

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF COSTCO WHOLESALE : Case No. S-2863
CORPORATION : OZAH No. 13-12
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A hearing in the above-entitled matter was held on
November 19, 2013, commencing at 9:45 a.m., at the Stella B.
Warner Council Office Building, 100 Maryland Avenue, Rita
Davidson Memorial Hearing Room, Rockville, Maryland 20850
before:

Martin L. Grossman
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:
 Patricia Harris, Esq.
 Michael Goecke, Esq.

On Behalf of Kensington Heights Civic Association (KHCA):
 Michele Rosenfeld, Esq.
 Lerch Early & Brewer
 3 Bethesda Metro Center, Suite 460
 Bethesda, Maryland 20814

On Behalf of Stop Costco Gas Coalition (SCGC):
 Larry Silverman, Esq.
 Abigail Adelman
 Mark Adelman

Also Present:
 Eric Brann, Costco Representative
 Jeff Ishida, Costco
 Danila Sheveiko, President KHCA
 Eleanor Duckett, Kensington View Civic Association (KVCA)
 Virginia Sheard, KHCA
 Mark Meszaros, Kenmont Pool
 Vivian Pescov
 Wes Guckert

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
Sam Campbell	12			
By Ms. Rosenfeld:			23	
Maria Alvarez	28			
By Ms. Rosenfeld:			36	
By Mr. Goecke:			39	
Vivian Pescov	40			
By Mr. Goecke:			46	
Karen Cordry	49			

E X H I B I T S

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E X H I B I T S

Exhibit No.		Marked/Received
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P R O C E E D I N G S

1
 2 MR. GROSSMAN: This is the 20th day of the public
 3 hearing in the matter of Costco Wholesale Corporation, Board
 4 of Appeals No. S-2863, OZAH No. 13-12, petition for special
 5 exception pursuant to Zoning Ordinance Section 59-G-2.06 to
 6 allow petitioner to construct and operate an automobile
 7 fueling station which would include 16 pumps. The subject
 8 site is located at 11160 Veirs Mill Road, Silver Spring,
 9 Maryland, Lot N-631, Wheaton Plaza, Parcel 10, also known as
 10 the Westfield Wheaton Mall, and is zoned C-2.
 11 This hearing was begun on April 26th, 2013 and has
 12 proceeded to today. And the session was noticed to resume
 13 again today, the next session has been noticed for Tuesday,
 14 November 21 -- I'm sorry. I'm actually reading the wrong --
 15 it's next for Thursday. This is Tuesday. So it's Thursday,
 16 November 21, 2013 here in this second floor hearing room.
 17 Okay. All right. Would the parties -- oh, I should say
 18 this hearing is conducted on behalf of the Board of Appeals.
 19 You'd think after repeating it 20 times I would have it down
 20 pat. This hearing is conducted on behalf of the Board of
 21 Appeals. My name is Martin Grossman. I'm the Hearing
 22 Examiner which means I will take evidence and write a report
 23 and recommendation to the Board of Appeals which will make
 24 the decision in this case. Will the parties identify
 25 themselves, please, for the record?

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1 MR. BRANN: Eric Brann for Costco.
2 MR. GROSSMAN: Mr. Brann.
3 MS. HARRIS: Pat Harris on behalf of Costco.
4 MR. GROSSMAN: Ms. Harris.
5 MR. GOECKE: Mike Goecke for Costco.
6 MR. GROSSMAN: Mr. Goecke.
7 MS. CORDRY: Karen Cordry for Kensington Heights.
8 MR. GROSSMAN: Ms. Cordry.
9 MR. ROSENFELD: Michele Rosenfeld for Kensington
10 Heights.
11 MR. GROSSMAN: Ms. Rosenfeld.
12 MR. SILVERMAN: Larry Silverman, good morning, for
13 the coalition.
14 MR. GROSSMAN: Mr. Silverman.
15 MS. ADELMAN: Good morning, Mr. Grossman. Abigail
16 Adelman for the coalition.
17 MR. GROSSMAN: Ms. Adelman.
18 MR. ADELMAN: Good morning, Mr. Grossman. Dr.
19 Mark Adelman for the coalition.
20 MR. GROSSMAN: Dr. Adelman.
21 MS. DUCKETT: Eleanor Duckett, Kensington View.
22 MR. GROSSMAN: Good morning, Ms. Duckett. All
23 right. And I see we have other people in the audience here.
24 Are there people who wish to be heard today? All right.
25 And let's start out from the left-hand side.

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1 MS. CAMPBELL: My son Jack Campbell and I'm Sam
2 Campbell, and I'm a parent of a Stephen Knolls School
3 student.
4 MR. GROSSMAN: Okay.
5 MS. ROSENFELD: Maria?
6 MS. ALVAREZ: I'm Maria Alvarez, and this is my
7 daughter Angela. Angela goes to Stephen Knolls and I'm the
8 P, PSA president this school year.
9 MR. GROSSMAN: Okay. And Ms. Campbell, may I have
10 your address, please?
11 MS. CAMPBELL: Yes. 1306 Adelaide Drive, it's A-
12 D-E-L-A-I-D-E Drive, in Bethesda 20817.
13 MR. GROSSMAN: All right. Ms. Alvarez?
14 MS. ALVAREZ: 1706 Gruenther Avenue, G-R-U-E-N-T-
15 H-E-R, Rockville, Maryland 20851.
16 MR. GROSSMAN: Okay. Anybody else who wishes to
17 be heard today? Sir?
18 MR. ISHIDA: I'm Jeff Ishida with Costco.
19 MR. GROSSMAN: Okay. I'll assume that you're
20 dependent on counsel to determine whether or not you're --
21 okay. All right. Since our last session, there were the
22 following significant filings and e-mail exchanges, Exhibits
23 372 and 373. 372 were additional submissions from Mrs.
24 Adelman. (A) was a letter from Angela Bianca, Deputy
25 Director of Air and Radiation Management Administration for

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1 the Maryland Department of the Environment, and (b) was
2 Metropolitan Washington Council of Governments Air Quality
3 Information, and we decided to -- where is Ms. Adelman?
4 MS. CORDRY: She's getting --
5 MS. ROSENFELD: Can you grab Abigail?
6 MR. GROSSMAN: Okay. All right. And --
7 MS. HARRIS: Mr. Grossman, we have not received
8 those, the 372 --
9 MR. GOECKE: If these are new letters. I'm not
10 sure what the date of that letter from Mr. Bianca is but if
11 this is a new letter.
12 MR. GROSSMAN: Ms. Adelman --
13 MS. ADELMAN: July of 2012.
14 MR. GROSSMAN: -- did you supply it?
15 MR. GOECKE: Okay. We have that.
16 MS. ADELMAN: It is in the record. It's 90(b) I
17 believe.
18 MR. GROSSMAN: Okay. And so why did you feel it's
19 necessary to file it again if it's in the record already?
20 MS. ADELMAN: Well, Mrs. Adelman didn't know it
21 was in the record.
22 MR. GROSSMAN: All right.
23 MS. ADELMAN: But Mrs. Adelman has Dr. Adelman.
24 MR. GROSSMAN: I think it's appropriate to blame
25 it on your husband.

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1 MS. ADELMAN: Yes.
2 MR. GROSSMAN: I think spousal blames is a fair --
3 okay. And then we have 373 was an e-mail from Ms. Rosenfeld
4 November 15, 2013 regarding witnesses for today. And as I
5 understand it, the witnesses scheduled for today are Ms.
6 Campbell and I guess Ms. Alvarez we'll add to the list.
7 Kathy Michaels, Ms. Cordry and Mr. Sheveiko. And Dr. Cole,
8 I understand from this latest e-mail exchange, will be
9 postponed until December 5 at the request of the applicant.
10 MS. HARRIS: We appreciate that.
11 MR. GOECKE: Thank you.
12 MR. GROSSMAN: Back-up -- well, we already, we no
13 longer have a back-up at this point so we'll go on from
14 there.
15 MS. CORDRY: Just to let you know, I spoke with
16 Ms. Michaels this morning and she asked, if possible, to go
17 at the end of the day and I said fine, she can go after me.
18 We can keep in touch during the day and let her know if I
19 was going to finish during the day.
20 MR. GROSSMAN: Is there an after you, Ms. Cordry?
21 MS. CORDRY: I think there is. There's always an
22 after somehow. But in any case, she said she's also
23 available on Thursday if we didn't finish today so.
24 MR. GROSSMAN: All right. And also I received, I
25 should mention, an e-mail from Kathy Shren, or Chen rather,

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1 of Freestate who wishes to be heard on November 21, and I
2 think I got, I think everybody consented to that process of
3 Ms. Chen being heard on November 21. And at the end of
4 today's session, we should discuss who are the witnesses for
5 November 21. Any other preliminary matters?
6 MR. GOECKE: Can we also confirm that 372(b) is
7 already part of the record or is that a new submission?
8 MR. GROSSMAN: 372(b).
9 MS. ROSENFELD: I believe that's in there --
10 MS. ADELMAN: That's a new submission.
11 MS. ROSENFELD: -- as well.
12 MR. GOECKE: That's a new one? Can we have a copy
13 of that?
14 MS. ROSENFELD: I'm not sure. I think it's --
15 MS. ADELMAN: I gave you, I gave you a whole
16 packet at our last meeting. I gave you a hard copy and --
17 MR. GROSSMAN: All right. Well, you guys can
18 check that off line and see --
19 MR. GOECKE: We'll sort that out afterwards.
20 MR. GROSSMAN: -- if you got it.
21 MS. ADELMAN: And Mark e-mailed the others but the
22 e-mail for the, the COG submission, Mike, wouldn't come in
23 color so it would make no sense to you so we --
24 MS. ROSENFELD: That's not very helpful.
25 MS. ADELMAN: We can -- well, ask the boss here.

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1 I guess he said maybe we could try scanning it. Is that it?
2 MR. ADELMAN: I'll try but the color won't come
3 through the digital file, so she provided to you a hard
4 copy. I'll try again to get the digital file that shows the
5 color, but it wouldn't show.
6 MS. ADELMAN: I mean, I e-mailed it to you and
7 Michele -- well, no. I guess I e-mailed this.
8 MR. GOECKE: We can sort this out off the record.
9 MR. GROSSMAN: All right. Any other preliminary
10 matters?
11 MS. ROSENFELD: Mr. Sheveiko won't be here until
12 late afternoon I understand so I think we'll just try and
13 take his testimony, if that's agreeable to everyone, when he
14 can be here.
15 MS. ADELMAN: That's his, his back issue so that's
16 a good time for him. He thinks that he'll be okay.
17 MR. GROSSMAN: All right. Well, let's see how we
18 proceed. I don't want to have a lot of blank spaces here.
19 We'll see how it proceeds. All right then. Any other
20 preliminary matters? No. Then let's proceed and we'll
21 begin with Ms. Campbell. And if you'd be so kind just to
22 have a seat up here.
23 MS. CAMPBELL: Well, what I think I'm going to do
24 is sort of stand if you don't mind just so --
25 MR. GROSSMAN: I just want to make sure you're

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1 close enough to a microphone so we'll --
2 MS. CAMPBELL: I spoke with Kathy about that.
3 MR. GROSSMAN: Okay.
4 MS. CAMPBELL: And she's comfortable with --
5 MR. GROSSMAN: Will that work out?
6 MS. CAMPBELL: I can talk loud.
7 MR. GROSSMAN: Fine. The court reporter says it's
8 okay.
9 MS. CAMPBELL: I can, I can make my voice loud
10 too.
11 MR. GROSSMAN: All right. For the record, would
12 you state your full name, please and address?
13 MS. CAMPBELL: Yes. My real full name is Susan
14 Campbell but we only go by that if you, if I owe you money.
15 MR. GROSSMAN: And once again, your address, for
16 the record, as a witness.
17 MS. CAMPBELL: Oh. My address, for the record, is
18 9306 Adelaide Drive, Bethesda, Maryland 20817.
19 MR. GROSSMAN: All right. Would you raise your
20 right hand, please?
21 MS. CAMPBELL: Yes.
22 (Witness sworn.)
23 MR. GROSSMAN: You may proceed.
24 DIRECT EXAMINATION
25 MS. CAMPBELL: Okay. Good morning. My name is

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1 Sam Campbell and this is my son Jack, and I'm here on behalf
2 of the students of Stephen Knolls. So Jack's 15. He has
3 attended Stephen Knolls since he was five.
4 MR. GROSSMAN: Well, hold on one second. Did you
5 say you were here on behalf of the children of Stephen
6 Knolls. Are you testifying on behalf of somebody or are you
7 testifying for yourself?
8 MS. CAMPBELL: Well, I guess I could say I'm
9 testifying for myself and Jack.
10 MR. GROSSMAN: Okay.
11 MS. CAMPBELL: Because the students of Stephen
12 Knolls, most of them don't speak, so Maria and I will
13 attempt to speak on their behalf because they can't come and
14 speak for themselves.
15 MR. GROSSMAN: I understand. In a kind of
16 metaphoric way but, I mean, as witnesses, the question --
17 MS. CAMPBELL: I guess witnesses, I guess --
18 MR. GROSSMAN: -- is as an individual or on behalf
19 of a group. There's a difference in the way it's received
20 in evidence here and what, what you must do in advance. The
21 statute provides that you have a right to appear as an
22 individual without advance notice and so on. When you are
23 appearing on behalf of a group, you have to give 10 days'
24 notice and file a statement and so on. So that's why I'm
25 trying to clarify --

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1 MS. CAMPBELL: We'll go with individual.
2 MR. GROSSMAN: - trying to clarify it for the
3 record.
4 MS. CAMPBELL: Right. Okay.
5 MR. GROSSMAN: That's the reason.
6 MS. CAMPBELL: Okay.
7 MR. GROSSMAN: Okay.
8 MS. CAMPBELL: So I can say that I'm here on
9 behalf of my son and myself, right?
10 MR. GROSSMAN: Absolutely.
11 MS. CAMPBELL: Okay. But obviously, I'm here in
12 opposition of the Costco gas station. It would be on the
13 southwest corner of Wheaton Westfield Mall, and it would be
14 about 300 yards away from Jack's school. My son is probably
15 one of the least medically fragile students in the school
16 but you can see that he's severely delayed. His cognitive
17 ability is probably an eight-month-old. Most winters, he
18 gets pneumonia and ends up in the hospital. If he gets a
19 stomach virus, he ends up in the hospital. He does not
20 clear these colds and sicknesses like typical children do.
21 He's, he's probably one of the healthier ones. He eats by
22 mouth. We've got a lot of students that do not. Probably,
23 I would say the cognitive age, and I don't, I say probably
24 but I have conferred with the principal of the school, is
25 about one to one-and-a-half years old so these children

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1 function at a very low level
2 So Stephen Knolls, as you probably all know, is a
3 Montgomery County Public School that serves children with
4 severe and profound delays. Children start as young as two-
5 and-a-half there and they will go to the age of 21. Jack is
6 going to be there until he's 21. He's already been there
7 for 10 years, so that's a real long time. So we've got 110
8 students, a staff population of 75 and of those 110, 50 are
9 medically fragile. There are seven students that attend
10 with full-time private duty nurses. They are so medically
11 fragile they can't even go to school without a nurse with
12 them at all times. It's not uncommon for one to two
13 students to pass away each year and that, I really am trying
14 to drive the point home that they're fragile.
15 They serve children with multiple and significant
16 disabilities such as chronic lung disease, cerebral palsy,
17 which is what Jack has, MS, severe brain damage along with a
18 variety of other syndromes. With these physical and
19 cognitive disabilities, some students cannot move
20 themselves, they're wheelchair-bound and they require 100
21 percent help at all times for feeding, diapering, moving
22 them in any capacity. Most cannot speak. Some are blind
23 and some suffer seizures, Jack suffers seizures, at times
24 too.
25 To attend to our medically fragile population, we

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1 have a very skilled nursing staff and during the average
2 day, our nurses will perform 30 treatments. These don't
3 include the treatments that are given by the private duty
4 nurses. Thirty treatments including tube feedings, oral
5 suction, catheterization. They'll administer nebulizer
6 treatments as well, and some of our students are on oxygen
7 and/or ventilators. Because of their complicated and
8 compromised health, air quality is a constant priority for
9 our students and it's actually monitored in our school.
10 Students at Stephen Knolls, they attend because of
11 the teaching but also, the therapeutic staff as well as
12 expert nursing care. We have 911 calls probably on a
13 monthly basis there. Stephen -- because of all these
14 elements and all of the staff and the principal and
15 everybody else, Stephen Knolls is the safest place for my
16 son. It's the most appropriate environment for him, for
17 delayed and medically fragile students. They go into the
18 community, and you can see on this map, this is our school.
19 They will cross --
20 MR. GROSSMAN: I can't, you're blocking the map so
21 I can't see where you're pointing.
22 MS. CAMPBELL: Where, where should I go? I'll
23 stand here. Can everybody, can you see that?
24 MR. GROSSMAN: I'm familiar with where the school
25 is so --

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1 MS. CAMPBELL: I'm sure you know where it is.
2 MR. GROSSMAN: I just --
3 MS. CAMPBELL: This is a playground right here and
4 the, but the schools, students will enter, exit the entrance
5 and they will go up this little ramp and go into the mall.
6 They take -- I believe Jack's been going to the mall since
7 he was maybe six or seven, and they learn life skills there.
8 They'll give them a dollar and they'll try to teach them how
9 to buy something at Target and get them, you know, teach
10 them, get them out into the community. So when they cross
11 this way, you might have three, four wheelchairs, three,
12 four, five, six staff members, maybe a walker or two that
13 have to cross this path that will become, if it's approved,
14 where the cars exit the gas station and that, and that's a
15 dangerous situation as far as I'm concerned. The walkway is
16 the only entrance and the only way for our children to get
17 to the mall. The greenhouse is over here even closer, that
18 is the northwest side of the school, and they literally will
19 cross that pathway right next to the greenhouse.
20 Now, unlike other schools, like I said, students
21 attend from about two-and-a-half to 21, depending on the
22 severity of their disability so if this gas station was to
23 be built, my son would be exposed to it for six hours each
24 day for up to 18 years of his life. Most of our students go
25 in the summer as well so it adds up to about 10 or 10 and a

1 half months of school. And in the summer, as we all know,
2 air quality can be a major issue as well for our students.
3 Jack cannot go out in the heat because of seizure so if it's
4 over, particularly humid, over like 80 or 85, he can't even
5 go outside. They may choose to go the mall, in which case
6 they try to get them there quickly but it's so hot, you
7 still have the lines of cars, you still have the exhaust and
8 the traffic implications as well with building the school.
9 He's bored with my conversation.

10 And I mentioned this before. There's an article
11 in the Wall Street Journal, November 2011, it says
12 researchers suspect that the tailpipe exhaust from cars and
13 trucks, especially tiny carbon particles, already implicated
14 in heart disease, cancer and respiratory ailments, may also
15 injure brain cells and synapses key to learning and memory
16 and let me tell you, these kids struggle enough as it is.
17 They don't need any more hurdles to overcome. Life is hard
18 enough for our children so why would we voluntarily put,
19 voluntarily put a gas station that would jeopardize our
20 students' health that's already, you know, an uphill battle
21 for us parents as well, and the nursing staff.

22 So for these reasons, the gas station shouldn't be
23 built and I urge county officials all they can do to protect
24 our, our vulnerable students. If -- and I don't know that
25 anybody here, if you had your children at a school, would

1 you want this gas station next to your school with your
2 typical children? I don't want it near my medically fragile
3 student.

4 And so all the other kids there, like I mentioned,
5 are more severely delayed than Jack, or many of them are.
6 There are some children that are highly medicated. They
7 have to lay down for a good portion of the day. But I will
8 say in the school, we have a pool for hydrotherapy, we have
9 art classes, we have PE classes, we, up until recently, we
10 used to have a fair outside of the school in the parking lot
11 with families, and their children would come and we would
12 have games and we'd have a yard sale so we're outside for,
13 you know, that was a 12-hour day for a fundraiser for our
14 school.

15 And let me tell you, with our parents in the
16 school, we have a big, big, what's the word I'm looking for,
17 a lot of different types of people at our school. We have
18 some very low income people that are not even employed that
19 are doing the best they can to get by, so it's hard for them
20 to come here to testify but they care just as much as I do
21 about making this a safe environment for the children. A
22 lot of people have to take a bus to get their children there
23 or their children are picked up in school buses and they
24 can't get to the school themselves so it's a very, it's a
25 difficult life for those of us that are parents of special

1 needs children.

2 So I really implore everybody just to realize the
3 seriousness of this with our children because there, there's
4 the potential of 75 cars idling at a time while our children
5 are in school. I don't want --

6 MR. GROSSMAN: I'm sorry. You said there's a
7 potential for 75 cars idling at the gas station

8 MS. CAMPBELL: Right. The way I understood it,
9 the way from the previous hearing, I remember seeing
10 pictures of other Costco gas stations where you could have
11 up to 75 cars waiting in line to fill up their cars.

12 MR. GROSSMAN: That's not the case. But the, but
13 the central question here, we don't, there's nobody here who
14 doubts that air quality is an important issue here.

15 MS. CAMPBELL: Right.

16 MR. GROSSMAN: The question is whether and to what
17 extent this proposed gas station would affect air quality
18 around it and certainly at the Stephen Knolls School.

19 MS. CAMPBELL: Right.

20 MR. GROSSMAN: So that's, that's a question here.

21 MS. CAMPBELL: Uh-huh. But my point, and my point
22 is I don't want it near my son, I don't want it in my son's
23 school or any of the other students in the school.

24 MR. GROSSMAN: Right.

25 MS. CAMPBELL: It's a school that's supposed to

1 be, any school is supposed to be a safe place for our
2 children and in this case, in this case, these students are
3 medically fragile, and I just feel like we all need to take
4 special precautions to ensure their health and give them
5 every chance for a healthy life because they have such
6 struggles as it is.

7 MR. GROSSMAN: Before I invite cross-examination
8 here, you've mentioned that air quality is monitored in the
9 school so that raises a question in my mind. What is the
10 monitoring in the school of air quality? How is that done?

11 MS. CAMPBELL: The principal handles that with the
12 Montgomery County I believe, with the Montgomery County
13 Public Schools. I don't know how they do it but I know that
14 they do it.

15 MR. GROSSMAN: Do you know what they're monitoring
16 for, because there are many different chemicals and
17 particulate matter.

18 MS. CAMPBELL: I don't. I don't. I just sort of
19 have that general statement from last year's principal.

20 MR. GROSSMAN: Okay.

21 MS. CAMPBELL: Yeah.

22 MR. GROSSMAN: I would invite the parties to
23 submit something about that so we know a little bit better
24 about what's being monitored here because one of the
25 possibilities here that, the Board of Appeals will make the

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1 decision in this case and one of the possibilities is
2 conditions that might require some monitoring for some
3 period of time and there's a question of what's the
4 baseline, what's the baseline in the school now, what, if
5 anything, would happen if the gas station opens or operates
6 at some level and so we, that would be important information
7 for us.
8 MS. CAMPBELL: Right. Right. And I'm not
9 qualified to really expand on that anymore.
10 MR. GROSSMAN: I understand.
11 MS. CAMPBELL: That was just a statement from last
12 year's principal that she let me know that I was actually
13 unaware of so.
14 MR. GROSSMAN: Okay.
15 MS. CAMPBELL: Yeah.
16 MR. GROSSMAN: Great. Thank you.
17 MS. CAMPBELL: Okay.
18 MR. GROSSMAN: All right. Cross-examination. I
19 guess let's start from -- are you, you're appearing as an
20 individual. You're not called by any of the parties here I
21 take it.
22 MS. CAMPBELL: Yeah.
23 MR. GROSSMAN: Okay.
24 MS. CAMPBELL: So we'll start with you. No
25 questions? No questions?

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1 MS. ROSENFELD: Yes. I do have some questions.
2 CROSS-EXAMINATION BY MS. ROSENFELD
3 MS. ROSENFELD: There are a couple of provisions
4 of the Zoning Ordinance, and just for the record, Mr.
5 Grossman, I'll reference them, 59-G-1.21(a)(8), and it says
6 that the Board of Appeals ultimately will need to make a
7 finding that the proposed special exception will not
8 adversely affect the health or general welfare of visitors
9 at the subject site, among other findings, and I think I
10 understood you to testify that your son in fact does visit
11 the mall parcel, was that correct?
12 MS. CAMPBELL: Oh, yes. He does. And he has done
13 it since probably the age of six.
14 MS. ROSENFELD: And how often do, do they, do the
15 students go on field trips?
16 MS. CAMPBELL: I would say it depends on the
17 student and it depends on their health, but some of the
18 healthier students could go several times a week.
19 MS. ROSENFELD: Okay.
20 MS. CAMPBELL: And Jack lately, it depends. It
21 depends on their health but he will, he could go up to
22 several time a week.
23 MS. ROSENFELD: Is there a general route that the
24 students follow --
25 MS. CAMPBELL: Oh, yes.

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1 MS. ROSENFELD: -- to get into the mall?
2 MS. CAMPBELL: Uh-huh.
3 MS. ROSENFELD: And I'll hold that for you just so
4 the Hearing Examiner can see.
5 MS. CAMPBELL: Right. It's hard to see because
6 it's dark and it's small.
7 MS. ROSENFELD: But if you could just show the
8 Hearing Examiner where, what route they take. Where they
9 leave and what route they take to the mall.
10 MS. CAMPBELL: Okay. So they would exit the front
11 door of the school and they would take a right around the
12 greenhouse and there's a, there's like a ramp up here that
13 would get them into the parking lot of the school. And then
14 they would have to cross this sort of beltway of cars here
15 depending and on a --
16 MR. GROSSMAN: The southern Ring Road.
17 MS. CAMPBELL: Pardon?
18 MR. GROSSMAN: The southern Ring Road of the mall?
19 MS. CAMPBELL: Yeah. So they have to cross that
20 Ring Road to get into the mall.
21 MR. GROSSMAN: Right.
22 MS. ROSENFELD: And the building, the white
23 building just to the northwest of the school, is that the
24 Sears mall outlet?
25 MS. CAMPBELL: I believe so.

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1 MS. ROSENFELD: Okay. And where do they actually,
2 where do the students enter the mall?
3 MS. CAMPBELL: You know, I'm not sure to be
4 honest. I don't know if they go into the Sears because that
5 looks like it's a separate building, so I don't know.
6 MS. ROSENFELD: Okay. And do you have any idea
7 how long it takes the students to get to the school and to
8 the mall?
9 MS. CAMPBELL: Probably, it's just probably a few
10 minutes' walk because the distance is so close.
11 MS. ROSENFELD: Okay.
12 MS. CAMPBELL: Ten minutes if they're walking slow
13 maybe.
14 MS. ROSENFELD: And how long are their field trips
15 when they're in the mall?
16 MS. CAMPBELL: They could be an hour or two.
17 MS. ROSENFELD: Okay. And do you know if they
18 visit the Costco Warehouse while they're in the mall?
19 MS. CAMPBELL: I don't know if they, I would
20 imagine so because the whole point of them going to the mall
21 is to gain life skills so like I said, there's a Target
22 there, they will give my son a dollar and try to teach him
23 how to hand it to the checkout girl. So they could go
24 anywhere but from what I understand, you have to be a member
25 to actually buy something at Costco and the school is not a

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1 member and we are not members.
2 MS. ROSENFELD: And so if the evidence were to
3 show that there were higher concentrations of air pollution
4 within the mall parcel, higher than you might find at the
5 school, would that cause you concern --
6 MS. CAMPBELL: Oh, definitely.
7 MS. ROSENFELD: -- for the health of your son?
8 MS. CAMPBELL: Definitely.
9 MS. ROSENFELD: Okay. And Section 59-G-2.06,
10 which is automobile filling stations, Subsection (a)(2), in
11 part says that the, the Board of Appeals has to find that
12 the use of the proposed location will not create a traffic
13 hazard or traffic nuisance by reason of its location near a
14 vehicular or pedestrian entrance or crossing to a public or
15 private school, park or playground. So as I understood it,
16 you were saying that they, the students travel from the
17 school to the mall parcel. Is there a playground on the
18 school premises?
19 MS. CAMPBELL: There is. There's a playground on
20 the north side of the school where the children can play.
21 It has swings, it has flat areas, it's been recently, I
22 guess I want to say four years ago, renovated, and that is
23 very close. There's trees separating that from the Ring
24 Road.
25 MS. ROSENFELD: Okay.

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1 MS. CAMPBELL: So it's close, yeah.
2 MS. ROSENFELD: Okay. Thank you.
3 MR. GROSSMAN: All right. Ms. Duckett, did you
4 have any questions?
5 MS. DUCKETT: No, sir.
6 MR. GROSSMAN: Okay. Ms. Sheard?
7 MS. SHEARD: No, sir.
8 MR. GROSSMAN: All right. Applicant?
9 MR. GOECKE: No questions.
10 MR. GROSSMAN: No questions. All right. Thank
11 you very much, Ms. Campbell.
12 MS. CAMPBELL: Sure. You're welcome.
13 MR. GROSSMAN: I appreciate your coming down here
14 and sharing your views. Okay. Ms. Alvarez.
15 MS. ALVAREZ: Good morning everybody.
16 MR. GROSSMAN: Good morning.
17 MS. ALVAREZ: My name is Maria Alvarez, and this
18 is my daughter Angela (Indiscernible). She's a student at
19 Stephen Knolls, and I don't know if you need me to state my
20 address.
21 MR. GROSSMAN: Yes. State your name and address,
22 please, and I'll swear you in.
23 MS. ALVAREZ: Maria Alvarez, 1706 Gruenther
24 Avenue, Rockville, Maryland 20851.
25 MR. GROSSMAN: Would you raise your right hand,

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1 please?
2 (Witness sworn.)
3 MR. GROSSMAN: All right. You may proceed.
4 DIRECT EXAMINATION
5 MS. ALVAREZ: Angela is 16 years old and she's a
6 typical student at Stephen Knolls. When I say typical
7 student, I mean that she shares more than one or two medical
8 diagnosis with the rest of the, of the students there, and
9 she has been in Stephen Knolls for eight years now. As you
10 know, the Stephen Knolls School is located in proximity to
11 the proposed Costco mega-station and today, my daughter is
12 with me to make sure that you have a clear picture of the
13 population at Stephen Knolls.
14 I believe with all my heart that for me, as a
15 parent, as most of the parents at Stephen Knolls, that the
16 school is a blessing because not only is it a place for them
17 to go and learn but to develop who they are, have a sense of
18 community and have a safe environment for the children and
19 for us parents as well. When you have a child that needs
20 care 24 hours a day, 7 days a week for the rest of your
21 life, a safe environment is all you can dream of for your
22 child and for yourself so you can keep on being a productive
23 citizen in the community knowing that your child is well
24 taken care of, that is thriving, that is being cared for,
25 that is being accepted and understood.

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1 So for me, Stephen Knolls is not just a typical
2 school. It definitely is a special school because it is her
3 special home and a community for me. It's where I found
4 kindred spirits in the other parents, in the staff for the
5 care of my child. I feel very strong about it because if
6 you have children, you know what it means, you know, to have
7 other people see them for who they are, see them for what
8 they can achieve. When teachers tell me that they know that
9 even though Angela cannot speak or hear or see well, they
10 see her spirit. I know. I believe that because I see it
11 every day in her eyes, in her smile, in her movements. She
12 loves going to school, being with her friends and her
13 teachers.
14 Angela was born prematurely at 26 weeks and due to
15 a lack, lack of oxygen to her brain and the many
16 complications she experienced through her first months of
17 life, her diagnosis today is very complex. Her diagnosis,
18 her diagnosis reads like a list and includes cerebral palsy,
19 dystonia, epilepsy, quadriplegia, asthma, profound deafness
20 and developmental delays. My daughter is tube-fed. She has
21 a Baclofen pump inside her to help her with her spasticity
22 and dystonia. She's nonverbal and with a list of meds that
23 you will not believe. Among them Xopenex, Nasonex and
24 Pulmicort to control her respiratory problems.
25 Most of the students at Stephen Knolls share at

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1 least two diagnoses with my daughter and we know, as
2 parents, that even though her, their cases are very
3 complicated, the staff can handle all of this and actually
4 teach children a very special curriculum there. As PSA
5 president this school year, I, I represent more than 85
6 families today and all of them --
7 MR. GROSSMAN: Well, that's -- I guess I have to
8 raise the same question as I raised with Ms. Campbell. Are
9 you here on behalf of the other, a group or are you here
10 speaking individually and on behalf of your daughter?
11 MS. ALVAREZ: Individually on behalf of my
12 daughter and as PSA president.
13 MR. GROSSMAN: The reason I ask that question is
14 you're required, under our statute, if you are on behalf of
15 a group, you must let us know 10 days in advance --
16 MS. ALVAREZ: Okay.
17 MR. GROSSMAN: -- of the hearing and you must give
18 the other side, and you must file a statement stating what
19 you are going to essentially, you know, what you're
20 addressing and list any exhibits and so on. So I don't know
21 if there's an objection here. I'm going to hear it or you
22 waive any objection?
23 MR. GOECKE: Right. We would object on her
24 testifying on behalf of the organization without, not only
25 on the notice but there's no actual evidence showing that

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1 she's testifying on behalf of a group, that they chose her
2 or how that came about.
3 MR. GROSSMAN: All right.
4 MS. ALVAREZ: Very good. I'll make sure that the
5 next time, you know, we, we have all the paperwork.
6 MR. GROSSMAN: Okay. Hold on one second.
7 Anything from the other side on this point?
8 MR. SILVERMAN: This witness has testified at the
9 public hearings. They are known to the other side. The
10 other side visited the school. There's no surprises here.
11 MR. GROSSMAN: Well, we're going to hear her
12 testimony. It's just a question on as to whether or not she
13 can purport to be on behalf of a group given the statutory
14 requirement of a filing.
15 MS. ROSENFELD: I would suggest that Ms. Alvarez
16 be allowed to testify today as an individual and she can
17 return and testify in her official capacity, there are other
18 days scheduled in the hearing, and we'll provide the
19 requisite notice.
20 MR. GROSSMAN: I think what we could do is have
21 her testimony as an individual today and then if you retain
22 your objection after you hear this testimony, then there
23 could be additional cross-examination opportunity, assuming
24 that she's going to have the same testimony on behalf of --
25 I assume your testimony is one unit of testimony.

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1 MS. ALVAREZ: Yes.
2 MR. GROSSMAN: So in other words, you'd have the
3 opportunity for bringing her back for additional cross-
4 examination if that need be.
5 MR. GOECKE: Okay.
6 MR. GROSSMAN: Is that acceptable?
7 MR. GOECKE: That sounds fair.
8 MR. GROSSMAN: Okay. All right. Thank you. Then
9 you may proceed as an individual and then your testimony
10 would also be considered on behalf of, this is the Stephen
11 Knolls PTA? Is that the --
12 MS. ALVAREZ: Stephen Knolls P, PSA, yes.
13 MR. GROSSMAN: P, what does PSA stand for?
14 MS. ALVAREZ: It's parent and staff association.
15 MR. GROSSMAN: Okay. And then so it will be
16 considered on behalf of you individually and on both of you,
17 assuming that we resolve this issue of the objection. All
18 right. Thank you. Ms. Alvarez.
19 MS. ALVAREZ: I want to talk to you a little bit
20 about Stephen Knolls. This is a separate public day school
21 which provides a special education program for students who
22 range in ages from 3 to 21 with mild to severe cognitive
23 deficits and multiple disabilities. The school mission is
24 to increase the acquisition of academic and related
25 developmental skills by providing a safe and nurturing

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1 educational environment filled with meaningful opportunities
2 designed to maximize each student's unique abilities.
3 I believe that the building of the mega-gas
4 station will endanger my child and the health of the other
5 children at Stephen Knolls and it would also endanger the
6 mission of the school, to provide that safe environment. I
7 am here to echo the community's six areas of concern, the
8 air quality and health impacts, the traffic and parking
9 environmental impact, the noise pollution, the smart growth
10 issue and the no need that you all have talked about in the
11 past.
12 I would like you to know that for the kids at
13 Stephen Knolls, children like Angela, a safe and nurturing
14 educational environment should not be a question mark, a
15 wish, a hope, an abstract or an experiment at this point
16 given all the complete evidence that we have at this point.
17 And just like the rest of the children in the county, in the
18 state, it should be a guarantee.
19 I hope that this decision, this decision is being
20 made to not, to authorize or not to authorize the building
21 of the Costco mega-station so close to Angela's school, that
22 you keep in mind that children like Angela who need
23 responsible people, a responsible community to make the best
24 judgment for their safety, for their well-being, for their
25 future and the future of our family, my family.

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1 When Angela gets sick with a cold, it means that
2 she can develop pneumonia, bronchitis, will end up in the
3 hospital, might pick up another two or three things while
4 there, will start having seizures, will need an increase of
5 all her meds, will experience torture because she will have
6 catheters, blood drawing every, every day, being away from
7 her home, her safe environment, her family.
8 Not being able to hear, not being able to
9 comprehend, she is anxious, spastic, scared to death not
10 knowing what's going on. Not being able to have her friends
11 around, her environment around not only endangers her
12 physical well-being, her emotional well-being, her
13 psychological well-being, and it brings her back, all those
14 days that she's in the hospital and away from opportunity to
15 be a typical, as typical it can get, child in school with
16 her friends learning.
17 So please keep that in mind because it's my child
18 but it's yours as well, you know. When, when we say that it
19 takes a village, you are our village and we're counting on
20 your to know who the kids at Stephen Knolls are, to know who
21 we are as families so you know. Let's be a village. Let's
22 make the best decision for, for all of us, for the community
23 and think about your own kids because, you know, when I,
24 when I see other schools, I've never seen a Costco station
25 across the street.

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1 MR. GROSSMAN: Well, this isn't, in fairness, this
2 is not across the street. It's, as Ms. Campbell said, 300
3 yards away.
4 MS. ALVAREZ: Three hundred yards away.
5 MR. GROSSMAN: That's three football fields so I,
6 I -- the question here, once again, the question that we'll
7 have to face is whether or not any of the concerns that you
8 have are in fact confirmed in the evidence in a way that
9 leads to a decision that this would be harmful, potentially,
10 to the children. That's, that's the question. It's not
11 that anybody here doesn't, you know, is not concerned about
12 your, the children. It's that the question we have to face
13 is whether or not the evidence leads us to conclude that
14 this gas station, as proposed or in some modified form,
15 would be harmful to the children. So that's the question.
16 MS. ALVAREZ: Again, I was just curious that no
17 other school has a, you know, a mega-station 300 yards away
18 is what I'm saying.
19 MR. GROSSMAN: I don't know if that's, I don't
20 know that that's the case. I don't know that that's in the
21 evidence, that no other school has a station --
22 MS. ALVAREZ: Well, I'm saying I don't know.
23 MR. GROSSMAN: Okay.
24 MS. ALVAREZ: I, you know, myself. I don't know
25 that. And I really, like I said, I don't want any

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1 experiments close to my child.
2 MR. GROSSMAN: Okay.
3 MS. ALVAREZ: To our children, to my community.
4 We cannot afford that. Thank you.
5 MR. GROSSMAN: Thank you. All right. Cross-
6 examination from the coalition?
7 MR. SILVERMAN: No, thanks.
8 MR. GROSSMAN: Kensington Heights?
9 MS. ROSENFELD: Yes. Thank you. I do have a few
10 questions.
11 CROSS-EXAMINATION BY MS. ROSENFELD
12 MS. ROSENFELD: You mentioned in your testimony
13 that you live in Rockville but your, your daughter goes to
14 school at Stephen Knolls in Wheaton. And how is it that you
15 chose that particular school or did you have a choice? How
16 is it that you came to go to school there?
17 MS. ALVAREZ: Now, in the county, there are only
18 two schools like Stephen Knolls. One is for the residents
19 that live up-county and Stephen Knolls is everybody else,
20 everybody else down-county. So our family, our families
21 come from Rockville, Silver Spring, Bethesda, Chevy Chase so
22 it's, it's from all over the place.
23 MS. ROSENFELD: So if the gas station were built
24 at this location, would you have the option to move your
25 daughter to a different school?

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1 MS. ALVAREZ: No.
2 MS. ROSENFELD: And does your daughter also go on
3 fieldtrips to the mall parcel?
4 MS. ALVAREZ: Yes. Yes, she does.
5 MS. ROSENFELD: And I believe you said that among
6 her medical conditions, she, she suffers from asthma.
7 MS. ALVAREZ: Yes.
8 MS. ROSENFELD: And does she have other
9 respiratory-related conditions?
10 MS. ALVAREZ: Yes. Bronchial dysplasia which is
11 another, another condition, and she is very sensitive to all
12 that and because her diagnosis is so complicated, one thing
13 triggers the other and the other and the other. So a cold
14 might, you know, get her on set with grand mal seizures.
15 MS. ROSENFELD: And does she have any type of
16 cardiac or --
17 MS. ALVAREZ: No.
18 MS. ROSENFELD: Cardiac issues?
19 MS. ALVAREZ: No.
20 MS. ROSENFELD: And if the evidence were to show
21 that with elevated levels of certain types of air pollution
22 on the mall parcel, would, do you know if your daughter
23 would be vulnerable to medical conditions associated with
24 that?
25 MS. ALVAREZ: Very. As you know, asthma is a

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1 condition that is triggered by, you know, the, the littlest
2 of things, you know, so, you know, environmental unknowns,
3 you know, really dangerous, you know, gases, et cetera. At
4 home, we don't have any pets. She doesn't, she cannot be
5 around pets. When we go and visit family, they know that if
6 they have pets, if they have even, you know, aerosols
7 around, you know, to take them out because they can trigger
8 just a lot of coughing and some serious consequences.
9 MS. ROSENFELD: And on, on days that are code red
10 or code orange days when there are worse air condition, when
11 the air quality is lower, does that change your behavior
12 with respect to what your daughter does?
13 MS. ALVAREZ: Yes.
14 MS. ROSENFELD: And how does it change that?
15 MS. ALVAREZ: She is limited to inside. She
16 cannot go outside. We offer treatments, so there's a lot of
17 preventive care on our part as well to avoid any, you know,
18 mishaps.
19 MS. ROSENFELD: Okay. Thank you.
20 MR. GROSSMAN: Does Kensington View have any
21 questions?
22 MS. DUCKETT: No, sir.
23 MR. GROSSMAN: Okay. Applicant?
24 MS. HARRIS: Just one moment.
25 MR. GROSSMAN: Sure.

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1 MR. GOECKE: Just a couple questions.
2 CROSS-EXAMINATION BY MR. GOECKE
3 MR. GOECKE: Obviously, if your daughter is taking
4 fieldtrips to the mall right now, you and the school feel
5 that it's safe for her to go there.
6 MS. ALVAREZ: Right now, yes.
7 MR. GOECKE: No other questions.
8 MR. GROSSMAN: All right. Thank you very much,
9 Ms. Alvarez. I appreciate you coming down here and sharing
10 your views. All right. Who is our next witness today?
11 UNIDENTIFIED SPEAKER: Vivian Pescov. Yes?
12 MR. GROSSMAN: Sorry?
13 MS. ROSENFELD: You know, she wasn't here earlier.
14 UNIDENTIFIED SPEAKER: Pardon me?
15 MR. GROSSMAN: All right, ma'am. Hold on one
16 second.
17 MS. ROSENFELD: Just one second, Mr. Grossman.
18 Mr. Grossman, there's a woman here named Vivian Pescov.
19 She, she came in after we did our preliminaries but I do
20 understand that she would like to testify. She is not being
21 called by anybody.
22 MR. GROSSMAN: Okay.
23 MS. ROSENFELD: She's an individual from the
24 neighborhood.
25 MR. GROSSMAN: All right. Any objection to

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1 accommodating Ms. Pescov? All right. Ma'am, would you
2 state your full name and address for the record, please?
3 MS. PESCOV: Yes. My name is Vivian Pescov.
4 MR. GROSSMAN: How do you spell that?
5 MS. PESCOV: P, like Peter, E-S, like Sally, C-O-
6 V, like Victor. Pescov.
7 MR. GROSSMAN: Okay. And what's your address,
8 please?
9 MS. PESCOV: 3015 McComas, M, like Mary, C,
10 capital C-O-M-A-S. McComas Avenue, Kensington, Maryland
11 20895.
12 MR. GROSSMAN: All right. And would you raise
13 your right hand, please?
14 (Witness sworn.)
15 MR. GROSSMAN: And you can have a seat right up
16 here.
17 MS. PESCOV: Thank you.
18 MR. GROSSMAN: Be careful.
19 MS. PESCOV: Yes. Thanks again.
20 MR. GROSSMAN: You may proceed.
21 DIRECT EXAMINATION
22 MS. PESCOV: Sure. Just like I stated, my name is
23 Vivian Pescov. My husband, Irwin Pescov, and I have been
24 residing for over 46 years, and since January 1967, on
25 McComas Avenue in Kensington about 10 blocks away from

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1 Wheaton Plaza. When we moved to Kensington Heights, we
2 looked forward to live in the suburbs and to escape from
3 Washington, D.C. busy traffic. We have been members for
4 almost 45 years of the Kenmont Swim and Tennis Club located
5 on Faulkner Place and close to Wheaton Plaza. We enjoyed,
6 through the years, watching our daughter learn how to swim,
7 make friends and join, eventually, the swim team. The
8 championship meets were, and still are at the present, lots
9 of fun for the children.
10 The fun under the sun still continues. Families
11 enjoy coming to the pool and socialize and participate to
12 the different events like crab feasts, the Kenmont picnics
13 on Memorial weekend, the 4th of July, Labor Day and the
14 Sunday picnics and raft nights. Senior citizen enjoy the
15 pool, the swimming and their grandkids. I'm actually part
16 of a group of seniors called the Ladies of the Club. We
17 enjoy thoroughly swimming and every minute of sitting among
18 friends at the pool. Our daughter and her family, so as her
19 old friends from the pool days and families, also visit
20 often.
21 The past three years, Kenmont Swim Club has feared
22 the installation of Costco's mega-gas station and the health
23 hazards which will trigger, which will be triggered by the
24 excessive traffic and idling cars either waiting in line to
25 gas up or trying to find a parking place. Recently, I have

1 witnessed this situation at the plaza and especially on days
2 like Friday, Saturdays and Sundays where traffic is a
3 veritable zoo and it's, it's really critical to drive and to
4 park. Just this past Saturday, I waited 15 minutes in line
5 from Drum Avenue until I was able to make a left turn and go
6 to the Giant and the, the traffic will get worse and worse
7 during the holidays.

8 We're not against the, I'm not against, neither my
9 husband, nor family, nor neighbors, we're not against the
10 Costco Warehouse. We just fear that what we see in our
11 neighborhood, on our side streets, traffic-wise will
12 increase considerably when the mega-gas station and if it
13 will be installed.

14 My concern about all is that during the summer hot
15 days, the overcrowded parking and idling cars trying to park
16 in the lot and around the ring will present a huge problem.
17 The emissions are extremely dangerous and will be dangerous
18 not only to adults sitting around the pool, but it will also
19 be a big danger to children who will be exposed to the high
20 levels of particular matter and ozone. The exposure on a
21 daily basis to nearby toxic emissions during the hottest
22 months, like I said, would render pool members, and like I
23 said again and again, especially children who are more
24 vulnerable, to, than adults, to chronic adverse effects.
25 Children, after all, spend more time outdoors playing and

1 swimming.

2 I am pleased that the ZTA, a year-and-a-half ago,
3 has increased the distance from the proposed station
4 location but on the other hand, it's not enough to protect
5 us from pollution.

6 MR. GROSSMAN: How do you know that?

7 MS. PESCOV: Well, I know that because personally,
8 in my personal experience, I'm a seasonally, I'm a seasonal
9 asthmatic and I've spoken with my allergist about it. And
10 he said to me several times --

11 MR. GOECKE: Objection.

12 MR. GROSSMAN: I'm going to have to stop you
13 because that would be hearsay testimony --

14 MS. PESCOV: Okay. I'm sorry.

15 MR. GROSSMAN: -- of a kind that we shouldn't --

16 MS. PESCOV: I'm sorry.

17 MR. GROSSMAN: -- allow here.

18 MS. PESCOV: Yes.

19 MR. GROSSMAN: So you're basing it on, on what
20 your --

21 MS. PESCOV: Yes. On what he told me.

22 MR. GROSSMAN: Okay.

23 MS. PESCOV: I'm allergic. I have asthma from
24 April 1st until Memorial weekend.

25 MR. GROSSMAN: Right.

1 MS. PESCOV: And then it must be the grasses or
2 the trees, I think it's the trees. And my doctors always
3 tell me my goodness, you're there --

4 MR. GROSSMAN: Well --

5 MS. PESCOV: -- at the same date.

6 MR. GROSSMAN: Okay. Do you have any idea what
7 distance would be safe?

8 MS. PESCOV: Yes. Another location around the
9 mall far away from human habitat, from homes, from Stephen
10 Knolls and from the pool. It could be done. It could be
11 done if they just find another location because I'm very
12 concerned not only about the swimming pool but, but about
13 Stephen Knolls. I mean, today's testimony tells us and, and
14 many other times, this is the fourth time I testify and, and
15 every time, I experience this dilemma, the dilemma of
16 Stephen Knolls and the children at risk. They are at risk.

17 And what about all the other building that's going
18 to happen soon, you know, when we're going to see some more
19 homes built very close to the mall. There are some that
20 will be built between University and the mall opposite the
21 Giant. There are lots over there ready to be developed.
22 And so all this new construction, too, will bring more
23 traffic on top of --

24 MR. GROSSMAN: Well, I mean, this is a very
25 limited evaluate -- we can't, we're not the planners for

1 what develops in the area.

2 MS. PESCOV: No. You're right. I'm sorry.

3 MR. GROSSMAN: I'm only concerned with the
4 question of ---

5 MS. PESCOV: Where the Costco.

6 MR. GROSSMAN: -- the Costco gas station.

7 MS. PESCOV: Yeah.

8 MR. GROSSMAN: That's the only --

9 MS. PESCOV: It can be done with good will. It
10 can be done with compassion, with respect for a community.
11 You know, we have nothing against Costco except the mega-gas
12 station and they don't seem to be able to understand our,
13 our concerns. I, I hate to say this, it sounds ridiculous,
14 but I believe in miracles and I just hope that we will see
15 another 34th Street miracle from Costco. Everything is
16 possible. Everything.

17 And so let's hope that the Board, the Costco Board
18 will be touched by our concerns about this dilemma and will
19 try to find another place around the mall to put the
20 station, and we'll all hold hands and I will become, I
21 assure you, a member of Costco. I can't wait to, to buy
22 their delicious chocolate cake and my bathing suits. I'm
23 very jealous of some of my friends who parade in Costco's
24 bathing suits.

25 MR. GROSSMAN: All right.

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1 MS. PESCOV: So I can't wait.
2 MR. GROSSMAN: All right. Did you have anything
3 further, ma'am. I didn't mean to cut you off.
4 MS. PESCOV: No. That's about it.
5 MR. GROSSMAN: Okay.
6 MS. PESCOV: Thank you.
7 MR. GROSSMAN: All right. Cross-examination from
8 the coalition?
9 MS. ADELMAN: No, sir.
10 MR. GROSSMAN: From Kensington Heights?
11 MS. ROSENFELD: No.
12 MR. GROSSMAN: From Kensington View? From the
13 applicant?
14 MR. GOECKE: Just a couple questions, Mr.
15 Grossman.
16 MR. GROSSMAN: Okay.
17 CROSS-EXAMINATION BY MR. GOECKE
18 MR. GOECKE: Ms. Pescov, you said you suffer from
19 seasonal asthma from around April 1st to Memorial Day, the
20 end of May, is that correct?
21 MS. PESCOV: That's right.
22 MR. GOECKE: Do you do anything differently during
23 that time period because of your asthma?
24 MS. PESCOV: Well, I just see my allergist and he
25 checks it out and keeps me, he keeps me take, I mean, I take

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1 pills for, for the asthma that I suffer and it depends on
2 the seasons, you know. It's like I noticed, but I cannot
3 prove it, I cannot prove it that while the construction of
4 Costco was going on, there was a lot of dust and particles
5 at the plaza and I suffered more and so I stayed away from
6 the plaza. And, and so, and by staying away from the plaza
7 during the construction and going just to the Giant, which
8 is far away from the place where the warehouse was being
9 built, it helped a lot.
10 MR. GOECKE: And aside from when there's
11 construction going on --
12 MS. PESCOV: But I cannot prove it, you know. I'm
13 sorry about that. I mean, I felt the difference. Stay away
14 from the dust, the construction, whatever. I --
15 MR. GOECKE: Okay but aside from when there's
16 construction --
17 MS. PESCOV: Yeah.
18 MR. GOECKE: -- going on at the mall, do you
19 otherwise avoid the mall during the period of year when
20 you're undergoing your seasonal asthma?
21 MS. PESCOV: No. It was, it was only during the
22 construction, the Costco construction.
23 MR. GOECKE: Do you drive a car?
24 MS. PESCOV: Yes, I do.
25 MR. GOECKE: And in April and May of each year, do

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1 you continue to take your car to gas stations to fill it up?
2 MS. PESCOV: Well, my husband does it for me.
3 MR. GOECKE: Always?
4 MS. PESCOV: Yes. Always.
5 MR. GOECKE: And it's --
6 MS. PESCOV: I don't even know how to pump gas in
7 my tank, and he's there to witness. He will tell you that.
8 MR. GROSSMAN: Those husbands come in handy
9 occasionally but rarely, my wife tells me.
10 MS. PESCOV: That's how sensitive I am.
11 MR. GOECKE: Thank you.
12 MR. GROSSMAN: All right. Thank you very much,
13 Ms. Pescov. I appreciate your coming down here and sharing
14 your views.
15 MS. PESCOV: Thank you.
16 MR. GROSSMAN: All right. Okay. Who is our next
17 witness?
18 MS. ROSENFELD: I think that would be Ms. Cordry.
19 MS. CORDRY: We could take a break.
20 MR. GROSSMAN: Do we have, I'm sorry, Ms.
21 Michaels?
22 MS. CORDRY: Yeah. As I said, if it, when we did
23 our opening, she would prefer to go at the end of the day.
24 Some things that came up at work --
25 MR. GROSSMAN: She's not here or --

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1 MS. CORDRY: No. She's not here and I talked to
2 her. She called me because I know her and she asked if she
3 could be put at the end of the day, and I said that would
4 make sense.
5 MR. GROSSMAN: All right. Then, Ms. Cordry, if
6 you would kindly join us on the stand.
7 MS. CORDRY: Yeah. If we could take about five
8 minute's break because we need to set up a screen and the
9 projection equipment and so forth.
10 MR. GROSSMAN: All right. Okay. Come back and
11 we'll recess for five minutes then.
12 MS. ADELMAN: And, Mr. Grossmann, we do have Mr.
13 Sheveiko at 2:15 so, as I mentioned earlier.
14 MR. GROSSMAN: I feel confident that Ms. Cordry
15 will be able to fill up the time, judging from past
16 experience.
17 (Whereupon, at 10:40 a.m., a brief recess was
18 taken.)
19 MR. GROSSMAN: And we are back on the record.
20 Okay. Ms. Cordry, I remind you that you are still under
21 oath.
22 (Witness previously sworn.)
23 MS. CORDRY: Thank you.
24 MR. GROSSMAN: You may proceed.
25 FURTHER DIRECT EXAMINATION

1 MS. CORDRY: Okay. So I guess today I think,
 2 hopefully, this will be the last testimony I will be giving
 3 which will finish up, it will play off of some of what we
 4 talked about with the queuing before and so forth, but will
 5 go generally to issues about the traffic, the nuisance, the
 6 pedestrian safety, the general operating issues around the
 7 mall and it's connection with the neighborhood. So sort of
 8 historically, it seems like, it makes sense to talk about
 9 the way the mall and the surrounding areas operated before
 10 the Costco Warehouse opened, what's happened since the
 11 warehouse opened and then what we see as changing after the
 12 station may open as well. Hopefully, will not open but if
 13 it did, what we would try to project would be the results.

14 MR. GROSSMAN: All right.

15 MS. CORDRY: To some extent, for our purposes, the
 16 distinction between the warehouse and the gas station is a
 17 bit artificial because the gas station is only going to
 18 serve those who use the warehouse and if the warehouse was
 19 not built, I don't think anyone would have ever conceived of
 20 this area as needing another service station as we have
 21 talked about in my need testimony. Indeed, only a few years
 22 earlier, before the warehouse was raised for discussion, the
 23 mall terminated the lease on the existing station that was
 24 located at Veirs Mill at the WMATA entrance on the, off of
 25 Veirs Mill and decided it was preferable to have a Wendy's

1 there instead of a gas station, and that happened during my
 2 tenure when I was on the Wheaton Redevelopment Advisory
 3 Committee. We weren't necessarily thrilled with having
 4 another fast food restaurant but we didn't really have an
 5 ability to require anything different at that point again
 6 because this is this regional mall with this very little
 7 control over what goes in there.

8 MR. GROSSMAN: Yes. I handled that case. I don't
 9 recall you testifying at that.

10 MS. CORDRY: We didn't. I mean, I did not testify
 11 in that. The Regional Advisory Committee did not view it as
 12 having really any ability to control what went in there as
 13 long as there was enough traffic capacity on the road that
 14 was apparently about the main thing that was really the
 15 criteria there for being able to decide whether to build a
 16 Wendy's. In any case, they certainly didn't believe that
 17 they needed another gas station at the, at the mall area.
 18 Not even one much smaller than this one, much less one that
 19 will be several times the size of that station.

20 And of course, there's sometimes the suggestion
 21 that maybe the demand from Costco Warehouse customers is
 22 somehow separate from the overall demand for gasoline in
 23 this area. Obviously, it's part of the overall equation of
 24 supply and demand but it would normally just be factored
 25 against anyone else. You would just factor it against the

1 entire supply in the area, not just as whether you can buy
 2 gasoline at some particular station so absent the warehouse,
 3 we wouldn't be considering a gas station. So again, it's a
 4 little bit artificial to take these two effects separately
 5 but for purposes of this testimony, I will try to discuss
 6 those issues somewhat separately.

7 But certainly in discussing whether to add the gas
 8 station, it's important to look at what has occurred since
 9 the warehouse has been built because if the current
 10 operations are very near the breaking point for how much
 11 traffic and pedestrian issues and so forth are involved,
 12 then it takes very little more to push the entire situation
 13 over the point where there is a clear nuisance being imposed
 14 on the neighborhood as a whole without any corresponding
 15 benefit to them.

16 So we have talked several times about the
 17 requirements in the Zoning Ordinance, Section 59-G-1.21,
 18 that require some of the findings that have to be made.
 19 Subsection 6, that the station must not cause any
 20 objectionable noise, fumes or physical activity at the
 21 subject site. One of the provisions, subsection 8, that it
 22 will not adversely affect the health, safety or general
 23 welfare of the residents, visitors or workers in the area of
 24 the subject site.

25 MR. GROSSMAN: Well, I'm pretty much familiar with

1 the section of the code.

2 MS. CORDRY: Sure. And the same pieces for gas
 3 stations, the specifics there that it, again, will not
 4 constitute a nuisance because of noise, fumes, odors or
 5 physical activity and will not create a traffic hazard or
 6 traffic nuisance because of, among other things, it's
 7 relationship to public roads or intersections or its
 8 location in relationship to other buildings on or near the
 9 site and the traffic pattern from such buildings or by
 10 reason of its location near a vehicular or pedestrian
 11 entrance to a public use. So as I will show below, and I
 12 think as Mr. Adelman discussed in his testimony, we believe
 13 that this proposal violates all of those standards.

14 We start with the traffic patterns into and around
 15 the mall. As you recall, Mr. Gang, in his land planning
 16 report, initially stated there were five entrances to the
 17 mall, three off of University and two off of Veirs Mill. He
 18 of course had to later correct that because he was wrong.
 19 There are only two entrances off of University and three off
 20 of Veirs Mill. So I'd like to sort of walk us through these
 21 one by one and how they're used by persons approaching the
 22 mall.

23 Now, the first one we'll start with over here on
 24 the, as you come up University Boulevard from west to east
 25 is at Valley View. It has one entry lane from the west and

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1 there are two left-turn lanes coming from the east coming
2 into the mall. Now, those eastbound, those lanes from the
3 east coming west to take the left-turn lane, they're quite
4 long. There's at least 15 cars can line up to the break in
5 the median at Midvale, which is about here, and then there's
6 some more --
7 MR. GROSSMAN: Well, here doesn't --
8 MS. CORDRY: I'm sorry. About, it's at the
9 backside of roughly where the Giant is, a little past there,
10 there's a break in the median.
11 MR. GROSSMAN: The, that would be the northern,
12 it's almost due north, the tip of the Giant.
13 MS. CORDRY: Yeah. And a little past that I think
14 is actually where the break in the median is, but there's
15 room for at least 15 cars, and probably more, stacking up.
16 In fact, more can stack up behind there in the road. So
17 that entrance directs traffic into the, this corridor here
18 which comes up to the Ring Road. It's about --
19 MR. GROSSMAN: About. Corridor here meaning?
20 MS. CORDRY: From, from the University Boulevard
21 up to the Ring Road.
22 MR. GROSSMAN: Right. I understand what you're
23 talking about because you're pointing to it.
24 MS. CORDRY: Right.
25 MR. GROSSMAN: But I just want --

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1 MS. CORDRY: Right.
2 MR. GROSSMAN: -- to make sure the record reflects
3 what you're saying.
4 MS. CORDRY: Exactly. Exactly. This corridor is
5 about 550 to 600 feet long and ends at what we've been
6 referring to as Intersection 16 which was the label that Mr.
7 Guckert put on his, this intersection in his original
8 traffic impact analysis. And this is a three-way stop here
9 where the incoming traffic is introduced onto the Ring Road.
10 It's not a simply T. It's sort of a very shallow Y here.
11 There is an entrance to the Giant. If we look at this
12 intersection there just, just to the north of that corridor,
13 there is the Giant store. There's an entrance there a very
14 short distance along, I would estimate about 100 feet, no
15 more than that, between this intersection and the Giant on
16 the left.
17 A little bit further on beyond that, there's an
18 entrance into the parking lot which is on the north side of
19 the Target area here. I'm sorry. That's not the Target.
20 That's a different parking lot here but there is, as you
21 turn, but there is an entrance into this parking area here.
22 MR. GROSSMAN: Which is the, in the northwestern
23 corner --
24 MS. CORDRY: Right.
25 MR. GROSSMAN: -- of the mall.

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1 MS. CORDRY: As you --
2 MR. GROSSMAN: Where is this leading us in terms
3 of the gas station?
4 MS. CORDRY: Well, what I'm trying to do is to
5 give you the sense of how busy this area is and what kind of
6 difficulties there are in reaching it, and then where we
7 already are at this point. And then we will say if we are
8 already, as I said, at the very close to or at the breaking
9 point, which I think we will show you that there are times
10 when we are already over capacity coming into this area,
11 that adding a gas station on to that will create an
12 additional burden and a nuisance --
13 MR. GROSSMAN: All right.
14 MS. CORDRY: -- there that needs to be dealt with.
15 MR. GROSSMAN: So show me what is over capacity at
16 this point.
17 MS. CORDRY: Okay. Well -- okay. What I was
18 going to do was describe why this intersection, how it works
19 and why it doesn't work in many ways and why this is over
20 capacity. I will show you in a Power Point some very clear
21 evidence of where it becomes at over capacity.
22 MR. GROSSMAN: Well, my point is that what I want
23 to hear is what bears on what I have to make a
24 recommendation on and I'm not going to be making
25 recommendations about changing the contours of

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1 intersections. The question I have is what impact, if any,
2 will any additional traffic from the opposed gas station
3 have on the situation.
4 MS. CORDRY: Right. And --
5 MR. GROSSMAN: And that's, I want to direct it --
6 MS. CORDRY: Right.
7 MR. GROSSMAN: -- more directly to that.
8 MS. CORDRY: And I, I agree. You cannot change
9 these intersections. These are a given. This is what we
10 have to work with here and if this is not working already at
11 many times of the week, then when you add additional traffic
12 on, it becomes even more impossible.
13 MR. GROSSMAN: Okay.
14 MS. CORDRY: And that's what we're, that's what
15 I'm getting at here. To illustrate why this is not a, why
16 this is a very difficult intersection here, there's two
17 lanes in each of these directions. None of them have a
18 right-of-way.
19 MR. GROSSMAN: Each of these directions?
20 MS. CORDRY: Coming in from the, from the Ring
21 Road, I'm sorry, coming in from University Boulevard, coming
22 on the Ring Road heading south, coming on the Ring Road
23 heading north.
24 MR. GROSSMAN: Okay.
25 MS. CORDRY: Each of these has two lanes. None of

1 them have a right-of-way over the others. In each direction
2 as you come in, significant amount of traffic is crossing
3 over the other lanes, and it is not a simple cross-over
4 either because the traffic that comes in, comes into the
5 mall here in that left-turn lane comes in and very quickly,
6 much of it is going over here to go into the Giant so that
7 the traffic that is coming south on the Ring Road here has
8 to deal with that traffic moving over there.

9 Traffic coming, either making a left turn from the
10 Ring Road onto the exit ramp or coming south on the Ring
11 Road making the right turn, it doesn't stay in the right-
12 turn lane. Many of the cars that come from this right-turn
13 lane go over into the left-turn exit lane, many of the cars
14 coming up here making a left turn go into the right-turn
15 exit lane, so you're having that cross-cross pattern there.
16 The cars, the cars do not necessarily have a right turn,
17 mostly, they're not marked as right turn only so this lane
18 coming here from the south can go straight on through. So
19 what it means is every driver coming up here has to watch
20 out not just for two other cars but four other cars.

21 MR. GROSSMAN: Every driver coming up here.

22 MS. CORDRY: Coming up to the Ring Road here or
23 coming to any, coming to this intersection from any of the
24 directions has to be looking for at least four cars, not
25 just two so it's almost --

1 MR. GROSSMAN: That sounds like a fire alarm,
2 folks, so let's move out.

3 MS. CORDRY: Okay.

4 MR. GROSSMAN: We'll adjourn until we return.

5 (Whereupon, at 11:06 p.m., a brief recess was
6 taken.)

7 MR. GROSSMAN: I just want to say there's no truth
8 to the rumor that Dr. Adelman pulled the fire alarm because
9 he's jealous of Ms. Cordry getting, horning in on his
10 traffic testimony. All right.

11 MS. CORDRY: I would like to say that I believe I
12 am supplementing and complementing his testimony, I hope.

13 MR. GROSSMAN: As I do. I compliment his
14 testimony too.

15 MS. CORDRY: All right.

16 MR. GROSSMAN: All right.

17 MS. CORDRY: To go back, I think I was correct the
18 first time when I started to say this is an entrance to the
19 north side of the Target area here. This area as you turn
20 left from the entrance onto the Ring Road about 100 feet
21 past the Giant entrance is another entrance into this Target
22 lot. So you have several entrances here that traffic have
23 to crisscross and slow down for. As you make the right turn
24 coming into the mall area onto the Ring Road, there is very
25 shortly after you make that intersection, probably no more

1 than about 50 feet, another entrance into a small parking
2 area here. Cars do use that area. It's not a lot of spaces
3 but they do use it and any one car trying to stop and turn
4 into that space can again block the line of cars trying to
5 go south towards the Costco store, so you have that
6 potential for backing up into the intersection there.

7 The main point of what I'm trying to make at this
8 point is with this intersection, with all the crisscrosses,
9 with people making a right turn but immediately wanting to
10 get into a left-turn to make a turn here or into that small
11 lot or turn just a little bit further on into the main area
12 where you go into the Target lot, all of this makes for a
13 complex, difficult intersection for people to have to asses.
14 And there are also pedestrian walkways all around here and
15 again, once you make, as you're making the turn, you have to
16 be checking is there a pedestrian, is there not one, is
17 there one right on, on all sides of this intersection. Now,
18 obviously, this intersection can work. People could use it
19 all the time.

20 MR. GROSSMAN: Right.

21 MS. CORDRY: But and if traffic is not heavy,
22 there's not a problem but as traffic gets heavier and
23 heavier, these calculations you have to make get more and
24 more difficult. I've been there many times. I have
25 observed it. I start to pull out, I think I have the right-

1 of-way over everybody, all other four cars that I'm trying
2 to see, and then I realize the car that I thought was
3 turning right is in fact going straight, so I have to step
4 on my brakes again and wait and go around that person, angle
5 around, look for a pedestrian. The faster you get traffic,
6 the more traffic you have in this intersection, the more
7 those interactions become difficult, the more this
8 intersection slows down and the more it starts to propagate
9 out the backups.

10 MR. GROSSMAN: Do you have any accident
11 information for that intersection?

12 MS. CORDRY: No. I do not have any accident
13 information. But what I'm talking about is not so much
14 necessarily accidents, although that's certainly a concern,
15 but it's also the fact that in order to avoid accidents,
16 people have to drive slow. They have to go down to much
17 less than what you would consider free-flowing speed. Even
18 if you would consider that 15, which given the choice, most
19 people try not to drive at 15, but as you will see here,
20 there's a lot of times where you can't drive at anywhere
21 near 15 coming up through that entryway and going through
22 that intersection there. That does -- you can't do that
23 because you've got backups or because you're trying to slow
24 down to avoid hitting somebody.

25 And as I say, you know, you could make the

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1 intersection work but you have to make it work at a very
2 slow speed compared to something where you had a traffic
3 signal that said okay, you have the green light and you go,
4 and everybody moves through, and the other person moves
5 through when it's their turn. This kind of intersection
6 oftentimes can work well. Some times of the day and some
7 times of the week it does. At other times, it works very
8 badly, and it's because of the complexities of that area
9 there with the numbers of places where cars have to go, the
10 number of ways you have to crisscross.
11 And this has two effects. One is the traffic
12 effect, the backing up, the delays and people coming in, and
13 we'll, I'll show you where it also can back up at other
14 places as we get along in just a moment. But the other
15 effect it has goes to the emission side. As Mr. Sullivan
16 and Dr. Cole I believe will both confirm, the slower the
17 cars go, the higher these emissions levels are. And if Mr.
18 Sullivan's work is based, as I believe it is, on assumptions
19 that this traffic is generally free-flowing --
20 MR. GROSSMAN: Free-flowing.
21 MS. CORDRY: Free-flowing, yes. Free-flowing
22 traffic based on other things, on statements that this is a
23 level A of service and, and there's only so much critical
24 lane volume and so forth, and that's an assumption that
25 means that this traffic is clearly flowing easily through

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1 here and not idling and not backing up, then those are not
2 going to be valid assumptions if in fact this intersection
3 does back up. And if you assert that this, that your
4 assumptions are conservative but in fact, the evidence will
5 show that there is considerably room to believe that there
6 will be much more idling than is assumed, then his numbers
7 are not conservative.
8 MR. GROSSMAN: Let's assume you're correct for a
9 second. How do I factor that in exactly?
10 MS. CORDRY: Well, what you factor in is that the
11 burden of proof is on the applicant to show that in fact,
12 its assumptions are correct, that its modeling is correct,
13 that its numberings are correct. We've already found a
14 number of errors there which we've had to correct for them.
15 We've had a number identified which he has suggested could
16 be corrected but have not yet found their way into his
17 documents. The point is --
18 MR. GROSSMAN: Who's the, who is the antecedent,
19 the he?
20 MS. CORDRY: Mr. Sullivan. Mr. Sullivan.
21 MR. GROSSMAN: Okay. And but in terms of you're
22 talking about traffic now.
23 MS. CORDRY: Well, both.
24 MR. GROSSMAN: Well, you're talking about the
25 impact of traffic on, on air pollution as well as backups

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1 but how do I actually -- you say they have the burden of
2 proof. They have introduced evidence that these are, these
3 intersections are operating at a level of service A. What,
4 what evidence do you have that it's operating at a level of
5 service F or whatever?
6 MS. CORDRY: Right. And I am getting to that and
7 I will do that, yes, but what I'm just trying to do at this
8 point is just set up immediately some of the reasons why
9 these parameters are there, and I will show you all of those
10 things. I promise.
11 MR. GROSSMAN: All right.
12 MS. CORDRY: All right.
13 MR. GROSSMAN: But I'm saying let's --
14 MS. CORDRY: Yeah. I can --
15 MR. GROSSMAN: We've already had a lot of traffic
16 evidence.
17 MS. CORDRY: Right.
18 MR. GROSSMAN: -- from the opposition so.
19 MS. CORDRY: But Mr. Sullivan spent a lot of time
20 going over his assumptions too so we, we really need to make
21 all of these things clear. Just to go through, the next
22 intersection here is at East Avenue. It's a much less
23 traveled, used entrance because you can't turn into it from
24 the left, you can only turn into it from going right, going
25 northbound or eastbound on University Boulevard. According

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1 to the predictions in Mr. Guckert's traffic impact analysis,
2 it's expected to have only about a third of the Valley View
3 entrance traffic in the morning and only about a sixth of
4 that traffic at night. It only picks up travel, presumably,
5 from people who know about it, don't want to go in here,
6 think that they can maybe bypass --
7 MR. GROSSMAN: Don't want to go in here meaning --
8 MS. CORDRY: I'm sorry. Go in the --
9 MR. GROSSMAN: The Valley View entrance.
10 MS. CORDRY: -- the Valley View entrance.
11 MR. GROSSMAN: Okay.
12 MS. CORDRY: Who try to bypass that. But if they
13 are going to go to the Costco store, as Mr. Adelman pointed
14 out, they're going to have to turn around and go right back
15 through that Intersection 16, again increasing the burden at
16 that point there.
17 MR. GROSSMAN: I don't have it in front of me so
18 what's the number of that intersection at East Avenue?
19 MS. CORDRY: On, on his traffic report, it was no.
20 5 on University Boulevard.
21 MR. GROSSMAN: Okay.
22 MS. CORDRY: And the no. 17 on the Ring Road. As
23 we go around, the next entrance I believe that we are
24 discussing is, there is an entrance off of Veirs Mill if you
25 turn into the CVS parking lot --

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1 MR. GROSSMAN: Let me interrupt you one more
2 second.
3 MS. CORDRY: Sure.
4 MR. GROSSMAN: The Valley View and University,
5 which is 16 at the Ring Road. What is it at the, at Valley
6 and University?
7 MS. CORDRY: I think it's no. 4. I'm not
8 positive. I'll have to, I'll have to check on that.
9 MR. GROSSMAN: Okay.
10 MS. CORDRY: But if we go around to the entrance,
11 the next one that you can go into the mall is at the, the
12 CVS drugstore. If you wander around the back of that lot
13 and check out, you can actually find there are two ways that
14 you can get from that parking lot into the, down to the Ring
15 Road. One goes down by the office building and one goes by
16 the WMATA parking lot. Neither of those is marked in any
17 way as, as any kind of directional signs directing you to
18 the mall.
19 I'm reasonably sure that neither Westfield, nor
20 CVS, actually encourages drivers to use that kind of a
21 parking lot to sidestep entry through the normal signalized
22 lot. Certainly, the county has tried to get Westfield to
23 agree to make that an actual true entrance there. Again,
24 that was something that came up during the time I was on the
25 Redevelopment Advisory Committee, and the mall never agreed

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1 to that, and certainly --
2 MR. GROSSMAN: Do you know what the numbers are on
3 those? I wish I had --
4 MS. CORDRY: That, I don't believe has a number.
5 I don't believe they did any kind of traffic impact analysis
6 there.
7 MR. GROSSMAN: Okay.
8 MS. CORDRY: Precisely because it's not really a,
9 an entrance to the mall.
10 MR. GROSSMAN: Okay.
11 MS. CORDRY: So I will say I was there one time
12 with Ms. Savage in the car and she was completely amazed to
13 find it actually existed even though she's lived in this
14 area for quite some time. So again, it's, it's a little
15 surprising that would be counted as an entrance but I
16 suppose at least some people do occasionally go back through
17 there.
18 The other two entrances are the ones that are
19 actually the developed entrances to the mall. One off of,
20 from Reedie Drive and one down by the WMATA bus bay entrance
21 there. Both have two long left-turn lanes available for
22 cars to use as they come north on Veirs Mill and to make
23 left-turn lanes into the, into the mall. Once you do turn
24 in, they have relatively short driveways within the mall,
25 about 150 feet for the WMATA entrance and about 220 for the

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1 Reedie Drive entrance.
2 The WMATA entrance basically just pulls traffic
3 from those going north and south on Veirs Mill Road. The
4 Reedie entrance can take traffic from Veirs Mill and also,
5 traffic on Georgia Avenue can turn onto Reedie Drive,
6 traverse across and then drive straight on into the mall.
7 The entrance at Reedie is signalized within the mall, the
8 WMATA entrance is not. When cars do come in the WMATA
9 entrance, they theoretically have the right-of-way, at least
10 they don't have a stop sign there, but there doesn't seem to
11 be anything that's marked that actually tells them they have
12 the right-of-way so again, that kind of slows people down
13 because they pull up and they wait to see if it really is a
14 three-way stop or if they should go forward or not.
15 There used to be an entrance directly into the
16 mall. You used to come straight in and go straight into the
17 mall parking lot there by the J.C. Penney and go straight
18 across the cross road traffic there on the Ring Road. That
19 was closed off a few years ago. I guess they thought that
20 made a better traffic pattern. I never thought so but
21 they're the traffic engineers.
22 So now as traffic comes in there at the WMATA
23 entrance, it either has to turn right and go up by the Metro
24 garage and make the, a left turn, then back into and around
25 and go past the Penney's, right in front of the Penney's

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1 store in order to get into the garage where the Costco
2 parking is or they have to go down and go all the way around
3 on the Ring Road to when they come up by where the Sears
4 outlet store is and use that way to go up into the garage.
5 So again, all of these things tend to slow down the traffic
6 and increase the, the amount of times that cars spend idling
7 there and, and waiting.
8 All right. So once, once a shopper comes into the
9 mall in the normal course of things, they're going to park
10 in one location, they're going to walk around the mall, make
11 their purchases, exit and go back out the same way. And
12 again, I'm still at this point of talking about the way it
13 was before we had the warehouse there. Without the
14 warehouse, if, if people wanted to move from one side of the
15 mall to the other to do some of their shopping --
16 MR. GROSSMAN: Let's talk about with the warehouse
17 there because that's --
18 MS. CORDRY: Okay.
19 MR. GROSSMAN: It's there.
20 MS. CORDRY: All right. But one of the things
21 I'm --
22 MR. GROSSMAN: There's no point in --
23 MS. CORDRY: Right.
24 MR. GROSSMAN: -- talking about what it was before
25 the warehouse.

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1 MS. CORDRY: Okay. But what I am trying to say is
2 that the warehouse, in some respects, makes a difference.
3 In other respects, in terms of the impact of where the
4 station is, there are ways to, there are some distinctions
5 between what the warehouse does and what the station does in
6 large part because of the hours that the two operations
7 are --
8 MR. GROSSMAN: Right.
9 MS. CORDRY: -- and they're different. And that's
10 why I'm saying, I'm trying to contrast what it's like for
11 the Ring Road before either one of these are there and what
12 impact the warehouse has versus what impact the station has
13 and those are, to some extent, notwithstanding what I said
14 in the beginning, but they are, to some extent,
15 distinguishable, particularly during the morning hours.
16 And the first thing I would like to actually put
17 in here is the, the traffic reports and, a traffic report
18 that was done at the time of the first application which was
19 April of 2012. Ms. Adelman, it's a couple of stacks down
20 there. It looks like this. It's a couple of exhibits down
21 there. This one was done in April of 2012 and actually did
22 some counts around here and, and I say --
23 MR. GROSSMAN: All right. Around here meaning --
24 MS. CORDRY: When I'm saying around here, I'm --
25 MR. GROSSMAN: -- around the southern Ring Road?

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1 MS. CORDRY: Yes. Talking about the Ring Road
2 from roughly around the target to, to the Torrance Court
3 Sears outlet area there and looking at what, what the
4 volumes were at that point which was before either the
5 warehouse or the gas station.
6 MR. GOECKE: Ms. Cordry, do you know what exhibit
7 number this is offhand?
8 MS. CORDRY: This is one I'd like to have marked
9 as a new exhibits, and these are all ones that I sent the
10 4th of November and that I gave you copies of the last time
11 we were here. Hard copy.
12 MR. GROSSMAN: So this will be Exhibit 2 or 3 or 4
13 or 3.
14 MS. CORDRY: We're still in the 3s. I think we're
15 still in the 3s.
16 MR. GROSSMAN: Yes, 374. That will be --
17 MS. HARRIS: Abigail, do you have an extra?
18 MS. ADELMAN: I don't.
19 MR. GROSSMAN: Is --
20 MS. CORDRY: I did give you the one, I did give
21 you all those last week.
22 MR. GROSSMAN: Is Guckert April 5, 2012 traffic
23 data. Is this just an excerpt from this?
24 MS. CORDRY: Right. What I was pulling out was
25 the vehicle --

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1 MR. GROSSMAN: All right. All right. So this is
2 excerpt, 374 is excerpt from Guckert April 5, 2012 traffic
3 impact analysis. Is that what it --
4 MS. CORDRY: Um, it was a, primarily doing, it was
5 not a full traffic impact analysis --
6 MR. GROSSMAN: All right.
7 MS. CO: -- in the way he did this but it was a
8 study of some traffic along the Ring Road that was being
9 requested at that point.
10 MR. GROSSMAN: Traffic study of Ring Road. All
11 right.
12 (Exhibit No. 374 was marked
13 for identification.)
14 MS. CORDRY: And the second page is just a picture
15 of some of the area where this was being done, and the third
16 page is the, the vehicle counts there that I'm referring to.
17 MR. GROSSMAN: I'm still not sure I understand why
18 the pre-Costco Warehouse figures are relevant to any
19 consideration.
20 MS. CORDRY: Okay, because the Costco Warehouse,
21 as I'm going to get to in a moment, has essentially no
22 impact on the Ring Road prior to 10:00 a.m. The gas station
23 will have a major impact on the Ring Road prior to 10:00
24 a.m.
25 MR. GROSSMAN: Okay, but why should I even

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1 consider what happened before the warehouse?
2 MS. CORDRY: No, no, no.
3 MR. GROSSMAN: That's what I don't understand.
4 MS. CORDRY: Well, what I'm trying to do is I'm
5 trying to, I'm trying to show you before -- what is the gas
6 station going to affect.
7 MR. GROSSMAN: Right, but it can only affect the
8 situation that exists at the time it is constructed, if
9 constructed, and that is with the existing warehouse.
10 MS. CORDRY: I --
11 MR. GROSSMAN: Why do I care about the pre --
12 MS. CORDRY: Okay.
13 MR. GROSSMAN: -- warehouse traffic?
14 MS. CORDRY: Because what I am going to show you
15 step-by-step is what was the road like before, has the
16 warehouse changed that situation.
17 MR. GROSSMAN: Why do I care? I can't touch the
18 warehouse. That has nothing to do with --
19 MS. CORDRY: Because if the warehouse does not
20 change the situation and the gas station is, which I am
21 going to show in a moment, then it is the gas station that
22 is having the incremental impact at that point, is creating
23 the nuisance at that point. It is not a matter that you can
24 say oh, well, the warehouse is already there.
25 What I'm trying to -- this, this is a unique

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1 situation where the gas station is not out on a main road.
2 It is not -- passing by traffic and so forth is not the
3 issue here because we have a whole new set of traffic back
4 in this area here and there are two situations. One is the
5 hours when the warehouse is open where you can make certain
6 arguments there but the other is when the warehouse is not
7 open, all of that traffic coming back onto the back part of
8 the Ring Road is new traffic to that part of the Ring Road.
9 All of that traffic is affecting the residents and the
10 neighbors in that area. So what I need to do is show you
11 what it was before any of this was built, I'm going to show
12 you what has been happening even with the warehouse there,
13 which is going to indicate that there has been very little
14 difference, and then I will show you what the projections
15 are that we can expect with the gas station.
16 MR. GROSSMAN: All right. I hear you saying that
17 three times. I still do not understand how what you show me
18 about what existed before the warehouse bears on anything I
19 would recommend.
20 MS. CORDRY: Because --
21 MR. GROSSMAN: I understand your frustration
22 because I'm frustrated too.
23 MS. CORDRY: Well, okay. Okay.
24 MR. GROSSMAN: I don't understand. How can you --
25 MS. CORDRY: Okay. Okay.

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1 MR. GROSSMAN: How can you tell me that something
2 that existed before the warehouse really makes a difference
3 since the warehouse is what's there now?
4 MS. CORDRY: Okay. Let me -- if I can just walk
5 you through the time and what's happening here.
6 MR. GROSSMAN: Go ahead. I --
7 MS. CORDRY: Because again, the warehouse is not
8 open before 10:00 a.m.
9 MR. GROSSMAN: Okay.
10 MS. CORDRY: It is not bringing traffic into that
11 area before 10:00 a.m. but the gas station will be bringing
12 traffic into that area from 6:00 a.m. to 10:00 a.m.
13 MR. GROSSMAN: Right.
14 MS. CORDRY: Okay. So that's what I'm trying to
15 get to, okay? Let me just do this. I will show you.
16 MR. GROSSMAN: Go ahead.
17 MS. CORDRY: What I was trying to show you is that
18 -- and it's important because the question is what is the
19 incremental value. If you have --
20 MR. GROSSMAN: Right. It's the increment from the
21 existing traffic.
22 MS. CORDRY: Right.
23 MR. GROSSMAN: It's not the increment from the
24 pre-warehouse traffic.
25 MS. CORDRY: But what I will -- okay. I think

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1 each one of those is relevant and it will be --
2 MR. GROSSMAN: It's not relevant to, to me --
3 MS. CORDRY: Okay.
4 MR. GROSSMAN: -- if it's the pre-warehouse
5 traffic because I'm dealing with the situation as it exists
6 now and what, if any, difference it will make from what
7 exists now. And what exist now is the warehouse.
8 MS. CORDRY: Okay. Can I, can I just do this?
9 MR. GROSSMAN: Go ahead.
10 MS. CORDRY: Okay.
11 MR. GROSSMAN: I'm going to stop saying that
12 because I've said it three times.
13 MS. CORDRY: Okay. Because all right --
14 MR. GROSSMAN: And you --
15 MS. CORDRY: All right. What I was going to show
16 you is this. As of now, as of prior to the warehouse, the
17 study that he did indicated that there were roughly, no
18 exactly, over a three hour period --
19 MR. GROSSMAN: Right.
20 MS. CORDRY: -- from 6:30 to 9:30, i.e., the time
21 period where the gas station would be operating but the
22 warehouse is not currently, that there was a total of only
23 201 cars went by that, 201 trips in either direction
24 combined with all directions during a three hour period, and
25 that the peak hour was 105. Okay. So at most, less than

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1 two cars a minute going through that kind of an area there.
2 So it was a quiet area. It's not a lot of traffic.
3 MR. GROSSMAN: Right.
4 MS. CORDRY: In the evening, it was about double
5 that amount. Now, and that was my observations as well as I
6 would walk through. It was quiet and if anything, I thought
7 the evening hours that he had there were a little high.
8 We'd often see a couple minutes go by at a time without any
9 cars back there.
10 MR. GROSSMAN: Right.
11 MS. CORDRY: The point being that while this is a
12 big mall, it's got a lot of square footage and it's a
13 regional mall and it's drawing people, but that's still not
14 the same thing as saying was this back area there a heavily
15 traveled area that people should expect to have a lot of
16 loud noises, traffic, cars and everything, and the answer is
17 no because the way the mall was set up, it did not have much
18 traffic back there.
19 It was typical all through the mall -- until at
20 least the end of 2006, this mall was typical, the way malls
21 have been built for decades. You have a large central
22 structure located near the main road and the access points,
23 and you have acres of parking around those buildings giving
24 you a buffer to the neighborhood. And what we're now seeing
25 is, and in fact, Westfield was able to get a parking waiver

1 in 2011 stating that they had so much parking buffer that
 2 they didn't need it all.
 3 Now, again, prior to the construction of the Sears
 4 outlet, the last major construction was the Macy's store and
 5 garage. They're both built on the north side of the mall.
 6 Again, well away from the community. There was some mention
 7 of the health spa which is, again, is built on Veirs Mill
 8 right on the, right on the roadway there. I'm not sure why
 9 that was brought up but it was certainly nothing that
 10 impacted the neighborhood. People weren't driving to any of
 11 those things did not have to go back in the neighborhood.
 12 This segment of the Ring Road --
 13 MR. GROSSMAN: This segment meaning --
 14 MS. CORDRY: The Target around the Sears outlet,
 15 was a very low usage portion of the mall. It was quiet, it
 16 did not have a lot of traffic, it did not burden the
 17 neighborhood and certainly, new resident, new retail
 18 development would still not have the, the impact of a gas
 19 station in the sense of at least this gas station with the
 20 long idling lines because none of the additional retail that
 21 we might bring into this mall would have any reason to
 22 create lines of idling cars.
 23 Certainly not the Montgomery Wards that was there
 24 before as we discussed. It did not have any of those kind
 25 of things. Even the Costco Tire Center that it has as part

1 of its store doesn't have idling cars. People come in, they
 2 park their car, they go in there, they get a little tag that
 3 they put on top of their car and their car sits there with
 4 the engine turned off until the worker comes out and gets it
 5 and brings it into the store.
 6 So anyone buying around the mall would have had no
 7 reason to think that this was an area that was going to have
 8 heavy development back there, large numbers of cars going
 9 by, large number, of impact on them. The Sears outlet store
 10 was the first structure that did break that pattern. It did
 11 go down to the Ring Road, certainly surprised all of us who
 12 saw it being built because we didn't realize that unlike
 13 everything else in Montgomery County where there's 17 levels
 14 of public input --
 15 MR. GROSSMAN: Come on, Ms. Cordry.
 16 MS. CORDRY: -- we had to, you know, this was a
 17 regional mall which was accepted from that. But even that
 18 store did not have large amounts of traffic, unfortunately,
 19 it hasn't been a very successful store so, and even there
 20 coming to that store, you don't drive around, again, that
 21 segment of the Ring Road that we have been talking about.
 22 The parking is right there at that Torrance Court entrance
 23 there.
 24 So I would like, and I'm going to come back to the
 25 rest of these in just a moment. I do have a Power Point

1 here that I'm going to walk through that has a number of the
 2 aspects of what we're talking about here, so I would like to
 3 mark this as another exhibit and I have a copy for you.
 4 MR. GROSSMAN: Okay.
 5 MS. CORDRY: I did yours in color. Everybody else
 6 -- I will have a thumb drive for you that will have all of
 7 these, the Power Point and all of the various components on
 8 there as well.
 9 MR. GROSSMAN: This is not part of what you sent,
 10 that you e-mailed?
 11 MS. CORDRY: Yes. Yes.
 12 MR. GROSSMAN: It is part of what you e-mailed.
 13 MS. CORDRY: Yes. Yes.
 14 MR. GROSSMAN: So I may already have this.
 15 MS. CORDRY: Okay, but you may not have it in
 16 color so let me give it to you that way.
 17 MR. GROSSMAN: Okay. So we'll make this -- is
 18 this, I mean, from what you already e-mailed me, do you know
 19 if this got marked already --
 20 MS. CORDRY: Let's see.
 21 MR. GROSSMAN: -- as an exhibit?
 22 MS. CORDRY: Does anybody have, I have the --
 23 MR. GROSSMAN: 367, let's see, is your e-mail
 24 submitting pedestrian safety documents, map of parking area,
 25 Florida pedestrian plan, pedestrian and bicycle safety, Ring

1 Road data, (e) --
 2 MS. CORDRY: I don't believe it's any of those. I
 3 think it would be --
 4 MR. GROSSMAN: -- final report. Okay. I just
 5 don't want to mark it twice because we already have enough
 6 stuff.
 7 MS. CORDRY: I'm pretty sure that was --
 8 MR. GROSSMAN: Well, let's see. 371 was exhibits
 9 highlighted, pages 1 to 8. No. That's, that was, that was
 10 received at the hearing. All right. So I guess this is not
 11 yet in unless you tell me differently.
 12 MS. CORDRY: Okay.
 13 MR. GROSSMAN: We'll mark this as Exhibit 375, and
 14 this will be Cordry Power Point on, how would you describe
 15 it, Power Point on --
 16 MS. CORDRY: Traffic pedestrian safety issues.
 17 MR. GROSSMAN: All right. Power Point on traffic
 18 pedestrian -- unfortunately, I spelled pedestrian testrian
 19 so I know that's wrong. My limited spelling ability tells
 20 me that's wrong. Safety issues.
 21 (Exhibit No. 375 was marked
 22 for identification.)
 23 MS. CORDRY: And as long as you're marking that,
 24 then the other two things I would ask to be marked also, I
 25 will have, I will give you -- at lunchtime, I have a thumb

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1 drive that has all of these materials on this --
2 MR. GROSSMAN: All right.
3 MS. CORDRY: -- which we can mark as a separate
4 exhibit if you want. I have a --
5 MR. GROSSMAN: You can just turn it into my
6 office.
7 MS. CORDRY: Okay. And then I also have a list
8 here that I prepared of everything photo and video that is
9 on that thumb drive.
10 MR. GROSSMAN: Okay.
11 MS. CORDRY: And then I have a -- which could be
12 Exhibit 376.
13 MR. GROSSMAN: All right. So 3 --
14 MS. ADELMAN: Do you want to hand out --
15 MS. CORDRY: Yes.
16 MS. ADELMAN: -- this out now?
17 MS. CORDRY: And also the one labeled Costco
18 observation.
19 MR. GROSSMAN: Well, the thumb drive, what does
20 the -- all right. Let me take a look at this.
21 MS. CORDRY: This --
22 MR. GROSSMAN: Thank you. So --
23 MS. ADELMAN: So is that Mr. Grossman's copy or --
24 MS. CORDRY: No. That would be --
25 MR. GROSSMAN: These are a series of photos. This

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1 is not a thumb drive.
2 MS. CORDRY: This is a labeling of, this is a list
3 of what's on the thumb drive in terms of the photos and the
4 videos that are on the thumb drive.
5 MR. GROSSMAN: Okay. So 376 is list of exhibits
6 on thumb drive, and this is all regarding traffic and
7 pedestrian safety?
8 MS. CORDRY: Right.
9 MR. GROSSMAN: Re: traffic and pedestrian safety.
10 (Exhibit No. 376 was marked
11 for identification.)
12 MR. GROSSMAN: And we'll make, the thumb drive can
13 be 376(a).
14 MS. CORDRY: Okay.
15 (Exhibit No. 376(a) was marked
16 for identification.)
17 MR. GROSSMAN: Okay.
18 MS. CORDRY: And the other one is a list, this is
19 pretty much, which I'll mark as 377, it's labeled as Costco
20 observations. It is a write-up of pretty much everything I
21 observed which I'm going to talk about some of this but not
22 every bit of this, but this is everything that I have been
23 observing over a period of time since the Costco Warehouse
24 opened in terms of these kind of matters that I'm going to
25 be discussing here.

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1 MR. GROSSMAN: All right. So 377 are Cordry
2 observations regarding traffic and pedestrian safety. At
3 the Costco area?
4 MS. CORDRY: This is in the general Costco area
5 and --
6 MR. GROSSMAN: All right.
7 MS. CORDRY: -- extending out to the Intersection
8 16 area.
9 MR. GROSSMAN: Okay. Well, I'll say along the
10 Ring Road?
11 MS. CORDRY: Along the Ring Road out to the
12 entrances to the mall.
13 MR. GROSSMAN: Okay. Along southern Ring Road.
14 (Exhibit No. 377 was marked
15 for identification.)
16 MR. GROSSMAN: Okay.
17 MS. CORDRY: All right. So the title slide is
18 just one that kind of, I think, sums up our view. I think
19 you've heard it from a number of other witnesses as well,
20 not necessarily even just people that support this, or that
21 oppose the station. You've heard it from a number of
22 supporters of the station that lot full is a good way to
23 describe the way the Costco area is these days much of the
24 time.
25 MR. GROSSMAN: It's a metaphor for your traffic

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1 testimony.
2 MS. CORDRY: It is a metaphor for my traffic
3 testimony. I will tell you that they now no longer put that
4 sign up. It doesn't mean the lot isn't full. They just --
5 MR. GROSSMAN: They took away your metaphor.
6 MS. CORDRY: They, they just decided that I think
7 that was too good of a photo opportunity so they stopped
8 putting that sign up.
9 MR. GROSSMAN: All right.
10 MS. CORDRY: That was taken back in April within
11 the first week or two after the store was open.
12 MR. GROSSMAN: April of 2013?
13 MS. CORDRY: Of 2013, yes.
14 MR. GROSSMAN: Okay.
15 MS. CORDRY: Okay. In terms of what's here right
16 now and Mr. Gang's testimony, for instance, when he said
17 there was no pedestrian connection between the special
18 exception area and the neighborhood, clearly, as Mr. Gang
19 later conceded, his statement was incorrect and certainly
20 distinctly misleading even if you say in the narrowest sense
21 well, you've got a Ring Road in between the neighborhood and
22 the special exception area. These are the paths on Mt.
23 McComas that are directly across the Ring Road, perhaps 50
24 to 75 feet from where the special exception area --
25 MR. GROSSMAN: I remember this discussion with

1 him. I don't recall -- are these official paths or are
 2 these just paths that have grown up from pedestrian use?
 3 MS. CORDRY: Well, I mean, they're not paved paths
 4 but --
 5 MR. GROSSMAN: Right.
 6 MS. CORDRY: -- you know, the question is are, do
 7 people walk on these, do they use them? Absolutely. I have
 8 seen people numerous times using them, I've walked on them
 9 myself. If you look at the back of these photographs here,
 10 you can see --
 11 MR. GROSSMAN: It's hard for me to turn over the
 12 screen and see the back.
 13 MS. CORDRY: Right. No, no. I'm saying if you
 14 look all the way towards the back, back into the photograph,
 15 the white, the grayish-white areas there, those are the
 16 roofs of the houses.
 17 MR. GROSSMAN: Right.
 18 MS. CORDRY: I think the --
 19 MR. GROSSMAN: No. I don't doubt that this
 20 exists. I'm just saying I just wanted to know if these
 21 were --
 22 MS. CORDRY: Right.
 23 MR. GROSSMAN: Because he may have meant in his
 24 original report where he said that there wasn't an official
 25 pedestrian access. Clearly, there is the path they use.

1 MS. CORDRY: I think Mr. Gang was just being
 2 hyper-technical to say the least.
 3 MR. GROSSMAN: Okay.
 4 MS. CORDRY: And I think that that does, you know,
 5 gives you some reason to think about the credibility and
 6 validity of the report if someone is -- and he did
 7 eventually agree that, yes, those are paths, yes, you could
 8 see them, those are Google Earth shots. You can see them.
 9 Actually, those are my -- he said he could see it on the
 10 Google Earth shot. Those are ground level photographs I
 11 took on, on April 23rd.
 12 MR. GROSSMAN: Right. Okay.
 13 MS. CORDRY: Okay. And just to show you that even
 14 with the warehouse there, this is still the way --
 15 MR. GROSSMAN: The deer and the antelope play,
 16 right?
 17 MS. CORDRY: Still do play on Mt. McComas on a
 18 Sunday morning. Just a little humor there, okay, to keep us
 19 going. Okay. Now, that approval process for the homes that
 20 are going to be built on Mt. McComas, that's, this is going
 21 to disappear soon. They have put in a site plan, we got
 22 that recently in the mail, it is moving forward. It will
 23 have 14 homes I believe it is with 5 of them being built
 24 directly across the backside or the area of that development
 25 that is closest to the Ring Road. It also provides for a

1 pedestrian, that the applicant is to coordinate with
 2 Westfield to put a pedestrian connection in from those homes
 3 up to the mall so you will continue to have this access for
 4 the neighborhood.
 5 MR. GROSSMAN: I have a vague recollection of that
 6 case that some witnesses did not want that pedestrian path.
 7 MS. CORDRY: There was some discussion initially
 8 but it is, it is now very clear that the neighborhood has
 9 made clear to the developer that we do want the path and it
 10 does show on the site plan proposals that he has put in
 11 there and that it is to have the path going up there.
 12 Now, right now, we don't have a sidewalk on
 13 McComas which is, you know, as I say, if you go all the way
 14 back to the back of those pictures and that, that hill there
 15 drops off down to the neighborhood, that Mt. McComas was the
 16 fill dirt from when they did their last expansion at the
 17 mall and what's going to happen is they're going to come in
 18 and truck off about 900 truckloads of dirt and restore the
 19 area back to the general plane of the other neighborhood
 20 there.
 21 MR. GOECKE: I would object to the foundation of
 22 this testimony.
 23 MR. GROSSMAN: Yes?
 24 MR. GOECKE: The basis for how she knows this.
 25 MS. CORDRY: I have been at numerous meetings --

1 MR. GROSSMAN: All right. Well, let's hear the
 2 answer to that.
 3 MS. CORDRY: Well, I've been at numerous meetings
 4 with the developer when he's been talking about those plans
 5 over the last four or five years and what's been planned. I
 6 have seen the site plan, we had a meeting with him which I
 7 guess there's supposed to be an official neighborhood
 8 meeting at some point. I attended that about six weeks ago.
 9 MR. GROSSMAN: The site plan has been approved
 10 by --
 11 MS. CORDRY: No. I don't, I don't think it's been
 12 approved yet. It has been put, but was put in. I have a
 13 copy of what was, what's been submitted if you want to put
 14 that --
 15 MR. GROSSMAN: It's really what's approved that
 16 will make --
 17 MS. CORDRY: Yeah.
 18 MR. GROSSMAN: -- a difference, if it makes a
 19 difference. What difference does it make anyway, approved
 20 or not approved?
 21 MS. CORDRY: Well, my only point is again, I'm
 22 looking at also some of these land planning things. Is
 23 there a direct connection, is the neighborhood going to use
 24 this area and right now, there is not a sidewalk on that
 25 area of Mt. McComas. It is a, or I'm sorry, of McComas

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1 Avenue.

2 MR. GROSSMAN: Right.

3 MS. CORDRY: It's a pretty, it's a steep hill, it

4 curves, it's pretty dangerous to walk on so it discourages,

5 right now, pedestrian path. People do walk on it. I mean,

6 I do myself but I kind of feel like I'm taking my life in my

7 hands every time I do it. Again, we have had meetings with

8 the county and --

9 MR. GROSSMAN: But where is this going?

10 MS. CORDRY: Okay.

11 MR. GROSSMAN: What is this, how does this affect

12 what I have to recommend?

13 MS. CORDRY: Okay. The point is what I'm showing

14 you is that there are definite pedestrian connections here,

15 that there are pedestrians moving through here and that with

16 the sidewalk that is proposed to be built there, which we

17 hope is going to get final approval in the very near future,

18 it will encourage more pedestrian traffic through here so it

19 will be more pedestrians coming right into that area

20 directly across from the station where the station would be

21 built.

22 MR. GROSSMAN: All right. I'm going to overrule

23 the objection but I'm going to take it as still somewhat up

24 in the air, but I'll assume there are going to be

25 pedestrians because we're building a, potentially, a pathway

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1 anyway that Costco has agreed to and Westfield has agreed to

2 so I -- I don't know that, I don't know that I, I can't make

3 any assessment as to volume of pedestrians from anything

4 you've said or that I think you could rightfully testify so

5 I don't know how it bears on anything. I assume there are

6 going to be some pedestrians.

7 MS. CORDRY: Right.

8 MR. GROSSMAN: And pedestrian safety is clearly an

9 issue.

10 MS. CORDRY: Right. I, I --

11 MR. GROSSMAN: I don't, so volume --

12 MS. CORDRY: -- can only develop this step-by-step

13 so, yeah. So there is going to be more pedestrian

14 availability if the sidewalk is built which has been

15 proposed by the county. That will also increase the amount

16 of pedestrians coming up here. I'm also just also going to

17 the question of how valid are the reports that have been put

18 in by Costco's experts and what kind of observations do they

19 make, what kind of credibility can you accord to their

20 observation if they are not in fact seeing things that

21 exist. This was one that was not there.

22 I would also, just talking a little bit about some

23 of these forest buffer issues there, this is the area where

24 the, the storm water management was put in and their

25 landscape expert attempted to argue that the trees were, the

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1 roots were eroding away because it was human paths going

2 through there. There is a path that comes up here which

3 I'll show in a moment but those tree roots are not eroding

4 away from humans. They're eroding because they're on the

5 bank of the stream and --

6 MR. GROSSMAN: Well, are you an expert in that --

7 MS. CORDRY: Well, I --

8 MR. GROSSMAN: -- as to why things are eroding?

9 MS. CORDRY: Well, I can tell you that there is no

10 path there because that is right on the bank. You can't

11 walk on that bank and you can't walk on this bank here.

12 Those trees' roots are eroding away because they're sitting

13 there where that streambed is going underneath them.

14 MR. GROSSMAN: Well, are you an expert in that?

15 Can you testify as to why something is eroding?

16 MS. CORDRY: Well, I can testify that there is no

17 path and there is no human path by where those tree roots

18 are.

19 MR. GROSSMAN: Besides, my recollection of his

20 testimony was that he was not sure but it appeared to him it

21 could be from pedestrian path.

22 MS. CORDRY: Well --

23 MR. GROSSMAN: There was a question as to whether

24 or not there was some mechanical thing that was coming in

25 there, that it caused it, or whether it might be pedestrian

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1 and that's all I --

2 MS. CORDRY: What I'm saying unless those

3 pedestrians can hang on the edges of a sheer stream bank,

4 that is not pedestrians that are causing that. There is --

5 MR. GROSSMAN: All right, but that has no impact

6 on what I would recommend here. Seriously. Whether it was

7 pedestrians or not, why would I speculate, with all the

8 issues in this case, why would I spend any time speculating

9 on whether or not some erosion was caused by pedestrians

10 there or not?

11 MS. CORDRY: Okay. Part of my point is simply,

12 again, that to the extent that experts put in reports and

13 the experts are not, the reports are not credible and their

14 testimony is not credible. It goes to these issues you need

15 to look at.

16 MR. GROSSMAN: That, I don't consider that to

17 affect his credibility.

18 MS. CORDRY: In any case, as we look down here,

19 this is one of the paths. It goes down to that stream water

20 area. It is a clear path for pedestrians to come up. A

21 short way further along the Ring Road, that path was in, I'm

22 looking at Exhibit 159 at this point, that storm water area

23 here is right at the very corner of the Ring Road area.

24 MR. GROSSMAN: The south --

25 MS. CORDRY: The southwest corner there.

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1 MR. GROSSMAN: -- west corner.
2 MS. CORDRY: As you go along just probably 50 feet
3 or so further, there is another path that goes down into the
4 forest buffer again and back, the light colored area there
5 is the roofline of houses back there so there's another
6 pedestrian --
7 MR. GROSSMAN: Ms. Cordry, I can't see when you
8 move your hand. Why don't you use this --
9 MS. CORDRY: I'm sorry. I'm pointing at this one
10 over here.
11 MR. GROSSMAN: Why don't you use the laser
12 pointer, okay, then I'll feel like I, I have some return on
13 my investment on that laser pointer.
14 MS. CORDRY: How do I --
15 MR. GROSSMAN: There's a button on it.
16 MS. CORDRY: Here? Oh --
17 MR. GROSSMAN: There you go.
18 MS. CORDRY: Okay. Back here at the back of the
19 right-hand picture here, this, this light colored area,
20 that's the roofline of the house. The pedestrian path goes
21 right down here. This is a second pedestrian connection in
22 addition to, this was the one on the right-hand, I'm sorry,
23 the left-hand side is the bulldozed area that goes down to
24 the storm water management which again, is a pedestrian path
25 connection there.

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1 And this picture, which is slide 7, this is yet
2 another pedestrian connection. These are paving paths,
3 paving stones going down here, go back to Melvin Grove Court
4 and a least one of the neighbors accesses Costco's Warehouse
5 every day to buy lunch there, going up and down that. So
6 again, and I have personally observed pedestrians emerging
7 from an entry in all three of these areas. Mr. Gang
8 mentioned none of them in his testimony or his report.
9 Then I haven't taken pictures of the rest of these
10 but there's also a number of other pedestrian access points
11 to the mall and for the people coming in --
12 MR. GROSSMAN: I think we can save some time. I
13 assume there are going to be pedestrians accessing the Ring
14 Road if there's a pedestrian path there so.
15 MS. CORDRY: Okay.
16 MR. GROSSMAN: Save some time here. You don't
17 have to prove that point to me.
18 MS. CORDRY: Right. All right. Now, another
19 point in Mr. Gang's testimony was he dismissed the idea that
20 any traffic from the mall might have any effect on the
21 surrounding areas because there was no direct vehicle
22 connection, and Mr. Guckert similarly assumed that because
23 of that lack of direct connection, there could be no effect
24 from the mall or any reason to have cut-around traffic.
25 MR. GROSSMAN: Right.

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1 MS. CORDRY: In fact, he said he couldn't imagine
2 why anyone would be using these community roads to avoid the
3 mall. In fact, there are very good reasons to do so and
4 people, including myself, do exactly that.
5 MR. GROSSMAN: Do exactly what, use the --
6 MS. CORDRY: Use, use --
7 MR. GROSSMAN: -- roads through the neighborhood
8 to access the mall?
9 MS. CORDRY: Yeah. To either, to go around and
10 access the mall or to, yes, to access the mall rather than
11 using the main roads out there, University Boulevard and
12 Veirs Mill and Georgia. Those are extremely busy roads.
13 They have lights. They are very long lights. I, if you
14 recall --
15 MR. GROSSMAN: So you use -- all right. That's an
16 interesting point.
17 MS. CORDRY: Yeah.
18 MR. GROSSMAN: Have you used any of the roads
19 inside the defined, or the neighborhood as defined by
20 technical staff in order to access the mall?
21 MS. CORDRY: Absolutely. I live, as you recall,
22 on Torrance Drive here, which is the next road over from the
23 school.
24 MR. GROSSMAN: Right.
25 MS. CORDRY: So I'm very close to the, to the east

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1 side of the mall and close to Georgia Avenue and Veirs Mill.
2 MR. GROSSMAN: Right.
3 MS. CORDRY: And the most direct route -- of
4 course the shortest route is for me to walk, which I do
5 because it's only about 500 feet or so from my house, 1,000
6 feet perhaps up to the, to the area, but if I'm going to
7 drive, the closest route is to drive down McComas and to get
8 onto Georgia and to turn onto Veirs Mill and come in at the
9 WMATA entrance.
10 MR. GROSSMAN: Right.
11 MS. CORDRY: I almost never do that. There are
12 three lights between my house and that entranceway into the
13 mall. Each one's about two to two-and-a-half minutes. It
14 seems like you almost invariably miss all three. It can
15 take me forever to get into the mall coming that way because
16 it's all left turns and I sit through long lights.
17 MR. GROSSMAN: So what do you do?
18 MS. CORDRY: I get on McComas, I go the other
19 direction. I go down to Drum, I turn right on Drum, I go up
20 to University Boulevard, I turn right on University
21 Boulevard and I turn right into this intersection and I'm
22 back at Intersection 16.
23 MR. GROSSMAN: Put your, put your highlighter on
24 McComas itself.
25 MS. CORDRY: Okay. McComas is right here.

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1 MR. GROSSMAN: Yes. Right --
2 MS. CORDRY: It's right on the edge of the --
3 MR. GROSSMAN: It's the edge of the --
4 MS. CORDRY: At the edge of the -- right.
5 MR. GROSSMAN: It's not inside of the --
6 MS. CORDRY: Well, because there are no, there are
7 no roads closer to the mall than McComas.
8 MR. GROSSMAN: Right. I mean, I think that's the,
9 that was the issue. And the question is are, if you're
10 talking about the people who are inside the defined general
11 neighborhood, if anybody from outside of that defined
12 general neighborhood is going to be riding through their
13 neighborhood to access the mall.
14 MS. CORDRY: Well, all of the -- well, there is no
15 direct connection, vehicle connection through here but all
16 of these people here go out onto McComas, their roads,
17 their, this is their main east-west road here.
18 MR. GROSSMAN: Right.
19 MS. CORDRY: Drum Avenue is their main more south
20 road. And for everyone, everyone in Kensington Heights,
21 that's one of our, these are two of our major driveways, so
22 to speak, to our neighborhood and it is very common. I
23 certainly, I know myself. This is my typical route to go.
24 Now, going out, I may go back the other way and go down
25 Georgia Avenue because now I'm making right turns, and this

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1 has usually been the way that I come in.
2 MR. GROSSMAN: Right. So some people may use
3 McComas.
4 MS. CORDRY: Right.
5 MR. GROSSMAN: And people, certainly people who
6 live in the neighborhood may use McComas.
7 MS. CORDRY: Right.
8 MR. GROSSMAN: The question is will people who are
9 drawn from the outside be, number one, riding through the
10 general neighborhood in order to access the mall.
11 MS. CORDRY: Right.
12 MR. GROSSMAN: And it appears that from what you
13 described, they will not because there aren't any roads
14 between McComas Avenue and the mall that actually lead into
15 the mall.
16 MS. CORDRY: Right. Well --
17 MR. GROSSMAN: And, and but some people may be
18 using McComas Avenue, conceivably, from the outside.
19 MS. CORDRY: Right because --
20 MR. GROSSMAN: Is that the idea? Is that, does
21 that --
22 MS. CORDRY: Right. Yeah.
23 MR. GROSSMAN: -- summarize it correctly?
24 MS. CORDRY: Right because again, now, if you're
25 trying to come from the west and end up going south, you

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1 could go all the way up on these major roads and go through
2 all the stop lights that are on University Boulevard and
3 University and Veirs Mill here and the stop light at Reedie
4 Drive and the stop light, you could go all that way. It
5 wouldn't necessarily make a lot of sense. It may be very
6 much more sensible for you to come down, cut through Drum
7 and go over McComas and avoid the whole mall area, and the
8 same thing coming from the other direction.
9 So, I mean, I can't tell you everybody's driving
10 patterns but there's a perfectly good reason to think that
11 people may want to do that, and as the traffic gets heavier
12 and heavier here and if it starts backing up, and as we will
13 see in a moment, if it starts backing up onto University
14 Boulevard here from this intersection and further slowing
15 down traffic here, it could make perfect sense for people to
16 use this cut-through to go around the mall to completely
17 avoid it and to take their, their drive on the, going south.
18 MR. GROSSMAN: So some people could be diverted on
19 Drum and McComas.
20 MS. CORDRY: Right.
21 MR. GROSSMAN: But nobody will be diverted into
22 the neighborhood itself.
23 MS. CORDRY: Well, that is, well, that is our --
24 MR. GROSSMAN: If I understand correctly.
25 MS. CORDRY: Okay.

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1 MR. GROSSMAN: I mean, that's --
2 MS. CORDRY: I mean, okay.
3 MR. GROSSMAN: I'm talking about the defined
4 neighborhood. That's --
5 MS. CORDRY: Okay.
6 MR. GROSSMAN: -- what's the question.
7 MS. CORDRY: Well --
8 MR. GROSSMAN: Because that's --
9 MS. CORDRY: Well, I think, I think what they were
10 defining was the area that is most directly affected but to
11 say that anyone outside that area, that as soon as they get
12 on the other side of that street here are no long affected
13 at all, I mean, certainly Kensington Heights is directly
14 affected by this. All of us living here can be affected by
15 this traffic being diverted onto the main streets in our
16 neighborhood.
17 MR. GROSSMAN: Okay. I understand that. I --
18 MS. CORDRY: I mean, I, I --
19 MR. GROSSMAN: I'm not stopping my consideration
20 entirely at the general neighborhood but that is the, the
21 primary concern that we have to address because that's --
22 everybody's agreed that the general neighborhood, the
23 applicant says it's only the mall, technical staff says
24 includes the additional area to the south and west of the
25 mall and nobody has said to me that they suggest the defined

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1 neighborhood should be larger than that.
2 MS. CORDRY: Well, I think --
3 MR. GROSSMAN: Except for the purposes of need
4 analysis. So I'm primarily addressed to the defined, the
5 general neighborhood as defined by technical staff and
6 obviously, there might be some consideration if you had
7 significant traffic jams developing along McComas that would
8 affect other people along there. I wouldn't ignore that.
9 I'm just saying that --
10 MS. CORDRY: Right.
11 MR. GROSSMAN: -- my primary thing I would address
12 is the contention which you're challenging which is that
13 there would be people in the general neighborhood are going
14 to be affected traffic-wise by, by the addition of a gas
15 station --
16 MS. CORDRY: Right.
17 MR. GROSSMAN: -- even though there's no direct
18 access.
19 MS. CORDRY: Well, certainly again, anyone living
20 in any of these areas here along McComas, as traffic builds
21 up, if there's cut-around traffic, any of those people will
22 be affected. I think the general neighborhood was primarily
23 looking at things like noise, direct noise and fumes and so
24 forth, and I think it's a little artificial to use that as
25 the only criteria in terms of the traffic impacts if they do

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1 spill out further. But in any case --
2 MR. GROSSMAN: Any definition is artificial.
3 MS. CORDRY: Right
4 MR. GROSSMAN: It is just a sense of what is the
5 area most directly affected by any of this.
6 MS. CORDRY: Right. But in any case, the point
7 being is there a reason to think that there could be cut-
8 around traffic. Yes. There absolutely is reason to think.
9 How much there is yet at this point, it's hard to say but
10 how much can also develop as traffic backs up and gets worse
11 with the station? Again, can I quantify exactly? No. I'm
12 not the traffic expert, but I can tell you that there are
13 reasons to think it could happen and that people will drive
14 around there.
15 So again, once the warehouse got built, again, I
16 would note that of course, it was built without any, there
17 wasn't any consultation with the neighborhood before it was
18 built so there wasn't any chance to sort of try to revamp
19 its structure to avoid making it more problematic for the
20 neighborhood and certainly, one aspect of that is the
21 decision to build it all the way so it comes down to the
22 Ring Road with really literally inches between this wall and
23 the Ring Road rather than pulling it back enough to have a,
24 a walkway on that side.
25 One of the things that it does is it makes it much

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1 less useful for this garage here which is underneath the
2 store because people might very well walk around from the
3 store to use that garage if there as a pedestrian path on
4 that side.
5 MR. GROSSMAN: That's a moot point.
6 MS. CORDRY: It is a moot point, but it is a point
7 that goes to this question where can you put the additional
8 traffic, when you move things around and make it more
9 difficult for people, where are they going to go, do they
10 have convenient alternatives. And the answer is no. Even
11 when you put a pedestrian path, even if we put one on this
12 side, you're going to have to have people crossing over
13 here, walking on the far side and then trying to cross back
14 across this very busy area here in order to get into either
15 the parking area here underneath the mall or the parking
16 area in the Sears outlet, so those are not very good
17 alternatives even if you built the pedestrian path we're
18 talking about because of the need to keep crossing back and
19 forth across the Ring Road.
20 And I think what we're going, we should see as we
21 go on a little bit more is that there's a lot of competing
22 imperatives here between traffic, between the pedestrian
23 paths, between the parking and at some point, they create a
24 gridlock of competing imperatives. They can't all be met
25 and something has to give. And in our view, the answer is

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1 not that you eliminate some of the things you need to have
2 either sufficient parking or a sufficient pedestrian path,
3 that what needs to give is the new thing that you're trying
4 to shoehorn in on top of all the existing conditions in this
5 mall.
6 I mean, we didn't design the mall. We didn't
7 design the structures. The only place where we have any
8 opportunity to say something is when you try to put yet one
9 more structure in there that's going to make this that much
10 more unworkable. And I think certainly to say that at some
11 point, you can't condition a problem, you can't, there are
12 some problems that can't be conditioned into a solutions and
13 certainly the, saying the solution should depend on having a
14 community continually monitor this development and try to
15 enforce, you know, a lot of conditions that we think are
16 probably completely unworkable, that's just going to burden
17 this community further. We have been spending the last four
18 years dealing with monitoring the situation, watching the
19 store, participating in this. The idea that we would then
20 be sentenced to an eternity of monitoring the store --
21 MR. GROSSMAN: Well, I wasn't suggesting that,
22 that you would be sentenced to anything. I was just saying
23 that conditions, if, if somebody in the neighborhood has a
24 complaint, there is a process. I'm not suggesting that the
25 community has to do something or it doesn't have to do

1 something. I'm saying that the process for special
2 exceptions is that it allows the Board of Appeals to set up
3 conditions and if there are violations of conditions, it
4 allows enforcement so.
5 MS. CORDRY: Right. And I'm just saying --
6 MR. GROSSMAN: It's not a sentence.
7 MS. CORDRY: Right.
8 MR. GROSSMAN: It's an opportunity.
9 MS. CORDRY: I think it is a sentence because I
10 think these conditions would be very difficult to be
11 workable unless someone is continually monitoring,
12 continually calling up, continually complaining, continually
13 enforcing the issue and that's the last thing anybody in
14 this community wants to do anymore. We want to be done with
15 this. We want to be able to just, as Ms. Pescov says, we'd
16 like to be able to enjoy going to the Costco Warehouse and
17 not dealing with the station anymore.
18 So after the warehouse, we now move to where we
19 are. This has, of course, greatly increased traffic to the
20 backside of the mall and that southwest quadrant of the Ring
21 Road when the warehouse is open, but that's a very different
22 question from when the station is open. The warehouse is
23 only open 10:00 to 8:30 during the week, 9:30 to 7:00 on
24 Saturday, 10:00 to 6:00 on Sunday. That's only 70 hours a
25 week. Due to those short hours, its customers don't bring

1 traffic or noise to that backside of the mall to that Ring
2 Road area during any of the periods that one, that the
3 county considers quiet hours. Now, the noise from the
4 loading docks and the trucks accessing that area, that's a
5 different question but in terms of the shoppers themselves,
6 they're not there during those hours.
7 The station, on the other hand, is going to be
8 open approximately 104 hours a week which is 50 percent more
9 time than the warehouse. So to verify this difference
10 between, to try to determine what kind of difference, what
11 the traffic was like after the warehouse came in and whether
12 it was markedly different than before the warehouse was
13 there, I made a lot of walking observations along the south
14 side area of the mall in the morning before I'd go to work.
15 It, it helped that I acquired a dog about this time and he
16 insisted on being taken for walks and he was perfectly happy
17 to walk on the, on the side of the mall. And I have an
18 exhibit here I will find in a moment which details --
19 MR. GROSSMAN: The list of observations?
20 MS. CORDRY: It is all in there but I pulled out
21 just, it's a one-page exhibit, if I can find it here, that
22 just has all the days that I went and watched. And what I
23 did do was I would go -- it should be labeled Ring Road
24 observations.
25 MS. ADELMAN: Traffic observations by road?

1 MS. CORDRY: Yeah. That one.
2 MR. GROSSMAN: All right. We'll call this Exhibit
3 378. Is that correct or not, or am I -- hold on. Exhibit
4 378 is?
5 MS. CORDRY: All right. What this is is, it
6 chronicles the days that I went up there and I counted cars.
7 I would walk along that area there and keep track for a
8 period, generally anywhere from no less than 10 minutes at a
9 time. Other times 12, 15, 20 minutes or so, as much time as
10 I had, and I noted the time I did this.
11 MR. GROSSMAN: So these are car counts on the
12 southern Ring Road?
13 MS. CORDRY: Right. Right.
14 MR. GROSSMAN: So it's Cordry list of car counts
15 on southern Ring Road, and that's from when to when? From
16 April 23 through June 9, right?
17 MS. CORDRY: No. Oh, in the first column, which
18 is the primary ones, the last date I took was November 8th.
19 MR. GROSSMAN: I don't see November on here.
20 MS. CORDRY: All the way at the bottom of the
21 first set of --
22 MR. GROSSMAN: Oh, I see. Okay. So okay. So
23 April 23, '13? 2013?
24 MS. CORDRY: Yes. All of these are 2013.
25 MR. GROSSMAN: To 11-8-13.

1 (Exhibit No. 378 was marked
2 for identification.)
3 MR. GROSSMAN: Okay.
4 MS. CORDRY: So I've broken this up into weekdays
5 and weekends, and it really was only one time I tried to
6 count at night. It's only because at night it was so busy
7 it was hard to keep track of them. But on the weekdays, as
8 again, as I say, I'd do anywhere from 10 to 20 minutes. I'd
9 count the number of cars and trucks. These are primarily
10 all trucks going to the warehouse which was doing the
11 loading there. The total of those two sets of vehicles and
12 then I would extrapolate that out to an hourly figure. So
13 if there was eight cars in 20 minutes --
14 MR. GROSSMAN: Well, let me see if I understand
15 how, what your columns are because I don't think it quite
16 meets up with the, with the heading. So what is the 20?
17 Let's say, the first row, April 32, 6:25, 6:45 --
18 MS. CORDRY: That's the time of day.
19 MR. GROSSMAN: All right. So what is 20?
20 MS. CORDRY: Minutes. The headings are just a
21 little bit off there but minutes there.
22 MR. GROSSMAN: Yes. So those are 20 minutes.
23 MS. CORDRY: Okay. The next one is --
24 MR. GROSSMAN: That's the length of time you
25 watched?

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1 MS. CORDRY: Right. Exactly.
2 MR. GROSSMAN: So the number of cars or trucks was
3 seven.
4 MS. CORDRY: Number of cars was seven.
5 MR. GROSSMAN: What dos the one mean after that?
6 MS. CORDRY: The number of cars is seven. That
7 truck should be over a little bit. That's the, that's the
8 number of trucks.
9 MR. GROSSMAN: I see.
10 MS. CORDRY: The second column there, the number
11 of trucks.
12 MR. GROSSMAN: If it's okay with you, I'm going
13 to --
14 MS. CORDRY: Okay.
15 MR. GROSSMAN: -- put a little line here.
16 MS. CORDRY: Okay.
17 MR. GROSSMAN: So trucks is one, number of cars
18 this way, minutes, this way, so that you know what this is.
19 MS. CORDRY: Right.
20 MR. GROSSMAN: And the total --
21 MS. CORDRY: Was --
22 MR. GROSSMAN: -- was eight.
23 MS. CORDRY: -- eight. And I just --
24 MR. GROSSMAN: And hourly. So you multiplied, you
25 extrapolated it out.

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1 MS. CORDRY: Exactly. So if there was 8 in 20
2 minutes, I extrapolated that out to 24 an hour.
3 MR. GROSSMAN: Okay. All right.
4 MS. CORDRY: And the last column is just some
5 comments there. I did that for a total, I think, of 16 or
6 17 observations, however many I had there. I totaled up all
7 the numbers, I took the average. So on the weekday -- and
8 these generally were all between about 6:30, a few minutes
9 before 6:30 until about 8:00. That was the time.
10 MR. GROSSMAN: So essentially, an average of 60 an
11 hour which is one a minute.
12 MS. CORDRY: Right.
13 MR. GROSSMAN: Okay.
14 MS. CORDRY: Which was about the same as what we
15 saw before the warehouse, so that was one of my points I was
16 trying to make --
17 MR. GROSSMAN: Okay.
18 MS. CORDRY: -- with this, this chart back here.
19 If you go back and look at what the numbers were before the
20 warehouse was here, they were about the same.
21 MR. GROSSMAN: Okay.
22 MS. CORDRY: So having the warehouse did not make
23 a difference back on the Ring Road in the morning hours.
24 The nighttime was, as you see, 270 the one time I did that,
25 looked at that. Much higher of course. And then on the

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1 weekend, I also did several observations on the weekend and
2 again, using the same kind of approach, I came out with only
3 about 28 cars an hour in those early morning hours on the
4 weekend. I guess everybody sleeps in on the weekend.
5 So point being that the traffic in this area, even
6 after the warehouse, remains very light.
7 MR. GROSSMAN: Right.
8 MS. CORDRY: The warehouse essentially has no
9 impact in these early morning hours as to how much traffic
10 there would be. Now, that seemed obvious because you know
11 the warehouse is not open so you wouldn't think there would
12 be traffic back there but I did want to document that and
13 not just say that I assumed that there won't be any traffic
14 back there.
15 MR. GROSSMAN: Okay.
16 MS. CORDRY: These numbers, if anything, are
17 probably a little high because the traffic, the truck
18 numbers, there's only a limited number of trucks that go to
19 the warehouse so you probably don't actually have six times
20 that many in an hour if I saw one in 10 minutes and so
21 forth, but I just took the observations. I did them.
22 MR. GROSSMAN: Okay.
23 MS. CORDRY: I'd also note there was one other
24 biasing factor which was they were building some apartments,
25 a large apartment complex just off of Veirs Mill Road just

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1 to the south of the mall, and a lot of the workers would
2 park on this area here.
3 MR. GROSSMAN: The southern Ring Rod.
4 MS. CORDRY: The southern Ring Road going up to
5 that --
6 MR. GROSSMAN: The east.
7 MS. CORDRY: On the east. Like say by the
8 Torrance Court entranceway there. There was often quite a
9 few people there and 8:00 must have been their starting time
10 because I also would see a flurry of cars come pulling in
11 just before 8:00 so if that happened to be the time I was
12 observing, I got that whole slug of cars which was a one-
13 time factor but in any case, I think the numbers are pretty
14 much there. And I'll come back in a minute when we get to
15 the gas station as to what we might expect with the gas
16 station itself.
17 Now, in terms of where people will come to park at
18 the mall, with the warehouse, the dynamics, as we all know,
19 are people want to park as close as they can to the
20 entranceway so people coming in from the west will come in
21 at Valley View entrance and they will, logically will funnel
22 in primarily in this entrance here by the Target. And that
23 is, on Mr. Adelman's report, which is also in that Exhibit
24 128(a) if you want to deal with that one, that is, that's
25 the primary -- let me, hold on. Let me find Mr. Adelman's

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1 report.

2 MR. GROSSMAN: Dr. Adelman.

3 MS. CORDRY: I'm sorry. Dr. Adelman indeed. Dr.

4 Adelman's report. On his report, on page 45, he pulled up

5 those numbers there that came out of this Exhibit 128 that

6 was done in April of 2013 after the mall was opened, and

7 there was a total of some 4800 cars that were turning into

8 and out of that particular entranceway there, and another

9 almost 4800, 4500 cars that went by there. So that was

10 obviously, the main entranceway there is the one right here,

11 as I say, by the Target. And if you counted down around the

12 intersections there, the numbers, there were very few going

13 into the other entrances to the mall until you get around to

14 the drive aisle here by the warehouse and the loading docks,

15 and that was the secondary main point of, of entrance points

16 there. So again, people would try to fill, start here and

17 fill in and, and from the top and fill down, and they would

18 come along by the drive aisle here and fill out from there.

19 Now, this entranceway here again, I think I had

20 pointed out, this entranceway here to the Target is only

21 about 250 feet from the Intersection 16. And what that

22 means is that as the traffic is trying to turn in there, and

23 that's of course a left turn into that aisle way there, it

24 doesn't give you very much room for cars if they can't get

25 into that spot due to the volume of the traffic and the

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1 traffic going up and down north and south on the Ring Road,

2 that can easily start backing up into Intersection 16. And

3 then that, if that backs up to the intersection, then it can

4 create more traffic backing down into the, the entranceway

5 there.

6 So this parking here, as Mr. Adelman discussed,

7 I'm sorry, Dr. Adelman discussed, as other witnesses

8 discussed, this area is generally the primary place where

9 people start to park and it is very full much of the week.

10 Now, not all of the week. Certainly during the day and the

11 weekdays, even some week, some of the weeknights, it's not

12 completely full but when you get to the time when people

13 want to go to the stores to shop, Friday evenings, all

14 weekend long and so forth, this area gets to be very full.

15 That was what I went in just this last weekend and

16 essentially, this is, we're not even at the holidays yet,

17 essentially no spaces in this area.

18 And that's not because people are not using the

19 garage. Initially, yes. There was not a lot of traffic

20 that went to the garage. It wasn't signed, it wasn't

21 marked, there was nothing, no way finding signs or anything

22 in the mall telling people to go to that garage but Costco

23 apparently, and Westfield, apparently figured out that

24 wasn't a good idea and they did put up a good deal of

25 additional signage over the next several weeks after the

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1 mall was opened. And by now, there is a substantially more

2 usage of the garage.

3 Again, I was in there this last weekend. The

4 first floor, which is primarily for the Penney's, was

5 functionally completely full, two or three spaces, you know,

6 from here and there but essentially, as soon as a space

7 would open up, somebody would pull in. The ramp going from

8 the first floor to the second floor I would estimate was

9 about 90 percent full and the second floor, which was the

10 Costco area, was again functionally completely full. Again,

11 I would say, you know, you might find a space or two or

12 three there but people were circling around looking for

13 spaces. It was not easy to find a space. There was all the

14 usual problems when the area is almost full of cars waiting

15 in the aisle to look for spaces, the lanes somewhat blocked,

16 backing up. I had to jam my brakes on twice to keep from

17 hitting cars that were pulling out and trying to get into

18 the line of traffic and so forth.

19 MR. GROSSMAN: Okay.

20 MS. CORDRY: So --

21 MR. GROSSMAN: Well, actually, yours is the first

22 testimony I've heard about the garage being full.

23 MS. CORDRY: Right. Right. And as I say, I don't

24 know that we really -- most people, you know, do start there

25 and that's the, the initial place where people think to

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1 start is in the parking lot but it is, it is not just that

2 the garage is empty. That's not going to solve the problem.

3 And certainly, once you get to the point of the holiday

4 traffic, which we haven't even yet hit, you know, you're

5 going to have much more. Now, the --

6 MR. GROSSMAN: I thought Black Friday started in

7 June now.

8 MS. CORDRY: Nowadays it's hard to tell but I

9 think, I think they may be trying to get us there. I think

10 we still have a little ways to go before it really builds up

11 completely yet.

12 MR. GROSSMAN: All right.

13 MS. CORDRY: So I don't think that's really

14 necessarily going to solve all the issues. There is, there

15 was not, there was not a great deal of parking on the third

16 floor but that's, that's not Costco parking there

17 specifically but in terms of what Costco reserved for

18 itself, it was pretty much full.

19 MR. GROSSMAN: Okay.

20 MS. CORDRY: So the condition of trying to force

21 everybody over into the garage isn't necessarily going to

22 solve that problem either. So that's kind of the way the

23 parking is and one of the --

24 MR. GROSSMAN: By the way, I'd like to hear back

25 from the applicant on that, that question. Some information

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1 as to the level of fullness of the, of the garage at this
2 point.

3 MS. CORDRY: And again, it's going to vary from
4 time to time. I was there on a Saturday which is when, you
5 know, Saturday and Sundays I think are the prime time that
6 people try to go shop and in terms of whether there's
7 traffic, whether there's a nuisance, whether there's idling,
8 what are peak hours, those are the kind of issues there. I
9 certainly will not deny I've been over there other times
10 where it was not full but certainly as you get into the, the
11 peak times where you really are looking at what is the
12 impact on the neighborhood, what is the maximum level of
13 fumes, emissions and traffic that's going to be there, we
14 are approaching saturation.

15 MR. GROSSMAN: Okay.

16 MS. CORDRY: Okay. And sometimes much more than
17 saturation. Now, going back to another aspect of the way
18 this operates and whether or not the trucks are going to be
19 able to access the station and so forth, we've had testimony
20 that there's plenty of room for the trucks. There's plenty
21 of room for them to access the station, the loading dock
22 areas and so forth. There's no problem with that. They can
23 make all that. I would recall that of course, I think it
24 was Mr. Duke was testifying that, he was testifying that
25 some of these were like three to six inch clearances but no

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1 problem, the trucks can do it. Well, what I'd like to show
2 you at this point is a series of slides that talk about what
3 has actually happened in that mall area and whether the
4 trucks can in fact access the station without a problem.

5 In terms of going forward here, if you could hand
6 out this map, Abigail. What I tried to do --

7 MS. ADELMAN: Show me again, Karen?

8 MS. CORDRY: This one. It has the -- yeah, okay.
9 Just so that we have kind of a common frame of reference, it
10 seems like it would be easier than, rather than trying to
11 say, you know, this aisle or that aisle or this island or
12 the northwest island or something, what I did was I, I
13 labeled and numbered those. So what I have labeled and what
14 I, in terms of my observations and in terms of what I'll be
15 talking about here, I've labeled this northwest drive aisle
16 by the store aisle A.

17 MR. GROSSMAN: Oh, I see. Dark ink on a dark
18 picture.

19 MS. CORDRY: Yeah, unfortunately, I don't have any
20 white ink but if you squint at it the right way, you can see
21 it. And I will describe right now this aisle here is aisle
22 A. The area which now has parking directly north of the
23 Ring Road I've labeled area B. The area that is this small
24 area of east-west drive aisle here, not the main drive aisle
25 that goes all the way across to the store but the smaller

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1 one below that I've labeled C. The Ring Road parking area
2 directly to the south of where the station would be I've
3 labeled D, and the Ring Road parking directly south of the
4 warehouse itself I've labeled E. So far so good?

5 MR. GROSSMAN: I see it.

6 MS. CORDRY: Okay. And then I also numbered these
7 various islands, so island 1 is the one that is directly,
8 it's on the Ring Road. There's, just as you turn right into
9 aisle A, it's the first one you come to.

10 MR. GROSSMAN: If you're going westbound.

11 MS. CORDRY: If -- no. If you're coming
12 eastbound. I'm sorry, yes. If you're coming westbound, you
13 turn left up into the Ring Road. The first one there on
14 your right-hand side as you turn in is no. 1 and across the
15 roadway from that I've labeled as no. 2.

16 MR. GROSSMAN: Yes.

17 MS. CORDRY: There are -- at the north end of the
18 loading dock on the right-hand side I've labeled as no. 3.
19 What is directly across the, it's a little difficult to do
20 this one because this one is showing me the gas station on
21 top of the area there.

22 MR. GROSSMAN: Do you want this as an exhibit?

23 MS. CORDRY: Yes. I'm sorry. That should be an
24 exhibit.

25 MR. GROSSMAN: All right. So this will be -- is

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1 there an electronic copy of this exhibit?

2 MS. CORDRY: Um --

3 MR. GROSSMAN: The reason I ask is this will not
4 reproduce.

5 MS. CORDRY: Right.

6 MR. GROSSMAN: None of those numbers will show up
7 at all.

8 MS. CORDRY: Let me, let me try to get a better
9 copy for the, for the record as we -- let me see if I can
10 find a lighter version or whatever.

11 MR. GROSSMAN: So this is --

12 MS. CORDRY: Something with white ink on it.

13 MR. GROSSMAN: -- Cordry map labeling islands
14 along parking and loading areas.

15 MS. CORDRY: So this will be 370 --

16 MR. GROSSMAN: 379.

17 MS. CORDRY: 379, okay.

18 (Exhibit No. 379 was marked
19 for identification.)

20 MS. CORDRY: Maybe I'll just point them out as we,
21 as we're going along here. So what I began to observe
22 pretty quickly as I was doing my morning walks was that
23 these nice, neat well-landscaped little islands here were
24 very quickly showing up with a lot of gouges where clearly,
25 you had trucks run right over the Island.

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1 MR. GROSSMAN: Is this the one you had the height
2 of a dog? Is this --
3 MS. CORDRY: Not yet. We'll get to the dog.
4 MR. GROSSMAN: I mean, is that, this was the --
5 MS. CORDRY: But we're leading up to the dog, yes.
6 So this, these are, these are two pictures of what I've
7 called island 2 there which is just on the west side of that
8 drive aisle A coming in, and you can see that the truck has
9 run clear across that island and has not been able to make
10 that turn for whatever reason. So what did they do? Well,
11 they took, if you look, staying back on this, this is slide
12 no. 8, if you look at the right --
13 MR. GROSSMAN: I understand.
14 MS. CORDRY: Right.
15 MR. GROSSMAN: You have a number of pictures
16 here --
17 MS. CORDRY: Right.
18 MR. GROSSMAN: -- that are going to show that --
19 MS. CORDRY: Right.
20 MR. GROSSMAN: -- that probably, we're going to
21 assume here, that trucks ran over there and gouged it.
22 MS. CORDRY: Right.
23 MR. GROSSMAN: But we don't know directly though.
24 MS. CORDRY: If you --
25 MR. GROSSMAN: That's the assumption.

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1 MS. CORDRY: Right. If you see that rock over
2 there on the right-hand picture there, that rock has now
3 been moved over. They have now put it on the island in
4 order to tell the truckers not to run over this drive aisle.
5 MR. GROSSMAN: Well, maybe somebody just moved it
6 to get it out of the roadway. Who knows?
7 MS. CORDRY: Well, it's -- it was a nice
8 decorative rock right there. It was there for a couple
9 weeks but then once I saw these gouges very, a couple of
10 days after I saw the gouges, then I saw that it had been
11 moved over. At first I was like what happened to the rock,
12 and then I realized that rock has gone from this side to
13 this side. Now telling where to go. But unfortunately, the
14 problem -- because you can see now there's a big gap right
15 there on that, that island, that's the island where it was,
16 but that didn't really solve the problem because kind of
17 like the guy who has the blanket that's too short so his
18 feet are cold so he cuts off the head of the bed and he sews
19 it onto the bottom. Well, now the trucks have started
20 running over the island where the rock was before. They've
21 run over that a number of times since then.
22 MR. GROSSMAN: Have you observed them or are you
23 just, you're --
24 MS. CORDRY: I --
25 MR. GROSSMAN: -- basing it on the visual on

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1 there.
2 MS. CORDRY: I'm observing the fact that those are
3 clearly tire tracks. They're clearly there and I'm assuming
4 nobody was digging them out just for the, the heck of it,
5 but I think that is a, a logical assumption.
6 MR. GROSSMAN: It probably is. I just don't know
7 I mean.
8 MS. CORDRY: Well --
9 MR. GROSSMAN: But --
10 MS. CORDRY: Now, this is island 4.
11 MR. GROSSMAN: So what do I conclude from, from
12 this?
13 MS. CORDRY: Okay. What I conclude from this is
14 that, and we'll see as I'm going into the rest of this, that
15 trucks cannot easily make these turns, not always, that
16 these are tight turns, that it's difficult. That the idea
17 that you're just going to, and I'm going to get to the truck
18 turning exhibit in a minute --
19 MR. GROSSMAN: But this is not changing with the
20 gas station.
21 MS. CORDRY: But it does because this is the
22 problems they have when they are not trying to deal with the
23 additional traffic from the gas station, and with the fact
24 that the gas station, as I will show you in just a moment,
25 the gas station is going to blockade off part of the way

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1 these trucks use to get in and out of the loading docks and
2 it's going to make it that much more difficult for them to
3 do it, spend that much more time blocking traffic, that much
4 more time idling at slow speed creating more emissions, more
5 traffic nuisance, more blocking of the area.
6 MR. GROSSMAN: I understand your point.
7 MS. CORDRY: Okay.
8 MR. GROSSMAN: And it's conceivable that you're,
9 you're correct about this but you're asking me to build a
10 number of assumptions on top of assumptions --
11 MS. CORDRY: I'm not --
12 MR. GROSSMAN: -- in a way that --
13 MS. CORDRY: I'm not asking for you assumptions.
14 I'm asking -- I am giving you direct observations of the way
15 this works, how the truckers, and I'll get to how the
16 truckers actually --
17 MR. GROSSMAN: No. I'm talking about the
18 assumptions you're making as to what is going to happen in
19 terms of the traffic interfering with the loading docks.
20 MS. CORDRY: Well, what I can show you is that the
21 traffic now, they now have interference with those roads at
22 times when the cars aren't there because there is no gas
23 station there. That when the gas station is there and cars
24 are going to be there, there will be interference with that
25 MR. GROSSMAN: Okay.

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1 MS. CORDRY: I can show you blocking that's
2 already happening. I can show you that if the gas station
3 comes, you'll have much more traffic right in that area,
4 much more blocking, much more opportunity to interfere.
5 MR. GROSSMAN: Okay.
6 MS. CORDRY: Much more time --
7 MR. GROSSMAN: All right.
8 MS. ROSENFELD: Mr. Grossman, if I could just
9 proffer for a moment because I think maybe it will help you
10 understand where, where Ms. Cordry is heading. The, the
11 physical observations that she's presenting to you are
12 what's actually happening right now.
13 MR. GROSSMAN: Right.
14 MS. ROSENFELD: And when you see what's happening
15 and then you look at that as it relates to the way the site,
16 the special exception is actually designed, you will, I
17 think, be able to understand how we think that there are
18 some very real potentials for nuisance at the property. And
19 specifically, Section 59-G-2.06(a)(2) says that the Board of
20 Appeals has to find that the use at the proposed location
21 will not create a traffic hazard or traffic nuisance because
22 of its location or relation to similar uses, necessity of
23 turning movements in relation to its access to public roads
24 or intersections or its location in relation to other
25 buildings or proposed buildings on or near the site and the

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1 traffic pattern from such buildings.
2 And frankly, I think, as Ms. Cordry goes through
3 her testimony, it will be very easy to see that you sort of
4 have a perfect storm of these, the function of the loading
5 docks, the parking lot and the special exception and how in
6 fact it would be very difficult to show that the applicant
7 can satisfy this particular provision in the Zoning Code.
8 So I wanted to put it in the regulatory framework
9 of what it is that you're considering because I want you to
10 understand that from our point of view, her testimony here
11 is very highly relevant to the findings that you have to
12 make.
13 MR. GROSSMAN: Okay. Do you want to respond to
14 that at all since we had a proffer?
15 MR. GOECKE: No.
16 MR. GROSSMAN: All right. Thank you.
17 MS. CORDRY: All right. So I'm just, you know,
18 showing you that those were not aberrations, that some of
19 the other islands were run over. This is the main one going
20 out into the Ring Road. This is the one that's marked area
21 no. 7 which is right at the main drive aisle going across
22 here. Again, this is a Google Earth picture from before I
23 think the area was completely done so it's a little
24 difficult to tell but in any case, you have the, the main
25 east-west drive aisle here and this is the, the island that

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1 is just to the south of where that island comes out.
2 And one of the reasons I did use my dog as a
3 measuring device was because when you're trying to take
4 these pictures and it's all brown on brown, it's a little
5 difficult to tell how deep those gouges are there but I
6 decided well, I will show you this way. Buddy's about 12
7 inches high at the shoulder so I had Buddy be my, my
8 measuring stick there. As you can see, it's as deep as he
9 is, those gouges, and that's not what a car would produce by
10 going across there.
11 MR. GROSSMAN: He's not standing on his tip-toes,
12 is he?
13 MS. CORDRY: No. He's a flat-footed dog. And I
14 took him over to a couple of the other areas. Again, the
15 one on the, the no. 1, which is the island that you come
16 directly into the drive aisle here, and no. 4, which is kind
17 of caddy-corner across the drive aisle from that and again,
18 both of those have deep, deep tire track gouges going
19 through them. And the point is these trucks are not needing
20 to avoid cars using the gas station area and they're not
21 trying to drive faster to get out of the way and to stop
22 blocking traffic. They have all the time in the world they
23 need and yet, they are still running up over these curbs on
24 a not infrequent basis. And area 6, which I showed you
25 earlier, this was the right-hand picture here on this slide.

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1 MR. GROSSMAN: Let me ask you, what about the not
2 infrequent basis? Do we know it's frequent?
3 MS. CORDRY: I don't, you know --
4 MR. GROSSMAN: I just, I mean --
5 MS. CORDRY: -- I can't tell you how often they do
6 this.
7 MR. GROSSMAN: The tracks could have been made by
8 one --
9 MS. CORDRY: Right.
10 MR. GROSSMAN: -- truck going across this.
11 MS. CORDRY: All right. I mean, not, certainly
12 not daily, not weekly but it certainly happens. It happens
13 in a number of areas. And again, this is all when these,
14 when these trucks have as much time in the world as they
15 need to do their. This on slide 12, this was that area 6 on
16 May 11th. It was smoothed out, it was cleaned up, it was
17 fine and by, this was I think in July. Unfortunately -- let
18 me get my photo list here, but that, there was a whole new
19 set of gouges done again.
20 MR. GROSSMAN: I get the idea. It wasn't Buddy
21 dragging his feet across it.
22 MS. CORDRY: No. That wasn't Buddy and it was, it
23 was, you know, it happens more than once on --
24 MR. GROSSMAN: All right.
25 MS. CORDRY: -- these, these areas there so.

1 MR. GROSSMAN: Okay.

2 MS. CORDRY: Okay. And again, these are in that

3 area C. Again, this is where there's going to be parking if

4 the station is built. Right now, trucks park there all the

5 time which is in my observations. One of the questions

6 we're going to have address is where are all those trucks

7 going to park when area C turns into new parking for the gas

8 station or for when the gas station displaces the parking

9 that is there now and it has to move over into that area and

10 a couple more places. In general, if they can find a median

11 area to run over, they do.

12 And I'm not, I'm not criticizing the drivers.

13 These are, these are very difficult turning radiuses they

14 have. They worked on the computer but the point is, our

15 point is you got the real world of fallible drivers and they

16 can't necessarily make those marks or if they do, they're

17 going to have to do it slowly, back and forth, inching their

18 way around trying to get through this and having cars in the

19 way at the same time. All of that slower driving, more

20 traffic backups, more emissions, more fumes, more concerns

21 that Mr. Sullivan's assumptions are not conservative because

22 in the real world, it's a lot messier when you drive around

23 areas.

24 Okay. Now we're coming to what I think you may

25 want to see which is the way Intersection 16 can work on the

1 weekends, or does it work to be more exact, and this is

2 slide no. 19. The pictures show the traffic backed up all

3 the way from the Ring Road down to University Boulevard

4 which, as I said, is approximately 550 to 600 feet.

5 Now, on the left-hand picture, the, that's a Metro

6 access so that's not a new, that's not an ambulance there

7 but assuming if it was, how quickly could that ambulance get

8 into the mall if this traffic is backed up 600 feet long in

9 both lanes and they can't get through. A question for us to

10 ask ourselves is, and I think Ms. Mulready was asking, does

11 it make sense to put the most potentially hazardous

12 operation at the mall at the furthest removed from where

13 emergency vehicles would have to come in to be able to

14 access that problem, that station if there was a problem. I

15 have quite a few other shots that I note on down there, that

16 show, that are similar still shots showing the same kind of

17 issue there.

18 Actually, if I might back up just a moment, I was

19 going to show you on the car turning exhibit just to get it

20 in terms of some of these turning lanes, and we'll get to

21 the truck one in a moment but again, as you recall, these

22 are extremely narrow areas here. Now, this is, this is the

23 car turning exhibit that we've drawn to show that cars

24 wouldn't be able to leave the parking spaces there even if

25 the truck was parked in that, if the tanker delivery truck

1 was parked there.

2 MR. GROSSMAN: What's the exhibit number again?

3 MS. CORDRY: That one, I believe, from looking at

4 the exhibit sheet, was 155.

5 MR. GROSSMAN: All right. That's of the revised

6 plans?

7 MS. CORDRY: Right. I don't think this one is

8 revised because it was dealing with this internally, or I

9 didn't see a revised one but in any case.

10 MR. GROSSMAN: I mean, there was a revised site

11 plan --

12 MS. CORDRY: Right.

13 MR. GROSSMAN: -- that gave more room for those

14 trucks.

15 MS. CORDRY: Yes. Exactly. And that's the point,

16 that this one now does show, after we raised the concerns,

17 that they're now theoretically precisely 20 feet of aisle

18 space between that tanker truck and where the edge of the,

19 the parking space.

20 MR. GROSSMAN: Right.

21 MS. CORDRY: Now, that of course is if that tanker

22 truck manages to lay his wheels within an inch or two of

23 the, those concrete bays there, and that is important to

24 have 20 feet because Montgomery County parking lot standards

25 do require 20 feet for drive aisles. Not 18, not 16,

1 nothing less. That requires 20 feet. Now, again, to get

2 that truck to lay up right against there, I don't think

3 with, with the narrow amounts of clearance they have and so

4 forth, I don't think he's going to be able to drive right in

5 and do that. It's going to take backing and filling and

6 edging himself. So he's either going to be farther out

7 sitting away from the curb or he's going to spend a fair

8 amount of time getting himself positioned there.

9 Again, just a point. This is not going to be the

10 quick and easy one turn in and you'll be right there and

11 you'll have all this space. It's going to take more time,

12 more idling and so forth. I assume drivers perhaps will be,

13 won't mind trying to pull out and drive around a truck with

14 9,000 gallons of flammable liquid but some of them may not.

15 That may cause some more blockage there as well.

16 But okay. Come back to the, the Ring Road and the

17 access points here. Again, as I said, my usual pattern was

18 to, is to drive around and come in this intersection here

19 because it used to be convenient, closer, save time not

20 going through the traffic lights. As I've begun to observe

21 on the kind of times when I go to the mall, which is

22 typically Friday night or over the weekend, I am more and

23 more seeing these kind of backups there, and this is really

24 something that's new since the warehouse was there and will

25 become even worse when you add station traffic.

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1 This was taken on a Saturday in May. Again, not a
2 holiday weekend, nothing unusual about this weekend. Just a
3 standard sort of middle of the day on a Saturday. Now, you
4 know, can I say that there's going to be an emergency all
5 the time, that this vehicle is going to have to get in at a
6 time when there's a backup? No. I can't tell you when the
7 emergencies are. But then emergencies are never
8 particularly common or anticipated but we usually try to
9 make sure that it's as easy as possible to get vehicles and
10 ambulances and rescue services to potentially hazardous
11 sites. We don't put them in a location where it's extremely
12 difficult to get somebody back there.

13 Now, if we look at Mr. Guckert's report from April
14 27th, which is Exhibit 128(a), it reflects almost 1900 cars
15 going through that intersection in an hour or one every two
16 seconds which is a pretty high level of activity for cars
17 trying to move through a complex three-way intersection. I
18 would note that his Exhibit 1(a), Exhibit 128(a) says that
19 there's 280 cars in one of the lanes and his Exhibit 128(b)
20 says there's 220 cars in the same lane so I'm not quite sure
21 which is correct but I think the 280 is. He used that in
22 more spots than the other one so. If we use that number,
23 it's a total of 1900 cars trying to go through that
24 intersection and he characterized it as level A and
25 calculated his critical lane volume of 944 for that

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1 intersection.

2 Now, I'm not sure we ever got a really clear
3 explanation from Mr. Guckert as to what this level of
4 service A means. I did some looking at what Montgomery
5 County does with respect to that. I found an article in
6 2011 by Mr. Royce Hanson and Dan Hardy and Eric Gray, all of
7 whom were on the planning staff at the time they wrote it
8 and at one point, they appeared to find the level of service
9 in terms of the percentage of the free-flowing speed
10 expected in the area. You know, if it's at least 85 percent
11 of the speed, then the level of service would be A and that
12 goes down that if you're 25 percent or less of the free-
13 flowing speed, you might be a level F. But somewhere else
14 in the article, it seems to be saying that we're just going
15 to equate the CLV, the critical lane volume number, with the
16 level of service so if you have a low critical lane volume,
17 you must have a high level of service.

18 And when I looked at the, I looked at some other
19 guidelines that the county used to use under the Local Area
20 Transportation Review, and that did still seem to use the
21 same kind of a functional notion, the level of service is
22 supposed to describe the actual function of the
23 intersection, how well it works or the roadway. When I
24 looked at the March 2013 Transportation Policy Area Review
25 guidelines --

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1 MR. GROSSMAN: Well, before -- you mentioned the
2 LATR guidelines.

3 MS. CORDRY: Right.

4 MR. GROSSMAN: Which ones are you talking about?

5 MS. CORDRY: Well, the one I was looking at was in
6 February 2012 but as I understand it, as of now, they've
7 adopted a new set of guidelines, the Transportation Area
8 Policy Review Area guidelines, and I can't find the LOS
9 concept referred to in there at all particularly. It really
10 looks like it's looking at the critical lane volumes, so I'm
11 not sure this is a concept that the county is really using
12 anymore.

13 MR. GROSSMAN: Right. I think Mr. Guckert
14 suggested that that was the case.

15 MS. CORDRY: Right. So but notwithstanding the
16 fact that that was, those guidelines were replaced as of
17 March 2013, we have this, this LOS which is looking like
18 it's fast and free moving and fine and everything on his
19 chart there, his chart 128. The problem with that,
20 especially if we're not quite clear whether the LOS is
21 simply another way of just referring to certain levels of
22 the critical lane volume or whether it's supposed to
23 actually be a functional definition, critical lane volumes
24 have a couple of issues. I mean, they're a fairly blunt
25 object and mister, Dr. Adelman's articles that he attached

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1 to his Power Point discussed some of those, and they really
2 more tend to be used for signalized intersections rather
3 than something like a, a three-way stop kind of signal here.

4 But the simplest way to illustrate it is that
5 there's, there's two problems with looking, two ways that
6 you could get to a critical lane volume number of 944 let's
7 say. One way is that that's all the number of cars that
8 come into an intersection, they move through it without any
9 delay at all, traffic is flowing just fine and there isn't a
10 hint of a problem.

11 The other way you can get a 944, for instance, is
12 that traffic comes up and it can't move. It's stopped.
13 Only so many cars can get through the intersection because
14 it's blocked and it's delayed, and that's all the cars that
15 go through. Those could be exactly the same critical lane
16 volume numbers but they describe two very different
17 situations and that's what we, that's what we have here is
18 that the --

19 MR. GROSSMAN: If you have a failing intersection.

20 MS. CORDRY: Right.

21 MR. GROSSMAN: Then there are issues about
22 critical lane volume analysis.

23 MS. CORDRY: Right. So --

24 MR. GROSSMAN: Do you have a failing intersection?

25 MS. CORDRY: Well, that's what we're showing here.

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1 If you have an intersection where people can't get through
2 and they're backing up and because they are backing up,
3 traffic isn't flowing through quickly, it isn't free-
4 flowing, then a critical lane volume number of 944 may
5 simply say nobody's getting through this intersection, and
6 you can't tell from that number itself which situation you
7 have. You have to go out there and stand there and look at
8 it, and that's what I've done a lot of.
9 Now, to go back again, I think one of the things
10 we can do with it perhaps is to do some absolute comparisons
11 of absolute numbers. Certainly Dr. Adelman's numbers did do
12 some before and after comparisons and some comparisons
13 between projected numbers and actual figures. What his
14 results showed was that the, the counts, both the CLV counts
15 and the actual counts of cars on weekday afternoons at
16 Intersection 16 were overall about 15 percent higher than
17 what Mr. Guckert's traffic study would have predicted, and
18 that itself somewhat masks some of the reality there because
19 what you actually have --
20 MR. GROSSMAN: Well, a question was raised about
21 whether he took his measurements during those periods right
22 after the opening of the warehouse in which you would expect
23 there to be higher traffic.
24 MS. CORDRY: Well, possibly, but he also took it
25 for quite some time, you know, he took it for a month or

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1 more after that and --
2 MR. GROSSMAN: I thought there was, the testimony
3 was that it wasn't just a few weeks, that it might be a more
4 extended period in which there would be expanded traffic due
5 to the opening of the warehouse. I don't know. That was
6 just an observation --
7 MS. CORDRY: Right.
8 MR. GROSSMAN: -- in terms of the cross-
9 examination.
10 MS. CORDRY: Right. And that, and that's, you
11 know, that has some validity but it's also a fact that you
12 still do have some ability to look at this thing and I
13 don't, and just to go back and -- I made, I took his numbers
14 and I just did a couple of other calculations with them. If
15 you can do this one around. This would be an Exhibit 380 I
16 believe.
17 MS. ADELMAN: Does it have a title, Karen?
18 MS. CORDRY: Oh, I'm sorry. I have them all here.
19 MR. GROSSMAN: Thank you. Okay, 380 is --
20 MR. SILVERMAN: Mr. Grossman, it's chilly in here.
21 MR. GROSSMAN: That's keeping us awake.
22 MR. SILVERMAN: I suppose so.
23 MR. GROSSMAN: Okay. Cordry, 380 is Cordry
24 refinements on traffic counts.
25 MS. CORDRY: Right.

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1 (Exhibit No. 380 was marked
2 for identification.)
3 MS. CORDRY: So these are all just numbers from
4 mister, from, I'm sorry, Mark, Dr. Adelman's observations
5 that he made. The first two lines are the, the actual
6 traffic count that was done by Mr. Guckert, and I believe it
7 was September 2012. The second line was the projected
8 numbers that he had in his traffic analysis report, and all
9 I did there, I added an additional line which simply
10 calculated what kind of increases were projected there and
11 what, and the actual total number of cars that were being
12 projected.
13 MR. GROSSMAN: Now, under lane F --
14 MS. CORDRY: Right.
15 MR. GROSSMAN: Are the figures that apply to lane
16 F the ones that are quite a bit to the right? There's a
17 column. The columns are off again, is that --
18 MS. CORDRY: Yeah. The lane F column is a little
19 bit off so it's --
20 MR. GROSSMAN: The lane F, lane F, left. Where it
21 says lane F, left lane?
22 MS. CORDRY: Yes.
23 MR. GROSSMAN: That's 337?
24 MS. CORDRY: Yes.
25 MR. GROSSMAN: That -- I'll draw an arrow just so

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1 we -- okay.
2 MS. CORDRY: And let me --
3 MR. GROSSMAN: All right. So what is this
4 purporting to show?
5 MS. CORDRY: Okay. So this, this is just the lane
6 F, C and F are the lanes coming into the mall on Valley
7 View, one going right and one going left there. D and E are
8 the lanes coming on the Ring Road from the north and going
9 south, and lanes A and B are on the Ring Road coming from
10 the south and going north.
11 So what this was projecting was that, that there
12 would be a large increase in traffic coming into the mall
13 and turning right, which it seems logical to go to the
14 Costco Warehouse, and a large increase coming north on the
15 Ring Road away from the Costco store and going back out
16 again, but those are about the only two in which he
17 projected substantial increases.
18 Then the next couple lines, there are the two
19 observations mister, Dr. Adelman took before the mall,
20 before the warehouse opened.
21 MR. GROSSMAN: What are your refinements showing?
22 MS. CORDRY: Okay. What the refinements show is
23 that, one of the points I want to make is if you go down to
24 his actual numbers there after the store opened, after the
25 warehouse opened, and the average there, one of the things

1 it shows is that there's in fact a, not just a 15 percent
2 increase in the traffic that's going back to the warehouse
3 area but that actually, it's much higher. What you have,
4 what you're masking is because the traffic going, coming
5 into the mall and going to the left, going back out to the
6 rest of the mall and going out of the mall on the, what's
7 marked as, labeled D, which is the area coming from the
8 north and going out to the right there, those two are both
9 less than what was projected and that masks the fact that
10 the traffic actually going back to the warehouse is
11 substantially higher even than what was projected and even
12 in the 15 percent. If you look across the line observed or
13 predicted, the traffic coming in to go to the warehouse is
14 129 percent, not just 115 percent.

15 MR. GROSSMAN: But why exactly -- well, that seems
16 a little bit contrary to what you earlier said about the
17 warehouse not creating --

18 MS. CORDRY: No.

19 MR. GROSSMAN: At least in the early morning
20 hours.

21 MS. CORDRY: That's right because none of that
22 traffic is coming in in the morning hours.

23 MR. GROSSMAN: Right, but so assuming that, that's
24 consistent, but why does that make a difference? Because
25 it's on the southern Ring Road or because --

1 MS. CORDRY: Well, no. First off, this is
2 important because this traffic going back in that direction,
3 that's the kind of traffic that mister -- it goes both to
4 the traffic and the emissions. This is the kind of traffic
5 that Mr. Sullivan is modeling, how much traffic is coming
6 back there, and he based it on Mr. Guckert's predictions.
7 And if Mr. Guckert's predictions are low, then Mr.
8 Sullivan's calculations are low. So that all goes to the
9 question of how much emissions there are going to be and how
10 much the level of pollution may be that he has to model back
11 there. So the numbers coming back towards the mall, towards
12 the Costco Warehouse are a good bit higher than the weekday,
13 evening predictions that were made.

14 And then the last line I did there, the STA,
15 Supplemental Traffic Analysis observations, that number
16 comes out to, as I said, 1899 which is almost 50 percent
17 higher than the number that was projected for a weekday
18 evening. So again, one of the questions becomes how much
19 traffic do we have back down there in the, in the weekends
20 which is the peak time when people are driving around, the
21 peak traffic nuisance, burden, backing up and so forth. But
22 the other point is Mr. Sullivan told us repeatedly I used
23 the peak hour, I'm conservative because I've used this peak
24 hour and I've used this peak hour throughout my
25 calculations, but the peak hour he was using was Mr.

1 Guckert's September weekday peak evening hour.

2 MR. GROSSMAN: Well, I'm trying to remember
3 whether or not the traffic estimates that he relied on were
4 peculiar to the southern Ring Road or just were the overall
5 peak hour estimates.

6 MS. CORDRY: Well --

7 MR. GROSSMAN: So, I mean, as I understand, the
8 refinement that you're making is a distinction between
9 traffic turning right and going along the southern Ring Road
10 from exit 16 and --

11 MS. CORDRY: I think he --

12 MR. GROSSMAN: -- those that are going to the
13 north.

14 MS. CORDRY: Right.

15 MR. GROSSMAN: And therefore, you're saying that a
16 higher percentage is actually going to the south and so Dr.
17 Adelman's projections understated the amount that was going
18 along the southern Ring Road.

19 MS. CORDRY: Not -- right.

20 MR. GROSSMAN: And therefore, presumably overall,
21 understated that part of it. But I don't recall, and maybe
22 you can refresh my recollection, as to whether Mr.

23 Sullivan's, the figures Mr. Sullivan relied on were ones
24 that were peculiar to the southern Ring Road as opposed to
25 overall, overall peak hour traffic projections.

1 MS. CORDRY: Okay.

2 MR. GROSSMAN: Which would --

3 MS. CORDRY: And it's not just, it's not just the
4 percentage. It's the absolute numbers because of course,
5 the emissions are coming from the absolute numbers of
6 course.

7 MR. GROSSMAN: Right.

8 MS. CORDRY: And he, yes, Mr. Sullivan did, you
9 know, how many cars are on this spot on the main road, how
10 many cars are in the entranceway, how many cars are driving
11 down here on the Ring Road, how many cars are going in the
12 entrance, so he had very specific spots where he was
13 assuming cars would be at.

14 MR. GROSSMAN: Okay.

15 MS. CORDRY: And if he is doing those and making
16 those assumptions based on overall numbers that are far too
17 low, he's not going to be placing cars --

18 MR. GROSSMAN: Right. Well, that's my question --

19 MS. CORDRY: Right.

20 MR. GROSSMAN: -- as to whether or not, and you're
21 answering that Mr. Sullivan was in fact relying on specific
22 spots on the Ring Road, in effect, for where he made his
23 estimates for --

24 MS. CORDRY: I mean, he was making, as I recall,
25 he testified, for instance, that I, I'm assuming so many

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1 cars are coming back to this area and that, he had this
2 whole elaborate calculation. He had this, this calculation
3 about how conservative he was because he was assuming like
4 120 percent of the cars.
5 MR. GROSSMAN: Right. He was relying on the peak
6 hour estimates from Mr. Guckert but I, what I can't recall
7 is whether or not they were broken down the way you're
8 suggesting and that he relied on that or he just relied on
9 the overall peak hour estimates which --
10 MS. CORDRY: Well, he certainly is doing his
11 modeling based on cars being in particular places and
12 particular spots on the road, and he had to start with those
13 from Mr. Guckert's numbers coming in and where those, those
14 cars. I believe if you look, and this is one we can get to
15 but I think my point here is that it's, we can, Dr. Cole
16 will probably develop this some more when he goes through
17 his numbers and so forth but I think when we go back and
18 look at the evidence, he's assuming peak traffic and cars
19 going certain places and how many cars he assumed of that
20 total volume were going to go in the lot and he had this
21 very elaborate calculation that showed that he was somehow
22 accounting for 120 percent of the cars in the lot and
23 therefore, he was very conservative. What I'm suggesting is
24 if there's a whole lot more cars coming down here --
25 MR. GROSSMAN: No. I understand --

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1 MS. CORDRY: Right.
2 MR. GROSSMAN: -- what you're suggesting.
3 MS. CORDRY: Right.
4 MR. GROSSMAN: I just don't, I just don't
5 recall --
6 MS. CORDRY: Right.
7 MR. GROSSMAN: -- whether or not he relied on the
8 same breakdown that you're relying on. In any event, go
9 ahead.
10 MS. CORDRY: But in any case, the point being of
11 this chart is simply to show that when you, when you do
12 these, the weekend numbers are much higher than the weekday
13 numbers and if you adamantly insist that you're doing,
14 you're being conservative by using the weekday peak hour but
15 the weekends are much higher than that, you may not be using
16 the peak hour. You very likely are not using the peak hour
17 and therefore, you are not being conservative. Again, I'm
18 going to --
19 MR. GROSSMAN: Well, his answer to that was that
20 the, that the, since there were so many more peak hours
21 during the week than there are weekend things, that that
22 amount of it would overwhelm the other statistically and
23 that, that it would not, that your observation there is not
24 significant.
25 MS. CORDRY: But if, but he didn't really sit down

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1 there and do that. He just, he just said that off the top
2 of his head. If, you know, you have one or two peak hours,
3 you know, at night. It doesn't go on all day long. Weekend
4 hours, peak may run for several hours. And he also poo-pood
5 the idea of the holidays. Oh, there aren't that many there.
6 But he didn't sit down there and try to say how many hours
7 were in the holidays, how many hours were in the peak. He
8 just said I, I know what the number is and I know it must be
9 the high. And I'm saying when we go through this, it's
10 very, very clear that A, he didn't do the calculation and B,
11 that there's a very good likelihood, and again, we'll
12 develop this some more through Dr. Cole, that he is not
13 picking up the peak hours.
14 MR. GROSSMAN: Okay.
15 MS. CORDRY: Okay. And at least in large part,
16 that's because the volume is, is not the peak numbers.
17 MR. GROSSMAN: How much longer do you estimate
18 your testimony will take?
19 MS. CORDRY: Quite a bit. I mean, we -- let me,
20 let me see if we're at a good stopping point.
21 MR. GROSSMAN: I want to make sure that Mr.
22 Silverman gets his lunch.
23 MS. CORDRY: Yes.
24 MR. GROSSMAN: He gets angry at me.
25 MS. CORDRY: Right, right. Let me, let me just

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1 put a couple, one or two more things in.
2 MR. GROSSMAN: Okay.
3 MS. CORDRY: And then that would probably be a
4 good stopping point.
5 MR. GROSSMAN: So when you say quite a bit, what's
6 your estimate in the additional amount of time because we
7 have other, other witnesses that --
8 MS. CORDRY: I think --
9 MR. GROSSMAN: I just want to get some idea.
10 MS. CORDRY: I think Mr. Sheveiko is the only who
11 is definitely coming here. As we said, Ms. Michaels said
12 if we push her off until tomorrow, until Thursday, that
13 would be fine as well so. I'm probably about halfway
14 through.
15 MR. GROSSMAN: Okay.
16 MS. CORDRY: Okay.
17 MS. ADELMAN: Karen, may I interrupt?
18 MS. CORDRY: Sure.
19 MS. ADELMAN: Do we have an exhibit number for the
20 traffic counts and refinement?
21 MR. GROSSMAN: Exhibit 380.
22 MS. CORDRY: 380.
23 MS. ADELMAN: Sorry. I missed that.
24 MS. CORDRY: Okay. So again, this question of how
25 you relate the weekday to the weekend to the holidays,

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1 again, it's a little difficult to tell from what the
2 applicant did. We had the land planning report, which was
3 Exhibit 10. At page 3, it stated there was 13,500 on the
4 weekday and 17,500 total on the weekends. The land value
5 report, which was Exhibit 16, said there were 18,000 on the
6 weekday, 24,000 on the weekend and 40,000 at the holidays.
7 And the supplemental need report said that there were 44,202
8 total calls for the mall, the non-mall retail and Costco in
9 May of this year.

10 So the applicant doesn't seem to have any clear
11 idea or, or, what the numbers are but whatever they are, the
12 one thing they do seem to indicate is that the weekend is
13 considerably higher than the weekdays and that the holiday
14 period is considerably higher than that, none of which was
15 put into his calculations.

16 Why don't we just break at this point and then
17 we'll come back to all the slides we have. I think we're at
18 a good point to break at this point.

19 MR. GROSSMAN: All right. Does that please the
20 crowd? All right. We'll break now and come back at 1:45.
21 (Whereupon, at 12:56 p.m., a luncheon recess was
22 taken.)

23 MR. GROSSMAN: We're ready to go back on the
24 record here and resume with Ms. Cordry.

25 MS. CORDRY: All right. So --

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1 MS. ADELMAN: Oh.

2 MR. GROSSMAN: I'm sorry? Did you need to --

3 MS. ROSENFELD: Nothing.

4 MR. GROSSMAN: Okay.

5 MS. CORDRY: All right.

6 MR. GROSSMAN: Go ahead.

7 MS. CORDRY: So slide 20, this is another day that
8 I went by and observed. Again, this was later in the day,
9 about 4:45. It's not just a noontime event but again, the
10 traffic is backed up all the way down to the street.

11 MR. GROSSMAN: Excuse me one second, Ms. Cordry.
12 I did notice that Mr. Sheveiko was here and if he's having a
13 back problem --

14 MS. ADELMAN: He is, so he's gone home again since
15 Karen's on the stand.

16 MR. GROSSMAN: Oh, I was going to say that we
17 would just have him come on in and we'd interrupt Ms.
18 Cordry's testimony if he's having a back problem.

19 MS. ADELMAN: You know, he thinks he will be on
20 for about a half hour and he just didn't feel up to it, so
21 he's gone home and he's going to come back on Thursday, Mr.
22 Grossman

23 MR. GROSSMAN: Okay.

24 MS. CORDRY: Yeah. I think it's likely I will
25 take the rest of the day. I hate to say this. Between what

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1 I have to get, the rest of what I have here and cross, I
2 don't think we'll have a lot of down time.

3 MR. GROSSMAN: Well, they may not cross-examine
4 you. You never could tell.

5 MS. CORDRY: Gee, that would be nice. I'm not
6 counting on it. Okay.

7 MR. GROSSMAN: Ms. Rosenfeld might. All right.
8 Go ahead.

9 MS. CORDRY: So in any case, slide 20, the image
10 on the left shows the cars again backing all the way down to
11 the Ring Road from Intersection 16. I'm sorry, down to
12 University Boulevard. The shot on the right shows the cars
13 lined up trying to get out onto University Boulevard. So
14 this is just a fairly common place that you have a lot of
15 backing up, a lot of idling at these intersections.

16 The next slide, Mr. Sullivan, in his report, and
17 I'm specifically referring to page 24 in his November 19th
18 report. He talked about assuming that there would be an 18
19 car queue at the various intersections lined up, and that's
20 how much idling and how many cars and so forth he put into
21 his, his calculations. The left-hand slide shows the cars
22 backing up on University Boulevard going east there away
23 from the intersection at Valley View. It's hard to see on a
24 slide but I actually counted them with my fingers and as I'm
25 counting them on fingers of both hands and then I had to

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1 start over again because --

2 MR. GROSSMAN: Switch to your toes?

3 MS. CORDRY: Yeah, or I went, started again, but
4 there's at least 17 or 18 cars. It's kind of hard to see in
5 the far distance there in each of those lanes there. And
6 then there were these three more cars you can see sitting
7 here at the intersection going straight, so an 18 car queue
8 was distinctly understated for that particular shot. A few
9 moments later, I took another shot and at this point, there
10 was at least 13 cars in the lines there and some more coming
11 up to park at the intersection so --

12 MR. GROSSMAN: Now, just so I can understand which
13 direction. They are coming in which direction here, the
14 ones --

15 MS. CORDRY: Okay.

16 MR. GROSSMAN: I take it you're talking about the
17 ones on the right-hand side of the --

18 MS. CORDRY: Yes. On either, on either one of
19 these pictures, the ones on the right-hand side there, that
20 is University Boulevard. That is facing east or north, you
21 know, because the road kind of angles there.

22 MR. GROSSMAN: Well, looking down towards the big
23 building there.

24 MS. CORDRY: Right. That is the --

25 MR. GROSSMAN: Now I'm looking down towards the

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1 building, big building. I'm going easterly?
2 MS. CORDRY: That's an east direction there.
3 These cars are headed towards the west. That's -- the cars
4 are headed west on University.
5 MR. GROSSMAN: Okay.
6 MS. CORDRY: That's the Giant store off to your
7 right.
8 MR. GROSSMAN: Okay.
9 MS. CORDRY: And that's the office building, the
10 north, Wheaton North office building there at the back.
11 MR. GROSSMAN: Okay.
12 MS. ADELMAN: Can you use your laser pointer?
13 MS. CORDRY: Yes. Okay. So, yes. That's --
14 MR. GROSSMAN: That's the government's laser
15 pointer.
16 MS. ADELMAN: The one that we're trying to --
17 MS. ROSENFELD: Is that the aerial?
18 MS. ADELMAN: -- amortize the cost, right?
19 MR. GROSSMAN: Right.
20 MS. CORDRY: Yes. Let's put that one back up
21 again. All right.
22 MS. ROSENFELD: This would be Exhibit No. 159.
23 MS. CORDRY: Yeah.
24 MR. GROSSMAN: All right.
25 MS. CORDRY: We're back to the aerial we've used

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1 often. Again, so again, this is cars coming, getting ready
2 to turn left into this intersection here, so backing up this
3 direction.
4 MR. GROSSMAN: All right. So they're in the left-
5 hand turn lane.
6 MS. CORDRY: Exactly. So two lanes of cars, both
7 of them 17 to 18 cars going back there on the one shot, 13
8 plus in the other shot, and so again, 18 car line-up is not
9 a conservative estimate.
10 MR. GROSSMAN: What's the slide number on that?
11 MS. CORDRY: That would be no. 20. I'm sorry, no.
12 21.
13 MR. GROSSMAN: What was your count again on there?
14 MS. CORDRY: On the left-hand picture, 17 to 18
15 cars in each of the lanes.
16 MR. GROSSMAN: Okay.
17 MS. CORDRY: I was squinting in the distance to
18 try to figure out if I was seeing another car or not. And
19 pictures do tell you something but the reality is, it's a
20 lot harder to see if you're not seeing it in real time.
21 (Whereupon, the videotape referred to was played
22 for the record.)
23 (Whereupon, the videotape was paused.)
24 MS. CORDRY: You hear the car horns blaring from
25 time to time. You can see the left, the two left-turn lanes

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1 are full. You can see as they're trying to come in, the
2 cars coming in from the right can't get in so they're
3 backing up there and that's backing down University
4 Boulevard towards Drum. This again is that day in May.
5 There's not a holiday, there's nothing special going on.
6 You see the cars can't get through here on the, from the
7 through lanes. They're having to wait and again, blaring
8 their horns to try to get around. And again, this is not
9 free-flowing traffic. This may mean that there aren't very
10 many cars going through that intersection but that's not
11 because the cars, there's no cars there. It's because
12 they're not getting through. I start to pan down here and
13 you start seeing how the cars are backing quite a ways down
14 there. And then these cars come out.
15 (Whereupon, the videotape referred to was played
16 for the record.)
17 (Whereupon, the videotape was paused.)
18 MS. CORDRY: And I'm just going to do one more of
19 these just to give you --
20 (Whereupon, the videotape referred to was played
21 for the record.)
22 (Whereupon, the videotape was paused.)
23 MS. CORDRY: This is the next one after that. I'm
24 going to give you a little more perspective going down
25 University Boulevard as well. As you see, the cars are

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1 trying to come and make a left turn. They want to make it
2 before the light changes so they get in there. They end up
3 blocking the, the cross traffic. You hear the horns again.
4 MR. GROSSMAN: Blocking the box.
5 MS. CORDRY: Blocking the box. We see the cars
6 can't come in from the right because these dual, the area is
7 full. I mean, you'd normally think an unimpeded right turn,
8 great, I get to go in there, but it doesn't happen that way
9 because you can't get into there because it's full. As I
10 pan down there, you can see the number of cars lined up on
11 University. At this point, it's not quite to Drum yet but
12 it's not very far from Drum and that, as I think I mentioned
13 before, is a difficult intersection at best because of the
14 site lines, because of there's a hill there, because you
15 have fast moving traffic in the through lanes, not fast
16 moving traffic in this right-hand lane.
17 (Whereupon, the videotape referred to was played
18 for the record.)
19 (Whereupon, the videotape was paused.)
20 MS. CORDRY: But as there's cars back there, and
21 as they go back even further than that, it can make a real
22 difficulty for that traffic to come out of the neighborhood
23 and be able to access the main road here.
24 MR. GROSSMAN: Okay.
25 MS. CORDRY: And I cite several other videos at

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1 different times that have similar kinds of backups there.
 2 MR. GROSSMAN: That video was actually linked
 3 right into your slide slow?
 4 MS. CORDRY: Yes. Yes.
 5 MR. GROSSMAN: On slide 21?
 6 MS. CORDRY: Yes.
 7 MR. GROSSMAN: Okay.
 8 MS. CORDRY: Actually, that's, I'm sorry, that's
 9 slide 22. We changed slides. That's slide 22. And I'm
 10 going to jump just for a moment down to slide 24. I should
 11 have put them in the other order.
 12 MR. GROSSMAN: If I try to play that video on my
 13 machine, it will probably blow up.
 14 MS. CORDRY: That could be possible.
 15 MR. GROSSMAN: Government issue.
 16 MS. CORDRY: It could be possible. Now, I'm going
 17 to jump to slide 24. I should have put these in the other
 18 order but I had already sent the video around. So this one
 19 on the right-hand, I'm sorry, on the left-hand side was
 20 taken immediately after the second video you just watched.
 21 As soon as that traffic had just barely cleared at that
 22 point out of the, the road, then this was the next thing I
 23 filmed.
 24 (Whereupon, the videotape referred to was played
 25 for the record.)

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1 (Whereupon, the videotape was paused.)
 2 MS. CORDRY: Now, thankfully at this point, that
 3 traffic had cleared enough that the ambulance was able to
 4 get through there.
 5 (Whereupon, the videotape referred to was played
 6 for the record.)
 7 (Whereupon, the videotape was paused.)
 8 MS. CORDRY: If that ambulance had tried to come
 9 through 30 seconds before, it would have been blocked by the
 10 traffic trying to go in, the traffic sitting on the road,
 11 the traffic that couldn't get by the left-hand traffic.
 12 That's one of the concerns we have about emergency access to
 13 this site and around the site. And here's another instance.
 14 (Whereupon, the videotape referred to was played
 15 for the record.)
 16 (Whereupon, the videotape was paused.)
 17 MS. CORDRY: Here we have the traffic coming up to
 18 Intersection 16, and what do we have here? We have another
 19 ambulance trying to come in. At this point, he doesn't seem
 20 to be in emergency mode so he's not blaring his horn but you
 21 can see if he was trying to get in, where would those cars
 22 go? How many cars are in front of him? How does he get
 23 passed all that? How does he get in the mall if there is an
 24 emergency? And again, if the gas station is the most likely
 25 place to have some kind of hazardous situation, how much

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1 sense does it put to have it way back off the road where you
 2 have to have vehicles go through these kind of backups to
 3 get there?
 4 (Whereupon, the videotape referred to was played
 5 for the record.)
 6 (Whereupon, the videotape was paused.)
 7 MS. CORDRY: And what does this backup feel like
 8 in real life.
 9 (Whereupon, the videotape referred to was played
 10 for the record.)
 11 (Whereupon, the videotape was paused.)
 12 MS. CORDRY: I'm not going to actually probably
 13 make you watch this whole thing, but this is me coming into
 14 that mall area there, so I'm waiting.
 15 MR. GROSSMAN: Why don't you move over a lane?
 16 MS. CORDRY: Because it wouldn't have done any
 17 good because that lane is backed up too and once I get --
 18 and actually, that's not a right-hand turn lane.
 19 MR. GROSSMAN: I see. I see.
 20 MS. CORDRY: There's other lanes there.
 21 MR. GROSSMAN: Okay.
 22 MS. CORDRY: This is the, there's only one right-
 23 hand turn lane here. So you come in here. This is actually
 24 not quite as bad as it is because it's not backed all the
 25 way down. It's only about halfway back, but it still took

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1 me almost two full minutes to get into the mall here because
 2 I timed it on my watch to do that because you have to sit
 3 and wait. Each car has to check and check and check all
 4 those different cars at the intersection trying to get in.
 5 MS. ROSENFELD: And just for clarification, this
 6 is Intersection 16?
 7 MS. CORDRY: This is Intersection 16. This is
 8 coming up from Valley View to Intersection 16.
 9 MR. GROSSMAN: And what slide is this one, slide
 10 24?
 11 MS. CORDRY: This would be slide 23.
 12 MR. GROSSMAN: Oh, 23.
 13 MS. CORDRY: And some of the other videos I have,
 14 I think I moved my camera so you could see the, the
 15 speedometer and it was basically about three miles an hour.
 16 So free-flowing traffic on this is supposed to be 15 miles
 17 an hour. This is three. This is down in the speed level
 18 where again, I believe both Mr. Sullivan and Dr. Cole will
 19 testify that the emissions get much higher when cars are at
 20 this kind of speed limit.
 21 MR. GROSSMAN: Of course more and more, I've
 22 noticed that this speed is pretty good for the county.
 23 MS. CORDRY: I understand.
 24 MR. GROSSMAN: Comparing --
 25 MS. CORDRY: That may be.

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1 MR. GROSSMAN: Comparing around.
2 MS. CORDRY: That just may mean the whole county
3 needs to get out of cars and into public transit, but that's
4 one of the things we aren't discussing in this hearing as
5 well. So that was about two minutes there.
6 (Whereupon, the videotape referred to was played
7 for the record.)
8 (Whereupon, the videotape was paused.)
9 MS. CORDRY: I gave you some other videos where
10 similar kinds of things again, most times it took me about
11 two minutes to go up there.
12 MR. GROSSMAN: Okay.
13 MS. CORDRY: This weekend when I tried it, it took
14 me two-and-a-half minutes, and that was without being way
15 down Drum. That was just coming onto the entrance corridor
16 itself.
17 MR. GROSSMAN: So you'd call this moving but not
18 free-flow.
19 MS. CORDRY: I would call this barely moving and
20 distinctly not free-flow, yes, indeed.
21 MR. GROSSMAN: All right.
22 MS. CORDRY: Now, the question becomes is this
23 just a problem with just entering the mall, and the answer
24 is, no, it's not, because Intersection 16 and the traffic
25 around it and going back to the parking lot ends up

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1 ramifying back into the mall, or perhaps the other way, the
2 mall delays and the parking lot delays in this area by the
3 Costco ramify up to that intersection. Cars begin backing
4 up as they're trying to exit from the mall area. That
5 typically is because they're backing up trying to get out of
6 Intersection 16 to head out of the mall.
7 As they come back down the Ring Road from
8 Intersection 16 heading south, as you recall, I said this
9 was a pretty short area. It doesn't take very many cars to
10 start getting to the point where they're interfering with
11 cars being able to come out of the Target parking lot here.
12 As they back up into the Target parking lot, exit, then they
13 start backing up into these various drive aisles here and
14 again, people can't get out, they're not moving, they're
15 sitting here, they're idling, there's more emissions. All
16 of this is the kind of area that Mr. Sullivan was looking
17 at, and he had a lot of assumptions about how fast cars
18 could move and that they were going to move at seven-and-a-
19 half miles an hour and they were only going to drive just so
20 far but when you're sitting there backed up at these lights
21 or I mean backed up at these stop signs, you're not moving
22 at seven-and-a-half miles an hour.
23 (Whereupon, the videotape referred to was played
24 for the record.)
25 (Whereupon, the videotape was paused.)

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1 MS. CORDRY: I apologize for the radio. I forgot
2 to turn that off while I was doing this, but I'm just giving
3 you some panoramics because again, it's really hard for
4 still shots to give you a sense of this. As you can see,
5 the cars here just sitting there waiting and waiting to get
6 out.
7 MR. GROSSMAN: You're listening to Fox News.
8 MS. CORDRY: Yeah.
9 MR. SILVERMAN: That's the worst.
10 MS. CORDRY: I can't imagine why --
11 MR. GROSSMAN: I'm not going to comment on it.
12 MS. CORDRY: I, I'm actually surprised at that
13 myself but, so and I think I -- as I scan back here, you can
14 see the cars being, being blocked here, the cars blocked
15 here into this part of the, the Target area as well.
16 (Whereupon, the videotape referred to was played
17 for the record.)
18 (Whereupon, the videotape was paused.)
19 MS. CORDRY: And let me give you this one again.
20 (Whereupon, the videotape referred to was played
21 for the record.)
22 (Whereupon, the videotape was paused.)
23 MS. CORDRY: This would happen to be a day in
24 June. Again, nothing special. Not a holiday weekend, not a
25 major event going on at the mall. As you can see how far

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1 the cars are, are --
2 MR. GROSSMAN: Well, it's a rainy day so that --
3 MS. CORDRY: It's a rainy day.
4 MR. GROSSMAN: -- may impact.
5 MS. CORDRY: A little bit, but that's, you know,
6 it's not a torrential rain or anything else. It was a
7 gentle, summer rain and the cars are simply sitting there
8 backing up. Two, four, six, eight, ten cars or more back
9 from that intersection which was not one of the ones that
10 Mr. Sullivan was modeling in his backing and 18 car queues.
11 This was not one of his 18 car queues that he was assuming.
12 MR. GROSSMAN: Okay. I get the point.
13 MS. CORDRY: Okay. All right. So.
14 (Whereupon, the videotape referred to was played
15 for the record.)
16 (Whereupon, the videotape was paused.)
17 MS. CORDRY: All right. So again, is this that
18 people are going to be able to drive around the mall without
19 any problem and they're not going to be blocked?
20 (Whereupon, the videotape referred to was played
21 for the record.)
22 (Whereupon, the videotape was paused.)
23 MS. CORDRY: It's not just the matter of driving.
24 Again, it's the blocking of the lanes, the cars sitting
25 there, the not being able to move. Yes. Of course many

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1 parking lots have cars that can't move from time to time.
2 I would suggest that there is, it's probably more difficult
3 in these Costco lots if only because, as they have told you,
4 they have these carts that are 50 percent bigger than
5 everybody else's carts so they can pile up all of their 20
6 rolls of toilet paper and all of their other items, and that
7 most of which don't go in bags so you have to load them into
8 your car one at a time, at a time. I sat there this weekend
9 and watched somebody take a good four to five minutes to
10 load their car up.
11 (Whereupon, the videotape referred to was played
12 for the record.)
13 (Whereupon, the videotape was paused.)
14 MS. CORDRY: So again, it's a lot of subtle things
15 but they all combine to say this is a difficult area, and
16 that's what you're hearing from pretty much supporters and
17 opposition alike. This parking lot is already
18 extraordinarily difficult. And this person over here was
19 loading up for a while but I won't, I won't bore you with
20 that one so.
21 This is a couple of scenes just to give you a
22 sense of what it is going down that main drive aisle and all
23 the many competing stimulus that the, stimuli that the, a
24 driver and pedestrians have to deal with.
25 (Whereupon, the videotape referred to was played

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1 for the record.)
2 (Whereupon, the videotape was paused.)
3 MS. CORDRY: The cars coming from either side,
4 cars going straight across, cars coming in, cars going out,
5 pedestrians, strollers, carts and people walking.
6 (Whereupon, the videotape referred to was played
7 for the record.)
8 (Whereupon, the videotape was paused.)
9 MS. CORDRY: There is no pedestrian path on either
10 side of that main drive aisle, so everyone who is out in
11 that part of the parking lot has to walk up the drive aisle
12 or try to walk through the middle of the parking lot with
13 their carts and their strollers and their kids to try to get
14 to the store.
15 MS. ROSENFELD: Ms. Cordry, on the larger exhibit,
16 could you show which aisle it is that you're talking about?
17 MS. CORDRY: Okay. We're talking about --
18 MS. ROSENFELD: Exhibit 159.
19 MS. CORDRY: Right. We're talking about this
20 drive aisle here, this main drive aisle. It goes from east
21 to west and it ends up about midway of the store here.
22 MS. ROSENFELD: So north of the proposed special
23 exception and --
24 MS. CORDRY: Just north of the station, and
25 we'll --

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1 MS. ROSENFELD: -- parallel to the Ring Road.
2 MS. CORDRY: Right. We'll come back to the
3 station in detail there but that's -- the parking lot will,
4 the proposed station will end about a few parking spaces
5 short of that road there and will spill its traffic out into
6 that road which as we can already see, is extremely busy.
7 (Whereupon, the videotape referred to was played
8 for the record.)
9 (Whereupon, the videotape was paused.)
10 MS. CORDRY: And this is just another one. Again,
11 you can see the highly loaded carts that people are pushing
12 around, the small children the people are walking with. And
13 this time, I decided to drive down the aisle and see, you
14 know, how much there was coming back and forth. And I think
15 this is the one with, what I -- yes. Again, cars having to
16 stop to let each other in and out because again, this is an
17 extraordinarily busy road here. And here we have what I'll
18 call Mr. Oblivious pedestrian, not looking to the left and
19 right, assuming that the cars are hopefully going to watch
20 out for him. There are no crosswalks either along this,
21 this area here.
22 (Whereupon, the videotape referred to was played
23 for the record.)
24 (Whereupon, the videotape was paused.)
25 MS. CORDRY: So just a couple shots. This is the

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1 Ring Road on May 11th again. It is quite possible that you
2 do have cars indeed parked all the way around here. This is
3 not just a holiday phenomenon.
4 (Whereupon, the videotape referred to was played
5 for the record.)
6 (Whereupon, the videotape was paused.)
7 MS. CORDRY: This is a very short one but this was
8 someone who was trying to cross the road and I, I think if
9 you just look at the expression on her face as she's trying
10 to get across that road, that, that's what I think people
11 are concerned about is, is dealing with this kind of issue
12 here.
13 (Whereupon, the videotape referred to was played
14 for the record.)
15 (Whereupon, the videotape was paused.)
16 MS. CORDRY: So one of the things we have to keep
17 in mind is again, and this is where I was starting to say it
18 means something to say how people come in. The people come
19 in and they come in from the west side and they park from
20 the north down. They come in from the east side and they
21 either park in the garage or they park in this drive aisle
22 and, I'm sorry, drive aisle A here from that side. But the
23 Ring Road area there, the area right from the, from the
24 Target store down around here, does not, still does not have
25 very much traffic. Even -- it certainly has more when the

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1 warehouse is open but during the non-warehouse hours, has
2 very little traffic and even the rest of the time. There's
3 not a whole lot of reason for cars to be coming there.
4 And certainly, for the cars coming to the station,
5 even if they have made the trip into the mall and have
6 parked here near the, the entrance to the store or parked in
7 the garage, there's a second trip they have to make. They
8 have to get back in their car, pull out of wherever they
9 were parked before, get back on the Ring Road, come around
10 here and enter the station, or come from the parking lot on
11 the west side, get back in there, go over to the Ring Road,
12 come down around and go in the station. So it's not a
13 question of were they already there coming to the warehouse
14 or were they already passing by the, the mall. Once they've
15 gotten in the mall, once they're into the parking lot and
16 park, there's another trip those cars have to make so it's
17 really --
18 MR. GROSSMAN: What if they do the gas station
19 first?
20 MS. CORDRY: Even so, then they have to make a
21 trip after they get done with the gas station. Then they
22 have to make a trip out to wherever they were going to try
23 to park because they can't park right, they can't park in
24 the gas station.
25 MR. GROSSMAN: But they were going to the store

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1 anyway.
2 MS. CORDRY: Right, but the, but --
3 MR. GROSSMAN: They're using the gas station.
4 MS. CORDRY: But my point is there is, there is
5 extra driving. If a -- when you, when you talk about
6 passer-bys, for instance, and you're out on this main road,
7 you're talking about somebody that's coming down the road,
8 pulls off, you know, 10 feet off the road into the, the gas
9 station pump area and pulls right back on again. They're
10 not back in the community, they're not driving a long ways,
11 they're not adding to either the burden there or the drive
12 time. This area from the entrance here back to the gas
13 station is about 2,000 feet. From this entrance over by the
14 WMATA garage over to her is about 2500 feet. That's almost
15 a mile of additional driving that is being done to come to
16 the gas station.
17 MR. GROSSMAN: I agree with you that the pass-
18 by/new trip dichotomy is not quite the same in terms of the
19 impacts when we're talking about within the area.
20 MS. CORDRY: Right. And certainly again, when,
21 when we were talking about the area when the warehouse is
22 not open, of course all of the trips are new. You know,
23 however you break it up during the time when the warehouse
24 is open, all of those trips from 6:00 a.m. to 10:00 a.m.
25 within the mall parcel itself, every one of those trips is

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1 of course a new trip because those, the warehouse isn't
2 open. They wouldn't be back there.
3 MR. GROSSMAN: I see what you mean. Yes. Well,
4 unless they were coming to some other store.
5 MS. CORDRY: But nothing else is open back at 6:00
6 a.m. and 10:00 a.m.
7 MR. GROSSMAN: Oh, I see. Nothing else. Yes. I
8 understand.
9 MS. CORDRY: I mean, short of, you know, Black
10 Friday when everybody --
11 MR. GROSSMAN: Right. Right.
12 MS. CORDRY: But on a normal basis, nobody is open
13 before --
14 MR. GROSSMAN: I mean, they could be pass-bys in
15 terms of the general road system but --
16 MS. CORDRY: Right.
17 MR. GROSSMAN: -- they would not be pass-bys for
18 the internal part of the mall.
19 MS. CORDRY: Exactly. And again, and again, in
20 terms of what affect will they have in terms of driving by
21 these homes located back here, all of that is going to be
22 new traffic, especially in the morning, in the early morning
23 hours and the quiet time. And it will be much greater
24 proportionally than the volumes that are now experienced
25 back there.

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1 MR. GROSSMAN: Well, I'm not sure I understand
2 that part. You say much greater proportionally than what's
3 there now.
4 MS. CORDRY: Okay.
5 MR. GROSSMAN: I'm not sure --
6 MS. CORDRY: Okay.
7 MR. GROSSMAN: -- if I understand the stats, that
8 it adds that much traffic.
9 MS. CORDRY: Okay. Well, what -- well, we will
10 see in just a moment.
11 MR. GROSSMAN: Right.
12 MS. CORDRY: We're talking about it at, at the
13 peak hours which are more when the warehouse is there,
14 approximately 200 and 250 cars an hour, I'll give you where
15 I'm getting that statistic from in a moment, which should
16 roughly double the, the current kind of traffic that is back
17 on that road there. The traffic in the morning hours is
18 about 60 cars, and I will give you some stats in just a
19 moment that would indicate that it wouldn't just double, it
20 might triple of quadruple the amount of traffic back there.
21 That's what I mean by proportionally greater.
22 MR. GROSSMAN: You're saying the gas station is
23 going to triple the amount of traffic?
24 MS. CORDRY: Well, if you only have 60 cars an
25 hour back there, it doesn't take a whole lot more traffic --

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1 MR. GROSSMAN: I see what you're saying.
2 MS. CORDRY: -- to double or triple or quadruple
3 it.
4 MR. GROSSMAN: All right.
5 MS. CORDRY: Because traffic is already so low,
6 and if you only have 25 cars back there on a Saturday
7 morning.
8 MR. GROSSMAN: Yes.
9 MS. CORDRY: So a few unique sort of pedestrian
10 concerns here. Well, this is perhaps isn't unique but the
11 left-hand one, people are still already trying to wheel
12 their Costco carts along the Ring Road even though there's
13 no path there, and that's highly unsafe. We do have two
14 blind members of Kensington Heights who live just on the
15 west side of the mall who walk through there every day to
16 the Metro which is one of our concerns with ensuring their
17 safety. Yes. We do have people who need ADA accommodations
18 and use wheelchairs. This was left in the crosswalk. It
19 was running on the north side of the parking lot up here by
20 the, just south of where the Target area is, and I think
21 there's a couple lane crosswalk that comes across here but
22 it stops at that point. It doesn't go the rest of the way
23 across and there's nothing similar further south in the, in
24 the mall area.
25 So there, and I will get to it in a moment but on

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1 the station, where they're proposing to show the station,
2 they are proposing to show, as I understand it and I'll pull
3 up the sheet, but that they would have a crosswalk about
4 halfway across here just below the drive aisle on, on one
5 side. It would not be on the north side, it would only go
6 halfway on the south side and everyone who used that --
7 MR. GROSSMAN: The south side of what?
8 MS. CORDRY: The south side of this cross aisle
9 here that, that we were talking about before, this main
10 drive aisle here.
11 MR. GROSSMAN: All right.
12 MS. CORDRY: So that everyone who is now being
13 moved out from where the current parking is here near the
14 loading dock and will be moved over farther to the west in
15 spaces that are going to be built instead, all of those
16 people, as they're trying to come over to the warehouse, if
17 they do take that, that walkway, will end up being funneled
18 right across where the traffic is coming out from the gas
19 station, so you're funneling people right into the path of
20 all the cars using the gas station.
21 So the next area we want to talk a little bit
22 about is what happens at the loading docks. This again goes
23 to traffic, to blocking, to noise and so forth. This is,
24 this is a typical picture of the loading dock in the
25 morning. All of the bays are full. There's almost always

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1 at least three trailers left there unattended at any time,
2 three more trucks park in front of the trailers partially
3 blocking the drive aisle. And the picture on the right-hand
4 side shows that there is another truck parked here in the
5 drive aisle, again blocking that lane. This was taken at
6 about 7:30 in the morning on May 9th.
7 Now, let me go ahead and put the parking garage
8 special exception picture up here as we talk. Now, before
9 we get into that, let me put one more exhibit in which is
10 going to show, I think I mentioned before traffic, that
11 parking spaces would be diverted from where they are now
12 currently by the loading dock here. This area where the
13 special exception is is all parking at this point. When
14 it's built, as you can see, that would all be eliminated,
15 and the spaces that are now the grassy area over here just
16 to the, on the side of the Ring Road and on the curve of the
17 Ring Road --
18 MR. GROSSMAN: To the west of the section.
19 MS. CORDRY: Yes. To --
20 MR. GROSSMAN: The special exception area.
21 MS. CORDRY: -- the west of where the special
22 exception would be, which shows us the grassy area on 159,
23 that will now have new spaces in there.
24 MR. GROSSMAN: Right.
25 MS. CORDRY: And we can put this one in. I did a,

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1 I did a count of the net parking spaces that would be moved
2 and whether it would be more or less or the same as before.
3 MS. ADELMAN: So it's the net parking?
4 MS. CORDRY: Yes, uh-huh.
5 MR. GROSSMAN: This will be 381, Cordry net
6 parking space comparison.
7 MS. CORDRY: Right.
8 (Exhibit No. 381 was marked
9 for identification.)
10 MS. CORDRY: I had used an earlier exhibit that
11 happened to be their truck turning exhibit, but I think this
12 one is 231. It shows us the parking drawing and it's the
13 same one so we can just see.
14 MR. GROSSMAN: Okay.
15 MS. CORDRY: So if you look at that one, and I, I
16 just went down and I counted, you know, row by row, leaving
17 out the spaces there that are marked as sidewalks, counted
18 around the spaces on the edge here. You count it all up and
19 you get 178 spaces. There is a little odd area here that
20 perhaps could have parking spaces in there but are not drawn
21 there now, perhaps another six or so but they aren't there
22 now. If you count what's drawn in there, you have 178.
23 MR. GROSSMAN: Where is that number on your page?
24 MS. CORDRY: Um --
25 MR. GROSSMAN: Oh, I see it.

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1 MS. CORDRY: Yeah, okay.
2 MR. GROSSMAN: On top.
3 MS. CORDRY: Right. And --
4 MR. GROSSMAN: 98 plus 36 plus 42 equals 178.
5 MS. CORDRY: Right. So if you went back to the
6 aerial view we've been using, 150 --
7 MR. GROSSMAN: But that doesn't add up.
8 MS. CORDRY: Did I get my addition wrong?
9 MR. GROSSMAN: I think so.
10 MS. CORDRY: 176?
11 MR. GROSSMAN: I might be, but I could just check
12 the units on it and add them.
13 MS. CORDRY: Okay. Oh, yeah. I, I had 176 at the
14 top. I know I must have transcribed it when I was doing
15 that but anyway, so it should be 176 I believe. Okay. All
16 right. So 176. If you look at the current aerial views,
17 again going back to 189, and you --
18 MR. GROSSMAN: I corrected it on the exhibit.
19 MS. CORDRY: Okay. Thank you. If you go back to
20 159 and you count up what's currently there, you get 84
21 spaces. So you add the net, you get 94 spaces being added,
22 that will be moved from the gas station area that would now
23 be added over into this grassy area. And if it's 176, then
24 my numbers are probably all off by two there, so 92 spaces.
25 Now, that's if you don't have any cart corrals in there.

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1 I'm assuming that just as they had cart corrals over on the
2 current parking spaces, they'll put some cart corrals over
3 here to be anywhere from, you know, four to eight spaces
4 taken up with the cart corrals. If you added in the
5 landscaping, that, in this area here, I should say this
6 irregular space, you might have been able to add a few more
7 parking spaces there. Bottom line, you get somewhere
8 between about 84 to 94 spaces being added there.
9 But if you go to the second page, what I
10 calculated is how many is being taken away. There are
11 currently 156 spaces in the area that the station would
12 occupy and again, I just went and counted. I think I
13 actually walked up and down and counted the rows there and
14 counted along the Ring Road. So there's a total of 156
15 spaces there. Afterwards, you have just these six rows of
16 eight spaces here so that would leave only 48 spaces, so you
17 subtract that out and you get 108 spaces being removed. So
18 108 space being removed and 84 to, or whatever the numbers I
19 was saying, 84 to 94 spaces being added. So basically, you
20 have -- I probably should just resubmit this exhibit with
21 correcting my numbers there. But basically, you're losing
22 12 to 20 spaces so I think Mr. Duke was, I believe I think
23 he --
24 MR. GROSSMAN: I just want to try to -- I'm sorry.
25 How did you get from the 176 down to the 94?

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1 MS. CORDRY: Okay. Because there are already 84
2 spaces over here. Let me put 159 back up here. In this
3 area here in this one row here, you already have 84 spaces
4 so when you, when you add in, when you count all the spaces
5 that are here and subtract out the 84 that are already
6 there --
7 MR. GROSSMAN: Okay.
8 MS. CORDRY: -- that tells you how many more
9 you're adding.
10 MR. GROSSMAN: Okay. I see.
11 MS. CORDRY: Okay. So, so bottom line, you're
12 losing, like I say, I will resubmit this exhibit and make
13 sure that all my addition is completely correct but
14 essentially, 10 to 20 spaces or so and that means you are
15 losing. The other thing you are doing of course is you are
16 taking all of that 108 spaces that were there and everybody
17 who was there is being moved over to, to have to park
18 considerably further away. All of them now are going to
19 have to be walking considerably further through the parking
20 lot than they were before.
21 And as I mentioned, if you go back to the exhibit
22 here, which again is 231, all of these people now,
23 presumably they're not going to try to walk through the gas
24 station. I hope. Which means they're going to be funneled
25 up here, they're going to come through here. All of the

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1 traffic in these parking aisles already plus all of the
2 traffic coming out of the parking, I'm sorry, out of the
3 filling station, is all going to be coming into this area
4 here and right where these people are going to be walking
5 across.
6 MR. GROSSMAN: Just for the record, this area here
7 being the immediate, area immediately to the north of the --
8 MS. CORDRY: Just to the north of the --
9 MR. GROSSMAN: -- of special exception site.
10 MS. CORDRY: Right. Right. Again, as I say, this
11 is new. It doesn't now exist if it's proposed to be put in
12 there.
13 MR. GROSSMAN: This being --
14 MS. CORDRY: This being --
15 MR. GROSSMAN: -- a drive-by.
16 MS. CORDRY: -- a sidewalk, the marked sidewalk
17 areas here.
18 MR. GROSSMAN: Okay.
19 MS. CORDRY: Or not sidewalk but at least a
20 crosswalk marked area there.
21 MR. GROSSMAN: Right.
22 MS. CORDRY: Which is better than nothing but
23 again, as I say, if everybody gets on there and walks there,
24 now you have all of the, all of those carts, all of those
25 people and everything into a similar area where all this

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1 traffic from the parking aisle is going to have to cross.
2 To the extent that they, that people stop and slow down for
3 people in the crosswalk, if you're blocking traffic, if
4 you're slowing down traffic there, if it's backing up into
5 the gas station, you know, we have the possibility that
6 people can't get out, they can't make their, their exits
7 propagating back into more delays and more queuing and more
8 backing out of the aisles.
9 Again, can I tell you how every one of these
10 exactly can operate, no. But can I say that the more you
11 are putting people in the position where they have to walk
12 further across more traffic aisles, more traffic, more
13 concentrated traffic coming out of the station, the more
14 difficult it is going to be for people to just do that as a
15 traffic basis. The safety issues are on top of that but
16 just in terms of backing up traffic, slowing traffic, more
17 idling, more slow traffic, more emissions, all of that is
18 going to be a result of putting the station here as opposed
19 to the current setup.
20 Now, how many pedestrians do we know are walking
21 in and out of this general area, this parking lot, this west
22 parking lot? Well, according to Mr. Guckert's Exhibit 128,
23 the number that he showed going in and out of, the mall
24 entrance on the west side there was over 1600. So this
25 number here, this spot here with this big circle here that

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1 he's showing as being the mall entrance area.
2 MR. GROSSMAN: All right.
3 MS. CORDRY: 1600 in the peak hour and 9500 over
4 the course of eight hours. So 1600 in one hour. That's
5 almost 27, 28 people a minute going --
6 MR. GROSSMAN: That seems high. Are we reading
7 that right? Can I see it? I can't read the chart from
8 here.
9 MS. CORDRY: Okay. Yes. I believe I have the, I
10 have the whole report here with me. Ah, here we go.
11 MR. GROSSMAN: Let me take a look. Thanks.
12 MS. CORDRY: Yes. It shows between 5:00 and 6:00
13 p.m., 839 people going in and 789 people coming out.
14 MR. GROSSMAN: Oh, I see.
15 MS. CORDRY: The 4757 people going in over an
16 eight hour period and 4838 coming out. That's a lot of
17 people walking through a not huge area. It's certainly a
18 lot of people to be interacting with all the cars that are
19 there.
20 MR. GROSSMAN: So let's see. A one hour period.
21 Thank you. What's the number of that exhibit by the way?
22 MS. CORDRY: That's 128. The traffic picture is
23 128(b). The traffic report itself is 128(a). So if it was
24 1800 people an hour, that would be 30, 30 persons a minute
25 going in and out. So it's slightly less than that. Perhaps

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1 say 27 a minute moving through that parking lot. And when
2 we do the station, about 100 of those people going each way
3 all that time are going to be shoved farther away from the
4 store, have to walk further in competition with the cars in
5 the parking aisles and the drive aisles.
6 MR. GROSSMAN: Okay.
7 MS. CORDRY: So in that respect, building a
8 station, since only a portion of the people using the
9 warehouse use the station, it's going to be more
10 inconvenient for even all the Costco shoppers who aren't
11 going to the gas station because they are going to be pushed
12 further out as well. So that's about the parking lots
13 themselves so let's, let's go back to where we were talking
14 about here now, the loading docks and that drive aisle and
15 how that's going to be affected by the gas station.
16 As I said on the first day, this was not a typical
17 day that I've been there. The dock, the dock bays all fill
18 up, a couple trucks sitting in the, in front of those trucks
19 partially protruding in the drive aisles. Another truck in
20 drive aisle A blocking that lane there. So this was all
21 about 7:30 --
22 MR. GROSSMAN: Blocking that lane there meaning?
23 MS. CORDRY: The lane in, the drive lane in drive
24 aisle A which is the aisle alongside the warehouse and by
25 the loading docks.

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1 MR. GROSSMAN: Right.
2 MS. ROSENFELD: Ms. Cordry, on Exhibit 231, could
3 you just show exactly where you're talking about?
4 MS. CORDRY: Sure. It's, it's this area here.
5 Here's the loading bays. Here's drive aisle A coming up
6 alongside the store and that truck is, is parked right about
7 here, kind of about halfway down where the gas station would
8 be if it was built.
9 MR. GROSSMAN: Right.
10 MS. CORDRY: Now, as I say, that wasn't all the
11 trucks that were in that, servicing Costco at that point.
12 There were two more trucks out in what I'll call area B,
13 which is this area here just north of the Ring Road,
14 which --
15 MR. GROSSMAN: Meaning just south of the site.
16 MS. CORDRY: Well --
17 MR. GROSSMAN: Or right in the site actually.
18 MS. CORDRY: Right in the site, yes, exactly.
19 This is all area, this area B is all, would all be taken out
20 and now become part of the site.
21 MR. GROSSMAN: Right.
22 MS. CORDRY: One was a pickup truck and one was a
23 bakery truck. There are a lot of bakery trucks that come to
24 Costco in the morning. They must go through an enormous
25 amount of hot dog rolls I guess at their lunch counter or

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1 whatever but I --

2 MR. GROSSMAN: Or they have good cakes.

3 MS. CORDRY: Or they have good cakes. Well, I

4 don't exactly know what it is but I usually see at least

5 three or four or more bakery trucks in the morning, and they

6 really smell good.

7 MR. GROSSMAN: There you go. An added advantage.

8 I take it you're now in favor of the special exception.

9 MS. CORDRY: Well, no. No. Because I think it's

10 going to be difficult for those trucks, you will see it's

11 going to be difficult for those trucks to get in and make

12 their deliveries when the special exception is here. Right

13 now, they can easily get to the store. And just over here,

14 this is the west Ring Road, going up the west side of this

15 thing, and there are two more trucks parked over there while

16 I was waiting to get in that day.

17 MR. GROSSMAN: Okay. What time of day was that?

18 MS. CORDRY: This was, and this was 7:30 in the

19 morning. This isn't a problem. There are no cars trying to

20 go to a gas station at this point. The only people using

21 this part of the mall are the trucks going to the warehouse.

22 Works fine. Now, just a little bit here. This, this truck

23 here was idling. The blue truck there was idling the whole

24 time I was there. The truck in the second video was also

25 idling. I probably, I'll spare you listening to the whole

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1 thing but --

2 MR. GROSSMAN: You did say spare me and not spear

3 me, right?

4 MS. CORDRY: I will, I will do neither. Let's

5 see. Well, in any case, take my word for it. They were

6 idling for, both of those trucks were idling for a good long

7 while while I was there in the morning.

8 The point I was going to make about the pavement

9 in front of the loading docks -- how come it's not showing.

10 This is on May 9th. By this time, the pavement is already

11 breaking up. It was only -- this whole area was re-graded

12 and paved for the store. There was already visible damage

13 to the paving there by that point, and I'll get back in the

14 end while I'm making a point there but if you play this

15 video, it will already show that by May 9th, after the store

16 had been open less than a month, it was already breaking up.

17 Now --

18 MR. GROSSMAN: I would say I'm much less concerned

19 about the pavement issues than I am about pedestrians

20 crossing to the north.

21 MS. CORDRY: I understand. I will tell you right

22 at the very end why I'm getting to that. I was just

23 highlighting that at that point there. Now, was May 9th

24 atypical? No. May 11th, the same way. The docks were

25 full. There's two trucks parked in area B. These two

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1 trucks here are in that area B. Again, this area that the

2 gas station would replace. There's one out on the Ring

3 Road, what I called area D, waiting to get in.

4 And that's very typical, that the trucks using

5 the, this area to come to the warehouse to do their, to do

6 their loading and unloading, very, very, very frequently are

7 using this area B as part of where they park, they load and

8 unload, they line up to back into the docks, and that, all

9 of that would be gone once the special exception area is put

10 into place there.

11 MR. GROSSMAN: Right, but they are there in the

12 early morning, right?

13 MS. CORDRY: Right, but --

14 MR. GROSSMAN: And so --

15 MS. CORDRY: But the trucks --

16 MR. GROSSMAN: -- what's to prevent them from just

17 being someplace else that's --

18 MS. CORDRY: Well, because then, I mean again,

19 these trucks are supposed to be loading and you can't very

20 well load and unload when you're on the other side of the

21 mall.

22 MR. GROSSMAN: No. But you wait, they'd be

23 waiting a further distance away or --

24 MS. CORDRY: And probably idling the whole time

25 while they're there, and that's the problem. That's one of

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1 the problems. It's also the problem of how much more

2 driving in traffic they do there and how much interference

3 they do. Okay, again two trucks idling the time, during the

4 time I was there.

5 Now, this is probably the, the most involved day I

6 ever saw there. You had two, two tractor trailers sitting

7 here in this area right on the Ring Road. One of them is

8 idling. Remember, there are homes just across this Ring

9 Road here. The homes on Melvin Court are just right across

10 the road here. There's another tractor trailer that was

11 idling in area B here. You can just sort of see on the

12 bottom slide, the very back of an area who was idling there.

13 There were three trailers at the dock and one tractor

14 trailer in the dock idling throughout that time. There were

15 also a couple more bakery trucks.

16 MR. GROSSMAN: Once again, these are all servicing

17 the existing --

18 MS. CORDRY: Exactly.

19 MR. GROSSMAN: -- warehouse and it's not within my

20 purview if they are, if they are doing --

21 MS. CORDRY: They are in your purview for a couple

22 of reasons. Number one --

23 MR. GROSSMAN: I -- hold on one second.

24 MS. ADELMAN: I'm sorry.

25 MR. GROSSMAN: That's all right. I can't get into

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1 an argument because I have to confess that the other, I
2 always take my phone out of my pocket before anything here
3 or for before the Council. I happened to forget the other
4 day and of course, I was right in front of a Council
5 Committee when my phone went off and the 30, I was there for
6 30 seconds but anyway. So I can't get mad at anybody.
7 MS. ADELMAN: Well, I turn mine off, on about once
8 every three months and today was the day.
9 MR. GROSSMAN: There you go.
10 MS. CORDRY: Okay. There are a couple of reasons
11 why this is in your purview. Number one, as I point out
12 here, they were idling for, four tractor trailers were
13 idling at least 12 or more minutes each. One of my problems
14 here is I can't sit there all day to tell you how long they
15 were idling. I can give you some minimum numbers, and those
16 are on those observation sheets. Mr. Sullivan, in his
17 adjusted assumptions in August, said I'm assuming, this is
18 very conservative he's saying, that there will be four
19 trucks idling for not more than 10 minutes each, and that's
20 part of my, my assumptions that I'm, that I'm putting into
21 place. So again, this goes back to if that -- and that's
22 all part of his numbers that he's coming up with.
23 MR. GROSSMAN: Part of your baseline --
24 MS. CORDRY: Yes.
25 MR. GROSSMAN: -- in effect before the station is

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1 added.
2 MS. CORDRY: But that's --
3 MR. GROSSMAN: The pollution item.
4 MS. CORDRY: Right. But that's all part of what
5 he's putting into his overall calculation of his numbers.
6 And what I can say is, you know, and I'll say some more of
7 this as we're going on, 10 minutes, four trucks, 10 minutes
8 or 40 minutes in an hour is not necessarily conservative.
9 Not necessarily conservative at all.
10 So again, this comes back to one, one, and we'll
11 get into more about how these trucks -- as I say, these are
12 all in the place where the gas station is supposed to be.
13 If you move these all -- if you put the gas station there,
14 now you're trying to put those trucks somewhere completely
15 else. They're going to be trying to circle around, trying
16 to get in there, and I'll get in a moment to one of the
17 biggest problems of trying to go in and out. All of this is
18 going to make the interactions between the cars and the
19 trucks and the loading and where they're trying to get much
20 more difficult, and all of this is in areas where the gas
21 station exactly would go.
22 Now, one of the things that I just want to show
23 you is on the truck, let me show you on the truck turning
24 exhibit here. That is No. 232(b) looks like, and that's
25 their final truck turning exhibit. The truck turning

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1 exhibit from July. What that exhibit tells you is that they
2 think trucks are going to come in and they are going to pull
3 up into drive aisle A and then they're going to back back
4 here and back into the loading dock.
5 MR. GROSSMAN: Right.
6 MS. CORDRY: These are the two variations of
7 backing in. Now, those -- they show you some very tight
8 clearances there but that, that's what they think their
9 trucks are going to do.
10 MR. GROSSMAN: Right.
11 MS. CORDRY: And they show that because now they
12 don't need to show the trucks going into aisle B at all. I
13 will tell you I have watched a lot of trucks pull into this
14 parking area and into those docks.
15 MR. GROSSMAN: Right.
16 MS. CORDRY: They do not use that pattern. That's
17 not how the trucks go in. The trucks come in one or two
18 ways. Generally, if they're coming from the east, they come
19 here, they pull just past the entranceway into drive A, they
20 back up and they back in the loading dock that way. And
21 they get most of the way in and then they pull forward into
22 loading area, into area B, they get themselves lined up
23 nicely and they go back in. Or they may come from the north
24 down to drive aisle A and again, they are going to just pull
25 out here far enough onto the Ring Road so they can make that

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1 backing maneuver. They do not, as a rule, use this path.
2 They use loading area B as a way to get themselves in and
3 out efficiently, easily and without running over any curbs
4 along the way.
5 I'm not going to, I think it, I'll probably leave
6 it to you to go ahead and watch a few of these videos so we
7 don't need to necessarily do them all the time but these
8 videos I have here, they show you the way those, the trucks
9 come. The one on the top here, that's what he was doing.
10 he was pulling back, he pulls back into the area, pulls
11 forward into area B, then he comes back and gets back into
12 the area there.
13 MR. GROSSMAN: Well, let's say your observation is
14 correct, that's what they usually do but if they can do it
15 the way the engineer suggested was the appropriate path and
16 they no longer will have available to them area B, that
17 presumably, they'll use the prescribed process because they
18 don't have any alternative.
19 MS. CORDRY: Well, really --
20 MR. GROSSMAN: It's easier.
21 MS. CORDRY: And then the question is what, what
22 does that entail. This guy, again, I have the video here
23 and I won't make you watch the whole thing but I would ask
24 you to do it on your own time, he was doing it. This is
25 about the only --

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1 MR. GROSSMAN: I'm sorry.
2 MS. ROSENFELD: Play it.
3 MS. CORDRY: I'll play some of it.
4 (Whereupon, the videotape referred to was played
5 for the record.)
6 (Whereupon, the videotape was paused.)
7 MS. CORDRY: When he pulls up --
8 MR. GROSSMAN: The name is an oxymoron.
9 MS. CORDRY: Right. Exactly. At this point, I
10 decide to get out and walk up there to see how he was doing
11 with these islands and see how close he was coming to them.
12 MS. ADELMAN: How many bays were open at that
13 point, Karen, do you know?
14 MS. CORDRY: Um, I think there was probably only
15 one bay. So he tried to make it, he decided he couldn't
16 make it so he pulls forward again.
17 MR. GROSSMAN: He's using the prescribed.
18 MS. CORDRY: Yes. He's using the prescribed
19 method. He thought he was going to make the turn, he didn't
20 make it so he pulled forward again. He's going to line
21 himself up again. Then he starts coming back and he's
22 making this angle with his truck in the turning lane, making
23 a nice little angle there.
24 MR. GROSSMAN: What slide is this?
25 MS. CORDRY: This would be number --

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1 MR. SILVERMAN: 38. Yeah. About those truck
2 turns, 38.
3 MS. CORDRY: As you see, on the truck turning
4 exhibit, that wheel is expected to just pass that curb and
5 he might very well be able to just pass that curb but he
6 doesn't have the courage and conviction because he can't see
7 that curb and he doesn't want to run up on it and he doesn't
8 want to cause trouble so now, okay. It didn't quite work.
9 And if I was a computer, maybe I could see that I could make
10 that turn but okay. Let's try it again. And again, I
11 probably could have made that turn. If I was a computer,
12 I'd know exactly the inch of where my, my tire was but now
13 I'm turning and I'm trying and I'm back and I'm forth and
14 I'm forth and I'm back.
15 MR. GROSSMAN: Maybe he needs some basic truck
16 driving lessons.
17 MS. CORDRY: Well, you know, coming from where he
18 was, he was making good turns, he wasn't doing things, he
19 was making the best of the angles but the point is, that is
20 a maneuver that doesn't work very well. Now --
21 MR. GROSSMAN: I get that.
22 MS. CORDRY: Okay.
23 MR. GROSSMAN: I see your point.
24 MS. CORDRY: So the point is, it took him six
25 minutes to get into the dock. Those other people would

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1 generally take a minute to a minute-and-a-half and that's
2 one of the problems.
3 MR. GROSSMAN: The other people used the --
4 MS. CORDRY: Yes.
5 MR. GROSSMAN: -- the improper procedure?
6 MS. CORDRY: Well, there's nothing improper about
7 it.
8 MR. GROSSMAN: Well, I mean the --
9 MS. CORDRY: They used a --
10 MR. GROSSMAN: The available space --
11 MS. CORDRY: Right.
12 MR. GROSSMAN: -- that's different from what we se
13 there.
14 MS. CORDRY: Right. They used a sensible
15 procedure that works well.
16 (Whereupon, the videotape referred to was played
17 for the record.)
18 (Whereupon, the videotape was paused.)
19 MR. GROSSMAN: He's a pretty big, pretty big
20 truck. I don't know how, how they range.
21 MS. CORDRY: These are -- all of their trucks --
22 MR. GROSSMAN: They're all 18-wheelers or
23 whatever?
24 MS. CORDRY: This is their standard 53-foot
25 tractor trailer that they use that, these come in all the

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1 time all, not all day long but every day. These are the
2 trailers that come in to, to do that. This man as well did,
3 was using the same maneuver and he was trying to back in.
4 He again used the opening in the area B to line himself up
5 and go back in. He saw me watching him.
6 MR. GROSSMAN: I get you. I get you.
7 MS. CORDRY: Right.
8 MR. GROSSMAN: It's tight.
9 MS. CORDRY: Right. Yeah. It's very hectic here
10 he said, and I said I understand. So when you block that
11 out, you're essentially saying these trucks are going to
12 take a lot longer, they're going to be idling a lot longer.
13 They're likely going to be blocking traffic that's trying to
14 go up and down that aisle. That depends on which way people
15 are driving and so forth. That's more going to happen in
16 the evening time when the warehouse is open and all the lot
17 is full somewhat more than in the morning but it still has
18 the potential both times to do it. But all of those times
19 you're going to have much more idling, much more slow
20 traffic, much more time with the emissions being much higher
21 than what's assumed in the, the various projections and so
22 forth.
23 (Whereupon, the videotape referred to was played
24 for the record.)
25 (Whereupon, the videotape was paused.)

1 MS. CORDRY: Okay. Now what else do they use area
2 B for? Well, these bakery trucks. As I said, they park out
3 there and they end up rolling their carts of rolls back and
4 forth across there. They're walking back and forth across
5 that drive aisle, walking through area B, bringing the
6 trucks, the rolls in to take them in.

7 (Whereupon, the videotape referred to was played
8 for the record.)

9 (Whereupon, the videotape was concluded.)

10 MS. CORDRY: That happens every day just about
11 that I've seen there. Cars -- trucks sit there idling.
12 This was a truck I watched from, from what is that, 17, more
13 than 20 minutes. He certainly seemed settled in for the
14 night when I went home that night. The dock was closed by
15 then. He hadn't gone anywhere, he hadn't shut down. He
16 certainly hadn't shut down after the 10 minutes that is,
17 apparently, Costco policy. There's plenty of other videos
18 and observations that I make in the, in the observation
19 about that.

20 So who else may spend time near the station?
21 Well, Mr. Sullivan suggested that only people in the queue
22 might spend any time in the vicinity of the station. Well,
23 and that a lot of the times the wind is blowing away from
24 the homes and the pool so it won't be getting back to those
25 people. Well, if it is blowing away from them, where's it

1 going to go? Well, pretty clearly, if it's blowing away
2 from the neighborhood, it's blowing towards the rest of the
3 mall, and we have a nice little corner here where all this
4 wind is going to blow right into.

5 Well, what's in that corner now? What's in this
6 area, this stretch of the mall right along on the east side
7 of the parking lot? You now have three restaurants. They
8 have outdoor seating. This left-hand picture is people
9 sitting there in the, let's see, I think that's the Panera
10 at that one. We have a Panera, we have a Chipotle, we have
11 an Elevation Burger. All of those people, they're not going
12 to be sitting there for 20 minutes. They can easily be
13 there for an hour or more sitting outside with that air, all
14 those emissions blowing around, blowing on them as they're
15 eating.

16 So who else sits outside? This wasn't a great
17 picture because I was taking it pretty early in the morning
18 as it was starting to get a little darker in September.
19 Right -- this is the loading dock at the back of this
20 picture on the right-hand side with the, the trailers there.
21 This is a picnic table sitting right next to the loading
22 dock. Those are employees. I assume they're employees, I
23 can't think of anybody else who would be sitting out there
24 at 6:00 in the morning, either waiting to go into work or
25 taking their break. They were sitting there for a half

1 hour.

2 So it's not just the one person who might be
3 working in the station. It's not just the -- of course
4 there are people who are working inside the area, there are
5 shoppers in the mall. Mr. Sullivan testified that he
6 thought that probably the NO2 emissions would be about the
7 same inside the mall and out. So if the station is in fact
8 generating high levels of pollution, it's not just somebody
9 sitting in the queue for 10 minutes.

10 MR. GROSSMAN: I don't think Mr. Sullivan said
11 that the NO2 levels would be about the same inside as well
12 as out.

13 MS. CORDRY: Actually, he did.

14 MR. GROSSMAN: I don't recall him saying that.

15 MS. CORDRY: Well, I can -- I wrote down here that
16 he did. Towards the end of his last day of testimony,
17 that's exactly what he said.

18 MR. GROSSMAN: My recollection is that he said
19 well, he didn't, he doesn't do the, he didn't do the
20 estimates indoor. He said that the -- I know that at one
21 point in his, earlier in his testimony, he talked about
22 indoor, that there were high levels of indoor particulate
23 matter.

24 MS. CORDRY: I understand that.

25 MR. GROSSMAN: Fine particulate matter but, but I

1 don't recall him saying that NO2 levels would be about the
2 same in the mall as outside the mall.

3 MS. CORDRY: Well, we won't, we can give you the
4 site. I thought I had it written down here but I don't see
5 it right here, but he did. So there is the potential for
6 persons -- and it certainly, it's going somewhere. I mean,
7 they have air handlers. They take the air in. It goes into
8 the mall, it goes into the shopping areas, it goes into the
9 work areas. So it's both the shoppers and the employees
10 there are going to be getting air that is coming off the gas
11 station, so shoppers certainly are going to be there for far
12 more than 20 minutes.

13 MR. GROSSMAN: Although, I mean, the impression I
14 got was that the, the source of the NO2 levels in the area
15 of the loading dock are the trucks at the loading dock,
16 correct?

17 MS. CORDRY: That's one of the sources.

18 MR. GROSSMAN: That's the --

19 MS. CORDRY: Cars put out, cars put out NO2 as
20 well. It's not just the -- he picked one point, one hour of
21 one of all of his various projections and computations where
22 the wind I think at that point happened to be blowing at the
23 loading dock so the very high number he got was at that
24 point, comprised basically of the loading dock, the trucks
25 at the loading dock. But if you look at all of his isopleth

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1 and all of his numbers, he has high NO2 levels far beyond
2 the loading dock and certainly far, it's not the trucks.
3 Again, Dr. Cole will get into that more but --
4 MR. GROSSMAN: Okay.
5 MS. CORDRY: -- in any case, it is certainly the
6 fact that the gas station queuing, he certainly has it in
7 his numbers with everything else, those do contribute to the
8 overall loads and as we know, the NO2, under any of his
9 calculations, are, under several of his calculations,
10 clearly exceed the standards and under other ones, they are
11 very close to that 190 level, and Dr. Cole will talk --
12 MR. GROSSMAN: Under, they exceed the standards
13 under his original assumptions.
14 MS. CORDRY: That's what I'm saying. He's got --
15 MR. GROSSMAN: Right.
16 MS. CORDRY: -- four different variations, two
17 assumptions and two analytical methods. Under three out of
18 the four, he's exceeding the standard.
19 MR. GROSSMAN: Well, I don't, I don't know if I
20 could look at it that way but I agree with you that the
21 assumptions were modified along the way. Under the original
22 assumptions, he exceeded, they exceeded the, the National
23 Air Quality to Ambient Air Quality Standards for NO2 one
24 hour at least --
25 MS. CORDRY: Right.

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1 MR. GROSSMAN: -- in that immediate area of the
2 dock.
3 MS. CORDRY: Right.
4 MR. GROSSMAN: And to some extent, outside that
5 area. Although he changed those assumptions, he said to be
6 more accurate.
7 MS. CORDRY: Right. And I'm --
8 MR. GROSSMAN: So one can evaluate that.
9 MS. CORDRY: And what I'm showing you is some
10 evidence to help you understand that his claim that his new
11 assumptions are more accurate is not necessarily accurate.
12 MR. GROSSMAN: I understand.
13 MS. CORDRY: For instance, as we said, you know,
14 some of his calculations are based on the notion the trucks
15 will only be idling at the docks and only for 10 minutes at
16 a time. Now, he said basically, he came up with that
17 assumption because it was Costco's policy that they should
18 only idle 10 minutes at the dock. Now, he also thought that
19 there was a Montgomery County law that required only five
20 minutes of idling but he was wrong about that. It was not a
21 county law. The counties can't pass --
22 MR. GROSSMAN: State.
23 MS. CORDRY: It's a state law. So he didn't
24 really know what he was talking about on that but he --
25 MR. GROSSMAN: Well, it doesn't really matter,

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1 does it?
2 MS. CORDRY: Well, the point is --
3 MR. GROSSMAN: I mean, it's county or state.
4 MS. CORDRY: Well, the point is he's just picking
5 up things and making things and doesn't actually know what
6 he's sure of. Now, whether that's --
7 MR. GROSSMAN: I don't think that's fair. I mean,
8 you know --
9 MS. CORDRY: Well, I --
10 MR. GROSSMAN: -- the distinction between county
11 and state law there is just --
12 MS. CORDRY: Well --
13 MR. GROSSMAN: -- not an important distinction for
14 this --
15 MS. CORDRY: Well, it is --
16 MR. GROSSMAN: -- for this purpose.
17 MS. CORDRY: -- in the sense that I don't think
18 Mr. Sullivan really has any particular idea what the laws
19 are applicable, number one. Number two, the idea that if
20 the state law says you shouldn't idle for more than five
21 minutes, that somehow then means that nobody is going to
22 idle for more than five minutes --
23 MR. GROSSMAN: I understand.
24 MS. CORDRY: -- or that if Costco policy says you
25 won't idle for more than 10 minutes at the dock, I can, as a

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1 matter of my scientific assumption, say it's conservative
2 for me to assume the trucks will only --
3 MR. GROSSMAN: I understand. Those are all
4 legitimate points you make.
5 MS. CORDRY: Okay.
6 MR. GROSSMAN: I just don't think it's fair to
7 criticize the man if he thought it was a county law rather
8 than state law.
9 MS. CORDRY: Well, it does indicate that he
10 doesn't know what the laws are.
11 MR. GROSSMAN: No, it doesn't. That's not a fair
12 criticism to make.
13 MS. CORDRY: Okay. I think it is fair but you're
14 the one who can decide that. But the point, one of the
15 points being that, you know, so if, if he doesn't know it's
16 a contradiction between Costco's policy of 10 minutes and
17 whoever's law is the five minutes, I don't know why he
18 thinks the drivers would care either. What I can show you
19 is that from my observations, there have been a number of
20 times that I have observed trucks idling, an individual
21 truck idling for more, far more than 10 minutes. I've got
22 observations of, collectively, trucks idling for more than
23 say 40 minutes in an hour.
24 So again, his refined assumptions are not
25 necessarily conservative. In fact, I would say they're not

1 conservative and they're not necessarily accurate. Again,
2 if I read his testimony correctly, I believe he stated that
3 he was looking at how long the trucks would idle at the
4 loading dock which sounds fine except you have to understand
5 the way that this operation works, the trucks don't spend
6 very much time at the docks because they testified that they
7 brought most of their goods in from warehouse, from Costco
8 warehouses and they were very highly packed so rather than
9 having a whole lot, lot, lot, a lot of trucks coming in and
10 bringing a little bit of stuff and each one would come in
11 and come in and would be at the dock and so forth, rather,
12 they bring a trailer in and that trailer stays there for a
13 good long time as it gets unpacked. I've paid attention to
14 the trailer numbers and they often will be there 12 hours,
15 24 hours, 36 hours as they're being unpacked.

16 So the trucks don't spend very much time at the
17 dock. The typical pattern that I would see is a tractor
18 trailer would come in. If there as an open space, he would
19 put his new trailer that he was bringing into the dock. He
20 would then unhook. He would then go. And if there wasn't a
21 trailer that was empty, he would hook up to that trailer and
22 pull that trailer out and perhaps leave. That whole process
23 generally wouldn't take 10 minutes. It would generally take
24 more like 15 or 20 minutes but, and that was all either
25 idling or at very low speed.

1 But if there wasn't a space at the dock, he's
2 sitting out in the parking lot in area B or C or D or E, or
3 maybe drive aisle A, and he may be idling for quite some
4 time waiting for a space to open up. So to say that you're
5 idling, that you only have 10 minute idling at the dock is
6 pretty much irrelevant because that's not where most of the
7 idling would take place.

8 MR. GROSSMAN: Okay.

9 MS. CORDRY: And I've given you a number of
10 observations there that indicate where the idling really
11 does take place. So again, his assumptions are very
12 carefully picked. They may, they may or may not -- they're
13 not really conservative in terms of what they say. You
14 know, 10 minutes at the dock is probably not conservative
15 but it really doesn't get to the point of where the real
16 idling is going on with trucks at this point so.

17 As far as noise, just a quick observation, a
18 couple quick observations there. He did to, apparently,
19 some more readings back in the neighborhood and he didn't
20 get anything very high on the day that he did it, but the
21 problem with this is if you try to look at these things on a
22 one-time basis -- when I've gone up there, some days it's
23 been very quiet, nothing's been happening. The tractor
24 trailers are gone, the trailers are just sitting there,
25 nothing much seems to be happening at the loading dock.

1 Other times, it has, as I think Ms. Sheveiko said, it does
2 sound like World War II. You can hear clanging, you could
3 hear banging, you can hear things dropping. The trucks are
4 idling, some of them at the docks, some of them very near
5 the homes.

6 And another point, the refrigerated trailers that
7 they bring which sit there for a long time because they have
8 to unload them, those are easily as loud as an idling truck
9 and they may be idling, they may be running hours and hours
10 and hours. They're not putting out emissions but in terms
11 of noise, they're extremely loud. And again, if he wasn't
12 there when one of those trailers was idling, was running,
13 then he didn't get it. But is it there? Do people hear
14 that all the time? Sure.

15 Now, that's what people have to put up now in
16 terms of broken sleep, the noise while they're outside
17 trying to be in their home or garden or set out and read a
18 book. When you add to that the scenario of cars coming to
19 the station, again, at 6:00 a.m. in the morning, it doesn't
20 take a whole lot of noisy cars. One car with a, you know, a
21 busted muffler, somebody playing their music loud with the
22 windows open. It doesn't take very many to wake you right
23 back up again at 6:00 a.m. after you just got through
24 hearing the trucks arriving and banging around as early as
25 4:00 a.m.

1 Okay. Let's see. Now, just as an example, in the
2 observations, this was not something I had any videos of, I
3 don't always carry my camera around with me when I, when I'm
4 in the mall but I was up there on August 29th, for instance,
5 which is only, less than two weeks after he got his, did his
6 new assumptions and everything, and I sat there and watched
7 two trucks. One was either idling or maneuvering at a very
8 low speed and the other one was idling, and they were there
9 for a combined total of 82 minutes at the same time. So
10 right there. Just the two of them were there well beyond
11 the 40 minutes that he said which was conservative
12 assumption.

13 November 8th, again, I was up there watching. I
14 observed two tractors idling. Again, not right at the dock
15 necessarily but right in that general area there.

16 MR. GROSSMAN: Are you reading from your list of
17 observations which you gave to me?

18 MS. CORDRY: I believe, yeah. I believe those,
19 those two should both be in my observations.

20 MR. GROSSMAN: What are the dates on those again?

21 MS. CORDRY: One was August 29th. I'm not sure I
22 added the November 8th in there because it might have been
23 after I completed the observations and turned it in.

24 MR. GROSSMAN: Let's see. August 29, noticed two
25 trucks pulling up. Yes.

1 MS. CORDRY: Yeah. I did, I did put the November
 2 8th one in. And again, you know, the problem here is, you
 3 know, none of us, which goes back to this point about
 4 enforcing things, none of us could spend our entire time
 5 sitting up on the mall watching trucks. It's just slightly
 6 worse than, than watching paint dry. So what I can do is I
 7 can give you some minimum time structure but if they're
 8 idling when I get there and they're idling when I leave 20
 9 or 25 minutes later and nothing seems to be changing in the
 10 situation, I can't tell you whether they're there for a half
 11 hour, an hour, two hours, three hours.

12 I did see at least one in here that I mentioned
 13 that was there for a couple of hours. It was down, I think
 14 I did it. Yeah. On October 1st, one of the trucks, which
 15 is the same kind that they used with, that Costco uses went
 16 down near the Torrance Court entrance and I was, it appeared
 17 to have been idling there for at least two hours. I
 18 observed it about 7:30 p.m. for a while and then I came back
 19 through at 9:30 and it was still there idling.

20 MR. GROSSMAN: Okay.
 21 MS. CORDRY: So now, these are just a couple of
 22 other last other points to just throw in there. In terms of
 23 disaster prevention, and basically, their view is that we're
 24 on top of everything, there's no disasters, nothing is ever
 25 going to cause us any problems. This is just a few little

1 slides to just show you what we observed earlier in the
 2 year. As an example, are they really on top of everything.

3 MR. GROSSMAN: I saw the slides when I looked at
 4 your materials.

5 MS. CORDRY: Okay.

6 MR. GROSSMAN: But I, I just don't think it's
 7 relevant.

8 MS. CORDRY: I, I do think it's, I do think it's
 9 -- the point simply, if you can't keep on top of whether
 10 your fire doors for three weeks are blocked and you couldn't
 11 have gotten out of there without having extreme difficulty
 12 of people to be able to leave and enter those doors and you
 13 don't, nobody comes around and does anything about it --

14 MR. GROSSMAN: I'm not doing an overall evaluation
 15 of the Costco company as an operator of their warehouses.

16 MS. CORDRY: Well --

17 MR. GROSSMAN: I'm not going to make any
 18 assumptions that they're going to be problematic management
 19 of their gas station based on seeing the slides of what
 20 you're showing me.

21 MS. CORDRY: I understand that but --

22 MR. GROSSMAN: Just --

23 MS. CORDRY: But if, if on the other hand, they
 24 want to --

25 MR. GROSSMAN: It's not relevant.

1 MS. CORDRY: -- tell you that we are fine people,
 2 we always keep on top of everything, nothing escapes us,
 3 nothing gets past us, I think it's, I think it's also that
 4 that's not necessarily always the case so.

5 MR. GROSSMAN: I don't think that the slides of
 6 their fire door here and the water accumulated outside that
 7 bears on the question of how they maintain their gas
 8 stations. I just don't.

9 MS. CORDRY: I --

10 MR. GROSSMAN: So I don't think --

11 MS. CORDRY: I --

12 MR. GROSSMAN: I don't think that goes to that.

13 MS. CORDRY: I don't know. I just say that, you
 14 know, when somebody credibly tells me trust me, everything I
 15 do I do fine, I keep on top of everything, nothing escapes
 16 me, and it escapes somebody --

17 MR. GROSSMAN: I don't think they -- nobody
 18 testified to that. Nobody said nothing --

19 MS. CORDRY: That, that's --

20 MR. GROSSMAN: -- escapes me.

21 MS. CORDRY: -- pretty much. Our guys are there,
 22 they watch everything, we take care of everything in a
 23 moment, nothing can ever get beyond us. I just put it there
 24 and I think it's worth your --

25 MR. GROSSMAN: I don't think they, they didn't say

1 that either, but I understand your point.

2 MS. CORDRY: It's close --

3 MR. GROSSMAN: You don't --

4 MS. CORDRY: -- enough to that I think.

5 MR. GROSSMAN: I don't. I don't accept that as
 6 evidence of a problem with Costco's ability to maintain a
 7 safe gas station. If you showed me gas stations that they
 8 maintained in a slovenly manner, I might consider that more,
 9 more on point but --

10 MS. CORDRY: Okay. I mean --

11 MR. GROSSMAN: -- I don't think the fact that the
 12 warehouse had a door with some water outside --

13 MS. CORDRY: For three weeks.

14 MR. GROSSMAN: Whatever period of time.

15 MS. CORDRY: Okay.

16 MR. GROSSMAN: I just don't think that that's the,
 17 that's the same thing.

18 MS. CORDRY: Okay. I understand.

19 MR. GROSSMAN: It's a different standard.

20 MS. CORDRY: Now, I don't really live near any of
 21 the gas stations that I can, that I can observe.

22 MR. GROSSMAN: I'm not saying --

23 MS. CORDRY: And I'm not --

24 MR. GROSSMAN: I'm not sending you out there on
 25 assignment.

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1 MS. CORDRY: No.
2 MR. GROSSMAN: I'm just saying that I, I'm just
3 telling you that your evidence on this point does not
4 convince me. I don't think it bears on the issue.
5 MS. CORDRY: Okay. I understand.
6 MR. GROSSMAN: Okay.
7 MS. CORDRY: I do think it's, it's at least
8 something one should think about. I certainly know that
9 they said we clean up all the gas spills, there's never any
10 problem, we make sure that they, that they don't spend, you
11 know, 10 seconds on the ground before we're on top of them.
12 I would only point out that again, this is something that
13 comes out of the warehouse but again, how do you evaluate a
14 promise that something is taken care of? Maybe look at the
15 way they deal with other problems. This is something I've
16 seen several times. Usually, it's like a Sunday night,
17 Monday morning where apparently somebody comes in, I think
18 this is the grease from the, from the stores that they
19 recycle. It goes, it gets dripped on the --
20 MR. GROSSMAN: Ms. Cordry, this is not -- you're
21 trying to broaden out this kind of inquiry beyond what it
22 is. Mine is a land use inquiry. It's --
23 MS. CORDRY: I understand, but you have to --
24 MR. GROSSMAN: Okay. I'm not, I don't, I haven't,
25 and it's not my job, to evaluate the operators per se, okay?

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1 That's, there are plenty of important issues in this case.
2 Let's --
3 MS. CORDRY: I, I'm at the end.
4 MR. GROSSMAN: Let's not just go off the edge of
5 the Earth on things that --
6 MS. CORDRY: Well --
7 MR. GROSSMAN: -- are not before me.
8 MS. CORDRY: Okay. I'm, I just put these three
9 things at the end and ask you when you evaluate the
10 credibility of how well they run the station to look at some
11 of the other aspects. This was another one. I, I spared
12 you bringing this in to smell this. If you want to talk
13 about fumes and odors.
14 MR. GROSSMAN: All right. Bless you for that.
15 MS. CORDRY: And the last one was just, this was
16 the point about the ground stability. As I said, by May
17 9th, it was visibly failing. They've made it several times
18 since. They've had to completely repave this. My only point
19 here is how stable is this new area when they re-graded it?
20 If you have pavement that is already failing within a month,
21 how stable is the area?
22 MR. GROSSMAN: Another issue that --
23 MS. CORDRY: Well, this is, this is with respect
24 to the tanks.
25 MR. GROSSMAN: I suspect there's not going to be

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1 any evidence in front of me that will allow me to evaluate
2 that.
3 MS. CORDRY: Well, it does go to the question
4 about the tanks and how stable that area is, the area
5 they're putting them in, how well they could stabilize it.
6 I think it --
7 MR. GROSSMAN: There's just no way I could factor
8 that, that picture into anything about the tanks.
9 MS. CORDRY: Well, --
10 MR. GROSSMAN: Unless you have an expert that's
11 going to come in and tell me something about it.
12 MS. CORDRY: Right.
13 MR. GROSSMAN: There's no way I could factor it
14 in.
15 MS. CORDRY: Okay.
16 MR. GROSSMAN: Is there? You tell me. How
17 would --
18 MS. CORDRY: Well, I can tell you.
19 MR. GROSSMAN: How would I factor that in?
20 MS. CORDRY: I guess I would factor it in if
21 somebody says I can make the grounds stable and they have,
22 they can't even make it stable enough to have the trucks run
23 over it, I think it raises some questions about how stable
24 the ground is for the tanks.
25 MR. GROSSMAN: I don't -- if it does, you'd have

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1 to have somebody testify that it raises that question. You
2 know, in the face of their, their experts testifying that
3 it's fine for the tanks, I can't, I don't have any evidence
4 that it's not.
5 MS. CORDRY: All right.
6 MR. GROSSMAN: Once again, it's one of those
7 things that falls into that you can raise questions but I
8 have to have evidence before I can, I can apply them to, to
9 this situation.
10 MS. CORDRY: All right. Well, let me talk a
11 little bit about, again, like I said, I have some
12 indications here as to how many, what the change will be.
13 Remember I said I had some indication about the, the
14 relative effects of traffic, how many, how many cars would
15 be coming to the station at different hours and so forth.
16 As you recall --
17 MR. GROSSMAN: Before you get into that, let's
18 take a five minute break here.
19 MS. CORDRY: Okay. Sure.
20 (Whereupon, at 3:15 p.m., a brief recess was
21 held.)
22 MR. GROSSMAN: Let's go back on the record. Okay,
23 ma'am.
24 MS. CORDRY: Okay. In the wonders of modern
25 computer technology and things kept on one's computer, I did

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1 find the quote from Mr. Sullivan's testimony that I was
2 talking about.
3 MR. GROSSMAN: Okay.
4 MS. CORDRY: It's on the September 20th testimony
5 on page 202, and examination by Mr. Goecke, he is asked, Mr.
6 Sullivan, if you were to conduct an indoor air modeling
7 analysis of the mall or the warehouse, would you expect the
8 levels that you would find or the toxins you've identified
9 to be higher or lower than the outdoor ambient air? He
10 mentions, he talks about his monitoring, if he had a
11 personal monitor and then he talked this cloud of dust and
12 so forth. And the witness goes on to then say but in terms
13 of like say particulates, usually indoor levels with that
14 exception with fixed monitors I expect to be less for the
15 gases such as NO2 or CO. Depending on the air exchange, I
16 would think it would be sort of comparable to the outdoor
17 air.
18 MR. GROSSMAN: Okay.
19 MS. CORDRY: So that was my point.
20 MR. GROSSMAN: All right.
21 MS. CORDRY: That he was basically saying that
22 there is levels inside that are going to be roughly, when
23 you have air exchange going on, that they're going to be
24 essentially comparable to the outside air. So you have your
25 shoppers inside the mall, and I think Costco certainly hopes

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1 they stay there for much more than 20 minutes.
2 MR. GROSSMAN: And was that testimony specifically
3 in reference to the area around the loading docks or was
4 that in, just in general his testimony about the ambient air
5 quality?
6 MS. CORDRY: It was if you were to conduct an
7 indoor air modeling analysis of the mall or the warehouse,
8 would you expect the levels to be higher or lower than the
9 outdoor ambient air?
10 MR. GROSSMAN: See, because I, my recollection, or
11 at least the way I took it all, is that that testimony about
12 indoor, the mall, was a more general thing that he draws a
13 distinction between things that are happening in the
14 immediate area of the loading dock and said he has a special
15 kind of analysis that applies for that, that area directly
16 immediately there and that I did not take his testimony to
17 mean that because you got a high reading right at the
18 loading dock, that you would expect that to be the same
19 inside, inside of the mall. I did not take that testimony
20 that way.
21 MS. CORDRY: Well, that I think is what he said.
22 I think you really have to look at it. The air is there,
23 the emissions are being put out, they're dispersing in some
24 fashion from the loading dock but also from the roads and
25 gas station, the queuing, you have this combination of

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1 things. It's going up, it's dispersing in some fashion.
2 You have air handlers on the top of the mall taking in air
3 and it's coming --
4 MR. GROSSMAN: Right.
5 MS. CORDRY: -- right back down.
6 MR. GROSSMAN: It depends on where the air is
7 coming in from and what's, you know, whether it's taking in
8 air from the loading dock, you know, only or whether it's
9 taking it in from lots of places. I just don't --
10 MS. CORDRY: Right.
11 MR. GROSSMAN: I don't hear that testimony.
12 MS. CORDRY: Well --
13 MR. GROSSMAN: It wouldn't make sense to me, that
14 you would expect the readings inside to be the same as right
15 next to the loading dock. That just wouldn't --
16 MS. CORDRY: Well --
17 MR. GROSSMAN: Because it's taking in air, I
18 presume, from lots of places so I --
19 MS. CORDRY: Well, I --
20 MR. GROSSMAN: I just don't think that testimony
21 applied to that situation.
22 MS. CORDRY: Okay. I can only read what his
23 testimony says but in any case, I mean, yes. Certainly
24 there's gradients within the area there but the point is
25 there is not some magic way in which you go inside the mall

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1 and you're somehow, you know, air conditioning might filter
2 out particulates.
3 MR. GROSSMAN: Right.
4 MS. CORDRY: But it's not going to filter out the
5 gasses so that --
6 MR. GROSSMAN: I understand.
7 MS. CORDRY: -- those circles and areas he's
8 drawing and so forth, those are going to apply inside the
9 shopping area as well.
10 MR. GROSSMAN: Right. I understand. I
11 understand. Okay.
12 MS. CORDRY: And not, not just to employees but to
13 the shoppers as well there, so that is something where it's
14 clearly of concern, all of these things. And again,
15 everything that you put on here, every change that you make
16 in his assumptions means that it's not being conservative in
17 the way he thinks he was being conservative.
18 Okay. To go back to, I was just going to talk
19 about something about the transactions with and without the
20 gas station and the effects on the Ring Road in the, in the
21 general area right around there. As I mentioned of course,
22 and as we now agree, yes, that between 6:00 a.m. and 10:00
23 a.m. in particular, the station is open, the warehouse
24 isn't, the main part of the mall isn't. Therefore, these
25 trips back to the station are essentially all trips to the

1 gas station. They're not pass-by trips, they're not within
 2 the, at least within the context of what's going on in the
 3 Ring Road in the mall area on the --
 4 MR. GROSSMAN: We already dealt with that.
 5 MS. CORDRY: Right. Exactly. So the question is
 6 what kind of difference is there likely to be? I will have
 7 to thank Mr. Sullivan, his last report, for giving us data
 8 that we never had before that point which was in his last
 9 report in August, which is Exhibit 255, on page 19, his
 10 table 3, he gives his data for the month of September at
 11 Sterling. So we'll put in a new exhibit which would be 3 --
 12 MR. GROSSMAN: 382.
 13 MS. CORDRY: 382. And what I did with this one,
 14 which Ms. Adelman is going to give you in just a moment, I
 15 took, I simply took his numbers which have a number for
 16 weekdays --
 17 MR. GROSSMAN: Thank you.
 18 MS. CORDRY: He had a number for Saturday and he
 19 had a number for Sunday, and they were done by hour. So in
 20 other words, at 5:00 a.m., all, between 5:00 and 6:00 for all
 21 weekdays in Sterling, there were 499 transactions. For all
 22 of the Saturdays between 5:00 and 6:00 a.m., or 5:30, I
 23 think it actually opens at 5:30, there were 53 transactions
 24 and --
 25 MR. GROSSMAN: What do you mean by transaction?

1 MS. CORDRY: A sale.
 2 MR. GROSSMAN: So you're comparing gasoline sales,
 3 right?
 4 MS. CORDRY: Right. Exactly.
 5 MR. GROSSMAN: Okay.
 6 MS. CORDRY: So in other words --
 7 MR. GROSSMAN: So --
 8 MS. CORDRY: -- people coming back and trips being
 9 made.
 10 MR. GROSSMAN: So I just want to label this
 11 exhibit.
 12 MS. CORDRY: Right.
 13 MR. GROSSMAN: Exhibit 382, Cordry comparison of
 14 gas sales of Sterling versus projected Wheaton?
 15 MS. CORDRY: Right.
 16 (Exhibit No. 382 was marked
 17 for identification.)
 18 MS. CORDRY: And I just, I just adjusted these
 19 for, for Wheaton. For the 86 percent or 87 percent,
 20 whatever it is that they say that they think Wheaton is
 21 going to be less than Sterling.
 22 MR. GROSSMAN: Okay.
 23 MS. CORDRY: So the numbers he had in his table
 24 were the ones labeled Sterling weekday, Saturday and Sunday,
 25 so those were the gross numbers, the 499, 1733 and so forth.

1 Those are total for the month per hour. So your peak time,
 2 say in the 11:00 a.m. hour on a weekday, for all of the
 3 weekdays in September, there were 40, 4,375 sales. So to
 4 translate that into a daily figure, so I just divided, I
 5 went back and looked at the calendar in September. There
 6 were 20 weekdays, 5 Saturdays and 5 Sundays so I just
 7 divided each of that --
 8 MR. GROSSMAN: I understand. What's the purpose
 9 of all of this?
 10 MS. CORDRY: Okay. Just how many transactions,
 11 how many people are going to be coming and buying gas on any
 12 given Monday, any given Saturday, any given Sunday.
 13 MR. GROSSMAN: Okay.
 14 MS. CORDRY: These, these are the actual, a
 15 month's worth of transactions from Sterling.
 16 MR. GROSSMAN: And --
 17 MS. CORDRY: Actual transactions.
 18 MR. GROSSMAN: Just out of curiosity, why did you
 19 leave out the first day, five?
 20 MS. CORDRY: Because we don't, we wouldn't be
 21 starting in Wheaton --
 22 MR. GROSSMAN: I see. It's an hour for --
 23 MS. CORDRY: Yeah. That's an hour. That's not
 24 day, those are hours.
 25 MR. GROSSMAN: Okay.

1 MS. CORDRY: So --
 2 MS. ROSENFELD: Does each transaction translate
 3 into one vehicle?
 4 MS. CORDRY: Yes. So for instance, again, it
 5 basically starts to peak out at about 10:00 a.m. when the
 6 warehouse opens and stays, it varies a bit, it goes up and
 7 down a bit but from 10:00 a.m. until, during the weekdays,
 8 8, it closes at 8:30 so a few stragglers. So from 10:00
 9 a.m. to 8:00 p.m., the numbers are all above 4,000 and
 10 that's for all 20 days so if you divide it by 20, you get
 11 the transactions per day. So the first column is hours, the
 12 second column is the total transactions for the month. I
 13 did the division by day so I just divided each of those
 14 numbers by 20. So if there are --
 15 MR. GROSSMAN: So --
 16 MS. CORDRY: Okay.
 17 MR. GROSSMAN: But -- okay. So the column that's
 18 labeled Sterling weekday.
 19 MS. CORDRY: Right.
 20 MR. GROSSMAN: You're saying that's not a day?
 21 MS. CORDRY: That is -- at first I was going
 22 that's insane. What I figured out when you look at it,
 23 that's all 20 days in the month. That's all the weekdays in
 24 the month of September.
 25 MR. GROSSMAN: So that's Sterling 20 weekdays.

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1 MS. CORDRY: Right.
2 MR. GROSSMAN: And then you divided by 20.
3 MS. CORDRY: Right. To get the per day.
4 MR. GROSSMAN: To get the per day.
5 MS. CORDRY: Right.
6 MR. GROSSMAN: Okay. So I'm going to -- Sterling.
7 I'm going to add that to the 20 weekdays and same thing for
8 Wheaton, 20, well, I guess it would be 19. Is that one
9 less?
10 MS. CORDRY: No. No, no. There's 20.
11 MR. GROSSMAN: Twenty.
12 MS. CORDRY: That was an hour.
13 MR. GROSSMAN: Oh, yes. Okay. Twenty weekdays.
14 Okay. And then -- all right. So you got the number of
15 sales, cars moving through there per day, right?
16 MS. CORDRY: Right. Per hour, per day.
17 MR. GROSSMAN: Okay.
18 MS. CORDRY: So for any weekday at 6:00 a.m., you
19 could assume 87 cars on average.
20 MR. GROSSMAN: For Sterling.
21 MS. CORDRY: For Sterling, right.
22 MR. GROSSMAN: And 75.
23 MS. CORDRY: Right. So if you take that 86, .86
24 multiplier, that's all I did on the, on the bottom was just
25 to multiply all those numbers by .86.

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1 MR. GROSSMAN: Okay.
2 MS. CORDRY: To give you -- and so as you can
3 see --
4 MR. GROSSMAN: Where do you see a multiplier on
5 the bottom?
6 MS. CORDRY: I did put, I didn't write that in
7 there but that's what I did. The bottom is multiplied by
8 the .86.
9 MR. GROSSMAN: Okay.
10 MS. CORDRY: Which is the scale order that they've
11 given us, their assumption that Wheaton is like 86 percent
12 Sterling.
13 MR. GROSSMAN: I'm just going to add a parens to
14 that effect just --
15 MS. CORDRY: Okay, sure.
16 MR. GROSSMAN: So .86 of Sterling so it makes
17 sense.
18 MS. CORDRY: Okay.
19 MR. GROSSMAN: Okay.
20 MS. CORDRY: Now, just as an aside here, I'm doing
21 the .86 because they say they assume Wheaton will sell 12
22 million versus Sterling's 13.9. I think it's worth your
23 attention as you go through this to take note that no one on
24 Costco's side has ever testified to where that 12 million
25 dollar figure comes from. Mr. Flynn didn't calculate it for

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1 them. He said that they mentioned that number but he didn't
2 ask where it came from, he didn't use it in his
3 calculations, he did a completely different basis. We've
4 had this 12 million thrown around and then we've had well,
5 maybe it's not 12 million, maybe it's 10, maybe it's 9,
6 maybe it's 11. No one has ever told you where that 12
7 million, and why it should be less than Sterling.
8 MR. GROSSMAN: All right. Do you want to answer
9 that, Ms. Harris? Where does that 12 million come from?
10 MS. HARRIS: Sterling is their highest store on
11 the East Coast. Sterling sales, when we first started doing
12 this, I think for the most recent year when we started this
13 process, were 12 million. And then based on the fact of the
14 location of this station and other market variables I guess
15 comparing the assumptions about the warehouses and location,
16 they determined that it would definitely be less than
17 Sterling and it would be in between Columbia and Sterling,
18 and they assume that it would be likely around 10 million.
19 David Sullivan, for all of his studies, because of his
20 trying to build in conservativeness into his report, used 12
21 million.
22 MR. GROSSMAN: Okay.
23 MS. CORDRY: Except that Sterling is not 12
24 million. Sterling is 13.9 million gallons and --
25 MR. GROSSMAN: No, no. You -- I think what she's

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1 saying is that their estimate, Costco's estimate was that it
2 would be about 10 million but just to be conservative --
3 MS. CORDRY: I understand.
4 MR. GROSSMAN: -- Sullivan used 12 million as the
5 figure.
6 MS. CORDRY: Right. What she just said was that
7 Sterling sales were about 12 million and that they expected
8 to be less than that.
9 MR. GROSSMAN: No.
10 MS. CORDRY: What I'm saying is Sterling --
11 MR. GROSSMAN: I think she said Sterling -- did
12 you say that?
13 MS. HARRIS: What I said was Sterling, when we
14 started this, the year when we started this, Sterling was
15 about 12 million.
16 MR. GROSSMAN: I see.
17 MS. HARRIS: You are correct but since that time,
18 and I can't tell you which year, it went up to the 13 figure
19 but --
20 MS. CORDRY: I will say it's been 13, between 13.5
21 and 13.9 for at least three years' worth of figures that we
22 have seen.
23 MR. GROSSMAN: All right.
24 MS. CORDRY: I would also note that in terms of
25 that, in addition, if we look at some of these variables,

1 the number of households in Sterling is about a third of
2 what the number of households is here in Wheaton, and Mr.
3 Flynn suggested that households was a basis on which he
4 would expect to have more sales. So if we have three times
5 as many households as Sterling, you would think that that
6 would suggest you would have more sales here than Sterling.
7 If you look at the fact of how many people --

8 MR. GROSSMAN: If we capture them all.

9 MS. CORDRY: And if we capture them all but
10 presumably, the capture rate is not necessarily markedly
11 different except unless you don't need the station here. If
12 you look at the people coming to the warehouse and say that
13 translates into more people coming to the warehouse equals
14 more people going to the station, you'd think you would need
15 more parking spaces to accommodate more people who are
16 coming to the station. Sterling has 600 parking spaces. We
17 have 750 spaces here. So I think there's some real question
18 as to whether or not it's actually going to be realistic to
19 assume that this store will sell less unless we do not in
20 fact need it here. And that being the case, I'm perfectly
21 willing to concede that the volume might be less because
22 it's not needed but other than that, I don't think there's
23 really any clear-cut reason to think that it's going to be
24 necessarily less than Sterling.

25 So I just -- keep that in mind I think when you

1 read through, that no one has put all those demographics in,
2 you know. Ms. Harris now just testified to that but apart
3 from her statements, that testimony is not in the record.

4 MR. GROSSMAN: You want me to keep another
5 imponderable in my little brain --

6 MS. CORDRY: No. That's not --

7 MR. GROSSMAN: -- while I'm thinking about this?

8 MS. CORDRY: That's not an imponderable. That's
9 one thing I ask you to think about, and when you look
10 through the testimony, realize that there has not been
11 testimony as to why we should assume that this station is
12 actually less than Sterling, why we should scale down all
13 these figures, but for purposes here, we'll use those scaled
14 down figures.

15 MR. GROSSMAN: Okay.

16 MS. CORDRY: And if you do that, what you see is
17 if you remember the 60 number, 60 per hour or so that I said
18 was traffic going through now, if you look at the, the
19 numbers that you have for Wheaton, for 6:00 a.m., you have
20 75 so again, these are new trips I'm talking about so you're
21 doubling, more than doubling the 60. At 7:00 a.m., you
22 would be having 114 new trips, new cars coming back there so
23 that's almost tripling the 60, you know, 200 percent more.
24 At 8:00 a.m., you have 150 so that's 250 percent more trips.
25 And then it stays at about 150 for 9:00 a.m. and then it

1 jumps up and at 10:00 you have the warehouse and at that
2 point, you're having traffic that may be going to both
3 places. But for those early morning hours during the week,
4 as I said, you're anywhere from doubling to 250 percent
5 more.

6 MR. GROSSMAN: So and the peak, if I read it
7 correctly, is 201 during the noon hour.

8 MS. CORDRY: On a weekday. Now --

9 MR. GROSSMAN: On a weekday.

10 MS. CORDRY: Right. Now again, of course if you
11 look, the weekend hours are, again, actually higher. And in
12 terms of the variation there, because the days, because the
13 trips are lower, if you remember, I was showing only about
14 24 or 30, you know, trips an hour in the weekend hours, then
15 these new trips are even proportionally, even higher than
16 that.

17 MR. GROSSMAN: I take it the Saturday and Sunday
18 columns for both Wheaton and Sterling should also be labeled
19 20 Saturdays and 20 Sundays.

20 MS. CORDRY: Well, no. Five Saturdays and five
21 Sundays.

22 MR. GROSSMAN: Five.

23 MS. CORDRY: Right.

24 MR. GROSSMAN: That's right, five. Okay.

25 MS. CORDRY: Right. And again --

1 MR. GROSSMAN: All right. Found both of those
2 right?

3 MS. CORDRY: I went and looked at sat, actual
4 September 2012 and counted up how many Saturdays there were
5 and how many Sundays and how many --

6 MR. GROSSMAN: So we have five Saturdays and five
7 Sundays.

8 MS. CORDRY: Right. So each of those numbers is
9 divided by five there. And again, if you look at the, the
10 ratio of differences, you are multiple times higher traffic
11 on those times from the cars coming just to the station. So
12 again, you've got a fairly dramatic increase of traffic back
13 there affecting the nearby neighbors and again, you don't
14 need very many loud mufflers, rattling mufflers, cars
15 playing with the radio turned on and window down to really
16 make a difference in those kind of quiet hours back there.

17 And this is one, as I say, one of the major points
18 we want to make throughout this is that you do have this two
19 trip analysis here. That unlike a typical station that's
20 put out on a main road and is not affecting the back part of
21 the mall or, or the neighbors in that back, you have that
22 trip coming to the mall and then you have the separate trip
23 coming back to the, to the, where the station would be,
24 bring more driving, more traffic, more noise, more emissions
25 and for a good part of the day, totally new trips back

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1 there.

2 So and again, even when the warehouse is open, you

3 still have that second trip where they, whether it's before

4 or after they do it, but they, it's easiest to see when they

5 go to the store first. They come in, they park. Then they

6 have to get back in the car and circle around and make the

7 trip back to the gas station. But even if they go to the

8 gas station first, then they still have to get somewhere, go

9 somewhere else and park and --

10 MR. GROSSMAN: I understand.

11 MS. CORDRY: Okay. All right.

12 MR. GROSSMAN: It's not in addition to the main

13 road system but it is --

14 MS. CORDRY: Right. Right.

15 MR. GROSSMAN: -- potentially an addition larger

16 than just the normal pass-by to the mall.

17 MS. CORDRY: Right. Exactly. And that's true for

18 all of the trips and, including the ones that are captured

19 by the warehouse. Still, you're making a separate trip.

20 Even after I've come to the warehouse, I still have to make

21 a separate trip to get to the gas station.

22 MR. GROSSMAN: Or if you come to the gas station

23 first, you're not really --

24 MS. CORDRY: Except the trip --

25 MR. GROSSMAN: You may not have to make much of a

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1 trip, but I understand the point.

2 MS. CORDRY: Right.

3 MR. GROSSMAN: It's a little different than --

4 MS. CORDRY: You're still going back out on the

5 Ring Road. You're still --

6 MR. GROSSMAN: It's a little different from the

7 ordinary pass-by.

8 MS. CORDRY: Right. And as we'll, as we'll get

9 into here, when you come out of there, different ways you're

10 going. You're going to be back on the Ring Road traffic,

11 back in that area that's already very heavily traveled and

12 very congested at this point.

13 MR. GROSSMAN: Okay.

14 MS. CORDRY: Okay. All right. In fact, just,

15 just to show you here a little bit, this is the point where

16 I was going to talk about it. As the traffic, as these

17 eight lines of cars come out here, there's a couple things -

18 -

19 MR. GROSSMAN: Can you use your official

20 government pointer?

21 MS. CORDRY: Okay.

22 MR. GROSSMAN: Thank you. And step back.

23 MS. CORDRY: Okay. All right. Step back away

24 from the map. All right. Easier for me to see from over

25 here. So as your cars will come in here, you will not only

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1 have, this lane will be marked as parking.

2 MS. ROSENFELD: Which lane?

3 MS. CORDRY: The right, on the outside of the Ring

4 Road, you will have a pedestrian path here, you will have a

5 lane of parking marked here.

6 MR. GROSSMAN: Right.

7 MS. CORDRY: Which is only, I understand, seven

8 feet wide so you really can't get a car by there or if you

9 do, you're going to have to go by really slow to try to

10 squeak by somebody. So you're only going to have one lane

11 of traffic going to the west as cars are going in there, and

12 you will have the two lanes coming here from the right-hand

13 side.

14 MR. GROSSMAN: Coming from the east.

15 MS. CORDRY: Coming from the east. As the one car

16 that I believe Mr. Guckert said would like to go in there

17 gets in, tries to find its space and this is, this is

18 regimented, that's fine, but as they come out here now, they

19 can try coming this way and as soon as they do, they're back

20 into the traffic in this traffic aisle here. If they go

21 this way, they're in this very busy drive aisle that we were

22 showing before. If you go out through here, you're in the

23 place where you're funneling eight lanes of traffic out

24 through these two traffic lanes here. If they stay here --

25 MR. GROSSMAN: Right.

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1 MS. CORDRY: -- that would put them then crossing

2 this lane, this pedestrian walkway here and going back out

3 on the main road there which again, is an extremely busy

4 road. So you're taking what would normally be parking lane

5 traffic and you are taking this whole set of cars here

6 imposing that on there and creating, you know, a great deal

7 of additional traffic and potential conflicts there for both

8 the traffic --

9 MR. GROSSMAN: I understand, but let's not go back

10 over what you've --

11 MS. CORDRY: Okay.

12 MR. GROSSMAN: -- already testified to.

13 MS. CORDRY: All right.

14 MR. GROSSMAN: I remember you saying that.

15 MS. CORDRY: All right. So with the level of

16 traffic that we've already seen, we know that the mall is,

17 on busy days, is close to, this area can very quickly come

18 close to gridlock and dead stopping. And it's already, even

19 as I say, the supporters of the mall, of the station have

20 even told you that it's very difficult to operate back in

21 this area. To quote from Yogi Berra, nobody goes there

22 anymore it's so crowded and I think there's some truth to

23 that there, that there are people who will tell you that

24 they've given up, perhaps, ongoing to the mall because this

25 area is already crowded and difficult, and adding up to

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1 another 250 cars an hour during most of the weekend is going
2 to create a great deal of additional congestion.
3 And to the extent that cars try to come out this
4 way and come out to the east and come back down this Ring
5 Road, I'm sorry, drive aisle A here, when they get back to
6 it, they're going to be plunged right back into the most
7 congested section here where all the traffic is trying to go
8 through this left-hand turn into the, the right and left-
9 hand turns out of this drive aisle, people trying to get
10 into here. To the extent that there's any backing up, it
11 will be backing right in the area those people will be
12 trying to come back out of.
13 If they go out to the north and then go off to the
14 west, they are back in this area along the west side where
15 we have already shown that traffic frequently is backing up
16 from Intersection 16 and coming here and already potentially
17 backing up. If we try to put a lot more traffic in there,
18 again, we're going to have even more backups from
19 Intersection 16.
20 MR. GROSSMAN: Okay.
21 MS. CORDRY: Okay. And okay. And not to belabor
22 the point but I think we all noticed last week while we were
23 here that the news popped up on the radio and on TV that in
24 a parking lot at Westfield Montgomery, a dispute over who
25 had the right-of-way at a parking sign ended up with two

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1 people stabbed. Now, is that going to happen every day?
2 Clearly not. But do you have such a thing as parking lot
3 rage? Does it happen? Does it get encouraged when you have
4 this kind of congestion? Yes. When you have people beeping
5 their horns, you are already at the stage where people are
6 saying there's issues there.
7 MR. GROSSMAN: I don't think I'm going to reach
8 any global conclusions. I assume that people are much more
9 civilized in Wheaton than they are in Bethesda because I
10 live in Bethesda.
11 MS. CORDRY: I would hope so but I don't think,
12 you know, I don't think it's -- you know, it's like, the
13 same thing with emergencies, with accidents, with these type
14 of --
15 MR. GROSSMAN: Let's not --
16 MS. CORDRY: Okay.
17 MR. GROSSMAN: -- belabor the point.
18 MS. CORDRY: I, I don't but --
19 MR. GROSSMAN: I don't, I don't think, I'm not
20 going to take stabbings into account.
21 MS. CORDRY: Well, I think it's not unfair to say
22 though that the more congestion you have, the more likely
23 you are to have fender benders, to have people peel and cut
24 off --
25 MR. GROSSMAN: Once again, let's not go off on the

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1 peripheries of a case that has lots of legitimate serious
2 issues. I'm not going to consider a stabbing in Montgomery
3 Mall as impacting this case. Just not.
4 MS. CORDRY: Okay. I'm just saying --
5 MR. GROSSMAN: I'm saying that in advance.
6 MS. CORDRY: Okay.
7 MR. GROSSMAN: You don't have to think about it.
8 MS. CORDRY: I'm just saying that's the far end of
9 the continuum you have all the way from the backing up to
10 that continuum there so I certainly don't think it's a point
11 to ignore. In any case, at this point, I just would like to
12 turn now basically to the fundamental questions of the
13 overall pedestrian safety from this proposed station design.
14 To most of us in the opposition, it seemed absolutely
15 obvious that putting the busiest station in the county in
16 the middle of a very busy parking lot is not a good design
17 idea. It didn't really seem like that was a difficult
18 concept and certainly, as Mr. Brann has stated, that wasn't
19 their idea of where they would originally want to put the
20 station either. They wanted to put it over on the far side
21 of the Ring Road on the corner there so as not to
22 inconvenience their customers but they couldn't do that when
23 the Zoning Text Amendment said it had to be farther away
24 from the, the pool.
25 Now, Mr. Guckert has now testified that in fact,

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1 this is, this is a better design than having the station in
2 a normal location off a main roadway. I would also say that
3 one of the other things we were told when they were
4 originally planning to put the station over here in this
5 corner was that the reason it was here did not seem to have
6 anything to do with this being the best or the safest design
7 or the most wonderful place to put it. It really was -- I
8 remember very distinctly Mr. Agliata from Westfield, we had
9 a meeting that was the first big meeting where they came in
10 and pitched the station and warehouse to the community and
11 then there was another meeting a couple months later on when
12 the representatives from Westfield and from Costco. I think
13 Mr. Ishida was there and Mr. Brann and some state people,
14 and I remember Mr. Agliata putting up --
15 MR. GOECKE: Objection. Hearsay.
16 MS. ROSENFELD: Admission against interest.
17 MR. GOECKE: Mr. Agliata.
18 MR. GROSSMAN: Well, first of all, he's not a
19 party.
20 MS. ROSENFELD: Excuse me?
21 MR. GROSSMAN: He's not a party. Westfield is not
22 a party so it can't be an admission.
23 MS. CORDRY: Well --
24 MR. GROSSMAN: Well, as a fact. I mean, it's
25 admissions that are against parties but, but there's a

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1 question as to whether or not it's admissible. Let's hear
2 the statement. Then I'll --
3 MS. CORDRY: Okay. What, what was reported, what
4 was said at this meeting, which was being presented to us as
5 a global meeting of these parties to explain to us this
6 proposal that was being put forward, was that there was a
7 big map put up on the, on the easel there and it had all the
8 parking here and it had all kinds of different colors in the
9 parking. We were told, you know, this parking is Costco's
10 parking and this parking is, is for Macy's and this parking
11 is Giant and this is Penney's, and there was one white spot
12 there that wasn't already taken because obviously, nobody,
13 who is that spot right there in the corner because nobody
14 wanted their parking as far away as possible from their
15 store. Everybody wants to park close to their store.
16 MR. GROSSMAN: I mean, is that something you're
17 saying he said or is that just what you're, that's your --
18 MS. CORDRY: Well, the gloss that that was why it
19 wasn't taken. I can't remember for sure if he said it but
20 it's pretty obvious that everybody, that when you park, the
21 Target parking is close to the Target, the Costco parking is
22 close to the Target, the Giant parking is close to that and
23 one spot that nobody had taken was this area over here.
24 MR. GROSSMAN: In the very southwest.
25 MS. CORDRY: Yes. Which is where they wanted to

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1 put it originally. And it appeared, from the discussion and
2 from what we were told, that it was being put there because
3 that was the spot that had not been, I understood him to say
4 it had been contractually given to the other stores. He now
5 says well, it's not necessarily a contract, it's some kind
6 of preferred parking or something but in any case, that was
7 the one undesignated area in the mall. I don't really
8 remember it being presented this is somehow the best or the
9 safest or the most wonderful place to put the, the station
10 here.
11 MR. GROSSMAN: All right. I'm going to, I'm going
12 to overrule the objection. I don't think that it's
13 particularly, that it's going to particularly bear on this
14 case in any event. Is there something in that statement
15 that, that really is worthy of --
16 MR. GOECKE: I think she was eventually, I thought
17 she was going to repeat what Mr. Agliata had said. As it
18 turns out, she just gave her opinion based on that meeting
19 of what she interpreted his meaning to be, so I don't think
20 she actually got to the hearsay.
21 MR. GROSSMAN: Okay.
22 MS. CORDRY: Well, I mean --
23 MR. GROSSMAN: I overrule the objection.
24 MS. CORDRY: Okay.
25 MR. GROSSMAN: Go ahead.

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1 MS. CORDRY: All right. In any case, so having
2 had to move the station and now having to determine whether
3 it could be justified, Mr. Guckert obviously testified about
4 it in a lot of details. He did not seem to think that this
5 had much problems because, among other things, he stated
6 well, it's a parking lot after all a couple occasions.
7 Among the points he was making was that the passage of cars
8 through the station was, you know, unidirectional and
9 regimented, that the drivers would make --
10 MR. GROSSMAN: Who is the speaker now?
11 MS. CORDRY: Mr. Guckert.
12 MR. GROSSMAN: Okay.
13 MS. CORDRY: In his testimony. That they'd be
14 making 90 degree turns when they were driving away from the
15 station and they'd be driving at a relatively slow speed as
16 opposed to coming off a higher speed main road. That
17 appeared to be sort of the three main points he was mostly
18 making there. Now, certainly, if you look at other stations
19 in this area, just about all of them are on a major traffic
20 route. Almost every one has some sort of a divided median
21 or no left turn beside it so that traffic generally does
22 flows in one direction, out the other direction in any case.
23 That Shell station that we talked about over by Four Corners
24 is a good example of that. You can only go in one direction
25 and you can pretty much only come out one direction. There

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1 are some on corners. They may have a little bit of ability
2 to come in from the other way but pretty much, most stations
3 are unidirectional to begin with and --
4 MR. GROSSMAN: I don't know if that's the case.
5 MS. CORDRY: Well --
6 MR. GROSSMAN: At least I've never followed that
7 in stations. I just --
8 MS. CORDRY: Well, I'm just saying --
9 MR. GROSSMAN: -- go on whichever side I can get
10 it. I mean --
11 MS. CORDRY: Well, I'm just saying --
12 MR. GROSSMAN: -- I just don't know that all the
13 stations are unidirectional.
14 MS. CORDRY: No. I'm not saying all the stations
15 but if you look at a station here, for instance, the
16 stations on, going down Georgia Avenue towards like say
17 Seminary Road and so forth, those stations are on one side,
18 there's a median in the middle. You can't, you can't come
19 back both directions there.
20 MR. GROSSMAN: You mean off the -- there's a
21 median on the roadway.
22 MS. CORDRY: Right.
23 MR. GROSSMAN: Yes.
24 MS. CORDRY: So, so the cars have to go south so
25 you --

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1 MR. GROSSMAN: Right.
2 MS. CORDRY: -- you go in that direction, then you
3 have to come back out south again so it's not like you can
4 come back and forth both directions.
5 MR. GROSSMAN: Okay. Well, that's it.
6 MS. CORDRY: And most of these stations are not
7 real huge anyway. There's not loads of room for cars to be
8 moving around. So the unidirectional is not clear to me how
9 much that really has to do, but the point about the 90
10 degree turns, I gather, is saying that with most stations as
11 you come off a main road, there's a fairly wide driveway to
12 accommodate your ability to slow down and ease into the
13 station and then to ease back out again.
14 MR. GROSSMAN: Right.
15 MS. CORDRY: I gather that the idea is that if
16 you're at an angle as you come out, that that somehow makes
17 it harder to see the pedestrians. Again, when you are
18 sitting there, if you're looking to the direction you're
19 going to drive, well, the pedestrian is right there in your
20 view path. If the other direction where the cars are coming
21 up behind you, you have to be looking back there to make
22 sure you're not going to get hit by a car as you pull out so
23 the pedestrian is going to be in your field of view in any
24 case. So again, this, this 90 degree idea, it's less than
25 clear to me that that has a whole lot of effect there.

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1 And what his testimony didn't really seem to focus
2 on was a number of points. For instance, these pedestrians
3 and cars in stations that are on the main road, they're in a
4 single defined area. They're either on that street or
5 they're on the sidewalk right next to the street. There's
6 not a great deal of people moving back and forth.
7 Generally, you're in your car.
8 At most, you might move a few feet over to the
9 station but you're not getting out and walking through
10 there, you're not taking shopping carts through those gas
11 stations, you're not taking long walks through them the way
12 people have to do to go from where you would now be here
13 parked on, on the far side of the gas station walking
14 several hundred feet over here to where the store would be.
15 And what's particularly clear is, and I'm going to
16 ask Ms. Adelman to put this in, you have some statutes. You
17 have some laws that are applicable to who, who has the
18 right-of-way. This is a couple provisions out of the
19 Maryland Code.
20 MR. GROSSMAN: Thank you. All right. Let's mark
21 this Exhibit 383, and that is, these are provisions
22 regarding --
23 MS. CORDRY: This is pedestrian right-of-way in a
24 crosswalk and vehicle rules dealing with emerging from and
25 entering alley, driveway or building.

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1 MR. GROSSMAN: I'll just say code provisions
2 regarding pedestrians and vehicles.
3 MS. CORDRY: Yeah, pedestrians. Right-of-way
4 rules basically.
5 MR. GROSSMAN: Vehicles. You notice I cleverly
6 avoided saying whether it was state or county code
7 provisions so I wouldn't be --
8 MS. CORDRY: These are the Maryland codes so.
9 MR. GROSSMAN: -- accused of being ignorant. All
10 right.
11 (Exhibit No. 383 was marked
12 for identification.)
13 MS. CORDRY: And of course, you know, no surprise
14 here, pedestrians have the right-of-way in crosswalks. Also
15 no surprise, a driver emerging from an alley, driveway or
16 building has to stop before driving onto a sidewalk that
17 extends across the alley, driveway or building has to yield
18 the right-of-way to pedestrians and has to yield the right-
19 of-way to approaching vehicles. And similarly, entering,
20 you have to yield the right-of-way. Again, no surprise in
21 any of these things but they are clear, they are determined,
22 you know who has to do these things, who has to go first and
23 who has to wait which means those cars pulling in and out
24 know that the pedestrians walking across there have the
25 right-of-way.

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1 As far as I can tell, there are no similar laws
2 that apply within parking lots. I believe that perhaps the
3 crosswalk one does although I have not really been able to
4 find a clear-cut statement one way or the other. But in
5 terms of between while you're in those parking aisles and
6 when you're crossing the drive aisles, who has the right-of-
7 way between pedestrians and cars or between cars and cars is
8 not clear. It's not at all clear.
9 MR. GROSSMAN: I always assumed it was pedestrians
10 but now that I know I have a choice --
11 MS. CORDRY: Well, I --
12 MR. GROSSMAN: -- they better watch out.
13 MS. CORDRY: I think running pedestrian, I'm
14 pretty sure that running pedestrians down gets you a problem
15 even if you were not a clear law but that's --
16 MR. GROSSMAN: I think you're right.
17 MS. CORDRY: But that's the problem. Private
18 parking lots do not have the same kind of rules and people
19 drive at all sorts of unusual ways in parking lots. They
20 drive up the aisles, they drive down the aisles. They drive
21 across the parking spaces if they are not completely full
22 up. Maybe we're safer because if this lot is full, people
23 won't be making those cross pathway drives but --
24 MR. GROSSMAN: Maybe we can have a recommended
25 condition in this case that, that people be required to

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1 wear, not wear ear buds when they're walking in a parking
2 lot.

3 MS. CORDRY: Well, as a matter of fact, we'll get
4 to that in a moment, distracted walking and distracted
5 driving are quite possibly the reasons why, as you'll see,
6 pedestrian accidents are on the rise here. In any case,
7 when I'm sitting at my, when I'm trying to exit my
8 traditional gas station on the main road, I basically know
9 there may be pedestrians in front of me, there's going to be
10 cars down the road, I'm supposed to yield to them, I need to
11 look for them, I know who has the right-of-way, I know who
12 doesn't.

13 It's completely less clear than that and it's a
14 much more chaotic environment within a parking lot in the
15 mall or anywhere else. It may be regimented within that
16 drive space within the special exception but the moment they
17 go out there, they're back in the complex environment of the
18 mall, of the parking lot there. And normally, on a main
19 road, you have sidewalks that are clearly marked and the
20 pedestrians know that if they are on the sidewalks, they're
21 certainly protected. Here, we have very little in the way
22 of markings in this parking lot here.

23 Certainly, I would have to say that if this was
24 the optimal kind of place to put a gas station, one would
25 think that you'd see a lot more gas stations placed at the

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1 back of malls a long time ago.

2 MR. GROSSMAN: I don't think I can reach any
3 conclusions on that either.

4 MS. CORDRY: I don't know, but I think the notion
5 this is just the greatest idea that we've ever come up with,
6 if it was, like I say, I think we would have seen this more
7 often. But in any case, when we were raising some of these
8 issues with Mr. Guckert, I believe you asked us if we had
9 our own traffic expert. Well, we have pretty limited
10 resources for experts so we had to start doing our own
11 research and when we did, we came up with some very
12 interesting answers.

13 So the first thing I did of course was I went to
14 the source of all wisdom and I put a inquiry into Google to
15 the effect of, you know, parking lots and pedestrians and
16 safety and so forth, and the first, pretty much the first
17 thing that popped up was this little article called Parking
18 Lots, When Motorists Become Pedestrians which I'd like to
19 put in the record. This is excerpts from it. It's the
20 first 10 pages.

21 MR. GROSSMAN: Let me take a look.

22 MS. ROSENFELD: I have a complete copy actually.

23 MS. CORDRY: Okay.

24 MS. ADELMAN: Is this just one copy?

25 MS. ROSENFELD: Yes.

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1 MS. CORDRY: Okay.

2 MR. GROSSMAN: Or if you want to excerpt it, you
3 can give him the excerpts.

4 MR. GROSSMAN: Well, let's put the whole thing in
5 and we then we can show the pages.

6 MS. CORDRY: Okay. I mean, a lot of it has to do
7 with some things that are like environmental issues and so
8 forth. You're welcome to have the whole copy but.

9 MR. GROSSMAN: Okay.

10 MS. CORDRY: Okay. But there are, there are ones
11 that have the excerpt of the first 10 pages or so that I
12 was --

13 MR. GROSSMAN: Exhibit 384.

14 MS. CORDRY: I'm trying to use your laser pen to
15 write my exhibit numbers.

16 MR. GROSSMAN: It doesn't work that easily. All
17 right. So this is an article called Parking Lots.
18 (Exhibit No. 384 was marked
19 for identification.)

20 MR. GROSSMAN: Who is John Stark?

21 MS. CORDRY: I am not entirely sure who John Stark
22 is but I put it in partially just because he does describe,
23 you know, the sort of things that are fairly obvious, the
24 parts bout when we, as a motorist, we are driving in the
25 middle of pedestrian path, as a pedestrian, we're walking in

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1 the middle of a traffic lane, describes some of the
2 different kinds of ways that the interactions can become
3 very complex. And then he starts to talk about what kind of
4 statistics there are available about accidents in parking
5 lots and this is what caught my attention.

6 While statistics are rarely recorded or --

7 MR. GROSSMAN: What page are you on?

8 MS. CORDRY: I'm sorry. I'm on page 3.

9 MR. GROSSMAN: I mean, I don't --

10 MS. CORDRY: Three.

11 MR. GROSSMAN: I don't know who John Stark is in
12 part of the problem. Okay. Go ahead. While statistics --

13 MS. CORDRY: While statistics are rarely recorded
14 or analyzed for parking lot accidents, Montgomery County,
15 Maryland was able to shed some light on the hazards of
16 parking lots when they reported that 22 percent of their
17 total pedestrian automobile accidents between January 20,
18 2006 and June 2008 occurred in parking lots. And he cites
19 to some county stat reports by Montgomery County. He
20 excerpts some more from that, and I will actually put in the
21 actual documents themselves, but I found this very
22 interesting that apparently, Montgomery County is on the
23 forefront of actually trying to inquire into these issues so
24 I went to Montgomery County's website and started trying to
25 figure out what I could find about what Montgomery County

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1 had done.
2 I wouldn't, as again, I pointed out, he does
3 discuss a number of the aspects of parking lots that make
4 them highly complex, that they're sharing these lanes, that
5 drivers and cars are coming in different directions in a
6 fairly narrow space, the psychology of people in parking
7 lots that one moment we're a driver cursing the heedless
8 pedestrians and the next moment, we're a pedestrian cursing
9 the reckless drivers and notes some of the ways in which
10 your attention can be easily distracted in a parking lot
11 when you're in either mode.
12 So when I did go to look at what was in the county
13 website, the most recent thing I found was what I will ask
14 you to now mark. These are, I guess it would be next
15 Exhibit 385.
16 MR. GROSSMAN: Yes.
17 MS. CORDRY: This --
18 MS. ADELMAN: I don't know what it looks like.
19 MS. CORDRY: I'm sorry. It looks like this.
20 MS. ADELMAN: Oh, okay.
21 MS. CORDRY: This is a report to the County
22 Council that was done in September this year, September
23 24th, 2013.
24 MR. GROSSMAN: Is this an excerpt from that
25 report?

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1 MS. CORDRY: Yes.
2 MR. GROSSMAN: Okay. So 385 is excerpt from
3 9/24/13. Who made this report to --
4 MS. CORDRY: This is the Pedestrian Safety
5 Initiative, one of the county agencies that works, not
6 initiative but --
7 MR. GROSSMAN: Okay. Which agency?
8 MS. CORDRY: I think it's all part of the
9 Department of Transportation. Let me see. One of these
10 discusses who it is. This is actually an initiative from
11 the County Executive as they discuss in there.
12 MR. GOECKE: I think this exhibit may already be
13 entered as 367(c) if we wanted to save a number unless
14 that's the full document.
15 MR. GROSSMAN: It's the County Council Pedestrian
16 and Bicycle Safety Program Review. Yes. It looks like the
17 same thing. All right. Shall we save the number then?
18 Instead of 385, we'll have 367(c).
19 MS. CORDRY: Let me, let me just pull up and see
20 if I can get the precise title of the folks that are doing
21 this.
22 MR. GROSSMAN: All right. Well, that's not as
23 critical. It's some county agency reporting to the --
24 MS. CORDRY: Yes. Definitely.
25 MR. GROSSMAN: Okay.

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1 MS. CORDRY: And what it says on page 13, I've
2 pulled up just a note, it's a little historical, that this,
3 we had a blue ribbon panel assembled in the year 2000 by the
4 then County Executive to discuss pedestrian safety issues
5 and a report issued in 2002, and most of the current issues
6 start with pedestrian safety initiative strategic plan that
7 was initiated by County Executive Ike Leggett when he came
8 into office.
9 And page 16 discusses a number of the effects of
10 this initiative over the last several years from before and
11 after the time when this was initiated, and they're very
12 proud of a number of these statistics, been very effective
13 around schools in some traffic calming areas and some high
14 incidence areas. They have brought down pedestrian
15 fatalities and so forth.
16 MR. GROSSMAN: All except for the parking lots,
17 right?
18 MS. CORDRY: Right. Page 17 shows that the levels
19 of collisions had been going down between 2005 and 2009 and
20 what was problematic though, we find out that in, on page
21 29, it discusses the fact that after overall collisions and
22 so forth had been dropping for a substantial period of time,
23 that we had a major increase in overall, well, we had an
24 increase in the overall level of, of accidents, and one of
25 the other reports does it more, and the entire amount of the

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1 increase, as it turns out, came from increase in accidents
2 in parking lots.
3 MR. GROSSMAN: My opinion as to why that occurs is
4 minivans and the like that block your vision so you can't
5 see beyond the person next to you --
6 MS. CORDRY: That may very well be.
7 MR. GROSSMAN: -- in a car but it is being
8 rectified to some extent by the rearview radars and cameras
9 that they are now installing in these types of vehicles.
10 MS. CORDRY: Well, that may be --
11 MR. GROSSMAN: Or maybe in all vehicles.
12 MS. CORDRY: Yeah. That may be and that's, in
13 fact, one of the things we will, we'll see is that there is
14 some initiatives about back-up cameras and that certainly
15 helps because back-up accidents are in fact one of the most
16 common ways in which you have these kind of accidents, and
17 parking lots inevitably involve lots and lots of people
18 backing up.
19 MR. GROSSMAN: Right.
20 MS. CORDRY: But we've been putting those cameras
21 in for a number of years. My car is seven years old and has
22 such a camera and we still find that the accidents are going
23 up.
24 MR. GROSSMAN: But I think they're going to be
25 universally required if not, if they may, they may already.

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1 I'm not sure if that order has gone out already but I think
2 that will actually cut down a lot on those parking lot --
3 MS. CORDRY: It may, assuming that that's the only
4 problem. And I will certainly note that Costco shoppers
5 undoubtedly have as many or more minivans and SUVs as other
6 people partially, if you remember, they put in these 10 foot
7 wide parking spaces to make sure everybody has room for
8 their big vehicles. That's definitely a problem, but I
9 don't think that's the only problem and that's not going to
10 be solved simply by getting rid of backing up accidents.
11 And so we have 39 percent, (indiscernible), 39 percent
12 increase in pedestrian collisions occurring in parking lots
13 and garages, 30 percent of all the collisions.
14 MR. GROSSMAN: Right.
15 MS. CORDRY: So --
16 MR. GROSSMAN: Okay.
17 MS. CORDRY: And that has disturbed the County
18 Executive and substantially, they have done a couple of
19 things. One, they've instituted a new study of the problem
20 to determine is it backing up. But we've had cars backing
21 up for the last 90 years that we've had cars so it's not
22 likely that people have all of a sudden have stopped
23 figuring out how to back up their cars, so it's probably
24 something else causing some of these increase in accidents.
25 I think it's likely, I think we're going to find, that we

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1 have many more pedestrians walking, we're encouraging
2 walking, we're encouraging biking, we're encouraging people
3 to get out of their cars and the more they get out of their
4 cars, the more they're in the position to have these
5 accidents. We also have the rise, unfortunately yes, of
6 distracted people wearing ear buds, people doing their cell
7 phones, people using their I-phones, all these kinds of
8 things.
9 So in any case, the county has begun studying it.
10 They've also approved \$50,000 to reinstitute a publicity
11 campaign about the dangers for pedestrians in parking lots.
12 And if the question is again, is there a problem with
13 parking lots, I would point out that this was the county's
14 -- and I'd like to put this in as the next exhibit. It's a
15 two-page exhibit. In 2009 when they first determined that
16 there was an issue with parking lots, this is what they
17 said. Parking lots are danger zones.
18 MR. GROSSMAN: Well, hold on one second. Is this
19 one already in, Mr. Goecke?
20 MR. GOECKE: I'm not sure what this one is.
21 What's it called?
22 MR. GROSSMAN: Parking Lots are Danger Zones. I
23 seem to remember that title.
24 MS. CORDRY: Well, it was one, the black and white
25 one was in mister, in a small version in mister, Dr.

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1 Adelman's report here.
2 MR. GOECKE: I don't believe that is in yet.
3 MR. GROSSMAN: Okay.
4 MS. CORDRY: But we wanted to give it to you in a
5 little bit bigger form so --
6 MR. GROSSMAN: Okay. So this will be Exhibit 385,
7 Parking Lots are Danger Zones. Okay.
8 (Exhibit No. 385 was marked
9 for identification.)
10 MS. CORDRY: I think they're meant to illustrate
11 what the problem is. You have cars backing out and you have
12 pedestrians looking in the other direction. You have a
13 shopper having a, I'm not sure if that's a cart or a
14 stroller or both but, you know, distracted there again,
15 walking right by cars that are moving and so forth. So the
16 county was very concerned in 2009 about parking lots and how
17 dangerous they could be and what we needed to do to try to
18 make them less, less dangerous.
19 MR. GROSSMAN: Okay.
20 MS. CORDRY: A couple of additional exhibits are
21 three of them I'd like to put in. One is the news release
22 that they put out at the time and two of them are newspaper
23 articles that were done at the time.
24 MR. GROSSMAN: Okay.
25 MS. CORDRY: So that would be these three.

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1 MR. GROSSMAN: You want to just list them as
2 386(a), (b) and (c)?
3 MS. CORDRY: Sure.
4 MR. GROSSMAN: 386(a), news release, county news
5 release.
6 MS. ROSENFELD: Which article, Karen?
7 MS. CORDRY: The news release and then the one
8 labeled Get There, the Dr. Gridlock article, and then the
9 Montgomery County to Launch Campaign on Parking Lost Safety.
10 MR. GROSSMAN: So it's the news release dated
11 10/29/03 will be 386(a).
12 (Exhibit No. 386(a) was marked
13 for identification.)
14 MS. CORDRY: The news release points out that
15 there's a need to raise awareness about public pedestrian
16 safety in parking lots, that at that point, 22 percent of
17 collisions over the last three-and-a-half years have
18 occurred in parking lots and yet, it had received little
19 attention either regionally or nationally so that --
20 MR. GROSSMAN: All right.
21 MS. ROSENFELD: Karen, let him mark (b) too.
22 MS. CORDRY: Yes.
23 MR. GROSSMAN: So the second one you want is the
24 Montgomery to Launch the Campaign on Parking Lot Safety?
25 MS. CORDRY: Sure. That can be (b).

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1 MR. GROSSMAN: Okay. That will be (b). 386(b) is
2 Montgomery to Launch Campaign on Parking Lot Safety. and
3 that's article of --
4 MS. CORDRY: October 29th.
5 MR. GROSSMAN: 10/20/09.
6 (Exhibit No. 386(b) was marked
7 for identification.)
8 MR. GROSSMAN: By now, this is four years later,
9 we all ought to be safe, right?
10 MS. CORDRY: Well, you would hope so but in fact,
11 it turns out we're not necessarily going forward at this
12 point.
13 MR. GROSSMAN: And Exhibit 386(c) is an article
14 entitled Get There.
15 MS. CORDRY: Right. Well, the plight of
16 pedestrians in parking lots.
17 MR. GROSSMAN: All right. So Dr. Gridlock
18 article. What's the date on this article?
19 MS. CORDRY: It's at the end. October, it's also
20 October 29th in the middle of the second page there.
21 MR. GROSSMAN: 10/29/09 called Get There.
22 (Exhibit No. 386(c) was marked
23 for identification.)
24 MR. GROSSMAN: It's all the same, regarding the
25 same thing.

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1 MS. CORDRY: Right. Yeah. I would point out in
2 the second, in (b) on page 2, Mr. Dunkel, Jeff Dunkel, who
3 is the Montgomery Pedestrian Safety Coordinator, is quoted
4 as saying traffic engineers know these are not safe
5 locations but there's been very little work done to actually
6 do something about it. This talks about a number of
7 accidents that happened to people who were doing everything
8 they could in the parking lot and still got hit.
9 MR. GROSSMAN: Okay.
10 MS. CORDRY: And it just generally talks about
11 that most jurisdictions don't keep these statistics because
12 it's very hard to obtain reliable data. But Montgomery
13 County being what it is, it decided to obtain the data so
14 the next exhibit is excerpts from the County stat
15 presentation in March 2010 on activities in the Pedestrian
16 Safety Initiative.
17 MR. GROSSMAN: Okay. Excerpts.
18 MS. ADELMAN: March 19th?
19 MS. CORDRY: Yeah.
20 MR. GROSSMAN: County stats. What was the date
21 again?
22 MS. CORDRY: March 19th, 2010.
23 MR. GROSSMAN: Of 3/19/10. Thank you. That's
24 Exhibit 387.
25 (Exhibit No. 387 was marked

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1 for identification.)
2 MS. CORDRY: So the baseline for our discussion,
3 this has some numbers of pedestrian collisions from 2004
4 through 2009, talks about several of their strategies that
5 they were trying to use to reduce pedestrian accidents, most
6 of which at that point were not necessarily focusing on
7 parking lots, pedestrian, on page --
8 MR. GROSSMAN: What's the point of putting in all
9 this stuff --
10 MS. CORDRY: Okay.
11 MR. GROSSMAN: -- going back. You have more
12 recent ones going up to 2012.
13 MS. CORDRY: Right.
14 MR. GROSSMAN: Aren't you just burying some of
15 your useful information in a lot of old superseded stuff?
16 MS. CORDRY: Sure. What I'm trying to show is
17 that this has been a continuing concern for the county and
18 that it is now increasing, that this was a baseline, that
19 this was a number of accidents they had and they were
20 concerned then.
21 MR. GROSSMAN: But your chart on the very first --
22 MS. CORDRY: Right.
23 MR. GROSSMAN: -- exhibit you showed me on this
24 point --
25 MS. CORDRY: Right.

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1 MR. GROSSMAN: -- made that point.
2 MS. CORDRY: Okay. And again, the other, a couple
3 other exhibits are putting in -- one of the problems here is
4 again, we really don't know very much about how many
5 accidents there are, that they're greatly underreported
6 because they're not, the statistics are not kept. This
7 would be, the next exhibit would be one from the National
8 Highway Traffic Safety Administration which points out that
9 crashes that occurred exclusively on private property,
10 including parking lots and driveways, are excluded from the
11 count of pedestrian accidents we have here. This is part of
12 the reason why it's difficult to really know how big of a
13 problem this is. We could put this one is as 388.
14 MS. ADELMAN: Is this what it looks like?
15 MS. CORDRY: Yeah.
16 MR. GROSSMAN: Thank you. So this is NHTSA
17 traffic safety facts 2010. Okay.
18 (Exhibit No. 388 was marked
19 for identification.)
20 MS. CORDRY: And again, part of the reason I put
21 in the notion of what they have been doing in the past is
22 because the county focused on those things, and why did they
23 focus on those? Because those are the things that the
24 county can control. In general, this is why they were doing
25 that. As they say there, we can deal with on-street issues,

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1 we can affect the way the streets are laid out, we can have
2 pedestrian stings and we can do that kind of thing to do
3 that.
4 One other piece I would put in here, this is a
5 report from Florida State University that again talks about
6 why parking lots are particularly dangerous pedestrian
7 environments and again, the difficulties in getting data for
8 these accidents.
9 MR. GOECKE: I'm sorry. What was the traffic
10 safety facts exhibit number? Did we get that one?
11 MS. ROSENFELD: 388.
12 MS. CORDRY: That would be 388.
13 MR. GROSSMAN: 388. I just wanted, I thought that
14 you had that Florida thing in from previously.
15 MS. ADELMAN: Karen, hold it up, please.
16 MR. GROSSMAN: Is this --
17 MS. CORDRY: It's the one labeled Final Report,
18 Aging Driver and Pedestrian Safety.
19 MR. GROSSMAN: Yes. That's 367(e).
20 MS. CORDRY: Okay.
21 MR. GOECKE: That's in already.
22 MS. ADELMAN: This is in already then?
23 MR. GROSSMAN: Yes. When you say in, all of this
24 is in our administrative exhibit list but everything is
25 going to be subject to review at the end to the extent there

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1 are objections, but it's already in as 367(c), (e) rather,
2 Final Report, Aging Driver and Pedestrian Safety, Parking
3 Lot Hazards Study, 2012.
4 MS. CORDRY: Right. And again, it points out that
5 prior to 2007 when the Traffic Safety Administration was
6 developing a new data system, national data sets did not
7 consistently include information on these non-traffic
8 crashes so again, the problem has generally been understated
9 because we don't keep track of it. And I had another couple
10 reports that are done from the Transportation Research Board
11 of the National Academies of Science asking for studies to
12 be done on this whole question of parking lot safety and why
13 we have the accidents and what we can do to cut down on
14 them.
15 MR. GROSSMAN: Once again, I mean, think you're
16 gilding the lily but --
17 MS. CORDRY: All right.
18 MS. ADELMAN: Yes? No?
19 MS. CORDRY: Why not gild the lily. It's only two
20 pages.
21 MR. GROSSMAN: All right.
22 MS. CORDRY: The point being, you know, there was
23 a suggestion I think that it's only a parking lot, it's not
24 a big problem and what I'm trying to make clear is that it
25 is well recognized by many experts that parking lots are a

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1 very big problem and one that we don't know much about and
2 one that we need to spend a lot more time on trying to
3 figure out what the problem is and that in any case, putting
4 more distractions, the one thing that they do seem to focus
5 on in these reports is the distractions, the competing
6 things that are going on in the parking lot between the
7 pedestrians, the carts, the shopping, the cars and so forth.
8 So coming back to Montgomery County --
9 MR. GROSSMAN: Exhibit 389 is, that's
10 Transportation --
11 MS. CORDRY: Research Board.
12 MR. GROSSMAN: -- Research Board.
13 MS. CORDRY: National Academies of Science.
14 (Exhibit No. 389 was marked
15 for identification.)
16 MS. CORDRY: And the last page is a -- that was
17 done in 2012, in the beginning of 2012 and the last page is
18 a similar call for volunteers to do some of these studies,
19 the same studies that were being requested in this
20 Transportation Research Board. This is from the Parking
21 Council in February 2013 again, pointing out the need to do
22 these kind of studies and find this information, determine
23 what we could do to reduce parking dangers.
24 MR. GROSSMAN: All right. So review pedestrian
25 and bike safety --

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1 MS. CORDRY: Right.
2 MR. GROSSMAN: -- in parking lots.
3 MS. CORDRY: Right.
4 MR. GROSSMAN: Okay.
5 MS. CORDRY: Right. Again, the need for the study
6 pointing out the little quantitative data but the
7 qualitative assessment recognize parking lots as complex
8 environments with potentially dangerous pedestrian, bicycle
9 and motor vehicle assessments and difficulty of the various
10 interactions that are going on there. So when we come back
11 to Montgomery County's figures, as I said, you've seen the
12 figures there which were very sobering to the people in this
13 Pedestrian Safety Initiative.
14 I have started going to the pedestrian Safety
15 Advisory Committee meetings that the county holds every
16 other month and I'd like to mark this one -- thought I had
17 that turned off, sorry. I would like to mark the next one
18 390 I guess it would be, as some information that was
19 obtained from the reports that were made at that meeting.
20 MS. ADELMAN: What's it look like?
21 MR. GROSSMAN: What's this called again?
22 MS. CORDRY: The first page is labeled Enforcement
23 Pedestrian Crash Data. The second page is MCPD so I guess
24 Montgomery County Police Department stats as of July 1,
25 2013. And the third page just again mentions this funding

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1 for the Safety Initiative. This report was handed out by
2 Captain Didone, Thomas Didone, I think that's how he
3 pronounces his name, from the county police.
4 MR. GROSSMAN: All right. This is Exhibit 390,
5 and it's County Enforcement Pedestrian Crash Data. Okay.
6 (Exhibit No. 390 was marked
7 for identification.)
8 MS. CORDRY: All right. And this is the one that
9 indicated that the, the total collisions between 2011 and
10 2012 had gone from 399 to 423 which was that significant
11 increase there and outweighed the decrease over all other
12 pedestrian accidents. This particular set of data had only
13 been completed up through March of this year but indicated
14 that for the first three months, there was, again, a further
15 increase in, in pedestrian accidents.
16 The second page shows that in 2013 to date, as of
17 July 1, there had been 11 pedestrian deaths compared to four
18 at that point in 2012 and six in the entire year in 2012.
19 Since then, we have had one more pedestrian death. And as
20 they say, they have now -- the third page is discussing the
21 funding that they're putting in for the further pedestrian
22 safety education program. There was a press release on this
23 but I don't think it says anything different really than
24 what the pages we had in there before so we don't need to
25 put that in again I don't think.

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1 MR. GROSSMAN: Okay.
2 MS. CORDRY: And one of the -- sorry. Sorry.
3 Okay. I thought I had that off. Okay. Now, in terms of
4 our concerns here with pedestrian safety in parking lots and
5 whether or not making 90 degree turns solves the problem and
6 whether the fact it's a parking lot, driving slow, Officer
7 Didone, in the first one of these meetings I went to, was
8 discussing the person who was killed in the Cabin John
9 Shopping Center accident in June of this year, and what he
10 indicated there was that a driver was exiting a parking
11 aisle, making a 90 degree turn onto the main part of the
12 road and was apparently distracted by a parked emergency
13 vehicle that was parked a little ways down the road, looking
14 at the vehicle and looked right past the pedestrian who was
15 walking in front of him and ran the person down and killed
16 him. The point being 90 degree turns doesn't solve your
17 problem. Slow speed doesn't solve your problem. She wasn't
18 speed, the driver wasn't speeding through the parking lot.
19 She wasn't drunk, she wasn't anything. She was just
20 distracted. And parking lots are hotbeds of distractions,
21 more than almost any other environment you can have here.
22 So again, we, at the last pedestrian safety
23 meeting I went to earlier this month in November, there was
24 a good deal of discussion about what the county study on
25 parking lot issues was going to be able to tease out. Was

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1 it smart phones, was it other distractions, is it a rise in
2 the number of pedestrians and bicyclists? What do you do
3 when you put those on top of a retail shopping center lot?
4 As I said, we had a previous public education
5 campaign, they funded it. That campaign is in fact going to
6 be rolled out two days from now, the new campaign, so I
7 would reserve the right to, in fact, I may be back here in
8 two days. I will probably bring that exhibit in and we'll
9 see what their, their public safety campaign looks like for
10 parking lots. But this is, again, this is back to their
11 current major effort is to try to reduce parking lot
12 pedestrian accidents.
13 MR. GROSSMAN: Okay.
14 MS. CORDRY: And in terms of discussion what was,
15 what was going on and what the problems were here in the
16 mall, there's actually been three accidents to this point in
17 parking lots this year and let's see. I'd like to put in
18 this article from August 16th discussing this ongoing study
19 that is coming up. This is from the Gazette and again is
20 quoting Mr. Dunkel about the fact that again, distracted
21 driving and distracted walking could be factors. A number
22 of these things that they're trying to do to bring down
23 the --
24 MR. GROSSMAN: What's the point of putting in an
25 article about a study to they're going to do --

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1 MS. CORDRY: Well, they're in the process --
2 MR. GROSSMAN: -- as opposed to all the things
3 that --
4 MS. CORDRY: They are doing it right now. It's
5 not completed yet but they are working on it. And again, to
6 illustrate that are parking lots a major source of concern,
7 are they something where we should be doing everything we
8 can to reduce the distraction to not increase --
9 MR. GROSSMAN: I understand but haven't you put in
10 15 articles and things already to establish that?
11 MS. CORDRY: Right. Okay. All right. And the
12 one other point, one of the other points that I would put
13 here is that in terms of discussing all of this that was
14 going on and what they can do and what was said at this
15 meeting, Mr. Pogue, Thomas Pogue, who was, again, a county
16 official at the meeting, what he discussed over and over
17 again here was that one of the problems they have with
18 trying to bring down pedestrian accidents in parking lots is
19 that the county doesn't have enforcement ability there.
20 They are subject to whatever the county, the private
21 owner --
22 MR. GROSSMAN: Private owner.
23 MS. CORDRY: -- chooses to do or not do. One of
24 these articles discusses the fact that Mr. Leggett has
25 convened a kitchen cabinet, as he referred to it, of private

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1 owners to try to talk them, you know, jawbone them, to jaw
2 them, whatever, into doing things, but the county does not
3 have much that it can do in terms of reducing safety issues
4 in parking lots once the situation is there. The one thing
5 we can do is not create a new problem. That is one of the
6 things that you have within your purview. Once that station
7 is built and if it turns out that it's creating problems,
8 the county can't really do much to stop it but you can look
9 at it in advance.

10 And that's really, you know, the main point of
11 what we're trying to deal with here, that we're, nearly 30
12 percent of pedestrian deaths in Montgomery County this year
13 occurred in parking lots. It's important for us to look
14 very carefully at whether we created a situation in which we
15 are creating another hotbed of conflicts, of distractions.

16 MR. GROSSMAN: You have said that already.

17 MS. CORDRY: Yes. I know. And that's, that's
18 our, that's basically my summing up point, that it's a
19 parking lot is not an answer. It's, it's the problem, not
20 the answer.

21 MR. GROSSMAN: Okay.

22 MS. CORDRY: And that where we don't need the
23 station where we already have the sales that are being made
24 here dispersed across the county in much less concentrated
25 areas, in much less busy spaces, bringing all of that

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1 business here, putting it in one place and putting it in the
2 middle of the busiest station of the county in the middle of
3 almost the busiest section of this entire very busy parking
4 lot is a very bad idea and we would strongly suggest that in
5 doing so, the applicant is not meeting the requirements in
6 the Zoning Ordinance.

7 MR. GROSSMAN: Okay. Would that be it?

8 MS. CORDRY: That be it.

9 MR. GROSSMAN: Thank you. All right. I don't see
10 anybody here from Kensington View right now. Does the Stop
11 Costco Gas Coalition wish to cross-examine this witness?
12 MS. ADELMAN: No, sir.

13 MR. GROSSMAN: All right. I think it makes sense
14 for us to save your cross-examination, given that it's 10 to
15 5:00, for Thursday. Let's talk about -- is that okay with
16 you, Ms. Cordry?

17 MS. CORDRY: Sure.

18 MR. GROSSMAN: Let's talk about who we're going to
19 have on Thursday. We have cross-examination of Ms. Cordry
20 on these traffic/pedestrian issues. And then we'll have Mr.
21 Sheveiko. We have Kathy Michaels. Do we have anybody else
22 on the agenda then for, for Thursday?

23 MS. CORDRY: Yes. Ms. Chen from --

24 MR. GROSSMAN: Oh, Ms. Chen, that's right. That's
25 the other -- Kathy Chen.

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1 MS. HARRIS: Yes. We have --

2 MR. GROSSMAN: Kathy Chen of Freestate.

3 MS. HARRIS: I thought Donna Savage was on the
4 list.

5 MS. ROSENFELD: I sent an e-mail. Donna's mother
6 is still extremely ill and she is not going to be able to
7 make it tomorrow.

8 MS. HARRIS: Thursday.

9 MS. ROSENFELD: I'm sorry. Thursday.

10 MR. GROSSMAN: All right.

11 MS. ROSENFELD: And I do think we expect Mark
12 Meszaros to testify on behalf of the Kenmont Swim and Tennis
13 Club.

14 MR. GROSSMAN: I'm sorry. Mark?

15 MS. ROSENFELD: Meszaros.

16 MR. GROSSMAN: How do you spell that?

17 MR. GOECKE: M like Michael, E --

18 MR. GROSSMAN: I'm sorry.

19 MR. MESZAROS: M like Michael, E-S as in Sam, Z as
20 in Zebra, A-R-O-S as in Sam.

21 MR. GROSSMAN: Okay.

22 MS. ROSENFELD: And --

23 MR. GROSSMAN: In reference to what?

24 MR. MESZAROS: I'll be representing Kenmont.

25 MR. GROSSMAN: Kenmont?

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1 MR. MESZAROS: Kenmont. That's correct.

2 MS. ROSENFELD: And, Mr. Grossman, in light of the
3 way Dan Sheveiko's been feeling, would there be any
4 objection to him testifying first before Karen's cross? I
5 don't think he's going to be a very --

6 MR. GROSSMAN: Well, certainly not on my part.

7 MR. GOECKE: No.

8 MS. ROSENFELD: -- particularly long witness.

9 MR. GROSSMAN: No objections. No objections.

10 MS. HARRIS: Well, but didn't we also say that Ms.
11 Chen was going early in the morning? I mean --

12 MR. GROSSMAN: I didn't have a specific time.

13 MS. HARRIS: Oh, okay. I thought she was first
14 thing as well.

15 MR. GROSSMAN: Has anybody been in touch with Ms.
16 Chen other than her e-mail? All right. Well, I'll e-mail
17 her back and tell her that we have one priority witness
18 first thing in the morning if he's coming. Is that the
19 plan, for him to come first thing?

20 MS. ROSENFELD: I think as long as he knows, has a
21 general sense of when, when to be here, he could be here at
22 9:30 and testify first.

23 MR. GROSSMAN: Okay.

24 MS. ROSENFELD: Unless she has a, if she has a
25 conflict --

1 MR. GROSSMAN: All right. Then she can be on.
 2 MS. ROSENFELD: -- then we can work around.
 3 MR. GROSSMAN: How long do you, do you have any
 4 idea how long Mr. Sheveiko's testimony might be?
 5 MS. ROSENFELD: I don't. I would suspect it would
 6 be less than an hour.
 7 MR. GROSSMAN: Okay. All right.
 8 MS. ADELMAN: But if Ms. Chen wanted to go first I
 9 think we could --
 10 MS. ROSENFELD: We could --
 11 MS. ADELMAN: -- just tell him to hold off a bit.
 12 I think the idea is that he not sit too long so.
 13 MR. GROSSMAN: Right. All right. Well, we'll
 14 adjust in accordance. I'll tell her there's another person
 15 who may or may not be on first and she can show up at 9:30
 16 and wait for an hour. It won't kill her. All right.
 17 MS. CORDRY: We know this will kill any of us so
 18 I'm not sure.
 19 UNIDENTIFIED SPEAKER: All the rest of us are
 20 dead.
 21 MR. GROSSMAN: All right. Is there anything else
 22 we have to resolve today? Any other matters?
 23 MR. GOECKE: Nothing else.
 24 MR. GROSSMAN: No? Okay. Then we are adjourned
 25 for today and we'll see you all on Thursday. Same time,

1 same station.
 2 (Whereupon, at 4:54 p.m., the hearing was
 3 concluded.)
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C E R T I F I C A T E

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

Petition of Costco Wholesale Corporation
 Special Exception No. S-2863
 OZAH No. 13-12

By:

Josephine Hayes, Transcriber

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