

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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USL2 MR MONTGOMERY VILLAGE : Case No. DPA 15-01
BUSINESS TRUST : :
: :
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A hearing in the above-entitled matter was held on August 24, 2015, commencing at 9:44 a.m., at the Stella B. Werner Council Office Building, 100 Maryland Avenue, 7th Floor Council 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 Applicant:
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E X H I B I T S

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117 Markup of Land Use Plan	86
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A P P E A R A N C E S (continued)

Expert Witness - Transportation Planning:
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* * * * *

Applicant's Witnesses:	Direct	Cross	Redirect	Recross
F. Russell Hines	13	25	191	238
Laurence J. Brady	28	63	69	--
Joshua C. Sloan	71	120	126	248
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Michael J. Workosky	165	177	--	--
Robert Hydorn	184	188	--	--

Testimony of:	Direct	Cross
Elaine Miller	129	--
John Driscoll	134	--
Margie DeFino	143	--
David Lechner	193	--

* * * * *

P R O C E E D I N G S

1
 2 MS. ROBESON: This is a public hearing in the
 3 application of USL2 MR Montgomery Village Business Trust,
 4 requesting an amendment to the development plan approved by
 5 the District Council on July 1st, 2009 in DPA 02-02 as an
 6 amendment to the development plan approved in LMA G 467 and
 7 G 468 to permit the construction of 86 townhomes on
 8 approximately 17 acres located at 19550 Montgomery Village
 9 Avenue, Gaithersburg, Maryland. This is a hearing conducted
 10 for the County Council. My name is Lynn Robeson, I'm the
 11 Hearing Examiner, and I'm going to take all the evidence and
 12 testimony in the case and then I'll write a report and
 13 recommendation to the County Council on whether to approve
 14 or deny it. The County Council doesn't take any additional
 15 evidence, so whatever you want to say, or whatever you want
 16 to submit it should be done here in this hearing. The
 17 Council, if anyone disagrees with my report and
 18 recommendation you have the opportunity to request oral
 19 argument before the County Council on the record that's made
 20 today.
 21 All right. I see -- can, I know it's the
 22 Applicant, can you identify yourself for the record, please?
 23 MS. LEATHAM: Sure. Erica Leatham, Law Firm of
 24 Ballard Spahr, representing the Applicant.
 25 MS. ROBESON: All right. I see a number of people

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1 here, is there anyone here that wishes to testify today in
2 opposition, or that is not associated, is not going to be
3 called by the Applicant? Okay. I see several hands. Is
4 there anyone who would like to act as a spokesperson for
5 those in opposition? And that means that you can come sit
6 at the table here, and you have the opportunity to ask
7 questions of the witnesses during their presentation.
8 MR. LECHNER: Yes, I'll do that.
9 MS. ROBESON: Okay. Why don't you come forward
10 and sit. Thank you. Please identify yourself for the
11 record, please.
12 MR. LECHNER: David A. Lechner, L-E-C-H-N-E-R,
13 9404 Bethany Place, Montgomery Village 20886.
14 MS. ROBESON: All right. I do have an Affidavit
15 of Posting from the Applicant, with a very nice picture,
16 they don't usually do that, but so, I am going to mark this
17 Affidavit of Posting as Exhibit 115.
18 (Exhibit No. 115 was marked
19 for identification.)
20 MS. ROBESON: Now, Mr. Lechner, I did see that you
21 submitted a number of exhibits, I haven't had the chance to
22 review them, I don't know if you have copies, and I haven't
23 had the chance to enter them in the record yet.
24 MR. LECHNER: Yes, understood.
25 MS. ROBESON: Okay? But you can either present

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1 copies here, or I noticed that your printer wasn't working.
2 MR. LECHNER: Yes, I was trying to get the copies
3 for them, so I sent them. I can deliver copies, as well, in
4 a day or so if it matters I was --
5 MS. ROBESON: No, it doesn't matter as long as you
6 know I haven't put them in the record yet.
7 MR. LECHNER: Yes.
8 MS. ROBESON: Okay.
9 MR. LECHNER: Yes, which is fine.
10 MS. ROBESON: So, 115 is the Affidavit of Posting.
11 All right. And then just a word about our proceedings, they
12 are informal, but they do have some formalities, your
13 testimony is under oath, so I will ask, I will swear you in,
14 and it's subject to cross-examination, which means the other
15 opposing party gets to ask questions of you. There is --
16 the general order of proceeding is the opening statement if
17 you wish, the Applicant's testimony, questions of her
18 witnesses, the opposition's testimony and questions of their
19 witnesses, and then closing statements.
20 So, the application is governed by the provisions
21 of state law and the 2004 Zoning Ordinance, this proceeding
22 is governed by OZAH's rules of procedure. All right.
23 Now, one thing, I do see a number of people here,
24 I have just in case I saw that the Applicant estimated that
25 its case was going to be four hours. Okay. I see a number

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1 of people here that wanted to testify, do you, is it fair to
2 say that your testimony involves Master Plan compliance and
3 whether this is consistent with the Master Plan? What I'm
4 thinking of is if we could take some of this out of order,
5 have the Applicant present their testimony on the Master
6 Plan, and then have the opposition present their testimony
7 on the Master Plan. It doesn't -- I'm just saying for time
8 wise if we want to get as many people in as we can, we don't
9 have to do it that way.
10 MR. LECHNER: I'm, not sure it matters, actually.
11 I'm not sure -- I don't understand the implications of the
12 change. I'm estimating that the total testimony opposition-
13 wise might be between 20 and 30 minutes --
14 MS. ROBESON: Okay.
15 MR. LECHNER: -- of various speakers.
16 MS. LEATHAM: And our testimony may in fact not be
17 that long.
18 MS. ROBESON: Okay. Oh, good. Okay, good
19 answers.
20 MS. LEATHAM: Although I can keep it up for four
21 hours if you would like.
22 MS. ROBESON: No. All right. With that, then, we
23 are going to proceed --
24 MS. LEATHAM: Can I raise a preliminary matter?
25 MS. ROBESON: Yes.

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1 MS. LEATHAM: We have four expert witnesses, three
2 of whom have been qualified by the Hearing Examiner in their
3 respective areas, can we stipulate to that now, or would you
4 prefer we do it as each witness comes up?
5 MS. ROBESON: Well, why don't we -- they've been
6 qualified here as --
7 MS. LEATHAM: Uh-huh. Yes, before --
8 MS. ROBESON: -- an expert witness?
9 MS. LEATHAM: Yes, before OZAH.
10 MS. ROBESON: You know what, let's wait until
11 they're under oath --
12 MS. LEATHAM: Okay.
13 MS. ROBESON: -- and we don't have to go through
14 the whole voir dire, but we should go through some, so I
15 don't want to pre-stipulate at this moment that they're
16 expert witnesses.
17 MS. LEATHAM: Okay, that's fine.
18 MS. ROBESON: And I don't know what you're going
19 to qualify, I wasn't clear exactly what you're going to
20 qualify them as, so they can come up and we don't have to go
21 through the whole voir dire, but I would like something on
22 the record.
23 MS. LEATHAM: Okay. That's fine.
24 MS. ROBESON: All right? So, with that, Ms.
25 Leatham, you get the first shot at an opening statement; Mr.

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1 Lechner, you get the opportunity for an opening statement,
2 as well, all right?
3 MS. LEATHAM: Okay. I'm going to keep my opening
4 statement brief because we're trying to --
5 MS. ROBESON: Good answer.
6 MS. LEATHAM: -- move through. We are -- I'm
7 sorry, let me start over. We have six witnesses, four
8 experts, Russell Hines, who is the President of Monument
9 Realty, and the Development Manager for the Applicant will
10 testify first with respect to some overall background on the
11 subject property; then our expert witnesses will testify on
12 the Development Plan Amendment itself, and its relationship
13 to the Master Plan and the underlying zoning. We've
14 arranged the testimony in what we thought was the most
15 logical order, so when it comes to having expert conclusions
16 on certain findings we skip around a little bit from what's
17 in the Zoning Ordinance, but we thought it made more sense
18 to do it that way. And then the last testimony will be
19 client Bob Hydorn who is a resident of Montgomery Village,
20 and in fact lives next to the subject property, he's not
21 here yet. And I'm hopeful by the time we get to him he will
22 be here.
23 So, as the property is an unplatted portion of the
24 former golf course, it's bounded --
25 MS. MILLER: Can you turn up the volume on her?

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1 We can't hear. We haven't heard anything she's said.
2 MS. LEATHAM: Okay. I'll try to talk louder.
3 MS. ROBESON: Try pressing --
4 MS. LEATHAM: Oh, is it even, is it on?
5 MS. ROBESON: I'm not sure, so try pressing it.
6 MS. LEATHAM: No, it's not, the light's not on.
7 COURT REPORTER: I don't believe it's on.
8 MS. ROBESON: Okay. Then can you --
9 MS. LEATHAM: I will project.
10 MS. ROBESON: Well, Kathy, maybe you were right,
11 maybe we should move the witness, or whoever, well, that's
12 too cumbersome. Okay, if you can project, that would be
13 helpful.
14 MS. LEATHAM: Okay. And actually, maybe I'll turn
15 a little bit.
16 MS. ROBESON: That would be great.
17 MS. LEATHAM: All right. So, the property is an
18 unplatted portion of a former golf course that's bounded by
19 the PEPCO right-of-way on the south, Montgomery Village
20 Avenue on the west, and several communities on the other
21 side. As you noted, it's a proposal for 86 townhomes, this
22 is, this represents 75 market units, and 11 MPDUs, this
23 utilizes the remaining development capacity under the Zoning
24 and under the Development Plan.
25 The Staff recommendation with one exception found

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1 that the proposal met all of the findings for, under the
2 Zone and under the DPA requirements the Planning Board
3 concluded, we respectfully disagree with the Planning Board
4 and the Technical Staff's finding that this is inconsistent
5 with the Master Plan, and we have, we'll be presenting
6 evidence that in fact it is consistent with the Master Plan
7 and therefore in the public interest. The Hearing Examiner
8 recognized case law that Master Plans are not absolute
9 requirements in very similar circumstances to this in DPA
10 05-02. What may drag out our testimony just a bit is that
11 this DPA has been amended over 20 times over the last 50
12 years, so while it starts out very simply, it gets a little
13 complicated and very nuanced, so we'll take the time to
14 break down a little bit of this puzzle and explain how this
15 DPA operates in the larger context of both the underlying
16 DPA and the Zoning and the Master Plan.
17 Finally, we are proud to have the support of the
18 Montgomery Village Foundation, and certain neighbors who
19 have letters in the record of support, the Montgomery
20 Village Foundation President is here to testify later, not
21 as a witness of the Applicant. So, with that we, that
22 concludes my opening statement.
23 MS. ROBESON: Okay. Mr. Lechner, now this isn't
24 the time to present your testimony, this is just what you're
25 going to prove, or what you believe.

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1 MR. LECHNER: I will make several basically a
2 summary discussion regarding specific exhibits which I have
3 provided the last 12 hours, roughly, once we finally got
4 everything organized, and copies to go to Counsel actually
5 for the Applicant, as well. And I believe that the
6 information that I will summarize and the references
7 provided shows that their proposed project is not consistent
8 with the Master Plan, and not consistent with the record of
9 development projects within Montgomery Village.
10 MS. ROBESON: Okay.
11 MR. LECHNER: In short. Thank you.
12 MS. ROBESON: Thank you. All right. Ms. Leatham,
13 please call your first witness.
14 MS. LEATHAM: Russell Hines with Monument Realty.
15 MS. ROBESON: Mr. Hines, please raise your right
16 hand.
17 (Witness sworn.)
18 MS. ROBESON: Go ahead, Ms. Leatham.
19 MS. LEATHAM: Okay. Please state your name, your
20 business address, and your occupation.
21 MR. HINES: My name is Russell Hines; my business
22 address is Monument Realty, 1700 K Street, Northwest,
23 Washington, D.C. 20006; and my occupation is real estate
24 developer, I'm the President of Monument Realty.
25 MS. LEATHAM: How long have you been in this

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1 position?

2 MR. HINES: I've been the President for the last

3 seven years.

4 MS. LEATHAM: And what are some of your duties and

5 responsibilities?

6 MR. HINES: I run the day to day operations of

7 Monument Realty, and I lead the Development Team.

8 MS. LEATHAM: Can you describe some recent

9 projects you've overseen?

10 MR. HINES: Sure. Monument recently finished

11 development of a 320,000 square-foot office building, a

12 build-to-suit for the Boeing Company across from the

13 Pentagon; we're under construction on a 235-unit apartment

14 building in College Park; and we've recently started work on

15 a, another build-to-suit for the National Association of

16 Broadcasters, 130,000 square-foot building down by the

17 baseball stadium; along with a 165-unit residential

18 development.

19 MS. ROBESON: Okay. Just let me stop you. Can

20 people hear? Can you hear him? Okay. Go ahead.

21 MS. LEATHAM: Okay. So, is it fair to say you're

22 fairly established in the real estate development business?

23 MR. HINES: Yes, I think so.

24 MS. LEATHAM: What is your relationship to the

25 Applicant, Business Trust?

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1 MR. HINES: So, as I mentioned I'm the President

2 of Monument Realty, and Monument Realty is the Development

3 Manager of the Applicant.

4 MS. LEATHAM: And how long have you been working

5 with the subject property?

6 MR. HINES: It's been approximately three years, I

7 started working in the summer, on this project the summer of

8 2012, and we closed on it in March of 2013.

9 MS. LEATHAM: And what have you been doing during

10 that time?

11 MR. HINES: Well, we've been doing a number of

12 things, but initially what we did is started an outreach

13 program with the local community, and we worked for about

14 the first 12 months of our ownership directly with

15 Montgomery Village Foundation in structuring a plan, a set

16 of charrettes and community meetings to work on a plan for

17 this property knowing that it was no longer going to be a

18 golf course.

19 MS. LEATHAM: Okay. Can you describe the property

20 subject to the application? You don't have to be too

21 technical with metes and bounds.

22 MR. HINES: Right. So, the property, it's shown

23 here --

24 MS. LEATHAM: Let me interrupt you for a minute.

25 This is not in the record, this is just an aerial map, do

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1 you want to admit it?

2 MS. ROBESON: Okay. Well, let's mark it if he's

3 going to refer to it. Mr. Lechner, do you have any problems

4 with that aerial photograph coming in?

5 MR. LECHNER: No, I know that area.

6 MS. ROBESON: So, that'll be 116. Can you please

7 take a, someone please take a pen and mark in the lower

8 right hand corner 116, and that will be aerial view.

9 (Exhibit No. 116 was marked

10 for identification.)

11 MS. ROBESON: Now, while he's doing that I am

12 going to, usually I am not texting, and I'm telling my Staff

13 to, we usually have a speaker system where they can hear

14 what I want them to do, but I'm going to tell my Staff to

15 begin printing out Mr. Lechner's exhibits.

16 MR. LECHNER: Thank you.

17 MS. LEATHAM: Can we get a copy of those exhibits,

18 also?

19 MS. ROBESON: If we -- there's a lot of exhibits,

20 we will do our best --

21 MS. LEATHAM: Okay.

22 MS. ROBESON: -- to get copies, but if I can take

23 just a moment, that is what I'm doing. New technology, for

24 the record. All right. All right. I'm --

25 MS. LEATHAM: Okay.

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1 MS. ROBESON: -- finished. All I said was print

2 out Mr. Lechner's exhibits and bring them up. All right.

3 Go ahead.

4 MS. LEATHAM: Okay. Can you describe the area

5 subject to the DPA?

6 MR. HINES: Sure. So, it's the 17.3-acre parcel,

7 it's in a horse shaped configuration just east of Montgomery

8 Village Avenue, and to the north and east is Arrowhead Road,

9 and to the south is the PEPCO right-of-way.

10 MS. LEATHAM: Why did you choose to, choose this

11 area for the Development Plan Amendment?

12 MR. HINES: Well, for a number of reasons. First

13 of all, this is a standalone property from the other

14 properties that we own in Montgomery Village, it's not

15 contiguous with the rest of the former golf course; but also

16 it had the scale that we believed could make an immediate

17 impact on the community. We've argued from the outset, and

18 a number of the members of the Community have agreed that

19 the Community needs new housing, and so this, with the 86

20 units we thought that this was an appropriate scale to begin

21 that effort on that would have an impact. It was also

22 because of the golf course having closed we've also felt

23 that that hurt the image of the community having a vacant

24 150-acre golf course in the middle of the community, and we

25 believe that this was a way to impact, again, a large number

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1 of houses, it's the greatest concentration of houses around
2 the golf course, I think there's about 125 around this one
3 community, so we felt like it was a way by getting something
4 moving in this location it was a way to alleviate that
5 problem. And then there were also a number of sort of
6 technical reasons that we looked at this property, it has
7 good access to public right-of-way, there's very little
8 topographical challenges, and also it has very little impact
9 on environmentally sensitive areas.

10 MS. LEATHAM: Will you just briefly describe your
11 acquisition of the property?

12 MS. ROBESON: Let me just -- why are we going into
13 that? Is that relevant to my criteria?

14 MS. LEATHAM: Well, it's part of the public
15 interest. I think it's important to establish that it's a
16 former golf course, it won't be a new golf course.

17 MS. ROBESON: Well, the public interest as we've
18 interpreted it is compliance with County plans and policies.
19 So, I'm just trying to cut to the chase of what I need to
20 look at. If you want to make a brief statement, that's
21 fine, but let's keep it brief. I've already heard him say
22 it's good for the community because, so, anyway, go ahead.

23 MS. LEATHAM: Okay. Briefly.

24 MR. HINES: Okay. Very briefly, the former owner
25 owned the property and operated a golf course for 30 years;

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1 the golf course over the last 10 years or so became a no
2 longer a viable business alternative for him; he filed
3 bankruptcy in 2012; and we purchased the property out of
4 bankruptcy at a bankruptcy court sanctioned auction where we
5 were the only bidder.

6 MS. LEATHAM: And what is the status of the golf
7 course, just one more time?

8 MR. HINES: The golf course is closed, we closed
9 it in November of 2014; working on demolition permits for
10 the clubhouse; and have already auctioned off all the
11 personal property. It won't be a golf course again.

12 MS. LEATHAM: Okay. So, moving on to the DPA, and
13 we're going to have our next witness describe the DPA in
14 more detail, but we just want to talk about timing and
15 phasing right now. So, what is the timing for development?
16 With the DPAs approved what happens next?

17 MR. HINES: Well, we would move immediately to
18 Site Plan, and Preliminary Plan of Subdivision, and then
19 after getting those approvals if we in fact get those
20 approvals move towards permits to be in construction as soon
21 as possible.

22 MS. LEATHAM: How many phases will this be?

23 MR. HINES: This is one phase.

24 MS. LEATHAM: And how will the new community be
25 integrated into Montgomery Village?

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1 MR. HINES: So, the Community, sorry, the area
2 that's subject to the DPA is not part of Montgomery Village
3 currently, it's not subject to the declaration that governs
4 Montgomery Village, so we have had some preliminary
5 discussions with the Montgomery Village Foundation about
6 incorporating this property into the Foundation, such that
7 it would be treated like any other property, and there are a
8 number of ways to do that, we're really in the preliminary
9 stages of discussing that with the Foundation. But it's,
10 from my discussions with them, and what I've heard from the
11 Community everybody is on the same page that they'd like
12 this property to be part of the Foundation ultimately.

13 MS. LEATHAM: And there will be, which we will
14 describe in the next testimony, common open spaces in the
15 new community, how will those be maintained?

16 MR. HINES: So, in this community there will be a
17 homeowners association formed, there will be covenants
18 associated with those homeowners associations, and it'll set
19 up the maintenance of the open space in this property.

20 MS. LEATHAM: And --

21 MS. ROBESON: What about the covenants that exist
22 saying it should be a golf course?

23 MS. LEATHAM: There are no covenants that exist
24 that say it should be a golf course.

25 MS. ROBESON: Well, can he answer that?

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1 MS. LEATHAM: Yes.

2 MS. ROBESON: Since he's the one under oath. Are
3 there really no covenants saying it'll be a golf course?

4 MR. HINES: Yes, there are no covenants, we have
5 reviewed title, we've done this many times, we have
6 attorneys that review title, as well, and there are no
7 covenants that says this has to be a golf course.

8 MS. ROBESON: Okay.

9 MS. LEATHAM: Going back to the common open space,
10 the draft HOA documents Mr. Hines mentioned are Exhibit
11 40P --

12 MS. ROBESON: Yes.

13 MS. LEATHAM: -- and it's sections four, five,
14 nine, and 10, which cover maintenance, assessments,
15 maintenance and operation. All right.

16 MS. ROBESON: Is this going to be a -- are the
17 assessments from the HOA just for this development, or are
18 they both justice, development, and Montgomery Village
19 Foundation?

20 MR. HINES: Well, so Montgomery Village has a
21 number of separate HOAs, 2,000 or so --

22 MS. ROBESON: Right.

23 MR. HINES: -- and they have their own assessments
24 associated with whatever benefits they're providing to the
25 members of that association; and then the Montgomery Village

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1 Foundation acts as a sort of master foundation which, and it
 2 collects due, as well, for the maintenance and operation of
 3 the community, the facilities and so forth. So, this
 4 community will have its own HOA and they'll pay to take
 5 care --
 6 MS. ROBESON: Very similar to Columbia. Yes.
 7 MR. HINES: Most likely. I'm not familiar exactly
 8 how they have set up, but I know what you're talking about.
 9 And then on top of that, as I said, we'll create a regime
 10 such that the members here will also pay dues to the
 11 Foundation so they can use the facilities of the Foundation,
 12 and essentially mimic the same situation that's with all the
 13 other HOAs.
 14 MS. ROBESON: Okay.
 15 MS. LEATHAM: And then I want to end Mr. Hines'
 16 testimony with some talk about the community outreach,
 17 there's already been some testimony in the record that
 18 speaks to a lack of outreach, so we'd just like to discuss
 19 that briefly.
 20 MS. ROBESON: Okay.
 21 MS. LEATHAM: There's also a list of outreach
 22 efforts in Exhibit 40K, which you can refer to.
 23 MS. ROBESON: Right, I saw that.
 24 MS. LEATHAM: Mr. Hines, can you just briefly
 25 describe the extent of the community outreach?

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1 MR. HINES: Okay. Briefly, again. So, as I said,
 2 we worked, we started working with the Foundation, set up an
 3 outreach program, they created a committee, a joint property
 4 committee made up of HOA presidents and local leaders, so --
 5 MS. LEATHAM: And the HOA presidents represented
 6 HOAs that were established where?
 7 MR. HINES: In Montgomery Village, around the golf
 8 course. And so, we began presentations, we did a number of
 9 charrettes with the community, incorporated a number of
 10 their comments, we went through that process. The Joint
 11 Property, over a number of months the Joint Property
 12 Committee made a recommendation to the Foundation, it was
 13 ultimately a 10 to zero recommendation in favor of the plans
 14 that we had proposed and worked on with the Community. The
 15 Montgomery Village Foundation then had its own vote on the
 16 matter and voted overwhelmingly in support of the plans.
 17 This actually ended over a year ago, I mean, it's quite some
 18 time ago at this point. And then we've continued
 19 discussions with the Community, we've worked to continue to
 20 disseminate information, we go to farmer's markets, we've
 21 had a number of times the plans that we have proposed in the
 22 Montgomery Village news letter, we conducted tours of the
 23 golf course with community members, and the leaders, and the
 24 Joint Property Committee members so that they can understand
 25 we can all get on the same page in terms of the facts. One

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1 thing that's interesting about this golf course is obviously
 2 the folks that are around it are very concerned with how
 3 their views will be affected, but there are, all the views
 4 aren't the same, and there are some areas that are very
 5 open, and there are other areas where there are very mature
 6 trees blocking existing homes on the golf course, so it's
 7 really a mixed bag of things going on.
 8 We also, we met with homeowners, sometimes in
 9 their homes, we had separate meetings, we've gone to all
 10 kinds of meetings with the Foundation. At this point we've
 11 had, I mean, dozens of community meetings over the last
 12 couple of years. And then finally, we obviously, we have
 13 attempted to get as much information out there, so we've had
 14 a very robust website that kept track of all the information
 15 every time, you know, questions, good and bad comments that
 16 came out of these meetings with regard to the proposals we
 17 put up there; we sent out a marketing piece showing the
 18 entire plan to 10,000 households in Montgomery Village,
 19 essentially everyone in Montgomery Village, and done a
 20 number of other outreaches to more adjacent neighbors, some
 21 additional information, but that's sort of in a nutshell
 22 that's what we've been working on.
 23 MS. LEATHAM: Thank you. That's, we're concluded,
 24 and I reserve the right for rebuttal.
 25 MS. ROBESON: Okay. With your witness you're

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1 concluded?
 2 MS. LEATHAM: With the witness, yes.
 3 MS. ROBESON: Okay.
 4 MS. LEATHAM: Not with the whole case.
 5 MS. ROBESON: Okay. You can be excused for now.
 6 MR. HINES: Thank you.
 7 MS. ROBESON: Oh, wait. I'm sorry. Mr. Lechner,
 8 questions?
 9 MR. LECHNER: Well, I was wondering if I had to
 10 hear all of them and then ask it or not?
 11 MS. ROBESON: No, no, no.
 12 MR. LECHNER: Okay. I did have a couple, if it's
 13 okay? Mr. Hines, so I understand from the bankruptcy
 14 records that you actually were in discussions with Mr. Doser
 15 prior to them filing bankruptcy about the purchase.
 16 MS. LEATHAM: I object, this isn't relevant to the
 17 DPA.
 18 MS. ROBESON: Well, you opened the door when you
 19 had him testify about the bankruptcy, so I'm going to let it
 20 in.
 21 MR. LECHNER: Okay.
 22 MS. ROBESON: Go ahead, Mr. Lechner.
 23 MR. LECHNER: So, how long were you in discussions
 24 with Mr. Doser prior to bankruptcy about the purchase of the
 25 property?

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1 MR. HINES: Roughly from the period I said that I
2 got involved in this property in the summer of 2012 until it
3 may have been spring, in late spring, but of 2012 until --
4 MS. ROBESON: And who is Mr. Doser?
5 MR. HINES: Mr. Doser is the former owner of the
6 property, he filed bankruptcy.
7 MS. ROBESON: Of the golf course?
8 MR. LECHNER: Uh-huh.
9 MR. HINES: Yes.
10 MS. ROBESON: Okay.
11 MR. LECHNER: And when you were doing due
12 diligence about the property did you look at the previous
13 history of development with the IDI attempts maybe to
14 develop the property in 2006?
15 MS. LEATHAM: I object. I don't see how that's
16 relevant, either.
17 MS. ROBESON: Well, he opened the door to how he
18 came to -- I'm going to let it in, and it'll have the weight
19 it deserves.
20 MR. HINES: Can you repeat --
21 MS. ROBESON: You can --
22 MR. HINES: -- the question, please?
23 MR. LECHNER: During the due diligence did you
24 come across, or discuss with Mr. Doser, or find research
25 about the IDI attempt to purchase and develop the property

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1 in 2006?
2 MR. HINES: Yes, the only information I had about
3 IDI was really what came from Mr. Doser, and then some of
4 the members of the Community had indicated that Mr. Doser
5 had talked to some other developer about potentially
6 redeveloping the golf course, so I don't know --
7 MR. LECHNER: Okay.
8 MR. HINES: -- specifics about their plan, but --
9 MR. LECHNER: Okay. And when you were doing the
10 outreach to the community did you ever, was there ever like
11 a vote taken, or were the residents, was there a tally of
12 the resident input for or against the development plans you
13 were proceeding with one way or another? Anything numerical
14 or that you know of?
15 MR. HINES: No, there was, I mean, there was
16 certainly never a plebiscite on this, but there, the
17 Montgomery Village Foundation went through two election
18 cycles while we were in discussions about the plans, and
19 these proposals were really probably the number one issue in
20 both cycles, and in each case the candidates that were
21 supportive of our plan were elected, so, I mean, that could
22 stand in as an indication of where the community was on the
23 matter.
24 MR. LECHNER: Uh-huh. Very aware of that. Okay.
25 Thank you. That's all.

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1 MS. ROBESON: All right. Any redirect?
2 MS. LEATHAM: No.
3 MS. ROBESON: All right. Now you may be excused.
4 You're still under oath if you get called back.
5 MR. HINES: Understood.
6 MS. ROBESON: All right. Ms. Leatham, your next
7 witness.
8 MS. LEATHAM: Okay. Larry Brady with Torti
9 Gallas.
10 MS. ROBESON: Mr. Brady, please raise your right
11 hand.
12 (Witness sworn.)
13 MS. ROBESON: Go ahead, Ms. Leatham.
14 MS. LEATHAM: Okay. Please state your name,
15 business address, and occupation for the record.
16 MR. BRADY: Yes. My name is Laurence J. Brady; my
17 business office address is 1300 Spring Street, 4th Floor,
18 Silver Spring, Maryland 20910; and my occupation is I'm a
19 Planner and Urban Designer.
20 MS. LEATHAM: I forgot to ask you with what
21 company?
22 MR. BRADY: Torti Gallas and Partners. I
23 apologize.
24 MS. LEATHAM: And how long have you been engaged
25 in planning and urban design?

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1 MR. BRADY: Fifteen years.
2 MS. LEATHAM: Have you testified before any Zoning
3 bodies in Montgomery County?
4 MR. BRADY: No, I have not, but I have presented
5 before County and Town Councils on multiple occasions.
6 MS. LEATHAM: In the Metro D.C. region?
7 MR. BRADY: In the Metro D.C. region it would be
8 before the Arlington Board, County Board.
9 MS. LEATHAM: And what is your professional
10 educational background?
11 MR. BRADY: I have two professional degrees, I
12 have a Master's in Economics from Georgetown University, and
13 a Master's in Architecture and Urban Design from the
14 University of Maryland at College Park.
15 MS. LEATHAM: And what industry certifications do
16 you have?
17 MR. BRADY: I possess an AICP certification,
18 that's with the American Institute of Certified Planners,
19 this is a certification that requires that you demonstrate
20 five years of experience in the field, and then you have to
21 take and pass a qualifying exam administered by the
22 Institute.
23 MS. ROBESON: Have you ever qualified as an expert
24 in any court?
25 MR. BRADY: No, I have not.

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1 MS. ROBESON: Formally qualified as an expert?
2 No. Okay. All right. Go ahead.
3 MS. LEATHAM: So, why don't we, I'm going through
4 some voir dire and --
5 MS. ROBESON: What are you proposing him as?
6 MS. LEATHAM: An expert in planning.
7 MS. ROBESON: Land planning?
8 MS. LEATHAM: I'm sorry, planning and zoning, land
9 planning and zoning. Or wait, I'm sorry.
10 MS. ROBESON: Well, we usually do just land
11 planning.
12 MS. LEATHAM: Just land planning. Yes. Sorry.
13 MS. ROBESON: Okay. Mr. Lechner, the test for
14 being an expert is relatively low, no offense, but --
15 MR. BRADY: None taken.
16 MS. ROBESON: -- it's can they provide more
17 expertise than a layman in understanding issues. Do you
18 have any objections to qualifying the witness as an expert
19 land planner?
20 MR. LECHNER: No, I've heard Mr. Brady talk at
21 several of the presentations, he seems very competent in
22 discussing the issues and projects.
23 MS. ROBESON: Okay. All right. I will qualify
24 you as an expert in land planning, and you can now add that
25 to your resume.

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1 MR. BRADY: Thank you. I appreciate that.
2 MS. ROBESON: Okay.
3 MS. LEATHAM: I like how you skipped through all
4 the rest of my questions. Shortening things up as we go.
5 Did there come a time when you were employed by the
6 Applicant in this proceeding with respect to this DPA?
7 MR. BRADY: Yes. My firm was contracted by the
8 Applicant in I believe April of 2013, shortly after they
9 came into possession of this property.
10 MS. LEATHAM: Okay. And are you familiar with the
11 original Montgomery Village Development Plan and its
12 subsequent amendments?
13 MR. BRADY: Yes, I have reviewed them.
14 MS. LEATHAM: And are you familiar with the
15 property?
16 MR. BRADY: Yes, I have visited the property on
17 multiple occasions, and I've also reviewed all relevant
18 survey and topographic information of the property.
19 MS. LEATHAM: And are you familiar with the
20 surrounding property?
21 MR. BRADY: Yes, I've toured all the surrounding
22 neighborhoods, and I've also reviewed county cadastral maps
23 of those same neighborhoods.
24 MS. ROBESON: County what maps?
25 MR. BRADY: Cadastral maps, they're basically maps

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1 that show building footprints and property lines so that you
2 can understand the relationship of the adjacent properties
3 to the subject --
4 MS. ROBESON: Okay.
5 MR. BRADY: -- property.
6 MS. LEATHAM: And are you familiar with both the
7 2004 and the 2014 Montgomery County Zoning Ordinance?
8 MR. BRADY: Yes, I reviewed them specifically with
9 reference to this site, and I'm familiar with them generally
10 from my work experience.
11 MS. LEATHAM: And are you familiar with the 1985
12 Gaithersburg and Vicinity Master Plan as subsequently
13 amended?
14 MR. BRADY: Yes. I have reviewed it for this
15 project, and I also reviewed it for another project I worked
16 for in the same area.
17 MS. LEATHAM: Okay. Can you describe the subject
18 property?
19 MR. BRADY: Sure. I'm going to start to use some
20 of these exhibits here.
21 MS. LEATHAM: This is Exhibit 116, again.
22 MS. ROBESON: Yes.
23 MS. LEATHAM: Is this working?
24 MS. ROBESON: This, if you could remember, you
25 can't -- we're on a transcript, so you can't say here, or

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1 there, you have to say to the northwest corner, or something
2 like that, just so you --
3 MR. BRADY: Yes, to be clear. Okay. All right.
4 So, I'm going to stand up and point to this.
5 MS. ROBESON: That's fine.
6 MR. BRADY: Okay. So, the subject property is
7 located here in sort of the north central zone of Montgomery
8 Village, this black line outlines the bounds of Montgomery
9 Village.
10 MS. ROBESON: Is it marked site on the --
11 MR. BRADY: Yes, so here's the --
12 MS. ROBESON: -- exhibit?
13 MR. BRADY: -- site here, and that is the site
14 with that label.
15 MS. ROBESON: Okay.
16 MR. BRADY: The site is located about two and a
17 half miles north of the 270 interchange at Montgomery
18 Village Avenue, and it's about two and a quarter miles north
19 of the interchange with State Road 355, otherwise known as
20 Frederick Road. Let's see, there's a second interchange
21 currently planned for Montgomery Village, located here at
22 the Watkins Mill Road --
23 MS. LEATHAM: Can I interrupted you? Did you mean
24 planned for 270? An interchange at 270?
25 MR. BRADY: Yes, interchange. I'm sorry. I

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1 apologize. So, there's another interchange planned here,
 2 my -- yes?
 3 MS. ROBESON: And here was?
 4 MR. BRADY: At Watkins Mill Road --
 5 MS. ROBESON: And 270. Okay.
 6 MR. BRADY: -- and 270.
 7 MS. ROBESON: Go ahead. And Watkins Mill Road and
 8 270 is, is it about halfway up that exhibit?
 9 MR. BRADY: Watkins Mill essentially runs
 10 generally north in a sort of curvy fashion, but it is, this
 11 new interchange will be northwest of the current
 12 interchange.
 13 MS. ROBESON: Is it -- okay.
 14 MR. BRADY: Very good. So, the site is also about
 15 one mile north of the Montgomery Village Center, which is
 16 located here, very central to the community, and is about a
 17 quarter --
 18 MS. ROBESON: Now, Montgomery Village Center on
 19 that map is --
 20 MR. BRADY: Yes.
 21 MS. ROBESON: -- just about in the, on Exhibit
 22 116, I see a larger white line preceding east/west
 23 generally, yes, what --
 24 MR. BRADY: Yes.
 25 MS. ROBESON: -- is that a road or an easement?

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1 MR. BRADY: This is, this just states Montgomery
 2 Village. This was taken from a Google map --
 3 MS. ROBESON: Okay. So, the center --
 4 MR. BRADY: -- and it shows --
 5 MS. ROBESON: -- is generally at the middle, or at
 6 the end of that line?
 7 MR. BRADY: That is correct.
 8 MS. ROBESON: Okay. Go ahead.
 9 MR. BRADY: The site is also located about a
 10 quarter mile east of the Goshen Shopping Center, which is
 11 located here on Goshen Road at the intersection with
 12 Rothbury Drive.
 13 MS. ROBESON: Okay.
 14 MR. BRADY: About one-quarter mile east --
 15 MS. ROBESON: Okay.
 16 MR. BRADY: -- of the site. Let's see. I'm going
 17 to change exhibits, if I could get some assistance here?
 18 MS. LEATHAM: Sure.
 19 MR. BRADY: Okay.
 20 MS. LEATHAM: These are, these exhibits are just
 21 large size copies of what's already in the record, and --
 22 MS. ROBESON: Okay. Can you --
 23 MS. LEATHAM: -- we'll tell you the exhibit number
 24 when we get to it. This is Exhibit 19.
 25 MR. BRADY: Okay. This is an existing condition

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1 survey of the site, so we can discuss its existing
 2 conditions. So, the site itself is comprised of about 17.3
 3 acres in size; it is bounded as follows, there's a PEPCO
 4 right-of-way that runs to the south of the property, to the
 5 west side of the property it has two frontages, here and
 6 here, north and south along Montgomery Village Avenue. The
 7 Arrowhead Community is located here to the north; Arrowhead
 8 Road is located here on the northeast frontage of the
 9 property. The Green Tee Community is located here on the
 10 southeast portion of the property, which brings back around
 11 to the right-of-way. The entire site essentially surrounds
 12 the East Duffer Way Community, and essentially forms a rough
 13 sort of horseshoe shape.
 14 MS. ROBESON: All right. Let me interrupt you one
 15 second. Okay. I'm going to, I was just handed the first
 16 set of attachments for Mr. Lechner, she's still printing the
 17 second set. If you could verify that these are your
 18 attachments then please hand them, let Ms. Leatham, we'll
 19 take a break and she can look through them. I'm sorry, go
 20 ahead.
 21 MR. BRADY: You'd like me to proceed? Okay.
 22 MS. ROBESON: Yes. Or give him one second to --
 23 there's another batch coming.
 24 MR. LECHNER: These are all part, I'm not sure
 25 that, I have to start, look at my e-mail on the last set, it

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1 may take a minute or two to make sure. I think there's
 2 maybe one e-mail with attachments missing, but these last
 3 two might have everything, I just, I can't tell just by
 4 looking.
 5 MS. ROBESON: Okay. But they're all from you?
 6 MR. LECHNER: So, let me just count them. Yes,
 7 they are all from me, absolutely. Yes, this is probably the
 8 full set. Yes. They are all from me.
 9 MS. ROBESON: Well, for now we'll give them to --
 10 MR. LECHNER: Yes. Absolutely.
 11 MS. ROBESON: -- if you could share them with Ms.
 12 Leatham, and Ms. Leatham, we'll take a recess at some
 13 point --
 14 MS. LEATHAM: Okay.
 15 MS. ROBESON: -- I'm going to let him finish and
 16 you can look through them.
 17 MS. LEATHAM: Terrific. Thank you.
 18 MS. ROBESON: I just wanted to make sure to start
 19 the process. Okay, Mr. Brady, go ahead.
 20 MR. BRADY: Thank you. So, of the three
 21 communities that directly border on the property, once
 22 again, Arrowhead, Duffer Way, and Green Tee, all are
 23 composed of townhome communities, with the properties
 24 basically backing up to the site, with the exception of a
 25 few properties here in Arrowhead, which have an approximate

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1 perpendicular relationship to the site boundary.
2 MS. LEATHAM: When you say backup to the site you
3 mean the backs of the units?
4 MR. BRADY: The backs of the units face the site.
5 The site itself is composed of two fairways of the former
6 golf course, holes three and four, and the character of the
7 land is basically a lightly rolling topography, with a high
8 point here north and east end of the property, with the low
9 end down here at south and west, and there's roughly a 35
10 percent grade change across that section.
11 Currently, the property is flanked by mature trees
12 along the northern edges, the southern edges, and the edges
13 that surround the Duffer Way Community, and of course, we'll
14 be preserving those. And, but otherwise the land is
15 characterized as basically sort of open grassland with some
16 small vegetation here and there.
17 There are three easements on the property that
18 will impact the development, one is this Colonial Pipeline
19 easement, which runs approximately across the northern leg
20 of the property going from the southwest to the northeast.
21 MS. ROBESON: Okay. Is that, that's marked on
22 that exhibit as Colonial Pipeline?
23 MR. BRADY: Yes, it reads agreements with Colonial
24 Pipeline Company.
25 MS. ROBESON: Okay.

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1 MR. BRADY: Yes. Okay. There is a WSSC, that's
2 the Washington Suburban Sanitary Commission, they have an
3 easement here along this northwest portion of the property,
4 that is to remain, it won't be impacted by the development;
5 there's another easement for WSSC here on the southern leg
6 of the property, and that one will be relocated as a result
7 of the development. And we have a civil experts that will
8 testify later to that effect.
9 MS. LEATHAM: Can you describe the surrounding
10 area and neighborhoods?
11 MR. BRADY: Sure. Well, in general, we don't
12 believe that this development will have a large impact on
13 the community as a whole. Okay. There are three, as I
14 stated before there are three communities that are directly
15 impacted, once again, Arrowhead, Duffer Way, and Green Tee,
16 one reason we believe that there's not a major impact on
17 adjacent neighborhoods is the site is naturally, is actually
18 bounded by features such as Montgomery Village Avenue here
19 to the west, Arrowhead Road to the east, and the PEPCO
20 right-of-way here on the south, so that kind of limits the
21 impact to these three neighborhoods, the direct impact.
22 MS. ROBESON: Do you have a northern boundary?
23 MR. BRADY: The northern boundary?
24 MS. ROBESON: Of the neighborhood.
25 MR. BRADY: Is this -- I'm not sure I understand

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1 the question.
2 MS. LEATHAM: Do you want to go to Exhibit 40D? I
3 think it's on the other side. Okay.
4 MR. BRADY: So, let me pick up where I left off
5 here. So, basically, we were looking to sort of keep the
6 character and density --
7 MS. LEATHAM: Before you go there can you just use
8 40D to answer the Hearing Examiner's question, the
9 neighborhood is bounded by the two roads and the right-of-
10 way, is that what you were saying?
11 MS. ROBESON: Okay, tell me --
12 MR. BRADY: Yes.
13 MS. ROBESON: -- for the purposes of determining
14 compatibility --
15 MR. BRADY: Yes.
16 MS. ROBESON: -- we have to have a surrounding
17 area defined, and what is, I heard you say Arrowhead Road,
18 what's the northern boundary? You said Arrowhead is the
19 northeastern --
20 MR. BRADY: Is to the north, northeastern
21 boundary.
22 MS. ROBESON: Okay.
23 MR. BRADY: Arrowhead Community is the northern
24 boundary.
25 MS. ROBESON: Okay. So, the whole community. So,

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1 on 40D is it that blue line that I'm, is it marked on 40D
2 those boundaries?
3 MR. BRADY: There is a black property line showing
4 the boundaries of the subject property on the --
5 MS. ROBESON: No, no, not the boundaries of the
6 subject property, the boundaries of the area surrounding for
7 the purpose of determining compatibility.
8 MR. BRADY: Well, this exhibit does show in
9 addition to the Arrowhead Community, and the Duffer Way
10 Fairway Island Community, and the Green Tee Community, this
11 exhibit also shows the Partridge Place Community, which is
12 also a townhome community --
13 MS. LEATHAM: Can I interrupt for just a second?
14 MR. BRADY: Yes.
15 MS. LEATHAM: The Applicant --
16 MS. ROBESON: Do you have another witness that'll
17 address --
18 MS. LEATHAM: Yes, we do, and the statement of
19 justification also defines the neighborhood, as well.
20 MS. ROBESON: Well, what does Technical -- I'm
21 just looking at the -- do you agree with Technical Staff's
22 delineation?
23 MS. LEATHAM: Yes.
24 MS. ROBESON: Okay. All right. Go ahead, Mr.
25 Brady.

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1 MR. BRADY: Do you want me to continue with this
2 description?
3 MS. LEATHAM: No.
4 MR. BRADY: Okay. Thank you. However, I do want
5 to refer to this exhibit, which is 40D, in order to design
6 this community in a compatible fashion one of the things we
7 did was study the densities of the adjacent and impacted
8 communities, and what we were able to demonstrate utilizing
9 the county cadastral maps I mentioned earlier was we were,
10 since there's properly scaled there, CAD drawings, we were
11 able to actually measure off the size of building
12 footprints, and lots, and related open spaces associated
13 with each of these communities, and as a result we were able
14 to calculate the density each of these neighborhoods
15 expressed in number of dwelling units per acre. So, for
16 example, the Arrowhead Community has about seven units,
17 dwelling units per acre; the Fairway Islands or Duffer Way
18 Community has about nine units per area; and Green Tee
19 Community has about 6.5 units per acre. What we're
20 proposing here in the subject property is a density of about
21 five dwelling units per acre.
22 MS. LEATHAM: Okay. Can you describe the proposed
23 Development Plan Amendment?
24 MR. BRADY: Yes. I want to note, first off, that
25 in the pre-hearing submission included an amendment to this

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1 application that added two units to bring the total to 86
2 units, and we did this by adding one market rate unit, and
3 one MPDU, moderately priced dwelling unit, to the plan.
4 That amended plan or submission was the one that was
5 actually reviewed by Planning Staff and the Planning Board.
6 MS. ROBESON: So, you're at 75 markets, and 11
7 MPDUs?
8 MR. BRADY: That's correct. Okay. So, our
9 objective here in designing this community was to apply best
10 planning practices, so that began with an extensive
11 community outreach effort to take into consideration the
12 perspectives, and opinions, and comments of the community,
13 these were open events that anyone could attend, but those
14 that were impacted directly here, we had an opportunity to
15 speak to them directly during that process.
16 MS. LEATHAM: This is Exhibit 40C.
17 MR. BRADY: Thank you.
18 MS. ROBESON: 40C?
19 MS. LEATHAM: As in cat.
20 MR. BRADY: Yes. In addition, we met with the
21 Montgomery Village Foundation on multiple occasions to
22 try --
23 MS. ROBESON: Okay.
24 MR. BRADY: Yes?
25 MS. ROBESON: I don't want to -- we've had

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1 testimony on the outreach, and compatibility isn't really
2 based on outreach to, it's not based on a plebiscite of
3 whether people like it or not.
4 MR. BRADY: Okay.
5 MS. ROBESON: So, if you could just address from
6 land planning terms why it's compatible with the surrounding
7 community?
8 MR. BRADY: Sure. So, in general the original
9 Development Plan in Montgomery Village was based on a
10 concept known as cluster development, which is the notion of
11 that you should try and sort of concentrate building impact
12 on a site in order to maximize the available open space, so
13 we followed very much that principle in this design for the
14 site. We did that utilizing a number of things, such as
15 trying to break up clusters wherever we could, utilizing
16 some of the street framework to do that; in addition we
17 preserved landscape buffers wherever we could across the
18 site, and I'll speak to some of those in a moment; we also
19 kept the buildings compatible with the adjacent communities,
20 so we're talking about a townhouse community that is
21 adjacent to other townhouse communities.
22 One other thing is we recognize that compatibility
23 doesn't rob you sort of the different character in each
24 neighborhood, each of the existing neighborhoods has their
25 own sort of unique character, so there's some flexibility

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1 within the sort of larger development to express a unique
2 character for each neighborhood. At the same time, one
3 wants to make sure that that character doesn't step beyond
4 the sort of natural compatibility that we would seek here.
5 So, we would characterize this new neighborhood as a
6 walkable hamlet, that was kind of our concept going in, and
7 we organized this community around a series of neighborhood
8 moments and events, principally open space events. In
9 general, we sought wherever possible to make sure that the
10 townhomes face on streets lined with sidewalks, or as an
11 alternative in some cases open space. Parking wherever
12 possible was located behind the units. More than anything
13 we did this in order to promote a more walkable
14 neighborhood, we believe that by minimizing curb cuts into
15 the street that would make the sidewalk experience and the
16 cycling experience more pleasant, and would avoid possible
17 conflicts with cars.
18 MS. ROBESON: Where is parking?
19 MR. BRADY: Okay. So, parking typically is
20 located, we have an access lane here off the main street
21 that provides access to the back of these townhomes, and
22 then each townhome has an integral garage. In addition, we
23 were able to provide in some instances tandem spaces behind
24 the garage so then in addition to the two parking spaces in
25 the garage we'll have additional two tandem spaces provided.

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1 MS. LEATHAM: Is there also on-street parking?
2 MR. BRADY: Yes, we have, we provided on-street
3 parking on one side of the street, you'll see here, with
4 about 35 spaces. I lost my thought here.
5 Okay. So, the planning sequence kind of works as
6 follows, starting here at the northwest one would come in
7 off of Montgomery Village Avenue through a full movement
8 intersection, and one would immediately encounter a small
9 cluster of homes here set within an ample open space, in
10 demonstrating the principle of cluster development; this
11 open space also includes one small recreation area, which
12 could be a tot lot, playground or some sort. One crosses
13 the Colonial Pipeline, you're not allowed to have any
14 structures other than roadways within that easement, or
15 immature trees for that matter; and then one encounters sort
16 of the first cluster here on the northeast, and as I
17 described earlier these are basically townhomes that for the
18 most part face either an open space here, or face onto the
19 road with parking located behind. As part of this cluster
20 there's another set of townhomes here that actually face to
21 the northeast, which is basically the Arrowhead Road
22 frontage, but between Arrowhead Road and these townhomes
23 we've located an amenity green, what I like to call the
24 hamlet green, this provides a public amenity both for the
25 residents in this neighborhood, as well as surrounding

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1 neighborhoods, and also provides a little bit of buffering
2 from the Arrowhead Road frontage.
3 The next part, let me just point out, this is our
4 second access point here, which comes out to Arrowhead Road
5 at the intersection with Rothbury Drive, everything aligns
6 correctly so that we can maintain safe movement through that
7 intersection. We then come to this next cluster here on the
8 southeast of this open space, and I'll speak to that in just
9 a moment, in here the homes are similarly arrangements as
10 they were on the northern portion. Here in the center we
11 have what we call the crescent green, this is a sort of
12 community gathering space and a central node for the
13 community.
14 MS. ROBESON: This is opposite the access road?
15 MR. BRADY: This is opposite the access road, that
16 is correct. And so we saw this as an excellent opportunity
17 to sort of utilize some of the geometry of this site to
18 create a sort of unique public space. This public space
19 will allow us to preserve some of the existing trees on the
20 site, and also kind of create this wonderful public amenity
21 on which these duplexes can face. We've actually kind of
22 reduced, what we've decided to do was locate duplexes here
23 because they allowed us to sort of set them more evenly
24 around this curve shape.
25 Moving to the next cluster we get into a series of

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1 used configurations here is what we call them, so
2 essentially the townhomes are oriented perpendicular to the
3 street with each of the townhomes will face on a semi-
4 public --
5 MS. MILLER: We don't hear him, and he's standing
6 in the way.
7 MR. BRADY: I'm sorry.
8 MS. ROBESON: Okay. Let's do this, can you move
9 the easel, can you --
10 MR. LECHNER: Yes, 90 degrees, and if he stood
11 this way you would then project to everyone, I think.
12 MR. BRADY: Maybe if I go on this side.
13 MS. ROBESON: Yes, if you can move --
14 MR. LECHNER: Yes. No.
15 MS. ROBESON: -- it I --
16 MR. BRADY: I don't want to block their view
17 either.
18 MR. LECHNER: Oh, that might work, too.
19 MS. ROBESON: You know what, I'm going to move
20 over here. If you can move the easel slightly toward them
21 I'm going to move down here.
22 MR. LECHNER: Help him with the other leg.
23 COURT REPORTER: Do you need to go that far?
24 MS. ROBESON: Do you need the light? That works.
25 It's okay, Kathy, I can -- does that work for you?

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1 MS. LEATHAM: Okay?
2 MS. ROBESON: Okay. Is -- now, can he, if he
3 stands on their side I --
4 MR. LECHNER: Have him stand on the other side.
5 MS. MILLER: Stand on the other side.
6 MR. LECHNER: Stand on the other side to the left.
7 MS. ROBESON: Yes, but then I can't see it. Then
8 I can't see it, and I need to see it.
9 MR. LECHNER: He'll be closer, let's try.
10 MS. ROBESON: So, let's see, can you stand
11 slightly behind it, Mr. Brady?
12 MR. BRADY: That'll work.
13 MS. ROBESON: All right.
14 MR. BRADY: Thank you. Okay. So, I was
15 discussing the next cluster, which is located here on the
16 southeastern portion of the southern leg. This is
17 configured as a series of townhome mews, which essentially
18 allows these townhomes to face onto a semi-public open space
19 with parking service behind coming off a lane that comes
20 perpendicular of the adjacent road. I'll note that one of
21 the reasons we chose this particular configuration was at
22 the request of the members of the Duffer Way Community here,
23 the alternative was to actually have a double-loaded road
24 coming through this section which would have townhomes
25 backing up to their property, and they specifically

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1 requested that we consider this option instead since that
2 tended to pull the development away from their property.
3 MS. LEATHAM: And how is that more compatible?
4 MR. BRADY: Well, there's a number of things, one
5 thing is that it provides sort of views out to the open
6 space of the right-of-way, it preserves that, and then it
7 also allows us to maintain a solid buffer here along that
8 edge, a landscape buffer that will be able to augment the
9 existing mature trees with additional plantings, and some
10 understory.
11 Moving on to the mews configuration we come across
12 an opportunity to create a future road connection, we just
13 kept that as an option, it may or may not happen, in the
14 meantime it can operate as a mews for these townhomes that
15 face onto it.
16 And then the last small cluster here is similar to
17 what we encounter on the northern cluster since we're
18 actually approaching the second Montgomery Village Avenue
19 point of egress, so we --
20 MS. ROBESON: The southern --
21 MR. BRADY: The southern one.
22 MS. ROBESON: -- egress?
23 MR. BRADY: Yes, that's correct. And now, here
24 the land is more constricted so there was less opportunity
25 to do --

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1 LE: Environmentally, or just space?
2 MR. BRADY: Just, yes, just space-wise, so we
3 wanted to maintain proper setbacks and everything from
4 adjacent property lines, even though it's a right-of-way.
5 And then we, you actually have an egress going here back
6 onto Montgomery Village Avenue, in this case, though, this
7 is not a full movement intersection because there's a median
8 island here in Montgomery Village Avenue, so this will only
9 be right-in, right-out traffic movement.
10 MS. LEATHAM: How many MPDUs are being provided?
11 MR. BRADY: Okay. We're providing 11 MPDUs, which
12 is 12.5 percent of the allowable 75 units.
13 MS. LEATHAM: And it's very early, this is still
14 conceptual, but where will they be located?
15 MR. BRADY: We've essentially distributed evenly
16 throughout the project, they're generally townhomes like
17 there's one located here, kind of eyeballing, in one of the
18 areas here.
19 MS. LEATHAM: But just generally they're scattered?
20 MR. BRADY: But generally we've evenly distributed
21 them throughout the site.
22 MS. LEATHAM: Is there a signage plan for the
23 property?
24 MR. BRADY: Not at this time. This is a bit early
25 in the design process to provide a signage plan.

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1 MS. LEATHAM: When the signage plan is in place
2 will it be, what will it be consistent with?
3 MR. BRADY: Well, let me move ahead here to get
4 the citation correct. So, we'll have to, during site plan
5 we'll have to comply with Section 6.7 of the Zoning Code,
6 and of course during the site plan process we'll document
7 exactly what the signage will be and how it's designed for
8 that review.
9 MS. LEATHAM: Okay. One of the zoning standards
10 is that the community is designed in an efficient and
11 orderly relationship, can you describe that?
12 MR. BRADY: Well, I would first note that the
13 configuration of the property is somewhat constrained, so
14 that limited some of what we were able to do, for example,
15 points of egress, and placement of roads, but in general we
16 tried to lay out the road as efficiently as possible,
17 provide access to the parking of the units as efficiently as
18 possible, and basically provide access points to the site as
19 efficiently as possible, for example, aligning here with
20 Meadowcroft Lane across from Montgomery Village Avenue, and
21 aligning with Rothbury Drive here at the intersection at
22 Arrowhead.
23 MS. LEATHAM: Okay. What about the relationship
24 between the buildings and the land, the built environment
25 and the landscape element?

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1 MR. BRADY: Well, once again, I reiterate that we
2 used a strategy --
3 MS. ROBESON: Can you speak up, Ms. Leatham? I'm
4 having trouble hearing you now.
5 MS. LEATHAM: Oh, I'm sorry. No, my apologies,
6 I'm looking down. Can you describe the relationship between
7 the built element and the landscape elements?
8 MR. BRADY: Okay. Well, once again, we, utilizing
9 a strategy of cluster development the objective was to
10 maintain as much open space as possible, and minimize the
11 impact of development on the site. So, the relationship of
12 buildings is such that they always try and either face a
13 street or open space, and their parking is generally located
14 in the rear which minimizes curb cuts, and we do that as
15 convenience and efficiency of the design. And we've also
16 maintained landscaping buffers, not only to screen the site
17 from the adjacent communities, but also to provide a
18 backdrop to the back of the homes in the new community.
19 MS. LEATHAM: Can you describe the pedestrian and
20 bicycle circulation system?
21 MR. BRADY: Right. So, we provided sidewalks and
22 some trails throughout, so we have a trail that sort of
23 comes in here and runs through the crescent green, we have
24 sidewalks at least on one side in every case, but usually
25 two-sided along the entire drive that runs through the

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1 property, and the drive extends out here to Arrowhead Road.
2 We've provided the opportunity for connections to adjacent
3 communities should they request that, so we've provided
4 that. We also met early on with the Montgomery Village
5 Foundation and their design team for their improvements to
6 their trail system throughout the Village, and we've tried
7 to coordinate our efforts with their larger strategy for a
8 trail system throughout the community. Once we tie into
9 that trail system and the sidewalk system our new residents
10 will have easy access to many of the amenities located
11 throughout Montgomery Village.
12 MS. LEATHAM: Are curb cuts minimized and why?
13 MS. ROBESON: He already said that, I think.
14 MR. BRADY: Yes, I kind of covered that already.
15 MS. LEATHAM: All right. I think we talked about
16 this already, too, but just can you describe how the
17 property's perimeter was defined, and your underlying goals
18 for the perimeter?
19 MR. BRADY: Well, once again, I just reiterate
20 that --
21 MS. ROBESON: Can you stand --
22 MR. BRADY: I'm sorry.
23 MS. ROBESON: I just want to make sure people can
24 see.
25 MR. BRADY: Yes.

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1 MS. ROBESON: Thank you.
2 MR. BRADY: Just reiterate again that once again
3 with respect to the perimeter of the property we were
4 generally looking wherever feasible to sort of maintain a
5 sort of landscaped edge that could also act as a buffer and
6 also serve as a means for preserving existing tree stands
7 for compliance with our forest conservation plan. We also
8 looked for ways to provide open space at the perimeter in
9 cases such as here, along Arrowhead Road, and keep broad
10 slots of open space, for example, here along Montgomery
11 Village Avenue, both north and south access points.
12 MS. LEATHAM: Okay. So, actually, do you want to
13 sit down?
14 MR. BRADY: Thank you.
15 MS. LEATHAM: Just to wrap up your expert
16 testimony I'm going to ask the witness several questions as
17 they relate to the finances just to make sure we have it on
18 the record. In your expert opinion does this plan provide
19 housing for families of low or moderate income?
20 MR. BRADY: Yes, as I stated before, it provides
21 11 MPDU units, or at the 12.5 percent required.
22 MS. LEATHAM: And does this plan provide for
23 flexibility in development, and achieve the integration of
24 mutually compatible uses and optimum land planning with
25 greater efficiency, convenience, and amenity than the

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1 standards permitted by right in conventional zoning
2 categories?
3 MR. BRADY: Yes, we designed the community to be
4 compatible with adjacent neighborhoods based on the concept
5 of cluster development, which maximizes open space within
6 the neighborhood, proposed new neighborhood; we looked to
7 provide efficient means of egress to and from the community
8 for both vehicular, pedestrian, and bicycle circulation; and
9 we provided a number of amenity space evenly distributed
10 throughout the plan.
11 MS. LEATHAM: Is the height consistent with the
12 limitations set in other zoning classifications for areas of
13 similar density or similar uses?
14 MR. BRADY: Yes, the townhomes will be limited to
15 two and a half to three stories in height, which is
16 compatible with the neighborhoods immediately adjacent, and
17 will never exceed 40 feet.
18 MS. LEATHAM: Does this DPA meet the parking,
19 loading, and queuing standards in Section 6.2 of the 2014
20 Zoning Ordinance?
21 MR. BRADY: Yes, it does, we've provided a minimum
22 of two parking spaces for each unit, we've also provided
23 some additional parking as I described, including the 40 on-
24 street, excuse me, the 35 approximately on-street spaces for
25 visitors to this neighborhood.

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1 MS. LEATHAM: And are loading and queuing areas
2 required in this at all?
3 MR. BRADY: My understanding of the Zoning Code is
4 under Section 6.2 they are not required and have not been
5 included in this plan.
6 MS. LEATHAM: Does this DPA meet the sign
7 standards in Section 6.7 of the 2014 Zoning Ordinance?
8 MR. BRADY: Well, as I discussed earlier, we're
9 not quite at that level of design here, but we will bring
10 that into compliance with our site plan application.
11 MS. LEATHAM: Is the pedestrian circulation
12 system, and are the points of external access efficient and
13 adequate?
14 MR. BRADY: We believe so, yes. We've provided a
15 system of trails and sidewalks throughout the site, they
16 connect to all existing access points to all existing
17 sidewalks at the periphery of the site; we've coordinated
18 our efforts with Montgomery Village Foundation in terms of
19 their larger trail system. We believe that the actual
20 intersections themselves have been designed efficiently for
21 ease of traffic movement and the safety of pedestrians and
22 bicyclists.
23 MS. LEATHAM: That concludes our direct testimony.
24 Reserve the right to redirect.
25 MS. ROBESON: Mr. Brady --

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1 MR. BRADY: Yes?
2 MS. ROBESON: -- I have a question, this is a
3 little unusual, I think --
4 MR. BRADY: Yes.
5 MS. ROBESON: -- this case because you have a
6 planned community of 2,500 acres, correct? Or is it 2,500
7 people? 2,500 acres. Montgomery Village.
8 MR. BRADY: Montgomery Village is --
9 UNIDENTIFIED MALE SPEAKER: It's 40,000 people.
10 MS. ROBESON: No, just a second. No, you can't
11 call out from the audience. I think it's 2,500 acres. How
12 big is Montgomery Village as a whole, the whole thing?
13 MR. BRADY: Do we have that in here?
14 MS. LEATHAM: We can get it.
15 MR. BRADY: I don't want to get the number wrong
16 here, so --
17 MS. LEATHAM: It's on the DPA.
18 MR. BRADY: It's on the DPA.
19 MS. LEATHAM: It's on the DPA.
20 MR. BRADY: Here?
21 MS. LEATHAM: No.
22 MR. BRADY: Do we have the large report available?
23 MS. LEATHAM: I'm not sure.
24 MR. BRADY: If you'll bear with us a moment.
25 MS. ROBESON: I think it's on the land use

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1 probably.
2 MR. BRADY: We found it, it's 2,435 acres.
3 MS. ROBESON: Right. And so, you're
4 surrounding -- and is it fair to say that the whole 2,500
5 acres was based on a plan?
6 MR. BRADY: Yes, there was an original development
7 plan, this is an amendment to that development plan.
8 MS. ROBESON: Right. And I guess what I'm saying
9 is, I guess my question is that I want to know is you've
10 defined a surrounding area that's kind of a microcosm of
11 this larger community, what's the impact of this development
12 on the overall plan for Montgomery Village?
13 MR. BRADY: Well, it's a rather broad question.
14 First of all, this development will fall within the
15 allowable density cap as originally stipulated by the
16 Development Plan and the zoning.
17 MS. ROBESON: Well, I guess I'm getting to the
18 point where the original plan had this very large amenity --
19 MR. BRADY: Yes.
20 MS. ROBESON: -- as a central feature, so how does
21 this impact the larger community from a planning
22 perspective? Is it consistent with the original plan? Is
23 it messing up the original plan colloquially? That's my
24 expert question.
25 MR. BRADY: Sure.

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1 MS. ROBESON: Do you know the planning principles
2 that Montgomery Village was, the entirety of Montgomery
3 Village was based on?
4 MR. BRADY: Well, the planning principle was
5 associated with the new town movement of kind of post-war
6 movement for planning new communities. There are examples
7 throughout the region, such as Columbia, Maryland, Reston,
8 Virginia, et cetera. These communities were originally
9 conceived as sort of being independent and freestanding
10 communities in their own right with all the sort of
11 amenities and services one would require contained within
12 the community, the reality has actually been somewhat
13 different, those concepts were a little bit utopian, most of
14 these communities have become bedroom communities to larger
15 metropolitan areas. Generally, the principle there in that
16 movement was very much the preservation of open space, as I
17 mentioned, and that was primarily achieved by placing
18 development in such a way as to minimize its impact on the
19 land. One sees that throughout the original development
20 plan where one sees a large quantity of open space. Now, I
21 would note that the golf course itself was never a part of
22 Montgomery Village Foundation or entity itself, even though
23 it was always treated as a private entity, it was
24 established I presume by the developers in concert with the
25 original owner of the golf course as an amenity for the

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1 community. The problem here, of course, is that the golf
2 course itself in the long run did not prove to be a viable
3 commercial entity, and as a consequence, and this is a
4 general trend we've seen throughout the country, that golf
5 courses are kind of overbuilt and underutilized.
6 MS. ROBESON: Right. But why not just keep it
7 open, you know, keep it an amenity space, I guess --
8 MR. BRADY: Right.
9 MS. ROBESON: -- is my question?
10 MR. BRADY: Sure. Well, it's privately owned
11 land. My understanding --
12 MS. ROBESON: Well, I mean from a land planning
13 perspective.
14 MR. BRADY: Right. From a land planning
15 perspective who takes ownership? Someone would have to take
16 ownership of this property, and convert it into some viable
17 form of open space. We had discussions with the Montgomery
18 Village Foundation, they're in no position, as I understand
19 it, to acquire this land; we spoke with the County, the
20 Parks Department, they're in no position at this time to
21 acquire the land and maintain it, create and maintain it as
22 a park. Therefore, one starts to run out of alternatives.
23 Your only viable third alternative since Monument Realty is
24 not a public entity, they're a private entity that develops
25 land, this seems to be the only viable third alternative.

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1 that, you know, in terms of acreage, or square feet?
2 MR. BRADY: I'm trying to remember, but let's see
3 if it's on here. Provided an inventory of open space. Save
4 this. If I may do a calculation?
5 MS. ROBESON: You may.
6 MR. BRADY: I believe about something in the
7 neighborhood of about 7,200 square feet.
8 MR. LECHNER: 7,200 --
9 MR. BRADY: Square feet.
10 MR. LECHNER: -- square feet.
11 MR. BRADY: Plus or minus, it's a rough
12 calculation.
13 MR. LECHNER: And you said that, you've considered
14 that a benefit to the houses around there that they have
15 that open space there, it's a feature, design feature,
16 positive design feature?
17 MR. BRADY: Yes, we do.
18 MR. LECHNER: Okay. And would a -- if that was
19 taken away from the property and filled in with something
20 else that took away the green recreational nature would you
21 consider that to be positive for the houses there, or
22 negative?
23 MR. BRADY: That's not currently proposed, so I
24 don't really understand the question.
25 MR. LECHNER: Well, I'm trying to assess your

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1 value as far as that feature as part of the overall project.
2 Do you consider that a positive valuable feature for the
3 overall project?
4 MS. LEATHAM: I object. He's already stated that
5 it's a valuable feature of the overall project, and we're
6 only talking about --
7 MR. LECHNER: That's correct.
8 MS. LEATHAM: -- this proposal, so --
9 MR. LECHNER: Small area.
10 MS. LEATHAM: -- any --
11 MS. ROBESON: I'll sustain it.
12 MR. LECHNER: Okay. Very good.
13 MS. ROBESON: Go ahead, Mr. Lechner.
14 MR. LECHNER: Was there ever any other use for
15 this property? It used to be, just if I remember right it
16 used to be farming, and then it's been a golf course, and
17 then it was, it's now being proposed as housing, was there
18 any other use?
19 MR. BRADY: I don't know the history of the
20 property beyond the golf course.
21 MR. LECHNER: Okay. Okay. And you mentioned
22 Columbia, Maryland and Reston as other similar planned
23 communities?
24 MR. BRADY: Yes.
25 MR. LECHNER: And both of those communities have

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1 golf courses currently?
2 MS. LEATHAM: I object. I don't know how relevant
3 whether they have a golf course is.
4 MS. ROBESON: Well, he's saying golf courses are
5 dying, and he's -- I'm going to let him answer the question.
6 MR. LECHNER: I don't know the particulars of
7 those communities. I know them as examples of the new town
8 movement, beyond that I don't know their configurations.
9 MR. LECHNER: Okay. One other question, then, you
10 said, you talked to Montgomery Village and the County, I
11 assume you mean the Montgomery County Recreation, MCRA
12 Revenue Administration?
13 MR. BRADY: We've met with multiple staff members,
14 including the Parks Department.
15 MR. LECHNER: Yes. Yes. Did you ever talk to a
16 golf course operating company?
17 MS. LEATHAM: I object, this isn't the right
18 witness to ask that question.
19 MR. LECHNER: Oh, okay, he brought it up before.
20 MS. ROBESON: Well, just -- okay. No cross talk,
21 you can't --
22 MR. LECHNER: Oh, I'm sorry.
23 MS. ROBESON: -- just address the witness. He did
24 open the door to it, I'm going to let him answer the
25 question.

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1 MR. BRADY: Can you restate the question?
2 MR. LECHNER: Do you know did you ever do outreach
3 to golf course operating companies to bring them in to
4 assess the viability independently, or profitability, or
5 things like that?
6 MR. BRADY: I as a Planner did not participate in
7 any meeting of that kind.
8 MR. LECHNER: Okay. Very good. Thank you.
9 MS. LEATHAM: I just have two redirect questions.
10 We've been talking about, a lot about on the DPA the actual
11 townhouse units, but there's a lot of open space that
12 remains, or is there a lot of open space that remains?
13 MR. BRADY: Yes.
14 MS. LEATHAM: Okay.
15 MR. BRADY: It exceeds the requirement of 15
16 percent, as I recall.
17 MS. LEATHAM: Right.
18 MS. ROBESON: I'm sorry, what's the requirements?
19 MR. BRADY: I believe it's 15 percent. We have
20 another witness that can testify more specifically to that.
21 MS. LEATHAM: Okay. I'm going to save another
22 question for later.
23 MS. ROBESON: Okay. Any questions based on, just
24 based on her questions?
25 MR. LECHNER: No.

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1 MS. ROBESON: Okay. Mr. Brady, you may be
2 excused.
3 MR. BRADY: Thank you.
4 MS. LEATHAM: I only had about two minutes to look
5 through these exhibits, can we, can I take a quick break and
6 look at them?
7 MS. ROBESON: Yes.
8 MS. LEATHAM: Or do you want to keep going?
9 MS. ROBESON: Then let me see, that'll give me an
10 opportunity -- it's 11:10 now, we'll be back at 11:20, and
11 you can check those exhibits, also, Mr. Lechner, I'm going
12 to see where your second submission is --
13 MR. LECHNER: Okay.
14 MS. ROBESON: -- okay?
15 MS. LEATHAM: If we have any objections to some of
16 these are we, when are we going to talk about that?
17 MS. ROBESON: Well, when he introduces them --
18 MS. LEATHAM: Okay.
19 MS. ROBESON: -- on his, I don't want to take them
20 without any foundation.
21 MS. LEATHAM: Right. Okay. Got it.
22 MS. ROBESON: All right. We're off the record for
23 10 minutes.
24 (OFF THE RECORD.)
25 (ON THE RECORD.)

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1 MS. ROBESON: All right, we're back on the record.
2 Okay, Ms. Leatham, your next witness?
3 MS. LEATHAM: Joshua Sloan.
4 MS. ROBESON: Okay. Mr. Sloan, please raise your
5 right hand.
6 (Witness sworn.)
7 MS. ROBESON: Go ahead, Ms. Leatham.
8 MS. LEATHAM: Mr. Sloan has previously been
9 admitted by the Hearing Examiner as an expert in planning
10 and landscape architecture.
11 MS. ROBESON: Do you know which case?
12 MS. LEATHAM: Mr. Sloan, do you remember which
13 case?
14 MR. SLOAN: It was Creekside for, with Marty, we
15 had the first rezoning under the new Zoning Ordinance.
16 MS. ROBESON: Okay. H101. All right. Mr.
17 Lechner, do you have any objections to Mr. Sloan testifying
18 as an expert in land planning?
19 MR. LECHNER: I don't know the background. I
20 don't remember him, actually, as far as the meetings, but I
21 won't object.
22 MS. ROBESON: Well, let's do this, can you just
23 briefly state your qualifications, very briefly your
24 education and your work experience, quickly?
25 MR. SLOAN: I've worked in the field for about 23

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1 years, 16 years in private practice, seven years with the
2 Montgomery County Planning Department. I have a Masters of
3 Landscape Architecture, I'm licensed as a landscape
4 architect in two states, and I am a member of the American
5 Institute of Certified Planners.
6 MS. ROBESON: Okay. And is one of the states
7 Maryland?
8 MR. SLOAN: Yes.
9 MS. ROBESON: All right. I'm going to qualify Mr.
10 Sloan as an expert in land planning. Go ahead, Ms. Leatham.
11 MS. LEATHAM: Okay. Can you describe briefly
12 where your private practice experience has occurred?
13 MS. ROBESON: Well, do we have to go into that?
14 MS. LEATHAM: Okay. We'll skip it.
15 MS. ROBESON: Because --
16 MS. LEATHAM: All right. Did there come a time
17 when you were employed by the Applicant for this proceeding
18 with regard to the proposed DPA?
19 MR. SLOAN: Yes, I began consulting for the
20 Petitioner about eight months ago.
21 MS. LEATHAM: Now, are you familiar with the
22 original Montgomery Village DPA and its subsequent
23 amendments?
24 MR. SLOAN: Yes, I've studied the development plan
25 in relation to this amendment and several others. My

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1 primary focus of research on this has been determining the
2 proper entitlement process, and the standards under which
3 the DPA would be evaluated.
4 MS. LEATHAM: And when you were in, when you
5 worked for Montgomery County, I'm sorry, with Maryland
6 National Capital Park and Planning Commission did you also
7 evaluate the Montgomery Village Development Plan?
8 MR. SLOAN: I did. I worked on several case, none
9 related to this property.
10 MS. LEATHAM: Okay. Are you familiar with this
11 property and the surrounding properties?
12 MR. SLOAN: I am familiar with this property, I've
13 visited it and the surrounding areas. I'm actually a
14 resident of Gaithersburg and visit here often. My doctor's
15 office was here for awhile, right across the road.
16 MS. LEATHAM: Are you familiar with the 2004 and
17 2014 Montgomery County Zoning Ordinance?
18 MR. SLOAN: I'm quite familiar with both
19 Ordinances.
20 MS. LEATHAM: And are you familiar with the 1971
21 and the 1985 Gaithersburg and Vicinity Master Plan as
22 amended?
23 MR. SLOAN: Yes, I'm familiar with the Master
24 Plans of this property.
25 MS. LEATHAM: And are you familiar with Chapter

1 22A of the Montgomery County Code?
 2 MR. SLOAN: I regularly oversee and professionally
 3 seal forest conservation lands and variance requests under
 4 Chapter 22A.
 5 MS. LEATHAM: And I believe I actually forgot to
 6 qualify Mr. Sloan as an expert in landscape architecture, as
 7 well as planning.
 8 MS. ROBESON: Any objections, Mr. Lechner?
 9 MR. LECHNER: No.
 10 MS. ROBESON: Okay.
 11 MS. LEATHAM: Okay. Can you describe the
 12 development history of Montgomery Village?
 13 MR. SLOAN: So, Montgomery Village, as has been
 14 discussed a bit, was developed in the mid-1960s by the
 15 Kettler brothers, it was formerly mostly farmland, but none
 16 of the extensive zoning categories at that time could cover
 17 such a new town development concept, and so the T-S Zone was
 18 developed specifically for this property in this
 19 development. That zoning had to cover everything from
 20 single-family detached homes to office building, so it's
 21 been, has to be flexible, and most of the actual development
 22 parameters were established through the development plan,
 23 and development plan amendments, and then further developed
 24 and development standards are created through the cycling
 25 process after that.

1 MS. LEATHAM: And in your experience, and based on
 2 your research how has new development been evaluated?
 3 MR. SLOAN: New development is typically evaluated
 4 as it relates to the development plan itself, previous
 5 amendments, and the T-S Zone categories. The, really the
 6 basis of zoning is not as you traditionally think about it,
 7 setting land uses and density is not established in the zone
 8 itself, it's established by the development plan, and so
 9 that is what I'd look to when I was in staffing, that's what
 10 I've analyzed while I've been working for the Petitioner on
 11 this project. Other than density which is established on
 12 usually less persons per acre, and only for the entire T-S
 13 Zone area, there are no development standards in the T-S
 14 Zone. The consistency requirements are really based, as I
 15 said, on the T-S Zone standards, and then under the old
 16 Zoning Ordinance, 59D-1, which is the development plan
 17 standards and procedures for review, that process is really
 18 the only way that a zoning classification that was not
 19 allowed to be changed for 50 years could keep up with
 20 changes in the community and the area, otherwise I'd
 21 consider it kind of unfair to keep someone locked into
 22 something, a land plan for 50 years, half a century.
 23 MS. LEATHAM: So, technically speaking how have
 24 changes to the development plan been implemented?
 25 MR. SLOAN: Changes to the development plan have

1 been implemented through the DPA process development plan
 2 amendment process, 59D-1, and analyzed under those
 3 requirements, and then subsequent site plans have
 4 established the specific uses and the development standards.
 5 MS. LEATHAM: Okay. The Development Plan
 6 Amendment, the original development plan has been amended
 7 almost 20 times, they're listed on the DPA, which is Exhibit
 8 40 -- I'm sorry -- all the exhibits are, I mean, sorry, all
 9 the amendments are listed on 40I, so, unless the Hearing
 10 Examiner desires I'm not going to go through all of them.
 11 Okay.
 12 MS. ROBESON: No. Thank you.
 13 MS. LEATHAM: Okay. So, let's talk about the
 14 Master Plan and how it's been implemented, or not, in
 15 Montgomery Village.
 16 MR. SLOAN: Okay. So, this is the, an unusual
 17 case where a zoning classification was established and not
 18 allowed to be changed for 50 years. Master plans which
 19 established traditionally learned use and zoning and are
 20 reviewed frequently, relatively frequently, by law they're
 21 supposed to be reviewed every 10 years, ours in Montgomery
 22 County are typically reviewed about every 20 years. The
 23 existing Master Plan is from 1985. So, this really has been
 24 looked at primarily through the development plan process,
 25 it's been looked at as you noted almost 20 times over the

1 last 50 years. In that time the population has doubled for
 2 Montgomery County, the --
 3 MS. LEATHAM: Over that time, the time since the
 4 Master Plan?
 5 MR. SLOAN: Over the time since the T-S Zone was
 6 put here, since the last Master Plan the population has gone
 7 from 750,000 to over a million, so that is kind of unusual
 8 for a Master Plan not to be able to change things and deal
 9 with that kind of change over that time. So, that's where
 10 you really look to the T-S zoning and the flexibility
 11 allowed in that zoning, and the Development Plan Amendment
 12 process to accommodate change over time.
 13 MS. LEATHAM: Well, before we do the Master Plan
 14 does the State and does the County recognize that sometimes
 15 Master Plans may become stale?
 16 MR. SLOAN: They do. There have been, there's
 17 been case law, and precedents for acknowledging that change
 18 over significant periods of time, it's not reflected in
 19 older Master Plans, can be accommodated through amendment
 20 procedures, and there's planning recommendations if they're
 21 not allowed to evolve with current contemporary planning
 22 objectives, can override broad recommendations of a Master
 23 Plan and it wouldn't be included in that.
 24 MS. ROBESON: Well, isn't it true, isn't it true
 25 that there's some case, recent case law suggesting that the

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1 MS. ROBESON: -- text of the Master Plan, so --
2 MR. SLOAN: Right.
3 MS. ROBESON: -- which one was --
4 MS. LEATHAM: What does the text of the Master
5 Plan say about Montgomery Village?
6 MR. SLOAN: The text of the Master Plan does not
7 say anything for those land uses, it's only in the parks,
8 the community facilities area does it talk about these sites
9 at all, and it says that if the school is not used that it
10 should be some area during redevelopment, or during any
11 development should be put aside for ball fields, it says
12 nothing about the use that it would be used for. But the
13 map then for both of those cases says this is residential
14 medium density area, the best I can tell, the colors are
15 kind of faded, it's odd. But it's at least residential
16 medium density would be the highest category likely. In one
17 case it was used for an institutional use, in the other case
18 it was used for higher density residential, 17.2 units per
19 acre, and that was considered compatible because it was
20 adjacent to land recommended for, or land developed with
21 higher density residential. So, there was in my mind a bit
22 of a jump, but certainly one that's allowed by the zoning
23 and the development plan amendment process.
24 In the case of Montgomery Village there's no text,
25 there's nothing about the property in the text of the Master

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1 Plan. The land use map recommends that as retail commercial
2 property --
3 MS. LEATHAM: I'm sorry, let me interrupt you.
4 That's Montgomery Village Plaza, 8/2006, 0400, it's Exhibit
5 113D and E.
6 MR. SLOAN: Sorry. Yes. So, in that case there
7 was a proposal for mixed use residential, high density
8 residential apartment --
9 MS. ROBESON: I'm sorry, which one are we on?
10 MR. SLOAN: 8/2006, 0400 Montgomery Village Plaza.
11 MS. ROBESON: Okay.
12 MR. SLOAN: It's right on Lost Knife Road, the
13 contour road going around it.
14 MS. ROBESON: Okay.
15 MR. SLOAN: In that case community based planning
16 looked at the application and decided that not even a
17 development plan amendment would be required because the
18 entire area that that is within, the 1B, Section 1 --
19 MS. LEATHAM: 1B is in the Development Plan?
20 MR. SLOAN: In the Development Plan, Section 1B of
21 the Development Plan, allowed residential within that, and
22 so, you know, at that time I was on staff, we didn't even
23 look at the plan to see, for conformance, we were looking at
24 the land use plan for the Master Plan, we were looking at
25 the Development Plan Amendment that was previous approved,

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1 and community based planning made the finding that, or made
2 the recommendation that it complied with the development
3 plan in a larger sense, and they really looked at the four
4 greater objectives of the Gaithersburg Vicinity Plan to
5 determine that a development plan was not amended, and the
6 Planning Board agreed and ultimately granted a mixed use
7 project approval on that property.
8 MS. LEATHAM: And what did the land use plan
9 recommend? Or what did the land use plan show on that
10 property?
11 MR. SLOAN: The land use plan showed retail
12 commercial, and so that was retained in part, but then added
13 to, and so that is really the way that I've looked at this
14 application providing a greater open space for a greater
15 number of people because it's not private and restricted to
16 membership, while adding to it something that is compatible,
17 like they did in the Rothbury case, similar density on land
18 next to similar density that was already built.
19 MS. LEATHAM: All right. To kind of sum all of
20 this up, what is the implication if you have a Master Plan
21 that has no textual recommendations for the entire
22 Montgomery Village area, what does that mean from a planning
23 perspective? What is your guiding document?
24 MR. SLOAN: Our guiding document in that case is
25 to look at the, any approved entitlements that are on the

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1 property, which would be the development plan itself.
2 MS. ROBESON: So, you don't look at the Master
3 Plan at all?
4 MR. SLOAN: We look at the Master Plan for its
5 general objectives, and we seek compliance with those
6 general objectives because there's no specific language
7 about the property.
8 MS. LEATHAM: And so, what does that lead the land
9 use plan to function as? Is that --
10 MR. SLOAN: In the case of the T-S Zone in this
11 Gaithersburg area, the T-S Zone, the development plan, the
12 land use plan as part of the development plan is actually
13 the Master Plan guiding document, it establishes
14 transportation routes, it establishes land uses, and density
15 in larger community areas, not specific neighborhoods.
16 MS. LEATHAM: So, in this particular case with
17 respect to the land use plan and how, what it shows for this
18 particular property, how much weight do you give that?
19 MR. SLOAN: In this particular case I think that
20 the spirit of it should be maintained, and open space and
21 tying into the open space network and the open space
22 amenities that are expected for this community should be
23 followed, but the specific designation of in this case it's
24 private conservation or recreation is not a determining
25 factor, in fact, there's no conservation area on, there's no

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1 land conserved in any of the golf, former golf course.
2 MS. ROBESON: Well, doesn't one of the -- I
3 brought our library copy, if, this would help me, can you,
4 do you have a copy of the large foldout Master Plan?
5 MR. SLOAN: I do, I have one copy, they're very
6 hard to come by.
7 MS. ROBESON: Yes, I know, I've been trying to get
8 an electronic version from Park and Planning.
9 MR. SLOAN: They don't exist.
10 MS. ROBESON: Actually, it will. It would be
11 helpful to me to mark the locations of the 01-04 I think it
12 is, and 02-02, and if we do that I'm going to have to take
13 your map because it'll have to be an exhibit in the case
14 because it's marked, but I will have electronic versions.
15 But what I would really like to do is know what use that
16 land use plan places on it. No, you have to mark right on
17 the map because the stickies will come off.
18 MS. LEATHAM: This is going to be Exhibit 117?
19 MS. ROBESON: Yes.
20 (Exhibit No. 117 was marked
21 for identification.)
22 MS. LEATHAM: Okay, that one.
23 MR. SLOAN: Okay. So --
24 MS. ROBESON: Here. Because I was looking for
25 them, and I just, for the record I'd like to know exactly

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1 where they area. And 117 will be markup of land use plan.
2 MR. SLOAN: Was it 17?
3 MS. ROBESON: 117. If you want --
4 MR. LECHNER: Did you mark the Plaza one?
5 MR. SLOAN: Yes, it's hard to see --
6 MR. LECHNER: It's hard to see.
7 MR. SLOAN: -- there's quite a bit --
8 MR. LECHNER: Right there.
9 MR. SLOAN: -- and it's indicated with 8/2006.
10 Okay. So, Exhibit 117 is the Land Use Plan for the
11 Gaithersburg Vicinity Master Plan.
12 MS. ROBESON: And marked, for the record marked
13 with a green marker is?
14 MR. SLOAN: And marked with a green marker over
15 red on Lost Knife Road, and Lost Knife Road to the sort of
16 southwest, and Contour Road to the northeast, on the east
17 it's bordered by another commercial property, is Montgomery
18 Village Plaza, that's indicated with the darker red on the
19 map which in the key is delineated retail commercial. That
20 is a property that was approved for, approved by a site plan
21 for mixed use residential apartment building and retail,
22 that was not considered even a change drastic enough to go
23 through a development plan amendment. There are actually
24 three sites that were originally considered potential sites
25 for schools, one on Apple Ridge, just north of Apple Ridge

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1 and west of -- these aren't labeled, oh, Montgomery Village
2 Avenue, that was approved development plan amendment 88-1
3 for townhouses, and they did set aside space for one ball
4 field that was already existing. In that case the
5 underlying code color of the map was to the best I can tell
6 medium density residential, and that is the closest to the
7 text of the, meeting the text of the Master Plan.
8 The other two cases that I was talking about, one,
9 Rothbury, which was case 02-2, is directly north of
10 Rothbury, and it, and below to the right is --
11 MS. ROBESON: Burr Oak Drive.
12 MR. SLOAN: -- Burr Oak Drive, exactly. That was
13 indicated for a school, and the text said if a school wasn't
14 used that a ball field should be put aside during
15 development, in that case I believe it was two acres of land
16 was put aside for open space as a buffer, and the underlying
17 zoning on that, however, or designation of that was also for
18 residential medium density, which is indicated for up to the
19 five to seven units per acre. In that case the Council
20 found that because it abutted land that was developed at a
21 higher density indicated and developed for this high density
22 residential up to 15 units per acre, that 17.2 units per
23 acre was in substantial compliance with the Master Plan.
24 This CSAC site, case 01-04, is on East Village
25 Avenue just north of the intersection of Lewisbury Drive

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1 with East Village Avenue, and that was recommended for a
2 school, the Council found that although the designation
3 again was for residential medium density that an
4 institutional use was close enough to be considered in
5 substantial compliance with the Master Plan. Again, no ball
6 fields were set aside, there was some open space along the
7 back that's really just maintained as this field, as lawn
8 area right now. So, those are the cases that run through
9 how the Master Plan has been interpreted most recently, and
10 so they were sort of, they were the guiding principles for
11 how I looked at this application in relation to the Master
12 Plan and the Land Use Plan Map.
13 MS. LEATHAM: You can probably sit down.
14 MR. SLOAN: So, the one thing that in the opinion
15 for Rothbury that I took as sort of a kind of key statement
16 was that rigid hearings to the recommendation for a field
17 sport recreation facility is not necessary to substantially
18 comply with the Master Plan, and the evidence reflects that
19 MVF does not, Montgomery Village Foundation, does not desire
20 a field sport recreation area at this location. The
21 Development Plan Amendment includes a two-acre area of
22 landscaped open space providing an aesthetic amenity and an
23 open space buffer in keeping with the general intent of the
24 Master Plan. So, rather than ball fields, medium density
25 development, the higher density apartment uses and the two

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1 acres was deemed in keeping with the general intent of the
2 Master Plan. In our case we have no recommendation in the
3 text for any kind of open space, or let alone ball field. I
4 may be getting a little ahead of myself. We are providing,
5 we'll be providing 2.6 acres of land in conservation area
6 for actual conserved area, and then significant other open
7 space.

8 MS. ROBESON: Now, the Land Use Plan as I see on
9 the, it actually says golf course, correct? Now, I'm
10 reading a bigger version. Just --

11 MR. SLOAN: It says --

12 MS. ROBESON: Just south of Stewartstown --

13 MR. SLOAN: Right, along --

14 MS. ROBESON: Road.

15 MR. SLOAN: -- Cabin Branch?

16 MS. ROBESON: Yes. Uh-huh.

17 MR. SLOAN: So, along Cabin Branch, which runs,
18 it's not part of this property, Cabin Branch runs east/west
19 over to Great Seneca, that area is labeled just to the west,
20 or east of Montgomery Village Avenue as golf course. And
21 then the green color itself which covers all of the former
22 golf course is labeled, is delineated in the key
23 conservation/recreation.

24 MS. ROBESON: So, you don't read that golf course
25 designation as applying to all of the green area?

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1 MR. SLOAN: I do, but I read it as an indication
2 of what was there at the time. And at least --

3 MS. ROBESON: Okay.

4 MR. SLOAN: -- allowed to be changed through
5 subsequent development plan amendments as the other areas
6 that were residential medium density and retail commercial
7 to be changed over time to the development plan.

8 MS. LEATHAM: So, based on what you just
9 described, particularly how Rothbury was found to be in
10 substantial compliance, how do you find this DPA to be in
11 substantial compliance with the Master Plan? Or I'm sorry,
12 consistent with the uses and densities recommended by the
13 Master Plan?

14 MR. SLOAN: The densities I consider compliance
15 because it's within the 15 persons per acre that is
16 stipulated for the entire area.

17 MS. ROBESON: But it says Master Plan.

18 MR. SLOAN: The Master Plan does not make any
19 recommendations for density. It's --

20 MS. ROBESON: Okay.

21 MR. SLOAN: -- in the text itself there's nothing
22 there. In previous cases several of the development plan
23 amendments have moved densities around from area to area,
24 and changed those original designations of where, you know,
25 in 1965 they thought population would be concentrated, and

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1 it didn't happen that way, changes have occurred to how
2 people wanted to build, and how their affinities for infill
3 development versus, you know, having to walk further, those
4 kinds of things, those have changed, and the development
5 plan amendments have kept up with that change by
6 reallocating densities here and there throughout the
7 properties.

8 With regard to open space, I think it's key to
9 getting some kind of land in conservation and actually
10 fulfilling that aspect of the Master Plan, and some forest,
11 2.6 acres of so will be put into forest conservation
12 easements meeting the conservation goals, and a significant
13 amount of open space, parkland and facilities, or park area,
14 however it's owned, probably by the HOA or the Foundation,
15 will be put into this plan meeting the greater community's
16 requirements and needs for open space rather than a private
17 membership golf club.

18 MS. LEATHAM: And --

19 MS. ROBESON: So, your interpretation of the
20 Master Plan, because 59D-1., I think it's the findings under
21 development plan still refers to the Master Plan.

22 MR. SLOAN: Yes.

23 MS. ROBESON: So, you're saying it's consistent
24 with the Master Plan because it incorporates open space?
25 MR. SLOAN: It's -- well, it substantially

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1 complies with the Master Plan for the few reasons, one,
2 because there is open space being provided, there's
3 conservation area being provided, and there is density
4 allowed through the zoning and the development plan itself.
5 The Master Plan is recognized as a guide in the
6 implementation section of the Master Plan, and the Council
7 and the Planning Board have all recognized that 50-year
8 zoning designation will require amendments to keep pace with
9 the needs of the community, and there are several overriding
10 or larger planning principles in the Master Plan that are
11 met for providing housing, for providing open space, and
12 that those are really what I looked at in considering this
13 compliant, whether or not it was compliant and agree that it
14 was substantially compliant.

15 MS. ROBESON: Okay.

16 MS. LEATHAM: Can you just reiterate that you
17 looked at more than just the land use plan to determine
18 whether it was substantially compliant?

19 MR. SLOAN: Yes. Yes. I looked at the, not only
20 the land use plan, but the text in the Master Plan itself,
21 the overriding goals of the Master Plan that, you know, I
22 took my cue from community based planning when they looked
23 at the Montgomery Village Plan and said that this is
24 allowable, you can transfer densities from one area to
25 another within the plan, and provide the housing on a site

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1 that was recommended for retail commercial because it met
2 those four larger policy objectives.
3 MS. ROBESON: But that's not this Master Plan?
4 MR. SLOAN: It is.
5 MS. ROBESON: I don't understand. You're saying
6 the new Montgomery Village Master Plan? No, the old
7 Gaithersburg Vicinity Master Plan?
8 MR. SLOAN: The Gaithersburg Vicinity Master Plan.
9 MS. ROBESON: What?
10 MR. SLOAN: The Gaithersburg Vicinity Master Plan.
11 MS. ROBESON: Okay.
12 MR. SLOAN: So, to sort of very definitively put a
13 sort of my guidance based on community based planning's
14 review of that project --
15 MS. ROBESON: Wait, or what project?
16 MR. SLOAN: Of the 8/2006 0400 --
17 MS. ROBESON: The site plan?
18 MR. SLOAN: -- Master -- right. So, since the
19 project proposed by the Applicant is consistent with the
20 uses identified for Section 1B on the development plan, an
21 amendment of the development plan is not required. So, they
22 looked at the development plan, saw that 1B as a whole
23 allowed residential, although this specific land use plan
24 map, this specific, the one that accompanied the Master Plan
25 did not have that use, they did not think a development plan

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1 amendment was required.
2 MS. ROBESON: What's the equivalent of 1B here?
3 Would it be Blue Mary at four?
4 MR. SLOAN: It's not -- we can look at the
5 original, or the last development plan.
6 MS. ROBESON: And this is Exhibit?
7 MR. SLOAN: Forty-five.
8 MS. ROBESON: Okay.
9 MR. SLOAN: This is the latest approved
10 development plan amendment. So, you can see that there are
11 large areas that are indicated with a Roman numeral and a
12 capital letter. This area is simply, this and the PEPCO
13 easement and a couple of other areas are simply left off,
14 they're not designated on the development plan amendment.
15 MS. ROBESON: So, when you say this area there's a
16 light, it's not shaded, it's light colored --
17 MR. SLOAN: It's not shaded, it's just the --
18 MS. ROBESON: -- on 45?
19 MR. SLOAN: -- contours are shown, but it's not
20 labeled anything in particular. It's closest to in our
21 sense of the neighborhood to 3F.
22 MS. LEATHAM: Okay. So, the language you cited
23 from the Montgomery Village Plaza case was that also -- or
24 the concepts, the principles also adopted by the Council in
25 their approval of the previous DPAs you mentioned? That the

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1 Master Plan --
2 MR. SLOAN: They were, they, in the previous cases
3 that actually went through a development plan amendment they
4 indicated in their opinions that specific adherence to,
5 exact adherence to specific recommendations even for
6 property were not necessary to find substantial compliance.
7 MS. LEATHAM: So, let's just talk about this DPA
8 for a minute more specifically. What does the DPA do that
9 is consistent with the overall principles of the Master
10 Plan?
11 MR. SLOAN: So, when I looked at the plan and
12 worked with Torti Gallas on this the DPA does several things
13 in my mind, one, it provides uses that are compatible, and
14 more appropriate for the greater community.
15 MS. ROBESON: What does appropriate mean?
16 MR. SLOAN: Well --
17 MS. ROBESON: And why more compatible? So, start
18 with appropriate, what does that mean?
19 MR. SLOAN: With appropriate there are, in my mind
20 it was a question of how many people need a private
21 membership golf course, versus how many people need better
22 connectivity through the community, open space that they can
23 actually use, and townhouses which are really, as the
24 Foundation has kind of put it a jolt in the arm that's
25 needed for this community that's seen very little

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1 redevelopment over the past several years, and there really,
2 there aren't many opportunities without taking down existing
3 housing at this point.
4 MS. ROBESON: So, you're saying that because the
5 golf course isn't open to the public it doesn't provide any
6 benefit?
7 MR. SLOAN: It provides an aesthetic visual
8 benefit. I think it provides actually an environmental
9 concern in my mind, and I think there can be better open
10 space facilities for the greater community. If the
11 community had wanted and could afford a private membership
12 golf course it would have stayed viable, so I think that
13 that's really a question that needs to be answered through
14 redevelopment, what is better for the community, what's a
15 better fit? That's what I looked at in terms of
16 appropriate. I think the compatibility question is similar,
17 it's been discussed quite a bit by Larry, but it's similar
18 to the Rothbury case, you look at what is adjacent, and the
19 Council looked at what's adjacent and despite the
20 recommendation on the land use plan said okay, this is a
21 good fit, it's a match, it's a similar use, and it's
22 therefore compatible. In our case --
23 MS. ROBESON: Okay.
24 MR. SLOAN: -- we're providing a similar use but
25 even a lower density.

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1 MS. ROBESON: And what was your second point? You
2 said that was appropriate. I'm trying to get specific on
3 why you think it's consistent with the Master Plan. So, one
4 is it's, you think the Master Plan, this provides more
5 appropriate open space?
6 MR. SLOAN: I think it does.
7 MS. ROBESON: Okay. And the density is the --
8 MR. SLOAN: The density is less than the
9 surrounding neighborhoods --
10 MS. ROBESON: And then --
11 MR. SLOAN: -- but of similar use.
12 MS. ROBESON: -- what about the land, the 59D says
13 land use?
14 MR. SLOAN: The land use designation?
15 MS. ROBESON: Uh-huh.
16 MR. SLOAN: Well, in that case I think it is a
17 change, but it's a change that's acceptable under
18 substantial compliance as was found in those previous cases.
19 MS. ROBESON: Okay.
20 MS. LEATHAM: And what else does this DPA do that
21 meets the goals, the overall goals of, and objectives of the
22 Master Plan?
23 MR. SLOAN: I think this will, this enhances
24 connectivity, both vehicular, pedestrian, cyclist
25 connectivity for the community by connecting Arrowhead to

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1 Montgomery Village. Any time you can disburse traffic and
2 give people options it's better for the network overall. It
3 provides conserved area for forest that's not existing now.
4 It will bring stormwater management up to contemporary
5 standards, there's no stormwater management right now for
6 this golf course, golf course require a lot of water, and
7 they have a number of environmental concerns in terms of
8 water and in terms of maintenance that we'll seek to correct
9 and mitigate through improved stormwater management. And I
10 think the publicly accessible open space is key to this
11 proposal, it's a connectivity network and open space network
12 that was put in place and now the townhouses, my reading of
13 Torti Gallas' plan the townhouses were built --
14 MS. ROBESON: Of whose plan?
15 MR. SLOAN: Torti Gallas' plan.
16 MS. ROBESON: Oh, the --
17 MR. SLOAN: The land use plan.
18 MS. ROBESON: -- land planners here. Okay.
19 MR. SLOAN: The townhouses were worked around that
20 network and open space, and with thoughtful consideration to
21 the next door neighbors. I don't think a strict reading of
22 the land use plan is necessary for substantial compliance,
23 it wasn't in several other cases, and in this particular
24 case it would lead to, it could lead to sort of absurd
25 results, private recreation if that was held as the, as a

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1 strict requirement, could be all sorts of outdoor
2 activities, it could be a dirt bike course, it could be who
3 knows what. But then this is, the substantial compliance
4 question in my mind is whether or not you're allowed to
5 deviate at all in part of the question, and you can, and
6 over 50 years in terms of the zoning, and 20 years in terms
7 of the Master Plan you can deviate somewhat, just not
8 completely, and I think this plan meets that.
9 MS. ROBESON: Okay.
10 MS. LEATHAM: Unless the Hearing Examiner has any
11 more questions on the Master Plan I'm ready to move on.
12 MS. ROBESON: To?
13 MS. LEATHAM: To zoning, to the T-S Zone
14 standards.
15 MS. ROBESON: Oh, from Mr. Sloan?
16 MS. LEATHAM: From Mr. Sloan, yes.
17 MS. ROBESON: Okay, go ahead.
18 MS. LEATHAM: Okay. All right. So, please
19 describe the purpose of the T-S Zone.
20 MR. SLOAN: So, the T-S Zone was developed as a
21 tool to create a town from what was previously farmland, it
22 has five specific objectives in the purpose clause, to be
23 self-sufficient; to have all necessary uses, commercial,
24 employment, cultural, recreation for its residents; to
25 provide a diversity of housing types, and that included

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1 different building types as well as rental and ownership to
2 cluster, urban densities; and be able to save significant
3 areas of open space and the open space network; and to
4 provide the necessary transportation facilities, and the
5 necessary public utilities to accommodate development.
6 MS. LEATHAM: And does this DPA conform to the
7 purpose clause?
8 MR. SLOAN: It does, it provides actually all five
9 of the, meets all five requirements or objectives of the
10 purpose clause.
11 MS. LEATHAM: Can you just touch on the open
12 space, I think the Hearing Examiner had a question for Mr.
13 Brady that I wanted to bring back about open space, so does
14 this DPA add open space to the overall Montgomery Village
15 Community?
16 MR. SLOAN: It does. The golf course was never
17 considered part of the original open space calculation, the
18 T-S Zone required that at least 10 percent of its entire
19 area be devoted and set aside for open space, and it defined
20 open space as publicly accessible, and so the golf course
21 didn't even meet the definition of open space. So, by
22 providing publicly accessible open space in this area we'll
23 be expanding the amount of open space.
24 MS. ROBESON: Where does it provide the definition
25 of open space?

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1 MR. SLOAN: In the old Code.
2 MS. LEATHAM: There's also --
3 MS. ROBESON: Is it in --
4 MS. LEATHAM: -- a tabulation --
5 MS. ROBESON: Is it in the zone?
6 MR. SLOAN: It's in the zone, there's a tabulation
7 on the development plan that excludes the golf course from
8 that calculation of open space.
9 MS. ROBESON: And I don't have the, did -- well,
10 rather than finding the development plan in here --
11 MR. SLOAN: So, the definition of open space is
12 59C-7.244, not less than 10 percent of the total area of the
13 town sector zone shall be devoted to open space, this may
14 include publicly owned, community-wide, or common open space
15 facilities, but may not include streets and parking areas.
16 And in the development plan --
17 MS. ROBESON: And why does that exclude the golf
18 course?
19 MR. SLOAN: Because it's privately owned.
20 MS. ROBESON: Well, it just says this may include,
21 but it doesn't say, it doesn't prohibit privately owned
22 land.
23 MR. SLOAN: It's my inference from that and the
24 exclusion of this from the open space calculation in the
25 table that this was not --

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1 MS. ROBESON: Now -- okay. I'm just --
2 MR. SLOAN: -- considered open space.
3 MS. ROBESON: I'm not trying to give you a hard
4 time, I'm just trying to get to the nuts and bolts of how
5 you got to this conclusion. So, why in exhibit, which
6 exhibit is that?
7 MR. SLOAN: Exhibit 40I, the area and density
8 analysis lists the various uses, and excludes the golf
9 course from the calculation of open space.
10 MS. ROBESON: And that's on the upper table?
11 MR. SLOAN: And that's on the table in the center
12 right.
13 MS. ROBESON: Okay.
14 MS. LEATHAM: Okay. Is the DPA consistent with
15 the density credits available under the T-S Zone and under
16 the DPA?
17 MR. SLOAN: It is.
18 MS. LEATHAM: I'm sorry, under the original
19 development plan?
20 MR. SLOAN: The development plan allowed 15
21 persons per acre.
22 MS. LEATHAM: Is that the same as the Zoning
23 Ordinance?
24 MR. SLOAN: And that is the same as the Zoning,
25 it's -- and we were within that, the last real formal

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1 calculations were done in 2006, and at that time 238 people
2 were remained as allowed density, and then two apartments
3 were added I think to Rothbury replacing office areas, or
4 leasing areas, and so that went down to 232 population
5 credits, and we are taking 77 market rate townhouses, or 76
6 market rate townhouses out of the 77 that would be allowed.
7 MS. ROBESON: Do you want to expand briefly on how
8 the number of people is calculated?
9 MR. SLOAN: So, there's --
10 MS. ROBESON: It's a formula, correct?
11 MR. SLOAN: So, there is a formula in the T-S Zone
12 that per development type, or per building type for
13 residences you calculate how many people are assumed to be
14 in those units, and the last full audit and calculation was
15 done in 2006 that tabulated all of those and came up with
16 the remaining unused potential --
17 MS. ROBESON: Minus the two units in --
18 MR. SLOAN: Minus the two units, the --
19 MS. ROBESON: -- DPA --
20 MR. SLOAN: -- office --
21 MS. ROBESON: -- 11-02.
22 MR. SLOAN: And also, the units, that includes
23 units that were, Montgomery Village Plaza that had never
24 been built, either.
25 MS. ROBESON: Okay.

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1 MR. SLOAN: So, those, that could still go forward
2 under this.
3 MS. LEATHAM: Okay. Can you address how this plan
4 meets other T-S Zone regulations?
5 MR. SLOAN: So, we talked about the purpose, the
6 land uses, land uses are not established by the T-S Zone,
7 they're established by the development plan, and the
8 development plan allows these uses, they're actually
9 formalized through site plan even, not through the
10 development plan, and that's why Montgomery Village
11 Foundation, or Montgomery Village Plaza was allowed to go
12 forward without an amendment, because the site plan approved
13 those uses of residential. The area requirements are
14 satisfied by the entire T-S Zone area; density is met, we're
15 within the 15 persons per acre allowed by the zoning and the
16 development plan. Height is established by site plan, and
17 it has to be consistent with similarly zoned zoning, similar
18 zoning classifications, in our case it would be something
19 like a townhouse zone, which allows 40 feet, but then again,
20 that's finalized at site plan.
21 MS. ROBESON: Old or new townhouse zone?
22 MR. SLOAN: Yes.
23 MS. ROBESON: Twenty-four -- no, really, 2014, or
24 is it your position it should be a 2004 ordinance and you're
25 proceeding through the 2004 Code?

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1 MR. SLOAN: With the similarly zoned -- I don't
2 know, I'd have to -- if we look at the units per acre that
3 we're proposing we're more like an R-200 TDR or something
4 under the old Zoning Ordinance, it's an odd one because
5 we're not very high density, we're not a high density enough
6 to --
7 MS. ROBESON: What about RT8?
8 MR. SLOAN: We're lower than that.
9 MS. ROBESON: I know. But what -- just for --
10 MR. SLOAN: Right.
11 MS. ROBESON: I just want to get an idea, what are
12 you proposing as to height, and what are, what do you think
13 is the height equivalent for whatever zone you think is the
14 appropriate zone?
15 MR. SLOAN: I think three and a half stories would
16 be typical, 40 feet is allowed.
17 MS. ROBESON: Where? Where is it allowed?
18 MR. SLOAN: Well, it's allowed --
19 MS. ROBESON: In which zone?
20 MR. SLOAN: In the old zones?
21 MS. ROBESON: Yes.
22 MR. SLOAN: Well, with -- under various site plan
23 provisions it's allowed in most zones in, like I said, I'm
24 going to have to do that all from memory, but R-60 and R-90
25 I believe allowed you to go to three and a half stories with

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1 site plan findings of compatibility, certainly the R-200
2 zone allows height up to 50 feet. The floating zones, the
3 old R-T Zones allow 35 feet.
4 MS. ROBESON: Right, that's what I was thinking
5 of. And so, yours are --
6 MR. SLOAN: To the midpoint.
7 MS. ROBESON: -- up to, subject to final design
8 you're saying up to 40 feet?
9 MR. SLOAN: Up to 40 feet, I think. Yes. The
10 townhouses have changed a lot, but the R-T Zones were not --
11 that's why they changed to the new townhouse zones,
12 construction methods have changed, building code has
13 changed, fire code has changed.
14 MS. ROBESON: Right. I'm just trying to -- and
15 also -- well, that doesn't matter. But I'm just trying to
16 find out in this 7.21, or not 21, but in the area
17 requirements, wait, there's some, height is mentioned, and
18 I'm trying to understand what your basis is for saying this
19 height is okay?
20 MR. SLOAN: I think the most similar would be, in
21 the old Code would be the R-T Zones, and they allow 35 feet
22 to the midpoint, and that's probably what we're going to be
23 doing.
24 MS. ROBESON: Okay, 7.26 is the height. Okay.
25 So, you're saying the R-T Zones, which are 35 and you're 40,

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1 maybe? Subject to --
2 MR. SLOAN: Well, 35 to the midpoint, 40 max, and
3 that's where we're really looking for compatibility, 35
4 midpoint.
5 MS. ROBESON: Why don't you just explain what that
6 means, midpoint?
7 MR. SLOAN: So, you measure the building height
8 from, in this case it'll be from average grade elevation to
9 the, if it's a sloped roof the midpoint between the eaves
10 and the peak.
11 MS. ROBESON: Okay. All right.
12 MS. LEATHAM: How about utilities?
13 MR. SLOAN: So, utilities, just based on our
14 initial look at what's out there, utilities are available on
15 the roads that we front on, and will be provided by the
16 developer through the development, and the procedures
17 required are the development plan amendment and the site
18 plan that we'll be following.
19 MS. LEATHAM: You spoke to this I think
20 tangentially earlier, what are the setback requirements for
21 the Zone?
22 MR. SLOAN: There are no setback requirements in
23 the Zone, they're established by site plan, so really it's a
24 question of compatibility as we get to those site plan
25 findings for setbacks.

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1 MS. LEATHAM: Is the required -- is there the
2 required school capacity for the proposed DPA?
3 MR. SLOAN: Yes, we've provided Exhibit 40M to
4 show that there is capacity, school capacity.
5 MS. LEATHAM: If this DPA is approved what are the
6 next steps?
7 MR. SLOAN: So, the next steps, we're doing a lot
8 of planning, we have entitlement plans to go through,
9 preliminary plan, and site plan; we have forest conservation
10 plans; we have landscape plans to do; several engineering
11 studies; stormwater management plans; sediment erosion
12 control plans; road plans; sight distance evaluations;
13 grading plans, we've got a lot to go through and at least
14 another round of public hearings.
15 MS. LEATHAM: Okay. I'm going to ask you some
16 questions in your expert opinion as a land planning. Does
17 the proposed project comply with the purpose clause of the
18 T-S Zone?
19 MR. SLOAN: Yes, it does, it enables further self-
20 sufficiency for the entire town sector zone area; it
21 provides a new type of housing stock for the area; it
22 creates clustered density with large amounts of open space;
23 improves transportation infrastructure; and provides the
24 public utilities serving the new development.
25 MS. LEATHAM: Are the proposed land uses permitted

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1 example of smart growth, it's an infill development where
2 facilities are present, it's good planning to place housing
3 where people can walk to the schools, to amenities, to
4 services. It provides additional affordable housing for the
5 community. It is designed to take into account the existing
6 built environment, and the, and minimize impacts on the
7 neighbors, and to blend with those existing communities. It
8 improves safety through the reuse of a vacant lot and
9 improve pedestrian connections.

10 MS. ROBESON: Well, okay, those are planning
11 principles, what we're done is interpreted in terms of
12 adopted plans and policies.

13 MR. SLOAN: For public interest.

14 MS. ROBESON: Yes. Which would be the Master
15 Plan, but not necessarily planning principles, those go
16 toward compatibility.

17 MR. SLOAN: Okay. I really did touch on the no
18 adverse impact on the public facilities, the environmental
19 issues, the improvements to those things, and the provision
20 of affordable housing. The general health, safety, welfare
21 aspects are I guess an aside.

22 MS. LEATHAM: Okay. Moving on to the forestry
23 plan, can you describe the significant features found on the
24 NRI, which is Exhibit 40F, as in Frank?

25 MR. SLOAN: I can pull that exhibit up, if we'd

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1 like to look at it, there really, it's a site dominated by
2 two golf holes, the tees, the fairways, and the greens; it's
3 edged with primarily evergreen landscaping trees; the soils
4 are actually pretty good, B-type soils, but there's not much
5 else on here, on other natural features.

6 MS. LEATHAM: Part of the forest conservation plan
7 includes a tree variance request, can you briefly describe
8 that?

9 MR. SLOAN: The tree variance request is going to
10 look at removals or impacts that we're projecting at this
11 point, which is relatively early, we've submitted and had
12 approval of the preliminary forest conservation plan and the
13 variance. Most of those trees that we're impacting were
14 planted on the edges of the fairway and the golf green and
15 tee box, all but seven of those specimen trees are white
16 pines and non-native spruce, the white pines are really
17 approaching the end of their typical lifespan for a
18 landscape condition, and their removal will be necessary for
19 providing for grading and implementing the development plan
20 under the Zoning and the Development Plan Amendment.

21 MS. LEATHAM: Did the MN-CPPC Staff and County
22 Arborist agree with the variance request?

23 MR. SLOAN: Staff and the Arborist agreed with it,
24 and the Planning Board approved the variance, it really
25 results in a more natural and ecologically sound replanting

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1 of forest and mitigation trees, rather than the monoculture
2 of white pines that are, and the non-native trees that are
3 there now.

4 MS. LEATHAM: How will this project satisfy the
5 County's forest conservation requirements under Chapter 22A?

6 MR. SLOAN: Our estimation of the requirements
7 that were approved with the preliminary forest conservation
8 plan are that 2.6 acres of new forest will have to be
9 planted, and we have done initial layout of those to show
10 how we're primarily doing that against existing tree stands
11 and as using it as a buffer between the proposed and the
12 existing developments. And then we also have mitigation
13 tree requirements which will be done throughout this site,
14 those are trees that are provided for mitigation for taking
15 down or impacting, we're taking down the, any specimen
16 trees, and those will be planted in areas without easement
17 so they will be additional to the forest conservation
18 stands.

19 MS. LEATHAM: What is the affect on air quality as
20 a result of the proposed DPA?

21 MR. SLOAN: Golf courses generally require a large
22 amount, a larger than typical amount of maintenance by gas
23 powered equipment, and of course this use or that
24 maintenance requirement will no longer be needed. The
25 increase simply in plant, plant material, what's called

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1 plant biomass will be significant and improve air quality,
2 and then you have your general principles of infill
3 development where people can walk to services, amenities,
4 and schools that reduces the need to drive by single
5 occupancy vehicle that will improve air quality.

6 MS. LEATHAM: All right. So, just to sum up, in
7 your expert opinion are the tree variances justified?

8 MR. SLOAN: I think the tree variance is
9 justified, and as shown by the approval by the Planning
10 Board, it meets the requirements of the Zone, requires
11 temporary site disturbance which will impact those trees and
12 some removals, but it is an opportunity, actually, to get
13 better forest stands and a better landscape of native trees
14 on the property.

15 MS. LEATHAM: And in your expert opinion does the
16 proposed development meet the requirements of Chapter 22A of
17 the Montgomery County Code?

18 MR. SLOAN: It does. We will be planting the
19 required forest and the mitigation trees.

20 MS. LEATHAM: Okay. That's the end of our direct,
21 but we reserve the right to redirect.

22 MS. ROBESON: To -- right. Okay. Let me do this,
23 let me, it's quarter to 1:00, approximately, 20 to 1:00, are
24 people -- how many more witnesses do you have?

25 MS. LEATHAM: We have three, one will testify on

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1 civil engineering, traffic, and some more background to
2 respond to a question you asked about personal knowledge of
3 what this could be used for.
4 MS. ROBESON: What do you mean? What?
5 MS. LEATHAM: Well, we have someone who has
6 personal knowledge of whether this could be used, could be
7 sold to a golf course.
8 MS. ROBESON: Who is that?
9 MS. LEATHAM: Mr. Bob Hydorn, who is on our
10 witness list.
11 MS. ROBESON: Okay. So --
12 MS. LEATHAM: I think the rest will move more
13 quickly.
14 MS. ROBESON: -- you have a civil engineer --
15 MS. LEATHAM: Uh-huh. A transportation planner --
16 MS. ROBESON: Okay.
17 MS. LEATHAM: -- and then a non-expert witness.
18 MS. ROBESON: Okay. Now, for those who wish to
19 testify how long do you have to stay?
20 UNIDENTIFIED MALE SPEAKER: Till the end of the
21 day. Till the end of the day.
22 MS. ROBESON: Till the -- okay.
23 MR. DRISCOLL: We can't stay.
24 MS. MILLER: We can't stay the whole day.
25 MS. ROBESON: Okay.

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1 MS. MILLER: We can give you a copy of what was
2 going to be read.
3 MS. ROBESON: Right. The only thing is if you
4 give me written material I can't give it as much weight
5 because it's not subject to cross-examination. How long is
6 your presentation?
7 MS. MILLER: Ten minutes.
8 MS. ROBESON: Well, do you have any objection if
9 they testify --
10 MS. LEATHAM: No.
11 MS. ROBESON: -- now? And if you -- we still have
12 cross-examination of Mr. Sloan, so you can stay for the --
13 in other words, Mr. Lechner gets to ask Mr. Sloan questions
14 about his testimony, we can let Mr. Lechner do that, or we
15 can take your, and then take your testimony, and then break
16 for lunch. How long do you think you'll be, Mr. Lechner?
17 MR. LECHNER: I imagine speaking for 15 to 20
18 minutes, and then probably --
19 MS. ROBESON: No, I mean on cross-examination?
20 MR. LECHNER: Oh, cross, I have four questions,
21 relatively short.
22 MS. ROBESON: Okay. Let's do this, then, let's
23 let Mr. Lechner cross-examine Mr. Sloan, and then we'll take
24 whoever would like to speak, if you're not fainting from
25 hunger whoever would like to speak, and then you're more

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1 than welcome to stay, but you also have the opportunity to
2 leave, you can be excused if you wish. All right, Mr.
3 Lechner, go ahead.
4 MR. LECHNER: Okay. Actually six, but they're
5 short. So, Mr. Sloan, you talked about the improved air
6 quality by the increased biomass, do you have any estimate
7 of whether the improved air quality from the biomass would
8 be a better, positive that carbon footprint compared to the
9 85 townhouse and their cars that would be there?
10 MR. SLOAN: No, I don't have that calculation.
11 MR. LECHNER: Okay. So, that may or may not be
12 better than in a net as far as the impact on the residents
13 in the Montgomery Village Community, but we'll assume that
14 those people are going to live somewhere, right? So, they
15 will have a carbon footprint. And as far as density numbers
16 are you familiar with the South Village, Middle Village,
17 North Village design principles for Montgomery Village, and
18 how the density was laid out?
19 MR. SLOAN: In general terms when it was dealt
20 with in the Master Plan.
21 MR. LECHNER: But not from the development plan?
22 MR. SLOAN: From the development plan, certainly,
23 I mean, that lays out individually in the separate sections
24 what densities were imagined for which areas.
25 MR. LECHNER: Is there a general trend in that as

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1 far as physical layout?
2 MR. SLOAN: The increase in density towards core
3 areas.
4 MR. LECHNER: Core areas. And are you familiar
5 with what the density is for the North Village area?
6 MR. SLOAN: Overall? No --
7 MR. LECHNER: Yes.
8 MR. SLOAN: -- I don't know what number that is.
9 MR. LECHNER: Okay. You're not familiar with
10 that. And you talked about density being transferred back
11 and forth through the various DPAs?
12 MR. SLOAN: Right.
13 MR. LECHNER: Why was that happening, do you know?
14 Can you talk a little bit more about it?
15 MR. SLOAN: Why?
16 MR. LECHNER: Why they were moving density around?
17 MR. SLOAN: I don't know specifically.
18 MS. ROBESON: Were they actually moving density,
19 or were they -- I didn't understand what you meant by that.
20 MR. SLOAN: Yes, they, in the opinions they
21 specifically refer to reallocating density from one area to
22 another.
23 MR. LECHNER: Are you familiar with the density
24 movements in DPA E-848?
25 MR. SLOAN: E-848?

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1 MR. LECHNER: Yes, the second one. The second big
2 one. Montgomery Village is that at 155 acres.
3 MR. SLOAN: Right, that was an annexation, so no,
4 I did not look at the reallocation of density with that
5 allocation, or that annexation.
6 MR. LECHNER: Okay. And the three DPAs that you
7 talked about earlier that were all school sites, does the
8 school system provide some sort of input on that decision
9 when those were removed from the school sites?
10 MR. SLOAN: In each case the school board, as
11 discussed in the opinion said that they did not need those
12 sites for schools.
13 MR. LECHNER: Which school board?
14 MR. SLOAN: The Montgomery County --
15 MR. LECHNER: Montgomery school board --
16 MR. SLOAN: -- School.
17 MR. LECHNER: -- that's a public school board?
18 MR. SLOAN: Right.
19 MR. LECHNER: Okay. And the one site that was a
20 retail conversion to a mixed use over by the shopping plaza
21 there, was any of that open space at all, or was --
22 MR. SLOAN: No.
23 MR. LECHNER: -- it all retail? That was all
24 retail. And you talked about 2.6 acres of forest
25 conservation area being an advantage as part of the plan,

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1 would five acres be a bigger advantage?
2 MS. LEATHAM: I object, that's speculative.
3 MS. ROBESON: Well, in his expertise as a land
4 planner he can answer. He's allowed to have an opinion.
5 MR. SLOAN: Would five acres of forest
6 conservation area be better --
7 MR. LECHNER: Better than 2.5 acres --
8 MR. SLOAN: -- than 2.5 acres?
9 MR. LECHNER: -- 2.6 acres?
10 MR. SLOAN: It depends on what that other 2.4
11 acres would otherwise be used for. If it was used for
12 different purposes than other objectives then not
13 necessarily.
14 MR. LECHNER: Okay. So, you're talking about the
15 overall benefit of the plan, looking at all the uses of all
16 the land, but just looking at the amount of forest
17 conservation what's the general principle, is it more is
18 better, or less is better?
19 MR. SLOAN: Again, it depends on what is put in
20 lieu of that forest conservation. If it was development far
21 afield rather than infill development it might be better.
22 In this particular case --
23 MS. ROBESON: I think he's asking you --
24 MR. SLOAN: -- I don't think so.
25 MS. ROBESON: -- solely from a forest conservation

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1 view without balancing other things is it better to have
2 more trees?
3 MR. SLOAN: Well, yes. I'm a landscape architect,
4 I love trees.
5 MR. LECHNER: Okay. That's all. It's a simple
6 question. Thank you so much. I said they would try to be
7 quick.
8 MS. ROBESON: All right. Any redirect?
9 MS. LEATHAM: Can I just have one minute on that?
10 MR. LECHNER: Sure.
11 MS. ROBESON: Yes.
12 MR. LECHNER: I've got one more question then,
13 too, can I?
14 MS. ROBESON: Okay, one more, and then we're going
15 to stop.
16 MS. ROBESON: Ms. Leatham, before you do any
17 redirect --
18 MS. LEATHAM: Uh-huh.
19 MS. ROBESON: -- Mr. Lechner has one more
20 question.
21 MS. LEATHAM: Okay.
22 MR. LECHNER: You talked about the, whether or not
23 the golf course was part of the open space calculations in
24 the Rothbury DPA, I forget the exact number there, but you
25 talked about the calculations there, did you look at the

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1 open space calculations of some of the earlier DPAs, in
2 particular E-327?
3 MR. SLOAN: E-327? The original development plan?
4 MR. LECHNER: Yes.
5 MR. SLOAN: Only in its larger sense of how much
6 it was providing.
7 MR. LECHNER: Okay.
8 MR. SLOAN: The 422 acres and all that?
9 MR. LECHNER: Uh-huh. Okay. Thank you.
10 MR. SLOAN: Yes. My understanding of that 422
11 acres it always made a note that it was exclusive, it did
12 not include the golf course in it.
13 MR. LECHNER: Do you believe that E-327 did not
14 show a calculation that had the golf courses included in the
15 open space, are you sure of that?
16 MS. ROBESON: That's asked and answered, you had
17 your shot.
18 MR. LECHNER: Okay.
19 MS. ROBESON: You can prove him wrong. Ms.
20 Leatham, any redirect?
21 MS. LEATHAM: Okay. One question, on E-848, that
22 was the first development plan amendment, have there been
23 density shifts throughout Montgomery Village since that
24 time?
25 MR. SLOAN: There have been several. That was an

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1 annexation of additional area, and then they reallocated
2 density several times.
3 MS. LEATHAM: Okay. That's all. Thank you.
4 MS. ROBESON: All right. Any questions based on
5 that one question?
6 MR. LECHNER: No.
7 MS. ROBESON: Okay. If everybody -- let's take a
8 five-minute break, and then we're going to have anybody who
9 wants to testify now may come up and testify. So, we're
10 going to go off the record for five minutes, and before we
11 go off, when I checked earlier I believe that those are all
12 of Mr. Lechner's exhibits that were provided. No? Yes?
13 MR. LECHNER: Yes, I calculated --
14 MS. ROBESON: Because that's what I'm going to
15 check, double-check.
16 MR. LECHNER: -- I calculated 35 single sheets
17 scans of jpeg, and it looks like that maybe only 25 of them
18 are here.
19 MS. ROBESON: Okay. So, let me just double-check
20 that when --
21 MR. LECHNER: Possibility.
22 MS. ROBESON: -- when I go down. So, we're going
23 to take a five-minute break, when we come back anyone who
24 wishes to testify may do so. All right. We're off the
25 record till 11:57. As long as it takes me to get down and

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1 back.
2 (OFF THE RECORD.)
3 (ON THE RECORD.)
4 MS. ROBESON: On the record. What our
5 Administrative Assistant just did is hand Mr. Lechner back
6 some of the documents he sent. Sara, would you stay here in
7 case there's --
8 MS. MOSELEY: Yes.
9 MS. ROBESON: -- until --
10 MS. MOSELEY: Does he have the other ones?
11 MS. ROBESON: Well --
12 MR. LECHNER: They didn't --
13 MS. ROBESON: -- can you give back the ones he
14 had? Take your time, Mr. Lechner.
15 MS. MOSELEY: Yes, I just want to make sure we
16 have those, okay?
17 MS. ROBESON: If we could do this --
18 MS. MOSELEY: In the order you want them to be in.
19 MS. ROBESON: -- I'm going to let other people,
20 unless you object, Mr. Lechner, I'm going to let other --
21 MR. LECHNER: I'm sure I won't.
22 MS. ROBESON: -- people come forward and testify
23 while you're piecing together that exhibit, and once you get
24 it pieced together you can give the whole thing. It looks
25 like a lot of it is just old items from the public record.

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1 So, now, I don't want to rush you, but if you're okay, Mr.
2 Lechner, with letting other people come and present their
3 testimony while you double-check your exhibit?
4 MR. LECHNER: I'm certainly fine with that. I'm
5 certainly fine with that, and I appreciate the ability to
6 keep the whole thing moving along, actually.
7 MS. ROBESON: Okay. So, would whoever like to
8 come up that is not being called by Ms. Leatham as a
9 witness, please come up.
10 MR. LECHNER: So, I think that's good, that's a
11 full set there now.
12 MS. MOSELEY: Okay, great.
13 MR. LECHNER: Yes. Do you want to just run this
14 through a machine?
15 MS. ROBESON: Yes, let's do it so they can have a
16 copy.
17 MS. MOSELEY: Okay.
18 MR. LECHNER: Okay. Yes, expert, I --
19 MS. MOSELEY: Is this the order you want them in?
20 MS. MILLER: This is two pieces.
21 MS. ROBESON: Okay, don't talk yet. Don't talk
22 yet. Okay. I can't have too many people talking at once.
23 Now, come sit down and don't talk till I swear you in, okay?
24 MS. MILLER: Okay.
25 MS. ROBESON: Okay. Please raise your right hand.

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1 (Witness sworn.)
2 MS. ROBESON: Please state your name and address
3 for the record.
4 MS. MILLER: Elaine Miller, 9520 Duffer, D-U-F-F-
5 E-R, Way, Montgomery Village, Maryland 20886.
6 MS. ROBESON: Okay. Go ahead.
7 MS. MILLER: I have two pieces, one is a personal,
8 the other is a document that Kettler Brothers sent to the
9 residents in October 29th, 1980. Paul and I chose this
10 lot --
11 MS. ROBESON: Now, why don't you -- okay, you gave
12 your address. Okay, go ahead.
13 MS. MILLER: Paul and I chose this lot because we
14 knew no one could build behind us, that guarantee after 38
15 years is null and void. Another concern is the traffic, now
16 it takes 15 minutes in rush hour to go from Duffer Way to
17 the light at 355 to get on 270. Add an additional 86 or 600
18 homes, that's a scary thought. Kettler had set aside the
19 property on Wharf Berry Drive for an elementary school, but
20 it wasn't needed, so they sold the property to build
21 apartments. Now, has anyone considered how many schools
22 will need to be built to accommodate up to 600 houses, or
23 even 84 residents? Monument is telling us the price tag for
24 these new homes will be \$600,000-plus, do we really believe
25 people will believe that amount for their children to attend

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1 the schools in Montgomery Village?
 2 MS. ROBESON: Okay. And did you say 600 houses?
 3 MS. MILLER: That's the, that's the, one of the
 4 numbers that's been projected once they are allowed to
 5 develop the entire site.
 6 MS. ROBESON: Oh. Oh, okay.
 7 MS. MILLER: Okay?
 8 MS. ROBESON: I understand.
 9 MS. MILLER: Now, this is a letter from Clarence
 10 Kettler who sent it out again October 29th, 1989. Dear
 11 Resident, when Kettler Brothers built the Montgomery Village
 12 Golf Club as an amenity to the new town we were developing
 13 it was our plan to own and operate the facilities as an
 14 excellent golfing establishment; however, our inexperience
 15 lay in the areas related to building of homes, it became
 16 evident over the next 14 years that the management of the
 17 golf club requires skills and know-how the Kettler Brothers
 18 as a company does not possess. Clearly, this is an age of
 19 speculation. Kettler Brothers recently sold the Montgomery
 20 Village Golf Club --
 21 MR. LECHNER: Specialization.
 22 MS. MILLER: Oh, yes, you're right. Special --
 23 clearly this is an age of specialization. Kettler Brothers
 24 recently sold the Montgomery Village Golf Club to Mr. Jack
 25 Doser formerly with the Washingtonian Golf and Country Club,

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1 as a homeowner with property bordering the golf club I felt
 2 you would be interested in knowing the measures Kettler
 3 Brothers has taken to be sure your interests are protected.
 4 When you purchased your home in Montgomery Village your
 5 prime location overlooking the well kept golf course grounds
 6 was an important factor in the decision. Kettler Brothers
 7 is aware how vital the maintenance of the club and its
 8 facilities is to you, and we have gone to great length both
 9 in reviewing Mr. Doser's qualifications, and in writing the
 10 protective covenants of the purchase contract to allay your
 11 concerns. Until settlement on the purchase of the Club
 12 February 27, 1981 Kettler Brothers will continue to manage
 13 the Club, and maintain its facilities. Be sure that under
 14 the new management the Montgomery Village Golf Club will be
 15 cared for in the same fashion or better as Kettler Brothers
 16 cared for the property, this includes upkeep of all boundary
 17 fences, roadways, grassy areas, streambeds and ponds. Mr.
 18 Doser is dedicated to preserving the aesthetics of the golf
 19 course for all surrounding homeowners, and to keep the
 20 appearance on par with that of any first rate golf club in
 21 Montgomery County. As with all Village facilities, Kettler
 22 Brothers will retain architectural control over any changes
 23 to the existing buildings, grounds, and exterior signage.
 24 Of course, current Zoning and the Town Sector Ordinance also
 25 assures you that the Club will be used exclusively for

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1 golfing and related purposes. No homes can, nor will, be
 2 built on this property.
 3 At Kettler Brothers our goal is to make Montgomery
 4 Village one of the finest places to live in Metropolitan
 5 Washington. Proper management and maintenance of the
 6 Montgomery Village Golf Club is but another step in that
 7 direction. Signed by Clarence Kettler. That's it, I'm
 8 done.
 9 MS. ROBESON: Okay. Is that letter in our record?
 10 Do you want, do you have a copy of it by any chance, or --
 11 MR. LECHNER: Just pull it out.
 12 MS. MILLER: Pull it out.
 13 MR. LECHNER: Can you pull it out? I can pull it
 14 out.
 15 MS. MILLER: Okay.
 16 MS. ROBESON: Do you have any objection if I mark
 17 this as I think we're on 118?
 18 MS. LEATHAM: No objection. We'll have an
 19 opportunity to speak to it's weight later.
 20 MS. ROBESON: Thank you.
 21 MS. MILLER: You're welcome.
 22 MS. ROBESON: This is the entire letter, the one
 23 page?
 24 MS. MILLER: Yes.
 25 MR. LECHNER: Both sides.

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1 MS. MILLER: Look.
 2 MS. ROBESON: Oh, I see. Okay.
 3 MS. MILLER: Okay.
 4 MS. ROBESON: So, that'll be 10/29/80 letter
 5 from --
 6 MS. MILLER: Clarence Kettler.
 7 MS. ROBESON: -- Clarence Kettler.
 8 (Exhibit No. 118 was marked
 9 for identification.)
 10 MS. ROBESON: All right. Any questions, Ms.
 11 Leatham?
 12 MS. LEATHAM: No.
 13 MS. ROBESON: Okay, you may be excused. Thank
 14 you.
 15 MS. MILLER: Thank you.
 16 MS. ROBESON: Anyone else? Please raise --
 17 MR. DRISCOLL: How are you tonight?
 18 MS. ROBESON: I'm fine. Please raise your right
 19 hand.
 20 (Witness sworn.)
 21 MS. ROBESON: Okay. Please state your name for
 22 the record.
 23 MR. DRISCOLL: I'm John Driscoll, 9316 Judge
 24 Place, Montgomery Village, Maryland 20886.
 25 MS. ROBESON: And where is that, Judge Place?

1 What is that relative to the subject property?
 2 MR. DRISCOLL: It's south of the golf course,
 3 closer to the lake, it's on Lake Whetstone.
 4 MS. ROBESON: Okay. Go ahead, Mr. Driscoll.
 5 MR. DRISCOLL: I'm John Driscoll, President of the
 6 Board of the Montgomery Village Foundation. The Board has
 7 nine members that are elected by about 12,000 property
 8 owners, our responsibility is to do what's best for the
 9 entire community. We recognize that some residents in
 10 Montgomery Village oppose redevelopment of the golf course,
 11 but while some residents oppose redevelopment, the Board
 12 recognizes that redevelopment is in the best interest of the
 13 Village. Simply speaking, redevelopment of the golf course
 14 affects the entire Village, and benefits the redevelopment,
 15 and the benefits of the redevelopment would be felt
 16 throughout the community.
 17 Recently our Board supported Monument's
 18 redevelopment concept plan by a vote of eight to one. We
 19 have elections each years and three Directors are voted into
 20 office every year. In the past two cycles the opposition
 21 has not been able to elect a candidate.
 22 The community has been aware of the redevelopment
 23 issues for years, residents in the community who are opposed
 24 to the golf course have had several years in which they
 25 could elect board members to focus on opposing

1 redevelopment, but that has not happened. Nevertheless, the
 2 MVF Board has provided an opportunity at every board meeting
 3 for residents to voice their opinions, and we have
 4 considered their arguments and their views.
 5 Our Board and the MVF community have worked with
 6 Monument Realty for more than two years resulting in a plan
 7 submitted to you in the DPA. The MVF Board adopted a
 8 resolution that we submitted to you that explains why we
 9 support the DPA, and the record, and it's on the record for
 10 you to review.
 11 It is a good resolution, but I feel that I have to
 12 tell you more about why this project is important to the
 13 Village. The Village community overwhelmingly supports
 14 redevelopment as soon as possible. The DPA may be new to
 15 the Planning Board, Montgomery Village has been discussing
 16 redevelopment of the golf course since 2010, when the MVF
 17 appointed a steering committee to plan MVF's future out to
 18 the year 2030. For the first time ever MVF hired
 19 professional land planning firms to coordinate community
 20 charrettes on its own in 2011 while the County delayed the
 21 review of our Master Plan. This result in vision 2030
 22 report that considered redevelopment of the golf course, so
 23 when Monument purchased the property MVF quickly appointed a
 24 committee to provide input and get community involved in the
 25 process, that lead to the DPA that's before you today. This

1 committee included presidents of the communities that
 2 bordered the golf course, in particular, Patton Ridge, the
 3 President whose community, homeowners association is
 4 directly around this particular development was on that
 5 committee. The vote was 10 to zero in favor of the
 6 development of the golf course. Later on, on March 25th,
 7 2014 the MVF Board approved the concept plan for the entire
 8 golf course that includes the community described in the
 9 DPA.
 10 The sooner Monument can build these houses, the
 11 better. I am frustrated because I know firsthand that the
 12 community wants this redevelopment, and they want it as soon
 13 as possible, yet the approval process works very slowly. As
 14 President I have gone to every meeting held, and personally
 15 reached out to everyone I could who expressed concern about
 16 the benefits of redevelopment. Many residents in the
 17 neighborhoods closest to the golf course want this
 18 redevelopment because they know it'll have a greater benefit
 19 for Montgomery Village. Even in our slow economy of the
 20 past few years other communities in our areas have moved
 21 forward with successful revitalizations, but nothing is
 22 moving ahead in the Village. Our residents have eagerly
 23 worked with Monument for the last two years, and hoped that
 24 this project could have begun by now. We need new housing
 25 to stimulate further revitalization, it won't help the

1 Village if this property sits unused for years, that will
 2 only create more negatives for Montgomery Village, and make
 3 it even harder for us to move forward.
 4 Update of our Master Plan was supposed to start in
 5 2012, so yes, I am frustrated that so much time has gone by
 6 since MVF first tried to stimulate redevelopment when we
 7 began our vision 2030 community charrettes. We knew even
 8 then that someday the golf course would probably close, that
 9 day has come, fortunately, Monument Realty is ready to
 10 undertake a huge investment in our community, and I think
 11 the value of that investment to Montgomery Village is
 12 greater than the value to Monument Realty. Let's move
 13 forward now. With all the planning that Monument and
 14 Montgomery Village residents have done over the past years I
 15 am not surprised that the Planning Board Staff has
 16 determined Monument's application meets the design standards
 17 for the DPA. But again, what frustrates me is three little
 18 words, open space recreation on a plat from a Master Plan
 19 developed 30 years ago could keep Montgomery Village from
 20 joining the prosperity that the rest of Montgomery County
 21 seeks.
 22 Although the County Council and the Planning Board
 23 may have believed Montgomery Village was carved in stone,
 24 change in Montgomery Village, as elsewhere, does not happen
 25 on a schedule set by master plans. So, we end up today with

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1 changed circumstances that few could have envisioned in 1985
2 when Montgomery Village was thriving. Instead, we have a
3 closed golf course, static housing supply, lackluster
4 commercial centers, all which need to be revitalized. And
5 how could any progress be planned when the Master Plan has
6 been ignored since 1985? We have a great project ready to
7 jumpstart, Montgomery -- excuse me. We had a great project
8 ready to jumpstart Montgomery Village into the future, let's
9 not be captive to a 30-year-old Master Plan. And that's all
10 I have.

11 MS. ROBESON: Mr. Lechner, do you have any
12 questions?

13 MR. LECHNER: Yes, just two, John. The vision
14 2030 report --

15 MR. DRISCOLL: Uh-huh.

16 MR. LECHNER: -- has that been admitted on the
17 record so far, do you know? The vision 2030? Part of the
18 record yet?

19 MS. ROBESON: I think --

20 MR. LECHNER: I think it might have been.

21 MS. ROBESON: -- it is.

22 MR. DRISCOLL: It should have been.

23 MS. ROBESON: But let me just --

24 MR. LECHNER: I think I sent it, actually. No,
25 no. Do you recognize that name on the pages? Does that

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1 look like that right thing?

2 MR. DRISCOLL: Oh, absolutely.

3 MR. LECHNER: Okay. And do you mind just reading
4 for the record what that talks about for the golf course?

5 MR. DRISCOLL: Montgomery Village Golf Course, the
6 golf course of vital green space in the heart of the
7 Village, and supports the character of the Village
8 landscape. As other areas of the Village redevelop it is
9 important to mean large expanses of green space and active
10 and passive parks. The golf course provides premium views
11 of well maintained landscaped areas for homeowners and those
12 who travel by the course on several major roadways. Develop
13 multiple family housing, potential senior housing on the
14 overflow parking lot which is considered an acceptable means
15 of providing an economic benefit to extend the economic life
16 of the golf course. If the golf course were to cease
17 operation and funding could not be secured to preserve and
18 maintain all the green space a plan of mixed housing which
19 would provide minimum impact to existing views by
20 landscaping and carefully sitting new homes while retaining
21 most of the golf course for green space and recreational
22 active and passive could be developed. Today, MVF's Board,
23 as did Kettlers almost 50 years ago, wants to set a vision
24 so that development can be implemented over time to help
25 make Montgomery Village a vibrant, beautiful and convenient

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1 place to reside for many years to come.

2 MR. LECHNER: Yes, I remember. Thank you so much.

3 And then the other question, you said that overwhelmingly
4 support within the community for the plan, did the
5 Foundation do any polling or have any proof of that word
6 overwhelming?

7 MR. DRISCOLL: No, as a matter of fact, that's my
8 opinion. However, I have spent, I don't know, in the last
9 four years at least two nights a month going to various
10 charrettes, meetings, I probably have attended more meetings
11 on this than anybody else, and what I have found
12 consistently as though there is a hardcore opposition, that
13 primary, most of that hardcore opposition lives directly on
14 the golf course, and then people once they realized the golf
15 course was going to shut down and no longer be active their
16 opinion of what needed to be done with the golf course
17 became more positive toward Monument's development.

18 MR. LECHNER: Okay. And oh, I'm sorry, one other
19 one. As far as the election results you talked about how
20 many, do you remember how many ballots -- you just won an
21 election if I recall, do you remember your numbers? How
22 many votes --

23 MR. DRISCOLL: No, I don't, but I was, I was the
24 leading vote getter. I think I had something like 3,200
25 votes, but don't hold me to it.

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1 MR. LECHNER: And that's typically two votes per
2 household or address?

3 MR. DRISCOLL: No, as I understand it it's two
4 votes for single-family, one vote per townhouse, and then I
5 think apartments and they have a block vote.

6 MR. LECHNER: And the largest apartment block vote
7 is 500 units, if I recall?

8 MR. DRISCOLL: I believe it might be more than
9 that. It might be 600.

10 MR. LECHNER: Okay. Thank you.

11 MS. ROBESON: Okay. Ms. Leatham, do you have any
12 questions?

13 MS. LEATHAM: No.

14 MS. ROBESON: Okay. You may be excused. I do see
15 the vision 2030 plan is 77A in the record, so it is in the
16 record.

17 MR. LECHNER: That was page three for this.

18 MR. DRISCOLL: Okay. Thank you.

19 MS. ROBESON: Okay, thank you. Anyone else wish
20 to testify? Seeing none --

21 MR. LECHNER: Marge, she was going to be here all
22 day.

23 MS. ROBESON: Well, why don't you come up now
24 while we're --

25 MR. LECHNER: On a roll. It probably will not be

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1 too long, so that's --
2 MS. ROBESON: Please raise your right hand.
3 (Witness sworn.)
4 MS. ROBESON: Please state your name and address
5 for the record.
6 MS. DEFINO: My name is Margie DeFino, I live at
7 9611 Duffer Way in Montgomery Village.
8 MS. ROBESON: And where is that in relation to
9 this property?
10 MS. DEFINO: I actually, my property backs up
11 directly behind hole number four, so it is the property in
12 question.
13 MR. LECHNER: Right in the middle.
14 MS. ROBESON: Okay. Okay. I don't know if we
15 have hole number four marked on any plan, can you just, I do
16 know generally, the property loops --
17 MS. DEFINO: What?
18 MR. LECHNER: Point to your house. Go point to
19 your house.
20 MS. ROBESON: -- around as in a horseshoe.
21 MS. DEFINO: We're probably right in this area
22 here.
23 MS. ROBESON: Okay. So, that would be -- are
24 there lots or anything marked on that, can you see?
25 MS. DEFINO: Fairway Islands, we're in Fairway

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1 Islands.
2 MS. ROBESON: Okay. And that's Exhibit?
3 MS. DEFINO: 40E.
4 MS. ROBESON: 40E. Okay. Thank you.
5 MS. DEFINO: Uh-huh. I'm a resident of Montgomery
6 Village and live on Duffer Way. My property adjoins what
7 was the Montgomery Village Golf Course directly behind hole
8 four. I believe that rezoning this property for residential
9 development would be detrimental to the Montgomery Village
10 Community, in fact, this was not the vision of the Kettler,
11 what the Kettler Brothers had in mind for the Montgomery
12 Village Golf Course.
13 Under the current town sector the property is
14 designated private recreation conservation. What is a major
15 concern to me is that Clarence Kettler and Mr. Doser in the
16 original bill of sale dated October 27th, 1980, executed
17 explicit covenants and restrictions protecting the golf
18 course from development. Clarence Kettler subsequently sent
19 a letter dated October 29th, 1980 to all residents adjoining
20 the golf course reassuring them that houses would never been
21 built on this property.
22 Even though this private property, both of these
23 documents need to be considered by Montgomery County as a
24 legal and valid covenants and restrict any development on
25 this land. I believe these covenants and restrictions are

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1 legal and binding and should be kept as such. Monument
2 Realty to my knowledge has never mentioned or referenced
3 either of these documents in any meetings that they have
4 held since they purchased the land at auction where they
5 were the only bidder. Monument claims and prides themselves
6 in working with the Montgomery Village Community, regarding
7 these covenants and restrictions Monument has made no
8 attempt to contact the 400 residents that adjoin the golf
9 course property to discuss the covenants and restrictions.
10 The Patton Ridge HOA did have Park and Planning
11 come out and speak to the Patton Ridge Community where the
12 majority of residents were in opposition. I and a few
13 neighbors have signed statements from close to half the
14 adjoining neighbors to the golf course property, including
15 all of the Duffer Way Community. We did provide all the
16 residents an opportunity to support the development, without
17 hesitation most were against, less than one percent were in
18 favor of this development. I have provided the Clerk of the
19 Hearing a copy of all signed statements and ask that they be
20 entered into the record of hearing.
21 MR. LECHNER: Did you do that already?
22 MS. DEFINO: No.
23 MR. LECHNER: Okay. She has them.
24 MS. DEFINO: So, I have the signed statements, and
25 I also have petitions.

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1 MS. ROBESON: Have you shown them to Ms. -- okay.
2 Can you show them to Ms. Leatham?
3 MS. DEFINO: And this --
4 MS. LEATHAM: They're separate.
5 MS. DEFINO: These are from the people who live
6 behind the golf course. Let's see. Let's see. We also
7 petitioned the neighborhoods of the Montgomery Village
8 Community and outside the Community, as well, it became very
9 clear to us most were not in favor of more density or
10 development placed either behind their home or in the
11 Montgomery Village Community. I have also provided the
12 Clerk of the Hearing a copy of all the signed petitions, and
13 have asked that they be entered into the record on the
14 hearing.
15 As I continue to petition I realized I had become
16 the voice for the community. Most of the residents thought
17 the development of the golf course was inevitable, a done
18 deal, they had no idea this was just the beginning. I had
19 given my neighbors hope. I believe adding more density by
20 developing the golf course will not bring vitality back to
21 the Montgomery Village Community, and in fact, add to
22 current traffic problems and County services overload,
23 developing the golf course is in my opinion a distraction
24 from very serious issues that plague this community and
25 should be the number one priority at this time.

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1 Furthermore, another concern I have is the
2 architectural look of the proposed development. It simply
3 doesn't fit with the current architectural standards that
4 are already in place throughout the Village. It seems to be
5 it's all about density and how many townhouses can be
6 crammed on one piece of property, and the amount of money
7 one can make. This will certainly take away from the charm
8 and uniqueness of what is Montgomery Village, and all for
9 the sake of greed. We do not need another Clarksburg,
10 Rockville Town Center, Kentlands, King Farm, or Crown Farm
11 built on a very small piece of property in the middle of
12 this community. This was truly not the vision Kettler
13 Brothers had for the Montgomery Village Community.
14 On a personal note, my family and I moved to
15 Gaithersburg back in 1975. Montgomery Village at that time
16 was the up and coming place to live, in fact, I worked at
17 the Montgomery Village Shopping Center at Jeremiah Toy and
18 Hobby. I saw Saturday Night Fever at the movie theater, and
19 frequently met friends at the outdoor eatery, this indeed
20 was flourishing. My question is what happened? What has
21 happened to the Montgomery Village Shopping Center and
22 surrounding residential area is what really needs to be the
23 focus of concern. Adding more density is not going to bring
24 back what we had in the '70s, or make Montgomery Village
25 flourish. Thank you.

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1 MS. ROBESON: Thank you. Ms. Leatham, do you have
2 those exhibits that you --
3 MS. LEATHAM: I have them, and I object to
4 entering them for a couple of reasons, the first --
5 MS. ROBESON: Well, can I --
6 MS. LEATHAM: Oh, yes.
7 MS. ROBESON: -- see them?
8 MS. LEATHAM: Sorry. I need to look at them
9 again.
10 MS. ROBESON: Okay. Go ahead. Your reasons?
11 MS. LEATHAM: In the short time I had to look
12 through them there are signatures in there from Boyes and
13 from Poolesville, I don't know how much weight those should
14 be given, plus the premise, the paragraph at the top is
15 factually incorrect, so if someone's signing it based on
16 what's there they are not getting the correct information.
17 MS. ROBESON: Okay. That's -- do you have any, is
18 there anything that makes you think this petition wasn't
19 signed by the people that signed it?
20 MS. LEATHAM: I haven't had a chance to look at
21 it. I do know that someone was approached to sign that
22 petition, an affiliate of the Petitioner in Poolesville, and
23 was told that just to sign the petition to protect the
24 environment, so --
25 MS. ROBESON: Well --

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1 MS. LEATHAM: -- I don't know --
2 MS. ROBESON: -- okay.
3 MS. LEATHAM: -- if it's that petition or not.
4 MS. ROBESON: I'll do this, I'm going to let it in
5 and give it the weight it deserves, okay? I'm going to let
6 in the petition as Exhibit 119, and then I'm going to let
7 in, what are these other documents?
8 MS. DEFINO: Those are for the --
9 MS. ROBESON: A letter?
10 MS. DEFINO: -- adjoining neighbors --
11 MS. ROBESON: Okay, so --
12 MS. DEFINO: -- the people who back up to the golf
13 course.
14 MS. ROBESON: -- 119 will be the petition; and 120
15 will be the letters from property owners adjoining the
16 development.
17 (Exhibit Nos. 119 and 120 were
18 marked for identification.)
19 MS. LEATHAM: And I have the same objection to the
20 letters, they're factually incorrect.
21 MS. ROBESON: That's noted. Okay. Did you have
22 any questions of the --
23 MS. LEATHAM: I don't have any questions for Ms.
24 DeFino, but perhaps for you. Your order postponing the
25 hearing, Exhibit 80, was very specific that any, the

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1 existence of any covenants was not a matter for the Hearing
2 Examiner and for this DPA, so we continue to --
3 MS. ROBESON: Right.
4 MS. LEATHAM: -- alluded to these covenants. Mr.
5 Hines, sorry, testified that there are any as reviewed by
6 his title counsel --
7 MS. ROBESON: Well --
8 MS. LEATHAM: -- so --
9 MS. ROBESON: -- there clearly are some kind of
10 covenants, whether they bind the adjoining land and not the
11 golf course, I don't know, but there are already in the
12 record covenants. And I think what I said in the order is
13 the covenants are, act independently of Zoning, but they
14 were admissible for the purpose of showing the original
15 plan.
16 MS. LEATHAM: For what it's worth the original
17 intent --
18 MS. ROBESON: The planning principles --
19 MS. LEATHAM: Certainly.
20 MS. ROBESON: -- on which the Montgomery Village
21 was founded, so I think they're already in the record from
22 Mr. Lechner, and I'm going to let them in. They don't
23 control the outcome of this case, but I think they do
24 demonstrate what the original planning principles behind
25 Montgomery Village were, certainly the golf course was

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1 important enough to assure people that it, right or wrong
2 that it would be restricted from development.
3 So, with that, Mr. Lechner, do you have any
4 questions of the witness?
5 MR. LECHNER: No. Thank you.
6 MS. ROBESON: All right. Now, I have one more
7 thing on what you handed me, did you mean to introduce that
8 as an exhibit?
9 MR. LECHNER: No.
10 MS. ROBESON: Okay.
11 MR. LECHNER: Extraneous.
12 MS. ROBESON: All right. So, with that, it's
13 quarter to 2:00, I'm assuming somebody has to be hungry, is
14 this -- and the cafeteria closes for food at 2:30, so I am
15 going to take a lunch break at this point. If anyone who's
16 already testified you may be excused, so you don't have to
17 stay, and we'll reconvene here at quarter to 3:00.
18 (OFF THE RECORD.)
19 (ON THE RECORD.)
20 MS. ROBESON: Okay, we're back on the record. Ms.
21 Leatham, it is your turn for your next witness.
22 MS. LEATHAM: All right. We're calling John
23 Clapsaddle with VIKA.
24 MS. ROBESON: Okay. Mr. is it Clapsaddle?
25 MR. CLAPSADDLE: Clapsaddle, correct.

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1 MS. ROBESON: Okay. Please raise your right hand.
2 (Witness sworn.)
3 MS. ROBESON: Okay, go ahead, Ms. Leatham.
4 MS. LEATHAM: All right. Please state your name,
5 address, and occupation.
6 MR. CLAPSADDLE: For the record, my name is John
7 Clapsaddle, I'm a Maryland Licensed Professional Engineer
8 and Civil Engineer of record for this project, and I'm
9 employed by VIKA Maryland, and my work address is 20251
10 Century Boulevard in Germantown, Maryland.
11 MS. LEATHAM: Have you been qualified as an expert
12 in civil engineering before the Montgomery County Office of
13 Zoning and Administrative Hearings?
14 MR. CLAPSADDLE: Yes, I have on a couple of other
15 projects that I've worked through this same Board with,
16 Aspen Hill Estates was one of those projects, located in
17 Aspen Hill, Maryland, that was off of Bel Pre Road at
18 Homecrest Road, I think the case number was G-836, that was
19 a Local Map Amendment, and a Development Plan for rezoning
20 from RE-2 to PD-2 for 38 single-family structures. Another
21 case was G-803, Olney Manor, located just north of Route 108
22 on Route 97 in Olney, and that was also a Local Map
23 Amendment and Development Plan for a four-story 104-unit
24 senior housing development. A third one was --
25 MS. ROBESON: Okay, you don't have to go

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1 through -- are you licensed in Maryland?
2 MR. CLAPSADDLE: Yes, I am.
3 MS. ROBESON: Okay. I am going to, because you
4 have been qualified as an expert civil engineer, I'm going
5 to qualify you as an expert in civil engineering. Is your
6 resume in the file?
7 MS. LEATHAM: Yes, it's in 40R.
8 MS. ROBESON: Okay. Go ahead.
9 MS. LEATHAM: Okay. Did there come a time when
10 you were employed by the Petitioner for this proceeding with
11 regard to the proposed DPA?
12 MR. CLAPSADDLE: Yes. VIKA, our firm, was hired
13 to prepare the supporting documentation for the submittal in
14 this case, and we prepared various exhibits and studies to
15 present the case during this proceeding.
16 MS. LEATHAM: Are you familiar with the property?
17 MR. CLAPSADDLE: Yes, I am. I've walked the
18 property, and am familiar with the general drainage
19 patterns, the topography, and the surrounding uses, and also
20 the existing utilities that surround the development.
21 MS. LEATHAM: And are you familiar with Montgomery
22 County Code Section, or sorry, Montgomery County Code
23 Chapter 19?
24 MR. CLAPSADDLE: Yes, I am. Chapter 19 of the
25 Code deals with erosion, sedimentation, and stormwater

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1 management controls. This Code forms a basis of design to
2 reduce erosion and sedimentation, and for controlling
3 stormwater management, and is the, we use this Code for all
4 the design projects that require permitting through
5 Montgomery County for development; we prepare the plans and
6 specifications based on this Code, and all the plans and
7 specifications go through a review and approval through the
8 County agencies.
9 MS. LEATHAM: Okay. Specifically to the subject
10 property, what utilities currently serve the site, and will
11 they be available for the new development?
12 MR. CLAPSADDLE: Sure. We have done research
13 mapping and determined that water and sewer is readily
14 available to the property, also gas, electric, telephone,
15 and cable services are available in the immediate vicinity
16 of the property. So, all these utilities would be available
17 for services of any new homes.
18 MS. LEATHAM: Okay. Please describe the proposed
19 grading plans.
20 MR. CLAPSADDLE: The intent of our grading plan is
21 to minimize disturbance as much as possible to the ground
22 areas, minimize removal of vegetation, and keep cut and fill
23 quantities to a minimum, while still providing adequate
24 drainage to our development to keep water away from roads
25 and from structures.

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1 MS. LEATHAM: Okay. Are there any environmental
2 resources on the property?
3 MR. CLAPSADDLE: The property is not designated
4 under any special protection area, or primary management
5 area; there have been no wetlands found on the property;
6 there have been no forest by definition found on the
7 property. There is a floodplain on part of the property, on
8 the southern toward the eastern side of the property, that's
9 the extent of the Federal Emergency Management Agency's FEMA
10 mapping, and that is shown on our exhibit, I believe it's
11 40F, which I can point to.
12 MS. LEATHAM: I think it's on the other side. Is
13 that it there all tied up?
14 MR. CLAPSADDLE: Exhibit 40G, it's indicated by a
15 red line coming up, it's basically on the southern portion
16 of the property toward the southeastern side next to the
17 Green Tee development. It enters the property in this
18 basically the last corner of that FEMA, the FEMA map shows
19 the very corner of the FEMA study.
20 MS. LEATHAM: Can you explain how that floodplain
21 line will be adjusted?
22 MR. CLAPSADDLE: Yes. What we have determined
23 through our studies, the Federal Emergency Management
24 Agency's mapping is generally based on large scale 2000
25 scale mapping, and we have gotten more detailed mapping of

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1 the area from Park and Planning and from aerial surveys, and
2 have done a more detailed study of this particular area.
3 The County in the County Code designates under a floodplain
4 regulations that a floodplain is any area that is inundated
5 by waters of 100-year storm, but they also designate that
6 any watersheds that are smaller than 30 acres would not be
7 subject to this Code. With our detailed mapping we have
8 determined the drainage area at the very southern part of
9 the property, the amount of water draining to this point at
10 the property line, which is the shaded area, southeastern
11 side of the site is 24 acres. So, we have determined that
12 this little glitch in the FEMA map really shouldn't be there
13 by County Code, it is not designated as a floodplain based
14 on the Code. So, our intent would be to modify the FEMA
15 mapping to remove that area from the floodplain designation.
16 MS. ROBESON: Are you showing any development on
17 that floodplain area now?
18 MR. CLAPSADDLE: We are currently showing, as it
19 nips up in this corner it comes to a point.
20 MS. ROBESON: Is there a, is there something you
21 can reference on the exhibit that kind of points out where
22 it is?
23 MR. CLAPSADDLE: Sure. It's basically the
24 southern, southwestern corner of the Green Tee
25 development --

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1 MS. ROBESON: Okay.
2 MR. CLAPSADDLE: -- directly north off of that
3 last stick of units.
4 MS. ROBESON: Okay, the last townhouse units?
5 MR. CLAPSADDLE: Correct.
6 MS. ROBESON: Okay.
7 MR. CLAPSADDLE: In the Green Tee development.
8 MS. ROBESON: Okay.
9 MR. CLAPSADDLE: That little corner shows over top
10 of four of the proposed units that we have installed.
11 MS. ROBESON: Okay. And you're going to do a FEMA
12 map amendment, is that your --
13 MR. CLAPSADDLE: We would do both a County
14 floodplain study to identify that exact limits of that
15 floodplain, and then based on that approved County study
16 we'll go back to FEMA and have the map amended.
17 MS. LEATHAM: Are Park and Planning Technical
18 Staff aware of this?
19 MR. CLAPSADDLE: Yes. Yes.
20 MS. LEATHAM: And have they raised any objection?
21 MR. CLAPSADDLE: They have raised no objection to
22 this procedure, and our intent in doing so.
23 MS. LEATHAM: Okay. Mr. Brady testified,
24 described the existing easements on the property, do you
25 want to add a little explanation about the one easement that

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1 has to be relocated?
2 MR. CLAPSADDLE: Sure.
3 MS. ROBESON: The what?
4 MS. LEATHAM: The one easement that's to be
5 relocated.
6 MR. CLAPSADDLE: Yes, there are several easements
7 on the property, I believe they're exhibits, is that 18?
8 MS. LEATHAM: Yes.
9 MR. CLAPSADDLE: Exhibit 18 shows, actually it
10 shows four easements, the Colonial Pipeline easement that
11 was discussed runs through the northern leg of the property,
12 and that will not be affected other than a road crossing;
13 there are two WSSC easements, one runs through the south leg
14 of the property basically north/south direction just past
15 the Green Tee development itself, and in a north/south
16 direction. This particular easement will be modified
17 because we will also be modifying the physical sanitary
18 sewer line that runs within that easement to snake back
19 through and turn across our development so that it obviously
20 doesn't run through any of our proposed houses. So, we will
21 modify this easement with the new sewer line that will be
22 installed. The other WSSC easement up in the northwest
23 corner will not be affected by our development, that
24 contains a sewer line, as well, that conveys sanitary sewer
25 from the Arrowhead development back into Montgomery Village

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1 Avenue. The fourth easement is just a storm drain easement
2 on the very eastern, on the very western side of the
3 northern portion of the project, and that storm drain
4 easement will either be modified or expanded upon to address
5 drainage that has to come off the property and enter the
6 storm drain system on Montgomery Village Avenue.
7 MS. LEATHAM: Okay. Good segue. How will the
8 proposed project satisfy the stormwater management
9 requirements in Chapter 19?
10 MR. CLAPSADDLE: Under Chapter 19 we're required
11 to provide three stages of stormwater management design, and
12 we'll go through the three stages, the conceptual stage will
13 happen during preliminary plan, site plan stage during site
14 plan, if those two preliminary and site end up being
15 combined we'll do our conceptual combined, as well, that
16 will address the first two stages of the requirement; the
17 third stage will have a detailed engineering phase after the
18 site plan and the Planning Board approves the site plan.
19 So, that will address the three-stage requirement in the
20 Montgomery County Code. The Code also requests or requires
21 that we use best management practices to treat stormwater
22 management, and those are basically outlined in the Chapter
23 5 of the Maryland Department of Environment Stormwater
24 Management Design manual, and those are referred to under
25 Chapter 5 as environmental site design techniques, and we

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1 will be using those --
2 MS. ROBESON: To the maximum extent practicable?
3 MR. CLAPSADDLE: To the maximum extent
4 practicable, that's correct.
5 MS. ROBESON: This is, did you testify this is not
6 in a special protection area?
7 MR. CLAPSADDLE: Yes, ma'am.
8 MS. ROBESON: Okay. And you don't have a plan at
9 the moment, preliminary --
10 MR. CLAPSADDLE: We have a bubble plan --
11 MS. ROBESON: -- a stormwater concept plan?
12 MR. CLAPSADDLE: We do have a bubble plan, I can't
13 remember which exhibit it is.
14 MS. LEATHAM: Twenty-one.
15 MR. CLAPSADDLE: Exhibit 21.
16 MS. ROBESON: Okay.
17 MR. CLAPSADDLE: Entitled Potential Stormwater
18 Management.
19 MS. ROBESON: All right.
20 MR. CLAPSADDLE: And in this claim we show a
21 number of small referred to as micro-bioretenion facilities
22 surrounding and throughout the community, and we also show a
23 swale running along about half of the roadways in the
24 development, and between the water running off into the
25 swale, which will absorb runoff, and the water running into

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1 these bioretention facilities that will meet the ESD
2 requirements of Chapter 5 in the manual.
3 MS. ROBESON: Okay.
4 MS. LEATHAM: Okay. Have you evaluated the sight
5 distance at all three proposed intersections?
6 MR. CLAPSADDLE: Yes, we have. Looked at the
7 sight distance for both of the intersections proposed on
8 Montgomery Village Avenue, the southern access point is, as
9 we stated previously, just going to be a right-in, right-out
10 condition, there will be nobody coming out of that
11 intersection and turning left, so the sight distance applied
12 there will only be looking to the left, and that sight
13 distance is somewhere in excess of 800 feet, the required
14 sight distance of that location would be, let me look at my
15 paperwork, I believe it's 500, or it may be just less than
16 500 feet.
17 MS. ROBESON: What is the speed limit on --
18 MR. CLAPSADDLE: I believe it's posted at 40.
19 MS. ROBESON: Okay.
20 MR. CLAPSADDLE: Or is it 45?
21 MR. LECHNER: Thirty-five.
22 MR. CLAPSADDLE: Forty-five?
23 MR. LECHNER: No, no, no. Thirty-five.
24 MR. CLAPSADDLE: Is it 35?
25 MR. LECHNER: Yes.

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1 MR. CLAPSADDLE: So, based on the design, speed,
2 criteria of 45 miles an hour, which is 10 miles above that,
3 we require 400 feet, and we have in excess of 800 feet. At
4 the other intersection up at Meadowcroft we have in excess
5 of 500 feet in both directions, right and left, and again,
6 even at a 45-mile-an-hour speed the requirement is 400 feet,
7 so we well exceed those requirements. At the proposed
8 intersection at Arrowhead that's currently a three-way stop
9 condition, and we would propose it to become a four-way stop
10 condition with our plan, and there is adequate sight
11 distance there, although with the stop condition not as
12 critical because each vehicle at each leg will have to stop.
13 We do note that there is parking along the street which may
14 have to be truncated and pulled back away from that
15 intersection so that the cars don't cause a sight problem,
16 sight distance line problem.
17 MS. LEATHAM: In your expert opinion are utilities
18 available to serve the site and be installed underground?
19 MR. CLAPSADDLE: Yes, they are. We've looked at
20 each utility that is in the surrounding area and believe
21 that adequate service is provided by these utilities.
22 MS. LEATHAM: That in your expert opinion by its
23 design, by minimizing grading and other means the proposed
24 development would tend to prevent erosion of the soil and
25 preserve natural features of the site?

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1 MR. CLAPSADDLE: Yes, it will. As part of our
2 design we'll be designing, implementing practices which will
3 prevent that sedimentation from running off the site.
4 MS. LEATHAM: And finally, that the proposed
5 development meets the requirements of Chapter 19 of the
6 County Code?
7 MR. CLAPSADDLE: Yes, it does.
8 MS. LEATHAM: Thank you. That's the end of our
9 direct.
10 MS. ROBESON: All right. Any questions, Mr.
11 Lechner?
12 MR. LECHNER: Yes, just one, sir. So, the water
13 from the road, where is it going to runoff to?
14 MR. CLAPSADDLE: The water from?
15 MR. LECHNER: From the looping road there, the big
16 one?
17 MR. CLAPSADDLE: Yes, we've planned for some sort
18 of a swale system, so we would be looking at doing some
19 grass swales, and grass swales would help promote the
20 infiltration of water into the soil instead of running off.
21 Other areas of the paved surfaces will be diverted to micro-
22 bioretention facilities which will filter and also absorb
23 the water, so that we have less runoff from the development.
24 MR. LECHNER: And when you said you're doing a,
25 proposing an amendment to the map as far as the stormwater,

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1 the 100-year map --
2 MR. CLAPSADDLE: The floodplain.
3 MR. LECHNER: Floodplain, does that make the, that
4 doesn't make the water go away, but your engineering would
5 improve the situation somehow?
6 MR. CLAPSADDLE: It would technically reduce the
7 runoff, and would reduce the runoff for the one-year storm
8 event, that is the Code, to minimize and have the one-year
9 event maintained on the site without getting released,
10 that's the Code. The 100-year event, which is a, we're
11 talking about a substantial storm event, is not managed
12 through any of our devices, that would be the storm that
13 contributes to the floodplain areas, and that's why it's
14 important to keep those floodways and floodplains open so
15 that that water can convey downstream safely.
16 MR. LECHNER: And the contours there are they one-
17 foot contours, or not 10-foot contours?
18 MR. CLAPSADDLE: I believe we were using two-foot,
19 we were using, actually on some of our surveys we had one-
20 foot contour intervals.
21 MR. LECHNER: Right behind the house?
22 MR. CLAPSADDLE: Yes, this even shows one-foot
23 contour intervals.
24 MR. LECHNER: Okay.
25 MS. ROBESON: Well, where is this, behind the

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1 eastern curve of houses? Below the access road on that
2 exhibit?
3 MR. CLAPSADDLE: Right, we have --
4 MS. ROBESON: That's 40 --
5 MR. CLAPSADDLE: -- in general we have aerial
6 survey for this development, which was done at one-foot
7 intervals, so we have that topography available for our
8 whole site.
9 MS. ROBESON: And what exhibit is that?
10 MR. CLAPSADDLE: I don't know if we have a special
11 exhibit list.
12 MS. ROBESON: It's in the lower --
13 MR. CLAPSADDLE: The information is reflected
14 behind, for instance, this Exhibit 21, that information is
15 shown on that exhibit.
16 MS. ROBESON: Okay.
17 MR. LECHNER: Okay. Thank you.
18 MS. ROBESON: Okay. Any other questions, Mr.
19 Lechner?
20 MR. LECHNER: No, thank you.
21 MS. ROBESON: Okay. Any redirect?
22 MS. LEATHAM: No.
23 MS. ROBESON: All right. You may be excused, and
24 you can call your next witness.
25 MS. LEATHAM: All right. Mike Workosky with Wells

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1 and Associates.
2 MS. ROBESON: Mr. Workosky, please raise your
3 right hand.
4 (Witness sworn.)
5 MS. ROBESON: Go ahead, Ms. Leatham.
6 MS. LEATHAM: Okay. Please state your name,
7 address, business address, and occupation?
8 MR. WORKOSKY: I'm Mike Workosky, I'm a registered
9 transportation, professional transportation planner, I'm
10 with Wells and Associates, our address is 1420 Spring Hill
11 Road, Suite 610, Tysons, Virginia 22102.
12 MS. ROBESON: Okay.
13 MS. LEATHAM: Have you been admitted before as an
14 expert in transportation planning before the Montgomery
15 County Office of Zoning and Administrative Hearings?
16 MR. WORKOSKY: Yes, I have, for a few cases, the
17 last case I could think of was, I think it was the
18 McDonald's case on Bel Pre Road, which may have been a year
19 or so ago.
20 MS. ROBESON: A little more, yes.
21 MR. WORKOSKY: A little more than that.
22 MS. ROBESON: But okay, he has qualified as an
23 expert before us in transportation planning, Mr. Lechner, do
24 you have any objections?
25 MR. LECHNER: No, none at all.

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1 MS. ROBESON: All right. You're qualified.
2 MS. LEATHAM: Okay. Did there come a time when
3 you were employed by the Petitioner with regard to the
4 proposed DPA?
5 MR. WORKOSKY: Yes, we were contacted in probably
6 mid-2013 to provide traffic engineering and planning
7 services.
8 MS. LEATHAM: And are you familiar with the
9 property and the surrounding area?
10 MR. WORKOSKY: I am, I'm familiar with the
11 property, I've driven around the site many times through the
12 intersections, roadways, and such.
13 MS. LEATHAM: And are you familiar with the
14 Montgomery County Local Area Transportation Review
15 Standards, and the Subdivision Staging Policy?
16 MR. WORKOSKY: I am familiar with them.
17 MS. LEATHAM: Okay. Thank you. Can you describe
18 the vehicular circulation patterns in the proposed DPA?
19 MR. WORKOSKY: As was mentioned earlier, there are
20 three basic access points to the site, the northernmost
21 opposite Meadowcroft Lane, one to the south of Duffer Way
22 that's right-in/right-out, and the one to the east on
23 Arrowhead Road that's opposite Rothbury. And also, the
24 internal roadway is designed to have curbside parking and
25 such so that it helps create some side friction that helps

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1 reduce the speed along that road and give it the character
2 of a residential street and not a through route.
3 MS. LEATHAM: Were the external access points
4 designed to connect to existing access points?
5 MR. WORKOSKY: Yes. Basically, two of the
6 driveways align opposite existing intersections so that they
7 don't introduce more than necessary curb cuts, so they work
8 with the road network as it's currently designed.
9 MS. LEATHAM: Did you analyze the impact of the
10 traffic from the proposed 86 homes on the existing
11 infrastructure?
12 MR. WORKOSKY: We did. We prepared a local area
13 transportation review that was dated November 17, 2014 that
14 would identify the impacts of the --
15 MS. LEATHAM: That's Exhibit 12.
16 MR. WORKOSKY: I'm sorry, Exhibit 12. In that
17 study we assumed 84 units at the time, we didn't realize
18 there would be 86, that had come afterwards, but the
19 differential in those peak hour trips is one or two vehicle
20 trips, so it wouldn't have any impact on the result.
21 We went through the typical process, which is
22 meeting with Park and Planning Staff, identifying the study
23 intersections based on the number of new trips generated by
24 the site, so 84 townhouses generates 40 a.m. peak hour
25 trips, and 70 p.m. peak hour trips, so that equates to one

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1 signalized or significantly unsignalized intersection in
2 each direction from the access points, the driveways serving
3 the site. So, that encompassed seven intersections
4 basically from Arrowhead on the north on Montgomery Village
5 Avenue down to Country Club Road, the intersection to the
6 south. And then over to the east -- I'm sorry, Club House
7 Road to the south. And then over to the east going to the
8 east of Rothbury over to Goshen Road, those are the
9 intersections that were included in the study, including the
10 site driveways.
11 We evaluated the existing traffic conditions, we
12 collected traffic counts that were in October of 2014, so we
13 analyzed existing conditions; then we looked at background
14 conditions with, that includes other pipeline development,
15 it also included adjustments for the Watkins Mill Road
16 interchange, which is a fully funded improvement, and per
17 the, the guidelines allow us to take that into account.
18 MS. ROBESON: If it's funded within the --
19 MR. WORKOSKY: A six-year plan.
20 MS. ROBESON: Funded for what --
21 MR. WORKOSKY: For construction.
22 MS. ROBESON: -- in a six-year plan? For
23 construction?
24 MR. WORKOSKY: Uh-huh. So, we included that in
25 the --

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1 MS. LEATHAM: And is it funded for construction?
2 MR. WORKOSKY: It is funded for construction. And
3 so that would be, that was part of our analysis under
4 background conditions where we adjusted the traffic volumes
5 to account for that along Montgomery Village Avenue. Then
6 we added the traffic that would be generated by the 84
7 townhouses, we applied them to the road network, and we also
8 reduced the traffic generated by the existing golf course
9 because it was in operation when we collected our traffic
10 counts, so it was permanently closed after the date we
11 collected the traffic counts, so we removed that traffic
12 from the network. It's a small number of trips, but we --
13 MS. ROBESON: Okay.
14 MR. WORKOSKY: -- took them off. We looked at
15 each of the intersections, we evaluated the critical lane
16 volumes for the Montgomery Village and Airpark policy area,
17 which has a critical lane volume threshold of 1,425, and all
18 of the intersections under existing background conditions
19 without the redevelopment, and future conditions with the
20 redevelopment were all well below the 1,425. The highest
21 was just under 1,000 in critical lane volume. We also
22 prepared a pedestrian statement, and looked at the transit
23 facilities, crosswalks, and what have you, and I should
24 mention, we did count bicycles, pedestrians, and such at all
25 the intersections when we did our analysis.

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1 We did look at the driveways specifically at all
2 the intersections, we did recommend that a southbound left
3 turn lane be provided on southbound Montgomery Village
4 Avenue at the Meadowcroft intersection, the northernmost
5 access point, and we did not recommend right turn lanes
6 going northbound on Montgomery Village Avenue at either the
7 right-in/right-out driveway, or at the Meadowcroft
8 intersection.
9 MS. ROBESON: You did not recommend?
10 MR. WORKOSKY: We did not recommend right turn
11 lanes there. The right turn volume is pretty low at both of
12 those locations, and it's in character with the rest of
13 Montgomery Village Avenue that does not have multiple turn
14 lanes at other intersections.
15 MS. ROBESON: What peak hour volumes were at the
16 northern leg?
17 MR. WORKOSKY: For the --
18 MS. ROBESON: I'm just looking in the --
19 MR. WORKOSKY: -- right turn?
20 MS. ROBESON: -- the Staff Report, I can't put my
21 hands on the trip generation numbers.
22 MR. WORKOSKY: Well, the volume itself there, we
23 had nine right turns.
24 MS. ROBESON: Projected volume. Projected volume.
25 MR. WORKOSKY: This is the forecasted with --

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1 MS. ROBESON: Yes.
2 MR. WORKOSKY: -- the build out, and we had nine
3 right turns in the evening, so that's the highest, because
4 in the morning it's only one. So, that was at the
5 northernmost intersection, at the southernmost intersection
6 the right-in/right-out we had 16 right turns there in the
7 p.m. So, fewer than --
8 MS. ROBESON: Okay.
9 MR. WORKOSKY: -- 20 rights, and again, Park and
10 Planning Staff also agreed with our assessment there to not
11 have, you know, deceleration lanes and acceleration lanes.
12 MS. LEATHAM: While we're talking about the
13 Technical Staff Report, page 10 of Exhibit 55, Staff makes
14 several recommendations, can you just respond to each of
15 those?
16 MR. WORKOSKY: Yes. So, there were three
17 recommendations, the first one was a submission of a traffic
18 signal warrant study at the intersection of Montgomery
19 Village Avenue and Meadowcroft Lane at the proposed
20 northernmost access, if a signal is warranted fund and
21 install the traffic signal. We, I mean, given the low
22 volumes that are there, and what we've forecasted with the
23 build out we don't think we would meet any of the signal
24 warrants there at that location.
25 MS. ROBESON: Well, how much do you need for, to

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1 get the warrant?
2 MR. WORKOSKY: You need quite a few, you need
3 quite a bit of volume on the side street. It's really a
4 function of the side street volume, the main line there's
5 like a bottom line threshold, but you need, you know, in
6 the, close to the hundreds for more than just one hour, and
7 we have 20 peak hour trips or so on the side street. So, I
8 don't think we would meet the warrant there for a traffic
9 signal, there wouldn't be much delay there, the CLV wouldn't
10 suggest that you have a capacity issue.
11 MS. ROBESON: And the CLV, I'm reading upside
12 down, for Montgomery Village and, is --
13 MR. WORKOSKY: Which, what intersection?
14 MS. ROBESON: Arrowhead.
15 MR. WORKOSKY: Meadowcroft?
16 MS. LEATHAM: For the area.
17 MS. ROBESON: No, no.
18 MR. WORKOSKY: The threshold?
19 MS. ROBESON: Yes.
20 MR. WORKOSKY: Is 1,425.
21 MS. ROBESON: No, I know that. I'm trying to look
22 at the northern access. Okay, that's 484, correct?
23 MR. WORKOSKY: Correct. It's four -- correct.
24 There's 484.
25 MS. ROBESON: Now, how is the traffic -- so the

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1 sight distance isn't impacted by the driveway into Duffer,
2 well, it's not a, I don't know if it's a driveway or not,
3 into Duffer Way. Wait a minute. Okay, I see what you're
4 saying. All right. Did you look at the impact on Duffer
5 Way at all? Was that --
6 MR. WORKOSKY: You mean --
7 MS. ROBESON: -- one of --
8 MR. WORKOSKY: Yes, that was one of the
9 intersections we studied. The CLV there was 520 in the
10 morning, and 497 in the evening.
11 MS. ROBESON: Okay.
12 MR. WORKOSKY: So, it's --
13 MS. ROBESON: And you don't think it needs any
14 operational, is there going to be a stop sign there, or no?
15 MR. WORKOSKY: The side street would be stopped.
16 MS. ROBESON: Which side street?
17 MR. WORKOSKY: Coming out of the site onto
18 Montgomery Village Avenue at both of the intersections to
19 the site.
20 MS. ROBESON: Okay.
21 MR. WORKOSKY: So, they would both be controlled
22 by stop signs.
23 MS. ROBESON: Okay.
24 MR. WORKOSKY: And this --
25 MS. ROBESON: And that would be the gap for the

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1 Duffer Way people, the four-way stop?
2 MR. WORKOSKY: They're just stopped on the side
3 streets, as well, on Montgomery Village Avenue. Not all
4 ways, they're just on the side streets --
5 MS. ROBESON: Right.
6 MR. WORKOSKY: -- of Duffer.
7 MS. ROBESON: Okay.
8 MR. WORKOSKY: So, it would operate similar to
9 that where they have a stop sign, they find a gap in through
10 traffic on Montgomery Village Avenue, come out.
11 MS. ROBESON: Okay.
12 MR. WORKOSKY: That was the --
13 MS. LEATHAM: Can you just repeat the number of
14 trips this generates?
15 MR. WORKOSKY: So, 84 townhouses generates 40 a.m.
16 peak hour trips, seven in the morning, 33 out; in the
17 evening during the p.m. peak hour it's 70 peak hour trips,
18 47 in, and 23 out.
19 MS. LEATHAM: And the addition of the other two
20 units would add --
21 MR. WORKOSKY: It's one or two additional peak
22 hour trips, so not significantly impact the result.
23 MS. ROBESON: Okay.
24 MR. WORKOSKY: There were two other items that
25 Staff mentioned, that was the, the first items was the

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1 traffic signal warrant study, the second was shifting the
2 right-in/right-out driveway south of Duffer as far south as
3 possible so that it would increase the distance, it would
4 maximize the distance between there and Duffer Way, which
5 the plan does that, there's a, you know, the angle at which
6 you can come into the intersection, the alignment there
7 tries to push that as far south as possible. And then Item
8 C, which is whether deceleration or acceleration lanes and a
9 left turn storage lane are necessary on Montgomery Village
10 Avenue at the two proposed curb cuts. So, as I mentioned
11 previously, we recommended a southbound left turn lane on
12 Montgomery Village Avenue at the northernmost opposite
13 Meadowcroft, but we did not recommend right turn lanes at
14 either one of the driveways.
15 MS. ROBESON: Okay.
16 MS. LEATHAM: Are there any queuing or loading
17 requirements for this kind of development?
18 MR. WORKOSKY: There are not.
19 MS. LEATHAM: Okay.
20 MS. ROBESON: Is there going to be a lot of
21 queuing and loading?
22 MR. WORKOSKY: Well --
23 MS. ROBESON: Well, not loading, but queuing?
24 MR. WORKOSKY: -- I mean, there will be some delay
25 for left turning traffic, but again, these are fairly

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1 nominal numbers that are coming out, you know, 20 peak hour
2 trips, so, you know, the real operation is the median is
3 wide there, some parts of that median allow storage for one
4 or two cars, some motorists will have a large enough gap
5 that they can drive directly out through the median and then
6 other stops sometimes in that median, that's how it works.
7 MS. ROBESON: Is there, is it -- it's not a
8 landscaped median, is it?
9 MR. WORKOSKY: It is.
10 MS. ROBESON: It is?
11 MR. WORKOSKY: It is, it's grass.
12 MS. ROBESON: Is there a cut now for Duffer Way to
13 make a left turn?
14 MR. WORKOSKY: There is. They have full movement.
15 MS. ROBESON: But not at the southern access?
16 MR. WORKOSKY: Correct, it's --
17 MS. ROBESON: You're not proposing that?
18 MR. WORKOSKY: -- it's too close, it's too close
19 to do that.
20 MS. ROBESON: Okay.
21 MS. LEATHAM: Okay. In your expert opinion does
22 the DPA meet the transportation elements of the Adequate
23 Public Facilities ordinance?
24 MR. WORKOSKY: It does. We've satisfied the
25 elements of the LATR for capacity, pedestrian access, and

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1 such.
2 MS. LEATHAM: And are the proposed internal,
3 vehicular, and pedestrian circulation systems safe,
4 adequate, and efficient?
5 MR. WORKOSKY: They are. They have adequate
6 capacity at all the entrances, and as was testified earlier,
7 they'll be designed to have elements that meet sight
8 distance requirements and such that make them safe.
9 MS. LEATHAM: And so, you actually answered my
10 other question, too, are the external access points safe,
11 adequate, and efficient?
12 MR. WORKOSKY: They are, yes.
13 MS. LEATHAM: And that's the end of our direct.
14 MS. ROBESON: Did you address TPAR, or is this not
15 subject? Is there --
16 MR. WORKOSKY: It is. It is subject to, it's 25
17 percent of the impact tax.
18 MS. ROBESON: Okay.
19 MR. WORKOSKY: I'm sorry, I should have mentioned
20 that in my --
21 MS. ROBESON: Okay. Mr. Lechner, do you have any
22 questions?
23 MR. LECHNER: Just a couple. What's the ratio
24 that you assume for a development like this, demographics or
25 market as far as cars per unit?

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1 MR. WORKOSKY: It's not a ratio, it's a rate that
2 has been developed and published by Montgomery County
3 specific for this type of land use.
4 MR. LECHNER: And how many cars would it be for 84
5 townhouses?
6 MR. WORKOSKY: Well, as I mentioned it's 40 a.m.
7 peak hour trips, so that's the in and out.
8 MR. LECHNER: How many parked cars?
9 MR. WORKOSKY: Parked cars?
10 MR. LECHNER: Yes.
11 MR. WORKOSKY: Parking is different than traffic
12 generation, so --
13 MR. LECHNER: Correct, is that your area of
14 expertise?
15 MR. WORKOSKY: Well, I didn't do the parking, I
16 think the parking was testified earlier that it meets the
17 Code requirement for parking, which I believe is two per
18 unit.
19 MR. LECHNER: Okay. But you talked about the
20 number of cars being on the road, parking there.
21 MR. WORKOSKY: Correct, not --
22 MR. LECHNER: That's why I --
23 MR. WORKOSKY: -- not, not parking.
24 MS. ROBESON: What is -- how is the trip
25 generation rate calculated? The County's trip generation

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1 rate per unit?
2 MR. WORKOSKY: It's based on similar development
3 types.
4 MS. ROBESON: Right, and what's the number? How
5 many trips per dwelling unit?
6 MR. WORKOSKY: Well, it's a formula, so it's not a
7 straight line rate, because it's based on a number of
8 studies that are plotted so that you develop a rate that is
9 not a linear formula.
10 MS. ROBESON: Well, what did you use?
11 MR. WORKOSKY: I used that.
12 MS. ROBESON: I know, but --
13 MS. LEATHAM: Are you asking for the equation?
14 MS. ROBESON: -- just tell me how you got the --
15 MR. WORKOSKY: I can tell you --
16 MS. ROBESON: Just tell me how you got to this is
17 only going to generate 40 peak hour trips.
18 MR. WORKOSKY: There are rates that are published
19 in the LATR --
20 MS. ROBESON: And what's the rate for this type of
21 use?
22 MR. WORKOSKY: For townhouses under 100 units,
23 it's .48 trips per unit.
24 MS. ROBESON: Right. So, to --
25 MR. WORKOSKY: And --

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1 MS. ROBESON: -- answer your question, that's how
2 they get, that's how they project the number of trips.
3 MR. LECHNER: Right. I was actually not asking
4 for the number of trips, I'm asking about the number of cars
5 that would be parked on the street there behind the
6 neighborhood.
7 MS. ROBESON: Okay.
8 MR. LECHNER: Because he talked about the parking
9 on the, designed to have parking on the street, do these
10 townhouses have garages? They do?
11 MS. ROBESON: Well, who can --
12 MS. LEATHAM: Well, Mr. Brady already testified
13 that they do have two-car garages, plus tandem spaces behind
14 each garage.
15 MR. LECHNER: Okay. Okay. That's very helpful,
16 thank you so much.
17 MS. LEATHAM: And the driveway.
18 MR. LECHNER: I was worried about 160 cars on the
19 street.
20 MS. ROBESON: Oh, I didn't hear the tandem spaces.
21 They have two --
22 MS. LEATHAM: Would you like, we can bring him
23 back?
24 MS. ROBESON: Yes.
25 MS. LEATHAM: Okay.

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1 MS. ROBESON: Are you --
2 MS. LEATHAM: Actually, we're going to, yes, we'll
3 bring him back.
4 MS. ROBESON: Okay.
5 MR. LECHNER: That was all question-wise I had,
6 thank you.
7 MS. ROBESON: All right. Ms. Leatham? You may be
8 excused.
9 MS. LEATHAM: Do you want to bring Mr. Brady back
10 just --
11 MS. ROBESON: Sure.
12 MS. LEATHAM: -- to speak to parking?
13 MS. ROBESON: And then how many more witnesses?
14 MS. LEATHAM: Just one, and it will be very short.
15 MS. ROBESON: Okay.
16 MS. LEATHAM: All right. Identify yourself for
17 the record.
18 MR. BRADY: Laurence J. Brady.
19 MS. ROBESON: Mr. Brady, you're still under oath.
20 MR. BRADY: Yes, I understand.
21 MS. LEATHAM: Can you describe the parking plan
22 for the DPA?
23 MR. BRADY: Do you want me to walk through a
24 diagram or just explain it?
25 MS. LEATHAM: You just --

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1 MR. BRADY: Okay. Each unit is typically either,
 2 the majority of units are parked in the rear with access via
 3 a lane that runs behind the units. Each unit will have
 4 integral parking, meaning there's a garage built into the
 5 unit, behind the garage is an apron that meets the 18-foot
 6 requirement for parking, so those are the tandem spaces, so
 7 each unit in theory could park four cars on its lot. We're
 8 only required to park two per unit. We've also provided
 9 approximately 35 additional parking spaces on the street as
 10 parallel spaces, partially as a traffic calming feature, it
 11 was also described, and also to provide easy access for
 12 visitor parking, it doesn't require searching out the tandem
 13 spaces behind.

14 MS. ROBESON: I have one question while you're up
 15 here.

16 MR. BRADY: Sure.

17 MS. ROBESON: I should have, well, I guess it
 18 would be you. Are you proposing a binding element as to
 19 height of these?

20 MS. LEATHAM: We are not proposing any binding
 21 elements.

22 MR. BRADY: The architecture has not really been
 23 designed at this stage in the process, we are just proposing
 24 a general massing.

25 MS. ROBESON: I understand. But a lot of times on

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1 development plans people will come through and put a height
 2 limit, so for compatibility purposes.

3 MS. LEATHAM: The Petitioner is willing to propose
 4 a binding element on the height.

5 MS. ROBESON: Okay. All right.

6 MS. LEATHAM: The --

7 MS. ROBESON: Well --

8 MS. LEATHAM: Okay.

9 MS. ROBESON: -- do you need Mr. Brady to do it?
 10 Keep that thought, and --

11 MS. LEATHAM: Okay.

12 MS. ROBESON: -- should I excuse him as a witness?

13 MS. LEATHAM: Yes.

14 MS. ROBESON: Okay. Thank you.

15 MS. LEATHAM: We can, I was planning to recall a
 16 couple of witnesses, we can deal with the binding element
 17 then, or we can do it --

18 MS. ROBESON: Why don't we do it then, because
 19 I'd --

20 MS. LEATHAM: Okay.

21 MS. ROBESON: -- like to get through --

22 MS. LEATHAM: Yes.

23 MS. ROBESON: -- Mr. Lechner --

24 MS. LEATHAM: Okay. So, let me call --

25 MS. ROBESON: -- here.

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1 MS. LEATHAM: -- our final witness, Bob Hydorn.
 2 MS. ROBESON: Please raise your right hand.
 3 (Witness sworn.)
 4 MS. ROBESON: Okay, go ahead, Ms. Leatham.
 5 MS. LEATHAM: Okay. Can you state your name and
 6 address for the record?
 7 MR. HYDORN: Robert Hydorn, and actually, I have
 8 two addresses, 1376 Rhododendron Drive, Terra Alta, West
 9 Virginia --

10 MS. ROBESON: Terra Alta?

11 MR. HYDORN: Yes, Alpine Lake Resort.

12 MS. ROBESON: I grew up on Deep Creek. Okay, well
 13 we'll stop this --

14 MR. HYDORN: Oh, next door. We're the calm lake.

15 MS. ROBESON: Yes.

16 MR. HYDORN: We're not the motorboat lake.

17 MS. ROBESON: I know.

18 MR. HYDORN: We'll chat later.

19 MS. ROBESON: Yes. Obviously. Go ahead.

20 MR. HYDORN: And 90 -- what?

21 MS. ROBESON: Can you spell your name, sir?

22 MR. HYDORN: H-Y-D-O-R-N. And also 9401 Chatteroy
 23 Place, Montgomery Village.

24 MS. ROBESON: Okay.

25 MS. LEATHAM: Okay. How long have you lived in

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1 Montgomery Village, and what has been your role in the
 2 community?

3 MR. HYDORN: Thirty years as a resident of
 4 Montgomery Village. I have been very active in the
 5 community from the PTA structures, cluster coordinator,
 6 Montgomery Village Foundation Board of Directors, of which
 7 my term, ninth year ended this last March, of which seven of
 8 those nine years I served as President of the Village.

9 MS. ROBESON: Okay.

10 MS. LEATHAM: Are you familiar with the proposed
 11 DPA?

12 MR. HYDORN: Yes, very. In fact, watching it
 13 through the entire process the openness of the process from
 14 the, the Applicant has, Monument has gone through this last
 15 several years now, getting the input, I was very concerned,
 16 my home is right, is the closest to the ingress/egress going
 17 onto Arrowhead Road, and I'm very supportive of this
 18 project. Once the golf course closed we don't need in my
 19 mind another situation like there is over in Prince George's
 20 County of a golf course that closed and it's just boarded up
 21 in a very high end neighborhood.

22 MS. LEATHAM: So, you heard testimony already
 23 about some of the other development plan amendments, and the
 24 master plan in vision 2030, how do you relate all those
 25 together, and how does this DPA relate to those?

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1 MR. HYDORN: As I look at the 2030 plan of the
2 Village, which has started under my presidency, my term on
3 the Foundation Board, the residents when it came down to the
4 idea that possibly the golf course would close, and it
5 seemed rather inevitable that it was going to, you know, you
6 can only lose money so long, it needed to be developed, that
7 would be the next phase in our community is to have the golf
8 course built on.
9 MS. LEATHAM: And what is your sense of the rest
10 of the community's opinion about this?
11 MS. ROBESON: Well --
12 MR. HYDORN: My sense --
13 MS. ROBESON: -- you know, I don't want to go
14 there.
15 MS. LEATHAM: Okay.
16 MR. HYDORN: Okay.
17 MS. ROBESON: I've got a lot either way in the
18 file. I don't want hearsay evidence about his sense of it.
19 Please. Why don't you ask your next question?
20 MS. LEATHAM: Okay. This is the last, our last
21 question.
22 MS. ROBESON: Okay.
23 MS. LEATHAM: You already explained how involved
24 you've been in the community --
25 MR. HYDORN: Yes.

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1 MS. LEATHAM: -- and with the, have you been also,
2 have you also been engaged with the planners and the County
3 government as Montgomery Village has evolved?
4 MR. HYDORN: Yes. Especially several years ago
5 when there was another proposal for this golf course, a
6 senior living, that the developer came in and really --
7 MS. LEATHAM: Well --
8 MR. HYDORN: You don't want --
9 MS. LEATHAM: -- that doesn't matter. But how,
10 when you were speaking to the government planners about that
11 particular redevelopment plan what did they say about the
12 Master Plan?
13 MR. HYDORN: Of course, the biggest --
14 MS. ROBESON: Well, wait. Okay. Do you really
15 need this, because it's all hearsay.
16 MS. LEATHAM: He was involved, so he can tell you
17 how they were interpreting it at the time.
18 MS. ROBESON: You can let it in, but I'm not, I'll
19 be honest with you, I've heard many -- I'm not saying you're
20 wrong, or you didn't hear it, I'm just saying I heard many
21 government officials quoted in absentia, but go ahead and
22 you can testify to it.
23 MS. LEATHAM: Let me rephrase the question. How
24 was that development plan -- hold on, give me a minute. How
25 did various parties respond to that proposal?

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1 MR. HYDORN: The community including Park and
2 Planning seemed very upset, because it was just being, that
3 previous one was just being dumped on us without input, very
4 little input if there was any, and that not only disturbed
5 us, but in the same meetings the people from Park and
6 Planning who were sitting at the same table next to me were
7 as, seemed as I don't want to say irritated, as upset in the
8 lack of care and concern of the community.
9 MS. ROBESON: Okay.
10 MS. LEATHAM: Okay.
11 MS. ROBESON: For what it's worth.
12 MS. LEATHAM: For what it's worth.
13 MR. HYDORN: For what it's worth.
14 MS. LEATHAM: End of direct.
15 MS. ROBESON: Okay. Mr. Lechner?
16 MR. LECHNER: Bob, could you tell us a little bit,
17 say before 2005, going back 10, 15 years ago, comparing the
18 condition of the golf course property and the inside, I
19 mean, there were some meetings there occasionally, if I
20 recall, the Board would do a Christmas party or things
21 there, did the facilities seem to be in better healthier
22 shape 10, 15 years ago?
23 MS. LEATHAM: I don't think -- I object for
24 relevance. He hasn't testified with respect to the golf
25 course at all.

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1 MS. ROBESON: Yes, I do --
2 MR. LECHNER: Okay.
3 MS. ROBESON: -- agree.
4 MR. LECHNER: Okay, that's fine. Did the, did Mr.
5 Doser ever complain about the business position of the golf
6 course over the last 10 years?
7 MS. LEATHAM: I don't know that -- I object, I
8 don't think he, Mr. Hydorn testified to anything.
9 MS. ROBESON: Where are you going --
10 MR. LECHNER: Okay.
11 MS. ROBESON: -- with this?
12 MR. LECHNER: Well, Bob, I know Bob as the
13 President of the Foundation had close interactions at least
14 on occasion with Mr. Doser, Mr. Doser brought in discussions
15 now that is part of the vision 2030 process, he testified at
16 one point in front of the Board about the health and
17 condition of the golf course, things he wanted to do with
18 it, and the issues they were having from a business
19 perspective over the last 10 years.
20 MS. ROBESON: Well, if you know of them from your
21 personal knowledge then you can testify to that when your
22 time comes. He didn't -- well, I stopped him from
23 testifying as far as prior ownership and proposals --
24 MR. LECHNER: Okay.
25 MS. ROBESON: -- so --

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1 MR. LECHNER: Okay. Okay, that's fine then. No
2 other questions.
3 MS. ROBESON: All right. You may be excused.
4 Thank you.
5 MR. HYDORN: Thanks.
6 MS. ROBESON: Okay, any other witnesses, Ms.
7 Leatham?
8 MS. LEATHAM: Not for our case-in-chief, but we'll
9 call, recall witnesses.
10 MS. ROBESON: Well, recalling witnesses is only,
11 can be only responsive to what he says. Rebuttal is only
12 responsive to the points he makes, so if you have somebody
13 that you need to put in your case-in-chief --
14 MS. LEATHAM: All right. Yes, then I recall Mr.
15 Hines to speak to the potential binding outline.
16 MS. ROBESON: Okay. Mr. Hines, do you want to --
17 you're still under oath.
18 MR. HINES: Understood.
19 MS. LEATHAM: Would you agree to a binding element
20 to limit the height of the future buildings?
21 MR. HINES: Yes, we would.
22 MS. LEATHAM: Consistent with what is in the plan
23 in 40D, which is the development plan?
24 MR. HINES: Is that the 40-foot height?
25 MS. LEATHAM: Forty foot overall, right.

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1 MR. HINES: Yes.
2 MS. ROBESON: Okay. And you're going to -- if you
3 -- that's got to be placed on the development plan, and
4 you're going to have, it would be helpful if you can tell
5 me, I'm assuming that's 35 feet to the midpoint, and plus,
6 I'm assuming the 40 feet --
7 MS. LEATHAM: Is the 35 --
8 MS. ROBESON: -- to the tip?
9 MS. LEATHAM: -- to the midpoint, yes.
10 MS. ROBESON: Okay. Then if you would kindly, I
11 would like you to submit that. I'll keep the record open
12 for you to submit a binding element, an amended development
13 plan to include it, if you could just specify the
14 measurements that you're referring to --
15 MS. LEATHAM: Sure.
16 MS. ROBESON: -- all right? Thank you.
17 MS. LEATHAM: All right. Well, I'm going to go
18 ahead and ask Mr. Hines another question since I have him
19 here, which is responsive to the testimony we've heard not
20 from Mr. Lechner, necessary, but from the other speakers.
21 MS. ROBESON: Okay, that's rebuttal, so let's give
22 Mr. --
23 MS. LEATHAM: Okay.
24 MS. ROBESON: That is truly rebuttal.
25 MS. LEATHAM: Okay. Then we'll come back.

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1 MS. ROBESON: Let's get Mr. Lechner on then, and
2 you're welcome to stay at the table if you would like. And
3 Mr. Lechner, you have been patient.
4 MR. LECHNER: Here is a transcript of my comments.
5 Unfortunately, I only brought enough for Ms. Leatham and
6 yourself.
7 MS. LEATHAM: We can share.
8 MS. ROBESON: Okay. I guess I'll mark it as an
9 exhibit, I really don't have any other way to consider
10 things.
11 MR. LECHNER: Of course. Sure.
12 MS. ROBESON: So, we are at, I think we're up to
13 the 120 mark, 121, and this will be a statement by David
14 Lechner.
15 (Exhibit No. 121 was marked
16 for identification.)
17 MS. LEATHAM: What's the attachment?
18 MR. LECHNER: I didn't -- the attachment is the
19 pages out of here, and out of the E-848, it's the town
20 sector ordinance, the zoning ordinance, that's the one that
21 we were, you were talking about.
22 MS. ROBESON: Wait, what is the attachment?
23 MR. LECHNER: So, I'll talk about it in just a
24 minute.
25 MS. ROBESON: Okay, let's do this, you start with

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1 your statement --
2 MR. LECHNER: Uh-huh.
3 MS. ROBESON: -- and then when you hit an
4 attachment --
5 MR. LECHNER: Yes.
6 MS. ROBESON: -- stop, and say you'd like to
7 introduce it as an exhibit, and then we'll talk about it,
8 okay? Whether it should be introduced or not.
9 MR. LECHNER: Okay.
10 MS. ROBESON: Okay. So, you go on, you start with
11 your statement.
12 MR. LECHNER: Do I need to swear anything first?
13 MS. ROBESON: For the record, he's raising his
14 right hand already.
15 (Witness sworn.)
16 MS. ROBESON: Okay.
17 MR. LECHNER: Okay.
18 MS. ROBESON: Please state your name, I think you
19 already gave your address, correct?
20 MR. LECHNER: I did. David A. Lechner, L-E-C-H-N-
21 E-R. Okay. So, good afternoon at this point, and thank you
22 again. I'll try and keep my comments brief, describe my
23 rationale for providing the attached exhibits which have
24 been provided separately this morning, which I believe will
25 be of great use to the Examiner in making a ruling on this

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1 application. I'm also providing only specific portions of
2 the exhibits, as some of them were hundreds of pages long
3 and are all easily accessed by either the Examiner or the
4 Applicant at the microfilm archive of the Maryland National
5 Capital Park and Planning Commission offices. I have tried
6 to capture the full context of each section that I am
7 providing or using so that it's not just an isolated
8 sentence, and that's in the attachments.
9 In addition to my statement I'm including a
10 summary of notes taken from DPA E-327 and DPA E-848, that
11 reference the golf course and provide material relevant to
12 my statement as backup.
13 MS. LEATHAM: I'm sorry, can I interrupt for just
14 a minute?
15 MR. LECHNER: Sure.
16 MS. LEATHAM: The relevant Code section for the
17 town sector zone is 59C -- now I've lost my place.
18 MR. LECHNER: Yes, that's down in the fourth or
19 fifth paragraph.
20 MS. LEATHAM: So, what's the 104-19A?
21 MR. LECHNER: That's how it was marked in the
22 microfilm, and in the County Council.
23 MS. ROBESON: Oh, I know what this is, this is the
24 19 --
25 MR. LECHNER: Sixty-five.

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1 MS. ROBESON: Yes, I can't remember. This is the
2 town center zone as it existed in, I'm not sure exactly what
3 year, or --
4 MS. LEATHAM: Oh, so that's what the attachment
5 is?
6 MR. LECHNER: Yes.
7 MS. LEATHAM: This is the old --
8 MS. ROBESON: Yes, and before we just start I'm
9 going to mark this, because mine is separated, I'm just
10 going to mark it as 122.
11 (Exhibit No. 122 was marked
12 for identification.)
13 MS. ROBESON: And do you know exactly -- let's see
14 --
15 MR. LECHNER: So --
16 MS. ROBESON: This is an amendment to the 1958
17 Montgomery County Zoning Ordinance. No, to the 1960
18 Montgomery County Code.
19 MR. LECHNER: Right.
20 MS. LEATHAM: I don't have any objection to
21 letting it in, I just don't see the relevance since we're
22 dealing with the 2004 zoning, text --
23 MS. ROBESON: Well --
24 MS. LEATHAM: -- of the zoning code.
25 MS. ROBESON: -- Mr. Lechner, I'm going to let you

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1 proceed and explain the relevance, and then you have the
2 right, Ms. Leatham, to renew your objection if you don't
3 feel like he's getting there, okay? Go ahead, Mr. Lechner.
4 MR. LECHNER: Thank you. As background, I've
5 lived in Montgomery Village for 22 years, I do not live on,
6 directly on the property bordering the Montgomery Village
7 Golf Club, I do drive past it every day, and sometimes walk
8 my dogs along the borders. I greatly enjoy the scenic
9 nature of the open space vistas it provides my community.
10 As further information just as general background,
11 I have Bachelor of Science degrees in both electrical
12 engineering and engineering public policy, as well as a
13 Master of Science degrees in engineering management, Master
14 of Science degrees in computational physics. I'm opposed to
15 the Applicant's proposal, proposed project to develop
16 housing on the fairway portions of the golf club for many
17 reason, which I will discuss.
18 Although the Applicant focused on what they want
19 to do with the property today, I have been spending time
20 researching how the property was developed in '65 and '67
21 because I thought it might help the Examiner, the Planning
22 Board, and the Council realize the significance of the town
23 sector zone, the use of covenants in the '67 to '80 time
24 frame, and in particular Montgomery Village's development
25 under the town sector code.

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1 The first enclosure I provide is a copy of the
2 Montgomery County Code Section 104-19A, the one we were just
3 discussing.
4 MS. ROBESON: And that is --
5 MR. LECHNER: 122.
6 MS. ROBESON: -- Exhibit 122.
7 MR. LECHNER: Exhibit 122. Yes. This was copied
8 from a hearing file case E-848, although I actually made
9 this copy from the actual copy of the book I had because it
10 reproduced clearer, there's actually two or three copies of
11 the Code in 848, though, in the backup in exhibits, and I
12 looked at the words to the best I could, it seemed like the
13 same Code. If anyone can say otherwise I'd be happy to look
14 at it again, or take advisement, but --
15 MS. ROBESON: Well, I have, our office --
16 MR. LECHNER: You all have that.
17 MS. ROBESON: -- has this Code.
18 MR. LECHNER: Right.
19 MS. ROBESON: So, if there's any difference --
20 MR. LECHNER: So, you'll know it.
21 MS. ROBESON: -- I can take official notice.
22 MR. LECHNER: Document it. Yes. So, at one point
23 it states amongst the text -- oh, this was copied, it's also
24 included in that backup was the Maryland National Capital
25 Park and Planning Staff markup of the draft of the text as a

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1 memo that they helped author, and one page I've provided in
2 the exhibit is their internal memo saying this is being
3 routed, we've been asked to produce this text.
4 MS. ROBESON: Wait, what exhibit now? Is this a
5 different exhibit?
6 MR. LECHNER: That was in one of the, it's one of
7 these pages this morning, and this is where the lack of page
8 numbers really starts to hit us because the way the e-mail,
9 the way, apparently the way I was doing the microfilm I was
10 cutting off all the page numbers at the bottom. But it's
11 the one that's entitled memo, Planning Commission Staff,
12 June 30, 1964.
13 MS. ROBESON: Well, let's -- then I have to
14 take -- if you're going to talk about it I have to take it
15 in as a separate exhibit.
16 MR. LECHNER: I can find it as we talk and then
17 put different numbers. So --
18 MS. ROBESON: Okay.
19 MR. LECHNER: -- this would be 123, if that's all
20 right?
21 MS. LEATHAM: I'm having a hard time following. I
22 know, I see what the page --
23 MR. LECHNER: It will get worse.
24 MS. LEATHAM: I see the page, but I don't know
25 that the page goes with what you've said it goes to.

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1 MS. ROBESON: Let's do this, can we, can you -- do
2 you think you can put this together in like five minutes,
3 the --
4 MR. LECHNER: Like in order, which ones are which?
5 MS. ROBESON: Exactly.
6 MR. LECHNER: Uh-huh. Yes.
7 MS. ROBESON: Okay. Let's take a -- I think it
8 will go more smoothly, and I think it will be easier to
9 understand what you're saying if we can get the --
10 MR. LECHNER: Sure.
11 MS. ROBESON: -- exhibits in order. Okay. So,
12 try that, we'll go off the record for five minutes.
13 (OFF THE RECORD.)
14 (ON THE RECORD.)
15 MS. ROBESON: Well, why don't you proceed through
16 your testimony, and we'll see how far we can get, is that
17 acceptable to you, Ms. Leatham?
18 MS. LEATHAM: There are some items in the e-mail
19 in what we received this morning that I do object to, but
20 those are not elements that are already in the record, so I
21 can object now or I can wait until it comes up.
22 MS. ROBESON: Well, let's go through them and then
23 you can tell me. Mr. Lechner, just be prepared, don't keep
24 reading when she objects, okay?
25 MR. LECHNER: I will pause. Uh-huh.

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1 MS. ROBESON: Okay. Keep going.
2 MR. LECHNER: Okay. So, again, the first one was
3 the copy of the Montgomery County Code, Section 104-19
4 alpha, the early version I understand now of the town sector
5 zone. This was copied from the hearing file of E-848, also
6 included the Staff markup, and I'm putting that as 122 and
7 123, and I've got those both right here.
8 MS. ROBESON: Okay. I don't have the Staff
9 markup. Do you have a complete copy of the Staff markup?
10 MR. LECHNER: I do, but I was really just going to
11 submit this, the one page because it just identifies that
12 Staff wrote the text.
13 MS. ROBESON: Oh, okay. Did you --
14 MR. LECHNER: That's all.
15 MS. ROBESON: -- show this to --
16 MS. LEATHAM: Yes, I have it.
17 MR. LECHNER: Yes.
18 MS. ROBESON: Okay. I'll take this in as 123,
19 which is 6-30-64 memo to the Planning Commission.
20 (Exhibit No. 123 was marked
21 for identification.)
22 MS. ROBESON: Okay. Keep going, Mr. Lechner.
23 MR. LECHNER: Under paragraph two of Section 104,
24 procedures for approval of a preliminary plan states that
25 the proposed plan shall be accompanied by restrictions,

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1 agreements, or other documents indicating in detail the
2 manner in which any land intended for common or quasi-public
3 use, but not proposed to be in public ownership will be
4 held, owned, and maintained in perpetuity for the intended
5 purpose.
6 MS. ROBESON: Now, you're reading from 122?
7 MR. LECHNER: From 122, yes.
8 MS. ROBESON: Okay.
9 MR. LECHNER: Paragraph two, procedures for
10 approval.
11 MS. ROBESON: Okay.
12 MR. LECHNER: It also states that the Planning
13 Board shall examine the proposed preliminary plan in order
14 to determine whether A) proposed plan is consistent with the
15 town sector plan; B) in the opinion of the Planning Board
16 the arrangements for the ownership and maintenance of the
17 common land are workable and will result in the permanent
18 preservation of such land for its intended use and free of
19 nuisances. That's paragraph A and B.
20 MS. ROBESON: Okay.
21 MR. LECHNER: Okay. The same hearing record
22 contains the following Maryland National Capital Park and
23 Planning Commission staffing recommendation regarding DPA E-
24 848, that the Commission recommends to the District Council
25 that application 848 be approved with the following

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1 amendments, and then there were several technical issues
 2 which I don't feel were germane, but then it states in the
 3 opinion of the Board the proposed rezoning is compatible
 4 with the surrounding area, and therefore fulfills the
 5 requirements of the town sector zone. So, my conclusion in
 6 1968 after drafting a plan for staffing town sector zone
 7 projects, the Park and Planning Commission certified that
 8 848 was in compliance with 104-19 alpha, and thus my simple
 9 conclusion was that the golf club and other open spaces in
 10 the Village were at that point adequately protected in
 11 perpetuity. I don't know how, I'm just drawing a
 12 conclusion.
 13 MS. ROBESON: And that's the resolution approving
 14 E-848, the --
 15 MR. LECHNER: Yes.
 16 MS. ROBESON: -- Council resolution?
 17 MR. LECHNER: That was the Planning Board Staff
 18 recommendation to Council.
 19 MS. ROBESON: Okay.
 20 MR. LECHNER: I also reviewed at length the
 21 original development plan application E-327, the original
 22 proposal to develop Montgomery Village. It's clear from
 23 that DPA that the golf club was a part of the 557 acres of
 24 open space set aside as publicly owned or devoted to
 25 community uses, because under Exhibit 23 it says that open

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1 space will consist of generally the following acreage and
 2 quantities, Item No. 3 being golf course of standard 18-hole
 3 design, 135 acres at that point in time.
 4 MS. ROBESON: And what are you reading from now?
 5 MR. LECHNER: Exhibit 22.
 6 MS. ROBESON: The Council --
 7 MR. LECHNER: This is the County Council
 8 development plan. And I have that here, exhibit, I put that
 9 125.
 10 MS. ROBESON: I think it's 124.
 11 MR. LECHNER: Oh, could be.
 12 MS. LEATHAM: What is this?
 13 MR. LECHNER: That was the one that has the 22 and
 14 just right by the map.
 15 MS. LEATHAM: Well, what are the other pages,
 16 though?
 17 MR. LECHNER: That's the map go over there.
 18 MS. LEATHAM: What's the third page?
 19 MR. LECHNER: So, the third page --
 20 MS. ROBESON: Why don't you go over and show her
 21 the pages so you can --
 22 MR. LECHNER: I'm sorry. Maybe just to get them
 23 straight away. This is a disaster. And this one, which was
 24 the testimony by Mr. Kettler.
 25 MS. LEATHAM: Are these all from the same

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1 document?
 2 MR. LECHNER: The two DPAs.
 3 MS. ROBESON: I thought I had it on do not
 4 disturb.
 5 MS. LEATHAM: I'm glad you can't hear mine from
 6 all the way over there.
 7 MS. ROBESON: I do have it on do not disturb.
 8 MS. LEATHAM: I don't have that.
 9 MR. LECHNER: That might not have been -- okay.
 10 Watch, I'll just leave that one out. We'll just use --
 11 MS. ROBESON: No, no, no. Slow down. Just slow
 12 down for a moment. Let me get my phone on, it is on do not
 13 disturb. I don't know.
 14 MR. LECHNER: Let's handle this one separately so
 15 we can just --
 16 MS. ROBESON: Okay.
 17 MR. LECHNER: -- dispense with this one.
 18 MS. ROBESON: Slow down one second. So, I need to
 19 understand what you're doing. What is this from?
 20 MR. LECHNER: Those are two pages from the
 21 proposal provided to County Council July 28th, 1965.
 22 MS. LEATHAM: This was part of the application?
 23 MS. ROBESON: For which application, E-327?
 24 MR. LECHNER: 327.
 25 MS. ROBESON: Okay. What happened to 124?

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1 MR. LECHNER: 124?
 2 MS. ROBESON: Is there a 124? I don't have a --
 3 MR. LECHNER: Oh.
 4 MS. LEATHAM: I don't have a 120 -- I just have
 5 123 as the June 30th, '64 memo to the Planning Commission.
 6 I don't have anything after that.
 7 MR. LECHNER: So, I have a page actually here for
 8 124 from the earlier part that I read, but I skipped over
 9 that.
 10 MS. ROBESON: Okay, don't --
 11 MR. LECHNER: This was to be --
 12 MS. ROBESON: -- don't skip, don't --
 13 MR. LECHNER: Okay.
 14 MS. ROBESON: -- don't skip. Okay. So, let's --
 15 what were you --
 16 MS. LEATHAM: Yes, I --
 17 MS. ROBESON: -- going to give us as 124?
 18 MR. LECHNER: This is a page from, back at, let's
 19 see which one this was, again, 848's approval, this is, is
 20 that page, it talks about the sentence that I read aloud,
 21 and I can show it to Ms. Leatham.
 22 MS. ROBESON: Okay. This is what I would like you
 23 to do, I'm not going to, this is a page from the Planning
 24 Board's recommendation to approve, correct? I'm going to
 25 take official notice if I can find the original document of

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1 the whole document.
2 MR. LECHNER: Okay.
3 MS. ROBESON: But we will let this single page in
4 unless Ms. Leatham, make she knows --
5 MS. LEATHAM: Can I see that? I don't know if
6 I've seen that.
7 MS. ROBESON: -- which page it is. And that was
8 E-848? Or was that the -- one --
9 MR. LECHNER: That's 848.
10 MS. ROBESON: Okay.
11 MS. LEATHAM: Wait a sec. I'm sorry. So, 124 is
12 this single page?
13 MR. LECHNER: Right.
14 MS. ROBESON: It's excerpt from Planning Board
15 recommendation.
16 (Exhibit No. 124 was marked
17 for identification.)
18 MR. LECHNER: Again, I have like 250 pages from
19 the microfilm and I didn't want to bring it all.
20 MS. LEATHAM: This is E-848, right?
21 MR. LECHNER: That's from 848.
22 MS. ROBESON: Okay.
23 MS. LEATHAM: Okay. Thank you.
24 MS. ROBESON: Okay. So, then -- don't go yet.
25 Bring that back here. Let's go to 125, what is 125? Which

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1 is this.
2 MR. LECHNER: Yes, those are two pages out of the
3 development plan for 327, original, July 28th, 1965 to the
4 County Council, and --
5 MS. LEATHAM: This is the application, correct?
6 MR. LECHNER: Okay. This was also in the hearing
7 record of 848 way back in the back, but for clarity of
8 scanning purposes I found the same text here, so I took that
9 and I don't want to say that it was, because this text as
10 Ms. Leatham pointed out it's a different font, it's much
11 clearer, that's right, because I have the book, so I took
12 the actual --
13 MS. ROBESON: So, this is from the application for
14 which --
15 MS. LEATHAM: Well, I'm --
16 MR. LECHNER: Montgomery Village.
17 MS. LEATHAM: From, it's from that book?
18 MR. LECHNER: Uh-huh.
19 MS. LEATHAM: Which --
20 MS. ROBESON: Why don't we just, can we take the
21 book, or is that a public record?
22 MR. LECHNER: Can I get it back?
23 MS. ROBESON: Huh?
24 MR. LECHNER: Can I get it back someday?
25 MS. ROBESON: Well, where did you get the book?

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1 MR. LECHNER: I got it from a friend of mine that
2 worked in the Kettler Corporation for 30 years. This is
3 Clarence Kettler's copy of the Montgomery Village plan.
4 MS. ROBESON: Okay. All right. Well, so --
5 MR. LECHNER: But it's all in 848.
6 MS. ROBESON: Okay, so --
7 MR. LECHNER: All in here in the public record.
8 MS. ROBESON: Okay. Okay. All right.
9 MS. LEATHAM: Wait, 848 or 327?
10 MR. LECHNER: I'm sorry, 327.
11 MS. LEATHAM: 327?
12 MR. LECHNER: Now, I got me mixed up, too.
13 MS. ROBESON: Okay. Is this from E-327 or --
14 MR. LECHNER: Yes.
15 MS. ROBESON: -- E-848?
16 MR. LECHNER: 327.
17 MS. ROBESON: So, 125 is an excerpt --
18 MR. LECHNER: From the record of 848 -- I'm sorry,
19 no, 125 is an excerpt from the two pages, Exhibit 22, on the
20 plan for E-327.
21 (Exhibit No. 125 was marked
22 for identification.)
23 MS. ROBESON: For Application from E --
24 MR. LECHNER: Yes.
25 MS. ROBESON: Okay.

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1 MR. LECHNER: I'm sorry, you all have the right
2 word, terminology here.
3 MS. ROBESON: Okay. Keep going.
4 MR. LECHNER: Okay. So, this page to quote from
5 the text there that it states it is our plan the open space
6 may best be developed by retaining substantial areas in
7 private ownership, that the open space may best be developed
8 by substantial area, oh, I'm sorry, I read that, through
9 private clubs, one, landlords of apartments and commercial
10 spaces, and three, now I might have mistyped that, let me
11 just see if I have that as two, a carefully planned
12 automatic homes association. I apologize, in my retyping I
13 might have missed a word here. Oh, two is landlords and
14 apartments and commercial; and then three was through a
15 carefully planned automatic homes associations programs.
16 This will permit the orderly scheduling and development of
17 the two lakes, the 18-hole golf course, and other facilities
18 as required. This is a list of the, it goes on to say a
19 list of the recreational and cultural facilities is included
20 in the appendix of the booklet.
21 MS. ROBESON: Okay.
22 MR. LECHNER: Okay.
23 MS. ROBESON: And in the appendix what does it
24 list?
25 MR. LECHNER: A lot of things.

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1 MS. ROBESON: Okay. Don't list them. Just does
2 it list the golf course?
3 MR. LECHNER: It does list the golf course. It
4 lists, let me just see here, schools, active racquetball
5 club, a riding trail academy, a boat club, swimming pools,
6 tennis courts.
7 MS. ROBESON: No, just it lists the golf course?
8 MR. LECHNER: Golf club. Ultimately to include a
9 pool, pro shop, bar --
10 MS. ROBESON: Okay.
11 MR. LECHNER: -- and restaurant, one 18-hole
12 regulation course --
13 MS. ROBESON: Okay.
14 MR. LECHNER: -- built by Kettlers, owned by
15 Kettlers to sell to private memberships in the future,
16 maintained by the owners, open to members 100 percent. Just
17 to note, the swimming pools are also identified as open to
18 members 100 percent.
19 MS. LEATHAM: Can this --
20 MR. LECHNER: Same with tennis courts.
21 MS. LEATHAM: I don't know if this document is in
22 the public record or not?
23 MS. ROBESON: Now, that's what -- if we -- okay,
24 this is what I'll do, this needs to be in the public record.
25 MR. LECHNER: Uh-huh.

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1 MS. ROBESON: If you want it copied we can copy it
2 downstairs, but I think it's better to have it come in as an
3 exhibit, I'll give you the original back.
4 MR. LECHNER: That will be fine.
5 MS. ROBESON: And then, so instead of 125 being
6 this excerpt, what is that document called?
7 MR. LECHNER: Montgomery Village, Gaithersburg,
8 Montgomery County, Maryland. Montgomery County Council
9 Hearing.
10 MS. ROBESON: Let me see it. How many more of
11 these do you have?
12 MR. LECHNER: Just one of those.
13 MS. ROBESON: No, no, how many more exhibits?
14 MR. LECHNER: Individual exhibits, like scattered
15 from the hearing records, there's one more section from 848
16 where there's a couple of different pages, and then one
17 other section too that talks about the economic benefits.
18 MS. ROBESON: Okay, this is -- okay. This is his,
19 this is someone, I guess Clarence Kettler -- come here, Ms.
20 Leatham.
21 MS. LEATHAM: Yes, if we can make things easier,
22 we'll stipulate that there is a golf course in the original
23 proceeding. We don't need --
24 MS. ROBESON: Well, I don't know what that means.
25 There is a golf course. I tell you what, I'm going to mark

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1 that for marking purposes only. Where did you get that, Mr.
2 Lechner?
3 MR. LECHNER: It was provided to me by Mr. George
4 Ahben (phonetic sp.), who was one of the chief engineers and
5 project managers for the Kettler Corporation.
6 MS. ROBESON: Okay. I'm just going to mark it for
7 the time-being Count Council testimony for E-327.
8 MS. LEATHAM: Okay.
9 MS. ROBESON: Yes, you can take me there.
10 MR. LECHNER: The significance --
11 MS. ROBESON: Not yet.
12 MR. LECHNER: Okay.
13 MS. LEATHAM: Give me two minutes.
14 MR. LECHNER: Sure.
15 MS. ROBESON: Okay. How many more documents are
16 you going to refer to?
17 MR. LECHNER: Seven.
18 MS. ROBESON: Seven?
19 MR. LECHNER: Hold on. Seven plus all three of
20 the DPAs that Ms. Leatham provided already as a record, so
21 02-2 --
22 MS. ROBESON: Okay, those are already in the
23 record.
24 MR. LECHNER: Yes.
25 MS. ROBESON: And okay, tell me the documents.

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1 MR. LECHNER: Two of them are we'll say random
2 pages from the hearing record of 848.
3 MS. ROBESON: And when you say hearing record what
4 is that?
5 MR. LECHNER: It's the, it was on the microfilm
6 for case 848, and it's the testimony and the exhibits
7 basically that went along with that development plan --
8 MS. ROBESON: And do you know --
9 MR. LECHNER: -- application.
10 MS. ROBESON: -- exactly which documents they came
11 from?
12 MR. LECHNER: No.
13 MS. ROBESON: Okay. And that's one, where's the
14 others?
15 MR. LECHNER: In one case I do. The other is a
16 letter provided to the Maryland State Attorney General's
17 Office.
18 MS. LEATHAM: I'm objecting to that as irrelevant.
19 MS. ROBESON: And what's the relevance of that,
20 Mr. Lechner?
21 MR. LECHNER: Not being a legal expert I asked
22 through my delegate, State Delegate if there was a way to
23 get clarity on what constitutes a real covenant in the State
24 of Maryland as far as documentation, and they provided a
25 response with a lengthy definition of terms, and clarity as

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1 well as to the requirements are not for recording of such
2 documents.
3 MS. ROBESON: Is it the Applicant's position that
4 there's nothing restricting the golf course?
5 MS. LEATHAM: Yes, the Applicant's position is,
6 and in fact we're happy to submit additional information
7 with respect to title, but there's no covenant on the golf
8 course, in fact, the Montgomery Village Foundation
9 declaration doesn't even encumber this particular property.
10 MS. ROBESON: Then what is what I see in the
11 record saying it's going to be a golf course that I think
12 they're exhibits maybe 77.
13 MR. LECHNER: Is that the 1980 contract?
14 MS. ROBESON: There's a set of covenants in the
15 record, what is that from the Applicant's perspective?
16 MS. LEATHAM: There's a sales agreement, and
17 there's the letter in 77, there's been a lot of allegations
18 that there are covenants, but there are none, and we can,
19 this is probably a legal argument, whatever the sales
20 contract says is one thing, but that contract merges into
21 the deed, and if it's not in the deed or not independently
22 recorded on a document there is no covenants. So, we can
23 look at all these documents, there may have been an intent
24 in maybe the first iteration of that particular sales
25 contract, but maybe there were amendments to that, we don't

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1 know, all we know if that nothing was recorded to restrict
2 the use of this property.
3 MS. ROBESON: Well, you know, if it's an issue,
4 and you're saying, what, that it is a covenant, what is the
5 covenant?
6 MR. LECHNER: I am providing the written response
7 from the State of Maryland Attorney General's Office about
8 the, the definitions of covenants, and that they do not
9 actually have to be recorded in the deed. And whether or
10 not this particular document is a covenant or not I think
11 it's a question of viewpoint interpretation, I believe it
12 is, but I'm not a lawyer.
13 MS. ROBESON: So, the document that you know of
14 that you contend restricts it as a golf course is this
15 sales, is Exhibit 77B in our record?
16 MR. LECHNER: One of two documents.
17 MS. ROBESON: Okay, what's the other document?
18 MR. LECHNER: That's the Gaithersburg Master Plan.
19 MS. ROBESON: Okay. All right. I'm going to let
20 his -- okay. I'm going to take this in --
21 MS. LEATHAM: Is that number 125?
22 MS. ROBESON: -- and we'll control the copying.
23 We'll make the copy, not today, though,
24 MR. LECHNER: That's fine.
25 MS. ROBESON: I'm going to take this in and mark

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1 it as Exhibit 126.
2 (Exhibit No. 126 was marked
3 for identification.)
4 MS. LEATHAM: What was 125
5 MS. ROBESON: That is this two --
6 MS. LEATHAM: Oh, right, right. I'm sorry.
7 MS. ROBESON: Now, let's see your letter from the
8 A.G.
9 MR. LECHNER: That one I didn't get a paper copy
10 of.
11 MS. ROBESON: So, you're just going to testify to
12 it?
13 MR. LECHNER: Correct. I have what I'd written
14 down.
15 MS. LEATHAM: I have a paper copy. All it says is
16 it's a law school summary of what it takes to make a real
17 covenant, it doesn't apply to this case, it's not an
18 opinion, an official A.G. opinion --
19 MS. ROBESON: Okay. I'm not --
20 MS. LEATHAM: -- it's just a letter.
21 MS. ROBESON: I'm not at argument yet. Just bring
22 it in. Okay. So, this is a letter, it's not technically an
23 opinion, it's a letter of advice from the Attorney General,
24 and that will be 127.
25 (Exhibit No. 127 was marked

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1 for identification.)
2 MS. LEATHAM: Are we -- I still object to its
3 submission in that it's not relevant to the DPA at all.
4 MS. ROBESON: I understand that, and I will let it
5 in and give it the weight it deserves. What else do you
6 have, Mr. Lechner?
7 MR. LECHNER: There were two other items, one of
8 which was a copy of the Druid Hill legal opinion, State of
9 Maryland, about a cemetery in Baltimore, and this case was
10 about whether or not a changing economic situations and
11 conditions would allow sufficient change in status or terms
12 that would remove a real covenant, such as the decline in
13 golf courses.
14 MS. ROBESON: Okay. Well, I -- though we're not
15 the -- whether the covenant isn't or, isn't enforceable
16 isn't really in front of me --
17 MR. LECHNER: Okay.
18 MS. ROBESON: -- whether it could be abrogated or
19 not isn't in front of me, that you would have to argue with
20 the Circuit --
21 MR. LECHNER: Okay, very good.
22 MS. ROBESON: -- to the Circuit Court.
23 MR. LECHNER: I'd be happy to withdraw and strike
24 it from my testimony.
25 MS. ROBESON: Okay. And what's your next one?

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1 MR. LECHNER: The other one was a case regarding
2 Skyline Woods Golf Course, and that one had to do with the
3 golf course that was sold in a bankruptcy proceeding, and
4 whether or not the real covenants that encumbered the
5 property were removed by the bankruptcy proceeding or not.
6 MS. ROBESON: Are these case law citations? Do
7 you have the citations?
8 MR. LECHNER: Actually, I have the whole case.
9 MS. ROBESON: I know, but you don't have to
10 introduce it as evidence, you can argue from it if you have
11 the citations.
12 MR. LECHNER: Okay.
13 MS. LEATHAM: But this last Skyline Woods case is
14 from Nebraska.
15 MS. ROBESON: Yes --
16 MR. LECHNER: True.
17 MS. ROBESON: -- but he can still argue, I mean, I
18 can't exclude a case as, we're talking evidence now, not
19 whether the argument's a winner or not, okay?
20 MR. LECHNER: Uh-huh.
21 MS. ROBESON: It's not evidence, it's a legal
22 precedent, and you can cite to it.
23 MR. LECHNER: I did not understand that.
24 MS. ROBESON: That's okay. You don't have to give
25 me the evidence. Okay. So, you can cite to those two --

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1 MR. LECHNER: Uh-huh.
2 MS. ROBESON: -- all right?
3 MR. LECHNER: And then I have comments regarding
4 the three DPAs that Ms. Leatham had submitted, and had
5 attached a day or two ago.
6 MS. ROBESON: Now, are those comments? Those are
7 comments, though?
8 MR. LECHNER: I have comments against those, yes.
9 MS. ROBESON: Okay. So, we're back to your --
10 MR. LECHNER: That's easier.
11 MS. ROBESON: -- statement. So, let's go back to
12 your statement.
13 MR. LECHNER: Okay.
14 MS. ROBESON: We've got what we're going to put in
15 the record, go ahead.
16 MR. LECHNER: Okay. So, let's see, where were we?
17 MS. ROBESON: I think you were at 327.
18 MR. LECHNER: Yes, back up in there.
19 MS. ROBESON: Uh-huh.
20 MR. LECHNER: So, schedule development, golf
21 course. Thus, we see that the primary motivation for the
22 developer in proposing a large town sector's own project
23 that they save the tax payer both construction and
24 maintenance funding, and the County government was quite
25 complicit in the arrangement as far as the private ownership

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1 of the properties.
2 On page 61 of the hearing record, 848, it further
3 explains the importance of restrictive covenants in 1968
4 stating we have incorporated with the Montgomery Village
5 Foundation in various forms corporations within Montgomery
6 Village that are designed to own and maintain the open space
7 and private streets, ensuring that such open space is
8 permanently devoted to community use. Prior to recording,
9 legal documents were reviewed and approved by the County
10 Attorney's Office, and by the General Counsel of the
11 Maryland National Capital Park and Planning Commission.
12 This further shows that the Montgomery County's endorse of
13 the concept of private entity ownership and maintenance of
14 common spaces in Montgomery Village. Note that the
15 largest -- not in my written comments, but the largest
16 amount of space is owned by Montgomery Village Foundation as
17 a private entity.
18 On page 19 of the hearing record for 848 it says
19 that the golf course was opened and doing well on June 5th,
20 1968 when the Kettler Brothers proposed amending the
21 Montgomery Village Plan by DPA E-858 to add 100 -- actually,
22 it's 848, not 858, I apologize, to add 155 acres and
23 increase the Montgomery Village population density. The
24 subsequent approval of every DPA appears to indicate that
25 the Planning Board thought that the Gaithersburg East Master

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1 Plan was sufficient to protect the private recreation
2 conservation status of Montgomery Village golf course. And
3 actually I have to temper that because the Gaithersburg East
4 Master Plan was a 1985 document, but that was, there are
5 several DPAs that Ms. Leatham submitted after 1985 which
6 were involved with that Master Plan.
7 I believe, my feeling, that if the Maryland
8 National Capital Park and Planning Commission felt the
9 property was permanently protected for its intended use as
10 private recreation conservation in perpetuity, which seems
11 to be a strong endorsement of the 1985 Gaithersburg Master
12 Plan's map to approval of these DPAs. Indeed, almost every
13 property in Montgomery Village is covered by some sort of
14 covenant, these allow the local Montgomery Village
15 Foundation to control the architecture, setbacks of the
16 homes, other home improvements, such as the color of the
17 paint, what kind of door. Although they are agreements
18 between the buyers and, the buyers, the buyers and sellers,
19 actually, the County never signs these agreements, they are
20 all used to control land use in Montgomery Village. I am
21 not allowed to start raising livestock or chickens in my
22 backyard because of these covenants; I cannot change the
23 color of paint I use on my house. Here's an example of
24 these, a covenant of a homeowners association, and that was
25 one of the other ones that was here, not this one, but

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1 the intended use of a cemetery was no longer essential or
 2 economically beneficial. The Court ruled against that
 3 applicant stating that a change in economic conditions was
 4 not sufficient grounds for removal of a restricted real
 5 covenant. This is my summary description of the case, not a
 6 quote. In fact, Montgomery Village Golf Course bankruptcy
 7 data showed that without a substantial debt service sucking
 8 the cash flow of the operation the golf course was doing
 9 quite well.

10 Just in the --

11 MS. ROBESON: Don't laugh, please. You're an
 12 attorney, not everyone is. Go ahead, Mr. --

13 MR. LECHNER: Certainly. Just in case the issue
 14 of bankruptcy proceedings is considered important to the
 15 restricted, then I am also including, reciting the Skyline
 16 Woods legal case that involved a golf course sold at
 17 bankruptcy auction, that case held that the bankruptcy
 18 proceedings do not erase or remove a set of restrictive real
 19 covenants that protected the golf course property, and the
 20 development of the property in that particular case do not
 21 proceed.

22 Regarding the three DPAs that the Applicant has
 23 submitted as justification for the precedent of making
 24 amendments to the development plan for the Village, all
 25 three of these DPAs, 88-01, 02-2, and 01-4 involve a

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1 conversion of school sites for other uses, namely commercial
 2 offices, 02-02; apartment housing, 01-4; and a mix of
 3 recreational space and residential housing, 88-01. However,
 4 as noted on page two of DPA 02-2 the following, it was
 5 provided in exhibit number, I don't recall here, that the
 6 Gaithersburg, it says that the Gaithersburg Vicinity Master
 7 Plan allows that sites designated for school use may become
 8 available for other uses in the future, it actually says
 9 that. As stated on page eight of DPA 01-4, quote, it is
 10 important that at least a portion of each undeveloped school
 11 site be transferred to the Montgomery Village Association
 12 for field sport recreation if the site is not needed for
 13 school construction. In that particular case, 01-4, a small
 14 portion of recreational space was actually transferred, or
 15 identified there. But apparently, there's no similar
 16 provision for transferring private recreation/conservation
 17 land to other uses in the text of the Gaithersburg Vicinity
 18 East Master Plan. So, the use of these three DPAs as a
 19 basis to support DPA 15-01 I believe is incomplete or
 20 somewhat misleading.

21 We note that DPA 88-01 quotes nearly verbatim from
 22 the text of 104-19 alpha, that town sector zone, by stating
 23 that homeowner documents will adequately assure a method of
 24 perpetual maintenance of recreation, common or quasi-public
 25 hearings. Given that 88-1 was approved by the, again, the

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1 Planning Board, Maryland National Capital Park and Planning
 2 Commission, reference page one, DPA 88-1, and quotes nearly
 3 verbatim from the text of 104-19A, it appears that the
 4 Planning Commission then was certifying once again that
 5 eight years after Mr. Doser had purchased the golf club the
 6 protection of open space and quasi-public spaces in
 7 Montgomery Village were being adequately protected in
 8 perpetuity for their intended use in that particular area.
 9 Not the gold course, but over here where the ball park was.
 10 What the three DPAs do show, though, is that the County
 11 government is willing to make changes to the development
 12 plan, that change the use of the land within the town sector
 13 zone in some cases. But a careful reading of 104-19A shows
 14 that the phrase in perpetuity applies to land that is
 15 intended for common or quasi-public use, but not proposed to
 16 be in public ownership. School sites are intended for
 17 public ownership when the school is constructed. I asked
 18 questions about whether they were public schools, Montgomery
 19 County public schools and the answer was affirmed.
 20 Paragraph one, item F addresses the school sites as the
 21 sites of all public schools, parks, playgrounds, and other
 22 community facilities, that's in the town sector words there,
 23 there's actually wording there about public schools, parks,
 24 and playgrounds, should be shown in the, is that those
 25 should be shown in the preliminary plan. So, it appears

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1 that sites with common use land, such as the banks of Lake
 2 Whetstone, or North Creek Lake, or quasi-public space, such
 3 as the Montgomery Village Gold Club, which was open to
 4 anyone that could pay the membership fee, or the Montgomery
 5 Village swimming pool properties which are open to residents
 6 and any family in the County that can pay the \$435 per year
 7 membership fee, are protected in perpetuity unless the
 8 County Council wishes to modify 104-19A, or approve a
 9 project that does not comply with the rules it established
 10 at the time for town center projects in '67.

11 I will go off record again and recognize this is
 12 the old language that was in existence for many years, and
 13 what exactly the new language is I can't quite tell. I was
 14 trying, but couldn't quite tell. But the meaning to me of
 15 the old language simplistically seems quite clear.

16 Lastly, regarding the timing of this application,
 17 the new Master Plan for this community is --
 18 (Return to original audio.)

19 MR. LECHNER: -- being reviewed, and the first
 20 public hearing is to be held in three weeks on September
 21 10th. The County Government works very hard to obtain
 22 community input in this process, and making a decision on
 23 this project before the first public hearing, any final
 24 public hearing, or a vote by the elected County Council to
 25 approve a new plan would preclude meaningful public inputs

1 and send a strong message to residents that their inputs are
2 not important. As this property is one of the main issues
3 of that, that started the process of drafting a new Master
4 Plan, quickly deciding to develop part of it in piecemeal
5 and in violation of County Codes, the old County Codes
6 written to protect its status in perpetuity is not in the
7 interest of either the County government or the residents,
8 in my opinion.

9 In 104-19A the County Council put strong language
10 in perpetuity in place to protect residents that were
11 purchasing their homes, the largest single investment most
12 of them will ever make, and the primary component of their
13 retirements plans for many of them. This protection was
14 reasonable given that they were often getting charged a
15 premium and then paying higher taxes due to the location of
16 the home sited near a major amenity or open space, such as a
17 lake or a golf course. This was in effect a solemn pledge
18 to help protect that premium nature of that purchase. This
19 section, again 19A, 104, 104-19A, created a process where
20 real covenants replaced normal zoning regulations, and the
21 County was completely in agreement with that process, and
22 complicit in their creation at the time.

23 For these reasons I hope the Examiner will
24 consider my apologies for this lengthy review of all of this
25 relevant material, or possibly relevant material, and make a

1 recommendation to the County Council consistent with its
2 strong previous traditions of protecting the approximately
3 400 middle class homeowners that own property abutting the
4 Montgomery Village Golf Club, while affording the current
5 property owner the opportunity to bring back a project
6 proposal in the future that is consistent with the option
7 that residents identified in the MVF approved vision 2030
8 plan, which both preserves the intended purpose of the
9 property, and preserves the value of the 140 acres of
10 recreational use, while it also builds a single residential
11 building or something similar, and contains a mix of owned,
12 rented residential uses, premium office spaces, restaurant,
13 and supports a recreational use of the fairway portions of
14 the property, what I would like to see there. And that's
15 the end.

16 The next few pages I will not read, but they were
17 notes taken from the different DPAs and that are dated, some
18 of which are, may be interesting but I felt not quite as
19 relevant to the material.

20 MS. ROBESON: Thank you. Anyone who delves into
21 that microfiche down there is dedicated. Ms. Leatham, any
22 cross-examination?

23 MS. LEATHAM: No.

24 MS. ROBESON: So, is it your feeling that this
25 decision should be postponed till after the County Council

1 adopts the Master Plan?

2 MR. LECHNER: I think if the issues are clear cut
3 as proposed delaying the decision does not do either the
4 Applicant or the residents any big favors. I think that
5 the, personally, we talked to a lot of residents, and I get
6 the feeling this has divided the community, not necessarily
7 evenly, but there are a large number of people that do
8 support the project, and a large number of people we talked
9 to that do not support the project, and it doesn't break
10 down by age, but it sort of does. Moving the process along
11 quickly would be beneficial to the community, however, this
12 would set a strong precedent, and I do not think moving it
13 so quickly as to be ahead of the decision process is
14 essential, actually. It's going to be fall, the property,
15 the grass is already long at this point, and once the cold
16 weather comes it will actually start to look a little better
17 when it's yellow. May be a fire hazard, but the critters
18 are out there.

19 MS. ROBESON: Okay. All right. Any questions
20 based on my questions, Ms. Leatham?

21 MS. LEATHAM: No.

22 MS. ROBESON: All right, thank you, Mr. Lechner.
23 Okay. Ms. Leatham, it's your rebuttal.

24 MS. LEATHAM: All right. I should recall Mr.
25 Hines. I guess I want to reiterate that the existence or

1 non-existence of any real covenants on the property --

2 MS. ROBESON: Okay. This isn't the time for
3 arguments.

4 MS. LEATHAM: Okay. So, I'm going to ask --

5 MS. ROBESON: I get that.

6 MS. LEATHAM: Okay.

7 MS. ROBESON: I really do.

8 MS. LEATHAM: Okay. All right. Just to put a pin
9 in it based on your attorney's evaluation of the title of
10 the property are there any covenants restricting use of this
11 property?

12 MR. HINES: There are no covenants --

13 MS. LEATHAM: Okay.

14 MR. HINES: -- restricting use.

15 MS. LEATHAM: And when you purchased the property
16 out of bankruptcy what happened?

17 MR. HINES: So, we purchased the property pursuant
18 to a U.S. Bankruptcy Court order that sold the property only
19 limited to the exceptions listed in the purchase contract,
20 and in an exhaustive manner restricted any other claims,
21 easements, covenants of any type whatsoever, and it went on
22 and on to cover essentially any potential claim.

23 MS. LEATHAM: When you purchased the property it
24 was still being used as a golf course, how many members were
25 there of the course, and how many lived in Montgomery

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1 Village?

2 MR. HINES: There were approximately 150 members

3 when we purchased it, and it was less than 24, I think the

4 number might have been 22 members that lived in Montgomery

5 Village, which is a community of about 40,000 people.

6 MS. LEATHAM: Okay. Based on your knowledge of

7 the Kettler Brothers were they sophisticated developers?

8 MR. HINES: Yes, they were.

9 MS. LEATHAM: If they wanted to record a document

10 against the property do you, based on the documents that

11 were recorded do you think they would have done it, or would

12 they have known how to do it?

13 MR. HINES: Yes, in fact the purchase agreement

14 that's been referenced reserved certain rights for the

15 seller to record covenants, and they did in fact record some

16 covenants associated with I believe it was utility easements

17 and so forth, but they for whatever reason they elected not

18 to record a covenant associated with the restrictive use.

19 MS. LEATHAM: Did they know how to market?

20 MR. HINES: Yes. I think they did.

21 MS. ROBESON: That's --

22 MS. LEATHAM: Well, I want to address the letter

23 that was sent out to the residents.

24 MS. ROBESON: I see. Okay, go ahead.

25 MS. LEATHAM: So, how was that letter to the

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1 residents?

2 MR. HINES: So, the 1980 letter to residents was

3 to I think make sure that folks weren't concerned about the

4 sale of the property. Obviously, the Kettlers were in the

5 business of developing this community, and they intended to

6 continue to develop homes in 1980, so they sent out this

7 letter which was essentially a marketing letter that's been

8 held before us since after we purchased the property it was

9 presented to us as some sort of covenant, when in fact it's

10 an agreement between some third party from 35 years ago that

11 has nothing to do with our property. As I said, it's a

12 marketing letter to make sure that the community members

13 still believe that the Kettlers intend to develop a quality

14 community by turning this golf course over to a third party.

15 Mr. Doser who was the purchaser in 1980, the subject of that

16 letter, he owned the property until he filed bankruptcy with

17 us, and, you know, as long as 10 years ago as Mr. Lechner

18 pointed out he had been talking about redeveloping this

19 property, and then obviously the community worked in vision

20 2030 on plans that included one scenario where they would

21 have the property redeveloped, and none of these matters

22 came up at that time in terms of the restriction, so-called

23 restrictive covenants. So, the man who in theory had the

24 most knowledge about this, he was the purchaser and then

25 ultimately he wasn't the seller, he was the debtor, but, in

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1 the bankruptcy court, he clearly believed that he could

2 develop this property.

3 MS. LEATHAM: That's all.

4 MS. ROBESON: Anything else you want to -- I have

5 a question as to timing. I guess I'm a little confused as

6 to why proceed with this local map amendment when you have a

7 parallel process that basically is fairly clear cut, at

8 least at this stage, why proceed through this now? Why not

9 wait and let the Master Plan process take its course?

10 MR. HINES: Well, first of all we'd have to sort

11 of back up the history. We were pursuing a very specific

12 course of action, a zoning text amendment that ultimately

13 would lead to a DPA with the community, and after we got

14 their positive response to our plans then the idea of doing

15 the Master Plan was inserted and that added another 18

16 months to the process, so we had already been delayed a

17 significant amount of time, and frankly, while there are a

18 number of people on staff and position of leadership who are

19 confident in sort of the timeliness of this Master Plan, and

20 in the outcome of it and so forth, we should probably be

21 forgiven for being not so confident that things are going to

22 proceed in a timely manner. For example, we have folks who

23 are fighting tooth and nail to delay both this process and

24 the Master Plan process, and making claims that from my

25 standpoint are, you know, unfounded. So, I mean, you can

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1 see that we have significant risk associated with this

2 project, and since we have, we've always said we'd try to

3 align ourselves with the community, we are aligned, and I

4 think the community has a similar risk with the golf course

5 being closed, we kept it open for two years and took the

6 losses associated with that, but we closed it when the

7 Master Plan process began because at that point we had, it

8 was no longer something that we could identify what the

9 schedule's going to be. So, we've been told a number of

10 times, and it makes me feel good to hear it, that the Master

11 Plan process is proceeding, and it's proceeding relatively

12 on schedule, it got four months behind very quickly, but it

13 seems to have remained four months behind, so that's

14 encouraging, but there are any number of risks that could

15 come up, some issue that has nothing to do with this, it

16 could be the Village Center, for example, that there's a

17 fight over that. So, again, I think as a prudent owner it

18 makes sense for us to continue to pursue this, and the other

19 reason is this is what we told the Montgomery Foundation we

20 would do, and they're behind this, as well. So, we would

21 essentially be continuing the position to folks who have not

22 been supportive to us, you know, to the detriment of the

23 people who have been supportive of us.

24 MS. ROBESON: Okay. All right. Anything else for

25 Mr. Hines?

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1 MS. LEATHAM: No.
2 MS. ROBESON: Mr. Lechner?
3 MR. LECHNER: Am I able to ask him a question or
4 two --
5 MS. ROBESON: You can have --
6 MR. LECHNER: -- regarding what he said?
7 MS. ROBESON: -- questions based on what I just
8 asked him.
9 MR. LECHNER: Not based on what he answered to Ms.
10 Leatham?
11 MS. ROBESON: Yes. Yes.
12 MR. LECHNER: Okay. Okay. Just a question, how
13 many employees in Monument Realty total?
14 MS. LEATHAM: I didn't ask anything about number
15 of employees.
16 MR. LECHNER: Okay. Well, the other question
17 then, is Monument Realty a sophisticated realty company? Do
18 you consider your organization to be --
19 MR. HINES: Yes.
20 MR. LECHNER: -- Thank you. Okay. That's all.
21 Thank you.
22 MS. ROBESON: Okay. Any other witnesses?
23 MS. LEATHAM: Yes.
24 MS. ROBESON: You may be excused.
25 MR. HINES: Thank you.

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1 MS. LEATHAM: I'd like to recall Mr. Sloan for
2 rebuttal.
3 MS. ROBESON: You're still under oath, Mr. Sloan.
4 MR. SLOAN: I understand.
5 MS. LEATHAM: I apologize, we might jump around a
6 little bit. Let's focus on the density approved under the
7 current development plan, can you give us the most recent
8 development plan amendment that are clearly articulated the
9 density, the total density permitted?
10 MR. SLOAN: The last development plan amendment,
11 82-1 DPA, that indicated that 15 units per, or 15 people per
12 acre was allowed per the development plan.
13 MS. ROBESON: What number was that?
14 MR. SLOAN: The DPA is 82-1. Is that in the
15 record?
16 MS. LEATHAM: It's not in the record, but I
17 think --
18 MR. SLOAN: Okay.
19 MS. LEATHAM: -- the Hearing Examiner can take
20 administrative notice.
21 MS. ROBESON: Yes.
22 MR. SLOAN: So, that, and that was specifically
23 transferring 1,599 people, and this is the language of the
24 opinion transferring these people, they didn't exist yet
25 there, from area 1B to area 3K, which is what we had talked

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1 about earlier, the population allocation has been moved
2 around in this development plan, but it did stipulate the
3 number of people that were allowed under the development
4 plan, which is, which remains the cap under which we're
5 pursuing our density.
6 MS. LEATHAM: Okay. Moving on to open space, can
7 you just reiterate for us whether the golf course was
8 counted as open space in the original DPA, or any subsequent
9 DPA?
10 MR. SLOAN: It has never been considered part of
11 the open space, we reconfirmed it was not considered part of
12 the 422 acres, it was talked about in larger numbers along
13 with dedications of highways and things like that.
14 MS. ROBESON: Do you know how big the whole golf
15 course is, acreage-wise? If you don't it's, it's, don't --
16 MR. SLOAN: I think it's actually in the --
17 MS. LEATHAM: It's in the chart.
18 MR. SLOAN: 600 and --
19 MS. LEATHAM: No. No.
20 MR. SLOAN: No. Sorry. 148.4.
21 MS. ROBESON: How much?
22 MR. SLOAN: 148.4 according to the last approved
23 development plan amendment.
24 MS. ROBESON: And is that last approved one, which
25 exhibit is that?

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1 MR. SLOAN: Exhibit 40I.
2 MS. ROBESON: And is that the 2006 one?
3 MR. SLOAN: 02-2, corrected on 4-7-2006.
4 MS. ROBESON: Okay. Okay, so you were asking him
5 about open space, and have you reviewed E-327 and E, the
6 ones referred to by Mr. Lechner?
7 MR. LECHNER: 848.
8 MR. SLOAN: I have read through them as quickly as
9 I could this morning when we received them. And last night,
10 the first one.
11 MS. ROBESON: I'm sorry, was that a, you said you
12 did read through them?
13 MR. SLOAN: Yes.
14 MS. ROBESON: Okay. Keep going, Ms. Leatham.
15 MS. LEATHAM: And again, we're jumping around a
16 little bit here. Is the private recreation use considered
17 common or quasi-public space, the golf course?
18 MR. SLOAN: Not on the development plan, no.
19 MS. ROBESON: Wait, which development plan?
20 MR. SLOAN: On the last approved development plan.
21 MS. ROBESON: 02-02?
22 MR. SLOAN: 02-02.
23 MS. LEATHAM: Is it typical based on your
24 experience with Park and Planning and in private practice
25 that if something was to be preserved in perpetuity there

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1 would be a binding element or a requirement to record a
2 document to effectuate that?
3 MR. SLOAN: Anything that we, when we were looking
4 at an approval as Staff or now in private sector, if we were
5 to propose anything, require anything then, propose anything
6 now for, to maintain in perpetuity we would require
7 something to be put in the land records.
8 MS. LEATHAM: Okay. I also want to just clarify
9 your, something Mr. Lechner had testified to based on your
10 previous testimony that the previous DPAs, the three DPAs
11 and the one site plan you discussed were inconsistent with
12 that land use plan, was that because of the underlying land
13 use recommendation, or was it because the school sites were
14 unneeded?
15 MS. ROBESON: Wait, I can't hear you.
16 MS. LEATHAM: I'm sorry. Just to clarify, when
17 Mr. Sloan was talking about the, was discussing the three
18 DPAs, the three most recent DPAs --
19 MS. ROBESON: Yes.
20 MS. LEATHAM: -- and the one site plan --
21 MS. ROBESON: Yes.
22 MS. LEATHAM: -- that were inconsistent with the
23 land use plan, my question was did it have anything to do
24 with the school sites, or was it based on the underlying
25 color on the land use map?

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1 MS. ROBESON: Okay.
2 MR. SLOAN: So, it's a fine point, but it's an
3 important point that if you even, if you take the school
4 sites off of the map, because we know the text of the Master
5 Plan deals with those specific conditions if the school site
6 is not required, X, Y, and Z happens, and that did do less,
7 greater or lesser extent in each of them. But if you take
8 those school sites off the designation on that plan was
9 different for three of those four approvals, one, or two
10 were for medium density residential, one became high density
11 residential, one became an institutional use, and then one
12 was retail commercial, which became mixed use. So, that's
13 the point that I think the precedent is telling on.
14 MS. LEATHAM: Okay. The land, just staying with
15 the land use map, is that in your opinion a reflection of
16 the conditions at the time the Master Plan was adopted, or
17 future recommendations?
18 MR. SLOAN: That's my understanding of the plan
19 and how I interpreted it on Staff and now.
20 MS. ROBESON: Which one?
21 MS. LEATHAM: Which one?
22 MS. ROBESON: She gave you two alternatives.
23 MR. SLOAN: That it was a reflection of the land
24 use at that time.
25 MS. LEATHAM: Okay. I think we all agree that

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1 there is a golf course planned as a recreational amenity in
2 the original development plan, and there was, that was part
3 of the original planning, is it in your professional opinion
4 something that can change, and how would that be
5 accommodated?
6 MR. SLOAN: It is something that can change. I
7 think what's important about the golf course because it was
8 privately owned, it was fenced off, it was not, you know,
9 unless you could or were willing to pay for access, in my
10 mind that means it was more of an issue of what kind of
11 character they were trying to develop with this entire new
12 town, and that character is the visual nature of the golf
13 course, it's open space, it has natural features that are
14 very important, and very nice, and probably will be
15 conserved at some point. This development plan amendment,
16 however, is for a very limited part of the golf course, it's
17 for about 17 of the, I can't remember what I said, 100 --
18 MS. LEATHAM: Forty-seven.
19 MR. SLOAN: -- 47 areas, which doesn't have those
20 characteristics, but the land use plan that's being
21 developed, or this development plan amendment takes a cue
22 from that aesthetic character that was trying to be
23 established, the homes are setback from the primary roads,
24 they're going to be working with the land use grades, on
25 Arrowhead there's a large park that'll be maintained as open

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1 space and actually put into, there could be access easements
2 on that that will be in the land records, so I think the
3 aesthetics of the idea, the idea of the clustered urban
4 densities around this network open space was important to
5 the aesthetic foundation of the town, and that's something
6 that should be maintained through redevelopment.
7 MS. LEATHAM: Other than the DPAs and the site
8 plans that we talked about are you aware of any other DPAs
9 that have addressed this specific question of the Master
10 Plan, it's a little old, and the development plan might also
11 be a little old?
12 MR. SLOAN: The development plan amendment for the
13 Wheaton project that we discussed this morning, I think it
14 was 05-something.
15 MS. ROBESON: For which project?
16 MS. LEATHAM: 05-02.
17 MR. SLOAN: 05-02?
18 MS. ROBESON: Wait, which project? I'm having
19 trouble hearing when you turn the other way.
20 MS. LEATHAM: I'm sorry.
21 MS. ROBESON: It's not your problem.
22 MR. SLOAN: So --
23 MS. LEATHAM: I lost my --
24 MR. SLOAN: -- in development plan amendment 05-2
25 the rezoning in Wheaton, it was a development plan

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1 amendment, in that case it was recognized that the
2 development plan was quite old, and that, and the Hearing
3 Examiner in that case noted that a development plan
4 amendment should not be held to a higher standard than the
5 development plan, the original development plan, and in
6 fact, when you file a development plan amendment you have to
7 file all of the same documents, and those include a land use
8 plan stipulating where residential areas will be, commercial
9 areas, densities, major roads, open space, so the fact that
10 you have to file those kinds of things similar, well,
11 identical to a development plan in my mind means those
12 things can be changed, that's what the development plan
13 amendment does. And if they were not allowed to be changed
14 then the development plan amendment could be restricted,
15 only these kind of things should be submitted and under
16 evaluation.
17 MS. LEATHAM: Okay.
18 MS. ROBESON: Well, the one constant is the Master
19 Plan, because nay development, the thing that binds it all
20 together is the Master Plan.
21 MR. SLOAN: Right.
22 MS. ROBESON: Wouldn't you agree?
23 MR. SLOAN: Substantial compliance with the Master
24 Plan --
25 MS. ROBESON: Right.

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1 MR. SLOAN: -- needs to be met.
2 MS. ROBESON: The land use and density, right?
3 Okay, go ahead.
4 MS. LEATHAM: Was that an issue in 05-02?
5 MR. SLOAN: In 05-02 it was an issue, and the
6 length of time that that development plan had been on the
7 ground and then is now being amended was recognized as a
8 cause for rethinking some of the planning.
9 MS. LEATHAM: The Master Plan or the development
10 plan?
11 MR. SLOAN: Sorry, it was the master plan that had
12 been quite old at that time, the Wheaton master plan. This
13 was before it had been redone.
14 MS. LEATHAM: Is there anything else you want to
15 add?
16 MR. SLOAN: Probably, but I, I mean, this is a
17 kind of very fascinating complicated case, it's very
18 interesting, but I think we've covered most of the issues.
19 MS. LEATHAM: Okay. No more questions.
20 MS. ROBESON: Okay. Mr. Lechner?
21 MR. LECHNER: Just one. Mr. Sloan, you said that
22 you felt, since your subject matter expertise in modern, or
23 current decision processes for the Planning Board process,
24 the master plans, would you consider your expertise to be
25 also a tie for the decision processes in 1965 and 1970?

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1 MR. SLOAN: No.
2 MR. LECHNER: That's all my questions.
3 MS. ROBESON: Okay. Any redirect?
4 MS. LEATHAM: No.
5 MS. ROBESON: All right. You may be excused, Mr.
6 Sloan. Any other witnesses?
7 MS. LEATHAM: No.
8 MS. ROBESON: Okay. One thing I'm going to do is
9 take official notice of any of the decisions that are listed
10 on I think it's exhibit, whatever that exhibit is, 40 --
11 MR. LECHNER: I.
12 MS. LEATHAM: I.
13 MS. ROBESON: Yes. Any of the DPAs, is that,
14 that's the one with the 19 or so amendments on it? Okay.
15 MR. SLOAN: Yes.
16 MS. LEATHAM: There's one amendment DPA that's not
17 listed on this --
18 MS. ROBESON: That's the 11 --
19 MS. LEATHAM: -- the 11-02.
20 MS. ROBESON: -- 02.
21 MR. SLOAN: For the two apartments?
22 MS. ROBESON: That's the two units?
23 MS. LEATHAM: Right.
24 MS. ROBESON: Yes. That, as well. Okay. Closing
25 statements?

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1 MS. LEATHAM: Could I have five minutes to put it
2 in order?
3 MS. ROBESON: To what?
4 MS. LEATHAM: Five minutes to just put everything
5 in order.
6 MS. ROBESON: Yes. We'll try and go -- do you
7 have a closing statement, Mr. Lechner? You're welcome.
8 MR. LECHNER: I will just make one or two
9 comments.
10 MS. ROBESON: Okay. Then we'll try to cut it off
11 by 5:30, is the court reporter available till 5:30? Okay.
12 Thank you.
13 MS. LEATHAM: I promise I will not --
14 MS. ROBESON: Okay, that's fine.
15 MS. LEATHAM: -- go till 5:30.
16 MS. ROBESON: We'll take a five-minute break, and
17 we'll be back on the record around 5:10.
18 (OFF THE RECORD.)
19 (ON THE RECORD.)
20 MS. ROBESON: Okay, we're back on the record. Ms.
21 Leatham?
22 MS. LEATHAM: All right. Given the hour I'm going
23 to keep this short. It's a --
24 MS. ROBESON: Go wild.
25 MS. LEATHAM: Don't tempt me. This is a

1 complicated case, and I thought -- let me start over. This
2 is a complicated case, the Master Plan made it slightly more
3 complicated, but Mr. Sloan provided evidence that it's the
4 land use map's utility in this case is limited, but you look
5 at the overall objectives of the Master Plan, which he
6 described, and how this met those objectives, as well as how
7 it's been applied in previous cases. We also provided
8 testimony that this meets all the other zoning requirements
9 for the DPA, Technical Staff and the Planning Board agreed.

10 So, I would just conclude by saying that this is
11 an opportunity to provide a real benefit to the community by
12 enhancing this particular area, and I think perhaps the
13 environmental testimony was a little understated about the
14 real benefit that, that the detriment from a golf course and
15 the benefit you can get by enhancing the forest and the
16 landscaping and the plantings both aesthetically and from a
17 usability standpoint.

18 And then the last point I wanted to make about was
19 the original intent of the development plan, which clearly
20 included a golf course, and in one of the exhibits included
21 a golf course with a pool, but a pool was never built. But
22 things change over time, but the intent of the golf course,
23 or intent of having the golf course was to provide two, I
24 think two general things, a recreation amenity for the
25 residents of Montgomery Village, and, you know, aesthetics

1 for lack of a better term. So, Mr. Hines testified that out
2 of 40,000 people 20 or 22 were members, so it's clearly not
3 providing that recreation benefit for the community anymore.
4 And aesthetically we think it can be, or you've heard
5 evidence that it can be enhanced considerably with
6 additional plantings and landscaping and good site design,
7 particularly along Montgomery Village Avenue, also. And I'm
8 just going to leave it at that.

9 MS. ROBESON: Okay. Mr. Lechner?

10 MR. LECHNER: Okay. I'd like to thank, and again,
11 apologize for the confusion of the multiple exhibits. Most
12 of the residents we talked to, especially the ones that live
13 on, bordering the property are very much against the plan as
14 proposed by the Applicant, in particular, putting this
15 particular part first, which is a very dense bunch of
16 townhouses all around those areas, but many of them have
17 made comments about the positive aspects of trying to do
18 something different in Montgomery Village, and many of them
19 cite the original vision 2030 plan's vision of something
20 that would have less of an infrastructure cost as far as
21 putting in a concentrated smart growth type of project in
22 some portion of the property, and then preserving the
23 remaining portions not necessarily as a golf course, but as
24 a recreational conservation type of use. 144 acres, and
25 once the houses are there it will never come back to the

1 community, it is a significant aspect, it is what
2 differentiates Montgomery Village from Clarksburg, King
3 Farm, what's some of the other, the over there by Lowes, I
4 forget its name, many of these other places do not have a
5 large open green spaces, the way Montgomery Village does, we
6 were planned 20 or 30 years earlier when there was a lot
7 more land, and it differentiates us from a community,
8 provides a lot more room for the kids to get out and
9 explore, and move around. With that in mind, we feel that
10 protecting the open space nature of the property should not
11 be something that the community gives up on ever, but the
12 families are willing to, again, see something happen on the
13 property in the future, not necessarily to the, you know,
14 just to the extreme bindings of the current property owner,
15 that you've got to go to a golf course even if it loses
16 money, because, again, that's not necessarily realistic.
17 However, we feel that many different options were not
18 explored, the approach, the feedback in the meetings many
19 people asked a lot of other questions, the tweaks that were
20 made to the project were minor, and all kept in the
21 residential. The basic concept of the plan has not changed
22 significantly except for the removal of a large tower type
23 of building in one part of the project, which was the one
24 part that many of the people we talked with actually
25 supported. Other than that, though, I thank you, again, and

1 we hope that this process provides clarity to help move the
2 community forward.

3 MS. ROBESON: All right. We usually give the
4 Applicant the last word, do you have anything further to
5 say?

6 MS. LEATHAM: I do not.

7 MS. ROBESON: Okay. Thank you. And with that
8 what I'm going to do is I have to leave, if there are
9 changes to the development plan as we do have a binding
10 element, I have to leave the record open, and refer it back
11 to the Planning Board. I don't see why this would be an
12 issue, but --

13 MS. LEATHAM: Does it have to go back to the
14 Planning Board or just Staff?

15 MS. ROBESON: It can go to either Planning Staff
16 or the Planning Board, and we generally leave it to the
17 discretion of Planning Staff as to whether they think they
18 need the Board's, sorry, input on, to understand where the
19 Board was coming from. So, what I'm going to do -- I'm also
20 going to take official notice of the files on those DPAs
21 listed on the DPA, and you have 10 days to, technically you
22 have 10 days to object, if anybody wants more time to object
23 I can leave the record open a little longer, but I would
24 prefer to close it. And so, 10 days would be, well, I have
25 September 1st. I'm going to, this is what I'm going to do,

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1 I'm going to leave it open, I haven't had a chance to speak
2 with Planning Staff as far as their, how long their referral
3 process is going to take, I'm going to leave it open till
4 the day after Labor Day, which is September 8th. And it's
5 only open to get, I'm going to ask Staff to provide their
6 comments by Friday, well, by Wednesday, September 2nd, and
7 then if any of the parties has comments on Staff comments
8 they would be due September 8th. So, with that we will
9 adjourn this hearing, the record's open for the purpose
10 stated. Thank you very much. Yes, Mr. Lechner?
11 MR. LECHNER: Just one question. I was going to
12 provide an updated copy of my testimony with just the
13 exhibits labeled in the paragraphs, do I need to do that
14 still, and by when just to make sure I'm timely.
15 MS. ROBESON: I don't understand what you mean,
16 the --
17 MR. LECHNER: I thought you wanted me to send in
18 a --
19 MS. ROBESON: Yes, if you could do that --
20 MR. LECHNER: -- a list of something.
21 MS. ROBESON: -- by also by September 2nd, and
22 we'll have all the --
23 MR. LECHNER: Not a problem.
24 MS. ROBESON: -- all the new stuff in by September
25 2nd, and any comments from any party will be due on the 8th.

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1 MR. LECHNER: Okay.
2 MS. ROBESON: All right?
3 MS. LEATHAM: Now I have a clarification question.
4 MS. ROBESON: Yes?
5 MS. LEATHAM: When -- are we submitting the
6 revised DPA sheet with the binding element to OZAH and OZAH
7 will refer it to --
8 MS. ROBESON: No, you provide it both to, provide
9 it to Staff first with if you can get an electronic copy
10 with a CC to the parties and to our office.
11 MS. LEATHAM: Okay. Okay.
12 MS. ROBESON: And then once, if you could submit
13 it on the 2nd with Staff's comments and full, the hard copy
14 in case they want anything else addressed. I doubt they
15 will, but --
16 MS. LEATHAM: Right. Okay. So, the DPA would go
17 electronically to Staff, OZAH and the parties, hopefully in
18 the next day or two, and then we'll resubmit the hard copy
19 to your office with Staff comments by September 2nd.
20 MS. ROBESON: Correct.
21 MS. LEATHAM: Got it. Okay.
22 MS. ROBESON: And then Mr. Lechner's exhibits are
23 due on September 2nd.
24 MR. LECHNER: Right. And I will only just re-
25 label the things that were provided --

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1 MS. ROBESON: Okay, that's fine.
2 MR. LECHNER: -- and then insert the rest. Yes.
3 MS. ROBESON: That's fine. Okay. And then any
4 responses to any of the things that I've left the record
5 open are due September 8th. If that changes based on
6 Staff's schedule I'll let you know, but for now we're going
7 to leave it there, okay? All right. With that, this
8 hearing is adjourned. Thank you.
9 (Whereupon, at 5:19 p.m., the hearing was
10 concluded.)
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C E R T I F I C A T E
DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
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Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:

USL2 MR Montgomery Village Business Trust
DPA 15-01

By:

Paula Underwood, Transcriber

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