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Transcript of Hearing

Date: September 24, 2021

Case: White Oak Apartments, LLC

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Conducted on September 24, 2021

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1	3
1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1 (Proceedings begin at 9:27 a.m.)
2 FOR MONTGOMERY COUNTY, MARYLAND	2 EXAMINER HANNAN: White Oak Apartments,
3	3 LLC, located at 2220 Broadbirch Drive, Silver Spring,
4 -----x	4 Maryland. Also identified as Parcel EEEE, West Farm
5 In Re: :	5 Technology Park, which requests rezoning -- okay.
6 WHITE OAK APARTMENTS, LLC : Cause No. H-141	6 This is going to take half the transcript. It
7 -----x	7 requests rezoning from the CR0.75, C0.75, R0.25,
8	8 H1752, CRF1.25, C0.25, R1.25, and H85.
9	9 All right. Got through that. So my
10	10 name is Lynn Robeson. I am the hearing examiner
11 HEARING	11 assigned to this case. I'm going to be hearing
12 Before Hearing Examiner Lynn Robeson Hannan	12 testimony today. Anything -- is there -- well, let me
13 Virtually Conducted	13 first have the parties identify themselves for the
14 Friday, September 24, 2021	14 record.
15 9:27 a.m. EST	15 MS. LEE-CHO: Good morning. For the
16	16 record, Soo Lee-Cho with the law firm of Miller,
17	17 Miller & Canby on behalf of the Applicant/Petitioner.
18	18 EXAMINER HANNAN: Okay. Is there anyone
19	19 in this meeting that is not going to be called by
20	20 Ms. Lee-Cho?
21	21 MR. WILHELM: I'm Dan Wilhelm. I'm
22	22 president of Greater Colesville Citizens Association.
23 Job No.: 401611	23 I don't -- I submitted testimony and don't plan to
24 Pages: 1 - 116	24 speak unless I get asked a question.
25 Transcribed by: Diana Maria Corrado	25 EXAMINER HANNAN: Okay. Well, let me do
2	4
1 A P P E A R A N C E S	1 this. Can you please state your name, e-mail address,
2	2 and mailing address for the record?
3 ON BEHALF OF THE APPLICANT:	3 MR. WILHELM: Sure. Dan Wilhelm, W-I-L-
4 SOO LEE-CHO, ESQUIRE	4 H-E-L-M. E-mail is djwilhelm, W-I-L-H-E-L-M,
5 MILLER, MILLER & CANBY	5 @verizon.net. And my home address is 904 Cannon,
6 200-B Monroe Street	6 C-A-N-N-O-N, Road, Colesville, Maryland.
7 Rockville, MD 20850	7 EXAMINER HANNAN: Thank you so much.
8 301-762-5212	8 All right. Well, with that, are there
9	9 any preliminary matters?
10 ALSO PRESENT:	10 MS. LEE-CHO: I apologize.
11 LYNN ROBESON HANNAN, Hearing Examiner	11 EXAMINER HANNAN: Besides the music.
12 DAN WILHELM, President, Greater Colesville	12 For the record, there was music from somewhere. Okay.
13	13 Go ahead.
14 Citizens Association	14 MS. LEE-CHO: I apologize. Let me just
15 JANE PRZYGOCKI, Soltesz - Witness	15 mute. So the Applicant -- I will be presenting a
16 ADAM STEINER, J2 Engineers - Witness	16 total of six witnesses, five of whom are expert
17 JOSHUA WOOLDRIDGE, NRP Group - Witness	17 consultants on the project. We have an estimated time
18 DANIEL PARK, Soltesz - Witness	18 of presentation for about three hours.
19 TIM STEPHEN, Soltesz - Witness	19 EXAMINER HANNAN: Okay.
20 MICHAEL J. WORKOSKY, Wells + Associates - Witness	20 MS. LEE-CHO: I know that sounds like we
21	21 have a lot of witnesses, but, you know, we will move
22	22 through relatively quickly, we hope. You have from me
23	23 this morning an affidavit of posting that has been
24	24 prepared by Ms. Jane Przygocki, who is with Soltesz,
25	25 and they were in charge of posting the notice sign on

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<p>5</p> <p>1 the property.</p> <p>2 EXAMINER HANNAN: Yes. And that is in</p> <p>3 -- on the website now.</p> <p>4 MS. LEE-CHO: Right. And you have a</p> <p>5 prehearing submission from my office with the resumes</p> <p>6 of most of my expert witnesses. There is a late</p> <p>7 addition of Mr. Michael Workosky with Wells &</p> <p>8 Associates, and you have his resume as of this morning</p> <p>9 as well.</p> <p>10 EXAMINER HANNAN: Mr. Wilhelm, do you</p> <p>11 have any objections to the change in expert witnesses?</p> <p>12 MR. WILHELM: No, I don't.</p> <p>13 EXAMINER HANNAN: Okay. Thank you.</p> <p>14 Anything else, Ms. Lee-Cho?</p> <p>15 MS. LEE-CHO: No, that ends the</p> <p>16 procedural and sort of housekeeping elements that I</p> <p>17 had.</p> <p>18 EXAMINER HANNAN: Okay. Do you have --</p> <p>19 and the order of proceeding for Mr. Wilhelm's benefit</p> <p>20 is that the Applicant -- both sides, if you want, can</p> <p>21 make an opening statement. The Applicant presents its</p> <p>22 witnesses, and then Mr. Wilhelm, if you have any</p> <p>23 questions, you -- or if you want to say something,</p> <p>24 then you go. And then the Applicant gets to have a</p> <p>25 final presentation if they feel it's needed.</p>	<p>7</p> <p>1 pick it up. So what we've been doing, if you can, is</p> <p>2 at the top of your Teams screen, there is a raise your</p> <p>3 hand button under -- and we ask -- I can monitor that,</p> <p>4 and if you wish to say object or say something while a</p> <p>5 witness or someone is talking, just please use the</p> <p>6 raise your hand button. And I can -- does everyone</p> <p>7 see that up there?</p> <p>8 MS. LEE-CHO: Yes.</p> <p>9 EXAMINER HANNAN: I can -- so -- and</p> <p>10 that's to try and keep the recording clean. So with</p> <p>11 that, let's -- Ms. Lee-Cho, do you have an opening</p> <p>12 statement?</p> <p>13 MS. LEE-CHO: No, I think that I would</p> <p>14 just like to call my first witness, who is Joshua</p> <p>15 Wooldridge of the NRP Group. And I think he will help</p> <p>16 us, sort of, set the stage for the application that</p> <p>17 has been submitted.</p> <p>18 EXAMINER HANNAN: All right. Let me</p> <p>19 just check, Mr. Wilhelm, I'm assuming you did not have</p> <p>20 an opening statement from what you said earlier, but</p> <p>21 can you just confirm that?</p> <p>22 MR. WILHELM: I do not have an opening</p> <p>23 statement.</p> <p>24 EXAMINER HANNAN: Okay. Thank you.</p> <p>25 Okay. Let's put Mr. Workosky -- is it</p>
<p>6</p> <p>1 Now, I am going to say that this is --</p> <p>2 I'm hearing background from somewhere. Does someone</p> <p>3 have a phone or a secondary device on?</p> <p>4 MS. PRZYGOCKI: No, but we have a very</p> <p>5 sensitive microphone. Maybe I can move it a little</p> <p>6 bit farther away.</p> <p>7 EXAMINER HANNAN: Thank you.</p> <p>8 A couple of things.</p> <p>9 MR. WILHELM: Jane, could you mute your</p> <p>10 mic if you're not speaking, please?</p> <p>11 MS. PRZYGOCKI: Yes.</p> <p>12 EXAMINER HANNAN: Now, this couple words</p> <p>13 about the Microsoft Teams meeting, there's a couple of</p> <p>14 nuances that we don't normally have. This is being</p> <p>15 recorded on Microsoft Teams. This is because</p> <p>16 sometimes the Microsoft Teams -- the background comes</p> <p>17 up, and the court reporter misses things. The court</p> <p>18 reporter is doing a verbatim transcript anyway, but I</p> <p>19 did want to let you know, this is a backup recording</p> <p>20 for the court reporter in case he has any questions</p> <p>21 because of background noise or whatever. So I just</p> <p>22 wanted to make that clear.</p> <p>23 The second thing is it's really</p> <p>24 important in these hearings not to interrupt each</p> <p>25 other, and that is because the court reporter can't</p>	<p>8</p> <p>1 Workosky?</p> <p>2 MS. LEE-CHO: Wooldridge. Joshua</p> <p>3 Wooldridge.</p> <p>4 EXAMINER HANNAN: I see him. I'm going</p> <p>5 to pin him to the screen. That's Microsoft Teams</p> <p>6 talk, there.</p> <p>7 (Whereupon, Joshua Wooldridge was sworn</p> <p>8 and testified as follows.)</p> <p>9 EXAMINER HANNAN: Please state your name</p> <p>10 and business address for the record.</p> <p>11 THE WITNESS: Absolutely. It's Josh</p> <p>12 Wooldridge with the NRP Group, and we are located at</p> <p>13 9801 Washingtonian Boulevard, Gaithersburg, Maryland</p> <p>14 20878. That's Suite 310.</p> <p>15 EXAMINER HANNAN: Okay. Go ahead,</p> <p>16 Ms. Lee-Cho.</p> <p>17 EXAMINATION OF JOSHUA WOOLDRIDGE</p> <p>18 BY MS. LEE-CHO:</p> <p>19 Q Mr. Wooldridge, could you please start by</p> <p>20 introducing the NRP Group and its role in this</p> <p>21 application -- the rezoning application?</p> <p>22 A Sure, absolutely. I'm pleased to be here</p> <p>23 representing the Applicant and contract purchaser, the</p> <p>24 NRP Group, in conjunction with a multi-family housing</p> <p>25 project contemplated at the property located at 2220</p>

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<p style="text-align: right;">9</p> <p>1 Broadbirch Drive in the White Oak area of Silver 2 Spring. The NRP Group is the third-ranked 3 multi-family development construction and property 4 management firm nationwide. And I'm incredibly proud 5 to say that our mid-Atlantic operations are based here 6 in Montgomery County in Gaithersburg. 7 In addition, the majority of our local 8 employees are residents of Montgomery County. This is 9 home for us, and while we work all over the country, 10 we consider it a privilege to have the opportunity to 11 develop and build projects here in our backyard. 12 NRP's first D.C. metro project was completed here in 13 Montgomery County. And the local principals of NRP 14 have completed several other projects here in 15 Montgomery County. 16 Q Mr. Wooldridge, I note that the Applicant is 17 actually White Oak Apartments, LLC. Can you clarify 18 for the Hearing Examiner the relationship between the 19 Applicant and the NRP Group? 20 A Yes, absolutely. It's a -- that is a 21 single-purpose entity for this project of the NRP 22 Group; one and the same. Sorry for the confusion. 23 Q Not at all. That's not uncommon. 24 So if we could move on, I'd like you to, 25 sort of, give us some background as far -- in terms of</p>	<p style="text-align: right;">11</p> <p>1 local area map be put up, which is Exhibit 14. And I 2 think I would ask Mr. Wooldridge to, in his testimony, 3 point to certain things that can be identified on that 4 local area map that would go to provide the background 5 on the amenities and the surrounding features around 6 this site. 7 EXAMINER HANNAN: Let me just pull that 8 up. Are you seeing it? 9 MS. LEE-CHO: Not yet. 10 EXAMINER HANNAN: I got a new -- this is 11 neither here nor there. I got a new county laptop, 12 and I'm -- there. How about that? Are you seeing 13 this? 14 MS. LEE-CHO: No. 15 THE WITNESS: Nothing yet. 16 EXAMINER HANNAN: Okay. Let's do this. 17 I am not versed in this. Every time I touch something 18 on this laptop, I do something. So Ms. Lee-Cho -- or 19 is there someone from your team -- normally, we don't 20 let the presenter share the exhibits, but I am going 21 to do that here because I don't want to delay this 22 hearing because I'm not sure what I'm doing with this. 23 MS. LEE-CHO: I'm happy to be able to 24 share my screen and bring up the exhibit. 25 EXAMINER HANNAN: If you could do that,</p>
<p style="text-align: right;">10</p> <p>1 why NRP is investing in this property and in this area 2 of the county? 3 A Absolutely. We've been drawn to the White 4 Oak area for some time and are excited to be at this 5 stage for the proposed local map amendment that's 6 being considered. According to our research, there 7 hasn't been a market-rate multi-family project 8 constructed in the White Oak area since 1988. We 9 think the opportunity to build critical multi-family 10 housing in close proximity to the FDA campus, the new 11 Adventist Hospital, the new FLASH Bus Rapid Transit 12 system is one that we absolutely couldn't pass up. 13 And I think we'll be looking at some 14 maps today and, again, according to our research, 15 there are 2,500 jobs and just five major employers 16 located in close proximity to this site. We think 17 it's long overdue to build multi-family housing in 18 close proximity to those jobs. Should the -- 19 Q Mr. Wooldridge, before you go on, we had 20 originally wanted to share some additional aerial 21 exhibits, but in light of the limitations of the 22 virtual setting, I understand we're going to be 23 working with exhibits that have already been 24 submitted, and have been uploaded. 25 So at this point, I would ask that the</p>	<p style="text-align: right;">12</p> <p>1 that would be very helpful for me. Oh, wait. I may 2 have to give you permission. Well, go ahead. You 3 should be able to do it. Okay. That's good. Thank 4 you very much. 5 Q So Mr. Wooldridge, I will direct my cursor 6 as you direct me to, saying your testimony. So if you 7 could start by identifying the location of the 8 property and the project? 9 A Sure, absolutely. So the subject property 10 is shown here with the dark outline in the center of 11 the map here, 2220 Broadbirch Drive. And Broadbirch, 12 essentially, you know, connects Tech Road and Route 29 13 to Cherry Wood Lane (sic) on sort of the southside of 14 the map. The -- right next to the site is a warehouse 15 behind us. There is some thriving retail, mostly a 16 convenience nature. 17 Located next to the site, there is a 18 Hilton Garden Inn, kind of limited-service hotel 19 located right next to the subject property. And then 20 the rest of the surrounding uses, we've got a car 21 dealership uses behind us, and then one- to two-story 22 commercial office located in the area. This area was 23 developed, you know, throughout the 80s as a large 24 business park. 25 Just off the --</p>

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<p>13</p> <p>1 EXAMINER HANNAN: If I may interrupt one 2 second. Just for the record, many years ago -- and I 3 don't want to say how many, but many, many, I did 4 represent for -- with Linnows and Blacker (ph), I did 5 represent Kaiser Healthcare located in West Farm, and 6 I -- Technology Park. Now, that's not near this site, 7 but I just am disclosing that. And if anybody has an 8 objection, let me know. 9 All right. Hearing none, let's proceed. 10 Q Mr. Wooldridge, I know that some of the 11 other employers that you mentioned are off sort of 12 this particular map, but if you could just, you know, 13 as best as you can continue with your testimony by 14 identifying for the Hearing Examiner sort of general 15 location and proximity to the site. 16 EXAMINER HANNAN: Well, do you have the 17 surrounding area map? 18 MS. LEE-CHO: I have an aerial, but I 19 don't have the surrounding. 20 EXAMINER HANNAN: Okay. It's in the 21 staff report. That would help me just -- 22 MS. LEE-CHO: I have the staff -- I do 23 have the staff report. 24 EXAMINER HANNAN: That would help me 25 just understand where we are.</p>	<p>15</p> <p>1 apologize; I said Cherry Wood before -- but Cherry 2 Hill Road to the east of the site. 3 We talked about major employers, and 4 several of those are seen on this exhibit or just off 5 of this aerial photo, but they include the brand new 6 Adventist White Oak Hospital, which you can see down 7 here in the lower right-hand corner of the page. 8 EXAMINER HANNAN: Okay. 9 THE WITNESS: It's less than a half-mile 10 walk to the site, so we think it's an easy bike ride. 11 We think it's an easy walk to work. And we've had a 12 lot of great experiences building in close proximity 13 to hospitals. In a post-pandemic world, we also, you 14 know, folks aren't going to be able to work from home 15 if they work at a hospital. They're going to be 16 working at the hospital. And we know, and we 17 understand that. 18 Just off of this aerial, obviously, is 19 the FDA White Oak headquarters, where we believe to 20 be -- 21 EXAMINER HANNAN: Which direction is 22 that? Is it south? 23 THE WITNESS: Due south. It's due 24 south, just off -- 25 EXAMINER HANNAN: I couldn't remember.</p>
<p>14</p> <p>1 MS. LEE-CHO: Sure. 2 EXAMINER HANNAN: I think -- well, I'm 3 getting my cases mixed up. 4 MS. LEE-CHO: I think this will be the 5 one. 6 EXAMINER HANNAN: Thank you. That helps 7 me. Thank you. 8 THE WITNESS: Perfect. 9 Q Okay. Mr. Wooldridge, if you could continue 10 with your testimony using this exhibit image? 11 A Absolutely. So -- 12 EXAMINER HANNAN: And this is exhibit -- 13 well, I don't know what exhibit it is. 14 MS. LEE-CHO: It is Exhibit 33. 15 EXAMINER HANNAN: Okay. That's good. 16 MS. LEE-CHO: And it's -- looks like 17 it's page 4 of Exhibit 33. 18 EXAMINER HANNAN: Thank you. Go ahead. 19 THE WITNESS: This exhibit does a great 20 job of, I think, really showing the greater White Oak 21 area here. The site in -- that we're talking about 22 today is outlined in red, 2220 Broadbirch Drive. And 23 then the sort of core of the White Oak area is 24 outlined here in yellow. You can see between U.S. 25 Route 29, Columbia Pike, and Cherry Hill Road -- I</p>	<p>16</p> <p>1 Okay. 2 THE WITNESS: Yeah, just off this photo 3 here. We believe there to be, you know, 12 to 13,000 4 folks working at the FDA White Oak campus. Obviously 5 a very busy place right now, and we expect that to 6 continue for the next several years. 7 In addition to the hospital and the FDA 8 headquarters campus, there is a Verizon Regional 9 headquarters, which is located north and just off of 10 this exhibit. We also have Riderwood Village, which 11 is located just to the east of the aerial photo here. 12 And then the U.S. Army Adelphi Labs, which is also 13 located on the White Oak property -- I think 14 technically in Prince George's County, but just to the 15 south of this aerial photo. 16 And what has always excited us about 17 this opportunity is I just named five major employers 18 that have over 20,000 jobs. And, again, according to 19 our research, there hasn't been a multi-family project 20 constructed in this area since 1988. And I'll remind 21 folks, in the D.C. metro right now, there's a lot of 22 interest around the new Amazon headquarters. I would 23 tell folks that we already have an Amazon headquarters 24 in terms of jobs located right here in White Oak. 25 And we felt it was really important to</p>

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5 (17 to 20)

<p>17</p> <p>1 really round out the uses in White Oak. All of the 2 ingredients are here for a live-work-play environment 3 except multi-family housing. We've got retail. We've 4 got jobs. We've got more retail coming with the 5 grocery-anchored center, which is located right where 6 Tech Road -- right between Industrial Tech and U.S. 7 29. There will be a new grocery-anchored retail 8 center there that we expect to start construction 9 relatively soon.</p> <p>10 So we think future residents of this 11 building will be able to easily access everything they 12 need without using a car as well.</p> <p>13 Q And along those lines, can you just sort of 14 make a statement in terms of the BRT FLASH Station 15 located at Tech Road?</p> <p>16 A Yes. Thank you, Sue. We are incredibly 17 excited about the FLASH BRT Station. So to get 18 everyone oriented, the station is located right where 19 Tech Road meets Columbia Pike and U.S. Route 29, right 20 where Sue is indicating right now. It's a really easy 21 walk to our site. So it's less than a quarter-mile, 22 and as a lot of folks probably know, the FLASH system 23 has both an express route, which would take someone 24 living here --</p> <p>25 EXAMINER HANNAN: Well, let me back up.</p>	<p>19</p> <p>1 THE WITNESS: The local route would take 2 a rider right into the FDA headquarters, right to the 3 entrance of the FDA headquarters. We have built near 4 Bus Rapid Transit systems throughout the country. 5 We're a huge advocate for them, and we're really 6 excited to be in close proximity to the Tech Road Bus 7 Rapid Transit station.</p> <p>8 Q Thank you. Mr. Wooldridge, could you also 9 speak to the federally designated opportunity zone 10 that the property is located in?</p> <p>11 A Absolutely. This area is a federally 12 designated opportunity zone. These were established 13 several years ago throughout the United States. I 14 think there's roughly over 6,000 of these opportunity 15 zones located throughout the country, and White Oak -- 16 really, all of the area you see here in yellow is part 17 of one of those federally designated opportunity 18 zones. The goal of the opportunity zone program is to 19 spur investment.</p> <p>20 Q And is it the county's policy to encourage 21 development in -- within these federally designated 22 opportunity zones?</p> <p>23 A Yes. We believe that there is quite a bit 24 of overlap where the county, Montgomery County, is 25 trying to encourage development in opportunity zones.</p>
<p>18</p> <p>1 Can you just -- I know what BRT is; Bus Rapid Transit. 2 Can you just explain for the record what the FLASH 3 part of it is?</p> <p>4 THE WITNESS: Absolutely. FLASH, I 5 believe, is the name given to the Bus Rapid Transit 6 system in Montgomery County, for lack of a better 7 term, as a brand. That is the sort of the brand name 8 of the system is FLASH.</p> <p>9 EXAMINER HANNAN: Okay.</p> <p>10 Q And that's all caps, FLASH, correct? Just 11 so --</p> <p>12 A Yes.</p> <p>13 EXAMINER HANNAN: Thanks for the record.</p> <p>14 Q Great.</p> <p>15 A So the FLASH BRT system originates in 16 Burtonsville, and then the route travels all the way 17 to downtown Silver Spring. What we love about the way 18 it was designed is that there's both an express route, 19 which doesn't have a ton of stops and can get to 20 downtown Silver Spring relatively quickly, and then 21 there is an express route. Both of those lines --</p> <p>22 EXAMINER HANNAN: A local route?</p> <p>23 THE WITNESS: Both of those lines stop 24 at the Tech Road station.</p> <p>25 EXAMINER HANNAN: Okay.</p>	<p>20</p> <p>1 Q Okay. I know that we, as the Applicant, 2 recently had a meeting with the Friends of White Oak 3 group, in which you participated. Could you please, 4 for the record, discuss the meeting and presentation 5 given to the group and the feedback that was received?</p> <p>6 EXAMINER HANNAN: Okay. Is that the 7 true -- just for the record, is that the accurate name 8 of the group?</p> <p>9 MS. LEE-CHO: Yes. It's -- they are 10 called the Friends of White Oak.</p> <p>11 EXAMINER HANNAN: Okay. Thank you.</p> <p>12 THE WITNESS: Yes. Last week during an 13 evening, we presented an overall presentation of the 14 project to the Friends of White Oak group. As we 15 understand, they have a liaison to the county. We 16 gave an overview of the project. We talked about 17 timing. We talked about why NRP is interested in this 18 site, interested in this project, and I think we got 19 great feedback from the Friends of White Oak group.</p> <p>20 We thought they were positively inclined 21 to the project, and we look forward to continuing to 22 work with them in the future. I believe that the 23 Friends of White Oak is made up of local residents, 24 business leaders, and government officials -- local 25 government officials.</p>

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6 (21 to 24)

<p>21</p> <p>1 MS. LEE-CHO: Great. Thank you. 2 Ms. Robeson Hannan, I have nothing 3 further for Mr. Wooldridge unless you have any further 4 questions for him? 5 EXAMINER HANNAN: No. I have some -- I 6 can't say it, so -- but it's a very interesting 7 project. I don't have a -- is somebody -- I did have 8 a question on the staff report, but it may not be Mr. 9 Wooldridge -- about the two-by-two -- I saw something 10 mentioned two-by-two units, and I'd not heard that 11 phrase. And if you want the land planner to address 12 that or Mr. Wooldridge -- 13 MS. LEE-CHO: I think I would have -- I 14 would like to have Mr. Wooldridge just -- you know, 15 why don't we go ahead and have him provide a quick 16 overview of the scope of the project? And then, that 17 will transition nicely to our next witness, who will 18 be going. 19 EXAMINER HANNAN: Okay. And I had -- 20 I'm sorry, I have one other question. And that is, is 21 he the witness that's going to introduce the binding 22 elements, or do you have someone else? Or are you 23 waiting until the end of the hearing? 24 MS. LEE-CHO: That will be discussed by 25 our land planner, but --</p>	<p>23</p> <p>1 25. Using this exhibit, Mr. Wooldridge, could you 2 just briefly describe the scope of what is being 3 proposed on the floating zone plan? 4 A Yes, absolutely. So on the left side of the 5 page here, to get everyone oriented, you can see 6 Broadbirch Drive. 7 EXAMINER HANNAN: Now, before -- if we 8 to use directions, is that the north -- this is -- is 9 that the north arrow at the top there -- 10 MS. LEE-CHO: It is. 11 EXAMINER HANNAN: -- of this exhibit? 12 THE WITNESS: Correct. 13 EXAMINER HANNAN: So that would be to 14 the south? 15 THE WITNESS: To the south side of the 16 property is Broadbirch Drive and the access to the 17 site from Broadbirch. What you see here is a 18 five-story multi-family building with a parking garage 19 that is completely hidden within the building, so it's 20 not visible to the outside. And the parking garage is 21 surrounded by multi-family units, and there is an 22 interior courtyard, which would contain a swimming 23 pool and future resident amenities. 24 The leasing office and the internal 25 amenities for the future residents are located here on</p>
<p>22</p> <p>1 EXAMINER HANNAN: Okay. 2 MS. LEE-CHO: -- we can certainly do 3 that with Mr. Wooldridge as well. He's aware of it. 4 EXAMINER HANNAN: Let's do the first -- 5 the scope of the project. I think that would be 6 helpful. And then, we can get to the binding elements 7 at a later time. 8 MS. LEE-CHO: Okay. Great. 9 EXAMINER HANNAN: Okay. Mr. Wooldridge 10 -- can you stop sharing your screen? It keeps me from 11 pinning the witness, so to -- okay. Thank you so 12 much. 13 MS. LEE-CHO: Well, I was going to 14 continue with Mr. Wooldridge. 15 EXAMINER HANNAN: Yes. That's fine. 16 MS. LEE-CHO: Okay. 17 EXAMINER HANNAN: I just didn't need 18 this -- that's fine. I'm fine with that. 19 MS. LEE-CHO: For him to continue, I was 20 going to bring up the floating zone plan and -- 21 EXAMINER HANNAN: Okay. 22 MS. LEE-CHO: -- to just provide the 23 scope. Okay. Can you see my screen now? 24 EXAMINER HANNAN: I can. Thank you. 25 Q So this is the floating zone plan, Exhibit</p>	<p>24</p> <p>1 what would be the southeastern corner of the 2 multi-family building. Across the street from the 3 multi-family building, you see two rows or two sticks 4 of what we call two-over-two townhomes. We have 5 approximately 28 of these. And the way these work are 6 there is a unit on the bottom, and there is a unit 7 directly above it on top. 8 Both units have access to their own 9 internal garage down on the ground level. And there 10 are seven of these stacked units, if you will, in the 11 one building, and there are seven of these in the 12 other building. All of their loading and access is 13 done from that central driveway that serves both 14 sides, the buildings on both sides. And we're 15 incredibly excited about this opportunity. This is 16 something that we're doing all over the country. 17 Wherever we can, we're introducing 18 different types -- different product types. And we 19 say -- we use the word product to describe the types 20 of units that we include in these projects. So in the 21 multi-family building, we envision studio units, one- 22 bedroom units, two-bedroom units, and three-bedroom 23 units. What the two-over-two allows us to do is build 24 significantly larger units, ones that might be really, 25 really attractive to families.</p>

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7 (25 to 28)

<p>25</p> <p>1 So we felt as though, you know, these 2 units would be larger than, say, a three-bedroom unit 3 in the multi-family building, and we felt as though 4 someone who may move here and be working at one of 5 those major employers in the area have a family. This 6 unit would really, really meet their needs. And this 7 is also in response to a post-pandemic world. 8 Everything that we do has changed over the last two 9 years. And we think it's changed permanently. We 10 think that the way folks live and work in the future 11 has completely changed. 12 So we've gone back to the drawing board, 13 if you will, on our projects, and we've tried to 14 create opportunities within the unit design and within 15 the amenity design for the residents so that folks can 16 continue to work from home if they don't have to go -- 17 commute to a job five days a week. And the two-over- 18 two townhomes you see here are a perfect example of 19 that. Really trying to project how folks are going to 20 live and work in the near future and how we can 21 accommodate those needs going forward. 22 Q Mr. Wooldridge, could you -- oh, go ahead. 23 EXAMINER HANNAN: No, I just said thank 24 you. But go ahead. 25 Q Just for the record, could you clarify the</p>	<p>27</p> <p>1 Q And then in terms of the land use binding 2 element, we -- is it correct that it is a multi-family 3 residential use? 4 A Correct. 5 Q And then the third, in terms of the density 6 binding element, what is the maximum density that is 7 being requested and that will be added as a binding 8 element? 9 A That is 400 units of maximum -- multi-family 10 units of maximum density. 11 EXAMINER HANNAN: Thank you. 12 Q What is the likely number of units? Just 13 for the record. 14 A 390. 15 Q Okay. So the 400 is just a -- as you 16 indicated, a maximum? 17 A Correct. 18 EXAMINER HANNAN: Now, is your traffic 19 study based on 400? 20 MS. LEE-CHO: We will have a separate 21 traffic -- we have our traffic engineer, who will 22 explain the traffic study. 23 EXAMINER HANNAN: Okay. 24 MS. LEE-CHO: But I will just say that 25 the -- there -- it's not unit-dependent, the analysis,</p>
<p>26</p> <p>1 terminology of two-over-two townhouses? While it was 2 the terminology townhouse, is it your understanding 3 that these types of units fall under the multi-family 4 type of dwelling unit category under the county? 5 A That is our belief, yes. 6 EXAMINER HANNAN: And why is that? 7 THE WITNESS: We -- as mentioned, we 8 have really two buildings here. Each have 14 units. 9 So we think that, you know, obviously meets the 10 definition of a multi-family. 11 EXAMINER HANNAN: You mean each -- what 12 do you mean? I'm not clear. 13 MS. LEE-CHO: Well, maybe Mr. Wooldridge 14 -- we can have the land planner discuss -- 15 EXAMINER HANNAN: Okay. That's fine. 16 MS. LEE-CHO: Okay. 17 Q Then, moving on to the binding elements 18 question, Mr. Wooldridge, do you feel comfortable 19 discussing the three binding elements? 20 A I do. 21 Q Okay. If you could first cover the -- 22 first, the MPDU binding element, if you'd just 23 describe what is being proposed? 24 A Yes. We're proposing 15 percent MPDUs as a 25 binding element, Moderately Priced Dwelling Units.</p>	<p>28</p> <p>1 so -- 2 EXAMINER HANNAN: Okay. Great. 3 MS. LEE-CHO: But I will let 4 Mr. Workosky explain further. 5 So unless there are any additional 6 questions, I think I have what I needed from 7 Mr. Wooldridge. 8 EXAMINER HANNAN: Thank you. I -- you 9 responded to my questions. Thank you. 10 MS. LEE-CHO: Thank you. 11 So our next witness would be 12 Jane Przygocki, our land-use -- land planner expert. 13 EXAMINER HANNAN: Okay. 14 Ms. Przygocki, I should know your -- be 15 able to pronounce your name by now. 16 (Whereupon, Jane Przygocki was sworn and 17 testified as follows.) 18 THE COURT REPORTER: Sorry, this is the 19 court reporter. I'm sorry to interrupt. Could I have 20 the spelling of the witness' name? 21 MS. PRZYGOCKI: Yes. It's J-A-N-E, for 22 the first name. And -- 23 EXAMINER HANNAN: That's the easy part. 24 MS. PRZYGOCKI: Right? Most people call 25 me by my first name. The last name is Przygocki, and</p>

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<p>29</p> <p>1 it is P, as in Peter, R-Z, as in zebra, Y-G-O-C-K-I.</p> <p>2 THE COURT REPORTER: Thank you. Thank</p> <p>3 you very much.</p> <p>4 EXAMINATION OF JANE PRZYGOCKI</p> <p>5 BY MS. LEE-CHO:</p> <p>6 Q Ms. Przygocki, we'll start by having you</p> <p>7 state your profession for the record.</p> <p>8 A I am a land-use planner.</p> <p>9 Q And you already stated your employer,</p> <p>10 correct? I'm sorry.</p> <p>11 A I did not yet, but for the record --</p> <p>12 Q If you could state your place of employment</p> <p>13 and business address, please?</p> <p>14 A Yes. I work for Soltesz, Inc. We are</p> <p>15 located at 2 Research Place, Rockville, Maryland</p> <p>16 20850.</p> <p>17 Q And I know that you have qualified a number</p> <p>18 of times -- or have been qualified as an expert for</p> <p>19 this body; is that correct?</p> <p>20 A Yes, I have been. Most recently, in 2020, I</p> <p>21 testified for the case of Milestone Senior Germantown</p> <p>22 and for Norwood House.</p> <p>23 MS. LEE-CHO: Ms. Robeson Hannan, you</p> <p>24 have Ms. Przygocki's resume, as submitted as part of</p> <p>25 our prehearing statement. Unless you'd like me to</p>	<p>31</p> <p>1 Okay. That's fine. Thank you.</p> <p>2 Q Using this exhibit, which is exhibit, for</p> <p>3 the record, 16.</p> <p>4 A Okay.</p> <p>5 Q Could you please describe the features of</p> <p>6 the property, size, shape, topography, and any</p> <p>7 existing vegetation and improvements?</p> <p>8 A Yes. The property is 7.83 acres in size.</p> <p>9 For the gross tract area, we have an 8.22 area gross,</p> <p>10 as -- for density purposes as there has been previous</p> <p>11 dedication of right-of-way on -- by this property.</p> <p>12 It's rectangular in shape. It's slipping basically</p> <p>13 from the rear of the site towards the front. Most of</p> <p>14 the slopes are generally three to five percent,</p> <p>15 although there are some steep slopes at the perimeter</p> <p>16 and closer to the southern end of the site.</p> <p>17 The site is mostly cleared. There are -</p> <p>18 - is landscaping around the building consisting of</p> <p>19 mostly ornamental trees and shrubs. And the --</p> <p>20 there's about -- there are some trees, again, above</p> <p>21 the building at the northern end along the property</p> <p>22 line. In the southwest corner, there is a forested</p> <p>23 area of about a third of an acre.</p> <p>24 Within that forested area, there is a</p> <p>25 small channel which picks up water from the outflow,</p>
<p>30</p> <p>1 offer that as a separate exhibit, we can --</p> <p>2 EXAMINER HANNAN: No, no. Thank you.</p> <p>3 Mr. Wilhelm, do you have any objections?</p> <p>4 I'm assuming you're qualifying her as an expert in</p> <p>5 land planning, Ms. Lee-Cho?</p> <p>6 MS. LEE-CHO: Correct.</p> <p>7 EXAMINER HANNAN: Mr. Wilhelm, do you</p> <p>8 have any objections? Ms. Przygocki has testified as</p> <p>9 an expert before me and the office several times in</p> <p>10 land planning. Do you have any objections to her</p> <p>11 being qualified as an expert in land planning?</p> <p>12 MR. WILHELM: No, I don't.</p> <p>13 EXAMINER HANNAN: Thank you so much.</p> <p>14 With that, I'm going to qualify her as an expert land</p> <p>15 planner.</p> <p>16 MS. LEE-CHO: Okay. Thank you very</p> <p>17 much.</p> <p>18 Q I would like Mr. Przygocki to start with</p> <p>19 providing a property of the description of the</p> <p>20 existing natural features and improvements by using</p> <p>21 the NRI/FSD, which I will bring up on the screen.</p> <p>22 Ms. Przygocki, can you see my screen?</p> <p>23 A Yes, I can. If you could pan up a little</p> <p>24 bit -- oh, I'm sorry, pan down. The toolbar on the</p> <p>25 Teams meeting kind of cuts off the bottom there.</p>	<p>32</p> <p>1 but a daylighted storm drain pipe on the adjacent</p> <p>2 property to the west. And it flows into another storm</p> <p>3 drain pipe, which carries the water into the public</p> <p>4 storm drain system that is within the right-of-way.</p> <p>5 MS. LEE-CHO: Ms. Robeson Hannan, I just</p> <p>6 wanted to note that my hand is showing what the --</p> <p>7 what Jane just referenced in her testimony.</p> <p>8 EXAMINER HANNAN: I see that. Yes,</p> <p>9 thank you. Excuse me.</p> <p>10 THE WITNESS: And then, furthermore,</p> <p>11 although these are more in the right-of-way, there are</p> <p>12 mature trees all along Broadburch Drive. And that</p> <p>13 would pretty much sum up my description of the site.</p> <p>14 Q In terms of the existing improvements, it is</p> <p>15 correct, obviously, that everything will be raised for</p> <p>16 the new project, correct?</p> <p>17 A Correct. There's a building of about 66,000</p> <p>18 square feet in the center of the site. It's a</p> <p>19 low-story office building. That would be removed, as</p> <p>20 well as the parking lot that serves it and the service</p> <p>21 drive. There are also a number of satellite dishes at</p> <p>22 the front of the property, and those would be removed</p> <p>23 as well.</p> <p>24 Q Moving on from the NRI/FSD unless there are</p> <p>25 questions. I'd like to have Ms. Przygocki define the</p>

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<p>33</p> <p>1 neighborhood boundary by using the surrounding area 2 map that we looked at in the staff report previously. 3 EXAMINER HANNAN: That's fine, thank 4 you. 5 Q So Ms. Przygocki, can you speak to the 6 definition of the neighborhood that was provided by 7 the technical staff and how it differs from the one 8 described in the Applicant's statement of 9 justification? 10 A Sure. The technical staff has provided a 11 surrounding area exhibit that encompasses the site and 12 the surrounding areas between Columbia Pike and Route 13 Maryland 29 and Cherry Hill Road. It -- Industrial 14 Parkway to the south, and the stream valley and 15 Bournefield Way -- properties along Bournefield Way to 16 -- again, to the south. And then Plum Orchard Drive 17 to the east. 18 This is essentially very similar to the 19 surrounding area exhibit that -- description, excuse 20 me, that the Applicant has provided. The Applicant 21 provided a slightly larger area, but in reality, I 22 think that the staff exhibit probably better describes 23 it as it is really the area that is more immediately 24 impacted by any development on this particular site. 25 The previous description went all the way down to FDA</p>	<p>35</p> <p>1 create a more vibrant community. 2 EXAMINER HANNAN: Okay. Thank you. 3 Q So now, moving on to the floating zone plan 4 -- or back to the floating zone plan, can -- I'd like 5 to just start with having Ms. Przygocki clarify 6 because I think the question has been posed. 7 What makes the two-over-two townhouse 8 unit type a multi-family type of dwelling? 9 A Well, the two-over-two units are very 10 different from, for instance, a townhouse or a 11 single-family detached home. A townhouse -- a typical 12 townhouse would only share a common wall; that is a 13 (indiscernible). Whereas the two-over-twos share not 14 only a common wall on the vertical but on the 15 horizontal. And so this has been characterized by the 16 apartment planning staff as multi-family units. 17 EXAMINER HANNAN: Is that definition -- 18 there is a definition of -- I think it's called 19 attached dwelling units in the zoning ordinance. Does 20 that address that? 21 MS. LEE-CHO: I'm looking into that 22 definition right now if you would bear with me. 23 EXAMINER HANNAN: There's two-unit 24 living and attached -- I can't remember. I'm trying 25 to pull it up myself, but it's slow. Well, why don't</p>
<p>34</p> <p>1 Boulevard, and we think this is perfectly appropriate 2 and very reasonable. 3 Q All right. Thank you. 4 EXAMINER HANNAN: So you agree with the 5 staff's description? 6 THE WITNESS: Yes, I do. I think it's 7 very (indiscernible). 8 EXAMINER HANNAN: Okay. Thank you. Go 9 ahead. 10 Q All right. Ms. Przygocki, did you have 11 anything else? 12 A I'm just -- 13 EXAMINER HANNAN: How would you 14 characterize -- before we leave the surrounding area, 15 how would you characterize it? The existing 16 surrounding area. 17 THE WITNESS: The existing surrounding 18 area is predominantly office and retail. There are -- 19 there -- immediately adjacent to the property is a 20 hotel. There are -- it was formally an industrial 21 area, so it is an area that is predominantly office 22 and retail and storage and not so much residential. 23 Although, as we'll speak about in the master plan, 24 they are -- a goal of the master plan is to mix the 25 uses a little bit more to complement each other and</p>	<p>36</p> <p>1 we just -- if we can proceed and maybe Ms. Przygocki 2 can come back and, you know, at some other point after 3 we go through the other witnesses. 4 MS. LEE-CHO: Sure. 5 EXAMINER HANNAN: I just want to make 6 sure it fits. 7 THE WITNESS: Sure. I'd be happy to do 8 that. And I can -- I prefer to give you the specific 9 language as to interpretation, so we can look that up, 10 and I can come back if need be. 11 EXAMINER HANNAN: Thank you so much. 12 Thank you very much. Go ahead, Ms. Lee-Cho. 13 Q Thank you. 14 So looking at the floating zone plan, 15 Ms. Przygocki, could you just summarize the numbers 16 and mix of units and the MPDUs that are proposed for 17 the record? 18 A Certainly. For the overall site, there will 19 be a maximum of 400 units. But as Mr. Wooldridge 20 said, more than likely will be 390. The -- this is 21 represented in two sticks, so to speak, of 22 two-over-two units positioned at the front of the 23 site. So, in essence, this represents 28 units. 24 Behind the two-over-twos is the typical apartment-type 25 dwelling, and with -- actually, with an enclosed</p>

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<p>37</p> <p>1 garage. And that will have anywhere from 362 to a 2 maximum of 372 units. 3 Q And it -- the MPDU percent of 15 percent 4 will apply to the totality of all units, correct? 5 A Yes, that's true. 6 Q Okay. Can you -- 7 EXAMINER HANNAN: What does that mean? 8 Does that mean -- 9 THE WITNESS: So if they'd -- 10 EXAMINER HANNAN: All the 15 percent can 11 be in the multi-family as opposed to the 12 two-over-twos; is that what you're saying? 13 THE WITNESS: Well -- 14 EXAMINER HANNAN: You're just saying 15 15 percent overall? 16 MS. LEE-CHO: Correct. 17 THE WITNESS: 15 percent of the -- 18 EXAMINER HANNAN: Okay. 19 THE WITNESS: -- overall units will be 20 MPDUs, so that'll be up to 60 units. 21 Q All right. Can you go ahead and move on to 22 generally describe the rest of the floating zone plan 23 in terms of open space and circulation and parking? 24 A Sure. We may want to use the circulation 25 exhibit, which is Exhibit No. 26.</p>	<p>39</p> <p>1 pedestrian circulation is provided throughout the 2 development and to Broadbirch Drive via sidewalks and 3 natural surface paths and an eight-foot shared-use 4 path along the main entrance road. This entrance road 5 could potentially serve as a connector to the 6 (indiscernible) in the future. 7 Both public and private open space and 8 recreational facilities will be provided on-site. And 9 our landscape architect can describe these more 10 thoroughly later, but there's both naturalistic type 11 landscaping and very programed in these residences, as 12 well as public open space for the public. 13 Q Okay. Great. 14 If we can move on, what is the height 15 that is being proposed for the building? 16 A Height would be a maximum of 85 feet per the 17 zone. 18 Q And how is this height compatible with the 19 existing and future adjacent development in the area? 20 A Well, it's -- the building would be four to 21 five stories. The adjacent hotel is four to five 22 stories as well, and there are other -- buildings in 23 the area are also about that stature. And the height 24 of the buildings steps down as we go towards the 25 street to be more compatible with the lower-rise</p>
<p>38</p> <p>1 Q All right. The circulation Exhibit 26 is on 2 the screen now. 3 A And again, I apologize. If you could pan up 4 -- or down a little bit. My panel here -- toolbar 5 covers up the bottom of it, so I can't see -- yeah, 6 that's perfect right there. 7 Okay. So access is provided from 8 Broadbirch Drive to serve the development. Parking 9 for the multi-family is provided in the structured 10 parking garage to -- towards the rear of the site, 11 right there, if you can -- where she is placing her 12 cursor. 13 EXAMINER HANNAN: I see it. 14 THE WITNESS: The north end. 15 So the parking garage is that grey with 16 the units above. And the residents have a choice to 17 park in the garage or in the surface lot on the other 18 side of the building. So there are several entrances 19 and exits to the building, and whatever they deem to 20 be more desirable is at their disposal. 21 There is an internal circulation road 22 that goes from east to west, and that serves the 23 two-over-two units. And their parking is -- again, 24 they have both garage parking and parking in their 25 driveway. So each unit will get one of each. The</p>	<p>40</p> <p>1 buildings, which are across the street. 2 Q And what is the expected height of the 3 two-over-two townhouse sticks? 4 A So the two-over-twos are basically four 5 stories. You have a two-story unit above a two-story 6 unit. And the maximum height, I believe, we don't 7 have a specified maximum on that, but they would be 8 roughly 40 feet. 9 Q Probably 40 to 50 feet range, as -- based on 10 the topography; would that be correct? 11 A Yeah, I wanted to say a specific; I would 12 say around 40 to 50 feet. 13 Q Okay. And then just moving -- continuing to 14 talk about the development standards that are 15 otherwise reflected on the floating zone plan, could 16 you speak to the boundary setbacks and how those have 17 been determined on the development standards table? 18 A Right. So the development -- 19 Q Do you still -- do you want to continue to 20 use this exhibit, or would you like me to change it? 21 A Maybe the floating zone plan would be more 22 appropriate? 23 Q Okay. And again, the floating zone plan is 24 Exhibit No. 25. 25 A Correct.</p>

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<p>41</p> <p>1 Q So do you need the development table 2 enlarged, or can we just speak to the boundary 3 setbacks using the larger image? 4 A We can use the larger image. I -- in terms 5 of the development standards and requirements of the 6 zone, the zone we would be requesting is for 85 feet 7 in terms of the setbacks and other requirements. 8 There's a 10 percent open space requirement, which 9 this application meets. 10 The setbacks from the front and per the 11 existing zone, there are no setback requirements. And 12 these would be determined by the floating zone plan. 13 And so -- 14 EXAMINER HANNAN: When you say the 15 front, what side are you speaking of? 16 THE WITNESS: So the front would be the 17 -- along Broadburch. 18 EXAMINER HANNAN: Along Broadburch? 19 THE WITNESS: Yes. This drawing is not 20 like some of the other drawings where north is at the 21 top of the page in order to fit it better on the 22 sheet. So north on the sheet is to the right, and 23 Broadburch Drive is to the south. So -- let's see, 24 where was I? 25 EXAMINER HANNAN: (indiscernible)</p>	<p>43</p> <p>1 EXAMINER HANNAN: Uh-huh. 2 THE WITNESS: -- will be 60 feet. 3 EXAMINER HANNAN: Okay. What is 4 adjacent to the west? 5 THE WITNESS: To the west is the Hilton 6 Garden Hotel. 7 EXAMINER HANNAN: Okay. 8 THE WITNESS: Surrounding the property 9 to the north, which is -- 10 EXAMINER HANNAN: No, I just had a 11 question on the west. That's all. 12 THE WITNESS: Oh. All right. Yes, 13 that's where the hotel is, and that's -- that would be 14 a building comparable in height to what the Applicant 15 is proposing on this site. 16 EXAMINER HANNAN: Right. Thank you. 17 Q Just to clarify, Ms. Przygocki, so -- can 18 you see my cursor? Along the western -- 19 A Yes. 20 Q -- property line, you have this parcel, 21 which I believe that's the hotel parcel. And then, to 22 the remainder of the western property line, I do not 23 believe that that's a hotel -- that's the hotel; 24 that's a different parcel. 25 EXAMINER HANNAN: Do you know what is</p>
<p>42</p> <p>1 Perimeter setbacks. 2 THE WITNESS: Right. So we propose at 3 least a ten-foot setback from the front property line. 4 The application dedicates ten feet of additional 5 right-of-way, as well as a -- an additional ten-foot 6 PUE there. So we will be at least ten feet away from 7 the front property line. 8 The rear setback will also be at least 9 ten feet from the property line. And the side 10 setbacks, we are not specifying a side on the western 11 boundary. However, on the eastern boundary, we are 12 proposing a 60-foot minimum setback. And that is a 13 long -- 14 EXAMINER HANNAN: Wait, wait. You -- I 15 thought you had to specify a setback? 16 THE WITNESS: Well, we're specifying 17 zero as the setback. Excuse me. 18 EXAMINER HANNAN: Okay. So the western 19 side is zero. 20 THE WITNESS: Correct. 21 EXAMINER HANNAN: The eastern side is, 22 what, 60? 23 THE WITNESS: So the eastern side, yes. 24 To the eastern boundary of the -- the existing current 25 boundary is --</p>	<p>44</p> <p>1 along the longest portion of the western property line 2 where her cursor is? 3 THE WITNESS: Yes. That is an office 4 building. I don't know the -- it's a headquarters 5 office building. 6 EXAMINER HANNAN: Okay. Thank you. 7 MS. LEE-CHO: I just wanted to clarify 8 that. 9 EXAMINER HANNAN: No, that was helpful. 10 Okay. 11 Q So in terms of -- we went through the public 12 open space, development standard, and described the 13 parking. And maybe we would -- with Mr. Przygocki 14 also, just go back again on the three binding elements 15 that will be covered, or if that's not -- I think we 16 could -- we can just move on because we've already 17 covered that. 18 So with Ms. Przygocki, unless there are 19 other questions, I'd like to just move forward with 20 her master plan analysis. 21 EXAMINER HANNAN: Okay. Go ahead. 22 Q Okay. As part of the necessary findings, as 23 you know, we need to establish substantial performance 24 with recommendations of the applicable master plan. 25 Can you just state for the record the applicable</p>

<p>45</p> <p>1 master plan to the project, please?</p> <p>2 A So the master plan is the White Oak Gateway</p> <p>3 master plan.</p> <p>4 Q Great. And is the requested CRF zone, in</p> <p>5 your opinion, being proposed in accordance with that</p> <p>6 master plan?</p> <p>7 A Yes. The property is currently zone CR, and</p> <p>8 this is just a slightly different mix of density of</p> <p>9 this CR. And this -- it was zoned CR from a -- the</p> <p>10 previous industrial zoning with the specific goal of</p> <p>11 creating more opportunity for flexibility and mixes of</p> <p>12 uses to complement one another and flexibility of</p> <p>13 development standards. So I believe that this is in</p> <p>14 conformance with the goals of the master plan.</p> <p>15 Q Okay.</p> <p>16 A It also introduces residential close to the</p> <p>17 office and the restaurants and the retail for a</p> <p>18 (indiscernible). It meets the goals of connectivity,</p> <p>19 and it's close to mass transit. So it's -- it meets</p> <p>20 the goals of the -- those goals within the master</p> <p>21 plan, excuse me.</p> <p>22 They -- one of the things that was</p> <p>23 mentioned in, you know, in the master plan rezoning</p> <p>24 this is, you know, a lot of the residential</p> <p>25 development that had not materialized as hoped. This</p>	<p>47</p> <p>1 opportunities in the area and mass transit. And I</p> <p>2 think those are all components between the mix of the</p> <p>3 uses and the transportation and -- that make up or</p> <p>4 comprise a mixed-use center. I don't think --</p> <p>5 EXAMINER HANNAN: So what you're saying,</p> <p>6 you look at the area as a whole?</p> <p>7 THE WITNESS: Yes.</p> <p>8 EXAMINER HANNAN: The entire master plan</p> <p>9 area as a whole, and take into account all the uses</p> <p>10 that are there?</p> <p>11 THE WITNESS: Particularly in this</p> <p>12 immediate area, which is the subject area of the</p> <p>13 surrounding area as defined previously.</p> <p>14 EXAMINER HANNAN: Okay. Thank you.</p> <p>15 Q Thank you.</p> <p>16 Then, if we could move on, in your</p> <p>17 professional opinion, how does this proposal further</p> <p>18 the public interest of the county, which is a further</p> <p>19 necessary finding under Section 59-7-21 E2(b)?</p> <p>20 A Well, similar to some of the other issues we</p> <p>21 brought up, I think it proposes development in an area</p> <p>22 with existing infrastructure and planned transit. It</p> <p>23 provides a mix of housing not only in housing types</p> <p>24 but in affordability. Everything from MPDUs,</p> <p>25 apartments, two-over-twos.</p>
<p>46</p> <p>1 helps to encourage that and to make that more feasible</p> <p>2 for developers.</p> <p>3 Q Thank you. Did you have anything further to</p> <p>4 add to the master plan analysis that was -- is found</p> <p>5 on page 8 of the technical staff report? If not, we</p> <p>6 can move on.</p> <p>7 A I don't have anything specific, but I can</p> <p>8 take a look at that.</p> <p>9 Q I guess one thought that maybe you can opine</p> <p>10 on, the master plan as indicated in the staff report</p> <p>11 on page 8 of the staff report, it cites to page 23 of</p> <p>12 the master plan as saying, The overarching goal of</p> <p>13 this master plan is to transform the built environment</p> <p>14 from auto-oriented single-purpose notes into vibrant</p> <p>15 mixed-use centers.</p> <p>16 This proposed floating zone plan clearly</p> <p>17 is a residential-only project. In your opinion, how</p> <p>18 does a residential-only project in this location,</p> <p>19 nonetheless, meet the goal of the master plan?</p> <p>20 A Well, I think one can say that a mixed-use</p> <p>21 center may not include just one particular property.</p> <p>22 I would say this general area is a mixed-use center</p> <p>23 because right adjacent to it are a number of</p> <p>24 employment uses, as well as a whole retail center full</p> <p>25 of restaurants. And there are other shopping</p>	<p>48</p> <p>1 It's a variety of housing types within</p> <p>2 the area, which will support the other business</p> <p>3 activities in the area. It allows for flexibility of</p> <p>4 the uses and provides not only private open space but</p> <p>5 public open space and walking paths for pedestrians</p> <p>6 throughout the community. So it raises the quality of</p> <p>7 the environment, basically, by providing these</p> <p>8 additional amenities.</p> <p>9 Let's see. I think that's pretty much</p> <p>10 it. I just -- this -- providing the mixed-use</p> <p>11 development, I think, is beneficial and compatible</p> <p>12 with the adjacent development and will create a better</p> <p>13 synergy within the area.</p> <p>14 Q And is it also in the public interest to see</p> <p>15 redevelopment of a site that is already significantly</p> <p>16 improved, as opposed to, say, you know, virgin land?</p> <p>17 A I'm sorry, can you restate the question?</p> <p>18 Q Is it also in the public interest, in your</p> <p>19 opinion, to encourage redevelopment of sites such as</p> <p>20 this that are already significantly improved with</p> <p>21 parking and an existing building, as opposed to a site</p> <p>22 that is undeveloped and not yet improved?</p> <p>23 A I would say yes because -- for a number of</p> <p>24 reasons. There is existing public infrastructure.</p> <p>25 This is also a building that has been vacated by the</p>

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13 (49 to 52)

<p>49</p> <p>1 user, and bringing new development to the site will 2 encourage them and even if -- 3 EXAMINER HANNAN: Is the stormwater -- 4 THE WITNESS: Pardon me? 5 EXAMINER HANNAN: Is the stormwater 6 going to be upgraded? 7 THE WITNESS: Yes. Actually, I was just 8 going to say that. I was going to say, our engineer - 9 - we'll describe that more later, but in terms of the 10 existing development, it was built prior to a lot of 11 the stormwater regulations that exist now, and the 12 county encourages redevelopment of these sites and 13 improvement of the stormwater management on their 14 sites. So from an environmental standpoint, this will 15 benefit the local watershed. 16 EXAMINER HANNAN: Okay. 17 THE WITNESS: There's no significant 18 environmental features currently on this site that we 19 would be disrupting, and the only significant 20 environmental condition on the site is a small area of 21 forest in the southwest corner that we are preserving 22 under a forest conservation easement. 23 EXAMINER HANNAN: Okay. 24 THE WITNESS: Also, this development -- 25 well, not the -- although it is not part of the LMA</p>	<p>51</p> <p>1 those are criteria that the intent specified. 2 Q And I think that you've already testified to 3 this, but just for the record, is the proposed forest 4 -- floating zone plan compatible with existing and 5 approved adjacent development, in your opinion? 6 A Yes. In my opinion, it is. It fits in well 7 with the height and massings of the surrounding 8 buildings. It introduces a residential use, which is 9 complementary to the balance of the (indiscernible), 10 and it's a walkable area close to transit. So I think 11 it is, in my mind, it's very compatible with the 12 surrounding area. 13 MS. LEE-CHO: I don't have anything 14 further for Ms. Przygocki, unless Ms. Robeson Hannan, 15 you have anything to ask? 16 EXAMINER HANNAN: No, thank you. 17 MS. LEE-CHO: So with that, I would ask 18 Ms. Przygocki to come back to us with that definition 19 that we can put into the record as far as why 20 technical staff -- 21 EXAMINER HANNAN: That would be -- 22 MS. LEE-CHO: -- determined. The 23 multi-family character of the two-over-twos. 24 EXAMINER HANNAN: That would be great. 25 Thank you.</p>
<p>50</p> <p>1 (ph) review, in there's no impact to -- no detrimental 2 impact to the schools; the schools in the area are 3 currently (indiscernible) and are not -- 4 EXAMINER HANNAN: You're fading out on 5 me. I couldn't hear what you're saying. 6 THE WITNESS: There will be no negative 7 or adverse effect to the school system as well. With 8 the number of students that this would generate and 9 the number -- the capacity of the schools in the area 10 currently are -- should be able to handle that 11 capacity, and we've looked at that. However, that 12 will be determined at the preliminary plan 13 (indiscernible) for adequate public facilities. 14 EXAMINER HANNAN: Okay. Thank you. 15 Q Great. And moving on to the compliance with 16 the intent statement of the CRF zone, how does this 17 LMA application satisfy the intent and standards of 18 the proposed CRF zone? 19 A It provides for development of mixed uses in 20 the community at a range of densities and heights that 21 is flexible enough to respond to the setting. It 22 allows flexibility and uses for a site with multiple 23 types of residential, public open space, and private 24 open space. And it provides mixed-use development 25 that's compatible with the adjacent development. And</p>	<p>52</p> <p>1 MS. LEE-CHO: Thank you. 2 THE WITNESS: If I could just add one -- 3 which I think is a finding required, is we also are in 4 compliance with the floating zone intent statement, as 5 well as the CRF intent. 6 EXAMINER HANNAN: The purpose of the CR. 7 And do you agree with the state, is that based -- do 8 you agree with the rationale for that in the staff 9 report and want to adopt that as your testimony? 10 THE WITNESS: Yes. I think the project 11 fully meets the intent of the floating zones and will 12 advance the goals of the master plan, and will be a 13 benefit to the surrounding area. 14 EXAMINER HANNAN: Thank you. 15 MS. LEE-CHO: Thank you. And with that, 16 I would excuse Ms. Przygocki and ask to introduce my 17 next expert witness who is Adam Steiner. 18 EXAMINER HANNAN: Okay. Well, just let 19 me ask, Mr. Wilhelm, do you have any questions, or is 20 there anyone else on this call that may have come 21 after the beginning that would like to -- that is not 22 represented by Ms. Lee-Cho, that would like to ask a 23 question? 24 MR. WILHELM: I don't have any 25 questions.</p>

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<p>53</p> <p>1 EXAMINER HANNAN: Thank you so much, 2 Mr. Wilhelm. Anyone else? Okay. Hearing none, let's 3 -- wait, I'm hearing somebody. Is anyone -- does 4 anyone else wish to say something? 5 Okay. Now I hear none, so go ahead. 6 MS. LEE-CHO: So for my next witness, I 7 would like to ask Adam Steiner to testify. 8 EXAMINER HANNAN: Okay. Mr. Steiner? 9 MR. STEINER: Yes. 10 (Whereupon, Adam Steiner was sworn and 11 testified as follows.) 12 EXAMINER HANNAN: All right. Go ahead, 13 Ms. Lee-Cho. 14 EXAMINATION OF ADAM STEINER 15 BY MS. LEE-CHO: 16 Q Thank you. 17 Mr. Steiner, can you please state your 18 place of employment and business address for the 19 record? 20 A My name is Adam Steiner. My employer is J2 21 Engineers. Our business address is 4080 Lafayette 22 Center Drive, Suite 300 in Chantilly, Virginia. 23 Zipcode 20151. 24 Q And could you just spell your last name if 25 you've not already done so?</p>	<p>55</p> <p>1 EXAMINER HANNAN: Okay. 2 THE WITNESS: I only moved to the 3 commonwealth recently, so I am a Maryland native. 4 EXAMINER HANNAN: Okay. 5 MS. LEE-CHO: Ms. Robeson Hannan, you do 6 have Mr. Steiner's resume as part of -- 7 EXAMINER HANNAN: I do. And if there 8 are no objections from Mr. Wilhelm, I will qualify 9 him. I take it you want to qualify him as a landscape 10 architect? 11 MS. LEE-CHO: Correct. 12 EXAMINER HANNAN: And arborist? Or just 13 landscape architect? 14 MS. LEE-CHO: We might as well have him 15 qualified as both, but it's fine. 16 EXAMINER HANNAN: Okay. I'll go ahead 17 and still qualify him. 18 MS. LEE-CHO: Thank you. And hearing no 19 objections from Mr. Wilhelm, I assume? 20 MR. WILHELM: No, I have none. 21 MS. LEE-CHO: Thank you. 22 So I will continue to share my screen 23 and ask Mr. Steiner in -- I guess I have the -- I'll 24 need to open the open space exhibit. Where -- oh, 25 there it is. All right. Can you all see this?</p>
<p>54</p> <p>1 A Sure. Steiner, S-T-E-I-N-E-R. 2 Q And what is your profession, for the record? 3 A I am a professional landscape architect and 4 a certified arborist. 5 Q And it is my understanding that you have 6 never testified before the Office of Zoning and 7 Administrative Hearings in Montgomery County; is that 8 correct? 9 A Not in Montgomery County, no. 10 Q So I will proceed to ask you several 11 questions to help qualify you as an expert witness at 12 this time. 13 A Sure. 14 EXAMINER HANNAN: And are you going to 15 include -- have you ever qualified as an expert, Mr. 16 Steiner? 17 THE WITNESS: In Montgomery County? No. 18 In other jurisdictions over the course of my career to 19 the level that we need to be qualified to present 20 cases over the last 25 years, yes, many times. Just 21 not in Montgomery County. 22 EXAMINER HANNAN: Okay. All right. Are 23 you licensed in Maryland? 24 THE WITNESS: My initial license was in 25 the great state of Maryland in the year 2000.</p>	<p>56</p> <p>1 THE WITNESS: Yes. 2 Q All right. This is the open space exhibit, 3 which is Exhibit No. 31 on the list. And using this 4 exhibit, could you please describe for the Hearing 5 Examiner what is being contemplated in terms of 6 landscape design and amenity features in -- for this 7 project? 8 A I'd love to. Lynn, I love talking about 9 projects, so if I start rolling off the rails, you 10 just raise a hand or throw a pencil at me, and we'll 11 get going. 12 EXAMINER HANNAN: Well, I can't do that, 13 but I can raise my hand. 14 THE WITNESS: You could do a virtual 15 raise your hand. All right. 16 Josh had eluded to a few of the 17 amenities when he was discussing the initial -- the 18 kickoff for the project. But with NRP -- and I've 19 done a lot of projects with NRP. Their goal is to 20 provide a variety of amenity types for all residents 21 and the local community. So they like a lot of 22 variety and a lot of interest and a lot of different 23 things that people can do. 24 All of the building entrances and 25 amenity areas throughout the project are</p>

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<p>57</p> <p>1 interconnected with sidewalks and shared-use paths, 2 and we have accessible ADA routes throughout the 3 project as well. The public amenity -- public open 4 space amenities, which are the darker green down front 5 that is a passive recreation area, immediately 6 adjacent to Broadbirch Drive.</p> <p>7 There is a sculpture element, right 8 about where the hand is at that circle down at the 9 bottom. That's a sculpture garden with two six-foot 10 benches around it. It is intended to be a sculptural 11 element. Undetermined at this point exactly what that 12 would be, but something very cool and neat. It is 13 close to the road so that you can see it from 14 Broadbirch Drive. People driving by can visually 15 connect with it, and it might draw them into the site.</p> <p>16 That piece of sculpture is surrounded by 17 a variety of landscaping to provide additional 18 interest. A trail winds up the slope. The reason for 19 the gratuitous route is that blends with the natural 20 contours of the site to be an accessible path. That 21 is a pervious material on that path as well. We are 22 using boulders -- that's kind of what the darker 23 elements that are kind of shown around the path.</p> <p>24 We're using the boulders to help 25 transition grade. They're really just large rocks in</p>	<p>59</p> <p>1 the trellis area. And again, it's not meant to be a 2 big rocky, you know, crag thing like the Colorado 3 Rockies or anything. Just the boulders are used to 4 help, again, transition grade. We've got a natural 5 slope in there, and the boulders help us not have to 6 run the grade steep against it. We can use those to 7 kind of make it appear a little more naturalized.</p> <p>8 The central courtyard in the building is 9 the private open space amenities. As a landscape 10 architect, this is where I really get to have as much 11 fun as we can. NRP really likes to put a lot of 12 amenities in here. We don't just rely on there being 13 one thing that people do in the courtyard. The 14 primary amenity in there is a 1,400-square foot 15 swimming pool. It'll have a sun ledge for chairs and 16 gathering and opportunities for, you know, regular 17 swimming and stuff, but also you can sit on this sun 18 ledge, which is really a shallow water area with 19 chairs. It's very nice.</p> <p>20 There is a lifeguard room and a pool 21 equipment room, a small building that is just to the 22 right of where the hand is that sits out on the pool 23 deck. That's where the pool equipment for the pool 24 will be. It's also where the lifeguard is stationed, 25 so the lifeguard's right at the pool for safety and</p>
<p>58</p> <p>1 naturalized forms that are kind of presented against 2 both sides of the trail, that allow the trail to be 3 level but let the grade on both sides be evened out a 4 little.</p> <p>5 Midway up the trail, there's kind of a 6 circular node right there that's on access with the 7 trellis at the top. And right in the middle of the 8 trail, there are two -- oh, back down a little. Yeah, 9 right there. So there's two benches in there as well, 10 kind of midpoint along the trail just for a place to 11 gather and kind of hang out.</p> <p>12 As you wind to the top of the trail, 13 that's what we're calling kind of the overlook. 14 There's a semi-circular trellis at that location, 15 tables and chairs located under there, and it really 16 just creates a nice social gathering space for 17 residents or people in the community to gather. 18 Again, this is a public open space. They could wander 19 past the sculpture and end up at the top and just kind 20 of hang out in this area.</p> <p>21 There is a biodiverse mix of landscaping 22 focused, as I mentioned, at the sculpture area, around 23 the node in the middle where the boulders are, and 24 around the transition at the top of the overlook. We 25 also have boulders around the perimeter that overlook</p>	<p>60</p> <p>1 visibility. And that also, as part of that building, 2 we'd incorporate some outdoor showers and a drinking 3 fountain, all the amenities that are needed for the 4 pool. There are bathhouse facilities for the pool 5 that are in the building as well. These showers on 6 the deck are just supplemental for convenience for 7 people to use.</p> <p>8 The rest of the courtyard is thought of 9 often as a variety of smaller rooms. Gathering spaces 10 and areas that provide different types of recreation. 11 It allows lots of different groups of residents to 12 gather and not feel like they've entered the courtyard 13 but someone's already there, so they can't be there. 14 So there's lots of different areas.</p> <p>15 So in those rooms, immediately kind of 16 planned south of where the pool is, there will be an 17 outdoor kind of kitchen/dining area. There will be 18 gas grills in this area, seating, benches, tables, 19 chairs, and a -- kind of a trellis element to provide 20 some shade in that area. There is another small 21 social area room that will include a firepit, a 22 natural gas firepit. This isn't like a wood-burning 23 messy thing. This is a very clean firepit. Again, 24 that's a great area for social gathering.</p> <p>25 There are some lawn areas, but these are</p>

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16 (61 to 64)

<p>61</p> <p>1 very compact lawn areas that will be used for corn 2 hole and kind of just hanging out in the courtyard. 3 We also are contemplating the use of an outdoor ping- 4 pong table. We've done a lot of those in a lot of 5 recent projects. They're -- 6 EXAMINER HANNAN: What do you make it 7 out of? Just out of curiosity. 8 THE WITNESS: There are a variety -- 9 EXAMINER HANNAN: Is it slate? What? 10 THE WITNESS: Generally, they're 11 concrete or high-density plastic. But the concrete 12 ones are very durable, and they're kind of fun. 13 EXAMINER HANNAN: Interesting. 14 THE WITNESS: So -- and then the entire 15 courtyard is landscaped with the exception of the lawn 16 areas that are specifically programed for the corn 17 hole and stuff. Everything in there is landscaped. 18 There's no just vacant kind of, you know, lawn areas 19 that we're forgetting about. Pretty much every nook 20 and cranny in this courtyard is full of amenity 21 landscaping or physical amenities that people can use 22 and enjoy. 23 EXAMINER HANNAN: Okay. Thank you. 24 THE WITNESS: Plan north, not green, but 25 an additional amenity for the site. We have a dog</p>	<p>63</p> <p>1 The longer skinnier part at the top of 2 the dog park is actually proposed to be lawn. 3 Different surface -- 4 EXAMINER HANNAN: So the zero setback is 5 for the dog park? I'm for that. I'm sorry. 6 THE WITNESS: Noted. 7 EXAMINER HANNAN: Very good. Go ahead. 8 THE WITNESS: Please. 9 The skinnier part at the top of the dog 10 park is intended to be lawn. And that just provides a 11 different surface. You know, dogs can run on lawn. 12 There's nothing wrong with them being on a decomposed 13 granite. The reason we have it separated, though, 14 there will be a gate and a fence in between there 15 would be the lawn areas tend to get beat up a little 16 more, so we need to be able to close them off. 17 Maybe if it's really rainy, like it's 18 been around here, it's really rainy, you close that 19 part of the dog park off to kind of stop it from 20 becoming a mud pit in there. It just provides a 21 versatile bit of play area for the dogs. Throughout 22 the site, we will have extensive landscaping, both in 23 the public and private open-space areas, around the 24 foundations of the multi-family building, around the 25 fronts and sides of the two-over-two buildings, and</p>
<p>62</p> <p>1 park programed in here. For, I think, every project 2 I've done with NRP, we do a dog park. They like to do 3 them, and I -- they like to do them because I think 4 they've found that the residents find it to be a 5 fantastic amenity. More and more apartment buildings 6 allow dogs, and therefore, this provides a great place 7 for them to take the dog. 8 The small -- the larger, kind of, square 9 area at the bottom of the dog park is kind of the 10 primary area. The surface in there would be 11 decomposed granite, which is like a mall mix; gravel 12 and (indiscernible). Good for the dogs' feet. Very 13 durable, easy to clean, easy to take care of. The 14 decomposed granite surface is -- there's a perimeter 15 of landscaped timbers to keep it in place, so it 16 doesn't get messy and just start rolling out 17 everywhere else. 18 The dog park is surrounded by a 19 four-foot-high vinyl-coated chain link fence for 20 security. The dog park includes a double gate 21 vestibule, so your dog doesn't get out when you're in 22 that chaotic area of trying to go in and out, and the 23 dogs get really excited. There's a dog water 24 dispenser, a waste bag dispenser, and additional 25 seating in there as well for people to enjoy.</p>	<p>64</p> <p>1 obviously, down at the -- in the sculpture area as we 2 mentioned. 3 Interior parking lot and perimeter 4 parking lot landscaping will be provided in the 5 parking areas of the project. As I mentioned, the 6 courtyard is completely landscaped. The courtyard and 7 the primary -- and some of the primary areas around 8 the building are fully irrigated. Again, NRP is very 9 committed to not just installing the plant material 10 but having it look good. We do not irrigate the 11 entire site; that's generally wasteful. But we keep 12 it focused on the amenity areas where the public would 13 be most visible and where they'd be enjoying the 14 landscape. 15 Our plant palette includes a wide 16 variety of species. Very biodiverse. We include a 17 lot of native species. We are not exclusively native, 18 but there are absolutely no invasive species on the 19 plant list, and everything on the plant list would be 20 regionally appropriate. Meaning, it's the right plant 21 to grow in this area based on our climate and our 22 temperature range, and they are all readily available 23 from nurseries. So -- we do a lot of multi-family 24 projects, so we pick the plants that will work and 25 area available and can be easily and well-maintained.</p>

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<p>65</p> <p>1 In addition, the bioretention areas</p> <p>2 on-site as part of the stormwater management will also</p> <p>3 be landscaped. We approach those bioretention areas</p> <p>4 as an amenity, not as an afterthought. So we really</p> <p>5 try to put some thought into providing some really</p> <p>6 interesting plant material and different massings to</p> <p>7 really make those look not like a mosquito farm, or</p> <p>8 kind of a -- just a sumpy, kind of, wet area.</p> <p>9 Instead, we really create a -- turn them into kind of</p> <p>10 naturalized landscaped areas that look very nice when</p> <p>11 they're completed.</p> <p>12 That's about it for landscaping, unless</p> <p>13 you want to --</p> <p>14 EXAMINER HANNAN: Thank you.</p> <p>15 THE WITNESS: -- have any questions, I'm</p> <p>16 happy to answer them.</p> <p>17 EXAMINER HANNAN: No, I just -- I like</p> <p>18 the dog park.</p> <p>19 THE WITNESS: That's why they do them</p> <p>20 every time. Everybody -- who doesn't like a dog park?</p> <p>21 I mean, I think next -- we'll have cat parks soon,</p> <p>22 maybe to be, you know, non-discriminatory to all pet</p> <p>23 owners, but right now, it's just dog parks. I've</p> <p>24 never done a cat park yet.</p> <p>25 EXAMINER HANNAN: Well, actually, I just</p>	<p>67</p> <p>1 Lee-Cho. Okay. Go ahead.</p> <p>2 MS. LEE-CHO: So I have nothing further</p> <p>3 for Mr. Steiner and would excuse him as a witness.</p> <p>4 EXAMINER HANNAN: Okay. Mr. Wilhelm, do</p> <p>5 you have any questions? Do you want to ask about the</p> <p>6 dog park or any questions on his testimony?</p> <p>7 MR. WILHELM: I like dogs as well. I</p> <p>8 think what he's proposing is really great. There's</p> <p>9 also -- external to the site, there's lots of walking</p> <p>10 places in the area, so -- because with the pandemic,</p> <p>11 we see a lot of people walking.</p> <p>12 EXAMINER HANNAN: Well, let me just</p> <p>13 quickly put you under oath.</p> <p>14 (Whereupon, Dan Wilhelm was sworn and</p> <p>15 testified as follows.)</p> <p>16 EXAMINATION OF DAN WILHELM</p> <p>17 EXAMINER HANNAN: Okay. And you've</p> <p>18 previously stated your name and address for the</p> <p>19 record; is that correct?</p> <p>20 THE WITNESS: Yes, ma'am.</p> <p>21 EXAMINER HANNAN: Okay. Just say what</p> <p>22 you wanted to say.</p> <p>23 THE WITNESS: Well, just I like what I</p> <p>24 just heard from -- on the site, but what I'm -- my</p> <p>25 point is that there's -- the shopping center, there's</p>
<p>66</p> <p>1 took -- well, never mind. I just took a cat in the</p> <p>2 stroller the other day. I'm digressing. Okay. Come</p> <p>3 -- you can't let me do this. Go ahead.</p> <p>4 MS. LEE-CHO: Well, I have nothing</p> <p>5 further for Mr. Steiner, other than to say that he has</p> <p>6 provided a lot of detail, but I would ask Mr. Steiner</p> <p>7 to state for the record that, obviously, this is all</p> <p>8 preliminary, very conceptual at this time, correct?</p> <p>9 THE WITNESS: Very much so. And this is</p> <p>10 the --</p> <p>11 EXAMINER HANNAN: I understand.</p> <p>12 THE WITNESS: This is the early design</p> <p>13 phase. So we come up with lots of ideas, we throw a</p> <p>14 lot of ideas out there, but then through coordination</p> <p>15 with the architect, the interior designers, and NRP,</p> <p>16 we ultimately kind of pick what the amenity programs</p> <p>17 will be. Yes, correct.</p> <p>18 EXAMINER HANNAN: I understand. And</p> <p>19 you've got, I think, three more -- two more approvals</p> <p>20 -- three more approvals to go through?</p> <p>21 MS. LEE-CHO: yes.</p> <p>22 EXAMINER HANNAN: So I'm not basing this</p> <p>23 on the dog park.</p> <p>24 THE WITNESS: Noted.</p> <p>25 EXAMINER HANNAN: Don't worry, Ms.</p>	<p>68</p> <p>1 a lot of eateries. You can walk there. You can walk</p> <p>2 over to the shopping center farther down Birch</p> <p>3 Boulevard (sic) towards Cherry Hill Road. And then</p> <p>4 there's -- at the hospital medical center, they have a</p> <p>5 lake and a walking path around there that they allow</p> <p>6 the public to use. So in addition to what you have</p> <p>7 on-site, there's a lot of stuff in the immediate area,</p> <p>8 all within, like, a quarter-mile.</p> <p>9 EXAMINER HANNAN: Okay. Does -- is</p> <p>10 there anyone else in this hearing that is not</p> <p>11 represented by Ms. Lee-Cho that has a question for</p> <p>12 Mr. Steiner?</p> <p>13 Okay. Hearing none, Mr. Steiner, you</p> <p>14 may be excused. Thank you.</p> <p>15 MS. LEE-CHO: Thank you.</p> <p>16 For my next witness, I would ask</p> <p>17 Mr. Daniel Park to step up. I see he has -- is ready.</p> <p>18 (Whereupon, Daniel Park was sworn and</p> <p>19 testified as follows.)</p> <p>20 EXAMINER HANNAN: Okay. Go ahead,</p> <p>21 Ms. Lee-Cho.</p> <p>22 EXAMINATION OF DANIEL PARK</p> <p>23 BY MS. LEE-CHO:</p> <p>24 Q Mr. Park, can you please first state your</p> <p>25 place of employment and business address for the</p>

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18 (69 to 72)

<p>69</p> <p>1 record?</p> <p>2 A Yes. Hi, good morning, Ms. Robeson.</p> <p>3 Daniel Park with Soltesz. The address here is 2</p> <p>4 Research Place, Rockville, Maryland 20850.</p> <p>5 Q And Mr. Park, what is your position or</p> <p>6 profession for the record, please?</p> <p>7 A I am the director of planning here at the</p> <p>8 Rockville office. I oversee the planning team and act</p> <p>9 as the primary contact for support engineers. I</p> <p>10 represent the company and entitlement applications. I</p> <p>11 am also the senior landscape architect -- or one of</p> <p>12 the LA's here.</p> <p>13 Q And you have testified before, before the</p> <p>14 hearing examiner, I know, and has -- you've qualified</p> <p>15 as an expert witness in the field of landscape</p> <p>16 architecture and forestry?</p> <p>17 A That is correct, Ms. Cho.</p> <p>18 EXAMINER HANNAN: For the record, he has</p> <p>19 been qualified as an expert in those fields. Has --</p> <p>20 does anyone not represented by Ms. Lee-Cho have an</p> <p>21 objection to qualifying him in those fields?</p> <p>22 Okay. Go ahead, Ms. Lee-Cho. I'm going</p> <p>23 to qualify him.</p> <p>24 MS. LEE-CHO: Thank you. And you do</p> <p>25 have his resume as part of the prehearing statement.</p>	<p>71</p> <p>1 was approved by Montgomery Planning on April 14th of</p> <p>2 2021, which shows that the site exhibits four existing</p> <p>3 significant trees. I'd like to point out that these</p> <p>4 are not (indiscernible) trees or specimen trees. They</p> <p>5 are composed of the three Willow Oaks and one Red</p> <p>6 Maple.</p> <p>7 The subject site is not within the</p> <p>8 special protection area, SPA, or within a flood plain.</p> <p>9 No evidence of a native species or wetlands were found</p> <p>10 as a part of this approval. There are a few steep</p> <p>11 slopes mostly located in the southwest portion, which</p> <p>12 is the lower-left portion as you before the exhibit</p> <p>13 there, where the site drains; that triangular area</p> <p>14 shown in the green tree line on the plan.</p> <p>15 This drainage area is essentially a</p> <p>16 shored exposed channel, approximately 150 feet in</p> <p>17 length, which conveys off-site and on-site drainage</p> <p>18 into a culvert which goes into the public storm drain</p> <p>19 system under Broadbirch.</p> <p>20 Are there any questions so far,</p> <p>21 Ms. Robeson?</p> <p>22 EXAMINER HANNAN: No, thank you.</p> <p>23 THE WITNESS: Since this area has an</p> <p>24 existing forest, a category one forest conservation</p> <p>25 easement is proposed over this area as part of the</p>
<p>70</p> <p>1 EXAMINER HANNAN: Yes.</p> <p>2 Q So Mr. Park, could you -- in using the</p> <p>3 preliminary force conservation plan, which is Exhibit</p> <p>4 28, can you please describe how the Applicant proposes</p> <p>5 to comply with Chapter 22A of the county code?</p> <p>6 (indiscernible-cross talk)</p> <p>7 A Yes. Actually, Ms. Lee-Cho, I think it</p> <p>8 would be helpful to start with the NRI/FSD, which is</p> <p>9 Exhibit 16, I believe.</p> <p>10 Q Okay.</p> <p>11 A Chapter 22A has two components to it. One</p> <p>12 is a requirement for an FSD, a forest stand</p> <p>13 delineation, as well as a requirement for a</p> <p>14 preliminary forest conservation plan associated with</p> <p>15 the local map amendment application.</p> <p>16 Q All right. Do you see on the screen the</p> <p>17 approved NRI/FSD?</p> <p>18 A I do.</p> <p>19 Q Which is Exhibit 16, for the record.</p> <p>20 Okay. Please proceed with your</p> <p>21 testimony.</p> <p>22 A Yes. Thank you, Ms. Lee-Cho.</p> <p>23 Per section 22A-10(b)(1), a forest stand</p> <p>24 delineation, FSD, is required for the site. A natural</p> <p>25 resource inventory forest stand delineation, NRI-FSD,</p>	<p>72</p> <p>1 preliminary forest conservation plan, PFCP.</p> <p>2 If there are no other questions</p> <p>3 regarding the existing environmental features, I'd</p> <p>4 like to touch on the forest conservation --</p> <p>5 preliminary forest conservation plan requirement.</p> <p>6 EXAMINER HANNAN: That's fine.</p> <p>7 THE WITNESS: Thank you, Ms. Robeson.</p> <p>8 So if we could pull up Exhibit 28 again?</p> <p>9 Q Okay. On the screen is Exhibit 28, which is</p> <p>10 a preliminary forest conservation plan. I just wanted</p> <p>11 to note for Ms. Robeson Hannan that there was a</p> <p>12 separate staff report on this and a separate approval</p> <p>13 by the planning board for the PFCP. The resolution</p> <p>14 for this approval was on the planning board's consent</p> <p>15 agenda as of yesterday. And we are informed by staff</p> <p>16 that the resolution -- signed resolutions by the chair</p> <p>17 will be forthcoming early next week.</p> <p>18 EXAMINER HANNAN: Okay. Thank you.</p> <p>19 THE WITNESS: Thank you, Ms. Lee-Cho.</p> <p>20 So per Section 22A-10(c)(1), a</p> <p>21 preliminary forest conservation plan was approved by</p> <p>22 Montgomery Planning on September 9th of 2021. You</p> <p>23 know, this plan shows that the site has a gross-tract</p> <p>24 area of 7.83 acres. We use a gross-tract area to</p> <p>25 compute the required forest conservation mitigation</p>

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19 (73 to 76)

<p>73</p> <p>1 for the site based on a land-use category. There are 2 approximately 0.35 acres of existing forest on the 3 site. As I mentioned before, it's on the lower-left 4 corner or the southwest corner of the site. 5 Of that, 0.1 acres of forest is proposed 6 to be cleared, and that's only to provide access for 7 the public open space. So that little area there will 8 be removed. However, 0.24 acres of forest is proposed 9 to remain can be protected by a category one forest 10 conservation easement. The reforestation requirement 11 -- actually -- well, it's a combination of 12 deforestation and reforestation. The forest 13 mitigation requirement is 0.89 acres and will be 14 provided by the Applicant through the final forest 15 conservation plan by fee in lieu. 16 EXAMINER HANNAN: I -- oh, fee in lieu. 17 THE WITNESS: Yes. 18 EXAMINER HANNAN: Go ahead. 19 THE WITNESS: I have nothing further on 20 the forest conservation plan requirement, but there 21 are some resolutions regarding that. I can certainly 22 provide a little bit of detail on that if you'd like, 23 Ms. Robeson? 24 EXAMINER HANNAN: On what? I -- for 25 some reason, it wasn't picking up very well. What do</p>	<p>75</p> <p>1 plantings between the proposed forest conservation 2 plan and the proposed pedestrian connection. So -- 3 EXAMINER HANNAN: Okay. 4 THE WITNESS: The Applicant -- yes. The 5 Applicant will work with Montgomery Planning on 6 selecting plants appropriate for a riparian planting 7 type of planting scheme there. However, I would just 8 note for the record that that area is not within a 9 category one easement. There's no easement over it. 10 It is supplemental by nature. 11 EXAMINER HANNAN: Okay. So that would 12 be in conjunction with the site plan. That wouldn't 13 technically -- okay. That's not part of your 14 mitigation requirement? 15 THE WITNESS: That's correct, 16 Ms. Robeson. 17 EXAMINER HANNAN: The supplemental 18 plantings won't be part of your mitigation 19 requirements, but they are being requested as a 20 transition in the public open-space area; is that what 21 you're pointing out? 22 THE WITNESS: Yes, Ms. Robeson. 23 Correct. 24 EXAMINER HANNAN: Okay. All right. I 25 understand. Thank you for pointing that out.</p>
<p>74</p> <p>1 you want to -- 2 THE WITNESS: The conditions of the 3 preliminary forest conservation plan resolution. 4 EXAMINER HANNAN: Oh. Are they 5 different from the staff report? Because I have the 6 PFCP staff report in the record. 7 THE WITNESS: They are the same. I just 8 like to point out one thing, which is a little 9 nonstandard. Everything is standard except for one 10 portion that -- 11 EXAMINER HANNAN: Okay. 12 THE WITNESS: So the condition set, 13 obviously, we'd have to submit a final forest 14 conservation plan in conjunction with the site plan. 15 EXAMINER HANNAN: Right. 16 THE WITNESS: The other condition is, 17 you know, related to what's included in the forest 18 funnel forest conservation plan. We'll do an invasive 19 management plan, and we'll provide the standard tree 20 protection measures and details. And the LOD on the 21 (indiscernible), the site of control plan, will be 22 consistent with LOD on the FCP. 23 EXAMINER HANNAN: Right. 24 THE WITNESS: However, there is another 25 request from Montgomery Planning for additional</p>	<p>76</p> <p>1 THE WITNESS: Thank you. 2 MS. LEE-CHO: Thank you, Mr. -- 3 EXAMINER HANNAN: Oh, sorry. Are you 4 finished, Ms. Lee-Cho, or -- 5 MS. LEE-CHO: I am, yes. 6 EXAMINER HANNAN: Okay. Are there any 7 questions of Mr. Park? 8 All right. Hearing none, Ms. Lee-Cho, 9 you can proceed with your next witness. 10 MS. LEE-CHO: My next witness will be 11 Mr. Tim Stemann of Soltesz, and he will cover some of 12 the civil engineering aspects of the project. 13 (Whereupon, Tim Stemann was sworn and 14 testified as follows.) 15 EXAMINER HANNAN: Okay. Please state 16 your name and business address for the record. 17 THE WITNESS: My name is Tim Stemann, 18 working for Soltesz at 2 Research Place. 19 EXAMINER HANNAN: Can you -- right. Can 20 you spell Stemann, please? 21 THE WITNESS: Sure. S-T-E-M-A-N-N. 22 EXAMINER HANNAN: Okay. And business 23 address? 24 THE WITNESS: 2 Research Place, 25 Rockville, Maryland 20850.</p>

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20 (77 to 80)

<p>77</p> <p>1 EXAMINER HANNAN: Thank you. 2 EXAMINATION OF TIM STEMANN 3 BY MS. LEE-CHO: 4 Q Mr. Stemann, what is your profession? 5 A I am a civil engineer/project manager. 6 Q And have you ever qualified as an expert in 7 the field of civil engineering? 8 A I have not. 9 MS. LEE-CHO: So at this time, Mr. -- 10 Ms. Robeson Hannan, you have Mr. Stemann's resume. 11 I'd like to, I guess, qualify him as an expert based 12 on his resume. 13 EXAMINER HANNAN: Thank you. 14 Q Mr. Stemann, could you just -- 15 EXAMINER HANNAN: Well, let me start -- 16 just one second, let me start. Are you licensed in 17 Maryland? 18 THE WITNESS: I am, yes. As a 19 professional engineer. 20 EXAMINER HANNAN: Okay. Go ahead, 21 Ms. Lee-Cho. 22 Q Mr. Stemann, how long have you been in the 23 profession? 24 A 24 years. 25 Q And what is your function and role at</p>	<p>79</p> <p>1 EXAMINER HANNAN: Okay. Mr. Stemann, 2 have you ever qualified as an expert in the -- before 3 an administrative agency hearing or a court hearing as 4 an expert? 5 THE WITNESS: No, I have not. 6 EXAMINER HANNAN: Okay. Well, given his 7 background and experience and educational level, I 8 will qualify him as an expert civil -- in civil 9 engineering. 10 MS. LEE-CHO: Thank you. And assume 11 there's no objection by Mr. Wilhelm? 12 MR. WILHELM: No, I have none. 13 MS. LEE-CHO: Great. Thank you. 14 Q Then, Mr. Stemann, if you could help us 15 understand how the project will meet the county's 16 requirements in terms of stormwater management. If 17 you could first start by telling us what stormwater 18 management currently exists on the site, and then 19 expand on how it will -- the proposed project will 20 comply? 21 A Sure. If you could please pull up the 22 floating zone plan, Exhibit 25? I think I can speak 23 to that. Okay. So currently on the site is a large 24 office building and an area of parking. There is 25 currently no stormwater treatment. The entire site</p>
<p>78</p> <p>1 Soltesz? 2 A I am a civil engineer by trade. Also, 3 project manager. 4 Q And can you describe for the Hearing 5 Examiner some of the other projects that you have been 6 involved in and been responsible for? 7 A Sure. I've dealt with different multi- 8 developments, whether it be residential, commercial, 9 with -- throughout the county. I've worked in the 10 county for 18 years. Overseen stormwater design, 11 storm drain, water, sewer, the like. 12 Q And have you worked in any other 13 jurisdictions? 14 A Yes. I've also worked in Frederick County 15 and in southeastern Virginia. 16 Q And just your educational background, if you 17 can just quickly give us a snippet of where you were 18 educated and licensed? 19 A Sure. I have a bachelor's degree from 20 Virginia Tech. Graduated in '97. I worked for six 21 years in Virginia and the last 18 years in Maryland, 22 primarily in Montgomery County. 23 MS. LEE-CHO: Based on Mr. Stemann's 24 resume and scope of experience, I would offer him as 25 an expert witness in the field of civil engineering.</p>	<p>80</p> <p>1 drains through a series of storm drains into the 2 existing storm drain system within Broadbirch Drive. 3 The intention of the project is to 4 include some micro bioretention areas, which are shown 5 on the west side of the property, which will treat 6 both the apartment building itself, along with the 7 parking area and access road. There are also two 8 smaller planter box micro bioretentions located near 9 the two-over-two units intended to treat that area of 10 the site. 11 The county requirement for environmental 12 safety is, to the maximum extent, practical implanted 13 at the site and approved by county staff. 14 Q And Mr. Stemann, I -- we understand it's 15 very early for a stormwater concept plan to be 16 formally even submitted to the county, but if you 17 could testify for the record in terms of supporting 18 the -- this local map amendment application and the 19 level of density improvements that are being proposed, 20 is it in your professional opinion that this site will 21 be able to meet the county's requirements with regard 22 to stormwater management? 23 A Yes, it is. We have some green space 24 available to provide those facilities. 25 Q And you've undergone some internal analysis</p>

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21 (81 to 84)

<p>81</p> <p>1 in showing these bioretention areas that this will be 2 sufficient to handle the site's stormwater management 3 requirements; is that true? 4 A That is true. We have done preliminary 5 computations. 6 MS. LEE-CHO: Okay. Do you -- Ms. 7 Robeson Hannan, if you don't have any further 8 questions about stormwater management, it is quite 9 preliminary, but I wanted to move on to other aspects 10 of site engineering study. 11 EXAMINER HANNAN: That's fine. 12 Q Okay. Mr. Stemann, can you testify as to 13 what -- how the project is anticipated to connect to 14 water sewer service? 15 A Sure. Along Broadbirch Drive, there is an 16 8-inch sewer line and a 12-inch waterline. We're 17 currently -- you can see on this plan at the 18 intersection of our access road and Broadbirch, we 19 will connect to that existing service to serve the 20 entire site. 21 Q Okay. In -- would you -- are there any 22 other civil engineering-related facilities that you 23 think would be informative for the Hearing Examiner to 24 understand at this point, in terms of compliance with 25 county requirements?</p>	<p>83</p> <p>1 Broadbirch Drive and through our access road to the 2 point of the garage. And then also, the additional 3 roadway, which extends to the east, to access both the 4 two-over-two units and the apartments on that side. 5 And then, the rest of the site is accessible by foot 6 as needed from those points. 7 EXAMINER HANNAN: Has this been approved 8 by Ms. -- by Montgomery County? 9 THE WITNESS: Not yet, but we have had 10 discussions with her. 11 EXAMINER HANNAN: Okay. Go ahead. 12 Q Thank you. 13 So just on this plan, the green is 14 depicting the fire engine access areas, correct? 15 A Correct. 16 Q And the red lines are the -- I guess, the 17 walking access by the fire personnel? 18 A Right. On the two sides of the site that do 19 not have the green fire truck access, those sides 20 would be able to be accessed by foot. And then 21 there's -- 22 EXAMINER HANNAN: Just for the record, I 23 assume the finer red lines are the turning movements? 24 THE WITNESS: Correct. There are -- 25 (indiscernible-cross talk)</p>
<p>82</p> <p>1 A Not at this time, no. 2 EXAMINER HANNAN: I assume you're on 3 public sewer as well? 4 THE WITNESS: Correct. Those lines are 5 within the DSSC system, who provides water and sewer 6 service to much of the county. 7 EXAMINER HANNAN: Okay. 8 Q And -- well, can you -- let's talk a little 9 bit about fire access. Has this site undergone an 10 analysis in terms of fire apparatus access compliance? 11 A Yes, it has. If you want to bring up the -- 12 EXAMINER HANNAN: Can the fire engine 13 get to all parts? 14 THE WITNESS: If you want to pull up 15 Exhibit 27, Ms. Lee-Cho, we can take a look at that. 16 Q I don't think I have that one readily 17 available, but hold on one second. 18 A There it is. 13. 19 Q That exhibit was formerly -- 20 EXAMINER HANNAN: 13? 21 MS. LEE-CHO: No. This one is formerly 22 13, but is -- the current number is 27. 23 EXAMINER HANNAN: Thank you. Go ahead. 24 THE WITNESS: So the proposed layout 25 provides for fire apparatus to access the site from</p>	<p>84</p> <p>1 THE WITNESS: -- labeled at the 2 intersections. 3 EXAMINER HANNAN: Yes. 4 Q And Mr. Stemann, just for the record, 5 clearly state, did we -- did the Applicant's team have 6 meetings with Ms. Marie LaBaw to assist in the design 7 of this fire access plan? 8 A We did. We've had multiple discussions and 9 meetings with her about this plan. 10 Q And were aspects of the plan altered and 11 amended as a result of comments received by Mr. -- 12 from Ms. Marie LaBaw? 13 A Yes. We -- 14 EXAMINER HANNAN: Can -- sorry, go 15 ahead. 16 THE WITNESS: We have (indiscernible) to 17 the plan to satisfy her requirements. 18 EXAMINER HANNAN: Is -- can -- just for 19 the record, I don't know if I clearly explained who 20 Ms. LaBaw is. Just for the record, can you say who 21 Ms. LaBaw is? 22 THE WITNESS: Yes. Dr. LaBaw, 23 Marie LaBaw works for Montgomery County Fire and 24 Rescue Services. She approves the fire department 25 access plan for sites throughout the county.</p>

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22 (85 to 88)

<p>85</p> <p>1 EXAMINER HANNAN: Okay. Thank you.</p> <p>2 Q Great. Thank you very much.</p> <p>3 And in conjunction with the fire access</p> <p>4 plan, are there any new fire hydrants that will be</p> <p>5 required?</p> <p>6 A Yes. There will be hydrants provided along</p> <p>7 the new access road and at the, I guess, our</p> <p>8 additional access road that goes towards the parking</p> <p>9 area along the east side to provide coverage for both</p> <p>10 the apartment building and what we're calling the</p> <p>11 two-over-two units.</p> <p>12 MS. LEE-CHO: Great. Thank you.</p> <p>13 I have nothing further for this witness.</p> <p>14 EXAMINER HANNAN: Okay. Thank you.</p> <p>15 Anyone have any questions?</p> <p>16 Okay. Hearing none, you can proceed</p> <p>17 with your next witness.</p> <p>18 MS. LEE-CHO: Thank you.</p> <p>19 At this point, I'd like to call Michael</p> <p>20 Workosky.</p> <p>21 EXAMINER HANNAN: Okay.</p> <p>22 (Whereupon, Michael Workosky was sworn</p> <p>23 and testified as follows.)</p> <p>24 EXAMINER HANNAN: Okay. Go ahead.</p> <p>25 EXAMINATION OF MICHAEL WORKOSKY</p>	<p>87</p> <p>1 as an expert. I -- is it traffic engineering or</p> <p>2 transportation planning?</p> <p>3 THE WITNESS: I believe it's been --</p> <p>4 EXAMINER HANNAN: Or both?</p> <p>5 THE WITNESS: I think it's been in both</p> <p>6 for many cases that I've had over the last 30 years,</p> <p>7 so --</p> <p>8 EXAMINER HANNAN: Okay. Does anyone</p> <p>9 have an objection to qualifying him in those areas?</p> <p>10 Okay. Hearing no objections, I'm going</p> <p>11 to so qualify him.</p> <p>12 MS. LEE-CHO: Thank you very much.</p> <p>13 EXAMINER HANNAN: Go ahead,</p> <p>14 Mr. Workosky or Ms. Lee-Cho.</p> <p>15 Q Mr. Workosky, did you evaluate the potential</p> <p>16 trip generation of the proposed project and prepare</p> <p>17 the LATR exemption letter that is found in the record</p> <p>18 in exhibit -- as Exhibit 15?</p> <p>19 A Yes, we did.</p> <p>20 Q Can you please walk us through your analysis</p> <p>21 that's set forth in that letter?</p> <p>22 A Sure. It would be helpful to -- we could --</p> <p>23 if we could pull up the Exhibit 15 and just pull up</p> <p>24 the trip generation table. The summary is also shown</p> <p>25 in the staff report, so I'm not sure which one would</p>
<p>86</p> <p>1 BY MS. LEE-CHO:</p> <p>2 Q Mr. Workosky, if you could spell your name</p> <p>3 for the record?</p> <p>4 A Sure. Good morning. My name is Mike. The</p> <p>5 last name is Workosky. It's W-O-R-K-O-S-K-Y.</p> <p>6 Q And please state your place of employment</p> <p>7 and your business address?</p> <p>8 A I'm with Wells and Associates, and our</p> <p>9 business address is 1420 Spring Hill Road, Suite 610,</p> <p>10 Tysons, Virginia 22102.</p> <p>11 Q And what is your profession?</p> <p>12 A I'm a professional transportation planner.</p> <p>13 Q And have you qualified as an expert before</p> <p>14 the Office of Zoning and Administrative Hearings of</p> <p>15 Montgomery County?</p> <p>16 A Yes, I have.</p> <p>17 Q And can you state some of the projects that</p> <p>18 you've been involved in, in which you were qualified</p> <p>19 as an expert in this field?</p> <p>20 A I believe the last project I was qualified</p> <p>21 in was the Monument Realty's Montgomery Village case,</p> <p>22 which was a couple of years ago, and several others</p> <p>23 over the years that I've been qualified for.</p> <p>24 EXAMINER HANNAN: Right. For the</p> <p>25 record, he has qualified -- Mr. Workosky has qualified</p>	<p>88</p> <p>1 be easier to pull up.</p> <p>2 Q Let me close out a few of these things.</p> <p>3 A You could also go to page 15 of the staff</p> <p>4 report.</p> <p>5 Q Okay. Why don't we do that?</p> <p>6 A There you go. Right there.</p> <p>7 Q So this is the technical staff report, and</p> <p>8 that is Exhibit 33.</p> <p>9 EXAMINER HANNAN: 33.</p> <p>10 Q And we are on page 15.</p> <p>11 A So what you see in front of you is table 2</p> <p>12 in the technical staff report. We evaluated the</p> <p>13 potential for both the current and proposed zoning</p> <p>14 based on the LATR, local area transportation review,</p> <p>15 guidelines that allow us to calculate the number of</p> <p>16 site-generated peak-hour vehicle trips and person</p> <p>17 trips for both scenarios.</p> <p>18 So as you can see in this table, the</p> <p>19 existing zoning would allow 255,691 square feet of</p> <p>20 commercial space at a 0.75 FAR or floor area ratio.</p> <p>21 And that would result in 768 peak-hour vehicle trips</p> <p>22 and 1,064 person trips. The highest scenario of the</p> <p>23 proposed rezoning that would allow commercial space at</p> <p>24 a 0.25-floor area ratio, or 85,230 square feet and</p> <p>25 residential high-rise units, 359 units, those would</p>

<p style="text-align: right;">89</p> <p>1 generate 256 and 123 site-generated vehicle trips and 2 355 and 190 person trips. 3 The net change or the comparison of 4 those trips shows that there would be a reduction in 5 the overall vehicle and person trip generation of 389 6 trips and 519 person trips. So that allows for an 7 exemption for LATR testing in the White Oak area. 8 However, the development would still be subject to the 9 local area transportation improvement program 10 payments, and that would be evaluated at the -- 11 further at the site plan stage. But this analysis 12 shows that the proposed rezoning would generate fewer 13 trips and have less impact than the existing zoning 14 would allow. 15 MS. LEE-CHO: Thank you. 16 Ms. Robeson Hannan, did you have any 17 questions for Mr. Workosky in terms of the trip 18 generation analysis? 19 MS. LEE-CHO: No, I understand. I 20 looked this up in the July 2021 -- when I saw this, I 21 did look at the background in the July 2021 LATR, and 22 so I don't have questions on this. 23 MS. LEE-CHO: Great. Thank you. 24 Q Mr. Workosky, then, if we could move on to 25 discussing just the access road and that issue on the</p>	<p style="text-align: right;">91</p> <p>1 Q So this is Exhibit 30, I believe. 30, the 2 connector road section. So if you could describe for 3 the Hearing Examiner what exactly is being represented 4 by this exhibit? 5 A Sure. So on the left side of the page, it 6 is what would be the developers' responsibility. 7 This, you can see, is a 60-foot right-of-way to the 8 west. There is a two-foot offset from the property 9 line. Then there's a ten-foot shared use path tree 10 planting zone and then two 11-foot travel ways. That 11 -- 12 EXAMINER HANNAN: Wait. Is -- I'm sorry 13 to interrupt. On this -- am I looking at the public 14 or the private one? Cross-section. 15 THE WITNESS: Oh. This will be the 16 public section. 17 EXAMINER HANNAN: Okay. So on the left- 18 hand side is the public one? 19 THE WITNESS: Well -- 20 MS. LEE-CHO: Well, both of these are. 21 EXAMINER HANNAN: Both of these are 22 public? 23 MS. LEE-CHO: Yes. 24 THE WITNESS: They're the same -- 25 EXAMINER HANNAN: Okay. Yeah, I just</p>
<p style="text-align: right;">90</p> <p>1 floating zone plan? 2 A Sure. So the -- 3 Q For the record, could you just, I guess, 4 introduce or explain what this access road is intended 5 to serve? 6 A So the access road is intended to serve the 7 site from Broadburch Drive. It is being designed as a 8 60-foot right-of-way within a business district 9 street. And there are actually two alternatives. One 10 alternative is that the road would be built as a 11 public street for the potential future connection or 12 extension. 13 And then for -- and then as an 14 alternative, it is also being designed as a site 15 driveway that could be a private street. So under 16 either condition, a public street or private street 17 could be built there. 18 Q And when you talk about conditions, are you 19 referencing Exhibit 29 as the private driveway 20 potential and Exhibit 30 as the connector road cross- 21 sections? 22 A That's correct. Both of those sections. We 23 could pull those up if you'd like? 24 EXAMINER HANNAN: Yeah, I'd like to see 25 them if that's -- if you can do it easily.</p>	<p style="text-align: right;">92</p> <p>1 wanted to clarify. I couldn't hear for a minute. I 2 just wanted to clarify that. Okay. 3 THE WITNESS: Yeah, they're the same 4 section. What's shown on the left-hand side is what 5 the developers' responsibility would be, which would 6 have -- this would -- I believe if you're facing the 7 driveway from Broadburch Drive -- if you were standing 8 at Broadburch Drive looking to the north, this is what 9 you would see. You would have the offset of two feet 10 shared-use path, seven-foot planting area, and then 11 two 11-foot travel lanes. 12 EXAMINER HANNAN: Right. I see that. 13 THE WITNESS: And that's within the 14 60-foot right-of-way, which is kind of small but shown 15 at the top. 16 EXAMINER HANNAN: Right. I see that. 17 THE WITNESS: And then on the right-hand 18 side of the page, you'd see what the other potential 19 buildout section would be, which would add essentially 20 the balance of the section, which would have another 21 planting strip to match the other side; a ten-foot 22 path and then a two-foot offset from the property 23 line. 24 EXAMINER HANNAN: Okay. Thank you. 25 Now, can I see the private scenario? Is</p>

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24 (93 to 96)

<p>93</p> <p>1 that Exhibit 30?</p> <p>2 MS. LEE-CHO: The private is 29. The</p> <p>3 driveway exhibit is -- this is Exhibit 29.</p> <p>4 EXAMINER HANNAN: Okay.</p> <p>5 THE WITNESS: So --</p> <p>6 Q Mr. Workosky, what is this exhibit showing?</p> <p>7 A So this exhibit shows how a private driveway</p> <p>8 could be built to serve the property. It would still</p> <p>9 -- as you could see in the shaded area, it would still</p> <p>10 reserve the right-of-way and necessary space if it</p> <p>11 were to be, you know, deemed and required to be a</p> <p>12 public roadway with the previous section that was</p> <p>13 shown. But this shows that the site could function</p> <p>14 and operate, you know, just assuming a private</p> <p>15 driveway were built there.</p> <p>16 EXAMINER HANNAN: Okay. Thank you.</p> <p>17 Q Based on the representations and analysis in</p> <p>18 the technical staff report, Mr. Workosky, is it your</p> <p>19 understanding that the Applicant is continuing to work</p> <p>20 on making the public road section a reality in part of</p> <p>21 the project, but that it is still pending finality; is</p> <p>22 that your understanding?</p> <p>23 A That's my understanding. And the reason</p> <p>24 that both of the signs have been shown and that, you</p> <p>25 know, most importantly, the right-of-way and land area</p>	<p>95</p> <p>1 you take a look at the adequacy of police and fire, or</p> <p>2 is that in the staff report?</p> <p>3 MS. LEE-CHO: That is in the staff</p> <p>4 report. You know, to the extent that we didn't have</p> <p>5 an expert on that or any specific testimony, we would</p> <p>6 rely on the analysis provided by technical staff.</p> <p>7 EXAMINER HANNAN: Okay. All right.</p> <p>8 Thanks. I just wanted to double-check that.</p> <p>9 Okay. Anything -- I don't have any</p> <p>10 further questions.</p> <p>11 MS. LEE-CHO: Okay.</p> <p>12 EXAMINER HANNAN: Does anyone else have</p> <p>13 any further questions of Mr. -- of this witness?</p> <p>14 Okay. Hearing none, are we down to --</p> <p>15 MS. LEE-CHO: I think we are -- I think</p> <p>16 at this point, if Ms. Przygocki is ready to come back</p> <p>17 with the further information on the definition for the</p> <p>18 two-over-two and how it all --</p> <p>19 EXAMINER HANNAN: That would be great.</p> <p>20 MS. LEE-CHO: -- (indiscernible)</p> <p>21 EXAMINER HANNAN: That would be great.</p> <p>22 MS. LEE-CHO: And I do think -- we have</p> <p>23 further clarification on the estimated height of the</p> <p>24 two-over-two. Just -- and I wanted to provide that</p> <p>25 for the record that it's a bit higher than what was</p>
<p>94</p> <p>1 has been reserved for either one of those conditions,</p> <p>2 that would satisfy the rezoning at this point so that</p> <p>3 in the future, whatever was, you know, ultimately</p> <p>4 deemed required could be accommodated.</p> <p>5 EXAMINER HANNAN: Okay. Thank you.</p> <p>6 MS. LEE-CHO: And on this point, Ms.</p> <p>7 Robeson Hannan, I would just want to, I guess, note</p> <p>8 for you that that is why the boundary setbacks -- were</p> <p>9 testified to as Ms. Przygocki did in that -- to</p> <p>10 provide that flexibility and have the floating zone</p> <p>11 plan not be contrary to whatever ends up happening</p> <p>12 with regard to the access.</p> <p>13 EXAMINER HANNAN: Okay. I do understand</p> <p>14 that. Thank you.</p> <p>15 MS. LEE-CHO: Thank you.</p> <p>16 EXAMINER HANNAN: That was helpful.</p> <p>17 MS. LEE-CHO: I don't believe I have</p> <p>18 anything further for Mr. Workosky.</p> <p>19 Mr. Workosky, did you want to add</p> <p>20 anything to your testimony that we might need to</p> <p>21 cover?</p> <p>22 THE WITNESS: I mean, not at this time.</p> <p>23 EXAMINER HANNAN: Did we do, you know,</p> <p>24 the adequacy of police and usually, you know, I know</p> <p>25 you're going to go through other things later, but did</p>	<p>96</p> <p>1 testified to by Ms. Przygocki.</p> <p>2 EXAMINER HANNAN: Oh, okay. Is she</p> <p>3 going to correct -- or supplement that?</p> <p>4 MS. LEE-CHO: I don't know if she's</p> <p>5 aware or has been aware of the correction.</p> <p>6 EXAMINER HANNAN: Oh, okay.</p> <p>7 MS. LEE-CHO: So she's going to have to</p> <p>8 tell me.</p> <p>9 EXAMINER HANNAN: Well, you can bring --</p> <p>10 whoever can supplement, that is fine.</p> <p>11 MS. LEE-CHO: Okay. I might just bring</p> <p>12 back Mr. Wooldridge, who would know that information.</p> <p>13 EXAMINER HANNAN: Okay. Go ahead,</p> <p>14 Ms. Przygocki. I can't find -- the reason I ask about</p> <p>15 this is I don't see an explanation for the staff's</p> <p>16 rationale in the staff report, and that's why I wanted</p> <p>17 it in the record.</p> <p>18 MS. PRZYGOCKI: Certainly, and as it</p> <p>19 should be. You -- now, I did e-mail this to</p> <p>20 Ms. Lee-Cho. I don't know if you can put it up on the</p> <p>21 screen. I e-mailed a PDF of these two pages from --</p> <p>22 just now, at the break, under Section 59.4.1.5 --</p> <p>23 EXAMINER HANNAN: Whoa, wait. Hold on.</p> <p>24 Let's see if we can bring it up, and I have to admit</p> <p>25 it as an exhibit.</p>

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25 (97 to 100)

<p>97</p> <p>1 MS. PRZYGOCKI: Okay.</p> <p>2 EXAMINER HANNAN: So if you can just</p> <p>3 hold one second while we get everything in order. And</p> <p>4 I guess this would be Exhibit 38, Zoning Ordinance</p> <p>5 Definitions.</p> <p>6 What sections are they, Ms. Przygocki?</p> <p>7 MS. PRZYGOCKI: This is under building</p> <p>8 types that are permitted in the different zones. The</p> <p>9 section number is 59.4.1.5. And it describes the</p> <p>10 different building types as over the years, we've</p> <p>11 developed a lot more architectural types and</p> <p>12 classifies them.</p> <p>13 So the duplex -- excuse me, the</p> <p>14 townhouse, you asked what is the difference between</p> <p>15 these two-over-twos and an apartment building, and why</p> <p>16 would they be classified as a multi-family or</p> <p>17 apartment building. If we look at C, townhouse --</p> <p>18 well, actually, if we could go through A is a detached</p> <p>19 house containing only one building -- one unit, which</p> <p>20 it does not qualify for.</p> <p>21 B is a duplex containing two principal</p> <p>22 dwelling units, and it does not qualify for that. C</p> <p>23 is a building that is -- containing three or more</p> <p>24 dwelling units where each of the units is separated</p> <p>25 vertically by a party wall. Now, D is an apartment</p>	<p>99</p> <p>1 EXAMINER HANNAN: Well, I was just going</p> <p>2 to -- I was just looking at -- let me check one more</p> <p>3 thing if you don't mind. In 3.3 -- 331 -- 59.3.3.1,</p> <p>4 there is two-unit living. And it says -- okay. So</p> <p>5 two-unit living is a dwelling unit in a duplex</p> <p>6 building type, and you're saying this is not a duplex</p> <p>7 building type?</p> <p>8 MS. PRZYGOCKI: Correct. Typically, a</p> <p>9 duplex would be side-by-side and only have two units</p> <p>10 in the same manner a townhouse would be, except a</p> <p>11 townhouse building usually contains at least three</p> <p>12 units.</p> <p>13 EXAMINER HANNAN: Has vertical party</p> <p>14 walls?</p> <p>15 MS. PRZYGOCKI: Right.</p> <p>16 EXAMINER HANNAN: And then multi-unit</p> <p>17 living means dwelling units in an apartment or</p> <p>18 multi-use building. Okay. I'm -- I see what you're</p> <p>19 saying. That's very helpful.</p> <p>20 MS. PRZYGOCKI: All right. I'm glad we</p> <p>21 could clarify that.</p> <p>22 MS. LEE-CHO: Unfortunately, I don't</p> <p>23 think the zoning ordinance has a definition of</p> <p>24 two-over-two per se, but it's sort of -- you back into</p> <p>25 it by that it doesn't qualify as a townhouse because</p>
<p>98</p> <p>1 building. An apartment building is a building</p> <p>2 containing three or more dwelling units, vertically</p> <p>3 and horizontally arranged. So if you --</p> <p>4 EXAMINER HANNAN: But that's three or</p> <p>5 more dwelling units.</p> <p>6 MS. PRZYGOCKI: Right. And so each of</p> <p>7 the -- what we would call, basically, the sticks of</p> <p>8 the two-over-twos, then the one building that's</p> <p>9 divided up into numerous units in the same way as a</p> <p>10 townhouse building would be divided up into three or</p> <p>11 more townhouses, but they would only be separated by a</p> <p>12 vertical wall.</p> <p>13 So in other words, when you go in the</p> <p>14 front door, and you go up to the second floor and/or</p> <p>15 the third floor, there is no one above you. Your</p> <p>16 dwelling unit consists of --</p> <p>17 EXAMINER HANNAN: Yes, I understand.</p> <p>18 You have a horizontal party wall?</p> <p>19 MS. PRZYGOCKI: Right. And then --</p> <p>20 EXAMINER HANNAN: Or a horizontal --</p> <p>21 it's horizontally arranged?</p> <p>22 MS. PRZYGOCKI: Correct. It's both</p> <p>23 vertically and horizontally arranged in the instance</p> <p>24 of the two-over-twos. And so that is why it fits in</p> <p>25 with the D qualification.</p>	<p>100</p> <p>1 of --</p> <p>2 EXAMINER HANNAN: Right.</p> <p>3 MS. LEE-CHO: -- the aspect of having a</p> <p>4 horizontal party wall.</p> <p>5 EXAMINER HANNAN: Horizontal partition.</p> <p>6 Yeah, okay. That's fine.</p> <p>7 MS. PRZYGOCKI: And the second page --</p> <p>8 EXAMINER HANNAN: Are these units -- how</p> <p>9 are they owned? Are they -- well, that doesn't</p> <p>10 matter. So -- okay.</p> <p>11 MS. LEE-CHO: This entire project is a</p> <p>12 rental project, so they're not --</p> <p>13 EXAMINER HANNAN: It's a rental project?</p> <p>14 Okay.</p> <p>15 MS. LEE-CHO: Yes.</p> <p>16 EXAMINER HANNAN: Okay. All right. I'm</p> <p>17 not going to get into that. I understand, thank you.</p> <p>18 That was helpful.</p> <p>19 MS. PRZYGOCKI: And just as additional</p> <p>20 information, I have provided the next sheet, which is</p> <p>21 page 5 of 4-5, which shows that in the CR zone, the</p> <p>22 apartment building is an allowable use.</p> <p>23 EXAMINER HANNAN: Yes. Okay. I get it.</p> <p>24 Thank you very much.</p> <p>25 MS. PRZYGOCKI: You're welcome.</p>

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26 (101 to 104)

<p>101</p> <p>1 EXAMINER HANNAN: That was helpful.</p> <p>2 MS. LEE-CHO: So at this point, the only</p> <p>3 thing I would do is, I guess, ask Mr. Wooldridge --</p> <p>4 unless Jane, have you received the further</p> <p>5 clarification on the estimated height for the</p> <p>6 two-over-twos?</p> <p>7 MS. PRZYGOCKI: I'm positive I have not,</p> <p>8 no.</p> <p>9 MS. LEE-CHO: Okay. Then I would ask</p> <p>10 Mr. Wooldridge to come back online if he's available.</p> <p>11 EXAMINER HANNAN: Mr. Wooldridge?</p> <p>12 MS. LEE-CHO: Okay.</p> <p>13 EXAMINER HANNAN: Thank you. You're</p> <p>14 still under oath.</p> <p>15 MS. LEE-CHO: So Mr. Wooldridge, if --</p> <p>16 first and foremost, if you could just testify as to</p> <p>17 the rental aspect. I don't think that that was clear,</p> <p>18 that this is actually a rental project. So if you</p> <p>19 could start with that and then cover what you</p> <p>20 anticipate will be the height of the two-over-two part</p> <p>21 of the project?</p> <p>22 MR. WOOLDRIDGE: Correct. The entire</p> <p>23 project, both the multi-family building and the two-</p> <p>24 over-twos are all rental. And the anticipated height</p> <p>25 of the two-over-twos is to be a range between 50 and</p>	<p>103</p> <p>1 EXAMINER HANNAN: Okay. How many -- I'm</p> <p>2 just -- this is only my -- I don't think this matters,</p> <p>3 but just from -- I'm curious, just from the design of</p> <p>4 the unit, how many stories -- how many floors does the</p> <p>5 bottom unit have? Not the garage, the --</p> <p>6 MR. WOOLDRIDGE: Two floors.</p> <p>7 EXAMINER HANNAN: They both have two</p> <p>8 floors?</p> <p>9 MR. WOOLDRIDGE: Correct. So four</p> <p>10 floors total, and then the height accounts for the</p> <p>11 slope of the roof. That's how you get to the 50 to 55</p> <p>12 feet is that additional --</p> <p>13 EXAMINER HANNAN: Okay.</p> <p>14 MR. WOOLDRIDGE: -- roof slope on top of</p> <p>15 the four stories.</p> <p>16 EXAMINER HANNAN: Okay. All right. But</p> <p>17 how do you have the garages -- it seems like what</p> <p>18 you're saying is you have four stories plus the</p> <p>19 garages?</p> <p>20 MR. WOOLDRIDGE: No, so the garages take</p> <p>21 away -- if you didn't have the garages, you would have</p> <p>22 two virtually equal-sized units --</p> <p>23 EXAMINER HANNAN: Yes.</p> <p>24 MR. WOOLDRIDGE: So the unit on the</p> <p>25 first and second floor would really be about the same</p>
<p>102</p> <p>1 55 feet.</p> <p>2 EXAMINER HANNAN: Okay. Thank you.</p> <p>3 And the taller height is because each</p> <p>4 unit has a separate garage?</p> <p>5 MR. WOOLDRIDGE: And it really has to do</p> <p>6 with --</p> <p>7 EXAMINER HANNAN: How many layers does</p> <p>8 each -- stories are visible from the street?</p> <p>9 MR. WOOLDRIDGE: Sure. So the bottom</p> <p>10 unit has the first two floors, and the top unit has</p> <p>11 floors three and four. So --</p> <p>12 EXAMINER HANNAN: And then where are the</p> <p>13 garages in relation to -- so there is two garages on</p> <p>14 the first floor?</p> <p>15 MR. WOOLDRIDGE: Correct. Each unit has</p> <p>16 a garage, and that's what makes the unit on the first</p> <p>17 and second floor smaller than the unit that's on the</p> <p>18 third and fourth floor because --</p> <p>19 EXAMINER HANNAN: Oh, okay.</p> <p>20 MR. WOOLDRIDGE: -- the garages take</p> <p>21 away that square footage. But they're both internally</p> <p>22 accessed to those garages. So there are -- in one</p> <p>23 case, the lower unit accesses the garage right there,</p> <p>24 right beside the unit itself. The upper unit actually</p> <p>25 accesses the garage via a staircase.</p>	<p>104</p> <p>1 size as the unit on the third and fourth floor.</p> <p>2 However, the garages are inset into the lower unit, so</p> <p>3 they take away square footage from that lower unit.</p> <p>4 EXAMINER HANNAN: I get it. Okay. I'm</p> <p>5 sorry, I -- this is your fault for creating building</p> <p>6 types. No, that helps me just visualize it.</p> <p>7 Okay. I don't have any other questions</p> <p>8 of Mr. Wooldridge. Thank you for the clarification.</p> <p>9 MR. WOOLDRIDGE: Thank you.</p> <p>10 EXAMINER HANNAN: Anything else,</p> <p>11 Ms. Lee-Cho?</p> <p>12 MS. LEE-CHO: Ms. Robeson Hannan, that</p> <p>13 would exhaust my witness list, and --</p> <p>14 EXAMINER HANNAN: Hopefully, they're not</p> <p>15 exhausted. I'm going to ask Mr. Wilhelm if he would</p> <p>16 like to say anything.</p> <p>17 MR. WILHELM: Yes, I would. On the</p> <p>18 exhibit list, last time I looked, my testimony -- my</p> <p>19 written testimony wasn't there, and I'd ask that be</p> <p>20 included.</p> <p>21 EXAMINER HANNAN: Okay.</p> <p>22 MR. WILHELM: Basically, I'm supporting</p> <p>23 the rezoning, and then for the discussion dealing with</p> <p>24 the public -- or private road coming off, you know, I</p> <p>25 oppose -- I don't agree with the public road, but</p>

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27 (105 to 108)

<p>105</p> <p>1 that's something that could be addressed down the road 2 and not part of the rezoning. 3 EXAMINER HANNAN: Okay. So you 4 understand that'll be done probably in preliminary 5 plan approval? 6 MR. WILHELM: Yes, ma'am. 7 EXAMINER HANNAN: Okay. But you 8 generally support the project? 9 MR. WILHELM: Yes, very much so. 10 EXAMINER HANNAN: And your -- I don't 11 know why your testimony didn't come up on the website, 12 but we will make sure that we have it. Did you e-mail 13 it to us or mail it? 14 MR. WILHELM: I e-mailed it last Sunday 15 to the address that's on the website. And when I 16 called yesterday, they said that address is not 17 working. So I e-mailed it again late yesterday, so 18 it's -- should be in your system, but -- 19 EXAMINER HANNAN: Which -- I apologize. 20 They moved us back to the council office building with 21 no network connections. 22 MR. WILHELM: My apologies for that. 23 EXAMINER HANNAN: That controls our 24 phone, printers, copiers, the whole nine yards. So we 25 -- I apologize for any inconvenience.</p>	<p>107</p> <p>1 road, I certainly encourage you to participate in the 2 preliminary planning. 3 MR. WILHELM: Oh, I will. And I've had 4 lots of discussions with Sue on this, so she 5 understands where I'm coming from. 6 EXAMINER HANNAN: Okay. Anything else 7 from anyone? 8 Okay. Ms. Lee-Cho, do you have any kind 9 of closing statement that you would like to make? 10 MS. LEE-CHO: Nothing really formal. I 11 think you've heard a lot of information today, and I 12 don't want to spend any more time, you know, providing 13 a redundant summary. But as you could hear from the 14 testimony, that this project really checks all the 15 boxes in terms of the master plan and the vision that 16 was entailed in the White Oak Gateway -- Science 17 Gateway plan. 18 The area has not seen the level of 19 development that I think the county had hoped would 20 happen immediately after the adoption of that plan. I 21 think you've heard through other sources in recent 22 articles that there are other projects moving forward, 23 hopefully in the near future, that will -- 24 EXAMINER HANNAN: You're talking about 25 (indiscernible)?</p>
<p>106</p> <p>1 Can you mail it again? Did you mail it 2 the second time to Sara Behanna? 3 MR. WILHELM: Not -- that's -- I'm 4 trying to find the names I sent it to. Let me pull up 5 my e-mail. 6 EXAMINER HANNAN: I don't want to 7 belabor this, but I do want to make sure it gets in 8 the record. And we have been a little bit struggling 9 without any network connections. 10 MR. WILHELM: I would think you would 11 have a really hard life without an internet 12 connection. Okay. 13 EXAMINER HANNAN: Well, we have -- it's 14 a long story. 15 MR. WILHELM: I sent it to Sara 16 yesterday, and that one should've gone through. I 17 also sent it to a Nama, N-A-M-A -- 18 EXAMINER HANNAN: Great. 19 MR. WILHELM: -- which didn't go through 20 for some reason. So Sara -- 21 EXAMINER HANNAN: Okay. 22 MR. WILHELM: -- should have it. 23 EXAMINER HANNAN: If Sara has it, it's 24 in the record, and I'll make sure I take a look at it. 25 And encourage you -- if your primary concern is the</p>	<p>108</p> <p>1 MS. LEE-CHO: Yes, the (indiscernible). 2 So I think that you will hopefully see much more 3 happening in this White Oak policy area in the near 4 future. We are very proud of this project, and the 5 NRP Group is very excited, as you heard from Mr. 6 Wooldridge, to be one of the first to invest in this 7 part of the county. A lot has been put into this 8 application. 9 Much more so -- much more detail, as you 10 heard from our landscape architect, even in terms of 11 the level of detail that has been put into the project 12 already, even at this very early rezoning phase. We 13 do anticipate moving quickly forward to sketch plan, 14 preliminary plan, site plan, which will be a combined 15 application, all three -- 16 EXAMINER HANNAN: I was going to say, I 17 didn't know they required sketch plan for this, but -- 18 MS. LEE-CHO: Yes. Because it is the CR 19 zone -- 20 EXAMINER HANNAN: Right. 21 MS. LEE-CHO: And I've argued for, you 22 know, it's a redundant sort of process with the local 23 map amendment, but staff -- because of what we've done 24 so far, they have agreed to process it altogether. So 25 we anticipate moving forward quickly --</p>



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<p>109</p> <p>1 EXAMINER HANNAN: That's good.</p> <p>2 MS. LEE-CHO: -- to the next phase of</p> <p>3 entitlements.</p> <p>4 EXAMINER HANNAN: Okay. Well, with</p> <p>5 that, I am going -- now, just two things. I have to</p> <p>6 leave the record open for ten days to receive the</p> <p>7 transcript because that's how long it takes. But</p> <p>8 also, Ms. Lee-Cho, I would like you to send me draft</p> <p>9 -- during that time, with a copy to Mr. Wilhelm, draft</p> <p>10 binding elements. Or what I really need to take it to</p> <p>11 the council is to resubmit the FCP with the binding</p> <p>12 elements on them. If you want to submit just a draft</p> <p>13 and have me look at them to make sure I'm okay with</p> <p>14 them, we can do that and then submit the final FCP.</p> <p>15 MS. LEE-CHO: So --</p> <p>16 EXAMINER HANNAN: Because also, your</p> <p>17 draft -- you know, with this plan, you have to submit</p> <p>18 draft covenants that put the binding elements in the</p> <p>19 land records. I need that, too, before I go to the</p> <p>20 county council.</p> <p>21 MS. LEE-CHO: Yeah, and we --</p> <p>22 EXAMINER HANNAN: So that has to be done</p> <p>23 while the record's open.</p> <p>24 MS. LEE-CHO: Sure. And we have that</p> <p>25 ready. The declaration of covenants has just this</p>	<p>111</p> <p>1 your concern in this case?</p> <p>2 MR. WILHELM: I'm not concerned with</p> <p>3 that.</p> <p>4 EXAMINER HANNAN: Okay.</p> <p>5 MR. WILHELM: I'll look at your report</p> <p>6 when it's sent to the council. I'm happy with that.</p> <p>7 EXAMINER HANNAN: Well, if you want to</p> <p>8 just mail Mr. Wilhelm a copy because I can't have a</p> <p>9 communication outside the record. I just didn't know</p> <p>10 whether to leave time for you to respond, that's all.</p> <p>11 So if you could e-mail -- Ms. Lee-Cho, if you could</p> <p>12 include Mr. Wilhelm on your communications with me --</p> <p>13 or we can do it that way if you send me the draft</p> <p>14 covenants and I don't have any problems, then you can</p> <p>15 resubmit the FCP and the declaration of covenants at</p> <p>16 the same time, and then the record will close in ten</p> <p>17 days when I get the transcript.</p> <p>18 And I don't think I have any first-</p> <p>19 timers here, but just for the record, you have the</p> <p>20 right to request -- or if you don't like my</p> <p>21 recommendation, you have the right to request an oral</p> <p>22 argument to the county council within ten days, and</p> <p>23 there will be instructions on how to do that in --</p> <p>24 you'll get a notification memo of our decision, and</p> <p>25 there will be instructions on how to do that in the</p>
<p>110</p> <p>1 morning been further reviewed by the property owner's</p> <p>2 counsel.</p> <p>3 EXAMINER HANNAN: Okay.</p> <p>4 MS. LEE-CHO: As you know, the Applicant</p> <p>5 is a contract-purchaser --</p> <p>6 EXAMINER HANNAN: Right.</p> <p>7 MS. LEE-CHO: -- and so the declaration</p> <p>8 of covenants will be put into record by the property</p> <p>9 owner, Agile Real Estate, LLC.</p> <p>10 EXAMINER HANNAN: Okay.</p> <p>11 MS. LEE-CHO: And so they are in</p> <p>12 agreement with the binding elements that we've</p> <p>13 discussed today. I will --</p> <p>14 EXAMINER HANNAN: Okay. I just need to</p> <p>15 -- I'm sorry, go ahead.</p> <p>16 MS. LEE-CHO: I will send you the draft</p> <p>17 language for the three binding elements before we put</p> <p>18 that language actually onto the floating zone plan.</p> <p>19 And then get both the floating zone plan with the</p> <p>20 binding elements and the draft declaration of</p> <p>21 covenants to you prior to the ten-day period of time.</p> <p>22 EXAMINER HANNAN: Perfect. That would</p> <p>23 be perfect.</p> <p>24 And Mr. Wilhelm, do you want to see</p> <p>25 these -- the drafts of these things, or is that not</p>	<p>112</p> <p>1 notification memo. All right?</p> <p>2 MS. LEE-CHO: And just --</p> <p>3 EXAMINER HANNAN: So --</p> <p>4 MS. LEE-CHO: Just so I'm very clear on</p> <p>5 what we're submitting, in terms -- in the -- for the</p> <p>6 declaration of covenants, it is my understanding that</p> <p>7 we submit it, at this time, in unexecuted form, and</p> <p>8 that it doesn't get executed until after the approval</p> <p>9 by the district council?</p> <p>10 EXAMINER HANNAN: That's correct. And</p> <p>11 after approval by the district council, I have to get</p> <p>12 -- for some reason, some -- you don't do this, but</p> <p>13 some applicants are missing that they have to get a</p> <p>14 mylar and three copies of the approved FCP to me</p> <p>15 within ten days after the council approval.</p> <p>16 MS. LEE-CHO: Yes.</p> <p>17 EXAMINER HANNAN: For some reason. But</p> <p>18 the declaration of covenants has to include the</p> <p>19 binding elements that are in the record.</p> <p>20 MS. LEE-CHO: So we will submit the</p> <p>21 executed --</p> <p>22 EXAMINER HANNAN: First --</p> <p>23 MS. LEE-CHO: -- at that --</p> <p>24 EXAMINER HANNAN: Well, first -- the</p> <p>25 stage I'm talking about is first, submit a draft of</p>

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<p>113</p> <p>1 the binding elements. And if I feel comfortable with 2 them, within ten days, submit the draft of the binding 3 elements. I'll get back to you on whether they 4 accurately represent my understanding at the public 5 hearing. Then, you submit a draft of the declaration 6 of covenants and an FCP within the ten days, with the 7 binding elements in them. And then, the covenant gets 8 recorded after the council approves it.</p> <p>9 MS. LEE-CHO: But you don't need to see 10 the signed by the property owner -- notarized, signed 11 declaration of covenants?</p> <p>12 EXAMINER HANNAN: No, we typically do a 13 -- well, actually, all of a sudden, I'm blanking out. 14 It seems to me that we have only done the draft, and 15 then it's -- let me check -- I don't want to take up 16 your time here scrolling through my, for some reason, 17 slow internet. Let me get back to you just to 18 double-check so we're clear.</p> <p>19 And Mr. Wilhelm, you'll get a -- you'll 20 get copies of all of this correspondence. So let me 21 just double-check. It's my recollection that it's 22 executed afterward, but I can't remember at this 23 moment, so --</p> <p>24 MS. LEE-CHO: Yeah. The only reason in 25 this case is that obviously, it's a different party</p>	<p>115</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, JESSE GREER, the officer 3 before whom the foregoing deposition was taken, do 4 hereby certify that said proceedings were electronically 5 recorded by me; and that I am neither counsel for, 6 related to, nor employed by any of the parties to this 7 case and have no interest, financial or otherwise, in its 8 outcome.</p> <p>9 IN WITNESS WHEREOF, I have hereunto set 10 my hand and affixed my notarial seal this 5th day of 11 October, 2021.</p> <p>12 13 14  15 _____ 16 Jesse Greer, Notary Public 17 for the State of Maryland 18 19 20 21 22 23 24 25</p>
<p>114</p> <p>1 not present today (indiscernible) getting signed. 2 Yeah.</p> <p>3 EXAMINER HANNAN: I understand. So 4 we'll -- I'll try to clarify that for you today.</p> <p>5 MS. LEE-CHO: All right.</p> <p>6 EXAMINER HANNAN: Okay?</p> <p>7 MS. LEE-CHO: All right.</p> <p>8 EXAMINER HANNAN: Anything else? 9 Okay. With that, I'm going to adjourn 10 the hearing and leave the hearing open for the items 11 we discussed. And the record is open for ten days, 12 which would be October 4th.</p> <p>13 MS. LEE-CHO: That's close of business 14 on October 4th?</p> <p>15 EXAMINER HANNAN: Close of business -- 16 five o'clock on October 4th.</p> <p>17 MS. LEE-CHO: Okay. 18 (Proceedings concluded at 12:08 p.m.) 19 20 21 22 23 24 25</p>	<p>116</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Diana Corrado, do hereby certify that 3 the foregoing transcript is a true and correct record 4 of the recorded proceedings; that said proceedings 5 were transcribed to the best of my ability from the 6 audio recording and supporting information; and that I 7 am neither counsel for, related to, nor employed by 8 any of the parties to this case and have no interest, 9 financial or otherwise, in its outcome.</p> <p>10 11 12 13  14 _____ 15 Diana Corrado 16 2021-10-05 17 18 19 20 21 22 23</p>

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