

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF DAVID MAMANA, D/B/A : Case No. CU 15-04
GREENSKEEPER LANDSCAPING AND :
LAWN MANAGEMENT, INC. :
:
:
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A hearing in the above-entitled matter was held on
December 4, 2015, commencing at 9:35 a.m., Office of Zoning
and Administrative Hearings, Stella B. Werner Council Office
Building, 100 Maryland Avenue, Second Floor, Rita Davidson
Memorial Hearing Room, Rockville, Maryland 20850 before:

Lynn A. Robeson
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Robert Antonetti, Esq.

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Brent Morse	10	--	--	--
David Mamana				
By Mr. Antonetti:	13	--	--	--
By Mr. Morse:	--	28	--	--
Mike Razavi				
By Mr. Antonetti:	29	--	45	--
By Mr. Morse:	--	43	--	--
Eric McWilliams				
By Mr. Antonetti:	47	--	--	--
Michael Lenhart				
By Mr. Antonetti:	55	--	--	--
Francis Silverholz				
By Mr. Antonetti:	64	--	--	--

E X H I B I T S

Exhibit No.	Marked/Received
1-55	Premarked
56	Affidavit of posting 27
57	Letters of support from neighbors 27
58	Sewage disposal system permit 38
59	Traffic statement 59
60A	Photos of subject property 69
60B	Photos of subject property 69

P R O C E E D I N G S

1 P R O C E E D I N G S

2 MS. ROBESON: All right. Will the parties please

3 take a seat at the table? Is the applicant represented by

4 an attorney?

5 MR. ANTONETTI: Yes, ma'am.

6 MS. ROBESON: Okay. Well let me do this. Is the

7 court reporter ready?

8 THE COURT REPORTER: Yes.

9 MS. ROBESON: All right. I'm calling the case of

10 CU 15-04 David Mamana and Greenskeeper Landscaping and the

11 application for a conditional use to allow a landscape

12 contractor business on property located at 3309 Damascus

13 Road. The property is zoned A-R.

14 All right. This is a hearing and my name is Lynn

15 Robeson. I'm going to take all the testimony and evidence

16 today. I will issue a decision if no one requests, the

17 parties do have the right to request oral argument before

18 the Board of Appeals within 10 days of the date my decision

19 comes out. If no one requests oral argument, my decision

20 becomes final.

21 Okay. Would the parties identify themselves for

22 the record?

23 MR. ANTONETTI: Good morning, Madam Examiner, for

24 the record my name is Robert Antonetti, I'm an attorney with

25 the Law Firm of Shipley and Horne, with offices in Largo,

1 Maryland. I'm here on behalf of David Mamana, the

2 applicant.

3 MS. ROBESON: Okay. And is there anyone here that

4 wishes to testify that is not going to be called by the

5 applicant?

6 MR. MORSE: Yes, ma'am. My name is Brent Morse, I

7 signed up.

8 MS. ROBESON: Can come you come forward?

9 MR. MORSE: My name is Brent Morse, M-O-R-S-E.

10 I'm a neighbor of the adjoining property and I don't have

11 much to say but I just want to make sure that my, my request

12 goes on record.

13 MS. ROBESON: Okay. Well you're welcome to sit at

14 the table.

15 MR. MORSE: Thank you.

16 MS. ROBESON: Is there anyone else? All right.

17 Seeing none, just for the benefit of everyone here, this

18 procedure is informal but it does have certain formalities.

19 Testimony is under oath, it's subject to cross-examination

20 and there is an order of procedure. You're permitted to

21 make opening statements and then we take the applicant's

22 testimony, subject to cross-examination. We take testimony

23 from anyone else that wishes to testify and the applicant

24 has an applicant has a chance to respond to that, and if

25 desired you can have a closing statement. Your testimony

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1 should address only the criteria for approval and those are
2 set forth in the Technical Staff Report. Does everyone have
3 a copy of the Technical Staff Report?
4 (No audible response.)
5 MS. ROBESON: All right. Here I have an extra
6 copy that you may use, I do need it back Mr. Morse, if you
7 would like to take that. All right. So with that Mr.
8 Antonetti, do you have an opening statement?
9 MR. ANTONETTI: Yes, ma'am, just very briefly.
10 Again for the record, Robert Antonetti on behalf of the
11 applicant, David Mamana. I just wanted to open by stating
12 that you know I'm very pleased to be here on behalf of Mr.
13 Mamana, this case does involve a conditional use as you're
14 aware for a landscape contractor business.
15 The property in question is located off of
16 Damascus Road in the Brookeville Unity area in Montgomery
17 County. The property is a rather large property, it's over
18 31 acres in size. It is zoned A-R, as you noted in your
19 opening remarks. In that regard, the applicant is confident
20 that it satisfies the criteria of approval in the Zoning
21 Ordinance for a conditional use, specifically those criteria
22 pertinent to a landscape contractor's operations.
23 I do have here with me and I reference this in my
24 prehearing statement that we have multiple witnesses here.
25 And it's really just for completeness, not to create alarm

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1 as to you know we have so many that it would cause concern,
2 but there's been a lot of effort and energy and monies
3 expended on behalf of Mr. Mamana to really bring this
4 operation fully in compliance with the requirements of the
5 County Code, particularly the Zoning Ordinance.
6 So what I plan on doing, if Madam Examiner would
7 allow, I will call the following witnesses, Mr. Mamana, the
8 applicant, I'll ask him some questions. Mr. Mike Razavi,
9 he's the civil engineer who prepared the Site Plan which is
10 on record. I have Mr. Eric McWilliams, he's the landscape
11 architect from Bohler Engineering, who prepared a Landscape
12 Plan for this project. I have Mr. Mike Lenhart,
13 transportation engineer, who also prepared a transportation
14 statement.
15 MS. ROBESON: Who needs no introduction.
16 MR. ANTONETTI: Well that's good to hear, I hope.
17 I also have Mr. Francis Silverholz, he's a professional land
18 planner, associated with our law firm, so I'll bring him up
19 to provide some test on the matter and Mr. Ken Willis is
20 here. He's here just in case there is additional questions.
21 He prepared the NRI and FSD and has some input, if necessary
22 regarding the existing vegetation and environmental
23 conditions on the site.
24 But I will note that the Forest Conservation Plan
25 was approved by the Planning Board at their previous

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1 hearing. So he's really here for either additional
2 information or rebuttal, as necessary.
3 MS. ROBESON: Okay. Let me ask you this, well,
4 Mr. Morse, do you have any, now this isn't your time to
5 testify, but I do have an idea. But do you have any opening
6 statement, which is what you're going to prove?
7 MR. MORSE: Ma'am, all I had actually come to, to
8 do is to hear what the plan was. But I also had concerns
9 with the noise of the heavy equipment.
10 MS. ROBESON: Okay.
11 MR. MORSE: And that's really about the only thing
12 that I had a concern with.
13 MS. ROBESON: Okay.
14 MR. MORSE: I want to make it clear, I am a client
15 of Greenskeeper. I have been for about eight months or so.
16 And I also want to make it clear, they've been very good
17 neighbors.
18 MS. ROBESON: Okay.
19 MR. MORSE: I am directly across the street.
20 MS. ROBESON: Okay. That's testimony. Mr.
21 Antonetti, do you have any objection to doing this? I would
22 like to let Mr. Morse --
23 MR. ANTONETTI: Sure.
24 MS. ROBESON: -- testify first, so that when you
25 put on your case you can address his concerns and I think

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1 that would shorten rather than learning his concerns, you
2 know, far after the hearing. Do you have any objection to
3 doing that?
4 MR. ANTONETTI: I have no objection to that.
5 MS. ROBESON: Okay. Mr. Morse, please raise your
6 right hand. Do you solemnly affirm under penalties of
7 perjury that the statements you're about to make are the
8 truth, the whole truth and nothing but the truth?
9 MR. MORSE: I do.
10 MS. ROBESON: Okay. Why don't you tell us what
11 your concerns are and why you have them?
12 DIRECT EXAMINATION
13 MR. MORSE: My single concern is with noise of
14 heavy equipment on the highway between our properties.
15 MS. ROBESON: Now, we have a Site Plan in the
16 record. Do you have an exhibit, Mr. Antonetti, that might
17 show Mr. Morse's property?
18 MR. ANTONETTI: Madam Examiner, I believe this
19 Site Plan sheet if Mr. Morse, he's welcome to use this. I'm
20 not exactly sure where his property is, but --
21 MR. MORSE: Directly across 650 from Damascus
22 Road. Here is Damascus Road, here is the entrance.
23 MR. ANTONETTI: This is the current entrance.
24 MR. MORSE: Our property is right there.
25 MS. ROBESON: Okay. Okay. You can't say right

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1 there. Because if this gets appealed, it's on a transcript
2 so --
3 MR. MORSE: Our property is --
4 MS. ROBESON: Is that a little structure outline
5 or?
6 MR. ANTONETTI: I don't believe so, Madam
7 Examiner.
8 MS. ROBESON: Well, let's do this.
9 MR. ANTONETTI: Or is it Mr. Morse? I'm not sure.
10 MR. MORSE: That looks like the outline of our
11 actual residence.
12 MS. ROBESON: Okay. So you're looking at, is it a
13 square to the south of existing Damascus Road?
14 MR. MORSE: Correct.
15 MS. ROBESON: Just above it looks like is that the
16 certification --
17 MR. MORSE: Correct.
18 MS. ROBESON: -- on Exhibit 44. Okay. That's the
19 cover sheet. Let me show you 44A, no 44B1, if you could
20 approach, Mr. Antonetti, you can approach too. This is the
21 final Forest Conservation Plan, but it gives, it shows that
22 I think okay, so your house is immediate on 44, what is that
23 B1, your house is immediate just south of the existing
24 Damascus Road under the label existing Damascus Road, is
25 that correct?

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1 MR. MORSE: That's correct.
2 MS. ROBESON: Okay. Now that we've got that down.
3 MR. MAMANA: It's somewhat across from the
4 neighbor's driveway.
5 MS. ROBESON: I'm sorry, you can't, don't
6 volunteer, please. I'm not being hard on you, but I have to
7 have --
8 MR. MAMANA: I understand.
9 MS. ROBESON: -- a clean record.
10 MR. MAMANA: I understand.
11 MS. ROBESON: Okay. So continue with what you
12 wanted to say.
13 MR. MORSE: As I mentioned, my sole concern is
14 with the noise of the heavy equipment, specifically heavy
15 trucks entering and leaving the property on Damascus Road.
16 Current, there is currently there have been trucks that
17 enter and leave the property on a regular basis. We're used
18 to that level of traffic and traffic noise. If there plans
19 to be an increase in heavy truck traffic, then we would, my
20 wife and I, I would ask for some consideration for the noise
21 coming from those vehicles, specifically the airbrake. The
22 use of airbrakes so within a certain distance of our
23 residence.
24 MS. ROBESON: Okay. Now you got me.
25 MR. MORSE: Yes, ma'am.

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1 MS. ROBESON: I'm not sure what an airbrake is. I
2 mean can you brake without the airbrake?
3 MR. MORSE: You can with these heavy trucks, the
4 airbrakes are used to slow heavy trucks with loads in a
5 short period of time. It's really just downshifting and
6 using the compression of the engine to slow the truck.
7 You've probably heard it out on the freeway.
8 MS. ROBESON: Are you an engineer?
9 MR. MORSE: No, well, no, ma'am, I used to be a
10 mechanic.
11 MS. ROBESON: Okay.
12 MR. MORSE: They're also called Jake brakes.
13 MS. ROBESON: Oh I've heard of them.
14 MR. MORSE: Yeah. And it can increase the noise
15 from a truck quite dramatically when they are carrying a
16 heavy load and need to come to fairly quick stop.
17 MS. ROBESON: Okay. Okay. All right. Do you
18 have anything else?
19 MR. MORSE: No, ma'am.
20 MS. ROBESON: Okay. Mr. Antonetti, do you have
21 any questions of Mr. Morse?
22 MR. ANTONETTI: No, I do not.
23 MS. ROBESON: You'll get a chance to follow up as
24 we go along as you wish. Thank you, Mr. Morse. Now you're
25 welcome to stay at the table, you still have the ability if

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1 you hear something, you still have the ability to ask
2 questions of the applicant's witnesses.
3 MR. MORSE: Now I'll remain at the table, thank
4 you, ma'am.
5 MS. ROBESON: Okay. Now Mr. Antonetti, why don't
6 you call your first witness?
7 MR. ANTONETTI: Thank you, Madam Examiner. I'd
8 like to call Mr. David Mamana, the applicant for this
9 application.
10 MS. ROBESON: Okay. Mr. Mamana, please raise your
11 right hand. Do you solemnly affirm under penalties of
12 perjury that the statements you're about to make are the
13 truth, the whole truth and nothing but the truth?
14 MR. MAMANA: I do.
15 MS. ROBESON: All right. Mr. Antonetti?
16 MR. ANTONETTI: Thank you.
17 DIRECT EXAMINATION
18 MR. ANTONETTI: Again, for the record, Mr. Mamana,
19 can you just please state your full name and address?
20 MR. MAMANA: First name is David, last name
21 Mamana. And address is 2208 Link Road, Silver Spring,
22 Maryland 20905.
23 MR. ANTONETTI: And are you the applicant for the
24 instant conditional use application?
25 MR. MAMANA: Yes.

1 MR. ANTONETTI: And what is your relationship to
 2 Greenskeeper Landscaping and Lawn Management, Incorporated?
 3 MR. MAMANA: I am the president and owner.
 4 MR. ANTONETTI: And can you explain, I'm sorry,
 5 what is the address of the site in question?
 6 MR. MAMANA: 3309 Damascus Road, Brookeville,
 7 Maryland 20833.
 8 MR. ANTONETTI: And can you explain for the record
 9 what your company does at the subject site?
 10 MR. MAMANA: We're a landscape contractor and what
 11 we do is, the type of services we do or --
 12 MR. ANTONETTI: Yes.
 13 MR. MAMANA: Yeah, we do sediment erosion control,
 14 we do installation of plants, trees, we do tree work, stump
 15 grinding and we do snow removal as well.
 16 MR. ANTONETTI: Okay. And how long has your
 17 company operated at the subject site?
 18 MR. MAMANA: Over 12 years.
 19 MR. ANTONETTI: Okay. And when you purchased the
 20 subject property, was there anything that, or what if
 21 anything did you know about the prior owners and their uses
 22 of the property?
 23 MR. MAMANA: Well, the prior owner before me was
 24 Montrose Baptist Church. They used it for several church
 25 events. Prior to that was Rupert Nurseries and they

1 actually, it is still a working tree farm and there are
 2 trees that we still harvest off the property. So Rupert
 3 owned it, they had it as a tree farm and prior to that was
 4 JH Burton. It was another large landscape company that also
 5 treated it as a tree farm.
 6 MR. ANTONETTI: And what is the acreage
 7 approximately of your site?
 8 MR. MAMANA: It's a little under 32 acres.
 9 MR. ANTONETTI: Okay. And when you purchased the
 10 subject property, why did you select that location for your
 11 landscape contractor operation?
 12 MR. MAMANA: Well, one because it was a working
 13 tree farm I thought it conformed with the type of work that
 14 we do. And it was a very large site, it sits back off the
 15 road and you can't see anything from the road, it's very
 16 secluded and also pretty much all the neighbors because of
 17 the existing trees, there's from the tree farm that we've
 18 left around the perimeter, gives some really good screening
 19 and privacy to the property.
 20 MR. ANTONETTI: And do you have any buildings on
 21 the site and if you do what are they used for?
 22 MR. MAMANA: Yes. There is four metal buildings,
 23 four structures and we use them for storage.
 24 MS. ROBESON: And those are the pole barns listed
 25 on the --

1 MR. MAMANA: Yes, ma'am.
 2 MS. ROBESON: -- shown on the Site Plan?
 3 MR. MAMANA: Yes, ma'am.
 4 MR. ANTONETTI: And what are your hours and says
 5 of operation of your business?
 6 MR. MAMANA: We typically work Monday through
 7 Friday. The managers get there about 6:00 a.m. and usually
 8 the last crew, the last person leaves about 5 o'clock.
 9 Saturdays, we try not to work Saturdays but in, you know,
 10 the busy season we do work Saturdays, usually 8:00 a.m. to
 11 4:00 p.m., if we do have to work Saturday.
 12 MR. ANTONETTI: So just for clarification, so
 13 Monday through Friday, 6:00 a.m. to 5:00 p.m., and then on
 14 Saturday 8:00 a.m. to 4:00 p.m., is that correct?
 15 MR. MAMANA: Correct, yes.
 16 MR. ANTONETTI: Okay. And can you explain for the
 17 Examiner the types of equipment that you have for this use
 18 on the property?
 19 MS. ROBESON: Let me just ask you something. Do
 20 you have a problem having a condition of approval typically
 21 in these things, we do set out the hours of operation so we
 22 know that like Jake brakes aren't happening at Saturday at,
 23 you know, 6:30 or 9 o'clock at night. Do you have a problem
 24 agreeing to those hours of operation?
 25 MR. MAMANA: I think the hours we work are pretty,

1 pretty standard hours, you know, workday. We also do snow
 2 removal and that's kind of --
 3 MS. ROBESON: But they wouldn't involve, the snow
 4 removal doesn't involve the Jake brake.
 5 MR. MAMANA: Yeah, am I able to talk about the
 6 Jake brake at this point?
 7 MS. ROBESON: Sure.
 8 MR. MAMANA: We don't have any trucks that have
 9 airbrakes. We don't have any CDL drivers in the company and
 10 to have airbrakes, you have to have to CDL. We don't have
 11 one truck that has airbrakes.
 12 MS. ROBESON: Okay. Well, Mr. Morse is looking
 13 skeptical but you will get a chance in a nice way.
 14 MR. MORSE: Yes, sure.
 15 MS. ROBESON: I don't want to create, you will get
 16 a chance to talk again. All right. So you have no Jake
 17 brakes, but what type of trucks do you use for the snow
 18 removal?
 19 MR. MAMANA: We use pickup trucks, 450's, 550's,
 20 one ton trucks, crew cabs, most of them are, you know, the
 21 pickup size just for the ease of, you know, the size of it.
 22 You can't use a huge, or a big truck.
 23 MS. ROBESON: All right. So do you have a problem
 24 limiting, specifying hours of operation, except for the snow
 25 removal?

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1 MR. MAMANA: That's fine.
2 MS. ROBESON: Okay. Go ahead, I'm sorry.
3 MR. ANTONETTI: No, problem, thank you. Let me
4 follow up on the Jake brake question, if I could. Mr.
5 Mamana, do you have any deliveries from third parties that
6 come to your site delivering materials to the property --
7 MR. MAMANA: Yes.
8 MR. ANTONETTI: -- that aren't your own vehicles?
9 MR. MAMANA: Yes.
10 MR. ANTONETTI: Are any of those vehicles, is
11 there ever an instance where they are of a certain vehicle
12 size that would require CDL license --
13 MR. MAMANA: Yes.
14 MR. ANTONETTI: -- and they may have airbrakes or
15 Jake brakes?
16 MR. MAMANA: Yes.
17 MR. ANTONETTI: Is it possible, and if it is, are
18 you willing to instruct those third party vendors to not
19 rely on their airbrake or Jake brake when making deliveries
20 to your site?
21 MR. MAMANA: Yes.
22 MR. ANTONETTI: Okay. Thank you. With regards
23 to, well, speaking to the types of equipment, I know you've
24 mentioned for snow removal you use one ton trucks. Can you
25 generally describe kind of your inventory of equipment on

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1 the site that you do use for your operations that you own
2 and control?
3 MR. MAMANA: We have a wheel loader there, we have
4 a four skit steer loaders, we have a tractor that we do use
5 to mow the fields. We have two mini excavators and we have
6 of course the trucks and the trailers.
7 MR. ANTONETTI: Okay. And where is your equipment
8 stored?
9 MR. MAMANA: We have designated parking space
10 that's in front of the shop area which is where the trucks
11 are parked.
12 MS. ROBESON: Which barn is the shop area? Just
13 so I can --
14 MR. ANTONETTI: Madam Examiner, I have a pointer,
15 is that appropriate?
16 MS. ROBESON: Yes, that would be great.
17 MR. ANTONETTI: Helpful? Okay.
18 MS. ROBESON: As long as you can just, as long as
19 he can describe it so a transcript would know where it is.
20 You can use north, you can use, you know, whatever you wish
21 to us.
22 MR. ANTONETTI: Okay.
23 MR. MAMANA: Do you want me to --
24 MR. ANTONETTI: I have a laser pointer, Mr.
25 Mamana, if you could use this --

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1 MR. MAMANA: Sorry, I want to make sure I'm
2 looking at the right --
3 MR. ANTONETTI: Sure, please. Whatever is easier
4 for you.
5 MS. ROBESON: So what you're looking at is --
6 MR. MAMANA: It's in front of pole building B,
7 this whole parking area.
8 MS. ROBESON: Okay. But I need the exhibit
9 number.
10 MR. ANTONETTI: Madam Examiner, I believe it's
11 Exhibit 47G, the Site Plan, this is reflective of the Site
12 Plan submitted to the Planning Board and transmitted from
13 the technical staff.
14 MS. ROBESON: I have the latest, hold on one
15 second. The latest large plans I have are 44.
16 MR. ANTONETTI: 44.
17 MS. ROBESON: 47 I have is the PowerPoint --
18 MR. ANTONETTI: I see.
19 MS. ROBESON: -- presentation.
20 MR. ANTONETTI: I correct myself, I think you're
21 correct and it would be 44D.
22 MS. ROBESON: Yes. That's what I have. Okay.
23 So when you're referring to what sheet are you on? 44D?
24 MR. MAMANA: 2 of 3.
25 MS. ROBESON: 44D2.

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1 MR. ANTONETTI: Yes.
2 MS. ROBESON: Little I's. Okay. Go ahead.
3 MR. MAMANA: So in front of pole building B, it
4 says gravel lot B, that's where the trucks are parked.
5 MS. ROBESON: Okay. Thank you.
6 MR. ANTONETTI: Okay.
7 MS. ROBESON: Sorry. Go ahead.
8 MR. ANTONETTI: Mr. Mamana, thank you for that.
9 How many employees do you have including yourself?
10 MR. MAMANA: 53.
11 MR. ANTONETTI: And can you describe the different
12 types of employees at your site and what they're job
13 descriptions are.
14 MR. MAMANA: We have managers that come in the
15 morning and then we have of course the crew leaders and the
16 actual crew that comes. We have them on split schedules and
17 then we also have some office help that comes before shift.
18 MR. ANTONETTI: So you mentioned split schedule.
19 Let's quickly delve into that. So do all these employees
20 arrive and leave the site at the same time?
21 MR. MAMANA: No.
22 MR. ANTONETTI: And so is there some type of shift
23 pattern that --
24 MR. MAMANA: Yes. So about 6 o'clock the managers
25 get there. They'll have all the schedules ready for the

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1 crews. 6:30 a.m., we have the first set of crews come in
2 and then 7 o'clock then they get their schedule and leave.
3 MR. ANTONETTI: So that would be shift 1?
4 MR. MAMANA: Shift 1, yeah.
5 MR. ANTONETTI: Okay.
6 MR. MAMANA: Well, technically if you call the
7 managers, it would be shift 1 when they come in at 6:00 a.m.
8 MR. ANTONETTI: Okay.
9 MR. MAMANA: So shift 2 would be the first set of
10 crews. They get their schedules, they leave at 7 o'clock
11 the second shift of crews come in. They leave and then at 9
12 o'clock is when our office staff comes in.
13 MR. ANTONETTI: Okay. Thank you. And do any of
14 the workers in any of the shifts do they drive themselves to
15 your site? Do they carpool? How do they get?
16 MR. MAMANA: A large amount of them do carpool.
17 It's more efficient for them and we also provide, we have a
18 company van that we also let one of the managers take. It's
19 just, it seems a little bit more efficient that way. So a
20 large amount of them do carpool.
21 MR. ANTONETTI: Okay. And do any of them drive
22 their own personal vehicles to the site?
23 MR. MAMANA: Yes. Yes.
24 MR. ANTONETTI: Okay. About how many then?
25 MR. MAMANA: I'd say probably about 18.

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1 MR. ANTONETTI: 18. Okay. Mr. Mamana, do you
2 sell any plant material, garden supplies or equipment to the
3 public from your site?
4 MR. MAMANA: I do not.
5 MR. ANTONETTI: Okay. You've described your
6 current operation, through this application request are you
7 requesting any expansion of your current operations through
8 this conditional use application?
9 MR. MAMANA: No.
10 MR. ANTONETTI: And is your property kept in an
11 orderly and clean condition?
12 MR. MAMANA: Very well kept, yes.
13 MR. ANTONETTI: Would you say that your operation
14 is visible to neighboring properties?
15 MR. MAMANA: No, like I said because it was a tree
16 farm the existing trees are around the perimeter, there is
17 quite a bit of vegetation and large established trees that
18 do screen all around the perimeter of the property. In, in
19 the back of it is an easement, it's a power line so there
20 are no houses along the back.
21 MR. ANTONETTI: Okay. And what's your
22 relationship with your neighbors or adjoining property
23 owners and how have they reacted to your use over the past
24 12 or so years that you've been in operation?
25 MR. MAMANA: I actually have excellent

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1 relationships with all my neighbors, you know, from day one
2 when I moved in spoke to, some of them have moved but you
3 know from day one I told them what was going on. Everybody
4 was very happy that you know I was keeping it a tree farm.
5 So and I don't, I don't think they were naive that there was
6 not going to be equipment in there, I mean it, you need
7 equipment to move trees and everything. So but I have
8 excellent relationships with all my neighbors. And I
9 actually let some of them, you know, they have dogs, I let
10 them walk on the property. It is a very nice site.
11 MR. ANTONETTI: Have you made attempts to speak
12 with or meet with your neighbors regarding this application?
13 MR. MAMANA: Yes, I have.
14 MR. ANTONETTI: Okay. And have any of your
15 neighbors been supportive of the conditional use
16 application?
17 MR. MAMANA: Overwhelmingly supportive.
18 MR. ANTONETTI: Okay. Madam Examiner, I want to
19 point to I guess it was labeled as Exhibit 55.
20 MS. ROBESON: I saw that.
21 MR. ANTONETTI: Okay.
22 MS. ROBESON: A letter from the neighbors?
23 MR. ANTONETTI: Yes, ma'am.
24 MS. ROBESON: Yes.
25 MR. ANTONETTI: Since that was filed, and this is

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1 somewhat in quasi real time, there were three more letters
2 that were submitted.
3 MS. ROBESON: Okay.
4 MR. ANTONETTI: So I have an updated revised
5 Exhibit 55, or it would be Exhibit 66, if it's admissible.
6 MS. ROBESON: I will accept it as you know I can't
7 base my decision on whether the use is popular with the
8 neighbors or not, but I will accept it. So why don't you,
9 it will be 57. Why don't you --
10 MR. MAMANA: And I apologize for the last minute
11 letters.
12 MS. ROBESON: No.
13 MR. MAMANA: It's just because of the holiday,
14 everyone is on vacation --
15 MS. ROBESON: I understand. That's fine.
16 MR. MAMANA: -- and we had to try and get in touch
17 with everybody.
18 MS. ROBESON: Why don't you bring it forward?
19 MR. ANTONETTI: Yes, ma'am.
20 MS. ROBESON: Do you have any objection to it
21 coming in, Mr. Morse?
22 MR. MORSE: No.
23 MS. ROBESON: This?
24 MR. ANTONETTI: And Mr. Morse, you can examine a
25 copy of it if that would be helpful the houses are on it but

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1 I didn't get the numbers.
2 MS. ROBESON: If someone has a cell phone on can
3 you turn it off? Because I hear something, but it
4 interferes with the recording equipment. Maybe I'm not
5 hearing a cell phone.
6 MR. MAMANA: No, I hear it.
7 MR. MORSE: I hear something too.
8 MS. ROBESON: So okay which is --
9 MR. ANTONETTI: This is what we're looking at.
10 MS. ROBESON: Yes.
11 MR. ANTONETTI: So Madam Examiner what we're
12 looking at is a collection of 11 letters, the last that was
13 received just this morning. The last, the eleventh letter
14 is not numbered but the rest of the exhibit have numbered 1
15 through 10.
16 MS. ROBESON: Okay.
17 MR. ANTONETTI: And in the rear is kind of an
18 orientation map as to where those properties are.
19 MS. ROBESON: Okay. And you've added --
20 MR. ANTONETTI: 11 has not been added because we
21 just received it this morning.
22 MS. ROBESON: Okay. Well, I'm going to mark add a
23 page number at the top right hand corner so we know that
24 this is the eleventh letter and I'm going to call this just
25 letters from neighbors, letters of support from neighbors.

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1 MR. ANTONETTI: Is that Item 56, Madam Examiner?
2 MS. ROBESON: Seven.
3 MR. ANTONETTI: 57?
4 MS. ROBESON: 56 is your affidavit of posting.
5 MR. ANTONETTI: Okay.
6 (Hearing Exhibit Nos. 56
7 and 57 were marked for
8 identification.)
9 MR. ANTONETTI: Thank you. Mr. Mamana, just
10 quickly, have you reviewed the Technical Staff Report dated
11 November 6, 2015, prepared by the Park and Planning staff
12 for Area 3, for the conditional use application?
13 MR. MAMANA: I have.
14 MR. ANTONETTI: And are you aware that the
15 Montgomery County Planning Board has recommended approval of
16 this conditional use application with conditions recommended
17 by the technical staff?
18 MR. MAMANA: Yes.
19 MR. ANTONETTI: And do you agree and accept the
20 recommendations of the staff and the Planning Board
21 regarding the findings and conditions of approval for the
22 instant application?
23 MR. MAMANA: I do.
24 MS. ROBESON: I noticed the Planning Board revised
25 the conditions.

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1 MR. ANTONETTI: Yes, ma'am.
2 MS. ROBESON: Are you saying you agree with the
3 revised conditions?
4 MR. ANTONETTI: Yes. Oh sorry.
5 MR. MAMANA: Yes.
6 MS. ROBESON: Okay. Well, it's informal, what can
7 we say?
8 MR. ANTONETTI: That's what he meant.
9 MS. ROBESON: All right. All right, go ahead.
10 MR. ANTONETTI: Thank you, Madam Examiner. That's
11 all the questions I have for Mr. Mamana at this point.
12 MS. ROBESON: Okay. Mr. Morse, based on what
13 you've heard do you have any questions of Mr. Mamana?
14 CROSS-EXAMINATION
15 MR. MORSE: I guess my questions would relate to
16 the snow removal service and the delivery of, and of salt to
17 the property. Do large trucks deliver salt to your
18 property?
19 MR. MAMANA: Yes.
20 MR. MORSE: Okay. And I notice at least in this
21 document that you do note that snow removal, at least no
22 plow services can occur on a 24 hour basis.
23 MR. MAMANA: Yes.
24 MR. MORSE: Is it possible to not use the
25 airbrakes on those vehicles that deliver salt or other large

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1 loads to your property 24 hours a day?
2 MR. MAMANA: Yes.
3 MR. MORSE: I'm satisfied. Thank you.
4 MS. ROBESON: Okay. Well you're good. You knew
5 to phrase it in the form of a question.
6 MR. MORSE: I watch Law and Order, ma'am.
7 MS. ROBESON: Okay. All right. I should watch
8 it. All right. Mr. Antonetti, you're next witness, please?
9 MR. ANTONETTI: Yes. Yes, Madam Examiner. I'd
10 like to call Mr. Mike Razavi.
11 MS. ROBESON: Okay. Mr. Razavi, please raise your
12 right hand. Do you solemnly affirm under penalties of
13 perjury that the statements you're about to make are the
14 truth, the whole truth and nothing but the truth?
15 MR. RAZAVI: Yes, I do.
16 MS. ROBESON: Okay. Go ahead, Mr. Antonetti.
17 MR. ANTONETTI: Thank you, Madam Examiner.
18 DIRECT EXAMINATION
19 MR. ANTONETTI: Mr. Razavi, can you state your
20 full name and address for the record, please?
21 MR. RAZAVI: Yes, my name is Mohammad Razavi, I'm
22 also known as Mike Razavi in my business and my working
23 address is 3280 Urbana Pike, Suite 101, Ijamsville, Maryland
24 21754.
25 MR. ANTONETTI: Okay.

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1 MS. ROBESON: Could you kindly spell your last
2 name?
3 MR. RAZAVI: Razavi, R-A-Z-A-V-I.
4 MS. ROBESON: V-I?
5 MR. RAZAVI: Yes, ma'am.
6 MS. ROBESON: Okay. Thank you.
7 MR. ANTONETTI: Thank you. Mr. Razavi, what is
8 your current occupation?
9 MR. RAZAVI: I'm a professional civil engineer.
10 MR. ANTONETTI: And what is your business address?
11 MR. RAZAVI: It's 3280 Urbana Pike, Suite 101 --
12 MS. ROBESON: He just stated.
13 MR. RAZAVI: -- Ijamsville, Maryland 21754.
14 MR. ANTONETTI: Thank you. And do you work for
15 RAZTEC Associates, Inc.?
16 MR. RAZAVI: I do.
17 MR. ANTONETTI: Okay. In what capacity?
18 MR. RAZAVI: I'm the president of the company.
19 MR. ANTONETTI: Okay. Have you ever testified as
20 an expert before the Montgomery County Hearing Examiner --
21 MR. RAZAVI: Yes.
22 MR. ANTONETTI: -- or any other administrative
23 body in Montgomery County?
24 MR. RAZAVI: Yes, I have.
25 MR. ANTONETTI: Okay. Madam Examiner, I could --

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1 MS. ROBESON: Is your resume in the record?
2 MR. ANTONETTI: It should be as part of the
3 prehearing statement.
4 MS. ROBESON: Prehearing statement.
5 MR. ANTONETTI: I do have copies which I could --
6 MS. ROBESON: No, that's okay. I recall that it's
7 in there. Okay.
8 MR. ANTONETTI: Given his qualifications and the
9 fact that he's qualified as expert from previous
10 proceedings, I'd move that Mr. Razavi be qualified as an
11 expert in the field of civil engineering for this hearing.
12 MS. ROBESON: Two questions, Mr. Razavi. Are you
13 licensed to practice in Maryland?
14 MR. RAZAVI: Yes, I am.
15 MS. ROBESON: And what were the bodies that you
16 qualified as an expert in before?
17 MR. RAZAVI: I don't understand the question.
18 MS. ROBESON: Okay. Were you in Circuit Court,
19 were you --
20 MR. RAZAVI: Oh no, I was here in this same --
21 MS. ROBESON: Before the Hearing Examiner?
22 MR. RAZAVI: Yes, before the Hearing Examiner.
23 MS. ROBESON: Okay. Mr. Morse, do you have any
24 reason to believe that he's not an expert in civil
25 engineering?

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1 MR. MORSE: I have no reason to believe that.
2 Thank you.
3 MS. ROBESON: Okay. I'll accept him as an expert
4 in this case.
5 MR. ANTONETTI: Thank you, Madam Examiner. Again,
6 kind of moving on, Mr. Razavi, has the applicant engaged you
7 to prepare a Site Plan for this conditional use application?
8 MR. RAZAVI: Yes, he has.
9 MR. ANTONETTI: And here on the board we have an
10 exhibit which I believe is in the record as --
11 MS. ROBESON: 44D.
12 MR. ANTONETTI: -- 44D. Do you --
13 MS. ROBESON: Let me make sure that's it. Because
14 there's two, yes, 44D. Sorry.
15 MR. ANTONETTI: Mr. Razavi, do you recognize what
16 has been marked as Exhibit 44D, which is on the easel here
17 to your right?
18 MR. RAZAVI: I do.
19 MR. ANTONETTI: And is that the applicant's Site
20 Plan?
21 MR. RAZAVI: Yes, it is.
22 MR. ANTONETTI: And was this Site Plan prepared by
23 your or under your supervision?
24 MR. RAZAVI: Yes, it was.
25 MR. ANTONETTI: Mr. Razavi, I want to ask you a

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1 few questions relative to the exhibit on the easel, 44D.
2 Can you orient the Examiner as to where the property is
3 overall?
4 MR. RAZAVI: Yes, the property is located on
5 Damascus Road, on New Hampshire Road, I should say, about
6 3,000 feet east of the intersection with Georgia Avenue.
7 MS. ROBESON: And the entire property is shown on
8 sheet 1, correct, the 44D?
9 MR. RAZAVI: Yes, on the cover sheet, yes.
10 MS. ROBESON: Okay.
11 MR. ANTONETTI: And Mr. Razavi, per the Site Plan
12 how many acres is the site?
13 MR. RAZAVI: The property is 31.58 acres.
14 MR. ANTONETTI: Okay. And how many acres is the
15 conditional use area requested in this application?
16 MR. RAZAVI: It's also 31.58 acres.
17 MR. ANTONETTI: Okay. And can you describe just
18 briefly the shape of the property and how it relates to
19 adjacent properties for the examiner?
20 MR. RAZAVI: The shape of the property, the
21 entrance is sort of a thin --
22 MR. ANTONETTI: You can use this if you'd like
23 sir.
24 MR. RAZAVI: The entrance to the property is right
25 there and it's sort of a --

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1 MS. ROBESON: And you're pointing to existing
2 Damascus, where --
3 MR. RAZAVI: Yes.
4 MS. ROBESON: -- the connection to existing
5 Damascus Road?
6 MR. RAZAVI: Yes. Is a small, well a thin 75 foot
7 wide frontage on Damascus Road as it enters this site. And
8 then the entrance to where most of the facilities are on the
9 left hand turn and this is the general area where the
10 majority of the activity is on the site.
11 MS. ROBESON: Okay. And when you say this is the
12 general area --
13 MR. RAZAVI: Yeah.
14 MS. ROBESON: -- can you describe what you're
15 referring to?
16 MR. RAZAVI: What I'm referring to are the two,
17 the pole barn buildings.
18 MS. ROBESON: Okay.
19 MR. RAZAVI: There is also a parking area in this
20 area and in this general area is where the equipment is
21 stored.
22 MS. ROBESON: And the parking areas are labeled on
23 the Site Plan, right?
24 MR. RAZAVI: Yes, they are, correct. And this
25 general area is where the equipment and the trucks sit,

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1 mostly place and stored and parked.
2 MS. ROBESON: And can you just tell us when you
3 say this general area is where the trucks are?
4 MR. RAZAVI: It's to the north of the gravel
5 driveway.
6 MS. ROBESON: Is it labeled? Is that area, is it
7 gravel lot A?
8 MR. RAZAVI: Yes, I think --
9 MS. ROBESON: And gravel lot B?
10 MR. RAZAVI: It's gravel lot A, correct.
11 MS. ROBESON: Okay.
12 MR. RAZAVI: Well gravel lot B is where the
13 equipment is stored. Gravel lot A is an area that's been
14 designated for parking also to meet the parking requirements
15 of the zoning --
16 MS. ROBESON: Okay.
17 MR. RAZAVI: -- and the use. There is also some
18 storage areas for what we call storage bays on gravel lot D,
19 which is just a material that Mr. Mamana uses for his
20 business. There's a couple of other pole barn buildings in
21 this area which I believe are rented out.
22 MR. ANTONETTI: Can you describe where this area
23 is on the Site Plan exhibit?
24 MR. RAZAVI: Yes. It's just to the north of the
25 gravel driveway.

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1 MS. ROBESON: Are they labeled pole barn D?
2 MR. RAZAVI: And E.
3 MS. ROBESON: Okay.
4 MR. RAZAVI: D and E. The remaining driveways I
5 don't believe are often used anymore. Am I correct?
6 MR. MAMANA: We don't.
7 MR. RAZAVI: Yes, they're not used often anymore.
8 And generally the rest of the site to the north is which
9 goes on a second sheet, where you see match line AA remains
10 unused for the most part.
11 MS. ROBESON: Okay.
12 MR. RAZAVI: Well, for entirely unused I would
13 say.
14 MR. ANTONETTI: So Mr. Razavi you mentioned the
15 driveway, is that the main point of vehicular access coming
16 and leaving --
17 MR. RAZAVI: There --
18 MR. ANTONETTI: -- the site?
19 MR. RAZAVI: That's correct, this is the main
20 point of ingress and egress to the site.
21 MS. ROBESON: Now if I'm looking at 44D sheet 2,
22 I'm seeing that the driveway, is it true that the existing
23 driveway is 12 feet, but you have shown the ability to
24 expand it to 20 feet?
25 MR. RAZAVI: Yes, that's correct.

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1 MS. ROBESON: And do you have any issue with
2 expanding it to 20 feet? Because I think you're going to
3 have to, but --
4 MR. RAZAVI: Yes, it's possible to do it. I mean
5 we show it on the Site Plan to be expanded to 20 feet.
6 MS. ROBESON: Okay. All right.
7 MR. ANTONETTI: Mr. Razavi, that's an excellent
8 follow up question if we could, Madam Examiner. Mr. Razavi,
9 why does the Site Plan you prepared show a proposed widening
10 of the driveway to 20 feet?
11 MR. RAZAVI: The proposed widening is due to the
12 requirement of the Montgomery County Fire and Rescue
13 Department to have a driveway that is accessible for fire
14 trucks to be able to come onto the site and for that reason
15 they would like to have a 20 foot wide driveway.
16 MS. ROBESON: Okay.
17 MR. ANTONETTI: Okay. And you described the four
18 pole buildings for the Examiner for the record, but also for
19 the record, could you describe whether or not the site will
20 have a septic system proposed to be installed.
21 MR. RAZAVI: That's correct. Yes. If I could --
22 MS. ROBESON: So you're looking at sheet 3 --
23 MR. RAZAVI: 3.
24 MS. ROBESON: -- of 3, which is 42D3.
25 MR. RAZAVI: Yes. Currently there is a proposed

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1 septic trench system to the north of where all the activity
2 we pointed out on sheet 1 was and it's an area that has been
3 tested and approved for a septic system and approved by
4 Montgomery County, DPS.
5 MS. ROBESON: Has it actually been approved?
6 MR. RAZAVI: Yes, it has been.
7 MS. ROBESON: Is that documented in the record?
8 Good answer.
9 MR. ANTONETTI: I knew you would ask that Madam
10 Examiner, so if I could mark a copy of it an additional
11 exhibit.
12 MS. ROBESON: Okay. So this would be 58.
13 (Hearing Exhibit No. 58 was
14 marked for identification.)
15 MS. ROBESON: Has Mr. Morse seen this?
16 MR. ANTONETTI: I just gave him a copy of it, I'm
17 not sure if he has one.
18 MS. ROBESON: Thank you. So I'm going to mark 58
19 is a sewage disposal system permit.
20 MR. ANTONETTI: Mr. Razavi, if I could, what has
21 been marked as Exhibit 58, sewage disposal permit, is this
22 permit reflect approval of the trench septic system that you
23 just described for the examiner on sheet of 3 of 3?
24 MR. RAZAVI: Yes, it does.
25 MR. ANTONETTI: Okay. Thank you. Mr. Razavi,

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1 have you reviewed the Technical Staff Report dated November
2 6, 2015, prepared by the Area 3 Park and Planning Technical
3 Staff?
4 MR. RAZAVI: Yes, I have.
5 MR. ANTONETTI: And are you familiar with sections
6 59-4.2F and Section 59-3.5.5 of the Zoning Ordinance as it
7 pertains to the specific design requirements for development
8 of a landscape contractor business in the A-R Zone?
9 MR. RAZAVI: Yes, sir.
10 MR. ANTONETTI: And are you familiar with the
11 technical staff report finding on page 11, table 1, and if
12 you don't have that in front of you I do have a copy of the
13 Technical Staff Report which is in the record.
14 MR. RAZAVI: Uh-huh.
15 MR. ANTONETTI: Table 1.
16 MR. RAZAVI: Uh-huh.
17 MR. ANTONETTI: Okay. Are you familiar with this?
18 MR. RAZAVI: Yes, I am.
19 MR. ANTONETTI: And based on your Site Plan and
20 review of the recitation of details in table 1 in the
21 Technical Staff Report labeled development standards A-R
22 Zone, required and proposed. Does the Site Plan in your
23 opinion conform with the minimum site design requirements of
24 the Zoning Ordinance for this use?
25 MR. RAZAVI: Yes, it does.

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1 MR. ANTONETTI: Mr. Razavi, I want to ask you some
2 questions briefly about the impervious surfaces for the
3 total site. Does your Site Plan show a calculation of the
4 impervious surfaces for the total site and within the PMA
5 transition area?
6 MR. RAZAVI: Yes, it does.
7 MR. ANTONETTI: Can you show for the record and
8 for the examiner where and on what sheet, and be specific,
9 please, as where those calculations are located.
10 MR. RAZAVI: The calculation itself is located on
11 the upper sort of middle right side of the sheet.
12 MR. ANTONETTI: Which sheet number, I'm sorry?
13 MR. RAZAVI: Sheet number 2 of 3 and it's labeled
14 impervious area legend slash area table and it outlines all
15 the different impervious areas that are labeled on the Site
16 Plan itself by lettering and numbering system and also
17 shading system. And it, it specifies impervious area a
18 total of the site and the total impervious area within the
19 PMA Zone, PMA transition zone.
20 MR. ANTONETTI: And Mr. Razavi can you describe
21 for the record what is the proposed total impervious surface
22 area for the entire site and then also describe the total
23 proposed impervious surface area for the PMA transition
24 area.
25 MR. RAZAVI: Yes.

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1 MR. ANTONETTI: And feel free to refer to your
2 calculations on your chart.
3 MR. RAZAVI: We've broken down the areas by square
4 footage here, which is for the total site area impervious
5 area it basically comes down to 10.9 percent which we've put
6 on here as 1,375,510 square feet, for the entire site. No,
7 I'm sorry, the total existing impervious is 146,568 square
8 feet of the total site which boils down to 10.9 percent on
9 the table.
10 MR. ANTONETTI: Okay. And what's the impervious
11 surface total percentage within the PMA transition area. If
12 you could point out to where that transition area is on your
13 Site Plan and then explain what the percentage is?
14 MR. RAZAVI: It's 7.41 percent, the transition
15 area is the area which is shown in here as, we show the PMA
16 Zone on sheet 2 mostly and it does come back over to sheet
17 1.
18 MR. ANTONETTI: Actually I think you referred to
19 sheet 3 --
20 MS. ROBESON: Three.
21 MR. ANTONETTI: -- and then sheet 2.
22 MR. RAZAVI: I'm sorry. Sheet 2, yes.
23 MS. ROBESON: I'm sorry.
24 MR. RAZAVI: That's correct.
25 MS. ROBESON: What on the Site Plan marks the

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1 impervious area? Is there hatching?
2 MR. RAZAVI: Yes. On this table on the right
3 side.
4 MS. ROBESON: Yes. Okay.
5 MR. RAZAVI: There's hatching and it's broken down
6 into what the, like for example, it says pole barn A --
7 MS. ROBESON: Yes.
8 MR. RAZAVI: -- and it tells you what the square
9 footage is and it provides also whether that square footage
10 is in the PMA Zone or not.
11 MS. ROBESON: Okay.
12 MR. RAZAVI: And it's not, it says it's not in the
13 PMA.
14 MS. ROBESON: Okay. I understand.
15 MR. ANTONETTI: Mr. Razavi, so your testimony here
16 today is that the total impervious for the site, proposed to
17 the site is 10.9 percent and within the PMA area
18 approximately 7.4, up to I guess 7.5 approximately. Is that
19 a fair --
20 MR. RAZAVI: That's correct.
21 MR. ANTONETTI: -- recitation of what's needed?
22 MR. RAZAVI: Yes.
23 MR. ANTONETTI: Are those percentages of
24 impervious area within the maximum requirements set forth in
25 the appropriate Montgomery County Code Regulations?

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1 MR. RAZAVI: Yes, yes they are.
2 MR. ANTONETTI: Okay. I have no further questions
3 of Mr. Razavi at this point.
4 MS. ROBESON: All right. Mr. Morse, do you have
5 any questions?
6 MR. MORSE: I have one question, ma'am.
7 MS. ROBESON: All right.
8 MR. MORSE: And it's specifically to the
9 connection of where the driveway, the proposed driveway and
10 the connection to Damascus Road.
11 CROSS-EXAMINATION
12 MR. MORSE: Has there been consideration for
13 runoff from that long paved driveway when it comes to
14 Damascus Road? The property at least the way I viewed it
15 the last 17 years does tend to decrease in altitude from the
16 top of that driveway down to Damascus Road. So my interest
17 is will water that comes down the driveway, will it somehow
18 be contained and not come across Damascus Road?
19 MR. RAZAVI: We have not looked at a drainage
20 study for this site. However, by just looking at the
21 topography of the site as it stands and we offer no changes
22 in grading currently, the high point seems to be an area
23 that is sort of in the middle or two-thirds way up the
24 driveway into the site. And the area to the south of that I
25 would say approximately from here down --

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1 MS. ROBESON: From? Is there something on the
2 plan instead of here?
3 MR. RAZAVI: Yes, like for example where it says
4 existing gravel driveway.
5 MS. ROBESON: Okay.
6 MR. RAZAVI: From approximately that area, there
7 is two of them --
8 MS. ROBESON: To the south.
9 MR. RAZAVI: Yes, to the south --
10 MS. ROBESON: The upper one, the northern one.
11 MR. RAZAVI: -- yes, the upper one, correct.
12 MS. ROBESON: To the south.
13 MR. RAZAVI: Is the area that seems to drain down
14 to existing Damascus Road. In our business and all the
15 drainage studies that we always do on various projects over
16 the years, this is a very small area of drainage that comes
17 down to Damascus Road and also it's an existing condition.
18 So I would say that the drainage --
19 MS. ROBESON: Well you're widening it a little.
20 MR. RAZAVI: Very little. It's very
21 insignificant. Very insignificant. There's no change to
22 drainage.
23 MS. ROBESON: I guess the new impervious area you
24 list as 3,000 square feet, correct, is that the widening of
25 the driveway?

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1 MR. RAZAVI: Yes, that's correct. That's correct,
2 yes.
3 MS. ROBESON: Well, in your opinion is it going to
4 have an adverse effect?
5 MS. ROBESON: Well not the entire 3,000 is within
6 the area that drains down to Damascus Road. Part of it is
7 north of that high point so it goes the other way. But I
8 would, in my opinion, the significance of that added area is
9 very minimal.
10 REDIRECT EXAMINATION
11 MR. ANTONETTI: So Mr. Razavi to be clear, based
12 on the existing driveway condition and the additional
13 impervious surface area proposed in this plan, is it roughly
14 half of that driveway would drain towards Damascus Road?
15 MR. RAZAVI: I would say a little bit more than a
16 half. I would say maybe by just eyeballing it, almost like
17 two-thirds.
18 MR. ANTONETTI: And is it your opinion that the
19 two-thirds of that driveway as proposed in this plan, is it
20 your opinion that it would not have an adverse impact to
21 drainage or storm water flow onto existing Damascus Road?
22 MR. RAZAVI: I believe it would not.
23 MR. ANTONETTI: Okay. Thank you. Madam Examiner,
24 I don't have any further questions of Mr. Razavi at this
25 point?

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1 MS. ROBESON: Mr. Morse?
2 MR. MORSE: No more questions, thank you, ma'am.
3 MS. ROBESON: Okay. Thank you. You can be
4 excused.
5 MR. RAZAVI: Thank you.
6 MR. ANTONETTI: Madam Examiner, I'd like to
7 briefly call Mr. Eric McWilliams from Bohler Engineering.
8 He's a landscape architect who did a landscaping plan.
9 MS. ROBESON: Okay. Thank you.
10 MR. ANTONETTI: If you could put up your boards,
11 Eric, if you wouldn't mind?
12 MR. MCWILLIAMS: Sure.
13 MR. ANTONETTI: And while he's doing that, I guess
14 I should identify the exhibit.
15 MS. ROBESON: It is, the big plans are hard to
16 work with. I mean you have a big property.
17 MR. ANTONETTI: That's right.
18 MS. ROBESON: They may be bigger, but they're
19 harder to --
20 MR. ANTONETTI: I believe it's 44E, Madam
21 Examiner, at least from the exhibit list provided.
22 MS. ROBESON: Yes.
23 MR. ANTONETTI: Okay.
24 MS. ROBESON: Please raise your right hand. Do
25 you solemnly affirm under penalties of perjury that the

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1 statements that you're about to make are the truth, the
2 whole truth and nothing but the truth?
3 MR. MCWILLIAMS: I do.
4 MS. ROBESON: Go ahead, Mr. Antonetti.
5 MR. ANTONETTI: Thank you, Madam Examiner.
6 DIRECT EXAMINATION
7 MR. ANTONETTI: Mr. McWilliams, can you state your
8 full name and business address, please, for the record?
9 MR. MCWILLIAMS: Eric Richard McWilliams, 901
10 Delany Valley Road, Towson, Maryland 21204.
11 MR. ANTONETTI: And what is your current
12 occupation?
13 MR. MCWILLIAMS: I'm a registered landscape
14 architect, although the NSLA wants me to change that to
15 professional landscape architect.
16 MR. ANTONETTI: Okay.
17 MS. ROBESON: Really?
18 MR. MCWILLIAMS: Yes. I'm having a hard time --
19 MS. ROBESON: You mean you weren't professional
20 before?
21 MR. MCWILLIAMS: We were professional, yes.
22 MR. ANTONETTI: No, you're very professional.
23 MS. ROBESON: Anyway. That's a discussion for
24 another day.
25 MR. ANTONETTI: And do you currently work for

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1 Bohler Engineering?
2 MR. MCWILLIAMS: I absolutely do.
3 MR. ANTONETTI: Have you testified as an expert
4 before any administrative body in the State of Maryland in
5 your capacity as a landscape architect?
6 MR. MCWILLIAMS: I have, Baltimore County
7 Maryland.
8 MR. ANTONETTI: And what type of board or agency
9 had you testified before in Baltimore County?
10 MR. MCWILLIAMS: The Hearing Officer's Hearing,
11 Board of Appeals, and I believe that would be it.
12 MS. ROBESON: And are you licensed in Maryland, as
13 a professional or not?
14 MR. MCWILLIAMS: I am. Yes. Licensed landscape
15 architect.
16 MS. ROBESON: Mr. Morse, is there any reason that
17 you think that Mr. McWilliams would not an expert in
18 landscape architecture?
19 MR. MORSE: I have no reason to believe that, no.
20 MS. ROBESON: All right. I'm going to qualify you
21 as an expert.
22 MR. ANTONETTI: Thank you, Madam Examiner. Mr.
23 McWilliams, has the applicant engaged you to prepare a
24 Landscape Plan for this conditional use application?
25 MR. MCWILLIAMS: Yes.

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1 MR. ANTONETTI: And is what is shown as Exhibit
2 44E on the easel to your right, is that the Landscape Plan
3 that was prepared for this application?
4 MR. MCWILLIAMS: It is.
5 MR. ANTONETTI: Okay. And was this Landscape Plan
6 prepared by you and/or under your supervision?
7 MR. MCWILLIAMS: Yes, it was.
8 MR. ANTONETTI: Okay. In preparation of this
9 Landscape Plan, have you visited the subject property and if
10 so what were your general observations of the site?
11 MR. MCWILLIAMS: I did visit the property. I
12 walked its perimeter in detail. For the most part there is
13 existing buffers already on site, not planned it just so
14 happened that it worked out that way.
15 MR. ANTONETTI: Mr. McWilliams, for the record and
16 utilizing the Landscape Plan on the easel, can you point to
17 the quote unquote existing landscape and vegetative elements
18 on the site as you encountered when you walked it?
19 MR. MCWILLIAMS: Sure. Yeah. Here in front of
20 the pole buildings and its offices, there is a fairly thick
21 screen, well over 50 feet in depth of existing white pine
22 and arborvitae and then some volunteer locust oaks, et
23 cetera that have kind of moved their way in there.
24 MR. ANTONETTI: And Mr. McWilliams, can you
25 describe whether or not or offer an opinion as to whether or

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1 not the existing landscaping and vegetation of the property
2 screens the use and the property from adjacent properties?
3 MR. MCWILLIAMS: In this case as it exists today I
4 would say about 70 percent of the property is screened. So
5 that would be along these single family homes --
6 MS. ROBESON: On the eastern side? Or the western
7 side.
8 MR. MCWILLIAMS: On the western side, on the
9 northern portion of the property there is a hedgerow of
10 fairly thick hedgerow here. There is also an expanse
11 between the main portion of the use and those homes, in
12 addition to the screening. Along the rear of the property
13 there is a forested area, and along the southern property
14 there is another hedgerow. Where it gets a little thin is
15 along Mr. McLaren's property.
16 MS. ROBESON: And that is where?
17 MR. MCWILLIAMS: That's right there.
18 MR. ANTONETTI: Adjacent to.
19 MR. MCWILLIAMS: Kind of the box cut out of the
20 corner.
21 MS. ROBESON: Okay. The western corner,
22 southwestern corner.
23 MR. MCWILLIAMS: Correct. The driveway coming off
24 the driveway then extending to the lower, to, to the pole
25 barn and then a little area here although standing at this

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1 location there is a large patch of vegetation between it and
2 the use, but I felt like we needed to, because it was well
3 beyond the 50 foot area, I felt that we should put some
4 stuff over closer to the property line. So as far as the
5 plan goes, we, do you mind if I move right into that?
6 MR. ANTONETTI: Please.
7 MR. MCWILLIAMS: We've added material along the
8 three, I would say two sides definitively and a portion of
9 the third side to screen --
10 MS. ROBESON: The northern side.
11 MR. MCWILLIAMS: Yes.
12 MS. ROBESON: Yes.
13 MR. MCWILLIAMS: To screen Mr. McLaren's property
14 from these. And in doing that Mr. Mamana has to pull back a
15 little bit of the existing driveway along this corner to get
16 the vegetation in there. He was on board with that.
17 MS. ROBESON: Now in the Zoning Ordinance there is
18 two sets of screening requirements. One is for parking and
19 one is for the perimeter. And the Zoning Ordinance,
20 unfortunately, or fortunately, however you want to
21 characterize it, is very specific on, you know, what needs
22 to be on the perimeter. Does this meet that requirement?
23 MR. MCWILLIAMS: It does.
24 MS. ROBESON: It does?
25 MR. MCWILLIAMS: Yes.

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1 MS. ROBESON: All over the property?
2 MR. MCWILLIAMS: Yes.
3 MS. ROBESON: Okay. All right. The perimeter of
4 the site?
5 MR. MCWILLIAMS: The perimeter of the site, yes.
6 MS. ROBESON: Okay. That's what I wanted to know.
7 MR. ANTONETTI: Thank you, Mr. McWilliams. Just
8 briefly, does the landscaping proposal in the Landscape Plan
9 that you've prepared meet the County Tree Canopy
10 Requirements?
11 MR. MCWILLIAMS: It does. For parking there is a
12 certain amount of existing vegetation already there, one is
13 a large oak right in the center of the parking area, which I
14 haven't given full credit for its existing size. I've used
15 an estimate of 250 square feet. So we actually probably are
16 a little bit over that. And then we've supplemented with
17 some additional canopy trees along the edges, especially
18 these along here.
19 MS. ROBESON: Which parking area are you pointing
20 to?
21 MR. MCWILLIAMS: So this gravel lot.
22 MS. ROBESON: Is that labeled?
23 MR. ANTONETTI: Is that labeled in your plan?
24 MS. ROBESON: Like gravel lot A or B or?
25 MR. MCWILLIAMS: It is labeled and it's gravel lot

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1 C.
2 MS. ROBESON: Okay. The gravel lot C has existing
3 trees around it and in the center of it.
4 MS. ROBESON: Okay.
5 MR. MCWILLIAMS: Gravel lot A we're proposing
6 additional trees to meet the canopy, the tree canopy
7 coverage.
8 MS. ROBESON: And the existing trees I believe,
9 are they the ones shown on if you could approach this, page
10 15 of the Staff Report?
11 MR. MCWILLIAMS: Yes.
12 MS. ROBESON: Okay. All right. Go ahead.
13 MR. ANTONETTI: Thank you, Madam Examiner. Mr.
14 McWilliams, have you reviewed the Technical Staff Report
15 dated November 6, 2015 prepared by the Maryland National
16 Capital Park and Planning Technical Staff for Area 3?
17 MR. MCWILLIAMS: I did.
18 MR. ANTONETTI: And do you agree with the findings
19 of the staff relative to the landscape requirements for this
20 conditional use application?
21 MR. MCWILLIAMS: Yes.
22 MR. ANTONETTI: And in your opinion, does the
23 proposed Landscape Plan conform with the minimum landscape
24 design requirements of the Zoning Ordinance for this use?
25 MR. MCWILLIAMS: I believe it does.

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1 MR. ANTONETTI: Thank you. Madam Examiner, I have
2 no further questions of Mr. McWilliams at this time.
3 MS. ROBESON: All right. Thank you. Mr. Morse,
4 any questions?
5 MR. MORSE: No questions, thank you, ma'am.
6 MS. ROBESON: Okay. You may be excused. Thank
7 you. Mr. Antonetti?
8 MR. ANTONETTI: Thank you, Madam Examiner. Next
9 I'd like to call Mr. Michael Lenhart, transportation
10 consultant for this case.
11 MR. LENHART: How are you this morning?
12 MS. ROBESON: I'm fine.
13 MR. LENHART: Good.
14 MS. ROBESON: Much better than the last time we
15 met.
16 MR. LENHART: Yes.
17 MR. ANTONETTI: I'd like for the record to disavow
18 any knowledge of the last iteration between Mr. Lenhart.
19 MS. ROBESON: Please raise your right hand.
20 MR. LENHART: Yes.
21 MS. ROBESON: Do you solemnly affirm under
22 penalties of perjury that the statements you're about to
23 make are the truth, the whole truth and nothing but the
24 truth?
25 MR. LENHART: I do.

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1 MS. ROBESON: All right.
2 DIRECT EXAMINATION
3 MR. ANTONETTI: Mr. Lenhart, could you please for
4 the record state your full name and business address?
5 MR. LENHART: Michael Lenhart, at 331 Redwood
6 Grove Court, Millersville, Maryland 21108.
7 MR. ANTONETTI: And can you state for the record
8 what your current occupation is?
9 MR. LENHART: Traffic engineer and transportation
10 planner.
11 MR. ANTONETTI: Okay. And have you ever been
12 qualified --
13 MS. ROBESON: I know he has. I qualified him in
14 another case --
15 MR. ANTONETTI: Wonderful.
16 MS. ROBESON: -- as an expert. So Mr. Morse,
17 unless you have some really good reason to say he's not an
18 expert, I'm going to qualify him as an expert.
19 MR. MORSE: No reason.
20 MS. ROBESON: All right. Go ahead.
21 MR. ANTONETTI: Thank you.
22 MR. LENHART: Thank you.
23 MR. ANTONETTI: Thank you, Madam Examiner. Mr.
24 Lenhart, have you been retained to review the transportation
25 related issues for this site as it relates to the subject

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1 property, specifically to the continued operation of the
2 existing landscape contractor's business?
3 MR. LENHART: Yes.
4 MR. ANTONETTI: Have you visited the site?
5 MR. LENHART: Yes.
6 MR. ANTONETTI: When did you visit the site?
7 MR. LENHART: On numerous occasions, most notably
8 November 14, 2015, approximately a year ago, was out there
9 for several hours in the morning and afternoon to observe
10 and count traffic in and out of the site.
11 MS. ROBESON: Did you do an actual count?
12 MS. ROBESON: Yes, actual counts.
13 MR. ANTONETTI: So Mr. Lenhart, when you visited
14 the site can you state for the record what your findings
15 were at that site visit?
16 MR. LENHART: Yes.
17 MR. ANTONETTI: During that site visit?
18 MR. LENHART: Consistent with Mr. Mamana's
19 description of the operation. When we do peak hour traffic
20 counts and observations, they are from 6:30 a.m. to 9:30
21 a.m. and 4:00 p.m. to 7:00 p.m., those are the time frames
22 that are defined as the peak periods that we look at. As
23 Mr. Mamana described, the managers arrive before the peak
24 hour begins, usually around 6:00 a.m., there is, and this is
25 what we observed physically and through our traffic counts.

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1 The first shift of workers then, the first shift starts at
2 6:30 a.m., we observed a number of those shift workers
3 entering before 6:30 a.m. in advance, and some of them
4 entering after 6:30 a.m. Again, we noticed vans, carpools,
5 this type of observation or operation. I've done several
6 other studies for these types of uses and there is a pretty
7 significant carpool characteristic that works when people
8 come in. They get to the site, they establish their work
9 crews, they get in the work trucks and they leave, you know,
10 with two, three, four, five people per truck. So there are
11 high numbers of occupancies per vehicle, which keeps the
12 number of vehicles down on the site. And again, as
13 described, the officer workers don't arrive until later in
14 the morning peak hour and that results in a pretty even
15 distribution of traffic entering and exiting.
16 MS. ROBESON: What was the distribution?
17 MR. MCWILLIAMS: I will get into that a moment.
18 MS. ROBESON: Okay.
19 MR. MCWILLIAMS: Okay.
20 MR. ANTONETTI: Mr. Lenhart, so did you submit an
21 analysis to the Maryland National Capital Park and Planning
22 Commission regarding the instant application?
23 MR. LENHART: Yes, I did.
24 MR. ANTONETTI: And what is the date of that
25 statement?

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1 MR. LENHART: September 22, 2015.
2 MR. ANTONETTI: Madam Examiner, you're indulgence.
3 I'm trying to find where on the exhibit list, I know it's in
4 here, probably in multiple spots, but I have copies if you
5 want me to mark it, just as a --
6 MS. ROBESON: Well let me just see. What date was
7 it?
8 MR. LENHART: September 22, 2015. It is included
9 in the Technical Staff Report as well as an attachment.
10 MS. ROBESON: The entire statement?
11 MR. LENHART: Well no, not the entire statement.
12 The substance of the report is yes there are some site plans
13 in the appendix to the report, traffic counts in the
14 appendix to the report.
15 MS. ROBESON: Yes, I see them. Yes.
16 MR. LENHART: And those were not included in the
17 Technical Staff Report.
18 MS. ROBESON: Okay. Well why don't you, if you
19 have a copy, I'd like it in the record. Do you have any
20 objection, Mr. Morse?
21 MR. MORSE: No, I don't.
22 MR. ANTONETTI: Do you have a copy for Mr. Morse?
23 MR. LENHART: I have a number of copies here, yes.
24 MR. ANTONETTI: Mr. Morse, here's a copy.
25 MR. LENHART: Do you need another one?

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1 MR. ANTONETTI: Yes, for the Examiner. Thank you.
2 MS. ROBESON: Okay. I'm going to mark it 59,
3 traffic statement.
4 (Hearing Exhibit No. 59 was
5 marked for identification.)
6 MS. ROBESON: Thank you.
7 MR. ANTONETTI: Thank you, Madam Examiner. Mr.
8 Lenhart, you've already briefly discussed some of your
9 findings to the Examiner. What has been marked as Exhibit
10 59, does this represent the transportation statement
11 submitted to the Park and Planning Commission?
12 MR. LENHART: Yes.
13 MR. ANTONETTI: And was this traffic statement
14 reviewed and analyzed by the technical staff at Park and
15 Planning Commission?
16 MR. LENHART: Yes.
17 MR. ANTONETTI: Did the technical staff of the
18 Park and Planning Commission, most notably the
19 transportation section reviewer agree with your findings in
20 the statement marked as Exhibit 59?
21 MR. LENHART: Yes.
22 MR. ANTONETTI: And briefly, if you could, could
23 you state your findings and conclusion in the transportation
24 statement?
25 MR. LENHART: Yes, sure. So we did several

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1 things, one we went out we did traffic counts at the site
2 access to determine if there were more or less than 30 peak
3 hour trips to determine if it would be subject to the local
4 area transportation review. Based upon our findings, the
5 actual traffic counts were a maximum of 26 trips in the peak
6 hour, in the morning peak hour, 19 trips in the evening peak
7 hour. So that was based on actual traffic counts and
8 observations, less than 30 peak hour trips, therefore it's
9 exempt from LATR. We also in this traffic statement
10 conducted a separate analysis of the staffing levels and the
11 shift times and a calculation based upon that --
12 MS. ROBESON: Where is that in your report?
13 MR. LENHART: That's one Exhibit 1 contains the
14 staffing analysis --
15 MS. ROBESON: I see it.
16 MR. LENHART: -- and the shift times.
17 MS. ROBESON: Okay.
18 MR. LENHART: Exhibit 2 is a trip generation that
19 we calculated for the site based on reviewing the staff
20 times and the employee levels. So you know if you have six
21 people, six managers starting at 6:00 a.m. --
22 MS. ROBESON: Yeah.
23 MR. LENHART: -- they are not even in this chart.
24 You have --
25 MS. ROBESON: And then you compared that to the

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1 actual?
2 MR. LENHART: Yes. Yes, 23 laborers, truck
3 drivers entering at 6:30 a.m., we had some assumptions on
4 the occupancy per vehicle and the arrival rates and based
5 upon that we calculated the trip generation. We estimated
6 24 trips in the morning peak hour and 9 trips in the evening
7 peak hour. And then Exhibit 3, were the actual field counts
8 that we conducted at the site.
9 MS. ROBESON: Okay.
10 MR. LENHART: That showed that the morning peak
11 hour was 26 peak hour trips and the evening was 19 peak hour
12 trips.
13 MS. ROBESON: Okay.
14 MR. ANTONETTI: So Mr. Lenhart, based on your
15 findings in your transportation statement, if the applicant
16 was to continue to operate its existing landscape
17 contractor's business on the subject property as proposed in
18 this application, would the transportation related impact be
19 within the established County Transportation Guidelines and
20 otherwise conform with all applicable transportation
21 regulations in the County Zoning Ordinance or otherwise
22 concerning this site?
23 MR. LENHART: Yes.
24 MR. ANTONETTI: Okay. Thank you. I have no
25 further questions of Mr. Lenhart.

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1 MS. ROBESON: Mr. Lenhart, we don't a transcript
2 from the Planning Board, so I don't know, the Planning Board
3 mentioned that based on evidence at the public hearing, they
4 removed the 26 trip limitation. I don't know what that
5 evidence was. Can you just give a little background --
6 MR. LENHART: Certainly.
7 MS. ROBESON: -- of that and explain why that, I
8 guess I shouldn't ask you why it's approved, but I would
9 like you to tell me what you think.
10 MR. LENHART: Sure.
11 MS. ROBESON: Well I guess what I really want to
12 say is why isn't the 26 trip, 26 employee, I'm sorry --
13 MR. LENHART: Why did they limit that?
14 MS. ROBESON: -- limitation and I guess it should
15 be why you don't think it's necessary.
16 MR. LENHART: Certainly. Our traffic study, our
17 counts, our observations and our assessments were based upon
18 53 people arriving and leaving based upon the shift times
19 that have been discussed here, put on record.
20 MS. ROBESON: Which is the full staffing?
21 MR. LENHART: The full staffing.
22 MS. ROBESON: Yes.
23 MR. LENHART: And at times there are more than 26
24 people on site. It really has nothing to do, there is no
25 correlation with how many people are on site at a given time

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1 versus --
2 MS. ROBESON: I understand
3 MR. LENHART: -- how much traffic is coming in and
4 out.
5 MS. ROBESON: Right.
6 MR. LENHART: And none of our reports dealt with
7 that issue or talked about that issue. None of the
8 transportation staff reports brought that up and our only
9 guess is that when the reviewer was looking at it, she saw
10 that there was a maximum peak hour trip of 26 trips.
11 MS. ROBESON: Okay.
12 MR. LENHART: And she incorrectly correlated that
13 to the number of people on site at any given time. I did
14 consult with Michael Garcia --
15 MS. ROBESON: Yes.
16 MR. LENHART: -- the transportation reviewer, and
17 asked him where that came from and he said that that was not
18 a condition of his, he was not recommending that, he didn't
19 know where it came from and suggested that we talk with
20 Elsbet.
21 MS. ROBESON: Okay.
22 MR. LENHART: Elsbet Tesfaye.
23 MS. ROBESON: All right. So your position is, I
24 guess there isn't a correlation between trips and employees
25 because so many people carpool.

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1 MR. LENHART: Correct.
2 MS. ROBESON: Okay. All right. That's what I
3 wanted to know. Thank you.
4 MR. LENHART: You're welcome.
5 MS. ROBESON: Mr. Morse, any questions based on my
6 questions?
7 MR. MORSE: No, ma'am, thank you.
8 MR. LENHART: Thank you.
9 MS. ROBESON: All right.
10 MR. ANTONETTI: I thank Mr. Lenhart. Madam
11 Examiner, my final witness would be Mr. Francis Silverholz.
12 MS. ROBESON: Okay.
13 MR. SILVERSHOLZ: Good morning, Madam Examiner.
14 MS. ROBESON: Good morning. Please raise your
15 right hand, do you solemnly affirm under penalties of
16 perjury that the statements you're about to make are the
17 truth, the whole truth and nothing but the truth?
18 MR. SILVERSHOLZ: Yes, I do.
19 MS. ROBESON: Okay. Go ahead.
20 MR. ANTONETTI: Thank you, Madam Examiner.
21 DIRECT EXAMINATION
22 MR. ANTONETTI: Mr. Silverholz, for the record,
23 can you please state your full name and business address?
24 MR. SILVERHOLZ: My name is Francis Metro
25 Silverholz, business, I work with the law firm of Shipley

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1 and Horne, business address 1101 Mercantile Lane, Suite 240,
2 Largo, Maryland.
3 MR. ANTONETTI: Okay. And Mr. Silverholz, what is
4 your current occupation or title with Shipley and Horne?
5 MR. SILVERHOLZ: I'm a senior land planning
6 consultant with the firm.
7 MR. ANTONETTI: And have you hired to review the
8 instant conditional use request with regards to compliance
9 with the applicable Master Plan and relevant sections of the
10 Zoning Ordinance?
11 MR. SILVERHOLZ: Yes, I have.
12 MR. ANTONETTI: Okay. Have you ever testified as
13 an expert land planner before any Zoning Hearing Examiner or
14 other administrative body in the area of land planning in
15 this county or in any other jurisdiction?
16 MR. SILVERHOLZ: Yes, I have.
17 MR. ANTONETTI: And can you briefly describe where
18 that testimony was offered before?
19 MR. SILVERHOLZ: Well most recently it's with the
20 Prince George's County Zoning Hearing Examiner's Office and
21 as well as with the Board of Appeals for Prince George's
22 County. Prior to that I testified going as far back as my
23 earliest land planning position which was with the City
24 Annapolis Office and Planning and Zoning where I held the
25 positions ranging from land planner to deputy director,

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1 zoning officer and acting director.
2 MS. ROBESON: Okay.
3 MR. SILVERSHOLZ: I testified there before the
4 Planning Board, Planning Commission, City Council, Board of
5 Appeals.
6 MS. ROBESON: Okay. Mr. Morse, do you have any
7 objection to qualifying him as an expert in land planning?
8 MR. MORSE: I have no objection.
9 MS. ROBESON: Okay. Go ahead.
10 MR. ANTONETTI: Thank you. Thank you, Madam
11 Examiner. I will state for the record, Mr. Silverholz's
12 resume is in the record.
13 MS. ROBESON: That's right.
14 MR. ANTONETTI: Thank you, Mr. Silverholz. Have
15 you reviewed the instant conditional use application Site
16 Plan and its related statement of justification and other
17 exhibits?
18 MR. SILVERHOLZ: Yes, I have.
19 MR. ANTONETTI: And just for orientation, what's
20 the zone of the subject property?
21 MR. SILVERHOLZ: It's A-R, it's agricultural
22 reserve.
23 MR. ANTONETTI: Okay. And are you familiar with
24 the adjacent properties and their zones?
25 MR. SILVERHOLZ: Yes.

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1 MR. ANTONETTI: And can you describe them briefly
2 for the examiner?
3 MR. SILVERHOLZ: Predominantly the property to the
4 north, east and west of the subject property is also zoned
5 A-R and to the residential properties that adjoin Mr.
6 Mamana's property to the south and these are the lots that
7 front along Damascus Road, separate the property from
8 Damascus Road, they're zoned R-200 residential.
9 MS. ROBESON: Okay.
10 MR. ANTONETTI: And Mr. Silverholz, how would you
11 describe the general character of the neighborhood, where
12 this subject property is located?
13 MR. SILVERHOLZ: It's predominantly, with a few
14 exceptions, a scattered large lot residential is it's a mix
15 of residential and agricultural uses.
16 MS. ROBESON: Do you agree with the neighborhood
17 delineations that staff made?
18 MR. SILVERSHOLZ: Yes, I do.
19 MS. ROBESON: Okay.
20 MR. ANTONETTI: Mr. Silverholz, since I should
21 have brought this up earlier with Mr. Razavi, but is there a
22 high tension power line bordering this property and if so,
23 where?
24 MR. SILVERHOLZ: Yes, it is. It's along, it
25 borders the subject property along its entire northern

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1 boundary. It's, I believe it's a PEPCO right-of-way.
2 MR. ANTONETTI: Okay. Mr. Silverholz, have you
3 been to the site and if so, how would you describe the site
4 for the record?
5 MR. SILVERHOLZ: Yes, I must say I've had the
6 pleasure to visit the property several times, and as you
7 can, as the Madam Examiner can see from the photographs it's
8 very, it's park like and pastorial on the interior.
9 MR. ANTONETTI: And we'll get to the photos now, I
10 guess. Have you taken photos of the property?
11 MR. SILVERHOLZ: Yes. On --
12 MS. ROBESON: Now are those in the record?
13 MR. ANTONETTI: Yes, ma'am, they should be in the
14 record. I've got too much paper.
15 MS. ROBESON: Absolutely. I see there are some in
16 the record I see there.
17 MR. SILVERSHOLZ: These photos correspond to --
18 MR. ANTONETTI: Well hold on, we'll get to that in
19 a second.
20 MR. SILVERHOLZ: I was going to point out where
21 they are in the record. They're in attachment A of the
22 Staff Report.
23 MS. ROBESON: Okay. Thank you. Let me just see.
24 Okay. Thank you.
25 MR. ANTONETTI: Okay. I think for clarity and

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1 just to reflect what's going to be shown referring to the
2 easels, I'd like Madam Examiner, if you feel it's
3 appropriate to just mark as a separate exhibit what these
4 photographs are with the corresponding location map.
5 MS. ROBESON: Okay. The boards you mean?
6 MR. ANTONETTI: Yes, ma'am.
7 MS. ROBESON: All right. So there are two
8 different boards. So 1 through 8, is that 1 through 8?
9 MR. ANTONETTI: Yes, that's 8.
10 MS. ROBESON: Photos 1 through 8 will be Exhibit
11 60A.
12 (Hearing Exhibit No. 60A was
13 marked for identification.)
14 MR. ANTONETTI: Okay.
15 MS. ROBESON: Photos, is this of the subject
16 property or the surrounding area?
17 MR. SILVERHOLZ: Yes. Yes, ma'am. The subject
18 property.
19 MS. ROBESON: Photos of subject property will be
20 60A and same title for 60B.
21 (Hearing Exhibit No. 60B was
22 marked for identification.)
23 MS. ROBESON: Now I have to ask you, we don't have
24 clerks, can you mark 60A in the bottom right photo?
25 MR. ANTONETTI: I can.

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1 MS. ROBESON: So we have that for the record, and
2 60B on photo 15 of that. Okay. Thank you.
3 MR. ANTONETTI: Thank you.
4 MS. ROBESON: All right. Go ahead.
5 MR. ANTONETTI: And if it helps for the record,
6 60A and B are here, here's a folder and a --
7 MS. ROBESON: Okay. I'll accept that as, well
8 this will be a copy of those.
9 MR. ANTONETTI: Yes, ma'am. Okay. So Mr.
10 Silverholz, the exhibits marked as 60A and B, are they
11 reflective of the photographs that you took of the subject
12 property?
13 MR. SILVERHOLZ: Yes, they are an accurate
14 sampling of the latest site visit to the property.
15 MR. ANTONETTI: And if you could, for the record
16 for the Examiner, could you describe each of these photos as
17 they relate to the subject property and feel free to use any
18 location map.
19 MR. SILVERHOLZ: I'm going to begin on the right
20 board here and I'm pointing, I've taken the liberty of what
21 you'll see in the package that Mr. Antonetti gave you that
22 mirrors these images. I've taken the liberty of
23 approximating the property boundaries for your convenience -
24 -
25 MS. ROBESON: Yes, thank you.

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1 MR. SILVERHOLZ: -- and outlined the property in
2 red. And I must emphasize approximating. So on both of the
3 photo boards in the upper left hand corner is an enlarged
4 aerial with the arrows, 15 arrows, numbered arrows
5 representing the location directions of each of the photos
6 taken. Referring back to the photo board on the right which
7 has photographs numbered 1 through 8, the center photo top
8 row number 1 is a view looking easterly on Damascus Road at
9 the entrance to the subject property. So it's the driveway
10 apron as entering on --
11 MS. ROBESON: I see.
12 MR. SILVERHOLZ: -- and that's the photo here.
13 Photo number 2 to its right is looking up the driveway.
14 Photo 3 is immediately behind the corner of the separating,
15 it's along the southern boundary, it's a photo of the
16 southern boundary of the property. It shows you the density
17 of the foliage and landscaping. The neighboring properties
18 that separate Mr. Mamana's site from Damascus Road is along
19 the left side of this photo. Photo 4 which is in the center
20 row center photo, is a view looking towards the interior of
21 his parking lot and it gives you a good example of the
22 nature and quality of the landscaping that already exists in
23 the parking lot. Again, photo 5 to its right is another
24 image of the parking area and the landscaping.
25 Photo 6 is again from near the southern boundary

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1 of the property, my back is to the residential sites looking
2 up and this is the only view, and this was taken during late
3 summer early autumn, so it's the only view at that time I
4 could find of really seeing his, a peak of one of the
5 structures.
6 MS. ROBESON: Okay.
7 MR. SILVERHOLZ: One of the pole barns. Seven,
8 again is taken in that same general area along the southern
9 boundary and then photo 8 which is the lower right corner of
10 this board is looking up in a northerly direction along the
11 western boundary of the property, generally adjacent to the,
12 I need to correct myself. That is again along the southern
13 boundary --
14 MS. ROBESON: That's 8. Photo 8?
15 MR. SILVERHOLZ: 8, yes. Photo 8 is along the
16 southern boundary looking in an easterly direction towards
17 the driveway. So it's from the west side of the property
18 looking in an easterly direction. And that's this one right
19 here.
20 And going to the second exhibit board --
21 MS. ROBESON: 60B.
22 MR. SILVERHOLZ: -- is again we have a photo key
23 exhibit in the upper left hand corner of the board. The
24 photo to its immediate right is 9 and that is the photo
25 that's looking up in a northern, sorry about the shapes.

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1 MS. ROBESON: Oh that's fine.
2 MR. SILVERHOLZ: I'm getting dizzy.
3 MS. ROBESON: Well actually you don't have to use
4 it because I --
5 MR. ANTONETTI: You can go up and find it if
6 that's easier.
7 MS. ROBESON: -- have this smaller version here.
8 MR. SILVERHOLZ: And so photo 10 is a view
9 towards the interior and along the left, or the west
10 property line. And again, the remaining photos with the
11 exception of the last photo 15, which is a view from the top
12 of his driveway in towards the operational part of his site
13 and the parking area, most of it, you can see the extent and
14 the how the entire site is covered in grass, vegetation,
15 trees along its boundaries is its heavily vegetated.
16 MR. ANTONETTI: Okay. Thank you, Mr. Silverholz,
17 for that orientation. Are you familiar with the Technical
18 Staff Report for the instant conditional use application
19 dated November 6, 2015?
20 MR. SILVERHOLZ: Yes, I am.
21 MR. ANTONETTI: And are you familiar with the
22 recommended conditions of approval of the technical staff as
23 revised by the Montgomery County Planning Board at its
24 November 12, 2015 hearing?
25 MR. SILVERHOLZ: Yes, I am.

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1 MR. ANTONETTI: And do you agree with the
2 recommended findings and conditions of the Technical Staff
3 Report as amended by the Planning Board?
4 MR. SILVERSHOLZ: I do.
5 MR. ANTONETTI: Are you familiar with the required
6 findings for approval for a conditional use set forth in
7 Section 59.7.1E and Section 59.3.5.5, those being the
8 specific requirements for a landscape contractor conditional
9 use?
10 MR. SILVERSHOLZ: Yes. Yes, I am.
11 MR. ANTONETTI: And are you familiar with the
12 analysis beginning on page 19 of the Technical Staff Report
13 analyzing these requirements?
14 MR. SILVERSHOLZ: Yes. The analysis for these
15 various standards and there's numerous ones that cover
16 everything that we've discussed thus far this morning,
17 ranging from the minimum size of the site, setbacks, water
18 and sewer, traffic, so on, are covered in pages 19 through
19 25 of the Technical Staff Report.
20 MR. ANTONETTI: In your opinion, is the proposed
21 conditional use and Site Plan in conformance with the
22 aforementioned requirements to the Zoning Ordinance?
23 MR. SILVERSHOLZ: Yes, it is.
24 MR. ANTONETTI: Do you agree with the findings of
25 the Technical Staff Report in this regard?

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1 MR. SILVERSHOLZ: I do.
2 MR. ANTONETTI: In your opinion, would the
3 proposed use substantially conform to the recommendations of
4 the 2005 Olney Master Plan?
5 MR. SILVERSHOLZ: It does. And with regards to the
6 site, the Olney Master Plan focuses on protecting the PMA of
7 the Patuxent River and this site, I mean if we look at the
8 raw number it says, you know, it meets them, but if you
9 actually look at what's occurring on the site we see that
10 with the exception of a little bit of drainage that comes
11 down the driveway that Mr. Razavi discussed earlier in his
12 testimony, the vast, all the drainage is going across the
13 green area, that grass. So it has a de minimis impact on
14 the PMA of the water system that's to the north.
15 MR. ANTONETTI: In your opinion based on the
16 record of evidence in this case, and the testimony you may
17 have heard today, would the proposed conditional use in your
18 opinion cause any undue harm to the neighborhood as a result
19 of any inherent or non-inherent impacts of the use?
20 MR. SILVERSHOLZ: No, I don't see how it could
21 possibly do that.
22 MR. ANTONETTI: In your professional opinion as an
23 expert land planner, does the proposed conditional use
24 application conform to all applicable regulations and
25 requirements in the County Zoning Ordinance?

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1 MR. SILVERSHOLZ: It does.
2 MR. ANTONETTI: And finally, in your opinion based
3 on your physical inspection of the property and your
4 understanding of the evidence in the record, would you
5 consider this location an appropriate location for the
6 proposed and existing landscape contractor use?
7 MR. SILVERSHOLZ: I've been looking at the site for
8 too many months now and it's, I've come to the realization
9 that if the County were to pick a site that mirrored what
10 they'd like to see a landscaping contracting business, this
11 would be one of the best ones.
12 MS. ROBESON: So you feel it's compatible with the
13 neighborhood.
14 MR. SILVERSHOLZ: OH it's definitely compatible.
15 It's a good neighbor.
16 MS. ROBESON: Okay.
17 MR. ANTONETTI: I have no further questions at
18 this time of Mr. Silverholz.
19 MS. ROBESON: Mr. Morse, do you have any
20 questions?
21 MR. MORSE: I do not.
22 MS. ROBESON: Okay. Thank you. You may be
23 excused.
24 MR. SILVERSHOLZ: Thank you, Madam Examiner.
25 MR. ANTONETTI: Madam Examiner, that, I do have a

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1 brief closing statement, but that would --
2 MS. ROBESON: Okay. Let me just ask Mr. Morse.
3 Mr. Morse, based on what you've heard, do you have any
4 additional concerns or anything else you want to say?
5 MR. MORSE: No, ma'am. I would like to reiterate
6 that they have been a very good neighbor and my only concern
7 was with the use of the airbrakes and with the promise that
8 they would not be used on delivery vehicles, I'm satisfied.
9 MS. ROBESON: Well, I think the condition he
10 suggested is that he's going to instruct his drivers not to.
11 MR. MORSE: Yes, ma'am.
12 MS. ROBESON: Okay. All right. Do you want to
13 make a closing statement, Mr. Antonetti?
14 MR. ANTONETTI: Yes, ma'am. In fear of wearing
15 out my welcome, I'll be very brief.
16 MS. ROBESON: No.
17 MR. ANTONETTI: In sum, the evidence in the
18 record, Madam Examiner, and the testimony received today
19 overwhelming supports the approval of the application of
20 this conditional use. The applicant has demonstrated
21 satisfaction of all the pertinent requirements for a
22 landscape contractor set forth in the Zoning Ordinance, as
23 reflected in the statement of justification in the Technical
24 Staff Report.
25 The existing use also substantially conforms to

1 the recommendation of the 2005 Olney Master Plan and is
2 largely supported by neighboring properties. Mr. Mamana
3 takes this business very personally, it's his livelihood.
4 He makes it a point to be a good neighbor and I hope that
5 came out through his testimony.

6 In sum, we endorse the findings of the technical
7 staff as amended by the Planning Board. However, I do have
8 a summary revised condition sheet of three conditions, two
9 of which are the ones that the Planning Board amended, just
10 for the record for clarity and one additional one dealing
11 with the impervious area. I'd like to have to have it
12 marked and hopefully entered into the record, if possible.

13 MS. ROBESON: And these are your proposed
14 conditions?

15 MR. ANTONETTI: Of the three, one is my proposed
16 revision to an existing condition.

17 MS. ROBESON: Oh, that's to reflect the widened
18 driveway?

19 MR. ANTONETTI: Yes, ma'am.

20 MS. ROBESON: Okay.

21 MR. ANTONETTI: It's meant to make sure there is
22 no confusion as to what the impervious calculation should
23 be. So if I could orient you to this and then maybe perhaps
24 it could be entered into the record. Condition 1 that
25 amendment deleting the 26 persons at any one time, that was

1 endorsed by the Planning Board. I have an asterisk next to
2 it indicating as such. Condition 3, this is an existing
3 condition dealing with the impervious surfaces. It
4 currently reads the applicant must limit impervious surface
5 to no more than 10.6 percent of the net tract area and no
6 more than 7.1 percent within the transition area of the
7 primary management area. The testimony received today and
8 shown on the Site Plan submitted, actually shows that the
9 impervious surface is 10.9 percent of the net tract area
10 which is squarely, there is no limitation on impervious
11 surface beyond the PMA transition area, but this is 10.9
12 percent of a small percentage of the site. And 7.5 percent
13 as it was 7.4 and something and change, so the current
14 proposed conditions has 7.1 percent, we believe that's
15 incorrect. It should be 7.5 percent, which is also below
16 the 10 percent maximum in the PMA transition area. So I'd
17 like that corrected in the record, if the Examiner was
18 inclined to support this application.

19 And Condition 11, this was a condition again that
20 was changed and recommended by the Planning Board, dealing
21 with the septic system, you know, at the time of that
22 hearing. It was understood that DPS was approving the
23 septic system. So that's the language carried forward.

24 So just for clarity I'd like to enter this into
25 the record and you know hopefully receive support from the

1 Examiner, if she's so inclined to support this application.

2 MS. ROBESON: All right. Thank you. Well, what
3 I'm going to do is this. The only thing I'm not sure of is
4 the 10.9 percent. I'd like to run that by staff. But staff
5 has already said 7.5 percent. I'm actually required to run
6 it by staff if there are changes. But the other thing is
7 there is a ZTA, a Zoning Text Amendment that I don't think,
8 I don't know if you're aware of it, but I think the
9 effective date is December it's ZTA 15-09, which makes
10 revisions to some of the conditional use provisions, some of
11 the screening requirements, and that would be because my
12 report I have 30 days to do the report. That would be the
13 controlling law on this case and I'm just pointing it out,
14 in my opinion it makes some of the screening standards more
15 flexible, but I wasn't sure you were aware of it, because it
16 does impact some of our findings.

17 So what I'm going to do is we have to leave the
18 record open for 10 days to get the transcript. I'm going to
19 leave the record open until December 14th. If you want to
20 take a look at that amendment and just, I can't recall it
21 having any effect on this case, but you may want to take a
22 look at that amendment and I'll give you the opportunity to
23 submit comments on whether or not anything needs to change,
24 based on that amendment. It's called the Omnibus, I can't
25 remember what it's called. It's got Omnibus in the name,

1 but it's ZTA 15-09.

2 MR. ANTONETTI: Thank you. I will do that.

3 MS. ROBESON: So you may want to just take a look
4 at that. My understanding is it's supposed to make some of
5 the requirements more flexible, but I don't want to apply it
6 without at least bringing it to your attention so you can
7 see if there is anything that's a problem. I'm also just
8 going to refer these conditions to staff, I don't think
9 they'll, you know, they've already said 7.5, I don't see an
10 issue with it, but I am required to send it back to them and
11 just get a confirmation. So I am going to leave the record
12 open for 10 days which would be Monday, December 14th, and
13 that will give me confirmation from staff about your revised
14 decision. It will let me get the transcript in the record
15 and it will let you submit any comments you have on whether
16 ZTA 15-09 affects this case.

17 MR. ANTONETTI: Thank you. I appreciate that.

18 MS. ROBESON: All right. I don't recall anything
19 that does, but the Zoning Ordinance, the new Zoning
20 Ordinance is very detailed, so I'm just bringing it to your
21 attention.

22 MR. ANTONETTI: Madam, are you aware is that
23 legislation, is it effective immediately or is it effective
24 --

25 MS. ROBESON: December 20th or 24th.

1 MR. ANTONETTI: Okay.
 2 MS. ROBESON: One of those. My decision is not
 3 due until January 3rd.
 4 MR. ANTONETTI: Right.
 5 MS. ROBESON: Or the 3rd might be, my decision is
 6 not due until January 4th.
 7 MR. ANTONETTI: Okay.
 8 MS. ROBESON: So I do try to get them out fast,
 9 but I can never, you know, we had multiple decisions going
 10 at the same time.
 11 MR. ANTONETTI: Fair enough. Thank you.
 12 MS. ROBESON: Okay. All right. So with that, Mr.
 13 Morse, do you have anything else you want to say?
 14 MR. MORSE: No, thank you, Madam Examiner.
 15 MS. ROBESON: Okay. All right. Well, with that
 16 this hearing is adjourned. Thank you very much and I will
 17 look forward if I need to get any comments from you, we will
 18 go ahead and I will consider them. All right.
 19 MR. ANTONETTI: Thank you so much.
 20 MS. ROBESON: Okay. Thank you.
 21 MR. MAMANA: Thank you.
 22 MS. ROBESON: You can take the -- yes, thank you,
 23 sir.
 24 MR. ANTONETTI: Take the board.
 25 (Whereupon, at 11:13 a.m., the hearing was

1 concluded.)
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1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that
 3 the attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Office of Zoning and Administrative Hearings for Montgomery
 6 County in the matter of:
 7 Petition of
 8 DAVID MAMANA, D/B/A GREENSKEEPER LANDSCAPING AND LAWN
 9 MANAGEMENT, INC.
 10 Case No: CU 15-04
 11
 12 By:
 13
 14
 15
 16
 17 _____
 18 Diane Wilson, Transcriber
 19
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 21
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 24
 25

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