

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

-----X
:
:
APPLICATION OF ADVENTIST : DPA 13-02
HEALTHCARE & CABIN BRANCH COMMONS :
:
-----X

A hearing in the above-entitled matter was held on September 6, 2013, commencing at 8:51 a.m., at the Office of Zoning and Administrative Hearings, 100 Maryland Avenue, Rita Davidson Memorial Hearing Room, 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:

Robert Harris, Esq.
Stephen Robins, Esq.
Lerch, Early & Brewer
3 Bethesda Metro Center, Suite 460
Bethesda, Maryland 20814

For the Opposition:

William J. Chen, Jr., Esq.
Chen & McCabe, LLP
200A Monroe Street, Suite 300
Rockville, Maryland 20850

Jody S. Kline, Esq.
Miller, Miller & Canby
200-B Monroe Street
Rockville, Maryland 20850

E X H I B I T S

Exhibit No.		Marked/Received
86A	Staff report for the 2011 limited amendment to 1994 Clarksburg master plan	291
94	Memorandum dated 11/2/05 from Bob Harris to Michael Ma	21
96	Copy of the Planning Board opinion approving the Cabin Branch preliminary plan	132
97	Page 12 of the technical appendix of the master plan	173
98	Harris memo of 9/6/13	183
99	Excerpt from Leesburg, Virginia town plan	253
100	Aerial Photograph of the Leesburg Center	257
101	Aerial Photographs	268

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Gary Unterberg				
By Mr. Chen:		8		163
By Mr. Harris:				61
By Mr. Kline				124
James Noonan				
By Mr. Chen:		188		
By Mr. Kline:		271		

1 P R O C E E D I N G S
2 MS. ROBESON: This is a continuation of the public
3 hearing in the application of Adventist Healthcare, Inc.,
4 and Cabin Branch Commons, Inc., requesting an amendment to
5 the development plan approved by the District Council on
6 September 9, 2003, in LMA G-806 for property consisting of
7 283.5 acres east of Clarksburg Road, west of I-270 and north
8 of West Old Baltimore Road in Clarksville, Maryland.
9 All right. As a preliminary matter, Mr. Harris,
10 do you -- I did speak briefly with Mr. Carter yesterday
11 about his availability. Is there -- and he can be here at
12 1:00. I guess my question is what I've been trying to
13 avoid, I agree with Mr. Chen that if he comes, he needs to
14 come before the opponent's case. Is there a finite -- what
15 I was hoping to avoid is a free-floating, this is what the
16 Council did and why it did it, and this is my version of why
17 the Council did something. Is there a finite or specific
18 topic that you are proposing he testify on?
19 MR. HARRIS: There seem to be two different views
20 on the recommendation for 120,000 square feet of
21 neighborhood retail.
22 MS. ROBESON: Okay.
23 MR. HARRIS: And I do believe Mr. Carter clarified
24 that in his staff report and that the Planning Board did,
25 but given that there continues to be disagreement from the

Page 6

1 opposition about that topic, my thinking was that perhaps he
2 could clear that up.
3 MS. ROBESON: Well, I'm not sure the -- I
4 understand your arguments. I'm not sure you're going to get
5 the opposition to agree with you on it.
6 MR. HARRIS: I think that's a fair statement.
7 MS. ROBESON: So given that, is there a necessity
8 to have him -- you've made the argument about the, with the
9 technical appendix and the ability, you know, in the RMX
10 Zone to have additional retail without the need to specify
11 it in the master plan. I did understand that argument. So
12 is there a need to have him here?
13 MR. HARRIS: To be honest, at this point in time
14 I'm more interested in completing the hearing. I think the
15 evidence that has come out so far, and we're not finished
16 yet, in my opinion, you know, supports our case pretty
17 strongly without Mr. Carter and I, you know, don't want to
18 delay the hearing, so --
19 MS. ROBESON: Okay.
20 MR. HARRIS: -- I'm inclined to relieve him. Now
21 the, I mean we do have the right to a rebuttal case --
22 MS. ROBESON: That's true.
23 MR. HARRIS: -- and so, you know, but I think it
24 would be extraordinary to need him even then.
25 MS. ROBESON: Okay. All right. Then so you are

Page 7

1 not requesting him to appear at this time, but possibly
2 reserving your right?
3 MR. HARRIS: Yes. Yes, ma'am.
4 MS. ROBESON: All right. That is fine. So we
5 left off -- are there any, I apologize, are there any other
6 preliminary matters?
7 MR. HARRIS: For the first day of the hearing, I
8 don't have any.
9 MS. ROBESON: Okay. I believe we left off with
10 Mr. Chen's cross-examination of Mr. Unterberg. Mr.
11 Unterberg, do you have the exhibits that you need now?
12 MR. UNTERBERG: Yes, I believe they're all here
13 and we'll see which ones I need, but --
14 MS. ROBESON: Okay. All right. Mr. Chen, do you
15 want to continue?
16 MR. CHEN: Thank you very much, Madam Hearing
17 Examiner. As I said at the last hearing, Mr. Kline covered
18 a lot of what I had and if I'm a little bit disjointed, it's
19 trying to avoid --
20 MS. ROBESON: I understand.
21 MR. CHEN: -- unnecessary duplication and I
22 probably will run over some duplication, but I'm trying to
23 cut it down as much as possible.
24 MS. ROBESON: I appreciate that. Thank you.
25 CROSS-EXAMINATION

Page 8

1 BY MR. CHEN:
2 Q Mr. Unterberg, as I recollect your testimony from
3 the last hearing, you explained to me that the Northern
4 District area would, essentially as I recall, and please I
5 don't want to mischaracterize your testimony, but that the
6 northern area would contain the specialty retail area and, I
7 guess, neighborhood retail, is that correct, sir?
8 A That is correct.
9 Q When you say specialty retail, do I understand you
10 to say that that is the outlet area, the outlet stores area?
11 A We are applying the specialty retail return to the
12 outlet area, yes.
13 Q Is there a difference between the terminology
14 between specialty retail and retail?
15 A I think retail in a sense is a broader term and in
16 this case specialty retail we're applying to the outlets.
17 Q Okay. So I take it specialty retail would be
18 within the definition of retail?
19 A Yes, it would.
20 Q Under this DPA, sir, what is the maximum amount of
21 retail or specialty retail square footage that would be
22 possible in the Northern District?
23 A Under this DPA, which -- I don't know if I need
24 the pointer yet, but I'll get it out -- it's primarily
25 located in Area A and Area A retail is a range from zero to

Page 9

1 450,000 square feet.
2 Q Okay. So as I understand what you just pointed
3 out for us, you said Area A, but I'm, am I correct in
4 referring to that area also as the Northern or the North
5 District?
6 A The North District includes Area A and Area B, and
7 then in Area B, retail is arranged again from zero to
8 150,000 square feet.
9 MS. ROBESON: What was the range in A?
10 THE WITNESS: A is zero to 450,000 square feet.
11 MR. HARRIS: Well, also --
12 MS. ROBESON: Oh, yes.
13 MR. HARRIS: -- can you see the board, or there
14 are some lights that aren't, actually aren't on it. I don't
15 know if we've turned them all on or not.
16 MS. ROBESON: Okay. And what exhibit are you
17 referring to? Is that one --
18 THE WITNESS: This is Exhibit 59.
19 MS. ROBESON: 59? Okay.
20 THE WITNESS: -- which is the development plan.
21 MR. ROBINS: No, that turned it on. You turned
22 that on, yes.
23 (Discussion off the record.)
24 MS. ROBESON: Go ahead, Mr. Chen. Are you able to
25 see it?

Page 10

1 MR. CHEN: I can see it when I get this close.
2 MS. ROBESON: Okay.
3 BY MR. CHEN:
4 Q Okay. So as I understand it, sir, Area A will
5 have a maximum of 450,00 square feet and Area B would have a
6 maximum of 150,000 square feet?
7 A There's a range but, again, those are all capped
8 by the maximum rear table, so they have to work within the
9 maximum and the range.
10 Q Right. Now am I correct in understanding that
11 Area A would be the specialty retail?
12 A Primarily. It does overlap. We talked about
13 Golden Eye, which is the road between the two, and it does
14 overlap between the A and the --
15 Q Okay. But as I understand your testimony, Area A
16 is to be primarily the outlets?
17 A Primarily, yes.
18 Q Okay. And Area B then would be the neighborhood
19 retail?
20 A Primarily.
21 Q Yes, primarily.
22 A Yes. Right. Yes.
23 Q Okay. Where is the other neighborhood retail
24 located?
25 A Some of it is also in Area B, but north of 121.

Page 11

1 Q Is that the Gosnell development?
2 A The Gosnell or SMPM.
3 Q Okay.
4 A Also Area B in the mixed use designation.
5 There's, you know, south along Cabin Branch Avenue in Area C
6 in the central location and the cross street is Skimmer.
7 Q Okay. Now down in Area C, that is, as I recollect
8 your testimony, tended to be neighborhood retail, is that
9 right?
10 A Yes.
11 Q What is arranged there?
12 A Area C has retail zero to 30,000 square feet is
13 the range.
14 Q As I understand it, the -- by the way, the
15 technical name of the master plan that we're dealing with in
16 this case is Clarksburg Master Plan and Hyattstown Special
17 Area, Special Study Area, is that correct, sir?
18 A For the '94 plan, yes.
19 Q Yes. So I think we've been calling it Clarksburg
20 Plan. That's how I'll follow that nomenclature, okay?
21 A Okay.
22 Q As I understand it, that plan states that the
23 Cabin Branch neighborhood will have a neighborhood core, do
24 you recall that, sir?
25 A Yes, I do.

Page 12

1 Q Where would be the neighborhood core under the
2 DPA?
3 A Primarily in Area B, this mixed use designation,
4 and we have prior testimony in coordination with Well Spring
5 Avenue and Cabin Branch, which is this mixed use area.
6 Q Okay. That retail area down in Area C, how would
7 you characterize that?
8 A It's another mixed use area, but also it's
9 primarily a neighborhood retail in Area C.
10 Q And as I understand your testimony in the
11 application documents, there is no grocery store in this
12 DPA?
13 A The full-size grocery store, yes. There is no
14 full-size grocery store proposed.
15 Q Alternative to the full-size grocery store, what
16 would be in the DPA?
17 A There's wide ranges of uses. Are you speaking to
18 grocery-related or --
19 Q Yes.
20 A It could be a food store, smaller in size.
21 There's a variety of uses that are allowed under the MXP
22 Zone.
23 Q When you say smaller in size, sir, what is the
24 range that you're talking about?
25 A It's undetermined right now, but it's generally

Page 13

1 with the proposed binding element there's a 50,000 square
2 feet limit and it's going to range anywhere small or larger
3 within that parameter. So it could be a 5,000 square foot
4 store, a 10,000 square foot store, a series of stores,
5 smaller, larger.
6 Q Up to a maximum of 50,000 square feet?
7 A Per the binding element, yes.
8 Q Okay. Now we certainly know from your range of
9 square footage in Area C that there's not going to be,
10 there's not going to be a grocery store in that location,
11 correct?
12 A The larger, full-service grocery, well, say that
13 again please?
14 Q Yes. I think you and I are on the same page. In
15 Area C there's not going to be a full, a full-service
16 grocery store?
17 A In Area C, correct.
18 Q Okay. So that if there's going to be a full-
19 service grocery -- strike that. If there's, since there's
20 not going to be a full-service grocery store in the DPA, and
21 we're talking about a food store which is smaller in size,
22 that type of food store would be, I guess, depending upon
23 its size, either in Area C or Area B?
24 A Correct, within the mixed use designation.
25 Q Yes. To a maximum of 50,000 square feet?

Page 14

1 A Yes, per that, per the binding element.
2 Q Do you have the 2011 Master Plan Amendment?
3 A The full one that was passed out yesterday?
4 Q The last hearing.
5 A Or I mean Wednesday? The days are blurring
6 together.
7 Q Yes.
8 MS. ROBESON: What was the, what was the range in
9 Area C up to?
10 MR. CHEN: Well, the maximum square footage in
11 that area would be 30,000 for any --
12 MS. ROBESON: That's what I thought.
13 THE WITNESS: Zero to 30,000.
14 MS. ROBESON: So the limitation in C is not 50,
15 it's 30, right?
16 THE WITNESS: Correct. Correct.
17 MS. ROBESON: Okay. Go ahead. I'm sorry, Mr.
18 Chen.
19 THE WITNESS: Since the binding element does, yes,
20 that would be correct.
21 BY MR. CHEN:
22 Q I was directing you to the 2011 Master Plan
23 Amendment, sir.
24 A Okay.
25 Q If you would go to page 9? Do you see that?

Page 15

1 A I'm at page 9.
2 Q Okay. Do you see the bullets on that page?
3 A Are there bullets on page 9 or which --
4 Q I've got --
5 A Is the one --
6 MS. ROBESON: I think, are you referring to page
7 10 of Exhibit 86?
8 MR. ROBINS: I think Mr. Chen is looking at the
9 resolution.
10 MR. HARRIS: Yes.
11 MR. CHEN: Yes.
12 MS. ROBESON: Oh.
13 MR. CHEN: No, no, no, no, no, guys. I apologize.
14 Let me just --
15 MR. ROBINS: That's --
16 MR. HARRIS: That's what we have out.
17 MR. CHEN: Yes. I'm looking at the same thing.
18 MR. HARRIS: But not page 9. You're on another
19 page, I think.
20 (Discussion off the record.)
21 MR. CHEN: Did Mr. Kline's copy trip me on
22 exhibits?
23 MR. HARRIS: Yes, something is different. Exhibit
24 86, page 9, has no bullets.
25 MS. ROBESON: Do you want to look at the official

Page 16

1 copy?
2 MR. CHEN: Yes, may I?
3 MR. HARRIS: Analysis. You're looking at page 10
4 there, Mr. Chen, in Exhibit 86.
5 MR. CHEN: Well --
6 (Discussion off the record.)
7 MR. CHEN: Isn't it on page 10, Mr. Harris?
8 MR. HARRIS: Yes. The bullets start on page 10.
9 There's one on the bottom of that and then they carry over
10 to 11.
11 BY MR. CHEN:
12 Q Okay. Mr. Unterberg --
13 (Discussion off the record.)
14 MR. CHEN: Thank you, Mr. Harris.
15 MR. HARRIS: Okay.
16 BY MR. CHEN:
17 Q Directing your attention to page 10, do you see
18 it, sir, and do you see the bullets about the middle up on
19 the page?
20 A I do.
21 Q And it discusses a grocery store, is that correct?
22 A Are you referring to all the bullets or any?
23 Q Well, several. One, two, three, four, four of the
24 five.
25 A Okay.

Page 17

1 Q Five of the bullets talk about the grocery store
2 or the planning area, is that right?
3 A I see those bullets, yes.
4 Q Okay. Did you draw any conclusions from that?
5 A As far as these particular bullets?
6 Q Yes.
7 A It does mention a grocery store. I will note in
8 the paragraph above this it does say a limited amendment for
9 '94 Clarksburg Master Plan is for the sole purpose of
10 considering whether the amendment, whether to amend its
11 retail staging provisions.
12 Q Right.
13 A And that --
14 Q Right.
15 A -- discusses grocery stores.
16 Q Right. But aside from -- and I appreciate that,
17 so that's correct there, the amendment did have a specific
18 purpose. My question, however, is do you draw any
19 conclusions from the fact that there is a discussion in five
20 out of the six bullets about a grocery store in the Cabin
21 Branch community? And that's all I'm asking, what, you
22 know, do you -- you may not. I mean I just want to know if
23 you draw any conclusions.
24 A Not offhand. It seems like most of these are
25 regarding the Town Center.

Page 18

1 Q Okay. That's an answer.
2 MR. CHEN: I'll try, as I'm saying, I'm trying not
3 to be duplicative of Mr. Kline, but I've got to ask maybe
4 one question involving --
5 MS. ROBESON: I'm going to let you have some
6 leeway because it's been difficult jumping back and forth,
7 so --
8 MR. CHEN: Thank you.
9 MS. ROBESON: -- go ahead.
10 MR. CHEN: But I think I can do it pretty easy.
11 Mr. Kline really covered it pretty well.
12 BY MR. CHEN:
13 Q But, Mr. Unterberg, with regard to the 120,000
14 square foot retail component that is in the master plan for
15 the Cabin Branch community, that's a numeric provision in
16 the master plan for retail in this community, isn't that
17 right, sir?
18 A I believe it's a numeric for a neighborhood
19 retail.
20 Q I understand, but you do recognize that the plan
21 does not say neighborhood retail, it says retail, isn't that
22 right, sir?
23 A I think the plan says both. It says neighborhood
24 retail on the map and then page 67 it says retail, 120,000
25 square feet.

Page 19

1 Q Well, let's go to page 67. Up at the top, sir,
2 what is the heading on that page?
3 A It says plan objectives.
4 Q Okay. And do you see below that the uses that are
5 proposed for the Cabin Branch community?
6 A Yes.
7 Q What were, what are they?
8 A They read residential, 1,950 dwelling units;
9 employment, 2 million to 2,300,000 square feet; retail,
10 120,000 square feet; public uses; places of worship;
11 childcare; community building; park and elementary school.
12 Q Okay. Now when I ask you about a numeric
13 provision for retail uses, this is, the part of the plan
14 that I'm referring to. Do you see any qualification in that
15 listing as to retail use?
16 A Well, it says retail, 120,000 square feet.
17 Q Yes. And as I understand your testimony a little
18 bit ago, retail, retail is a broad term that includes within
19 it specialty retail, isn't that right?
20 A That's correct.
21 Q As I understand it, Mr. Harris, excuse me, Mr.
22 Unterberg, Mr. Harris had a proposal for development in the
23 Cabin Branch community back in 2005, isn't that right?
24 A Say that again please.
25 Q Yes. Back in 2005, I believe that Mr. Harris

Page 20

1 actually had a client that was proposing a preliminary plan
2 for the Cabin Branch community, isn't that right?
3 A I --
4 Q And it is his project.
5 A Are you speaking to the preliminary plan?
6 Q Well, let me back up for a minute.
7 MR. CHEN: What's our next number?
8 MS. ROBESON: Our next number is --
9 MR. HARRIS: 94. 94.
10 MS. ROBESON: Okay. Hold on one second please.
11 All right.
12 MR. ROBINS: Do you need the exhibit list?
13 MS. ROBESON: I do.
14 MR. ROBINS: Okay. Did you say you need one?
15 MS. ROBESON: I do. I do.
16 MR. ROBINS: Oh, okay, that's what I thought.
17 MS. ROBESON: Thank you.
18 (Discussion off the record.)
19 MS. ROBESON: Okay. Mr. Harris is correct, it is
20 94. And what are you proposing, Mr. Chen?
21 MR. CHEN: I apologize. I'm going to use this,
22 this response. It's a document. I only have one. Let me
23 show it to counsel.
24 MR. HARRIS: It's a multi-page document. I can't
25 read through the whole thing that quickly. It's five pages,

Page 21

1 single-spaced. Can you make us a copy of that?
2 MR. CHEN: Yes. Do you want it right now or --
3 MR. HARRIS: Well, go ahead and ask your question,
4 but I'd like a copy so I can --
5 MR. CHEN: Yes. I'll give it to you.
6 MR. HARRIS: Okay.
7 BY MR. CHEN:
8 Q Mr. Unterberg, take a look at Exhibit No. 94 for a
9 second.
10 MS. ROBESON: What is Exhibit 94? How would you
11 label it?
12 MR. CHEN: I apologize. I would label it
13 memorandum dated November 2, 2005, from Bob Harris to
14 Michael Ma.
15 MS. ROBESON: Spell Ma, can you --
16 MR. CHEN: M-A.
17 MS. ROBESON: Thank you.
18 (Exhibit No. 94 was marked for
19 identification.)
20 MR. CHEN: I apologize. I didn't think I was
21 going to be using this.
22 MS. ROBESON: That's fine.
23 BY MR. CHEN:
24 Q Sir, would you please take a minute, and as much
25 time as you want actually, to skim through Exhibit 94? And

Page 22

1 just so you know where I'm coming from, you'll see on the
2 first page there's a reference to Cabin Branch team and my
3 simple question is going to be are you part of that Cabin
4 Branch team that's referenced in Exhibit No. 94?
5 A Offhand, I do not know if I was copied on this or
6 not.
7 Q Were you retained as part of your service for this
8 DPA for 2005, November of 2005?
9 MR. HARRIS: Excuse me. What DPA in 2005?
10 MR. CHEN: This, the DPA that, the pending DPA.
11 MR. HARRIS: There was no pending DPA in 2005.
12 MR. CHEN: No. I was asking was he a member of
13 the team for this DPA in 2005. In other words, it may not
14 have been filed yet, but was he a member of the team for
15 this DPA in 2005?
16 MR. HARRIS: Was he a member --
17 MS. ROBESON: Okay.
18 MR. HARRIS: -- of the Cabin Branch team --
19 MR. CHEN: Yes.
20 MR. HARRIS: -- in 2005 might be a more
21 appropriate question.
22 MR. CHEN: I --
23 MS. ROBESON: Yes, that's, that I think that's
24 where I was going. Were you working on the Cabin Branch
25 project in 2005 in one format or another?

Page 23

1 THE WITNESS: In one format or another, we worked
2 on Cabin Branch in 2005. My recollection, I don't know if I
3 have seen this before or not.
4 MR. CHEN: Okay.
5 THE WITNESS: Just give me one second, though.
6 MR. CHEN: Go right ahead. Take as much time as
7 you want.
8 MR. HARRIS: Do you need that? Were you going to
9 ask another question on that?
10 MR. ROBINS: Do you need this or not?
11 MR. CHEN: No, I'm done.
12 MR. HARRIS: Okay. Well, then let us, let him
13 read it while you move on.
14 MR. ROBINS: Are you done?
15 MR. CHEN: Okay. As I understand Mr. Unterberg's
16 testimony, is that he doesn't recognize the document.
17 MR. HARRIS: Correct.
18 BY MR. CHEN:
19 Q Is that right, Mr. Unterberg?
20 MS. ROBESON: Is that right, Mr. Unterberg?
21 THE WITNESS: That is correct.
22 MR. CHEN: Okay.
23 MS. ROBESON: And then I need it.
24 MR. ROBINS: Yes, I just want to see what it is.
25 I don't think I'm holding up his line of questioning.

Page 24

1 MR. CHEN: Okay. I think I can tread on Mr. Kline
2 lightly.
3 BY MR. CHEN:
4 Q What was the zoning classification on the subject
5 property prior to MXPDP?
6 A Prior to MXPDP in 2003?
7 Q Yes.
8 A It is a combination of RU-1, RMX-1 PDR and I-3.
9 Q Okay. Do you recall -- Mr. Unterberg, is there a
10 preliminary forest conservation plan for the proposed
11 development in, that is presented in the DPA?
12 A There is and there's a preliminary forest
13 conservation plan that was presented in 2003. It was
14 subsequently updated when the preliminary plan was approved
15 in 2004. And then I believe in 2007, which supersedes the
16 preliminary forest conservation plan, there is a final
17 forest conservation plan that was approved for the whole
18 property, the 535 acres, and that was subsequently revised a
19 number of times from 2007 through as current, the current
20 approved final forest conservation plan for the whole site
21 was most recently approved as amended in May 2, 2013. So
22 there is a final forest conservation plan that supersedes
23 the preliminary from a number of years ago.
24 Q Is that an exhibit in the record?
25 A I don't believe it is. I have an 11 by 17 copy.

Page 25

1 MR. HARRIS: No, we don't -- if he wants an
2 exhibit, he can make an exhibit.
3 MR. CHEN: Well, I think it's a required exhibit.
4 MS. ROBESON: Yes, I was going to say I think we
5 need it in the record.
6 MR. HARRIS: Okay.
7 MS. ROBESON: Does it cover this --
8 MR. HARRIS: We'll make a copy at break.
9 MS. ROBESON: -- development?
10 MR. HARRIS: It's multiple pages and it's large-
11 scale.
12 THE WITNESS: It's 60 to 70 pages. It covers the
13 whole site, the 535 acres, which includes the MXPDP area.
14 MS. ROBESON: Okay. Does it incorporate, does it
15 incorporate this project?
16 THE WITNESS: Yes.
17 MS. ROBESON: Then I think it does need to be --
18 MR. HARRIS: Okay.
19 MS. ROBESON: We can handle the --
20 MR. HARRIS: We'll make a copy at the break.
21 MS. ROBESON: We have many files, file folders.
22 MR. CHEN: I have an issue then.
23 MS. ROBESON: Yes, Mr. Chen?
24 MR. CHEN: On the last day of hearing at about
25 9:30, we're now getting a required filing for this DP

Page 26

1 application and none of the opposition witnesses, including
2 their experts had an opportunity to look at this thing.
3 MS. ROBESON: I'm not sure the final is required.
4 I think a preliminary is required. But I will be happy to
5 leave the record open.
6 MR. HARRIS: The preliminary is in the original
7 MXPD zoning file. So it's already in your files. That's
8 all that needed to be submitted.
9 MS. ROBESON: That, but the thing is that file
10 isn't incorporated into the record of this case. So it's an
11 official document, but it's not incorporated into the record
12 of this case. A preliminary forest conservation plan is an
13 element of what you need to submit. If you want to
14 incorporate the preliminary and the final, we should do so
15 and I can leave the record open for a period of time for
16 additional comments.
17 MR. CHEN: How do you want them, in writing or --
18 MS. ROBESON: Right.
19 MR. CHEN: Okay.
20 MS. ROBESON: And let's finish this.
21 MR. KLINE: May I have a question then?
22 MS. ROBESON: Okay.
23 MR. KLINE: Because I'm, Mr. Chen is raising an
24 issue I hadn't thought of before. I'll ask a question then.
25 Is the plan that will be submitted a plan that respects

Page 27

1 changes that reflect the proposed development or is it
2 merely the preliminary forest conservation plan that was
3 approved back when we felt we were going to have a hospital
4 on the property?
5 THE WITNESS: I believe the latter --
6 MS. ROBESON: Well, I --
7 THE WITNESS: -- is what's, or the former --
8 MS. ROBESON: Yes, I'll let Mr. Unterberg -- I
9 think Mr. Unterberg is saying the final reflects these
10 changes for the outlet center which the final is coming into
11 the record, correct?
12 THE WITNESS: The final reflects the developable
13 area that is reflected on this development plan.
14 MS. ROBESON: And so the final would reflect the
15 development in this amendment?
16 THE WITNESS: It does not yet reflect the actual
17 layout of this development and the final has been updated as
18 site plans at proceeding. So the -- as this project goes
19 forward --
20 MS. ROBESON: Okay. So does the --
21 THE WITNESS: -- the development --
22 MS. ROBESON: -- preliminary reflect the --
23 MR. CHEN: The development proposed by the DPA.
24 MS. ROBESON: Yes.
25 THE WITNESS: The preliminary reflects the 2003

Page 28

1 development plan and has not been updated since. That's
2 superseded by the final approved or forest conservation
3 plan.
4 MS. ROBESON: Well, can you address then -- the
5 requirements do, I mean the -- hold on one second and I'll
6 get my --
7 MR. CHEN: It's in --
8 MS. ROBESON: -- 59 D. I think it's in 59 D.
9 MR. CHEN: It's G7.
10 MS. ROBESON: 59 D?
11 MR. CHEN: D, yes, I'm sorry. It's 59 D 1.3G7.
12 Wait a minute, did I get that? No. I read that wrong. I
13 get lost in this.
14 MS. ROBESON: I think it's in the contents.
15 MR. CHEN: Yes, it's --
16 MS. ROBESON: And I'm just looking for that.
17 MR. CHEN: -- C7, I believe, Madam Examiner.
18 MS. ROBESON: Yes, it is, 1.3C7. Now if you can
19 present testimony that the 2003 plan can accommodate this
20 development, you know, the preliminary forest conservation
21 plan can accommodate this development, you know, we can use
22 the 2003 preliminary forest conservation plan. But is a
23 requirement.
24 MR. HARRIS: But Mr. Unterberg can probably answer
25 that question.

Page 29

1 MR. CHEN: Well, with, if I may, I, respectfully,
2 I object.
3 MR. HARRIS: You object to the Hearing Examiner
4 asking him a question?
5 MS. ROBESON: Wait. Just a second. Let me,
6 let -- let me hear your objection.
7 MR. CHEN: I respectfully, I think that oral
8 testimony orally modifying a preliminary forest conservation
9 plan that is not for this development does not satisfy the
10 requirements of the zoning ordinance. Respectfully, I think
11 that, and I thought you were on, going around on the right
12 road, because as I read the ordinance, one of the
13 obligations that the applicant must have and submit is a
14 preliminary forest conservation plan in accordance with
15 Chapter 22A for the development proposed in the DPA and I
16 haven't seen it. And that's why I ask the question.
17 MS. ROBESON: Well, I don't --
18 MR. CHEN: And I'm not, and --
19 MS. ROBESON: -- think that --
20 MR. CHEN: -- where I am is I think you --
21 MS. ROBESON: Yes, I understand your objection. I
22 don't think that means that he has to generate an entirely
23 new plan. I think what, I think what that means is he has
24 to have a preliminary forest conservation plan that reflects
25 this development prepared in accordance with Chapter 22A.

Page 30

1 So I guess what I'm saying is Mr. Harris needs to submit
2 something that is prepared in accordance with Chapter 22A
3 that reflects how the requirements for this development can
4 be met. I don't know if that means a reduplication of what
5 was submitted in 2003, but I agree with you that it needs to
6 be in the record.
7 MR. CHEN: From what you just said, I agree with
8 what you just said.
9 MS. ROBESON: Okay.
10 MR. HARRIS: I would like to approach.
11 MS. ROBESON: Wow, can we -- is that going to be
12 recorded? Go ahead.
13 MR. HARRIS: The provision that Mr. Chen cites at
14 sub-paragraph 7 talks about a development plan. This is not
15 a development plan. This is a development plan amendment.
16 Nothing in the code that I find says that you have to submit
17 a new preliminary forest conservation plan for a development
18 plan amendment if the development plan amendment does not
19 affect provisions with respect to forest conservation. And
20 it's --
21 MS. ROBESON: Well, I'm not requiring a new one.
22 MR. HARRIS: Okay.
23 MS. ROBESON: What I'm requiring --
24 MR. HARRIS: Well, but --
25 MS. ROBESON: -- is testimony or evidence --

Page 31

1 MR. HARRIS: Yes.
2 MS. ROBESON: -- of some kind that the old one,
3 that this development can be accommodated on the existing
4 preliminary forest conservation plan. And I do think you
5 have the ability and I don't frankly remember if your civil
6 engineer has testified, I'm not sure Mr. Unterberg is
7 qualified to testify to that, but I do think you have to put
8 in some evidence about that. It's very similar to what I
9 said about the long-term maintenance that's also required in
10 the approval criteria. I think you have to submit some
11 evidence that your long-term maintenance that you submitted
12 10 years ago is still going to be applicable, whatever your
13 proposal was is still applicable to this project.
14 MR. CHEN: Yes.
15 MR. HARRIS: Mr. Unterberg can answer that, but
16 I'll point to page 31 of the staff report. This is not a
17 surprise to Mr. Chen. In that provision, the staff talks
18 that the plans comply with the forest conservation law
19 because there's an existing, approved forest conservation
20 plan for the entire Cabin Branch development all spent and
21 that this, this project conforms with that.
22 MR. CHEN: May I --
23 MS. ROBESON: Well, okay. Okay. Hold on. Just
24 hold on. Mr. Chen --
25 MR. CHEN: Yes, ma'am? Yes, Your Honor?

Page 32

1 MS. ROBESON: You can call me that. Go ahead.
2 MR. CHEN: A couple things. First of all, I'm not
3 bound by what the technical staff may have said in their
4 report. I am before the Hearing Examiner on, in a quasi-
5 judicial proceeding. Madam Examiner, I refer you to Section
6 59 D-1.74(a). Mr. Harris says he's not required to provide
7 this information that is required for a regular development
8 plan. The last sentence of Section 59 D-1.74(a) in
9 parentheses says that among the filing requirements are,
10 quote, the contents of a development plan amendment
11 application must include a copy of the certified, approved
12 development plan, as well as all relevant information
13 required in Section 59 D-1.3.
14 MS. ROBESON: You're correct.
15 MR. HARRIS: I agree. It says relevant. It
16 doesn't say --
17 MS. ROBESON: No, no.
18 MR. HARRIS: -- all the information.
19 MS. ROBESON: Okay. No. Mr. Harris --
20 MR. HARRIS: Why would it have the word relevant
21 in there?
22 MS. ROBESON: I am not going to argue about it.
23 MR. HARRIS: Okay.
24 MS. ROBESON: I think it's far easier --
25 MR. HARRIS: We can submit the final forest

Page 33

1 conservation plan because it supersedes a preliminary forest
2 conservation plan. There will never be another
3 preliminary --
4 MS. ROBESON: That -- okay --
5 MR. HARRIS: -- forest conservation plan once
6 there is a final forest conservation plan. Final forest
7 conservation plans can --
8 MS. ROBESON: I understand.
9 MR. HARRIS: Okay.
10 MS. ROBESON: I know the process.
11 MR. HARRIS: We can submit that, but I don't --
12 MS. ROBESON: Stop.
13 MR. HARRIS: I won't want --
14 MS. ROBESON: Stop talking. Okay? What I need
15 from you, you can submit it as a preliminary, you can submit
16 it as a final. The link I need is that this development can
17 be accommodated under whatever, either a preliminary or a
18 final forest conservation plan.
19 MR. HARRIS: Yes, ma'am.
20 MS. ROBESON: And I need a copy of that in the
21 file and I need testimony saying it can be. And I would
22 recommend that we get the, we first get the copy in the file
23 and then we get the testimony. And it doesn't --
24 MR. HARRIS: I'm going to see if I can get a copy
25 made now.

Page 34

1 (Discussion off the record.)
2 MS. ROBESON: I see money changing hands.
3 MR. ROBINS: Not in the hearing room I hope.
4 MS. ROBESON: Yes, I know.
5 MR. ROBINS: Please clarify what you're referring
6 to, for the copies.
7 MS. ROBESON: All right. So we are addressing Mr.
8 Chen's concern --
9 MR. CHEN: And I think they've been -- at least to
10 the best we can at this point, I think they've been dealt
11 with. I defer to you --
12 MS. ROBESON: Once we get it --
13 MR. CHEN: -- Ms. --
14 MS. ROBESON: -- if Mr. Unterberg is qualified, he
15 can testify that this -- what I'm -- I've been trying for
16 the phrasing all morning, that this development can be built
17 under the final forest conservation plan --
18 MR. CHEN: Right.
19 MS. ROBESON: -- that's been approved.
20 MR. HARRIS: He could answer --
21 MS. ROBESON: Okay?
22 MR. HARRIS: -- that question for you now if
23 you'll let him.
24 MS. ROBESON: No, let's get the exhibit --
25 MR. HARRIS: Okay.

Page 35

1 MS. ROBESON: -- in the record --
2 MR. HARRIS: Okay.
3 MS. ROBESON: -- and so the cross-examination has
4 something to work with, all right? And as Mr. Chen said,
5 it's a requirement, are you also planning to put the
6 proposed maintenance in the record as well which is, I'll go
7 back, I think that's in the approval criteria.
8 MR. HARRIS: 59 D-1.61(e) --
9 MS. ROBESON: Yes.
10 MR. HARRIS: -- calls for documents showing
11 ownership and method of assuring perpetual maintenance of
12 areas intended to be used for recreational or other common
13 or quasi-public purposes.
14 MS. ROBESON: Right.
15 MR. HARRIS: The, in this case, in the original
16 development plan back in 2003, the zoning hearing examiner
17 at page 76 of that report notes that note 13 on the
18 development plan satisfies that requirement and that any
19 necessary -- and note 13, Gary could read for you, she notes
20 that, it was Francoise Carrier --
21 MS. ROBESON: Yes.
22 MR. HARRIS: -- notes that that satisfies the
23 requirement and that any necessary additional documents
24 would be included in the applicable site plan approval
25 documents. And so there is no change --

Page 36

1 MS. ROBESON: Okay.
2 MR. HARRIS: -- to any of that.
3 MS. ROBESON: Okay. So she took -- and that note
4 is unchanged from the prior development plan?
5 MR. HARRIS: Yes, ma'am. That note is unchanged.
6 MS. ROBESON: Okay. All right. Thank you, Mr.
7 Chen.
8 MR. CHEN: I'm just going to see if we have any
9 evidence that people need to look at.
10 BY MR. CHEN:
11 Q Mr. Unterberg, could you pull the land use plan
12 and put it up on the easel?
13 A The development plan are you speaking to or --
14 Q The land use plan for the DPA.
15 A That is Exhibit 9 at the bottom of the easel.
16 Q That's it? Okay. Thank you.
17 A But just tie the land use plan on the plan.
18 Q Okay. I --
19 MR. CHEN: May I approach the easel, Madam
20 Examiner?
21 MS. ROBESON: Yes.
22 BY MR. CHEN:
23 Q It looks like it could have --
24 A That was 59. Thank you.
25 Q Right. Okay. Mr. Unterberg, could you please

Page 37

1 point out on the land use plan the buildings and structures
2 that there will be and their uses and locations?
3 A What I'd like to do to start with, this is the
4 color version that we discussed several days ago.
5 MS. ROBESON: And that is exhibit --
6 THE WITNESS: This is Exhibit 21F. And --
7 MR. CHEN: May I approach?
8 MS. ROBESON: Yes.
9 THE WITNESS: -- this is the format that was used
10 showing building uses and the legend that was set up that
11 helps explain the colors and the asymology in 21F. We have
12 used that as our base and brought that forward.
13 BY MR. CHEN:
14 Q Are you saying that Exhibit 21F identifies all
15 buildings, structures and their locations and uses?
16 A It does.
17 Q And could you put it back up for a minute?
18 A And this is the color version of the approved land
19 use development plan.
20 Q On Exhibit 21, what is the square footage, the
21 total square footage of the Area C buildings?
22 A Area C, we go to the chart.
23 Q I apologize. Let's go -- okay. No, you're with
24 me. I follow you. On Area B, what is the total square
25 footage shown for the buildings on the exhibit?

Page 38

1 A On Area B --

2 Q Yes, sir.

3 A -- which is titled mixed use, includes retail,

4 employment, senior facilities, public and residential uses

5 up to 6-story height, approximately 47 acres. And then

6 there's a chart and in particular the uses under residential

7 are detached.

8 Q I didn't ask that. I thought I asked for Area A,

9 describe residential retail.

10 A Oh. Sorry, I thought you asked for B. So you

11 want --

12 Q Well, I'm going to go to B, but I already want to

13 go with --

14 A So we're going to start with A?

15 Q And it's the retail. I don't, I'm not asking

16 about residential.

17 A Okay. Area A retail is zero to 10,000 square

18 feet.

19 Q You're showing a grand total of 10,000 square feet

20 of retail in Area A on this exhibit?

21 A On the approved, on the approved plan, yes.

22 MS. ROBESON: Wait. Which --

23 MR. CHEN: Yes.

24 THE WITNESS: This is 21F, which is the color

25 version of the signed --

Page 39

1 MS. ROBESON: The approved plan --

2 THE WITNESS: -- approved, which is --

3 MS. ROBESON: -- not the amendment?

4 THE WITNESS: Correct. This is the approved plan

5 which the black and white signed version is Exhibit 6.

6 MS. ROBESON: Okay.

7 BY MR. CHEN:

8 Q Mr. Unterberg, my questions are directed to the

9 DPA land use plan.

10 A Well, then we can go to Exhibit 59 in the chart on

11 the proposed.

12 Q Okay. Now on the DPA, on the land use plan, I

13 need to know the locations and uses of all buildings and

14 structures.

15 A And what we've done is we have a chart for A, uses

16 and range of square footages or square feet.

17 Q Excuse me. The zoning ordinance, sir, says

18 buildings and structures. Sir, buildings and structures and

19 their locations and uses on the land use plan. Now it's not

20 a chart. Now if you could have on the chart, I agree, if

21 you're also showing the buildings and the buildings then

22 correlate to the chart, so I'm not saying you can't have a

23 chart, I just want to know on the land use plan where all

24 the buildings and structures and their uses and locations?

25 A The buildings, the locations are shown in each

Page 40

1 area in the light line work.

2 Q Okay.

3 A And each area, A, B, C, et cetera, shows the

4 buildings.

5 Q And do you have a calculation of all parking

6 spaces there too?

7 A The parking correlates with the range and is in

8 the charts with A, B and C. And there's a column for

9 parking and associated with the range of --

10 Q Okay.

11 A -- uses.

12 Q Okay. Am I correct then, and maybe your attorney

13 is the better person to answer this, but as I understand it,

14 Section 59 D-1.3(c) requires a land use plan, several

15 requirements for what must be shown on the plan. Am I

16 correct in understanding Exhibit 59 is the document to

17 satisfy that ordinance requirement?

18 MR. HARRIS: That's how it's identified, yes.

19 MR. CHEN: That's --

20 MR. HARRIS: It's just the same as the existing

21 development plan --

22 THE WITNESS: Right.

23 MR. HARRIS: -- that he just wanted to show you.

24 BY MR. CHEN:

25 Q And moving right along, Mr. Unterberg, is there a

Page 41

1 diagram showing the general building and height of the

2 principle buildings and their relationship to each other?

3 A As per the approved plan, the buildings are

4 shown --

5 Q No, I'm talking about -- I'm not talking about the

6 true plan. I'm talking about the DPA.

7 A This is the 59 that DPA proposed. The buildings

8 are shown. And for each area, as in Area A, a height is

9 noted in A in particular, up to 12 stories if the height

10 that is noted.

11 Q Okay. And what are you looking at?

12 A Exhibit 59.

13 Q Okay. And you also have the gross floor area for

14 the buildings with their use?

15 A There is on Exhibit 59, the lower center of the

16 page under, oh, I take that back, the lower right-hand --

17 MS. ROBESON: Lower right?

18 THE WITNESS: -- lower right under notes

19 continued, note 5 talks about the FAR and the maximum of

20 .75. And then there's a chart with the FAR noted for A, B,

21 C and D, and then also for the total.

22 MR. CHEN: That's all I've got.

23 MS. ROBESON: All right. Before you get into

24 redirect, I just have a question. Is there anything

25 mandated that Area B have neighborhood retail, because

1 you've identified that if -- in a number of places, and I
2 was looking at this last night, in a number of places and
3 even in page 10 of the 2011 amendment it talks about
4 designated retail neighborhood village centers or core
5 areas. And so I guess my question is where do, how are you
6 going to mandate that that Area B develop with the
7 neighborhood retail that you envision?

8 THE WITNESS: The plan itself speaks to retail and
9 not specific to neighborhood.

10 MS. ROBESON: I think one thing the plan didn't
11 want, and I'm not, again, I'm throwing this out there, I'm
12 not taking one side or the other, I just have questions. I
13 really do think at one point or another the plan envisions
14 core neighborhood retail. So I guess my question is, and
15 maybe you can maybe address it on rebuttal, I don't know,
16 but how are you, how do I know that this is because the
17 specialty retail, I've heard what you said, has overlapping
18 uses. So Area B with 150,000 could have, you know, quite a
19 few chain restaurants, but not the childcare or the this.
20 So what is there in this plan so we know that those
21 neighborhood, that neighborhood services in core is going to
22 be provided? Now you're on redirect and I've introduced a
23 new issue. Your redirect is limited to the scope of the
24 cross. So it may be something you want to address on
25 rebuttal. But I am throwing that out there. I understand

1 the gathering place, which is supposed to be that area, you
2 know, in A.

3 MR. HARRIS: We would be happy to address that
4 either on redirect or on --

5 MS. ROBESON: Well, I think it's more --

6 MR. HARRIS: -- or on rebuttal, but I would have
7 to say I don't think that's a relevant topic. The approved
8 development plan does not require neighborhood retail
9 anywhere. There is no requirement in the zoning --

10 MS. ROBESON: Yes, but you only had 120,000 square
11 feet, so that's what you were going to get. You weren't
12 going to get --

13 MR. HARRIS: No.

14 MS. ROBESON: -- a Walmart.

15 MR. HARRIS: It could have been a Walmart.

16 MS. ROBESON: Well, you know what, I don't care
17 what the original development plan said.

18 MR. HARRIS: Okay. But beyond that, there's
19 nothing in the zoning ordinance or the master --

20 MS. ROBESON: I am asking you to show me it,
21 whether you think it's relevant or not.

22 MR. HARRIS: Okay.

23 MS. ROBESON: You're welcome to make that
24 argument. You are free to make that argument.

25 MR. HARRIS: Okay. I --

1 MS. ROBESON: And it may not be relevant at the
2 end of the day, but I would like to know where the
3 neighborhood retail is going to go.

4 MR. HARRIS: I --

5 MS. ROBESON: And how you know it's going to be in
6 there.

7 MR. HARRIS: Ma'am, we don't know --

8 MS. ROBESON: And I don't want to argue about it
9 now. I'm not asking you to address it now. And you can
10 tell me it's not relevant, but just because it wasn't an
11 issue in the first plan, it was not an issue in the first
12 plan, you didn't have a competing regional retail use. So
13 it may have been beyond everybody's contemplation. So just
14 because it wasn't restricted in the first plan to me is not
15 definitive, all right?

16 MR. HARRIS: Okay. I accept that and with due
17 respect I'm trying to explain this issue because I find
18 nothing in the zoning ordinance or in the master plan that
19 mandates neighborhood retail, okay? In fact --

20 MS. ROBESON: Well --

21 MR. HARRIS: -- if you see, the town center --

22 MS. ROBESON: Look at page 10.

23 MR. HARRIS: -- and the Clarksburg Village were
24 both substantially built. The town center area is almost
25 built out and there is zero neighborhood retail, even though

1 the master plan makes it even more clear in that situation
2 that it was an important use.

3 MS. ROBESON: Is a grocery store a neighborhood
4 retail use?

5 MR. HARRIS: It is one of --

6 MS. ROBESON: Yes.

7 MR. HARRIS: It's one potential neighborhood
8 retail use --

9 MS. ROBESON: Yes.

10 MR. HARRIS: Yes.

11 MS. ROBESON: Yes. So can I certainly argue that
12 when it mandated a grocery, or it recommended --

13 MR. HARRIS: Yes. Yes.

14 MS. ROBESON: -- a grocery store here that it was
15 contemplating a neighborhood retail use? And I refer you
16 back to Policy 7. And I don't want to argue the case.

17 MR. HARRIS: Okay.

18 MS. ROBESON: I am asking -- you can say to me now
19 it's not relevant.

20 MR. HARRIS: We'll leave it at that and then we
21 will address the issue.

22 MS. ROBESON: And if you feel that at the end of
23 the day, if you still feel, I leave it to you. I'm just --

24 MR. HARRIS: Okay.

25 MS. ROBESON: -- expressing a concern.

Page 46

1 MR. HARRIS: Okay.
2 MS. ROBESON: And I also direct your attention to
3 Policy 7 of the original master plan which is reaffirmed,
4 which is reaffirmed in the, explicitly in the 2011
5 amendment.
6 MR. HARRIS: Okay.
7 MS. ROBESON: Because they didn't want people
8 traveling to other villages to go to the drycleaners. I'm
9 putting that --
10 MR. HARRIS: Okay.
11 MS. ROBESON: -- colloquially.
12 MR. HARRIS: I understand.
13 MS. ROBESON: So I posit that out there that is
14 one of my concerns. You're free to argue that my concern is
15 irrelevant, unwarranted and speculative.
16 MR. HARRIS: I will.
17 MS. ROBESON: All right.
18 MR. CHEN: If I may? I thought today we were
19 going to have he Powerpoint.
20 MR. HARRIS: It's here.
21 MR. CHEN: Is it set up?
22 MR. HARRIS: Yes.
23 MR. KLINE: That's probably -- may I? Yes. I had
24 asked or I was reserved some time to ask some more questions
25 about the North District. I'll do it now or I'll do it

Page 47

1 after you redirect.
2 MS. ROBESON: Why don't we do it now and then we
3 can catch everything --
4 MR. KLINE: That's fine.
5 MS. ROBESON: -- in redirect.
6 MR. KLINE: I agree.
7 BY MR. KLINE:
8 Q Could you please provide the Powerpoint
9 presentation for us, Mr. Unterberg?
10 A It is -- does the screen come down or --
11 MR. HARRIS: It does, but I don't --
12 MS. ROBESON: You're asking the wrong --
13 THE WITNESS: -- do we know how to get it down?
14 MS. ROBESON: -- person. I do not know.
15 THE WITNESS: I can use the back of the board like
16 we did last time, but --
17 MS. ROBESON: Let's do that. And I can't even,
18 the speaker system doesn't work, so I can't even get my
19 office without walking, physically walking down there.
20 MR. HARRIS: I actually think it's in this room.
21 MS. ROBESON: Well, the back --
22 MR. HARRIS: The back room?
23 MS. ROBESON: Will the back of that do?
24 THE WITNESS: This is what we used.
25 MS. ROBESON: Okay. Let's use that.

Page 48

1 THE WITNESS: I may have to adjust a few things.
2 MS. ROBESON: Is that clear enough for everyone?
3 MR. HARRIS: I'll be happy to swap seats if you
4 want, see that from here.
5 MS. ROBESON: Okay. Mr. Kline, do you have
6 questions on this exhibit?
7 BY MR. KLINE:
8 Q When you're ready, Mr. Unterberg.
9 A How is that?
10 Q Mr. Unterberg, would you please first of all just
11 describe what you have, you're showing on the screen right
12 now?
13 A This is the Powerpoint that was presented, I
14 believe, the first day of hearing, which was July 29th.
15 MS. ROBESON: That's Exhibit 45.
16 THE WITNESS: Exhibit --
17 MS. ROBESON: The hard copy is Exhibit 45.
18 THE WITNESS: Exhibit 45 and this is one of the
19 slides and it's titled North District.
20 BY MR. KLINE:
21 Q Okay. Looking at page 68 of the master plan, we
22 have the phrase neighborhood core. Looking at the
23 applicant's justification statement, we have the phrase,
24 neighborhood square. Are they the same thing?
25 A They could be the same thing. They could not be

Page 49

1 the same thing.
2 Q Well, and what -- I'm sorry. Go ahead.
3 A This is the concept and I think we also discussed
4 the final design will be at site plan at a later date, so it
5 would be subject to change. Do you have another question
6 or --
7 Q Well, the North District exhibit that you've
8 explained to us is what representation of the applicant's
9 proposal?
10 A Say that again.
11 Q Yes. What is the North District exhibit intended
12 to show?
13 A This is intended to show one possible build-out
14 scenario within the parameters of the development plan.
15 Q Looking at the applicant's justification
16 statement, what is the neighborhood square?
17 A A neighborhood square, we spoke about Well Spring
18 for reference that travels from west to east. There's a
19 possibility for a number of squares and, for example, there
20 is a linear green way along Well Spring that provides mew
21 sheds to the Stream Valley to the south. All these are
22 intended to be gathering places. Square is one term that
23 could overlap with that. As we, the buildings that face the
24 road, Well Spring, they are transit-oriented. They line
25 building space and line the road, when we get to corners,

Page 50

1 there's opportunities for gathering places. And the corner
2 of, this is Golden Eye and Well Spring, there's an
3 opportunity for a square. As we continue north and east,
4 there's another opportunity for a square and gathering
5 place. And as we develop the plan further, there may be
6 more or less.

7 Q The Exhibit 20, the justification statement, has a
8 sentence that says, the central square of the food court
9 will serve as the neighborhood square. So you, are you
10 modifying the justification statement by expanding that
11 beyond the food court area?

12 A Well, it's my understanding the justification
13 statement does not get approved with the development plan
14 and that we are subject to site plan approval as we go
15 forward because things will change.

16 Q So the statement I just read, the justification
17 statement, again, is just a potential form of development?

18 A It's one scenario, yes.

19 Q All right. So I won't harp on the justification
20 statement, let me just use the term then neighborhood core.
21 And I'm going to just kind of ask you to repeat what you
22 said about what you considered to be the neighborhood core.

23 A The neighborhood core is primarily one block which
24 is also shown as a mixed use on the development plan which
25 is Exhibit 59. It's bordered by Well Spring to the south,

Page 51

1 Golden Eye to the west, 121 to the north and Cabin Branch
2 Avenue to the west. Golden Eye is to the east. This is a
3 mix of uses which includes all uses or all mixes which
4 includes retail, office, employment, public uses, gathering
5 spaces and so forth. And that's the general area of the
6 core. Some of those uses and core components can continue
7 further east into a development plan and overlap with what
8 is Area A. And then I'm primarily speaking of the mixed use
9 area that's in Area B on Exhibit 59.

10 Q Page 70 talks about create a strong neighborhood
11 focal point. So within the area you just described, what is
12 the focal point?

13 A I believe the focal point is the Well Spring green
14 way and it's more of a corridor which interconnects through
15 the project and then the, will focus on the uses in the
16 neighborhood scale, pedestrian access along Well Spring as
17 the primary focal point or focal linear corridor.

18 Q Well, I guess I'm going to have to retract what I
19 said because when I read the justification statement, this
20 central square at the food court will be the neighborhood
21 square which suggests to me that was intended, at least in
22 this statement, to be the focal point.

23 A Again, that's one scenario. That is along the
24 Well Spring greenway. As you continue further east, which
25 is the northern part of the Stream Valley, there is a

Page 52

1 gathering place which is a focal point that's adjacent to
2 the food court and the specialty retail or outlets. And
3 that is a link to the, that corridor.

4 Q Just so I'm not hung up on the phrase focal point,
5 your description of focal point doesn't have an epicenter,
6 it's sort of specific place, it's much larger than any of
7 them?

8 A Can you say that again?

9 Q I guess my question is what's the epicenter or is
10 there an epicenter within the area you described as the
11 neighborhood core? Sort of the hot spot, the place where
12 all the activity is going to occur.

13 A Well, it's going to be a series of places and the,
14 as you're saying epicenter, it's going to be a series of
15 places and experiences within those two blocks. And, again,
16 this is a concept and as the plan develops, a site plan,
17 that would be more fine-tuned.

18 Q Well, then doesn't the dispersion of the focal
19 point cut against the suggestion on page 70 that there be a
20 concentration of uses in the central area of the street and
21 in the neighborhood center concept? Haven't you spread, I'm
22 sorry, hasn't the DPA spread that out so that you don't have
23 that bang for the buck, I may be mistaken, we thought the
24 plan intended?

25 A Well, I don't agree with that. The concentration

Page 53

1 of uses is within two blocks and I think you're making the
2 assumption it all has to be in once place which I don't
3 agree with that.

4 Q Well, then how do you define the term
5 concentration as used in the master plan?

6 A I believe, as I said, it's within this two-block
7 area which is the mixed use in A and overlap, I mean mixed
8 use in B and overlaps to A.

9 Q Okay. On the exhibit we're talking about, the
10 North District, can you point to examples of where
11 neighborhood retail services would be located?

12 MR. HARRIS: I think we've asked that a number of
13 times.

14 MS. ROBESON: Yes, I guess --

15 MR. KLINE: Well, let me tell you why I'm asking
16 the question, and maybe I'm just getting hung up on the
17 colors, but if red is retail and there's supposed to be some
18 retail on the road that's leading up to the outlet center, I
19 don't see any red, so I'm asking how can there be any
20 convenience retail other than the two restaurants that I do
21 understand. I just don't see the suggestion on this plan
22 and is it just simply because of the legend or is it
23 intended to preempt any retail in that area?

24 MS. ROBESON: What's the blue?

25 THE WITNESS: The office employment, although we

Page 54

1 do intend to have mixed use buildings where, for example,
2 there could be or we would encourage the neighborhood
3 services, ground floor mixed with the uses with other uses
4 above that there be neighborhood retail. So the red isn't
5 exclusively retail. There can be retail within the blue
6 buildings.
7 MR. KLINE: Mr. Harris is actually doing me a
8 favor. Could -- Mr. Harris, could you please bring over the
9 board and just have the one that I think says Cabin Branch?
10 MR. HARRIS: This one?
11 MR. KLINE: Yes. Thanks. And just, yes, stick
12 it -- go ahead and stick it up over there, well --
13 MR. HARRIS: Well --
14 MR. KLINE: -- I guess it doesn't work that way.
15 MR. HARRIS: -- you're not going to be able to see
16 it with the light.
17 BY MR. KLINE:
18 Q Mr. Unterberg, could you remove the North
19 District?
20 MR. HARRIS: Are you finished with that?
21 MR. KLINE: Oh, yes, that's right. Yes, I'm
22 finished with this. Thank you.
23 BY MR. KLINE:
24 Q The plan on page, I guess I should ask this
25 question before I left, on page 68 we're talking about the

Page 55

1 neighborhood core being transit-oriented and maybe you can
2 use the Cabin Branch board you've got there, but is there
3 bus service that will be running through that, I'm sorry, I
4 don't remember the names of the streets, but I'll say the
5 main intersection out in front of the regional outlet
6 center?
7 A There's a possibility. The larger diagram of the
8 bus service was addressed in the technical staff report and
9 the concept with the master plan is that the west side of
10 270 would be served by buses to get to the east side
11 transit.
12 Q On page 68, there's language that says, locate the
13 core within one-quarter mile of as many residential units as
14 possible near the center of the higher density residential
15 area. As I look at the Cabin Branch exhibit you've got up
16 there, isn't the red that's down in the central node, in the
17 center of that drawing, better able to satisfy the language
18 I've just read in the master plan than is the neighborhood
19 retail ostensibly or proposed for the northern area?
20 A Not necessarily.
21 Q Yes? Go ahead and explain.
22 A As far as number of units, there is more units
23 with multi-family town homes in proximity to the Northern
24 District. As you go further south, you're primarily single
25 family. So the higher densities are not only along Cabin

Page 56

1 Branch, but higher densities are north versus south.
2 Q So what I'll say is, the yellow is single-family
3 detached presumably?
4 A Primarily.
5 Q Looking at the Cabin Branch exhibit?
6 MS. ROBESON: Which exhibit is that?
7 MR. HARRIS: That's No. 4, that's --
8 MR. KLINE: That's No. 92.
9 THE WITNESS: 92.
10 BY MR. KLINE:
11 Q Okay. So just for the purpose of looking at the
12 transcript, everything on the west side of, what's this
13 street called?
14 A That's Broadway.
15 Q Okay. And everything that's in yellow is single-
16 family detached. So the next tier of development, which
17 I'll call mid-green --
18 A A darker, a darker yellow.
19 MS. ROBESON: Sage.
20 THE WITNESS: Sage.
21 MS. ROBESON: No, go ahead.
22 BY MR. KLINE:
23 Q Good selection. So the sage band is all attached
24 or a multi-family development?
25 A It's a mix. It's primarily attached, but there

Page 57

1 are some single-families within that and some multi,
2 although primarily multi-family is in this location.
3 Q Okay. When you say this location, you just
4 highlighted?
5 A Which is south of Well Spring and south of Well
6 Spring on Cabin Branch, east of Cabin Branch.
7 Q Presumably overlooking the Stream Valley so you
8 can take advantage of those views?
9 A Correct.
10 Q And it's your testimony that the Sage area close
11 to the urban core has got more density than the Sage area
12 close to Central Node retail area?
13 A Primarily, yes.
14 Q Primarily yes? I realize this may be tough. Is
15 there any way you could quantify what's shown on the Sage
16 from what I'm marking on my fingers that I have no landmark
17 that I can identify?
18 MS. ROBESON: Can you just pinpoint the streets,
19 Mr. Unterberg, where his fingers are so --
20 THE WITNESS: I think he's, this is Tribute
21 Parkway.
22 MS. ROBESON: On the top?
23 THE WITNESS: On the north and to the south is
24 Seneca Park, Little Seneca Parkway, formerly known as New
25 Cut.

Page 58

1 BY MR. KLINE:
2 Q And do you have any sense of how many dwelling
3 units are located in there?
4 A Offhand I do not.
5 Q The same would be true, presumably, on the north
6 from Tribute all the way up to 120?
7 A Very specific numbers I don't know.
8 Q And this you have indicated would be, I'm sorry I
9 said this, the commercial node in the central, I'm sorry,
10 the commercial --
11 MS. ROBESON: Area C.
12 THE WITNESS: Area C.
13 MR. KLINE: Area C.
14 THE WITNESS: The cross street is Skimmer.
15 BY MR. KLINE:
16 Q You've testified between 25 and 50,000 square feet
17 of neighborhood-oriented retail?
18 A Mixed use.
19 Q Mixed use?
20 MS. ROBESON: I thought that was only up to 30?
21 MR. CHEN: 30.
22 THE WITNESS: The retail is up to 30, but with the
23 neighborhood mixed use, with banks, offices, other
24 services --
25 MS. ROBESON: I see.

Page 59

1 THE WITNESS: -- other than retail --
2 MS. ROBESON: Okay.
3 THE WITNESS: -- we would have at that location.
4 BY MR. KLINE:
5 Q Okay. So if I looked at the range for retail on
6 the development plan, it would say --
7 A Area C is zero to 30,000 square feet in Area C.
8 Q Okay. And so if it's zero, then you would agree
9 that the Hearing Examiner would have to assess the
10 application on the potential there would be absolutely no
11 neighborhood retail in that location in the central node
12 because the range says that's a possibility?
13 A I would not agree with that and that's exactly
14 what it is. It may be zero to 30,000 square feet. As we go
15 forward, we want to have retail there.
16 Q Well, as the Hearing Examiner reviews the
17 application in consistency with the master plan, if the
18 range says it could be as little as zero, does she not have
19 to compare that with the language of the plan that does
20 suggest that there be neighborhood-oriented retail in close
21 proximity to a large number of residential units?
22 A That would be up to the Hearing Examiner.
23 Q Thank you.
24 MR. KLINE: No further questions.
25 MS. ROBESON: Mr. Chen?

Page 60

1 MR. CHEN: I have no further questions.
2 MS. ROBESON: All right. Redirect, Mr. --
3 MR. HARRIS: Mr. Unterberg, would you begin by, if
4 the easel will hold it, I guess it won't, putting up both
5 the current development plan --
6 MS. ROBESON: I think there's another easel.
7 THE WITNESS: I see an easel.
8 MR. HARRIS: Okay. Thank you.
9 MS. ROBESON: While he's -- I have to go let Mr.
10 Carter know he's not needed. So we can take a five minute
11 break.
12 MR. HARRIS: That would be good.
13 MS. ROBESON: And you can set the easel up.
14 (Recess.)
15 MS. ROBESON: The parties ready? We're back on
16 the record. Mr. Unterberg, you were getting, I see you have
17 gotten the, both exhibits up. Which exhibits are we looking
18 at again?
19 THE WITNESS: The left-hand side, this is Exhibit
20 59 of the proposed development plan.
21 MS. ROBESON: Right. And the other one?
22 THE WITNESS: And this is the color version of the
23 approved development plan which is Exhibit 21F.
24 MS. ROBESON: Okay.
25 REDIRECT EXAMINATION

Page 61

1 BY MR. HARRIS:
2 Q Now, Mr. Unterberg, you were asked a series of
3 questions by Mr. Chen about whether the land use plan of the
4 development plan reflects buildings, square footage, height,
5 parking issues, et cetera, do you remember that question?
6 A I do.
7 Q And did you answer whether it did or did not
8 include those elements?
9 A I believe I did, that includes all those elements.
10 Q And how does the reflection of those elements
11 compare with the currently approved development methodology
12 for reflecting them?
13 A Is the same graphic, same methodology moving
14 forward with the, from the approved development plan.
15 Q Do you have an opinion as to whether the way in
16 which it's reflected in both the approved development plan
17 and the proposed development plan amendment conform with the
18 requirements for those elements in the zoning ordinance?
19 A In my opinion, it conforms with the zoning
20 ordinance.
21 Q Madam Examiner, I did get copies made of this --
22 MR. CHEN: Just for the record, that's for the
23 Examiner, but --
24 MS. ROBESON: It calls for a legal conclusion, but
25 that's fine.

Page 62

1 MR. CHEN: I'm just trying to keep it going.
2 MS. ROBESON: I'll note an objection.
3 MR. CHEN: I'm just trying to get it moving.
4 He --
5 MS. ROBESON: No, I understand and your
6 objections, I do listen to them.
7 MR. CHEN: Thank you.
8 MS. ROBESON: Okay. So you are giving me -- what
9 are you giving me?
10 MR. HARRIS: It is identified as a final forest
11 conservation plan.
12 MS. ROBESON: So this would be 95?
13 MR. HARRIS: Yes.
14 MS. ROBESON: And it would be for -- is this for
15 all of Cabin Branch?
16 MR. HARRIS: Yes, ma'am.
17 (Discussion off the record.)
18 MS. ROBESON: Cabin Branch final forest
19 conservation plan. Okay.
20 BY MR. HARRIS:
21 Q Mr. Unterberg, first of all, was a preliminary
22 forest conservation plan submitted at the time of the
23 original development plan approval?
24 A A preliminary forest conservation was submitted
25 with the original submission.

Page 63

1 Q And was that -- subsequent to that was a final
2 forest conservation plan approved?
3 A A final was approved and has been amended a number
4 of times as the project has proceeded.
5 Q Do you know whether a final forest conservation
6 plan supersedes a preliminary forest conservation plan?
7 A Final forest does supersede the preliminary forest
8 conservation plan.
9 Q And if a final forest conservation plan is
10 submitted and approved for a property, does the property
11 owner ever do a preliminary forest conservation plan?
12 A They do not. The final is the document that goes
13 forward.
14 Q Do you have an opinion as to whether the proposed
15 DPA conforms with the final forest conservation plan Exhibit
16 95?
17 MR. CHEN: Objection. He's not qualified for
18 that. In fact, if anything, there were witnesses, I think,
19 disclosed in the prehearing statement for that subject
20 matter, but this gentleman has expertise, but he does not
21 have expertise that goes to whether a final forest
22 conservation plan relates or how it relates to a preliminary
23 forest conservation plan or any conservation plan.
24 MR. HARRIS: It does.
25 MS. ROBESON: Is he a landscape architect?

Page 64

1 MR. ROBINS: Yes, and he's been qualified as an
2 expert in landscape architecture before.
3 MS. ROBESON: Okay.
4 MR. ROBINS: You can ask him about that if you
5 want.
6 MS. ROBESON: Well, I think what we will do is
7 right now he's qualified as a land planner. His resume is
8 Exhibit --
9 MR. CHEN: 58, left side.
10 MR. HARRIS: Yes, correct. Thank you, Mr. Chen
11 MR. CHEN: Not this one.
12 MS. ROBESON: Okay. So let me just take a look
13 at, take a minute and let me review that. Okay. I do see
14 he's a registered landscape architect in Maryland. I assume
15 that registration is still current?
16 THE WITNESS: It is current.
17 MS. ROBESON: And have you qualified as an expert
18 in landscape architecture?
19 THE WITNESS: I have.
20 MS. ROBESON: Before this body or in a court or --
21 THE WITNESS: I believe before Montgomery County,
22 the Hearing Office.
23 MS. ROBESON: Okay.
24 MR. KLINE: May I ask how recently?
25 MS. ROBESON: Well, you can. Do you want to --

Page 65

1 you can ask it, how recently were you qualified as an
2 expert?
3 THE WITNESS: It would be a number of years ago
4 for landscape architecture.
5 MS. ROBESON: Okay.
6 THE WITNESS: I don't have the specific date.
7 MS. ROBESON: Okay. Any other questions? Do I
8 hear any objections to qualify him as an expert in landscape
9 architecture? Hearing none, I --
10 MR. KLINE: I'm sorry, yes, I do have an
11 objection.
12 MS. ROBESON: Yes?
13 MR. KLINE: And I put it in this context, that, I
14 had to go get the prehearing submission, but I see that two
15 other parties were listed as being prepared to testify in
16 issues relating to forest conservation and Mr. Unterberg was
17 not one of those. Therefore, that tells me that, that tells
18 me that there are other people who are better-qualified to
19 testify on that subject with, against his expertise on the
20 subject as is stale, I prefer to use that term.
21 MS. ROBESON: Well --
22 MR. CHEN: He wasn't being offered in this
23 proceeding for that area.
24 MS. ROBESON: Well, the test for an expert is
25 whether they can offer more expertise. It's a low-level

Page 66

1 test, more expertise than a layman. Now -- and you have to
2 forgive me because we've jumped around in so many witnesses
3 in this case, I don't recall -- have you put your forest
4 conservation or have you put a civil engineer on yet?
5 MR. HARRIS: We have not. There have not been any
6 civil engineer issues.
7 MS. ROBESON: Well, I guess you listed people in
8 your --
9 MR. HARRIS: That's potential witnesses if issues
10 were to come up. They have not come up.
11 MS. ROBESON: Well, they're here.
12 MR. HARRIS: Mr. Unterberg's resume indicates that
13 his professional experience includes environmental analysis.
14 His areas of expertise include landscape architecture,
15 forest conservation. And if you go through the multitude of
16 projects on which he's worked, you see a number of them,
17 Covenant Life Church, grading and landscape plan.
18 MS. ROBESON: What is your prejudice if I qualify
19 him as an expert in landscape architecture?
20 MR. KLINE: My answer is going to be, go to a
21 larger topic subject.
22 MS. ROBESON: Because I think clearly he has the
23 credentials that we would, I have, you know, it's not just
24 when you testify.
25 MR. KLINE: Sure.

Page 67

1 MS. ROBESON: Clearly he has the credentials.
2 MR. KLINE: Well, if you'll indulge me and I think
3 I heard Mr. Harris say something different than what I
4 thought. Let me tell you why I made my objection, was
5 because I expected that Mr. Rude and Mr. Bassong (phonetic
6 sp.), a civil engineer on the latter and an environmental
7 scientist on the former, would both be testifying about
8 storm water management issues. And since they were listed
9 as the expert on forest conservation, I thought I'd just
10 take care of it at that point in time.
11 I now have maybe the suggestion that they were not
12 going to be called and that that surprises me because we had
13 anticipated having testimony about storm water management.
14 When someone may say this is a development plan amendment
15 and all the engineering is done, so don't worry about it,
16 but storm water management was an issue in this special
17 protection area and the first case probably is three or four
18 pages in the original hearing examiner's report. Mr.
19 Unterberg and I had a recent case, 881, where, for a
20 development plan where we got so specific on the storm water
21 management we were, we basically have a condition about
22 where we can put our houses to allow for certain, the size
23 of certain ponds. So I expected there was going to be
24 testimony about storm water management.
25 And the reason I say that is the staff report

Page 68

1 tells us that everything on the east side of whatever that
2 main street is does not have site plan approval and site
3 plan approval would have incorporated basically water
4 quality plans and storm water management plans. So that
5 area of the property east of Main Street is not
6 grandfathered under the storm water management law, so they,
7 all the documents, all the storm water management features
8 you see on this plan will not be constructed. They will be
9 replaced by something else.
10 MS. ROBESON: Well, you know, that's something
11 that you can bring up. You can't dictate what he's going to
12 put on in his case. It's his risk if he -- just a second.
13 It's the applicant's risk if he doesn't prove his case. If
14 you raise the storm water management in your direct case,
15 then he may put somebody on. But right now I can't force
16 him to proffer a witness.
17 MR. KLINE: I understand. Let me just explain why
18 I brought it up now. You know, my instructions are have a
19 fair fight and whatever happens happens. We could have
20 waited until the case, they have finished their presentation
21 or until we completed the whole case, and then move to
22 dismiss the whole thing because there's not mandatory
23 evidence in front of you.
24 I'm saying in the sense of sportsmanship, like Mr.
25 Chen did the other day and say, I'm going to be asking

Page 69

1 questions. I'm just saying I thought somebody was going to
2 be testifying about storm water management and if they're
3 not going to be here, then we're going to raise a major
4 objection at the end of the presentation. So it's thinking
5 that there was going to be a storm water management expert
6 who could address forest conservation, just put them
7 together and do it at that time.
8 MS. ROBESON: So you're saying he hasn't met his
9 prima facie burden of proof?
10 MR. KLINE: And --
11 MR. CHEN: It's ordinance required.
12 MR. KLINE: I'm not sure that --
13 MS. ROBESON: Well, there's the technical staff
14 report. He does have the technical staff report that he's
15 incorporated --
16 MR. KLINE: Yes.
17 MS. ROBESON: -- in his findings.
18 MR. KLINE: I agree and I looked at one, I looked
19 at the exhibit list. There is no storm water management
20 plan. I looked at the staff report and there are very
21 indirect references to storm water management, but always in
22 the context of they will be addressed in subsequent
23 amendments to the plan. So there is nothing in the staff
24 report that they could incorporate as was done in some of
25 the other testimony. There is nothing in this record about

Page 70

1 the storm, compliance with the current storm water
2 management requirements under Maryland law.
3 MS. ROBESON: But I have nothing in the, well, you
4 do have the staff report.
5 MR. KLINE: Yes, but the staff report doesn't
6 address it.
7 MR. HARRIS: Yes, it does.
8 MR. KLINE: It does not.
9 MR. HARRIS: Page 31.
10 MS. ROBESON: Okay. Can you not talk to each
11 other? Can you talk to me so we don't --
12 MR. KLINE: I'm just trying to get this on the
13 table.
14 MS. ROBESON: I know, Mr. Chen, I appreciate it.
15 I'm just trying to keep some --
16 MR. KLINE: I'm just trying to raise this as --
17 MS. ROBESON: -- control --
18 MR. KLINE: -- an issue --
19 MS. ROBESON: -- so we get through this.
20 MR. KLINE: Yes. Fine. I am trying to raise that
21 as an issue if, and I thought it was in a matter of
22 efficiency to do the two together. If you want to have a
23 debate right now about whether there needs to be any expert
24 to talk about storm water management, I can do it now or we
25 can do it after they rest their case and we claim that they

Page 71

1 haven't met their statutory burden --
2 MS. ROBESON: Well, I don't want to have that
3 debate right now.
4 MR. KLINE: -- that's why I brought it up.
5 MS. ROBESON: I guess the only issue with
6 qualifying him that gives me concern is that he was not
7 identified on the witness -- which exhibit is your
8 prehearing statement where the witnesses were identified?
9 Is that different from the statement of justification?
10 MR. KLINE: Yes.
11 MR. CHEN: I believe it's, look at 23A, page 2.
12 MR. HARRIS: I don't know what the exhibit is,
13 Madam Examiner, but 23B, the prehearing statement, says that
14 he'll be, testify as an expert witness in the field of land
15 planning or testify as to probably his compatibility with
16 the surrounding area plats with the MXPDP development
17 standards, one of which is submission of a forest
18 conservation plan. Consistency with the --
19 MS. ROBESON: Wait. Where does it, where does the
20 MXPDP say that?
21 MR. HARRIS: The --
22 MS. ROBESON: That's 59 D-3, correct?
23 MR. HARRIS: Well, the MXPDP Zone requires
24 compliance with the 59 D requirements.
25 MS. ROBESON: Thank you. For some reason I'm not

Page 72

1 finding it --
2 MR. HARRIS: As well as satisfaction of the
3 requirements --
4 MS. ROBESON: Oh, here it is.
5 MR. HARRIS: -- governing approval --
6 MS. ROBESON: Mr. Chen, I just found it.
7 MR. HARRIS: -- of a development plan.
8 MS. ROBESON: Thank you.
9 MR. HARRIS: Satisfaction of requirements --
10 MS. ROBESON: Now show me where --
11 MR. HARRIS: That's on the --
12 MS. ROBESON: No, no, I got that.
13 MR. HARRIS: Okay.
14 MS. ROBESON: Show me where in the MXPDP Zone.
15 MR. HARRIS: Well, set that aside for a moment
16 because it says he will testify as to satisfaction of the
17 requirements governing approval of the development plan.
18 Now I think we're saying, you're saying that the preliminary
19 forest conservation plan is a requirement of that. I don't
20 believe it is. For a development plan we had that
21 discussion before. But to the extent it is --
22 MS. ROBESON: I --
23 MR. HARRIS: -- to the extent it is, this says
24 that he will testify as an expert in that.
25 MR. CHEN: Well, then I guess you wouldn't need

Page 73

1 Mr. Bassong or Mr. Turnbull.
2 MS. ROBESON: Bassong.
3 MR. CHEN: Pardon me.
4 MS. ROBESON: Well, he's listed them as potential
5 and that is a fairly broad qualification. So I'm going to
6 let him testify to that. If you have issues with storm
7 water management, you can raise them in your case-in-chief
8 and then maybe we will see Mr. Bassong or not. Okay. So
9 I'm going to qualify him as an expert in landscape
10 architecture and he can -- you can continue.
11 BY MR. HARRIS:
12 Q And, Mr. Unterberg, have you submitted forest
13 conservation plans before?
14 A I have.
15 Q Does your firm regularly prepare forest
16 conservation plans?
17 A We do.
18 Q Have you signed forest conservation plan
19 submissions before?
20 A I have signed plans in the past.
21 Q And are you familiar with the forest conservation
22 plan for Cabin Branch?
23 A Yes, I am.
24 Q And have you been involved in the amendments to
25 that forest conservation plan about which you spoke?

Page 74

1 A I have and it's been a key component with the site
2 plan approvals and also the water quality plan approvals
3 with the Planning Board.
4 Q And have you been involved in those components?
5 A Yes, I have.
6 Q And do you know whether, well, you've already
7 testified this forest conservation plan was approved, I
8 believe. I think I started to ask you whether you believe
9 that, or in your opinion does the development plan amendment
10 conform with the approved final forest conservation plan?
11 MR. CHEN: Objection.
12 MS. ROBESON: Basis?
13 MR. CHEN: The ordinance. The ordinance requires
14 a preliminary forest conservation plan to a DPA. Exhibit
15 No. 95 ain't it. In fact, this is a final forest
16 conservation plan for a hospital. Now I was going to wait
17 and cross and ask of these multiple pages here, whatever
18 number it is, where is a page that shows development
19 reflecting the DPA?
20 Now what I would anticipate they might say, well,
21 this pond here may be okay or this pond may be fine, that
22 type of thing, but when you go through this whole document,
23 I've just been leafing through it, I see nothing reflecting
24 a development that we've been hearing about for the last
25 three hearing days.

Page 75

1 MS. ROBESON: Well, I'm going to let him continue
2 and you can ask him that on cross-examination.
3 BY MR. HARRIS:
4 Q Mr. Unterberg, Mr. Chen was referring to ponds.
5 Is there a difference between a forest conservation plan and
6 a storm water management plan?
7 A There is a difference.
8 Q And does a forest conservation plan address storm
9 water management ponds?
10 A The storm water management ponds are shown on a
11 forest conservation plan and they are addressed and the
12 ponds are, basically the forest conservation plan shows what
13 can be developed, grading and that what trees are protected
14 and then what trees are planted.
15 Q Does a forest conservation plan have to show the
16 specific use of development that's going to occur on the
17 property?
18 A The, it generally does show the use of the
19 development on the property, but it also shows an overall
20 disturbed area or developable area.
21 Q Is the forest conservation requirement measured
22 based on developed area or on the use of the property?
23 A It's primarily based on not use, but what is
24 disturbed, what's the limits of disturbance and it goes on
25 from there what trees are removed, what trees are replaced

Page 76

1 and so forth, but it's primarily based on what is disturbed
2 and showing any developable area.
3 Q And I think you may have answered this, but let me
4 ask again in case you didn't, because Mr. Chen is hung up
5 about not having a preliminary forest conservation plan. Do
6 you have an opinion as to whether a preliminary forest
7 conservation plan needs to be submitted under the County's
8 regulations in order to proceed with development of this
9 development plan amendment?
10 A The, well, the preliminary forest conservation
11 which dates back to 2003, 2002, was submitted and that, that
12 has not changed from over 10 years ago.
13 Q And does the final approved forest conservation
14 plan now replace that?
15 A The final plan does supersede the preliminary with
16 much more detail than the preliminary forest conservation
17 plan.
18 Q Did the technical staff at Park and Planning
19 review the forest conservation plan for this property?
20 A They did and I believe it's noted in the --
21 MR. CHEN: Objection.
22 THE WITNESS: -- staff report.
23 BY MR. HARRIS:
24 Q Did the Montgomery County Department of Permitting
25 Services and/or the Department of Environmental Protection

Page 77

1 review the forest conservation plan?
2 A They technically do not review it, but proceed
3 with grading plans and so forth. You need an approved final
4 forest conservation plan to get a permit.
5 Q And does this approved final forest conservation
6 plan have all of the signatures and approvals necessary for
7 its implementation?
8 A It does and the, I believe the exhibit was
9 approved May 2, 2013.
10 Q And has development at Cabin Branch been
11 proceeding under that approved forest conservation plan?
12 A It is proceeding for that approved plan.
13 MS. ROBESON: Well, I guess it's not whether it's
14 preliminary or final that matters to me, it's whether this
15 use when -- I've seen forest conservation plans both
16 preliminary and final and they actually go tree by tree, you
17 know, through the property with the layout of the site and
18 they do the critical root zone, circumference and see what
19 trees are going to be impacted and my question, and I don't
20 think it's preliminary versus final, but has that analysis
21 been done, will the layout, has that analysis been done for
22 this?
23 THE WITNESS: It has and it's been done for the
24 whole site.
25 MS. ROBESON: No, no, no, no, for the outlets?

Page 78

1 THE WITNESS: For --
2 MS. ROBESON: Have they looked --
3 THE WITNESS: They're on that, on the plan there
4 is a developable area, primarily A, B --
5 MS. ROBESON: In your bubble, yes.
6 THE WITNESS: -- C and D, and this plan can be
7 built within those disturbed areas show on the --
8 MS. ROBESON: Okay. That was my question.
9 THE WITNESS: -- approved forest conservation
10 plan.
11 MS. ROBESON: Okay. So -- okay. Keep going, Mr.
12 Harris.
13 BY MR. HARRIS:
14 Q Okay. Let's try to get back on track here. There
15 are some other things that I had thought about asking you.
16 Mr. Kline asked you about page 65 of the master plan, and
17 this was the day before yesterday, about the black dot on
18 that page not clearly indicating the Cabin Branch retail as,
19 quote, neighborhood retail. Does the fold-out map that is
20 part of the Clarksburg Master Plan --
21 MS. ROBESON: Wait. I've got to go back to this
22 preliminary forest conservation --
23 MR. HARRIS: Oh, sure.
24 MS. ROBESON: -- plan. Okay. Show me where in
25 the detailed pages the, this site, the proposed North

Page 79

1 District is?
2 MR. CHEN: This is on Exhibit 95?
3 MS. ROBESON: Yes.
4 THE WITNESS: I gave it to be copied, so --
5 MR. CHEN: Oh, yes.
6 (Discussion off the record.)
7 MS. ROBESON: Are these sheets numbered anywhere?
8 THE WITNESS: They are in the lower, and this is
9 the reduced version, it's the lower, right-hand corner.
10 MS. ROBESON: I see it, sheet 35 of 63. Okay. So
11 where is --
12 THE WITNESS: If you go to sheet 3 of 63 --
13 MS. ROBESON: Okay.
14 THE WITNESS: -- and, well, there's a number of
15 sheets and they -- I'll just list the number of them and
16 this is the Northern District and there are sheets 5, 6, 7,
17 8, 9, 14, 15, 11, 10, they overlap into the residential with
18 the MXPD 12, 17, 16, all those sheets overlap the Northern
19 District. In general, the white area showed development
20 areas and then there's a legend on this sheet that shows,
21 lower right-hand corner, and the cross-hatch or honeycomb
22 forest planting and, unfortunately, at this scale both of
23 them are black, but there is forest to be removed and forest
24 to be saved.
25 MS. ROBESON: So does your forest planting for

Page 80

1 this development, that's going to change, right?
2 THE WITNESS: The --
3 MS. ROBESON: Because I see forest planting in
4 sheet 7, correct?
5 THE WITNESS: 57?
6 MS. ROBESON: Unfortunately, you're right. Forest
7 to be removed and forest to be --
8 THE WITNESS: Yes, this scale, it's --
9 MS. ROBESON: -- saved, I can't tell the
10 difference. But I do see forest planting on 57.
11 MR. CHEN: Page 57?
12 MS. ROBESON: No, I'm looking at page, sheet 3.
13 MR. CHEN: Oh, okay.
14 MS. ROBESON: The sheet --
15 MR. HARRIS: Okay. That's better.
16 MS. ROBESON: Oh, I'm sorry. I'm looking on sheet
17 3 and I was assuming that these numbers correlate to sheets,
18 but I guess they --
19 THE WITNESS: They do. This is the key map and
20 then the --
21 MS. ROBESON: Okay.
22 THE WITNESS: -- the larger sheet if you go --
23 MS. ROBESON: So I see forest planting on sheet
24 57, sheet 56 and 48 and 55, a line of it on 52, so is that
25 going to be the same or not?

Page 81

1 THE WITNESS: Yes, and the way this is worked is
2 it had been tracked and as site plans go forward and are
3 approved, this is updated and reconciled with the individual
4 site plan, but then the overall with the forest planting and
5 the easements and the save areas, that all has to work as
6 plans go forward. Now with the approvals, we talked about
7 that at one of the other -- the primary, the western half of
8 the site is already approved --
9 MS. ROBESON: Right. West of --
10 THE WITNESS: -- with site --
11 MS. ROBESON: -- Broadway?
12 THE WITNESS: West of Broadway, actually west of
13 Cabin Branch was site plan approval.
14 MS. ROBESON: Okay.
15 THE WITNESS: Okay? All the forest, save,
16 planting, limited disturbance, that's all been reconciled
17 and locked in. Also, since we were working with the full,
18 the Little Seneca Stream Valley, which is along 270, that's
19 identified on this plan and with the honeycomb and cross-
20 hatching, there's planting areas and also there's been a
21 number of easements recorded also, primarily in the northern
22 area that were per this plan so the development, grading and
23 construction that's going on at the site right now can go
24 forward.
25 So this plan, to put a number on it, is 99 percent

Page 82

1 done. And as site plans go forward for A, B, C and D, if
2 there's any perimeter updates that the Planning Board would
3 approve, the overall number would have to be reconciled. So
4 if you add something in the additional forest in one
5 location or if you subtract forest in one location, it would
6 have to be reconciled with this plan and that would happen
7 at site planning. But the majority of the forest has been
8 approved and implemented for this plan.
9 MS. ROBESON: The majority of the forest --
10 THE WITNESS: Forest conservation --
11 MS. ROBESON: -- in terms of overall site area or
12 a majority of the forest, of the forest that's required to
13 be there? Do you follow what I'm saying?
14 THE WITNESS: I believe it's both. It's the whole
15 area, the 535 acres --
16 MS. ROBESON: Right.
17 THE WITNESS: -- and then with the tree removal
18 and the tree save, that's been reconciled on this plan. So
19 that -- and then the developable areas, excuse me, have also
20 been identified on this plan.
21 MS. ROBESON: Okay. But what hasn't been
22 identified is the replanting areas?
23 THE WITNESS: The planting areas are on this also.
24 MS. ROBESON: But they may not stay the same?
25 THE WITNESS: The majority of them will stay the

Page 83

1 same and the majority are per this plan. The only thing
2 that may --
3 MS. ROBESON: So -- go ahead.
4 THE WITNESS: For instance, if Area C, if there's
5 an area within, inside Area C, there's additional planting
6 that could add, whether it could meet the requirement or to
7 exceed the requirement, there could be forest planting
8 within this area or also which there is a street tree
9 credit, so street trees could be with the final site plan,
10 that's all accounted for.
11 MS. ROBESON: Okay. I see that planting is within
12 the Stream Valley buffer, correct?
13 THE WITNESS: Correct and the majority is in the
14 Stream Valley.
15 MS. ROBESON: Okay. That's my questions. I'm
16 sure you're going to get questions, more questions. Mr.
17 Harris, I promise I will try not to interrupt again.
18 MR. HARRIS: It's more important for you to
19 understand his answers than for me.
20 BY MR. HARRIS:
21 Q Mr. Unterberg, again, just to make it perfectly
22 clear, do you have an opinion as to whether the development
23 plan in this DPA conforms with the final forest conservation
24 plan?
25 A This development plan does conform with the final

Page 84

1 forest conservation plan and can be built in the parameters
2 of the final, approved final forest conservation plan.
3 Q You mentioned some fine-tuning that could occur.
4 Has that happened in the past in Area E and/or Area B with
5 respect to site plans approved there?
6 A It has and if you look at the cover sheet, I
7 believe the original approval was in 2007, but there's a
8 number of notations for MNCPPC site plan and then the
9 specific number, and there's a list of them. And as each
10 site plan goes forward, if there's anything to reconcile or
11 update, this overall plan is updated.
12 Q And is that the prescribed methodology for Cabin
13 Branch as a whole to go forward?
14 A That is the methodology for going forward as a
15 whole at Cabin Branch.
16 Q And it has been done a number of times in the
17 past?
18 A Yes.
19 Q And did the staff, Park and Planning staff,
20 conclude that the existing development can proceed within
21 that approved forest conservation plan?
22 A Yes, they did and that was noted in the staff
23 report I believe.
24 Q Thank you. All right. Now then let's go back.
25 Mr. Kline asked you about page 65 of the master plan the

Page 85

1 black dot there not indicating to him that the retail in
2 Cabin Branch was neighborhood retail. Did you explain how
3 the color map, the fold-out map of the master plan,
4 clarifies that?
5 A Yes. The color map shows the dot to be red in the
6 legend. It corresponds to the neighborhood retail
7 designation.
8 Q And does the dot have a label attached to it on
9 the fold-out plan?
10 A In the legend, I believe it does.
11 Q And what is that terminology that's used there?
12 A Neighborhood retail.
13 Q Mr. Kline asked you as well whether the master
14 plan contemplated all of the retail within one location and
15 I believe you said if it remained RMX. Can you explain that
16 further for us?
17 A If it remained RMX, the RMX requires a specific
18 numeric recommendation and a location. So I've testified
19 that if it remained RMX, the 120,000 square feet would be in
20 one location within that number.
21 Q And what if part of the property as it was were
22 rezoned MXPDP?
23 A That is not a requirement of MXPDP and actually
24 MXPDP encourages a mix of uses and distribution of uses.
25 Q Does that allow for the retail to be in more than

Page 86

1 one place?

2 A It does and that's how the original development

3 plan was approved with multiple places for retail.

4 Q If you would go to the original development plan,

5 and I keep forgetting the number of that exhibit, I

6 apologize.

7 A 21F.

8 Q 21F. It's become fixed in your mind. 21F. Would

9 you point out where the existing approved development plan

10 identifies retail?

11 A It specifically identifies retail in three places,

12 but also within the core of the mixed use area, the Gosnell

13 property to the north, within Area B, also within Area C

14 which is now Skimmer and Cabin Branch, then also there is

15 some retail in Area D to the south of New Cut, which is now

16 Little Seneca, and Broadway.

17 Q And the retail in Area C, how does that compare

18 with the location of the proposed retail mixed use in the

19 development plan amendment for Area C? Is it in the same

20 location?

21 A It's generally the same location as again at, as

22 far as Cabin Branch and the cross street is Skimmer within

23 the mixed use areas.

24 Q And subsequent to the approval of the original

25 development plan, did the Planning Board approve a

Page 87

1 preliminary plan for retail uses?

2 A They have and the preliminary plan was approved in

3 2004 and then subsequently updated or amended in 2008, and

4 the 2008 approval approved all the density for Cabin Branch.

5 Q Do you recall the amount of retail space reflected

6 on that preliminary plan in each of the four areas you spoke

7 about a moment ago?

8 MR. CHEN: Objection. This goes beyond cross-

9 examination, but I also -- what is the relevancy of what was

10 approved under the original DP? The issue before the

11 District Council of this proceeding is going to be the

12 retail proposed by this DPA.

13 MS. ROBESON: Well, I think that it is relevant.

14 Do you want to address that?

15 MR. HARRIS: Mr. Kline asked numerous questions

16 about, you know, retail being at one location or multiple

17 locations, et cetera, and I simply want to show that that

18 question has been asked and answered, that the approved

19 development plan has it at multiple locations, ironically,

20 virtually the same as the locations that we're talking about

21 here.

22 MS. ROBESON: Well, what I hear you saying is the

23 master plan, the original one, had to conform to the master

24 plan and so originally the master plan was interpreted to

25 permit retail at three locations. Is that the relevance?

Page 88

1 MR. HARRIS: Actually at four locations, yes, that

2 the master plan was interpreted at the time --

3 MS. ROBESON: I only got --

4 MR. HARRIS: -- of the development --

5 MS. ROBESON: -- three.

6 MR. HARRIS: -- plan.

7 MS. ROBESON: Gosnell, Area D and Area C. Mr.

8 Unterberg?

9 MR. HARRIS: And Area D.

10 MS. ROBESON: I said that.

11 THE WITNESS: There's two --

12 MR. HARRIS: Oh.

13 THE WITNESS: -- two locations in Area B. One is

14 the Gosnell and one is the --

15 MS. ROBESON: Oh.

16 THE WITNESS: -- well, it's right where on the old

17 plan, 21F, it's right where the B is.

18 MS. ROBESON: Okay. So based on that, I'm going

19 to overrule your objection, Mr. Chen. Mr. Harris, continue.

20 MR. HARRIS: Okay.

21 BY MR. HARRIS:

22 Q So did the preliminary plan identify the amount of

23 retail at those four locations and, if so, can you, do you

24 recall the numbers?

25 A Yeah. And I'll start from the bottom and go --

Page 89

1 the retail in Area D was 4,500 square feet. The retail in

2 Area C was 19,500. The Gosnell, or north of 121 --

3 MS. ROBESON: I'm sorry, what was C?

4 THE WITNESS: 19,500 square feet.

5 MS. ROBESON: Okay.

6 THE WITNESS: The Gosnell property, and then it

7 was subsequently approved with the site plan, is 8,600,

8 8,600 square feet. And then that would leave within the

9 mixed use area in B 87,400 square feet. It's on the

10 preliminary plan and that totals up to 120,000 square feet.

11 BY MR. HARRIS:

12 Q And did the preliminary plan approval then make a

13 finding that those locations of retail substantially

14 complied with the master plan recommendations?

15 A Yes, it did.

16 Q Is there anywhere in the master plan that says the

17 retail has to be at one location?

18 A Not that I'm aware of but, again, for the RMX

19 there is a location on the diagrams we've discussed. For

20 MXP, there is not a requirement.

21 Q Okay. I want to ask you a question. I'm trying

22 to figure out how to phrase it.

23 MS. ROBESON: Although on the approved development

24 plan, the bulk of the retail would have been approximately

25 in the location shown in B, right?

Page 90

1 THE WITNESS: In B on the old and also on the new.
2 MS. ROBESON: Right.
3 THE WITNESS: Yes.
4 MS. ROBESON: It would have been on the location
5 shown roughly on the master plan, correct, if I recall the
6 master plan?
7 THE WITNESS: Roughly it's in that northern area,
8 yes.
9 MS. ROBESON: Yes. Okay.
10 BY MR. HARRIS:
11 Q Can you go to either one of those exhibits and
12 point to and describe where the retail was shown on the
13 master plan?
14 A The retail, and particularly page 66, the retail
15 is generally west of Broadway on the exhibit, to the north,
16 northern portion of the site west of Broadway.
17 Q Generally or entirely?
18 A Per the map, entirely.
19 Q And, okay, do you have an opinion with respect to
20 proceeding with outlet or specialty retail here as opposed
21 to exclusively neighborhood retail and how that would relate
22 to the timing of development? In other words, well, let me
23 ask it differently. Do you have an opinion as to whether
24 specialty or outlet retail could proceed sooner at this site
25 than could exclusively neighborhood retail?

Page 91

1 MR. CHEN: Objection.
2 MS. ROBESON: Basis?
3 MR. CHEN: This is Mr. Bogorad's area and
4 certainly not this witness's.
5 MS. ROBESON: Well, if he, if, do you have the
6 expertise to answer that?
7 THE WITNESS: The economic expertise? I have an
8 opinion about it. I do not have the economic expertise.
9 MS. ROBESON: Okay.
10 BY MR. HARRIS:
11 Q So what is your observation?
12 MR. KLINE: Objection.
13 MS. ROBESON: We'll let Mr. Bogorad answer it.
14 MR. HARRIS: Okay. By that token then, am I to
15 assume that Mr. Noonan and Mr. Ferguson will not be able to
16 testify as to market issues with respect to retail?
17 MS. ROBESON: Well, I don't, I don't know what the
18 parameters of that are. He just said he didn't have the
19 expertise.
20 MR. HARRIS: Okay.
21 MS. ROBESON: You can recall --
22 MR. HARRIS: Okay.
23 MS. ROBESON: I mean Bogorad --
24 MR. HARRIS: Okay.
25 MS. ROBESON: Mr. Bogorad is returning at some

Page 92

1 point I'm sure.
2 MR. HARRIS: Yes, he's hanging out. Okay. Fine.
3 BY MR. HARRIS:
4 Q You were asked about the decor of the project
5 again multiple times. Do you have an opinion with respect
6 to how this development plan amendment responds to goals of
7 having some time of a core in Cabin Branch?
8 A Yes, I believe I testified that there is a core
9 and it's a concentration of the uses in Area B. And we do
10 meet the master plan.
11 Q And does that core area include part of Area A as
12 well?
13 A It does overlap with Area A.
14 Q And will there be a diverse mix of uses in that
15 area?
16 A There will be a diverse mix of uses.
17 MR. CHEN: I'm going to object. He doesn't -- he
18 was saying before he doesn't know who, what's going to be in
19 here.
20 MS. ROBESON: Well, you can ask that on cross-
21 examination. It's not a basis --
22 MR. CHEN: I thought this was redirect?
23 MS. ROBESON: -- for -- well, you get recross.
24 BY MR. HARRIS:
25 Q Do you have an opinion as to whether the location

Page 93

1 of the primary core at the Northern District there serves to
2 better accommodate development on the Pulte property across
3 121 than it would if it were further south into the
4 property?
5 MR. CHEN: Objection. He's going beyond -- this
6 is getting, again --
7 MS. ROBESON: Is this a land use question?
8 MR. HARRIS: Yes, ma'am. It's a land planning
9 question of first order, I think.
10 MS. ROBESON: Well, I'll let him answer and you
11 can cross-examine if it's a land planning issue.
12 THE WITNESS: I believe the question was the
13 Northern District at the core and the Pulte property which
14 is on the west of 121, that would be available and also
15 service that future development.
16 BY MR. HARRIS:
17 Q And is it closer to that development or further
18 than if the retail were located down in Area C where Mr.
19 Kline was suggesting the nucleus might be?
20 MR. CHEN: The same objection.
21 MS. ROBESON: I'm going to let it in to get this
22 hearing moving for the weight it deserves.
23 THE WITNESS: Area B is definitely closer to the
24 Pulte properties than Area C.
25 MS. ROBESON: And the Pulte properties are to the

Page 94

1 northwest across 121?
2 THE WITNESS: Northwest across from west of 121.
3 MS. ROBESON: Okay.
4 BY MR. HARRIS:
5 Q Mr. Unterberg, you were asked repeatedly in a
6 variety of ways about the intent of the recommendation for
7 120,000 square feet. Just to be perfectly clear, would you
8 explain your justification with respect to the RMX zone?
9 A The RMX requires the specific density numeric and
10 location if this was to proceed in RMX.
11 Q And do you have an opinion as to whether the
12 recommendation for retail, 120,000 square feet of retail,
13 pertains to neighborhood retail?
14 A As discussed that pertains --
15 MS. ROBESON: Wait. What -- the master plan
16 recommendation?
17 MR. HARRIS: The master plan recommendation, yes.
18 MR. CHEN: Object.
19 MS. ROBESON: You can note an objection.
20 MR. CHEN: The document speaks for itself.
21 MS. ROBESON: Well, I think I've had cross-
22 examination questions about sub-specialties of retail and
23 whether they're, you know, this language is qualified, so
24 I'm going to let him answer.
25 MR. CHEN: Well, just for the record, I don't

Page 95

1 remember on cross-examination that that came up. I know all
2 I asked was there a difference. That's all I asked.
3 MS. ROBESON: No, I think you asked whether it was
4 qualified in the master plan, their type of retail was
5 qualified in the master plan. But I am going to let it in
6 for the weight it deserves and then when we read the
7 transcript, we can all decide what weight to give it.
8 MR. HARRIS: Mr. Unterberg --
9 MS. ROBESON: So go ahead.
10 MR. HARRIS: I'm sorry.
11 BY MR. HARRIS:
12 Q Mr. Unterberg, do you have the technical appendix
13 handy? I think it's Exhibit 60B as in boy.
14 MR. CHEN: Can we make that part -- is that in the
15 record?
16 MR. HARRIS: It is.
17 MS. ROBESON: Yes. It's 60B. And, by the way, I
18 did mark, there's a large, fold-out land use map. I gave
19 that an exhibit number of 60C because it kept falling out of
20 the master plan. So -- okay, go ahead, Mr. --
21 MR. HARRIS: Actually to clarify that just for
22 your record, several times early on I noticed people,
23 including myself and you, were calling that map Exhibit 60B
24 as in boy.
25 MS. ROBESON: It is -- that's correct.

Page 96

1 MR. HARRIS: But, so it --
2 MS. ROBESON: It's 60C.
3 MR. HARRIS: So it should be 60C.
4 MS. ROBESON: The technical appendage is 60B.
5 Okay.
6 MR. HARRIS: Correct.
7 MS. ROBESON: Continue, Mr. Harris.
8 MR. HARRIS: Oh, I see you've corrected it in
9 the --
10 MS. ROBESON: I did.
11 MR. HARRIS: I just want to make a note. You're
12 ahead of things. Thank you.
13 BY MR. HARRIS:
14 Q Turn to page 12 of Exhibit 60B, the technical
15 appendix.
16 A Okay.
17 Q And the box down at the bottom, can you read for
18 us what the heading of that box is?
19 A The box is Table 6, amount of square foot of
20 neighborhood shopping center supportable in three Clarksburg
21 market areas.
22 Q And the, under retail uses, does the, the heading
23 retail uses, does that paragraph distinguish between
24 neighborhood or convenience retail and comparison retail?
25 A I believe, no, it just talks to neighborhood

Page 97

1 markets.
2 Q Would you look at the second sentence under the
3 heading retail uses above neighborhood retail centers? In
4 this paragraph.
5 A Oh, this paragraph. Okay. The retail uses,
6 Planning Department staff has evaluated future retail space
7 needs in Clarksburg based on future population. Two types
8 of retail needs were considered, neighborhood or convenience
9 retail, and comparison retail.
10 Q And so do you have an opinion as to whether they
11 were separating the two for purposes of calculations?
12 A I believe they did.
13 Q And the next heading there, what is the name of
14 that heading?
15 A Neighborhood retail center.
16 Q And based on that heading and your prior
17 identification of the heading for the box, do you have an
18 opinion as to whether those calculations of supportable
19 retail pertain to neighborhood retail only?
20 A For this table it would be for neighborhood
21 retail.
22 Q And there is no identification of how much
23 comparison retail might be appropriate?
24 A I believe that's correct.
25 Q At page -- would you turn to page 105 of the

Page 98

1 master plan? Mr. Chen questioned you about this and does
2 that, for the Cabin Branch neighborhood, does that identify
3 the key land use recommendations?
4 A It does at the top of the page, No. 4, the Cabin
5 Branch neighborhood and there's a heading, key land use
6 recommendations.
7 Q And the provision and amount of retail are not
8 identified as key land use recommendations there, are they?
9 A That is correct.
10 Q Is it your understanding that staff assumed a
11 grocery store could be supported at this property when it
12 did the master plan back in 1994?
13 MR. CHEN: Objection.
14 MS. ROBESON: Yes, that is -- he can't speak for
15 staff.
16 MR. HARRIS: Okay. Does the master plan suggest
17 that a grocery store could be supported at that time?
18 MR. CHEN: Objection. The document speaks for
19 itself.
20 MS. ROBESON: Well, we've been arguing about what
21 it means regardless of whether it speaks for itself. So I'm
22 going to let him answer and give it the weight it deserves.
23 Now where, what page are you?
24 MR. HARRIS: Page --
25 MS. ROBESON: 64 did you say?

Page 99

1 MR. HARRIS: No, I didn't say a page, I don't
2 believe. Pages 67 through 70.
3 MS. ROBESON: On the Cabin Branch neighborhood?
4 Okay. Go ahead.
5 THE WITNESS: Well, page 68, there's a guideline
6 to locate a grocery store within the core.
7 BY MR. HARRIS:
8 Q Now how does that guideline language compare to
9 the language with respect to a grocery store for the town
10 center area at page 46? And I would direct your attention
11 to the fifth paragraph.
12 A Yeah.
13 Q This plan.
14 A This plan --
15 MR. CHEN: What page are you on?
16 MR. HARRIS: 4-6.
17 THE WITNESS: Yeah, the grocery store is
18 particularly important --
19 MR. HARRIS: Okay.
20 MR. HARRIS: -- to the town center.
21 BY MR. HARRIS:
22 Q That language is not found in the provisions for
23 Cabin Branch, is it?
24 A Correct, that language is not in the Cabin Branch.
25 Q Now based on your experience working on the Cabin

Page 100

1 Branch project, do you have an opinion as to whether
2 circumstances have changed with respect to the demand for
3 grocery services in the Clarksburg area and, if so, what --
4 MS. ROBESON: I know -- go, stop. I have an
5 objection. Mr. Chen, go ahead.
6 MR. CHEN: He's not qualified. He's going back --
7 he's not an economist. He's now asking today do you think
8 there is a demand for this at this location. This witness
9 is not qualified to answer that.
10 MS. ROBESON: I think you're on Mr. Bogorad's
11 testimony that there is not a demand and he is more --
12 unless you're an expert in the supermarket business. Are
13 you an expert in the supermarket business?
14 THE WITNESS: I am not an expert in the
15 supermarket business.
16 MS. ROBESON: So --
17 MR. HARRIS: That's fine. That's fine.
18 BY MR. HARRIS:
19 Q Has it been your observation -- well, strike that.
20 If you were to subtract a grocery store from the recommended
21 120,000 square feet of retail in the RMX area, approximately
22 how much retail would that leave for Cabin Branch?
23 A If a grocery store generally is 60,000 square
24 feet, subtracting from 120,000 square feet we used, plus or
25 minus 60,000 square feet.

Page 101

1 Q And would that be an estimate then of neighborhood
2 retail demand?
3 A Yes, it would.
4 MR. CHEN: Objection.
5 MR. HARRIS: The --
6 MR. CHEN: Excuse me. I apologize. I'm slow at
7 objecting to strike. That's going, again, at this area of
8 Mr. Bogorad's expertise, not this witness.
9 MR. HARRIS: The --
10 MS. ROBESON: Well, I think the master plan in
11 this case did attempt to address demand, so if you're
12 testifying, you know, 120 minus 60 leaves whatever it leaves
13 right now, 60, you know, and they had that for -- you know,
14 the question is still you can consider a neighborhood, a
15 grocery store neighborhood retail. So, anyway, you can
16 continue. I understand your --
17 MR. HARRIS: Yes.
18 MS. ROBESON: -- arguments, truly.
19 MR. HARRIS: Okay.
20 BY MR. HARRIS:
21 Q And so the contemplation of having between 50 and
22 100,000 square feet of neighborhood retail services at Cabin
23 Branch under the development plan amendment, does that then
24 meet -- without a grocery, without a full-size grocery --
25 does that then -- is that consistent then with that demand

Page 102

1 estimate?

2 MR. CHEN: Objection. The same reason.

3 MS. ROBESON: Well, no, I'm going to overrule it.

4 I'm going to let it in. Go ahead.

5 THE WITNESS: That would be consistent with the

6 objectives, that range of retail would be a demand for the

7 neighborhood.

8 BY MR. HARRIS:

9 Q The, turning again to the recommendation for

10 120,000 square feet of retail, was that amount proposed in

11 the original development plan?

12 A It was and we've, I've testified to that.

13 Q Was there a limit at that time to the amount of

14 retail that the development plan could have sought in the

15 MXPB area?

16 A In the MXPB area, the limit would have been the 20

17 percent, which was allowed per the zone.

18 Q And based on the --

19 MR. CHEN: Objection. Move to strike. We're

20 getting back to this, repeating this analysis we've covered

21 a million times already, but I can't help but emphasize the

22 document is not qualified. The language is clear in the

23 document. It says 120,000 square feet.

24 MS. ROBESON: I understand that. I understand

25 that. I'm going to let him continue. To some extent, we

Page 103

1 are kind of repeating his testimony and direct, but I'm

2 going to give you some latitude to do that.

3 MR. HARRIS: Thank you.

4 MS. ROBESON: Okay?

5 MR. HARRIS: There is some overlap and I'm trying

6 to --

7 MS. ROBESON: It's hard to separate the two out.

8 MR. HARRIS: I understand. You -- I'm trying to

9 address a question that you raised on Wednesday.

10 MS. ROBESON: I remember that.

11 MR. HARRIS: Okay.

12 MS. ROBESON: So go ahead.

13 MR. HARRIS: Okay.

14 BY MR. HARRIS:

15 Q So with respect to the approved, the current

16 development plan, I think you finished your comment that

17 there was no limit -- that at that time the applicant could

18 have sought more than 120,000 square feet in the MXPB area,

19 was that your testimony?

20 A Yes, that's correct.

21 Q Okay.

22 MR. CHEN: You've got my objection on the record,

23 right?

24 MR. HARRIS: Obviously they did --

25 MS. ROBESON: Yes.

Page 104

1 MR. HARRIS: -- they did not, but what did they

2 propose in Areas A and B instead?

3 THE WITNESS: The, from the plan that's approved?

4 MR. HARRIS: Yes, correct.

5 THE WITNESS: You mean the old plan? They

6 proposed a neighborhood retail and, again, the retail was

7 spread out between a couple locations in B, one location in

8 C and one location in D of the 120,000 square feet. And

9 then also the primary use was going to be a hospital for

10 Clarksburg with Adventist and that was not approved.

11 BY MR. HARRIS:

12 Q And were there other uses related to the hospital

13 proposed in Area A?

14 A Yes, there would have been other support, nursing

15 care facilities, medical offices and so forth.

16 Q So was there any room there at that time for

17 specialty retail?

18 A There was not.

19 Q You asked again a series of questions about the

20 2011 Clarksburg Master Plan Amendment, including some today,

21 I think. Would you pull out Exhibit 86 please and, first of

22 all, tell us generally what is your understanding of the

23 purpose of that limited amendment?

24 A I think in, well, part of it is the title, it says

25 limited amendment to '94 Clarksburg master plan, Hyattstown

Page 105

1 special study area to allow an exception to the staging, or

2 to the retail staging provisions. And then at the top of

3 page 10 toward the, counsel directed toward the first

4 paragraph, somewhat to the middle, it says, limited

5 amendment to the '94 Clarksburg master plan for the sole

6 purpose of considering whether to amend the retail staging

7 provisions.

8 Q And do you have a recollection as to what

9 triggered that limited amendment for the sole purpose of

10 considering whether to amend the retail staging provisions?

11 A That, it's my recollection that a grocery store

12 wanted to move forward in the New Cut or Clarksburg Village

13 and based on the master plan it could not because a grocery

14 store had not been built yet in the town center

15 neighborhood.

16 Q And did that master plan study focus on any issues

17 or study any issue other than retail staging?

18 A I don't believe it did.

19 Q And ultimately how many words were changed in the

20 Clarksburg master plan as a result of that?

21 A I think it was five if I count correctly.

22 Q Now Mr. Kline was attempting to suggest that

23 the --

24 MR. KLINE: Excuse me.

25 MR. HARRIS: Okay.

Page 106

1 BY MR. HARRIS:
2 Q Did Mr. Kline attempt to suggest that the --
3 MS. ROBESON: Just -- okay, go ahead.
4 BY MR. HARRIS:
5 Q Was the 2011 amendment a reaffirmation of the
6 entire Clarksburg master plan?
7 A It was not.
8 MR. CHEN: Objection. The document speaks for
9 itself.
10 MS. ROBESON: I'm going to agree on that.
11 MR. HARRIS: Okay.
12 BY MR. HARRIS:
13 Q Does -- never mind. Strike that. Is the
14 terminology of, quote, substantial consistency, or, I don't
15 know, now I've got to go back -- compliance, yes, different
16 terms in the subdivision I realized, beg your pardon,
17 substantial compliance with the master plan in the 59 D, do
18 you believe that's a flexible standard?
19 MR. CHEN: Objection. It's a law.
20 MS. ROBESON: Calls for a legal conclusion.
21 MR. CHEN: Yes.
22 MS. ROBESON: I understand.
23 BY MR. HARRIS:
24 Q Did the Cabin --
25 MS. ROBESON: Mr. Harris, I'm not sure you need

Page 107

1 that because --
2 MR. HARRIS: Okay.
3 MS. ROBESON: -- he's already testified as to the
4 language of the master plan that it's flexible --
5 MR. HARRIS: All right.
6 MS. ROBESON: -- and I think that covers where
7 you're going.
8 MR. HARRIS: Can I ask him whether he has examples
9 of how that has been applied in the Cabin, the flexibility
10 has been recognized in the Cabin Branch project?
11 MS. ROBESON: Factual examples?
12 MR. HARRIS: Yes.
13 MS. ROBESON: Yes.
14 MR. HARRIS: Okay.
15 BY MR. HARRIS:
16 Q Mr. Unterberg, do you have any examples --
17 MS. ROBESON: Subject to objection when we hear
18 the specific question.
19 BY MR. HARRIS:
20 Q And examples of how the specific recommendations
21 in the Clarksburg master plan with respect to the Cabin
22 Branch project were not adhered to?
23 A Yes. And if we go back to, I guess, page 66,
24 there's, and particularly New Cut Road, which is to the
25 bottom of the property or the south portion of the property

Page 108

1 and parallels West Old Baltimore Road, that was recommended
2 to come all the way through the property. Upon the review
3 with Planning Staff and development of the plan, that, that
4 was changed. Also we spoke about the location of the retail
5 which is generally west of Broadway and it was moved and
6 approved in Area B primarily with other locations.
7 Also, the elementary school was approximately
8 right, west of Broadway, but right in the middle of the
9 site. That was moved north and to the edge of the property
10 along 121. And also the local park which was southwest of
11 the property roughly where the B is on the development plan,
12 that local park was also moved north with the plan that was
13 developed. So pieces have changed and that has worked with
14 the flexibility of the master plan while still being
15 substantially compliant with the master plan.
16 Q What about the, what we were referring to as the
17 Gosnell properties, were they recommended for MXPDP views in
18 the master plan?
19 A Generally the area north of 121, the SMTM or
20 Gosnell properties, that was zoned RE-1, which was a rural,
21 residential zoning. It was not recommended to be MXPDP in
22 the master plan, but was included to accomplish the goals of
23 the master plan.
24 Q You were asked a number of questions as well about
25 the retail in the town center. Do -- and particularly page

Page 109

1 46, I believe, of the master plan was used for a number of
2 questions. Do you have an opinion as to whether that places
3 a cap on retail in the town center and, if so, what is that
4 cap?
5 MR. CHEN: Objection. The document speaks for
6 itself.
7 MS. ROBESON: I'm going to let him answer, give it
8 the weight it deserves. Is this 146?
9 MR. HARRIS: Page 46, I'm sorry.
10 MS. ROBESON: I mean --
11 BY MR. HARRIS:
12 Q And I will direct your attention to the second
13 bullet from the bottom.
14 A The second bullet states a maximum square footage
15 of the retail center as proposed up to approximately 150,000
16 square feet.
17 Q Okay.
18 A Which it says maximum, which I see as a cap.
19 Q Do you know whether the Clarksburg Town Center
20 subsequently obtained project plan and preliminary plan
21 approval for 150,000 square feet of retail?
22 MR. KLINE: Objection. He already testified when
23 I asked that question he didn't know the answer to that.
24 MR. HARRIS: Okay.
25 BY MR. HARRIS:

Page 110

1 Q Do you know whether -- are you familiar with a
2 plan of compliance for Clarksburg that grew out of the
3 litigation in whatever it was, 2006?
4 A I understand there's a plan of compliance.
5 Q And --
6 MS. ROBESON: What litigation? The --
7 MR. HARRIS: The height and the conformance with
8 the preliminary plan and site plan.
9 MS. ROBESON: Okay. We'll go with that.
10 MR. HARRIS: Strike that.
11 BY MR. HARRIS:
12 Q Are you aware of a plan now being considered for
13 Clarksburg Town Center proposed by Elm Street Development?
14 A I understand there is a plan that they have been
15 showing the community, yes.
16 Q And do you know what amount of retail that plan is
17 proposing?
18 A I'm not specifically sure, but I think it's in the
19 130 --
20 MR. CHEN: Objection if --
21 THE WITNESS: -- to 140,000 square feet.
22 MS. ROBESON: Your objection is based on what,
23 speculative?
24 MR. CHEN: Yes, that's one.
25 MS. ROBESON: Okay.

Page 111

1 MR. CHEN: You know, town center, I mean what does
2 it have to do with this area? The document, you have in
3 front of you the document, the planning guide for the town
4 center.
5 MS. ROBESON: Well, I think the answer, the
6 question -- well, Mr. Harris, do you want to --
7 MR. HARRIS: Yes. Mr. Kline was attempting to
8 imply that Cabin Branch Specialty Retail was going to
9 preclude that retail at town center and was going to
10 adversely impact that and I'm trying to show that that is
11 not --
12 MR. KLINE: Objection.
13 MR. HARRIS: -- realistic.
14 MR. KLINE: I don't think that's a fair
15 characterization of my question and I'm not --
16 MS. ROBESON: Well --
17 MR. HARRIS: Okay.
18 MS. ROBESON: Okay. Repeat your question.
19 BY MR. HARRIS:
20 Q Do you know what amount of retail is being
21 proposed in the town center by Elm Street Development and
22 Mr. Flanagan, the third try of the LLC?
23 MS. ROBESON: I'm going to let him answer that.
24 THE WITNESS: I believe it's in the range of 130
25 to 140,000 square feet.

Page 112

1 MS. ROBESON: Do you know that for sure?
2 THE WITNESS: I know it from looking in the past
3 at, they have a, online they have a proposal --
4 MS. ROBESON: Okay.
5 THE WITNESS: -- and that's my recollection.
6 MS. ROBESON: Go ahead.
7 BY MR. HARRIS:
8 Q And does that proposal include outlet retail?
9 A It does not.
10 Q Is it a grocery-anchored retail center?
11 A It's a grocery-anchored neighborhood center.
12 Q You were asked about the master plan desire for a
13 high technology corridor along I-270. Do you remember Mr.
14 Bogorad's and Mr. Kaplan's testimony about that and how,
15 what their observations were?
16 MS. ROBESON: Well, he doesn't have to repeat
17 their testimony.
18 BY MR. HARRIS:
19 Q Do you, from, as a land planner, do you have an
20 opinion as to whether the construction of specialty retail
21 here will help to serve the attraction of other employers,
22 including possibly high technology employers?
23 MR. CHEN: I thought this was Bogorad that --
24 MS. ROBESON: Well, do you have an opinion as a
25 land planner?

Page 113

1 THE WITNESS: I do. As a land planner, it's based
2 on, frankly, Mr. Bogorad, Mr. Kaplan and --
3 MS. ROBESON: Well, that's their testimony.
4 THE WITNESS: -- and the technical staff analysis
5 that the outlet malls or specialty retail will attract and
6 provide --
7 MS. ROBESON: So you're --
8 THE WITNESS: -- a stimulus to those properties.
9 MS. ROBESON: Okay. But you're just repeating
10 other's opinions right now?
11 THE WITNESS: Yes.
12 MS. ROBESON: Okay. Go ahead.
13 BY MR. HARRIS:
14 Q And was the Miles Coppolla, or sometimes referred
15 to as the Peterson property, proposed for high technology
16 type employment uses?
17 A It's proposed to be MXPDP for the 270 technology
18 corridor, yes.
19 Q Pardon me one second.
20 (Discussion off the record.)
21 BY MR. HARRIS:
22 Q As a land planner, do you believe the inclusion of
23 specialty retail at Cabin Branch would compliment the other
24 non-residential and the residential uses there?
25 A I believe --

Page 114

1 MS. ROBESON: Where?
2 MR. HARRIS: At Cabin Branch.
3 MS. ROBESON: Oh.
4 THE WITNESS: Yes, I believe it does and
5 particularly with the goals of MXPDP to create a more diverse
6 mix and provide opportunities to and encourages that mix
7 which also supports the restaurants, the shopping and so
8 forth and supports and interacts with the other uses.
9 BY MR. HARRIS:
10 Q You were asked a number of questions as well by
11 Mr. Kline about the RMX Zone and that chart that's there,
12 bear with me a little, I'm going to -- my papers have gotten
13 disheveled. The RMX --
14 MR. ROBINS: Oh, the actual fax?
15 MR. HARRIS: Yes.
16 BY MR. HARRIS:
17 Q Do you remember that testimony, Mr. Unterberg?
18 A I do. And --
19 Q I actually was looking at a chart that was at 59,
20 I want to say 10.3.5.
21 A Yes.
22 Q Okay. And we had some talk then. Does Section
23 10.3.4 just above that provide a limitation to retail space
24 exclusive of what's recommended in 10.3.5 and, if so, how
25 did the two relate to one another?

Page 115

1 A Subsection C, the density of development approved
2 by the Planning Board must not exceed the density shown on
3 the approved and adopted master or sector plan. The chart,
4 which is 3.5, is for maximum gross leasehold, has different
5 numbers. But the 10.3.4, subsection C, the controlling
6 directive is that the number must not exceed the density
7 shown on the approved and adopted master or sector plan.
8 Q And is that limitation reflected in another
9 section of the RMX Zone as well?
10 A I believe 59 C-10.2.2, the first statement refers
11 to provision. Under the actual method, it states that in,
12 RMX Zone is provided for the user in accordance with the
13 provisions of Section 59 C-10.3, as well as the density and
14 numerical limitation other guidelines contain in the
15 applicable master plan approved by the District Council.
16 Q And does the MXPDP Zone differ in that respect?
17 A It does. It does not have that language.
18 MS. ROBESON: He said it doesn't have the
19 language, but I'll note your continuing legal conclusion
20 objection.
21 MR. CHEN: Thank you.
22 MS. ROBESON: Or document speaks for itself
23 objection I guess it would really be.
24 MR. CHEN: I think it's the law.
25 MS. ROBESON: Yes.

Page 116

1 BY MR. HARRIS:
2 Q I have some notes here about page 101. Bear with
3 me a minute. Oh, yes. Mr. Chen asked you a series of
4 questions regarding the first paragraph there asking you for
5 some legal conclusions, I think, about what it said. But
6 does that paragraph in your mind prohibit retail uses in
7 Cabin Branch --
8 MR. CHEN: Objection.
9 MR. HARRIS: -- in the RMX?
10 MR. CHEN: Excuse me, objection. I didn't ask for
11 any legal opinions. I asked him to read the paragraph and I
12 asked him what the reference was these uses. That was what
13 the question was, I remember very clearly.
14 MS. ROBESON: So what -- okay.
15 MR. HARRIS: So, irrespective --
16 MS. ROBESON: So what's your question?
17 MR. HARRIS: -- I withdraw the premise.
18 BY MR. HARRIS:
19 Q Does that paragraph prohibit retail uses at Cabin
20 Branch?
21 MR. CHEN: Objection. Well, go ahead.
22 MS. ROBESON: Yes.
23 THE WITNESS: It does not prohibit retail uses.
24 BY MR. HARRIS:
25 Q And does it recommend MXPDP zoning?

Page 117

1 A It does.
2 Q And does the MXPDP zone allow a comprehensive mix
3 of uses?
4 A It does. It specifies that particularly.
5 Q And did the original development plan include
6 retail uses in the MXPDP area?
7 A It did.
8 Q Are you familiar with the approval of the Wegman's
9 store down in Seneca Meadows?
10 A I am.
11 Q In that case, did the Planning Board conclude that
12 Wegman's grocery store is an employment use?
13 MR. CHEN: Objection. I don't know where this is
14 going, but certainly if there is to be evidence offered in
15 this regard, it does not come from this witness. We've had
16 this issue come up most recently when this witness is
17 equating the word retail with the word commercial. We went
18 through this with this witness and had it open to what the
19 actual document said. And if we're going to go and ask for
20 a change or a meaning of words used by a regulatory agency,
21 the document from the agency and the agency's position on
22 that should be before the Court.
23 MS. ROBESON: Was Great Seneca, was there an
24 approval for Great Seneca -- I remember you came back with
25 several documented approvals, but --

Page 118

1 MR. KLINE: It was included within that group.
2 MS. ROBESON: I'm sorry?
3 MR. KLINE: What the question refers to, the
4 material that was testified about before and is in the
5 applicant's justification statement.
6 (Discussion off the record.)
7 MR. ROBINS: Bear with us just one second.
8 MS. ROBESON: I remember something from Great
9 Seneca coming in.
10 (Discussion off the record.)
11 MR. KLINE: If the document is in evidence, then
12 the document speaks for itself.
13 (Discussion off the record.)
14 MS. ROBESON: So --
15 MR. HARRIS: Resolution 10-156? Yes. Okay.
16 MS. ROBESON: The Planning Board resolution.
17 MR. ROBINS: Exhibit 82.
18 MR. CHEN: Fine.
19 MS. ROBESON: So what is your question about that
20 resolution?
21 MR. HARRIS: Whether that resolution reflects a
22 Planning Board conclusion that the Wegman's is considered
23 employment use.
24 MR. CHEN: Objection. He's interpreting now.
25 MS. ROBESON: Yes, I guess why don't I, why don't

Page 119

1 you limit your question to is there a Wegman's? Does that
2 letter mention --
3 MR. CHEN: It hasn't been asked --
4 MS. ROBESON: -- a Wegman's?
5 MR. HARRIS: How about if I direct your attention
6 to page 4 of that resolution, 10-156, exhibit --
7 MS. ROBESON: Okay. You've got to give me the
8 exhibit number again.
9 MR. ROBINS: 82.
10 MR. HARRIS: It's Exhibit 82.
11 (Discussion off the record.)
12 THE WITNESS: Page 4 of 10-156 from the Planning
13 Board?
14 MR. HARRIS: Right. Okay.
15 MS. ROBESON: Okay. Now page 4? Okay. So what is
16 your question on this?
17 BY MR. HARRIS:
18 Q I turn your attention to the second to the last
19 sentence in the full paragraph there --
20 MS. ROBESON: The first full paragraph --
21 MR. HARRIS: The first full paragraph beginning,
22 the application proposes.
23 MS. ROBESON: Okay. All right.
24 BY MR. HARRIS:
25 Q Would you read for us the second to the last

Page 120

1 sentence?
2 A That, the one that starts, is also important?
3 Q No. The one that starts with Wegman's.
4 MS. ROBESON: I see, what, okay. I don't think he
5 needs to read it. I mean you can point this out in closing
6 argument.
7 MR. HARRIS: Okay.
8 MS. ROBESON: I can see it specifically mentions
9 Wegman's.
10 MR. HARRIS: As an employment use?
11 MS. ROBESON: Yes, I did see that too.
12 MR. HARRIS: That's fine.
13 BY MR. HARRIS:
14 Q The existing development plan approval for 120,000
15 square feet of retail, do you have an opinion as to whether
16 that 120,000 square feet of retail could be a Walmart?
17 MR. CHEN: Objection. I'm not sure -- does he
18 mean the whole 120,000 be, sell merchant? I mean if --
19 BY MR. HARRIS:
20 Q Is there any --
21 MS. ROBESON: Just a second.
22 MR. HARRIS: Is --
23 MS. ROBESON: Where are you going?
24 MR. HARRIS: I simply want to know if there is any
25 restriction in the development plan that prohibits --

Page 121

1 MS. ROBESON: In the original --
2 MR. HARRIS: -- or defines the type of retail use.
3 MS. ROBESON: In 21F?
4 MR. HARRIS: Correct.
5 MS. ROBESON: Okay.
6 THE WITNESS: I think the only restriction is the
7 ranges. There are areas shown for retail and mixed use and
8 there are ranges within the different areas. And those are
9 the limits that were --
10 MS. ROBESON: I think the question is is there any
11 requirement that it be a specific type of retail?
12 THE WITNESS: There is not a requirement for that.
13 BY MR. HARRIS:
14 Q And, therefore, is there any requirement that it
15 be neighborhood retail?
16 A On the approved plan there is not.
17 Q The, you were asked today about the epicenter and
18 hot spots. Are there, is there more than one hot spot under
19 the proposed DPA?
20 A There can be more than one and I believe I
21 testified to that.
22 Q In addition to the ones you testified to, would
23 the amphitheater qualify as such a focal point or an
24 epicenter?
25 A It could and we want more gathering places, more

Page 122

1 places for people to interact within the development.
2 Q Does the current development plan have a
3 concentration of uses in the Northern District?
4 A It does and I've testified to that.
5 MS. ROBESON: Well, each area has a concentration
6 of uses, it's just different uses, you know what I'm saying?
7 BY MR. HARRIS:
8 Q Will the -- is the amount of development in square
9 footage in the proposed development plan amendment
10 comparable to the amount of total development in Area A
11 under the approved development plan?
12 MR. CHEN: Objection.
13 MS. ROBESON: Basis?
14 MR. CHEN: The testimony, what he's now asking is
15 comparability of testimony in the record. The testimony in
16 the record already is, is that under the approved plan it's
17 120,000. The testimony this morning is that the area will
18 have up to 450,000. Now what he's --
19 MS. ROBESON: Well, yes.
20 MR. CHEN: -- asking is 120,000 comparable to
21 450,000.
22 MS. ROBESON: Well, he can answer that and you can
23 express your skepticism on cross-examination --
24 MR. HARRIS: Or save it for closing.
25 MS. ROBESON: -- or save it for closing, correct.

Page 123

1 MR. CHEN: We will have an --
2 BY MR. HARRIS:
3 Q Mr. Unterberg, Mr. Chen misunderstood --
4 MS. ROBESON: Yes.
5 MR. HARRIS: -- my question. I asked you about
6 the total amount of development. I didn't ask you about
7 retail. So, again, I'll ask you the total amount of
8 development in Area A, how does that compare between the two
9 plans?
10 THE WITNESS: The 21F, the total employment, which
11 includes office retail, is 1,210,000. The total on Exhibit
12 59 proposed, which is Area A again, is 1,150,000, a little
13 bit less than the approved plan.
14 MR. HARRIS: I don't have any further questions.
15 Thank you for bearing with me.
16 MS. ROBESON: All right. Recross, Mr. Kline.
17 MR. CHEN: If I may ask --
18 MS. ROBESON: Yes. Whoever --
19 MR. CHEN: -- we're --
20 MS. ROBESON: -- is ready first.
21 MR. KLINE: Yes. Thank you.
22 MR. CHEN: No, no. I just wanted to ask a
23 question of the Examiner.
24 MS. ROBESON: Yes.
25 MR. CHEN: We're coming up on 12:00 and we've been

Page 124

1 going since 8:45. Are you, do you plan for a luncheon
2 break?
3 MS. ROBESON: Yes, but I would really like to
4 finish this -- his redirect was pretty limited, so I would
5 really like to get through Mr. Unterberg. And your
6 questions are limited to redirect, what he discussed on
7 redirect.
8 MR. KLINE: I'm coming off your sheet.
9 RE CROSS EXAMINATION
10 BY MR. KLINE:
11 Q Mr. Unterberg, thanks for bringing up the question
12 of the RMX zone again because I appear to be the only person
13 in the room who is still having difficulty --
14 MR. CHEN: No, you're not.
15 MR. KLINE: -- understanding this.
16 BY MR. KLINE:
17 Q You start off, I think, with the comment, the RMX
18 zone says that Cabin Branch only would have allowed 120,000
19 square feet of non-residential use, or did you say non-
20 residential or retail, if you recall? The last part is
21 probably not relevant. You did say not more than 120,000?
22 A Can you repeat that?
23 Q I wrote down Mr. Unterberg says, RMX zone says not
24 more than 120,000 square feet at one place?
25 A If the property to develop under RMX, the 120,000

Page 125

1 would be a cap within that location per the zone.
2 Q And can you -- and is the second part of that in
3 once place --
4 A Yes.
5 Q -- included in that? Okay. So give me the
6 statutory section in the RMX zone that basically tells me
7 that.
8 A I believe that is 59 C-10.2.2.
9 MR. CHEN: Say that again please, sir.
10 THE WITNESS: 59 C-10.2.2.
11 BY MR. KLINE:
12 Q And the part that says that?
13 A That was just the optional method. It's the first
14 sentence, under this method, general commercial uses and
15 higher density residential uses are allowed in the RMX zones
16 provided that they are in accordance with the provisions of
17 Section 59 C-10.3, as well as the density, numerical
18 limitations and other guidelines, limitations and other
19 guidelines contained in the applicable master plan.
20 Q So the limitation is prescribed by the master
21 plan, not by the zoning ordinance? Let me try it again,
22 120,000 square foot number comes from and flows from the
23 master plan and not from the zoning ordinance?
24 A It, the numerical, it refers to the numerical in
25 the master plan for the RMX.

Page 126

1 Q So the 120,000 square feet we find in page 67, I
2 think it is, that's the limitation that you say is imposed
3 on the property?
4 A For the RMX, yes.
5 Q Yes, okay. And the, at one place or how does that
6 come in, because we've got the box in the one exhibit that
7 had the cross-hatched area and you're saying that's, or the
8 plan said it had to go there?
9 A Yes.
10 Q Okay. So you're saying the plan ties the hands of
11 anybody who wants to develop the property under the RMX
12 zone?
13 A It's specific --
14 Q Under an RMZ zone?
15 A It's, to proceed under the RMX optional method is
16 specific on what you can do.
17 Q Okay.
18 A Or needs to be specific on what you can do.
19 Q We've agreed that the zoning is RMX-1 TER, have
20 you had a chance to verify that?
21 A I did verify that what I was looking at, I confirm
22 it's RMX-1 TER.
23 Q So looking at this chronologically, in 1994 we
24 adopt a master plan and that's where the 120,000 number
25 comes from?

Page 127

1 A For the '94 master plan, 120,000.
2 Q And then we do a comprehensive rezoning and we put
3 RMX01 TER zone on the property?
4 A I think they go hand-in-hand because --
5 Q Yes. Well, do they? I mean normally a
6 comprehensive rezoning follows a few months after.
7 A The master plan --
8 Q They go --
9 A -- and the zoning is implemented from the master
10 plan.
11 Q So my point is is that, and it goes back to the
12 question I asked the other day, how did the 120,000 square
13 foot number get in the master plan because that came before
14 the zoning ordinance? We didn't have an RMX zoning on the
15 property to limit to 120. We had a plan that said you
16 should do 120. So I'm asking you where is the, what's the
17 derivation of that 120?
18 A I believe I testified that as far as how they got
19 to that number, I don't know. I do know in the technical
20 appendix on page 12 it speaks, I think it's 75,000 square
21 feet. And then subsequent, it carried forward to 120,000
22 square feet in the master plan. But also within the master
23 plan their recommendation to rezone to RMX is included to
24 implement that.
25 Q My point is is that for some reason the 120,000

Page 128

1 square foot limitation showed up in a plan that predated the
2 imposition of the RMX zone, RMX-1 TDR zoning on the
3 property, correct?
4 A I would not necessarily agree with that because I
5 think they go together with the master plan.
6 Q Okay. Well, we don't know why the 120 is there?
7 A As far as exact, how that came out the exact
8 number, no.
9 Q But my point is is that the limitation of 120 is
10 not derivative of the zone, it's derivative of the master
11 plan. That's the controlling --
12 MS. ROBESON: Correct.
13 MR. KLINE: -- that's the governor.
14 MS. ROBESON: Is that a question?
15 MR. KLINE: I'm sorry. No, Your Honor. I'm
16 sorry. I got a little too casual.
17 BY MR. KLINE:
18 Q Is that correct?
19 A I don't believe so because, again, I think you
20 have to put them together because the master plan also
21 recommended the zoning. So it was foreshadowing the zoning
22 that would implement that.
23 Q Well, if you do put them together, how does that
24 change the situation? How does that work to the benefit of
25 the applicant and its theory of how this all shows up on the

Page 129

1 property?
2 A Can you say that again please?
3 Q Yes. I -- what's the difference in terms of you
4 say you treat them together?
5 A Well, the RMX requires a number and there's a
6 number in the master plan, okay? Separate from that it also
7 recommends a floating zone, MXPDP, which allows up to 20
8 percent retail. So with that recommendation, the actual
9 master plan which we've testified to, it's silent to that,
10 that retail in the MXPDP.
11 Q And the plan essentially gave this alternative
12 recommendation that said RMX-1 TER or MXPDP if you think you
13 can do a better mix job? That's maybe a little too casual
14 way of saying it, but is your answer, yes --
15 A That's, that --
16 Q -- you --
17 A -- that's your language, yes.
18 Q Okay. Well, is my description or your alternative
19 recommendations in the plan base zone of RMX-1 TER and in
20 the alternative an MXPDP zone?
21 A You could proceed under RMX optional method and
22 implement the plan. And there is an option to proceed also
23 with MXPDP.
24 Q And would the, is there anything in the plan that
25 would tell us that if you do follow the MXPDP zone, you could

Page 130

1 have more retail than 120,000?
2 A It's silent on that, but then the MXP zone allows
3 up to 20 percent of the total commercial area.
4 Q Yes, I think we all pretty well understand that.
5 I'm just asking does the plan suggest that there should be
6 more retail if you use the MXP zone?
7 A It recommends neighborhood retail for the 120,000
8 square feet and it's silent as far as the specialty or
9 comparison retail.
10 Q You said that the, there was, I'm sorry, there was
11 a preliminary plan of a subdivision approval for a large
12 piece of Cabin Branch, maybe it was the whole amount. When
13 did that occur?
14 A 2004 the preliminary plan was approved. It was
15 for all of Cabin Branch. Based on the APFO findings, about
16 three quarters of the density was approved at that time.
17 Q And did the preliminary plan cover the entire
18 property or just part of it or did it ask for all of the APF
19 approval at that time?
20 A It covered the entire property and it graphically
21 showed all of the density and the APFO approval controlled
22 the amount that was approved.
23 Q And I'm gathering the way you described it, the
24 preliminary plan showed on it where nodes of neighborhood
25 retail were going to be located?

Page 131

1 A It did.
2 Q Okay. Did the, let me see if I can read the
3 question, go back and see if I can properly cite Mr.
4 Harris's question to you. I wasn't that good at my note
5 taking.
6 MR. KLINE: Do you have a copy of the opinion by
7 any chance?
8 MS. ROBERTS: Which opinion?
9 MS. ROBESON: Which opinion? The original?
10 MR. KLINE: The preliminary plan opinion of 2004,
11 I believe you said.
12 THE WITNESS: 2004?
13 MS. ROBESON: Well, wait. He didn't -- did he
14 testify as to the preliminary plan?
15 MR. KLINE: He actually went into some detail
16 about an allocation of neighborhood retail within the
17 preliminary plan boundaries.
18 MR. CHEN: I objected, but --
19 MS. ROBESON: Okay. All right. Keep going.
20 BY MR. KLINE:
21 Q Do you happen to have a copy of the opinion?
22 A I do, but --
23 Q I'd like to see it. I'd like to see it.
24 (Discussion off the record.)
25 MS. ROBESON: Was that the allocations in Area D,

Page 132

1 C, Gosnell --
2 THE WITNESS: The plan --
3 MS. ROBESON: -- and B?
4 THE WITNESS: The plan shows the allocations.
5 MS. ROBESON: Okay.
6 (Discussion off the record.)
7 MS. ROBESON: The development plan?
8 THE WITNESS: The preliminary plan.
9 MS. ROBESON: The preliminary --
10 THE WITNESS: -- shows those specifics.
11 (Discussion off the record.)
12 THE WITNESS: This is a --
13 MR. HARRIS: Okay. He's got it.
14 MR. KLINE: Thank you.
15 MR. KLINE: Can we put into the record?
16 (Discussion off the record.)
17 MR. HARRIS: No, can you make a copy at lunchtime
18 for him?
19 THE WITNESS: Yes.
20 MS. ROBESON: So this will be 95, I think we're up
21 to? No, 96. And this is a copy of the Planning Board
22 opinion approving the Cabin Branch preliminary plan.
23 (Exhibit No. 96 was marked for
24 identification.)
25 MR. HARRIS: I'm sorry.

Page 133

1 BY MR. KLINE:
2 Q Understand, this is not a trick question. Would
3 it not be fair to say that the preliminary plan and
4 subdivision was to try and walk in your APF approvals and
5 describe the development on a gross scale?
6 A Generally and what is said of the preliminary plan
7 and, you know, is and how it evolves for what as a site
8 plan.
9 Q You mentioned or someone mentioned APF. That was
10 certainly a primary goal of this of being able to lock in
11 your traffic capacity so you could do it all and not have to
12 continually go back in and get reapproval of traffic
13 capacity?
14 A That's one of the proponents, yes.
15 Q Looking at what's been marked as Exhibit No. --
16 MS. ROBESON: 96. It should be on there. It is.
17 MR. KLINE: Oh, down at the bottom?
18 BY MR. KLINE:
19 Q Looking at Exhibit 96, is there anything in the
20 opinion that correlates with the allocation of neighborhood
21 retail as you described it to us earlier today?
22 A In the resolution, I do not believe so. It does
23 say, which the --
24 Q Okay. You answered my question. So what it says
25 basically on the first page, total development, 1,538,000

Page 134

1 square feet of commercial space without allocating it
2 between retail or office uses?
3 A In the resolution, yes.
4 Q In the resolution, yes. So it would not be fair
5 to say then, it would not be accurate to say that that
6 preliminary plan opinion approved the distribution and
7 allocation of the neighborhood retail as you testified or
8 described it earlier?
9 A Say that again.
10 Q The number --
11 A It's fair or not?
12 Q The numbers that you gave us for the different
13 nodes of neighborhood retail are not found in the
14 preliminary plan opinion itself?
15 A Correct. They're shown on the actual plan that is
16 signed with that resolution.
17 Q I believe I am accurately stating the question
18 that was asked of you that in 2003, the applicant could have
19 requested for more commercial, more retail development
20 without, and not be limited to 120,000 square feet?
21 A This is the same scenario that we are requesting
22 now could have happened in 2003.
23 Q Okay. But the applicant, until the filing of the
24 development plan amendment, has never had a public
25 expression of we shouldn't do anything other than 120,000

Page 135

1 square feet of neighborhood retail?
2 A That I do not know.
3 Q Exhibit No., sorry, Exhibit 94 in the record,
4 which was Mr. Harris's letter from --
5 MR. CHEN: 2000 --
6 MS. ROBESON: Five I think.
7 MR. CHEN: While we're on that, do you want me to
8 get copies of that during the lunch break?
9 MS. ROBESON: Yes, if you could.
10 MR. HARRIS: Yes, please.
11 BY MR. KLINE:
12 Q Let me change this. Take a look at this, would
13 you please?
14 A What is this?
15 Q And after you've had a chance to study it, I will
16 give it to the Hearing Examiner and ask you to explain what
17 it is.
18 A Well, without reading the whole thing, I see what
19 it is.
20 Q Okay. That's fine.
21 MR. KLINE: Madam Hearing Examiner, could we make
22 a memorandum of Park and Planning Staff generated from June
23 21, 2002, dealing the pre-preliminary plan, a subdivision
24 for the Cabin Branch neighborhood, could that be made an
25 exhibit in the record please?

Page 136

1 MS. ROBESON: Any objections?
2 MR. HARRIS: Well, I do subject to understanding
3 where this is going. There was no testimony until this
4 point, no questions about a pre-preliminary plan.
5 MR. KLINE: I am submitting, I'm submitting this
6 because it has a consistent expression of the, well, I
7 basically want to show what the applicant's position has
8 been historically until the filing of this development plan.
9 MS. ROBESON: Well, you can do that on your case-
10 in-chief. I, he didn't testify to this.
11 MR. KLINE: Well, he --
12 MS. ROBESON: Malcolm.
13 MR. KLINE: What he, what -- what he has said
14 is --
15 MS. ROBESON: Well, he testified --
16 MR. KLINE: -- is that we could have always asked
17 for more than 120,000 square feet. I'd like to have
18 exhibit, have this new exhibit, Exhibit 94, and have him
19 basically note the fact that that's not a position that the
20 opposition has taken.
21 MS. ROBESON: Well, those -- okay, well, now I'm
22 going to act like Mr. Chen. Those documents --
23 MR. CHEN: Objection.
24 MS. ROBESON: -- speak for themselves and --
25 MR. KLINE: Can we put this one in?

Page 137

1 MS. ROBESON: -- I see no point. Well, if you
2 have, do you have an expert witness coming?
3 MR. KLINE: Yes, I hope so.
4 MS. ROBESON: Well, he can put it in the record.
5 MR. KLINE: Well, I have an expert land planner
6 who is coming. I'm not going to be able to get that kind of
7 testimony from anything other than Mr. Unterberg. If you
8 don't feel --
9 MS. ROBESON: Well, Mr. Unterberg, do you know
10 anything about this letter that you can add or subtract or
11 you just -- no, no, don't hand it to me.
12 MR. KLINE: Okay.
13 MS. ROBESON: Do you know anything about this
14 letter?
15 THE WITNESS: I know there's a -- it was a pre-
16 preliminary plan and went to the Planning Board and I have
17 not recently looked at it.
18 MR. HARRIS: And I think he said he had, didn't
19 believe he had seen that letter before.
20 MR. KLINE: Yes, but I'm talking about the staff
21 report.
22 MR. HARRIS: I understand. She asked about the
23 letter, though.
24 MS. ROBESON: Well, the letter is in because
25 nobody objected. What I'm talking about now is the staff

Page 138

1 report and I don't see any purpose -- I mean you want to use
2 it. If you want and have your witness come in and say this
3 is what it says, that's fine. But I don't see any purpose
4 of asking a person who knows nothing about that document
5 what it says when I have no foundation that that document is
6 what it is.
7 MR. KLINE: Okay.
8 MS. ROBESON: Yes, it's on letterhead, but I don't
9 want to get this too, you know, your expert can look at the
10 pre-preliminary plan file and say this is what I found
11 there. So I don't see any point of cross-examination of
12 asking him to read something that he knows nothing about or
13 is not familiar with. He does know something about the pre-
14 preliminary plan, but --
15 MR. CHEN: Well, counsel could offer the document.
16 They may have to offer it in his case, which --
17 MS. ROBESON: Yes, but --
18 MR. CHEN: -- I understand, but he could offer it.
19 MR. ROBINS: He never testified to this topic.
20 MR. CHEN: No, I'm not saying this witness. I'm
21 not saying this witness.
22 MR. ROBINS: Okay.
23 MR. CHEN: I'm saying --
24 MS. ROBESON: You're offering it for the
25 applicant's intent as to why the 120,000 square feet got

Page 139

1 there?
2 MR. KLINE: I was offering it to demonstrate that
3 the applicants never expressed that it was entitled to be
4 able to ask for 120,000 square feet.
5 MS. ROBESON: Yes and I think that's more
6 appropriate for your land planner to bring in.
7 MR. KLINE: I'm beyond that now.
8 BY MR. KLINE:
9 Q I'll help you with the street name. We were
10 talking about how we should be flexible in terms of
11 interpreting the master plan and you were pointing out what
12 is New Cut Road and the plan would have cut across an
13 environmental area?
14 A Correct.
15 Q And Park and Planning agreed it could be
16 terminated?
17 A Yes, now the plan has been approved.
18 Q And that was driven by the environmental
19 sensitivity of the area?
20 A Partly and partly by the plan itself.
21 Q Would you elaborate on that, the last part? I
22 understand the environmental part.
23 A Well, the, as the plan evolved, how this layout
24 and this layout without the road, this combination, this is
25 Stream Valley and that crossing was one of the, you know,

Page 140

1 main reasons to not bring the road here.
2 Q And the proposal to terminate New Cut Road at the
3 location on Broadway Avenue and not go through was mitigated
4 by the applicant's proposal to make improvements to Old
5 Baltimore Road to handle the traffic that would not be able
6 to go straight through?
7 A Partially, although Old Baltimore Road is a master
8 plan road and has a section that's being improved similar to
9 121 and then the internal streets, and particularly with the
10 grid and the interconnectivity of the streets, that makes
11 the plan work.
12 Q So what the Planning Board decided in not
13 requiring New Cut Road to go through is there were other
14 ways of accomplishing what the plan showed without having,
15 doing any detriment to the intended plan which is moving
16 traffic from the east to the west, is that correct?
17 A They made a finding that the plan and network
18 would work as shown.
19 Q Thanks. There was a question dealing with a
20 question of mine, dealing with page 46 of the master plan
21 about retail in the town center.
22 MS. ROBESON: Well, wait. That's your cross-
23 examination. We're going back to redirect.
24 MR. KLINE: Well, I'm sorry. A question was asked
25 of Mr. Unterberg to give us some information about what's

Page 141

1 going on in the town center.
2 MS. ROBESON: Oh, yes. That's true. Okay.
3 BY MR. KLINE:
4 Q And you weren't sure, but it was somewhere in the
5 range, you thought, of 130 to 140,000 square feet. Is there
6 any additional, well, first of all, what is that center?
7 Didn't I hear you say it was a neighborhood-oriented center?
8 A I believe it's a neighborhood center with a
9 grocery store.
10 Q Okay. All right. Does the town center have
11 capacity for more retail development within, that are within
12 the limits of the plan?
13 A That I do not know.
14 Q Okay. So if I look at page 46, doesn't the text
15 on page 46 support paragraph 1, talk about commercial uses,
16 300,000 square feet and then basically talk below that about
17 neighborhood retail uses and other uses?
18 A It does with the 150,000 square feet for the
19 neighborhood retail.
20 Q Okay. And this sentence after that, additional
21 square footage would be desirable and consistent with the
22 plan?
23 A Okay.
24 Q So there could be, there will be, I'm sorry, there
25 could be other retail uses outside of the retail center

Page 142

1 proposed by Mr. Flanagan?
2 A That I do not know.
3 Q The plan allows for a square footage to
4 accommodate if somebody wishes to do it, correct?
5 A Well, I think the only thing it would allow and I
6 think what I saw was 130 to 140,000 square feet. And if you
7 go down to the second bullet from the bottom, it talks about
8 an actual square footage of retail, 150,000. So it could,
9 you know, the difference between 40 and 130 and 140,000 to
10 150, that could happen.
11 Q But we still have in the fourth paragraph up to
12 300,000.
13 A This talks about --
14 MS. ROBESON: Well, I think the second bullet,
15 just to speed this up, I think the second bullet refers to
16 the retail center east of the historic district.
17 MR. KLINE: I would concur with that. That was
18 the, I guess the orange box or triangle that was on the
19 exhibit.
20 MS. ROBESON: Do you disagree with that, Mr.
21 Unterberg?
22 THE WITNESS: Say that again.
23 MS. ROBESON: If the second bullet with the 150
24 refers to the retail center east of the historic district?
25 THE WITNESS: The second bullet from the bottom?

Page 143

1 MS. ROBESON: Yes.
2 THE WITNESS: Okay.
3 MS. ROBESON: If you look at the top bullet, it
4 says a retail center designate is proposed east of the
5 historic tenant, the neighborhood. A maximum square
6 footage, and then the second bullet says, a maximum square
7 footage of the retail center is proposed up to 150,000.
8 Because there, the whole text, well, I'm not going to get
9 into the interpretation of the plan. But I don't think it's
10 helpful to keep asking him what he thinks. At the end of
11 the day, the plan speaks for itself and I know Mr. Chen is
12 saying -- I just --
13 MR. KLINE: May I, or --
14 MS. ROBESON: If you're intended to say, to --
15 you're trying to find that the town center as opposed to
16 this property specifically contemplated additional retail,
17 correct, is that where you're going with this?
18 MR. KLINE: Yes.
19 MS. ROBESON: Okay. So I understand that. Mr.
20 Unterberg, do you disagree with that, that there's explicit
21 language in this plan authorizing additional retail in the
22 town center that is not in the Cabin Branch section? You've
23 testified that the Cabin Branch section is silent on
24 additional retail --
25 THE WITNESS: Yes.

Page 144

1 MS. ROBESON: -- other than the 120. Do you agree
2 that this town center portion says there's 153,000 square
3 feet of neighborhood retail, but there may be up to 300,000
4 square feet.
5 THE WITNESS: It does say that, but the only thing
6 I'll add is the commercial, it says 300,000 of commercial
7 uses --
8 MS. ROBESON: That's correct.
9 THE WITNESS: -- which is a broader range --
10 MS. ROBESON: Term than retail.
11 THE WITNESS: -- possibly, yes.
12 MS. ROBESON: Okay. Is retail a commercial use?
13 THE WITNESS: Retail is included as a commercial
14 use.
15 MS. ROBESON: Okay. Go ahead, Mr. Kline.
16 MR. KLINE: And that does complete my questioning
17 in that regard.
18 MS. ROBESON: Okay.
19 BY MR. KLINE:
20 Q But I believe your comment was that, or the
21 question to you was how does specialty retail support
22 residential and office? Can you elaborate on how that does,
23 those two work together? Actually, you know, you may not
24 have said office, you may have said road residential.
25 A Well, and I think I said it within the context of

Page 145

1 Mr. Bogorad's --
2 MS. ROBESON: He did.
3 THE WITNESS: -- testimony.
4 MS. ROBESON: His opinion as a land planner was
5 based on Mr. Bogorad's opinion.
6 BY MR. KLINE:
7 Q It's good to mix retail, residential and
8 employment when we can do this, correct?
9 A Yes.
10 Q Okay. Is that necessarily true -- what are the
11 benefits of mixing specialty retail, a regional outlet
12 center with residential and employment?
13 A Excuse me for a second. Can you say that again?
14 MS. ROBESON: What are the benefits of mixing
15 specialty retail with residential?
16 THE WITNESS: I think the benefits of a specialty
17 retail is that it's going to happen soon and will happen
18 based on the other testimony and whether or not the
19 neighborhood retail, particularly a grocery store, will
20 happen over a longer period of time or, frankly, not at all.
21 And that speaks to the fact that getting something going at
22 Cabin Branch sooner versus later helps the whole community.
23 BY MR. KLINE:
24 Q We both worked on the Wegman's case, correct?
25 A Correct.

Page 146

1 Q Would you agree with me there's nothing in the
2 Planning Board's decision that would suggest that there's
3 any other grocery store anything like Wegman's that would be
4 considered an employment use?
5 A I don't think it said it that way. They did make
6 a finding that the retail within Seneca Meadows was
7 employment use.
8 Q The retail or the Wegman's?
9 A The retail which includes Wegman's.
10 Q But it was the Wegman's that was driving that
11 because Wegman's is very employment intensive because of the
12 nature of the way it operates?
13 A They are the largest user, yes.
14 Q All right. And apropos that, when is the last
15 time you designed a plan that had a 60,000 square foot
16 grocery store in it?
17 A For Seneca Meadows or --
18 Q No, for any place.
19 A Offhand I don't know, but it's a number of years
20 ago.
21 Q My question was relating to an answer about what
22 was sort of the net after you got rid of the grocery store
23 in Cabin Branch and 60,000 square foot grocery stores are
24 not common any longer, are they?
25 A Not necessarily. I know, I believe the new Harris

Page 147

1 Teeter that's being built is in that range.
2 Q And that would be the new Harris Teeter in what
3 location?
4 A In Clarksburg Village in --
5 Q And --
6 A -- Clarksburg.
7 Q -- give us a number, how, what is the basis for
8 your foundation of that answer?
9 A Well, I believe that store is 60,000, if not a
10 little bit over 60,000 square feet.
11 Q Can you think of any other retail user that is as
12 intense as a Wegman's store in terms of employees?
13 A If you go to larger retail, there's probably a few
14 of them in there, yeah, there's a number of name brands out
15 there.
16 Q Just give me an example.
17 A If you just, comparable to square foot, it's
18 larger, Walmart or other stores like that.
19 Q So the fact that there's going to be a Wegman's
20 and the Planning Board found that to be, have an employment
21 benefit doesn't necessarily tell us that other retail or any
22 retail, therefore, is an employment use, am I correct?
23 A Well, that retail at Seneca Meadows is a little
24 over 200,000 square feet and Wegman's is 120,000 square
25 feet. So approximately 80,000 square feet was included in

Page 148

1 that finding, which is the other supporting.
2 Q Wegman's was the driving force in that, the
3 Planning Board's conclusion, was it not, since we both sat
4 there and listened to it?
5 A Wegman's was part of that. Whether it was a
6 driving force, that --
7 Q It was certainly the dominate theme.
8 MS. ROBESON: Okay. Are you arguing --
9 THE WITNESS: I don't.
10 MS. ROBESON: -- or are you going to ask a
11 question?
12 BY MR. KLINE:
13 Q Would you not agree with me that the Wegman's was
14 the dominate feature both in terms of square footage,
15 intensity of use and interest to the public in all of the
16 retail that was going on in that location?
17 A It's definitely the largest and depending what the
18 other use is, I'd speak to that once I know what the other
19 uses are.
20 Q Well, sticking on my train of questions of large
21 buildings --
22 MS. ROBESON: How many more questions do you have?
23 MR. KLINE: Probably three.
24 MS. ROBESON: Okay.
25 BY MR. KLINE:

Page 149

1 Q I believe the question was asked could a Walmart
2 have been, could a Walmart be constructed in Cabin Branch
3 and as long as it's less than 120,000 square feet would be
4 within, in accordance with the master plan?
5 A It would, hypothetically it would depend on, spoke
6 to different locations of retail and different square
7 footages. And depending what size and I know they're large,
8 but I don't know the exact square footage of the Walmart
9 offhand, if it fit within -- it wouldn't fit, in the four
10 areas I described, it definitely, I presume it would not
11 fit. I don't know if it would fit in the fourth --
12 MS. ROBESON: Well, you've got the 50,000 square
13 foot limitation too.
14 THE WITNESS: Well, under the new proposal, the
15 50,000, and I know from testimony at the Planning Board that
16 would preclude a Walmart from going to this site.
17 BY MR. KLINE:
18 Q What I was leading up to was, and wasn't even
19 taking into account the 50,000 square foot limitation since
20 I've raised a question about its validity, but aside from
21 that, the Walmart, if it were to come, would have to go
22 through site plan review, would it not?
23 A It would.
24 Q Okay. And a standard of site, the 59 D.3 site
25 plan review, its consistency with the master plan?

Page 150

1 A That is required.
2 Q Okay. So --
3 MR. HARRIS: Objection.
4 MS. ROBESON: Basis?
5 MR. HARRIS: The site plan, 59 D.3 does not
6 require consistency with the master plan.
7 MS. ROBESON: Well, you don't have to argue,
8 that's not a basis -- you can, that's not a basis for --
9 MR. HARRIS: I objected to the premise of his
10 question. He asserted something --
11 MS. ROBESON: I understand.
12 MR. HARRIS: -- that's incorrect.
13 MS. ROBESON: I understand. I think 59 D.3 speaks
14 for itself. And plus your witness said yes. So --
15 MR. HARRIS: It called for a legal conclusion --
16 MS. ROBESON: I understand that.
17 MR. ROBINS: You should be sitting over there to
18 shut it up.
19 MS. ROBESON: I understand that and I definitely
20 will refer to 59 D.3, so you don't have to pursue that line
21 of questioning.
22 MR. HARRIS: The subdivision ordinance requires
23 substantial conformance.
24 MS. ROBESON: I know that.
25 MR. HARRIS: There is nothing in the site plan

Page 151

1 regulations that requires consistency or conformity.
2 MS. ROBESON: I haven't read those in a long time,
3 but I will refer to them. Now, Mr. Kline --
4 MR. KLINE: Wrap it up.
5 MS. ROBESON: -- that's one question.
6 MR. KLINE: Okay.
7 MS. ROBESON: Do you have more?
8 BY MR. KLINE:
9 Q You mentioned an amphitheater. Do you anticipate
10 that the amphitheater would be located in -- would it be
11 located in a place that it would be neighborhood oriented?
12 A The, I think the ones discussed would be, which is
13 shown as green space, it would be used both by the
14 neighborhood and anyone that visits to the site.
15 MR. KLINE: Yes. I realize what I said, three
16 questions. I had a series of questions all related to --
17 I'll reserve them because they are actually related to
18 forest conservation, storm water management. I'll reserve
19 that to the witness that I believe they're going to be
20 calling on storm water management.
21 MS. ROBESON: Okay. But if your questions are on
22 forest conservation, they should be directed to Mr.
23 Unterberg.
24 MR. KLINE: Okay. Fine.
25 BY MR. KLINE:

Page 152

1 Q If I understand your theory is that the area of
2 the regional outlet center, it's certainly the subject of
3 all this, is such that its development will not infringe on
4 any of the areas already dedicated and shown on the forest
5 conservation plan for whatever treatment are shown on the
6 plan, am I correct in my understanding?
7 A Say that again as far as --
8 Q Sure. The -- whatever provisions existed in the
9 forest conservation plan, when the regional outlet center is
10 implemented, it will not infringe or encroach any of those
11 forest conservation areas, so there is not an inconsistency
12 between the applicant's development plan proposal and the
13 final forest conservation plan you gave us?
14 A The development plan can be built with the
15 approved forest conservation plan.
16 Q Okay. How frequently has the forest conservation
17 plans been amended so far, preliminary or final?
18 A Well, with --
19 MS. ROBESON: I think --
20 THE WITNESS: It's noted on the plan, but
21 primarily it's --
22 MR. KLINE: Just an order of magnitude, one --
23 THE WITNESS: Each site plan gets updated.
24 BY MR. KLINE:
25 Q So does that give us five times, 10 times? And

Page 153

1 I -- go ahead.
2 A So far it's been updated nine times.
3 Q Okay. Thank you.
4 A There's no --
5 Q All right. What's been marked as Exhibit 95 shows
6 on various pages storm water management facilities in
7 conjunction with the forest conservation plan feature shown
8 on each of the pages, correct?
9 A Storm water is shown on the pages.
10 Q Okay. And in many cases the storm water
11 management feature shown in Exhibit 95 will not be built or
12 implemented, correct?
13 A There's only two cases where those would not be
14 built.
15 Q Okay. Tell me what that is.
16 A This is --
17 Q And, Mr. Unterberg, only in the area that we're
18 talking about, in the retail outlet center, the total way
19 over --
20 MS. ROBESON: Well, wait a minute.
21 MR. HARRIS: Wait a minute. This is going beyond
22 my --
23 MS. ROBESON: The scope of --
24 MR. KLINE: Okay. I'll hold it until we get the
25 storm water management expert in here.

Page 154

1 MS. ROBESON: Okay.
2 MR. KLINE: I'm okay with that.
3 MS. ROBESON: If he does. He can rely on what's
4 in the record now.
5 MR. CHEN: Well, if there's a plan in the record,
6 how do I cross-examine him?
7 MR. KLINE: Can I explain what I'm trying to do
8 here?
9 MS. ROBESON: Well, what I want to do is get
10 through this witness. So --
11 MR. KLINE: All right.
12 MS. ROBESON: -- you can explain what you're
13 trying to do --
14 MR. KLINE: Well, I'm actually, I thought, trying
15 to be helpful so that we don't end up with this situation
16 where we're screaming something different. Exhibit 95 shows
17 storm water management facilities --
18 MS. ROBESON: Yes, it does.
19 MR. KLINE: Right.
20 MS. ROBESON: But he didn't testify on that.
21 MR. KLINE: Okay.
22 MS. ROBESON: And what I'm trying to do is I'm
23 looking for the, I'm going to make the applicant put in
24 everything that 59 D requires. So, and also we have a
25 public interest standard. Okay. So 59 -- I'm looking at

Page 155

1 the town center. Okay. Development program. That's not
2 it. Basically you've got questions you want to ask about
3 storm water management and how it's going to be
4 accomplished?
5 MR. KLINE: I, actually my question relates to
6 forest conservation, but to get the point, I have to ask a
7 question on storm water management.
8 MS. ROBESON: Well, proffer what your relevance
9 is.
10 MR. KLINE: I can do that, sure.
11 MS. ROBESON: Because he didn't, you're on recross
12 now.
13 MR. KLINE: Yes, but --
14 MS. ROBESON: And he didn't testify to any of
15 this?
16 MR. KLINE: No, but there was extensive
17 examination of the forest conservation plan.
18 MR. CHEN: And it came in during his redirect.
19 Exhibit --
20 MS. ROBESON: Okay.
21 MR. KLINE: All right.
22 MS. ROBESON: So what is your -- where are you
23 going with this? Just tell me.
24 MR. KLINE: Where I'm going is that the forest
25 conservation plan that you've got as Exhibit 95 cannot, will

Page 156

1 not be implemented that way. It will have to be amended
2 because of features that will be changed due to the changes
3 in storm water management regulations.
4 MS. ROBESON: Okay. So --
5 MR. KLINE: And I want --
6 MS. ROBESON: -- my question is --
7 MR. KLINE: And I want him to explain why he
8 doesn't, therefore, have a forest conservation plan --
9 MS. ROBESON: Okay. Well, that --
10 MR. KLINE: -- that explains --
11 MS. ROBESON: -- does go to my question.
12 MR. KLINE: That is my question.
13 MS. ROBESON: So, all right, go ahead.
14 MR. KLINE: Thank you.
15 MR. CHEN: And if the Examiner, please, the
16 question that Mr. Harris put to this witness on, that goes
17 right to this was does this DPA conform, that's the word
18 they used, conform to the final conservation plan? And --
19 MS. ROBESON: Okay. That's fine.
20 MR. HARRIS: Yes, they said it does.
21 MS. ROBESON: So I'll let Mr. -- if Mr.
22 Unterberg --
23 MR. HARRIS: They say --
24 MS. ROBESON: -- is qualified to answer, I'll let
25 him answer your question.

Page 157

1 MR. KLINE: Yes. I think I will stop at that
2 point because if he says the forest conservation plan is,
3 leaves him enough buildable area, I'll leave it at that and
4 we'll just get it from another witness.
5 (Discussion off the record.)
6 MS. ROBESON: Well, that's up to you.
7 MR. KLINE: Okay. Well, then let me go ahead and
8 ask the question and we can see if --
9 MS. ROBESON: That's what I would do.
10 MR. KLINE: -- they follow. Okay. Fine. All
11 right.
12 BY MR. KLINE:
13 Q Mr. Unterberg, is it correct that the storm water
14 management feature shown in Exhibit 95 are grandfathered
15 under the changes to the state storm water management law?
16 A Which is Exhibit 95?
17 Q That would be the forest --
18 MS. ROBESON: That's the final forest --
19 MR. KLINE: -- conservation plan.
20 MS. ROBESON: -- conservation plan.
21 THE WITNESS: Okay, our new forest conservation.
22 MR. KLINE: Right.
23 MR. HARRIS: We've got it.
24 THE WITNESS: Everything is grandfathered for the
25 storm water management, for the approvals May 3rd, except

Page 158

1 for two ponds. There is Pond 12 and Pond 15.
2 BY MR. KLINE:
3 Q Are either one of those ponds within the area?
4 A Pond 12, Pond 12 is outside the area of A and
5 we've been discussing that as the potential site for an
6 amphitheater. It's generally in this light green area south
7 of Area A and there's an OS label on it for open space.
8 Pond 15 was shown in this general location which overlaps C
9 and, again, part of the green space. Everything else has
10 been approved and this exhibit which is 21H, Pond 11 has
11 been approved and that is under construction. Pond 13 has
12 been approved and permitted. Pond 1 has been approved and
13 permitted and those are the specific ponds that overlap
14 primarily with the 283 acres for MXPDP.
15 Q Please help me understand what you just testified
16 about in the statement of staff report. I'm looking at page
17 27 of the technical staff report, exhibit number, which I'm
18 afraid I don't have, and I'm on page 27 up at the top.
19 Everybody okay? Maybe two-thirds of the way down there's a
20 description and a sentence beginning, overall of
21 approximately 30 storm water plans, and then it talks about
22 ponds, have been approved or permitted. The areas that have
23 site plan approval receive permits on or before 2013 that
24 are grandfathered under the old storm water management
25 regulations. And my question is is the area within the

Page 159

1 regional outlet center area the subject of a site plan,
2 thus, storm water management is grandfathered?
3 A About half of it is grandfathered.
4 MS. ROBESON: Is this the one near the proposed
5 amphitheater?
6 THE WITNESS: No, that is, that is, that's Pond
7 12. That is not approved and that will be, basically the
8 amphitheater would be replaced in that pond. Pond 11, which
9 is in this general location --
10 MR. HARRIS: Explain what location.
11 THE WITNESS: Which is south of Area A, just at
12 about the end of Golden Eye, Pond 11 which is under
13 construction, that covers the drainage area that roughly
14 goes north to the property line and covers the area west.
15 And that is grandfathered with the pond that's, well, under
16 construction. The area, again with this line north/south,
17 the area that's east along 270 is not grandfathered and will
18 need to provide storm water management per the current
19 regulations.
20 BY MR. KLINE:
21 Q And under the current regulations, you would be
22 dealing with techniques different than what are shown in the
23 forest conservation plan that we have as Exhibit 95?
24 MR. HARRIS: Madam Examiner, at this point I want
25 to object again. We're getting into all this storm water

Page 160

1 management issues that were not part of the redirect and I -
2 - someone is off base here in terms of what even needs to be
3 submitted in connection with a development plan.
4 MS. ROBESON: Okay.
5 MR. HARRIS: 59 D 1.3(g)(5) requires the general
6 location of all onsite storm water management facilities.
7 MS. ROBESON: That's for the town sector homes.
8 MR. HARRIS: Oh, that is for the town --
9 MR. KLINE: Yes.
10 MR. HARRIS: I beg your pardon. You've made that
11 mistake before and I fell in that same trap. Well, then I
12 don't believe there is a requirement that you have a final
13 storm water management plan submitted.
14 MS. ROBESON: Well, I am going to let him ask the
15 questions and we can argue about it later, whether it's
16 actually required or not. So can you continue, Mr. --
17 MR. KLINE: Sure. And --
18 MS. ROBESON: -- Kline?
19 MR. KLINE: -- again, I will kind of bring it to a
20 higher level.
21 BY MR. KLINE:
22 Q And that is wouldn't the features that would be
23 installed, storm water management features that would be
24 installed under new storm water management regulations cause
25 modifications to the forest conservation plan because of

Page 161

1 different pattern of outfalls than what had been anticipated
2 with the previous storm water management concept?
3 MS. ROBESON: If you know.
4 THE WITNESS: Well, I'm going to say not
5 necessarily because I believe the, under the new regulations
6 the development envelope that's shown, which is generally
7 Area A, which is also consistent with the forest
8 conservation plan, this can be built with storm water
9 management within that developable area and within the
10 limits of disturbance shown on the forest plan.
11 BY MR. KLINE:
12 Q But I am correct that EDS's, or environmental site
13 design features, will have different transmission features
14 that could conflict with the forest conservation plan
15 approved that the applicant is relying on?
16 A Depending on, until we have a final plan, we won't
17 know that. And yet if -- and that's why particularly with
18 the site plan, with that detailed forest conservation plan
19 is updated or reconciled and it would be minor changes, if
20 any.
21 Q You're saying minor changes. Well, why do you say
22 minor changes?
23 A Say that again. I was --
24 Q Yes. Why -- you used the phrase minor changes and
25 how do you come to that conclusion?

Page 162

1 A Well, there is, already there is a number of
2 easements recorded in this general area which is the
3 northern area of the Stream Valley. There's also a storm
4 water management easement for Pond 11, storm water
5 management easement for Pond 13. Those are all recorded
6 with the County. They typically don't change.
7 This -- we will be doing ESD within this envelope
8 which is also consistent with the envelope that's shown on
9 the forest conservation plan and actually the forest
10 conservation plan is more specific than the development
11 plan. And I believe that, that development can be built
12 with the appropriate storm water within that envelope and
13 that limited disturbance shown.
14 Q In any of the nine modifications in the forest
15 conservation plan you alluded to, have you changed the areas
16 of the forest conservation plan, how they were going to be
17 treated?
18 A There have been some instances, but those were for
19 particularly storm water management ponds and the outfalls.
20 Under the new requirements, we cannot do ponds. So those
21 outfalls would be less likely to change.
22 Q So you're saying the outfalls for the approved
23 storm water management plans which currently don't conflict
24 or you've already taken into account conflicts with the
25 forest conservation plan, you feel that the ESD measures

Page 163

1 will basically fit within the constraints you've already
2 established?
3 A Yes.
4 Q Won't the ESD features necessarily change the
5 configuration of how you lay out the parking and the
6 circulation within the regional outlet center and since I'm
7 guessing these plans predate the change in the storm water
8 management laws, are we going to be changing the building
9 envelopes for those uses as well?
10 A They could change, but that typically is done at
11 site plan with your final storm water management within that
12 development envelope.
13 Q And that's when you would change the forest
14 conservation plan as well to be consistent with that?
15 A If needed, yes.
16 MR. KLINE: No further questions.
17 MS. ROBESON: Okay. Mr. Chen.
18 MR. CHEN: That covered, I think, pretty much what
19 I had and I can be short.
20 RE-CROSS EXAMINATION
21 BY MR. CHEN:
22 Q Mr. Unterberg, as I understand your testimony,
23 Exhibit 95 you stated that the DPA conforms to Exhibit No.
24 95, is that right?
25 A I believe I stated that we would build the

Page 164

1 development shown on the DPA within the parameters of the
2 forest conservation plan on 95.
3 Q Well, what does within parameters mean?
4 A Well, it shows a disturbed area and a buildable
5 area and we can build this development within that.
6 Q And are you representing to the Examiner that
7 every page in Exhibit 95, and there are several pages that
8 do say forest conservation plan, will not have to be changed
9 in this document?
10 A Except that site plan, how this has gone forward,
11 then we have a specific site plan, the Planning Board
12 reconfirms the forest with those specific details.
13 Q What would cause a change at site?
14 A I don't know at this point. It depends on the
15 plan.
16 MR. HARRIS: Madam Examiner, again, let's try and
17 put this thing into context. The regulations require
18 submission of a preliminary forest conservation plan at the
19 time of a development plan. Even if you assume that that
20 requires a preliminary forest conservation plan at the time
21 of the development plan amendment, it's a preliminary plan.
22 That plan will almost always change by the time the final
23 forest conservation plan --
24 MS. ROBESON: So --
25 MR. HARRIS: -- is approved later.

Page 165

1 MS. ROBESON: What is your objection?
2 MR. HARRIS: I object to the whole line of
3 questioning. They're inferring, implying that we need to
4 have a nailed down, immutable forest conservation --
5 MS. ROBESON: Okay.
6 MR. HARRIS: -- plan and that's not the
7 requirement.
8 MR. CHEN: The --
9 MS. ROBESON: Well, no, that's legal argument that
10 you can make. I'm going to let him continue his questions
11 and we'll give it the weight it deserves depending on what
12 the law says.
13 MR. CHEN: Counsel represented that we do not
14 merely have a preliminary plan. He represented we have the
15 final and this is what we got, that's how we got to Exhibit
16 No. 95.
17 MS. ROBESON: Well, he testified that it's final,
18 but it's amended at site plan as the development gets into
19 that detail. Now I'm going to let you continue the
20 questions you had.
21 MR. CHEN: Thank you. This is --
22 MS. ROBESON: And you can save that argument.
23 BY MR. CHEN:
24 Q Now are you saying then, therefore, sir, that
25 there will be no change in the configuration of any

Page 166

1 buildings that are represented on Exhibit No., I think it's
2 59, is that right?
3 MR. HARRIS: Objection.
4 MS. ROBESON: Your objection is noted.
5 THE WITNESS: I did not say that.
6 BY MR. CHEN:
7 Q Okay. What are you saying then?
8 A Is there a question?
9 Q You have just testified that at site plan there
10 could be changes based upon forest regulations and standards
11 and all I'm trying to get at is that going to have any
12 possible impact on Exhibit 59 in showing the location of
13 buildings?
14 A The, again, the development plan shows the
15 location of buildings. It's noted that they're preliminary.
16 And there's also a note that says at the site plan they will
17 be subject to change, the site plan is one of the following
18 steps that we'll --
19 Q You're --
20 A -- this is not the final location of buildings.
21 This is the general location of buildings.
22 Q Well, okay.
23 MR. CHEN: Save for cross, Your Honor.
24 MS. ROBESON: What?
25 BY MR. CHEN:

Page 167

1 Q Go to page, sheet 3, if you would, of Exhibit No.
2 95. Are you there? My, this is my copy, sir.
3 A Yes, she gave it to me.
4 Q Thank you.
5 MR. CHEN: Do you have it, Ms., Madam Examiner?
6 MS. ROBESON: Yes, I do.
7 MR. CHEN: Okay.
8 BY MR. CHEN:
9 Q As I understand, I could be mistaken, but when
10 I'm trying to locate the Northern District or Area A and B,
11 I'm looking at the areas on sheet 3 that are six, seven and
12 eight, am I correct, and nine, am I correct, sir?
13 A Generally for the northern part of the property,
14 yes.
15 Q Okay. And as I understand your testimony, because
16 they're white, that you can build in those areas, that
17 therefore for this development plan amendment there will be
18 no need to change any of the sheets that are covering these
19 particular areas?
20 A Say that again.
21 Q Yes. None of the shown forest conservation plans
22 for those areas which covers, there's where the retail is
23 going to be, are going to change?
24 A The developable area will not change and this will
25 be updated at the site plan.

Page 168

1 Q Yes, I know about the developable area. I'm
2 talking about the approved forest conservation plan, though,
3 sir. As I understand your representation because you've
4 testified that this plan conforms or, excuse me, that the
5 DPA conforms to this plan, as I understand what you're
6 saying is, therefore, the forest conservation sheets that
7 are approved, or 95, are not going to change?
8 A I did --
9 MR. HARRIS: He did not say that.
10 THE WITNESS: -- not say that.
11 BY MR. CHEN:
12 Q What are you saying then, sir, because you said it
13 conforms. I'm just trying to get to what conforms meant.
14 A I said the developable area was generally what's
15 in white on sheet 3, this, what's proposed can be built
16 within that area. The individual sheets will be updated at
17 site plan.
18 MS. ROBESON: Updated in what manner? What does
19 that mean?
20 THE WITNESS: To reflect to the, to reflect the
21 specific design of the site plan.
22 MS. ROBESON: And --
23 THE WITNESS: Building streets and so forth.
24 BY MR. CHEN:
25 Q Yes. What I think I now understand what you're

Page 169

1 saying, the white areas indicate that construction can be
2 built in that area, but you really don't know what's going
3 to happen until their site planning?
4 A That's the process you go through --
5 Q Okay.
6 A -- with the site planning.
7 Q All right. Thank you.
8 MR. CHEN: I'm going to be short.
9 MS. ROBESON: Okay.
10 BY MR. CHEN:
11 Q Let's go back to Exhibit No. 86, which is a 2011
12 Clarksburg master plan amendment. Your counsel took you
13 through this. I've got like one or two questions.
14 MS. ROBESON: Okay.
15 BY MR. CHEN:
16 Q Would you please, sir, go to page 10? Now as I
17 recollect, counsel took you through this and you testified
18 that the thrust of this, maybe that's my word, but I think
19 it's accurate, that this particular master plan amendment
20 was very narrow, in fact, you've encountered a number of
21 words that were affected by it, do you recall that
22 testimony?
23 A I do.
24 Q Okay. Looking at page 10, do you see the
25 paragraph at the top that has got the bold labeled, council

Page 170

1 directive?
2 A Bear with me a moment. I think I buried, buried
3 that in my pile.
4 Q Okay.
5 A Page 10?
6 Q Yes, sir.
7 A Okay.
8 Q Do you see the top label where, in bold that says
9 counsel directive?
10 A Yes.
11 Q Do you see the paragraph right under it?
12 A Okay.
13 Q Could you please read the final sentence where it
14 begins, the following?
15 A The following factors were considered in preparing
16 the amendment.
17 Q Okay. And then would you then drop down please to
18 the next to last bullet? Read that.
19 A Whether to allow a grocery store and potentially
20 ancillary uses outside the town center, brands in the
21 village center, brands to proceed.
22 Q So that -- what this document is stating is at the
23 time that it was being considered, the master plan was being
24 prepared, one of the considerations it took into account was
25 whether to continue to allow a grocery store in the village

Page 171

1 centers, is that right, sir?
2 A It says they were considered.
3 Q Okay. And upon, or at the time of the adoption
4 and approval of the 2011 master plan amendment, there was no
5 change to the master plan as to grocery store, particularly
6 a grocery store in the Cabin Branch community, isn't that
7 right?
8 A Say that again. You're saying that --
9 Q Yes. At the time the 2011 master plan amendment
10 was approved and adopted, there was no change to the
11 provisions for a grocery store in the Cabin Branch community
12 in the underlying Clarksburg master plan?
13 A Okay. That sounds right.
14 MR. CHEN: What is your next exhibit number?
15 MS. ROBESON: It is 98. Oh, no, 97.
16 MR. CHEN: 98 is the current one?
17 MS. ROBESON: Seven. Seven, 97.
18 MR. HARRIS: I beg your pardon, what was 96,
19 ma'am?
20 MS. ROBESON: 96, Planning Board opinion approving
21 Cabin Branch preliminary plan.
22 MR. HARRIS: Okay. Thank you.
23 MR. KLINE: While we're doing this, could I borrow
24 Exhibit 96 from you and I'll take that at lunch --
25 MR. HARRIS: This is already in the record.

Page 172

1 MR. CHEN: Is it?
2 MR. HARRIS: It's already --
3 MR. CHEN: It's part of?
4 MR. HARRIS: It's part of the technical appendix,
5 60C.
6 MR. CHEN: Yes, I understand.
7 MS. ROBESON: Well, I tell you what, I don't, I
8 can't find it at the moment. I would prefer not to have it
9 going out, so we'll make copies.
10 MR. KLINE: I'll get it from your staff.
11 MS. ROBESON: No, we can make copies at lunchtime.
12 I'll try to.
13 MR. KLINE: Okay. Not a problem.
14 MS. ROBESON: Okay. So this is 97 and what do you
15 call this?
16 MR. HARRIS: I don't think we need a new exhibit.
17 It's page 12 of Exhibit 60.
18 MR. CHEN: I want to focus on this and make it a
19 separate exhibit and ask the witness a question.
20 MR. HARRIS: Well, I would like the whole thing
21 put in then.
22 MR. CHEN: It is. The whole thing is in already.
23 MR. HARRIS: Then why are you submitting a
24 duplicate exhibit?
25 MR. CHEN: Because I want to --

Page 173

1 MS. ROBESON: He's going to refer to it, so let's
2 admit is as --
3 MR. HARRIS: Okay.
4 MS. ROBESON: -- a separate exhibit. And this is
5 page 12 of the technical appendix of the master plan.
6 MR. CHEN: Right.
7 (Exhibit No. 97 was marked for
8 identification.)
9 BY MR. CHEN:
10 Q Mr. Unterberg, I'm just showing you Exhibit No.
11 97. Do you see it, sir?
12 A Yes.
13 Q Do you see the section in the middle of the page
14 in bold saying, neighborhood retail centers?
15 A I do.
16 Q Okay. And following that is a paragraph, isn't
17 that right, sir?
18 A Yes.
19 Q And that does describe what is under this master
20 plan, a neighborhood retail center, isn't that right?
21 A It discusses neighborhood retail centers.
22 Q Fine. Thank you. Mr. Harris took you through
23 this process of how you got to the amount of retail square
24 footage for the DPA. This will be like one question. He
25 referred and you referred to Section 59 C-10.2.2, the

Page 174

1 optional method under the RMX zone, is that right, sir?
2 A That is correct.
3 Q Now as I understand that provision, it provides
4 for numerical limitations, is that right?
5 A It says numerical, yes.
6 Q And as I understand your computations, you use, in
7 order to determine the amount of retail square footage being
8 proposed by this DPA, you utilize as your numerical
9 limitation the 120,000 square feet provided for in the
10 Clarksburg master plan, is that right?
11 A Rephrase that or restate that.
12 Q Well, okay. Where did you get the numerical
13 limitation that is provided for in Section 59 C-10.2.2?
14 A For this DPA, we were proceeding with MXPDP and RMX
15 does not apply.
16 Q No, no, no, no, no. You testified that you made a
17 computation to get up to 484,000 square feet of retail for
18 this DPA, isn't that correct?
19 A Correct, to get 20 percent of the total
20 commercial.
21 Q Right. Now, but I thought I heard you testify a
22 little bit ago was that in order to utilize that
23 computation, you went to 59 C-10.2.2, is that right?
24 MR. HARRIS: Objection.
25 MS. ROBESON: Well, let him answer if it's right

Page 175

1 or wrong.
2 MR. CHEN: Yes, if he didn't, yes.
3 THE WITNESS: I don't believe I did.
4 MR. CHEN: Fine. Okay. The record will speak for
5 itself. That's all I've got.
6 MS. ROBESON: Okay.
7 MR. HARRIS: May I ask --
8 MS. ROBESON: That --
9 MS. ROBERTS: -- ask a few follow-up questions?
10 MS. ROBESON: No. You have rebuttal and we
11 don't --
12 MR. HARRIS: Okay.
13 MS. ROBESON: -- usually give re, re --
14 MR. HARRIS: Okay.
15 MS. ROBESON: -- redirect. We're going to break.
16 How many more witnesses do you have, Mr. Harris?
17 MR. HARRIS: I'm not sure. We have to --
18 MS. ROBESON: Again, you have --
19 MR. HARRIS: -- just a couple.
20 MS. ROBESON: Okay. All right. So possibly one
21 more?
22 MR. HARRIS: Possibly one more, possibly two, but
23 probably only one more.
24 MS. ROBESON: Okay. How many witnesses do you
25 have, Mr. Kline?

Page 176

1 MR. KLINE: Mr. Salt has already testified and Mr.
2 Ferguson would be the only witness I have.
3 MS. ROBESON: Okay. Mr. Chen, how many witnesses
4 do you have?
5 MR. CHEN: Mr. Noonan.
6 MS. ROBESON: Mr. Noonan?
7 MR. CHEN: Ready to go today.
8 MS. ROBESON: Ready to go today. Okay.
9 MR. CHEN: After they close.
10 MS. ROBESON: No, I understood that. I understand
11 that and that's fine. I -- just one housekeeping matter.
12 Mr. Kline, on your legal motion --
13 MR. KLINE: Yes.
14 MS. ROBESON: -- about the ability to implement
15 the 50,000 foot condition, I am going to refer that to Ms.
16 Susan Scaladendi (phonetic sp.) --
17 MR. KLINE: That's fine.
18 MS. ROBESON: -- who would be the person at --
19 MR. KLINE: That's fine.
20 MS. ROBESON: -- DPS in charge of that issue and
21 get her comments. I'm going to ask for her written comments
22 on it. And you will all be cc'd on the letter to her.
23 MR. KLINE: That would be fine. Could I ask for
24 this modification? You brought up a provision in the
25 ordinance that you said another hearing examiner had used,

Page 177

1 the stipulation --
2 MS. ROBESON: Yes.
3 MR. KLINE: -- the finding stipulation. I have
4 been in the process of doing a supplement to my memorandum
5 of law. I'd like to finish that. I couldn't get it done
6 yesterday. I'd like to finish that, give that to everybody
7 and then have you ship both of them over to Ms. Scaladendi.
8 MS. ROBESON: My only problem with that is when we
9 are, how are we going to finish this case? Well, we'll
10 probably end up leaving the record open after the 12th
11 anyway because most people in a case like this prefer to
12 have the transcript before they do any kind of closing
13 statements, unless you want to waive that.
14 MR. KLINE: In this case that's fine.
15 MR. HARRIS: I was hoping to do closing statements
16 after the last witness and do them orally so that we can
17 move this case along.
18 MS. ROBESON: Well, I need to, what I need to do
19 is call Ms. Scaladendi --
20 MR. KLINE: Yes.
21 MS. ROBESON: -- and see what is a reasonable time
22 frame for her to respond --
23 MR. KLINE: I --
24 MS. ROBESON: -- because I don't want to rule on
25 that without some input from DPS.

Page 178

1 MR. KLINE: I understand your timing issue. If
2 you could just give me until close of business Monday, I can
3 have it here by then.

4 MS. ROBESON: Well, okay. Let me think about that
5 because I, there's some other things I want to make sure we
6 get cleared up in the record. So let me reserve on that and
7 I'd like to call Ms. Scaladendi and see if there's anything
8 that would prohibit her from looking at it within this
9 reasonable time frame.

10 MR. KLINE: Sure.

11 MS. ROBESON: I am going to, I'm not going to
12 discuss the substance of the memo or if you prefer me, I'll
13 put the whole thing in writing to her, but I'm going to put
14 it in today and I can alert her that there's a supplement
15 coming.

16 MR. KLINE: You know what, my supplement, now that
17 I think about it, probably doesn't deal with -- no, I take
18 that back, it does, yes. Okay.

19 MS. ROBESON: So what I'm going to do is refer it
20 to her today, advise her that there's a supplement coming
21 and ask her in writing when she can respond. And did you
22 have a response --

23 MR. HARRIS: I did not. I was going to --

24 MS. ROBESON: -- that you would like to go to her
25 as --

Page 179

1 MR. HARRIS: I have prepared a response. I was
2 going to submit it today now, but now that Mr. Kline says he
3 wants to extend it, I can reply briefly orally right now,
4 first, and I can submit mine, but then, you know, I would
5 like a chance to reply to his supplemental, so I don't know
6 if that's the best way to do it. I think we're off on
7 another tangent here. It's not just a question of whether
8 DPS can count square feet which, by the way, I believe they
9 can and I believe they do, but rather whether there is any
10 mechanism in the post-development plan process by which that
11 can be done and I believe there are multiple ones. The site
12 plan process at Park and Planning is the most specific.

13 MR. KLINE: Which is the subject of my
14 supplemental memo.

15 MR. HARRIS: Mr. Kline's case, the Butz property,
16 there is a requirement, a binding element in there that the
17 impervious area will be limited to X percent. I think it's
18 23 percent. Now, clearly, that binding element has to be
19 enforceable or Mr. Kline was not, you know, playing fair
20 with the Hearing Examiner in that one. If you can measure,
21 if DPS or other bodies can measure impervious area on a 50-
22 acre tract or whatever it was, they sure as heck can measure
23 the square footage of a store. It is far easier to measure
24 the square footage of a store than the impervious area.

25 I would add further that the zoning ordinance has

Page 180

1 in it a definition for combined retail stores, that it has a
2 square footage component in it. So clearly the zoning
3 ordinance recognizes that there are post-approval processes
4 for measuring square footage and making sure whether
5 something does conform with the zoning ordinance or not.
6 It's just, I mean we're, so many things in this case are
7 taking us so far afield from what the issues are here and it
8 gets frustrating to many of us, I guess, but I'll submit my
9 memo today. I'll submit it now and, you know, but I think
10 the question is more than just Susan Scaladendi. I think
11 you can answer the question that square feet can be counted.

12 MS. ROBESON: Well, my position is more that if
13 they have to be counted, they will be counted whether
14 there's a set process for it or not. But because I would
15 like her input if there really is some absolute prohibition
16 on it, out of an abundance of caution before we go to the
17 Council, I would like to have the bases covered. I do know
18 personally, well, not personally, from being a Hearing
19 Examiner, cases where they have had to measure square
20 footage and they measure square footage for parking.

21 But I would like her input because this is such a
22 large use. I'm going to ask her input in writing. Now if
23 you want to, what I'm going to do is I'm going to submit his
24 original memo today and if you have a response, I'll submit
25 that to, over to her. I'm going to give you the opportunity

Page 181

1 to file a supplemental response on Monday and I'm going to
2 give you the opportunity to file a response to that and you
3 can both cc Ms. Scaladendi on the response.

4 MR. KLINE: Point of personal privilege, since my
5 credibility has been drawn into question, if you'd talk to
6 Mr. Grossman, if you'd talk to Ms. Carrier, this is not an
7 issue that I'm raising for the first time. Whenever I have
8 been instructed by my client to prepare binding elements, I
9 have always tried to correlate them with the three standards
10 that are for binding elements, use, staging and density or
11 something. I can't remember now what it is. I don't even
12 remember the binding element there. But this is a position
13 I've taken for a long time and this is just a case where it
14 really was ripe --

15 MS. ROBESON: I --

16 MR. KLINE: -- to bring it up.

17 MS. ROBESON: I'm aware of that.

18 MR. HARRIS: And I, on the other hand, have put in
19 binding elements that have been accepted that go way beyond
20 that.

21 MS. ROBESON: And actually the scope of the
22 binding element has been at issue, you know, quite a bit, at
23 least early on, but there's less a limitation on binding
24 elements in schematic, no, in, I'm sorry, development plans
25 than there is in schematic development plans. I think the

Page 182

1 provision is broader in a development plan than it is in a
2 schematic development plan.
3 MR. KLINE: Well, I know it's been suggested, and
4 I'm not right about anything, but the only time you see the
5 word binding element in 59 D-1 is in the context of a
6 schematic development plan.
7 MS. ROBESON: That's correct, but it's kind of
8 like it has become known as a, quote, binding element.
9 It's, I think Ms. Carrier used to refer to it as textual
10 binding elements.
11 MR. KLINE: Yes.
12 MS. ROBESON: Now it's become more binding
13 elements in each case, but I don't think the nomenclature
14 defines legally what it is. But I'm going to let you make
15 your argument --
16 MR. KLINE: Sure.
17 MS. ROBESON: -- and I am going to refer it to Ms.
18 Scaladendi.
19 MR. KLINE: That's fine.
20 MS. ROBESON: So if you would kindly get your
21 response to his initial memo in and then you can respond --
22 MR. KLINE: Respond.
23 MS. ROBESON: -- and I'm going to refer both your
24 initial memo and your response to her -- when do you think
25 you can get your response in?

Page 183

1 MR. HARRIS: Five minutes.
2 MS. ROBESON: That's fine. And so I'll do it by
3 close of business, all right? So we're going to take an
4 hour break for lunch and we will return possibly with a
5 witness from the applicant and, if not, Mr. Chen or Mr. --
6 MR. HARRIS: I --
7 MS. ROBESON: -- do you want to go first?
8 (Discussion off the record.)
9 MS. ROBESON: Then we'll go with Mr. Chen. So
10 we're adjourned until 2:15.
11 MR. KLINE: If I might, I just, I have confirmed
12 that I can't go beyond 5 o'clock today and --
13 MS. ROBESON: Do you wish to put your witness on
14 first?
15 MR. KLINE: He's not here. And the way we
16 structured everything, Mr. Chen was going to go first.
17 MS. ROBESON: Okay.
18 MR. KLINE: I mean we're --
19 MS. ROBESON: Well, I can't control the cross-
20 examination.
21 MR. KLINE: Oh, no, I understand that. I
22 understood. Apparently the 12th -- I'm just saying that I
23 can only go until 5 o'clock today.
24 MS. ROBESON: I see.
25 MR. KLINE: I'm certainly -- everybody on our side

Page 184

1 is available on the 12th.
2 MS. ROBESON: Well, the other -- we do have the
3 12th and if we need to, I'll see about a Saturday hearing,
4 although that's not something I want to encourage.
5 MR. HARRIS: I want to get it done. I'll go with
6 Saturday, Sunday, whatever.
7 MS. ROBESON: So I did check.
8 MR. KLINE: We'll come to Columbia.
9 MS. ROBESON: I did check. We have the capability
10 to do Saturday hearings, so -- all right. With that, we're
11 adjourned until 2:15. Oh, you want to --
12 MR. HARRIS: Less than five minutes.
13 MS. ROBESON: -- submit it on the record?
14 MR. HARRIS: Less than five minutes, yes.
15 MS. ROBESON: I'll mark this as Exhibit 98, which
16 is response to, 98 is memorandum of law submitted responding
17 to, I don't know, legal arguments contained in exhibit,
18 whatever exhibit --
19 MR. HARRIS: Yes, it's dated today.
20 MR. CHEN: Why don't you just put Harris memo of
21 9 --
22 MS. ROBESON: I like that a lot better.
23 (Exhibit No. 98 was marked for
24 identification.)
25 MR. ROBINS: Is Mr. Unterberg excused?

Page 185

1 MS. ROBESON: What? I'm sorry?
2 MR. ROBINS: Is Mr. Unterberg excused?
3 MS. ROBESON: Yes. He can go have a drink or
4 something.
5 MR. ROBINS: Well, he may still be around.
6 MS. ROBESON: Okay. So now we are continued until
7 2:15 and we're off the record.
8 (Recess.)
9 MS. ROBESON: We're going to decide whether to put
10 on another witness.
11 MR. HARRIS: Yes. And this will require a little
12 discussion here. I'll start out --
13 MS. ROBESON: Why doesn't that surprise me?
14 MR. HARRIS: Exactly. From the outset, we did not
15 believe that either forest conservation or storm water
16 management were issues in this case given the advanced
17 development state of the property and the advanced level of
18 those approvals. I won't get into the reasons, while I
19 still think they're not issues, but nonetheless we have a
20 problem going forward today.
21 We, to the extent any issue was going to come up
22 on those issues, we expected it weeks ago given that this
23 hearing started in July and so we had Mr. Bassong and Mr.
24 Rude on call for pretty much any hearing date in August.
25 Well, now that we're into September, Mr. Bassong in

1 A I think we did.
 2 Q -- the planning before, so I'm sure we did with
 3 Robert Brightner --
 4 A Robert Brightner.
 5 Q Exactly right, yes. Thank you for remembering,
 6 indeed. I know he spent a lot of time with that.
 7 A I have your business card.
 8 Q Okay. There we go. We go way back and didn't
 9 know it.
 10 A Yes, didn't know it.
 11 Q I didn't notice on your resume whether, where you
 12 went to school and what degrees you have.
 13 A Oh, okay. It should have been on there. I went
 14 to the University of Maryland, graduated in 1972 with a
 15 degree in geography. I graduated in 1978 with a master's
 16 degree in urban planning at Johns Hopkins University in
 17 Baltimore.
 18 Q Okay. That does ring a bell now. I must have
 19 seen that somewhere. I didn't see it when I --
 20 A It's in there.
 21 Q Okay.
 22 A It's probably not organized.
 23 Q Okay. The -- when I go through your bio there, I
 24 see a lot of experience in terms of the state-wide planning
 25 policies on which you worked with the Office of Planning and

1 Department of Planning, public infrastructure planning and
 2 environmental assessments seems to be more of something that
 3 you're doing today --
 4 A Today.
 5 Q -- now, yes.
 6 A Yes.
 7 Q So that's the bulk of your career as a planner?
 8 A Well, actually most of my early career was
 9 involved in working with, from the Department of Planning's
 10 perspective on the viewing of County water and sewage plans
 11 and amendments for consistency with local comprehensive
 12 plans. It's kind of interesting when you actually review a
 13 County document, usually a County document, and then you
 14 challenge them in terms of consistency with your own plans,
 15 but that was sort of my role. And those kind of comments
 16 and letters were advisory to the Maryland Department of
 17 Environment who then had approval or disapproval authority
 18 over whatever the amendment was.
 19 I also worked for some time in local planning
 20 assistance and we actually, we had a staff of -- well, we
 21 had regional staff at a variety of locations around the
 22 state of Maryland who actually did local competence planning
 23 at some of the smaller municipalities and we would also do
 24 the state review of the County plans we were provided. One
 25 of the reasons you don't see Montgomery County and places

1 like that in my resume that much is the County planning
 2 staffs were often bigger than the state's planning staff.
 3 So it's a little presumptuous sometimes for us to try to go
 4 in and do their local planning.
 5 But in the sense, from a regulatory perspective,
 6 we did review proposed water and sewage amendments, and many
 7 in Montgomery County over the years, you know, for
 8 consistency with master plans like -- well, not Clarksburg
 9 so much because water and sewage services were more recent
 10 than my state service actually, but various issues across,
 11 well, across the state and Montgomery County as well.
 12 Q Okay. I remember some of that. I didn't see
 13 anything in your resume relating to serving as a planner in
 14 the private sector to plan a specialty retail or a mixed use
 15 employment center such as we're proposing here, am I correct
 16 in concluding that?
 17 A I think that's my correct. My experience with the
 18 private sector is in writing actual ordinances and helping
 19 to write comprehensive plans, master plans.
 20 Q Okay. And you're also, I assume, not holding
 21 yourself out as an expert in terms of the development of
 22 those facilities? You haven't built or operated or --
 23 A No.
 24 Q -- any of those kind of things? How about the
 25 Montgomery County zoning ordinance, again, I know you've

1 operated at a state level more often. I don't -- I'm going
 2 to jump to a conclusion that you wouldn't hold yourself out
 3 as an expert on the Montgomery County zoning ordinance, even
 4 though you are holding yourself out as an expert as a
 5 planning, planner?
 6 A I believe I have expertise in terms of rating and
 7 interpreting zoning ordinances because I've worked with them
 8 for 30 years or 40 years and have had to write some. I have
 9 to admit, though, Montgomery County's process and ordinances
 10 are pretty complex, you know, but the bottom line is I think
 11 that any certified planner with a, the amount of experience
 12 I have is capable of sitting down and making, and reading
 13 those things and providing a decent level of interpretation
 14 of those.
 15 Quite frankly, what I've been asked to do does not
 16 parse the language of the zoning ordinance so much is to
 17 look at the proposed development plan amendment in this case
 18 in terms of its consistency with the vision and policies of
 19 the master plan, which I think I am qualified to do.
 20 Q Okay. Final question on the zoning ordinance
 21 then, so you've sat here really the whole hearing, I think,
 22 and you've heard --
 23 A I might be an expert just --
 24 Q Yes, you've heard more debate than you wanted
 25 about the difference between the zones. I'm assuming that

Page 194

1 was more or less your first exposure to the inner-workings
2 of the MXP zone versus the RMX zone?
3 A Yes. You know, I've seen some of the language
4 before, but I couldn't even tell you a project. So I mean
5 I'm not even going to argue on that point. I think the
6 details of the MXP zone in terms of the specific details,
7 I'm probably -- what I know is what I've read in preparation
8 for this case. I think that's --
9 Q Okay. That's fine.
10 A -- you know.
11 Q And a similar question with respect to the
12 Clarksburg master plan. Again, you're operating at a state
13 level.
14 A Uh-huh.
15 Q I see your master plan isn't dog-eared like mine.
16 I'm assuming that you're a relatively recent reader of that
17 plan?
18 A Yes, I think it's fair to say that I'm coming in
19 without a bone to pick and hopefully with some fresh eyes,
20 if that's fair.
21 MS. ROBESON: Are you objecting to his
22 qualification as a land planner?
23 MR. HARRIS: No, I'm -- no, no, I'm trying to
24 understand how broad his qualification is is all I -- no, I
25 have no objection to him being admitted as an expert in land

Page 195

1 planning, I just wanted to determine whether they were going
2 to be offering him as an expert in particularly the
3 Montgomery County zoning ordinance and/or the Clarksburg
4 master plan and I'm hearing that it is not the case.
5 MS. ROBESON: All right.
6 MR. CHEN: But he will be, he is going to be
7 offered and he is offered as an expert with regard to the
8 proposal, the DPA, and how it complies with the
9 requirements --
10 MS. ROBESON: Yes. I --
11 MR. CHEN: -- of the Clarksburg master plan.
12 THE WITNESS: Yes.
13 MS. ROBESON: And we don't typically, we do have
14 land planners come in and interpret or say, yes, it complies
15 or, no, it doesn't comply. So I guess I'm not going to
16 qualify his qualifications, no, qualify his expertise in
17 that way. He is a land planner. I think what you voir
18 dired him on is relevant more in cross-examination as to the
19 weight of the testimony. But he did testify that he has
20 examined numerous zoning ordinances and I'm not going to
21 qualify him, say exclude his opinions on that basis.
22 MR. HARRIS: I don't -- I would not, I was not
23 planning on objecting to him offering his opinions. I think
24 it goes to the merit, to the weight of his opinions on --
25 MS. ROBESON: That's --

Page 196

1 MR. HARRIS: -- those topics.
2 MS. ROBESON: Well, that's for you -- I understand
3 and I'll let your questions in for that reason --
4 MR. HARRIS: Okay.
5 MS. ROBESON: -- without making that. Okay.
6 MR. HARRIS: Fine.
7 MS. ROBESON: So he is qualified. I assume you
8 have no objections, Mr. Kline?
9 MR. KLINE: I have no objections.
10 MS. ROBESON: So he is qualified as an expert in
11 land planning. Mr. Chen.
12 MR. CHEN: Thank you very much. If I may?
13 BY MR. CHEN:
14 Q Mr. Noonan, have you had an opportunity to closely
15 review the master plan for the Clarksburg property? It is
16 the Clarksburg master plan, Hyattstown special study area?
17 A Yes, I have.
18 Q Okay. I'll refer to it as I have before as the
19 Clarksburg plan or the master plan. You've also reviewed
20 the 2011 amendment to it, is that correct, sir?
21 A Yes, I have.
22 Q And you have also reviewed certain documents that
23 are part of the development plan amendment that is pending
24 before the District Council?
25 A Yes, sir.

Page 197

1 Q Okay. And you also sat in on, every day of
2 hearing thus far, is that correct?
3 A Yes, I have.
4 Q Okay. Now based upon your view of the
5 requirements or the provisions of the Clarksburg master plan
6 and, by the way, let me back up here, would you just briefly
7 note the material that you have reviewed relative to the
8 DPA?
9 A Okay. I've reviewed the master plan, as we've
10 said, and its amendment. I have reviewed the development
11 plan amendment proposal, that's not the correct word for it,
12 the justification statement, development plan amendment.
13 I've also reviewed the staff report dated, I have several
14 other piles of paper, dated July 8, 2013, on the development
15 plan amendment. And I've also had reason, due to follow-up
16 testimony, other things to look at, various other documents
17 related to the MXP zone and the RMX zone, yet I'm not, you
18 know, as fast as others on some of the background, but I've
19 read those documents as well, as well as the, looked at, at
20 the presentation materials prepared by the applicant, Cabin
21 Branch.
22 Q That includes what has been identified as Exhibit
23 No. 45?
24 A Yes. That's the slide presentation, yes.
25 Q Yes, sir. And as I think I've noted, or both of

Page 198

1 us, you've listened to the testimony presented by the
2 applicant in support of the application, is that correct?
3 A Yes, that's correct.
4 Q Okay. Now based upon all the foregoing, have you
5 an opinion as to whether the proposed development plan
6 amendment is, substantially complies with the Clarksburg
7 master plan? That only calls for a yes or no answer.
8 A No, it does not comply.
9 Q Okay. Could you explain why?
10 A Yes. It's somewhat of an elaborate explanation.
11 I think there's been a lot of discussion about various
12 nuances and various aspects of the proposal. What I'd kind
13 of like to do in explaining why I came to that conclusion is
14 to go and refer to the specific language that's actually in
15 the master plan. I think the development plan amendment is
16 inconsistent on two levels.
17 The first level is it's inconsistent because it,
18 essentially it sets up a competing center for urban
19 activities and center for activities in the town to the town
20 center district. And, second, it's inconsistent with
21 specific requirements of the Cabin Branch neighborhood plan
22 in the document. I'd like to go through those reasons in a
23 little bit more detail.
24 Q Okay. Please do.
25 A Okay. First of all, I'd like to kind of start

Page 199

1 with a division and one of the reasons, and I, on the first
2 day we heard testimony from, from citizens both for and
3 against the development plan amendment. But in particular,
4 against, there was a lot of concern about setting up a
5 competing retail center and activity center and center for
6 urban development and activity in competition with the
7 master plan amendment. And you really have to think a
8 little bit about why that's a problem, why that is even an
9 issue because, quite frankly, looking at the proposal when I
10 first got it from Mr. Chen, you know, I looked at it and I
11 said, well, it seems to be pretty high-quality development
12 proposal, it's in the overall development planning district,
13 why is that a problem?
14 And then I started to, you know, at his request
15 started to read the master plan. And I just want to go
16 through some of the language in a little bit different
17 order. You've seen it all before, heard it all before. But
18 I wanted to go through it a little bit different in order to
19 try to put it in context about why I came to the conclusion
20 I came to, which was a little different.
21 And really if you start off early in the plan, if
22 you look at the proposed concept plan for Clarksburg as a
23 whole, not just for Cabin Branch, you start seeing some key
24 policies reflected there and I want, what I want to do is go
25 through these and some of the broad policy statements for

Page 200

1 the Clarksburg area as a whole, kind of lay out the key ones
2 related to specialty retail and activity centers for the
3 Clarksburg area and compare those policy statements to where
4 they actually appear in the various sectors in the master
5 plan, try to lay out, you know, why is a discussion about
6 Clarksburg being a town at a larger scale than Germantown?
7 You know, why is that discussion relevant to this
8 development plan amendment and why is this plan amendment
9 somehow inconsistent with that?
10 So if we look at the policies first on page 6,
11 it's a concept plan for Clarksburg, and there are a lot here
12 I'm not going to go through. I'm going to try to focus on,
13 and actually, I think, three or four. And first is No. 1,
14 that the plan envisions Clarksburg as a town. I think
15 that's a key word because we're referring to its impact of
16 the development plan amendment on the town center.
17 Clarksburg is a town at a scale larger than proposed in the
18 '68 master plan, but smaller than a corridor city such as
19 Germantown, which is right down I-270 from this location.
20 In addition to that, it says the plan proposes a
21 comprehensive transit system and reduced dependency on the
22 automobile and I'll get into why that's important a little
23 later. The plan proposes a transit-oriented, multi-use town
24 center which is compatible with the scale and character of
25 the Clarksburg historic district, which is another

Page 201

1 component. And, finally, the plan emphasizes, excuse me,
2 not finally, the plan clusters development into series of
3 transit and pedestrian-oriented neighborhoods. It kind of
4 starts laying out what's to happen in the town center,
5 what's to happen in the various areas around the town
6 center.
7 And then, finally, the plan emphasizes the
8 importance of I-270 as a high technology corridor for
9 Montgomery County and the region, and preserves key sites
10 adjacent to I-270 for future employment options. And a lot
11 of that policy relates directly to the development plan
12 amendment.
13 So you look at those six things and you go, then
14 you look at Policy 1, the town scale of development and what
15 does that mean. And it includes the historic district as a
16 key component of expanding town center. It kind of implies
17 that that's, doesn't apply to states, that that's where the
18 center is going to be. Balances and need for higher density
19 for transit need to protect the area's environmental
20 resources which is an important component. Then strives to
21 maintain an identity from Clarksburg separate from
22 Germantown or Damascus. And then recognizes the importance
23 of civic space and some public uses as to the development of
24 a town concept.
25 And, again, what I want to do is to go through

Page 202

1 these things and then point out where in the remainder of
2 the document when we talk about the specific development
3 areas in the town, in the land use plan part of the master
4 plan, about where those policy statements exist in the --
5 and how they're used. So if we do that and we go over to
6 the town center discussion which begins on page 42, and the
7 town center is a fairly large district, it's not the largest
8 in the planning area, 635 acres.

9 What are the plan objectives for the town center
10 analysis area? And right away you start, it says to create
11 a town center, which will be a strong, central focus for the
12 entire study area. So right away, you know, the first
13 element in the town scale of development and the first
14 element of the proposed concept plan for Clarksburg focuses
15 on what's going to happen at the town center.

16 Now thinking about other -- Clarksburg in general
17 is, it's almost -- when the 1994 plan was written, it was
18 almost no complaint. There's the historic district and then
19 there's a lot of open area around it. I mean it's like we
20 get that from the zoning document here. You can, you know,
21 you can read that pretty clearly here.

22 So what we're looking at here is a planning
23 document that's laying out a very long-term future for a
24 total, new development and what is it going to look at. And
25 I look at, I think of something that happened 20 years prior

Page 203

1 to this one which was Columbia, for example, it had a
2 defined town center and it had defined neighborhoods around
3 it. I'm not going to compare the two because they were
4 planned in two different times and the rules are different
5 and everything else, but the concept there is a hierarchy of
6 places, focusing on the town center as the strong, central
7 focus for the entire study area and supported by a number of
8 residential neighborhoods around it with the added little,
9 not so little, but the added complication and mix in here of
10 a transit corridor in there that the town center is supposed
11 to be in place to accommodate and utilize. And also I-270
12 is a major transportation hub. Those two things can do, to
13 alter the traditional look of a town center surrounded by
14 small neighborhoods and the location of those two transit
15 functions means that there are certain, going to be certain
16 other employment nodes or locations of high density that
17 aren't in sort of an open plan with a concentric circle in a
18 town development. But at least at the very start, the plan
19 says create a town center. It has a strong, central focus
20 for the entire study area.

21 The next one I wanted to look at is encourage the
22 mixed use development pattern of the town so it help create
23 a lively and diverse place. Now that says more than what is
24 said in a lot of the neighborhood centers in that what's
25 envisioned in the town center then becomes a center of

Page 204

1 activity for the whole planning area developed in the master
2 plan, and maybe even outside of it to draw people in to look
3 at the, mostly the historic center, but also other retail
4 and commercial and activity uses, civic uses in the
5 Clarksburg area that are envisioned for the area. And
6 actually they went to the bother of actually putting on
7 paper an illustrative sketch of what the planners in 1994
8 thought the Clarksburg area was going to be looking at.

9 Q Is that Figure 20 you're referring to?

10 A That is Figure 20 on page 45.

11 Q Is that the one with the amphitheater down in the
12 lower, left-hand corner?

13 A Yeah, there is something there, I think it's an
14 amphitheater. And what the illustrative sketch demonstrates
15 here is it's a fairly large, residential neighborhood with a
16 neighborhood center, this is actually described in the text,
17 surrounded -- on the one side of the historic district and
18 the other side of the district is enough density and
19 employment and retail services to support a transit center
20 actually, which is actually a much higher density and much
21 more intensive use because you have to justify ridership on
22 a continuing basis to actually get the start-ups for, to get
23 that kind of transit in place.

24 So the vision here is not only just that the town
25 center is going to be one of the neighborhoods, but it's

Page 205

1 going to be a center of activity and it's going to hide the
2 density of mix of uses to support a transit use there. So,
3 and I believe that actually shows up in another -- oh, here
4 it is. Create a transit-oriented land use pattern within
5 the town center, this is on page 51, and link all portions
6 of the town center with transit ways, bus ways and bike
7 ways, and pedestrian-oriented streets. So it's got an
8 emphasis here that Clarksburg is going to be the center of
9 activity for the planning area.

10 Another policy that was in the --

11 MS. ROBESON: You mean the town center is going to
12 be the --

13 THE WITNESS: What did I say?

14 MS. ROBESON: You --

15 THE WITNESS: Well, actually the town center is
16 going to be the center of activity for the whole planning
17 area.

18 MS. ROBESON: Right.

19 THE WITNESS: I hope that's the point we're
20 making. It also talks about reinforcing the concept of I-
21 270 as a high-tech employment corridor by a designated,
22 suitable site near I-270 for employment use. That's
23 actually a policy that's going to appear again in relation
24 to the Cabin Branch development. So we see here that four
25 of the, the four major proposed concept plans for Clarksburg

Page 206

1 actually appear in the planning document as something that
2 should occur in the town center.

3 The reason I thought the town center illustrative
4 sketch was kind of interesting and Mr. Chen was kind of
5 leading me there, he pointed out the civic uses in this
6 location. You know, again, it's part of the overall vision
7 from what Clarksburg is going to be. This is the area where
8 the activities, you know, the nighttime acuties, and then
9 the other kind of things that makes a viable center for a
10 region, for an area. This is where the master plan
11 envisions those centers to be occurring. And I'll contrast
12 that in a little while with the use of the word civic uses
13 as they relate to the neighborhood uses at a different
14 scale.

15 Getting ahead of myself a little bit, one of the
16 things that is fascinating about the Cabin Branch
17 development plan amendment is many of, even though the
18 layout is different because of the geography, many of the
19 activities that you would associate with a town center,
20 including restaurants drawing nighttime activity, some of
21 the employment uses, some of the civic uses like the
22 amphitheater that was just mentioned, also appear on the
23 development sketch for the North District in Exhibit 45,
24 which has been referred to a number of times. It's this
25 one.

Page 207

1 So we can see --

2 MR. CHEN: I can't, pardon me must a minute, we
3 don't have pages on exhibit --

4 MS. ROBESON: That's right.

5 MR. CHEN: -- 45, but we do have the title --

6 MS. ROBESON: But the slide is entitled North
7 District, right?

8 MR. CHEN: Thank you.

9 THE WITNESS: Right. And I think we've seen it
10 four or five times. It's a really illustrative sketch about
11 what's being proposed in the development plan amendment.
12 And, again, I don't want to attack the details of the
13 development plan amendment, I want to talk about how it fits
14 in with the concepts for the different planning areas in the
15 master plan. I think that's the important thing to look at.

16 So at the first level when you start seeing that,
17 you start seeing an area that's a competing use in a sense.
18 And, again, I'm not talking about, you know, not yet about
19 whether or not the town center can survive in competition
20 with this, so what should come first? I think there's some
21 language in the plan that we'll get to in a little while
22 that will talk about that. But you have in terms of the
23 geography and what's proposed in this location, it dovetails
24 very nicely with the uses and activities that are actually
25 proposed in the plan document for the town center. That's

Page 208

1 the basic underlying point that has probably been made
2 before, but I wanted to restate here.

3 So how did the -- what does the plan say just by
4 contrast for the neighborhoods? And I'm going to talk about
5 the Cabin Branch neighborhood in particular because that's
6 the one at issue, so we've got to look at that. So we go to
7 the plan documents for the Cabin Branch area which is on
8 page 65, 64, okay? And we go back to the overlying policy
9 objectives on page 60 and then compare the two to the town
10 scale with development, okay?

11 What we have for the Cabin Branch neighborhood is
12 to provide a mixed uses, including employment, to encourage
13 the employment pattern which is supported by 270 as the high
14 technology corridor. Those things exist in here. A
15 transit-oriented land use pattern, but it's a transit
16 pattern that orients the neighborhood to the MARC station at
17 Boyds and the future transit way which actually exists in
18 the town center of the transit corridor.

19 BY MR. CHEN:

20 Q What page are you on?

21 A I'm on page 67 at the very bottom.

22 Q Okay.

23 A Okay? Inner-connected roadway system. These are
24 all -- create a strong neighborhood focal point by
25 concentrating public and retail uses in the same general

Page 209

1 area. It's a policy statement for the Cabin Branch
2 neighborhood. I have to contrast that to the policy
3 statement for the town center which says, create a town
4 center which will be a strong, central focus for the entire
5 study area. So you can see, start seeing the differences
6 that start to inform a reader of the master plan as to why
7 some of the numbers are different in terms of retail uses
8 and other land uses in the area.

9 Mixed in in how, in complicating this issue is I-
10 270. And if we go back to the concept plans for I-270 on
11 page, bear with me while I look for it a little bit, well,
12 you can go to the town scale of development on page 16 and
13 you can see I-270 employment centers on both sides of those
14 issues, of the highway facility. So the planners here were
15 not talking, were not -- and there's also Policy A, which is
16 employment. That's really why I wanted to go with this.
17 continue the role of I-270 as the high technology center
18 composed of the scale and intensity of employment use that
19 is consistent with the town scale of development. Okay.
20 broadens the employment base by identifying areas that are
21 non-office, low-intensity industrial uses, that's really on
22 the other side, but incorporate office and retail uses as
23 part of neighborhood development. Okay. Incorporates its
24 office and retail uses as part of the neighborhood
25 development, not as part of a town center development in

Page 210

1 terms of the scale.
2 So what the authors here are doing, and it said
3 here in a variety of places, is to take advantage of the,
4 the existence of I-270 and its visibility to attract some of
5 the high-technology employment that planners were
6 envisioning back in 1994 before the dot com crash of 2000.
7 And the reasons, there are reasons these things sometimes
8 occur or don't occur we don't have to get into. But the
9 vision here is that they're taking advantage of the high
10 technology development that they envision to occur
11 throughout the I-270 corridor, not just in Clarksburg. This
12 is in a node of its own. It's to build on the success that
13 Montgomery County has had in traffic, things like NIH and
14 the National Bureau of Standards and other things, going out
15 to I-270. That's the overall vision here.
16 So if we again go back to the Cabin Branch thing,
17 we start to see that the scale of the interaction between
18 that large employment area which is a large square footage
19 just for employment, it's 2.5 million square feet I think at
20 the high-end level, which is much larger than anything else
21 you see in the town center or other, where, other way, but
22 that exists not because they wanted Cabin Branch to be a
23 competing center within Clarksburg, but to take advantage of
24 the I-270, the area. So and the original vision, as I
25 understand it, was for a hospital and that would have fit

Page 211

1 quite well with the proposal, the land use proposals for
2 that area.
3 I want to go into a little bit about the retail
4 activities here. Again, there's been a lot of discussion
5 back and forth about different kinds of retail and what
6 neighborhood retail is. Just today we were given a
7 definition for neighborhood retail that fits in quite well
8 and is in the technical, in the technical report to the
9 master plan.
10 MS. ROBESON: The appendix?
11 THE WITNESS: The technical --
12 MS. ROBESON: Yes.
13 THE WITNESS: -- appendix. Yes. Thank you.
14 Which lays out, you know, at least a starting point for how
15 we got to some of the square footage for retail uses.
16 Everywhere in this document when they talk about retail,
17 they're talking almost specifically when those numbers apply
18 to neighborhood retail uses. They talk about shopping
19 centers. They talk -- shopping centers. They talk about
20 grocery stores, ancillary uses associated with drycleaners,
21 pharmacies, things like that as it's developed. It's a very
22 neighborhood orientation for all of those numbers.
23 The only place where retail and other kinds of
24 retail, commercial and development is discussed any way in
25 this document occurs in the town center discussion on page

Page 212

1 46 and there it talks about more of a mix. There's still a
2 retail center for neighborhood support because there's going
3 to be residential development in the town center and that's
4 153,000 square feet, at least on page 46 of the document.
5 But then it also talks about commercial uses for
6 300,000 square feet are proposed which basically states that
7 in addition to the neighborhood retail and the neighborhood
8 retail is proposed for all of the little, all of the
9 substantial neighborhoods around the town center, this is
10 the only place that we've talked about, the square feet,
11 square footage for commercial use above and beyond that
12 neighborhood's supported retail.
13 And I think if -- it's telling because as we've
14 heard several times, the plan is silent on things like the
15 other retail that might have been used in the MXP zone, for
16 example. It's just silent. It doesn't say yes or no. But
17 certainly there was an opportunity to say yes or no and to
18 say this is our vision for that area, we can have commercial
19 uses above and beyond and we want commercial uses above and
20 beyond the neighborhood retail uses. But the only place
21 that's actually stated is in the town center and I think
22 that's a telling difference in terms of what this document
23 tells us 20 years after the fact about what the author has
24 intended because I can't read their minds, I can only read
25 what they put on paper and say here's what we want.

Page 213

1 So, you know, again the scale differences are
2 important. And I think that's where the development plan
3 amendment starts to fail in the Cabin Branch neighborhood in
4 the sense that it not only has a center that somewhat
5 competes with the town center in terms of scale and
6 intensity and type of uses, but it also starts to fragment
7 in some way, but less than the square footage of retail uses
8 that are neighborhood-oriented. So you've got a
9 neighborhood that in terms of residential development is
10 equivalent to New Cut Road, but it's not going to get the
11 same kind of services that are supporting of neighborhood
12 development.
13 On the other hand, it would have the advantage of
14 being walkable and have access to much more upscale and
15 retail services in the north part of the development plan
16 amendment. It's a, it's strictly a matter of opinion which
17 is more desirable for a neighborhood. But in terms of the
18 kind of uses, retail uses that a neighborhood relies upon
19 like a grocery store, those uses are reduced fairly
20 substantially given the development plan amendment compared
21 to the 120,000 square feet that are allowed. I think the
22 difference is the numbers from the applicant go down to a
23 fourth, 50,000, you know, and upward from there. But, in
24 fact, if you counted in some other retail uses that are
25 actually office like on the Gosnell property, it can go down

Page 218

1 Q That is --

2 A That's, I'm sorry.

3 Q No, it's me. It's the --

4 A I know it's on record, I just don't remember the

5 number.

6 Q Yes.

7 A I'm sorry.

8 Q I've got it right here. It's -- I had it right

9 here. Do you have it?

10 MR. KLINE: No. 21?

11 BY MR. CHEN:

12 Q I think it's Exhibit 20. It's the May 29 dated

13 justification statement.

14 A That's the one I have, yes.

15 Q Okay. Go ahead.

16 A At No. IV, No. 4 there, it says, this plan strives

17 to maintain an identity for Clarksburg separate from

18 Germantown and Damascus. That's from the master plan

19 policies on page 16, a policy which was restated in the town

20 center document. I want to make these connections.

21 Q Go ahead.

22 A The statement from, it the development plan

23 amendment below that is, the development proposed as part of

24 the DP unquestionably will establish a true identity for

25 Clarksburg. This type of employment center with employment,

Page 219

1 retail, signature office, R&D, medical, hotel, entertainment

2 and residential uses will be one that is unique to the

3 County and responds to the needs and desires of all its

4 users. This mode of implementing the recommendations in the

5 master plan for this specific location will put Clarksburg

6 on the map and establish Cabin Branch as unique, one-of-a-

7 kind and highly desirable community.

8 Now, again, I said in my opening statement, I'm

9 really impressed by what's proposed here. But if you read

10 that statement in terms of establishing Cabin Branch as a

11 one-of-a-kind, highly desired community and putting

12 Clarksburg on the map, that's part of the rationale and the

13 desire and the vision for the town center, not for the Cabin

14 Branch neighborhood. It gets -- that's the connection I

15 want to make.

16 Now the plan recognizes the importance of civic

17 spaces and public uses through the development of a town

18 concept. Again, master plan, page 16. The development,

19 below that, this is on the same page, the development plan

20 amendment embraces this recommendation. The applicant is

21 proposing a significant amount of highly desirable, public

22 use space, including but not limited to the outdoor

23 amphitheater that will be made available to the public for

24 performances, gathering and other community activities. The

25 development plan amendment continues to provide substantial

Page 220

1 public use spaces and integrates them in the plan as an

2 extremely important component.

3 And, again, I -- when you look at civic uses

4 related to the development, the neighborhood development,

5 what they talk about is charges, you know, some smaller

6 activities related to the intensity of a neighborhood, not a

7 town center. So there's a competing level of emphasis and

8 level of I don't want to say quality, you know, quality is

9 small spaces, but the level of activity that's being placed

10 in the north part of the town, of the Cabin Branch

11 neighborhood that, again, is envisioned for the town center.

12 To get back a little bit to what I said about the

13 neighborhood retail and the employment and the I-270 as an

14 employment corridor, there's a lot of discussion in here

15 about --

16 Q When you say here, what are you talking about?

17 A In the justification statements --

18 Q Exhibit 20?

19 A -- I, that. Yes. About the Cabin Branch

20 development being the catalyst for encouraging office and

21 retail development. You know, again, it's -- the location

22 of that office development isn't an accident. It's there to

23 take advantage of Interstate 270. But in the absence of

24 that impetus for economic development, the core of what's

25 necessary for the master plan to be successful is a focus of

Page 221

1 a community on a town center level of development in the

2 master plan and then sufficient neighborhood development

3 around it that that can actually become a town center kind

4 of an activity where people would go on weekends and see

5 concerts and go to restaurants and participate in other

6 community activities.

7 There's a question and, again, I'm not the, an

8 economist here, but I remember the statement from Mr.

9 Bogorad that, I hope I pronounced his name right.

10 MS. ROBESON: Bogorad.

11 THE WITNESS: Bogorad, I'm, I apologize. That

12 this is an important catalyst and they need to take

13 advantage of I-270 and the retail and any advantage you get

14 to encourage that office and employment development. But

15 his testimony ended with, either under questioning or he

16 testified directly, I can't recall, that even with this

17 development, the office and employment development there

18 might be 10 to 20 years down the road. In other words, this

19 isn't a catalyst that's going to bring in the office and

20 employment development most likely, from what my

21 understanding is, immediately after the development. So in

22 place of development here that supports the I-270 corridor

23 as a high-tech employment corridor, we've got a retail

24 development and we've reduced the amount of neighborhood

25 associated retail with the residential. We're not

Page 222

1 necessarily saying we won't ever, but not necessarily
2 immediately, at least in immediate terms getting the office
3 and the employment development that this whole proposal is
4 said to be a catalyst to bring along and that's the purpose
5 of it.

6 So I see a disconnect on a variety of levels. And
7 the last one is, if I didn't say it, if in fact this does
8 serve to either delay or undercut the kind of development
9 that's envisioned in the town center, the whole idea of that
10 transit car starts to get threatened as well and that's
11 something we're probably moving forward with at a state
12 level and other ways. I think it's currently a bus rapid
13 transit facility. Whatever it happens to be requires the
14 kind of densities that are envisioned in this document to
15 keep it moving along and to keep it moving forward. So if
16 we undercut it from that perspective, there's an additional
17 issue in that perspective to allow that development to go
18 forward.

19 BY MR. CHEN:

20 Q So it's your opinion that it will undercut the
21 development of the town center?

22 A I believe that it will, but I base that belief on
23 reading of the concerns that, of the office of the master
24 plan even 20 years ago, that they understood that they had
25 to do this in the right sequence in order to make it happen

Page 223

1 the way the vision proposed it. And if you, and maybe even
2 -- that may be even a more important concept now that we
3 have an economy where there may not be that high-tech office
4 employment coming down I-270 and we're competing for a more
5 limited economic -- I'm starting to get out of my field and
6 I better stop because I'll get challenged but, yeah, I mean
7 if you can read the master plan's concerns and you can
8 translate it 20 years later, those concerns have been
9 justified in terms of the viability of what's going to
10 happen in the master plan and bringing it along.

11 The last point I wanted to make is that there is
12 discussion in the development, in the staff report about
13 amendments to the master plan and the fact that it's 20
14 years old and we can, and we need to be flexible. I think
15 the master plan has a lot of flexibility built into it.
16 That's why you can nail down, you know, specific numbers in
17 specific places. It's giving you a lot of flexibility in
18 terms of where proposed development should go and what kind
19 of the internal densities should be, at least a mix of the
20 densities, not the sequencing.

21 But, frankly, if it's envisioned that the plan has
22 failed, which I don't think we can conclude because as
23 recently as 2011 the planning staff, the Council, I guess,
24 adopted the 2011 amendment, restated their agreement with
25 the overall densities and visions of the Clarksburg master

Page 224

1 plan. But if, in fact, it has been, failed, the right way
2 to approach and to change that is not to make it even more
3 difficult to implement the plan, that the right process
4 would be to go through an amendment process and try to
5 figure out what's envisioned now that you really will
6 support and work.

7 I just feel that the development plan amendment in
8 a variety of ways in terms of, you know, on the one hand
9 the, its impact on the vision for the town center and the
10 secondhand what it does to the, to the vision for
11 neighborhood development in Cabin Branch itself is
12 inconsistent. Both of those have a place.

13 Q Now the second area you were going to address was
14 most specifically the development plan amendment vis-à-vis
15 the Cabin Branch community and the provisions of the master
16 plan for that community.

17 A Well, I started to go there, but and, again, in
18 the master plan community if you go to page, Cabin Branch
19 community, if you go back to page 67 through 70, it's pretty
20 specific, I think, about what's proposed there. You've got
21 the largest employment square footage of any area in the, I
22 believe it's the largest, of any area in the master plan
23 area. That's 2 to 2.3 million square feet. But I don't
24 want to call that accident of geography but, you know, the
25 Cabin Branch in terms of the residential uses is pretty

Page 225

1 consistent with the other neighborhood development in New
2 Cut in terms of its, of the residential dwelling units is
3 square foot of retail space and the public uses that are
4 envisioned there. And that's worship in churches,
5 synagogues, whatever, childcare, community building, park
6 and potentially an elementary school.

7 So to the extent that we don't support that with
8 the retail uses that make that a good place to live, if -- I
9 used to be a real estate agent, so I probably shouldn't go
10 too far in this direction. You know, one of the things you
11 look at is, you know, you have two competing areas with
12 similar kind of housing stock, you know, where do you go to
13 first? You go to the area that has the neighborhood center
14 with these kind of uses in it, including the grocery store.
15 I don't want to harp too much on that. Or do you go across
16 the road? Well, heck, I can get in my car or even walk on
17 occasion over to the retail center, when the retail center
18 is just as, potentially just as accessible to the folks in
19 the New Cut Road area. So it kind of undercuts that whole
20 neighborhood community aspect of what's envisioned in this
21 document.

22 Q Now --

23 A Again, you just put those uses together, 120,000
24 square feet with the grocery store, places of worship,
25 childcare, community building, park and elementary school,

Page 226

1 you know, in a coherent location so that's sort of the
 2 center of the neighborhood activity as opposed to the town
 3 activity. And this undercuts that by fragmenting it to some
 4 extent, reducing the actual square footage that's dedicated
 5 to those uses and replacing some of the civic uses with,
 6 frankly, some attractive, but more regional kind of public
 7 spaces and uses up in the north end of the development plan.
 8 Q How there's a numeric limitation on retail
 9 development for the Cabin Branch community, is that right?
 10 A Yes, for -- yes, there is. There's a numerical
 11 limit of 120,000 square feet for retail development.
 12 Q Is there any language in the master plan that in
 13 any way would qualify or indicate that there is any basis
 14 for changing or increasing that numeric limitation?
 15 A I looked in the master plan for that language and
 16 didn't see it. The only place I saw where a term, an
 17 equivalent term to retail -- well, let me step back. It's
 18 quite clear in this document that the use of the term retail
 19 in terms of those numbers are associated with neighborhood
 20 retail uses and you go back to the technical amendment, the
 21 technical --
 22 Q What's the title of the document?
 23 MS. ROBESON: Appendix.
 24 THE WITNESS: Technical appendix to support those,
 25 the definition of what those neighborhood uses are. The

Page 227

1 only area in this document that has a discussion of what I
 2 would call other retail with commercial uses is in the town
 3 center, not in the residential neighborhoods. So I don't
 4 see anything that would justify increasing that beyond the
 5 120,000 square feet.
 6 BY MR. CHEN:
 7 Q Now go, if you would, to page, your master plan
 8 just for a quick second. I'm going to take you through
 9 something very quickly. Go to page 105.
 10 A 105. Got it.
 11 Q Okay. And directing your attention to Section 4,
 12 do you see --
 13 A Yes.
 14 Q -- the top? What are we dealing with on that
 15 page, that section?
 16 A Well, you -- again, it is what it says. It's the
 17 key land use recommendations. There's a variety of housing
 18 types. The mixed use neighborhood and they define mixed use
 19 in the discussion of the neighborhood --
 20 Q Take the Examiner to that. Where --
 21 A Pardon me?
 22 Q Indicate where they deal with that.
 23 A The mix of uses is down on page 67. We've
 24 referred to it several times already. Residential,
 25 employment, retail and public uses.

Page 228

1 Q Okay. Keep going.
 2 A Then to encourage an employment pattern which is
 3 supportive of I-270 as the high technology corridor.
 4 Q Yes.
 5 A Which was just before.
 6 Q And now shifting to the right, the zoning
 7 recommendations, do you see those?
 8 A Yes.
 9 Q Okay. Now do you see the first recommendation
 10 there?
 11 A Yes.
 12 Q What is that for?
 13 A Designate areas recommended for residential and
 14 retail uses as RMX-1 in a mixed use zone.
 15 Q Okay. Go to page 101.
 16 A Page 101? Okay.
 17 Q Top paragraph.
 18 A Yes.
 19 Q Does that deal with the RMX zone?
 20 A Yes, it does.
 21 Q Is there any discussion, again, in the plan
 22 whereby the RMX zone would be a base zone for increasing the
 23 retail component in the Cabin Branch community fourfold?
 24 A No, there's nothing that mentions retail at all.
 25 What's mentioned is significant area of new employment,

Page 229

1 which I reference back to the support of I-270 as a high
 2 technology corridor.
 3 Q Okay. Then it recommends the RMX zone?
 4 A Yes, base zoning, RMX zoning would be the base
 5 zoning for the northern portion of the site and I-3 zoning
 6 for the southern portion. Do you want me to go on?
 7 Q No. You know, the document speaks for itself.
 8 A Okay.
 9 Q Now the plan calls, as you've just identified,
 10 120,000 square feet of retail --
 11 A Right.
 12 Q -- in the Cabin Branch community. DPA recommends
 13 a fourfold increase in that, is that correct?
 14 A Yes, 120,000 to 484,000.
 15 Q Okay. Is that increase substantially in
 16 compliance with the master plan's provision for retail in
 17 the Cabin Branch community?
 18 A No, it's not.
 19 Q Why?
 20 A Well, again, the Cabin Branch community is very
 21 specific in the context of the whole master plan about the
 22 amount of retail development and the kind of retail
 23 development that's being proposed in this neighborhood and
 24 that's 120,000 square feet of neighborhood retail
 25 development. And even reading through the other things,

Page 230

1 if -- you cannot find a policy statement in here that says
 2 that we want commercial development, for example, as part of
 3 the employment mix or anything else that mentions additional
 4 retail development in the Cabin Branch area.
 5 Q Now let's go back to the Cabin Branch provisions
 6 at page 60 --
 7 A Seven.
 8 Q Yes. Go to page 68 and, you know, we've all heard
 9 about this, but I've got to direct your attention to it. Do
 10 you see the provision on 68 for the guidelines for the Cabin
 11 Branch community?
 12 A Yes.
 13 Q Can you see the provision there to locate a
 14 grocery store within the core?
 15 A Yes.
 16 Q Okay. And are you aware that the DPA does not
 17 include a provision for a grocery store?
 18 A Yes, I am aware of that.
 19 Q Okay. Is that a factor that leads to substantial
 20 compliance with the master plan?
 21 A Again, I believe it is because the master plan has
 22 laid out a series of uses and a square footage for retail
 23 uses in the areas and the master plan also refers to the
 24 technical amendment that defines what those retail uses are
 25 to be or what their purposes are. So -- and one of those is

Page 231

1 the grocery store.
 2 Q Okay. Now --
 3 A So I got to your point.
 4 Q Okay. Now in the testimony you've thus far given,
 5 you've explained your opinion as to why the DPA does not, is
 6 not in substantial compliance with the master plan.
 7 A Uh-huh.
 8 Q You have, however, you're aware that the technical
 9 staff of the Park and Planning Commission has opined that it
 10 is in substantial compliance with the master plan?
 11 A Yes, I'm aware of that.
 12 Q Okay. All right. Do I take it that you do not
 13 agree with the technical staff?
 14 A No, I don't agree with the technical staff.
 15 Q Please explain why.
 16 A Well --
 17 Q I mean I assume it goes to the reasons you already
 18 expressed --
 19 A Yes.
 20 Q -- in exam, but directly focusing on the technical
 21 staff and its report.
 22 A I guess it builds on the same, the same discussion
 23 about where, where the uses are supported in the master
 24 plan, where they are to occur versus what's in the
 25 development plan amendment. If I open up the technical, the

Page 232

1 staff report on page 13, for example, it starts to talk
 2 about master plan consistency and consistency with the
 3 recommendations in the Clarksburg master plan.
 4 This is the area I think you want me to address,
 5 okay, one of which is referenced here and we're talking
 6 about the Cabin Branch area, the town scale of development.
 7 Here they've taken that discussion of town scale development
 8 and focused on, very narrowly on one aspect of that town
 9 scale development. The proposed DPA has the same area,
 10 2,420,000 square feet in scale as recommended in the
 11 Clarksburg master plan. The buildings step down in height
 12 and density from I-270 to the adjacent area from the Cabin
 13 Branch neighborhood in the RMX-1/TDR zone for compatibility.
 14 Basically what that's saying is that they're
 15 saying, well, the building's height and densities are the
 16 same. We can accomplish that. So it's being, it's a very
 17 narrow interpretation, but they don't address the issue of
 18 the competing uses and the retail uses there. So they're
 19 taking one phrase out of this whole discussion of town scale
 20 of development on page 16, if I go down, back to it -- I
 21 keep jumping around here on the thing -- and that they talk
 22 about one line out of here, okay, which is the density of
 23 building, you know, and making Cabin Branch, in fact, in
 24 terms of density, a transition from the I-270 employment
 25 corridor down towards the lower density residential and

Page 233

1 eventually transitioning into the areas, the rural areas
 2 outside of the planning area.
 3 But the town scale of development policy, this has
 4 a lot more bullets in it than that one statement, and that's
 5 where it talks about, you know, it serves to maintain the
 6 identity of Clarksburg separate from Germantown and
 7 Damascus, recognizing importance of civic spaces and public
 8 uses in the development of a town concept. You know, it
 9 includes the Clarksburg historic district, other than the
 10 expanded town center that, you know, those kind of, those
 11 kind of policies are, some are really not consistent with
 12 the proposal. You know, so they've taken one bullet out of
 13 a series of seven or eight and said it's consistent because
 14 it's consistent with this one bullet. And is that clear
 15 enough why I think that's not consistent?
 16 Q That's really the most important one, but you can
 17 also go to, you know, employment on page 14, okay?
 18 A The DPA continues to establish I-270 as a place
 19 for employment uses. It broadens the employment base by
 20 identifying opportunities for office, research and
 21 development, light industrial, hotel, urgent care
 22 facilities, medical office and professional services, as
 23 well as retail, entertainment and public uses. My view of
 24 the development planning amendment is the difference between
 25 it and the current amendment is the square footage of the

Page 234

1 high-end retail that they're proposing from 120,000 to
2 480,000, 484,000 square feet. The development planning
3 amendment doesn't do anything more for the employment base
4 for office, research and development, light industrial,
5 hotel, urgent care facilities and those aspects here then
6 that was existed in the, in the development plan as it
7 currently exists. So the only thing that's added there is
8 retail, entertainment and public uses which, as I said,
9 start to compete with and conflict with the town center
10 proposal.

11 So, again, it's, you know, it's taking -- we're
12 consistent in this aspect and, therefore, the whole
13 development plan amendment is consistent, whereas if you try
14 to read it a little further, you can find a myriad of places
15 where it could be found to be inconsistent.

16 Q Okay. Similarly, I take it you've heard the
17 testimony of Mr. Unterberg and his land planning opinions
18 that he's expressed relative to the master plan, is that
19 right?

20 A Yes.

21 Q Okay. Am I correct in concluding that you
22 similarly disagree with his conclusion, is that right?

23 A Yes.

24 Q Okay. And can you just briefly explain to the
25 examiner the basis for that disagreement?

Page 235

1 A Well, I think it goes to the, to, again, to very
2 similar, to viewpoints. If you can, you can look at just
3 the densities in the area and say, yes, this is consistent,
4 but it's not only a question of density, it's a question of
5 the purpose of, the supposed purpose of development in the
6 Cabin Branch area versus the town center and how it competes
7 with that and also whether or not you're actually providing
8 services to the residents, the residential portion of the
9 town, of the neighborhood that are envisioned in the master
10 plan. That's where I think it falls apart.

11 Q Go to page 67 of the master plan.

12 A I'm there.

13 Q Okay. Do you see the reference to the use of the
14 MXPDP zone?

15 A Yes.

16 Q Okay. I know you touched on that briefly and I
17 really don't want you to belabor the point, but could you
18 explain your understanding at least as to the master plan's
19 proposal for utilization of the MXPDP zone?

20 A Well, I mean the MXPDP zone is, it's like any other
21 zoning classification written county-wide. So it's going to
22 have a lot of uses that are permissible in the MXPDP zone
23 that may or may not be consistent with any particular
24 planning area or master plan amendment. So -- and, frankly,
25 this, the master plan document in front of us actually tells

Page 236

1 us why they want, they suggest that the MXPDP zone be
2 applied.

3 And this is the first place where it does that.

4 And, again, I can't interpret intent. I have to read, read
5 the document here. The plan recommends a mixed-use plan
6 zoning strategy, MXPDP zone, we're the second below the page
7 67, for the employment frontage to foster an integrated plan
8 which could include residential units, which tells me that
9 they're attempting to make some residential development in
10 with the office and research and development.

11 The MXPDP zone would allow more intensive office
12 uses on the northern portion of this site than would be
13 allowed under the RMX based zone. So that's a very
14 specific -- here's why we want to use the MXPDP zone, you
15 know, find an integrated mix of residential with the
16 employment uses on the whole area and to allow more
17 intensive office uses which is shifting somewhat some of the
18 density on the northern portion of the site than would be
19 allowed under the RMX-based zone. Nowhere does it say the
20 RMX-based zone is constricting the amount of retail space
21 and it could very easily have said, bear with me, this plan
22 could very easily have said the MXPDP zone would allow more
23 intensive office and retail uses on the northern portion of
24 this site than would be allowed under the RMX-based zone.
25 It doesn't say that.

Page 237

1 So, and when you start reading the hard numbers,
2 really the hardest numbers in here in terms of the square
3 footage for neighborhood retail space, and again the only
4 place they talk about other commercial things in the town
5 center, it may be silent about the use of commercial space,
6 but really it isn't. He says here's why I want you to use
7 the MXPDP zone. Here's its purpose.

8 Q Yes.

9 A I'm going to stop there, I guess.

10 Q No, but just right in line with that, okay, in
11 addition to this section you've just addressed on page 67,
12 go back to 101, all right?

13 A All right.

14 Q That top paragraph again.

15 A Again, we're talking about implementing the vision
16 of I-270 as a high technology employment corridor and this
17 is related to the whole master plan area. The most
18 significant area of new employment is located in the Cabin
19 Branch neighborhood, again, where up to 2.3 million square
20 feet of office type uses could occur. This plan recommends
21 this development occur as part of a mixed use concept to
22 allow the opportunity for housing. RMX zoning will be the
23 base zoning for the northern portion of the site and I-3
24 from the southern portion, with an MXPDP option over the
25 entire area to allow for competence planning of these mixed

Page 238

1 uses. And the mixed uses it refers to are above, housing
2 and office and employment uses.
3 Q Now in addressing or with specific reference to
4 these two sections of the master plan that provide for the
5 recommendation for the MXPDP zone, is there -- and I'm
6 talking here on page 67 and 101 --
7 A Okay.
8 Q -- the two you've just looked at, has there been
9 any discussion, and I know a document speaks for itself, but
10 there's any discussion or any inference that can be drawn
11 from these provisions in the master plan relating to the use
12 of the MXPDP zone for an increase in retail square footage
13 above and beyond 120,000 square feet?
14 A No, I think the plan has been pretty specific and
15 it does not include an increase in retail.
16 Q No? You may have touched on this and I apologize
17 if you have, but I know you've reviewed the technical
18 appendix to the Clarksburg master plan and you may have done
19 this, and I think you may have done it really fast, but does
20 it contain a reference to retail use in the planning area,
21 the technical appendix is what I'm talking about?
22 A And I'm looking for that.
23 Q Yes, I know.
24 A I don't have it in front of me but, okay, yes it
25 does.

Page 239

1 Q Okay. Can you explain to the Examiner what it
2 provides?
3 MS. ROBESON: I'm sorry, what document?
4 MR. CHEN: The technical --
5 THE WITNESS: The technical amendment.
6 MR. CHEN: Or the technical appendix.
7 MS. ROBESON: Appendix, okay.
8 THE WITNESS: Yes, I've got it. Sorry to delay
9 the --
10 BY MR. CHEN:
11 Q Okay. Could you point that out?
12 A What page is it? Page 12? I think it was copied
13 for you earlier today and you actually had the full document
14 in front of you. It mentions retail uses specifically on
15 page 12. The planning department staff has evaluated future
16 retail space needs in Clarksburg based on future population.
17 This is actually preceded by a discussion of jobs, house and
18 ballots, which is a fairly common way to try to, try to
19 estimate based on population or employment growth how much
20 retail space, commercial space would also be needed.
21 Two types of retail mains were considered,
22 neighborhood or commercial, excuse me, neighborhood or
23 convenience retail and comparison retail. Oddly enough,
24 this document doesn't mention comparison retail after that
25 line, but then it goes into a definition of neighborhood

Page 240

1 retail centers.
2 Neighborhood retail centers, or also referred to
3 as neighborhood shopping centers, are anchored by a
4 supermarket, perhaps with a pharmacy, now often found within
5 the supermarket and are usually visited more than once a
6 week by most households. They usually incorporate other
7 frequently visited stores and service establishments such as
8 video rentals, I doubt that exists any more, beer and wine
9 stores; deli, sandwich and pizza restaurants; sit-down
10 restaurants; drycleaners; banks and greeting card stores.
11 That gives you kind of a scale of kind of neighborhood
12 developments.
13 Then it follows with a retail recommendation to
14 reflect the following findings and they actually recommend
15 square footage for areas west of I-270, which is the Cabin
16 Branch area, of only 75,000 square feet. I even found that
17 the line connecting that 75,000 square feet to 120,000
18 square feet. I think the important consideration that it's
19 a lower number, not a higher number, in terms of what they
20 need to support the neighborhood.
21 Q What are the goals and objectives of the master
22 plan in the Cabin Branch community relative to employment and
23 that component?
24 A I'm sorry, I missed that.
25 Q Yes, I'm sorry. I went too fast and too fast on

Page 241

1 what you just finished. Addressing the employment
2 component --
3 A Okay.
4 Q -- for the Cabin Branch community, what is the
5 provision in the plan for that?
6 A Well, again, it's to encourage an employment
7 pattern which is supportive of I-270 as a high technology
8 corridor.
9 Q Does the DPA that is before the District Council
10 support achieving those goals, those employment goals?
11 A Based on the square footage, it certainly has
12 employment still built into it. I don't want to downplay
13 that. But I remember the testimony of Mr. Bogorad again
14 about the likelihood of early employment development in this
15 location given the market for that kind of development as
16 being 10 to 20 years away. Given that, the employment types
17 that it supports for the Cabin Branch area is retail-based.
18 I would have decent, relatively decent paying jobs, but
19 they're in the retail industry which isn't some of the
20 highest paid. They're certainly not --
21 MR. HARRIS: Objection. This is beyond the scope
22 --
23 THE WITNESS: I --
24 MR. HARRIS: -- of his expertise.
25 THE WITNESS: And I, I'll --

Page 242

1 MS. ROBESON: Stop.
2 THE WITNESS: Okay.
3 MR. CHEN: All right.
4 BY MR. CHEN:
5 Q You heard the testimony of Mr. Unterberg this
6 morning about the maximum amount of retail that could be
7 developed in, under the DPA and really already exists in the
8 Cabin Branch community, isn't that right?
9 A Yes.
10 Q Okay. And do you recall the breakdown on the
11 numbers? I think I --
12 A Yeah. I took some notes this morning.
13 Q Okay.
14 A I'll just --
15 Q Yes, let me take it to you. He identified four
16 areas, but I want to focus on -- I'll get to all four of
17 them, but let me deal with one at a time. The first area
18 was Area A, do you recall that sir?
19 A Yes, and I know where Area A is, yes.
20 Q Okay. And that's where --
21 A That's basically the retail core in the north area
22 of the concept plan.
23 Q Okay. He then --
24 A The North District, I'm sorry.
25 Q He then also identified Area B, is that right?

Page 243

1 A Yes. Yes, I think A and B are both in the North
2 District.
3 Q Yes, the B, as I recollect, the B was the what I
4 think he meant by neighborhood retail.
5 A I think as it was described to me is B would be
6 the more likely place for the neighborhood retail because
7 it's closer to some of the higher density housing that's
8 proposed.
9 Q Okay. And his testimony was the maximum --
10 MR. HARRIS: Objection. Leading the statement is
11 not questions.
12 MR. CHEN: I'm just giving him the testimony of a
13 prior witness. That's all I'm doing. I haven't even gotten
14 it out yet.
15 MR. HARRIS: Well, his testimony was his
16 testimony. If you have a question about --
17 MS. ROBESON: Well --
18 MR. HARRIS: -- his testimony --
19 MS. ROBESON: -- how can --
20 MR. CHEN: I can --
21 MS. ROBESON: I'm going to --
22 MR. CHEN: I think I can --
23 MS. ROBESON: Can you rephrase it?
24 MR. CHEN: Yes.
25 BY MR. CHEN:

Page 244

1 Q Do you recall the amount, the maximum amount of
2 retail square footage in Area A that Mr. Unterberg
3 identified that could be developed under the DPA?
4 A I actually don't recall A specifically. I recall
5 A and B being about 450,000 square feet.
6 Q Well my notes indicated he was at 450,000 square
7 feet for A and 150,000 for B.
8 A Okay.
9 Q And there's a third area, is that right, the
10 Gosnell --
11 A Yes.
12 Q -- tract? Okay. How much do we have at Gosnell,
13 do you remember?
14 A 8,600 is what I wrote down.
15 Q Okay. Assuming you have the numbers that Mr.
16 Unterberg has identified, that leaves square footage, retail
17 square footage for Area C, which is at lower neighborhood
18 retail area --
19 A Yes.
20 Q -- what's our math do this?
21 A Your math and mine don't match up because if I
22 added 150,000 to 450, I get 600,000 square feet, which is,
23 exceeds the 484,000.
24 Q Right. Do you recall his testimony that he said
25 it would be 30,000 square feet in Area C, up to 30?

Page 245

1 A Yeah. I --
2 Q Up to 30,000?
3 A I don't want to be arguing with my own, but I
4 think the numbers were 450,000 in Area A and B, 8,600 in
5 Gosnell, which left 28,000 for the retail center, on the
6 retail center town side of that.
7 MS. ROBESON: He can assume.
8 MR. CHEN: Yes.
9 MS. ROBESON: Why don't you assume that it's Area
10 A --
11 THE WITNESS: It's 480 --
12 MS. ROBESON: -- is zero to 150, Area A is zero to
13 450 --
14 THE WITNESS: Yes.
15 MS. ROBESON: -- Gosnell, I can't remember, but it
16 is around 84 or 8,600 and --
17 MR. HARRIS: 8,600 --
18 MS. ROBESON: -- and Area C is zero to 30. So is
19 your question, Mr. Chen --
20 MR. CHEN: I haven't gotten to it yet.
21 MS. ROBESON: Oh, okay. Well, assume those
22 amounts.
23 THE WITNESS: Okay.
24 BY MR. CHEN:
25 Q What does, what is, what does that leave with

Page 246

1 regard to the implementation of the neighborhood retail for
2 the residential component of the Cabin John Community?
3 A By the residential component, do you mean the area
4 south of --
5 Q Yes, excuse me.
6 A Anywhere from --
7 MS. ROBESON: Wait, south of what, in Area C?
8 THE WITNESS: South of the, south of the North
9 District down in the area on the other exhibits which
10 were --
11 MS. ROBESON: Area C.
12 THE WITNESS: -- indicated as employment in the
13 residential.
14 MS. ROBESON: Okay.
15 THE WITNESS: 25 to 28,000 square feet, depending
16 where the range is that the Hearing Examiner has given.
17 BY MR. CHEN:
18 Q Is that square footage consistent with what the
19 master plan contemplates for a neighborhood residential
20 center, a residential, I'm sorry, my terminology, the
21 neighborhood retail center?
22 A No, it's not. I mean, again, the retail center
23 proposed in the master plan is 120,000 square feet. So, and
24 again, one of the things we, I talked about in my testimony
25 earlier was the fragmentation of the neighborhood center and

Page 247

1 the civic uses and the retail uses and the viability of the
2 area, of the neighborhood orientation for the residents of
3 Cabin Branch. So we've gone from 120,000 square feet, which
4 might be quite a viable mix of uses, down to 28,000 square
5 feet, which could be a store.
6 Q Let me just shift you back momentarily to the 2011
7 master plan amendment. Did that master plan amendment
8 change any of the underlying goals and objectives of the
9 Clarksburg master plan?
10 A No, it did not.
11 Q And the document speaks for itself. I won't take
12 you through that. But the document is in evidence and the
13 Examiner can, certainly can read the document. I want to
14 touch on one last area. I think I've exhausted you on your
15 opinions of the master plan, haven't I?
16 A Probably. I can speak for a long time, but I
17 think --
18 MS. ROBESON: Well, I have a question, but you
19 finish yours and I'll --
20 MR. CHEN: Yes, I'm coming to another subject, but
21 it's my last subject.
22 BY MR. CHEN:
23 Q You heard the testimony of Mr. Bogorad, is that
24 right, sir?
25 A Yes.

Page 248

1 Q And he identified three outlet centers owned by
2 the Simon Properties, isn't that right?
3 A Yes.
4 Q He identified Hagerstown and Queenstown, do you
5 recall that?
6 A Yeah, Hagerstown and Queenstown were identified as
7 two rural outlet centers that really weren't comparable to
8 the situation in Cabin Branch or Clarksburg.
9 Q Do you agree with that opinion?
10 A Yes, I do.
11 Q Okay. And he also identified a third one,
12 Leesburg, is that right?
13 A Yes.
14 Q And you heard his testimony relative to the
15 information you supplied to the Examiner about the status of
16 Leesburg, isn't that right?
17 A Yes.
18 Q Okay. And subsequent to that, I asked you to
19 contact Leesburg --
20 A Uh-huh.
21 Q -- and make inquiry of their master plan relative
22 to that development, is that right, sir?
23 A That's correct.
24 Q All right.
25 MR. CHEN: What is our next number?

Page 249

1 MS. ROBESON: It is 99.
2 BY MR. CHEN:
3 Q As a result of my request, you did contact the
4 town of Leesburg authorities --
5 A Well --
6 Q -- is that right, sir?
7 A Yeah, we actually, we actually went to all three
8 locations --
9 Q Okay.
10 A -- took some photographs and looked at the land
11 uses around it. And I did speak to the town planning
12 director in Leesburg.
13 Q Okay. And did you make inquiry relative to their
14 outlet center?
15 A Yes, at first I wanted to know how old it was and
16 if I recall correctly it was built in 1999.
17 Q Okay.
18 A Hopefully I've got my notes right. But also there
19 was an interesting statement in, that they put in their
20 competence plan. I was frankly hoping to get a study
21 corroborating it. I think you, are you going to hand
22 something to me?
23 MR. CHEN: Yes.
24 MS. ROBESON: Wait, I'm sorry. They put in where?
25 MR. CHEN: I'm not going to go there yet.

Page 250

1 THE WITNESS: Oh, you're not going to go --
2 MR. CHEN: Well, I'm about to go there.
3 MS. ROBESON: Okay.
4 BY MR. CHEN:
5 Q Okay. Now let me show you what's been marked as
6 Exhibit 99. Can you identify that for the Examiner?
7 MS. ROBESON: Well, do I have that?
8 MR. CHEN: No, it's not --
9 MS. ROBESON: Oh.
10 MR. CHEN: But I have --
11 MS. ROBESON: Oh, you marked it? Okay.
12 MR. CHEN: Yes. Isn't that our next number?
13 MS. ROBESON: Yes.
14 MR. CHEN: Okay. Just for the record, I gave
15 copies of these to --
16 MS. ROBESON: I saw you.
17 MR. CHEN: -- counsel. Okay. What is --
18 MR. HARRIS: Before we go forward, I do want to
19 object. This is four pages from a document that's obviously
20 many, many more pages and we don't know what those other
21 pages say. If you're going to put this in as an exhibit, I
22 think you need to provide the entire document.
23 MR. CHEN: Well, wait a minute. This was directly
24 obtained based upon Mr. Bogorad's testimony back when he
25 contacted in Leesburg, what he found out about their retail

Page 251

1 center. If you recall, he talked about land that was vacant
2 out there and what they said, what they knew about the land
3 and that type of thing. What we have here, I would proffer
4 to the Examiner, is an excerpt from the Leesburg town plan.
5 We could probably get the whole thing.
6 THE WITNESS: It's online.
7 MS. ROBESON: Yes, I was going to say --
8 THE WITNESS: But I printed it off the Internet.
9 I didn't --
10 MR. CHEN: And what we're doing here is to
11 address, you know, that specific aspect of their master
12 plan. But --
13 MS. ROBESON: I will take it in with the
14 understanding that how soon could you submit the whole
15 thing?
16 THE WITNESS: I could get it next time we meet.
17 You can have it. Or I could give you a link if you --
18 MR. CHEN: No, we'll give you the whole thing.
19 We'll give you the whole thing.
20 MS. ROBESON: Well, how about sooner, well, how
21 about this. I would prefer if you could send our office an
22 e-mail with the link.
23 THE WITNESS: Monday morning.
24 MS. ROBESON: And then, and you can address it to
25 me with a cc to Ms. Behanna-Moseley and all the parties.

Page 252

1 And then you can bring the hard copy on Thursday.
2 MR. CHEN: That's easy. And --
3 THE WITNESS: No problem.
4 MR. HARRIS: And am I inferring that you will
5 circulate it to us or may I ask that he send it?
6 MS. ROBESON: No. I'm asking him to --
7 MR. HARRIS: Okay.
8 MS. ROBESON: -- send it.
9 MR. HARRIS: You'll send it to me?
10 THE WITNESS: You're going to get the e-mail.
11 MR. HARRIS: Fine. You have my --
12 THE WITNESS: Probably not, unless your business
13 card hasn't changed.
14 MS. ROBESON: Well, don't, can you do that later?
15 (Discussion off the record.)
16 MS. ROBESON: Can you do that later?
17 THE WITNESS: Yes.
18 MR. HARRIS: Sure. Sure. Don't let me forget.
19 THE WITNESS: I won't.
20 MS. ROBESON: Okay.
21 (Discussion off the record.)
22 MR. CHEN: We'll get it after the hearing. Okay.
23 BY MR. CHEN:
24 Q What is Exhibit No. 99?
25 A I, well, it's the cover page and except of pages

Page 253

1 from the town of Leesburg, the Leesburg, Virginia, town
2 plan. It's dated June 26, 2012.
3 MS. ROBESON: So expert, excerpt from Leesburg,
4 Virginia town plan?
5 THE WITNESS: Right.
6 (Exhibit No. 99 was marked for
7 identification.)
8 MR. CHEN: And in the nature of what is good for
9 the goose is good for the gander, I'm not going to ask the
10 witness and I'm not going to read any of the excerpts that
11 are there for you in the, in Exhibit 99.
12 MS. ROBESON: Thank you.
13 MR. CHEN: Madam Examiner, I do have a question
14 for you. You, do you make site visits?
15 MS. ROBESON: I do upon request of the parties
16 periodically, but usually it's to the site in question.
17 MR. CHEN: I understand.
18 MS. ROBESON: And there's a lot of parameters
19 around what we have to do now under the recent case law.
20 So --
21 MR. CHEN: Yes. Yes.
22 MS. ROBESON: -- is there --
23 MR. CHEN: Oh, boy.
24 MS. ROBESON: -- is that what you're requesting?
25 MR. CHEN: Oh, boy. As I recall that decision,

Page 254

1 representatives have to be present.
2 MS. ROBESON: Well, it has to be a public hearing.
3 MR. CHEN: Yes.
4 MS. ROBESON: Now, and the problem, the logistical
5 problem is --
6 MR. CHEN: Yes.
7 MS. ROBESON: -- I did do, I did just do one, but
8 the logistical problem is that we don't have a recorder go
9 out with us.
10 MR. CHEN: Okay.
11 MS. ROBESON: So nobody can say anything to me and
12 then when I come back to the next hearing and everybody has
13 to be invited and I announce my route and then when I come
14 back to the next hearing, I place my observations and
15 pertinent observations into the record, although the last
16 site visit I had to admit I parked at the public library
17 because that became relevant and not on the street, but so
18 that's how we have worked.
19 MR. CHEN: Okay.
20 MS. ROBESON: So it is a public hearing, anybody
21 can come, I have to announce it in advance, nobody can speak
22 with me, I'll announce my route, nobody can speak to me
23 while I'm there and then I come and place my observations on
24 the record.
25 MR. CHEN: Okay. Thank you very much.

Page 255

1 MR. HARRIS: I don't know where this is going.
2 MR. CHEN: It's going nowhere.
3 MR. HARRIS: Okay. Okay. There we go. Okay.
4 Good.
5 MR. CHEN: It's going nowhere.
6 MR. HARRIS: That makes it easy.
7 MR. CHEN: Yes.
8 BY MR. CHEN:
9 Q Okay. Let me show you what's been marked as
10 Exhibit No. 10. Can you identify that? What is that
11 document?
12 A That's an aerial photo with, outlining the
13 Leesburg corridor premium outlets location and the corner of
14 U.S. Route 15 bypass and Virginia Route 7.
15 Q Who prepared this document?
16 A My staff.
17 Q Is this document, first of all, does it present
18 accurately an aerial photograph of the Leesburg Center?
19 A Yes. It's recent, fairly recent image.
20 Q Okay. And your staff has or your business has the
21 technology to do the outline and --
22 A Yes.
23 Q -- and the graphs?
24 A Uh-huh.
25 Q Okay.

Page 256

1 MR. CHEN: Mr. Harris, do you want to cross-
2 examine on that document?
3 MR. HARRIS: Somehow, I gave mine --
4 MS. ROBESON: What document is this?
5 MR. HARRIS: Do you have another set?
6 MR. CHEN: Yes. Hang on.
7 MR. HARRIS: I don't have the Leesburg and I
8 apologize.
9 (Discussion off the record.)
10 MR. HARRIS: He's got one.
11 THE WITNESS: Here.
12 MR. HARRIS: Okay. Thank you.
13 (Discussion off the record.)
14 MR. CHEN: Mr. Harris, do you want to examine --
15 MR. HARRIS: I haven't examined it.
16 MR. CHEN: Okay. Madam Examiner, I'd offer
17 Exhibit No. 10, No. 100.
18 MS. ROBESON: Okay. And what do you call this?
19 MR. CHEN: This is the aerial photograph of the
20 Leesburg Center.
21 MS. ROBESON: Okay.
22 (Exhibit No. 100 was marked for
23 identification.)
24 MR. CHEN: Do you have all the photos, Mr. Harris?
25 MR. HARRIS: I beg your pardon?

Page 257

1 MR. CHEN: Do you have all the photos?
2 MR. HARRIS: Which one? The whole set? That
3 would be great. Thank you.
4 BY MR. CHEN:
5 Q Mr. Noonan, I'm going to show you what's been
6 marked as Exhibit No. 101. Can you identify it please?
7 A That's a photograph of the actual, the parking
8 area in the building. This is the Leesburg Center and the -
9 -
10 Q How many, if the Examiner please, I put all these
11 photos in one exhibit rather -- there's a series of them. I
12 don't think there's a need to have separate exhibit numbers
13 for each photo.
14 MS. ROBESON: Okay. Well, I just have one.
15 MR. CHEN: No, I've got another series.
16 MS. ROBESON: Oh, oh, oh.
17 MR. HARRIS: Well, can I just interrupt for one
18 second?
19 MR. CHEN: Yes. Go ahead.
20 MR. HARRIS: You said 101. I've got -- I'm
21 missing something. I have 100.
22 MS. ROBESON: No, he said 100.
23 MR. HARRIS: Did you say 100?
24 MR. CHEN: This is 100.
25 MR. HARRIS: Okay.

Page 258

1 MS. ROBESON: Wait, let me see --
2 MR. HARRIS: I thought you said --
3 MS. ROBESON: -- what's 100.
4 MR. HARRIS: I thought you just 101.
5 MR. CHEN: Hang on. This is 100.
6 MS. ROBESON: Yes.
7 MR. CHEN: Okay.
8 MS. ROBESON: He's correct.
9 MR. CHEN: And I gave, I gave Mr. Harris --
10 MR. HARRIS: Yes.
11 MR. CHEN: -- 101.
12 MR. HARRIS: Which is? Oh, you don't have that
13 yet. Okay. Okay.
14 BY MR. CHEN:
15 Q How many photos are there?
16 A How many are there?
17 Q Yes.
18 MR. HARRIS: 15.
19 THE WITNESS: Thank you.
20 BY MR. CHEN:
21 Q Okay. Can you identify these and tell the
22 Examiner when they were taken?
23 A They were taken about three weeks ago in the
24 middle of August after the, I believe after the testimony of
25 Mr. Bogorad, that's why we were asked to go down and take

Page 259

1 photographs of the outlet center and surrounding
2 residential, surrounding retail and office development.
3 MR. CHEN: Can I have your indulgence one second,
4 Madam --
5 MS. ROBESON: Yes.
6 MR. CHEN: -- Examiner?
7 (Discussion off the record.)
8 MR. HARRIS: 100A, B, C?
9 MR. CHEN: 101, Bob.
10 MR. HARRIS: Okay. So 100 is still a separate
11 one?
12 MR. CHEN: 100 is, it's the lead, the lead number.
13 MR. HARRIS: Yes, 100 is still a separate exhibit.
14 MS. ROBESON: It's the aerial photograph.
15 MR. HARRIS: And 101 has --
16 MR. CHEN: I'm sorry, 101, it's going to be 101A,
17 B, C, D.
18 MR. HARRIS: Right.
19 MR. KLINE: Would your site visit rule still apply
20 if we took a site visit to Virginia, out of state?
21 MR. HARRIS: Even more so.
22 MR. KLINE: Would it not apply?
23 MR. HARRIS: You're a fast one.
24 MS. ROBESON: Yes.
25 (Discussion off the record.)

Page 260

1 MR. HARRIS: So this is 101A through N?
2 THE WITNESS: That's what I have.
3 BY MR. CHEN:
4 Q Can you describe, going by reference to the number
5 in each of the photos?
6 A Well, okay.
7 Q No. Hold on.
8 (Discussion off the record.)
9 MS. ROBESON: While you're doing that, I'm going
10 to take a five minute break.
11 (Recess.)
12 MS. ROBESON: You numbered your exhibits?
13 MR. CHEN: Yes. Thank you very much.
14 MS. ROBESON: Marked your exhibits?
15 MR. CHEN: Yes. Madam Examiner, if I may, I'm
16 going to give you Exhibit 101A through N.
17 MS. ROBESON: Okay.
18 MR. CHEN: Does counsel have it?
19 BY MR. CHEN:
20 Q Mr. Noonan, in an effort to expedite your
21 testimony, could you just, starting with 101A, just go
22 through each photo and briefly explain to the Examiner what
23 each photo depicts?
24 A 101A is a photograph of part of, I believe it's
25 part of the parking lot and looking across the parking lot

Page 261

1 to the Leesburg outlet center building. 101B is a part of a
2 pedestrian walkway between the outlet stores themselves.
3 Item C is actually out of order, the Walmart is not part of
4 the outlet center. I believe it's --
5 MS. ROBESON: Where is the Walmart?
6 THE WITNESS: I think the Walmart is, looking in
7 the aerial photograph here, it's north of the Leesburg
8 outlet center.
9 MS. ROBESON: Oh, okay. I think I see it.
10 THE WITNESS: On the same side of 15.
11 MR. HARRIS: Across Fort Evans or whatever that
12 is?
13 MS. ROBESON: Yes, I can't read the road, Fort
14 Evans.
15 THE WITNESS: Is that what it is? Yes. I believe
16 that's the location of the Walmart. These, I believe, are
17 additional stores in the outlet center.
18 MR. HARRIS: No, I don't --
19 THE WITNESS: No, they're not?
20 MR. HARRIS: Wait, you took the pictures.
21 THE WITNESS: No, actually my staff did, that's
22 why I was wondering why we were going through them. Okay.
23 All right. We've got surrounding neighborhood shopping
24 centers in the photograph. This is one of them. I believe
25 this is going to be even further north on, I don't know what

Page 262

1 route that is, Route 15.
2 This is just a photograph of some of the
3 neighboring -- E is a photograph of some neighborhood auto-
4 oriented retail operations.
5 MR. HARRIS: Let me interject here a minute. I
6 just heard a moment ago that he didn't take these
7 photographs --
8 THE WITNESS: I had staff take these photographs.
9 MR. HARRIS: -- and so we can't verify, for
10 instance, where this is.
11 MR. CHEN: We could do it on Thursday.
12 MS. ROBESON: Well, he's going to have to come
13 back as a witness.
14 MR. CHEN: Well, he has to come back in any event
15 because --
16 MS. ROBESON: Yes, okay.
17 MR. HARRIS: Okay.
18 MR. CHEN: With that, with that one exception --
19 MS. ROBESON: Right.
20 MR. CHEN: -- my examination of Mr. Noonan is
21 concluded.
22 MS. ROBESON: Oh, it's what?
23 MR. CHEN: With that one exception, my examination
24 of this witness --
25 MS. ROBESON: Okay.

Page 263

1 MR. CHEN: -- is concluded.
2 MS. ROBESON: All right.
3 MR. HARRIS: All right. Is there any testimony
4 with respect to these pictures?
5 MR. CHEN: We're going to bring him back on
6 Thursday to give you the information on each photo.
7 MR. HARRIS: Oh, he can give it to me now, I just
8 want to --
9 MR. CHEN: Oh, I thought there was an objection
10 from Mr. Robins?
11 MR. HARRIS: No, I was the one who objected, but
12 if you're going to bring him back and he can verify where
13 they are, that's fine. I don't mind him telling what --
14 MR. CHEN: Okay.
15 MR. HARRIS: -- what they are today.
16 MR. CHEN: Okay.
17 MR. HARRIS: But then on, you know, I want to make
18 sure this Shell station and Merchant's Tire isn't in Vienna
19 or whatever.
20 MR. CHEN: We can do that. We can do that.
21 BY MR. CHEN:
22 Q Okay. Continue.
23 A Okay. Where did I leave off?
24 MR. ROBINS: The Shell station.
25 MR. HARRIS: With the Shell station in Vienna.

Page 264

1 THE WITNESS: In Vienna. All right. Yes, let's
2 see, Shell station, the, with the, I'll just say, you know,
3 a sign for a little development called Leesburg Square.
4 That appears to be one of the older mix of office and mostly
5 office, professional building in the area. 101G is part of
6 the county office complex.
7 MR. HARRIS: Do you know where that is with
8 respect to --
9 THE WITNESS: That's actually across, the county
10 office complexes, I believe, are across Route 15, closer
11 into the town of Leesburg. Let's see if I can find the map
12 now.
13 MR. HARRIS: Here.
14 THE WITNESS: Okay.
15 MR. HARRIS: Here you go.
16 THE WITNESS: I believe the complex is where this
17 is.
18 MR. HARRIS: That looks like it's up there, right
19 there.
20 THE WITNESS: Yes.
21 MR. HARRIS: Left of the bypass 15 at the half
22 mile radius ring it looks like.
23 THE WITNESS: I'm not quite sure where the Bob
24 Evans is. Let me find it. If I had known I was going to do
25 this, we would have labeled the aerial photograph. Sorry.

Page 265

1 There's 1011, is that I?
2 MR. HARRIS: Yes.
3 THE WITNESS: It is additional office development
4 around the Leesburg center. J gives you, is a, it gives you
5 an idea of some of the businesses that are located in the
6 general vicinity within that half mile radius, a large
7 consulting firm as I see it, and some other firms. There's
8 also some more low-end, highway related to the state
9 government. This is the Virginia Department of
10 Transportation facility, K. I'll give you the location for
11 that important -- I think it's across Route 7, but I'll
12 verify that.
13 Again, some of the office complexes and most of
14 them you can see are two to three story office complexes.
15 If you go to M, this is an indication there's more
16 development activity in the area going on and expected to go
17 on. N is a picture of a local bus stop. I'll give you some
18 of the idea of the pedestrian access or I would call it lack
19 in same between the, you know, the various retail outlets.
20 This isn't really a planned development, frankly. One of
21 the things we found when we went down there and looked at it
22 was that it's, unlike your development, it's, the Leesburg
23 center was developed and the surrounding development is
24 strictly unrelated and independently approved and developed.
25 So, you know, the pedestrian access and your walkability

Page 266

1 here is minimal.
2 One of the things we attempted to do when we went
3 to any of these locations is see what kind of office or
4 employment development is encouraged around it. So that's,
5 that was the purpose of going down there. We found a whole
6 lot more in Leesburg, frankly, than we did in the other two
7 locations that weren't particularly relevant. But we don't
8 see, you know, a massive amount of development associated
9 really with the outlets. What we see is in government
10 development, some technology development that might be more
11 related to the location of the county government, the
12 Loudoun County government in that location than it is in
13 account of the retail outlets. But, and again, it's a
14 typical suburban mix of development that we found down
15 there.
16 MR. CHEN: No further questions.
17 THE WITNESS: And I'll go with that.
18 MR. CHEN: No further questions. We'll supplement
19 next Thursday with the location.
20 MS. ROBESON: Yes, I think that would be --
21 MR. ROBINS: May I ask a question related to these
22 pictures just like in terms of --
23 MS. ROBESON: Yes.
24 MR. ROBINS: I would just like to know when these
25 pictures were taken, were you with somebody when you took

Page 267

1 them or --
2 THE WITNESS: No, I sent some staff out --
3 MS. ROBESON: He wasn't there.
4 THE WITNESS: -- and take, I sent staff on field
5 trips to Queenstown, Hagerstown and Leesburg and actually
6 Washingtonian to see what I can, what photographs we would
7 take of subsequent or related office development since that
8 at the time was an issue we wanted to --
9 MR. ROBINS: I don't want to jump the gun on our
10 ability to question to him, but have you been to these
11 locations?
12 THE WITNESS: I've been to all of them at one
13 point or another, but I wasn't there when the pictures were
14 taken.
15 MR. ROBINS: Because you keep referring to the
16 word we and I don't know who we is.
17 THE WITNESS: I'm sorry, my staff. I'm sorry, I'm
18 referring to my staff at Strong Environmental. I sent them
19 out to take these photographs.
20 MR. ROBINS: We can get into this in our --
21 THE WITNESS: Yes.
22 MR. ROBINS: -- our cross if you would like. I
23 have a problem with the pictures, but --
24 MS. ROBESON: Well, I guess the issue with the
25 pictures, Mr. Chen, is if you want to bring the staff --

Page 268

1 MR. CHEN: Yes, I was thinking the same thing.
2 MS. ROBESON: -- that took the pictures --
3 MR. CHEN: Right. I'll let you know.
4 MS. ROBESON: So --
5 THE WITNESS: I mean I can make them available.
6 We may withdraw, we may withdraw the photos.
7 MR. CHEN: Don't say anything.
8 MS. ROBESON: It's, don't, yes, don't say anything
9 yet. So they're marked, well, 100 is in the record.
10 MR. CHEN: Right.
11 MS. ROBESON: Which is the aerial photograph. The
12 rest are marked, but I have not included them in the record
13 yet. So they'll be marked as 101A through N.
14 (Exhibit Nos. 101A through N were
15 marked for identification.)
16 MS. ROBESON: I had one question about your
17 testimony on the master plan.
18 THE WITNESS: Okay.
19 MS. ROBESON: So moving away from the photos --
20 THE WITNESS: Thank you.
21 MS. ROBESON: -- were you here for Mr. Bogorad's
22 testimony that we don't need to worry about the town center
23 retail because it's a different type of mix --
24 THE WITNESS: Yes.
25 MS. ROBESON: -- of retail? But what I hear you

Page 269

1 saying, and correct me if I'm wrong, is that it's more than
2 just a neighborhood center, it's that the, that the, we also
3 need to worry about the town center being the focal point
4 for activity in the area, for instance, perhaps the
5 amphitheater should be in town center rather than here or
6 can you -- are you understanding my question?
7 THE WITNESS: Yes, I mean I, I didn't necessarily
8 want to refer specially to an amphitheater or something,
9 but --
10 MS. ROBESON: But the concern you expressed is
11 with specific uses and the more regional uses here. This is
12 going to become the study area focus of activity instead of
13 the town center, is that what you're saying?
14 THE WITNESS: Yes, that is what I said.
15 MS. ROBESON: Okay. I just wanted to make sure I
16 understood that.
17 THE WITNESS: I think it's important to focus not
18 necessarily on -- you don't always focus on numbers, but
19 think about the visions of the master plan and what the
20 authors clearly intended and are saying they intend in the
21 document. You know, when you look at the general plan
22 policies, and I think I said this --
23 MS. ROBESON: Yes.
24 THE WITNESS: -- you know, for the whole planning
25 area and they talk about center of activity, you know, the

Page 270

1 unique place, you know, they repeat those comments
2 invariably in the town center --
3 MS. ROBESON: Okay.
4 THE WITNESS: -- section of the master plan.
5 There are other things that are repeated and they're
6 important for the neighborhood centers, you know, the
7 services to the local residential community. The location
8 at Cabin Branch it happens to be along I-270 and why that
9 was originally intended as the employment card, it's quite
10 logical. That's where I-270 is. It's not an investment you
11 can ignore. But in terms of the activity center for the
12 Clarksburg master plan and what they envision that whole
13 area as a community, the center of activity and the place,
14 and the part of the area in the planning area that gave it a
15 sense of cohesion and a community identity was supposed to
16 be in the master plan. Now --
17 MS. ROBESON: That was supposed to be the town
18 center you mean or --
19 THE WITNESS: Yes, the town center.
20 MS. ROBESON: Yes.
21 THE WITNESS: I'm sorry.
22 MS. ROBESON: No, it's okay.
23 THE WITNESS: I trip over it.
24 MS. ROBESON: It's a long day. Yes.
25 THE WITNESS: It's supposed to be in the town

Page 271

1 center and that's clearly outlined in the master plan.
2 MS. ROBESON: Okay. I just wanted to make sure I
3 understood your point. Mr. Kline, do you have any follow-up
4 questions?
5 MR. KLINE: Yes, not too long I don't think.
6 DIRECT EXAMINATION
7 BY MR. KLINE:
8 Q If I understood your testimony, Mr. Noonan, when
9 the plan was adopted, there was a hierarchy and there was a
10 balance and there was a character for each of the different
11 neighborhoods and districts? Something I will say, the plan
12 was in balance or the instate would be balanced and built
13 out in the way projected in the plan?
14 A I think that's the goal and the vision, that would
15 be in balance, yes.
16 Q Okay. And was there any, well, in the the 2011
17 limited master plan --
18 MR. HARRIS: Objection. The first question was
19 nice testimony perhaps. The second one is just, well, could
20 you rephrase it to --
21 MR. KLINE: Sure.
22 MR. HARRIS: -- as a question?
23 MR. KLINE: Sure. Sorry.
24 BY MR. KLINE:
25 Q Did the 2011 limited master plan amendment in any

Page 272

1 way change that balance or hierarchy or character of the
2 different neighborhoods and districts?
3 A No, the 2011 master plan amendment was very
4 limited in scope and specifically stated that it wasn't
5 changing any of those underlying assumptions --
6 Q Okay.
7 A -- and vision.
8 Q There was an exhibit that we had that had the, I
9 think it was from the technical appendix that talked about
10 the amount of retail --
11 A Yes.
12 Q -- in the different neighborhoods?
13 MS. ROBESON: I think it's page 12.
14 MR. KLINE: Thank you.
15 BY MR. KLINE:
16 Q Would it be fair to say that was suggesting a
17 critical, massive retail services adequate to support the
18 neighborhood that it would be serving?
19 A Well, again, it's essentially saying how much
20 square footage of retail area would be appropriate relating
21 to the staff's assessment of the jobs, housing balance.
22 What's typically done here is they'll do an estimate of
23 projected population and a projected of employment and
24 compare that kind of, that ratio and it's much more
25 difficult to project, my understanding of how these things

Page 273

1 are done, that you rarely project commercial space. You
2 project the employment and the population, which the
3 demographers have a pretty set standard or way to conduct
4 that. And then you relate the square footage of commercial
5 space to that based on a formula which I don't have.
6 So they estimate the population projection. I
7 think they mentioned what round of the regional forecasts
8 they were using at the time and they forecast employment for
9 the area as well and then place these numbers for
10 appropriate square footage in neighborhood shopping centers
11 in support of --
12 Q And for Cabin Branch, we ended up at 120,000
13 square feet?
14 A Yeah, but, again, I can't, from this document
15 which you gave me, I can't connect those dots. This
16 document says 75,000 square feet for the neighborhood retail
17 on the west side of 270. So, clearly, somebody somewhere
18 along the line made a policy decision on some basis to raise
19 it to 120,000 square feet.
20 Q Okay. I --
21 A But I couldn't connect the dot.
22 Q Was your testimony that the Cabin Branch -- the
23 development plan amendment proposal detracted from providing
24 those retail services that were anticipated to be found in
25 the Cabin Branch neighborhood?

1 A My testimony was without respect to specific
2 services, when you look at the definition of what's in the
3 neighborhood retail center --

4 Q Okay. Yes.

5 A -- when you reduce that from 120,000 square feet
6 of those kind of services down to 50,000 square feet or
7 28,000 square feet, that, in fact, you have not provided
8 them, you didn't provide -- and in addition you're not
9 providing them necessarily in a unified center, but you
10 spread them out over the three --

11 Q Okay.

12 A -- three subsequent areas --

13 Q So we're --

14 A -- in the proposed area.

15 Q Apparently the development plan will not, the
16 development plan amendment will not propose as much
17 neighborhood retail as was shown in the plan?

18 A That's correct. Yes.

19 Q All right. And I think the same, if I heard what
20 you just said, and it's distribution or diffusion will
21 detract from that critical mass aspect of having it all in
22 one place which is why we have a concentration provision in
23 the master plan?

24 A The master plan seemed to be very concerned about
25 that concentration, so I would defer to them. I don't want

1 to necessarily say that that critical mass is broken up, but
2 it certainly appears that we're not providing the same level
3 of service and community cohesion in the central location
4 that the neighborhood vision, plan would envision.

5 Q Okay. And --

6 A And that's a determination.

7 Q And to the extent there is a concentration and
8 it's in A and B, and it's adjacent to the regional outlet
9 center, can we say that it has a neighborhood orientation?

10 A I think there was a statement either in the
11 development plan amendment or in the staff report that said,
12 that emphasized the regional nature of this, but then said
13 that the, it could focus -- there would be a neighborhood
14 function to it, but the catalyst and the vast, and not --
15 the majority of the square footage is related to more
16 regional and whatever all the retail we're talking about
17 here. It's not neighborhood retail.

18 Q Okay. Based on what, in --

19 A My own language though.

20 Q -- you were asked questions about the grocery
21 stores and I would say how do you measure the importance of
22 grocery stores in the neighborhoods as fulfilling the vision
23 in the master plan?

24 A I would defer to the actual 2011 amendment that
25 really speaks to the importance of the, importance of

1 grocery stores in the neighborhoods. I'll find the language
2 for you. I didn't really want to substitute my opinion on
3 that. Frankly, I avoid grocery stores if I can. I've got
4 it here somewhere. The Council directive, which is on page,
5 I guess it's 9 of the 2011 document.

6 (Discussion off the record.)

7 MR. CHEN: The one in evidence is -- the copy of
8 the --

9 MS. ROBESON: I think it's 10.

10 MR. CHEN: Yes, the one that's in evidence. So
11 Exhibit 86.

12 THE WITNESS: Okay. Council directive to the,
13 directive of the Planning Department modified the master
14 plan to allow preparation of limited, to amend it, to seek
15 whether to amend the retail staging provisions, okay? I'm
16 looking for what language was mentioned about the grocery
17 store.

18 Town center development has not moved forward with
19 retail, including grocery store. Other property owners have
20 expressed an interest in building a grocery store, and their
21 directive is whether to allow a grocery store and
22 potentially ancillary uses outside the town center in the
23 village centers to proceed. And the result of that was to
24 remove the 90,000 square foot retail cast here and allow,
25 specifically with grocery stores, to proceed in the

1 neighborhood development. So they clearly viewed it as
2 important supporting neighborhood retail in the neighborhood
3 centers.

4 BY MR. KLINE:

5 Q The 2011 limited master plan amendment allowed
6 retail development to occur today in Cabin Branch or New
7 Cut, correct?

8 A Yes.

9 Q Okay. Not likely somebody is going to want to
10 build a grocery store in Cabin Branch today, there's no
11 houses to buy, correct?

12 A I would assume, yes.

13 Q Okay.

14 A Correct.

15 Q Well, then wouldn't the prudent thing to do from a
16 planner's perspective is to reserve some square footage so
17 that we, there can be a grocery store at some time in the
18 future when there's market there to support it?

19 A Yes. That sounds prudent to me if I, that is a
20 yes.

21 Q Okay. Are there any features that you identified
22 that you expected to see in the town center that you now
23 find in the Cabin Branch proposal in terms of shifting of
24 the one place to another or duplicating?

25 A Well, certainly. The, some of the retail uses

Page 278

1 themselves or it could be in the mix uses in the one portion
2 of the town center, especially along the transit corridor
3 and the transit stop.
4 Q Okay.
5 A There are other things that several put it out
6 like the amphitheater and some of the civic spaces. And at
7 one point we had the block of the north district up on the
8 screen and we talked about some of the civic spaces and the
9 town square kind of activities. All of those kind of things
10 are consistent with the town center development.
11 Q I think your phrase was it's not a question of
12 density in terms of finding substantial compliance within
13 the master plan, it's not a question of density, isn't
14 really a question of intensity or the activity that's
15 associated --
16 MR. HARRIS: Objection.
17 MR. KLINE: Okay. Let me try it again. Sorry.
18 BY MR. KLINE:
19 Q Am I correct that you stated that it's not a
20 question of density in terms of how the land uses are
21 changing?
22 A Yes, I was less concerned about density than I was
23 about the perception that the North District in particular
24 and the Cabin Branch development amendment here is now the
25 focus for community activity in the larger Clarksburg master

Page 279

1 plan area. So it's the impact and the vision, the amount of
2 activity that goes on, the kind of things that Governor
3 Glendening used to talk about, you know, eyes on the street
4 and nighttime activities that bring a vibrancy to a town
5 center kind of environment. Those kind of things are -- if
6 the center is successful, you get a good, professional staff
7 might make it successful --
8 Q Okay.
9 A -- are the kind of activities that will now be
10 occurring on this side of I-270 and not in the town center
11 where the vision in the master plan says that they're going
12 to be.
13 MS. ROBESON: Or at least it says it's going to
14 be, well, that's true. But I guess my question is say long-
15 term, is your opinion also that it violates, or it's not
16 consistent with the staging policy, because say there's
17 enough here eventually for a town center to happen for, you
18 know, once this whole thing gets built out, the town center
19 can get retail and -- are you saying that, is part of what
20 you're saying that the staging wanted to ensure that to
21 happen in the town center first, is that what you're saying?
22 THE WITNESS: Yeah, the policy objective I cited
23 in the document earlier related to --
24 MS. ROBESON: Yes.
25 THE WITNESS: -- preference, priority be given to

Page 280

1 development of the east side of I-270, especially at the
2 town center, to my mind those policy statements went to that
3 concern about making sure that the vision for the town
4 center had some viability and weight and would continue in
5 the future before some of the development would occur around
6 it. Now understand, there's still no language in the master
7 plan to support this development in my opinion, this
8 development in terms of retail and development. So, but at
9 least at that point you would have a rationale to go to the
10 Planning Board and say let's change the vision to this.
11 If the office and retail development is never
12 going to occur, we've got a viable town center now, we can
13 support this and we would have a rational basis to do this
14 without undercutting the vision for the town center. That
15 would be the appropriate time. I don't know when that time
16 would be given --
17 MS. ROBESON: Yes.
18 THE WITNESS: -- issues of the town center
19 currently, but that's the vision in the master plan.
20 MS. ROBESON: Right.
21 MR. KLINE: Mr. --
22 THE WITNESS: Does that answer your question?
23 MS. ROBESON: Yes, you did. Thank you.
24 BY MR. KLINE:
25 Q Mr. Noonan, this Exhibit 45 --

Page 281

1 A Yes.
2 Q -- the applicant's Powerpoint presentation, and do
3 you recall the afternoon I came over and met with you and
4 Mr. Chen and we had this on the table and do you recall your
5 reaction when you looked at these images and visions?
6 A Well, I --
7 MS. ROBESON: I can't see what you're looking at.
8 MR. KLINE: I'm sorry. This is --
9 MS. ROBESON: Oh, 45?
10 MR. KLINE: -- Exhibit 45 and there's --
11 MS. ROBESON: Okay. I know what it is.
12 MR. KLINE: -- there's a number of basically
13 images --
14 MS. ROBESON: Yes. I recall.
15 MR. KLINE: -- of what's place making, et cetera,
16 et cetera.
17 BY MR. KLINE:
18 Q And, Mr. Noonan, I'm just asking you would you
19 tell the Hearing Examiner what you told me your reaction was
20 to that exhibit and the images that were contained in it?
21 A Well, giving a little context, I was asked when I
22 was first approached to get involved in this, I said, well,
23 you know, we want to make -- an outlet center is being
24 proposed, we want to make sure that didn't threaten the
25 development of the town center. Okay. I got to my office

1 and I get this and I said this isn't an outlet center --
 2 Q This is --
 3 A -- this is a town center.
 4 Q This is Exhibit 45, right?
 5 A Yes, this being Exhibit 45 --
 6 Q Okay.
 7 A -- to my mind is, you know, I'm sorry for the
 8 developers in the room, but my view of an outlet center
 9 is --
 10 MS. ROBESON: Queenstown?
 11 THE WITNESS: -- you know, Queenstown or large
 12 parking center. This to me is a town center development.
 13 And to that extent, you know, if the marketplace doesn't
 14 support the competing nodes in Clarksburg in this day and
 15 this master plan still expresses concern and the desire that
 16 it occur in the town center first, and I think it, and it
 17 still does, then this clearly undercuts the viability of
 18 implementing this master plan.
 19 But the uses in here are, and the scale as I look
 20 at these photographs, to me that doesn't happen in the
 21 neighborhood center. That's a town center scale of
 22 development. And, quite honestly, I think, and I don't want
 23 to ramble, but I think the development plan amendment
 24 justification statement supports that and I cited it before.
 25 You know, this type of employment center, referring, you

1 know, will establish a true identity for Clarksburg.
 2 This mode of implementing the recommendations in
 3 the master plan, again, I don't agree that it does, for this
 4 specific location will put Clarksburg on the map and
 5 establish Cabin Branch as a unique, one-of-a-kind and highly
 6 desirable community. And that's the goal for the master --
 7 Clarksburg as whole, of course, but specifically for the
 8 town center.
 9 MS. ROBESON: Okay. Anything else, Mr. Kline?
 10 BY MR. KLINE:
 11 Q How does the replacement of the originally
 12 contemplated Adventist Hospital and whatever related medical
 13 facilities with that, how does the replacement with a
 14 regional outlet center promote the vision of this property
 15 contributing to the high technology I-270 corridor?
 16 A I don't think it does. I mean it's the position
 17 that the folks, again, if I -- I might have to find the
 18 right language, but there was testimony in front of the
 19 Planning Board, for example, that this development would
 20 serve as a catalyst for that development. You know,
 21 frankly, I heard testimony in front of you that said the
 22 opposite, that, yeah, it would be a catalyst in the sense
 23 that it's not going to hurt and every little advantage
 24 helps, but that the office and the high-tech development in
 25 the Cabin Branch area was unlikely for the next 10 to 20

1 years. That's the testimony I heard the first day of your
 2 hearings.
 3 I don't, I don't have the expertise to say that
 4 this is going to influence employment in the high-tech
 5 corridor, but I can hear and I listened to that testimony
 6 and that's what I recall here. My own opinion is that it
 7 wouldn't, either it's, but again that's stepping outside of
 8 my box a little bit.
 9 MS. ROBESON: All right. Anything else?
 10 MR. KLINE: I have no further questions.
 11 MS. ROBESON: All right. It's 10 until 5:00. Mr.
 12 Chen, I am going to -- we're averaging of the experts, we're
 13 averaging like one a day.
 14 MR. CHEN: Don't blame me.
 15 MS. ROBESON: I'm not, no, I'm -- I guess I didn't
 16 mean to single you out in that sense. I'm asking you to see
 17 if you can clear another weekday in your schedule. Yes, I
 18 know. But not now. I'm going to ask you if you can
 19 communicate with the other gentlemen here.
 20 MR. CHEN: You should have seen the e-mail I got
 21 this morning from one of the other attorneys.
 22 MS. ROBESON: I can but request.
 23 MR. CHEN: Yes.
 24 MS. ROBESON: I'm trying not to hold a hearing on
 25 Saturday. So you don't have to ask, sorry, answer me now.

1 MR. CHEN: I'll try --
 2 MS. ROBESON: Because we --
 3 MR. CHEN: -- but I've got to tell you,
 4 honestly --
 5 MS. ROBESON: I know.
 6 MR. CHEN: I could show you my calendar.
 7 MS. ROBESON: I do know you're under constraints.
 8 MR. CHEN: I can show you my -- I'm literally in
 9 depositions every day.
 10 MS. ROBESON: Well, then I'll tell you, we have to
 11 give Deposition Services at least two weeks notice if we
 12 need another hearing on a weekend, which would put us 14th,
 13 at September 28th would be the earliest we could get a
 14 hearing, so -- on a Saturday.
 15 MR. HARRIS: Let me interject here. Many of us
 16 have made all kinds of sacrifices to make hearing dates. We
 17 have two people who risked the wrath of God by violating a
 18 Jewish holy day, okay? We're doing a lot of things. You
 19 know, I'm sorry that Mr. Chen is so busy, but he's the one
 20 that got into this case and, you know, the hearing was
 21 called July 29th. We should be able to move it forward.
 22 MR. CHEN: Wait a minute. There were --
 23 MS. ROBESON: Okay. Just a second. What I'm
 24 asking --
 25 MR. HARRIS: People have to make their schedules

Page 286

1 flexible.
2 MS. ROBESON: I know that and what I -- Mr.
3 Chen --
4 MR. CHEN: Yes.
5 MS. ROBESON: -- it's too late in the day for
6 that. Just see if you can find another date and I will be
7 flexible to try to do it on a Saturday. Don't plan anything
8 for September 28th if we have to use it, okay, because I can
9 see a significant amount of cross-examination coming from
10 Mr. Noonan. I'm just trying to be realistic, so let's get
11 the dates up front and then we have Mr. Kline's expert, we
12 have potentially another expert from you and then we have
13 rebuttal.
14 MR. HARRIS: Yes, ma'am.
15 MS. ROBESON: So being realistic, I think we're
16 looking at another day and so I'm putting you all on notice
17 today that keep the weekend of September 28th free, it would
18 be a Saturday because that's the only day we have security
19 in here.
20 MR. HARRIS: What -- I don't remember, and I
21 haven't looked at your calendar, Mr. Chen, I heard, I
22 thought I heard something about the 13th, Friday the 13th
23 being available when we talked --
24 MS. ROBESON: No, no.
25 MR. CHEN: No, I never said that.

Page 287

1 MS. ROBESON: No.
2 MR. HARRIS: No?
3 MS. ROBESON: Yes. That was a long time ago --
4 MR. HARRIS: Okay.
5 MS. ROBESON: -- and then we thought we were going
6 to end on the 6th. That's why I don't care when we think we
7 end at this point, but I'm getting dates --
8 MR. HARRIS: Okay.
9 MS. ROBESON: -- okay?
10 MR. HARRIS: Well, I agree with that objective
11 wholeheartedly.
12 MS. ROBESON: So, Mr. Chen, you don't have to --
13 and no one is blaming you. This is a prior commitment. So
14 I am not holding you responsible for this. I'm simply
15 asking you if there's any way you can continue your efforts
16 to find dates, otherwise we'll try and keep the 28th.
17 MR. HARRIS: Let me now, having said that, of all
18 the days I haven't objected to a single day. I think I
19 deserve some credit.
20 MS. ROBESON: Don't tell me that.
21 MR. CHEN: And I can't do it either.
22 MR. HARRIS: September 28th --
23 MS. ROBESON: You can?
24 THE WITNESS: I could possibly be in town that.
25 MS. ROBESON: I would say you're probably critical

Page 288

1 to this. How about -- at one point somebody had October
2 4th.
3 MR. HARRIS: What about the 14th and the --
4 MS. ROBESON: Oh, I have hearing on October 4th.
5 MR. HARRIS: What about September 14th or
6 September 21st, the Saturdays?
7 MS. ROBESON: Well, he needs --
8 MR. CHEN: I'm out of town the 21st.
9 MR. HARRIS: The 21st? What about the 14th?
10 MS. ROBESON: I can't get Deposition Services on
11 the 14th.
12 MR. HARRIS: Oh.
13 MR. ROBINS: But wasn't there another day besides
14 the 12th, Bill, that you indicated you were available? I
15 thought I saw two dates?
16 MR. CHEN: No, I ran a date and I found out I was
17 not available.
18 MR. ROBINS: Oh.
19 MS. ROBESON: I'm going to leave it like this.
20 MR. CHEN: I ran two dates.
21 MS. ROBESON: See if you can get a date during the
22 week at any time in September or early October.
23 MR. CHEN: Okay.
24 MS. ROBESON: And since I don't know when we're
25 going to get to rebuttal, Mr. Harris, and, again, I'm just

Page 289

1 asking questions at this point, but could you address -- the
2 way your master, or your development plan amendment is set
3 up, there's a possibility that no neighborhood services are
4 going to go in because theoretically you could have 450 of
5 specialty retail in A, you could have 150 of specialty
6 retail in B, I mean what assurance do we have, and I do,
7 there is language in the master plan about the importance of
8 having neighborhood services within the neighborhood so
9 people don't have to travel, and I keep going back to Policy
10 7, what assurance do we have that people aren't going to,
11 you know, that that's going to occur? Don't answer me now.
12 MR. HARRIS: We will look at that. I just
13 offer -- planners are very good about making
14 recommendations, but they've got to meet reality. If
15 there's not a market for neighborhood retail, saying so in
16 the plan doesn't make it happen or making it a binding
17 element doesn't make it happen.
18 MS. ROBESON: Well, that's what this whole case is
19 about. I mean this is a plan that for whatever, trying to
20 salvage the original concept is what we're trying to do.
21 MR. HARRIS: The original concept was destroyed
22 when Mr. Kline got a Wegman's approved in Germantown. That
23 changed many things.
24 MS. ROBESON: Well, you know, we can argue that
25 all day long, but this is 535 acres.

1 MR. HARRIS: Yes, it is.
 2 MS. ROBESON: So I'm thinking that I would rather
 3 go to a grocery store within --
 4 MR. HARRIS: Okay.
 5 MS. ROBESON: It's not the grocery store, it's
 6 just --
 7 MR. HARRIS: Okay. Now -- I'll think about the
 8 other one, but --
 9 MS. ROBESON: Don't, don't --
 10 MR. HARRIS: -- you've been told clearly --
 11 MS. ROBESON: I don't want to argue.
 12 MR. HARRIS: -- don't put a grocery there, it will
 13 kill the town center.
 14 MS. ROBESON: I don't want to argue about grocery
 15 stores, in fact, I don't want to argue about anything right
 16 now. I'm just saying how this is not just a regional
 17 center, it's a neighborhood, and how are we going to make
 18 sure that the neighborhood gets served? All right?
 19 MR. HARRIS: Okay.
 20 MS. ROBESON: And with that, we're going -- yes,
 21 Mr. Chen?
 22 MR. CHEN: At the last hearing --
 23 MS. ROBESON: You have a date?
 24 MR. CHEN: No. At the last hearing you said you
 25 would take administrative notice of the staff report on the

1 2011 master plan amendment. I've got copies and your
 2 Exhibit 86 is that limited amendment.
 3 MS. ROBESON: Correct.
 4 MR. CHEN: I'm thinking maybe 86A might be a good
 5 number for the staff report?
 6 MS. ROBESON: Okay. That's fine.
 7 MR. ROBINS: Do you have copies?
 8 MR. CHEN: Yes.
 9 MR. HARRIS: Thank you.
 10 MR. ROBINS: Thank you.
 11 MS. ROBESON: Thank you. So 86A will be the staff
 12 report for the 2011 limited amendment to 1994 Clarksburg
 13 master plan. Okay.
 14 MR. HARRIS: With all this excitement, I would
 15 just like to, am I correct in assuming Mr. Noonan's direct
 16 testimony is complete?
 17 MS. ROBESON: Well, I --
 18 MR. HARRIS: Yes?
 19 MS. ROBESON: What about --
 20 MR. HARRIS: Mr. Chen?
 21 MS. ROBESON: -- the pictures?
 22 MR. HARRIS: The pictures?
 23 MR. CHEN: We are either going to have to be
 24 prepared to satisfy Mr. Robins or withdrawn them. They're
 25 not in evidence.

1 MS. ROBESON: I know, but was he going to offer
 2 additional testimony on them?
 3 MR. CHEN: All the concern was from Mr. Robins was
 4 location and do they accurately depict what they purport to
 5 show. That's all it was.
 6 MR. ROBINS: And was he there?
 7 MR. HARRIS: What --
 8 MR. CHEN: Yes, that's what I mean, yes.
 9 MS. ROBESON: No, that's what --
 10 MR. HARRIS: No.
 11 MS. ROBESON: -- he's coming in for.
 12 MR. HARRIS: Well, that's part of it, but I want
 13 to, is there going to be testimony about what the pictures
 14 are being offered for?
 15 MS. ROBESON: All right. Is there going to be
 16 additional testimony about --
 17 MR. HARRIS: Yes, that --
 18 MS. ROBESON: -- why they're relevant?
 19 MR. CHEN: I'm contemplating just the
 20 authenticity.
 21 MS. ROBESON: Okay.
 22 MR. HARRIS: That's it? You're just going to put
 23 them into the record with no testimony?
 24 MR. CHEN: No, that's not what the --
 25 MR. HARRIS: Well, that's what my question --

1 MR. ROBINS: That's what we're asking you is.
 2 MR. HARRIS: No, no, be quiet. My question is is
 3 there going to be any substantive testimony about those
 4 photographs?
 5 MR. CHEN: As to the location, I think we have to.
 6 MR. HARRIS: Other than location?
 7 MR. CHEN: No, it is what it is.
 8 MR. HARRIS: Well --
 9 MR. CHEN: They show the environment of Leesburg
 10 outlets and that's it.
 11 MR. HARRIS: Some of the environment, okay. Well,
 12 I --
 13 MR. CHEN: Well, in fact, what I'm thinking,
 14 Mr. --
 15 MS. ROBESON: Okay. I see maybe two hearing
 16 dates.
 17 MR. CHEN: No, no, no, no.
 18 MS. ROBESON: No, no, no. I'm teasing. So
 19 there -- his testimony will solely be for authentication
 20 purposes, correct, with the locations?
 21 MR. CHEN: I --
 22 THE WITNESS: I will have those.
 23 MR. CHEN: Yes. I mean the -- as I recollect Mr.
 24 Noonan's testimony, he testified as to where the scenes were
 25 as depicted on each of the 101 exhibits. I recollect that

1 he did that. Didn't you do that?
 2 THE WITNESS: I --
 3 MS. ROBESON: I don't, I think there was some
 4 uncertainty --
 5 THE WITNESS: I think we need to do more location.
 6 MR. CHEN: Then -- okay. Then we're going to do
 7 one of two things then. Either we'll have a witness here
 8 that can authenticate the location and provide description
 9 and maybe Mr. Noonan, maybe somebody else with him, or we'll
 10 withdraw the photographs --
 11 MS. ROBESON: Okay.
 12 MR. CHEN: -- one of the two.
 13 MS. ROBESON: All right. Thank you. So with
 14 that, oh, last thing. I would like to make the September
 15 12th hearing begin at 8:45 also, unless anyone has a problem
 16 with that.
 17 MR. CHEN: Do you know which room we have?
 18 MS. ROBESON: I think we have 200, the second
 19 floor hearing room. So with that, this meeting is adjourned
 20 until, or continued until September 14th at 8:45 --
 21 MR. KLINE: September 12th.
 22 MS. ROBESON: Yes.
 23 MR. KLINE: How quickly we forget.
 24 MS. ROBESON: September 12th at 8:45 in the second
 25 floor hearing room, all right? Thank you.

1 (Whereupon, at 5:01 p.m., the hearing was
 2 concluded.)
 3
 4
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that
 3 the attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Office of Zoning and Administrative Hearings for Montgomery
 6 County in the matter of:
 7 Petition of Adventist Healthcare and
 8 Cabin Branch Commons
 9 DPA 13-02
 10

11
 12 By:
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Tracy Hahn, Transcriber

<p>17;27:15;30:15,18,18; 32:10;39:3;42:3;46:5; 61:17;67:14;74:9;76:9; 86:19;92:6;101:23; 104:20,23,25;105:5,9; 106:5;122:9;134:24; 164:21;167:17;169:12, 19;170:16;171:4,9; 191:18;193:17;196:20, 23;197:10,11,12,15; 198:6,15;199:3,7; 200:8,8,16;201:12; 206:17;207:11,13; 213:3,16,20;216:24; 217:12,18,24;218:23; 219:20,25;223:24; 224:4,7,14;226:20; 230:24;231:25;233:24, 25;234:3,13;235:24; 239:5;247:7,7;271:25; 272:3;273:23;274:16; 275:11,24;277:5; 278:24;282:23;289:2; 291:1,2,12</p> <p>amendments (5) 69:23;73:24;191:11; 192:6;223:13</p> <p>among (1) 32:9</p> <p>amount (29) 8:20;87:5;88:22; 96:19;98:7;102:10,13; 110:16;111:20;122:8, 10;123:6,7;130:12,22; 173:23;174:7;193:11; 219:21;221:24;229:22; 236:20;242:6;244:1,1; 266:8;272:10;279:1; 286:9</p> <p>amounts (1) 245:22</p> <p>amphitheater (13) 121:23;151:9,10; 158:6;159:5,8;204:11, 14;206:22;219:23; 269:5,8;278:6</p> <p>Analysis (7) 16:3;66:13;77:20,21; 102:20;113:4;202:10</p> <p>anchored (1) 240:3</p> <p>ancillary (3) 170:20;211:20; 276:22</p> <p>and/or (3) 76:25;84:4;195:3</p> <p>announce (3) 254:13,21,22</p> <p>answered (3) 76:3;87:18;133:24</p> <p>anticipate (2) 74:20;151:9</p> <p>anticipated (3)</p>	<p>67:13;161:1;273:24</p> <p>apart (1) 235:10</p> <p>APF (3) 130:18;133:4,9</p> <p>APFO (2) 130:15,21</p> <p>apologize (11) 7:5;15:13;20:21; 21:12,20;37:23;86:6; 101:6;221:11;238:16; 256:8</p> <p>Apparently (2) 183:22;274:15</p> <p>appear (6) 7:1;124:12;200:4; 205:23;206:1,22</p> <p>appears (2) 264:4;275:2</p> <p>appendage (1) 96:4</p> <p>appendix (15) 6:9;95:12;96:15; 127:20;172:4;173:5; 211:10,13;226:23,24; 238:18,21;239:6,7; 272:9</p> <p>applicable (5) 31:12,13;35:24; 115:15;125:19</p> <p>applicant (12) 29:13;103:17; 128:25;134:18,23; 154:23;161:15;183:5; 197:20;198:2;213:22; 219:20</p> <p>applicants (1) 139:3</p> <p>applicant's (10) 48:23;49:8,15;68:13; 118:5;136:7;138:25; 140:4;152:12;281:2</p> <p>application (8) 5:3;12:11;26:1; 32:11;59:10,17; 119:22;198:2</p> <p>applied (2) 107:9;236:2</p> <p>apply (5) 174:15;201:17; 211:17;259:19,22</p> <p>applying (2) 8:11,16</p> <p>appreciate (3) 7:24;17:16;70:14</p> <p>approach (4) 30:10;36:19;37:7; 224:2</p> <p>approached (1) 281:22</p> <p>appropriate (7) 22:21;97:23;139:6; 162:12;272:20;273:10;</p>	<p>280:15</p> <p>approval (24) 31:10;35:7,24;50:14; 62:23;68:2,3;72:5,17; 81:13;84:7;86:24;87:4; 89:12;109:21;117:8, 24;120:14;130:11,19, 21;158:23;171:4; 191:17</p> <p>approvals (8) 74:2,2;77:6;81:6; 117:25;133:4;157:25; 185:18</p> <p>approve (2) 82:3;86:25</p> <p>approved (81) 5:5;24:14,17,20,21; 27:3;28:2;31:19;32:11; 34:19;37:18;38:21,21; 39:1,2,4;41:3;43:7; 50:13;60:23;61:11,14, 16;63:2,3,10;74:7,10; 76:13;77:3,5,9,11,12; 78:9;81:3,8;82:8;84:2, 5,21;86:3,9;87:2,4,10, 18;89:7,23;103:15; 104:3,10;108:6;115:1, 3,7,15;121:16;122:11, 16;123:13;130:14,16, 22;134:6;139:17; 152:15;158:10,11,12, 12,22;159:7;161:15; 162:22;164:25;168:2, 7;171:10;265:24; 289:22</p> <p>approving (2) 132:22;171:20</p> <p>approximately (7) 38:5;89:24;100:21; 108:7;109:15;147:25; 158:21</p> <p>apropos (1) 146:14</p> <p>architect (2) 63:25;64:14</p> <p>architecture (7) 64:2,18;65:4,9; 66:14,19;73:10</p> <p>area (261) 8:4,6,6,10,10,12,25, 25;9:3,4,6,6,7;10:4,5, 11,15,18,25;11:4,5,7, 12,17,17;12:3,5,6,6,8, 9;13:9,15,17,23,23; 14:9,11;17:2;25:13; 27:13;37:21,22,24; 38:1,8,17,20;40:1,3; 41:8,8,13,25;42:6,18; 43:1;44:24;50:11;51:5, 8,9,9,11;52:10,20;53:7, 23;55:15,19;57:10,11, 12;58:11,12,13;59:7,7; 65:23;67:17;68:5;</p>	<p>71:16;75:20,20,22; 76:2;78:4;79:19;81:22; 82:11,15;83:4,5,5,8; 84:4,4;86:12,13,13,15, 17,19;88:7,7,9,13;89:1, 2,9;90:7;91:3;92:9,11, 11,13,15;93:18,23,24; 99:10;100:3,21;101:7; 102:15,16;103:18; 104:13;105:1;108:6, 19;111:2;117:6;122:5, 10,17;123:8,12;126:7; 130:3;131:25;139:13, 19;152:1;153:17; 157:3;158:3,4,6,7,25; 159:1,11,13,14,16,17; 161:7,9;162:2,3;164:4, 5;167:10,24;168:1,14, 16;169:2;179:17,21, 24;189:3,5,15;196:16; 200:1,3;202:8,10,12, 19;203:7,20;204:1,5,5, 8;205:9,17;206:7,10; 207:17;208:7;209:1,5, 8;210:18,24;211:2; 212:18;214:24;217:4; 224:13,21,22,23; 225:13,19;227:1; 228:25;230:4;232:4,6, 9,12;233:2;235:3,6,24; 236:16;237:17,18,25; 238:20;240:16;241:17; 242:17,18,19,21,25; 244:2,9,17,18,25; 245:4,9,12,18;246:3,7, 9,11;247:2,14;257:8; 264:5;265:16;269:4, 12,25;270:13,14,14; 272:20;273:9;274:14; 279:1;283:25</p> <p>areas (40) 35:12;42:5;66:14; 78:7;79:20;81:5,20; 82:19,22,23;86:23; 87:6;96:21;104:2; 121:7,8;149:10;152:4, 11;158:22;162:15; 167:11,16,19,22;169:1; 186:17;201:5;202:3; 207:14;209:20;216:1; 225:11;228:13;230:23; 233:1,1;240:15; 242:16;274:12</p> <p>area's (1) 201:19</p> <p>argue (12) 32:22;44:8;45:11,16; 46:14;150:7;160:15; 194:5;289:24;290:11, 14,15</p> <p>arguing (3) 98:20;148:8;245:3</p> <p>argument (9)</p>	<p>6:8,11;43:24,24; 120:6;165:9,22; 182:15;214:10</p> <p>arguments (3) 6:4;101:18;184:17</p> <p>around (21) 29:11;66:2;185:5; 191:21;201:5;202:19; 203:2,8;212:9;214:3; 215:16;216:8,11; 221:3;232:21;245:16; 249:11;253:19;265:4; 266:4;280:5</p> <p>arranged (2) 9:7;11:11</p> <p>aside (4) 17:16;72:15;149:20; 216:25</p> <p>aspect (5) 225:20;232:8; 234:12;251:11;274:21</p> <p>aspects (3) 198:12;215:2;234:5</p> <p>asserted (1) 150:10</p> <p>assess (1) 59:9</p> <p>assessment (1) 272:21</p> <p>assessments (1) 191:2</p> <p>assistance (1) 191:20</p> <p>associate (1) 206:19</p> <p>associated (6) 40:9;211:20;221:25; 226:19;266:8;278:15</p> <p>assume (11) 64:14;91:15;164:19; 186:14;192:20;196:7; 231:17;245:7,9,21; 277:12</p> <p>assumed (1) 98:10</p> <p>assuming (5) 80:17;193:25; 194:16;244:15;291:15</p> <p>assumption (1) 53:2</p> <p>assumptions (1) 272:5</p> <p>assurance (2) 289:6,10</p> <p>assuring (1) 35:11</p> <p>asymology (1) 37:11</p> <p>attached (3) 56:23,25;85:8</p> <p>attack (1) 207:12</p> <p>attempt (2)</p>
--	--	---	--	---

101:11;106:2 attempted (1) 266:2 attempting (3) 105:22;111:7;236:9 attention (8) 16:17;46:2;99:10; 109:12;119:5,18; 227:11;230:9 attorney (1) 40:12 attorneys (1) 284:21 attract (2) 113:5;210:4 attraction (1) 112:21 attractive (1) 226:6 August (3) 185:24;189:11; 258:24 authenticate (1) 294:8 authentication (1) 293:19 authenticity (1) 292:20 author (1) 212:23 authorities (1) 249:4 authority (1) 191:17 authorizing (1) 143:21 authors (2) 210:2;269:20 auto- (1) 262:3 automobile (1) 200:22 availability (1) 5:11 available (12) 93:14;184:1;186:3,4, 14,21;215:1;219:23; 268:5;286:23;288:14, 17 Avenue (4) 11:5;12:5;51:2; 140:3 averaging (2) 284:12,13 avoid (5) 5:13,15;7:19;214:5; 276:3 aware (7) 89:18;110:12; 181:17;230:16,18; 231:8,11 away (4) 202:10,12;241:16;	268:19 B back (56) 18:6;19:23,25;20:6; 27:3;35:7,16;37:17; 41:16;45:16;47:15,21, 22,23;60:15;76:11; 78:14,21;84:24;98:12; 100:6;102:20;106:15; 107:23;117:24;127:11; 131:3;133:12;140:23; 169:11;178:18;186:18; 190:8;197:6;208:8; 209:10;210:6,16; 211:5;220:12;224:19; 226:17,20;229:1; 230:5;232:20;237:12; 247:6;250:24;254:12, 14;262:13,14;263:5, 12;289:9 background (2) 189:14;197:18 balance (5) 271:10,12,15;272:1, 21 balanced (1) 271:12 Balances (1) 201:18 ballots (1) 239:18 Baltimore (5) 5:8;108:1;140:5,7; 190:17 band (1) 56:23 bang (1) 52:23 banks (2) 58:23;240:10 base (11) 37:12;129:19;160:2; 209:20;222:22;228:22; 229:4,4;233:19;234:3; 237:23 based (24) 75:22,23;76:1;88:18; 97:7,16;99:25;102:18; 105:13;110:22;113:1; 130:15;145:5,18; 166:10;197:4;198:4; 236:13;239:16,19; 241:11;250:24;273:5; 275:18 bases (1) 180:17 basic (1) 208:1 basically (15) 67:21;68:3;75:12; 125:6;133:25;136:7,	19;141:16;155:2; 159:7;163:1;212:6; 232:14;242:21;281:12 Basis (14) 74:12;91:2;92:21; 122:13;147:7;150:4,8, 8;195:21;204:22; 226:13;234:25;273:18; 280:13 Bassong (11) 67:5;73:1,2,8; 185:23,25;186:3,15,21; 187:3,9 bear (7) 114:12;116:2;118:7; 170:2;209:11;215:10; 236:21 bearing (1) 123:15 became (1) 254:17 become (5) 86:8;182:8,12;221:3; 269:12 becomes (1) 203:25 beer (1) 240:8 beg (4) 106:16;160:10; 171:18;256:25 begin (2) 60:3;294:15 beginning (2) 119:21;158:20 begins (2) 170:14;202:6 Behanna-Moseley (1) 251:25 belabor (1) 235:17 belief (1) 222:22 bell (1) 190:18 below (5) 19:4;141:16;218:23; 219:19;236:6 benefit (2) 128:24;147:21 benefits (3) 145:11,14,16 besides (1) 288:13 best (3) 34:10;179:6;215:22 better (7) 40:13;55:17;80:15; 93:2;129:13;184:22; 223:6 better-qualified (1) 65:18 beyond (16)	43:18;44:13;50:11; 87:8;93:5;139:7; 153:21;181:19;183:12; 212:11,19,20;214:25; 227:4;238:13;241:21 bigger (1) 192:2 big-scale (1) 215:1 bike (1) 205:6 Bill (1) 288:14 binding (17) 13:1,7;14:1,19; 179:16,18;181:8,10,12, 19,22,23;182:5,8,10, 12;289:16 bio (1) 190:23 biographical (2) 189:11,13 bit (17) 7:18;19:18;123:13; 147:10;174:22;181:22; 198:23;199:8,16,18; 206:15;209:11;211:3; 214:17;215:16;220:12; 284:8 black (4) 39:5;78:17;79:23; 85:1 blame (1) 284:14 blaming (1) 287:13 block (2) 50:23;278:7 blocks (2) 52:15;53:1 blue (2) 53:24;54:5 blurring (1) 14:5 Board (22) 5:24;9:13;47:15; 54:9;55:2;74:3;82:2; 86:25;115:2;117:11; 118:16,22;119:13; 132:21;137:16;140:12; 147:20;149:15;164:11; 171:20;280:10;283:19 Board's (2) 146:2;148:3 Bob (3) 21:13;259:9;264:23 bodies (1) 179:21 body (1) 64:20 Bogorad (11) 91:13,23,25;112:23; 113:2;221:9,10,11;	241:13;247:23;258:25 Bogorad's (8) 91:3;100:10;101:8; 112:14;145:1,5; 250:24;268:21 bold (3) 169:25;170:8;173:14 bone (1) 194:19 books (1) 188:5 bordered (1) 50:25 borrow (1) 171:23 both (21) 18:23;44:24;60:4,17; 61:16;67:7;77:15; 79:22;82:14;145:24; 148:3,14;151:13; 177:7;181:3;182:23; 197:25;199:2;209:13; 224:12;243:1 bother (1) 204:6 bottom (11) 16:9;36:15;88:25; 96:17;107:25;109:13; 133:17;142:7,25; 193:10;208:21 bound (1) 32:3 boundaries (1) 131:17 box (7) 96:17,18,19;97:17; 126:6;142:18;284:8 boy (4) 95:13,24;253:23,25 Boys (1) 208:17 Branch (119) 5:4;11:5,23;12:5; 17:21;18:15;19:5,23; 20:2;22:2,4,18,24; 23:2;31:20;51:1;54:9; 55:2,15;56:1,5;57:6,6; 62:15,18;73:22;77:10; 78:18;81:13;84:13,15; 85:2;86:14,22;87:4; 92:7;98:2,5;99:3,23, 24;100:1,22;101:23; 107:10,22;111:8; 113:23;114:2;116:7, 20;124:18;130:12,15; 132:22;135:24;143:22, 23;145:22;146:23; 149:2;171:6,11,21; 197:21;198:21;199:23; 205:24;206:16;208:5, 7,11;209:1;210:16,22; 213:3;214:7,11; 216:17;217:5;219:6,
---	---	---	--	--

<p>10,14;220:10,19; 224:11,15,18,25;226:9; 228:23;229:12,17,20; 230:4,5,11;232:6,13, 23;235:6;237:19; 240:16,22;241:4,17; 242:8;247:3;248:8; 270:8;273:12,22,25; 277:6,10,23;278:24; 283:5,25</p> <p>brands (3) 147:14;170:20,21</p> <p>break (8) 25:8,20;60:11;124:2; 135:8;175:15;183:4; 260:10</p> <p>breakdown (1) 242:10</p> <p>briefly (6) 5:10;179:3;197:6; 234:24;235:16;260:22</p> <p>Brightner (2) 190:3,4</p> <p>bring (14) 54:8;68:11;139:6; 140:1;160:19;181:16; 187:3;221:19;222:4; 252:1;263:5,12; 267:25;279:4</p> <p>bringing (2) 124:11;223:10</p> <p>broad (4) 19:18;73:5;194:24; 199:25</p> <p>broadens (2) 209:20;233:19</p> <p>broader (3) 8:15;144:9;182:1</p> <p>Broadway (9) 56:14;81:11,12; 86:16;90:15,16;108:5, 8;140:3</p> <p>broken (1) 275:1</p> <p>brought (4) 37:12;68:18;71:4; 176:24</p> <p>bubble (1) 78:5</p> <p>buck (1) 52:23</p> <p>buffer (1) 83:12</p> <p>build (6) 163:25;164:5; 167:16;210:12;216:17; 277:10</p> <p>buildable (2) 157:3;164:4</p> <p>building (13) 19:11;37:10;41:1; 49:25;163:8;168:23; 225:5,25;232:23;</p>	<p>257:8;261:1;264:5; 276:20</p> <p>buildings (27) 37:1,15,21,25;39:13, 18,18,21,21,24,25; 40:4;41:2,3,7,14; 49:23;54:1,6;61:4; 148:21;166:1,13,15,20, 21;232:11</p> <p>building's (1) 232:15</p> <p>build-out (1) 49:13</p> <p>builds (1) 231:22</p> <p>built (20) 34:16;44:24,25;78:7; 84:1;105:14;147:1; 152:14;153:11,14; 161:8;162:11;168:15; 169:2;192:22;223:15; 241:12;249:16;271:12; 279:18</p> <p>bulk (2) 89:24;191:7</p> <p>bullet (12) 109:13,14;142:7,14, 15,23,25;143:3,6; 170:18;233:12,14</p> <p>bullets (11) 15:2,3,24;16:8,18, 22;17:1,3,5,20;233:4</p> <p>burden (2) 69:9;71:1</p> <p>Bureau (1) 210:14</p> <p>buried (2) 170:2,2</p> <p>bus (5) 55:3,8;205:6;222:12; 265:17</p> <p>buses (1) 55:10</p> <p>business (8) 100:12,13,15;178:2; 183:3;190:7;252:12; 255:20</p> <p>businesses (1) 265:5</p> <p>busy (1) 285:19</p> <p>Butz (1) 179:15</p> <p>buy (1) 277:11</p> <p>bypass (2) 255:14;264:21</p>	<p>C-10.3 (2) 115:13;125:17</p> <p>C7 (1) 28:17</p> <p>Cabin (122) 5:4;11:5,23;12:5; 17:20;18:15;19:5,23; 20:2;22:2,3,18,24; 23:2;31:20;51:1;54:9; 55:2,15,25;56:5;57:6, 6;62:15,18;73:22; 77:10;78:18;81:13; 84:12,15;85:2;86:14, 22;87:4;92:7;98:2,4; 99:3,23,24,25;100:22; 101:22;106:24;107:9, 10,21;111:8;113:23; 114:2;116:7,19; 124:18;130:12,15; 132:22;135:24;143:22, 23;145:22;146:23; 149:2;171:6,11,21; 197:20;198:21;199:23; 205:24;206:16;208:5, 7,11;209:1;210:16,22; 213:3;214:6,11; 216:17;217:5;219:6, 10,13;220:10,19; 224:11,15,18,25;226:9; 228:23;229:12,17,20; 230:4,5,10;232:6,12, 23;235:6;237:18; 240:15,22;241:4,17; 242:8;246:2;247:3; 248:8;270:8;273:12, 22,25;277:6,10,23; 278:24;283:5,25</p> <p>calculation (1) 40:5</p> <p>calculations (2) 97:11,18</p> <p>calendar (2) 285:6;286:21</p> <p>call (11) 32:1;56:17;172:15; 177:19;178:7;185:24; 188:1;224:24;227:2; 256:18;265:18</p> <p>called (5) 56:13;67:12;150:15; 264:3;285:21</p> <p>calling (3) 11:19;95:23;151:20</p> <p>calls (5) 35:10;61:24;106:20; 198:7;229:9</p> <p>came (9) 95:1;117:24;127:13; 128:7;155:18;198:13; 199:19,20;281:3</p> <p>can (231) 5:11;9:13;10:1; 18:10;21:1,4,15;24:1;</p>	<p>25:2,19;26:15;28:4,18, 19,21,21,24;30:3,11; 31:3,15;32:1,25;33:7, 11,15,15,16,21,24; 34:10,15,16;39:10; 42:15;44:9;45:11,18; 47:3,15;51:6;52:8; 53:10,19;54:5;55:1; 57:8,17,18;60:10,13; 64:4,25;65:1,25;67:22; 68:11;70:10,11,24,25; 73:7,10,10,75:2,13; 78:6;81:23;84:1,20; 85:15;88:23;90:11; 91:21;92:20;93:11; 94:19;95:7,14;96:17; 101:14,15;107:8; 120:5,8;121:20; 122:22,22;124:22; 125:2;126:16,18; 129:2,13;131:2,3; 132:15,17;136:9,25; 137:4,10;138:9; 144:22;145:8,13; 147:11;150:8;152:14; 154:3,7,12;155:10; 157:8;160:15,16; 161:8;162:11;163:19; 164:5;165:10,22; 167:16;168:15;169:1; 172:11;177:16;178:2, 14,21;179:3,4,8,9,11, 20,21,22;180:11,11; 181:3;182:21,25; 183:23;185:3;186:13; 187:23;189:1,12; 202:20,21;203:12; 207:1,19;209:5,12,13; 212:18,24;213:25; 214:21;216:6;217:19; 221:3;223:7,7,14,16, 22;225:16;230:13; 232:16;233:16;234:14, 24;235:2,2;238:10; 239:1;243:19,20,22,23; 245:7;247:13,13,16; 250:6;251:17,24; 252:1,14,16;254:11,21, 21,22;255:10;257:6, 17;258:21;259:3; 260:4;263:7,12,20,20; 264:11;265:14;267:6, 20;268:5;269:6; 270:11;275:9;276:3; 277:17;279:19;280:12; 284:5,17,18,22;285:8; 286:6,8;287:15,23; 288:21;289:24;294:8</p> <p>cap (4) 109:3,4,18;125:1</p> <p>capability (1) 184:9</p> <p>capable (1)</p>	<p>193:12</p> <p>capacity (3) 133:11,13;141:11</p> <p>capped (1) 10:7</p> <p>car (3) 214:12;222:10; 225:16</p> <p>card (4) 190:7;240:10; 252:13;270:9</p> <p>care (7) 43:16;67:10;104:15; 215:18;233:21;234:5; 287:6</p> <p>career (2) 191:7,8</p> <p>carried (1) 127:21</p> <p>Carrier (3) 35:20;181:6;182:9</p> <p>carry (1) 16:9</p> <p>Carter (4) 5:10,23;6:17;60:10</p> <p>case (39) 5:14;6:16,21;8:16; 11:16;26:10,12;35:15; 45:16;66:3;67:17,19; 68:12,13,14,20,21; 70:25;76:4;101:11; 117:11;138:16;145:24; 177:9,11,14,17;179:15; 180:6;181:13;182:13; 185:16;193:17;194:8; 195:4;217:2;253:19; 285:20;289:18</p> <p>case- (1) 136:9</p> <p>case-in-chief (1) 73:7</p> <p>cases (4) 153:10,13;180:19; 189:1</p> <p>cast (1) 276:24</p> <p>casual (2) 128:16;129:13</p> <p>catalyst (7) 220:20;221:12,19; 222:4;275:14;283:20, 22</p> <p>catch (1) 47:3</p> <p>cause (2) 160:24;164:13</p> <p>caution (1) 180:16</p> <p>cc (2) 181:3;251:25</p> <p>cc'd (1) 176:22</p> <p>Center (203)</p>
	C			
	<p>C-10.2.2 (6) 115:10;125:8,10; 173:25;174:13,23</p>			

17:25;27:10;41:15; 44:21,24;52:21;53:18; 55:6,14,17;96:20; 97:15;99:10,20; 105:14;108:25;109:3, 15,19;110:13;111:1,4, 9,21;112:10,11; 140:21;141:1,6,7,8,10, 25;142:16,24;143:4,7, 15,22;144:2;145:12; 152:2,9;153:18;155:1; 159:1;163:6;170:20, 21;173:20;192:15; 198:18,19,20;199:5,5, 5;200:16,24;201:4,6, 16,18;202:6,7,9,11,15; 203:2,6,10,13,19,25, 25;204:3,16,19,25; 205:1,5,6,8,11,15,16; 206:2,3,9,19;207:19, 25;208:18;209:3,4,17, 25;210:21,23;211:25; 212:2,3,9,21;213:4,5; 214:5,12;215:5,14,23, 24;216:4,5,9,18;217:5, 9,22,22;218:20,25; 219:13;220:7,11; 221:1,3;222:9,21; 224:9;225:13,17,17; 226:2;227:3;233:10; 234:9;235:6;237:5; 245:5,6;246:20,21,22, 25;249:14;251:1; 255:18;256:20;257:8; 259:1;261:1,4,8,17; 265:4,23;268:22; 269:2,3,5,13,25;270:2, 11,13,18,19;271:1; 274:3,9;275:9;276:18, 22;277:22;278:2,10; 279:5,6,10,17,18,21; 280:2,4,12,14,18; 281:23,25;282:1,3,8, 12,12,16,21,21,25; 283:8,14;290:13,17 centers (25) 42:4;97:3;171:1; 173:14,21;200:2; 203:24;206:11;209:13; 211:19,19;214:3,6,8; 217:16;240:1,2,3; 248:1,7;261:24;270:6; 273:10;276:23;277:3 central (13) 11:6;50:8;51:20; 52:20;55:16;57:12; 58:9;59:11;202:11; 203:6,19;209:4;275:3 certain (6) 67:22,23;196:22; 203:15,15;215:2 certainly (15) 13:8;45:11;91:4;	117:14;133:10;148:7; 152:2;183:25;187:22; 212:17;241:11,20; 247:13;275:2;277:25 certified (3) 32:11;188:21;193:11 cetera (5) 40:3;61:5;87:17; 281:15,16 chain (1) 42:19 challenge (1) 191:14 challenged (1) 223:6 chance (4) 126:20;131:7; 135:15;179:5 change (27) 35:25;49:5;50:15; 80:1;117:20;128:24; 135:12;162:6,21; 163:4,7,10,13;164:13, 22;165:25;166:17; 167:18,23,24;168:7; 171:5,10;224:2;247:8; 272:1;280:10 changed (10) 76:12;100:2;105:19; 108:4,13;156:2; 162:15;164:8;252:13; 289:23 changes (9) 27:1,10;156:2; 157:15;161:19,21,22, 24;166:10 changing (7) 34:2;163:8;217:13, 14;226:14;272:5; 278:21 Chapter (3) 29:15,25;30:2 character (3) 200:24;271:10;272:1 characterization (2) 111:15;187:15 characterize (1) 12:7 charge (1) 176:20 charges (1) 220:5 chart (12) 37:22;38:6;39:10,15, 20,20,22,23;41:20; 114:11,19;115:3 charts (1) 40:8 cheat (1) 214:21 check (2) 184:7,9 Chen (389)	5:13;7:14,16,21;8:1; 9:24;10:1,3;14:10,18, 21;15:8,11,13,17,21; 16:2,4,5,7,11,14,16; 18:2,8,10,12;20:7,20, 21;21:2,5,7,12,16,20, 23;22:10,12,19,22; 23:4,6,11,15,18,22; 24:1,3;25:3,22,23,24; 26:17,19,23;27:23; 28:7,9,11,15,17;29:1,7, 18,20;30:7,13;31:14, 17,22,24,25;32:2;34:9, 13,18;35:4;36:7,8,10, 19,22;37:7,13;38:23; 39:7,40;19,24;41:22; 46:18,21;58:21;59:25; 60:1;61:3,22;62:1,3,7; 63:17;64:9,10,11; 65:22;68:25;69:11; 70:14;71:11;72:6,25; 73:3;74:11,13;75:4; 76:4,21;79:2,5;80:11, 13;87:8;88:19;91:1,3; 92:17,22;93:5,20; 94:18,20,25;95:14; 98:1,13,18;99:15; 100:5,6;101:4,6;102:2, 19;103:22;106:8,19, 21;109:5;110:20,24; 111:1;112:23;115:21, 24;116:3,8,10,21; 117:13;118:18,24; 119:3;120:17;122:12, 14,20;123:1,3,17,19, 22,25;124:14;125:9; 131:18;135:5,7; 136:22,23;138:15,18, 20,23;143:11;154:5; 155:18;156:15;163:17, 18,21;165:8,13,21,23; 166:6,23,25;167:5,7,8; 168:11,24;169:8,10,15; 171:14,16;172:1,3,6, 18,22,25;173:6,9; 175:2,4;176:3,5,7,9; 183:5,9,16;184:20; 187:10,10,20,21;188:1, 10,11,13;189:10,18; 195:6,11;196:11,12,13; 199:10;206:4;207:2,5, 8;208:19;217:25; 218:11;222:19;227:6; 239:4,6,10;242:3,4; 243:12,20,22,24,25; 245:8,19,20,24;246:17; 247:20,22;248:25; 249:2,23,25;250:2,4,8, 10,12,14,17,23;251:10, 18;252:2,22,23;253:8, 13,17,21,23,25;254:3, 6,10,19,25;255:2,5,7,8; 256:1,6,14,16,19,24;	257:1,4,15,19,24; 258:5,7,9,11,14,20; 259:3,6,9,12,16;260:3, 13,15,18,19;262:11,14, 18,20,23;263:1,5,9,14, 16,20,21;266:16,18; 267:25;268:1,3,7,10; 276:7,10;281:4; 284:12,14,20,23;285:1, 3,6,8,19,22;286:3,4,21, 25;287:12,21;288:8,16, 20,23;290:21,22,24; 291:4,8,20,23;292:3,8, 19,24;293:5,7,9,13,17, 21,23;294:6,12,17 Chen's (2) 7:10;34:8 childcare (4) 19:11;42:19;225:5, 25 chronologically (1) 126:23 Church (1) 66:17 churches (1) 225:4 circle (1) 203:17 circulate (1) 252:5 circulation (1) 163:6 circumference (1) 77:18 circumstances (1) 100:2 cite (1) 131:3 cited (2) 279:22;282:24 cites (1) 30:13 citizens (1) 199:2 city (1) 200:18 civic (12) 201:23;204:4;206:5, 12,21;219:16;220:3; 226:5;233:7;247:1; 278:6,8 civil (4) 31:5;66:4,6;67:6 claim (1) 70:25 clarified (1) 5:23 clarifies (1) 85:4 clarify (2) 34:5;95:21 Clarksburg (75) 5:7;11:16,19;17:9;	44:23;78:20;96:20; 97:7;100:3;104:10,20, 25;105:5,12,20;106:6; 107:21;109:19;110:2, 13;147:4,6;169:12; 171:12;174:10;192:8; 194:12;195:3,11; 196:15,16,19;197:5; 198:6;199:22;200:1,3, 6,11,14,17,25;201:21; 202:14,16;204:5,8; 205:8,25;206:7; 210:11,23;214:24; 215:13;217:15;218:17, 25;219:5,12;223:25; 232:3,11;233:6,9; 238:18;239:16;247:9; 248:8;270:12;278:25; 282:14;283:1,4,7; 291:12 Clarksville (1) 5:8 classification (2) 24:4;235:21 clear (10) 6:2;45:1;48:2;83:22; 94:7;102:22;216:19; 226:18;233:14;284:17 cleared (1) 178:6 clearly (16) 66:22;67:1;78:18; 116:13;179:18;180:2; 202:21;215:4;216:8, 14;269:20;271:1; 273:17;277:1;282:17; 290:10 client (2) 20:1;181:8 close (8) 10:1;57:10,12;59:20; 176:9;178:2;183:3; 217:20 closely (1) 196:14 closer (4) 93:17,23;243:7; 264:10 closing (5) 120:5;122:24,25; 177:12,15 clusters (1) 201:2 code (1) 30:16 coherent (1) 226:1 cohesion (2) 270:15;275:3 colloquially (1) 46:11 color (6) 37:4,18;38:24;60:22;
---	---	--	--	---

85:3,5 colors (2) 37:11;53:17 Columbia (4) 184:8;188:17,17; 203:1 column (1) 40:8 com (1) 210:6 combination (2) 24:8;139:24 combined (1) 180:1 coming (14) 22:1;27:10;118:9; 123:25;124:8;137:2,6; 178:15,20;194:18; 223:4;247:20;286:9; 292:11 comment (3) 103:16;124:17; 144:20 comments (5) 26:16;176:21,21; 191:15;270:1 commercial (28) 58:9,10;117:17; 125:14;130:3;134:1, 19;141:15;144:6,6,12, 13;174:20;189:4; 204:4;211:24;212:5, 11,18,19;227:2;230:2; 237:4,5;239:20,22; 273:1,4 Commission (1) 231:9 commitment (1) 287:13 common (3) 35:12;146:24;239:18 Commons (1) 5:4 communicate (1) 284:19 community (42) 17:21;18:15,16;19:5, 11,23;20:2;110:15; 145:22;171:6,11; 215:13,20,25;219:7,11, 24;221:1,6;224:15,16, 18,19;225:5,20,25; 226:9;228:23;229:12, 17,20;230:11;240:22; 241:4;242:8;246:2; 270:7,13,15;275:3; 278:25;283:6 comparability (1) 122:15 comparable (4) 122:10,20;147:17; 248:7 compare (9)	59:19;61:11;86:17; 99:8;123:8;200:3; 203:3;208:9;272:24 compared (1) 213:20 comparison (6) 96:24;97:9,23;130:9; 239:23,24 compatibility (2) 71:15;232:13 compatible (1) 200:24 compete (1) 234:9 competence (3) 191:22;237:25; 249:20 competes (2) 213:5;235:6 competing (11) 44:12;198:18;199:5; 207:17;210:23;216:7; 220:7;223:4;225:11; 232:18;282:14 competition (2) 199:6;207:19 complaint (1) 202:18 complete (3) 144:16;217:4;291:16 completed (1) 68:21 completing (1) 6:14 complex (3) 193:10;264:6,16 complexes (3) 264:10;265:13,14 compliance (11) 70:1;71:24;106:15, 17;110:2,4;229:16; 230:20;231:6,10; 278:12 compliant (1) 108:15 complicating (1) 209:9 complication (1) 203:9 complied (1) 89:14 complies (3) 195:8,14;198:6 compliment (1) 113:23 comply (3) 31:18;195:15;198:8 component (12) 18:14;74:1;180:2; 201:1,16,20;220:2; 228:23;240:23;241:2; 246:2,3 components (2)	51:6;74:4 composed (1) 209:18 comprehensive (6) 117:2;127:2,6; 191:11;192:19;200:21 computation (2) 174:17,23 computations (1) 174:6 concentrating (1) 208:25 concentration (9) 52:20,25;53:5;92:9; 122:3,5;274:22,25; 275:7 concentric (1) 203:17 concept (20) 49:3;52:16,21;55:9; 161:2;199:22;200:11; 201:24;202:14;203:5; 205:20,25;209:10; 219:18;223:2;233:8; 237:21;242:22;289:20, 21 concepts (1) 207:14 concern (11) 34:8;45:25;46:14; 71:6;186:5;199:4; 216:23;269:10;280:3; 282:15;292:3 concerned (3) 216:21;274:24; 278:22 concerns (6) 46:14;216:2,19; 222:23;223:7,8 concerts (1) 221:5 conclude (3) 84:20;117:11;223:22 concluded (3) 262:21;263:1;295:2 concluding (2) 192:16;234:21 conclusion (11) 61:24;106:20; 115:19;118:22;148:3; 150:15;161:25;193:2; 198:13;199:19;234:22 conclusions (4) 17:4,19,23;116:5 concur (1) 142:17 condition (2) 67:21;176:15 conduct (1) 273:3 configuration (2) 163:5;165:25 confirm (1)	126:21 confirmed (1) 183:11 conflict (3) 161:14;162:23;234:9 conflicts (1) 162:24 conform (7) 61:17;74:10;83:25; 87:23;156:17,18;180:5 conformance (2) 110:7;150:23 conformity (1) 151:1 conforms (9) 31:21;61:19;63:15; 83:23;163:23;168:4,5, 13,13 conjunction (1) 153:7 connect (2) 273:15,21 connecting (1) 240:17 connection (2) 160:3;219:14 connections (1) 218:20 conservation (120) 24:10,13,16,17,20, 22;26:12;27:2;28:2,20, 22;29:8,14,24;30:17, 19;31:4,18,19;33:1,2,5, 6,7,18;34:17;62:11,19, 22,24;63:2,5,6,8,9,11, 15,22,23,23;65:16; 66:4,15;67:9;69:6; 71:18;72:19;73:13,16, 18,21,25;74:7,10,14, 16;75:5,8,11,12,15,21; 76:5,7,10,13,16,19; 77:1,4,5,11,15;78:9,22; 82:10;83:23;84:1,2,21; 151:18,22;152:5,9,11, 13,15,16;153:7;155:6, 17,25;156:8,18;157:2, 19,20,21;159:23; 160:25;161:8,14,18; 162:9,10,15,16,25; 163:14;164:2,8,18,20, 23;165:4;167:21; 168:2,6;185:15;186:17 consider (1) 101:14 consideration (1) 240:18 considerations (1) 170:24 considered (9) 50:22;97:8;110:12; 118:22;146:4;170:15, 23;171:2;239:21 considering (3)	17:10;105:6,10 consistency (12) 59:17;71:18;106:14; 149:25;150:6;151:1; 191:11,14;192:8; 193:18;232:2,2 consistent (21) 101:25;102:5;136:6; 141:21;161:7;162:8; 163:14;189:3;209:19; 225:1;233:11,13,14,15; 234:12,13;235:3,23; 246:18;278:10;279:16 consisting (1) 5:6 constraints (2) 163:1;285:7 constricting (1) 236:20 constructed (2) 68:8;149:2 construction (6) 81:23;112:20; 158:11;159:13,16; 169:1 Consulting (2) 186:22;265:7 contact (2) 248:19;249:3 contacted (1) 250:25 contain (3) 8:6;115:14;238:20 contained (3) 125:19;184:17; 281:20 contemplated (3) 85:14;143:16;283:12 contemplates (1) 246:19 contemplating (2) 45:15;292:19 contemplation (2) 44:13;101:21 contents (2) 28:14;32:10 context (8) 65:13;69:22;144:25; 164:17;182:5;199:19; 229:21;281:21 continually (1) 133:12 continuation (1) 5:2 continue (18) 7:15;50:3;51:6,24; 73:10;75:1;88:19;96:7; 101:16;102:25;160:16; 165:10,19;170:25; 209:17;263:22;280:4; 287:15 continued (3) 41:19;185:6;294:20
---	---	--	---	---

<p>continues (3) 5:25;219:25;233:18</p> <p>continuing (2) 115:19;204:22</p> <p>contrast (3) 206:11;208:4;209:2</p> <p>contributing (1) 283:15</p> <p>control (2) 70:17;183:19</p> <p>controlled (1) 130:21</p> <p>controlling (2) 115:5;128:11</p> <p>convenience (4) 53:20;96:24;97:8; 239:23</p> <p>coordination (1) 12:4</p> <p>copied (3) 22:5;79:4;239:12</p> <p>copies (9) 34:6;61:21;135:8; 172:9,11;187:22; 250:15;291:1,7</p> <p>Coppolla (1) 113:14</p> <p>copy (19) 15:21;16:1;21:1,4; 24:25;25:8,20;32:11; 33:20,22,24;48:17; 131:6,21;132:17,21; 167:2;252:1;276:7</p> <p>core (25) 11:23;12:1;42:4,14, 21;48:22;50:20,22,23; 51:6,6;52:11;55:1,13; 57:11;86:12;92:7,8,11; 93:1,13;99:6;220:24; 230:14;242:21</p> <p>corner (5) 50:1;79:9,21;204:12; 255:13</p> <p>corners (1) 49:25</p> <p>corrected (1) 96:8</p> <p>correctly (2) 105:21;249:16</p> <p>correlate (3) 39:22;80:17;181:9</p> <p>correlates (2) 40:7;133:20</p> <p>corresponds (1) 85:6</p> <p>corridor (24) 51:14,17;52:3; 112:13;113:18;200:18; 201:8;203:10;205:21; 208:14,18;210:11; 220:14;221:22,23; 228:3;229:2;232:25; 237:16;241:8;255:13;</p>	<p>278:2;283:15;284:5</p> <p>corroborating (1) 249:21</p> <p>Council (12) 5:5,16,17;87:11; 115:15;169:25;180:17; 196:24;223:23;241:9; 276:4,12</p> <p>counsel (9) 20:23;105:3;138:15; 165:13;169:12,17; 170:9;250:17;260:18</p> <p>count (2) 105:21;179:8</p> <p>counted (4) 180:11,13,13;213:24</p> <p>County (24) 64:21;76:24;162:6; 188:25;189:6,8; 191:10,13,13,24,25; 192:1,7,11,25;193:3; 195:3;201:9;210:13; 219:3;264:6,9;266:11, 12</p> <p>County's (2) 76:7;193:9</p> <p>county-wide (1) 235:21</p> <p>couple (3) 32:2;104:7;175:19</p> <p>course (1) 283:7</p> <p>court (6) 50:8,11;51:20;52:2; 64:20;117:22</p> <p>Covenant (1) 66:17</p> <p>cover (4) 25:7;84:6;130:17; 252:25</p> <p>covered (6) 7:17;18:11;102:20; 130:20;163:18;180:17</p> <p>covering (1) 167:18</p> <p>covers (5) 25:12;107:6;159:13, 14;167:22</p> <p>crash (1) 210:6</p> <p>create (9) 51:10;114:5;202:10; 203:19,22;205:4; 208:24;209:3;215:24</p> <p>credentials (3) 66:23;67:1;187:18</p> <p>credibility (1) 181:5</p> <p>credit (2) 83:9;287:19</p> <p>criteria (2) 31:10;35:7</p> <p>critical (5)</p>	<p>77:18;272:17; 274:21;275:1;287:25</p> <p>cross (7) 11:6;42:24;58:14; 74:17;86:22;166:23; 267:22</p> <p>cross- (7) 81:19;87:8;92:20; 94:21;140:22;183:19; 256:1</p> <p>cross-examination (9) 7:10,25;35:3;75:2; 95:1;122:23;138:11; 195:18;286:9</p> <p>cross-examine (3) 93:11;154:6;186:7</p> <p>cross-hatch (1) 79:21</p> <p>cross-hatched (1) 126:7</p> <p>crossing (1) 139:25</p> <p>current (13) 24:19,19;60:5;64:15, 16;70:1;103:15;122:2; 159:18,21;171:16; 189:4;233:25</p> <p>currently (5) 61:11;162:23; 222:12;234:7;280:19</p> <p>cut (16) 7:23;52:19;57:25; 86:15;105:12;107:24; 139:12,12;140:2,13; 213:10;214:13;217:2; 225:2,19;277:7</p>	<p>218:12;253:2</p> <p>dates (9) 21:13;76:11;285:16; 286:11;287:7,16; 288:15,20;293:16</p> <p>day (23) 7:7;25:24;44:2; 45:23;48:14;68:25; 78:17;127:12;143:11; 197:1;199:2;270:24; 282:14;284:1,13; 285:9,18;286:5,16,18; 287:18;288:13;289:25</p> <p>days (4) 14:5;37:4;74:25; 287:18</p> <p>deal (4) 178:17;227:22; 228:19;242:17</p> <p>dealing (8) 11:15;135:23; 140:19,20;159:22; 186:9;189:2;227:14</p> <p>dealt (1) 34:10</p> <p>debate (3) 70:23;71:3;193:24</p> <p>decent (3) 193:13;241:18,18</p> <p>decide (2) 95:7;185:9</p> <p>decided (1) 140:12</p> <p>decision (3) 146:2;253:25;273:18</p> <p>decor (1) 92:4</p> <p>dedicated (2) 152:4;226:4</p> <p>defer (3) 34:11;274:25;275:24</p> <p>define (2) 53:4;227:18</p> <p>defined (2) 203:2,2</p> <p>defines (3) 121:2;182:14;230:24</p> <p>definitely (4) 93:23;148:17; 149:10;150:19</p> <p>definition (6) 8:18;180:1;211:7; 226:25;239:25;274:2</p> <p>definitive (1) 44:15</p> <p>degree (3) 190:15,16;214:8</p> <p>degrees (1) 190:12</p> <p>delay (3) 6:18;222:8;239:8</p> <p>deli (1) 240:9</p>	<p>demand (7) 100:2,8,11;101:2,11, 25;102:6</p> <p>demographers (1) 273:3</p> <p>demonstrate (1) 139:2</p> <p>demonstrates (1) 204:14</p> <p>densities (10) 55:25;56:1;189:3; 217:14;222:14;223:19, 20,25;232:15;235:3</p> <p>density (29) 55:14;57:11;87:4; 94:9;115:1,2,6,13; 125:15,17;130:16,21; 181:10;201:18;203:16; 204:18,20;205:2; 232:12,22,24,25;235:4; 236:18;243:7;278:12, 13,20,22</p> <p>Department (9) 76:24,25;97:6;191:1, 9,16;239:15;265:9; 276:13</p> <p>depend (1) 149:5</p> <p>dependency (1) 200:21</p> <p>depending (6) 13:22;148:17;149:7; 161:16;165:11;246:15</p> <p>depends (1) 164:14</p> <p>depict (1) 292:4</p> <p>depicted (1) 293:25</p> <p>depicts (1) 260:23</p> <p>Deposition (2) 285:11;288:10</p> <p>depositions (1) 285:9</p> <p>derivation (1) 127:17</p> <p>derivative (2) 128:10,10</p> <p>describe (6) 38:9;48:11;90:12; 133:5;173:19;260:4</p> <p>described (8) 51:11;52:10;130:23; 133:21;134:8;149:10; 204:16;243:5</p> <p>description (4) 52:5;129:18;158:20; 294:8</p> <p>deserve (1) 287:19</p> <p>deserves (5) 93:22;95:6;98:22;</p>
D				
		<p>D-1 (1) 182:5</p> <p>D-1.3 (1) 32:13</p> <p>D-1.3c (1) 40:14</p> <p>D-1.61e (1) 35:8</p> <p>D-1.74a (2) 32:6,8</p> <p>D3 (4) 149:24;150:5,13,20</p> <p>D-3 (1) 71:22</p> <p>Damascus (3) 201:22;218:18;233:7</p> <p>darker (2) 56:18,18</p> <p>date (7) 49:4;65:6;185:24; 286:6;288:16,21; 290:23</p> <p>dated (5) 184:19;197:13,14;</p>		

<p>109:8;165:11 design (4) 49:4;161:13;168:21; 215:13 designate (2) 143:4;228:13 designated (2) 42:4;205:21 designation (4) 11:4;12:3;13:24; 85:7 designed (1) 146:15 desirable (5) 141:21;213:17; 219:7,21;283:6 desire (3) 112:12;219:13; 282:15 desired (1) 219:11 desires (1) 219:3 destroyed (1) 289:21 detached (3) 38:7;56:3,16 detail (4) 76:16;131:15; 165:19;198:23 detailed (2) 78:25;161:18 details (4) 164:12;194:6,6; 207:12 determination (1) 275:6 determine (2) 174:7;195:1 detract (1) 274:21 detracted (1) 273:23 detriment (1) 140:15 develop (4) 42:6;50:5;124:25; 126:11 developable (9) 27:12;75:20;76:2; 78:4;82:19;161:9; 167:24;168:1,14 developed (10) 75:13,22;108:13; 204:1;211:21;217:8; 242:7;244:3;265:23,24 developers (1) 282:8 development (288) 5:5;9:20;11:1;19:22; 24:11;25:9;27:1,13,15, 17,21,23;28:1,20,21; 29:9,15,25;30:3,14,15,</p>	<p>15,17,18;31:3,20;32:7, 10,12;33:16;34:16; 35:16,18;36:4,13; 37:19;40:21;43:8,17; 49:14;50:13,17,24; 51:7;56:16,24;59:6; 60:5,20,23;61:4,11,14, 16,17;62:23;67:14,20; 71:16;72:7,17,20;74:9, 18,24;75:16,19;76:8,9; 77:10;79:19;80:1; 81:22;83:22,25;84:20; 86:2,4,9,19,25;87:19; 88:4;89:23;90:22;92:6; 93:2,15,17;101:23; 102:11,14;103:16; 108:3,11;110:13; 111:21;115:1;117:5; 120:14,25;122:1,2,8,9, 10,11;123:6,8;132:7; 133:5,25;134:19,24; 136:8;141:11;152:3, 12,14;155:1;160:3; 161:6;162:10,11; 163:12;164:1,5,19,21; 165:18;166:14;167:17; 181:24,25;182:1,2,6; 185:17;192:21;193:17; 196:23;197:10,12,14; 198:5,15;199:3,6,11, 12;200:8,16;201:2,11, 14,23;202:2,13,24; 203:18,22;205:24; 206:17,23;207:11,13; 208:10;209:12,19,23, 25,25;210:10;211:24; 212:3;213:2,9,12,15, 20;215:5,6,12,17,22, 24;216:1,7,18;217:8, 10,18,24;218:22,23; 219:17,18,19,25;220:4, 4,20,21,22,24;221:1,2, 14,17,17,20,21,22,24; 222:3,8,17,21;223:12, 18;224:7,11,14;225:1; 226:7,9,11;229:22,23, 25;230:2,4;231:25; 232:6,7,9,20;233:3,8, 21,24;234:2,4,6,13; 235:5;236:9,10; 237:21;241:14,15; 248:22;259:2;264:3; 265:3,16,20,22,23; 266:4,8,10,10,14; 267:7;273:23;274:15, 16;275:11;276:18; 277:1,6;278:10,24; 280:1,5,7,8,8,11; 281:25;282:12,22,23; 283:19,20,24;289:2 developments (1) 240:12 develops (1)</p>	<p>52:16 diagram (2) 41:1;55:7 diagrams (1) 89:19 dictate (1) 68:11 differ (1) 115:16 difference (11) 8:13;75:5,7;80:10; 95:2;129:3;142:9; 193:25;212:22;213:22; 233:24 differences (2) 209:5;213:1 different (32) 5:19;15:23;67:3; 71:9;106:15;115:4; 121:8;122:6;134:12; 149:6,6;154:16; 159:22;161:1,13; 186:24;189:1,3; 199:16,18,20;203:4,4; 206:13,18;207:14; 209:7;211:5;268:23; 271:10;272:2,12 differently (1) 90:23 difficult (3) 18:6;224:3;272:25 difficulty (1) 124:13 diffusion (1) 274:20 dire (2) 189:20,22 direct (10) 46:2;68:14;99:10; 103:1;109:12;119:5; 188:12;230:9;271:6; 291:15 directed (3) 39:8;105:3;151:22 directing (3) 14:22;16:17;227:11 direction (1) 225:10 directive (7) 115:6;170:1,9;276:4, 12,13,21 directly (4) 201:11;221:16; 231:20;250:23 director (2) 188:20;249:12 dired (1) 195:18 disagree (3) 142:20;143:20; 234:22 disagreement (2) 5:25;234:25</p>	<p>disapproval (1) 191:17 disclosed (1) 63:19 disconnect (1) 222:6 discreet (1) 187:5 discuss (1) 178:12 discussed (7) 37:4;49:3;89:19; 94:14;124:6;151:12; 211:24 discusses (3) 16:21;17:15;173:21 discussing (1) 158:5 Discussion (47) 9:23;15:20;16:6,13; 17:19;20:18;34:1; 62:17;72:21;79:6; 113:20;118:6,10,13; 119:11;131:24;132:6, 11,16;157:5;183:8; 185:12;198:11;200:5, 7;202:6;211:4,25; 220:14;223:12;227:1, 19;228:21;231:22; 232:7,19;238:9,10; 239:17;252:15,21; 256:9,13;259:7,25; 260:8;276:6 disheveled (1) 114:13 disjointed (1) 7:18 dismiss (1) 68:22 dispersion (1) 52:18 distinguish (1) 96:23 distribution (3) 85:24;134:6;274:20 District (42) 5:5;8:4,22;9:5,6; 46:25;48:19;49:7,11; 53:10;54:19;55:24; 79:1,16,19;87:11;93:1, 13;115:15;122:3; 142:16,24;167:10; 196:24;198:20;199:12; 200:25;201:15;202:7, 18;204:17,18;206:23; 207:7;216:3;233:9; 241:9;242:24;243:2; 246:9;278:7,23 districts (2) 271:11;272:2 disturbance (4) 75:24;81:16;161:10; 162:13</p>	<p>disturbed (5) 75:20,24;76:1;78:7; 164:4 diverse (4) 92:14,16;114:5; 203:23 division (1) 199:1 document (67) 20:22,24;23:16; 26:11;40:16;63:12; 74:22;94:20;98:18; 102:22,23;106:8; 109:5;111:2,3;115:22; 117:19,21;118:11,12; 138:4,5,15;164:9; 170:22;191:13,13; 198:22;202:2,20,23; 206:1;207:25;211:16, 25;212:4,22;214:19; 215:21;218:20;222:14; 225:21;226:18,22; 227:1;229:7;235:25; 236:5;238:9;239:3,13, 24;247:11,12,13; 250:19,22;255:11,15, 17;256:2,4;269:21; 273:14,16;276:5; 279:23 documented (1) 117:25 documents (10) 12:11;35:10,23,25; 68:7;136:22;196:22; 197:16,19;208:7 dog-eared (1) 194:15 dominate (2) 148:7,14 done (18) 23:11,14;39:15; 67:15;69:24;77:21,21, 23;82:1;84:16;163:10; 177:5;179:11;184:5; 238:18,19;272:22; 273:1 dot (6) 78:17;85:1,5,8; 210:6;273:21 dots (1) 273:15 doubt (1) 240:8 dovetails (1) 207:23 down (37) 7:23;11:7;12:6; 47:10,13,19;55:16; 93:18;96:17;117:9; 124:23;133:17;142:7; 158:19;165:4;170:17; 188:5;193:12;200:19; 204:11;213:22,25;</p>
---	---	---	---	--

221:18;223:4,16; 227:23;232:11,20,25; 244:14;246:9;247:4; 258:25;265:21;266:5, 14;274:6 downplay (1) 241:12 DP (3) 25:25;87:10;218:24 DPA (46) 8:20,23;12:2,12,16; 13:20;22:8,9,10,10,11, 13,15;24:11;27:23; 29:15;36:14;39:9,12; 41:6,7;52:22;63:15; 74:14,19;83:23;87:12; 121:19;156:17;163:23; 164:1;168:5;173:24; 174:8,14,18;195:8; 197:8;229:12;230:16; 231:5;232:9;233:18; 241:9;242:7;244:3 DPS (4) 176:20;177:25; 179:8,21 drainage (1) 159:13 draw (4) 17:4,18,23;204:2 drawing (2) 55:17;206:20 drawn (2) 181:5;238:10 drink (1) 185:3 drive (1) 214:12 driven (1) 139:18 driving (3) 146:10;148:2,6 drop (1) 170:17 drycleaners (3) 46:8;211:20;240:10 due (3) 44:16;156:2;197:15 duplicate (1) 172:24 duplicating (1) 277:24 duplication (2) 7:21,22 duplicative (1) 18:3 during (3) 135:8;155:18;288:21 dwelling (3) 19:8;58:2;225:2	133:21;134:8; 239:13;246:25;279:23 earliest (1) 285:13 early (10) 95:22;181:23;191:8; 199:21;215:5,23,24; 216:9;241:14;288:22 easel (7) 36:12,15,19;60:4,6,7, 13 easement (2) 162:4,5 easements (3) 81:5,21;162:2 easier (2) 32:24;179:23 easily (2) 236:21,22 east (18) 5:7,49;18;50:3;51:2, 7,24;55:10;57:6;68:1, 5;140:16;142:16,24; 143:4;159:17;215:5, 17;280:1 easy (3) 18:10;252:2;255:6 economic (5) 91:7,8;216:7;220:24; 223:5 economist (2) 100:7;221:8 economy (1) 223:3 edge (1) 108:9 EDS's (1) 161:12 education (1) 189:14 efficiency (1) 70:22 effort (1) 260:20 efforts (1) 287:15 eight (2) 167:12;233:13 either (13) 13:23;33:17;43:4; 90:11;158:3;185:15; 221:15;222:8;275:10; 284:7;287:21;291:23; 294:7 elaborate (4) 139:21;144:22; 189:12;198:10 element (14) 13:1,7;14:1,19; 26:13;179:16,18; 181:12,22;182:5,8; 202:13,14;289:17 elementary (4)	19:11;108:7;225:6, 25 elements (10) 61:8,9,10,18;181:8, 10,19,24;182:10,13 Elm (2) 110:13;111:21 else (9) 68:9;158:9;187:3; 203:5;210:20;230:3; 283:9;284:9;294:9 e-mail (3) 251:22;252:10; 284:20 embraces (1) 219:20 emphasis (2) 205:8;220:7 emphasize (1) 102:21 emphasized (2) 214:20;275:12 emphasizes (2) 201:1,7 employees (1) 147:12 employers (2) 112:21,22 employment (74) 19:9;38:4;51:4; 53:25;113:16;117:12; 118:23;120:10;123:10; 145:8,12;146:4,7,11; 147:20,22;192:15; 201:10;203:16;204:19; 205:21,22;206:21; 208:12,13;209:13,16, 18,20;210:5,18,19; 215:20;218:25,25; 220:13,14;221:14,17, 20,23;222:3;223:4; 224:21;227:25;228:2, 25;230:3;232:24; 233:17,19,19;234:3; 236:7,16;237:16,18; 238:2;239:19;240:22; 241:1,6,10,12,14,16; 246:12;266:4;270:9; 272:23;273:2,8; 282:25;284:4 empty (1) 216:3 encountered (1) 169:20 encourage (8) 54:2;184:4;203:21; 208:12;215:24;221:14; 228:2;241:6 encouraged (2) 215:21;266:4 encourages (2) 85:24;114:6 encouraging (1)	220:20 encroach (1) 152:10 end (10) 44:2;45:22;69:4; 143:10;154:15;159:12; 177:10;226:7;287:6,7 ended (2) 221:15;273:12 enforceable (1) 179:19 engineer (4) 31:6;66:4,6;67:6 engineering (1) 67:15 engineers (1) 186:22 enough (6) 48:2;157:3;204:18; 233:15;239:23;279:17 ensure (1) 279:20 entertainment (3) 219:1;233:23;234:8 entire (10) 31:20;106:6;130:17, 20;202:12;203:7,20; 209:4;237:25;250:22 entirely (3) 29:22;90:17,18 entitled (2) 139:3;207:6 envelope (5) 161:6;162:7,8,12; 163:12 envelopes (1) 163:9 Environment (4) 191:17;279:5;293:9, 11 environmental (12) 66:13;67:6;76:25; 139:13,18,22;161:12; 188:17,20;191:2; 201:19;267:18 envision (4) 42:7;210:10;270:12; 275:4 envisioned (12) 203:25;204:5;214:4, 16;220:11;222:9,14; 223:21;224:5;225:4, 20;235:9 envisioning (1) 210:6 envisions (3) 42:13;200:14;206:11 epicenter (6) 52:5,9,10,14;121:17, 24 equating (1) 117:17 equivalent (2)	213:10;226:17 ESD (3) 162:7,25;163:4 especially (2) 278:2;280:1 essentially (4) 8:4;129:11;198:18; 272:19 establish (5) 218:24;219:6; 233:18;283:1,5 established (3) 163:2;215:7;216:5 establishing (1) 219:10 establishments (1) 240:7 estate (1) 225:9 estimate (5) 101:1;102:1;239:19; 272:22;273:6 et (5) 40:3;61:5;87:17; 281:15,16 evaluated (2) 97:6;239:15 Evans (3) 261:11,14;264:24 even (29) 6:24;42:3;44:25; 45:1;47:17,18;149:18; 160:2;164:19;181:11; 186:6,21;193:3;194:4, 5;199:8;204:2;206:17; 221:16;222:24;223:1, 2;224:2;225:16; 229:25;240:16;243:13; 259:21;261:25 event (1) 262:14 eventually (2) 233:1;279:17 Everybody (4) 158:19;177:6; 183:25;254:12 everybody's (1) 44:13 everyone (1) 48:2 Everywhere (1) 211:16 evidence (12) 6:15;30:25;31:8,11; 36:9;68:23;117:14; 118:11;247:12;276:7, 10;291:25 evolved (1) 139:23 evolves (1) 133:7 exact (3) 128:7,7;149:8
E				
earlier (5)				

<p>exactly (3) 59:13;185:14;190:5</p> <p>exam (1) 231:20</p> <p>EXAMINATION (14) 60:25;87:9;92:21; 94:22;124:9;140:23; 155:17;163:20;183:20; 188:12;189:22;262:20, 23;271:6</p> <p>examine (2) 256:2,14</p> <p>examined (2) 195:20;256:15</p> <p>Examiner (42) 7:17;28:17;29:3; 32:4,5;35:16;36:20; 59:9,16,22;61:21,23; 71:13;123:23;135:16, 21;156:15;159:24; 164:6,16;167:5; 176:25;179:20;180:19; 188:14;189:10;227:20; 234:25;239:1;246:16; 247:13;248:15;250:6; 251:4;253:13;256:16; 257:10;258:22;259:6; 260:15,22;281:19</p> <p>examiner's (1) 67:18</p> <p>example (8) 49:19;54:1;147:16; 203:1;212:16;230:2; 232:1;283:19</p> <p>examples (5) 53:10;107:8,11,16, 20</p> <p>exceed (3) 83:7;115:2,6</p> <p>exceeds (1) 244:23</p> <p>except (3) 157:25;164:10; 252:25</p> <p>exception (3) 105:1;262:18,23</p> <p>excerpt (2) 251:4;253:3</p> <p>excerpts (1) 253:10</p> <p>excitement (1) 291:14</p> <p>exclude (1) 195:21</p> <p>exclusive (1) 114:24</p> <p>exclusively (3) 54:5;90:21,25</p> <p>excuse (12) 19:21;22:9;39:17; 82:19;101:6;105:24; 116:10;145:13;168:4; 201:1;239:22;246:5</p>	<p>excused (2) 184:25;185:2</p> <p>exhausted (1) 247:14</p> <p>exhibit (134) 9:16,18;15:7,23; 16:4;20:12;21:8,10,18, 25;22:4;24:24;25:2,2, 3;34:24;36:15;37:5,6, 14,20,25;38:20;39:5, 10;40:16;41:12,15; 48:6,15,16,17,18;49:7, 11;50:7,25;51:9;53:9; 55:15;56:5,6;60:19,23; 63:15;64:8;69:19;71:7, 12;74:14;77:8;79:2; 86:5;90:15;95:13,19, 23;96:14;104:21; 118:17;119:6,8,10; 123:11;126:6;132:23; 133:15,19;135:3,3,25; 136:18,18,18;142:19; 153:5,11;154:16; 155:19,25;157:14,16; 158:10,17;159:23; 163:23,23;164:7; 165:15;166:1,12; 167:1;169:11;171:14, 24;172:16,17,19,24; 173:4,7,10;184:15,17, 18,23;189:11;197:22; 206:23;207:3;218:12; 220:18;250:6,21; 252:24;253:6,11; 255:10;256:17,22; 257:6,11,12;259:13; 260:16;268:14;272:8; 276:11;280:25;281:10, 20;282:4,5;291:2</p> <p>exhibits (9) 7:11;15:22;60:17,17; 90:11;246:9;260:12, 14;293:25</p> <p>exist (2) 202:4;208:14</p> <p>existed (2) 152:8;234:6</p> <p>existence (1) 210:4</p> <p>existing (6) 31:3,19;40:20;84:20; 86:9;120:14</p> <p>exists (5) 208:17;210:22; 234:7;240:8;242:7</p> <p>expanded (1) 233:10</p> <p>expanding (2) 50:10;201:16</p> <p>expected (5) 67:5,23;185:22; 265:16;277:22</p> <p>expedite (1)</p>	<p>260:20</p> <p>experience (7) 66:13;99:25;189:14; 190:24;192:17;193:11; 217:4</p> <p>experiences (1) 52:15</p> <p>expert (34) 64:2,17;65:2,8,24; 66:19;67:9;69:5;70:23; 71:14;72:24;73:9; 100:12,13,14;137:2,5; 138:9;153:25;186:16; 187:17;188:23;189:15; 192:21;193:3,4,23; 194:25;195:2,7; 196:10;253:3;286:11, 12</p> <p>expertise (16) 63:20,21;65:19,25; 66:1,14;91:6,7,8,19; 101:8;193:6;195:16; 216:17;241:24;284:3</p> <p>experts (3) 26:2;187:13;284:12</p> <p>explain (18) 37:11;44:17;55:21; 68:17;85:2,15;94:8; 135:16;154:7,12; 156:7;159:10;198:9; 231:15;234:24;235:18; 239:1;260:22</p> <p>explained (3) 8:3;49:8;231:5</p> <p>explaining (1) 198:13</p> <p>explains (1) 156:10</p> <p>explanation (1) 198:10</p> <p>explicit (1) 143:20</p> <p>explicitly (1) 46:4</p> <p>exposure (1) 194:1</p> <p>express (1) 122:23</p> <p>expressed (5) 139:3;231:18; 234:18;269:10;276:20</p> <p>expresses (1) 282:15</p> <p>expressing (1) 45:25</p> <p>expression (2) 134:25;136:6</p> <p>extend (1) 179:3</p> <p>extensive (2) 155:16;189:13</p> <p>extent (8) 72:21,23;102:25;</p>	<p>185:21;225:7;226:4; 275:7;282:13</p> <p>extraordinary (1) 6:24</p> <p>extremely (1) 220:2</p> <p>Eye (5) 10:13;50:2;51:1,2; 159:12</p> <p>eyes (2) 194:19;279:3</p>	<p>127:18;128:7;130:8; 152:7,17;153:2; 179:23;180:7;197:2; 225:10;231:4</p> <p>fascinating (1) 206:16</p> <p>fast (5) 197:18;238:19; 240:25,25;259:23</p> <p>favor (1) 54:8</p> <p>favors (1) 215:17</p> <p>fax (1) 114:14</p> <p>feature (4) 148:14;153:7,11; 157:14</p> <p>features (8) 68:7;156:2;160:22, 23;161:13,13;163:4; 277:21</p> <p>feel (5) 45:22,23;137:8; 162:25;224:7</p> <p>feet (104) 5:20;9:1,8,10;10:5,6; 11:12;13:2,6,25;18:25; 19:9,10,16;38:18,19; 39:16;43:11;58:16; 59:7,14;85:19;89:1,4,8, 9,10;94:7,12;100:21, 24,24,25;101:22; 102:10,23;103:18; 104:8;109:16,21; 110:21;111:25;120:15, 16;124:19,24;126:1; 127:21,22;130:8; 134:1,20;135:1; 136:17;138:25;139:4; 141:5,16,18;142:6; 144:3,4;147:10,24,25, 25;149:3;174:9,17; 179:8;180:11;210:19; 212:4,6,10;213:21; 214:1;224:23;225:24; 226:11;227:5;229:10, 24;232:10;234:2; 237:20;238:13;240:16, 17,18;244:5,7,22,25; 246:15,23;247:3,5; 273:13,16,19;274:5,6,7</p> <p>fell (1) 160:11</p> <p>felt (1) 27:3</p> <p>Ferguson (4) 91:15;176:2;186:13; 187:8</p> <p>few (5) 42:19;48:1;127:6; 147:13;175:9</p> <p>field (3)</p>
--	--	--	--	---

<p>71:14;223:5;267:4 fifth (1) 99:11 fight (1) 68:19 figure (4) 89:22;204:9,10; 224:5 file (8) 25:21;26:7,9;33:21, 22;138:10;181:1,2 filed (1) 22:14 files (2) 25:21;26:7 filing (4) 25:25;32:9;134:23; 136:8 final (56) 24:16,20,22;26:3,14; 27:9,10,12,14,17;28:2; 32:25;33:6,6,16,18; 34:17;49:4;62:10,18; 63:1,3,5,7,9,12,15,21; 74:10,15;76:13,15; 77:3,5,14,16,20;83:9, 23,25;84:2,2;152:13, 17;156:18;157:18; 160:12;161:16;163:11; 164:22;165:15,17; 166:20;170:13;193:20; 214:17 finally (4) 201:1,2,7;215:23 find (16) 30:16;44:17;126:1; 143:15;172:8;214:21; 230:1;234:14;236:15; 264:11,24;276:1; 277:23;283:17;286:6; 287:16 finding (7) 72:1;89:13;140:17; 146:6;148:1;177:3; 278:12 findings (3) 69:17;130:15;240:14 fine (30) 7:4;21:22;47:4; 61:25;70:20;74:21; 92:2;100:17,17; 118:18;120:12;135:20; 138:3;151:24;156:19; 157:10;173:22;175:4; 176:11,17,19,23; 177:14;182:19;183:2; 194:9;196:6;252:11; 263:13;291:6 fine-tuned (1) 52:17 fine-tuning (1) 84:3 fingers (2)</p>	<p>57:16,19 finish (6) 26:20;124:4;177:5,6, 9;247:19 finished (6) 6:15;54:20,22;68:20; 103:16;241:1 finite (2) 5:14,17 firm (4) 73:15;186:22,23; 265:7 firms (1) 265:7 first (49) 7:7;22:2;32:2;33:22; 44:11,11,14;48:10,14; 62:21;67:17;93:9; 104:21;105:3;115:10; 116:4;119:20,21; 123:20;125:13;133:25; 141:6;179:4;181:7; 183:7,14,16;194:1; 198:17,25;199:1,10; 200:10,13;202:12,13; 207:16,20;225:13; 228:9;236:3;242:17; 249:15;255:17;271:18; 279:21;281:22;282:16; 284:1 fit (6) 149:9,9,11,11;163:1; 210:25 fits (2) 207:13;211:7 five (13) 16:24;17:1,19;20:25; 60:10;105:21;135:6; 152:25;183:1;184:12, 14;207:10;260:10 fixed (1) 86:8 Flanagan (2) 111:22;142:1 flexibility (4) 107:9;108:14; 223:15,17 flexible (6) 106:18;107:4; 139:10;223:14;286:1,7 floating (1) 129:7 floor (4) 41:13;54:3;294:19, 25 flows (1) 125:22 focal (13) 51:11,12,13,17,17, 22;52:1,4,5,18;121:23; 208:24;269:3 focus (16) 51:15;105:16;</p>	<p>172:18;200:12;202:11; 203:7,19;209:4;216:9; 220:25;242:16;269:12, 17,18;275:13;278:25 focused (2) 215:14;232:8 focuses (1) 202:14 focusing (2) 203:6;231:20 folders (1) 25:21 fold-out (4) 78:19;85:3,9;95:18 folks (2) 225:18;283:17 follow (5) 11:20;37:24;82:13; 129:25;157:10 following (5) 166:17;170:14,15; 173:16;240:14 follows (2) 127:6;240:13 follow-up (3) 175:9;197:15;271:3 food (7) 12:20;13:21,22;50:8, 11;51:20;52:2 foot (15) 13:3,4;18:14;96:19; 125:22;127:13;128:1; 146:15,23;147:17; 149:13,19;176:15; 225:3;276:24 footage (45) 8:21;13:9;14:10; 37:20,21,25;61:4; 109:14;122:9;141:21; 142:3,8;143:6,7; 148:14;149:8;173:24; 174:7;179:23,24; 180:2,4,20,20;210:18; 211:15;212:11;213:7; 224:21;226:4;230:22; 233:25;237:3;238:12; 240:15;241:11;244:2, 16,17;246:18;272:20; 273:4,10;275:15; 277:16 footages (2) 39:16;149:7 force (3) 68:15;148:2,6 forecast (1) 273:8 forecasts (1) 273:7 forefront (1) 216:20 foregoing (1) 198:4 foreshadowing (1)</p>	<p>128:21 forest (140) 24:10,12,16,17,20, 22;26:12;27:2;28:2,20, 22;29:8,14,24;30:17, 19;31:4,18,19;32:25; 33:1,5,6,6,18;34:17; 62:10,18,22,24;63:2,5, 6,7,7,9,11,15,21,23; 65:16;66:3,15;67:9; 69:6;71:17;72:19; 73:12,15,18,21,25; 74:7,10,14,15;75:5,8, 11,12,15,21;76:5,6,10, 13,16,19;77:1,4,5,11, 15;78:9,22;79:22,23, 23,25;80:3,6,7,10,23; 81:4,15;82:4,5,7,9,10, 12,12;83:7,23;84:1,2, 21;151:18,22;152:4,9, 11,13,15,16;153:7; 155:6,17,24;156:8; 157:2,17,18,21;159:23; 160:25;161:7,10,14,18; 162:9,9,14,16,25; 163:13;164:2,8,12,18, 20,23;165:4;166:10; 167:21;168:2,6; 185:15;186:17 forget (2) 252:18;294:23 forgetting (1) 86:5 forgive (1) 66:2 form (1) 50:17 format (3) 22:25;23:1;37:9 former (2) 27:7;67:7 formerly (1) 57:24 formula (1) 273:5 Fort (2) 261:11,13 forth (9) 18:6;51:5;76:1;77:3; 104:15;114:8;168:23; 211:5;217:17 forward (24) 27:19;37:12;50:15; 59:15;61:14;63:13; 81:2,6,24;82:1;84:10, 13,14;105:12;127:21; 164:10;185:20;186:13; 222:11,15,18;250:18; 276:18;285:21 foster (2) 215:5;236:7 fosters (1) 215:19</p>	<p>found (14) 72:6;99:22;134:13; 138:10;147:20;234:15; 240:4,16;250:25; 265:21;266:5,14; 273:24;288:16 foundation (2) 138:5;147:8 four (14) 16:23,23;67:17;87:6; 88:1,2,3;149:9;200:13; 205:24,25;207:10; 242:15,16;250:19 fourfold (2) 228:23;229:13 fourth (3) 142:11;149:11; 213:23 fragment (1) 213:6 fragmentation (1) 246:25 fragmenting (1) 226:3 frame (2) 177:22;178:9 Francoise (1) 35:20 frankly (13) 31:5;113:2;145:20; 193:15;199:9;223:21; 226:6;235:24;249:20; 265:20;266:6;276:3; 283:21 free (3) 43:24;46:14;286:17 free-floating (1) 5:15 frequently (2) 152:16;240:7 fresh (1) 194:19 Friday (1) 286:22 front (10) 55:5;68:23;111:3; 216:13;235:25;238:24; 239:14;283:18,21; 286:11 frontage (1) 236:7 frustrating (1) 180:8 fulfilling (1) 275:22 full (8) 13:15;14:3;81:17; 119:19,20,21;188:14; 239:13 full- (1) 13:18 full-service (3) 13:12,15,20</p>
--	---	--	--	--

<p>full-size (4) 12:13,14,15;101:24 function (1) 275:14 functions (1) 203:15 fungible (1) 187:14 further (17) 50:5;51:7,24;55:24; 59:24;60:1;85:16;93:3, 17;123:14;163:16; 179:25;234:14;261:25; 266:16,18;284:10 future (10) 93:15;97:6,7;201:10; 202:23;208:17;239:15, 16;277:18;280:5</p>	<p>218:18;233:6;289:22 gets (6) 152:23;165:18; 180:8;219:14;279:18; 290:18 given (12) 5:25;6:7;185:16,22; 211:6;213:20;231:4; 241:15,16;246:16; 279:25;280:16 gives (4) 71:6;240:11;265:4,4 giving (6) 62:8,9;189:13; 223:17;243:12;281:21 Glendening (1) 279:3 goal (3) 133:10;271:14;283:6 goals (8) 92:6;108:22;114:5; 215:13;240:21;241:10, 10;247:8 God (1) 285:17 goes (14) 27:18;63:12,21; 75:24;84:10;87:8; 127:11;156:16;159:14; 195:24;231:17;235:1; 239:25;279:2 Golden (5) 10:13;50:2;51:1,2; 159:12 Good (11) 56:23;60:12;131:4; 145:7;225:8;253:8,9; 255:4;279:6;289:13; 291:4 goose (1) 253:9 Gosnell (15) 11:1,2;86:12;88:7, 14;89:2,6;108:17,20; 132:1;213:25;244:10, 12;245:5,15 governing (2) 72:5,17 government (4) 265:9;266:9,11,12 governor (2) 128:13;279:2 grading (4) 66:17;75:13;77:3; 81:22 graduated (2) 190:14,15 grand (1) 38:19 grandfathered (8) 68:6;157:14,24; 158:24;159:2,3,15,17 graphic (1)</p>	<p>61:13 graphically (1) 130:20 graphs (1) 255:23 Great (5) 117:23,24;118:8; 215:18;257:3 green (5) 49:20;51:13;151:13; 158:6,9 greenway (1) 51:24 greeting (1) 240:10 grew (1) 110:2 grid (1) 140:10 grocery (67) 12:11,13,14,15; 13:10,12,16,19,20; 16:21;17:1,7,15,20; 45:3,12,14;98:11,17; 99:6,9,17;100:3,20,23; 101:15,24,24;105:11, 13;117:12;141:9; 145:19;146:3,16,22,23; 170:19,25;171:5,6,11; 211:20;213:19;214:10, 13;217:7;225:14,24; 230:14,17;231:1; 275:20,22;276:1,3,16, 19,20,21,25;277:10,17; 290:3,5,12,14 grocery-anchored (2) 112:10,11 grocery-related (1) 12:18 gross (3) 41:13;115:4;133:5 Grossman (1) 181:6 ground (1) 54:3 group (1) 118:1 growth (3) 189:2,5;239:19 guess (31) 5:12;8:7;13:22;30:1; 42:5,14;51:18;52:9; 53:14;54:14,24;60:4; 66:7;71:5;72:25;77:13; 80:18;107:23;115:23; 118:25;142:18;180:8; 188:25;195:15;223:23; 231:22;237:9;267:24; 276:5;279:14;284:15 guessing (1) 163:7 guide (1) 111:3</p>	<p>guideline (2) 99:5,8 guidelines (4) 115:14;125:18,19; 230:10 gun (1) 267:9 guys (1) 15:13</p> <p style="text-align: center;">H</p> <p>Hagerstown (3) 248:4,6;267:5 half (4) 81:7;159:3;264:21; 265:6 hand (8) 137:11;181:18; 187:23;188:7,8; 213:13;224:8;249:21 hand-in-hand (1) 127:4 handle (2) 25:19;140:5 hands (2) 34:2;126:10 handy (1) 95:13 Hang (2) 256:6;258:5 hanging (1) 92:2 happen (17) 82:6;131:21;142:10; 145:17,17,20;169:3; 201:4,5;202:15; 222:25;223:10;279:17, 21;282:20;289:16,17 happened (3) 84:4;134:22;202:25 happens (4) 68:19,19;222:13; 270:8 happy (3) 26:4;43:3;48:3 hard (4) 48:17;103:7;237:1; 252:1 hardest (1) 237:2 Harford (2) 188:25;189:6 harp (2) 50:19;225:15 Harris (454) 5:9,19,23;6:6,13,20, 23;7:3,7;9:11,13; 15:10,16,18,23;16:3,7, 8,14,15;19:21,22,25; 20:9,19,24;21:3,6,13; 22:9,11,16,18,20;23:8, 12,17;25:1,6,8,10,18,</p>	<p>20;26:6;28:24;29:3; 30:1,10,13,22,24;31:1, 15;32:6,15,18,19,20, 23,25;33:5,9,11,13,19, 24;34:20,22,25;35:2,8, 10,15,22;36:2,5;40:18, 20,23;43:3,6,13,15,18, 22,25;44:4,7,16,21,23; 45:5,7,10,13,17,20,24; 46:1,6,10,12,16,20,22; 47:11,20,22;48:3; 53:12;54:7,8,10,13,15, 20;56:7;60:3,8,12; 61:1;62:10,13,16,20; 63:24;64:10;66:5,9,12; 67:3;70:7,9;71:12,21, 23;72:2,5,7,9,11,13,15, 23;73:11;75:3;76:23; 78:12,13,23;80:15; 83:17,18,20;87:15; 88:1,4,6,9,12,19,20,21; 89:11;90:10;91:10,14, 20,22,24;92:2,3,24; 93:8,16;94:4,17;95:8, 10,11,16,21;96:1,3,6,7, 8,11,13;98:16,24;99:1, 7,16,19,20,21;100:17, 18;101:5,9,17,19,20; 102:8;103:3,5,8,11,13, 14,24;104:1,4,11; 105:25;106:1,4,11,12, 23,25;107:2,5,8,12,14, 15,19;109:9,11,24,25; 110:7,10,11;111:6,7, 13,17,19;112:7,18; 113:13,21;114:2,9,15, 16;116:1,9,15,17,18, 24;118:15,21;119:5,10, 14,17,21,24;120:7,10, 12,13,19,22,24;121:2, 4,13;122:7,24;123:2,5, 14;132:13,17,25; 135:10;136:2;137:18, 22;146:25;147:2; 150:3,5,9,12,15,22,25; 153:21;156:16,20,23; 157:23;159:10,24; 160:5,8,10;164:16,25; 165:2,6;166:3;168:9; 171:18,22,25;172:2,4, 16,20,23;173:3,22; 174:24;175:7,12,14,16, 17,19,22;177:15; 178:23;179:1,15; 181:18;183:1,6;184:5, 12,14,19,20;185:11,14; 187:25;188:2;189:20, 23;194:23;195:22; 196:1,4,6;241:21,24; 243:10,15,18;245:17; 250:18;252:4,7,9,11, 18;255:1,3,6;256:1,3,5, 7,10,12,14,15,24,25;</p>
--	---	---	--	---

<p>257:2,17,20,23,25; 258:2,4,9,10,12,18; 259:8,10,13,15,18,21, 23;260:1;261:11,18, 20;262:5,9,17;263:3,7, 11,15,17,25;264:7,13, 15,18,21;265:2;271:18, 22;278:16;285:15,25; 286:14,20;287:2,4,8, 10,17,22;288:3,5,9,12, 25;289:12,21;290:1,4, 7,10,12,19;291:9,14, 18,20,22;292:7,10,12, 17,22,25;293:2,6,8,11</p> <p>Harris's (2) 131:4;135:4</p> <p>hatching (1) 81:20</p> <p>heading (9) 19:2;96:18,22;97:3, 13,14,16,17;98:5</p> <p>Healthcare (1) 5:3</p> <p>hear (7) 29:6;65:8;87:22; 107:17;141:7;268:25; 284:5</p> <p>heard (20) 42:17;67:3;174:21; 186:5;193:22,24; 199:2,17;212:14; 230:8;234:16;242:5; 247:23;248:14;262:6; 274:19;283:21;284:1; 286:21,22</p> <p>hearing (54) 5:3;6:14,18;7:7,16, 17;8:3;14:4;25:24; 29:3;32:4;34:3;35:16; 48:14;59:9,16,22; 64:22;65:9;67:18; 74:24,25;93:22; 135:16,21;176:25; 179:20;180:18;184:3; 185:23,24;193:21; 195:4;197:2;246:16; 252:22;254:2,12,14,20; 281:19;284:24;285:12, 14,16,20;288:4;290:22, 24;293:15;294:15,19, 25;295:1</p> <p>hearings (3) 184:10;189:8;284:2</p> <p>heck (2) 179:22;225:16</p> <p>height (8) 38:5;41:1,8,9;61:4; 110:7;232:11,15</p> <p>help (5) 102:21;112:21; 139:9;158:15;203:22</p> <p>helpful (2) 143:10;154:15</p>	<p>helping (1) 192:18</p> <p>helps (3) 37:11;145:22;283:24</p> <p>here's (4) 212:25;236:14; 237:6,7</p> <p>hide (1) 205:1</p> <p>hierarchy (3) 203:5;271:9;272:1</p> <p>high (13) 112:13,22;113:15; 201:8;203:16;208:13; 209:17;210:9;228:3; 229:1;237:16;241:7; 283:15</p> <p>high-end (2) 210:20;234:1</p> <p>higher (9) 55:14,25;56:1; 125:15;160:20;201:18; 204:20;240:19;243:7</p> <p>highest (1) 241:20</p> <p>highlighted (1) 57:4</p> <p>highlights (1) 215:6</p> <p>highly (4) 219:7,11,21;283:5</p> <p>high-quality (1) 199:11</p> <p>high-tech (5) 205:21;221:23; 223:3;283:24;284:4</p> <p>high-technology (1) 210:5</p> <p>highway (2) 209:14;265:8</p> <p>historic (10) 142:16,24;143:5; 200:25;201:15;202:18; 204:3,17;216:3;233:9</p> <p>historically (1) 136:8</p> <p>Hold (9) 20:10;28:5;31:23,24; 60:4;153:24;193:2; 260:7;284:24</p> <p>holding (4) 23:25;192:20;193:4; 287:14</p> <p>holy (1) 285:18</p> <p>homes (2) 55:23;160:7</p> <p>honest (1) 6:13</p> <p>honestly (2) 282:22;285:4</p> <p>honeycomb (2) 79:21;81:19</p>	<p>Honor (3) 31:25;128:15;166:23</p> <p>hope (4) 34:3;137:3;205:19; 221:9</p> <p>hopefully (2) 194:19;249:18</p> <p>hoping (3) 5:15;177:15;249:20</p> <p>Hopkins (1) 190:16</p> <p>hospital (6) 27:3;74:16;104:9,12; 210:25;283:12</p> <p>hot (3) 52:11;121:18,18</p> <p>hotel (3) 219:1;233:21;234:5</p> <p>hour (1) 183:4</p> <p>hours (1) 187:6</p> <p>house (1) 239:17</p> <p>households (1) 240:6</p> <p>housekeeping (1) 176:11</p> <p>houses (2) 67:22;277:11</p> <p>housing (7) 215:19;225:12; 227:17;237:22;238:1; 243:7;272:21</p> <p>hub (1) 203:12</p> <p>hung (3) 52:4;53:16;76:4</p> <p>hurt (1) 283:23</p> <p>Hyattstown (3) 11:16;104:25;196:16</p> <p>hypothetically (1) 149:5</p>	<p>222:9;265:5,18</p> <p>identification (9) 21:19;97:17,22; 132:24;173:8;184:24; 253:7;256:23;268:15</p> <p>identified (20) 40:18;42:1;62:10; 71:7,8;81:19;82:20,22; 98:8;197:22;229:9; 242:15,25;244:3,16; 248:1,4,6,11;277:21</p> <p>identifies (3) 37:14;86:10,11</p> <p>identify (8) 57:17;88:22;98:2; 186:24;250:6;255:10; 257:6;258:21</p> <p>identifying (2) 209:20;233:20</p> <p>identity (10) 201:21;215:13,23, 25;216:5;218:17,24; 233:6;270:15;283:1</p> <p>ignore (1) 270:11</p> <p>illustrative (4) 204:7,14;206:3; 207:10</p> <p>image (1) 255:19</p> <p>images (3) 281:5,13,20</p> <p>imagine (1) 187:17</p> <p>immediate (1) 222:2</p> <p>immediately (2) 221:21;222:2</p> <p>impact (5) 111:10;166:12; 200:15;224:9;279:1</p> <p>impacted (1) 77:19</p> <p>impervious (3) 179:17,21,24</p> <p>impetus (1) 220:24</p> <p>implement (5) 127:24;128:22; 129:22;176:14;224:3</p> <p>implementation (2) 77:7;246:1</p> <p>implemented (6) 82:8;127:9;152:10; 153:12;156:1;215:3</p> <p>implementing (4) 219:4;237:15; 282:18;283:2</p> <p>implies (1) 201:16</p> <p>imply (1) 111:8</p> <p>implying (1)</p>	<p>165:3</p> <p>importance (9) 201:8,22;217:21; 219:16;233:7;275:21, 25,25;289:7</p> <p>important (17) 45:2;83:18;99:18; 120:2;200:22;201:20; 207:15;213:2;220:2; 221:12;223:2;233:16; 240:18;265:11;269:17; 270:6;277:2</p> <p>imposed (1) 126:2</p> <p>imposition (1) 128:2</p> <p>impressed (1) 219:9</p> <p>improved (1) 140:8</p> <p>improvements (1) 140:4</p> <p>Inc (2) 5:3,4</p> <p>in-chief (1) 136:10</p> <p>inclined (1) 6:20</p> <p>include (9) 32:11;61:8;66:14; 92:11;112:8;117:5; 230:17;236:8;238:15</p> <p>included (8) 35:24;108:22;118:1; 125:5;127:23;144:13; 147:25;268:12</p> <p>includes (13) 9:6;19:18;25:13; 38:3;51:3,4;61:9; 66:13;123:11;146:9; 197:22;201:15;233:9</p> <p>including (9) 26:1;95:23;104:20; 112:22;206:20;208:12; 219:22;225:14;276:19</p> <p>inclusion (1) 113:22</p> <p>inconsistency (1) 152:11</p> <p>inconsistent (6) 198:16,17,20;200:9; 224:12;234:15</p> <p>incorporate (6) 25:14,15;26:14; 69:24;209:22;240:6</p> <p>incorporated (4) 26:10,11;68:3;69:15</p> <p>Incorporates (1) 209:23</p> <p>incorrect (1) 150:12</p> <p>increase (4) 229:13,15;238:12,15</p>
---	--	---	---	--

I

<p>increasing (3) 226:14;227:4;228:22</p> <p>indeed (1) 190:6</p> <p>independently (1) 265:24</p> <p>indicate (3) 169:1;226:13;227:22</p> <p>indicated (4) 58:8;244:6;246:12; 288:14</p> <p>indicates (1) 66:12</p> <p>indicating (2) 78:18;85:1</p> <p>indication (1) 265:15</p> <p>indirect (1) 69:21</p> <p>indirectly (1) 217:13</p> <p>individual (2) 81:3;168:16</p> <p>indulge (1) 67:2</p> <p>indulgence (1) 259:3</p> <p>industrial (3) 209:21;233:21;234:4</p> <p>industry (1) 241:19</p> <p>inference (1) 238:10</p> <p>inferring (2) 165:3;252:4</p> <p>influence (1) 284:4</p> <p>inform (1) 209:6</p> <p>information (6) 32:7,12,18;140:25; 248:15;263:6</p> <p>infrastructure (1) 191:1</p> <p>infringe (2) 152:3,10</p> <p>initial (3) 182:21,24;215:17</p> <p>Inner-connected (1) 208:23</p> <p>inner-workings (1) 194:1</p> <p>input (4) 177:25;180:15,21,22</p> <p>inquiry (2) 248:21;249:13</p> <p>inside (1) 83:5</p> <p>installed (2) 160:23,24</p> <p>instance (3) 83:4;262:10;269:4</p> <p>instances (1)</p>	<p>162:18</p> <p>instate (1) 271:12</p> <p>instead (2) 104:2;269:12</p> <p>instructed (1) 181:8</p> <p>instructions (1) 68:18</p> <p>integrated (2) 236:7,15</p> <p>integrates (1) 220:1</p> <p>intend (2) 54:1;269:20</p> <p>intended (12) 35:12;49:11,13,22; 51:21;52:24;53:23; 140:15;143:14;212:24; 269:20;270:9</p> <p>intense (1) 147:12</p> <p>intensity (5) 148:15;209:18; 213:6;220:6;278:14</p> <p>intensive (6) 146:11;204:21; 216:10;236:11,17,23</p> <p>intent (3) 94:6;138:25;236:4</p> <p>interact (1) 122:1</p> <p>interaction (1) 210:17</p> <p>interacts (1) 114:8</p> <p>interconnectivity (1) 140:10</p> <p>interconnects (1) 51:14</p> <p>interest (3) 148:15;154:25; 276:20</p> <p>interested (1) 6:14</p> <p>interesting (3) 191:12;206:4;249:19</p> <p>interject (2) 262:5;285:15</p> <p>internal (2) 140:9;223:19</p> <p>Internet (1) 251:8</p> <p>interpret (2) 195:14;236:4</p> <p>interpretation (3) 143:9;193:13;232:17</p> <p>interpreted (2) 87:24;88:2</p> <p>interpreting (3) 118:24;139:11;193:7</p> <p>interrupt (2) 83:17;257:17</p>	<p>intersection (1) 55:5</p> <p>Interstate (1) 220:23</p> <p>into (33) 26:10,11;27:10; 41:23;51:7;79:17;93:3; 131:15;132:15;143:9; 149:19;159:25;162:24; 164:17;165:18;170:24; 181:5;185:18,25; 200:22;201:2;210:8; 211:3;214:12;223:15; 233:1;239:25;241:12; 254:15;264:11;267:20; 285:20;292:23</p> <p>introduced (1) 42:22</p> <p>invariably (1) 270:2</p> <p>investment (1) 270:10</p> <p>invited (1) 254:13</p> <p>involved (4) 73:24;74:4;191:9; 281:22</p> <p>involving (1) 18:4</p> <p>ironically (1) 87:19</p> <p>irrelevant (1) 46:15</p> <p>irrespective (1) 116:15</p> <p>issue (27) 25:22;26:24;42:23; 44:11,11,17;45:21; 67:16;70:18,21;71:5; 87:10;93:11;105:17; 117:16;176:20;178:1; 181:7,22;185:21; 199:9;208:6;209:9; 222:17;232:17;267:8, 24</p> <p>issues (21) 61:5;65:16;66:6,9; 67:8;73:6;91:16; 105:16;160:1;180:7; 185:16,19,22;186:6,7; 187:5,5;192:10; 209:14;216:22;280:18</p> <p>Item (1) 261:3</p> <p>IV (1) 218:16</p>	<p>job (1) 129:13</p> <p>jobs (3) 239:17;241:18; 272:21</p> <p>John (1) 246:2</p> <p>Johns (1) 190:16</p> <p>judicial (1) 32:5</p> <p>July (4) 48:14;185:23; 197:14;285:21</p> <p>jump (2) 193:2;267:9</p> <p>jumped (1) 66:2</p> <p>jumping (2) 18:6;232:21</p> <p>June (2) 135:22;253:2</p> <p>justification (16) 48:23;49:15;50:7,10, 12,16,19;51:19;71:9; 94:8;118:5;197:12; 217:23;218:13;220:17; 282:24</p> <p>justified (1) 223:9</p> <p>justify (2) 204:21;227:4</p>	<p>223:18;225:12,14,19; 226:6;229:22;233:10, 11;240:11,11;241:15; 266:3;272:24;274:6; 278:9,9;279:2,5,5,9</p> <p>kindly (1) 182:20</p> <p>kinds (3) 211:5,23;285:16</p> <p>Kline (218) 7:17;18:3,11;24:1; 26:21,23;46:23;47:4,6, 7;48:5,7,20;53:15; 54:7,11,14,17,21,23; 56:8,10,22;58:1,13,15; 59:4,24;64:24;65:10, 13;66:20,25;67:2; 68:17;69:10,12,16,18; 70:5,8,12,16,18,20; 71:4,10;78:16;84:25; 85:13;87:15;91:12; 93:19;105:22,24; 106:2;109:22;111:7, 12,14;114:11;118:1,3, 11;123:16,21;124:8,10, 15,16;125:11;128:13, 15,17;131:6,10,15,20; 132:14,15;133:1,17,18; 135:11,21;136:5,11,13, 16,25;137:3,5,12,20; 138:7;139:2,7,8; 140:24;141:3;142:17; 143:13,18;144:15,16, 19;145:6,23;148:12,23, 25;149:17;151:3,4,6,8, 15,24,25;152:22,24; 153:24;154:2,7,11,14, 19,21;155:5,10,13,16, 21,24;156:5,7,10,12, 14;157:1,7,10,12,19, 22;158:2;159:20; 160:9,17,18,19,21; 161:11;163:16;171:23; 172:10,13;175:25; 176:1,12,13,17,19,23; 177:3,14,20,23;178:1, 10,16;179:2,13,19; 181:4,16;182:3,11,16, 19,22;183:11,15,18,21, 25;184:8;187:11,12; 196:8,9;218:10; 259:19,22;271:3,5,7, 21,23,24;272:14,15; 277:4;278:17,18; 280:21,24;281:8,10,12, 15,17;283:9,10; 284:10;289:22;294:21, 23</p> <p>Kline's (3) 15:21;179:15;286:11</p> <p>knew (1) 251:2</p> <p>known (3)</p>
			K	
			<p>Kaplan (1) 113:2</p> <p>Kaplan's (1) 112:14</p> <p>keep (14) 62:1;70:15;78:11; 86:5;131:19;143:10; 222:15,15;228:1; 232:21;267:15;286:17; 287:16;289:9</p> <p>kept (1) 95:19</p> <p>key (11) 74:1;80:19;98:3,5,8; 199:23;200:1,15; 201:9,16;227:17</p> <p>kill (1) 290:13</p> <p>kind (50) 31:2;50:21;103:1; 137:6;160:19;177:12; 182:7;191:12,15; 192:24;198:12,25; 200:1;201:3,16; 204:23;206:4,4,9; 213:11,18;214:2; 216:19;217:4,19,19; 219:7;221:3;222:8,14;</p>	
		J		
		<p>James (1) 188:16</p> <p>Jewish (1) 285:18</p>		

57:24;182:8;264:24 knows (2) 138:4,12	177:16;222:7;223:11; 247:14,21;254:15; 290:22,24;294:14	266:6;267:5;293:9 leeway (1) 18:6	174:9,13;181:23; 226:8,14 limitations (3) 125:18,18;174:4	local (9) 108:10,12;191:11, 19,22;192:4;214:7; 265:17;270:7
L	late (1) 286:5	left (6) 7:5,9;54:25;64:9; 245:5;264:21	limited (21) 17:8;42:23;81:16; 104:23,25;105:4,9; 124:4,6;134:20; 162:13;179:17;219:22; 223:5;271:17,25; 272:4;276:14;277:5; 291:2,12	locate (4) 55:12;99:6;167:10; 230:13
label (5) 21:11,12;85:8;158:7; 170:8	later (9) 49:4;145:22;160:15; 164:25;200:23;216:1; 223:8;252:14,16	left-hand (2) 60:19;204:12	legal (9) 61:24;106:20; 115:19;116:5,11; 150:15;165:9;176:12; 184:17	located (10) 8:25;10:24;53:11; 58:3;93:18;130:25; 151:10,11;237:18; 265:5
labeled (2) 169:25;264:25	latitude (1) 103:2	legally (1) 182:14	limits (4) 75:24;121:9;141:12; 161:10	location (59) 11:6;13:10;57:2,3; 59:3,11;82:5,5;85:14, 18,20;86:18,20,21; 87:16;89:17,19,25; 90:4;92:25;94:10; 100:8;104:7,8;108:4; 125:1;140:3;147:3; 148:16;158:8;159:9, 10;160:6;166:12,15,20, 21;200:19;203:14; 206:6;207:23;219:5; 220:21;226:1;241:15; 255:13;261:16;265:10; 266:11,12,19;270:7; 275:3;283:4;292:4; 293:5,6;294:5,8
lack (1) 265:18	latter (2) 27:5;67:6	legend (5) 37:10;53:22;79:20; 85:6,10	line (15) 23:25;40:1;49:24,25; 80:24;150:20;159:14, 16;165:2;193:10; 232:22;237:10;239:25; 240:17;273:18	linear (2) 49:20;51:17
laid (1) 230:22	law (10) 31:18;68:6;70:2; 106:19;115:24;157:15; 165:12;177:5;184:16; 253:19	less (11) 50:6;123:13;149:3; 162:21;181:23;184:12, 14;194:1;213:7; 216:10;278:22	link (5) 33:16;52:3;205:5; 251:17,22	link (5) 33:16;52:3;205:5; 251:17,22
land (46) 36:11,14,17;37:1,18; 39:9,12,19,23;40:14; 61:3;64:7;71:14;93:7, 8,11;95:18;98:3,5,8; 112:19,25;113:1,22; 137:5;139:6;145:4; 189:16,17;194:22,25; 195:14,17;196:11; 202:3;205:4;208:15; 209:8;211:1;215:18; 227:17;234:17;249:10; 251:1,2;278:20	laws (1) 163:8	letter (9) 119:2;135:4;137:10, 14,19,23,24;176:22; 189:11	list (4) 20:12;69:19;79:15; 84:9	list (4) 20:12;69:19;79:15; 84:9
landmark (1) 57:16	lay (3) 163:5;200:1,5	letterhead (1) 138:8	listed (4) 65:15;66:7;67:8; 73:4	list (4) 20:12;69:19;79:15; 84:9
landscape (10) 63:25;64:2,14,18; 65:4,8;66:14,17,19; 73:9	laying (2) 201:4;202:23	letters (1) 191:16	listen (1) 62:6	listen (1) 62:6
language (27) 55:12,17;59:19; 94:23;99:8,9,22,24; 102:22;107:4;115:17, 19;129:17;143:21; 193:16;194:3;198:14; 199:16;207:21;226:12, 15;275:19;276:1,16; 280:6;283:18;289:7	layman (1) 66:1	level (14) 160:20;185:17; 193:1,13;194:13; 198:17;207:16;210:20; 220:7,8,9;221:1; 222:12;275:2	listened (3) 148:4;198:1;284:5	listened (3) 148:4;198:1;284:5
landmark (1) 57:16	layout (6) 27:17;77:17,21; 139:23,24;206:18	levels (2) 198:16;222:6	listing (1) 19:15	listing (1) 19:15
landscape (10) 63:25;64:2,14,18; 65:4,8;66:14,17,19; 73:9	lays (1) 211:14	library (1) 254:16	literally (1) 285:8	literally (1) 285:8
language (27) 55:12,17;59:19; 94:23;99:8,9,22,24; 102:22;107:4;115:17, 19;129:17;143:21; 193:16;194:3;198:14; 199:16;207:21;226:12, 15;275:19;276:1,16; 280:6;283:18;289:7	lead (2) 259:12,12	Life (1) 66:17	litigation (2) 110:3,6	litigation (2) 110:3,6
large (12) 59:21;95:18;130:11; 148:20;149:7;180:22; 202:7;204:15;210:18, 18;265:6;282:11	leading (4) 53:18;149:18;206:5; 243:10	light (5) 40:1;54:16;158:6; 233:21;234:4	little (38) 7:18;19:17;57:24; 59:18;81:18;86:16; 114:12;123:12;128:16; 129:13;147:10,23; 174:22;185:11;192:3; 198:23;199:8,16,18,20; 200:22;203:8,9; 206:12,15;207:21; 209:11;211:3;212:8; 214:4,17;215:16; 220:12;234:14;264:3; 281:21;283:23;284:8	little (38) 7:18;19:17;57:24; 59:18;81:18;86:16; 114:12;123:12;128:16; 129:13;147:10,23; 174:22;185:11;192:3; 198:23;199:8,16,18,20; 200:22;203:8,9; 206:12,15;207:21; 209:11;211:3;212:8; 214:4,17;215:16; 220:12;234:14;264:3; 281:21;283:23;284:8
large- (1) 25:10	leads (1) 230:19	lightly (1) 24:2	live (1) 225:8	live (1) 225:8
larger (13) 13:2,5,12;52:6;55:7; 66:21;80:22;147:13, 18;200:6,17;210:20; 278:25	leafing (1) 74:23	lights (1) 9:14	lively (1) 203:23	lively (1) 203:23
largest (5) 146:13;148:17; 202:7;224:21,22	leasehold (1) 115:4	likelihood (1) 241:14	LLC (1) 111:22	LLC (1) 111:22
last (23) 7:17;8:3;14:4;25:24; 32:8;42:2;47:16;74:24; 119:18,25;124:20; 139:21;146:14;170:18;	least (13) 34:9;51:21;181:23; 203:18;211:14;212:4; 216:10;222:2;223:19; 235:18;279:13;280:9; 285:11	limit (7) 13:2;102:13,16; 103:17;119:1;127:15; 226:11	LMA (1) 5:6	LMA (1) 5:6
	Leesburg (24) 248:12,16,19;249:4, 12;250:25;251:4; 253:1,1,3;255:13,18; 256:7,20;257:8;261:1, 7;264:3,11;265:4,22;	limitation (15) 14:14;114:23;115:8, 14;125:20;126:2; 128:1,9;149:13,19;		lock (1) 133:10
				locked (1) 81:17
				logical (1) 270:10
				logistical (2) 254:4,8
				long (9) 149:3;151:2;181:13; 186:1;247:16;270:24; 271:5;287:3;289:25
				long- (1) 279:14
				longer (2) 145:20;146:24
				long-term (3) 31:9,11;202:23
				look (35) 15:25;21:8;26:2; 36:9;44:22;55:15; 64:12;71:11;84:6;97:2; 135:12;138:9;141:14; 143:3;193:17;197:16; 199:22;200:10;201:13, 14;202:24,25;203:13, 21;204:2;207:15;

208:6;209:11;220:3; 225:11;235:2;269:21; 274:2;282:19;289:12 looked (14) 59:5;69:18,18,20; 78:2;137:17;197:19; 199:10;226:15;238:8; 249:10;265:21;281:5; 286:21 looking (35) 15:8,17;16:3;28:16; 41:11;42:2;48:21,22; 49:15;56:5,11;60:17; 80:12,16;112:2; 114:19;126:21,23; 133:15,19;154:23,25; 158:16;167:11;169:24; 178:8;199:9;202:22; 204:8;238:22;260:25; 261:6;276:16;281:7; 286:16 looks (3) 36:23;264:18,22 loop (1) 217:20 lost (1) 28:13 lot (22) 7:18;184:22;189:25; 190:6,24;198:11; 199:4;200:11;201:10; 202:19;203:24;211:4; 220:14;223:15,17; 233:4;235:22;253:18; 260:25,25;266:6; 285:18 Loudoun (1) 266:12 low (1) 214:1 low-end (1) 265:8 lower (11) 41:15,16,17,18;79:8, 9,21;204:12;232:25; 240:19;244:17 low-intensity (1) 209:21 low-level (1) 65:25 lunch (3) 135:8;171:24;183:4 luncheon (1) 124:1 lunchtime (2) 132:17;172:11	ma'am (9) 7:3;31:25;33:19; 36:5;44:7;62:16;93:8; 171:19;286:14 Madam (15) 7:16;28:17;32:5; 36:19;61:21;71:13; 135:21;159:24;164:16; 167:5;189:10;253:13; 256:16;259:4;260:15 magnitude (1) 152:22 main (4) 55:5;68:2,5;140:1 mains (1) 239:21 maintain (3) 201:21;218:17;233:5 maintenance (4) 31:9,11;35:6,11 major (3) 69:3;203:12;205:25 majority (7) 82:7,9,12,25;83:1, 13;275:15 makes (4) 45:1;140:10;206:9; 255:6 making (10) 53:1;180:4;193:12; 196:5;205:20;232:23; 280:3;281:15;289:13, 16 Malcolm (1) 136:12 malls (1) 113:5 management (49) 67:8,13,16,21,24; 68:4,6,7,14;69:2,5,19, 21;70:2,24;73:7;75:6, 9,10,15,21;18,20;153:6, 11,25;154:17;155:3,7; 156:3;157:14,15,25; 158:24;159:2,18; 160:1,6,13,23,24; 161:2,9;162:4,5,19,23; 163:8,11;185:16; 186:17 mandate (1) 42:6 mandated (2) 41:25;45:12 mandates (1) 44:19 mandatory (1) 68:22 manner (1) 168:18 many (23) 25:21;55:13;58:2; 66:2;105:19;148:22; 153:10;175:16,24;	176:3;180:6,8;187:14; 192:6;206:17,18; 250:20,20;257:10; 258:15,16;285:15; 289:23 map (13) 18:24;78:19;80:19; 85:3,3,5;90:18;95:18, 23;219:6,12;264:11; 283:4 MARC (1) 208:16 mark (2) 95:18;184:15 marked (17) 21:18;132:23; 133:15;153:5;173:7; 184:23;250:5,11; 253:6;255:9;256:22; 257:6;260:14;268:9, 12,13,15 market (5) 91:16;96:21;241:15; 277:18;289:15 marketplace (1) 282:13 markets (1) 97:1 marking (1) 57:16 Maryland (7) 5:8;64:14;70:2; 188:18;190:14;191:16, 22 mass (2) 274:21;275:1 massive (2) 266:8;272:17 master (196) 6:11;11:15,16;14:2, 22;17:9;18:14,16; 43:19;44:18;45:1;46:3; 48:21;53:5;55:9,18; 59:17;78:16,20;84:25; 85:3,13;87:23,23,24; 88:2;89:14,16;90:5,6, 13;92:10;94:15,17; 95:4,5,20;98:1,12,16; 101:10;104:20,25; 105:5,13,16,20;106:6, 17;107:4,21;108:14,15, 18,22,23;109:1; 112:12;115:3,7,15; 125:19,20,23,25; 126:24;127:1,7,9,13, 22,22;128:5,10,20; 129:6,9;139:11;140:7, 20;149:4,25;150:6; 169:12,19;170:23; 171:4,5,9,12;173:5,19; 174:10;192:8,19; 193:19;194:12,15; 195:4,11;196:15,16,19;	197:5,9;198:7,15; 199:7,15;200:4,18; 202:3;204:1;206:10; 207:15;209:6;211:9; 214:16;215:2,12; 216:24;217:15;218:18; 219:5,18;220:25; 221:2;222:23;223:7, 10,13,15,25;224:15,18, 22;226:12,15;227:7; 229:16,21;230:20,21, 23;231:6,10,23;232:2, 3,11;234:18;235:9,11, 18,24,25;237:17;238:4, 11,18;240:21;246:19, 23;247:7,7,9,15; 248:21;251:11;268:17; 269:19;270:4,12,16; 271:1,17,25;272:3; 274:23,24;275:23; 276:13;277:5;278:13, 25;279:11;280:6,19; 282:15,18;283:3,6; 289:2,7;291:1,13 master's (1) 190:15 match (1) 244:21 material (2) 118:4;197:7 materials (1) 197:20 math (2) 244:20,21 matter (5) 5:9;63:20;70:21; 176:11;213:16 matters (2) 7:6;77:14 maximum (17) 8:20;10:5,6,8,9;13:6, 25;14:10;41:19; 109:14,18;115:4; 143:5,6;242:6;243:9; 244:1 may (55) 16:2;17:22;22:13; 24:21;26:21;29:1; 31:22;32:3;36:19;37:7; 42:24;44:1,13;46:18, 23;48:1;50:5;52:23; 57:14;59:14;64:24; 67:14;68:15;74:21,21; 76:3;77:9;82:24;83:2; 123:17;138:16;143:13; 144:3,23,24;157:25; 175:7;185:5;186:15; 189:21;196:12;218:12; 223:2,3;235:23,23; 237:5;238:16,18,19; 252:5;260:15;266:21; 268:6,6 maybe (18)	18:3;40:12;42:15,15; 53:16;55:1;67:11;73:8; 129:13;130:12;158:19; 169:18;204:2;223:1; 291:4;293:15;294:9,9 Meadows (4) 117:9;146:6,17; 147:23 mean (36) 6:21;14:5;17:22; 28:5;53:7;91:23;104:5; 109:10;111:1;120:5, 18,18;127:5;138:1; 164:3;168:19;180:6; 183:18;194:4;201:15; 202:19;205:11;223:6; 231:17;235:20;246:3, 22;268:5;269:7; 270:18;283:16;284:16; 289:6,19;292:8;293:23 meaning (2) 117:20;214:10 means (6) 29:22,23;30:4;98:21; 203:15;214:11 meant (2) 168:13;243:4 measure (7) 179:20,21,22,23; 180:19,20;275:21 measured (1) 75:21 measures (1) 162:25 measuring (1) 180:4 mechanism (1) 179:10 medical (4) 104:15;219:1; 233:22;283:12 meet (5) 83:6;92:10;101:24; 251:16;289:14 meeting (1) 294:19 member (3) 22:12,14,16 memo (7) 178:12;179:14; 180:9,24;182:21,24; 184:20 memorandum (4) 21:13;135:22;177:4; 184:16 mention (3) 17:7;119:2;239:24 mentioned (8) 84:3;133:9,9;151:9; 206:22;228:25;273:7; 276:16 mentions (4) 120:8;228:24;230:3;
---	---	--	---	--

M

Ma (2)
 21:14,15
M-A (1)
 21:16

239:14 merchant (1) 120:18 Merchant's (1) 263:18 merely (2) 27:2;165:14 merit (1) 195:24 met (5) 30:4;69:8;71:1; 189:24;281:3 method (7) 35:11;115:11; 125:13,14;126:15; 129:21;174:1 methodology (4) 61:11,13;84:12,14 mew (1) 49:20 Michael (1) 21:14 middle (6) 16:18;105:4;108:8; 173:13;186:2;258:24 mid-green (1) 56:17 might (13) 22:20;74:20;93:19; 97:23;183:11;193:23; 212:15;221:18;247:4; 266:10;279:7;283:17; 291:4 mile (3) 55:13;264:22;265:6 Miles (1) 113:14 million (5) 19:9;102:21;210:19; 224:23;237:19 mind (6) 86:8;106:13;116:6; 263:13;280:2;282:7 minds (2) 212:24;216:20 mine (5) 140:20;179:4; 194:15;244:21;256:3 minimal (1) 266:1 minor (4) 161:19,21,22,24 minus (2) 100:25;101:12 minute (14) 20:6;21:24;28:12; 37:17;60:10;64:13; 116:3;153:20,21; 207:2;250:23;260:10; 262:5;285:22 minutes (3) 183:1;184:12,14 mischaracterize (1)	8:5 missed (1) 240:24 missing (1) 257:21 mistake (1) 160:11 mistaken (2) 52:23;167:9 misunderstood (1) 123:3 mitigated (1) 140:3 mix (23) 51:3;56:25;85:24; 92:14,16;114:6,6; 117:2;129:13;145:7; 203:9;205:2;212:1; 215:19;223:19;227:23; 230:3;236:15;247:4; 264:4;266:14;268:23; 278:1 mixed (31) 11:4;12:3,5,8;13:24; 38:3;50:24;51:8;53:7; 7:54;1,3;58:18,19,23; 86:12,18,23;89:9; 121:7;192:14;203:22; 208:12;209:9;214:22; 227:18,18;228:14; 237:21,25;238:1 mixed-use (1) 236:5 mixes (1) 51:3 mixing (2) 145:11,14 MNCPPC (1) 84:8 mode (2) 219:4;283:2 model (1) 216:1 modification (1) 176:24 modifications (2) 160:25;162:14 modified (1) 276:13 modifying (2) 29:8;50:10 moment (5) 72:15;87:7;170:2; 172:8;262:6 momentarily (1) 247:6 Monday (3) 178:2;181:1;251:23 money (1) 34:2 Montgomery (12) 64:21;76:24;189:8; 191:25;192:7,11,25;	193:3,9;195:3;201:9; 210:13 months (1) 127:6 more (78) 6:14;22:20;43:5; 45:1;46:24;50:6;51:14; 52:17;55:22;57:11; 65:25;66:1;76:16; 83:16,18;85:25; 100:11;103:18;114:5; 121:18,20,25,25; 124:21,24;130:1,6; 134:19,19;136:17; 139:5;141:11;148:22; 151:7;162:10;175:16, 21,22,23;180:10,12; 182:12;187:16;191:2; 192:9;193:1,24;194:1; 195:18;198:23;203:23; 204:21;212:1;213:14, 17;223:2,4;224:2; 226:6;233:4;234:3; 236:11,16,22;240:5,8; 243:6;250:20;259:21; 265:8,15;266:6,10; 269:1,11;272:24; 275:15;294:5 morning (6) 34:16;122:17;242:6, 12;251:23;284:21 most (14) 17:24;24:21;117:16; 177:11;179:12;188:25; 189:6;191:8;221:20; 224:14;233:16;237:17; 240:6;265:13 mostly (3) 189:2;204:3;264:4 motion (1) 176:12 move (6) 23:13;68:21;102:19; 105:12;177:17;285:21 moved (4) 108:5,9,12;276:18 moving (9) 40:25;61:13;62:3; 93:22;140:15;222:11, 15,15;268:19 much (29) 7:16,23;21:24;23:6; 52:6;76:16;97:22; 100:22;163:18;185:24; 188:11;192:1,9; 193:16;196:12;204:20, 20;210:20;213:14; 214:20;216:10;225:15; 239:19;244:12;254:25; 260:13;272:19,24; 274:16 multi (1) 57:1	multi-family (3) 55:23;56:24;57:2 multi-page (1) 20:24 multiple (7) 25:10;74:17;86:3; 87:16,19;92:5;179:11 multitude (1) 66:15 multi-use (1) 200:23 municipalities (1) 191:23 must (7) 29:13;32:11;40:15; 115:2,6;190:18;207:2 MXPD (52) 12:21;24:5,6;25:13; 26:7;71:16,20,23; 72:14;79:18;85:22,23, 24;89:20;102:15,16; 103:18;108:17,21; 113:17;114:5;115:16; 116:25;117:2,6;129:7, 10,12,20,23,25;130:2, 6;158:14;174:14; 194:2,6;197:17; 212:15;235:14,19,20, 22;236:1,6,11,14,22; 237:7,24;238:5,12 myriad (1) 234:14 myself (2) 95:23;206:15 <p style="text-align: center;">N</p> nail (1) 223:16 nailed (1) 165:4 name (7) 11:15;97:13;139:9; 147:14;188:14,16; 221:9 names (1) 55:4 narrow (2) 169:20;232:17 narrowly (1) 232:8 National (1) 210:14 nature (3) 146:12;253:8;275:12 near (3) 55:14;159:4;205:22 necessarily (13) 55:20;128:4;145:10; 146:25;147:21;161:5; 163:4;222:1,1;269:7, 18;274:9;275:1 necessary (5)	35:19,23;77:6;215:2; 220:25 necessity (1) 6:7 need (46) 6:10,12,24;7:11,13; 8:23;20:12,14;23:8,10, 23;25:5,17;26:13; 33:14,16,20,21;36:9; 39:13;72:25;77:3; 106:25;159:18;165:3; 167:18;172:16;177:18, 18;184:3;186:15,18, 25;201:18,19;215:6; 217:16;221:12;223:14; 240:20;250:22;257:12; 268:22;269:3;285:12; 294:5 needed (5) 26:8;60:10;163:15; 217:3;239:20 needs (14) 5:13;30:1,5;70:23; 76:7;97:7,8;120:5; 126:18;160:2;217:11; 219:3;239:16;288:7 neighborhood (185) 5:21;8:7;10:18,23; 11:8,23,23;12:1,9; 18:18,21,23;41:25; 42:4,7,9,14,21,21;43:8; 44:3,19,25;45:3,7,15; 48:22,24;49:16,17; 50:9,20,22,23;51:10, 16,20;52:11,21;53:11; 54:2,4;55:1,18;58:23; 59:11;78:19;85:2,6,12; 90:21,25;94:13;96:20, 24,25;97:3,8,15,19,20; 98:2,5;99:3;101:1,14, 15,22;102:7;104:6; 105:15;112:11;121:15; 130:7,24;131:16; 133:20;134:7,13; 135:1,24;141:8,17,19; 143:5;144:3;145:19; 151:11,14;173:14,20, 21;198:21;203:24; 204:15,16;206:13; 208:5,11,16,24;209:2, 23,24;211:6,7,18,22; 212:2,7,7,20;213:3,9, 11,17,18;214:4,6,8; 217:2,3,5,16;219:14; 220:4,6,11,13;221:2, 24;224:11;225:1,13, 20;226:2,19,25;227:18, 19;229:23,24;232:13; 235:9;237:3,19; 239:22,22,25;240:2,3, 11,20;243:4,6;244:17; 246:1,19,21,25;247:2; 261:23;262:3;269:2;
---	---	--	---	---

<p>270:6;272:18;273:10, 16,25;274:3,17;275:4, 9,13,17;277:1,2,2; 282:21;289:3,8,8,15; 290:17,18 neighborhood-oriented (4) 58:17;59:20;141:7; 213:8 neighborhoods (16) 201:3;203:2,8,14; 204:25;208:4;212:9; 214:6,14;216:11; 227:3;271:11;272:2, 12;275:22;276:1 neighborhood's (1) 212:12 neighboring (1) 262:3 neither (1) 186:16 net (1) 146:22 network (1) 140:17 new (30) 29:23;30:17,21; 42:23;57:24;86:15; 90:1;105:12;107:24; 136:18;139:12;140:2, 13;146:25;147:2; 149:14;157:21;160:24; 161:5;162:20;172:16; 202:24;213:10;214:13; 217:2;225:1,19; 228:25;237:18;277:6 next (15) 20:7,8;56:16;97:13; 170:18;171:14;203:21; 214:21;248:25;250:12; 251:16;254:12,14; 266:19;283:25 nice (1) 271:19 nicely (1) 207:24 night (1) 42:2 nighttime (3) 206:8,20;279:4 NIH (1) 210:13 nine (3) 153:2;162:14;167:12 nobody (5) 137:25;216:12; 254:11,21,22 node (5) 55:16;57:12;58:9; 59:11;210:12 nodes (4) 130:24;134:13; 203:16;282:14 nomenclature (2)</p>	<p>11:20;182:13 non- (1) 124:19 none (3) 26:1;65:9;167:21 nonetheless (1) 185:19 non-office (1) 209:21 non-residential (2) 113:24;124:19 Noonan (19) 91:15;176:5,6; 186:13;187:7;188:1,6, 16;189:12,24;196:14; 257:5;260:20;262:20; 271:8;280:25;281:18; 286:10;294:9 Noonan's (2) 291:15;293:24 normally (1) 127:5 north (36) 5:7;9:4,6;10:25; 46:25;48:19;49:7,11; 50:3;51:1;53:10;54:18; 56:1;57:23;58:5;78:25; 86:13;89:2;90:15; 108:9,12,19;159:14; 206:23;207:6;213:15; 220:10;226:7;242:21, 24;243:1;246:8;261:7, 25;278:7,23 north/south (1) 159:16 Northern (24) 8:3,6,22;9:4;51:25; 55:19,23;79:16,18; 81:21;90:7,16;93:1,13; 122:3;162:3;167:10, 13;189:5;229:5; 236:12,18,23;237:23 northwest (2) 94:1,2 Nos (1) 268:14 notations (1) 84:8 note (14) 17:7;35:17,19;36:3, 5;41:19;62:2;94:19; 96:11;115:19;131:4; 136:19;166:16;197:7 noted (9) 41:9,10,20;76:20; 84:22;152:20;166:4, 15;197:25 notes (8) 35:17,19,22;41:18; 116:2;242:12;244:6; 249:18 notice (4) 190:11;285:11;</p>	<p>286:16;290:25 noticed (1) 95:22 November (2) 21:13;22:8 Nowhere (3) 236:19;255:2,5 nuances (1) 198:12 nucleus (1) 93:19 number (56) 20:7,8;24:19,23; 42:1,2;49:19;53:12; 55:22;59:21;63:3;65:3; 66:16;74:18;79:14,15; 81:21,25;82:3;84:8,9, 16;85:20;86:5;95:19; 108:24;109:1;114:10; 115:6;119:8;125:22; 126:24;127:13,19; 128:8;129:5,6;134:10; 146:19;147:7,14; 158:17;162:1;169:20; 171:14;203:7;206:24; 218:5;240:19,19; 248:25;250:12;259:12; 260:4;281:12;291:5 numbered (2) 79:7;260:12 numbers (19) 58:7;80:17;88:24; 115:5;134:12;209:7; 211:17,22;213:22; 223:16;226:19;237:1, 2;242:11;244:15; 245:4;257:12;269:18; 273:9 numeric (7) 18:15,18;19:12; 85:18;94:9;226:8,14 numerical (9) 115:14;125:17,24, 24;174:4,5,8,12;226:10 numerous (2) 87:15;195:20 nursing (1) 104:14</p>	<p>76:21;87:8;88:19;91:1, 12;93:5,20;94:19; 98:13,18;100:5;101:4; 102:2,19;103:22; 106:8,19;107:17; 109:5,22;110:20,22; 111:12;115:20,23; 116:8,10,21;117:13; 118:24;120:17;122:12; 136:23;150:3;165:1; 166:3,4;174:24; 194:25;241:21;243:10; 263:9;271:18;278:16 objections (6) 62:6;65:8;136:1; 189:19;196:8,9 objective (3) 215:4;279:22;287:10 objectives (7) 19:3;102:6;202:9; 208:9;215:3;240:21; 247:8 obligations (1) 29:13 observation (2) 91:11;100:19 observations (4) 112:15;254:14,15,23 obtained (2) 109:20;250:24 Obviously (2) 103:24;250:19 occasion (1) 225:17 occupation (1) 188:19 occur (18) 52:12;75:16;84:3; 130:13;206:2;210:8,8, 10;215:7;216:18; 231:24;237:20,21; 277:6;280:5,12; 282:16;289:11 occurring (4) 206:11;217:2,10; 279:10 occurs (1) 211:25 o'clock (2) 183:12,23 October (3) 288:1,4,22 Oddly (1) 239:23 off (37) 7:5,9;9:23;15:20; 16:6,13;20:18;34:1; 62:17;79:6;113:20; 118:6,10,13;119:11; 124:8,17;131:24; 132:6,11,16;157:5; 160:2;179:6;183:8; 185:7;199:21;251:8;</p>	<p>252:15,21;256:9,13; 259:7,25;260:8; 263:23;276:6 offer (8) 65:25;138:15,16,18; 189:15;256:16;289:13; 292:1 offered (5) 65:22;117:14;195:7, 7;292:14 offering (4) 138:24;139:2;195:2, 23 offhand (5) 17:24;22:5;58:4; 146:19;149:9 office (45) 47:19;51:4;53:25; 64:22;123:11;134:2; 144:22,24;189:7; 190:25;209:22,24; 213:25;219:1;220:20, 22;221:14,17,19;222:2, 23;223:3;233:20,22; 234:4;236:10,11,17,23; 237:20;238:2;251:21; 259:2;264:4,5,6,10; 265:3,13,14;266:3; 267:7;280:11;281:25; 283:24 offices (2) 58:23;104:15 official (2) 15:25;26:11 often (3) 192:2;193:1;240:4 Old (12) 5:8;31:2;88:16;90:1; 104:5;108:1;140:4,7; 158:24;188:17;223:14; 249:15 older (1) 264:4 ominous (1) 216:3 once (7) 33:5;34:12;53:2; 125:3;148:18;240:5; 279:18 one (143) 9:17;14:3;15:5;16:9, 23;18:4;20:10,14,22; 22:25;23:1,5;28:5; 29:12;30:21;31:2; 42:10,12,13;45:5,7; 46:14;48:18;49:13,22; 50:18,23;51:23;54:9, 10;60:21;64:11;65:17; 69:18;71:17;81:7;82:4, 5;85:14,20;86:1;87:16, 23;88:13,14;89:17; 90:11;104:7,8;110:24; 113:19;114:25;118:7;</p>
--	--	---	--	--

<p>120:2,3;121:18,20; 124:24;126:5,6; 133:14;136:25;139:25; 151:5;152:22;158:3; 159:4;166:17;169:13; 170:24;171:16;173:24; 175:20,22,23;176:11; 179:20;186:24;189:4; 191:24;199:1;203:1, 21;204:11,17,25; 206:15,25;208:6; 216:25;217:6,21; 218:14;219:2;222:7; 224:8;225:10;230:25; 232:5,8,19,22;233:4, 12,14,16;242:17; 246:24;247:14;248:11; 254:7;256:10;257:2, 11,14,17;259:3,11,23; 261:24;262:18,23; 263:11;264:4;265:20; 266:2;267:12;268:16; 271:19;274:22;276:7, 10;277:24;278:1,7; 284:13,21;285:19; 287:13;288:1;290:8; 294:7,12</p> <p>one-of-a- (1) 219:6</p> <p>one-of-a-kind (2) 219:11;283:5</p> <p>one-quarter (1) 55:13</p> <p>ones (5) 7:13;121:22;151:12; 179:11;200:1</p> <p>online (2) 112:3;251:6</p> <p>only (35) 20:22;43:10;55:25; 58:20;71:5;83:1;88:3; 97:19;121:6;124:12, 18;142:5;144:5; 153:13,17;175:23; 176:2;177:8;182:4; 183:23;187:5;198:7; 204:24;211:23;212:10, 20,24;213:4;226:16; 227:1;234:7;235:4; 237:3;240:16;286:18</p> <p>onsite (1) 160:6</p> <p>open (8) 26:5,15;117:18; 158:7;177:10;202:19; 203:17;231:25</p> <p>opening (1) 219:8</p> <p>operated (2) 192:22;193:1</p> <p>operates (1) 146:12</p> <p>operating (1)</p>	<p>194:12</p> <p>operations (1) 262:4</p> <p>opined (1) 231:9</p> <p>opinion (41) 6:16;61:15,19;63:14; 74:9;76:6;83:22;90:19, 23;91:8;92:5,25;94:11; 97:10,18;100:1;109:2; 112:20,24;120:15; 131:6,8,9,10,21; 132:22;133:20;134:6, 14;145:4,5;171:20; 198:5;213:16;222:20; 231:5;248:9;276:2; 279:15;280:7;284:6</p> <p>opinions (7) 113:10;116:11; 195:21,23,24;234:17; 247:15</p> <p>opponent's (1) 5:14</p> <p>opportunities (3) 50:1;114:6;233:20</p> <p>opportunity (8) 26:2,50:3,4;180:25; 181:2;196:14;212:17; 237:22</p> <p>opposed (3) 90:20;143:15;226:2</p> <p>opposite (1) 283:22</p> <p>opposition (8) 6:1,5;26:1;136:20; 186:5,15;187:1,2</p> <p>option (3) 129:22;186:12; 237:24</p> <p>optional (4) 125:13;126:15; 129:21;174:1</p> <p>options (2) 186:11;201:10</p> <p>oral (1) 29:7</p> <p>orally (4) 29:8;177:16;179:3; 189:12</p> <p>orange (1) 142:18</p> <p>order (10) 76:8;93:9;152:22; 174:7,22;199:17,18; 217:7;222:25;261:3</p> <p>ordinance (24) 29:10,12;39:17; 40:17;43:19;44:18; 61:18,20;69:11;74:13, 13;125:21,23;127:14; 150:22;176:25;179:25; 180:3,5;192:25;193:3, 16,20;195:3</p>	<p>ordinances (4) 192:18;193:7,9; 195:20</p> <p>organized (1) 190:22</p> <p>orientation (3) 211:22;247:2;275:9</p> <p>oriented (2) 151:11;262:4</p> <p>orients (1) 208:16</p> <p>original (22) 26:6;35:15;43:17; 46:3;62:23,25;67:18; 84:7;86:2,4,24;87:10, 23;102:11;117:5; 121:1;131:9;180:24; 187:23;210:24;289:20, 21</p> <p>originally (3) 87:24;270:9;283:11</p> <p>OS (1) 158:7</p> <p>ostensibly (1) 55:19</p> <p>others (1) 197:18</p> <p>other's (1) 113:10</p> <p>otherwise (1) 287:16</p> <p>out (63) 6:15;8:24;9:3;14:3; 15:16;17:20;37:1; 42:11,25;44:25;46:13; 52:22;55:5;86:9;89:22; 92:2,95:19;103:7; 104:7,21;110:2;120:5; 128:7;139:11;147:14; 163:5;172:9;180:16; 185:12;192:21;193:2, 4;200:1,5;201:4;202:1, 23;206:5;210:14; 211:14;217:6;223:5; 224:5;230:22;232:19, 22;233:12;239:11; 243:14;250:25;251:2; 254:9;259:20;261:3; 267:2,19;271:13; 274:10;278:5;279:18; 284:16;288:8,16</p> <p>outdoor (1) 219:22</p> <p>outfalls (4) 161:1;162:19,21,22</p> <p>outlet (30) 8:10,10,12;27:10; 53:18;55:5;90:20,24; 112:8;113:5;145:11; 152:2,9;153:18;159:1; 163:6;248:1,7;249:14; 259:1;261:1,2,4,8,17; 275:8;281:23;282:1,8;</p>	<p>283:14</p> <p>outlets (9) 8:16;10:16;52:2; 77:25;255:13;265:19; 266:9,13;293:10</p> <p>outline (1) 255:21</p> <p>outlined (1) 271:1</p> <p>outlining (1) 255:12</p> <p>outset (1) 185:14</p> <p>outside (8) 141:25;158:4; 170:20;189:5;204:2; 233:2;276:22;284:7</p> <p>over (21) 7:22;16:9;54:8,12; 76:12;145:20;147:10, 24;150:17;153:19; 177:7;180:25;191:18; 192:7;202:5;214:12; 225:17;237:24;270:23; 274:10;281:3</p> <p>overall (10) 75:19;81:4;82:3,11; 84:11;158:20;199:12; 206:6;210:15;223:25</p> <p>overlap (10) 10:12,14;49:23;51:7; 53:7;79:17,18;92:13; 103:5;158:13</p> <p>overlapping (1) 42:17</p> <p>overlaps (2) 53:8;158:8</p> <p>overlooking (1) 57:7</p> <p>overlying (1) 208:8</p> <p>overrule (2) 88:19;102:3</p> <p>own (7) 191:14;210:12; 216:6,6;245:3;275:19; 284:6</p> <p>owned (1) 248:1</p> <p>owner (1) 63:11</p> <p>owners (1) 276:19</p> <p>ownership (1) 35:11</p>	<p>41:16;42:3;44:22; 48:21;51:10;52:19; 54:24,25;55:12;70:9; 71:11;74:18;78:16,18; 80:11,12;84:25;90:14; 96:14;97:25,25;98:4, 23,24;99:1,5,10,15; 105:3;107:23;108:25; 109:9;116:2;119:6,12, 15;126:1;127:20; 133:25;140:20;141:14, 15;158:16,18;164:7; 167:1;169:16,24; 170:5;172:17;173:5, 13;200:10;202:6; 204:10;205:5;208:8,9, 20,21;209:11,12; 211:25;212:4;214:23; 215:8,8,15,21,23; 216:1,3;217:23; 218:19;219:18,19; 224:18,19;227:7,9,15, 23;228:15,16;230:6,8; 232:1,20;233:17; 235:11;236:6;237:11; 238:6;239:12,12,15; 252:25;272:13;276:4</p> <p>pages (17) 20:25;25:10,12; 67:18;74:17;78:25; 99:2;153:6,8,9;164:7; 207:3;214:23;250:19, 20,21;252:25</p> <p>paid (1) 241:20</p> <p>paper (3) 197:14;204:7;212:25</p> <p>papers (1) 114:12</p> <p>paragraph (20) 17:8;96:23;97:4,5; 99:11;105:4;116:4,6, 11,19;119:19,20,21; 141:15;142:11;169:25; 170:11;173:16;228:17; 237:14</p> <p>parallels (1) 108:1</p> <p>parameter (1) 13:3</p> <p>parameters (6) 49:14;84:1;91:18; 164:1,3;253:18</p> <p>Pardon (8) 73:3;106:16;113:19; 160:10;171:18;207:2; 227:21;256:25</p> <p>parentheses (1) 32:9</p> <p>park (12) 19:11;57:24;76:18; 84:19;108:10,12; 135:22;139:15;179:12;</p>
---	---	--	---	--

P

page (119)

13:14;14:25;15:1,2,
 3,6,18,19,24;16:3,7,8,
 17,19;18:24;19:1,2;
 22:2;31:16;35:17;

<p>225:5,25;231:9 parked (1) 254:16 parking (10) 40:5,7,9;61:5;163:5; 180:20;257:7;260:25, 25;282:12 Parkway (2) 57:21,24 parse (1) 193:16 part (41) 19:13;22:3,7;51:25; 78:20;85:21;92:11; 95:14;104:24;124:20; 125:2,12;130:18; 139:21,22;148:5; 158:9;160:1;167:13; 172:3,4;196:23;202:3; 206:6;209:23,24,25; 213:15;218:23;219:12; 220:10;230:2;237:21; 260:24,25;261:1,3; 264:5;270:14;279:19; 292:12 Partially (1) 140:7 participate (1) 221:5 particular (10) 17:5;38:6;41:9; 167:19;169:19;186:1; 199:3;208:5;235:23; 278:23 particularly (13) 90:14;99:18;107:24; 108:25;114:5;117:4; 140:9;145:19;161:17; 162:19;171:5;195:2; 266:7 parties (4) 60:15;65:15;251:25; 253:15 Partly (2) 139:20,20 passed (1) 14:3 past (5) 73:20;84:4,17;112:2; 187:7 pattern (10) 161:1;189:4;203:22; 205:4;208:13,15,16; 215:19;228:2;241:7 patterns (1) 215:22 paying (1) 241:18 PDR (1) 24:8 pedestrian (4) 51:16;261:2;265:18, 25</p>	<p>pedestrian-oriented (2) 201:3;205:7 pending (3) 22:10,11;196:23 people (16) 36:9;46:7;65:18; 66:7;95:22;122:1; 177:11;187:16;204:2; 216:20;217:10;221:4; 285:17,25;289:9,10 Per (10) 13:7;14:1,1;41:3; 81:22;83:1;90:18; 102:17;125:1;159:18 percent (7) 81:25;102:17;129:8; 130:3;174:19;179:17, 18 perception (1) 278:23 perfectly (2) 83:21;94:7 performances (1) 219:24 perhaps (5) 6:1;187:1;240:4; 269:4;271:19 perimeter (1) 82:2 period (2) 26:15;145:20 periodically (1) 253:16 permissible (1) 235:22 permit (2) 77:4;87:25 permits (1) 158:23 permitted (3) 158:12,13,22 Permitting (1) 76:24 perpetual (1) 35:11 person (6) 40:13;47:14;124:12; 138:4;176:18;187:4 personal (1) 181:4 personally (2) 180:18,18 perspective (6) 191:10;192:5;214:9; 222:16,17;277:16 pertain (1) 97:19 pertains (2) 94:13,14 pertinent (1) 254:15 Peterson (1) 113:15</p>	<p>pharmacies (1) 211:21 pharmacy (1) 240:4 phonetic (3) 67:5;176:16;189:15 photo (5) 255:12;257:13; 260:22,23;263:6 photograph (11) 255:18;256:19; 257:7;259:14;260:24; 261:7,24;262:2,3; 264:25;268:11 photographs (9) 249:10;259:1;262:7, 8;267:6,19;282:20; 293:4;294:10 photos (7) 256:24;257:1,11; 258:15;260:5;268:6,19 phrase (7) 48:22,23;52:4;89:22; 161:24;232:19;278:11 phrasing (1) 34:16 physically (1) 47:19 pick (1) 194:19 picture (1) 265:17 pictures (11) 261:20;263:4; 266:22,25;267:13,23, 25;268:2;291:21,22; 292:13 piece (1) 130:12 pieces (1) 108:13 pile (1) 170:3 piles (1) 197:14 pinpoint (1) 57:18 pizza (1) 240:9 place (35) 43:1;50:5;52:1,6,11; 53:2;86:1;124:24; 125:3;126:5;146:18; 151:11;203:11,23; 204:23;211:23;212:10, 20;214:15;221:22; 224:12;225:8;226:16; 233:18;236:3;237:4; 243:6;254:14,23; 270:1,13;273:9; 274:22;277:24;281:15 placed (1) 220:9</p>	<p>places (18) 19:10;42:1,2;49:22; 50:1;52:13,15;86:3,11; 109:2;121:25;122:1; 191:25;203:6;210:3; 223:17;225:24;234:14 plan (637) 5:5;6:11;9:20;11:15, 16,18,20,22;14:2,22; 17:9;18:14,16,20,23; 19:3,13;20:1,5;24:10, 13,14,16,17,20,22; 26:12,25,25;27:2,13; 28:1,3,19,21,22;29:9, 14,23,24;30:14,15,15, 17,18,18;31:4,20;32:8, 10,12;33:1,2,5,6,18; 34:17;35:16,18,24; 36:4,11,13,14,17,17; 37:1,19;38:21;39:1,4,9, 12,19,23;40:14,15,21; 41:3,6;42:8,10,13,20; 43:8,17;44:11,12,14, 18;45:1;46:3;48:21; 49:4,14;50:5,13,14,24; 51:7;52:16,16,24;53:5, 21;54:24;55:9,18;59:6, 17,19;60:5,20,23;61:3, 4,14,16,17;62:11,19, 22,23;63:2,6,6,8,9,11, 15,22,23,23;66:17; 67:14,20;68:2,3,8; 69:20,23;71:18;72:7, 17,19,20;73:18,22,25; 74:2,2,7,9,10,14,16; 75:5,6,8,11,12,15;76:5, 7,9,14,15,17,19;77:1,4, 6,11,12;78:3,6,10,16, 20,24;81:4,13,19,22, 25;82:6,8,18,20;83:1,9, 23,24,25;84:1,2,8,10, 11,21,25;85:3,9,14; 86:3,4,9,19,25;87:1,2, 6,19,23,24,24;88:2,6, 17,22;89:7,10,12,14, 16,24;90:5,6,13;92:6, 10;94:15,17;95:4,5,20; 98:1,12,16;99:13,14; 101:10,23;102:11,14; 103:16;104:3,5,20,25; 105:5,13,16,20;106:6, 17;107:4,21;108:3,11, 12,14,15,18,22,23; 109:1,20,20;110:2,4,8, 8,12,14,16;112:12; 115:3,7,15;117:5; 120:14,25;121:16; 122:2,9,11,16;123:13; 124:1;125:19,21,23,25; 126:8,10,24;127:1,7, 10,13,15,22,23;128:1, 5,11,20;129:6,9,11,19, 22,24;130:5,11,14,17, 24;131:10,14,17;132:2, 4,7,8,22;133:3,6,8; 134:6,14,15,24;135:23; 136:4,8;137:16; 138:10,14;139:11,12, 17,20,23;140:8,11,14, 15,17,20;141:12,22; 142:3;143:9,11,21; 146:15;149:4,22,25,25; 150:5,6,25;152:5,6,9, 12,13,14,15,20,23; 153:7;154:5;155:17, 25;156:8,18;157:2,19, 20;158:23;159:1,2,3; 160:3,13,25;161:8,10, 14,16,18,18;162:9,10, 11,15,16,25;163:11,14; 164:2,8,10,11,15,18,19, 20,21,21,22,23;165:6, 14,18;166:9,14,16,17; 167:17,25;168:2,4,5, 17,21;169:12,19; 170:23;171:4,5,9,12, 21;173:5,20;174:10; 179:10,12;182:1,2,6; 192:14;193:17,19; 194:12,15,17;195:4,11; 196:15,16,19,19,23; 197:5,9,11,12,15; 198:5,7,15,15,21; 199:3,7,15,21,22; 200:5,8,8,11,14,16,18, 20,23;201:1,2,7,11; 202:3,4,9,14,17; 203:17,18;204:2; 206:10,17;207:11,13, 15,21,25;208:3,7; 209:6;211:9;212:14; 213:2,15,20;214:3,16, 19;215:2,3,4,8,15,17, 21;216:21,24;217:7,15, 18,24;218:16,18,22; 219:5,16,18,19,25; 220:1,25;221:2; 222:24;223:10,13,15, 21;224:1,3,7,14,16,18, 22;226:7,12,15;227:7; 228:21;229:9,21; 230:20,21,23;231:6,10, 24,25;232:2,3,11; 234:6,13,18;235:10,11, 24,25;236:5,5,7,21; 237:17,20;238:4,11,14, 18;240:22;241:5; 242:22;246:19,23; 247:7,7,9,15;248:21; 249:20;251:4,12; 253:2,4;268:17; 269:19,21;270:4,12,16; 271:1,9,11,13,17,25; 272:3;273:23;274:15, 16,17,23,24;275:4,11, 23;276:14;277:5;</p>
--	---	---	--

<p>278:13;279:1,11; 280:7,19;282:15,18,23; 283:3;286:7;289:2,7, 16,19;291:1,13 planned (3) 203:4;216:21;265:20 planner (14) 64:7;112:19,25; 113:1,22;137:5;139:6; 145:4;191:7;192:13; 193:5,11;194:22; 195:17 planners (6) 195:14;204:7; 209:14;210:5;216:2; 289:13 planner's (1) 277:16 Planning (79) 5:24;17:2;35:5; 71:15;74:3;76:18;82:2, 7;84:19;86:25;93:8,11; 97:6;108:3;111:3; 115:2;117:11;118:16, 22;119:12;132:21; 135:22;137:16;139:15; 140:12;146:2;147:20; 148:3;149:15;164:11; 169:3,6;171:20; 179:12;188:20,21,22, 24;189:16,17;190:2,16, 24,25;191:1,1,19,22; 192:1,2,4;193:5;195:1, 23;196:11;199:12; 202:8,22;204:1;205:9, 16;206:1;207:14; 223:23;231:9;233:2, 24;234:2,17;235:24; 237:25;238:20;239:15; 249:11;269:24;270:14; 276:13;280:10;283:19 Planning's (1) 191:9 plans (31) 27:18;31:18;33:7; 68:4,4;73:13,16,20; 77:3,15;81:2,6;82:1; 84:5;123:9;152:17; 158:21;162:23;163:7; 167:21;181:24,25; 191:10,12,14,24;192:8, 19,19;205:25;209:10 plan's (4) 215:12;223:7; 229:16;235:18 planted (1) 75:14 planting (12) 79:22,25;80:3,10,23; 81:4,16,20;82:23;83:5, 7,11 plats (1) 71:16</p>	<p>playing (1) 179:19 please (28) 8:4;13:13;19:24; 20:10;21:24;34:5; 36:25;47:8;48:10;54:8; 104:21;125:9;129:2; 135:10,13,25;156:15; 158:15;169:16;170:13, 17;188:4,7;189:21; 198:24;231:15;257:6, 10 plus (2) 100:24;150:14 pm (1) 295:1 point (50) 6:13;31:16;34:10; 37:1;42:13;51:11,12, 13,17,22;52:1,4,5,19; 53:10;67:10;86:9; 90:12;92:1;120:5; 121:23;127:11,25; 128:9;136:4;137:1; 138:11;155:6;157:2; 159:24;164:14;181:4; 194:5;202:1;205:19; 208:1,24;211:14; 223:11;231:3;235:17; 239:11;267:13;269:3; 271:3;278:7;280:9; 287:7;288:1;289:1 pointed (2) 9:2;206:5 pointer (1) 8:24 pointing (1) 139:11 policies (9) 190:25;193:18; 199:24;200:10;215:4; 216:22;218:19;233:11; 269:22 Policy (22) 45:16;46:3;199:25; 200:3;201:11,14; 202:4;205:10,23; 208:8;209:1,2,15; 215:8;218:19;230:1; 233:3;273:18;279:16, 22;280:2;289:9 pond (17) 74:21,21;158:1,1,4,4, 8,10,11,12;159:6,8,8, 12,15;162:4,5 ponds (11) 67:23;75:4,9,10,12; 158:1,3,13,22;162:19, 20 population (6) 97:7;239:16,19; 272:23;273:2,6 portion (12)</p>	<p>90:16;107:25;144:2; 229:5,6;235:8;236:12, 18,23;237:23,24;278:1 portions (1) 205:5 posit (1) 46:13 position (6) 117:21;136:7,19; 180:12;181:12;283:16 possibility (4) 49:19;55:7;59:12; 289:3 possible (5) 7:23;8:22;49:13; 55:14;166:12 possibly (8) 7:1;112:22;144:11; 175:20,22,22;183:4; 287:24 post-approval (1) 180:3 post-development (1) 179:10 potential (6) 45:7;50:17;59:10; 66:9;73:4;158:5 potentially (5) 170:19;225:6,18; 276:22;286:12 Powerpoint (4) 46:19;47:8;48:13; 281:2 pre- (2) 137:15;138:13 preceded (1) 239:17 preclude (2) 111:9;149:16 predate (1) 163:7 predated (1) 128:1 preempt (1) 53:23 prefer (5) 65:20;172:8;177:11; 178:12;251:21 preference (1) 279:25 preferred (1) 186:12 prehearing (5) 63:19;65:14;71:8,13; 186:24 prejudice (1) 66:18 preliminary (75) 5:9;7:6;20:1,5;24:10, 12,14,16,23;26:4,6,12, 14;27:2,22,25;28:20, 22;29:8,14,24;30:17; 31:4;33:1,3,15,17;</p>	<p>62:21,24;63:6,7,11,22; 72:18;74:14;76:5,6,10, 15,16;77:14,16,20; 78:22;87:1,2,6;88:22; 89:10,12;109:20; 110:8;130:11,14,17,24; 131:10,14,17;132:8,9, 22;133:3,6;134:6,14; 137:16;138:14;152:17; 164:18,20,21;165:14; 166:15;171:21 premise (2) 116:17;150:9 premium (1) 255:13 preparation (2) 194:7;276:14 prepare (2) 73:15;181:8 prepared (8) 29:25;30:2;65:15; 170:24;179:1;197:20; 255:15;291:24 preparing (1) 170:15 pre-preliminary (3) 135:23;136:4;138:10 prescribed (2) 84:12;125:20 present (3) 28:19;254:1;255:17 presentation (6) 47:9;68:20;69:4; 197:20,24;281:2 presented (4) 24:11,13;48:13; 198:1 preserves (1) 201:9 presumably (3) 56:3;57:7;58:5 presume (1) 149:10 presumptuous (1) 192:3 pretty (15) 6:16;18:10,11;124:4; 130:4;163:18;185:24; 189:13;193:10;199:11; 202:21;224:19,25; 238:14;273:3 previous (1) 161:2 previously (2) 186:1;188:23 prima (1) 69:9 primarily (23) 8:24;10:12,16,17,20, 21;12:3,9;50:23;51:8; 55:24;56:4,25;57:2,13, 14;75:23;76:1;78:4; 81:21;108:6;152:21;</p>	<p>158:14 primary (5) 51:17;81:7;93:1; 104:9;133:10 principle (2) 41:2;215:15 principles (2) 215:7;217:6 printed (1) 251:8 prior (9) 12:4;24:5,6;36:4; 97:16;202:25;217:8; 243:13;287:13 priority (2) 216:9;279:25 private (2) 192:14,18 privilege (1) 181:4 probably (23) 7:22;28:24;46:23; 67:17;71:15;124:21; 147:13;148:23;175:23; 177:10;178:17;187:7, 7,14;190:22;194:7; 208:1;222:11;225:9; 247:16;251:5;252:12; 287:25 problem (14) 172:13;177:8; 185:20;187:15,18; 199:8,13;217:18; 252:3;254:4,5,8; 267:23;294:15 proceed (11) 76:8;77:2;84:20; 90:24;94:10;126:15; 129:21,22;170:21; 276:23,25 proceeded (1) 63:4 proceeding (8) 27:18;32:5;65:23; 77:11,12;87:11;90:20; 174:14 process (10) 33:10;169:4;173:23; 177:4;179:10,12; 180:14;193:9;224:3,4 processes (1) 180:3 professional (4) 66:13;233:22;264:5; 279:6 proffer (3) 68:16;155:8;251:3 program (1) 155:1 prohibit (4) 116:6,19,23;178:8 prohibition (1) 180:15</p>
--	--	---	--	--

<p>prohibits (1) 120:25</p> <p>project (18) 20:4;22:25;25:15; 27:18;31:13,21;51:15; 63:4;92:4;100:1; 107:10,22;109:20; 186:4;194:4;272:25; 273:1,2</p> <p>projected (3) 271:13;272:23,23</p> <p>projection (1) 273:6</p> <p>projects (1) 66:16</p> <p>promise (1) 83:17</p> <p>promote (1) 283:14</p> <p>pronounced (1) 221:9</p> <p>proof (1) 69:9</p> <p>properly (1) 131:3</p> <p>properties (7) 93:24,25;108:17,20; 113:8;189:2;248:2</p> <p>property (43) 5:6;24:5,18;27:4; 63:10,10;68:5;75:17, 19,22;76:19;77:17; 85:21;86:13;89:6;93:2, 4,13;98:11;107:25,25; 108:2,9,11;113:15; 124:25;126:3,11; 127:3,15;128:3;129:1; 130:18,20;143:16; 159:14;167:13;179:15; 185:17;196:15;213:25; 276:19;283:14</p> <p>proponents (1) 133:14</p> <p>proposal (22) 19:22;31:13;49:9; 112:3,8;140:2,4; 149:14;152:12;187:19; 195:8;197:11;198:12; 199:9,12;211:1;222:3; 233:12;234:10;235:19; 273:23;277:23</p> <p>proposals (1) 211:1</p> <p>propose (2) 104:2;274:16</p> <p>proposed (57) 12:14;13:1;19:5; 24:10;27:1,23;29:15; 35:6;39:11;41:7;55:19; 60:20;61:17;63:14; 78:25;86:18;87:12; 102:10;104:6,13; 109:15;110:13;111:21;</p>	<p>113:15,17;121:19; 122:9;123:12;142:1; 143:4,7;159:4;168:15; 174:8;192:6;193:17; 198:5;199:22;200:17; 202:14;205:25;207:11, 23,25;212:6,8;218:23; 219:9;223:1,18; 224:20;229:23;232:9; 243:8;246:23;274:14; 281:24</p> <p>proposes (3) 119:22;200:20,23</p> <p>proposing (7) 5:18;20:1,20;110:17; 192:15;219:21;234:1</p> <p>protect (1) 201:19</p> <p>protected (1) 75:13</p> <p>protection (2) 67:17;76:25</p> <p>prove (1) 68:13</p> <p>provide (13) 32:6;47:8;113:6; 114:6,23;159:18; 208:12;215:25;219:25; 238:4;250:22;274:8; 294:8</p> <p>provided (7) 42:22;115:12; 125:16;174:9,13; 191:24;274:7</p> <p>provides (3) 49:20;174:3;239:2</p> <p>providing (5) 193:13;235:7; 273:23;274:9;275:2</p> <p>provision (15) 18:15;19:13;30:13; 31:17;98:7;115:11; 174:3;176:24;182:1; 229:16;230:10,13,17; 241:5;274:22</p> <p>provisions (15) 17:11;30:19;99:22; 105:2,7,10;115:13; 125:16;152:8;171:11; 197:5;224:15;230:5; 238:11;276:15</p> <p>proximity (2) 55:23;59:21</p> <p>prudent (2) 277:15,19</p> <p>public (23) 5:2;19:10;38:4;51:4; 134:24;148:15;154:25; 191:1;201:23;208:25; 219:17,21,23;220:1; 225:3;226:6;227:25; 233:7,23;234:8;254:2, 16,20</p>	<p>pull (2) 36:11;104:21</p> <p>Pulte (4) 93:2,13,24,25</p> <p>purport (1) 292:4</p> <p>purpose (13) 17:9,18;56:11; 104:23;105:6,9;138:1, 3;222:4;235:5,5;237:7; 266:5</p> <p>purposes (4) 35:13;97:11;230:25; 293:20</p> <p>pursuant (1) 189:10</p> <p>pursue (1) 150:20</p> <p>put (43) 31:7;35:5;36:12; 37:17;65:13;66:3,4; 67:22;68:12,15;69:6; 81:25;127:2;128:20, 23;132:15;136:25; 137:4;154:23;156:16; 164:17;172:21;178:13, 13;181:18;183:13; 184:20;185:9;188:5; 199:19;212:25;216:13; 219:5;225:23;249:19, 24;250:21;257:10; 278:5;283:4;285:12; 290:12;292:22</p> <p>putting (5) 46:9;60:4;204:6; 219:11;286:16</p> <p style="text-align: center;">Q</p> <p>qualification (4) 19:14;73:5;194:22, 24</p> <p>qualifications (1) 195:16</p> <p>qualified (17) 31:7;34:14;63:17; 64:1,7,17;65:1;94:23; 95:4,5;100:6,9;102:22; 156:24;193:19;196:7, 10</p> <p>qualify (8) 65:8;66:18;73:9; 121:23;195:16,16,21; 226:13</p> <p>qualifying (1) 71:6</p> <p>quality (4) 68:4;74:2;220:8,8</p> <p>quantify (1) 57:15</p> <p>quarters (1) 130:16</p> <p>quasi- (1)</p>	<p>32:4</p> <p>quasi-public (1) 35:13</p> <p>Queenstown (5) 248:4,6;267:5; 282:10,11</p> <p>quick (1) 227:8</p> <p>quickly (3) 20:25;227:9;294:23</p> <p>quiet (1) 293:2</p> <p>quite (12) 42:18;181:22; 193:15;199:9;211:1,7; 216:19;226:18;247:4; 264:23;270:9;282:22</p> <p>quote (4) 32:10;78:19;106:14; 182:8</p> <p style="text-align: center;">R</p> <p>R&D (1) 219:1</p> <p>radius (2) 264:22;265:6</p> <p>raise (8) 68:14;69:3;70:16,20; 73:7;188:7,8;273:18</p> <p>raised (2) 103:9;149:20</p> <p>raising (2) 26:23;181:7</p> <p>ramble (1) 282:23</p> <p>ran (2) 288:16,20</p> <p>range (21) 8:25;9:9;10:7,9; 11:13;12:24;13:2,8; 14:8;39:16;40:7,9; 59:5,12,18;102:6; 111:24;141:5;144:9; 147:1;246:16</p> <p>ranges (3) 12:17;121:7,8</p> <p>rapid (1) 222:12</p> <p>rarely (1) 273:1</p> <p>rate (1) 214:23</p> <p>rather (4) 179:9;257:11;269:5; 290:2</p> <p>rating (1) 193:6</p> <p>ratio (1) 272:24</p> <p>rational (1) 280:13</p> <p>rationale (3)</p>	<p>216:25;219:12;280:9</p> <p>re (2) 175:13,13</p> <p>RE-1 (1) 108:20</p> <p>reaction (2) 281:5,19</p> <p>read (35) 19:8;20:25;23:13; 28:12;29:12;35:19; 50:16;51:19;55:18; 95:6;96:17;116:11; 119:25;120:5;131:2; 138:12;151:2;170:13, 18;194:7;197:19; 199:15;202:21;212:24, 24;217:21,22;219:9; 223:7;234:14;236:4,4; 247:13;253:10;261:13</p> <p>reader (2) 194:16;209:6</p> <p>reading (5) 135:18;193:12; 222:23;229:25;237:1</p> <p>ready (5) 48:8;60:15;123:20; 176:7,8</p> <p>reaffirmation (1) 106:5</p> <p>reaffirmed (2) 46:3,4</p> <p>real (1) 225:9</p> <p>realistic (3) 111:13;286:10,15</p> <p>reality (1) 289:14</p> <p>realize (2) 57:14;151:15</p> <p>realized (1) 106:16</p> <p>really (29) 18:11;42:13;115:23; 124:3,5;169:2;180:15; 181:14;193:21;199:7, 21;207:10;209:16,21; 219:9;224:5;233:11, 16;235:17;237:2,6; 238:19;242:7;248:7; 265:20;266:9;275:25; 276:2;278:14</p> <p>reapproval (1) 133:12</p> <p>rear (1) 10:8</p> <p>reason (7) 67:25;71:25;102:2; 127:25;196:3;197:15; 206:3</p> <p>reasonable (2) 177:21;178:9</p> <p>reasons (8) 140:1;185:18;</p>
--	---	---	--	---

191:25;198:22;199:1; 210:7,7;231:17 rebuttal (7) 6:21;42:15,25;43:6; 175:10;286:13;288:25 recall (26) 8:4;11:24;24:9;66:3; 87:5;88:24;90:5;91:21; 124:20;169:21;186:15; 221:16;242:10,18; 244:1,4,4,24;248:5; 249:16;251:1;253:25; 281:3,4,14;284:6 receive (1) 158:23 recent (7) 67:19;189:6;192:9; 194:16;253:19;255:19, 19 recently (7) 24:21;64:24;65:1; 117:16;137:17;188:25; 223:23 Recess (3) 60:14;185:8;260:11 recognize (2) 18:20;23:16 recognized (1) 107:10 recognizes (3) 180:3;201:22;219:16 recognizing (2) 186:14;233:7 recollect (6) 8:2;11:7;169:17; 243:3;293:23,25 recollection (4) 23:2;105:8,11;112:5 recommend (4) 33:22;116:25; 215:18;240:14 recommendation (14) 5:20;85:18;94:6,12, 16,17;102:9;127:23; 129:8,12;219:20; 228:9;238:5;240:13 recommendations (14) 89:14;98:3,6,8; 107:20;129:19;214:18, 24;219:4;227:17; 228:7;232:3;283:2; 289:14 recommended (9) 45:12;100:20;108:1, 17,21;114:24;128:21; 228:13;232:10 recommends (6) 129:7;130:7;229:3, 12;236:5;237:20 reconcile (1) 84:10 reconciled (6) 81:3,16;82:3,6,18;	161:19 reconfirms (1) 164:12 record (66) 9:23;15:20;16:6,13; 20:18;24:24;25:5;26:5, 10,11,15;27:11;30:6; 34:1;35:1,6;60:16; 61:22;62:17;69:25; 79:6;94:25;95:15,22; 103:22;113:20;118:6, 10,13;119:11;122:15, 16;131:24;132:6,11,15, 16;135:3,25;137:4; 154:4,5;157:5;171:25; 175:4;177:10;178:6; 183:8;184:13;185:7; 186:9;218:4;250:14; 252:15,21;254:15,24; 256:9,13;259:7,25; 260:8;268:9,12;276:6; 292:23 recorded (4) 30:12;81:21;162:2,5 recorder (1) 254:8 recreational (1) 35:12 recross (5) 92:23;123:16;124:9; 155:11;163:20 red (5) 53:17,19;54:4;55:16; 85:5 redirect (16) 41:24;42:22,23;43:4; 47:1,5;60:2,25;92:22; 124:4,6,7;140:23; 155:18;160:1;175:15 reduce (1) 274:5 reduced (4) 79:9;200:21;213:19; 221:24 reducing (1) 226:4 reduplication (1) 30:4 refer (13) 32:5;45:15;150:20; 151:3;173:1;176:15; 178:19;182:9,17,23; 196:18;198:14;269:8 reference (9) 22:2;49:18;116:12; 215:10;229:1;235:13; 238:3,20;260:4 referenced (2) 22:4;232:5 references (1) 69:21 referred (6) 113:14;173:25,25;	206:24;227:24;240:2 referring (13) 9:4,17;15:6;16:22; 19:14;34:5;75:4; 108:16;200:15;204:9; 267:15,18;282:25 refers (7) 115:10;118:3; 125:24;142:15,24; 230:23;238:1 reflect (8) 27:1,14,16,22; 168:20,20;186:9; 240:14 reflected (5) 27:13;61:16;87:5; 115:8;199:24 reflecting (3) 61:12;74:19,23 reflection (1) 61:10 reflects (7) 27:9,12,25;29:24; 30:3;61:4;118:21 regard (5) 18:13;117:15; 144:17;195:7;246:1 regarding (2) 17:25;116:4 regardless (1) 98:21 region (2) 201:9;206:10 regional (16) 44:12;55:5;145:11; 152:2,9;159:1;163:6; 191:21;226:6;269:11; 273:7;275:8,12,16; 283:14;290:16 registered (1) 64:14 registration (1) 64:15 regular (1) 32:7 regularly (1) 73:15 regulations (10) 76:8;151:1;156:3; 158:25;159:19,21; 160:24;161:5;164:17; 166:10 regulatory (2) 117:20;192:5 reinforce (1) 215:12 reinforcing (2) 205:20;217:15 relate (4) 90:21;114:25; 206:13;273:4 related (16) 104:12;151:16,17;	197:17;200:2;217:19; 220:4,6;237:17;265:8; 266:11,21;267:7; 275:15;279:23;283:12 relates (5) 63:22,22;155:5; 186:19;201:11 relating (5) 65:16;146:21; 192:13;238:11;272:20 relation (1) 205:23 relationship (1) 41:2 relative (6) 197:7;234:18; 240:22;248:14,21; 249:13 relatively (2) 194:16;241:18 relevance (2) 87:25;155:8 relevancy (1) 87:9 relevant (16) 32:12,15,20;43:7,21; 44:1,10;45:19;87:13; 124:21;186:6;195:18; 200:7;254:17;266:7; 292:18 relies (1) 213:18 relieve (1) 6:20 rely (1) 154:3 relying (1) 161:15 remainder (2) 187:6;202:1 remained (3) 85:15,17,19 remember (19) 31:5;55:4;61:5;95:1; 103:10;112:13;114:17; 116:13;117:24;118:8; 181:11,12;192:12; 218:4;221:8;241:13; 244:13;245:15;286:20 remembering (1) 190:5 removal (1) 82:17 remove (2) 54:18;276:24 removed (3) 75:25;79:23;80:7 rentals (1) 240:8 repeat (5) 50:21;111:18; 112:16;124:22;270:1 repeated (2)	216:23;270:5 repeatedly (1) 94:5 repeating (3) 102:20;103:1;113:9 Rephrase (3) 174:11;243:23; 271:20 replace (1) 76:14 replaced (3) 68:9;75:25;159:8 replacement (3) 187:13;283:11,13 replacing (2) 187:15;226:5 replanting (1) 82:22 reply (2) 179:3,5 report (28) 5:24;31:16;32:4; 35:17;55:8;67:18,25; 69:14,14,20,24;70:4,5; 76:22;84:23;137:21; 138:1;158:16,17; 197:13;211:8;223:12; 231:21;232:1;275:11; 290:25;291:5,12 representation (2) 49:8;168:3 representatives (1) 254:1 represented (3) 165:13,14;166:1 representing (1) 164:6 request (4) 199:14;249:3; 253:15;284:22 requested (1) 134:19 requesting (4) 5:4;7:1;134:21; 253:24 require (4) 43:8;150:6;164:17; 185:11 required (12) 25:3,25;26:3,4;31:9; 32:6,7,13;69:11;82:12; 150:1;160:16 requirement (19) 28:23;35:5,18,23; 40:17;43:9;72:19; 75:21;83:6,7;85:23; 89:20;121:11,12,14; 160:12;165:7;179:16; 217:1 requirements (16) 28:5;29:10;30:3; 32:9;40:15;61:18;70:2; 71:24;72:3,9,17;
---	--	--	---	--

162:20;195:9;197:5; 198:21;216:25 requires (12) 40:14;71:23;74:13; 85:17;94:9;129:5; 150:22;151:1;154:24; 160:5;164:20;222:13 requiring (3) 30:21,23;140:13 research (3) 233:20;234:4;236:10 reserve (4) 151:17,18;178:6; 277:16 reserved (1) 46:24 reserving (1) 7:2 residential (46) 19:8;38:4,6,9,16; 55:13,14;59:21;79:17; 108:21;113:24;124:20; 125:15;144:22,24; 145:7,12,15;189:3; 203:8;204:15;212:3; 213:9;215:22;216:11; 217:1,9;219:2;221:25; 224:25;225:2;227:3, 24;228:13;232:25; 235:8;236:8,9,15; 246:2,3,13,19,20; 259:2;270:7 residents (5) 214:11,13;217:3; 235:8;247:2 resolution (10) 15:9;118:15,16,20, 21;119:6;133:22; 134:3,4,16 resources (1) 201:20 respect (16) 30:19;44:17;84:5; 90:19;91:16;92:5;94:8; 99:9;100:2;103:15; 107:21;115:16;194:11; 263:4;264:8;274:1 respectfully (3) 29:1,7,10 respects (1) 26:25 respond (4) 177:22;178:21; 182:21,22 responding (1) 184:16 responds (2) 92:6;219:3 response (11) 20:22;178:22;179:1; 180:24;181:1,2,3; 182:21,24,25;184:16 responsible (1)	287:14 rest (2) 70:25;268:12 restate (2) 174:11;208:2 restated (3) 217:12;218:19; 223:24 restaurants (7) 42:19;53:20;114:7; 206:20;221:5;240:9,10 restricted (1) 44:14 restriction (2) 120:25;121:6 result (3) 105:20;249:3;276:23 resume (5) 64:7;66:12;190:11; 192:1,13 retail (356) 5:21;6:10;8:6,7,9,11, 14,14,15,16,17,18,21, 21,25;9:7;10:11,19,23; 11:8,12;12:6,9;17:11; 18:14,16,19,21,21,24, 24;19:9,13,15,16,18, 18,19;38:3,9,15,17,20; 41:25;42:4,7,8,14,17; 43:8;44:3,12,19,25; 45:4,8,15;51:4;52:2; 53:11,17,18,20,23; 54:4,5,5;55:19;57:12; 58:17,22;59:1,5,11,15, 20;78:18,19;85:1,2,6, 12,14,25;86:3,10,11, 15,17,18;87:1,5,12,16, 25;88:23;89:1,1,13,17, 24;90:12,14,14,20,21, 24,25;91:16;93:18; 94:12,12,13,22;95:4; 96:22,23,24,24;97:3,3, 5,6,8,9,9,15,19,19,21, 23;98:7;100:21,22; 101:2,15,22;102:6,10, 14;104:6,6,17;105:2,6, 10,17;108:4,25;109:3, 15,21;110:16;111:8,9, 20;112:8,10,20;113:5, 23;114:23;116:6,19, 23;117:6,17;120:15, 16;121:2,7,11,15; 123:7,11;124:20; 129:8,10;130:1,6,7,9, 25;131:16;133:21; 134:2,7,13,19;135:1; 140:21;141:11,17,19, 25,25;142:8,16,24; 143:4,7,16,21,24; 144:3,10,12,13,21; 145:7,11,15,17,19; 146:6,8,9;147:11,13, 21,22,23;148:16;	149:6;153:18;167:22; 173:14,20,21,23;174:7, 17;180:1;192:14; 199:5;200:2;204:3,19; 208:25;209:7,22,24; 211:3,5,6,7,15,16,18, 23,24;212:2,7,8,12,15, 20;213:7,15,18,24; 214:2;215:19;216:10; 217:3,8;219:1;220:13, 21;221:13,23,25;225:3, 8,17,17;226:8,11,17, 18,20;227:2,25;228:14, 23,24;229:10,16,22,22, 24;230:4,22,24; 232:18;233:23;234:1, 8;236:20,23;237:3; 238:12,15,20;239:14, 16,20,21,23,23,24; 240:1,2,13;241:19; 242:6,21;243:4,6; 244:2,16,18;245:5,6; 246:1,21,22;247:1; 250:25;259:2;262:4; 265:19;266:13;268:23, 25;272:10,17,20; 273:16,24;274:3,17; 275:16,17;276:15,19, 24;277:2,6,25;279:19; 280:8,11;289:5,6,15 retail-based (1) 241:17 retained (1) 22:7 retract (1) 51:18 return (2) 8:11;183:4 returning (1) 91:25 review (11) 64:13;76:19;77:1,2; 108:2;149:22,25; 191:12,24;192:6; 196:15 reviewed (7) 196:19,22;197:7,9, 10,13;238:17 reviews (1) 59:16 revised (1) 24:18 rezone (1) 127:23 rezoned (1) 85:22 rezoning (4) 127:2,6;189:2,5 rid (1) 146:22 ridership (1) 204:21 right (163)	5:9;6:21,25;7:2,4,14; 10:10,22;11:9;12:25; 14:15;17:2,12,14,16; 18:17,22;19:19,23; 20:2,11;21:2;23:6,19, 20;26:18;29:11;34:7, 18;35:4,14;36:6,25; 40:22,25;41:17,18,23; 44:15;46:17;48:11; 50:19;54:21;60:2,21; 64:7;68:15;70:23;71:3; 80:1,6;81:9,23;82:16; 84:24;88:16,17;89:25; 90:2;101:13;103:23; 107:5;108:8,8;113:10; 119:14,23;123:16; 131:19;141:10;146:14; 153:5;154:11,19; 155:21;156:13,17; 157:11,22;163:24; 166:2;169:7;170:11; 171:1,7,13;173:6,17, 20;174:1,4,10,21,23, 25;175:20;179:3; 182:4;183:3;184:10; 186:2;188:7,8;190:5; 195:5;200:19;202:10, 12;205:18;207:4,7,9; 215:9;216:13;218:8,8; 221:9;222:25;224:1,3; 226:9;228:6;229:11; 231:12;234:19,22; 237:10,12,13;242:3,8, 25;244:9,24;247:24; 248:2,12,16,22,24; 249:6,18;253:5; 259:18;261:23;262:19; 263:2,3;264:1,18; 268:3,10;274:19; 280:20;282:4;283:18; 284:9,11;290:15,18; 292:15;294:13,25 right-hand (3) 41:16;79:9,21 ring (2) 190:18;264:22 ripe (1) 181:14 risk (2) 68:12,13 risked (1) 285:17 RMX (40) 6:9;85:15,17,17,19; 89:18;94:8,9,10; 100:21;114:11,13; 115:9,12;116:9; 124:12,17,23,25;125:6, 15,25;126:4,11,15; 127:14,23;128:2; 129:5,21;174:1,14; 194:2;197:17;228:19, 22;229:3,4;236:13;	237:22 RMX01 (1) 127:3 RMX-1 (7) 24:8;126:19,22; 128:2;129:12,19; 228:14 RMX-1/TDR (1) 232:13 RMX-based (3) 236:19,20,24 RMZ (1) 126:14 Road (24) 5:7,8;10:13;29:12; 49:24,25;53:18; 107:24;108:1;139:12, 24;140:1,2,5,7,8,13; 144:24;188:17;213:10; 221:18;225:16,19; 261:13 roadway (1) 208:23 Robert (2) 190:3,4 ROBERTS (2) 131:8;175:9 ROBESON (735) 5:2,22;6:3,7,19,22, 25;7:4,9,14,20,24;9:9, 12,16,19,24;10:2;14:8, 12,14,17;15:6,12,25; 18:5,9;20:8,10,13,15, 17,19;21:10,15,17,22; 22:17,23;23:20,23; 25:4,7,9,14,17,19,21, 23;26:3,9,18,20,22; 27:6,8,14,20,22,24; 28:4,8,10,14,16,18; 29:5,17,19,21;30:9,11, 21,23,25;31:2,23;32:1, 14,17,19,22,24;33:4,8, 10,12,14,20;34:2,4,7, 12,14,19,21,24;35:1,3, 9,14,21;36:1,3,6,21; 37:5,8;38:22;39:1,3,6; 41:17,23;42:10;43:5, 10,14,16,20,23;44:1,5, 8,20,22;45:3,6,9,11,14, 18,22,25;46:2,7,11,13, 17;47:2,5,12,14,17,21, 23,25;48:2,5,15,17; 53:14,24;56:6,19,21; 57:18,22;58:11,20,25; 59:2,25;60:2,6,9,13,15, 21,24;61:24;62:2,5,8, 12,14,18;63:25;64:3,6, 12,17,20,23,25;65:5,7, 12,21,24;66:7,11,18, 22;67:1;68:10;69:8,13, 17;70:3,10,14,17,19; 71:2,5,19,22,25;72:4,6, 8,10,12,14,22;73:2,4;
---	--	--	---	---

<p>74:12;75:1;77:13,25; 78:2,5,8,11,21,24;79:3, 7,10,13,25;80:3,6,9,12, 14,16,21,23;81:9,11, 14;82:9,11,16,21,24; 83:3,11,15;87:13,22; 88:3,5,7,10,15,18;89:3, 5,23;90:2,4,9;91:2,5,9, 13,17,21,23,25;92:20, 23;93:7,10,21,25;94:3, 15,19,21;95:3,9,17,25; 96:2,4,7,10;98:14,20, 25;99:3;100:4,10,16; 101:10,18;102:3,24; 103:4,7,10,12,25; 106:3,10,20,22,25; 107:3,6,11,13,17; 109:7,10;110:6,9,22, 25;111:5,16,18,23; 112:1,4,6,16,24;113:3, 7,9,12;114:1,3;115:18, 22,25;116:14,16,22; 117:23;118:2,8,14,16, 19,25;119:4,7,15,20, 23;120:4,8,11,21,23; 121:1,3,5,10;122:5,13, 19,22,25;123:4,16,18, 20,24;124:3;128:12, 14;131:9,13,19,25; 132:3,5,7,9,20;133:16; 135:6,9;136:1,9,12,15, 21,24;137:1,4,9,13,24; 138:8,17,24;139:5; 140:22;141:2;142:14, 20,23;143:1,3,14,19; 144:1,8,10,12,15,18; 145:2,4,14;148:8,10, 22,24;149:12;150:4,7, 11,13,16,19,24;151:2, 5,7,21;152:19;153:20, 23;154:1,3,9,12,18,20, 22;155:8,11,14,20,22; 156:4,6,9,11,13,19,21, 24;157:6,9,18,20; 159:4;160:4,7,14,18; 161:3;163:17;164:24; 165:1,5,9,17,22;166:4, 24;167:6;168:18,22; 169:9,14;171:15,17,20; 172:7,11,14;173:1,4; 174:25;175:6,8,10,13, 15,18,20,24;176:3,6,8, 10,14,18,20;177:2,8, 18,21,24;178:4,11,19, 24;180:12;181:15,17, 21;182:7,12,17,20,23; 183:2,7,9,13,17,19,24; 184:2,7,9,13,15,22; 185:1,3,6,9,13;187:10, 20,22;188:4,7,10; 189:17,19;194:21; 195:5,10,13,25;196:2, 5,7,10;205:11,14,18;</p>	<p>207:4,6;211:10,12; 221:10;226:23;239:3, 7;242:1;243:17,19,21, 23;245:7,9,12,15,18, 21;246:7,11,14; 247:18;249:1,24; 250:3,7,9,11,13,16; 251:7,13,20,24;252:6, 8,14,16,20;253:3,12, 15,18,22,24;254:2,4,7, 11,20;256:4,18,21; 257:14,16,22;258:1,3, 6,8;259:5,14,24;260:9, 12,14,17;261:5,9,13; 262:12,16,19,22,25; 263:2;266:20,23; 267:3,24;268:2,4,8,11, 16,19,21,25;269:10,15, 23;270:3,17,20,22,24; 271:2;272:13;276:9; 279:13,24;280:17,20, 23;281:7,9,11,14; 282:10;283:9;284:9, 11,15,22,24;285:2,5,7, 10,23;286:2,5,15,24; 287:1,3,5,9,12,20,23, 25;288:4,7,10,19,21, 24;289:18,24;290:2,5, 9,11,14,20,23;291:3,6, 11,17,19,21;292:1,9, 11,15,18,21;293:15,18; 294:3,11,13,18,22,24</p> <p>ROBINS (39) 9:21;15:8,15;20:12, 14,16;23:10,14,24; 34:3,5;64:1,4;114:14; 118:7,17;119:9; 138:19,22;150:17; 184:25;185:2,5; 263:10,24;266:21,24; 267:9,15,20,22;288:13, 18;291:7,10,24;292:3, 6;293:1</p> <p>Rogers (3) 186:22,24;187:16</p> <p>role (2) 191:15;209:17</p> <p>room (9) 34:3;47:20,22; 104:16;124:13;282:8; 294:17,19,25</p> <p>root (1) 77:18</p> <p>roughly (4) 90:5,7;108:11; 159:13</p> <p>round (1) 273:7</p> <p>route (8) 254:13,22;255:14, 14;262:1,1;264:10; 265:11</p> <p>RU-1 (1)</p>	<p>24:8 Rude (6) 67:5;185:24;186:3, 16;187:4,9 rule (2) 177:24;259:19 rules (1) 203:4 run (1) 7:22 running (1) 55:3 rural (3) 108:20;233:1;248:7</p> <p style="text-align: center;">S</p> <p>sacrifices (1) 285:16 Sage (6) 56:19,20,23;57:10, 11,15 Salt (1) 176:1 salvage (1) 289:20 same (31) 13:14;15:17;40:20; 48:24,25;49:1;58:5; 61:13,13;80:25;82:24; 83:1;86:19,21;87:20; 93:20;102:2;134:21; 160:11;208:25;213:11; 219:19;231:22,22; 232:9,16;261:10; 265:19;268:1;274:19; 275:2 sandwich (1) 240:9 sat (3) 148:3;193:21;197:1 satisfaction (3) 72:2,9,16 satisfies (2) 35:18,22 satisfy (4) 29:9;40:17;55:17; 291:24 Saturday (7) 184:3,6,10;284:25; 285:14;286:7,18 Saturdays (1) 288:6 save (7) 81:5,15;82:18; 122:24,25;165:22; 166:23 saved (2) 79:24;80:9 saw (4) 142:6;226:16; 250:16;288:15 saying (45)</p>	<p>18:2;27:9;30:1; 33:21;37:14;39:22; 52:14;68:24;69:1,8; 72:18,18;82:13;87:22; 92:18;122:6;126:7,10; 129:14;138:20,21,23; 143:12;161:21;162:22; 165:24;166:7;168:6, 12;169:1;171:8; 173:14;183:22;222:1; 232:14,15;269:1,13,20; 272:19;279:19,20,21; 289:15;290:16</p> <p>Scaladendi (7) 176:16;177:7,19; 178:7;180:10;181:3; 182:18 scale (29) 25:11;51:16;79:22; 80:8;133:5;200:6,17, 24;201:14;202:13; 206:14;208:10;209:12, 18,19;210:1,17;213:1, 5;216:10;232:6,7,9,10, 19;233:3;240:11; 282:19,21 scenario (4) 49:14;50:18;51:23; 134:21 scenes (1) 293:24 schedule (1) 284:17 scheduled (2) 186:1,21 schedules (1) 285:25 schematic (4) 181:24,25;182:2,6 school (5) 19:11;108:7;190:12; 225:6,25 scientist (1) 67:7 scope (5) 42:23;153:23; 181:21;241:21;272:4 screaming (1) 154:16 screen (3) 47:10;48:11;278:8 seats (1) 48:3 second (33) 20:10;21:9;23:5; 28:5;29:5;68:12;97:2; 109:12,14;113:19; 118:7;119:18,25; 120:21;125:2;142:7, 14,15,23,25;143:6; 145:13;198:20;215:10; 224:13;227:8;236:6; 257:18;259:3;271:19;</p>	<p>285:23;294:18,24 secondhand (1) 224:10 Section (19) 32:5,8,13;40:14; 114:22;115:9,13; 125:6,17;140:8; 143:22,23;173:13,25; 174:13;227:11,15; 237:11;270:4 sections (1) 238:4 sector (5) 115:3,7;160:7; 192:14,18 sectors (1) 200:4 security (1) 286:18 seeing (4) 199:23;207:16,17; 209:5 seek (1) 276:14 seem (1) 5:19 seemed (1) 274:24 seems (4) 17:24;191:2;199:11; 216:19 selection (1) 56:23 sell (1) 120:18 send (4) 251:21;252:5,8,9 Seneca (11) 57:24,24;81:18; 86:16;117:9,23,24; 118:9;146:6,17;147:23 senior (1) 38:4 sense (11) 8:15;58:2;68:24; 192:5;207:17;213:4; 214:4;215:25;270:15; 283:22;284:16 sensed (1) 186:8 sensitivity (1) 139:19 sent (3) 267:2,4,18 sentence (9) 32:8;50:8;97:2; 119:19;120:1;125:14; 141:20;158:20;170:13 separate (10) 103:7;129:6;172:19; 173:4;201:21;218:17; 233:6;257:12;259:10, 13</p>
---	---	--	---	---

<p>separating (1) 97:11</p> <p>September (15) 5:6;185:25;186:20; 187:4;285:13;286:8, 17;287:22;288:5,6,22; 294:14,20,21,24</p> <p>sequence (2) 215:12;222:25</p> <p>sequencing (1) 223:20</p> <p>series (12) 13:4;52:13,14;61:2; 104:19;116:3;151:16; 201:2;230:22;233:13; 257:11,15</p> <p>serve (4) 50:9;112:21;222:8; 283:20</p> <p>served (2) 55:10;290:18</p> <p>serves (2) 93:1;233:5</p> <p>service (10) 13:19;22:7;55:3,8; 93:15;192:10;214:15, 25;240:7;275:3</p> <p>services (25) 42:21;53:11;54:3; 58:24;76:25;100:3; 101:22;192:9;204:19; 213:11,15;214:8,14; 217:3;233:22;235:8; 270:7;272:17;273:24; 274:2,6;285:11; 288:10;289:3,8</p> <p>serving (2) 192:13;272:18</p> <p>set (10) 37:10;46:21;60:13; 72:15;180:14;216:25; 256:5;257:2;273:3; 289:2</p> <p>sets (1) 198:18</p> <p>setting (1) 199:4</p> <p>seven (5) 167:11;171:17,17; 230:7;233:13</p> <p>several (11) 16:23;37:4;40:14; 95:22;117:25;164:7; 186:11;197:13;212:14; 227:24;278:5</p> <p>sewage (4) 191:10;192:6,9; 214:25</p> <p>sheds (1) 49:21</p> <p>sheet (16) 79:10,12,20;80:4,12, 14,16,22,23,24;84:6;</p>	<p>124:8;167:1,11; 168:15;214:21</p> <p>sheets (8) 79:7,15,16,18;80:17; 167:18;168:6,16</p> <p>Shell (4) 263:18,24,25;264:2</p> <p>shift (1) 247:6</p> <p>shifting (3) 228:6;236:17;277:23</p> <p>ship (1) 177:7</p> <p>shopping (7) 96:20;114:7;211:18, 19;240:3;261:23; 273:10</p> <p>short (2) 163:19;169:8</p> <p>show (21) 20:23;40:23;43:20; 49:12,13;72:10,14; 75:15,18;78:7,24; 87:17;111:10;136:7; 250:5;255:9;257:5; 285:6,8;292:5;293:9</p> <p>showed (5) 79:19;128:1;130:21, 24;140:14</p> <p>showing (10) 35:10;37:10;38:19; 39:21;41:1;48:11;76:2; 110:15;166:12;173:10</p> <p>shown (32) 37:25;39:25;40:15; 41:4,8;50:24;57:15; 75:10;89:25;90:5,12; 115:2,7;121:7;134:15; 140:18;151:13;152:4, 5;153:7,9,11;157:14; 158:8;159:22;161:6, 10;162:8,13;164:1; 167:21;274:17</p> <p>shows (14) 40:3;74:18;75:12,19; 79:20;85:5;128:25; 132:4,10;153:5; 154:16;164:4;166:14; 205:3</p> <p>shut (1) 150:18</p> <p>side (17) 42:12;55:9,10;56:12; 60:19;64:9;68:1; 183:25;204:17,18; 209:22;215:6;245:6; 261:10;273:17;279:10; 280:1</p> <p>sides (1) 209:13</p> <p>sign (1) 264:3</p> <p>signature (1)</p>	<p>219:1</p> <p>signatures (1) 77:6</p> <p>signed (5) 38:25;39:5;73:18,20; 134:16</p> <p>significant (4) 219:21;228:25; 237:18;286:9</p> <p>silent (7) 129:9;130:2,8; 143:23;212:14,16; 237:5</p> <p>similar (5) 31:8;140:8;194:11; 225:12;235:2</p> <p>Similarly (2) 234:16,22</p> <p>Simon (1) 248:2</p> <p>simple (1) 22:3</p> <p>simply (4) 53:22;87:17;120:24; 287:14</p> <p>single (3) 55:24;284:16;287:18</p> <p>single- (1) 56:15</p> <p>single-families (1) 57:1</p> <p>single-family (1) 56:2</p> <p>single-spaced (1) 21:1</p> <p>sit (1) 216:16</p> <p>sit-down (1) 240:9</p> <p>site (70) 24:20;25:13;27:18; 35:24;49:4;50:14; 52:16;68:2,2;74:1; 77:17,24;78:25;81:2,4, 8,10,13,23;82:1,7,11; 83:9;84:5,8,10;89:7; 90:16,24;108:9;110:8; 133:7;149:16,22,24,24; 150:5,25;151:14; 152:23;158:5,23; 159:1;161:12,18; 163:11;164:10,11,13; 165:18;166:9,16,17; 167:25;168:17,21; 169:3,6;179:11; 205:22;229:5;236:12, 18,24;237:23;253:14, 16;254:16;259:19,20</p> <p>sites (1) 201:9</p> <p>sitting (2) 150:17;193:12</p> <p>situation (4)</p>	<p>45:1;128:24;154:15; 248:8</p> <p>six (3) 17:20;167:11;201:13</p> <p>size (6) 12:20,23;13:21,23; 67:22;149:7</p> <p>skepticism (1) 122:23</p> <p>sketch (6) 189:13;204:7,14; 206:4,23;207:10</p> <p>skim (1) 21:25</p> <p>Skimmer (4) 11:6;58:14;86:14,22</p> <p>skip (1) 215:15</p> <p>slide (2) 197:24;207:6</p> <p>slides (1) 48:19</p> <p>slow (1) 101:6</p> <p>small (3) 13:2;203:14;220:9</p> <p>smaller (7) 12:20,23;13:5,21; 191:23;200:18;220:5</p> <p>SMPM (1) 11:2</p> <p>SMTM (1) 108:19</p> <p>sole (3) 17:9;105:5,9</p> <p>solely (1) 293:19</p> <p>somebody (8) 68:15;69:1;142:4; 266:25;273:17;277:9; 288:1;294:9</p> <p>somehow (2) 200:9;256:3</p> <p>someone (5) 67:14;133:9;160:2; 186:7;187:3</p> <p>sometimes (3) 113:14;192:3;210:7</p> <p>somewhat (4) 105:4;198:10;213:4; 236:17</p> <p>somewhere (5) 141:4;190:19; 214:22;273:17;276:4</p> <p>soon (2) 145:17;251:14</p> <p>sooner (3) 90:24;145:22;251:20</p> <p>sorry (43) 14:17;28:11;38:10; 49:2;52:22;55:3;58:8, 9;65:10;80:16;89:3; 95:10;109:9;118:2;</p>	<p>128:15,16;130:10; 132:25;135:3;140:24; 141:24;181:24;185:1; 218:2,7;239:3,8; 240:24,25;242:24; 246:20;249:24;259:16; 264:25;267:17,17; 270:21;271:23;278:17; 281:8;282:7;284:25; 285:19</p> <p>sort (6) 52:6,11;146:22; 191:15;203:17;226:1</p> <p>sought (2) 102:14;103:18</p> <p>sounds (2) 171:13;277:19</p> <p>south (17) 11:5;49:21;50:25; 55:24;56:1;57:5,5,23; 86:15;93:3;107:25; 158:6;159:11;246:4,7, 8,8</p> <p>southern (2) 229:6;237:24</p> <p>southwest (1) 108:10</p> <p>sp (3) 67:6;176:16;189:15</p> <p>space (19) 49:25;87:5;97:6; 114:23;134:1;151:13; 158:7,9;201:23; 219:22;225:3;236:20; 237:3,5;239:16,20,20; 273:1,5</p> <p>spaces (9) 40:6;51:5;219:17; 220:1,9;226:7;233:7; 278:6,8</p> <p>speak (10) 5:10;98:14;136:24; 148:18;175:4;216:2; 247:16;249:11;254:21, 22</p> <p>speaker (2) 47:18;188:3</p> <p>speaking (4) 12:17;20:5;36:13; 51:8</p> <p>speaks (16) 42:8;94:20;98:18,21; 106:8;109:5;115:22; 118:12;127:20;143:11; 145:21;150:13;229:7; 238:9;247:11;275:25</p> <p>Special (5) 11:16,17;67:16; 105:1;196:16</p> <p>specially (1) 269:8</p> <p>specialty (27) 8:6,9,11,14,16,17,21;</p>
---	---	--	---	---

10:11;19:19;42:17; 52:2;90:20,24;104:17; 111:8;112:20;113:5, 23;130:8;144:21; 145:11,15,16;192:14; 200:2;289:5.5 specific (40) 5:17;17:17;42:9; 52:6;58:7;65:6;67:20; 75:16;84:9;85:17;94:9; 107:18,20;121:11; 126:13,16,18;158:13; 162:10;164:11,12; 168:21;179:12;194:6; 198:14,21;202:2; 217:11;219:5;223:16, 17;224:20;229:21; 236:14;238:3,14; 251:11;269:11;274:1; 283:4 specifically (12) 86:11;110:18;120:8; 143:16;211:17;214:15; 224:14;239:14;244:4; 272:4;276:25;283:7 specifics (1) 132:10 specifies (1) 117:4 specify (1) 6:10 speculative (2) 46:15;110:23 speed (1) 142:15 Spell (1) 21:15 spent (2) 31:20;190:6 spoke (5) 49:17;73:25;87:6; 108:4;149:5 sportsmanship (1) 68:24 spot (2) 52:11;121:18 spots (1) 121:18 spread (4) 52:21,22;104:7; 274:10 Spring (11) 12:4;49:17,20,24; 50:2,25;51:13,16,24; 57:5,6 square (177) 5:20;8:21;9:1,8,10; 10:5,6;11:12;13:1,3,4, 6,9,25;14:10;18:14,25; 19:9,10,16;37:20,21, 24;38:17,19;39:16,16; 43:10;48:24;49:16,17, 22;50:3,4,8,9;51:20,21;	58:16;59:7,14;61:4; 85:19;89:1,4,8,9,10; 94:7,12;96:19;100:21, 23,24,25;101:22; 102:10,23;103:18; 104:8;109:14,16,21; 110:21;111:25;120:15, 16;122:8;124:19,24; 125:22;126:1;127:12, 20,22;128:1;130:8; 134:1,20;135:1; 136:17;138:25;139:4; 141:5,16,18,21;142:3, 6,8;143:5,6;144:2,4; 146:15,23;147:10,17, 24,24,25;148:14;149:3, 6,8,12,19;173:23; 174:7,9,17;179:8,23, 24;180:2,4,11,19,20; 210:18,19;211:15; 212:4,6,10,11;213:7, 21;214:1;224:21,23; 225:3,24;226:4,11; 227:5;229:10,24; 230:22;232:10;233:25; 234:2;237:2,19; 238:12,13;240:15,16, 17,18;241:11;244:2,5, 6,16,17,22,25;246:15, 18,23;247:3,4;264:3; 272:20;273:4,10,13,16, 19;274:5,6,7;275:15; 276:24;277:16;278:9 squares (1) 49:19 staff (54) 5:24;31:16,17;32:3; 55:8;67:25;69:13,14, 20,23;70:4,5;76:18,22; 84:19,19,22;97:6; 98:10,15;108:3;113:4; 135:22;137:20,25; 158:16,17;172:10; 191:20,21;192:2; 197:13;223:12,23; 231:9,13,14,21;232:1; 239:15;255:16,20; 261:21;262:8;267:2,4, 17,18,25;275:11; 279:6;290:25;291:5,11 staffs (1) 192:2 staff's (1) 272:21 stage (1) 215:14 staging (19) 17:11;105:1,2,6,10, 17;181:10;214:18,24; 215:1,4,7;216:22,25; 217:1,6;276:15; 279:16,20 stale (1)	65:20 stand (1) 216:6 standard (4) 106:18;149:24; 154:25;273:3 standards (4) 71:17;166:10;181:9; 210:14 start (18) 16:8;37:3;38:14; 88:25;124:17;185:12; 198:25;199:21,23; 202:10;203:18;207:16, 17;209:5,6;210:17; 234:9;237:1 started (6) 74:8;185:23;199:14, 15;217:5;224:17 starting (3) 211:14;223:5;260:21 starts (7) 120:2,3;201:4;213:3, 6;222:10;232:1 start-ups (1) 204:22 state (11) 157:15;185:17; 191:22,24;192:10,11; 193:1;194:12;222:11; 259:20;265:8 stated (7) 163:23,25;212:21; 215:4;217:13;272:4; 278:19 statement (36) 6:6;48:23;49:16; 50:7,10,13,16,17,20; 51:19,22;63:19;71:8,9, 13;115:10;118:5; 158:16;186:25;189:12; 197:12;209:1,3; 215:11;217:23;218:13, 22;219:8,10;221:8; 230:1;233:4;243:10; 249:19;275:10;282:24 statements (7) 177:13,15;199:25; 200:3;202:4;220:17; 280:2 states (5) 11:22;109:14; 115:11;201:17;212:6 state's (1) 192:2 state-wide (1) 190:24 stating (2) 134:17;170:22 station (5) 208:16;263:18,24, 25;264:2 status (1)	248:15 statutory (2) 71:1;125:6 stay (2) 82:24,25 step (4) 216:14,14;226:17; 232:11 stepping (1) 284:7 steps (1) 166:18 stick (2) 54:11,12 sticking (1) 148:20 still (19) 31:12,13;45:23; 64:15;101:14;108:14; 124:13;142:11;185:5, 19;212:1;214:9; 241:12;259:10,13,19; 280:6;282:15,17 stimulus (1) 113:8 stipulation (2) 177:1,3 stock (1) 225:12 Stop (9) 33:12,14;100:4; 157:1;223:6;237:9; 242:1;265:17;278:3 store (62) 12:11,13,14,15,20; 13:4,4,10,16,20,21,22; 16:21;17:1,7,20;45:3, 14;98:11,17;99:6,9,17; 100:20,23;101:15; 105:11,14;117:9,12; 141:9;145:19;146:3, 16,22;147:9,12;170:19, 25;171:5,6,11;179:23, 24;213:19;214:10,13; 217:7;225:14,24; 230:14,17;231:1; 247:5;276:17,19,20,21; 277:10,17;290:3,5 stores (18) 8:10;13:4;17:15; 146:23;147:18;180:1; 211:20;240:7,9,10; 261:2,17;275:21,22; 276:1,3,25;290:15 stories (1) 41:9 storm (56) 67:8,13,16,20,24; 68:4,6,7,14;69:2,5,19, 21;70:1,1,24;73:6; 75:6,8,10;151:18,20; 153:6,9,10,25;154:17; 155:3,7;156:3;157:13,	15,25;158:21,24;159:2, 18,25;160:6,13,23,24; 161:2,8;162:3,4,12,19, 23;163:7,11;185:15; 186:17;188:16,20; 216:7 story (1) 265:14 straight (1) 140:6 strategy (1) 236:6 Stream (8) 49:21;51:25;57:7; 81:18;83:12,14; 139:25;162:3 street (14) 11:6;52:20;56:13; 58:14;68:2,5;83:8,9; 86:22;110:13;111:21; 139:9;254:17;279:3 streets (6) 55:4;57:18;140:9,10; 168:23;205:7 strictly (2) 213:16;265:24 strike (6) 13:19;100:19;101:7; 102:19;106:13;110:10 strives (2) 201:20;218:16 strong (9) 51:10;202:11;203:6, 19;208:24;209:4; 215:22,25;267:18 strongly (1) 6:17 structured (1) 183:16 structures (6) 37:1,15;39:14,18,18, 24 Study (13) 11:17;105:1,16,17; 135:15;196:16;202:12; 203:7,20;209:5; 214:24;249:20;269:12 subdivision (5) 106:16;130:11; 133:4;135:23;150:22 subject (15) 24:4;49:5;50:14; 63:19;65:19,20;66:21; 107:17;136:2;152:2; 159:1;166:17;179:13; 247:20,21 submission (4) 62:25;65:14;71:17; 164:18 submissions (1) 73:19 submit (17) 26:13;29:13;30:1,16;
---	--	--	--	--

31:10;32:25;33:11,15, 15;179:2,4;180:8,9,23, 24;184:13;251:14 submitted (14) 26:8,25;30:5;31:11; 62:22,24;63:10;73:12; 76:7,11;160:3,13; 184:16;189:10 submitting (3) 136:5,5;172:23 sub-paragraph (1) 30:14 Subsection (2) 115:1,5 subsequent (7) 63:1;69:22;86:24; 127:21;248:18;267:7; 274:12 subsequently (5) 24:14,18;87:3;89:7; 109:20 sub-specialties (1) 94:22 substance (1) 178:12 substantial (9) 106:14,17;150:23; 212:9;219:25;230:19; 231:6,10;278:12 substantially (6) 44:24;89:13;108:15; 198:6;213:20;229:15 substantive (1) 293:3 substitute (2) 187:3;276:2 substitution (1) 187:13 subtract (3) 82:5;100:20;137:10 subtracting (1) 100:24 suburban (1) 266:14 success (1) 210:12 successful (3) 220:25;279:6,7 sufficient (1) 221:2 suggest (8) 59:20;98:16;105:22; 106:2;130:5;146:2; 186:12;236:1 suggested (1) 182:3 suggesting (2) 93:19;272:16 suggestion (4) 52:19;53:21;67:11; 187:9 suggests (1) 51:21	suitable (1) 205:22 Sunday (1) 184:6 supermarket (5) 100:12,13,15;240:4, 5 supersede (2) 63:7;76:15 superseded (1) 28:2 supersedes (4) 24:15,22;33:1;63:6 supplement (5) 177:4;178:14,16,20; 266:18 supplemental (3) 179:5,14;181:1 supplied (1) 248:15 support (21) 104:14;141:15; 144:21;198:2;204:19; 205:2;212:2;214:7; 215:22;224:6;225:7; 226:24;229:1;240:20; 241:10;272:17;273:11; 277:18;280:7,13; 282:14 supportable (2) 96:20;97:18 supported (6) 98:11,17;203:7; 208:13;212:12;231:23 supporting (4) 148:1;213:11; 216:11;277:2 supportive (2) 228:3;241:7 supports (6) 6:16;114:7,8;221:22; 241:17;282:24 supposed (7) 43:1;53:17;203:10; 235:5;270:15,17,25 sure (37) 6:3,4;26:3;31:6; 66:25;69:12;78:23; 83:16;92:1;106:25; 110:18;112:1;120:17; 141:4;152:8;155:10; 160:17;175:17;178:5, 10;179:22;180:4; 182:16;187:16;190:2; 215:9;252:18,18; 263:18;264:23;269:15; 271:2,21,23;280:3; 281:24;290:18 surprise (2) 31:17;185:13 surprises (1) 67:12 surrounded (2)	203:13;204:17 surrounding (5) 71:16;259:1,2; 261:23;265:23 survive (1) 207:19 Susan (2) 176:16;180:10 swap (1) 48:3 sworn (1) 188:9 synagogues (1) 225:5 system (3) 47:18;200:21;208:23	5,6;272:9 technically (1) 77:2 techniques (1) 159:22 technology (15) 112:13,22;113:15, 17;201:8;208:14; 209:17;210:10;228:3; 229:2;237:16;241:7; 255:21;266:10;283:15 Teeter (2) 147:1,2 telling (4) 212:13,22;214:10; 263:13 tells (7) 65:17,17;68:1;125:6; 212:23;235:25;236:8 tenant (1) 143:5 tended (1) 11:8 TER (5) 126:19,22;127:3; 129:12,19 term (13) 8:15;19:18;49:22; 50:20;53:4;65:20; 144:10;187:12;214:5; 226:16,17,18;279:15 terminate (1) 140:2 terminated (1) 139:16 terminology (4) 8:13;85:11;106:14; 246:20 terms (40) 82:11;106:16;129:3; 139:10;147:12;148:14; 160:2;187:12;190:24; 191:14;192:21;193:6, 18;194:6;207:22; 209:7;210:1;212:22; 213:5,9,17;214:18; 216:10;219:10;222:2; 223:9,18;224:8,25; 225:2;226:19;232:24; 237:2;240:19;266:22; 270:11;277:23;278:12, 20;280:8 test (2) 65:24;66:1 testified (29) 31:6;58:16;74:7; 85:18;92:8;102:12; 107:3;109:22;118:4; 121:21,22;122:4; 127:18;129:9;134:7; 136:15;138:19;143:23; 158:15;165:17;166:9; 168:4;169:17;174:16;	176:1;188:23;189:7; 221:16;293:24 testify (20) 5:18;31:7;34:15; 65:15,19;66:24;71:14, 15;72:16,24;73:6; 91:16;131:14;136:10; 154:20;155:14;174:21; 186:16,23;195:19 testifying (3) 67:7;69:2;101:12 testimony (77) 8:2,5;10:15;11:8; 12:4,10;19:17;23:16; 28:19;29:8;30:25; 33:21,23;57:10;67:13, 24;69:25;100:11; 103:1,19;112:14,17; 113:3;114:17;122:14, 15,15,17;136:3;137:7; 145:3,18;149:15; 163:22;167:15;169:22; 186:19;195:19;197:16; 198:1;199:2;221:15; 231:4;234:17;241:13; 242:5;243:9,12,15,16, 18;244:24;246:24; 247:23;248:14;250:24; 258:24;260:21;263:3; 268:17,22;271:8,19; 273:22;274:1;283:18, 21;284:1,5;291:16; 292:2,13,16,23;293:3, 19,24 textual (1) 182:9 Thanks (3) 54:11;124:11;140:19 theme (1) 148:7 theoretically (1) 289:4 theory (2) 128:25;152:1 Therefore (8) 65:17;121:14; 147:22;156:8;165:24; 167:17;168:6;234:12 thinking (7) 6:1;69:4;202:16; 268:1;290:2;291:4; 293:13 third (3) 111:22;244:9;248:11 though (9) 23:5;44:25;137:23; 168:2;186:21;193:4,9; 206:17;275:19 thought (27) 14:12;20:16;26:24; 29:11;38:8,10;46:18; 52:23;58:20;67:4,9; 69:1;70:21;78:15;
---	---	---	---	--

T

<p>92:22;112:23;141:5; 154:14;174:21;204:8; 206:3;258:2,4;263:9; 286:22;287:5;288:15</p> <p>thousand (1) 214:21</p> <p>threaten (1) 281:24</p> <p>threatened (1) 222:10</p> <p>three (18) 16:23;67:17;74:25; 86:11;87:25;88:5; 96:20;130:16;148:23; 151:15;181:9;200:13; 248:1;249:7;258:23; 265:14;274:10,12</p> <p>throughout (1) 210:11</p> <p>throwing (2) 42:11,25</p> <p>thrust (1) 169:18</p> <p>Thursday (4) 252:1;262:11;263:6; 266:19</p> <p>thus (3) 159:2;197:2;231:4</p> <p>tie (1) 36:17</p> <p>tier (1) 56:16</p> <p>ties (1) 126:10</p> <p>times (15) 24:19;53:13;63:4; 84:16;92:5;95:22; 102:21;152:25,25; 153:2;203:4;206:24; 207:10;212:14;227:24</p> <p>timing (4) 90:22;178:1;215:11, 11</p> <p>Tire (1) 263:18</p> <p>title (3) 104:24;207:5;226:22</p> <p>titled (2) 38:3;48:19</p> <p>today (30) 46:18;100:7;104:20; 121:17;133:21;176:7, 8;178:14,20;179:2; 180:9,24;183:12,23; 184:19;185:20;186:3, 10,13,14;187:6;191:3, 4;211:6;216:18; 239:13;263:15;277:6, 10;286:17</p> <p>together (10) 14:6;69:7;70:22; 128:5,20,23;129:4; 144:23;216:14;225:23</p>	<p>token (1) 91:14</p> <p>told (2) 281:19;290:10</p> <p>took (11) 36:3;169:12,17; 170:24;173:22;242:12; 249:10;259:20;261:20; 266:25;268:2</p> <p>top (11) 19:1;57:22;98:4; 105:2;143:3;158:18; 169:25;170:8;227:14; 228:17;237:14</p> <p>topic (5) 5:18;6:1;43:7;66:21; 138:19</p> <p>topics (1) 196:1</p> <p>total (14) 37:21,24;38:19; 41:21;122:10;123:6,7, 10,11;130:3;133:25; 153:18;174:19;202:24</p> <p>totals (1) 89:10</p> <p>touch (2) 214:19;247:14</p> <p>touched (2) 235:16;238:16</p> <p>tough (1) 57:14</p> <p>toward (2) 105:3,3</p> <p>towards (1) 232:25</p> <p>Town (151) 17:25;44:21,24; 55:23;99:9,20;105:14; 108:25;109:3,19; 110:13;111:1,3,9,21; 140:21;141:1,10; 143:15,22;144:2; 155:1;160:7,8;170:20; 198:19,19;200:6,14,16, 17,23;201:4,5,14,16, 24;202:3,6,7,9,11,13, 15;203:2,6,10,13,18, 19,22,25;204:24;205:5, 6,11,15;206:2,3,19; 207:19,25;208:9,18; 209:3,3,12,19,25; 210:21;211:25;212:3, 9,21;213:5;214:5,12; 215:5,14,23,24;216:5, 9,18;217:9,22;218:19; 219:13,17;220:7,10,11; 221:1,3;222:9,21; 224:9;226:2;227:2; 232:6,7,8,19;233:3,8, 10;234:9;235:6,9; 237:4;245:6;249:4,11; 251:4;253:1,1,4;</p>	<p>264:11;268:22;269:3, 5,13;270:2,17,19,25; 276:18,22;277:22; 278:2,9,10;279:4,10, 17,18,21;280:2,3,12, 14,18;281:25;282:3,12, 16,21;283:8;287:24; 288:8;290:13</p> <p>towns (1) 214:5</p> <p>track (1) 78:14</p> <p>tracked (1) 81:2</p> <p>tract (2) 179:22;244:12</p> <p>traditional (1) 203:13</p> <p>traffic (5) 133:11,12;140:5,16; 210:13</p> <p>train (1) 148:20</p> <p>transcript (3) 56:12;95:7;177:12</p> <p>transit (18) 55:11;200:21;201:3, 19;203:10,14;204:19, 23;205:2,6;208:15,17, 18;215:20;222:10,13; 278:2,3</p> <p>transition (1) 232:24</p> <p>transitioning (1) 233:1</p> <p>transit-oriented (5) 49:24;55:1;200:23; 205:4;208:15</p> <p>translate (1) 223:8</p> <p>transmission (1) 161:13</p> <p>transportation (2) 203:12;265:10</p> <p>trap (1) 160:11</p> <p>travel (1) 289:9</p> <p>traveling (1) 46:8</p> <p>travels (1) 49:18</p> <p>tread (1) 24:1</p> <p>treat (1) 129:4</p> <p>treated (1) 162:17</p> <p>treatment (1) 152:5</p> <p>tree (5) 77:16,16;82:17,18; 83:8</p>	<p>trees (6) 75:13,14,25,25; 77:19;83:9</p> <p>triangle (1) 142:18</p> <p>Tribute (2) 57:20;58:6</p> <p>trick (1) 133:2</p> <p>tried (1) 181:9</p> <p>triggered (1) 105:9</p> <p>trip (2) 15:21;270:23</p> <p>trips (1) 267:5</p> <p>true (8) 6:22;41:6;58:5; 141:2;145:10;218:24; 279:14;283:1</p> <p>truly (1) 101:18</p> <p>try (20) 18:2;78:14;83:17; 111:22;125:21;133:4; 164:16;172:12;192:3; 199:19;200:5,12; 224:4;234:13;239:18, 18;278:17;285:1; 286:7;287:16</p> <p>trying (29) 5:12;7:19,22;18:2; 34:15;44:17;62:1,3; 70:12,15,16,20;89:21; 103:5,8;111:10; 143:15;154:7,13,14,22; 166:11;167:10;168:13; 194:23;284:24;286:10; 289:19,20</p> <p>Turn (3) 96:14;97:25;119:18</p> <p>Turnbull (1) 73:1</p> <p>turned (3) 9:15,21,21</p> <p>turning (1) 102:9</p> <p>two (41) 5:19;10:13;16:23; 52:15;53:1,20;65:14; 70:22;88:11,13;97:7, 11;103:7;114:25; 123:8;144:23;153:13; 158:1;169:13;175:22; 198:16;203:3,4,12,14; 208:9;214:14;225:11; 238:4,8;239:21;248:7; 265:14;266:6;285:11, 17;288:15,20;293:15; 294:7,12</p> <p>two-block (1) 53:6</p>	<p>two-thirds (1) 158:19</p> <p>two-week (1) 186:1</p> <p>type (12) 13:22;74:22;95:4; 113:16;121:2,11; 213:6;218:25;237:20; 251:3;268:23;282:25</p> <p>types (4) 97:7;227:18;239:21; 241:16</p> <p>typical (1) 266:14</p> <p>typically (4) 162:6;163:10; 195:13;272:22</p>
U				
				<p>ultimately (1) 105:19</p> <p>uncertainty (1) 294:4</p> <p>unchanged (2) 36:4,5</p> <p>Under (48) 8:20,23;12:1,21; 33:17;34:17;38:6; 41:16,18;68:6;70:2; 76:7;77:11;87:10; 96:22;97:2;101:23; 115:11;121:18;122:11, 16;124:25;125:14; 126:11,14,15;129:21; 149:14;157:15;158:11, 24;159:12,15,21; 160:24;161:5;162:20; 170:11;173:19;174:1; 221:15;236:13,19,24; 242:7;244:3;253:19; 285:7</p> <p>undercut (3) 222:8,16,20</p> <p>undercuts (3) 225:19;226:3;282:17</p> <p>undercutting (1) 280:14</p> <p>underlying (4) 171:12;208:1;247:8; 272:5</p> <p>understood (6) 176:10;183:22; 222:24;269:16;271:3,8</p> <p>undetermined (1) 12:25</p> <p>unfortunately (2) 79:22;80:6</p> <p>UNIDENTIFIED (1) 188:3</p> <p>unified (1) 274:9</p> <p>unimmutable (1)</p>

<p>165:4 unique (4) 219:2,6;270:1;283:5 units (8) 19:8;55:13,22,22; 58:3;59:21;225:2; 236:8 University (2) 190:14,16 unless (4) 100:12;177:13; 252:12;294:15 unlike (1) 265:22 unlikely (1) 283:25 unnecessary (1) 7:21 unquestionably (1) 218:24 unrelated (1) 265:24 Unterberg (64) 7:10,11,12;8:2; 16:12;18:13;19:22; 21:8;23:19,20;24:9; 27:8,9;28:24;31:6,15; 34:14;36:11,25;39:8; 40:25;47:9;48:8,10; 54:18;57:19;60:3,16; 61:2;62:21;65:16; 67:19;73:12;75:4; 83:21;88:8;94:5;95:8, 12;107:16;114:17; 123:3;124:5,11,23; 137:7,9;140:25; 142:21;143:20;151:23; 153:17;156:22;157:13; 163:22;173:10;184:25; 185:2;186:8;187:23; 234:17;242:5;244:2,16 Unterberg's (3) 23:15;66:12;186:23 unwarranted (1) 46:15 up (79) 6:2;13:6;14:9;16:18; 19:1;20:6;23:25;36:12; 37:10,17;38:5;41:9; 46:21;52:4;53:16,18; 54:12;55:15;58:6,20, 22;59:22;60:4,13,17; 66:10,10;68:11,18; 71:4;76:4;89:10;95:1; 109:15;117:16;122:18; 123:25;124:11;128:1, 25;129:7;130:3; 132:20;142:11,15; 143:7;144:3;149:18; 150:18;151:4;154:15; 157:6;158:18;174:17; 176:24;177:10;178:6; 181:16;185:21;187:8;</p>	<p>197:6;198:18;199:4; 205:3;214:22;216:13; 217:5;226:7;231:25; 237:19;244:21,25; 245:2;264:18;273:12; 275:1;278:7;286:11; 289:3 update (1) 84:11 updated (12) 24:14;27:17;28:1; 81:3;84:11;87:3; 152:23;153:2;161:19; 167:25;168:16,18 updates (1) 82:2 upon (9) 13:22;108:2;166:10; 171:3;197:4;198:4; 213:18;250:24;253:15 upscale (1) 213:14 upward (1) 213:23 urban (4) 57:11;190:16; 198:18;199:6 urgent (2) 233:21;234:5 usage (1) 215:20 use (104) 11:4;12:3,5,8;13:24; 19:15;20:21;28:21; 36:11,14,17;37:1,19; 38:3;39:9,12,19,23; 40:14;41:14,44;12; 45:2,4,8,15;47:15,25; 50:20,24;51:8;53:7,8; 54:1;55:2;58:18,19,23; 61:3;65:20;75:16,18, 22,23;77:15;86:12,18, 23;89:9;93:7;95:18; 98:3,5,8;104:9;117:12; 118:23;120:10;121:2, 7;124:19;130:6;138:1; 144:12,14;146:4,7; 147:22;148:15,18; 174:6;180:22;181:10; 187:5,12;192:14; 202:3;203:22;204:21; 205:2,4,22;206:12; 207:17;208:15;209:18; 211:1;212:11;214:5; 215:18;219:22;220:1; 226:18;227:17,18,18; 228:14;235:13;236:14; 237:5,6,21;238:11,20; 286:8 used (18) 35:12;37:9,12;47:24; 53:5;85:11;100:24; 109:1;117:20;151:13;</p>	<p>156:18;161:24;176:25; 182:9;202:5;212:15; 225:9;279:3 user (3) 115:12;146:13; 147:11 users (1) 219:4 uses (142) 12:17,21;19:4,10,13; 37:2,10,15;38:4,6; 39:13,15,19,24;40:11; 42:18;51:3,3,4,6,15; 52:20;53:1;54:3,3; 85:24,24;87:1;92:9,14, 16;96:22,23;97:3,5; 104:12;113:16,24; 114:8;116:6,12,19,23; 117:3,6;122:3,6,6; 125:14,15;134:2; 141:15,17,17,25;144:7; 148:19;163:9;170:20; 201:23;204:4,4;205:2; 206:5,12,13,21,21; 207:24;208:12,25; 209:7,8,21,22,24; 211:15,18,20;212:5,19, 19,20;213:6,7,18,18, 19,24;214:1,2,3; 215:19;216:11;219:2, 17;220:3;224:25; 225:3,8,14,23;226:5,5, 7,20,25;227:2,23,25; 228:14;230:22,23,24; 231:23;232:18,18; 233:8,19,23;234:8; 235:22;236:12,16,17, 23;237:20;238:1,1,2; 239:14;247:1,1,4; 249:11;269:11,11; 276:22;277:25;278:1, 20;282:19 using (2) 21:21;273:8 usually (5) 175:13;191:13; 240:5,6;253:16 utilization (1) 235:19 utilize (3) 174:8,22;203:11</p>	<p>139:25;162:3 variety (8) 12:21;94:6;189:1; 191:21;210:3;222:6; 224:8;227:17 various (8) 153:6;192:10; 197:16;198:11,12; 200:4;201:5;265:19 vast (1) 275:14 verify (5) 126:20,21;262:9; 263:12;265:12 version (7) 5:16;37:4,18;38:25; 39:5;60:22;79:9 versus (6) 56:1;77:20;145:22; 194:2;231:24;235:6 viability (4) 223:9;247:1;280:4; 282:17 viable (3) 206:9;247:4;280:12 vibrancy (1) 279:4 vicinity (1) 265:6 video (1) 240:8 Vienna (3) 263:18,25;264:1 view (3) 197:4;233:23;282:8 viewed (1) 277:1 viewing (1) 191:10 viewpoints (1) 235:2 views (3) 5:19;57:8;108:17 village (7) 42:4;44:23;105:12; 147:4;170:21,25; 276:23 villages (1) 46:8 violates (1) 279:15 violating (1) 285:17 Virginia (5) 253:1,4;255:14; 259:20;265:9 virtually (1) 87:20 vis-à-vis (1) 224:14 visibility (1) 210:4 vision (23)</p>	<p>193:18;204:24; 206:6;210:9,15,24; 212:18;219:13;223:1; 224:9,10;237:15; 271:14;272:7;275:4, 22;279:1,11;280:3,10, 14,19;283:14 visions (4) 217:14;223:25; 269:19;281:5 visit (3) 254:16;259:19,20 visited (2) 240:5,7 visits (2) 151:14;253:14 voir (3) 189:20,22;195:17</p>
W				
<p>Wait (17) 28:12;29:5;38:22; 71:19;74:16;78:21; 94:15;131:13;140:22; 153:20,21;246:7; 249:24;250:23;258:1; 261:20;285:22 waited (1) 68:20 waive (1) 177:13 walk (2) 133:4;225:16 walkability (1) 265:25 walkable (1) 213:14 walking (2) 47:19,19 walkway (1) 261:2 Walmart (13) 43:14,15;120:16; 147:18;149:1,2,8,16, 21;261:3,5,6,16 wants (3) 25:1;126:11;179:3 Washingtonian (1) 267:6 water (57) 67:8,13,16,20,24; 68:3,4,6,7,14;69:2,5, 19,21;70:1,24;73:7; 74:2;75:6,9,10;151:18, 20;153:6,9,10,25; 154:17;155:3,7;156:3; 157:13,15,25;158:21, 24;159:2,18,25;160:6, 13,23,24;161:2,8; 162:4,4,12,19,23; 163:7,11;185:15; 186:17;191:10;192:6,9</p>				

<p>way (37) 11:14;49:20;51:14; 54:14;57:15;58:6; 61:15;81:1;95:17; 108:2;129:14;130:23; 146:5,12;153:18; 156:1;158:19;179:6,8; 181:19;183:15;190:8; 195:17;197:6;208:17; 210:21;211:24;213:7; 223:1;224:1;226:13; 239:18;271:13;272:1; 273:3;287:15;289:2</p> <p>ways (8) 94:6;140:14;187:14; 205:6,6,7;222:12; 224:8</p> <p>weather (1) 216:6</p> <p>Wednesday (2) 14:5;103:9</p> <p>week (2) 240:6;288:22</p> <p>weekday (1) 284:17</p> <p>weekend (2) 285:12;286:17</p> <p>weekends (1) 221:4</p> <p>weeks (3) 185:22;258:23; 285:11</p> <p>Wegman's (20) 117:8,12;118:22; 119:1,4;120:3,9; 145:24;146:3,8,9,10, 11;147:12,19,24;148:2, 5,13;289:22</p> <p>weight (9) 93:22;95:6,7;98:22; 109:8;165:11;195:19, 24;280:4</p> <p>welcome (1) 43:23</p> <p>weren't (5) 43:11;141:4;217:14; 248:7;266:7</p> <p>west (21) 5:7,8;49:18;51:1,2; 55:9;56:12;81:9,12,12; 90:15,16;93:14;94:2; 108:1,5,8;140:16; 159:14;240:15;273:17</p> <p>western (1) 81:7</p> <p>What's (44) 20:7;27:7;52:9; 53:24;56:12;57:15; 75:24;92:18;114:24; 116:16;127:16;129:3; 133:15;140:25;153:5; 154:3;168:14,15; 169:2;188:19;201:4,5;</p>	<p>202:15;203:24;207:11, 23;216:8;219:9; 220:24;223:9;224:5, 20;225:20;226:22; 228:25;231:24;244:20; 250:5;255:9;257:5; 258:3;272:22;274:2; 281:15</p> <p>Whenever (1) 181:7</p> <p>whereas (1) 234:13</p> <p>whereby (1) 228:22</p> <p>Whereupon (1) 295:1</p> <p>white (5) 39:5;79:19;167:16; 168:15;169:1</p> <p>whole (45) 20:25;24:17,20; 25:13;68:21,22;74:22; 77:24;82:14;84:13,15; 120:18;130:12;135:18; 143:8;145:22;165:2; 172:20,22;178:13; 193:21;199:23;200:1; 204:1;205:16;217:15; 222:3,9;225:19; 229:21;232:19;234:12; 236:16;237:17;251:5, 14,18,19;257:2;266:5; 269:24;270:12;279:18; 283:7;289:18</p> <p>wholeheartedly (1) 287:11</p> <p>wide (1) 12:17</p> <p>willing (1) 186:10</p> <p>wine (1) 240:8</p> <p>wish (1) 183:13</p> <p>wishes (1) 142:4</p> <p>withdraw (4) 116:17;268:6,6; 294:10</p> <p>withdrawn (1) 291:24</p> <p>within (61) 8:18;10:8;13:3,24; 19:18;49:14;51:11; 52:10,15;53:1,6;54:5; 55:13;57:1;78:7;83:5, 8,11;84:20;85:14,20; 86:12,13,13,22;89:8; 99:6;118:1;121:8; 122:1;125:1;127:22; 131:16;141:11,11; 144:25;146:6;149:4,9; 158:3,25;161:9,9;</p>	<p>162:7,12;163:1,6,11; 164:1,3,5;168:16; 178:8;205:4;210:23; 230:14;240:4;265:6; 278:12;289:8;290:3</p> <p>without (15) 6:10,17;47:19; 101:24,24;134:1,20; 135:18;139:24;140:14; 177:25;194:19;196:5; 274:1;280:14</p> <p>WITNESS (246) 9:10,18,20;14:13,16, 19;23:1,5,21;25:12,16; 27:5,7,12,16,21,25; 37:6,9;38:24;39:2,4; 40:22;41:18;42:8; 47:13,15,24;48:1,16, 18;53:25;56:9,20; 57:20,23;58:12,14,22; 59:1,3;60:7,19,22; 64:16,19,21;65:3,6; 68:16;71:7,14;76:22; 77:23;78:1,3,6,9;79:4, 8,12,14;80:2,5,8,19,22; 81:1,10,12,15;82:10, 14,17,23,25;83:4,13; 88:11,13,16;89:4,6; 90:1,3,7;91:7;93:12, 23;94:2;99:5,17;100:8, 14;101:8;102:5;104:3, 5;110:21;111:24; 112:2,5;113:1,4,8,11; 114:4;116:23;117:15, 16,18;119:12;121:6, 12;123:10;125:10; 131:12;132:2,4,8,10, 12,19;137:2,15;138:2, 20,21;142:22,25;143:2, 25;144:5,9,11,13; 145:3,16;148:9; 149:14;150:14;151:19; 152:20,23;154:10; 156:16;157:4,21,24; 159:6,11;161:4;166:5; 168:10,20,23;172:19; 175:3;176:2;177:16; 183:5,13;185:10; 188:9,23;195:12; 205:13,15,19;207:9; 211:11,13;221:11; 226:24;239:5,8; 241:23,25;242:2; 243:13;245:11,14,23; 246:8,12,15;250:1; 251:6,8,16,23;252:3, 10,12,17,19;253:5,10; 256:11;258:19;260:2; 261:6,10,15,19,21; 262:8,13,24;264:1,9, 14,16,20,23;265:3; 266:17;267:2,4,12,17, 21;268:5,18,20,24;</p>	<p>269:7,14,17,24;270:4, 19,21,23,25;276:12; 279:22,25;280:18,22; 282:11;287:24;293:22; 294:2,5,7</p> <p>witnesses (8) 26:1;63:18;66:2,9; 71:8;175:16,24;176:3</p> <p>witness's (1) 91:4</p> <p>wondering (1) 261:22</p> <p>Woodcott (1) 189:14</p> <p>word (10) 32:20;117:17,17; 156:17;169:18;182:5; 197:11;200:15;206:12; 267:16</p> <p>words (6) 22:13;90:22;105:19; 117:20;169:21;221:18</p> <p>work (13) 10:8;35:4;40:1; 47:18;54:14;81:5; 128:24;140:11,18; 144:23;189:25;216:4; 224:6</p> <p>worked (10) 23:1;66:16;81:1; 108:13;145:24;188:22; 190:25;191:19;193:7; 254:18</p> <p>working (6) 22:24;81:17;99:25; 191:9;216:2,4</p> <p>worry (4) 67:15;187:17; 268:22;269:3</p> <p>worship (3) 19:10;225:4,24</p> <p>Wow (1) 30:11</p> <p>Wrap (1) 151:4</p> <p>wrath (1) 285:17</p> <p>write (2) 192:19;193:8</p> <p>writing (5) 26:17;178:13,21; 180:22;192:18</p> <p>written (5) 176:21;202:17; 214:19;216:8;235:21</p> <p>wrong (4) 28:12;47:12;175:1; 269:1</p> <p>wrote (6) 124:23;216:20; 217:6,6,12;244:14</p>	<p style="text-align: center;">Y</p> <hr/> <p>years (17) 24:23;31:12;65:3; 76:12;146:19;188:22; 192:7;193:8,8;202:25; 212:23;221:18;222:24; 223:8,14;241:16;284:1</p> <p>yellow (3) 56:2,15,18</p> <p>yesterday (4) 5:10;14:3;78:17; 177:6</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero (14) 8:25;9:7,10;11:12; 14:13;38:17;44:25; 59:7,8,14,18;245:12, 12,18</p> <p>Zone (57) 6:10;12:22;71:23; 72:14;77:18;94:8; 102:17;114:11;115:9, 12,16;117:2;124:12,18, 23;125:1,6;126:12,14; 127:3;128:2,10;129:7, 19,20,25;130:2,6; 174:1;194:2,2,6; 197:17,17;212:15; 228:14,19,22,22;229:3; 232:13;235:14,19,20, 22;236:1,6,11,13,14, 19,20,22,24;237:7; 238:5,12</p> <p>zoned (1) 108:20</p> <p>zones (2) 125:15;193:25</p> <p>Wow (1) 30:11</p> <p>zoning (43) 24:4;26:7;29:10; 35:16;39:17;43:9,19; 44:18;61:18,19; 108:21;116:25;125:21, 23;126:19;127:9,14, 14;128:2,21,21; 179:25;180:2,5;189:4, 8;192:25;193:3,7,16, 20;195:3,20;202:20; 228:6;229:4,4,5,5; 235:21;236:6;237:22, 23</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 (4) 141:15;158:12; 200:13;201:14</p> <p>1,150,000 (1) 123:12</p> <p>1,210,000 (1)</p>
--	--	---	--	--

123:11 1,538,000 (1) 133:25 1,950 (1) 19:8 1.3C7 (1) 28:18 1.3g5 (1) 160:5 1.3G7 (1) 28:11 1/2 (1) 187:6 1:00 (1) 5:12 10 (23) 15:7;16:3,7,8,17; 31:12;42:3;44:22; 76:12;79:17;105:3; 152:25;169:16,24; 170:5;215:8;221:18; 241:16;255:10;256:17; 276:9;283:25;284:11 10,000 (3) 13:4;38:17,19 10.3.4 (2) 114:23;115:5 10.3.5 (2) 114:20,24 100 (12) 256:17,22;257:21, 22,23,24;258:3,5; 259:10,12,13;268:9 100,000 (1) 101:22 100A (1) 259:8 101 (13) 116:2;228:15,16; 237:12;238:6;257:6, 20;258:4,11;259:9,15, 16;293:25 10-156 (3) 118:15;119:6,12 101A (7) 259:16;260:1,16,21, 24;268:13,14 101B (1) 261:1 101G (1) 264:5 101I (1) 265:1 10245 (1) 188:17 105 (3) 97:25;227:9,10 11 (7) 16:10;24:25;79:17; 158:10;159:8,12;162:4 12 (13) 41:9;79:18;96:14; 127:20;158:1,4,4;	159:7;172:17;173:5; 239:12,15;272:13 12:00 (1) 123:25 120 (8) 58:6;101:12;127:15, 16,17;128:6,9;144:1 120,000 (57) 5:20;18:13,24;19:10, 16;43:10;85:19;89:10; 94:7,12;100:21,24; 102:10,23;103:18; 104:8;120:14,16,18; 122:17,20;124:18,21, 24,25;125:22;126:1, 24;127:1,12,21,25; 130:1,7;134:20,25; 136:17;138:25;139:4; 147:24;149:3;174:9; 213:21;225:23;226:11; 227:5;229:10,14,24; 234:1;238:13;240:17; 246:23;247:3;273:12, 19;274:5 121 (10) 10:25;51:1;89:2; 93:3,14;94:1,2;108:10, 19;140:9 12th (11) 177:10;183:22; 184:1,3;186:20;187:4, 8;288:14;294:15,21,24 13 (6) 35:17,19;158:11; 162:5;217:23;232:1 130 (5) 110:19;111:24; 141:5;142:6,9 13th (2) 286:22,22 14 (2) 79:17;233:17 140,000 (5) 110:21;111:25; 141:5;142:6,9 146 (1) 109:8 14th (6) 285:12;288:3,5,9,11; 294:20 15 (9) 79:17;158:1,8; 255:14;258:18;261:10; 262:1;264:10,21 150 (4) 142:10,23;245:12; 289:5 150,000 (10) 9:8;10:6;42:18; 109:15,21;141:18; 142:8;143:7;244:7,22 153,000 (2) 144:2;212:4	16 (5) 79:18;209:12; 218:19;219:18;232:20 17 (2) 24:25;79:18 189 (3) 215:15,21;216:1 19,500 (2) 89:2,4 190 (1) 215:23 1972 (1) 190:14 1978 (1) 190:15 1994 (6) 98:12;126:23; 202:17;204:7;210:6; 291:12 1999 (1) 249:16 <hr/> 2 <hr/> 2 (7) 19:9;21:13;24:21; 71:11;77:9;187:6; 224:23 2,300,000 (1) 19:9 2,420,000 (1) 232:10 2.3 (2) 224:23;237:19 2.5 (1) 210:19 2:15 (3) 183:10;184:11;185:7 20 (17) 50:7;102:16;129:7; 130:3;174:19;202:25; 204:9,10;212:23; 218:12;220:18;221:18; 222:24;223:8,13; 241:16;283:25 200 (1) 294:18 200,000 (1) 147:24 2000 (2) 135:5;210:6 2002 (2) 76:11;135:23 2003 (11) 5:6;24:6,13;27:25; 28:19,22;30:5;35:16; 76:11;134:18,22 2004 (5) 24:15;87:3;130:14; 131:10,12 2005 (12) 19:23,25;21:13;22:8, 8,9,11,13,15,20,25;	23:2 2006 (1) 110:3 2007 (4) 24:15,19;84:7; 188:21 2008 (2) 87:3,4 2011 (22) 14:2,22;42:3;46:4; 104:20;106:5;169:11; 171:4,9;196:20; 216:23;223:23,24; 247:6;271:16,25; 272:3;275:24;276:5; 277:5;291:1,12 2012 (1) 253:2 2013 (5) 24:21;77:9;158:23; 189:11;197:14 21 (3) 37:20;135:23;218:10 21F (11) 37:6,11,14;38:24; 60:23;86:7,8,8;88:17; 121:3;123:10 21H (1) 158:10 21st (3) 288:6,8,9 22A (3) 29:15,25;30:2 23 (1) 179:18 23A (1) 71:11 23B (1) 71:13 24,000 (1) 214:1 25 (2) 58:16;246:15 26 (1) 253:2 27 (3) 158:17,18;189:11 270 (9) 55:10;81:18;113:17; 159:17;205:21;208:13; 209:10;220:23;273:17 28,000 (4) 245:5;246:15;247:4; 274:7 283 (1) 158:14 283.5 (1) 5:7 28th (5) 285:13;286:8,17; 287:16,22 29 (1) 218:12	29th (2) 48:14;285:21 <hr/> 3 <hr/> 3 (6) 79:12;80:12,17; 167:1,11;168:15 3.5 (1) 115:4 30 (8) 14:15;58:20,21,22; 158:21;193:8;244:25; 245:18 30,000 (7) 11:12;14:11,13;59:7, 14;244:25;245:2 300,000 (5) 141:16;142:12; 144:3,6;212:6 31 (2) 31:16;70:9 34 (2) 215:8,8 35 (1) 79:10 3rd (1) 157:25 <hr/> 4 <hr/> 4 (8) 56:7;98:4;119:6,12, 15;215:15;218:16; 227:11 4,500 (1) 89:1 40 (3) 142:9;188:22;193:8 42 (1) 202:6 45 (12) 48:15,17,18;197:23; 204:10;206:23;207:5; 280:25;281:9,10; 282:4,5 450 (3) 244:22;245:13;289:4 450,00 (1) 10:5 450,000 (7) 9:1,10;122:18,21; 244:5,6;245:4 46 (8) 99:10;109:1,9; 140:20;141:14,15; 212:1,4 4-6 (1) 99:16 47 (1) 38:5 48 (1) 80:24
---	---	---	---	---

<p>480 (1) 245:11 480,000 (1) 234:2 484,000 (4) 174:17;229:14; 234:2;244:23 4th (2) 288:2,4</p>	<p>25:12;101:12,13; 172:17;208:9;230:6 60,000 (6) 100:23,25;146:15, 23;147:9,10 600,000 (1) 244:22 60B (5) 95:13,17,23;96:4,14 60C (4) 95:19;96:2,3;172:5</p>	<p>147:25 82 (3) 118:17;119:9,10 84 (1) 245:16 86 (7) 15:7,24;16:4;104:21; 169:11;276:11;291:2 86A (2) 291:4,11 87,400 (1) 89:9 881 (1) 67:19</p>		
<p style="text-align: center;">5</p>				
<p>5 (4) 41:19;79:16;183:12, 23 5,000 (1) 13:3 5:00 (1) 284:11 5:01 (1) 295:1 50 (2) 14:14;101:21 50- (1) 179:21 50,000 (10) 13:1,6,25;58:16; 149:12,15,19;176:15; 213:23;274:6 51 (1) 205:5 52 (1) 80:24 535 (4) 24:18;25:13;82:15; 289:25 55 (1) 80:24 56 (1) 80:24 57 (4) 80:5,10,11,24 58 (1) 64:9 59 (43) 9:18,19;28:8,8,10, 11;32:6,8,13;35:8; 36:24;39:10;40:14,16; 41:7,12,15;50:25;51:9; 60:20;71:22,24; 106:17;114:19;115:10, 13;123:12;125:8,10, 17;149:24;150:5,13, 20;154:24,25;160:5; 166:2,12;173:25; 174:13,23;182:5</p>	<p>63 (2) 79:10,12 635 (1) 202:8 64 (2) 98:25;208:8 65 (3) 78:16;84:25;208:8 66 (2) 90:14;107:23 67 (11) 18:24;19:1;99:2; 126:1;208:21;224:19; 227:23;235:11;236:7; 237:11;238:6 68 (7) 48:21;54:25;55:12; 99:5;200:18;230:8,10 6-story (1) 38:5 6th (1) 287:6</p>	<p style="text-align: center;">9</p> <p>9 (10) 5:6;14:25;15:1,3,18, 24;36:15;79:17; 184:21;276:5 9:30 (1) 25:25 90,000 (1) 276:24 92 (2) 56:8,9 94 (15) 11:18;17:9;20:9,9, 20;21:8,10,18,25;22:4; 104:25;105:5;127:1; 135:3;136:18 95 (19) 62:12;63:16;74:15; 79:2;132:20;153:5,11; 154:16;155:25;157:14, 16;159:23;163:23,24; 164:2,7;165:16;167:2; 168:7 96 (7) 132:21,23;133:16, 19;171:18,20,24 97 (5) 171:15,17;172:14; 173:7,11 98 (5) 171:15,16;184:15, 16,23 99 (6) 81:25;249:1;250:6; 252:24;253:6,11</p>		
<p style="text-align: center;">6</p> <p>6 (4) 39:5;79:16;96:19; 200:10 60 (6)</p>	<p style="text-align: center;">7</p> <p>7 (8) 30:14;45:16;46:3; 79:16;80:4;255:14; 265:11;289:10 70 (5) 25:12;51:10;52:19; 99:2;224:19 71 (1) 189:11 75 (1) 41:20 75,000 (4) 127:20;240:16,17; 273:16 76 (1) 35:17</p> <p style="text-align: center;">8</p> <p>8 (2) 79:17;197:14 8,600 (6) 89:7,8;244:14;245:4, 16,17 8:45 (4) 124:1;294:15,20,24 80,000 (1)</p>			
<p style="text-align: center;">6</p> <p>6 (4) 39:5;79:16;96:19; 200:10 60 (6)</p>	<p>8 (2) 79:17;197:14 8,600 (6) 89:7,8;244:14;245:4, 16,17 8:45 (4) 124:1;294:15,20,24 80,000 (1)</p>			