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Transcript of Hearing

Date: June 22, 2020

Case: CU 16-15; Freeman Equestrian Facility

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1 (1 to 4)

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Transcript of Hearing
Conducted on June 22, 2020

2 (5 to 8)

5			7
1	EXHIBITS		1
2	Exhibit#	Description	2 may request oral arguments before the board of appeals
3	24	Original Staff Report	3 within ten days of the date the decision is initiated [ph].
4	28	Conservation Plan	4 A word about the hearing today. We are having the
5	29	Conditional Use Plan	5 hearing remotely via Microsoft Teams. We do have a court
6	33a	Conditional Use Plan	6 reporter here to record what is said. To help her [sic] do
7	53	Modified Nutrient Management Plan	7 that, there are some practices we have to follow. Do not
8	53a	Modified Nutrient Management Plan	8 interrupt other parties.
9	59	Documents From The Soil Conservation District	9 State and spell your name when asked. Avoid crosstalk,
10	59g	Maryland Pasture Conditions Score Worksheet	10 which means people speaking over each other or people
11	59h	Email of map documents during hearing	11 speaking at the same time.
12			12 For the record, I would like the parties, beginning
13			13 with Ms. Freeman, to identify themselves for the record.
14			14 MS. FREEMAN: My name is Jennifer Freeman. I'm present
15			15 here.
16			16 HEARING OFFICER HANNAN: You have to state your name
17			17 and address.
18			18 MS. FREEMAN: Oh, I'm sorry. My name is Jennifer
19			19 Freeman. My address is 14975 Sugarland Road, Poolsville
20			20 Maryland, 20837.
21			21 HEARING OFFICER HANNAN: Okay. And anyone else? Ms.
22			22 Hansen?
23			23 MS. HANSEN: Hello. My name is Carol Rae Hansen. I
24			24 should note for the record, my name has been spelled
25			25 incorrectly in previous e-mails.
6			8
1	PROCEEDINGS		1 So it's Carol, C-a-r-o-l. I use my middle name, Rae, R-
2	(On the record at 9:39:57 a.m.)		2
3	HEARING OFFICER HANNAN: Hello?		3 a-e. And the last name is Hansen, H as in happy, A as in
4	MS. HANSEN: Good morning.		4 apple, N as in Nancy, S as in Sam, E as in Eagle, N as in
5	MS. FREEMAN: Good morning.		5 Nancy. I reside at 14921 Sugarland Road, [inaudible] 20837.
6	HEARING OFFICER HANNAN: Is there a court -- technical		6 HEARING OFFICER HANNAN: Okay. And is there anyone else
7	difficulty, but I can see the hearing.		7 that wishes to testify today? Mr. Grigorian?
8	So my question is, are the parties ready to proceed?		8 MR. GRIGORIAN: Yes, Greg Grigorian, G-r-i-g-o-r-i-a-n.
9	Before I do that, let me then -- is Mr. Grigorian on? Okay?		9 My address is 15000 and 15012 Sugarland Road, Poolesville,
10	MR. GRIGORIAN: Mm-hmm		10 Maryland 20837.
11	HEARING OFFICER HANNAN: So this -- is the court		11 HEARING OFFICER HANNAN: Okay. Thank you. And I see
12	reporter ready? Hello?		12 some other people that are attending this hearing. Is there
13	COURT REPORTER: [inaudible]		13 anyone else that wishes to testify today?
14	HEARING OFFICER HANNAN: Okay. This is public hearing		14 Okay. Hearing none, we -- I guess Mr. Grigorian has not
15	in the matter of Jennifer Freeman with a case number 16-15,		15 been able to join by -- via -- does not have video. Ms.
16	an application for a minor amendment to an equestrian		16 Hansen, have you tried to join by video?
17	facility at 14975 Sugarland Road, Poolsville, Maryland on		17 MS. HANSEN: Yes. Unfortunately we spent a lot of
18	land in the R200 Zone, under Section 5932-4 of the zoning		18 effort on Saturday and on Sunday and also this morning when
19	ordinance. The property is also described currently as		19 I conferred with Ms. Johnson.
20	parcel of -- the original conditional use was approved on		20 And I have not been able to get video, unfortunately,
21	September 12th, 2016.		21 either. We have to download some software to be able to get
22	My name is Lynn Robeson Hannan. I'm the hearing		22 into this. I understand you can see me, but I can't see
23	examiner assigned to this case, which means that I will		23 anyone else.
24	listen to the testimony today, take evidence, and write a		24 HEARING OFFICER HANNAN: Well, the question is then --
25	written decision. If any disagrees with the decision they		25 well, you shouldn't need to download the software. You

Transcript of Hearing
Conducted on June 22, 2020

3 (9 to 12)

<p style="text-align: right;">9</p> <p>1 should just be able to click on the link.</p> <p>2 MS. HANSEN: Oh, you know what -- as I explained to Ms.</p> <p>3</p> <p>4 Johnson, it was not possible. What happened was your</p> <p>5 website, probably during COVID-19, was subsumed beneath the</p> <p>6 county council's website.</p> <p>7 And there was no opportunity to follow your</p> <p>8 instructions which was click on the link. It took a lot of</p> <p>9 effort to actually find the Microsoft. And we had to</p> <p>10 download the software. And it's only partially effective.</p> <p>11 MR. GRIGORIAN: I'm not -- yeah, there's a link for me,</p> <p>12 underneath meeting access information -- join Microsoft</p> <p>13 Teams meeting and a number -- a conference ID for this</p> <p>14 meeting.</p> <p>15 But when I click on that link -- I know this is not a</p> <p>16 call about technical stuff here, but just for the support of</p> <p>17 whether or not we adjourn this meeting for another day. When</p> <p>18 I click on that meeting, you know, I get a screen, Microsoft</p> <p>19 Teams -- I have Microsoft Teams. Let's try it again now.</p> <p>20 Maybe it's working this time.</p> <p>21 MS. HANSEN: If I can add [inaudible] had video, but</p> <p>22 didn't really have any audio [inaudible]. The audio is fine.</p> <p>23 [inaudible]</p> <p>24 HEARING OFFICER HANNAN: Does anyone -- yeah, I agree</p> <p>25 there is a lot of background noise. Does anyone have the</p>	<p style="text-align: right;">11</p> <p>1 HEARING OFFICER HANNAN: Mr. Grigorian? Mr. Grigorian,</p> <p>2 I think you're muted. You are muted. Hover in the middle of</p> <p>3 the screen and you should see a -- now you're unmuted.</p> <p>4</p> <p>5 MR. GRIGORIAN: Yeah, I turned my cell phone off. I</p> <p>6 telephoned that line in and now I'm on the call.</p> <p>7 HEARING OFFICER HANNAN: Okay. Court reporter, are you</p> <p>8 picking up -- is this better for you?</p> <p>9 COURT REPORTER: [inaudible]</p> <p>10 HEARING OFFICER HANNAN: Okay. So now that we have</p> <p>11 video, does anyone object to proceeding?</p> <p>12 MS. FREEMAN: No.</p> <p>13 MS. HANSEN: No.</p> <p>14 HEARING OFFICER HANNAN: Mr. Grigorian, you have to</p> <p>15 answer affirmatively because the court reporter is going to</p> <p>16 do a transcript of this.</p> <p>17 MR. GRIGORIAN: No objections.</p> <p>18 HEARING OFFICER HANNAN: Okay. Thank you and I</p> <p>19 appreciate everyone for taking the time to work through</p> <p>20 this. Now, what we're going to do -- I'm going to explain a</p> <p>21 little bit about the procedure.</p> <p>22 This is an informal hearing. It's -- but there are some</p> <p>23 formalities. The testimony is under oath and subject to</p> <p>24 cross examination, which means you -- whoever testifies,</p> <p>25 those who don't testify have the opportunity to cross</p>
<p style="text-align: right;">10</p> <p>1 audio and visual off [inaudible] their computer mic on?</p> <p>2 MS. HANSEN: I have both on, although the visual is not</p> <p>3 working.</p> <p>4 HEARING OFFICER HANNAN: Now I've got -- I've got Mr.</p> <p>5 Grigorian on visual.</p> <p>6 MR. GRIGORIAN: How do you know that's me?</p> <p>7 HEARING OFFICER HANNAN: Because your name pops up.</p> <p>8 I've got Barbara Cox on -- I've got an inspector from VPS on</p> <p>9 visual. So the visual is working. Thank you.</p> <p>10 MR. GRIGORIAN: Yeah, it's not working. I tried it for</p> <p>11 a fourth time. I guess Microsoft Teams must have needed to</p> <p>12 be updated. We use Zoom in my office so I guess --</p> <p>13 HEARING OFFICER HANNAN: I've got many visuals now.</p> <p>14 MR. GRIGORIAN: Yeah, okay. It's all coming through.</p> <p>15 HEARING OFFICER HANNAN: Okay. This --</p> <p>16 MS. HANSEN: I see my own photograph. I don't see</p> <p>17 anyone else now, but something is happening.</p> <p>18 HEARING OFFICER HANNAN: I see you, Ms. Hansen. I see</p> <p>19 Ms. Freeman as well. So are we good to go?</p> <p>20 MS. FREEMAN: Yes.</p> <p>21 HEARING OFFICER HANNAN: Now, if you called in, you're</p> <p>22 now on video. If you called in, you should turn off your</p> <p>23 phone, because that creates background noise. Okay. Are we</p> <p>24 okay on that?</p> <p>25 MS. FREEMAN: Yes.</p>	<p style="text-align: right;">12</p> <p>1 examine, ask questions of the witness.</p> <p>2 Okay. Generally we proceed with the applicant's case</p> <p>3 first. And then we have all the exhibits on the website. And</p> <p>4 I have them on my screen. So with that, Ms. Freeman, would</p> <p>5</p> <p>6 you like to proceed?</p> <p>7 MS. FREEMAN: Yes, Ma'am. [inaudible]</p> <p>8 HEARING OFFICER HANNAN: Oh, I'm sorry. Please raise</p> <p>9 your right hand.</p> <p>10 Do you solemnly affirm under penalties of perjury, that</p> <p>11 the statement you're about to make is the truth, the whole</p> <p>12 truth, and nothing but the truth?</p> <p>13 MS. FREEMAN: Yes, I do.</p> <p>14 HEARING OFFICER HANNAN: Okay. Please go ahead.</p> <p>15 MS. FREEMAN: Thank you for time this morning. The</p> <p>16 purpose of this hearing is to determine my application in</p> <p>17 the minor amendment for conditional use. Yes, this is a</p> <p>18 minor amendment.</p> <p>19 This has nothing to do with [inaudible] property</p> <p>20 [inaudible] conditional use, to which there were no</p> <p>21 objections. However, the only change is that the potential</p> <p>22 subdivision, there would be a small [inaudible] area</p> <p>23 available for the horses. I am in compliance --</p> <p>24 HEARING OFFICER HANNAN: Excuse me. There's so much</p> <p>25 background noise that I can't hear Ms. Freeman. Could your</p>

Transcript of Hearing
Conducted on June 22, 2020

4 (13 to 16)

13	1 phone be on? 2 MS. FREEMAN: No. My phone is not on. 3 MR. GRIGORIAN: Can everybody else mute or, Lane, can 4 you remotely mute everyone other than Ms. Freeman, as web 5 host? Because I agree; I can only hear every other word of 6 7 Jenny's testimony. 8 HEARING OFFICER HANNAN: Okay. I have muted everyone. 9 MS. FREEMAN: Shall I continue now? 10 HEARING OFFICER HANNAN: Yes. 11 MS. FREEMAN: Okay. I am in -- where I left off. I am 12 in compliance with all requirements of the conditional use. 13 For these reasons, along with the other reasons, stated in 14 the section for opinion decision, of the April 13, minor 15 amendment approval, that my application for minor amendments 16 was administratively approved in [inaudible]. 17 HEARING OFFICER HANNAN: Ms. Freeman, can you speak 18 more slowly, please? 19 MS. FREEMAN: Yes, I will. Sorry. I'll repeat that 20 part. For these reasons, along with the other reasons, 21 stated in section for opinion and decision of April 13 minor 22 amendment approval, at the time my application for the minor 23 amendment was administratively approved in April of this 24 year. 25 To reiterate, with this minor amendment, there is no	15	1 my pre-hearing statement, submitted on May 21, that I have 2 addressed all of the concerns raised, including obtaining a 3 modified nutrient management plan and a new conservation 4 pasture management plan. 5 It appears to me that the two neighbors in opposition 6 object to the conditional use more because of the 7 subdivision plans than anything having to do with my two 8 9 rescue horses, my small backyard flock of chickens, or my 10 daughter's pet bunny. 11 In fact, not only has nothing changed on the property, 12 but I have taken additional further steps to maintain my 13 very good management of the farm. Particularly, I have a 14 nutrient management plan since January which included both 15 lots. But now I have already received the addendum which 16 covers the four acre lot, the subject of the conditional 17 use. 18 Additionally, I was glad that the conservation plan was 19 completed in time before this hearing. Here I want to draw 20 attention to the high ratings in all categories of the 21 assessment, namely, the health of the pasture, the lack of 22 erosion, soil life quality, etc.; which all support the 23 conclusion that there is no negative impact as to how I am 24 managing this farm and that I can continue to support the 25 animals, the land, water, and trees with the great care that
14	1 change in the nature, character, or intensity of the 2 conditional use to an extent that the total adverse effect 3 on the surrounding neighborhood could reasonably be expected 4 when considered in combination with the underlying 5 conditional use. 6 During the last four years, since the approval of the 7 8 original conditional use, I have not had any complaints from 9 neighbors, including Dr. Hansen or Mr. Grigorian about the 10 conditional use; that is, until my plans for the 11 subdivision. 12 HEARING OFFICER HANNAN: That's what -- until your -- 13 just a second. 14 MS. FREEMAN: Until the -- 15 HEARING OFFICER HANNAN: Until your plans for what? 16 MS. FREEMAN: The subdivision. 17 HEARING OFFICER HANNAN: Okay. 18 MS. FREEMAN: At that time, the complaints started 19 coming in along the lines of me having an excessive animal 20 load on the property, manure spreading, forest destruction, 21 migratory bird habitat destruction, reining of the 22 Poolesville aquifer and various other issues that I couldn't 23 understand the relevance of for this minor amendment 24 request. 25 I believe that without having to repeat what I wrote in	16	1 I have since the day that I moved here. 2 As I stated before, I have no plans to notably change 3 the number of animals on the property, which has stayed 4 approximately the same for the past three years. Therefore, 5 the environmental health of the property is expected to stay 6 the same. 7 In other words, in terms of the amount of water the 8 animals drink and the amount of waste they produce, 9 10 everything is managed correctly. 11 Further, I fully agree with staff's finding of Ms. 12 Tesfaye in her May 15th email where she received and 13 reviewed the concerns of Mr. Grigorian and Dr. Hansen and 14 had given her opinion on them. I fully agree with her 15 findings. 16 Particularly, she noted that, quote, "the intended 17 subdivision of the property is a separate procedure that 18 requires a preliminary plan of subdivision, application 19 review process, with a final action and decision to be taken 20 by the Montgomery County planning board," end quote. 21 I also want to make a brief comment about the latest 22 statements from Dr. Hansen and Mr. Grigorian, about not 23 approving the amendment to the conditional use before the 24 subdivision is approved. To this I note a few points. 25 I first would like to note the procedural discrepancy

Transcript of Hearing
Conducted on June 22, 2020

5 (17 to 20)

<p>17</p> <p>1 that both Dr. Hansen and Mr. Grigorian pre-hearing 2 statements were not brought forward within the 10-day 3 deadline prior to the hearing. 4 Dr. Hansen's was submitted by 4:00 p.m. on June 18th 5 and Mr. Grigorian, a real estate lawyer, who should be 6 familiar with procedures and associated deadlines, was 7 submitted on Saturday at 2:00 p.m. 8 Dr. Hansen's submission gave me one day to seek legal 9 counsel and Mr. Grigorian zero days for seeking any legal 10 11 counsel I may have done. 12 I remind everyone present here, that I submitted my 13 pre-hearing statement 30 days prior to today, according to 14 OZAH rules. 15 Not only did the late submissions fail to meet rules, 16 but they are ethically unfair, as they bring up a brand new 17 issue of objections to my application and do not allow 18 myself or reviewing parties the time to reflect or seek 19 legal counsel. 20 Nevertheless, I would like to comment on the issue 21 raised in Dr. Hansen's and Mr. Grigorian's emails about the 22 sequencing of getting the conditional use amendment 23 approved, prior to the subdivision approval. 24 When I was at the preliminary development review 25 committee meeting for the subdivision, in January of this</p>	<p>19</p> <p>1 even derailing the subdivision process, a point I'm sure 2 that Mr. Grigorian and Dr. Hansen are well aware, and which 3 is the real motivation for their objection to the 4 conditional use amendment. 5 I was told by the development review committee that I 6 must first get the conditional use approval before the 7 subdivision can move forward. 8 Mr. Grigorian's additional email last night, at 9:30 9 p.m. appoints a significant error in his comments. He refers 10 to various changes to take place on the, quote, "subject 11 property," end quote. In fact, any development which may 12 13 happen some day in the future is in fact not on the, quote, 14 "subject property." 15 The subject property of today's hearing is solely the 16 four acre lot, as has been stated in the hearing examiner's 17 email on May 18th, points one through three, that, quote, 18 "the minor amendment would apply only to the four acre lot. 19 The new lot would have to come in for a separate conditional 20 use approval," end quote. 21 The hearing examiner reiterated this point again in her 22 May 20th email where she said, quote, "the amendment would 23 reduce the area of the original conditional use from 7.65 to 24 4 acres, because it will remove the existing conditional use 25 approval from lot two," end quote.</p>
<p>18</p> <p>1 year, the planning board required -- required me to get the 2 conditional use amendment completed before the subdivision 3 process could continue. 4 Therefore the sequencing issue that Mr. Grigorian and 5 Dr. Hansen raised at the eleventh hour, that I should first 6 have the subdivision completed, is in fact the exact 7 opposite of what I have been required to do. 8 The sequencing in this manner -- in this matter -- is 9 that I am required by the authorities, who will make a 10 decision in the subdivision request, to have first obtained 11 12 an amended conditional use before they will make a decision 13 on the subdivision. 14 So what Mr. Grigorian and Dr. Hansen are arguing is 15 against the explicit requirement by the authorities of the 16 subdivision process. I would also add that there was good 17 logic to the development review committee's request to have 18 the conditional use completed first, which I can elaborate 19 on if you wish. 20 Therefore, Mr. Grigorian and Dr. Hansen's points about 21 postponing this decision until after the subdivision puts me 22 in a catch-22. It has been required of me by the county to 23 complete this conditional use amendment first. 24 Postponing a decision regarding the conditional use 25 today could put my subdivision plans in jeopardy, possibly</p>	<p>20</p> <p>1 As stated previously, there will be no other changes to 2 lot one, the actual subject property of the conditional use. 3 All of Mr. Grigorian and Dr. Hansen's concerns about the 4 subdivision will have a chance to be heard at the 5 subdivision hearing in the future. This conditional use 6 amendment request is solely about the conditional use and 7 not the subdivision decision, which will be taken later. 8 All of us have put a tremendous amount of hard work and 9 heartache and money and time in preparing for today's 10 hearing. 11 I hope we can move forward and come to conclusion 12 today. I am happy to answer any questions. This is my 13 14 conclusion for my opening statement. Thank you. 15 HEARING OFFICER HANNAN: Thank you. Mr. Grigorian, do 16 you have any questions of Ms. Freeman? 17 MR. GRIGORIAN: Do you have any record -- written 18 record support of the assertion that the conditional use 19 permit was required by the subdivision authorities? 20 I was at that hearing and I know that they had passed 21 whether you had -- excuse me, the amendments of the 22 conditional use permit was required by the subdivision -- 23 I'm not sure, I guess -- OZAH. 24 I was at that meeting I think, if it's the one in their 25 offices a few months ago. I don't remember them requiring</p>

Transcript of Hearing
Conducted on June 22, 2020

6 (21 to 24)

<p>21</p> <p>1 you getting the amendment, but I do remember there was the 2 mention of, did you get an amendment -- you know, there is a 3 conditional use applicable. 4 And secondly, you know, I'd just like, for the record 5 to comment regarding her reference to subject property and 6 the definition of subject property in reference to lot one, 7 a four acre and lot two. 8 There is no lot one at this juncture, which is the 9 entire point of my testimony. There's no lot one. There's no 10 lot two. There's only one lot. It's seven and a quarter 11 acres. And when I testify I'll again make the point that the 12 hearing examiner's review of this is all in an abstract 13 hypothetical. 14 I'd also like to ask you to elaborate on the notion in 15 the context of the submitted plans that there's no changes 16 to the portion of the existing lot that the conditional use 17 would apply to if approved; that is, the four acres that you 18 propose to carve out. 19 The plan should show free and clear -- the plans show a 20 right-of-way being taken that intrudes right into -- I think 21 40 feet into your lot. The plans show a drainage culvert. 22 HEARING OFFICER HANNAN: Well, when you said -- sorry 23 to interrupt. 24 When you say your lot -- lot two or lot one, or the 25 whole thing?</p>	<p>23</p> <p>1 HEARING OFFICER HANNAN: You're going to get your 2 testimony. You clearly disagree and that's -- but you will 3 get a chance to testify. Do you have -- I heard the 4 question, do you have any documentation for the DRC 5 comments. 6 MR. GRIGORIAN: That's correct. 7 HEARING OFFICER HANNAN: Do you have any -- and she 8 answered that -- Ms. Freeman, do you have? 9 MS. FREEMAN: No. I do not have the minutes of the 10 meeting. I assume there are minutes of the meeting. I'm not 11 in possession of them. 12 I was at the meeting and yes, this is the same meeting 13 that Mr. Grigorian attended, as well. And at that meeting I 14 can say, under oath, that I was told, get the conditional 15 use first. But I don't have documentation about that. No, I 16 don't. 17 HEARING OFFICER HANNAN: Mr. Grigorian, do you have any 18 other questions of Ms. Freeman? 19 MR. GRIGORIAN: Looking at my notes. Nope. 20 HEARING OFFICER HANNAN: Okay. Thank you very much. Ms. 21 -- Dr. Hansen [inaudible] have any questions of Ms. Freeman? 22 MS. HANSEN: Yes, please. I do. 23 HEARING OFFICER HANNAN: Okay. Go ahead. This -- now 24 again, this is your time to ask questions. You will get your 25</p>
<p>22</p> <p>1 MR. GRIGORIAN: Well, there is no lot two or lot one. 2 Again, that is a hypothetical. But the whole thing. Again, I 3 don't think this hearing should proceed as if there is a 4 subdivision in place. That's the point. There is no 5 subdivision. 6 And I would again -- I assume I'll have a chance to 7 testify -- the idea that the -- the subdivision process 8 requires the conditional use be amended before the 9 subdivision process can go forward is -- I don't recall that 10 being a condition, number one. 11 Number two, if they did require it, that was a mistake 12 on their part and we should not proceed based on an error 13 that they made in requiring that, because that would be an 14 incorrect requirement. You can't get a conditional use on a 15 hypothetical lot as far as I'm concerned -- as far as I'm 16 aware. 17 Right now there's one lot. If that lot gets subdivided 18 then this application should be submitted. I don't think 19 that the subdivision process would basically put a 20 requirement in to protect the convenient use of a landowner 21 for their pleasure horses. That's not how it works. 22 HEARING OFFICER HANNAN: This is the time for you to 23 ask her questions. 24 MR. GRIGORIAN: Okay.</p>	<p>24</p> <p>1 own time to testify. 2 MS. HANSEN: Ms. Freeman, you noted that nothing had 3 changed and that there were no complaints by anyone in the 4 community with regard to your conditional use, until you 5 submitted your plan; is that correct? 6 MS. FREEMAN: Now I'm a bit nervous of the timing on 7 that. I mean, what I -- my intention to say is that over the 8 last years, until I began the subdivision process, that 9 there had been no complaints. 10 I'm not -- I'd have a hard time right now saying the 11 date that I submitted the plans and the date that the first 12 complaint started. I can't comment on that under oath. I can 13 say that nobody's complained until I began the subdivision 14 process. So let me say that, to be precise. 15 MS. HANSEN: You noted that you had received a modified 16 nutrient management plan. I have not seen that. That would 17 normally come to me because I am the repository for county 18 documents in the Sugarland Forest Area. Did you submit that 19 to -- for the record? 20 MS. FREEMAN: Yes. It's on the OZAH webpage for this 21 hearing. 22 MS. HANSEN: Okay. I haven't seen it. So perhaps the 23 webpage has not been updated. What was the date that you 24 submitted the modified nutrient management plan? 25</p>

Transcript of Hearing
Conducted on June 22, 2020

7 (25 to 28)

<p>25</p> <p>1 HEARING OFFICER HANNAN: It is on the webpage. I've 2 seen it. Let me get the exhibit number. If you have a 3 moment. I need to pull up the exhibit list quickly. Let me 4 see if I can share [inaudible] with it. What was it called 5 again? 6 MS. HANSEN: A modified nutrient management plan. 7 HEARING OFFICER HANNAN: Okay. It's Exhibit 53. And so 8 let's have that -- 9 MS. HANSEN: Maybe that needs to be refreshed because I 10 couldn't see it when I checked again this morning at 7:00 11 a.m. 12 HEARING OFFICER HANNAN: No, it's there. It's been 13 there. Okay. Are you able to see it on your screen? 14 MS. HANSEN: I would have to go to a different 15 computer. Oh, are you going to put it up in front of me? It 16 was not on my yellow page of all of the documents that had 17 18 been logged in earlier. 19 HEARING OFFICER HANNAN: Well, it is on the website. 20 MS. HANSEN: Well, as you probably know, Ms. Johnson 21 and I have found that there are some deficits associated 22 with what is on the website under the county council's 23 imprimatur and then your separate one, which not all of us 24 can log into. [inaudible] 25 HEARING OFFICER HANNAN: Okay. Well, it is there.</p>	<p>27</p> <p>1 one. I thought this was online, too. Can you see this? 2 HEARING OFFICER HANNAN: Right now I can see nothing 3 but brown circles. 4 MS. FREEMAN: Let me find -- 5 HEARING OFFICER HANNAN: It is -- this is what I have - 6 - are you seeing this -- addendum to nutrient management 7 plan? 8 MS. FREEMAN: Yes, that's it. That's it. 9 MS. HANSEN: I am now -- let me just have a quick scan 10 on that. 11 MS. FREEMAN: Yes. This is the correct one that we were 12 discussing. 13 MS. HANSEN: Thank you very much. I'll have to take a 14 look at that. I haven't been able to see that, because as I 15 said, it did not come up on the list of submitted documents 16 so I thought that was an omission. I think it's required 17 under number nine of her requests, when her original CU was 18 approved in 2016. 19 HEARING OFFICER HANNAN: Well, it is on the list of 20 submitted documents. It's 53a. 21 MS. HANSEN: 53a, thank you. Well, I appreciate that, 22 because it didn't appear on my obviously not updated list. I 23 will move on if I may, in questions. 24 HEARING OFFICER HANNAN: Sure. 25 MS. HANSEN: Ms. Freeman said that she had consistently</p>
<p>26</p> <p>1 MS. HANSEN: Oh, no, no. What you're looking at there 2 is her soil conservation eight-part submission. That's not 3 the nutrient management plan, specifically number 590. I've 4 never seen that. And I don't [inaudible] submitted 5 separately. 6 HEARING OFFICER HANNAN: Ms. -- stop talking. Ms. 7 Freeman, do you want to comment what we're looking at? We're 8 looking at exhibit -- 9 MS. FREEMAN: Yes. This, in fact you're right -- Dr. 10 Hansen is actually correct. This is the soil conservation 11 plan. The nutrient management plan, I submitted that -- 12 actually I remember, it was the same day I submitted my pre- 13 hearing statement, which would have been, I think -- what 14 did I say -- May 21st, I think or something. 15 HEARING OFFICER HANNAN: Am I correct in understanding, 16 Ms. Freeman, that has not come back? 17 MS. FREEMAN: I thought it was saved to. Let me just 18 19 look on this list -- 20 HEARING OFFICER HANNAN: It's about an inch thick. They 21 would be sending you a portfolio in a binder. It's about an 22 inch thick. 23 MS. FREEMAN: Oh, I have the physical one here. But I 24 am looking online, because I have the -- here is the -- I 25 don't know if you can see this, but here is the physical</p>	<p>28</p> <p>1 received high ratings in her soil conservation eight-part 2 plan; is that correct? 3 MS. FREEMAN: Yes. 4 MS. HANSEN: I did note in looking at each of those 5 eight submissions that you received ones, twos, and threes, 6 rather than consistently receiving fives. 7 MS. FREEMAN: Yes. I certainly would be happy to talk 8 about that. So -- I have one -- what you call it -- a give- 9 up lot, what you would call it, which is -- in fact, it's an 10 excellent point about my farm. 11 But both of my horses are called easy keepers which 12 means that I need to watch their weight. And so what I have 13 done is established a whole area which has minimal forage 14 where they can still walk around and exercise and have a 15 nice horse life, in order to maintain their healthy weight. 16 So that, if you look at the map in further detail, you 17 would see that the field that has the ones and twos is 18 exactly that give-up lot. 19 And I hope it stays at low forage, enough to prevent 20 erosion, any problems, but certainly low enough forage that 21 the horses cannot get overweight. So yes, you see that 22 correctly and I would like to maintain it at that level. 23 MS. HANSEN: Those are called -- in the department of 24 agriculture's terminology, sacrifice lots. 25 MS. FREEMAN: Okay.</p>

Transcript of Hearing
Conducted on June 22, 2020

8 (29 to 32)

<p>29</p> <p>1 MS. HANSEN: And they have to be deducted from your 2 total forage, total, in terms of acreage, because they're 3 not considered providing nutrition. 4 HEARING OFFICER HANNAN: Now are you asking a question 5 -- 6 MS. HANSEN: Yes, I'm asking a question because she's 7 asked -- she said that she consistently received high 8 ratings. High ratings would be fours or fives. But in those 9 eight documents submitted, she had ones, twos, and threes. 10 And that's why I asked the question, is this correct. 11 Because she said that she consistently received high 12 ratings. I noted a number of those commentaries by the soil 13 conservation service which referred to soil erosion -- 14 HEARING OFFICER HANNAN: Before you do that -- wait -- 15 Dr. Hansen, I think she's answered your question. The ones 16 and twos are correct. 17 MS. FREEMAN: Correct. I think I answered her question. 18 MS. HANSEN: And would you clarify that they only refer 19 20 to one location? 21 MS. FREEMAN: Yes. Those ones and twos were in the 22 sacrifice area. 23 MS. HANSEN: And only one sacrifice area? 24 MS. FREEMAN: I need to look at it right now. I -- 25 MS. HANSEN: Could we look at the map that shows the</p>	<p>31</p> <p>1 sorry, 4a and 4b, is what he calls them. 2 HEARING OFFICER HANNAN: Okay. Can you watch the screen 3 and when I get to it, tell me -- field information sheet? 4 MS. FREEMAN: Oh, you're in the nutrient management 5 plan. Actually we're now back to the first one that you had 6 up before, which was the conservation -- soil and 7 conservation plan. It's a different -- whole different 8 document. It's the one that you had originally, before. 9 HEARING OFFICER HANNAN: This one that I'm scrolling 10 now? 11 MS. FREEMAN: I don't see it -- okay. 12 MS. HANSEN: Actually, if I could clarify, what I'm 13 hoping that we will see is that in the eight documents that 14 were provided under the soil conservation service, where I 15 saw ones, twos, and threes, instead of what Ms. Freeman is 16 saying should be fives. 17 MS. FREEMAN: Yeah. So we're looking at -- you'll see a 18 chart maybe -- are you able to see -- 19 HEARING OFFICER HANNAN: You need to tell exhibit 20 21 numbers. So do you have the exhibit list in front of you? 22 MS. HANSEN: Oh, yes. 23 MS. FREEMAN: Let me. Hold on one second. Let me find - 24 - okay. One second. 25 HEARING OFFICER HANNAN: Or I can go through [these?].</p>
<p>30</p> <p>1 area immediately to the south of the house, as well as the 2 area immediately to the north of the house. I believe she 3 received the ones and twos and threes in several different 4 areas, not just one. 5 MS. FREEMAN: So the only place there was ones and twos 6 -- one second, finding this -- 7 MS. HANSEN: It's a chart. 8 MS. FREEMAN: Is in -- is in field number 3. And field 9 number 3 is the sacrifice lot. 10 MS. HANSEN: Excuse me. I'm just trying to make this go 11 up and down; it doesn't have reading -- 12 HEARING OFFICER HANNAN: Can you give -- just a second 13 Dr. Hansen. 14 Ms. Freeman, can you give a page reference on this 15 exhibit? And I will -- Dr. Hansen, you can't control the 16 exhibit. So if you can give me an idea of where the -- 17 you're referring to in this report, Ms. Freeman -- 18 MS. FREEMAN: Yes. 19 HEARING OFFICER HANNAN: I can get -- 20 MS. FREEMAN: So I think what Dr. Hansen is looking at 21 is the document called the Maryland pasture conditions score 22 sheet. 23 There is two of those. There is one that has fields 1, 24 2, and 3. And there's another, very similar -- it's like a 25 chart -- it's like a data chart. It has fields 4 and 5, or</p>	<p>32</p> <p>1 MS. FREEMAN: I don't -- it's just going to take -- I 2 don't know. 3 MS. HANSEN: Try pulling it up on my cell phone. 4 HEARING OFFICER HANNAN: Okay, here's -- let me just 5 say -- just a second. Let's just say here -- do you see the 6 exhibit list here? Now, 53a is the nutrient plan addendum. 7 59 is a number of documents from the soil conservation 8 district. 9 MS. FREEMAN: Yeah. That's it. 10 MS. HANSEN: Yes. 11 HEARING OFFICER HANNAN: So which document has this 12 part in it? 13 MS. FREEMAN: Well, are you able to see my screen and 14 you can see that it looks like this? Are you able to see 15 that? 16 HEARING OFFICER HANNAN: Maryland Pasture Condition 17 Score Worksheet. 18 MS. FREEMAN: Yeah. And it's like a chart. And there's 19 all this stuff on the chart. No, it's not that. Well, we'll 20 need that map. 21 So that map will be useful later -- that you just 22 showed. So that will be important in a minute. 23 MS. HANSEN: You're looking for a very dense map -- I 24 mean chart, two charts, and they have numeric numbers on the 25 right-hand side.</p>

Transcript of Hearing
Conducted on June 22, 2020

9 (33 to 36)

<p>33</p> <p>1 HEARING OFFICER HANNAN: Hold on. I'm now going old 2 fashioned and looking at the paper files. I see. 3 MS. HANSEN: I can't retrieve it from this computer and 4 this is the only computer that can talk to you folks, but I 5 have it on my own personal computer. 6 HEARING OFFICER HANNAN: Well, do you want to help us, 7 then? 8 MS. HANSEN: If you're willing to give me two or three 9 minutes, I'll run over to the same room, to the other 10 computer and pull it up. I couldn't get it on my phone. It 11 must be under old mail. 12 HEARING OFFICER HANNAN: Okay. 13 MS. HANSEN: Is it okay for me to leave for a second 14 and I'll run over and get the page numbers for you. 15 HEARING OFFICER HANNAN: Yes. 16 MR. GRIGORIAN: Before you -- I'm looking at 59g. Is 17 that the chart we should be looking at, 59g? Is it 59g? 18 Because that is Maryland Pasture Conditions Score Worksheet, 19 but it's only for pastures 4a and 4b. 20 MS. HANSEN: There will be at least two charts that 21 22 refer to numbers below four and five. 23 MS. FREEMAN: Okay. 24 MR. GRIGORIAN: I don't -- I don't know if this is the 25 correct chart.</p>	<p>35</p> <p>1 MS. HANSEN: Okay. May I make an add-on there to my 2 question? 3 My question was, where do you see numbers below four 4 or five? And I asked that question because they do not refer 5 only to her sacrifice lots. 6 They refer to the very small square footage of 2.3 7 acres, which, if you follow the consistent position of the 8 department of agriculture, it -- on the Piedmont in 9 Montgomery County, they have always recommended two full 10 acres per horse, with full feed in the morning and night, as 11 well. 12 And that's why I wanted to ask what the status was of 13 the pastures that she has, which in aggregate are only 2.3 14 acres, but when you subtract the areas that are ones, twos, 15 and threes, you really, in terms of effective land, are way 16 below the stocking requirements -- required and asked for by 17 the department of agriculture. 18 MS. FREEMAN: Is that a question for me? I didn't -- 19 MS. HANSEN: That is a question. I was asking -- and 20 you answered it by saying that it was only a sacrifice 21 paddock and I totally agree with you, because I only have 22 ponies myself that are easy keepers. Their sacrifice lots 23 24 are bluestone. We don't count them as pasture. We cannot 25 count them as pasture.</p>
<p>34</p> <p>1 [talking over each other] 2 HEARING OFFICER HANNAN: Mr. Grigorian, thank you. I 3 think you have -- could everyone look at the screen and see 4 if this is what you are looking for. 5 MS. FREEMAN: Yeah. This is one of them. And there's 6 one that looks exactly like this, except instead where it 7 says 4a and 4b, it says 1, 2, 3. But this -- 8 MR. GRIGORIAN: Is that an independent exhibit or is it 9 in one of the exhibits -- a page number in one of the 10 exhibits? 11 MS. FREEMAN: I -- to be honest, I don't know how it 12 got organized here. I don't know. 13 MR. GRIGORIAN: And well -- the sacrifice part -- 14 MS. HANSEN: [inaudible] 15 MR. GRIGORIAN: The sacrifice lot is field 3? 16 MS. FREEMAN: Yes. 17 HEARING OFFICER HANNAN: [inaudible] let's do this. 18 Let's continue with your testimony. And then we will -- I'd 19 like to kind of get to Ms. -- Dr. Hansen's questions. 20 So let's go for the questions at the moment. She 21 already said that she has these pastures -- or Ms. Freeman 22 23 has said that the pastures 1, 2, 3 are a sacrifice lot. 24 MS. FREEMAN: Just 3. Sorry, just 3. Just pasture 3 is 25 the sacrifice. Yeah.</p>	<p>36</p> <p>1 So your sacrifice lots have to be deducted from your 2 total pasture, if you meet the department of agriculture 3 requirements, which they have always used going back to 4 1992 in all of their hearings that I have attended, they've 5 always said, on the Piedmont, because of our clay, you need 6 a stocking rate of one equine, with breakfast and supper 7 provided, on pasture, two acres. 8 Now, unfortunately, others lobbied to cut that down and 9 hence the discussion of allowing seven animals on that 10 amount of acreage. 11 But what I'm trying to get at is that you've made a 12 statement that you uniformly have high ratings, but in 13 reality you have ones, twos, and threes, on all of the 14 scorecards done by Mr. Travis Gorleski. 15 HEARING OFFICER HANNAN: Okay. She's answered your 16 questions. 17 MS. HANSEN: Only with regard to her sacrifice areas. 18 She didn't answer it with regard to both charts for the 19 other pasture. 20 MS. FREEMAN: I think the other pastures are in good 21 quality. I think the numbers on all the other pastures, 22 except for field 3. 23 MS. HANSEN: I can't see that second page. What page is 24 25 that? I'm only looking at right now, half of one sheet for</p>

Transcript of Hearing
Conducted on June 22, 2020

10 (37 to 40)

37	<p>1 pastures 4a and 4b. I can't even see the bottom half of</p> <p>2 that.</p> <p>3 MS. FREEMAN: I don't know. I can't help you with the</p> <p>4 technical difficulties.</p> <p>5 MS. HANSEN: What page are we looking at now?</p> <p>6 HEARING OFFICER HANNAN: This is page -- do you have a</p> <p>7 page number in the documents that we're looking at?</p> <p>8 MS. HANSEN: Can we go back to the chart, please?</p> <p>9 HEARING OFFICER HANNAN: This is the chart, right here.</p> <p>10 MS. HANSEN: Okay. What -- we're looking at 4 and 5?</p> <p>11 MS. FREEMAN: 4a and 4b.</p> <p>12 HEARING OFFICER HANNAN: Four 4a and 4b, as I read the</p> <p>13 chart.</p> <p>14 MS. HANSEN: Yes, but we have a second -- that doesn't</p> <p>15 encompass all of her fields. She has a 1 and a 2 and a 3.</p> <p>16 And Ms. Freeman, do you have a 5, as well?</p> <p>17 MS. FREEMAN: No.</p> <p>18 MS. HANSEN: So you have a 1, 2, and 3. And a 4a, and</p> <p>19 4b?</p> <p>20 MS. FREEMAN: Correct.</p> <p>21 MS. HANSEN: There should be another chart that we need</p> <p>22 to look at.</p> <p>23 MS. FREEMAN: Yes, it should be there. I don't -- I</p> <p>24 mean, I have a hard copy in front of me. I'm sorry I can't</p> <p>25</p>	39	<p>1</p> <p>2 Examiner Hannan, you know, it's up to you to ask the</p> <p>3 questions here, but is there a way to share that exhibit so</p> <p>4 that Dr. Hansen can cross-examine based on the --</p> <p>5 HEARING OFFICER HANNAN: [inaudible] -- let's do this.</p> <p>6 MR. GRIGORIAN: -- based on the other condition score</p> <p>7 worksheet?</p> <p>8 HEARING OFFICER HANNAN: Yeah, let me do the -- let me</p> <p>9 -- let's go off the record. So stay in the meeting, but</p> <p>10 let's go off the record for a minute and give me an</p> <p>11 opportunity to find -- [inaudible] and then -- so we can go</p> <p>12 off for ten minutes and give me the opportunity to find the</p> <p>13 exhibit.</p> <p>14 MS. HANSEN: Thank you.</p> <p>15 MS. FREEMAN: Okay.</p> <p>16 (Off the record at 10:32:06 a.m.)</p> <p>17 (Back on the record at 10:44:04 a.m.)</p> <p>18 HEARING OFFICER HANNAN: So for a moment, we're back on</p> <p>19 the record. I was unable to find it in the one on pastures</p> <p>20 1, 2, 3, on the exhibit that was forwarded on June 18th. Did</p> <p>21 you find -- Nana said -- Ms. Johnson said that you may have</p> <p>22 found where it was?</p> <p>23 MS. HANSEN: What I found was that, even though this</p> <p>24 map entitled -- let me give you a title of the map -- the</p> <p>25 overhead shot. Soil conservation soils map. In reality, if</p>
38	<p>1 help with where it is there. I don't know how that is.</p> <p>2 MS. HANSEN: Well, Ms. Freeman --</p> <p>3 MR. GRIGORIAN: Let me just interject here. On the --</p> <p>4 on the list of exhibits, on the web, okay, not through this</p> <p>5 call, when you click on exhibit 59, which is email from</p> <p>6 Jennifer Freeman, with attachments, I think that's where the</p> <p>7 full plan is. And that's where this conditional pasture</p> <p>8 conditions score worksheet is to cover the other lots, not</p> <p>9 4a and 4b.</p> <p>10 I don't know that you can click through that email to</p> <p>11 get to those attachments. And I don't think that the county</p> <p>12 posted the entire plan. I think that the subsequent exhibits</p> <p>13 are actually only select exhibits from the plan, 59a, 59b.</p> <p>14 Is there a link to the entire plan -- the big inch-thick</p> <p>15 thing that Jenny held up?</p> <p>16 MS. HANSEN: Yes, I just found it now. It's June 17th</p> <p>17 in her email. There are eight separate documents that were</p> <p>18 forwarded to you, to me, and to the county, but not all of</p> <p>19 them are up on the website.</p> <p>20 And not the second one -- the first two that I'd like</p> <p>21 to see, where I noted ones, and twos, and threes, that</p> <p>22 didn't get put up on the website.</p> <p>23 HEARING OFFICER HANNAN: Okay.</p> <p>24 MR. GRIGORIAN: So in any event I think the question is</p> <p>25 -- well, not to interrupt, I don't want to -- Hearing</p>	40	<p>1 you look at it, you'll see that there are really only 2.5</p> <p>2</p> <p>3 pastures.</p> <p>4 There is 21b and there is 21b, now called field 4a and</p> <p>5 field 4b and I want to clarify with Ms. Freeman, that</p> <p>6 instead of the summary document which says she has 8.3 acres</p> <p>7 of pasture, in reality, everything is covered by trees, with</p> <p>8 the exception of two -- 4a and 4b and that only gives point</p> <p>9 .78 acres.</p> <p>10 You notice. Look at the map with all of the tree</p> <p>11 coverage. Yes, but you'll notice that the tree coverage</p> <p>12 which is currently existing, doesn't leave anything open for</p> <p>13 grabs. You notice that?</p> <p>14 It either means that these are going to be removed --</p> <p>15 you're looking at something that I don't have. I have a real</p> <p>16 overhead photograph, which is page one.</p> <p>17 HEARING OFFICER HANNAN: Of what?</p> <p>18 MS. HANSEN: The title of the document is, Soil</p> <p>19 Conservation Soils Map. It's dated 6/16/20.</p> <p>20 HEARING OFFICER HANNAN: Okay. I've got that on the</p> <p>21 screen.</p> <p>22 MS. HANSEN: Oh, good. Exactly. So the green is the</p> <p>23 only thing that is a pasture. So field 4a, and field 4b,</p> <p>24 when you add those two together, you get .78 acres. Not even</p> <p>the general -- [inaudible]</p> <p>HEARING OFFICER HANNAN: [inaudible] your question.</p> <p>25 MS. HANSEN: So my question is -- I'm still trying to</p>

Transcript of Hearing
Conducted on June 22, 2020

11 (41 to 44)

<p>41</p> <p>1 2 find the charts that match up with fields 1, 2, and 3, which 3 aren't technically pastures, but they're counted as pasture. 4 Where is that chart? 5 HEARING OFFICER HANNAN: I don't see a field 6 [inaudible]. 7 MS. FREEMAN: I emailed it to everybody so even if it's 8 not on the uploaded, maybe people could check in their 9 emails if they had it. Or I'm happy to re-email that email 10 right now. 11 MS. HANSEN: That's what I'm doing right now and it 12 doesn't come up at all. The chart for that doesn't come up 13 for fields 1, 2, and 3. 14 MS. FREEMAN: Oh. 15 MS. HANSEN: And that's where I first saw the numbers 16 one, two, and three, are very low scores. That's where I saw 17 the low scores. Although there are three threes on 2a and 18 2b, as well. 19 MS. FREEMAN: So I'm sorry, Dr. Hansen. Are you saying 20 that you do [inaudible] even if it was from my email? I 21 understand it may not have been uploaded. But does everybody 22 have access to the field 1, 2, and 3, through their e-mail 23 that I sent? 24 MS. HANSEN: I do not, unfortunately. 25 MR. GRIGORIAN: [inaudible] if you look at the June</p>	<p>43</p> <p>1 perjury that the statements you're about to make are the 2 truth, the whole truth, and nothing but the truth? 3 4 MS. HANSEN: I do. 5 MR. GRIGORIAN: I do, too. 6 HEARING OFFICER HANNAN: Thank you. Okay. Now, we're 7 going to the April 8th email. Where do you see -- that's -- 8 I mean, not April 8th, June 18th, which is what I was just 9 looking at -- where do you see the [inaudible] -- 10 MS. HANSEN: Would you repeat that, please, Ms. Hannan? 11 MR. GRIGORIAN: The attachment I'm looking at -- this 12 is Greg Grigorian and one of his dogs. The attachment I'm 13 looking at -- sorry, I've got so many windows open here -- 14 the attachment I am looking at is entitled Maryland Pasture 15 Conditions Score Worksheet. 16 It's dated June 17th. The attachment is dated June 17 17th. It was prepared by evaluator Travis Gorleski, excuse 18 me. And it covers pastures numbered one, two, and three. 19 It's unclear which map those pasture number references 20 correlate to -- from just this attachment. 21 I assume it's field, pasture 1, .43 acres on the map 22 that you have up on your screen. Field pasture 2, .9 acres, 23 on the map you have up on your screen, Hearing Examiner 24 Hannan. Field pasture three, .17 acres, also titled 21b on 25 the shared screen. Actually --</p>
<p>42</p> <p>1 th email, or is it May 18th, let me see here. Yeah. June 2 3 18th email from Jenny, there's one attachment. And that has 4 -- 5 MS. HANSEN: I'm looking for the one for fields 1, 2, 6 and 3. I don't see it. 7 MR. GRIGORIAN: Yeah. That attachment has exactly what 8 you're looking for. 9 MS. HANSEN: Well, can you tell me what the reference 10 is to the ones, the twos, and the threes are then? 11 MR. GRIGORIAN: Yes. I've got to bring that back up on 12 my screen. I have so many things up on my screen now. It's 13 kind of hard to keep straight. Hang on, let me find it. 14 [talking over each other] 15 MS. FREEMAN: [inaudible]. 16 MR. GRIGORIAN: Hang on. 17 HEARING OFFICER HANNAN: Stop talking. The court 18 recorder is not going to get this. 19 MR. GRIGORIAN: So -- 20 HEARING OFFICER HANNAN: Does -- this is frustration. 21 Go ahead -- I just want to know -- we can forward this. Ms. 22 Freeman, neither Dr. Hansen, or Mr. Grigorian are under oath 23 right now. So what I'm going to do -- would you both please 24 raise your right hand, Dr. Hansen and Mr. Grigorian. 25 Okay. Do you solemnly affirm under penalties of</p>	<p>44</p> <p>1 MS. HANSEN: Greg, 21b is field 4a and field 4b. 2 MR. GRIGORIAN: Well, I think 21b covers the entire. 3 I'm not sure what the 21b designation is, but that -- 4 5 MS. FREEMAN: I think the 21 -- it's about the type of 6 soil, like if it's clay or sandy loam, you know, that kind 7 of thing. 8 MR. GRIGORIAN: Correct. So in terms of the scores that 9 are indicated on the Maryland Pasture Conditions Score 10 Worksheet that I'm seeing on my screen, that was attached to 11 Jenny's June 18th email [inaudible]. 12 HEARING OFFICER HANNAN: No. We listed this earlier. 13 Just a -- 14 MR. GRIGORIAN: That's not the one. That's for pastures 15 4a and 4b. There was another one that was circulated around 16 June 18. 17 MS. HANSEN: Yes, Greg, if you could let Ms. Hannan see 18 that one, because I can't pull it up. That's the only one 19 that won't come up of the eight that she submitted. I saw it 20 first on my cell phone and I tried to retrieve it and I 21 accidentally deleted them all. 22 And I can't see it on my computer, either. I can see 23 seven out of the eight attachments, but I can't see that 24 second one, where there are ones, twos, and threes. 25 MR. GRIGORIAN: I'm not exactly sure how to share a</p>

Transcript of Hearing
Conducted on June 22, 2020

12 (45 to 48)

<p style="text-align: right;">45</p> <p>1 screen here.</p> <p>2 HEARING OFFICER HANNAN: You can't. You can e-mail it.</p> <p>3 MR. GRIGORIAN: I'll email it to you right now, Ms.</p> <p>4 Hannan. Hang on. I'm just going to email it --</p> <p>5</p> <p>6 MS. HANSEN: Can you email it to all of us?</p> <p>7 MR. GRIGORIAN: I can do that too. I'm going to just --</p> <p>8 MS. FREEMAN: Yeah, I was trying to find it in my list,</p> <p>9 too, but Mr. Greg, if you have that, that's great.</p> <p>10 [inaudible] where I have it. [inaudible]</p> <p>11 HEARING OFFICER HANNAN: Okay. I'm just -- I'm just</p> <p>12 looking at the email. Can you see it on my [inaudible]?</p> <p>13 [talking over each other]</p> <p>14 HEARING OFFICER HANNAN: Can you see it on my screen</p> <p>15 now?</p> <p>16 MS. FREEMAN: Mm-hmm.</p> <p>17 MR. GRIGORIAN: I can see the email on your screen.</p> <p>18 HEARING OFFICER HANNAN: Which is it?</p> <p>19 MR. GRIGORIAN: Well, there was another email from</p> <p>20 Jenny, not this one. There was another email from Jenny,</p> <p>21 with only one attachment. Hang on, now I can't --</p> <p>22 MS. FREEMAN: That one -- the one that she just had up</p> <p>23 on the screen. That one should have included what we're</p> <p>24 looking for. I need to find -- I'll try to find it in my</p> <p>25 files, too.</p>	<p style="text-align: right;">47</p> <p>1 the copy that was sent to us. Mr. Grigorian, did you say</p> <p>2 this was sent to us?</p> <p>3 MR. GRIGORIAN: That was sent to you in the June 18th</p> <p>4 email to Nana, to you, to Elsabet, and Carol Rae and</p> <p>5 myself.</p> <p>6 HEARING OFFICER HANNAN: I'm going to add this as 59h,</p> <p>7</p> <p>8 because I don't see it in 59.</p> <p>9 MR. GRIGORIAN: Okay.</p> <p>10 MS. JOHNSON: This is Nana Johnson. Real quick. I'm</p> <p>11 sorry about that. But yeah, it wasn't in the attachments for</p> <p>12 some reason. So I'm about to put it up right now. Okay.</p> <p>13 Thank you.</p> <p>14 MR. GRIGORIAN: Okay.</p> <p>15 HEARING OFFICER HANNAN: Okay. Go ahead Mr. -- now,</p> <p>16 where are we? [inaudible]</p> <p>17 MS. HANSEN: We were discussing the -- Ms. Freeman had</p> <p>18 indicated, for the record, that she had consistently gotten</p> <p>19 high ratings on the conservation plan and I asked to look at</p> <p>20 both of the scores, because I noted, instead of fours and</p> <p>21 fives uniformly, I saw a lot of ones, twos, and threes.</p> <p>22 And I also noted that instead of the 2.3 acres that</p> <p>23 were referred to in the plan, in reality, she was really</p> <p>24 down to .78 acres, because there's total tree canopy over</p> <p>25 everything else, with the exception of a very small part of</p>
<p style="text-align: right;">46</p> <p>1 MR. GRIGORIAN: So I'm e-mailing this to Hannan,</p> <p>2 Hansen, Freeman, Tasfaye --</p> <p>3 HEARING OFFICER HANNAN: Not Tasfaye, just if you could</p> <p>4 email it to Ms. Johnson. Nana Johnson.</p> <p>5 MR. GRIGORIAN: Nana, okay. There we go. Okay. I'm</p> <p>6</p> <p>7 emailing this to everybody right now. Okay. It's a short</p> <p>8 attachment, not a big attachment.</p> <p>9 It should come through. It's the first attachment in</p> <p>10 the gen- -- I'm sorry, I -- I didn't realize that the e-mail</p> <p>11 had so many attachments. I was looking at it on a compressed</p> <p>12 screen. But it's the first attachment, Conservation Plan 28,</p> <p>13 in the email that you were showing us on your screen, Ms.</p> <p>14 Hannan.</p> <p>15 HEARING OFFICER HANNAN: There it is.</p> <p>16 MS. HANSEN: It hasn't come in to me, yet.</p> <p>17 MR. GRIGORIAN: It about to be shared on the screen by</p> <p>18 -- by Examiner Hannan. But so -- okay -- this will allow us</p> <p>19 to get back on track. [inaudible]</p> <p>20 MS. HANSEN: Good to know. Ah, that's what I was</p> <p>21 looking for. Yes, yes, yes, yes, yes. So I noted -- I was</p> <p>22 asking Ms. Freeman --</p> <p>23 HEARING OFFICER HANNAN: Probably before we go forward,</p> <p>24 I have to a procedural thing. I am going to add this as an</p> <p>25 exhibit, just in case we don't have a copy -- we can't find</p>	<p style="text-align: right;">48</p> <p>1 the .43 paddock.</p> <p>2 So therefore, at the max, she could have 1.21 acres,</p> <p>3 or more likely, because of the tree canopy, she only has</p> <p>4 .78. And I wanted her to explain if that was directly</p> <p>5 related to the numbers one, two, and three on the document</p> <p>6 we currently have up. Because that's not enough to keep two</p> <p>7 horses.</p> <p>8 MS. FREEMAN: Okay. So if I understood your question</p> <p>9 correctly I --</p> <p>10 HEARING OFFICER HANNAN: Just a second. You've got a</p> <p>11 chance to respond. Ms. -- Dr. Hansen, do you have any other</p> <p>12 questions?</p> <p>13 MS. HANSEN: Yes, Ma'am. Would you like me to run</p> <p>14 through those, too? Or get the response here, first?</p> <p>15 HEARING OFFICER HANNAN: No. You have to run through</p> <p>16 them all. That's how the procedure works.</p> <p>17 MS. HANSEN: I'm sorry. I didn't hear you; would you</p> <p>18 rephrase that last comment?</p> <p>19 HEARING OFFICER HANNAN: Yes.</p> <p>20 MS. HANSEN: You have to what?</p> <p>21 HEARING OFFICER HANNAN: You have to run through</p> <p>22 [inaudible].</p> <p>23 MS. HANSEN: Okay.</p> <p>24 HEARING OFFICER HANNAN: And then Ms. Freeman will get</p> <p>25 a chance to respond.</p>

Transcript of Hearing
Conducted on June 22, 2020

13 (49 to 52)

<p style="text-align: right;">49</p> <p>1 MS. HANSEN: Okay. Is Ms. Freeman's -- next -- next 2 question that I need to ask about. She asserted that there 3 was a procedural discrepancy and that I had only submitted 4 on June 18th additional testimony. 5 And I'm going to ask her if she was aware that Ms. 6 Johnson sent out an e-mail asking if there was additional 7 testimony. When I wrote back to her saying, can we do a 8 9 test? And she said, no, we won't do a test, but you can 10 submit additional testimony by the 18th at 4:00 p.m. Did you 11 know that Jenny? 12 HEARING OFFICER HANNAN: Okay. No. 13 MS. HANSEN: Ms. Freeman said that it was ethically 14 unfair for me to have submitted testimony by 4:00 p.m. on 15 Thursday the 18th and that she did not have enough time to 16 evaluate it. 17 And I'm asking if she was aware Ms. Johnson gave us 18 that deadline for submitting additional testimony. 19 HEARING OFFICER HANNAN: Oh, so you can answer that 20 question. 21 MS. FREEMAN: Oh. Well, for that -- yes, I was aware of 22 Ms. Johnson's email. And I had also reviewed the OZAH 23 requirements that I understood them. And I may not have 24 understood correctly so I will happily stand corrected, but 25 I understood -- what I read that any pre-hearing testimony</p>	<p style="text-align: right;">51</p> <p>1 MS. FREEMAN: I'm a little unclear -- I'm having a hard 2 time hearing. The connection wasn't so clear. But I think -- 3 what I understood is that the record was left open? And so 4 that would -- 5 HEARING OFFICER HANNAN: No, no. If you feel that the 6 testimony brought a moot point so late in the process, you 7 have the ability to request the record be kept open for you 8 to respond to their [inaudible]. 9 MS. FREEMAN: Oh, okay. Do I have to decide that right 10 11 now? 12 HEARING OFFICER HANNAN: No. 13 DR. HANSEN: Oh, okay. 14 HEARING OFFICER HANNAN: But I really don't want to get 15 into retractions with somebody who's not an attorney. No. Do 16 you have any other questions, Doc? 17 DR. HANSEN: Yes. And may I ask for a point of 18 clarification if the record is going to state that Ms. 19 Freeman finds this process ethically unfair because Ms. 20 Johnson gave us an opportunity, Thursday, the 18th at 4:00 21 p.m. to submit additional testimony, I would like it to be 22 recorded by the court reporter that I find that disingenuous 23 at the least or challenging at the most. 24 HEARING OFFICER HANNAN: Okay. Okay. If you please stop 25 -- stop -- then we'll both -- we will just proceed without</p>
<p style="text-align: right;">50</p> <p>1 from the opposition should be done 10 days prior. So that 2 was what that came from. 3 MS. HANSEN: So then, Ms. Freeman, are you retracting 4 your comments that this was ethically unfair and it didn't 5 give you enough time to evaluate it, when it was submitted 6 by the deadline provided by the hearing examiner's 7 [inaudible]? 8 HEARING OFFICER HANNAN: Well, just a minute. 9 10 [inaudible] I can leave the record open since they have met 11 the deadline required to do a pre-hearing -- [inaudible] 12 have more time to evaluate. That's what we typically do with 13 these cases. I just want to make that clear -- all right? 14 MS. FREEMAN: Okay. 15 MS. HANSEN: I think we have some folks who haven't 16 muted and there's some background distortion can you do what 17 you need to do so we don't have that distortion? Because I 18 didn't hear what you said. I'm sorry. 19 MR. GRIGORIAN: Yeah, same. Examiner Hannan, I think 20 you said you can leave the record open, something? 21 HEARING OFFICER HANNAN: Yes [inaudible] testimony, she 22 can request that I leave the record open. 23 MS. HANSEN: Who are you referring to, please, when we 24 referred to she? 25 HEARING OFFICER HANNAN: Ms. Freeman.</p>	<p style="text-align: right;">52</p> <p>1 your testimony -- can't obey the rules. The rules are, and I 2 told you this three -- you're asking questions. You don't 3 cast aspersion. 4 Two major points that you were invited by Ms. Johnson 5 to give testimony. You've made your point that you find the 6 unethical state by Ms. Freeman going too far, but I'm not 7 going to have name-calling in this hearing. 8 DR. HANSEN: Thank you for the clarification. 9 HEARING OFFICER HANNAN: Don't -- don't -- don't 10 answer. You don't have to answer. You have anything more 11 12 questions about this? 13 DR. HANSEN: Yes. Yes. Ms. Freeman noticed and I'm 14 asking her a question about one of her statements at the end 15 of her presentation, where she said that she did not see 16 earlier testimony by me regarding the 5/20 defendant and the 17 four-acre. 18 And I would like to ask if she saw my January 13th 19 document to the Maryland National Capital Park and Planning 20 Commission which refers in part to this issue here directly. 21 And also, did she see what I submitted on May 13th? 22 MS. FREEMAN: I think I -- 23 HEARING OFFICER HANNAN: Well, -- 24 MS. FREEMAN: Read all of your emails, I believe. Is 25 that the question? Read your email?</p>

Transcript of Hearing
Conducted on June 22, 2020

14 (53 to 56)

<p>53</p> <p>1 DR. HANSEN: Do you have exhibit -- no, formal 2 testimony. Formal testimony on January 13th and -- a 5/15 at 3 5:12 p.m. 4 MS. FREEMAN: I -- I think I read all of your emails. 5 Yes. I -- I believe I have. I don't have that in front of 6 me, but I think I printed and read everything. 7 DR. HANSEN: Well, excellent. Thank you very much. It - 8 - it didn't sound as if you had seen either of them. 9 HEARING OFFICER HANNAN: Miss -- Dr. Hansen, you don't 10 get to make statements like that. Now, this is a respectful 11 hearing and that's how we're going to keep it. Okay. Any 12 13 other questions? 14 DR. HANSEN: No further questions from me. 15 HEARING OFFICER HANNAN: Okay. I believe Mr. Grigorian 16 -- his time to ask questions. Ms. Freeman, this is your time 17 to respond to what's been said. So the questions you were -- 18 have any rebuttals for the counsel? 19 MS. FREEMAN: So this is my time to answer the question 20 -- 21 HEARING OFFICER HANNAN: Nope. This is any other 22 testimony that you would like to submit in response to their 23 -- their questions. 24 MS. FREEMAN: Oh, okay. I think I understand that. The 25 only additional testimony I would point out is that there</p>	<p>55</p> <p>1 and show you that beautiful pasture. It's beautiful. 2 So that would be my only additional remark is that 3 there's absolutely plenty of pasture for the horses. And 4 that was also substantiated by the email from my vet which I 5 think people may have seen too with show that I have great 6 pasture for the animals. 7 It's substantiated by the high scores on pastures 1, 8 2, 4a and 4b and I have absolutely plenty of -- oh, yeah. 9 That shows more open space. That's better. 10 HEARING OFFICER HANNAN: Now, what I'm looking at is 11 Exhibit 24, the original staff report. 12 MS. FREEMAN: Yeah. That's a good -- thank you. That's 13 good. Because that shows that those -- that there are 14 15 instances -- 16 HEARING OFFICER HANNAN: And I have the aerial 17 photograph. 18 MS. FREEMAN: Right. And since it's in the winter, you 19 can see clearly that that whole back field, that whole big 20 area, plus the small field in the front is not trees. 21 Period. It's just not. 22 HEARING OFFICER HANNAN: Okay. 23 MS. FREEMAN: Thank you. 24 HEARING OFFICER HANNAN: Anything else? Anything else? 25 MS. FREEMAN: No. I think that's good for now. Thank</p>
<p>54</p> <p>1 were a number of -- I guess maybe misunderstandings is maybe 2 the word about the -- the acreage of the field pasture 3 that's available for the horses. 4 I can understand how on the maps on one of the maps, 5 the one it's like the shows four, I can understand how she 6 viewed a decent amount of that to have four pastures. In 7 fact, that simply is not representative of reality because 8 it has to do with how the, you know, the shadows are. And 9 how this photograph was taken. 10 Again, under oath, that field to is hmm -- I'd say it's 11 70, 80 percent, 75, 80 percent pure open sunlight based lush 12 pasture, which is represented in that -- the -- the ratings 13 14 for that field. So there's four and five and maybe a couple 15 threes. 16 There is a small area in the back corner that has some 17 trees, but there's still grass, even including orchard 18 grass, which doesn't usually grow that well in a shaded 19 area, but it sure is growing there. So there is absolute 20 pasture. 21 All of the field too is excellent pasture, even though 22 I can see how that error was made, because my looking at 23 that picture and it's up on your screen right now, it does 24 look like there's a lot of trees and not much pasture, but 25 that's actually -- I mean, I could walk outside right now</p>	<p>56</p> <p>1 you. 2 HEARING OFFICER HANNAN: Okay. Now, Mr. Grigorian, it's 3 your turn; Dr. Hansen's turn to testify. Do you have 4 preferences to who would like to go first? 5 MR. GRIGORIAN: Well, I'm glad to -- I'm glad to go 6 ahead here. 7 HEARING OFFICER HANNAN: I think you're in alphabetical 8 order, so I'll do it that way. 9 Um, you've already been sworn; what would you like to 10 say? 11 MR. GRIGORIAN: My testimony is going to be limited to, 12 again, the rightness of this application, given the fact 13 that the subdivision application is pending and that the 14 hearing examiner is on notice of that application. 15 16 A perfect example of why this -- the determination of 17 whether this is a minor or major investment can't be made at 18 this time is -- is shown by -- you just brought up a map, 19 showing a big pasture, lovely looking pasture. 20 However that pasture -- it will be cut in half or not 21 quite in half -- it will be reduced substantially by the 22 subdivision as is shown by the aerial photograph that was 23 part of the conservation plan soil map that shows, again, 24 the kind hypothetical split of the -- of the subject 25 property into two different lots.</p>

Transcript of Hearing
Conducted on June 22, 2020

15 (57 to 60)

<p style="text-align: right;">57</p> <p>1 So it's really, you know, there's -- there's many 2 moving parts with respect to that subdivision, and yes; 3 okay? We do object to certain elements of the subdivision. I 4 personally am objecting to the forest bearing designation. 5 And I know that's not the subject of this hearing, however, 6 my testimony -- 7 HEARING OFFICER HANNAN: Your test- -- just hold on one 8 second. You're objecting -- you're objecting to the forest 9 what? 10 MR. GRIGORIAN: The -- the -- as I -- I think it's one 11 of the exhibits, it is one of the exhibits -- exhibit -- 12 okay, let me go to my exhibit list. Hold on. It's exhibit 13 3E, the forest conservation plan, which is part of the 14 subdivision submissions. 15 Again, a separate hearing, but still evident here 16 17 that, you know, that plan has shown the number of changes 18 that are still in, you know, subject to subject to approval, 19 subject to comments, subject to -- to other public hearing, 20 and therefore subject to potential change by the county, by 21 the petitioner, by various other state and -- and county 22 agencies that will have an impact upon whether or not this 23 amendment affects the surrounding neighborhood. 24 HEARING OFFICER HANNAN: Well, let me ask you something 25 because I -- my -- the subdivision lives in the [inaudible]</p>	<p style="text-align: right;">59</p> <p>1 can't hear, I just can't hear anything. 2 HEARING OFFICER HANNAN: No. I'm -- I -- can you hear 3 me now? 4 MS. FREEMAN: Yes. That's better. 5 MR. GRIGORIAN: It's a little better. Yep. 6 HEARING OFFICER HANNAN: How about now? 7 MS. FREEMAN: That's good. 8 HEARING OFFICER HANNAN: Mr. Grigorian, is this better? 9 MR. GRIGORIAN: Yep. I apologize; it's better. 10 HEARING OFFICER HANNAN: Some of this technology is new 11 to me, as well. I realized I had my speaker -- never mind, I 12 won't go into it, but -- okay, let's try this then. 13 MR. GRIGORIAN: [inaudible] well. 14 HEARING OFFICER HANNAN: My question to you is the code 15 -- the zoning ordinance means that I can only look at the 16 changes made to this conditional use. 17 There is going to be a separate process for the 18 19 subdivision, which will have the forest conservation plan 20 and everything else. So my question is looking at this 21 conditional -- only the conditional use, it's shrinking the 22 size of it and reducing the number of courses. So why did -- 23 would that have a major impact on the neighborhood? 24 MR. GRIGORIAN: So the -- the question that you're 25 answering is will this have a major impact on the</p>
<p style="text-align: right;">58</p> <p>1 lot two, it's still part of the objective process but it's 2 part of my review process just trying to look at conditional 3 use request and my -- my review is limited by the size of it 4 to reduce the number of persons it's going to have an 5 [inaudible] area. 6 MR. GRIGORIAN: I'm not sure if -- if the court 7 reporter is going to be able to record all of your 8 statements, if you ever have -- your -- your -- your 9 connection is super-choppy. 10 And I'm not sure -- I mean, maybe the court reporter 11 can hear you better than I can, but I -- I -- I can't 12 respond to your comment because I didn't understand it. 13 DR. HANSEN: I can't hear her either. 14 HEARING OFFICER HANNAN: I'm sorry. 15 DR. HANSEN: I can't hear it either. 16 HEARING OFFICER HANNAN: Taking care of -- 17 18 MR. GRIGORIAN: Let me, just to be fair, Jenny, were 19 you able to understand? 20 MS. FREEMAN: It was difficult, I'll say. 21 MR. GRIGORIAN: Okay. So even -- even the petitioner 22 here -- the applicant can't understand the hearing examiner. 23 HEARING OFFICER HANNAN: I apologize. 24 MR. GRIGORIAN: I don't want to sound like I'm just, 25 you know, a complaining neighbor that like pretending like I</p>	<p style="text-align: right;">60</p> <p>1 neighborhood? And in answering that question, I think your - 2 - your process to take into account facts presented to you 3 about the property. 4 Those facts include the fact that there is the 5 subdivision process submitted and that, that subdivision 6 process is being objected to not only by Ms. Hansen or 7 myself, but certainly by other neighbors and interested 8 parties and -- and entities, not just individuals and 9 neighbors. 10 So you know, therefore it -- it becomes a -- an 11 impossibility for you, I think, to answer the question of 12 what is the impact on the -- the -- on the neighborhood, 13 because of the -- the facts that affect answer are in 14 motion. 15 Did -- as you can hear from Ms. Hansen's testimony -- 16 Dr. Hansen's testimony, you know, there's a lot of changes 17 happening, a lot of concerns about -- about, you know, 18 various aspects of the subdivision. And -- and so, you know, 19 20 there's just a lot of moving parts here. 21 HEARING OFFICER HANNAN: And what is the sub- -- what 22 are the subdivision issues you're concerned about? 23 MR. GRIGORIAN: What are the subdivision what? 24 HEARING OFFICER HANNAN: What aspects of the 25 subdivision are you concerned about?</p>

Transcript of Hearing
Conducted on June 22, 2020

16 (61 to 64)

<p>61</p> <p>1 MR. GRIGORIAN: Well, my primary concern for respect to 2 the subdivision is the designation of the -- the line in the 3 -- in the map you have up there, which I have also on my 4 screen -- my separate screen, forest to be cleared that 5 affects the hypothetical lot two and the hypothetical lot 6 one, including areas, you know, around the paddocks that are 7 designated on the aerial photograph. 8 The paddocks designated on the aerial photograph are 9 to be reduced in size. There are other improvements, 10 including drainage that's going to be added. It's going to 11 affect drainage to other lots and from other lots -- to 12 Jenny's lot. 13 It's -- it's g- -- it's going to, you know, by nature 14 clear a bunch of trees along Sugarland Road, but there's 15 another aspect which won't affect this hearing which is that 16 Sugarland Road is the designated exceptional rustic road. 17 I'm sure everyone on the line is aware there's mixed 90 18 rustic roads in the county. 19 There's only 19 that are exceptional rustic roads in 20 21 Montgomery County. And this is one of them; one of the 22 originals. Dr. Hansen had a big hand in -- in -- in -- in 23 actually creating these rustic road designations. 24 And, you know, the fact that it's an exceptional rustic 25 road has an impact on -- on the subdivision process, even</p>	<p>63</p> <p>1 mind that this is not the subdivided lot at this time. It's 2 seven and a quarter acres and the hypothetical question of 3 how this -- how the amendment impacts the surrounding 4 neighborhood and whether it's a major or minor amendment 5 really can't be answered based because, you know, one of the 6 fact that can't be ignored is the subdivision application 7 that's in process. I think that concludes my testimony. 8 HEARING OFFICER HANNAN: Thank you very much. Ms. 9 Freeman, do you have any questions for Mr. Grigorian? 10 MS. FREEMAN: You said -- just a question -- is this my 11 chance to comment on some of the things that he said, or is 12 it really just questions? 13 HEARING OFFICER HANNAN: Just questions. 14 MS. FREEMAN: Oh, okay. Maybe one question would be if 15 he's aware that and had read my pre-hearing statement, where 16 I explained about the notation about forest to be clear, and 17 that in fact, it's a -- it's like a technical thing that 18 when you do the subdivision that you can either put it into 19 an easement -- a conservation easement, or it has to say 20 forest to be clear. 21 So it doesn't actually mean it's going to be clear. So 22 23 I just wanted to ask if he had -- was aware of that? 24 MR. GRIGORIAN: May I respond again? I feel -- I feel - 25 - I apologize if it's the sort of leaking into the</p>
<p>62</p> <p>1 though it doesn't bar subdivisions, it's not supposed to 2 affect the ability to subdivide. It certainly should affect 3 considerations relating to trees, which are a hallmark of 4 rustic nature. 5 So -- so, you know, again, we're jumping to 6 subdivision aspect of this, which I know is not part of this 7 hearing. It's just the fact that that's going on affects 8 this decisioning. 9 I do think it was an error. If -- if the subdivision 10 process required the conditional use amendment to be a 11 condition proceeded to subdivision, that was the procedural 12 error. And we shouldn't just -- the hearing examiner 13 shouldn't be making their decision based on procedural error 14 by the agency [ph]. 15 HEARING OFFICER HANNAN: I'm sorry, I'm writing, why is 16 why I'm quiet. 17 MR. GRIGORIAN: No worries. 18 HEARING OFFICER HANNAN: Okay. All right. Anything else 19 you'd like to say? 20 MR. GRIGORIAN: The -- give me just a moment. The -- 21 22 again, the reference -- I think I made this testimony 23 [inaudible] reference to the subject property being afforded 24 or hypothetical. 25 And I just want the hearing examiner to keep that in</p>	<p>64</p> <p>1 subdivision aspect of this, but I think it's important for 2 the hearing examiner to understand well, why, you know, 3 there are a number of changes that could occur between now 4 and the approval of the subdivision. So bear with us please, 5 Examiner Hannan. 6 HEARING OFFICER HANNAN: Okay. 7 MR. GRIGORIAN: Yes, I'm aware any of -- of the point 8 you made. I also made a point in writing to you and to your 9 -- and to your, I guess surveyor that it is acceptable and 10 has happened in previous instances where forest to be 11 cleared is -- instead of being designated as forest to be 12 cleared, put into a forest retention area with the recorded 13 exception of clearing only as needed due to failure of a -- 14 a sand mound in your case so that auxiliary sand mounds can 15 be used as far as can be cleared only if -- if the auxiliary 16 sand mounds need to be used because of a failure of a sand 17 mound. 18 That is what I was asking of you, you know, in terms of 19 just in the designation, so that the new owner of that lot 20 can't go -- can't by -- by choice just go in and clear all 21 those trees. 22 Not, you know, again, there's a number of issues, not 23 24 only the exceptional rustic road issue, but also those trees 25 and those sand mounds are directly upgrade from your</p>

Transcript of Hearing
Conducted on June 22, 2020

17 (65 to 68)

<p>65</p> <p>1 neighbor, which is designated as Susan Mitchell on this map, 2 but is now a new neighbor because that house trade -- 3 changed. And, but that person's -- the owner of that lot 4 left that.</p> <p>5 I mean, so you're talking about building sand mounds, 6 very, very close to a wellhead. If you see on the map that's 7 up on our screen, the -- the 15,001 designation is the house 8 and in front of it, it says EXWELL. You can see sand mound 9 four and five directly upgrade from that well.</p> <p>10 Those should be only used in this -- and the forest 11 should only be cleared including the forest on what will 12 become lot one, if your subdivision granted, should only be 13 cleared as needed. In fact, I'm less concerned with the 14 forest on lot one as I am with the forest on lot two.</p> <p>15 And, you know, again, to the point of -- simply to the 16 point of is this a major or minor amendment? The -- there 17 were a lot of other ways to draw this subdivision that could 18 have accomplished not only Jenny's goal of having a 19 marketable lot, but also could have satisfied the 20 requirements of the rustic roads program.</p> <p>21 This was their first proposed design and -- and has 22 not been commented on or changed -- the comments on have not 23 been changed since David McKee had submitted on Jenny's 24 25 behalf. And I expect that through this process, there's very</p>	<p>67</p> <p>1 MR. GRIGORIAN: As a -- as a -- it -- if -- if -- if -- 2 if the conditional use amendment is -- is approved by your 3 office, then that will be presented as in support of the 4 subdivision and the subdivision in its current form.</p> <p>5 Because there's already been an administrative 6 investment in this layout that we're looking at on our 7 screen. This layout is very, very much at issue. And for a 8 number of reasons, I haven't stated all the reasons here 9 because this is not the subdivision hearing and all the 10 people that will speak at that subdivision hearing are not 11 on this call.</p> <p>12 HEARING OFFICER HANNAN: Okay. [inaudible] 13 MR. GRIGORIAN: S- -- sorry? 14 HEARING OFFICER HANNAN: I just said I'm highly 15 [inaudible] allergic to wasps. So if you need to take care 16 of --</p> <p>17 MR. GRIGORIAN: Yeah. I'm going to mute and turn my 18 camera off for just a moment. I've got two wasps I got to 19 deal with and I'll be back. Give me two minutes.</p> <p>20 HEARING OFFICER HANNAN: Okay. We'll just go off the 21 record. You take care of the wasps. 22 (Off the record at 11:27:53 a.m.) 23 (Back on the record at 11:29:00 a.m.) 24 Back on the record. 25 MR. GRIGORIAN: All right.</p>
<p>66</p> <p>1 good likelihood that this design will change.</p> <p>2 So again, speaking to is this issue right for review by 3 the hearing examiner? I don't think it is because it's based 4 on a hypothetical lot, which might -- the size of which, the 5 designation of which might change.</p> <p>6 The -- you know, the -- the hearing examiner approving 7 this conditional use amendment, you know, could have a 8 detrimental impact on the willingness of the -- of the 9 subdivision process to entertain changes, which is unfair to 10 those of us who are concerned about the subdivision.</p> <p>11 HEARING OFFICER HANNAN: Well, you're aware that the 12 subdivision will have a separate hearing.</p> <p>13 MR. GRIGORIAN: I'm -- I'm aware of that. But if, as a 14 basis of that hearing, there's been a conditional use permit 15 issued by your office. Sorry, there's two wasps just showed 16 up in my office here.</p> <p>17 HEARING OFFICER HANNAN: Oh, my God.</p> <p>18 MR. GRIGORIAN: The -- as the conditional -- I'm sorry, 19 let -- let me just take care of this.</p> <p>20 HEARING OFFICER HANNAN: Yeah. You better take care of 21 that.</p> <p>22 MR. GRIGORIAN: As the conditional -- if I get stung, 23 you know, call 911.</p> <p>24 HEARING OFFICER HANNAN: Oh, no, it's okay. Go. 25</p>	<p>68</p> <p>1 HEARING OFFICER HANNAN: Okay. Any other questions Ms. 2 Freeman?</p> <p>3 MS. FREEMAN: No. I have no other questions other than 4 just to -- to say that --</p> <p>5 HEARING OFFICER HANNAN: You get one more -- you get 6 one more chance to follow up and testimony.</p> <p>7 MS. FREEMAN: Okay. I won't have any further questions.</p> <p>8 HEARING OFFICER HANNAN: Okay. Let's move to Dr. Hansen 9 -- Dr. Hansen, it's your turn -- now it is your turn to 10 testify.</p> <p>11 DR. HANSEN: Thank you. And I apologize for 12 interjecting myself where I shouldn't have earlier.</p> <p>13 HEARING OFFICER HANNAN: Mm-hmm. Go ahead.</p> <p>14 DR. HANSEN: Do you test first if you can hear me, 15 because I was having difficulty again hearing the last 16 exchanges?</p> <p>17 HEARING OFFICER HANNAN: I -- I can hear you fine.</p> <p>18 DR. HANSEN: Well, good. First, I'd like to thank you 19 all for this opportunity to testify. Let me state on the 20 record that I assume everybody is presenting testimony, 21 attending this hearing, and participating all in good faith.</p> <p>22 I wanted to give you a little bit of background first. 23 I happen to know this property very well. Not because so 24 much nar- -- Jenny has been a neighbor, but because we knew 25 extremely well, two owners ago, Nancy Dunn, who worked first</p>

Transcript of Hearing
Conducted on June 22, 2020

18 (69 to 72)

<p>69</p> <p>1 2 for the Bunting Institute at Hartford, and then was the CFO 3 for the World Wildlife Fund. 4 She did a lot of perhaps invisible improvements on 5 that property and spent a lot of time birding on that 6 property, added the gazebo, did a variety of plantings that 7 were intended to reinforce the benefits to the two migratory 8 bird flyways that cross over the property. 9 And I also should let you know that I'm familiar with 10 this property and Sugarland because when I was getting my 11 doctorate at Harvard and was in a blood-soaked boot, I had 12 to go to the School of Design to eat at the cafeteria every 13 day. 14 And everyone was literally agog hearing about 15 Montgomery County, Maryland, which had introduced at that 16 point the first in the world set-aside program for 17 agricultural land in the only country on the planet that 18 actually routinely paved over a prime farm land. I had no 19 idea I would ever move to Montgomery County, but it was 20 staggering. I heard in those casual conversations at the 21 School of Design cafeteria. 22 The third bit of background information I want to share 23 with everyone is because I'm a political scientist and a 24 student of government, what I have observed here is a 25 frequent problem on older, wealthier, and large counties in</p>	<p>71</p> <p>1 major amendment. 2 And why is this? It's because we don't know about the 3 4 disposition of the forested areas. They have -- and -- and 5 why has that happened? Well, that has happened very 6 specifically because of action taken by your staff. 7 You will notice the May 15th, email from Elsabet 8 Tesfaye, if I'm pronouncing that correctly, and I apologize 9 if I'm not. 10 She indicated that making a choice, essentially, was 11 precluded by knowledge that your office would not have in 12 the sense that she did not require a forest floor review. 13 She didn't require a full assessment by the rustic roads, 14 functional master -- master plan staff, or an opinion by the 15 rustic roads advisory committee, because she assumed that 16 she would not need to do any of those things or add a 17 sediment control requirement. 18 She assumed that there would be continuation of the 19 prohibition on grading and soil removal because they existed 20 in 2016. 21 The argument I'm making is that assumption no longer 22 is correct because the map submitted is a map that was 23 designed or the subdivision, and even worse, that particular 24 map submission didn't correct all of the inaccuracies that 25 we pointed out to the Maryland National Capital Park and</p>
<p>70</p> <p>1 that over time offices like yours -- offices like the 2 3 Maryland National Capital Park and Planning Commission, 4 which covers two big counties, plus the district as well as 5 partial jurisdiction from the state, as well as the state of 6 Maryland are all intimately involved in making decisions and 7 often separately involved in making decisions. 8 So what I think Mr. Grigorian was emphasizing as a big 9 concern is also one jurisdictionally and bureaucratically 10 for me as well. And it directly concerns whether or not we 11 have a minor or a major amendment here. 12 And after all my reading of all of this testimony and 13 taking into account administrative law, as well as county 14 law, as well as state law, as well as law that pertains to 15 jurisdictions that encompass the District of Columbia and 16 Maryland, it seems to me that your office, even though 17 you're trying idly to do this, can't really do what -- make 18 a decision on a minor or a major amendment, and that you can 19 categorize this Freeman applications either way, leaving you 20 with one of three options. 21 Either leaving it on the table, which was the solution 22 that I offered in the testimony that I submitted by 4:00 23 p.m. last Thursday, or have it voluntarily withdrawn by Ms. 24 Freeman or the third option, which may be least attractive 25 to everyone potentially is that you can categorize it as a</p>	<p>72</p> <p>1 Planning Commission. 2 Would you like me to identify the problems with the 3 maps and the inaccuracies that have neighbors quite 4 5 concerned? 6 HEARING OFFICER HANNAN: Yes. I -- I -- writing, which 7 is why I didn't say anything. So when you say what -- what 8 map are you referring to? 9 DR. HANSEN: What you have up on the screen right now 10 is the original map for the subdivision with one additional 11 outline, showing a lot one and a lot two, but it's the 12 original map produced by her planners, which was submitted 13 for the subdivision. 14 If this is ratified, a map submitted is full of 15 inaccuracies and we were promised to revision to show all of 16 the problems corrected with this map. It hasn't happened. So 17 they did not submit to you an accurate and correct map nor 18 have they submitted an accurate and correct map to the 19 neighbors. Without that, I don't see how -- 20 HEARING OFFICER HANNAN: What are -- what are the 21 inaccuracies in the map? 22 DR. HANSEN: Oh, let me go to that. You will find them 23 in my testimony that I submitted on January 13th to the 24 development applications and regulatory coordination 25 division of MNCCP.</p>

Transcript of Hearing
Conducted on June 22, 2020

19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 And I entered it into the record and Nana Johnson 2 confirmed that it's in the record. Would you -- 3 HEARING OFFICER HANNAN: In this PRC -- which record 4 are you talking about? Our record? 5 DR. HANSEN: Into your records. Yes. And it was my 6 January 13th testimony to the MNCCP because part of it 7 concerns this particular minor versus major. 8 HEARING OFFICER HANNAN: Okay. 9 DR. HANSEN: This map can't be used. If you use it, 10 there are serious problems down the road for the county, for 11 the state of Maryland, and for the Maryland National Park 12 and Planning Commission. 13 And that was the point we were making it preempts an 14 accurate assessment of the situation, which would allow you 15 to do a minor versus a major versus laying it on the table 16 and asking for that promised document to be submitted for 17 the record. It has not been submitted to anybody I happen to 18 know -- 19 HEARING OFFICER HANNAN: Okay. So what are the 20 inaccuracies? Tell me. 21 DR. HANSEN: Oh, well, let me tell you. Yes. Let me 22 tell you what the inaccuracies are. Number one, which is 23 page two of my commission, shows a map that has an 24 inaccurate proposed subdivision. You're looking at it right 25 now.</p>	<p style="text-align: right;">75</p> <p>1 subsumed. 2 If this map went through and you continued it down with 3 the right of way going left and right. All houses but two 4 either rental properties would lose their living rooms, 5 their dining rooms, their living room and their dining room, 6 7 or a good half of their house. 8 This is supposed to have been fixed. It was never 9 fixed and resubmitted. 10 HEARING OFFICER HANNAN: Okay. 11 DR. HANSEN: And if -- if you're worried about 12 neighbors having kids, that would be a very major problem if 13 all of the houses on the east side of the road lost half of 14 their house, because this map was not redrawn and submitted 15 appropriately. I would say it's major. 16 HEARING OFFICER HANNAN: Now, why do you say the houses 17 are shown incorrectly? Because this is certified by an 18 engineer. 19 DR. HANSEN: Well, if you would like to go out there, 20 they may have certified it, but they never made the 21 corrections that we pointed out in January. They promised us 22 that they were going to redraw it; they didn't do it. Eighty 23 feet from the edge -- if you just go out there with a tape 24 in front of Miss -- Jenny's house, you will find that part 25 of her house has been taken by that 80 feet.</p>
<p style="text-align: right;">74</p> <p>1 The first problem is that it attempts to assert an 80- 2 foot easement or a taking along the east side of Sugarland 3 Road and exceptional rustic road, as well as a much smaller 4 right of way taking of approximately 13 feet, which is 5 6 unnamed on the west side of the proposed subdivision of Ms. 7 Freeman's property. 8 And in fact, you will find that Ms. Freeman's house is 9 100 percent inside that proposed easement. So if you accept 10 this document, her entire house has gone. That was the first 11 thing you were supposed to fix. 12 HEARING OFFICER HANNAN: Okay. 13 DR. HANSEN: Okay? 14 HEARING OFFICER HANNAN: I don't see that on this map. 15 DR. HANSEN: Do you see the 80 foot? 16 HEARING OFFICER HANNAN: [inaudible] 17 DR. HANSEN: Well, her house is not where it sits 18 there. Her house is reality is over in that 80 foot ROW -- 19 right of way. 20 Somebody's moved her house. But in reality, if you go 21 to the road and you measure the road up to the front of her 22 house, her house is in that 80 foot. And by extension, the 23 reason why you can't ratify this as a minor with this map is 24 because every single house on the east side of the road 25 minus two, would be completely subsumed or partially</p>	<p style="text-align: right;">76</p> <p>1 And her house on this map has moved back, but in 2 reality it's in that 80 feet, it's physically located in 3 that 80 feet. In fact, my living room is physically located 4 within 80 feet of the edge of the road. And so is the house 5 immediately to her north which just changed hands and so the 6 Eader house next to us. 7 HEARING OFFICER HANNAN: So your problem is the 80-foot 8 right of way? 9 DR. HANSEN: Oh, yes, because that's inaccurate. You 10 couldn't put it all on that side. You would have to split it 11 half on the Gregorian side, half on this side. But if you 12 approve this minor amendment with this map, that then 13 adversely affects the district -- the adjudication of the 14 subdivision, because a part of the county has already 15 ratified it when I -- 16 HEARING OFFICER HANNAN: Have we ever -- have you ever 17 had a survey done of this property? 18 DR. HANSEN: I didn't need to do it. I didn't need to 19 do it. I let everybody know at MNCCP that it was wrong in my 20 testimony on January 13th. 21 HEARING OFFICER HANNAN: Okay. 22 DR. HANSEN: And I got an informal response that the 23 map had to be withdrawn, but that's just the first problem. 24 The -- the 80-foot easement, which is a taking, I 25 should also parenthetically say this map does not recognize</p>

Transcript of Hearing
Conducted on June 22, 2020

20 (77 to 80)

<p>77</p> <p>1 the fact that on Sugarland Road the exceptional part of 2 Sugarland Road and most of the exceptional rustic roads we 3 own to the middle of the road and the people on the other 4 side of the road own to the middle of the road. 5 There is no prescriptive easement there; there is no 6 easement of any sort because we predate the county's 7 8 formation. 9 HEARING OFFICER HANNAN: Well, the- -- t- -- there -- 10 DR. HANSEN: Well, this is [inaudible] -- 11 HEARING OFFICER HANNAN: [inaudible] public drive on 12 the road? 13 DR. HANSEN: I'm sorry; I can't hear you. 14 HEARING OFFICER HANNAN: I said, does the public drive 15 on the road? 16 DR. HANSEN: I'm sorry; would you repeat that again? 17 MR. GRIGORIAN: The public -- the p- -- the public 18 drive on the road? 19 DR. HANSEN: The public drives on the road without us 20 giving up an easement to the public. 21 HEARING OFFICER HANNAN: Well, that's a legal question, 22 but it's likely that it is [inaudible] easement, but go 23 ahead. 24 DR. HANSEN: Okay. So that is the first thing that we 25 have a presumptive 80-foot easement we're taking; okay?</p>	<p>79</p> <p>1 the supposition is in the neighborhood, which is very scary, 2 that the reason why this has been added on, on the south 3 side and theoretically would be extended north and south is 4 because somebody has cooked up the idea of using exceptional 5 and rustic Sugarland Road and Sugarland Lane as the new 6 outer beltway. And if you can imagine what that has done to 7 people's minds -- 8 HEARING OFFICER HANNAN: Okay. So -- all right. Go -- 9 keep going. So -- so -- 10 DR. HANSEN: So go to January 13th, two -- 2D. 11 HEARING OFFICER HANNAN: Yes. 12 DR. HANSEN: We have also a taking at Sugarland Forest 13 Community Church, which is a national and state registered 14 historic structure, which sits inside -- inside the proposed 15 map. 16 HEARING OFFICER HANNAN: Now, where are you getting 17 that? 18 DR. HANSEN: It's by extension. If you take this map -- 19 HEARING OFFICER HANNAN: So you're saying if the 80- 20 foot right of way is extended? 21 DR. HANSEN: Yes, ma'am. It sets the precedent for 22 doing a massive taking on an exceptional rustic road, which 23 by code since 1996 has either been 12 feet wide at its 24 narrowest or 15 feet wide as its widest. 25 But it surely has never ever had an extra right of way</p>
<p>78</p> <p>1 Point number two is this map, which was not updated as 2 promised, leaves open the possibility of another 40 to 80 3 foot road taking on the west side -- the Grigorian side, 4 which has not been accurately delineated by a bold black 5 box. You should see my testimony -- just pull up -- 6 HEARING OFFICER HANNAN: Yeah. It's -- it's not 7 required to be, but go ahead. 8 DR. HANSEN: Okay. Two C, on my January 13th testimony 9 -- 10 HEARING OFFICER HANNAN: Right. 11 DR. HANSEN: Makes the notation that at least four 12 homes would be adversely affected by this if it was not 13 corrected. Point number two -- 14 HEARING OFFICER HANNAN: Well, you're saying they're 15 adversely affected because of the 80-foot right of way? 16 DR. HANSEN: Yes. Yes. 17 HEARING OFFICER HANNAN: Let me ask you something, 18 because usually right of ways are established in a master 19 plan. 20 DR. HANSEN: And in this master plan, Sugarland Road is 21 as narrow as 12 feet and as wide as 15, depending on where 22 it is. 23 HEARING OFFICER HANNAN: So where is the 80-foot right 24 of way coming from? 25 DR. HANSEN: You might well ask. And I'll tell you what</p>	<p>80</p> <p>1 of 80 feet, which encompass people's houses. But now, if 2 this were extended, it would take over the Sugarland Forest 3 Community Church, which you probably know is a beautiful 4 black church that dates to the period when this area was 5 settled by freed slaves who came over from the river and had 6 a handshake purchase agreement with a lady in Philadelphia. 7 HEARING OFFICER HANNAN: Okay. So your next point? 8 9 DR. HANSEN: The next point is E -- 2E, there is a 2018 10 septic construction listed in this 80-foot row, which 11 appears to con- -- contravene established procedures and 12 requirements for such in the Montgomery County and Maryland 13 code. 14 And it was referenced during the preliminary hearing 15 by a state road planner. I was not at the hearing, so I 16 don't know her name, but she noted that, that could not be, 17 nor could there be any fencing within this 80-foot right of 18 way. 19 And if this is approved and it is extended by 20 precedent, then everybody like me and the Grigorians across 21 the road, anyone with that fence would have to take their 22 fence down and move it. That would be a taking. 23 And I don't know what it is right now. Greg can maybe 24 give us the answer, but the last time I checked, it was \$27 25 a board foot for a three board fence. And the HPT fencing is</p>

Transcript of Hearing
Conducted on June 22, 2020

21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 even more expensive. So that would be 2E, the problem with 2 this map. 3 Now, if we go on to number three, this BAI map is 4 incorrect in scale and has thus created a false impression 5 in many locations of the combination site development, the - 6 - the plan for the stormwater management of 6/5/19, as well 7 as on the administrative subdivision map of 11/18/19, and no 8 doubt on the other three in the series, which were not -- we 9 10 -- we're not provided copies of. 11 I only got to see three of them, but all three of 12 those are incorrect in scale. The two BIA renderings 13 erroneously show, for example, that the Freeman original 14 house is outside or on the Southeast side of the proposed 80 15 foot take easement, which in reality, is only 50 feet from 16 Sugarland Road, which puts it inside the proposed 80 foot 17 easement. 18 Now, I'll direct you to my January 13th testimony 19 again, number four. 20 HEARING OFFICER HANNAN: Mm-hmm. 21 DR. HANSEN: In addition, on the rear of the Benning & 22 Associates rendering of the proposed Freeman subdivision on 23 Sugarland Road, which borders the Casey fields on the far 24 southeast corner of this map, you will find that they have 25 set up a not currently existing official trail network</p>	<p style="text-align: right;">83</p> <p>1 Sugarland Road and exceptional rustic road that borders the 2 Casey property to the south and east of the property. And to 3 record it as such, without our consent. I will underline 4 that. 5 HEARING OFFICER HANNAN: Where is that? 6 DR. HANSEN: It is in the middle of the map on the 7 right hand side. Do you see the stream buffering -- 8 HEARING OFFICER HANNAN: I see stream buff. Right. 9 DR. HANSEN: Stream buffer. 10 MR. GRIGORIAN: [inaudible] 11 HEARING OFFICER HANNAN: But that is not on this either 12 -- this property. 13 MR. GRIGORIAN: Can -- can I speak briefly to 14 supplement -- 15 DR. HANSEN: Sure. 16 MR. GRIGORIAN: Dr. Hansen's testimony? 17 HEARING OFFICER HANNAN: Well, just -- I have to keep 18 it in order, so let's let her finish and Mr. Grigorian, I'll 19 give you a chance to follow up. 20 MR. GRIGORIAN: Okay. Yeah. It's just regarding the 21 stream buffer indicated that she just -- 22 HEARING OFFICER HANNAN: Okay. Okay. Go ahead. So what 23 -- what is -- 24 DR. HANSEN: Okay. Let me finish -- 25 MR. GRIGORIAN: I just want to make a lawyer comment,</p>
<p style="text-align: right;">82</p> <p>1 easement, which also continues on the map to the northeast 2 and to the southwest, logically extending it thus to 3 Partnership Road on the north and to River Road on the south 4 by southwest, which encompasses all of Sugarland Road. 5 If this is registered by you making this a minor 6 amendment, then it's going to be causing a taking on the 7 rear of each property going northeast and southwest. 8 And I can assure you that has already upset the land 9 management staff of the Casey property right now. And it 10 11 would affect all of the neighbors, all of whom have resisted 12 the use of any openings in the trees, but any other 13 unauthorized uses of these properties. 14 Now, if we continue on to 4B, the plan -- this has 15 continued inaccuracy is associated with this plan. The plan 16 proposal executed by Montgomery County includes creating a 17 stream buffer along the rear -- 18 HEARING OFFICER HANNAN: I'm sorry; what number are we 19 on? 20 DR. HANSEN: Oh, we're still in four but we're now up 21 to point B in four. 22 HEARING OFFICER HANNAN: Okay. Go ahead. 23 DR. HANSEN: This plan, which was not updated and 24 corrected as requested earlier in January, it now proposes 25 to create a stream buffer along the rear of every house on</p>	<p style="text-align: right;">84</p> <p>1 you know, in general because, you know, as to all of the 2 things that Dr. Hansen is mentioning; okay? 3 T- -- t- -- the plan that we're focused on will be 4 recorded and all of these different encumbrances that are 5 off of Jenny's property and on the Casey property, on my 6 property, pointing towards Dr. Hansen's property, pointing 7 towards as shown on the Eader property pointing towards and 8 shown on the Mitchell property, which is now -- I don't know 9 the names of the new neighbors there. They're all going to 10 be of record. 11 So when any of us sell our property, convey our 12 property, finance our property, get title insurance to our 13 properties, these will all be exceptions to title insurance. 14 They're all of record, which is a big part of the 15 problem here because all of these plans, which are being 16 essentially cemented in time by being recorded on the 17 Montgomery County land records are going to affect us. We 18 have zero say in this. All -- again -- all -- 19 HEARING OFFICER HANNAN: Okay. Okay. I -- let me let -- 20 let's get through Dr. Hansen, and then I'll give you an 21 opportunity to follow up. 22 MR. GRIGORIAN: Thank you. 23 DR. HANSEN: Thank you, Hearing Examiner. If we 24 continue on to four -- erroneously mentioned B, it's 4C. 25 This trail network taking, should it be recorded by your</p>

Transcript of Hearing
Conducted on June 22, 2020

22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 decision to make this a minor amendment as opposed to a 2 major amendment, or just lay it on the table or to withdraw 3 it or to just deny it, would, once it's recorded, as Mr. 4 Grigorian pointed out, inordinately and dangerously open up 5 the rear of all of our properties. 6 Now, I have consulted with the Casey management people 7 and I consult with them quite often because there's always a 8 lot of illegal hunting out there. There's an awful lot of 9 illegal joyriding out there. 10 There have been car stripping rings out there, and 11 12 there have been open air drug markets of which there have 13 been 14 that I've had to close down in the last -- since 14 1992, when we arrived with the help of the police. 15 There's an awful lot of illegal activity directly 16 related to whether or not those trails are overgrown, if 17 they have trees down on them, or if they're open and free so 18 that people could access them off of Partnership Road or to 19 access them off the rear of these properties or to access 20 them off of Sugarland Lane. 21 If this is recorded, as it stands right now, it would 22 inordinately and dangerously open up the rear of all of our 23 properties, on exceptional rustic road, Sugarland, rustic 24 road Sugarland, as well as Sugarland Lane, as well as the 25 wooded Casey property to illegal trespassers, to illegal</p>	<p style="text-align: right;">87</p> <p>1 not be ratified, but it's worrisome. 2 Let me continue on. Now, on my January 13th testimony, 3 if we go to number five, another reason why this cannot be a 4 minor amendment and must be a major amendment, or it must be 5 something that you would decline, lay it on the table, or 6 Ms. Freeman would re- -- re- -- take it back. 7 Property owners along Sugarland Road, and other rustic 8 and exceptional rustic roads protected under the rustic road 9 functional master plan have been forced to retain legal 10 counsel to protect their property rights most recently 11 against commercial entities such as Comcast between 2017 12 through 2019, who likely would be emboldened by this 13 14 assertion of a proposed 80-foot right of way in the public 15 records, i.e. the land records, which is exactly what Mr. 16 Grigorian is referring to. 17 The minute this is passed, this goes right into the 18 land records and it becomes a title issue, and it becomes a 19 sale issue for all of us. And that becomes a taking. 20 I won't go into the examples because you can take a 21 look at the examples, but I can assure you the minute I 22 pointed this out to Comcast, which is pretty darn heavy 23 handed, has a lot of lawyers, in three days they backed off 24 completely, said, I am so sorry. We agree that you own to 25 the middle of the road. We apologize for chopping your trees</p>
<p style="text-align: right;">86</p> <p>1 hunters, to casual joyriders, to hobbyists, to birders, to 2 potential crim- -- criminals, as we've had to deal with 3 before in the car stripping and the drug ring. And those who 4 are inclined towards property destruction and other 5 nefarious activities. 6 Now, I -- I need to mention there has been a fair 7 amount of property destruction and nefarious activities. I 8 have had to lock my doors on the east side of my barn. I 9 have had to put signs up saying, be careful you're on 10 camera. 11 I have had to install an alarm system. And my 12 13 neighbors immediately to the south had a huge amount of 14 expensive ferrying equipment stolen all because there is an 15 il- -- there is an illegal trail network out there now but 16 with this ratification of this map, it would become an 17 official trail network opening it up to everybody. 18 It's bad enough as it is right now when only the 19 insiders know about it. But if this lands on the county 20 maps, I can assure you it's going to be a major transit 21 point. 22 And I have talked enough times about this -- the whole 23 issue with the Caseys that I know they're going to be 24 weighing in on the subdivision. They didn't think they 25 needed to hop in here because they assumed that this would</p>	<p style="text-align: right;">88</p> <p>1 down and by way, Ms. Freeman's plantings were removed as 2 well, all along Sugarland exceptional, Sugarland rustic, 3 Sugarland Lane, and most of the rest of the rustic road 4 network, a huge amount of unauthorized illegal tree 5 decimation occurred because they hired Asplundh. 6 And if you know the county's problems with Asplundh, 7 they have cited Asplundh. They have fined Asplundh, the tree 8 trimming company, because most of their people on those 9 trucks are not American citizens. 10 They have no legal right to work in the United States. 11 They cannot read maps. On the county's forestry map, on the 12 Pepco maps that were created by their foresters, we are in 13 red bold not to be touched. 14 They came right through -- and we had to sue Comcast 15 to keep them off our property. And once that happened, many 16 other members of Sugarland Road did the same thing and go 17 right back to Comcast. 18 Comcast folded in each case. They have ratified that 19 we own the road up to the middle of the road and our 20 adjacent property owners on the other side own. And that 21 therefore there was no allowing of a right of way on either 22 side. 23 So if you put this into effect and you ratify this, 24 it's the taking on our property and the usual response to a 25 massive taking like this is a county suit. And I don't think</p>

Transcript of Hearing
Conducted on June 22, 2020

23 (89 to 92)

<p>89</p> <p>1 you want a county suit.</p> <p>2 You can avoid a county suit by any of my offended</p> <p>3 neighbors, if this is laid on the table, or if it's</p> <p>4 considered to be an major amendment that is denied. Because</p> <p>5 it precludes any movement further forward, and it</p> <p>6 complicates decision making in so many levels of the county,</p> <p>7 it's unbelievable.</p> <p>8 Now, let's move on to number six, again, on the January</p> <p>9 3rd testimony. This particular map unedited, not corrected,</p> <p>10 not improved is inconsistent with the parameters of the 1996</p> <p>11 Montgomery County rustic roads functional master plan.</p> <p>12 I'll just give you the top areas within which it is</p> <p>13 inconsistent. It sketches out only the main par- -- I'm only</p> <p>14</p> <p>15 going to sketch out the main parameters of that</p> <p>16 inconsistency, but at a hearing -- a subsequent hearing, I</p> <p>17 would do all of them.</p> <p>18 Please note, I should say first, that I served on the</p> <p>19 board of historic medley district, which is basically the</p> <p>20 whole up county for 12 years, and I was tasked with the</p> <p>21 responsibility of documenting correctly all 12 proposed</p> <p>22 rustic roads around Poolesville.</p> <p>23 We got 11 of those 12 added into the functional master</p> <p>24 plan. And the only one we didn't, even though it had the</p> <p>25 characteristics, was Partnership Road because Partnership</p>	<p>91</p> <p>1 commercial interests is also inconsistent with preserving</p> <p>2 the reasons that a hedgerow habitat are required. Under</p> <p>3 story and major forest habitat is needed to protect and</p> <p>4 nurture the migratory birds on the two flyways and to</p> <p>5 support the local birds year around.</p> <p>6 You probably know that we -- we probably have as many</p> <p>7 bicyclists on our road as we do birders, who do nothing but</p> <p>8 go out and do bird counts for all the conservation</p> <p>9 organizations.</p> <p>10 If we went to F, you find also that another reason why</p> <p>11 this can't be a minor, would have to be a major, or laid on</p> <p>12 the table or denied, this 80-foot row with the result in</p> <p>13 commercial interests is inconsistent with protecting the</p> <p>14 fragile underground water diversion that is intended to be</p> <p>15</p> <p>16 preserved along these rustic and exceptional rustic roads to</p> <p>17 filter dangerous chemical runoffs.</p> <p>18 And I'm talking about two kinds, the kinds that are</p> <p>19 mentioned in the functional master plan associated with</p> <p>20 agriculture, and also mentioned in the functional master</p> <p>21 plan.</p> <p>22 These dangerous chemicals that are associated with</p> <p>23 automobile emissions, particularly lead, which with the</p> <p>24 beginning of the automobile age, all the way up through --</p> <p>25 correct me guys if I'm wrong, somewhere in the eighties,</p>
<p>90</p> <p>1 Road was needed as a county arterial.</p> <p>2 So every 10th of a mile with a baby in tow, I</p> <p>3 photographed both sides. I measure the hedgerow habitat and</p> <p>4 the forests on both sides. I noted all of the historic</p> <p>5 alignments.</p> <p>6 I noted all of the historic properties, and I</p> <p>7 submitted more than a thousand slides into Maryland National</p> <p>8 Capital Park and Planning Commission, and about six inches</p> <p>9 of testimony, which I still have in my files here, in case</p> <p>10 anybody wants to take a look at it.</p> <p>11 That's the main reason why these 11 roads were added</p> <p>12 and Sugarland -- Sugarland was added as an exceptional</p> <p>13 rustic section. However, that means that we have</p> <p>14 protections.</p> <p>15 We have a huge number of protections. This 80 foot</p> <p>16 let's look at D we're still in number 6D as in dog. This 80-</p> <p>17 foot right of way with result and commercial in- -- interest</p> <p>18 is inconsistent with preserving the hedgerow habitat, which</p> <p>19 is a vital component of the rustic and exceptional rustic</p> <p>20 roads legislation.</p> <p>21 These are to be preserved because they provide much</p> <p>22 needed food, shelter, and protection for migratory birds on</p> <p>23 the two major east coast flyways from the Arctic to the</p> <p>24 Antarctic. No one, no one, no one has discussed this issue.</p> <p>25 E, the 80-foot right of way would -- would result in</p>	<p>92</p> <p>1 when the EPA started restricting the amount of lead that</p> <p>2 could be in any type of gasoline.</p> <p>3 And other vehicular dangerous chemicals, as well as</p> <p>4 the county applied hazardous anti-ice chemicals from a</p> <p>5 hundred year plus of vehicular truck use on this road. So</p> <p>6 taking away this hedgerow habitat means we don't filter.</p> <p>7 Next we move -- just G as in good. The Freeman's</p> <p>8 subdivision plats by BAI as now, inaccurate, not corrected,</p> <p>9 does not portray accurately the hedgerow habitat, the mature</p> <p>10 forest, the intermediate forest, and the secondary forest.</p> <p>11 Let me repeat this.</p> <p>12 This map here does not accurately portray the hedgerow</p> <p>13 habitat, the mature forest, the champion trees, except in I</p> <p>14 think three cases, the intermediate forest, and the</p> <p>15 secondary forest, which currently encompassed some 70</p> <p>16</p> <p>17 percent of the Freeman property and which must be preserved</p> <p>18 as they are the -- now underline this, quote-unquote --</p> <p>19 they're the second largest segment of protected forest on</p> <p>20 the exceptional rustic Sugarland Road.</p> <p>21 Her property is holding 70 percent of the second</p> <p>22 largest segment of protected forest on the exceptional</p> <p>23 rustic Sugarland Road. And I referenced the county forestry</p> <p>24 law --</p> <p>25 HEARING OFFICER HANNAN: When you -- wait -- wait,</p>

Transcript of Hearing
Conducted on June 22, 2020

24 (93 to 96)

<p style="text-align: right;">93</p> <p>1 pardon my interruption.</p> <p>2 DR. HANSEN: Oh, surely.</p> <p>3 HEARING OFFICER HANNAN: Just make sure I understand</p> <p>4 something. When you say her property holds 70 percent, are</p> <p>5 you referring to those lots or lot one or lot two?</p> <p>6 DR. HANSEN: I'm referring to the entirety. If I was</p> <p>7 only referring to the four acre -- if I was referring to the</p> <p>8 four acre, it would be about 55 percent.</p> <p>9 HEARING OFFICER HANNAN: Okay.</p> <p>10 DR. HANSEN: And I referenced Montgomery County's</p> <p>11 forestry law, which I've worked on a great deal as a</p> <p>12 citizen, the state of Maryland forestry law, the mature tree</p> <p>13 exception, which I assisted in editing on behalf of the</p> <p>14 historic medley district to help ensure that Montgomery</p> <p>15 County met all of the state of Maryland forestry standards.</p> <p>16 And until there was an effort by a man named Fuad El-</p> <p>17</p> <p>18 Hibri, who owns the patent for Cipro, who tried to take down</p> <p>19 three entire forests a little further north from us on</p> <p>20 Partnership Road, and somehow managed to ensure that these</p> <p>21 three forests never showed up on the maps that were</p> <p>22 submitted to the county.</p> <p>23 We had to hire the lead tree company as an expert</p> <p>24 witness. And they went out and measured every single tree in</p> <p>25 all three of those forests with calipers and then recorded</p>	<p style="text-align: right;">95</p> <p>1 I should note, oh, this is where I should -- I should</p> <p>2 note the chaos of the Fuad El-Hibri attempt to turn his</p> <p>3 property into a 23-hour-a-day polo farm on Partnership Road</p> <p>4 wiping out -- I'm sorry, my recollection was wrong -- four</p> <p>5 established forests from the proposed site plan.</p> <p>6 The community has learned that it is often wise to</p> <p>7 hire our own independent certified tree experts. I should</p> <p>8 say, at considerable expense, to measure, map, calibrate,</p> <p>9 and log in all of the trees on every proposed subdivision</p> <p>10 and property plan.</p> <p>11 This plan is greatly flawed in virtually com- -- in</p> <p>12 removing virtually a completed -- a complete forested area</p> <p>13 on both sides of the proposed division line.</p> <p>14 And I, the 80-foot row, that's still on this map, would</p> <p>15 completely decimate the remaining hedgerow habitat along</p> <p>16 Sugarland Road that was not already partially decimated by</p> <p>17 Comcast when it came through illegally and did its attack.</p> <p>18 And by the way, I took several hundred photographs of</p> <p>19</p> <p>20 the damage that Comcast did on Sugarland and on Hughes. And</p> <p>21 I submitted them to various conservation organizations who</p> <p>22 told me that they were going to forward them to na- --</p> <p>23 Maryland National Capital Park and Planning Commission. And</p> <p>24 I never heard back from any county planner.</p> <p>25 I invited them to come out and take a look at the</p>
<p style="text-align: right;">94</p> <p>1 them.</p> <p>2 And shortly thereafter, two members of the county staff</p> <p>3 were resigned or reassigned or fired. I'm not sure which,</p> <p>4 but they no longer were working on county forestry. And as a</p> <p>5 result within a year, we now had a Montgomery County tree</p> <p>6 law. These things happen.</p> <p>7 There is a good ol' boy [sic] assumption out here in</p> <p>8 the county that you can take down any tree you want to and</p> <p>9 if it's not protected, which is one of the reasons why it's</p> <p>10 important to say parenthetically that the two county</p> <p>11 planners who talked with Ms. Freeman and encouraged her to</p> <p>12 protect those trees formally, which she refused to do, back</p> <p>13 at base along with the inaccuracies of this map, would give</p> <p>14 the community a feeling that something underhanded was going</p> <p>15 on.</p> <p>16 I hope it's only oversight. I hope it's only mistakes.</p> <p>17 I hope it's only COVID-19, but the bottom line is this</p> <p>18</p> <p>19 particular map was not updated and corrected. I was assured</p> <p>20 that it was going to be done.</p> <p>21 And then when I saw it appear here again, with four</p> <p>22 pages of single space type inaccuracies that needed to be</p> <p>23 fixed, I was flabbergasted -- is the only way to describe</p> <p>24 it. So if we move on to H, also still in number six of the</p> <p>25 January 13th submission.</p>	<p style="text-align: right;">96</p> <p>1 egregious damage that was going on on Sugarland Road -- the</p> <p>2 exceptional part of Sugarland Road during nesting season. No</p> <p>3 one ever came out.</p> <p>4 And that's why I communicated in May with Leslie</p> <p>5 Seville on this very issue, because I know she has the</p> <p>6 purview to work with the rustic roads commission advisory</p> <p>7 committee, as well as purview to make sure that the 1996</p> <p>8 functional master plan for the rustic roads is adhered to.</p> <p>9 Now, let me go to it- -- item number seven. The last</p> <p>10 reason that I wanted to highlight that strongly suggests</p> <p>11 that this is not a minor amendment.</p> <p>12 This is a major amendment, and it is -- it's</p> <p>13 premature, it is inappropriate in consideration right now</p> <p>14 because of the fundamentally strong impact it would have on</p> <p>15 the entire neighborhood. But more importantly, the</p> <p>16 fundamental impact it would have on other parts of</p> <p>17 government who would be considering the subdivision plan.</p> <p>18 A, you need to know in advance that Poolesville, this</p> <p>19 whole area of the Piedmont, including where we're sitting</p> <p>20</p> <p>21 right now. I'm not sure where you're sitting, but the</p> <p>22 Piedmont, the Poolesville area and everything north and west</p> <p>23 of that is sitting on top of only -- one of only 11 sole</p> <p>24 source aquifers in the United States.</p> <p>25 And as such, it has a very high value in terms of</p>

Transcript of Hearing
Conducted on June 22, 2020

25 (97 to 100)

<p style="text-align: right;">97</p> <p>1 preserving the safety and potability of those sole source 2 aquifer pockets. 3 Now, we're passing all of our water from residual 4 pockets in the shale that were left about 10 to 12,000 years 5 ago when the glaciers were treated. You can't just sink a 6 well and hope to hit water. 7 There's a huge amount of effort that has to be taken 8 into account to find a pocket big enough to serve a house, a 9 farm, etc. Most places have to have multiple wells. 10 So point A, 7A, if it hasn't been revealed to you 11 already, you need to know this because all the neighbors 12 know this, there have been several major spills already on 13 this property of petroleum distillates. 14 Ms. Nancy Dunn, now deceased unfortunately from 15 cancer, our good friend and a previous property owner, was 16 unable to use her property for nearly a year because the 17 well and the septic field were contaminated by a leaking 18 underground diesel fuel tank, as well as at least two 19 leaking leaded gasoline tanks. 20 We don't know how far that extends. That's a problem. 21 22 She told me that point blank. She didn't know how far it 23 extended. 24 It took her almost a year to be able to get a safe 25 water source for herself because she did contemplate having</p>	<p style="text-align: right;">99</p> <p>1 We note that Ms. Freeman has already recognized this, 2 and identified and constructed in 2018 remedial devices that 3 may well exhaust the capacity of this property. That's 4 something that we have to take into account. 5 Knowing what I know exists on the property and the fact 6 that there's standing water for many parts of the year, I -- 7 I personally if I owned that property would be worried and 8 would have to do a lot of remedial action just to be done on 9 this property, to legally redirect water by subterranean 10 channels to the rear of the property because we have an 8 11 percent grade. She doesn't have an 8 -- 8 percent grade. 12 Her leaking water, if it's contaminated, or even if 13 it's pure and potable, either declines to the north where 14 the new owners are on that property, with the well head and 15 septic very close to the north end of the property. Or it 16 [inaudible] declines down to the south. Or it goes west to 17 [inaudible]. Any of those three ways, water and waste on 18 that property goes downhill. 19 So in conclusion, let me just say that this whole 20 conundrum that you have in the zoning and hearing examining 21 process, which is overlapping with Maryland National Capital 22 Park and Planning Commission, overlapping with county 23 24 planners, overlapping with state planners, and objectively 25 is a challenge for all of you.</p>
<p style="text-align: right;">98</p> <p>1 two horses as well. And she came over and borrowed many, 2 many books from our equine-assisted activities library. And 3 I think the cancer just cut her short in terms of her life, 4 so it never happened. 5 Point B, as a result of the high water table that, that 6 property has. They sit on top of a rise -- the highest place 7 from Partnership Road, all the way down to the end of 8 Sugarland Lane. 9 There has been subterranean leakage on that property 10 and many other factors, in addition to this petroleum 11 distillate leaking into the various pockets, which are now 12 contaminated, such that the basement of this house was 13 always damp and I was in her basement multiple times with 14 her, where her equipment was rusting. 15 That's the reason why, when she finally got into the 16 house, she was able to renovate. She was able to put a 17 stackable washer dryer by the back door, which I assume miss 18 -- Ms. Freeman is currently still using. And the water table 19 is very high. 20 That's part of the reason why she had trouble with 21 doing anything about her buildings and why her old barn has 22 23 footings that are all wet and are unstable. And C -- C, it 24 is likely that appropriate water and septic resources may be 25 incompatible with this piece of property.</p>	<p style="text-align: right;">100</p> <p>1 You folks haven't done anything wrong. It's just that 2 you haven't had a global picture. And I as a political 3 scientist have a global picture of seeing how four parts of 4 the county, and the state, and the district, are all 5 involved one way or another in adjudicating on this 6 property. 7 And the whole thought is, subsidiary part of a lower 8 jurisdiction can move into the space of a jurisdiction of a 9 part of the bureaucracy that has not filled the space. But I 10 would be arguing with the Maryland National Capital Park and 11 Planning Commission's concern about the 1996 functional 12 master plan, because it covers the needs, the concerns, and 13 the benefits of the entire county; whereas what you're 14 looking at right now only takes into account the needs, the 15 concerns, and aspirations of one individual, not even the 16 neighborhood. 17 But when we apply a functional master plan, which 18 affects every single individual in the county, it has a 19 higher level of purview in the county. 20 And as such, if you take what this is doing here and 21 consider it a minor amendment, you are circumscribing 22 potentially the needs, desires, benefits, and aspirations, 23 of anyone in the county who is looking at thee functional 24 25 master plan for the rustic roads and the exceptional rustic</p>

Transcript of Hearing
Conducted on June 22, 2020

26 (101 to 104)

<p>101</p> <p>1 roads.</p> <p>2 You're also circumscribing those two major flyways. You</p> <p>3 are circumscribing the rights of every single person on that</p> <p>4 road who's concerned about filtration associated with that</p> <p>5 hedgerow habitats and those forests, which right now have no</p> <p>6 protection because Ms. Freeman has elected not to put them</p> <p>7 under some sort of set aside.</p> <p>8 So as a result you're left with a decision tree. If you</p> <p>9 don't know if Ms. Freeman's property will be approved for a</p> <p>10 subdivision, then you can't tell if the impact on the</p> <p>11 neighbors will be a minor or major impact.</p> <p>12 And similarly, if the board hearing -- zoning approves</p> <p>13 it as a minor amendment, and she is then allowed to take the</p> <p>14 trees down without a forest protected zone being asserted,</p> <p>15 without the functional master plan for the exceptional</p> <p>16 rustic roads findings, which they normally do in cases like</p> <p>17 this, or with regard to forest law requirements, then even</p> <p>18 though you might not intend it, you inadvertently prejudice</p> <p>19 the case decision by explicitly ratifying the deforested</p> <p>20 site plan.</p> <p>21 And at that point you have a serious problem with a</p> <p>22 major amendment that offers physical impact to the</p> <p>23 neighbors, and deprives them of their constitutional right</p> <p>24 to protest against the degradation of their environment.</p> <p>25</p>	<p>103</p> <p>1</p> <p>2 one point in my testimony, if you were [inaudible] --</p> <p>3 HEARING OFFICER HANNAN: Okay. Don't -- just don't --</p> <p>4 let me make sure I have everybody back, okay? Ms. Freeman,</p> <p>5 are you here?</p> <p>6 MS. FREEMAN: Yes.</p> <p>7 HEARING OFFICER HANNAN: Okay. Great. Go ahead, Dr.</p> <p>8 Hansen.</p> <p>9 DR. HANSEN: Okay. Again, this refers to whether or not</p> <p>10 this is a minor or major amendment. Your colleague -- and I</p> <p>11 apologize if I'm not pronouncing her last name correctly --</p> <p>12 Elsabett Tesfaye?</p> <p>13 HEARING OFFICER HANNAN: Tesfaye.</p> <p>14 DR. HANSEN: Tesfaye. Oh, excellent. Thank you. I will</p> <p>15 remember it has two -- two syllables. She said in email to</p> <p>16 all of us, information that was not included in the official</p> <p>17 report that came to us.</p> <p>18 But she said specifically, quoting her, at the time of</p> <p>19 the original application in 2016, our environmental staff</p> <p>20 reviewed the environmental conditions on the property, as</p> <p>21 well as the environmental resources, and found that the</p> <p>22 proposed equestrian facility to be considered [inaudible]</p> <p>23 the environment guidelines, period.</p> <p>24 The application did not propose any developed clearing</p> <p>25 or grading activities that generate the needs for a sediment</p>
<p>102</p> <p>1 They would also then ju- -- unjustly be foreclosed in</p> <p>2 any initial means of mobilizing and protesting the damage to</p> <p>3 Sugarland Road and exceptional rustic road, and it would</p> <p>4 also prevent all of the neighbors from utilizing all avenues</p> <p>5 otherwise available to protest the county's decision.</p> <p>6 So this is an if/then double whammy, if I might put it</p> <p>7 in the vernacular. I'm sure you don't intend to prejudice</p> <p>8 all other cases in parts of the bureaucracy that have a</p> <p>9 higher level of precedence.</p> <p>10 But in effect that's what you're doing by putting the</p> <p>11 cart before the horse. I rest my case.</p> <p>12 HEARING OFFICER HANNAN: Okay. It is now Ms. Freeman's</p> <p>13 chance to ask questions. But we're going to take just a</p> <p>14 five-minute break before we get to that. All right? So yes,</p> <p>15 ma'am, were you going to say something?</p> <p>16 DR. HANSEN: I was going to say, thank you very much.</p> <p>17 HEARING OFFICER HANNAN: Okay. We're going to take --</p> <p>18 go off the record for five minutes. And we'll be back at</p> <p>19 that time.</p> <p>20 (On the record at 12:21:49 p.m.)</p> <p>21 (Back on the record at 12:28:48 p.m.)</p> <p>22 Back on the record. Is the court reporter there? Mr.</p> <p>23 Utterback? Thank you. Are the parties ready to go back on</p> <p>24 the record?</p> <p>25 DR. HANSEN: I am here. And I'm sorry to say I forgot</p>	<p>104</p> <p>1 control permit on the conditional use site. Therefore,</p> <p>2</p> <p>3 comma, the property was not subject to the forest</p> <p>4 conservation law as defined in Chapter 22A of the Montgomery</p> <p>5 County code.</p> <p>6 The proposed amendment which results with a reduction</p> <p>7 of about 15 percent of the pasture area is not likely to</p> <p>8 change the findings, so long as there will not be clearing</p> <p>9 or grading activities on the four acre portion of the</p> <p>10 property that is subject to the proposed amendment. The</p> <p>11 property is not within a special protection area.</p> <p>12 The response to that is this. Number one, we're still</p> <p>13 dealing with an inaccurate map for all of the reasons that I</p> <p>14 pointed out earlier, four pages I think is single spaced</p> <p>15 typed.</p> <p>16 And a new map has not been corrected and submitted</p> <p>17 with a correct scale. So there's no way for you really to</p> <p>18 know unfortunately whether or not she is proposing to</p> <p>19 continue on with the original plan of 2016.</p> <p>20 And based on what I know about what has happened in the</p> <p>21 community out here, there is a longstanding concept of land</p> <p>22 that is considered R or rural, that will be cleared, can't</p> <p>23 be cleared, and often is cleared unless it is protected. And</p> <p>24 no one is the wiser until something like this pops up.</p> <p>25 So theoretically, because your staff has not done a</p>

Transcript of Hearing
Conducted on June 22, 2020

27 (105 to 108)

<p>105</p> <p>1 full assessment under the [inaudible] conservation laws, 2 particularly with regard to safeguarding mature [inaudible] 3 4 forests including champion trees. 5 As noted in Chapter 22A, the proposed deforestation 6 noted on the site plan that was submitted, which was also 7 used for you in your zoning CU hearing, leaves open the 8 question of whether or not the safeguards that are built 9 into the 1996 functional master plan for the exceptional 10 rustic roads have been taken into account and adhered to. 11 And I'm thinking particularly about what I alluded to 12 earlier with regard to flyways, local property water quality 13 filtration, forest preservation, and the potential 14 [inaudible] -- 15 HEARING OFFICER HANNAN: Hello? 16 MR. GRIGORIAN: Carol? Carol? Carol? 17 [talking over each other] 18 DR. HANSEN: Oh, I am so sorry. 19 MR. GRIGORIAN: You muted yourself. You have to rewind 20 for a moment -- 21 DR. HANSEN: Okay. Let me go back and -- I'm so sorry, 22 folks. I'm so sorry. What I neglected to note earlier was 23 the difference -- the last difference between a minor and a 24 major. 25 And it concerns again another nuanced aspect of the</p>	<p>107</p> <p>1 HEARING OFFICER HANNAN: Okay. Go ahead. 2 DR. HANSEN: So retry -- the third try. Okay. The part 3 that I neglected to mention, and I do apologize because this 4 has gone on for a while, reinforces the argument that I was 5 6 making on January 13th regarding the inaccuracies of the 7 subdivision map, which has also been without updating and 8 correction, been used as part of this minor amendment 9 request to your office. 10 At that time an additional piece of information came to 11 us on an email from your colleague on 5/15, in which Ms. 12 Tesfaye says, at the time of the original application in 13 2016, our environmental staff reviewed the environmental 14 conditions on the property, as well as the environmental 15 resources, and found that the proposed equestrian facility 16 to be consistent with environmental guidelines, period. 17 The application did not propose any development, comma, 18 clearing, comma, or grading activities that generate the 19 need for a sediment control permit on the conditional use 20 site, period. Therefore, comma, the property was not subject 21 to the forest conservation law as defined in Chapter 22A of 22 the Montgomery County code, period. 23 The proposed amendment which results with a reduction 24 of about 15 percent of the pasture area is not likely to 25 change this finding so long that there will not be clearing</p>
<p>106</p> <p>1 forest areas which are shown accurately and inaccurately on 2 this document which was supposed to have been updated and 3 resubmitted to the neighbors as well as you folks. It never 4 5 was. 6 And because it has so many inaccuracies, it would be 7 moving forward and would be put into record, which would 8 cause innumerable problems as we discussed earlier -- 9 HEARING OFFICER HANNAN: What is -- why are you saying 10 it's inaccurate because of forest -- 11 MR. GRIGORIAN: I'm sorry. You're muted again, Carol. 12 Carol, you're muted again. And I have this -- I have this 13 sneaking suspicion that when -- that the muting is happening 14 on your end because she does not seem to be touching her 15 computer. 16 DR. HANSEN: No. I'm gesticulating with this hand. I'm 17 not touching the computer. I think it was -- the reason why 18 is because [inaudible] 19 HEARING OFFICER HANNAN: Wait. Can you stop? Dr. 20 Hansen, can you stop a minute? Can everyone hear Dr. Hansen? 21 MS. FREEMAN: Yes. 22 MR. GRIGORIAN: We can now. But I think someone is 23 muting her, uh, randomly, not intentionally. But it's not 24 her muting herself. So let's just give it another shot and 25 everybody --</p>	<p>108</p> <p>1 or grading on the four-acre portion of the property that is 2 the subject of the proposed amendment, period. The property 3 is not within a special protection area, period. 4 Well, if we refer back to the inaccuracies that I 5 highlighted in this particular map which was submitted both 6 7 to the subdivision and also for your proceedings today; 8 unless all of the scale measurements are corrected, and 9 unless all of the understory that exists there today shows 10 up on the map, unless all of the secondary and tertiary 11 forest as well as the champion trees show up on those maps, 12 then without having in law regulatory protections for a set 13 aside to protect those forested areas, it could all be taken 14 down. 15 And that is what happens out here in this country over 16 and over and over again. And that would of course lead to 17 substantial impact of a property owner. It would have a 18 substantial impact on potentially all county residents 19 because all county residents benefit from the functional 20 master plan for the protection of the rustic roads. 21 And if you lived out here as I do, you would know that 22 a very substantial portion of the populace enjoys 23 exceptional rustic roads, including ours. They're birders, 24 they're runners, they're horseback riders, etc., etc., etc. 25 So to continue on, your [inaudible] has been that you</p>

Transcript of Hearing
Conducted on June 22, 2020

28 (109 to 112)

<p>109</p> <p>1 have to take into account all of the items under 22A. I 2 wanted to reemphasize also because there are four entities 3 of government involved here, if you make a decision that's 4 minor, prejudice is the case and it preempts action by the 5 rustic roads advisory committee, preempts action by the 6 [inaudible] -- 7 HEARING OFFICER HANNAN: Dr. Hansen [inaudible] it 8 doesn't -- mine doesn't have any effect. It doesn't have any 9 binding effect on what they do in the preliminary plan. 10 DR. HANSEN: They would be recorded. That's the point. 11 If this inaccurate map -- 12 HEARING OFFICER HANNAN: It's not -- this is not 13 recorded in the land records. This is not recorded in the 14 land records. The record plot will be, but not this. 15 DR. HANSEN: And why do you say that? 16 HEARING OFFICER HANNAN: Because it's not. 17 DR. HANSEN: Could Greg weigh in here on this issue? 18 I'm not a lawyer, so I don't know. 19 MR. GRIGORIAN: Are we talking about the forest 20 conservation -- 21 HEARING OFFICER HANNAN: No. I'm talking about the 22 [inaudible] -- 23 [talking over each other] 24 HEARING OFFICER HANNAN: Dr. Hansen, I'm not going to 25 tell you again. When I'm talking, you don't talk.</p>	<p>111</p> <p>1 change with respect to the lot that you are focused upon in 2 connection with an application that was submitted prior to 3 the application you received, and will be -- 4 HEARING OFFICER HANNAN: I understand. And the record - 5 - I understand that. And the record plot will be recorded. 6 But this will not. 7 This doesn't bind the record plot in any way, shape, 8 9 or form. Unfortunately what I think has happened is that Ms. 10 Freeman has used the subdivision plot as her conditional 11 site plan, which is permissible. 12 But I think it creates the perception that by approving 13 this conditional use, we are approving a trail, we are 14 approving the forest conservation plan, we are doing all of 15 those things, and we aren't doing those things. So -- 16 MR. GRIGORIAN: I'm sorry. You cut out, unfortunately. 17 So can you repeat? 18 HEARING OFFICER HANNAN: Yes. What I'm saying is that 19 Ms. Freeman has used the sub- -- subdivision plot for her 20 conditional use plan. 21 And I think that that is creating -- I understand what 22 you mean. Both of you have testified that this is just a 23 sequential part of the process that makes the approval of 24 the preliminary plan inevitable. 25 But I think the confusion is created in part because</p>
<p>110</p> <p>1 DR. HANSEN: I'm very sorry. 2 HEARING OFFICER HANNAN: Stop. It's very frustrating. 3 We need to get through this hearing. The court reporter, as 4 I said at the beginning, can't hear crosstalk. And don't ask 5 Greg Gregorian what I happen to know for a legal and factual 6 matter; it's not recorded. A conditional use site plan is 7 8 not recorded. 9 MR. GRIGORIAN: Permission to speak? 10 HEARING OFFICER HANNAN: Yes. 11 MR. GRIGORIAN: I think that the -- number one, I think 12 that the reason why there was some confusion was because 13 initially when you said it's not recorded, Dr. Hansen wasn't 14 sure whether you were referring to the map that shows the 15 forest conservation area and all of the rights of way and 16 everything else that's sort of off of the subject property, 17 the seven and a quarter acre subject property, versus the 18 conditional use or mod- -- modified -- proposed to be 19 modified conditional use permit. 20 I -- I think we all understand that as part of your 21 potential approval of that permit, the map that we're 22 focused on that shows forest to be cleared is not going to 23 be recorded. 24 The only reason why that map is relevant is simply to 25 make the point that there are a number of things that might</p>	<p>112</p> <p>1 Ms. Freeman has used the subdivision plan that contains all 2 these items that does not have anything to do with the 3 conditional use. 4 She's used that subdivision plan as her conditional 5 use plan. That is permissible. I can ask her to resubmit a 6 conditional use plan only showing the lot we're working on 7 and the restrictions imposed by this conditional use plan. 8 But whatever happens with the preliminary plan, nothing 9 10 in this is legally binding. The conditional use plan does 11 not get reported. 12 If Ms. -- if Ms. Freeman is agreeable, I can ask her 13 to submit a conditional use plan without all the 14 encumbrances shown on the subdivision plan and limit it to 15 lot one, because that's the only property that's going to be 16 changed. And this may help clarify the issue. 17 MR. GRIGORIAN: Permission to speak? 18 HEARING OFFICER HANNAN: Yes. 19 DR. HANSEN: [inaudible] going to speak too after Greg. 20 MR. GRIGORIAN: Just to reiterate for the -- well I 21 continue to -- to make the point that there is no lot one at 22 this time. So to submit a revised plan, to submit the 23 current proposed plan, is to submit an idea and not a fact. 24 HEARING OFFICER HANNAN: Well, what she could do is 25 eliminate any reference to lot one and just -- she could</p>

Transcript of Hearing
Conducted on June 22, 2020

29 (113 to 116)

<p>113</p> <p>1 submit a revised plan for the 7.65 acres with just a line 2 denoting where the new conditional use is, instead of 3 showing the trail, the forest conservation area, all of 4 that, because that's part of the subdivision approval 5 process. 6 And now she -- she doesn't have to do that. I'm just 7 suggesting it to clarify that what happens here really does 8 not -- it's a completely different standard, it's a 9 completely different process, it is not binding. 10 11 And none of those things shown -- let me go back to 12 see if I can find what exhibit her conditional use plan is. 13 Well, none of those things, like the offsite stream 14 buffer, and the trail going along the -- I guess it's the 15 southern part of her property [inaudible] -- 16 MR. GRIGORIAN: May I ask what you're looking at? 17 HEARING OFFICER HANNAN: Okay. It's 29. It's actually 18 33, but 29's a better version of it. Okay. Let me go back 19 and see if I can't show you. 20 MR. GRIGORIAN: I -- I -- 29A, I have it up on my 21 screen. 22 HEARING OFFICER HANNAN: Okay. I can ask her to submit 23 just a plan of -- that four acres that are referred to on 24 this plan as lot one. But we -- it doesn't even have to call 25 it lot one.</p>	<p>115</p> <p>1 I -- we don't care about sand mounds, we don't care about 2 anything, except the fact that she's reducing the four -- 3 you know, the 7.65 lot by 3.65 acres. 4 So I can ask her to submit something without all the 5 subdivision issues, and just submit a new boundary for the 6 condi- -- existing conditional use. Because that's all we're 7 doing. 8 DR. HANSEN: May I have permission to speak? 9 HEARING OFFICER HANNAN: Yes. 10 DR. HANSEN: Our neighbors immediately to the right who 11 12 own three properties immediately contingent to Ms. Freeman, 13 the Eaders, have told me that they had noticed that their 14 southwest border with her has -- is inaccurate and that it 15 needs to be withdrawn -- redrawn. 16 And I would respectfully request that if a new drawing 17 is submitted to your office, that it has the corrections 18 that the Eaders asked to have put on to the official map 19 because they also are concerned about something being 20 recorded that's not. 21 HEARING OFFICER HANNAN: I don't know what those 22 corrections are. And they're not here to testify. 23 DR. HANSEN: They sent in -- they sent in a message way 24 back in early May. And it would have been attached to that. 25 And I believe they communicated directly with Ms. Freeman as</p>
<p>114</p> <p>1 Or she can -- it might be easier -- you know what 2 would be easier to do, it would be easier to submit the 3 entire 7.6 acres with a single line down the middle that 4 corresponds where the new lot lines would be. 5 Take all the -- take all the sand mounds off, take all 6 the subdivision things off. This was her orig- -- let me 7 show you her original conditional use plan that was approved 8 -- well it's in here. This is the original condi- -- 9 conditional use. Do you see it? It's in the hearing 10 examiner's report. 11 MR. GRIGORIAN: Yes. 12 HEARING OFFICER HANNAN: Okay. For some reason this 13 won't -- hold on one second here, I'm getting there. Okay. 14 Ugh. 15 MR. GRIGORIAN: Mm-hmm. 16 HEARING OFFICER HANNAN: Okay. This is the original 17 conditional use that she submitted. She can take that -- 18 because what we're really doing is lop -- the only thing 19 this proceeding does is lop off 3.65 acres of what's here. I 20 can ask her to resubmit a -- a conditional use plan that 21 just shows the area reduction without all the other 22 subdivision. 23 Everything else on this plan, the exhibit -- 30 -- 32 -- 24 -- 29 -- everything else on exhibit -- most [inaudible] on 25 exhibit 29 is sub- -- all for subdivision. That's all it is.</p>	<p>116</p> <p>1 well. 2 HEARING OFFICER HANNAN: How do you -- how do you spell 3 their name? 4 DR. HANSEN: E-a-d-e-r. You'll see it's C and E.S. 5 Eader. That line is incorrect. Ms. Freeman's outline is 6 incorrect. 7 MS. FREEMAN: Can I say something? Can I -- permission 8 to speak? 9 HEARING OFFICER HANNAN: Yes. 10 MS. FREEMAN: So I -- I -- I fully agree with the 11 hearing examiner's request. I'm more than happy to -- as she 12 13 -- as she just explained to make the map without all the 14 subdivision stuff. 15 In fact, this may -- my comment may even help with Dr. 16 Hansen's comment now, if we look for example at that 17 conservation plan map that we were looking at before, that 18 one has like just the borders of the property from I guess 19 some GIS program, you know, not a survey, just an 20 independent GIS thing, I guess. 21 And then I could just take that map and use that, and 22 then draw the additional things that I should put on for the 23 conditional use. I'm talking about the map that [inaudible] 24 -- 25 HEARING OFFICER HANNAN: Which map are you talking</p>

Transcript of Hearing
Conducted on June 22, 2020

30 (117 to 120)

<p>117</p> <p>1 about using as a base?</p> <p>2 MS. FREEMAN: The one with -- from the soil</p> <p>3 conservation plan, the conservation plan map, the one that -</p> <p>4 HEARING OFFICER HANNAN: But you need to use one. You</p> <p>5 could take -- I assume the subdivision plan, which is I</p> <p>6 think 59 --</p> <p>7 MR. GRIGORIAN: 59 is forest conservation [inaudible]</p> <p>8 HEARING OFFICER HANNAN: That's correct.</p> <p>9 MS. FREEMAN: [inaudible] concerned because people are</p> <p>10 having concerns about the accuracy --</p> <p>11 HEARING OFFICER HANNAN: Let me just -- let me just</p> <p>12 tell you something. You can use the boundaries of -- that</p> <p>13</p> <p>14 are in 29.</p> <p>15 MS. FREEMAN: Okay.</p> <p>16 HEARING OFFICER HANNAN: Okay? And have your engineer</p> <p>17 remove everything to do with the subdivision.</p> <p>18 MS. FREEMAN: Okay.</p> <p>19 HEARING OFFICER HANNAN: Okay? Take out the -- just put</p> <p>20 the lot line with your existing structures, your stable, the</p> <p>21 com- -- everything that's on your original conditional use</p> <p>22 plan, and take everything else off.</p> <p>23 MS. FREEMAN: Okay.</p> <p>24 HEARING OFFICER HANNAN: And I think that might clarify</p> <p>25 what you -- what this proceeding is about. Because this</p>	<p>119</p> <p>1 people on the line are misled to believe that by approving</p> <p>2 this, all of the other things are de facto improved. But</p> <p>3 such is not the case with me. I've got a couple points.</p> <p>4 Number one, the reason why the subdivision process and</p> <p>5 the subdivision application as submitted matters is simply</p> <p>6 because it speaks to the idea that we can't -- one can't --</p> <p>7 no one can know whether or not the approval of the amendment</p> <p>8 to the conditional use permit will have a significant impact</p> <p>9 or not.</p> <p>10 Because the subdivision plan is in motion and there are</p> <p>11 things that have to change and may change based on the --</p> <p>12 that -- that separate independent process, not the least of</p> <p>13 which is the drawing that you're asking her to, you know,</p> <p>14 resubmit, the line, that line down, quote, down the middle.</p> <p>15</p> <p>16 My second point is, if you ask her to submit a new</p> <p>17 drawing that's just showing what is now designated as lot</p> <p>18 one, but a portion of the 7.25 acres or .26 acres, is she</p> <p>19 also going to agree to not allow horses across that line</p> <p>20 into the open paddock that's on the other lot, the quote lot</p> <p>21 two, which is the hypothetical lot two, which then will not</p> <p>22 have a conditional use permit?</p> <p>23 Because the conditional use permit is modified. It's</p> <p>24 only going to apply to lot one. It's open pasture, marry --</p> <p>25 you know, that -- that -- that -- that crosses over lot one,</p>
<p>118</p> <p>1 proceeding is not about the right of way, it's not about the</p> <p>2 trail easement, it's not about the stream buffers; it's not</p> <p>3 about the clearing on lot two.</p> <p>4 So your engineer can just use the property lines as the</p> <p>5 boundaries, and place your existing structures and your</p> <p>6 compost, your compost has to be on there, your compost</p> <p>7 location. If you look at 33A, can you see this up on my</p> <p>8 screen?</p> <p>9 MS. FREEMAN: Yes.</p> <p>10 HEARING OFFICER HANNAN: See, the red is where you mark</p> <p>11 the compost location.</p> <p>12 MS. FREEMAN: Mm-hmm.</p> <p>13 HEARING OFFICER HANNAN: My suggestion would be just</p> <p>14</p> <p>15 mark your existing structures. You can put the well there</p> <p>16 and the new septic, whatever you had on your original</p> <p>17 conditional use, and leave all the sand mounds, and the</p> <p>18 forest retention, and the trail easement. Because I think</p> <p>19 what is misleading people is they think that by approving</p> <p>20 this, all these other things go into effect, and they really</p> <p>21 don't.</p> <p>22 MS. FREEMAN: Got it. That's clear.</p> <p>23 MR. GRIGORIAN: Can I speak?</p> <p>24 HEARING OFFICER HANNAN: Yes.</p> <p>25 MR. GRIGORIAN: I understand why you feel like some</p>	<p>120</p> <p>1 this hypothetical line into lot two.</p> <p>2 So is there going to be another fence built there? Or</p> <p>3 is she going to be violating rules governing conditional use</p> <p>4 permits as to this hypothetical lot two when a horse wanders</p> <p>5 across the invisible line. So this is again, speaks to my</p> <p>6 point, that it -- it --</p> <p>7 HEARING OFFICER HANNAN: Well, let me let her have a</p> <p>8 chance to answer that.</p> <p>9 MS. FREEMAN: Well, first of all, for the horses going</p> <p>10 across, A, I very easily in half a day can put up another</p> <p>11 fence and take off -- that -- that 0.34 acres is nothing --</p> <p>12 if I need to.</p> <p>13 Or B, I already have a fence down the middle. And as I</p> <p>14 said, I have so much pasture. I have too much pasture for</p> <p>15 these horses right now. I never honestly need to use that</p> <p>16</p> <p>17 field.</p> <p>18 So I can either -- which is even more if I don't need</p> <p>19 it. But I can put up a fence if I want to. So it's a</p> <p>20 complete possibility. I don't need the horses to be on that</p> <p>21 0.34 acres at all. Don't need them on there.</p> <p>22 MR. GRIGORIAN: Just to be -- just to be clear, I want</p> <p>23 to -- I want to -- I'm looking at things on my screen. We're</p> <p>24 talking about -- we're talking about lot -- or field --</p> <p>25 field 4B?</p>

Transcript of Hearing
Conducted on June 22, 2020

31 (121 to 124)

<p>121</p> <p>1 MS. FREEMAN: Correct.</p> <p>2 MR. GRIGORIAN: So for field 4A plus field 4B, that's</p> <p>3 one field undivided by anything, correct?</p> <p>4 MS. FREEMAN: Correct. It is now. But [inaudible] to</p> <p>5 divide.</p> <p>6 MR. GRIGORIAN: So -- so field 4B is undivided from</p> <p>7 field 4A. And -- and field 4B would not have any permits to</p> <p>8 have any livestock, equine, because there's no -- you know,</p> <p>9 given what's being proposed, there would be no conditional</p> <p>10 use permit applicable to field 4B, which would reduce the</p> <p>11 relevant acreage.</p> <p>12 If you were to cut off field 4A and field 4B, as -- as</p> <p>13 a -- a -- you said there's already a fence that separates 4A</p> <p>14 from field 2, what are you left for -- what -- what -- what</p> <p>15 -- what acreage are you left to support the three horses</p> <p>16 that are -- that are, you know, in -- in the currently</p> <p>17</p> <p>18 proposed approval.</p> <p>19 HEARING OFFICER HANNAN: Okay. Well, [inaudible]</p> <p>20 MR. GRIGORIAN: 0.9 acres and 0.43 acres as far as I</p> <p>21 can see. So you have 1.33 acres to support three horses.</p> <p>22 MS. FREEMAN: But I think you missed my point that it's</p> <p>23 super -- I mean it takes no time to put up a fence on that -</p> <p>24 - that area. So I can easily within half a day, six hours, I</p> <p>25 can put up a fence on that 0.34 and knock that off.</p>	<p>123</p> <p>1 HEARING OFFICER HANNAN: I guess [inaudible] as a</p> <p>2 possibility to make clear that it's not an approval of</p> <p>3 anything that's happened. But her plan technically meets all</p> <p>4 the requirements necessary for a conditional use plan.</p> <p>5 It -- it has [inaudible] requirements that are</p> <p>6 necessary because it's got all the subdivision. If you want</p> <p>7 [inaudible] to -- to make sure that there's no suggestion</p> <p>8 that the conditional use plan is approving any of what's</p> <p>9 called for in the subdivision plan, that's fine. I offered</p> <p>10 that as a possibility.</p> <p>11 The fact is I understand what you're saying about this</p> <p>12 aggressive approval process. But this does not -- if the lot</p> <p>13 line came out different, she would come -- have to come back</p> <p>14 and amend this. But yes.</p> <p>15 MR. GRIGORIAN: Well, again, speaking to the -- I think</p> <p>16 the issue that was supposed to be at hand here, we went far</p> <p>17 afield, was whether this is minor or major, or a third</p> <p>18 category, you know, untimely. And [inaudible] --</p> <p>19</p> <p>20 HEARING OFFICER HANNAN: Well, what I'm pointing out is</p> <p>21 she's reducing the size [inaudible] because that's how I</p> <p>22 have to look at it. Just -- just go with me for a moment</p> <p>23 here.</p> <p>24 Say it doesn't get approved. [inaudible] what she --</p> <p>25 what Ms. Freeman will be left with is a four acre</p>
<p>122</p> <p>1 MR. GRIGORIAN: Would the existence of that fence be a</p> <p>2 conditional the approval, you know, for all time? I'm asking</p> <p>3 that of Examiner Hannan. Because otherwise, the horses go</p> <p>4 into the unapproved area.</p> <p>5 HEARING OFFICER HANNAN: It can be.</p> <p>6 MR. GRIGORIAN: So you know, and it speaks to the idea</p> <p>7 that there's too many moving parts, there's a lot of things</p> <p>8 in motion, the -- the line that you would be approving in</p> <p>9 your conditional use is not necessarily a line that's going</p> <p>10 to be existing at all time.</p> <p>11 It -- it -- are you -- are we going to have to</p> <p>12 reconvene all these folks after the subdivision hearing if</p> <p>13 that line changes based on all of the testimony of --</p> <p>14 HEARING OFFICER HANNAN: Well, I can make a condition</p> <p>15 that she erect a fence --</p> <p>16 MR. GRIGORIAN: [inaudible]</p> <p>17 HEARING OFFICER HANNAN: If a subdivision [inaudible]</p> <p>18</p> <p>19 [talking over each other]</p> <p>20 HEARING OFFICER HANNAN: Okay. Go ahead.</p> <p>21 [talking over each other]</p> <p>22 MR. GRIGORIAN: Okay. People just -- so sorry. So -- so</p> <p>23 the point being that there's too many moving parts right</p> <p>24 now, I think, for one to make that conclusion that this is a</p> <p>25 minor amendment. I -- I think Dr. Hansen --</p>	<p>124</p> <p>1 conditional use, a smaller conditional use, with a smaller</p> <p>2 number of horses per visit. And that's what I have to look</p> <p>3 at. So [inaudible]</p> <p>4 MR. GRIGORIAN: Can we -- can we -- can we -- there's</p> <p>5 another possibility. Let's get -- let's say it gets</p> <p>6 approved, but the remaining acreage on lot, quote,</p> <p>7 hypothetical lot one is less than four acres. That would</p> <p>8 invalidated --</p> <p>9 HEARING OFFICER HANNAN: Then -- then she -- no, it</p> <p>10 wouldn't invalidate it, but she would be required to come in</p> <p>11 and amend it, to get it smaller.</p> <p>12 MR. GRIGORIAN: Per your [inaudible]</p> <p>13 HEARING OFFICER HANNAN: But then the subdivision, but</p> <p>14 you know, will already have been done [inaudible] and I</p> <p>15 understand what you're saying about Sugarland Road. But you</p> <p>16 know, I can see your concern that nothing on this</p> <p>17 [inaudible] precedent or as a de facto consent or approval</p> <p>18 of the subdivision plan. I understand that.</p> <p>19 And that's why I'm trying to get you something that</p> <p>20</p> <p>21 doesn't create a -- any implication that approval of this</p> <p>22 conditional use consents to all of the, you know, myriad</p> <p>23 issues you have with the subdivision plan. Legally it does</p> <p>24 not.</p> <p>25 DR. HANSEN: May I ask a question?</p>

Transcript of Hearing
Conducted on June 22, 2020

32 (125 to 128)

<p>125</p> <p>1 HEARING OFFICER HANNAN: Yes.</p> <p>2 DR. HANSEN: If you go back to Ms. Freeman's submission</p> <p>3 to you folks originally when she asked to have this amended,</p> <p>4 you will notice that she very specifically uses this as a</p> <p>5 means of conditioning the approval of her future</p> <p>6 subdivision. I would refer you to page two on her 16-15 CU</p> <p>7 application and your staff approval for it.</p> <p>8 And if I may quote her, on January 21, 2020, OZAH</p> <p>9 received a request from the applicant, Ms. Jennifer Freeman,</p> <p>10 to amend the approved conditional use to accommodate a minor</p> <p>11 subdivision of the property into two lots.</p> <p>12 HEARING OFFICER HANNAN: Well, that's -- she's just</p> <p>13 saying why she's doing it. That's -- that's not [inaudible]</p> <p>14 if it happens and she doesn't get the conditional use</p> <p>15 approval, unless I make the -- I can make the conditional</p> <p>16 use -- the reduced conditional use approval, conditioned on</p> <p>17 the -- sorry -- on the approved subdivision. And then</p> <p>18 they'll take effect simultaneously.</p> <p>19 DR. HANSEN: I would suggest that that would be an</p> <p>20 improvement. And I think the more clarity you can offer on</p> <p>21</p> <p>22 the definition the better, because of the way she has</p> <p>23 written the definition --</p> <p>24 HEARING OFFICER HANNAN: Wait, what definition? I don't</p> <p>25 understand that.</p>	<p>127</p> <p>1 DR. HANSEN: Other members -- other members of the</p> <p>2 bureaucracy at other levels between the county, Maryland</p> <p>3 National Capital Park and Planning, and the state of</p> <p>4 Maryland.</p> <p>5 HEARING OFFICER HANNAN: Let me see if Ms. Freeman is</p> <p>6 following this. Ms. Freeman --</p> <p>7 MS. FREEMAN: Mm-hmm. I -- I think I -- my only concern</p> <p>8 is that when I was at -- like I mentioned in my initial</p> <p>9 statement, is when I was at that development review</p> <p>10 committee, they said that I had to have --</p> <p>11 MR. GRIGORIAN: Can you repeat, Jenny? I -- I didn't --</p> <p>12 you cut out.</p> <p>13 MS. FREEMAN: I was saying that when I was at the</p> <p>14 development review committee meeting, I was told by those</p> <p>15 people that I needed to have this conditional use first</p> <p>16 before the subdivision can continue the process. So my only</p> <p>17 concern, and it might not be a concern, I don't know, but my</p> <p>18 only concern is that it depends how it's worded, I think</p> <p>19 what we've just been discussed.</p> <p>20 But if it's worded in a way somehow that -- that it's</p> <p>21 like it is approved, so that the subdivision can take --</p> <p>22 process can take place. I -- I'm -- I'm okay with that.</p> <p>23</p> <p>24 Because I just want to make sure that somehow that it's --</p> <p>25 HEARING OFFICER HANNAN: Well, you're kind of in a</p>
<p>126</p> <p>1 DR. HANSEN: Well, if I understand you correctly, you</p> <p>2 said that you could make as the condition the approval of</p> <p>3 this amendment co-terminus with an approval of the</p> <p>4 subdivision? Is that what you said?</p> <p>5 MR. GRIGORIAN: Conditioned upon, I believe.</p> <p>6 DR. HANSEN: Conditioned upon --</p> <p>7 HEARING OFFICER HANNAN: Well, let me think about -- I</p> <p>8 didn't intend that. I meant to say -- let me ponder that,</p> <p>9 okay? I'm not 100 percent sure I can do that. But what would</p> <p>10 happen is if she didn't get the subdivision, then she would</p> <p>11 get this whole 7.65 acres back subject to the original</p> <p>12 conditions.</p> <p>13 DR. HANSEN: Well, that's what I was hoping, if I might</p> <p>14 speak again, that's what I was hoping would occur. Because</p> <p>15 that doesn't hurt Ms. Freeman at all. She loses no money.</p> <p>16 She loses no flexibility on ultimately marketing her</p> <p>17 property for sale if she elects to do that. She loses no</p> <p>18 muddying of the waters if she proceeds with the subdivision.</p> <p>19 But it also leaves unfettered all of the options on the</p> <p>20 table for the neighbors without even a faint implication</p> <p>21 that a decision here preempts -- the legal term is preempts</p> <p>22</p> <p>23 space, preempts the space that should be, [inaudible] --</p> <p>24 HEARING OFFICER HANNAN: Well, that's not the legal</p> <p>25 term, but that's okay.</p>	<p>128</p> <p>1 catch -- I have to say that you're kind of in a catch-22.</p> <p>2 MR. GRIGORIAN: Exactly.</p> <p>3 MS. FREEMAN: Yeah.</p> <p>4 HEARING OFFICER HANNAN: So I think what [inaudible] we</p> <p>5 don't have any [inaudible] --</p> <p>6 MS. FREEMAN: I can't -- I'm sorry, I can't hear -- I</p> <p>7 can't hear you.</p> <p>8 HEARING OFFICER HANNAN: It doesn't matter. It doesn't</p> <p>9 matter. It -- I think the word, a condition, say this is</p> <p>10 approved -- this is approved -- I'm thinking, that's why I'm</p> <p>11 quiet. Think you could word a condition saying because the</p> <p>12 purpose of this is to accommodate the subdivision, it's</p> <p>13 approved.</p> <p>14 But the original -- the subdivision is not approved,</p> <p>15 then it reverts to the original approved conditional use. It</p> <p>16 disappears essentially.</p> <p>17 MS. FREEMAN: Mm-hmm. I understand that.</p> <p>18 MR. GRIGORIAN: So has -- has the hearing examiner ever</p> <p>19 had a springing approval such as the one you're creating</p> <p>20 here?</p> <p>21 I don't -- I don't know that that's appropriate, an</p> <p>22 approval tied to the subdivision. I also think it requires</p> <p>23 as part of this [inaudible] subdivision [inaudible]</p> <p>24</p> <p>25 HEARING OFFICER HANNAN: You're fading out.</p>

Transcript of Hearing
Conducted on June 22, 2020

33 (129 to 132)

<p>129</p> <p>1 [talking over each other] 2 MR. GRIGORIAN: I said [inaudible] it also requires as 3 part of the subdivision process that gives consideration to, 4 you know, the administrative burden it will -- it will 5 [inaudible] upon the hearing examiner having to revisit, you 6 know -- 7 HEARING OFFICER HANNAN: No. It doesn't. No. It doesn't 8 because -- but I can state in the amendment may not be 9 implemented. We do this all the time because of the 10 sequential nature of permits. Because there's -- most 11 projects have many permits after the zoning level. 12 We say this may not be implemented until such time that 13 the subdivision approval, you know, until the planning board 14 gets -- until -- I'm sorry -- until the planning board 15 approves the subdivision plans. So the old plan stays in 16 effect. But you approve the new plan. But then you say it's 17 -- it's not implemented. 18 And we do that quite often with various permits. We'll 19 say you, you know, prior to issuance of whatever permit, you 20 know, you have to do this, and this, and this. So we could 21 do something like this. 22 MR. GRIGORIAN: May -- may I -- may I speak? 23 HEARING OFFICER HANNAN: Or -- or another option is to 24 submit a plan without all -- just with boundary to the 25</p>	<p>131</p> <p>1 HEARING OFFICER HANNAN: Yes. 2 DR. HANSEN: Something like this, if it were worded to 3 leave open the possibility that this subdivision might not 4 be approved, would be potentially worrisome to some of the 5 neighbors. 6 Is there a reason -- could you explain to me why you 7 cannot just leave it on the table until the time is right, 8 when it could be taken up again with no time limits 9 associated with it? That would seem to me the most logical 10 way. 11 HEARING OFFICER HANNAN: But that -- but that ignores 12 the catch-22 she's in. In other words, if I leave the 13 conditional use on the table, then she's never going to get 14 her subdivision plan approved. And that -- that -- she's 15 never going to get it heard. 16 MR. GRIGORIAN: May I -- may I -- may I [inaudible] 17 HEARING OFFICER HANNAN: And -- and that [inaudible] 18 impermissible under planning law. 19 [talking over each other] 20 DR. HANSEN: May I speak ma'am on that? I -- I have a 21 potential solution. Could we check the hearing record for 22 the hearing that I did not attend, but Mr. Grigorian did 23 attend. 24 He doesn't recall any requirement like that. And I 25 remember distinctly having an extensive conversation with</p>
<p>130</p> <p>1 existing improvements and not all the other stuff. 2 MR. GRIGORIAN: May I speak? 3 HEARING OFFICER HANNAN: I'm sorry? 4 MR. GRIGORIAN: May I speak? 5 HEARING OFFICER HANNAN: Yes. 6 MR. GRIGORIAN: That doesn't get to the question of 7 whether or not this is a major or minor amendment. Again, 8 you can't answer that question while the subdivision process 9 and all of these other impacts upon the property and the 10 surrounding property, including the proposed new lot and the 11 -- the Sugarland Road, the trees, the runoff, and 12 everything, is in process. So the question again that -- 13 that -- 14 HEARING OFFICER HANNAN: I -- I understand your 15 argument. Legally it's -- A, it's speculative because we 16 don't even know if a subdivision plan is going to be 17 approved. 18 This has no binding on the subdivision plan. And, you 19 know, I don't know which road -- they're going to have some 20 statement in the [inaudible] plan approval. 21 So it -- it's a -- it's a separate process. And I would 22 be [inaudible] to have her submit a revised plan without all 23 the [inaudible] and everything else showing in the first 24 plan -- 25 DR. HANSEN: May I speak?</p>	<p>132</p> <p>1 2 him immediately after the event in January. He did not 3 mention it to me either. 4 Could we get a copy of that hearing record and find out 5 if they did indeed formally request it? Because if they 6 didn't and it was just a -- an incorrect recollection by Ms. 7 Freeman, then maybe the whole point is moot and you don't 8 need to worry about it. 9 MR. GRIGORIAN: May I make [inaudible] in addition to 10 that? Even if they had -- 11 HEARING OFFICER HANNAN: Yeah. Go ahead. 12 MR. GRIGORIAN: Yeah. Sorry. Even if they had told Ms. 13 Freeman that it was a requirement for her to get the 14 conditional use permit amended before they proceed with the 15 subdivision, that would have been inappropriate. 16 Why would they be concerning themselves regarding the 17 legality of her horses and her basically pets on -- on the 18 remaining lot one, as part of their consideration of a 19 subdivision. They wouldn't care, nor should they care, I 20 think -- 21 HEARING OFFICER HANNAN: Because it's a zoning -- it's 22 a -- it's a zoning violation. Because it's not the same 23 conditional use. She -- she can't have a subdivided lot 24 that's not reflected on the conditional use, the original 25 conditional use approval. That, you know, I haven't seen, I</p>

Transcript of Hearing
Conducted on June 22, 2020

34 (133 to 136)

<p>133</p> <p>1 wasn't privy to the meeting. But my guess is that that is</p> <p>2</p> <p>3 what they think is. Actually I do see -- well so --</p> <p>4 MR. GRIGORIAN: I'm sorry; actually what? Hello?</p> <p>5 HEARING OFFICER HANNAN: Yeah. I was going to say</p> <p>6 something and then I changed my mind. So you know, those are</p> <p>7 my suggestions. I mean I can make a decision on the plan</p> <p>8 that's in front of me. And I -- I have heard your concerns.</p> <p>9 I understand why you're concerned. So --</p> <p>10 DR. HANSEN: May I speak once more before you conclude?</p> <p>11 HEARING OFFICER HANNAN: Yeah. Yes. Sure.</p> <p>12 DR. HANSEN: Is there a downside to asking that their</p> <p>13 record be evaluated and a copy of it submitted? I know a lot</p> <p>14 of things can be [inaudible] --</p> <p>15 HEARING OFFICER HANNAN: Wait, what record? I just need</p> <p>16 to understand you. What record?</p> <p>17 DR. HANSEN: Oh, the record of the first meeting where</p> <p>18 this all was discussed, which I did not attend, but Mr.</p> <p>19 Grigorian did and Ms. Freeman did. And they both have</p> <p>20 completely different recollections on what she was asked to</p> <p>21 do and what she was required to do.</p> <p>22 If we could just check that record and get a copy of it</p> <p>23 for all parties, it might make your dilemma a little bit</p> <p>24 easier.</p> <p>25 HEARING OFFICER HANNAN: Well, what I can do -- what I</p>	<p>135</p> <p>1 would be an inappropriate condition precedent to the</p> <p>2 subdivision, to have them involved in your basically</p> <p>3 personal animals.</p> <p>4 And I understand Examiner Hannan's point that the</p> <p>5 subdivision with those animals on the site would have</p> <p>6 rendered the remaining lot in violation of sub-zoning</p> <p>7 without a conditional use permit.</p> <p>8 I -- I get that. But at the same time those animals</p> <p>9 could be removed from the lot. You know, you could be</p> <p>10 selling both lots.</p> <p>11 Would they require you to have a conditional use permit</p> <p>12 if you were subdividing into two lots and selling both lots</p> <p>13 to a developer, if a developer were hypothetically speaking</p> <p>14 subsidizing, underwriting this whole process that you've</p> <p>15 undertaken? No. So I mean, I just think it was --</p> <p>16 HEARING OFFICER HANNAN: Well, you know, just -- just I</p> <p>17 don't want to speculate anymore. I can -- I can leave the</p> <p>18 record open to give staff a chance to respond in writing.</p> <p>19 And I can give each of you a -- a chance to respond to</p> <p>20 staff's comments.</p> <p>21 DR. HANSEN: Permission to speak?</p> <p>22 HEARING OFFICER HANNAN: Yes.</p> <p>23 DR. HANSEN: Would that leave open the option for us,</p> <p>24 or you, or you and then for us, to see what the record</p> <p>25 actually says?</p>
<p>134</p> <p>1 can do is leave the records open and ask staff, because it</p> <p>2 may have been a verbal conversation rather than a, you know</p> <p>3</p> <p>4 -- the DRC minutes are [inaudible] many times.</p> <p>5 So I can ask staff to forward it and ask whether she</p> <p>6 was requested to get the conditional use before the</p> <p>7 subdivision.</p> <p>8 DR. HANSEN: I think that would be such a big help. And</p> <p>9 we would be greatly appreciative if you would be so kind.</p> <p>10 MS. FREEMAN: Can I also say something?</p> <p>11 HEARING OFFICER HANNAN: Yes, Ms. Freeman.</p> <p>12 MS. FREEMAN: I just wanted to say that I think Ms. --</p> <p>13 Dr. Hansen just made a one small error that -- in that she</p> <p>14 said that Mr. Grigorian and I were saying opposite things.</p> <p>15 In fact we weren't.</p> <p>16 Mr. Grigorian's point is if in fact what I said is</p> <p>17 true, which I was requested to get the conditional use, he</p> <p>18 said then that was an error on the side of the DRC.</p> <p>19 So I don't believe that he's saying right now that that</p> <p>20 was never said at the meeting. I think he's saying that if</p> <p>21 it was said, it was an error on the DRC, not [inaudible]</p> <p>22 MR. GRIGORIAN: I think that's -- that's fair --</p> <p>23 [talking over each other]</p> <p>24 MR. GRIGORIAN: I don't recall it being said. But even</p> <p>25 if it was said, that it shouldn't have been -- that -- that</p>	<p>136</p> <p>1 HEARING OFFICER HANNAN: Well, I can re- -- request the</p> <p>2 minutes of the DRC meeting.</p> <p>3 DR. HANSEN: Oh, that would be so helpful.</p> <p>4</p> <p>5 HEARING OFFICER HANNAN: But then I did not catch what</p> <p>6 you said about the DRC -- we -- what's your source of your</p> <p>7 understanding that you had to proceed with the --</p> <p>8 MR. GRIGORIAN: Everybody froze up again --</p> <p>9 HEARING OFFICER HANNAN: -- conditional use -- hello?</p> <p>10 MS. FREEMAN: I can hear you.</p> <p>11 HEARING OFFICER HANNAN: Ms. Freeman?</p> <p>12 MS. FREEMAN: Yes. I hear you. When I was at the DRC</p> <p>13 meeting, it was verbally told to me. I don't recall the</p> <p>14 person's name. So maybe, yes, in the minutes it should be</p> <p>15 there, I -- I suspect. But I --</p> <p>16 HEARING OFFICER HANNAN: No. Well, [inaudible]</p> <p>17 MR. GRIGORIAN: May -- may I --</p> <p>18 HEARING OFFICER HANNAN: No. Let me finish. It may or</p> <p>19 may not. Because I've seen many, many DRC minutes. And they</p> <p>20 are very summary.</p> <p>21 MS. FREEMAN: Uh-huh.</p> <p>22 HEARING OFFICER HANNAN: So --</p> <p>23 MR. GRIGORIAN: May I speak?</p> <p>24 MS. FREEMAN: Wait, let me -- okay. But I also wanted</p> <p>25 to reply. Because I think she was asking me a question. But</p>

Transcript of Hearing
Conducted on June 22, 2020

35 (137 to 140)

<p>137</p> <p>1 I just wanted to say that I -- it was, you know, at the 2 meeting, it was absolutely clearly told to me. 3 I said, I'm sure I -- I said immediately I will go 4 ahead and start this process. And there was some 5 6 conversation about that. 7 And yes, Mr. Grigorian was there. I -- I have got to 8 believe he -- he remembers that conversation. And no, I -- I 9 can accept his point to say he doesn't agree with what the 10 DRC said. 11 I have no comment on that. I'm not any type of lawyer 12 at all. So that's fine. He can disagree. 13 But I -- I really ask that he state -- I mean, you 14 know, that was said, that that was said. 15 HEARING OFFICER HANNAN: Okay. I guess [inaudible] 16 MR. GRIGORIAN: I will -- I will -- I will tell you -- 17 now I will tell you in some greater detail what I remember 18 the discussion being -- 19 HEARING OFFICER HANNAN: But it -- it -- let me just 20 get it in writing from staff. Then we don't have to go 21 through hearsay of what -- who said what. I can just 22 [inaudible] the position from staff. 23 MS. FREEMAN: Okay. 24 HEARING OFFICER HANNAN: And so let's -- let's do that. 25 Okay? And that'll be --</p>	<p>139</p> <p>1 Another issue that was brought up, again extraneous to 2 this hearing, was the fact that her active septic field is 3 in that right of way, that Dr. Hansen's been referring to. 4 The -- the -- the newly built septic field, part of that 5 right of way. And that was another problem. Notes were 6 taken. You know, I'm not sure how that'll get resolved -- 7 8 HEARING OFFICER HANNAN: That's really my -- my job is 9 to -- I can look -- this is what I can look at. I can look 10 at the existing conditions of use, and whether -- and I can 11 only consider the amendments. It's not a full-fledged 12 hearing again. 13 I can look at the existing conditional use and I can 14 look at what the amendments do. That's what I can look at 15 under the zoning ordinance. I am willing to get 16 clarification from staff regarding the need to conditional 17 use resolved before the subdivision. 18 And I can leave -- leave the record open to -- to 19 solicit their opinions and their information, and get 20 comments. And then that will allow you to have the chance to 21 respond to those comments. 22 Because rehashing what, you know, I can see you each 23 have different perspectives on the DRC meetings. I wasn't 24 there. And it's hearsay. So I'm willing to leave the record 25 open.</p>
<p>138</p> <p>1 MR. GRIGORIAN: That -- that's fine. But I would like 2 to enter into the record since I am under oath what I -- 3 what I recall to the best of my recollection the -- the 4 conversation being. 5 There was a free-flowing conversation at one point in 6 7 between the applicant, Ms. Freeman, and -- and I guess it's 8 Park and Planning. 9 HEARING OFFICER HANNAN: Yes? 10 MR. GRIGORIAN: The topic of the existing conditional 11 use permit came up. It seemed to me that that was a new 12 topic, one -- one that had not yet been considered by Park 13 and Planning. And it was -- appeared to me to be a eureka 14 moment for Ms. Freeman and her -- and her advisor, someone 15 with David McKey's office, a gentleman I don't remember his 16 name. 17 And that they noted down, oh yeah, well that's a 18 problem. Yeah, we need to deal with this conditional use 19 permit, amending it to accommodate smaller lot. It was not 20 presented, again to the best of my recollection, as a 21 condition precedent to the subdivision hearing. 22 It was presented as one of the many other issues, one 23 of the many issues that -- that needs to be addressed for 24 this -- for this subdivision to be successful. And -- and -- 25 but not a condition precedent.</p>	<p>140</p> <p>1 We can proceed and I can try and get clarification 2 from staff whether the change to this is necessary -- you 3 know, that the conditional use is necessary, prior to the 4 subdivision approval. 5 MR. GRIGORIAN: [inaudible] 6 HEARING OFFICER HANNAN: And then I can leave it open. 7 Let me go -- let me just go to my calendar. 8 9 MR. GRIGORIAN: Examiner Hannan, I have to drop in 10 three minutes. I apologize. I'm not sure what -- I didn't 11 expect this to go on as long. Is there -- is there some way 12 to review the -- 13 HEARING OFFICER HANNAN: I can send you -- I can send 14 you -- I'm going to leave the record open -- let's see, 15 today's the 22nd. I'm going to leave the record open for 16 July -- through -- I'm going to give staff -- it's not that 17 difficult a question -- I'm going to give staff one week to 18 respond. 19 I'm going to send them an email today. I'm going to 20 give staff one week to respond. So that would be the 29th. 21 And then you all can comment by Friday the 3rd. And 22 then Ms. Freeman typically gets the final say, so she can 23 comment -- Ms. Freeman, do you think you could comment by 24 Tuesday, 7/7? 25 MS. FREEMAN: Yes.</p>



Transcript of Hearing
Conducted on June 22, 2020

36 (141 to 144)

<p>141</p> <p>1 HEARING OFFICER HANNAN: Okay. So I'm going to -- I'm</p> <p>2 going to send staff an email today saying, what's the story</p> <p>3 --</p> <p>4 MR. GRIGORIAN: Asking for the minutes?</p> <p>5 HEARING OFFICER HANNAN: I'm sorry?</p> <p>6 MR. GRIGORIAN: Asking for the minutes? I don't know</p> <p>7 that I'm eligible to request the minutes of that hearing. It</p> <p>8 was not -- I was not -- I was able to be a -- to appear at</p> <p>9</p> <p>10 the hearing just to hear -- watch the hearing and listen.</p> <p>11 But I'm -- I was not able to speak. So I don't know</p> <p>12 that I am able to, you know, have standing to --</p> <p>13 HEARING OFFICER HANNAN: Well, what I'm more concerned</p> <p>14 about is whether staff is actually saying approve this</p> <p>15 subdivision or approve the conditional use first. So what --</p> <p>16 whatever was said at the DRC hearing, I want to know right</p> <p>17 now, forget the DRC hearing, what their position is as far</p> <p>18 as what she needs to do, preliminary plan [inaudible]</p> <p>19 MS. FREEMAN: Ma'am --</p> <p>20 MR. GRIGORIAN: Thank you everyone. I'm -- I'm going to</p> <p>21 drop. Thank you.</p> <p>22 HEARING OFFICER HANNAN: Okay. Yes, Ms. Freeman?</p> <p>23 DR. HANSEN: Yes. Would you also -- would that give Ms.</p> <p>24 Freeman enough time to make the engineering drawings redone</p> <p>25 so that they don't complicate the matter, but instead just</p>	<p>143</p> <p>1 And you need to know where the -- show where the compost is.</p> <p>2 MS. FREEMAN: Mm-hmm. Yeah. It shouldn't be a problem.</p> <p>3 I'm sure they can do that in time. But [inaudible]</p> <p>4 HEARING OFFICER HANNAN: But just if you need more</p> <p>5 time, email me and let me know.</p> <p>6 MS. FREEMAN: Okay. That sounds good. Thank you.</p> <p>7 HEARING OFFICER HANNAN: Okay?</p> <p>8 MS. FREEMAN: Okay.</p> <p>9 HEARING OFFICER HANNAN: So with that, with that, we</p> <p>10 are going to adjourn leaving the record open till the 7th,</p> <p>11</p> <p>12 right now till 7/7.</p> <p>13 Staff, I'm going to email staff [inaudible] needs the</p> <p>14 conditional use for [inaudible] subdivision [inaudible] to</p> <p>15 that from Mr. Grigorian [inaudible] Dr. Hansen by 6/29, from</p> <p>16 [inaudible]</p> <p>17 I mean, I'm sorry. Let me do this again. I'm going to</p> <p>18 ask staff for their [inaudible] 6/29. I'm going to ask</p> <p>19 Grigorian and Dr. Hansen their comments by 7/3. I'm going to</p> <p>20 ask Ms. Freeman for her comments by 7/7. I'm also going to</p> <p>21 see if Ms. Freeman can submit a conditional use. And I will</p> <p>22 call [inaudible]</p> <p>23 MS. FREEMAN: Would you repeat the last -- I heard the</p> <p>24 -- the conditional use plan, and then I missed a word.</p> <p>25 HEARING OFFICER HANNAN: Conditional use plan</p>
<p>142</p> <p>1 show a clear boundary? Would it be able to do that by the</p> <p>2 deadline of July 3rd?</p> <p>3 HEARING OFFICER HANNAN: That she may need some time.</p> <p>4 Ms. Freeman [inaudible] right now?</p> <p>5 MS. FREEMAN: Well, I -- I don't have that software on</p> <p>6 my computer. So I would have to get my planners to do that,</p> <p>7 I guess.</p> <p>8 HEARING OFFICER HANNAN: Well, why don't you do this?</p> <p>9 Check with your planners since you can do that.</p> <p>10</p> <p>11 MS. FREEMAN: Mm-hmm.</p> <p>12 HEARING OFFICER HANNAN: Get a time frame and email me</p> <p>13 with the time frame. And if you need more time, we can leave</p> <p>14 it open. But you -- what you need -- you got a pen and</p> <p>15 pencil?</p> <p>16 MS. FREEMAN: Yes. Mm-hmm.</p> <p>17 HEARING OFFICER HANNAN: What you need is the</p> <p>18 boundaries of the 7.65 acres.</p> <p>19 MS. FREEMAN: Mm-hmm.</p> <p>20 HEARING OFFICER HANNAN: You need a line showing what</p> <p>21 is [inaudible] dividing line, the -- we'll call it the</p> <p>22 conditional -- where you want the conditional use to stop.</p> <p>23 MS. FREEMAN: Uh-huh.</p> <p>24 HEARING OFFICER HANNAN: And then you need to show all</p> <p>25 existing structures on the property, which you already have.</p>	<p>144</p> <p>1 [inaudible] subdivision, which is the [inaudible] the trail,</p> <p>2 the sand mounds --</p> <p>3 MS. FREEMAN: Yes.</p> <p>4 HEARING OFFICER HANNAN: If you want to know what you</p> <p>5 need, look back [inaudible] approval, your original</p> <p>6 conditional use site plan.</p> <p>7 MS. FREEMAN: Okay.</p> <p>8 HEARING OFFICER HANNAN: You got to show all the</p> <p>9 existing structures on the lot.</p> <p>10 MS. FREEMAN: Mm-hmm. Sounds good. No problem.</p> <p>11 HEARING OFFICER HANNAN: Okay? So try to get those this</p> <p>12 way.</p> <p>13 MS. FREEMAN: Okay. Thank you.</p> <p>14 [talking over each other]</p> <p>15 DR. HANSEN: This was very helpful.</p> <p>16 HEARING OFFICER HANNAN: Okay. We're off the record.</p> <p>17 (Off the record at 1:34:03 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

Transcript of Hearing
Conducted on June 22, 2020

37 (145 to 148)

145	147
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 CERTIFICATE OF COURT REPORTER 15 I, Lee Utterback, the officer before whom the 16 foregoing proceedings were taken, do hereby certify that 17 said proceedings were electronically recorded by me; and 18 that I am neither counsel for, related to, nor employed 19 by any of the parties to this case and have no interest, 20 financial or otherwise, in its outcome. 21  22 23 24 Lee Utterback, Court Reporter 25</p>	<p>1 2 3 4 5 6 7 8 9 10 11 12 13</p>
146	
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 CERTIFICATE OF TRANSCRIBER 15 I, Christian Naaden, do hereby certify that the foregoing 16 transcript is a true and correct record of the recorded 17 proceedings; that said proceedings were transcribed to the 18 best of my ability from the audio recording and supporting 19 information; and that I am neither counsel for, related to, 20 nor employed by any of the parties to this case and have no 21 interest, financial or otherwise, in its outcome. 22  23 24 25 Christian Naaden</p>	

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<p>a-e 8:3 ability 51:7, 62:2, 146:18 able 8:15, 8:20, 8:21, 9:1, 25:13, 27:14, 31:18, 32:13, 32:14, 58:7, 58:19, 97:24, 98:16, 141:8, 141:11, 141:12, 142:1 about 7:4, 9:16, 11:21, 12:11, 14:9, 16:21, 16:22, 17:21, 18:20, 20:3, 20:6, 23:16, 26:20, 26:21, 28:8, 28:10, 43:1, 44:5, 46:17, 47:11, 47:12, 49:2, 52:12, 52:14, 54:2, 59:6, 60:3, 60:17, 60:22, 60:25, 63:16, 65:5, 66:10, 69:14, 71:2, 73:4, 75:11, 86:19, 86:22, 90:8, 91:18, 93:8, 97:4, 98:21, 100:11, 101:4, 104:7, 104:20, 105:11, 107:24, 109:19, 109:21, 115:1, 115:19, 116:23, 117:1, 117:10, 117:25, 118:1, 118:2,</p>	<p>118:3, 120:24, 123:11, 124:15, 126:7, 132:8, 136:6, 137:6, 141:14 absolute 54:19 absolutely 55:3, 55:8, 137:2 abstract 21:12 accept 74:9, 137:9 acceptable 64:9 access 9:12, 41:22, 85:18, 85:19 accidentally 44:21 accommodate 125:10, 128:12, 138:19 accomplished 65:18 according 17:13 account 60:2, 70:13, 97:8, 99:4, 100:14, 105:10, 109:1 accuracy 117:10 accurate 72:17, 72:18, 73:14 accurately 78:4, 92:9, 92:12, 106:1 acre 15:16, 19:16, 19:18, 21:7, 93:7, 93:8, 104:9, 110:17, 123:25 acreage 29:2, 36:10,</p>	<p>54:2, 121:11, 121:15, 124:6 acres 19:24, 21:11, 21:17, 35:7, 35:10, 35:14, 36:7, 40:6, 40:9, 40:24, 43:21, 43:22, 43:24, 47:22, 47:24, 48:2, 63:2, 113:1, 113:23, 114:3, 114:19, 115:3, 119:18, 120:11, 120:21, 121:20, 121:21, 124:7, 126:11, 142:18 across 80:20, 119:19, 120:5, 120:10 action 16:19, 71:6, 99:8, 109:4, 109:5 active 139:2 activities 86:5, 86:7, 98:2, 103:25, 104:9, 107:18 activity 85:15 actual 20:2 actually 9:9, 26:10, 26:12, 31:5, 31:12, 38:13, 43:25, 54:25, 61:23, 63:21, 69:18, 113:17, 133:3, 133:4, 135:25, 141:14 add 9:21, 18:16, 40:24, 46:24, 47:6, 71:16</p>	<p>add-on 35:1 added 61:10, 69:6, 79:2, 89:23, 90:11, 90:12 addendum 15:15, 27:6, 32:6 addition 81:21, 98:10, 132:9 additional 15:12, 19:8, 49:4, 49:6, 49:10, 49:18, 51:21, 53:25, 55:2, 72:10, 107:10, 116:22 additionally 15:18 address 7:17, 7:19, 8:9 addressed 15:2, 138:23 adhered 96:8, 105:10 adjacent 88:20 adjourn 9:17, 143:10 adjudicating 100:5 adjudication 76:13 administrative 1:1, 2:1, 2:3, 3:2, 67:5, 70:13, 81:7, 129:4 administratively 13:16, 13:23 advance 96:18 adverse 14:2 adversely 76:13, 78:12,</p>

78:15 advisor 138:14 advisory 71:15, 96:6, 109:5 aerial 55:16, 56:22, 61:7, 61:8 affect 60:13, 61:11, 61:15, 62:2, 82:11, 84:17 affected 78:12, 78:15 affects 57:23, 61:5, 62:7, 76:13, 100:18 affirm 12:10, 42:25 affirmatively 11:15 afforded 62:23 afield 123:17 after 18:21, 70:12, 112:19, 122:12, 129:11, 132:2 again 9:19, 19:21, 21:11, 22:2, 22:6, 23:25, 25:5, 25:10, 54:10, 56:12, 56:23, 57:15, 62:5, 62:22, 63:24, 64:22, 65:15, 66:2, 68:15, 77:16, 81:19, 84:18, 89:8, 94:21, 103:9, 105:25, 106:11, 106:12, 108:16, 109:25, 120:5, 123:15,	126:14, 130:7, 130:12, 131:8, 136:8, 138:20, 139:1, 139:12, 143:17 against 18:15, 87:11, 101:24 age 91:24 agencies 57:22 agency 62:14 aggregate 35:13 aggressive 123:12 ago 20:25, 68:25, 97:5 agog 69:14 agree 9:24, 13:5, 16:11, 16:14, 35:21, 87:24, 116:10, 119:19, 137:9 agreeable 112:12 agreement 2:15, 80:6 agricultural 69:17 agriculture 35:8, 35:17, 36:2, 91:20 agriculture's 28:24 ah 46:20 ahead 12:14, 23:24, 42:21, 47:15, 56:6, 68:13, 77:23, 78:7, 82:22, 83:22,	103:7, 107:1, 122:20, 132:11, 137:4 air 85:12 alarm 86:11 alignments 90:5 allergic 67:15 allow 17:17, 46:18, 73:14, 119:19, 139:20 allowed 101:13 allowing 36:9, 88:21 alluded 105:11 almost 97:24 along 13:13, 13:20, 14:19, 61:14, 74:2, 82:17, 82:25, 87:7, 88:2, 91:16, 94:13, 95:15, 113:14 alphabetical 56:7 already 15:15, 34:21, 56:9, 67:5, 76:14, 82:8, 95:16, 97:11, 97:12, 99:1, 120:13, 121:13, 124:14, 142:25 also 3:20, 6:19, 8:18, 16:21, 18:16, 21:14, 43:24, 47:22, 49:22, 52:21, 55:4, 61:3,	64:8, 64:24, 65:19, 69:9, 70:9, 76:25, 79:12, 82:1, 91:1, 91:10, 91:20, 94:24, 101:2, 102:1, 102:4, 105:6, 107:7, 108:7, 109:2, 115:19, 119:19, 126:19, 128:22, 129:2, 134:10, 136:24, 141:23, 143:20 although 10:2, 41:17 always 35:9, 36:3, 36:5, 85:7, 98:13 amend 123:14, 124:11, 125:10 amended 18:12, 22:8, 125:3, 132:14 amending 138:19 amendment 6:16, 12:17, 12:18, 13:15, 13:22, 13:23, 13:25, 14:23, 16:23, 17:22, 18:2, 18:23, 19:4, 19:18, 19:22, 20:6, 21:1, 21:2, 57:23, 62:10, 63:3, 63:4, 65:16, 66:7, 67:2, 70:11, 70:18, 71:1, 76:12, 82:6, 85:1, 85:2, 87:4, 89:4, 96:11, 96:12, 100:21, 101:13,
---	---	---	--

101:22, 103:10, 104:6, 104:10, 107:8, 107:23, 108:2, 119:7, 122:25, 126:3, 129:8, 130:7 amendments 13:15, 20:21, 139:11, 139:14 american 88:9 amount 16:7, 16:8, 20:8, 36:10, 54:6, 86:7, 86:13, 88:4, 92:1, 97:7 animal 14:19 animals 15:25, 16:3, 16:8, 36:9, 55:6, 135:3, 135:5, 135:8 another 9:17, 30:24, 37:21, 44:15, 45:19, 45:20, 61:15, 78:2, 87:3, 91:10, 100:5, 105:25, 106:24, 120:2, 120:10, 124:5, 129:23, 139:1, 139:5 answer 11:15, 20:12, 36:18, 49:19, 52:10, 53:19, 60:11, 60:13, 80:24, 120:8, 130:8 answered 23:8, 29:15, 29:17, 35:20, 36:15, 63:5 answering 59:25, 60:1	antarctic 90:24 anti-ice 92:4 any 6:25, 9:22, 14:8, 17:9, 19:11, 20:12, 20:16, 20:17, 23:4, 23:7, 23:18, 23:22, 28:20, 38:24, 48:11, 49:25, 51:16, 53:11, 53:18, 53:21, 63:9, 64:7, 68:1, 68:7, 71:16, 77:6, 80:17, 82:12, 84:11, 89:2, 89:5, 92:2, 94:8, 95:24, 99:17, 102:2, 103:24, 107:17, 109:8, 111:7, 112:25, 121:7, 121:8, 123:8, 124:21, 128:5, 131:24, 137:11, 145:19, 146:20 anybody 73:17, 90:10 anymore 135:17 anyone 7:21, 8:6, 8:13, 8:23, 9:24, 9:25, 10:17, 11:11, 24:3, 80:21, 100:23 anything 15:7, 40:12, 52:10, 55:24, 59:1, 62:18, 72:7, 98:21, 100:1, 112:2, 115:2, 121:3,	123:3 apologize 58:23, 59:9, 63:25, 68:11, 71:8, 87:25, 103:11, 107:3, 140:10 appeals 7:2 appear 27:22, 94:21, 141:8 appeared 138:13 appears 15:5, 80:11 apple 8:4 applicable 21:3, 121:10 applicant 1:6, 3:5, 58:22, 125:9, 138:7 applicant's 12:2 application 6:16, 12:16, 13:15, 13:22, 16:18, 17:17, 22:19, 56:12, 56:13, 56:14, 63:6, 103:19, 103:24, 107:12, 107:17, 111:2, 111:3, 119:5, 125:7 applications 70:19, 72:24 applied 92:4 apply 19:18, 21:17, 100:17, 119:24 appoints 19:9 appreciate 11:19, 27:21	appreciative 134:9 appropriate 98:24, 128:21 appropriately 75:15 approval 13:15, 13:22, 14:6, 17:23, 19:6, 19:20, 19:25, 57:18, 64:4, 110:21, 111:23, 113:4, 119:7, 121:18, 122:2, 123:2, 123:12, 124:17, 124:21, 125:5, 125:7, 125:15, 125:16, 126:2, 126:3, 128:19, 128:22, 129:13, 130:20, 132:25, 140:4, 144:5 approve 76:12, 129:16, 141:14, 141:15 approved 6:20, 13:16, 13:23, 16:24, 17:23, 21:17, 27:18, 67:2, 80:19, 101:9, 114:7, 123:24, 124:6, 125:10, 125:17, 127:21, 128:10, 128:13, 128:14, 128:15, 130:17, 131:4, 131:14 approves 101:12, 129:15 approving 16:23, 66:6, 111:12, 111:13, 111:14, 118:19, 119:1, 122:8, 123:8 approximately 16:4, 74:4
---	---	---	--

<p>april 13:14, 13:21, 13:23, 43:7, 43:8 aquifer 14:22, 97:2 aquifers 96:24 arctic 90:23 area 12:22, 19:23, 24:19, 28:13, 29:22, 29:23, 30:1, 30:2, 54:16, 54:19, 55:20, 58:5, 64:12, 80:4, 95:12, 96:19, 96:22, 104:7, 104:11, 107:24, 108:3, 110:15, 113:3, 114:21, 121:24, 122:4 areas 30:4, 35:14, 36:17, 61:6, 71:4, 89:12, 106:1, 108:13 aren't 41:3, 111:15 arguing 18:14, 100:10 argument 71:21, 107:4, 130:15 arguments 7:2 around 28:14, 44:15, 61:6, 89:22, 91:5 arrived 85:14 arterial 90:1 aside 101:7, 108:13</p>	<p>asked 7:9, 29:7, 29:10, 35:4, 35:16, 47:19, 115:18, 125:3, 133:20 asking 29:4, 29:6, 35:19, 46:22, 49:6, 49:17, 52:2, 52:14, 64:18, 73:16, 119:13, 122:2, 133:12, 136:25, 141:4, 141:6 aspect 61:15, 62:6, 64:1, 105:25 aspects 60:18, 60:24 aspersion 52:3 aspirations 100:15, 100:22 asplundh 88:5, 88:6, 88:7 assert 74:1 asserted 49:2, 101:14 assertion 20:18, 87:14 assessment 15:21, 71:13, 73:14, 105:1 assigned 6:23 assisted 93:13 associated 17:6, 25:21, 82:15, 91:19, 91:22, 101:4, 131:9 associates 81:22 assume 22:6, 23:10,</p>	<p>43:21, 68:20, 98:17, 117:5 assumed 71:15, 71:18, 86:25 assumption 71:21, 94:7 assure 82:8, 86:20, 87:21 assured 94:19 attached 44:10, 115:24 attachment 42:3, 42:7, 43:11, 43:12, 43:14, 43:16, 43:20, 45:21, 46:8, 46:9, 46:12 attachments 38:6, 38:11, 44:23, 46:11, 47:11 attack 95:17 attempt 95:2 attempts 74:1 attend 131:22, 131:23, 133:18 attended 23:13, 36:4 attending 8:12, 68:21 attention 15:20 attorney 51:15 attractive 70:24 audio 9:22, 10:1, 146:18 authorities 18:9, 18:15,</p>	<p>20:19 automobile 91:23, 91:24 auxiliary 64:14, 64:15 available 12:23, 54:3, 102:5 avenue 2:5 avenues 102:4 avoid 7:9, 89:2 aware 19:2, 22:17, 49:5, 49:17, 49:21, 61:17, 63:15, 63:23, 64:7, 66:11, 66:13 away 92:6 awful 85:8, 85:15</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>baby 90:2 back 26:16, 31:5, 36:3, 37:8, 39:17, 39:18, 42:11, 46:19, 49:7, 54:16, 55:19, 67:19, 67:23, 67:24, 76:1, 87:6, 88:17, 94:12, 95:24, 98:17, 102:18, 102:21, 102:22, 102:23, 103:4, 105:21, 108:4, 113:11, 113:18, 115:24, 123:13, 125:2, 126:11, 144:5 backed 87:23</p>
---	--	--	--

background 9:25, 10:23, 12:25, 50:16, 68:22, 69:22 backyard 15:9 bad 86:18 bai 81:3, 92:8 bar 62:1 barbara 10:8 barn 86:8, 98:21 base 94:13, 117:1 based 22:12, 39:4, 39:6, 54:11, 62:13, 63:5, 66:3, 104:20, 119:11, 122:13 basement 98:12, 98:13 basically 22:20, 89:19, 132:17, 135:2 basis 66:14 bear 64:4 bearing 57:4 beautiful 55:1, 80:3 become 65:12, 86:16 becomes 60:10, 87:18, 87:19 been 7:24, 8:15, 8:20, 18:7, 18:22, 19:16, 24:9, 24:24, 25:12, 25:18,	26:13, 27:14, 41:21, 53:17, 56:9, 65:22, 65:23, 66:14, 67:5, 68:24, 73:17, 75:8, 75:25, 78:4, 79:2, 79:23, 85:10, 85:12, 85:13, 86:6, 87:9, 97:10, 97:12, 98:9, 104:16, 105:10, 106:2, 107:7, 107:8, 108:25, 115:24, 124:14, 127:19, 132:15, 134:2, 134:25, 138:12, 139:3 before 1:11, 2:15, 6:9, 7:2, 15:19, 16:2, 16:23, 18:2, 18:12, 19:6, 22:8, 29:14, 31:6, 31:8, 33:16, 46:23, 86:3, 102:11, 102:14, 116:17, 127:16, 132:14, 133:10, 134:6, 139:17, 145:15 began 24:8, 24:13 beginning 7:12, 91:24, 110:4 behalf 65:25, 93:13 being 21:20, 22:10, 60:6, 62:23, 64:11, 84:15, 84:16, 101:14, 115:19, 121:9, 122:23, 134:24, 137:18, 138:4	believe 14:25, 30:2, 52:24, 53:5, 53:15, 115:25, 119:1, 126:5, 134:19, 137:8 below 33:22, 35:3, 35:16 beltway 79:6 beneath 9:5 benefit 108:19 benefits 69:7, 100:13, 100:22 benning 81:21 best 138:3, 138:20, 146:18 better 11:8, 55:9, 58:11, 59:4, 59:5, 59:8, 59:9, 66:20, 113:18, 125:22 between 64:3, 87:11, 105:23, 127:2, 138:7 bia 81:12 bicyclists 91:7 big 38:14, 46:8, 55:19, 56:19, 61:22, 70:4, 70:8, 84:14, 97:8, 134:8 bind 111:7 binder 26:21 binding 109:9, 112:10,	113:9, 130:18 bird 14:21, 69:8, 91:8 birders 86:1, 91:7, 108:23 birding 69:5 birds 90:22, 91:4, 91:5 bit 11:21, 24:6, 68:22, 69:22, 133:23 black 78:4, 80:4 blank 97:22 blood-soaked 69:11 bluestone 35:24 board 7:2, 16:20, 18:1, 80:25, 89:19, 101:12, 129:13, 129:14 bold 78:4, 88:13 books 98:2 boot 69:11 border 115:14 borders 81:23, 83:1, 116:18 borrowed 98:1 both 10:2, 15:14, 17:1, 28:11, 36:18, 42:23, 47:20, 51:25, 90:3, 90:4,
---	--	--	---

95:13, 108:5, 111:22, 133:19, 135:10, 135:12 bottom 37:1, 94:17 boundaries 117:12, 118:5, 142:18 boundary 115:5, 129:24, 142:1 box 78:5 boy 94:7 brand 17:16 break 102:14 breakfast 36:6 brief 16:21 briefly 83:13 bring 17:16, 42:11 brought 17:2, 51:6, 56:18, 139:1 brown 27:3 buff 83:8 buffer 82:17, 82:25, 83:9, 83:21, 113:14 buffering 83:7 buffers 118:2 building 2:6, 65:5 buildings 98:21 built 105:8, 120:2,	139:4 bunch 61:14 bunny 15:10 bunting 69:2 burden 129:4 bureaucracy 100:9, 102:8, 127:2 bureaucratically 70:9 <hr/> C <hr/> c-a-r-o-l 8:1 cafeteria 69:12, 69:21 calendar 140:7 calibrate 95:8 calipers 93:25 call 9:16, 11:6, 28:8, 28:9, 38:5, 66:23, 67:11, 113:24, 142:21, 143:22 called 10:21, 10:22, 25:4, 28:11, 28:23, 30:21, 40:4, 123:9 calls 31:1 came 50:2, 80:5, 88:14, 95:17, 96:3, 98:1, 103:17, 107:10, 123:13, 138:11 camera 67:18, 86:10 can't 8:22, 12:25,	22:15, 24:12, 30:15, 33:3, 36:23, 37:1, 37:3, 37:24, 44:18, 44:22, 44:23, 45:2, 45:21, 46:25, 52:1, 56:17, 58:11, 58:13, 58:15, 58:22, 59:1, 63:5, 63:6, 64:20, 70:17, 73:9, 74:23, 77:13, 91:11, 97:5, 101:10, 104:22, 110:4, 113:19, 119:6, 128:6, 128:7, 130:8, 132:23 cancer 97:15, 98:3 cannot 28:21, 35:24, 87:3, 88:11, 131:7 canopy 47:24, 48:3 capacity 99:3 capital 52:19, 70:3, 71:25, 90:8, 95:23, 99:21, 100:10, 127:3 car 85:10, 86:3 care 15:25, 58:16, 66:19, 66:20, 67:15, 67:21, 115:1, 132:19 careful 86:9 carol 3:11, 4:10, 7:23, 8:1, 47:4, 105:16, 106:11,	106:12 cart 102:11 carve 21:18 case 1:6, 6:15, 6:23, 12:2, 46:25, 64:14, 88:18, 90:9, 101:19, 102:11, 109:4, 119:3, 145:19, 146:20 cases 50:13, 92:14, 101:16, 102:8 casey 81:23, 82:9, 83:2, 84:5, 85:6, 85:25 caseys 86:23 cast 52:3 casual 69:20, 86:1 catch 18:22, 128:1, 131:12, 136:5 categories 15:20 categorize 70:19, 70:25 category 123:18 cause 106:8 causing 82:6 cell 11:5, 32:3, 44:20 cemented 84:16 certain 57:3 certainly 28:7, 28:20,
---	---	--	--

60:7, 62:2 certificate 145:14, 146:14 certified 75:17, 75:20, 95:7 certify 145:16, 146:15 cfo 69:2 challenge 99:25 challenging 51:23 champion 92:13, 105:4, 108:11 chance 20:4, 22:6, 23:3, 48:11, 48:25, 63:11, 68:6, 83:19, 102:13, 120:8, 135:18, 135:19, 139:20 change 12:21, 14:1, 16:2, 57:20, 66:1, 66:5, 104:8, 107:25, 111:1, 119:11, 140:2 changed 15:11, 24:3, 65:3, 65:22, 65:23, 76:5, 112:16, 133:6 changes 19:10, 20:1, 21:15, 57:17, 59:16, 60:16, 64:3, 66:9, 122:13 channels 99:10 chaos 95:2 chapter 104:4, 105:5,	107:21 character 14:1 characteristics 89:25 chart 30:7, 30:25, 31:18, 32:18, 32:19, 32:24, 33:17, 33:25, 37:8, 37:9, 37:13, 37:21, 41:4, 41:12 charts 32:24, 33:20, 36:18, 41:2 check 41:8, 131:21, 133:22, 142:9 checked 25:10, 80:24 chemical 91:17 chemicals 91:22, 92:3, 92:4 chickens 15:9 choice 64:20, 71:10 chopping 87:25 christian 1:25, 146:15, 146:25 church 79:13, 80:3, 80:4 cipro 93:18 circles 27:3 circulated 44:15 circumscribing 100:21, 101:2, 101:3 cited 88:7	citizen 93:12 citizens 88:9 clarification 51:18, 52:8, 139:16, 140:1 clarify 29:18, 31:12, 40:5, 112:16, 113:7, 117:24 clarity 125:20 clay 36:5, 44:6 clear 21:19, 50:13, 51:2, 61:14, 63:16, 63:20, 63:21, 64:20, 118:22, 120:22, 123:2, 142:1 cleared 61:4, 64:11, 64:12, 64:15, 65:11, 65:13, 104:22, 104:23, 110:22 clearing 64:13, 103:24, 104:8, 107:18, 107:25, 118:3 clearly 23:2, 55:19, 137:2 click 9:1, 9:8, 9:15, 9:18, 38:5, 38:10 close 65:6, 85:13, 99:15 co-terminus 126:3 coast 90:23 code 59:14, 79:23,	80:13, 104:5, 107:22 colleague 103:10, 107:11 columbia 70:15 com 95:11, 117:21 combination 14:4, 81:5 comcast 87:11, 87:22, 88:14, 88:17, 88:18, 95:17, 95:20 come 19:19, 20:11, 24:18, 26:16, 27:15, 41:12, 44:19, 46:9, 46:16, 95:25, 123:13, 124:10 coming 10:14, 14:19, 78:24 comma 104:3, 107:17, 107:18, 107:20 comment 16:21, 17:20, 21:5, 24:12, 26:7, 48:18, 58:12, 63:11, 83:25, 116:15, 116:16, 137:11, 140:21, 140:23 commentaries 29:12 commented 65:22 comments 19:9, 23:5, 50:4, 57:19, 65:22, 135:20, 139:20, 139:21, 143:19, 143:20 commercial 87:11, 90:17,
---	---	---	---

91:1, 91:13 commission 52:20, 70:3, 72:1, 73:12, 73:23, 90:8, 95:23, 96:6, 99:22 commission's 100:11 committee 17:25, 19:5, 71:15, 96:7, 109:5, 127:10, 127:14 committee's 18:17 communicated 96:4, 115:25 community 24:4, 79:13, 80:3, 94:14, 95:6, 104:21 company 88:8, 93:23 complained 24:13 complaining 58:25 complaint 24:12 complaints 14:8, 14:18, 24:3, 24:9 complete 18:23, 95:12, 120:20 completed 15:19, 18:2, 18:6, 18:18, 95:12 completely 74:25, 87:24, 95:15, 113:8, 113:9, 133:20 compliance 12:23, 13:12 complicate 141:25	complicates 89:6 component 90:19 compost 118:6, 118:11, 143:1 compressed 46:11 computer 10:1, 25:15, 33:3, 33:4, 33:5, 33:10, 44:22, 106:15, 106:17, 142:6 con 80:11 concept 104:21 concern 61:1, 70:9, 100:11, 124:16, 127:7, 127:17, 127:18 concerned 22:16, 60:22, 60:25, 65:13, 66:10, 72:5, 101:4, 115:19, 117:9, 133:9, 141:13 concerning 132:16 concerns 15:2, 16:13, 20:3, 60:17, 70:10, 73:7, 100:12, 100:15, 105:25, 117:10, 133:8 conclude 133:10 concludes 63:7 conclusion 15:23, 20:11, 20:14, 99:19, 122:24	condi 114:8, 115:6 condition 22:10, 32:16, 39:6, 62:11, 122:14, 126:2, 128:9, 128:11, 135:1, 138:21, 138:25 conditioned 125:16, 126:5, 126:6 conditioning 125:5 conditions 5:10, 30:21, 33:18, 38:8, 43:15, 44:9, 103:20, 107:14, 126:12, 139:10 conference 9:13 conferred 8:19 confirmed 73:2 confusion 110:12, 111:25 connection 51:2, 58:9, 111:2 consent 83:3, 124:17 consents 124:22 conservation 5:4, 5:9, 15:3, 15:18, 26:2, 26:10, 28:1, 29:13, 31:6, 31:7, 31:14, 32:7, 39:25, 40:19, 46:12, 47:19, 56:23, 57:13, 59:19, 63:19, 91:8, 95:21, 104:4, 105:1, 107:21,	109:20, 110:15, 111:14, 113:3, 116:17, 117:3, 117:7 consider 100:21, 139:11 considerable 95:8 consideration 96:13, 129:3, 132:18 considerations 62:3 considered 14:4, 29:3, 89:4, 103:22, 104:22, 138:12 considering 96:17 consistent 35:7, 107:16 consistently 27:25, 28:6, 29:7, 29:11, 47:18 constitutional 101:23 constructed 99:2 construction 80:10 consult 85:7 consulted 85:6 contains 112:1 contaminated 97:17, 98:12, 99:12 contemplate 97:25 context 21:15 contingent 115:12 continuation 71:18
---	--	---	--

<p>continue 13:9, 15:24, 18:3, 34:18, 82:14, 84:24, 87:2, 104:19, 108:25, 112:21, 127:16 continued 75:2, 82:15 continues 82:1 contravene 80:11 control 30:15, 71:17, 104:1, 107:19 conundrum 99:20 convenient 22:21 conversation 131:25, 134:2, 137:6, 137:8, 138:4, 138:5 conversations 69:20 convey 84:11 cooked 79:4 coordination 72:24 copies 81:10 copy 37:24, 46:25, 47:1, 132:4, 133:13, 133:22 corner 54:16, 81:24 correct 23:6, 24:5, 26:10, 26:15, 27:11, 28:2, 29:10, 29:16, 29:17, 33:25, 37:20, 44:8, 71:22, 71:24,</p>	<p>72:17, 72:18, 91:25, 104:17, 117:8, 121:1, 121:3, 121:4, 146:16 corrected 49:24, 72:16, 78:13, 82:24, 89:9, 92:8, 94:19, 104:16, 108:8 correction 107:8 corrections 75:21, 115:17, 115:22 correctly 16:10, 28:22, 48:9, 49:24, 71:8, 89:21, 103:11, 126:1 correlate 43:20 corresponds 114:4 could 12:25, 14:3, 18:3, 18:25, 29:25, 31:12, 34:3, 41:8, 44:17, 46:3, 48:2, 54:25, 64:3, 65:17, 65:19, 66:7, 80:16, 80:17, 85:18, 92:2, 108:13, 109:17, 112:24, 112:25, 116:21, 117:5, 126:2, 128:11, 129:20, 131:6, 131:8, 131:21, 132:4, 133:22, 135:9, 140:23 couldn't 14:22, 25:10, 33:10, 76:10 council's 9:6, 25:22</p>	<p>counsel 17:9, 17:11, 17:19, 53:18, 87:10, 145:18, 146:19 count 35:24, 35:25 counted 41:3 counties 69:25, 70:4 country 69:17, 108:15 counts 91:8 county 1:2, 2:3, 2:6, 3:2, 9:6, 16:20, 18:22, 24:18, 25:22, 35:9, 38:11, 38:18, 57:20, 57:21, 61:18, 61:21, 69:15, 69:19, 70:13, 73:10, 76:14, 80:12, 82:16, 84:17, 86:19, 88:25, 89:1, 89:2, 89:6, 89:11, 89:20, 90:1, 92:4, 92:23, 93:15, 93:22, 94:2, 94:4, 94:5, 94:8, 94:10, 95:24, 99:22, 100:4, 100:13, 100:18, 100:19, 100:23, 104:5, 107:22, 108:18, 108:19, 127:2 county's 77:6, 88:6, 88:11, 93:10, 102:5 couple 54:14, 119:3</p>	<p>course 108:16 courses 59:22 court 6:6, 6:11, 6:13, 7:5, 11:7, 11:9, 11:15, 42:17, 51:22, 58:6, 58:10, 102:22, 110:3, 145:14, 145:24 cover 38:8 coverage 40:11 covered 40:7 covers 15:16, 43:18, 44:2, 70:4, 100:12 covid 9:5, 94:17 cox 10:8 create 82:25, 124:21 created 81:4, 88:12, 111:25 creates 10:23, 111:12 creating 61:23, 82:16, 111:21, 128:19 crim 86:2 criminals 86:2 cross 4:5, 4:6, 4:9, 11:24, 11:25, 69:8 cross-examine 39:4 crosses 119:25</p>
--	--	--	---

crosstalk 7:9, 110:4 cu 1:6, 27:17, 105:7, 125:6 culvert 21:21 current 67:4, 112:23 currently 6:19, 40:12, 48:6, 81:25, 92:15, 98:18, 121:16 cut 36:8, 56:20, 98:3, 111:16, 121:12, 127:12 <hr/> D <hr/> damage 95:20, 96:1, 102:2 damp 98:13 dangerous 91:17, 91:22, 92:3 dangerously 85:4, 85:22 darn 87:22 data 30:25 date 7:3, 24:11, 24:24 dated 40:19, 43:16 dates 80:4 daughter's 15:10 david 65:23, 138:15 day 9:17, 16:1, 17:2, 17:8,	19:13, 26:12, 69:13, 120:10, 121:24 days 7:3, 17:9, 17:13, 50:1, 87:23 de 119:2, 124:17 deadline 17:3, 49:18, 50:6, 50:11, 142:2 deadlines 17:6 deal 67:19, 86:2, 93:11, 138:18 dealing 104:13 deceased 97:14 decent 54:6 decide 51:9 decimate 95:15 decimated 95:16 decimation 88:5 decision 6:25, 7:3, 13:14, 13:21, 16:19, 18:10, 18:12, 18:21, 18:24, 20:7, 62:13, 70:18, 85:1, 89:6, 101:8, 101:19, 102:5, 109:3, 126:21, 133:7 decisioning 62:8 decisions 70:6, 70:7 decline 87:5	declines 99:13, 99:16 deducted 29:1, 36:1 defendant 52:16 deficits 25:21 defined 104:4, 107:21 definition 21:6, 125:22, 125:23, 125:24 deforestation 105:5 deforested 101:19 degradation 101:24 deleted 44:21 delineated 78:4 denied 89:4, 91:12 denoting 113:2 dense 32:23 deny 85:3 department 28:23, 35:8, 35:17, 36:2 depending 78:21 depends 127:18 deprives 101:23 derailing 19:1 describe 94:23 described 6:19 description 5:2	design 65:21, 66:1, 69:12, 69:21 designated 61:7, 61:8, 61:16, 64:11, 65:1, 119:17 designation 44:3, 57:4, 61:2, 64:19, 65:7, 66:5 designations 61:23 designed 71:23 desires 100:22 destruction 14:20, 14:21, 86:4, 86:7 detail 28:16, 137:17 determination 56:16 determine 12:16 detrimental 66:8 developed 103:24 developer 135:13 development 17:24, 18:17, 19:5, 19:11, 72:24, 81:5, 107:17, 127:9, 127:14 devices 99:2 diesel 97:18 difference 105:23 different 25:14, 30:3, 31:7, 56:25, 84:4, 113:8,
---	---	---	--

113:9, 123:13, 133:20, 139:23 difficult 58:20, 140:17 difficulties 37:4 difficulty 6:7, 68:15 dilemma 133:23 dining 75:5 direct 81:18 directly 48:4, 52:20, 64:25, 65:9, 70:10, 85:15, 115:25 disagree 23:2, 137:12 disagrees 6:25 disappears 128:16 discrepancy 16:25, 49:3 discussed 90:24, 106:8, 127:19, 133:18 discussing 27:12, 47:17 discussion 36:9, 137:18 disingenuous 51:22 disposition 71:4 distillate 98:11 distillates 97:13 distinctly 131:25 distortion 50:16, 50:17 district 5:9, 32:8,	70:4, 70:15, 76:13, 89:19, 93:14, 100:4 diversion 91:14 divide 121:5 dividing 142:21 division 72:25, 95:13 doc 51:16 doctorate 69:11 document 30:21, 31:8, 32:11, 40:6, 40:18, 48:5, 52:19, 73:16, 74:10, 106:2 documentation 23:4, 23:16 documenting 89:21 documents 5:9, 5:11, 24:19, 25:16, 27:15, 27:20, 29:9, 31:13, 32:7, 37:7, 38:17 dog 90:16 dogs 43:12 doing 41:11, 79:22, 98:21, 100:20, 102:10, 111:14, 111:15, 114:18, 115:7, 125:13 done 17:11, 28:13, 36:14, 50:1, 76:17, 79:6, 94:20, 99:8, 100:1, 104:25,	124:14 door 98:17 doors 86:8 double 102:6 doubt 81:8 down 30:11, 36:8, 47:24, 73:10, 75:2, 80:22, 85:13, 85:17, 88:1, 93:18, 94:8, 98:7, 99:16, 101:14, 108:14, 114:3, 119:14, 120:13, 138:17 downhill 99:18 download 8:21, 8:25, 9:10 downside 133:12 drainage 21:21, 61:10, 61:11 draw 15:19, 65:17, 116:22 drawing 115:16, 119:13, 119:17 drawings 141:24 drc 23:4, 134:4, 134:18, 134:21, 136:2, 136:6, 136:12, 136:19, 137:10, 139:23, 141:16, 141:17 drink 16:8 drive 77:11, 77:14,	77:18 drives 77:19 drop 140:9, 141:21 drug 85:12, 86:3 dryer 98:17 due 64:13 dunn 68:25, 97:14 during 5:11, 9:5, 14:6, 80:14, 96:2 <hr/> E <hr/> e-a-d-e-r 116:4 e-mail 41:22, 45:2, 46:10, 49:6 e-mailing 46:1 e-mails 7:25 each 7:10, 28:4, 34:1, 42:14, 45:13, 82:7, 88:18, 105:17, 109:23, 122:19, 122:21, 129:1, 131:19, 134:23, 135:19, 139:22, 144:15 eader 76:6, 84:7, 116:5 eaders 115:13, 115:18 eagle 8:4 earlier 25:18, 44:12, 52:16, 68:12,
--	---	--	--

82:24, 104:14, 105:12, 105:22, 106:8 early 115:24 easement 63:19, 74:2, 74:9, 76:24, 77:5, 77:6, 77:20, 77:22, 77:25, 81:15, 81:17, 82:1, 118:2, 118:18 easier 114:1, 114:2, 133:24 easily 120:10, 121:24 east 74:2, 74:24, 75:13, 83:2, 86:8, 90:23 easy 28:11, 35:22 eat 69:12 edge 75:23, 76:4 editing 93:13 effect 14:2, 88:23, 102:10, 109:8, 109:9, 118:20, 125:18, 129:16 effective 9:10, 35:15 effort 8:18, 9:9, 93:16, 97:7 egregious 96:1 eight 28:5, 29:9, 31:13, 38:17, 44:19, 44:23 eight-part 26:2, 28:1	eighties 91:25 eighty 75:22 either 8:21, 40:14, 44:22, 53:8, 58:13, 58:15, 63:18, 70:19, 70:21, 75:4, 79:23, 83:11, 88:21, 99:13, 120:18, 132:3 el 93:16 el-hibri 95:2 elaborate 18:18, 21:14 elected 101:6 electronically 145:17 elects 126:17 elements 57:3 eleventh 18:5 eligible 141:7 eliminate 112:25 elsabett 47:4, 71:7, 103:12 else 7:21, 8:6, 8:13, 8:23, 10:17, 13:3, 47:25, 55:24, 59:20, 62:18, 110:16, 114:23, 114:24, 117:22, 130:23 email 5:11, 16:12, 19:8, 19:17,	19:22, 38:5, 38:10, 38:17, 41:9, 41:20, 42:1, 42:3, 43:7, 44:11, 45:3, 45:4, 45:6, 45:12, 45:17, 45:19, 45:20, 46:4, 46:13, 47:4, 49:22, 52:25, 55:4, 71:7, 103:15, 107:11, 140:19, 141:2, 142:12, 143:5, 143:13 emailed 41:7 emailing 46:7 emails 17:21, 41:9, 52:24, 53:4 emboldened 87:12 emissions 91:23 emphasizing 70:8 employed 145:18, 146:20 encompass 37:15, 70:15, 80:1 encompassed 92:15 encompasses 82:4 encouraged 94:11 encumbrances 84:4, 112:14 end 16:20, 19:11, 19:20, 19:25, 52:14, 98:7, 99:15, 106:14 engineer 75:18, 117:16,	118:4 engineering 141:24 enjoys 108:22 enough 28:19, 28:20, 48:6, 49:15, 50:5, 86:18, 86:22, 97:8, 141:24 ensure 93:14, 93:20 enter 138:2 entered 73:1 entertain 66:9 entire 21:9, 38:12, 38:14, 44:2, 74:10, 93:19, 96:15, 100:13, 114:3 entirety 93:6 entities 60:8, 87:11, 109:2 entitled 39:24, 43:14 environment 101:24, 103:23 environmental 16:5, 103:19, 103:20, 103:21, 107:13, 107:14, 107:16 epa 92:1 equestrian 1:5, 6:16, 103:22, 107:15 equine 36:6, 121:8 equine-assisted 98:2
--	--	---	---

equipment 86:14, 98:14 erect 122:15 erosion 15:22, 28:20, 29:13 erroneously 81:13, 84:24 error 19:9, 22:12, 54:22, 62:9, 62:12, 62:13, 134:13, 134:18, 134:21 essentially 71:10, 84:16, 128:16 established 28:13, 78:18, 80:11, 95:5 estate 17:5 etc 15:22, 97:9, 108:24 ethically 17:16, 49:13, 50:4, 51:19 eureka 138:13 evaluate 49:16, 50:5, 50:12 evaluated 133:13 evaluator 43:17 even 19:1, 37:1, 39:23, 40:24, 41:7, 41:20, 54:17, 54:21, 58:21, 61:25, 70:16, 71:23, 81:1, 89:24, 99:12, 100:15, 101:17, 113:24,	116:15, 120:18, 126:20, 130:16, 132:10, 132:12, 134:24 event 38:24, 132:2 ever 58:8, 69:19, 76:16, 79:25, 96:3, 128:18 every 13:5, 69:12, 74:24, 82:25, 90:2, 93:24, 95:9, 100:18, 101:3 everybody 13:3, 41:7, 41:21, 46:7, 68:20, 76:19, 80:20, 86:17, 103:4, 106:25, 136:8 everyone 11:19, 13:4, 13:8, 17:12, 34:3, 61:17, 69:14, 69:23, 70:25, 106:20, 141:20 everything 16:10, 40:7, 47:25, 53:6, 59:20, 96:22, 110:16, 114:23, 114:24, 117:17, 117:21, 117:22, 130:12, 130:23 evidence 6:24 evident 57:15 exact 18:6 exactly 28:18, 34:6, 40:22, 42:7, 44:25, 87:15,	128:2 examination 11:24 examine 12:1 examiner 1:11, 3:3, 6:23, 19:21, 39:2, 43:23, 46:18, 50:19, 56:14, 58:22, 62:12, 62:25, 64:2, 64:5, 66:3, 66:6, 84:23, 122:3, 128:18, 129:5, 135:4, 140:9 examiner's 19:16, 21:12, 50:6, 114:10, 116:11 examining 99:20 example 56:16, 81:13, 116:16 examples 87:20, 87:21 excellent 28:10, 53:7, 54:21, 103:14 except 34:6, 36:22, 92:13, 115:2 exception 40:8, 47:25, 64:13, 93:13 exceptional 61:16, 61:19, 61:24, 64:24, 74:3, 77:1, 77:2, 79:4, 79:22, 83:1, 85:23, 87:8, 88:2, 90:12, 90:19, 91:16, 92:20, 92:22, 96:2, 100:25,	101:15, 102:3, 105:9, 108:23 exceptions 84:13 excessive 14:19 exchanges 68:16 excuse 12:24, 20:21, 30:10, 43:17 executed 82:16 exercise 28:14 exhaust 99:3 exhibit 5:2, 25:2, 25:3, 25:7, 26:8, 30:15, 30:16, 31:19, 31:21, 32:6, 34:8, 38:5, 39:3, 39:13, 39:20, 46:25, 53:1, 55:11, 57:11, 57:12, 113:12, 114:23, 114:24, 114:25 exhibits 5:1, 12:3, 34:9, 34:10, 38:4, 38:12, 38:13, 57:11 existed 71:19 existence 122:1 existing 19:24, 21:16, 40:12, 81:25, 115:6, 117:20, 118:5, 118:15, 122:10, 130:1, 138:10, 139:10, 139:13, 142:25, 144:9
---	--	--	--

exists 99:5, 108:9	103:22, 107:15	28:10, 69:18, 95:3, 97:9	139:4
expect 65:25, 140:11	fact 15:11, 18:6, 19:11, 19:13,	fashioned 33:2	fields 30:23, 30:25, 37:15, 41:2,
expected 14:3, 16:5	26:9, 28:9, 54:7, 56:12,	feed 35:10	41:13, 42:5, 81:23
expense 95:8	60:4, 61:24, 62:7, 63:6,	feel 51:5, 63:24, 118:25	files 33:2, 45:25, 90:9
expensive 81:1, 86:14	63:17, 65:13, 74:8, 76:3,	feeling 94:14	filled 100:9
expert 93:23	77:1, 99:5, 112:23, 115:2,	feet 21:21, 74:4, 75:23, 75:25,	filter 91:17, 92:6
experts 95:7	116:15, 123:11, 134:15, 134:16, 139:2	76:2, 76:3, 76:4, 78:21, 79:23, 79:24, 80:1, 81:15	filtration 101:4, 105:13
explain 11:20, 48:4, 131:6	facto 119:2, 124:17	fence 80:21, 80:22, 80:25, 120:2, 120:11, 120:13, 120:19, 121:13, 121:23, 121:25, 122:1, 122:15	final 16:19, 140:22
explained 9:2, 63:16, 116:13	factors 98:10	fencing 80:17, 80:25	finally 98:15
explicit 18:15	facts 60:2, 60:4, 60:13	ferrying 86:14	finance 84:12
explicitly 101:19	factual 110:5	few 16:24, 20:25	financial 145:20, 146:21
extended 79:3, 79:20, 80:2, 80:19, 97:23	fading 128:25	field 28:17, 30:8, 31:3, 34:15, 36:22, 40:4, 40:5, 40:23, 41:5, 41:22, 43:21, 43:22, 43:24, 44:1, 54:2, 54:10, 54:14, 54:21, 55:19, 55:20, 97:17, 120:17, 120:24, 120:25, 121:2, 121:3, 121:6, 121:7, 121:10, 121:12, 121:14, 139:2,	find 9:9, 27:4, 31:23, 39:11, 39:12, 39:19, 39:21, 41:2, 42:13, 45:8, 45:24, 46:25, 51:22, 52:5, 72:22, 74:8, 75:24, 81:24, 91:10, 97:8, 113:12, 132:4
extending 82:2	fail 17:15		finding 16:11, 30:6, 107:25
extends 97:20	failure 64:13, 64:16		findings 16:15, 101:16, 104:8
extension 74:22, 79:18	faint 126:20		finds 51:19
extensive 131:25	fair 58:18, 86:6, 134:22		fine 9:22, 68:17, 123:9, 137:12, 138:1
extent 14:2	faith 68:21		fined 88:7
extra 79:25	false 81:4		
extraneous 139:1	familiar 17:6, 69:9		
extremely 68:25	far 22:16, 52:6, 64:15, 81:23, 97:20, 97:22, 121:20, 123:16, 141:17		
exwell 65:8	farm 15:13, 15:24,		
F			
facility 1:5, 6:17,			

finish 83:18, 83:24, 136:18 fired 94:3 first 12:3, 16:25, 18:5, 18:10, 18:18, 18:23, 19:6, 23:16, 24:11, 31:5, 38:20, 41:15, 44:20, 46:9, 46:12, 48:14, 56:4, 65:21, 68:14, 68:18, 68:22, 68:25, 69:16, 74:1, 74:10, 76:23, 77:24, 89:18, 120:9, 127:15, 130:23, 133:17, 141:15 five 33:22, 35:4, 54:14, 65:9, 87:3, 102:18 five-minute 102:14 fives 28:6, 29:8, 31:16, 47:21 fix 74:11 fixed 75:8, 75:9, 94:23 flabbergasted 94:23 flawed 95:11 flexibility 126:16 flock 15:9 floor 71:12 flyways 69:8, 90:23,	91:4, 101:2, 105:12 focused 84:3, 110:22, 111:1 folded 88:18 folks 33:4, 50:15, 100:1, 105:22, 106:3, 122:12, 125:3 follow 7:7, 9:7, 35:7, 68:6, 83:19, 84:21 following 127:6 food 90:22 foot 74:2, 74:15, 74:18, 74:22, 76:7, 76:24, 77:25, 78:3, 78:15, 78:23, 79:20, 80:10, 80:17, 80:25, 81:15, 81:16, 87:14, 90:15, 90:17, 90:25, 91:12, 95:14 footage 35:6 footings 98:23 forage 28:13, 28:19, 28:20, 29:2 forced 87:9 foreclosed 102:1 foregoing 145:16, 146:15 forest 14:20, 24:19, 57:4, 57:8,	57:13, 59:19, 61:4, 63:16, 63:20, 64:10, 64:11, 64:12, 65:10, 65:11, 65:14, 71:12, 79:12, 80:2, 91:3, 92:10, 92:13, 92:14, 92:15, 92:19, 92:22, 101:14, 101:17, 104:3, 105:13, 106:1, 106:10, 107:21, 108:11, 109:19, 110:15, 110:22, 111:14, 113:3, 117:7, 118:18 forested 71:4, 95:12, 108:13 foresters 88:12 forestry 88:11, 92:23, 93:11, 93:12, 93:15, 94:4 forests 90:4, 93:19, 93:21, 93:25, 95:5, 101:5, 105:4 forget 141:17 forgot 102:25 form 67:4, 111:9 formal 53:1, 53:2 formalities 11:23 formally 94:12, 132:5 formation 77:8 forward 17:2, 19:7,	20:11, 22:9, 42:21, 46:23, 89:5, 95:22, 106:7, 134:5 forwarded 38:18, 39:20 found 25:21, 38:16, 39:22, 39:23, 103:21, 107:15 four 14:6, 15:16, 19:16, 19:18, 21:7, 21:17, 33:22, 35:3, 37:12, 54:5, 54:6, 54:14, 65:9, 78:11, 81:19, 82:20, 82:21, 84:24, 93:7, 93:8, 94:21, 95:4, 100:3, 104:9, 104:14, 109:2, 113:23, 115:2, 123:25, 124:7 four-acre 52:17, 108:1 fours 29:8, 47:20 fourth 10:11 fragile 91:14 frame 142:12, 142:13 free 21:19, 85:17 free-flowing 138:5 freed 80:5 freeman's 49:1, 74:7, 74:8, 88:1, 92:7, 101:9, 102:12, 116:5, 125:2
---	--	---	--

frequent 69:25 friday 140:21 friend 97:15 front 25:15, 31:21, 37:24, 53:5, 55:20, 65:8, 74:21, 75:24, 133:8 froze 136:8 frustrating 110:2 frustration 42:20 fuad 93:16, 95:2 fuel 97:18 full 35:9, 35:10, 38:7, 71:13, 72:14, 105:1 full-fledged 139:11 fully 16:11, 16:14, 116:10 functional 71:14, 87:9, 89:11, 89:23, 91:19, 91:20, 96:8, 100:11, 100:17, 100:23, 101:15, 105:9, 108:19 fund 69:3 fundamental 96:16 fundamentally 96:14 further 15:12, 16:11, 28:16, 53:14,	68:7, 89:5, 93:19 future 19:13, 20:5, 125:5 <hr/> G <hr/> g 61:13 g-r-i-g-o-r-i-a-n 8:8 gasoline 92:2, 97:19 gave 17:8, 49:17, 51:20 gazebo 69:6 gen 46:10 general 40:25, 84:1 generally 12:2 generate 103:25, 107:18 gentleman 138:15 gesticulating 106:16 getting 17:22, 21:1, 69:10, 79:16, 114:13 gis 116:19, 116:20 give 28:8, 30:12, 30:14, 30:16, 33:8, 39:10, 39:12, 39:24, 50:5, 52:5, 62:20, 67:19, 68:22, 80:24, 83:19, 84:20, 89:12, 94:13, 106:24, 135:18, 135:19, 140:16,	140:17, 140:20, 141:23 give-up 28:18 given 16:14, 56:12, 121:9 gives 40:8, 129:3 giving 77:20 glaciers 97:5 glad 15:18, 56:5 global 100:2, 100:3 go 10:19, 12:14, 22:9, 23:24, 25:14, 30:10, 31:25, 34:20, 37:8, 39:9, 39:10, 39:11, 42:21, 46:5, 46:23, 47:15, 56:4, 56:5, 57:12, 59:12, 64:20, 66:24, 67:20, 68:13, 69:12, 72:22, 74:20, 75:19, 75:23, 77:22, 78:7, 79:8, 79:10, 81:3, 82:22, 83:22, 87:3, 87:20, 88:16, 91:8, 96:9, 102:18, 102:23, 103:7, 105:21, 107:1, 113:11, 113:18, 118:20, 122:3, 122:20, 123:22, 125:2, 132:11, 137:3, 137:20, 140:7, 140:11 goal 65:18	god 66:17 goes 87:17, 99:16, 99:18 going 11:15, 11:20, 23:1, 25:15, 32:1, 33:1, 36:3, 40:14, 42:18, 42:23, 43:7, 45:4, 45:7, 46:24, 47:6, 49:5, 51:18, 52:6, 52:7, 53:11, 56:11, 58:4, 58:7, 59:17, 61:10, 61:13, 62:7, 63:21, 67:17, 75:3, 75:22, 79:9, 82:6, 82:7, 84:9, 84:17, 86:20, 86:23, 89:15, 94:14, 94:20, 95:22, 96:1, 102:13, 102:15, 102:16, 102:17, 109:24, 110:22, 112:15, 112:19, 113:14, 119:19, 119:24, 120:2, 120:3, 120:9, 122:9, 122:11, 130:16, 130:19, 131:13, 131:15, 133:5, 140:14, 140:15, 140:16, 140:17, 140:19, 141:1, 141:2, 141:20, 143:10, 143:13, 143:17, 143:18, 143:19, 143:20 gone 74:10, 107:4 good 6:4, 6:5,
--	--	---	---

<p>10:19, 15:13, 18:16, 36:20, 40:22, 46:20, 55:12, 55:13, 55:25, 59:7, 66:1, 68:18, 68:21, 75:7, 92:7, 94:7, 97:15, 143:6, 144:10 gorleski 36:14, 43:17 gotten 47:18 governing 120:3 government 69:24, 96:17, 109:3 grabs 40:13 grade 99:11 grading 71:19, 103:25, 104:9, 107:18, 108:1 granted 65:12 grass 54:17, 54:18 great 15:25, 45:9, 55:5, 93:11, 103:7 greater 137:17 greatly 95:11, 134:9 green 40:22 greg 8:8, 43:12, 44:1, 44:17, 45:9, 80:23, 109:17, 110:5, 112:19 gregorian 76:11, 110:5</p>	<p>gregory 3:16, 4:8 grigorian's 17:21, 19:8, 134:16 grigorians 80:20 grow 54:18 growing 54:19 guess 8:14, 10:11, 10:12, 20:23, 54:1, 64:9, 113:14, 116:18, 116:20, 123:1, 133:1, 137:15, 138:7, 142:7 guidelines 103:23, 107:16 guys 91:25</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>habitat 14:21, 90:3, 90:18, 91:2, 91:3, 92:6, 92:9, 92:13, 95:15 habitats 101:5 half 36:25, 37:1, 56:20, 56:21, 75:7, 75:13, 76:11, 120:10, 121:24 hallmark 62:3 hand 12:9, 42:24, 61:22, 83:7, 106:16, 123:16 handed 87:23 hands 76:5</p>	<p>handshake 80:6 hang 42:13, 42:16, 45:4, 45:21 hannan's 135:4 hansen's 17:4, 17:8, 17:21, 18:20, 20:3, 34:19, 56:3, 60:15, 60:16, 83:16, 84:6, 116:16, 139:3 happen 19:13, 68:23, 73:17, 94:6, 110:5, 126:10 happened 9:4, 64:10, 71:5, 72:16, 88:15, 98:4, 104:20, 111:9, 123:3 happening 10:17, 60:17, 106:13 happens 108:15, 112:8, 113:7, 125:14 happily 49:24 happy 8:3, 20:12, 28:7, 41:9, 116:11 hard 20:8, 24:10, 37:24, 42:13, 51:1 hartford 69:2 harvard 69:11 hazardous 92:4 head 99:14</p>	<p>health 15:21, 16:5 healthy 28:15 hear 12:25, 13:5, 48:17, 50:18, 58:11, 58:13, 58:15, 59:1, 59:2, 60:15, 68:14, 68:17, 77:13, 106:20, 110:4, 128:6, 128:7, 136:10, 136:12, 141:10 heard 20:4, 23:3, 69:20, 95:24, 131:15, 133:8, 143:23 hearings 1:1, 2:4, 3:3, 36:4 hearsay 137:21, 139:24 heartache 20:9 heavy 87:22 hedgerow 90:3, 90:18, 91:2, 92:6, 92:9, 92:12, 95:15, 101:5 held 2:1, 38:15 hello 6:3, 6:12, 7:23, 105:15, 133:4, 136:9 help 7:6, 33:6, 37:3, 38:1, 85:14, 93:14, 112:16, 116:15, 134:8 helpful 136:3, 144:16</p>
--	--	---	--

<p>hence 36:9</p> <p>here 7:6, 7:15, 9:16, 15:19, 16:1, 17:12, 26:23, 26:24, 26:25, 32:5, 32:6, 34:12, 37:9, 38:3, 39:3, 42:1, 43:13, 45:1, 48:14, 52:20, 56:6, 57:15, 58:22, 60:20, 66:16, 67:8, 69:24, 70:11, 84:15, 86:25, 90:9, 92:12, 94:7, 94:21, 100:20, 102:25, 103:5, 104:21, 108:15, 108:21, 109:3, 109:17, 113:7, 114:8, 114:13, 114:19, 115:22, 123:16, 123:23, 126:21, 128:20</p> <p>here's 32:4</p> <p>hereby 145:16, 146:15</p> <p>herself 97:25, 106:24</p> <p>hibri 93:18</p> <p>high 15:20, 28:1, 29:7, 29:8, 29:11, 36:12, 47:19, 55:7, 96:25, 98:5, 98:19</p> <p>higher 100:19, 102:9</p> <p>highest 98:6</p>	<p>highlight 96:10</p> <p>highlighted 108:5</p> <p>highly 67:14</p> <p>hire 93:23, 95:7</p> <p>hired 88:5</p> <p>historic 79:14, 89:19, 90:4, 90:6, 93:14</p> <p>hit 97:6</p> <p>hmm 54:10</p> <p>hobbyists 86:1</p> <p>hold 31:23, 33:1, 57:7, 57:12, 114:13</p> <p>holding 92:21</p> <p>holds 93:4</p> <p>homes 78:12</p> <p>honest 34:11</p> <p>honestly 120:15</p> <p>hop 86:25</p> <p>hope 20:11, 28:19, 94:16, 94:17, 97:6</p> <p>hoping 31:13, 126:13, 126:14</p> <p>horse 28:15, 35:10, 102:11, 120:4</p> <p>horseback 108:24</p>	<p>horses 12:23, 15:9, 22:22, 28:11, 28:21, 48:7, 54:3, 55:3, 98:1, 119:19, 120:9, 120:15, 120:20, 121:15, 121:21, 122:3, 124:2, 132:17</p> <p>host 13:5</p> <p>hour 18:5</p> <p>hour-a-day 95:3</p> <p>hours 121:24</p> <p>house 30:1, 30:2, 65:2, 65:7, 74:8, 74:10, 74:17, 74:18, 74:20, 74:22, 74:24, 75:7, 75:14, 75:24, 75:25, 76:1, 76:4, 76:6, 81:14, 82:25, 97:8, 98:12, 98:16</p> <p>houses 75:3, 75:13, 75:16, 80:1</p> <p>hover 11:2</p> <p>however 12:21, 56:20, 57:5, 90:13</p> <p>hpt 80:25</p> <p>huge 86:13, 88:4, 90:15, 97:7</p> <p>hughes 95:20</p> <p>hundred 92:5, 95:18</p>	<p>hunters 86:1</p> <p>hunting 85:8</p> <p>hurt 126:15</p> <p>hypothetical 21:13, 22:2, 22:16, 56:24, 61:5, 62:24, 63:2, 66:4, 119:21, 120:1, 120:4, 124:7</p> <p>hypothetically 135:13</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>id 9:13</p> <p>idea 22:7, 30:16, 69:19, 79:4, 112:23, 119:6, 122:6</p> <p>identified 99:2</p> <p>identify 7:13, 72:2</p> <p>idly 70:17</p> <p>ignored 63:6</p> <p>ignores 131:11</p> <p>il 86:15</p> <p>illegal 85:8, 85:9, 85:15, 85:25, 86:15, 88:4</p> <p>illegally 95:17</p> <p>imagine 79:6</p> <p>immediately 30:1, 30:2, 76:5, 86:13, 115:10, 115:12,</p>
--	---	---	--

132:2, 137:3 impact 15:23, 57:22, 59:23, 59:25, 60:12, 61:25, 66:8, 96:14, 96:16, 101:10, 101:11, 101:22, 108:17, 108:18, 119:8 impacts 63:3, 130:9 impermissible 131:18 implemented 129:9, 129:12, 129:17 implication 124:21, 126:20 important 32:22, 64:1, 94:10 importantly 96:15 imposed 112:7 impossibility 60:11 impression 81:4 imprimatur 25:23 improved 89:10, 119:2 improvement 125:20 improvements 61:9, 69:4, 130:1 inaccuracies 71:24, 72:3, 72:15, 72:21, 73:20, 73:22, 94:13, 94:22, 106:6, 107:6, 108:4 inaccuracy 82:15	inaccurate 73:24, 76:9, 92:8, 104:13, 106:10, 109:11, 115:14 inaccurately 106:1 inadvertently 101:18 inappropriate 96:13, 132:15, 135:1 inch 26:20, 26:22 inch-thick 38:14 inches 90:8 inclined 86:4 include 60:4 included 15:14, 45:23, 103:16 includes 82:16 including 14:9, 15:2, 54:17, 61:6, 61:10, 65:11, 96:19, 105:4, 108:23, 130:10 incompatible 98:25 inconsistency 89:16 inconsistent 89:10, 89:13, 90:18, 91:1, 91:13 incorrect 22:15, 81:4, 81:12, 116:5, 116:6, 132:6 incorrectly 7:25, 75:17 indeed 132:5	independent 34:8, 95:7, 116:20, 119:12 indicated 44:9, 47:18, 71:10, 83:21 individual 100:15, 100:18 individuals 60:8 inevitable 111:24 informal 11:22, 76:22 information 9:12, 31:3, 69:22, 103:16, 107:10, 139:19, 146:19 initial 102:2, 127:8 initially 110:13 initiated 7:3 innumerable 106:8 inordinately 85:4, 85:22 inside 74:9, 79:14, 81:16 insiders 86:19 inspector 10:8 install 86:11 instances 55:15, 64:10 instead 31:15, 34:6, 40:6, 47:20, 47:22, 64:11, 113:2, 141:25 institute 69:2 instructions 9:8	insurance 84:12, 84:13 intend 101:18, 102:7, 126:8 intended 16:16, 69:7, 91:14 intensity 14:1 intention 24:7 intentionally 106:23 interest 90:17, 145:19, 146:21 interested 60:7 interests 91:1, 91:13 interject 38:3 interjecting 68:12 intermediate 92:10, 92:14 interrupt 7:8, 21:23, 38:25 interruption 93:1 intimately 70:6 introduced 69:15 intrudes 21:20 invalidate 124:10 invalidated 124:8 investment 56:17, 67:6 invisible 69:4, 120:5 invited 52:4, 95:25
---	--	---	--

<p>involved 70:6, 70:7, 100:5, 109:3, 135:2 issuance 129:19 issue 17:17, 17:20, 18:4, 52:20, 64:24, 66:2, 67:7, 86:23, 87:18, 87:19, 90:24, 96:5, 109:17, 112:16, 123:16, 139:1 issued 66:15 issues 14:22, 60:22, 64:22, 115:5, 124:23, 138:22, 138:23 item 96:9 items 109:1, 112:2</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>january 15:14, 17:25, 52:18, 53:2, 72:23, 73:6, 75:21, 76:20, 78:8, 79:10, 81:18, 82:24, 87:2, 89:8, 94:25, 107:6, 125:8, 132:2 jennifer 3:6, 4:4, 4:7, 6:15, 7:14, 7:18, 38:6, 125:9 jenny 38:15, 42:3, 45:20, 49:11, 58:18, 68:24, 127:11</p>	<p>jenny's 13:7, 44:11, 61:12, 65:18, 65:23, 75:24, 84:5 jeopardy 18:25 job 1:23, 139:8 johnson 3:21, 8:19, 9:4, 25:20, 39:21, 46:4, 47:10, 49:6, 49:17, 51:20, 52:4, 73:1 johnson's 49:22 join 8:15, 8:16, 9:12 joyriders 86:1 joyriding 85:9 ju 102:1 july 140:16, 142:2 jumping 62:5 juncture 21:8 june 1:13, 17:4, 38:16, 39:20, 41:25, 42:1, 43:8, 43:16, 44:11, 44:16, 47:3, 49:4 jurisdiction 70:5, 100:8 jurisdictionally 70:9 jurisdictions 70:15</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>keep 42:13, 48:6,</p>	<p>53:11, 62:25, 79:9, 83:17, 88:15 keepers 28:11, 35:22 kept 51:7 kids 75:12 kind 34:19, 42:13, 44:6, 56:24, 127:25, 128:1, 134:9 kinds 91:18 knew 68:24 knock 121:25 knowing 99:5 knowledge 71:11</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>lack 15:21 lady 80:6 laid 89:3, 91:11 land 6:18, 15:25, 35:15, 69:17, 69:18, 82:8, 84:17, 87:15, 87:18, 104:21, 109:13, 109:14 landowner 22:21 lands 86:19 lane 13:3, 79:5, 85:20, 85:24, 88:3, 98:8 large 69:25</p>	<p>largest 92:19, 92:22 last 8:3, 14:6, 19:8, 24:8, 48:18, 68:15, 70:23, 80:24, 85:13, 96:9, 103:11, 105:23, 143:23 late 17:15, 51:6 later 20:7, 32:21 latest 16:21 law 70:13, 70:14, 92:24, 93:11, 93:12, 94:6, 101:17, 104:4, 107:21, 108:12, 131:18 laws 105:1 lawyer 17:5, 83:25, 109:18, 137:11 lawyers 87:23 lay 85:2, 87:5 laying 73:15 layout 67:6, 67:7 lead 91:23, 92:1, 93:23, 108:16 leaded 97:19 leakage 98:9 leaking 63:25, 97:17, 97:19, 98:11, 99:12 learned 95:6</p>
--	--	--	--

least 33:20, 51:23, 70:24, 78:11, 97:18, 119:12 leave 33:13, 40:12, 50:10, 50:20, 50:22, 118:17, 131:3, 131:7, 131:12, 134:1, 135:17, 135:23, 139:18, 139:24, 140:6, 140:14, 140:15, 142:13 leaves 78:2, 105:7, 126:19 leaving 70:19, 70:21, 143:10 lee 2:15, 145:15, 145:24 left 13:11, 51:3, 65:4, 75:3, 97:4, 101:8, 121:14, 121:15, 123:25 legal 17:8, 17:9, 17:19, 77:21, 87:9, 88:10, 110:5, 126:21, 126:24 legality 132:17 legally 99:9, 112:10, 124:23, 130:15 legislation 90:20 leslie 96:4 less 65:13, 124:7 let's 9:19, 25:8,	32:5, 34:17, 34:18, 34:20, 39:5, 39:9, 39:10, 59:12, 68:8, 83:18, 84:20, 89:8, 90:16, 106:24, 124:5, 137:24, 140:14 level 28:22, 100:19, 102:9, 129:11 levels 89:6, 127:2 library 98:2 life 15:22, 28:15, 98:3 likelihood 66:1 likely 48:3, 77:22, 87:12, 98:24, 104:7, 107:24 limit 112:14 limited 56:11, 58:3 limits 131:8 line 11:6, 61:2, 61:17, 94:17, 95:13, 113:1, 114:3, 116:5, 117:20, 119:1, 119:14, 119:19, 120:1, 120:5, 122:8, 122:9, 122:13, 123:13, 142:20, 142:21 lines 14:19, 114:4, 118:4 link 9:1, 9:8, 9:11, 9:15, 38:14	list 25:3, 26:19, 27:15, 27:19, 27:22, 31:21, 32:6, 38:4, 45:8, 57:12 listed 44:12, 80:10 listen 6:24, 141:10 literally 69:14 little 11:21, 51:1, 59:5, 68:22, 93:19, 133:23 lived 108:21 lives 57:25 livestock 121:8 living 75:4, 75:5, 76:3 load 14:20 loam 44:6 lobbied 36:8 local 91:5, 105:12 located 76:2, 76:3 location 29:20, 118:7, 118:11 locations 81:5 lock 86:8 log 25:24, 95:9 logged 25:18 logic 18:17	logical 131:9 logically 82:2 long 104:8, 107:25, 140:11 longer 71:21, 94:4 longstanding 104:21 look 26:19, 27:14, 28:16, 29:24, 29:25, 34:3, 37:22, 40:1, 40:10, 41:25, 47:19, 54:24, 58:2, 59:15, 87:21, 90:10, 90:16, 95:25, 116:16, 118:7, 123:22, 124:2, 139:9, 139:13, 139:14, 144:5 looking 23:20, 26:1, 26:7, 26:8, 26:24, 28:4, 30:20, 31:17, 32:23, 33:2, 33:16, 33:17, 34:4, 36:25, 37:5, 37:7, 37:10, 40:15, 42:5, 42:8, 43:9, 43:11, 43:13, 43:14, 45:12, 45:24, 46:11, 46:21, 54:22, 55:10, 56:19, 59:20, 67:6, 73:24, 100:14, 100:23, 113:16, 116:17, 120:23 looks 32:14, 34:6
--	---	--	---

Transcript of Hearing
Conducted on June 22, 2020

59

<p>lop 114:18, 114:19</p> <p>lose 75:4</p> <p>loses 126:15, 126:16, 126:17</p> <p>lost 75:13</p> <p>lot 8:17, 9:8, 9:25, 15:16, 19:16, 19:18, 19:19, 19:25, 20:2, 21:6, 21:7, 21:8, 21:9, 21:10, 21:16, 21:21, 21:24, 22:1, 22:16, 22:18, 28:9, 28:18, 30:9, 34:15, 34:23, 47:21, 54:24, 58:1, 60:16, 60:17, 60:20, 61:5, 61:12, 63:1, 64:19, 65:3, 65:12, 65:14, 65:17, 65:19, 66:4, 69:4, 69:5, 72:11, 85:8, 85:15, 87:23, 93:5, 99:8, 111:1, 112:6, 112:15, 112:21, 112:25, 113:24, 113:25, 114:4, 115:3, 117:20, 118:3, 119:17, 119:20, 119:21, 119:24, 119:25, 120:1, 120:4, 120:24, 122:7, 123:12, 124:6, 124:7, 130:10, 132:18, 132:23, 133:13,</p>	<p>135:6, 135:9, 138:19, 144:9</p> <p>lots 15:15, 28:24, 35:5, 35:22, 36:1, 38:8, 56:25, 61:11, 93:5, 125:11, 135:10, 135:12</p> <p>lovely 56:19</p> <p>low 28:19, 28:20, 41:16, 41:17</p> <p>lower 100:7</p> <p>lush 54:11</p> <p>lynn 1:11, 3:3, 6:22</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>ma'am 12:7, 48:13, 79:21, 102:15, 131:20, 141:19</p> <p>made 22:13, 36:11, 52:5, 54:22, 56:17, 59:16, 62:22, 64:8, 75:20, 134:13</p> <p>mail 33:11</p> <p>main 89:13, 89:15, 90:11</p> <p>maintain 15:12, 28:15, 28:22</p> <p>major 52:4, 56:17, 59:23, 59:25, 63:4, 65:16, 70:11, 70:18, 71:1, 73:7, 73:15, 75:12, 75:15, 85:2,</p>	<p>86:20, 87:4, 89:4, 90:23, 91:3, 91:11, 96:12, 97:12, 101:2, 101:11, 101:22, 103:10, 105:24, 123:17, 130:7</p> <p>make 12:11, 16:21, 18:9, 18:12, 21:11, 30:10, 35:1, 43:1, 50:13, 53:10, 70:17, 83:25, 85:1, 93:3, 96:7, 103:4, 109:3, 110:25, 112:21, 116:13, 122:14, 122:24, 123:2, 123:7, 125:15, 126:2, 127:24, 132:9, 133:7, 133:23, 141:24</p> <p>makes 78:11, 111:23</p> <p>making 62:13, 70:6, 70:7, 71:10, 71:21, 73:13, 82:5, 89:6, 107:6</p> <p>man 93:16</p> <p>managed 16:10, 93:20</p> <p>management 5:7, 5:8, 15:3, 15:4, 15:13, 15:14, 24:17, 24:25, 25:6, 26:3, 26:11, 27:6, 31:4, 81:6, 82:9, 85:6</p> <p>managing 15:24</p> <p>manner 18:8</p>	<p>manure 14:20</p> <p>many 10:13, 42:12, 43:13, 46:11, 57:1, 81:5, 88:15, 89:6, 91:6, 98:1, 98:2, 98:10, 99:6, 106:6, 122:7, 122:23, 129:11, 134:4, 136:19, 138:22, 138:23</p> <p>map 5:11, 28:16, 29:25, 32:20, 32:21, 32:23, 39:24, 39:25, 40:10, 40:19, 43:19, 43:21, 43:23, 56:18, 56:23, 61:3, 65:1, 65:6, 71:22, 71:24, 72:8, 72:10, 72:12, 72:14, 72:16, 72:17, 72:18, 72:21, 73:9, 73:23, 74:14, 74:23, 75:2, 75:14, 76:1, 76:12, 76:23, 76:25, 78:1, 79:15, 79:18, 81:2, 81:3, 81:7, 81:24, 82:1, 83:6, 86:16, 88:11, 89:9, 92:12, 94:13, 94:19, 95:8, 95:14, 104:13, 104:16, 107:7, 108:5, 108:10, 109:11, 110:14, 110:21, 110:24, 115:18, 116:13,</p>
---	---	--	--

<p>116:17, 116:21, 116:23, 116:25, 117:3 maps 54:4, 72:3, 86:20, 88:11, 88:12, 93:21, 108:11 mark 118:10, 118:15 marketable 65:19 marketing 126:16 markets 85:12 marry 119:24 maryland 1:2, 1:12, 2:5, 2:16, 3:8, 3:13, 3:18, 5:10, 6:17, 7:20, 8:10, 30:21, 32:16, 33:18, 43:14, 44:9, 52:19, 69:15, 70:3, 70:6, 70:16, 71:25, 73:11, 80:12, 90:7, 93:12, 93:15, 95:23, 99:21, 100:10, 127:2, 127:4 massive 79:22, 88:25 master 71:14, 78:18, 78:20, 87:9, 89:11, 89:23, 91:19, 91:20, 96:8, 100:12, 100:17, 100:25, 101:15, 105:9, 108:20 match 41:2 matter 6:15, 18:8,</p>	<p>110:6, 128:8, 128:9, 141:25 matters 119:5 mature 92:9, 92:13, 93:12, 105:2 max 48:2 maybe 9:20, 25:9, 31:18, 41:8, 54:1, 54:14, 58:10, 63:14, 80:23, 132:7, 136:14 mckee 65:23 mckey's 138:15 md 2:8 mean 24:7, 32:24, 37:24, 43:8, 54:25, 58:10, 63:21, 65:5, 111:22, 121:23, 133:7, 135:15, 137:13, 143:17 means 6:23, 7:10, 11:24, 28:12, 40:14, 59:15, 90:13, 92:6, 102:2, 125:5 meant 126:8 measure 74:21, 90:3, 95:8 measured 93:24 measurements 108:8 medley 89:19, 93:14 meet 17:15, 36:2</p>	<p>meeting 9:12, 9:13, 9:14, 9:17, 9:18, 17:25, 20:24, 23:10, 23:12, 23:13, 39:9, 127:14, 133:1, 133:17, 134:20, 136:2, 136:13, 137:2 meetings 139:23 meets 123:3 members 88:16, 94:2, 127:1 mention 21:2, 86:6, 107:3, 132:3 mentioned 84:24, 91:19, 91:20, 127:8 mentioning 84:2 message 115:23 met 50:10, 93:15 mic 10:1 microsoft 7:5, 9:9, 9:12, 9:18, 9:19, 10:11 middle 8:1, 11:2, 77:3, 77:4, 83:6, 87:25, 88:19, 114:3, 119:14, 120:13 might 66:4, 66:5, 78:25, 101:18, 102:6, 110:25, 114:1, 117:24, 126:13, 127:17, 131:3, 133:23</p>	<p>migratory 14:21, 69:7, 90:22, 91:4 mile 90:2 mind 59:11, 63:1, 133:6 minds 79:7 mine 109:8 minimal 28:13 minor 6:16, 12:17, 12:18, 13:14, 13:15, 13:21, 13:22, 13:25, 14:23, 19:18, 56:17, 63:4, 65:16, 70:11, 70:18, 73:7, 73:15, 74:23, 76:12, 82:5, 85:1, 87:4, 91:11, 96:11, 100:21, 101:11, 101:13, 103:10, 105:23, 107:8, 109:4, 122:25, 123:17, 125:10, 130:7 minus 74:25 minute 32:22, 39:10, 50:8, 87:17, 87:21, 106:20 minutes 23:9, 23:10, 33:9, 39:12, 67:19, 102:18, 134:4, 136:2, 136:14, 136:19, 140:10, 141:4, 141:6, 141:7 misleading 118:19</p>
--	---	---	---

Transcript of Hearing
Conducted on June 22, 2020

61

<p>misled 119:1 miss 53:9, 75:24, 98:17 missed 121:22, 143:24 mistake 22:11 mistakes 94:16 misunderstandings 54:1 mittchell 65:1, 84:8 mixed 61:17 mm-hmm 6:10, 45:16, 68:13, 81:20, 114:15, 118:12, 127:7, 128:17, 142:11, 142:16, 142:19, 143:2, 144:10 mnccp 72:25, 73:6, 76:19 mobilizing 102:2 mod 110:18 modified 5:7, 5:8, 15:3, 24:15, 24:25, 25:6, 110:18, 110:19, 119:23 moment 25:3, 34:20, 39:18, 62:20, 67:18, 105:20, 123:22, 138:14 monday 1:13 money 20:9, 126:15 montgomery 1:2, 2:3, 3:2,</p>	<p>16:20, 35:9, 61:21, 69:15, 69:19, 80:12, 82:16, 84:17, 89:11, 93:10, 93:14, 94:5, 104:4, 107:22 months 20:25 moot 51:6, 132:7 more 13:18, 15:6, 48:3, 50:12, 52:10, 55:9, 68:5, 68:6, 81:1, 90:7, 96:15, 116:11, 120:18, 125:20, 133:10, 141:13, 142:13, 143:4 morning 6:4, 6:5, 8:18, 12:15, 25:10, 35:10 most 51:23, 77:2, 87:10, 88:3, 88:8, 97:9, 114:24, 129:10, 131:9 motion 60:14, 119:10, 122:8 motivation 19:3 mound 64:14, 64:17, 65:8 mounds 64:14, 64:16, 64:25, 65:5, 114:5, 115:1, 118:17, 144:2 move 19:7, 20:11, 27:23, 68:8, 69:19, 80:22,</p>	<p>89:8, 92:7, 94:24, 100:8 moved 16:1, 74:20, 76:1 movement 89:5 moving 57:2, 60:20, 106:7, 122:7, 122:23 much 12:24, 23:21, 27:13, 53:7, 54:24, 63:8, 67:7, 68:24, 74:3, 90:21, 102:16, 120:14 muddying 126:18 multiple 97:9, 98:13 must 10:11, 19:6, 33:11, 87:4, 92:17 mute 13:3, 13:4, 67:17 muted 11:2, 13:8, 50:16, 105:19, 106:11, 106:12 muting 106:13, 106:23, 106:24 myriad 124:22 myself 17:18, 35:22, 47:5, 60:7, 68:12</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>na 95:22 naaden 1:25, 146:15,</p>	<p>146:25 name 6:22, 7:9, 7:14, 7:16, 7:18, 7:23, 7:24, 8:1, 8:3, 10:7, 80:16, 103:11, 116:3, 136:14, 138:16 name-calling 52:7 named 93:16 namely 15:21 names 84:9 nana 3:21, 39:21, 46:4, 46:5, 47:4, 47:10, 73:1 nancy 8:4, 8:5, 68:25, 97:14 nar 68:24 narrow 78:21 narrowest 79:24 national 52:19, 70:3, 71:25, 73:11, 79:13, 90:7, 95:23, 99:21, 100:10, 127:3 nature 14:1, 61:13, 62:4, 129:10 nd 140:15 nearly 97:16 necessarily 122:9 necessary 123:4, 123:6,</p>
--	--	---	---

<p>140:2, 140:3 need 8:25, 25:3, 28:12, 29:24, 31:19, 32:20, 36:5, 37:21, 45:24, 49:2, 50:17, 64:16, 67:15, 71:16, 76:18, 86:6, 96:18, 97:11, 107:19, 110:3, 117:4, 120:12, 120:15, 120:18, 120:20, 120:21, 132:8, 133:15, 138:18, 139:16, 142:3, 142:13, 142:14, 142:17, 142:20, 142:24, 143:1, 143:4, 144:5 needed 10:11, 64:13, 65:13, 86:25, 90:1, 90:22, 91:3, 94:22, 127:15 needs 25:9, 100:12, 100:14, 100:22, 103:25, 115:15, 138:23, 141:18, 143:13 nefarious 86:5, 86:7 negative 15:23 neglected 105:22, 107:3 neighbor 58:25, 65:1, 65:2, 68:24 neighborhood 14:3, 57:23, 59:23, 60:1, 60:12, 63:4, 79:1, 96:15,</p>	<p>100:16 neighbors 14:9, 15:5, 60:7, 60:9, 72:3, 72:19, 75:12, 82:11, 84:9, 86:13, 89:3, 97:11, 101:11, 101:23, 102:4, 106:3, 115:10, 126:20, 131:5 neither 42:22, 145:18, 146:19 nervous 24:6 nesting 96:2 network 81:25, 84:25, 86:15, 86:17, 88:4 never 26:4, 59:11, 75:8, 75:20, 79:25, 93:21, 95:24, 98:4, 106:3, 120:15, 131:13, 131:15, 134:20 nevertheless 17:20 new 15:3, 17:16, 19:19, 59:10, 64:19, 65:2, 79:5, 84:9, 99:14, 104:16, 113:2, 114:4, 115:5, 115:16, 118:16, 119:16, 129:16, 130:10, 138:11 newly 139:4 next 49:1, 76:6,</p>	<p>80:7, 80:9, 92:7 nice 28:15 night 19:8, 35:10 nine 27:17 nobody's 24:13 noise 9:25, 10:23, 12:25 none 8:14, 113:11, 113:13 nope 23:20, 53:21 normally 24:18, 101:16 north 30:2, 76:5, 79:3, 82:3, 93:19, 96:22, 99:13, 99:15 northeast 82:1, 82:7 notably 16:2 notary 2:15 notation 63:16, 78:11 note 7:24, 16:24, 16:25, 28:4, 89:18, 95:1, 95:2, 99:1, 105:22 noted 16:16, 24:2, 24:15, 29:12, 38:21, 46:21, 47:20, 47:22, 80:16, 90:4, 90:6, 105:5, 105:6, 138:17 notes 23:20, 139:5</p>	<p>nothing 12:12, 12:19, 15:11, 24:2, 27:2, 43:2, 91:7, 112:8, 120:11, 124:16 notice 40:10, 40:11, 40:13, 56:14, 71:7, 125:4 noticed 52:13, 115:13 notion 21:14 nuanced 105:25 number 6:15, 9:13, 16:3, 22:10, 22:11, 25:2, 26:3, 27:17, 29:12, 30:8, 30:9, 32:7, 34:9, 37:7, 43:19, 54:1, 57:17, 58:4, 59:22, 64:3, 64:22, 67:8, 73:22, 78:1, 78:13, 81:3, 81:19, 82:18, 87:3, 89:8, 90:15, 90:16, 94:24, 96:9, 104:12, 110:11, 110:25, 119:4, 124:2 numbered 43:18 numbers 31:21, 32:24, 33:14, 33:22, 35:3, 36:21, 41:15, 48:5 numeric 32:24 nurture 91:4</p>
---	---	--	--

nutrient 5:7, 5:8, 15:3, 15:14, 24:17, 24:25, 25:6, 26:3, 26:11, 27:6, 31:4, 32:6 nutrition 29:3 <hr/> O <hr/> oath 11:23, 23:14, 24:12, 42:22, 54:10, 138:2 obey 52:1 object 11:11, 15:6, 57:3 objected 60:6 objecting 57:4, 57:8 objection 19:3 objections 11:17, 12:21, 17:17 objective 58:1 objectively 99:24 observed 69:24 obtained 18:10 obtaining 15:2 obviously 27:22 occur 64:3, 126:14 occurred 88:5 offended 89:2 offer 125:20	offered 70:22, 123:9 offers 101:22 office 1:1, 2:3, 2:6, 3:2, 10:12, 66:15, 66:16, 67:3, 70:16, 71:11, 107:9, 115:17, 138:15 offices 20:25, 70:1 official 81:25, 86:17, 103:16, 115:18 offsite 113:13 often 70:7, 85:7, 95:6, 104:23, 129:18 oh 7:18, 9:2, 12:8, 25:15, 26:1, 26:23, 31:4, 31:22, 40:22, 41:14, 49:19, 49:21, 51:9, 51:13, 53:24, 55:8, 63:14, 66:17, 66:24, 72:22, 73:21, 76:9, 82:20, 93:2, 95:1, 103:14, 105:18, 133:17, 136:3, 138:17 ol 94:7 old 33:1, 33:11, 98:21, 129:15 older 69:25 omission 27:16 once 85:3, 88:15,	133:10 ones 28:5, 28:17, 29:9, 29:15, 29:21, 30:3, 30:5, 31:15, 35:14, 36:13, 38:21, 42:10, 44:24, 47:21 online 26:24, 27:1 only 9:10, 12:21, 13:5, 15:11, 17:15, 19:18, 21:10, 29:18, 29:23, 30:5, 33:4, 33:19, 35:5, 35:13, 35:20, 35:21, 36:17, 36:25, 38:13, 40:1, 40:8, 40:23, 44:18, 45:21, 48:3, 49:3, 53:25, 55:2, 59:15, 59:21, 60:6, 61:19, 64:13, 64:15, 64:24, 65:10, 65:11, 65:12, 65:18, 69:17, 81:11, 81:15, 86:18, 89:13, 89:24, 93:7, 94:16, 94:17, 94:23, 96:23, 100:14, 110:24, 112:6, 112:15, 114:18, 119:24, 127:7, 127:16, 127:18, 139:11 open 40:12, 43:13, 50:10, 50:20, 50:22, 51:3, 51:7, 54:11, 55:9, 78:2,	85:4, 85:12, 85:17, 85:22, 105:7, 119:20, 119:24, 131:3, 134:1, 135:18, 135:23, 139:18, 139:25, 140:6, 140:14, 140:15, 142:14, 143:10 opening 20:14, 86:17 openings 82:12 opinion 13:14, 13:21, 16:14, 71:14 opinions 139:19 opportunity 9:7, 11:25, 39:11, 39:12, 51:20, 68:19, 84:21 opposed 85:1 opposing 3:10, 3:15 opposite 18:7, 134:14 opposition 15:5, 50:1 option 70:24, 129:23, 135:23 options 70:20, 126:19 oral 7:2 orchard 54:17 order 28:15, 56:8, 83:18 ordinance 6:19, 59:15, 139:15 organizations 91:9, 95:21
--	--	---	---

organized 34:12 orig 114:6 original 5:3, 6:20, 14:8, 19:23, 27:17, 55:11, 72:10, 72:12, 81:13, 103:19, 104:19, 107:12, 114:7, 114:8, 114:16, 117:21, 118:16, 126:11, 128:14, 128:15, 132:24, 144:5 originally 31:8, 125:3 originals 61:22 other 7:8, 7:10, 8:12, 13:4, 13:5, 13:13, 13:20, 14:22, 16:7, 20:1, 23:19, 33:9, 34:1, 36:19, 36:20, 36:21, 38:8, 39:6, 42:14, 45:13, 48:11, 51:16, 53:13, 53:21, 57:19, 57:21, 60:7, 61:9, 61:11, 65:17, 68:1, 68:3, 77:3, 81:8, 82:12, 86:4, 87:7, 88:16, 88:20, 92:3, 96:16, 98:10, 102:8, 105:17, 109:23, 114:21, 118:20, 119:2, 119:20, 122:19, 122:21, 127:1, 127:2, 129:1,	130:1, 130:9, 131:12, 131:19, 134:23, 138:22, 144:15 others 36:8 otherwise 102:5, 122:3, 145:20, 146:21 out 21:18, 44:23, 49:6, 53:25, 71:25, 75:19, 75:21, 75:23, 85:4, 85:8, 85:9, 85:10, 86:15, 87:22, 89:13, 89:15, 91:8, 93:24, 94:7, 95:4, 95:25, 96:3, 104:14, 104:21, 108:15, 108:21, 111:16, 117:19, 123:13, 123:20, 127:12, 128:25, 132:4 outcome 145:20, 146:21 outer 79:6 outline 72:11, 116:5 outside 54:25, 81:14 over 7:10, 24:7, 33:9, 33:14, 34:1, 42:14, 45:13, 47:24, 69:8, 69:18, 70:1, 74:18, 80:2, 80:5, 98:1, 105:17, 108:15, 108:16, 109:23, 119:25, 122:19, 122:21, 129:1, 131:19,	134:23, 144:15 overgrown 85:16 overhead 39:25, 40:16 overlapping 99:21, 99:22, 99:24 oversight 94:16 overweight 28:21 own 10:16, 24:1, 33:5, 77:3, 77:4, 87:24, 88:19, 88:20, 95:7, 115:12 owned 99:7 owner 64:19, 65:3, 97:15, 108:17 owners 68:25, 87:7, 88:20, 99:14 owns 93:18 ozah 3:21, 17:14, 20:23, 24:21, 49:22, 125:8 <hr/> <p style="text-align: center;">P</p> <hr/> p 77:17 paddock 35:21, 48:1, 119:20 paddocks 61:6, 61:8 page 4:2, 5:2, 25:16, 30:14, 33:14, 34:9, 36:23, 37:5, 37:6, 37:7, 40:16, 73:23,	125:6 pages 1:24, 94:22, 104:14 paper 33:2 par 89:13 parameters 89:10, 89:15 parcel 6:20 pardon 93:1 parenthetically 76:25, 94:10 park 52:19, 70:3, 71:25, 73:11, 90:8, 95:23, 99:22, 100:10, 127:3, 138:8, 138:12 part 13:20, 22:12, 32:12, 34:13, 47:25, 52:20, 56:23, 57:13, 58:1, 58:2, 62:6, 73:6, 75:24, 76:14, 77:1, 84:14, 96:2, 98:20, 100:7, 100:9, 107:2, 107:8, 110:20, 111:23, 111:25, 113:4, 113:15, 128:23, 129:3, 132:18, 139:4 partial 70:5 partially 9:10, 74:25, 95:16 participating 68:21 particular 71:23, 73:7,
--	--	--	--

89:9, 94:19, 108:5 particularly 15:13, 16:16, 91:23, 105:2, 105:11 parties 6:8, 7:8, 7:12, 17:18, 60:8, 102:23, 133:23, 145:19, 146:20 partnership 82:3, 85:18, 89:25, 93:20, 95:3, 98:7 parts 57:2, 60:20, 96:16, 99:6, 100:3, 102:8, 122:7, 122:23 party 3:10, 3:15 passed 20:20, 87:17 passing 97:3 past 16:4 pasture 5:10, 15:4, 15:21, 30:21, 32:16, 33:18, 34:24, 35:24, 35:25, 36:2, 36:7, 36:19, 38:7, 40:7, 40:23, 41:3, 43:14, 43:19, 43:21, 43:22, 43:24, 44:9, 54:2, 54:12, 54:20, 54:21, 54:24, 55:1, 55:3, 55:6, 56:19, 56:20, 104:7, 107:24, 119:24, 120:14 pastures 33:19, 34:21,	34:23, 35:13, 36:20, 36:21, 37:1, 39:19, 40:3, 41:3, 43:18, 44:14, 54:6, 55:7 patent 93:18 paved 69:18 pen 142:14 penalties 12:10, 42:25 pencil 142:15 pending 56:13 people 7:10, 8:12, 41:8, 55:5, 67:10, 77:3, 85:6, 85:18, 88:8, 117:9, 118:19, 119:1, 122:22, 127:15 people's 79:7, 80:1 pepco 88:12 percent 54:11, 74:9, 92:17, 92:21, 93:4, 93:8, 99:11, 104:7, 107:24, 126:9 perception 111:12 perfect 56:16 perhaps 24:23, 69:4 period 55:21, 80:4, 103:23, 107:16, 107:20, 107:22, 108:2, 108:3 perjury 12:10, 43:1	permissible 111:11, 112:5 permission 110:9, 112:17, 115:8, 116:7, 135:21 permit 20:19, 20:22, 66:14, 104:1, 107:19, 110:19, 110:21, 119:8, 119:22, 119:23, 121:10, 129:19, 132:14, 135:7, 135:11, 138:11, 138:19 permits 120:4, 121:7, 129:10, 129:11, 129:18 person 101:3 person's 65:3, 136:14 personal 33:5, 135:3 personally 57:4, 99:7 persons 58:4 perspectives 139:23 pertains 70:14 pet 15:10 petitioner 57:21, 58:21 petroleum 97:13, 98:10 pets 132:17 ph 7:3, 62:14 philadelphia 80:6 phone 10:23, 11:5,	13:1, 13:2, 32:3, 33:10, 44:20 photograph 10:16, 40:16, 54:9, 55:17, 56:22, 61:7, 61:8 photographed 90:3 photographs 95:18 physical 26:23, 26:25, 101:22 physically 76:2, 76:3 picking 11:8 picture 54:23, 100:2, 100:3 piece 98:25, 107:10 piedmont 35:8, 36:5, 96:19, 96:22 place 19:10, 22:4, 30:5, 98:6, 118:5, 127:22 places 97:9 planet 69:17 planner 80:15, 95:24 planners 72:12, 94:11, 99:24, 142:6, 142:9 planning 16:20, 18:1, 52:19, 70:3, 72:1, 73:12, 90:8, 95:23, 99:22, 100:11, 127:3, 129:13,
---	---	--	--

129:14, 131:18, 138:8, 138:13 plans 14:10, 14:15, 15:7, 16:2, 18:25, 21:15, 21:19, 21:21, 24:11, 84:15, 129:15 plantings 69:6, 88:1 plats 92:8 please 12:8, 12:14, 13:18, 23:23, 37:8, 42:23, 43:10, 50:23, 51:24, 64:4, 89:18 pleasure 22:22 plenty 55:3, 55:8 plot 109:14, 111:5, 111:7, 111:10, 111:19 plus 55:20, 70:4, 92:5, 121:2 pocket 97:8 pockets 97:2, 97:4, 98:11 point 19:1, 19:21, 21:9, 21:11, 22:4, 28:10, 40:8, 51:6, 51:17, 52:5, 53:25, 64:7, 64:8, 65:15, 65:16, 69:16, 73:13, 78:1, 78:13, 80:7, 80:9, 82:21,	86:21, 97:10, 97:22, 98:5, 101:21, 103:2, 109:10, 110:25, 112:21, 119:16, 120:6, 121:22, 122:23, 132:7, 134:16, 135:4, 137:9, 138:5 pointed 71:25, 75:21, 85:4, 87:22, 104:14 pointing 84:6, 84:7, 123:20 points 16:24, 18:20, 19:17, 52:4, 119:3 police 85:14 political 69:23, 100:2 polo 95:3 ponder 126:8 ponies 35:22 poolesville 8:9, 14:22, 89:22, 96:18, 96:22 poolsville 3:8, 3:13, 3:18, 6:17, 7:19 pops 10:7, 104:24 populace 108:22 portfolio 26:21 portion 21:16, 104:9, 108:1, 108:22, 119:18 portray 92:9, 92:12	position 35:7, 137:22, 141:17 possession 23:11 possibility 78:2, 120:20, 123:2, 123:10, 124:5, 131:3 possible 9:4 possibly 18:25 posted 38:12 postponing 18:21, 18:24 potability 97:1 potable 99:13 potential 12:21, 57:20, 86:2, 105:13, 110:21, 131:21 potentially 70:25, 100:22, 108:18, 131:4 practices 7:7 prc 73:3 pre 26:12 pre-hearing 15:1, 17:1, 17:13, 49:25, 50:11, 63:15 precedence 102:9 precedent 79:21, 80:20, 124:17, 135:1, 138:21, 138:25 precise 24:14 precluded 71:11	precludes 89:5 predate 77:6 preempts 73:13, 109:4, 109:5, 126:21, 126:23 preferences 56:4 prejudice 101:18, 102:7, 109:4 preliminary 16:18, 17:24, 80:14, 109:9, 111:24, 112:8, 141:18 premature 96:13 prepared 43:17 preparing 20:9 prescriptive 77:5 present 3:20, 7:14, 17:12 presentation 52:15 presented 60:2, 67:3, 138:20, 138:22 presenting 68:20 preservation 105:13 preserved 90:21, 91:16, 92:17 preserving 90:18, 91:1, 97:1 presumptive 77:25 pretending 58:25
--	---	--	---

pretty 87:22 prevent 28:19, 102:4 previous 7:25, 64:10, 97:15 previously 20:1 primary 61:1 prime 69:18 printed 53:6 prior 17:3, 17:13, 17:23, 50:1, 111:2, 129:19, 140:3 privy 133:1 probably 9:5, 25:20, 46:23, 80:3, 91:6 problem 69:25, 74:1, 75:12, 76:7, 76:23, 81:1, 84:15, 97:20, 101:21, 138:18, 139:5, 143:2, 144:10 problems 28:20, 72:2, 72:16, 73:10, 88:6, 106:8 procedural 16:25, 46:24, 49:3, 62:11, 62:13 procedure 11:21, 16:17, 48:16 procedures 17:6, 80:11 proceed 6:8, 12:2,	12:6, 22:3, 22:12, 51:25, 132:14, 136:7, 140:1 proceeded 62:11 proceeding 11:11, 114:19, 117:25, 118:1 proceedings 4:3, 108:7, 145:16, 145:17, 146:17 proceeds 126:18 process 16:19, 18:3, 18:16, 19:1, 22:7, 22:9, 22:20, 24:8, 24:14, 51:6, 51:19, 58:1, 58:2, 59:17, 60:2, 60:5, 60:6, 61:25, 62:10, 63:7, 65:25, 66:9, 99:21, 111:23, 113:5, 113:9, 119:4, 119:12, 123:12, 127:16, 127:22, 129:3, 130:8, 130:12, 130:21, 135:14, 137:4 produce 16:8 produced 72:12 program 65:20, 69:16, 116:19 prohibition 71:19 projects 129:11 promised 72:15, 73:16,	75:21, 78:2 pronouncing 71:8, 103:11 properties 75:4, 82:13, 84:13, 85:5, 85:19, 85:23, 90:6, 115:12 property 6:19, 12:19, 14:20, 15:11, 16:3, 16:5, 16:17, 19:11, 19:14, 19:15, 20:2, 21:5, 21:6, 56:25, 60:3, 62:23, 68:23, 69:5, 69:6, 69:8, 69:10, 74:7, 76:17, 82:7, 82:9, 83:2, 83:12, 84:5, 84:6, 84:7, 84:8, 84:11, 84:12, 85:25, 86:4, 86:7, 87:7, 87:10, 88:15, 88:20, 88:24, 92:17, 92:21, 93:4, 95:3, 95:10, 97:13, 97:15, 97:16, 98:6, 98:9, 98:25, 99:3, 99:5, 99:7, 99:9, 99:10, 99:14, 99:15, 99:18, 100:6, 101:9, 103:20, 104:3, 104:10, 104:11, 105:12, 107:14, 107:20, 108:1, 108:2, 108:17, 110:16, 110:17, 112:15, 113:15, 116:18, 118:4,	125:11, 126:17, 130:9, 130:10, 142:25 proposal 82:16 propose 21:18, 103:24, 107:17 proposed 65:21, 73:24, 74:6, 74:9, 79:14, 81:14, 81:16, 81:22, 87:14, 89:21, 95:5, 95:9, 95:13, 103:22, 104:6, 104:10, 105:5, 107:15, 107:23, 108:2, 110:18, 112:23, 121:9, 121:18, 130:10 proposes 82:24 proposing 104:18 protect 22:21, 87:10, 91:3, 94:12, 108:13 protected 87:8, 92:19, 92:22, 94:9, 101:14, 104:23 protecting 91:13 protection 90:22, 101:6, 104:11, 108:3, 108:20 protections 90:14, 90:15, 108:12 protest 101:24, 102:5 protesting 102:2 provide 90:21
---	--	--	---

<p>provided 31:14, 36:7, 50:6, 81:10 providing 29:3 public 2:16, 6:14, 57:19, 77:11, 77:14, 77:17, 77:19, 77:20, 87:14 pull 25:3, 33:10, 44:18, 78:5 pulling 32:3 purchase 80:6 pure 54:11, 99:13 purpose 12:16, 128:12 pursuant 2:15 purview 96:6, 96:7, 100:19 put 18:25, 20:8, 22:20, 25:15, 38:22, 47:12, 63:18, 64:12, 76:10, 86:9, 88:23, 98:16, 101:6, 102:6, 106:7, 115:18, 116:22, 117:19, 118:15, 120:10, 120:19, 121:23, 121:25 puts 18:21, 81:16 putting 102:10</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quality 15:22, 36:21,</p>	<p>105:12 quarter 21:10, 63:2, 110:17 question 6:8, 8:24, 23:4, 29:4, 29:6, 29:10, 29:15, 29:17, 35:2, 35:3, 35:4, 35:18, 35:19, 38:24, 40:26, 40:27, 48:8, 49:2, 49:20, 52:14, 52:25, 53:19, 59:14, 59:20, 59:24, 60:1, 60:11, 63:2, 63:10, 63:14, 77:21, 105:8, 124:25, 130:6, 130:8, 130:12, 136:25, 140:17 questions 12:1, 20:12, 20:16, 22:24, 23:19, 23:22, 23:25, 27:23, 34:19, 34:20, 36:16, 39:3, 48:12, 51:16, 52:2, 52:12, 53:13, 53:14, 53:16, 53:17, 53:23, 63:9, 63:12, 63:13, 68:1, 68:3, 68:7, 102:13 quick 27:9, 47:10 quickly 25:3 quiet 62:16, 128:11 quite 56:21, 72:3, 85:7, 129:18</p>	<p>quote 16:16, 16:20, 19:10, 19:11, 19:13, 19:17, 19:20, 19:22, 19:25, 119:14, 119:20, 124:6, 125:8 quote-unquote 92:18 quoting 103:18</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>r 8:1 rae 3:11, 4:10, 7:23, 8:1, 47:4 raise 12:8, 42:24 raised 15:2, 17:21, 18:5 randomly 106:23 rate 36:6 rather 28:6, 134:2 ratification 86:16 ratified 72:14, 76:15, 87:1, 88:18 ratify 74:23, 88:23 ratifying 101:19 ratings 15:20, 28:1, 29:8, 29:12, 36:12, 47:19, 54:12 re-email 41:9 read 37:12, 49:25,</p>	<p>52:24, 52:25, 53:4, 53:6, 63:15, 88:11 reading 30:11, 70:12 ready 6:8, 6:12, 102:23 real 17:5, 19:3, 40:15, 47:10 reality 36:13, 39:25, 40:7, 47:23, 54:7, 74:18, 74:20, 76:2, 81:15 realize 46:10 realized 59:11 really 9:22, 35:15, 40:1, 47:23, 51:14, 57:1, 63:5, 63:12, 70:17, 104:17, 113:7, 114:18, 118:20, 137:13, 139:8 rear 81:21, 82:7, 82:17, 82:25, 85:5, 85:19, 85:22, 99:10 reason 47:12, 74:23, 79:2, 87:3, 90:11, 91:10, 96:10, 98:15, 98:20, 106:17, 110:12, 110:24, 114:12, 119:4, 131:6 reasonably 14:3 reasons 13:13, 13:20,</p>
--	---	---	---

<p>67:8, 91:2, 94:9, 104:13 reassigned 94:3 rebuttal 4:7 rebuttals 53:18 recall 22:9, 131:24, 134:24, 136:13, 138:3 received 15:15, 16:12, 24:15, 28:1, 28:5, 29:7, 29:11, 30:3, 111:3, 125:9 receiving 28:6 recently 87:10 recognize 76:25 recognized 99:1 recollection 95:4, 132:6, 138:3, 138:20 recollections 133:20 recommended 35:9 reconvene 122:12 record 6:2, 7:6, 7:12, 7:13, 7:24, 20:17, 20:18, 21:4, 24:20, 39:9, 39:10, 39:16, 39:17, 39:19, 47:18, 50:10, 50:20, 50:22, 51:3, 51:7, 51:18, 58:7, 67:21, 67:22, 67:23,</p>	<p>67:24, 68:20, 73:1, 73:2, 73:3, 73:4, 73:17, 83:3, 84:10, 84:14, 102:18, 102:20, 102:21, 102:22, 102:24, 106:7, 109:14, 111:4, 111:5, 111:7, 131:21, 132:4, 133:13, 133:15, 133:16, 133:17, 133:22, 135:18, 135:24, 138:2, 139:18, 139:24, 140:14, 140:15, 143:10, 144:17, 144:18, 146:16 recorded 51:22, 64:12, 84:4, 84:16, 84:25, 85:3, 85:21, 93:25, 109:10, 109:13, 110:6, 110:8, 110:13, 110:23, 111:5, 115:20, 145:17, 146:16 recorder 42:18 recording 146:18 records 73:5, 84:17, 87:15, 87:18, 109:13, 109:14, 134:1 red 88:13, 118:10 redirect 99:9 redone 141:24 redraw 75:22 redrawn 75:14, 115:15</p>	<p>reduce 19:23, 58:4, 121:10 reduced 56:21, 61:9, 125:16 reducing 59:22, 115:2, 123:21 reduction 104:6, 107:23, 114:21 reemphasize 109:2 refer 29:18, 33:22, 35:4, 35:6, 108:4, 125:6 reference 21:5, 21:6, 30:14, 42:9, 62:22, 62:23, 112:25 referenced 80:14, 92:23, 93:10 references 43:19 referred 29:13, 47:23, 50:24, 113:23 referring 30:17, 50:23, 72:8, 87:16, 93:5, 93:6, 93:7, 110:14, 139:3 refers 19:9, 52:20, 103:9 reflect 17:18 reflected 132:24 refreshed 25:9 refused 94:12</p>	<p>regard 24:4, 36:17, 36:18, 101:17, 105:2, 105:12 regarding 18:24, 21:5, 52:16, 83:20, 107:6, 132:16, 139:16 registered 79:13, 82:5 regulatory 72:24, 108:12 rehashing 139:22 reinforce 69:7 reinforces 107:4 reining 14:21 reiterate 13:25, 112:20 reiterated 19:21 related 48:5, 85:16, 145:18, 146:19 relating 62:3 relevance 14:23 relevant 110:24, 121:11 remaining 95:15, 124:6, 132:18, 135:6 remark 55:2 remedial 99:2, 99:8 remember 20:25, 21:1, 26:12, 103:15, 131:25, 137:17, 138:15 remembers 137:8</p>
--	--	--	---

remind 17:12 remotely 7:5, 13:4 removal 71:19 remove 19:24, 117:17 removed 40:14, 88:1, 135:9 removing 95:12 rendered 135:6 rendering 81:22 renderings 81:12 renovate 98:16 rental 75:4 repeat 13:19, 14:25, 43:10, 77:16, 92:11, 111:17, 127:11, 143:23 rephrase 48:18 reply 136:25 report 5:3, 30:17, 55:11, 103:17, 114:10 reported 112:11 reporter 6:12, 6:13, 7:6, 11:7, 11:9, 11:15, 51:22, 58:7, 58:10, 102:22, 110:3, 145:14, 145:24 repository 24:18 representative 54:7	represented 54:12 request 7:2, 14:24, 18:10, 18:17, 20:6, 50:22, 51:7, 58:3, 107:9, 115:16, 116:11, 125:9, 132:5, 136:1, 141:7 requested 82:24, 134:6, 134:17 requests 27:17 require 22:11, 71:12, 71:13, 135:11 required 18:1, 18:7, 18:9, 18:22, 20:19, 20:22, 27:16, 35:16, 50:11, 62:10, 78:7, 91:2, 124:10, 133:21 requirement 18:15, 22:15, 22:21, 71:17, 131:24, 132:13 requirements 13:12, 35:16, 36:3, 49:23, 65:20, 80:12, 101:17, 123:4, 123:5 requires 16:18, 22:8, 128:22, 129:2 requiring 20:25, 22:13 rescue 15:9 reside 8:5 residents 108:18, 108:19	residual 97:3 resigned 94:3 resisted 82:11 resolved 139:6, 139:17 resources 98:24, 103:21, 107:15 respect 57:2, 61:1, 111:1 respectful 53:10 respectfully 115:16 respond 48:11, 48:25, 51:8, 53:17, 58:12, 63:24, 135:18, 135:19, 139:21, 140:18, 140:20 response 48:14, 53:22, 76:22, 88:24, 104:12 responsibility 89:21 rest 88:3, 102:11 restricting 92:1 restrictions 112:7 resubmit 112:5, 114:20, 119:14 resubmitted 75:9, 106:3 result 90:17, 90:25, 91:12, 94:5, 98:5, 101:8 results 104:6, 107:23	retain 87:9 retention 64:12, 118:18 retracting 50:3 retractions 51:15 retrieve 33:3, 44:20 retry 107:2 revealed 97:10 reverts 128:15 review 16:19, 17:24, 18:17, 19:5, 21:12, 58:2, 58:3, 66:2, 71:12, 127:9, 127:14, 140:12 reviewed 16:13, 49:22, 103:20, 107:13 reviewing 17:18 revised 112:22, 113:1, 130:22 revision 72:15 revisit 129:5 rewind 105:19 riders 108:24 right 12:9, 21:20, 22:18, 24:10, 26:9, 27:2, 29:24, 36:25, 37:9, 41:10, 41:11, 42:23, 42:24, 45:3, 46:7, 47:12,
--	--	---	---

<p>50:13, 51:9, 54:23, 54:25, 55:18, 62:18, 66:2, 67:25, 72:9, 73:24, 74:4, 74:19, 75:3, 76:8, 78:10, 78:15, 78:18, 78:23, 79:8, 79:20, 79:25, 80:17, 80:23, 82:9, 83:7, 83:8, 85:21, 86:18, 87:14, 87:17, 88:10, 88:14, 88:17, 88:21, 90:17, 90:25, 96:13, 96:21, 100:14, 101:5, 101:23, 102:14, 115:10, 118:1, 120:15, 122:23, 131:7, 134:19, 139:3, 139:5, 141:16, 142:4, 143:12 right-hand 32:25 right-of-way 21:20 rightness 56:12 rights 87:10, 101:3, 110:15 ring 86:3 rings 85:10 rise 98:6 river 80:5, 82:3 road 3:7, 3:12, 3:17, 6:17, 7:19, 8:5, 8:9,</p>	<p>61:14, 61:16, 61:23, 61:25, 64:24, 73:10, 74:3, 74:21, 74:24, 75:13, 76:4, 77:1, 77:2, 77:3, 77:4, 77:12, 77:15, 77:18, 77:19, 78:3, 78:20, 79:5, 79:22, 80:15, 80:21, 81:16, 81:23, 82:3, 82:4, 83:1, 85:18, 85:23, 85:24, 87:7, 87:8, 87:25, 88:3, 88:16, 88:19, 89:25, 90:1, 91:7, 92:5, 92:20, 92:23, 93:20, 95:3, 95:16, 96:1, 96:2, 98:7, 101:4, 102:3, 124:15, 130:11, 130:19 roads 61:18, 61:19, 65:20, 71:13, 71:15, 77:2, 87:8, 89:11, 89:22, 90:11, 90:20, 91:16, 96:6, 96:8, 100:25, 101:1, 101:16, 105:10, 108:20, 108:23, 109:5 robeson 1:11, 3:3, 6:22 rockville 1:12, 2:8 room 2:7, 33:9, 75:5, 76:3 rooms 75:4, 75:5</p>	<p>routinely 69:18 row 74:18, 80:10, 91:12, 95:14 rules 17:14, 17:15, 52:1, 120:3 run 33:9, 33:14, 48:13, 48:15, 48:21 runners 108:24 runoff 130:11 runoffs 91:17 rural 104:22 rustic 61:16, 61:18, 61:19, 61:23, 61:24, 62:4, 64:24, 65:20, 71:13, 71:15, 74:3, 77:2, 79:5, 79:22, 83:1, 85:23, 87:7, 87:8, 88:2, 88:3, 89:11, 89:22, 90:13, 90:19, 91:16, 92:20, 92:23, 96:6, 96:8, 100:25, 101:16, 102:3, 105:10, 108:20, 108:23, 109:5 rusting 98:14</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>s 67:13, 113:18 sacrifice 28:24, 29:22, 29:23, 30:9,</p>	<p>34:13, 34:15, 34:23, 34:25, 35:5, 35:20, 35:22, 36:1, 36:17 safe 97:24 safeguarding 105:2 safeguards 105:8 safety 97:1 said 7:6, 19:22, 21:22, 27:15, 27:25, 29:7, 29:11, 34:21, 34:23, 36:5, 39:21, 49:9, 49:13, 50:18, 50:20, 52:15, 53:17, 63:10, 63:11, 67:14, 77:14, 87:24, 103:15, 103:18, 110:4, 110:13, 120:14, 121:13, 126:2, 126:4, 127:10, 129:2, 134:14, 134:16, 134:18, 134:20, 134:21, 134:24, 134:25, 136:6, 137:3, 137:10, 137:14, 137:21, 141:16, 145:17, 146:17 sale 87:19, 126:17 sam 8:4 same 7:11, 16:4, 16:6, 23:12, 26:12, 33:9, 50:19, 88:16, 132:22, 135:8</p>
---	---	--	--

<p>sand 64:14, 64:16, 64:25, 65:5, 65:8, 114:5, 115:1, 118:17, 144:2 sandy 44:6 satisfied 65:19 saturday 8:18, 17:7 saved 26:17 saw 31:15, 41:15, 41:16, 44:19, 47:21, 52:18, 94:21 say 21:24, 23:14, 24:7, 24:13, 24:14, 26:14, 32:5, 47:1, 54:10, 56:10, 58:20, 62:19, 63:19, 68:4, 72:7, 75:15, 75:16, 76:25, 84:18, 89:18, 93:4, 94:10, 95:8, 99:19, 102:15, 102:16, 102:25, 109:15, 116:7, 123:24, 124:5, 126:8, 128:1, 128:9, 129:12, 129:16, 129:19, 133:5, 134:10, 134:12, 137:1, 137:9, 140:22 saying 24:10, 31:16, 35:20, 41:19, 49:7, 78:14, 79:19, 86:9, 106:9, 111:18,</p>	<p>123:11, 124:15, 125:13, 127:13, 128:11, 134:14, 134:19, 134:20, 141:2, 141:14 says 34:7, 40:6, 65:8, 107:12, 135:25 scale 81:4, 81:12, 104:17, 108:8 scan 27:9 scary 79:1 school 69:12, 69:21 scientist 69:23, 100:3 score 5:10, 30:21, 32:17, 33:18, 38:8, 39:6, 43:15, 44:9 scorecards 36:14 scores 41:16, 41:17, 44:8, 47:20, 55:7 screen 9:18, 11:3, 12:4, 25:13, 31:2, 32:13, 34:3, 40:21, 42:12, 43:22, 43:23, 43:25, 44:10, 45:1, 45:14, 45:17, 45:23, 46:12, 46:13, 46:17, 54:23, 61:4, 65:7, 67:7, 72:9, 113:21, 118:8, 120:23 scrolling 31:9</p>	<p>season 96:2 second 14:13, 30:6, 30:12, 31:23, 31:24, 32:5, 33:13, 36:23, 37:14, 38:20, 44:24, 48:10, 57:8, 92:19, 92:21, 114:13, 119:16 secondary 92:10, 92:15, 108:10 secondly 21:4 section 6:18, 13:14, 13:21, 90:13 sediment 71:17, 103:25, 107:19 see 6:7, 8:11, 8:22, 10:16, 10:18, 11:3, 25:4, 25:10, 25:13, 26:25, 27:1, 27:2, 27:14, 28:17, 28:21, 31:11, 31:13, 31:17, 31:18, 32:5, 32:13, 32:14, 33:2, 34:3, 35:3, 36:23, 37:1, 38:21, 40:1, 41:5, 42:1, 42:6, 43:7, 43:9, 44:17, 44:22, 44:23, 45:12, 45:14, 45:17, 47:8, 52:15, 52:21, 54:22, 55:19, 65:6, 65:8, 72:19,</p>	<p>74:14, 74:15, 78:5, 81:11, 83:7, 83:8, 113:12, 113:19, 114:9, 116:4, 118:7, 118:10, 121:21, 124:16, 127:5, 133:3, 135:24, 139:22, 140:14, 143:21 seeing 27:6, 44:10, 100:3 seek 17:8, 17:18 seeking 17:9 seem 106:14, 131:9 seemed 138:11 seems 70:16 seen 24:17, 24:23, 25:2, 26:4, 53:8, 55:5, 132:25, 136:19 segment 92:19, 92:22 select 38:13 sell 84:11 selling 135:10, 135:12 send 140:13, 140:19, 141:2 sending 26:21 sense 71:12 sent 41:23, 47:1, 47:2, 47:3, 49:6, 115:23 separate 16:17, 19:19,</p>
---	--	---	---

<p>25:23, 38:17, 57:15, 59:17, 61:4, 66:12, 119:12, 130:21 separately 26:5, 70:7 separates 121:13 september 6:21 septic 80:10, 97:17, 98:24, 99:15, 118:16, 139:2, 139:4 sequencing 17:22, 18:4, 18:8 sequential 111:23, 129:10 series 81:8 serious 73:10, 101:21 serve 97:8 served 89:18 service 29:13, 31:14 set 81:25, 101:7, 108:12 set-aside 69:16 sets 79:21 settled 80:5 seven 21:10, 36:9, 44:23, 63:2, 96:9, 110:17 several 30:3, 95:18, 97:12 seville 96:5</p>	<p>shaded 54:18 shadows 54:8 shale 97:4 shall 13:9 shape 111:7 share 25:4, 39:3, 44:25, 69:22 shared 43:25, 46:17 sheet 30:22, 31:3, 36:25 shelter 90:22 short 46:7, 98:3 shortly 94:2 shot 39:25, 106:24 should 7:24, 9:1, 10:22, 11:3, 17:5, 18:5, 21:19, 22:3, 22:12, 22:19, 31:16, 33:17, 37:21, 37:23, 45:23, 46:9, 50:1, 62:2, 65:10, 65:11, 65:12, 69:9, 76:25, 78:5, 84:25, 89:18, 95:1, 95:7, 116:22, 126:23, 132:19, 136:14 shouldn't 8:25, 62:12, 62:13, 68:12, 134:25, 143:2 show 21:19, 21:21,</p>	<p>55:1, 55:5, 72:15, 81:13, 108:11, 113:19, 114:7, 142:1, 142:24, 143:1, 144:8 showed 32:22, 66:15, 93:21 showing 46:13, 56:19, 72:11, 112:6, 113:3, 119:17, 130:23, 142:20 shown 56:18, 56:22, 57:17, 75:17, 84:7, 84:8, 106:1, 112:14, 113:11 shows 29:25, 54:5, 55:9, 55:13, 56:23, 73:23, 108:9, 110:14, 110:22, 114:21 shrinking 59:21 sic 7:6, 94:7 side 32:25, 74:2, 74:6, 74:24, 75:13, 76:10, 76:11, 77:4, 78:3, 79:3, 81:14, 83:7, 86:8, 88:20, 88:22, 134:18 sides 90:3, 90:4, 95:13 signature-mig2k 146:22 signature-plkal 145:21 significant 19:9, 119:8</p>	<p>signs 86:9 similar 30:24 similarly 101:12 simply 54:7, 65:15, 110:24, 119:5 simultaneously 125:18 since 14:6, 15:14, 16:1, 50:10, 55:18, 65:23, 79:23, 85:13, 138:2, 142:9 single 74:24, 93:24, 94:22, 100:18, 101:3, 104:14, 114:3 sink 97:5 sit 98:6 site 81:5, 95:5, 101:20, 104:1, 105:6, 107:20, 110:6, 111:11, 135:5, 144:6 sits 74:17, 79:14 sitting 96:19, 96:21, 96:23 situation 73:14 six 89:8, 90:8, 94:24, 121:24 size 58:3, 59:22, 61:9, 66:4, 123:21 sketch 89:15</p>
--	--	---	--

sketches 89:13 slaves 80:5 slides 90:7 slowly 13:18 small 12:22, 15:9, 35:6, 47:25, 54:16, 55:20, 134:13 smaller 74:3, 124:1, 124:11, 138:19 sneaking 106:13 software 8:21, 8:25, 9:10, 142:5 soil 5:9, 15:22, 26:2, 26:10, 28:1, 29:12, 29:13, 31:6, 31:14, 32:7, 39:25, 40:18, 44:6, 56:23, 71:19, 117:2 soils 39:25, 40:19 sole 96:23, 97:1 solely 19:15, 20:6 solemnly 12:10, 42:25 solicit 139:19 solution 70:21, 131:21 some 7:7, 8:12, 8:21, 11:22, 19:13, 25:21, 47:12, 50:15, 50:16, 54:16,	59:10, 63:11, 92:15, 101:7, 110:12, 114:12, 116:19, 118:25, 130:19, 131:4, 137:4, 137:17, 140:11, 142:3 somebody 51:15, 79:4 somebody's 74:20 somehow 93:20, 127:20, 127:24 someone 106:22, 138:14 something 10:17, 26:14, 40:15, 50:20, 57:24, 78:17, 87:5, 93:4, 94:14, 99:4, 102:15, 104:24, 115:4, 115:19, 116:7, 117:12, 124:19, 129:21, 131:2, 133:6, 134:10 somewhere 91:25 sorry 7:18, 12:8, 13:19, 21:22, 31:1, 34:24, 37:24, 41:19, 43:13, 46:10, 47:11, 48:17, 50:18, 58:14, 62:15, 66:15, 66:18, 67:13, 77:13, 77:16, 82:18, 87:24, 95:4, 102:25, 105:18, 105:21, 105:22, 106:11, 110:1, 111:16, 122:22, 125:17, 128:6, 129:14,	130:3, 132:12, 133:4, 141:5, 143:17 sort 63:25, 77:6, 101:7, 110:16 sound 53:8, 58:24 sounds 143:6, 144:10 source 96:24, 97:1, 97:25, 136:6 south 30:1, 79:2, 79:3, 82:3, 83:2, 86:13, 99:16 southeast 81:14, 81:24 southern 113:15 southwest 82:2, 82:4, 82:7, 115:14 space 55:9, 94:22, 100:8, 100:9, 126:23 spaced 104:14 speak 13:17, 67:10, 83:13, 110:9, 112:17, 112:19, 115:8, 116:8, 118:23, 126:14, 129:22, 130:2, 130:4, 130:25, 131:20, 133:10, 135:21, 136:23, 141:11 speaker 59:11 speaking 7:10, 7:11, 66:2, 123:15, 135:13	speaks 119:6, 120:5, 122:6 special 104:11, 108:3 specifically 26:3, 71:6, 103:18, 125:4 speculate 135:17 speculative 130:15 spell 7:9, 116:2 spelled 7:24 spent 8:17, 69:5 spills 97:12 split 56:24, 76:10 spreading 14:20 springing 128:19 square 35:6 st 26:14 stable 117:20 stackable 98:17 staff 3:21, 5:3, 55:11, 71:6, 71:14, 82:9, 94:2, 103:19, 104:25, 107:13, 125:7, 134:1, 134:5, 135:18, 137:20, 137:22, 139:16, 140:2, 140:16, 140:17, 140:20, 141:2, 141:14, 143:13, 143:18
---	---	---	---

staff's 16:11, 135:20 staggering 69:20 stand 49:24 standard 113:8 standards 93:15 standing 99:6, 141:12 stands 85:21 start 137:4 started 14:18, 24:12, 92:1 state 2:16, 7:9, 7:16, 51:18, 52:6, 57:21, 68:19, 70:5, 70:14, 73:11, 79:13, 80:15, 93:12, 93:15, 99:24, 100:4, 127:3, 129:8, 137:13 stated 13:13, 13:21, 16:2, 19:16, 20:1, 67:8 statement 12:11, 15:1, 17:13, 20:14, 26:13, 36:12, 63:15, 127:9, 130:20 statements 16:22, 17:2, 43:1, 52:14, 53:10, 58:8 states 88:10, 96:24 status 35:12	stay 16:5, 39:9 stayed 16:3 stays 28:19, 129:15 steps 15:12 still 28:14, 40:27, 54:17, 57:15, 57:18, 58:1, 82:20, 90:9, 90:16, 94:24, 95:14, 98:18, 104:12 stocking 35:16, 36:6 stolen 86:14 stop 26:6, 42:17, 51:24, 51:25, 106:19, 106:20, 110:2, 142:22 stormwater 81:6 story 91:3, 141:2 straight 42:13 stream 82:17, 82:25, 83:7, 83:8, 83:9, 83:21, 113:13, 118:2 stripping 85:10, 86:3 strong 96:14 strongly 96:10 structure 79:14 structures 117:20, 118:5, 118:15, 142:25, 144:9	student 69:24 stuff 9:16, 32:19, 116:14, 130:1 stung 66:22 sub 60:21, 111:19, 114:25 sub-zoning 135:6 subdivide 62:2 subdivided 22:18, 63:1, 132:23 subdividing 135:12 subdivisions 62:1 subject 11:23, 15:16, 19:10, 19:14, 19:15, 20:2, 21:5, 21:6, 56:24, 57:5, 57:18, 57:19, 57:20, 62:23, 104:3, 104:10, 107:20, 108:2, 110:16, 110:17, 126:11 submission 17:8, 26:2, 71:24, 94:25, 125:2 submissions 17:15, 28:5, 57:14 submit 24:19, 49:10, 51:21, 53:22, 72:17, 112:13, 112:22, 112:23, 113:1, 113:22, 114:2, 115:4, 115:5, 119:16,	129:24, 130:22, 143:21 submitted 15:1, 17:4, 17:7, 17:12, 21:15, 22:19, 24:5, 24:11, 24:25, 26:4, 26:11, 26:12, 27:15, 27:20, 29:9, 44:19, 49:3, 49:14, 50:5, 52:21, 60:5, 65:23, 70:22, 71:22, 72:12, 72:14, 72:18, 72:23, 73:16, 73:17, 75:14, 90:7, 93:22, 95:21, 104:16, 105:6, 108:5, 111:2, 114:17, 115:17, 119:5, 133:13 submitting 49:18 subsequent 38:12, 89:16 subsidiary 100:7 subsiding 135:14 substantial 108:17, 108:18, 108:22 substantially 56:21 substantiated 55:4, 55:7 subsumed 9:5, 74:25, 75:1 subterranean 98:9, 99:9 subtract 35:14 successful 138:24
---	---	---	--

<p>sue 88:14 sugarland 3:7, 3:12, 3:17, 6:17, 7:19, 8:5, 8:9, 24:19, 61:14, 61:16, 69:10, 74:2, 77:1, 77:2, 78:20, 79:5, 79:12, 80:2, 81:16, 81:23, 82:4, 83:1, 85:20, 85:23, 85:24, 87:7, 88:2, 88:3, 88:16, 90:12, 92:20, 92:23, 95:16, 95:20, 96:1, 96:2, 98:8, 102:3, 124:15, 130:11 suggest 125:19 suggesting 113:7 suggestion 118:13, 123:7 suggestions 133:7 suggests 96:10 suit 88:25, 89:1, 89:2 summary 40:6, 136:20 sunday 8:18 sunlight 54:11 super 121:23 super-choppy 58:9 supper 36:6</p>	<p>supplement 83:14 support 9:16, 15:22, 15:24, 20:18, 67:3, 91:5, 121:15, 121:21 supporting 146:18 supposed 62:1, 74:11, 75:8, 106:2, 123:16 supposition 79:1 sure 19:1, 20:23, 27:24, 44:3, 44:25, 54:19, 58:6, 58:10, 61:17, 83:15, 93:3, 94:3, 96:7, 96:21, 102:7, 103:4, 110:14, 123:7, 126:9, 127:24, 133:11, 137:3, 139:6, 140:10, 143:3 surely 79:25, 93:2 surrounding 14:3, 57:23, 63:3, 130:10 survey 76:17, 116:19 surveyor 64:9 susan 65:1 suspect 136:15 suspicion 106:13 sworn 56:9 syllables 103:15</p>	<p>system 86:11 T t 77:9, 84:3 table 70:21, 73:15, 85:2, 87:5, 89:3, 91:12, 98:5, 98:18, 126:20, 131:7, 131:13 take 6:24, 19:10, 27:13, 32:1, 60:2, 66:19, 66:20, 67:15, 67:21, 79:18, 80:2, 80:21, 81:15, 87:6, 87:20, 90:10, 93:18, 94:8, 95:25, 99:4, 100:20, 101:13, 102:13, 102:17, 109:1, 114:5, 114:17, 116:21, 117:5, 117:19, 117:22, 120:11, 125:18, 127:21, 127:22 taken 15:12, 16:19, 20:7, 21:20, 54:9, 71:6, 75:25, 97:7, 105:10, 108:13, 131:8, 139:6, 145:16 takes 100:14, 121:23 taking 11:19, 58:16, 70:13, 74:2, 74:4, 76:24, 77:25, 78:3, 79:12, 79:22,</p>	<p>80:22, 82:6, 84:25, 87:19, 88:24, 88:25, 92:6 talk 28:7, 33:4, 109:25 talked 86:22, 94:11 talking 26:6, 34:1, 42:14, 42:17, 45:13, 65:5, 73:4, 91:18, 105:17, 109:19, 109:21, 109:23, 109:25, 116:23, 116:25, 120:24, 122:19, 122:21, 129:1, 131:19, 134:23, 144:15 tank 97:18 tanks 97:19 tape 75:23 tasfaye 46:2, 46:3 tasked 89:20 teams 7:5, 9:13, 9:19, 10:11 technical 6:6, 9:16, 37:4, 63:17 technically 41:3, 123:3 technology 59:10 telephoned 11:6 tell 31:3, 31:19, 42:9, 73:20, 73:21, 73:22, 78:25, 101:10,</p>
--	---	--	---

109:25, 117:12, 137:16, 137:17 ten 7:3, 39:12 term 126:21, 126:25 terminology 28:24 terms 16:7, 29:2, 35:15, 44:8, 64:18, 96:25, 98:3 tertiary 108:10 tesfaye 16:12, 71:8, 103:12, 103:13, 103:14, 107:12 test 49:9, 57:7, 68:14 testified 111:22 testifies 11:24 testify 8:7, 8:13, 11:25, 21:11, 22:7, 23:3, 24:1, 56:3, 68:10, 68:19, 115:22 testimony 4:4, 4:8, 4:10, 6:24, 11:23, 13:7, 21:9, 23:2, 34:18, 49:4, 49:7, 49:10, 49:14, 49:18, 49:25, 50:21, 51:6, 51:21, 52:1, 52:5, 52:16, 53:2, 53:22, 53:25, 56:11, 57:6, 60:15, 60:16, 62:22,	63:7, 68:6, 68:20, 70:12, 70:22, 72:23, 73:6, 76:20, 78:5, 78:8, 81:18, 83:16, 87:2, 89:9, 90:9, 103:2, 122:13 th 6:21, 16:12, 17:4, 19:17, 19:22, 38:16, 39:20, 42:1, 42:3, 43:8, 43:16, 43:17, 44:11, 47:3, 49:4, 49:10, 49:15, 51:20, 52:18, 52:21, 53:2, 71:7, 72:23, 73:6, 76:20, 78:8, 79:10, 81:18, 87:2, 90:2, 94:25, 107:6, 140:20 thank 8:11, 10:9, 11:18, 12:15, 20:14, 20:15, 23:21, 27:13, 27:21, 34:2, 39:14, 43:6, 47:13, 52:8, 53:7, 55:12, 55:23, 55:25, 63:8, 68:11, 68:18, 84:22, 84:23, 102:16, 102:23, 103:14, 141:20, 141:21, 143:6, 144:14 thee 100:23 themselves 7:13, 132:16 theoretically 79:3, 104:25	thereafter 94:2 therefore 16:4, 18:4, 18:20, 48:2, 57:20, 60:10, 88:21, 104:1, 107:20 thick 26:20, 26:22 thing 21:25, 22:2, 38:15, 40:23, 44:7, 46:24, 63:17, 74:11, 77:24, 88:16, 114:18, 116:20 things 42:12, 63:11, 71:16, 84:2, 94:6, 110:25, 111:15, 113:11, 113:13, 114:6, 116:22, 118:20, 119:2, 119:11, 120:23, 122:7, 133:14, 134:14 think 11:2, 20:24, 21:20, 22:3, 22:19, 26:13, 26:14, 27:16, 29:15, 29:17, 30:20, 34:3, 36:20, 36:21, 38:6, 38:11, 38:12, 38:24, 44:2, 44:5, 50:15, 50:19, 51:2, 52:22, 53:4, 53:6, 53:24, 55:5, 55:25, 56:7, 57:10, 60:1, 60:11, 62:9, 62:22, 63:7, 64:1, 66:3, 70:8, 86:24,	88:25, 92:14, 98:3, 104:14, 106:17, 106:22, 110:11, 110:20, 111:9, 111:12, 111:21, 111:25, 117:6, 117:24, 118:18, 118:19, 121:22, 122:24, 122:25, 123:15, 125:20, 126:7, 127:7, 127:18, 128:4, 128:9, 128:11, 128:22, 132:20, 133:3, 134:8, 134:12, 134:20, 134:22, 135:15, 136:25, 140:23 thinking 105:11, 128:10 third 69:22, 70:24, 107:2, 123:17 thought 26:17, 27:1, 27:16, 100:7 thousand 90:7 three 16:4, 19:17, 33:8, 41:16, 41:17, 43:18, 43:24, 48:5, 52:2, 70:20, 80:25, 81:3, 81:8, 81:11, 87:23, 92:14, 93:19, 93:21, 93:25, 99:17, 115:12, 121:15, 121:21, 140:10 threes 28:5, 29:9, 30:3, 31:15, 35:15, 36:13, 38:21, 41:17, 42:10, 44:24,
--	---	---	--

47:21, 54:15 through 10:14, 11:19, 19:17, 31:25, 38:4, 38:10, 41:22, 46:9, 48:14, 48:15, 48:21, 65:25, 75:2, 84:20, 87:12, 88:14, 91:24, 95:17, 110:3, 137:21, 140:16 thursday 49:15, 51:20, 70:23 tied 128:22 till 143:10, 143:12 time 7:11, 9:20, 10:11, 11:19, 12:15, 13:22, 14:18, 15:19, 17:18, 20:9, 22:23, 23:25, 24:1, 24:10, 49:15, 50:5, 50:12, 51:2, 53:16, 53:19, 56:18, 63:1, 69:5, 70:1, 80:24, 84:16, 102:19, 103:18, 107:10, 107:12, 112:22, 121:23, 122:2, 122:10, 129:9, 129:12, 131:7, 131:8, 135:8, 141:24, 142:3, 142:12, 142:13, 143:3, 143:5 times 86:22, 98:13, 134:4 timing 24:6	title 39:24, 40:18, 84:12, 84:13, 87:18 titled 43:24 today 6:24, 7:4, 8:7, 8:13, 17:13, 18:25, 20:12, 108:7, 108:9, 140:19, 141:2 today's 19:15, 20:9, 140:15 together 40:24 told 19:5, 23:14, 52:2, 95:22, 97:22, 115:13, 127:14, 132:12, 136:13, 137:2 took 9:8, 95:18, 97:24 top 89:12, 96:23, 98:6 topic 138:10, 138:12 total 14:2, 29:2, 36:2, 47:24 totally 35:21 touched 88:13 touching 106:14, 106:17 tow 90:2 towards 84:6, 84:7, 86:4 track 46:19 trade 65:2	trail 81:25, 84:25, 86:15, 86:17, 111:13, 113:3, 113:14, 118:2, 118:18, 144:1 trails 85:16 transcribed 1:25, 146:17 transcriber 146:14 transcript 4:3, 11:16, 146:16 transit 86:20 travis 36:14, 43:17 treated 97:5 tree 40:10, 40:11, 47:24, 48:3, 88:4, 88:7, 93:12, 93:23, 93:24, 94:5, 94:8, 95:7, 101:8 trees 15:25, 40:7, 54:17, 54:24, 55:20, 61:14, 62:3, 64:21, 64:24, 82:12, 85:17, 87:25, 92:13, 94:12, 95:9, 101:14, 105:4, 108:11, 130:11 tremendous 20:8 trespassers 85:25 tried 8:16, 10:10, 44:20, 93:18 trimming 88:8	trouble 98:20 truck 92:5 trucks 88:9 true 134:17, 146:16 truth 12:11, 12:12, 43:2 try 9:19, 32:3, 45:24, 59:12, 107:2, 140:1, 144:11 trying 30:10, 36:11, 40:27, 45:8, 58:2, 70:17, 124:19 tuesday 140:24 turn 10:22, 56:3, 67:17, 68:9, 95:2 turned 11:5 two 15:5, 15:7, 19:25, 21:7, 21:10, 21:24, 22:1, 22:11, 30:23, 32:24, 33:8, 33:20, 35:9, 36:7, 38:20, 40:8, 40:24, 41:16, 43:18, 48:5, 48:6, 52:4, 56:25, 58:1, 61:5, 65:14, 66:15, 67:18, 67:19, 68:25, 69:7, 70:4, 72:11, 73:23, 74:25, 75:3,
--	---	--	---

<p>78:1, 78:8, 78:13, 79:10, 81:12, 90:23, 91:4, 91:18, 93:5, 94:2, 94:10, 97:18, 98:1, 101:2, 103:15, 118:3, 119:21, 120:1, 120:4, 125:6, 125:11, 135:12</p> <p>twos 28:5, 28:17, 29:9, 29:16, 29:21, 30:3, 30:5, 31:15, 35:14, 36:13, 38:21, 42:10, 44:24, 47:21</p> <p>type 44:5, 92:2, 94:22, 137:11</p> <p>typed 104:15</p> <p>typically 50:12, 140:22</p> <hr/> <p>U</p> <hr/> <p>ugh 114:14</p> <p>uh 106:23</p> <p>uh-huh 136:21, 142:23</p> <p>ultimately 126:16</p> <p>um 56:9</p> <p>unable 39:19, 97:16</p> <p>unapproved 122:4</p> <p>unauthorized 82:13, 88:4</p> <p>unbelievable 89:7</p> <p>unclear 43:19, 51:1</p>	<p>under 6:18, 11:23, 12:10, 23:14, 24:12, 25:22, 27:17, 31:14, 33:11, 42:22, 42:25, 54:10, 87:8, 91:2, 101:7, 105:1, 109:1, 131:18, 138:2, 139:15</p> <p>underground 91:14, 97:18</p> <p>underhanded 94:14</p> <p>underline 83:3, 92:18</p> <p>underlying 14:4</p> <p>underneath 9:12</p> <p>understand 8:22, 14:23, 41:21, 53:24, 54:4, 54:5, 58:12, 58:19, 58:22, 64:2, 93:3, 110:20, 111:4, 111:5, 111:21, 118:25, 123:11, 124:15, 124:18, 125:25, 126:1, 128:17, 130:14, 133:9, 133:16, 135:4</p> <p>understanding 26:15, 136:7</p> <p>understood 48:8, 49:23, 49:24, 49:25, 51:3</p> <p>understory 108:9</p> <p>undertaken 135:15</p> <p>underwriting 135:14</p> <p>undivided 121:3, 121:6</p>	<p>unedited 89:9</p> <p>unethical 52:6</p> <p>unfair 17:16, 49:14, 50:4, 51:19, 66:9</p> <p>unfettered 126:19</p> <p>unfortunately 8:17, 8:20, 36:8, 41:24, 97:14, 104:18, 111:9, 111:16</p> <p>uniformly 36:12, 47:21</p> <p>united 88:10, 96:24</p> <p>unjustly 102:1</p> <p>unless 104:23, 108:8, 108:9, 108:10, 125:15</p> <p>unmuted 11:3</p> <p>unnamed 74:6</p> <p>unstable 98:23</p> <p>until 14:10, 14:12, 14:14, 14:15, 18:21, 24:4, 24:8, 24:13, 93:16, 104:24, 129:12, 129:13, 129:14, 131:7</p> <p>untimely 123:18</p> <p>updated 10:12, 24:24, 27:22, 78:1, 82:23, 94:19, 106:2</p> <p>updating 107:7</p>	<p>upgrade 64:25, 65:9</p> <p>uploaded 41:8, 41:21</p> <p>upset 82:8</p> <p>useful 32:21</p> <p>uses 82:13, 125:4</p> <p>using 79:4, 98:18, 117:1</p> <p>usual 88:24</p> <p>usually 54:18, 78:18</p> <p>utilizing 102:4</p> <p>utterback 2:15, 102:23, 145:15, 145:24</p> <hr/> <p>V</p> <hr/> <p>value 96:25</p> <p>variety 69:6</p> <p>various 14:22, 19:10, 57:21, 60:18, 95:21, 98:11, 129:18</p> <p>vehicular 92:3, 92:5</p> <p>verbal 134:2</p> <p>verbally 136:13</p> <p>vernacular 102:7</p> <p>version 113:18</p> <p>versus 73:7, 73:15, 110:17</p> <p>vet 55:4</p>
--	---	---	---

<p>via 7:5, 8:15</p> <p>video 8:15, 8:16, 8:20, 9:21, 10:22, 11:11</p> <p>viewed 54:6</p> <p>violating 120:3</p> <p>violation 132:22, 135:6</p> <p>virtually 95:11, 95:12</p> <p>visit 124:2</p> <p>visual 10:1, 10:2, 10:5, 10:9</p> <p>visuals 10:13</p> <p>vital 90:19</p> <p>voluntarily 70:23</p> <p>vps 10:8</p>	<p>135:17, 141:16, 142:22, 144:4</p> <p>wanted 35:12, 48:4, 63:23, 68:22, 96:10, 109:2, 134:12, 136:24, 137:1</p> <p>wants 90:10</p> <p>washer 98:17</p> <p>wasps 66:15, 67:15, 67:18, 67:21</p> <p>waste 16:8, 99:17</p> <p>watch 28:12, 31:2, 141:10</p> <p>water 15:25, 16:7, 91:14, 97:3, 97:6, 97:25, 98:5, 98:18, 98:24, 99:6, 99:9, 99:12, 99:17, 105:12</p> <p>waters 126:18</p> <p>way 35:15, 39:3, 56:8, 70:19, 74:4, 74:19, 75:3, 76:8, 78:15, 78:24, 79:20, 79:25, 80:18, 87:14, 88:1, 88:21, 90:17, 90:25, 91:24, 94:23, 95:18, 98:7, 100:5, 104:17, 110:15, 111:7, 115:23, 118:1, 125:22, 127:20, 131:10, 139:3, 139:5, 140:11,</p>	<p>144:13</p> <p>ways 65:17, 78:18, 99:17</p> <p>we'll 32:19, 51:25, 67:20, 102:18, 129:18, 142:21</p> <p>we're 11:20, 26:7, 31:5, 31:17, 37:7, 37:10, 39:18, 43:6, 45:23, 53:11, 62:5, 67:6, 77:25, 81:10, 82:20, 84:3, 90:16, 96:19, 97:3, 102:13, 102:17, 104:12, 110:21, 112:6, 114:18, 115:6, 120:23, 120:24, 144:17</p> <p>we've 86:2, 127:19</p> <p>wealthier 69:25</p> <p>web 13:4, 38:4</p> <p>webpage 24:21, 24:24, 25:1</p> <p>website 9:5, 9:6, 12:3, 25:19, 25:22, 38:19, 38:22</p> <p>week 140:17, 140:20</p> <p>weigh 109:17</p> <p>weighing 86:24</p> <p>weight 28:12, 28:15</p> <p>wellhead 65:6</p> <p>wells 97:9</p>	<p>went 75:2, 91:10, 93:24, 123:16</p> <p>weren't 134:15</p> <p>west 74:6, 78:3, 96:22, 99:16</p> <p>wet 98:23</p> <p>whammy 102:6</p> <p>whatever 112:8, 118:16, 129:19, 141:16</p> <p>whereas 100:13</p> <p>whether 9:17, 20:21, 56:17, 57:22, 63:4, 70:10, 85:16, 103:9, 104:18, 105:8, 110:14, 119:7, 123:17, 130:7, 134:5, 139:10, 140:2, 141:14</p> <p>whoever 11:24</p> <p>whole 12:11, 21:25, 22:2, 28:13, 31:7, 43:2, 55:19, 86:22, 89:20, 96:19, 99:19, 100:7, 126:11, 132:7, 135:14</p> <p>wide 78:21, 79:23, 79:24</p> <p>widest 79:24</p> <p>wildlife 69:3</p> <p>willing 33:8, 139:15, 139:24</p>
<p style="text-align: center;">W</p>			
<p>wait 29:14, 92:25, 106:19, 125:24, 133:15, 136:24</p> <p>walk 28:14, 54:25</p> <p>wanders 120:4</p> <p>want 15:19, 16:21, 26:7, 33:6, 38:25, 40:5, 42:21, 50:13, 51:14, 58:24, 62:25, 69:22, 83:25, 89:1, 94:8, 120:19, 120:22, 120:23, 123:6, 127:24,</p>			

willingness 66:8	words 16:7, 131:12	10:10, 10:14, 11:5, 31:17, 32:9, 32:18, 34:5, 34:25, 39:8, 42:1, 42:7, 45:8, 47:11, 50:19, 55:8, 55:12, 66:20, 67:17, 78:6, 83:20, 128:3, 132:11, 132:12, 133:5, 133:11, 138:17, 138:18, 143:2	.
windows 43:13	work 11:19, 20:8, 88:10, 96:6	year 13:24, 18:1, 91:5, 92:5, 94:5, 97:16, 97:24, 99:6	.17 43:24
winter 55:18	worked 68:25, 93:11	years 14:6, 16:4, 24:8, 89:20, 97:4	.26 119:18
wiping 95:4	working 9:20, 10:3, 10:9, 10:10, 94:4, 112:6	yellow 25:16	.43 43:21, 48:1
wise 95:6	works 22:22, 48:16	yep 59:5, 59:9	.78 40:9, 40:24, 47:24, 48:4
wiser 104:24	worksheet 5:10, 32:17, 33:18, 38:8, 39:7, 43:15, 44:10	yourself 105:19	.9 43:22
wish 18:19	world 69:3, 69:16	Z	0
wishes 8:7, 8:13	worried 75:11, 99:7	zero 17:9, 84:18	0.34 120:11, 120:21, 121:25
withdraw 85:2	worries 62:17	zone 6:18, 101:14	0.43 121:20
withdrawn 70:23, 76:23, 115:15	worrisome 87:1, 131:4	zoning 1:1, 2:3, 3:2, 6:18, 59:15, 99:20, 101:12, 105:7, 129:11, 132:21, 132:22, 139:15	0.9 121:20
within 7:3, 17:2, 76:4, 80:17, 89:12, 94:5, 104:11, 108:3, 121:24	worry 132:8	zoom 10:12	00 17:4, 17:7, 25:10, 49:10, 49:14, 51:20, 67:23, 70:22
without 14:25, 51:25, 72:19, 77:19, 83:3, 101:14, 101:15, 107:7, 108:12, 112:13, 114:21, 115:4, 116:13, 126:20, 129:24, 130:22, 135:7	worse 71:23	\$	03 144:18
witness 12:1, 93:24	wouldn't 124:10, 132:19	\$27 80:24	04 39:17
wooded 85:25	write 6:24		06 39:16
word 7:4, 13:5, 54:2, 128:9, 128:11, 143:24	writing 62:15, 64:8, 72:6, 135:18, 137:20		1
worded 127:18, 127:20, 131:2	written 6:25, 20:17, 125:23		1.21 48:2
	wrong 76:19, 91:25, 95:4, 100:1		1.33 121:21
	wrote 14:25, 49:7		10 17:2, 39:16, 39:17, 50:1, 90:2, 97:4
	Y		100 2:5, 74:9, 126:9
	yeah 9:11, 9:24,		11 67:22, 67:23,

Transcript of Hearing
Conducted on June 22, 2020

82

81:7, 89:23, 90:11, 96:23 110 5:5 114 5:6 12 4:4, 6:21, 53:3, 78:21, 79:23, 89:20, 89:21, 89:23, 102:20, 102:21 12,000 97:4 13 13:14, 13:21, 52:18, 52:21, 53:2, 72:23, 73:6, 74:4, 76:20, 78:8, 79:10, 81:18, 87:2, 94:25, 107:6 14 85:13 142 1:24 14921 3:12, 8:5 14975 3:7, 6:17, 7:19 15 1:6, 6:15, 16:12, 53:2, 71:7, 78:21, 79:24, 104:7, 107:11, 107:24, 125:6 15,001 65:7 15000 3:17, 8:9 15012 3:17, 8:9 16 1:6, 6:15, 40:19, 125:6 17 38:16, 43:16,	43:17 18 17:4, 19:17, 39:20, 42:1, 42:3, 43:8, 44:11, 44:16, 47:3, 49:4, 49:10, 49:15, 51:20, 81:7 19 9:5, 61:19, 81:7, 94:17 1992 36:4, 85:14 1996 79:23, 89:10, 96:7, 100:11, 105:9 1: 144:18 <hr/> 2 <hr/> 2 17:7 2.3 35:6, 35:13, 47:22 2.5 40:1 20 4:5, 19:22, 40:19, 52:16 200 2:7, 6:18 2016 6:21, 27:18, 71:20, 103:19, 104:19, 107:13 2017 87:11 2018 80:9, 99:2 2019 87:12 2020 1:13, 125:8 20837 3:8, 3:13,	3:18, 7:20, 8:5, 8:10 21 15:1, 26:14, 40:4, 43:24, 44:1, 44:2, 44:3, 44:5, 102:20, 125:8 22 1:13, 18:22, 104:4, 105:5, 107:21, 109:1, 128:1, 131:12, 140:15 23 4:6, 95:3 24 5:3, 5:7, 55:11 240 2:9 27 5:8, 67:22 28 5:4, 46:12, 102:21 29 5:5, 67:23, 113:17, 113:18, 113:20, 114:24, 114:25, 117:14, 140:20, 143:15, 143:18 2a 41:17 2b 41:18 2d 79:10 2e 80:9, 81:1 <hr/> 3 <hr/> 3.65 114:19, 115:3 30 1:14, 17:13, 19:8, 114:23 305010 1:23	31 5:9 32 5:10, 39:16, 114:23 33 5:6, 113:18, 118:7 34 144:18 39 6:2 3e 57:13 3rd 89:9, 140:21, 142:2 <hr/> 4 <hr/> 4 6:18, 17:4, 49:10, 49:14, 51:20, 70:22 40 21:21, 78:2 44 39:17 45 5:11 48 102:21 49 102:20 4a 31:1, 33:19, 34:7, 37:1, 37:11, 37:12, 37:18, 38:9, 40:4, 40:8, 40:23, 44:1, 44:15, 55:8, 121:2, 121:7, 121:12, 121:13 4b 31:1, 33:19, 34:7, 37:1, 37:11, 37:12, 37:19, 38:9,
--	---	---	---

Transcript of Hearing
Conducted on June 22, 2020

83

<p>40:5, 40:8, 40:23, 44:1, 44:15, 55:8, 82:14, 120:25, 121:2, 121:6, 121:7, 121:10, 121:12 4c 84:24</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 53:3 50 81:15 52 4:7 53 5:3, 5:7, 5:8, 25:7, 27:20, 27:21, 32:6, 67:22 54 4:8 55 93:8 57 6:2 59 5:9, 5:10, 5:11, 32:7, 33:16, 33:17, 38:5, 38:13, 47:6, 47:8, 117:6, 117:7 590 26:3 5932 6:18</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6/5/19 81:6 61 4:9 66 4:10 6660 2:9</p>	<p>6d 90:16</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 25:10 7.25 119:18 7.6 114:3 7.65 19:23, 113:1, 115:3, 126:11, 142:18 70 54:11, 92:15, 92:21, 93:4 75 54:11 777 2:9 7a 97:10 7th 143:10</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8.3 40:6 80 54:11, 74:1, 74:15, 74:18, 74:22, 75:25, 76:2, 76:3, 76:4, 76:7, 76:24, 77:25, 78:2, 78:15, 78:23, 79:19, 80:1, 80:10, 80:17, 81:14, 81:16, 87:14, 90:15, 90:16, 90:25, 91:12, 95:14 8th 43:7, 43:8</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 1:14, 19:8</p>	<p>90 61:17 911 66:23 9: 6:2</p>	
---	--	---	--