRIS: And then, our next wis- -- witness</p> <p>20 is Kevin Foster.</p> <p>21 EXAMINER HANNAN: Okay.</p> <p>22 MS. HARRIS: And I did notice in preparing for</p> <p>23 this case over the weekend that we did not</p> <p>24 previously submit his resumé to the record. So if we</p> <p>25 could submit that. We -- that was an oversight.</p>	<p>15</p> <p>1 planner. My firm is Gutschick, Little & Weber. 3909</p> <p>2 National Drive in Burtonsville.</p> <p>3 MS. HARRIS: And have you testified as a expert</p> <p>4 in land planning before this body?</p> <p>5 MR. FOSTER: Yes. In multiple cases.</p> <p>6 EXAMINER HANNAN: I'll accept him as an expert</p> <p>7 --</p> <p>8 MS. HARRIS: Thank you. Can you briefly explain</p> <p>9 what you were asked to do in this case and -- and</p> <p>10 the materials that you prepared?</p> <p>11 MR. FOSTER: GLW was retained to work on this</p> <p>12 case. We he- -- we helped in preparation of the</p> <p>13 flooding zone plan, the natural resources inventory,</p> <p>14 forest conservation plan, fire access plan, property</p> <p>15 surveying. Also, assisted in preparing the land use</p> <p>16 report.</p> <p>17 MS. HARRIS: Okay. And then, excuse me, what</p> <p>18 I'd like to do now is address the questions that the</p> <p>19 hearing examiner provided.</p> <p>20 EXAMINER HANNAN: Wonderful.</p> <p>21 MS. HARRIS: Because I think that will set --</p> <p>22 resolve some issues up front. So if -- if the</p> <p>23 property is rezoned per this application, when is</p> <p>24 site plan approval required?</p> <p>25 MR. FOSTER: Depending on the -- depending on</p>
<p>14</p> <p>1 EXAMINER HANNAN: Yes.</p> <p>2 MS. HARRIS: And I apologize.</p> <p>3 EXAMINER HANNAN: And that'll be 46.</p> <p>4 MR. FOSTER: [inaudible]</p> <p>5 EXAMINER HANNAN: I got it. Yeah. That's fine.</p> <p>6 Thank you. Thank you. Now, I don't -- he's testified</p> <p>7 that as an -- well, what are you going to qualify</p> <p>8 him? As a land planner?</p> <p>9 MS. HARRIS: A land planner. Yes.</p> <p>10 EXAMINER HANNAN: He's testified here. Well,</p> <p>11 you can just ask him if he's testified here.</p> <p>12 MS. HARRIS: I'm going to start him</p> <p>13 [inaudible].</p> <p>14 EXAMINER HANNAN: Hmm?</p> <p>15 MS. HARRIS: Does he need to be sworn in?</p> <p>16 EXAMINER HANNAN: Yes. He does. Please raise</p> <p>17 your right hand. Do you solemnly affirm under</p> <p>18 penalties of perjury that the statements you're</p> <p>19 about to make are the truth, the whole truth, and</p> <p>20 nothing but the truth?</p> <p>21 MR. FOSTER: Yes.</p> <p>22 EXAMINER HANNAN: Thank you.</p> <p>23 MS. HARRIS: Thank you. Mr. Foster, can you</p> <p>24 please state your full name and your occupation.</p> <p>25 MR. FOSTER: Kevin. A. Foster, certified land</p>	<p>16</p> <p>1 the redevelopment scenario, it can either be tested</p> <p>2 at --</p> <p>3 MS. HARRIS: No. Not -- if I could --</p> <p>4 MR. FOSTER: Excuse me.</p> <p>5 MS. HARRIS: When would site plan be required?</p> <p>6 MR. FOSTER: Okay. Site plan, any -- under the</p> <p>7 regulations, any new development would require site</p> <p>8 plan.</p> <p>9 EXAMINER HANNAN: Any new development?</p> <p>10 MR. FOSTER: Any new development.</p> <p>11 EXAMINER HANNAN: Now, what about -- okay. Can</p> <p>12 you tell me -- did -- is that the 721G2?</p> <p>13 MS. HARRIS: Yes.</p> <p>14 EXAMINER HANNAN: Yes. Okay. Now, what about --</p> <p>15 what about if you change the use, for instance, of</p> <p>16 the Bedding Barn to a higher trip generation rate?</p> <p>17 MS. HARRIS: If I could my next question, Mr.</p> <p>18 Foster, is about APF.</p> <p>19 EXAMINER HANNAN: Okay.</p> <p>20 MS. HARRIS: [inaudible] public facilities. And</p> <p>21 he'll address that.</p> <p>22 EXAMINER HANNAN: Okay. All right. Thanks.</p> <p>23 Okay. So you're saying for all development on either</p> <p>24 s- -- well, the -- one site, if they want to modify</p> <p>25 this special exception, the APF will come through at</p>

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<p>17</p> <p>1 the special exception state?</p> <p>2 MR. FOSTER: Correct.</p> <p>3 EXAMINER HANNAN: But you're saying under all</p> <p>4 scenarios, site plan approval is --</p> <p>5 MR. FOSTER: Under any scenario that involves</p> <p>6 new development.</p> <p>7 EXAMINER HANNAN: New construction?</p> <p>8 MR. FOSTER: New construction.</p> <p>9 EXAMINER HANNAN: Okay. Now, why did you put in</p> <p>10 the binding ele- -- or it isn't a binding element.</p> <p>11 It's a note on the left side of the pl- -- floating</p> <p>12 zone plan that you said may require site plan.</p> <p>13 MR. FOSTER: Well, I think we've clarified</p> <p>14 that. We're going to submit to the record a revised</p> <p>15 floating zone plan that has revised binding elements</p> <p>16 that I think clean that up.</p> <p>17 EXAMINER HANNAN: Okay. All right.</p> <p>18 MR. FOSTER: That is very confusing, and I</p> <p>19 think the new binding elements clean that up.</p> <p>20 EXAMINER HANNAN: Okay. And do --</p> <p>21 MS. HARRIS: And I --</p> <p>22 EXAMINER HANNAN: Do -- the covenants that you</p> <p>23 just submitted, do they conform to the new binding</p> <p>24 elements?</p> <p>25 MS. HARRIS: Yes.</p>	<p>19</p> <p>1 the bottom line is -- the bottom line is new</p> <p>2 construction will require site plan approval under</p> <p>3 7212 whatever.</p> <p>4 MR. FOSTER: Yes.</p> <p>5 EXAMINER HANNAN: I wish they'd shorten those</p> <p>6 things. And then, you're saying and then, you're</p> <p>7 going to get to reuse later? Different -- change of</p> <p>8 use.</p> <p>9 MS. HARRIS: In terms of APF. Yes.</p> <p>10 EXAMINER HANNAN: In terms of APF?</p> <p>11 MS. HARRIS: Yes.</p> <p>12 [talking over each other]</p> <p>13 EXAMINER HANNAN: Okay. I'm with you.</p> <p>14 MS. HARRIS: Okay.</p> <p>15 EXAMINER HANNAN: All right. Go ahead, Mr.</p> <p>16 Foster.</p> <p>17 MS. HARRIS: Okay. So is there an existing APF</p> <p>18 determination on the property currently?</p> <p>19 MR. FOSTER: There is not.</p> <p>20 MS. HARRIS: And in general, and specific to</p> <p>21 this property, when would APF be tested?</p> <p>22 MR. FOSTER: Okay. Well, for APF, depending on</p> <p>23 the development scenarios, it could be tested at</p> <p>24 preliminary plan, site plan, or at building permit.</p> <p>25 EXAMINER HANNAN: They do test at building</p>
<p>18</p> <p>1 EXAMINER HANNAN: All right.</p> <p>2 MS. HARRIS: Yes. They do. And I think that the</p> <p>3 revised floating zone was submitted last weekend.</p> <p>4 It's Exhibit 42.</p> <p>5 EXAMINER HANNAN: Oh, I thought that's the one</p> <p>6 that still said May. I know I'm not allowing a whole</p> <p>7 bunch of testimony, and I'll -- I'll wait. But I do</p> <p>8 want to get to the bottom of this.</p> <p>9 MS. HARRIS: Actually, if I could, in our</p> <p>10 discussions with staff on this issue --</p> <p>11 EXAMINER HANNAN: Yeah?</p> <p>12 MS. HARRIS: That was not a binding element</p> <p>13 because it's in the zoning ordinance. And so,</p> <p>14 therefore, it doesn't need to be a binding element.</p> <p>15 EXAMINER HANNAN: Right.</p> <p>16 MS. HARRIS: And, you know, as we said to them,</p> <p>17 it's similar that if you have an MPDU requirement,</p> <p>18 you don't need to state that as a binding element</p> <p>19 because it's required by the zoning ordinance.</p> <p>20 EXAMINER HANNAN: Right. I just wondered why,</p> <p>21 on the left-hand side, under site date, it is likely</p> <p>22 that redevelopment of the gas station and</p> <p>23 convenience store and re-tenanting of the retail's</p> <p>24 merch- -- oh, no. Where did I see it?</p> <p>25 Well, I don't want to hold this up. So -- well,</p>	<p>20</p> <p>1 permit --</p> <p>2 MR. FOSTER: Yes.</p> <p>3 EXAMINER HANNAN: -- if you don't have a -- an</p> <p>4 approved --</p> <p>5 MR. FOSTER: Yes.</p> <p>6 EXAMINER HANNAN: That's what I wasn't sure</p> <p>7 about.</p> <p>8 MS. HARRIS: And if I could, that's County Code</p> <p>9 Section 8-31.</p> <p>10 EXAMINER HANNAN: Hey, now, that's easier.</p> <p>11 MS. HARRIS: Right.</p> <p>12 EXAMINER HANNAN: Okay.</p> <p>13 MS. HARRIS: Okay. So then, in this case, can</p> <p>14 you run through the various scenarios --</p> <p>15 MR. FOSTER: Okay.</p> <p>16 MS. HARRIS: -- when APF would be tested --</p> <p>17 EXAMINER HANNAN: Thank you.</p> <p>18 MS. HARRIS: -- to clarify that point.</p> <p>19 MR. FOSTER: Well, if the -- if the gas station</p> <p>20 itself were just to be developed, it would have to</p> <p>21 go through conditional use approval.</p> <p>22 EXAMINER HANNAN: Yes.</p> <p>23 MR. FOSTER: Okay. And APF would be looked at</p> <p>24 at that time.</p> <p>25 EXAMINER HANNAN: Yes.</p>

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6 (21 to 24)

<p>21</p> <p>1 MR. FOSTER: This -- this property is a little 2 odd because there's two recorded parcels on it. 3 EXAMINER HANNAN: Right. 4 MR. FOSTER: So you could technically file 5 plans for one parcel or the other or the two 6 combined. So there -- there can be a lot of 7 different development scenarios. But if the gas 8 station itself were just submitted, it would be 9 tested at conditional use. 10 If there was ever a use that was proposed to be 11 across from one of these property lines, we would 12 have to resubdivide the property. And that would 13 involve a preliminary plan. So it would get tested 14 at the preliminary plan. 15 EXAMINER HANNAN: What do you mean, a use -- 16 why would you have to resubdivide the property? 17 MR. FOSTER: Well, if -- if we ever -- if -- if 18 anyone ever wanted to expand the gas station 19 convenience store bigger than what is currently 20 shown and it had to go onto the adjacent parcel, 21 we're not allowed under country code to build a 22 building over a property line. So if -- if -- 23 EXAMINER HANNAN: Oh, I see. If you go over the 24 property. 25 MR. FOSTER: Right.</p>	<p>23</p> <p>1 So if you wanted to get the full FAR out of the 2 site, like 450,000, or whatever the full FAR is -- 3 MR. FOSTER: Right. 4 EXAMINER HANNAN: That would require -- 5 assuming you want to develop it as one lot, that 6 would require a preliminary plan approval? 7 MR. FOSTER: Yes. 8 EXAMINER HANNAN: Okay. 9 MS. HARRIS: And under that s- -- well, under 10 the scenario, if for some reason, it didn't require 11 preliminary plan approval, a -- would APF be tested 12 nonetheless? 13 MR. FOSTER: Yes. At site plan. 14 EXAMINER HANNAN: Okay. 15 MR. FOSTER: So I g- -- it's getting to your -- 16 to the real point here. Is there is -- there is no 17 way to increase the trip generation rates on this 18 site without -- 19 EXAMINER HANNAN: Capturing an APF -- 20 MR. FOSTER: Approval. Under any of the 21 scenarios. 22 EXAMINER HANNAN: Are you the witness to ask 23 does that apply to public benefit points too? 24 MS. HARRIS: You're reading my mind, because 25 that was the very next question.</p>
<p>22</p> <p>1 EXAMINER HANNAN: But what if you just wanted 2 to redevelop D, Parcel D? 3 MR. FOSTER: Parcel D, any new construction 4 would require -- 5 EXAMINER HANNAN: Would be site plan. 6 MR. FOSTER: -- a site plan. 7 EXAMINER HANNAN: Okay. 8 MR. FOSTER: Any redevelopment of the existing 9 Bedding Barn -- if you were to, say, take the 10 Bedding Barn and bring in a new use, if it was 11 retail to retail, there would be no test because 12 there's no change in trip generation. But if you 13 bring in a -- a more intense use -- 14 EXAMINER HANNAN: Right. 15 MR. FOSTER: That's where the code 8-31 k- -- 16 gets involved, where DPS is required. Department of 17 Permitting Services -- 18 EXAMINER HANNAN: I see. 19 MR. FOSTER: -- is required to review -- 20 EXAMINER HANNAN: Okay. 21 MR. FOSTER: -- that building permit. 22 EXAMINER HANNAN: Okay. It is a lot of 23 different scenarios. 24 MR. FOSTER: Yeah. 25 EXAMINER HANNAN: So if you wanted to -- okay.</p>	<p>24</p> <p>1 EXAMINER HANNAN: Okay. 2 MR. FOSTER: Okay. 3 MS. HARRIS: Can you explain the public benefit 4 points and when those kick in and -- 5 EXAMINER HANNAN: Oh, okay. I'll let her -- 6 MS. HARRIS: Oh, I'm sorry -- 7 EXAMINER HANNAN: I should just let her -- 8 MS. HARRIS: I didn't know that you were going 9 to ask that. 10 EXAMINER HANNAN: No. My -- my kids -- 11 MS. HARRIS: Okay. 12 EXAMINER HANNAN: -- are, like, mom. You can 13 just let us do it. No. You go ahead. 14 MR. FOSTER: Okay. So under -- under -- well, I 15 just wanted to state, under the current conditions, 16 the CRN zone, there are no public benefit points 17 required, for any development. 18 So -- and then, with the rezoning to the 19 floating zone, it has the same requirements as the 20 CR- -- the bast CRT zone. 21 The public benefit points are n- -- are 22 required any time you're development goes above 0.1 23 FAR or 10,000 square feet, whichever is greater. So 24 in this case, that would be point -- that would 1 25 FAR before public benefit points are required.</p>

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7 (25 to 28)

<p>25</p> <p>1 MS. HARRIS: And would that development be in 2 connection with an optional method of development? 3 MR. FOSTER: Yes. It would. 4 MS. HARRIS: Okay. 5 EXAMINER HANNAN: Now, what is an optional 6 method development on this site? I mean -- never 7 mind. Go ahead. 8 MR. FOSTER: Well, optional method development 9 is once you get over a certain threshold of the 10 square footage, which would be the point -- which 11 would be the point -- 12 EXAMINER HANNAN: P- -- 13 MR. FOSTER: -- FAR, then in order to justify 14 the additional square footage, you have to get into 15 optional method regulations, which involve public 16 benefit points. 17 EXAMINER HANNAN: Okay. That's what I thought. 18 I just -- 19 MR. FOSTER: Yes. 20 EXAMINER HANNAN: -- wanted to double check. 21 Thank you. 22 MS. HARRIS: And can you also just very quickly 23 identify what applications are required for an 24 optional method development? 25 MR. FOSTER: Preliminary plan, site plan, and</p>	<p>27</p> <p>1 MS. HARRIS: Thank you. As I noted, we have a 2 new floating zone plan. It's Exhibit 42. Can you 3 walk through the changes that were made to that plan 4 versus the prior flooding zone plan that we had 5 submitted? 6 MR. FOSTER: Let's see. So now, referring to a 7 copy of the revised floating zone plan, which is 8 Exhibit 42? 9 MS. HARRIS: Correct. 10 MR. FOSTER: Okay. The changes, we -- we 11 revised finding elements, which we just discussed. 12 The allowed uses on the site, the limitation on the 13 uses. There are 22 of them in total. The -- the uses 14 themselves have not changed. 15 It was just eliminating the confusion about 16 when site plan was required, when site wasn't 17 required. We have revised binding condition two to 18 reflect the language from this planning staff report 19 that required a minimum buffer zone of 50 feet. 20 So we cleaned that up. The binding element 21 number five, planning staff, we -- we've always 22 shown -- recently have shown a -- a connection to 23 the McDonald's site for an internal future road. 24 Bi- -- planning staff wanted a 40-foot-wide 25 reservation area s- -- to guarantee that. And we</p>
<p>26</p> <p>1 I'd have to go back to [inaudible] code to see if 2 sketch plans are required. But I think it is. 3 MS. HARRIS: Okay. Thank you. 4 EXAMINER HANNAN: Okay. Thank you. 5 MS. HARRIS: And then, moving on to the plan 6 itself, what is the intent of binding element number 7 one that restricts the uses? 8 MR. FOSTER: Binding element number one was 9 there are certain -- in the -- in the master plan, 10 there were certain uses that were deemed not 11 appropriate for the CRN areas zoned in the 12 Burtonsville Crossroads master plan. 13 And then, as -- as we develop the site, there 14 were also other uses in the -- in the CRT zone 15 itself that we felt were not appropriate for this 16 site because of their uses, being able to protect 17 the neighborhood. So there were uses that just 18 weren't appropriate. 19 So that's -- that's what binding element one is 20 about. And as I mentioned, under the revised plan 21 that was submitted, that binding element was cleaned 22 up and clarified since. As we discussed, site plan 23 is in the zoning code so that there was no reason to 24 put it in the binding element. 25 EXAMINER HANNAN: Okay.</p>	<p>28</p> <p>1 have revised that binding element and also shown 2 that on the plan. 3 EXAMINER HANNAN: Are they planning or are they 4 contemplating a service road behind all those 5 commercial properties? 6 MR. FOSTER: Well, the -- the access that is 7 shown is really contemplating basically any 8 intersection changes that occur in front of the site 9 in the future, and future access mostly for 10 McDonald's, but it could possibly go over to Tony's 11 Garage. 12 But it's really McDonald's site that they're 13 providing a -- a second access for because of 14 McDonald's accesses and whether they're going to be 15 able to maintain them all in the future. There's 16 nothing in the master plan that talks about a 17 service road on the south side. 18 EXAMINER HANNAN: Yeah. That's what -- I looked 19 for that -- 20 MR. FOSTER: Right. 21 EXAMINER HANNAN: -- and I didn't see it. 22 MR. FOSTER: No. It -- it's -- it's not been 23 talked in the master plan. It has been discussed -- 24 State Highway Administration is -- currently has a 25 study under way from -- for Route 198 from --</p>

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8 (29 to 32)

<p>29</p> <p>1 EXAMINER HANNAN: Right.</p> <p>2 MR. FOSTER: -- 29 all the way to Georgia</p> <p>3 Avenue. And a lot of their plans have contemplated,</p> <p>4 you know, signalization of this -- of the</p> <p>5 intersection from the site. But one of the issues is</p> <p>6 maintaining good access to McDonald's. And that's</p> <p>7 where that internal connectivity road comes into</p> <p>8 play.</p> <p>9 EXAMINER HANNAN: Full disclosure. I guess I</p> <p>10 should -- I -- I drive that acc- -- the Spine [ph]</p> <p>11 Road from -- through the shopping center right at</p> <p>12 that location relatively frequently. So I am -- it</p> <p>13 is -- it is a little stressful. But I notice they</p> <p>14 have new yellow whatever you call them, Ms. Randall.</p> <p>15 MS. RANDALL: Mm-hmm.</p> <p>16 EXAMINER HANNAN: I guess to facilitate a left</p> <p>17 turn. But -- into the site.</p> <p>18 MR. FOSTER: Yes.</p> <p>19 EXAMINER HANNAN: But I -- I just wanted to</p> <p>20 disclose that because I felt like I should. They</p> <p>21 shouldn't have a Starbucks in there. Oh, there's a</p> <p>22 Starbucks in the -- never mind. Okay. Go ahead.</p> <p>23 MR. FOSTER: I'm quite familiar with the site</p> <p>24 too. My office is on the opposite corner. So --</p> <p>25 EXAMINER HANNAN: That's right.</p>	<p>31</p> <p>1 MR. FOSTER: There were a number of changes</p> <p>2 made. And that really had to do with -- we weren't -</p> <p>3 - our original plan was, okay, we're going to rezone</p> <p>4 the property so that the applicant can upgrade the</p> <p>5 gas station based on a conditional use, where it was</p> <p>6 very -- would have been very difficult under non-</p> <p>7 conforming -- existing non-conforming, and</p> <p>8 basically, re-tenant the Bedding Barn in the future.</p> <p>9 And discussions with staff, they -- they really</p> <p>10 wanted to see a vision for the site and how it would</p> <p>11 -- could ultimately be developed. And that is why</p> <p>12 things changed a bit.</p> <p>13 We added parking to the side and to the rear of</p> <p>14 the buildings, cleaned up the circulation, provided</p> <p>15 the second -- the access point to McDonald's.</p> <p>16 Originally, the access went straight through</p> <p>17 and it -- everybody felt that wasn't really</p> <p>18 appropriate, that the access really needed to be to</p> <p>19 McDonald's.</p> <p>20 So there were a number of changes made in</p> <p>21 response to planning staff comments along the way.</p> <p>22 EXAMINER HANNAN: Was that SH -- was -- is SHA</p> <p>23 -- well, I'll get to that with Ms. Randall. Go</p> <p>24 ahead.</p> <p>25 MR. FOSTER: Well, the -- the original -- the</p>
<p>30</p> <p>1 MR. FOSTER: Yes.</p> <p>2 EXAMINER HANNAN: Okay.</p> <p>3 MR. FOSTER: Okay.</p> <p>4 MS. HARRIS: So it sounds like the hearing</p> <p>5 examiner is very familiar with the site. But is</p> <p>6 there anything other that you need to point out with</p> <p>7 -- in terms of the plan?</p> <p>8 MR. FOSTER: Yes. We -- we also added a binding</p> <p>9 element --</p> <p>10 MS. HARRIS: I'm sorry.</p> <p>11 MR. FOSTER: -- about public open space. The</p> <p>12 required public open space shall be provided on site</p> <p>13 and meet the design requirements of the Zoning Code</p> <p>14 Section 6.3.6B1 [ph], final location to be</p> <p>15 determined at site plan.</p> <p>16 EXAMINER HANNAN: Thank you. That's fine. Thank</p> <p>17 you. I -- yes.</p> <p>18 MR. FOSTER: Okay.</p> <p>19 EXAMINER HANNAN: If they're ever going to</p> <p>20 create a walkability or something, that -- that</p> <p>21 would be helpful. So --</p> <p>22 MR. FOSTER: Right. And just a l- -- little</p> <p>23 explanation. Because if you look at his plan and</p> <p>24 compare with the original submission --</p> <p>25 EXAMINER HANNAN: Right.</p>	<p>32</p> <p>1 original thought was, you know, the applicant also</p> <p>2 owns the parcel directly south of this site.</p> <p>3 EXAMINER HANNAN: What is that zoned?</p> <p>4 MR. FOSTER: R200.</p> <p>5 EXAMINER HANNAN: Okay.</p> <p>6 MR. FOSTER: And there was some discussion</p> <p>7 about whether any access was needed to that and it</p> <p>8 was determined no, that he had no real plans to</p> <p>9 develop that, and the real access that's needed here</p> <p>10 is to the McDonald's.</p> <p>11 And that way, we're in compliance with the</p> <p>12 master plan, basically providing a buffer along the</p> <p>13 bottom and protecting the R200 neighborhood in the</p> <p>14 future, should anything occur down there.</p> <p>15 But -- so that -- that whole discussion about</p> <p>16 neighborhood protection and access -- future access</p> <p>17 is really what generated the changes in the plans</p> <p>18 from what was originally submitted to what you see</p> <p>19 before you today.</p> <p>20 EXAMINER HANNAN: Okay.</p> <p>21 MS. HARRIS: Can you now describe the</p> <p>22 surrounding neighborhood?</p> <p>23 MR. FOSTER: Sure.</p> <p>24 MS. HARRIS: And that's -- it's identified and</p> <p>25 -- on Page 6 of the staff report?</p>

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9 (33 to 36)

<p>33</p> <p>1 EXAMINER HANNAN: Right.</p> <p>2 MR. FOSTER: Now, the -- I guess -- this is a</p> <p>3 reproduction of a page out of the staff report.</p> <p>4 EXAMINER HANNAN: You don't have to -- unless</p> <p>5 you write on it, you don't have to --</p> <p>6 MR. FOSTER: Okay.</p> <p>7 EXAMINER HANNAN: -- introduce it as a separate</p> <p>8 exhibit.</p> <p>9 MR. FOSTER: Okay. This is the -- the</p> <p>10 surrounding neighborhood that was used in the staff</p> <p>11 report, and we totally agree with it. Give a little</p> <p>12 clarity. The road going towards the south on the</p> <p>13 right side of the exhibit is Columbia Pike, 29.</p> <p>14 The road going across the site east-west is</p> <p>15 Route 198. In yellow is the subject property. In</p> <p>16 green is the surrounding neighborhood.</p> <p>17 And on the north side of the -- northeast</p> <p>18 corner of the intersection is Burtonsville Crossing</p> <p>19 Office Park, where I've mentioned my office is</p> <p>20 located. On the opposite corner, the northwest, is a</p> <p>21 portion of the Burtonsville Shopping Center.</p> <p>22 It contains a -- the Starbucks and the Greene</p> <p>23 Turtle and the bank and a fast food restaurant. And</p> <p>24 then, on the southeast corner is Zimmerman's</p> <p>25 Hardware.</p>	<p>35</p> <p>1 surrounding area was needed so that we could really</p> <p>2 discuss and -- the issues of where this neighborhood</p> <p>3 is located, how far it is from the site, and the</p> <p>4 relationships involved.</p> <p>5 EXAMINER HANNAN: And -- and how would you</p> <p>6 characterize the area as a whole, the neighborhood</p> <p>7 as a whole?</p> <p>8 MR. FOSTER: The neighborhood as a whole is a -</p> <p>9 - is -- really become a very vibrant commercial hub</p> <p>10 of the eastern portion of Montgomery County. It's --</p> <p>11 it's become a -- it's really coalescing into a</p> <p>12 place.</p> <p>13 And that was really the function of the</p> <p>14 Burtonsville Crossing master plan, was to try to</p> <p>15 foster that. And you see with a lot of the upgrades</p> <p>16 of façades and redevelopment of many of the</p> <p>17 businesses in here, it's really getting an identity</p> <p>18 and -- and businesses are thriving, which is what</p> <p>19 everybody wanted.</p> <p>20 And that's part of the application, is this</p> <p>21 applicant would like to be part of that and be able</p> <p>22 to redevelop this property to those same levels,</p> <p>23 especially given this site's location at the actual</p> <p>24 crossroads.</p> <p>25 You know, because this -- this is one of the</p>
<p>34</p> <p>1 EXAMINER HANNAN: Mm-hmm.</p> <p>2 MR. FOSTER: And then, the remaining portion is</p> <p>3 basically what is described in -- which you'll see</p> <p>4 in the master plan, is Main Street, on 198. So it's</p> <p>5 both sides of 198 from Business 29 down to Old</p> <p>6 Columbia Pike.</p> <p>7 And it contains multiple small businesses.</p> <p>8 There are -- there's a whole range. Many, many</p> <p>9 restaurants, auto-related uses, several churches.</p> <p>10 There -- there are multiple uses.</p> <p>11 And then, it also encompasses a portion of the</p> <p>12 lot -- of the parcels -- R200 parcels along Tolson</p> <p>13 Lane in the rear, as part of the neighborhood that</p> <p>14 would be affected by -- by this rezoning.</p> <p>15 EXAMINER HANNAN: Now, why did you include</p> <p>16 those? Because of the traffic or just --</p> <p>17 MR. FOSTER: Well, just because of the master</p> <p>18 plan language.</p> <p>19 EXAMINER HANNAN: Oh, okay.</p> <p>20 MR. FOSTER: Of what -- what was required of</p> <p>21 this site, and protecting the residential</p> <p>22 neighborhood.</p> <p>23 EXAMINER HANNAN: I see.</p> <p>24 MR. FOSTER: We felt that having that</p> <p>25 residential neighborhood in the -- in the</p>	<p>36</p> <p>1 four crossroads here and for -- to not really have</p> <p>2 the zoning to reo- -- be able to really become that</p> <p>3 element that it wants to be in the crossroads was</p> <p>4 what we're trying to address.</p> <p>5 EXAMINER HANNAN: Okay.</p> <p>6 MS. HARRIS: Can you briefly describe the</p> <p>7 zoning history of this site, especially what the</p> <p>8 site was zoned prior to the Burtonsville master</p> <p>9 plan?</p> <p>10 MR. FOSTER: Sure. This site was originally</p> <p>11 zoned C2, and that was prior to 1974. In 1974 and</p> <p>12 also in '79, the two master plans, the rural east</p> <p>13 sectional map amendment and the Fairland master</p> <p>14 plan, both confirm that C2 zoning.</p> <p>15 So it's -- it's had a pretty long history of C2</p> <p>16 zoning. Then, in -- in 2012, with the Burtonsville</p> <p>17 Crossing master plan, the property was, for all</p> <p>18 intents and purposes, down-zoned, somewhat, to a</p> <p>19 CRN.</p> <p>20 And that -- that zoning, again, was affirmed by</p> <p>21 the 2014 district map amendment that was -- was</p> <p>22 passed after the rezoning -- after the, excuse me,</p> <p>23 the zoning rewrite. So - so that -- that's really</p> <p>24 the history of the zoning on the site.</p> <p>25 MS. HARRIS: And as a result of the CRN zoning,</p>

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<p>37</p> <p>1 the stat- -- what is the status of the gas station 2 right now? 3 MR. FOSTER: The -- the gas station right now, 4 under the CRN zoning, is -- is an existing non- 5 conforming use. Gas stations are not an allowed used 6 in the CRN zone. 7 MS. HARRIS: Thank you. Now, what I'd like to 8 do is move through to the actual requirements of the 9 floating zone, starting with 597.21E2A [ph]. 10 And that -- that requirement re- -- pertains to 11 the application's conformance with the Burtonsville 12 master plan and -- and some say the master plan of 13 the community. Further discuss how this project 14 conforms. 15 MR. FOSTER: Sure. The Burtonsville Crossing -- 16 Crossroads master plan, which was implemented in 17 2012, has a singular vision for -- for the -- for 18 this area and for this crossroads. 19 On Page 5, it says Burtonsville Crossroads 20 neighborhood plan will foster the creation of a 21 complete community design that is scaled to serve 22 the surrounding area with small business, retail, 23 local services, offices, residential, and open 24 spaces for local events. So that's -- that's really 25 the vision that was set out by the master plan.</p>	<p>39</p> <p>1 Barn is the -- is -- I think it's currently called 2 the mattress store. 3 MR. FOSTER: Mattress -- 4 EXAMINER HANNAN: And it's the p- -- the 5 building on Parcel D. 6 MR. FOSTER: D. Yes. 7 EXAMINER HANNAN: Correct? Okay. I'm sorry to 8 interrupt. Go ahead. 9 MR. FOSTER: Okay. Not a problem. Small 10 business expansion includes the -- including infill 11 and adaptive reuse. And again, that's exactly what 12 we're trying to do with the mattress store and the 13 convenience store. 14 Open space for public celebrations and other 15 community events. Part of this application, we're 16 required to provide 10 percent public open space. 17 And we have conceptually shown a contiguous 18 open space area between the McDonald's and the 19 convenience store. 20 We were looking for a place where people could 21 congregate, whether they're buying food at 22 McDonald's, buying food in the convenience store, 23 having some place to sit, being able to enjoy the 24 open space. 25 So, you know, if somebody is driving and pulls</p>
<p>38</p> <p>1 And then, to further detail that, the -- the 2 master plan then came up with four themes. And, you 3 know, those themes are economy, connectivity, 4 design, and environment. Okay? 5 And those themes are shown on Page 7 and more 6 detailed on Page 36. Under economy, the -- it talks 7 about trying to provide adaptive reusability; small 8 business expansion, including infill and adaptive 9 reuse; open space for public celebration, such as 10 Burtonsville Day and other -- other -- other 11 community events. 12 Well, this -- this rezoning application will 13 certain provide for the adaptive use of re- -- of 14 existing buildings. We're -- we're talking about 15 being able to redo the -- the Bedding Barn, quote 16 unquote, building into future uses, possibly 17 multiple uses. 18 And then, also, upgrade the existing gas 19 station, C store, and -- and pumps. Second was small 20 business expansion -- 21 EXAMINER HANNAN: Just for the -- sorry. Just 22 for the record -- 23 MR. FOSTER: Yes. 24 EXAMINER HANNAN: You know, there's no 25 opposition, but I do want to clarify the Bedding</p>	<p>40</p> <p>1 into the gas station and gets gas, wants to park and 2 walk their dog. So we're -- we're definitely trying 3 to fulfill that requirement of the master plan. 4 Connectivity. You know, the plan recommends 5 establishing and approving 198, a new system of 6 local streets, sidewalks, bike ways, trails to 7 provide more links within the plan area. 8 This -- this plan will -- if anything moves 9 forward, there would have to definitely be upgrades 10 to the streetscape. Would mean continuation of the 11 bikeway, street trees, any signage. And then, also, 12 providing an interconnectivity of streets. 13 There's a -- obviously, a main secondary street 14 being proposed on the north side of 198. But what 15 we're talking about now is parcel interconnectivity 16 on the southern side to limit the amount of trips 17 back out onto 198. 18 So someone coming into the site can do multiple 19 activities at the same time and reduce the amount of 20 traffic on 198. 21 EXAMINER HANNAN: Which is a good thing. 22 MR. FOSTER: Yes. It is. 23 EXAMINER HANNAN: Okay. Go ahead. Sorry. 24 MR. FOSTER: Under the design themes, streets 25 that improve traffic function and the community</p>

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<p>41</p> <p>1 character, reduce curb cuts, left turn lanes provide 2 enhanced streetscape elements. 3 As I've deci- -- as I've discussed, we would be 4 providing upgraded streetscape through the bikeway - 5 - bikeway and street trees. The state has already 6 taken an initial step to limit the amount of left 7 turns through their improvement. 8 They just did by adding the temporary median 9 that basically eliminates any left turn out of our 10 eastern driveway. So our eastern driveway now is 11 essentially right in, right out. 12 And the full movement driveway will be the 13 western access point, which I think everybody feels 14 that was a good improvement to begin with. 15 Also under design, infill and adaptive reuse of 16 buildings, locate parking in the back side of 17 buildings, façade and signage improvements, and 18 public greenspace for recreation. 19 All of the new parking we have shown is either 20 on the side or the rear of the buildings. We're 21 definitely looking to improve the façades of these 22 buildings, whether it's the convenience store or the 23 Bedding Barn, mattress store. 24 And I think that building certainly has a lot 25 of potential to be -- be more of a -- a -- a real</p>	<p>43</p> <p>1 EXAMINER HANNAN: Right. 2 MR. FOSTER: And we're looking to help protect 3 that. Given this site has zero stormwater management 4 now, we'll -- the goal here is to provide 100 5 percent stormwater management in the future. 6 MS. HARRIS: Page 37 goes through the specific 7 recommendations for the CRT zone. 8 MR. FOSTER: Yes. 9 MS. HARRIS: Can you go through those and then 10 identify how this application satisfies those? 11 MR. FOSTER: Sure. On thir- -- on Page 37, it - 12 - it -- well, let me just take one step back. The -- 13 the master plan itself divided the Burtonsville 14 Crossing planning area into four zones, basically. 15 There is the Main Street zone, which is -- and 16 I'll -- I'll refer back to the exhibits in the staff 17 report. The Main Street zone is -- 18 EXAMINER HANNAN: The exhibit of the 19 neighborhood from the staff report? 20 MR. FOSTER: Yes. Correct. 21 EXAMINER HANNAN: Okay. Thanks. 22 MR. FOSTER: The Main Street zone is all of the 23 properties that are basically along Route 198. The 24 Village Center Business 29 zone is the remainder of 25 -- it's -- it's basically the Burtonsville Shopping</p>
<p>42</p> <p>1 landmark kind of building or have a real presence, 2 given its -- given its location at the major 3 intersection. 4 So upgrading that building -- those façades is 5 really going to dramatically increase the -- the 6 visibility and the image of Burtonsville as you're 7 coming in. And again, public greenspace, I just 8 discussed the public greenspace we're providing. 9 Under environment, it says infill. 10 Redevelopment will meet the most current 11 environmental site design requirements. We 12 definitely have our eye on sustainability and 13 renewable energy, especially with the gas station 14 redevelopment -- 15 EXAMINER HANNAN: Does it have st- -- any storm 16 water management treatment now? 17 MR. FOSTER: Currently, there is no storm water 18 management treatment on the site. So as part of the 19 -- the development, we have submitted a stormwater 20 management strategy, which would provide full ESD 21 stormwater management for the entire [inaudible]. 22 That -- that's the goal here. This is in the 23 Little Paint Branch watershed, which is not a 24 special protection area, but it -- it is still known 25 for having fairly high water quality.</p>	<p>44</p> <p>1 Center where the Giant current- -- the Giant and 2 CVS. 3 And then, the old Burtonsville Crossing 4 Shopping Center, where Giant used to be, and the 5 office buildings on the corner. So this whole area 6 is -- is called the Village Center Business 29 zone. 7 There is a -- a zone called the public green, 8 which is, basically, to the west of the elementary 9 school, where the major public green space is -- is 10 proposed for Burtonsville. So that's its own 11 separate zone. 12 And then, everything above the commercial area, 13 up to the Petco right of way and then up to the 14 intersection where -- at Dustin Road, that's -- 15 that's really considered the rural edge. Those 16 pieces are still zoned RC and are envisioned for low 17 density. 18 So the master plan itself then took the Main 19 Street area and divided it into two -- two zones, 20 which were the -- the main -- the north side, which 21 is zoned CRT, and the south side, which was zoned 22 CRN. 23 So on Page 37, it -- the master plan gets into 24 specific recommendations for the north side, which 25 is zoned CRT, and two of these six involve</p>

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<p>45</p> <p>1 recommendations regarding the access road that's 2 being ultimately built on the north side of 198. So 3 those two don't -- 4 EXAMINER HANNAN: Okay. 5 MR. FOSTER: -- really apply. 6 EXAMINER HANNAN: Okay. 7 MR. FOSTER: But the second one, street 8 activating -- activating uses along 198 and new 9 local streets. Well, this -- this plan is definitely 10 looking to activate the street. 11 We're looking to upgrade the streetscape 12 itself, provide better connectivity, and we're also 13 providing, not a local street, but parcel 14 interconnectivity here. Maximum building height is 15 70 feet to accommodate residential development. 16 EXAMINER HANNAN: Can I interrupt you? 17 MR. FOSTER: Sure. 18 EXAMINER HANNAN: For one minute. When would 19 the activating the streetscape occur? Would it occur 20 at special ex- -- or conditi- -- whatever 21 modification of the special exception? Or whatever - 22 - 23 MR. FOSTER: It would -- it would be -- occur 24 at either -- if the gas station would come in by 25 itself, it would occur at conditional use approval.</p>	<p>47</p> <p>1 EXAMINER HANNAN: Okay. 2 MR. FOSTER: Under the CRT zone, plan 3 recommendations, maximum building height is 70 feet. 4 Well, in this case, our maximum height is already -- 5 is -- was originally capped at 45 feet, and we are 6 not changing that. 7 We are -- we are keeping the 45 feet to help 8 protect the -- it w- -- it was used as a transition 9 to protect the residential neighborhoods to the rear 10 from the taller buildings that are anticipated on 11 the north side of 198. So there would be a 12 transition moving south toward the residential 13 neighborhoods. 14 The fourth, streetscape along 198 with parking 15 behind or at the side of buildings. We're impro- -- 16 we're adding to the streetscape and all of our 17 future parking is going to be to the side of the 18 rear building. 19 So we're trying to fulfill that re- -- that 20 recommendation in the master plan. Continuous 21 sidewalks along 198. We are -- we are basically 22 fulfilling that requirement by putting in this 23 missing link of the bike path along the south 24 [inaudible] of 198. 25 The last one there is -- again, talks about the</p>
<p>46</p> <p>1 There would be requirements for that street 2 frontage. Or if development of the entire property 3 came in. 4 EXAMINER HANNAN: Okay. 5 MR. FOSTER: Then, it would be -- would happen 6 through the site plan process. 7 EXAMINER HANNAN: And is the spe- -- current 8 special exception area, will that be expanding? If 9 you redevelop the convenience store -- 10 MR. FOSTER: Right. 11 EXAMINER HANNAN: -- is the current special 12 exception area going to expand? 13 MR. FOSTER: That's something we haven't really 14 explored, other than I can tell you the one 15 requirement that I think probably have to answer yes 16 to is open space. 17 Because in order to meet the open space 18 requirement for the gas station parcel, it's 19 interconnected with, I think, the open space for the 20 bigger parcel. So there is a possibility that it 21 will expand in the future, depending on what 22 happens. But -- 23 EXAMINER HANNAN: Thank you. 24 MR. FOSTER: I'm going to finish these last 25 couple --</p>	<p>48</p> <p>1 access road to the north side of 198. So it doesn't 2 really apply to this property. There are also 3 recommendations about the south side of 198, south 4 side of Main Street. 5 And we, in my opinion, meet these as well. The 6 first is adaptive reuse of buildings. We're 7 certainly looking to reuse the mattress store and 8 revitalize the convenience store into a modern 9 convenience store. Opportunities for small 10 businesses. 11 The -- the -- the real vision, I think, for the 12 mattress store is probably going to be multiple 13 users. It might be one, but it -- it's also the 14 possibility that it could be more. So there's 15 certainly opportunities for small businesses there. 16 Street-activating uses along 198. We're going 17 to be adding street trees, any required street 18 furniture, and -- and the bike path itself, to 19 activate the streetscape. Building height maximum of 20 45 feet, stepping down to 35, with significant 21 setbacks along the southern edge. 22 Again, we are not planning -- we're not 23 requesting a change to the building height of 45 24 feet. So we'll be meeting that requirement. We're 25 also providing a buffer, 50-foot buffer, along the</p>

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<p>49</p> <p>1 southern edge. Bikeway along the southern side of 2 Route 198. 3 As I stated previously, that's part of this 4 proposal. And streets that don't connect to Tolson 5 Place. None of the proposed parking lots or internal 6 parcel-connected streets will connect to Tolson 7 Place. So we meet those requirements. 8 EXAMINER HANNAN: And that was to protect the 9 R200? 10 MR. FOSTER: The neighborhood. Yes. 11 MS. HARRIS: Related to that, Page 35 of the 12 master plan recommends limiting the uses on the 13 south side of 198 to protect the adjacent 14 residential uses along Tolson Place. 15 MR. FOSTER: Yes. 16 MS. HARRIS: Does this apply and can you -- 17 MR. FOSTER: Yes. The -- 18 MS. HARRIS: [inaudible] 19 MR. FOSTER: Tolson Place itself, which was 20 just a little discussion point, is a -- a small 21 residential street that runs parallel to 198, for a 22 very short section behind the commercial parcels 23 that front on 198. 24 Tolson Place intersects on Old Columbia P- -- 25 Pike and then, moves east, where it intersects with</p>	<p>51</p> <p>1 and how we're not adjacent to it. 2 But then, we've created, even beyond that, a 3 forest buffer to the rear. 4 MS. HARRIS: Thank you. Moving on with the 5 floating zone requirements. Subsection 2B requires 6 that the floating zone plan further the public 7 interest. In your opinion, does that location do 8 that? 9 MR. FOSTER: Yes. I definitely feel that it 10 fulfills -- is -- is in the public interest. This 11 will allow upgrade of -- of a -- of a site that 12 could certainly use the upgrading. 13 It's going to provide additional opportunities 14 for small business for economic activity at a very 15 important area in the county, which is becoming an 16 activity hub. It's going to allow for upgrades of 17 the streetscape, which is certainly in the public 18 interest. 19 And -- and it's also going to help -- we're -- 20 we're looking to mitigate and modify the traffic 21 patterns, which is going to help the -- the 22 transportation issues along 198. 23 MS. HARRIS: Where is the closest conforming 24 gas station to this existing gas station? 25 MR. FOSTER: All right. There's a non-</p>
<p>50</p> <p>1 Blackburn Lane. Okay? That's really where the -- the 2 public maintenance ends, at the intersection with 3 Blackburn Lane. 4 But there is right of way for Tolson Lane that 5 conten- -- that continues further down, which is a 6 gravel driveway, which serves several houses that 7 are back there. So it's not actually a paved street. 8 And then, Tolson Lane ends roughly at the end 9 of the McDonald's site, adjacent to one of the 10 properties that we are adjacent to in the rear. So 11 the subject property does not actually touch Tolson 12 Place. 13 It actually ends two feet -- 200 feet west of 14 the property. And the uses on the subject property 15 are approximately 400 feet from any residential use, 16 within 600 feet from the uses that were the big 17 concern in the master plan. 18 They were the uses -- the -- the residential 19 uses along Tolson Place that's directly behind and 20 very close to several of the commercial properties. 21 Well, our -- our -- the subject property really 22 doesn't meet any of those requirements, and that's 23 why we think this parcel is different from all the 24 rest of the parcels along southern side of -- of 25 198, because of that configuration of Tolson Place</p>	<p>52</p> <p>1 conforming gas station just to the west of this 2 site, the Liberty station right at Old Columbia 3 Pike. 4 The closest conforming gas station, there's one 5 about three miles west of the site, which is the 6 Mobil station at New Hampshire Avenue and 198. And 7 then, there is another gas station, two, actually, 8 about 1.8 miles east of the site. 9 There's a Shell station and a Exxon station 10 right at -- close to Sweitzer Lane intersection with 11 198. And both of -- all three of those stations, the 12 -- the Mobil station -- 13 EXAMINER HANNAN: Isn't there a Freestate in 14 there? No? 15 MR. FOSTER: The Freestate, the Liberty -- 16 EXAMINER HANNAN: Oh, are they the same? 17 MR. FOSTER: Yeah. They've changed. 18 EXAMINER HANNAN: Oh. I'm sorry. Go ahead. 19 MR. FOSTER: They keep changing names. Yes. 20 EXAMINER HANNAN: Okay. 21 MR. FOSTER: So of those three stations, just 22 in size, the Mobil station has five c- -- dispensers 23 with 10 fueling positions. The Liberty, Freestate, 24 has six canisters with 12 fueling stations. 25 The Shell has 10 canisters with 20 fueling</p>

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<p>53</p> <p>1 stations; that's a very big station. And the Exxon 2 has six canisters with 12 fueling stations. The 3 current configuration of the 7-Eleven is four 4 canisters with eight fueling stations. 5 So one of the goals here in upgrading this 6 station is just trying to bring it up to today's 7 standards and being able to provide enough fueling 8 stations for the activity of this area. 9 It's -- the -- it's certainly in demand and if 10 you've ever been out at the site, there is a high 11 demand for gas at this location. 12 MS. HARRIS: Thank you. Subsection 2C of the 13 floating zone requirements requires that the 14 floating zone plan satisfy the intent, purposes, and 15 standards of the zone. 16 MR. FOSTER: Yes. 17 MS. HARRIS: And comply with the purposes, 18 standards, and requirements of the ordinance. Can -- 19 EXAMINER HANNAN: If -- if you -- I find the 20 intent of the zone somewhat redundant, of what 21 you've already just gone through. 22 MR. FOSTER: Yes. 23 EXAMINER HANNAN: And I don't want to steal 24 your thunder, but if you would like, I'd be happy to 25 rely on your land use report and your s- -- and the</p>	<p>55</p> <p>1 compatible with either the commercial area or the 2 residential behind. 3 And we're also -- since we're not connecting to 4 the residential area, we're providing a buffer. 5 We're limiting our height. I think we're certainly 6 going to be compatible with the residential area to 7 the south. 8 EXAMINER HANNAN: Well, that tree buffer -- 9 MR. FOSTER: Yes. 10 EXAMINER HANNAN: -- that'll be a forest 11 conservation easement. 12 MR. FOSTER: Yes. It will. 13 EXAMINER HANNAN: Correct? 14 MR. FOSTER: Yes. 15 EXAMINER HANNAN: So that will stay -- 16 MR. FOSTER: In perpetuity. 17 EXAMINER HANNAN: Right now, there is no 18 easement, as I -- 19 MR. FOSTER: There's no forest cons- -- 20 EXAMINER HANNAN: I'm guessing. 21 MR. FOSTER: There's no forest conservation in 22 -- 23 EXAMINER HANNAN: So this will preserve that? 24 MR. FOSTER: Yes. It will. 25 EXAMINER HANNAN: Okay.</p>
<p>54</p> <p>1 staff report. But if you want to say something about 2 it, go ahead. 3 MR. FOSTER: No. I'd be glad to accept that. 4 EXAMINER HANNAN: Okay. Go ahead. 5 MS. HARRIS: The next -- the next requirement, 6 Subsection 2D, and we've touched on this, that the 7 floating zone plan be compatible with the existing 8 improvement and adjacent development. Is there 9 anything more that you need -- that you should shed 10 light on? 11 MR. FOSTER: No. I -- I totally think this -- 12 this proposal will be compatible with the existing 13 area along 198. It's going to be in scale with the 14 commercial that's there today. 15 It's going to be an improvement and add to the 16 activity in the vitality of that area. It's 17 certainly going -- with the limited and building 18 height and FAR, it's going to be totally in scale 19 with what's on the south side of -- of Route 198. 20 We'll still be able to provide a wider array of 21 uses for that -- for the mattress barn. And then, 22 redevelopment of the gas station through a 23 conditional use approval. And think with the -- the 24 limit on the binding elements, it's going -- we'll 25 eliminate any uses on that site that wouldn't be</p>	<p>56</p> <p>1 MS. HARRIS: Thank you. In summary, in your 2 professional opinion, does that location satisfy the 3 requirements of 597.21 A, B, C, and D? 4 MR. FOSTER: Yes. It does. 5 MS. HARRIS: And is there anything else you 6 would like to add in your testimony that you think 7 is relevant to this application? 8 MR. FOSTER: No. 9 MS. HARRIS: Thank you. 10 EXAMINER HANNAN: Thank you very much. If we 11 could take just a short break to, like, 10:30, I 12 want to go make sure this -- I didn't realize the 13 staff report isn't in the -- the record. 14 So I wanted all the -- I want to look at it, 15 and it's not in my file. So if you don't mind. We'll 16 just go till just, okay, 10:35. And left me go get 17 that and make sure it's in the record. And -- 18 MS. HARRIS: Okay. 19 EXAMINER HANNAN: Thanks. And then, who will be 20 up next? 21 MS. HARRIS: Tim Longfellow, the civil 22 engineer. 23 EXAMINER HANNAN: Okay. All right. We're off 24 the record. 25 (Off the record at 10:28:20 a.m.)</p>

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<p>57</p> <p>1 (Back on the record at 10:35:05 a.m.) 2 EXAMINER HANNAN: Right. Mr. Cheng is back in 3 the room and we're ready to proceed. 4 MS. HARRIS: So our next witness will be Tim 5 Longfellow. 6 EXAMINER HANNAN: Mr. Longfellow, would you 7 raise your right hand. Do you solemnly affirm under 8 penalties of perjury that the statement you're about 9 to make are the truth, the whole truth, and nothing 10 but the truth? 11 MR. LONGFELLOW: Yes. 12 EXAMINER HANNAN: Okay. Go ahead, Ms. Harris. 13 MS. HARRIS: And first, I would like to submit 14 Tim Longfellow's resumé to the record. We -- it was 15 submitted with a correspondence that was dated 16 August 28th, but it's not apparent on the exhibit 17 list. 18 EXAMINER HANNAN: Okay. And what I'm going to 19 do is during the break, we did locate the staff 20 report as already being in the record. So I am going 21 to read -- make Exhibit 45 Mr. Longfellow's resume - 22 - resumé. It'll be resumé of Tim Longfellow. 23 MS. HARRIS: Thank you. Mr. Longfellow, please 24 state your name and your place of employment. 25 MR. LONGFELLOW: Good morning. My name is</p>	<p>59</p> <p>1 the availability of water, sewer, and gas, and other 2 utilities, to the site? 3 MR. LONGFELLOW: Yes. We have. The -- the site 4 is currently served by water and sewer provided by 5 WSSC. It's currently in the W1 and S1 categories. 6 And any future d- -- development would be 7 presumed to be able to be handled by WSSC's mains. 8 There's also existing gas, electric, telephone, 9 cable, also, all along Route 198 that's serving the 10 site now and would be adequate to do so in the 11 future. 12 MS. HARRIS: Thank you. And are stormwater 13 management plans and sediment control plans required 14 for any development on the site? 15 MR. LONGFELLOW: Yes. They are. As part of the 16 project as it goes through any redevelopment or any 17 subsequent new development, we would be required to 18 provide several different iterations of plans with 19 Montgomery County. 20 We would be starting with a storm water concept 21 plan. And then, we would roll into a subdevelopment 22 concept plan for storm water. And finally, into a 23 final sediment and stormwater management plan. 24 For purposes of this application, those plans 25 were not required, but we did provide a stormwater</p>
<p>58</p> <p>1 Timothy M. Longfellow and I work with Gutschick, 2 Little and Weber, 3909 National Drive, suite 250 in 3 Burtonsville. 4 MS. HARRIS: And what do you do? 5 MR. LONGFELLOW: I'm a civil engineer. 6 MS. HARRIS: And have you testified before this 7 body previously? 8 MR. LONGFELLOW: Yes. I have. 9 EXAMINER HANNAN: I'll -- I'll accept him as an 10 -- 11 MS. HARRIS: Thank you. 12 EXAMINER HANNAN: -- expert in civil 13 engineering. 14 MS. HARRIS: Thank you. Can you please explain 15 what plans and reports and evaluations you've 16 conducted in connection with this application? 17 MR. LONGFELLOW: Sure. Kevin previously 18 mentioned a bunch of plans that we've had provided 19 as a firm. 20 My role in this was reviewing the floating zone 21 plan, stormwater management strategy plan, and, you 22 know, reviewing some of the NRI/FSD and forest 23 conservation elements as they pertain to the 24 engineer. 25 MS. HARRIS: Thank you. And have you evaluated</p>	<p>60</p> <p>1 management strategy plan that would address what we 2 would be pursuing as part of any future 3 redevelopment. 4 MS. HARRIS: And can you very briefly explain 5 what that would be? 6 MR. LONGFELLOW: Sure. The -- the -- I guess 7 the law of the land at this time is ESDs, 8 environmental site design features. 9 And we would be looking to introduce those in 10 various places throughout the site. Currently, as 11 Mr. Foster mentioned, there is no stormwater 12 management on the site. So there's plenty of room on 13 this site to accommodate new features. 14 Traditionally, for a use of -- of these nat- -- 15 uses of this type, we'd be looking to introduce 16 microbial retention facilities within the parking 17 area and along the perimeters to pick up any of the 18 natural drainage that's there in order to meet it. 19 Based on the strategy that we've developed, we 20 see no issue at all in fully meeting with the -- the 21 state and county requirements. 22 MS. HARRIS: Thank you. And did you prepare a 23 natural resources inventory for a stand [ph] 24 delineation for this site? 25 MR. LONGFELLOW: Yes. Our firm did prepare an</p>

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<p>61</p> <p>1 NRI/FSD.</p> <p>2 MS. HARRIS: Thank you.</p> <p>3 MR. LONGFELLOW: That was approved in January</p> <p>4 of this year. I guess -- anything, I guess, of -- a</p> <p>5 couple things --</p> <p>6 EXAMINER HANNAN: When you say for the site,</p> <p>7 you mean both parcels?</p> <p>8 MR. LONGFELLOW: For both parcels. Yes, ma'am.</p> <p>9 The NRI/FSD, I guess elements of -- of importance</p> <p>10 noted above, 0.38 acres of existing forested area at</p> <p>11 the south end of the property.</p> <p>12 And one significant tree, I guess, up in the</p> <p>13 north -- northern portion of the property along</p> <p>14 Route 198.</p> <p>15 MS. HARRIS: Thank you. And did the -- does the</p> <p>16 local -- local map amendment application require a</p> <p>17 preliminary force conservation plan?</p> <p>18 MR. LONGFELLOW: Yes. It does. That was also</p> <p>19 provided by our firm, and that was a -- I guess,</p> <p>20 recommended for approval by the planning staff and</p> <p>21 planning board.</p> <p>22 EXAMINER HANNAN: Let me just check Exhibit --</p> <p>23 I just want to make sure I have the PFC pre-</p> <p>24 approval. It may be combined with the planning board</p> <p>25 recommendation.</p>	<p>63</p> <p>1 MS. HARRIS: No. That's okay. Okay. Thank you.</p> <p>2 Does the proposed forest -- excuse me. Does the</p> <p>3 proposed floating zone plan conflict in any way with</p> <p>4 the county capital improvement program?</p> <p>5 MR. LONGFELLOW: No. It does not.</p> <p>6 MS. HARRIS: And are there any CIP projects in</p> <p>7 this area?</p> <p>8 MR. LONGFELLOW: I'm not aware of any county CI</p> <p>9 pro- -- CIP projects at this time. As Mr. Foster</p> <p>10 indicated earlier, the State Highway Administration</p> <p>11 is under -- you know --</p> <p>12 EXAMINER HANNAN: Is. Ms. Randall going to</p> <p>13 address --</p> <p>14 MS. HARRIS: Yes.</p> <p>15 EXAMINER HANNAN: -- that a little bit? Okay.</p> <p>16 Go ahead.</p> <p>17 MS. HARRIS: And in your pr- -- professional</p> <p>18 opinion, with respect to civil engineering, does the</p> <p>19 proposed local map amendment and floating zone plan</p> <p>20 satisfy all the [inaudible] of the code?</p> <p>21 MR. LONGFELLOW: Absolutely. Yes, it does.</p> <p>22 MS. HARRIS: Thank you. No other questions.</p> <p>23 EXAMINER HANNAN: Okay. I don't have any</p> <p>24 follow-up. Thank you very much. You can be excused.</p> <p>25 Ms. Randall is the one I want to grill. But she's</p>
<p>62</p> <p>1 MALE 1: Yes. It is.</p> <p>2 EXAMINER HANNAN: Which I think is --</p> <p>3 MR. LONGFELLOW: [inaudible] staff report --</p> <p>4 [inaudible]</p> <p>5 EXAMINER HANNAN: -- 30 -- no. Hmm. 38. Because</p> <p>6 I -- [inaudible]</p> <p>7 MS. HARRIS: Okay. If I could, at the hearing</p> <p>8 on the 16 -- 19th, in front of the planning board,</p> <p>9 they made a motion to approve the first conservation</p> <p>10 pl- -- preliminary forest conservation plan. To my</p> <p>11 knowledge, we do not yet have any evidence of that.</p> <p>12 EXAMINER HANNAN: Okay. I -- I just need that.</p> <p>13 Let me -- sometimes, they add it at the end of the</p> <p>14 recommendation. [inaudible] Okay. They don't. I -- I</p> <p>15 need to have that in the record. I will contact</p> <p>16 staff.</p> <p>17 MS. HARRIS: Okay.</p> <p>18 EXAMINER HANNAN: And make sure it gets in the</p> <p>19 -- I think the staff -- he's really nice, but he's</p> <p>20 new. And let me just make sure it gets in the record</p> <p>21 because I can't issue a recommendation till I get it</p> <p>22 in the record.</p> <p>23 MS. HARRIS: Okay.</p> <p>24 EXAMINER HANNAN: Get written PV. I'm sorry to</p> <p>25 stop you.</p>	<p>64</p> <p>1 used to it. I know.</p> <p>2 Please raise your right hand. Do you solemnly</p> <p>3 affirm under penalties of perjury that the</p> <p>4 statements you are about to make are the truth, the</p> <p>5 whole truth, and nothing but the truth?</p> <p>6 MS. RANDALL: I do.</p> <p>7 MS. HARRIS: Ms. Randall is one of our other</p> <p>8 seasoned experts and she has testified many times as</p> <p>9 an expert in traffic planning.</p> <p>10 EXAMINER HANNAN: I will --</p> <p>11 MS. RANDALL: Transportation planning.</p> <p>12 MS. HARRIS: Transportation planning.</p> <p>13 EXAMINER HANNAN: Yes. I was just going to say.</p> <p>14 I'll accept her as an expert in transportation</p> <p>15 planning. Go ahead, Ms. Randall.</p> <p>16 MS. HARRIS: Okay.</p> <p>17 EXAMINER HANNAN: Or Ms. Harris.</p> <p>18 MS. HARRIS: Thank you. Ms. Randall, are you</p> <p>19 familiar with the zoning application?</p> <p>20 MS. RANDALL: I am.</p> <p>21 MS. HARRIS: And can you please describe your</p> <p>22 responsibilities in connection with it?</p> <p>23 MS. RANDALL: Yes. I prepared a standard LATR</p> <p>24 impact study for [inaudible] with staff.</p> <p>25 But also, in mind of other special exceptions</p>

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17 (65 to 68)

<p>65</p> <p>1 or zoning cases that are brought before you in 2 taking a step further and looking at accident 3 history and site circulation. That study was 4 reviewed by staff. 5 It included an analysis of the existing 6 conditions, background conditions, and then, total 7 future conditions. The total future conditions, 8 because this is a rezoning case, we don't know, at 9 this point, what will be on the property. 10 So we looked at it from a worst-case scenario 11 in terms of what could be built on the property and 12 high trip generation for this site. That came -- we 13 did a whole host of analyses and different tests. 14 But based on other land use issues on the 15 property, open space requirements, that -- that, to 16 some degree, limited the amount of development that 17 could -- 18 EXAMINER HANNAN: Okay. 19 MS. RANDALL: -- go on the property. We looked 20 at the retail portion, which is the mattress store. 21 EXAMINER HANNAN: Mm-hmm. 22 MS. RANDALL: At -- that being general retail 23 at approximately 19,000 square feet. And then, 24 upping the number of fueling positions at the gas 25 station from the current eight to 12.</p>	<p>67</p> <p>1 staff report, as well as from the planning board, 2 they're also making recommendations for 3 signalization. 4 EXAMINER HANNAN: I saw that. I guess my 5 question is this is -- what are -- is it more -- I 6 guess what I'm looking for, is it more probable than 7 not that there will be? Because -- a signal there. 8 Because from other applications, SAH has -- it 9 has been very difficult to get a warrant for a 10 signal -- signalized intersection. So I'd like to 11 hear your opinion. 12 MS. RANDALL: Right. I -- I think there are two 13 reasons why I believe that it's more probably than 14 not. Backing up a little bit, this -- to an earlier 15 question that you had. The State Highway 16 Administration is currently studying this corridor. 17 EXAMINER HANNAN: Right. 18 MS. RANDALL: As mentioned earlier. From 29 all 19 the way into -- to where it meets up with Georgia 20 Avenue. 21 EXAMINER HANNAN: Right. 22 MS. RANDALL: They're looking at this entire 23 corridor. And in their initial look at this 24 corridor, they actually came out and did some 25 improvements right at this intersection that we're</p>
<p>66</p> <p>1 It should be noted that that -- when we look at 2 a gas station with a C store, or convenience store 3 with gas pumps, we look at that to see which is 4 going to generate the most amount of traffic. 5 And if they were to build a 5,500-square-foot 6 convenience store, that's going to be generating the 7 same amount as the 12 pumps, actually slightly less. 8 So that's why we went with the pumps, as opposed to 9 upping the square footage on the C store. 10 EXAMINER HANNAN: Thank you. And will an 11 updated LATR be required at the time that this 12 property does go forward with development? 13 MS. RANDALL: It will be. 14 EXAMINER HANNAN: And can you summarize your 15 LATR -- LATR finding, please? 16 MS. RANDALL: Yes. All of the standing 17 intersections are operating at the required standard 18 by the county, with the exception of the entry point 19 that is directly across from the shopping center. 20 EXAMINER HANNAN: The full movement? 21 MS. RANDALL: Yeah. The full movement 22 intersection. At that location, with signalization, 23 that intersection will meet all the criteria for the 24 LATR standards. 25 And you may have seen in the -- both in the</p>	<p>68</p> <p>1 discussing. 2 They put up those temporary bollards so that 3 individuals from the easternmost access point, which 4 is used by the majority of the mattress store, that 5 right out, that is now fully functioning as a right 6 in, right out intersection. 7 It lined up in such a way that if somebody 8 wanted to make a left into that or a left out, they 9 could. The median didn't come down far enough, which 10 is why they put the bollards in. And their plans for 11 the rest of the corridor -- 12 EXAMINER HANNAN: Wait. Do the bollards 13 prohibit left turns -- 14 MS. RANDALL: They do. 15 EXAMINER HANNAN: -- into the easternmost 16 access? 17 MS. RANDALL: Yes. That's correct. If I can go 18 to the -- 19 EXAMINER HANNAN: Sure. 20 MS. RANDALL: If I can go to the plan sheet, if 21 you are -- for lack of a better description, let's 22 just assume that this is running east-west. It's on 23 a slight angle at this point. 24 But if you were coming out of this easternmost 25 entrance, at this location, you could make a left</p>

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18 (69 to 72)

<p>69</p> <p>1 out before the state put the bollards in. And you 2 could single car [inaudible] make a left in. 3 And what they did was to put the bollards along 4 the stretch of this left turn lane so that you can 5 no longer make a left out of the site or a left into 6 the site. So they all take place at this -- 7 EXAMINER HANNAN: At the full movement? 8 MS. RANDALL: Yes. The westernmost 9 intersection. 10 EXAMINER HANNAN: Okay. Yeah. Okay. 11 MS. RANDALL: And so, they're continuing to 12 study. There is an e-mail, correspondence, in our 13 report in B on Page -- Appendix B, Page 2, and B3. 14 E-mail correspondence -- sorry. It's starts on B1, 15 B2, and B3. 16 From the State Highway Administration, and they 17 have the last full text portion of the State Highway 18 Administration's e-mail on B3 before the close of 19 their e-mail. 20 Indicates that they've taken steps, the steps 21 that we just described, and that there was no need 22 to further restrict the turning movements as this 23 process went under study. They were addressing some 24 of the accidents by which, by doing this, that have 25 occurred at that location.</p>	<p>71</p> <p>1 street, it's very possible that it may also meet the 2 accident warrants as well. They -- 3 EXAMINER HANNAN: I hate to say this, but it is 4 stressful. 5 MS. RANDALL: Yes. Yeah. 6 EXAMINER HANNAN: Yeah. 7 MS. RANDALL: Yeah. 8 EXAMINER HANNAN: Okay. 9 MS. RANDALL: And -- and you can see that from 10 the accident history that we provided within the 11 report for you. 12 This takes care of the turning moving issues 13 into and out of this property, what the State 14 Highway Administration did. It also takes care of 15 the confusion when somebody is coming into that turn 16 lane. 17 EXAMINER HANNAN: Right. 18 MS. RANDALL: Some people may have turned at 19 the western. Some may have turned at the eastern 20 entrance. And this makes sure that everybody is 21 making that left-hand turn at one location. 22 EXAMINER HANNAN: What is the signal -- what -- 23 are they studying this, the potential for an 24 intersection here, in the corridor study? 25 MS. RANDALL: They're looking at not only the</p>
<p>70</p> <p>1 When we did the signal warrant analysis, which 2 is not typical of an LATR study, we didn't do the 3 full typical 12 or 13 hours' worth of counts. But we 4 took the six-hour, which is three hours in the 5 morning and three hours in the afternoon. 6 And those met warrants for signalization. We 7 didn't test the two or three hours in the mor- -- 8 EXAMINER HANNAN: How many warrants are there 9 for -- 10 MS. RANDALL: There are a total of eight. And 11 meeting just one warrant is enough. 12 EXAMINER HANNAN: Okay. 13 MS. RANDALL: To -- to meet the warrants for 14 signalization, depending upon the warrant itself, 15 the volume warrants most specifically. So there is a 16 four-hour warrant. There is an eight-hour warrant. 17 Actually, there are two different eight-hour 18 warrants. There's an accident warrant. There is 19 pedestrian warrants. There are several different 20 types. We looked strictly at the volume warrants. 21 And based on that information, it is very 22 likely that this intersection will meet the warrants 23 for signalization just for the -- for the volume. 24 But looking at the accident history, most 25 specifically from the shopping center across the</p>	<p>72</p> <p>1 road improvements along the entire corridor, but 2 where signalization is likely going to be. It's -- 3 it's a complete analysis of the entire corridor. 4 And that's why the planning board made that 5 statement that they were going to reach out to the 6 State Highway Administration, knowing that this was 7 ongoing. 8 EXAMINER HANNAN: Now, if you -- when you 9 develop, is this -- is the signal warrant process, 10 that's independent of development of this site? 11 MS. RANDALL: Not necessarily. At the time that 12 we will do an LATR study, since we do have 13 [inaudible] done a signal one study, I would fully 14 expect the staff to ask us to look at this again at 15 that time. 16 But it may be because we know that the shopping 17 center would also like this to be signalized. It may 18 be that this will happen sooner rather than later. I 19 don't know exactly what Mr. Cheng's timeline is 20 going to be. 21 EXAMINER HANNAN: Mm-hmm. 22 MS. RANDALL: I know that he's trying to 23 prepare for the lease, but it could be with -- the 24 shopping center, they may want to look at this in 25 six months and start pushing the State Highway</p>

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19 (73 to 76)

<p>73</p> <p>1 Administration for signalization.</p> <p>2 EXAMINER HANNAN: I guess my question is these</p> <p>3 -- in relation to potential d- -- redevelopment of</p> <p>4 this site, would the warrant -- would SHA be asked</p> <p>5 to re- -- what I -- what I'm trying to say, Mary</p> <p>6 [ph], is the corridor study has been going on for --</p> <p>7 I can't -- quite a few years, if I recall. And so,</p> <p>8 could the -- what I'm asking is could this site</p> <p>9 redevelop without the signal?</p> <p>10 MS. RANDALL: Yes. I believe it could. There</p> <p>11 are a couple of --</p> <p>12 EXAMINER HANNAN: But then, it wouldn't meet</p> <p>13 the LATR standards.</p> <p>14 MS. RANDALL: Well, they -- they could if -- we</p> <p>15 could meet the LATR standards by restricting turning</p> <p>16 movements, by restricting the [inaudible]. That</p> <p>17 takes care of the impact of this project. But --</p> <p>18 EXAMINER HANNAN: You mean m- -- making the</p> <p>19 western entrance right in, right out?</p> <p>20 MS. RANDALL: And left in.</p> <p>21 EXAMINER HANNAN: Left in.</p> <p>22 MS. RANDALL: Right in, right out. The left out</p> <p>23 is the cause for the failure --</p> <p>24 EXAMINER HANNAN: Okay.</p> <p>25 MS. RANDALL: -- on our property --</p>	<p>75</p> <p>1 probable.</p> <p>2 MS. RANDALL: Yes. Understood.</p> <p>3 EXAMINER HANNAN: Okay. So -- but you could</p> <p>4 address it by restricting left out?</p> <p>5 MS. RANDALL: Yes.</p> <p>6 EXAMINER HANNAN: Left out.</p> <p>7 MS. RANDALL: That's correct.</p> <p>8 EXAMINER HANNAN: Okay.</p> <p>9 MS. RANDALL: If at the time, when we get ready</p> <p>10 to do the LATR study and the state has not come</p> <p>11 along with definitive answers, if they were still</p> <p>12 studying, then, yes.</p> <p>13 EXAMINER HANNAN: Okay.</p> <p>14 MS. HARRIS: Thank you.</p> <p>15 EXAMINER HANNAN: And we all hope there's a</p> <p>16 warrant.</p> <p>17 MS. RANDALL: Yes.</p> <p>18 MS. HARRIS: Did you, in connection with your</p> <p>19 study, evaluate the queuing?</p> <p>20 MS. RANDALL: We did. And I apologize for not</p> <p>21 printing those out and having that in the -- in a</p> <p>22 summary table.</p> <p>23 MS. HARRIS: Mm-hmm.</p> <p>24 MS. RANDALL: When I went back and looked at</p> <p>25 the queues associated with this property, the left</p>
<p>74</p> <p>1 [talking over each other]</p> <p>2 EXAMINER HANNAN: I understand.</p> <p>3 MS. RANDALL: -- as it is for the shopping</p> <p>4 center, on the other side.</p> <p>5 EXAMINER HANNAN: So it's egress -- the egress</p> <p>6 left?</p> <p>7 MS. RANDALL: Yes. Yes. I don't think, though,</p> <p>8 that that is a solution, if that is likely to be</p> <p>9 adjoined by park and planning; in that they are</p> <p>10 trying to make this a pedestrian-friendly, bicycle-</p> <p>11 friendly corridor through this business corridor.</p> <p>12 And in order to do that, you need to be able to</p> <p>13 provide a place for a pedestrian to cross the</p> <p>14 street.</p> <p>15 And to ask the pedestrian that wants to cross</p> <p>16 from the shopping center to go to McDonald's, to go</p> <p>17 all the way up to the intersection, cross, and then</p> <p>18 walk back down again, is not going to facilitate</p> <p>19 that pedestrian movement.</p> <p>20 EXAMINER HANNAN: No. I -- I -- you know, I'm</p> <p>21 fully supportive of the warrant. I just wanted --</p> <p>22 I'm just testing to see whether this meets the PF if</p> <p>23 the warrant never happens. Even though --</p> <p>24 MS. RANDALL: Yes.</p> <p>25 EXAMINER HANNAN: -- your testimony says it's</p>	<p>76</p> <p>1 in, both the AM and PM, those are the only queues</p> <p>2 that we impact.</p> <p>3 The queues are reported in the synchro, but we</p> <p>4 didn't take those summaries and print out the ones</p> <p>5 for the unsignalized intersection, which is our side</p> <p>6 access. So I've created a table for that so you have</p> <p>7 that.</p> <p>8 And just to summarize, there is a stacking</p> <p>9 distance of 150 feet, approximately, for the left</p> <p>10 turns. And we have queues in the morning peak hour</p> <p>11 of 23 feet and in the evening, 80 feet. So there is</p> <p>12 sufficient room to handle the queues in the future</p> <p>13 conditions.</p> <p>14 EXAMINER HANNAN: AM was 23?</p> <p>15 MS. RANDALL: Twenty-three.</p> <p>16 EXAMINER HANNAN: And that's with the 12 pumps?</p> <p>17 MS. RANDALL: Y- -- that's with the future</p> <p>18 development on the site.</p> <p>19 EXAMINER HANNAN: Okay.</p> <p>20 MS. RANDALL: That's correct.</p> <p>21 EXAMINER HANNAN: And PM was 80?</p> <p>22 MS. RANDALL: Eighty feet. And if you've</p> <p>23 traveled the road, you know that PM move- --</p> <p>24 eastbound direction is a little bit heavier than the</p> <p>25 westbound direction. So that's what they're crossing</p>

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20 (77 to 80)

<p>77</p> <p>1 in the mor- -- in the evening peak hour, which is 2 why it's longer. 3 They're waiting for the gaps. There is also 4 planned in the state's letter, if you read that, 5 they are looking at signalizing the school further 6 to the west, which will provide for better gaps 7 along the corridor. 8 EXAMINER HANNAN: And that's the one at B1 to 9 3? The letter from -- 10 MS. RANDALL: Yes. Yes. Exactly. And I've got - 11 - this is a copy for the record of that queue. 12 EXAMINER HANNAN: Great. If you want to bring 13 it up, that'll be 47, chart showing queue length. 14 MS. HARRIS: And then, you -- you referenced 15 this a moment ago, but I wanted to reask the 16 question in front of the hearing examiner, specific 17 questions about reviewing any sort of crash or 18 safety data. 19 MS. RANDALL: Yes. In going through and 20 reviewing the traffic safety data, as well as the 21 information from the State Highway Administration, 22 they, too, have been reviewing and keeping an eye on 23 the accident data. 24 The changes that the State Highway 25 Administration have made, I believe, will remedy the</p>	<p>79</p> <p>1 accident data does -- does not include -- was -- the 2 accident data was taken prior to the bollards being 3 -- 4 MS. RANDALL: That is correct. Yeah. The -- the 5 -- 6 MS. HARRIS: Okay. 7 MS. RANDALL: The accident information that we 8 obtain is typically between six months to a year 9 behind. 10 MS. HARRIS: Okay. And is there anything else 11 you would like to add that would be helpful for this 12 case? 13 MS. RANDALL: I think that's it, unless you 14 have any questions. 15 EXAMINER HANNAN: No. You've answered. I -- I 16 have your report on the LATR. So that was -- you've 17 addressed my questions. 18 MS. RANDALL: I think that's it. 19 EXAMINER HANNAN: Okay. You may be excused. 20 Thank you. 21 MS. RANDALL: You're very welcome. 22 EXAMINER HANNAN: Okay. 23 MS. HARRIS: Thank you. That concludes our 24 witnesses. Through the testimony of the witnesses, 25 plus the information in the record, including the</p>
<p>78</p> <p>1 issues associated with -- 2 EXAMINER HANNAN: The bollards, you mean? 3 MS. RANDALL: Yes. Exactly. With the accidents. 4 There have also been -- in our report, just so you 5 know, we've also listed accidents that occurred 6 within the properties themselves. 7 So onsite accidents that occurred in the 8 shopping center across the street within the 9 commercial developments. We didn't pull that out so 10 you've got a full picture. So some of these 11 accidents are Ms. Smith backing out of her parking 12 space -- 13 EXAMINER HANNAN: I see. 14 MS. RANDALL: -- and not paying attention to, 15 you know, the person or vehicle behind them. I 16 should say vehicle behind them. 17 EXAMINER HANNAN: Were -- were the accidents 18 relative to your site mostly from the left turns 19 into the site? 20 MS. RANDALL: That -- and left out from the 21 eastern access point. 22 EXAMINER HANNAN: Okay. 23 MS. RANDALL: Yeah. The left in and left out at 24 that eastern access point. 25 MS. HARRIS: And is it correct that the</p>	<p>80</p> <p>1 staff report and the -- in that land use report and 2 the traffic report, the applicant has demonstrated 3 that they meet the requirements for the floating 4 zone application to rezone it from CRN to CRT. 5 And I believe that the testimony also indicates 6 -- sort of reaffirms what staff's conclusion was 7 that this was really an oversight in the 8 Burtonsville master plan when it effectively 9 downzoned the property. Thank you. 10 EXAMINER HANNAN: Okay. Thank you very much. 11 Thanks for having everybody ready to address my 12 questions. I really appreciate that. The item that I 13 need is the PCFP approval. 14 And I will -- I got -- I have to leave the 15 record open for 10 days anyway to get the transcript 16 in. I'm going to try and get that from staff well 17 within the 10 days. 18 MS. HARRIS: Okay. 19 EXAMINER HANNAN: Because it's got to be there 20 somewhere. And with that, I have 45 days. I'm hoping 21 it won't take that long. So with that, I will 22 adjourn the hearing. The record will be open. 23 The other thing I'm required to do is to get an 24 opinion from s- -- a recommendation from staff on 25 the revised binding elements. So I will be in touch</p>

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21 (81 to 84)

<p>81</p> <p>1 with staff about that as well. 2 MS. HARRIS: Do you -- 3 EXAMINER HANNAN: I didn't write the zoning -- 4 MS. HARRIS: Okay. Would you like for us to 5 forward to them the revised floating zone plan? 6 EXAMINER HANNAN: Absolutely. 7 MS. HARRIS: Okay. We will do that. 8 EXAMINER HANNAN: And -- and then, I'll send 9 them a letter saying please get me a -- an opinion. 10 Hopefully, with- -- they'll be able to do it within 11 10 days. 12 MS. HARRIS: Thank you. 13 EXAMINER HANNAN: Okay? 14 MS. HARRIS: Okay. Thank you. 15 EXAMINER HANNAN: With that, we're going to 16 close the record. Let's see. Ten days from now is 17 the -- 18 MS. RANDALL: Is the 30th. 19 MR. LONGFELLOW: Would be the 9th. 20 [inaudible] 21 EXAMINER HANNAN: Yes. But is it a business 22 day? Yes. That's exactly where I was going. Caught - 23 - 24 MR. LONGFELLOW: The 11th, I believe, is the 25 10th business day, if you include today.</p>	<p>83</p> <p>1 EXAMINER HANNAN: All right. With that, I'm 2 going to adjourn. Thank you very much. 3 [inaudible] 4 FEMALE 1: Are you here for two years in this 5 building or -- 6 EXAMINER HANNAN: No one knows the day or hour. 7 We've been told six months, but that's what they 8 told Consumer Protection. And Consumer Protection's 9 been in the old detention center for two and a half 10 years. 11 So we just -- we don't know. But it's -- it's 12 peaceful out here. I saw a deer in -- yeah. So I can 13 watch deer and -- 14 FEMALE 1: Well, it's certainly quieter in 15 terms of the building. 16 EXAMINER HANNAN: It is quieter. Yes. 17 [talking over each other] 18 EXAMINER HANNAN: Thank you for coming. 19 MS. HARRIS: The only -- the only hard part is 20 finding lunch. 21 EXAMINER HANNAN: That -- well, we have a 22 couple of attorneys just objecting. So luckily, 23 we're trying to -- I'm -- I'm trying to get the 24 hearings done so lunch is not an issue. 25 THE REPORTER: Just want to make sure it's</p>
<p>82</p> <p>1 EXAMINER HANNAN: No. You don't include today. 2 MR. LONGFELLOW: So then, that would be the 3 14th. 4 EXAMINER HANNAN: And is that a -- 5 MR. LONGFELLOW: 15th would be a Monday. 6 EXAMINER HANNAN: Monday. Perfect. So it'll 7 close on 10/15. All right. Assuming I get the stuff 8 from staff. If I d- -- I'm sure I will, but -- 9 MS. HARRIS: Okay. 10 EXAMINER HANNAN: -- I'm going to ask them to 11 get it to me in advance of that. 12 MR. LONGFELLOW: Monday is the 14th. I'm sorry. 13 EXAMINER HANNAN: Monday is the 14th? Okay. 14 It'll be -- it'll be Monday the 14th. Now, do you 15 want a chance to respond to staff? 16 MS. HARRIS: N- -- I don't think that's 17 necessary. I -- 18 EXAMINER HANNAN: I'll tell you want. I'll 19 leave it open for 10 days and I'll ask staff for 20 something in five days. 21 MS. HARRIS: Okay. 22 EXAMINER HANNAN: And if they don't yell too 23 much at me, hopefully, we'll get it -- you'll have a 24 chance to respond. 25 MS. HARRIS: Okay.</p>	<p>84</p> <p>1 standard delivery of the transcript. 2 EXAMINER HANNAN: This one is standard. 3 THE REPORTER: Okay. All right. Thank you. 4 (Off the record at 11:07:26 a.m.) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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Christian Naaden

DATE: October 7, 2019