



Transcript of Hearing

Date: January 30, 2026

Case: Garrett Gateway Partners, LLC

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Michigan #8598 | Nevada #089F | New Mexico #566

Transcript of Hearing
Conducted on January 30, 2026

<p>1 BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE 2 HEARINGS FOR MONTGOMERY COUNTY, MARYLAND 3 -----x 4 IN RE: : Case No.: 5 GARRETT GATEWAY PARTNERS, LLC : CU 16-11 6 -----x 7 8 9 10 11 12 HEARING 13 BEFORE LYNN ROBESON HANNAN, HEARING EXAMINER 14 Conducted Virtually 15 Friday, January 30, 2026 16 9:42 a.m. 17 18 19 20 21 22 23 Job No.: 615944 24 Pages: 1 - 37 25 Recorded By: Mark Heidenberg</p>	<p>1 A P P E A R A N C E S 2 3 DEAN PACKARD - Garrett Gateway Partners, LLC 4 GREG NICHOLS - Montgomery County Department 5 of Permitting Services 6 JOSH KAYE - Montgomery County Planning 7 Department 8 JONY ALEXANDER GUISAO-OSPINA - Montgomery 9 County Department of Permitting Services 10 JUSTIN HUGHES - Cashell Estates Resident 11 MATTHEW ROONEY - Cashell Estates Resident 12 KIMBERLY ROONEY - Cashell Estates Resident 13 PATTI SIMONE - Cashell Estates Resident 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>1 Hearing, conducted virtually 2 3 4 5 6 7 8 Pursuant to agreement, before Mark Heidenberg, 9 Notary Public in and for the State of Maryland. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 C O N T E N T S PAGE 2 Proceedings 5 3 4 5 E X H I B I T S 6 (Retained by Counsel) 7 HEARING EXHIBIT PAGE 8 Exhibit 90 Spreadsheet Itemization List 9 9 of Bonds 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p>5</p> <p>1 PROCEEDINGS 2 (Whereupon, the court reporter was duly 3 sworn.) 4 HEARING EXAMINER: Okay. Calling the case 5 of CU 16-11, Garrett Gateway Partners, show cause 6 proceedings. 7 Mr. Packard, welcome. You are the star of 8 these. So welcome back. You're still under oath. 9 Everyone that has been sworn in is still 10 under oath. If you have never been sworn in by me, 11 please let me know. We've had sort of a rolling 12 list of people attending these hearings, and so 13 please let me know. 14 Now, Mr. Packard, you submitted -- well, 15 why don't you -- I'm not going to ask you what 16 you're doing today on the site. Isn't that nice? 17 I'm giving you a break for today and yesterday, 18 since the snowstorm. But anyway, why don't you 19 summarize -- you did submit some emails describing 20 what has been done. Why don't you summarize that? 21 MR. PACKARD: After, you know, after the 22 last hearing, you know, the focus was turned to 23 completing the second entrance. And also, we 24 discussed completing the pervious pavers. So we -- 25 we had one crew working on the pervious pavers, and</p>	<p>7</p> <p>1 as the temperature is rising and not going down, at 2 least on the -- you know, we have it set up to -- 3 for the -- the private curb first and the second 4 entrance, and then I -- you know, I -- I -- we have 5 some conduit to put in underneath the -- you know, 6 in the -- at the edge of the right of way. 7 So once we get the curb poured for the 8 private work, we're going to -- at the same time, 9 we're going to set the conduit underneath the -- 10 for any future work, so we don't have to dig up the 11 road or tunnel underneath the road. So, you know, 12 Josh and I talked a little bit about that before. 13 So that'll go in. And then I'll work with Rob and 14 Greg Nichols about getting the -- 15 HEARING EXAMINER: Who is Rob? 16 MR. PACKARD: Rob is the right of way 17 inspector. He's the -- he's the one I've been 18 coordinating with, in conjunction with Greg from 19 DPS. So there is -- there is a 10 to 12 foot 20 segment of paving and curb that extends from the 21 edge of the existing paving to the right of way 22 line that will be under the County jurisdiction for 23 inspection. So when we get everything ready, we're 24 going to do all that at one time, and I'll be ahead 25 of the -- ahead of the mark, coordinating with them</p>
<p>6</p> <p>1 we got approximately half of the pervious pavers 2 installed that were remaining. And -- and -- and we 3 -- and we had a second crew working on the curb and 4 gutter for the second entrance. Now -- and just to 5 put it in perspective, we -- 6 You know, it's been cold, and this week 7 has been extremely cold, and we -- we had to rent a 8 jackhammer to be able to jackhammer the stakes into 9 the ground for the -- to set the curb forms up. But 10 we got about half of the curb forms set. And when 11 Mike gets back on Tuesday, we're going to get the 12 crew back out there to set the rest of the forms. 13 And the first day that we have that's, you know, 14 probably 38 degrees and rising, we're going to pour 15 for the curb and the -- the -- 16 HEARING EXAMINER: I thought you couldn't 17 -- I thought you couldn't -- well, I'll ask -- if 18 Mr. Kaye or Mr. Nichols knows it's 38 degrees -- we 19 can answer that later, but I'd like to know from 20 the County Park and Planning, you know, what -- 21 what the good temperature is. Go ahead, Mr. 22 Packard. 23 MR. PACKARD: 40 is the standard, but 24 usually we put some additives into the concrete so 25 that it sets up better. And as long as -- as long</p>	<p>8</p> <p>1 to make sure that all the work is done per County 2 standards. 3 We have another load of the CR6 stone 4 that will be delivered. There's about a half a load 5 out there now, and we're going to -- we're going to 6 cut it out and we're going to put the stone in and 7 we're going to compact it, you know, and -- and, 8 you know, right now it's hard as a rock, but, you 9 know, by the time we pave, we want to make sure 10 it's rolled and compacted and everything is good to 11 go. The paving contractor has been -- you know, is 12 Mike's uncle, Cromwell Paving. 13 HEARING EXAMINER: Is he licensed? 14 MR. PACKARD: Yeah. Oh, yeah. He's -- he's 15 -- he's licensed. He's been doing paving work for 16 Montgomery County for 30 years. So he -- he's been, 17 you know, partially paid to start the work as soon 18 as -- as soon as the curb and gutter goes down, 19 he'll come out with all of his equipment. He's the 20 one that paved the interior top coat and did all 21 the repairs on, you know, where we had to dig up 22 the road interior wise. So, you know, from -- from 23 three weeks ago, we made a lot of progress, until 24 everything shut us down last Saturday. 25 HEARING EXAMINER: Okay. I'm going to</p>

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<p style="text-align: right;">9</p> <p>1 share -- it's on the website now; it wasn't up 2 before -- Exhibit 90, which is yours. I'm going to 3 share Exhibit 90, which is on the website as 4 Exhibit 90, and I wondered if you could just go 5 through -- I see this -- I mean, tell me, is -- 6 what -- how -- what the total of the second 7 entrance is. Is it -- is it secondary entrance work 8 on the MMC bond? 9 (EXHIBIT 90 MARKED) 10 MR. PACKARD: Yes. 11 HEARING EXAMINER: Okay. But -- but that's 12 only -- what's -- is that only what's bonded? I'm 13 trying to figure out what -- how much -- this is 14 what I'm getting at. How much is it going to cost 15 to finish the second entrance, unbonded, unbonded? 16 MR. PACKARD: What I have in here for the 17 second entrance to get paving down is, you know, 18 close to \$25,000 remaining. 19 HEARING EXAMINER: Okay. So that -- I 20 apologize. I just want to make sure I understand 21 this. This is six-inch paving, correct, this line 22 that the cursor is pointing to under secondary 23 entrance work on the MNCPPC bond? 24 MR. PACKARD: Correct. 25 HEARING EXAMINER: And where is the</p>	<p style="text-align: right;">11</p> <p>1 work is not covered? How much is the work not 2 covered by the bonds? 3 MR. PACKARD: There's nothing that's not 4 covered by the bond. 5 HEARING EXAMINER: I thought -- I thought 6 that Park and Planning didn't bond the second 7 entrance? 8 MR. PACKARD: Park and Planning bonded 9 everything that isn't under the purview of 10 Department of Permitting services. The bond is part 11 of a site plan enforcement agreement that covers 12 everything, including the second entrance. 13 HEARING EXAMINER: Wait. This is the first 14 -- this didn't go to site plan. 15 MR. PACKARD: We -- even though we had 16 preliminary plan approval and we had conditional 17 use approval from your office, we still had to have 18 a site plan enforcement agreement, which is the 19 mechanism for -- for creating enforcement under 20 Josh's purview, which the bond was -- 21 HEARING EXAMINER: Okay. 22 MR. PACKARD: -- created. 23 HEARING EXAMINER: We've been through ad 24 nauseam that the bonds aren't enough to finish the 25 work. The bond is enough to finish the County right</p>
<p style="text-align: right;">10</p> <p>1 25,000? 2 MR. PACKARD: You know, I just looked at 3 it, the 9540 for the curb and gutter, the 12 to 40 4 for the six-inch paving, and the \$2,400 for the 5 impervious pavers next to lot 14. 6 HEARING EXAMINER: Okay. But that's what's 7 on the bond. I'm looking for the cost that's still 8 outstanding that's not bonded. 9 MR. PACKARD: That -- that -- that is my 10 cost outstanding. But under the bond it's not the 11 bond itself. 12 HEARING EXAMINER: But I don't -- I want 13 to know -- we've already discussed that the bonds 14 were low, all right. I want to know how much it's 15 going to cost not under the bond. That's what I'm 16 looking for. You follow what I'm saying? 17 MR. PACKARD: I have three categories, 18 other -- I have secondary ends were under secondary 19 entrance work on the MNCPPC bond. I have other site 20 work to finish the MNCPPC bond, playground amenity 21 work, site landscaping on the MNCPPC bond. And 22 total work to finish the MNCPPC bond as \$90,760, and 23 I feel that's -- 24 HEARING EXAMINER: What -- I know that. I 25 understand what's left to do on the bonds. What</p>	<p style="text-align: right;">12</p> <p>1 of way. That's what Linda Kobylski said. All right. 2 So you've got that taken care of. The bonds are 3 enough to finish -- Park and Planning bonds are 4 enough to finish the -- there -- the site work, you 5 know, the -- the -- I forget what it is, but -- so 6 there was an amount that wasn't covered by the 7 bonds, so why -- what is that amount? 8 MR. PACKARD: There is no -- there is no 9 amount that's not covered by the bond. I mean, Josh 10 can weigh in on this, but all the work that's on 11 the spreadsheet, that is, you have up on the screen 12 right now is covered by the bonds. The bond -- 13 HEARING EXAMINER: Why don't we just pull 14 the bonds, really? If that's the case -- this is 15 not what I heard. So why don't we just pull the 16 bond? I don't get it. 17 MR. PACKARD: Because we are very close to 18 getting the paving down, and no -- and nobody 19 really wants to pull the bond, because that starts 20 a whole new whole another process that, you know, 21 that -- 22 HEARING EXAMINER: No. I swear, I looked 23 at the testimony from -- well, I'm not going to 24 browbeat you on this. Let me -- does anybody have 25 any questions of Mr. Packard?</p>

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<p>13</p> <p>1 MR. PACKARD: I'll just make one more 2 statement. Before we started doing all this work, 3 you know, on -- in the -- you know, three weeks ago 4 or a month or two ago, the \$92,000 bond, I think we 5 were all in agreement that wasn't enough to cover 6 the work. But in the last month and a half, we've - 7 - we have done a lot of work, and I believe it is 8 enough to cover the bond at this point, and we're 9 just going to finish the work. 10 HEARING EXAMINER: Because nobody bonded 11 the second entrance. 12 MR. PACKARD: It's part -- it's part of 13 the approval. It was always part of the -- it 14 wasn't part of the -- 15 HEARING EXAMINER: What approval? What 16 approval? 17 MR. PACKARD: The preliminary plan that 18 was approved by Park and Planning had the second 19 entrance on it and -- and as part of the 20 enforcement agreement that I signed and the bond 21 was posted against. 22 HEARING EXAMINER: Well, I looked at that 23 preliminary plan amendment, and I think they didn't 24 actually ask for an additional bond. But okay, this 25 is what I want you to do. So please submit your</p>	<p>15</p> <p>1 and Planning has -- 2 MR. KAYE: Right. We -- 3 HEARING EXAMINER: -- covers this -- the 4 entire second entrance? 5 MR. KAYE: It does. The issue with the -- 6 with the bond estimate was that the prices were 7 unrealistic, but we accepted them based on the fact 8 that almost like a 50 percent reduction. Because 9 all the improvements had to be in to even start 10 building, so we worked with Mr. Packard in that 11 regard. 12 HEARING EXAMINER: So -- okay. So you're 13 saying now that the 92,000 -- how much is it due to 14 finish the second entrance? That's really what I 15 want. Forget the bombs. How much is it going to 16 cost to complete the second entrance? 17 MR. PACKARD: \$25,000. 18 HEARING EXAMINER: Okay. So you're saying 19 at this point that the bonds cover everything? 20 MR. PACKARD: Correct. 21 HEARING EXAMINER: Okay. I'm going to -- I 22 have to allow cross-examination. Does anyone have 23 any questions of Mr. Packard? 24 MR. NICHOLS: I don't have a question; I 25 just wanted to add one thing, if you don't mind. So</p>
<p>14</p> <p>1 site plan enforcement agreement. 2 MR. PACKARD: Okay. 3 HEARING EXAMINER: I want it all. I'd like 4 that preliminary plan amendment in the record. And 5 I can get that and take official notice of it. So I 6 will take care of that, but I would like the site 7 plan enforcement agreement. 8 MR. PACKARD: I will send everything to 9 you. And -- 10 MR. KAYE: Just for the record, I just 11 want to -- it's not a site plan enforcement 12 agreement; it's a preliminary plan surety and 13 maintenance agreement. 14 MR. PACKARD: Okay. 15 MR. KAYE: Just want to clear that up. 16 HEARING EXAMINER: Thank you, Mr. Kaye. 17 MR. PACKARD: And the -- the preliminary - 18 - the original preliminary plan that was approved 19 had the second entrance on it. I will send you both 20 the -- the preliminary -- 21 HEARING EXAMINER: I know it had it on it. 22 The question is -- okay. 23 MR. KAYE: Everything was included in the 24 bond. 25 HEARING EXAMINER: The 92,000 that Park</p>	<p>16</p> <p>1 from the very beginning, Josh -- 2 HEARING EXAMINER: Well, wait. Let -- let 3 me just get -- let me just -- I'm sorry. Any 4 questions? Okay. Hearing none, Mr. Nichols, do you 5 want to comment on what we've just heard? 6 MR. NICHOLS: Yeah. I just wanted to help 7 -- help you maybe understand where we were at from 8 the very beginning. So, as Josh stated, the amount 9 -- what we were just looking at, we call it the 10 itemization of the bond, like it's itemized, right, 11 line by line of all these things. So we call that 12 the itemization list or whatever, right, and we do 13 that on a regular basis whenever there's a surety 14 and maintenance agreement or whether it -- whether 15 it's a certified site plan or a preliminary plan. 16 Now, historically, Park and Planning 17 hasn't bonded a lot of preliminary plans, but Josh, 18 in his role and in -- from this project and -- and 19 -- and subsequent projects, has begun to put bonds 20 in place for preliminary plans under, again, the 21 surety and maintenance agreement. What you saw was 22 an itemization list, and what Josh was trying to 23 estimate was -- and he -- he said it. At the time 24 they projected the actual cost of each of those 25 itemizations, each of those items, they</p>

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<p>17</p> <p>1 dramatically reduced the amount of that would cover 2 it should the entire project default. 3 So when we pick this up -- starting with 4 OZAH, when we pick this up and started having the 5 show cause hearings, we knew that as much as -- as 6 long as Dean was allowed to continue to work and 7 get funding from other sources, that that 92,000, 8 if we had to start from scratch, of course, 92,000 9 wouldn't cover everything. But as we get going and 10 as we -- as we make incremental in progress toward 11 the end, that 92,000 will cover -- would cover and, 12 in fact -- if, for some reason, the whole thing got 13 defaulted. Did I say that right, Josh? 14 MR. KAYE: Yeah, that's correct. I'd say, 15 you know, if the paving goes down, then it'll be 16 covered. 17 MR. NICHOLS: Yeah. So if -- if this -- if 18 this entrance goes in and he -- and he gets a 19 25,000 from other sources or whatever, we feel very 20 confident, very confident, that there's enough 21 money in that bond should we have to -- should we 22 have to pull it to finish everything else. 23 HEARING EXAMINER: Okay. Sorry to 24 interrupt. Does the -- so the Planning Department 25 bond of 92,000 covers the secondary entrance. So</p>	<p>19</p> <p>1 mouth, but DPS reached out to the bonding companies 2 and they looked into it and they have evaluations 3 they have to make as well. It's not the easiest 4 thing in the world, and that's kind of why, at the 5 same time that was going on, Dean was trying to 6 find secondary financing from investors to complete 7 all the work in this -- in this subdivision. 8 And so, it was kind of a concurrent 9 action that was going on. It really does come down 10 to money and it comes down to timing, it comes down 11 to resources and comes down to weather. But 12 incrementally, there was just enough improvements 13 along to where we didn't pull that trigger. 14 MR. KAYE: And then, you know, everything 15 I send to you, I'm in weekly conversations with the 16 bonding company also, because they ask for updates 17 and they ask for communication and they ask for 18 meetings. And I've been, you know, keeping them 19 apprized of everything, and I've met them at the 20 site. And it's an ongoing discussion parallel to 21 the discussion with DPS, Park and Planning, and 22 your office. 23 HEARING EXAMINER: I'm going to ask if 24 there's any questions from anyone on what you've 25 heard so far, and then I'd like to talk to -- I'd</p>
<p>18</p> <p>1 let me ask you, Mr. Nichols; is there a reason to 2 put any money in an escrow account, given that the 3 -- given that the bonds are adequate? 4 MR. NICHOLS: That -- that would be Josh. 5 I mean, all I can say is, is that when we first 6 started talking -- because we did, we -- we crossed 7 that -- that threshold early on and we looked into 8 pulling the bonds, Josh -- Josh and company and 9 Park and Planning did. DPS certainly did. We 10 reached out to the -- to the folks. And, 11 unfortunately, the -- the bonds weren't pulled by 12 Dean; they were pulled by the actual builder who's 13 out of the question now -- he's off -- off doing 14 whatever he's at -- and -- and the legality and -- 15 and pulling them back in and all that became an 16 issue. But Josh -- Josh could answer whether he 17 thinks an escrow account to cover to -- to really 18 cover. 19 HEARING EXAMINER: Are you saying -- so 20 are you saying I can't rest on the fact that the 21 bonds cover it because it might be litigation to 22 try to pull the bonds? 23 MR. NICHOLS: I don't know that. I -- 24 Josh, can speak to the site bonds. I know that DPS 25 reached out. I'm not trying to put words in Linda's</p>	<p>20</p> <p>1 like to call Mr. Kaye, if that's okay. But, first, 2 let me say, is there anyone that has any questions 3 on what we've heard thus far? 4 MS. SIMONE: I have a question. This is 5 Patty Simone. I have a question about the -- the 6 licensing. Is it Mike's brother? Anyway could we 7 get a copy of that? 8 MR. KAYE: Cromwell Paving is -- is a 9 licensed paving contractor, so I -- I -- I guess we 10 can get that, but they're registered with the 11 state. 12 HEARING EXAMINER: Why don't you get it, 13 Mr. Packard? 14 MR. PACKARD: Okay. 15 MS. SIMONE: Okay. Thank you. 16 HEARING EXAMINER: So, Mr. Packard, from - 17 - you were now looking for the preliminary plan 18 enforcement agreement. I forget what the name of it 19 is. Please provide or Mr. Kaye, whoever wants to 20 provide it, please provide it. And then we would 21 need the -- the license of Cromwell Paving. And 22 just because I -- I don't think you're lying, but 23 there is a trust issue and let's just all count -- 24 you know, if it's a no brainer, let's do it. 25 MR. PACKARD: And you also wanted the</p>

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<p>21</p> <p>1 preliminary plan resolution and the preliminary 2 plan amendment resolution? 3 HEARING EXAMINER: Yes. But if -- if -- 4 Mr. Kaye, do you have access to that? 5 MR. KAYE: Yes. Yeah. I can provide 6 everything that you're asking for as well. The -- 7 the preliminary plan amendment really didn't change 8 anything but triggers. And it was never certified, 9 so it's essentially null and void. 10 HEARING EXAMINER: So what's null and 11 void, the preliminary plan? 12 MR. KAYE: The amendment that was filed 13 for the preliminary plan, it was mainly just a 14 change to jogs and triggers, and those triggers 15 were -- 16 HEARING EXAMINER: The what? I'm sorry. 17 MR. KAYE: The triggers, and the triggers 18 were -- 19 HEARING EXAMINER: What do you mean by 20 that? 21 MR. KAYE: So one of the triggers, for 22 example, was to have the second entrance completed 23 by -- I think, a 17-building permit or something, 24 16-building permit in the original condition, and 25 the amendment was to move that trigger to like, I</p>	<p>23</p> <p>1 MR. KAYE: Correct. 2 HEARING EXAMINER: Do you have the ability 3 to enforce that, or is this what you're trying to 4 do here? 5 MR. KAYE: Yeah, this is part of the 6 enforcement proceedings. Alternatively, you know, 7 we could potentially have gone to the Planning 8 Board for a violation hearing and, you know, found 9 him guilty, obviously. And -- 10 HEARING EXAMINER: And what would the 11 remedy be? 12 MR. KAYE: It would basically -- 13 HEARING EXAMINER: What powers do you have 14 to enforce the preliminary plan? 15 MR. KAYE: The only power we have is to 16 basically show that he's non-compliant with the 17 preliminary plan, assess probably some 18 administrative penalty, which would be a fine, and 19 then make him finish the -- try to make him finish 20 the, you know, the development. 21 HEARING EXAMINER: You don't have any 22 power for, like, a specific performance, or you 23 can't go to court and say he's in violation and get 24 it into the court, which has much greater 25 penalties?</p>
<p>22</p> <p>1 think, the last building permit. Unfortunately, you 2 know, that went unnoticed as well, and all building 3 permits were released. But I believe that trigger 4 and -- I don't know. Dean, what was the other 5 things? I think that was the main reason for the 6 amendment. 7 MR. PACKARD: That was -- 8 MR. KAYE: But it was never completed, so 9 it's -- you know, we're falling back on the 10 original plan. 11 MR. PACKARD: I never followed up with 12 certification because all the building permits were 13 issued. 14 MR. KAYE: Approved and certified. 15 MR. PACKARD: Sorry. 16 MR. KAYE: The resolution was issued. It 17 was approved by, I think, the director. But since 18 the plan was never certified, it essentially means 19 it wasn't ever approved. 20 HEARING EXAMINER: So he's in violation of 21 his preliminary plan approval as well? 22 MR. KAYE: Sorry. I didn't hear you. 23 HEARING EXAMINER: That's okay. He's in 24 violation of his preliminary plan approval now as 25 well, because he didn't finish the work?</p>	<p>24</p> <p>1 MR. KAYE: We could, but, right now, it's, 2 you know, we're trying to come up with a reasonable 3 solution to finish the development. At the end of 4 the day, if that needs to -- to, you know, continue 5 on and nothing gets done through this process and 6 the development does not get completed, yes, then - 7 - then we do have teeth to take it to a higher 8 level and higher court. And -- but that does nobody 9 good and -- nobody any good at this point. We want 10 the project completed. We want the project 11 completed; so does the community, so to drag it out 12 for another three years in court and to assess 13 another half a million dollars in fines, I'm not 14 sure what -- my personal opinion, it's not 15 benefiting anybody. 16 HEARING EXAMINER: It's not defined. It's 17 the ability to require him to finish. But I 18 understand what I'm just pushing because I want to 19 make sure I understand all the remedies, and it's - 20 - so -- so everything -- at this point, what's your 21 feeling about an escrow account for the -- rather 22 than -- it's so uncertain about the bonds. It 23 sounds to me like -- what's your feeling about an 24 escrow account? He says he had -- Mr. Packard says 25 he has the money. What's your feeling about an</p>

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<p>25</p> <p>1 escrow account? 2 MR. KAYE: I mean, it sounds like a great 3 idea, but he doesn't control the money. And who 4 would be the administrator of that account? 5 HEARING EXAMINER: Well, you can -- you 6 can -- I could appoint an escrow agent, and they 7 have to be -- they have a fiduciary -- they get in 8 big trouble if they don't disperse the money for 9 the specified purpose. 10 MR. KAYE: Yeah. I personally envision the 11 escrow account coming into play. If we need to call 12 the bond, that money would go into an escrow 13 account, and there would be an agent controlling 14 that. 15 HEARING EXAMINER: You know, you don't 16 know if you -- it sounds to me like you're not -- 17 I'm sorry to grill you. I'm just trying to get to - 18 - I don't mean to grill you; I'm just trying to get 19 to the, kind of, bottom line of what we can and 20 can't do. So the thing that concerns me is there's 21 a question about the bonds, about being able to 22 pull the bonds. 23 MR. KAYE: And like Dean said, we meet 24 with the bonding agents -- because we've initiated 25 the call bond already, so the bonding agents,</p>	<p>27</p> <p>1 skyrocketed and people continued to do what they 2 did without knowing what the heck was really going 3 on. So, no. I'm just saying July 1st is the date 4 that was thrown out there as the drop dead date. 5 HEARING EXAMINER: And who threw it out 6 there, the bonding companies? 7 MR. NICHOLS: No; it was a collective 8 decision between DPS, you know, Land Development 9 and their right of way group and Josh -- Josh and 10 his -- his folks. Correct, Josh? 11 MR. KAYE: Yeah, that's correct. 12 Basically, it gives -- you know, we all know the 13 paving, you know -- weather sensitive is paving in 14 concrete, and, realistically, we don't think the 15 paving will go down until, like, March because of 16 the weather. And the curb and gutter being poured, 17 you know, it has to be 40 and rising, so we feel -- 18 HEARING EXAMINER: That is happening. I 19 just looked at the weather forecast. 20 MR. KAYE: Yeah. It's supposed to snow 21 again this weekend. It's -- 22 HEARING EXAMINER: Whoo, I just dug out. 23 I've got a -- I just iced out. 24 MR. KAYE: I know. 25 HEARING EXAMINER: Okay. Sorry I</p>
<p>26</p> <p>1 representatives of the insurance company, 2 essentially have given notice that, you know, these 3 bonds may be called. And we have progress meetings 4 similar to these that kind of give status updates, 5 and the last we spoke, I think -- I think July 1, I 6 believe was the hard deadline that if this project 7 is not completed, we will call the bonds and take 8 the money and finish ourselves. 9 HEARING EXAMINER: So they're saying they 10 will pull the bonds? 11 MR. KAYE: Yes, we're saying we're going 12 to -- we want the bonds pulled if -- if this 13 project is not completed by July 1, 2026. 14 HEARING EXAMINER: I'm sorry. I'm just 15 reading. 16 MR. KAYE: I believe that was the 17 conversation. Greg, I think you were there, and 18 Linda. 19 MR. NICHOLS: Yes, that's correct. That's 20 a -- that's supposedly a drop dead date. 21 HEARING EXAMINER: Why do you say 22 supposedly? 23 MR. NICHOLS: Again, I'm just, you know, 24 this whole fiasco started -- God forbid, but it 25 started during a pandemic where materials</p>	<p>28</p> <p>1 digressed. I hadn't heard that. Sorry. Go ahead. 2 MR. KAYE: July was the outside date that, 3 you know, because of the weather, the winter time, 4 that all the chants -- you know, basically all the 5 work should be done by July, even with these 6 weather delays. That's why we kind of threw out 7 July. Other people said March, other people said -- 8 MR. NICHOLS: Yeah. Other people were like 9 June, May, June and all that. The planting season 10 also ends, you know, relatively around that time. 11 Like, it depends on how mild the weather is. But 12 June 15th -- June 15th is like -- so, yeah, getting 13 -- getting all the -- the hardscape, landscape, and 14 that kind of stuff figured out by July 1st, we 15 thought, was a realistic goal. 16 HEARING EXAMINER: And do you agree with 17 that goal, Mr. Packard? 18 MR. PACKARD: My goal is March/April. If 19 July 1st is a drop dead date, I have no excuse 20 whatsoever if it can't be completed by July 1st. 21 MR. NICHOLS: And just to clarify that 22 drop -- that drop dead date, Lynn, meant that we 23 would -- my -- my interpretation of it was we would 24 go forward with the bond being pulled to finish 25 whatever wasn't done, we wouldn't negotiate, we</p>

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1 weren't talking no more, there's no more -- there's
2 no more discussion. It was just that would be the
3 legal cut off date. Is that -- am I right, Josh?
4 MR. KAYE: That's correct.
5 HEARING EXAMINER: Well, not legal cut off
6 date, but meaning your cut off date.
7 MR. NICHOLS: Meaning -- meaning we
8 wouldn't care what it took at that point.
9 HEARING EXAMINER: I got it. Got you, got
10 you.
11 MR. PACKARD: I agree with that.
12 HEARING EXAMINER: Okay. I appreciate --
13 I'm sorry to grill you so much, I -- I just need to
14 make sure -- I don't know why, but I'm trying to
15 make sure I understand everything. Does anyone --
16 based on what you've heard so far, does anyone have
17 any questions of any of these witnesses? Okay.
18 Hearing none. So the escrow account, we now know
19 that the bonds will cover it. Are the bonding
20 companies agreeing that they will pull the bonds?
21 MR. KAYE: Yes.
22 MR. NICHOLS: Yeah. Okay. There's a path -
23 - there's a path forward and, again -- on -- on --
24 again, I don't want to talk for Linda, necessarily
25 -- sorry -- but DPS's bonds, the more that's done

30

1 and now that only topping is done, like the major
2 hurdle for stormwater management, anything that was
3 covered for stormwater management was for the as-
4 built to be approved. I don't know where that
5 process is, Dean. I mean, they've been submitted,
6 correct?
7 MR. PACKARD: Yes.
8 MR. PACKARD: Okay.
9 HEARING EXAMINER: Did you -- if I recall,
10 you submitted them, but you had to pay the fee?
11 MR. NICHOLS: No, no, no. Meaning --
12 meaning at the end of every job, to verify that
13 everything was constructed --
14 HEARING EXAMINER: Right.
15 MR. NICHOLS: -- according to the
16 standards that were set forth, and the plans, an
17 as-built, like as it was built, an as-built is --
18 is submitted to the County for review and approval.
19 And then if that's found to be adequate, if that's
20 found to be good to go, then that's a major, major
21 hurdle. If, for some reason, an as-built fails,
22 like an as-built comes in and the -- and the and
23 the team that's reviewing it says wait, wait, wait,
24 wait, wait; these -- these elevations are -- then
25 that would -- that would take a lot of money to

31

1 fix.
2 So the main hurdle was getting the as-
3 built for the pipe. And what we're talking about,
4 we're not talking about the -- the medium, the
5 stuff that's in the -- in the ponds. And I know
6 there's been a lot of discussion about what's
7 planted there and the planting meat and all that.
8 The big, big money is what's underground. The big,
9 big money is that concrete and the whole thing,
10 right? And so, when the as-builts get approved,
11 that'll be a major hurdle. At that point, we're
12 talking about a few lights and we're talking about
13 topping. We're talking about the asphalt topping in
14 the public right of way, correct Dean?
15 MR. PACKARD: Yes.
16 MR. NICHOLS: Yeah. So that's --
17 HEARING EXAMINER: I thought that -- that
18 -- now, I can't remember.
19 MR. PACKARD: You are correct, Lynn, that
20 there was a extension fee required that was paid,
21 and then there was an as-built fee that was paid,
22 and I sent receipts of that a few days after the
23 last meeting.
24 HEARING EXAMINER: Oh, I didn't see that,
25 but I'll go back and look. I'm not -- I'm not

32

1 distrusting you; I'm just saying I missed that.
2 Okay.
3 MR. PACKARD: I have the updated permit,
4 if you want a copy of the updated permit.
5 HEARING EXAMINER: Okay. So that, I mean,
6 I'm -- I'm trying to take every piece of progress
7 and document it. That's what I'm trying to do. I'm
8 trying to build a record if this was ever appealed.
9 Okay. So if you could submit the permit -- that?
10 What was that called?
11 MR. PACKARD: The sediment control permit.
12 HEARING EXAMINER: Okay. Now, is -- and
13 then you're going to submit the licensing
14 information for Cromwell Paving?
15 MR. PACKARD: Yes.
16 HEARING EXAMINER: And then you're going
17 to submit the preliminary -- whatever the
18 enforcement agreement with Park and Planning?
19 MR. PACKARD: Correct.
20 HEARING EXAMINER: When do you think you
21 can get that done?
22 MR. PACKARD: Monday.
23 HEARING EXAMINER: This is what I'm -- go
24 ahead.
25 MR. PACKARD: Monday.

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1 HEARING EXAMINER: Now, you said something
2 about the -- the fence for the pile, the -- the
3 mound. Is -- has that been installed, or did you
4 run out of time with the weather?
5 MR. PACKARD: It was installed immediately
6 and it was taken down to move dirt, because we
7 pulled dirt off the pile to do backfill behind the
8 curb forms, and it was put back up.
9 HEARING EXAMINER: Okay. So -- but it
10 sounds, to me, is that you've set a deadline. The
11 bonds are now enough to cover it, correct?
12 MR. PACKARD: Correct.
13 HEARING EXAMINER: And the bonding
14 companies have agreed to pull the bonds if this
15 doesn't -- if you don't finish by July 1st?
16 MR. PACKARD: Correct.
17 HEARING EXAMINER: And I'm seeing Mr. Kaye
18 now. Are you saying yes, you -- that's true? The
19 record doesn't see your -- the transcript doesn't
20 see your nod; that's why --
21 MR. KAYE: That's correct.
22 MR. NICHOLS: And it's my understanding as
23 well for DPS.
24 HEARING EXAMINER: Okay. Any questions
25 from those attending today about what you've heard?

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1 Hearing none, it seems to me that since we now have
2 a deadline and we now have bonds that can be pulled
3 to meet the extra work, I'm not sure the escrow
4 agreement is necessary, but the question is -- I
5 think it's a little pointless to meet every two
6 weeks, given that I just stealthily looked up the
7 weather report, and I suggest that we go a month
8 this time.
9 If you can get that information to me,
10 Mr. Packard? And are you saying you agree on the
11 record with the July 1st drop dead date?
12 MR. PACKARD: I agree on the record with
13 the July 1st drop dead date.
14 HEARING EXAMINER: Okay. So let's -- let -
15 - let me just go to the calendar. I apologize.
16 MR. PACKARD: February 27th?
17 HEARING EXAMINER: Yeah. I'm just looking
18 -- I'm just checking OZAH's calendar. Okay. That's
19 good. Does -- does anyone -- well, let me check one
20 more thing. Okay. So we can reschedule. Hopefully
21 the weather will be 80. We can reschedule for
22 February 27th. Is that acceptable with you, Mr.
23 Kaye and Mr. Nichols? I think it's a Friday.
24 MR. KAYE: Yes, that works for me.
25 MR. NICHOLS: Yes.

35

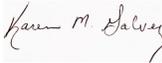
1 HEARING EXAMINER: At 9:30, and it will be
2 remote. And I certainly appreciate -- does any --
3 does anyone -- before I close out, does anyone have
4 a issue within the 27th? Okay. Hearing none, we
5 will adjourn the hearing until February 27th at
6 9:30, and it will be remote. And hopefully the sun
7 will shine and it will be like Baja. Okay. All
8 right. Thank you very much. We're off the record.
9 (Off the record at 10:29 a.m.)
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19 FOR THE STATE OF MARYLAND
20 February 9, 2026
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16 PLANET DEPOS, LLC
17 February 9, 2026

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