

BOARD OF APPEALS

November 26, 2025

County Administration Building, 100 W. Washington St., Meeting Room 2000, Hagerstown, at 6:00 p.m.

AGENDA

AP2025-028: An appeal was filed by Jacob & Rachel Blickenstaff for a variance from the required 50 ft. rear yard setback to 20 ft. for proposed single-family dwelling on property owned by the appellants and located at 11952 Big Spring Road, Clear Spring, Zoned Agricultural Rural.

AP2022-021: A hearing for the Board to take further action pursuant to the decision of the Circuit Court for Washington County in Case No. C-21-CV-22-000424, which reversed and remanded the Board's decision.

Pursuant to the Maryland Open Meetings Law, notice is hereby given that the deliberations of the Board of Zoning Appeals are open to the public. Furthermore, the Board, at its discretion, may render a decision as to some or all of the cases at the hearing described above or at a subsequent hearing, the date and time of which will be announced prior to the conclusion of the public hearing. Individuals requiring special accommodations are requested to contact Katie Rathvon at 240-313-2464 Voice, 240-313-2130 Voice/TDD no later than November 17, 2025. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

The Board of Appeals reserves the right to vary the order in which the cases are called. Please take note of the Amended Rules of Procedure (Adopted July 5, 2006), Public Hearing, Section 4(d) which states:

Applicants shall have ten (10) minutes in which to present their request and may, upon request to and permission of the Board, receive an additional twenty (20) minutes for their presentation. Following the Applicant's case in chief, other individuals may receive three (3) minutes to testify, except in the circumstance where an individual is representing a group, in which case said individual shall be given eight (8) minutes to testify.

Those Applicants requesting the additional twenty (20) minutes shall have their case automatically moved to the end of the docket.

For extraordinary cause, the Board may extend any time period set forth herein, or otherwise modify or suspend these Rules, to uphold the spirit of the Ordinance and to do substantial justice.

Tracie Felker, Chairman

Board of Zoning Appeals



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

ZONING APPEAL

Property Owner: Jacob & Rachel Blickenstaff
15534 National Pike
Clear Spring MD 21740

Appellant: Jacob & Rachel Blickenstaff
15534 National Pike
Hagerstown MD 21740

Property Location: 11952 Big Spring Road
Clear Spring, MD 21722

Description Of Appeal: Variance from the required 50 ft. rear yard setback to 20 ft. for proposed single family dwelling.

Docket No: AP2025-028

Tax ID No: 04067719

Zoning: A(R)

RB Overlay: No

Zoning Overlay:

Filed Date: 11/06/2025

Hearing Date: 11/26/2025

Appellant's Legal Interest In Above Property:

Owner: Yes

**Contract to
Rent/Lease:**

No

Lessee: No

**Contract to
Purchase:**

No

Other:

Previous Petition/Appeal Docket No(s):

Applicable Ordinance Sections:

Washington County Zoning Ordinance Section 5A.5

Reason For Hardship:

Rock outcropping and intermittent stream is located on the property. Additional information in justification statement.

If Appeal of Ruling, Date Of Ruling:

Ruling Official/Agency:

Existing Use: Undeveloped Residential Lot

Proposed Use:

Single-family Dwelling

Previous Use Ceased For At Least 6 Months:

Date Ceased:

Area Devoted To Non-Conforming Use -

Existing:

Proposed:

I hearby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

Appellant Signature

State Of Maryland, Washington County to-wit:

Sworn and subscribed before me this 7 day of November, 20 25.

Kathryn B Rathvon

NOTARY PUBLIC

WASHINGTON COUNTY

MARYLAND

MY COMMISSION EXPIRES NOVEMBER 07, 2025

My Commission Expires

Notary Public



WASHINGTON COUNTY BOARD OF ZONING APPEALS

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AFFIDAVIT IN COMPLIANCE WITH SECTION 25.51(C)

Docket No: AP2025-028

State of Maryland Washington County, To Wit:

On 11/6/2025, before me the subscriber, a Notary of the public of the State and County aforesaid, personally appeared Frederick Seibert & Associates and made oath in due form of law as follows:

Frederick Seibert & Associates will post the zoning notice sign(s) given to me by the Zoning Administrator in accordance with Section 25.51(c) of the Washington County Zoning Ordinance for the above captioned Board of Appeals case, scheduled for public hearing on 11/26/2025, and that said sign(s) will be erected on the subject property in accordance with the required distances and positioning as set out in the attached posting instructions.

Sign(s) will be posted on 11/11/2025 and will remain until after the above hearing date.

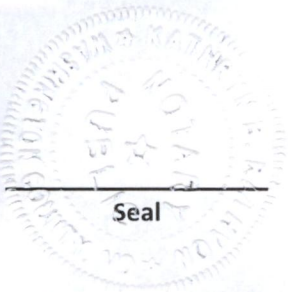
Frederick Seibert & Associates

Sworn and subscribed before me the day and year first above written.

Kathryn B Rathvon
NOTARY PUBLIC
WASHINGTON COUNTY
MARYLAND
MY COMMISSION EXPIRES NOVEMBER 07, 2025

Notary Public

My Commission Expires



Seal



WASHINGTON COUNTY BOARD OF ZONING APPEALS

747 Northern Avenue | Hagerstown, MD 21742-2723 | P:240.313.2430 | F:240.313.2431 | Hearing Impaired: 7-1-1

BOARD OF ZONING APPEALS

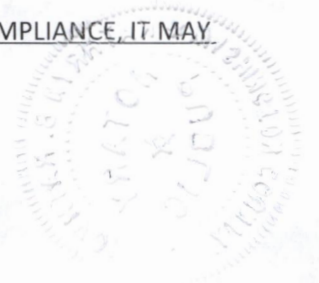
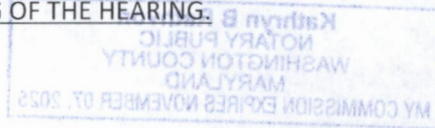
ATTENTION!

Posting Instructions

The premises MUST be posted in accordance with the following rules:

1. The sign must be posted a minimum of fourteen (14) days prior to the public hearing
Section 25.51(c) Property upon which the application or appeal is concerned shall be posted conspicuously by a zoning notice no less in size than twenty-two (22) inches by twenty-eight (28) inches at least fourteen (14) days before the date of the hearing.
2. The sign must be placed on the property within ten (10) feet of the property line which abuts the most traveled public road.
3. The sign must be posted in a conspicuous manner not over six (6) feet above the ground level, and affixed to a sturdy frame where it will be clearly visible and legible to the public.
4. The sign shall be maintained at all times by the applicant until after the public hearing. If a new sign is needed or required, please contact the Plan Review Department at 240-313-2460.
5. An affidavit certifying the property will be posted for the minimum of fourteen (14) days prior to the public hearing date.

Proper posting of the sign will be spot checked by the Zoning Inspector. IF SIGN IS NOT IN COMPLIANCE, IT MAY RESULT IN RESCHEDULING OF THE HEARING.



Project Name: Blickenstaff Rear Yard Variance request

Owner/Applicant: Jacob & Rachel Blickenstaff
15534 National Pike
Hagerstown, MD 21740
blickjt@gmail.com
240-382-7818

Project Address: 11952 Big Spring Road, Clear Spring MD 21722

Tax Map 34 **Grid** 21 **Parcel** 280 **Lot** 16A

Tax Account ID- Part of No. 04-013913

Zoning: A(R)

Variance Request Statement

Zoning Reference:

This request seeks relief from **Section 5A.5** of the Zoning Ordinance, which specifies residential lot size and bulk dimensional requirements within the **A(R) Agricultural-Residential Zoning District**. Specifically, the applicants request a **reduction of the required rear yard setback from 50 feet to 20 feet** in order to construct a single-family detached dwelling.

Property Description and Context

The subject property consists of approximately **3.47 acres** and was recently subdivided from a larger **family-owned parcel**. The lot's configuration is **long and narrow**, designed intentionally to retain approximately **13 acres of the parent tract** for continued agricultural use (e.g., hay production).

The site contains several **physical and environmental constraints**, including:

- A **substantial visible rock outcrop** running northeast to southwest across the property,
- An **intermittent stream** located toward the northeastern portion, and
- A **designated 10,000-square-foot septic reserve area**, as shown on the plot plan.

These features significantly limit buildable area and influence the logical placement of the proposed home.

Proposed House Location and Justification

The applicants propose to construct the residence **parallel to the rock outcrop**, both to take advantage of the natural topography and to preserve scenic views. This siting also allows the house to remain close to the **parents' existing residence** on the adjoining land, maintaining family proximity.

Due to the combined limitations of the rock formation, septic reserve, wells, and property boundaries, strict adherence to the 50-foot rear yard requirement would result in an impractical building envelope and potentially require disturbance of the rock or septic areas. A reduced **rear yard setback of 20 feet** would allow for reasonable use of the property while maintaining compliance with all other setback and lot requirements.

Neighborhood Compatibility and Support

The property is bordered primarily by **Bragunier Farms, a 125-acre agricultural operation**, to the north and west, and by **Mr. John Swope** to the north and east. Both adjacent property owners have provided **signed statements of no objection** to the requested variance, which are included in the submission materials. The proposed reduction will not adversely affect surrounding properties or the character of the area.

Hardship and Basis for Approval

The **unique physical conditions** of the property—specifically, its shape, topography, presence of rock outcrops, and environmental limitations—constitute a **practical difficulty and unnecessary hardship** under the zoning ordinance. The requested variance:

- Allows for **reasonable use** of the property consistent with its zoning designation;
 - **Preserves agricultural land** by minimizing disturbance to the adjoining farmland; and
 - Does not create adverse impacts on neighboring properties or the intent of the zoning regulations.
-

Conclusion

For these reasons, the applicants respectfully request that the **Board of Appeals** grant a variance to reduce the **rear yard setback from 50 feet to 20 feet** to allow the construction of a single-family dwelling that appropriately responds to the property's natural and physical constraints.

Frederick Seibert & Associates, Inc.

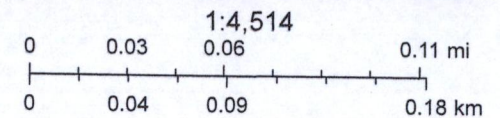


10/10/2025, 9:13:28 AM

World_Transportation

Parcels Washington County

MD_SixInchImagery



Sources: Esri, TomTom, Garmin, FAO, NOAA, USGS, © OpenStreetMap contributors, and the GIS User Community, Esri, HERE, iPC, MD iMAP, DoIT,

Web AppBuilder for ArcGIS

My wife and I are requesting a variance to reduce the required rear yard setback from 50 feet to 20 feet. The reason for this request is the presence of a large rock formation that would create significant challenges and added costs during construction.

Given the current locations of the well and septic system, there is no feasible way to reposition the house to avoid the rock formation without either building over it or obstructing our view of the surrounding landscape. Additionally, there is an open pasture field directly behind our property, so the proposed adjustment would not encroach on or affect any neighboring residences.

Thank you for your time and consideration,

Jacob Blickenstaff

October 10, 2025

Washington County Board of Zoning Appeals

80 West Baltimore Street

Hagerstown MD, 21740

RE: Variance to reduce the setback from 50' to 20'

Dear Board Members:

We, the neighbors of 11952 Big Spring Road hereby acknowledge that we met Corwell regarding the above referenced variance and we are not opposed to the Appeals granting the request variance.

Thank you,

A handwritten signature in dark ink, appearing to read "Donald Bragunier", with a stylized, wavy line extending from the end.

Donald Bragunier

12107 Boyd Road

Clear Spring MD, 21722

October 10, 2025

Washington County Board of Zoning Appeals

80 West Baltimore Street

Hagerstown MD, 21740

RE: Variance to reduce the setback from 50' to 20'

Dear Board Members:

We, the neighbors of 11952 Big Spring Road hereby acknowledge that we met Corwell regarding the above referenced variance and we are not opposed to the Appeals granting the request variance.

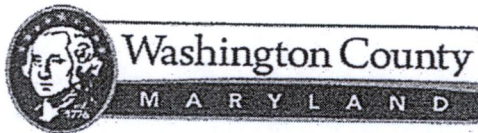
Thank you,

John Swope

A handwritten signature in black ink, appearing to read "John F. Swope". The signature is fluid and cursive, with the first name "John" being the most prominent.

12148 Big Spring Road

Clear Spring MD, 21722



BOARD OF ZONING APPEALS

OWNER REPRESENTATIVE AFFIDAVIT

This is to certify that ED SCHREIBER
is authorized to file an appeal with the Washington County Board of Appeals for
REAR YARD VARIANCE
located 11952 BIG SPRING RD on property
The said work is authorized by RACHEL & JACOB BLICKENSTAFF
the property owner in fee.

PROPERTY OWNER

Current Address:
15534 National Pike
Hagerstown MD 21740

Rachel and Jacob Blickenstaff
Name
11952 Big Spring Rd
Address
Clear Spring MD 21722
City, State, Zip Code

Rachel Jacob T. Blickenstaff
Owner's Signature

Sworn and subscribed before me this 4th day of November, 2025.

My Commission Expires: 03/28/2027

Sheryl Bingaman
Notary Public

Sheryl Bingaman
Notary Public
Washington County, MD
My Commission Expires March 28, 2027

AUTHORIZED REPRESENTATIVE

ED SCHREIBER, FSA
Name
128 S. POTOMAC ST
Address
HAGERSTOWN, MD 21740
City, State, Zip Code

[Signature]
Authorized Representative's Signature

Sworn and subscribed before me this 5 day of November, 2025.

NIKKI S. EICHELBERGER
NOTARY PUBLIC
WASHINGTON COUNTY
STATE OF MARYLAND
My Commission Expires 7/2028

Nikki S. Eichelberger
Notary Public

80 West Baltimore Street | Hagerstown, MD 21740 | P: 240.313.2460 | F: 240.313.2461 | Hearing Impaired: 7-1-1

TOTAL \$60.00
KRT TR 11:56 am
Oct 29, 2025

EXEMPT FROM DOCUMENTARY STAMPS AND RECORDATION TAX
PURSUANT TO ANN. CODE OF MD. TAX-PROPERTY ARTICLE §12-108(c)(1)(ii)
Parents – child

Part of Tax ID No. 04-013913

NO TITLE EXAM

THIS DEED, Made this 28th day of October, 2025, by
KEITH G. CORWELL and MELISSA M. CORWELL, his wife, Grantors, to JACOB
THOMAS BLICKENSTAFF and RACHEL LOUISE BLICKENSTAFF, his wife,
Grantees.

WITNESSETH: That for no monetary consideration, Keith G. Corwell
and Melissa M. Corwell, his wife, Grantors, do hereby grant and convey unto
Jacob Thomas Blickenstaff and Rachel Louise Blickenstaff, his wife, in fee
simple, as tenants by the entirety, in all that lot of ground situate in the County
of Washington, State of Maryland and being more particularly described on the
attached Exhibit A.

SEE ATTACHED EXHIBIT A

BEING part of the property conveyed to Keith G. Corwell and Melissa G.
Corwell, his wife, by deed from Keith G. Corwell, dated April 26, 2010 and recorded
on May 12, 2010 in Book 3872, Page 31, among the Land Records of Washington
County, Maryland.

This deed has been prepared without the benefit of a title examination. All
parties affirm their understanding that only a title examination will disclose the status
of title, including but not limited to, the quality and quantity of title; the possibility of
other persons having an interest in the property conveyed by this deed, as well as any
other matters disclosed by an examination of title. Notwithstanding this disclosure
and having been fully informed of the cost of accomplishing an examination of title,
we elect not to have an examination of this title and release the scrivener of this deed
from all and any loss, claim, damages and/or liability resulting from a condition of
title which might have been disclosed by a title examination of the property conveyed
by this deed.

The above property is hereby conveyed subject to and together with all the
conditions, restrictions, easements and rights of way of record applicable thereto.

To have and to hold the aforesaid property together with the improvements
and appurtenances unto Grantees, their heirs, successors and assigns in fee simple
subject to any conditions, reservations, restrictions, covenants, limitations, streets,
alleys, easements and rights of way of record.

Pursuant to the Annotated Code of Maryland, Tax General Article Section
10-912, the herein Grantor hereby state under the penalties of perjury that the
purchase price of the herein described property is \$0.00 as recited herein and it is a
true zero consideration deed.

AND, we, the said Keith G. Corwell and Melissa M. Corwell, do hereby covenant we will warrant specially the property hereby conveyed and that we will execute such other and further assurances as may be requisite.

WITNESS our hands and seals:

Hannah E. Fiken

Keith G. Corwell (SEAL)
Keith G. Corwell, Grantor

Melissa M. Corwell

Melissa M. Corwell (SEAL)
Melissa M. Corwell, Grantor

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, that on this 27th day of October, 2025, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Keith G. Corwell, Grantor, who acknowledged that he executed the foregoing deed for the purposes therein contained and that he is a Resident of the State of Maryland.

WITNESS my hand and Official Notarial Seal.

Hannah E. Fiken
Notary Public

My Commission Expires: Sept 1, 2028

STATE OF MARYLAND, COUNTY OF WASHINGTON, to-wit:

I HEREBY CERTIFY, that on this 28th day of October, 2025, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Melissa M. Corwell, Grantor, who acknowledged that she executed the foregoing deed for the purposes therein contained and that she is a Resident of the State of Maryland.

WITNESS my hand and Official Notarial Seal.

Melissa M. Corwell
Notary Public

My Commission Expires: 11/11/2027

This is to certify that the within instrument was prepared by or under the supervision of the undersigned attorney at law licensed in Maryland.

AGRICULTURE TAX no ag tax
ACREAGE 3.47 Acres
Lisa Johnson

RECEIVED FOR TRANSF
of
County of
Washington
State of Maryland
Lisa Johnson 10/29/2025



J. Russell Robinson, III

EXHIBIT A

All that lot or parcel of ground located in Election District 4, Washington County, Maryland, and being more particularly described as "Proposed Lot 16A, 3.47 Acres," as shown on the plat entitled, "Subdivision Plat of the Lands of Corwell: Lot 16A," said plat being recorded at Plat folio 11933 among the Plat Records of Washington County, Maryland. Being part of tax identification number 04-013913 and part of Liber 3872, folio 31, among the Land Records of Washington County, Maryland.

Together with a perpetual easement for ingress and egress from Big Spring Road to the property conveyed herein. The location of said easement over the entire area depicted as, "Proposed Perpetual Ingress/Egress Easement 5' Foot on Either Side of Center Line of Driveway," on said Plat folio 11933.

Said easement shall run with the land be binding on all present and future owners of the parcel of land conveyed herein.

State of Maryland Land Instrument Intake Sheet
☐ Baltimore City ☒ County, Washington
 Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.
 (Type or Print in Black Ink Only—All Copies Must Be Legible)

1 Type(s) of Instruments ☒ Check Box if addendum Intake Form is Attached

2 Conveyance Type Check Box

☒ Improved Sale Arms-Length [1]	☐ Mortgage Lease	☐ Other _____	☐ Other _____
☐ Unimproved Sale Arms-Length [2]	☐ Multiple Accounts Arms-Length [3]	☐ Not an Arms-Length Sale [9]	

3 Tax Exemptions (if applicable)
 Cite or Explain Authority

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only Transfer and Recordation Tax Consideration	
Purchase Price/Consideration	\$ 0.00	Transfer Tax Consideration	\$
Any New Mortgage	\$	X () % = \$	
Balance of Existing Mortgage	\$	Less Exemption Amount	\$
Other	\$	Total Transfer Tax	\$
Other:	\$	Recordation Tax Consideration	\$
Full Cash Value	\$	X () per \$500 = \$	
		TOTAL DUE	\$

5 Fees

Amount of Fees	Doc. 1	Doc. 2	Agent:
Recording Charge	\$ 40.00	\$	
Surcharge	\$ 20.00	\$	
State Recordation Tax	\$	\$	
State Transfer Tax	\$	\$	
County Transfer Tax	\$	\$	
Other	\$	\$	
Other	\$	\$	

6 Description of Property
 SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor L/der/Folio	Map	Parcel No.	Var. LOG
Part of	04-013813	3872/31		0178	(5)
Subdivision Name		Lot (3a)	Block (3b)	Seat/AR (3c)	Plot Ref.
					11933
Location/Address of Property Being Conveyed (2)					SqFt/Acreage (4)
Lot 16A 3.47 acres Big Spring Road, Clear Spring, MD 21722					3.47 ac
Other Property Identifiers (if applicable)					Water Meter Account No.
Residential ☒ or Non-Residential ☐					
Fee Simple ☒ or Ground Rent ☐					
Partial Conveyance? Yes ☐ No ☒					
Description/Amt. of SqFt/Acreage Transferred:					
If Partial Conveyance, List Improvements Conveyed					

7 Transferred From

Doc. 1 - Grantor(s) Name(s)	Doc. 2 - Grantor(s) Name(s)
Keith G. Corwell	
Malissa M. Corwell	
Doc. 1 - Owner(s) of Record, if Different from Grantor(s)	Doc. 2 - Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 - Grantee(s) Name(s)	Doc. 2 - Grantee(s) Name(s)
Jacob Thomas Blickensaff	
Rachel Louise Blickensaff	
New Owner's (Grantee) Mailing Address	
15534 National Pike, Hagerstown, MD 21740	

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)	Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person	☐ Return to Contact Person
Name: Russ Robinson, III	☐ Hold for Pickup
Firm: Robinson & Robinson	☒ Return Address Provided
Address: 152 W. Washington Street, Hagerstown, MD 21740	
Phone: 301 797-0100	

11 IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

Assessment Information

Yes ☐ No ☒	Will the property being conveyed be the grantee's principal residence?
Yes ☐ No ☒	Does transfer include personal property? If yes, identify.
Yes ☐ No ☒	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

Terminal Verification	Agricultural Verification	Whole	Part	Trans. Process Verification
Transfer Number	Date Received:	Deed Reference:	Assigned Property No.:	
Year	20	20	Geo.	Map
Land			Zoning	Sub
Buildings			Use	Plot
Total			Town Cd.	Section
			Ex. St.	Occ. Cd.
			Ex. Cd.	

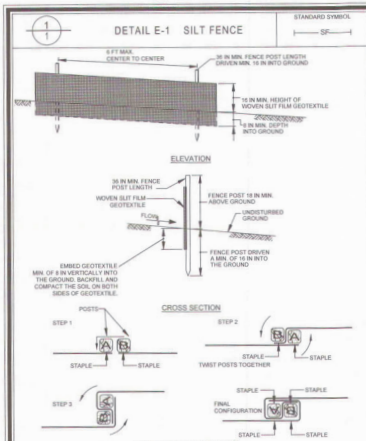
REMARKS:

Space Reserved for County Validation

Original - Clerk's Office
 Copy - SDAT
 Copy - State of Finance
 Copy - SDAT
 Copy - Recorder

ADCC-300 (5/2007)

no ag tax due
 Lisa Lehman

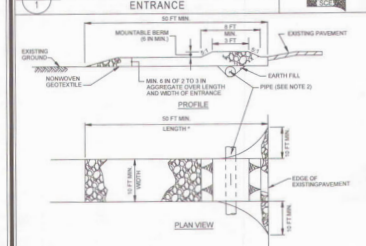


- CONSTRUCTION SPECIFICATIONS**
- USE WOOD POSTS 16 X 16 X 16 INCH IMMEDIATE SQUARE CUT OF SOUND QUALITY HARDWOOD, OR AN ALTERNATIVE TO WOOD POST USE STANDARD "T" OR "Y" SECTION STEEL POSTS WEIGHING NOT LESS THAN 1 POUND PER LINEAL FOOT.
 - USE 36 INCH MINIMUM POSTS DRIVEN 16 INCH MINIMUM INTO GROUND NO MORE THAN 2 FEET APART.
 - USE WOVEN SILT FENCE GEOTEXTILE AS SPECIFIED IN SECTION 4 MATERIALS AND PATTERNS GEOTEXTILE SECURELY TO UPLOUSE SIDE OF FENCE POSTS WITH WIRE TIES AT TOP AND BOTTOM.
 - PROVIDE MANUFACTURER CERTIFICATION TO THE AUTHORIZED REPRESENTATIVE OF THE SUPPLY/CONTRACTOR AUTHORITY SHOWING THAT THE GEOTEXTILE USE MEETS THE REQUIREMENTS IN SECTION 4 MATERIALS.
 - EMBED GEOTEXTILE A MINIMUM OF 8 INCHES VERTICALLY INTO THE GROUND, BACKFILL AND COMPACT THE SOIL ON BOTH SIDES OF FENCE.
 - WHERE TWO SECTIONS OF GEOTEXTILE ADJOIN, OVERLAP, TRIM, AND STAPLE TO POST IN ACCORDANCE WITH THE PLAN.
 - EXTEND BOTH ENDS OF THE SILT FENCE A MINIMUM OF FIVE HORIZONTAL FEET UPLOUSE AT 45 DEGREES TO THE MAIN FENCE ALIGNMENT TO PREVENT RUNOFF FROM GOING AROUND THE ENDS OF THE SILT FENCE.
 - REMOVE ACCUMULATED SEDIMENT AND DEBRIS WHEN BULGES DEVELOP IN SILT FENCE OR WHEN FENCE REACHES END OF FENCE RUNOFF. REPLACE GEOTEXTILE AT TOP OF BULGE AND REPAIR FENCE.

MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL

U.S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE 2011

MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION

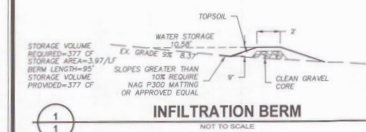


- CONSTRUCTION SPECIFICATIONS**
- PLACE STABILIZED CONSTRUCTION ENTRANCE IN ACCORDANCE WITH THE APPROVED PLAN. VEHICLES MUST BE STOPPED AT THE ENTRANCE. THE ENTRANCE SHALL BE 10 FEET WIDE AND 10 FEET HIGH. THE ENTRANCE SHALL BE 10 FEET WIDE AND 10 FEET HIGH.
 - PIPE ALL SURFACE WATER FLOWING TO OR OVER THE ENTRANCE. MAINTAINING PROPER DRAINAGE. PROTECT PIPE INSTALLED THROUGH THE SOIL WITH A MOUNTAIN BERM WITH 5:1 SLOPES AND A MINIMUM OF 12 INCHES OF STONE OVER THE PIPE. PROVIDE PIPE AS SPECIFIED ON APPROVED PLAN. WHEN THE PIPE IS LOCATED AT A HIGH SPOT AND HAS NO DRAINAGE TO CONVEY A PIPE IS NOT NECESSARY. A MOUNTAIN BERM IS REQUIRED WHEN PIPE IS NOT LOCATED AT A HIGH SPOT.
 - PREPARE SUBGRADE AND PLACE NONWOVEN GEOTEXTILE, AS SPECIFIED IN SECTION 4 MATERIALS.
 - PLACE CRUSHED AGGREGATE (1 TO 3 INCHES IN SIZE) OR EQUIVALENT RECYCLED CONCRETE (WITHOUT REBAR) AT LEAST 6 INCHES DEEP OVER THE LENGTH AND WIDTH OF THE SOIL.
 - MAINTAIN ENTRANCE IN A CONDITION THAT MINIMIZES TRACKING OF SEDIMENT, ACID STONE OR MAKE OTHER WEAR AND TEAR TO THE ENTRANCE. MAINTAIN CLEAR SURFACE, REMOVABLE BERM, AND SPECIFIED DIMENSIONS. IMMEDIATELY REMOVE STONE AND/OR SEDIMENT SPILLED, DRIPPED, OR TRACKED ONTO ADJACENT ROADWAY BY INCLUDING SCRAPING AND/OR WEEPING. IMMEDIATELY REMOVE ANY TRACKED ONTO ADJACENT ROADWAY. IS NOT ACCEPTABLE UNLESS WATER IS DIRECTED TO AN APPROVED SEDIMENT CONTROL PRACTICE.

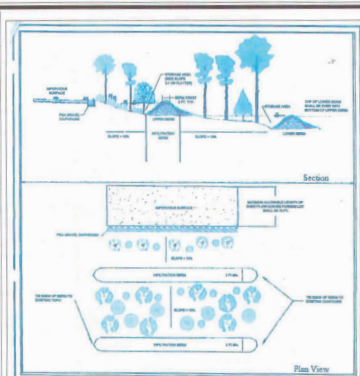
MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL

U.S. DEPARTMENT OF AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE 2011

MARYLAND DEPARTMENT OF ENVIRONMENT WATER MANAGEMENT ADMINISTRATION



NOT TO SCALE



NOTES

- INSTALL BERM ALONG CONTOUR AT CONSTANT ELEVATION.
- AGGREGATE BERM OVER 100% IS 2 INCHES.
- PROVIDE CHANGING SHAPE AT 10% GRADIENT SIDE OF BERM.
- BERM TO BE 8 INCHES OF COMPACTED TOPSOIL OVER AGGREGATE.
- BERM SURFACE TO BE SEEDED AND MULCHED.
- BERM SIDE BLM 301 OR FLAT.

Washington, MD Division of Public Works

RESIDENTIAL INFILTRATION BERMS

DWG. # ESD-SPR-4

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SOIL EROSION, SEDIMENT CONTROL & SEEDING NOTES

- A PRECONSTRUCTION MEETING, INTERIM (WATER QUALITY) INSPECTION, AND A FINAL SITE CLOSE OUT REVIEW ARE REQUIRED FOR ALL PROJECTS WITH SOIL DISTURBANCES GREATER THAN 10,000 SQUARE FEET OR 800 CUBIC YARDS OF CUT OR FILL. CONTACT WASHINGTON COUNTY SOIL CONSERVATION DISTRICT AT 301-774-8821 EXT 3 TO SCHEDULE THE REQUIRED MEETING OR INSPECTION.
- ALL SOIL EROSION/SEDIMENT CONTROL MEASURES, GRADING, STABILIZATION, AND SOIL EROSION AND SEDIMENT CONTROL PRACTICES (EMPS) SHALL COMPLY WITH THE 2011 MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL AND THE PROVISIONS OF THE APPROVED PLAN.
- FOR INITIAL SOIL DISTURBANCE OR RE-DISTURBANCE, TEMPORARY OR PERMANENT STABILIZATION MUST BE COMPLETED WITHIN:
 - THREE (3) CALENDAR DAYS AS TO THE SURFACE OF ALL PERIMETER DICES, SWALES, DITCHES, PERIMETER SLOPES, AND ALL SLOPES STEEPER THAN 3 HORIZONTAL TO 1 VERTICAL, (3:1) AND
 - SEVEN (7) CALENDAR DAYS AS TO ALL OTHER DISTURBED OR GRADED AREAS ON THE PROJECT SITE NOT UNDER ACTIVE GRADING.
- STOOPLES MUST BE STABILIZED IN ACCORDANCE WITH THE 7 DAY STABILIZATION REQUIREMENT AS WELL AS STANDARD B-4-1 INCREMENTAL STABILIZATION AND STANDARD B-4-4 TEMPORARY STABILIZATION (AS APPLICABLE).
- ALL STORM DRAIN AND SANITARY SEWER LINES NOT IN PAVED AREAS ARE TO BE MULCHED AND SEEDS WITHIN 3 DAYS OF INITIAL BACKFILL UNLESS OTHERWISE SPECIFIED ON PLANS.
- ELECTRIC POWER, TELEPHONE, AND GAS LINES ARE TO BE COMPACTED, SEEDS, AND MULCHED WITHIN 2 DAYS AFTER INITIAL BACKFILL UNLESS OTHERWISE SPECIFIED ON PLANS.
- NO SLOPE SHALL BE GREATER THAN 2:1.
- AS REQUIRED BY SECTION 8, OF THE MARYLAND STANDARDS AND SPECIFICATIONS FOR SOIL EROSION AND SEDIMENT CONTROL, "ADEQUATE VEGETATIVE STABILIZATION" IS DEFINED AS 95 PERCENT GROUND COVER. THE WASHINGTON COUNTY SOIL CONSERVATION DISTRICT REQUIRES THE PROJECT ADHERE TO THIS FOR SCHEDULING OF THE FINAL SITE CLOSEOUT REVIEW AND/OR RELEASE OF THE SITE FOR SOIL EROSION AND SEDIMENT CONTROL.
- TEMPORARY SEEDING SHALL BE IN COMPLIANCE WITH SECTION B-4-4 STANDARDS AND SPECIFICATIONS FOR TEMPORARY STABILIZATION OF THE 2011 MARYLAND STANDARDS FOR SOIL EROSION AND SEDIMENT CONTROL.
- PERMANENT SEEDING SHALL BE IN COMPLIANCE WITH SECTION B-4-5 STANDARDS AND SPECIFICATIONS FOR PERMANENT STABILIZATION OF THE 2011 MARYLAND STANDARDS FOR SOIL EROSION AND SEDIMENT CONTROL.

NOTES

- If grading on topographical surface is after the construction of a dwelling or outbuilding, shall be the full responsibility of the topographical owner.
- No permanent seeding, mulching, or any other stabilization practice (etc.) shall be permitted within any storm drainage easement or drainage easement unless shown or approved by the County engineer or approved by a public works agreement and performance security will be required for all permanent stabilization practices that are not otherwise regulated under a utility permit or easement permit.
- The purpose of this plan is to control a single family dwelling.
- Discharge from down spouts are to be conveyed to a stable discharge point away from adjacent structures.
- Property is zoned R10 per Washington County Zoning Map.
- Property designated as Tax Map 14 Parcel 200 is located District 04.
- Any modifications of the approved grading plan shall be reviewed and approved by the Engineer and the District prior to construction.
- There are no subsoils, or cases within 200' of the limit of disturbance.
- Any 10' deep the site must be a site having an approved and current Soil Erosion and Sediment Control Plan.
- Drainage is to be immediately stabilized with stone as soon as it is constructed.



THE TOTAL AREA TO BE DISTURBED SHOWN ON THESE PLANS HAS BEEN DETERMINED TO BE APPROXIMATELY 1.400 SF. THE TOTAL AMOUNT OF EXCAVATION AND FILL AS SHOWN ON THESE PLANS HAS BEEN COMPUTED TO BE APPROXIMATELY 1.400 SF. CU YDS. OF EXCAVATION AND APPROXIMATELY 1.400 SF. CU YDS. OF FILL.

EXISTING IMPERVIOUS SURFACE AREA (acres) 0.00

PROPOSED IMPERVIOUS SURFACE AREA (acres) 0.11

PERCENT INCREASE (%) 11.00

EXISTING IMPERVIOUSNESS (%) 0.00

PROPOSED IMPERVIOUSNESS (%) 11.00

DEVELOPMENT CATEGORY New Development

NEW DEVELOPMENT

REQUIRED TREATMENT AREA (acres) 0.33

RUNOFF COEFFICIENT, C_r 0.30

WATER QUALITY VOLUME, WQv (ac-ft) 0.10

WATER QUALITY VOLUME, WQv (cfs) 377

EXISTING IMPERVIOUSNESS (%) 0.00

PROPOSED IMPERVIOUSNESS (%) 11.00

DEVELOPMENT CATEGORY New Development

NEW DEVELOPMENT

REQUIRED TREATMENT AREA (acres) 0.33

RUNOFF COEFFICIENT, C_r 0.30

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WATER QUALITY VOLUME, WQv (cfs) 377

EXISTING IMPERVIOUSNESS (%) 0.00

PROPOSED IMPERVIOUSNESS (%) 11.00

NOTES

The lot owner is solely responsible for all on-site grading to insure that the intent of the site grading is as shown herein, as indicated on property.

Contractor to maintain a minimum of 2% slope, away from the house for at least a distance of 10'.

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DEPARTMENT OF PLANNING & ZONING
PLANNING | ZONING | LAND PRESERVATION | FOREST CONSERVATION | GIS

MEMORANDUM

To: Washington County Board of Zoning Appeal (BZA)

From: Jill Baker, AICP, Director/Zoning Administrator, Planning and Zoning

Date: November 6, 2025

Re: BZA remand to Planning Commission related to AP2022-021

On March 19, 2025, the BZA held a public hearing to take comments and deliberate on a remand from the Circuit Court related to AP2022-021. Based upon the findings of the Circuit Court, the BZA determined that additional information and analysis needed to be provided by the Planning Commission so that the BZA could adequately address the findings of the Court. In their opinion dated April 16, 2025, the BZA remanded the issue to the Planning Commission to hold a public hearing and provide their updated findings.

A public hearing was held by the Planning Commission on August 4, 2025, in accordance with the remand opinion. The Planning Commission took under consideration the public comments from that meeting along with findings of the Court to deliberate and present a response to the BZA. Attached, you will find a copy of the Planning Commission's official response.



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Planning Commission Findings on Board of Zoning Appeals Remand
The Mt. Aetna Advocacy Group, et. al. Petition for Judicial Review of BZA
Decision (AP2022-021)

Circuit Court Case No. C-21-CV-22-00424

This correspondence is in response to the remand by the Washington County Board of Zoning Appeals (“BZA”) to the Washington County Planning Commission related to the referenced Court case. In accordance with the instructions of the BZA, the Planning Commission held a public hearing on Monday, August 4, 2025, to accept further comments on the Planning Commission’s original decision and the opinions of the Circuit Court decision.

After discussion of the public comments and review of the Court opinion, Staff presented a report to the Planning Commission with an analysis of each of the arguments made (Attachment 1). The Planning Commission generally supports the analysis conducted but does not share the same opinions with some of the staff recommendations.

As a result of our analysis and deliberations, the Planning Commission offers the following response to the BZA.

There were four (4) distinct arguments brought forth by the Petitioner of the Court case, Mt. Aetna Advocacy Group et. al. (Mt. Aetna). The Planning Commission evaluated each of these questions and the Court’s opinion to come to the conclusions outlined below.

Argument #1: *Has the Black Rock PUD expired because the March 2, 2020 Planning Commission Development Plan approval was expressly “effective for a period of two years,” thereby expiring on March 2, 2022?*

Planning Commission Response: The judgement of the Court is that the BZA did not err in their findings that the PUD development plan approval does not expire. This decision was affirmed by the Court, and no further analysis was carried out by the Planning Commission.

Argument #2: *Is the Black Rock PUD valid or invalid? Did Black Rock fail to comply with the Washington County Zoning Ordinance sections:*

- a. *Section 16A. says that a PUD [such as Black Rock PUD] “shall maintain validity in accordance with this Article.” (Emphasis added).*

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- b. *Section 16A.6.e. says that “Submission and Approval Timeframes” must be followed for the PUD to maintain [its] validity.*
- c. *Section 16A.6.e.3. requires that “[f]ollowing approval of the Final Development Plan, the applicant shall submit a Site Plan or Subdivision within six (6) months for the entire PUD or for any phase for Planning Commission review.” (Emphasis added).*
- d. *Section 16A.6.e.3. also requires that after the submission of the site plan or subdivision within 6 months of approval for Planning Commission review that “construction shall begin within one (1) year of Site Plan or Subdivision Approval.” (Emphasis added).*
- e. *Section 16A.6.e.3. conditions extensions of the specified time frames by stating that “[r]equests for extension may be granted by the Planning Commission for good cause.”*

Is the Black Rock PUD invalid such that the Board of Appeals erred as a matter of law in affirming the Planning Commission's approval of Black Rock's 2022 Third Proposed Amendment to the previously approved PUD?

Planning Commission Response: While the Petitioner referenced language found in the currently adopted Zoning Ordinance (Article 16A)(emphasis added), the Planning Commission, after further review find the evaluation should be done under the zoning ordinance in effect at the time the review process was being followed. At that time, the PUD floating zone was enforced through Article 16 (See Attachment 2).

The following timeline of events in the development planning process for the Black Rock PUD was used to analyze the argument presented against the ordinance in effect at the time of each action.

- November 19, 2002, the Board of County Commissioners (“BOCC”) approved the PUD floating zone for Black Rock ‘starting the clock’ under the 2002 ordinance Section 16.5.a.
- A Preliminary Development Plan was submitted on May 16, 2003, thereby meeting the six (6) month deadline stated in Section 16.5.a.3. The plan was approved on February 24, 2005.
- A Final Development Plan was submitted on March 10, 2005, thereby meeting the six (6) month deadline stated in Section 16.5.a.4.
- A Preliminary/Final Subdivision Plat and a Site Plan for the PUD Community Center were submitted on May 24, 2005, thereby meeting the six (6) month deadline stated in Section 16.5.a.5. Both the subdivision plat and site plan were approved on February 27, 2008.

- Construction proposed on the site plan never commenced. No requests for extensions were applied for, nor were any extensions granted, thereby failing to meet the one (1) year deadline imposed in Section 16.5.a.5

It is the consensus of the Planning Commission that because construction did not commence within one (1) year of the site plan or subdivision plat approval, and because no extensions were requested or granted as required by Section 16.5 of the zoning ordinance in effect at the time, the PUD floating zone on the property should have been deemed invalid on February 27, 2009 and the zoning should have automatically reverted to its previous classification.

Argument #3: *Was there a violation of Zoning Ordinance Section 24.4(b) which says “[a]n application for site and/or development plan approval for [a PUD district] shall not be accepted for filing by the Commission if the application is for approval of the whole or part of any land, the approval of which has been denied by the Commission, within twelve (12) months from the date of the Commission's decision.”?*

Was there a violation of 24.4(b) when the Planning Commission accepted/addressed the following:

- i. *A February 16, 2021 First Proposed Amendment to the concept plan [which was deemed a major change and denied after a public hearing];*
- ii. *a December 30, 2021 Second Proposed Amendment [which was deemed a major change and then withdrawn by Black Rock before the public hearing]; and*
- iii. *the March 7, 2022 Third Proposed Amendment [deemed a minor change and the subject of this appeal]?*

The Court also included in its opinion that, “*The issue is remanded for specific findings of fact, and analysis under Section 24.4(b) including:*

- a. *Whether the March 7, 2022, Third Proposed Amendment was “An application for site and/or development plan approval for [PUD] districts and, if so*
- b. *Whether the March 7, 2022, Third Proposal Amendment application “was accepted for filing by the Commission” and*
- c. *Whether “the application is for approval of the whole or part of any land, the approval of which has been denied by the Commission, within twelve (12) months from the date of the Commission's decision”.*”

Planning Commission Analysis and Response: The Third Proposed Amendment was contemplated by the Planning Commission under Policy #25 (Attachment 1 Pages 5 - 6) allowing for citizens to seek preliminary or ‘initial’ advice on a project before significant investment is made that may or may not be permitted. No formal application was made to the Planning Department or to the Planning Commission for site and/or development plan approval. No fees were paid, no records were initialized, and plans were not sent out for

agency review. Therefore, no official approval was granted by the Planning Commission that would conflict with the regulations in Section 24.4(b).

It is the consensus of the Planning Commission that the BZA correctly affirmed the decision of the Planning Commission as it relates to this issue brought forth by the Petitioner.

Argument #4: *Is the Black Rock March 7, 2022, Third Proposed Amendment to the 2002 approved PUD a minor change as found by the Planning Commission and affirmed by the Board of Appeals or is it a major change such that there was error in affirming the Planning Commission's determination that the Third Proposed Amendment was a minor change?*

Planning Commission Analysis and Response: In the Court's analysis comparisons were made between the approved 2002 Development Plan with the 2022 Third Proposed Amendment. However, both the Petitioner and the Court failed to recognize that a subsequent development plan was submitted and approved in 2020 that replaced the original 2002 development plan. Therefore, it is the contention of the Planning Commission that the issues brought forth by the Petitioner should have been made regarding the 2020 Plan rather than the 2002 Plan. The following analysis is based upon that conclusion.

The Petitioner submitted several points countering the Planning Commission's determination that the changes proposed in the Third Proposed Amendment were minor in nature. As stated above, Staff provided a detailed summary in the form of a Staff Report (Attachment 1) that is included within this response. The Planning Commission generally supports the analysis done by Staff and provides the following analysis and response.

Analysis of potential impacts to public infrastructure: The Court found that, "*The Planning Commission did not make the required findings of fact or perform the required analysis as to adequacy of public facilities/infrastructure as required under 16A.5 and 16A.4. Upon remand the Planning Commission must make those findings of fact and perform the analysis under the Ordinance.*" The Court also points out that the express language of the ordinance in Section 16A.4.a states, "*In determining the specific density for a particular PUD or for any particular phase of a PUD, the Planning Commission shall give consideration to and shall make findings of fact concerning, at a minimum, the impact of the proposed development on adjacent properties, the availability of public facilities, the impact of the proposed development on public roadways, the impact on public schools, fire and police protection, and the availability of adequate open space.*" The Planning Commission offers the following analysis and opinion.

Public Water and Fire Suppression:

1. One of the direct questions posed by the Petitioner suggested that the reduction of estimated water usage per EDU from 300 gallons per day ("gpd") to 200 gpd should be considered a major change. In summary, Washington County recognizes the unit of measure that one (1) equivalent dwelling unit (EDU) is equal to 200 gpd. There is

no documented reason why the previous developer used 300 gpd as their estimated EDU and there was no evidence provided by the Petitioner as to why it would be a more accurate depiction of daily usage. Therefore, the Planning Commission determines that absent any evidence provided by the Petitioner that 300 gpd is a more appropriate measurement and that the reduction of the estimated EDU from 300 to 200 gpd is a logical and reasonable change that matches existing county policy, this issue does not contribute to the argument that the changes proposed in the Third Proposed Amendment are major.

2. The city had acknowledged in review of previous development plans that there is water service in the area and that extension would be possible. It was noted that water capacity was available, however, as with all development in the city and county, allocation is on a first-come, first-served basis. Therefore, the Planning Commission contends that there was public knowledge of the potential service and capacity of this project and that the issue was contemplated as part of the review for the development.
3. At the Planning Commission April 4, 2022 meeting there was discussion related to water and fire suppression issues. The developer stated during that meeting that they had talked with the City about the water issues in the area and that they had set aside land for a potential water tower to address the pressure issue for both homes in the area and the fire suppression system. It was also acknowledged by the developer that they would have to pay for the construction of the tower. This discussion was included within the minutes of the meeting showing that the issue was contemplated.

Public Sewer: The City of Hagerstown indicated in previous development plan reviews that public sewer was available and that extension would be possible. This provides the evidence that the issue has been discussed publicly and that the issue was contemplated.

Roads/Traffic: Several traffic impact studies have been completed by both the previous and current developers. The first traffic impact study was done as part of the rezoning case in 2002. The results of that study led the Commissioners to believe that the traffic generated from the proposed 595 units would not overburden the road network provided improvements outlined within the study were made by the developer.

Another traffic impact study was completed in 2021 when the developer had proposed changing the development plan of the PUD to allow for 1,148 units. That information was presented to, and reviewed by, the Planning Commission as part of their Public Information meeting held on June 14, 2021. It was the consensus of the planning commission that the traffic generated by a development of this size would overburden the road network in the area and was a factor in their recommendation to deny the request.

The Third Proposed Amendment showed development consisting of 585 units, ten (10) less than what was originally approved. The Planning Commission concluded that 1) the traffic study completed in 2021 was already reviewed by the Planning Commission and provided a baseline of existing traffic for review, and 2) the proposed dwelling units reduced to levels

previously contemplated and approved in the 2020 development plan, make it reasonable to deduce that traffic generated by previously approved plans when compared to the Third Proposed Amendment would not significantly change.

Schools: The Planning Commission supports the analysis included within the Staff Report. In summary, there is no question that the build-out of this development will have an impact on the school system. That was also true in 2020 when the Planning Commission approved the most recent version of the PUD Development Plan.

The analysis provided in the staff report is a simplistic view of the potential changes that may occur in capacity in each of the schools that would serve this development. This analysis shows a snapshot in time based on enrollment figures at the time the Third Proposed Amendment was reviewed and assumes full build-out all at one time. This analysis does not include evaluation of pipeline development or estimate potential changes in variables such as pupil yield, background enrollment, or redistricting.

The largest variable in analyzing impacts on capacity is time. Large developments such as PUDs take a considerable amount of time to build-out. In some cases, it has taken a decade or more for other PUDs in the county to fully develop. So, in analyzing this issue, some deference is given to the amount of time it will take for a large development to fully build-out.

As shown in the analysis, the schools that would likely see the heaviest capacity impacts from the development would be Ruth Ann Monroe and Greenbrier Elementary schools. One known variable at the time was that a line item project to replace Greenbrier and Old Forge Elementary schools and add capacity to the district was included within the Capital Improvement Program (CIP).

The Planning Commission has determined that the anticipated longevity of the project along with the potential capital improvements provide sufficient evidence that schools serving the development would have reasonable time to absorb the new capacity created by this development.

Stormwater Management:

The Planning Commission discussed the argument made by the Petitioner that the reduction in stormwater management areas constitutes reasoning for a major change. The Planning Commission has determined that this cannot be used as reasoning because the rules and regulations implementing stormwater strategies are continuously reviewed and updated to meet the evolving technology, practices and standards set by State law. Furthermore, stormwater management areas cannot be correctly sized and located until the parcels are formally laid out and engineered drawings are produced to determine the final product. For concept plans, stormwater management areas are meant to provide a rudimentary analysis of grade and water flow to predict generalized locations and sizes.

Availability of Open Space/Amenities:

The Petitioner asserted in their complaint that the reduction in recreational amenities should be evidence that there was a major change in the PUD Development Plan. As part of the Court's analysis, reference was again made between the 2002 Plan and the Third Proposed Amendment. The Planning Commission references back to its contention that the 2020 approved development plan was the document in effect at the time and have based their analysis on this belief. On the 2020 plan all amenities were removed except for open space areas and tot lots in the multi-family areas. The 2022 Plan proposes reinstating some of the recreational uses previously removed. Therefore, it is the belief of the Planning Commission that the Third Proposed Amendment reinstates several of the amenities that were stripped out of the original plan when the 2020 plan was approved. Therefore, the Planning Commission finds that this argument does not contribute to the decision of major vs. minor change.

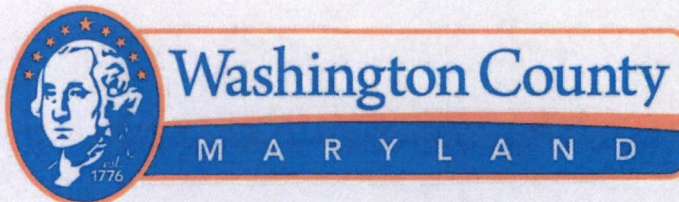
Planning Commission Response: The Court repeatedly states in their opinion that the determination of minor vs. major changes cannot be viewed through the lens of individual standards. Rather it should be viewed comprehensively to determine how the individual standards support or don't support the premise of major vs. minor changes to a PUD Development Plan. The Planning Commission, as part of this analysis, did not come to the same conclusions as the Court on many of the individual standards and how they were interpreted. Therefore, after a comprehensive review of the various issues brought up by the Petitioner and the Court, the Planning Commission comprehensively disagree with the Court's holdings that the Third Proposed Amendments should be deemed major.

In conclusion, it is the consensus of the Planning Commission that there is evidence that the PUD zoning district should be deemed invalid effective February 27, 2009, and therefore the opinion of whether the cumulative changes constitute a major or minor change in the previous development plan should be rendered moot. If the BZA decides that the PUD has followed the regulations to deem the zoning valid, the Planning Commission, through the analysis provided, has determined that their decision that the changes are minor should be re-affirmed.

Respectfully Submitted,

A handwritten signature in black ink, reading "David H. Kline". The signature is fluid and cursive, with the first name "David" and last name "Kline" clearly legible.

David Kline, Chairperson
Washington County Planning Commission



DEPARTMENT OF PLANNING & ZONING
PLANNING | ZONING | LAND PRESERVATION | FOREST CONSERVATION | GIS

August 2025

STAFF REPORT AND ANALYSIS OF REMAND
BLACK ROCK PUD MAJOR VS. MINOR CHANGE
Circuit Court Case No. C-21-CV-22-00424

Background: Starting in early 2021, Dan Ryan Builders (DRB) showed interest in purchasing land owned by Black Rock Holding II, LLC (Black Rock) for the purpose of developing a Planned Unit Development (PUD). Between February 2021 and March 2022 DRB submitted three (3) different amended versions of a development plan that was approved for the Black Rock PUD. The third revised plan, referred to as the “Third Proposed Amendment” was presented to the Washington County Planning Commission (Commission) at their regular meeting on April 4, 2022. The Commission decided that the changes proposed would be considered a minor change to the approved development plan and would therefore not require a new public hearing.

The Commission’s decision was appealed to the Washington County Board of Zoning Appeals (BZA) by Mt. Aetna Advocacy Group, et. al (Mt. Aetna). The BZA held two (2) public hearings to take testimony on the appeal. At the end of the 2nd hearing on August 18, 2022, the BZA deliberated and determined that the Commission did not err in their interpretation that the proposed changes to the PUD development plan were minor and affirmed the Commission’s decision.

Mr. Aetna then appealed the BZA opinion to the Circuit Court of Washington County, Maryland. After a hearing and deliberation, the court issued its opinion on April 1, 2024, and found that the decision of the BZA lacked sufficient evidence to support their conclusions and remanded the issue for further review. The Circuit Court decision was appealed by the DRB group to the Appellate Court of Maryland, but the case was voluntarily dismissed in October 2024.

With the Circuit Court opinion remaining in force, the BZA held a public hearing on March 19, 2025, to review and deliberate upon the remand. They determined that the evidence noted by the court opinion as insufficient related to findings that were initially made by the Commission. The BZA therefore has remanded the issue to the Commission for further evaluation.

Staff Report: There were four (4) distinct issues that were presented by Mt. Aetna to the court for judicial review. The issues deliberated by the Circuit Court are as follows:

1. *Has the Black Rock PUD expired because the March 2, 2020 Planning Commission Development Plan approval was expressly “effective for a period of two years,” thereby expiring on March 2, 2022?*

WASHINGTON COUNTY BOARD OF ZONING APPEALS

HAGERSTOWN, MARYLAND

IN RE:

MT. AETNA ADVOCACY GROUP,

v.

DOCKET NO. AP2022-021

7-20-2022

BLACKROCK HOLDINGS, II, LLC.

BEFORE THE BOARD OF APPEALS OF WASHINGTON COUNTY

JAY MILLER, CHAIRMAN

BOARD MEMBERS: JOHN COATHILL, MARVIN GOWER,

TRACY FELKER, BOB MYERS

Transcribed by: Kim B. Moler

Page 2	Page 4
1 PROCEEDINGS 2 CHAIRMAN MILLER: All right. We'll go ahead 3 and start, ladies and gentlemen. So, today's date is July 4 20, 2022. 5 This is a proceeding before the Board of 6 Appeals of Washington County to hear and decide appeals 7 under the zoning ordinance and its relatives. 8 My name is Jay Miller. And to my left is 9 John Coathill, Marvin Gower, Tracy Felker, Bob Myers. To 10 my right is Katie Rethlon and Jill Baker from Planning and 11 Zoning. 12 The general announcements regarding the 13 matter by which the hearing will be conducted, this is a 14 formal hearing and appropriate decorum is expected. 15 We will follow the Rules of Evidence. But 16 we may accept certain hearsay testimony if it is deemed 17 credible and probative. 18 Only testimony given under oath and from the 19 witness chair will be considered. Audience remarks and 20 comments not given under oath are not appropriate and will 21 not be considered. 22 This hearing is being recorded. So, any	1 to testify or eight minutes if the individual is 2 representing a group. 3 Because of the length of the dockets, please 4 keep your testimony short and avoid any repetitious or 5 communitive testimony or evidence. 6 We base our decisions on the evidence and 7 the information before us and not on the amount or length 8 of testimony in favor of or against an appeal. 9 When presenting photographs or written 10 statements as evidence, please provide copies for the board 11 members and the parties and allow sufficient time for the 12 Board to review and mark the evidence before proceeding. 13 The public is welcome to listen to our 14 deliberations on the cases, but there is no public input 15 during the deliberation stage. Any decisions reached after 16 deliberations is not the formal decision of the Board. 17 The Board's final, formal, and official 18 written opinion will be issued within 30 days. A copy of 19 the decision will be served on the parties. 20 The Board's Decision can be appealed in the 21 Circuit Court of Washington County, Maryland, within 30 22 days of issuance of the written disclaimer.
Page 3	Page 5
1 conversations that audience members may need to have should 2 be conducted in the hallway. 3 We would like to conduct these proceedings 4 in a timely manner. Please avoid evidence that is 5 repetitious or has already been presented by someone else. 6 Please confine your remarks to the specific legal and 7 zoning issues before the Board. 8 The cases will generally be heard in the 9 order in which they were filed with the Board. We will 10 proceed by hearing the Applicant's first case. 11 We will then hear from those in support of 12 the appeal. Thereafter we will hear from those in 13 opposition to the appeal. 14 Following the testimony -- opposition 15 testimony, the Applicant will have an opportunity for 16 Rebuttal. Before giving any testimony, each witness will 17 confirm on the record that they have bene sworn in. 18 An Applicant generally has ten minutes to 19 present their case. Upon request an Applicant may receive 20 an additional 20 minutes to present evidence and testimony, 21 for a total of 30 minutes, including rebuttal. 22 Other individuals shall have three minutes	1 A case that is granted by this board is only 2 given zoning approval. You might still require approvals 3 from other agencies and departments like the Soil 4 Conversation District, Health Department, State Highway 5 Administration, State Fire Marshall, Division of Planning 6 and Zoning, Division of Environmental Management, just to 7 name a few. 8 Permission from this board may not be your 9 final approval to move forward with your project. Contact 10 the Division of Permitting and Inspections if you have any 11 questions about all the approvals you will need to complete 12 your project. So as not to disturb the proceedings, please 13 set your cell phones or devices to silence. 14 And our first case tonight is Docket Number 15 AP2022-021, Mt. Aetna Advocacy Group to appeal the Planning 16 Commission's determination of the proposed change to the 17 Black Rock PUD as being constituted as a minor change on 18 property owned by Black Rock Holdings II, LLC, and located 19 at Mt. Aetna Road, Hagerstown, Zoned Plan Developments. 20 Is the Appellant here? 21 MR. RAPISARDA: Yes, here. 22 CHAIRMAN MILLER: Before we -- let me make

Page 6	Page 8
1 this one short here too. If anybody is planning on 2 testifying tonight, in front of us, if everybody could 3 please stand, I'll get everybody sworn in, so I don't have 4 to do this a hundred times. 5 And if somebody is new, coming in, I will 6 ask them if they have been sworn in. If they haven't been, 7 then I'll do it at that time. 8 So, everybody raise their right hand. 9 (WITNESSES SWORN) 10 CHAIRMAN MILLER: All right. So -- and 11 please just state your name and your address, please, for 12 the record. 13 MR. RAPISARDE: My name is Greg Rapisarda, 14 and I'm the Attorney for the Appellant. Saul Ewing is the 15 name of the law firm. And our address is 1001 Fleet 16 Street, Baltimore, Maryland. 17 This is my colleague, Greg Waterwork (ph). 18 Can you put it over, like all the way over there, that way? 19 CHAIRMAN MILLER: What was Greg's last name? 20 MR. WATERWORK: Waterwork, spelled just like 21 it sounds, and representing Carla Butler, in this case. 22 CHAIRMAN MILLER: All right. Thank you.	1 You could also decide that the Planning 2 Commission couldn't even consider the change because the 3 week before, in March of 2020, the week before the Board of 4 County Commissioners had denied a major change to the 5 developer. 6 It had gone through the whole public hearing 7 process, and they denied it. And a week later, this 8 proposal came in, and it was deemed minor. 9 So, you could reverse that and say that they 10 couldn't even apply until at the earliest, yesterday, June 11 -- June 19. They couldn't even have the Planning 12 Commission look at it, or hear from the Board of County 13 Commissioners, which would be March of 2023. 14 And, finally, what you could do would be 15 reverse the Planning Commission's Decision, based on the 16 evidence that we will summarize here, and find that the 17 Developer's proposed changes are major, and that goes back 18 to the Planning Commission. And then that would mean that 19 they would then be filtered into the -- um, the public 20 hearing process. 21 So, what I would just like to add to our 22 application -- and, Mr. Chair, I get this is just like a
Page 7	Page 9
1 So, you can start. 2 MR. RAPISARDA: Okay. So, on April 4, the 3 Planning Commission looked at a concept plan for the Black 4 Rock Project. 5 And they decided that the plan changes, the 6 changes were minor. That decision basically short -- 7 shortcut all of those changes, passed the public hearing 8 process, passed that public input and it would basically go 9 through the buy right approvals, which you're guaranteed to 10 do. 11 So, we're asking -- the relief that we're 12 seeking from this board -- and the Board does have 13 authority to do it, under 25.2D. You can make a decision 14 of what ought to have been done back on April 4. 15 And what ought to have been done, back on 16 April 4th, is, One, you could reverse the decision that it 17 was a minor change and find, based on the evidence before 18 you, and that we will highlight, that the (inaudible) is 19 invalid, it's expired. 20 It expired in March of 2022. And this 21 change didn't go into effect until 4-4; so, it's invalid. 22 You can decide that.	1 preliminary issue. 2 But, like, our application, the memo from 3 Ms. Baker, and then our response that would have been 4 delivered this morning, if that can be accepted as part of 5 the record here, in this case. 6 CHAIRMAN MILLER: Yes, and it already has 7 been accepted. We have that on file here, so -- 8 MR. RAPISARDA: Okay. Fantastic. Okay. 9 So, first, I guess at a certain point the validity of this 10 PUD was challenged years and years ago. 11 There is documentation going back to '06, 12 four years after the original approval, that says, "The 13 developer didn't meet certain hurdles. They didn't file 14 different plans within a timeline." 15 The Planning Commission reset all of that. 16 They decided all of that when they issued this letter on 17 5-29-2020. 18 And they said, "This is to inform you the 19 development plan referenced above was acted on, on March 2, 20 2020, and was approved with the conditions stated at the 21 bottom of this letter. 22 Then it says, "The development plan approval

Page 10 1 is effective for a period of two weeks. So, in March -- on 2 March 2, 2022, absent other actions by the Planning 3 Commission to specifically revive and keep going, this PUD 4 is dead. 5 So, it's already been dormant for 20 years, 6 and now it's dead, according -- and this isn't just the 7 Planning Commission. 8 This is when the Applicant -- when the 9 developer filed for this major change, that was denied the 10 week -- you know, in late March of this year, they 11 acknowledged -- and that's why we attached their brief -- 12 they acknowledged that a PUD is valid until March 2, 2022; 13 and nothing's been done. 14 In fact, the memo that -- that Director 15 Baker had presented that you -- you said you all got two? 16 Not even to -- they make the argument that they haven't 17 acted on anything. 18 Nothing's been applied for, nothing's been 19 accepted. It was just a consideration of these changes. 20 So, I think you have the authority under 25.2D to say, 21 "This PUD's not effective." 22 Put it back on them, put it back on the	Page 12 1 them all into the eastern portion of that. 2 Where -- see where over here it says, "A, B 3 and then G, C"? So, that's where they took all 585 and 4 they pushed them and clustered them over there. And then 5 they asked for double the density so that they could build 6 another 585 homes on the left -- on the western portion of 7 the 220 acres. 8 So, of course it was major. They wanted to 9 double the density and double, you know, from 585 homes to 10 1100 and some. So, that was just denied. 11 This proposal that was considered minor 12 merely took 100 single-family homes, but left 485 on that 13 far-east quadrant, and they spread 100 single-family 14 residences, dwelling units, over 107 -- you know, over the 15 western half. So, they still have all this open space 16 there. That's all they did, just took 100. 17 And there was testimony in the past that the 18 developer needed to double the density, and that's why he 19 asked for it, and they need more density. 20 And so, the consideration is, well, you're 21 setting yourself up -- these changes are making way for 22 major changes, even if that was considered minor.
Page 11 1 Planning Commission to figure it out. Maybe they can 2 extend it; maybe they can revive it, I don't know. 3 But that should be neither here nor there if 4 it's expired. 5 So, then we've got to look at some things 6 that they say are not major, right? Like, ultimately, we 7 think the PUD's expired, and you should throw it out. 8 Could also say it (inaudible), and that's fine too. 9 But ultimately, what we need to do -- and 10 frankly we would rather have done this to the Planning 11 Commission, had this not been presented the week after the 12 major change was denied, and then it was up at a meeting, 13 where I guess it wasn't even an official application 14 according to the Department of Planning and Zoning. 15 This proposal, that the Planning Commission 16 deemed minor, is almost identical to the major change that 17 was actually denied by both the Board of County 18 Commissioners and the Planning Commission, what the Board 19 actually denied the week before. 20 So, the major that went to the hearing, they 21 took 585 homes, and they clustered them. That was how many 22 were approved in the original 220-acre PUD. They clustered	Page 13 1 The other thing is that the minor change 2 mildly increased the density. So, under the code -- under 3 the code, every phase of a PUD has to meet the density 4 requirements. So, the density, the max density, in this 5 PUD, is 2.7 dwelling units per acre. 6 So, here it is, it's 16A.4, Design Standards 7 and then Subsection A, it says, "Density: In determining 8 the specific density for a particular PUD or any particular 9 phase of a PUD," right? So, this article is completely 10 applicable to a PUD change too. 11 And so, what's interesting is on this 12 development plan here, they -- um, they -- in the -- in the 13 plan here, that we're looking at, they say there is three 14 phrases, which the Department of Planning and Zoning 15 highlighted as a similarity, three phases at the first one, 16 three phases at this one. But the de -- the devil's in the 17 details there. 18 This one, the first phase is -- um, the 19 first phase has -- it is a -- I'm sorry, one second. It 20 exceeds 2.7. Oh, here it is; here's the chart. Thank you. 21 So, it's 183 homes in the first phase. And 22 on the approximate acreage that they're using, about 4.7

Page 14	Page 16
1 dwelling units per acre. 2 And that's the first phase. And frankly, 3 it's the only one that's guaranteed, because all the other 4 ones are qualified by, you know, "We'll do this, around 5 that." 6 And then -- so then the second phase is even 7 more dense, it's 302 homes. And given the approximate 8 acreage that's six dwelling units per acre. 9 So, right there, the first two phases -- 10 this -- this proposed PUD, that's supposed to be a minor 11 change, it doesn't get around to actually complying with 12 the density requirements until after Phase Three. 13 And then, when you have 100 homes, spread 14 over 130 or 120 acres, then it can reduce the density 15 enough to be 2.7. 16 So, it -- it's illegal. It shouldn't have 17 been approved. It certainly isn't minor. If they wanted 18 (inaudible) of a density like that, they should go through 19 the public hearing process. 20 The other thing that was ignored, 21 differences. The height -- the height -- the maximum 22 height of the townhouses were capped in the 2002	1 And that really doesn't even get into like 2 water and sewer changes, the storm water management. I 3 don't know how they did it, but the storm water shrunk by 4 acres. 5 It also seems major that they were proposing 6 a lot more recreational facilities in 2002 that was 7 approved versus what the, quote, unquote, "Minor change," 8 was that reduced all the -- that reduced all the 9 recreational. 10 But we tried to summarize it in the chart. 11 CHAIRMAN MILLER: Okay. 12 MR. RAPISARDA: I think that's it. 13 Obviously, I'll be happy to do a Q&A or -- or address 14 anything, and I'd love to come back on a -- I guess, 15 technically, it's called a rebuttal, but just to address 16 any outstanding questions that there may be. 17 If there's nothing else, that ends our case 18 in chief. 19 CHAIRMAN MILLER: I appreciate that. Thank 20 you. 21 MR. RAPISARDA: Thank you. 22 CHAIRMAN MILLER: Does the Board have any
Page 15	Page 17
1 (inaudible). So, not only are they increasing the density 2 now, in 2022, trying to do it as a minor, but they've 3 increased the height by 7 -- by 7 feet, to 42 feet tall. 4 And then, for the multi-family homes, 5 they've increased them by 15 feet, from 40 feet to 55 feet. 6 And for what it's worth, it's worth noting that those -- 7 that at least the 55 foot would require a variance from 8 this board. 9 It actually could be approved as part of a 10 -- part of a PUD if it was through a public hearing. But 11 it's a variance to -- to the zoning code, that maxes out at 12 50 feet. 13 So, those are -- those are the key -- now we 14 stand on all the arguments we made, but those are the keys, 15 it's not valid, the density is illegal, the height is 16 illegal -- uh, or at least these are major changes. 17 And then, you look at the difference, where 18 they've concentrated and the one that we submitted 19 yesterday or this morning has some color-coding on it, just 20 to show you the visual of how similar this is to the major 21 that was just denied and how dissimilar it is to the 22 original one.	1 questions, at this point, right now? 2 MALE SPEAKER: Not at this time. 3 MALE SPEAKER: Mm-mm. 4 MALE SPEAKER: So, I guess I'm a little 5 confused and -- and some of your summary that was produced 6 was -- was good. 7 According to some of the information that we 8 have, that was probably from -- uh, provided from Jill 9 Baker, I'm not seeing, as far as the major changes -- I 10 mean, the overall density is staying the same. 11 There's three phases. They're still using 12 the same amount of acreage. Um, open space is actually 13 improved a little bit. 14 So, are you saying they're basically taking 15 one of the sections and just moving it eastward? 16 MR. RAPISARDA: Yes. 17 MALE SPEAKER: It's creating that, right? 18 MR. RAPISARDA: Yes. We could show you -- 19 we had -- we had the one that is the major site plan, that 20 was just denied, and it looks very similar, in terms of the 21 phasing, how they're doing it by -- you know, it's also 22 odd, right? In the 2002 Development Plan, it clearly

Page 18	Page 20
1 shows, "Here is Phase 1," here is how many homes, here's 2 the amount of acreage and here is the ongoing density. 3 But none of that is happening on this 2022 4 one. It just talks about Phase 3 and the neighborhood 5 breakdowns. 6 And it never gives -- we've actually just 7 gone in and approximated the acreage for those numbers of 8 houses and counted each house to know that -- we know that 9 this exceeds it, because they didn't mark it down on that. 10 MALE SPEAKER: So, I guess my -- my concern 11 is -- or my statement here is that you guys are here, 12 basically to see whether we feel that this is a major 13 change or a minor change. 14 We have nothing to do about site plans. You 15 know, we don't know how the Planning Commission and the 16 Planning -- or Permitting Department has set this thing up. 17 That's not our job to do that. 18 MR. RAPISARDA: Right. 19 MALE SPEAKER: We're here to basically say 20 that, you know, is this a major or a minor change? 21 So, there's a couple of things, too, that -- 22 and you actually pointed out, in one of your things here,	1 MR. RAPISARDA: But it's on the same 2 property. So that -- that's the reason we're asking. They 3 had a decision that was denied relating to all or part of 4 the same PUD within the last year. So, it shouldn't even 5 have been considered. 6 And what's -- what's happened is, like there 7 have been several of these where there's a proposal, just 8 to the Planning Commission or to -- to (inaudible), and 9 then if they deem it major then the applicant withdraws it. 10 So, the -- the point being is that the 11 developer is trying to avoid the public hearing process, 12 which is what the people want, because that process is what 13 gives them the voice to -- to show why this is major. 14 CHAIRMAN MILLER: So, you -- that's 15 basically the ultimate goal? You basically want this thing 16 deny -- I'm not speaking for you, but you want this denied 17 so it goes back to public hearing again? That's what you - 18 - that's the ultimate goal for your -- for your group? 19 MR. RAPISARDA: So, frankly, if you could 20 see, and I think you have the legal authority to, based on 21 this -- 22 CHAIRMAN MILLER: I don't think we do --
Page 19	Page 21
1 that the Commission's review and actions under Section 2 24.4, that -- uh, if I can read it, "An application for 3 site and/or development plan approved for PBPI PUD and HI 3 4 District shall not be accepted for filing by the Commission 5 if application is for approval of the whole or part of the 6 land the approval of which has been denied by the 7 Commission within 12 months." 8 Well, it was never denied, was it? It 9 wasn't denied. 10 MR. RAPISARDA: But may -- well, it's 11 interesting that he uses that language. The Planning 12 Commission technically doesn't deny or approve it. I think 13 they recommend to the Board of County Commissioners. 14 But July 19 of 2021, the Planning Commission 15 recommended denial of the major change. They doubled the 16 density and slid the 585 homes to the east. And then the 17 Board of County Commissioners denied it on March 26, I 18 think. 19 MALE SPEAKER: Yeah, but that was 1200 and 20 some units, too, right? A major -- that's when they wanted 21 to try to get 1200 and some units. But that's not what 22 they're asking now, it's -- they're back to the --	1 MR. RAPISARDA: -- to say -- 2 CHAIRMAN MILLER: -- though. 3 MR. RAPISARDA: -- "This PUD is expired," 4 you could make that decision. I think you have the 5 authority to do that. But, other than that, I think by 6 saying these changes are major, and the Planning Commission 7 would then -- it would automatically go into the public 8 hearing process. 9 CHAIRMAN MILLER: We are missing legal 10 counsel here this evening. And, unfortunately for us -- it 11 would be nice if he was here, because I think that we don't 12 have that power. He's going to tell us maybe we do have 13 that power. 14 So, do you guys have any questions? 15 FEMALE SPEAKER: Well, I -- I think there -- 16 there's a key open question for me about whether they even 17 have a plan that's effective with -- and I would like to 18 have legal counsel on that. 19 Because this letter does say that it's 20 effective, basically, through March 2, 2022. So, there 21 might not even be a plan, an approved plan whatsoever. 22 This -- to me, this is the lynch pin.

Page 22 1 CHAIRMAN MILLER: Okay. 2 MS. BAKER: Well, I can address that, if 3 you'd like? 4 CHAIRMAN MILLER: Please do. 5 MS. BAKER: Did you want me to address that? 6 Do you want me to address that, or should we wait until -- 7 do we address that now or -- 8 MR. RAPISARDA: This is in support of -- 9 MS. BAKER: I can address the question if 10 that's what you want me to address. 11 CHAIRMAN MILLER: Mm-hm. 12 MS. BAKER: I'm not here to testify in 13 support or against. I'm only here to address any questions 14 that you have related to any actions taken by the Planning 15 Commission. 16 CHAIRMAN MILLER: Then yes, please do. 17 MS. BAKER: In front of you -- did you get a 18 copy? Did you get a copy of that? 19 CHAIRMAN MILLER: Sure. 20 MS. BAKER: Thank you. It should just be 21 one piece of paper, just one. 22 FEMALE SPEAKER: We have two extra copies of	Page 24 1 have to submit a site plan and/or subdivision plat for 2 approval. 3 In this particular case, under Development 4 Plan 20-001, they met all of those criteria, right down to 5 the point of they have an approved recorded subdivision as 6 part of this development plan. 7 So, after going back and reviewing that, it 8 was our determination that this plan is valid, it has not 9 expired. That -- that letter was written in error. And so 10 therefore the plan, like I said, has not expired. 11 That is the county's position on that, after 12 talking with the county attorney and counsel for the 13 property owner. 14 And that letter, that you have in your hand, 15 is what was sent to -- because you can see that they 16 actually called our office and said they wanted to extend 17 that approval. I have no process to do that because there 18 is nowhere in the ordinance that says that it expires. 19 So, yes, there's confusion. But we 20 thoroughly looked at it. We made sure that they met every 21 one of those little milestones that the ordinance calls for 22 and have found that the development plan is valid.
Page 23 1 these. 2 MS. BAKER: So, the issue of expiration was 3 brought to our attention by the counsel for Black Rock, TUD 4 Development, the owner of the property. 5 It was brought to our attention that there 6 was nowhere in our zoning ordinance that declares an 7 expiration date for the development plan. 8 So, after going back through all of our 9 records, going through the zoning ordinance, and talking to 10 the county attorney's office, we found that letter that was 11 sent out by Director Ashley Holloway that said that the 12 plan expired in two years was in error. The plan is not 13 expired. 14 Instead, there is not a two-year expiration 15 to this. The ordinance is very clear in terms of when 16 there's a change in a PUD it follows the same procedure as 17 a major -- as a major change would, where it starts with a 18 development plan. 19 Once the development plan, the preliminary 20 development plan, gets approved, they have six months to 21 file a final development plan. Once the final development 22 plan is approved, I think it's another six months that they	Page 25 1 MR. RAPISARDA: So, with that -- and I have 2 never seen this letter. I don't -- I guess, with that 3 said, I don't know that you have the authority. I would 4 want to talk to your counsel to -- to fill out the PUD. 5 Although, I guess you could -- I mean the 6 evidence is the evidence, and while this was dated March 7 28, 2002, after it expires by this other one, but this 8 letter actually -- I mean it does say, "The letter from two 9 years ago was incorrect." 10 So, I mean, we don't know what they based it 11 on or anything. But, at the same time, we're not prepared 12 here tonight, to challenge it. 13 CHAIRMAN MILLER: Sure. 14 MR. RAPISARDA: So -- 15 CHAIRMAN MILLER: Well, and I think this may 16 be in everybody's best interest. That gives you two weeks. 17 We may go ahead and postpone deliberations for two weeks, 18 until our next meeting. 19 MR. RAPISARDA: Okay. 20 MS. BAKER: Well, if you get all the way 21 down to deliberations, there's no additional public input. 22 CHAIRMAN MILLER: Right. Well, and that's

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1 what I'm saying -- 2 MS. BAKER: So -- so -- 3 CHAIRMAN MILLER: -- before we -- before we 4 get to that, we want to still hear support and opposition 5 this evening -- 6 MS. BAKER: Right. 7 MR. RAPISARDA: Gotcha. 8 CHAIRMAN MILLER: -- and everything. 9 MS. BAKER: Okay. 10 CHAIRMAN MILLER: Because I don't think it 11 would be fair to you guys if, you know, we just made these 12 decisions at night and without counsel. So, all righty? 13 MR. RAPISARDA: (Inaudible). 14 CHAIRMAN MILLER: Yes. So, during -- so, I 15 should point this out too, during deliberations, too, this 16 is open to the public. Our deliberations are open to the 17 public. 18 So, our board does need to know that, you 19 know, we cannot discuss this case amongst each other during 20 that two-week period and everything. 21 We can ask open questions, to one another, 22 just -- but we cannot make discussions about it. So,	1 MS. BAKER: -- information, you need to 2 simply continue -- 3 CHAIRMAN MILLER: Right. 4 MS. BAKER: -- the open meeting and not do 5 any deliberations. 6 MS. FELKER: Yeah, not get to deliberations. 7 If we enter deliberations, then we have cut off our ability 8 of hearing -- 9 CHAIRMAN MILLER: Right. 10 MS. FELKER: -- additional testimony. 11 CHAIRMAN MILLER: Okay. So, if you -- 12 MS. BAKER: So, what I -- I'm sorry. 13 CHAIRMAN MILLER: No, no. 14 MS. BAKER: I apologize. 15 CHAIRMAN MILLER: You're fine. 16 MS. BAKER: So, I would say then what you 17 would do is continue it. And then you would have another 18 session of public testimony for or against. 19 That way everybody gets their fair shake at 20 responding to whatever evidence that's presented during 21 that two weeks. Everybody gets a fair shake at it. 22 CHAIRMAN MILLER: And hopefully have
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1 that's for your information too. 2 MR. RAPISARDA: Okay. 3 CHAIRMAN MILLER: Okay? 4 MR. RAPISARDA: And, for what it's worth, if 5 you thought it was appropriate, we could, in those two 6 weeks, if you want to Venmo or something and our responses 7 or our analysis of it, because I haven't seen it until 8 tonight. 9 CHAIRMAN MILLER: That would be perfect. 10 MR. RAPISARDA: But it certainly seems to 11 address, clearly it directly addresses that. 12 FEMALE SPEAKER: We have -- 13 CHAIRMAN MILLER: I'm sorry? 14 FEMALE SPEAKER: We have (inaudible) right? 15 MS. BAKER: Right, that's why I said, once - 16 - if they get the hearing to the point of deliberation 17 tonight, there won't be any additional public -- 18 CHAIRMAN MILLER: Uh -- 19 MS. BAKER: I would say if you want them to 20 have the ability to continue to submit -- 21 CHAIRMAN MILLER: We just need to postpone 22 the --	1 deliberations that same meeting? 2 MS. BAKER: Yeah. 3 CHAIRMAN MILLER: All right. 4 MS. BAKER: Yes. 5 MR. RAPISARDA: Sounds good. But I guess, 6 on the bottom line, the answer to your first question is 7 that absent how that works, yes, we'd like you to find it 8 major. 9 Either find it major and send it back or 10 reverse it and send it back and say, "The Planning 11 Commission should hear from all these people about the 12 arguments as to why they're major." 13 Because then I think they -- they would find 14 it major too. 15 CHAIRMAN MILLER: Very good. 16 MR. RAPISARDA: Thank you very much. 17 CHAIRMAN MILLER: Thank you. And -- 18 MR. RAPISARDA: We'll just sit here and come 19 back in a little while? 20 CHAIRMAN MILLER: Yes. So, anybody else in 21 support of this appeal, that wish to testify? 22 MS. BAKER: Now, when you signed up as, "In

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1 support,” meaning you are in support of the Advocacy Group 2 that just spoke. 3 MR. RAPISARDA: Correct. 4 MS. BAKER: So, if you accidentally signed up 5 on the wrong sheet, it’s okay, just let us know and I’ll 6 make sure I change that. 7 FEMALE SPEAKER: Because this is your time. 8 This is your time to speak. 9 CHAIRMAN MILLER: So, we have J. Greg Garner 10 (ph). 11 MS. BAKER: If you could give me half a 12 second so I can try to -- if you can just let me get these 13 chairs up so that there’s enough seating. 14 (Pause) 15 FEMALE SPEAKER: Jerry, I will make a point 16 of being here for that. 17 CHAIRMAN MILLER: Oh. That’s right. You 18 just said you weren’t going to be here. 19 MS. FELKER: Yeah. I’m going to be in 20 Washington, but I can leave earlier from Washington and get 21 here. 22 CHAIRMAN MILLER: Okay.	1 documented. This PUD will increase the average water 2 demand, within this zone, to a rate that exceeds the 3 planned future average water usage. 4 According to the Master Plan, upgrades to 5 the water infrastructure are required when this future flow 6 is approached. 7 It’s my knowledge that there have been a few 8 things done to address these issues, but they all fall 9 short. They are still inadequate. 10 Emergency services which depend on free-flow 11 water to be able to put out fires is going to be severely 12 strained on top of being diminished in their capacity to 13 respond to fires already. 14 And these fires have been well-documented. 15 Doey’s house on Woodbridge Drive is one key example and 16 there are many others. 17 This development is located, as I said, 18 within Water Zone 5. And Water Zone 5 has historically 19 struggled in responding to domestic fire -- fires within 20 the area. 21 The Funston Volunteer Fire Department have 22 added multiple tankers, A/K/A water on wheels, to be able
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1 MS. BAKER: Okay. Sorry about that. Thank 2 you. 3 CHAIRMAN MILLER: Mr. Garner, you have been 4 sworn in? 5 MR. GARNER: Yes. 6 Whereupon, 7 JAMES GREGORY GARNER, 8 A witness herein, having been previously duly cautioned and 9 sworn was examined and testified as follows: 10 CHAIRMAN MILLER: And please state your name 11 and address for the record, please. 12 MR. GARNER: James Gregory Garner, 20541 Mt. 13 Aetna Road, Hagerstown, Maryland, 29742. 14 CHAIRMAN MILLER: Thank you, Mr. Garner. Go 15 ahead. 16 MR. GARNER: Yeah. I’m here in opposition 17 of the development. This PUD is located within the City of 18 Hagerstown’s Water System Zone 5. 19 Water Zone 5 has limitations in its 20 distribution system pressure and fire plug ability that 21 already exists without the addition of this PUD. 22 These limitations are well-known and well-	1 to respond for the lack of needed fire flow. And that 2 still is falling way short of the existing need. 3 These are safety issues. These are 4 families. These are men and women and children that live 5 in these homes that decisions to ignore these concerns and 6 proceed head-long against what the Hagerstown Volunteer 7 Fire Department had said, the -- the Funston Volunteer 8 Department, to ignore that and to proceed to allow more 9 units to be built puts more of a taxing issue on the free- 10 flow water system. We’re going to be inadequately prepared 11 should there be fires. 12 These homes that are proposed, as counsel 13 pointed out, are concentrated in one part of the area. 14 Let’s just say in the future they add additional homes, now 15 it’s not double-tax it’s -- it just continues to 16 incrementally compound the problem. 17 The Hagerstown Volunteer -- the Hagerstown 18 Fire Department strongly recommends that further 19 development, in this area, should not occur as proposed. 20 There simply is inadequate water necessary to flow two or 21 more large caliber streams necessary to stop fires in -- in 22 well involved added spaces, row homes, apartments. It’s

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1 just going to be inadequate. And my concern is we're 2 putting lives at stake. 3 I'm going to move on to another area that's 4 being overtaxed -- 5 CHAIRMAN MILLER: You -- you have about 45 6 seconds. 7 MR. GARNER: -- the schools. Ruthann Monroe 8 Eastern Elementary and Smithsburg Middle are feeder 9 schools. And these schools are already pretty much at 10 maximum capacity. And I'm talking about maximum capacity 11 as it relates to the state-rated capacity. 12 The Adequate Public Facilities Ordinance, 13 acronym, APFO, indicates that the threshold for adequacy, 14 at the elementary school currently is 90 percent of 15 capacity, according to state-rated capacity, already it's 16 90 percent. 17 The middle and high school thresholds are 18 currently at 100 percent of state-rated capacity. So, when 19 you're looking at a PUD that's going to add a lot more 20 families with school-aged children, now you are overtaxing 21 the existing schools. 22 So, these are my concerns. And --	1 CHAIRMAN MILLER: It happens all the time, 2 though, doesn't it? 3 MR. GARNER: Yeah. Well, it -- it should 4 not be, with all due respect. I think we should do the -- 5 the right thing. 6 So, thank you for your time. 7 CHAIRMAN MILLER: Okay. Thank you, Mr. 8 Garner. 9 Next, we have Maria Garner? 10 MS. GARNER: Hi. 11 CHAIRMAN MILLER: Name and address, please. 12 And you have been sworn in? 13 MS. GARNER: I have. 14 CHAIRMAN MILLER: All right. Thank you. 15 Whereupon, 16 MARIA GARNER, 17 A witness herein, after being first duly cautioned and 18 sworn was examined and testified as follows: 19 MS. GARNER: I wrote my right name. Maria 20 Garner, at 20541 Mt. Aetna Road in Hagerstown, Maryland, 21 21742. 22 CHAIRMAN MILLER: Okay. Thank you. Go
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1 CHAIRMAN MILLER: And they are good 2 concerns, Mr. Garner, believe me. 3 So, in our -- in our opening statements, 4 remember that disclaimer I said? That, you know, you might 5 get this approval -- or actually it would be your 6 disapproval since you're on the Appellant list. 7 But there's many, many agencies that this 8 has to go through before it ever gets approved. It has to 9 go through, you know, Soil Conversation. I mentioned them, 10 Health Department, State -- you know, Fire Marshals. 11 Everything has got to still approve this thing, whatever 12 happens. 13 So, but those are some great points there. 14 And I mean -- uh, and as far as the school systems and 15 everything, every so many years they go through rezoning, 16 just because the same thing, it happens just down the road. 17 So, it's -- it's probably something you're 18 going to see again, that's going to -- rezoning the school 19 districts and everything. So, it's unfortunate. 20 MR. GARNER: It seems like you're moving 21 forward with the cart ahead of the horse, with all due 22 respect.	1 ahead. 2 MS. GARNER: And, as my husband spoke to the 3 jeopardy of life, I am speaking to the jeopardy of 4 property. 5 I think it's an egregious attack on our life 6 and property if this PUD is accepted and moved forward. 7 Most people put their entire life and have their entire 8 equity built up on their home. We have our stake in our 9 home. 10 Putting up these row homes right across from 11 our home and adjacent to Black Rock Estates brings down 12 property value. It -- it's easy to see that it's such an 13 amount to our property. 14 And that is my basic case there. 15 CHAIRMAN MILLER: Okay. Questions? 16 MALE SPEAKER: No. 17 MS. GARNER: I just don't see how you can 18 approve it. 19 CHAIRMAN MILLER: Thank you. 20 William Striker. 21 MR. STRIKER: I'm William Striker. I live 22 at 20533 Mallet Dover Road.

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1 And rather than repeat what Mr. and Mrs. 2 Garner said -- 3 CHAIRMAN MILLER: You have -- you have been 4 sworn in, correct? 5 MR. STRIKER: Yes. 6 Whereupon, 7 WILLIAM STRIKER, 8 A witness herein, after being first duly cautioned and 9 sworn was examined and testified as follows: 10 CHAIRMAN MILLER: Thank you. 11 MR. STRIKER: Rather than repeat what the 12 Garners had to say, I'd -- I'd really like to elaborate on 13 that. 14 We had a hearing a year ago where the 15 developers excuse for the school-overcrowding was that, 16 "Well, we're not going to build everything at once. We 17 won't overcrowd the schools right away and we'll worry 18 about that when we get to it, when we're fully developed." 19 Well, that makes no sense to kick the can down the road. 20 We brought up the water pressure issue. And 21 like Mr. Garner said, they don't have the ability to fight 22 a second-floor fire with two hoses but yet they want to	1 Greg and I live right by a blind hill on Mt. 2 Aetna Road. Once a week, you know, we pull out of the 3 driveway and almost have a close call. Will the -- will 4 the county take responsibility when there's another 1100 5 cars on that road? 6 So, I mean those -- those are some of the 7 questions I have, I mean, obviously aside from the value of 8 the homes and so forth. 9 CHAIRMAN MILLER: Sure. You know, and -- 10 you know, multiple times we'll get something where they 11 come in here and -- uh, site distance is always going to be 12 an issue too. 13 So, when the Highway Administration gets 14 involved, County Roads -- 15 MR. STRIKER: Right. 16 CHAIRMAN MILLER: -- they deem something 17 that's not safe -- 18 MR. STRIKER: Right. 19 CHAIRMAN MILLER: -- that might be -- that 20 might kick it out, I have no idea. 21 MR. STRIKER: I mean, when I moved there, I 22 was told that there was an approval for 500 and some homes
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1 raise the level of the townhomes and the cluster of homes 2 down on our end of the development. So, how would that 3 work? 4 Uh, I brought up the fact that if you're 5 going to have 500 and some homes in that development, 6 you're talking about another 1100 cars, minimum, on that 7 road. 8 We end up in the unfortunate position of 9 being down where the main entrance will be. But let's be 10 -- let's be realistic. The majority of these people, at 11 least half of these people, are going to be commuting to 12 the city, to Frederick, to Baltimore. They are going to go 13 east on Mt. Aetna Road. 14 That's a section of Mt. Aetna Road that's 15 narrow, it has two blind hills, three sharp turns and no 16 shoulder. The developer's response was, "Yeah, that's 17 gonna be a challenge that we'll work on down the road. 18 We're not sure how we'll work on it." 19 My question to him was, "These homes don't 20 have much of a yard. So, how exactly are you going to wind 21 that road and who is gonna pay for it? Is the county gonna 22 pay for it or are they gonna pay for it?"	1 spread out over that entire property, not condensed on our 2 end. 3 And when I asked the developer, a year ago, 4 "Why do we need these extra homes? Why do we need these 5 homes?" His response was, "Well, we have 20,000 more jobs 6 coming to town with all the new warehouses." 7 Well, I realize every time a new warehouse 8 comes to town, they tell you they're going to give you 9 1,000 jobs because they want a farm rezoned. 10 I don't know if you've been through the 11 Amazon warehouse, or some of these new warehouses. There's 12 64 cars in the Amazon parking lot on the day shift. It's 13 automated, they're robots. There are not 20,000 new jobs 14 coming. 15 I don't care if there's 20 warehouses, you 16 -- all you've got to do is drive by their parking lot and 17 count the cars. They tell the county that when they want 18 the zoning changed. So -- 19 CHAIRMAN MILLER: All right. 20 MR. STRIKER: All right. Thank you very 21 much. 22 CHAIRMAN MILLER: Thanks, Mr. Striker.

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1 Um, I don't know how to pronounce -- I can't 2 read this writing. Is it Aneala? And sorry for your last 3 name? 4 Have you been sworn in? 5 MS. PARK: Yes. 6 Whereupon, 7 ANEALA PARK, 8 A witness herein, after being first duly cautioned and 9 sworn was examined and testified as follows: 10 CHAIRMAN MILLER: Okay. And just state your 11 name and -- 12 MS. PARK: And my address is 20360 Ayoub 13 (ph) Lane. And I have been living on that house for the 14 last 18 years. And I love that place, I love where I live. 15 And we do not approve that the main highway go right in 16 front of my yard. 17 And it's going to be too crowded. And we 18 like our property and it's a long-term living goals for us. 19 We do not need it for short term and have a highway and 20 more traffic. Where I am living, I am right in the corner 21 of that highway and Sasha Lane. 22 So, I really appreciate you reconsider not	1 MS. SULLIVAN: Martha Sullivan, 1092 Sasha 2 Boulevard. 3 CHAIRMAN MILLER: Thank you. Go ahead. 4 MS. SULLIVAN: I have several issues. I 5 have the water pressure issue, which I've been living at 6 this residence for eight years. And the water pressure 7 from the city has still not been addressed. 8 So, I don't know how you can go forward and 9 deal with this PUD when nothing's ever been done about the 10 water pressure in our development right now. It's a safety 11 issue with the fire department and I really don't want to 12 see any more houses burnt down. 13 Number 2, the traffic on Sasha, I don't 14 understand why if that PUD goes forward it cannot build 15 their own road and have a four-lane or whatever they need 16 and then have another road built down on Whitefall (ph). 17 I don't know why they have to have Sasha 18 being used a main thoroughfare for their development. I'd 19 like to see Sasha blocked off and even, if possible, turned 20 over to a private road, because the traffic would be 21 immense and there is no reason why they can't build their 22 own road in their own development, and that's never been
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1 putting the main road towards our lane. They should have a 2 barrier between that and -- and then we have our own 3 privacy from Black Rock. 4 And that is what I really want to request. 5 CHAIRMAN MILLER: Okay. Thank you. 6 Rich Chrishwell. 7 MR. CHRISHWELL: Okay. I (inaudible). 8 CHAIRMAN MILLER: Thank you, Mr. Chrishwell. 9 Speed it up a little bit. 10 Is this Martha -- I think I'm saying the 11 first name -- is it Marsha or Martha? I'm sorry for 12 butchering your name there. 13 MS. SULLIVAN: Martha Sullivan. 14 CHAIRMAN MILLER: Oh, I can read it now. 15 Have you been sworn in, Martha? 16 MS. SULLIVAN: Yes. 17 Whereupon, 18 MARTHA SULLIVAN, 19 A witness herein, after being first duly cautioned and 20 sworn was examined and testified as follows: 21 CHAIRMAN MILLER: And state your name and 22 address, please.	1 brought up. 2 CHAIRMAN MILLER: Sasha Drive is how long? 3 That's a pretty long drive, isn't it? How many -- yeah? 4 Okay. 5 MALE SPEAKER: It's probably not a long -- 6 it's not long. 7 CHAIRMAN MILLER: Okay. 8 MS. SULLIVAN: It's not the span of the 9 development. That's my concerns. 10 CHAIRMAN MILLER: Okay. Thank you. 11 MS. SULLIVAN: And the density, the density 12 increasing. 13 CHAIRMAN MILLER: Thank you very much. 14 MS. SULLIVAN: Okay. Thank you. 15 CHAIRMAN MILLER: Michael Shives. You have 16 been sworn in, Mr. Shives? 17 MR. SHIVES: Yes, sir. 18 Whereupon, 19 MICHAEL SHIVES, 20 A witness herein, after being first duly cautioned and 21 sworn was examined and testified as follows: 22 CHAIRMAN MILLER: And your name and address,

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1 please. 2 MR. SHIVES: Michael Shives, 20311 Parkwood 3 Courts. I'll use this here. Sorry, I chicken-scratched 4 while I've been here, so it won't be very polished. 5 So, I'd like to add to the points already 6 made so far, especially the developer trying to avoid the 7 public hearing process by probing for minor changes that 8 still end up with the same ultimate goal of over 1100 9 dwelling units eventually, by just trying a new approach, 10 long-term strategy, that's what it appears. 11 The community has repeatedly succeeded in 12 showing that high density has most of say 1100 units 13 eventually, if the -- if the apparent strategy happens, 14 it's a bad plan for this area. And this has been going on 15 since I think they said 2006, uh, this whole, uh, protest 16 process. 17 So, um, basically we are asking, please 18 don't allow the developer to incrementally get to their 19 ultimate goal despite the (inaudible) to the local 20 community of -- of very high density, has -- the 595 will 21 have enormous impact, all presumed family homes, this area 22 is -- it's incompatible with the area.	1 10905 Sasha Boulevard. Uh, I'm in completely opposed of 2 this -- uh, of this new development, uh, because of like a 3 few issues. 4 First in the water pressure, as she 5 mentioned, the water pressure existing -- like my house is 6 the very first house, and the water pressure is like not 7 that good and don't know how the new more houses, uh, you 8 know, how that's enough water pressure. So, water pressure 9 is definitely a challenge, first. 10 Second is the school and district. Existing 11 school and district is not that capable enough to handle 12 more kids in the -- so, don't know how the new -- uh, you 13 know, more kids -- uh, in the development, having to go to 14 school, you know, school and district have those issues. 15 Third is that Mt. Aetna Road is not that 16 wide enough. Mt. Aetna Road is not that wide enough to 17 handle more traffic for sure. 18 Five hundred more some houses are coming. 19 This causes some -- you know, cars gonna be on the road. 20 Like, and they're talking that Sasha gonna be a secondary 21 entrance. Just look at that realistically. Sasha gonna be 22 the primary, like entrance.
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1 There's single family homes, farms, adjacent 2 farms, including a large Mennonite farm, tractors, golf 3 course, country roads, uh, many that can't be widened from 4 everything I've heard; uh, water issues, legal issues, as 5 was discussed potentially. 6 So, and I'd just like to raise awareness for 7 the Mennonite near there, that this will be a major impact 8 to his farm and family's dairy farm. 9 And I'd just -- just ask for consideration 10 of all those points. 11 CHAIRMAN MILLER: All right. Thank you, Mr. 12 Shives. 13 MR. SHIVES: Mm-hm. 14 CHAIRMAN MILLER: Um, Jaiken Petule -- 15 Petulla. You've been sworn in? 16 MR. PETEL: Yes. 17 CHAIRMAN MILLER: Okay. 18 Whereupon, 19 JAIKEN PETEL, 20 A witness herein, after being first duly cautioned and 21 sworn was examined and testified as follows: 22 MR. PETEL: My name is Jaiken Petel, address	1 And, you know, because of the community. 2 And Sasha is -- there's no -- there's definitely -- so 3 they're gonna use that as a primary entrance for the new 4 development, and Mt. Aetna is not that wide enough for -- 5 for additional more cars. 6 So, I'm completely opposed of this new 7 development. Thank you. 8 CHAIRMAN MILLER: Thank you very much. 9 Shogo Vanotti (ph). Did I say that right? 10 MR. VANOTTE: Good evening. 11 CHAIRMAN MILLER: Good evening. Have you 12 been sworn in? 13 MR. VANOTTI: I've been sworn in. 14 Whereupon, 15 SHUGO VANOTTI, 16 A witness herein, after being first duly cautioned and 17 sworn was examined and testified as follow: 18 MR. VANOTTI: And I live at 20509 Shady 19 Lane. 20 CHAIRMAN MILLER: And your name was? 21 MR. VANOTTI: Hugo Vanotti. Um, traffic is 22 higher cost, since this was July, the builders and

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1 associates is having -- doing everything, tricks, insults, 2 to all of us, they call us an antiquated lifestyle. 3 Everything they were talking about is, "Our clients, our 4 clients, our clients." 5 They're very clear and understand what 6 they're planning. They want to change this entire area. 7 Have you ever been to Clarksburg, or names of the town, 8 what they look like? You've never seen Ryan Homes? I'm 9 sure you have. 10 CHAIRMAN MILLER: I have not been to 11 Clarksburg, no. 12 MR. VANOTTI: Yeah. But you have seen Ryan 13 Homes and what they do -- 14 CHAIRMAN MILLER: Yes. 15 MR. VANOTTI: -- yeah? Those apply with -- 16 you think the fire that comes on there is going to be good 17 for that development there? 18 What we hope for is that at least you make a 19 decision this is a major change. In the original plan 1.2 20 acres was allotted to each unit; now we're down to .4 and 21 less than that. 22 This is not a major change in increasing the	1 CHAIRMAN MILLER: Katrice? 2 FEMALE SPEAKER: Some people may not have 3 gotten a chance to sign in. 4 CHAIRMAN MILLER: Oh, okay. I'm sorry. 5 MS. KATRICE: I also think there was some 6 confusion on the signup. Because at previous stages those 7 who are wanting to speak now were in opposition. 8 So, I was looking at the list, and I noticed 9 some names I think were on the wrong list. 10 CHAIRMAN MILLER: Yes. 11 FEMALE SPEAKER: Well, everyone that's 12 spoken currently are people that are in support of the Mt. 13 Aetna Advocacy Group. 14 MS. KATRICE: Yes. 15 FEMALE SPEAKER: As it clearly states. That 16 is the individuals that we are hearing from right now. 17 Do you want to support the Mt. Aetna 18 Advocacy Group that is asking for the board to look at the 19 Planning Commission's approval of a minor change? 20 CHAIRMAN MILLER: I'm going to give you the 21 address of this next person. It's 11042 -- 22 MS. CARPENTER: Oh, that's me. I -- I have
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1 height of the house to like 60 feet? And also, you could 2 expect that to start with the single-family homes, that are 3 similar to what is currently there, develop that and then 4 increase. 5 What they want is built on the rich, the 6 highest area of the development, the highest building, to 7 create that and then later come back and say, "Well, you 8 can build anything there." We understand what it is. 9 So, we at least hope that it is reversed and 10 to start fresh, because their only thing is to sell and to 11 rent condominiums. I think it's very clear this is not a 12 reasonable, it needs changed, the plan needs improved. So, 13 I would ask you to send this back. Thank you. 14 CHAIRMAN MILLER: Thank you, sir. 15 I cannot read this last one. Andrea? Is 16 that even close? 17 MS. FELKER: I guess not. 18 CHAIRMAN MILLER: Who hasn't spoken yet? 19 Give me your name. 20 MS. KATRICE: Candace. 21 CHAIRMAN MILLER: What is it? 22 MS. KATRICE: Candace Katrice.	1 the worst handwriting in the whole world. So, I will 2 apologize. 3 FEMALE SPEAKER: Clearly. 4 MS. CARPENTER: And -- and mine is better 5 than my husband's, so -- 6 CHAIRMAN MILLER: So, you have been sworn 7 in? 8 MS. KATRICE: I have been sworn in, yes, 9 sir. 10 Whereupon, 11 CANDACE CARPENTER, 12 A witness herein, after being first duly cautioned and 13 sworn was examined and testified as follows: 14 CHAIRMAN MILLER: And give us the real name 15 now. 16 MS. CARPENTER: My name is Candace 17 Carpenter. And I do live at 11042 Sonny Lane. 18 CHAIRMAN MILLER: Go ahead. 19 MS. CARPENTER: Okay. I have two things 20 that I mostly wanted to address. So, I -- I also am 21 addressing this letter from the -- the Planning Department. 22 Um, part of my concern, and I -- I don't

Page 54 1 think it fully addresses the issue. So, in here, in the 2 second paragraph, they cite to Ordinance Section 16A-63. 3 But they don't give you the full language of 4 that provision. They say -- you know, it states, 5 "Following approval the Applicant shall submit a site plan 6 or subdivision within six months. There are no other time 7 limits or expiration periods dictated by the county." 8 That's not accurate. If you read the full 9 provision, it says what they say and then it goes on and 10 says, "And" -- and meaning also -- "construction shall," -- 11 meaning must -- "begin within one year of site plan." 12 Well, then you look down here in the last 13 paragraph of this letter and it says, "According to our 14 records, the site plan was for March 16 of 2020." Well, 15 we're outside a year of March 16 of 2020. So, it just 16 ignores this additional requirement. 17 Now, I agree the wording does not explicitly 18 say, "If these aren't met it expires," but it doesn't say 19 what happens. So, what happens? 20 I mean, it says that's the -- here that -- 21 or at least the department seems to suggest that it's a 22 time limit and it's an expiration period.	Page 56 1 it. 2 So, we know -- I mean, you guys are smart, 3 practical people. 4 CHAIRMAN MILLER: Not really. 5 MS. CARPENTER: I assume you're smart, 6 practical people. That -- that's why they need to change 7 it. They need to change it because, under the current 8 financial circumstances of building costs they can't make 9 any money. 10 So, what did they do? They tried to shift 11 as much as they can into the first phases so that then when 12 they say, "Okay. We built the first phases under this 13 minor change, now we can't make money building these -- 14 this latter phase. Now we're going to apply for another 15 minor change." 16 And now this minor change is more in unity 17 with these last two phases that we just did. So that will 18 be easy to slip through. 19 There won't be any issues of whether this is 20 a minor or major change because now they match the units 21 that we were just allowed to build." 22 I mean, from a practical, realistic
Page 55 1 And I think that would be my interpretation 2 of it, because why else have this mandatory language in 3 there if there is no consequences for not meeting the 4 mandatory language? So, I think the issue is not addressed 5 by this letter. 6 The other thing I want to bring up is, is I 7 think that part of the home owners' concerns is -- is that 8 this whole process has felt very disingenuous from the 9 developer. 10 In the very beginning of this, whenever 11 there were letters submitted to the Planning Commission, 12 one of the very first letters the developer said, "We need 13 this change because it can't make money under the current 14 plan." 15 Under the current one, the 590 some units, 16 it can't make any money. And I apologize, I don't have it 17 in front of me, in the ordinance, but I'll make sure the 18 attorneys get it. 19 There's a provision in the ordinance that 20 explicitly says, "A change to a PUD cannot be predicated on 21 financial need or financial incentive." That's not a 22 justification to change a PUD. And they came out and said	Page 57 1 standpoint that's what's happening. Don't let it happen 2 without at least a public hearing. 3 I mean that's really what we're asking for. 4 And the code does not define major or minor. So, it is 5 really discretionary. 6 So, we are asking that you find that this is 7 at least potentially a major change, send it back to the 8 Planning Commission, give them an opportunity to say, "Is 9 this in line with the ordinances? Are they asking for the 10 change for an improper purpose," which I believe they are. 11 And is this a major change because these 12 first two sessions or -- or phases aren't in compliance 13 with the density standards, which every phase has to be, 14 and not allow them to skirt the process and slide this in. 15 I'm sorry. I know I'm past my time. 16 CHAIRMAN MILLER: You went past your time. 17 I am smart enough to know that. 18 MS. CARPENTER: I'm sorry. I'm sorry. 19 CHAIRMAN MILLER: All right. Thank you very 20 much. 21 All right. Steve? Steve, have you been 22 sworn in?

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1 MR. STEIN: I have. 2 Whereupon, 3 STEVEN STEIN, 4 A witness herein, after being first duly cautioned and 5 sworn, was examined and testified as follows: 6 CHAIRMAN MILLER: And state your name and 7 address please. 8 MR. STEIN: Steven Stein, 1010904 Statton 9 Lane. 10 CHAIRMAN MILLER: Okay. Thank you. Go 11 ahead. 12 MR. STEIN: Okay. Uh, my name is Steve 13 Stein. I live at 10904 Statton Lane, which is basically 14 ground zero for this construction site. My house will be 15 the most closest to this development. 16 My house is also closest to the road. And 17 my house is also, I think, one of the highest houses in the 18 development with some of the worst water problems in the 19 development. 20 One of the concerns that I have is we 21 recently moved here from Bakerstown in 2017. When we 22 bought our house, we were required to have a fire	1 And on June 14, a car recently just smashed into the 2 guardrail at the beginning of the development, which I'm 3 sure most people that have been blocked off will know. 4 Uh, both of those cases are just sort of the 5 -- what we expect to happen, out on this road, all the 6 time. Uh, traffic is not very good on our road. It goes 7 very fast. 8 And I'm very concerned about how the road 9 would handle excess traffic, with all these new 10 developments going in, because it already can't handle 11 that. 12 And, again, the builder is saying that they 13 will get it up to requirements once they start building. 14 But, in the meantime, is it just gonna get worse and we 15 accept that? 16 Uh, finally, I love the new park that you 17 guys put in for us, with the playground and all the new 18 equipment, (inaudible) there. You know, we have a lot of 19 new traffic on that road. 20 And I really am concerned about, you know, 21 "Can I ever really let my kid ride his bank down this road 22 with all this traffic getting there?"
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1 suppression system installed in our residence. 2 I don't believe most of the other houses in 3 the development have that presently. So, one of my great 4 concerns is that the developer states that if the water 5 isn't up to requirements that he will get it there 6 eventually, during this building. 7 My problem is that my water pressure, if it 8 isn't up to where it is all the time, my fire suppression 9 system that is -- that was mandated by the -- by the 10 building code that is required by law now -- or not law but 11 is required to work may not work anymore. 12 So, I have a -- sort of a selfish 13 requirement with this development in that, yes, we have 14 major problems with water, but for me it's a direct concern 15 for my house, my family, myself. 16 And I'm very concerned about how the 17 developer will handle that when they're building up this 18 development. 19 Uh, on top of that, I also just have another 20 concern with traffic on Mt. Aetna Road. In the past few 21 months -- I think it was February 4, a car smashed into a 22 telephone pole directly across the street from my house.	1 Uh, the roads have no sidewalks. The 2 sidewalk in front of our development is only -- is asphalt 3 right now. I don't think it's ADA compliant. I would be 4 concerned about who is gonna maintain that and who is gonna 5 be responsible for that sidewalk. 6 So, again, I'm in support to -- opposing 7 this -- 8 CHAIRMAN MILLER: You're supporting the 9 development? 10 MR. STEIN: No, I'm -- I'm not. According 11 to -- I think I've been before you before. So, again, 12 thank you very much. 13 CHAIRMAN MILLER: Thank you. 14 And the last one on my list -- um, I'm gonna 15 give you the address, 11128 Shalom Lane? 16 MR. BATES: Yes, Mr. Bates (ph). 17 CHAIRMAN MILLER: And you have been sworn 18 in? 19 MR. BATES: Yes. 20 CHAIRMAN MILLER: And your name please, and 21 address? 22 MR. BATES: 11128 Shalom Lane, Bates.

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1 CHAIRMAN MILLER: Okay. Go ahead. 2 MR. BATES: Okay. So, uh, I applied alone, 3 uh, for here. You know, it has nothing to do with the law, 4 okay? It has to do with safety, okay? 5 Our neighborhood, Black Rock, uh, a lot of 6 families with children, okay? And we all moved to the area 7 because it was a safe neighborhood, okay, with very nice 8 houses, you know, a half-acre plus land. 9 The developer, you know, has multiple times 10 said, "People don't want large houses with large lots." 11 Well, guess what? People that moved into that community 12 want that, that's why we moved there, okay? 13 And now they're trying to connect another 14 community to ours that doesn't conform with our HOA 15 Standards, okay? 16 And they're trying to use our road to get 17 into that community. And they want to widen it to a four- 18 lane road, taking half of the people who live on that 19 road's front yard out, okay? 20 I -- I -- I don't know how you can approve 21 something like that. If you -- you know, this -- if this 22 was your house on that road, how would you feel? Okay?	1 And if Sasha's, you know, not the way to get 2 in, it's blocked, they're gonna use another road, okay? 3 And that jeopardizes the safety of our community. 4 And I really want you guys to think, if this 5 happened to you, how would you feel? 6 CHAIRMAN MILLER: All right. Thank you, 7 sir. 8 FEMALE SPEAKER: Okay. 9 CHAIRMAN MILLER: So, you didn't sign up? 10 MS. WALLACE: I did sign up, but you must 11 have skipped me, because I was before Aneala and Martha and 12 (inaudible). 13 MALE SPEAKER: She may have signed the wrong 14 list, like we did initially. 15 CHAIRMAN MILLER: I think -- 16 MS. WALLACE: No, I -- 17 MS. FELKER: It's okay. You don't have to 18 physically be signed up. It just makes it easier to call 19 people up. 20 MS. WALLACE: Thank you. 21 MS. FELKER: So, if you haven't -- if you 22 haven't signed up -- if you didn't sign up and you still
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1 someone came in and just took your safety net away, okay? 2 Another thing is, the traffic study that was 3 done, I believe was done incorrectly, okay? They put the 4 houses, the 500 plus houses, like they were already built, 5 in that traffic setting, okay, non-existent houses; how can 6 you add houses and the traffic level goes down? That 7 doesn't make sense. Right? So, I really think someone 8 needs to go back and look at that traffic study again. 9 And, you know, they say that the traffic 10 level is within limits. Well, whose limits are they 11 looking at? They didn't look at my limits, okay? 12 I don't want to live in a community where 13 there's actually 8,000 cars coming through one of our 14 roads. And now I can't walk my dog. My kids can't walk on 15 the street. 16 Now, I don't even live on Sasha. I couldn't 17 imagine, the people who live on Sasha, how they feel. 18 Okay? I live on Shalom, which crosses Sasha. But I live 19 on the other end. 20 But I feel like all our -- our streets are 21 gonna be impacted, okay? Because people are going to drive 22 through our -- our neighborhood to get into this.	1 wish to speak, we'll just take you guys in the order that 2 you -- 3 MS. WALLACE: The disadvantages that my 4 neighbors have so eloquently presented our case -- 5 CHAIRMAN MILLER: Are you Patrice? 6 MS. WALLACE: Yes, I'm Patrice. 7 CHAIRMAN MILLER: I missed you. 8 FEMALE SPEAKER: There you go. Okay. 9 MS. WALLACE: Okay. All right. That's 10 because -- 11 CHAIRMAN MILLER: I was too busy looking at 12 the other names. 13 MS. WALLACE: -- they all went, and I have 14 to summarize, that's all. 15 CHAIRMAN MILLER: You're -- 16 MS. CARPENTER: I recall, Patrice, he was 17 trying to pronounce my name and my terrible writing. 18 MS. WALLACE: That's all right. And I can't 19 follow, um, Candace. 20 But, what I'm doing, I am hoping that I can 21 appeal to you. 22 CHAIRMAN MILLER: I'm sorry. Have you been

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1 sworn? 2 MS. WALLACE: Oh, I'm sorry. Patrice 3 Wallace. 4 CHAIRMAN MILLER: Were you sworn in? 5 MS. WALLACE: Yes, I've been sworn. 6 Whereupon, 7 PETRICE WALLACE, 8 A witness herein, after being first duly cautioned and 9 sworn was examined and testified as follows: 10 CHAIRMAN MILLER: All right. 11 MS. FELKER: Your address? 12 CHAIRMAN MILLER: And your address? 13 MS. WALLACE: 10933 Sasha Boulevard. 14 CHAIRMAN MILLER: Thank you. 15 MS. WALLACE: So, I'm on the -- the proposed 16 (inaudible). 17 CHAIRMAN MILLER: Thank you. 18 MS. WALLACE: Um, I just want to appeal to 19 you -- well, let me preface this by saying I'm not a land 20 use planner and neither am I a civil engineer. 21 But something I -- I hear going back and 22 forth has not been addressed, which I believe has to be	1 started a public hearing, "Is the street in Hagerstown City 2 called Atlantic Drive," that they have a development up 3 against some single-family homes? 4 They put a brick wall, with an emergency 5 access, wrought iron fence that you could pull the pin out, 6 but it's aesthetically pleasing. It does not compromise 7 the single-family homes and it contains the development. 8 And it's not Atlantic Drive, it's not a throughway. 9 Further, I said, "Has anyone considered" -- 10 I know there's desires, because they want to hook Robin 11 Wood to the interstate -- has anyone considered Widdenham 12 Road, instead of Mt. Aetna, which is the -- I mean that's 13 one of the things I love, especially in a convertible, 14 flying around those -- going up and down hills. 15 But if you think -- Widdenham Road goes from 16 Robinhood, and they're building a development in 17 Beaver creek, if you went straight through you would hit 18 Route 40. And you have farm-flat land all there. Why 19 couldn't that make the entry and exit points? 20 So, I just wanted to add that I agree with 21 everything my neighbors have said. We moved there because 22 of the community. I -- I love the fact that there's so
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1 addressed. 2 With Sasha Boulevard, as we have stated, we 3 have families that have moved there. Our kids run through, 4 we have dog walkers, we have runners, etc. 5 But if you look at other developments, you 6 have Greenwich, you have Brightwood, you have Camptons. 7 They all have entry points in, entry points out. They're 8 contained, okay? 9 Now, with Sasha, it was my understanding 10 that the proposed going straight was because there would be 11 more of the Black Rock Community at one time, as it is, 12 with the same aesthetics. That has since changed; the 13 housing market, the recession, and that's all 14 understandable. 15 But I propose that we're dealing now with a 16 PUD that's dealing with hundreds of acres. Why do we have 17 to come through the Black Rock Development, Sasha 18 Boulevard, when you have the span, you have the -- the 19 space to develop your own land, your own entry and exit 20 points? 21 And I thought when Atlantic, when it first 22 started, I sent a picture to the Commissioners, when they	1 many young families there, young children. And I see them 2 riding their bikes, riding the school bus, even go karts, 3 which are -- are really cute watching them zip through. 4 And I cannot image that street becoming a 5 throughway, a four-lane highway, going straight through, 6 when everyone is trying to walk and do our morning walk. 7 So, I'm asking you -- I'm -- I'm humbly 8 asking you to think about our quality of life, why we moved 9 there, why everyone else wants to move there, because we 10 have made an investment in our community. 11 And I thank you very much for your time. 12 CHAIRMAN MILLER: Thank you, Patrice. Sorry 13 I forgot you. 14 MS. WALLACE: That's okay. 15 CHAIRMAN MILLER: Who else did I forget? 16 Did you sign? 17 MR. SHRIVER: I think I signed the wrong 18 sheet. 19 CHAIRMAN MILLER: That's okay. Come on up. 20 MR. SHRIVER: I have a handout. May I 21 please give -- 22 CHAIRMAN MILLER: Yes.

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1 MR. SHRIVER: -- everyone a handout? 2 CHAIRMAN MILLER: Do you -- do you have one 3 that can be recorded also? 4 FEMALE SPEAKER: We'll get him one. 5 (Inaudible). 6 CHAIRMAN MILLER: I'll try to watch, but I 7 don't guarantee anything. Thank you. 8 MALE SPEAKER: Your lawyer's not here, 9 right? 10 MR. SHRIVER: We didn't see anything. 11 FEMALE SPEAKER: All right. Thank you very 12 much. 13 MR. SHRIVER: My name is Gary Shriver. I 14 have already been sworn in. 15 Whereupon, 16 GARY SHRIVER, 17 A witness herein, after being first duly cautioned and 18 sworn, was examined and testified as follows: 19 MR. SHRIVER: I live at 10900 Top Flight 20 Court, Hagerstown, Maryland, 21742. 21 I've lived in the neighborhood, Black Rock 22 neighborhood for nine years, ten years. I agree with	1 This proposal here, the developer sent their 2 people there that night on 28, September. And everything 3 that the community and the Black Rock and other people that 4 lived along Aetna brought up, they were gonna deal with, 5 after the fact. 6 They were gonna push the water concerns 7 later on, after they already had started the development. 8 The roads, the traffic down Sasha Lane, which would become 9 the main entrance, "Oh, well we have six feet on each side 10 of the existing Sasha Boulevard, that we can -- we can make 11 that wider." 12 I'm telling you, you all need to go look at 13 Sasha Boulevard. You take six feet on the eastern side and 14 you've done severe damage to the storm drain systems, by 15 covering them. Okay? I'll speed it up. 16 Anyway, everything was after the fact. This 17 is just a ploy. Because, once they start this and get into 18 this, they're gonna want to build the other 500 and some. 19 So, everything they said that night was just 20 -- they were salesmen trying to sell us on the idea. And I 21 -- they weren't very -- in my opinion -- truthful or 22 forthcoming or honest about their proposal.
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1 everything my neighbors have said here. I just want to add 2 a couple of things. 3 First, water pressure, there have been times 4 when there have been fires here in Hagerstown, and we have 5 no water pressure at all, at our house. And I don't live 6 on the east side of Black Rock. I live on the west side. 7 So, my pressure is better than what the east side is. 8 So, like I said, there was a fire down here, 9 a few years ago in Hagerstown, and our water pressure was 10 off for three or four hours, the water pressure. 11 My wife and I attended the County 12 Commissioner's meeting on September 28 to go over the PUD's 13 expansion to 1100, 1200 houses or apartments or whatever. 14 At that time, they were using the entire 15 area there. Now, all of a sudden, they've moved the 16 original 585 homes or houses, apartments, down to just the 17 eastern end of it. 18 The one thing I learned at this twenty -- 19 the September 28 meeting with the County Commissioners that 20 rejected the expansion to the 1100 and some homes was, 21 originally the entire area was for the 595, 585. So, they 22 really doubled it and, you know, condensed it in.	1 Thank you very much. 2 CHAIRMAN MILLER: Thank you. Thank you, 3 sir. 4 Who else did we miss? 5 MS. FELKER: This is the -- 6 CHAIRMAN MILLER: This is the list -- 7 MS. FELKER: -- in opposition. So -- but I 8 don't know if they are for this appeal or this -- 9 CHAIRMAN MILLER: Is anybody in opposition 10 to this case? 11 MS. FELKER: Yes. 12 CHAIRMAN MILLER: So, we have Metpow and Mr. 13 Erst? 14 MS. FELKER: Yes. Okay. 15 MR. BRISKEN: And can we give one to the 16 panel? 17 CHAIRMAN MILLER: Yes, sir. Okay. 18 FEMALE SPEAKER: They're representing a 19 group? 20 CHAIRMAN MILLER: Right. So, they -- 21 FEMALE SPEAKER: You're representing your 22 group, correct?

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1 MR. BRISKEN: That's correct. 2 FEMALE SPEAKER: Okay. Then that would be 3 -- they are representing a group. They are allowed eight 4 minutes. 5 MALE SPEAKER: (Inaudible). 6 MS. FELKER: State your name and address for 7 the record, please. 8 MR. BRISKEN: Yes. My name is Dell Brisken. 9 I'm with the law firm of Offit Kurman. The address is 8850 10 Stanford Boulevard, Suite 2900, Columbia Maryland, 21042 11 FEMALE SPEAKER: Yeah? 12 MR. KYLE: Matthew Kyle. I'm with Zero-E 13 Group, 10212 Governor Williamsport, Maryland, 21755. 14 MS. FELKER: Mm-hm. Thank you. 15 CHAIRMAN MILLER: Okay. Go ahead. 16 MR. BRISKEN: I'm going to try to be very 17 brief and just address some of the legal issues that have 18 sort of been floating around here. 19 CHAIRMAN MILLER: Please do. 20 MR. BRISKEN: And then I'm going to let Mr. 21 Pell have most of the time to talk about the minor 22 modifications to the development plan.	1 Commission made a recommendation to the Board of County 2 Commissioners recommending denial. But that does not 3 disqualify them for the denial of a major modification by 4 the Board of County Commissioners. It does not -- it does 5 not pause for one year, prohibition, before you can even 6 come in and make a -- a minor modification. That doesn't 7 apply. 8 So, I guess the only thing I'd like to say 9 is I just really do concur with -- uh, with staff's memo, 10 that Ms. Baker submitted, I thought was a very well- 11 reasoned staff report memorandum in -- uh, in advance of 12 tonight's proceedings. So, I would adopt that line of 13 testimony. 14 CHAIRMAN MILLER: Thank you. Okay. 15 MR. KYLE: Good evening. I'll try to keep 16 this as brief as I can, on rebuttal, on some of this. I -- 17 um, I don't believe we're -- uh, in addition to what Bill 18 had said, I didn't believe we were -- we were approving the 19 PUD again tonight. 20 So, to clarify, the PUD is already approved. 21 It's an approved PUD. Uh, it was approved in 2005. And 22 there were minor modifications that were suggested.
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1 The first thing that I'd like to talk about 2 is the suggestion that the development plan is expired. 3 The first thing I'd like to say is that issue is not before 4 you tonight for appeal. 5 If you look at the application for appeal, 6 they were asked to specify where they think the Planning 7 Commission errored, and they did not list -- uh, that they 8 failed to find the plan to be expired. So that issue is 9 not before you tonight. Having said that, it's not 10 expired. (Inaudible), to that. 11 The next issue I'd like to address is there 12 is a suggestion that the Planning Commission errored in 13 accepting the Revised Development Plan within a one-year 14 period of time. And that also is -- is not accurate. 15 The provision that they're referencing says 16 that, "When the Planning Commission denies a development 17 plan or a site plan amendment a new one cannot be 18 introduced or accepted for a period of one year. 19 The Planning Commission never denied any 20 modification of these plans. It is true that the Board of 21 County Commissioners did deny. 22 And it's also true that the Planning	1 It's true that we came in, uh, and 2 originally submitted a -- uh, a plan that doubled the 3 density. And it is true that there are financial 4 advocations to the development. 5 When we -- when we came back, we were denied 6 on that. We came back, we took a look at the plan. We 7 submitted a new plan that was more in conformance with the 8 -- with the original approved PUD plan. 9 Uh, we got some comments back from the 10 Planning Commission. We went back and revised that and 11 felt that it was substantially in conformance with the 12 original plan. 13 The original plan -- uh, and if you look at 14 that plan, compared to the one we submitted, uh, part of 15 the original plan, compared to that plan, is very, very 16 close. 17 Ms. Baker went through and -- and did a lot 18 of comparison, which is -- which we do concur with, that -- 19 you know, that the density was -- you know, although it 20 moved slightly, it's mostly in that corner, and the 21 original approved plan was as well. 22 There was some statements made that are --

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1 that are in the -- um, the appeal that were -- that were 2 erroneous. The -- the maximum allowed density is 12 units, 3 dwelling units per acre. It's not per phase. 4 And even in the approved -- the orig -- the 5 original improved plan that's out there now does show the 6 phasing. And it has phases that exceed most dwelling units 7 per acre, they describe at 2.7, when the small chart -- 8 we'll bring it up on there -- it already does that. 9 So, it's 12 units per acre across the entire 10 PUD. And the phasing is -- is -- is only there for 11 guidance on how we would develop the plan. 12 The -- the phasing -- again, we go back to 13 the phasing. There was a lot of discussion about, "Why 14 don't we go back to the original phasing?" 15 Uh, the original phasing, that was on the -- 16 on the original PUD -- and that we're just going to pull it 17 up, so we can describe that -- has the entire back of the 18 community being developed first, with all the traffic going 19 through Sasha Boulevard for the entirety of the 20 development, and then working your way out to the front. 21 We -- you know, the reason for a lot of the 22 -- the changes that we made were to make it a lot more	1 Their -- one of their comments was, "We 2 would like to see single-family homes; we're in single- 3 family homes. In our new plan, we did that. Uh, we went 4 through, and we bordered most of that plan with all single- 5 family homes; even the 1100 lot plan we did that. 6 We took a lot of their comments into 7 consideration when we put this together and felt that we 8 were -- we were doing our public outreach, to make sure 9 that we -- that we were, uh, working with our neighbors. 10 But I've never had, since this has began, 11 the HOA or any of the homeowners reach out to us and say, 12 "Hey, let's work together." 13 This is an approved PUD. It's already 14 there. We could build it today. We went through and 15 designed it to what we felt was a little bit better for the 16 community. 17 It felt better for our neighbors, better for 18 the market as it is today, and -- and something that will 19 work, and it will be something for the county, and -- and 20 it will not be adversarial to what they have. 21 The development, as it is, is never gonna be 22 friendly. This has always been planned. There's always a
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1 develop -- development friendly for today's environment. 2 Uh, they -- there -- there is a lot of spin 3 put on, uh, we crunched a lot of density in the part of 4 this community, we didn't spread them out. 5 But, if you look at that plan, in 6 comparison, eventually that was back, and there was some 7 Veer lot line townhome products that was in the back 8 corner, that bordered some existing apartments and -- and 9 town homes, in a border-like manner. 10 But the majority of this plan, in the -- in 11 the open space, was centralized in that area. Two hundred 12 and some homes, right now, per this approved plan, if built 13 the way per the phasing would come through Sasha Boulevard 14 before it ever gets to the front and out to Mt. Aetna Road. 15 And that's per the existing phasing, per the 16 approved site plan adopted right now. So, what we did was 17 took a really hard look at this. 18 Before we ever submitted anything to this 19 county, we submitted -- we submitted it to the HOA, the 20 Black Rock Estates HOA and asked for their comments back on 21 what they would like to see. We had letters back from 22 them.	1 plan for all the neighbors, that know this, that -- that 2 Sasha Boulevard dead ends at this property. 3 It's the same property owner that developed 4 Black Rock Estates, from the beginning. And their -- their 5 intent to develop this was clear. Uh, there's no secrets 6 about that. 7 Uh, some of the other comments that were 8 made in the -- in the appeal, height -- height 9 restrictions. We're -- we're clearly -- there's some play 10 on those words. 11 We're clearly within the allowable height 12 restrictions within the ordinance. Most of the product 13 that we propose in our original -- uh, original 1100 plan 14 proposal was stuff that we build in the county now. Uh -- 15 CHAIRMAN MILLER: Matt, your time is just 16 about up. But I -- 17 MR. KYLE: Okay. 18 CHAIRMAN MILLER: I -- I have a couple 19 questions, too, that -- 20 MR. KYLE: Sure. 21 CHAIRMAN MILLER: -- I would like. And it's 22 probably going to address some of the things you're going

Page 82 1 to pull up here. 2 So, you've heard the concerns about traffic? 3 MR. KYLE: Yes. 4 CHAIRMAN MILLER: You've heard the concerns 5 about water pressure. Touch base on those. 6 MR. KYLE: Okay. 7 CHAIRMAN MILLER: Please. 8 MR. KYLE: Um, so, we're bound by the APFO. 9 And a lot of the discussion that we continue to have -- we 10 continue to have with the -- when we originally submitted 11 the 1100 lot plan and the minor -- the minor plan, is that, 12 uh, we're hearing, "Traffic," we're hearing, "Public water 13 issues," we're hearing "School capacity issues." 14 We understand all of this. 15 CHAIRMAN MILLER: Mm-hm. 16 MR. KYLE: But the APFO that was -- the APFO 17 Ordinance governs all of that. And so, once we get through 18 this -- what is -- what is conceivably a concept plan, by 19 definition, is we move into engineering and design. And we 20 have to comply with the -- with the requirements of the 21 APFO. 22 This is not the -- uh, forum to discuss	Page 84 1 sure that that doesn't happen, correct? 2 MR. KYLE: Correct. Yeah, we -- and -- and 3 I understand the opposition just wants the development to 4 go away. 5 CHAIRMAN MILLER: Sure. 6 MR. KYLE: I get it. Um, but we -- it's 7 here. And it's an approved plan, and our intent is to move 8 forward. 9 What we can do is work it in consertion. We 10 reached out to every utility, met with them, discussed the 11 concerns, discussed what can be done with the -- with the 12 improvements in this community. 13 When we do develop it 595 lots will not be 14 developed at one time, I can assure you. It will take a 15 matter of years, 10 to 15, my -- in my estimation, at this 16 point, in the way the absorption rates are right now. So, 17 this is not going to be an immediate impact. 18 But what we can do is -- all these concerns 19 with water pressure, this approved plan, right now, 20 addressed a lot of those concerns but was never developed 21 because the market tanked. 22 Uh, you know, we're in a situation now
Page 83 1 those comments, and to address them. We don't have enough 2 information at this time. 3 We did -- in our original study, we did 4 above and beyond what is ever required for a PUD submission 5 or a major or minor change, to quell a lot of those 6 concerns. 7 We did a traffic impact study. We'll have 8 to do a more in-depth traffic impact study. The school 9 capacity analysis was done. But it was done dropping 1100 10 students in all at one time. So, it's -- it's very hard to 11 address that. 12 We met with the Water Department. We 13 understand their concerns. Those will all be addressed 14 from the site plan and site engineering stage, once we get 15 there. 16 CHAIRMAN MILLER: And I agree. And that's 17 one of our statements that we say, in the beginning here 18 too, it's just that, you know, all the -- the opponents to 19 this thing would just like to hear that, "My water pressure 20 is not gonna go dead." 21 And I think you're trying to do that, 22 because it is going to go through the departments to make	Page 85 1 where, you know, jobs are coming, regardless of 2 (inaudible), jobs are coming. People are moving to this 3 area. 4 And we have the opportunity to, uh, mitigate 5 some of the concerns that are out there with this 6 development. And -- and that's our incentive. 7 And, uh, so I think what we've done is gone 8 above and beyond to try to address as many of these issues 9 as we can today. But we can't -- we can't address them in 10 depth until we get to the next stage, which is not like 11 here. 12 CHAIRMAN MILLER: All right. Does the Board 13 have any questions for anybody here? 14 MALE BOARD MEMBER No. 15 FEMALE BOARD MEMBER: No. 16 MR. LACOWSKI: Mr. Chair, my name is Lynn 17 Lacowski from (inaudible). Is there -- does the Board 18 have, as part of the official record, copies of both the 19 2002 approved plan and also the proposed 2022 plan? 20 MS. FELKER: No. Those were not provided. 21 MR. LAKOWSKI: Okay. So, I've got nine 22 copies of those, which I'd like to pass around and have one

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1 -- one copy of each made a part of the record. 2 CHAIRMAN MILLER: Okay. 3 MR. LAKOWSKI: And can I give that to you? 4 So, I guess that would be -- 5 CHAIRMAN MILLER: Exhibit A. 6 MR. LAKOWSKI: Exhibit A and B or 1 and 2. 7 MR. RAPISARDA: Do you have a copy for us 8 too? 9 MR. LAKOWSKI: Um, I can -- I can get you a 10 copy. 11 MR. RAPISARDA: That's good. This is from 12 2002? 13 MR. LAKOWSKI: Yeah. I think we have it -- 14 yes, it's the one you're on. 15 MR. RAPISARDA: Okay. 16 MR. LAKOWSKI: To make sure we have both. 17 CHAIRMAN MILLER: Okay. Do you guys have 18 anything -- 19 MS. FELKER: If I have some extra I can -- 20 CHAIRMAN MILLER: -- else? 21 MS. FELKER: -- give this back. 22 CHAIRMAN MILLER: I'm sorry. What?	1 to compel their rebuttal to all of what was just stated by 2 these, but you could do it if -- 3 CHAIRMAN MILLER: And I do -- I want to hear 4 the rebuttal from -- 5 FEMALE SPEAKER: -- way. 6 CHAIRMAN MILLER: -- what they just said 7 here. But we may pick it up again on -- 8 FEMALE SPEAKER: Is that -- you know, is 9 that everybody, though, that wanted to speak in favor of? 10 FEMALE SPEAKER: Yes. 11 CHAIRMAN MILLER: That was our list anyway. 12 FEMALE SPEAKER: Oh, now I'm confused. Um -- 13 CHAIRMAN MILLER: In support, you mean? 14 FEMALE SPEAKER: Whatever, yeah. We still 15 have time to which -- but I would say that once the 16 rebuttal is done, you basically have two options. 17 You may either close the -- close the 18 hearing and go into deliberation. 19 CHAIRMAN MILLER: Right. 20 FEMALE SPEAKER: At that time, no more 21 testimony can come in. 22 CHAIRMAN MILLER: Right.
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1 MS. FELKER: I said, "If I have an extra, I 2 can give one to the Appellant." 3 CHAIRMAN MILLER: Okay. Do you have 4 anything else to add at this point? 5 MR. LAKOWSKI: No. 6 CHAIRMAN MILLER: Okay. 7 MR. LAKOWSKI: Thank you, though. 8 CHAIRMAN MILLER: Um, so you did hear what 9 we were planning on doing, for possibly in the next two 10 weeks, we will probably readdress this issue again. 11 Let you have a chance to -- and I think 12 we're going to go ahead and allow -- even though this was 13 their time to speak, there may be -- it's the Board's 14 decision. 15 We may allow you guys to speak again, to 16 find out the, you know -- 17 FEMALE SPEAKER: You do not have to have 18 this hearing right now get to the point of deliberation. 19 You can decide to continue it. I'll provide them with 20 this. 21 But you can decide to do that, if you wish. 22 But right now, you could stop to allow them additional time	1 FEMALE SPEAKER: You can -- you can continue 2 your deliberations to the next meeting and no more 3 testimony can come in from anywhere, or your second option 4 would be to leave the hearing open and do a continuance to 5 the next, in -- in two weeks, whereby you would have to 6 open it up again to everybody for additional testimony. 7 CHAIRMAN MILLER: As much as I hate to do 8 that, I think that's the fairest way to possibly do it. 9 FEMALE SPEAKER: So, if that's how you feel, 10 that -- I'm just -- to be fair to everybody, I think you've 11 got one of two options. 12 Either you're cutting it off tonight, and 13 you're going to deliberate, or if you don't feel like you 14 have enough or you feel like somebody has more information 15 to provide, you have to leave it open for both sides to be 16 able to make able to make that judgment. 17 So, I would say let's defer the rebuttal for 18 now. Let them give their opportunity for rebuttal, and 19 then you guys have your discussion about how you want to 20 move forward. 21 CHAIRMAN MILLER: Okay. Okay. 22 FEMALE SPEAKER: That would be my

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1 suggestion. 2 CHAIRMAN MILLER: Thank you. 3 MR. RAPISARDA: Thank you. 4 CHAIRMAN MILLER: So, we're going to ask Mr. Rapisarda to -- 5 Rapisarda to -- 6 MR. RAPISARDA: Yes. Mr. Chairman and the Board, again, for the record, it's Greg Rapisarda on behalf of Dr. Carla Cutler and Mt. Aetna Advocacy Group. 7 I've got some notes to just try to cover some of the issues raised on rebuttal. Let me just kind of go backwards, based on the testimony that you just got. 8 Uh, I understand why an attorney would argue the original appeal documents don't mention that the PUD's expired, therefore it's not before you; I get it. 9 Um, and that's usually how it works in appeals on Appellate Courts. But in this case that was raised by the memo that DPZ put out, that said, "We haven't done" -- you know, they -- they responded to one of our other arguments and said, "We haven't taken any action on this for a long time." 10 And so, that's what they -- well, wait a minute, you're right, you haven't, and guess what, I think	1 acre. That's what it says. 2 But it says, "In determining the specific density for a particular PUD or a particular phase," and it talks about what the Planning Commission should give consideration to. 3 And then, what did they do? This was back in 2002, they came out and they approved the PUD at 2.7 dwelling units per acre. 4 So, I don't think it's accurate to say that a PUD can have 12 dwelling units per acre; in a vacuum they can. But once a PUD has been approved, the maximum density is whatever the maximum density that was approved. And in 2002, it was 2.7, which is all they can have today. 5 And then I -- I wanted to highlight this -- um, this part of the code to you. It is 16 point -- I'm sorry -- it's 16A.4 and it's J. If -- if you look up the code, it's on Page 137, right above 16A.5. And this is a change, and a change to the PUD and the original PUD, they're all subject to it. 6 "Phasing: In order to ensure that the PUD develops, uniformly, each phase shall independently conform to the density established by the Planning Commission for
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1 it's expired. So, anyway, that -- that's the reason for that. 2 And I don't understand -- I -- I get it. I think I'd argue it too, you'd say, "You can only do that one-year prohibition from when the Planning Commission denied some proposed change." 3 Well, frankly, under the code, the Planning Commission never denies, even the way that Mr. (inaudible) had described it, right? 4 All they do is recommend denial and then the Board of County Commissioners denies. So, maybe there's some other way the Planning Commission actually denies a major or minor change or a proposed PUD change. 5 But, to me, the only way they do it is if -- when they recommend denial, which is, in a sense, their denial. And that was back in July of 2021, July 19. 6 CHAIRMAN MILLER: Right. 7 MR. RAPISARDA: 2021, July 19, or 18, but I think it was 19. 8 All right. Let's see, so this is the 2002 Plan. In a vacuum, before a PUD has been created, the code says the maximum density for a PUD is 12 dwelling units per	1 the PUD tract," right? 2 That's the one I missed, saying it earlier. I was referring to A, where it talks about density; but this J, makes it very clear. 3 So, in 2002, the density of -- the approved density was 2.7. Now -- and it's to ensure uniformity, a uniformed development. And this is the 2002 one. 4 And then this is the -- it says, "The uniformity of development has the first two phases double or -- yeah, more than double the permitted density for this PUD," the first two pages. 5 It doesn't actually become a uniformed development, in theory at least, until 100 single-family homes are spaced over these 110 -- 120 acres. 6 So, you got 485 homes here, 100 over here. And we're supposed -- and that's just -- that's why -- that's just an example of why it -- it violates J. 7 And to the extent they want to do that -- they just tried to double the density and it was denied; that's fine. 8 It was stated that the opposition doesn't

Page 94 1 want the development. I get it. Some of -- some of the 2 opposition testimony was kind of against the PUD in 3 general, and things like that. 4 I just don't know that there's perfect 5 clarity around the appeal of the major/minor decision and 6 the changes versus the PUD. But all of that testimony 7 still applied to the changes. 8 And, frankly, on behalf of my client, 9 they're not opposed to the PUD, the old -- the 2002 PUD. 10 Build it. But they haven't done it for 20 years. 11 And in the last two years all they've 12 attempted to do is increase the density. And now, somehow, 13 the Planning Commission, somehow decided that changing the 14 density, doubling the density in the first couple phases 15 was somehow a minor change. 16 I mean, to me that's a legal error that you 17 can kick right away. That right there is enough to say, 18 that's a major change and it has to go back to public 19 hearing. It's not 12 dwellings, it's 2.7. And the first 20 two phases are not uniform. So, anyway, that was -- uh, 21 that was, uh, G. 22 So, let's see, not -- so they're not	Page 96 1 So, all of this, 110 acres, more than half 2 of this development is going to be Neighborhood F, in 2026 3 or 2028, with qualifications to do that (inaudible). 4 And I also think that while the -- so, 5 anyway, that's that, I think it's a violation. And, you 6 know, if this PUD's valid, the 2002 PUD is valid. And 7 that's the one that says, "Max, 2.7." And, uh, this -- 8 this doesn't meet it. 9 So, it should be rejected on that error, or 10 at least considered major and let them take it through. 11 Maybe they'll be back before this board as a variance, you 12 know, as a density variance, or maybe it just goes to the 13 Planning Commission for a public hearing. 14 But either way, these are not minor changes 15 that -- that should just sail under the -- under the radar. 16 Um, okay, let's see. All right. It's minor/major. 17 So, if it's major, interestingly enough, 18 it's specified, you have to spell out the density for each 19 phase and summarize the dwelling units and the gross 20 residential -- uh, residential density for each tract, 21 right? 22 But, because this was considered minor, none
Page 95 1 opposed. And these aren't minor changes. I mean, 2 increased the height, they've increased the height on 3 hundreds. 4 And they clustered 485 into the east corner, 5 doubling the permitted density for the PUD. And in Phase 6 3, they -- they pretend like, "Oh, it's all even. It's all 7 even development because we've spread 100 homes." 8 And -- and frankly, I'm not even sure that 9 this -- it says, "Phase 3," so let's just say Phase 3, 26 10 -- 2026 to 2028. 11 Then it says, "The phasing and development 12 schedule may be affected by a similar capacity limitations 13 per the city of Hagerstown, to its capacity." 14 So, it says -- it doesn't even say, "Phase 15 3." It just says, "Development schedule." Instead of 16 saying -- like here it says, "Phase One," and it tells you 17 the dwelling units, the acreage and then the cumulative 18 density. 19 This one just says -- it doesn't even call 20 it Phase 1, 2 and 3. It does call it, "Phasing," but it 21 says, "Neighborhoods, A, B, C," that's one, from 2022 to 22 2024. Neighborhood G, 24 to 26, and then F.	Page 97 1 of that information is on there, which is why we had to 2 approximate it, and it's over the density. 3 So, they didn't do anything wrong, because 4 if it's minor, they didn't have to put it. But because it 5 wasn't on there, it wasn't brought to EPZ's attention. It 6 wasn't brought to the Planning Commission's attention. 7 I mean, I can't image the Planning or EPZ 8 would say, "You can double the density in Phase 1 and 2, 9 and then smooth it all out in 2028," I -- I can't imagine 10 that. 11 But instead -- and this is where the 12 Planning Commission erred, as a matter of law, they're 13 supposed to look at whether it's a major or minor change. 14 They're not supposed to look at similarities. 15 And there were no meeting minutes on the 16 website for the 4-4 -- for the April 4 Planning Commission, 17 there is nothing. That's why we attached the agenda to our 18 appeal to this board. There are no meeting minutes. 19 So, really, we didn't have an idea how the 20 Planning Commission -- why they came to this position until 21 we got the memo from EPZ where they explained it. 22 And it explained it by saying, "Look at all

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1 the similarities, these are minor.” But that’s the 2 opposite of what the code tells the Planning Commission to 3 do. 4 It doesn’t say, “Look at the similarity.” I 5 could -- I could -- we could mention 100 similarities. It 6 says, “Look at whether the changes are major or minor.” 7 And once you focus on the changes, which is 8 what the Planning Commission should have been focused on, 9 it -- it become kind of obvious. 10 I mean, I guess it’s easy to slip through 11 and make a mistake if you’re focused on similarities, but 12 that’s not what the code tells them to do. 13 It says they should focus on major or minor. 14 These are major changes. The density issue is just one of 15 many, but these are significant and major. 16 And clearly, all these -- the testimony 17 about traffic and public facilities and water and fire and 18 safety, that all goes right to the density. 19 That’s why if they want to increase the 20 density, they should do a -- a public hearing. People 21 aren’t opposed to it, but they want to make sure that these 22 issues are addressed.	1 which means we could have these same people coming here 2 again. And I -- I don’t remember her name. 3 But do we really need to hear that? We know 4 their issues; it’s the traffic, it’s the water, it’s 5 property values, and we don’t need to hear it again. If 6 you all promise not to come, that would be great. 7 MALE BOARD MEMBER: But can’t we emphasize 8 the, no redundancy and -- 9 CHAIRMAN MILLER: Well, if it’s open to the 10 public, you can’t really specify -- 11 MALE BOARD MEMBER: No? 12 CHAIRMAN MILLER: -- because somebody could 13 show up that wasn’t here tonight. 14 MALE BOARD MEMBER: No -- somebody new -- no 15 -- yeah. 16 CHAIRMAN MILLER: I don’t think we can do 17 that. So, or we could go ahead and stop testimony right 18 now and go into deliberations, beginning in the next week 19 -- or next meeting. 20 MALE BOARD MEMBER: Could I make a motion? 21 CHAIRMAN MILLER: Yes. But let’s talk about 22 the discussion first.
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1 Um -- oh, that was -- okay. Now, I think 2 that unless you all have questions or can identify an issue 3 that I missed, I think that I -- I’ve accumulated them all 4 from the various notes, some of which probably are no more 5 legible than Candace’s name. But -- 6 CHAIRMAN MILLER: Really? 7 MR. RAPISARDA: I might have missed one, so 8 we’ll see, but I think that that’s it. These are the 9 changes, they’re major. 10 CHAIRMAN MILLER: Okay. I don’t have any 11 questions at this time here. If the Board does, certainly 12 then -- 13 MALE SPEAKER: I don’t. 14 CHAIRMAN MILLER: Okay. 15 MR. RAPISARDA: Okay. 16 CHAIRMAN MILLER: Thank you, sir. 17 MR. RAPISARDA: Thank you very much. 18 CHAIRMAN MILLER: We need -- we need to make 19 a decision now of how we’re going to handle this. 20 We open up -- we open up more testimony if 21 we go with our last option to allow counsels to testify 22 again, but we also open it up to the public again, too,	1 MS. FELKER: Yeah. Um, this is a tough one. 2 I -- 3 CHAIRMAN MILLER: I’m willing to go ahead 4 and let the public come in the next time, if -- 5 MS. FELKER: I am too. 6 CHAIRMAN MILLER: -- we have to, just to get 7 the results that we want to hear. 8 MS. FELKER: I’d like to -- I’d like to 9 error -- if we’re erroring on the side of -- 10 MALE BOARD MEMBER: Yeah. 11 MS. FELKER: -- using additional time to get 12 clarity on the issues and to allow both sides to present 13 all their points and for us to get legal counsel on the 14 various questions we might have about how the decisions 15 have been made in the past. I think we should open it up 16 to a full discussion. 17 CHAIRMAN MILLER: Is that okay with county? 18 MS. FELKER: That’s fine. 19 CHAIRMAN MILLER: Okay. 20 MS. FELKER: I -- I just wanted to make it 21 clear that it was -- that means you just needed to make it 22 one or the other to be fair to everybody involved in -- in

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1 the situation. 2 CHAIRMAN MILLER: I know it will be another 3 trip up for you guys to come from the city, so I apologize 4 for that. But I think it will be -- 5 MS. FELKER: Oh, they like the county, it's 6 nice and -- 7 CHAIRMAN MILLER: Yeah. 8 MS. FELKER: -- scenic and quiet. 9 MALE SPEAKER: Yeah, as soon as I can 10 convince my wife to get out to do it, we'll do it. 11 MS. FELKER: Have her come down and go to a 12 winery or something, that's all. We have the ice cream 13 trail. 14 CHAIRMAN MILLER: Well then, we're going to 15 go ahead and just call this a postponement until the next 16 meeting. 17 MS. FELKER: I think you meant continue. 18 CHAIRMAN MILLER: Continuance. I'm sorry. 19 Continue it. 20 FEMALE SPEAKER: So, someone on the board 21 needs to make a motion to continue this to the next 22 hearing.	1 the next day. 2 Is there any way we could -- 3 FEMALE SPEAKER: The next available would be 4 August the 17th. We're going to have to defer that to 5 legal, because we have a -- I think they'll be okay with 6 all that. 7 But we have -- we have legal requirements to 8 meet, you know, when the application's submitted, they have 9 a certain amount of days to make their deliberations and 10 make their formal opinions. 11 CHAIRMAN MILLER: We should be okay, because 12 we haven't made a deliberation yet. 13 MS. FELKER: We haven't made the decision on 14 the major penalty. 15 FEMALE SPEAKER: There -- there are state 16 law statutes that say once an application has been made 17 that you must make a decision with -- within -- 18 CHAIRMAN MILLER: Yeah. 19 MS. FELKER: -- "X" number of days. Now, I 20 want to talk to legal about that because of the 21 ramifications of that. 22 CHAIRMAN MILLER: Okay.
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1 MS. FELKER: I will make a motion that we 2 continue this until our next meeting. 3 CHAIRMAN MILLER: Second? 4 MALE BOARD MEMBER: I'll second it. 5 CHAIRMAN MILLER: So, all in favor? 6 MALE BOARD MEMBER: I. 7 MS. FELKER: I. 8 MALE SPEAKER: Is there any way to just 9 confirm dates, while -- 10 MS. FELKER: The -- 11 MALE SPEAKER: -- while people are here, 12 with their calendar, in case it needs to be the next one? 13 CHAIRMAN MILLER: She has the date. 14 FEMALE SPEAKER: August 3. It will be 15 August 3, same location. 16 CHAIRMAN MILLER: Same time. 17 FEMALE SPEAKER: Same time, same place. 18 CHAIRMAN MILLER: Will it be last or first 19 when we meet? 20 MALE SPEAKER: For what it's worth, if I 21 could, I'm going to -- to (inaudible) in South Carolina the 22 week of the first through the fifth. And I'll be back on	1 FEMALE SPEAKER: So, I would say, at this 2 point, the best you can do, at this point, is a 3 continuance, until that date. 4 And then we'll have to talk to legal about 5 whether it can be extended beyond that or not. 6 CHAIRMAN MILLER: And then Katie could 7 contact them? 8 FEMALE SPEAKER: Yes, we will -- we will 9 make contact. 10 MR. RAPISARDA: And to the -- and to the 11 extent that we would need -- I mean, because it's all about 12 the (inaudible). 13 To the extent that we would need to say, 14 hey, a change from 3 to 17 -- and I also am going to bring 15 Dr. Cutler up. 16 MALE SPEAKER: If you're dealing with some 17 staffing issues and Covid and -- and timing of that, he has 18 to play that out. 19 But either way, we're saying right now the 20 3rd I know won't work, but the 17th, at least getting it 21 out there, and to the extent that we have to approve it or 22 officially tell me if that works, then that's fine too. I

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1 don't (inaudible).

2 CHAIRMAN MILLER: Okay. All right.

3 FEMALE SPEAKER: We'll have to get that
4 done.

5 CHAIRMAN MILLER: All right.

6 FEMALE SPEAKER: That's fine. No problem.

7 I'd rather do it the right way than --

8 CHAIRMAN MILLER: Okay. Let's move on.

9 FEMALE SPEAKER: Well, do you want to take
10 like a little recess or anything, to allow people to usher
11 out?

12 MALE SPEAKER: Thank you all.

13 CHAIRMAN MILLER: Thank you.

14 MALE SPEAKER: Have a wonderful night.

15 We'll see you in a couple weeks or so.

16 FEMALE SPEAKER: All right. We're going to
17 pause for a short recess.

18 (Hearing concluded)

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2 C E R T I F I C A T I O N

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4 I, Kim B. Moler, certify that the foregoing is a true
5 and accurate transcript from the official electronic sound
6 recording.

7



8 Kim B. Moler

9 Official Transcriber

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11 DATED: November 27, 2022

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