

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY

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4831 WEST LANE, LLC : Case No. G-954  
LOCAL MAP AMENDMENT G-954 : DPA 13-01  
: :  
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A hearing in the above-entitled matter was held on April 9, 2013, commencing at 9:45 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, 1st Floor Auditorium, Rockville, Maryland 20850 before:

Lynn A. Robeson  
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Patricia Harris, Esq.  
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On Behalf of the Respondent:

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\* \* \* \* \*

Witnesses: Direct  
William Landfair 126, 240, 312, 326

P R O C E E D I N G S

1 MS. ROBESON: Is everyone ready?  
2 MR. ABRAMS: Yes.  
3 MS. HARRIS: Yes. Thank you.  
4 MS. ROBESON: Will counsel please -- this is a  
5 continuation of the public hearing in the matter of Local  
6 Map Amendment G-954 filed by 4831 West Lane, LLC, and  
7 Development Plan Amendment No. DPA 13-01 filed by the same  
8 entity. As a, just as a brief preliminary matter, I was  
9 discussing this with our administrative personnel. We can't  
10 leave -- we, apparently we can't lock the door here and we  
11 can't leave the exhibits unsecured. So I assume you'll be  
12 taking the exhibits home or leaving them with us today and  
13 we'll clear the room, but for next week we'll have to clear  
14 the room. We can't just leave them unsecured here, okay?  
15 I, as we stated, we did have a site visit at 2  
16 o'clock yesterday and we walked the route described and all  
17 counsel were there. We did say, I will disclose on the  
18 record we did say hello to each other, but other than  
19 that -- and I thank counsel very much for being cooperative  
20 and not attempting to talk to me during the exhibit. I hope  
21 I didn't lead anyone astray while we were walking.  
22 We did follow the route described. We also walked  
23 to the rear of the properties along Hampden Lane to see the  
24 setbacks there and we walked to the rear of the Villages of  
25

E X H I B I T S

Exhibit No.	Marked/Received
108	Marked Development Plan 329

1 Bethesda and I did that so I could view what the lay of the  
2 land back there where there's going to be setbacks from the  
3 building. We also walked to the very end of West Lane to  
4 view it there.  
5 My notes, when I came back, I put down my  
6 observations and I did note it was sunny out. I did note  
7 that Montgomery Lane is very narrow. Cars are prohibited  
8 from going the full length of the block from west to east.  
9 I don't know the -- I'm going to ask questions too because  
10 these were the questions that came to mind while I was  
11 visiting. I believe that it is a mixed street and I don't  
12 know whether they intended eastbound traffic to be local  
13 traffic. I did notice it was very narrow. There were no --  
14 the volume of traffic while we were there, what I observed  
15 was very low. I didn't see any operational problems with  
16 the street, however, I could see that if one car was parked  
17 illegally on the side of that street, it could cause a lot  
18 of problems because the traffic or the street is so narrow.  
19 I did notice that on West Lane the street grade  
20 does rise up. I -- from both sides, both ends toward the  
21 middle, I would estimate, just guesstimate that it's more  
22 than five feet from Arlington.  
23 MR. KNOFF: Did you mean to say West Lane or you  
24 meant to say --  
25 MS. ROBESON: Montgomery Lane.

1 MR. KNOPF: -- Montgomery Lane?  
 2 MS. ROBESON: Sorry. Yes. And I had a question  
 3 as to what's going to happen to that peak grade on the  
 4 street once the building is built, is that going to be  
 5 leveled off or is the building, is it going to be built up,  
 6 you know? In other words, are you going to be grading the  
 7 highest point down or is it -- how is that going to work as  
 8 far as the street grade?  
 9 I noticed that delivery traffic from Woodmont or  
 10 from the east must flow -- I could not remember exactly  
 11 where the stop, the do not enter signs were and I had a  
 12 question as whether delivery traffic can enter from the west  
 13 part of the street or whether operationally delivery has to  
 14 come from the east and proceed through to Arlington Road or  
 15 turn around on West Lane. As far as -- I did also notice  
 16 that the setbacks of -- I was a little surprised that the  
 17 setbacks of the development on the north side of Montgomery  
 18 Lane were not as, from the, or at least the curb space, the  
 19 pedestrian space was relatively small given that this is  
 20 supposed to be a pedestrian -- as I read the Master Plan,  
 21 this is supposed to be a pedestrian connection to the  
 22 library and so I was a little surprised at that.  
 23 West Lane is a narrow street to handle, my, these  
 24 are my impressions. West Lane is narrow. My questions are,  
 25 and I think you're going to address this, but my questions

1 are does the right, did the right-of-way include the  
 2 existing parking areas? There's some houses at the end and  
 3 I think one is Mr. Chipouras's or 4828 West Lane, which I  
 4 know is not part of this, but there's houses after the curb,  
 5 I think, after the curb, and does that hammerhead turnaround  
 6 include that area and how are, with the radius of that turn,  
 7 are there going to be trucks that, can the trucks turn  
 8 around operationally?  
 9 My other question as there clearly is, I know that  
 10 you added some loading bays to this and are you going to  
 11 have conflicts with multiple trucks going back that narrow  
 12 lane? I don't really see this as -- I don't see  
 13 operationally the way it's coming out, I don't see West Lane  
 14 serving a very valuable public use space for pedestrian  
 15 function, especially since all the service vehicles are  
 16 going to be routed back there. I know they counted those  
 17 little areas between the driveways on the east side as  
 18 public green space.  
 19 I did have a question as to whether or why because  
 20 of the configuration of Montgomery Lane, which I can see how  
 21 that would be really problematic, why can't you provide a  
 22 second path or the ability in that parking pad, I call it a  
 23 pad, the lay-by, can that be larger? And these are just  
 24 questions that I'm asking. And the reason I'm asking, the  
 25 reason I brought out that I don't see West Lane operating

1 really as a pedestrian-oriented area is that it's better to  
 2 have a parking pad there and use it for that. And, again,  
 3 these are just questions. It's -- there's no pre-judgment.  
 4 I'm really just posing the questions for response. I do  
 5 think that the development plan with the public use space up  
 6 front is a larger, very big improvement over the prior plan.  
 7 I also, okay, so that West Lane. City Place, they  
 8 do get a fair amount of sun from -- they have fairly broad  
 9 courtyards and alleys that provide sun. I don't know if the  
 10 court reporter said, but you have to keep your phones off --  
 11 MS. HARRIS: I'm sorry. I thought it was off.  
 12 MS. ROBESON: Okay. You're like me, I can't get  
 13 it to --  
 14 MS. HARRIS: Right.  
 15 MS. ROBESON: -- to turn off. Okay. So I, they  
 16 did get some sun. I don't know whose that is, but it's not  
 17 mine. I don't have mine with me because I can't turn it  
 18 off.  
 19 The, I'm sorry, the project itself is structured  
 20 because of the broad courtyards and alleys, they do get sun.  
 21 The setbacks adjacent to the HOC building are minimal and  
 22 not favorable to, in my opinion, not favorable to City  
 23 Place. The building adjacent to the west, which I couldn't,  
 24 I didn't have the chart with me, but immediately adjacent  
 25 looks to be about the same height and I was going to check

1 that. As far as that building goes, I thought that building  
 2 did a very nice job of transitioning from the 35 feet to  
 3 whatever the full height is. I think it might have been 48  
 4 feet, but I can't swear to that because they, not only did  
 5 they provide the streetscape, but they stepped back with  
 6 steps and then they stepped back with an awning type of  
 7 structure and then they stepped back with the height and so  
 8 I think they did a very good job of mitigating the impact of  
 9 the full 48-foot height if the height is really 48 feet.  
 10 MR. KNOPF: You're talking now on Arlington, the  
 11 building on Arlington?  
 12 MS. ROBESON: Yes.  
 13 MR. KNOPF: Okay. I'm sorry. I --  
 14 MS. ROBESON: Am I mis-speaking? You see, I can't  
 15 work a cell phone, I can't -- I'm talking about the building  
 16 that fronts Arlington, which I think is the building  
 17 immediately to the west of City Place, it just has a  
 18 different orientation. Its frontage is to Arlington.  
 19 MR. KNOPF: I think that's called, is that called  
 20 the Edgemoor?  
 21 MR. LANDFAIR: Edgemoor at Arlington is what it's  
 22 known as.  
 23 MS. ROBESON: Thank you. The Edgemoor at  
 24 Arlington.  
 25 MR. LANDFAIR: Adjacent to City Homes.

1 MS. ROBESON: Yes. The Villages of Bethesda are,  
2 I think, a good example of low rise urban development. I do  
3 question why the setbacks for those properties aren't the  
4 same for City Place because overall my concern is that City  
5 Place in a way, now the project is arranged so it gets sun  
6 of its own accord, but it does seem that it's being sort of  
7 surrounded by higher projects. And I did question why the  
8 setbacks for the Villages at Arlington are not the same as  
9 for City Place.

10 And let me tell you a little bit more of my  
11 concern. I don't usually give you my impressions until I've  
12 heard the evidence, but it's tied into the site visit, so I  
13 want to fully disclose what my impressions were. I guess my  
14 question is that that, Montgomery Lane is supposed to be a,  
15 somewhere I read a 50 percent pedestrian, 50 percent  
16 traffic, or it's supposed to be a pedestrian-oriented  
17 street.

18 MR. LANDFAIR: Mixed street --

19 MS. ROBESON: Mixed street.

20 MR. LANDFAIR: -- is how it's characterized.

21 MS. ROBESON: And I guess my question is I think  
22 that that semi-circular cut-out does a, provides a very  
23 important function, but I also find that, or I also could  
24 anticipate that setback from the southern, south, the  
25 western property line having an impact just on having a --

1 you've got the cut-out, but the setback from the paved, the  
2 curve is not as big. For instance, the setback, I was  
3 surprised the developed property on the easternmost portion  
4 of the northern part of the street, that north of Montgomery  
5 Lane to the very east.

6 MR. LANDFAIR: Edgemoor Highrises.

7 MS. ROBESON: Thank you. There is a -- that  
8 setback from the street is, I mean you can walk and it does  
9 a lot, but it doesn't really remind me of the mixed street,  
10 you know, the really welcoming for pedestrian. I think that  
11 your arc improves that, but I think it would be a far better  
12 plan to provide a setback to shorten that smaller street  
13 frontage or to shorten the area of the narrower street  
14 frontage on the western part of your building. You're not  
15 following me, are you?

16 MR. KNOPF: No, I got lost.

17 MS. HARRIS: Can I --

18 MS. ROBESON: Can you do a 15-foot setback there,  
19 that's what I'm asking?

20 MR. KNOPF: Where is there? That's where I'm  
21 lost.

22 MS. ROBESON: Western property line to --

23 MR. KNOPF: No.

24 MS. ROBESON: I'm just asking.

25 MS. HARRIS: If you're looking for an answer now,

1 we will get into it, correct?

2 MS. ROBESON: Yes.

3 MS. HARRIS: Okay.

4 MS. ROBESON: You can't answer now because it will  
5 get way out of order.

6 MS. HARRIS: Right.

7 MS. ROBESON: So can you provide a 15-foot setback  
8 there because I am concerned about City Homes because I do  
9 feel that some -- and I know that somebody is going to tell  
10 me about the history of the Master Plan, but somehow I feel  
11 that the development is overshadowing City Homes in a manner  
12 that may not have been what the low rise urban development  
13 intended.

14 Okay. Now the Edgemoor Highrise, they do not  
15 seem, unless there's an operational issue with the road, I'm  
16 not sure -- they do not seem heavily impacted by this  
17 development. They are taller. They've got a lower rise  
18 building in between them, so I'd like to know what impacts  
19 they're concerned about and that's it. That was the extent  
20 of what my impressions were and what my questions are, all  
21 right?

22 Now you can ask me questions. I'd appreciate it  
23 if you don't try to answer my questions right now because I  
24 fully expect -- I'm just throwing the questions out there.  
25 I don't expect -- I expect that you will address them when

1 we get closer to the hearing. Yes?

2 MS. HARRIS: Just a point of clarification. You  
3 just noted that there, you questioned whether there could be  
4 a 15-foot setback. I assume you mean on Montgomery Lane,  
5 that was your question?

6 MS. ROBESON: Yes.

7 MS. HARRIS: Okay.

8 MR. KNOPF: Oh. She said the western.

9 MS. ROBESON: No, no, a 15-foot setback on the  
10 western boundary where you have a 12-foot in the --

11 MS. HARRIS: Oh, I see. Okay.

12 MS. ROBESON: The portion of the building closest  
13 to Montgomery Lane, can you set back that, can you set that  
14 back 15 feet instead of the 12 feet or is there some other  
15 way to mitigate that frontage on Montgomery Lane, reduce,  
16 you know --

17 MS. HARRIS: Okay. I understand.

18 MS. ROBESON: Okay.

19 MR. ABRAMS: So are you evidencing your comments  
20 to both the western side as well as the southern side?

21 MS. ROBESON: Yes.

22 MR. ABRAMS: Okay.

23 MS. ROBESON: It's the area of the building that  
24 is mid, approximately between a third and a half of the way  
25 north of Montgomery Lane on the western edge. If you go to

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1 the western edge of the project, and I'm referring to --  
2 what is that, Exhibit 106b, I think?  
3 MR. LANDFAIR: Yes.  
4 MS. ROBESON: Okay. If you go to the southwest  
5 corner of the project and start at that edge, okay, and  
6 proceed up to the private open space, that's the setback I'm  
7 wondering whether can be 15 feet and maybe it can't for some  
8 operational reason. I'm just -- that's the question I'm  
9 raising because I do see the major impact on this  
10 development as this street builds up on City Homes. Did  
11 that answer your question?  
12 MR. ABRAMS: Well, it answered the question, but  
13 I'm concerned the 15-foot setback that you speak of, which  
14 was in the original plan, that deals with the Edgemoor at  
15 Arlington north as opposed to City Homes. City Homes is  
16 across the other side of --  
17 MS. ROBESON: Well, I thought you said, in your  
18 earlier testimony, I thought you said that you wanted, why  
19 did they reduce the setback to 12 feet there when they're  
20 giving 15 feet to the Villages of Bethesda?  
21 MR. ABRAMS: Well, that is --  
22 MS. ROBESON: I thought I heard that.  
23 MR. ABRAMS: Well, that was one element.  
24 MS. ROBESON: And I also --  
25 MR. ABRAMS: Madame, first of all --

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1 MS. ROBESON: -- heard --  
2 MR. ABRAMS: -- I didn't testify or --  
3 MS. ROBESON: Yes, that was a point that you  
4 raised.  
5 MR. ABRAMS: Okay. No, that was one point in  
6 terms of developing a foundation for other questions which  
7 have yet to be asked.  
8 MS. ROBESON: Okay. That's fine. That's fine.  
9 So and, again, I haven't pre-judged. I really have not pre-  
10 judged anything because I haven't heard all the testimony.  
11 Mr. Knopf --  
12 MR. KNOPF: Yes. You didn't mention something.  
13 I'm just going to ask whether it was inadvertent or you  
14 didn't observe it. There were repair trucks parked in the  
15 City Place alleyway or something.  
16 MS. HARRIS: I object to even suggesting --  
17 MR. KNOPF: I just was asking --  
18 MS. HARRIS: -- that.  
19 MR. KNOPF: I'm asking whether she observed it or  
20 not.  
21 MS. ROBESON: No, I didn't observe it. I don't  
22 recall it. I could have had a brain freeze. I don't know.  
23 But, no, I don't recall it. But that's a fair question.  
24 That's the reason we have to put this on the record. Anyone  
25 else? Yes, Ms. Harris?

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1 MS. HARRIS: I don't have a question about this,  
2 but I have a procedural question once we're --  
3 MS. ROBESON: Okay.  
4 MS. HARRIS: -- once we're, we've completed the  
5 issue about the site visit.  
6 MS. ROBESON: Okay. Hold on. Is there anything  
7 else about the site visit? All right. Ms. Harris, your  
8 procedural question about is?  
9 MS. HARRIS: Yesterday there was extensive  
10 discussion about a number of exhibits which as it turned out  
11 as we went through the questions, as the cross-examination  
12 from Mr. Abrams revealed, that the exhibit had actually been  
13 superseded. And for the purposes of efficiency, I would  
14 suggest that I identify the several exhibits that have been  
15 superseded so that future questions can focus on the latest  
16 copy in the record so there's not time wasted, if you will,  
17 addressing details of a plan that's been superseded.  
18 MR. ABRAMS: Well --  
19 MS. ROBESON: Well, I, you know, go ahead.  
20 MR. ABRAMS: I object to that. No, I object to  
21 that because we want to show the difference in terms of  
22 certain elements in close plan and what has been proposed  
23 here and why we believe that it is detrimental to the  
24 community.  
25 MS. ROBESON: I understand that, so I'm not going

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1 to agree to that. It is an evolving plan and it's a valid  
2 question why you did it one way as opposed to now you're  
3 doing it this way. Anything else?  
4 MR. ABRAMS: No, ma'am.  
5 MS. ROBESON: Mr. Knopf, as far as your appearance  
6 at the District Council, did you obtain any information?  
7 MR. KNOPF: I obtained a, I spoke with Jeff  
8 Science. He said his best estimate is 15 minutes to a half  
9 an hour, but you never know.  
10 MS. ROBESON: Okay. Yes. Well, that's exactly  
11 right. I can hear his response now. I think that I, I did  
12 consult with Mr. Grossman and we both felt that this -- it  
13 was not a good idea to just leave everybody monitoring the  
14 Council. I don't want to go through five days of hearings  
15 and for some reason have it overturned on a procedural  
16 error. I had the bright idea last night, but it may not be  
17 bright enough for you guys, instead of giving a 2-hour delay  
18 that we, I will end this hearing at 1:30 and I will say that  
19 we will reconvene at 2:30 and then if Mr. Knopf is not here,  
20 then I can reschedule it again and that way at least we're  
21 not creating, forcing a 2-hour vacuum. Do you, does anyone  
22 have a problem with that?  
23 MS. HARRIS: And just to be clear, so I assume  
24 there won't be -- the Court lunch break will be at 1:30 to  
25 2:30?

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1 MS. ROBESON: Yes.  
2 MR. KNOPF: Just --  
3 MS. HARRIS: That's unacceptable.  
4 MS. ROBESON: No, I think we need a 2-hour lunch  
5 about 11:30 and then --  
6 MR. KNOPF: I just fear, you're sending me before  
7 the Council on an empty stomach now.  
8 MS. ROBESON: Well, I mean if, the timing --  
9 MR. KNOPF: Can you do it like 1:20 or something?  
10 MS. ROBESON: -- doesn't matter. It could be  
11 1:15.  
12 MR. KNOPF: And that would be great. I could get  
13 something to eat.  
14 MS. ROBESON: And then we'll reconvene at 2:15 or,  
15 no, we'll reconvene at 2:30. Is that --  
16 MR. KNOPF: That's fine.  
17 MS. ROBESON: And that way --  
18 MR. KNOPF: I'd just like to try to grab a bite to  
19 eat before I --  
20 MS. ROBESON: Right. And that way we're not  
21 losing a full two hours.  
22 MR. KNOPF: That's fine.  
23 MS. ROBESON: All right?  
24 MR. KNOPF: I appreciate that. Thank you very  
25 much.

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1 MS. ROBESON: So --  
2 MR. KNOPF: I'll tell the Council you're waiting,  
3 they better speed it up.  
4 MS. ROBESON: Oh, I'm, I don't think that we have  
5 any sway in that regard. So with that, I believe, Mr.  
6 Abrams --  
7 MR. ABRAMS: Yes, ma'am?  
8 MS. ROBESON: -- have you managed to cull through  
9 your cross-examination questions to --  
10 MR. ABRAMS: I have. I've eliminated about a  
11 day's worth, but we still got quite a bit.  
12 MS. ROBESON: All right. Let's -- Mr. Landfair,  
13 are you ready? Have you eaten?  
14 MR. LANDFAIR: I have. Yes, thank you.  
15 MS. ROBESON: Okay. Let's continue then.  
16 MR. ABRAMS: All right. Mr. Landfair, what are  
17 the ground elevations for each of the six of the City Homes  
18 town homes?  
19 MR. LANDFAIR: The ground elevations?  
20 MR. ABRAMS: Yes.  
21 MR. LANDFAIR: Excuse me for just one moment. I  
22 do not have an exhibit which would reflect those ground  
23 elevations.  
24 MR. ABRAMS: Can you find the ground elevations  
25 and submit it to the Hearing Examiner --

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1 MR. LANDFAIR: Yes, we can.  
2 MR. ABRAMS: -- for the next hearing?  
3 MR. LANDFAIR: Yes, absolutely.  
4 MR. ABRAMS: And send me a copy?  
5 MR. LANDFAIR: Absolutely, yeah.  
6 MR. ABRAMS: All right. As a general observation,  
7 the ground elevations, do they get lower as they proceed  
8 toward Arlington Road?  
9 MR. LANDFAIR: Generally, yes.  
10 MS. ROBESON: From the subject property?  
11 MR. ABRAMS: From the subject property?  
12 MR. LANDFAIR: Yes, they do.  
13 MR. ABRAMS: So the building elevations for each  
14 stick of the townhouses would likewise be at different  
15 elevation points getting lower as you proceed toward  
16 Arlington Road?  
17 MR. LANDFAIR: Possibly. The road elevation  
18 certainly will change, but because of the grading for each  
19 one of those sticks, that grading may be moderated and it  
20 may not be consistent with the elevation of the road. In  
21 other words, if the road decreases in elevation by two feet  
22 along our frontage or one foot just to express a number, it  
23 wouldn't necessarily change that much on the City Homes  
24 property.  
25 MR. ABRAMS: I'm asking you what you know, not

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1 what if.  
2 MR. LANDFAIR: Right.  
3 MR. ABRAMS: Do you know that that's the case?  
4 MR. LANDFAIR: I do not know at this time.  
5 MR. ABRAMS: Would you know as part of the  
6 submission before the next hearing?  
7 MR. LANDFAIR: Yes, yes, we would have background  
8 information that we can submit.  
9 MR. ABRAMS: And what is the ground elevation  
10 which was used as the measuring point for the subject  
11 building, the applicant's building?  
12 MR. LANDFAIR: That ground elevation is expressed  
13 on the development plan. I don't have the exhibit number.  
14 It just simply says duplicate, but I think the development  
15 plan that's dated March 22nd is the one I'm referencing.  
16 MS. ROBESON: I'm sure it's 106 --  
17 MS. HARRIS: Right.  
18 MS. ROBESON: -- I just don't --  
19 MR. ABRAMS: 106a.  
20 MR. LANDFAIR: 106a.  
21 MS. ROBESON: A?  
22 MR. ABRAMS: And what is it?  
23 MR. LANDFAIR: It's 335.8.  
24 MR. ABRAMS: And what is the ground elevation at  
25 the intersection, as close as you can get to the

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1 intersection?  
2 MR. KNOPF: What intersection?  
3 MR. ABRAMS: The intersection of West Lane and  
4 Montgomery Lane.  
5 MR. LANDFAIR: 328.  
6 MR. ABRAMS: So it's some seven feet lower?  
7 MR. LANDFAIR: Yes.  
8 MR. ABRAMS: So by my deduction, it means that the  
9 ground elevation increases as you get further away from the  
10 intersection --  
11 MR. LANDFAIR: Correct.  
12 MR. ABRAMS: -- in terms of elevation --  
13 MR. LANDFAIR: Into West Lane.  
14 MR. ABRAMS: -- points along West Lane? If the  
15 application is approved for the 70-foot maximum height  
16 limit, what would be the maximum elevation of the building?  
17 MR. LANDFAIR: It would be at 405.8.  
18 MR. ABRAMS: And that elevation would be the same  
19 for the entire building, excluding the circulation step back  
20 area, excuse me, the step back area on the 6th and 7th  
21 level?  
22 MR. LANDFAIR: Right. And that's an important  
23 distinction because that elevation, of course, is 20 feet  
24 less. So that elevation for that step back on Montgomery  
25 Lane is approximately 50 feet.

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1 MR. ABRAMS: Then what is the elevation in the  
2 roadway of Montgomery Lane in front of the proposed  
3 building?  
4 MR. LANDFAIR: Again, it's roughly 328.  
5 MR. ABRAMS: Okay. And does that vary somewhat,  
6 is there a 330 elevation point in there also on the east  
7 side of the building?  
8 MR. LANDFAIR: Well, the decrease, of course, as  
9 you head further to the west, so approximately 20 feet west  
10 of the property line it would decrease to 326. It looks  
11 like the highest point would be approximately 329.2, which  
12 would be approximately directly opposite of the steps that  
13 would lead into the main lobby area.  
14 MR. ABRAMS: Okay. So if you're standing in the  
15 street near the sidewalk on Montgomery Lane looking at the  
16 building, and again you would ignore the step back  
17 situation, how tall is the building at that point?  
18 MR. LANDFAIR: If you're standing on the sidewalk  
19 and you're looking up at the building?  
20 MR. ABRAMS: Yes.  
21 MR. LANDFAIR: It will be 50 feet.  
22 MR. ABRAMS: Now how tall would the height of the  
23 building be, excluding the step back?  
24 MR. LANDFAIR: If you were measuring it to the  
25 uppermost part of the roof, it would be 70 feet.

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1 MR. ABRAMS: What would be the elevation?  
2 MR. LANDFAIR: That elevation would be  
3 approximately 405.8.  
4 MR. ABRAMS: Okay. And do you take away from that  
5 the prior elevations of 328 or 330 and get the difference in  
6 terms of what the full elevation height would be at that  
7 point?  
8 MR. LANDFAIR: Well, it would -- the building at  
9 measuring point is found on West Lane. We are within our  
10 rights to establish a building height measuring point where  
11 it is shown currently at the top of curb on West Lane. If  
12 you were to measure it from another point that had a lower  
13 elevation, yes, that would have an increase in terms of the  
14 overall height, but that's not under the zoning ordinance or  
15 under County Code, that would not be a prescribed way to  
16 measure the height.  
17 MR. ABRAMS: No, I'm not contesting that that's  
18 the appropriate way to measure the height. What I'm asking  
19 is the impression or visibility that shows on somebody in  
20 that area walking along the sidewalk or across the street at  
21 City Homes, in other words, in an area of compatibility as  
22 opposed to does it legally comply with the development  
23 standard?  
24 MR. LANDFAIR: The impression one will have is of  
25 the 50-foot height as you're walking along either on the

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1 north side or along the south side of the street because of  
2 that 12-foot step back. You're not going to perceive the  
3 additional 20 feet because you're not going to see much of  
4 it.  
5 MR. ABRAMS: So from that side, the building is  
6 not really 70 feet, it's more of a 75 to 77 feet?  
7 MR. LANDFAIR: It's all perception.  
8 MR. ABRAMS: Correct.  
9 MR. LANDFAIR: But you will not see that 70 or 75  
10 feet as you're walking along the street, either side of the  
11 street.  
12 MR. ABRAMS: How about if you were looking at the  
13 side windows of the City Homes town homes by residents, you  
14 would be able to see it, wouldn't you?  
15 MR. LANDFAIR: If you were at the upper elevation,  
16 in other words, if you were on an upper floor at one of the  
17 City Home town homes and you were looking across the street,  
18 you would be able to see the uppermost portion of this  
19 building.  
20 MR. ABRAMS: Now in addition to what you just  
21 described, there was previous testimony about a penthouse --  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: -- at the top?  
24 MR. LANDFAIR: Yes.  
25 MR. ABRAMS: And I think you said it was about 10

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1 feet?  
2 MR. LANDFAIR: Correct.  
3 MR. ABRAMS: And that's an equipment penthouse?  
4 MR. LANDFAIR: Yes.  
5 MR. ABRAMS: Okay. Is that a binding element  
6 anywhere in the plan, in other words, you will not exceed 10  
7 feet in height for the equipment building?  
8 MR. LANDFAIR: No, I don't believe it is.  
9 MR. ABRAMS: And will the applicant be willing to  
10 do that?  
11 MR. LANDFAIR: I don't know. I would add that  
12 that would be an unusual binding element. I have not seen  
13 such a binding element typically on a development plan.  
14 MR. ABRAMS: But you're not surprised about  
15 anything that happens in zoning in Montgomery County?  
16 MR. LANDFAIR: No, sir, I'm not.  
17 MR. ABRAMS: All right. I want to refer you now  
18 to Exhibit 80. That's the three plans that were colored to  
19 show the height or the spacing between various buildings?  
20 MR. LANDFAIR: Okay.  
21 MR. ABRAMS: Okay. These are three diagrams  
22 showing the relationship of the subject building to 4825  
23 Montgomery which you've described as the Sandy Spring  
24 building and the Edgemoor Highrise, all these relating to  
25 City Homes, is that correct?

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1 MR. LANDFAIR: Yes, exactly right. Each section  
2 is shown in relationship from a confronting building, the  
3 Edgemoor Highrise at the top, the middle cross section is  
4 4825 Montgomery Lane, otherwise known as the Sandy Spring  
5 Builders Project and, again, our project.  
6 MR. ABRAMS: Okay. Referring to the bottom  
7 drawing, I think you previously indicated that the distance  
8 between the subject project and City Homes was 73 feet?  
9 MR. LANDFAIR: Correct. Yes.  
10 MR. ABRAMS: And you contrasted that with a  
11 distance of the Edgemoor, which I believe you said was 71  
12 feet?  
13 MR. LANDFAIR: Correct.  
14 MR. ABRAMS: Now can you go to Exhibit 69, which  
15 has the distances between buildings along the street? Bill,  
16 this is the one I'm referring to.  
17 MR. LANDFAIR: Let me see if I have a full-size  
18 copy. I do. It may be necessary to flip back and forth. I  
19 do have that exhibit. Would it be helpful for me to mount  
20 it on a separate board if we're going to be referencing --  
21 MR. ABRAMS: I'm going to be referencing setbacks  
22 that are duplicated in there.  
23 MR. LANDFAIR: Okay.  
24 MR. ABRAMS: The Hearing Examiner has a copy.  
25 MS. ROBESON: I have a copy.

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1 MR. LANDFAIR: That's fine. I can refer to --  
2 MR. ABRAMS: Yes. So I'm not sure you need --  
3 MS. ROBESON: So --  
4 MR. LANDFAIR: -- I've got a ledger size copy, so  
5 I don't need to --  
6 MS. ROBESON: Okay. That's fine.  
7 MR. LANDFAIR: -- put it up on the easel.  
8 MS. ROBESON: I don't have a copy, I have three of  
9 them.  
10 MR. ABRAMS: No, the real thing.  
11 MS. ROBESON: But go ahead.  
12 MR. ABRAMS: Okay. For the record.  
13 MR. LANDFAIR: For the record. Yes, sir.  
14 MR. ABRAMS: Okay. Do you see the distance  
15 indicators in this Exhibit 69?  
16 MR. LANDFAIR: Yes.  
17 MR. ABRAMS: And, specifically, first of all,  
18 relating to the distances between the various buildings and  
19 the curbs?  
20 MR. LANDFAIR: Yes.  
21 MR. ABRAMS: Okay. And take a look at the numbers  
22 in the front of the applicant's project. Can you add them  
23 up and come up with a total distance between the SGJ project  
24 and the City Homes building?  
25 MR. LANDFAIR: City Homes is reflecting a number

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1 of 26. The West Lane project is just under 26. So together  
2 that would be 52.  
3 MR. ABRAMS: What about the 20-foot for the road?  
4 MR. LANDFAIR: Well, I think in that vicinity the  
5 road was actually 21 feet.  
6 MR. ABRAMS: Well, 21 feet. Okay. If you add up  
7 all of those numbers, that's?  
8 MR. LANDFAIR: 73 feet.  
9 MR. ABRAMS: 70 what?  
10 MR. LANDFAIR: 73 feet.  
11 MR. ABRAMS: 72 feet?  
12 MR. LANDFAIR: 73 feet.  
13 MR. ABRAMS: 73 feet? Are you sure it's not 71  
14 feet, 10 inches?  
15 MR. LANDFAIR: This exhibit shows 25 feet, 10  
16 inches.  
17 MR. ABRAMS: Okay. Plus 20 feet for the -- or 21  
18 feet for the road?  
19 MR. LANDFAIR: Correct.  
20 MR. ABRAMS: Okay. Plus 26 feet of curb in front  
21 of City Homes?  
22 MR. LANDFAIR: Correct.  
23 MR. ABRAMS: Okay. So that's about 72 feet?  
24 MR. LANDFAIR: 72 feet, 10 inches.  
25 MR. ABRAMS: Okay. It's basically not 73 feet as

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1 claimed, is it?  
2 MR. LANDFAIR: There's a difference between 72  
3 feet, 10 inches and 73 feet.  
4 MR. ABRAMS: Okay.  
5 MR. LANDFAIR: It's a difference of two inches.  
6 MR. ABRAMS: And now can you do the same math for  
7 the Edgemoor, the big Edgemoor?  
8 MR. LANDFAIR: 24 feet, 4 inches, plus 7 feet, 10  
9 inches for the lay-by and add another 21 feet for the  
10 street, and add another 26 feet approximately for City  
11 Homes.  
12 MR. ABRAMS: Well, don't you had 6 feet for the  
13 lay-by?  
14 MR. LANDFAIR: The entrance is not show there.  
15 I'm sorry?  
16 MR. ABRAMS: Don't you add 6 feet for the lay-by?  
17 MR. LANDFAIR: Well, the lay-by here is actually  
18 measured at 7 feet, I'm sorry, yes, it's approximately 6  
19 feet.  
20 MR. ABRAMS: Okay. And add up the 24 feet, 4  
21 inches, plus the 6 feet for the lay-by --  
22 MR. LANDFAIR: Right.  
23 MR. ABRAMS: -- plus 20 feet, plus 26 feet from  
24 the City Homes, right?  
25 MR. LANDFAIR: Yes.

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1 MR. ABRAMS: Okay. What's the total?  
2 MR. LANDFAIR: That would be 76 feet, 4 inches.  
3 Now that's suggesting that the dimension from that  
4 particular stick of City Homes is the same as what is found  
5 further to the west for 26 feet. This is not dimensioned as  
6 such, so I don't know that to be the case.  
7 MR. ABRAMS: Okay.  
8 MS. HARRIS: Can I offer a clarification?  
9 MS. ROBESON: No.  
10 MS. HARRIS: Okay.  
11 MS. ROBESON: You can on redirect.  
12 MS. HARRIS: Okay.  
13 MR. ABRAMS: Okay. I want you to go now to  
14 Exhibit, I think it's 80, page 14. Exhibit 80.  
15 MR. LANDFAIR: The title of that exhibit? The  
16 cross section?  
17 MR. ABRAMS: And I want you to focus on 4825,  
18 which is the Sandy Spring building.  
19 MR. LANDFAIR: Yes.  
20 MR. ABRAMS: You show a penthouse on that plan,  
21 correct?  
22 MR. LANDFAIR: Correct, yes.  
23 MR. ABRAMS: Have you seen the approved plans?  
24 MR. LANDFAIR: I've reviewed them in the past,  
25 yes.

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1 MR. ABRAMS: Well, in preparation for this case  
2 have you reviewed them?  
3 MR. LANDFAIR: Not recently, no.  
4 MR. ABRAMS: All right. So you're not sure  
5 whether that's a full-size penthouse or just small portions  
6 raised above the roof?  
7 MR. LANDFAIR: Correct.  
8 MR. ABRAMS: Or where they're located?  
9 MR. LANDFAIR: Correct.  
10 MR. ABRAMS: This looks like a pretty substantial  
11 penthouse, correct?  
12 MR. LANDFAIR: Yes, it does. It looks like a  
13 standard 10-foot high penthouse.  
14 MR. ABRAMS: And you go from the street up to the  
15 first level before you get to the penthouse, what is the  
16 height of that?  
17 MR. LANDFAIR: 65 feet.  
18 MR. ABRAMS: So that's 65 feet?  
19 MR. LANDFAIR: Right.  
20 MR. ABRAMS: And then are you saying that there's  
21 a 4-foot parapet wall that goes around it or is it a 60-foot  
22 building with a 4-foot --  
23 MR. LANDFAIR: There is a parapet wall around it.  
24 MR. ABRAMS: Okay. Which is it then? Is it a 65-  
25 foot building with a 4-foot parapet wall or is it a 60-foot

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1 building with a 4-foot parapet wall?  
2 MR. LANDFAIR: The latter. 60 --  
3 MR. ABRAMS: 60-foot building?  
4 MR. LANDFAIR: Right.  
5 MR. ABRAMS: So when you look at the top of the  
6 front of this building, Montgomery Lane --  
7 MS. ROBESON: Your attorney can bring this up on  
8 redirect. I don't want your responses picked up on the mic,  
9 okay? Go ahead. Not you, Mr. Abrams.  
10 MR. ABRAMS: Oh, I thought I did something wrong.  
11 MS. ROBESON: No.  
12 MR. ABRAMS: Okay.  
13 MS. ROBESON: You're in time-out.  
14 MR. ABRAMS: So the front of the building, the top  
15 of the front of the building shown on Exhibit 80 --  
16 MR. LANDFAIR: Yes.  
17 MR. ABRAMS: -- to Montgomery Lane is 60 feet?  
18 MR. LANDFAIR: To the top of the parapet wall is  
19 65 feet.  
20 MR. ABRAMS: Well, but the building itself  
21 included, separate from the parapet wall is 60 feet?  
22 MR. LANDFAIR: But if you're walking along, you're  
23 not going to separate out the parapet wall from the building  
24 itself.  
25 MR. ABRAMS: Okay.

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1 MR. LANDFAIR: So it's going to read as a 65-foot  
2 height building.  
3 MR. ABRAMS: Okay. That wasn't the question. The  
4 question was actual heights. Now the height of City Homes'  
5 units, are they a uniform height?  
6 MR. LANDFAIR: They are represented on the plan as  
7 being 53 feet in height. There may be a slight variation in  
8 height for each one of the sticks. The highest stick would  
9 be 53 feet.  
10 MR. ABRAMS: And where did you get those heights?  
11 MR. LANDFAIR: They were surveyed by our staff.  
12 MR. ABRAMS: By your staff? Okay. And how many  
13 stories are the town homes?  
14 MR. LANDFAIR: They're three stories.  
15 MR. ABRAMS: How many?  
16 MR. LANDFAIR: I believe they're three stories.  
17 MR. ABRAMS: And how many feet are usually in a  
18 story?  
19 MR. LANDFAIR: Approximately 10 feet.  
20 MR. ABRAMS: So where does the extra space come  
21 from to get to 53 feet?  
22 MR. LANDFAIR: It would be the peak of the roof  
23 and, of course, you have the garage below. The height, when  
24 you're dealing with sloped roofs is measured between the  
25 peak and the eave.

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1 MR. ABRAMS: When you're talking about the side of  
2 the building before we get to the roof element --  
3 MR. LANDFAIR: Right.  
4 MR. ABRAMS: -- would that be approximately 40  
5 feet?  
6 MR. LANDFAIR: To the eave?  
7 MR. ABRAMS: To the --  
8 MR. LANDFAIR: Before you get to the roof, in  
9 other words, here's a peak in the roof?  
10 MR. ABRAMS: Yes, before you get to the eaves.  
11 MR. LANDFAIR: Correct. Approximately.  
12 MR. ABRAMS: All right. And the windows are just  
13 below the eaves?  
14 MR. LANDFAIR: Yes.  
15 MR. ABRAMS: So the upper floors would have full  
16 view of the upper stories of the proposed building, correct?  
17 MR. LANDFAIR: Of those sticks that are directly  
18 opposite, yes.  
19 MR. ABRAMS: Now this is a common sense type  
20 thing. Is it really fair to compare pitched roofs with the  
21 flat roof building when you're talking about effects on  
22 occupants of a building?  
23 MR. LANDFAIR: It's obviously very different. I  
24 mean flat roofs are flat roofs.  
25 MR. ABRAMS: So the perception would be totally

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1 different, wouldn't it?  
2 MR. LANDFAIR: I think for most people the  
3 perception of a sloped roof versus pitched would be  
4 different, yes, or flat.  
5 MR. ABRAMS: Okay. We went out on a site visit  
6 yesterday and were you there?  
7 MR. LANDFAIR: I was not, no.  
8 MR. ABRAMS: You were not? Okay. Well, we walked  
9 along Hampden Lane and I want to ask you a couple questions  
10 about that.  
11 MR. LANDFAIR: Sure.  
12 MR. ABRAMS: Is Hampden Lane at a significantly  
13 lower elevation than Montgomery Lane?  
14 MR. LANDFAIR: It is at a lower elevation  
15 generally than Montgomery Lane, yes, but as with Montgomery  
16 Lane, it's not uniformly flat. There is a slope to it,  
17 realizing that --  
18 MR. ABRAMS: In some areas isn't the elevation  
19 difference as much as 12 feet?  
20 MR. LANDFAIR: Yes, I'd say that.  
21 MR. ABRAMS: And aren't there significant  
22 retaining walls between the City Homes property and what is  
23 a current development, I guess single-family residences  
24 facing Hampden Lane, including the HOC building?  
25 MR. LANDFAIR: Yes, there's substantial masonry

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1 retaining walls.  
2 MR. ABRAMS: And do you know how high those walls  
3 are?  
4 MR. LANDFAIR: Approximately 10 to 12 feet.  
5 MR. ABRAMS: So when you talk about the  
6 development of the proposed project on Hampden Lane and you  
7 indicated that that was 71 feet at its highest point, isn't  
8 that really below the 70 feet of the building height of the  
9 subject property?  
10 MR. LANDFAIR: Based on the contour elevation,  
11 yes.  
12 MR. ABRAMS: Now with the Hampden Lane building  
13 being at a lower elevation than Montgomery Lane and at the  
14 City Homes developments, basically isn't the City Homes town  
15 homes at the same elevation as the 48-foot high HOC  
16 building?  
17 MR. LANDFAIR: Yes, they are, give or take a foot.  
18 MR. ABRAMS: Do you know how many units are in the  
19 HOC building?  
20 MR. LANDFAIR: No, I do not.  
21 MR. ABRAMS: Could you also get that number for  
22 us --  
23 MR. LANDFAIR: Yes.  
24 MR. ABRAMS: -- as a submission?  
25 MS. HARRIS: Objection.

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1 MS. ROBESON: Yes, he doesn't have to get it. I  
2 mean you can provide that number.  
3 MS. HARRIS: And I, actually, if we could go back  
4 to the other information that they requested? If opponent's  
5 counsel wants that information, they can very, they can  
6 research it just as well as applicant's can, experts can.  
7 MR. ABRAMS: Well, when they make certain opinions  
8 as to things, we have to know what that's based upon. And I  
9 think it's part of cross-examination to test the veracity of  
10 the foundation of an opinion.  
11 MS. ROBESON: Well, that is true, but it's a  
12 question of who provides it and it's, you know, at some  
13 level it's your burden of proof to obtain the information  
14 unless you're unable to obtain it. So --  
15 MR. ABRAMS: Well, the information that we have  
16 obtained is that there are 12 units.  
17 MS. ROBESON: Well, you can testify to that in  
18 your --  
19 MR. ABRAMS: Well, I don't want to testify. I  
20 want to find out if he knows.  
21 MS. ROBESON: Well, he's already said he doesn't  
22 know.  
23 MR. ABRAMS: Okay.  
24 MS. ROBESON: So he doesn't have to provide the  
25 information.

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1 MS. HARRIS: And if we can go back for a moment on  
2 the questions about the elevations that he requested that  
3 applicant's expert researched that as well, does Mr. Abrams  
4 have those answers? I mean I don't, I don't know that it's  
5 necessary for --  
6 MS. ROBESON: Yes, I know. I'm just trying to get  
7 through this case in five days. So if you have the  
8 information, I would appreciate your providing it. If you  
9 don't, Mr. Abrams, if you have it readily at hand, I would  
10 appreciate your providing it. If you don't, Mr. Abrams,  
11 you're going to have to provide it, okay?  
12 MS. HARRIS: Certainly.  
13 MS. ROBESON: Okay. Well, let's go.  
14 MS. HARRIS: Thank you.  
15 MS. ROBESON: He doesn't, he didn't know how many  
16 units are in the HOC --  
17 MR. ABRAMS: Okay.  
18 MS. ROBESON: -- project.  
19 MR. ABRAMS: But he is still going to provide us  
20 with the building coverages that he said, which were part of  
21 his own exhibit?  
22 MS. ROBESON: Yes, that I think that that would be  
23 too difficult for Mr. Abrams to provide since you have the  
24 base information on the building coverage. So I do, I am  
25 requesting you provide that. I'm not talking about it more.

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1 I think -- yes?  
2 MS. HARRIS: I just need a clarification because  
3 earlier this morning Mr. Abrams requested building  
4 elevations, but then you just said building coverage. Were  
5 you referring to -- so I'm not clear what you're referring  
6 to.  
7 MS. ROBESON: I --  
8 MR. ABRAMS: The --  
9 MS. ROBESON: Yes, I thought he asked for the  
10 building coverages as well.  
11 MR. ABRAMS: Well, the building coverages is part  
12 of an exhibit which compares the different developments with  
13 the Sector Plan and I asked Bill yesterday where are those  
14 in the Sector Plan. He didn't have them available. I asked  
15 him to, if he --  
16 MS. HARRIS: You reference in the Sector Plan is  
17 what you asked.  
18 MR. ABRAMS: Well, the reference, yes, either to  
19 this property in terms --  
20 MS. HARRIS: Not the specific building coverages.  
21 MR. ABRAMS: -- of building coverages or general  
22 reference as to what maximum building coverage would be for  
23 the transit station district.  
24 MS. HARRIS: As --  
25 MS. ROBESON: What are you asking for, Mr. Abrams,

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1 exactly?  
2 MR. ABRAMS: I'm --  
3 MS. ROBESON: Do you want the actual building  
4 coverages?  
5 MR. ABRAMS: No. I want to know where, first of  
6 all, where he got the building coverages from that were  
7 representative --  
8 MS. ROBESON: That he used for that exhibit?  
9 MR. ABRAMS: -- in that exhibit.  
10 MS. ROBESON: Okay.  
11 MR. ABRAMS: Okay? Number two, where are the  
12 references in the Sector Plan to building coverages either  
13 generally for this district or specifically for these  
14 individual properties?  
15 MS. ROBESON: So and you have a problem with --  
16 MS. HARRIS: We don't have a plan that showed  
17 percentages of building coverages. We never calculated  
18 that. We know it for our building, I presume, our project.  
19 We don't know it for the surrounding projects.  
20 MS. ROBESON: Where, where --  
21 MR. ABRAMS: Well --  
22 MS. ROBESON: -- which exhibit are you referring  
23 to?  
24 MR. ABRAMS: It's the exhibit of comparison to the  
25 Sector Plan. It's the chart.

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1 MS. ROBESON: Oh, the chart? Is that -- I know  
2 the exhibit, I just don't have the number. Is it 84, which  
3 is this? Well, I don't see building coverage on --  
4 MR. ABRAMS: No, this is not the exhibit.  
5 MS. ROBESON: Okay. Well, I think it would be  
6 helpful to identify the exhibits so I can figure out -- can  
7 the applicant help with the exhibits?  
8 MS. HARRIS: The exhibit that I believe Mr. Abrams  
9 is referring to is the Sector Plan recommendations exhibit.  
10 MS. ROBESON: So that was 60 in the DPA file, is  
11 that correct --  
12 MS. HARRIS: Just one moment.  
13 MR. ABRAMS: Yes, 60 in the --  
14 MS. ROBESON: -- if memory serves?  
15 MR. ABRAMS: -- development plan amendment file.  
16 MS. ROBESON: Yes. Okay.  
17 MR. ABRAMS: And I don't know what the  
18 corresponding number is.  
19 MS. ROBESON: Well, let's just go with a number we  
20 know for the moment.  
21 MR. ABRAMS: Yes, it's Exhibit 6, well, it's  
22 development plan amendment Exhibit 6. Well, this is it.  
23 This is what I'm talking about.  
24 MS. ROBESON: Okay. And what do you want from  
25 that exhibit?

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1 MR. ABRAMS: Okay. There is a column there that  
2 says higher building coverage. It says yes or Sector Plan  
3 recommendation under --  
4 MS. ROBESON: That's one you cross-examined on at  
5 length yesterday.  
6 MR. ABRAMS: That's right. That's correct.  
7 MS. ROBESON: Okay.  
8 MR. ABRAMS: And I want to know, you know, what  
9 are the building coverages and how did he come up with them?  
10 And how did he compare those supplements in the Sector Plan?  
11 MS. HARRIS: Well, I think it would be helpful on  
12 cross, we will, we can determine how those determinations  
13 were made on the chart as to which ones had higher building  
14 coverage, but it did not involve a precise calculation and,  
15 therefore, I don't think -- my objection is that I don't  
16 want to have to go back and calculate that.  
17 MR. ABRAMS: Well, I mean it goes to the  
18 veracity --  
19 MS. ROBESON: Well --  
20 MR. ABRAMS: -- of the exhibit.  
21 MS. ROBESON: -- it's not up to Mr. Abrams to ask  
22 you to provide information. So, you know, but the burden of  
23 proof is on you.  
24 MS. HARRIS: Absolutely.  
25 MS. ROBESON: So you, you can, I hope at some

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1 point tell us how you arrived at that information if it  
2 wasn't from the actual building coverages. So, Mr. Abrams,  
3 I'm not going to require them to provide it. I am -- and  
4 hopefully they will explain what the basis of their exhibit  
5 is.  
6 MR. ABRAMS: So I understand that you will, in  
7 terms of this ruling, it will go to the weight that you  
8 afford this particular --  
9 MS. ROBESON: Exactly.  
10 MR. ABRAMS: -- exhibit rather than --  
11 MS. ROBESON: That is exactly correct.  
12 MR. ABRAMS: -- the admissibility? Okay.  
13 MS. ROBESON: I'm going to leave it to the  
14 applicant to convince us that their exhibits are accurate  
15 and support what they say.  
16 MR. ABRAMS: Okay. With reference to that  
17 specific exhibit, again, it's the compliance with the Sector  
18 Plan chart, who made up the comparison column in the left  
19 side?  
20 MR. LANDFAIR: Various members of the consulting  
21 team.  
22 MR. ABRAMS: Were you included?  
23 MR. LANDFAIR: It was a joint effort.  
24 MR. ABRAMS: Were you included?  
25 MR. LANDFAIR: I don't know if I actually

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1 specifically reviewed for the high edge at Edgemoor, that  
2 particular column in terms of particular responses.  
3 MR. ABRAMS: You don't know specifically among the  
4 witnesses that are listed or the applicant who contributed  
5 to that description?  
6 MR. LANDFAIR: I would say amongst the members of  
7 the team it would include the attorney, the architect. I  
8 could very well have played a role, but I don't recollect  
9 whether that particular column in terms of addressing these  
10 specific Sector Plan findings, whether I actually provided  
11 any of the responses.  
12 MR. ABRAMS: But they did consult you at least on  
13 that exhibit?  
14 MR. LANDFAIR: Yes, on the overall exhibit, yes.  
15 MR. ABRAMS: Was it basically a subjective type of  
16 yes/no type answer?  
17 MR. LANDFAIR: To a degree, yes.  
18 MR. ABRAMS: Now that chart says under the column  
19 for City Homes, no in the column where you had locating  
20 entrances where the units are on the first floor, do you see  
21 that?  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: Okay. Don't you enter the City Homes  
24 units on the first floor?  
25 MR. LANDFAIR: Well, actually I believe in most

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1 cases, but not all cases, they're stepped up, they have  
2 steps. So they're not necessarily at the ground level. You  
3 do step up. The ground floor or the first floor would be  
4 above the garage units.  
5 MR. ABRAMS: Well, you would go into the garage  
6 and you would enter the interior of the house from the  
7 garage. The garage would be on the first floor and that  
8 would be an entry point into the house, right?  
9 MR. LANDFAIR: Yes.  
10 MR. ABRAMS: Okay.  
11 MS. ROBESON: Okay. No speaking, no nodding  
12 heads. It's very distracting. I'm sorry, the witness is  
13 here to testify what he knows. He doesn't need prompting  
14 nor, you know, you can consult with your clients, but  
15 quietly. Okay. Go ahead.  
16 MR. ABRAMS: I didn't do anything.  
17 MS. ROBESON: I'm not -- I'm not putting you in  
18 timeout. I'm just saying -- I'll put her in timeout.  
19 MS. HARRIS: No, it is very distracting, so --  
20 MR. ABRAMS: Yes, please. No, please.  
21 MS. ROBESON: She can, she, I mean if you can --  
22 well, then sit up next to them or something, you know, but I  
23 can't have that. Okay. Go ahead.  
24 MR. ABRAMS: Have you been in any of these  
25 townhouse units?

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1 MR. LANDFAIR: Actually I have. It's been quite  
2 some time ago, but I have been in one of the units, yes.  
3 MR. ABRAMS: So if you can actually enter, and  
4 many people do enter through the garages to the house,  
5 the -- doesn't the no really, couldn't that be a yes?  
6 MR. LANDFAIR: If we were to say, yes, enter in  
7 through the garage, yes, we could do that, we could put yes.  
8 MR. ABRAMS: Okay. On the new development plan  
9 106a, what is the setback from the face of the building the  
10 first five stories to the property line along Montgomery  
11 Lane?  
12 MR. LANDFAIR: 10 feet.  
13 MR. ABRAMS: 10 feet? And that was the same  
14 setback, 10 feet, in the original plan and throughout the  
15 first Planning Board meeting?  
16 MR. LANDFAIR: That's correct.  
17 MR. ABRAMS: Now -- and there was a 10-foot  
18 setback along West Lane which hasn't changed?  
19 MR. LANDFAIR: The setback from the right-of-way  
20 of the line is less than 10 feet.  
21 MR. ABRAMS: It was less than 10 feet?  
22 MR. LANDFAIR: From the right-of-way line.  
23 MR. ABRAMS: Well, the right-of-way line is next  
24 to the property line, isn't it?  
25 MR. LANDFAIR: No.

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1 MR. ABRAMS: No?  
2 MR. LANDFAIR: It's set off by about 4 feet.  
3 MR. ABRAMS: What is the length of that 10-foot  
4 area along the front of the building on Montgomery Lane?  
5 MR. LANDFAIR: I'm estimating approximately 50  
6 feet. I'm relying upon the scale which is a 1-inch to 20  
7 scale.  
8 MR. ABRAMS: And that's for the, from the --  
9 MR. LANDFAIR: That's from the westernmost corner  
10 of the building --  
11 MR. ABRAMS: Yes.  
12 MR. LANDFAIR: -- to the easternmost corner.  
13 MR. ABRAMS: No, no, I'm going back a little,  
14 before you changed the plan. The original plan had a 10-  
15 foot setback along the entire southern portion of the  
16 building, correct?  
17 MR. LANDFAIR: Correct.  
18 MR. ABRAMS: Okay. Now what is the length of that  
19 10-foot setback before the plan changed?  
20 MR. LANDFAIR: I'd have to reference that plan,  
21 but you've got another 20 feet to it, 25 feet to it.  
22 MR. ABRAMS: Do we have a scale? Why don't you  
23 just measure it?  
24 MR. LANDFAIR: Yes.  
25 MS. HARRIS: Here.

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1 MR. ABRAMS: Thank you very much.  
2 MR. LANDFAIR: Great. 150, 150 feet. I'm sorry.  
3 About 108 feet, again, measuring from the westernmost corner  
4 to the easternmost corner.  
5 MR. ABRAMS: It's 108 feet?  
6 MR. LANDFAIR: Yes.  
7 MR. ABRAMS: Are you sure it's not closer to 80  
8 feet?  
9 MR. LANDFAIR: No.  
10 MR. ABRAMS: Okay. 108 feet? Now that setback  
11 area, again, before any change with the cut out at the  
12 corner --  
13 MR. LANDFAIR: Yes.  
14 MR. ABRAMS: -- and even now, that was recommended  
15 as public use space in the Sector Plan?  
16 MR. LANDFAIR: I'm sorry, say, could you repeat  
17 the question again?  
18 MR. ABRAMS: The setback area which you just  
19 described, 108 foot --  
20 MR. LANDFAIR: Yes.  
21 MR. ABRAMS: -- 10-foot setback --  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: -- in front of the building, was that  
24 not recommended for streetscaping and like a special  
25 sheeting area consistent with the mixed use street in a

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1 Sector Plan?  
2 MR. LANDFAIR: Yes. Yes.  
3 MR. ABRAMS: And I'm specifically referring for  
4 the Examiner's record page 82 of the Sector Plan. Now  
5 originally part of the applicant's plan, and this is again  
6 before the Planning Board made a comment and you changed the  
7 plan, they recommended -- where was the public use space for  
8 this property in addition to the front?  
9 MR. LANDFAIR: Before the plan was changed?  
10 MR. ABRAMS: Yes.  
11 MR. LANDFAIR: Right. The public use space, like  
12 most of the other TSR projects in the vicinity, relied upon  
13 the frontage of the property between the right-of-way line  
14 from Montgomery Lane and West Lane, but then we also had a  
15 substantial amount of public use space located to the north  
16 side of the building.  
17 MR. ABRAMS: Were you involved in meetings with  
18 your client and City Homes representatives to discuss the  
19 development plan?  
20 MR. LANDFAIR: No.  
21 MR. ABRAMS: You were not? Were you aware that  
22 City Homes had requested the public use space on the north  
23 side to be transferred to the Montgomery Lane frontage?  
24 MR. LANDFAIR: I was aware that there were  
25 concerns on the part of City Homes to expand upon the public

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1 use space along particularly Montgomery Lane. I recognize  
2 there were concerns about, from some citizens about the  
3 ability of the public use space on the north side of the  
4 building. I'm aware of all that.  
5 MR. ABRAMS: Okay. Are you aware also that the  
6 City Homes had requested that the way by be enlarged on West  
7 Lane?  
8 MR. LANDFAIR: Yes.  
9 MR. ABRAMS: Okay. And were you likewise informed  
10 that City Homes requested that the 65-foot height limit in  
11 the Sector Plan and the 2.5 FAR be complied with in this  
12 plan?  
13 MR. LANDFAIR: Among other requests, yes.  
14 MR. ABRAMS: And it was at a Planning Board  
15 meeting where the Planning Board discussed the public use  
16 space and where it should be located, correct?  
17 MR. LANDFAIR: Yes.  
18 MR. ABRAMS: And as a result of that, you had  
19 changed the plan to the point where it is now reflected on  
20 Exhibit 106a?  
21 MR. LANDFAIR: Right. What we have done is we are  
22 now calculating our public use space along frontage of the  
23 property with Montgomery Lane and West Lane. We have  
24 increased what was previously provided at the corner. We've  
25 increased that amount now. Just the area at the corner for

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1 the pocket park scales out at about 1,000 square feet. In  
2 addition to that, we are still retaining the area on the  
3 north side of the building. We're not counting it as public  
4 use space. I would characterize it more as onsite amenity  
5 area, but we're still retaining that area. So in terms of  
6 the design of that space, that has not changed. It will  
7 still be accessible to the public, but we're not counting it  
8 as public use space. In terms of technically speaking, what  
9 is counted towards public use space, it's primarily along  
10 the frontage with both Montgomery and West Lanes and then  
11 within the pocket park itself.  
12 MR. ABRAMS: What's the public going to do back  
13 there?  
14 MR. LANDFAIR: There will be hardscape treatment.  
15 There will be benches. There will be landscaping. They  
16 could go back. They could read a book. It also holds open  
17 the option in the future if and when the Edgemoor at  
18 Arlington North develops, they could consider a joint option  
19 to allow access from our property through their property and  
20 vice versa, effectively creating a mid-block crossing.  
21 MR. ABRAMS: But that was sort of dismissed, was  
22 it not, by the Planning Board?  
23 MR. LANDFAIR: It was, the idea was not dismissed.  
24 What was suggested by the Board is that could happen in the  
25 future. We don't know if that will happen in the future, so

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1 we would like you to reconsider how you are technically  
2 defining the public use space. But I think the Board  
3 recognizes and appreciates that we are still retaining this  
4 area and holding out the option that in the future it may  
5 become more a legitimate public use space. But right now  
6 it's not technically being counted as such.  
7 MR. ABRAMS: Now how much public use space was  
8 there on the north side of the building?  
9 MR. LANDFAIR: I think probably a third of what  
10 was counted towards public use space was on the north side,  
11 so it was a substantial amount.  
12 MR. ABRAMS: And originally the public use space  
13 was 4,092 square feet?  
14 MR. LANDFAIR: I don't have the plan to reference.  
15 I don't know if that number is correct.  
16 MR. ABRAMS: Well, it's either Exhibit 39a or  
17 Development Plan Exhibit 29a. On all of the plans prior to  
18 the change, or the cut out was, wasn't the public use space  
19 4,092 square feet?  
20 MR. LANDFAIR: I'll have to refer to the exhibit.  
21 MR. ABRAMS: Well, can you look it up?  
22 MS. ROBESON: Well, that, rather than finding the  
23 exhibit, since we have so many, can he assume that that's  
24 what it was?  
25 MR. ABRAMS: If he has no problem with that

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1 assumption.  
2 MR. LANDFAIR: I have no problem with that  
3 assumption.  
4 MS. ROBESON: Okay.  
5 MR. LANDFAIR: It sounds about right.  
6 MS. ROBESON: I'm just trying to save time.  
7 MR. LANDFAIR: Sure.  
8 MS. ROBESON: So if you feel, or hypothetically  
9 whatever --  
10 MR. LANDFAIR: It sounds about right, but --  
11 MS. ROBESON: You don't know for sure? Okay.  
12 MR. LANDFAIR: -- if I'm to say with precision --  
13 MS. ROBESON: Well, assume --  
14 MR. LANDFAIR: -- I'd have to reference the plan.  
15 MS. ROBESON: Well, assume that that's what it  
16 was.  
17 MR. LANDFAIR: That's fine. That's fine.  
18 MR. ABRAMS: Okay. So we have a 15-foot public  
19 use space in the old plan which went the entire length of  
20 the rear of the property?  
21 MR. LANDFAIR: Correct. That's right.  
22 MR. ABRAMS: Okay. And you say it's about a  
23 third, but you're not absolutely sure?  
24 MR. LANDFAIR: Right.  
25 MR. ABRAMS: It's certainly more than the 10-foot

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1 section in the front of the building?  
2 MR. LANDFAIR: Yes, I would agree.  
3 MR. ABRAMS: Okay. Now in terms of transferring  
4 public use space, is it, hasn't the public use space  
5 decreased in the most current plan over the one that was  
6 originally filed and submitted to the Planning Board?  
7 MR. LANDFAIR: In terms of what is being counted  
8 as public use space, the amount has decreased, but in terms  
9 of area that would be enjoyed by the public, I'm counting  
10 the public use space that goes towards the zoning  
11 requirement, as well as the amenity area on the north side.  
12 That overall area has expanded and I don't think a member of  
13 the general public walking along the street would, unless  
14 they had a plan in hand, think, well, gosh, this is what's  
15 counting towards the zoning requirement and this is what's  
16 counting towards just, you know, the general amenity area.  
17 In terms of the overall area that will be  
18 landscaped, that will have hardscape, that could be enjoyed  
19 by the public, that area has expanded over the original  
20 plan.  
21 MR. ABRAMS: But that's private property, it's not  
22 public property, correct?  
23 MR. LANDFAIR: On the north side that would be  
24 private property.  
25 MR. ABRAMS: Okay. Would you erect signs saying

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1 public welcome or how would you get people up there?  
2 MR. LANDFAIR: I don't think they're -- right now  
3 it's not designed to that degree of detail. I don't think  
4 we would anticipate putting the gate up or putting signage  
5 up at this point in time. But because it's on private  
6 property and because it's not technically counting towards  
7 public use space, we would hold open the option of at least  
8 limiting the hours of public access. But, again, that  
9 hasn't been discussed amongst the team or worked on any  
10 specific plans.  
11 MR. ABRAMS: Well, in any event, the total area of  
12 public use space has been significantly reduced, has it not?  
13 MR. LANDFAIR: The area that's counting towards  
14 the zoning requirement has been reduced.  
15 MS. ROBESON: What's the difference between public  
16 use space, I don't have the definitions, and just open  
17 space, amenity space --  
18 MR. LANDFAIR: There's a public use space --  
19 MS. ROBESON: -- do you have a --  
20 MR. LANDFAIR: -- requirement. The zoning  
21 ordinance suggests we need to provide a minimum requirement  
22 of public use space.  
23 MS. ROBESON: Right.  
24 MR. LANDFAIR: And it's a somewhat subjective  
25 finding in terms of what qualifies as public use space.

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1 Public use space typically can either be active space,  
2 meaning there would be hardscape, there would be --  
3 MS. ROBESON: Is there a legal definition -- my,  
4 what I'm getting at is is --  
5 MR. LANDFAIR: Is it specifically defined in the  
6 ordinance?  
7 MS. ROBESON: Yes.  
8 MR. LANDFAIR: No, not to any great detail.  
9 MS. ROBESON: Okay. I'm sorry. Go ahead. I'll  
10 look it up later. Go ahead.  
11 MR. ABRAMS: Now the public use space along the  
12 frontage, which is 10-feet wide, that's five feet less than  
13 the public use space for the existing approved plan for the  
14 holiday project, is it not?  
15 MR. LANDFAIR: I don't know. I'd have to pull out  
16 that plan. I actually might have that plan. No, I have  
17 elevations. I don't have the plan itself. So I'm prepared  
18 to, assuming what you're stating --  
19 MS. ROBESON: Hypothetically --  
20 MR. LANDFAIR: -- hypothetically what you're  
21 stating is --  
22 MR. ABRAMS: Hypothetically it was 15 feet?  
23 MR. LANDFAIR: -- correct.  
24 MR. ABRAMS: And weren't you --  
25 MS. ROBESON: Thank you.

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1 MR. ABRAMS: -- involved in that project?  
2 MR. LANDFAIR: I was, yes.  
3 MR. ABRAMS: And didn't you have a planning  
4 report --  
5 MR. LANDFAIR: Yes.  
6 MR. ABRAMS: -- for that project?  
7 MR. LANDFAIR: Yes. I have not reviewed it in  
8 some time.  
9 MR. ABRAMS: Okay. Now in that 10 feet for the  
10 current project --  
11 MR. LANDFAIR: Yes.  
12 MR. ABRAMS: -- what's going in there?  
13 MR. LANDFAIR: It's not been completely refined,  
14 but I think I do have an exhibit. Bear with me for a  
15 moment.  
16 MS. ROBESON: Which are, I'm sorry?  
17 MR. ABRAMS: The 10 feet between the front  
18 building or the southern portion of the building and, I  
19 guess, the sidewalk is the --  
20 MR. LANDFAIR: It will be a mixture of landscape  
21 and hardscape. I may have --  
22 MS. ROBESON: Hardscape meaning benches?  
23 MR. LANDFAIR: Hardscape meaning pavers, but that  
24 might include benches and such. If you'll just bear with me  
25 for a moment, we may have an exhibit that the landscape

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1 architect put together.  
2 MS. ROBESON: Maybe, maybe --  
3 MR. ABRAMS: You know, all I'm asking for is  
4 what's going to be.  
5 MR. LANDFAIR: It's a mixture of landscape and  
6 hardscape. Most of the hardscape came closer to the actual  
7 entrance.  
8 MR. KNOPF: Excuse me, does that have a number?  
9 MS. ROBESON: Okay.  
10 MR. LANDFAIR: This is an exhibit titled very  
11 simply site plan. It's dated February 15th. It was part of  
12 the February 15th submittal to the Hearing Examiner's  
13 office.  
14 MS. ROBESON: February 15th?  
15 MR. LANDFAIR: Yes.  
16 MS. ROBESON: So that would be in the eighties, I  
17 think.  
18 MS. HARRIS: I believe it's 86.  
19 MS. ROBESON: 86? It would be helpful -- we spend  
20 a lot of time, and I'm, there's a lot of exhibits and  
21 they're all, I know that it's been through a lot of  
22 iterations, but for the hearing it would be helpful if both,  
23 for people cross-examining and for you if we have quick  
24 access to the exhibit numbers so we can get through this.  
25 Anyway, keep going. It's 86?

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1 MR. LANDFAIR: So right now it's contemplated to  
2 be planted. There would be a landscape bed. There would be  
3 ornamental trees. There would be ground cover. Benches are  
4 contemplated along the sidewalk. So, again, a mixture of  
5 hardscape and landscape.  
6 MR. ABRAMS: Okay. Would there be trees planted  
7 in that area?  
8 MR. LANDFAIR: Yes, there would be, ornamental  
9 trees as currently contemplated, yes.  
10 MR. ABRAMS: And as far as the Park and Planning  
11 Commission is concerned, they have regulations dealing with  
12 the distance between planting trees and obstacles?  
13 MR. LANDFAIR: Distances between trees --  
14 MR. ABRAMS: Yes.  
15 MR. LANDFAIR: -- and obstacles?  
16 MR. ABRAMS: Off of center line, how many feet off  
17 of center line?  
18 MR. LANDFAIR: There are rules of thought that I  
19 find the Department follows. There are the Bethesda  
20 streetscape guidelines, which also make suggestions,  
21 however, Park and Planning historically, particularly in  
22 urban areas, will allow for a great deal of flexibility  
23 between particularly the spacing of trees, recognizing that  
24 there is an awful lot going on within the urban environment,  
25 within the public right-of-way, lights, signage, etcetera.

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1 So --  
2 MS. ROBESON: I don't think I saw any trees there  
3 yesterday. I may be wrong, except within the courtyards of  
4 City Homes.  
5 MR. LANDFAIR: There are street trees that have  
6 been planted.  
7 MS. ROBESON: I saw the benches.  
8 MR. LANDFAIR: -- as part of the TSR developments  
9 along Montgomery Lane and then there are trees that have  
10 been planted by the County as well. They're not mature.  
11 MS. ROBESON: Okay. Maybe that's why.  
12 MR. LANDFAIR: Easy to miss.  
13 MS. ROBESON: Okay.  
14 MR. ABRAMS: Okay. The spacing rules of thumb, if  
15 you will, are to prevent crowding of trees with other trees?  
16 MR. LANDFAIR: Sure, depending upon the species of  
17 the tree, right. You want to ensure the health of the tree.  
18 You want to make sure it's going to thrive, so --  
19 MR. ABRAMS: Okay.  
20 MR. LANDFAIR: -- spacing is part of that.  
21 MR. ABRAMS: Within the 10-foot area, would you  
22 basically put a tree five feet from either the sidewalk --  
23 MR. LANDFAIR: Five feet on center?  
24 MR. ABRAMS: Yes.  
25 MR. LANDFAIR: That strikes me as a bit close, but

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1 it depends on the species of the tree.  
2 MR. ABRAMS: Well --  
3 MR. LANDFAIR: If it's a small ornamental tree --  
4 MR. ABRAMS: -- my question, I guess, is getting  
5 to the point is if you have a very constricted site like  
6 that, the crown of the tree would have to be very small not  
7 to be touching or hitting the side of a building in a 10-  
8 foot space, wouldn't it?  
9 MR. LANDFAIR: If it's small or a middle tree, I  
10 don't think there would be any problem. You know, typically  
11 you'll have some maintenance. You will want to ensure that  
12 doesn't crowd any of the other trees or the building, but I  
13 wouldn't suggest that 10 feet in and of itself is that  
14 narrow a confine for a certain species of small, ornamental  
15 trees or shrubs or ground cover or such.  
16 MS. ROBESON: Well, Mr. Abrams, can you mark that,  
17 the exhibit number was 80 --  
18 MR. LANDFAIR: I have. It's No. 80. I've marked  
19 it in the lower right corner.  
20 MS. ROBESON: Thank you.  
21 MR. ABRAMS: Is that a new exhibit?  
22 MS. ROBESON: No.  
23 MR. LANDFAIR: No, this exhibit was --  
24 MS. ROBESON: No, no.  
25 MR. LANDFAIR: -- submitted to the record on

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1 February 15th.  
2 MR. ABRAMS: And as what, exhibit what?  
3 MR. LANDFAIR: It's Exhibit No. 86 and it's titled  
4 simply site plan.  
5 MR. ABRAMS: Now in addition to the relocation of  
6 the open space, public open space from the north to the  
7 south of the building, what I'm trying to determine is  
8 where, where that ended up if it did end up at all on the  
9 southern side of the building? Can you explain?  
10 MR. LANDFAIR: In terms of the --  
11 MR. ABRAMS: 15-foot wide, 106 feet across from  
12 the north section, how did that end up in the southern  
13 section facing Montgomery Lane?  
14 MR. LANDFAIR: How is it defined? How is the  
15 actual area defined?  
16 MR. ABRAMS: Well, what is the difference in terms  
17 of square footage, what you had originally and what you have  
18 now, which appears to be 2,841 square foot as compared to  
19 previously 4,092 square feet?  
20 MR. LANDFAIR: Well, in part, the building has,  
21 the setback for the building has changed a little bit along  
22 West Lane and there are fluctuations in terms of the  
23 building footprint. I know at one point, and if it's not  
24 actually officially part of the record, I know we had  
25 produced it, so it would be easy to include it in the

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1 record. We had produced an exhibit that defined the  
2 precision, the area that we were calculating as the quote,  
3 public use space, unquote, for zoning purposes. So we  
4 can --  
5 MS. ROBESON: Well, can you describe exactly what  
6 area it is?  
7 MR. LANDFAIR: Essentially the area is all in the  
8 frontage.  
9 MS. ROBESON: Of West Lane?  
10 MR. LANDFAIR: West Lane. It includes the 1,000  
11 plus square feet for the pocket park --  
12 MS. ROBESON: Right.  
13 MR. LANDFAIR: -- at the corner and it includes  
14 the frontage along Montgomery Lane itself. It does not  
15 include any part of the north side, the area that was  
16 formerly counted towards public use space, nor does it  
17 include the area that immediately surrounds the transformer  
18 pads.  
19 MS. ROBESON: Okay.  
20 MR. ABRAMS: I guess what I'm trying to find out  
21 and the bottom line is if there's a difference of  
22 approximately 1,200 square feet between what was previously  
23 offered as public use space and what we have in this current  
24 plan, where is the 1,200 square feet?  
25 MR. LANDFAIR: I can simply define the area.

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1 MS. ROBESON: Were the transformers part of the  
2 public use space before?  
3 MR. ABRAMS: Yes, ma'am.  
4 MR. LANDFAIR: Previously there was an area  
5 surrounding the transformers. I don't think we ever counted  
6 the transformer pads themselves.  
7 MR. ABRAMS: Well, it's on your prior exhibit.  
8 MS. ROBESON: So could it be --  
9 MR. LANDFAIR: There is an exhibit --  
10 MS. ROBESON: Yes.  
11 MR. LANDFAIR: -- that was submitted. It was part  
12 of the February 15th packet which is titled design  
13 comparison and what it's doing is it's showing the public  
14 use space as it was originally calculated for the Holiday  
15 project. It shows it calculated or defined rather for the  
16 previously proposed development plan for this project and  
17 then it shows how it's calculated now for this project based  
18 on the new development plan.  
19 MS. ROBESON: And do you know what exhibit that  
20 is?  
21 KNOFF: Exhibit 85.  
22 MS. HARRIS: 85.  
23 MR. LANDFAIR: 85.  
24 MS. ROBESON: 85. Okay. Thank you.  
25 MR. ABRAMS: So in Exhibit 85, Mr. Landfair, in

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1 the previously proposed plan, it extends it all the way down  
2 to the West Lane right-of-way, right?  
3 MR. LANDFAIR: Correct, yes.  
4 MR. ABRAMS: Okay. And it does the same with the  
5 exception of the utility box in the current plan?  
6 MR. LANDFAIR: Pairing this to this?  
7 MR. ABRAMS: Yes.  
8 MR. LANDFAIR: I prepared this exhibit, so I don't  
9 know, this exhibit was done purely for general illustrative  
10 purposes on the original development plan and any exhibits  
11 that we would have provided with that original development  
12 plan. I don't believe that we actually counted the  
13 transformer pad areas for public use.  
14 MS. ROBESON: Well, see the iteration all the way  
15 to, if you're facing that plan, all the way to the right,  
16 you'll see a white box there?  
17 MR. LANDFAIR: Yes. Right.  
18 MS. ROBESON: Is that the transformer pad?  
19 MR. LANDFAIR: That's the transformer pads,  
20 correct.  
21 MS. ROBESON: And is the dark green on that  
22 Exhibit 85, is that the, is that the private amenity space  
23 or the --  
24 MR. LANDFAIR: Right. In all three cases in terms  
25 of whether we're referencing the Holiday plan, the old

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1 development plan --  
2 MS. ROBESON: Correct.  
3 MR. LANDFAIR: -- for this project or the current  
4 development plan --  
5 MS. ROBESON: Right.  
6 MR. LANDFAIR: -- the dark green represents the,  
7 what I would characterize as onsite amenity area, private  
8 amenity area --  
9 MS. ROBESON: Right.  
10 MR. LANDFAIR: -- for the residents. The lighter  
11 green is what is the public use space that's counting  
12 towards the zoning --  
13 MS. ROBESON: What --  
14 MR. LANDFAIR: -- ordinance requirements.  
15 MS. ROBESON: Okay. What is the setback from that  
16 rear property line required in the zone?  
17 MR. LANDFAIR: There isn't.  
18 MS. ROBESON: Is there?  
19 MR. LANDFAIR: We've always proposed 15 feet.  
20 That's never changed. So between the old plan and the new  
21 plan, that distance has always held true. It's always been  
22 15 feet.  
23 MS. ROBESON: Okay. Continue.  
24 MR. ABRAMS: So I guess the question, at least I  
25 didn't hear an answer, of course, where did the 1,200 square

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1 feet go?  
2 MR. LANDFAIR: All I can tell you is that it's  
3 always been defined as the area between the building and the  
4 right-of-way line between Montgomery Lane and West Lane in  
5 terms of the public use space. Previous plan 21, 25, 2,125  
6 square feet of that public use space, a substantial amount,  
7 was on the north side. On the south side, it's all along  
8 the frontage here, West Lane and Montgomery Lane.  
9 MR. ABRAMS: When it was transferred from the  
10 north side to the south side and you tried to find out the  
11 difference --  
12 MR. LANDFAIR: In part, it's a reflection of the  
13 pocket park which in and of itself has added 1,000 square  
14 feet, almost half of what was found on the north side. In  
15 addition, the building has a more varied footprint along the  
16 West Lane side which allows for some additional public use  
17 space.  
18 MR. ABRAMS: Okay. But you're counting in 1,000  
19 square feet the 10-foot setback from the original plan for  
20 public use space? So that's not new, that's there.  
21 MS. HARRIS: I'm going to object. I think the  
22 witness has clearly established what was calculated as  
23 public use space previously --  
24 MR. ABRAMS: Well --  
25 MS. HARRIS: -- what he's calculated now and then

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1 a portion that was previously calculated, though it  
2 continues to be open green space, is not classified as  
3 public use space. I don't see where the line of reasoning,  
4 the line of questioning is going.  
5 MS. ROBESON: Yes, I -- what are you trying to get  
6 at?  
7 MR. ABRAMS: What I'm trying to get at is the area  
8 that they have moved now --  
9 MS. ROBESON: Well, it's not necessarily moved. I  
10 think what he's saying is that just by making that --  
11 MR. LANDFAIR: Adjustment.  
12 MS. ROBESON: -- amenity space, he's got a net  
13 loss of, you know, 1,000 square feet. But I don't think  
14 that they moved, I don't think necessarily it's been moved  
15 anywhere.  
16 MR. LANDFAIR: It's still approximately in the  
17 same area, but we're taking advantage of the fact that the  
18 building now has a scalloped corner which adds a tremendous  
19 amount of public use space at the corner and, again, the  
20 building has some fluctuation now along the West Lane side  
21 which also provides for some additional public use space.  
22 Is there a net loss? Technically speaking in terms of  
23 public use space, yes, but is there a net gain in terms  
24 overall area, amenity area that could be enjoyed by the  
25 public, yes, there is.

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1 MR. ABRAMS: My point is in this area, my line of  
2 questioning is that it is not 1,000 square feet. That is  
3 the total area within the cut out, the former cut out, but  
4 you have to subtract from that, the 10-foot setback that was  
5 originally along the entire frontage of the building.  
6 MS. ROBESON: Okay. So --  
7 MR. ABRAMS: So it's 1,000 square feet, it's  
8 something less than 1,000 square feet.  
9 MS. ROBESON: I understand. Are you double  
10 counting?  
11 MR. ABRAMS: No.  
12 MS. ROBESON: No, seriously.  
13 MR. LANDFAIR: Seriously, we're not. We're not  
14 double counting. It's not a case of --  
15 MS. ROBESON: If you measure all the area along  
16 Montgomery Lane, including the arc and all the West Lane --  
17 MR. LANDFAIR: Yes.  
18 MS. ROBESON: Okay.  
19 MR. LANDFAIR: The area as we currently have  
20 defined on this exhibit.  
21 MS. ROBESON: What is that amount? I mean it's  
22 got to be on the development plan, doesn't it?  
23 MR. LANDFAIR: It's, yes, roughly 2,200 square  
24 feet. Well, it's actually about 2,800 square feet.  
25 MS. ROBESON: 2,800 square feet?

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1 MR. LANDFAIR: Right.  
2 MS. ROBESON: And that is all of the area, when  
3 you came up with that 2,800 square feet, that's all of the  
4 area shown in the light green?  
5 MR. LANDFAIR: Yes.  
6 MS. ROBESON: That doesn't assist you?  
7 MR. ABRAMS: What I'm trying to do is have this  
8 witness, when he says 1,000 square feet, advise whether he's  
9 including or not including the original 10-foot setback area  
10 from --  
11 MR. LANDFAIR: It's --  
12 MS. ROBESON: Wait. Let him finish.  
13 MR. ABRAMS: -- Montgomery Lane.  
14 MS. ROBESON: I'm sorry, I couldn't hear.  
15 MR. ABRAMS: From Montgomery Lane because we  
16 contend that if you take that 10-foot setback area, the  
17 number that he has been using for that entire circular area  
18 is not 1,000, but something less than 1,000 because it's, as  
19 you said, it's double-counting the area.  
20 MS. ROBESON: Okay. So, okay. So if you took  
21 just the circular area exclusive of the 10-foot right-of-way  
22 along Montgomery Lane, what would the -- how big would that  
23 space be? At one point I remember you testified something  
24 like 680, but I could be wrong. So I guess --  
25 MR. LANDFAIR: I made that point actually at

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1 yesterdays' hearing.  
2 MS. ROBESON: Yes.  
3 MR. LANDFAIR: We might have suggested something  
4 like 600, 600 plus.  
5 MS. ROBESON: Yes. Well, I guess the question now  
6 is, and I think it's a fair question, what is the area net  
7 of the 10-foot frontage, 10-foot strip of frontage?  
8 MR. LANDFAIR: I --  
9 MS. ROBESON: Is that your question?  
10 MR. LANDFAIR: I don't know.  
11 MR. ABRAMS: It's 10-foot and since it's on a  
12 corner, not only is it a 10-foot setback from Montgomery  
13 Lane, but also a portion of the 10-foot setback from West  
14 Lane.  
15 MS. ROBESON: Okay. So maybe what I'd like is if  
16 you can't figure it out right now that the applicant could  
17 provide us with that measurement --  
18 MR. LANDFAIR: Certainly. We can break it out  
19 into --  
20 MS. ROBESON: Well, maybe even on redirect if you  
21 can do that. So I'm not going to ask you to stand here and  
22 scale it off now, but if you could do so at some point on  
23 redirect, that would be helpful.  
24 MR. LANDFAIR: Sure.  
25 MS. ROBESON: Okay. Go ahead.

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1 MR. ABRAMS: Okay. Mr. Landfair, so are we in  
2 agreement that the public use owned space went, was reduced  
3 by some 1,200 square feet?  
4 MR. LANDFAIR: From a zoning perspective it was  
5 reduced, correct.  
6 MR. ABRAMS: Okay. And essentially in the most  
7 current plan the north area has not changed at all in terms  
8 of setback?  
9 MR. LANDFAIR: Correct. Right. The spatial  
10 arrangements, the distance, the setbacks all remain the same  
11 for that northern area.  
12 MR. ABRAMS: Okay. In terms of the West Lane  
13 frontage, the only difference is certain cut outs on the  
14 building?  
15 MR. LANDFAIR: Primarily, yes.  
16 MR. ABRAMS: Yes. So it's still basically a 10-  
17 foot setback for most of the building?  
18 MR. LANDFAIR: Yes.  
19 MR. ABRAMS: So that hadn't really changed a whole  
20 lot? Okay. And in the frontage, the only change is the  
21 circular element at the corner?  
22 MR. LANDFAIR: Correct, but that's --  
23 MR. ABRAMS: Okay.  
24 MR. LANDFAIR: -- a substantial contribution to  
25 the public realm.

1 MS. ROBESON: Well, would it be better from a land  
2 planning perspective because it does seem unlikely that that  
3 rear area is going to get a lot of use, but that's, you can  
4 prove me wrong. Would it be better from a land planning  
5 perspective to scoot the building back further?

6 MR. LANDFAIR: No.

7 MR. ABRAMS: And why is that?

8 MR. LANDFAIR: You're taking this wall that is so  
9 helpful, this continuous wall that will provide a sense of  
10 enclosure that helps to define the street line, the building  
11 line, the street edge, the pedestrian experience. When you  
12 start to pull it back too far, you're starting to create a  
13 space that is actually less welcoming. Typically, in fact,  
14 when Park and Planning staff are reviewing these  
15 applications, in fact, that actual point came up with the  
16 Sandy Spring builders project on the opposite side of the  
17 street.

18 MS. ROBESON: Which is 4825?

19 MR. LANDFAIR: 4825, right, because it is  
20 difficult sometimes to provide adequate, onsite public use  
21 space. They were thinking we'll just pull the building  
22 back. We'll put it all up front on the street, perhaps the  
23 citizens, the neighbors will enjoy a benefit. Maybe we can  
24 design it so it looks attractive. The response from the  
25 Planning Department was, no, we don't want to see that. We

1 don't want to see setbacks that are excessive from the  
2 street. In our case, we're providing 26 feet if you count  
3 the public right-of-way.

4 MS. ROBESON: From where?

5 MR. LANDFAIR: From the building face to the face  
6 of the curve along Montgomery Lane. That's certainly  
7 consistent, if not more setback than most of the other  
8 projects up and down the street. So it's substantial. So  
9 we felt there would be nothing --

10 MS. ROBESON: Okay.

11 MR. LANDFAIR: -- to gain to do that and, of  
12 course, it would then impact the possibilities for this  
13 amenity area on the north side of the building. We don't  
14 want to preclude what may happen in the future, either for  
15 our residents or perhaps for some future mid-block crossing  
16 that may or may not take place. We don't want to preclude  
17 the possibilities.

18 MS. ROBESON: And Mr. Abrams.

19 MR. ABRAMS: So this is the same planning staff  
20 that okayed a 15-foot setback for the Holiday project  
21 thought?

22 MR. LANDFAIR: It was the staff from the Planning  
23 Department. I don't know if it was the exact same  
24 reviewers. I suspect not.

25 MR. ABRAMS: But, okay. But they recommended a

1 deeper setback than what apparently was recommended by them  
2 in this case?

3 MR. LANDFAIR: There may be other reasons for  
4 doing that. In part, it may have had to do with the  
5 relationship to the corner property, what is known as the  
6 Wolf property, lot 26, which is now incorporated as part of  
7 our development.

8 MS. ROBESON: But you don't know that?

9 MR. LANDFAIR: I don't know.

10 MR. ABRAMS: Okay. We're traveling around this  
11 property?

12 MR. LANDFAIR: Yes.

13 MR. ABRAMS: Okay. There basically haven't been  
14 any changes to the north, to the east, to the south with the  
15 exception of the cut out. Now to the west, you pull the  
16 building three feet closer in the southwest section?

17 MR. LANDFAIR: The building had a varied line.  
18 There was one portion of the west facade, building facade  
19 which was at 15 feet. There was one portion which was at 12  
20 feet. And, yes, it's now been reduced consistently into 12  
21 feet.

22 MR. ABRAMS: Now the private use space in the  
23 original plans and the private use space in those current  
24 plans, they're the same, correct?

25 MR. LANDFAIR: Yes, for the most part. There is

1 some very slight changes, but the overall shape,  
2 programming, etcetera is about the same, yes.

3 MR. ABRAMS: Okay. So if you reduce the public  
4 use space, you expand the foot pad of the building in the  
5 southwest corner by three feet. Does that mean that the  
6 building size has increased?

7 MR. LANDFAIR: The building footprint size --

8 MR. ABRAMS: Yes.

9 MR. LANDFAIR: -- is basically the same. It's  
10 like a balloon. When you squeeze it at one end or make  
11 adjustments to one end, there's a tension there that, you  
12 know, if you're going to hold to roughly the same square  
13 footage, which I believe we have for the building footprint,  
14 it's roughly the same.

15 MR. ABRAMS: But this is a vertical wall situation  
16 with the exception of the cut outs at the top?

17 MR. LANDFAIR: True.

18 MR. ABRAMS: So the foot pads under the same, from  
19 the first through the fifth floor is it essentially?

20 MR. LANDFAIR: Yes.

21 MR. ABRAMS: Okay. Again, my question is with a,  
22 the same private use space, less public use space, expansion  
23 of the footpad of the building on the west by three feet,  
24 don't you have more building square footage?

25 MR. LANDFAIR: You're dismissing the area to the

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1 north in terms of this amenity area. The square footage of  
2 the building remains roughly the same, plus or minus a few  
3 feet. I don't think there's been a substantial change in  
4 the overall square footage of the building.  
5 MR. ABRAMS: Well, how do you account for the  
6 expansion of the footpad and the reduction in the public use  
7 space? Where does that go?  
8 MR. LANDFAIR: Well, a substantial amount of that  
9 has simply been discounted for zoning purposes from the  
10 north side.  
11 MR. ABRAMS: Well, you had the same amount --  
12 MR. LANDFAIR: Correct.  
13 MR. ABRAMS: -- of private use space --  
14 MR. LANDFAIR: Right.  
15 MR. ABRAMS: -- as you've always had?  
16 MS. HARRIS: I would like to object. The line of  
17 questioning goes to questions that the architect will be  
18 able to answer. The witness is a land planner. He wasn't  
19 involved in the square footage decisions of the --  
20 MR. ABRAMS: He was involved in describing the  
21 public use space.  
22 MS. ROBESON: Well, so what you're saying is that  
23 the public use space decisions were determined by the  
24 architect, is that --  
25 MS. HARRIS: No, I think the witness has

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1 explicitly explained the public use space situation. As I  
2 understand the current question, it goes to the square  
3 footage within the building envelope and the architect can  
4 answer those. The land planner is not qualified to answer  
5 those questions.  
6 MS. ROBESON: Well, let me do this. Whether he  
7 should be or shouldn't be, I'm reserving judgment on it.  
8 But if he doesn't know the answer, Mr. Abrams, it seems  
9 pointless to continue that and we'll improve that and you  
10 can pursue that line of questions with the architect.  
11 MR. ABRAMS: Okay. The interior floor area has  
12 not changed?  
13 MR. LANDFAIR: I don't believe so.  
14 MR. ABRAMS: Now in terms of your original amount  
15 of square footage for public use space, 4,092, would it have  
16 been more, would it have been to the public benefit to still  
17 provide that amount of public use space as compared to what  
18 is provided in your most current plan?  
19 MR. LANDFAIR: Is more better than less? We still  
20 feel that --  
21 MS. ROBESON: That's a question. I'm waiting for  
22 the answer.  
23 MR. LANDFAIR: Obviously, if you have more public  
24 use space as defined by the zoning ordinance, that's going  
25 to be preferable than less public use space, but you cannot

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1 discount the other amenity area that we are providing.  
2 That's just, that's --  
3 MR. ABRAMS: Nobody is --  
4 MR. LANDFAIR: -- not right.  
5 MR. ABRAMS: Nobody is discounting it, I'm just  
6 trying to figure out the rationale of the applicant in terms  
7 of its decisions on public use space. Now in terms of the  
8 public use space, if you have blank slate like this  
9 property, you can basically configure the building anyway  
10 you want, put the public use space anywhere you want except  
11 that it has to be usable, feasible to the public. Now if  
12 that public use space were somehow devoted more to a setback  
13 along the building frontage of Montgomery Lane, it doesn't  
14 have to be a whole lot, but if you provided more public use  
15 space, wouldn't that be utilized more by the public than  
16 your private use space to the rear?  
17 MR. LANDFAIR: It would certainly be visible to  
18 the general public. It depends on how it's designed in  
19 terms of whether it would be more enjoyable. I suspect that  
20 most members of the public as they walk along wouldn't be  
21 able to tell whether it's 26 feet of streetscape or 27 or 28  
22 feet of streetscape along there. You know, if you added a  
23 foot or two to the length of the public use space that's  
24 being provided, in my opinion I don't think it would  
25 substantially increase the enjoyment for the general public.

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1 MR. ABRAMS: So even if you had the 15-foot  
2 originally approved or existing approval, you don't think  
3 that's any better than the 10 feet which you add now?  
4 MR. LANDFAIR: It would depend on how it's  
5 designed, but I don't think it would be substantially  
6 improved, no.  
7 MR. ABRAMS: Now in the surrounding --  
8 MS. ROBESON: Well, wait, I have a question. If  
9 you can't perceive the difference of three feet, why would  
10 technical staff insist on -- I mean if you can't perceive  
11 the distance between 10 feet and 13 feet, why would  
12 technical staff insist on this straight line building,  
13 straight line streetscape?  
14 MR. LANDFAIR: Well, it's an urban design concept  
15 and you're trying to establish in part a sense of enclosure  
16 for the street to make it a more comfortable experience.  
17 You're defining the borders for the streetscape. We are  
18 achieving 26 feet from building face to face of curb.  
19 MS. ROBESON: Yes, I understand that.  
20 MS. LANDFAIR: That includes public right-of-way  
21 as well as our setback from the right-of-way line. That's  
22 a substantial amount, particularly in comparison with the  
23 other projects that have been approved or built up and down  
24 Montgomery Lane.  
25 MS. ROBESON: Well, I have to say that -- I'm not

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1 sure how Montgomery Lane turned out the way it was, somewhat  
2 piece meal perhaps and too many exceptions to the Master  
3 Plan and the late comer is possibly paying the price for  
4 that. But -- and I think the concept of this is good. I --  
5 it's very difficult for me to think why you would put  
6 useless space in the rear of that project because if West  
7 Lane is going to be full of trucks, or not full of trucks,  
8 but you know West Lane goes nowhere really except to this  
9 hammerhead turnaround.  
10 MR. LANDFAIR: Right.  
11 MS. ROBESON: So I guess I'm having difficulty  
12 seeing why in the world you would have, you know, you could  
13 still leave an alleyway, you know, with 10 feet.  
14 MR. LANDFAIR: You're speaking of the north side?  
15 MS. ROBESON: Yes. Why in the world wouldn't you  
16 pull it back when public use space, when it's such a tight  
17 site?  
18 MR. LANDFAIR: Well, there's other considerations  
19 in terms of the setbacks from the northern property line.  
20 Why we are doing that, in part --  
21 MS. ROBESON: Well, is it -- don't you back up in  
22 part to that tennis where the rec area?  
23 MR. LANDFAIR: Yes. There is, and it's for the  
24 nearby Chase development --  
25 MS. ROBESON: Right.

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1 MR. LANDFAIR: -- high rise. You have on top of  
2 structured parking you have tennis courts there --  
3 MS. ROBESON: Right.  
4 MR. LANDFAIR: -- that's true, right. But we're  
5 also trying to establish compatibility with the Villages of  
6 Bethesda. We also have our own issues.  
7 MS. ROBESON: Well, if you can't perceive five  
8 feet difference --  
9 MR. LANDFAIR: Right.  
10 MS. ROBESON: -- why do they care if it's five  
11 feet?  
12 MR. LANDFAIR: Well, there's a difference between  
13 standing here in your backyard in the Villages of Bethesda  
14 looking out across this buffer area, this open space area to  
15 our building and somebody walking along the street and  
16 perceiving, wow, this is 28 feet versus 26 feet versus 24  
17 feet. I don't think, particularly if it's well-designed and  
18 we believe that it will be a well-designed streetscape both  
19 consistent with Bethesda streetscape guidelines, as well as  
20 the need to make this a very attractive development. We  
21 believe that we can accomplish what we need to accomplish  
22 within that 26 feet.  
23 MS. ROBESON: I guess -- okay. Go ahead. Keep  
24 going because we need to get through this.  
25 MR. LANDFAIR: Sure. Okay.

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1 MR. ABRAMS: I'd like to direct your attention --  
2 MS. ROBESON: Mr. Abrams, how many more questions  
3 do you have?  
4 MR. ABRAMS: Probably about an hour and a half.  
5 MS. ROBESON: No, you can't, you got to have a way  
6 to get this done more quickly. Let's do this. Let's take a  
7 five minute break and I'm going to let Mr. Abrams find a way  
8 to get this done more quickly, okay, or a 10 minute break.  
9 (Recess)  
10 MS. ROBESON: Okay. Is everyone ready? Are you  
11 ready, court reporter? Okay. We're back on the record.  
12 MR. ABRAMS: Okay. Mr. Landfair, I believe you  
13 were the expert witness in the Holiday --  
14 MR. LANDFAIR: Yes.  
15 MR. ABRAMS: -- project? And in terms of Exhibit  
16 101g, which I believe is the Hearing Examiner's report from  
17 the Holiday project, that's application G-843, did you not  
18 testify that the applicant provided in that case generous  
19 setbacks in that case? And I'm specifically referring to  
20 page 30 of the Hearing Examiner's report with a reference of  
21 the Hearing Examiner.  
22 MS. ROBESON: Is that 101g in our record?  
23 MR. ABRAMS: Yes.  
24 MS. ROBESON: Okay.  
25 MR. KNOPF: Is it e or g?

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1 MR. ABRAMS: I'm trying not to pull this stuff out  
2 to --  
3 MS. ROBESON: Thanks.  
4 MR. ABRAMS: -- to try to --  
5 MS. ROBESON: That's great.  
6 MR. LANDFAIR: I assume you're correct.  
7 MR. ABRAMS: Okay. Okay. Now the 15 feet that  
8 face, the face of the Holiday building that was along  
9 Montgomery Lane, that was a 4-story element, was it not?  
10 MR. LANDFAIR: I believe it was 48 feet.  
11 MR. ABRAMS: 48 feet?  
12 MR. LANDFAIR: Yes.  
13 MR. ABRAMS: Okay. And the element along  
14 Montgomery Lane on this project is 70 feet, right?  
15 MR. LANDFAIR: 50 feet. 50 feet and then it  
16 steps --  
17 MR. ABRAMS: Steps back?  
18 MR. LANDFAIR: Steps back.  
19 MR. ABRAMS: All right. The step back in the  
20 Holiday plan -- how far was the 4-foot element back to the  
21 six, the four, 48 foot element back to the 60-foot height  
22 element?  
23 MR. LANDFAIR: The step back was substantial for  
24 Holiday.  
25 MS. ROBESON: Well, what does that mean?

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1 MR. ABRAMS: What does it -- yes.  
2 MR. LANDFAIR: It steps back to the center part of  
3 the building. However, I will note that there were two  
4 penthouses, I believe, that were located on top of that 48-  
5 foot wing of the Holiday building. So it wasn't just a flat  
6 roof. You have penthouses.  
7 MR. ABRAMS: So you're comparing a 48-foot section  
8 with the penthouses --  
9 MR. LANDFAIR: Yes.  
10 MR. ABRAMS: -- going back to the mid-portion, it  
11 appears, from that exhibit of the Holiday building to a 12-  
12 foot setback on the top two floors of the subject property?  
13 MR. LANDFAIR: It's different. It's different.  
14 MR. ABRAMS: Okay. Quite a bit different, isn't  
15 it?  
16 MR. LANDFAIR: It's different.  
17 MR. ABRAMS: All right. I want to ask you some  
18 questions generally, so you can have a seat.  
19 MR. LANDFAIR: Sure.  
20 MR. ABRAMS: And if you can try to -- I don't know  
21 whether I need your back or I need your front.  
22 MS. ROBESON: Actually, if you can, if you can  
23 just move to, close to where those --  
24 MR. ABRAMS: Yes, why don't you move, right, to  
25 the end? That's it.

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1 MS. ROBESON: There you go. I want to make sure  
2 you're, no, don't look at me. I want to make sure your  
3 counsel can see you. So this is fine. I can see your face.  
4 I think Mr. Abrams can. And can you, Ms. Harris?  
5 MS. HARRIS: I'm going to move right here.  
6 MS. ROBESON: Thank you. I appreciate that.  
7 MR. ABRAMS: Now I want to speak for a moment in  
8 general terms about compatibility which is an element of  
9 this application, is it not?  
10 MR. LANDFAIR: Yes.  
11 MR. ABRAMS: Okay. And the compatibility element  
12 would be within the surrounding neighborhood which you've,  
13 or the staff has defined as a TSR district?  
14 MR. LANDFAIR: Yes.  
15 MR. ABRAMS: Okay. And in terms of compatibility,  
16 it's more important with respect to the buildings and  
17 occupants closest to the subject property than it would be  
18 in the fringe elements of the surrounding neighborhood?  
19 MR. LANDFAIR: Yes.  
20 MR. ABRAMS: Now it's important from the  
21 standpoint of both the findings required in the development  
22 plan, as well as in the TSR zone. And are those findings in  
23 terms of the Development Plan Section 59b, 1.61(b)(c)? Just  
24 trying to make it easier for you when you do the --  
25 MS. ROBESON: Yes, I'll answer that. Yes, they

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1 are.  
2 MR. ABRAMS: Okay. And with reference to the  
3 purposes of the TSR Zone, that section would be Section 59c  
4 8.22, is that correct?  
5 MR. LANDFAIR: It sounds correct, yes.  
6 MR. ABRAMS: Okay. Now can an application for  
7 rezoning and a development plan approval meet all of the  
8 development standards in the zone and still not be  
9 compatible with the adjacent development, particularly the  
10 most immediate development?  
11 MR. LANDFAIR: Because that finding of  
12 compatibility is somewhat subjective, yes, one could make a  
13 finding that you satisfy the criteria, but nevertheless  
14 there would be an issue with compatibility.  
15 MR. ABRAMS: Okay. In fact, aren't there, and TSR  
16 zone is the flooding zone?  
17 MR. LANDFAIR: Yes, correct.  
18 MR. ABRAMS: Okay. And in many of the flooding  
19 zones, don't they have a specific indication that the fact  
20 that you comply with all the development standards does not  
21 mean or require a finding of compatibility?  
22 MR. LANDFAIR: It's quite common, yes.  
23 MR. ABRAMS: Does the requirement for the  
24 provision of MPDU's override any required finding that an  
25 application for TSR zoning and the development plan be

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1 compatible with the adjacent development?  
2 MR. LANDFAIR: Would conformance with the MPDU  
3 requirements found in the County Code, would they supersede  
4 any findings in the zoning ordinance --  
5 MR. ABRAMS: Yes.  
6 MR. LANDFAIR: -- particularly with respect to  
7 compatibility? No, I would say no.  
8 MR. ABRAMS: Okay. Now in determining  
9 compatibility with adjacent development, you basically look  
10 at a number of different elements, do you not?  
11 MR. LANDFAIR: Sure.  
12 MR. ABRAMS: And would those elements include such  
13 things as use, density, height, bulk?  
14 MR. LANDFAIR: Massing, setbacks.  
15 MR. ABRAMS: Yes.  
16 MR. LANDFAIR: Yes.  
17 MR. ABRAMS: A bunch of different factors?  
18 MR. LANDFAIR: Yes.  
19 MR. ABRAMS: Now are the recommendations contained  
20 in the Master Plan and the Sector Plan with respect to these  
21 elements, are they promulgated to evaluate the issue of  
22 compatibility as well as guide future development?  
23 MR. LANDFAIR: Yes.  
24 MR. ABRAMS: So what's in the Master Plan or  
25 Sector Plan? Is there also for the purposes of determining

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1 a baseline for compatibility?  
2 MR. LANDFAIR: Yes.  
3 MR. ABRAMS: Now in order to evaluate whether an  
4 application is or is not compatible, you have to establish  
5 what is already developed --  
6 MR. LANDFAIR: Yes.  
7 MR. ABRAMS: -- in the immediate neighborhood.  
8 MR. LANDFAIR: Uh-huh.  
9 MR. ABRAMS: And I guess you've described what is  
10 in the immediate neighborhood by virtue of some of the  
11 exhibits?  
12 MR. LANDFAIR: Right.  
13 MR. ABRAMS: We don't have to go over those at the  
14 point, this point. Now each of those properties, both  
15 existing and approved, they all had an approved development  
16 plan, did they not?  
17 MR. LANDFAIR: Those properties that were approved  
18 for the TSR zone, yes.  
19 MR. ABRAMS: Okay. And as part of that finding  
20 the District Council found that they were compatible and in  
21 compliance with the Sector Plan?  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: Okay. And with reference, again, to  
24 those projects which were immediately adjacent to this  
25 property, this property has the highest FAR and is the

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1 tallest building of any of the surrounding buildings?  
2 MR. LANDFAIR: In the immediate adjacency, yes.  
3 MR. ABRAMS: Okay. Now in terms of the Holiday  
4 project which was G-843 as an application number, that was  
5 approved in 2007?  
6 MR. LANDFAIR: Yes.  
7 MR. ABRAMS: Okay. Now that project, likewise,  
8 was also found to be compatible according to the District  
9 Council --  
10 MR. LANDFAIR: Yes.  
11 MR. ABRAMS: -- resolution? And also according to  
12 the Hearing Examiner's recommendation?  
13 MR. LANDFAIR: Correct.  
14 MR. ABRAMS: And for purpose of the Hearing  
15 Examiner's review, I'm referring to Exhibit 101c as a copy  
16 of the Council resolution Exhibit 101d, as a copy of the  
17 Hearing Examiner's report. So in approving the Holiday  
18 project, the District Council, as well as the Hearing  
19 Examiner in recommending approval of the project considered  
20 the building height, the density, the form of development,  
21 scale of development, things of that nature?  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: Okay. Now with these findings in the  
24 Holiday case, is it reasonable to conclude that a model or  
25 baseline for evaluating compatibility exists with reference

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1 to this case?  
2 MR. LANDFAIR: Are you saying that every project,  
3 every development, every proposal that would follow the  
4 Holiday proposal for this property would need to follow the  
5 baseline as you say in terms of building massing height to  
6 setbacks, etcetera? If that's the case, I would say no.  
7 MR. ABRAMS: Okay. No, that's not the case.  
8 MR. LANDFAIR: Okay.  
9 MR. ABRAMS: The case is if there has been a  
10 finding of compatibility that there were certain elements  
11 associated with that development and --  
12 MR. LANDFAIR: Sure.  
13 MR. ABRAMS: -- is that or is that not some of,  
14 one of the baselines in terms of compatibility and obviously  
15 you can have greater height still be compatible, you can  
16 have lesser height still be compatible, that type of thing.  
17 MR. LANDFAIR: Sure, many of the --  
18 MR. ABRAMS: Okay.  
19 MR. LANDFAIR: -- same elements, right. You could  
20 design a hundred different buildings for this site.  
21 MR. ABRAMS: So let's compare what happened at  
22 Holiday with what is being proposed here. In G-843, you had  
23 48 dwelling units proposed which included six MPDU's, is  
24 that correct?  
25 MR. LANDFAIR: Yes.

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1 MR. ABRAMS: Okay. And the subject application,  
2 we have up to 120 dwelling units, is that correct?  
3 MR. LANDFAIR: Yes.  
4 MR. ABRAMS: Okay. So you were talking about  
5 somewhere between two and three times the number, actually  
6 three times the number of units that was already approved?  
7 MR. LANDFAIR: Yes.  
8 MR. ABRAMS: The recorder can't get the nod of the  
9 head. Is that affirmative?  
10 MR. LANDFAIR: Yes, that's an affirmative.  
11 MR. ABRAMS: Okay. The 2.5 FAR is the FAR which  
12 was approved in the Holiday project, correct?  
13 MR. LANDFAIR: Yes. Correct.  
14 MR. ABRAMS: And that also included the MPDU's --  
15 MR. LANDFAIR: Yes, it did.  
16 MR. ABRAMS: -- within the FAR?  
17 MR. LANDFAIR: Right.  
18 MR. ABRAMS: Okay. And what you're proposing or  
19 the applicant is proposing is a 3.05 FAR for this project?  
20 MR. LANDFAIR: True.  
21 MR. ABRAMS: Okay. 73 dwelling units were  
22 proposed and approved in the Holiday project, is that  
23 correct?  
24 MR. LANDFAIR: Yes.  
25 MR. ABRAMS: 73 dwelling units to the acre?

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1 MR. LANDFAIR: To the acre, correct.  
2 MR. ABRAMS: Correct.  
3 MR. LANDFAIR: Right.  
4 MR. ABRAMS: And what is the dwelling unit per  
5 acre which is requested here?  
6 MR. LANDFAIR: It's more than that. I think  
7 we've, I don't know the number offhand. I could get that  
8 number very quickly for you.  
9 MR. ABRAMS: Would it be around 127 dwelling  
10 units --  
11 MR. LANDFAIR: Something like that, yeah.  
12 MR. ABRAMS: -- to 130 something? So we're  
13 talking about in excess of 40 percent increase?  
14 MR. LANDFAIR: An increase certainly, yes.  
15 MR. ABRAMS: Yes. In the number of dwelling units  
16 per acre?  
17 MR. LANDFAIR: Yeah.  
18 MR. ABRAMS: Okay. And dwelling units per acre is  
19 a measurement of density, correct?  
20 MR. LANDFAIR: Yes. Yes, it is.  
21 MR. ABRAMS: Okay. Going on to the comparison, we  
22 have a building design in the Holiday project which is a 4-  
23 story element facing Montgomery Lane going halfway back to  
24 the length of the project and then sort of transitioning  
25 into a 6-story element, is that correct?

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1 MR. LANDFAIR: Correct. Yes. Yes.  
2 MR. ABRAMS: And here we have the front of this  
3 building which is five stories with a little 12-story, 12-  
4 foot indentation?  
5 MR. LANDFAIR: 50 feet with a 12-foot step back.  
6 MR. ABRAMS: Okay.  
7 MR. LANDFAIR: Yeah.  
8 MR. ABRAMS: Now in the Holiday project, you had a  
9 design for 78 parking spaces, is that correct?  
10 MR. LANDFAIR: It sounds right.  
11 MR. ABRAMS: Here, what's the number of parking  
12 spaces?  
13 MS. ROBESON: Mr. Abrams, where, I know that you,  
14 he testified that 843 was a baseline. Do we have to go  
15 through every aspect of the project or is there some --  
16 MR. ABRAMS: Well, I'm finished with establishing  
17 the baseline. The whole focus of this exercise --  
18 MS. ROBESON: Because I think he said the baseline  
19 can go higher.  
20 MR. ABRAMS: Yes.  
21 MS. ROBESON: Okay.  
22 MR. ABRAMS: My point is how much higher?  
23 MS. ROBESON: Okay. If we could get to that  
24 point, that would be good.  
25 MR. ABRAMS: Okay.

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1 MR. LANDFAIR: 123 is the proposed parking for  
2 this new project.  
3 MR. ABRAMS: And we were talking about a 15-foot  
4 setback, correct, in the Holiday project on Montgomery Lane?  
5 MR. LANDFAIR: Correct.  
6 MR. ABRAMS: And this building is five feet closer  
7 as proposed?  
8 MR. LANDFAIR: From the right-of-way line,  
9 correct.  
10 MR. ABRAMS: Okay. So we have, would you not  
11 agree that there's quite a comparative difference between  
12 the two projects?  
13 MR. LANDFAIR: In terms of density, there is a  
14 difference, but you're also comparing apples with oranges.  
15 This project incorporates a fourth lot, the lot at the  
16 corner and makes better, more efficient use of the overall  
17 land area. Also, this project is providing 15 percent  
18 MPDU's, which entitles us to a bonus which also is addressed  
19 through the additional height that we are seeking.  
20 MR. ABRAMS: But Holiday provided 12 1/2 percent  
21 MPDU's?  
22 MR. LANDFAIR: Correct. Correct.  
23 MR. ABRAMS: Now when do we get to a point in time  
24 where what is being proposed becomes incompatible in your  
25 view?

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1 MR. LANDFAIR: Well, it depends on a number of  
2 issues having to do with building height, building massing,  
3 setbacks. It's not necessarily just what's on the interior  
4 of the building, meaning numbers of units or numbers of  
5 parking spaces. In this case, our density is partly a  
6 reflection of the 15 percent MPDU's that we are providing  
7 which is affordable housing, which is consistent with the  
8 Sector Plan recommendations.  
9 In this case, we believe the building as designed,  
10 as reflected on the development plan, as reflected in the  
11 other exhibits, is fully compatible based on, again, the  
12 height, the massing, the setbacks, the amount of public use  
13 space, etcetera.  
14 MR. ABRAMS: Well, there's nothing that says that  
15 the applicant can't voluntarily supply the same number of  
16 MPDU's as you're providing?  
17 MR. LANDFAIR: There's nothing to say that you  
18 can't do that. I don't know of an instance where that's  
19 ever been done except perhaps through some public/private  
20 partnership, but I can't imagine that our land developer  
21 would take it upon themselves to do that because, of course,  
22 MPDU's are very expensive to construct and there would be no  
23 advantage to doing that.  
24 MR. ABRAMS: Well, if they got an exception a good  
25 deal on the land prices, would that, in essence --

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1 MR. LANDFAIR: I can't speculate on motivations.  
2 MR. ABRAMS: Okay. Let's go into Sector Plan and  
3 conformance. Is it correct to say that there are really  
4 only two areas where the Sector Plan and the zoning  
5 ordinance limits in terms of height and I guess it's density  
6 are exceeded and that is with respect to the actual building  
7 height and the actual density in terms of FAR I guess it is?  
8 MR. LANDFAIR: Right. Right.  
9 MR. ABRAMS: And this is only with the provision  
10 or the application of the MPDU --  
11 MR. LANDFAIR: Right.  
12 MR. ABRAMS: -- in excess of the minimum amount  
13 required?  
14 MR. LANDFAIR: Right.  
15 MR. ABRAMS: Okay. Okay. All other  
16 recommendations in the Sector Plan aren't given the same  
17 type of exemption or waiver or whatever --  
18 MR. LANDFAIR: Correct.  
19 MR. ABRAMS: -- so then if there were other  
20 requirements in the Sector Plan, they should be looked at in  
21 terms of compliance?  
22 MR. LANDFAIR: Certainly.  
23 MR. ABRAMS: Now there are a number of pages I  
24 just want to go over with you.  
25 MR. LANDFAIR: Uh-huh.

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1 MR. ABRAMS: And they involve Exhibit 101 and  
2 Exhibit 56d and e.  
3 MS. ROBESON: What -- can you tell us what those  
4 exhibits were?  
5 MR. ABRAMS: Yes, they're pages out of the Sector  
6 Plan.  
7 MS. ROBESON: Oh. Mr. Landfair, so you have a  
8 copy of the --  
9 MR. LANDFAIR: I have a copy of the Sector Plan.  
10 MR. ABRAMS: Do you have a copy of the Sector  
11 Plan?  
12 MS. ROBESON: -- Sector Plan?  
13 MR. LANDFAIR: Yes, I do.  
14 MS. ROBESON: Okay. So that's taken care of.  
15 MR. ABRAMS: Okay.  
16 MS. ROBESON: Is the Sector Plan the full Sector  
17 Plan in exhibit, in this case?  
18 MR. ABRAMS: I don't know. I have been putting in  
19 H's --  
20 MS. ROBESON: I'm going to --  
21 MR. ABRAMS: -- which are relevant to --  
22 MS. ROBESON: Right. I am going to --  
23 MR. ABRAMS: -- my examination.  
24 MS. ROBESON: -- just take official notice of the  
25 Bethesda's Sector Plan as it appears on Park and Planning's

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1 website, which is basically a photograph of it.  
2 MR. LANDFAIR: I think ordinarily your office  
3 actually, if not requires, strongly encourages applicants to  
4 provide a full copy of --  
5 MS. ROBESON: Well, if you're willing to --  
6 MR. LANDFAIR: I think we've done so, so I think  
7 you may want to check the exhibit list.  
8 MS. ROBESON: I haven't seen it.  
9 MR. LANDFAIR: Okay. Well, we'll be happy to  
10 provide it.  
11 MS. ROBESON: And I -- so if you want to provide  
12 that, that would be great.  
13 MR. KNOFF: I just worry. Sometimes the  
14 pagination comes out differently than what's on the website.  
15 MS. ROBESON: Okay. Then if you can submit the  
16 hard copy, that would be helpful. Does, is Mr. Doggett  
17 proffering a hard copy for the record?  
18 MR. KNOFF: He's just showing he has his own copy.  
19 MS. ROBESON: Okay. All right. Okay. Go ahead.  
20 MR. ABRAMS: Okay. Do you have a copy there?  
21 MR. LANDFAIR: I do, yeah. Yes.  
22 MR. ABRAMS: And I'll refer to Exhibit 101a and it  
23 would be page 37, Mr. Landfair. These are under general  
24 objectives, paragraph No. 4.  
25 MR. LANDFAIR: 4, that would be under, okay, so

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1 it's titled No. 4 at the top of the page?  
2 MR. ABRAMS: Paragraph No. 4 at the top.  
3 MR. LANDFAIR: Yes.  
4 MR. ABRAMS: Right.  
5 MR. LANDFAIR: That --  
6 MR. ABRAMS: Could you review that to yourself for  
7 a second?  
8 MR. LANDFAIR: Sure.  
9 MR. ABRAMS: Okay. In terms of the pedestrian  
10 environment and the stimulating experience, wouldn't more  
11 occur if you had more public use space in the front of the  
12 building?  
13 MR. LANDFAIR: It would depend upon the design.  
14 But to get back to what we're actually proposing, what we're  
15 actually proposing is substantial and at least as much, if  
16 not more so than any other project up or down Montgomery  
17 Lane. We are providing a substantial amount of streetscape,  
18 amount of space, area for the pedestrian experience. I  
19 testified yesterday to the value of striking a good balance  
20 between pedestrian area, pedestrian space and vehicle space.  
21 And along this particular segment of Montgomery Lane, we  
22 have a substantial amount of area on both sides of the  
23 street, but certainly on our side of the street as for the  
24 benefit of the pedestrian, 26 feet from the face of the  
25 building to the face of the curb. That's a substantial

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1 amount of area.  
2 Could it be improved upon if you set aside some  
3 additional area that would be technically defined as public  
4 use space? Maybe, maybe not. I mean it depends upon the  
5 design. But the design right now is showing landscape,  
6 hardscape treatment, as well as the Bethesda streetscape,  
7 and we feel that this is quite substantial.  
8 MR. ABRAMS: In terms of building height, and  
9 that's discussed on page 39 --  
10 MR. LANDFAIR: There's a figure titled building  
11 height limits.  
12 MR. ABRAMS: Right.  
13 MR. LANDFAIR: Yes.  
14 MR. ABRAMS: And, specifically, this property is  
15 within what height limit area?  
16 MR. LANDFAIR: The height limit area, it's  
17 designated as 65 feet.  
18 MR. ABRAMS: Okay. Now Exhibit, or on page 40,  
19 and I'm directing your attention to -- and this discusses  
20 urban form, paragraph 2, first of all, and specifically the  
21 first sentence in that paragraph.  
22 MR. LANDFAIR: Establishing a desirable and  
23 compatible transition.  
24 MR. ABRAMS: Step down building heights?  
25 MR. LANDFAIR: Yes.

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1 MR. ABRAMS: Have you reviewed that?  
2 MR. LANDFAIR: Yeah.  
3 MR. ABRAMS: Okay. With the exception of the  
4 subject building, there are step down building heights going  
5 down from Woodmont Avenue to Arlington Road?  
6 MR. LANDFAIR: Starting with the Edgemoor Highrise  
7 at 100 feet and then 4825 Montgomery Lane at 65 feet, true.  
8 MR. ABRAMS: And in many cases some of those  
9 transitions have occurred within the same building project,  
10 correct?  
11 MR. LANDFAIR: True. Case in point, the Hampden  
12 Lane --  
13 MR. ABRAMS: Such as the one to the west --  
14 MR. LANDFAIR: -- project, sure.  
15 MR. ABRAMS: -- has a 35-foot --  
16 MS. ROBESON: Let him finish the question. Don't  
17 talk over him or it gets garbled on the tape.  
18 MR. LANDFAIR: Understood. Thank you.  
19 MR. ABRAMS: Such as the 35-foot element, you  
20 know, in front of the 48-foot element. The same goes for  
21 the Hampden Lane buildings?  
22 MR. LANDFAIR: Yes.  
23 MR. ABRAMS: Okay. Why wasn't that type of  
24 transition considered for this project?  
25 MR. LANDFAIR: Well, we are providing transition.

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1 We're providing a transition from Montgomery Lane to the  
2 rear side of the building. In other words, we have step  
3 back starting at the 5th floor of the building, starting at  
4 the 50-foot high mark stepping back 12 feet to further  
5 mitigate the massing and the height of the building as  
6 viewed from Montgomery Lane.  
7 MR. ABRAMS: But that's not what the Sector Plan  
8 says. It's talking about transitions from east down to the  
9 west.  
10 MR. LANDFAIR: True. True.  
11 MR. ABRAMS: You're talking about north to south?  
12 MR. LANDFAIR: Right. But if you were to  
13 establish that, and it gets back to the tenting effect  
14 that's described in the Sector Plan, if you were to start  
15 measuring that tenting effect from the high rise, the  
16 Edgemoor Highrise, I think as was testified yesterday you'd  
17 have this plane and top portion of the 70-foot mark of our  
18 building might actually pierce that plane, okay? But if you  
19 establish that plane in the Metro core district, okay, if  
20 you set it back a bit more to the higher buildings just  
21 across the street at Woodmont Avenue, we easily fit within  
22 that plane, that tenting effect that's been established  
23 that's delineated here in the Sector Plan.  
24 MR. ABRAMS: Isn't it a fact that all the approved  
25 projects in the TSR District which have the step down

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1 effect, the step down effect runs north and south as opposed  
2 to east and west?  
3 MR. LANDFAIR: Hampden Lane is from east to  
4 west --  
5 MR. ABRAMS: Well --  
6 MR. LANDFAIR: -- stepping toward Arlington.  
7 MR. ABRAMS: -- it's also north to south, correct?  
8 MR. LANDFAIR: Hampden Lane, the Hampden Lane  
9 building?  
10 MR. ABRAMS: The big building?  
11 MR. LANDFAIR: That's not been constructed yet,  
12 that's --  
13 MR. ABRAMS: Right.  
14 MR. LANDFAIR: It doesn't step back from Hampden  
15 Lane.  
16 MR. LANDFAIR: No, it's stepped back from  
17 Arlington?  
18 MR. LANDFAIR: Yes, that's correct.  
19 MR. ABRAMS: That's what I'm talking about.  
20 MR. LANDFAIR: Right.  
21 MR. ABRAMS: So that is part of the transition --  
22 MR. LANDFAIR: Right.  
23 MR. ABRAMS: -- going north to south?  
24 MR. LANDFAIR: Well, from east to west I guess is  
25 how I'm thinking of it but, yes, I see your point.

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1 MR. ABRAMS: No question with reference to the  
2 Edgemoor North, the Edgemoor to the west of this project,  
3 that's all north to south? Okay. Paragraph 3, achieve and  
4 fill character for new development by dividing large  
5 projects into several buildings which will achieve an urban  
6 form with fine grain versus coarse grain created by the  
7 larger, single structures. Has this project achieved that?  
8 MR. LANDFAIR: We believe so, yes.  
9 MR. ABRAMS: How?  
10 MR. LANDFAIR: By providing substantial setbacks,  
11 setbacks that I might add are not normally required by the  
12 zone, nevertheless, we're providing substantial setbacks  
13 from all four sides of the property, from the right-of-way,  
14 as well as the adjacent neighboring properties, something  
15 that cannot be said of other nearby developments in the TSR  
16 zone. So, in part, by providing those setbacks, we're  
17 mitigating the massing of the building. So we believe that  
18 the size of the building, the building footprint, the  
19 massing fits the property and is consistent with the intent  
20 here in the Sector Plan.  
21 MR. ABRAMS: Well, wouldn't it fit the intent of  
22 this if the 12-foot setback went along either the east or  
23 west boundary line of this property, in other words, carry  
24 it around? You're only affecting a setback on one, one  
25 side.

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1 MR. LANDFAIR: To what end? What would be  
2 achieved by doing that? I don't know if that would increase  
3 compatibility or not.  
4 MR. ABRAMS: Well, for one thing, it would reduce  
5 the FAR to the 2.5 which is noted in the Sector Plan.  
6 MR. LANDFAIR: Yes, it would.  
7 MR. ABRAMS: Okay. So we're not dividing this  
8 single project into several buildings, are we?  
9 MR. LANDFAIR: Correct.  
10 MR. ABRAMS: Okay. Now Item No. 5 on that same  
11 page, could you review that and tell us how we're treating  
12 the rooftop elements in conformance with this  
13 recommendation?  
14 MR. LANDFAIR: What we have is a flat roof, a flat  
15 roof that steps back in part to achieve compatibility,  
16 particularly from the street. It's a flat roof that does  
17 have a penthouse to accommodate elevator, accommodate  
18 mechanical equipment, etcetera, that may or may not end up  
19 being other elements on that roof which could be used for  
20 recreational purposes, perhaps a passive area for benefit of  
21 the residence not designed yet, but it's possible. I would  
22 rather not speak beyond that. I would rather defer to the  
23 architect to speak to what rooftop elements we might have  
24 that would be fully consistent with this section.  
25 MR. ABRAMS: But it's basically right now a flat

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1 roof with a 10-foot punch out for a HVAC or whatever  
2 utilities?  
3 MR. LANDFAIR: Sure. Yeah.  
4 MR. ABRAMS: Elevators?  
5 MR. LANDFAIR: Yes.  
6 MR. ABRAMS: Okay. On page 44, the next to the  
7 last paragraph, it talks about the mixed streets?  
8 MR. LANDFAIR: Yes.  
9 MR. ABRAMS: And how many mixed streets are there  
10 in this CBD area?  
11 MR. LANDFAIR: There are two that are culled out  
12 in this plan, Montgomery Lane and Fairmont Avenue.  
13 MR. ABRAMS: And the observations of the Hearing  
14 Examiner that it's basically geared to pedestrian  
15 orientation --  
16 MR. LANDFAIR: Absolutely. A mixed street is --  
17 MR. ABRAMS: -- as opposed to --  
18 MR. LANDFAIR: -- essentially, it's designed to  
19 encourage, to foster good interconnectivity, a good  
20 pedestrian experience. That is the goal of a mixed street.  
21 MR. ABRAMS: Okay. What is the other street?  
22 MR. LANDFAIR: Fairmont Avenue, which is in the  
23 Woodmont triangle area. It's very much a commercial street.  
24 It's surrounded by CVD zoning.  
25 MR. ABRAMS: That's a much more intensively

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1 developed area, is it not?  
2 MR. LANDFAIR: Yes, it is.  
3 MR. ABRAMS: Now page 82 of the Sector Plan, I  
4 want to direct your attention to the middle of the page in  
5 the paragraph that starts, the plan recommends a minimum of  
6 45 dwelling units, do you see that?  
7 MR. LANDFAIR: Yes.  
8 MR. ABRAMS: Okay. Going down to the last  
9 sentence, it says the plan, and I quote,  
10 "The plan anticipates that some projects will  
11 incorporate higher densities and the full 2.5 FAR  
12 density (about 100 dwelling units per acre) would  
13 be allowed."  
14 MR. LANDFAIR: Yes.  
15 MR. ABRAMS: Okay? In terms of the full 2.5 FAR  
16 density, why was that language used, why do you think, if  
17 the density was already established in the TSR zone and  
18 elsewhere in the Sector Plan? Why the word full?  
19 MR. LANDFAIR: Well, within this particular  
20 district, I think the planning staff probably envisioned  
21 that that was a perfectly appropriate density to have for  
22 what is further described in the Sector Plan as low rise  
23 development, but it is still characterized in the plan as  
24 low rise, high-density development as you can see on the  
25 following page. It was a number that staff thought would be

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1 appropriate as a transitional area in a district such as the  
 2 transit station residential district.  
 3 MR. ABRAMS: Well, why do you think that that  
 4 language was used if it was already well-known what the  
 5 density limits were?  
 6 MR. LANDFAIR: To reinforce the concept of a  
 7 particular density.  
 8 MR. ABRAMS: Okay. So that was basically to be a  
 9 cap even though we didn't have caps. Now you've had a  
 10 report, did you not, in the prior zoning case which  
 11 addressed that specific issue?  
 12 MR. LANDFAIR: The Holiday case?  
 13 MR. ABRAMS: The Holiday case, correct.  
 14 MR. LANDFAIR: Yes.  
 15 MR. ABRAMS: And in that case did you not state  
 16 that the Holiday project was at the full 2.5 FAR?  
 17 MR. LANDFAIR: I may have. I assume that that's  
 18 what is stated in the report.  
 19 MS. HARRIS: I'm going to object.  
 20 MS. ROBESON: Basis?  
 21 MS. HARRIS: The District Council, the Court of  
 22 Appeals, this Court of Special Appeals have established it's  
 23 clear where the line of questioning is going, that 3.05 FAR  
 24 is perfectly acceptable in the TSR zone.  
 25 MS. ROBESON: What's your, what is the point

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1 you're trying to ascertain, that the Master Plan should  
 2 control density even with the MPDU bonus?  
 3 MR. ABRAMS: I'm saying that the discretion is  
 4 there for both the District Council, as well as the Planning  
 5 Commission to limit the FAR even if there is provisions for  
 6 allowing higher heights because of the MPDU's or more  
 7 density because of the MPDU's. It's part of the  
 8 discretionary approvals even though the zoning ordinance  
 9 allows something more. I mean that's built throughout the  
 10 zoning ordinance.  
 11 MS. ROBESON: Yes, but the language, I do agree  
 12 with Ms. Harris, I don't think we've ever interpreted it  
 13 would, it may go to compatibility which I think is  
 14 independent, but I am not aware of any case where we, where  
 15 the County has taken the position that the 2.5 density in  
 16 the Sector Plan would limit bonus density.  
 17 Now if your argument is compatibility, I agree  
 18 with you that they still have to meet the compatibility  
 19 requirement, but --  
 20 MR. ABRAMS: No, that's basically my argument.  
 21 MS. ROBESON: Okay. Well --  
 22 MR. ABRAMS: I'm not saying that it eliminates the  
 23 ability to request additional MPDU's.  
 24 MS. ROBESON: But, okay, this -- I agree. I don't  
 25 know if we need cross-examination from the master about the

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1 Master Plan on this because if it is a compatibility issue,  
 2 so that is, you know, I would not use the Master Plan as a  
 3 cap per se.  
 4 MS. HARRIS: I believe Mr. Abrams in the last line  
 5 of questioning established the fact that we need to prove  
 6 compatibility. We all recognize that.  
 7 MR. ABRAMS: No, I said it was a baseline.  
 8 MS. ROBESON: No, what he established is that the  
 9 guidelines of the Master Plan, I think what his questioning  
 10 was was the, that the guidelines from the Master Plan are a  
 11 baseline, perhaps that's what the questioning was, for  
 12 compatibility. But I don't think that legally if you're  
 13 trying to establish that the Sector Plan intended to include  
 14 bonus, MPDU bonus density in its cap, we have never legally  
 15 treated the Master Plan in that way.  
 16 MR. LANDFAIR: May I add something?  
 17 MS. ROBESON: No.  
 18 MR. ABRAMS: Okay. I found a copy of your report  
 19 and it's Exhibit 101e.  
 20 MR. LANDFAIR: Okay.  
 21 MR. ABRAMS: Pat, do you have a copy that you can  
 22 give to Bill?  
 23 MS. ROBESON: This is his report in the 843 case?  
 24 MR. ABRAMS: Yes.  
 25 MS. ROBESON: G-843?

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1 MR. ABRAMS: Right.  
 2 MS. ROBESON: Okay.  
 3 MR. LANDFAIR: Okay.  
 4 MR. ABRAMS: Okay. Page 4. Come down to the  
 5 first full paragraph.  
 6 MR. LANDFAIR: Yes.  
 7 MR. ABRAMS: Can you quote that please?  
 8 MR. LANDFAIR: First full paragraph, starting with  
 9 the larger, 6-story component?  
 10 MR. ABRAMS: Correct.  
 11 MR. LANDFAIR: "The larger, 6-story component of  
 12 the building will occupy the widest portion of the property  
 13 and is designed to a height strictly consistent with the  
 14 recommendations of the Sector Plan. The proposed --  
 15 MR. ABRAMS: That's good enough.  
 16 MR. LANDFAIR: Okay.  
 17 MR. ABRAMS: Let's go down further to the last  
 18 paragraph.  
 19 MR. LANDFAIR: Uh-huh.  
 20 MR. ABRAMS: And how about, I guess if you can  
 21 complete the entire paragraph in that?  
 22 MR. LANDFAIR: Starting with the building massing?  
 23 MR. ABRAMS: Yes.  
 24 MR. LANDFAIR: "The building massing has been  
 25 carefully broken up to give it a low residential

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1 scale along Montgomery Lane. At this southern end  
 2 of the building, the design, including the  
 3 townhouse-style facade, conforms to the existing  
 4 scale of the City Homes townhouses and Edgemoor at  
 5 Arlington buildings, completing the low rise,  
 6 high-density urban village pattern along  
 7 Montgomery Lane in accord with the Sector Plan's  
 8 objections. To this end, the width of that  
 9 portion of the building fronting Montgomery Lane  
 10 is comparable to the widths of the City Homes  
 11 across the street. In keeping with the character  
 12 of Montgomery Lane, the Montgomery Lane facade of  
 13 the building resembles a contemporary take on an  
 14 urban town home. The east facade along the mews  
 15 leading to the main building entrance is  
 16 articulated at the corner with a bay window which  
 17 transitions to simple punched windows at the  
 18 center of the facade."  
 19 MR. ABRAMS: Okay. Does anything in this  
 20 paragraph resemble the project today?  
 21 MR. LANDFAIR: It's describing a very different  
 22 building obviously.  
 23 MR. ABRAMS: So the answer is no?  
 24 MR. LANDFAIR: It's describing a very different  
 25 building. We, through different building articulations,

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1 setbacks, building massing, the step back at the fifth floor  
 2 are achieving similar goals.  
 3 MR. ABRAMS: Okay. This refers to the last  
 4 portion of this, that paragraph, bay windows. Originally,  
 5 you had bay windows in this project, did you not?  
 6 MR. LANDFAIR: On this project?  
 7 MR. ABRAMS: Yes.  
 8 MR. LANDFAIR: I don't recollect. I don't  
 9 recollect.  
 10 MR. ABRAMS: Didn't you tell me that that was the  
 11 only revision in --  
 12 MR. LANDFAIR: Bay windows?  
 13 MR. ABRAMS: Yes, eliminating any bay window  
 14 reference?  
 15 MR. LANDFAIR: Did I testify to that? I don't  
 16 remember.  
 17 MR. ABRAMS: No, you told me that.  
 18 MS. ROBESON: Well, then you can just say you  
 19 don't remember.  
 20 MR. ABRAMS: Okay.  
 21 MS. ROBESON: Don't ask him what you testified to.  
 22 MR. ABRAMS: Okay. Let's go to page 8.  
 23 MR. LANDFAIR: Okay.  
 24 MR. ABRAMS: There's a big paragraph toward the  
 25 lower portion that starts, the building has been designed --

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1 MR. LANDFAIR: Yes.  
 2 MR. ABRAMS: -- do you see that?  
 3 MR. LANDFAIR: Yes.  
 4 MR. ABRAMS: Okay. Come down to the sentence  
 5 starting, by maintaining a 4-story height.  
 6 MR. LANDFAIR: Yes.  
 7 MR. ABRAMS: Can you read that sentence?  
 8 MR. LANDFAIR: "By maintaining a 4-story height  
 9 for the majority of that portion of that building  
 10 along Montgomery Lane, the proposed development is  
 11 respectful of the adjacent City Homes townhouses  
 12 and the Edgemoor at Arlington buildings and will  
 13 compliment these developments by providing further  
 14 enhancements to Montgomery Lane."  
 15 MR. ABRAMS: That doesn't quite describe what the  
 16 project is before us today, does it?  
 17 MR. LANDFAIR: Well, I would disagree. It  
 18 describes our project as a different design, but I would  
 19 still say that our project, again, through the building,  
 20 massing, setbacks, etcetera, is fully compatible with those  
 21 adjacent confronting uses.  
 22 MS. HARRIS: Madame Hearing Examiner, can we  
 23 please just stipulate because I think everyone acknowledges  
 24 that there is one project in the Holiday case and this is a  
 25 different project. I don't know what's served by going back

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1 in and focusing on every single distinction.  
 2 MR. ABRAMS: Well, it's called impeachment,  
 3 Mrs. --  
 4 MS. ROBESON: Yes, I know what you're doing. I  
 5 guess I'm not so swayed. He was selling one project at that  
 6 time and now he's selling, I mean he was pointing out the  
 7 benefits of the project at that time. This is a different  
 8 project, so he's pointing out the benefits of this project.  
 9 It doesn't carry a lot of weight with me because, you know,  
 10 it is a different project. So --  
 11 MR. ABRAMS: Okay. I'll ask you just one more  
 12 thing from this.  
 13 MR. LANDFAIR: Sure.  
 14 MR. ABRAMS: Starting on the bottom of page 9  
 15 going to the top of page 10 there's a bullet there that says  
 16 2.5 FAR density, page 82. I assume 82 is the Sector Plan  
 17 page?  
 18 MR. LANDFAIR: That's probably what we're  
 19 referencing, yes.  
 20 MR. ABRAMS: Okay. Can you read that paragraph on  
 21 page 10, at the top of the page?  
 22 MR. LANDFAIR: "The Sector Plan recommends the  
 23 full 2.5 FAR in the TSR zone as provided for by Zoning  
 24 Ordinance Section 59c 8.4. Accordingly, the development  
 25 plan proposes a total of 71,343 square feet or 2.5 FAR on

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1 the property, accommodating 42 market rate units and six  
2 MPDU's."  
3 MR. ABRAMS: Okay. So when you say the Sector  
4 Plan recommends the full 2.5 FAR --  
5 MR. LANDFAIR: That's in the context -- you're  
6 asking a question?  
7 MR. ABRAMS: What?  
8 MR. LANDFAIR: You're asking me a question?  
9 MS. ROBESON: You need to let him finish.  
10 MR. LANDFAIR: Okay. I'm sorry.  
11 MR. ABRAMS: In terms of what the Sector Plan  
12 recommends, you describe it as a full 2.5 FAR?  
13 MR. LANDFAIR: Right.  
14 MR. ABRAMS: Was the intention there to indicate  
15 to Hearing Examiner and to District Council that that is  
16 basically the high portion of the Sector Plan recommendation  
17 as to the FAR?  
18 MR. LANDFAIR: If you're only providing the 12.5  
19 percent MPDU's that they were providing in this particular  
20 project.  
21 MR. ABRAMS: Well, you didn't say that.  
22 MR. LANDFAIR: No, it doesn't, but I would not  
23 infer that that would be the absolute cap, particularly if  
24 you were providing the MPDU bonus that we are providing with  
25 this particular project to which we are entitled to the 3.05

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1 FAR.  
2 MR. ABRAMS: On page 83, the Sector Plan talks  
3 about providing unit entrances along the street front, does  
4 it not?  
5 MR. LANDFAIR: Yes, it talks about relationships  
6 to the street. There's a figure, a figure, 4.14.  
7 MR. ABRAMS: Right. Are there any unit entrances  
8 to this project to the street?  
9 MR. LANDFAIR: Any unit, you mean individual  
10 units?  
11 MR. ABRAMS: Isn't that what this is talking  
12 about?  
13 MR. LANDFAIR: It could be read that way. I would  
14 say that we are not providing individual unit entrances to  
15 the street with this particular project.  
16 MR. ABRAMS: Okay. In terms of what they're  
17 talking about, are you familiar with the project on Georgia  
18 Avenue just above the Wheaton?  
19 MR. LANDFAIR: Wheaton Safeway?  
20 MR. ABRAMS: No, not Wheaton Safeway. It's south  
21 of that. There's some apartments which were constructed by  
22 Buzzuto.  
23 MR. LANDFAIR: Right, yeah, right there at the  
24 Metro entrance.  
25 MR. ABRAMS: Yes.

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1 MR. LANDFAIR: Yes.  
2 MR. ABRAMS: Isn't that an example of an  
3 apartment, an apartment structure with the lower units  
4 having --  
5 MR. LANDFAIR: Yes, it is.  
6 MR. ABRAMS: -- single --  
7 MR. LANDFAIR: Yes, and I can think of other  
8 examples too.  
9 MR. ABRAMS: Okay. Is that what you believe  
10 they're talking about here?  
11 MR. LANDFAIR: That's one illustration. That's  
12 one, one development concept, yes.  
13 MR. ABRAMS: Now in the, when this first came  
14 before the Planning Commission for review, the chairperson,  
15 I believe, in her comments and fully in her recommendation  
16 to the Hearing Examiner, wasn't she of the opinion that the  
17 100 dwelling units, 2.5 FAR was stated as a cap for  
18 development in this area?  
19 MR. LANDFAIR: I don't think she meant to imply  
20 that is a cap with respect to what one would be entitled to  
21 through the MPDU bonus.  
22 MR. ABRAMS: No, I'm talking about what was  
23 recommended by the Sector Plan with reference to a  
24 compatible form of development.  
25 MR. LANDFAIR: She may very well have made that

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1 statement. I don't remember her saying it, but I --  
2 MR. ABRAMS: Well, do you have a copy of the --  
3 MR. LANDFAIR: The resolution?  
4 MR. ABRAMS: -- Planning Board recommendation?  
5 MR. LANDFAIR: Not with me.  
6 MS. ROBESON: Do you have an exhibit number?  
7 MS. HARRIS: The original one, right?  
8 MR. ABRAMS: Yes.  
9 MR. LANDFAIR: Dated January 16th?  
10 MS. ROBESON: I think that's the second one.  
11 MR. ABRAMS: Yes.  
12 MS. HARRIS: I'm sorry, here's --  
13 MS. ROBESON: I think it's in the --  
14 MS. HARRIS: January 2nd.  
15 MR. KNOFF: I think it's 55. That's my guess.  
16 MR. ABRAMS: Yes, that's probably 55.  
17 MS. ROBESON: No, it's not -- oh, yes, it --  
18 that's the -- okay. Let me look.  
19 MR. ABRAMS: I think that's the first one.  
20 MS. ROBESON: Yes. Okay.  
21 MR. ABRAMS: Do you have a copy of that?  
22 MS. HARRIS: That's what you wanted, the January  
23 2nd one, correct?  
24 MR. ABRAMS: Well, it was received January --  
25 MS. HARRIS: The date of the letter is January

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1 2nd?

2 MR. ABRAMS: I guess so. Let me see it.

3 MS. ROBESON: Yes, I've got to get them to change

4 how they do this. We've had, well, another --

5 MR. ABRAMS: Okay. Yes, that's it. Mr. Landfair,

6 can you read the top paragraph on page 2?

7 MR. LANDFAIR: "Montgomery County Planning Board

8 of the Maryland National Capital Park and Planning

9 Commission reviewed Local Map Amendment No. G-954

10 and Development Plan Amendment DPA 13-01 at our

11 regular meeting."

12 MR. ABRAMS: On page 2, top of the page.

13 MR. LANDFAIR: I'm sorry. Starting with, "To

14 achieve greater compatibility."?

15 MR. ABRAMS: Well, you can start at the prior page

16 to get a complete sentence.

17 MR. LANDFAIR: Okay.

18 "While Commissioners Ms. Anderson, Dreyfus

19 and Presley mind the development proposal as

20 reflected on the development plan amendment

21 application is of an appropriate density for the

22 location of the development, Chair Carrier

23 expressed a different opinion. Chair Carrier

24 articulated that reducing the number of units is

25 reasonable since the Sector Plan recommends

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1 development in the TSR zone occur at a density of

2 45 to 100 dwelling units per acre. Chair Carrier

3 recommended that the number of dwelling units be

4 limited to 100 units, including moderately priced

5 dwelling units."

6 MR. ABRAMS: Were you there when she made that

7 statement?

8 MR. LANDFAIR: Yes, I was.

9 MR. ABRAMS: You can give that back.

10 MR. LANDFAIR: Great. Thank you.

11 MR. ABRAMS: Okay. Mr. Landfair, when there are

12 maximum limits in a zoning ordinance in terms of the

13 development standards, or for that matter minimums, does

14 that mean that the applicant for approvals has a right to

15 build to those maximums, their discretionary approvals which

16 can require less than the maximum?

17 MR. LANDFAIR: Yes.

18 MR. ABRAMS: And that can occur in this case too?

19 MR. LANDFAIR: Theoretically.

20 MR. ABRAMS: Now in terms of the development in

21 the TSR district, hasn't most of the land area been

22 developed with less than the maximum in terms of height and

23 building density?

24 MR. LANDFAIR: Certainly building density. There

25 are exceptions to the height as we have testified to in

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1 exhibit and testimony yesterday. But certainly with respect

2 to density, many projects have provided less density than

3 what the zoning would allow or the Sector Plan recommends.

4 MR. ABRAMS: And that's part of the discretionary

5 approval of the District Council, correct?

6 MR. LANDFAIR: Correct.

7 MR. ABRAMS: So they could have approved more if

8 more were requested or they could have rejected those with

9 lesser density because of the MPDU housing policy?

10 MR. LANDFAIR: Or for other reasons.

11 MR. ABRAMS: Or for other reasons, correct.

12 Nonetheless, they went ahead and chose to approve projects

13 that had less impact in terms of the number of MPDU's

14 provided?

15 MR. LANDFAIR: They have approved projects that

16 provided fewer MPDU's, if any MPDU's at all.

17 MR. ABRAMS: And that establishes, does it not, an

18 element of the character of the surrounding neighborhood?

19 MR. LANDFAIR: Not necessarily, no. The fact that

20 they with respect to certain applications in this immediate

21 area have approved them at certain densities or with or

22 without MPDU's doesn't necessarily mean or establish a

23 baseline for this particular project. I would say, no,

24 that's not the case.

25 MR. ABRAMS: But it establishes a precedent as to

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1 what they did in those prior cases?

2 MR. LANDFAIR: Yes.

3 MR. ABRAMS: And part of the precedent is a make-

4 up of the current character of the neighborhood, is it not?

5 MR. LANDFAIR: Yes.

6 MR. ABRAMS: The Examiner, and I'm sure this

7 witness will be happy to know, that I am forfeiting another

8 day's worth of examination of this witness.

9 MS. ROBESON: Okay. Thank you. Thank you. I --

10 now we are going to have redirect for you. Does anyone --

11 MR. KNOPF: I thought I was supposed to get --

12 MS. ROBESON: I'm coming. I'm getting there. I

13 was going to ask if anyone needs a five minute break. If

14 not, we'll forge ahead.

15 MR. KNOPF: I need to get a little organized.

16 MS. ROBESON: What?

17 MR. KNOPF: I need to get a little organized.

18 MS. ROBESON: So you're asking for a five minute

19 break?

20 MR. KNOPF: To see if I can get some -- yes.

21 MS. ROBESON: Five minutes, all right? And then

22 we'll come back until -- so 1:46 and we'll come back at

23 1:15, until 1:15, all right?

24 MR. KNOPF: 12:46?

25 MS. ROBESON: Yes. Yes. All right.

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1 (Recess)  
2 MS. ROBESON: I'll give him a moment to tell me  
3 your name. I --  
4 COURT REPORTER: Stephanie.  
5 MS. ROBESON: Stephanie? Okay. Are you ready?  
6 All right. We're back on the record.  
7 MR. KNOPF: Okay.  
8 MS. ROBESON: So I believe we're at cross-  
9 examination by Mr. Knopf of Mr. Landfair.  
10 MR. KNOPF: I do want to say that I'm trying to  
11 avoid any duplication of things --  
12 MS. ROBESON: Oh, that --  
13 MR. KNOPF: -- that were asked by --  
14 MS. ROBESON: Yes.  
15 MR. KNOPF: -- Mr. Abrams, but you may have to  
16 bear with me because my organization chart is a little bit  
17 off now --  
18 MS. ROBESON: It's different? Okay?  
19 MR. KNOPF: -- to say the least, plus I wasn't  
20 thinking I was going to go so soon, but anyway. Mr.  
21 Landfair, if I recall your testimony yesterday, you had said  
22 that one of the benefits of this project that met the Sector  
23 Plan requirements and the zoning requirements is that there  
24 was a diversity of housing? I'm not trying to put words in  
25 your mouth. Tell if I missed --

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1 MR. LANDFAIR: I don't think it was one of my main  
2 points, but I may have noted that one of the advantages or  
3 one of the goals is to try to achieve diversity of housing  
4 and that can be achieved --  
5 MR. KNOPF: Diversity of housing?  
6 MR. LANDFAIR: -- any number of ways. It can be  
7 achieved in terms of the architecture. It can be achieved  
8 through the provision of MPDU's, affordable housing, as  
9 we're doing.  
10 MR. KNOPF: Right. And I believe you originally  
11 said that one of those diversities was this was a rental,  
12 but then I believe you said that's not the case because  
13 there's not a binding element?  
14 MR. LANDFAIR: That's correct, yes. That decision  
15 has not been made yet in terms of whether these will be  
16 condominium apartments or rental apartments.  
17 MR. KNOPF: Okay. Now I believe you said as part  
18 of that diversity one of the pluses was that this had  
19 smaller size units in terms of total square footage, is that  
20 correct?  
21 MR. LANDFAIR: I may have said that, yeah.  
22 MR. KNOPF: Well, do you agree --  
23 MS. ROBESON: Well --  
24 MR. KNOPF: -- with that?  
25 MR. LANDFAIR: It's certainly something that we're

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1 doing and I would agree to the statement. I don't know if I  
2 actually made that statement yesterday, though.  
3 MS. ROBESON: I, okay. I think you did.  
4 MR. LANDFAIR: Okay.  
5 MS. ROBESON: But if you don't remember --  
6 MR. LANDFAIR: It's --  
7 MS. ROBESON: What -- okay, so let me ask you --  
8 MR. LANDFAIR: Right.  
9 MS. ROBESON: -- what is, what do you mean by  
10 diversity of housing? Is it -- what does that mean?  
11 MR. LANDFAIR: It can mean any number of things.  
12 I think in our case it does mean that we are providing, the  
13 emphasis is certainly on the MPDU's, the 15 percent MPDU's,  
14 the affordable housing.  
15 MS. ROBESON: Well, I think the plan says variety  
16 of housing types. I mean I swear you testified yesterday  
17 that you were going to have smaller units. Is that not the  
18 case?  
19 MR. LANDFAIR: I can tell you that we --  
20 MS. ROBESON: Don't, don't prompt the witness --  
21 MR. LANDFAIR: I can tell you that we --  
22 MS. ROBESON: -- please.  
23 MR. LANDFAIR: I can tell you that that is one of  
24 the objectives that we are doing that we will have smaller  
25 units in part to accommodate the MPDU's that we are

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1 providing.  
2 MR. KNOPF: Well, let me, that's one of the things  
3 I wanted to explore. Would you agree with me, well, is  
4 there a binding element as to the square footage dimensions  
5 you gave the other day in terms of small --  
6 MR. LANDFAIR: No, I don't believe there is in  
7 terms of --  
8 MR. KNOPF: So it's not binding, just like it's  
9 not binding that there would be a rental?  
10 MR. LANDFAIR: In terms of the size of the units?  
11 MR. KNOPF: Right.  
12 MR. LANDFAIR: It's something that we very likely  
13 will proffer.  
14 MS. ROBESON: Wait, wait, okay.  
15 MR. LANDFAIR: I'm speaking of the size of the  
16 units.  
17 MS. ROBESON: If you could just answer the  
18 question? Is it binding or is it not binding?  
19 MR. LANDFAIR: It's not binding --  
20 MS. ROBESON: Okay.  
21 MR. LANDFAIR: -- in terms of -- correct.  
22 MR. KNOPF: In fact, doesn't, in 106a, the site  
23 plan, if I'm reading this correctly, in terms of the number  
24 of units and this, have, you have there a parking  
25 tabulation?

1 MR. LANDFAIR: Yes.  
 2 MR. KNOPF: And the parking tabulation is based on  
 3 the number of 1-bedroom units and --  
 4 MR. LANDFAIR: Right.  
 5 MR. KNOPF: -- efficiencies and so on? And am I  
 6 correct that this is for illustrative purposes only, so that  
 7 means we should not rely on this, is that correct?  
 8 MR. LANDFAIR: You would typically note on a plan  
 9 like this, either a development plan or a project plan, you  
 10 would have a note saying that this is illustrative,  
 11 typically when it comes to parking, and that the final  
 12 determination with respect to parking would come at site  
 13 plan when you are able to finalize the exact mix of units  
 14 that you would be providing because, of course, parking is  
 15 based on the types of units whether they're one, two, 3-  
 16 bedroom units, as well as, of course, the final MPDU count  
 17 because MPDU's are assessed at half the normal parking rate.  
 18 MR. KNOPF: So would you agree with me that it  
 19 would be wrong for the Hearing Examiner to make a finding  
 20 that this meets diversity of housing thinking there would be  
 21 smaller units or that there would be rental and that's not  
 22 binding?  
 23 MR. LANDFAIR: No, I think you could make a  
 24 finding that, you know, as contemplated right now, as  
 25 testified to that we are going to be providing smaller

1 units, but we're also providing the MPDU units and, of  
 2 course, what we are providing is what is binding is the 15  
 3 percent MPDU's.  
 4 MS. ROBESON: Okay. If you could move back, I  
 5 want to make sure your counsel can see your face as you're  
 6 speaking.  
 7 MR. LANDFAIR: Sure. Sorry.  
 8 MS. ROBESON: It's hard. This room -- maybe I  
 9 should move over here, but I've got the, everything here.  
 10 I'm sorry, Mr. Knopf.  
 11 MR. KNOPF: No, that's quite -- well, I just want  
 12 to make this clear. As someone was testifying on these  
 13 projects and so on, would it, would I, would it be correct  
 14 for me to say that this project could end up with  
 15 considerably less than 120 units and all of them could be at  
 16 least the 5, 600 square feet or 800 or 1,000 square feet,  
 17 whatever the dimensions to this building hold?  
 18 MR. LANDFAIR: The number of units and size of  
 19 those units could end up being something that is not  
 20 currently contemplated.  
 21 MR. KNOPF: All right.  
 22 MR. LANDFAIR: Testified to.  
 23 MR. KNOPF: Now you make a lot out of that this  
 24 has MPDU's --  
 25 MR. LANDFAIR: Uh-huh.

1 MR. KNOPF: -- and that that is part of, I gather,  
 2 part of your diversity of housing conclusion?  
 3 MR. LANDFAIR: Yes.  
 4 MR. KNOPF: Is it fair to say that any building  
 5 that would be built here with a different design or features  
 6 would also contain the MPDU's? There's nothing unique about  
 7 this design that permits the MPDU's compared to some other  
 8 design, is there?  
 9 MR. LANDFAIR: You could accommodate those MPDU's  
 10 in any number of different types of designs. That's true.  
 11 MR. KNOPF: So what I'm trying to get at is would  
 12 you agree with me that in terms of the public interest of  
 13 this building there is nothing that is being provided here  
 14 that's guaranteed any different than any other building that  
 15 could come down the pike in terms of design?  
 16 MR. LANDFAIR: Well, not, not necessarily true.  
 17 There are binding elements that we are proposing which do  
 18 govern, certain aspects of the architecture that mitigate  
 19 certain elements of, for example, the private amenity area  
 20 has lighting, has outdoor lighting. We are proposing a  
 21 binding element that controls that lighting, keeps that  
 22 lighting to 24 inches in height.  
 23 MR. KNOPF: You're saying there's no requirement  
 24 at the private amenity area to have outdoor lighting, is  
 25 that, so this is some special feature?

1 MR. LANDFAIR: We are contemplating outdoor  
 2 lighting. There was a concern of the neighboring property  
 3 owners that we, that this lighting might adversely affect  
 4 them, so we agreed to establish the height of that lighting  
 5 to no more than 24 inches off the ground and we are so  
 6 committed to it that it's a binding element on the plan.  
 7 MR. KNOPF: And that's one of the special features  
 8 you're relying on that this makes this in the public  
 9 interest?  
 10 MR. LANDFAIR: It's just one of many elements,  
 11 many elements that are noted on the plan.  
 12 MR. KNOPF: Well, let's talk about some other  
 13 elements. You're not providing any more public use space  
 14 than is the minimum required, is that correct?  
 15 MR. LANDFAIR: We are, we are -- correct. We are  
 16 showing public use space that meets the minimum standards,  
 17 correct.  
 18 MR. KNOPF: Okay. Now let's take a look at some  
 19 of those binding elements because I do have a question on  
 20 that. You say you're binding elements in terms of the  
 21 features of the building.  
 22 MR. LANDFAIR: Right.  
 23 MR. KNOPF: Could you look -- I'm looking at the  
 24 binding elements at 106a, I guess that's what -- here.  
 25 MR. LANDFAIR: Yes.

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1 MR. KNOPF: And could you read, could you read  
2 that quote, binding element that nails things down because  
3 I'm having trouble understanding how you nailed it down.  
4 MR. LANDFAIR: For example, binding element No. 12  
5 is the following features will form the basis for the final  
6 design to be determined at site plan. It includes  
7 predominantly masonry facade, excluding, accentuating  
8 details.  
9 MR. KNOPF: Wait a minute, just pause right there.  
10 Excluding accentuating details means it's not, accentuating  
11 details are not, are not binding, is that the way I read  
12 this?  
13 MR. LANDFAIR: I read that to mean the finer  
14 architectural elements like the trim materials and such that  
15 at the zone stage we are not committing to.  
16 MR. KNOPF: So -- okay. So far you've committed  
17 to masonry facade?  
18 MR. LANDFAIR: Correct.  
19 MR. KNOPF: Let's continue.  
20 MR. LANDFAIR: All right. Which could be brick,  
21 stone, okay? I could be precast. It could be ceramic  
22 tiles. We're committing to landscaping along the plaza  
23 edges and, of course --  
24 MR. KNOPF: Oh, wait. Just pause there now. it  
25 says on the stone and so on, which may include, so it

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1 doesn't have to include this, is that -- am I reading that  
2 right?  
3 MR. LANDFAIR: I mean it could be another element  
4 that's not listed there, that's true.  
5 MR. KNOPF: Okay. I'm just trying to understand  
6 what we're finding here.  
7 MR. LANDFAIR: Right.  
8 MR. KNOPF: So far we've only had masonry that's  
9 binding, the --  
10 MR. LANDFAIR: Correct.  
11 MR. KNOPF: Okay. Continue.  
12 MR. LANDFAIR: Landscaping along the plaza edges,  
13 flat roofs, vehicle access, the location of that vehicle  
14 access, onsite parking to be located below grade.  
15 MR. KNOPF: Just pause there for a minute. We can  
16 go back and do whatever you want.  
17 MR. LANDFAIR: Yes.  
18 MR. KNOPF: The landscaping, isn't that sort of  
19 set by the Sector Plan and the Bethesda plan and the  
20 Planning Board is going to tell you, so no matter what  
21 building you put there, you're sort of -- this is not a  
22 unique landscaping?  
23 MR. LANDFAIR: Within the public right-of-way,  
24 yes, you need to adhere to the Bethesda streetscape  
25 guidelines which govern the types of trees, the types of

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1 paving materials, street furnishings, lighting, etcetera.  
2 Yes.  
3 MR. KNOPF: Okay. So it's not something unique  
4 here? I'm just trying to nail down --  
5 MR. LANDFAIR: Well, let's look at --  
6 MR. KNOPF: -- what we're getting here on a  
7 binding element.  
8 MR. LANDFAIR: Let's look, I mean I've already  
9 referenced the height of the landscape lighting and the  
10 private outdoor amenity area. Of course, we make reference  
11 to the step back. We are committed to the step back as a  
12 binding element located here on the plan. We are committing  
13 to the outdoor private amenity space located along the  
14 western portion of the property. I'm reading directly off  
15 the plan here.  
16 MR. KNOPF: Which number are you on now?  
17 MR. LANDFAIR: That's binding element No. 17.  
18 MR. KNOPF: But in terms, what I was mainly  
19 concerned about in terms of the design of the building --  
20 MR. LANDFAIR: Right.  
21 MR. KNOPF: -- you presented some elevations --  
22 MR. LANDFAIR: Right.  
23 MR. KNOPF: -- as to what the building looks like.  
24 MR. LANDFAIR: Sure.  
25 MR. KNOPF: And -- let me try to understand this.

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1 I'm trying to understand that what we see --  
2 MR. LANDFAIR: Uh-huh.  
3 MR. KNOPF: -- is that what we're going to get? I  
4 don't see that required by these binding elements that you  
5 have on that -- you have the discretion when you actually  
6 design this to come back with something quite different as  
7 long as it's masonry. Is that the only thing that's  
8 binding, plus the setbacks, plus the setbacks on the ground  
9 floors.  
10 MR. LANDFAIR: And the other elements noted in  
11 the --  
12 MR. KNOPF: All right. What I'm talking about,  
13 the building itself, what the building looks like.  
14 MR. LANDFAIR: Now there is a binding element to  
15 No. 20 and it does speak, again, to the public use space. I  
16 mentioned the one about the step back, those binding  
17 elements that refer to the transformers.  
18 COURT REPORTER: I'm sorry, if you could speak  
19 just a little louder?  
20 MR. LANDFAIR: Sure. The binding element that  
21 references the transformers, the fact that they should be  
22 screened.  
23 MR. KNOPF: Okay. Now I notice, I'm now looking  
24 at the, I'm looking at the Planning Board, Exhibit 105,  
25 which is the Planning Board's recommendation and I'm

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1 noticing there that -- would you agree with me that what the  
2 Planning Board recommended in terms of binding elements is  
3 not what was, in fact, accepted by the applicant and placed  
4 on Exhibit 106a?  
5 MR. LANDFAIR: I'm sorry, is this the most recent  
6 resolution?  
7 MR. KNOPF: Yes, it is.  
8 MR. LANDFAIR: Let me take a look at it.  
9 MR. LANDFAIR: We're looking, for example, on  
10 Exhibit 13, I'm sorry, Paragraph 13. It says, for example,  
11 that the final design is supposed to include bay window  
12 projections. I didn't see those here.  
13 MR. LANDFAIR: I'm sorry, where are you looking,  
14 Norm?  
15 MR. KNOPF: On Paragraph No. 13, page 3.  
16 MR. LANDFAIR: I see that, yes. We're not citing  
17 that. That's true.  
18 MR. KNOPF: You're not citing that? Okay. Now  
19 there was also the, whatever you call that, the corner  
20 treatment that --  
21 MR. LANDFAIR: The pocket park?  
22 MR. KNOPF: -- pocket park circular whatever that  
23 is.  
24 MR. LANDFAIR: Right. Right.  
25 MR. KNOPF: Is that on your 106a, a binding

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1 element you're offering here that that freezes -- I use the  
2 term freeze -- but so that it has to be built substantially  
3 like that?  
4 MR. LANDFAIR: Well, we have binding element No.  
5 20 references the public use space concept was substantially  
6 conformed to the development plan amendment drawing and  
7 rendering as shown on pages 4 and 5 of the technical staff  
8 report.  
9 MR. KNOPF: In your opinion, that language  
10 substantially conforms to sort of like the Master Plan says,  
11 it has to substantially conform with the Master Plan,  
12 doesn't it?  
13 MR. LANDFAIR: I think I can safely say that we  
14 are committed to providing that public use space, that  
15 pocket park at the corner. It's an important element for  
16 us. It's an important part of the public use space.  
17 MR. KNOPF: And would you be committed  
18 sufficiently to put that in as a binding element that it not  
19 be substantially in conformance, but something stronger?  
20 MR. LANDFAIR: It could be considered.  
21 MR. KNOPF: That's a fair answer. It might not be  
22 the one I want. By the way, on that -- this has always  
23 bothered me and it's -- one has to worry about a lawyer  
24 playing architect and whatever, but I was trying to figure  
25 out with that pocket park sitting there, how does a disabled

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1 person get in the front door if they're in a wheelchair,  
2 aren't there only steps there?  
3 MR. LANDFAIR: Well, actually there is a ramp off  
4 to the side along West Lane.  
5 MR. KNOPF: To the side?  
6 MR. LANDFAIR: Yes.  
7 MR. KNOPF: To the side? So that will require  
8 then, the drop-off for somebody disabled would be on West,  
9 on West Lane?  
10 MR. LANDFAIR: And we have a lay-by that's  
11 proposed along West Lane.  
12 MR. KNOPF: So that would definitely be -- so  
13 disabled -- that's the same lay-by that I thought was  
14 supposed to accommodate delivery trucks?  
15 MR. LANDFAIR: Well, we have a loading bay that  
16 could accommodate delivery trucks but, yes, it could also  
17 accommodate delivery trucks within that lay-by.  
18 MR. KNOPF: Okay. Thank you. Oh, in terms of the  
19 MPDU's which you're saying the size of this, the number of  
20 units, I guess, MPDU's, the number of MPDU's is based on the  
21 total number of units --  
22 MR. LANDFAIR: Correct.  
23 MR. KNOPF: -- that you're building?  
24 MR. LANDFAIR: Right.  
25 MR. KNOPF: So would it be fair to say that if the

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1 units that you were building were smaller so you had more  
2 units, and all in terms of square footage, that, and the  
3 average, then you would end up with more MPDU's, would you  
4 not?  
5 MR. LANDFAIR: Correct. More units, more MPDU's.  
6 MR. KNOPF: And, similarly, you have the larger  
7 units, you'd have less MPDU's?  
8 MR. LANDFAIR: Conversely, yes.  
9 MR. KNOPF: Okay. Is there a binding element here  
10 that guarantees the number of MPDU's you are projecting here  
11 now or that's, again, illustrative?  
12 MR. LANDFAIR: That we are -- right now the  
13 binding element No. 3 states the developer will provide 15  
14 percent of the units ultimately permitted for construction  
15 as MPDU's.  
16 MR. KNOPF: But that's a percentage --  
17 MR. LANDFAIR: Correct.  
18 MR. KNOPF: -- not an actual number?  
19 MR. LANDFAIR: Correct, because it's based on the  
20 number of market rate units that we ultimately would build.  
21 MR. KNOPF: So if this were to end up with, I just  
22 pick a figure out of that, all of those were 1,000 square  
23 feet, maybe you can do a figure in your head, I don't know  
24 how many dwelling units that would then reduce this to, but  
25 you end up with a lot, a great reduction in MPDU's also?

1 MR. LANDFAIR: Considerably yes, yeah.  
 2 MR. KNOPF: So for, if I'm not mistaken, you made  
 3 the, expressed the opinion that one of the big pluses of  
 4 this project was it provided so many MPDU's --  
 5 MR. LANDFAIR: Yes.  
 6 MR. KNOPF: -- because you went to the option --  
 7 but that's illusory again, it's illustrative. It's not  
 8 anything we can nail down and count on, is it?  
 9 MR. LANDFAIR: It's dependent upon the maximum  
 10 number of units within the building.  
 11 MR. KNOPF: Thank you. Something just reminded  
 12 me. Something came up today so I could ask that. You  
 13 answered in response to Mr. Abrams's question that with the  
 14 decrease in the setback area along the western side some 15  
 15 to 12 feet, I was trying to understand, I believe you  
 16 testified that that didn't increase not much or substantial  
 17 at all, that's what I want to clarify, the total square  
 18 footage of the building?  
 19 MR. LANDFAIR: The building?  
 20 MR. KNOPF: Yes. I mean isn't this three feet  
 21 times the entire length of the building times seven stories,  
 22 doesn't that add up to --  
 23 MR. LANDFAIR: Well, it's because the building has  
 24 morphed a little bit in other places. In fact, those  
 25 changes were so relatively minor in nature that it's hard to

1 even see them on this illustration here. I'm referencing  
 2 Exhibit No. 85. It shows the footprint of the previously  
 3 proposed plan compared to the current plan. There are  
 4 places where it's just very difficult to tell, but the  
 5 building has, I used the analogy earlier, like a balloon  
 6 such that if you are taking space away from the building  
 7 footprint as we were doing at the corner to provide for the  
 8 pocket park or trying to make up that square footage  
 9 elsewhere within the building footprint.  
 10 MR. KNOPF: Well, just humor me. If there's three  
 11 feet times the length of the building, how long is the  
 12 building?  
 13 MR. LANDFAIR: From north to south?  
 14 MR. KNOPF: Yes.  
 15 MR. ABRAMS: While he's doing that, it's 1:15.  
 16 MS. ROBESON: I know. It's, well, that clock says  
 17 1:13. So this is going to be your last question.  
 18 MR. KNOPF: Thanks. Well, anyway, I don't like  
 19 him getting answers from the team over there.  
 20 MS. ROBESON: Oh, yes, please, Ms. Wilshire, I  
 21 know you know this project backward and forward. No, let me  
 22 talk. I don't want you discussing it with the witness or  
 23 even I can hear you whispering sometimes and it's nothing  
 24 against you, but it's very important that he answer himself.  
 25 Okay.

1 MR. LANDFAIR: 280 feet, 285 feet --  
 2 MR. KNOPF: Is the length?  
 3 MR. LANDFAIR: -- is the maximum length. But the  
 4 building is irregular in shape. So it's, you know, it's in  
 5 and out, you have the scallop at the corner, but from the  
 6 northernmost point to the southernmost point is about 285  
 7 feet.  
 8 MR. KNOPF: So you're not moving the entire  
 9 building three feet closer, just certain segments of it? I  
 10 thought the whole building went three feet closer.  
 11 MR. LANDFAIR: This segment here.  
 12 MR. KNOPF: But you have to explain on the record  
 13 what you mean by --  
 14 MR. LANDFAIR: Sorry. I'm referring to the west  
 15 facade.  
 16 MS. ROBESON: That is closest to Montgomery Lane?  
 17 MR. LANDFAIR: That is closest --  
 18 MS. ROBESON: Before --  
 19 MR. KNOPF: No.  
 20 MR. LANDFAIR: -- to Montgomery Lane.  
 21 MS. ROBESON: South of the amenity area?  
 22 MR. LANDFAIR: Correct, south of the outdoor  
 23 amenity space and confronting the adjacent Lot 28, otherwise  
 24 known as the Edgemoor at Arlington North property. This  
 25 building facade previously varied between 12 and 15 feet.

1 Now it's consistently 12 feet. So along its entire length  
 2 it varied, but now it's consistently 12 feet. So it's not  
 3 like we've added three feet to the entire length of that  
 4 facade.  
 5 MR. KNOPF: Well, I'm just trying to get a rough  
 6 idea because whatever you do we have to multiply it by  
 7 seven, right, because there are seven stories?  
 8 MR. LANDFAIR: No. Actually it's not quite that  
 9 simple because a portion of the building, of course, steps  
 10 back at the 50-foot mark as you go up.  
 11 MS. ROBESON: How far does the step back go --  
 12 MR. LANDFAIR: 12 feet. 12 feet from the front  
 13 facade of the building.  
 14 MS. ROBESON: Okay. So there's no step back --  
 15 MR. LANDFAIR: Beyond that 12 feet.  
 16 MS. ROBESON: -- beyond that 12 feet north of the  
 17 face of the building?  
 18 MR. LANDFAIR: Or the upper two floors, correct.  
 19 MS. ROBESON: Yes. All right.  
 20 MR. KNOPF: I think I better stop at this point.  
 21 MS. ROBESON: Yes.  
 22 MR. KNOPF: I'll pick up if you don't mind --  
 23 MS. ROBESON: Okay. So we are going to adjourn  
 24 until 2:30. We'll reconvene at 2:30 and hopefully we will  
 25 give Mr. Knopf five to 10 minutes to appear. If he doesn't,

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1 we'll convene at a time to be announced. Mr. Knopf, is  
2 there any way you can get us word about, you know, around  
3 2:30 if you're not done? Is there any possibility of giving  
4 us an idea?  
5 MR. KNOFF: I will certainly try, but I suspect it  
6 will be in the middle of the deliberations --  
7 MS. ROBESON: Right.  
8 MR. KNOFF: -- and that's -- but can, don't you  
9 get it piped into your office?  
10 MS. ROBESON: I do, but --  
11 MR. KNOFF: But you do, you're best to keep it off  
12 I'm sure.  
13 MS. ROBESON: -- I don't -- huh? Yes, but I  
14 can't, I don't know the legislation, so for me it doesn't  
15 tell me whether you're almost done or not done. So we'll  
16 leave it with the plan. We'll reconvene at 2:30.  
17 MR. KNOFF: Thank you very much.  
18 MR. ABRAMS: Thank you.  
19 MR. KNOFF: Hopefully it will go quick.  
20 (Recess)  
21 MS. ROBESON: I'm just going to take a moment and  
22 shift my stuff over here because it's easier on the witness.  
23 MS. HARRIS: Can we also have a discussion, I  
24 don't know if it needs to be on the record, just in terms of  
25 timing as to whether we will need to call another one of our

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1 witnesses, I mean call, I mean literally call to have them  
2 come here?  
3 MS. ROBESON: Oh, today?  
4 MS. HARRIS: Yes.  
5 MS. ROBESON: Let's do that on the record.  
6 MS. HARRIS: Okay.  
7 MS. ROBESON: It will only take me a couple of  
8 minutes --  
9 MS. HARRIS: That's fine.  
10 MS. ROBESON: -- to shift this. All right. We  
11 will -- all right. We will go back on the record. Ms.  
12 Harris, you were inquiring as to how long we're going to go  
13 today?  
14 MS. HARRIS: Yes. We have with us here today we  
15 have Mr. Landfair, obviously, and then we have our next  
16 witness, Perry Berman. Following Perry, we would be calling  
17 our architect who is not here. He's at his office. So the  
18 question is --  
19 MS. ROBESON: Well, I'm not a mind reader.  
20 MS. HARRIS: -- what do we do?  
21 MS. ROBESON: But, Mr. Knopf, do you have any  
22 estimate as to how long your cross-examination will go?  
23 MR. KNOFF: I'd say from one to two hours. That's  
24 a guess.  
25 MS. ROBESON: Okay. I would say -- I, what I

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1 found, I initially said we'd go, I told the court reporter  
2 we'd go until 7:00. What I kind of found is that my mind  
3 starts to go somewhere in the range of 6:00 to 6:30. It's  
4 tied heavily, unfortunately, to my stomach.  
5 MS. HARRIS: You're not the only one.  
6 MS. ROBESON: So I would say we'll go to 6:00.  
7 We'll try to make up some of the time that, while Mr. Knopf  
8 successfully achieved resolution, we're going to start to  
9 look for a closing at 6 o'clock or not soon after 6:00  
10 MS. HARRIS: Okay. That part provides us enough  
11 direction to know that we'll tell the architect he doesn't  
12 need to postpone.  
13 MS. ROBESON: Yes, he can -- all right.  
14 MR. KNOFF: I think it's going to be closer to two  
15 hours than one hour at least.  
16 MS. ROBESON: That's -- certainly you need to do  
17 what you need to do as did Mr. Abrams. So, Mr. Landfair,  
18 you are back on the hot seat. Mr. Knopf, it's your turn to  
19 cross --  
20 MR. KNOFF: Thank you.  
21 MS. ROBESON: -- finish cross-examining.  
22 MR. KNOFF: Mr. Landfair, we left off with, there  
23 was some discussion as to whether the setback change from 12  
24 feet, from 15 feet to 12 feet on the western side --  
25 MR. LANDFAIR: Right.

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1 MR. KNOFF: -- ended up in any addition to the  
2 total square footage and I believe you said that it was, the  
3 building was approximately the same square footage with that  
4 change?  
5 MR. LANDFAIR: Right. If not, maybe perhaps  
6 slightly smaller.  
7 MR. KNOFF: But that was stated --  
8 MR. LANDFAIR: But not larger.  
9 MR. KNOFF: -- and that takes account in redesign  
10 of the building with the setbacks on the, starting on the  
11 6th floor, I guess, is that correct?  
12 MR. LANDFAIR: 5th and 6th floor, yeah. Starting  
13 at the 6th floor, yes, 6th and 7th floor.  
14 MR. KNOFF: It's the 6th and 7th floor --  
15 MR. LANDFAIR: Yes.  
16 MR. KNOFF: -- that are set back?  
17 MR. LANDFAIR: Correct.  
18 MR. KNOFF: So would it be fair to say then that  
19 the setbacks that are offered as part of this building have  
20 resulted in no decrease in rental area for the developer?  
21 MR. LANDFAIR: No, it may have resulted in a  
22 decrease in rental area.  
23 MR. KNOFF: Well, how is that if it's the same  
24 square footage?  
25 MR. LANDFAIR: Well, the square footage may have



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1 is least resistance is I make a right turn into West Lane --  
2 MR. LANDFAIR: Uh-huh.  
3 MR. KNOPF: -- and then I'm going in the wrong  
4 direction. So don't I have to turn around someplace?  
5 MR. LANDFAIR: You're making a turn onto West  
6 Lane?  
7 MR. KNOPF: And, yes, and how do I get to come  
8 back to the lay-by and face the right direction?  
9 MR. LANDFAIR: It's a simple three-point turning  
10 movement for a --  
11 MR. KNOPF: Three-point turn?  
12 MR. LANDFAIR: -- for a typical small panel truck,  
13 like a 30-foot truck, what we call an SU-30 truck. And, in  
14 fact, in the record we have exhibits that show auto turn  
15 movements for various sizes of vehicles from passenger cars  
16 to small panel trucks to tractor trailer trucks to show how  
17 they make these turns at the end of West Lane. That's part  
18 of the record.  
19 MR. KNOPF: Okay. Pardon my ignorance --  
20 MR. LANDFAIR: Yeah.  
21 MR. KNOPF: -- but does three-point turn mean you  
22 have to back-up?  
23 MR. LANDFAIR: Basically it's a maneuver that's  
24 being made and so that they would pull up, okay, they would  
25 back into the driveway --

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1 MR. KNOPF: Back --  
2 MR. LANDFAIR: -- pull back out and pull into the  
3 lay-by.  
4 MR. KNOPF: I see. So it's not they go to the end  
5 and just turn on the end and come back. You have --  
6 MR. LANDFAIR: Right. Correct.  
7 MR. KNOPF: -- to back out?  
8 MR. LANDFAIR: Correct.  
9 MR. KNOPF: Okay.  
10 MR. LANDFAIR: All right.  
11 MR. KNOPF: Now let's take a look at that. Now on  
12 the way down the street to that three-point turn --  
13 MR. LANDFAIR: Yeah.  
14 MR. KNOPF: -- I go by four garages of 4825  
15 project where people could be going in or coming out,  
16 backing out?  
17 MR. LANDFAIR: Correct. That's correct.  
18 MR. KNOPF: Okay. I also might be meeting cars  
19 coming out of the garage of this building?  
20 MR. LANDFAIR: Possible.  
21 MR. KNOPF: But where is that garage?  
22 MR. LANDFAIR: The entrance is right here.  
23 MR. KNOPF: Is that what they're supposed to back-  
24 up into?  
25 MR. LANDFAIR: The one close to the front

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1 building --  
2 MS. ROBESON: When you say right here --  
3 MR. LANDFAIR: The northernmost point of the  
4 building, the northernmost corner of the building.  
5 MS. ROBESON: Where it says garage entrance?  
6 MR. LANDFAIR: Correct.  
7 MS. ROBESON: We're on the record. Okay. Go  
8 ahead.  
9 MR. KNOPF: I'm sorry, I couldn't see that  
10 distance. When you said that the truck making a three-point  
11 turn would have to back up, is it back-up into that garage  
12 entrance?  
13 MR. LANDFAIR: Exactly right, it's backing up into  
14 the entrance here and then it turns back down --  
15 MR. KNOPF: So if somebody --  
16 MR. LANDFAIR: -- southbound West Lane.  
17 MR. KNOPF: -- is coming out of the garage or  
18 going into that garage, I presume I sort of have to wait  
19 before I back up?  
20 MR. LANDFAIR: Possibly.  
21 MR. KNOPF: Now then, okay, for now I'm on the  
22 west side of the street and how many lay-bys are there?  
23 MR. LANDFAIR: There's just one that's proposed.  
24 MR. KNOPF: And was that the same lay-by you were  
25 talking about before that the handicapped person was going

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1 to have to take the wheelchair?  
2 MR. LANDFAIR: Yes, it is.  
3 MR. KNOPF: And would that be the same entrance  
4 that everybody else should really be using rather than  
5 parking on Montgomery Lane and going into the building if  
6 I'm going to pick up somebody say or drop off somebody?  
7 MR. LANDFAIR: We would encourage, yes, visitors  
8 to use that. The idea is that it would be for temporary  
9 parking and queuing. We would not expect people to be there  
10 long.  
11 MR. KNOPF: So --  
12 MR. LANDFAIR: It could even be posted as such.  
13 MR. KNOPF: So if I'm the UPS driver, I'm coming  
14 from Woodmont, and I get to West Lane --  
15 MR. LANDFAIR: Right.  
16 MR. KNOPF: -- and I look down and, guess what, I  
17 find there's somebody parked in the lay-by, do you think the  
18 path of least resistance would be just keep going and park  
19 in front of the building and block the street while I run  
20 in?  
21 MR. LANDFAIR: I suspect they would just pull  
22 ahead of the lay-by and park along West Lane, but again  
23 they're going to park closest to the entrance that they are  
24 supposed to be making the deliveries to, which will be  
25 clearly marked and signed as such.

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1 MS. ROBESON: Mr. Landfair, where are the do not  
2 enter signs in relation, on the --  
3 MR. LANDFAIR: On the street that controls  
4 traffic.  
5 MS. ROBESON: Yes. Are they -- where are they?  
6 MR. LANDFAIR: They're located just east of the  
7 actual intersection itself --  
8 MS. ROBESON: Okay.  
9 MR. LANDFAIR: -- at the corners, one on either  
10 side of the street.  
11 MS. ROBESON: Okay. I just -- okay.  
12 MR. KNOPF: Let me explore this a little more. On  
13 the lay-by area, how long is that? In other words, how many  
14 vehicles could it accommodate?  
15 MR. LANDFAIR: It could accommodate one panel  
16 truck or two cars.  
17 MR. KNOPF: Oh. And how high is the garage  
18 entrance? In other words, what kind of truck can go down  
19 and is it a loading zone is down in the garage?  
20 MR. LANDFAIR: There is a smaller loading zone  
21 down inside the garage proper --  
22 MR. KNOPF: And --  
23 MR. LANDFAIR: -- but then there's also a loading  
24 bay that's just immediately adjacent to the garage entrance.  
25 MR. KNOPF: And how many does the loading bay

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1 hold?  
2 MR. LANDFAIR: That would hold one.  
3 MR. KNOPF: One?  
4 MR. LANDFAIR: Right.  
5 MR. KNOPF: So --  
6 MR. LANDFAIR: That could accommodate one small  
7 panel truck.  
8 MR. KNOPF: One small panel truck?  
9 MR. LANDFAIR: A 30-foot panel truck, which would  
10 be a typical UPS type truck.  
11 MR. KNOPF: Well, how high is the, well, what kind  
12 of trucks can the garage accommodate? There's unloading in  
13 the garage too?  
14 MR. LANDFAIR: There is a small loading space,  
15 dedicated loading space in the garage which could  
16 accommodate a, like a small rental truck that somebody  
17 moving or belongings out of a small apartment might --  
18 MS. ROBESON: Like a cargo van or --  
19 MR. LANDFAIR: Yeah, like a small cargo van.  
20 Something larger than a minivan, but smaller than a panel  
21 truck, so --  
22 MR. KNOPF: So these painter's trucks, for  
23 example, which frequently are a van, but they have ladders  
24 on top --  
25 MR. LANDFAIR: Right.

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1 MR. KNOPF: -- would they be able to go down in  
2 the garage or that gets a little iffy, excuse me?  
3 MR. LANDFAIR: I suspect the clearance would be  
4 very close.  
5 MR. KNOPF: Very close? All right. So would I be  
6 correct that if there were two repair truck that came there,  
7 whether somebody came to have their computer fixed and  
8 somebody else had something delivered, that would take up  
9 the two spaces on the ground, not in the garage, but outside  
10 the garage and there would be nothing left for the UPS or  
11 FedEx or the food delivery trucks that might be coming  
12 there?  
13 MR. LANDFAIR: Well, I think the intent is that  
14 the lay-by would be posted for temporary parking --  
15 MR. KNOPF: Oh.  
16 MR. LANDFAIR: -- for temporary loading. I don't  
17 think we would intend for it, for the reasons I think you're  
18 suggesting for long-term parking along the street. So  
19 hopefully that would deter service vehicles from parking  
20 there on a long-term basis.  
21 MR. KNOPF: Because I think, doesn't the finding  
22 have to be made if this is the maximum safety efficiency in  
23 circulation and so on? In your opinion is this the maximum  
24 efficiency and circulation?  
25 MR. LANDFAIR: I think it is.

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1 MR. KNOPF: Okay.  
2 MR. LANDFAIR: We've, the plans have been  
3 approved, not approved, but have been reviewed by the County  
4 Department of Transportation. We're meeting the County  
5 guidelines for loading. We have a small loading space  
6 inside the garage proper. We have a loading bay which is  
7 directly accessible from the street which the County  
8 Department of Transportation said was great, it wasn't  
9 required, but that is terrific.  
10 Likewise, we have the lay-by which, again, was not  
11 required, but they said that's great. You're providing the  
12 lay-by along the street, so we feel that we're taking the  
13 service vehicles off of Montgomery Lane. Could somebody  
14 continue to park along Montgomery Lane on a temporary basis?  
15 MR. KNOPF: You said the County approved it. This  
16 is the same County people that approved the Edgemoor and the  
17 City Homes for service vehicles where there's, you see  
18 pictures and other evidence submitted in this record where  
19 there are problems with those vehicles parking on the  
20 street?  
21 MR. LANDFAIR: It would be the County Department  
22 of Transportation --  
23 MR. KNOPF: I see.  
24 MR. LANDFAIR: -- and I'm sure they weighed in on  
25 those problems.

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1 MR. KNOFF: Would you agree with the Hearing  
2 Examiner's comment that she made during her comments on her  
3 observations that if a truck or car were to stop in front of  
4 this project on Montgomery Lane, it would, it could cause  
5 serious traffic problems?  
6 MR. LANDFAIR: This street is very narrow.  
7 MR. KNOFF: Okay. Thank you. Okay. And, let's  
8 see, you're proposing about 120 dwelling unit in this?  
9 MR. LANDFAIR: Maximum, yes.  
10 MR. KNOFF: Where does the moving van park when  
11 you do those -- people coming in and going out? And if this  
12 is rental, would you agree with me they tend to come in and  
13 go out a lot more than in condominiums?  
14 MR. LANDFAIR: If it was rental then, yes, there  
15 would be more move-ins, move-outs than there would be if it  
16 was condominiums.  
17 MR. KNOFF: So where do the --  
18 MR. LANDFAIR: We would anticipate that they would  
19 coordinate with management of the building and that we would  
20 find times, hopefully during off-peak periods, where they  
21 could utilize the lay-by.  
22 MR. KNOFF: Would a moving truck fit in a lay-by?  
23 You said it only held a small van?  
24 MR. LANDFAIR: The auto turn exhibit that we  
25 provided on the record would show that a tractor trailer

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1 truck can pull into the lay-by. It's not fully within the  
2 lay-by, but it takes it mostly off the street. So it  
3 wouldn't inhibit vehicles from coming and going.  
4 MR. KNOFF: So some of the trucks would hang over  
5 into the street?  
6 MR. LANDFAIR: A little bit.  
7 MR. KNOFF: Well, here's another question. Can  
8 you explain how the vans and whatever do a three-point turn  
9 at the end of the West Way --  
10 MR. LANDFAIR: Right.  
11 MR. KNOFF: -- what does a moving van do? That --  
12 MR. LANDFAIR: The auto turn movement that we  
13 provided --  
14 SECURITY GUARD: A Nissan Parked --  
15 MS. ROBESON: Just, hold one second please.  
16 MR. LANDFAIR: Certainly.  
17 SECURITY GUARD: A Nissan parked in the dock area,  
18 is it anybody here?  
19 MS. ROBESON: No. Okay. I'm sorry.  
20 MR. KNOFF: No, that's not your fault. I was  
21 asking how does a moving van make that --  
22 MS. ROBESON: Well, let me cut in here a moment.  
23 I scanned your -- okay. Do you have an expert who is going  
24 to testify on onsite circulation?  
25 MS. HARRIS: Yes, we do. We have a land planner

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1 who, I'm sorry, excuse me, we have a traffic consultant who  
2 is going to get, testify to the circulation issues.  
3 MS. ROBESON: Okay. Because there is some, I was  
4 just scanning my summary of the January --  
5 MR. KNOFF: Yes.  
6 MS. ROBESON: -- testimony. There is some  
7 testimony in there, but my question is would it be better  
8 until we've heard how the access is going to work to -- I  
9 mean I have to say it's probably within the scope. So I'm  
10 asking you, I think it would be better to wait. You can  
11 continue the questions, but I, this is not the witness to  
12 elicit, I think, that from.  
13 MR. KNOFF: I understand. And the only reason I  
14 was raising it is that he testified as an expert and as I  
15 recall that testimony, he testified this would meet maximum  
16 efficiency circulation --  
17 MS. ROBESON: Yes, I know.  
18 MR. KNOFF: -- and so on.  
19 MS. ROBESON: That's why I'm saying --  
20 MR. KNOFF: So --  
21 MS. ROBESON: -- it is within the scope. So you  
22 can continue, I just --  
23 MR. LANDFAIR: And, again, we have an auto turn  
24 exhibit which is in the record which shows how those  
25 movements would be made for passenger cars, the small panel

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1 trucks and a tractor trailer truck.  
2 MR. KNOFF: And you didn't -- did you prepare  
3 those exhibits or someone else?  
4 MR. LANDFAIR: Our staff did.  
5 MR. KNOFF: But not you?  
6 MR. LANDFAIR: I did not, I didn't not personally,  
7 right.  
8 MR. KNOFF: So you're deferring basically to  
9 others in terms of the efficiency of that operation?  
10 MR. LANDFAIR: In terms of --  
11 MR. KNOFF: In turning movements.  
12 MR. LANDFAIR: -- calculating those turning  
13 movements and exhibiting them, that's correct.  
14 MR. KNOFF: Okay. Thank you.  
15 MS. ROBESON: Thank you.  
16 MR. KNOFF: The Planning Board's second  
17 recommendation, I guess I'll call it the Exhibit 105 --  
18 MS. ROBESON: Okay.  
19 MR. KNOFF: -- it says that the western, one of  
20 the binding elements that they recommended was that the  
21 western facade of the development will include a minimum of  
22 20 percent windows. That's not in what you're presenting at  
23 106a as a binding element, is it? Or maybe I missed it if  
24 it was.  
25 MS. ROBESON: What was your --

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1 MR. LANDFAIR: It is. It's binding element No. 6.  
2 MR. KNOPF: All right. I'm sorry if I missed  
3 that. Oh, yes, it is. I apologize. Well, my question then  
4 is, now this is the side that there is going to be a 12-foot  
5 setback, correct?  
6 MR. LANDFAIR: Correct.  
7 MR. KNOPF: Okay. Now am I correct that the  
8 building that's to be built on Arlington that is parallel to  
9 this building rises up to 48 feet in height as it approaches  
10 the property line?  
11 MR. LANDFAIR: Correct. Now it's separated on its  
12 own side by a driveway.  
13 MR. KNOPF: By a driveway?  
14 MR. LANDFAIR: By a driveway that's at least 20  
15 feet in width. So that building is set back from its own  
16 property line and then, of course, another 12 feet into our  
17 property.  
18 MR. KNOPF: Does the driveway run the entire --  
19 MR. LANDFAIR: No, it doesn't.  
20 MR. KNOPF: -- end of your building?  
21 MR. LANDFAIR: No.  
22 MR. KNOPF: So what I'm trying to get at is by  
23 shrinking from 15 feet to 12 feet, what is the distance  
24 between your building and the building footprint of the  
25 building that you built along Arlington?

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1 MR. LANDFAIR: You know, I scaled that off. I  
2 should have that here.  
3 MR. KNOPF: Well, it may well be. I apologize if  
4 I didn't find some of the exhibits.  
5 MR. LANDFAIR: That's all right.  
6 MR. KNOPF: There's a lot of documentation.  
7 MR. LANDFAIR: 42 feet.  
8 MR. KNOPF: 42 feet from building to building?  
9 MR. LANDFAIR: Correct.  
10 MR. KNOPF: And is there anything -- the, is there  
11 any, do we know whether the building along Arlington will  
12 construct a fence or a masonry wall or whatever after the  
13 property line or --  
14 MR. LANDFAIR: I don't know. I would presume for  
15 their own benefit that they would, but I don't remember the  
16 plan well enough to say.  
17 MR. KNOPF: Well, what I'm trying to get at is  
18 from a planning standpoint and consideration what, if we  
19 have 20 percent windows on the west side, what will those  
20 people look at and what will they get in the way of light if  
21 we shrink it another three feet?  
22 MS. HARRIS: I'm going to object. Mr. Knopf is  
23 representing the Highrise Edgemoor. I am perplexed as to  
24 how this in any way represents the interest of his clients.  
25 MS. ROBESON: Well, that's not the basis on cross-

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1 examination. He can impeach the witness on any basis.  
2 MR. KNOPF: And I can explain that readily. My  
3 client is concerned that this is too big a building --  
4 MS. ROBESON: Okay.  
5 MR. KNOPF: -- both in terms of aesthetics --  
6 MS. ROBESON: Okay. Okay. But it's not your --  
7 MR. KNOPF: -- traffic.  
8 MS. ROBESON: -- turn to testify and I've  
9 already --  
10 MR. KNOPF: Thank you. Sorry.  
11 MS. ROBESON: -- overruled her objection. So you  
12 can do with that -- so, Mr. Landfair, you can answer the  
13 question.  
14 MR. LANDFAIR: In my opinion, the distance between  
15 the buildings, the 42 feet, is more than sufficient to allow  
16 for sufficient air and light. I don't believe -- I haven't  
17 done a solar analysis or anything like that that would  
18 formally or scientifically show the impact of our building  
19 on that adjacent building in terms of the light and the sun.  
20 But 42 feet is substantial. I might add that in this zone,  
21 conceivably the setback on our side could be zero feet, but  
22 we're providing 12 feet. And, again, in turn, they have  
23 their own setback. So we feel that, you know, the marginal  
24 difference between 12 and 15 feet is not sufficient to  
25 increase or improve the compatibility in any way.

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1 MR. KNOPF: And did you say they're adding an  
2 alleyway there, the --  
3 MR. LANDFAIR: They have a driveway entrance.  
4 MR. KNOPF: A driveway entrance?  
5 MR. LANDFAIR: Right.  
6 MR. KNOPF: That goes down in a garage?  
7 MR. LANDFAIR: Goes down into their own garage,  
8 correct.  
9 MR. KNOPF: So it goes down where -- they may well  
10 have a wall to fence off the driveway area.  
11 MR. LANDFAIR: Well, they'll have certainly a  
12 retaining wall on their side, yes.  
13 MR. KNOPF: So units in your building on the lower  
14 floors at least could look out and to see the retaining  
15 walls?  
16 MR. LANDFAIR: No, because of the change in grade  
17 on their side. We won't see their retaining wall. They  
18 would be looking out over their driveway towards their  
19 building.  
20 MR. KNOPF: But if they had a wall on top of the  
21 retaining wall to keep people from falling out the backyard?  
22 MR. LANDFAIR: Right. Right. Certainly. That  
23 would further screen the view from our side.  
24 MR. KNOPF: And would that, those units in your  
25 building that might look out at the retaining wall and the

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1 driveway, is that where you're going to put the MPDU's?  
2 MR. LANDFAIR: I can't speak to that. I don't  
3 know where the location of the MPDU's would be.  
4 MR. KNOPF: Okay. Thank you. On the setback, I'm  
5 now moving to Montgomery Lane --  
6 MR. LANDFAIR: Sure.  
7 MR. KNOPF: -- we're going around the building, if  
8 I remember correctly, you said from the footprint of the  
9 building, is it to the curb --  
10 MS. ROBESON: I'm sorry, can we -- for some reason  
11 sound really carries in this room more than our normal  
12 hearing room. Can you not have, or have conversations  
13 outside? Thank you.  
14 MR. KNOPF: Do I remember correctly from the  
15 building footprint to the curb, I believe you testified, is,  
16 is it 26 feet?  
17 MR. LANDFAIR: 26 feet from building face to face  
18 of curb.  
19 MR. KNOPF: Face of curb. Now in that area we  
20 have a sidewalk?  
21 MR. LANDFAIR: Correct.  
22 MR. KNOPF: And how wide is that sidewalk?  
23 MR. LANDFAIR: The sidewalk will be at least a  
24 minimum of five feet.  
25 MR. KNOPF: And you anticipate maybe broader, I

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1 mean --  
2 MR. LANDFAIR: It could be broader.  
3 MR. KNOPF: Okay.  
4 MR. LANDFAIR: The final hardscape treatment  
5 hasn't been designed. It's quite possible that the paving  
6 that would be within the public right-of-way will merge with  
7 hardscape on our side of the right-of-way line.  
8 MS. ROBESON: I'm sorry. I missed which edge this  
9 is on?  
10 MR. LANDFAIR: This would be Montgomery Lane  
11 side --  
12 MS. ROBESON: Yeah.  
13 MR. LANDFAIR: -- within the public right-of-  
14 way --  
15 MS. ROBESON: Right.  
16 MR. LANDFAIR: -- you'll have a sidewalk.  
17 MS. ROBESON: Right.  
18 MR. LANDFAIR: It will be a minimum of five feet  
19 in width, but it's possible that hardscape treatment on our  
20 side of the right-of-way line might widen that.  
21 MS. ROBESON: Okay.  
22 MR. LANDFAIR: The final design hasn't been worked  
23 out yet.  
24 MS. ROBESON: I'm sorry. Go ahead.  
25 MR. KNOPF: Now, if you know, between the sidewalk

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1 and curb, is it a grass panel?  
2 MR. LANDFAIR: It will be a grass panel and you'll  
3 have street trees.  
4 MR. KNOPF: Street? And how wide would that be?  
5 MR. LANDFAIR: It would be roughly five feet.  
6 MR. KNOPF: Five feet?  
7 MR. LANDFAIR: Right.  
8 MR. KNOPF: Okay. So then the, now five feet and  
9 five feet is 10 feet. Okay. Subtracting 10 from 26, I got  
10 16 feet.  
11 MR. LANDFAIR: Correct.  
12 MR. KNOPF: Am I correct that that 16 feet, 10 is  
13 yours and six is the public's or --  
14 MR. LANDFAIR: Ten would be ours and then the  
15 balance would be within the public right-of-way.  
16 MR. KNOPF: Ten is yours?  
17 MR. LANDFAIR: Right.  
18 MR. KNOPF: So what we're dealing with is a  
19 maximum of 16 feet from, if I'm walking along the sidewalk  
20 and I'm looking at your building?  
21 MR. LANDFAIR: A maximum --  
22 MR. KNOPF: The space between the sidewalk and --  
23 MR. LANDFAIR: And the public right-of-way, yes.  
24 MR. KNOPF: Right. Now do you know what the  
25 spacing is from the sidewalk to the foot printing of the

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1 Edgemoor, the big building at the corner of Woodmont and  
2 Montgomery Lane?  
3 MR. LANDFAIR: We have those dimensions on an  
4 exhibit. That's --  
5 MR. KNOPF: I would appreciate if you could --  
6 well, let's say what that is?  
7 MR. LANDFAIR: The distance --  
8 MS. ROBESON: What exhibit are you --  
9 MR. LANDFAIR: I'm referring to Exhibit 106b.  
10 MS. ROBESON: Okay.  
11 MR. LANDFAIR: Okay? And we have a number of  
12 different dimensions. One dimension that I'll read off is  
13 the distance from face of building to the lay-by. There's  
14 two lay-bys. There's two places for cars to park along the  
15 front of the Edgemoor Highrise. So you have dimension of 16  
16 feet from building to the lay-by and then in turn from the  
17 steps that lead down from the building to the lay-by, it's a  
18 lip of approximately eight feet. So that's the effective  
19 width of the sidewalk that runs along the front of the  
20 Edgemoor Highrise.  
21 MR. KNOPF: Well, what I was interested is the  
22 distance between the footprint of the building and to the  
23 sidewalk. We just started the sidewalk.  
24 MR. LANDFAIR: I can scale it off.  
25 MR. KNOPF: Thank you.

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1 MR. LANDFAIR: About nine feet.  
2 MR. KNOPF: Nine feet? Okay. And that's to the  
3 sidewalk?  
4 MR. LANDFAIR: To the sidewalk.  
5 MR. KNOPF: And 16 feet was to the lay-by going  
6 through the sidewalk?  
7 MR. LANDFAIR: Correct.  
8 MR. KNOPF: Okay. Now you heard the Hearing  
9 Examiner mention during her observations that she thought  
10 that the, she was commenting that there seemed to be a  
11 narrow strip of landscaping between the building and the --  
12 MR. LANDFAIR: Right.  
13 MR. KNOPF: -- sidewalk? She had noticed a  
14 widespread --  
15 MR. LANDFAIR: Right.  
16 MR. KNOPF: -- area. Do you think adding another  
17 three feet like this is proposed here will make all that big  
18 a difference in terms of aesthetics for people walking?  
19 MR. LANDFAIR: If you added a few more feet along  
20 the Edgemoor Highrise --  
21 MR. KNOPF: Well --  
22 MR. LANDFAIR: -- would it make a difference?  
23 MR. KNOPF: It would make a difference. But  
24 that's what you're adding from your building, it's just  
25 you're providing a few more feet, isn't that right?

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1 MR. LANDFAIR: Well, we're providing 26 feet.  
2 MR. KNOPF: No, I'm going back between the  
3 building footprint and the sidewalk.  
4 MR. LANDFAIR: Right.  
5 MR. KNOPF: But you said you had, we're talking  
6 about 16 feet?  
7 MR. LANDFAIR: Right.  
8 MR. KNOPF: And at Edgemoor, you add 16 feet to  
9 the lay-by?  
10 MR. LANDFAIR: Correct. Right. So roughly half  
11 of that is the sidewalk. So would it make a difference?  
12 MR. KNOPF: I see.  
13 MR. LANDFAIR: Yes, it would.  
14 MR. KNOPF: All right. I just want someone to  
15 get, we hear numbers and it's helpful to have something, at  
16 least to me to have something pictured in my mind.  
17 MR. LANDFAIR: It's a very tall building and as  
18 you walk along there, it feels like it's very close to you.  
19 MR. KNOPF: Now if, as long as you're on one --  
20 let's see, 106 -- we have an aerial view. It's, I think  
21 it's 106f or g. Let me see here. It's 106f. Sorry about  
22 that. It's the context aerial, that's what it's labeled.  
23 Oh. Yes. Yes. Yes. That's not what I'm using it for.  
24 It's the -- there we go.  
25 Now could you point out for all of us the rooftop

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1 structure on this project?  
2 MR. LANDFAIR: Here's our property. There's the  
3 proposed building, rooftop penthouses.  
4 MR. KNOPF: Okay. Now would I be correct in  
5 stating that the rooftop structure depicted in 4825, the  
6 Sandy Spring building, is both smaller and back further  
7 than, from the street?  
8 MR. LANDFAIR: It appears to be that way, yes.  
9 MR. KNOPF: Similarly, the proposed rooftop  
10 structure on the building to go up on Arlington Road and  
11 Montgomery Lane, that corner, that also seems smaller and  
12 set back further, am I correct?  
13 MR. LANDFAIR: Yes.  
14 MR. KNOPF: Okay. Now I don't see, am I correct,  
15 any, quote, rooftop structures, on City Homes?  
16 MR. LANDFAIR: No, they have peaked roofs --  
17 MR. KNOPF: Yes.  
18 MR. LANDFAIR: -- so there are no rooftop  
19 structures that we can see.  
20 MR. KNOPF: I see. And similarly when you look at  
21 the Edgemoor, it seems, am I correct there may be some  
22 rooftop structures in the rear of the building away from  
23 Montgomery Lane?  
24 MR. LANDFAIR: There are. There are rooftop  
25 structures actually to the rear and the center part of the

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1 building which are screened from view by a pitched roof.  
2 MR. KNOPF: By the pitched roof?  
3 MR. LANDFAIR: Right.  
4 MR. KNOPF: So you wouldn't really see them from  
5 Montgomery Lane?  
6 MR. LANDFAIR: Correct.  
7 MR. KNOPF: Okay. Well, let's talk about what  
8 we're going to see. You had testified, if I'm not mistaken,  
9 in response to questions from Mr. Abrams that someone  
10 walking by the building, I guess your project, would only  
11 see 50 feet in height, they wouldn't see the two stories  
12 above that setback, am I correct? I'm not trying to put  
13 words in your mouth.  
14 MR. LANDFAIR: I think I may have said also that  
15 it's possible they could see just the upper end of the 6th  
16 and 7th floors as they're walking by, but the view that they  
17 would have for the most part, what they would focus on would  
18 be the lower floors.  
19 MR. KNOPF: Now where are you putting that person  
20 when you say they can't see? Where on this --  
21 MR. LANDFAIR: They would be walking along the  
22 street. They would be walking along the south side of  
23 Montgomery Lane.  
24 MR. KNOPF: The south side of Montgomery Lane?  
25 MR. LANDFAIR: Right.

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1 MR. KNOPF: So are you saying that I would say in  
2 front of the, say I'm at the front of the 4825 --  
3 MR. LANDFAIR: Right.  
4 MR. KNOPF: -- and just approaching 4825 --  
5 MR. LANDFAIR: Right.  
6 MR. KNOPF: -- and I look up, you're saying I  
7 wouldn't see the 6th and 7th floors?  
8 MR. LANDFAIR: At an angle from down the street  
9 you would have a clearer view. But if you are directly  
10 opposite --  
11 MR. KNOPF: Well, I'm not -- you --  
12 MR. LANDFAIR: Sure.  
13 MR. KNOPF: -- previously testified directly  
14 opposite.  
15 MR. LANDFAIR: Okay.  
16 MR. KNOPF: I'm trying to put one walking up the  
17 street so to speak.  
18 MR. LANDFAIR: You would have a clearer view of  
19 the upper floors, that's true.  
20 MR. KNOPF: Now, similarly, wouldn't it be true if  
21 I were coming from Arlington and I was on the south side of  
22 the street and I saw the building, wouldn't I have a pretty  
23 view of the 6th and 7th floors and probably the penthouse to  
24 boot --  
25 MR. LANDFAIR: I --

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1 MR. KNOPF: -- of the, excuse me, the rooftop  
2 structure?  
3 MR. LANDFAIR: I don't know about the rooftop  
4 structure. You probably would have a view of the upper two  
5 floors. In fact, I think in one of our perspectives which  
6 shows the view along the street, I think we're actually  
7 illustrating that.  
8 MR. KNOPF: And didn't you say that, if I remember  
9 correctly, Montgomery Lane elevation goes down as you  
10 approach Arlington?  
11 MR. LANDFAIR: Correct, yeah.  
12 MR. KNOPF: So if I am at the, say the corner of  
13 Arlington and Montgomery Lane, just to be safe, I'm down  
14 sort of lower and I look up and see your project, that would  
15 be because I'm lower, wouldn't it give the effect of being  
16 even taller, the project, than it might be if I were level,  
17 on level ground with the project?  
18 MR. LANDFAIR: Well, I think your perspective  
19 might suggest that, but they would also color your view of  
20 the other surrounding buildings at that corner. So  
21 everything would look a little higher because you're at a  
22 lower elevation.  
23 MR. KNOPF: Well, one of the surrounding buildings  
24 would be the building on the corner of Montgomery and  
25 Arlington. That's only, what, 35 feet, is it?

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1 MR. LANDFAIR: The -- it's 35 feet at that portion  
2 that fronts Arlington, but then it steps up.  
3 MR. KNOPF: Does that one step up?  
4 MR. LANDFAIR: Yes, it does.  
5 MR. KNOPF: Okay. Well, what about City Homes,  
6 that's constant, it's certainly lower than what you're  
7 proposing?  
8 MR. LANDFAIR: I think the same would be set for  
9 City Homes. That's your perception of that 53 feet, or City  
10 Homes would imply that maybe it looks a little higher if  
11 you're standing at the corner of Arlington.  
12 MR. KNOPF: And I think we previously established  
13 not, people that live in City Homes that look out, say that  
14 they're closer to the Edgemoor, across the street from  
15 Edgemoor --  
16 MR. LANDFAIR: Right.  
17 MR. KNOPF: -- if they looked out their windows  
18 and looked down the street, they would be apt to see the 6th  
19 and 7th stories?  
20 MR. LANDFAIR: Yes, they would.  
21 MR. KNOPF: And, similarly, the Edgemoor building,  
22 we have so many Edgemoors. When I refer to Edgemoor, I'll  
23 refer to the one on the corner of Woodmont and Montgomery  
24 Lane --  
25 MR. LANDFAIR: Right.

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1 MR. KNOPF: -- unless I say otherwise.  
2 MR. LANDFAIR: Okay.  
3 MR. KNOPF: Aren't there windows on the Edgemoor  
4 that face west, face your project?  
5 MR. LANDFAIR: On the Edgemoor Highrise?  
6 MR. KNOPF: Yes.  
7 MR. LANDFAIR: Yes.  
8 MR. KNOPF: And wouldn't those windows, even with  
9 the construction of 4825, wouldn't the upper units be able  
10 to look out over 4825 and see your building?  
11 MR. LANDFAIR: Possibly but, again, they would be  
12 looking out over 4825 and their view would be obstructed I  
13 would think.  
14 MR. LANDFAIR: Well, what's the height of 4825  
15 again, is that --  
16 MR. LANDFAIR: 65 feet.  
17 MR. KNOPF: -- 65 feet? And what's the height of  
18 the Edgemoor you've been telling us so many times?  
19 MR. LANDFAIR: 100 feet.  
20 MR. KNOPF: There's a little room in there to look  
21 out, isn't there?  
22 MR. LANDFAIR: Right. Right. It's the angle of  
23 the view is what I'm thinking and the distance, of course,  
24 between the two buildings.  
25 MR. KNOPF: I'm looking at, just rather than get

1 it, I'll just -- Exhibit 54, which is the staff report, on  
2 page 7, they say that the City Homes height is 48 feet in  
3 height and we've been using 53 feet in height that I believe  
4 you testified to and I'm wondering if you have an  
5 explanation of the difference there?

6 MR. LANDFAIR: I, I don't. I don't. And I've  
7 seen in resolutions references to 55 feet for City Homes.  
8 All I can say is that the height that we've been referencing  
9 was from our own survey.

10 MR. KNOFF: Well, would you agree with me that  
11 maybe the difference is if you're measuring from the very  
12 peak of the roof as compared to the bulk of the building?

13 MR. LANDFAIR: It's possible that they are  
14 measuring it to the eave of the roof, perhaps, as opposed to  
15 the roof peak.

16 MR. KNOFF: Well, would you agree with me then in  
17 terms of the aesthetic impact on the pedestrian walking down  
18 the street or someone living in the area there's quite a bit  
19 of difference if both, if two different buildings, they're  
20 both the identical height of the peak, but one is solid that  
21 height such as your building and another one just has sort  
22 of a peak roof and then it falls away, so it's a lower --

23 MR. LANDFAIR: There's less building mass with  
24 the --

25 MR. KNOFF: Right.

1 MR. LANDFAIR: -- the gabled roof or the peak  
2 roof, yes.

3 MR. LANDFAIR: Thank you.

4 MR. KNOFF: Now I believe in your testimony, I  
5 believe, I think it was on the, in the first hearing, but in  
6 any event, I have you quote, unquote, that the City Homes  
7 have a, quote, "Unique orientation," unquote. Do you recall  
8 that testimony?

9 MR. LANDFAIR: Yes, I, I stand by that, yes. I  
10 agree with that.

11 MR. KNOFF: Now does that unique orientation, I'm  
12 trying to understand that, in terms of that the home, town  
13 homes don't face Montgomery Lane, but the side, I don't know  
14 how you describe that.

15 MR. LANDFAIR: That was my intent. No, that's my  
16 intent, yes. I think that's somewhat unique or unusual.  
17 It's not typical in terms of --

18 MR. KNOFF: Right.

19 MR. LANDFAIR: -- even for an urban townhouse.

20 MR. KNOFF: Now looking at the picture, the  
21 exhibit right behind you --

22 MR. LANDFAIR: Yes.

23 MR. KNOFF: -- would you say that those town homes  
24 constitute really the bulk of the Montgomery Lane on the  
25 south side?

1 MR. LANDFAIR: Certainly today and I think even  
2 once the project along the east side there with Woodmont  
3 Avenue is constructed, yes, I think they make up the bulk of  
4 the frontage along Montgomery Lane.

5 MR. KNOFF: And so it establishes this unique  
6 orientation along that side of the street?

7 MR. LANDFAIR: Yes.

8 MR. KNOFF: And part of that unique orientation is  
9 not only that the townhouses face sideways so to speak, but  
10 they're broken up with courtyards between townhouses and  
11 alleys between townhouses. It's not a solid mass, is that  
12 correct?

13 MR. LANDFAIR: Correct. You have two mews which  
14 are landscaped in part, they provide the public use space.  
15 And then you have three alleyways that provide access for  
16 the garages.

17 MR. KNOFF: And would you agree with me that one,  
18 one standing on the street on the north side looking at the  
19 townhouses in terms of bulk and mass gets quite a different  
20 impression than if they stood on the south side and looked  
21 into your project even if it were the same height because  
22 your project is solid mass, is it not?

23 MR. LANDFAIR: It's, it's wider, I grant you that,  
24 at the base where it fronts along the street. You know,  
25 it's 80 feet in width, plus the scallop going up 50 feet.

1 So, yes, the impression of our building would be different  
2 than the impression you would get from the City Homes town  
3 homes.

4 MR. KNOFF: Well, where did I get 108 feet from  
5 this morning? I thought I remembered 108 feet in width.

6 MR. LANDFAIR: I, during our lunch break, I had a  
7 chance to review the dimension and so I can formally correct  
8 the record now or I can correct it later.

9 MS. ROBESON: Well, I would prefer if you do it  
10 now.

11 MR. LANDFAIR: Okay.

12 MS. ROBESON: What is the correct --

13 MR. LANDFAIR: The correct dimension actually is  
14 79 feet along --

15 MS. ROBESON: Is that for --

16 MR. LANDFAIR: That's from the --

17 MS. ROBESON: Just for the record I just am asking  
18 you to identify the measurement.

19 MR. LANDFAIR: The measurement of the building  
20 along its base from the westernmost point to the easternmost  
21 point where it begins to scallop is 79 feet.

22 MR. KNOFF: Oh, where it begins to scallop?

23 MR. LANDFAIR: Right. So I'm not, I'm not  
24 including the scalloped area. So it's just from the  
25 westernmost point to the easternmost point.

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1 MR. KNOPF: Well, okay, bear with me. I'm the  
2 first to admit I'm not so good in spatial relations. If I'm  
3 on the south side of Montgomery Lane right where West Way  
4 is, across the street, and I'm looking at your project,  
5 would I not see the 79 feet of your building along  
6 Montgomery Lane and also the scalloped portion?  
7 MR. LANDFAIR: Certainly you would. The scalloped  
8 portion is receding, so the impression of building mass, I  
9 think, would be differ than if it was just a solid building  
10 mass to the corner.  
11 MR. KNOPF: I see. And how much does it recede?  
12 We talked about this before. It depends.  
13 MR. LANDFAIR: It depends.  
14 MR. KNOPF: It's receding almost nothing where it  
15 starts to curve and then it recedes more in the center.  
16 MR. LANDFAIR: Right.  
17 MR. KNOPF: So if the difference is between 79  
18 and, I'm sorry --  
19 MR. ABRAMS: 108.  
20 MR. KNOPF: It would be 79 and 108, we're not  
21 saying between 79 and 108 it's all receded so many feet. It  
22 starts out at zero feet and goes inches until you go around.  
23 MR. LANDFAIR: But it's about, you know, if it was  
24 to continue to the corner, you would add another 28 feet to  
25 the width of the building.

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1 MR. KNOPF: And that's 108 in total. And do you  
2 have any idea of the townhouses, the side of the townhouses,  
3 how many feet those are just roughly?  
4 MR. LANDFAIR: Can I scale it? May I scale it?  
5 MR. KNOPF: Sure. But don't use the one that you  
6 said didn't have a scale.  
7 MR. LANDFAIR: It's about 38 feet.  
8 MR. KNOPF: 38 feet. As long as you're there --  
9 MR. LANDFAIR: Uh-huh.  
10 MR. KNOPF: -- am I correct that the alleys  
11 between the townhouses in terms of your width is about the  
12 same size as the width of Montgomery Lane?  
13 MR. LANDFAIR: I think that's probably a fair  
14 assumption without measuring it. Actually they're closer to  
15 30 feet than the other --  
16 MR. KNOPF: Oh, the alleys are wider than  
17 Montgomery Lane?  
18 MR. LANDFAIR: Yes, they are.  
19 MR. KNOPF: On the rooftop structure, the HVAC  
20 goes up there?  
21 MR. LANDFAIR: Among other things, yes.  
22 MR. KNOPF: But, and the elevator shafts have to  
23 go up there too, don't --  
24 MR. LANDFAIR: Correct.  
25 MR. KNOPF: And is 10 feet, is that the, is that

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1 conservative? Wouldn't it be more like 15 feet to 20 feet?  
2 MR. LANDFAIR: I'll have to defer to the  
3 architect. I don't know offhand. I don't know if it's even  
4 been finally designed to be honest with you. I wouldn't  
5 know. I would approximate 10 feet though.  
6 MR. KNOPF: Approximate? Okay. Yes, the 106f, I  
7 think it is --  
8 MR. LANDFAIR: Yes, the aerial.  
9 MR. KNOPF: Just bear with me, I've got to get  
10 the -- we have along Hampden Lane, we have that dubbed in  
11 block of buildings, I guess, if you're starting at the  
12 corner of Arlington and heading toward Woodmont.  
13 MR. LANDFAIR: Correct.  
14 MR. KNOPF: No, on Hampden.  
15 MR. LANDFAIR: I'm sorry, yes, Hampden Lane with  
16 Hampden building and then the HOC, correct.  
17 MR. KNOPF: Okay. Now you've dubbed in buildings  
18 because, I mean they haven't been built yet, it's to be  
19 approved --  
20 MR. LANDFAIR: Correct.  
21 MR. KNOPF: -- except --  
22 MR. LANDFAIR: Right.  
23 MR. KNOPF: -- last dubbed in. Isn't that the HOC  
24 building, I'm sorry, of that group right --  
25 MR. LANDFAIR: This is the HOC building.

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1 MR. KNOPF: That has been built, isn't it?  
2 MS. ROBESON: Okay. When you say this, you're  
3 talking to the one that has the courtyard --  
4 MR. LANDFAIR: I'm talking about --  
5 MS. ROBESON: -- in the rear along Hampden Lane?  
6 MR. LANDFAIR: Correct, a U-shaped building. It's  
7 in the center of the block on the north side of Hampden  
8 Lane, left an equal distance from Arlington to Woodmont.  
9 MR. KNOPF: That one isn't in place, is it?  
10 MR. LANDFAIR: It is in place, yes.  
11 MR. KNOPF: And am I correct that that contains  
12 the HOC units?  
13 MR. LANDFAIR: Correct. Correct.  
14 MR. KNOPF: Now are you familiar with what that  
15 looks like?  
16 MR. LANDFAIR: Yes, I am, yes.  
17 MR. KNOPF: And doesn't that have porches or  
18 balconies in the front --  
19 MR. LANDFAIR: It does.  
20 MR. KNOPF: -- that market as a definite  
21 residential building?  
22 MR. LANDFAIR: It's a very attractive building,  
23 yes.  
24 MR. KNOPF: Well, why wasn't that put in there  
25 when you have all the other buildings put in there that have

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1 been built?

2 MR. LANDFAIR: It's a function of the image from

3 Google. We went to Google Earth, which was the source for

4 the aerial photograph and sometimes, depending upon the

5 area, it's updated or it's not updated. In this case, it

6 would have been terrific if it was reflected in the Google

7 image, but it wasn't. So rather than ignore it, we wanted

8 to go ahead and portray it as best we could.

9 MR. KNOFF: All right. Well, just, I'm looking,

10 I'd ask you to look at 106g, which is, it's labeled

11 surrounding, existing and improved TSR projects. It looks

12 like this.

13 MR. LANDFAIR: Okay. Okay.

14 MR. KNOFF: Okay. Now in terms of the Montgomery

15 Lane being a mixed use street and we've been focusing on

16 compatibility with existing structures --

17 MR. LANDFAIR: Right.

18 MR. KNOFF: -- I'm looking at 4825 Montgomery

19 Lane, that --

20 MR. LANDFAIR: The Sandy Spring building, yes.

21 MR. KNOFF: Yes. That's not a showing of what

22 faces Montgomery Lane, thought. Isn't that what faces West

23 Lane?

24 MR. LANDFAIR: Well, it's showing -- the image is

25 taken from the corner, so this side of the building --

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1 MS. ROBESON: Wait --

2 MR. LANDFAIR: -- the side that has --

3 MS. ROBESON: Okay. The driveway, the side with

4 the driveway --

5 MR. LANDFAIR: Correct.

6 MS. ROBESON: -- are those on West Lane?

7 MR. LANDFAIR: The garage entrances face West

8 Lane --

9 MS. ROBESON: Okay.

10 MR. LANDFAIR: -- and then the other side, the

11 narrow side of the building, if you will, faces Montgomery

12 Lane.

13 MR. KNOFF: So if one wanted to, as we do, compare

14 your project with other buildings along Montgomery to see

15 whether the character and how it fits, shouldn't we really

16 be looking at the narrower portion to the right rather than

17 backing up into West Lane? Is there some reason why this

18 was facing this direction?

19 MR. LANDFAIR: It may have been the only image

20 available. I don't think there was any particular reason

21 why this angle was taken.

22 MR. KNOFF: Okay. Similarly, with 4901 Hampden

23 Lane, that's at the corner of Hampden, Woodmont and

24 Montgomery Lane, is that not correct?

25 MR. LANDFAIR: Correct.

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1 MR. KNOFF: Well, what we have showing here at

2 4901 Hampden, that's not what faces Montgomery Lane, is it?

3 MR. LANDFAIR: This image here?

4 MR. KNOFF: Yes.

5 MR. LANDFAIR: Correct.

6 MR. KNOFF: Okay.

7 MR. LANDFAIR: This is the image that faces

8 Hampden Lane, so --

9 MR. KNOFF: So we're comparing oranges and apples

10 if we were to compare the facade, facades along Montgomery

11 Lane and the facade of this new building because we don't

12 have the right side.

13 MR. LANDFAIR: Well, again, the images were not

14 selected for any particular use and they were available. We

15 felt they best represented the building as approved. We

16 didn't have a tremendous amount of control over what was

17 available. So we did the best we can in terms of

18 selecting --

19 MR. KNOFF: Well, let's think about that. The

20 best is approved. Isn't --

21 MS. HARRIS: I'm going to object because that

22 exhibit was entered into the record not for the purposes of

23 making comparisons about what appears on Montgomery Lane.

24 It was submitted into the record for another reason which

25 the architect will testify to.

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1 MS. ROBESON: Well, it was submitted, I assume,

2 for compatibility, is that correct, to demonstrate

3 compatibility with the surrounding buildings?

4 MS. HARRIS: And to show variety of the

5 architecture in the area.

6 MS. ROBESON: Well, you know, I don't have that

7 testimony in front of me. I think what Ms. Knopf is cross-

8 examining on is that does this really show compatibility,

9 that these images show compatibility. Is that your point

10 with this?

11 MR. KNOFF: Well, I, my understanding was his

12 testimony was that this project is compatible with what's on

13 the summary.

14 MS. ROBESON: Yes. And you're saying --

15 MR. KNOFF: And they put in these photos. That's

16 what they're relying on.

17 MS. HARRIS: Is it, well, part of the problem was

18 we were required to submit exhibits prior to them being

19 introduced by individual experts that were testifying to

20 them.

21 MS. ROBESON: Well --

22 MS. HARRIS. So that is in the record. You are

23 correct. But it's not in the record for the purpose which

24 you just stated.

25 MS. ROBESON: Well, but it's been referred to.

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1 MS. HARRIS: I don't --  
2 MS. ROBESON: Okay. What --  
3 MS. HARRIS: I don't believe that it has. It  
4 wasn't yesterday. Maybe on January 11th, but that is not my  
5 recollection.  
6 MS. ROBESON: That's what I'm -- that's what --  
7 MR. LANDFAIR: It could have been the architect's  
8 testimony during the earlier hearing.  
9 MS. ROBESON: That's what I'm thinking because --  
10 MS. HARRIS: The architect didn't testify.  
11 MS. ROBESON: I thought that I had seen it before.  
12 What's the number?  
13 MR. KNOPF: On this exhibit?  
14 MS. ROBESON: Yes.  
15 MR. KNOPF: 106g.  
16 MS. ROBESON: Well, that was submitted after, I  
17 think, the --  
18 MS. HARRIS: There was a previous exhibit which  
19 was submitted that was identical to this but for the fact  
20 that it didn't have the building names identified on it, but  
21 106g --  
22 MS. ROBESON: Okay. So I do recall, I can't prove  
23 it at the moment, that he had relied on this in his  
24 testimony of January 25th.  
25 MS. HARRIS: Mr. Landfair?

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1 MS. ROBESON: Yes, but what was the prior exhibit?  
2 MS. HARRIS: Just a moment.  
3 MS. ROBESON: I understand your point. Your point  
4 is we can't take, you know, their cross-examining on  
5 exhibits that you haven't had a chance to lay the foundation  
6 for. The only thing is I remember an aerial photo like that  
7 and I thought I remembered this. But if you can give me the  
8 prior exhibit, I can try looking it up.  
9 MS. HARRIS: Just a moment.  
10 MR. KNOPF: Well, I -- well, we may be able to --  
11 MS. ROBESON: And, you know, I don't -- is it 81?  
12 MS. HARRIS: Hold on. Actually, it's --  
13 MR. ABRAMS: It is 81. It's the same as that.  
14 MS. HARRIS: But 81 was submitted on February  
15 15th. I, this is the booklet that we used during the  
16 January 11th and I don't have a number at the bottom  
17 indicating the various points we were identifying exhibits.  
18 I think they're like in the 53 to 60 range. This exhibit  
19 does not have a number on it that I would have handwritten  
20 in.  
21 MS. ROBESON: And what's your problem with him  
22 being cross-examined on it?  
23 MS. HARRIS: The purpose of the exhibit is not to  
24 show compatibility on Montgomery Lane. The purpose of  
25 that -- and, in fact, two of the projects aren't even on

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1 Montgomery Lane. The purpose of the exhibit was to show  
2 architecture variety in the surrounding area and so Mr.  
3 Knopf is trying to make a point which that exhibit isn't  
4 intended to make.  
5 MS. ROBESON: I think I was remembering this  
6 exhibit which I have noted is in the record. Do you have  
7 anything to say, Mr. Knopf?  
8 MR. KNOPF: Well, I think I can ask questions  
9 around this problem.  
10 MS. ROBESON: You can reserve your questions for  
11 the, whoever is going to testify to it.  
12 MR. KNOPF: Right, but I have -- let me try a  
13 question and see if it isn't appropriate.  
14 MS. ROBESON: Okay.  
15 MR. KNOPF: In, you testified that you thought  
16 this proposed project is compatible with the character and  
17 development on this mixed street, is that correct?  
18 MR. LANDFAIR: Yes. Yes.  
19 MR. KNOPF: When you did, gave that testimony, did  
20 you have in mind what is labeled on Exhibit 106g, 4901  
21 Hampden Lane? Was that the picture that you had in mind  
22 when you said your building would be compatible?  
23 MR. LANDFAIR: Well, with the images that are  
24 depicted here, buildings both existing and proposed, as well  
25 as other buildings in the immediate area, yes.

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1 MR. KNOPF: All right. So you did have that  
2 structure in mind as the way it looks?  
3 MR. LANDFAIR: Yes.  
4 MR. KNOPF: That's just all I wanted to know.  
5 Now, and your understanding then is that it was sort of all,  
6 that's what it looked like on Edgemoor, I'm sorry,  
7 Montgomery Lane and it was that height and that design with  
8 all the glass?  
9 MR. LANDFAIR: Yes.  
10 MR. KNOPF: All right. Now I'm going to show you,  
11 I have an exhibit --  
12 MS. HARRIS: Are you introducing an exhibit?  
13 MR. ABRAMS: Is this an additional exhibit?  
14 MR. KNOPF: Yes, it's an additional exhibit  
15 because I didn't know I needed it. I mean --  
16 MS. ROBESON: Well, wait a minute. The agreement  
17 was that you would have -- do you really need it because is  
18 there a way you can make your point about it because nobody  
19 was supposed to be surprised at the hearing?  
20 MR. KNOPF: Well, yes, but I mean I always --  
21 MS. ROBESON: What's the exhibit?  
22 MR. KNOPF: The exhibit is what has been actually  
23 approved for the 4901 Hampden as it faces Montgomery Lane,  
24 which is a totally different structure than what we're  
25 relying on and I wanted to show him that and see if that



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1 from.  
2 MR. KNOPF: Well, but that, that misses the point  
3 I'm trying to make that his testimony as to compatibility --  
4 MS. ROBESON: But you've already made this. He  
5 already said he did base it on that.  
6 MR. KNOPF: Right.  
7 MS. ROBESON: So if you think that that is  
8 incorrect, you can bring that out when the architect comes.  
9 MR. KNOPF: Well, what I wanted to ask him --  
10 MS. ROBESON: Or whoever.  
11 MR. KNOPF: -- was if the building was lowered, it  
12 has such and such a thing in the back would change his idea  
13 as to whether this building is in back.  
14 MS. ROBESON: Well, you can still ask that.  
15 MR. KNOPF: All right. Well, that's why I wanted  
16 to show him. It has a photo of the building.  
17 MS. ROBESON: Well, no --  
18 MR. KNOPF: No?  
19 MS. ROBESON: You can't show him. Just ask him --  
20 MR. KNOPF: All right. I didn't think about it.  
21 Sorry.  
22 MS. ROBESON: It's okay.  
23 MR. KNOPF: Thank you. My assistant has pointed  
24 out 102g.  
25 MS. ROBESON: Go it is in the record?

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1 MR. KNOPF: Well, it's a different, but it's good  
2 enough.  
3 MS. ROBESON: Okay, 102g. If it's got a number  
4 and a g, I'm going to assume it's in this case.  
5 MR. KNOPF: So may I hand him this?  
6 MS. ROBESON: You can hand him 102g if that's  
7 what's in the record.  
8 MR. KNOPF: 102g, I am referring to page 7.  
9 MS. ROBESON: Okay.  
10 MR. KNOPF: There is a --  
11 MS. ROBESON: That you can show the witness.  
12 MR. KNOPF: And what I'm handing him is 102g is  
13 the Council resolution dated July 25, 2006, approving  
14 application 6819, which is 49001 Hampden Lane.  
15 MS. ROBESON: Okay. I think it's 4901.  
16 MR. KNOPF: Oh, sorry.  
17 MS. ROBESON: That's okay.  
18 MR. KNOPF: Too many zeros.  
19 MS. ROBESON: We work through it.  
20 MR. KNOPF: Okay. Now I am --  
21 MS. HARRIS: Excuse me.  
22 MS. ROBESON: Yes?  
23 MS. HARRIS: Is that in your submission?  
24 MR. KNOPF: Yes. It's 102g. I gave her 102 as an  
25 exhibit number, but the, the Hearing Examiner's office put

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1 these on, each one of these.  
2 MS. HARRIS: You only submitted certain pages of  
3 that. Resolution 17-599?  
4 MS. ROBESON: Yes, I but I remember --  
5 MR. KNOPF: This was in it.  
6 MS. ROBESON: -- taking, we, what I said is Mr.  
7 Knopf had asked me early on is this one of the Council  
8 resolutions?  
9 MR. KNOPF: Yes, it is.  
10 MS. ROBESON: And he did ask me would I take  
11 official notice of the Council resolutions and I said yes,  
12 so we don't have a larger record. And if I had time, I do  
13 remember the conversation.  
14 MS. HARRIS: I recall that conversation, but now  
15 we're at a disadvantage because I've never seen the picture  
16 before.  
17 MR. KNOPF: Well --  
18 MS. ROBESON: Well --  
19 MR. KNOPF: It's in, no, it's --  
20 MS. ROBESON: -- you know --  
21 MR. KNOPF: No, wait a minute, that's part of what  
22 I submitted.  
23 MS. ROBESON: Are you looking in the right file?  
24 MS. HARRIS: I'm looking at Mr. Knopf's March 8th  
25 submission and it is labeled 4g on a submission,

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1 resolution --  
2 MR. KNOPF: 4c, it's labeled as 4c.  
3 MS. HARRIS: 4c?  
4 MR. ABRAMS: Well, 4c is the resolution.  
5 MR. KNOPF: Right.  
6 MR. ABRAMS: Doesn't have it.  
7 MR. KNOPF: Page 7?  
8 MS. ROBESON: Let's go off the record for a moment  
9 and we'll try and locate this.  
10 (Recess)  
11 MS. ROBESON: Well, wait a minute. We're back on  
12 the record. Okay. Come up, yes. Do you have an  
13 application number? Yes, you're referring to 102. Right.  
14 THE COURT REPORTER: I'm not --  
15 MS. ROBESON: Okay. How is this? Except g at 19,  
16 is that what you're looking -- that's not the one you're  
17 looking for, is it?  
18 COURT REPORTER: You have to speak louder --  
19 MS. ROBESON: Yes.  
20 COURT REPORTER: -- I cannot hear you from over  
21 here.  
22 MS. ROBESON: Okay. But what I intended was that  
23 we allow me to take official notice. He may not have  
24 submitted that as an exhibit, but what I intended is that we  
25 be able to take official notice of the entire decision

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1 rather than have the decision, you know, all these lengthy  
2 decisions in the file. And I can find that section of the  
3 transcript.  
4 MS. HARRIS: I recall a conversation as I  
5 acknowledged previously.  
6 MS. ROBESON: Okay. So what I need, and that was,  
7 so for some reason sound-wise this room is more difficult.  
8 Mr. Knopf, what are you attempting to show the witness?  
9 MR. KNOPF: I wanted to show him the, contained in  
10 the resolution is an elevation of the building that they  
11 approved.  
12 MS. ROBESON: In G-819?  
13 MR. KNOPF: Yes, it's G-819, yes.  
14 MS. ROBESON: So I'm going to allow that to come  
15 in.  
16 MR. KNOPF: I just wanted to show it to him.  
17 Thank you. I'm referring to page 7 of that resolution.  
18 MS. ROBESON: Okay.  
19 MR. KNOPF: And I'm showing it to him. And do you  
20 want to hold onto that? But I want it back. Mr. Landfair,  
21 would you agree with me that that, what would I call it, an  
22 elevation depiction, what's the title?  
23 MR. LANDFAIR: Well, it's titled artist rendering.  
24 MR. KNOPF: A rendering? Thank you. Would you  
25 agree with me that that rendering is very different than the

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1 photo shown on Exhibit 106, is that f, whatever?  
2 MS. ROBESON: 106g.  
3 MR. KNOPF: G, would you agree with me that it's  
4 different?  
5 MR. LANDFAIR: Yes, I would agree it's different.  
6 MR. KNOPF: And if I were to advise you that --  
7 can you see where it shows the rendering facing Montgomery  
8 Lane? I think it's the right-hand, lower rendering.  
9 MR. LANDFAIR: Yes, I see it, yes.  
10 MR. KNOPF: And it's that rendering?  
11 MR. LANDFAIR: It's actually at the top of page 8.  
12 MR. KNOPF: On the top of page 8? Thank you. And  
13 does that, those renderings are, you said are different than  
14 what you've seen on 106g, correct?  
15 MR. LANDFAIR: Correct.  
16 MR. KNOPF: And does this, if I were to advise you  
17 that the height, part of the height on Montgomery Lane is 60  
18 feet, not 70 feet? Now if you had in mind, and does this  
19 building here have a lot less glass than the one that is in  
20 106g?  
21 MR. LANDFAIR: Yes, it does.  
22 MR. KNOPF: Would you agree with me that that  
23 appears more residential in character than 106g?  
24 MR. LANDFAIR: Architecturally it's more  
25 traditional.

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1 MR. KNOPF: More traditional? All right. Well,  
2 if, having in mind a -- the right-hand, on the corner of the  
3 building where I said the 60 feet, is that rooftop terrace  
4 of some sort?  
5 MR. LANDFAIR: It appears to be, yes.  
6 MR. KNOPF: Living area for a unit there that can  
7 go out on a terrace?  
8 MR. LANDFAIR: Right.  
9 MR. KNOPF: That, again, is considerably different  
10 than what's depicted in 106g?  
11 MR. LANDFAIR: Yes, it appears to be.  
12 MR. KNOPF: Now would you, having this in mind as  
13 to what you're holding in your hand now, 102c? Oh, yes, g,  
14 I guess it is, g.  
15 MS. ROBESON: Yes.  
16 MR. KNOPF: Is that -- would you say, would you  
17 agree with me that the building that you are proposing here  
18 today perhaps is more compatible with what the 106g building  
19 is than what the actual building approved by the Council is?  
20 MR. LANDFAIR: Well, and you would only make that  
21 finding if you were talking about architectural vernacular.  
22 Our building is contemporary architecture. The picture  
23 depicted on this exhibit is surrounded in existing and  
24 approved TSR project exhibit is also contemporary. Just  
25 because they're both contemporary elevations doesn't

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1 necessarily mean that our building would be any more or less  
2 compatible with this particular one.  
3 MR. KNOPF: Okay. Thank you. But you would agree  
4 that the one that the Council resolution, you said you would  
5 characterize it as more traditional?  
6 MR. LANDFAIR: I would characterize that as such,  
7 yes.  
8 MR. KNOPF: Can I have that back? I'm sorry.  
9 MR. LANDFAIR: Sure.  
10 MR. KNOPF: Thank you. Sorry. In terms of what  
11 is traditional and much more modern, I'd ask you to look at  
12 106g, the Edgemoor Highrise, the photo of that in the left-  
13 hand corner. Now does that have -- does one characterize  
14 that as having more traditional features than the modern  
15 building?  
16 MR. LANDFAIR: I can render my personal opinion,  
17 but I'm not an architect, so I'm not speaking as a --  
18 MR. KNOPF: All right.  
19 MR. LANDFAIR: -- professional.  
20 MR. KNOPF: Well, how does one describe -- this is  
21 important for terms of your testimony with regard to  
22 compatibility in the Sector Planning. Pardon me, because if  
23 you don't have the knowledge, I have even less knowledge,  
24 but what do you call these pointed features?  
25 MS. HARRIS: Well, objection. Perhaps the line of

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1 questioning should be reserved for the architect who is an  
2 expert in the field of architecture.

3 MS. ROBESON: Well, it doesn't -- he doesn't need  
4 the knowledge to cross-examine, but is there a point? Mr.  
5 Landfair, in my recollection, has not testified as to  
6 architectural compatibility. He's testified as to  
7 compatibility, density, height, Sector Planning compliance,  
8 many, many compatibility, but I don't recall architectural  
9 compatibility. Is this going to something else?

10 MR. KNOFF: No, I guess I hadn't quite made a  
11 distinction between -- he did testify that his building is  
12 aesthetically compatible with what's on the street and  
13 surrounding buildings and I guess I don't know quite how one  
14 separate the aesthetic compatibility from an architectural  
15 compatibility. That's what I was trying to --

16 MS. ROBESON: Well, yes.

17 MS. HARRIS: Well, if you're starting to question  
18 the land planner on architectural terms of stylistic things  
19 pertaining to the building form and architecture, that's  
20 clearly questions for the architect, not a land planner.

21 MS. ROBESON: Yes, I guess he's not qualified as  
22 an expert in architecture.

23 MS. HARRIS: So --

24 MS. ROBESON: He's qualified as an expert in land  
25 planning, so not to draw too fine a distinction because

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1 compatibility does encompass a lot of things, but I think  
2 that it is beyond the scope of -- I did look back through my  
3 summary of what he testified to before and I didn't see  
4 that. And I know you're kind of in the position of having  
5 to jump around and figure out what Mr. Abrams asked versus  
6 what you need to ask, but I do think that series of  
7 questions should wait. I have that he testified to high  
8 rise, low rise, number of units, size of units, but I don't  
9 see architectural compatibility.

10 MR. KNOFF: Well, I'm going to get at a different  
11 place, but I have on -- I'm not quite sure where the Hearing  
12 Examiner would put design criteria in the category of  
13 architecture or not.

14 MS. ROBESON: Well, design of what?

15 MR. KNOFF: Buildings, design buildings at, on  
16 page, I have, on page 170 of the transcript of the January  
17 11th hearing, he talked about the design criteria as called  
18 for in the Sector Plan and whether they were met.

19 MS. ROBESON: And that would be the, but the  
20 Sector Plan relates to the step backs?

21 MR. KNOFF: Well, I was just going to go through  
22 that with --

23 MS. ROBESON: Okay. The step backs are, he's  
24 testified at length about the step backs.

25 MR. KNOFF: Well --

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1 MS. ROBESON: So if you can tie your questions on  
2 the Edgemoor into those, that previous testimony, that's  
3 fine.

4 MR. KNOFF: Well, I -- I will tie it. I just have  
5 to get the right pages.

6 MS. ROBESON: Do you need a -- why don't we do  
7 this? Why don't we take a 10-minute break?

8 MR. KNOFF: Thank you.

9 MS. ROBESON: And then -- because I know you've  
10 been juggling back and forth and you can re-look at your  
11 questions in light of that, okay?

12 MR. KNOFF: Thank you. Thank you.

13 MS. ROBESON: We're off the record.

14 (Recess)

15 MS. ROBESON: All right. Is everyone ready? I'm  
16 taking that silence as a yes and we're back on the record.

17 Mr. Knopf.

18 MR. KNOFF: Okay. Thank you. Just something  
19 clear, I previously referred to the, a rendering. I said it  
20 was on page 7 of the report which the Hearing Examiner said  
21 she would take judicial notice of. That continues onto page  
22 8.

23 MS. ROBESON: Okay. That's fine.

24 MR. KNOFF: I know you may read the transcript and  
25 you might --

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1 MS. ROBESON: Okay.

2 MR. KNOFF: Thank you. Okay, Mr. Landfair, you've  
3 testified that in your opinion, am I correct, that your  
4 opinion that the proposed project is compatible with this  
5 mixed street and the development that is currently on the  
6 street and projected to be on the street, is that correct?

7 MR. LANDFAIR: Yes.

8 MR. KNOFF: And now when you said it was  
9 compatible, in terms, did you have in mind the building  
10 itself as part of that compatibility?

11 MR. LANDFAIR: Yes, I'm thinking of the building,  
12 I discount more the facade treatment and I, I'm considering  
13 more of the building massing, the building setbacks, the  
14 building height, etcetera.

15 MR. KNOFF: The building height? Is that --

16 MR. LANDFAIR: The building height.

17 MR. KNOFF: -- that's part of it?

18 MR. LANDFAIR: Right, which would include the step  
19 back --

20 MR. KNOFF: Building setback?

21 MR. LANDFAIR: -- and the setbacks, correct.

22 MR. KNOFF: Massing?

23 MR. LANDFAIR: Yes.

24 MR. KNOFF: And you don't -- you give some or a  
25 lot of importance to the, what the building looks like?

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1 MR. LANDFAIR: Some, not, because I, again, I,  
2 when I'm working with a team, I'll defer to the expert, I'll  
3 defer to the architect and likewise in this setting I'll  
4 defer to the architect as well. But you can't completely  
5 discount the facade of the building from factoring into the  
6 compatibility equation.  
7 MR. KNOPF: So in your opinion is it, without  
8 completely discounting the facade, your opinion, would it be  
9 important if the building is observed by most people,  
10 considered by most people to be projecting an appearance of  
11 an office building as compared to a residential building, is  
12 that something that you want to consider?  
13 MR. LANDFAIR: Well, I have not heard that  
14 characterization. It's certainly not something that I would  
15 think of when I'm looking at the building, but it's a modern  
16 design and I can see how maybe some might think of a modern  
17 design or consider a modern design to have aspects of, you  
18 know, different types of uses.  
19 MR. KNOPF: Now, and I believe you've also  
20 testified with, that this building, in your opinion, meets  
21 the requirements of the Sector Plan?  
22 MR. LANDFAIR: Yes.  
23 MR. KNOPF: And in terms, I believe you testified  
24 in terms of the design criteria?  
25 MR. LANDFAIR: Yes.

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1 MR. KNOPF: Now looking again at the Edgemoor,  
2 which is 106g photo --  
3 MR. LANDFAIR: Uh-huh.  
4 MR. KNOPF: -- that has, well, why don't you tell  
5 us in my opinion and you tell me your opinion, this  
6 projects, has features that are normally considered part of  
7 the residential building as compared to the office building.  
8 Could you -- such as balconies. You don't normally  
9 associate balconies, do you, with a commercial office  
10 building?  
11 MR. LANDFAIR: Not normally, no.  
12 MR. KNOPF: This has balconies, is that correct?  
13 MR. LANDFAIR: Yes, it does.  
14 MR. KNOPF: And this has peaked roofs?  
15 MR. LANDFAIR: Yes, it does.  
16 MR. KNOPF: And is that type of roof that's  
17 normally associated with the residential building?  
18 MR. LANDFAIR: Ordinarily, yes.  
19 MR. KNOPF: It has, well, you tell me what other  
20 features that you see there. Does it have gables?  
21 MR. LANDFAIR: It does have gables. It has, as  
22 you've pointed out, balconies. It has windows and doors  
23 that have, it looks like window bullions. In other words,  
24 they, the windows and the doors are of a scale that would be  
25 more typically associated with them, residential-type

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1 buildings.  
2 MR. KNOPF: And as articulated?  
3 MR. LANDFAIR: Yes.  
4 MR. KNOPF: Now am I correct the building that,  
5 this project here, we don't have closed features, is that  
6 correct?  
7 MR. LANDFAIR: I'm sorry, say again?  
8 MR. KNOPF: We don't have those features?  
9 MR. LANDFAIR: We have articulation of the  
10 building facade along particularly West Lane and at the  
11 corner of the building and, of course, we have the step back  
12 feature, but it has a more contemporary facade that I don't  
13 think anybody would deny that.  
14 MR. KNOPF: Especially the portion that just  
15 fronts Montgomery Lane?  
16 MR. LANDFAIR: Correct.  
17 MS. ROBESON: Okay, because we're getting in  
18 architecture territory and I'd rather just move beyond that.  
19 MR. KNOPF: Well, he -- I don't know how you  
20 separate his compatibility from the architecture, plus he  
21 testified that that Sector Plan, and I'm going to ask him --  
22 MS. ROBESON: Okay. If it's in the --  
23 MR. KNOPF: -- some questions about it.  
24 MS. ROBESON: -- Sector Plan --  
25 MR. KNOPF: Yes.

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1 MS. ROBESON: -- that would be within his --  
2 MR. KNOPF: Okay. I'm referring now to page 40 of  
3 the Sector Plan.  
4 MR. LANDFAIR: Okay.  
5 MS. ROBESON: Okay.  
6 MR. KNOPF: And I'm reading No. 5 where it says  
7 treat rooftops as sculpture elements that contribute to the  
8 visual interest of the skyline where appropriate consider  
9 rooftops as usable outdoor space for recreational or  
10 commercial purposes. Now is this the 12-foot setback that  
11 you would say meets this requirement?  
12 MR. LANDFAIR: Well, this question has been asked  
13 before. Well, I'm trying to answer it again. We are not  
14 proposing any sculptural elements at least as of yet on top  
15 of the roof. We may or may not have a recreational amenity.  
16 It would be passive in nature on the roof, but that has not  
17 been designed, it has not been discussed. So the building  
18 may ultimately have one or more of these elements, but at  
19 this stage as part of this zoning case, we have not proposed  
20 this.  
21 MR. KNOPF: All right. Now I'm referring to  
22 Paragraph 7 on the same page.  
23 MR. LANDFAIR: Uh-huh.  
24 MR. KNOPF: It says achieve compatibility with  
25 nearby residential areas through techniques such as step

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1 down height, articulate building walls and facade  
2 treatments --  
3 MR. LANDFAIR: Right.  
4 MR. KNOPF: -- and other architectural means  
5 designed to minimize the building bulk in shadow impacts --  
6 MR. LANDFAIR: Right.  
7 MR. KNOPF: -- and create a gradual transition.  
8 MR. LANDFAIR: Right.  
9 MR. KNOPF: Those techniques that are set forth  
10 there, are those techniques the ones we just talked about  
11 the Edgemoor building?  
12 MR. LANDFAIR: They are employed to some degree by  
13 the Edgemoor Highrise, yes.  
14 MR. KNOPF: But they're, they're --  
15 MR. LANDFAIR: Likewise, they are utilized on our  
16 building as well.  
17 MR. KNOPF: But you mentioned the articulation  
18 that was basically not along Montgomery Lane?  
19 MR. LANDFAIR: Well, you can't discount the  
20 scallop which, of course, also fronts Montgomery Lane, as  
21 well as West Lane at the corner of the building. So this, I  
22 think, goes a long way towards providing some relief from  
23 the building massing along --  
24 MR. KNOPF: Does your building have --  
25 MS. HARRIS: I would like to object again and on

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1 the same line which is we submitted elevations. They're  
2 going to be introduced by the architect. It would be much  
3 more efficient and effective if the architect can talk about  
4 the architecture of the building.  
5 MS. ROBESON: I agree. He testified as to  
6 compatibility with the Sector Plan, but we can use multiple  
7 witnesses to answer that as far as compatibility and I would  
8 like to stay away from the architectural issues with this  
9 witness.  
10 MR. KNOPF: All right. Just one last question,  
11 because he did say that it was consistent with the Sector  
12 Plan, I'm referring to page 85, No. 5. It says design  
13 rooftops to achieve a residential image by using hip roofs,  
14 gables, turrets and other type of pitched roof lines. The  
15 varied group line is desirable to improve the character and  
16 reduce the sense of bulk. Now your building is a flat roof,  
17 is it not?  
18 MR. LANDFAIR: Correct.  
19 MR. KNOPF: So it does not meet that requirement?  
20 MR. LANDFAIR: No, it doesn't meet that particular  
21 requirement, but I would call your attention to the opposite  
22 page which has an illustration of what Montgomery Lane could  
23 look like and it's illustrating flat roof structures.  
24 MR. KNOPF: Which illustration, I'm sorry, are you  
25 on page 84?

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1 MR. LANDFAIR: This would be page 84, right,  
2 Figure 4.15.  
3 MR. KNOPF: 4.15. I don't see flat roofs. I see  
4 sloped roofs. I'm sorry.  
5 MR. LANDFAIR: No, that's a flat roof structure of  
6 the left side of the street.  
7 MR. KNOPF: But on the corner is there not a, what  
8 do you call that that goes up the corner that rises up  
9 there?  
10 MR. LANDFAIR: A little modest gable of some sort.  
11 MR. KNOPF: Gables?  
12 MR. LANDFAIR: That's a flat roof structure.  
13 MR. KNOPF: And on the opposite side of the street  
14 it's all --  
15 MR. LANDFAIR: Peaked roofs. It's hard to tell  
16 what the other structure is.  
17 MR. KNOPF: Okay. Thank you.  
18 MS. ROBESON: Does anyone have control over that  
19 beeping or is that something in the room that --  
20 MR. BERMAN: It's probably me. I'm sorry. I'll  
21 do what I can to stop it.  
22 MS. HARRIS: It's his hearing aide.  
23 MS. ROBESON: Oh, you're hearing aide. Okay. I  
24 remember you have one.  
25 MR. BERMAN: My hearing aide. I'll take it off.

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1 MS. ROBESON: No, it's okay. If you need it to  
2 hear, it's okay. Mr. Berman, don't take it off.  
3 MR. BERMAN: No, but I'll do what I can. I'll put  
4 it in order. Thank you.  
5 MR. KNOPF: Now I am correct, you testified that  
6 it was your understanding that the, excuse me, the County  
7 policy, the Sector Plan policy, the housing policy was to  
8 maximize the number of MPDU units or --  
9 MR. LANDFAIR: Well, to provide affordable housing  
10 and, of course, MPDU's in part satisfies that goal.  
11 MR. KNOPF: And your understanding is that this is  
12 what the reason why, one of the reasons why this project  
13 should be approved because it provides so many MPDU's?  
14 MR. LANDFAIR: Or MPDU bonus, correct.  
15 MR. KNOPF: MPDU bonus? And to your knowledge has  
16 that view been persuasive with the County Council to allow  
17 projects with the MPDU increase overriding other concerns of  
18 compatibility or other Sector Plan concerns?  
19 MR. LANDFAIR: I can't think of specific examples,  
20 but I would say that the MPDU bonus legislation was, I  
21 believe, approved prior to the adoption of this Sector Plan  
22 which dates back to 1994. So that legislation was approved  
23 by the County Council. The County Council, likewise,  
24 adopted the Sector Plan. So I would presume that they, when  
25 they adopted the Sector Plan, felt that provisions, unless

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1 it's otherwise explicitly stated in the Sector Plan, that  
2 provisions such as the MPDU bonus don't contradict the  
3 recommendations found in the Sector Plan.  
4 MR. KNOPF: But did you not also testify that it  
5 was your understanding with the Council and the staff that  
6 they wanted to have as many dwelling units as possible in  
7 this area, the transit zone area, that their goal was to try  
8 to increase the number --  
9 MR. LANDFAIR: Correct.  
10 MR. KNOPF: -- of units?  
11 MR. LANDFAIR: So close to the Metro, absolutely.  
12 MR. KNOPF: Okay. Now I want to refer -- this is  
13 in the record -- to the G-819, which is 4901 Hampden Lane.  
14 And let me ask one other question. You had indicated that  
15 the height limits, well, let me rephrase that. You were at  
16 the Planning Board hearing when Mr., Commissioner Casey  
17 expressed some doubts about the validity or the importance  
18 should be given in the Master Plan height requirements,  
19 other requirements because the plan was sort of an older  
20 plan?  
21 MR. LANDFAIR: Well, he did state that, you know,  
22 the plan is an older plan.  
23 MR. KNOPF: Right.  
24 MR. LANDFAIR: Nevertheless, it's still a valuable  
25 guide and recommendations in it shouldn't be easily

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1 dismissed. But I think in his mind, at any rate, he felt  
2 like there are certain findings where there's more  
3 flexibility in terms of whether you find substantial  
4 conformance or not.  
5 MR. KNOPF: Okay. Well, are you aware of a  
6 Council decision recently where the Council lowered the  
7 height limits on Edgemoor, lowered the number of units  
8 authorized in buildings and lowered the number of MPDU's?  
9 MR. LANDFAIR: No.  
10 MR. KNOPF: You're not?  
11 MR. LANDFAIR: I'm not.  
12 MR. KNOPF: Well, if I can acquaint you with that,  
13 would that lead you to change your opinion that that perhaps  
14 you were mistaken that the Sector Plan's requirements to  
15 have as many units as possible, many MPDU units and great  
16 flexibility and the height is not an accurate perception?  
17 MR. LANDFAIR: I doubt it, but I'd be willing  
18 certainly to review it, but I haven't had a chance. I'm not  
19 familiar with that legislation.  
20 MR. KNOPF: And I wanted to go into my exhibits so  
21 I can question him on that. I don't --  
22 MS. ROBESON: Are they filed --  
23 MR. KNOPF: Yes.  
24 MS. ROBESON: -- already?  
25 MR. KNOPF: Yes.

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1 MS. ROBESON: Yes, you can -- that's fair. I know  
2 the one you're talking about because I presented that to the  
3 County Council.  
4 MR. KNOPF: I am --  
5 MS. ROBESON: Are you referring to G-819?  
6 MR. KNOPF: Yes, I am. And that is, well, I have  
7 to figure out which number your office assigned it. It was  
8 my 102, Exhibit G, and I, let's see if I can, 102a, b, c.  
9 MS. HARRIS: I'm going to object because the  
10 applicant did not testify about G-819 or --  
11 MS. ROBESON: Well --  
12 MS. HARRIS: -- 4901 for that matter.  
13 MS. ROBESON: -- he testified as MPDU's, the  
14 volume of MPDU's and that the height limits of the Sector  
15 Plan should be exceed for MPDU's because that's in the  
16 public interest.  
17 MS. HARRIS: Right.  
18 MS. ROBESON: So I think it's fair for cross-  
19 examination.  
20 MS. HARRIS: Okay.  
21 MR. KNOPF: Actually, I have --  
22 MS. ROBESON: And I actually thought of G-819 when  
23 he was testifying, but --  
24 MR. KNOPF: I have -- I'm trying to -- it's E-X  
25 102 --

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1 MS. ROBESON: I have 102g.  
2 MR. KNOPF: Right. And there, it is g, and there  
3 is also submitted the prior decision of the Council in c,  
4 102c. The g is the, approval of the development plan in  
5 2012 and the c is the --  
6 MS. ROBESON: Oh, I see.  
7 MR. KNOPF: -- is the prior. This has been  
8 modified several times by the Council.  
9 MS. ROBESON: Right. No, I have g as the original  
10 resolution approving it in 2006 and I have k --  
11 MR. KNOPF: K, that's right, k, I'm sorry, k is  
12 the current --  
13 MS. ROBESON: As the most recent DPA amendment.  
14 MR. KNOPF: Correct. That's what I have. Okay.  
15 Now -- Mr. Landfair, I want to -- you asked whether you were  
16 aware of the following. In the 4,000, what's now called  
17 4901 --  
18 MR. LANDFAIR: 01.  
19 MR. KNOPF: -- Hampden, that was originally  
20 proposed as 100 feet in height and that was rejected by the  
21 County Council as too high. Now I want to ask about this  
22 because this is important. If you take 106f or g, well,  
23 what is on the bottom there? I'm --  
24 MR. LANDFAIR: 106f.  
25 MR. KNOPF: F, I'm sorry. Now we have, the way

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1 the Sector Plan is set up, if you go across the other side  
2 of Woodmont Avenue, those are commercial office buildings  
3 there?  
4 MR. LANDFAIR: Yes, they are.  
5 MR. KNOPF: Right. And under the Sector Plan,  
6 those are to be the highest --  
7 MR. LANDFAIR: Yes.  
8 MR. KNOPF: -- in height?  
9 MR. LANDFAIR: As high as 200 feet.  
10 MR. KNOPF: And how high are those buildings?  
11 MR. LANDFAIR: Some of them are approaching 200  
12 feet. I don't think any are quite that high.  
13 MR. KNOPF: Am I correct that the Master Plan  
14 calls for as you cross Woodmont, you're supposed to be  
15 coming down?  
16 MR. LANDFAIR: Stepping down.  
17 MR. KNOPF: The so-called tenting concept?  
18 MR. LANDFAIR: Correct.  
19 MR. KNOPF: And that basically the street is  
20 supposed to have about 65 feet in height until you get to  
21 Arlington when you're to go down to 35 feet, is that --  
22 MR. LANDFAIR: Correct.  
23 MR. KNOPF: Okay. Now I would advise you that the  
24 Council rejected in 2006 a 100-foot high building across the  
25 street from the 100-foot high building, Edgemoor, and across

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1 the street from you tell me how tall is the buildings on the  
2 other side of Woodmont, a couple hundred feet or whatever?  
3 MR. LANDFAIR: Yeah, 160, 180 feet maybe.  
4 MR. KNOPF: Okay. The Council found that too high  
5 and lowered it to 70. Did you have that in mind when you  
6 opined that your building at 70 feet was perfectly  
7 consistent with the Master Plan, Sector Plan?  
8 MR. LANDFAIR: I was not focused on 4901 Hampden  
9 Lane --  
10 MR. KNOPF: Okay. Thank you.  
11 MR. LANDFAIR: -- in terms of making that  
12 compatibility finding for our own building.  
13 MR. KNOPF: Now, similarly, are you aware that the  
14 Council found, and were you aware also that the building  
15 that was approved had a 60-foot height limit on Edgemoor on  
16 one corner that was actually 10 feet lower than the 70 feet,  
17 that's what the Council approved? Were you aware of that?  
18 MR. LANDFAIR: I was not aware of that.  
19 MR. KNOPF: Thank you. Were you aware that the  
20 Council said 70 feet would be consistent with the Sector  
21 Plans, quote, "Scheme of greater heights along Woodmont  
22 Avenue and provide a significant step down in height from  
23 adjacent high rises to the north and east as called for in  
24 the Sector Plan?  
25 MR. ABRAMS: What exhibit is this?

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1 MR. KNOPF: This is 102, I'm reading from -- it  
2 would be g.  
3 MS. ROBESON: Well, are you reading from the  
4 original one or the amendment?  
5 MR. KNOPF: I'm reading from the original pages 9  
6 and 10.  
7 MS. ROBESON: Okay. So it is g, 102g?  
8 MR. KNOPF: Were you aware of that?  
9 MR. LANDFAIR: I was not.  
10 MR. KNOPF: Okay. Now I'm now going to refer to  
11 the 2012, which is 4901 approval, which is 102 --  
12 MS. ROBESON: K.  
13 MR. KNOPF: -- k. And are you aware on page 1  
14 that the original plan -- excuse me just one minute --  
15 sorry. The original plan called for 50 to 70 dwelling  
16 units. The Council approved a reduction from, to go from 40  
17 to 50. Now that's in --  
18 MR. LANDFAIR: 50 to 40 you mean?  
19 MR. KNOPF: Well, 40 to 50 was the range, yes,  
20 sorry. But originally they approved it in the range of 50  
21 to 70. Now they reduced it from 40 to 50. And, as you  
22 would expect, along with that, they reduced the MPDU's.  
23 Okay. Now is that not an indication that the Council does  
24 not have as its primary goal to avoid other requirements of  
25 the Sector Plan in order to have the most MPDU's and the

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1 most dwelling units?  
2 MR. LANDFAIR: I'm not sure one could reach that  
3 conclusion from the area. Certainly they reached it for  
4 that particular site.  
5 MR. KNOPF: I see. Okay. Well, now I'm quoting  
6 the -- the Council's opinion looks at the staff report  
7 which, by the way, proved this.  
8 MR. LANDFAIR: Okay.  
9 MR. KNOPF: Let me ask you a question there.  
10 Assuming the staff approved this, which I represent it did,  
11 is that finding that this was consistent with the Sector  
12 Plan, did that --  
13 MS. HARRIS: I'd like to object. The witness had  
14 indicated early on that he had not read the staff report,  
15 had not read the Hearing Examiner report and so I think --  
16 or the District Council report -- and so I believe it's, to  
17 just pull excerpts, he's not being able to evaluate in the  
18 full context of the case and as we know, that these cases  
19 are very complex and so I don't think that he can give  
20 accurate answers just based on specific questions from  
21 opponent's counsel.  
22 MS. ROBESON: Well, he can simply say he doesn't  
23 know --  
24 MS. HARRIS: Okay.  
25 MS. ROBESON: -- if he doesn't know.

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1 MR. KNOPF: I want to read you two quotes from the  
2 staff which the planning, the Council opinion quotes. One  
3 is at page 2. Okay. I quote the staff saying,  
4 "One of the purposes of a TSR zone is to  
5 provide a range of densities that will afford  
6 planning choices to match the diverse  
7 characterization of the several transit station  
8 development areas."  
9 They go on to say technical staff, quote,  
10 "Concluded that the reduced number of  
11 dwelling units continues to fulfill this purpose  
12 as it is within the density recommended by the  
13 Sector Plan," unquote. Now the density here was  
14 down to 57 dwelling units per acre. Would you  
15 agree with me that that staff recommendation in  
16 4901 is inconsistent with the position they've  
17 taken in this case?  
18 MR. LANDFAIR: I just don't know enough of the  
19 background information to render an opinion one way or the  
20 other.  
21 MR. KNOPF: Well, let me -- you are familiar with  
22 the Sandy Springs --  
23 MR. LANDFAIR: Yes.  
24 MR. KNOPF: -- at 4825? And in the -- I have to  
25 get the number --

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1 MS. ROBESON: Is that, are you looking for the  
2 exhibit number?  
3 MR. KNOPF: Yes.  
4 MS. ROBESON: That was G-908, right?  
5 MR. KNOPF: Let's see.  
6 MS. ROBESON: I think it's h, 102h.  
7 MR. KNOPF: No, I don't have an h. It's got d. I  
8 believe it's d. No, wait a minute, no, no, take it back.  
9 Take it back. E, I think e.  
10 MS. ROBESON: No, that's the Bethesda excerpts  
11 from the Sector Plan.  
12 MR. KNOPF: 102e?  
13 MS. ROBESON: That's what I have. If you're  
14 looking for excerpts, experts, excerpts from --  
15 MR. KNOPF: I think it's in then.  
16 MS. ROBESON: That's 843?  
17 MR. KNOPF: Right, the Holiday, the --  
18 MS. ROBESON: Okay.  
19 MR. KNOPF: Yes.  
20 MS. ROBESON: All right.  
21 MR. KNOPF: On the -- I'm reading you now from  
22 page 4, 6, excuse me, page 6, which is -- this is the  
23 Council's opinion granting Holiday in 2007. And on page 6,  
24 let's see, let me see here, if you'll just bear with me here  
25 one minute? I believe it's on page 6. I'm reading you the

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1 following quote.  
2 "Although the proposed building fails to  
3 achieve the density of at least 45 dwelling units  
4 per acre recommended in the Sector Plan, technical  
5 staff found that the density of 27 dwelling units  
6 per acre proposed here to be acceptable because  
7 the building will be consistent with nearby  
8 residential uses of comparable heights less than  
9 45 feet that have been developed with densities  
10 between 24 to 36 dwelling units per acre,"  
11 end of quote. Were you familiar with that? Well, you  
12 worked on that project, right?  
13 MR. LANDFAIR: I, yeah, I'm sure I've read that at  
14 some point in time and reviewed the record on that.  
15 MR. KNOPF: So something of considerably less  
16 density --  
17 MR. LANDFAIR: Yes.  
18 MR. KNOPF: -- the staff and Council found less,  
19 found acceptable under the Sector Plan, is that correct?  
20 MR. LANDFAIR: Clearly they did because they  
21 ultimately, of course, approved the zoning and made a  
22 finding.  
23 MR. KNOPF: So is that not inconsistent with your  
24 statement that the policy and the goals of the Sector Plan  
25 and the housing policy required the most units as possible

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1 in order to be found to meet the Sector Plan?  
2 MR. LANDFAIR: Not necessarily. In this case,  
3 with that particular development on that property as it was  
4 configured at that time, they found it to be reasonable to  
5 approve that density.  
6 MR. KNOPF: All right. Let me do one more thing  
7 if I might?  
8 MS. ROBESON: Okay.  
9 MR. KNOPF: If I'm not mistaken, when you were  
10 testifying about the compatibility of your project, you went  
11 around the area and pointed out the buildings and you put  
12 emphasis on the fact that the Edgemoor was right on the  
13 street and was 100 feet tall?  
14 MR. LANDFAIR: Right. Right.  
15 MR. KNOPF: Which you, I believe, pointed out was  
16 not consistent with the 65-foot height limit of the Sector  
17 Plan? Okay. Now, again, we have in the record various  
18 excerpts from the Edgemoor hearing.  
19 MS. ROBESON: Okay. And is that --  
20 MR. KNOPF: 106, 102 --  
21 MS. ROBESON: J?  
22 MR. KNOPF: No, wait a minute, I have to get --  
23 MS. ROBESON: G-865?  
24 MR. KNOPF: It's 106, yes, j, yes, and also f.  
25 MS. ROBESON: Okay.

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1 MR. KNOPF: Now are you aware that the Edgemoor  
2 hearings and approvals were done in conjunction or  
3 consolidated with, I'm not quite sure what word, with the  
4 City Place --  
5 MR. LANDFAIR: Yes.  
6 MR. KNOPF: -- hearings?  
7 MR. LANDFAIR: Yes, City Homes.  
8 MR. KNOPF: City Homes, thank you. That was sort  
9 of viewed as a combined project in terms of trying to  
10 evaluate the densities and the heights, wasn't it?  
11 MR. LANDFAIR: Yes.  
12 MR. KNOPF: Thank you. Now, okay, now you did  
13 rely on the Edgemoor in --  
14 MR. LANDFAIR: Yes.  
15 MR. KNOPF: Okay. Now I want to read you  
16 something and ask for a question on this. I am reading  
17 pages 13-14 from the Hearing Examiner report in 1998 on the  
18 Edgemoor and City Place. That's G-763 and G-769.  
19 MS. ROBESON: Okay.  
20 MR. KNOPF: And I quote,  
21 "The subject property is located at the  
22 northern edge of the 65-foot height limit adjacent  
23 to areas where the building heights are much  
24 greater. The building high rise will be located  
25 in the same block with a taller building and will

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1 confront a much taller building across Woodmont  
2 Avenue."  
3 Let me point there, do you know the taller building, is he  
4 referring to the Chase Building behind it?  
5 MR. LANDFAIR: Chase, correct.  
6 MR. KNOPF: Right. Okay. Now continue the  
7 following sentence of the Hearing Examiner.  
8 "The site is uniquely situated so that it  
9 will not constitute a precedent for deviation from  
10 the height limits as it can be easily  
11 distinguished from other locations,"  
12 unquote. Aren't you being inconsistent with that directive  
13 not to constitute this as a precedent?  
14 MR. LANDFAIR: No, I was on staff at that time.  
15 MR. KNOPF: Okay.  
16 MR. LANDFAIR: I was the reviewer of that zoning  
17 application. I took issue with the Hearing Examiner's  
18 finding with respect to height of that building.  
19 MR. KNOPF: All right. But you don't take issue  
20 with the fact that he made that finding?  
21 MR. LANDFAIR: I agree he made the finding.  
22 MR. KNOPF: All right. Thank you. By the way,  
23 the buildings behind that he was relying on --  
24 MR. LANDFAIR: The Chase?  
25 MR. KNOPF: -- I think we, yes, we established

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1 that was under the prior Sector Plan?  
2 MR. LANDFAIR: Correct. Right. It's an older  
3 building.  
4 MR. KNOPF: And the Sector Plan, and that current  
5 Sector Plan established a new criteria, low rise urban  
6 village criteria totally different than the prior Sector  
7 Plan, is that correct?  
8 MR. LANDFAIR: Correct. Correct.  
9 MR. KNOPF: Thank you.  
10 MR. ABRAMS: While Mr. Knopf is looking through  
11 his records, can we go off the record for a second?  
12 MS. ROBESON: Yes.  
13 (Recess)  
14 MS. ROBESON: We're going to go back on the record  
15 and we're there, back on the record. Mr. Knopf.  
16 MR. KNOPF: Okay. Okay, Mr. Landfair, you had,  
17 let's see, just let me -- in terms of the Sector Plan, you  
18 had agreed that the prior sector, the plan prior to the  
19 current Sector Plan had quite different height provisions  
20 and design provisions in the current one and that is  
21 expressly stated in the current Sector Plan, is it not?  
22 MR. LANDFAIR: I believe it is, yes.  
23 MR. KNOPF: Okay. I'll find the page later and  
24 not hold you up. Just let me see if I have any reasons and  
25 then --

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1 MS. ROBESON: You can take your time. I mean --  
2 MR. KNOPF: I'm just -- in the adoption of the, by  
3 the Council in 4825 Montgomery Lane, that's the Sandy Spring  
4 development that you used, the Council made the following, I  
5 quote page 5,  
6 "The building is designed primarily in a more  
7 traditional residential style because that is  
8 typical of the neighborhood. It will have double-  
9 hung windows, a porch on the corner and covered  
10 porches which is a very residential feature  
11 typical of a lot of older, smaller apartment  
12 buildings. The buildings will be articulated with  
13 a base at the middle and a top which is a  
14 traditional way of detailing a residential  
15 building,"  
16 unquote. Now is that what you were referring to previously  
17 when you said there were traditional designs and there are  
18 more modern designs?  
19 MR. LANDFAIR: Yes, but I would also say that the  
20 neighborhood is also comprised of some more modern designs  
21 as well.  
22 MR. KNOPF: I see. Would you agree -- technical  
23 staff is quoted on page 5, quote, technical staff agreed  
24 that the design of the building successfully communicates a,  
25 quote, residential character, unquote, including features

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1 similar to those of residential townhouses directly across  
2 Montgomery Lane, unquote. You would agree with that?  
3 MR. LANDFAIR: Yes.  
4 MR. KNOFF: Okay. Thank you. Thank you. I'm  
5 just trying to skip around.  
6 MS. ROBESON: Well, since we don't have Mr.  
7 Berman, we have a little more time, hopefully, you know, not  
8 an unreasonable amount.  
9 MR. KNOFF: Now you tell me.  
10 MS. HARRIS: And, if I can?  
11 MR. KNOFF: Okay.  
12 MS. HARRIS: One of the reasons, I mean after Mr.  
13 Knopf, then I have the opportunity to redirect, which --  
14 MS. ROBESON: That's right.  
15 MS. HARRIS: -- I'm just putting that in for the  
16 equation when we dismiss --  
17 MS. ROBESON: Okay.  
18 MS. HARRIS: -- Mr. Berman.  
19 MR. KNOFF: Okay. Yes. No. I think I will stop  
20 at this point. Thank you. And I'm saving -- you want me to  
21 ask questions of other witnesses and on.  
22 MS. ROBESON: I think that would be helpful.  
23 MR. KNOFF: Yes.  
24 MS. ROBESON: Okay.  
25 MR. KNOFF: And, again, I'm sorry it was a little

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1 disjointed --  
2 MS. ROBESON: No.  
3 MR. KNOFF: -- but --  
4 MS. ROBESON: Please don't apologize. Your  
5 expertise is apparent.  
6 MR. ABRAMS: In terms of the order of witnesses,  
7 we want Ms. Harris to go to her redirect prior to my  
8 redirect.  
9 MS. ROBESON: Wait, you don't get redirect. What  
10 do you mean redirect?  
11 MR. ABRAMS: He has answered certain questions of  
12 Mr. Knopf which are --  
13 MS. ROBESON: No. You -- no. You don't get any  
14 recross. You -- no. So that's not the order. Ms. Harris,  
15 you're on redirect.  
16 MS. HARRIS: Okay. And can we have five minutes  
17 just as the other witnesses --  
18 MS. ROBESON: Absolutely.  
19 MS. HARRIS: -- I mean counsel has had time?  
20 Thank you.  
21 MS. ROBESON: We're off the record.  
22 MR. ABRAMS: What is the procedure done for  
23 recross?  
24 MS. ROBESON: Well, you don't get recross. I will  
25 go check. I don't think they do because I've had people ask

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1 for it, but I will check during this break. But you  
2 wouldn't get recross until he gets redirect.  
3 MR. ABRAM: Correct.  
4 MS. ROBESON: So I will check, but I am 99 percent  
5 sure there is none.  
6 (Recess)  
7 MS. ROBESON: All right. We're back on the  
8 record. I do have to allow recross based solely on the  
9 redirect. So I'm sure that I don't expect a 2-hour recross.  
10 So where is Mr. Knopf? We don't know?  
11 MS. HARRIS: And Mr. Landfair.  
12 MS. ROBESON: And Mr. Landfair, yes, I guess we  
13 need him.  
14 MR. LANDFAIR: My apologies.  
15 MS. ROBESON: Don't. It's --  
16 MS. HARRIS: We're beyond apologies.  
17 MS. ROBESON: We're beyond apologies, but we are  
18 on the record just so you know.  
19 MR. LANDFAIR: Yes, ma'am. Thank you.  
20 MS. ROBESON: All right. Are we ready?  
21 MR. LANDFAIR: Yes.  
22 MS. ROBESON: Now, Mr. Abrams, you get to have  
23 recross on redirect, not on Mr. Knopf's cross.  
24 MR. ABRAMS: I understand.  
25 MS. ROBESON: You follow what I'm saying?

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1 MR. ABRAM: Yes, ma'am.  
2 MS. ROBESON: Okay. I'm just checking. All  
3 right. Ms. Harris, Mr. Landfair is back.  
4 MS. HARRIS: Mr. Landfair, did the zoning hearing  
5 in that, the Zoning Hearing Examiner, as well as the  
6 District Council, find the Hampden Lane case, and it may be  
7 helpful to point to that on one of the exhibits, compatible  
8 with the surrounding buildings, including the adjacent City  
9 Homes?  
10 MR. LANDFAIR: Yes, they did.  
11 MS. ROBESON: Okay. You've got to tell me which  
12 one that is?  
13 MR. LANDFAIR: I'm referring to Exhibit 106f.  
14 MS. ROBESON: Is that 4901? Okay.  
15 MR. LANDFAIR: And it is the building that is  
16 located in the northeast quadrant of Arlington Road and  
17 Hampden Lane.  
18 MS. ROBESON: Okay.  
19 MS. HARRIS: And what is the height of that, the  
20 maximum height of that building?  
21 MR. LANDFAIR: 71 feet.  
22 MS. HARRIS: And what's the distance of that  
23 building from the City Homes?  
24 MR. LANDFAIR: Zero feet. It's built, or will be  
25 built right on the property line.

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1 MS. HARRIS: And just for comparison purposes  
2 because it was part of the site plan visit and the building  
3 exists, what's the approximate distance between the HOC  
4 building and the City Homes?  
5 MR. LANDFAIR: Approximately 12 feet.  
6 MS. ROBESON: You mean the east/west setback is 12  
7 feet?  
8 MR. LANDFAIR: The setback of the HOC building  
9 from the rear property line.  
10 MS. ROBESON: Oh, okay.  
11 MR. LANDFAIR: The common property line of City  
12 Homes --  
13 MS. ROBESON: I see what you're saying.  
14 MR. LANDFAIR: -- is 12 feet?  
15 MS. ROBESON: So the Hampden Lane project has zero  
16 setback?  
17 MR. LANDFAIR: Correct.  
18 MS. ROBESON: Do you know what zoning case that  
19 is, was? Don't look it up. I'll figure it out. Okay.  
20 Keep going.  
21 MS. HARRIS: Did the ZHE and the District Council  
22 also find 4901 Hampden Lane building to be compatible with  
23 the surrounding buildings --  
24 MR. LANDFAIR: Yes, they did.  
25 MS. HARRIS: -- including the adjacent City Homes?

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1 MR. LANDFAIR: They did.  
2 MS. HARRIS: And what is the height of the 4901  
3 building?  
4 MR. LANDFAIR: 70 feet.  
5 MS. HARRIS: And its distance from the City Homes?  
6 MR. LANDFAIR: Approximately 48 feet.  
7 MS. HARRIS: And what is the height of the subject  
8 building?  
9 MR. LANDFAIR: The height of the subject building  
10 is 70 feet.  
11 MS. HARRIS: And what is the height at the  
12 immediate front edge along Montgomery Lane?  
13 MR. LANDFAIR: 50 feet along Montgomery Lane  
14 stepping back 12 feet.  
15 MS. HARRIS: And the distance between the subject  
16 building and the City Homes building?  
17 MR. LANDFAIR: 73 feet.  
18 MS. HARRIS: So in your professional opinion, if  
19 the Hampden Lane building which has zero setback immediately  
20 abutting the City Homes was found to be compatible and the  
21 4901 Hampden Lane in its relationship to the surrounding  
22 buildings, including the City Homes, was found to be  
23 compatible, is the SJG building compatible with the  
24 surrounding area?  
25 MR. LANDFAIR: I would say yes.

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1 MS. HARRIS: You established that the Hampden Lane  
2 building was built abutting the City Homes, correct?  
3 MR. LANDFAIR: Correct.  
4 MS. HARRIS: Now there was some discussion earlier  
5 by the, I believe it was the suggestion by the Hearing  
6 Examiner about potentially setting back the subject building  
7 further beyond the proposed 73-foot setback. Would moving  
8 that building, even setting the subject building back  
9 further to increase that setback beyond 73 feet in any way  
10 mitigate any of the impacts to the City Homes which has  
11 caused, that could be caused by the Hampden Lane building?  
12 MR. LANDFAIR: No, I don't believe so.  
13 MS. HARRIS: Exhibit 106c was intended to indicate  
14 the maximum heights of the surrounding buildings and to  
15 identify which exceeded the Sector Plan recommendations, is  
16 that correct?  
17 MR. LANDFAIR: Yes.  
18 MS. HARRIS: It may be helpful to get that, to  
19 pull that exhibit. Okay. So pursuant to the County zoning  
20 ordinance and as well as the Planning Board practice, when  
21 the height of a building identified as we've identified  
22 among those, on that plan, what height is set forth?  
23 MR. LANDFAIR: It would be the maximum height of  
24 the building as approved.  
25 MS. HARRIS: So that height, that height exhibit

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1 does not in any way misrepresent the heights of the adjacent  
2 building?  
3 MR. LANDFAIR: No, it does not.  
4 MS. HARRIS: Now we also identify, that building  
5 identifies the Rosstine Building, which is immediately west  
6 of ours as having a maximum height of?  
7 MR. LANDFAIR: 48 feet.  
8 MS. HARRIS: Although we did acknowledge, I  
9 believe it came up through redirect or cross-examination  
10 that a very small portion of it?  
11 MR. LANDFAIR: Approximately 10 feet fronting  
12 along Arlington Road itself --  
13 MS. ROBESON: Okay.  
14 MR. LANDFAIR: -- was 35 feet.  
15 MS. ROBESON: I have to ask you, the Rosstine  
16 Building, is that identified as --  
17 MR. LANDFAIR: It's --  
18 MS. ROBESON: -- the Edgemoor at Arlington north?  
19 MR. LANDFAIR: Correct.  
20 MS. ROBESON: Okay.  
21 MS. HARRIS: Which buildings in the surrounding  
22 area shown on the Exhibit 106c have an upper-story step  
23 back?  
24 MR. LANDFAIR: Well, the Edgemoor at Arlington has  
25 an upper story setback, but that, step back, but that's

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1 fronting on Arlington Road. 4825 Montgomery Lane, as  
2 approved, does not. Edgemoor Highrise does not --  
3 MS. HARRIS: Just, it may be easier, just identify  
4 those that do.  
5 MR. LANDFAIR: I'm sorry. The only one that  
6 would, that fronts again on Arlington Road is the Edgemoor  
7 at Arlington.  
8 MS. HARRIS: Does the Edgemoor at Arlington north  
9 have an upper-story step back?  
10 MR. LANDFAIR: It will, yes. I'm sorry.  
11 MS. HARRIS: Okay. And will, and the Hampden Lane  
12 project?  
13 MR. LANDFAIR: And the Hampden Lane at the corner  
14 of Arlington and Hampden Lane will as well, stepping back  
15 from Arlington Road.  
16 MS. HARRIS: Okay. So three that are shown on  
17 that plan?  
18 MR. LANDFAIR: Correct.  
19 MS. HARRIS: And what do all three of those  
20 buildings have in common?  
21 MR. LANDFAIR: Well, they're all exceeding the 35-  
22 foot height recommendation in the Sector Plan, in some cases  
23 by as much as 33 percent for both the Edgemoor at Arlington  
24 and the Edgemoor at Arlington north, considerably more than  
25 that, approximately 100 percent by the Hampden Lane building

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1 which one portion of that building is about 70 feet within  
2 the area that is defined as recommended for 35 feet.  
3 MS. HARRIS: So in your opinion do you believe  
4 that the upper-story step back has something to do with the  
5 fact that they're in that 35-foot zone?  
6 MR. LANDFAIR: Yes, I do.  
7 MS. HARRIS: And so just to be clear, is the 100-  
8 foot high rise at Edgemoor have an upper-story step back?  
9 MR. LANDFAIR: No, it does not.  
10 MS. HARRIS: And the 65-foot Sandy Spring  
11 building?  
12 MR. LANDFAIR: No.  
13 MS. HARRIS: And the 53-foot City Homes?  
14 MR. LANDFAIR: No.  
15 MS. HARRIS: But the subject building will --  
16 MR. LANDFAIR: Yes.  
17 MS. HARRIS: -- our subject building?  
18 MR. LANDFAIR: Yes, it will.  
19 MS. HARRIS: So it will, to some extent is it  
20 correct to say it would be the anomaly in the zone at 65  
21 feet, we would be the only one providing the upper-story  
22 step back?  
23 MR. LANDFAIR: Step back from Montgomery Lane,  
24 correct.  
25 MS. HARRIS: Thank you. I'm going to ask a few

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1 questions now regarding the measurement of height.  
2 MR. LANDFAIR: Uh-huh.  
3 MS. HARRIS: Can you please identify the, and you  
4 don't need to identify it on the plan, but just verbally  
5 identify the measuring points for the high rise at Edgemoor,  
6 the Edgemoor at Arlington and the Hampden Lane project?  
7 MR. LANDFAIR: Certainly. The Edgemoor Highrise,  
8 as approved, the building height measuring point was taken  
9 from the podium level fronting along Montgomery Lane. The  
10 Edgemoor at Arlington was measured from the curb at  
11 approximately the middle of the building and the Arlington  
12 at, I'm sorry, the Edgemoor at Arlington North was measured  
13 from the podium level as well.  
14 MS. HARRIS: And why do you believe that these  
15 measuring points were used?  
16 MR. LANDFAIR: Well, it was advantageous to do so.  
17 Of course, the developers were well within their rights to  
18 do so as permissible under the zoning ordinance and it  
19 allowed them to essentially maximize the height if they so  
20 choose.  
21 MS. HARRIS: So in the case of the Hampden Lane  
22 building, what was the benefit of measuring where they tend  
23 to measure that?  
24 MS. ROBESON: I'm sorry, is, when you say Hampden  
25 Lane, that's not 4901 --

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1 MS. HARRIS: No, I'm sorry.  
2 MS. ROBESON: -- Hampden Lane?  
3 MS. HARRIS: So I, when I refer to 4901, 4901 --  
4 MS. ROBESON: Okay.  
5 MS. HARRIS: -- 4901 and then the one, the  
6 building at the corner of Arlington and Hampden Lane --  
7 MS. ROBESON: Okay.  
8 MS. HARRIS: -- I've been referring to that as  
9 Hampden Lane.  
10 MS. ROBESON: Go ahead.  
11 MR. LANDFAIR: The measuring height point for the  
12 Hampden Lane building is located along Hampden Lane itself  
13 and while they did not maximize the highest elevation along  
14 the street, which they could have, it is located in a spot  
15 that will allow them to build higher than they otherwise  
16 would be able to if the measuring point was located closer  
17 to Arlington Road. As has already been testified to, the  
18 elevation of Hampden Lane increases the further east you go  
19 from Arlington Road.  
20 MS. HARRIS: So would you say that in, as a  
21 general rule, a property owner or developer would look for  
22 the most advantageous position or point on their site for  
23 which to measure for the structure?  
24 MR. LANDFAIR: Yes.  
25 MS. HARRIS: And is this common only to buildings

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1 within this TSR district or is this a practice and you see  
2 all of them doing that?  
3 MR. LANDFAIR: This is a practice you would see  
4 everywhere.  
5 MS. HARRIS: So in the case of the subject  
6 building, did you measure in accordance with the zoning  
7 ordinance?  
8 MR. LANDFAIR: Yes, we did.  
9 MS. HARRIS: And what's the difference in --  
10 actually I want to clarify something that you had said  
11 previously.  
12 MR. LANDFAIR: Right.  
13 MS. HARRIS: And that has to do with the elevation  
14 of West Lane and Montgomery Lane.  
15 MR. LANDFAIR: Right.  
16 MS. HARRIS: Can you --  
17 MR. LANDFAIR: Yes, I had previously testified  
18 that the elevation based on contour that I read on the  
19 development plan was 328. And when you compare that to the  
20 building height measuring point of 335.8, that suggested an  
21 elevation difference of, well, simple math, six, eight feet  
22 between the building height measuring point and a nearby  
23 grate in the street. And in actuality I had an opportunity  
24 during the lunch break to take a look at a survey plan which  
25 was clearer, easier to read, and on that plan --

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1 MR. ABRAMS: Objection. Is that survey plan a  
2 record exhibit?  
3 MS. ROBESON: You can -- that's my question too.  
4 Is it in the record?  
5 MR. LANDFAIR: I don't recollect if it is.  
6 MR. ABRAMS: I would object to the testimony.  
7 MR. LANDFAIR: Can we take a look at the --  
8 MS. HARRIS: Well, yes, but maybe I'm going to  
9 avoid this discussion. Are there contour plans on the  
10 development plan?  
11 MR. LANDFAIR: There are contours. It's the same  
12 contours. The --  
13 MS. ROBESON: Okay. Then testify --  
14 MR. LANDFAIR: -- development plan relies upon the  
15 survey base and so --  
16 MS. ROBESON: Right.  
17 MR. LANDFAIR: -- the survey base that I was  
18 looking at is --  
19 MS. ROBESON: Well, you're testifying as far as  
20 the development plan. Does that not show the elevation?  
21 MR. LANDFAIR: It does, but the print was very  
22 fuzzy, so it was difficult for me to read it.  
23 MS. ROBESON: Okay. I'll let you testify based  
24 on -- you can testify based on, you took the development  
25 plan and compared it to the original, is that correct?

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1 MR. LANDFAIR: Correct.  
2 MS. ROBESON: All right.  
3 MR. LANDFAIR: It's the same base information.  
4 MS. ROBESON: Okay. So --  
5 MR. LANDFAIR: So the conclusion is that the  
6 contour line was actually 330, 332. So that suggests that  
7 the difference between the nearby highest elevation point,  
8 which is in the intersection of West Lane and Montgomery  
9 Lane, is actually about two feet less than what I had  
10 previously recommended or suggested. That means that the  
11 difference between our building height measuring point and  
12 that nearby height point, if you will, in the street is at  
13 least two feet less than what was represented.  
14 MS. ROBESON: So the overall, the overall --  
15 MR. LANDFAIR: So the perception of the --  
16 MS. ROBESON: -- the overall --  
17 MR. LANDFAIR: -- overall building height is two  
18 feet less than what one might otherwise think.  
19 MS. HARRIS: And so would you conclude that the  
20 measuring point that the applicant is proposing to use is  
21 within the range and potentially less in terms of what  
22 benefit it may provide than what other buildings would rely  
23 on?  
24 MR. LANDFAIR: Yes. Yes, I do.  
25 MS. ROBESON: My question is, okay, you're

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1 building from, where are you measuring the height as far as  
2 the facade, the front, frontage? Where are you, what, where  
3 are you measuring the height from?  
4 MS. HARRIS: For zoning purposes, we are measuring  
5 the height from a measuring point that is located on the  
6 West Lane. I'm referring now to --  
7 MS. ROBESON: 106a?  
8 MR. LANDFAIR: Right, the development plan itself.  
9 On the west side of West Lane just south of where we had the  
10 driveway entrance into the garage, we had --  
11 MS. ROBESON: Okay.  
12 MR. LANDFAIR: -- noted on the top of curb a  
13 building height measuring point --  
14 MS. ROBESON: Oh.  
15 MR. LANDFAIR: -- 335.8.  
16 MS. ROBESON: Okay. And then what is the  
17 elevation -- okay, that's the building height measured, but  
18 okay. So what's --  
19 MR. LANDFAIR: Right.  
20 MS. ROBESON: -- the elevation at the intersection  
21 of West Lane?  
22 MR. LANDFAIR: So at that intersection it's  
23 between 330 and 332. So there's no precise spot elevation,  
24 but it would be between those contours.  
25 MS. ROBESON: Yes. Okay.

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1 MR. LANDFAIR: So two feet higher in that  
2 intersection than what I had previously suggested.  
3 MS. ROBESON: Right.  
4 MR. LANDFAIR: Which means that the overall  
5 perception of height is two feet less.  
6 MS. HARRIS: What, just to clarify --  
7 MS. ROBESON: I'm not sure what you meant -- I'm  
8 sorry.  
9 MR. LANDFAIR: Yes.  
10 MS. ROBESON: Or maybe you were going to ask this.  
11 What do you mean by the overall perception of height?  
12 MR. LANDFAIR: What I mean by that is --  
13 MS. ROBESON: Don't shake your head, okay? I'm  
14 sorry that I'm slow, but it's been a long day. Now can you  
15 explain what you just said?  
16 MR. LANDFAIR: I'll try, yes. The zoning  
17 ordinance has a way of, or has a requirement in terms of how  
18 you would measure the building height and in addition to  
19 that, there's also the perception, in other words, one can  
20 say from a building code perspective or a zoning ordinance  
21 perspective your building is 70 feet in height. But one can  
22 also say, well, to the eye as you're walking along the  
23 street, you have a perception that it's --  
24 MS. ROBESON: Right.  
25 MR. LANDFAIR: -- 70, 75.

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1 MS. ROBESON: The subject --  
2 MR. LANDFAIR: Right. And that was a point that  
3 was actually brought up earlier --  
4 MS. ROBESON: Yes.  
5 MR. LANDFAIR: -- is that if you're at a lower  
6 elevation, even though from a zoning perspective your  
7 building may look like it is 70 feet high --  
8 MS. ROBESON: Yes.  
9 MR. LANDFAIR: -- to the eye it may look at little  
10 higher.  
11 MS. ROBESON: So if I'm standing -- but I thought  
12 that went to the perception from Arlington as you're walking  
13 up?  
14 MR. LANDFAIR: Well, that point was made by the  
15 opposition attorney.  
16 MS. ROBESON: Okay. So what's your point?  
17 MR. LANDFAIR: My point is that one could perceive  
18 from that intersection because the elevation is three, four  
19 feet less than what it is higher up, in other words further  
20 up West Lane --  
21 MS. ROBESON: Okay.  
22 MR. LANDFAIR: -- that one could perceive that the  
23 building is a little higher than what the zoning ordinance  
24 would state it would be.  
25 MS. ROBESON: Right.

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1 MR. LANDFAIR: But I don't want the record to  
2 misrepresent what that perception is.  
3 MS. ROBESON: The actual -- okay.  
4 MR. LANDFAIR: Right.  
5 MS. ROBESON: I understand. Thank you. You can  
6 go ahead.  
7 MS. HARRIS: Thank you. You testified in response  
8 to a cross-examination question, I believe it was from Mr.  
9 Knopf, that from certain angles on the street, the 6th and  
10 7th floors of the building may be visible, is that correct?  
11 MR. LANDFAIR: Correct.  
12 MS. HARRIS: And is there a requirement in either  
13 the Sector Plan or the zoning ordinance or any other law or  
14 regulation of Montgomery County that upper stories of  
15 buildings should not be visible?  
16 MR. LANDFAIR: No, no, there isn't.  
17 MS. HARRIS: And can you explain, because I have  
18 having difficulty understanding what the point was if the  
19 upper stories, in fact, are visible, does that create some  
20 kind of issue?  
21 MR. LANDFAIR: I don't think so. You know, it's,  
22 yes, they would be visible from certain angles. You know,  
23 we have gone to great lengths to minimize the massing of the  
24 building, to minimize the height of the building, but it's  
25 not to say that you can't from certain angles see the entire

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1 height of the building and the point was made that as you're  
2 walking further up Montgomery Lane and you look back or  
3 perhaps from one of the upper stories of City Homes, you  
4 will see the upper stories of our building. But, again,  
5 that building is 73 feet from the City Homes buildings. We  
6 don't think just because you see it necessarily means that  
7 it is objectionable or not compatible with the surrounding  
8 area.  
9 MS. ROBESON: I understand. I think the point was  
10 whether the height, the perception of the height would be  
11 higher.  
12 MR. LANDFAIR: Right.  
13 MS. ROBESON: But I understand the point you're  
14 making.  
15 MS. HARRIS: And then one final question and I'll  
16 note that my original is, do you think it's realistic that  
17 to expect that people that have moved voluntarily into an  
18 urbanized environment like Bethesda CBD would have an  
19 expectation of seeing a building outside their window?  
20 MR. LANDFAIR: I don't think that's realistic.  
21 MS. HARRIS: You do think it's realistic?  
22 MR. LANDFAIR: No, I don't think it's realistic  
23 that they would find that objectionable if they were to see  
24 other buildings outside of their window.  
25 MS. HARRIS: So, in other words, is it correct



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1 don't need to be fully consistent with the tenting. In  
2 other words, the expectation was that there might be some  
3 anomalies that you're building, again, case in point,  
4 Hampden Lane could be approved protruding above that tenting  
5 effect. But, again, with our building, our project, we  
6 fully respect that plane that's been established.  
7 MS. HARRIS: And in terms of substantial  
8 compliance, is it correct that the zoning ordinance requires  
9 that development plans must substantially comply with  
10 respect to the use and density recommendations?  
11 MR. LANDFAIR: Correct. Correct.  
12 MS. HARRIS: And is the -- recommendations such as  
13 tenting --  
14 MR. LANDFAIR: It's one of the more flexible  
15 standards.  
16 MS. HARRIS: Okay. Thank you. But, in any event,  
17 you concluded does the proposed building comply with that  
18 concept?  
19 MR. LANDFAIR: It does, yes.  
20 MS. HARRIS: Okay. What does the Sector Plan  
21 recommend in terms of height for the subject building?  
22 MR. LANDFAIR: It recommends 65 feet.  
23 MS. HARRIS: Actually I want to go back to the  
24 tenting for one moment. There was some discussion about why  
25 the subject building didn't itself step down from east to

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1 west in furtherance of the tenting concept. Did the Holiday  
2 project step down from east to west?  
3 MR. LANDFAIR: It, well, it's, no, it's a step  
4 down from east to west, it's a step down --  
5 MS. ROBESON: Oh, I see.  
6 MR. LANDFAIR: -- from north to south.  
7 MS. HARRIS: Correct. Okay. Turning to page 39  
8 of the Sector Plan, what was the height recommended for the  
9 subject building?  
10 MR. LANDFAIR: For our building, 65 feet.  
11 MS. HARRIS: And then in the narrative description  
12 for the entire, for a good portion of the TSR zone, is that  
13 correct?  
14 MR. LANDFAIR: Correct.  
15 MS. HARRIS: And then in the narrative portion of  
16 the Sector Plan with respect to heights, what did they  
17 describe, how did they say the height should be portrayed?  
18 MR. LANDFAIR: In terms of feet or in terms of --  
19 MS. HARRIS: No, in terms of --  
20 MR. LANDFAIR: Well, it was a low rise.  
21 MS. HARRIS: Okay.  
22 MR. LANDFAIR: That's how it was classified, low  
23 rise, high density, 65 feet in height.  
24 MS. HARRIS: So the fact that the page 39 says 65  
25 feet and then the text which supports that page 39 says low

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1 rise, is it your opinion that 65 feet, in fact, does  
2 constitute low rise?  
3 MR. LANDFAIR: Yes. Yes.  
4 MS. HARRIS: And does the addition of five extra  
5 feet change your opinion?  
6 MR. LANDFAIR: No, it doesn't.  
7 MS. HARRIS: And do you base that in part on the  
8 fact that the Sector Plan, again, page 39, provides for  
9 height variations from between 35 feet and 200 feet?  
10 MR. LANDFAIR: Yes.  
11 MS. HARRIS: And you've already testified to this,  
12 but I just want to clarify, are there other projects in the  
13 low rise area that were approved that are 70 feet?  
14 MR. LANDFAIR: Yes. Of course, the portion of the  
15 Hampden Lane building was and the, I'm blanking, I'm sorry,  
16 4901 Fairmont was as well.  
17 MS. HARRIS: And yesterday you, I believe it was  
18 yesterday, you testified with respect to the height of the  
19 Holiday project and I think today you may have clarified  
20 that, but I just wanted to make sure it's in the record  
21 correctly. What was the height of the Holiday, the maximum  
22 height of the Holiday project?  
23 MR. LANDFAIR: I believed it was 70 feet. Is that  
24 what I testified to? I thought that's what --  
25 MS. HARRIS: No, the Holiday project.

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1 MR. LANDFAIR: The Holiday project? I'll have to  
2 go back to my notes.  
3 MS. ROBESON: The prior project on this --  
4 MS. HARRIS: No, the prior project on this site,  
5 what was the maximum height?  
6 MR. LANDFAIR: I'll have to refer to my notes.  
7 I'm sorry.  
8 MS. HARRIS: That's okay. I think that's okay.  
9 MS. ROBESON: Do you want to take a minute now?  
10 MR. LANDFAIR: If I may, yes, thank you.  
11 MS. HARRIS: Just to clarify, it's the height of  
12 the Holiday project, not the penthouse, which is the maximum  
13 height that was approved --  
14 MR. LANDFAIR: No, I --  
15 MS. HARRIS: -- by the Hearing Examiner.  
16 MS. ROBESON: Well, I was going to ask him just  
17 for the record, can you explain, is the penthouse excluded  
18 from --  
19 MR. LANDFAIR: From height calculations?  
20 MS. ROBESON: Yes.  
21 MR. LANDFAIR: Yes, it is. My apologies, I had it  
22 noted here and I don't, I don't see it in my notes.  
23 MS. HARRIS: The architect may be able to testify  
24 to that. We'll move on. How many units are in the Highrise  
25 Edgemoor?

1 MR. LANDFAIR: The Highrise at Edgemoor is 52  
 2 units, I believe. Let me -- 54, my apologies.  
 3 MS. HARRIS: Okay.  
 4 MR. LANDFAIR: 54 units.  
 5 MS. HARRIS: And since you had indicated that you  
 6 were the planner on that case, do you recall how many units  
 7 were proposed at the time that the Highrise at Edgemoor was  
 8 approved?  
 9 MR. LANDFAIR: I think it was on the order of, it  
 10 was less than 150. I think it was 148, 149.  
 11 MS. HARRIS: And was that, was the height of the  
 12 Highrise Edgemoor tied to some extent on the number of units  
 13 that were proposed?  
 14 MR. LANDFAIR: It was. That was, for lack of a  
 15 better description, it was one of the selling features of  
 16 the project, the fact that it was so close to Metro, the  
 17 fact that in theory with its height and building massing it  
 18 could accommodate quite a few units that it was desirable to  
 19 provide that amount of housing.  
 20 MS. ROBESON: I don't understand why -- okay. But  
 21 how did that relate to the transition for the lower  
 22 densities on, in City Homes? Or is -- I don't want to -- if  
 23 you have another witness that's going to address that,  
 24 that's fine, but I'm not clear on how the two were -- I know  
 25 they were tied together. I'm not clear on how the two were

1 tied together.  
 2 MR. LANDFAIR: They were united under joint plans  
 3 and ultimately, of course, the HOC development was also tied  
 4 to the same development, but in terms of the specific review  
 5 of the Edgemoor Highrise, the support that it received from  
 6 the County was based, at least in part, on the fact that  
 7 potentially it could provide quite a few units, almost up to  
 8 150 units. Now, obviously, as it was finally built, we  
 9 didn't end up with that many units. There was consolidation  
 10 and we ended up with larger units.  
 11 MS. ROBESON: But why there and then have much  
 12 lower density at the town homes?  
 13 MR. LANDFAIR: At the time the town homes were  
 14 built, the developer believed that the density that was  
 15 being proffered, being proposed made sense for that  
 16 property. There may have been economic factors. There may  
 17 have been other factors that --  
 18 MS. ROBESON: So you don't know?  
 19 MR. LANDFAIR: I don't know.  
 20 MS. ROBESON: Okay.  
 21 MR. LANDFAIR: I don't know specifically.  
 22 MS. ROBESON: That's fine.  
 23 MS. HARRIS: And do you have any sense of what the  
 24 units per acre were for the Highrise Edgemoor when it was  
 25 approved with 148 or so units?

1 MR. LANDFAIR: Yes, I wrote that down too. Just  
 2 bear with me for a second.  
 3 MS. ROBESON: Is that something we could calculate  
 4 and then you could argue in your closing arguments?  
 5 MR. LANDFAIR: It is, yeah, it is. We did and I  
 6 had written it down. My apologies.  
 7 MS. HARRIS: We can follow-up with that, is that  
 8 what you're suggesting?  
 9 MS. ROBESON: Yes. Or have another witness --  
 10 MS. HARRIS: Okay.  
 11 MS. ROBESON: -- bring it in.  
 12 MS. HARRIS: Certainly. The, well, he may be able  
 13 to answer the next question without --  
 14 MS. ROBESON: Okay.  
 15 MS. HARRIS: Yesterday you testified that you had  
 16 concluded that the Highrise Edgemoor was low density. While  
 17 it's a 6 FAR, it is only 54 units?  
 18 MR. LANDFAIR: Right.  
 19 MS. HARRIS: Is the -- can you explain your  
 20 conclusion that it is low rise density based on the FAR, the  
 21 unit issue and then also the fact that at one point it was  
 22 going to be 150 units and now it's one, it's only 54 units?  
 23 MR. LANDFAIR: Well, I would base that argument on  
 24 the number of units that we actually ended up with. It's,  
 25 in terms of the overall density, obviously the overall

1 massing of the building didn't change, the height didn't  
 2 change, but the numbers of units were drastically reduced.  
 3 So from that perspective I would make the argument that it  
 4 was low density.  
 5 MS. HARRIS: And do you have a sense of the  
 6 Council's opinion or the Planning Board's opinion when they  
 7 approved the project for 150 units that close to the Metro  
 8 and then was decreased to 52 units?  
 9 MR. LANDFAIR: I would be speculating, but I would  
 10 imagine there was disappointment that we ended up with that  
 11 many units.  
 12 MS. HARRIS: That few units?  
 13 MR. LANDFAIR: That few units.  
 14 MS. HARRIS: Okay. I'm going to --  
 15 MS. ROBESON: In the TSR note, in the Sector Plan  
 16 they recommend a minimum number of units I remember. Is 54  
 17 above the minimum?  
 18 MR. LANDFAIR: I believe in this case it is, yes.  
 19 MS. HARRIS: But is it well below the estimation  
 20 of the maximum?  
 21 MR. LANDFAIR: Yes.  
 22 MS. HARRIS: Was it a recommendation? I don't  
 23 believe it was an estimation.  
 24 MR. LANDFAIR: Yes, it was well below that number.  
 25 MS. HARRIS: Which is, which was?

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1 MR. LANDFAIR: Well, it was well below the,  
2 obviously the one, nearly 150 --  
3 MS. HARRIS: Which the zone permits?  
4 MR. LANDFAIR: Right. Correct.  
5 MS. HARRIS: Okay. On page 72, excuse me, page 82  
6 of the Sector Plan, can you please read the recommendation  
7 with respect to townhouses? I need to help you with those.  
8 MR. LANDFAIR: I found it. It's, the second full  
9 paragraph at the top of the page. That says the type of  
10 housing should appear to be townhouses, but actually be  
11 three to six floor buildings with apartments at each level.  
12 MS. HARRIS: So --  
13 MR. LANDFAIR: Yes.  
14 MS. HARRIS: So yesterday during cross there was a  
15 question about whether the City Homes', the criteria of  
16 being townhouses, but I don't think that that sentence was  
17 read in full. So in your opinion does the City Homes meet  
18 this requirement?  
19 MR. LANDFAIR: It doesn't meet that requirement as  
20 described there in the Sector Plan.  
21 MS. HARRIS: And the reason that it doesn't?  
22 MR. LANDFAIR: Because it doesn't provide  
23 individual units on each floor.  
24 MS. HARRIS: It just provides --  
25 MR. LANDFAIR: Single, individual townhouse units

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1 that are multiple floors, multiple levels.  
2 MS. HARRIS: What is the purpose of the Sector  
3 Plan provision on page 85 which reads, locate required  
4 parking either underground or in rear decks so as not to be  
5 seen from surrounding streets?  
6 MR. LANDFAIR: Well, I think the intent is to  
7 fully mitigate the view of the parking to make sure that  
8 it's not creating an objectionable view for surrounding  
9 properties.  
10 MS. HARRIS: And how many parking units does the  
11 City Homes have?  
12 MR. LANDFAIR: It has --  
13 MS. HARRIS: And actually I'd like -- you can  
14 refer to, it may be helpful to refer to an exhibit,  
15 whichever one you think may be best.  
16 MR. LANDFAIR: We can refer to 106b and  
17 referencing that exhibit, we actually have, I would describe  
18 the views as the scenic areas, but then we have the  
19 alleyways which provide access to the rear loading garages  
20 of which there are one, two, three.  
21 MS. HARRIS: And are they concealed from the  
22 surrounding streets, these parking areas?  
23 MR. LANDFAIR: No, they're readily visible from  
24 the streets.  
25 MS. HARRIS: And were there ever cars parked on

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1 those, in those alleys?  
2 MR. LANDFAIR: Yes.  
3 MS. HARRIS: And if you take the frontage of the  
4 proposed building and extend our, that frontage south across  
5 Montgomery Lane, can you explain what vantage, what the  
6 residents of the proposed building will be viewing?  
7 MR. LANDFAIR: Well, they would be able to see  
8 actually right down one of those alleyways directly opposite  
9 our building.  
10 MS. HARRIS: And then they also face how many of  
11 the end caps of the City Homes?  
12 MR. LANDFAIR: And they would face two of the end  
13 caps of the City Homes.  
14 MS. HARRIS: So the, and actually so the opposite  
15 question not related to parking is how -- there's two end  
16 caps -- how many units from the City Homes will have direct  
17 view of the proposed project?  
18 MR. LANDFAIR: Two.  
19 MS. HARRIS: Is one of them immediately across  
20 the street from the scalloped car well?  
21 MR. LANDFAIR: Yes, it is.  
22 MS. HARRIS: On page 85 of the Sector Plan, No. 6,  
23 can you please read that?  
24 MR. LANDFAIR: Locate front unit entrances along  
25 the street when residences are provided on the first floor

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1 to encourage street light.  
2 MS. HARRIS: And what do you think the purpose of  
3 that recommendation is?  
4 MR. LANDFAIR: Well, the purpose is to activate  
5 the street and it makes sense when you have, again as it  
6 states, units that are on the ground floor of the street.  
7 It's a helpful thing to do.  
8 MS. HARRIS: And are the -- we touched on this  
9 during cross, you touched on this, are the end cap units of  
10 the City Homes, do those provide direct access onto the  
11 street?  
12 MR. LANDFAIR: Well, they have direct access  
13 onto the street, but it's via very large stairways that are  
14 located along the end cap itself facing the street. And I  
15 might add that those stairways and the landscaping  
16 surrounding them actually encroach into that streetscape  
17 area such that as one is walking by, you don't really feel  
18 like it is part of the public realm. You feel like it's  
19 more part of a private space, even though technically  
20 speaking it's been counted as public use space.  
21 MS. HARRIS: And we've gone through a number of  
22 these Sector Plan recommendations, but I just wanted to, for  
23 you to reiterate again, are these -- do any of these relate  
24 to use and density which requires substantial compliance?  
25 MR. LANDFAIR: I'm sorry, say it again?

1 MS. HARRIS: The various Sector Plan  
 2 recommendations that we've discussed --  
 3 MR. LANDFAIR: Yes.  
 4 MS. HARRIS: -- do they relate whether it's  
 5 tenting or access on the street, entrances on the street or  
 6 the parking, do those relate to either use or density that  
 7 requires substantial compliance --  
 8 MR. LANDFAIR: No.  
 9 MS. HARRIS: -- with the Sector Plan?  
 10 MR. LANDFAIR: They're also called flexible  
 11 standards I would think.  
 12 MS. HARRIS: Okay. The next series of questions  
 13 relate to public use space. Did the overall green area,  
 14 whether it be hardscape or softscape, decrease as a result  
 15 of revision of the plan to provide the pocket park in the  
 16 front of the building?  
 17 MR. LANDFAIR: No, it didn't. I testified  
 18 previously that, in fact, let me see if I still have the  
 19 exhibit handy. Well, never mind. I spoke previously about  
 20 the fact that we are still retaining what was classified as  
 21 public use space on the north side of the building, but now  
 22 we're characterizing it as onsite amenity area. We factor  
 23 that into what we are providing in the way of onsite public  
 24 use space. I believe what we're actually proposing right  
 25 now is in excess of what was previously proposed in terms of

1 landscaped area, hardscape area which considerably could be  
 2 enjoyed by the public.  
 3 MS. HARRIS: Can you please, using Exhibit 70,  
 4 which is the composite base plan that shows the public use  
 5 space area as various iterations of this?  
 6 MR. LANDFAIR: Oh, yes, it can.  
 7 MS. HARRIS: Well, not of our project, it's the  
 8 one that shows the TSR zone in general and --  
 9 MS. ROBESON: Oh, okay.  
 10 MS. HARRIS: -- the public use spaces. Can you  
 11 please reference that and discuss from the standpoint of  
 12 both quantitatively and qualitatively how the subject  
 13 property compares?  
 14 MS. ROBESON: And I have to ask you to hold that  
 15 thought because I have to actually go get my keys before I  
 16 get locked out of the Zoning Office.  
 17 MS. HARRIS: That's important.  
 18 MS. ROBESON: So three minutes. Just let me go  
 19 get them.  
 20 MS. HARRIS: We're off the record?  
 21 COURT REPORTER: Yes.  
 22 (Recess)  
 23 MS. ROBESON: Okay. We're back on the record.  
 24 MS. HARRIS: I forgot where I was. Just --  
 25 MS. ROBESON: Okay.

1 MS. HARRIS: Okay. So excuse me. Based on  
 2 Exhibit 70, you were going to explain the differences  
 3 qualitatively and quantitatively of the public use space of  
 4 the subject property is proposing?  
 5 MR. LANDFAIR: Typically the approach to providing  
 6 for public use space for any one of these TSR projects  
 7 whether they're built today or proposed or approved is to  
 8 provide public use space along the frontage. There's lots  
 9 of good reasons for doing that and certainly that is what  
 10 has been done. In the case of some projects, the public use  
 11 space, I think, is more successful than others. The  
 12 Edgemoor Highrise utilizes its frontage for much of its  
 13 public use space. Within that public use space, though,  
 14 there are handicap ramps, there's actually a transformer and  
 15 a portion of the public use space actually also extends into  
 16 the side yard. So I think it's debatable as to how  
 17 successful that public use space might be.  
 18 With 4825 Montgomery Lane, the site was very  
 19 constrained. So they were really limited in terms of where  
 20 they could locate their public use space. They've actually  
 21 accounted, and it was accepted, the medians between the  
 22 driveway entrances to the garages. For both Edgemoor and  
 23 Arlington North and the Edgemoor at Arlington, both utilized  
 24 podiums, partial podiums with much of the public use space  
 25 located in those podium areas. Particularly with respect to

1 Edgemoor at Arlington, I think it's debatable as to whether  
 2 one would consider that public use space as you walk along  
 3 the street, would you as a member of the general public feel  
 4 invited up to that area, or would you see it as the private  
 5 space reserved for the residents.  
 6 Contrast that to what we are providing. Yes, we  
 7 are providing some public use space along the frontage, but  
 8 we have the pocket park at the corner which is taking  
 9 advantage of the fact that it is at a corner that is at the  
 10 entrance to our building, very public in nature and, of  
 11 course, as I previously mentioned, while we're not counting  
 12 it specifically as public use space, we have that amenity  
 13 area on the north side of our building.  
 14 MS. HARRIS: So in your professional opinion  
 15 qualitatively --  
 16 MR. LANDFAIR: I think qualitatively and  
 17 quantitatively we compare very favorably with all the other  
 18 projects in the surrounding area.  
 19 MS. HARRIS: There was a very long line of  
 20 questioning this morning regarding the area devoted to the  
 21 pocket park.  
 22 MR. LANDFAIR: Right.  
 23 MS. HARRIS: And I want you to clarify the total  
 24 area of the pocket park and then that area less what was  
 25 previously counted in the public use space along Montgomery

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1 and West Lane, and then I have a follow-up question. No,  
2 you can use the -- you passed it. One more, no one more.  
3 There.  
4 MR. LANDFAIR: This?  
5 MS. HARRIS: Oh, I'm -- oh, you're looking for the  
6 detail. Sorry.  
7 MR. LANDFAIR: I was actually looking for the  
8 comparison, right. It actually has the square footage.  
9 Here it is.  
10 MS. ROBESON: What exhibit is this?  
11 MR. LANDFAIR: It's Exhibit No. 85.  
12 MS. ROBESON: Okay.  
13 MR. LANDFAIR: And just as a reminder, this  
14 exhibit compared/contrasted the public use space and private  
15 amenity areas for the original Holiday plan, as well as the  
16 original proposed plan for this project, as well as the  
17 current plan for this project. And referring to the current  
18 plan, it notes that there's public use space, in fact, the  
19 number are the same both for the previously proposed, as  
20 well as the current proposed which shows public use space  
21 along the frontage of 2,225, 2,225 square feet. And when  
22 you count that part of the pocket park which was not shown  
23 on the previous plan, we're not double-counting, that area  
24 adds up to about 630 plus square feet, in effect, taking  
25 this up to the minimum amount of public use space, the

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1 required amount of public use space of 2,841. So I know  
2 there was a lot of discussion back and forth in terms of,  
3 you know, where is the public use space, how is it  
4 calculated. I hope that clarifies it.  
5 MS. HARRIS: And when you originally testified  
6 this morning, you noted that the entire pocket park area is  
7 1,000 square feet approximately?  
8 MR. LANDFAIR: Just over 1,000 square feet, right.  
9 MS. HARRIS: And does that space, will that entire  
10 1,000 square-foot space operate in a totality in terms of  
11 how it operates or assumptions as of public use space of the  
12 pocket park?  
13 MR. LANDFAIR: Well, it actually reads much bigger  
14 because that 1,000 square feet is just the area that is  
15 within the property itself, just the area that counts  
16 towards the public use space requirement. But if you as a  
17 passerby walking along look at the corner, one could argue  
18 that a portion of that corner is also part of that pocket  
19 park, people would congregate there. Steps leading up to  
20 the entrance were carefully designed to be seating area  
21 steps. So the whole area was designed to engage people and  
22 engage passersby.  
23 Looking at it that way, the area from building  
24 face to the face of the curb is in excess of 2,000 square  
25 feet. So, yes, it's not an insubstantial amount of area to

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1 consider for congregation of people.  
2 MS. HARRIS: Thank you. In response to Mr.  
3 Abrams's question, you testified that the setback, or maybe  
4 if you know, that the setback of the building in the Holiday  
5 case was approximately 15 feet, is that correct?  
6 MR. LANDFAIR: Correct.  
7 MS. HARRIS: And was, is it your opinion that it  
8 was 15 feet?  
9 MR. LANDFAIR: I believe so, yes.  
10 MS. HARRIS: And did the Holiday project have bays  
11 along the front of its building?  
12 MR. LANDFAIR: Yes, it did.  
13 MS. HARRIS: And how, how far out from the face of  
14 the building did those bays project?  
15 MR. LANDFAIR: I believe three or four feet, so  
16 that meant that then the building setback was more  
17 comparable to what we are proposing.  
18 MS. HARRIS: So, effectively, the public use space  
19 or streetscape in front of the Holiday project was  
20 comparable to what's being proposed?  
21 MR. LANDFAIR: Right, the usable public use space,  
22 what could actually be landscape or utilized by the public  
23 is comparable to what we're proposing.  
24 MS. HARRIS: When the Holiday project was  
25 proposed, was either the Edgemoor at Arlington North or the

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1 Sandy Spring building yet approved, so the buildings on both  
2 the east and west sides?  
3 MR. LANDFAIR: The, I believe the, I believe the  
4 Edgemoor at Arlington North was. I believe the other one  
5 was too.  
6 MS. HARRIS: The Sandy Spring building, that was  
7 just approved?  
8 MR. LANDFAIR: I'm sorry, no, I'm sorry. The,  
9 only the Arlington at, the Edgemoor Arlington North was.  
10 MS. HARRIS: So -- and did, upon the approval of  
11 the Sandy Spring building, as well as the Edgemoor, did  
12 that, what did that do in terms of the establishment of that  
13 continuous line?  
14 MR. LANDFAIR: Well, of course, with the height  
15 that was approved for the Sandy Spring building, 65 feet, it  
16 created a slightly different plane, but nevertheless --  
17 MS. HARRIS: No, I'm not talking about the  
18 height --  
19 MR. LANDFAIR: Right.  
20 MS. HARRIS: -- I'm talking about the continuous  
21 street edge --  
22 MR. LANDFAIR: Right.  
23 MS. HARRIS: -- given the building placement.  
24 MR. LANDFAIR: Right. Well, certainly it  
25 contributed to a continuous street edge and I can tell you

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1 that as a part of the review for the Sandy Spring project,  
2 there was an issue early on for staff --  
3 MS. ROBESON: When you say Sandy Spring, you're  
4 talking about --  
5 MR. LANDFAIR: 4825 --  
6 MS. ROBESON: -- 4825 --  
7 MR. LANDFAIR: -- Montgomery Lane, yes.  
8 MS. ROBESON: Okay.  
9 MR. LANDFAIR: Sorry, I go back and forth.  
10 MS. ROBESON: I know.  
11 MR. LANDFAIR: Yes. There was a concern about the  
12 distance from the street for that building. Previously they  
13 wanted to achieve most of their public use space up front  
14 along Montgomery Lane and staff discouraged that and  
15 preferred to have it brought up closer to the street so  
16 that, again, you can realize this continuous line, this  
17 street edge, this sense of enclosure along the street.  
18 MS. HARRIS: Thank you. The Hearing Examiner this  
19 morning noted that she thought that the sidewalk area in  
20 front of the Highrise Edgemoor seemed somewhat tight. What  
21 is the sidewalk in front of the Highrise Edgemoor and how  
22 does it compare to what's being proposed?  
23 MR. LANDFAIR: Well, it is, it is very narrow and  
24 the overall, or maybe I should refer to Exhibit 106b where  
25 the actual distance from face of building to the,

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1 essentially the edge of the street, which is the parking  
2 encompassing the sidewalk is 16 feet. So that's 10 feet  
3 less than what we have along our street, along our segment  
4 of the street.  
5 MS. HARRIS: And in your mind from a pedestrian  
6 experience, does that increase in width? What kind of  
7 difference would that make?  
8 MR. LANDFAIR: Well, for us it's more landscaping  
9 opportunities, more green area. We'll provide, we can  
10 provide just as much pedestrian way. But it just -- you  
11 don't feel quite so confined meaning you don't feel like the  
12 building is right on top of you.  
13 MS. HARRIS: And does it make a difference as well  
14 given the width of the frontage of the Highrise Edgemoor  
15 building as compared to the width of the frontage of the  
16 subject project?  
17 MR. LANDFAIR: Well, I think that contributes to  
18 it because certainly the frontage of the Highrise Edgemoor  
19 is much greater than the frontage that we have along  
20 Montgomery Lane.  
21 MS. HARRIS: Thank you. Going to the south side  
22 for one moment, I want you, I would like for you to refer to  
23 Exhibit 102f, which was submitted by Mr. Knopf, and it shows  
24 the sidewalk along the south side of this street.  
25 MR. LANDFAIR: Right.

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1 MS. HARRIS: And can you comment on the width of  
2 that and whether there are any projections that may detract  
3 from the pedestrian --  
4 MS. ROBESON: Wait, is that 102f or d?  
5 MS. HARRIS: Sorry, d.  
6 MS. ROBESON: That's okay.  
7 MS. HARRIS: D.  
8 MS. ROBESON: Okay. I'm just trying to make sure  
9 because we're --  
10 MS. HARRIS: No problem.  
11 MR. KNOPF: It's getting late.  
12 MS. HARRIS: Exactly.  
13 MR. LANDFAIR: What it shows is the streetscape  
14 for City Homes along the south side of Montgomery Lane and  
15 it shows the end caps of the townhouse units, it shows the  
16 stairs that lead up to the main level of those units. These  
17 stairs in every case are fairly substantial structures.  
18 They take up a fair amount of space. They have landscaping  
19 at their base. And as you walk along, it feels like they  
20 are encroaching into the public realm. So even though a  
21 portion of them is within the public use space area, you  
22 still feel as a pedestrian that it is encroaching out into  
23 the public area and while technically speaking you have 26,  
24 27 feet from the face of these buildings to the face of  
25 curb, it doesn't necessarily feel that spacious as you're

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1 walking along the street.  
2 MS. HARRIS: We focused on the south side of the  
3 building. I want to move to the north side of the building  
4 for a moment. You were involved in the Holiday case,  
5 correct?  
6 MR. LANDFAIR: Yes.  
7 MS. HARRIS: And are you familiar with the  
8 discussions that occurred at that time with the Villages of  
9 Bethesda with respect to the setback, the setbacks of the  
10 Holiday building and the --  
11 MR. LANDFAIR: Yes.  
12 MS. HARRIS: And can you describe that to some  
13 extent?  
14 MR. LANDFAIR: Yes. For the original Holiday  
15 application, there really was only opposition from the  
16 Villages of Bethesda and I would say that it was, concerned  
17 issues raised by those residents and it was almost  
18 exclusively related to the setback of the proposed Holiday  
19 building to their properties. They recognized that they did  
20 have some views from both the rear side of their units, as  
21 well as from their own public use space area looking back  
22 into the subject property. And it was a very real concern  
23 for them.  
24 And recognizing that, the Holiday developer said,  
25 well, we're going to try to provide as much setback as we

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1 possibly can back there to mitigate that, in fact. And, of  
2 course, a few years later, as we moved forward with our own  
3 application, meeting with that group of individuals, those  
4 citizens, the issue again was raised and we felt it was only  
5 fair to try to address the concerns that were raised  
6 previously and we were successful and they've been satisfied  
7 because you don't see citizens from that development here  
8 today. But we feel like we have an agreement, if you will,  
9 and we want to abide by that agreement to provide setbacks,  
10 recognizing again that they do have certain views directly  
11 into our property and we want to mitigate the impact of our  
12 building on their views.

13 MS. HARRIS: And I would just note Exhibit 99 from  
14 the Villages of Bethesda, which specifies --

15 MS. ROBESON: I saw that.

16 MS. HARRIS: -- their support with the stipulation  
17 of the setback. What is the distance, if you have the scale  
18 handy, of the building to the closest Villages of Bethesda  
19 building?

20 MR. LANDFAIR: From our building to the closest?

21 MS. HARRIS: From the north, the side of the  
22 subject to the closet VOB building.

23 MR. LANDFAIR: That would be 15 feet. Their  
24 building is right on the property line.

25 MS. HARRIS: So in your professional opinion, the

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1 fact that we've allowed for a setback, it seemed to have  
2 made a, made, satisfied the Villages of Bethesda with that  
3 15-foot setback and then comparing that to the property to  
4 the south of us where we have a 73-foot setback, what's your  
5 professional opinion about any suggestion moving the  
6 building further back closer to the Villages of Bethesda?

7 MR. LANDFAIR: Well, I think we're providing a  
8 very generous setback or distance from the City Homes to the  
9 south. And I don't feel that by adding another few feet to  
10 the setback from Montgomery Lane that you would accomplish  
11 much in terms of establishing greater compatibility. I  
12 don't think you'll be improving the streetscape and it will  
13 be violating this agreement that we have with the Villages  
14 of Bethesda, reducing their buffer. Frankly, I think the  
15 impact on Villages of Bethesda would be much greater than  
16 the, conversely any benefit that would be realized by  
17 increasing the setback along Montgomery Lane. So I think it  
18 would be a mistake.

19 MS. HARRIS: Thank you. Now moving into a new  
20 subject matter, I'm only saying that just to let you know  
21 that.

22 MS. ROBESON: I want to --

23 MS. HARRIS: If you wanted to --

24 MS. ROBESON: -- try and finish Mr. Landfair.

25 MS. HARRIS: Okay.

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1 MS. ROBESON: Well, we'll see.

2 MS. HARRIS: Okay. Moving on to MPDU's. How did  
3 the Highrise Edgemoor and the City Homes satisfy their MPDU  
4 requirement?

5 MR. LANDFAIR: They worked out an agreement  
6 whereby the HOC development was developed along Hampden  
7 Lane.

8 MS. HARRIS: And was it a matter of just providing  
9 the land for that building?

10 MR. LANDFAIR: Essentially, yes.

11 MS. HARRIS: And how long after the Highrise  
12 Edgemoor and the City Homes were constructed that the HOC  
13 building was constructed?

14 MR. LANDFAIR: I have that in my notes. The HOC  
15 units were not constructed for more than, well, it was at  
16 least nine to 14 years after the construction of the market  
17 rate units. So it was some substantial period of time after  
18 the construction of the market rate units.

19 MS. HARRIS: And in your opinion is there a  
20 difference in terms of the HOC units and MPDU's?

21 MR. LANDFAIR: Yeah, you know, MPDU's are  
22 affordable units. Typically they're integrated into the  
23 market rate housing. They're designed to accommodate an  
24 individual, excuse me, individuals earning 60 to 70 percent  
25 of the average median income for the area. The HOC housing

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1 units are accommodating a different population and, of  
2 course, it's not integrated into the --

3 MS. ROBESON: What do you mean a different  
4 population?

5 MR. LANDFAIR: Meaning different income levels,  
6 yes.

7 MS. HARRIS: And, in fact, is it correct that the  
8 HOC building has been classified as a transitional housing?

9 MR. LANDFAIR: I believe so, yes.

10 MS. HARRIS: And did --

11 MS. ROBESON: What do you mean a transitional  
12 housing?

13 MS. HARRIS: It's single or --

14 MS. ROBESON: Mr. Landfair, what does she mean?

15 MR. LANDFAIR: It's housing that accommodates  
16 people that are -- it's more temporary in nature is my  
17 understanding as opposed to housing which you would be there  
18 for many years. It's helping people to transition from  
19 one --

20 MS. ROBESON: One income level to another?

21 MR. LANDFAIR: Well, hopefully, yes. I mean it's  
22 not -- it's --

23 MS. HARRIS: From no income level pretty much.

24 MR. LANDFAIR: Essentially, yeah. It's to, it's  
25 not meant to be a permanent solution, if you will, for the

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1 housing units.  
2 MS. ROBESON: So are you saying it -- okay.  
3 MR. LANDFAIR: Unlike MPDU's --  
4 MS. ROBESON: I'm not going there right now.  
5 MR. LANDFAIR: -- which, again, are to accommodate  
6 people who have, are earning 60 to 70 percent of the median  
7 area income. It's a very different population.  
8 MS. ROBESON: Did the Council tie the Highrise  
9 Edgemoor and City Homes, is there, is the affordable  
10 housing --  
11 MR. LANDFAIR: Yes.  
12 MS. ROBESON: -- for those projects?  
13 MR. LANDFAIR: Yes, it is. It is.  
14 MS. ROBESON: So you're saying that the provision  
15 of MPDU's here is still important because it's different,  
16 different target --  
17 MR. LANDFAIR: Different demographic group.  
18 MS. ROBESON: -- clientele?  
19 MR. LANDFAIR: Right. Yes.  
20 MS. ROBESON: Okay. I understand.  
21 MS. HARRIS: And does that, and does providing the  
22 first MPDU's on the street, does that go to the Sector Plan  
23 goal of achieving diversity of housing on the street?  
24 MR. LANDFAIR: Yes, it does.  
25 MS. HARRIS: Mr. Abrams indicated that a developer

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1 could provide more than 12.5 percent MPDU's in furtherance  
2 of the County's housing objectives and I think you testified  
3 about this earlier. Are you familiar with any market rate  
4 housing developer the County has provided 12.5 percent  
5 MPDU's, more than 12.5 percent MPDU's without either  
6 receiving some type of bonus density or being involved in a  
7 joint venture or some kind of involvement with the County  
8 where it was required to provide more?  
9 MR. LANDFAIR: No, I do not.  
10 MS. HARRIS: And the reason why one developer  
11 would not necessarily do that?  
12 MR. LANDFAIR: MPDU's are very expensive to  
13 construct. There would be no incentive. Without that  
14 incentive to do so, you know, it makes no sense from an  
15 economic perspective.  
16 MS. HARRIS: And Zoning Text Amendment 0807, which  
17 provided that the Sector Plan recommendation was on both  
18 height and density could be exceeded to provide additional  
19 MPDU's, what was the point of that Zoning Text Amendment?  
20 MR. LANDFAIR: Well, it was to realize that  
21 providing MPDU's is a valuable benefit to the community and  
22 to do so, though, might have implications for the  
23 development of a particular project. And so realizing that,  
24 realizing the economic costs, there are incentives to doing  
25 this and those incentives would include increasing the

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1 height of the building if necessary.  
2 MS. HARRIS: You previously testified that you can  
3 only exceed the heights when you -- the Sector Plan  
4 recommended heights when you provide additional MPDU's. Is  
5 that a correct statement or do you want to --  
6 MR. LANDFAIR: No, it's when you provide the MPDU  
7 bonus, in other words, the 15 percent.  
8 MS. HARRIS: And are there buildings within the  
9 TSR zone that exceed the Sector Plan --  
10 MR. LANDFAIR: Certainly there are, yes.  
11 MS. HARRIS: And where are those located?  
12 MR. LANDFAIR: Well, they would be the Hampden  
13 Lane building located --  
14 MS. HARRIS: Well, the Hampden Lane building, is  
15 that providing additional MPDU's?  
16 MR. LANDFAIR: Well, actually it will, yes. It  
17 would include the Edgemoor Highrise. It would include 4901  
18 Hampden Lane.  
19 MS. HARRIS: And is that providing 15 percent  
20 MPDU's?  
21 MR. LANDFAIR: No, it's not. I don't believe so.  
22 MS. HARRIS: We may want to check that one.  
23 MR. LANDFAIR: Okay. I don't believe --  
24 MS. ROBESON: Yes.  
25 MR. LANDFAIR: -- it is. I don't know.

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1 MS. HARRIS: Okay. And the two buildings, the two  
2 Edgemoor buildings --  
3 MR. LANDFAIR: Right.  
4 MS. HARRIS: -- the one which is 48 feet in a 35-  
5 foot zone, is that providing extra MPDU's?  
6 MR. LANDFAIR: No. No.  
7 MS. HARRIS: And the -- it's counterpart on the  
8 south side of the street, does that provide any MPDU's?  
9 MR. LANDFAIR: No, it does not.  
10 MS. ROBESON: Okay. Okay. The counterpart on the  
11 south are --  
12 MS. HARRIS: The Edgemoor at --  
13 MR. LANDFAIR: She's referencing Edgemoor at A-  
14 Arlington.  
15 MS. HARRIS: -- Arlington.  
16 MS. ROBESON: Now why doesn't Edgemoor at  
17 Arlington have MPDU's, do you know?  
18 MR. LANDFAIR: I don't know.  
19 MS. ROBESON: You mean no MPDU's, zero MPDU's, or  
20 no bonus MPDU's?  
21 MR. LANDFAIR: I'd have to --  
22 MS. ROBESON: If you know?  
23 MR. LANDFAIR: I don't know. I don't know. What  
24 I can say, though, is that the heights exceeding the 35 feet  
25 that is recommended by the Sector Plan, you know, in both

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1 cases, both buildings are exceeding those heights. Edgemoor  
2 at Arlington North is 48 feet, Edgemoor at Arlington is 46  
3 feet.  
4 MS. ROBESON: But, okay. But what is the height  
5 at the street level, at the facade?  
6 MR. LANDFAIR: Along Arlington Road --  
7 MS. ROBESON: Yes.  
8 MR. LANDFAIR: -- is 35 feet in both cases.  
9 MS. ROBESON: And -- okay.  
10 MS. HARRIS: And can you identify in that plan  
11 where the line is, the Sector Plan line that indicates the  
12 35-foot zone?  
13 MR. LANDFAIR: It's along the rear side of those  
14 properties, along those properties fronting Arlington Road.  
15 MS. ROBESON: Okay. So you're saying part, okay,  
16 I understand.  
17 MS. HARRIS: So just to summarize, is it a correct  
18 statement that Edgemoor at Arlington and the Edgemoor at  
19 Arlington North, both of which exceed the Sector Plan  
20 recommendations in terms of heights, have no MPDU's?  
21 MR. LANDFAIR: I believe that's a correct  
22 statement.  
23 MS. HARRIS: Thank you. During cross-examination,  
24 you indicated that two of the four surrounding -- and this  
25 goes to the issue of who is affirmatively supporting the

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1 application -- you indicated that two of the four  
2 surrounding property owners were developers. Is Mr.  
3 Rosstine, who is the applicant on the Edgemoor at Arlington  
4 North, is he a developer?  
5 MR. LANDFAIR: No, he's not. He actually  
6 maintains an office on the property, but he's certainly not  
7 a land developer.  
8 MS. HARRIS: So the number of developers  
9 supporting the application is actually one, is that correct?  
10 MR. LANDFAIR: One, correct, yeah.  
11 MS. HARRIS: And whether a property owner is a  
12 developer or not, what's the most, what would be your most  
13 important concern in your opinion with respect to our  
14 building?  
15 MR. LANDFAIR: Well, their concern is going to be  
16 the effect on the value of their property, how it impacts  
17 their property and the possible resale value of their  
18 property. Essentially compatibility will be their issue.  
19 And by virtue of the fact that we don't have opposition from  
20 those immediately adjacent property owners, I think suggests  
21 that they find our development, our proposed development  
22 compatible.  
23 MS. HARRIS: Thank you. Mr. Abrams appeared to  
24 suggest that the applicant has made concessions to its  
25 surrounding neighbors, but not to City Homes. What's the

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1 distance of the subject property to the Villages of  
2 Bethesda?  
3 MR. LANDFAIR: To the Villages of Bethesda, 15  
4 feet.  
5 MS. HARRIS: And to the Rosstine property?  
6 MR. LANDFAIR: The closet point, I think I had  
7 suggested earlier, was --  
8 MS. ROBESON: You mean of the building --  
9 MR. LANDFAIR: The building to the property line.  
10 MS. ROBESON: -- not the property?  
11 MS. HARRIS: Well, correct, I'm just going to  
12 clarify that --  
13 MS. ROBESON: Okay.  
14 MS. HARRIS: -- because I mis-stated. Thank you.  
15 MR. LANDFAIR: That's 12 feet to the property  
16 line, but it's --  
17 MS. HARRIS: Okay.  
18 MR. LANDFAIR: -- there was an additional setback  
19 there to the building as proposed on the Rosstine property.  
20 MS. HARRIS: So the subject property shares a  
21 property line, has a common property line with both VOB --  
22 MR. LANDFAIR: Yes.  
23 MS. HARRIS: -- and the Edgemoor at Arlington  
24 North?  
25 MR. LANDFAIR: Yes, it does.

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1 MS. HARRIS: And how many feet from the building,  
2 how many feet is the subject building from the City Homes?  
3 MR. LANDFAIR: From City Homes, it's 73 feet from  
4 building face to building face.  
5 MS. HARRIS: And can you review, and if it's  
6 helpful I can identify and say yes or no, various revisions  
7 that the applicant has, in fact, made to the respond to the  
8 City Homes' concerns?  
9 MR. LANDFAIR: Well, of course there's the -- I  
10 have my notes here which I can take a look at, but  
11 basically, I mean we've made lots of gestures to be  
12 compatible with the neighbors and I think many of those  
13 elements that we've added to the project I think also should  
14 go some way to satisfying the concerns of City Homes. It  
15 includes the fact that we have a flat roof. It includes  
16 windows on all the facades. It includes the masonry  
17 material to be used on the building facade. It includes the  
18 vehicle access located in the northeast corner of the  
19 property off of West Lane.  
20 It includes the landscaping, the streetscape,  
21 which is being proposed in conformance with the Sector Plan,  
22 all of which I think are elements that City Homes has  
23 requested. Providing loading space within the building.  
24 Providing an area for loading at grade within our way by  
25 area and, of course, the step back that we're providing

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1 along the front edge of the building starting at the 50-foot  
2 high mark.  
3 MR. HARRIS: So are we providing two additional  
4 loading spaces in response to the comments made by City  
5 Homes?  
6 MR. LANDFAIR: Yes, we are. And we are exceeding  
7 the County guidelines for both of them.  
8 MS. HARRIS: By how many spaces?  
9 MR. LANDFAIR: By two.  
10 MS. HARRIS: By two? And did City Homes also  
11 request that the project be condos and not rental?  
12 MR. LANDFAIR: I think they may have.  
13 MS. HARRIS: And are we -- and how are we  
14 responding to that?  
15 MR. LANDFAIR: That decision has not been made  
16 yet.  
17 MS. HARRIS: Can you please explain why the lay-by  
18 has not been relocated or reduced in size?  
19 MR. LANDFAIR: Typically an element like the way  
20 by would be approved at a later state in the entitlement  
21 process. With the Holiday project, it was approved at the  
22 time of the preliminary plan and we would anticipate the  
23 same in this case as well. So it's premature to try to get  
24 approval for a larger lay-by at this stage within the  
25 zoning. It's an element that will be more fully analyzed at

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1 the preliminary plan stage and certainly there's the ability  
2 to increase the size if it's warranted by the County.  
3 MS. HARRIS: Thank you.  
4 MS. ROBESON: Well, do you intend to pursue that  
5 if this is approved or is that what you're saying or is that  
6 saying -- what are you saying?  
7 MR. LANDFAIR: At this point in time there are no  
8 plans to increase the size, but it is something that we can  
9 certainly consider, but there are no plans right now to  
10 increase the size.  
11 MS. HARRIS: I'm going to have the applicant speak  
12 to that when she gets back on because, in fact, we have had  
13 side, additional discussions which --  
14 MS. ROBESON: Okay.  
15 MS. HARRIS: -- suggest otherwise. Thank you.  
16 Earlier today you were, opponents counsel requested that you  
17 read from the January 2nd Planning Board letter which  
18 commented on the prior design of the building.  
19 MR. LANDFAIR: Right.  
20 MS. HARRIS: Was that language that you read  
21 contained in the most recent letter from the Planning Board  
22 which reflects the current design of the building?  
23 MR. LANDFAIR: No. No, it did not.  
24 MS. HARRIS: And why was that language not  
25 included?

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1 MR. LANDFAIR: Well, because the language was very  
2 different than the new resolution from the Planning Board.  
3 MR. ABRAMS: Objection. The reasons that the  
4 Hearing Examiner sent the case back was for very limited  
5 purpose. The comments on the portion which was read was not  
6 part of the remand proceeding.  
7 MS. HARRIS: I disagree because the, one of the  
8 issues that the Planning Board took up was the design of the  
9 building and how the, and the general compatibility of the  
10 building. And I would suggest that that comment --  
11 MR. ABRAMS: What --  
12 MS. HARRIS: -- in fact, did go to that.  
13 MR. ABRAMS: What that comment addresses is the  
14 density, 100 dwelling units to the acre does not address the  
15 massing.  
16 MS. ROBESON: Okay. I'm going to let him, I'm  
17 going to let him testify on it. I'll give it the weight it  
18 deserves. I don't have the transcript in front of me. I  
19 have the Planning Board's recommendations. You can cross-  
20 examine on it. Well, wait, I don't want to invite you to  
21 cross-examine. No, I'm going to let it in.  
22 MS. HARRIS: So is it your impression that the  
23 Planning Board viewed the revised design of the building in  
24 much more favorable terms than they reviewed the original  
25 application?

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1 MR. LANDFAIR: Yes, I would say that.  
2 MS. HARRIS: And did they find the original  
3 application to be compatible?  
4 MR. LANDFAIR: Yes, they did.  
5 MS. HARRIS: And they found the, is it correct,  
6 that is to say that they found the current application to be  
7 more compatible?  
8 MR. LANDFAIR: Yes, I would make that statement.  
9 MS. HARRIS: In terms of the Planning Board  
10 hearing, as you may recall did the staff, the Planning Board  
11 staff recommend a setback of 15 feet along the western  
12 property line?  
13 MR. LANDFAIR: They did, yes.  
14 MS. HARRIS: And what did the Board conclude was  
15 an acceptable setback?  
16 MR. LANDFAIR: The Board concluded that what we're  
17 currently proposing, the 12 feet, is an acceptable setback.  
18 MS. HARRIS: And do you recall how far the Holiday  
19 project was set back from the property line?  
20 MR. LANDFAIR: I think it was comparable.  
21 Actually, no, it wasn't. It was less than that.  
22 MS. HARRIS: If you could take a look at the plan  
23 right before you, Exhibit 85, that may help you --  
24 MR. LANDFAIR: Right.  
25 MS. HARRIS: -- jog your memory.

1 MR. LANDFAIR: It's spilling out about eight feet,  
 2 seven to eight feet, so significantly less than what we're  
 3 proposing now.  
 4 MS. HARRIS: You previously testified that the  
 5 western portion -- so with the proposed 12-foot setback, we  
 6 are, the building is 42 feet from the Rosstine project, is  
 7 that correct?  
 8 MR. LANDFAIR: Correct, that's correct, yeah.  
 9 MS. HARRIS: And if you, if you evaluate the City  
 10 Homes properties, projects, and the distance between the  
 11 two, the mews, I'm sorry the distance between two rows of  
 12 the City Homes between their parking mews, what's the  
 13 distance between those two rows of buildings?  
 14 MR. LANDFAIR: It's about 30 feet.  
 15 MS. ROBESON: Are you, when you say parking mews,  
 16 are you talking about the alley?  
 17 MR. LANDFAIR: She's referring to the alley.  
 18 MS. ROBESON: Okay. Because I learned on another  
 19 case that mews have a very particular meaning. So, but  
 20 you're talking about the alley?  
 21 MR. LANDFAIR: We're talking about the  
 22 alleyways --  
 23 MS. ROBESON: Okay.  
 24 MR. LANDFAIR: -- that provide access to the rear  
 25 building garages.

1 MS. HARRIS: And so the space between the two rows  
 2 of City Homes is how much?  
 3 MR. LANDFAIR: 30 feet.  
 4 MS. HARRIS: And then, so there, and is that -- so  
 5 is every row of City Homes within 30 feet of another row of  
 6 City Homes?  
 7 MR. LANDFAIR: The -- what I would describe as the  
 8 landscape mews are wider, but the alleyways themselves, two  
 9 of the alleyways are 30 feet, one alleyway is 25 feet in  
 10 width and then the two landscape mews, one is 39 feet in  
 11 width, the other is 44 feet in width.  
 12 MS. ROBESON: Isn't there a half a landscape mew  
 13 there at the very western edge?  
 14 MR. LANDFAIR: A little bit of landscaping, yes.  
 15 Yeah, on the rear side of the --  
 16 MS. ROBESON: Okay.  
 17 MR. LANDFAIR: I wouldn't describe that as a mew  
 18 so much as a landscape strip.  
 19 MS. HARRIS: So in your professional opinion, if  
 20 the configuration of the City Homes which provides for the  
 21 distance between rows of City Homes that you just indicated,  
 22 is there -- if that's deemed to be compatible and  
 23 acceptable, is there any reason to think that a setback of  
 24 42 feet from the western facade of our building to the  
 25 Rosstine would not be compatible?

1 MR. LANDFAIR: No, I would think, think it would  
 2 be more than sufficient to provide compatibility.  
 3 MS. HARRIS: Does the -- I have a number of random  
 4 questions here. We're getting toward the end.  
 5 MS. ROBESON: That's fine.  
 6 MS. HARRIS: Does the Highrise Edgemoor have a  
 7 space designated for ADA drop-offs?  
 8 MR. LANDFAIR: It has space in front of the  
 9 building, yes. It has two I've described as lay-bys.  
 10 MS. HARRIS: And have you -- you visited  
 11 Montgomery Lane, I assume?  
 12 MR. LANDFAIR: Yes, yes, I have.  
 13 MS. HARRIS: And in your experience are those, are  
 14 those lay-bys maintained for the exclusive use of the ADA  
 15 drop-offs?  
 16 MR. LANDFAIR: Not for the exclusive use of ADA  
 17 drop-offs, no. I've seen service vehicles. I've seen  
 18 members of the general public park there. They're used by,  
 19 whenever the spaces are available which doesn't seem to be  
 20 that often.  
 21 MS. HARRIS: So, in fact, the ADA drop-off for the  
 22 subject building is no different than the ADA drop-off for  
 23 the Highrise Edgemoor, is that correct?  
 24 MR. LANDFAIR: I would say, no, that's correct.  
 25 MS. HARRIS: And does City Homes have any ADA

1 accommodations for drop-off?  
 2 MR. LANDFAIR: No.  
 3 MS. HARRIS: This may be a question for the  
 4 applicant, but are you familiar with recent, with the  
 5 applicant's intent to provide recreational space on the roof  
 6 of the building?  
 7 MR. LANDFAIR: I'm aware of that. There may be  
 8 some passive recreational space provided on the building,  
 9 but I can't speak beyond that.  
 10 MS. HARRIS: Okay.  
 11 MS. ROBESON: Is that new?  
 12 MS. HARRIS: No, it's been part of the plan from  
 13 the inception really. The architect will speak to that.  
 14 MS. ROBESON: All right.  
 15 MS. HARRIS: The -- and from the inception of this  
 16 project, what have been the discussions today in terms of  
 17 the number of units that the applicant is intending to  
 18 propose?  
 19 MR. LANDFAIR: IN terms of the maximum number of  
 20 units?  
 21 MS. HARRIS: The range.  
 22 MR. LANDFAIR: The range? Well, it's noted on the  
 23 development plan. As expressed on the development plan,  
 24 it's up to 120 multi-family units, and with 15 percent  
 25 MPDU's, that would mean up to 18 MPDU units.

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1 MS. HARRIS: And has there been any suggestion of  
2 anything less than, between 100 and 120 units?  
3 MR. LANDFAIR: No.  
4 MS. HARRIS: Thank you. A couple -- the, you  
5 earlier testified to the length of the building in terms of  
6 the north/south distance. Can you recalculate that please  
7 because I'm not so sure we had it correct.  
8 MR. LANDFAIR: I did and it is 208 feet. And I  
9 apologize for the confusion earlier. I think I had stated  
10 on the record that it was 280, 2-8-0. It's 2-0-8.  
11 MS. HARRIS: Did the -- moving on to 4901 Hampden  
12 Lane just for a moment, are you aware that the Planning  
13 Board expressed concern regarding their request for a  
14 decrease in density?  
15 MR. LANDFAIR: For 4901?  
16 MS. HARRIS: Yes, when they wanted to lower the  
17 number of units?  
18 MR. LANDFAIR: Just generally. I wasn't involved  
19 with the project per se but, yes, I had some general  
20 knowledge about that.  
21 MS. HARRIS: And just because the Council approved  
22 a project where the unit count was decreasing, is that, is  
23 there any suggestion that they would not support something  
24 else on a different site, including an increase of the  
25 number of units and which would then correlate to an

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1 increase in the number of MPDU's?  
2 MR. LANDFAIR: Yeah, I would think they would be  
3 free to consider any number of combinations or schemes even  
4 in the immediate area if you want to harp on design.  
5 MS. HARRIS: And if the objective of the County  
6 both as stated in the Sector Plan and in other County  
7 policies is diversity and the Council approves lower density  
8 on one project, is there any reason to believe they would  
9 not support a higher density on another project?  
10 MR. LANDFAIR: Not at all. I would think they  
11 would want to support that higher density.  
12 MS. HARRIS: And are you aware that the applicant  
13 in the case of 4901 specifically requested the reduction in  
14 density?  
15 MR. LANDFAIR: I believe that's the case.  
16 MS. HARRIS: So it wasn't a case of a public  
17 policy or a --  
18 MR. LANDFAIR: I don't --  
19 MS. HARRIS: -- requesting the reduction?  
20 MR. LANDFAIR: Right.  
21 MS. HARRIS: Thank you. Moving on very briefly,  
22 just the distinction, because, well, we don't necessarily  
23 think it's relevant, opposing counsel thinks it's relevant,  
24 the differences between the Holiday case and this case. And  
25 there was some suggestion that the Holiday case should be

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1 used as a benchmark by which this project should be judged.  
2 Can you please identify the commonalities between this  
3 project, the subject project and the prior Holiday project?  
4 MR. LANDFAIR: There aren't many.  
5 MS. HARRIS: How many lots were involved with the  
6 Holiday project?  
7 MR. LANDFAIR: There were three lots involved.  
8 MS. HARRIS: And how many projects are -- how  
9 many, excuse me, how many lots are involved in the subject?  
10 MR. LANDFAIR: There are four lots.  
11 MS. HARRIS: And does that pretty much cover the  
12 commonality between the two?  
13 MR. LANDFAIR: That's pretty much it.  
14 MS. HARRIS: And is the square footage of the site  
15 different?  
16 MR. LANDFAIR: Yes, it is.  
17 MS. HARRIS: And would you classify the Holiday  
18 project as being an oddly configured site?  
19 MR. LANDFAIR: Very much so.  
20 MS. HARRIS: And how does the subject site  
21 compare?  
22 MR. LANDFAIR: Well, it's, obviously we have the  
23 advantage of consolidating the lot and corner. The property  
24 is, you know, much less constrained in terms of its shape,  
25 in terms of its relationship to the neighboring properties.

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1 So it lends itself to a much more efficient design.  
2 MS. HARRIS: And is there a different developer  
3 involved in this case?  
4 MR. LANDFAIR: And there's a different developer  
5 involved.  
6 MS. HARRIS: You've been doing this for a very  
7 long time. Would you agree that every developer has its own  
8 sets of goals, objectives and motivations?  
9 MR. LANDFAIR: I would say so.  
10 MS. HARRIS: And are we involved in a very  
11 different economic climate now than we were when the Holiday  
12 project was approved?  
13 MR. LANDFAIR: Absolutely.  
14 MS. HARRIS: And so your summary in terms of the  
15 Holiday project and this project are in terms of  
16 comparability?  
17 MR. LANDFAIR: That there is not much to compare  
18 the two.  
19 MS. HARRIS: Thank you. Going to the issue of  
20 compatibility, the Holiday project was found to be  
21 compatible. The fact that it was found to be compatible,  
22 does that exclude any other project on this site from being  
23 found compatible?  
24 MR. LANDFAIR: No, not at all. And there's any  
25 number of options or designs, building designs, densities

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1 that could be accommodated on this property and could be  
2 found to be compatible and consistent with the Sector Plan  
3 recommendations, not just Holiday and this particular  
4 proposal, but many I'm sure could be accommodated on the  
5 site.  
6 MS. HARRIS: Thank you. May I take just a one-  
7 minute break to confer with my client to make sure there are  
8 no other remaining questions?  
9 MS. ROBESON: Sure.  
10 MS. HARRIS: Thank you. I appreciate it.  
11 MS. ROBESON: We'll go off the record. Actually,  
12 you can -- how long? Three minutes, is that --  
13 MS. HARRIS: I requested one, but I'll take three.  
14 That would be helpful.  
15 MS. ROBESON: Okay.  
16 MS. HARRIS: Thank you.  
17 (Recess)  
18 MS. ROBESON: Okay. We're back on the record.  
19 MS. HARRIS: Yes. And I just had two very quick  
20 clarifying questions --  
21 MS. ROBESON: Okay.  
22 MS. HARRIS: -- if Mr. Landfair recalls. The  
23 height of the Holiday project, do you recall the height of  
24 that at this point?  
25 MR. LANDFAIR: It sounds like a trick question. I

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1 should because I wrote it down.  
2 MS. ROBESON: Well, what's the second question  
3 while he's --  
4 MS. HARRIS: The second question was the issue of  
5 the density of the Highrise Edgemoor when it was approved  
6 for 150 units.  
7 MS. ROBESON: And what's the question?  
8 MS. HARRIS: What is the density per units per  
9 acre of the Highrise Edgemoor when it was approved with the  
10 150 units?  
11 MR. LANDFAIR: I believe it was 280.  
12 MS. HARRIS: 280? 280?  
13 MR. LANDFAIR: 280 units to the acre, those  
14 originally approved.  
15 MS. HARRIS: And just to clarify, that's based on  
16 the land area of --  
17 MS. ROBESON: Is that the gross tract area?  
18 MR. LANDFAIR: Right. Correct. Correct.  
19 MS. HARRIS: But it does not include the -- it  
20 gets complicated -- is it correct that it gets complicated  
21 because of the fact that the entire land area, it was the  
22 transfer of density?  
23 MR. LANDFAIR: Right.  
24 MS. ROBESON: Oh, it was the land area --  
25 MR. LANDFAIR: Because you have the other

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1 properties --  
2 MS. ROBESON: -- of City Homes too?  
3 MR. LANDFAIR: -- factor into it, right.  
4 MS. ROBESON: Now are you -- okay. But is your  
5 answer meaning that just the gross tract area of the  
6 Highrise Edgemoor is 280 units per acre and that's because  
7 the --  
8 MR. LANDFAIR: Yes.  
9 MS. HARRIS: -- perceived, or they looked at the  
10 density as one large, large and --  
11 MR. LANDFAIR: Yes. Yes. And in answer to your  
12 first question, 65 feet.  
13 MS. HARRIS: Thank you. That concludes our  
14 redirect of this witness.  
15 MS. ROBESON: Thank you. Mr. Abrams.  
16 MR. ABRAMS: Yes.  
17 MR. KNOFF: I also have about six questions that I  
18 would ask also.  
19 MS. ROBESON: I'm not, I was going to include --  
20 MR. KNOFF: Oh, okay.  
21 MS. ROBESON: -- you also.  
22 MR. KNOFF: Okay. Thank you.  
23 MS. ROBESON: I would never exclude you.  
24 MR. KNOFF: Thank you.  
25 MS. ROBESON: Okay, Mr. Abrams.

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1 MR. ABRAMS: Okay. Mr. Landfair, you said there's  
2 no commonality except for those two areas in terms of the  
3 number of lots and things like that between the Holiday  
4 project and what's being proposed now, is that basically  
5 your testimony?  
6 MR. LANDFAIR: Yes.  
7 MR. ABRAMS: Wasn't it, in fact, in both the 4825  
8 Montgomery Lane project, as well as the Edgemoor at  
9 Arlington North second project, didn't they both heavily  
10 rely upon what happened in the Holiday project in terms of  
11 height, density, setbacks?  
12 MR. LANDFAIR: I think they were certainly  
13 referring to on the record. I think certainly staff  
14 probably considered that in their analyses as to the Board  
15 and the Council.  
16 MR. ABRAMS: Okay. And you said in your testimony  
17 a few minutes ago that there was no suggestion at any time  
18 of anything less than 100 to 150 units to the acre, do you  
19 remember, do you recall that?  
20 MR. LANDFAIR: Yeah.  
21 MR. ABRAMS: Hasn't City Homes requested since its  
22 appearance in this case that there be no more than 100  
23 dwelling units per acre in terms of the limits which are in  
24 the Sector Plan?  
25 MR. LANDFAIR: I think that request has been made.

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1 I think it's been made in --  
2 MR. LANDFAIR: Okay. So your statement that  
3 there's never been a suggestion?  
4 MS. HARRIS: Objection. The intent of the  
5 question was a suggestion amongst the internal team on  
6 behalf of the applicant. We are very well aware that  
7 outside, that the opposing counsel has suggested less.  
8 MS. ROBESON: Okay. All right. You can't testify  
9 as to the intent of the question.  
10 MR. LANDFAIR: No, I --  
11 MS. ROBESON: So --  
12 MR. LANDFAIR: But I testified previously  
13 indicating that I wasn't privy to the discussions or the  
14 meetings between this client and City Homes.  
15 MS. ROBESON: Okay.  
16 MR. LANDFAIR: So I just, what I'm relating is  
17 simply what I've heard. It wasn't based on immediate  
18 experience, personal experience.  
19 MR. ABRAMS: You were basing, you were at the  
20 first Planning Board hearing, weren't you?  
21 MR. LANDFAIR: I was at the first Planning Board,  
22 that's correct.  
23 MR. ABRAMS: Okay. And wasn't that proposition  
24 made to the Planning Board on behalf of City Homes?  
25 MR. LANDFAIR: It might have been. I don't

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1 recollect that specific proposition.  
2 MR. ABRAMS: Now was City Homes required to have  
3 ADA accessible parking when it constructed?  
4 MR. LANDFAIR: I don't know. Probably not.  
5 MR. ABRAMS: Well, what's the purpose of bringing  
6 it up?  
7 MR. LANDFAIR: To compare and contrast because  
8 certainly, you know, at any time, even when City Homes was  
9 developed --  
10 MS. HARRIS: Objection. He didn't bring it up.  
11 Counsel brought it up.  
12 MR. ABRAMS: Who brought it up?  
13 MS. ROBESON: No, he testified to it.  
14 MR. ABRAMS: He testified.  
15 MS. HARRIS: To the ADA building of the City  
16 Homes?  
17 MS. ROBESON: He said, he said the Edgemoor has  
18 the same lay-by provision.  
19 MS. HARRIS: Right. But I asked the question  
20 because Mr. Knopf was making a suggestion that for some  
21 reason our project did not provide adequate ADA.  
22 MR. ABRAMS: And then he responded --  
23 MS. ROBESON: But --  
24 MR. ABRAMS: -- by saying, among other projects --  
25 MS. ROBESON: Hold on. Stop it.

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1 MR. ABRAMS: -- City Homes.  
2 MS. ROBESON: He testified to it on redirect. It  
3 doesn't matter who asked the question, so continue and I'm  
4 going to overrule the objection. I understand where you're  
5 coming from, I really do, but I'm going to overrule the  
6 objection and, Mr. Abrams, continue. Re-ask the question.  
7 MR. ABRAMS: In terms of the, any requirement on  
8 City Homes to provide ADA handicap parking spaces or  
9 handicap accessible facilities, do you have any information  
10 as to the requirement for the same when they were  
11 constructed?  
12 MR. LANDFAIR: No. No, I don't.  
13 MR. ABRAMS: So you don't know what the  
14 requirement was at that time?  
15 MR. LANDFAIR: At that time, that's correct,  
16 right.  
17 MR. ABRAMS: Now in terms of concessions to City  
18 Homes, you had your laundry list that you recited?  
19 MR. LANDFAIR: Yes.  
20 MR. ABRAMS: Weren't many of the most important  
21 elements, and what I'm talking about is moving the public  
22 open space from the back to the front and the massing of the  
23 building, okay, they weren't provided in any plan until  
24 after the Planning Board strongly suggested that that should  
25 be incorporated into this plan, isn't that correct?

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1 MR. LANDFAIR: In terms of any formal submittal,  
2 that's correct.  
3 MR. ABRAMS: Okay.  
4 MR. LANDFAIR: But internally, all these  
5 options --  
6 MS. ROBESON: Okay.  
7 MR. LANDFAIR: -- have been debated back and forth  
8 for some time.  
9 MS. ROBESON: Yes. And in the long run, I mean I  
10 remember that cross-examination earlier. In the long run,  
11 how -- unless it's for impeachment -- I would prefer not to  
12 get into the negotiations.  
13 MR. ABRAMS: Now the Holiday project had no  
14 opposition from City Homes, did it?  
15 MR. LANDFAIR: I don't believe it did.  
16 MR. ABRAMS: And the applicants in that case had  
17 some discussions, many discussions with City Homes?  
18 MR. LANDFAIR: They may have. I don't recollect.  
19 MR. ABRAMS: Do you know why there was no  
20 opposition?  
21 MR. LANDFAIR: Not offhand, no.  
22 MR. ABRAMS: Now who in City Homes or from what  
23 correspondence or from what conversation or how do you come  
24 up with the testimony that City Homes wanted to push the  
25 building back closer to Villages of Bethesda? Who told you

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1 that or where did you come up with this?  
2 MR. LANDFAIR: I think just within internal team  
3 discussions talking about how we could address the various  
4 concerns that have been raised by citizen groups, including  
5 City Homes, talking about the ability to provide additional  
6 public use space, additional setback from the street along  
7 Montgomery Lane, realistically what does that mean for the  
8 project? How could we possibly do that?  
9 Well, really the only way it could be done and not  
10 lose density, not lose square footage would be to push it  
11 back closer to Villages of Bethesda.  
12 MR. ABRAMS: Well, you could lose square footage  
13 if you push it back from Montgomery Lane, could you not?  
14 MR. LANDFAIR: There you could, yes, but --  
15 MR. ABRAMS: But the applicant didn't want to do  
16 that?  
17 MR. LANDFAIR: It changes the dynamics of the  
18 proposal.  
19 MR. ABRAMS: But the applicant didn't want to do  
20 that?  
21 MR. LANDFAIR: It was not an option we wanted to  
22 do.  
23 MR. ABRAMS: Now are you aware that the Edgemoor  
24 at Arlington North had a commercial element to it?  
25 MR. LANDFAIR: I don't recollect that it did. It

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1 might have, maybe had offices, medical offices associated  
2 with it.  
3 MR. ABRAMS: Well, could that be one reason why  
4 they had no MPDU's?  
5 MR. LANDFAIR: It could be.  
6 MR. ABRAMS: Now the previous development plan  
7 provided 14 percent public use space, correct?  
8 MR. LANDFAIR: Yes.  
9 MR. ABRAMS: This plan provides the bare  
10 minimum --  
11 MR. LANDFAIR: 10 percent.  
12 MR. ABRAMS: -- 10 percent?  
13 MR. LANDFAIR: Yeah.  
14 MR. ABRAMS: Okay. And you indicated that the 680  
15 or 81 feet was necessary to bring it up to the minimum?  
16 MR. LANDFAIR: Correct.  
17 MR. ABRAMS: But, nonetheless, you could provide  
18 more public use space than the minimum if the applicant  
19 chose to do so?  
20 MR. LANDFAIR: We could. We could also  
21 reconfigure what we've done. We could perhaps, as other  
22 developments have up and down Montgomery Lane, Edgemoor  
23 Highrise for one, we could extend some of the public use  
24 space into, along the side yard area. That has to say the,  
25 along the western property line. We opted not to do that

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1 because we felt it wouldn't be that viable for much of the  
2 reasons that staff and the Planning Board raised the  
3 viability of the north side, amenity space, which we're  
4 still retaining and which in theory someday could be public  
5 use space.  
6 MR. ABRAMS: If you could provide a bigger oyster  
7 shell or however you described it, could you not?  
8 MR. LANDFAIR: You could make a bigger scallop in  
9 that corner.  
10 MR. ABRAMS: And that would be more beneficial to  
11 the public in terms of its utilization and that narrow strip  
12 on the western side, would it not, as a professional  
13 planner?  
14 MR. LANDFAIR: Depending on how it's designed.  
15 Yes. It's already a sizeable area. As I testified  
16 previously, it's over 1,000 square feet of public use space  
17 and 2,000 square feet of consolidated area. It's a good  
18 size pocket park.  
19 MR. ABRAMS: Was there a density transfer set off  
20 between the City Homes area and the big Edgemoor so that  
21 basically the big Edgemoor would get higher density than --  
22 MR. LANDFAIR: There wasn't a --  
23 MR. ABRAMS: -- might be allowed or --  
24 MR. LANDFAIR: -- range up there, yes.  
25 MR. ABRAMS: -- recommended and City Homes area

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1 would get lesser density?  
2 MR. LANDFAIR: I believe that --  
3 MR. ABRAMS: And so that was a tradeoff?  
4 MR. LANDFAIR: Yes, there was. Yeah.  
5 MR. ABRAMS: And in terms of the selection point  
6 of measuring height, okay, and I think you said it was done  
7 for the developer's benefit?  
8 MR. LANDFAIR: And there's nothing wrong with  
9 that.  
10 MR. ABRAMS: No, I'm not saying that there is, but  
11 it was done, it's basically done for the developer's  
12 benefit, isn't it?  
13 MR. LANDFAIR: A developer, any developer will  
14 within the rules, you know, if it works to their advantage,  
15 they'll establish a building height measuring point that,  
16 you know, accommodates their building program.  
17 MR. ABRAMS: Okay.  
18 MR. LANDFAIR: Now some will recognize that there  
19 are certain perceptions that maybe they want to avoid, for  
20 example, case in point, Hampden Lane --  
21 MR. LANDFAIR: But it's --  
22 MR. ABRAMS: -- where they adjusted the building  
23 height measuring point so it wasn't located at the absolute  
24 highest spot elevation contour.  
25 MR. ABRAMS: But it's not done from the standpoint

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1 of the public reception of compatibility, is it?

2 MR. LANDFAIR: Generally it's not considered.

3 MR. ABRAMS: Now the discussion dealing with the

4 Hampden Lane building or Hampden Lane --

5 MR. LANDFAIR: Yes.

6 MR. ABRAMS: -- again, that is at the, a lower

7 elevation, is it not, than --

8 MR. LANDFAIR: Than the properties that are

9 located along Montgomery Lane --

10 MR. ABRAMS: Right.

11 MR. LANDFAIR: -- that's correct.

12 MR. ABRAMS: That's about 10 or 12 feet?

13 MR. LANDFAIR: Roughly that, yes.

14 MR. ABRAMS: Okay. That's a pretty substantial

15 difference in topography, isn't it?

16 MR. LANDFAIR: Yes, it is and you can see that

17 quite readily when you're walking along Hamden Lane. You

18 can look back to the north and see the retaining wall and

19 the brick facade of City Homes, you know, looming up over

20 those properties. So, yes, you can see quite readily the

21 difference in grades between those two homes.

22 MR. ABRAMS: So you when you talk about a 70-foot

23 or 71-foot height limit for a portion of that building,

24 that's sort of mitigated by that 10 to 12-foot retaining

25 wall elevation difference?

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1 MR. LANDFAIR: Yes. Yes, it is.

2 MR. ABRAMS: But you're still putting in smack dab

3 against the City Homes' buildings --

4 MR. LANDFAIR: Yes, you are.

5 MR. ABRAMS: -- is that correct?

6 MR. LANDFAIR: Yes, you are.

7 MR. ABRAMS: Okay. If that's the case, don't you

8 sort of get a hemmed in feeling if you're a resident of City

9 Homes?

10 MR. LANDFAIR: Well, that issue was raised and for

11 that very reason they established courtyards for the Hampden

12 Lane project to provide sufficient air and light and for

13 that reason also they HOC building was stepped back 12

14 feet --

15 MR. ABRAMS: Right.

16 MR. LANDFAIR: -- from the City Homes property.

17 MR. ABRAMS: But how large are those areas that

18 provide the air and the light?

19 MR. LANDFAIR: Well, they're the width of the

20 alleyways that provide the vehicle access for City Homes,

21 about 30 feet.

22 MR. ABRAMS: Now you indicated that you could see

23 the parking on the City Homes alleyways?

24 MR. LANDFAIR: Yes.

25 MR. ABRAMS: Okay. And the garages for the City

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1 Homes, are they one car, two car, three car?

2 MR. LANDFAIR: Two car garages.

3 MR. ABRAMS: Two car garages? And basically

4 they're for the occupants of the buildings?

5 MR. LANDFAIR: Yes.

6 MR. ABRAMS: Okay. So the parking on the side of

7 the alleyways would be for visitors for the most part?

8 MR. LANDFAIR: For the most part I would imagine.

9 MR. ABRAMS: Maybe service personnel?

10 MR. LANDFAIR: Possibly.

11 MR. ABRAMS: Okay. Don't you sort of have the

12 same situation in your own building where you have the

13 amount of parking basically for a number of residents that

14 are there?

15 MR. LANDFAIR: Well, I draw a distinction with our

16 parking. Of course, it's below grade. We don't see any of

17 the parking spaces at all. We are also providing very

18 defined loading areas, a loading bay off of West Lane

19 immediately adjacent to the entrance to the parking garage

20 providing the lay-by, of course, which is, you know, part of

21 the street, but it's a defined area that's useful for

22 loading purposes. So I would characterize it as a different

23 situation than City Homes.

24 MR. ABRAMS: Well, it's a very different

25 situation, particularly when you have 100, up to 120

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1 dwelling units as compared to 29 dwelling units --

2 MR. LANDFAIR: Uh-huh.

3 MR. ABRAMS: -- where you're going to accommodate

4 visitors and service delivery trucks.

5 MR. LANDFAIR: Uh-huh. But the parking standards

6 are different for our project. They're based on the types

7 of units and in addition to that, the parking is also for

8 MPDU units, which we're providing up to 18, is half the

9 normal parking rate. So we are providing parking in

10 accordance with the zoning ordinance standards.

11 MR. ABRAMS: 117 parking spaces?

12 MR. LANDFAIR: I think the plan actually culls out

13 122, 123. 123.

14 MR. ABRAMS: 123 spaces?

15 MR. LANDFAIR: Yeah.

16 MR. ABRAMS: Okay. And you have up to 120 units?

17 MR. LANDFAIR: Uh-huh.

18 MR. ABRAMS: And if you had a single car occupying

19 a residence --

20 MS. HARRIS: Objection to --

21 MS. ROBESON: I haven't heard the question. Just

22 let him finish the question and then --

23 MS. HARRIS: Ask the question and then I can

24 object.

25 MS. ROBESON: Okay.

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1 MR. ABRAMS: Okay. Why don't you object now so --  
2 MR. LANDFAIR: Go ahead.  
3 MS. ROBESON: Well, I'd rather you just ask the  
4 question.  
5 MR. ABRAMS: Okay. If each one of those units had  
6 a vehicle and it was parked in the building, you would have  
7 how many excess parking spaces?  
8 MR. LANDFAIR: We'd have a couple, two.  
9 MR. ABRAMS: Two? Okay.  
10 MR. LANDFAIR: If we were built out to the maximum  
11 number of units that we're --  
12 MR. ABRAMS: Right.  
13 MS. HARRIS: Objection.  
14 MS. ROBESON: Now what is your objection?  
15 MR. ABRAMS: What are you -- he just testified.  
16 MS. ROBESON: Just a second. What's your  
17 objection?  
18 MS. HARRIS: Mr. Landfair was testifying as to, on  
19 redirect as to the visibility of the parking areas as they  
20 relate to the Sector Plan recommendation. He did not get  
21 into the issue of number of spaces required given the  
22 program of the --  
23 MS. ROBESON: And where are you going with it?  
24 MS. HARRIS: -- of the building.  
25 MR. ABRAMS: Well, visibility comes in. If you

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1 don't have enough spaces to accommodate your guests, where  
2 are they going?  
3 MS. ROBESON: No, I think he --  
4 MR. ABRAMS: Visible areas.  
5 MS. ROBESON: I think he was testifying as to just  
6 the visibility.  
7 MR. ABRAMS: Okay. If there were no guests, no  
8 servicemen that came to City Homes, you wouldn't see any  
9 cars in the alleyway, would you?  
10 MR. LANDFAIR: Probably not.  
11 MR. ABRAMS: Okay. That's all the questions I  
12 have.  
13 MS. ROBESON: Well, it's in for the weight it  
14 deserves, okay? So, Mr. Knopf.  
15 MR. KNOPF: I have very few and I'll try to be  
16 very quick.  
17 MS. ROBESON: That's fine.  
18 MR. KNOPF: Okay. You said the measurement was  
19 done from the podium level. Pardon my ignorance, what is  
20 the podium level?  
21 MR. LANDFAIR: Speaking of which building?  
22 MR. ABRAMS: It's the which?  
23 MR. LANDFAIR: Which building are you speaking of?  
24 MR. KNOPF: No, I mean you used, you used the term  
25 podium.

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1 MS. ROBESON: I think it was the Arlington.  
2 MR. LANDFAIR: Right.  
3 MR. KNOPF: But you used the term. I'm just not  
4 familiar --  
5 MS. ROBESON: Oh.  
6 MR. KNOPF: -- with the term.  
7 MR. LANDFAIR: Right. The podium is basically a  
8 raised platform area and it's quite useful, particularly in  
9 urban design, particularly in urban areas, to, particularly  
10 if you have space below grade like parking. You can make it  
11 work with the grades. You're raising the area and the  
12 zoning ordinance allows you to take the building height  
13 measurements from that raised area. The problem is, for  
14 example, with the Edgemoor at Arlington, that podium area  
15 which is raised above the surrounding streetscape by several  
16 feet doesn't often read as public use space. When you're  
17 walking by, you see it as more the private space for the  
18 benefit of the residents.  
19 MS. ROBESON: What's the --  
20 MR. LANDFAIR: I think that's problematic.  
21 MS. ROBESON: Was -- at the Edgemoor at Arlington,  
22 was that the space that goes up several steps?  
23 MR. LANDFAIR: Edgemoor at Arlington is here in  
24 the --  
25 MS. ROBESON: Right. And I remember, in fact, I

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1 said something how I thought the transition was nice, but  
2 that was the one where you have steps --  
3 MR. LANDFAIR: You do have steps, right.  
4 MS. ROBESON: -- what you call the podium?  
5 MR. LANDFAIR: The podium level, which is a raised  
6 level. It's like a -- you could think of it as like a small  
7 plaza area.  
8 MS. ROBESON: Right.  
9 MR. LANDFAIR: And typically what you locate below  
10 grade is parking or other infrastructure --  
11 MS. ROBESON: Right.  
12 MR. LANDFAIR: -- related to the building.  
13 MS. ROBESON: And I was one of those people that  
14 did not interpret it as public use space.  
15 MR. LANDFAIR: Right.  
16 MS. ROBESON: So --  
17 MR. LANDFAIR: Right.  
18 MS. ROBESON: I just wanted to make sure --  
19 MR. LANDFAIR: I think --  
20 MS. ROBESON: -- that we're looking at the same  
21 area.  
22 MR. LANDFAIR: I think many would agree with you.  
23 MS. ROBESON: I'm sorry to interrupt.  
24 MR. KNOPF: No, that's quite all right. I just, I  
25 wasn't familiar with the term. I'm sorry, but I got lost



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1 MR. LANDFAIR: Yes.  
2 MR. KNOFF: That, again, is a separate requirement  
3 from the density and use?  
4 MR. LANDFAIR: Yes.  
5 MR. KNOFF: And is one of the purposes, do you  
6 agree that one of the purposes of the zone, that there must  
7 be a finding of compliance as, quote, to prevent detrimental  
8 effects to the use or development of adjacent properties or  
9 the surrounding neighborhood, unquote?  
10 MR. LANDFAIR: Yes.  
11 MR. KNOFF: Okay. So, okay. The Villages of  
12 Bethesda, there's much talk about setbacks and so forth.  
13 Could you -- do you have a picture or could you tell us from  
14 your memory the Villages of Bethesda dwelling units, how  
15 many of them, which ones, where, have windows that face,  
16 because it would be south, face the project? And on my trip  
17 I don't remember seeing any, but that's why I rely on you.  
18 MR. LANDFAIR: You're referring to 106b? The  
19 closest end units of Villages of Bethesda has no windows in  
20 that end unit, but faces directly out onto the property.  
21 However, directly opposite, its own mews, or public use  
22 space area, to the rear side of these units and through  
23 here, you do have windows that look out, look to the south  
24 and would have a view into the subject property.  
25 MR. KNOFF: I'm sorry --

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1 MS. ROBESON: Are there any windows on the eastern  
2 property border, you know, the part that --  
3 MR. LANDFAIR: Well, there's -- yes. And there's  
4 windows along this side and there's windows along this side.  
5 This would be the --  
6 MS. ROBESON: Wait, I'm sorry.  
7 MR. LANDFAIR: I'm sorry.  
8 MS. ROBESON: I can't see. When you say side --  
9 MR. LANDFAIR: Along the west side, which would be  
10 the front of the townhouse unit --  
11 MS. ROBESON: Okay.  
12 MR. LANDFAIR: -- in Villages of Bethesda.  
13 MS. ROBESON: And --  
14 MR. LANDFAIR: That would have windows indoors.  
15 And then, likewise, on the east side, the rear side of those  
16 units, there would also be windows and doors.  
17 MR. KNOFF: Excuse me, I didn't mean to -- is the  
18 Hearing Examiner finished with the questions?  
19 MR. KNOFF: Oh, I'm sorry. I'm still -- point to  
20 the windows again, which way the windows are facing?  
21 MR. LANDFAIR: There's windows are here.  
22 MR. KNOFF: Wait, so you look out -- show which  
23 way, I'm standing in a window and I'm looking out, which way  
24 would my vision go?  
25 MR. LANDFAIR: Well, you could look. I mean you

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1 could actually step out into your own rear yard there and  
2 also have a view into our property, but you could look out  
3 through these windows diagonally into the subject property.  
4 MR. KNOFF: Diagonally?  
5 MR. LANDFAIR: Yes.  
6 MR. KNOFF: And does, is there, I'm sorry I  
7 forgot, is there some kind of wall or plantings or something  
8 that's at the, on the southern property line that separates  
9 it?  
10 MR. LANDFAIR: I think, if you can give me a  
11 moment, I can dig out a photograph for you.  
12 MR. KNOFF: Okay.  
13 MS. ROBESON: Well, we didn't we wander -- I  
14 thought there is some kind of fencing along the southern  
15 property --  
16 MR. KNOFF: It's --  
17 MS. ROBESON: -- having wandered there.  
18 MS. HARRIS: The aerial might be helpful.  
19 MS. ROBESON: It's not as helpful as I thought it  
20 would be.  
21 MS. HARRIS: This?  
22 MS. ROBESON: Well, you can testify, I mean as  
23 best you can.  
24 MR. LANDFAIR: Referring to --  
25 MR. KNOFF: This is 106f, I believe.

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1 MR. LANDFAIR: -- 106f, aerial dated February  
2 15th, the Villages of Bethesda, of course, is located at the  
3 corner of Arlington and Edgemoor. The rear side of the  
4 development does back up to the subject property. The  
5 closest end unit to the subject property has no windows in  
6 that end unit, but the rear side of the building and the  
7 front side of the building, the front side faces to the  
8 west, rear side faces to the east, both have windows and  
9 doors. Certainly, the side facing to the east you would  
10 have a diagonal view, marginally, but a diagonal view into  
11 the subject property.  
12 That view, however, is somewhat mitigated by trees  
13 that are planted along the common property line, actually I  
14 think it's just inside the adjacent property, that are  
15 planted to screen the structured parking which is below the  
16 tennis courts on the adjacent face property.  
17 MS. ROBESON: So those trees, those aren't  
18 inserted, those are actually there? Maybe it's just the  
19 glare?  
20 MR. LANDFAIR: Those trees are actually there.  
21 MS. ROBESON: Okay.  
22 MR. LANDFAIR: They're in reasonable shape, yes.  
23 MR. KNOFF: All right. I'm just trying to  
24 understand that. And the, the distance between the, your  
25 building and, like we said, Arlington North that's being

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1 built, there's a green space between the buildings as you go  
2 back toward Bethesda, the Bethesda Villages?  
3 MR. LANDFAIR: Right.  
4 MR. KNOPF: Right?  
5 MR. LANDFAIR: We have our own green space and  
6 then there's --  
7 MR. KNOPF: And what's the width of that? You  
8 said that was 40 some feet?  
9 MR. LANDFAIR: About 42 feet, yeah.  
10 MR. KNOPF: So you that someone, assuming someone  
11 could see down in that area, they, the first view would be  
12 the 40 feet of open space or --  
13 MR. LANDFAIR: Well, whose view are we talking  
14 about? Is it the view from Edgemoor at Arlington North?  
15 MR. KNOPF: No, I'm talking about the Villages of  
16 Bethesda --  
17 MR. LANDFAIR: Oh, okay.  
18 MR. KNOPF: -- houses, you said somebody could  
19 look out the window diagonally and see?  
20 MR. LANDFAIR: Yes, yes, they could have, and they  
21 would have a view from their own public use space. They  
22 have their own sort of miniature mews, if you will, looking  
23 directly south and they could see both into our, what would  
24 be the future private amenity area for our residents, as  
25 well as into the rear area of Edgemoor at Arlington North.

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1 MR. KNOPF: And I cut you off, is that 42 feet in  
2 width?  
3 MR. LANDFAIR: From building to building, yes.  
4 MR. KNOPF: Yes.  
5 MR. LANDFAIR: Yeah.  
6 MR. KNOPF: Thank you. My last question, you'd be  
7 happy to know, is, there was some discussion back and forth  
8 in response to the questions from your counsel as to whether  
9 the chairman at the Planning Board changed her opinion  
10 somehow between the first report and the second report and  
11 I'm now referring to the second report, Exhibit 105. And I  
12 want to read something to you here. This is the report.  
13 "The majority of the board concluded that an  
14 increased setback from nine feet to 12 feet along  
15 the top floors of the building parallel to  
16 Montgomery Lane, as well as contrasting building  
17 materials that these floors effectively reduce the  
18 bulk and mass of the building. Moreover, the  
19 majority of the Planning Board found the density  
20 proposed is necessary to achieve a critical mass  
21 on the site,"  
22 etcetera. Do you agree with me in reading that that by  
23 specifying it was the majority that she has preserved what  
24 she said in the original opinion?  
25 MR. LANDFAIR: Not necessarily. It's hard to tell

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1 just by reading that resolution just how much of the  
2 majority opinion she fully supports and how much of her own  
3 because, clearly, I think many of us were there. She voiced  
4 some strong statements and strong opinions about what  
5 projects have conformed to or not conformed to in the past  
6 over the years. So I'm not sure one could say that she's  
7 basically restating the opinion that she stated in the first  
8 resolution to be honest with you.  
9 MR. KNOPF: So you are not certain?  
10 MR. LANDFAIR: I'm not certain.  
11 MR. KNOPF: Okay. Thank you. I have no further  
12 questions.  
13 MS. ROBESON: All right.  
14 MS. HARRIS: May I ask Mr. Landfair two questions?  
15 We'll clarify one thing that Mr. Abrams said just for  
16 clarification on the record.  
17 MS. ROBESON: Okay.  
18 MS. HARRIS: Mr. Abrams stated that the units per,  
19 he was referring to the number of units and instead of  
20 saying 100 to 120 units, he said 100 to 120 units per acre  
21 and I'm assuming that's not what you meant?  
22 MR. ABRAMS: No, I thought I said 100 to 120  
23 units.  
24 MS. HARRIS: You said per acre at one point --  
25 MR. ABRAMS: Okay. Well --

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1 MS. HARRIS: And I just want to clarify that that  
2 wasn't what was intended.  
3 MR. ABRAMS: Right.  
4 MS. HARRIS: The second question, and the only  
5 question I have for Mr. Landfair, isn't it correct that the  
6 Planning Board always has the opportunity to issue minority  
7 opinions when they send over a transmittal to either the  
8 Council or the Zoning Hearing Examiner?  
9 MR. LANDFAIR: Yes, they do.  
10 MS. HARRIS: And --  
11 MR. LANDFAIR: I can remember when I was on staff  
12 trying to write those --  
13 MS. ROBESON: Okay.  
14 MR. LANDFAIR: -- provisions.  
15 MS. ROBESON: You said yes?  
16 MR. LANDFAIR: Yes.  
17 MS. ROBESON: Don't go further.  
18 MR. LANDFAIR: That's fine. Thank you.  
19 MS. ROBESON: Do you guys want to cross on that,  
20 either of you? Okay. With that, I am going to -- you do  
21 have to clear your exhibits out because apparently we can't  
22 lock these doors. So I'm going to adjourn until 9:30 on  
23 Monday, April 15th. Thank you for staying so -- oh, what?  
24 MR. KNOPF: Just for planning purposes for my  
25 clients and so on, I'm just trying to get a feel as to when

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1 they might be on to testify, if we could just take a minute  
2 to --  
3 MS. ROBESON: Well, that's up --  
4 MR. KNOFF: -- discuss that here about -- you have  
5 four, you have four more witnesses? I'm just trying to  
6 figure out what day I need to have them come.  
7 MS. HARRIS: It seems to me since the cross has  
8 taken longer than the direct, that you may be better able to  
9 answer that question than I can.  
10 MR. KNOFF: Well, if you could just --  
11 MS. HARRIS: Just a moment.  
12 MS. ROBESON: I anticipate a long cross-  
13 examination of the architect and I don't know what Mr.  
14 Berman is going to say.  
15 MS. HARRIS: So we have Mr. Berman. We have Mr.  
16 Redulescu, Mr. Kabot, our landscape --  
17 MS. ROBESON: Who is Mr. --  
18 MS. HARRIS: -- architect.  
19 MS. ROBESON: Oh, Mr. Kabot is the civil --  
20 MS. HARRIS: And then our civil engineer and then  
21 we have two --  
22 MS. ROBESON: You have a traffic person too?  
23 MS. HARRIS: Yes, that's Mr. Kabot. One, two,  
24 three -- we have five more primary witnesses and then there  
25 are two people, as I noted, that we're calling from two

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1 organizations. And I actually expect, because they expected  
2 and arranged their schedules to be here on Monday and that  
3 they will be very brief. I anticipate putting both of them  
4 on on Monday.  
5 MS. ROBESON: That's fine. We can take them  
6 first.  
7 MS. HARRIS: Thank you.  
8 MR. ABRAMS: So that --  
9 MR. KNOFF: Just five experts and then two lay  
10 witnesses?  
11 MR. ABRAMS: Would it be --  
12 MS. ROBESON: Is it the smart, is it the Smart  
13 Growth?  
14 MS. HARRIS: Coalition for Smart Growth and the  
15 Action Committee for Transit.  
16 MR. ABRAMS: Would it be safe to say that no  
17 opposition witnesses will be heard on Monday?  
18 MS. ROBESON: I think that's safe. I mean you are  
19 always at your own risk, but I think that Monday you will  
20 not need opposition.  
21 MR. ABRAMS: Okay. The next thing is what is Mr.  
22 Berman going to testify to since basically all I got was an  
23 entry of his name and his curriculum vitae. I don't know  
24 what his --  
25 MS. HARRIS: Mr. Berman is going to be testifying

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1 to the intent of the Bethesda Sector Plan since he was  
2 integrally involved in the drafting of it.  
3 MR. ABRAMS: So the intent of the Sector Plan, is  
4 that what you're saying?  
5 MS. HARRIS: Yes.  
6 MR. ABRAMS: Okay.  
7 MS. ROBESON: Okay.  
8 MR. KNOFF: And just for the record, are you  
9 envisioning you would go next and then my witnesses? I'm  
10 just trying --  
11 MS. ROBESON: Well, I think we might as well stay  
12 in the same order and we'll take Mr. Abrams's witnesses and  
13 then your witnesses.  
14 MR. KNOFF: So I think -- okay. So I think it's  
15 safe my witnesses wouldn't be on before Wednesday.  
16 MS. ROBESON: Unless for some reason you would  
17 like your expert to go earlier. You don't have an --  
18 MR. ABRAMS: I don't care.  
19 MS. ROBESON: -- expert witness, right?  
20 MR. KNOFF: Okay. It just gives me --  
21 MR. ABRAMS: No, I don't have --  
22 MR. KNOFF: -- a rough idea. Thank you.  
23 MR. ABRAMS: He does.  
24 MS. ROBESON: Okay. All right. With that, we're  
25 adjourned.

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1 MS. HARRIS: Thank you.  
2 MR. KNOFF: Thank you for your patience.  
3 MS. ROBESON: Oh, no, thank you.  
4 MR. KNOFF: I have a question for --  
5 (Whereupon, at 7:22 p.m., the hearing was  
6 concluded.)  
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that the attached pages represent an accurate transcript of the electronic sound recording of the proceedings before the Office of Zoning and Administrative Hearings for Montgomery County in the matter of:

4831 WEST LANE, LLC  
LOCAL MAP AMENDMENT G-954, DPA 13-01

By:

Tracy Hahn, Transcriber

A				
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