

STATE OF MARYLAND

MONTGOMERY COUNTY

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MONTGOMERY COUNTY

DEPARTMENT OF PERMITTING SERVICE

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STREAMLINING DEVELOPMENT PUBLIC FORUM

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TUESDAY,

FEBRUARY 14, 2012

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The Streamlining Development
Public Forum met in the Lobby Auditorium of
the Executive Office Building, 101 Monroe
Street, Rockville, Maryland, at 2:30 p.m.,
Diane Schwartz Jones, Chair, presiding.

PANEL MEMBERS:

DIANE SCHWARTZ JONES, Chair, Director,
Department of Permitting Services
CHRISTOPHER ANDERSON, Manager
FRANÇOISE CARRIER, Planning Board Chair
STAN EDWARDS, Division Chief, Division of
Environment Policy and Compliance
NANCY FLOREEN, Council Member, PHED Chair
KATHERINE FREEMAN, Executive Director to the
Board of Appeals
MARTIN L. GROSSMAN, Director, Office of
Zoning and Administrative Hearings
S. MARIE LABAW, PhD, PE
D. SCOTT NEWILL, Regional Engineer
HANS RIEMER, Council Member
AL ROSHDIEH, Deputy Director, Department of
Transportation
STEVEN SILVERMAN, Director, Department of
Economic Development
MALCOLM SPICER, Associate County Attorney
LUIS TAPIA, Unit Coordinator, Permit
Services, Washington Suburban Sanitary
Commission

ALSO PRESENT:

FRANK BOSSONG

TODD BROWN
MARK DRURY
STEVE ELMENDORF
HEIDI GANT
EVAN GOLDMAN
ROBERT HARRIS
JUDY HIGGINS

JAY HILLMAN
STEVEN J. KARR
JERRY KLEIN
STERLING MEHRING
STEVE MORRISON
DAN PINO
LES POWELL

BOB SPALDING

TABLE OF CONTENTS

	Page No.
Introductory Remarks, DIANE SCHWARTZ JONES,	4
Chair	
Public Comments	
STERLING MEHRING	9
FRANK BOSSONG	11
STEVE ELMENDORF	16
STEVE KARR	20
BOB HARRIS	23
LES POWELL	25
MARK DRURY	27
EVAN GOLDMAN	30
BOB SPALDING	38
STEVE MORRISON	43
VIRGINIA SHEARD	48
JUDY HIGGINS	50
TODD BROWN	52
DAN PINO	53
JAY HILLMAN	86

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

2 2:34 p.m.

3 CHAIR SCHWARTZ JONES: Welcome,
4 everybody. We are ready to start.

5 I will tell you that Roger
6 Berliner and Nancy Floreen will be here
7 shortly, but we are going to go ahead and
8 begin so we can make sure that we can get
9 people in.

10 I'm just going to lead off with a
11 brief instructory statement.

12 For those of you that don't know,
13 my name is Diane Schwartz Jones, and I'm here
14 on behalf of County Executive Ike Leggett.

15 On behalf of County Executive Ike
16 Leggett, the County Council, the Executive
17 Branch agencies, many of whom we'll introduce
18 to you, they are around the table, the Board
19 of Appeals, the Office of Zoning and
20 Administrative Hearings, WSSC and the State
21 Highway Administration, I'd like to welcome
22 you to the first of at least two public forums

1 and the beginning of a good faith,
2 collaborative, cross-agency effort to
3 streamline our complicated and unwieldy
4 development approval process.

5 When Council President Roger
6 Berliner and Council Fed Committee Chair,
7 Nancy Floreen arrives, we will introduce them
8 to you. In the meantime, sitting to my right
9 is Planning Board Chair, Francoise Carrier.
10 We've got Katherine Freeman, with the Board of
11 Appeals over to my left. Luis Tapia, with
12 WSSC. Why don't you raise your hand so
13 everybody can -- we've got Marty Grossman,
14 with the Office of Zoning and Administrative
15 Hearings, Scott Newill with State Highway
16 Administration, Steve Silverman, Department of
17 Economic Development, Chris Anderson,
18 Department of Housing and Community Affairs,
19 Al Rochdich, Department of Transportation, Mal
20 Spicer, Office of the County Attorney, Stan
21 Edwards, Department of Environmental
22 Protection, and Marie La Baw, Department of

1 Fire and Rescue Services.

2 Our intent, with your help, is to
3 understand the impact of complicated
4 development approval process for you to use
5 who are affected by our services.

6 We want to hear your experiences
7 dealing with the development entitlement
8 process, and getting necessary approvals for
9 a project from when you first decided to do a
10 project all the way through occupancy. Where
11 are bottle necks? What takes too long? What
12 is just too complicated? Are multiple agencies
13 reviewing the same thing, for the same reason?
14 How can we simplify? Are you stuck between
15 agencies? How can we get you unstuck?

16 As users of all of our services,
17 what are your observations and recommendations
18 about how we can improve what we do, without
19 compromising public participation, quality of
20 development, environmental protections, or
21 public safety.

22 Today's session, at this initial

1 stage, are about information gathering. We
2 are here to listen to you. You can also
3 present your comments on line and/or take the
4 survey on our website at
5 [http://\permittingservices.montgomerycountyma
7 ryland.gov/dps](http://\permittingservices.montgomerycountyma
6 ryland.gov/dps).

7 Once we have assembled feedback,
8 working together we will review the
9 information and organize it in categories of
10 issues, which will be assigned to working
11 groups to come up with options to address
12 issues and improve service.

13 We expect to ask for help from
14 many of you as we flush out the issues. As
15 this effort progresses, there may be changes
16 in business operations along the way, with
17 recommendations for other changes that may
18 require governing body approval.

19 Information assembled and next
20 steps will be posted on the website as we move
21 forward.

22 Today's format will be like a

1 public hearing. We will receive comments or
2 testimony. We will not respond to comments at
3 this hearing, other than, perhaps, to ask for
4 clarification, as we want to give everybody
5 the opportunity to be heard.

6 Given the number of speakers, we
7 are asking that you limit your comments to
8 three minutes. We urge you to share your
9 comments, recommendations, and concerns in
10 writing as well.

11 Today's forum will be transcribed
12 by the court reporter over there, and the
13 transcript will be available on our website.

14 If your concerns or comments are
15 about a specific individual, we ask that you
16 not call out our employees by name, but
17 rather, just the problem in terms of ease or
18 difficulty in getting what you need from our
19 agencies.

20 We have a list of speakers. If
21 you wish to be included, but have not signed
22 up to speak, you may do so on the sign-up

1 sheet in the back. I think it's, actually,
2 right outside. It's in the back now. You may
3 also sign up for the March 9th forum, if you'd
4 like to, as I said before, post comments on
5 line.

6 We have handouts on the back table
7 with contact information, and an explanation
8 of the role of each of the participating
9 agencies in approving development. We also
10 have other information that you may find
11 helpful.

12 Again, I want to stress, this is
13 only the beginning of a collaborative process
14 amongst all of us to improve the way we do
15 business in Montgomery County.

16 We welcome you, and thank you for
17 coming out.

18 Our first speaker is Sterling
19 Mehring from Kensington Heights.

20 Sterling?

21 MR. MEHRING: Good afternoon.

22 Thank you for this forum.

1 I didn't realize I had signed up
2 to speak.

3 I put my comments in writing on
4 the survey, and I think I was pretty thorough
5 there, but just one little brief observation.

6 Before Clarksburg, we had a plan
7 in Kensington Heights for five lots. We
8 submitted a contract, submitted our plan, got
9 preliminary plan approval, the record plat,
10 and we got all done in less than 12 months.

11 But, my last four projects in
12 Kensington have all taken me more than 12
13 months to get from DRC to preliminary, you
14 know, to the preliminary planning hearing.

15 And, it's just a lot longer than
16 we planned, and it just has been very
17 difficult for us financially.

18 That's it, thank you.

19 CHAIR SCHWARTZ JONES: Thank you.

20 Our next speaker is Delia
21 Stolsworth.

22 Delia? We'll come back.

1 Frank Bossong?

2 MR. BOSSONG: Thank you.

3 I do have a written testimony that
4 I'm going to read from, which makes it easier
5 for me. Most of you know who I am, so I'll
6 move forward.

7 Good afternoon. I'm Frank Bossong
8 with the firm, Rodgers Consulting, Inc., and
9 thank you for the opportunity to speak today
10 on the Montgomery County development review
11 process.

12 Being involved with the
13 development review process in Montgomery
14 County for 34 years, I have first-hand
15 knowledge of the challenges both in
16 regulation, process and structure.

17 My top two concerns with the
18 current process is the economic burden and
19 uncertainty instilled within the process which
20 has caused Montgomery County to be much less
21 attractive to new business and redevelopment,
22 thus, diminishing both economic

1 competitiveness and job growth.

2 With our challenging demographics,
3 our changing demographics, and gloomy economy,
4 and regional competition, it is imperative to
5 be competitive if are moving into a level of
6 service and tax base which the County has been
7 accustomed to.

8 With limited testimony tonight,
9 there are five points I believe that need to
10 be addressed in order to revive the vitality
11 and effectiveness of the process.

12 1. Specific time codes need to be
13 established for both the reviewer and the
14 applicant, thereby establishing a sense of
15 urgency and responsiveness to completing
16 reviews and submission of documents, consider
17 county proof person to read the project
18 through the process would be extremely
19 helpful.

20 2. Reducing the redundancy within
21 the process, whether that is with the various
22 county review agencies, or within the process

1 itself. Redundancy is not only dealing with
2 specific tasks, but redundancy in general. An
3 example is, Park and Planning, Environmental,
4 and Montgomery County DEP, two environmental
5 divisions underneath the county branches, but
6 doing different jobs with certain
7 environmental. So, why do we have all the
8 environmental intentionally together.

9 But, most of all, all the
10 reviewing on the same page, and not trying to
11 compete with one another. This includes, not
12 only Executive Branch and Park and Planning,
13 but WC, the utility companies, and SHA.

14 3. Application review fees have
15 increased to such a level that the fees
16 themselves are often multiples of the cost of
17 actual design, repair and producing the
18 documents. This hinders applicants from
19 moving forward.

20 I understand the need for the fees
21 to cover some or all costs for review, but
22 refinding what actually needs to be reviewed

1 is necessary.

2 4. Inconsistency of both reviews
3 and adherence to appropriate laws causes
4 frustration and time for both applicant and
5 reviewers. When interpretations are made by
6 reviewers from unpublished, undocumented
7 sources, which are mandated to applicants
8 causing significant delays for a conference
9 with other agencies who are also unaware of
10 such policies or interpretations.

11 Along with these inconsistent
12 reviews is uncertainty and timeliness
13 throughout the process. Applicant is never
14 sure what he has secured until later in the
15 process, which has many implications for
16 lenders, investors, costs, delays and economic
17 viability.

18 Last 5, attitude. There are
19 always some bad apples in the basket, but I
20 believe the process itself causes
21 indifference, not the individual reviewer.
22 Many reviewers, however, have a mindset on how

1 to delay or hold up a project versus working
2 and communicating with the applicant and the
3 public to come up with positive solutions.

4 Managers and department heads need
5 to direct their staff to have an attitude
6 projecting the importance of moving applicant
7 forward, and not inserting roadblocks.

8 Montgomery County, as well as Park
9 and Planning, has previously looked into
10 development process numerous times over the
11 times, with no real action being taken. Don't
12 waste time and money pursuing revisions to the
13 process, unless real change is going to be
14 made.

15 This was evident that a management
16 partner study, commissioned by Park and
17 Planning in 2006, which had valued
18 recommendation for changes, but was shelved.
19 Don't hold back revising the process until the
20 advisory panel effort is complete. This just
21 will raise implementing needed improvements
22 sooner.

1 CHAIR SCHWARTZ JONES: Okay.

2 MR. BOSSONG: I'm done.

3 Thank you for your time. I would
4 be pleased to work with you. Thank you.

5 CHAIR SCHWARTZ JONES: Thank you.

6 Will you submit that on line also?

7 MR. BOSSONG: Absolutely.

8 CHAIR SCHWARTZ JONES: Thank you.

9 Thank you, Frank.

10 Steve Elmendorf?

11 MR. ELMENDORF: Thank you, Diane.

12 I'm Steve Elmendorf, an attorney
13 with Loomis and Walker, but today I'm wearing
14 the hat, or wearing my hat as Chair of the
15 Legislative Committee of the Maryland/D.C.
16 Chapter of NAIOP. NAIOP is a national
17 organization focused on commercial real
18 estate. Our local chapter has about 400
19 members, and I'm speaking on their behalf.

20 But, the issue I want to raise
21 really goes beyond just commercial real
22 estate. It affects residential as well.

1 And, pardon me for getting way
2 into the weeds, but I think this process is
3 only going to succeed if you get into the
4 weed, because it's within the weeds that you
5 need to make the fine changes to stop doing
6 certain things, and try to do something else.

7 My comments really relate to the
8 time it takes from the time the Planning Board
9 approves a preliminary plan or a site plan,
10 from that time to the time the written
11 resolution comes back to them for approval.
12 That is a key step in the process. Without
13 that resolution, the appeal period doesn't
14 even begin. Without that resolution, you can't
15 go to record plat. Without that resolution,
16 the closings, real estate closings, are
17 delayed.

18 The problem is, right now there is
19 no time frame for when that has to occur.
20 It's like dropping a coin into a well, it,
21 eventually, will hit bottom, you just don't
22 know when it's going to do so.

1 And, I am not suggesting that it's
2 some sort of mandatory, you will get it back
3 to us in a certain time, that's totally
4 impractical. But, I think it would be a great
5 help to everyone, your staff, the folks who
6 come to oppose an application, the applicant
7 itself, if once the Planning Board approves a
8 site plan or preliminary plan you put on the
9 record that you've asked staff when do you
10 think we are going to see it. When is it
11 coming back to us in written form for us to
12 approve, so that the staff can tell you it's
13 going to take three weeks, it's going to take
14 four weeks. I'm willing to live with what
15 they tell you it's going to take, but at least
16 get them on the record for how long it's going
17 to take, so that everybody can work with that
18 deadline.

19 Human nature being what it is,
20 with no deadline it drops a lot of times to
21 the bottom of somebody's inbox and takes --
22 I've -- anecdotally, I had a case where it

1 literally took longer to have the opinion
2 written on a consent site plan approval of
3 amendment than it did to file it and get it to
4 the board. So, that should not be happening.

5 A second suggestion, relating to
6 the same topic, is staff should be allowed to
7 ask the applicant, or any other party of
8 record, to submit a draft opinion, if it would
9 speed up their preparation of the written
10 resolution that's got to come back to the
11 board. They used to do that in the past.
12 It's been stopped for some reason. And, if it
13 would help, it ought to be within staff's
14 discretion and the applicant's discretion if
15 they want to do so, spend the time to do it,
16 to submit a draft resolution to speed things
17 up.

18 Finally, occasionally the final
19 resolutions that get before the board have
20 mistakes in them. I mean, there's a lot of
21 data in it, a lot of numbers, and the way the
22 process is now no one sees that to correct it

1 until it's already come to the board. And so,
2 it has to be corrected, and we have to go
3 through the process again, just to get, you
4 know, that 5 changed to an 8.

5 It would be helpful if a draft
6 opinion could be sent to the parties of record
7 ahead of time, just to catch those types of
8 mistakes and save it having to go through
9 twice, just to correct what a lot of times
10 amounts to a typographical error.

11 Thank you.

12 CHAIR SCHWARTZ JONES: Steve Karr?

13 MR. KARR: I didn't sign up
14 either.

15 CHAIR SCHWARTZ JONES: You are on
16 our list.

17 MR. KARR: I thought it was just a
18 sign-in list, that you just had to sign in
19 when you come in.

20 But, since we are here, my name is
21 Steve Karr. I'm an architect in Rockville,
22 worked in the county the last 25 years. A few

1 people in the room know me.

2 You know, when you see a lot of
3 the comments they are really addressed to Park
4 and Planning. And so, I'm a little bit
5 confused why, you know, you have the panel
6 here of all these other agencies, really
7 outside of that loop. That's really the first
8 major hurdle, is getting -- as everybody has
9 addressed, the preliminary plan, site plan,
10 before you can even file for a building
11 permit.

12 But, as an architect, I've been
13 involved through the Park and Planning
14 process, making our way through that, and into
15 DPS. But, within DPS I think there's -- and
16 as it relates to the other agencies -- there's
17 some disconnect between DPS and WSSC, for
18 example. The county does not review any
19 plumbing plans. That goes to WSSC.

20 Yet, we have certain water service
21 requirements that are related to fire
22 suppression that's administered and under what

1 was, I guess, Fire and Rescue, and that's
2 going back to DPS.

3 And, quite frankly, my work is all
4 around the Beltway, and I do want to say for
5 the record that I think Montgomery County
6 Department of Permitting Services is by far
7 the best managed agency in terms of getting
8 through building permit.

9 I'm not going to talk about Park
10 and Planning, although after a two-year
11 experience with the City of Rockville, I'll do
12 anything to go back before the Planning Board.

13 CHAIR SCHWARTZ JONES: Okay.
14 Behrooz Alemi? Behrooz, are you here? No?
15 Okay.

16 I will tell you, if we get through
17 this faster than we are thinking we might,
18 then if anybody would want to come back up and
19 have more time we can arrange that.

20 Melanie Weerakoon. I hope I
21 pronounced your name correctly. Is Melanie
22 here? No? Okay.

1 Bob Harris.

2 MR. HARRIS: Good afternoon. I'm
3 Bob Harris, of Lerch, Early and Brewer. I'm
4 a land use attorney of the county. I'm
5 speaking today on my own behalf, and on behalf
6 of many clients that I've represented over the
7 years.

8 First, I want to thank all of you
9 for being here. Just the assemblage of you
10 speaks volumes about the intention of the
11 county to address this issue, and many of you,
12 too, have been people who have helped solve
13 problems in the past. So, I'm really looking
14 forward to working with you in that respect.

15 I also want to thank Council
16 Member Floreen and County Executive Leggett,
17 because both of them have been among the
18 leaders in addressing this issue recently, and
19 continuously. And so, I think there's a mind
20 and a will to get things done.

21 But, despite those good intentions
22 and various efforts over the years, the need

1 still remains to do a lot more if we want to
2 be competitive in the region and in the new
3 economy. That's particularly important as we
4 evolve from a green field development scenario
5 to infill urban development, where the
6 standards and the challenges are much
7 different and much greater.

8 Recently, the University of
9 Maryland, Center for Smart Growth, talked
10 about, in some detail, how challenging that
11 type of development is, and that just means we
12 have to be that much more committed to
13 addressing these challenges.

14 I have produced a list of two
15 dozen specific items that I'm going to pass
16 out to you. I didn't want to pass it out now,
17 you'd read it, you wouldn't listen to me.
18 But, I will pass it out, and I'll put it on
19 line as well, and I'd be happy to come up
20 afterwards and address some of those.

21 The issues or the suggestions
22 range from very small things, such as getting

1 Park and Planning resolutions out more quickly
2 than has become the case now, to very large
3 things such as major changes in the content
4 and form of our master plans, so that they
5 don't become millstones around our neck as we
6 evolve with changing times.

7 But, there are many suggestions
8 here, two dozen that I've listed, and I could
9 probably produce more, and I may do that
10 later.

11 So, I'll pass these out, and would
12 welcome the opportunity to come back and
13 address them as well.

14 Thank you.

15 CHAIR SCHWARTZ JONES: Okay. Les
16 Powell?

17 MR. POWELL: For the record, my
18 name is Russ Powell, Charles P. Johnson &
19 Associates.

20 My comments today have to do with
21 the Development Review Committee meetings, and
22 maybe more precisely the pre DRCs that they

1 have. This is where we get all the comments
2 from the different agencies.

3 Our problem is not in that there
4 may be some conflicts between some of the
5 comments we get from the different agencies.
6 We pretty much expect that. But, what doesn't
7 make sense is how, after we get our site plans
8 approved, we have to submit our engineering
9 plans, all of a sudden the reviewer who was
10 reviewing these engineering plans is giving us
11 completely different and conflicting comments
12 or statements than what was given to us at
13 DRC. We then need to move forward to try and
14 address that.

15 This, in many instances, requires
16 us to then go back and do a site plan
17 amendment, because we no longer are in
18 conformance with the site plan that we've
19 gotten approved.

20 That's my big issue in a nutshell
21 today. Thank you.

22 CHAIR SCHWARTZ JONES: Thank you.

1 Sean Moadel? Sean isn't here.

2 Okay.

3 Sandra Flippi? Sandra?

4 Mark Drury? Is Mark Drury here?

5 Good.

6 MR. DRURY: That's good. I didn't
7 sign up to speak here, but I did register on
8 line. I didn't prepare anything, but I always
9 have something to say, I'm sorry to say.

10 First of all, I want to thank all
11 of you for your service to the county,
12 everything you do, and for your willingness to
13 come out and discuss changing the approval
14 process in this county.

15 We are faced with a lot of
16 difficulties in this current economy. I work
17 for a mechanical contractor, Shapiro & Duncan.
18 We are sort of downstream from this permit
19 process. We put mostly trade permits, so we
20 are not really affected, except for the fact
21 that projects that are in the pipeline don't
22 come to fruition until months later.

1 I think we need to look at
2 thinking outside the box, doing things a
3 little bit differently, trying to accelerate
4 things.

5 I think attitude was a big driver
6 in a previous man's comments, changing the
7 attitude to a can-do attitude, that we can
8 move these things forward, having a person
9 assigned to get a project all the way through
10 from the county would be a benefit.

11 I think having a county task force
12 with the heads of all the agencies, when we
13 have these large development projects, and
14 figuring out how we can make them happen.
15 Right now, I think we have about \$20 billion
16 in private money sitting aside, waiting to get
17 going.

18 We've got the life sciences
19 project at Shady Grove, -- redevelopment, and
20 we have the East County Life Sciences Center,
21 all those are wonderful things who are
22 blessing this county, two things nobody else

1 has, and we have the NIH and we have the FDA.
2 And, those should be hubs of intellectual and
3 process improvement in businesses around those
4 hubs, and residential.

5 So, that's my comment, and thank
6 you.

7 CHAIR SCHWARTZ JONES: Thank you.

8 Council Member Riemer just walked
9 in, so would you like to come up and sit with
10 us also? We can pull in another chair.
11 Actually, there's a chair right there. You
12 can sit wherever you'd like.

13 We can get you a name tag.

14 COUNCIL MEMBER RIEMER: That's
15 okay, I just came to observe.

16 CHAIR SCHWARTZ JONES: Okay.

17 COUNCIL MEMBER RIEMER: So, thanks
18 very much.

19 CHAIR SCHWARTZ JONES: Good.
20 Okay.

21 Evan Goldman, I saw you come in,
22 so I know you are here.

1 MR. GOLDMAN: I have to lower the
2 mic first.

3 Thank you. Good afternoon,
4 everybody. I'm Evan Goldman from Federal
5 Realty, and we just worked through the
6 entitlement process, as a lot of you know, on
7 Pike & Rose, which is the new Mid Pike Plaza
8 on Rockville Pike, and there are two areas
9 where we think there could be some improvement
10 helping get through the process more quickly.

11 In general, there's two types of
12 delays. First, was when there was kind of a
13 general policy initiative that conflicted with
14 existing legislation or past practices, and
15 we'll talk about what that is.

16 CHAIR SCHWARTZ JONES: Slow down.
17 You are going way faster than my brain can
18 listen.

19 MR. GOLDMAN: I timed it.

20 CHAIR SCHWARTZ JONES: Okay,
21 sorry, I'll listen harder. We'll give you
22 another minute or two.

1 MR. GOLDMAN: Okay. I will slow
2 down.

3 CHAIR SCHWARTZ JONES: If you can
4 hold for one minute, let's get Floreen up
5 here, Nancy Floreen has joined us.

6 COUNCIL MEMBER FLOREEN: Hi.

7 CHAIR SCHWARTZ JONES: Hi, Nancy.
8 As I think you all know, she's the Chair of
9 the Fed Committee.

10 And, Nancy, you had -- oh, you
11 head up, you are next to Hans here.

12 MR. GOLDMAN: Now I get to be
13 slower, if I can do that.

14 CHAIR SCHWARTZ JONES: You need to
15 breathe.

16 MR. GOLDMAN: Yes.

17 CHAIR SCHWARTZ JONES: Because you
18 come to us wanting to use these long words.

19 Okay.

20 MR. GOLDMAN: Okay. So, my name
21 is Evan Goldman.

22 Anyway, we just got through the

1 entitlement process for Mid Pike, and there
2 were a few things. Quite frankly, to start
3 off, the process, actually, in many cases was
4 excellent, and I'll hit on some of the
5 positives. But, we noticed two types of
6 delays that we ran into.

7 The first was, really, when there
8 was some general policy initiative, and it
9 conflicted with either existing legislation or
10 some sort of past practice. So, the planning
11 staff, the planning board, had a certain idea
12 about transferring to development, and DOT had
13 different thoughts about precedence with
14 different roads that they had been using in
15 the past, or designs that didn't match with
16 that vision.

17 And so, there would be conflict,
18 and there was a question as to how you resolve
19 those issues. We'll talk about some of those.

20 And then the second was where you
21 have a lot of projects that are very large
22 coming at the same time, and, quite frankly,

1 there's just limited staff and resources to
2 get them through quickly.

3 The first issue results largely,
4 people leave from the counties, the process
5 for design exceptions, where you come in and
6 you, essentially, ask for design exceptions to
7 do really good pedestrian-friendly, retail-
8 oriented streets. And, I think that's because
9 we just don't have an urban overlay or
10 something that allows staff to say, in urban
11 areas this should be the norm, where you are
12 allowed to do these types of things, so that
13 it really becomes by right, and it does not
14 become this protracted process or argument.

15 Where we saw this, when master
16 plans call for specific design direction, but
17 staff really doesn't have the mechanism to
18 implement it, and that's where we kept getting
19 held up, and we were held up for months over
20 that, in the case of Mid Pike.

21 In the end, most of these
22 exceptions ended up being granted, which is

1 great, but it takes you months of pain, and a
2 number of days just to get to that point.
3 And, if you grade it, that was more of a "this
4 is the norm."

5 Some of the examples, you know,
6 how grading works on streets to make a retail
7 work, specialty pavers and streets, loading
8 requirements, retail awnings and cafe zones,
9 steps and right-a-way, retaining walls and
10 right-aways, which are just natural parts of
11 urban conditions. How do we codify those
12 things now. We do them great in Bethesda and
13 Silver Spring, so we have really good examples
14 in the county where we've done it
15 successfully. Let's just codify it as an
16 urban overlay into the area, so that there's
17 no question going forward that these things
18 are allowed. It would take a lot of the guess
19 work out of it.

20 And then the second issue is
21 really how to get more staff for DOT and more
22 staff time. You have two excellent reviewers

1 that review large usage projects, but these
2 projects are ordinarily complex, and they are
3 in meetings most of the day, and they don't
4 really have the time they need to do the types
5 of reviews you need them to do.

6 And so, I think it's really a
7 question of, how do you staff it, I mean, they
8 need more people.

9 And, in general, an applicant is
10 able to have conversations with most of the
11 agencies prior to submittal of the site plan
12 application, or between the submission time
13 and the DRC meeting. Sometimes when staff
14 gets right to DOT, you don't get that, and we
15 didn't even have DOT at our Design Review
16 Committee meeting. So, we didn't get our
17 first feedback from DOT until 120 days after
18 we had submitted our site plan, 60 days after
19 it was accepted by Park and Planning, from
20 when we first had a sit down, and many people
21 hadn't even really looked at the drawings at
22 that point. So, automatically, you are

1 starting from, you know, 90 days behind.

2 And so, you know, a contrary on
3 the environmental side, we were able to work
4 with them up front, and we had probably
5 resolved 80 percent of our environmental
6 issues before we even submitted our site plan,
7 resolved the other ones before we got to DRC.
8 And so, we got to DRC, it really wasn't --
9 there wasn't a lot of debate. It was, hey,
10 you've met the requirements environmentally
11 before, and that's really how it should work.

12 And so, we would recommend some
13 sort of change to the DRC process, where you,
14 actually, are having those meetings up front
15 earlier, and getting input, and then the DRC
16 meetings really need change. They need to be
17 more interactive. Instead of just having a
18 meeting where you sit down and the agencies
19 just read from their letter to you, it should
20 be a give and take, back and forth, let's
21 negotiate the items right here while everybody
22 is in the room, let's figure out how to -- and

1 maybe those meetings need to be longer and
2 more painful, but let's get it done. So, when
3 you leave the DRC meeting, you, actually, can
4 make your revisions, resubmit in 30 days, and
5 go to a Planning Board hearing, and there's
6 not another -- what we had was a five-month
7 delay from our DRC meeting until the time when
8 we finally were getting in front of the
9 Planning Board.

10 What I will say is this. We've
11 seen dramatic change in Park and Planning, or
12 I have at least on my projects in the last
13 five years. And, our team at Park and
14 Planning was incredibly responsive, very
15 helpful, had a very good can-do attitude,
16 really kept us on track as much as they could.

17 And so, what I've seen is that
18 that transition can happen there, I think it
19 can happen in all the agencies. It's just how
20 do we staff things appropriately, and make
21 sure that those meetings are happening at the
22 appropriate time so we can really get quick

1 feedback.

2 CHAIR SCHWARTZ JONES: Thank you.

3 MR. GOLDMAN: Thank you.

4 CHAIR SCHWARTZ JONES: See, you
5 managed, sort of. That was a creative three
6 minutes.

7 All right. Joav Steinbach? Joav?
8 No? Okay.

9 Scott Wallace, I know I saw you
10 somewhere around here. He had to leave?
11 Okay.

12 So, Bob Spalding?

13 Actually, Bob, before you begin,
14 are there additional names on that sheet?

15 MR. SPALDING: One, Steve
16 Morrison.

17 CHAIR SCHWARTZ JONES: Okay. Go
18 ahead, Bob.

19 MR. SPALDING: Good afternoon.
20 I'm Bob Spalding, with Miller & Smith. We've
21 been building in the county since 1964. Up
22 until that time I was only building stuff in

1 the sandbox at home.

2 Thank you for the opportunity to
3 comment today. I've also submit a letter with
4 detailed comments on minutia and bigger things
5 as well.

6 A couple things that the county
7 has really improved on lately. The MOU, the
8 Memorandum of Understanding for conflict
9 resolution. I think just the presence of that
10 gets things done, because nobody wants to go
11 up the ladder to have to solve it, and they
12 know it's a complicated process.

13 The next thing is continue moving
14 forward on electronic submissions. That's
15 going to simplify your life. It's going to
16 simplify the transparency of the process. It's
17 going to cut cost. It's going to make, you
18 know, staff is not going to have to ask for
19 another ten submissions of something because
20 they can't find the first ten, or that they
21 need three more for somebody else. It helps
22 everybody.

1 And, I think the combination of on
2 line information and the community
3 participation that has come out of the
4 Clarksburg process has improved the
5 transparency of the process. I think there's
6 less surprises for people, which also means
7 that there are less surprises in front of the
8 Planning Board and the County Council, because
9 the issues are vetted early, and hopefully
10 we've worked them out, or at least we all
11 understand what the issues are and staked out
12 their positions on it.

13 Montgomery County is much more
14 complicated. It's riskier, more expensive,
15 and more time consuming than any other
16 jurisdiction we do business in. And, as a
17 result of that, that affects our ability to
18 select projects and buy properties here,
19 because it's just a higher bar, because we
20 just know that it's going to be, no matter how
21 we budget it, it's going to be worse, both in
22 time and money. And, it's a tough business

1 model to do on a sustained basis.

2 I'd like to touch on a couple of
3 general principles and goals that I hope that
4 would come out of the process. One is to
5 quickly process applications that are in
6 compliance with rules and regulations. It's
7 almost like we are treated like we are trying
8 to get away with something when we come in
9 that follows the law, and follows the Master
10 Plan. You know, that's how you are treated.

11 I think if you establish firm
12 deadlines for review periods, and work with
13 the applicants, whether it's for a deck
14 permit, or a fence, or the biggest of all in
15 the county, to get it into compliance, because
16 we are implementing the Council's vision of
17 the county, which is in the Master Plan and
18 the Zoning Ordinance, and all the other
19 ordinances and codes that come along.

20 Use the automation fee to automate
21 the process. There's still an awful lot of
22 uninterconnected systems, when you watch a

1 staff tech log in something, they are on 15
2 screens to log in an extension of your permit,
3 when you can go to L.L. Bean and click on two
4 screens and be done. I mean, it should be
5 that simple, follow the e-commerce models that
6 are out there.

7 I think if we have electronic
8 submissions, it's going to simplify
9 everything, and it will avoid a lot of the
10 scanning that's bottled up with EPS right now.
11 And I think we also need to lengthen the
12 permit validity periods. There are permits
13 out there that you just cannot build in the
14 amount of time that you are given to build
15 them.

16 If you have a sediment control
17 permit in a special protection area, and you
18 have multiple permits for your property
19 because it's large, or even just multiple
20 phases, you can't get off that first permit
21 until you've finished all of the other ones
22 and get your water quality monitoring bond in

1 place. So, we have permits that go for five,
2 six, seven years, and we have to go in there
3 every 12 months and extend them. And, it
4 doesn't add anything to the process.

5 I think you also can evaluate a
6 lot of processes that can be combined, and
7 thank you again for asking for our comments,
8 and we look forward to your comments, and just
9 remember, the longer it takes for an
10 application to do the process, the longer it
11 takes for me to get the tax revenue to do the
12 things that the county does so well with tax
13 revenue.

14 CHAIR SCHWARTZ JONES: Bob, if you
15 can expound on your comments on line that
16 would be really helpful, too.

17 MR. SPALDING: Okay.

18 CHAIR SCHWARTZ JONES: Thank you.

19 Okay. Steve Morrison, I know I
20 saw Steve. There you go. Come on up.

21 MR. MORRISON: My name is Steve
22 Morrison. I'm with the Permitting Services

1 Advisory Board and the new County Citizens
2 Advisory Board. I'm also recognized as a
3 volunteer by the Park Service, for picking up
4 a lot of trash in the park, over two tons. I
5 do work for the Park Service also as a lead
6 warrior and a volunteer there.

7 I have got to tell you that I am
8 -- my attitude toward the county government
9 has gone of one of polite and cooperative,
10 helpfulness, cheerfulness, and ambience, good
11 ambience, to one slightly to the right of --
12 Paul.

13 I see people here who are well
14 paid, probably over six figures, and there are
15 probably over 50 of them from the county and
16 related agencies attending this meeting. And,
17 I think this may be an over kill at the
18 taxpayers' expense, but let me go into some of
19 the issues that I perceive.

20 One of them is that when I was
21 doing a lot of work, and I still am, for the
22 Park Service, which is a state agency, they

1 wanted to put up a sign someplace. And, signs
2 are permitted by the Department of
3 Transportation, because signs -- signs going
4 close to the road are part of the Department
5 of Transportation. Signs that are on stores
6 are part of Permitting Services. And so, we
7 have dichotomy, because in one case we want to
8 make sure that the sign breaks off if an
9 automobile hits it or something of that sort.

10 Having two permitting services
11 confused a fellow in the Parks Department who
12 was trying to do this, so I went to Reggie
13 Jeeter in Permitting Services, who I was very
14 familiar with, and he told me, oh, no, they
15 need to go out to the Department of
16 Transportation. So, I went out there for
17 them, and I didn't file the actual permit, but
18 I got the process down straight.

19 When somebody from the state
20 government is confused by how the government
21 operates here, that tells me something about
22 how the government operates. It's just that

1 you've got to have clearer procedures. Those
2 procedures are not clear, and there are too
3 many actors in the process.

4 In permitting services, Permitting
5 Services should do the permitting throughout,
6 and they should have the staff and the ability
7 to do that permitting. You don't need to
8 disperse all of that, at least in my view,
9 among the many, many agencies, both state and
10 local, that this county, it's corresponding
11 government agencies have.

12 I've got more to say, but I won't
13 right now, because of the musical
14 accompaniment.

15 CHAIR SCHWARTZ JONES: Steve,
16 you've got our website address? By the way,
17 for everybody in the back, there's a piece of
18 paper that has all of our contact information.
19 It has the website address at the top, too.
20 You can put your comments also on the website
21 address, and they will all be collated there,
22 too, and that would be very helpful.

1 Is there -- we have Cindy Gibson
2 here. Okay, so, unfortunately, Mr. Berliner
3 cannot make it. He does extend his regrets.
4 I know he is very, very interested in this
5 process, and he uses this as a partnership, as
6 do we, amongst the different agencies, the
7 different departments, and the different
8 branches of government, as we work shoulder to
9 shoulder to try to simplify what is a very
10 cumbersome process, set of processes.

11 Okay. That gets us through the
12 list of people who, actually, I believe had
13 signed up. I'm going to run through the list
14 of the no shows just in case, because a couple
15 of people have come in, and then I would like
16 to start calling people if there's anybody who
17 hasn't spoken who wants to be heard.

18 Did Delia Stolsworth come in yet?

19 No.

20 Behrooz Alemi, from DGS? Still
21 not?

22 Melanie Weerakoon?

1 Sean Moadel?

2 Sandra Flippi?

3 Joav Steinbach? No.

4 And, Scott left early.

5 Okay. Is there anybody who has
6 not spoken who would like to come up and
7 speak?

8 Provide your name, please.

9 MS. SHEARD: My name is Virginia
10 Sheard. I live in Kensington View. I've been
11 active in land use and zoning issues in my
12 local community.

13 I just want to remind you that
14 neighbors and neighborhoods are part of the
15 stakeholder group having to do with this whole
16 process. And, I've interacted with most of
17 the agencies represented here at one time or
18 another, some successfully, and some not
19 successfully. Problems are usually because
20 you get different answers on the same topic
21 from different agencies.

22 It's very imperative that you look

1 at the systemic problems in the agencies, that
2 you are all talking about the same thing, the
3 same data categories, and the same, and come
4 up with some common terms, so that if you are
5 looking at something at PPS, DHCA can relate
6 to the same issue.

7 From the standpoint of enforcement
8 and codes and things like that, even Code of
9 Inspections, you really need a common data
10 base that is site specific, so everybody
11 funnels everything into a data base on one
12 location. And, if a department has a problem
13 with that, if that location comes up with a
14 complaint or comment on any issue comes up on
15 that, from the Police, the Fire, DPS, DHCA,
16 we've dealt a lot with all the agencies, all
17 the Departments of Park and Planning, I think,
18 some with tree save issues, some with
19 environmental erosion controls, and all this
20 kind of stuff, we get different answers all
21 the time.

22 So, I wanted to mention that, and

1 it's a systemic problem, and that's what
2 really has to be addressed.

3 Thank you.

4 CHAIR SCHWARTZ JONES: Thank you.

5 Okay. Anybody else? Our
6 Valentine lady in the red shirt.

7 MS. HIGGINS: My name is Judy
8 Higgins, and, actually, I'm from Kensington
9 View. I, actually, didn't know that I was
10 able to speak to this, by all the developer
11 types that were speaking, so I'm glad that you
12 opened this up for us to speak, too.

13 CHAIR SCHWARTZ JONES: You can see
14 from the notice that was sent out, it's
15 intended to be everybody.

16 MS. HIGGINS: That's why I came
17 today.

18 CHAIR SCHWARTZ JONES: Good.

19 MS. HIGGINS: But, I also noticed
20 that everybody speaking here, you know -- let
21 me just get on with my deal.

22 So, my deal is very simple. I

1 think with the rather unpleasant budget
2 restraints we are in, and the new suite of
3 zones that we are now applying, that were
4 intended to be less complicated, but I think
5 may be more complicated as it turns out in the
6 end, certainly for us to follow. But, I'm
7 wondering if the county is going to be
8 reviewing whether or not, or how we are going
9 to deal with this. If you streamline things,
10 and DPS is now required to sort of pass
11 permits through, are they going to get
12 education on how the zone works, and things
13 like that.

14 We haven't been very successful
15 over the years in my community with
16 consistency, as Virginia just said, between
17 different pieces of the county agencies,
18 whatever they are.

19 So, we are hoping that you guys
20 are going to implement some education on how
21 things will be viewed and looked at when they
22 go to do inspections.

1 I think that's it, but I will
2 write something. Thank you so much.

3 CHAIR SCHWARTZ JONES: Thank you.

4 Todd, I saw your hand up.

5 MR. BROWN: Hi, good afternoon,
6 Todd Brown, Loomis & Walker.

7 I just have one quick comment, and
8 it's on communication, which is one of the
9 things that probably frustrates our clients
10 the most, is when we don't have any
11 information to give them about the status of
12 something that's being reviewed. And, this
13 is, typically, at Park and Planning, because
14 that's who we do most of our work with.

15 It is easier, often times, to get
16 either Rose or Robert on the phone, they'll
17 pick up a telephone call, but you call the
18 people that are, actually, working on the
19 plans, it's very seldom that you can,
20 actually, get them on the line. And, you send
21 an email and it can just linger for some time.

22 If some type of a policy could be

1 put in place that could, actually, be
2 monitored, that would require -- even if you
3 don't have an answer to give back to the
4 person who is asking the question in 24 hours,
5 so they at least know that you've taken a look
6 at it and that you are working on it, give
7 them an estimate of when you are going to be
8 able to get back to them, because that is one
9 that's very frustrating for clients, is to not
10 have some information that at least somebody
11 is taking a look at what's been submitted.

12 CHAIR SCHWARTZ JONES: Thanks.

13 Any other persons to be heard
14 from?

15 Come on up, sir.

16 MR. PINO: Good afternoon. My
17 name is Dan Pino. I recently joined Axom
18 Engineering, and I also recently completed the
19 entitlement documents for Faukle North, and,
20 in general, the project went fairly smoothly.
21 And, I have one comment about that.

22 When you are in the CBD zone, and

1 you chose the option method you have to do a
2 project plan. Well, the project plan now, and
3 the preliminary plan, are, basically, the same
4 exact document. You just use a lot of
5 redundancy there, and something that could be
6 maybe -- if you are submitting a project plan
7 maybe it could be a combined project
8 plan/preliminary plan, save, you know, time
9 and money for all.

10 And, that's about it.

11 CHAIR SCHWARTZ JONES: Thank you.

12 Steve?

13 MR. ELMENDORF: Thank you for a
14 chance to speak again.

15 I forgot to mention, I am going to
16 put a list of items that I couldn't address in
17 the first three minutes, but I'm getting to
18 the age now where I start working on bucket
19 lists. And, two of the items on my bucket
20 list are to attend a Washington National's
21 World Series game, and to get the provision in
22 the Zoning Ordinance that prohibits a special

1 exception holder from moving forward with his
2 special exception if an appeal is filed, to
3 get that provision taken out of the Zoning
4 Ordinance. It is grossly unfair.

5 It is the only approval that if an
6 appeal is filed on it you can't move forward.
7 You can get a building permit, someone appeals
8 it, and you can move forward at your own risk.
9 A site plan project, then a preliminary plan.

10 A special exception, we are not
11 talking, you know, nuclear waste dumps, these
12 are daycare centers, nursing homes, hospitals,
13 and anybody worth his salt who is opposing a
14 special exception can, virtually, kill it.
15 Even if you lose in front of the Board of
16 Appeals, you can keep an appeal alive in the
17 Circuit Court, the Court of Special Appeals,
18 for two years without breaking a sweat. And,
19 a lot of times that delay is the death nail to
20 a special exception.

21 So, there is no reason that that
22 provision -- I don't know why it ever was in

1 there, but getting it out, and I don't think
2 this is something that needs to wait until the
3 Zoning Ordinance is rewritten. I think this
4 is something that the Council ought to
5 consider doing now.

6 And, the special exception holder
7 can just move forward at their own risk if an
8 appeal is filed, like all the other approvals
9 that are in the current system.

10 Thank you.

11 CHAIR SCHWARTZ JONES: Bob Harris?

12 MR. HARRIS: Thank you for some
13 more time here. I will address some of the
14 issues, and, Council Member Floreen, before
15 you came in I passed out a list of some two
16 dozen items. I did not walk through them.

17 And, not to waste a good brown
18 nose opportunity, I did compliment you before
19 you were here.

20 So, some of the items here, we
21 talked about resolutions of Park and Planning,
22 and that issue has waxed and waned over the

1 years. We've gotten down to less than 30 days
2 at times, but, unfortunately, now some of them
3 are more than four months for non-contested
4 cases.

5 PLANNING BOARD CHAIR CARRIER:

6 It's because we have litigations, because if
7 you have litigations it can't reach
8 resolution.

9 I'm sorry, I interrupted you.

10 MR. HARRIS: Okay, that does
11 explain it.

12 Well, in any respect, we should
13 certainly make an effort to amplify that, and
14 in the meantime I had a case recently where,
15 in fact, we are still waiting on the
16 resolution to come out. And, under the rules
17 we were not allowed to file the site plan
18 application until the resolution was out.

19 Fortunately, your staff, to their
20 great credit, said, well, wait a minute, that
21 doesn't make sense. This was a non-contested
22 case, go ahead and file the site plan

1 application. And so, we have it proceeding.
2 And, that's the kind of flexibility we need in
3 the standards, and as well preached to your
4 staff so that they feel comfortable doing that
5 kind of thing.

6 The substantive issues here for
7 Park and Planning, I do think a lot has been
8 done, but more can be done, to provide for a
9 conflict resolution process within Park and
10 Planning. The MOU, as mentioned earlier, has
11 been very helpful between the agencies, but it
12 would be great to have somebody below Rollins
13 level who could make the call between
14 different interest parties there.

15 I remember back when Gwen Wright
16 Marcus, I forget what her name was at that
17 time, was the Planning Director, she did that
18 very well. Rollins is busy doing a lot of
19 other things, and I don't think it has to be
20 him, but somebody who could make an executive
21 decision would be very good.

22 Master plans, that's my pet peeve.

1 We've gotten into a terrible habit in this
2 county with master plans that are hyper
3 specific in every respect as to what buildings
4 should look like, that may not be built for 20
5 years. And then, we have Zoning Ordinance
6 requirements and subdivision regulations that
7 say development has to be consistent with
8 those master plans. We are not that smart.
9 We really don't know what a building should
10 look like 15 or 20 years from now. We may
11 have some goals and policies, but the plans
12 should state those policies and goals in that
13 way, but not by specific standards.

14 We box ourselves into a corner
15 too many times. The county's conference
16 center is a good example. That project was
17 delayed for years, because the master plan
18 didn't contemplate it. Well, you know,
19 looking back on it, you know, that was a
20 tragedy. That's been a great facility. It
21 fits perfectly there, and we should have been
22 able to move forward with that a whole lot

1 more quickly. And, there are many other
2 examples of that as well.

3 And, unfortunately, I think we are
4 going in the wrong direction, the CR Zone now
5 mandates consistency with the master plan and
6 consistency with design guidelines. And, the
7 design guidelines are becoming very specific
8 as well.

9 So, we are really, really boxing
10 ourselves into a corner if we want these plans
11 to lead us for a longer period of time.

12 Others have mentioned the value of
13 increasing staffing and resources at some of
14 the Executive Branch agencies to get things
15 done. There are a lot of hard working staff
16 members, but they've got a lot to do, and they
17 just can't get it done in the time. I'd love
18 to see more resources there.

19 And, somewhere in here I put, I
20 think the whole special exception process,
21 frankly, has outlived its life. It was
22 required when the Model Zoning Act was adopted

1 back in the '20s, because you couldn't have
2 conditional zoning. But, now we have
3 conditional zoning through site plan approvals
4 and many other respects. I don't understand
5 why we have to have a whole separate process
6 for special exceptions, and why the Planning
7 Board can't decide whether, you know, a drive-
8 through facility is appropriate at a location,
9 you know, and have to go to the Board of
10 Appeals. There's no legal reason and no
11 practical reason for doing that, and, frankly,
12 that would expedite the process.

13 There are more in my list here,
14 but thank you for the time, for listening.

15 Thank you.

16 CHAIR SCHWARTZ JONES: Jerry
17 Klein?

18 MR. KLEIN: My comments are on
19 your effort, and what I want to draw your
20 attention to is what some have suggested may
21 be an overlapping effort, but I would say a
22 complimentary effort, and that's the Zoning

1 Ordinance rewrite. In fact, Mr. Harris'
2 comments a minute ago probably were applicable
3 to be discussed in that forum, as well as this
4 one.

5 I would encourage you to
6 coordinate as much as you can with Park and
7 Planning Commission in the zoning rewrite
8 efforts. There's a lot of people in this room
9 who spend one Wednesday night a month down in
10 Silver Spring going over the arcane minutiae
11 of the Zoning Ordinance, and it really will be
12 very valuable implementing whatever we come up
13 with in the future on this effort.

14 It's a disappointment that the
15 first module, the process did have some
16 involvement, Permitting Services, the Office
17 of Zoning Administrative Hearings, Board of
18 Appeals, did not seem to have a lot of
19 correlation with what, actually, does work in
20 the field. I believe there's a meeting still
21 to occur with DPS and the Park and Planning
22 Commission. So, that needs to be accelerated,

1 because what you'll be doing in this effort
2 needs to be fed into that zoning rewrite, so
3 those two things are in sync when you come
4 out, because one will be able to stroke the
5 other, and help implement both of them.

6 So, I encourage your coordination
7 with that agency and that effort.

8 CHAIR SCHWARTZ JONES: Thank you.

9 Anybody else who has not spoken
10 that would like to speak?

11 Since we have a little more time,
12 Council Member Floreen, do you have anything?

13 COUNCIL MEMBER FLOREEN: Well, I
14 think Mr. Morrison wants to say something
15 more.

16 CHAIR SCHWARTZ JONES: Come on up.

17 MR. MORRISON: Most of the
18 comments that have been proffered to this time
19 have been esoteric and theoretical, and I'd
20 like to get down to dirt.

21 CHAIR SCHWARTZ JONES: Go for it.

22 MR. MORRISON: There are, I

1 pointed out to the Department here, there are
2 three piles of dirt that have caught my
3 attention in the county.

4 There is a soil retention law,
5 maybe there are multiple ones, but I know
6 there's a state one, there's something in the
7 county, and there are others beyond my full
8 understanding.

9 I found out that the soil
10 retention -- there's a church near me that
11 used to -- started to build a school, started
12 the excavation, ran out of money, tore down
13 the fence that was the soil retention fence,
14 and there's no money to put up a new soil
15 retention fence.

16 And so, the pile is eroding in
17 contradiction to state and to county laws.

18 I found another pile that was near
19 me. The county is building a parking garage,
20 not the county, necessarily, Metro. And,
21 according to the response I got from my
22 inquiry to the Department of Permitting

1 Services, that one is regulated by the state
2 for some reason or other. That pile of dirt
3 has a separate requirement.

4 There's a third one that's over by
5 the Gaithersburg High School. You probably
6 can see it some of you who live over in that
7 area. That pile is regulated by WSSC, at
8 least according to the response I got.

9 It seems to me when I went to law
10 school that people were entitled to equal
11 protection of the laws, and the laws should be
12 understandable to everybody. They shouldn't
13 shop around for projects where one set of laws
14 applies to one set of dirt, and another
15 applies to another set of dirt.

16 We need to have consistency, and
17 we need to have a consistent administration of
18 whatever activities we are regulating.

19 I just really feel that need
20 urgently, that whatever you do try and make
21 it, not only simple, but consistent for
22 everybody. And, to me that's one of the most

1 important points.

2 The other is a minor point, the
3 pile that's over near me, it needs a soil
4 retention fence around it. I've seen many
5 people from the services go out and look at
6 the requirements and oppose them. But, since
7 this church went bankrupt, we can't get them
8 to think, we've got to be able to recover from
9 those kinds of situations, and right now there
10 is no provision for doing that.

11 I hope we can upgrade our
12 requirements in a way that provides this
13 consistency.

14 CHAIR SCHWARTZ JONES: Thank you.

15 Anybody else?

16 Did you want to say anything else?

17 COUNCIL MEMBER FLOREEN: Well,
18 sure. I want to thank Diane, thank you for
19 taking the ball and running with it.

20 These meetings, under Diane's
21 leadership, are designed to bring everybody
22 out like this, to weigh in and point out the

1 government's flaws. That's our job, to try to
2 resolve them, being responsive to the
3 community issues, while at the same time
4 understanding the conflicts between what I
5 know to be many inconsistent and often unclear
6 regulatory processes.

7 These can create confusion for
8 everyone, and it costs us a lot of money.
9 And, in a time of fiscal concern, this, I
10 think, is a great opportunity to see what we
11 can consolidate or at least make
12 straightforward, so that we can run a
13 department on less fuel, because that's what
14 you are looking at, let me tell you.

15 The same with Park and Planning,
16 so I want to encourage everybody to continue
17 to weigh in this.

18 How long are you keeping this
19 record open, until the middle of March?

20 CHAIR SCHWARTZ JONES: The
21 comments, we are expecting to keep the record
22 -- the website open for receiving comments

1 through March 31st.

2 There's a second public forum on
3 March 9th, that's scheduled from 1:30 to 3:30,
4 and it's going to describe a little more in
5 depth how we will work with this information.

6 But, I wanted to let --

7 COUNCIL MEMBER FLOREEN: Let me
8 just say, I do encourage people to be very
9 specific. WE've heard generalizations since
10 the beginning of time. I think it's most
11 helpful for the staff, all our staffs, to hear
12 your personal nightmares. And, if it's
13 dealing with -- a lot of time it has been the
14 fire inspection people, a lot of times it's
15 inconsistent messages, as we've heard from
16 almost everybody, DRC issues, you name it.
17 But, please be specific.

18 Since I've been in public office,
19 I've asked people to weigh in, and they always
20 tell me, well, I'm afraid because I don't want
21 to tell anybody my story, because of my -- I
22 have an application pending. And, if I don't

1 get the right staff support, I'm a goner. So,
2 people do not tell their stories.

3 I hope you encourage anonymous
4 stories, because I think it's very important
5 just to get the word out there. This has been
6 a frustration of mine for many years.

7 I can't fix your problem unless
8 you tell the story to everybody. So, I
9 encourage you, and I want to say in response
10 to Virginia and Judy, I've put it in my
11 newsletter, this always has been -- this is an
12 open process for absolutely everyone, because
13 whether you are a builder, a home owner,
14 someone who is just putting in a new water
15 heater, you've got a story often, and the only
16 way these good people can help you is if you
17 tell them exactly what happened.

18 CHAIR SCHWARTZ JONES: And, to be
19 clear, what we want to do is, we want to
20 improve the process without compromising the
21 substance.

22 COUNCIL MEMBER FLOREEN: Yes.

1 CHAIR SCHWARTZ JONES: Whether the
2 substance is the participation, the
3 environmental protection, the quality of the
4 development, the ground, whatever it is. It's
5 process that we are looking to improve.

6 MS. HIGGINS: Can I --

7 CHAIR SCHWARTZ JONES: Sure, come
8 on up.

9 MS. HIGGINS: -- I just want to
10 clarify that.

11 So, when we write a permit, you
12 want us to say like, let's say we have a
13 problem with a service request with DPS, do
14 you want us to give you that level of detail,
15 or just --

16 CHAIR SCHWARTZ JONES: Yes,
17 absolutely, right, because the problem is, if
18 we get the general -- that's like -- we are
19 bottlenecked -- if you tell us we have a
20 bottleneck, well, we know that, that's why we
21 are sitting here today, because we know we've
22 got a lot of bottlenecks.

1 We know we've got, whether it's
2 WSSC, DOT, DPS, whether it's going through a
3 cumbersome special exception process, whether
4 it's getting a state highway permit so that
5 you can't enter, which you can't even go
6 forward if you don't have that, whether it's
7 Fire and Rescue, whether it's an environmental
8 approval, whether it's getting the agreements
9 negotiated between the County Attorney's
10 Office and all the various players out there,
11 whether it's the culture of how we do
12 business, whatever it is by sitting here
13 together and hearing everybody, and having you
14 give us all your comments, and all of us
15 working together. We can't do this. We are
16 embracing each other so that we can come
17 together to come up, not with, necessarily, a
18 single solution, but with a lot of solutions.

19 COUNCIL MEMBER FLOREEN: You don't
20 have to know the solution, it's actually
21 better to just explain the experience, if it's
22 a delay, how you thought you were treated, or

1 the costs associated with your experience.

2 CHAIR SCHWARTZ JONES: The only
3 thing again that I would ask is that, if you
4 have an issue with our individual staff, and
5 I am speaking on behalf of all of us, is that
6 let's not do that on line. You can pick up
7 the phone, you can send us an email, you have
8 our individual emails, and we can deal with
9 our staff. I think that the public forum is
10 not the right way to do that, just out of
11 certain, you know, respect.

12 MS. HIGGINS: Right.

13 CHAIR SCHWARTZ JONES: Hans, did
14 you want to add something?

15 COUNCIL MEMBER RIEMER: Well, I'll
16 just add that, you know, we can't control the
17 state of the economy here. We can't control
18 a lot of things, but this is something we can
19 control, and that's why I wanted to show up
20 here today, and just lend my support to this
21 initiative to Nancy, as Chair of the
22 Committee, and Diane leading this effort. I

1 think it's so important.

2 You know, we have a very
3 fragmented decision-making process, and it
4 affects our competitiveness. And, I always
5 have to keep in mind myself, these are for
6 projects that we want. These are projects
7 that are being approved, as someone said,
8 implementing the vision of the Master Plan.

9 So, this really shouldn't be
10 contentious or -- I'm sure it will be, but,
11 you know, this is a thing that there is very
12 broad support to do, and this is a great time
13 to streamline and make this efficient, because
14 the waste in the process doesn't serve
15 anybody, and there's a lot of jobs that could
16 be on line right now, and contributing tax
17 revenue to the county, but we've got to hammer
18 that out.

19 So, I really salute this, and I
20 agree, it has to go from vision all the way to
21 occupancy, and, you know, we've got to get the
22 whole thing worked out.

1 CHAIR SCHWARTZ JONES: Thank you.
2 Francoise?

3 PLANNING BOARD CHAIR CARRIER:
4 Well, I guess I'm going to sound a little less
5 optimistic, because I see two things coming
6 out of this, that have been a little been run
7 together in some of these comments.

8 One is that we don't have enough
9 resources. I heard, you know, we've had many
10 of these comments are about the fact that we
11 just don't have enough people doing these
12 jobs. We just can't process the plans as
13 quickly as we'd like to, because there's not
14 enough folks.

15 There's one of the things, I
16 think, on Bob Harris' list that says the
17 Zoning Hearing Examiner should do things in
18 two to three months. He'd need to double his
19 staff. I doubt that there will come a time
20 when the County Council has enough resources,
21 maybe triple, to do that.

22 The problem with our resolution is

1 hiring many of the staff. A few years ago we
2 had five lawyers and two admins. We now have
3 three lawyers and one admin. The work load
4 has not decreased commensurate with the number
5 of people we have had to get rid of because of
6 our budget problems.

7 And, I'm not saying the county
8 isn't giving us our fair share. The county
9 doesn't have the resources to give us what we
10 really need to provide the kind of first class
11 service we would like to give. I'm not going
12 to speak for the other agencies, but, you
13 know, that's certainly my impression.

14 And, the other thing, I guess,
15 that I have heard in some of these comments
16 is, the tension that we always have between
17 the desire to expedite good projects, and give
18 approvals where they are well deserved, and
19 the desire by community members to make sure
20 that all projects get proper scrutiny.

21 For instance, we heard comments
22 about Master Plan should be less detailed.

1 Well, some people think it should be less
2 detailed, and some people think they should be
3 more detailed. And so, the County Council, I
4 think, strikes a balance. And, that's
5 healthy. You know, this is a kind of tension
6 you have to have, to have processes that are
7 going to be effective where everyone feels
8 that they had their say.

9 So, there are certainly, some of
10 these suggestions I think we can definitely
11 follow up on, but some of them are going to be
12 just beyond our resources.

13 CHAIR SCHWARTZ JONES: But, even
14 as we work together to come look at these
15 different suggestions, and we are going to put
16 them into -- this sort of gets to where we go
17 with the information that we are gathering, we
18 will put them into some type of categories,
19 and there may be options of solutions. And,
20 it may be that none of them will work, but we
21 can look at and at least discuss what might
22 improve these, you know, and what we can do.

1 We may not, as Francoise said, be
2 able to do anything about a specific issue,
3 but we'll come up with options. We'll
4 understand what the risks and the benefits
5 are, sort of a cost benefit type of a look at
6 them, and try to understand them.

7 We'll certainly be reaching out to
8 engage many people as we go through this
9 process. This is not going to be something
10 that, necessarily, is a straight-line process.

11 We are -- right now we've got a
12 weekly call going on for the various agencies
13 that are participating in this, so that we can
14 make sure that we are working together to get
15 the website up, to get this pulled together.

16 We are going to do the same thing
17 to categorize the different issues, and then
18 we'll -- you know, we'll probably be reaching
19 out, as I said, to the various participants in
20 the process, whether it's the community
21 representatives, whether it's engineers,
22 lawyers, developers, whomever, as we start

1 putting these groups together and start coming
2 up with smorgasbords of solutions.

3 So, Steve?

4 MR. KARR: I think I have one more
5 comment.

6 If there's not enough money to do
7 everything you have to do by law, maybe it's
8 time to give serious thought to getting rid of
9 the whole concept of optional methods, get rid
10 of the whole concept, and just make everything
11 straight, including zoning, including what you
12 do with density, naked density, let the
13 architects and engineers do their thing. You
14 don't need to beat every project to death,
15 where the loading dock door is, where this is,
16 where open space is, half of the open space is
17 a bunch of crap anyway. So, why not cut out
18 all the staff, all the time, all your
19 resolutions, and all that time is a waste.

20 MS. HIGGINS: And, all the
21 environmentalists, people living across the
22 street from that loading dock.

1 MR. KARR: You have --

2 CHAIR SCHWARTZ JONES: Let's keep
3 it with -- we'll ask you to send your comments
4 to us, and we can handle it that way.

5 Scott, did you have something that
6 you wanted to say?

7 DIRECTOR SILVERMAN: Not at this
8 time, but I would like to thank you for the
9 opportunity.

10 CHAIR SCHWARTZ JONES: I heard
11 Scott Wallace is in the room, is Scott Wallace
12 hiding? Pardon me? It's all been said,
13 okay.

14 Todd?

15 MR. BROWN: Just real quickly.

16 One thing you could look at is how
17 to simplify the opinions that are being
18 written. They have gotten so long, and if you
19 look at how 90 percent of the county is built,
20 and you look at the opinions, that would take
21 a lot of time, and you could simplify the
22 whole thing.

1 PLANNING BOARD CHAIR CARRIER

2 FRANCOISE: Todd, I'll tell you that that is
3 something that we are talking about with our
4 resolutions in my shop, in cases that are
5 relatively simple and straightforward, we
6 don't expect to go to appeal, we are looking
7 at ways that we can maybe revise that.

8 MR. BROWN: Thank you.

9 CHAIR SCHWARTZ JONES: Marie?
10 But, you know, if you are in danger of going
11 to appeal, I'm sure you want us to write a 25-
12 page resolution that covers everything.

13 MR. BROWN: And, I think that
14 comment is worth noting, but it may be a way
15 to save some time.

16 CHAIR SCHWARTZ JONES: Yes, agree.

17 Marie, did you have anything?

18 DR. LaBAW: I'm glad I'm part of
19 the process.

20 CHAIR SCHWARTZ JONES: Stan?

21 DIVISION CHIEF EDWARDS: I'm also
22 glad to be part of this problem -- I mean

1 process.

2 CHAIR SCHWARTZ JONES: Mal?

3 MR. SPICER: Nothing to add.

4 CHAIR SCHWARTZ JONES: Well, this
5 is, actually, one of my pet areas, because I
6 really do believe that we can simplify our
7 agreements, make them into forums as best as
8 we can. We'll pull down where we all agree on
9 what they are, and then you don't have to go
10 back and forth. This may be a pipe dream, and
11 we will significantly diminish the amount of
12 money that the lawyers get, maybe improving on
13 the amount of money that the architects get.

14 But, I think that we can certainly
15 improve the way -- the legal gymnastics one
16 has to go through.

17 Luis?

18 MR. TAPIA: Well just, happy to be
19 part of this process, and I just want to also
20 provide the fact that we are working for
21 people, providing the comments please be
22 specific because that will help us out, as we

1 have experienced at WSSC. We have been
2 working for many years now with the MNCPIA,
3 with developers, engineers, trying to find
4 ways for different processes.

5 So, the best way for us to be able
6 to help is to actually get specific situations
7 in order for us to be able to go back and
8 review the data and see where the problem is.
9 So, that's important.

10 CHAIR SCHWARTZ JONES: Al?

11 DEPUTY DIRECT ROSHDIEH: Well, I
12 appreciate all the comments, and I certainly
13 want to go back and look at each one and
14 evaluate it.

15 I was glad to hear that our
16 conflict resolution process was effective, and
17 the feedback that I'm getting is that it has
18 expedited the process. And, with Park and
19 Planning, we all work together for a year, and
20 it has been showing some improvement I think.

21 So, but I'm happy to hear other
22 comments, and look at those, and help us to

1 streamline the process and make it more
2 customer friendly.

3 CHAIR SCHWARTZ JONES: That's a
4 good observation. We do expect to have success
5 with this, but it will also be cost -- it will
6 save money for the county, too, when we get it
7 right.

8 MANAGER ANDERSON: I just want to
9 say I'm glad to be hear also to hear the
10 comments, and we're always open to see how the
11 comments regarding DHCA, specifically, and how
12 we can help in the process, and we look
13 forward to hearing more and seeing what comes
14 out of this.

15 UNIDENTIFIED SPEAKER: I just want
16 to say the Commission, as Steve Elmendorf
17 talked about the special exceptions committee,
18 we --

19 CHAIR SCHWARTZ JONES: Yes?

20 UNIDENTIFIED SPEAKER: Yes. I'd
21 just like to say that the part of the process
22 that I'm involved in is the hearing portion,

1 and I think that it's mandated by law, it's
2 also mandated that each person who attends the
3 hearing is given an opportunity to speak and
4 to cross examine all witnesses. So, there's
5 a certain amount of length that's built into
6 the process.

7 I think it's also very important,
8 from the aspect of public policy, to allow,
9 not only applicants, but members of the
10 community, to have this input so they are not
11 only heard, but they know that their interests
12 are being protected along with everybody else,
13 and that's reflected sometimes, as Nancy will
14 tell you.

15 So, that's my take on my end of
16 it.

17 CHAIR SCHWARTZ JONES: I'd like to
18 introduce to you all, just I don't know if you
19 all know Reggie Jetter, she's in the room here
20 somewhere. Oh, there. Reggie is my point
21 person for DPS permits, and he works
22 diligently to pull the website together. I'd

1 like you to go look at it, the survey, and
2 it's helping, you know, leading coordinating
3 all of this amongst all of these different
4 agencies, too.

5 So, Reggie, I want to thank you,
6 and all of my staff who is here, thank you
7 all, because -- from the inspectors, the
8 manager of the inspectors have heard the
9 comments that have been made. We've got our
10 Division Chief for Construction is here, we've
11 got a right-of-way manager here. So, we've
12 got people here, we are here to hear your
13 comments.

14 And, we have our customer service
15 -- many of you know Simin Rasolee, who,
16 actually, does what some of you have suggested
17 so well, and George Muste is here also.

18 Before we wrap up, is there
19 anybody else who had any other comments that
20 they want to make?

21 Come on up, sir.

22 MR. HILLMAN: My name is Jay

1 Hillman. I often introduce myself as an over-
2 educated real estate developer, but I spend
3 most of my time thinking.

4 And, in the spirit of the good
5 intentions of the group gathered here, which
6 is to figure out how can we accomplish
7 important goals more efficiently, one of the
8 things that I've spent, it's almost ten years,
9 thinking about, and it's resulted in a
10 proposed state bill called State Rail Station
11 Overlay District, is asking how can we get a
12 much better public return on massive public
13 investments in rail infrastructure.

14 I don't know how many people know
15 how big a check the State of Maryland writes
16 to WMATA each year to help offset some of
17 their operating deficit. Last year it was
18 \$260,900,000, and that's a lot of money.

19 Trains run up to Shady Grove in
20 the morning empty. Metro doesn't collect any
21 fares when they run empty trains.

22 So, where I'm going is, is going

1 through this whole process and understanding
2 how we've been doing zoning historically,
3 which is, basically, a barter system. We
4 trade impositions for density, and what we are
5 trying to do is always do the calculation
6 about how much does it cost for this
7 imposition, and about how much is the density
8 worth. And, it dawned on me, this is only a
9 few months ago, you get these incites at 3:00
10 in the morning, I said, what are we doing with
11 the barter system, why don't we use money.

12 And then, what I've done in my
13 State Rail Station Overlay zoning is, I've
14 said, look, government's job is to develop and
15 build the public realm, and to make sure
16 public facilities are adequate for everyone.

17 CHAIR SCHWARTZ JONES: Mr.
18 Hillman, what you are talking about is really
19 outside of what the purpose of this forum is
20 about.

21 MR. HILLMAN: Okay, but I was just
22 briefing you on something that is in process

1 now, that would reengineer how you regulate
2 and manage land use. The comment that was
3 made to abandon the optional method, and use
4 a set of mathematical formulas to apply to
5 every site. No two sites are identical.
6 Hell, no two snowflakes are identical.

7 So, what we need is a design
8 review that's efficient and a way to charge
9 for density that's based on the value, not
10 transfer of development rights.

11 Anyway, that process is in work,
12 and it's all up on my website. So, anybody
13 who is actually interested in doing some
14 serious thinking, can do that.

15 Thank you.

16 CHAIR SCHWARTZ JONES: Thank you.

17 Okay, with that, I want to thank
18 you all for coming out, and we do have another
19 forum on the 9th.

20 I really hope you all will, number
21 one, get your clients to come tell us. I
22 mean, you use our services, you see where

1 things are held up. You need to tell us where
2 they are held up, you see where there's
3 duplicate or even triplicate reviews by
4 different agencies of the exact same issues.
5 You need to put it out there and tell us.

6 We know some of this, but you see
7 it, and you see the whole picture, so tell us.

8 Thank you.

9 (Whereupon, the above-entitled
10 matter was concluded at 3:55 p.m.)

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A				
abandon 88:3	afraid 68:20	anybody 22:18	architects 78:13	18:11 19:10 22:2
ability 40:17 46:6	afternoon 9:21	47:16 48:5 50:5	81:13	22:12,18 25:12
able 35:10 36:3	11:7 23:2 30:3	55:13 63:9 66:15	area 34:16 42:17	26:16 36:20 46:17
50:10 53:8 59:22	38:19 52:5 53:16	68:21 73:15 85:19	65:7	53:3,8 58:15
63:4 66:8 77:2	age 54:18	88:12	areas 30:8 33:11	59:19 61:1 81:10
82:5,7	agencies 4:17 6:12	anyway 31:22	81:5	82:7,13
above-entitled 89:9	6:15 8:19 9:9	78:17 88:11	argument 33:14	bad 14:19
absolutely 16:7	12:22 14:9 21:6	appeal 17:13 55:2,6	arrange 22:19	balance 76:4
69:12 70:17	21:16 26:2,5	55:16 56:8 80:6	arrives 5:7	ball 66:19
accelerate 28:3	28:12 35:11 36:18	80:11	aside 28:16	bankrupt 66:7
accelerated 62:22	37:19 44:16 46:9	appeals 2:6 4:19	asked 18:9 68:19	bar 40:19
accepted 35:19	46:11 47:6 48:17	5:11 55:7,16,17	asking 8:7 43:7	barter 87:3,11
accompaniment	48:21 49:1,16	61:10 62:18	53:4 86:11	base 12:6 49:10,11
46:14	51:17 58:11 60:14	apples 14:19	aspect 84:8	based 88:9
accomplish 86:6	75:12 77:12 85:4	applicable 62:2	assemblage 23:9	basically 54:3 87:3
accustomed 12:7	89:4	applicant 12:14	assembled 7:7,19	basis 41:1
Act 60:22	agency 22:7 44:22	14:4,13 15:2,6	assigned 7:10 28:9	basket 14:19
action 15:11	63:7	18:6 19:7 35:9	Associate 2:12	Baw 5:22
active 48:11	ago 62:2 75:1 87:9	applicants 13:18	associated 72:1	Bean 42:3
activities 65:18	agree 73:20 80:16	14:7 41:13 84:9	Associates 25:19	beat 78:14
actors 46:3	81:8	applicant's 19:14	attend 54:20	becoming 60:7
actual 13:17 45:17	agreements 71:8	application 13:14	attending 44:16	beginning 5:1 9:13
add 43:4 72:14,16	81:7	18:6 35:12 43:10	attends 84:2	68:10
81:3	ahead 4:7 20:7	57:18 58:1 68:22	attention 61:20	behalf 4:14,15
additional 38:14	38:18 57:22	applications 41:5	64:3	16:19 23:5,5 72:5
address 7:11 23:11	Al 2:9 5:19 82:10	applies 65:14,15	attitude 14:18 15:5	Behrooz 22:14,14
24:20 25:13 26:14	Alemi 22:14 47:20	apply 88:4	28:5,7,7 37:15	47:20
46:16,19,21 54:16	alive 55:16	applying 51:3	44:8	believe 12:9 14:20
56:13	allow 84:8	appreciate 82:12	attorney 2:12 5:20	47:12 62:20 81:6
addressed 12:10	allowed 19:6 33:12	appropriate 14:3	16:12 23:4	Beltway 22:4
21:3,9 50:2	34:18 57:17	37:22 61:8	Attorney's 71:9	benefit 28:10 77:5
addressing 23:18	allows 33:10	appropriately	attractive 11:21	benefits 77:4
24:13	ambience 44:10,11	37:20	Auditorium 1:19	Berliner 4:6 5:6
adequate 87:16	amendment 19:3	approval 5:4 6:4	automate 41:20	47:2
adherence 14:3	26:17	7:18 10:9 17:11	automatically	best 22:7 81:7 82:5
admin 75:3	amount 42:14	19:2 27:13 55:5	35:22	Bethesda 34:12
administered 21:22	81:11,13 84:5	71:8	automation 41:20	better 71:21 86:12
administration	amounts 20:10	approvals 6:8 56:8	automobile 45:9	beyond 16:21 64:7
4:21 5:16 65:17	amplify 57:13	61:3 75:18	available 8:13	76:12
Administrative 2:7	Anderson 2:2 5:17	approve 18:12	avoid 42:9	big 26:20 28:5
4:20 5:14 62:17	83:8	approved 26:8,19	awful 41:21	86:15
admins 75:2	and/or 7:3	73:7	awnings 34:8	bigger 39:4
adopted 60:22	anecdotally 18:22	approves 17:9 18:7	Axom 53:17	biggest 41:14
advisory 15:20	anonymous 69:3	approving 9:9		bill 86:10
44:1,2	answer 53:3	arcane 62:10	B	billion 28:15
Affairs 5:18	answers 48:20	architect 20:21	back 9:1,2,6 10:22	bit 21:4 28:3
	49:20	21:12	15:19 17:11 18:2	blessing 28:22

board 2:3,6 4:18 5:9,10 17:8 18:7 19:4,11,19 20:1 22:12 32:11 37:5 37:9 40:8 44:1,2 55:15 57:5 61:7,9 62:17 74:3 80:1	buildings 59:3 built 59:4 79:19 84:5 bunch 78:17 burden 11:18 business 7:16 9:15 11:21 40:16,22 71:12 businesses 29:3 busy 58:18 buy 40:18	3:4 4:3 5:6,9 10:19 16:1,5,8,14 20:12,15 22:13 25:15 26:22 29:7 29:10,11,16,19 30:16,20 31:3,7,8 31:14,17 38:2,4 38:17 43:14,18 46:15 50:4,13,18 52:3 53:12 54:11 56:11 57:5 61:16 63:8,16,21 66:14 67:20 69:18 70:1 70:7,16 72:2,13 72:21 74:1,3 76:13 79:2,10 80:1,9,16,20 81:2 81:4 82:10 83:3 83:19 84:17 87:17 88:16	City 22:11 clarification 8:4 clarify 70:10 Clarksburg 10:6 40:4 class 75:10 clear 46:2 69:19 clearer 46:1 click 42:3 clients 23:6 52:9 53:9 88:21 close 45:4 closings 17:16,16 Code 49:8 codes 12:12 41:19 49:8 codify 34:11,15 coin 17:20 collaborative 5:2 9:13 collated 46:21 collect 86:20 combination 40:1 combined 43:6 54:7 come 7:11 10:22 15:3 18:6 19:10 20:1,19 22:18 24:19 25:12 27:13 27:22 29:9,21 31:18 33:5 40:3 41:4,8,19 43:20 47:15,18 48:6 49:3 53:15 57:16 62:12 63:3,16 70:7 71:16,17 74:19 76:14 77:3 85:21 88:21 comes 17:11 49:13 49:14 83:13 comfortable 58:4 coming 9:17 18:11 32:22 74:5 78:1 88:18 commensurate 75:4 comment 29:5 39:3	49:14 52:7 53:21 78:5 80:14 88:2 comments 3:5 7:3 8:1,2,7,9,14 9:4 10:3 17:7 21:3 25:20 26:1,5,11 28:6 39:4 43:7,8 43:15 46:20 61:18 62:2 63:18 67:21 67:22 71:14 74:7 74:10 75:15,21 79:3 81:21 82:12 82:22 83:10,11 85:9,13,19 commercial 16:17 16:21 Commission 2:13 62:7,22 83:16 commissioned 15:16 committed 24:12 committee 5:6 16:15 25:21 31:9 35:16 72:22 83:17 common 49:4,9 communicating 15:2 communication 52:8 community 5:18 40:2 48:12 51:15 67:3 75:19 77:20 84:10 companies 13:13 compete 13:11 competition 12:4 competitive 12:5 24:2 competitiveness 12:1 73:4 complaint 49:14 complete 15:20 completed 53:18 completely 26:11 completing 12:15 complex 35:2 compliance 2:4
body 7:18 bond 42:22 Bossong 2:15 3:7 11:1,2,7 16:2,7 bottle 6:11 bottled 42:10 bottleneck 70:20 bottlenecked 70:19 bottlenecks 70:22 bottom 17:21 18:21 box 28:2 59:14 boxing 60:9 brain 30:17 Branch 4:17 13:12 60:14 branches 13:5 47:8 breaking 55:18 breaks 45:8 breathe 31:15 Brewer 23:3 brief 4:11 10:5 briefing 87:22 bring 66:21 broad 73:12 brown 2:16 3:20 52:5,6 56:17 79:15 80:8,13 bucket 54:18,19 budget 40:21 51:1 75:6 build 42:13,14 64:11 87:15 builder 69:13 building 1:20 21:10 22:8 38:21,22 55:7 59:9 64:19	cafe 34:8 calculation 87:5 call 8:16 33:16 52:17,17 58:13 77:12 called 86:10 calling 47:16 can-do 28:7 37:15 Carrier 2:3 5:9 57:5 74:3 80:1 case 18:22 25:2 33:20 45:7 47:14 57:14,22 cases 32:3 57:4 80:4 catch 20:7 categories 7:9 49:3 76:18 categorize 77:17 caught 64:2 caused 11:20 causes 14:3,20 causing 14:8 CBD 53:22 center 24:9 28:20 59:16 centers 55:12 certain 13:6 17:6 18:3 21:20 32:11 72:11 84:5 certainly 51:6 57:13 75:13 76:9 77:7 81:14 82:12 chair 1:22 2:1,3,5	challenges 11:15 24:6,13 challenging 12:2 24:10 chance 54:14 change 15:13 36:13 36:16 37:11 changed 20:4 changes 7:15,17 15:18 17:5 25:3 changing 12:3 25:6 27:13 28:6 chapter 16:16,18 charge 88:8 Charles 25:18 check 86:15 cheerfulness 44:10 Chief 2:4 80:21 85:10 chose 54:1 Chris 5:17 CHRISTOPHER 2:2 church 64:10 66:7 Cindy 47:1 Circuit 55:17 Citizens 44:1		

41:6,15 complicated 5:3 6:3,12 39:12 40:14 51:4,5 compliment 56:18 complimentary 61:22 compromising 6:19 69:20 concept 78:9,10 concern 67:9 concerns 8:9,14 11:17 concluded 89:10 conditional 61:2,3 conditions 34:11 conference 14:8 59:15 conflict 32:17 39:8 58:9 82:16 conflicted 30:13 32:9 conflicting 26:11 conflicts 26:4 67:4 conformance 26:18 confused 21:5 45:11,20 confusion 67:7 consent 19:2 consider 12:16 56:5 consistency 51:16 60:5,6 65:16 66:13 consistent 59:7 65:17,21 consolidate 67:11 Construction 85:10 Consulting 11:8 consuming 40:15 contact 9:7 46:18 contemplate 59:18 content 25:3 contentious 73:10 CONTENTS 3:1 continue 39:13 67:16	continuously 23:19 contract 10:8 contractor 27:17 contradiction 64:17 contrary 36:2 contributing 73:16 control 42:16 72:16 72:17,19 controls 49:19 conversations 35:10 cooperative 44:9 coordinate 62:6 coordinating 85:2 coordination 63:6 Coordinator 2:12 corner 59:14 60:10 correct 19:22 20:9 corrected 20:2 correctly 22:21 correlation 62:19 corresponding 46:10 cost 13:16 39:17 77:5 83:5 87:6 costs 13:21 14:16 67:8 72:1 Council 2:5,9 4:16 5:5,6 23:15 29:8 29:14,17 31:6 40:8 56:4,14 63:12,13 66:17 68:7 69:22 71:19 72:15 74:20 76:3 Council's 41:16 counties 33:4 county 1:2,4 2:12 4:14,15,16 5:20 9:15 11:10,14,20 12:6,17,22 13:4,5 15:8 20:22 21:18 22:5 23:4,11,16 27:11,14 28:10,11 28:20,22 34:14 38:21 39:6 40:8 40:13 41:15,17	43:12 44:1,8,15 46:10 51:7,17 59:2 64:3,7,17,19 64:20 71:9 73:17 74:20 75:7,8 76:3 79:19 83:6 county's 59:15 couple 39:6 41:2 47:14 court 8:12 55:17,17 cover 13:21 covers 80:12 CR 60:4 crap 78:17 create 67:7 creative 38:5 credit 57:20 cross 84:4 cross-agency 5:2 culture 71:11 cumbersome 47:10 71:3 current 11:18 27:16 56:9 customer 83:2 85:14 cut 39:17 78:17	death 55:19 78:14 debate 36:9 decide 61:7 decided 6:9 decision 58:21 decision-making 73:3 deck 41:13 decreased 75:4 deficit 86:17 definitely 76:10 delay 15:1 37:7 55:19 71:22 delayed 17:17 59:17 delays 14:8,16 30:12 32:6 Delia 10:20,22 47:18 demographics 12:2 12:3 density 78:12,12 87:4,7 88:9 DEP 13:4 department 1:5 2:2 2:9,10 5:16,18,19 5:21,22 15:4 22:6 45:2,4,11,15 49:12 64:1,22 67:13 departments 47:7 49:17 depth 68:5 Deputy 2:9 82:11 describe 68:4 deserved 75:18 design 13:17 33:5,6 33:16 35:15 60:6 60:7 88:7 designed 66:21 designs 32:15 desire 75:17,19 despite 23:21 detail 24:10 70:14 detailed 39:4 75:22 76:2,3 develop 87:14	developer 50:10 86:2 developers 77:22 82:3 development 1:7 1:18 2:11 5:4,17 6:4,7,20 9:9 11:10 11:13 15:10 24:4 24:5,11 25:21 28:13 32:12 59:7 70:4 88:10 DGS 47:20 DHCA 49:5,15 83:11 Diane 1:22 2:1 3:3 4:13 16:11 66:18 72:22 Diane's 66:20 dichotomy 45:7 different 13:6 24:7 26:2,5,11 32:13 32:14 47:6,7,7 48:20,21 49:20 51:17 58:14 76:15 77:17 82:4 85:3 89:4 differently 28:3 difficult 10:17 difficulties 27:16 difficulty 8:18 diligently 84:22 diminish 81:11 diminishing 11:22 direct 15:5 82:11 direction 33:16 60:4 Director 2:1,5,6,9 2:10 58:17 79:7 dirt 63:20 64:2 65:2,14,15 disappointment 62:14 disconnect 21:17 discretion 19:14,14 discuss 27:13 76:21 discussed 62:3 disperse 46:8
---	---	--	---	--

D

D 2:8**Dan** 2:23 3:21
53:17**danger** 80:10**data** 19:21 49:3,9
49:11 82:8**dawned** 87:8**day** 35:3**daycare** 55:12**days** 34:2 35:17,18
36:1 37:4 57:1**deadline** 18:18,20**deadlines** 41:12**deal** 50:21,22 51:9
72:8**dealing** 6:7 13:1

68:13

dealt 49:16

District 86:11
Division 2:4,4
 80:21 85:10
divisions 13:5
dock 78:15,22
document 54:4
documents 12:16
 13:18 53:19
doing 13:6 17:5
 28:2 44:21 56:5
 58:4,18 61:11
 63:1 66:10 74:11
 87:2,10 88:13
door 78:15
DOT 32:12 34:21
 35:14,15,17 71:2
double 74:18
doubt 74:19
downstream 27:18
dozen 24:15 25:8
 56:16
DPS 21:15,15,17
 22:2 49:15 51:10
 62:21 70:13 71:2
 84:21
DR 80:18
draft 19:8,16 20:5
dramatic 37:11
draw 61:19
drawings 35:21
DRC 10:13 26:13
 35:13 36:7,8,13
 36:15 37:3,7
 68:16
DRCs 25:22
dream 81:10
drive 61:7
driver 28:5
dropping 17:20
drops 18:20
Drury 2:17 3:13
 27:4,4,6
.dumps 55:11
Duncan 27:17
duplicate 89:3

E

earlier 36:15 58:10
early 23:3 40:9
 48:4
ease 8:17
easier 11:4 52:15
East 28:20
economic 2:11 5:17
 11:18,22 14:16
economy 12:3 24:3
 27:16 72:17
educated 86:2
education 51:12,20
Edwards 2:4 5:21
 80:21
effective 76:7 82:16
effectiveness 12:11
efficient 73:13 88:8
efficiently 86:7
effort 5:2 7:15
 15:20 57:13 61:19
 61:21,22 62:13
 63:1,7 72:22
efforts 23:22 62:8
either 20:14 32:9
 52:16
electronic 39:14
 42:7
Elmendorf 2:17
 3:8 16:10,11,12
 54:13 83:16
email 52:21 72:7
emails 72:8
embracing 71:16
employees 8:16
empty 86:20,21
encourage 62:5
 63:6 67:16 68:8
 69:3,9
ended 33:22
enforcement 49:7
engage 77:8
Engineer 2:8
engineering 26:8
 26:10 53:18
engineers 77:21
 78:13 82:3
enter 71:5

entitled 65:10
entitlement 6:7
 30:6 32:1 53:19
Environment 2:4
environmental
 5:21 6:20 13:3,4,7
 13:8 36:3,5 49:19
 70:3 71:7
environmentalists
 78:21
environmentally
 36:10
EPS 42:10
equal 65:10
eroding 64:16
erosion 49:19
error 20:10
esoteric 63:19
essentially 33:6
establish 41:11
established 12:13
establishing 12:14
estate 16:18,22
 17:16 86:2
estimate 53:7
evaluate 43:5 82:14
Evan 2:18 3:14
 29:21 30:4 31:21
eventually 17:21
everybody 4:4 5:13
 8:4 18:17 21:8
 30:4 36:21 39:22
 46:17 49:10 50:15
 50:20 65:12,22
 66:21 67:16 68:16
 69:8 71:13 84:12
evident 15:15
evolve 24:4 25:6
exact 54:4 89:4
exactly 69:17
examine 84:4
Examiner 74:17
example 13:3 21:18
 59:16
examples 34:5,13
 60:2
excavation 64:12

excellent 32:4
 34:22
exception 55:1,2,10
 55:14,20 56:6
 60:20 71:3
exceptions 33:5,6
 33:22 61:6 83:17
executive 1:20 2:5
 4:14,15,16 13:12
 23:16 58:20 60:14
existing 30:14 32:9
expect 7:13 26:6
 80:6 83:4
expecting 67:21
expedite 61:12
 75:17
expedited 82:18
expense 44:18
expensive 40:14
experience 22:11
 71:21 72:1
experienced 82:1
experiences 6:6
explain 57:11
 71:21
explanation 9:7
expound 43:15
extend 43:3 47:3
extension 42:2
extremely 12:18
e-commerce 42:5

F

faced 27:15
facilities 87:16
facility 59:20 61:8
fact 27:20 57:15
 62:1 74:10 81:20
fair 75:8
fairly 53:20
faith 5:1
familiar 45:14
far 22:6
fares 86:21
faster 22:17 30:17
Fauke 53:19
FDA 29:1

FEBRUARY 1:13
fed 5:6 31:9 63:2
Federal 30:4
fee 41:20
feedback 7:7 35:17
 38:1 82:17
feel 58:4 65:19
feels 76:7
fees 13:14,15,20
fellow 45:11
fence 41:14 64:13
 64:13,15 66:4
field 24:4 62:20
figure 36:22 86:6
figures 44:14
figuring 28:14
file 19:3 21:10
 45:17 57:17,22
filed 55:2,6 56:8
final 19:18
finally 19:18 37:8
financially 10:17
find 9:10 39:20
 82:3
fine 17:5
finished 42:21
fire 6:1 21:21 22:1
 49:15 68:14 71:7
firm 11:8 41:11
first 4:22 6:9 9:18
 21:7 23:8 27:10
 30:2,12 32:7 33:3
 35:17,20 39:20
 42:20 54:17 62:15
 75:10
first-hand 11:14
fiscal 67:9
fits 59:21
five 10:7 12:9 37:13
 43:1 75:2
five-month 37:6
fix 69:7
flaws 67:1
flexibility 58:2
Flippi 27:3 48:2
Floreen 2:5 4:6 5:7
 23:16 31:4,5,6

56:14 63:12,13
66:17 68:7 69:22
71:19
flush 7:14
focused 16:17
folks 18:5 74:14
follow 42:5 51:6
76:11
follows 41:9,9
force 28:11
forget 58:16
forgot 54:15
form 18:11 25:4
format 7:22
formulas 88:4
forth 36:20 81:10
Fortunately 57:19
forum 1:7,19 8:11
9:3,22 62:3 68:2
72:9 87:19 88:19
forums 4:22 81:7
forward 7:21 11:6
13:19 15:7 23:14
26:13 28:8 34:17
39:14 43:8 55:1,6
55:8 56:7 59:22
71:6 83:13
found 64:9,18
four 10:11 18:14
57:3
fragmented 73:3
frame 17:19
Francoise 5:9 74:2
77:1 80:2
Frank 2:15 3:7
11:1,7 16:9
frankly 22:3 32:2
32:22 60:21 61:11
FRANCOISE 2:3
Freeman 2:5 5:10
friendly 83:2
front 36:4,14 37:8
40:7 55:15
fruition 27:22
frustrates 52:9
frustrating 53:9
frustration 14:4

69:6
fuel 67:13
full 64:7
funnels 49:11
future 62:13

G

Gaithersburg 65:5
game 54:21
GANT 2:18
garage 64:19
gathered 86:5
gathering 7:1
76:17
general 13:2 30:11
30:13 32:8 35:9
41:3 53:20 70:18
generalizations
68:9
George 85:17
getting 6:8 8:18
17:1 21:8 22:7
24:22 33:18 36:15
37:8 54:17 56:1
71:4,8 78:8 82:17
Gibson 47:1
give 8:4 30:21
36:20 52:11 53:3
53:6 70:14 71:14
75:9,11,17 78:8
given 8:6 26:12
42:14 84:3
giving 26:10 75:8
glad 50:11 80:18,22
82:15 83:9
gloomy 12:3
go 4:7 17:15 20:2,8
22:12 26:16 37:5
38:17 39:10 42:3
43:1,2,20 44:18
45:15 51:22 57:22
61:9 63:21 66:5
71:5 73:20 76:16
77:8 80:6 81:9,16
82:7,13 85:1
goals 41:3 59:11,12
86:7

goes 16:21 21:19
going 4:7,10 11:4
15:13 17:3,22
18:10,13,13,15,16
22:2,9 24:15
28:17 30:17 34:17
39:15,15,17,17,18
40:20,21 42:8
45:3 47:13 51:7,8
51:11,20 53:7
54:15 60:4 62:10
68:4 71:2 74:4
75:11 76:7,11,15
77:9,12,16 80:10
86:22,22
Goldman 2:18 3:14
29:21 30:1,4,19
31:1,12,16,20,21
38:3
goner 69:1
good 5:1 9:21 11:7
23:2,21 27:5,6
29:19 30:3 33:7
34:13 37:15 38:19
44:10 50:18 52:5
53:16 56:17 58:21
59:16 69:16 75:17
83:4 86:4
gotten 26:19 57:1
59:1 79:18
governing 7:18
government 44:8
45:20,20,22 46:11
47:8
government's 67:1
87:14
grade 34:3
grading 34:6
granted 33:22
great 18:4 34:1,12
57:20 58:12 59:20
67:10 73:12
greater 24:7
green 24:4
grossly 55:4
Grossman 2:6 5:13
ground 70:4

group 48:15 86:5
groups 7:11 78:1
Grove 28:19 86:19
growth 12:1 24:9
guess 22:1 34:18
74:4 75:14
guidelines 60:6,7
guys 51:19
Gwen 58:15
gymnastics 81:15

H

habit 59:1
half 78:16
hammer 73:17
hand 5:12 52:4
handle 79:4
handouts 9:6
Hans 2:9 31:11
72:13
happen 28:14
37:18,19
happened 69:17
happening 19:4
37:21
happy 24:19 81:18
82:21
hard 60:15
harder 30:21
Harris 2:19 3:11
23:1,2,3 56:11,12
57:10 62:1 74:16
hat 16:14,14
head 31:11
heads 15:4 28:12
healthy 76:5
hear 6:6 68:11
82:15,21 83:9,9
85:12
heard 8:5 47:17
53:13 68:9,15
74:9 75:15,21
79:10 84:11 85:8
hearing 8:1,3 10:14
37:5 71:13 74:17
83:13,22 84:3
Hearings 2:7 4:20

5:15 62:17
heater 69:15
HEIDI 2:18
Heights 9:19 10:7
held 33:19,19 89:1
89:2
Hell 88:6
help 6:2 7:13 18:5
19:13 63:5 69:16
81:22 82:6,22
83:12 86:16
helped 23:12
helpful 9:11 12:19
20:5 37:15 43:16
46:22 58:11 68:11
helpfulness 44:10
helping 30:10 85:2
helps 39:21
hey 36:9
Hi 31:6,7 52:5
hiding 79:12
Higgins 2:19 3:19
50:7,8,16,19 70:6
70:9 72:12 78:20
High 65:5
higher 40:19
highway 4:21 5:15
71:4
Hillman 2:20 3:22
85:22 86:1 87:18
87:21
hinders 13:18
hiring 75:1
historically 87:2
hit 17:21 32:4
hits 45:9
hold 15:1,19 31:4
holder 55:1 56:6
home 39:1 69:13
homes 55:12
hope 22:20 41:3
66:11 69:3 88:20
hopefully 40:9
hoping 51:19
hospitals 55:12
hours 53:4
Housing 5:18

http 7:5
hubs 29:2,4
Human 18:19
hurdle 21:8
hyper 59:2

I

idea 32:11
identical 88:5,6
Ike 4:14,15
impact 6:3
imperative 12:4
 48:22
implement 33:18
 51:20 63:5
implementing
 15:21 41:16 62:12
 73:8
implications 14:15
importance 15:6
important 24:3
 66:1 69:4 73:1
 82:9 84:7 86:7
imposition 87:7
impositions 87:4
impractical 18:4
impression 75:13
improve 6:18 7:12
 9:14 69:20 70:5
 76:22 81:15
improved 39:7
 40:4
improvement 29:3
 30:9 82:20
improvements
 15:21
improving 81:12
inbox 18:21
incites 87:9
included 8:21
includes 13:11
including 78:11,11
Inconsistency 14:2
inconsistent 14:11
 67:5 68:15
increased 13:15
increasing 60:13

incredibly 37:14
indifference 14:21
individual 8:15
 14:21 72:4,8
infill 24:5
information 7:1,9
 7:19 9:7,10 40:2
 46:18 52:11 53:10
 68:5 76:17
infrastructure
 86:13
initial 6:22
initiative 30:13
 32:8 72:21
input 36:15 84:10
inquiry 64:22
inserting 15:7
inspection 68:14
inspections 49:9
 51:22
inspectors 85:7,8
instance 75:21
instances 26:15
instilled 11:19
instructory 4:11
intellectual 29:2
intended 50:15
 51:4
intent 6:2
intention 23:10
intentionally 13:8
intentions 23:21
 86:5
interacted 48:16
interactive 36:17
interest 58:14
interested 47:4
 88:13
interests 84:11
interpretations
 14:5,10
interrupted 57:9
introduce 4:17 5:7
 84:18 86:1
Introductory 3:3
investments 86:13
investors 14:16

involved 11:12
 21:13 83:22
involvement 62:16
issue 16:20 23:11
 23:18 26:20 33:3
 34:20 49:6,14
 56:22 72:4 77:2
issues 7:10,12,14
 24:21 32:19 36:6
 40:9,11 44:19
 48:11 49:18 56:14
 58:6 67:3 68:16
 77:17 89:4
items 24:15 36:21
 54:16,19 56:16,20

J

J 2:21
Jay 2:20 3:22 85:22
Jeeter 45:13
Jerry 2:21 61:16
Jetter 84:19
Joav 38:7,7 48:3
job 12:1 67:1 87:14
jobs 13:6 73:15
 74:12
Johnson 25:18
joined 31:5 53:17
Jones 1:22 2:1 3:3
 4:3,13 10:19 16:1
 16:5,8 20:12,15
 22:13 25:15 26:22
 29:7,16,19 30:16
 30:20 31:3,7,14
 31:17 38:2,4,17
 43:14,18 46:15
 50:4,13,18 52:3
 53:12 54:11 56:11
 61:16 63:8,16,21
 66:14 67:20 69:18
 70:1,7,16 72:2,13
 74:1 76:13 79:2
 79:10 80:9,16,20
 81:2,4 82:10 83:3
 83:19 84:17 87:17
 88:16
Judy 2:19 3:19

50:7 69:10
jurisdiction 40:16

K

Karr 2:21 3:10
 20:12,13,17,21
 78:4 79:1
Katherine 2:5 5:10
keep 55:16 67:21
 73:5 79:2
keeping 67:18
Kensington 9:19
 10:7,12 48:10
 50:8
kept 33:18 37:16
key 17:12
kill 44:17 55:14
kind 30:12 49:20
 58:2,5 75:10 76:5
kinds 66:9
Klein 2:21 61:17,18
know 4:12 10:14
 11:5 17:22 20:4
 21:1,2,5 29:22
 30:6 31:8 34:5
 36:1,2 38:9 39:12
 39:18 40:20 41:10
 43:19 47:4 50:9
 50:20 53:5 54:8
 55:11,22 59:9,18
 59:19 61:7,9 64:5
 67:5 70:20,21
 71:1,20 72:11,16
 73:2,11,21 74:9
 75:13 76:5,22
 77:18 80:10 84:11
 84:18,19 85:2,15
 86:14,14 89:6
knowledge 11:15

L

L 2:6
La 5:22
LaBAW 2:8 80:18
ladder 39:11
lady 50:6
land 23:4 48:11
 88:2

large 25:2 28:13
 32:21 35:1 42:19
largely 33:3
lately 39:7
law 41:9 64:4 65:9
 78:7 84:1
laws 14:3 64:17
 65:11,11,13
lawyers 75:2,3
 77:22 81:12
lead 4:10 44:5
 60:11
leaders 23:18
leadership 66:21
leading 72:22 85:2
leave 33:4 37:3
 38:10
left 5:11 48:4
legal 61:10 81:15
Leggett 4:14,16
 23:16
legislation 30:14
 32:9
Legislative 16:15
lend 72:20
lenders 14:16
length 84:5
lengthen 42:11
Lerch 23:3
Les 2:23 3:12 25:15
letter 36:19 39:3
let's 31:4 34:15
 36:20,22 37:2
 70:12 72:6 79:2
level 12:5 13:15
 58:13 70:14
life 28:18,20 39:15
 60:21
limit 8:7
limited 12:8 33:1
line 7:3 9:5 16:6
 24:19 27:8 40:2
 43:15 52:20 72:6
 73:16
linger 52:21
list 8:20 20:16,18
 24:14 47:12,13

54:16,20 56:15 61:13 74:16 listed 25:8 listen 7:2 24:17 30:18,21 listening 61:14 lists 54:19 literally 19:1 litigations 57:6,7 little 10:5 21:4 28:3 63:11 68:4 74:4,6 live 18:14 48:10 65:6 living 78:21 load 75:3 loading 34:7 78:15 78:22 Lobby 1:19 local 16:18 46:10 48:12 location 49:12,13 61:8 log 42:1,2 long 6:11 18:16 31:18 67:18 79:18 longer 10:15 19:1 26:17 37:1 43:9 43:10 60:11 look 28:1 43:8 48:22 53:5,11 59:4,10 66:5 76:14,21 77:5 79:16,19,20 82:13 82:22 83:12 85:1 87:14 looked 15:9 35:21 51:21 looking 23:13 49:5 59:19 67:14 70:5 80:6 Loomis 16:13 52:6 loop 21:7 lose 55:15 lot 10:15 18:20 19:20,21 20:9 21:2 24:1 27:15 30:6 32:21 34:18	36:9 41:21 42:9 43:6 44:4,21 49:16 54:4 55:19 58:7,18 59:22 60:15,16 62:8,18 67:8 68:13,14 70:22 71:18 72:18 73:15 79:21 86:18 lots 10:7 love 60:17 lower 30:1 Luis 2:12 5:11 81:17 L.L 42:3 <hr/> M major 21:8 25:3 making 21:14 Mal 5:19 81:2 MALCOLM 2:12 manage 88:2 managed 22:7 38:5 management 15:15 manager 2:2 83:8 85:8,11 Managers 15:4 mandated 14:7 84:1,2 mandates 60:5 mandatory 18:2 man's 28:6 March 9:3 67:19 68:1,3 Marcus 58:16 Marie 2:8 5:22 80:9,17 Mark 2:17 3:13 27:4,4 MARTIN 2:6 Marty 5:13 Maryland 1:1,21 24:9 86:15 Maryland/D.C 16:15 massive 86:12 master 25:4 33:15 41:9,17 58:22	59:2,8,17 60:5 73:8 75:22 match 32:15 mathematical 88:4 matter 40:20 89:10 mean 19:20 35:7 42:4 80:22 88:22 means 24:11 40:6 mechanical 27:17 mechanism 33:17 meeting 35:13,16 36:18 37:3,7 44:16 62:20 meetings 25:21 35:3 36:14,16 37:1,21 66:20 Mehring 2:22 3:6 9:19,21 Melanie 22:20,21 47:22 Member 2:5,9 23:16 29:8,14,17 31:6 56:14 63:12 63:13 66:17 68:7 69:22 71:19 72:15 members 2:1 16:19 60:16 75:19 84:9 Memorandum 39:8 mention 49:22 54:15 mentioned 58:10 60:12 messages 68:15 met 1:19 36:10 method 54:1 88:3 methods 78:9 Metro 64:20 86:20 mic 30:2 Mid 30:7 32:1 33:20 middle 67:19 Miller 38:20 millstones 25:5 mind 23:19 73:5 mindset 14:22 mine 69:6	minor 66:2 minute 30:22 31:4 57:20 62:2 minutes 8:8 38:6 54:17 minutia 39:4 minutiae 62:10 mistakes 19:20 20:8 MNCPIA 82:2 Moadel 27:1 48:1 model 41:1 60:22 models 42:5 module 62:15 money 15:12 28:16 40:22 54:9 64:12 64:14 67:8 78:6 81:12,13 83:6 86:18 87:11 monitored 53:2 monitoring 42:22 Monroe 1:20 Montgomery 1:2,4 9:15 11:10,13,20 13:4 15:8 22:5 40:13 month 62:9 months 10:10,13 27:22 33:19 34:1 43:3 57:3 74:18 87:9 morning 86:20 87:10 Morrison 2:22 3:16 38:16 43:19,21,22 63:14,17,22 MOU 39:7 58:10 move 7:20 11:6 26:13 28:8 55:6,8 56:7 59:22 moving 12:5 13:19 15:6 39:13 55:1 multiple 6:12 42:18 42:19 64:5 multiples 13:16 musical 46:13 Muste 85:17	<hr/> N <hr/> nail 55:19 NAIOP 16:16,16 naked 78:12 name 4:13 8:16 20:20 22:21 25:18 29:13 31:20 43:21 48:8,9 50:7 53:17 58:16 68:16 85:22 names 38:14 Nancy 2:5 4:6 5:7 31:5,7,10 72:21 84:13 national 16:16 National's 54:20 natural 34:10 nature 18:19 near 64:10,18 66:3 necessarily 64:20 71:17 77:10 necessary 6:8 14:1 neck 25:5 necks 6:11 need 8:18 12:9,12 13:20 15:4 17:5 23:22 26:13 28:1 31:14 35:4,5,8 36:16,16 37:1 39:21 42:11 45:15 46:7 49:9 58:2 65:16,17,19 74:18 75:10 78:14 88:7 89:1,5 needed 15:21 needs 13:22 56:2 62:22 63:2 66:3 negotiate 36:21 negotiated 71:9 neighborhoods 48:14 neighbors 48:14 never 14:13 new 11:21 24:2 30:7 44:1 51:2 64:14 69:14 Newill 2:8 5:15 newsletter 69:11
---	--	---	--	--

night 62:9	83:10	park 13:3,12 15:8	42:12	60:5 61:3 73:8
nightmares 68:12	opened 50:12	15:16 21:3,13	permit 2:12 21:11	75:22
NIH 29:1	operates 45:21,22	22:9 25:1 35:19	22:8 27:18 41:14	planned 10:16
non-contested 57:3	operating 86:17	37:11,13 44:3,4,5	42:2,12,17,20	planning 2:3 5:9
57:21	operations 7:16	44:22 49:17 52:13	45:17 55:7 70:11	10:14 13:3,12
norm 33:11 34:4	opinion 19:1,8 20:6	56:21 58:7,9 62:6	71:4	15:9,17 17:8 18:7
North 53:19	opinions 79:17,20	62:21 67:15 82:18	permits 27:19	21:4,13 22:10,12
nose 56:18	opportunity 8:5	parking 64:19	42:12,18 43:1	25:1 32:10,11
notice 50:14	11:9 25:12 39:2	Parks 45:11	51:11 84:21	35:19 37:5,9,11
noticed 32:5 50:19	56:18 67:10 79:9	part 45:4,6 48:14	permitted 45:2	37:14 40:8 49:17
noting 80:14	84:3	80:18,22 81:19	permitting 1:5 2:2	52:13 56:21 57:5
nuclear 55:11	oppose 18:6 66:6	83:21	22:6 43:22 45:6	58:7,10,17 61:6
number 8:6 34:2	opposing 55:13	participants 77:19	45:10,13 46:4,4,5	62:7,21 67:15
75:4 88:20	optimistic 74:5	participating 9:8	46:7 62:16 64:22	74:3 80:1 82:19
numbers 19:21	option 54:1	77:13	permittingservic...	plans 21:19 25:4
numerous 15:10	optional 78:9 88:3	participation 6:19	7:5	26:7,9,10 33:16
nursing 55:12	options 7:11 76:19	40:3 70:2	person 12:17 28:8	52:19 58:22 59:2
nutshell 26:20	77:3	particularly 24:3	53:4 84:2,21	59:8,11 60:10
	order 12:10 82:7	parties 20:6 58:14	personal 68:12	74:12
O	Ordinance 41:18	partner 15:16	persons 53:13	plan/preliminary
observation 10:5	54:22 55:4 56:3	partnership 47:5	pet 58:22 81:5	54:8
83:4	59:5 62:1,11	parts 34:10	phases 42:20	plat 10:9 17:15
observations 6:17	ordinances 41:19	party 19:7	PhD 2:8	players 71:10
observe 29:15	ordinarily 35:2	pass 24:15,16,18	PHED 2:5	Plaza 30:7
occasionally 19:18	organization 16:17	25:11 51:10	phone 52:16 72:7	please 48:8 68:17
occupancy 6:10	organize 7:9	passed 56:15	pick 52:17 72:6	81:21
73:21	oriented 33:8	Paul 44:12	picking 44:3	pleased 16:4
occur 17:19 62:21	ought 19:13 56:4	pavers 34:7	picture 89:7	plumbing 21:19
office 1:20 2:6 4:19	outlived 60:21	PE 2:8	piece 46:17	point 34:2 35:22
5:14,20 62:16	outside 9:2 21:7	pedestrian-frien...	pieces 51:17	66:2,22 84:20
68:18 71:10	28:2 87:19	33:7	Pike 30:7,7,8 32:1	pointed 64:1
offset 86:16	overlapping 61:21	peeve 58:22	33:20	points 12:9 66:1
oh 31:10 45:14	overlay 33:9 34:16	pending 68:22	pile 64:16,18 65:2,7	Police 49:15
84:20	86:11 87:13	people 4:9 21:1	66:3	policies 14:10
okay 16:1 22:13,15	owner 69:13	23:12 33:4 35:8	piles 64:2	59:11,12
22:22 25:15 27:2		35:20 40:6 44:13	Pino 2:23 3:21	policy 2:4 30:13
29:15,16,20 30:20	P	47:12,15,16 52:18	53:16,17	32:8 52:22 84:8
31:1,19,20 38:8	P 25:18	62:8 65:10 66:5	pipe 81:10	polite 44:9
38:11,17 43:17,19	page 3:2 13:10	68:8,14,19 69:2	pipeline 27:21	portion 83:22
47:2,11 48:5 50:5	80:12	69:16 74:11 75:5	place 43:1 53:1	positions 40:12
57:10 79:13 87:21	paid 44:14	76:1,2 77:8 78:21	plan 10:6,8,9 17:9	positive 15:3
88:17	pain 34:1	81:21 85:12 86:14	17:9 18:8,8 19:2	positives 32:5
once 7:7 18:7	painful 37:2	perceive 44:19	21:9,9 26:16,18	post 9:4
ones 36:7 42:21	panel 2:1 15:20	percent 36:5 79:19	35:11,18 36:6	posted 7:20
64:5	21:5	perfectly 59:21	41:10,17 54:2,2,3	Powell 2:23 3:12
open 67:19,22	paper 46:18	period 17:13 60:11	54:6,8 55:9,9	25:16,17,18
69:12 78:16,16	pardon 17:1 79:12	periods 41:12	57:17,22 59:17	PPS 49:5

practical 61:11	45:18 46:3 47:5	public 1:7,19 3:5	21:3,6,7 23:13	regulation 11:16
practice 32:10	47:10 48:16 58:9	4:22 6:19,21 8:1	27:20 32:7 33:7	regulations 41:6
practices 30:14	60:20 61:5,12	15:3 68:2,18 72:9	33:13,17 34:13,21	59:6
pre 25:22	62:15 69:12,20	84:8 86:12,12	35:4,6,21 36:8,11	regulatory 67:6
preached 58:3	70:5 71:3 73:3,14	87:15,16	36:16 37:16,22	relate 17:7 49:5
precedence 32:13	74:12 77:9,10,20	pull 29:10 81:8	39:7 43:16 49:9	related 21:21 44:16
precisely 25:22	80:19 81:1,19	84:22	50:2 59:9 60:9,9	relates 21:16
preliminary 10:9	82:16,18 83:1,12	pulled 77:15	62:11 65:19 73:9	relating 19:5
10:13,14 17:9	83:21 84:6 87:1	purpose 87:19	73:19 75:10 81:6	relatively 80:5
18:8 21:9 54:3	87:22 88:11	pursuing 15:12	87:18 88:20	remains 24:1
55:9	processes 43:6	put 10:3 18:8 24:18	realm 87:15	Remarks 3:3
preparation 19:9	47:10 67:6 76:6	27:19 45:1 46:20	Realty 30:5	remember 43:9
prepare 27:8	82:4	53:1 54:16 60:19	reason 6:13 19:12	58:15
presence 39:9	produce 25:9	64:14 69:10 76:15	55:21 61:10,11	remind 48:13
present 2:15 7:3	produced 24:14	76:18 89:5	65:2	repair 13:17
President 5:5	producing 13:17	putting 69:14 78:1	receive 8:1	reporter 8:12
presiding 1:22	proffered 63:18	P-R-O-C-E-E-D-...	receiving 67:22	representatives
pretty 10:4 26:6	progresses 7:15	4:1	recognized 44:2	77:21
previous 28:6	prohibits 54:22	p.m 1:21 4:2 89:10	recommend 36:12	represented 23:6
previously 15:9	project 6:9,10		recommendation	48:17
principles 41:3	12:17 15:1 28:9	Q	15:18	request 70:13
prior 35:11	28:19 53:20 54:2	quality 6:19 42:22	recommendations	require 7:18 53:2
private 28:16	54:2,6,7 55:9	70:3	6:17 7:17 8:9	required 51:10
probably 25:9 36:4	59:16 78:14	question 32:18	record 10:9 17:15	60:22
44:14,15 52:9	projecting 15:6	34:17 35:7 53:4	18:9,16 19:8 20:6	requirement 65:3
62:2 65:5 77:18	projects 10:11	quick 37:22 52:7	22:5 25:17 67:19	requirements
problem 8:17	27:21 28:13 32:21	quickly 25:1 30:10	67:21	21:21 34:8 36:10
17:18 26:3 49:12	35:1,2 37:12	33:2 41:5 60:1	recover 66:8	59:6 66:6,12
50:1 69:7 70:13	40:18 65:13 73:6	74:13 79:15	red 50:6	requires 26:15
70:17 74:22 80:22	73:6 75:17,20	quite 22:3 32:2,22	redevelopment	Rescue 6:1 22:1
82:8	pronounced 22:21		11:21 28:19	71:7
problems 23:13	proof 12:17	R	Reducing 12:20	residential 16:22
48:19 49:1 75:6	proper 75:20	rail 86:10,13 87:13	redundancy 12:20	29:4
procedures 46:1,2	properties 40:18	raise 5:12 15:21	13:1,2 54:5	resolution 17:11,13
proceeding 58:1	property 42:18	16:20	reengineer 88:1	17:14,15 19:10,16
process 5:4 6:4,8	proposed 86:10	ran 32:6 64:12	refinding 13:22	39:9 57:8,16,18
9:13 11:11,13,16	protected 84:12	range 24:22	reflected 84:13	58:9 74:22 80:12
11:18,19 12:11,18	protection 5:22	Rasolee 85:15	regarding 83:11	82:16
12:21,22 14:13,15	42:17 65:11 70:3	reach 57:7	Reggie 45:12 84:19	resolutions 19:19
14:20 15:10,13,19	protections 6:20	reaching 77:7,18	84:20 85:5	25:1 56:21 78:19
17:2,12 19:22	protracted 33:14	read 11:4 12:17	region 24:2	80:4
20:3 21:14 27:14	provide 48:8 58:8	24:17 36:19	regional 2:8 12:4	resolve 32:18 67:2
27:19 29:3 30:6	75:10 81:20	ready 4:4	register 27:7	resolved 36:5,7
30:10 32:1,3 33:4	provides 66:12	real 15:11,13 16:17	regrets 47:3	resources 33:1
33:14 36:13 39:12	providing 81:21	16:21 17:16 79:15	regulate 88:1	60:13,18 74:9,20
39:16 40:4,5 41:4	provision 54:21	86:2	regulated 65:1,7	75:9 76:12
41:5,21 43:4,10	55:3,22 66:10	realize 10:1	regulating 65:18	respect 23:14 57:12
		really 16:21 17:7		

59:3 72:11 respects 61:4 respond 8:2 response 64:21 65:8 69:9 responsive 37:14 67:2 responsiveness 12:15 restraints 51:2 resubmit 37:4 result 40:17 resulted 86:9 results 33:3 retail 33:7 34:6,8 retaining 34:9 retention 64:4,10 64:13,15 66:4 return 86:12 revenue 43:11,13 73:17 review 7:8 11:10,13 12:22 13:14,21 21:18 25:21 35:1 35:15 41:12 82:8 88:8 reviewed 13:22 52:12 reviewer 12:13 14:21 26:9 reviewers 14:5,6,22 34:22 reviewing 6:13 13:10 26:10 51:8 reviews 12:16 14:2 14:12 35:5 89:3 revise 80:7 revising 15:19 revisions 15:12 37:4 revive 12:10 rewrite 62:1,7 63:2 rewritten 56:3 rid 75:5 78:8,9 Rierner 2:9 29:8,14 29:17 72:15 right 5:8 9:2 17:18	28:15 29:11 33:13 35:14 36:21 38:7 42:10 44:11 46:13 66:9 69:1 70:17 72:10,12 73:16 77:11 83:7 rights 88:10 right-aways 34:10 right-a-way 34:9 right-of-way 85:11 risk 55:8 56:7 riskier 40:14 risks 77:4 road 45:4 roadblocks 15:7 roads 32:14 Robert 2:19 52:16 Rochdich 5:19 Rockville 1:21 20:21 22:11 30:8 Rodgers 11:8 Roger 4:5 5:5 role 9:8 Rollins 58:12,18 room 21:1 36:22 62:8 79:11 84:19 Rose 30:7 52:16 ROSHDIEH 2:9 82:11 rules 41:6 57:16 run 47:13 67:12 74:6 86:19,21 running 66:19 Russ 25:18 ryland.gov/dps 7:6	38:9 43:20 52:4 saying 75:7 says 74:16 scanning 42:10 scenario 24:4 scheduled 68:3 school 64:11 65:5 65:10 Schwartz 1:22 2:1 3:3 4:3,13 10:19 16:1,5,8 20:12,15 22:13 25:15 26:22 29:7,16,19 30:16 30:20 31:3,7,14 31:17 38:2,4,17 43:14,18 46:15 50:4,13,18 52:3 53:12 54:11 56:11 61:16 63:8,16,21 66:14 67:20 69:18 70:1,7,16 72:2,13 74:1 76:13 79:2 79:10 80:9,16,20 81:2,4 82:10 83:3 83:19 84:17 87:17 88:16 sciences 28:18,20 Scott 2:8 5:15 38:9 48:4 79:5,11,11 screens 42:2,4 scrutiny 75:20 Sean 27:1,1 48:1 second 19:5 32:20 34:20 68:2 secured 14:14 sediment 42:16 see 18:10 21:2 38:4 44:13 50:13 60:18 65:6 67:10 74:5 82:8 83:10 88:22 89:2,6,7 seeing 83:13 seen 37:11,17 66:4 sees 19:22 seldom 52:19 select 40:18 send 52:20 72:7	79:3 sense 12:14 26:7 57:21 sent 20:6 50:14 separate 61:5 65:3 Series 54:21 serious 78:8 88:14 serve 73:14 service 1:5 7:12 12:6 21:20 27:11 44:3,5,22 70:13 75:11 85:14 services 2:2,13 6:1 6:5,16 22:6 43:22 45:6,10,13 46:4,5 62:16 65:1 66:5 88:22 session 6:22 set 47:10 65:13,14 65:15 88:4 seven 43:2 SHA 13:13 Shady 28:19 86:19 Shapiro 27:17 share 8:8 75:8 Sheard 3:18 48:9 48:10 sheet 9:1 38:14 shelved 15:18 shirt 50:6 shop 65:13 80:4 shortly 4:7 shoulder 47:8,9 show 72:19 showing 82:20 shows 47:14 side 36:3 sign 9:3 20:13,18 27:7 45:1,8 signed 8:21 10:1 47:13 significant 14:8 significantly 81:11 signs 45:1,3,3,5 sign-in 20:18 sign-up 8:22 Silver 34:13 62:10	Silverman 2:10 5:16 79:7 Simin 85:15 simple 42:5 50:22 65:21 80:5 simplify 39:15,16 42:8 47:9 79:17 79:21 81:6 simply 6:14 single 71:18 sir 53:15 85:21 sit 29:9,12 35:20 36:18 site 17:9 18:8 19:2 21:9 26:7,16,18 35:11,18 36:6 49:10 55:9 57:17 57:22 61:3 88:5 sites 88:5 sitting 5:8 28:16 70:21 71:12 situations 66:9 82:6 six 43:2 44:14 slightly 44:11 slow 30:16 31:1 slower 31:13 small 24:22 smart 24:9 59:8 Smith 38:20 smoothly 53:20 smorgasbords 78:2 snowflakes 88:6 soil 64:4,9,13,14 66:3 solution 71:18,20 solutions 15:3 71:18 76:19 78:2 solve 23:12 39:11 somebody 39:21 45:19 53:10 58:12 58:20 somebody's 18:21 someplace 45:1 sooner 15:22 sorry 27:9 30:21 57:9
	S			

sort 18:2 27:18 32:10 36:13 38:5 45:9 51:10 76:16 77:5	57:19 58:4 60:15 68:11 69:1 72:4,9 74:19 75:1 78:18 85:6	straight 45:18 78:11	73:12	69:17 70:19 80:2 84:14 88:21 89:1 89:5,7
sound 74:4	staffing 60:13	straightforward 67:12 80:5	suppression 21:22	tells 45:21
sources 14:7	staffs 68:11	straight-line 77:10	sure 4:8 14:14	ten 39:19,20 86:8
space 78:16,16	staff's 19:13	streamline 5:3 51:9 73:13 83:1	37:21 45:8 66:18 70:7 73:10 75:19 77:14 80:11 87:15	tension 75:16 76:5
Spalding 2:24 3:15 38:12,15,19,20 43:17	stage 7:1	Streamlining 1:7 1:18	surprises 40:6,7	terms 8:17 22:7 49:4
speak 8:22 10:2 11:9 27:7 48:7 50:10,12 54:14 63:10 75:12 84:3	staked 40:11	street 1:21 78:22	survey 7:4 10:4 85:1	terrible 59:1
speaker 9:18 10:20 83:15,20	stakeholder 48:15	streets 33:8 34:6,7	sustained 41:1	testimony 8:2 11:3 12:8
speakers 8:6,20	Stan 2:4 5:20 80:20	stress 9:12	sweat 55:18	thank 9:16,22 10:18,19 11:2,9 16:3,4,5,8,9,11 20:11 23:8,15 25:14 26:21,22 27:10 29:5,7 30:3 38:2,3 39:2 43:7 43:18 50:3,4 52:2 52:3 54:11,13 56:10,12 61:14,15 63:8 66:14,18,18 74:1 79:8 80:8 85:5,6 88:15,16 88:17 89:8
speaking 16:19 23:5 50:11,20 72:5	standards 24:6 58:3 59:13	strikes 76:4	sync 63:3	theoretical 63:19
speaks 23:10	standpoint 49:7	stroke 63:4	system 56:9 87:3 87:11	thing 6:13 39:13 49:2 58:5 72:3 73:11,22 75:14 77:16 78:13 79:16 79:22
special 42:17 54:22 55:2,10,14,17,20 56:6 60:20 61:6 71:3 83:17	start 4:4 32:2 47:16 54:18 77:22 78:1	structure 11:16	systemic 49:1 50:1	things 17:6 19:16 23:20 24:22 25:3 28:2,4,8,21,22 32:2 33:12 34:12 34:17 37:20 39:4 39:6,10 43:12 49:8 51:9,12,21 52:9 58:19 60:14 63:3 72:18 74:5 74:15,17 86:8 89:1
specialty 34:7	started 64:11,11	stuck 6:14	systems 41:22	think 9:1 10:4 17:2 18:4,10 21:15 22:5 23:19 28:1,5 28:11,15 30:9
specific 8:15 12:12 13:2 24:15 33:16 49:10 59:3,13 60:7 68:9,17 77:2 81:22 82:6	starting 36:1	study 15:16	T	
specifically 83:11	state 1:1 4:20 5:15 44:22 45:19 46:9 59:12 64:6,17 65:1 71:4 72:17 86:10,10,15 87:13	stuff 38:22 49:20	table 3:1 4:18 9:6	
speed 19:9,16	statement 4:11	subdivision 59:6	tag 29:13	
spend 19:15 62:9 86:2	statements 26:12	submission 12:16 35:12	take 7:3 18:13,13 18:15,17 34:18 36:20 79:20 84:15	
spent 86:8	Station 86:10 87:13	submit 16:6 19:8 19:16 26:8 39:3	taken 10:12 15:11 53:5 55:3	
Spicer 2:12 5:20 81:3	status 52:11	submittal 35:11	takes 6:11 17:8 18:21 34:1 43:9 43:11	
spirit 86:4	Steinbach 38:7 48:3	submitted 10:8,8 35:18 36:6 53:11	talk 22:9 30:15 32:19	
spoken 47:17 48:6 63:9	step 17:12	submitting 54:6	talked 24:9 56:21 83:17	
Spring 34:13 62:10	steps 7:20 34:9	substance 69:21 70:2	talking 49:2 55:11 80:3 87:18	
staff 15:5 18:5,9,12 19:6 32:11 33:1 33:10,17 34:21,22 35:7,13 37:20 39:18 42:1 46:6	Sterling 2:22 3:6 9:18,20	substantive 58:6	Tapia 2:12 5:11 81:18	
	Steve 2:17,22 3:8 3:10,16 5:16 16:10,12 20:12,21 38:15 43:19,20,21 46:15 54:12 78:3 83:16	Suburban 2:13	task 28:11	
	STEVEN 2:10,21	succeed 17:3	tasks 13:2	
	Stolsworth 10:21 47:18	success 83:4	tax 12:6 43:11,12 73:16	
	stop 17:5	successful 51:14	taxpayers 44:18	
	stopped 19:12	successfully 34:15 48:18,19	team 37:13	
	stores 45:5	sudden 26:9	tech 42:1	
	stories 69:2,4	suggested 61:20 85:16	telephone 52:17	
	story 68:21 69:8,15	suggesting 18:1	tell 4:5 18:12,15 22:16 44:7 67:14 68:20,21 69:2,8	
		suggestion 19:5		
		suggestions 24:21 25:7 76:10,15		
		suite 51:2		
		support 69:1 72:20		

31:8 33:8 35:6 37:18 39:9 40:1,5 41:11 42:7,11 43:5 44:17 49:17 51:1,4 52:1 56:1,3 58:7,19 60:3,20 63:14 66:8 67:10 68:10 69:4 72:9 73:1 74:16 76:1,2 76:4,10 78:4 80:13 81:14 82:20 84:1,7 thinking 22:17 28:2 86:3,9 88:14 third 65:4 thorough 10:4 thought 20:17 71:22 78:8 thoughts 32:13 three 8:8 18:13 38:5 39:21 54:17 64:2 74:18 75:3 time 12:12 14:4 15:12 16:3 17:8,8 17:10,10,19 18:3 19:15 20:7 22:19 32:22 34:22 35:4 35:12 37:7,22 38:22 40:15,22 42:14 48:17 49:21 52:21 54:8 56:13 58:17 60:11,17 61:14 63:11,18 67:3,9 68:10,13 73:12 74:19 78:8 78:18,19 79:8,21 80:15 86:3 timed 30:19 timeliness 14:12 times 15:10,11 18:20 20:9 25:6 52:15 55:19 57:2 59:15 68:14 today 11:9 16:13 23:5 25:20 26:21 39:3 50:17 70:21 72:20	Today's 6:22 7:22 8:11 Todd 2:16 3:20 52:4,6 79:14 80:2 told 45:14 tonight 12:8 tons 44:4 top 11:17 46:19 topic 19:6 48:20 tore 64:12 totally 18:3 touch 41:2 tough 40:22 track 37:16 trade 27:19 87:4 tragedy 59:20 trains 86:19,21 transcribed 8:11 transcript 8:13 transfer 88:10 transferring 32:12 transition 37:18 transparency 39:16 40:5 Transportation 2:10 5:19 45:3,5 45:16 trash 44:4 treated 41:7,10 71:22 tree 49:18 triple 74:21 triplicate 89:3 try 17:6 26:13 47:9 65:20 67:1 77:6 trying 13:10 28:3 41:7 45:12 82:3 87:5 TUESDAY 1:12 turns 51:5 twice 20:9 two 4:22 11:17 13:4 24:14 25:8 28:22 30:8,11,22 32:5 34:22 42:3 44:4 45:10 54:19 55:18 56:15 63:3 74:5	74:18 75:2 88:5,6 two-year 22:10 type 24:11 52:22 76:18 77:5 types 20:7 30:11 32:5 33:12 35:4 50:11 typically 52:13 topographical 20:10 <hr/> U <hr/> unaware 14:9 uncertainty 11:19 14:12 unclear 67:5 underneath 13:5 understand 6:3 13:20 40:11 61:4 77:4,6 understandable 65:12 understanding 39:8 64:8 67:4 87:1 undocumented 14:6 unfair 55:4 unfortunately 47:2 57:2 60:3 UNIDENTIFIED 83:15,20 uninterconnected 41:22 Unit 2:12 University 24:8 unpleasant 51:1 unpublished 14:6 unstuck 6:15 unwieldy 5:3 upgrade 66:11 urban 24:5 33:9,10 34:11,16 urge 8:8 urgency 12:15 urgently 65:20 usage 35:1	use 6:4 23:4 31:18 41:20 48:11 54:4 87:11 88:2,3,22 users 6:16 uses 47:5 usually 48:19 utility 13:13 <hr/> V <hr/> Valentine 50:6 validity 42:12 valuable 62:12 value 60:12 88:9 valued 15:17 various 12:21 23:22 71:10 77:12 77:19 versus 15:1 vetted 40:9 viability 14:17 view 46:8 48:10 50:9 viewed 51:21 Virginia 3:18 48:9 51:16 69:10 virtually 55:14 vision 32:16 41:16 73:8,20 vitality 12:10 volumes 23:10 volunteer 44:3,6 <hr/> W <hr/> wait 56:2 57:20 waiting 28:16 57:15 walk 56:16 walked 29:8 Walker 16:13 52:6 Wallace 38:9 79:11 79:11 walls 34:9 waned 56:22 want 6:6 8:4 9:12 16:20 19:15 22:4 22:18 23:8,15 24:1,16 27:10 45:7 48:13 60:10	61:19 66:16,18 67:16 68:20 69:9 69:19,19 70:9,12 70:14 72:14 73:6 80:11 81:19 82:13 83:8,15 85:5,20 88:17 wanted 45:1 49:22 68:6 72:19 79:6 wanting 31:18 wants 39:10 47:17 63:14 warrior 44:6 Washington 2:13 54:20 wasn't 36:8,9 waste 15:12 55:11 56:17 73:14 78:19 watch 41:22 water 21:20 42:22 69:14 waxed 56:22 way 6:10 7:16 9:14 17:1 19:21 21:14 28:9 30:17 46:16 59:13 66:12 69:16 72:10 73:20 79:4 80:14 81:15 82:5 88:8 ways 80:7 82:4 WC 13:13 wearing 16:13,14 website 7:4,20 8:13 46:16,19,20 67:22 77:15 84:22 88:12 Wednesday 62:9 weed 17:4 weeds 17:2,4 weekly 77:12 weeks 18:13,14 Weerakoon 22:20 47:22 weigh 66:22 67:17 68:19 welcome 4:3,21 9:16 25:12 went 45:12,16
---	---	---	--	---

53:20 65:9 66:7	80:11	<hr/> 2 <hr/>	
we'll 4:17 10:22	writes 86:15	2 12:20	
30:15,21 32:19	writing 8:10 10:3	2:30 1:21	
77:3,3,7,18,18	written 11:3 17:10	2:34 4:2	
79:3 81:8	18:11 19:2,9	20 3:10 59:4,10	
we're 83:10	79:18	20s 61:1	
we've 5:10,13	wrong 60:4	2006 15:17	
26:18 28:18 34:14	WSSC 4:20 5:12	2012 1:13	
37:10 38:20 40:10	21:17,19 65:7	23 3:11	
49:16 57:1 59:1	71:2 82:1	24 53:4	
66:8 68:9,15	<hr/> Y <hr/>	25 3:12 20:22 80:11	
70:21 71:1 73:17	year 82:19 86:16	27 3:13	
73:21 74:9 77:11	86:17	<hr/> 3 <hr/>	
85:9,10,11 87:2	years 11:14 20:22	3 13:14	
willing 18:14	23:7,22 37:13	3:00 87:9	
willingness 27:12	43:2 51:15 55:18	3:30 68:3	
wish 8:21	57:1 59:5,10,17	3:55 89:10	
witnesses 84:4	69:6 75:1 82:2	30 3:14 37:4 57:1	
WMATA 86:16	86:8	31st 68:1	
wonderful 28:21	<hr/> Z <hr/>	34 11:14	
wondering 51:7	zone 51:12 53:22	38 3:15	
word 69:5	60:4	<hr/> 4 <hr/>	
words 31:18	zones 34:8 51:3	4 3:3 14:2	
work 16:4 18:17	zoning 2:7 4:19	400 16:18	
22:3 27:16 34:7	5:14 41:18 48:11	43 3:16	
34:19 36:3,11	54:22 55:3 56:3	48 3:18	
41:12 44:5,21	59:5 60:22 61:2,3	<hr/> 5 <hr/>	
47:8 52:14 62:19	61:22 62:7,11,17	5 14:18 20:4	
68:5 75:3 76:14	63:2 74:17 78:11	50 3:19 44:15	
76:20 82:19 88:11	87:2,13	52 3:20	
worked 20:22 30:5	<hr/> \$ <hr/>	53 3:21	
40:10 73:22	\$20 28:15	<hr/> 6 <hr/>	
working 7:8,10	\$260,900,000 86:18	60 35:18	
15:1 23:14 52:18	<hr/> 1 <hr/>	<hr/> 8 <hr/>	
53:6 54:18 60:15	1 12:12	8 20:4	
71:15 77:14 81:20	1:30 68:3	80 36:5	
82:2	101 1:20	86 3:22	
works 34:6 51:12	11 3:7	<hr/> 9 <hr/>	
84:21	12 10:10,12 43:3	9 3:6	
World 54:21	120 35:17	9th 9:3 68:3 88:19	
worse 40:21	14 1:13	90 36:1 79:19	
worth 55:13 80:14	15 42:1 59:10		
87:8	16 3:8		
wouldn't 24:17	1964 38:21		
wrap 85:18			
Wright 58:15			
write 52:2 70:11			

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This is to certify that the foregoing transcript

In the matter of: Streamlining Development Forum

Before: Mont. Co. Dept. of Permitting Service

Date: 02-14-12

Place: Rockville, MD

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