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# Transcript of Hearing

**Date:** July 28, 2020

**Case:** (AB769) Abandonment Hearings, In Re:

**Planet Depos**

**Phone:** 888.433.3767

**Email:** [transcripts@planetdepos.com](mailto:transcripts@planetdepos.com)

[www.planetdepos.com](http://www.planetdepos.com)

Transcript of Hearing  
 Conducted on July 28, 2020

<p style="text-align: center;">1</p> <p style="text-align: center;">DEPARTMENT OF TRANSPORTATION                  FOR MONTGOMERY COUNTY, MARYLAND</p> <p>-----x</p> <p>In Re: :</p> <p>ABANDONMENT HEARINGS : No. AB769</p> <p>-----x</p> <p style="text-align: center;">PUBLIC HEARING                  Tuesday, July 28, 2020                  11:13 a.m.</p> <p>Job: 312138                  Pages: 1 - 52                  Transcribed by: Sheila Martin</p> <p style="text-align: center;">2</p> <p>Hearing held remotely.</p> <p>Pursuant to Notice, before Lee Utterback,                  Notary Public in and for the State of Maryland.</p>	<p style="text-align: center;">3</p> <p style="text-align: center;">C O N T E N T S</p> <p style="text-align: right;">PAGE</p> <p>OPENING STATEMENTS 5</p> <p>TESTIMONY OF VINCENT BURKE 17</p> <p>TESTIMONY OF JOSHUA SLOAN 30</p> <p>TESTIMONY OF NANCY RANDALL 41</p> <p style="text-align: center;">E X H I B I T S</p> <p style="text-align: right;">PAGE</p> <p>Exhibit A Request Letter 10/30/2019 8</p> <p>Exhibit B Public Hearing Authorization 8</p> <p>Exhibit C Notice of Public Hearing 8</p> <p>Exhibit D Proof of Newspaper Advertisements 8</p> <p>Exhibit E Plat of Block 5 9</p> <p>Exhibit F Legal Description 9</p> <p>Exhibit G Sketch of Subject Alley 9</p> <p>Exhibit H Original Plat 9</p> <p>Exhibit I Petition and Circuit Court Order 9</p> <p>Exhibit J Existing Land Images 10</p> <p>Exhibit K Signage Announcing Hearing 10</p> <p>Exhibit L WSSC Letter 10</p> <p>Exhibit M Email from Washington Gas 10</p> <p>Exhibit N MCDOT Memorandum 10</p> <p>Exhibit O Email from PEPCO 11</p> <p>Exhibit P Email from Div. of Permitting Services 11</p> <p style="text-align: center;">EXHIBITS (Continued)</p> <p style="text-align: right;">PAGE</p> <p>Exhibit Q Email from Div. of Permitting Services 11</p> <p>Exhibit R Memorandum from Planning Department 11</p> <p>Exhibit S Statement Updating Ownership 12</p> <p>Exhibit T Preliminary Plan 12</p> <p>Exhibit U Duplicate of Exhibit R 12</p> <p>Exhibit V Resume of Josh Sloan 12</p> <p>Exhibit W Resume of Nancy Randall 12</p> <p>Exhibit X Excerpts from Sector Plan 12</p> <p>Exhibit Y Concept Plan 13</p> <p>Exhibit Z Excerpts from Sector Plan 13</p> <p style="text-align: center;">4</p>
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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 MR. PAYLOR: Greetings and good morning to</p> <p>3 all of you. It is now 11:13 on the 28th day of July,</p> <p>4 2020. As you know, we are conducting this hearing</p> <p>5 virtually via Zoom. We are here for a public hearing</p> <p>6 for abandonment petition AB769 -- abandonment of a</p> <p>7 public alley near 8000 Wisconsin Avenue. Or, to say</p> <p>8 it another way, abandonment of a public alley in</p> <p>9 Block 5 of the West Chevy Chase Heights subdivision.</p> <p>10 My name is Michael Paylor and I am the</p> <p>11 county executive's designated hearing officer and</p> <p>12 will be conducting this hearing and then, following</p> <p>13 the comment period, writing a recommendation for the</p> <p>14 county executives. After my report has been</p> <p>15 presented to the county executives, the report will</p> <p>16 be submitted to the county council staff for their</p> <p>17 review and recommendation to the council.</p> <p>18 We are unable to provide a timeline for</p> <p>19 this process but should you -- should you request to</p> <p>20 be updated on the process of this report, please</p> <p>21 submit your questions to Mr. Joshua Tracy. After</p> <p>22 this hearing is closed, the record will remain open</p> <p>23 for 14 days and close at 5:00 p.m. on August 11th,</p> <p>24 2020. Any comments between now and then or now and</p> <p>25 that time should be sent to Mr. Joshua Tracy at</p>	<p style="text-align: right;">7</p> <p>1 section within the Montgomery County Department of</p> <p>2 Transportation. Our office is charged with</p> <p>3 administering the abandonment process.</p> <p>4 This case is for the abandonment of a</p> <p>5 public alley in Block 5 of the West Chevy Chase</p> <p>6 Heights subdivision. The public alley is</p> <p>7 approximately ten to 15 feet wide that bifurcates in</p> <p>8 a north-south direction the entire block framed by</p> <p>9 Wisconsin Avenue to the west, Tilbury Street to the</p> <p>10 East, West Virginia Avenue to the south and Highland</p> <p>11 Avenue to the north. The subject alley was dedicated</p> <p>12 to public use in March of 1916 via plat number 186</p> <p>13 and consists of roughly 2475 square feet.</p> <p>14 Nearly all of the properties in the entire</p> <p>15 of Block 5 have been assembled by the applicant, 8001</p> <p>16 Wisconsin LLC and its related entities. The</p> <p>17 applicant is represented by Mr. Dalrymple and Mr.</p> <p>18 Gordon of Selzer and Gurvitch. In fulfillment of the</p> <p>19 conditions of Section 49-62 of the Montgomery County</p> <p>20 code, my office provided notice to all of butting</p> <p>21 property owners and to members of the public of</p> <p>22 today's hearing and solicited comments from the</p> <p>23 appropriate governmental agencies and public utility</p> <p>24 companies that might be affected by proposed</p> <p>25 abandonment.</p>
<p style="text-align: right;">6</p> <p>1 Montgomery County Department of Transportation, 100</p> <p>2 Edison Park Drive, Fourth Floor, Gaithersburg,</p> <p>3 Maryland 20878.</p> <p>4 There are a few ground rules that we must</p> <p>5 cover before Joshua Tracy introduces the abandonment</p> <p>6 petition in the record. First, please turn off or</p> <p>7 silence your cellphones. Second, as an issue of</p> <p>8 decorum, all participants must be given their due</p> <p>9 consideration. Everyone who has made known in</p> <p>10 advance that they would like to make comments will be</p> <p>11 afforded to do so. Additional comments will be open</p> <p>12 to participants at the end of the hearing.</p> <p>13 If an interruption occurs, I will give</p> <p>14 that individual that first warning. If there's a</p> <p>15 second interruption, I will give that individual a</p> <p>16 second warning and they will be muted. If that same</p> <p>17 individual receives a third warning, that person will</p> <p>18 be removed from the call. And if there are several</p> <p>19 people making interruptions, I may close the hearing.</p> <p>20 I will now introduce Joshua Tracy from</p> <p>21 Montgomery County Department of Transportation who is</p> <p>22 a real estate specialist to present the case. Josh.</p> <p>23 MR. TRACY: Thank you, Michael. Hold on</p> <p>24 one second, guys. Okay. So my name is Joshua Tracy.</p> <p>25 I'm with the property acc -- property acquisition</p>	<p style="text-align: right;">8</p> <p>1 I'll now read into the record the</p> <p>2 following exhibits. Exhibit A -- which will bring up</p> <p>3 whenever Mr. Utterback is ready. Exhibit A is a</p> <p>4 request letter dated October 30th, 2019 from Mr.</p> <p>5 Dalrymple and Mr. Gordon -- sorry, I lost my screen</p> <p>6 here -- on behalf of their client 8001 Wisconsin LLC</p> <p>7 requesting abandonment of a public alley running</p> <p>8 north-south on Block 5 of the West Chevy Chase</p> <p>9 Heights subdivision.</p> <p>10 (Exhibit A was marked for identification</p> <p>11 and is attached to the transcript.)</p> <p>12 Exhibit B is the public hearing</p> <p>13 authorization via executive order via executive order</p> <p>14 024-20 which is effective February 26, 2020.</p> <p>15 (Exhibit B was marked for identification</p> <p>16 and is attached to the transcript.)</p> <p>17 Exhibit C which is a notice of public</p> <p>18 hearing published on the county's website.</p> <p>19 (Exhibit C was marked for identification</p> <p>20 and is attached to the transcript.)</p> <p>21 Exhibit D which is a proof of the</p> <p>22 newspaper advertisement of the public hearing for two</p> <p>23 consecutive weeks on July 14th, 2020 and July 21st,</p> <p>24 2020 in the Washington Times.</p> <p>25 (Exhibit D was marked for identification</p>

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<p style="text-align: right;">9</p> <p>1 and is attached to the transcript.) 2 Exhibit E which is plat of Block 5 of the 3 West Chevy Chase Heights subdivision with the subject 4 public alley proposed to be abandoned highlighted in 5 green. 6 (Exhibit E was marked for identification 7 and is attached to the transcript.) 8 Exhibit F which is a legal description of 9 the subject public alley proposed to be abandoned. 10 (Exhibit F was marked for identification 11 and is attached to the transcript.) 12 Exhibit G which is a sketch of the subject 13 public alley proposed to be abandoned from VKA [sic] 14 Maryland LLC dated September of 2019. 15 (Exhibit G was marked for identification 16 and is attached to the transcript.) 17 Exhibit H which is the original plat of 18 the West Chevy Chase subdivision recorded on March 19 31st of 1916. 20 (Exhibit H was marked for identification 21 and is attached to the transcript.) 22 Exhibit I is a prior petition and Circuit 23 Court order in equity case number 33819. 24 (Exhibit I was marked for identification 25 and is attached to the transcript.)</p>	<p style="text-align: right;">11</p> <p>1 conditional approval dated February 7th, 2020. 2 (Exhibit O was marked for identification 3 and is attached to the transcript.) 4 Exhibit P is an email from the Montgomery 5 County Division of Permitting Service dated February 6 28, 2020 saying the department has no issue with the 7 proposed abandonment. 8 (Exhibit P was marked for identification 9 and is attached to the transcript.) 10 Exhibit Q is an email from Montgomery 11 County Department of Permitting Services Office of 12 the Fire Marshall saying the department has no 13 comment in regards to the proposed abandonment. 14 (Exhibit Q was marked for identification 15 and is attached to the transcript.) 16 Exhibit R which is a memorandum -- which 17 is -- I'm sorry -- which is a -- no -- is a 18 memorandum from Montgomery County Planning Department 19 dated February 20th, 2020 saying the property's no 20 longer necessary for public use or anticipated public 21 use. 22 (Exhibit R was marked for identification 23 and is attached to the transcript.) 24 Exhibit S is a statement updating 8001 25 Wisconsin LLC's ownership in the assembled site.</p>
<p style="text-align: right;">10</p> <p>1 Exhibit J which is the existing condition 2 images of the subject property. 3 (Exhibit J was marked for identification 4 and is attached to the transcript.) 5 Exhibit K which is signage announcing the 6 public hearing date installed on July 13th, 2020. 7 (Exhibit K was marked for identification 8 and is attached to the transcript.) 9 Exhibit L is a WSSC letter dated December 10 21st, 2019 consenting to vacate. 11 (Exhibit L was marked for identification 12 and is attached to the transcript.) 13 Exhibit M which is an email from 14 Washington Gas with conditional approval of the 15 abandonment dated January 23rd, 2020. 16 (Exhibit M was marked for identification 17 and is attached to the transcript.) 18 Exhibit N which is the Montgomery County 19 Department of Transportation Office of Transportation 20 Policy Development Review Team memorandum which is 21 dated January 27th, 2020 recommending conditional 22 approval. 23 (Exhibit N was marked for identification 24 and is attached to the transcript.) 25 Exhibit O is an email from PEPCO with</p>	<p style="text-align: right;">12</p> <p>1 (Exhibit S was marked for identification 2 and is attached to the transcript.) 3 Exhibit T which is a preliminary plan or 4 civil plan reflecting consolidation of the entire 5 civil block. 6 (Exhibit T was marked for identification 7 and is attached to the transcript.) 8 Exhibit U is actually a duplicate of the 9 Park and Planning's recommendation support of the 10 abandonment application. 11 (Exhibit U was marked for identification 12 and is attached to the transcript.) 13 Exhibit V which is the resume of Josh 14 Sloan. 15 (Exhibit V was marked for identification 16 and is attached to the transcript.) 17 Exhibit W is the resume of Nancy Randall. 18 (Exhibit W was marked for identification 19 and is attached to the transcript.) 20 Exhibit X are relevant excerpts from the 21 2017 approved and adopted Bethesda downtown sector 22 plan. 23 (Exhibit X was marked for identification 24 and is attached to the transcript.) 25 Exhibit Y is the concept plan.</p>

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<p style="text-align: right;">13</p> <p>1 (Exhibit Y was marked for identification 2 and is attached to the transcript.) 3 And then we have an additional exhibit 4 that will be made available. And that is excerpts 5 also from the Bethesda downtown plan design 6 guidelines. Those will be Exhibit Z. 7 (Exhibit Z was marked for identification 8 and is attached to the transcript.) 9 All right. And Michael, I'll turn it back 10 over to you for the applicant's comments. 11 MR. PAYLOR: So at this time, we'll allow 12 the applicants to provide comments on the matter. 13 Mr. Dalrymple. 14 MR. DALRYMPLE: Am I being heard? Great. 15 Thank you and good morning. My name is Bob 16 Dalrymple. I'm an attorney with the law firm Selzer 17 Gurvitch and, along with Matthew Gordon, we are 18 representing the applicant in this abandonment 19 petition. 20 The applicant is 8001 Wisconsin LLC which 21 is a derivative of the B.F. Saul Companies and we 22 will present testimony as to more details on the 23 applicant here shortly. Also participating in our 24 presentation this morning will be a Vincent Burke 25 with the Saul Companies, Josh Sloan with VIKA who we</p>	<p style="text-align: right;">15</p> <p>1 MR. PAYLOR: Okay. So I accept that 2 motion. 3 MR. DALRYMPLE: Thank you. We will be 4 referring to those exhibits as we proceed here this 5 morning. We have provided extensive written 6 testimony already as summarized by Mr. Tracy in the 7 form of our -- of our initial letter and petition 8 with a lot of supporting documentation. And that 9 will be supplemented with our testimony here this 10 morning for the record all which is intended, and we 11 believe does, demonstrate that the abandonment of the 12 right-of-way in question is -- is appropriate in that 13 public use of the -- the right-of-way is not needed 14 currently or in the foreseeable future for any public 15 use or public benefit. 16 The -- and we will be providing more 17 evidence on this. But just in summary, the applicant 18 has assembled the entire block as Mr. Tracy was 19 describing that is framed by Wisconsin Avenue, West 20 Virginia Avenue, Highland Avenue and Tilbury. It is 21 -- essentially what we're doing here is an extension 22 of the county council's approval of the Bethesda 23 downtown sector plan which called for redevelopment 24 in an urban fashion of the entire Bethesda central 25 business district. And with the assemblage of this</p>
<p style="text-align: right;">14</p> <p>1 will be offering as an expert in land planning and 2 landscape architecture and Nancy Randall a 3 transportation planner with Wells and Associates. 4 I would also like to acknowledge that John 5 Collich and Brian Downie, both senior executives with 6 the Saul Companies are also on this -- in -- in this 7 hearing. We do not anticipate calling them as -- as 8 witnesses. 9 I would like to thank Josh Tracy for doing 10 such a great job of organizing this and pulling the 11 record together in these difficult times. I know 12 it's been quite -- quite a challenge, but he has 13 truly demonstrated his -- his talent and his 14 expertise, so thank you for that. 15 Mr. Paylor, I would like at this point in 16 time to ask through a motion that the Exhibits A 17 through Z be accepted into the official public record 18 in this matter. 19 MR. PAYLOR: So by motion, all those in 20 favor of entering Exhibits A through Z into the 21 public record -- do we have a motion for those 22 exhibits to be entered into the public record -- A 23 through Z? 24 MR. DALRYMPLE: That is my motion. Yes, 25 sir.</p>	<p style="text-align: right;">16</p> <p>1 block by the applicant, we believe that we are truly 2 able to carry out all of the intents and the 3 objectives of the sector plan. 4 But to -- in order to do that, the 5 abandonment of this right-of-way is -- is necessary 6 through the redevelopment process which is in the CR 7 zone. It entails the submission and approval by the 8 planning board of a sketch plan, a preliminary plan 9 of subdivision and, ultimately, a site plan which 10 will control the density and the heights in the 11 overall development of the -- of the subject block. 12 There will be a new circulation pattern 13 that's created through this redevelopment and we will 14 show that through our testimony here this morning 15 that none of that could be accomplished with the -- 16 with the right-of-way still in place. 17 To the best of my knowledge, we have not 18 seen any opposition presented to this. There are a 19 couple of names I see on the screen that I don't know 20 what their intent is. But at this point in time, 21 we're not aware of any opposition. Should we receive 22 any opposition either now or through the period that 23 the record is open, we will address that accordingly. 24 The -- in the record already is Exhibits R 25 and U -- are recommendations from the Montgomery</p>

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<p style="text-align: right;">17</p> <p>1 County Planning Department and the planning director, 2 Gwen Wright, recommending that the abandonment 3 petition be approved. And we agree with that 4 recommendation and our testimony will bolster the 5 conclusions of the planning department. 6 The ultimate disposition of the right-of- 7 way, if it is recommended for approval by you, Mr. 8 Paylor, and ultimately adopted through a resolution 9 of the Montgomery County Council will -- will be a 10 effectuated through a record plat of subdivision 11 which will come at the very end of the entitlement 12 process and that will make sense of the -- of the -- 13 the repurposed block including the inclusion of the 14 abandoned right-of-way into the block for development 15 purposes as we move forward. 16 With that, I would like to call our first 17 witness which -- who is Vincent Burke. 18 MR. BURKE: Good morning. For the record, 19 my name's Vincent Burke. I'm vice president with 20 B.F. Saul Company and I've worked with them for 17 21 years. Bob, you're on mute. 22 MR. DALRYMPLE: I didn't mute me. So Mr. 23 Utterback doesn't want me to participate. Mr. Burke, 24 can you please briefly describe your educational and 25 your professional background?</p>	<p style="text-align: right;">19</p> <p>1 assembled by Saul and the potential for 2 redevelopment? 3 MR. BURKE: I am. 4 MR. DALRYMPLE: Can you describe what your 5 role will be relative to the redevelopment process 6 moving forward? 7 MR. BURKE: My colleague, Brian Downie who 8 is also on the Zoom here, and I will take the 9 property through the entitlement process and all the 10 way through its entire development. 11 MR. DALRYMPLE: Can you please describe -- 12 and I would ask, Mr. Utterback, if you could put onto 13 the screen Exhibit E, please? 14 COURT REPORTER: One moment, please. 15 MR. DALRYMPLE: Thank you. Mr. Burke, can 16 you please describe the assembled block that is 17 centered on the -- with 8001 Wisconsin Avenue and how 18 this assembled block is currently approved and how it 19 relates to the public alley that is the subject of 20 this petition? 21 MR. BURKE: The subject block sits on the 22 east side of Wisconsin Avenue, Maryland 355. 23 Bordered to the north by Highland Avenue; the south, 24 West Virginia Avenue; and the east, Tilbury Street. 25 I've worked in concert with John Collich to acquire</p>
<p style="text-align: right;">18</p> <p>1 MR. BURKE: I have a Bachelor of the arts 2 from -- in political science from Loyola University 3 in Maryland. As I stated, I've been working with the 4 Saul organization for 17 years. I perform both 5 transactional and planning and development work 6 across all product types -- that being land, retail, 7 hotel, office, residential and mixed-use properties. 8 And I do so throughout the region but heavily in 9 Montgomery County. 10 MR. DALRYMPLE: And are you familiar with 11 the abandonment petition that has been submitted on 12 behalf of Saul for the subject property? 13 MR. BURKE: I am. 14 MR. DALRYMPLE: Can you -- are you 15 familiar with the Bethesda downtown sector plan and 16 were you active in that process? 17 MR. BURKE: Very much so. I worked 18 specifically on this property and one additional 19 property in Bethesda that Saul owns with the staff 20 throughout the entirety of the master plan process. 21 I've also worked on a similar development at 7316 22 Wisconsin Avenue just about a mile and change from 23 this site here. 24 MR. DALRYMPLE: And are you generally 25 familiar with the zoning of the property that's been</p>	<p style="text-align: right;">20</p> <p>1 the entirety of the block -- or gain control of the 2 entirety of the block beginning in 2005 and 3 completing it in 2019. The alley shown in the 4 blue/green color, sits to the rear of the single 5 loaded retail stores that face Wisconsin Avenue and 6 functions as service and loading for those stores. 7 MR. DALRYMPLE: And -- so -- just -- if 8 you could expand on your knowledge of how the public 9 alley functions relative to the existing improvements 10 both internal to the block and in the -- in the 11 larger context of the downtown Bethesda area. 12 MR. BURKE: I believe that that singular 13 purpose is -- just says service and loading to access 14 the rear of those stores. I don't believe it serves 15 any function in the greater context of downtown 16 Bethesda. It's a narrow alley lined with the 17 dumpsters and the rear doors to the stores to allow 18 for loading and service as stated. There are, on the 19 north end of the block, some parking spaces at the 20 rear of those stores in the 8017 through 23 -- 8023 21 addresses. It does not provide any function for the 22 parcels to the west heading towards Tilbury. 23 MR. DALRYMPLE: Thank you. Can you 24 describe how the 2017 approval of the Bethesda 25 downtown sector plan potentially changes the dynamics</p>

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<p style="text-align: right;">21</p> <p>1 for the subject property?</p> <p>2 MR. BURKE: The 2017 master plan envisions</p> <p>3 full block planning for everything you see in yellow.</p> <p>4 We worked closely with the staff during the plan to</p> <p>5 develop a concept that is mixed-use with ground floor</p> <p>6 retail fronting Wisconsin Avenue as it does today and</p> <p>7 residential above that with a height of 90 feet at --</p> <p>8 on the western portion of the block tapering down to</p> <p>9 70 feet where it confronts what's known as Eastern</p> <p>10 Greenway.</p> <p>11 Eastern Greenway is a network of public</p> <p>12 open space that will face Tilbury Street and help to</p> <p>13 serve, in addition to that tapering of the height,</p> <p>14 help to serve as a buffer to the single family</p> <p>15 residential neighborhood that sits east of Tilbury</p> <p>16 Street. In that configuration, the public alley</p> <p>17 serves no purpose. All of the service and loading</p> <p>18 will be internal to the block which is consistent</p> <p>19 with all of Saul's urban development work. And --</p> <p>20 and again, the alley will not be needed at that time.</p> <p>21 MR. DALRYMPLE: Thank you, Mr. Burke. Can</p> <p>22 you describe and -- and perhaps -- you can -- you can</p> <p>23 choose whether you want to work from the preliminary</p> <p>24 plan or the concept plan to describe what the</p> <p>25 proposed redevelopment of the assembled block is --</p>	<p style="text-align: right;">23</p> <p>1 believe that this proposed redevelopment is</p> <p>2 consistent with the -- the adopted sector plan?</p> <p>3 MR. BURKEY: Entirely so. Again, we</p> <p>4 worked closely with the staff on this plan. This</p> <p>5 concept is substantially similar to what we shared at</p> <p>6 work with the staff on -- during the plan and have</p> <p>7 refined since that time in advance of the staff</p> <p>8 issuing their -- their letter that's on the record</p> <p>9 here that affirms that our plan -- confirms with the</p> <p>10 master plan and is supported by the planning staff.</p> <p>11 MR. DALRYMPLE: And with this proposed</p> <p>12 redevelopment in accordance with the sector plan,</p> <p>13 what happens to the -- the existing right-of-way for</p> <p>14 the public alley?</p> <p>15 MR. BURKE: It's no longer needed? And</p> <p>16 the -- and the master plan anticipated that. It</p> <p>17 wasn't shown as a mid-block connection in the</p> <p>18 ultimate build-out of Bethesda. And since the</p> <p>19 Wisconsin Avenue facing retail, along with their</p> <p>20 entirety of the block as built, will be demolished</p> <p>21 that service lane is no longer needed. Again, that</p> <p>22 -- that service and vehicular movement is now</p> <p>23 integrated into the ultimate development plan and the</p> <p>24 garage.</p> <p>25 MR. DALRYMPLE: And so is retention of the</p>
<p style="text-align: right;">22</p> <p>1 is to be.</p> <p>2 MR. BURKE: You can pull -- put up Exhibit</p> <p>3 Y -- the concept plan. The concept plan shows what I</p> <p>4 just described. There's a network of pedestrian</p> <p>5 sidewalks that surround the property fronting all of</p> <p>6 the streets that will conform to the Bethesda streets</p> <p>7 [inaudible] guidelines. There is retail that will</p> <p>8 confront Wisconsin Avenue and have access to</p> <p>9 ingress/egress along Wisconsin Avenue as well as the</p> <p>10 garage below the building.</p> <p>11 There's a port share that's shown to the</p> <p>12 -- on Highland Avenue to the north that will allow</p> <p>13 residents drop-off and pick-up. And then moving</p> <p>14 eastward on the block, you see the garage entrance</p> <p>15 for what will be a three-level underground garage.</p> <p>16 And continuing eastward, you see there in white a</p> <p>17 placeholder of design for the Eastern Greenway Park.</p> <p>18 And then moving back around the block,</p> <p>19 there is a one at-grade courtyard on West Virginia</p> <p>20 Avenue and then the service access also on West</p> <p>21 Virginia Avenue. Again, that building will be 90</p> <p>22 feet at the front tapering down to 70 feet. As it</p> <p>23 moves eastward, you can see that dividing line shown</p> <p>24 there and dashed in gray.</p> <p>25 MR. DALRYMPLE: And Mr. Burke, do you</p>	<p style="text-align: right;">24</p> <p>1 right-of-way necessary in any fashion or form to</p> <p>2 serve the greater general public?</p> <p>3 MR. BURKE: No.</p> <p>4 MR. DALRYMPLE: Are you familiar with the</p> <p>5 Montgomery County Planning Department letter that's</p> <p>6 dated February 20, 2020 that's Exhibit R and Exhibit</p> <p>7 U in this record?</p> <p>8 MR. BURKE: I'm sorry. You froze, but</p> <p>9 that's the letter I was referencing, I believe.</p> <p>10 MR. DALRYMPLE: Can you hear me?</p> <p>11 MR. BURKE: Yep. We can hear you.</p> <p>12 MR. DALRYMPLE: Okay. That [inaudible]</p> <p>13 previous -- I think it's Exhibit --</p> <p>14 MR. BURKE: Exhibit R.</p> <p>15 MR. DALRYMPLE: And Exhibit U, correct.</p> <p>16 So are you -- are you in agreement with that -- with</p> <p>17 the recommendations in that letter?</p> <p>18 MR. BURKE: Total. Totally.</p> <p>19 MR. DALRYMPLE: So in your professional --</p> <p>20 with your professional experience and background, do</p> <p>21 you believe that the public alley in question is</p> <p>22 necessary for present public use or anticipated</p> <p>23 public use in the foreseeable future?</p> <p>24 MR. BURKE: It's necessary in the present</p> <p>25 just to serve those retail properties for service and</p>

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<p style="text-align: right;">25</p> <p>1 loading but for no other reason. So once those 2 properties are demolished, that service will be 3 handled within the context of the larger development 4 and it's designed. 5 MR. DALRYMPLE: Thank you. And I -- I 6 have no further questions of Mr. Burke. So I'll turn 7 it back to you, Mr. Paylor, if you have any 8 questions. 9 MR. PAYLOR: Thank you, Mr. Dalrymple. I 10 don't have any questions at this time. Are there any 11 other individuals who are looking to speak and 12 comment on this at this point? 13 MS. MCCRAY: Michael, you have a -- you 14 have a comment from Jason Yang in the chat. 15 MR. PAYLOR: Okay. Thank you. Could you 16 repeat the name again, please, Tiara? 17 MS. MCCRAY: Mr. Jason Yang has a comment. 18 MR. PAYLOR: Okay. Mr. Yang, this is 19 Michael Paylor. Please communicate your comment to 20 the group. 21 COURT REPORTER: It says under the comment 22 that he doesn't have a microphone. 23 MR. PAYLOR: Okay. Could be a problem. 24 MS. MCCRAY: I'm happy to read his comment 25 in.</p>	<p style="text-align: right;">27</p> <p>1 network begins to connect along Tilbury there from 2 north to south, it can be used for that -- that 3 pedestrian movement from north to south along that 4 East side of Wisconsin Avenue. 5 MR. DALRYMPLE: And -- 6 MR. BURKE: Go ahead, Bob. Excuse me. 7 MR. DALRYMPLE: With the assemblage of the 8 entire block, is the applicant able to accommodate 9 fully the recommendations of the sector plan relative 10 to the Greenway? 11 MR. BURKE: Yes, it is. 12 MR. DALRYMPLE: I have no -- no further 13 questions or comments from Mr. Burke. 14 MR. PAYLOR: Thank you, Mr. Dalrymple. 15 Mr. Yang has issued or submitted a -- an additional 16 question on this. And the question reads the 17 Greenway width is an exchange for the density and 18 height, correct? That trade was already made? Mr. 19 Burke or -- or Mr. Dalrymple? 20 MR. DALRYMPLE: I'm not -- not sure I'm 21 fully understanding the question, but the -- the 22 applicant already had the -- the rights to all of the 23 density from the -- from the right-of-way by virtue 24 of the original dedication of the alley. So the 25 density already belonged to the abutting properties</p>
<p style="text-align: right;">26</p> <p>1 MR. PAYLOR: Okay. I think I'll see it 2 now. Mr. Yang has submitted a comment. Wouldn't it 3 be nice if the width of the alley were an exchange 4 transfer to the Greenway? Not a question, but a 5 comment. Is there any dialogue that anyone would 6 like to offer on that? 7 MR. BURKE: I would just -- 8 MR. DALRYMPLE: I -- 9 MR. BURKE: Go ahead, Bob. 10 MR. DALRYMPLE: I was just going to ask 11 Mr. Burke, if you -- if you could describe again how 12 the Greenway is more or less a replacement for the -- 13 the past circulation patterns in the downtown. 14 MR. BURKE: The Greenway -- well, in terms 15 of the width, the Greenway greatly exceeds the width 16 of the alley. The alley is ten -- 17 [?]: [inaudible] -- 18 MR. BURKE: -- feet. 19 [?]: ---- announce the expansion of 20 Operation -- 21 MR. BURKE: The alley is a ten feet at its 22 narrowest and 15 feet at a small portion. And the 23 width of the Eastern Greenway is 70 feet. And that 24 Eastern Greenway will be publicly accessible and used 25 as open space for the community and also as the</p>	<p style="text-align: right;">28</p> <p>1 and with the creation of the Greenway, that will be 2 -- that will be dedicated to public use. But the 3 density from that Greenway will be incorporated into 4 the rest of the redevelopment of that block. So I 5 don't know if that directly answered Mr. Yang's 6 question. But if -- if not, we'd be happy to expand 7 further on that. 8 MR. BURKE: I would only add that it 9 wasn't a specific, you know, item for item trade. 10 This is -- this was full block planning and the 11 entirety of the block was considered. So -- 12 MR. PAYLOR: Thank you, Mr. Burke for that 13 -- 14 MR. BURKE: -- [inaudible] the massing, 15 the setbacks, the widths of the Greenway, the 16 [inaudible] setback. I'm sorry. Should I continue? 17 MR. DALRYMPLE: You're freezing up a 18 little. 19 MR. BURKE: I apologize. I'll say again. 20 I would -- I would just add that this was in full 21 block planning; not an item for item trade. So the 22 Heights massing the -- the density, the width of the 23 Greenway, the setback for the BRT station that's 24 supposed to be on Wisconsin Avenue, the widths of the 25 sidewalk, all of those things were taken into</p>



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<p style="text-align: right;">29</p> <p>1 consideration. And again, the staff was entirely 2 familiar with the concept and supportive of it. 3 MR. PAYLOR: Thank you for the additional 4 clarification, Mr. Burke. For the record, Mr. Yang 5 provided an additional statement -- an additional two 6 statements. Seems a bit deceptive to describe the 7 Greenway as a replacement for the alley right-of-way. 8 And then he continues on in saying, this does seem 9 like a fantastic project overall, though. 10 It seems to me that based on his initial 11 statement and the summaries that both you and Mr. 12 Dalrymple provided, I think that addresses this 13 question. Mr. Yang, do you have additional questions 14 or additional comments on this? 15 MR. DALRYMPLE: I believe I did see a 16 thumbs-up. 17 MR. BURKE: I'm not a Zoom professional, 18 but I did see a thumbs up there as well. 19 MR. PAYLOR: I did as well. Fantastic. 20 Thank you for that. 21 MR. DALRYMPLE: I've never received 22 [inaudible] so thank you, Mr. Yang. 23 MR. PAYLOR: Does anyone else have any 24 comments or does the applicant have an additional 25 witness?</p>	<p style="text-align: right;">31</p> <p>1 design, and construction. 2 MR. DALRYMPLE: Thank you for that. Are 3 you a member of any professional societies or 4 organizations in your area of expertise? 5 MR. SLOAN: I'm a member of the American 6 Society of Landscape Architects, the American 7 Planning Association and American Institute of 8 Certified Planners. 9 MR. DALRYMPLE: Have you ever been 10 recognized as an expert witness in your area of 11 expertise and -- and what is your specific area of 12 expertise? 13 MR. SLOAN: I've been qualified as an 14 expert witness as a landscape architect and a land 15 planner in Montgomery County by the hearing examiner 16 and have participated also in abandonment hearing. 17 MR. DALRYMPLE: Mr. Paylor, we have 18 submitted for the record Mr. Sloan's resume which is, 19 I believe, Exhibit V. And based on the resume and 20 the questions we just asked and the answers, I would 21 ask that you recognize him as an expert in the area 22 of land planning and landscape architecture. 23 MR. PAYLOR: Thank you, Mr. Dalrymple. 24 Based on your requests, I recognize Mr. Sloan as an 25 expert in landscape architecture based on his resume</p>
<p style="text-align: right;">30</p> <p>1 MR. DALRYMPLE: We do. And if it's okay 2 with you, Mr. Paylor, I would like to present our 3 next witness, Josh Sloan with VIKA. Are you -- are 4 you up and audible, Mr. Sloan? 5 MR. SLOAN: I think so. 6 MR. DALRYMPLE: Great. If you could state 7 your name and your business address, please. 8 MR. SLOAN: Joshua Sloan, 20251 Century 9 Boulevard, Germantown, Maryland. It's with VIKA 10 Maryland LLC. I'm vice president and director of 11 planning and landscape architecture. 12 MR. DALRYMPLE: And how long have you been 13 engaged in this occupation? 14 MR. SLOAN: I've been a landscape 15 architect for about 24 years and a land planner for 16 about 14 years. 17 MR. DALRYMPLE: Great. Could you just 18 briefly describe your educational and your 19 professional background relative to your expertise? 20 MR. SLOAN: I have a Master's of landscape 21 architecture from State University of New York. And 22 I've worked in the private and public practice and 23 land planning, both at Maryland National Capital Park 24 and Planning for seven years and at VIKA for seven 25 years. My previous work was landscape architecture,</p>	<p style="text-align: right;">32</p> <p>1 and experience. I accept that. 2 MR. DALRYMPLE: Thank you, Mr. Paylor. 3 Mr. Sloan, are you familiar with the petition for 4 abandonment which is the subject of these 5 proceedings? 6 MR. SLOAN: I am. 7 MR. DALRYMPLE: And have you visited the 8 property and the -- and the area around the property 9 previously? 10 MR. SLOAN: I have visited the property 11 and the Bethesda area generally many times. 12 MR. DALRYMPLE: And are you familiar with 13 the -- the Bethesda downtown sector plan that was 14 adopted in 2017? 15 MR. SLOAN: I am. Like Mr. Burke, I 16 participated in the sector plan process providing 17 recommendations and testimony during the process and 18 then through its adoption. 19 MR. DALRYMPLE: And are you -- are you 20 familiar with the -- the current zoning of the 21 property and the areas around the subject property? 22 MR. SLOAN: Yes. The property is zoned in 23 the commercial residential zones, commercial 24 residential town zones as are the properties to the 25 north and south. To the east of the properties are</p>

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<p style="text-align: right;">33</p> <p>1 -- are 60 residentially zoned properties. 2 MR. DALRYMPLE: Are you familiar with the 3 entitlement processes that will be required for the 4 redevelopment of the property? 5 MR. SLOAN: I am. We've taken several 6 properties through sketch plans, preliminary and 7 subdivision -- preliminary plans of subdivision site 8 plans in the sector plan area and other areas of the 9 county. 10 MR. DALRYMPLE: And are you familiar with 11 the -- the block that has been assembled by the 12 applicant? 13 MR. SLOAN: Yes. With my staff, I've 14 worked on initial analysis and the natural resources 15 inventory, as well as surveying aspects of the block 16 defined by Wisconsin Avenue, West Virginia, Tilbury 17 and Highland. 18 MR. DALRYMPLE: And are you familiar with 19 the public alley that Mr. -- as Mr. Tracy described 20 it -- that bifurcates the -- the assembled block and 21 how that alley functions in its current context? 22 MR. SLOAN: I have. I've reviewed all of 23 the work our surveyors have done describing the meets 24 and bounds and the sketch and description of the prop 25 -- of the alley.</p>	<p style="text-align: right;">35</p> <p>1 MR. DALRYMPLE: Can you get into the 2 details a little bit of the -- the limits of the 3 public alley and how it relates to the assembled 4 block and perhaps -- would you like Exhibit F -- the 5 meets and bounds pulled up, Mr. Sloan? 6 MR. SLOAN: That would help. 7 MR. DALRYMPLE: Mr. Utterback, if you 8 could get F. I think we also need G. 9 MR. SLOAN: Yeah. F is -- F is the 10 technical documentation from our surveyors of the 11 meets and bounds that describes the -- the sketch 12 that's in Exhibit G. Exhibit G shows specifically 13 the abutting lots to the east for the ten-foot alley. 14 So it abuts all properties that front on Wisconsin 15 Avenue and it also abuts the -- what's in -- is lot 16 seven it's on Highland Avenue in the alley, and then 17 a butts lot 27, I think it is, to the -- to the 18 South. 19 There was a previously abandoned alley 20 that ran east-west that's also noted on the 21 description. The alley's ten feet wide until mid- 22 block from north to south, and then it's 15 feet wide 23 from there to further south. And I'd only note, 24 additionally, that this is a substandard alley. An 25 alley is typically dedicated at 20 feet minimum</p>
<p style="text-align: right;">34</p> <p>1 MR. DALRYMPLE: I would ask -- Mr. 2 Utterback back, if you could put onto the screen 3 Exhibit J which is an existing conditions exhibit. 4 COURT REPORTER: One moment, please. 5 MR. DALRYMPLE: Thank you. Thank you, Mr. 6 Utterback. Mr. Sloan, can you please, using this 7 exhibit, describe the functionality of the public 8 alley in these current conditions? 9 MR. SLOAN: The alley provides a one-way 10 movement from north to south giving access to parking 11 areas, service trash and recycling areas to the 12 properties generally facing Wisconsin Avenue fronting 13 on that area. There are some parking to the east of 14 the alley for one of the properties. 15 MR. DALRYMPLE: And what -- can you 16 describe what your role has been in this -- in the 17 entitlement process and the abandonment process to 18 date? 19 MR. SLOAN: My role is -- is primarily 20 oversight of the development of existing conditions, 21 plans, concept development, entitlement, and sector 22 plan review. So anything that comes forward with 23 concept design and analysis of the existing 24 conditions that that concept design is based on is 25 under my purview.</p>	<p style="text-align: right;">36</p> <p>1 paving both in the road code and in the zoning 2 ordinance Chapters 49 and 59. 3 MR. DALRYMPLE: Thank you, Mr. Sloan. Can 4 you -- based on your experience, can you just 5 generally describe how the alley was initially 6 created and what you believe was the purpose of the 7 creation of the alley in its original form? 8 MR. SLOAN: The alley was dedicated by 9 plat 186. I think it was in 1916. And it, like the 10 blocks to the north and south, provided service 11 access to the lots that con -- the lots that front on 12 Wisconsin Avenue. This is traditionally done to 13 reduce curb cuts and minimize traffic on higher 14 volume roads and move the service requirements for 15 properties like pick up of trash and access to 16 parking behind the properties freeing up the 17 streetscape along our primary roads. 18 MR. DALRYMPLE: Thank you, Mr. Stone. And 19 were you -- were you on -- on the screen and in the 20 -- in these proceedings for Mr. Burke's testimony 21 relating to the proposed redevelopment of the 22 property? 23 MR. SLOAN: I was. 24 MR. DALRYMPLE: So -- but working off of 25 that, can you generally describe how the -- the</p>

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<p style="text-align: right;">37</p> <p>1 right-of-way for the -- for the public alley will 2 function in the context of -- of the existing 3 improvements and how it will relate to circulation 4 needs in the future? 5 MR. SLOAN: Sure. The current alley 6 provides only vehicular access. As the Chapter 49 7 notes, alleys are not recommended for pedestrian 8 access. So the alley providing service, once these 9 lots are consolidated and put together with the 10 general development -- redevelopment of this block, 11 those service functions will be taken over, as Mr. 12 Burke described, by providing internal access for 13 loading and service from West Virginia Avenue and to 14 parking from Highland Avenue. Thus, we don't need 15 the alley anymore to provide that service and parking 16 access function. 17 MR. DALRYMPLE: Can you -- bear with me 18 for one second, please. So can you describe just 19 generally speaking how the proposed redevelopment of 20 this block will comport with the approved and adopted 21 sector plan? 22 MR. SLOAN: Sure. The sector plan 23 recommends this block for mixed-use zoning, and it 24 recommends taller building heights on Wisconsin 25 Avenue stepping down to a maximum of 70 feet on the</p>	<p style="text-align: right;">39</p> <p>1 MR. DALRYMPLE: And are you familiar with 2 the design guidelines that were adopted after the 3 adoption of the sector plan? 4 MR. SLOAN: Yes. The design guidelines 5 provide additional information regarding 6 sustainability issues and urban design issues for the 7 block and other areas. 8 MR. DALRYMPLE: And how do these design 9 guidelines play into the -- the abandonment or not of 10 the public alley? 11 MR. SLOAN: There are no specific 12 recommendations for this lot in the -- or this block 13 in the design guidelines. However, they do provide a 14 network of circulation including where mid-block 15 pedestrian throughways should be and other -- other 16 roads. And there is no recommendation for this block 17 to have a mid-block crossing -- mid-block throughway 18 for -- for pedestrians or any alley necessary. 19 MR. DALRYMPLE: Mr. Sloan, as the area 20 redevelops in accordance with the sector plan, what 21 role, if any, do you believe the current right-of-way 22 and the public alley serves with that redevelopment? 23 MR. SLOAN: I don't believe it serves any 24 -- any -- and any need for -- during -- after 25 redevelopment. All of the functions that the alley</p>
<p style="text-align: right;">38</p> <p>1 east side. The Greenway is also a recommended master 2 plan aspect of this block. And it is specifically 3 recommended as a 35-foot width minimum. And for 4 every additional foot that you provide for the 5 Greenway, you are allowed to build another foot 6 higher for your building. 7 Thus, to achieve your maximum 70 feet of - 8 - of zoned height, you would have to provide a 70- 9 foot Greenway which is exactly what this project is 10 doing. What entails though, is providing that open 11 space -- that green space and that pedestrian access 12 along the Greenway -- means you're pushing your 13 density and your height, of course, to the west. 14 And as noted in Park and Planning -- Park 15 and Planning's letter, Exhibit R, I think it is, they 16 note that to achieve these heights, you put your 17 density over the area that is -- it's on the second 18 page. That includes the -- the alley right-of-way as 19 well as the other consolidated properties. There, 20 third -- third paragraph under discussion in that 21 exhibit describes it quite well. The -- the loading 22 and trash is put to the sides. It's off of Wisconsin 23 Avenue. It doesn't disturb the Greenway and the 24 building heights are achieved as recommended in the 25 master plan.</p>	<p style="text-align: right;">40</p> <p>1 is providing now will be provided by other means. 2 MR. DALRYMPLE: So do you have an opinion 3 as to whether the abandonment of the public alley 4 would be consistent or not with the adopted sector 5 plan? 6 MR. SLOAN: I do. I think the abandonment 7 of the alley is directly in line with the 8 recommendations for the master plan. 9 MR. DALRYMPLE: And in your opinion, is 10 the public alley necessary for present public use or 11 anticipated public use as a right-of-way or for any 12 other public purpose in the foreseeable future? 13 MR. SLOAN: It is not needed for any 14 public purpose. It's only serving the existing lots 15 on that -- on that property. It's not meant for 16 through traffic or circulation of any other -- any 17 other needs. 18 MR. DALRYMPLE: Thank you, Mr. Sloan. Mr. 19 Paylor, I do not have any further questions of Mr. 20 Sloan at this time. So I'll turn it back to you. 21 MR. PAYLOR: Thank you very much, Mr. 22 Dalrymple. At this point and time in the hearing, 23 are there any further comments? Okay. If there are 24 no comments, I am declaring this hearing closed. The 25 record will remain open until August -- I'm sorry?</p>

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11 (41 to 44)

<p style="text-align: right;">41</p> <p>1 MR. DALRYMPLE: I'm sorry. 2 MR. TRACY: I think the applicant has 3 additional -- 4 MR. PAYLOR: I apologize. Forgive me, Mr. 5 Dalrymple. 6 MR. DALRYMPLE: No -- no worries. Thank 7 you, Mr. Paylor. We do have one additional witness 8 and she would be quite upset if we didn't allow her 9 to participate because she got all dressed up for it. 10 MR. PAYLOR: I apologize. 11 MR. DALRYMPLE: No worries. No worries. 12 I would ask Ms. Randall to please identify herself 13 and the business and business address. 14 COURT REPORTER: I'm sorry, Ms. Randall, 15 your microphone is still mute. 16 MS. RANDALL: There you go. Thank you. 17 It took a while for that question to come through. 18 For the record, my name is Nancy Randall. I work for 19 Wells and Associates and I am a transportation 20 planner. My office is located at 1110 Bonifant 21 Street in Silver Spring, Maryland. 22 MR. DALRYMPLE: Is anybody else receiving 23 some strange feedback from -- 24 MS. MCCRAY: Yes. 25 MR. PAYLOR: Yes.</p>	<p style="text-align: right;">43</p> <p>1 MR. TRACY: Mr. Paylor, while we wait for 2 -- for Nancy, we did have -- 3 MS. RANDALL: Guys, it's not accepting the 4 ID number or the passcode. Can you hear me? 5 MR. DALRYMPLE: It's -- it's pretty rough, 6 but maybe we can just try to power through it. And 7 I'll -- I'll try to ask questions in more or less of 8 a leading way to reduce the lead for -- for her 9 comments. Is that -- is that acceptable, Mr. Paylor? 10 MR. PAYLOR: Yes, it is. Thank you. 11 MR. DALRYMPLE: Okay. Ms. Randall, have 12 you ever been recognized as an expert in the area of 13 transportation planning in any quasi-judicial or 14 judicial proceedings? 15 MS. RANDALL: I have, yes. Both federal 16 courts, circuit court and with most jurisdictions 17 within the state of Maryland. 18 MR. DALRYMPLE: Mr. Paylor, we have 19 entered into the record Ms. Randall's resume as 20 Exhibit W and it extensively summarizes her -- her 21 qualifications. And we would, at this point in time, 22 offer her as an expert in transportation planning. 23 And I would ask that you recognize her as such. 24 MR. PAYLOR: So recognized Mr. Dalrymple. 25 MR. DALRYMPLE: Thank you, Mr. Paylor.</p>
<p style="text-align: right;">42</p> <p>1 MR. DALRYMPLE: Say something again, Ms. 2 Randall. 3 MS. RANDALL: Nancy Randall. 4 MR. DALRYMPLE: I don't know what's the 5 matter here. 6 COURT REPORTER: Yeah, I'm getting a 7 static as well from her audio. 8 MS. RANDALL: That's still the case? 9 MR. DALRYMPLE: It's still the case. 10 MS. RANDALL: Is there a means by which I 11 can call by phone? 12 COURT REPORTER: Certainly, Ms. Randall, 13 if that might help. If you look on the bottom left 14 hand corner of your screen, you'll see a mute button 15 and next to the mute button, there is an option to 16 switch to phone audio, and that should help correct 17 the static there. 18 MR. DALRYMPLE: You're muted, Nancy. 19 You're muted. There you go. 20 MS. RANDALL: I would need a phone number. 21 Thank you. Let me dial that in first. 22 MS. MCCRAY: I was going to say, Nancy, I 23 provided you the phone number in the chat privately. 24 MS. RANDALL: Thank you. 25 MS. MCCRAY: You're welcome.</p>	<p style="text-align: right;">44</p> <p>1 Ms. Randall, are you familiar with the abandonment 2 petition that's the subject of these proceedings? 3 MS. RANDALL: I am. 4 MR. DALRYMPLE: And have you visited the 5 properties and the surrounding areas leading up to 6 this hearing? 7 MS. RANDALL: I have. 8 MR. DALRYMPLE: And have you - are you 9 familiar with the downtown sector plan -- Bethesda 10 downtown sector plan that was adopted for this area 11 and specific to this -- this property? 12 MS. RANDALL: I am. 13 MR. DALRYMPLE: Are you familiar with the 14 transportation recommendations relevant to the 15 redevelopment of the -- the area? 16 MS. RANDALL: I am. 17 MR. DALRYMPLE: And are you familiar with 18 the entitlement processes that are required for 19 redevelopment of the property in the CR zone? 20 MS. RANDALL: I am. 21 MR. DALRYMPLE: Are you familiar with the 22 block that has been assembled and -- I guess, why 23 don't I rephrase that. Have you been present for 24 these entire proceedings, Ms. Randall and heard the 25 testimony of your colleagues?</p>

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<p style="text-align: right;">45</p> <p>1 MS. RANDALL: I have.</p> <p>2 MR. DALRYMPLE: So you're familiar with</p> <p>3 the assemblage of the -- of the block by the</p> <p>4 applicant and the proposed improvements, correct?</p> <p>5 MS. RANDALL: That's correct.</p> <p>6 MR. DALRYMPLE: Can you -- are you</p> <p>7 familiar with the alley that bifurcates the -- this</p> <p>8 block and how that alley functions in the specific</p> <p>9 content -- context of this property and the</p> <p>10 surrounding area?</p> <p>11 MS. RANDALL: Yes, I am.</p> <p>12 MR. DALRYMPLE: And can you please briefly</p> <p>13 describe what your role in this process has been to</p> <p>14 date?</p> <p>15 MS. RANDALL: Yes. Initially, I prepared</p> <p>16 the traffic impact study for the assembly of the</p> <p>17 properties. And then for this abandonment process to</p> <p>18 look at the function of that alley and how it relates</p> <p>19 to the public generally and the need for that alley.</p> <p>20 MR. DALRYMPLE: And what -- can you</p> <p>21 describe what the function of the alley is in -- in</p> <p>22 existing conditions?</p> <p>23 MS. RANDALL: Yes, I can. As stated</p> <p>24 previously by both the owner and by Mr. Sloan, it</p> <p>25 serves the retail developments that are located along</p>	<p style="text-align: right;">47</p> <p>1 public use or anticipated public use in the</p> <p>2 foreseeable future?</p> <p>3 MS. RANDALL: No, it is not. It's serving</p> <p>4 the function for service and parking for the retail</p> <p>5 stores that are located along the frontage of</p> <p>6 Wisconsin Avenue today.</p> <p>7 MR. DALRYMPLE: And in your opinion, would</p> <p>8 the abandonment of the public alley be consistent</p> <p>9 with the sector plan and otherwise be in the public</p> <p>10 interest?</p> <p>11 MS. RANDALL: It would.</p> <p>12 MR. DALRYMPLE: Those are all the</p> <p>13 questions I have for Ms. Randall. That -- that --</p> <p>14 that voice scares me and I'm afraid she's going to</p> <p>15 hurt me.</p> <p>16 MR. PAYLOR: [Inaudible] Dalrymple. Does</p> <p>17 the applicant at this time have any additional</p> <p>18 witnesses?</p> <p>19 MR. DALRYMPLE: We do not have any</p> <p>20 additional witnesses, Mr. Paylor. I do have one</p> <p>21 request that I would like to make for your</p> <p>22 consideration as -- as you move this forward in your</p> <p>23 recommendation which is that the validity period of</p> <p>24 the abandonment resolution, as I understand, it would</p> <p>25 typically be five years to complete the process of</p>
<p style="text-align: right;">46</p> <p>1 Wisconsin Avenue. It serves for some parking that is</p> <p>2 [inaudible] of the buildings, trash pickup for those</p> <p>3 retail buildings as well as delivery vehicles. It</p> <p>4 does not serve as a public access way for the general</p> <p>5 public and most specifically for pedestrians since</p> <p>6 the alleys are so narrow and don't have a proper</p> <p>7 accommodation for pedestrians on those alleys.</p> <p>8 MR. DALRYMPLE: Mr. Utterback, could you</p> <p>9 please put onto the screen Exhibit Y, the concept</p> <p>10 plan? Ms. Randall, are you familiar with this --</p> <p>11 with this proposed concept plan for redevelopment of</p> <p>12 the block?</p> <p>13 MS. RANDALL: I am.</p> <p>14 MR. DALRYMPLE: Can you just generally</p> <p>15 describe what role, if any, the public alley will</p> <p>16 have in certainly both this block and general</p> <p>17 circulation for the downtown area?</p> <p>18 MS. RANDALL: For this plan, the public</p> <p>19 alley was serving no function.</p> <p>20 MR. DALRYMPLE: Is it necessary for</p> <p>21 circulation for the -- for the general public in any</p> <p>22 way?</p> <p>23 MS. RANDALL: No, it is not.</p> <p>24 MR. DALRYMPLE: In your professional</p> <p>25 opinion, is the public alley necessary for present</p>	<p style="text-align: right;">48</p> <p>1 getting to record plat and given the times and with</p> <p>2 the coronavirus and the disruption that it has had,</p> <p>3 I believe that the council is considering a blanket</p> <p>4 two-year extension for approved entitlement plans.</p> <p>5 In anticipation of -- of that type of -- of -- of</p> <p>6 accommodation by the council, I would ask that you</p> <p>7 consider providing a validity period for seven years</p> <p>8 for this abandonment which is the five typically and</p> <p>9 then the two year accommodation for -- for COVID-19.</p> <p>10 MR. PAYLOR: Thank you, Mr. Dalrymple. So</p> <p>11 considered.</p> <p>12 MR. DALRYMPLE: Mr. Paylor, that is our --</p> <p>13 our case. I believe that through the testimony</p> <p>14 provided, both written and oral, that the applicant</p> <p>15 has satisfied its burden of demonstrating that this</p> <p>16 aban -- that this right-of-way is not necessary</p> <p>17 presently or for public use in the foreseeable</p> <p>18 future. And therefore, we believe that we have made</p> <p>19 the case for your recommendation for the council to</p> <p>20 adopt a resolution abandoning the right-of-way and</p> <p>21 allowing it to be included in the redevelopment of</p> <p>22 the subject block as we move forward.</p> <p>23 And with that, the applicant rests its</p> <p>24 case and asks for your favorable consideration, Mr.</p> <p>25 Paylor. Thank you for your patience with us and your</p>

Transcript of Hearing  
Conducted on July 28, 2020

<p style="text-align: right;">49</p> <p>1 conduct of an excellent public hearing. 2 MR. PAYLOR: Thank you, Mr. Dalrymple. 3 For the record page, Paige Nerenberg had submitted a 4 comment and I'll read it. And it states, as a 5 resident of east Bethesda who lives a short distance 6 from the project, I am happy to have B.F. Saul as a 7 future neighbor and appreciate the thoughtful design 8 on the project. 9 Are there any additional comments that 10 participants wish to place on the record at this 11 time? 12 MR. DALRYMPLE: No sir. Not -- not on 13 behalf of the applicant. 14 MR. PAYLOR: Thank you very much, 15 everyone. If there are no additional comments, I am 16 declaring this hearing closed. The record will 17 remain open until August the 11th, 2020 to 18 accommodate an additional comment for the record. 19 Those comments and any other correspondence may be 20 addressed to Joshua Tracy, Montgomery County 21 Department of Transportation, 100 Edison Park Drive, 22 Gaithersburg, Maryland 20878. 23 Thank you very much to all and this 24 concludes the hearing. 25 MR. DALRYMPLE: Thank you.</p>	<p style="text-align: right;">51</p> <p>1 CERTIFICATE OF NOTARY PUBLIC 2 3 4 I, Lee Utterback, AAERT CER, the officer before 5 whom the foregoing proceedings were taken, do hereby 6 certify that said proceedings were electronically 7 recorded by me; and that I am neither counsel for, 8 related to, nor employed by any of the parties to 9 this case and have no interest, financial or 10 otherwise, in its outcome. 11 12 13  14 15 _____ 16 LEE UTTERBACK, AAERT CER 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">50</p> <p>1 (Off the record at 12:18 p.m.) 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">52</p> <p>1 CERTIFICATE OF TRANSCRIBER 2 3 4 I, Sheila Martin, do hereby certify that the 5 foregoing transcript is a true and correct record of 6 the recorded proceedings; that said proceedings were 7 transcribed to the best of my ability from the audio 8 recording and supporting information; and that I am 9 neither counsel for, related to, nor employed by and 10 of the parties to this case and have no interest, 11 financial or otherwise, in its outcome. 12 13 14 15  16 17 _____ 18 SHEILA MARTIN 19 August 4, 2020 20 21 22 23 24 25</p>

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