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Transcript of Hearing

Date: June 12, 2025

Case: Arcland Properties (Paramount Self Storage) (LMA H-157 & CU25-01)

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

Transcript of Hearing
Conducted on June 12, 2025

1 (1 to 4)

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| 1 | 3 |
| 1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS | 1 A P P E A R A N C E S |
| 2 FOR MONTGOMERY COUNTY, MARYLAND | 2 |
| 3 -----x | 3 ON BEHALF OF THE APPLICANT, ARCLAND PROPERTY |
| 4 In Re: : | 4 COMPANY (PARAMOUNT SELF STORAGE): |
| 5 Arcland Properties Company : Case Nos.: | 5 ELIZABETH C. ROGERS, ESQUIRE |
| 6 (Paramount Self Storage) : LMA H-157; CU25-01 | 6 LERCH, EARLY & BREWER |
| 7 -----x | 7 7600 Wisconsin Avenue |
| 8 | 8 Suite 700 |
| 9 | 9 Bethesda, MD 20814 |
| 10 | 10 (301) 841-3845 |
| 11 | 11 |
| 12 HEARING | 12 |
| 13 Before Hearing Examiner Kathleen Byrne | 13 |
| 14 Rockville, Maryland | 14 ALSO PRESENT: |
| 15 Thursday, June 12, 2025 | 15 Joseph Bozzonetti - Production Technician |
| 16 9:40 a.m. | 16 Al Carr (Via Zoom) |
| 17 | 17 |
| 18 | 18 |
| 19 | 19 |
| 20 | 20 |
| 21 | 21 |
| 22 | 22 |
| 23 Job No.: 583514 | 23 |
| 24 Pages: 1 - 122 | 24 |
| 25 Transcribed by: Darby Talbott | 25 |
| 2 | 4 |
| 1 Hearing, held at the location of: | 1 C O N T E N T S |
| 2 | 2 OPENING ARGUMENT PAGE |
| 3 | 3 By Ms. Rogers 17 |
| 4 | 4 EXAMINATION OF NANA BAINE |
| 5 MONTGOMERY COUNTY OFFICE OF ZONING AND | 5 By Ms. Rogers 26 |
| 6 ADMINISTRATIVE HEARINGS | 6 EXAMINATION OF PATRICK LA VAY |
| 7 100 Maryland Avenue | 7 By Ms. Rogers 34 |
| 8 County Office Building | 8 EXAMINATION OF REBEKAH BROWN |
| 9 Room 200 | 9 By Ms. Rogers 100 |
| 10 Rockville, Maryland 20850 | 10 CLOSING ARGUMENT |
| 11 | 11 By Ms. Rogers 118 |
| 12 | 12 |
| 13 | 13 |
| 14 | 14 EXHIBITS ON RECORD |
| 15 | 15 (Retained by the Hearing Examiner) |
| 16 Pursuant to agreement, before Konly Harding, Notary | 16 LMA EXHIBIT |
| 17 Public in and for the State of Maryland. | 17 Exhibit 1 LMA Application |
| 18 | 18 Exhibit 1a Planning LMA Checklist |
| 19 | 19 Exhibit 2 Financial Disclosure Statement |
| 20 | 20 Exhibit 3 Identification Plat |
| 21 | 21 Exhibit 4 Certified Zoning Map |
| 22 | 22 Exhibit 6 Notice List |
| 23 | 23 Exhibit 8 Existing Conditions Plans |
| 24 | 24 Exhibit 9 SWM Concept Plan |
| 25 | 25 Exhibit 15 Request for Postponement 10/24/24 |

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| 5 | <p>1 EXHIBITS ON RECORD</p> <p>2 (Continued)</p> <p>3 LMA EXHIBIT</p> <p>4 Exhibit 21 Concept Utility Plan (1/23/25)</p> <p>5 Exhibit 22 Storm Drain Study (1/23/25)</p> <p>6 Exhibit 23 Land Use Report (1/23/25)</p> <p>7 Exhibit 24 Traffic Statement (1/23/25)</p> <p>8 Exhibit 26 Paramount DRC Comment Response (1/23/25)</p> <p>9 Exhibit 27 Circulation Plan (3/14/25)</p> <p>10 Exhibit 31 Architectural Plans (3/14/25)</p> <p>11 Exhibit 32 Sight Distance (3/14/25)</p> <p>12 Exhibit 33 Paramount SS Staff Comment Response</p> <p>13 (3/14/25)</p> <p>14 Exhibit 34 Notice of Public Hearing</p> <p>15 Exhibit 35 Motion to Extend Time for Pre-Hearing</p> <p>16 Submittal</p> <p>17 Exhibit 36 Email Exchange with HE and Approval of</p> <p>18 Extension of Time</p> <p>19 Exhibit 37 Pre-Hearing Statement</p> <p>20 Exhibit 38 Final Covenants</p> <p>21 Exhibit 39 Floating Zone Plans Updated</p> <p>22 Exhibit 40 Landscape Plan Updated</p> <p>23 Exhibit 41 Preliminary Forest Conservation Plan Updated</p> <p>24 Exhibit 42 Presentation Before Planning Board</p> <p>25 Exhibit 43 Staff Presentation Before Planning Board</p> | 7 |
| 6 | <p>1 EXHIBITS ON RECORD</p> <p>2 (Continued)</p> <p>3 LMA EXHIBIT</p> <p>4 Exhibit 44 Staff Report</p> <p>5 Exhibit 45 Transmittal Letter from Planning Board</p> <p>6 Exhibit 46 Carr Comments / Party of Record Request</p> <p>7 Exhibit 47 Applicant Power Point Presentation</p> <p>8 Exhibit 48 Supplemental Architectural Plan</p> <p>9 Exhibit 49 Affidavit of Posting</p> <p>10 Exhibit 50 Additional Disclosures</p> <p>11</p> <p>12 CU EXHIBIT</p> <p>13 Exhibit 1 CU Application</p> <p>14 Exhibit 3 Existing</p> <p>15 Exhibit 4 Notice List</p> <p>16 Exhibit 5 Certified Zoning Map</p> <p>17 Exhibit 11 NRI/FSD</p> <p>18 Exhibit 14 Request for Postponement 10/24/24</p> <p>19 Exhibit 20 Concept Utility Plan (1/23/25)</p> <p>20 Exhibit 21 Storm Drain Study</p> <p>21 Exhibit 22 Land Use Report</p> <p>22 Exhibit 23 Traffic Statement</p> <p>23 Exhibit 25 Paramount DRC Comment Response (1/23/25)</p> <p>24 Exhibit 26 Circulation Plan (3/14/25)</p> <p>25 Exhibit 28 Architectural Plans (3/14/25)</p> | 8 |

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| <p>9</p> <p>1 Maryland.</p> <p>2 In addition, this is also a public</p> <p>3 hearing for a companion conditional use submitted</p> <p>4 by the applicant for a self-storage facility also</p> <p>5 located at 15750 Paramount Drive, Rockville,</p> <p>6 Maryland, which would use -- which use would</p> <p>7 permit the renovation/expansion of the existing</p> <p>8 self-storage as a conditional use in the proposed</p> <p>9 commercial residential town floating zone that is</p> <p>10 the subject of the pending LMA under use standard</p> <p>11 set forth in 59 Section 3.6.8.D.</p> <p>12 So this hearing is being conducted in</p> <p>13 a hybrid format, which means that individuals may</p> <p>14 participate in person or via Zoom.</p> <p>15 My name is Katie Byrne, and I am the</p> <p>16 hearing examiner in this case, which means I will</p> <p>17 listen to testimony and review evidence on both</p> <p>18 the LMA and conditional use applications.</p> <p>19 So regarding the LMA, I will issue a</p> <p>20 report and recommendation for submittal to the</p> <p>21 District Council on the application pursuant to</p> <p>22 the criteria set forth for local map amendments in</p> <p>23 Article 59, Section 7.2.1.</p> <p>24 So my report and recommendation will</p> <p>25 be issued within 45 days after the record closes.</p> | <p>11</p> <p>1 housekeeping duties here for Zoom. So we'll start</p> <p>2 with the people that we have in the room before</p> <p>3 us.</p> <p>4 So I'm going to ask all of the parties</p> <p>5 to identify themselves.</p> <p>6 So, Ms. Rogers?</p> <p>7 MS. ROGERS: Good morning. Elizabeth</p> <p>8 Rogers, law firm of Lerch, Early & Brewer,</p> <p>9 representing the applicant.</p> <p>10 HEARING EXAMINER: Okay, thank you.</p> <p>11 And now we're going to switch to Zoom.</p> <p>12 So we have one person, it looks like,</p> <p>13 participating by Zoom, Mr. Carr.</p> <p>14 If you could unmute and turn your</p> <p>15 camera on for us, sir. We just want to make sure</p> <p>16 everything works.</p> <p>17 MR. CARR: Can you hear me now?</p> <p>18 HEARING EXAMINER: I can. I can hear</p> <p>19 you. Can't see you yet, but I can hear you.</p> <p>20 MR. CARR: All right. I attempted to</p> <p>21 turn my camera on. I'm not sure if I'm going to</p> <p>22 figure that out on my phone.</p> <p>23 But my name is Al Carr, and I'm just</p> <p>24 here for a few minutes to listen in. I will not</p> <p>25 be testifying today.</p> |
| <p>10</p> <p>1 Any party aggrieved -- any party of</p> <p>2 record aggrieved may, within 10 days after I issue</p> <p>3 the report and recommendation, file a written</p> <p>4 request with the District Council to present oral</p> <p>5 argument. Any party who submits a request for</p> <p>6 oral argument must send a copy of the request to</p> <p>7 all parties up front.</p> <p>8 Regarding the conditional use, I will</p> <p>9 issue an opinion on the application pursuant to</p> <p>10 the criteria set forth in Article 59, Section</p> <p>11 7.3.1. If you disagree with my decision, you may</p> <p>12 appeal it to the Board of Appeals within 10 days</p> <p>13 after my decision is issued.</p> <p>14 So just a note of process. LMAs are</p> <p>15 45 days, conditional uses are 30 days from when</p> <p>16 the record closes.</p> <p>17 Just for consistency's sake, I'm going</p> <p>18 to give myself the additional 15 days for the</p> <p>19 conditional use so that the LMA and conditional</p> <p>20 use decisions will come out on the same date. So</p> <p>21 I'm just going to -- rather than try to put one</p> <p>22 before the other. Because it's best to deal with</p> <p>23 the LMA first and then the conditional use. So</p> <p>24 I'm just putting that on the record now.</p> <p>25 All right. So a little bit of</p> | <p>12</p> <p>1 HEARING EXAMINER: Okay. All right.</p> <p>2 So you're here to observe. All right. Thank you,</p> <p>3 Mr. Carr.</p> <p>4 All right. So since you're not going</p> <p>5 to be testifying, it's not important that your</p> <p>6 camera be on. The only -- it's only urgent that</p> <p>7 your camera be on if you're going to testify.</p> <p>8 So I would ask, if you are not going</p> <p>9 to testify, that you go ahead and keep yourself on</p> <p>10 mute and, obviously, camera off.</p> <p>11 All right. Let's see.</p> <p>12 So I don't need to go through all --</p> <p>13 and just, Mr. Carr, for your information, our chat</p> <p>14 function has been disabled. So if you do wish to</p> <p>15 testify, please use the raise your hand option,</p> <p>16 and our Zoom operator extraordinaire Joey here</p> <p>17 will let me know, and we'll be sure to get to you.</p> <p>18 People participating via Zoom will not</p> <p>19 be able to share screen, as those of you here. So</p> <p>20 this is what we -- we have Joey here. And any</p> <p>21 exhibit that's on the website, anything that you</p> <p>22 need to pull up, he will be here.</p> <p>23 We've got the two exhibit lists. The</p> <p>24 exhibit lists online are up to date. So we</p> <p>25 have -- they match fairly closely, but obviously</p> |

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4 (13 to 16)

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| <p>13</p> <p>1 they deviate because their subject matter is a 2 little bit different. 3 Let's see. So as far as the nature of 4 the proceedings, they're formal, they're informal, 5 and formal in a little bit. So everyone that 6 testifies will testify under oath. 7 So we'll start with the applicant for 8 opening statement and presentation of the factual 9 case. If there is any opposition, opposition has 10 the opportunity for cross-examination and 11 rebuttal. 12 Let's see. Preliminary matters. So, 13 Ms. Rogers, have you had a chance to look at the 14 exhibit list? 15 MS. ROGERS: I have. 16 HEARING EXAMINER: Okay. All right. 17 So are they accurate as far as what's been 18 submitted? 19 MS. ROGERS: There are two preliminary 20 matters with respect to the exhibit lists. 21 HEARING EXAMINER: Okay. 22 MS. ROGERS: One is that the 23 conditional use does not -- and I apologize for 24 not catching this sooner -- does not have the 25 stormwater management concept plan --</p> | <p>15</p> <p>1 replaced by the 314 submittal, there were floor 2 plans and then the photometrics plans that had not 3 changed were not included in that new exhibit. 4 HEARING EXAMINER: Okay. 5 MS. ROGERS: So I'm happy to submit 6 those as a separate new document so that we can 7 still just supersede the previous one. 8 HEARING EXAMINER: Yeah, that might be 9 easier rather than saying we're only going to -- 10 MS. ROGERS: Which sheets are taken 11 out, yeah. 12 HEARING EXAMINER: -- retain which 13 sheet. So you could resubmit those. 14 MS. ROGERS: And I can email them here 15 momentarily so you have them. 16 HEARING EXAMINER: Okay. All right. 17 So will they be one exhibit, or do you want to 18 split -- 19 MS. ROGERS: They'll be one exhibit. 20 HEARING EXAMINER: Okay. 21 MS. ROGERS: Yeah, let's do one 22 exhibit. Maybe we'll call it, like, Supplemental 23 Architectural -- 24 HEARING EXAMINER: Supplemental 25 Architectural Plan? All right. So 48 on the LMA,</p> |
| <p>14</p> <p>1 HEARING EXAMINER: Okay. 2 MS. ROGERS: -- as an exhibit. But 3 that was submitted with the initial application. 4 So we just -- it's in the LMA, so it's -- 5 HEARING EXAMINER: So it's in the LMA? 6 MS. ROGERS: It's on record. 7 HEARING EXAMINER: Okay. 8 MS. ROGERS: We just want to make sure 9 that, when you're writing your report, you're able 10 to also reference it as part of the conditional 11 use application. 12 HEARING EXAMINER: Okay. Sounds good. 13 And what's the exhibit number in the LMA that has 14 the stormwater management? Is that the storm 15 drain study, Exhibit 22? 16 MS. ROGERS: 9, Exhibit 9. 17 HEARING EXAMINER: Exhibit 9. Oh, 18 there it is, Stormwater Management Council. Okay. 19 So what I'll do is I will add the 20 stormwater management concept plan as Exhibit 45 21 to the conditional use. So CLMA No. 9. Okay. 22 MS. ROGERS: And then the only other 23 one, and this was my mistake, and I apologize, the 24 architectural plans for, I guess, both 25 applications, which I indicated had been fully</p> | <p>16</p> <p>1 Supplemental Architectural Plan. And then 46 on 2 the conditional use, Supplemental Architectural 3 Plan. Okay. 4 Okay. Any other exhibit issues? 5 MS. ROGERS: I had two new exhibits to 6 introduce as part of our opening statement, but 7 otherwise the exhibit list matches what we 8 believe -- 9 HEARING EXAMINER: Okay. 10 MS. ROGERS: -- is in the record. 11 HEARING EXAMINER: All right. Sounds 12 good. Would one of those exhibits be the 13 affidavit of posting? 14 MS. ROGERS: It would. 15 HEARING EXAMINER: So let's go ahead 16 and do that now as a preliminary matter. 17 So what you're handing me -- and I'm 18 going to put it as 49 for the LMA. Thank you. 19 MS. ROGERS: And I'll email it 20 (indiscernible). 21 HEARING EXAMINER: I appreciate it. 22 So for Mr. Carr's benefit, what has 23 just been handed to me is a certification of an 24 affidavit of posting. 25 So it's required under the code that</p> |

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5 (17 to 20)

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| <p>17</p> <p>1 the applicant provide the day of the hearing that 2 they certify under a notary that the property has 3 been posted in accordance with the rules for 4 notice. 5 So that's what this is. This is an 6 affidavit saying: Yes, we did post; yes, the sign 7 is up; yes, the sign is still up, is basically 8 what it says. 9 So we include that in the record as 10 affidavit of posting for 49 for the LMA and 47 for 11 the CU. 12 Okay. All right. Perfect. I should 13 have brought a sticky, but that's okay. I will 14 remember because I wrote it on the list. 15 All right. So that, I believe, should 16 address all preliminary matters. And so we will 17 start with an opening statement and our first 18 witness. 19 MS. ROGERS: Thank you. Again, 20 Elizabeth Rogers, (indiscernible) the law firm of 21 Lerch, Early & Brewer. Pleasure to be here today 22 representing Paramount Self Storage, LLC, the 23 applicant for both the conditional use and local 24 map amendment that are before the hearing examiner 25 today.</p> | <p>19</p> <p>1 direct ownership interest in Paramount Storage, 2 LLC. However, out of abundance of caution, we are 3 going to provide seven additional disclosures 4 today that encompass all entities and persons with 5 any indirect beneficial interest in Paramount Self 6 Storage, LLC. 7 As confirmed by all those disclosures, 8 there are no owners, members -- obviously the 9 direct owner was already in the record -- or other 10 parties that have either indirect or direct 11 beneficial interests in the property that have 12 made any contributions within the four-year 13 election cycle preceding the submission of the 14 application or during the pendency of this 15 application. 16 So they'll just confirm that there are 17 no disclosures that need to be made. 18 HEARING EXAMINER: Okay. 19 MS. ROGERS: I have four of those 20 right now. The other two are being notarized this 21 morning. So I will submit those during the 22 hearing. 23 HEARING EXAMINER: Okay. All right. 24 Sounds good. 25 Okay. So what I'll do is I will go</p> |
| <p>18</p> <p>1 With me here today on behalf of the 2 petitioner is Nana Baine with Arcland. Our 3 pre-hearing statement identified that Steve 4 Creighton would be testifying on behalf of the 5 applicant. He's unable to be here, and Nana 6 Baine, who's also with the applicant, will be 7 testifying. 8 HEARING EXAMINER: Okay. 9 MS. ROGERS: And Pat La Vay with MHG, 10 the civil engineers/landscape architects for the 11 project, and Rebekah Brown with BWD Architects. 12 As we'll discuss, their expert witnesses' resumes 13 are already in the record. 14 HEARING EXAMINER: Okay. 15 MS. ROGERS: The only other procedural 16 matter I have before I get into my opening 17 statement was that we noticed Mr. Carr's 18 correspondence that was in the record and 19 regarding the disclosure and his assertion that 20 the application, the LMA, was incomplete. 21 Respectfully, we disagree that the 22 application was not in compliance with state law 23 or incomplete. We did file a disclosure statement 24 for the applicant, Paramount Self Storage, LLC. 25 There are no individuals that have</p> | <p>20</p> <p>1 ahead and accept those additional disclosures. 2 Let's see. So that's an LMA? 3 MS. ROGERS: It's only an LMA. 4 HEARING EXAMINER: Only an LMA issue. 5 MS. ROGERS: Yes. 6 HEARING EXAMINER: So that will only 7 be -- that will be Exhibit 50 for the LMA, 8 additional disclosures. 9 MS. ROGERS: And there's a cover 10 letter that will go with it that just explains 11 what I just said right now, but just for your 12 record. 13 HEARING EXAMINER: All right. And so 14 as soon as I get those -- and just for Mr. Carr's 15 benefit, and actually for the benefit of everyone 16 here, what I try to do is whenever we have 17 exhibits same day is get them up on the website 18 same day. 19 Most of the time we keep the record 20 open for 10 business days for our transcript. And 21 at the end of the hearing, if there are any other 22 exhibits that I need or that I require, we 23 generally try to get those generated within 10 24 days. So all of those exhibits that are accepted 25 will go ahead and be uploaded.</p> |

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6 (21 to 24)

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| <p>21</p> <p>1 So right now what I'm going to do is 2 I'm going to admit all 50 exhibits that we have 3 for the LMA, all 47 exhibits that we have for the 4 conditional use. 5 So on the record, all exhibits that 6 we've discussed to this point are now admitted 7 into the record for what I will go ahead and make 8 the decision on. 9 So before, I guess, we continue to 10 Mr. Carr, what I'll -- I mean, I'm -- I know 11 you're here to observe, but obviously this -- 12 Ms. Rogers has submitted something in direct 13 response to your correspondence. 14 Is there anything that you'd like to 15 say? 16 You can just go ahead and unmute if 17 you need to. And if not, that's okay too. 18 Okay. So I'm taking you as not 19 unmuting as saying that you don't need to say 20 anything. 21 So, all right, thank you. Thank you, 22 everybody. All right. Thanks. 23 Anything else you'd like to say before 24 we start? 25 MS. ROGERS: I'm sorry. The only</p> | <p>23</p> <p>1 This zone will allow for self-storage 2 as a conditional use. As you hear from our 3 experts today, the property is improved with a 4 dated vehicular-oriented self-storage facility. 5 It's a first-generation facility that completely 6 fails to activate or engage the surrounding street 7 network. 8 These applications provide an 9 opportunity for the applicant to reinvest in the 10 existing use, that's a grandfathered use that will 11 remain on the site, but to do so in a manner that 12 will significantly improve the existing conditions 13 on the property and bring the property into 14 conformance with the goals and objectives of the 15 County as expressed through the sector plan. 16 In its May 12, 2025, report, the 17 Maryland-National Capital Park and Planning 18 Commission staff issued a report recommendation to 19 the Planning Board recommending approval of the 20 application. 21 They found that the application met 22 all application requirements. It was in 23 substantial conformance with the goals and 24 recommendations of the sector plan. That's in the 25 record at Exhibit 42 for the LMA and Exhibit 44</p> |
| <p>22</p> <p>1 thing I would also note is just for the record 2 that Mr. Carr indicated he wasn't an attorney when 3 he submitted his correspondence. The state law 4 does also require parties of record to submit any 5 applicable disclosures. So I would just note that 6 for his benefit. 7 HEARING EXAMINER: Okay. Thank you. 8 MS. ROGERS: And I'm ready for my 9 opening statement. 10 HEARING EXAMINER: Perfect. All 11 right. Go ahead and proceed. 12 MS. ROGERS: Thank you. 13 As the hearing examiner is aware from 14 the application materials we've submitted, we're 15 here to request a local map amendment to rezone 16 the property from the commercial residential zone, 17 which had an overall FAR of 2.0, C, commercial 18 density of 0.5, residential 1.5, and height of 120 19 feet. 20 And we're rezoning it to the 21 commercial residential town floating zone with a 22 maximum FAR of 2.75. The commercial density will 23 also be 2.75. And we're keeping the residential 24 density the same, at 1.5, and height the same, at 25 120 feet.</p> | <p>24</p> <p>1 for the conditional use. 2 And the Planning Board on May 22, 3 2025, held a public hearing and voted unanimously 4 to recommend approval of the local map 5 amendment -- that transmittal is in the record at 6 Exhibit 43 -- and also to recommend approval of 7 the conditional use, which is in the record at 8 Exhibit 45. 9 The petitioner concurs with the 10 Planning staff and the Planning Board's 11 recommendations and findings that the application 12 complies with all requirements of the zoning 13 ordinance, substantially conforms with the 14 recommendations of the sector plan, and that the 15 hearing examiner is able to make the necessary 16 findings for approval of the conditional use and 17 the District Council is able to make the necessary 18 findings for approval of the LMA. 19 Through our witnesses today, we're 20 going to demonstrate that the local map amendment 21 meets all of those floating zone requirements 22 contained in Division 59-5 of the zoning 23 ordinance, the rezoning is appropriate for this 24 property, and the rezoning and the proposed 25 development associated with conditional use is</p> |

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| <p>25</p> <p>1 substantial conformance with the sector plan, as 2 well as the fact that those applications comply 3 with all standards and requirements for the CRTF 4 zone; that there are adequate public facilities 5 and services to support the proposed development 6 and we can specifically comply with the findings 7 in 7.2.1.E for the LMA and 7.3.1.E for the 8 conditional use.</p> <p>9 As I mentioned, we'll be calling three 10 witnesses. Our first will be Nana Baine, 11 testifying as a non-expert just on behalf of the 12 applicant.</p> <p>13 We have two expert witnesses. We have 14 Mr. Patrick La Vay, who will be providing expert 15 testimony both as an expert in land development 16 and civil engineering, and Ms. Rebekah Brown, who 17 will be testifying as an expert in architecture. 18 Both have been previously qualified before this 19 body.</p> <p>20 We have prepared a PowerPoint, which 21 was added to the record at Exhibit 47 for the LMA 22 and 44 for the conditional use.</p> <p>23 Just for ease of reference, it 24 contains all the records that are already in the 25 record, and it'll note as such on each page kind</p> | <p>27</p> <p>1 description of your educational and professional 2 background.</p> <p>3 A Bachelor of arts from University of 4 Foshan, China. I've spent 13 years in finance and 5 real estate development capacity, including 6 accounting, finance, and real estate development.</p> <p>7 Q And what is the applicant, Paramount 8 Self Storage, LLC's affiliation with Arcland 9 Property Company?</p> <p>10 A So Paramount Self Storage, LLC, is an 11 affiliate or special purpose entity of Arcland 12 Property Company.</p> <p>13 Q And can you just provide some 14 background on Arcland and Arcland's experience, 15 for the record.</p> <p>16 A So Arcland is a privately held company 17 headquartered in Washington, D.C. The company was 18 founded in 2006 as an entrepreneurial real estate 19 development and transitioned in 2009 as a 20 self-storage specialist.</p> <p>21 The company develops, acquires, and 22 manages self-storage facilities across the East Coast 23 with a core portfolio in the Washington, D.C. market.</p> <p>24 And Arcland owns 50 facilities and handles 25 third-party management for an additional 45</p> |
| <p>26</p> <p>1 of that exhibit reference. But hopefully we'll 2 minimize our jumping around on the screen.</p> <p>3 And with that, we're ready to call our 4 first witness.</p> <p>5 HEARING EXAMINER: Okay. Sounds good. 6 Could you please raise your right 7 hand.</p> <p>8 Do you promise to tell the truth, the 9 whole truth, and nothing but the truth?</p> <p>10 THE WITNESS: Yes, I do.</p> <p>11 HEARING EXAMINER: Thank you. And 12 could you spell your first and last name for the 13 court reporter.</p> <p>14 THE WITNESS: Nana Baine, N-A-N-A 15 B-A-I-N-E.</p> <p>16 HEARING EXAMINER: Thank you.</p> <p>17 EXAMINATION BY COUNSEL FOR THE APPLICANT 18 BY MS. ROGERS:</p> <p>19 Q Nana, can you please, for the record, 20 state -- you just stated your name, but your 21 occupation and your full business address?</p> <p>22 A Yes. Real estate development. 1055 23 Thomas Jefferson Street Northwest, Suite 250, 24 Washington, D.C. 20007.</p> <p>25 Q And can you provide a brief</p> | <p>28</p> <p>1 facilities under self-storage class brand.</p> <p>2 Q Thank you. And how long have you 3 worked for Arcland?</p> <p>4 A I've been working with Arcland for more 5 than five years.</p> <p>6 Q And what are some of your 7 responsibilities in that role?</p> <p>8 A So I oversee the development cycle of 9 self-storage projects from visibility studies, 10 entitlement, to design, to permitting and 11 construction.</p> <p>12 Q And what's Paramount Self Storage, 13 LLC's interest legally in the property?</p> <p>14 A So Paramount Self Storage, LLC, is the 15 property owner, and we purchased the property in 16 2023.</p> <p>17 Q Thank you. Are you familiar with the 18 local map amendment and conditional use 19 applications that are before the hearing examiner 20 today?</p> <p>21 A Yes.</p> <p>22 Q And can you describe just briefly -- I 23 know our experts will touch on this too, but just 24 some of the existing conditions and what, as the 25 owner/applicant, kind of your options were when</p> |

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| <p>29</p> <p>1 you purchased the property.</p> <p>2 A Yeah. So the property is currently</p> <p>3 improved with first-generation facility. And the</p> <p>4 property -- I wish we have a PowerPoint here, but the</p> <p>5 existing buildings --</p> <p>6 Q Yeah, sorry. Let me pull up the</p> <p>7 PowerPoint -- that's my mistake -- and go to the</p> <p>8 first slide.</p> <p>9 HEARING EXAMINER: So either one of</p> <p>10 the --</p> <p>11 MS. ROGERS: If you can go to 47 of</p> <p>12 the LMA. That's the first one.</p> <p>13 (Discussion off the record with the</p> <p>14 production technician.)</p> <p>15 MS. ROGERS: Perfect. That's a great</p> <p>16 one.</p> <p>17 A Yeah. So as you can see, the existing</p> <p>18 buildings are dated, completely fail to activate or</p> <p>19 engage the surrounding streets. And there's -- as</p> <p>20 you can see from the picture, there's no sidewalk</p> <p>21 along Paramount Drive.</p> <p>22 And if you can see another picture, the</p> <p>23 property is largely impervious, and there's no</p> <p>24 stormwater management on site.</p> <p>25 So when we purchase the property, we</p> | <p>31</p> <p>1 A Yes. So we're seeking a 15-space parking</p> <p>2 waiver. And I believe Pat La Vay, our expert, will</p> <p>3 get into the details in his testimony. But overall,</p> <p>4 we're providing 17 parking spaces, and we're also</p> <p>5 providing four loading spaces, which is more than</p> <p>6 three loading spaces by code.</p> <p>7 Q And based on your significant</p> <p>8 experience in developing and managing self-storage</p> <p>9 facilities, as you testified to, in your</p> <p>10 professional opinion, will there be adequate</p> <p>11 parking provided on site with what's proposed?</p> <p>12 A Yes. So based on the significant previous</p> <p>13 experience managing and -- developing and managing</p> <p>14 facilities in the region, we believe we will have</p> <p>15 adequate parking and loading provided on site.</p> <p>16 So we wouldn't develop a site that doesn't</p> <p>17 have enough parking because that's essential to our</p> <p>18 operations. And we are an extremely low-traffic</p> <p>19 generator, and users are typically dispersed</p> <p>20 throughout the day among various loading points in</p> <p>21 the facility.</p> <p>22 And there will be one-side parking</p> <p>23 available as well, for Phase 2, retail use on the</p> <p>24 ground floor if the market condition supports the</p> <p>25 future retail use in the future.</p> |
| <p>30</p> <p>1 really have two options. Option one is to make</p> <p>2 capital repairs and continue to operate as</p> <p>3 grandfather conditions using these existing</p> <p>4 income-producing assets.</p> <p>5 Or option two, we can seek rezoning to</p> <p>6 allow the redevelopment and reinvestment of the</p> <p>7 existing property with a modern, secure self-storage</p> <p>8 facility.</p> <p>9 So we chose to do the later, which is the</p> <p>10 most expensive and lengthy one. But it allows us to</p> <p>11 reinvest in the existing self-storage use, and it</p> <p>12 also allows us to meet the current and future demand</p> <p>13 on this site that is already devoted to self-storage.</p> <p>14 So as opposed to develop another facility in the</p> <p>15 vicinity to support the future need.</p> <p>16 And at the same time, the redevelopment</p> <p>17 will allow us to advance the County's design -- urban</p> <p>18 design goal in this area. And you will be hearing</p> <p>19 from our experts today. The site will show and make</p> <p>20 significant improvements in the building and the site</p> <p>21 design. And the project will truly be transformative</p> <p>22 in this area.</p> <p>23 Q Thank you. And are you aware that the</p> <p>24 application seeks a parking waiver in connection</p> <p>25 with the redevelopment?</p> | <p>32</p> <p>1 And I would just reiterate Pat La Vay will</p> <p>2 get into the details on the parking in his testimony.</p> <p>3 Q Thank you. And after the LMA and</p> <p>4 conditional use applications, what are the next</p> <p>5 steps for you all?</p> <p>6 A So after the approval of LMA by the</p> <p>7 District Council and approval of the conditional use</p> <p>8 by the hearing examiner, we're seeking the site and</p> <p>9 sketch plan approval by the Planning Board.</p> <p>10 Q Thank you.</p> <p>11 MS. ROGERS: I have no further</p> <p>12 questions for Ms. Baine.</p> <p>13 HEARING EXAMINER: No, I think that's</p> <p>14 good. Thank you.</p> <p>15 THE WITNESS: All right. Thank you.</p> <p>16 MS. ROGERS: Thank you. Our next</p> <p>17 expert is Mr. Patrick La Vay.</p> <p>18 HEARING EXAMINER: And, Mr. La Vay, if</p> <p>19 you could raise your right hand.</p> <p>20 Do you promise to tell the truth, the</p> <p>21 whole truth, and nothing but the truth?</p> <p>22 THE WITNESS: I do.</p> <p>23 HEARING EXAMINER: And could you spell</p> <p>24 your first and last name for the court reporter.</p> <p>25 THE WITNESS: First name is Patrick,</p> |

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9 (33 to 36)

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| <p>33</p> <p>1 P-A-T-R-I-C-K. Last name is L-A, space, capital 2 V-A-Y. 3 HEARING EXAMINER: Thank you. 4 MS. ROGERS: And we're prepared to, 5 you know, begin a series of questions to qualify 6 him as an expert. Mr. La Vay has previously been 7 qualified as an expert multiple times before this 8 body as both an expert in land development and 9 civil engineering. 10 HEARING EXAMINER: So no need to do 11 that. I've qualified Mr. La Vay before as an 12 expert in land planning. 13 MS. ROGERS: And I would just note for 14 the record that his resume is in the record with 15 our pre-hearing statement at Exhibit 37 with the 16 LMA and 36 with the conditional use. 17 HEARING EXAMINER: Mr. La Vay is 18 admitted as an expert in land planning. 19 MS. ROGERS: Thank you. If we can go 20 two slides down. Perfect. 21 Just for the record, this is an aerial 22 that's already in the record, Exhibit 42 with the 23 LMA, 40 for the conditional use. 24 /// 25 ///</p> | <p>35</p> <p>1 And then our office, and myself included, 2 prepared the various drawings and supporting 3 documents that are before you in the record today, 4 including assistance for land use report, traffic 5 study, the natural resource inventory, forest 6 conservation plans, floating zone plans, conditional 7 use plans, stormwater management concept, and so 8 forth. 9 Q Thank you. And did you prepare a 10 written report that was part of the application 11 submittals? 12 A I did. I just contributed to the land use 13 report that's in the record. 14 Q That's in the record as Exhibit 22 for 15 the conditional use and 23 for the LMA. 16 And have you made a personal 17 inspection of the property and are you familiar 18 with its surroundings? 19 A I have visited the property on several 20 occasions, and I am familiar with the surrounding 21 area. 22 Q And you touched on this, but for the 23 record, did you prepare a natural resource 24 inventory for a standalone nation for the 25 property?</p> |
| <p>34</p> <p>1 EXAMINATION BY COUNSEL FOR THE APPLICANT 2 BY MS. ROGERS: 3 Q Mr. La Vay, are you familiar with the 4 local map and conditional use applications that 5 are before the hearing examiner today? 6 A I am. It includes a request to rezone 2.1 7 acres located at 15750 Paramount Road in Rockville, 8 Maryland, from the current zoning of CR-2.0, C-0.5, 9 R-1.5 H-120 to CRT-2.75, C-2.75, R-1.5, H-120. 10 It also includes a request for a 11 conditional use for redevelopment of the subject 12 property with a new, modern self-storage facility. 13 Q And is self-storage permitted in the 14 CRTF zone? 15 A Yes, it is. 16 Q And can you -- 17 A As conditional use. 18 Q Thank you. 19 Can you describe your responsibilities 20 with respect to these applications. 21 A Sure. Our initial responsibility was to 22 read the applicable master plan for the area, which 23 is the 2021 Shady Grove Minor Master Plan Amendment, 24 for conformance with that review, compatibility with 25 the surrounding neighborhood.</p> | <p>36</p> <p>1 A Yes, we did. And that was approved 2 March 14th, 2024. 3 Q And that is Exhibit 11 for the 4 conditional use. 5 Can you please describe the 6 location -- I'm sorry, could we go to the next 7 slide first. Thank you. And that's what's shown 8 on the screen, the NRI. 9 Can you please describe the location 10 and characteristics of the property. 11 A Sure. The property is located at the west 12 edge -- west quadrant of the intersection of 13 Somerville Drive and Paramount Drive in Rockville, 14 Maryland. 15 It's somewhat of a trapezoidal-shaped 16 property. Again, 2.1 acres. Currently improved 17 with, as Ms. Baine said, sort of first-generation 18 drive-up, single-story, small self-storage units, a 19 lot of surface parking and loading areas. 20 Q And is there any stormwater management 21 on the site today? 22 A There is not. 23 Q And is the site -- can you talk about 24 the impervious coverage of the site today. 25 A Sure. It's mostly, you know, almost</p> |

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| <p>37</p> <p>1 entirely impervious. It really probably is. It 2 includes, again, single-story buildings and a mixture 3 of asphalt and gravel, surface parking and loading 4 areas. 5 HEARING EXAMINER: I probably should 6 have asked Ms. Baine this, but when was it 7 constructed? 8 MS. BAINE: 1974. 9 HEARING EXAMINER: Thank you, 10 Ms. Baine. 11 THE WITNESS: I was going to guess the 12 '70s. 13 HEARING EXAMINER: 1974. Thank you. 14 All right. 15 Q Great. And go to the next slide. 16 This is an excerpt from the staff report that's in 17 the record. 18 Mr. La Vay, are you familiar with the 19 surrounding neighborhood boundaries that staff 20 identified in their staff report? 21 A I am. 22 Q And can you describe just generally 23 what those boundaries are. 24 A They are the -- as you can see on the 25 screen, the CSX tracks to the north, Redland Road to</p> | <p>39</p> <p>1 A Not negatively. This is a continuation of 2 the existing use, but it will bring modern 3 architecture and meet a lot of the sector plan goals. 4 So I believe it will have a positive impact on the 5 neighborhood. 6 Q Can you briefly describe the overall 7 planning concepts for the proposed development. 8 A Sure. Can we go to the site plan, 9 perhaps. 10 Q Yeah. 11 MS. ROGERS: Next slide. 12 A Yeah. So the -- again, the property has 13 somewhat of a trapezoidal shape and a little bit of 14 arced frontage on Somerville. So, you know, 15 buildings are typically, you know, not arced. 16 So really the idea here was to, in 17 accordance with the sector plan goals, get the 18 building up to the streets to the maximum extent 19 possible, have activating faces, and then have all 20 the parking and loading operations for the storage 21 facility be sort of internal to the site, not visible 22 from the street. 23 What's not as clear on the image, because 24 we're trying to delineate the ground floor here, 25 would be that on the left side of the page, that is</p> |
| <p>38</p> <p>1 the west, Maryland 355, Wisconsin Avenue to the 2 south, and Paramount Drive to the east. 3 Although just at the top of Paramount 4 Drive, there are three additional properties that are 5 within this, the boundary, which is the Metro South 6 neighborhood that's delineated or called out in the 7 sector plan. 8 So my thoughts on the neighborhood match 9 those of staff. 10 Q Great. And can you just describe the 11 character of that surrounding neighborhood. 12 A Sure. It's a mix of entirely commercial 13 and industrial uses. There's, I believe, three gas 14 stations within the neighborhood. There's a vehicle 15 tow lot north of Somerville. 16 And then sort of the western -- south and 17 west, there's just a mix of various commercial and 18 industrial uses, things ranging from automobile 19 repair, tire repair, there's a boxing gym, there's a 20 tattoo parlor. Various retail spaces. 21 So just really a mix of commercial and 22 industrial uses. 23 Q And in your professional opinion, will 24 the proposed development impact the character of 25 the surrounding neighborhood?</p> | <p>40</p> <p>1 all covered by building. So the idea was really 2 enclose and tuck in all of the parking and loading 3 operations so that what's visible from the street is 4 building facade; that the architects can testify on 5 that. 6 And then we did add some flexible space on 7 the north side of the page, the top of the page, 8 facing Somerville, to provide space for future retail 9 should it be available for the site, viable for the 10 site. 11 And then, as you can see on the screen, 12 there's significant streetscape upgrades. As 13 Ms. Baine testified, there's no sidewalk on Paramount 14 today. This application will deliver a new side 15 path, sidewalk buffer from the street with street 16 trees and street lights. 17 Q Thank you. Can you describe the 18 vehicle access and circulation of the proposed 19 project. 20 A Sure. The existing property has two curb 21 cuts. They're one located on each street. Those 22 will be retained with this plan, although slight 23 modifications, particularly on Paramount, to more 24 closely align the driveway with one that's across the 25 street.</p> |

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11 (41 to 44)

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| <p>41</p> <p>1 Q And per Section 6.8.1, the Planning 2 Board can waive the requirements of Section 6.1 if 3 it's determined there's a unique site, a use 4 characteristic or development constraint, such as 5 an existing building or structure which precludes 6 safe and efficient development under the 7 requirements of 6.1, which generally looks for one 8 access point on a corner, vehicular access point 9 on a corner lot.</p> <p>10 Can you please describe the 11 applicant's alternative method of compliance 12 request under Section 6.8.1 and how that request 13 satisfies the necessary findings.</p> <p>14 A Sure. I probably should have mentioned 15 that request in the description of the access.</p> <p>16 As Ms. Rogers stated, the zoning code has 17 a very broad requirement that corner lots would have 18 one access point.</p> <p>19 And that really sort of doesn't fit every 20 application, particularly with self-storage where you 21 have a lot of ins and outs, and then you have larger 22 vehicles that need to maneuver. And if they need to 23 maneuver within the site, that creates a safety 24 hazard.</p> <p>25 So the alternative compliance request is</p> | <p>43</p> <p>1 A Yes. It was discussed in depth with all 2 of the required findings within the staff report. I 3 can cite a specific page. 4 I think it's page 30 and 31, I believe, of 5 the staff report.</p> <p>6 Q Thank you.</p> <p>7 HEARING EXAMINER: So just to 8 reiterate to the Planning Board, they don't get to 9 this until site plan; right?</p> <p>10 THE WITNESS: That's correct. The way 11 the code is written, it gives the power to the 12 Planning Board.</p> <p>13 HEARING EXAMINER: All right. But 14 they talked about it already?</p> <p>15 THE WITNESS: Absolutely.</p> <p>16 HEARING EXAMINER: So they've hashed 17 it out, they know it's coming. And I didn't see 18 anything in the transmittal about it, so --</p> <p>19 THE WITNESS: Right.</p> <p>20 HEARING EXAMINER: All right. Okay. 21 Just making sure.</p> <p>22 MS. ROGERS: Thank you.</p> <p>23 Q And then one other question on access. 24 Do the proposed access points meet all the 25 standards for the Montgomery County Department of</p> |
| <p>42</p> <p>1 simply to retain two access points with upgrades. 2 And there are several findings in the zoning code 3 that I can either go through or that they were 4 outlined in the staff report as well.</p> <p>5 I do agree with all the findings which are 6 basically related to this ensuring safe vehicular and 7 pedestrian access and circulation, minimal 8 requirements in terms of modifying typical 9 requirements such as site distance, intersection 10 spacing.</p> <p>11 There's really no mitigation involved here 12 for this. And I believe it is in the public interest 13 as, again, it keeps all of the maneuvering activity 14 inside the site, allows for easy entrance and exit, 15 not having to maneuver around inside the property.</p> <p>16 Q And who is the appropriate body for 17 approving that alternative method of compliance?</p> <p>18 A The Planning Board is. So that would be 19 approved as part of the future site plan.</p> <p>20 Q And was the -- I think you testified 21 to this, but was the justification and the request 22 for the alternative method of compliance before 23 the Planning Board in terms of being described in 24 the staff report and something that they discussed 25 and considered during their hearing on May 22nd?</p> | <p>44</p> <p>1 Transportation?</p> <p>2 If we can just go down one exhibit, 3 too, to the site distance.</p> <p>4 A Sure.</p> <p>5 Q There's two of them.</p> <p>6 A Yes. The two typical requirements would 7 be spacing from the intersection and then site 8 distance, and both of those were deemed adequate, as 9 is shown on the screen here.</p> <p>10 We did measure the site lines and site 11 distance requirements on both streets. There are 12 some future, as part of permitting activity, ensuring 13 that there's no parking in certain zones for site 14 distance requirements.</p> <p>15 But that's very typical to be enforced and 16 detailed at the permit stage through DOT and DPS, 17 Department of Permitting Services. And that can be 18 shown -- that is shown in this exhibit of where the 19 parking restriction will exist on the street.</p> <p>20 But the site distance is adequate.</p> <p>21 Q Okay.</p> <p>22 A As long as adequate signage is installed.</p> <p>23 Q Thank you.</p> <p>24 HEARING EXAMINER: You talked about 25 impervious surface before, and you might get to</p> |

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12 (45 to 48)

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| <p>45</p> <p>1 that. So you talked about existing imperviousness 2 on the subject property. Is it completely 3 impervious at this point? 4 THE WITNESS: I mean, there might -- 5 there are maybe some patches of grass, but it is 6 almost entirely -- 7 HEARING EXAMINER: Almost entirely. 8 THE WITNESS: I don't have the exact 9 calculation in front of me, but it is very close 10 to entirely impervious. 11 HEARING EXAMINER: Okay. All right. 12 No need to find me the exact amount. I had a 13 feeling that that's what you were going to say, 14 but I just made a note. 15 MS. ROGERS: And the exact amount is 16 written in our land use report. It's 90-something 17 percent. But it's in there. 18 HEARING EXAMINER: Okay. All right. 19 Sounds good. 20 THE WITNESS: There might be some 21 grass growing through the gravel. 22 HEARING EXAMINER: Right. There you 23 go. 24 BY MS. ROGERS: 25 Q And I guess, actually, just to follow</p> | <p>47</p> <p>1 A Okay. 2 Q Thank you. 3 Does the application require the 4 preparation of a preliminary forest conservation 5 plan? 6 If we can go two slides down, there 7 will be -- 8 HEARING EXAMINER: Perfect. 9 A Yes, it does. And that was approved by 10 the Planning Board on May 22nd at their hearing. 11 Q And what does the preliminary forest 12 conservation plan allow for on the site? 13 A It allows for the full development of the 14 property. It includes -- because the property is 15 being -- there is no existing forest on it, nothing 16 is being retained, the afforestation requirement is 17 not feasible on property given the nature of the use, 18 with the site being almost entirely covered by a 19 building. 20 So the approved plan includes .36 acres of 21 offsite mitigation that will be met either at a 22 mitigation bank, if one is available, or through a 23 fee-in-lieu payment to the Planning department. 24 MS. ROGERS: And I just -- I'll just 25 maybe note for the record now, I was going to</p> |
| <p>46</p> <p>1 up -- 2 HEARING EXAMINER: Spontaneous 3 pervious. 4 Q To follow up on the hearing examiner's 5 question, will the proposed application improve 6 the existing impervious coverage? 7 A Yes, it will reduce it. There will be 8 added green space within the setback that we'll get 9 into on the west side of the property and the -- 10 along the frontages and in the open space and in 11 stormwater management areas. 12 HEARING EXAMINER: Okay. 13 Q Have you evaluated the availability of 14 water, sewer, gas, and other utilities at this 15 location? And are the capacities adequate to 16 serve the proposed development? 17 A Yes, we have. We submitted a hydraulic 18 planning analysis to the Washington Suburban Sanitary 19 Commission, WSSC. That was approved for the project. 20 We have been in contact with the utility 21 companies, and all of the utility services are 22 adequate to serve the property. 23 Did you just ask about utilities or did 24 you ask about -- 25 Q Just utilities, yeah.</p> | <p>48</p> <p>1 share our closing statement, but the Planning 2 Board has approved the preliminary forest 3 conservation plan resolution. They approved that 4 at their board hearing on May 29th. 5 And we are just waiting for that 6 resolution to be mailed and would like to then 7 have that record held open for us to submit that 8 to the record before the close. 9 HEARING EXAMINER: Absolutely. 10 MS. ROGERS: But we'll have that 11 within the 10 days. 12 HEARING EXAMINER: Okay. 13 MS. ROGERS: But I could reiterate 14 that at our closing. 15 HEARING EXAMINER: And, I mean, this 16 is probably a non-starter, but obviously it's old, 17 it's flat, it's impervious, no steep slopes, no, 18 you know, those things that they always look 19 for -- 20 THE WITNESS: Yeah, that's correct. 21 HEARING EXAMINER: -- in the forest 22 conservation. 23 THE WITNESS: Yeah, I apologize for 24 not mentioning that -- 25 HEARING EXAMINER: That's okay.</p> |

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13 (49 to 52)

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| <p>49</p> <p>1 THE WITNESS: -- in the -- in the 2 original when I described the property. Yes, the 3 NR -- Natural Resources Inventory as approved did 4 find there's no wetlands, streams, steep slopes. 5 HEARING EXAMINER: None of the things 6 you would normally look for. 7 MS. ROGERS: Protected soils -- 8 THE WITNESS: Yeah, no protected 9 soils, no champion trees or even significant 10 trees. 11 HEARING EXAMINER: Okay. All right. 12 I mean, the photos are pretty self-explanatory, 13 but it's just kind of nice to hear it too. Thank 14 you. 15 BY MS. ROGERS: 16 Q And just to, I guess, round that out, 17 is the property in a special protection area 18 either? 19 A It is not. Nor is it in the primary 20 management area. 21 HEARING EXAMINER: Excellent. Thank 22 you. 23 Q Are stormwater management concept 24 plans and sediment erosion control plans required 25 for the redevelopment of this site?</p> | <p>51</p> <p>1 open space connection. It's intended to provide a 2 pedestrian connection through the eventual 3 redevelopment of this corridor, and it's -- 4 MS. ROGERS: Can we go one slide down 5 just to follow Mr. La Vay's testimony. 6 A There is an open space exhibit in my -- 7 Q Oh, so the stormwater concept -- 8 A There you go. So it's -- it is in the -- 9 the exhibit before you on the screen -- Exhibit 39 10 for the LMA, Exhibit 38 for the CU -- it's an orange 11 hatched area that is the 16-foot-wide setback that's 12 shown as a future open space. 13 It was not actually counted towards the 14 minimum open space required for this application 15 since it will likely be activated in the future. 16 The intention here is that this project 17 provides half. What's next door would provide the 18 other half for the full width. And in that, the area 19 shown on the screen here is just under 5,000 square 20 feet of area has been reserved for that, that future 21 open space. 22 In addition to the property-specific 23 requirements, the master plan or the sector plan 24 envisions and recommends street-oriented buildings, 25 which are being achieved here with the modern</p> |
| <p>50</p> <p>1 A They are, and the applicant had a 2 stormwater management concept approved by the 3 Department of Permitting Services on August 26, 2024. 4 MS. ROGERS: And that was already in 5 the record. It was Exhibit 9 for the LMA, and we 6 added it as Exhibit 45 for the conditional use. 7 HEARING EXAMINER: Thank you. 8 Q Next I am going to move to master plan 9 conformance. What is the relevant master plan for 10 this property? 11 A It is the 2021 approved and adopted Shady 12 Grove Minor Master Plan Amendment. 13 Q And have you reviewed that sector 14 plan? 15 A I have. 16 Q And based on your review of the master 17 plan, in your professional opinion, is the 18 proposed development in substantial conformance? 19 A It is. Specific to -- there are several 20 things applicable here. Specific to the property, 21 there is an exhibit -- it is Figure 11 in the staff 22 report on page 16. 23 But there is an open space envisioned on 24 the west edge of the property, and the project does 25 provide a 16-foot setback to allow for that future</p> | <p>52</p> <p>1 architecture and the way the building is being 2 pressed up against the street and having the parking 3 internal and shielded from the pedestrian realm. 4 The plan encourages retail at strategic 5 locations; and, as has been described, the project 6 will deliver a sort of flexible space where retail 7 can be provided if the area ever develops to the 8 point where it makes sense. 9 And then there are several environmental 10 goals in the plan, including on-site renewable 11 energy, which the project will deliver through the 12 photovoltaic cells that are going to be on the roof, 13 decreases in impervious area, expanded tree cover, 14 all things that are being delivered as part of this 15 project. 16 Q And with the proposed photovoltaic 17 system on the roof, will this project achieve 18 net-zero energy on-site? 19 A That is the goal. 20 Q And did the sector plan speak to kind 21 of what was envisioned for redevelopment in terms 22 of whether it was intended to kind of, you know -- 23 multiple properties to develop at once or to be 24 incremental within this plan area? 25 A There's a recognition in the master plan.</p> |

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14 (53 to 56)

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| <p>53</p> <p>1 I believe it's on page 38 of the sector plan. 2 Oh, excuse me, 24 of the sector plan. 3 It does recognize that there are multiple 4 owners in here, and developing properties will likely 5 happen incrementally. 6 It also recognizes that while the goal of 7 the area is to increase the mixed-use nature with 8 residential, that that is going to happen over time. 9 And this project does, although not 10 residential, provide a community-serving use that is 11 both beneficial and very important to multifamily 12 residential as well as some of the existing uses 13 around the area. 14 HEARING EXAMINER: Not to jump 15 off-topic, but I guess I am jumping off-topic. So 16 you're talking about the property being net-zero 17 energy. 18 I know the County has a green building 19 program. Was this something that was done in 20 compliance with that? 21 Or maybe Ms. Baine can even answer 22 this. Is this a trend for self-storage? Because 23 it seems like a good idea. 24 THE WITNESS: I think that Ms. Baine 25 can probably elaborate --</p> | <p>55</p> <p>1 HEARING EXAMINER: Right. 2 THE WITNESS: Some buildings don't 3 have enough roof for it. 4 HEARING EXAMINER: Right. Right. 5 Depending on location and access -- 6 THE WITNESS: Yes. 7 HEARING EXAMINER: -- and all of that. 8 Okay. For my own curiosity. Thank you. 9 BY MS. ROGERS: 10 Q And just continuing on with the sector 11 plan a little bit. The Metro South neighborhood, 12 has there been reinvestment in this area? Did the 13 sector plan touch on kind of what's been occurring 14 within this area since the original 2006 sector 15 plan was first adopted? 16 A Yeah. The staff report did note that 17 there has been really nothing since 2006, and this 18 would be the first and hopefully catalyst for some 19 redevelopment in the area. 20 Q Thank you. And did the 21 Maryland-National Capital Park and Planning 22 Commission staff and then the Planning Board, in 23 making their recommendations with their 24 transmittal, agree with your conclusions that the 25 proposed project is in substantial conformance</p> |
| <p>54</p> <p>1 HEARING EXAMINER: Right. 2 THE WITNESS: And even Ms. Rebekah can 3 elaborate too. 4 But these buildings are very low 5 energy users. 6 HEARING EXAMINER: Right. Right. 7 THE WITNESS: So net zero is actually 8 pretty difficult for a lot of buildings, like what 9 we're in. 10 HEARING EXAMINER: Exactly. 11 THE WITNESS: But for a self-storage 12 facility, it's much simpler. And just the reduced 13 cost of having to pay for energy, that kind of 14 thing. 15 HEARING EXAMINER: Right. 16 THE WITNESS: So I think, you know -- 17 I think most of the facilities we've worked on 18 with Ms. Baine's company, they've been looking at 19 that. 20 HEARING EXAMINER: Okay. 21 THE WITNESS: So -- 22 HEARING EXAMINER: Yeah. No, I 23 just -- 24 THE WITNESS: It also depends on how 25 much roof space is available, you know.</p> | <p>56</p> <p>1 with those goals and recommendations? 2 A They did. And those are outlined within 3 the staff report extensively. I believe pages 16 4 through 19 of the staff report. 5 Q Thank you. And did the Planning -- 6 and the Planning Board's transmittal memo, which 7 is Exhibit 45 and 43, did that also confirm -- 8 A Yes. 9 Q -- sector plan conformance? Thank 10 you. 11 MS. ROGERS: Unless there's questions 12 from the hearing examiner, next I'm going to move 13 on to questions regarding the intents and purposes 14 of the floating zones. 15 HEARING EXAMINER: Perfect. 16 MS. ROGERS: Okay. 17 BY MS. ROGERS: 18 Q The Section 59.5.1.2 sets forth the 19 intents and purposes of the floating zones. Did 20 you evaluate those in connection with this 21 application? 22 A I did. 23 Q There are three intents of the zones, 24 the first of which is to implement comprehensive 25 planning objectives. This is 5.1.2.A.</p> |

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| <p>57</p> <p>1 In your professional opinion, can you</p> <p>2 explain how the project furthers the goals of the</p> <p>3 applicable plans.</p> <p>4 A Yeah. Well, as I mentioned just a moment</p> <p>5 ago, the project is in substantial conformance with</p> <p>6 the sector plan. It does -- it is a catalyst for</p> <p>7 being the first to develop in the area and develop in</p> <p>8 a way that meets all the goals of environmental</p> <p>9 goals, pedestrian-oriented buildings, and streetscape</p> <p>10 improvements.</p> <p>11 Q And is the proposed development in</p> <p>12 balance and supported with existing and planned</p> <p>13 infrastructure?</p> <p>14 A Yes, it is.</p> <p>15 Q The second intent is Section 5.1.2.B.</p> <p>16 Can you please describe how this project promotes</p> <p>17 the appropriate use of land.</p> <p>18 A Sure. Well, first and foremost, it's a</p> <p>19 continuation of an existing use and quite an</p> <p>20 improvement, moving from, again, the first</p> <p>21 generation, very unsightly low-rise facilities to a</p> <p>22 more modern, street-oriented, pedestrian-friendly</p> <p>23 building.</p> <p>24 You know, in the last several years, much</p> <p>25 has changed with COVID. And the sector plan was</p> | <p>59</p> <p>1 there today, it's being continued, but being</p> <p>2 significantly improved.</p> <p>3 Q Thank you. Section 5.3.2 of the</p> <p>4 zoning ordinance sets forth the purposes of the</p> <p>5 CRTF zone. Can you please just describe how this</p> <p>6 project satisfies those enumerated purposes.</p> <p>7 A Sure. There are really the three</p> <p>8 purposes. The first is to allow mixed-use</p> <p>9 development at a range of densities. The second is</p> <p>10 allowing flexibility for uses in the site. And the</p> <p>11 third is ensuring that mixed-use development is</p> <p>12 compatible with the surrounding development, I would</p> <p>13 say, by allowing this property to redevelop at a</p> <p>14 higher density.</p> <p>15 You know, it addresses the first bullet</p> <p>16 point, flexibility and uses for the site, allowing it</p> <p>17 to move to a use that is existing today through the</p> <p>18 rezoning process. It meets that intent.</p> <p>19 And then, again, the use is very</p> <p>20 compatible with the surrounding development and</p> <p>21 actually provides opportunity for quite an</p> <p>22 improvement of the neighborhood.</p> <p>23 Q Next I'm going to ask you a series of</p> <p>24 questions regarding the applicability of the CRTF</p> <p>25 zone.</p> |
| <p>58</p> <p>1 actually written before COVID, although it was</p> <p>2 adopted during. But, you know, so much has changed</p> <p>3 with work from home, and even businesses have</p> <p>4 changed.</p> <p>5 And self-storage is a very important part</p> <p>6 of any community, really, these days, especially in</p> <p>7 the sort of urban environment we live.</p> <p>8 So, you know, given that, and all the</p> <p>9 things that I mentioned earlier about compatibility</p> <p>10 with the neighborhood and conformance with the sector</p> <p>11 plan, it is an appropriate use of land.</p> <p>12 It also, this design, complies with all</p> <p>13 the requirements for the floating zone standards</p> <p>14 outlined in the code.</p> <p>15 Q And just to elaborate on that, does it</p> <p>16 comply with the maximum FAR that's prescribed in</p> <p>17 Section 59.5.3.5.A of the zoning ordinance?</p> <p>18 A Yes, it does.</p> <p>19 Q Thank you. And lastly, the intent</p> <p>20 statements require that established neighborhoods</p> <p>21 be protected. This is under 5.1.2.C. Can you</p> <p>22 please explain how this project meets that intent.</p> <p>23 A Yeah. Again, the use of the property is</p> <p>24 not changing. So I would say this is protecting, you</p> <p>25 know, the neighborhood in the sense that it's what's</p> | <p>60</p> <p>1 MS. ROGERS: If you can go to the next</p> <p>2 slide, please. Thank you.</p> <p>3 Q Section 5.1.3.A of the zoning</p> <p>4 ordinance prohibits a floating zone from being</p> <p>5 approved for a property that's located in an</p> <p>6 agricultural or rural residential zone. Is this</p> <p>7 property located in an agricultural or rural</p> <p>8 residential zone?</p> <p>9 A It is not.</p> <p>10 Q And are there any prerequisites that</p> <p>11 are required for this floating zone application?</p> <p>12 A There are none required because the base</p> <p>13 zoning is not residential today.</p> <p>14 Q And how are development standards</p> <p>15 handled under the CRTF zone?</p> <p>16 A They're flexible. The only prescribed</p> <p>17 development standards in the code would be open space</p> <p>18 and density. And then all others, in terms of</p> <p>19 setbacks and so forth, are set by the floating zone</p> <p>20 plan.</p> <p>21 Of course, there are parking and</p> <p>22 landscaping standards that are outlined in the</p> <p>23 parking code.</p> <p>24 But very, very flexible.</p> <p>25 Q And do the compatibility requirements</p> |

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| <p>61</p> <p>1 of Section 4.1.8 of the code apply to this 2 property? 3 A They do not as the abutting property is 4 all CR industrial land. 5 Q And how will the project satisfy the 6 open space requirements of the CRTF zone? 7 A Given the tract size of the property and 8 the number of frontages, there is 5 percent open 9 space required. As I mentioned earlier, the area for 10 future open space for sector plan conformance is not 11 being counted towards that. 12 But there is additional, I believe, close 13 to 10 percent along the -- in the areas between the 14 building on -- and the street on Paramount and 15 Somerville Drive. 16 And there is an activated space with some 17 seating at the south corner of the property on 18 Paramount Drive, as shown in the landscape plans. 19 Q And will adequate parking be provided 20 on site to accommodate the proposed development? 21 A Yes. As Ms. Baine mentioned that the 22 owner, and we do believe, feel that adequate parking 23 is provided. Although there has been a request 24 before you today for a 15-space parking waiver. 25 Q And per Section 6.2.10, the deciding</p> | <p>63</p> <p>1 Self-storage uses, the terms parking and 2 loading are pretty much the same, with the exception 3 of probably the one employee that's here, maybe two 4 on an odd day. 5 Really, all of the spaces are being used 6 for, you know, loading and unloading of things or 7 someone making a quick trip to their unit to take 8 something out, put something in. 9 So -- and as Ms. Baine mentioned, the 10 ownership is very confident in their experience that 11 this is adequate for their operations. In the other 12 cases we've worked on similarly with them in recent 13 years, they have felt the same with similar-type 14 reductions. 15 In terms of the retail, should that ever 16 occur or, you know, be leased, there is a lot of 17 street parking in the area. And as this area 18 redevelops, I think that the plan envisions having 19 more street parking. 20 And so it's likely that, you know, folks 21 using that would be walking through the neighborhood, 22 walking from a new residential building to the 23 retail, not necessarily driving there. 24 HEARING EXAMINER: So in your 25 experience, for the most part, self-storage, you</p> |
| <p>62</p> <p>1 body here, the zoning hearing examiner, has the 2 authority to waive any requirements of Section 6.2 3 as long as the proposed design satisfies the 4 intent of the parking requirements as set forth in 5 Section 6.2.1 of the zoning ordinance. 6 Can you, for the record, state what is 7 the intent of Section 6.2.1. 8 A The stated intent is to ensure that 9 parking is provided in a safe and efficient manner. 10 Q And can you please describe how, in 11 your professional opinion, the parking waiver 12 that's requested in this case satisfies that 13 intent. 14 A Sure. Well, the waiver generally 15 includes -- the total requirement is 32 spaces, and 16 that includes -- it's a conservative value because it 17 does include the retail is -- is all retail and fully 18 leased. So that inflates the value. And then there 19 are also three loading spaces required. 20 So the general parking provided is, as we 21 mentioned, 17. So it's 15 spaces less than required 22 by code. However, there are four loading spaces 23 instead of three loading spaces. So in aggregate, 24 there's actually 21 spaces being provided, so to 25 speak.</p> | <p>64</p> <p>1 don't need the amount of parking that you would 2 normally see for something like this. 3 THE WITNESS: Yeah. 4 HEARING EXAMINER: So most of your 5 clients look for a reduction in parking in favor 6 of more space for the use? 7 THE WITNESS: Yes. And in terms of 8 the current code and the way that self-storage is 9 being designed and constructed these days -- 10 HEARING EXAMINER: Right. 11 THE WITNESS: -- yes. 12 I mean, there are some facilities 13 still, and maybe a lot of older facilities, that 14 have a lot of surface parking because people would 15 be able to store boats there or cars there, things 16 like that. 17 HEARING EXAMINER: Right. 18 THE WITNESS: But with modern planning 19 principles of not, like, liking that to be seen 20 from the streets and so forth -- 21 HEARING EXAMINER: Right. 22 THE WITNESS: -- most -- most 23 facilities are focused on buildings only, unless 24 it's a specific storage yard. 25 And so, yes, it's been our experience</p> |

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17 (65 to 68)

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| <p>65</p> <p>1 that the code generally requires more parking than 2 is needed. 3 HEARING EXAMINER: Okay. Thank you. 4 Yeah. I've seen a number of these things come 5 through, and that does seem to be that, where 6 people would park boats or RVs or they would have 7 a lot of space for cars, that seems to be not the 8 case anymore. 9 THE WITNESS: Yeah. 10 HEARING EXAMINER: Okay. All right. 11 THE WITNESS: And just in terms of the 12 intent, you know, all of that, we do believe that 13 adequate parking is provided, and it will be safe 14 and efficient. The applicant has no intention of 15 having this thing -- if you can't park inside the 16 facility -- 17 HEARING EXAMINER: Right. 18 THE WITNESS: -- to move your stuff in 19 or out, it doesn't work. 20 HEARING EXAMINER: Right. 21 THE WITNESS: You can't do that from 22 the street or the property next door. 23 HEARING EXAMINER: Okay. All right. 24 Perfect. Thank you. 25 ///</p> | <p>67</p> <p>1 A Correct. Yes, they have. 2 HEARING EXAMINER: Okay. 3 A And it's in the form of one long-term 4 space. 5 Q And is there one short-term space as 6 well? 7 A There is not. 8 Oh, wait. I'm sorry. There is one. I'm 9 looking at the card wrong. There's one each. 10 HEARING EXAMINER: Okay. There's the 11 one -- all right. Yep. 12 A I'm looking at two different columns -- 13 two different columns, yeah. 14 Q And will that short -- per the 15 Planning staff and therefore the Planning Board's 16 recommending conditions of approval, will that 17 short-term space be provided with Phase 1? 18 A Correct. The short-term space will be 19 provided with Phase 1, and the long-term would be 20 provided with Phase 2. 21 HEARING EXAMINER: So the chart 22 included in the staff report is accurate? 23 THE WITNESS: Correct. 24 HEARING EXAMINER: Essentially. Okay. 25 MS. ROGERS: And that was one of the</p> |
| <p>66</p> <p>1 BY MS. ROGERS: 2 Q Moving on to bike parking, will 3 adequate bike parking be provided on site? 4 A Yes. So it actually was not required, but 5 the applicant offered to provide some as requested. 6 HEARING EXAMINER: I was going to ask 7 that, because I didn't think it was a requirement, 8 but you're going to have bike parking anyway. Is 9 this foreseeable for, like, the employee or -- 10 Q With the bike parking that's required 11 on site, is that -- is there any bike parking 12 required for self-storage? 13 A Oh, no. 14 Q Or is it required -- 15 HEARING EXAMINER: Oh, okay. 16 Q -- (indiscernible) retail is provided? 17 A I believe it's the retail, yeah -- 18 HEARING EXAMINER: It's for the -- 19 it's for the potential Phase 2 retail. 20 THE WITNESS: Yeah. 21 HEARING EXAMINER: Okay. 22 Q But has the applicant committed to 23 providing the bike parking on site, kind of 24 regardless of whether the retail use ever comes to 25 fruition?</p> | <p>68</p> <p>1 only reasons we needed to submit those updated 2 conditional use and floating zone plans, which are 3 in the record -- so the floating zone plan, 4 Exhibit 39, conditional use plan, Exhibit 38 -- to 5 reflect the bike parking that the staff had 6 requested in their condition. 7 So the plans in the record show the 8 bike parking is in compliance with staff's 9 condition. 10 HEARING EXAMINER: Okay. Perfect. 11 Thank you. 12 BY MS. ROGERS: 13 Q How will trash be accommodated on 14 site? 15 A The trash is all handled internally in the 16 building. The operations keep it inside of the 17 building. There's no dumpster located on the site, 18 and they bring it out as needed. 19 And there's very little trash generated by 20 these kinds of properties. They don't allow people 21 to break down boxes and leave them inside the 22 facility. 23 Q So just to reiterate the record, are 24 customers allowed to dispose of trash on site? 25 A No.</p> |

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18 (69 to 72)

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| <p>69</p> <p>1 Q Thank you.</p> <p>2 Will adequate loading be provided on</p> <p>3 site?</p> <p>4 A Yes, absolutely. Just as a baseline,</p> <p>5 there are four loading spaces provided, where three</p> <p>6 are required.</p> <p>7 But, again, as I mentioned before, all of</p> <p>8 the parking in some ways acts as loading for these</p> <p>9 facilities, given that the general nature is you're</p> <p>10 either moving stuff in or moving it out of these</p> <p>11 units.</p> <p>12 So all the parking spaces actually are</p> <p>13 designed a little bit larger than normal parking</p> <p>14 spaces to reflect that.</p> <p>15 Q And is there adequate -- will there be</p> <p>16 adequate fire access provided to the site?</p> <p>17 A Yes. We have met with Montgomery County</p> <p>18 Department of Permitting Services regarding the law</p> <p>19 about the fire access. We do have her concurrence</p> <p>20 that it's adequate, which is the facility being</p> <p>21 accessed from the surrounding street network.</p> <p>22 Q And will a formal fire access plan be</p> <p>23 approved with the subsequent site plan</p> <p>24 application?</p> <p>25 A Yes, that is a requirement during the site</p> | <p>71</p> <p>1 next door. So there's not a screening requirement on</p> <p>2 that side.</p> <p>3 Q Thank you. And are public benefits</p> <p>4 required for the proposed project?</p> <p>5 A They are, as this proposes a density of</p> <p>6 more than 1.0 FAR.</p> <p>7 Q And did the conditional use identify</p> <p>8 those public benefits that the applicant is</p> <p>9 intending to provide, and when will those be</p> <p>10 finalized?</p> <p>11 A The applicant put forth a menu of them,</p> <p>12 including transit proximity, minimum parking,</p> <p>13 architectural elevations, exceptional design, cool</p> <p>14 roof, and recycling facility plan. And those will</p> <p>15 all be finalized at the time of site plan.</p> <p>16 Q Okay.</p> <p>17 A Sketching and site plan I should say.</p> <p>18 HEARING EXAMINER: And that laundry</p> <p>19 list is in the land use report?</p> <p>20 THE WITNESS: Yes, it should be.</p> <p>21 HEARING EXAMINER: Okay.</p> <p>22 THE WITNESS: It's also located on the</p> <p>23 conditional use --</p> <p>24 HEARING EXAMINER: On the conditional</p> <p>25 use.</p> |
| <p>70</p> <p>1 plan.</p> <p>2 MS. ROGERS: If we can go to the next</p> <p>3 slide, please. Thank you. We have two exhibits.</p> <p>4 The landscape plan is already in the record. Two</p> <p>5 different slides, one for Phase 1 landscaping, one</p> <p>6 for Phase 2.</p> <p>7 Q Mr. La Vay, can you please describe</p> <p>8 how the proposed landscaping for both Phase 1 and</p> <p>9 Phase 2 complies with the requirements of the</p> <p>10 zoning ordinance?</p> <p>11 A Sure. There's a little more required in</p> <p>12 Phase 1, as there would be some surface parking along</p> <p>13 Somerville. And in that case there is a need to have</p> <p>14 perimeter planting per the code as well as planting</p> <p>15 to accommodate shading of paved areas. So in Phase</p> <p>16 1, you do see several trees in that area north of the</p> <p>17 Phase 1 building.</p> <p>18 Pivoting to Phase 2, that area gets all</p> <p>19 consumed by building, and there's very little exposed</p> <p>20 surface parking, almost none. And there's a couple</p> <p>21 trees, I believe, just to handle the drive-out coming</p> <p>22 into the site.</p> <p>23 The western edge of the property with the</p> <p>24 open space we described is all going to have a</p> <p>25 building facade along it. And there's a parking lot</p> | <p>72</p> <p>1 THE WITNESS: Local map amendment</p> <p>2 plans, there's a table -- below the data table,</p> <p>3 there's a --</p> <p>4 MS. ROGERS: Can we go back a couple</p> <p>5 slides. Okay, one down.</p> <p>6 HEARING EXAMINER: Oh, I see. All</p> <p>7 right.</p> <p>8 MS. ROGERS: There's the -- from the</p> <p>9 conditional use, there's the public benefit table</p> <p>10 and calculations.</p> <p>11 HEARING EXAMINER: Okay.</p> <p>12 THE WITNESS: And those plans include</p> <p>13 the detailed calculations for each category.</p> <p>14 HEARING EXAMINER: Okay. Thank you.</p> <p>15 BY MS. ROGERS:</p> <p>16 Q In your professional opinion, does the</p> <p>17 proposed floating zone plan satisfy all of the</p> <p>18 code requirements?</p> <p>19 A Yes.</p> <p>20 Q And did Park and Planning staff and</p> <p>21 the Planning Board agree with your evaluation that</p> <p>22 the proposal meets development standards of the</p> <p>23 CRTF zone?</p> <p>24 A They did.</p> <p>25 Q Next I'm going to ask questions</p> |

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19 (73 to 76)

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| <p>73</p> <p>1 regarding inherent versus non-inherent uses. 2 The zoning ordinance requires a 3 hearing examiner to consider the inherent and 4 non-inherent adverse effects of proposed use on 5 nearby properties and the general neighborhood. 6 While inherent adverse effects are 7 those that are necessarily associated with the 8 use, non-inherent effects are those that are not 9 necessarily associated with the use or are created 10 by an unusual characteristic of the site. 11 What are the inherent effects that 12 staff identified as being associated with the 13 proposed self-storage use? 14 A The staff identified three: the physical 15 buildings and structures, parking facilities, and 16 traffic to and from the site by staff and patrons. 17 In terms of the physical buildings and 18 structures, this is a positive impact. This is going 19 to be a new, modern building, blends with the 20 community, blended with the future architecture of 21 the surrounding neighborhood. 22 The vision is the parking facilities, 23 again, there's almost no impact because it's all 24 enclosed within the building. It's not visible from 25 the neighborhood, really.</p> | <p>75</p> <p>1 requirements. As you know, a zoning map change to 2 apply a floating zone to individual property 3 requires approval of a local map amendment. 4 District Council must make necessary findings, 5 which are in 7.2.1.E of the zoning ordinance. 6 Have you had an opportunity to review 7 those criteria with respect to this application? 8 A Yes. 9 Q I'll walk through each of those. 10 With regards to these specific 11 findings, Section 7.2.1.E.2.a requires a proposed 12 floating zone plan substantially conform with the 13 recommendations of the applicable master plan, 14 general plans, and other applicable County plans. 15 Do you believe this project complies 16 with that finding? 17 A Yes, I do. And again, referring back to 18 my earlier testimony about conformance with the 19 master plan, I believe this application does. 20 Q Great. Section 7.2.1.E.2.b requires a 21 proposed floating zone plan furthers the public 22 interest. 23 In your professional opinion, will the 24 project meet this requirement? 25 A Yes. Yeah, I believe this project will</p> |
| <p>74</p> <p>1 And then traffic to and from the site by 2 staff and patrons is well below the threshold of 3 needing a traffic study or any kind of mitigation. 4 So there's almost no impact there. 5 Q And do you agree with those inherent 6 effects that staff identified? And in your 7 opinion, are there any other? 8 A I do agree with them, and those are all 9 that I believe are applicable. 10 Q Have you also evaluated whether there 11 are any non-inherent effects associated with the 12 proposed self-storage use? 13 A I have, and I have not identified any. 14 Certainly some could exist for this type of use if 15 you had a facility with more, say, outdoor storage 16 opportunities for large things that would generate 17 noise, dust, things like that. 18 But this application doesn't have that. 19 Q And did staff agree with you that 20 there were no non-inherent adverse effects? 21 A Yes. And there's a finding for that in 22 the staff report on page 35, I believe. 23 Yeah, 35. 24 Q Thank you. 25 Moving on to local map amendment</p> | <p>76</p> <p>1 have a transformative impact on the community, a very 2 positive one. It's a community-serving use. It's 3 really a use that's needed to facilitate future 4 development, especially residential. 5 And the way the building has been designed 6 and the streetscape improvements that are being 7 provided, I believe they are a benefit to the 8 community, as well as the net zero energy and the 9 other environmental benefits. 10 MS. ROGERS: And we'll get to, I 11 guess, further evaluation of APF with one of the 12 subsequent conditional use findings. But 13 regarding public interest, in your professional 14 opinion, are there adequate public facilities to 15 also support this proposed development from a 16 utility and traffic perspective? 17 A Yes, there are. Again, there's -- we've 18 been -- had confirmation from the utility companies 19 that services are adequate. These are very low 20 energy users or even water and sewer users. And, 21 yes, so we have. 22 And, again, that traffic analysis we did 23 is below the threshold for LATR. 24 Q Section 7.2.1.E.2.c requires the 25 floating zone plan satisfy the intent, purposes,</p> |

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20 (77 to 80)

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| <p>77</p> <p>1 and standards of the floating zone. I know you 2 discussed this in your earlier testimony, but can 3 you please just comment on this and confirm if you 4 believe this finding can be made. 5 A I do. The project complies with the 6 standards and requirements of the CRTF floating zone. 7 Q Section 7.2.1.E.2.d requires the 8 proposed floating zone be compatible with existing 9 approved adjacent development. 10 Can you describe how this project 11 promotes that compatibility. 12 A Yeah. Well, again, the use is not 13 changing. It's just being improved. And with the 14 surrounding uses being mostly industrial, commercial 15 in nature, and things such as a tow lot across the 16 street, this is absolutely compatible with what's 17 there today. And we also believe it's compatible 18 with what could come in the future. 19 Q Section 7.2.1.E.2.e requires the 20 floating zone plan will not generate traffic that 21 does not exceed the critical lane volume or 22 volume/capacity ratio standards as applicable 23 under the Planning Board's LATR guidelines. 24 Does the project comply with this 25 finding?</p> | <p>79</p> <p>1 7.2.1 of the zoning ordinance? 2 A Yes. 3 Q Moving to the conditional use 4 requirements that are set forth in 7.3.1.E, have 5 you had a chance to review those findings with 6 respect to this application? 7 A Yes. 8 Q With regard to these specific 9 findings, Section 7.3.1.E.1.a requires the 10 conditional use satisfy any applicable previous 11 approvals. 12 Are there any approvals for this 13 property with which the project needs to comply? 14 A No. The only previous approvals would be 15 whatever building permits were used to construct the 16 original buildings. 17 Q And will those be superseded by new 18 building permits in connection with the project? 19 A They will. They will be razed entirely. 20 Q Under Section 7.3.1.E.a -- I'm sorry, 21 b, does the project satisfy the requirements of 22 the zone, the use standards, the applicable 23 general requirements under 59-6 of the zoning 24 ordinance? 25 A Yes, it does. As previously described in</p> |
| <p>78</p> <p>1 A It does, as demonstrated in the traffic 2 statement, which is Exhibit 23, I believe. 3 Our office conducted a trip generation 4 analysis between the existing use and the proposed 5 use. The proposed use generates 34 a.m. peak hour 6 trips and 56 p.m. peak hour trips. 7 This results in 29 new net a.m. peak hour 8 trips and 48 net new p.m. peak hour trips, which are 9 both below the threshold for triggering a LATR study. 10 MS. ROGERS: And just for the record, 11 it is in Exhibit 23, the traffic statement for the 12 conditional use, in Exhibit 24 for the LMA. 13 Q When applying a non-residential 14 floating zone to a property previously under a 15 residential detached zone, Section 7.2.1.E.2.f 16 requires applying proposed floating zone will not 17 adversely affect the character of the surrounding 18 neighborhood. 19 Is this finding applicable to this 20 application? 21 A It is not. This is not currently a 22 residential zone. 23 Q And in summary, in your professional 24 opinion, does the floating zone plan permit the 25 Council to make necessary findings outlined in</p> | <p>80</p> <p>1 my testimony, it does meet those requirements. 2 Q And Section 7.3.1.E.1.c requires the 3 conditional use substantially conform with the 4 master plan. 5 I know you've testified to this, but 6 in your professional opinion, does the project 7 substantially conform with those goals and 8 recommendations for the property? 9 A Yes, it does. Again, the delivery of the 10 envisioned open space on the west side, the modern 11 architecture, street activating, the inclusion of 12 optional retail, and the streets, the upgrades, and 13 the environmental benefits all meet goals outlined in 14 the sector plan. 15 Q 7.3.1.E.1.d requires the conditional 16 use be in harmony and not alter its general 17 character of the neighborhood. 18 Have you had an opportunity to review 19 the plan in this context? 20 A I have. And, again, pointing back to an 21 existing use just being modernized and improved, this 22 will have no negative impact on the harmony of the 23 community. It actually should be a benefit and 24 hopefully a catalyst for further redevelopment in the 25 area.</p> |

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21 (81 to 84)

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| <p>81</p> <p>1 HEARING EXAMINER: I'm going to jump 2 in for a second. I think I told you we have 3 several interns working with us, and they just 4 joined us from the hearing upstairs. 5 And so sometimes it's hard when you 6 walk into a hearing just to -- and I think, you 7 know, if Mr. Carr is still on with us, you know, 8 just for his benefit as well. 9 So with the LMA -- and, Ms. Rogers, 10 jump in here too, just kind of like an explanatory 11 moment. 12 With the LMA and the conditional use, 13 a lot of the same requirements are needed for 14 both, but the language is slightly different. 15 So Ms. Rogers earlier talked about 16 compatibility in a certain way, and this 17 conditional use talks more about, like, enjoyment. 18 And, you know, so it's similar 19 language. And it's important, because it's 20 criteria for both, that the expert testify not 21 only to that criteria in the LMA but he also 22 testify to that criteria in the conditional use 23 100 percent refer back to all the documents that 24 have been submitted. 25 So rather than tell me the exact same</p> | <p>83</p> <p>1 BY MS. ROGERS: 2 Q I think we just -- we just did the -- 3 not altering the character of the neighborhood; 4 correct? 5 HEARING EXAMINER: Yes. 6 A We did, yeah. 7 Q Okay. 8 A 7.3.1.E.1.d. 9 Q Great. 10 So moving on, Section 7.3.1.E.1.e 11 requires that the conditional use will not, when 12 evaluated in conjunction with the existing and 13 approved conditional uses in the neighborhood, in 14 any neighboring residential detached zone, 15 increase the number, intensity, or scope of the 16 conditional uses sufficiently to affect adversely 17 that character or the predominantly residential 18 nature of the area. 19 I guess twofold question. One, in 20 your professional opinion, does this finding 21 apply? And even so, will the proposed conditional 22 use affect the area adversely? 23 A No. First and foremost, there's no -- the 24 property itself nor those surrounding it or near 25 proximity are not residential detached zones. This</p> |
| <p>82</p> <p>1 thing that he told me for the LMA, you know, he's 2 going to refer back to that prior testimony. 3 So it might seem, to someone walking 4 in, like it's super redundant; but it's super 5 important to get it on the record. 6 So you guys are walking into the 7 conditional use portion of our show. And so I 8 just wanted to throw that out there. 9 MS. ROGERS: Thank you. And we're 10 happy, if it would help those in the audience, to 11 elaborate further with these findings, if the 12 hearing examiner would like, differently than how 13 we're referring back to previous testimony, but -- 14 HEARING EXAMINER: No. No. 15 MS. ROGERS: Okay. 16 HEARING EXAMINER: It's perfectly fine 17 to go ahead and refer back to previous testimony. 18 And it also helps me that when the 19 witness cross-references either his land use 20 report and/or the staff report because there are 21 layers of evidence on top of each other. So I 22 have different things to look at and draw from in 23 reaching those conclusions. 24 So I appreciate that. 25 MS. ROGERS: Great. Thank you.</p> | <p>84</p> <p>1 is entirely commercial/industrial in use nature. 2 So it's not applicable. But regardless, 3 this use will not change the character of the area 4 for the many reasons I've cited previously. 5 Q And will the -- I guess just to 6 elaborate that. I know you've testified to this. 7 It won't change it -- will it -- will the -- will 8 it change it for the positive in terms of the 9 character of the area? 10 A Yes. I mean, absolutely. With the area 11 not receiving any reinvestment in nearly 20 years, 12 this absolutely will hopefully be a catalyst for 13 future redevelopment. 14 Q Thank you. 15 Section 7.3.1.E.1.f requires a finding 16 the project will be served by adequate public 17 facilities and services. 18 Here, since a preliminary plan 19 approval is not required, subsequently, we're only 20 doing sketch and site plan, as has been testified 21 to, this finding needs to be made at the time of 22 conditional use. 23 So in your professional opinion -- can 24 you provide a little detail with this for the 25 hearing examiner when she's writing her report --</p> |

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22 (85 to 88)

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| <p>85</p> <p>1 will the conditional use be served by adequate 2 public facilities with respect to both schools, if 3 it's applicable, storm drain, water, sewer, 4 police, fire, traffic? 5 A Sure. Yeah. As I mentioned previously, 6 the project does result in less than 50 new peak-hour 7 person trips, and therefore it's lower than the 8 standards of LATR. 9 We have been in contact with WSSC and 10 other utility companies, and there is adequate water, 11 sewer, electric, gas to serve the property. 12 And then police, fire, ambulatory services 13 are all well within operation of local operating 14 distances and have available services. And this use 15 does not generate any school impacts. 16 HEARING EXAMINER: Thank you. 17 Q Did Park and Planning staff agree that 18 the proposed development would be served by 19 adequate public facilities? 20 A Yes, they did. And that was -- their 21 findings are on page 34 of the staff report. 22 Q Section 7.3.1.E.1.g requires the 23 conditional use will not cause undue harm to the 24 neighborhood as a result of non-inherent adverse 25 effects alone or the combination of inherent and</p> | <p>87</p> <p>1 questions to wrap up Mr. La Vay's testimony. 2 Q Does the proposed floating zone 3 conflict in any way with any capital improvement 4 program projects? 5 A It does not. There are no known capital 6 improvement projects in this area. 7 Q In your professional opinion, does the 8 floating zone satisfy all applicable code 9 requirements? 10 A Yes. 11 Q And do you agree with the findings 12 made by Park and Planning staff and their staff 13 report and the Planning Board with respect to this 14 application? 15 A Yes, I do. 16 Q And is there anything else you would 17 like to add? 18 A No. Thank you. 19 HEARING EXAMINER: So, well, let's -- 20 I don't know if this is a good point you want to 21 talk about staff recommendations for the binding 22 elements for the local map amendment and for the 23 conditional use. 24 So looking at the binding elements on 25 page 3 of the staff report, staff proposed the</p> |
| <p>86</p> <p>1 non-inherent adverse effects in terms of peaceful 2 enjoyment, traffic noise, health safety, 3 et cetera. 4 In your professional opinion, will the 5 conditional use cause any harm to the surrounding 6 neighborhood as a result of non-inherent adverse 7 effects? 8 A No, it will not. I think, as I mentioned 9 several times now, this is really to -- will be a 10 benefit to the community and improve what's there 11 today and modernize it and further the goals of the 12 sector plan. 13 Q And just reiterating your previous 14 testimony with respect to this finding, did you 15 find that there were any non-inherent adverse 16 effects? 17 A I did not. 18 Q Thank you. 19 So in summary, is it your professional 20 opinion that the conditional use plan permits the 21 hearing examiner to make all the necessary 22 findings outlined in Section 59-7.3.1.E of the 23 zoning ordinance? 24 A Yes. 25 MS. ROGERS: Just a few miscellaneous</p> | <p>88</p> <p>1 three binding elements. The first one, proposed 2 self-storage facility and ancillary ground floor 3 retail will not exceed a maximum commercial 4 density of 284,040 square feet, so that is 5 accurate with the plans and everything that's on 6 there. 7 And then we've got vehicular site 8 access limited to access points as shown on the 9 floating zone plan. So there's no point to, like, 10 say here, there and everywhere because we're 11 referencing this floating zone plan. So I'm good 12 with that. 13 Maximum height on the subject property 14 is a limit of 80 feet. So that matches the 15 architectural drawings as well. So we're all good 16 there. 17 I guess we're looking for alternative 18 compliance with the parking. That's not 19 necessarily anything we need to do. 20 But as far as method of the proposed 21 development, I don't think that -- I mean, I've 22 seen that as a binding element before. I guess 23 tell me is it something we should have here, the 24 method for proposed development, or should we just 25 leave it alone?</p> |

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23 (89 to 92)

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| <p>89</p> <p>1 THE WITNESS: Is that -- is that to, 2 like, specifically say they must do a subsequent 3 sketch and site plan? 4 HEARING EXAMINER: Well, pretty much, 5 yeah. But, I mean, I'm okay leaving it out. I've 6 just seen it in before because -- 7 MS. ROGERS: Are you asking in terms 8 of, like, a condition with the conditional use 9 that says at the time of site plan, the Planning 10 Board must approve the alternative method of 11 compliance, which then obviously reflects the two 12 access points on your conditional use plan? 13 HEARING EXAMINER: Correct. Like, 14 that's what I'm talking about. So, I mean -- 15 MS. ROGERS: We are fine adding that 16 condition since the board has already reviewed the 17 alternative method of compliance, and they -- 18 HEARING EXAMINER: Okay. 19 MS. ROGERS: They didn't have an 20 opportunity to make that approval now because 21 there's nothing before them to approve. 22 HEARING EXAMINER: Right. Right. So 23 it's going to come -- 24 MS. ROGERS: It's just it's a -- it's 25 a chicken-egg thing.</p> | <p>91</p> <p>1 HEARING EXAMINER: Reflects these 2 three? 3 MS. ROGERS: -- and reflects all of 4 these three binding elements proposed. 5 HEARING EXAMINER: Okay. All right. 6 MS. ROGERS: So we have agreed with 7 them. 8 HEARING EXAMINER: Okay. Perfect. 9 So -- and just to clarify. The way that staff 10 worded it, they said that -- in that first 11 paragraph, it says: to replace existing 12 self-storage on-site with new 282,040-square-foot 13 self-storage facility. 14 But then they refer to self-storage 15 and retail with 284,040. That's the difference 16 between the square footage for the self-storage 17 and then adding the retail. I just want to make 18 sure that -- that it's not -- that it's not a 19 typo. 20 MS. ROGERS: The way that it's set up, 21 and I'll let Mr. La Vay correct me if -- or 22 testify to this too, is the 284,040 -- and 23 Ms. Brown can also testify to this -- is the 24 proposed overall maximum -- 25 HEARING EXAMINER: Everything.</p> |
| <p>90</p> <p>1 HEARING EXAMINER: Right. 2 MS. ROGERS: And so we're happy to 3 have that condition added so that there's a clear 4 record that -- 5 HEARING EXAMINER: Okay. 6 MS. ROGERS: -- that the conditional 7 use is subject to Planning Board's approval of the 8 alternative method of compliance -- 9 HEARING EXAMINER: Yes. 10 MS. ROGERS: -- at the time of site 11 plan. 12 HEARING EXAMINER: All right. I'll 13 figure out how to word that, but that was kind of 14 the -- so the three binding elements for the local 15 map amendment, I'm fine with. Are you guys fine 16 with those as well? 17 MS. ROGERS: Yes. And I would just -- 18 I'm sorry. We should have noted for the record, 19 when we submitted the updated floating zone plan, 20 which is Exhibit 39, the two main changes there 21 were just to add the bike parking to address 22 staff's condition and to update the floating zone 23 binding elements. 24 So that floating zone plan in the 25 record already adopts --</p> | <p>92</p> <p>1 MS. ROGERS: -- FAR on the site. 2 HEARING EXAMINER: Okay. 3 MS. ROGERS: And the way that the 4 application is set up is that that ground floor 5 retail can be either self-storage or retail, 6 depending on if there's a market to support that 7 in the future. 8 And Ms. Brown will testify to this in 9 her testimony as well. 10 HEARING EXAMINER: Okay. 11 MS. ROGERS: So it includes that space 12 on the ground floor, Phase 2. So it will be 13 either self-storage or retail. It's all the same 14 within that number. 15 HEARING EXAMINER: So I'm only going 16 to refer to the number of 284,040. I'm not going 17 to look at this other number, 282,040. Do you 18 see, like, on page 3 -- 19 MS. ROGERS: Oh. I'm sorry. I see 20 what you're saying now. 21 THE WITNESS: Yeah, this one right 22 here -- 23 HEARING EXAMINER: So it says: 24 replace on-site self-storage with. 25 So I don't know if that was a typo.</p> |

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24 (93 to 96)

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| <p>93</p> <p>1 It's a typo? It's a typo in staff report? Okay. 2 I didn't know if there was a distinction 3 between -- 4 (Multiple people cross-talking.) 5 HEARING EXAMINER: Yeah, it says 282. 6 MS. ROGERS: Our plans are correct. 7 So -- 8 MS. BAINE: We're going to include the 9 retail use up to 2,700. 10 HEARING EXAMINER: Okay. 11 MS. ROGERS: In the 282,040, Rebekah. 12 Yes? 13 MS. BROWN: Yes. 14 MS. ROGERS: Okay. 15 THE WITNESS: Yes. Here it's 282,040, 16 and then down here it's 284. 17 HEARING EXAMINER: 284,040. 18 MS. ROGERS: Okay. Oh, I see. 19 HEARING EXAMINER: So I didn't know if 20 there was a distinction between self-storage and 21 retail, like -- 22 (Multiple people cross-talking.) 23 HEARING EXAMINER: Okay. So just a 24 flat-out typo -- 25 (Multiple people cross-talking.)</p> | <p>95</p> <p>1 2.75 FAR. So -- 2 HEARING EXAMINER: Yeah. That -- that 3 was my question. As long as it doesn't increase, 4 like it doesn't throw us over that extra 2,000 5 square feet, then I'm okay leaving it the way that 6 it is because I know it's a lot to go change those 7 plans. 8 MS. ROGERS: But it's not regulating 9 parking or anything like that because that's all 10 regulated by the conditional use. 11 HEARING EXAMINER: Would it mess up 12 the parking? 13 THE WITNESS: I don't think so. It 14 may be a rounding thing I need to look at. 15 MS. BAINE: So the FAR changed from 16 2.5 to 2.52 if we're trying to increase that 2,000 17 square footage. 18 HEARING EXAMINER: All right. Well, 19 then, let's just change -- let's -- let's not do 20 any math. Let's just change the -- change it 21 from -- 22 MS. ROGERS: We can give you an 23 updated floating zone plan that changes the 24 binding element to match what's actually proposed 25 by the applicant.</p> |
| <p>94</p> <p>1 MS. BAINE: Yeah, if you kind of look 2 at the difference here, 284,040 by 282, that is 3 only 2,000 -- a 2,000-square-footage difference, 4 but our retail use is 2,700. So it's already -- 5 HEARING EXAMINER: So it's not -- 6 that's not a thing. So it's definitely a typo. 7 MS. ROGERS: Typo. 8 HEARING EXAMINER: Okay. 9 MS. ROGERS: So the maximum density 10 the applicant is proposing on-site is the 282,040 11 square feet, which is what's shown on our plans. 12 HEARING EXAMINER: Okay. 13 MS. ROGERS: Now, I would ask -- I 14 guess I would ask the hearing examiner, our -- we 15 probably made the same typo, just copying their 16 binding elements on our floating zone plan. Would 17 you like to leave the binding element as they have 18 proposed, which has just the greater flexibility 19 of the 284,040, or would you like us to submit it 20 updated? 21 HEARING EXAMINER: I'm okay leaving it 22 at the 284,040 -- let's see -- because -- because 23 that's what's -- that's what we have as the 24 binding element on that -- 25 THE WITNESS: It's well within the</p> | <p>96</p> <p>1 HEARING EXAMINER: Correct. Let's 2 just do that because I think I don't -- I don't 3 want us to, for just to save a little bit of time 4 changing the map, run afoul of everything else 5 that you're going to work so hard on. 6 All right. So it should be -- so the 7 binding element should be 282,040. And then -- so 8 looking at the conditional use conditions, it 9 should also be 282,040. 10 We talked about adding a condition 11 that the applicant will -- I normally have like a 12 pretty much of a generic one that says that, you 13 know, it's the applicant's responsibility to go 14 through all of the subsequent approvals with, you 15 know, Planning Board, Planning department, blah, 16 blah, blah, blah, blah. 17 So I can put that little generic 18 statement in here as an additional condition, and 19 then that will cover the fact that they have to go 20 through the alternate compliance. So I'll do 21 that. I'll do -- 22 MS. ROGERS: As a new conditional use, 23 Condition No. 9? 24 HEARING EXAMINER: Condition No. 9. 25 So I'll do my generic you have to comply with all</p> |

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25 (97 to 100)

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| <p>97</p> <p>1 of the processes after and all of the approvals 2 that you receive must comply and conform to method 3 as approved by Planning Board. 4 I didn't see anything else that jumped 5 out at me. So we're making the change to No. 2. 6 I'm adding No. 9 for my generic must comply with 7 everything that you have to do after. And looking 8 at the existing 8 is the applicant confirms that 9 those are fine. 10 MS. ROGERS: Yes. And that goes to 11 what Mr. La Vay testified to regarding kind of 12 that area shown in orange as a future open space. 13 And the timing, we believe that the 14 way that the condition is worded gives us 15 flexibility to determine the timing of that and 16 coordinate that at time of site plan in terms of 17 there will be a easement put on the property, 18 which will specify the timing of which that will 19 become open to the public when the surrounding 20 property is actually redeveloped so that it's not 21 an unsafe condition in the interim. 22 HEARING EXAMINER: Okay. Okay. But 23 we don't have the easement yet? 24 MS. ROGERS: We don't have the 25 easement. That will be finalized at time of site</p> | <p>99</p> <p>1 HEARING EXAMINER: Okay. All right. 2 Sounds good. 3 All right. I don't have any more 4 questions for Mr. La Vay. 5 MS. ROGERS: Great. 6 THE WITNESS: Okay. 7 MS. ROGERS: All right. So our final 8 and next witness will be Ms. Rebekah Brown. 9 HEARING EXAMINER: Okay, Ms. Brown, 10 can you raise your right hand for me. 11 Do you promise to tell the truth, the 12 whole truth, and nothing but the truth? 13 THE WITNESS: I do. 14 HEARING EXAMINER: Thank you. 15 MS. ROGERS: Similar to Mr. La Vay -- 16 HEARING EXAMINER: And, actually, I do 17 need you to spell it. It's probably what it 18 sounds like, but if you could spell your first and 19 last name for the court reporter. 20 THE WITNESS: Rebekah, R-E-B-E-K-A-H. 21 Last name Brown, B-R-O-W-N. 22 HEARING EXAMINER: All right. I'm 23 glad I asked. 24 MS. ROGERS: And similarly, we're 25 happy to provide questions to qualify Ms. Brown as</p> |
| <p>98</p> <p>1 plan. They'll figure out some of those 2 intricacies in terms of what the trigger is for it 3 being effectuated. 4 HEARING EXAMINER: All right. So 5 there's nothing to incorporate yet. 6 MS. ROGERS: There's nothing to 7 incorporate yet. 8 HEARING EXAMINER: Okay. All right. 9 Perfect. That was -- that was another question 10 that I had in there about the easement. 11 All right. I think that -- I think 12 that covers my questions. Just wanted to make 13 sure that the binding elements were good, the 14 conditional use was good, and then clarify in my 15 mind whether that was a typo or one -- it just 16 didn't include the retail space. All right. 17 MS. ROGERS: And I would also just 18 say, I'm just looking, the Condition 4, the 19 conditional use is also -- and I still agree with 20 adding Condition 9 that does also reference the 21 alternative method of compliance, which is 22 helpful. 23 HEARING EXAMINER: That's true. 24 MS. ROGERS: But I think the new 25 Condition 9 still makes sense.</p> | <p>100</p> <p>1 an expert, but she has been qualified by this body 2 before, and her resume is in the record. 3 HEARING EXAMINER: Ms. Brown is 4 accepted as an expert in architecture. 5 MS. ROGERS: Thank you. 6 EXAMINATION BY COUNSEL FOR THE APPLICANT 7 BY MS. ROGERS: 8 Q Ms. Brown, are you familiar with the 9 local map amendment and conditional use 10 applications that are before the hearing examiner 11 today? 12 A Yes, I am. I'm the designer for the 13 project. 14 Q And can you just elaborate a little 15 bit on your responsibilities with respect to this 16 application. 17 A The architectural design particularly 18 focusing on designing the building to define and 19 activate the surrounding streetscapes and be 20 compatible with future mixed-use neighborhood as 21 envisioned by the sector plan. 22 MS. ROGERS: If we can go -- I think 23 it's just one slide down. Actually, a couple 24 more. There's a colored site plan. There you go. 25 Just for record, this is an exhibit of</p> |

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| <p>101</p> <p>1 the architectural site plan that's in the record. 2 Q Ms. Brown, can you please describe the 3 basic principles and design concepts that were 4 applied to this project. 5 A Sure. First, the project will hopefully 6 be the first to reinvest in this Metro South 7 district. The project was designed to establish that 8 urban framework that was envisioned by the sector 9 plan and to implement that design that will be 10 compatible with that future mixed use and 11 development. 12 To do that, one of the things that we 13 focused on was pulling the building forward towards 14 the street and not have any kind of parking between 15 what is the street and the pedestrian realm zone. 16 And then we also articulated the facades 17 and fenestration along the street frontages to 18 provide visual interest and to aid in the reduction 19 of the overall massing of the building. 20 On the ground floor, we have a leasing 21 office for the storage along Paramount to provide 22 visual activation as well as physical activity along 23 the street frontage. And then in Phase 2 on the 24 ground floor, we have designed storefront to have 25 glass in it for visual activation, which will either</p> | <p>103</p> <p>1 are notably putting rooftop photovoltaic system in 2 order to generate a net-zero energy building for this 3 facility. 4 But just storage in general, very energy 5 efficient. One of the reasons is that we have 6 lighting that are -- interior lighting that's 7 controlled by motion sensors. So if there's no 8 activity inside, the lights aren't on. So we're not 9 using that energy for that. We have very 10 high-efficient mechanical systems. 11 We also have -- what's different than a 12 lot of other building uses is a very large internal 13 temperature swing. So we don't have a lot of 14 interior, you know, human activity. So we have a 15 little cooler -- it can be a little cooler and a 16 little warmer compared to other uses that are out 17 there. And then, additionally, we also have cool 18 roofs, a very tight thermal skin as well. 19 Q Thank you. And are you familiar with 20 the Montgomery County Zoning Ordinance and the 21 provision for specifically the CRTF zone as they 22 relate to design and development components for 23 this project? 24 A Yes. Before beginning the design of this 25 project, we performed a review of the development</p> |
| <p>102</p> <p>1 be for the potential retail space or will have a 2 visual amenity in that area. 3 The design is reminiscent of multifamily 4 forms, and we'll touch on that a little bit later, to 5 be harmonious with any future development that we 6 have. 7 And then the -- Mr. La Vay talked about 8 this, but we specifically had the vehicular access 9 areas and the activity underneath the building so 10 that they're not kind of open for the public to see. 11 Q So the parking and loading that's on, 12 I guess, plan left, is that concealed or covered 13 by a building above? 14 A Correct. There is a building above the 15 parking and loading on plan left. 16 Q Thank you. And can you just describe, 17 we talked about this a little bit earlier on, but 18 how the building has been designed with kind of 19 those green building practices in mind where this 20 application may take an extra step in terms of 21 compliance with some of those environmental goals 22 and objectives? 23 A Sure. So self-storage as a use has many 24 green building practices already implemented in its 25 building function. For this particular location, we</p> | <p>104</p> <p>1 standards of the CRTF zone to ensure that our design 2 does conform. And we do believe that the project 3 meets or exceeds those requirements. 4 Q Thank you. And have you reviewed the 5 applicable master plan? 6 A Yes. I have reviewed the 2021 Shady Grove 7 Sector Plan with a Minor Master Plan Amendment. 8 MS. ROGERS: If we can go to the next 9 slide, please, which is the Phase 1 rendering. 10 Q I have both renderings, Ms. Brown, but 11 this is Phase 1, which is an excerpt from the 12 record. Can you please describe how the building 13 design kind of responds to those more 14 design-oriented recommendations of the master 15 plan? 16 A Sure. And just to reiterate some of the 17 recommendations, I'll go through a few of them. So 18 one of the recommendations is to create a pattern of 19 interconnected streets and public open space with 20 street-oriented building. 21 I already touched on this, that we made 22 sure to pull both the Phase 1 and Phase 2 buildings 23 up towards the street. And then, as Mr. La Vay had 24 testified, that future mid-block connection will 25 occur on the west side of the development.</p> |

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| <p>105</p> <p>1 Another recommendation is to explore a 2 vertical use mix where feasible. And Phase 2 will 3 provide that ground floor retail that we're looking 4 for if the market conditions allow. 5 And then regardless of the design, we have 6 kind of designed a building that is reminiscent of 7 mixed use, base, middle, top, very kind of classic 8 like that. 9 Another recommendation is consider 10 different and innovative types of development such as 11 infill, adaptive reuse, and/or additional development 12 on properties with growth capacity and existing uses 13 that could remain. 14 So we think this project fits that 15 recommendation to a T. Obviously, we've discussed 16 that this is an existing use that will remain on the 17 site and that we are wanting to not only -- instead 18 of just reinvesting in the existing facility to 19 update, and that's why we're here with this 20 application, the project provides hopefully the first 21 infill redevelopment in the Metro South neighborhood. 22 Another recommendation is prioritize 23 development along Somerville Drive and Redland Road 24 to connect to the Metro station and communities on 25 the east side of the tracks and to support proposed</p> | <p>107</p> <p>1 respond to potential changes in the surrounding 2 community. 3 A Yes, it was. So we sited Phase 1 in the 4 location that we did, which is a lower four-story 5 building that can operate independent of Phase 2. 6 And then we located Phase 2 at the corner 7 of Paramount and Somerville in the event maybe the 8 conditions in the neighborhood do change by the time 9 that that gets ready to be built. So we located that 10 on that corner that's going to have a high impact for 11 other developments in that area. 12 Q And with respect to the Phase 2 ground 13 floor, there's been testimony in the record that 14 it can be either retail if, again, the surrounding 15 conditions change -- we put that Phase 2 there 16 with the retail, as you just testified, so that 17 maybe the conditions change and we can provide the 18 retail, or if the conditions surrounding don't 19 change, that would be provided as a self-storage 20 use. 21 Can you describe in terms of design, 22 though, how under either of those scenarios it 23 will ensure to activate the surrounding 24 streetscape regardless of what the use is located 25 inside the building?</p> |
| <p>106</p> <p>1 transit. 2 So this proposed development along 3 Somerville Drive will help to define and activate the 4 streetscape. The building design and placement, 5 combined with the streetscape improvements that we'll 6 have, will help facilitate that connection to the 7 Metro South. 8 Another recommendation is reduce the size 9 of large blocks to promote pedestrian activity. So 10 that mid-block pedestrian connection that Mr. La Vay 11 talked about on the west side of the property, we'll 12 do that. 13 And then we have other numerous 14 recommendations regarding environmental enhancements, 15 including to incorporate that on-site renewable 16 energy generation, and we will have a rooftop 17 photovoltaic system to achieve energy net zero. 18 MS. ROGERS: If we can go to the next 19 slide. 20 Q Just two follow-up questions that I 21 think tie into master plan conformance. One, and 22 I probably should have asked Ms. Baine this, but I 23 think you can answer it too, can you just describe 24 the staging on-site between Phase 1 and Phase 2 25 and if that was strategically done to kind of</p> | <p>108</p> <p>1 A Sure. So the exterior of the building has 2 been designed to have that ground floor retail use. 3 And so one of the more important things about ground 4 floor retail is that you have windows for activation 5 and things like that. 6 If the retail does not develop and it 7 becomes the inside of the building would be 8 self-storage use, the outside would still retain the 9 same look and character, and we would put visual art 10 amenities basically behind the glass. So there would 11 be a reserved space for something to activate that. 12 All of the other site elements would remain too. 13 HEARING EXAMINER: So no real change 14 to the windows or the construction, it's just what 15 it would look like from the outside in? 16 THE WITNESS: Correct. 17 HEARING EXAMINER: Okay. And this -- 18 maybe you'll get to this later. I should have 19 asked Ms. Baine this too. It's funny how 20 questions come to you later, but -- so we have 21 Phase 1, Phase 2. 22 What's the timeline? What would that 23 look like? So if we get through this entire 24 process, you go through all of the other process. 25 So construction would start?</p> |

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28 (109 to 112)

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| <p>109</p> <p>1 MS. BAINE: So the --</p> <p>2 HEARING EXAMINER: Thanks, Ms. Baine.</p> <p>3 MS. BAINE: The Phase 1 delivery will</p> <p>4 be 2027.</p> <p>5 HEARING EXAMINER: Do you want her to</p> <p>6 come back up?</p> <p>7 Can you just come on -- come on back</p> <p>8 up because I don't know if people can hear you.</p> <p>9 MS. BAINE: So the Phase 1 delivery</p> <p>10 would be 2027.</p> <p>11 HEARING EXAMINER: Okay.</p> <p>12 MS. ROGERS: And just on that, for the</p> <p>13 record, can you explain, you know, in terms of</p> <p>14 kind of the subsequent steps is what's really</p> <p>15 driving that delivery.</p> <p>16 MS. BAINE: Yes. So after the local</p> <p>17 map amendment and CU approval, then we would have</p> <p>18 to go through the sketch and site plan, and that</p> <p>19 would take time. And then we'll commence</p> <p>20 construction. And it would take at least one year</p> <p>21 for the completion, and that's why it's 2027</p> <p>22 projection. And that's for Phase 1.</p> <p>23 HEARING EXAMINER: Okay.</p> <p>24 MS. BAINE: And Phase 2, in general,</p> <p>25 we're really, like -- this is very contingent on</p> | <p>111</p> <p>1 is taller at six stories to kind of allow that</p> <p>2 gradual increase and, hopefully, that development in</p> <p>3 the area.</p> <p>4 Q And can you please describe -- oh,</p> <p>5 sorry.</p> <p>6 MS. ROGERS: Actually, can you go to</p> <p>7 the next slide?</p> <p>8 Q So these -- at the very beginning of</p> <p>9 the hearing, we acknowledged we were going to</p> <p>10 provide a new architectural set that, you know,</p> <p>11 just captured those photometric plans that were</p> <p>12 already in the record. So -- because these are in</p> <p>13 the record. That's why they're not labeled on</p> <p>14 top.</p> <p>15 Regarding lighting, Ms. Brown, if you</p> <p>16 could please describe the proposed site lighting</p> <p>17 concept and how it conforms with the zoning</p> <p>18 ordinance lighting standards.</p> <p>19 A So the building will be lit off of</p> <p>20 building-mounted full-cutoff wall packs, and it will</p> <p>21 conform to the standards of less than half a foot</p> <p>22 candle at the property line.</p> <p>23 Q And in your professional opinion, will</p> <p>24 any -- there be any adverse effects on the</p> <p>25 surrounding neighborhood as a result of either</p> |
| <p>110</p> <p>1 the market support and the demand. So Phase 2</p> <p>2 is -- right now I can't really give you a timing.</p> <p>3 HEARING EXAMINER: Understood.</p> <p>4 MS. BAINE: But Phase 1 would be 2027.</p> <p>5 HEARING EXAMINER: Okay. Perfect.</p> <p>6 Thank you.</p> <p>7 BY MS. ROGERS:</p> <p>8 Q Okay. I think that concludes master</p> <p>9 plan questions that I have for you, Ms. Brown.</p> <p>10 Regarding, though -- I guess this does</p> <p>11 tie in to some of the master plan and surrounding</p> <p>12 conditions -- the proposed building height, can</p> <p>13 you just describe, one, if it conforms to the</p> <p>14 requested zone, and is it compatible with the</p> <p>15 surrounding uses?</p> <p>16 A Yes. The proposed building height --</p> <p>17 building will have a maximum height of 80 feet, which</p> <p>18 is less than the allowed 120 feet in the zone. The</p> <p>19 building height will remain compatible because the</p> <p>20 surrounding properties are allowed to have a height</p> <p>21 up to 120 feet.</p> <p>22 One of the things that we wanted to</p> <p>23 highlight is also that, between Phase 1 and Phase 2,</p> <p>24 Phase 1 is that four-story building that's kind of</p> <p>25 pulled up closer to Frederick Road, and then Phase 2</p> | <p>112</p> <p>1 exterior or interior lighting?</p> <p>2 A No, there will not. The direct properties</p> <p>3 abutting our parcel are vacant and are a</p> <p>4 drive-through restaurant. So it will not impact</p> <p>5 existing uses. And then any future uses, again, were</p> <p>6 conformance with that half-foot candle at the</p> <p>7 property line.</p> <p>8 MS. ROGERS: And just for record,</p> <p>9 there's two photometric plans. One, this shows</p> <p>10 Phase 1. If you go one slide down, there's also</p> <p>11 photometrics to show compliance in the Phase 2</p> <p>12 condition.</p> <p>13 Q Section 7.2.1.E.2.d requires the</p> <p>14 proposed floating zone be compatible with existing</p> <p>15 approved adjacent development.</p> <p>16 Can you comment on this and explain</p> <p>17 how, in your professional opinion, the project</p> <p>18 satisfies this requirement.</p> <p>19 A Okay. So the property right now is</p> <p>20 surrounded by commercial and auto-oriented uses. The</p> <p>21 proposed rezone would facilitate that first</p> <p>22 redevelopment of the Metro South area, and so</p> <p>23 hopefully spur further investment in this district.</p> <p>24 The proposed project will provide complete</p> <p>25 transformation of the site as it is today and will be</p> |

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29 (113 to 116)

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| <p>113</p> <p>1 reminiscent of residential or mixed-use architecture 2 design, and we believe that that will be compatible 3 with any future development.</p> <p>4 Q And with respect to the conditional 5 use findings, just to reiterate, under Section 6 7.3.1.E.1.b, the project has to satisfy, you know, 7 the zoning ordinance standards and those lighting 8 requirements you testified to under 59-6.</p> <p>9 In your opinion, does the project 10 comply with those findings?</p> <p>11 A Yes.</p> <p>12 Q And similarly, being duplicative with 13 Mr. La Vay, just like Mr. La Vay's testimony to 14 the hearing examiner, describe why under 15 7.3.1.E.1.c the conditional use must substantially 16 conform with the master plan you testified to, the 17 design elements of the master plan.</p> <p>18 In your professional opinion, will the 19 project meet that finding?</p> <p>20 A Yes.</p> <p>21 Q And similarly, Section 7.3.1.E.1.d 22 requires the conditional use be in harmony and not 23 alter the general character of the neighborhood.</p> <p>24 Do you agree that the conditional use 25 meets that finding?</p> | <p>115</p> <p>1 about the parking. So just to confirm that the 2 information in the staff report and the two 3 development tables is accurate?</p> <p>4 THE WITNESS: Yes. 282,040 square 5 feet is correct.</p> <p>6 HEARING EXAMINER: Okay. All right. 7 And based on your review of this as well, as far 8 as you know, everything else in here is correct?</p> <p>9 THE WITNESS: Yes, ma'am.</p> <p>10 HEARING EXAMINER: Okay.</p> <p>11 MR. LA VAY: I just checked the 12 parking numbers too. They're all based on the 13 282.</p> <p>14 HEARING EXAMINER: All right. Thank 15 you.</p> <p>16 All right. So that was from 17 Mr. La Vay in the back. We appreciate the 18 confirmation along the parking.</p> <p>19 Okay. I don't -- let's see. I think 20 that is, yeah, confirmation, development table 21 standards.</p> <p>22 I think that is it for my questions. 23 All right. Thank you.</p> <p>24 MS. ROGERS: Great. So before I make 25 a brief closing statement, I just wanted to</p> |
| <p>114</p> <p>1 A Yes, I do.</p> <p>2 Q Thank you.</p> <p>3 In your professional opinion, does the 4 proposed project satisfy all applicable code 5 requirements pertaining to architecture and urban 6 design?</p> <p>7 A Yes.</p> <p>8 Q And do you agree with the findings 9 from Park and Planning staff contained in the 10 staff report and the Planning Board in their 11 transmittal record, which are both included in the 12 record for the LMA conditional use?</p> <p>13 A Yes.</p> <p>14 Q And is there anything else you would 15 like to add?</p> <p>16 A No.</p> <p>17 MS. ROGERS: All right. I have no 18 further questions for Ms. Brown.</p> <p>19 HEARING EXAMINER: So just looking at 20 Exhibit -- the staff report, page 28, they have 21 the development standards, and the first paragraph 22 talks about the required/permitted both Phase 1 23 and Phase 2, and I will note that they have 24 282,040 square feet in that particular table.</p> <p>25 And I know Mr. La Vay talked more</p> | <p>116</p> <p>1 confirm that, prior to today's hearing, there was 2 44 exhibits in the conditional use and 47 in the 3 LMA.</p> <p>4 HEARING EXAMINER: Correct.</p> <p>5 MS. ROGERS: And we added several 6 additional exhibits.</p> <p>7 So I have that there will be -- as of 8 today there are -- I have 47 exhibits in the 9 conditional use.</p> <p>10 HEARING EXAMINER: Correct.</p> <p>11 MS. ROGERS: And 50 exhibits in the 12 LMA.</p> <p>13 HEARING EXAMINER: In the LMA.</p> <p>14 MS. ROGERS: With the understanding 15 that, following the close of today's hearing, we 16 will provide the 51st exhibit, which will be an 17 updated floating zone plan, just changing that one 18 number on the binding elements to reflect what's 19 contained in the record.</p> <p>20 And additionally, we will have a new 21 Exhibit 48 for the conditional use for the forest 22 conservation plan resolution --</p> <p>23 HEARING EXAMINER: Yes.</p> <p>24 MS. ROGERS: -- when that's mailed.</p> <p>25 And I'm sorry to jump back.</p> |

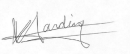
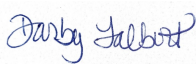
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30 (117 to 120)

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| <p>117</p> <p>1 HEARING EXAMINER: No.</p> <p>2 MS. ROGERS: The LMA will also have a</p> <p>3 new Condition 52 -- sorry -- Exhibit 52, which</p> <p>4 will be our cover letter with the additional seven</p> <p>5 disclosures for any persons or entities with any</p> <p>6 indirect or direct beneficial interest in the</p> <p>7 applicant.</p> <p>8 HEARING EXAMINER: What we can do</p> <p>9 instead of doing a 52 is -- because I reserved 50</p> <p>10 for the additional disclosures.</p> <p>11 MS. ROGERS: Sure.</p> <p>12 HEARING EXAMINER: I'll put cover</p> <p>13 letter and additional disclosures, and we can keep</p> <p>14 that at 50.</p> <p>15 MS. ROGERS: Oh, thank you. I</p> <p>16 mislabeled that. Okay. Great.</p> <p>17 HEARING EXAMINER: All right. So</p> <p>18 we'll just keep -- it'll just be easier to --</p> <p>19 because I'll scan it all as one document and</p> <p>20 upload it.</p> <p>21 MS. ROGERS: Yeah.</p> <p>22 HEARING EXAMINER: Okay. All right.</p> <p>23 So now we're at 51 for the LMA, 48 for the</p> <p>24 conditional use. And the changes, no -- the only</p> <p>25 change to the binding element in my report, based</p> | <p>119</p> <p>1 that will take that necessary first step towards</p> <p>2 that incremental redevelopment that was envisioned</p> <p>3 by the sector plan.</p> <p>4 Someone has to come first, and we're</p> <p>5 pleased to be that first. And we respectfully</p> <p>6 just request that the record be closed once those</p> <p>7 additional exhibits we talked about and the</p> <p>8 transcripts are received following today's</p> <p>9 hearing.</p> <p>10 HEARING EXAMINER: Okay. Thank you.</p> <p>11 Joe, is there anybody still left on</p> <p>12 for the --</p> <p>13 MR. BOZZONETTI: No.</p> <p>14 HEARING EXAMINER: No.</p> <p>15 MR. BOZZONETTI: Just Mr. Carr.</p> <p>16 HEARING EXAMINER: Mr. Carr is still</p> <p>17 on. Okay. And no one's raised their hand or done</p> <p>18 anything like that?</p> <p>19 All right. Thank you very much.</p> <p>20 Okay. So the hearing is now</p> <p>21 concluded. As we stated, the record will be held</p> <p>22 open for 10 business days. Actually, I actually</p> <p>23 try to say business days and not calendar days</p> <p>24 because that throws us.</p> <p>25 And it will be held open for the</p> |
| <p>118</p> <p>1 on staff report, we did correct that typo.</p> <p>2 And then I'm going to add a number 9.</p> <p>3 That is my generic got to do everything you got to</p> <p>4 do that the Planning Commission tells you that you</p> <p>5 have to do. Okay.</p> <p>6 MS. ROGERS: Great.</p> <p>7 HEARING EXAMINER: So we'll go ahead</p> <p>8 and add that.</p> <p>9 All right. Anything else?</p> <p>10 MS. ROGERS: I would just close by</p> <p>11 noting that, you know, through the testimony of</p> <p>12 the witnesses today and all the information that</p> <p>13 has been referenced and kind of assumed within</p> <p>14 their testimony, that's in the record regarding</p> <p>15 the (indiscernible) support, the traffic</p> <p>16 statement, plans, staff report, and Planning Board</p> <p>17 transmittal, we've demonstrated that the proposed</p> <p>18 local map amendment satisfies the necessary</p> <p>19 findings under 7.2.1.E, and the conditional use</p> <p>20 also satisfies the necessary findings under</p> <p>21 7.3.1.E.</p> <p>22 I think you've heard through our</p> <p>23 experts today we believe the project will really</p> <p>24 have a very positive impact on the surrounding</p> <p>25 neighborhood in terms of a transformative effect</p> | <p>120</p> <p>1 transcript to be prepared and for the receipt of</p> <p>2 the additional exhibits as we just discussed.</p> <p>3 Once I receive those additional</p> <p>4 exhibits, they will be uploaded onto the website.</p> <p>5 Once we receive the transcript, the transcript</p> <p>6 itself also will be uploaded onto the OZAH</p> <p>7 website. It will remain closed to all other</p> <p>8 documents.</p> <p>9 And let's see. A decision on both</p> <p>10 will be rendered within 45 days of when the record</p> <p>11 finally closes. So I'll do both the conditional</p> <p>12 use and the LMA at the same time.</p> <p>13 Okay. And with that, the hearing is</p> <p>14 concluded, and we're off the record. Thank you.</p> <p>15 (Off the record at 11:28 a.m.)</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> |

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| <p>121</p> <p>1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC</p> <p>2 I, Konly Harding, the officer before</p> <p>3 whom the foregoing proceedings were taken, do</p> <p>4 hereby certify that any witness(es) in the</p> <p>5 foregoing proceedings were fully sworn; that the</p> <p>6 proceedings were recorded by me and thereafter</p> <p>7 reduced to typewriting by a qualified</p> <p>8 transcriptionist; that said digital audio</p> <p>9 recording of said proceedings are a true and</p> <p>10 accurate record to the best of my knowledge,</p> <p>11 skills, and ability; and that I am neither counsel</p> <p>12 for, related to, nor employed by any of the</p> <p>13 parties to this case and have no interest,</p> <p>14 financial or otherwise, in its outcome.</p> <p>15</p> <p>16 </p> <p>17 _____</p> <p>18 KONLY HARDING,</p> <p>19 NOTARY PUBLIC FOR THE STATE OF MARYLAND</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | |
| <p>122</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Darby Talbott, do hereby certify that this</p> <p>3 transcript was prepared from the digital audio</p> <p>4 recording of the foregoing proceeding; that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; and that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the case and have</p> <p>9 no interest, financial or otherwise, in its outcome.</p> <p>10</p> <p>11</p> <p>12 </p> <p>13 _____</p> <p>14 DARBY TALBOTT</p> <p>15 JUNE 22, 2025</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | |

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