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Transcript of Hearing

Date: January 13, 2023

Case: White Oak Storage; In Re: (LMA H-147/CU 23-02)

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1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS FOR MONTGOMERY COUNTY, MARYLAND -----x In Re: WHITE OAK STORAGE : Case No. CU 23-02 -----x LMHA H-147 HEARING (Held Remotely) Before Hearing Examiner KATHLEEN E. BYRNE Rockville, Maryland Friday, January 13, 2022 9:30 a.m. Job: 467133 Pages: 1 - 88 Transcribed by: Molly Bugher	3	A P P E A R A N C E S ON BEHALF OF MONTGOMERY COUNTY OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS: KATHLEEN E. BYRNE, HEARING OFFICER ON BEHALF OF THE APPLICANT: ELIZABETH C. ROGERS, ESQ. LERCH, EARLY, BREWER 7600 Wisconsin Avenue Suite 7000 Bethesda, Maryland 20814
2	Hearing conducted virtually before HEARING EXAMINER KATHLEEN E. BYRNE Pursuant to agreement before Joe Lorette and Caleb Walsh, Digital Reporters and Notary Publics in and for the State of Maryland.	4	C O N T E N T S TESTIMONY OF WITNESSES Steve Creighton 12 Patrick La Vay 18 Rebekah Brown 66 E X H I B I T S CONDITIONAL USE EXHIBITS Exhibit 32 Posting 8 Exhibit 33 Aerial photograph 26 Exhibit 34 Existing condition photographs 27 Exhibit 35 Rendered site plan 59 Exhibit 36 Revised traffic statement 61 Exhibit 37 Revised conditional use cover sheet 61 Exhibit 38 Perspective rendering annex building 72 LMA EXHIBITS Exhibit 31 Draft covenant 8 Exhibit 32 Posting 8 Exhibit 33 Aerial photograph 26 Exhibit 34 Existing conditions photograph 27 Exhibit 35 Rendered site plan 33 Exhibit 36 Floating Zone coversheet 44 Exhibit 37 Traffic statement 59 Exhibit 38 Perspective rendering annex building 72

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<p>5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER: And so just so you know that</p> <p>3 this meeting is being recorded, but it's really -- it's just</p> <p>4 for reference for the court reporter. It's not something</p> <p>5 that we use. The court reporter will provide a complete</p> <p>6 transcript of this particular hearing. If -- let's see.</p> <p>7 Please don't use the chat function. Again, much easier with</p> <p>8 all of us. And Ms. Rogers, I will ask you, do you want to do</p> <p>9 the share your screen? Would be easier for you to do it? Or</p> <p>10 would it be easier for me to do it?</p> <p>11 MS. ROGERS: If it's okay with you, we have put</p> <p>12 together a PowerPoint so that their slides are kind of</p> <p>13 altogether and we've identified on the slides which are like</p> <p>14 reproductions of certain exhibits in the record and which are</p> <p>15 new exhibits that we are introducing so that it's clear to</p> <p>16 follow.</p> <p>17 HEARING EXAMINER: All right, perfect. Then I</p> <p>18 will -- I have the exhibit list up. I don't know if you had</p> <p>19 an opportunity to take a look at what Sarah had put up last</p> <p>20 night because we had a hearing yesterday. Normally the</p> <p>21 exhibits would stay up but we only have the ability to put up</p> <p>22 one hearing at a time, but because there was a hearing</p> <p>23 yesterday, this one did not go up like the hearing list and</p> <p>24 everything did not go up until after that hearing was</p> <p>25 completed. So she put up not all, obviously all the exhibits</p>	<p>7</p> <p>1 for rezonings and for conditional uses in Article 59. Let's</p> <p>2 see. Just -- I think that's all I need to start. So we will</p> <p>3 go ahead.</p> <p>4 Ms. Rogers, if you have anything that you would</p> <p>5 like to say to start, feel free. If not, we can start with</p> <p>6 your first witness.</p> <p>7 MS. ROGERS: Great. Thank you, Ms. Brown. Two</p> <p>8 procedural matters and then a quick opening statement and</p> <p>9 then we can jump right in. The first procedural matter is we</p> <p>10 do have affidavit of posting as a draft declaration of</p> <p>11 covenants. So I didn't know how you want to handle those.</p> <p>12 I'll share my screen so that you can see this is the</p> <p>13 affidavit of posting that we can email to Sarah right after</p> <p>14 the hearing.</p> <p>15 HEARING EXAMINER: Perfect. Perfect.</p> <p>16 MS. ROGERS: And then we also have the draft</p> <p>17 declaration of covenants. The only thing left to fill in are</p> <p>18 some of the exhibit numbers because the floating zone plan we</p> <p>19 are going to introduce a new -- there is a corrected cover</p> <p>20 sheet for that. So it's going to get a new exhibit number.</p> <p>21 So I wanted to leave that blank and then we can execute this</p> <p>22 and submit it into the record.</p> <p>23 HEARING EXAMINER: All right. Sounds good.</p> <p>24 Sounds good. So what we can do is -- let's see. What's the</p> <p>25 last exhibit number? Let me look. She gave me the full --</p>
<p>6</p> <p>1 in the case, but she put them up there. So they are on</p> <p>2 there. So I will let you go ahead and run that and share</p> <p>3 your screen.</p> <p>4 Let's see. Looks like our little check that</p> <p>5 everybody can speak and see looks great. All right. It's an</p> <p>6 informal procedure with some formalities. It doesn't look</p> <p>7 like we have anyone here in opposition, but also go through</p> <p>8 the process anyway just to let you know what our process is.</p> <p>9 Everything that you say will -- you are saying under oath.</p> <p>10 So I will swear in the witnesses before you speak. And the</p> <p>11 opening statements can go first. Ms. Rogers, if you would</p> <p>12 like to have an opening statement, feel free.</p> <p>13 The Appellant goes first in the presentation of</p> <p>14 the factual case, then the opposition. There is the</p> <p>15 opposition that I know of so far. So we'll be skipping over</p> <p>16 that. Any other interested person -- doesn't look like we</p> <p>17 have anybody else here on the line for that. Appellant will</p> <p>18 always have the last word with their rebuttal. Any</p> <p>19 objections to any of the exhibits -- right now I don't see</p> <p>20 anybody -- is there anybody on the line that wants to object</p> <p>21 to any of the exhibits that have been presented?</p> <p>22 Okay. Hearing none, we're not going to worry</p> <p>23 about going through that process. It doesn't look like</p> <p>24 there's anybody here for cross examination. And again, the</p> <p>25 approval is based on the criteria that was set forth before</p>	<p>8</p> <p>1 and this would be for --</p> <p>2 MS. ROGERS: The covenant will go with the LMA.</p> <p>3 HEARING EXAMINER: All right.</p> <p>4 MS. ROGERS: And then the affidavit of posting</p> <p>5 goes with the CU.</p> <p>6 HEARING EXAMINER: So we have the last exhibit</p> <p>7 number for the LMA was Exhibit 30.</p> <p>8 MS. ROGERS: Yes. That's what I have</p> <p>9 HEARING EXAMINER: So the draft covenants can then</p> <p>10 be Exhibit 31. And then the posting --</p> <p>11 MS. ROGERS: Will be 32 for the LMA.</p> <p>12 HEARING EXAMINER: Yeah. All right. We are</p> <p>13 pretty close, but there's 31 exhibits for the conditional</p> <p>14 use, 30 exhibits for the LMA. So we'll just put it in both.</p> <p>15 MS. ROGERS: Great.</p> <p>16 HEARING EXAMINER: So we'll do Exhibit 32 for</p> <p>17 posting for the LMA and then it will work out to be the same.</p> <p>18 Exhibit 32 for posting for the conditional use. All right.</p> <p>19 MS. ROGERS: Great. And I as I mentioned, we do</p> <p>20 have a few other new exhibits that we will introduce, but</p> <p>21 we'll kind of address those in turn as they come up in the</p> <p>22 testimony.</p> <p>23 HEARING EXAMINER: Okay, sounds good. And then</p> <p>24 we'll just assign exhibit numbers as they come up. Perfect.</p> <p>25 MS. ROGERS: So just a few quick brief opening</p>

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<p style="text-align: right;">9</p> <p>1 remarks before we get in. As the Hearing Examiner is away --</p> <p>2 aware, our application materials, some of our application</p> <p>3 materials we are here requesting both the local map amendment</p> <p>4 to rezone from the CR zone to the CRTF. As you correctly</p> <p>5 identified all of the breakdown in commercial residential</p> <p>6 density and height which will allow self-storage as a</p> <p>7 conditional use. And we are concurrently seeking that</p> <p>8 residential use approval to facilitate the expansion of the</p> <p>9 existing storage facility.</p> <p>10 This application provides an opportunity to</p> <p>11 reinvest in the existing property, which is currently</p> <p>12 improved with a self-storage facility constructed circa 2002.</p> <p>13 We are seeking to construct a new building at the rear of the</p> <p>14 site where surface parking and vehicular storage exist today</p> <p>15 to provide needed additional storage opportunities to serve</p> <p>16 the surrounding community and through this expansion to make</p> <p>17 numerous improvements to the existing building and site. All</p> <p>18 of this will hear from our experts; their testimony today.</p> <p>19 I just wanted to note for the record that in its</p> <p>20 December 2, 2022 report, the Maryland National Park &</p> <p>21 Planning Commission Staff recommended that the planning board</p> <p>22 approve both -- or recommend approval of both the LMA and the</p> <p>23 conditional use with conditions. They found that the</p> <p>24 applications met all the requirements of the zoning ordinance</p> <p>25 and we are in substantial conformance with the master plan.</p>	<p style="text-align: right;">11</p> <p>1 the conditional use also satisfies all of the necessary</p> <p>2 development standards of the CRTF zone, there is available</p> <p>3 public facilities and services to support the proposed</p> <p>4 development, and we satisfy the local map amendment findings</p> <p>5 in 59-7.2.1 and the conditional use findings in 59-7.3.1. We</p> <p>6 will be calling three witnesses. The first witness will be</p> <p>7 Steve Creighton with Arcland vice president of development</p> <p>8 and construction on behalf of the Applicant.</p> <p>9 Our was second with his will be Mr. Patrick La Vay</p> <p>10 will provide expert testimony both as an expert in land</p> <p>11 development and civil engineering. And Ms. Rebekah Brown,</p> <p>12 architect with BWD Architects will testify as our final</p> <p>13 witness today.</p> <p>14 I wanted to note our prehearing statement had</p> <p>15 identified that Mr. Brian Donoley would be providing</p> <p>16 testimony today. We no longer plan on calling him as an</p> <p>17 expert. Mr. La Vay will cover that testimony with his</p> <p>18 testimony.</p> <p>19 HEARING EXAMINER: Okay.</p> <p>20 MS. ROGERS: With that, unless the Hearing</p> <p>21 Examiner has any additional questions, we can move into our</p> <p>22 first witness.</p> <p>23 HEARING EXAMINER: No, I think that's all good.</p> <p>24 We can go ahead and get started. So your first witness is</p> <p>25 Mr. Creighton.</p>
<p style="text-align: right;">10</p> <p>1 The staff report is in the record at Exhibit 30 with the LMA</p> <p>2 and 31 for the conditional use.</p> <p>3 And on January 5th, as you indicated, you saw part</p> <p>4 of the proceeding. The Montgomery County Planning Board held</p> <p>5 a public hearing and voted unanimously to recommend approval</p> <p>6 of the local map amendment and conditional use and also</p> <p>7 approved the preliminary forest conservation plan. Their</p> <p>8 transmittal letter reflecting this decision is in the record</p> <p>9 at Exhibit 29 with the LMA and Exhibit 30 with the</p> <p>10 conditional use.</p> <p>11 We concur with the planning staff's and planning</p> <p>12 board's findings and agree that the application meets all the</p> <p>13 requirements of the zoning ordinance and is in substantial</p> <p>14 conformance with the master plan. And our expert testimony</p> <p>15 today will demonstrate that for the record. And we also</p> <p>16 agree and accept all of the conditions recommended by the</p> <p>17 planning staff and as amended by the planning board at their</p> <p>18 hearing as reflected in the transmittal memo.</p> <p>19 Through our witnesses said they're going to</p> <p>20 demonstrate, as you said, both for the conditional use and</p> <p>21 the LMA, all of the necessary findings so that the --</p> <p>22 demonstrating that the LMA meets the CRTF loading zone</p> <p>23 requirements contained in division 59.5, that the rezoning is</p> <p>24 appropriate for this property, that the rezoning and proposed</p> <p>25 development substantially conforms with the master plan, that</p>	<p style="text-align: right;">12</p> <p>1 So Mr. Creighton if you could raise your right</p> <p>2 hand.</p> <p>3 Do you promise to tell the truth, the whole truth,</p> <p>4 and nothing but the truth?</p> <p>5 MR. CREIGHTON: I do.</p> <p>6 HEARING EXAMINER: Thank you.</p> <p>7 MS. ROGERS: Great. Mr. Creighton, can you please</p> <p>8 state your full name, primary occupation, and full business</p> <p>9 address for the record?</p> <p>10 MR. CREIGHTON: My name is Steve Creighton. My</p> <p>11 primary occupation is real estate development and my business</p> <p>12 address is 1055 Thomas Jefferson Street Northwest, Suite 250,</p> <p>13 Washington DC, 20007.</p> <p>14 MS. ROGERS: Thank you. And can you please</p> <p>15 provide a brief description of your educational and</p> <p>16 professional background?</p> <p>17 MR. CREIGHTON: So I obtained a bachelors of</p> <p>18 science in civil engineering from the University of</p> <p>19 Pittsburgh and I've spent the last 20 years in commercial</p> <p>20 construction in real estate in various capacities including</p> <p>21 construction management, asset management, and development.</p> <p>22 MS. ROGERS: Thank you. And can you please</p> <p>23 provide for the record some background on Arcland and</p> <p>24 Arcland's experience?</p> <p>25 MR. CREIGHTON: Sure. Arcland is a privately held</p>

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<p>13</p> <p>1 company headquartered in DC. The company was founded in 2006 2 and switched in 2019 -- or sorry, 2009, to becoming a self- 3 storage specialist. The company develops, acquires, and 4 manages self-storage in the DC market. Currently Arcland 5 owns 40 facilities and handles third-party management for an 6 additional 25 facilities.</p> <p>7 MS. ROGERS: And how long have you worked at 8 Arcland? And what are the specific responsibilities of your 9 position?</p> <p>10 MR. CREIGHTON: Sure. So I've been at Arcland for 11 a year. And prior to that I was with a very similar company 12 in the self-storage space for 15 years. I'm currently 13 responsible for development and construction of Arcland's 14 assets.</p> <p>15 MS. ROGERS: Thank you. And can you note what is 16 Arcland's legal interest in the property and previous 17 connection to this facility?</p> <p>18 MR. CREIGHTON: So Arcland is the current owner. 19 Arcland acquired this property in 2021 as part of an eight 20 store acquisition in a JV with ASB who is a large investment 21 management firm. And prior to acquisition we were actually 22 involved as the property manager since 2018.</p> <p>23 MS. ROGERS: And are you familiar with the local 24 map amendment and conditional use applications that are 25 before the Hearing Examiner today?</p>	<p>15</p> <p>1 MR. CREIGHTON: Yes. I understand that we are 2 seeking a parking waiver. And I'm going to let Pat La Vay 3 speak to the technical nature of that request in his 4 testimony.</p> <p>5 MS. ROGERS: Thank you. And as Mr. Creighton 6 mentioned, Mr. La Vay will get into the details. But I did 7 want to ask Mr. Creighton while we have you, based on 8 Arcland's experience in developing and managing self-storage 9 facilities, in your professional opinion, will there be 10 adequate parking provided on-site as currently proposed with 11 this application?</p> <p>12 MR. CREIGHTON: So yes, based on owning 40 13 facilities and managing an additional 25, there is no doubt 14 that there is adequate parking and loading provided on the 15 site. More important, we would never put ourselves and our 16 customers in a position where adequate loading and parking 17 did not exist. It's critical to the customer experience to 18 be able to access their storage unit to move their goods in 19 and out conveniently. In general, self-storage is a very low 20 trip generator and our users and our visitors are dispersed 21 across multiple loading areas as well as parking. And again, 22 I'll reiterate that Pat will touch on the technical nature of 23 the waiver request.</p> <p>24 MS. ROGERS: Thank you. And one final question 25 for you. After the local map amendment and conditional use,</p>
<p>14</p> <p>1 MR. CREIGHTON: Yes.</p> <p>2 MS. ROGERS: Can you describe what you believe the 3 site is so well-suited for the proposed development?</p> <p>4 MR. CREIGHTON: Sure. So first with the COVID 5 pandemic our industry in general saw a surge in demand. And 6 since that pandemic has waned and we've returned to normal 7 life, although we are in a virtual hearing now, so I think 8 this is a good example, we seen a stickiness to the demand 9 with work from home. And in addition, the residential demand 10 in the area for housing including the Council's housing 11 targets to dramatically increase housing by 2030, support our 12 use.</p> <p>13 Multi-family and smaller footprint residential 14 development is a large demand driver for self-storage. We 15 are really excited to meet the demand on an existing site and 16 reinvest in an existing property. It will allow us to make 17 significant investment in the building and site design. And 18 one important, I think, metric to note is supply deficiency 19 in this trade area. So in our industry a balanced supply is 20 considered 8 to 10 square feet per person. In this three 21 ball trade radius we sit at 2.1 square feet per person, 22 making it one of the tightest supplies I've ever seen in the 23 industry.</p> <p>24 MS. ROGERS: Thank you. And are you aware that 25 the application includes a request for a parking waiver?</p>	<p>16</p> <p>1 what are the next steps in this process?</p> <p>2 MR. CREIGHTON: So after approval of the LMA by 3 the district council and the conditional use by the Hearing 4 Examiner, we will go before the planning board for approval 5 on a sketch plan and site plan.</p> <p>6 MS. ROGERS: Thank you. No further questions for 7 Mr. Creighton at this time.</p> <p>8 HEARING EXAMINER: Okay.</p> <p>9 MR. CREIGHTON: Thank you.</p> <p>10 HEARING EXAMINER: Just one quick question. So 11 when you talk about -- it makes sense that the use is a low 12 trip generator. Just in your experience, if someone rents a 13 self-storage, how many -- was the average times that they 14 come back to it or the average -- you know, just for me to 15 wrap my head around a little bit. So I've never rented self- 16 storage before. I'm a thrower-outer, right. So what's your 17 average customer? So they rent self-storage from you, they 18 come in. How long do they normally stay? What's their 19 average back and forth? That kind of thing.</p> <p>20 MR. CREIGHTON: Sure. So I'm a thrower-outer and 21 a donator as well. But I've seen a lot of customers come in 22 and out. The range of visits per customer can vary 23 significantly. However, the vast majority of our customers 24 are placing goods for extended periods of time. So there 25 could be two visits to our store, the day they move in and</p>

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<p>17</p> <p>1 the day they move out.</p> <p>2 HEARING EXAMINER: Okay.</p> <p>3 MR. CREIGHTON: On the other end of that, we have</p> <p>4 a smaller, much smaller group of users who may store business</p> <p>5 inventory or make quick trips. Those typically are going to</p> <p>6 be quick stops in and out. Nobody is hanging out in their</p> <p>7 unit. So even for a more frequent user, the nature of their</p> <p>8 trip tends to be short and they're not tying up loading or</p> <p>9 parking spaces in those events for extended periods of time.</p> <p>10 HEARING EXAMINER: Okay, thanks. That's very</p> <p>11 helpful.</p> <p>12 MR. CREIGHTON: Sure.</p> <p>13 MS. ROGERS: Next we will call Patrick La Vay.</p> <p>14 HEARING EXAMINER: Okay. Mr. La Vay, if you could</p> <p>15 raise your right hand.</p> <p>16 Do you promise to tell the whole truth, and</p> <p>17 nothing but the truth?</p> <p>18 HEARING EXAMINER: Thank you.</p> <p>19 MS. ROGERS: Thank you. So we plan to qualify Mr.</p> <p>20 La Vay as an expert both in civil engineering and related</p> <p>21 site development matters. So I'm going to go through a</p> <p>22 series of questions to explain his credentials with respect</p> <p>23 to both of those elements.</p> <p>24 HEARING EXAMINER: Sounds good.</p> <p>25 MS. ROGERS: So Mr. La Vay, can you please state</p>	<p>19</p> <p>1 would typically include?</p> <p>2 MR. LA VAY: Yeah, it depends on at what point in</p> <p>3 the process we are approached and what the applicable process</p> <p>4 is. In land development there's a lot of different ways</p> <p>5 things can pan out. But generally we provide guidance on</p> <p>6 land development. In Montgomery County, we review local</p> <p>7 master plans, review site feasibility, perform due diligence,</p> <p>8 review zoning of the property or properties, adjacent</p> <p>9 properties, assess compatibility with surrounding</p> <p>10 neighborhoods, surrounding uses. And then we get into more</p> <p>11 detailed engineering plans, construction documents,</p> <p>12 permitting. We do site layouts, building layouts, grading,</p> <p>13 parking lots, storm water management, sediment erosion</p> <p>14 control, utilities, et cetera. And through construction</p> <p>15 administration as well.</p> <p>16 MS. ROGERS: Thank you. And what jurisdictions do</p> <p>17 you do -- mostly do your work?</p> <p>18 MR. LA VAY: The vast majority of my work and our</p> <p>19 work as a company is in Montgomery County, probably 80</p> <p>20 percent, but we do work in all the surrounding Maryland</p> <p>21 jurisdictions as I mentioned earlier, also the District of</p> <p>22 Columbia and Virginia.</p> <p>23 MS. ROGERS: Thank you. And have you ever</p> <p>24 testified before the Hearing Examiner in Montgomery County?</p> <p>25 And if so, what capacity were you qualified to testify as an</p>
<p>18</p> <p>1 your name, company, and business address for the record?</p> <p>2 MR. LA VAY: Sure. Patrick La Vay, my company is</p> <p>3 MHG, and we are located at 9220 Whiteman Road, Suite 120, in</p> <p>4 Montgomery Village, Maryland.</p> <p>5 MS. ROGERS: Thank you. And can you please</p> <p>6 describe for the record your educational background?</p> <p>7 MR. LA VAY: I received a bachelors of science in</p> <p>8 mining and minerals engineering from Virginia Tech in 2005.</p> <p>9 MS. ROGERS: And can you please describe your</p> <p>10 professional experience?</p> <p>11 MR. LA VAY: I have practiced civil engineering</p> <p>12 and consulted on land development since 2007. I'm a licensed</p> <p>13 professional engineer in Maryland, District of Columbia, and</p> <p>14 Virginia. And I received my initial licensure in 2010.</p> <p>15 MS. ROGERS: And what is your position at MHG and</p> <p>16 the responsibilities of your position?</p> <p>17 MR. LA VAY: I am a vice president, managing</p> <p>18 partner, and senior project manager. I oversee our planning</p> <p>19 design and surveying efforts and provide a principal level</p> <p>20 oversight of our projects.</p> <p>21 MS. ROGERS: How long have you been practicing in</p> <p>22 the field of civil engineering and land development?</p> <p>23 MR. LA VAY: Over 15 years, almost 16.</p> <p>24 MS. ROGERS: Okay. And when hired by a client,</p> <p>25 can you explain just a little bit about what your evaluations</p>	<p>20</p> <p>1 expert?</p> <p>2 MR. LA VAY: I have been qualified and testified</p> <p>3 in Montgomery County before the Hearing Examiner as an expert</p> <p>4 in civil engineering.</p> <p>5 MS. ROGERS: And have you represented clients both</p> <p>6 as a civil engineer and land developer before other planning</p> <p>7 commissions?</p> <p>8 MR. LA VAY: I have, yes, a number of them in the</p> <p>9 area. Certainly the Montgomery County planning board, City</p> <p>10 of Rockville, City of Gaithersburg, but those planning</p> <p>11 commissions, Frederick County Planning Commission and various</p> <p>12 bodies in the district as well, Commission of Fine Arts and</p> <p>13 the Historic Preservation Commission.</p> <p>14 MS. ROGERS: Thank you. And can you please just</p> <p>15 provide a little of background but also little bit more</p> <p>16 detail on the type of project that you've worked on</p> <p>17 specifically Montgomery County?</p> <p>18 MR. LA VAY: Really just about everything. The</p> <p>19 nice thing about our firm is that we don't specialize in one</p> <p>20 type of development. So my experience is very broad. It</p> <p>21 includes commercial development, things like office, retail,</p> <p>22 services, residential, multi-family, single-family homes,</p> <p>23 townhomes, institutional work, private and public educational</p> <p>24 facilities, senior care, and then industrial uses as well,</p> <p>25 warehousing, self-storage, manufacturing, things like that.</p>

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<p style="text-align: right;">21</p> <p>1 So I have a broad range of experience in all kinds of 2 development. 3 MS. ROGERS: Thank you. I would note for the 4 record that Mr. La Vay's resume was submitted as Exhibit 27 5 with a local map amendment and 26 with the conditional use 6 that was submitted in connection with our prehearing 7 statement. And we would like to move that Mr. La Vay be 8 admitted as an expert both in civil engineering and in land 9 development. 10 HEARING EXAMINER: So admitted. 11 MS. ROGERS: Thank you. One other note and I 12 guess question for the Hearing Examiner is, as Mr. La Vay 13 will testify to in a moment. The Applicant did submit a 14 comprehensive land-use report which is in the record. And 15 there's also obviously a detailed staff report. This does -- 16 both of these documents do a good job of documenting the 17 case. I wanted to see what the Hearing Examiner's preference 18 was for our testimony moving forward. If the Hearing 19 Examiner so desires the witnesses can abbreviate portions of 20 the testimony so as to not be overly duplicative with the 21 information in the record. 22 HEARING EXAMINER: I've reviewed both the staff 23 report and the land-use report and I'm fine with the 24 abbreviated testimony if all you're going to do is refer to, 25 you know, as was stated in the land-use report or as was</p>	<p style="text-align: right;">23</p> <p>1 participated in the development and then also reviewed and 2 oversaw the submitted plans and documents in the record 3 including the floating zone plan, the natural resource 4 inventory, preliminary forest conservation storm water 5 management concept plan, landscape plans, and traffic 6 statement. 7 MS. ROGERS: Thank you. And did MHG prepare a 8 written report that was part of the application submission 9 for the local map amendment and conditional use? 10 MR. LA VAY: We did. We contributed to the 11 referenced land-use report many -- and many sections of that 12 were prepared by us. 13 MS. ROGERS: Thank you. And for the record, the 14 land-use report that I referred to in that Mr. La Vay is 15 referring to, I think is Exhibit 18B with the local map 16 amendment and Exhibit 23B with the conditional use 17 application. 18 HEARING EXAMINER: Just as we go through, if there 19 are differences in either one of the reports other than the 20 title, if you wouldn't mind kind of pointing that out to me. 21 They track really, really closely. So I guess my question 22 is, and I guess this might be for you Mr. La Vay or Ms. Brown 23 is, are there any distinctions or real differences in -- I 24 mean, I'm assuming the reports of the same based on what I've 25 seen as far as the land-use reports. But as far as site</p>
<p style="text-align: right;">22</p> <p>1 stated in the staff report, that's fine. 2 MS. ROGERS: Great. Thank you, very much. And I 3 will share my screen now because I do have some slides that 4 Mr. La Vay will discuss. Can everyone see that? 5 HEARING EXAMINER: Yes. 6 MS. ROGERS: Okay, great. Mr. La Vay, are you 7 familiar with the local map amendment and conditional use 8 applications which are before the Hearing Examiner today, LMA 9 H147 and conditional use 23-02? 10 MR. LA VAY: Yes, I am. The LMA application 11 requests the rezoning of approximately 2.62 acres located at 12 110 -- 11105 New Hampshire Avenue from the CR 2.5, C1.5, R1.5 13 H200 zone to the CRTF 2.5, C2.25, R1.5 H200 zone -- that's a 14 mouthful -- to allow for the expansion of the self-storage 15 facility and the conditional use application is to continue 16 and expand the self-storage usage. 17 MS. ROGERS: Thank you. And can you please 18 describe your responsibilities with regard to the local map 19 amendment and conditional use applications? 20 MR. LA VAY: When we were initially engaged, one 21 of the first things I did was review the 2014 White Oak 22 Science Gateway masterplan in the zoning ordinance to adjust 23 conformance and compatibility of the proposed development 24 with the surrounding neighborhoods. I then assisted with 25 preparation of the referenced planned use report. And then I</p>	<p style="text-align: right;">24</p> <p>1 plan, obviously there are certain elements that you're going 2 to put for the rezoning and other elements that are more 3 required for the conditional use. But I guess my question 4 is, are they the same or are they different? Like, as we go 5 through in the architectural plans? 6 MS. ROGERS: I can maybe answer first and then -- 7 HEARING EXAMINER: Okay, that's fine. 8 MS. ROGERS: If that's okay. 9 HEARING EXAMINER: Whoever knows the answer -- 10 MS. ROGERS: Yes. So the -- you're correct. The 11 land-use report was a combined report for both the local map 12 amendment and conditional use. So it addressed kind of 13 everything comprehensively in one document. The same goes 14 for I know the architectural drawings, which is why just one 15 set of those were kind of posted online is they are exactly 16 the same for the local map amendment and the conditional use 17 applications. I know Pat La Vay's exhibits, some of the 18 civil engineering exhibits are slightly different because 19 there was different, a couple of different standards in the 20 development table for the local map amendment versus the 21 conditional use. But Pat, is there anything else want to say 22 regarding yours? 23 MR. LA VAY: No, it would be very minor 24 differences. I think, like you said, you're addressing 25 different standards for age, but generally the same</p>

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<p style="text-align: right;">25</p> <p>1 information.</p> <p>2 HEARING EXAMINER: Okay. All right. Just to save</p> <p>3 myself with a magnifying glass later on, right? And I wanted</p> <p>4 just to make sense, so like as I look at the exhibit list I</p> <p>5 can see a couple of different floating zone revised plans. I</p> <p>6 see a few different dates, like things that have different</p> <p>7 dates. I'm making an assumption that there some minor tweaks</p> <p>8 are differences there. Like, that's where I was focusing my</p> <p>9 attention on the exhibits as I go through. But again, I</p> <p>10 didn't want to spend a ton of time looking for different</p> <p>11 things on the architectural plans, so that's very helpful.</p> <p>12 Thank you.</p> <p>13 MS. ROGERS: Yes, of course. And we can also note</p> <p>14 specifically, as we go through our testimony, so the latest</p> <p>15 exhibits and that we are kind of relying on, that there have</p> <p>16 been some updates as the application has progressed.</p> <p>17 HEARING EXAMINER: All right. Thank you.</p> <p>18 MS. ROGERS: Mr. La Vay, have you made a personal</p> <p>19 inspection of the property, and are you familiar with the</p> <p>20 area surrounding the property?</p> <p>21 MR. LA VAY: Yes I have. I've been to the site</p> <p>22 several times and I'm very familiar with the surrounding</p> <p>23 area.</p> <p>24 MS. ROGERS: And I would note the slide that I</p> <p>25 have up on the record is just a reproduction of Exhibit 20</p>	<p style="text-align: right;">27</p> <p>1 But it's only about 100 feet wide from north to south. The</p> <p>2 existing site is accessed at the southwest corner of that</p> <p>3 highlighted rectangle. There is an existing curb cut there</p> <p>4 that's approximately 36 feet wide. Just beyond that curb, as</p> <p>5 you can see on the screen, there is an existing self-storage</p> <p>6 facility here in the front.</p> <p>7 And then, in the rear, there's what appears to be</p> <p>8 a parking facility which is really actually vehicle storage.</p> <p>9 There's a few boats in there I think, perhaps a container or</p> <p>10 two. The site is mostly paved, as you can tell. And we</p> <p>11 did -- in preparing the in RI, we did not find any natural</p> <p>12 resources of significance. No specimen trees, no rare</p> <p>13 endangered species, no floodplains, streams, wetlands, and</p> <p>14 the site is not within a special protection area.</p> <p>15 MS. ROGERS: Thank you. We have one new --</p> <p>16 another exhibit to enter into the record, which is just an</p> <p>17 existing condition photograph. These were shared by the</p> <p>18 planning board, but are not currently in OZHA's record, if we</p> <p>19 could add them.</p> <p>20 HEARING EXAMINER: Sure. Exhibit 34 for both</p> <p>21 conditional use and for the LMA.</p> <p>22 MS. ROGERS: And so Mr. La Vay, can you please</p> <p>23 just describe a little bit of what we're seeing in these</p> <p>24 existing condition photos?</p> <p>25 MR. LA VAY: Sure. I'll start with the top left.</p>
<p style="text-align: right;">26</p> <p>1 from the conditional use application, which is the approved</p> <p>2 NRFSD. Mr. La Vay, did you prepare a natural resource</p> <p>3 inventory for a standard delineation for the property?</p> <p>4 MR. LA VAY: We did, yes, and it was approved by</p> <p>5 Montgomery County Department in May 2022.</p> <p>6 MS. ROGERS: Thank you. This is an aerial photo</p> <p>7 that is not currently in the record that we would like to use</p> <p>8 during Mr. La Vay's testimony, if we can insert this into the</p> <p>9 record.</p> <p>10 HEARING EXAMINER: All right. So we will mark and</p> <p>11 except as an exhibit for the LMA. I guess for the LMA it</p> <p>12 will be Exhibit 33, aerial photograph, existing conditions,</p> <p>13 right?</p> <p>14 MS. ROGERS: Yes.</p> <p>15 HEARING EXAMINER: And then, for conditional use I</p> <p>16 believe it will be the same number. Exhibit 33, aerial</p> <p>17 photograph. Okay.</p> <p>18 MS. ROGERS: Thank you. So Mr. La Vay, can you</p> <p>19 please describe the location and characteristics of the</p> <p>20 property?</p> <p>21 MR. LA VAY: Sure. The property is highlighted</p> <p>22 in yellow on the screen here. It's approximately 400 feet</p> <p>23 south of Lockwood Drive and along New Hampshire Avenue,</p> <p>24 Maryland 650. It's a long, narrow lot. It's about 1000 feet</p> <p>25 front to back, which would be west to east on the page here.</p>	<p style="text-align: right;">28</p> <p>1 This is, as you have noted, view from New Hampshire Avenue</p> <p>2 looking into the site. You can see the existing building</p> <p>3 that is set back from the street and separated from the</p> <p>4 street by a parking area. And you can see the curb cut</p> <p>5 described on the right-hand side is the FDA campus that</p> <p>6 separated from our site by a fence with barbed wire on the</p> <p>7 top.</p> <p>8 The next slide to the right, is just sort of</p> <p>9 moving towards the building to get a better look at the</p> <p>10 existing facility, its façade, as well as the access points</p> <p>11 in the structure. And on the right side, you can just start</p> <p>12 to barely see the drive out that lead you to the back where</p> <p>13 there's actually some rollup doors on the right side of the</p> <p>14 existing building for ground-level access to individual</p> <p>15 units.</p> <p>16 The lower left picture is a view of the</p> <p>17 storage/parking area I described. You can see in their</p> <p>18 there's an number of cars. There's one trailer in the</p> <p>19 picture, and RV, and there's a gate there to provide secure</p> <p>20 entry and the security of that facility. And then, the image</p> <p>21 to the right is just the key to all of these pictures.</p> <p>22 MS. ROGERS: Thank you. And Mr. La Vay, to your</p> <p>23 knowledge are those trees that are shown in view 3 at the</p> <p>24 rear of the site, will those remaining following</p> <p>25 redevelopment of the property?</p>

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<p>29</p> <p>1 MR. LA VAY:. They will. The picture is a little 2 bit deceiving and some of the overhead views are little bit 3 deceiving, but we did actually locate those trees as part of 4 the natural resource inventory and they are fully off the 5 property. In fact, the vast majority of all the root zones 6 are off of the property, the critical root zones and that is. 7 And they will remain. 8 MS. ROGERS: Thank you. 9 HEARING EXAMINER: Just one quick question. So 10 looking at view 3 with the gate, so is that currently a 11 functional gate that allows access from the rear of the 12 property for those cars that are parked there? 13 MR. LA VAY:. That allows access to that area 14 solely from New Hampshire Avenue to get in and out of there. 15 HEARING EXAMINER: Okay. 16 MR. LA VAY:. But currently there is no gated 17 access to the building on site. 18 HEARING EXAMINER: Okay. Sounds good. 19 MS. ROGERS: This is a reproduction from the 20 planning board staff report, page 7, which is in the record 21 as Exhibit 30 with the LMA and 31 with the conditional use. 22 Mr. La Vay, are you familiar with the surrounding 23 neighborhood boundaries identified by staff in their staff 24 report? And can you please describe those boundaries? 25 MR. LA VAY:. Sure. I am familiar. To begin</p>	<p>31</p> <p>1 with barbed wire on it. All the buildings in the FDA campus 2 are set back significantly from our site. The most adjacent 3 feature of that campus is a meandering access drive that I 4 believe is their controlled delivery access. There's a 5 security booth in the -- if you look at the southeast corner 6 of our property, there's a building you can see there, that's 7 actually a security booth for that truck access. A truck 8 screen station I should call it. And the campus is zoned 9 RE2, but it is a federal government use, as I mentioned. 10 To the north there is sort of a mix of light 11 commercial and industrial uses. You know, given the length 12 of the property there's various uses along the length. 13 There's actually a Pepco substation just north of the 14 property that looks like a small metal industrial building. 15 And then, there's a building that's currently operated as a 16 fitness facility. And then, the largest use adjacent to the 17 north would be the existing outdoor access self-storage 18 facility which is all just one level drive-up, rollup door 19 facility there which has the brownish roofs on it. 20 To the east of us there is a garden style 21 apartment complex which as Liz mentioned, and I mentioned 22 earlier it is buffered from our site by existing trees that 23 are going to remain on their property. The distance from our 24 facility to those buildings is -- the closest building which 25 is on an angle, you would have to zoom in to see it, is</p>
<p>30</p> <p>1 with, perhaps the most prominent is -- to the north is 2 Columbia Pike, U.S. 29. And then, moving along the eastern 3 boundary, excuse me, is Oak Leaf Drive, which encompasses the 4 high-rise multifamily development, Enclave is the name, 5 excuse me. And then, the boundary runs along Lockwood Drive 6 continuing to capture the commercial area which is 7 confronting our site which includes various commercial uses. 8 There's a gas station there, a Dunkin' Donuts, a little bit 9 of retail. And then, the boundary runs along the south end 10 of our site, separating us from the FDA campus and then going 11 north back, crossing Lockwood Drive encompassing the 12 additional self-storage facilities and commercial uses as 13 well as a large commercial center north of Lockwood Drive. 14 MS. ROGERS: Thank you. And do you agree with 15 staff's delineation of the surrounding neighborhood? 16 MR. LA VAY:. I do. 17 MS. ROGERS: Can you please just provide a little 18 bit more contact in terms of the character of that 19 surrounding neighborhood? 20 MR. LA VAY:. Sure. The majority of the uses 21 surrounding the site are commercial, light industrial, and 22 some limited residential uses. Certainly, the FDA campus is, 23 perhaps, the most prominent neighbor located to the south. 24 It's a secure government facility, so it is visibly separated 25 from the property by a fence, and not to mention it's a fence</p>	<p>32</p> <p>1 between 45 and 110 feet, and that property is zoned R20 2 currently. And then, to the west, as I mentioned earlier, 3 there's a mix of commercial uses confronting across New 4 Hampshire Avenue. There's a gas station, various other small 5 retail uses like I mentioned, a Dunkin' Donuts, I believe 6 there's a professional center, a five-story office building, 7 and all of that is zoned CRT as well. 8 MS. ROGERS: Thank you. In your professional 9 opinion will the proposed development impact the character of 10 the surrounding neighborhood? 11 MR. LA VAY:. No, I do not think -- the existing 12 use is compatible with the surrounding neighborhood and the 13 project will only significantly increase the compatibility by 14 enhancing its relationship with the neighborhood. We will 15 get into it more a little bit here, but there are significant 16 architectural upgrades to the building, landscaping, 17 streetscape improvements and, you know to the rear really 18 bite replacing that surface storage lot with a building that 19 only enhances that. 20 Additionally, as Steve touched on, the 21 continuation and expansion of this facility will provide a 22 much needed self-storage use to the surrounding community in 23 an environment where it is becoming more and more necessary. 24 MS. ROGERS: Thank you. Have you reviewed the 25 official zoning map for the property and the surrounding</p>

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<p>33</p> <p>1 area?</p> <p>2 MR. LA VAY:. Yes.</p> <p>3 MS. ROGERS: And this for the record is just a</p> <p>4 reproduction of the certified zoning map in the record as</p> <p>5 Exhibit 4 both for the application.</p> <p>6 I know you touched on this, but can you just</p> <p>7 reconfirm what is the proposed zoning classification for the</p> <p>8 property?</p> <p>9 MR. LA VAY:. Sure. It is CRTF 2.5, C2.25, R1.5,</p> <p>10 H200.</p> <p>11 MS. ROGERS: And is self-storage use allowed as</p> <p>12 a -- or permitted in the CRTF zone?</p> <p>13 MR. LA VAY:. It is allowed as a conditional use.</p> <p>14 MS. ROGERS: Thank you. And I would like to</p> <p>15 introduce one additional exhibit. This is just a rendering</p> <p>16 of the site plans that are in the record, but we thought it</p> <p>17 was helpful in terms of visualizing some of the improvements.</p> <p>18 So if we can enter this into the record?</p> <p>19 HEARING EXAMINER: Sure. This will Exhibit 35 for</p> <p>20 both, rendered site plan.</p> <p>21 MS. ROGERS: Mr. La Vay, can you please briefly</p> <p>22 explain the overall planning concepts for the development on</p> <p>23 the site?</p> <p>24 MR. LA VAY:. Sure. I would break it down into</p> <p>25 two parts. The first being the streetscape enhancements with</p>	<p>35</p> <p>1 of the previous images the prior building, I believe, that</p> <p>2 was there many years ago had a seller and the grade is kind</p> <p>3 of already recessed down, it makes sense just to take</p> <p>4 advantage of that area that's already excavated -- partially</p> <p>5 excavated.</p> <p>6 MS. ROGERS: And when you mentioned prior</p> <p>7 building, can you just explain what that building was</p> <p>8 connected to?</p> <p>9 MR. LA VAY:. Originally, there was a building on</p> <p>10 the property. I think -- I'm not sure if that was the</p> <p>11 hardware store, but there was a facility there and that was</p> <p>12 then demolished, I want to say 10 or 15 years ago and</p> <p>13 replaced with the surface lot that is there today.</p> <p>14 MS. ROGERS: Thank you. Can you please describe</p> <p>15 vehicular access and circulation for the proposed project?</p> <p>16 MR. LA VAY:. Yeah, it will remain as it is today.</p> <p>17 There is a right in and right out access on New Hampshire</p> <p>18 access. That is narrowed from the original 36, as I</p> <p>19 mentioned earlier in accordance with current planning</p> <p>20 practices to keep curb cuts as narrow as possible to help</p> <p>21 reduce pedestrian conflicts with vehicles. But it will</p> <p>22 remain there and it will remain, like I said, right in, right</p> <p>23 out from New Hampshire.</p> <p>24 MS. ROGERS: In and does the proposed access meet</p> <p>25 all standards for the Maryland State Highway Administration?</p>
<p>34</p> <p>1 new landscaping, buffering along New Hampshire Avenue which</p> <p>2 will serve as both a benefit to the public and the</p> <p>3 environment. And that's really driven by the local master-</p> <p>4 planned and functional plans. And that's always something</p> <p>5 that we initially look at and work within those requirements,</p> <p>6 the county's public requirements.</p> <p>7 And then you have the existing building, moving</p> <p>8 from left to right. And as discussed, there is going to be</p> <p>9 significant reinvestment in that building which is</p> <p>10 substantial façade improvements, we're also introducing a</p> <p>11 third floor cantilevered addition which shows up on the</p> <p>12 screen over -- it actually is in the shadow area that is</p> <p>13 above the parking and loading area, we just have it clear</p> <p>14 like that so you can see what's happening beneath it. But</p> <p>15 that will help conceal that area from the public realm, one</p> <p>16 of the important things in terms of the master plan and the</p> <p>17 zoning is keeping the parking away from the public realm and</p> <p>18 not visible. And that will just do that, conceal it.</p> <p>19 Although that area does need to be there for operations, the</p> <p>20 facility in the front.</p> <p>21 And then, as we move towards the rear of the</p> <p>22 property where there once, or currently is the surface</p> <p>23 storage facility there will be a new five-story building with</p> <p>24 a partial seller. The seller is, a portion of that is</p> <p>25 obviously to add more space, but as you may have seen in some</p>	<p>36</p> <p>1 MR. LA VAY:. Yes.</p> <p>2 MS. ROGERS: Does the application prepare</p> <p>3 preparation of a preliminary forest conservation plan?</p> <p>4 MR. LA VAY:. Yes, it does. And that was approved</p> <p>5 by the Montgomery County Planning Board last week on the 5th</p> <p>6 of January.</p> <p>7 MS. ROGERS: And are stormwater management concept</p> <p>8 plans and sediment erosion control plans required for this</p> <p>9 project?</p> <p>10 MR. LA VAY:. Yes, they are in the Montgomery</p> <p>11 County Department of Permitting Services approved a</p> <p>12 stormwater management concept on December 9th of 2022.</p> <p>13 MS. ROGERS: This is just a reproduction of</p> <p>14 Exhibit 26 from the LMA and Exhibit 25A from the conditional</p> <p>15 use plan showing the approved stormwater concept plan.</p> <p>16 HEARING EXAMINER: Okay.</p> <p>17 MS. ROGERS: And Mr. La Vay, can you just please</p> <p>18 briefly describe the stormwater approach for the site?</p> <p>19 MR. LA VAY:. Like all development in Montgomery</p> <p>20 County, Maryland, the project is held to providing stormwater</p> <p>21 in accordance with current regulations which requires an</p> <p>22 environmental site design referred to as ESD to the maximum</p> <p>23 extent practical, in other words, MEP.</p> <p>24 Under existing conditions south of the surface</p> <p>25 parking lot there was a bioswale that was installed, which is</p>

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<p>37</p> <p>1 an ESD facility. That was installed when the building was 2 demolished and that area was converted to parking. We are 3 using that area to two new structural micro bioretention 4 areas, which will manage runoff from the new building. 5 And then, we are also maintaining -- there is an 6 existing bay saver structure underground, a hydrodynamic 7 device that's being maintained in the parking area that will 8 remain -- the loading and parking area I should say, that 9 will be maintained between the existing and the new building. 10 And that will remain to manage the runoff from the vehicular 11 area that will remain. 12 I can also note that the drainage area to that 13 structure is actually decreased and so we're actually taking 14 more water and managing it with the environment site design 15 practices than exist today. 16 MS. ROGERS: Thank you. So in your professional 17 opinion, will the proposed development be improving 18 stormwater management on the site? 19 MR. LA VAY: Yes. Certainly with the 20 introduction of the new structures but also a removal of the 21 vehicular impervious area and replacing it with buildings. 22 Buildings don't have the oils and grit and things that 23 vehicles do. 24 MS. ROGERS: Thank you. And is the property 25 located in a special protection area?</p>	<p>39</p> <p>1 goals of there are to redevelop the area to a sustainable 2 complete community, which as we discussed earlier, you know, 3 having the ability to store some goods as part of a complete 4 community. 5 And then, referring to page 37 of the master plan 6 there is a recommendation that redevelopment should continue 7 to provide significant amount of neighborhood services, of 8 which this is one. And then, also and page 37 of the master 9 plan there is discussion about redevelopment creating a more 10 urban form, and we believe by significantly enhancing the 11 frontage of the existing building, we're doing that. 12 As I mentioned, the project is also going to 13 elevate the building architecturally as a condition, and as 14 such, the project will continue to contribute to the master 15 plan goals of modernizing and reinvesting in the property. 16 Also, in the master plan there is a recommendation on page 17 37, figure 13, for a connection from the FDA property up 18 through to Lockwood Drive and although today there are many 19 impediments to that connection, the project is providing for 20 that future trail connection at the rear of the property if, 21 and when, FDA allows that connection and the property to the 22 north is redeveloped it will be connected through. To 23 Lockwood Drive that is. 24 There's also environmental recommendations in the 25 master plan for providing stormwater management on the</p>
<p>38</p> <p>1 MR. LA VAY: It is not. 2 MS. ROGERS: Next, we'll move to some questions 3 regarding the master plan. Can you please note what is the 4 relevant master plan for this property? 5 MR. LA VAY: It is the 2014 White Oak Science 6 Gateway Master Plan. 7 MS. ROGERS: Thank you. And have you reviewed the 8 White Oak Master Plan? 9 MR. LA VAY: I have. 10 MS. ROGERS: Based on your review of the master 11 plan, in your professional opinion, is the proposed 12 development in substantial conformance with the goals and 13 recommendations contained therein? 14 MR. LA VAY: Yes. The master plan acknowledges 15 that there is a reaffirmation of the existing centers 16 providing the framework for reinvestment and that's vital to 17 the communities longevity. The master plan envisioned 18 redevelopment that enhances the area's quality of life, its 19 appearance, walkability, quality of life, appearance and 20 walkability and sense of place. The project does this by 21 investing in an existing property in a manner that improves 22 the properties appearance and enhances the pedestrian 23 streetscape as I described before. 24 The White Oak Center -- the project is in the 25 White Oak Center area of the master plan, and some of the</p>	<p>40</p> <p>1 interior of the site rather than the perimeter. And what I 2 mean by that is no large ponds on the downhill side of the 3 development, and we're doing that. There is a focus on 4 minimizing imperviousness through compact development which 5 certainly a taller self-storage facility is that as opposed 6 to, say, the development north of us where there is a more 7 expensive one level facility. 8 As I mentioned earlier, the site reduces the 9 vehicular impervious area, although the impervious area on 10 the site overall if it were made about the same. And then, 11 the project also does incorporate solar panels on the roof of 12 the new building, and cool roofs, which also contribute to 13 those environmental goals in the master plan. 14 MS. ROGERS: Thank you. Did the Maryland National 15 Part Planning and Planning Commission Staff and the planning 16 board and making their recommendation for approval agree with 17 your conclusions that the proposed project is in substantial 18 conformance with the goals and recommendations of the master 19 plan? 20 MR. LA VAY: Yes. The staff report did discuss 21 the master plan. I think it's pages 17 through 19, and they 22 specifically found conformance as well in their report. 23 MS. ROGERS: In the planning board, in making 24 their recommendation? 25 MR. LA VAY: Yes. Excuse me, yes the planning</p>

<p style="text-align: right;">41</p> <p>1 board as well. And I believe that is reflected in the memos 2 that were transmitted from Park & Planning. 3 MS. ROGERS: Thank you. I'm going to ask you now 4 a series of questions based on your knowledge of the zoning 5 ordinance and familiarity with the project and your 6 professional expertise. Section 59-5.1.2 sets forth the 7 intense and purposes of the floating zone. Did you evaluate 8 the rezoning application in connection with this section? 9 MR. LA VAY: Yes. 10 MS. ROGERS: Thank you. There are three intense 11 of the zones, the first of which is to implement 12 comprehensive planning objectives in 5.1.2 A. In your 13 professional opinion can you please explain how the proposed 14 project furthers the goals of the applicable plan? 15 MR. LA VAY: Sure. Well as I had just discussed 16 and mentioned, the project certainly furthers the goals and 17 recommendations of the master plan, in our opinion. And we 18 also believe that those uses are in balance and with -- and 19 supported by the existing and plan infrastructure, the 20 general plan, the applicable master plans, the functional 21 plans, and the adequate public facilities requirement. 22 MS. ROGERS: Thank you. The second intent is to 23 encourage the appropriate use of land. This is in section 24 5.1.2 B. Can you please describe how the project promotes 25 the appropriate use of land?</p>	<p style="text-align: right;">43</p> <p>1 enhancements. 2 MS. ROGERS: And then lastly, the intent statement 3 in 5.1.2 C requires that established neighborhoods be 4 protected. In your professional opinion can you please 5 explain how the project protects and is compatible with the 6 surrounding neighborhood? 7 MR. LA VAY: Yes. Well first, and perhaps 8 foremost, we believe that -- well, the use will not change. 9 It will remain as it is today, and the use will remain 10 compatible with the surrounding uses. You know, especially 11 by revitalizing the site and reinvesting in the site. The 12 building, as I mentioned earlier, the building addition in 13 the rear is set back from the property to accommodate the 14 future trail connection and that's a minimum of 15 feet wide. 15 And then, as I mentioned earlier, there's also the 45 to 100 16 foot -- excuse me, 45 to 110 foot setback from the garden 17 style apartments to the east and the large mature trees will 18 remain along that adjacent property line, and continue to 19 provide screening. 20 MS. ROGERS: Thank you. Section 5.3.2 sets forth 21 the purposes of the CR floating zone. Can you please 22 describe briefly how the project satisfies those purposes? 23 MR. LA VAY: Sure. The three purposes are to 24 allow development of the mixed use centers in communities at 25 a range of densities and heights, flexible enough to respond</p>
<p style="text-align: right;">42</p> <p>1 MR. LA VAY: Sure. As Steve touched on earlier, 2 well, not in reference to the master plan, but he touched on, 3 the 2014 master plan was certainly developed before the COVID 4 pandemic. And, you know, there's been a lot of new 5 challenges to families and individuals sense in balancing 6 their living and working environments. The permanent and 7 hybrid telework, work from home has created a vast new need 8 for additional space in your home and this can displace 9 certain things, furniture, et cetera. 10 And so the project response to these challenges 11 while still accomplishing the master plans goals for 12 reinvestment in the planning area. Maintaining and expanding 13 the facility on site that really would have challenges from 14 other types of development giving its geometry is a good 15 thing as opposed to taking this use and moving to a site 16 that's more suitable for other things, multifamily, 17 commercial, or other uses. 18 The rezoning allows the Applicant to invest in 19 this existing use in a way that brings the project in 20 conformance with current land-use policies and urban design 21 objectives. You know, again, referring to the third floor 22 cantilever in the front that will enhance the pedestrian 23 environment. And the project also, mentioning the 24 sustainability goals, enhances those with the infield 25 development, streetscape improvements, environmental</p>	<p style="text-align: right;">44</p> <p>1 to various settings. I'm citing from the Code there. And to 2 address that the project allows a continuation and expansion 3 of an existing use, while not precluding future development, 4 redevelopment or future uses on the site. And by retaining 5 that CR designation. 6 The second purpose is to allow flexibility in uses 7 for a site. And again, the project allows continuation of an 8 existing use on a uniquely shaped site which is again, not 9 very suitable for other uses and development. And the last 10 purpose of the zone is to provide mixed-use development that 11 is compatible with the adjacent development. And as I 12 mentioned, I believe the existing uses are compatible with 13 the adjacent community. 14 MS. ROGERS: Thank you. Now, we'll just go into 15 some questions regarding the applicability of the CRT 16 floating zone to the property. I would like to introduce -- 17 this is a revised floating zone coversheet. There was just a 18 couple of corrections, typos, we notice in the data table 19 that needed to be corrected, and we would like to enter this 20 as a new exhibit. 21 HEARING EXAMINER: Okay. So it will be 36 in -- 22 well, I guess this is just for the LMA, right? 23 MS. ROGERS: Yes. 24 HEARING EXAMINER: All right. So this will just 25 be Exhibit 36 for the map amendment.</p>

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12 (45 to 48)

<p>45</p> <p>1 MS. ROGERS: Thank you.</p> <p>2 HEARING EXAMINER: A revised floating zone</p> <p>3 coversheet.</p> <p>4 MS. ROGERS: Mr. La Vay, section 5.1.3.A of the</p> <p>5 zoning ordinance prohibits a floating zone from being</p> <p>6 approved for a property that is located in agricultural or</p> <p>7 rural residential zone. Is this property located in an</p> <p>8 agricultural or rural residential zone?</p> <p>9 MR. LA VAY: No.</p> <p>10 MS. ROGERS: Are there any prerequisites for the</p> <p>11 floating zone?</p> <p>12 MR. LA VAY: No, there are none required because</p> <p>13 the base zone use of the property is not residential.</p> <p>14 MS. ROGERS: And can you just explain, how are the</p> <p>15 development standards handled under the CRTF floating zone?</p> <p>16 MR. LA VAY: They are very flexible. Most of</p> <p>17 them are set by the floating zone, or subsequent site plan.</p> <p>18 The exception to that would be maximum density certainly, and</p> <p>19 then height, and then open space, which there are prescribed</p> <p>20 amounts of open space that are sometimes required by the</p> <p>21 floating zone.</p> <p>22 MS. ROGERS: Thank you. And do the compatibility</p> <p>23 requirements in section 4.1.8 of the Code apply to this</p> <p>24 property?</p> <p>25 MR. LA VAY: They do not. The adjacent property</p>	<p>47</p> <p>1 record.</p> <p>2 HEARING EXAMINER: All right. So do you want to</p> <p>3 make it 37 or 36A?</p> <p>4 MS. ROGERS: I don't think we actually need to</p> <p>5 make a new one, we just kind of zoomed in on it.</p> <p>6 HEARING EXAMINER: Got it.</p> <p>7 MS. ROGERS: It's up to you if you want to</p> <p>8 renumber it as a different exhibit.</p> <p>9 HEARING EXAMINER: No, I think we can keep it</p> <p>10 together. It's the exact same thing, just once a bigger,</p> <p>11 one's a little.</p> <p>12 MS. ROGERS: Yeah, I just tried to make it so the</p> <p>13 development table was a little bit more legible.</p> <p>14 HEARING EXAMINER: And I appreciate that.</p> <p>15 MS. ROGERS: Okay. So Mr. La Vay, regarding</p> <p>16 parking, Section 6.2.1 of the zoning ordinance allows the</p> <p>17 deciding body, in this case, the zoning hearing examiner, to</p> <p>18 waive any requirements of Section 6.2 as long as the proposed</p> <p>19 design satisfies the intent of the parking requirement as set</p> <p>20 forth in 6.2.1 of the zoning ordinance.</p> <p>21 Can you please explain, what is the point of</p> <p>22 6.2.1?</p> <p>23 MR. LA VAY: The intent is to ensure that</p> <p>24 adequate parking is provided in a safe and efficient manner.</p> <p>25 MS. ROGERS: And can you please summarize the</p>
<p>46</p> <p>1 is zoned R22 the east. That is not an agricultural, or</p> <p>2 residential, or residential detached or residential townhouse</p> <p>3 zone. That is actually considered a multifamily zone.</p> <p>4 MS. ROGERS: Thank you. And how will the project</p> <p>5 satisfy the open space requirements for the CRTF zone on</p> <p>6 site?</p> <p>7 MR. LA VAY: There is actually no open space</p> <p>8 requirement for this because the site has a tract area of</p> <p>9 less than 3 acres and there is only one right away frontage.</p> <p>10 There is a table in 59-5.35 D 2 and 59-4.5 4 B 1 that</p> <p>11 indicate there is no open space required.</p> <p>12 MS. ROGERS: Thank you. And will --</p> <p>13 MR. LA VAY: Although --</p> <p>14 MS. ROGERS: Oh, go ahead.</p> <p>15 MR. LA VAY: I said, although we are providing</p> <p>16 some public enhancements on the property.</p> <p>17 MS. ROGERS: Thank you. Will adequate parking be</p> <p>18 provided on the site to accommodate the proposed development?</p> <p>19 MR. LA VAY: Yes, it will be. Adequate parking</p> <p>20 will be provided although as was discussed briefly earlier,</p> <p>21 the Applicant is seeking a parking waiver for 13 spaces.</p> <p>22 MS. ROGERS: And just for the record, this is just</p> <p>23 an enlargement of that Exhibit 35 -- 36.</p> <p>24 HEARING EXAMINER: Exhibit 36.</p> <p>25 MS. ROGERS: Yes, 36 that we just entered into the</p>	<p>48</p> <p>1 waivers with respect to parking that are being requested in</p> <p>2 this case, and how this application meets the intent of the</p> <p>3 zoning ordinance in 6.2.1?</p> <p>4 MR. LA VAY: Sure. So the -- and referencing the</p> <p>5 introduced exhibit here, the zoning ordinance, and I say that</p> <p>6 because there's a difference in the number of parking spaces</p> <p>7 required and provided versus some previous iterations that</p> <p>8 was really driven by some of the changes and density as we</p> <p>9 work through things with staff. But the zoning ordinance</p> <p>10 requires 22 parking spaces and three loading spaces.</p> <p>11 We are proposing nine parking spaces and eight</p> <p>12 loading spaces. However, given the use of self-storage, the</p> <p>13 parking and loading are essentially the same thing. There's</p> <p>14 very little loading operational aspects that aren't related</p> <p>15 to the users of the building, the self-storage users. So if</p> <p>16 you look at those things as one of the same, it's more as</p> <p>17 though we are providing 17 spaces versus the 25 required, if</p> <p>18 you take the 22 parking spaces and add the 3 loading spaces,</p> <p>19 that's 25. And then, if you take 8 plus 9, that's 17.</p> <p>20 So the gap is a little bit less. But we did do</p> <p>21 this for a reason. Because the parking spaces function as</p> <p>22 loading and parking, the spaces that are closest to the</p> <p>23 points where you access the building and customers bring</p> <p>24 their things and are most likely to be used for loading and</p> <p>25 unloading activities. And that's -- there's eight of those.</p>

<p style="text-align: right;">49</p> <p>1 And so we designated those as loading spaces so that if 2 somebody truly does need to come to the site and park, say a 3 person that works there or perhaps there's some work being 4 done on the building, but those spaces are allocated and in a 5 more appropriate location so that's why we have more loading 6 spaces than otherwise required, just operation and we felt 7 like that made sense, and that gave flexibility to them as 8 well to request a larger waiver from parking so they could 9 operate that way. 10 As a practical matter, just as the existing 11 facility functions, you may have seen in some of the previous 12 images there's also roll-up doors along the south side of the 13 existing facility where it's not parking because that's a 14 fire lane and we can't park there. But customers can stop 15 there to load and unload their things and move on. 16 Montgomery County parking in a fire lane 17 requirements do allow you to stay with the vehicle attended, 18 you just can't park there. And there's enough room for even 19 a fire truck or vehicles to pass by there. The fire lane 20 just envisions a truck with the outriggers out needing the 21 full, you know, 20 to 30 feet of space. 22 THE HEARING EXAMINER: I'm just curious, how is it 23 marked? So is it marked as a fire lane? 24 MR. LA VAY: It's not currently, but as part of 25 the permitting process we will have to do that. So what will</p>	<p style="text-align: right;">51</p> <p>1 there was concern for overflow to end up on the surrounding 2 property, the surrounding neighborhood. We don't think 3 that's applicable. The FDA to the south, as we've mentioned, 4 is a secure facility. They won't even let anybody in there. 5 It's also separated from our site by a fence with barbed wire 6 on it. And in the rest of the perimeter the site is also -- 7 has secure fencing and there's no connectivity say to the 8 residential property to the east where somebody could park 9 and walk their things. There's no sidewalk connections, that 10 kind of thing. 11 MS. ROGERS: Okay. Thank you. Any -- I'll pause 12 just for a second to make sure there's no additional 13 questions the Hearing Examiner has at the moment. 14 THE HEARING EXAMINER: A quick question. Maybe 15 this will come up, maybe it won't. Trash. I'm assuming it's 16 not a large generator of trash, right? Because people are 17 leaving things and moving things. So is -- what's the trash 18 plan? 19 MR. LA VAY: So the -- I guess the -- so Liz, do 20 you have yours zoomed in? This is already the zoomed in 21 version. But right where the cursor is, in between -- just 22 about halfway between both of the buildings, there's actually 23 a dumpster enclosure there. 24 THE HEARING EXAMINER: Okay. 25 MR. LA VAY: It's there today, we're just going to</p>
<p style="text-align: right;">50</p> <p>1 do is -- and we have done this from time to time with other 2 similar scenarios, say you know, bus loops at school. You 3 know, though sometimes get marked as fire lanes, but they're 4 allowed to have buses there when their loading and unloading. 5 THE HEARING EXAMINER: Right. 6 MR. LA VAY: And will just treated appropriately. 7 THE HEARING EXAMINER: Okay. 8 MR. LA VAY: So you know, just referring back to 9 the constraints of the site, you know with the existing 10 building and then the space between the buildings there 11 really is very little room to look at any additional parking 12 ability on the site that would provide any meaningful use to 13 the project. So there really isn't any opportunity to expand 14 beyond what we've shown here. 15 We did actually, originally, have more spaces in 16 front of the site, but as we work through with staff the 17 cantilevered third story addition to meet the master plan 18 goals, we could actually lose some spaces there. But we do 19 think that that is quite a benefit to the community to have 20 that facility there. As Steve mentioned earlier in his 21 experience and in the Applicant's experience there is 22 adequate parking to meet their demands -- to meet their 23 operational needs. 24 There was a question, I believe, one of the 25 planning board members asked in the hearing last week about</p>	<p style="text-align: right;">52</p> <p>1 reconfigure it. And my understanding from the Applicant is 2 that it is actually not allowed to be used by their 3 customers, so it really is only for the owners of the 4 building which, you know, given that there is very little 5 employees, there's very little trash generated here. 6 THE HEARING EXAMINER: So where your trash is 7 located is actually going to be between the two buildings and 8 backs up to another existing self-storage, correct? 9 MR. LA VAY: Yes, and it will be surrounded by an 10 enclosure. 11 THE HEARING EXAMINER: Okay. Yeah. I can imagine 12 trash would be an issue if you don't prohibit customers from 13 using it. All right. Awesome. Thank you. 14 MS. ROGERS: Thank you, and you -- that was my 15 next question, so thank you for asking that. 16 Mr. La Vay, can you please confirm if there is 17 adequate fire access to the site? 18 MR. LA VAY: There is. And we do have a fire 19 department access and water supply plan approved by 20 Montgomery County Department of Permitting Services. 21 MS. ROGERS: And just for the record, this is just 22 a reproduction of the -- Exhibit 20 of the floating zone 23 plan. 24 Mr. La Vay, can you please describe the proposed 25 landscape requirements of the zoning ordinance?</p>

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<p>53</p> <p>1 MR. LA VAY: Sure.</p> <p>2 MS. ROGERS: Sorry. I did that (indiscernible).</p> <p>3 Sorry, this is the exhibit I meant to show, this is the fire</p> <p>4 access plan, just for the record, Exhibit 8.</p> <p>5 THE HEARING EXAMINER: Okay.</p> <p>6 MS. ROGERS: This is now -- we'll show this one</p> <p>7 while Mr. La Vay answers this next question about</p> <p>8 landscaping. This is a reproduction of Exhibit 23 from the</p> <p>9 LMA and Exhibit 23F from the conditional use.</p> <p>10 MR. LA VAY: So landscape requirements for the</p> <p>11 project as noted here on Exhibit 23 and 23F are limited to</p> <p>12 internal landscape islands. There's a 5 percent requirement</p> <p>13 for internal islands. And then there's a shading of pavement</p> <p>14 area requirement within a parking facility that 25 percent of</p> <p>15 the, I believe it's the 10-year canopy, shade a parking lot.</p> <p>16 And in the table shown here on the left of the image, both of</p> <p>17 those requirements are met.</p> <p>18 Typical requirements also include perimeter</p> <p>19 planting around the site, but that is not required because</p> <p>20 the only place where the parking facilities abut the adjacent</p> <p>21 property to the north it's actually another parking facility.</p> <p>22 However, as you can see on the lower plan here we do have</p> <p>23 some landscaping and screening there as well that will</p> <p>24 provide the shade. Formal screening, in accordance with, I</p> <p>25 believe it's 6.5.9.5.2.A is not required here because this is</p>	<p>55</p> <p>1 associated with the use, non-inherent adverse effects are not</p> <p>2 necessarily associated with the use, or are created by</p> <p>3 unusual characteristics of the site. Inherent effects by</p> <p>4 themselves are not a sufficient basis for denial while non-</p> <p>5 inherent effects may be.</p> <p>6 Mr. La Vay, can you please explain for the record</p> <p>7 what inherent effects staff identified as being associated</p> <p>8 with the proposed self-storage use?</p> <p>9 MR. LA VAY: They identified the new physical</p> <p>10 buildings and structures, well, I'll say not only new, but</p> <p>11 new and existing. The parking facilities and traffic to and</p> <p>12 from the site by the staff and patrons. They did, in their</p> <p>13 analysis, discuss each of these in more detail and I can go</p> <p>14 into that a little bit if you want to. The -- and mostly the</p> <p>15 mitigation of each. I'll start with the physical buildings</p> <p>16 and structures.</p> <p>17 Staff, and we agree, that the non-inherent impacts</p> <p>18 of those are mitigated by the significant enhancement to the</p> <p>19 existing building, and the appearance of the existing</p> <p>20 building. And then, the new building, at the rear, has</p> <p>21 limited visibility from the street and is designed to be</p> <p>22 compatible with the surrounding neighborhood by being set</p> <p>23 back from the property line. The parking facilities, they</p> <p>24 felt that those are being mitigated by the cantilevered</p> <p>25 addition we discussed where they really won't be visible from</p>
<p>54</p> <p>1 a standard -- this is not a standard method project, and that</p> <p>2 section only applies to standard method projects.</p> <p>3 MS. ROGERS: Thank you. And are there public</p> <p>4 benefits required for the proposed project?</p> <p>5 MR. LA VAY: Yes. Because the density of the site</p> <p>6 is above a 1.5 for area ratio the project will be developed</p> <p>7 through the optional method of development and that will</p> <p>8 require public benefit points. The floating zone plan does</p> <p>9 identify those categories that the Applicant is seeking to</p> <p>10 pursue. It will be finalized at the time of sketch and site</p> <p>11 plan. But they do include minimum parking, quality building</p> <p>12 design, energy conservation and generation through solar</p> <p>13 panels on a new roof, cool roofs and a recycling facility</p> <p>14 plan.</p> <p>15 MS. ROGERS: And just to make sure I heard you</p> <p>16 correct, for the record, did you say this was because it was</p> <p>17 a 1.0 in the CRTF zone, it requires optional methods?</p> <p>18 MR. LA VAY: Yes, above a 1.0 square floor area</p> <p>19 ratio, but FRA for short, yeah.</p> <p>20 MS. ROGERS: Thank you. Next, moving to inherent</p> <p>21 versus non-inherent you said the zoning ordinance requires</p> <p>22 the Hearing Examiner to consider both inherent and non-</p> <p>23 inherent adverse effects on the proposed use -- of the</p> <p>24 proposed use on nearby properties in the general</p> <p>25 neighborhood, while inherent adverse effects are necessarily</p>	<p>56</p> <p>1 the street. And then, the parking facilities in the rear are</p> <p>2 separated from the surrounding community by either a building</p> <p>3 or extensive landscaping along the side. And then, lastly</p> <p>4 the traffic to and from the site, as we'll probably get into</p> <p>5 it a little further here, and the traffic statement submitted</p> <p>6 confirms, the project will result in less than 15 peak hour</p> <p>7 person trips and will have a negligible impact on the</p> <p>8 surrounding infrastructure.</p> <p>9 MS. ROGERS: Thank you. And do you agree with</p> <p>10 these inherent effects that were identified, and in your</p> <p>11 professional opinion are there any others?</p> <p>12 MR. LA VAY: I do agree with them, and no, I don't</p> <p>13 believe there are others.</p> <p>14 MS. ROGERS: Have you also evaluated whether there</p> <p>15 are any non-inherent adverse effects associated with the</p> <p>16 proposed self-storage use?</p> <p>17 MR. LA VAY: I have and I do not believe there are</p> <p>18 any. And staff, similarly, agreed with that assessment that</p> <p>19 there were no non-inherent adverse impacts.</p> <p>20 MS. ROGERS: And for the record, staff discussion</p> <p>21 and conclusions were on staff report, page 36.</p> <p>22 Moving onto some of the local map amendment</p> <p>23 required findings. As you know, a map amendment to change a</p> <p>24 zone to apply a floating zone to an individual property</p> <p>25 requires approval of a local map amendment. The district</p>

<p>57</p> <p>1 council must approve a local map amendment and make those 2 specific findings that are set forth in 7.2.1.E of the zoning 3 ordinance. Mr. La Vay, have you had an opportunity to review 4 these criteria in the zoning ordinance and evaluate the local 5 map amendment against them?</p> <p>6 MR. LA VAY: Yes.</p> <p>7 MS. ROGERS: Thank you. We'll quickly, for the 8 record, walk through each of these findings. With respect to 9 7.2.1.E.2.A requires the floating zone to substantially 10 conform with the recommendations of the master plan, general 11 plans and other applicable County plans, have you had an 12 opportunity (inaudible) the context?</p> <p>13 MR. LA VAY: I have, yes, and I do believe as 14 cited in my previous testimony that the application 15 substantially conforms.</p> <p>16 MS. ROGERS: Thank you. And 7.2.1.E.2.B requires 17 a proposed loading zone plan to further the public interest. 18 In your professional opinion is the project in the public 19 interest?</p> <p>20 MR. LA VAY: Yes, I believe it is. The 21 application significantly reinvests in an existing aging 22 building with physical improvements that will enhance -- 23 significantly enhance the appearance of the property. And as 24 mentioned also earlier, the additional capacity of the self- 25 storage will serve the surrounding community, especially in</p>	<p>59</p> <p>1 MS. ROGERS: Thank you. 7.2.1.E.2.E requires the 2 floating zone plan that will -- that the floating zone plan 3 will generate traffic that does not exceed the critical lane 4 volume or volume capacity ratio standards as applicable under 5 the planning Boards LATR guidelines. We did -- we had 6 prepared an updated traffic statement that just addressed the 7 minor additional increase in square footage that came about 8 through back and forth with planning staff. But I don't 9 think this ever made its way into the record. So we'd like 10 to introduce the revised traffic statement.</p> <p>11 THE HEARING EXAMINER: Okay. For both the 12 conditional use and the LMA?</p> <p>13 MS. ROGERS: Yes, please.</p> <p>14 THE HEARING EXAMINER: All right. So then for the 15 LMA, it will be Exhibit 36 revised traffic statement. Wait a 16 minute, I said that wrong. Did I say that wrong? Yeah, I 17 did say that wrong. For the conditional use it's Exhibit 36. 18 For the LMA it's Exhibit 37.</p> <p>19 MS. ROGERS: Thank you. Mr. La Vay, so 20 7.2.1.E.2.E as evident, has that finding regarding the LATR 21 guidelines. Can you please explain how the project meets this 22 requirement in your professional opinion?</p> <p>23 MR. LA VAY: Sure. As demonstrated in the 24 statement and the calculations that are on the screen now. 25 The project will generate less than 50 net new peak person</p>
<p>58</p> <p>1 light of the rising demand from the post-COVID-19 pandemic. 2 MS. ROGERS: Thank you. 7.2.1.E.2.C requires the 3 floating zone plan satisfy the intent, purposes and standards 4 of the CRNF CRTF zone. In your professional opinion does the 5 project satisfy this requirement?</p> <p>6 MR. LA VAY: Yes, it does. As I mentioned in some 7 of my prior testimony, the project complies with the purpose 8 and standard requirements of the CRTF floating zone as well 9 as other applicable development standards.</p> <p>10 MS. ROGERS: 7.2.1.E.2.D requires the proposed 11 loading zones be compatible with existing and approved 12 adjacent development. Can you please comment on this and 13 explain how in your professional opinion this finding is 14 satisfied?</p> <p>15 MR. LA VAY: Yes. Referring again, back to some 16 of my prior testimony, the project, we believe, the existing 17 use is compatible with the surrounding community and it will 18 remain compatible with the surrounding area. The use will 19 not change. The project's going to revitalize the community 20 by reinvesting in an existing building and hopefully serve as 21 a catalyst for some additional redevelopment and reinvestment 22 in the area. And again, noting the significant setback of 45 23 to 110 feet from the adjacent residential properties and 24 large, mature trees that will be additional compatibility 25 there.</p>	<p>60</p> <p>1 trips and therefore, the project would be exempt from local 2 area traffic review, otherwise referred to as LATR. 3 Additionally, because the property is in the White Oak policy 4 area in the County it's also exempt from LATR review as 5 developments are simply required to pay the White Oak local 6 area trip transportation improvement program fee, which is a 7 fee in lieu of satisfying the transportation adequate 8 facility tests for LATR.</p> <p>9 MS. ROGERS: And will this project have any impact 10 on adequate public facilities in terms of the school?</p> <p>11 MR. LA VAY: No, as it's not residential it will 12 not.</p> <p>13 MS. ROGERS: Thank you. Would applying a non- 14 residential floating zone to a property previously under a 15 residential detached zone 7.2.1.E.2.F requires a finding that 16 the proposed floating zone plan will not adversely affect the 17 character of the surrounding neighborhood. Is this finding 18 satisfied with this project?</p> <p>19 MR. LA VAY: The finding, I would say, is not 20 applicable because the property does not have a non- 21 residential base zone.</p> <p>22 MS. ROGERS: In summary, is it your professional 23 opinion that the floating zone plan permits the Council to 24 make all the necessary findings under 721 of the zoning 25 ordinance?</p>

<p>61</p> <p>1 MR. LA VAY: Yes.</p> <p>2 MS. ROGERS: Thank you. Turning now to some of</p> <p>3 the conditions for conditional use approval, we similarly</p> <p>4 have an updated conditional use cover sheet to introduce into</p> <p>5 the record, again, just some clarifications on the data table</p> <p>6 were made.</p> <p>7 THE HEARING EXAMINER: Okay. So this would be</p> <p>8 Exhibit 37 for conditional use, a revised conditional use</p> <p>9 cover sheet.</p> <p>10 MS. ROGERS: Thank you. As you've confirmed, Mr.</p> <p>11 La Vay a self-storage facility requires approval of a</p> <p>12 conditional use. The Hearing Examiner must approve the</p> <p>13 conditional use and make specific findings in connection with</p> <p>14 the application as set forth in 7.3.1.E of the zoning</p> <p>15 ordinance. Have you had an opportunity to review these</p> <p>16 criteria and evaluate the conditional under these criteria?</p> <p>17 MR. LA VAY: Yes.</p> <p>18 MS. ROGERS: Thank you. With respect to the</p> <p>19 specific findings 7.3.1.E.1.A requires a conditional use to</p> <p>20 satisfy any applicable previous approvals. Are there any</p> <p>21 previous approvals to the property with which the project</p> <p>22 must comply?</p> <p>23 MR. LA VAY: No. The project -- the existing</p> <p>24 development been fairly old, it was all developed under the</p> <p>25 old C2 zoning designation.</p>	<p>63</p> <p>1 MR. LA VAY: Yes I have. I do believe it</p> <p>2 satisfies this finding. Again, referring back to previous</p> <p>3 testimony, that there is no change in the use. The project</p> <p>4 does reinvest in an aging facility and bring significant</p> <p>5 physical upgrades to the site in the building, along with a</p> <p>6 new building, all of which meet the urban design goals and</p> <p>7 objectives. And then, again, referring to the residential</p> <p>8 use in the rear, the rear development has been designed to be</p> <p>9 compatible by having a significant setback both on the site</p> <p>10 and from the two physical buildings.</p> <p>11 MS. ROGERS: Thank you. 7.3.1.E.1.E of the zoning</p> <p>12 ordinance requires the conditional use will not -- when</p> <p>13 evaluated in conjunction with the existing and approved</p> <p>14 conditional uses in a neighboring residential detached zone</p> <p>15 increase in the number, intensity, scope, of conditional uses</p> <p>16 sufficiently to affect the area adversely, or alter the</p> <p>17 predominantly residential nature of the area. In your</p> <p>18 professional opinion, will the proposed conditional use</p> <p>19 affect the area adversely, or affect the residential nature</p> <p>20 of the area?</p> <p>21 MR. LA VAY: In my opinion it will not. The use</p> <p>22 will remain as it is today. And in fact, the surfaced</p> <p>23 parking storage area will be removed and replaced with a</p> <p>24 building. And really, the area is largely commercial as you</p> <p>25 have seen in the neighborhood map, and not residential. I</p>
<p>62</p> <p>1 MS. ROGERS: In accordance with 7.3.1.E.1.B does</p> <p>2 the project satisfy the requirements of the zone, the use 10</p> <p>3 years, and applicable general requirements under Article 59.6</p> <p>4 of the zoning ordinance?</p> <p>5 MR. LA VAY: Yes, it does.</p> <p>6 MS. ROGERS: Is there an exception to any of the</p> <p>7 standards of Article 59.6 for parking?</p> <p>8 MR. LA VAY: No. Well, other than the waiver</p> <p>9 we're requesting, so I guess under 59.6.9, yeah.</p> <p>10 MS. ROGERS: Thank you. Section 7.3.1.E.1.C</p> <p>11 requires the conditional use to substantially conform with</p> <p>12 the master plan. In your professional opinion does the</p> <p>13 project substantially conform with the goals and</p> <p>14 recommendations of the master plan?</p> <p>15 MR. LA VAY: Yes, it does. Referring again, back</p> <p>16 to my prior testimony the reinvestment in the property,</p> <p>17 enhancements, the space for the master plan trail in the</p> <p>18 rear, and the environmental upgrades, with all that being</p> <p>19 said, we do believe this substantially conforms with the</p> <p>20 goals of the master plan.</p> <p>21 MS. ROGERS: Under Section 7.3.1.E.1.D it requires</p> <p>22 that the conditional use to be in harmony with, and not alter</p> <p>23 the general character of the neighborhood. Have you had an</p> <p>24 opportunity to review the plan in this context, and do you</p> <p>25 believe that the project satisfies this finding?</p>	<p>64</p> <p>1 would also like to note that I believe the staff agreed with</p> <p>2 this finding.</p> <p>3 MS. ROGERS: Thank you. For the record we would</p> <p>4 just note that staff's discussion of that finding was on page</p> <p>5 34 of the staff report.</p> <p>6 Section 7.3.1.E.1.R of the zoning ordinance</p> <p>7 requires a finding that the project will be served by</p> <p>8 adequate public facilities. In your professional opinion</p> <p>9 will the conditional use be served by adequate public</p> <p>10 facilities?</p> <p>11 MR. LA VAY: Yes, it will. As I mentioned, the</p> <p>12 project will result in less than 50 peak hour person trips to</p> <p>13 the site, therefore it's exempt from LATR along with being</p> <p>14 located in the White Oak policy area, there is adequate</p> <p>15 water, sewer, electric, and gas services to serve the</p> <p>16 property. And there have been no noted deficiencies in</p> <p>17 police, fire, accidents, healthcare facilities to serve the</p> <p>18 property as well.</p> <p>19 MS. ROGERS: Thank you. Section 7.3.1.E.1.G</p> <p>20 requires a conditional use will not cause undue harm to the</p> <p>21 neighborhood as a result of non-inherent adverse effects</p> <p>22 alone, or the combination of inherent and non-inherent</p> <p>23 adverse effects. In your professional opinion, will the</p> <p>24 conditional use cause any harm to the surrounding</p> <p>25 neighborhood resulting from non-inherent adverse effects?</p>

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<p>65</p> <p>1 MR. LA VAY: No. As mentioned previously I do not 2 believe there are any non-inherent adverse impacts as a 3 result of this development. 4 MS. ROGERS: Thank you. In summary, is it your 5 professional opinion that the conditional use plan permits 6 the Hearing Examiner to make the necessary findings outlined 7 in Section 7.3.1.E of the zoning ordinance? 8 MR. LA VAY: Yes. 9 MS. ROGERS: Just a few kind of miscellaneous 10 concluding questions for you Mr. La Vay. Does the proposed 11 loading zone plan conflict in any way with the County capital 12 improvement program? 13 MR. LA VAY: No, it does not. I don't know if the 14 bikeway along New Hampshire Avenue is within the current 15 capital improvement plan, but if it is, we will be making a 16 contribution towards that, and providing adequate space for 17 it as well. 18 MS. ROGERS: Thank you. And then, in your 19 professional opinion does the proposed loading zone plan 20 comply with all applicable code requirements? 21 MR. LA VAY: Yes, it does. 22 MS. ROGERS: And similarly, do you agree that the 23 conditional use plan satisfies all applicable code 24 requirements? 25 MR. LA VAY: Yes, it does.</p>	<p>67</p> <p>1 architect. 2 MS. ROGERS: Thank you. And who is your current 3 employer and what is your employer's business address? 4 MS. BROWN: BWD Architects, Inc. We're at 800 5 West Broad Street, Suite 400 in Falls Church, Virginia. 6 MS. ROGERS: And can you please describe your 7 professional and educational background or any professional 8 designations or accreditations that you have received? 9 MS. BROWN: Sure. I received my Bachelors of 10 Architecture from Virginia Tech in 2008. I'm a registered 11 architect in five jurisdictions including Virginia, DC, 12 Delaware, Florida and Maryland. And my Maryland -- I've held 13 my Maryland license since 2018. I am NCARB certified. I'm a 14 LEED accredited professional since 2009. I'm a member of the 15 self-storage Association and I serve on their codes 16 committee. And then, since entering the profession in 2008 17 I've designed a large variety of project types but have an 18 emphasis in specialization with self-storage design. 19 MS. ROGERS: Thank you. And what's your current 20 position at BWD Architect and the responsibility for that 21 position? 22 MS. BROWN: So I am a partner with the firm and 23 I'm responsible for providing primary leadership and design 24 services for our clients. To note, our firm is nationally 25 recognized as one of the top self-storage architects in the</p>
<p>66</p> <p>1 MS. ROGERS: Do you agree with the findings made 2 by Maryland National Park & Planning Commission staff that 3 are contained in their staff report? 4 MR. LA VAY: I do. 5 MS. ROGERS: And is there anything else you would 6 like to add? 7 MR. LA VAY: No, that's it. 8 MS. ROGERS: That concludes my questions of Mr. La 9 Vay. 10 THE HEARING EXAMINER: Thank you. 11 MS. ROGERS: Next, we have Ms. Brown. 12 THE HEARING EXAMINER: Okay. Ms. Brown, if you 13 could raise your right hand for me, please? 14 Do you promise to tell the truth, the whole truth, 15 and nothing but the truth? 16 MS. BROWN: I do. 17 MS. ROGERS: Thank you. And I think all but one 18 of the five we'll use for Ms. Brown's testimony are already 19 in the record and so do we note it on the -- I think there's 20 just one new one that will be introduced when we get there. 21 THE HEARING EXAMINER: Okay. Sounds good. Thank 22 you. 23 MS. ROGERS: Thank you. Ms. Brown, can you please 24 state your full name and primary occupation for the record? 25 MS. BROWN: Rebekah Brown, I'm a registered</p>	<p>68</p> <p>1 country and we do consulting across the country and we serve 2 as architect of record on projects up and down the east 3 coast. I provide development of initial concept site plans 4 and exterior elevation designs that are in conformance with 5 zoning regulations. I do interior billing layouts that 6 comply with the building codes. As the architect of record I 7 oversee the preparation of permit and construction documents 8 for approximately 20 plus self-storage projects per year. 9 And additionally, I review and monitor projects through 10 construction and I provide final acknowledgement of 11 substantial compliance with building codes and approve 12 documents. 13 MS. ROGERS: Thank you. And just to restate for 14 the record, how long have you been professionally employed 15 rendering these architectural services? 16 MS. BROWN: Over 14 years. 17 MS. ROGERS: And have you ever testified as an 18 expert before the Montgomery County Office of Administrative 19 Hearings? 20 MS. BROWN: No, I have not testified before the 21 OZHA before, but I have presented to Montgomery County 22 officials and staff on several occasions regarding this 23 project and other projects as well as in other jurisdictions, 24 but this is my first time as an expert testimony. 25 MS. ROGERS: Thank you. And I think you just</p>

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<p>69</p> <p>1 asked [sic] this, but for the record, have you testified as 2 an expert before other zoning and planning agencies 3 previously? 4 MS. BROWN: Yes. In my capacity as a registered 5 architect and prolific design of self-storage buildings I've 6 testified to other local jurisdictions before zoning bodies, 7 planning boards, city councils, architectural review boards, 8 neighborhood groups and those include a variety through 9 Prince George's County Maryland and then Arlington County, 10 Fairfax County, the City of Herndon in Virginia. 11 MS. ROGERS: And are you familiar with the 12 Montgomery County Zoning Ordinance? 13 MS. BROWN: Yes, I am. I've worked on multiple 14 projects in Montgomery County. 15 MS. ROGERS: And are you familiar with the 16 Montgomery County Building Code? 17 MS. BROWN: Yes. The past projects I've worked on 18 in the county I've developed a strong sense of the codes. 19 MS. ROGERS: Ms. Brown's resume is in the record 20 as Exhibit 27 with the LMA and 26 with the conditional use. 21 It was submitted with our pre-hearing statement. And we'd 22 like to move that Ms. Brown be admitted as an expert in 23 architecture. 24 THE HEARING EXAMINER: So admitted. 25 MS. ROGERS: Thank you.</p>	<p>71</p> <p>1 MS. BROWN: Yes, the building and the footprint 2 have gone through several iterations as a result of our 3 meetings and feedback from County staff. 4 MS. ROGERS: And can you please describe the basic 5 principles and design concepts that have been applied in the 6 expansion and reinvestment in the existing building. And I 7 would be happy to click through any of the slides that you 8 wanted to kind of give that testimony. 9 MS. BROWN: Sure. So one of the main goals of the 10 project to meet the strong demand as Mr. Creighton has 11 already testified to, was to expand the existing self-storage 12 facility. And given the challenges of this very long and 13 narrow property the largest surface parking that's at the 14 rear was the most logical location to accommodate an 15 expansion through the construction of the new building. So 16 because of this new proposed building at the rear, we're able 17 to make several impactful improvements to the existing 18 building and to the site design. 19 So notably, with the existing building we are able 20 to engage in the building with the street front by extending 21 the upper floor and enclosing the parking and loading 22 activities, which are currently visible from New Hampshire 23 Avenue. The screening of the parking and loading activities 24 are one of the most significant enhancements to the 25 pedestrian public realm at the street.</p>
<p>70</p> <p>1 Ms. Brown, are you familiar with the conditional 2 use plan that is before the Hearing Examiner today? 3 MS. BROWN: Yes, I am. 4 MS. ROGERS: Can you please describe your 5 responsibilities with regard -- well, and also, are you 6 familiar with the local map amendment that is before the 7 Hearing Examiner today? 8 MS. BROWN: Yes, I am as well. 9 MS. ROGERS: And I was going to combine most of 10 the questions to Ms. Brown regarding the conditional use in 11 facts where architecture is most germane, although as the 12 Hearing Examiner has noted for the record, the architectural 13 drawings are the exact same between both the conditional use 14 and the local map amendment. 15 Ms. Brown, can you please describe your 16 responsibilities with regard to the conditional use 17 application? 18 MS. BROWN: Sure. The architectural -- I was 19 focused on the architectural design with particular focus on 20 bringing the existing building more into the current code and 21 counties compliance of the master plan. 22 MS. ROGERS: Thank you. And it did this building 23 design, from what we're seeing today, evolve at all from your 24 initial concept based on interactions with, for example, Park 25 & Planning staff?</p>	<p>72</p> <p>1 The final design solution presented in our 2 application has taken into consideration the enhancement of 3 this very visible area and operational needs of a self- 4 storage facility along with the pedestrian and patron safety. 5 So access to the existing office needs to be maintained, as 6 well as the existing elevator lobby and loading area that are 7 in front of the existing building. Neither of those could be 8 compromised or relocated. So the façade improvements that we 9 have proposed include updating the building materials with 10 varying textures, creating a modern and balanced color 11 palette with warm and cool tones and providing new 12 architectural features like varied rooflines and projections 13 of the wall plates. 14 And although the new proposed building at the rear 15 of the property is not really readily seen from the street 16 frontage we've carried those same materials, color palette, 17 and design elements to the proposed building at the rear just 18 to provide a cohesive design for the entire facility. 19 MS. ROGERS: And I would note for the record this 20 is the one additional architectural perspective that we would 21 like to enter into the record of the rear building that Ms. 22 Brown is testifying about currently. 23 THE HEARING EXAMINER: So it will be for both 24 applications then. And it will be Exhibit 38 perspective 25 rendering annex building.</p>

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19 (73 to 76)

<p style="text-align: right;">73</p> <p>1 You're probably going to cover this, but the 2 existing building in front is three stories. I heard Mr. La 3 Vay say that the one in the back is five but there is a grade 4 drop. So from the street frontage do you see the building in 5 the rear? 6 MS. BROWN: I think given the length of the 7 property you don't really see the building from the rear. I 8 think what we've done is that the lower part of the site is 9 actually closer to the existing building and so what we've 10 done is basically locate the first floor of the new building 11 so that it's more level. And so instead of coming in and 12 needing to do a lot of the earthwork that we had proposed to 13 put the partial cellar on that side. 14 THE HEARING EXAMINER: Okay. That makes sense. 15 And then, I see that from the rendering the façade that you 16 have, and you've got that higher street frontage, I'm making 17 an assumption here that that also impacts the view straight 18 back? 19 MS. BROWN: I mean, correct. The majority of -- 20 since our site is so narrow it's only (inaudible) hundred 21 feet wide, the majority of the existing building is staying. 22 What we pull forward at the third floor level and then 23 created, you know, a varying roofline and parapet for the 24 extension of the existing building there. And that's going 25 to extend out of the third floor and then have that roofline</p>	<p style="text-align: right;">75</p> <p>1 hard to say that when you just looking at the two buildings 2 side-by-side or, you know, it's good to see things area only 3 and then the different perspectives. But like you said, it's 4 a narrow lot, so it's really hard to capture what it looks 5 like in one shot, so that's very helpful. 6 MS. BROWN: Correct. And I think that the 7 footprint of the new proposed building at the rear of the 8 larger building is substantially the same with as the 9 existing building at the front. 10 THE HEARING EXAMINER: Okay. Well that makes 11 sense because you still have to get down the whole length, 12 right? 13 MS. BROWN: Yeah. 14 THE HEARING EXAMINER: So you're pretty limited in 15 how wide you could go. 16 MS. BROWN: Correct. 17 THE HEARING EXAMINER: All right. Makes sense. 18 MS. ROGERS: Thank you. Any other questions at 19 the moment? 20 THE HEARING EXAMINER: Now, that's it. Perfect. 21 Thank you. 22 MS. ROGERS: Ms. Brown, are you familiar with the 23 Montgomery County Zoning Ordinance and provisions of the CRT 24 F zones, specifically as they relate to the design and 25 development components for this project?</p>
<p style="text-align: right;">74</p> <p>1 extend up. 2 THE HEARING EXAMINER: Right. So it's creating a 3 visual effect of the varying roofline so it's not going to be 4 this sharp, flat up, flat? 5 MS. BROWN: Correct. Yes. 6 THE HEARING EXAMINER: Okay. All right. 7 MS. ROGERS: And Ms. Brown, just a kind of 8 elaborate on what I think one of the Hearing Examiner's 9 questions was, is in terms of any little portion that you may 10 be peeking above kind of this elevated front building 11 addition with this kind of raised parapet wall which visually 12 increases the height of that front addition, with respect to 13 the building at the rear, would you just touch on how that 14 was designed, or if a portion of that building was saying, 15 how the two buildings would relate? 16 MS. BROWN: Yes, so we took some of those design 17 elements and that we were applying to the front of the 18 building, obviously, the materials, the color palette, but of 19 those same architectural gestures, like that dark surround 20 and the wood towns, and the projections so that it's not just 21 two buildings that have, you know, all materials in one plane 22 and no change in rooflines or anything like that. So we took 23 a lot of those things and applied them to both buildings. 24 MS. ROGERS: Thank you. 25 THE HEARING EXAMINER: Thank you. Sometimes it's</p>	<p style="text-align: right;">76</p> <p>1 MS. BROWN: Yes. 2 MS. ROGERS: And does the project comply with the 3 zoning ordinance requirements? 4 MS. BROWN: Yes. And as Mr. La Vay testified 5 earlier there proposed building at the rear and front 6 addition not only comply with the height and setback 7 requirements of the CRTF zone, but they bring the site more 8 in alignment with the current codes, goals, as expressed in 9 the master plan. 10 MS. ROGERS: Thank you. And can you please 11 describe -- I'm sorry, I'm getting ahead of myself. First, 12 have you reviewed the applicable master plan for this 13 property? 14 MS. BROWN: Yes, I have. 15 MS. ROGERS: Thank you. And can you please 16 describe how the building design responds to the specific 17 design goals contained in the master plan? 18 MS. BROWN: So the project promotes many of the 19 goals and recommendations of the improved and adopted 2014 20 White Oaks Science Gateway master plan guidelines. Two of 21 the specific recommendations and most notably, are that it 22 enhances that street front by pulling that front building 23 forward to the street and creates a building Street wall that 24 is between 2 to 5 stories tall. 25 The project meets these goals by significantly</p>

<p>77</p> <p>1 enhancing the street front both through enhanced building 2 architecture and a landscape improvements that are along the 3 New Hampshire frontage, which will collectively enhance the 4 public realm. And then, the front of the building -- the 5 front building addition will serve to create that multi story 6 Street wall as recommended in the design guidelines. 7 MS. ROGERS: Thank you. So for the record 8 although the build to line recommended on page 8 of the 9 design guidelines does not extend along this property 10 frontage, will the project implement the goals of the master 11 plan in terms of creating a build to line and street wall 12 along the street? 13 MS. BROWN: Yes, it will. 14 MS. ROGERS: Thank you. And can you please 15 describe the proposed site lighting concept? 16 MS. BROWN: So the site is going to be primarily 17 lit from building mounted wall packs. And so new full cutoff 18 wall packs will be incorporated into the building, updated on 19 the existing building and the proposed building that are in 20 line with today's standards for mitigation of light trespass, 21 dark sky compliance. 22 MS. ROGERS: Thank you. And in your professional 23 opinion will there be any adverse effects to the surrounding 24 neighborhood as a result of either exterior or interior 25 lighting?</p>	<p>79</p> <p>1 MS. ROGERS: Thank you. Zoning ordinance Section 2 7.3.1.E.1.D requires that the proposed development be 3 harmonious with and not alter the character of the 4 surrounding neighborhood in a manner inconsistent with the 5 plan. In your expert opinion as an architect, can you please 6 explain how the harmony and compatibility with the 7 surrounding area is achieved by this project? 8 MS. BROWN: Yeah, the project will be harmonious 9 with the existing character of the surrounding neighborhood, 10 which is largely commercial and industrial. The project is 11 accommodating a need for additional self-storage which serves 12 the communities through the expansion of the existing 13 facility, and through the expansion we are able to reinvest 14 and elevate the aesthetics of that existing building. The 15 rear building, which is the newly proposed one, will be a 16 more compatible use for the residential to the east because 17 it will eliminate the vehicular storage and that is 18 immediately adjacent and screening and the sky plane will be 19 honored from the existing trees that are offset. 20 MS. ROGERS: Thank you. And in your professional 21 opinion does the proposed conditional use satisfy all 22 applicable code requirements pertaining to architecture and 23 urban design? 24 MS. BROWN: Yes, it does. 25 MS. ROGERS: Thank you. And is there anything</p>
<p>78</p> <p>1 MS. BROWN: No, there will not. 2 MS. ROGERS: Thank you. Next, I will pull up a 3 reproduction of Exhibits 21S from the LMA and 29S from the 4 conditional use regarding site signage. 5 Ms. Brown, can you please describe the proposed 6 building and site signage? 7 MS. BROWN: Sure. So the existing signage has an 8 approximately 25 foot tall pole mounted sign, and then, it 9 has building mounted signage that is located on the west and 10 south sides. The proposed signage -- we're proposing a 11 monument sign which will replace the pole mounted sign, which 12 is a more pleasing sign and is appropriately sized to be in 13 the public realm, and it provides identification for both 14 vehicle or and pedestrian users immediately accessing and 15 turning onto the property. It will be internally lit. 16 The proposed building mounted signage will also be 17 internally lit, channel letters. And that signage is located 18 on the north and south façades and is used for vehicular 19 wayfinding along the approach corridors. 20 MS. ROGERS: And in your professional opinion will 21 the proposed signage be compatible with the proposed project, 22 and the character of the surrounding community? 23 MS. BROWN: Yes. Given the property and the 24 surrounding commercial uses the proposed signage is 25 compatible, and it isn't necessary for wayfinding.</p>	<p>80</p> <p>1 else you would like to add? 2 MS. BROWN: No, nothing else. 3 MS. ROGERS: That concludes my questions for Ms. 4 Brown. 5 THE HEARING EXAMINER: Thank you, Ms. Brown. 6 MS. ROGERS: So that concludes our testimony. We 7 have no further witnesses. Before I make a brief closing 8 statement, I did just want to ensure that all exhibits have 9 been admitted to the record. It's my understanding before 10 today's hearing we had 31 exhibits for the conditional use, 11 and 30 for the LMA. And so for the purposes of clarity, I'd 12 like to make sure that conditional use exhibits 1 through 38, 13 and -- for both, I guess, the conditional use and the LMA now 14 with the ones that we have introduced in the record today are 15 formally admitted. 16 THE HEARING EXAMINER: They are. And I just want 17 to make sure that we have them exactly the same so I'll just 18 run through them really quickly. For the conditional use we 19 have -- Exhibit 32 is the posting. Exhibit 33 is the aerial 20 photograph. Exhibit 34 existing condition photographs, four 21 individual photographs, 35 rendered site plan, 36 revised 22 traffic statement, 37 revised conditional use cover sheet, 38 23 perspective rendering annex building. So that's conditional 24 use. 25 And then for the LMA, Exhibit 31 is draft</p>

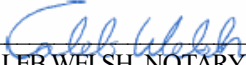
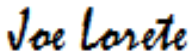

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21 (81 to 84)

<p>81</p> <p>1 covenant, Exhibit 32 is the posting, Exhibit 33 aerial 2 photograph, Exhibit 34 existing conditions photograph, 3 Exhibit 35 rendered site plan, Exhibit 36 provides a floating 4 zone coversheet. Exhibit 37 provides traffic statement, and 5 Exhibit 38 perspective rendering annex building. 6 Does that match what you have? 7 MS. ROGERS: That matches my list. Yes, thank 8 you. 9 THE HEARING EXAMINER: All right. Perfect. Make 10 sure that -- I had a few things to make sure of, that I 11 captured all the questions, trash, access, and then the maps. 12 And then, we checked in the exhibit list together so my 13 checklist is complete. So feel free to proceed with your 14 closing statement. 15 MS. ROGERS: Thank you. Just a few closing words. 16 I just wanted to note for the record that through the 17 testimony of the witnesses today, plus the information that 18 is in the record and that our witnesses have also 19 incorporated through reference of their testimony, being the 20 land-use report, the traffic statement, the plan, the staff 21 report in the planning board transmittal letter that the 22 applicant has demonstrated that the proposed local map 23 amendment satisfied the zoning ordinance requirements 24 including floating zone requirements, Article 59.5, and the 25 LMA finding that the Council must make sitting at the</p>	<p>83</p> <p>1 we have to leave the record open for 10 days for the 2 transcript. So if you could knit those exhibits that we've 3 identified today electronically to Sarah the email, adding 4 those numbers I'll also email her and let her know the 5 numbers so that she can match those up. And then, will need 6 the hard copies as well. 7 So if you could do -- today is Friday, obviously, 8 you know, electronically you have them and could send them 9 today, and then at some point get them to us next week, the 10 hardcopies. So the record will remain open for 10 days, 11 right, for the transcript. Everything else, as we said, can 12 be closed today based on the exhibit numbers that we've 13 identified that you have shown and you just have to transmit 14 electronic and hard copies. So I think it should be fine to 15 close the record. 16 MS. ROGERS: Right. 17 THE HEARING EXAMINER: Let's see. So as I said 18 earlier -- the LMA recommendation allows me 45 days. The 19 conditional uses 30 from the date of the hearing. That's 20 chicken and egg thing, so I really need to tackle the LMA 21 first and then the conditional use to a degree, second. 22 There's a lot of overlap here so there will be a lot of 23 cutting and pasting on my part between the two documents. 24 But I think I should be able to not them both out within 30 25 days, after the 10 days after I get the transcripts. So</p>
<p>82</p> <p>1 district Council on 7.2.1.E of the zoning ordinance for the 2 rezoning of the property. And that the conditional use 3 satisfies all applicable development standards and 4 requirements of the zoning ordinance and bindings that are 5 contained for conditional use approval in 7.3.1.E of the 6 zoning ordinance, the applicant has demonstrated that the 7 project will substantially reinvest in an existing self- 8 storage use prior to providing expanded facilities to support 9 the surrounding community and significantly elevate the 10 properties appearance and implement the goals and 11 recommendations of the master plan. And as Mr. La Vay had 12 testified to, we do hope that this project serves as a 13 catalyst for future reinvestment in the area similar to what 14 we're doing here to kind of elevate the County's urban design 15 objectives. 16 And with that, we would just respectfully request 17 that the record be closed for the local map and conditional 18 use following submission of the exhibits that we have 19 identity fight today. We can submit those to OZHA. And I 20 wasn't sure, in terms of how you are handling the record for 21 the conditional use if that can also similarly be closed now, 22 or if it needs to remain open until action by the District 23 Council for the LMA? 24 THE HEARING EXAMINER: So I think conditional use 25 can be closed now. So what I think the best thing to do is</p>	<p>84</p> <p>1 we're looking at about 40 days from today's date for that -- 2 I'll be able to get the decisions out. 3 MS. ROGERS: Wonderful. 4 THE HEARING EXAMINER: All right. Does anybody 5 else have any questions for me? 6 COURT REPORTER: This is the court reporter. Can 7 you hear me? 8 THE HEARING EXAMINER: Yes I can. 9 (Off the record discussion re technical 10 difficulties). 11 THE HEARING EXAMINER: So as it stands, the court 12 reporter believes he can get the transcript done in 10 days. 13 That shouldn't impact -- 14 THE COURT REPORTER: Yeah I can double check with 15 the office and see if they can do that, but they will contact 16 you if there's any issues. 17 THE HEARING EXAMINER: Okay. And then again, Ms. 18 Rogers, I'll reach out to you if we believe that there's 19 going to be a delay in the transcript. That might -- may or 20 may not impact my deadline on getting this out. 21 MS. ROGERS: Sure. I'm sorry, I didn't notice 22 either that anyone had dropped. 23 THE HEARING EXAMINER: Right. When everybody is 24 in a little column to the right it's hard to tell who's there 25 and who's not there. But Mr. Walsh, thank you so much for</p>

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22 (85 to 88)

<p style="text-align: right;">85</p> <p>1 jumping in and letting us know that, and will be sure to get 2 you a copy of this recording so if there's any gap. 3 THE COURT REPORTER: Sure. Sure. Do you see my 4 email there? 5 THE HEARING EXAMINER: I do. Perfect. All right, 6 thank you, Mr. Walsh. My guess is if no one else has 7 anything else for me, I think we're done. 8 MS ROGERS: All right. Thank you very much. 9 THE HEARING EXAMINER: All right. Sounds very 10 good. Y'all have a great day. 11 (The proceedings concluded.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">87</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Caleb Welsh, the officer 3 before whom the foregoing deposition was taken, do 4 hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 IN WITNESS WHEREOF, I have hereunto set 10 my hand and affixed my notarial seal this 23rd day 11 of January, 2023. 12 13 14  15 CALEB WELSH, NOTARY PUBLIC, 16 FOR THE STATE OF MARYLAND 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">86</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC 2 I, Joe Lorete, the officer 3 before whom the foregoing deposition was taken, do 4 hereby certify that said proceedings were 5 electronically recorded by me; and that I am 6 neither counsel for, related to, nor employed by 7 any of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 IN WITNESS WHEREOF, I have hereunto set 10 my hand and affixed my notarial seal this 23rd day 11 of January, 2023. 12 13 14  15 JOE LORETE, NOTARY PUBLIC, 16 FOR THE STATE OF MARYLAND 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">88</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 I, Molly Bugher, do hereby certify that the 3 foregoing transcript is a true and correct record of the 4 recorded proceedings; that said proceedings were transcribed 5 to the best of my ability from the audio recording as 6 provided; and that I am neither counsel for, related to, nor 7 employed by and of the parties to this case and have no 8 interest, financial or otherwise, in its outcome. 9 10 11  12 MOLLY BUGHER, CDLT-161 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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