

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF : Case No. CU 15-05
ARTIS SENIOR LIVING, LLC :
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A hearing in the above-entitled matter was held on Thursday, June 25, 2015, commencing at 9:31 a.m., at the Office of Zoning and Administrative Hearings, Stella B. Werner Council Office Building, 100 Maryland Avenue, Second Floor, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Lynn A. Robeson
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Erin E. Girard, Esq.
Linowes and Blocher, LLP
7200 Wisconsin Avenue, Suite 800
Bethesda, Maryland 20814

Witnesses:	Direct
Jay Hicks	12
Patrick LaVay	45
Victoria Bryant	83
Anne Carlson	116; 126
Carl Koenig	132; 141
Michael Lenhart	146; 175
Dan Dokken	184

Also Present:
Mrs. Long

P R O C E E D I N G S

1 MS. ROBESON: Okay. I'm calling the case of the
2 Application of Artis Senior Living Facility, requesting a
3 conditional use for a 72 bed senior living facility located
4 at 8301 River Road. Would the parties please identify
5 themselves for the record?
6

7 MS. GIRARD: Sure. I'm Erin Girard with Linowes
8 and Blocher, we're a land use counsel for the applicant,
9 Artis Senior Living.

10 MR. HICKS: And I'm Jay Hicks with Artis Senior
11 Living.

12 MS. ROBESON: Okay. Is there anyone in the
13 audience who is not a witness called by the applicant, who
14 wishes to testify in this case? Okay. I see two hands.
15 You are, let me just go into a little about this process.
16 It's an informal hearing, but there are certain formalities.
17 Testimony is under oath and subject to cross-examination.

18 You are entitled to sit at the table here so that
19 you have the opportunity to ask questions of the applicant
20 and so if anybody wants to come sit at the table, you're
21 more than welcome to do so. All right? All right.

22 If you can sit over here, that's for the witnesses
23 so they can go back and forth to the boards. So if you can
24 sit to my right, perfect. You've landed in the correct
25 place. Now I'm going to ask you to identify yourself for

E X H I B I T S

Exhibit No.	Marked/Received
1-45	Pre-marked
46	12
47	16
48	31
49	72
50	76
51A	141
51B	141
52	171
53	180

1 the record and I just need your name and address.

2 MS. CARLSON: My name is Anne Carlson. My address
3 is 8008 Fenway Road, like the ballpark, Bethesda, Maryland
4 20817.

5 MS. ROBESON: Okay. Thank you very much. Does
6 anyone have any preliminary, which means procedural matters?
7 Okay. I have one which is the Zoning Ordinance, I think I
8 must have communicated this maybe poorly, but I've been
9 trying to get this from technical staff for quite a while,
10 which is regardless of the access permit or the park permit,
11 your special exception, my guess is it's an easement for a
12 residential driveway.

13 MS. GIRARD: It's just a use, it's not limited to
14 residential, it's an access easement and we were going to
15 submit a copy of that into the record today.

16 MS. ROBESON: Okay. But what the Zoning Ordinance
17 requires is consent from the owner of the fee, which is, I'm
18 sorry, the Parks Department and SHA and this should have
19 been done, this has always been the case and it should have
20 been done at intake, because that's something that we have
21 had for many years and it wasn't changed in the new
22 ordinance. So what I'm saying to you is I need something
23 from SHA and the Parks Department saying that it doesn't,
24 you know, if you want to defer the actual permitting process
25 that's one thing. Although you may have to come back for an

Page 6

1 amendment to the special exception if you want to defer that
2 review.
3 And we have had in recent cases the same issue
4 with part of a special exception utilizing SHA right-of-way
5 and SHA did submit a letter saying, you know, this is okay
6 with us. So --
7 MS. GIRARD: I'm sorry, can I just ask for the
8 specifics of that case because in my experience and all the
9 special exceptions we've done, there is an existing, we're
10 not creating a new point of access or a new curb cut onto
11 River Road. There is an existing one and as I've always
12 understood it, that's just a matter of, you know, you don't
13 need SHA to say you have a driveway now and you can continue
14 to use it.
15 MS. ROBESON: Well in this case you have
16 conditions of approval and an altered access and that occur
17 on the driveway. So it's not simply the access point you
18 have the drive aisle through SHA property, all right, and
19 through park property. So it's not just a regulatory
20 matter, it's a proprietary matter. And I am going to, I'm
21 going to hold the record open, I'm not going to delay the
22 hearing, but we do need something in writing, it's not just
23 getting the permit, it's that you know SHA knows about this
24 and doesn't have, you also show a PUE going through SHA
25 property. Or maybe not a PUE but a water --

Page 7

1 MS. GIRARD: A water easement.
2 MS. ROBESON: Yes. So maybe that is just
3 something we, you know, and you also have a preliminary
4 forest conservation plan approved that takes down trees on
5 SHA property that I don't even know if SHA knows about.
6 MS. GIRARD: Right. I'm just saying what we're
7 struggling with and I think we were trying to convey, you
8 know we'll get what we need to get obviously. But what we
9 struggle with is that you know SHA historically says we
10 don't want to look at anything until you're done, you know,
11 until you have an approved plan and you're coming in for
12 permits. So maybe we can point to this other case you're
13 referring to.
14 MS. ROBESON: Well we've gotten comments from SHA
15 recently, so and I don't know why it got to this point and
16 I'm not going to argue it any further. That's my
17 interpretation of the Zoning Ordinance.
18 MS. GIRARD: And that's fine, like I said, yes.
19 MS. ROBESON: And I would like some knowledge that
20 SHA at least knows about the easements going through, you
21 know, the access, the proposed access and doesn't have a
22 problem with some of the conditions of approval that relate
23 to the property within or that relate to the, and you know I
24 don't know why, I thought they should have been an applicant
25 on the preliminary forest conservation plan because it says

Page 8

1 the owner has to be the applicant. But that's not my call.
2 MS. GIRARD: They're not historically but I hear
3 what you're saying.
4 MS. ROBESON: I disagree with you because we've
5 done cases. So that being said I would like the consent.
6 MS. GIRARD: Okay. A letter from SHA on all those
7 issues and you also want something from Parks?
8 MS. ROBESON: And the Parks Department.
9 MS. GIRARD: With regard to the, I mean the
10 easement is there now, but as far as the additional
11 disturbance in that area?
12 MS. ROBESON: Well you're widening the --
13 MS. GIRARD: No, it's in the easement. No, we're
14 just widening the pavement within the existing easement.
15 MS. ROBESON: Yes, but you're also changing from
16 residential access to a commercial use. So I would like
17 something and I've asked for it several times, I would like
18 something from the Parks Department that says this is okay
19 with us and that they will not interfere with the conditions
20 of approval whatever they may be for that portion of the
21 right-of-way that goes through their property, or that
22 portion of the easement.
23 We don't typically have, you know, historically we
24 have had SHA review access issues, whether they do or they
25 don't now but this is more than an access permit. So that's

Page 9

1 why I'm asking for that.
2 MS. GIRARD: And we will get it to you.
3 MS. ROBESON: Okay. That being said, each side I
4 know you know this, but each side is entitled to make an
5 opening statement. Now that's not testimony. So if you
6 want to just wait to hear the applicant's case, what happens
7 is the applicant presents their case. You get to ask
8 questions and then you get to testify and say what you want.
9 So this is not the time to testify. If you want to wait and
10 hear the applicant's case, that's fine. All right. So do
11 you have an opening statement, Ms. Girard? Yes?
12 MS. CARLSON: So can I make a brief opening
13 statement in addition to my testimony?
14 MS. ROBESON: Oh yes.
15 MS. CARLSON: Okay.
16 MS. ROBESON: You may, it's just not an opening
17 statement says what you're going to prove, but it's not, I
18 believe this and I believe that. Just so you know.
19 MS. CARLSON: Sure.
20 MS. ROBESON: Okay. Now the applicant goes first.
21 You get to question the applicant's witnesses. You get to,
22 you and anyone else who wishes to testify in opposition,
23 then you get your turn to testify and then the applicant
24 gets a chance to respond to what you testify. All right.
25 All right. With that, Ms. Girard, do you have an opening

Page 10

1 statement?
2 MS. GIRARD: Just a brief one. I just wanted,
3 obviously we will be going through all the experts today,
4 but this is an application for a 72 bed residential care
5 facility at 8301 River Road. It's a memory care facility,
6 so it's devoted to individuals with dementia and memory
7 loss, Alzheimer's. The applicant has done a number of
8 projects similar to this and they'll speak to the design but
9 it's carefully designed to cater to the specific needs of
10 those individuals.
11 There's been a great deal of outreach as part of
12 this effort. There's three houses that are most impacted
13 that directly adjoin the property, Jay will speak to that,
14 but there's been some outreach to those individuals in
15 particular, because they're within sight and sound of the
16 property. But he's also met with other community groups.
17 As these uses go, this is very low impact, very few trips
18 and we'll get into that with the traffic consultant. But it
19 also sits, the site is very unique in that it sits very high
20 above River Road. We'll talk about the topography, but it's
21 somewhat isolated. You wouldn't know the property, you
22 wouldn't even look for it, it kind of sits up when you're
23 going down River Road. So it's very wooded, the project
24 itself would sit in a cleared area and have very few
25 impacts, surprisingly few impacts on the adjacent forest.

Page 11

1 We believe that it's a very appropriate site for
2 the proposed use. The Master Plan calls specifically for
3 the provision of elderly housing in this subregion. There
4 is a woeful lack of this kind of facility in the area and
5 the need only continues to be greater and we believe that
6 all of the criteria for approval will be met. We hear your
7 point about the access and we will get you those letters but
8 aside from that we feel like the record and the testimony
9 today will show that we meet all the criteria for approval.
10 MS. ROBESON: Thank you.
11 MS. CARLSON: All right. I'm here to express some
12 concern about --
13 MS. ROBESON: Wait, did you state your -- yes, you
14 did.
15 MS. CARLSON: I did. I did.
16 MS. ROBESON: I'm sorry, go ahead.
17 MS. CARLSON: That's okay. I'm here just to
18 express concern about the safety of intersection and where
19 the proposed Artis Facility would go and I'm very grateful
20 that you are concerned about the State Highway
21 Administration's role in this because the Montgomery County
22 Planning Board staff didn't even consider the safety of the
23 intersection until very late in the game before approving
24 the project. So I think, that's why I'm here today is just
25 to talk about the safety of the intersection and request

Page 12

1 that the road be expanded.
2 MS. ROBESON: Which road?
3 MS. CARLSON: River Road.
4 MS. ROBESON: Okay. All right. Thank you. With
5 that, Ms. Girard, do you want to call your first witness?
6 MS. CARLSON: I'd like to call Jay Hicks.
7 MS. ROBESON: Mr. Hicks, please raise your right
8 hand. Do you solemnly affirm under penalties of perjury
9 that the statements you are about to make are the truth, the
10 whole truth and nothing but the truth?
11 MR. HICKS: Yes.
12 MS. ROBESON: All right. Go ahead, Ms. Girard.
13 MS. GIRARD: I wanted to begin his testimony by
14 submitting the affidavit of posting which Jay had signed,
15 had notarized.
16 MS. ROBESON: All right. And is that already on
17 the exhibit list, let me just double check. No. So this
18 will be 46.
19 (Hearing Exhibit No. 46 was
20 marked for identification.)
21 MS. ROBESON: I had to put my glasses on. Okay.
22 MS. GIRARD: Okay.
23 DIRECT EXAMINATION
24 MS. GIRARD: Mr. Hicks, can you state your name,
25 business address and occupation?

Page 13

1 MR. HICKS: Jay Hicks, Senior Vice President of
2 Artis Senior Living. It's all right, 1651 Old Meadow Road,
3 Suite 100, McLean, Virginia.
4 MS. ROBESON: You're too young to forget that.
5 MR. HICKS: Well years ago I lived in a condo up
6 on the street on Old Meadow Road, that same Old Meadow Road
7 and I get my addresses mixed up.
8 MS. ROBESON: I'm sorry, court reporter, did you
9 get his address? Okay. Go ahead.
10 MR. HICKS: My apologies.
11 MS. GIRARD: It's okay. What's your professional
12 and educational background?
13 MR. HICKS: I have a bachelor's degree in
14 political science, master's degree in urban planning and 28
15 years of experience entirely in planning and real estate.
16 MS. GIRARD: And can you review for us briefly
17 your experience with the development of residential care
18 facilities particular --
19 MS. ROBESON: Okay. Are you getting ready to
20 qualify him as an expert?
21 MS. GIRARD: No, I just want --
22 MS. ROBESON: You just want it in as background?
23 MS. GIRARD: Yes.
24 MS. ROBESON: Okay, fine. Go ahead.
25 MR. HICKS: What was that question?

Page 14

1 MS. GIRARD: Can you review your experience with
 2 the development of residential care facilities, particularly
 3 memory care?
 4 MR. HICKS: Sure. Of my 28 years of professional
 5 experience, eight has been in senior health care and
 6 housing. First with Manor Care years ago and then with a
 7 company called Summerford (phonetic sp.) and then with Artis
 8 and in each of those instances memory care assisted living
 9 was almost entirely what we did and what I worked on.
 10 MS. GIRARD: Okay. And can you review for us --
 11 MR. HICKS: And I should say also my father had
 12 dementia and was in a residential care facility, so I in the
 13 middle of all this was a caregiving adult child. So I have
 14 some familiarity from that angle as well.
 15 MS. GIRARD: All right. And can you review what
 16 lead you to this proposed location?
 17 MR. HICKS: Well there isn't much out there.
 18 Maybe should I?
 19 MS. GIRARD: Yes, you can --
 20 MR. HICKS: Well I'll get up there when I need to.
 21 You know well, you know why here. It begins with demand.
 22 There is a very strong demand for what we do. I mean we're
 23 a local company, we're out of McLean, we know that we've
 24 done market feasibility analysis. There is a strong demand
 25 for what we do. In fact, there is a demand beyond what we

Page 15

1 can provide, we're providing 72 single occupancy rooms,
 2 beds, there's a bigger demand out there for quality memory
 3 care services than what we can provide. So it began with
 4 the fact that we identified this as an area that was
 5 underserved by what we did.
 6 Let me tell you what we're doing first, how about
 7 that before I tell you why.
 8 MS. GIRARD: Okay. If we're going to use the
 9 aerial it's a new exhibit. But go ahead and use what --
 10 MS. ROBESON: Is that in the record?
 11 MS. GIRARD: No, not yet. The land planner was
 12 going to use it today, it's kind of in response to your e-
 13 mail. I now staff submitted one with the red outline in the
 14 aerial, but we thought maybe that would be more helpful for
 15 today.
 16 MS. ROBESON: Okay. Do you think, I mean can we
 17 mark it now and --
 18 MS. GIRARD: Sure. And then to the extent he
 19 references we'll have it in.
 20 MS. ROBESON: Now we make you work, Mr. Hicks so -
 21 -
 22 MR. HICKS: Yes.
 23 MS. ROBESON: -- can you just write 47 --
 24 MR. HICKS: Right on this one?
 25 MS. ROBESON: -- no, down in the bottom right.

Page 16

1 MR. HICKS: Down in the bottom right.
 2 MS. ROBESON: Yes, thank you so much. That's all
 3 you have to write. 47 will be aerial photograph of
 4 surrounding neighborhood. Am I correct in that?
 5 MS. GIRARD: Yes.
 6 (Hearing Exhibit No. 47 was
 7 marked for identification.)
 8 MS. ROBESON: Okay. Go ahead, Mr. Hicks.
 9 MR. HICKS: Sure. I'm kind of ad libbing here a
 10 little bit. I'll go back and forth. Sorry, I just marked
 11 this, I'm going to come back to that.
 12 MS. ROBESON: I didn't want to say anything on the
 13 record. For the record --
 14 MS. GIRARD: I've barely been outside. You would
 15 have thought I crawled through a bush on the way here.
 16 MS. ROBESON: For the record, it was a personal
 17 thing. Okay. Go ahead.
 18 MR. HICKS: Just in terms of and I'll come back
 19 and forth and again I'll touch lightly on the topics, a lot
 20 of technical experts smarter than I am on some of these
 21 things. But this is River Road, this is the beltway and
 22 here is the site. You see it --
 23 MS. ROBESON: Okay. Let me just --
 24 MR. HICKS: I can't do that?
 25 MS. ROBESON: -- I keep interrupting but let me

Page 17

1 just stop you. We're on a written transcript so if it gets
 2 appealed, the transcript is not going to know where this is.
 3 So when you testify it's helpful to say the road marked 190
 4 on the map is River Road.
 5 MR. HICKS: I see.
 6 MS. ROBESON: And it's helpful also to say either
 7 in the lower left or to the east or something like that. So
 8 I'm just telling you in advance if you could --
 9 MR. HICKS: Uh-huh.
 10 MS. ROBESON: -- adjust your thinking that
 11 quickly. But that's just an idiosyncrasy of these --
 12 MR. HICKS: No, and that makes perfect sense. I
 13 just wish I had watched more crime dramas on television I
 14 think I'd be a little prepared for this. But looking at
 15 Exhibit 47, which is an aerial photograph --
 16 MS. ROBESON: Perfect.
 17 MR. HICKS: -- showing the site in the middle in a
 18 dash red line.
 19 MS. ROBESON: And the site is marked site on --
 20 MR. HICKS: Yes.
 21 MS. ROBESON: Okay.
 22 MR. HICKS: And the site is in a dashed red line
 23 called site surrounded by the neighborhood it's in --
 24 MS. ROBESON: Okay.
 25 MR. HICKS: -- and the larger red line delineating

Page 18

1 what has been determined to be the neighborhood surrounding
2 the site. You'll see moving from corner to corner, from --
3 MS. ROBESON: From the lower right --
4 MR. HICKS: -- the lower right to the upper left -
5 -
6 MS. ROBESON: -- to the upper right.
7 MR. HICKS: -- is River Road.
8 MS. ROBESON: I mean left. Yes.
9 MR. HICKS: To the far right of the drawing you
10 see 495, then you see our site in the middle of this drawing
11 on the north side of River Road. And I'll come back to
12 that. It's okay to move to this drawing?
13 MS. GIRARD: Yes.
14 MS. ROBESON: Now is that in the record?
15 MS. GIRARD: Yes. And it's labeled 37B.
16 MR. HICKS: 37B.
17 MS. ROBESON: Okay.
18 MR. HICKS: I'm now looking at Exhibit 37B, and to
19 answer Erin, your question, I think I'll start by the
20 showing briefly what it is, what are we doing here? We're
21 developing a 72 resident, 72 room, 72 bed Alzheimer's
22 assisted living facility for seniors with memory disorder,
23 Alzheimer's and things of that sort.
24 Looking at the drawing you'll see that you can't
25 see in a two dimensional, the drawing is a single story but

Page 19

1 it is a single story building. You had four wings or
2 neighborhoods in which you have an equal number of residents
3 living, 72 altogether, you have a central core area where
4 there is activity areas, the offices, the lobby. Dan
5 Dokken, our architect will go into more detail but this
6 gives you a sense of what we're doing.
7 I can say that when we were all with Manor Care
8 years ago, none of us had any affiliation with Manor Care
9 since about 1998, but Arden Courts is an Alzheimer's
10 assisted living product very similar to this. It's
11 something all of us worked on at Manor Care and we've
12 developed a lot of experience with this. The building we're
13 proposing we think of as sort of as a fourth generation
14 Arden Courts. We did develop not as Artis but almost
15 everybody with Artis prior to incorporating Artis developed
16 an assisted living facility very similar to this in Great
17 Falls, Virginia, and I think some of the neighbors have been
18 out there to see that. And we developed, or I should say a
19 group of people that resembles Artis but is not Artis,
20 developed a facility in Olney recently. So do have one in
21 Montgomery County, it gives you a very good idea of what
22 we're proposing here. And it was on the performance and
23 strength and acceptance of those in the community that we
24 decided to start Artis. SO there are facilities you can
25 turn to but it's not accurate to say that Artis owned

Page 20

1 facilities. Although Artis now manages the only facility,
2 kind of a business technical point that I wanted to make
3 then.
4 But that's what we're doing and all we do is
5 Alzheimer's care. There are a number of facilities that are
6 mixed that have independent living, they have general
7 assisted living. We focus on that one core area. And you
8 know there's a time and the treatment of Alzheimer's
9 dementia that you restrained people, you sedated people, I
10 think people got smart to that and developed Alzheimer's
11 wings. Frequently they were a third floor lock down unit.
12 One of the hallmarks of our building that we may get into
13 more later, is that we try to build a single story residence
14 whenever we can and the outdoor area is very important to
15 us. Instead of prohibiting people from moving and
16 wandering, you facilitate the wondering in a very controlled
17 environment, within the building and outside of the
18 building. And that's one of the hallmarks of what we do and
19 why that design is so important to us.
20 MS. GIRARD: Can you just briefly explain where,
21 when you say wander, can you show what areas the residents
22 have access and which they don't?
23 MR. HICKS: Sure. When you come into the
24 facility, it's a keypad entry after hours, but you come into
25 the front of the building, the middle of the building is

Page 21

1 where I'm pointing you right now. You come in there,
2 there's a small lobby waiting area, offices.
3 MS. ROBESON: This is the part of the building
4 adjacent to the driveway?
5 MR. HICKS: That's correct. That's correct.
6 MS. ROBESON: Okay.
7 MR. HICKS: Parking is underneath, we'll get into
8 that later, it is underneath this turnaround, this cul-de-
9 sac, if you will. But when you come into the facility you
10 park underneath you come up in an elevation or stairs to the
11 lobby or if you were to be dropped off you would come in
12 this way around this cul-de-sac and be dropped off. But you
13 come in there, once you get past the lobby if you get into
14 the residence area, there is a 24/7 always keypad entry. So
15 residents aren't allowed to leave unsupervised on their own.
16 Family and visitors can come 24/7 to visit them. But once
17 you get back behind the keypad entry, residents are free to
18 move throughout these various wings or neighborhoods. In
19 the common area they're free to go out into the outdoor area
20 where there's a walkway and around the building and it's
21 controlled here, here and around with a perimeter fence.
22 MS. GIRARD: When you say here and here, can you -
23 -
24 MR. HICKS: Yes, here, that's right, here and
25 here. The sides and rear of the building are completely

Page 22

1 enclosed with a fence that can't be climbed. When we get
2 into the three dimensional aspect of this, you'll see that
3 this building sits down quite a bit and there's a retaining
4 wall in the rear of the facility adjacent to the neighbors.
5 They all --
6 MS. ROBESON: The rear is the west --
7 MR. HICKS: Would be the west.
8 MS. ROBESON: -- or northwest.
9 MR. HICKS: That's correct, the west. So that's
10 what we do, you know, a one story design you give people the
11 maximum ability to move freely in and out of the building in
12 a controlled environment without the appearance of a minimum
13 security prison with cameras everywhere or wander guards
14 where you're tracking people which doesn't do anything to
15 contribute to the dignity of the people that live with us.
16 But let me get to the question Erin asked, you
17 know, why this particular location. Like I said, there's a
18 very strong demand for these services in Potomac, beyond
19 even what we can provide. It is a residential setting, our
20 residents generally have lived in a residential setting all
21 their lives, frequently single family detached so if we can
22 find a location that works for us that allows that continuum
23 of experience to our residents they've been in a
24 neighborhood setting, we'd like to have folks in a
25 neighborhood setting to the extent we can.

Page 23

1 As Erin eluded to the site, I think I'm going to
2 turn back to the aerial, back to Exhibit 47, as you can see
3 it's a residential setting, it's a nice setting. One of the
4 miraculous things about this property is it's already
5 developed and it's already cleared and it's kind of
6 remarkable even to me how little a little clearing we're
7 doing of trees and we'll get into that because it's, once
8 you're going to get up in there you find it's already
9 cleared. We like its proximity to the 495, we like its
10 access off of River Road. It abuts very few neighbors and
11 we'll get into that maybe in a minute in terms of who's
12 adjacent and what sort of outreach we've done. And I think
13 that covers it, essentially.
14 And I think any development initiative, whether
15 it's what we do or anybody does, it's only as good as your
16 ability to secure the necessary support and approvals and
17 having worked in planning and real estate on both the public
18 and private side, I think I've developed a pretty good sense
19 of what passes the smell test when you go into an approval
20 and my professional experience told me that this was a
21 project that passed the smell test and it complied with the
22 ordinance and had a good chance for approval because I think
23 there's a lot of merit to it. So that's part of the reason
24 too.
25 MS. GIRARD: Okay. And can you just briefly

Page 24

1 review, it's detailed in the statement of operations that's
2 in the record, but can you briefly review for us the
3 operations of the facility including, you mentioned
4 visitation, hours of operation, staffing, shifts,
5 deliveries?
6 MR. HICKS: Sure. Hours of operation, obviously
7 it's a residence, so it's just like your own home, it's open
8 24/7. Visitors can come 24/7, there's no limitations on
9 that. Staffing, we have a variety of staff, caregivers,
10 front line caregivers being the largest number. 38 total
11 employees is how many we have. Shifts, we adjusted the
12 shifts in looking at traffic and looking at peak hour
13 traffic issues, the shifts are 6:00 a.m. to 2:00 p.m., 2:00
14 p.m. to 10:00 p.m. and 10:00 p.m. to 6:00 a.m., which tend
15 to be more off peak and I think we have experts that can
16 speak to that in greater detail than I can.
17 Deliveries, typically UPS type deliveries are
18 daily. Food perishables are one to two times per week.
19 That's the major servicing traffic comes in. Moves in and
20 move out, we'll probably get three to four residents move in
21 per month as we lease up initially and it's hard to say
22 within any assurance exactly what the move out rate would
23 be. But I'd say on average it would be zero to two
24 residents leaving and coming in once the facility is
25 completely leased and stabilized.

Page 25

1 MS. GIRARD: Okay.
2 MS. ROBESON: I have a question about visitors.
3 MR. HICKS: Uh-huh.
4 MS. ROBESON: One part I think of your prehearing
5 submission states that they come mostly, I think it said the
6 evening. And that's not counted of course in your traffic
7 counts, but do you have an idea of what the traffic, because
8 that may come, the visiting hours aren't controlled,
9 correct?
10 MR. HICKS: Correct. Correct.
11 MS. ROBESON: So what do you anticipate in terms
12 of visitors and timing during evening or peak hours?
13 MR. HICKS: Sure. Let me, just to set the stage
14 for that and I take some of this for granted, but it's
15 important to state this, none of our residents drive and I
16 think that's what really distinguishes us from a lot of
17 retirement and senior type housing efforts.
18 MS. ROBESON: Right, but I was concerned about --
19 MR. HICKS: Right.
20 MS. ROBESON: -- visitors.
21 MR. HICKS: Yes, exactly. You know the curious
22 thing too we found is that and I have a lot of experience
23 with this, is as it relates to visitors, people with
24 dementia and Alzheimer's, and we know this having not only
25 build, owned and operate, and I should say that too because

1 I think it's relevant to some that follows, you know, we're
 2 kind of, you do it the old fashioned way, we build them and
 3 operate, that doesn't seem very unique, but it's becoming
 4 more and more exceptional in that we don't flip this to some
 5 other entity and just retain a management contract. So all
 6 of us that are with this now, even myself on the front end
 7 stay with this forever, which is relevant. But as it
 8 relates to visitation, we found that Alzheimer's and
 9 dementia residents don't get the same number of visitors
 10 that independent living and even general assisted living
 11 residents do. If a neighbor comes to visit and the neighbor
 12 is never recognized that neighbor tends to not come as much
 13 and that's one of the unfortunate realities of what we do.
 14 People come in our experience is that a number of
 15 caregiving children, neighbors, work are busy during the day
 16 so many of them won't come during the day, they'll come on
 17 weekends, they'll come in the evening, after hours. That's
 18 our experience. And we can get in, we have some technical
 19 effort that's been undertaken to get to this. I don't know
 20 that it distinguishes the visitors as a separate cohort in
 21 the trip generation but I think it is --
 22 MS. ROBESON: Well I didn't see them included in,
 23 I mean technically for LATR purposes, I'm not sure the
 24 visitors would be. But you've adjusted staff and you've
 25 adjusted things to be outside the peak hour but not the

1 visitors. So that was --
 2 MR. HICKS: But we can't as a practical matter
 3 tell people you can't come and visit --
 4 MS. ROBESON: No, I'm not suggesting that at all.
 5 MR. HICKS: Uh-huh.
 6 MS. ROBESON: I'm just saying, part of what we try
 7 to figure out is the impact of the use.
 8 MR. HICKS: Uh-huh.
 9 MS. ROBESON: And that was kind of a whole that
 10 wasn't included in the Staff Report. So you don't need to
 11 answer it now.
 12 MR. HICKS: Uh-huh.
 13 MS. ROBESON: So if you could address that though
 14 that would be helpful I think to kind of, sometimes the
 15 traffic review doesn't capture all the impacts of a proposed
 16 use. And part of what we need to know including is the
 17 traffic impact going to be at that access point, what's the
 18 impact of that. So you don't need to answer it now.
 19 MR. HICKS: Uh-huh.
 20 MS. ROBESON: -- but if you could follow up with
 21 information on that.
 22 MS. GIRARD: Yes, we can certainly explore that
 23 with our traffic consultant, but also you know like Jay
 24 mentioned, they have two other facilities in the area and to
 25 the extent that, you know, we could get some data on them.

1 MS. ROBESON: If you have any information on --
 2 MS. GIRARD: When those visitors tend to come.
 3 MS. ROBESON: -- and number of visitors and that
 4 type of thing because that would be a peak hour if there are
 5 problems at this intersection that would be a peak hour
 6 issue.
 7 MS. GIRARD: Okay. And that leads us pretty
 8 smoothly into the next question which was about site access.
 9 MR. HICKS: Uh-huh.
 10 MS. GIRARD: And we had mentioned and before how
 11 is the site currently accessed?
 12 MR. HICKS: You want me to -- yeah, I can do that.
 13 I'm going to go back to Exhibit 37B which is a Site Plan
 14 showing access. River Road moves along the bottom of the
 15 page and what I'm pointing to now is an existing curb cut
 16 that exists on River Road servicing a resident that's up
 17 here, an existing residence that's in the middle of the
 18 property today. This access drive is here today, the
 19 easement really exists from a point where the right-of-way
 20 with the State ends and the property begins. So it's not as
 21 if there is an easement that runs the entire length of the
 22 drive, if you were to go out there. What you had was a
 23 driveway that accesses --
 24 MS. ROBESON: So the easement doesn't cover the
 25 SHA property?

1 MR. HICKS: I think the easement is separate from
 2 the SHA right-of-way. Right. You've got right-of-way,
 3 continuous to that is an easement that traverses a small
 4 distance --
 5 MS. ROBESON: Through the parks?
 6 MR. HICKS: -- over park property and then you
 7 pick up our property, the private property that moves. And
 8 with my finger I'm drawing my finger along the access point
 9 from River Road up the driveway, commenting on when it goes
 10 from SHA right-of-way to the park property to private
 11 property. And there's an existing 20 foot easement there.
 12 What we're simply doing as part of our project is slightly
 13 expanding the pavement width to meet standards. There will
 14 be a very minimal amount of disruption immediately adjacent
 15 to the easement. We've talked to Parks on two or three
 16 occasions now and I understand your prior comment about
 17 wanting something in writing, but I will say what transpired
 18 is their understanding a very negligible amount of impact
 19 we'd be having and in exchange for that we would be
 20 dedicating to them this portion of the property and I'm
 21 using my finger to highlight a rectangle.
 22 MS. ROBESON: That's the eastern --
 23 MR. HICKS: This would be the, this could be the
 24 north, the western and the north --
 25 MS. ROBESON: No, it's the eastern --

Page 30

1 MR. HICKS: -- it's the eastern portion of the
2 property.
3 MS. ROBESON: Right.
4 MR. HICKS: That is --
5 MS. ROBESON: Above the drive aisle?
6 MR. HICKS: Above the driveway and to the east of
7 the cul-de-sac driveway in front of the facility. And what
8 we've indicated is that we would be happy to dedicate this
9 approximately 1 acre area of forested area that's contiguous
10 to the park on two sides to the Park Authority or whoever
11 needed it in exchange for this very modest level of
12 facilitation of our driveway adjacent to the existing
13 driveway that's there.
14 MS. ROBESON: Now is it going to be under forest
15 conservation easement or is this a question for the
16 engineer?
17 MS. GIRARD: The engineer will go into it.
18 MS. ROBESON: Okay.
19 MR. HICKS: He'll cover that in greater detail.
20 That's just a quick orientation of the issue.
21 MS. GIRARD: And you mentioned the existing
22 easement. Is this this easement?
23 MR. HICKS: Let's take a look. This, yeah, this
24 is it.
25 MS. GIRARD: Okay. I'd like to submit that into

Page 31

1 the record.
2 MS. ROBESON: Okay. Do you want to show, I guess
3 you don't have a copy --
4 MS. GIRARD: Actually I did make a copy of that.
5 MS. ROBESON: Thank you. Okay. And this will be
6 Exhibit 48, access easement.
7 (Hearing Exhibit No. 48 was
8 marked for identification.)
9 MS. GIRARD: Okay. You had mentioned the parking
10 being below grade. How many parking spaces do you have
11 proposed on site?
12 MR. HICKS: 38 spaces.
13 MS. GIRARD: And in your outreach with the
14 community and before the Planning Board there was some
15 concern expressed about that number of spaces, was there
16 not?
17 MR. HICKS: Yes.
18 MS. GIRARD: And what's your response to that
19 concern?
20 MR. HICKS: The ordinance requires 27 spaces, I
21 think we started the process at 32 in response to comments
22 we heard. Continued to increase the parking to the point
23 where we are today at 38.
24 MS. GIRARD: How does that number compare from a
25 ratio perspective with the other facilities?

Page 32

1 MR. HICKS: A comparable, a comparable amount.
2 MS. GIRARD: And how would you accommodate
3 overflow parking to the extent that there were days, I think
4 you had mentioned Mother's Day as being particularly heavy
5 for visitors.
6 MR. HICKS: It doesn't always happen but our
7 experience is there are some days, certain religious
8 holidays, Mother's Day tends to be a biggie. But depending
9 on our occupancy at the moment and depending on the nature
10 of our residents and what type of family connections they
11 still have and whatnot, we're very in touch with our
12 residents and their families. If we think they'll ever be
13 on those rare occasions the need for more parking, we've
14 made arrangements with churches, schools in the nearby area
15 and we'll run a shuttle service for that day. And there,
16 and we always do this at this point in the process just to
17 take a look at who is out there. There are a number of
18 churches and schools in the neighborhood that I think are
19 candidates. I talked to Saint Marks down River Road and
20 they provide, their parking lot is excess to the
21 requirements, frequently it's empty based on their
22 programming and what they do and I just have a conversation
23 --
24 MS. ROBESON: Do you have an issue with a
25 condition of approval requiring that?

Page 33

1 MR. HICKS: That I secure off site arrangements?
2 No, not at all. And it was premature to enter into anything
3 formal, but I --
4 MS. ROBESON: I understand.
5 MR. HICKS: -- told them who and they said sure,
6 we've done this for other people and we can't commit, we
7 need to know when you'd want to do this and some other
8 details. And I said no, that's all I need right now just
9 that there is a willingness for it. We've never had a
10 problem with, particularly churches, offering that kind of
11 service. So I'm sure this won't be any different. And
12 that's a mile and a half, you know, three minutes away,
13 about a mile and a half away and there's some other
14 potential opportunities around there.
15 MS. GIRARD: As part of planning staff's review of
16 the application, the issue of pedestrian access from River
17 Road to the site was brought up. How is that addressed?
18 MR. HICKS: Maybe I should get up again. And I'm
19 going back to Exhibit 37B pointing to the point in which the
20 driveway enters River Road. We've done a couple of things,
21 we'll get into more detail later, but what we've committed
22 to do is just stripe, and I'm drawing my pencil across the
23 driveway, the lane side of the driveway part of the pavement
24 will be stripped and then some of the area immediately to
25 the right of the paved surface as you move up the driveway

Page 34

1 will be mulched and made passable for pedestrians. It's
2 just like stairs in an office building, you would hope
3 people would take advantage of the opportunity to walk. But
4 if people chose not to for whatever reason, we're proposing
5 to put a callbox out of the SHA right-of-way that would --
6 MS. ROBESON: Where is the callbox?
7 MR. HICKS: We're going to put it right in that, I
8 think we're going to put it, it's not shown on this map but
9 we would put it on our property.
10 MS. ROBESON: On park's property?
11 MR. HICKS: Park's property out of the right-of-
12 way right here.
13 MS. ROBESON: Wait. I'm sorry.
14 MR. HICKS: In this area, I'm showing, pointing to
15 an area outside of the right-of-way just north of the SHA
16 right-of-way line and to the portion of the drive area near
17 the right-of-way line on the park property.
18 MS. ROBESON: Okay. So how are they going to get
19 from the SHA right-of-way to the Park's property?
20 MR. HICKS: There is a bus stop here existing
21 today. We're proposing to rebuild the pad for a new bus
22 shelter, we'll build it, it's in the block here. If they
23 didn't want --
24 MS. ROBESON: But I thought it was for ADA
25 purposes. I thought that callbox was for ADA purposes?

Page 35

1 MR. HICKS: And convenience.
2 MS. ROBESON: Okay. But for ADA purposes, how are
3 they going to get from the bottom of the driveway to the
4 park property?
5 MR. HICKS: From here to here.
6 MS. ROBESON: But, okay.
7 MR. HICKS: From the driveway, I guess from the
8 entrance --
9 MS. ROBESON: But is that, like what's the grade,
10 does the grade meet the requirements and maybe this is a
11 question --
12 MS. GIRARD: The engineer can --
13 MR. HICKS: We'll turn to the engineer.
14 MS. GIRARD: Yes.
15 MR. HICKS: But it is very flat.
16 MS. ROBESON: Okay.
17 MR. HICKS: Easily traversable. The challenge is
18 getting up this slope here.
19 MS. ROBESON: Okay.
20 MR. HICKS: So if you didn't want to walk the
21 distance of the driveway or the slope of the driveway, even
22 if they could and those chose not to, there is a callbox
23 that's sheltered that people can call down and we have a, I
24 call it a golf cart type vehicle that will come down and
25 pick people up and bring them up.

Page 36

1 MS. ROBESON: And is there room for that golf cart
2 to turn around?
3 MR. HICKS: Easily, yes.
4 MS. ROBESON: Okay.
5 MR. HICKS: And the engineer can speak to that
6 too.
7 MS. ROBESON: Okay.
8 MR. HICKS: But that's it in a nutshell.
9 MS. GIRARD: Okay. We mentioned before the
10 community outreach you've conducted as part of developing
11 your plans. Can you briefly describe who you met with and
12 generally when?
13 MR. HICKS: Sure. I think the first thing we did
14 was sent out the letters to what we perceive 7 homeowners,
15 residents that would be most directly impacted. Three and
16 I'm going --
17 MS. ROBESON: Back to 37B?
18 MR. HICKS: Maybe I'll switch it up on you and go
19 back to new Exhibit 47.
20 MS. ROBESON: Okay.
21 MR. HICKS: And what I'm pointing at are three
22 lots immediately behind our site.
23 MS. ROBESON: To the northwest.
24 MR. HICKS: To the west/northwest, that's correct.
25 And on the opposite side or the south side of River, we

Page 37

1 picked four houses that we felt sat high above River Road as
2 our site does and that there was some potential for those
3 residents to see across River Road because they were at the
4 same elevation. We sent out seven letters and we got
5 responses from the three families that live adjacent to the
6 site, behind the site to the west, the Barnello's, the
7 Long's and the Shorb's. And we went and met with one of
8 them in their office, we walked the site with Ms. Long, who
9 I think is here, right behind me, and then had an
10 orientation meeting for those three at December 17th at the
11 Cabin John Firehouse, right near the property and we did an
12 orientation session to this. We also sent out letters and
13 e-mails to Congressional Forest Community Association, River
14 Hill HOA, River Hill Condo Group and Carderock Springs
15 Community Association. And Carderock and River Hill, two of
16 the four said geez, that'd be great we'd love for you to
17 come and present to us. Can you wait until we have our
18 annual meeting, we'll have a better turnout and we were
19 happy to wait and do that. We did one on April 26th and one
20 on April 27th.
21 MS. GIRARD: And what kind of feedback did you get
22 at those meetings?
23 MR. HICKS: I think maybe first with the three
24 immediate neighbors had a lot of general questions,
25 obviously, about the nature of what we did, the size, the

Page 42

1 will the engineer be able to tell exactly where you want the
2 path --
3 MS. GIRARD: Yes.
4 MS. ROBESON: -- to stop?
5 MS. GIRARD: He will go through it in detail as
6 well our transportation consultant. Okay. Mr. Hicks, so in
7 light of your testimony and based on your familiarity with
8 the plans, the expert reports we submitted with the
9 application and just your experience, understanding you're
10 not qualified as an expert, but you do have some experience
11 in this area, will the proposed condition use be in harmony
12 with the character of the surrounding area?
13 MR. HICKS: Yes, I believe so.
14 MS. GIRARD: And in your opinion would the
15 proposed conditional use cause undue harm to the peaceful
16 enjoyment, economic value or development potential of
17 abutting and confronting properties in the general
18 neighborhood?
19 MR. HICKS: No, I don't believe so.
20 MS. GIRARD: In your opinion would the proposed
21 conditional use have an adverse effect on the health, safety
22 or welfare of the neighboring residents, visitors, or
23 employees?
24 MR. HICKS: No.
25 MS. GIRARD: If the Hearing Examiner and/or a

Page 43

1 Board of Appeals were to grant the application subject to
2 the reasonable conditions as we just discussed with the
3 modification that you're seeking would it be your intention
4 to construct and operate the improvements in accordance with
5 the plans that have been submitted and the conditions
6 imposed?
7 MR. HICKS: Yes, definitely.
8 MS. GIRARD: Is there anything else you'd like the
9 Hearing Examiner to consider?
10 MR. HICKS: Just that you know it's easy and
11 appropriate that we get into the technical side of the land
12 use decision making and get it right. So I'm entirely
13 sympathetic with that. I think I'd just like to close by
14 taking it back up top and talk about what we do and you know
15 we're not a typical multifamily project or we're not a
16 subdivision. We provide much needed care for the growing
17 population of seniors with Alzheimer's and dementia and
18 that's what we do and we think there is real need for it and
19 there's going to be a growing need. In fact I'd go so far
20 to say there's a lot that's been written and said about
21 this. There is a crisis coming and we're starting to see it
22 and we haven't even hit the baby boom age cohorts yet. I
23 mean, you know there are --
24 MS. ROBESON: Wait, you're depressing me.
25 MR. HICKS: I'm depressing myself.

Page 44

1 MS. ROBESON: I know, I'm teasing.
2 MR. HICKS: And if you feel bad now, wait until
3 I'm done. You know there is 5 million people in this
4 country today with Alzheimer's and dementia and it's going
5 to go up 40 percent to 7 million by 2025. I mean you know
6 that's 10 years. And it's one of those many inconvenient
7 truths out there that we're getting older and we need more
8 of this and Potomac today and in the future it's going to be
9 more than I can provide and that's just, I think you in your
10 position are going to see more and more people over the
11 years coming in doing what we do because there's a need for
12 it.
13 I think in the final analysis I think what we do
14 is provide seniors who become afflicted with Alzheimer's and
15 dementia, who have lived in Potomac an opportunity to stay
16 in Potomac. And we give adult caregiving children the
17 opportunity to bring a parent from New York or Chicago or
18 Poughkeepsie or wherever they're from to come be near them
19 and we think that's important. We're good at what we do,
20 we've been doing it for a while and I think we'd be a real
21 asset to the community.
22 So that's all I really have to say in closing.
23 MS. ROBESON: Thank you very much.
24 MR. HICKS: Thank you.
25 MS. ROBESON: Do you have any questions only based

Page 45

1 on his testimony?
2 MS. CARLSON: I don't have a question exactly but
3 I would counter his statement --
4 MS. ROBESON: Okay. Then --
5 MS. CARLSON: Okay.
6 MS. ROBESON: -- save that --
7 MS. CARLSON: Okay.
8 MS. ROBESON: -- for your testimony. This is only
9 the time for questions. You've become an immediate, anyway.
10 So with that, Ms. Girard, thank you Mr. Hicks.
11 MR. HICKS: Thank you.
12 MS. ROBESON: And do you want to call your next
13 witness?
14 MS. GIRARD: Yes, my next witness is Patrick
15 LaVay.
16 MR. HICKS: I go back there?
17 MS. GIRARD: Yes, you go back there.
18 MS. ROBESON: Mr. LaVay, please raise your right
19 hand. Do you solemnly affirm under penalties of perjury
20 that the statements you are about to make are the truth, the
21 whole truth and nothing but the truth?
22 MR. LAVAY: I do.
23 MS. ROBESON: Okay. Go ahead, Ms. Girard.
24 DIRECT EXAMINATION
25 MS. GIRARD: Mr. LaVay, I believe you've testified

Page 46

1 before the Hearing Examiner in Montgomery County before?
2 MR. LAVAY: Yes.
3 MS. GIRARD: How recently?
4 MR. LAVAY: My last testimony was in I believe
5 2012.
6 MS. GIRARD: Okay. Do you remember the case?
7 MR. LAVAY: I checked but I don't think I have my
8 resume with me but it was Alfred House Senior Living --
9 MS. ROBESON: Oh that was my case.
10 MR. LAVAY: I believe it was.
11 MS. ROBESON: Yes.
12 MS. GIRARD: How did he do?
13 MS. ROBESON: I remember that case.
14 MS. GIRARD: We would move --
15 MS. ROBESON: I would like 200.
16 MS. GIRARD: -- his admission, but can go through
17 his qualifications if you'd prefer.
18 MS. ROBESON: You've testified, your resume is in
19 the record, correct?
20 MS. GIRARD: It is.
21 MR. LAVAY: That's correct.
22 MS. ROBESON: I do --
23 MS. GIRARD: It's Exhibit 28.
24 MS. ROBESON: -- remember you're having qualified
25 as an expert before, so absent any objection and hearing

Page 47

1 none, I'm going to qualify you is it as a land planner?
2 MS. GIRARD: No, civil engineer.
3 MS. ROBESON: Ms. Bryant is the land planner.
4 MS. GIRARD: Yes.
5 MS. ROBESON: Okay. A civil engineer. I'll
6 qualify him as an expert in civil engineering.
7 MS. GIRARD: Great. Mr. LaVay, are you familiar
8 with the condition of this property, the surrounding area
9 and the application number CU 15-05?
10 MR. LAVAY: Yes, I am. I have visited the site
11 several times and I have overseen our design efforts on the
12 project since this application was submitted.
13 MS. GIRARD: Okay. And have you analyzed, I guess
14 you have, the suitability of the property for the proposed
15 conditional use from a civil engineering standpoint?
16 MR. LAVAY: Yes, I have and that would include the
17 Montgomery County Zoning Ordinance as well as other local
18 and state laws related to civil engineering.
19 MS. GIRARD: Okay. And you have prepared, have
20 you not, a civil engineering report that's in the record?
21 MR. LAVAY: Yes, I have.
22 MS. GIRARD: And Exhibit Number 13. Can you
23 review the findings of your civil engineering analysis for
24 the property?
25 MR. LAVAY: Sure. I supposed we'll start with the

Page 48

1 existing conditions and some of these were already touched
2 on. But the property is addressed at 8301 River Road. It's
3 on the north side of River Road approximately 1,200 feet
4 west of the Stoneyhurst Quarry Development, just beyond
5 there is a vehicular bridge that goes over Cabin John Creek.
6 MS. ROBESON: Just beyond to the west?
7 MR. LAVAY: To the west, excuse me.
8 MS. GIRARD: To the west of the quarry site?
9 MR. LAVAY: To the west of the quarry site and --
10 MS. GIRARD: It's to the east of the --
11 MR. LAVAY: -- to the west, it's to the west of
12 the bridge as well.
13 MS. GIRARD: Okay.
14 MR. LAVAY: The site is.
15 MS. GIRARD: The site is, yes. I've been there.
16 MR. LAVAY: The site is currently occupied and
17 developed with a large single family home that includes two
18 separated two car garages, a tennis court, an outdoor pool
19 and a pool house as well as a long driveway that does cross
20 over a portion of parks property and a 20 foot existing
21 easement.
22 With the exception of the cleared area on the
23 property, on all sides of that cleared area there are
24 significant topographic changes. Across the property from
25 west to east there is approximately a 60 foot grade change,

Page 49

1 but as it relates to where --
2 MS. ROBESON: Do you have an existing conditions
3 plan?
4 MR. LAVAY: I do.
5 MS. ROBESON: I don't want to interrupt you but it
6 would help me to, I know there's one in the record.
7 MR. LAVAY: Can I speak from here, from this --
8 MS. GIRARD: Yes.
9 MS. ROBESON: Yes, you may. And that existing
10 conditions plan is --
11 MS. GIRARD: Exhibit 37A.
12 MS. ROBESON: Okay.
13 MR. LAVAY: There is a revised version that --
14 MS. ROBESON: Okay.
15 MR. LAVAY: -- updates, requested technical staff.
16 MS. ROBESON: Okay. Thank you.
17 MR. LAVAY: So again, the existing cleared area is
18 on the western half of the property. Again there is a house
19 sort of in the middle of that clear area. The tennis courts
20 are in the northwest corner, the pool is in the north of the
21 house and there is a long driveway that runs west to east
22 and it crosses the park's property in the 20 foot wide
23 easement and the SHA right-of-way.
24 The existing topography, as I said, is
25 approximately a 60 foot grade change between the western

Page 50

1 property boundary and the eastern property boundary. When
2 you account for actually getting out to River Road, it's
3 more like 100 feet of elevation change.
4 MS. ROBESON: Okay.
5 MR. LAVAY: This is a little bit of an atypical
6 scenario in that the River Road right-of-way is excessively
7 wide --
8 MS. ROBESON: Right.
9 MR. LAVAY: -- along the front of the property so
10 you have about 200 feet of right-of-way width just on one
11 side of the road, which is pretty excessive and in that
12 right-of-way there is a line of steep slopes and there is
13 forested area as well.
14 As shown on the existing conditions plan and the
15 natural resources inventory and forest conservation plans on
16 the western side of the right-of-way frontage there is an
17 existing cleared area, a natural clearing and we'll get into
18 that further in some of our testimony but that I just wanted
19 to point out.
20 MS. ROBESON: Is that why the water easement was
21 moved further to the west?
22 MR. LAVAY: Correct.
23 MS. ROBESON: To come within that cleared area?
24 MR. LAVAY: Correct. Although we'll get into this
25 again, but this is, the water line will run completely on

Page 51

1 SHA right-of-way so there is no need for easement. It's
2 just a public utility that traverses the right-of-way.
3 MS. ROBESON: Right.
4 MR. LAVAY: There will be a meter easement that's
5 on the inside of the property.
6 MS. ROBESON: Okay.
7 MR. LAVAY: Let's see here. As far as utilities,
8 I should mention that there is, on the site existing has
9 approximately 2.1 acres of area that meets the definition of
10 forest. There are no wetlands, streams, floodplains or
11 buffers on the site. On the park's property there is a
12 stream valley buffer that does extend up onto the two
13 accesses.
14 MS. ROBESON: Can you point that out on the
15 existing conditions plan?
16 MR. LAVAY: I have to reference the forest
17 conservation plan because the buffer is not shown on the
18 existing --
19 MS. ROBESON: Okay.
20 MR. LAVAY: -- conditions plan. But even that's,
21 if I know where it is, here you go.
22 MS. ROBESON: Boy you have these memorized where
23 they are.
24 MR. LAVAY: It's Exhibit 37E.
25 MS. ROBESON: Yes.

Page 52

1 MR. LAVAY: And in the lower right corner, there
2 is a few lines that run north south, there is one --
3 MS. ROBESON: I see it.
4 MR. LAVAY: -- delineated as FP, that's
5 floodplain. That's actually outside of the area that we're
6 working in.
7 MS. ROBESON: Okay.
8 MR. LAVAY: And there's an FP BRL, building
9 restriction line to the floodplain and that's just on the
10 outside of where we're working.
11 MS. ROBESON: I see it.
12 MR. LAVAY: And then further in there is an SVB
13 line that's actually a stream valley buffer.
14 MS. ROBESON: Okay.
15 MR. LAVAY: And the existing driveway does go
16 through that area.
17 MS. ROBESON: Yes.
18 MR. LAVAY: And we're proposing, you know, minimal
19 impacts in that area and we'll get into that later. But all
20 of that is off of the actual property that's on the park's
21 property, and this is not within an SPA, special protection
22 area or a Patuxent primary management area.
23 Referring back to the existing conditions plan,
24 37A, some utility issues the existing house is served by
25 well water and the reason for that most likely is that the

Page 53

1 only water service in River Road apparently has a 66 inch
2 diameter line that everybody may remember ruptured about
3 five years ago.
4 MS. ROBESON: I do remember.
5 MR. LAVAY: It was a very large diameter main.
6 WSSC doesn't allow taps on those size pipes and so in order
7 for this project to move forward we would need to provide a
8 public extension of water service. We do have WSSC's Phase
9 1 authorization to do that, we have an approved hydraulic
10 planning analysis for the alignment that you see for that
11 water line through SHA right-of-way. Sewer service, there
12 actually is a connection to public sewer on the site. The
13 house drains to a four inch sewer line that runs west to
14 east down the driveway and there's a manhole at the corner
15 of the property that's actually in an existing WSSC sewer
16 right-of-way and then from there it's public sewer through
17 the property, through the park's property.
18 MS. ROBESON: Okay. So it's existing septic, it's
19 served by existing --
20 MR. LAVAY: It's served by public sewer not
21 septic.
22 MS. ROBESON: I'm sorry. Public sewer.
23 MR. LAVAY: Correct.
24 MS. ROBESON: And you're in W1.
25 MR. LAVAY: We are in W1 so there is no category

Page 54

1 change necessary but there is not a confronting main that is
2 available for connection.
3 MS. ROBESON: Right.
4 MR. LAVAY: So we're providing a new public main
5 at 8 inches and I'll show that on the Site Plan analysis.
6 MS. ROBESON: And that's going to connect to the
7 66 inch main?
8 MR. LAVAY: It actually will connect into an
9 existing, I think it's a 10 or a 12 inch line that's in
10 Clewerwall Drive.
11 MS. ROBESON: Okay.
12 MR. LAVAY: Referring back to the forest
13 conservation plan, 37E, Clewerwall Drive sort of snakes on
14 the left hand side, the left side of this picture, snakes
15 around and there is a right-of-way that does this and WSSC
16 prefer that we connect into that line because it's smaller.
17 MS. ROBESON: I see. Okay.
18 MR. LAVAY: And we chose the location of this
19 alignment based on field investigations and field locations
20 of the trees, discussion with technical staff on the
21 alignment to minimize and to avoid impacts to existing
22 trees.
23 MS. ROBESON: Is that going to require clearing?
24 MR. LAVAY: There will be some, a lot of what's in
25 there is below the actual forest line. There is some

Page 55

1 material in there, it's not high quality material it's just
2 overgrowth and things like that, some of that will be
3 cleared. But all the specimen trees in that area, there's
4 only one that's actually it's not a specimen tree but
5 there's only one tree that's significant bigger than 24
6 inches, it's professionally removed.
7 We've also aligned that water line based on the
8 minimum setback requirements from that 66 inch main that's
9 in here.
10 MS. ROBESON: Okay.
11 MR. LAVAY: Referring back to the existing
12 conditions plan, which is again 37A other utilities of the
13 project property served by, there is a gas service that
14 comes in on the west side of the property on a perpendicular
15 road and it ends up at the existing building. And then
16 there's also in the same in the location there is overhead
17 power and communication lines that come in to the western, I
18 guess I should say the southwestern corner of the property
19 and then are undergrounded up in this site.
20 MS. ROBESON: Okay. And those exist?
21 MR. LAVAY: Those exist.
22 MS. ROBESON: Okay.
23 MR. LAVAY: And they likely will need to be
24 upgraded but the structure is there.
25 MS. ROBESON: Great.

Page 56

1 MR. LAVAY: Just real quick on the driveway, on
2 the east side, this is within the SHA right-of-way and then
3 crosses the park's property. The existing driveway is
4 approximately as you come through to the SHA right-of-way,
5 approximately 16 feet wide and then it remains about 16 feet
6 wide throughout half of the park's property and then starts
7 to narrow down to 12 feet. We're proposing to expand that
8 to current standards. Even if this were a new residential
9 subdivision or a new residential home it would still meet
10 fire requirements of 20 feet.
11 MS. ROBESON: 20 feet.
12 MR. LAVAY: Yes, so and we're not proposing curb
13 and gutter in most of that area that's in the easement but
14 just to create a 20 foot wide pavement section there's a
15 little bit of additional work that has to happen to make all
16 that happen.
17 MS. ROBESON: Is storm water coming out the
18 easement over here or are you doing it all through on site
19 bio retention?
20 MR. LAVAY: It's probably a good time to
21 transition to the description --
22 MS. GIRARD: And that's fine.
23 MR. LAVAY: -- of the --
24 MS. ROBESON: Okay.
25 MR. LAVAY: -- so as Mr. Hicks mentioned --

Page 57

1 MS. ROBESON: And you're looking at --
2 MS. GIRARD: Exhibit?
3 MR. LAVAY: Sorry. This is 37B.
4 MS. ROBESON: Okay. Thank you.
5 MR. LAVAY: The Site Plan.
6 MS. ROBESON: Yes.
7 MR. LAVAY: As Mr. Hicks mentioned, the plans call
8 for a single story 72 bed structure, approximately a total
9 of 40,000 gross square feet that includes underground
10 parking. We'll start on the east side of the site. As you
11 come in where we're proposing to expand that driveway to 20
12 feet width to meet fire access and two way traffic
13 requirements. I should also note that we do have an
14 approved plan from Montgomery County Fire Rescue.
15 MS. ROBESON: Yeah.
16 MR. LAVAY: So that's all been set in stone. And
17 that includes the access for the building and everything.
18 So coming up the driveway the, driveway is going to be
19 widened to 20 feet. We chose to widen the driveway in the
20 north, northeast direction because there is a PUE along, a
21 type of PUE although it's not being used and may never be.
22 MS. ROBESON: Okay.
23 MR. LAVAY: We chose to widen it in the north
24 direction, not the south direction, because in either way
25 you widen the road there is slopes on both sides. So

1 there's probably going to be a knee high retaining wall
2 needed to make all that happen. And so we can't put
3 something like that in the PUE so we figured let's put it on
4 the north side. Also the forest line is somewhat set back
5 from the existing driveway so that gives us some room to
6 work on that side.

7 As Jay also mentioned, we're proposing to put a
8 stripped path along the driveway, that was also reviewed by
9 Fire Rescue --

10 MS. ROBESON: Yeah.

11 MR. LAVAY: -- and they're okay with that. As far
12 as the --

13 MS. ROBESON: And that's within as I understand it
14 that's within the 20 feet.

15 MR. LAVAY: Correct.

16 MS. ROBESON: So you have a drive only aisle of 17
17 and then a combined pedestrian drive aisle for 3 feet. Is
18 that correct?

19 MR. LAVAY: It would actually be 15 by, so you
20 have 15 --

21 MS. ROBESON: The drive, the part dedicated to
22 vehicles is 15.5?

23 MR. LAVAY: 15 feet and then part dedicated, or
24 the shared use portion is 5 feet. Shared use being vehicle
25 and pedestrian.

1 MS. ROBESON: Okay. All right. I had the footage
2 wrong.

3 MR. LAVAY: Yes, it would be varied because of the
4 length of the slope, we think it will be a very infrequent,
5 it would be infrequent for someone, cars and persons to
6 conflict there, especially with the low traffic volume. But
7 to answer one of the questions about the bus stop, so in
8 discussion with technical staff there, and I think even the
9 community has mentioned that these bus stops don't have good
10 shelter. We agreed to, subject to SHA approval, put in a
11 pad, because Montgomery County Department of Transportation
12 actually puts in the shelters.

13 MS. ROBESON: Right.

14 MR. LAVAY: We'll pad for them and they could
15 place a shelter there, so it would be a covered area at the
16 bus stop. And then we would propose a crosswalk going west
17 to east across the driveway at entrance, and then the
18 striping would actually meet there. So there will be an
19 accessible path and the grade is actually very flat here.
20 There would be an accessible from that bus stop onto the
21 park's property easement --

22 MS. ROBESON: Okay.

23 MR. LAVAY: -- where the callbox and canopy will
24 be located. So a disabled person or someone that just
25 doesn't want to walk up the hill or someone with a stroller,

1 can stop and have shelter, an area of refuge and they could
2 call up to the building to come get picked up.

3 For those that choose to continue to go up the
4 road, we do have the five foot shared roadway path for mass
5 trans and then behind the curb line, the curb actually
6 starts on a portion of the park's property easement and
7 that's where the grade starts to meet the change and the
8 curb house changes that change.

9 MS. ROBESON: Okay.

10 MR. LAVAY: But behind the curb it will be, we're
11 calling it a natural surface pad, wood chips, something like
12 that that's not pervious so that in the event that there is,
13 you know, a trash truck coming down the hill someone can
14 step up on the path and be out of the way.

15 MS. ROBESON: Okay.

16 MR. LAVAY: So as you come up the driveway again
17 going east to west, when you get to about the, I guess it's
18 the south corner of the proposed forest conservation
19 easement, the southwest corner of the proposed forest
20 conservation easement, there is a right turn where you would
21 turn to go into the garage and that's an entry to an
22 underground garage.

23 MS. ROBESON: Okay. Go ahead.

24 MR. LAVAY: So you turn left to go into the
25 garage. If you were to continue straight there will be a

1 guard for trash, the transformer and emergency generator and
2 all that will be in an enclosed area that sits just to the
3 right of the garage entry. When you enter the garage there
4 is room for, there is 35 regular parking spaces, two
5 accessible in the garage and that will also leave room for
6 the, I'll call it a golf cart, as well.

7 If you chose to go up to the building for say
8 drop-offs, deliveries you would continue, you would not turn
9 right into the garage you would continue left and go up and
10 then you'd go up and over the garage as the grade continues
11 to rise and out in front of the building there is a cul-de-
12 sac, if you will, and we envision that cul-de-sac being used
13 for just drop offs and deliveries really.

14 MS. ROBESON: You don't need, you aren't talking
15 tractor trailers, you're talking even for food?

16 MR. LAVAY: Well no, this use wouldn't require a
17 tractor trailer, although the fire requirements --

18 MS. ROBESON: Yes.

19 MR. LAVAY: -- are big enough that a tractor
20 trailer could get through there.

21 MS. ROBESON: Okay. I just mean circulation wise.
22 Do you have a loading area?

23 MR. LAVAY: Well, all loading would happen at the
24 main entrance.

25 MS. ROBESON: I see. Okay.

Page 62

1 MR. LAVAY: So it's not striping doesn't need
2 loading but as infrequent as it is, we --
3 MS. ROBESON: Right. Okay.
4 MR. LAVAY: -- from our experience, we think that
5 will work. As far as trash removal, if one trash vehicle
6 pulls straight into the trash or receiving area we've
7 modeled it to be maneuvered, to back out and turn around
8 here. And that all works with a typical trash truck, large
9 box truck style vehicle. There's actually also a stop sign,
10 if you were to exit the garage to your right you could
11 potentially have someone coming down from the cul-de-sac
12 drop off delivery area, we'd place a stop sign there to
13 avoid that conflict.
14 MS. ROBESON: Okay.
15 MR. LAVAY: Getting to storm water management.
16 MS. GIRARD: Can I just stop you for one second,
17 Pat --
18 MR. LAVAY: Sure.
19 MS. GIRARD: -- I'm sorry, I know you're on a
20 roll.
21 MR. LAVAY: That's all right.
22 MS. GIRARD: Can we just get on the record that
23 you noted that the trash enclosure, the generator and all
24 that are in a pad. Approximately how far below the grade of
25 the main building is that?

Page 63

1 MR. LAVAY: The finished floor elevation of the
2 building is 14 feet higher than the grade elevation of the
3 trash.
4 MS. ROBESON: Okay. And the trash is that kind of
5 square pad to the east of the cul-de-sac?
6 MR. LAVAY: Uh-huh.
7 MS. ROBESON: Okay. I just wanted to --
8 MR. LAVAY: Yes.
9 MS. ROBESON: -- be clear.
10 MR. LAVAY: Correct. And so because of the tuck
11 under parking situation, that both the entry to the garage
12 and the trash area is 14 feet below the building first
13 floor.
14 MS. ROBESON: Okay.
15 MR. LAVAY: So and as I mentioned, if you go up
16 the driveway into the cul-de-sac the grade continues to rise
17 since you go over that parking garage. So this whole area
18 is really depressed down further from the site.
19 MS. GIRARD: So it's fair to say that any noise
20 associated with the generator and the pickup of trash would
21 be shielded from the --
22 MR. LAVAY: Absolutely. Yes, absolutely.
23 MS. GIRARD: -- adjacent residents?
24 MR. LAVAY: We have designed similar buildings to
25 this. Actually the only building which is very similar and

Page 64

1 the trash and loading and emergency area were much, much,
2 much closer to existing property lines and they were still
3 able to operate.
4 MS. ROBESON: I remember that, yes.
5 MS. GIRARD: And one more thing. I'm sorry.
6 Before you go into storm water management and I know you've
7 eluded to this, but I want to make sure that it's clear on
8 the record. As far as the grades on the property and you
9 know the question of could an alternate access be provided
10 that maybe wouldn't have to traverse the park's property and
11 the associated question of why we couldn't just put a
12 sidewalk, a typical sidewalk --
13 MR. LAVAY: Sure.
14 MS. GIRARD: -- up to the building?
15 MR. LAVAY: The first question I guess is on
16 access. When we started this project one of the first
17 things that our client asked us to look at was alternate
18 access because you know who wants to have an easement to
19 deal with if you don't need to. And in doing so, you know,
20 this, the entire area of this SHA right-of-way probably 75
21 percent of it is at slope one to one which is just near
22 impossible to make up going up the driveway. The only place
23 that we could find --
24 MS. ROBESON: Wow.
25 MR. LAVAY: -- that we could potentially make

Page 65

1 something happen is in the cleared area where we're putting
2 the utilities. And the problem with that is the alignment.
3 You want to make SHA and DOT they want you to make
4 perpendicular connections to the roadway and this would have
5 to happen on an angle, like a 45 degree angle to River Road.
6 So putting the driveway over here wouldn't work
7 geometrically, also once you get that far west on River Road
8 the site distance becomes an issue. And so we don't believe
9 that would be a safe place to put, you wouldn't be able to
10 see far enough in a direction to make a safe maneuver onto
11 River Road or in from River Road.
12 And the same issue with the pedestrian sidewalk
13 access. You have from the entry to the garage down to the
14 road, you have about 75 feet of grade change to make up in a
15 less than 500 foot run. So to make something like that on
16 an ADA accessible path would probably require thousands of
17 feet of sidewalk traversing through the category one forest
18 conservation easement and it just didn't work. It wasn't
19 environmentally the right thing to do. So the applicant has
20 made reasonable accommodations to address that issue in
21 alternate ways.
22 MS. ROBESON: And what's the grade from these
23 street to the park's property?
24 MR. LAVAY: It's actually almost flat, so the
25 grade starts at a grade elevation of 174 dips down 2 feet

Page 66

1 and then back up 2 feet. So it's only, actually there is no
2 change between, well there's probably a foot in increase
3 between the bus stop and the actual edge of our property.
4 MS. ROBESON: Okay.
5 MR. LAVAY: That area is the one soft area it
6 looks like. Just one more thing on the grades. Because we
7 have to at some point build into an underground garage the
8 grade of the building, a lot of it is dictated by where you
9 put that garage entry. So the garage would have to have a
10 30 foot roof height to have a building sit at, you know, the
11 natural grade. So it actually worked out great because
12 we're pressing the building down in the existing grade, so
13 it there will be a retaining wall all along the western
14 property line and the northern property line. So the
15 building will actually sit down 11 feet from the natural
16 grade which helps with the visibility of the neighbors. So
17 the neighbors are looking up a hill and it will abruptly
18 drop down, so visibility is actually going to be decreased
19 by the grading.
20 As far as the closure fencing, a typical building
21 for Artis would have a board on board fencing around it but
22 because we have to have an 11 foot high retaining wall
23 around a good portion of the property, those areas will just
24 be a wall with a safety fence on top. So in lieu of the
25 fencing, most of the property will just have this retaining

Page 67

1 wall that sticks up and it's not climbable either.
2 MS. ROBESON: Okay.
3 MR. LAVAY: Where were we?
4 MS. GIRARD: Storm water management.
5 MR. LAVAY: Storm water. Storm water.
6 MS. GIRARD: Yes.
7 MR. LAVAY: So the storm water has been designed
8 in accordance with the current County and State regulations.
9 We've provided environmental site design to the maximum
10 extent practicable as this goes. We have five --
11 MS. ROBESON: To the MEP.
12 MR. LAVAY: MEP, that's correct. We have five
13 surface micro bio retention facilities. They're disbursed
14 through the site and then we have two what we call planter
15 box bio retention facilities which are a little more
16 architectural and they're up against the building in the
17 front. We did not put any around the quote, the immediate
18 perimeter of the building where there is pedestrian access
19 because there could be, there has been a concern about the
20 residents potentially tripping and falling into these
21 things. In other projects we had to do fencing around them
22 which isn't always aesthetically the best thing so, but we
23 do meet the County's requirement for ESD treatment volume.
24 MS. ROBESON: Is everything treated on site?
25 MR. LAVAY: The only thing that's not captured

Page 68

1 directly and treated is the driveway.
2 MS. ROBESON: Yes.
3 MR. LAVAY: But and that's because of the grade
4 and the Parks property issue and in order to do something at
5 the bottom of the driveway you'd have to clear more parks
6 area and so our concept is it's actually providing excess
7 management up high to account for what it is down low, if
8 that makes sense.
9 We do have a concept under review with --
10 MS. ROBESON: Yes, what is the status? Did you
11 request in a change, what is the status of the storm water
12 management easement?
13 MR. LAVAY: So the concept has been reviewed by
14 the Department of Permitting Services, there was some very
15 minor comments about clarifying, and some more computations
16 and some of grand juries and things like that. There is a
17 standard request for all new projects now to have a soil
18 boring investigation done. That's the one outstanding thing
19 that if we get an approval on this, I'll just quickly I
20 think Jay can probably touch on it more, or Dustin, but part
21 of the reason why it hasn't been done yet is because there
22 is people living in this house and it will be disruptive to
23 have a drill rig come up and drill holes, you know, 15, 20
24 holes around the property. Nothing in our storm water
25 concept requires infiltration to make it work and a lot of

Page 69

1 the times that's one of the most important things about soil
2 boring investigations is to see whether or not you can
3 actually do infiltration and your concept may depend on
4 that. In this case, because of the grade change we're not.
5 If we were to get good infiltration it would just be a bonus
6 and then you reduce the size of some of these facilities.
7 But the County does require not only for that, but they also
8 want to know, you know, if there's rock in the area, if
9 there's carsiology not that it would change this design but
10 certainly they would add a provision to perhaps to make a
11 liner in the facility to avoid, you know, direct connection
12 with the facility and ground rock.
13 So it's more of a procedural thing at this point.
14 Our request for a change in the condition was because in
15 past projects, it's obtaining a storm water concept approval
16 is you know part of the building permit process and a fee
17 required. It's required by law. So in the past we've been
18 able to get through this process and have the concept
19 approved at a later date. The applicant is in the process
20 of having the soil boring done.
21 MS. ROBESON: Yes, I just wanted to know where you
22 were in the process.
23 MR. LAVAY: Okay.
24 MS. GIRARD: Right. And you're right about the
25 condition. We had requested, staff had put a condition in

Page 70

1 that we needed the storm water management concept approved
2 prior to approval by the Hearing Examiner. We had requested
3 that they just modify it to say unless otherwise required to
4 give you the option to say, you know, since you would be the
5 one hearing the detailed testimony from Pat about that and
6 that you know you would be allowed to approve it even
7 without the concept being there. And I did want to know in
8 the Montgomery County Planning Board's transmittal to you,
9 interestingly in the third paragraph they note the
10 conditional use can proceed through its approvals but the
11 building cannot be constructed without the storm water
12 management approval.

13 MR. LAVAY: So the storm water facilities are all
14 designed for the average annual rainfall event, but we all
15 know there will be events that cause flooding and things
16 like that. So each of the facilities has an overflow system
17 in it and it's all collected in a below grade storm drain
18 system and that's the storm drain pipe that you see out
19 falling the River Road right-of-way on the western edge of
20 the property. We've chosen that location for a couple of
21 reasons. One, as I mentioned earlier is a natural cleared
22 area in that area to outfall there. The grade there is
23 actually one of the softest on site, it's not in the area
24 where we're using forest conservation. So rather than
25 trying to build a pipe down a one to one slope, we can

Page 71

1 actually build it in an angled direction and you know make
2 it a little more constructible.

3 We didn't want to create an outfall within the
4 area of forest conservation which I should note on the
5 eastern side of the site there is a proposed one and a
6 quarter, approximately, acre forest conservation easement
7 that was part of the preliminary forest conservation
8 approval. There is an additional triangular piece on the
9 southwest corner that's proposed as forest conservation
10 easement and that's .14 acres. So this was really the ideal
11 location to put a storm water outfall. It does outfall into
12 an open channel system. It's very close to Cabin John
13 Creek, so the State Highway, usually their biggest issue in
14 anything like this would be capacity of a downstream storm
15 drain system, but because there is no enclosed downstream
16 storm drain system and it's directly into a creek, we're
17 fairly confident that we can work this out with SHA.

18 And I should note one thing on the SHA, I agree
19 with you it's pretty typical to get some feedback in some
20 way with them, but the problem here is that staff chose not
21 to take this project to DRC and that's the way the only --

22 MS. ROBESON: I know that and --

23 MR. LAVAY: That's the only mechanism we usually
24 have at this point.

25 MS. ROBESON: I understand.

Page 72

1 MR. LAVAY: So that's the --

2 MS. ROBESON: I know that. Well it used to be
3 that if there was an improvement in the right-of-way they
4 would, aside from DRC they would farm it out to especially
5 SHA because they have their own quirks. But you know for
6 whatever reason it didn't happen.

7 MR. LAVAY: So as far as I think I touched on
8 forest conservation, the proposed forest conservation areas.
9 We also have there is one specimen tree that does need to
10 come out and that's being mitigated accordingly. This
11 proposed category one forest conservation easement there are
12 discussions with Parks about transferring that area to
13 park's property. We've analyzed the site and I should
14 introduce the exhibit now?

15 MS. GIRARD: Yes.

16 MR. LAVAY: There is a new exhibit here.

17 MS. ROBESON: So this would be --

18 MS. GIRARD: 49.

19 MS. ROBESON: -- 49.

20 (Hearing Exhibit No. 49 was
21 marked for identification.)

22 MS. ROBESON: And how would you describe that?

23 MR. LAVAY: This is called Park Conveyance
24 Exhibit.

25 MS. ROBESON: Okay.

Page 73

1 MR. LAVAY: Is it 49?

2 MS. GIRARD: Yes.

3 MS. ROBESON: Okay.

4 MR. LAVAY: So in our discussions with Parks there
5 was a request to potentially convey all of or some of this
6 forest conservation area on the east side of the property
7 into the park area. And so this exercise was to determine
8 what the maximum area that could be left over and still meet
9 the required building coverage maximum for the site. And so
10 what you see here is the current building coverage is the
11 building hatched in the purple diagonal line hatch, the
12 proposed forest conservation movement is this honeycomb
13 orange hatch. The impacts, the existing access easement is
14 in green on the southeast corner and then the red hatch
15 that's on either side of the easement is additional impact
16 outside of the parks easement. So we came up with what is
17 the amount of the area that we could dedicate, convey to
18 Parks would be about 1 acre and that would put us very close
19 to that 25 percent maximum lot coverage.

20 MS. ROBESON: Coverage.

21 MR. LAVAY: Leaving a little bit, a couple
22 thousand square feet in case they want to add a shed, maybe
23 they need to create some sort of a bump out in the building
24 in the future. But most of it would go, most of the land
25 they could convey would convey and that's the honeycomb area

Page 74

1 that's shaded here.
2 MS. ROBESON: Okay.
3 MR. LAVAY: And in this exercise showed us that I
4 think it's what 15 times, about 15 times this area --
5 MS. GIRARD: Yes.
6 MR. LAVAY: -- that the amount of forest that we
7 could convey is about 15 times the area easement and then a
8 different impact, so you get a lot in return for this.
9 And one other thing we should probably just
10 quickly touch on is the utility service. As I mentioned, we
11 do have WSSC's preliminary, they call it a Phase 1
12 Authorization and I have a number that's number DA 5922Z15
13 for a public water service extension coming down from
14 Clewerwall Drive into the property. That's going to align
15 again to trying to stay within as much possible the existing
16 cleared forest area. And then that will be stubbed out for
17 any additional future property owners that may want to tap
18 it off of that but bear in mind that may never happen. We
19 chose instead of WSSC chose this, the west side of the
20 development as opposed to the east side. The nearest water
21 service on the east side that's available for extension is a
22 quarry development but in order to extend that you'd have to
23 cross Cabin John Creek, there's a bridge there. So I think
24 it's a significant environmental impacts trying to make that
25 happen.

Page 75

1 MS. ROBESON: Okay.
2 MR. LAVAY: So that's the reason why that was
3 chosen there. Public sewer will remain. The service site
4 we're going to upgrade the existing from a --
5 MS. ROBESON: Is that in the existing PUE that
6 goes along the driveway?
7 MR. LAVAY: Well, the water service?
8 MS. ROBESON: No.
9 MR. LAVAY: Or the sewer?
10 MS. ROBESON: The sewer.
11 MR. LAVAY: The sewer is outside of the PUE.
12 MS. ROBESON: Okay.
13 MR. LAVAY: The existing sewer runs down the
14 driveway but outside the PUE.
15 MS. ROBESON: Okay.
16 MR. LAVAY: We're going to replace that, there's
17 an existing 4 inch line which is a little bit smaller than
18 what this building would need, we're going to replace that
19 with a 6 inch line. That will be outside the PUE. Overhead
20 electric will come in where it comes in now, it may need to
21 be upgraded. But that will come in on the west side of the
22 property, as will gas and communication services as well.
23 And I think that's a lot but that covers the proposed
24 development.
25 MS. GIRARD: Right. As you were aware and we

Page 76

1 talked it about earlier, the Planning Board has recommended
2 a 10 foot shared use path along the property's frontage.
3 Mr. Hicks eluded to some constraints that makes that, leads
4 to the request that maybe we could construct 75 percent
5 rather than 100. Can you review that in detail for the
6 Hearing Examiner?
7 MR. LAVAY: Sure and we're going to introduce
8 another new exhibit.
9 MS. ROBESON: So this is 50.
10 (Hearing Exhibit No. 50 was
11 marked for identification.)
12 MR. LAVAY: 50.
13 MS. ROBESON: And can you describe that?
14 MR. LAVAY: This is called River Road Bike Path
15 Exhibit.
16 MS. ROBESON: Okay.
17 MR. LAVAY: So in the lower right corner you can
18 see there's a photo here and this photo was taken at the
19 existing bus stop which is just to the west of the existing
20 driveway apron. Looking westbound on River Road from the
21 north side of River Road looking westbound and you can see
22 there is a nice wide grass area which is relatively flat and
23 there's a drainage ditch at the back end of it. This is
24 woods, it's not a problem at all to build a path. Looking
25 at the plan view, which is just north on, just up on the

Page 77

1 shoot, the hatched area here looks like cobblestone is the
2 existing riprap channel there's a wide grassed area and then
3 we propose to put 10 foot wide asphalt path offset from the
4 driveway by about five feet for about 75 percent of the
5 frontage. As you go west though, as you can see that the
6 cobble, the hatch that looks like cobblestone and SHA's
7 drainage ditch begins to curve back towards the road and in
8 the middle of the page here you can see this is the view
9 looking west on River Road at the termination of our
10 proposed bike path. So this drainage ditch comes right up
11 against the edge of the road and just behind it you have a
12 steep hill with a steep embankment. And so now I'm pointing
13 to the contours under the planning view. So you'd have to
14 cut that embankment back and this darker hatched area here
15 is the additional 25 percent of bike path. In order to make
16 that work, we'd have to (A) move the storm drain outfall
17 from its configuration now and rotate it about 30 degrees
18 and then start working the steep slopes. We'd also have to
19 move into an area that's less, it's more afforested. We'd
20 have to put in a retaining wall that at probably its max
21 height about 8 feet high which that's something that SHA may
22 not like. They also may not like moving this ditch because
23 what you have to do is the bike path at some point crossed
24 over the ditch which means a culvert, it's sort of a
25 nonstandard feature. So there are a lot of issues in here

Page 78

1 both environmental and design wise with SHA that we think
2 that they would object to. And we felt, you know, that
3 building the bike path like Jay said, at 75 percent of the
4 frontage in an area that has just about no environmental
5 impacts is a much better alternative then trying to get this
6 extra few feet where it just wouldn't work.
7 And so this photo down in the lower left here is
8 actually that natural clearing I talked about, you can see
9 where there's a gap in the trees. But as you can see in the
10 bottom of that photo a drainage ditch is right up against
11 the side of the road. So for that reason we propose to
12 terminate it just short of that area.
13 MS. ROBESON: Okay. When I refer this to SHA,
14 let's see, I'm thinking about at the end of the day I need a
15 Site Plan that shows you know all the changes. And at some
16 point --
17 MS. GIRARD: By changes you mean what?
18 MS. ROBESON: Well if you're proposing a different
19 alignment then what's on 37B --
20 MS. GIRARD: I think we have it.
21 MR. LAVAY: No 37B shows --
22 MS. GIRARD: Don't we show it as that?
23 MR. LAVAY: Yes, 37B shows the --
24 MS. ROBESON: Shows the 75 percent?
25 MR. LAVAY: Yes.

Page 79

1 MS. GIRARD: Yes.
2 MR. LAVAY: Yes.
3 MS. ROBESON: Okay. All right. So that's already
4 shown.
5 MR. LAVAY: Correct. 50 shows --
6 MS. ROBESON: Okay. That just shows it in more
7 detail.
8 MR. LAVAY: Yes. Uh-huh.
9 MS. ROBESON: Yes, okay.
10 MR. LAVAY: This shows the extra 25 percent.
11 MS. ROBESON: Okay. All right.
12 MR. LAVAY: But you could certainly share both
13 exhibits with them to show here's what one would do and
14 here's what the other would do.
15 MS. ROBESON: Right. Now do I have an electronic,
16 is there any way to get, I have 37B.
17 MS. GIRARD: You do.
18 MS. ROBESON: Maybe that's --
19 MS. GIRARD: We can send you --
20 MS. ROBESON: -- you know what, okay.
21 MR. HICKS: We can --
22 MS. GIRARD: -- either. We can just e-mail it to
23 Ellen if that's --
24 MR. HICKS: -- if you need this today.
25 MS. ROBESON: If you can, we're going to get

Page 80

1 everyone who testifies their e-mail address, if you can send
2 the future, CC the future correspondence --
3 MS. GIRARD: Okay.
4 MS. ROBESON: -- with them. All right.
5 MS. GIRARD: Sure.
6 MS. ROBESON: All right.
7 MS. GIRARD: Okay. I think we covered the
8 waterfront. So I want to move into the burden of proof
9 conclusions with you. In your opinion from a civil
10 engineering standpoint based on your testimony, will the
11 proposed conditional use cause any objectionable noise,
12 odors or dust?
13 MR. LAVAY: No, the use, the building, the site
14 design, there is nothing that would generate any kind of
15 dust, noise as I mentioned, the generator and the trash
16 location are oriented very far away from the adjoining
17 properties in an area that's depressed topographically as
18 well.
19 MS. GIRARD: From an engineering standpoint would
20 the proposed conditional use be harmonious with the
21 character of the surrounding neighborhood considering
22 design, intensity and character activity?
23 MR. LAVAY: Yes. To the best of my knowledge it
24 will. As I mentioned earlier, the driveway access
25 regardless if this was residential or commercial, it would

Page 81

1 be required to be the same for fire safety reasons.
2 Illumination, we have a photometric study that the architect
3 may get into, but all of the illumination at the property
4 lines meets or exceeds the requirements in the Zoning
5 Ordinance. And we also meet or exceed all of the required
6 setbacks as well.
7 MS. GIRARD: And from an engineering standpoint
8 would the proposed conditional use cause undue harm to the
9 use, peaceful enjoyment, economic value or development
10 potential of abutting or confronting properties or the
11 general neighborhood?
12 MR. LAVAY: No, it will not. Again, pointing to
13 the setbacks we do meet or exceed all of the required
14 setbacks and from a visibility standpoint as I touched on,
15 the building has been designed to minimize visibility from
16 the adjacent property owners and by preserving a lot of the
17 area under a road that the forest there and the slope should
18 be very minimally visible.
19 MS. GIRARD: And from an engineering perspective,
20 will the proposed conditional use cause any undue harm to
21 the health, safety or welfare of neighboring residents,
22 visitors or employees?
23 MR. LAVAY: No, it will not to the best of my
24 knowledge. As I mentioned we are pursuing all of the
25 required environmental approvals, some of which we have in

Page 82

1 hand. As I mentioned, there is adequate site distance at
2 the existing driveway entrance. And our traffic engineer
3 will touch on that more, but we believe that we have safe
4 access and we can meet or exceed all of the environmental
5 standards.
6 MS. GIRARD: And in your opinion will the proposed
7 conditions be served by adequate public services and
8 facilities including water, sanitary, sewer and storm
9 drainage?
10 MR. LAVAY: Yes, it will. And in particular
11 considering the preliminary approval we have from WSSC, the
12 approval we have from Montgomery County Fire Rescue and the
13 soon to be sad letter from SHA.
14 MS. GIRARD: Is there anything else you'd like to
15 mention?
16 MR. LAVAY: That's it.
17 MS. GIRARD: Okay. Thank you.
18 MR. LAVAY: Thank you.
19 MS. ROBESON: Thank you. Any questions of this
20 witness?
21 MS. CARLSON: No.
22 MS. ROBESON: Okay. Thank you. You can be
23 excused.
24 MS. GIRARD: Thank you.
25 MS. ROBESON: Ms. Girard, your next witness.

Page 83

1 MS. GIRARD: My next witness is Victoria Bryant.
2 MS. ROBESON: Okay. Ms. Bryant, please raise your
3 right hand. Do you solemnly affirm under penalties of
4 perjury that the statements you're about to make are the
5 truth, the whole truth and nothing but the truth?
6 MS. BRYANT: Yes.
7 MS. ROBESON: Okay. Go ahead, Ms. Girard.
8 DIRECT EXAMINATION
9 MS. GIRARD: I would like to note that Ms.
10 Bryant's resume is included as Exhibit 29 in the record.
11 She has testified before the Hearing Examiner previously.
12 Do you remember most recently when you were here?
13 MS. BRYANT: The Avenel Residential Building, it
14 was a special exception for work force productivity housing,
15 I believe was the last most recent one.
16 MS. GIRARD: Do you remember about how long ago
17 that was?
18 MS. BRYANT: I don't know a date on it, but I
19 would say that was about a year --
20 MS. ROBESON: Did you do Alfred House too?
21 MS. BRYANT: We did --
22 MS. ROBESON: Well it doesn't matter.
23 MS. BRYANT: I did Olney Assisted Living too which
24 was, yes, one of the one and I can't remember if I actually
25 testified for Alfred House or not. We did work on it, but -

Page 84

1 -
2 MS. ROBESON: All right. She is qualified --
3 MS. BRYANT: -- I need to go to the dimension
4 building.
5 MS. ROBESON: She has qualified as an expert
6 before this body before, so unless you object to her
7 qualifications as an expert in land planning, I'm going to
8 accept her as such.
9 MS. BRYANT: And landscape architecture too.
10 MS. ROBESON: And landscape architecture. All
11 right.
12 MS. GIRARD: Okay. Great. Now Ms. Bryant, are
13 you familiar with the conditional use property, surrounding
14 area and application number CU 15-05?
15 MS. BRYANT: Yes, I am.
16 MS. GIRARD: And are you familiar with the
17 approved and adopted Potomac Master Plan and its
18 recommendations with respect to the subject property and
19 adjacent area?
20 MS. BRYANT: Yes, I am.
21 MS. GIRARD: And are you familiar with the
22 requirements of the Zoning Ordinance with respect to
23 residential care facility conditional uses?
24 MS. BRYANT: Yes, I am.
25 MS. GIRARD: And you prepared, did you not, a land

Page 85

1 planning report that's in the record?
2 MS. BRYANT: Yes, I did.
3 MS. GIRARD: That is in the record as Exhibit 16.
4 Can you please review for us the findings and conclusions of
5 your land planning analysis?
6 MS. BRYANT: Okay. I'm going to start with the
7 description of the surrounding area, and the delineation.
8 MS. ROBESON: And that is on Exhibit 47?
9 MS. GIRARD: Yes.
10 MS. BRYANT: Yes, that is Exhibit 47. It's the
11 new exhibit. So Number 47 is an aerial photograph of the
12 surrounding area and the site with the property lines shown
13 and the surrounding road system, with the roads labeled and
14 then it also shows the site with a small dashed line, that
15 is in the legend labeled property line. And then the
16 neighborhood delineation boundary is a heavier red line,
17 dashed red line that's listed in the legend as the
18 neighborhood delineation boundary.
19 The site is on the north side of River Road just
20 west of 495. I think we've covered a lot of this location.
21 So again the site backs up to the Clewerwall residential
22 neighborhood which is 22 single family homes, two of which
23 actually touch the property and a third which is very close
24 and has views into the site. The remaining properties in
25 Clewerwall really don't have a view into the property.

Page 86

1 As you continue west you hit the Norwood School
2 which is a 30 acre private school, I'm trying to remember,
3 it's for K through 8, K through 8 educational facility. And
4 then if you go west across River Road you hit Congressional
5 Country Club, which is a recreational facility that has a
6 golf course, tennis courts, swimming pools, the
7 Congressional Country Club has been there since 1929 and the
8 Norwood School has been in that location since 1976.
9 And as you swing back kind of west you come into
10 the Carderock Springs neighborhood, which is Fenway Drive
11 area. We've included Fenway Drive and Fenway Road, the
12 residential properties there as part of it. We had included
13 the whole neighborhood because as you get away from River
14 Road there starts to be other means of access out of the
15 community. So we feel that these deal with the most
16 impacted because they are the most likely to use River Road
17 and then there's also the Carderock Springs, and I
18 apologize, I have forgotten the name of this road.
19 MS. CARLSON: It's Carderock Springs Road.
20 MS. BRYANT: Carderock Springs Drive. The
21 entrance, there is a community sign at the end of it at
22 River Road, and it is directly adjacent from the entrance to
23 our site. And then there is if you continue west along
24 River Road there is part of the Cabin John Stream Valley
25 Park that runs along River Road and then you come up Seven

Page 87

1 Locks Road to include Seven Locks Road that River Hills
2 Community that abuts it which is a townhouse community. And
3 adjacent to it on River Road is the Cabin John Fire
4 Department, and adjacent to the Fire Department is the new
5 quarry springs, which is the Stoneyhurst Quarry project
6 which is 97 high end condominiums. And then we also
7 included a little bit of community behind it on Split Oak
8 Drive, which is I think Charred Oak is the community
9 Lonesome Pine and this part of the community because again
10 they have some views across the site and share a common
11 entrance point onto River Road, it's a little farther down
12 on Seven Locks. It's predominantly single family with that
13 little bit of townhouse and the condominiums clustered
14 together closer to 495 as you spread out it gets into single
15 family, it's currently R-200.
16 MS. ROBESON: Well don't you have some pretty
17 intense special exceptions in there?
18 MS. BRYANT: We do, at the other end of River Road
19 we have Congressional and the Norwood School. And I was
20 going to talk a little bit about, I know you have a concern
21 about the intensity of those issues and that was going to
22 be, we were going to --
23 MS. ROBESON: Okay. I'm not sure I would
24 characterize that neighborhood as primarily single family
25 detached.

Page 88

1 MS. BRYANT: True. You're right, it's actually
2 single family it has a fair amount of parkland in the middle
3 and it does, you're right, have two intensive conditional
4 uses at the northwest end of it. And this is, you know, as
5 you come up River Road into Potomac, this is, you know, kind
6 of their transitional area in that you have a little bit
7 more density closer to 495 towards the intersection.
8 MS. ROBESON: And what's the zoning there? Is
9 that the R-200?
10 MS. BRYANT: No, it's, well this is now the CR
11 Zone. It was --
12 MS. ROBESON: Okay.
13 MS. BRYANT: -- originally approved under, this
14 being the, sorry was T-M-X Zone.
15 MS. ROBESON: Okay. And what about the single
16 families?
17 MS. BRYANT: The single families I think was R-T,
18 I'm going to have to apologize. I need to look at that --
19 MS. ROBESON: It's okay.
20 MS. BRYANT: It was R-T something.
21 MS. ROBESON: I can --
22 MS. BRYANT: It was R-T 6, I think.
23 UNIDENTIFIED PERSON: R-T 10.
24 MS. BRYANT: R-T 10. Thank you. So there was a
25 mix of things and as you go up River Road past the

Page 89

1 neighborhood, you start to get those large, larger single
2 family estates that abut 270, abut River Road. And the
3 appearance along River Road as you start to go past
4 Clewerwall Drive starts to have that kind of bucolic horse
5 farm feel to it and that was kind of what they're doing at
6 Congressional and Norwood.
7 MS. ROBESON: Is that a technical term?
8 MS. BRYANT: Bucolic?
9 MS. ROBESON: No.
10 MS. BRYANT: They actually call it semi-rural
11 ambiance is what the --
12 MS. ROBESON: Okay.
13 MS. BRYANT: -- Master Plan refers to it as. And
14 that's what they're doing with Congressional and Norwood
15 here is that they've put a fairly large lawn in front of
16 both of the facilities and pushed, you can't really see the
17 Congressional Country Club building from River Road. The
18 tennis courts which are just east of the entrance on the
19 plan, it's on River Road there's an entrance into Columbia
20 Country Club and Norwood School are directly opposite each
21 other.
22 MS. GIRARD: You said Columbia, you mean
23 Congressional?
24 MS. BRYANT: Congressional. Sorry.
25 Congressional. The tennis court facilities abut River Road

Page 90

1 but they've screened them pretty heavily with evergreen
2 trees but as you get past that intersection you start to get
3 again that kind of semi-rural ambiance, you know, which was
4 intentionally done to push the buildings back and kind of
5 fit into the character of the River Road Potomac Subregion
6 area. I mean I can address the concentration now if you
7 want me to speak to that.

8 MS. ROBESON: No, just continue.

9 MS. BRYANT: Okay. So that's the surrounding
10 area. And the Master Plan if you want to go to the little
11 part of the General and Master Plan, the Master Plan does
12 call for elderly housing within this neighbor delineation
13 and in this area of the subregion. It also has a focus of
14 environmental integrity of trying to maintain as much of the
15 environmental sensitive nature of it. Like the view sheds
16 are an important part of the Master Plan. And protecting
17 the Cabin John Creek stream valley buffers. And using kind
18 of sewer as a mechanism for development so to make sure that
19 it's not being overdeveloped. Maintaining that as a master
20 planned area, they consider it to be the two acre family
21 rural environment.

22 So the site again is proposed for elderly housing
23 which the Master Plan called for at the Stoneyhurst Quarry,
24 that obviously is being developed as a 97 unit high end
25 condominium use so it's not going to go there. We are

Page 91

1 approximately a quarter mile away, really the only
2 difference between us and the quarry location is the stream
3 valley buffer that's between us.

4 MS. ROBESON: And can you point the stream valley
5 buffer --

6 MS. BRYANT: The stream.

7 MS. ROBESON: -- or the stream valley.

8 MS. BRYANT: The stream. The stream. Okay. On
9 the plan starting at the top of the page about a quarter of
10 the way over --

11 MS. ROBESON: On Exhibit 47?

12 MS. BRYANT: -- on Exhibit 47 you can see a white
13 line that kind of appears in the plan. That is the actual
14 stream and it basically heads directly west or kind of
15 southwest down to the bottom towards River Road. It goes
16 under River Road and then it actually turns and heads west
17 and follows River Road over towards Seven Locks.

18 MS. ROBESON: Okay.

19 MS. BRYANT: And then it starts to head south
20 towards the Potomac River. And so all of this area, it's a
21 little hard to see probably, but there is the darker lines.
22 There are some large parcels, it's not all one piece of
23 property that the park is made up of but several lots and
24 parcels and it's this light brown area surrounding that
25 stream is the park area. And the stream valley buffer is

Page 92

1 you know, anywhere from 100 to 200 feet off of that stream,
2 depending on topography and other items like that, but it's
3 not shown on this plan. It is shown of course on the
4 conservation plan.

5 Let's see, elderly housing and then the Master
6 Plan also calls for a two lane road policy where they want
7 to maintain again that semi-rural ambiance throughout the
8 entire subregion and that would include this area that they
9 wanted to try and keep the intersection improvements made,
10 kept to a minimal. They want to make sure that it is only
11 in places that are necessary. They actually call out the
12 intersection of Falls and River Road as a place where it
13 makes sense to have that kind of additional turn lanes and
14 accel and decel lanes.

15 MS. ROBESON: And can you point out where that is?

16 MS. BRYANT: That happens to be off the plan --

17 MS. ROBESON: Okay. Off the exhibit --

18 MS. BRYANT: -- but it is off the exhibit.

19 MS. ROBESON: -- 47?

20 MS. BRYANT: Yes, it's off Exhibit 47, but if you
21 were to continue onto River Road probably four or five more
22 miles --

23 MS. ROBESON: But it's not in the neighborhood?

24 MS. BRYANT: Right. But if you familiar with that
25 area, it is a major commercial intersection and that's the

Page 93

1 place where they think that an accel/decel lane would be an
2 appropriate location for that, you know that type of uses.
3 So it's intents there that there would be that.

4 Compatibility with the existing and surrounding
5 community as we mentioned, these three single family homes
6 on Clewerwall Drive are the three closest homes to the
7 property. They're all about 200 feet or more away. As Pat
8 had mentioned there is significant topography between the
9 proposed site and them. And the buildings are, their
10 single family homes are two story buildings so they actually
11 are taller than the proposed structure. And the footprints,
12 their square footage appear to be 86,000 square feet plus or
13 minus. They have a significant amount of forest on their
14 own property, it's about 100 feet at the minimum and
15 significantly more in the two other cases. Forest buffer
16 between us and them plus we're maintaining a buffer on our
17 side with a little bit of landscaping that will grow over
18 later to help maintain that buffer.

19 So we are, to the north and west we have a
20 significant amount of forest cover in the Cabin John Creek
21 Stream Valley Buffer Park. And then we are maintaining
22 because of that large right-of-way on the state highway, we
23 have a fair amount of forest still in that area that we will
24 be maintaining so that it will continue to keep that rural
25 two lane road feel plus that you know, semi-rural ambiance,

Page 94

1 along with the frontage.
2 So we are compatible with in that we're lower than
3 and not very visible to the remaining community. Almost
4 everybody else, you know, you might get a hint of it, maybe,
5 in the winter months, at the roof line, possibly, but it
6 would be almost invisible up there.
7 The impact to public facilities, schools, parks,
8 recreational as an elderly housing program it won't have any
9 impact on the school system, it won't be generating any
10 school age children. The Cabin John Fire Department is you
11 know approximately a quarter mile down the road. So we're
12 going to have plenty of access there. The Police
13 Department, this is Bethesda Second District. The police
14 station is actually in downtown Bethesda, which is about six
15 and a half miles away, but it's deemed to be adequate and
16 they're actually improving their facility with a new
17 facility that's supposed to start construction next year.
18 Water and sewer I think Pat talked about. And
19 then we have to talk a little bit about the inherent and
20 non-inherent adverse impacts. And I can probably sit down
21 for this one. All right. In previous cases the physical
22 and operational characteristics that have been established
23 as inherent residential care facilities have been building
24 related. Building and related outdoor recreational areas
25 and facilities, parking areas, lighting, vehicle trips to

Page 95

1 and from the site by employees, visitors, residents,
2 delivery and trash pickup and five is noise generated by the
3 equipment for the facility and by occasional outdoor
4 activities of residents and their families.
5 There are no non-inherent or, sorry, there are no
6 non-inherent or combination of inherent and non-inherent
7 effects associated with this application, which would
8 adversely affect any of the above categories. The physical
9 characteristics associated with the residents are all
10 typical of this use and would not be different if they were
11 elsewhere in the R-200.
12 We talked a little bit about the existing driveway
13 across the stream valley buffer.
14 MS. ROBESON: Adverse and non --
15 MS. BRYANT: Inherent and non-inherent?
16 MS. ROBESON: Inherent and non-inherent deals with
17 and if you wonder where we're getting these discussions, I
18 don't know if you have the standards for approval are set
19 out in the Technical Staff Report. And you're welcome to
20 have mine if you wish because I've pretty much read it, well
21 these are excerpts but if you want to look it contains some
22 explanation of where these, these are all standards in the
23 Zoning Ordinance.
24 MS. CARLSON: Even some of the acronyms are --
25 MS. GIRARD: Oh yes, sorry.

Page 96

1 MS. ROBESON: Non-inherent also includes physical
2 constraints on the site.
3 MS. BRYANT: Right.
4 MS. ROBESON: So I guess just because, I guess my
5 question is, why isn't the access not, you know, non-
6 inherent physical condition it doesn't mean that it requires
7 denial of the application.
8 MS. BRYANT: Right.
9 MS. ROBESON: So I guess I took a little bit of
10 issue with your statement that there are no non-inherent --
11 MS. BRYANT: Right.
12 MS. ROBESON: -- impacts.
13 MS. BRYANT: Impacts. Okay. Our take on it was
14 that it was non-inherent to the use and if you were to build
15 anything on this property you would have to put a 20 foot
16 roadway in regardless of whether it was commercial,
17 residential, institutional --
18 MS. ROBESON: But you have to have a commercial
19 access.
20 MS. BRYANT: We have to have a commercial but the
21 roadway is still 20 feet wide whether it's residential or
22 commercial.
23 MS. ROBESON: Okay.
24 MS. BRYANT: Because the client --
25 MS. ROBESON: I have to tell you --

Page 97

1 MS. BRYANT: Okay.
2 MS. ROBESON: -- I disagree --
3 MS. BRYANT: Okay.
4 MS. ROBESON: -- with your thought.
5 MS. BRYANT: Okay.
6 MS. ROBESON: You could put your testimony in
7 there and I'll listen.
8 MS. BRYANT: All right. So that was the Fire
9 Rescue requires a widening of 20 feet to within 150 feet of
10 any building --
11 MS. ROBESON: Right.
12 MS. BRYANT: -- so that they can get their
13 apparatus up there. This is requested of all developments
14 regardless of views. The existing --
15 MS. ROBESON: Well no, not for residential
16 driveways.
17 MS. BRYANT: A residential driveway you still have
18 to build a road, a 20 foot wide driveway to within 150 --
19 MS. ROBESON: Well how come Park and Planning just
20 told me in another case you don't?
21 MS. BRYANT: The Fire Marshal has consistently
22 told us that we could.
23 MS. ROBESON: I'm just saying.
24 MS. BRYANT: Pat can come back and he's our Fire
25 Marshal expert and maybe can re-testify to that, but that is

Page 98

1 my understanding is that within 150 feet of any front door
2 to any building it has to be 20 feet wide.
3 MS. ROBESON: Well that's what I thought too, but
4 Park and Planning was at pains to tell me I was wrong.
5 MS. BRYANT: Okay.
6 MS. ROBESON: So maybe I'm wrong. Nevertheless --
7 MS. BRYANT: Okay.
8 MS. ROBESON: -- I, you know --
9 MS. BRYANT: So we feel that it's code requirement
10 that any use would be subject to. So it's not inherent or
11 non-inherent to this use.
12 MS. ROBESON: Okay. But you don't usually have
13 access going through a stream valley buffer and through
14 another easement.
15 MS. BRYANT: We have done projects, the County --
16 MS. ROBESON: I mean that's not typical.
17 MS. BRYANT: That's not typical but it's not
18 unheard of. When we have properties that the only means of
19 ingress are through environmentally sensitive areas, whether
20 it's wetlands or stream valley buffers, critical forest
21 areas, forest interior FIB habitat, we have been allowed to
22 do it if it's the only way that we can reasonably get into
23 it. And that was --
24 MS. ROBESON: Okay. Now humor me.
25 MS. BRYANT: Okay.

Page 99

1 MS. ROBESON: Assume for the moment, that it's a
2 non-inherent impact.
3 MS. BRYANT: Okay.
4 MS. ROBESON: Why doesn't this justify in your
5 expert opinion, why wouldn't that justify, I mean --
6 MS. BRYANT: Okay.
7 MS. ROBESON: -- why would it be a non-inherent
8 impact that wouldn't require denial?
9 MS. BRYANT: Okay, which is what adversely affect.
10 MS. ROBESON: Just humor me.
11 MS. BRYANT: Okay.
12 MS. ROBESON: There's too many non.
13 MS. BRYANT: Okay. So why not, as a non-inherent
14 impact, it's not adversely it's affecting --
15 MS. ROBESON: Yes, why doesn't it require denial -
16 -
17 MS. BRYANT: Denial. Okay.
18 MS. ROBESON: -- as far as impact?
19 MS. BRYANT: If it's non-inherent we feel like for
20 the reasons that Pat had stated, that this was the best
21 access into the site. Access is currently existing here and
22 all that we are doing is actually extending it out to a 20
23 foot drive aisle. That would have to occur if anything new
24 were ever to develop on the site. That current property is
25 grandfathered in. And just to let you know they did in 2013

Page 100

1 look at actually subdividing into two lots and they would
2 have been required to make it 20 feet wide there. That
3 we're taking extreme care in terms of the development in
4 being sensitive to the environment around it. That the
5 impacts to the proposal through the park land portion of it
6 are very minimal and would do less damage to the environment
7 and the surrounding stream valley buffer than doing some of
8 the other options that we were considering, which had a much
9 larger area of land disturbance to actually provide access.
10 MS. ROBESON: So in your opinion the adverse
11 impacts have been appropriately mitigated?
12 MS. BRYANT: Yes.
13 MS. ROBESON: Okay.
14 MS. BRYANT: And I think that was it on inherent
15 and non-inherent.
16 MS. ROBESON: Okay.
17 MS. BRYANT: Okay. A concentration of
18 institutional uses is the other one that you had concerns
19 about.
20 MS. ROBESON: I think it's special exception --
21 MS. BRYANT: Yes.
22 MS. ROBESON: -- or conditional use.
23 MS. BRYANT: Conditional uses. Sorry.
24 Conditional uses in the area. Number intensity and I think
25 the staff has sent a supplemental analysis and in general we

Page 101

1 concur with that. I talked a little bit about the buildings
2 being set back from River Road so that the visual intensity
3 is not as high. I think the main true impact in terms of
4 intensity that they have is traffic that they, you know,
5 they can be high traffic generations, particularly at the
6 country club during tournament times. And staff was also in
7 their letter talk about how as Board of Appeals as
8 controller of these conditional uses, they have put forward
9 controls on each of the uses as to how and when they can
10 have their events and how they have to manage their traffic
11 and they are subject to those currently and if they were to
12 ever change it would be moving forward. But I do think that
13 the intensity of the traffic is the biggest issue for them.
14 And if you look at our intensity it is much
15 smaller. It's two trips in the morning, four in the
16 afternoon and I know we'll talk a little bit about the
17 visitor parking but we don't generate anywhere near the
18 traffic.
19 MS. ROBESON: Yes, I may have a follow up question
20 for Mr. Hicks and just that are any of these days where they
21 expect overflow parking is that going to be in a peak hour
22 or is it going to be off peak? So I'm just leaving that
23 open. I'm sorry to interrupt you.
24 MS. BRYANT: Okay. That's fine. So we generally
25 concur with what they say in terms of their analysis of the

Page 106

1 evergreen shrubs all along that property line to help screen
2 this, the two houses that are to our west from the site.
3 The holly's will get to be about 15 to 20 feet high and
4 about 10 or 12 feet wide. We originally had arborvitaes and
5 the shore residents had asked us to switch it out to holly
6 product because they like that better than the arborvitaes,
7 which was accommodated for them. And then you see as you go
8 around to the north side it abuts Cabin John Stream, we've
9 got a similar type of approach where we have a mix of
10 holly's and deciduous trees.
11 Then you come around the front of the building,
12 you start to come across one of the first bio retention
13 facilities. That will have trees and shrubs in it and
14 ornamental plants to help make it look like a depressed
15 garden as opposed to a more structured facility. And then
16 as you swing around and come up to the, what do they call
17 it, a cul-de-sac at the front door, we have traditional
18 foundation plantings along the base of the building and a
19 bio retention facility that sits in the center of that cul-
20 de-sac and again it has low shrubs and trees, a short shrub
21 plants, ornamental grasses and then a couple of ornamental
22 trees and a deciduous tree in the middle and as you head, I
23 guess toward the property line that faces River Road again
24 we have a series of evergreen trees and deciduous trees
25 along there and what traditional foundation plantings. And

Page 107

1 then we have two courtyards kind of in the center of the
2 building which are at least two of the rectangular cutouts,
3 there's a walkthrough there and some plant material and some
4 small pine trees, since this space is so confined.
5 And then in the back we have the larger courtyard
6 which has a series of again foundation planting, ornamental
7 trees, deciduous trees, two bio retention facilities that
8 again will be planted to look like a depressed garden and
9 that is it in terms of plants. We have again red maples,
10 oaks, we're trying to use predominately just native shade
11 trees. The evergreens are actually a mix of native and non-
12 native species. Ornamental plants, ornamental trees are
13 predominately native and then the deciduous straws,
14 evergreens and ornamental grasses are mixed.
15 MS. GIRARD: Thank you. And I have one other
16 question actually to jump back on your defined neighborhood,
17 have you compared that to staff's defined neighborhood,
18 planning staff?
19 MS. BRYANT: Staff had a smaller defined
20 neighborhood, which was more of the, I'm going to have to
21 remember, Clewerwall Drive to across the way onto Fenway
22 Drive and I think they included down to the quarry. So it
23 was considerably smaller. And when I did the delineation of
24 the neighborhood I think it's a little damned if you do,
25 damned if you don't. If you purposely take out the two

Page 108

1 special exceptions down the street from you are you looking
2 like you are or you're not. I think that this is --
3 MS. ROBESON: I think they included them, but it's
4 okay.
5 MS. BRYANT: They didn't originally, I don't know
6 if they ended up changing it from the original Staff Report
7 has it as not being included.
8 MS. ROBESON: Okay. Well go ahead, I can check
9 that later.
10 MS. GIRARD: But you believe your delineation is
11 more appropriate based on your testimony?
12 MS. BRYANT: Yes, I do think so.
13 MS. GIRARD: Okay. So I just want to go through
14 some requirements of the Zoning Ordinance with you. So in
15 your opinion from a land planning and landscape architecture
16 background, will the proposed conditioning use comply with
17 the standards and requirements of the RE-2 Zone, Section 59-
18 3.3.2.E governing residential care facility conditional uses
19 and Section 59(g) I guess it's not (g) anymore, 59-7.3
20 governing conditional uses in general?
21 MS. BRYANT: Yes, I do. The property is zoned RE-
22 2, is listed as elderly housing is a permissible use in the
23 RE-2 Zone, in Section 3.16 of the Montgomery County Zoning
24 Ordinance. It conforms to the standards of the RE-2 Zone,
25 the Conditional Use Site Plan which is 37E I think, 37E,

Page 109

1 37C, no that's this.
2 MS. GIRARD: 37B.
3 MS. BRYANT: 37B. Right. We talked about. 37B.
4 And I can go over the standards if you want or --
5 MS. ROBESON: No.
6 MS. BRYANT: Okay.
7 MS. GIRARD: I don't think that's necessary.
8 MS. BRYANT: The standards are on this plan and as
9 you'll look at the --
10 MS. ROBESON: The development standards.
11 MS. BRYANT: -- the conditional use development
12 standards table on 37B would comply with all of those
13 requirements.
14 MS. GIRARD: And in your opinion will the proposed
15 conditioning use cause any objectionable noise, odors, dust
16 illumination or physical activity?
17 MS. BRYANT: No. The truck service to the
18 residence will be once or twice a week during nonpeak hours.
19 Food deliveries will occur twice a week, parcel service and
20 FedEx deliveries are expected between 10:00 a.m. and 3:00
21 a.m. --
22 MS. GIRARD: 3:00 p.m.
23 MS. BRYANT: Oh sorry, 3:00 p.m.
24 MS. GIRARD: I hope that's not 3:00 a.m.
25 MS. BRYANT: 3:00 p.m. Deliveries will be at the

Page 110

1 front of the building and any noise generated by the
2 vehicles will be buffered by the building and by the change
3 in topography. The lightening on the property is all what
4 they call full cutoff downward directional lighting. And
5 the lighting exhibit which the architect will talk about is
6 in conformance with 6.4.4(e) requirements of an illumination
7 of less than 0.1 foot candles that were at the property
8 line.

9 MS. GIRARD: Okay. And in your opinion would the
10 proposed conditional use be in substantial compliance with
11 recommendations of the Potomac Master Plan?

12 MS. BRYANT: Yes, for a lot of the reasons I've
13 already stated. Again the focus of the Master Plan is
14 environmental integrity and retaining green character of the
15 subregion. We are maintaining a 1.41 acres of existing
16 forest, one acre of which approximately will be going to the
17 adjacent Cabin John Stream Valley Park, so we will be
18 maintaining the integrity of the area. The River Road Green
19 View Shed which we just talked about will be maintained
20 along River Road by again keeping the forest that's along
21 our frontage intact.

22 The project is proposed for elderly housing which
23 is identified as an underserved resource in the Master Plan
24 and is also identified as a potential location next door to
25 us. It also maintains the two lane road policy of River

Page 111

1 Road and this is intended to protect the rural character and
2 also provide a hiker/biker trail for a portion or all of the
3 frontage of the property.

4 MS. GIRARD: And in your opinion would the
5 proposed conditional use be harmonious with the character of
6 the surrounding neighborhood?

7 MS. BRYANT: Yes, it's a one story building with a
8 pitched roof structure that has a maximum height of 15 feet.
9 The building is proposed to be lower in height than the
10 adjacent two story homes adjacent to us at the Clewerwall
11 Knolls lots, the architect will describe more of the
12 building in detail, so he can answer those issues.

13 The density for the site is 72 beds which is well
14 below the 159 that we could possibly be allowed to do on the
15 property and the parking has been placed below grade to
16 screen that from the adjacent neighbors. And the access use
17 of the outdoor facilities for the residents will be that of
18 residential nature of sitting and you know just enjoying the
19 outdoors. There's no playgrounds or you know concerts and
20 things like that proposed for outdoors. There is a passive
21 area and the landscaping is intentionally residential in
22 style and it's very expensive. We are planting a fair
23 amount of the open space that's left on this property.

24 MS. GIRARD: Okay. And in your opinion will the
25 proposed conditional use cause undue harm to the use,

Page 112

1 peaceful enjoyment, economic value or development potential
2 of abutting or confronting properties or the general
3 neighborhood?

4 MS. BRYANT: It will cause no undue harm. The
5 project is a residential use. It's designed to be
6 compatible with the surrounding neighborhood and it's
7 intended to minimize the impacts of the inherent
8 characteristics of this type of facility. The abutting
9 properties are single family homes, Park and River Road,
10 these will all be screened on four sides by forest and
11 landscaping. The lot has maximized the buffering from the
12 adjacent properties by using the topography and the forest
13 areas.

14 The applicant adjusted the plant species as
15 requested, so their enjoyment will be enhanced. The
16 parkland and the river road are buffered by trees. Let's
17 see, the storm water management facilities will mitigate any
18 environmental impacts and that was something that we didn't
19 mention this. That the existing home that's there now does
20 not have storm water management and so we will be --

21 MS. ROBESON: I saw that.

22 MS. BRYANT: -- improving the water quality coming
23 off of the site because of that. Yes. And the general
24 neighborhood should not be affected by this project,
25 particularly they cannot see it and the traffic will be

Page 113

1 minimal.

2 MS. GIRARD: And in your opinion will the proposed
3 conditional use cause any undue harm to the health, safety
4 or welfare of neighboring residents, visitors or employees?

5 MS. BRYANT: No. Again it's a low scale
6 residential character, it will not have an adverse effect on
7 any of the aforementioned people. In fact, it would be
8 considered a benefit to the community because there is a
9 need for this in the subregion.

10 MS. GIRARD: And in your opinion will the proposed
11 conditional use be served by adequate public services and
12 facilities including police and fire protection, water,
13 sanitary sewer and storm drainage --

14 MS. ROBESON: I think the engineer already
15 testified to that. Do we need more testimony on that?

16 MS. GIRARD: No, well I'm just kind of closing the
17 loop, she did talk about police and fire protections.

18 MS. ROBESON: I'm sorry.

19 MS. GIRARD: So I just wanted to make sure that --

20 MS. BRYANT: I'll just say yes.

21 MS. ROBESON: Okay. Thank you.

22 MS. GIRARD: And I think we addressed this, but so
23 you can answer yes or no, but in your opinion will the
24 conditional use in and of itself or in combination with
25 other existing uses affect adversely or change the present

Page 114

1 character or future development of the surrounding
2 residential community?
3 MS. BRYANT: No.
4 MS. GIRARD: And in your expert opinion as a land
5 planner, is the proposed conditional use suitable for the
6 site and compatible with the surrounding neighborhood?
7 MS. BRYANT: Yes, it provides a much needed
8 resource in an underserved community, it will add additional
9 parkland that will be available to the community, a bike
10 path along River Road and it will be thoroughly screened
11 from the community. It takes advantage of the extreme
12 topography to reduce its impacts and it will be put few
13 trips on the road network and it's in substantial
14 conformance with the Master Plan.
15 MS. ROBESON: Okay.
16 MS. BRYANT: That's all I have.
17 MS. ROBESON: Do you have any questions of her,
18 just questions?
19 MS. CARLSON: Well the question I would have is
20 how you say there is not going to be any additional traffic.
21 I've lived in the neighborhood for 25 years and the number
22 of cars I've seen coming --
23 MS. ROBESON: Okay. You just have to ask --
24 MS. CARLSON: Okay.
25 MS. ROBESON: -- we can get to your testimony, let

Page 115

1 me ask you this, Ms. Girard.
2 MS. GIRARD: Yes.
3 MS. ROBESON: You have two more witnesses?
4 MS. GIRARD: I do.
5 MS. ROBESON: Traffic and architect, correct?
6 MS. GIRARD: Yes, correct.
7 MS. ROBESON: Would it be helpful because what I'm
8 hearing is concerns about traffic. Would it be helpful to
9 take this a little out of order and hear from the two people
10 who wish to testify before we get to the traffic engineer?
11 Do you have an issue with that?
12 MS. CARLSON: No, no.
13 MS. GIRARD: It may save time, because we probably
14 would just have to call him back anyway.
15 MS. ROBESON: That's what I was thinking. So
16 let's do this. Let's take a 10 minute break, all right, and
17 then if you all, is there anyone else I saw some people come
18 in after, is there anyone else that wishes to testify in
19 opposition today? Okay. So the same two as before. All
20 right. So let's take a 10 minute break and come back at
21 around 6 after 12:00 p.m. and we'll take your testimony and
22 then we'll follow up with the applicant's witnesses and you
23 would have the opportunity, if you're prepared, if not you
24 know but will have the opportunity maybe to address the
25 concerns in one fell swoop. All right.

Page 116

1 MS. CARLSON: Uh-huh.
2 MS. ROBESON: All right. So with that, well let's
3 make it a 15 minute break. We'll come back at 10 after.
4 Okay. Thank you. We're.
5 (OFF THE RECORD.)
6 (ON THE RECORD.)
7 MS. ROBESON: Okay. We're back on the record.
8 All right. We will proceed as we discussed before the break
9 and you can go ahead. Can you please state your name again?
10 I think I didn't get it correct.
11 MS. CARLSON: My name is Anne Carlson.
12 MS. ROBESON: Okay. Before you say anything else,
13 please raise your right hand. Do you solemnly affirm under
14 penalties of perjury that the statements you're about to
15 make are the truth, the whole truth and nothing but the
16 truth?
17 MS. CARLSON: I do.
18 MS. ROBESON: Okay. Go ahead. What do you have
19 to say?
20 DIRECT EXAMINATION
21 MS. CARLSON: I am here today to express concern
22 about the dangers posed by the proposed Artis Alzheimer's
23 Facility on River Road in Bethesda. This proposed project
24 is located opposite the entrance to my neighborhood of
25 Carderock Springs. I also am on the board of the Carderock

Page 117

1 Springs Citizen's Association, a representative which
2 testified before the Montgomery County Planning Board
3 earlier this month to express concerns about the project.
4 My foremost concern regarding traffic entering and
5 leaving the proposed Artis facility is it's a very dangerous
6 intersection. I speak with personal experience. In
7 November of 2000 my car was rear-ended by a Chimney Sweep
8 traveling at full speed as I waited on River Road to turn
9 left on Carderock Springs Drive. My vehicle was totaled.
10 We recently did a survey of our neighborhood through our
11 community association and learned there have been many
12 similar crashes at that intersection, as motorists don't
13 anticipate a stopped vehicle even with turning signals on.
14 MS. ROBESON: I'm sorry, are you talking about the
15 intersection into your street? Do you have, can someone put
16 that aerial photograph up? Okay. Thank you. Can you tell
17 me --
18 MS. CARLSON: I'm looking at Exhibit 47.
19 MS. ROBESON: You're good.
20 UNIDENTIFIED PERSON: She's better than me.
21 MS. CARLSON: And what we're talking about is this
22 intersection right here.
23 MS. ROBESON: So it's the --
24 MS. CARLSON: It's the entrance to the Artis
25 facility.

Page 118

1 MS. ROBESON: Okay. The entrance to the Artis
2 facility.
3 MS. CARLSON: Is opposite the entrance to our
4 neighborhood of Carderock Springs.
5 MS. ROBESON: And so your entrance is on the west
6 side.
7 MS. CARLSON: Correct.
8 MS. ROBESON: And the access is on the east side,
9 is that correct?
10 MS. CARLSON: The access to the Artis facility --
11 MS. ROBESON: Is on the east side --
12 MS. CARLSON: -- the north side and the south
13 side.
14 MS. ROBESON: Okay. Up and down.
15 MS. CARLSON: Yeah. Yeah.
16 MS. ROBESON: Okay.
17 MS. CARLSON: And I don't know if I can enter this
18 into evidence, I took a picture this morning so you can see
19 better --
20 MS. ROBESON: Okay.
21 MS. CARLSON: -- this entrance. So Artis entrance
22 is there.
23 MS. ROBESON: Okay. Okay. Okay. All right.
24 Show that to Ms. Girard and if you want to use it --
25 MS. CARLSON: Then I will e-mail it to the --

Page 119

1 MS. ROBESON: You're going to have to e-mail it to
2 Ellen Forbes with a copy to Ms. Girard.
3 MS. CARLSON: Okay. I just took that picture this
4 morning on my way here.
5 MS. GIRARD: And can you just describe what the
6 picture is showing, just so I can --
7 MS. CARLSON: Yes --
8 MS. GIRARD: -- show her where I'm looking from.
9 MS. CARLSON: Okay. So the photograph is taken
10 from Carderock Springs Drive, the entrance to Artis is
11 directly opposite our street.
12 MS. GIRARD: Okay.
13 MS. CARLSON: So you have a situation where the
14 neighborhood of Carderock Springs does have other entrances,
15 you can get out up here.
16 MS. ROBESON: Okay. Where is up here?
17 MS. CARLSON: At, at Fenway Drive.
18 MS. ROBESON: Yes.
19 MS. CARLSON: This Fenway Drive entrance is mostly
20 used by people who live on this section up here.
21 MS. ROBESON: Yes.
22 MS. CARLSON: The River Road and Clewerwall
23 entrance up here more Carderock residents because the
24 neighborhood is for the most part south of the described
25 neighborhood --

Page 120

1 MS. ROBESON: The area shown --
2 MS. CARLSON: -- on the line in red.
3 MS. ROBESON: -- the large dashed area it's on
4 Exhibit 47.
5 MS. CARLSON: Right.
6 MS. ROBESON: It's to the west, southwest.
7 MS. CARLSON: Yes. So residents leaving our
8 neighborhood are trying to go east, for example to Bethesda,
9 trying to turn right on River Road.
10 MS. ROBESON: Okay. I understand.
11 MS. CARLSON: Will be competing against traffic
12 coming out of the Artis facility and wanting to turn left.
13 MS. ROBESON: Right. Okay. I mean yes.
14 MS. CARLSON: So we have along here River Road is
15 a very fast straightaway. I don't know if you're familiar
16 with this area of River Road but --
17 MS. ROBESON: I'm familiar in general with River
18 Road.
19 MS. CARLSON: Okay. Well this is a straightaway,
20 people are barreling down and this is a very steep hill that
21 was mentioned previously.
22 MS. ROBESON: Okay. So the very steep hill is to
23 the north of Carderock --
24 MS. CARLSON: Springs Drive.
25 MS. ROBESON: -- is it Carderock Springs Drive?

Page 121

1 You're saying that 190 or River Road becomes very steep
2 after that?
3 MS. CARLSON: Yes, that's what --
4 MS. ROBESON: Okay.
5 MS. CARLSON: -- we had considerable testimony
6 earlier today about the hazards of trying to put the
7 extended pathway on there. You can sort of see on the
8 Exhibit 50 this is the steep hill coming from Potomac
9 towards Bethesda, the people are traveling at a high rate of
10 speed down there.
11 MS. ROBESON: To the south and you're pointing to
12 the middle photograph.
13 MS. CARLSON: Yes. Sorry.
14 MS. ROBESON: Okay. On the bottom of 50. Okay.
15 MS. CARLSON: I just wanted to give you a sense of
16 the high speed intersection --
17 MS. ROBESON: What is the speed limit there?
18 MS. CARLSON: Is it 45 or 50?
19 MS. GIRARD: 40.
20 MS. CARLSON: 40? Okay. The speed limit may be
21 40 but --
22 MS. ROBESON: You're saying they go faster?
23 MS. GIRARD: They're going 45 to 50?
24 MS. CARLSON: Yes. Anyways, I just wanted to set
25 that down. So as I say there have been similar crashes at

Page 126

1 grateful about your concern about the safety of the highway
2 situation because the Montgomery County Planning Board
3 didn't seem to think it was an issue.
4 MS. ROBESON: Okay. Ms. Girard, do you have any
5 questions?
6 MS. GIRARD: Yes, just a few.
7 CROSS-EXAMINATION
8 MS. GIRARD: I just want to make sure, when you
9 say widen the road, I just want to make sure exactly what
10 you have in mind. A turning lane?
11 MS. CARLSON: Yes, as you may know on River Road
12 the river, let me make sure I get my terms right, the
13 townhouse developments have turning lanes that were
14 established. The new quarry springs condominium project
15 that is going into the big quarry project, they've now
16 expanded River Road there to accommodate a turning lane, to
17 allow people to get across traffic. So I'm asking --
18 MS. ROBESON: Like a --
19 MS. CARLSON: Yeah, like that. Yeah like that.
20 MS. ROBESON: No, that's colloquial.
21 MS. CARLSON: Yeah.
22 MS. ROBESON: That's a term. I'm not --
23 MS. CARLSON: Yes. Yes.
24 MS. ROBESON: -- suggesting it's dangerous.
25 MS. CARLSON: Yes.

Page 127

1 MS. ROBESON: But you mean they've added a lane in
2 the middle of --
3 MS. CARLSON: My understanding is the State
4 Highway Administration has required the Quarry Springs
5 development to provide a middle lane --
6 MS. ROBESON: So you can sit there and wait to
7 make a left turn?
8 MS. CARLSON: Or right, to do whatever you need to
9 get in and out of the condominium project. And I'm well
10 aware that there is a bridge over the Cabin John Creek which
11 is involute and can't be changed, but what I would like to
12 suggest is that the State Highway Administration consider
13 widening River Road at the intersection of the proposed
14 Artis facility and Carderock Springs Drive and provide a
15 middle lane that would allow residents in Carderock Springs
16 who were wanting to turn left safely or if there are
17 visitors to the Artis facility who are coming from Potomac
18 down the hill to be able to safely turn left into the Artis
19 facility. I'm just very concerned to have motorist coming
20 down River Road, down that steep hill and they put their
21 blinker on at the last minute, there's going to be
22 collisions and I likewise am aware of many other collisions
23 coming on the east side of River Road too. So I just think
24 it's a dangerous intersection. I have no complaint about it
25 being a Alzheimer's facility. But I think that the facility

Page 128

1 is adding to the danger of our neighborhood. I think there
2 is undue harm or whatever the legal terminology is. So I
3 would respectfully request that the State Highway
4 Administration take a sense of that intersection and
5 recommend measures that would reduce the harmful impact.
6 MS. ROBESON: Any other questions?
7 MS. GIRARD: Yes, two more. One is, has your
8 community had any outreach over the years? I mean it sounds
9 like this situation has been ongoing, right?
10 MS. CARLSON: Yes.
11 MS. GIRARD: Have you had any efforts like as a
12 group to outreach to SHA?
13 MS. CARLSON: I didn't do, I haven't personally.
14 I know there had been an effort to get a traffic light at
15 that intersection. But the Fire Department, my
16 understanding, opposed that because they didn't want to it
17 confuse people with the flashing yellow light on River Road
18 in front of the fire station. So I reached out to the Fire
19 Department for accident statistics and they didn't have one
20 for that intersection even though they respond to that
21 intersection periodically. Somebody else in our
22 neighborhood --
23 MS. ROBESON: Who did you reach out to?
24 MS. CARLSON: To the Cabin John Fire Department,
25 which is located right --

Page 129

1 MS. ROBESON: Okay.
2 MS. CARLSON: -- you know is the immediate
3 station.
4 MS. ROBESON: Right. But you didn't reach out to
5 SHA?
6 MS. CARLSON: No. My understanding is there have
7 been outreach to SHA years ago, maybe 8, 10 years ago. I
8 was not involved in that effort so I couldn't speak
9 authoritatively on that.
10 MS. ROBESON: Yes, that's fine. Yes, don't
11 speculate.
12 MS. CARLSON: Yes. So I don't know whether, the
13 only thing I could think of is to try and find a turning
14 lane that would accommodate your situation and our
15 neighborhood. I don't see them putting in a traffic light.
16 I don't see them expanding the bridge.
17 MS. GIRARD: I know the discussion before the
18 Planning Board and I know you were there, they had talked
19 about other traffic calming measures like speed cameras.
20 MS. CARLSON: Yeah.
21 MS. GIRARD: Is that something the community would
22 also be in favor of?
23 MS. CARLSON: I don't think they would object. I
24 would be happy to have a speed camera on River Road. I
25 noted that there was a member of the Planning Board who was

Page 130

1 oddly against doing anything of that nature. I would
2 welcome any efforts to slow speeding on River Road but I
3 think we need something to deal with people leaving the
4 Artis facility, trying to cross River Road top head east and
5 people going to visit the Artis facility coming out of
6 Potomac and trying to turn left into the Artis facility. I
7 think you have a very dangerous intersection there and
8 you're compromising our neighborhood, adding traffic for us
9 to have to navigate getting out of the neighborhood.
10 MS. GIRARD: Okay. And just one other question.
11 You had mentioned, is there one other access point into your
12 community?
13 MS. CARLSON: There is one access point north of
14 the Artis facility at Fenway Drive and River Road opposite
15 the Clewerwall intersection. There had been some talk about
16 driving more traffic into that end of the neighborhood, not
17 surprisingly the residents of the upper end of the
18 neighborhood are not interested in having a lot more River
19 Road traffic coming into their neighborhood. There is
20 another entrance into Carderock Springs off of Persimmon
21 Tree Lane. There is --
22 MS. ROBESON: Yes, but the applicant can't control
23 where people drive.
24 MS. CARLSON: Right. Yeah. So are there other
25 entrances? Yes. It's a 450 home neighborhood.

Page 131

1 MS. GIRARD: Right. I just wanted to be clear.
2 MS. ROBESON: Okay. Any other questions?
3 MS. GIRARD: That's all I have.
4 MS. ROBESON: Okay. Anything else you'd like to
5 say at this point?
6 MS. CARLSON: I would just like the State Highway
7 Department to also consider the impact of the construction
8 traffic. There is going to be a huge amount of debris
9 removed from the property, taking down the house, the pool,
10 the tennis courts and then excavating the whole property to
11 put the building in. There's going to be a lot of dump
12 trucks and a lot of construction traffic associated with the
13 project and I'm again concerned about the risk to our
14 neighborhood.
15 MS. ROBESON: Thank you. Anything further, she
16 testified after I --
17 MS. GIRARD: Added, that's fine.
18 MS. ROBESON: Okay. All right. Thanks for your
19 help. The gentleman in the back, do you want to come
20 forward now?
21 MR. KOENIG: Yes, I would.
22 MS. ROBESON: Why don't you sit to my left, your
23 right, of Ms. Carlson.
24 MS. CARLSON: You said that I should send the
25 photograph of the intersection to somebody named Ellen

Page 132

1 Forbes?
2 MS. ROBESON: Yes. And if you walk across the
3 hall at the end of the hearing, she'll give you her e-mail
4 address.
5 MS. CARLSON: Okay.
6 MS. ROBESON: And let me just explain one thing
7 now. All communications that go through, everything
8 submitted to OZHA should, the office, my office, the Office
9 of Zoning and Administrative Hearings should be CC'd to Ms.
10 Girard and I'm about to get his name. Sir, can you please
11 raise your right hand? Do you solemnly affirm under
12 penalties of perjury that the statements you're about to
13 make are the truth, the whole truth and nothing but the
14 truth?
15 MR. KOENIG: I do.
16 MS. ROBESON: Okay.
17 DIRECT EXAMINATION
18 MS. ROBESON: Please state your name and address
19 for the record.
20 MR. KOENIG: My name is Carl Koenig, K-O-E-N-I-G.
21 My address is 9014 Charred Oak Drive, Bethesda, Maryland
22 20817.
23 MS. ROBESON: Okay. Okay. What would you like to
24 say?
25 MR. KOENIG: Okay. Well first for my background,

Page 133

1 I'm Vice President of the West Bradley Citizen's
2 Association. I've been personally involved in local
3 planning and zoning matters since 1967, which is 48 years
4 and at various positions on my board for over 40 years. And
5 I was president during the struggles for the 1980 Potomac
6 Master Plan and the 2002 Potomac Master Plan. And I had
7 three points, I dropped the third point which concerned
8 traffic safety, because that's been fairly well covered and
9 I sense that it is --
10 MS. ROBESON: Do you drive past that intersection?
11 MR. KOENIG: Not very much.
12 MS. ROBESON: Okay.
13 MR. KOENIG: I was just going to comment on the
14 Planning Board's uninterest in traffic other than during
15 rush hour and was going to stress the importance of traffic
16 safety as a Code requirement and not just rush hour traffic
17 as a requirement.
18 The point, I have two points that I want to
19 address. The first is the incompatibility of the project,
20 the proposed project with the Potomac Master Plan. Page 19
21 of the planning staff draft states that it's a requirement
22 that a project conform to the recommendations of the plan,
23 then makes the conclusionary statement that it conforms with
24 the goals and objectives. Well goals and objectives are
25 nice and broad. But there are specific recommendations in

1 the Master Plan that concern this site. Page 11 of the
 2 staff draft talked about the Stoneyhurst Quarry site and how
 3 that was a recommended site for senior housing and the
 4 proposed site is 1,200 feet away in close proximity. Yet,
 5 in the staff draft 26 pages of the 100 pages are supposed to
 6 be the relevant pages of the Master Plan, they totally omit
 7 the pages on Stoneyhurst. And most relevant to this is the
 8 first paragraph of the Stoneyhurst pages, which start on
 9 page 56 of the Master Plan. It's a short paragraph, the
 10 last two sentences of which are most relevant and I will
 11 point out that these two sentences are modified by the
 12 County Council when they approved the plan in 2000.

13 MS. ROBESON: I'm sorry, where are you?
 14 MR. KOENIG: I'm on page 56 --
 15 MS. ROBESON: The Giancola Quarry?
 16 MR. KOENIG: If you go down below that --
 17 MS. ROBESON: Oh I'm sorry, I see it.
 18 MR. KOENIG: That's right.
 19 MS. ROBESON: Sorry.
 20 MR. KOENIG: Stoneyhurst and there is copies
 21 floating around as approved by the Planning Board which are
 22 different than these last two sentences, because the Council
 23 changed them. And it describes the quarry and the 200 feet
 24 cliff behind it and the unique aspect of it. And it says
 25 because of its unique configuration and topography, the site

1 is appropriate for multifamily residential development,
 2 including housing for the elderly. This should not be
 3 considered a precedent for multifamily development in the
 4 surrounding area because they do not have the topographic
 5 features unique to this site. This is a specific statement
 6 in the plan of don't even think of putting senior housing in
 7 the neighborhood, it's just because you have these 200 feet
 8 walls. There were three sites in the Master Plan thought of
 9 for senior housing, one up at the Cabin John Center at
 10 Tuckerman Lane and River Road, which has senior housing at
 11 least now across the street. Fortune Park which is Montrose
 12 and Seven Locks near 270 and I don't know if that has senior
 13 housing, but it has office buildings, apartments, shopping
 14 center, a lot of stuff and this site because of the
 15 topography and we were obviously concerned about potential
 16 commercial development. It's not a good site to just build
 17 single family houses on lots with the big cliffs, so we came
 18 to an agreement and supported the developer's proposal for a
 19 multistory building on that site.

20 Now in order for him to be able to build a
 21 multistory building, he couldn't do it in the R-200 Zone
 22 which he was in, so we did agree to RMX-1 zoning with enough
 23 wording in the Master Plan on the next page in the very
 24 first paragraph to make it clear that if he sold the
 25 property to someone else they couldn't change their mind and

1 say oh this is a lovely site I think I'll put an office
 2 building.
 3 So the second paragraph on page 57 talks about
 4 development for transportation, communication, utilities,
 5 commercial, services, cultural, entertainment, recreational
 6 and other non-residential uses would not be appropriate and
 7 are not recommended. All of those things were listed to try
 8 to make clear that it wasn't a matter if you call it special
 9 exception or whatever, it was for residential housing only
 10 at that site and someone mentioned earlier today that any R-
 11 200 Zone is fine, unless there is specific recommendation
 12 against it. That struck me when I read that as kind of a
 13 little bit much, but in fact in this case you have a
 14 recommendation against it and I don't think it conforms to
 15 the Code on this.

16 MS. ROBESON: To the Master?
 17 MR. KOENIG: To the Master Plan. My second point
 18 I was going to talk about the fact that the change in 2014
 19 which changed the Stoneyhurst zone from RMX-1 to CRT Zone
 20 somehow implies that commercial activities in this area is
 21 more appropriate. And in fact there was at least a glancing
 22 reference to that point earlier today.

23 When the -- in 2013, when the Council was
 24 proposing to write the Zoning Code and change all the types
 25 of zones, there was widespread concern about previously

1 approved projects and Master Plans, not just by citizen
 2 associations, builders, developers, companies that want to
 3 have a gas station, a lot of people were concerned and
 4 started asking for legacy zones.

5 MS. ROBESON: Well I'm sorry.
 6 MR. KOENIG: Yeah.
 7 MS. ROBESON: Go ahead.
 8 MR. KOENIG: They started asking for legacy zones
 9 to preserve what they had. You know the Council obviously
 10 didn't want to do that because instead of simplifying the
 11 Code they have now two sets of zones but they did find
 12 another way to handle the problem. And that other way was
 13 to find an exception for not only previously approved
 14 projects, but they even allowed like another 7 or 8 months
 15 for people to get their projects approved.

16 At the time, I wrote a letter to the County
 17 Council expressing my concerns about Stoneyhurst being non-
 18 commercial and also stating that, asking for a legacy zone.
 19 A week before the Council approved the zoning changes,
 20 chapter 59 which was March 4, 2014, I got a letter from the
 21 President of the Council and I suspect maybe other people
 22 got similar letters, it's specifically referencing
 23 Stoneyhurst and saying that the binding elements of the
 24 Stoneyhurst property prohibit commercial floor area will
 25 stay in force and effect, even with the change to the map

Page 138

1 zone and the text the Council will likely approve on March
2 4th will include the following provision. Any development
3 allowed on property subject to the binding elements of this
4 Council approved development plan, a schematic development
5 plan on October 30, 2014, satisfied those binding elements
6 until the property is rezoned by Sectional Map Amendment and
7 so forth.

8 So for this meeting I asked myself the question
9 did the Council actually put in the words? They said they
10 were going to, but a week before, a lot of things can
11 happen. So I did research that and in fact it is in Chapter
12 59, if you get the PDF version it starts on page 335, it's
13 page 7-39 of Chapter 59 and it's Section 7.7.1.B.5, with the
14 definition of a binding element on page 1-6, which is PDF
15 16.

16 I'd like to submit for the record a copy of the
17 Potomac Master Plan as finally approved, the 6 pages on
18 Stoneyhurst, which is not in the Staff Report, as well as
19 the copy of the letter from the Council and the letter that
20 I sent them as well and if you want it, the relevant pages
21 of Chapter 59, do you have that?

22 MS. ROBESON: I don't need the --
23 MR. KOENIG: Okay.
24 MS. ROBESON: -- Zoning Code in the record.
25 MR. KOENIG: Okay.

Page 139

1 MS. ROBESON: Do you have an objection, Ms.
2 Girard?

3 MS. GIRARD: I don't have an objection to the
4 additional sections of the Master Plan, but I'm not clear on
5 the relevance of the letter relating to the quarry.

6 MR. KOENIG: Just to make clear that the, you
7 know, the number of decades we have worked to keep this area
8 non-commercial and just to make clear that this provision in
9 Chapter 59, which doesn't talk about Stoneyhurst, it's a
10 general statement that applies to largely every developer,
11 builder, et cetera who is, you know, who is concerned, to
12 make clear that it does apply to the Stoneyhurst property.

13 MS. GIRARD: I'm going to object to that as being
14 irrelevant.

15 MS. ROBESON: Yes, I'll let it in and give it the
16 weight it deserves. I think you're general tone --

17 MR. KOENIG: Yeah.

18 MS. ROBESON: -- your general point is that you
19 were reassured that the use would remain residential and not
20 commercial, correct?

21 MR. KOENIG: Correct.

22 MS. ROBESON: Okay. So let me, I'll let both
23 things in and I'll give it the weight it deserves.

24 MR. KOENIG: Do you want a copy of the Master Plan
25 pages?

Page 140

1 MS. ROBESON: Yes. Well I have the Master Plan,
2 why don't you tell me, I don't, I can take official notice
3 of the Master Plan --

4 MR. KOENIG: If your copy says at the bottom
5 approved and adopted April 2002.

6 MS. ROBESON: Yes, it does.

7 MR. KOENIG: Okay. Then you have the latest
8 version. Because originally when the plan was promulgated
9 in 2002 the Planning Department had decided not to bother
10 reprinting it because there weren't that many changes and
11 there are a lot of copies of the Planning Board's version
12 floating around which aren't up to date.

13 MS. ROBESON: Right.

14 MR. KOENIG: Okay.

15 MS. ROBESON: Well I will also take official
16 notice of in front of the Master Plan is a resolution that
17 the County Council passed with changes they made. So I can
18 take official notice of all that unless I hear an objection.
19 So I will take the letter in. And so this would be a letter
20 from?

21 MR. KOENIG: Mr. Rice, president at the time of
22 County Council.

23 MS. ROBESON: I'm looking for the, this would be
24 51. Letter from Craig Rice dated February 25, 2014.

25 MR. KOENIG: And I also included the letter he was

Page 141

1 responding to, otherwise it doesn't really make much sense.

2 MS. ROBESON: Okay. So 51A will be his letter.
3 (Hearing Exhibit No. 51A was
4 marked for identification.)

5 MR. KOENIG: My e-mail to --

6 MS. ROBESON: And 51B --

7 MR. KOENIG: Uh-huh.

8 MS. ROBESON: -- will be the letter from you.

9 MR. KOENIG: Right, which is in an e-mail format.
10 (Hearing Exhibit No. 51B was
11 marked for identification.)

12 MS. ROBESON: Right, the e-mail from you. Okay.
13 Is there anything else you'd like to say?

14 MR. KOENIG: Well I'll only as an aside comment,
15 note that the projections of how many people who will need
16 Alzheimer's care facilities does not take into account
17 oncoming medical advances which will hopefully hurry
18 themselves along but there are a lot of promising things in
19 the pipeline.

20 MS. ROBESON: Okay. All right. Any questions,
21 Ms. Girard?

22 MS. GIRARD: Yes.

23 CROSS-EXAMINATION

24 MS. GIRARD: So I know that you're obviously
25 familiar with the Master Plan. Are you familiar with the

Page 142

1 provision specifically regarding housing for the elderly on
2 pages 36 through 38? If you don't have those sections I --
3 MR. KOENIG: I don't have page 36. I don't have
4 those sections with me.
5 MS. ROBESON: Here you can take --
6 MR. KOENIG: Okay. Thank you.
7 MS. GIRARD: Oh there we have, we can borrow the
8 land planner's.
9 MR. KOENIG: Okay.
10 MS. GIRARD: 36.
11 MR. KOENIG: On page 38 is where it talks about
12 Cabin John, Stoneyhurst and Fortune Park as possible sites
13 and --
14 MS. GIRARD: Right.
15 MR. KOENIG: -- has some on sites.
16 MS. GIRARD: Particularly the second paragraph
17 from the top on page 38. Could you please read that --
18 MR. KOENIG: Starting with --
19 MS. GIRARD: -- first sentence.
20 MR. KOENIG: Senior housing is appropriate
21 throughout the subregion where the zoning permits either by
22 right or special exception.
23 MS. GIRARD: And you're familiar that the recent
24 Zoning Ordinance converted the name special exception into
25 conditional use?

Page 143

1 MR. KOENIG: I am familiar with that change, yes.
2 MS. GIRARD: Now how does this, I mean you've
3 mentioned commercial uses in the neighborhood but I mean
4 this recommendation in the Master Plan seems to imply that
5 senior housing may be a carve out and is appropriate, the
6 language you just read says throughout the subregion,
7 wherever zoning permits this use.
8 MR. KOENIG: Well as I don't have it with me, but
9 as I remember the words in the revised -- some of the
10 revisions made over the years, recently it talks about in
11 the testimony, you know, unless there is a specific
12 statement in the Master Plan which suggests that it's not
13 appropriate and I submit to you that the Master Plan
14 specifically says it's not appropriate in the areas around
15 the quarry. You're suggesting this means it goes absolutely
16 anywhere anytime, can line up, every house on River Road and
17 make it a senior housing development.
18 MS. GIRARD: Well there's caveats that you need to
19 meet the requirements of the Zoning Ordinance. But you're
20 saying your interpretation of the Master Plan is that --
21 MS. ROBESON: I think he's saying the language on
22 the Stoneyhurst recommendation. Am I correct? I think what
23 he's saying is the language on the Stoneyhurst
24 recommendation implies that it's not to be interpreted to
25 mean it goes anywhere in this particular neighborhood.

Page 144

1 Because it says this should not be a precedent for other
2 uses.
3 MS. GIRARD: For multifamily.
4 MS. ROBESON: Yes.
5 UNIDENTIFIED PERSON: Multifamily.
6 MS. GIRARD: But the multifamily was the term, w
7 what you were using.
8 MR. KOENIG: All right.
9 MS. ROBESON: I thought it was --
10 MR. KOENIG: It just says right here multifamily
11 including senior housing, they're using multifamily to
12 include senior housing.
13 MS. GIRARD: But it says it's appropriate for
14 that.
15 MR. KOENIG: No, on the Stoneyhurst --
16 MS. ROBESON: It says it shouldn't be used as a
17 precedent for whatever --
18 MS. GIRARD: Right.
19 MS. ROBESON: -- however you want to interpret it.
20 So you know this may be something you want to address in
21 closing arguments, rather than -- it's up to you though.
22 MS. GIRARD: That's fine. I just wanted to make
23 sure he was aware of those provisions. So I'll leave that
24 alone.
25 MS. ROBESON: Okay. I understand your point of

Page 145

1 view too. All right. Anything else? Ms. Girard anything
2 else?
3 MS. GIRARD: No, that's it.
4 MS. ROBESON: Mr. Koenig, anything else?
5 MR. KOENIG: No.
6 MS. ROBESON: Okay. Thank you.
7 MR. KOENIG: Thank you very much for your
8 attention.
9 MS. ROBESON: I appreciate your time. All right.
10 Ms. Girard?
11 MS. GIRARD: Yes. We were going to call the
12 architect next, would you rather have us call the traffic
13 consultant? I don't know whether everyone wants to --
14 they're welcome to wait all day, but I don't want to keep
15 the suspense going.
16 MS. ROBESON: Yes, that's a good suggestion.
17 Thank you. I think that would be a better way to proceed.
18 MS. GIRARD: Okay. Then I will call Mike Lenhart.
19 MS. CARLSON: Can you tell me, I don't know what
20 the procedure is from here. Do you make a decision?
21 MS. ROBESON: Yes.
22 MS. CARLSON: Today or --
23 MS. ROBESON: No.
24 MS. CARLSON: -- down the road?
25 MS. ROBESON: The procedure is that I make a

Page 146

1 decision in the case. Anybody who disagrees with that
2 decision can file a request for oral argument at the Board
3 of Appeals. But the Board of Appeals can only consider the
4 evidence and testimony presented while this record is open.
5 Now this record is going to stay open because I do want
6 comments from SHA. Both as you know you'd have to cite me
7 to the regulation that says you can do anything you want in
8 an SHA right-of-way without their approval, but you know
9 both as the property owner but also as to some of the issues
10 that you're raising at the present time. All right. So you
11 can submit additional evidence limited to whatever else, you
12 can submit while the record is open you can submit evidence
13 related to the issues that I leave the record, you can't
14 bring in the kitchen sink again. But if I keep the record
15 open for this SHA review, then you can submit responsive
16 testimony based on whatever SHA says.

17 Okay. With that, Mr. Lenhart, please raise your
18 right hand. Do you solemnly affirm under the penalties of
19 perjury that the statements you're about to make are the
20 truth, the whole truth and nothing but the truth?

21 MR. LENHART: I do.

22 MS. ROBESON: Okay.

23 DIRECT EXAMINATION

24 MS. GIRARD: And Mr. Lenhart, you've previously
25 testified before the Hearing Examiner for Montgomery County,

Page 147

1 have you?

2 MR. LENHART: Yes.

3 MS. GIRARD: Haven't you?

4 MR. LENHART: I have.

5 MS. GIRARD: Do you remember the case how
6 recently?

7 MR. LENHART: Yes, probably 7 or 8 cases over the
8 past few years there was the Olney Assisted Living property,
9 the Danchez (phonetic sp.) property also in Olney was
10 assisted living. Going back a few years, Norbeck Montessori
11 School, ABC Child Daycare, and a few others.

12 MS. ROBESON: Right. And your resume is in the
13 record --

14 MS. GIRARD: It's Exhibit 30, correct.

15 MS. ROBESON: -- correct? Okay. Then I will
16 accept him -- are you a transportation engineer or planner?

17 MR. LENHART: I'm a traffic engineer,
18 transportation planner.

19 MS. ROBESON: Okay. Great.

20 MR. LENHART: I'll get into that.

21 MS. ROBESON: Go ahead.

22 MS. GIRARD: Okay. And Mr. Lenhart, are you
23 familiar with the conditional use property, the surrounding
24 area, and application number CU 15-05?

25 MR. LENHART: Yes.

Page 148

1 MS. GIRARD: And are you familiar with the
2 County's adequate public facilities test and transportation
3 policy area review for development?

4 MR. LENHART: Yes.

5 MS. GIRARD: Have you analyzed the suitability of
6 the proposed conditional use from a transportation planning
7 standpoint?

8 MR. LENHART: Yes, I have.

9 MS. GIRARD: And do you want to review your, I
10 guess we should mention that your analysis is included in
11 the record, Exhibit Number 12. But do you want to just
12 spend a minute and review your analysis and conclusions?

13 MR. LENHART: Yes. We conducted a traffic
14 statement dated February 15th, that traffic statement, the
15 local area transportation review guidelines referred to as
16 LATR Guidelines requires that if a project generates more
17 than 30 trips then it's required to follow the LATR test.
18 If it's fewer than 30 trips then the traffic statement has
19 to include an exemption request of why it's exempt and so we
20 prepared that, we included the trip generation analysis
21 using the LATR guideline rates. LATR has appendix with trip
22 generation rates for different uses, one of those is an
23 assisted living facility. And based upon a 72 bed facility
24 that would generate two trips in the morning peak hour and
25 four trips in the evening peak hour. That's one in and one

Page 149

1 out in the morning, two in two out in the evening.

2 MS. ROBESON: Is that generation rate, what is
3 that based on? The number of employees?

4 MR. LENHART: It's based on the number of beds, so
5 the rate is per bed.

6 MS. ROBESON: Okay.

7 MR. LENHART: It's a rate that's been generated by
8 studies of existing sites and published by Montgomery County
9 through the LATR guidelines. So it's based on empirical
10 data and that's what we're required to use.

11 MS. ROBESON: I know that that's what your
12 required to use. Okay.

13 MS. GIRARD: So just to be clear, so they get
14 these counts by going out when you say empirical data, so
15 they've done counts of similar facilities --

16 MR. LENHART: Yes.

17 MS. GIRARD: -- and broken down. So when they're
18 doing those counts they're not saying this person is an
19 employee, this person is a visitor --

20 MR. LENHART: No it's not broken down and how many
21 employees you get, how many visitors, how many delivery
22 trucks and service trucks, it's just based on the total
23 number of trips in and out of the facility.

24 MS. GIRARD: So you heard the Hearing Examiner's
25 question earlier. Is it fair to assume that those numbers

Page 150

1 do take into account visitors?
2 MR. LENHART: They do take into account visitors.
3 There is no, nothing in the data that breaks down the types
4 of us.
5 MS. ROBESON: But they don't take into account
6 local road conditions, correct? Site specific --
7 MR. LENHART: No. No.
8 MS. ROBESON: -- it's not like in HCM or some
9 other type of analysis, it's solely a critical lane volume
10 of that analysis, correct?
11 MR. LENHART: Well critical lane and HCM are both
12 levels of service analysis. They're different types of
13 analysis.
14 MS. ROBESON: Right. They're capacity analysis?
15 MR. LENHART: They're capacity analysis.
16 MS. ROBESON: Right.
17 MR. LENHART: You're right, this is not a capacity
18 analysis, it doesn't take into consideration the design of
19 the road, the type of intersection.
20 MS. ROBESON: Right.
21 MR. LENHART: It simply says here's a facility
22 with 72 beds --
23 MS. ROBESON: Right.
24 MR. LENHART: -- this is how much traffic is going
25 to going to come in and out of that facility.

Page 151

1 MS. ROBESON: Okay. Go ahead.
2 MS. GIRARD: Okay.
3 MR. LENHART: And we also included an analysis of
4 the TPAR and the Potomac policy area. There is a
5 requirement for a 25 percent mitigation fee for TPAR, 25
6 percent of the transportation impact tax will mitigate the
7 TPAR impact.
8 MS. CARLSON: What is TPAR?
9 MR. LENHART: It's transportation policy area
10 review. The County is broken down into smaller policy areas
11 and each of those policy areas are looked at on an annual
12 basis to determine if the policy area is passing or failing
13 from roadway and transit perspectives. And if it's passing
14 both of those then there is no impact fee. If it fails one
15 or the other then there's a 25 percent impact fee if it
16 fails both there's a 50 percent impact fee.
17 MS. ROBESON: And which one did this fail?
18 MR. LENHART: I believe it failed --
19 MS. ROBESON: Do you have a TPAR payment due?
20 MR. LENHART: Bear with me.
21 MS. ROBESON: Transit, maybe?
22 MS. GIRARD: I think so.
23 MR. LENHART: Transit and it's exempt from the
24 roadway test. I just wanted to make sure I was clear on
25 that.

Page 152

1 MS. ROBESON: Well it's exempt, that's a different
2 test in the TPAR, correct?
3 MR. LENHART: Well TPAR is exempt from the roadway
4 test --
5 MS. ROBESON: Right.
6 MR. LENHART: -- in Potomac policy area. Transit
7 fails therefore --
8 MS. ROBESON: I see what you're saying. All
9 right.
10 MR. LENHART: Yes. So it's exempt from LATR
11 because it's fewer than 30 peak hour trips.
12 MS. ROBESON: Right.
13 MR. LENHART: It's exempt from, the TPAR has two
14 pieces to it, one is roadway and one's transit. It's exempt
15 from roadway --
16 MS. ROBESON: Okay.
17 MR. LENHART: -- it fails transit.
18 MS. ROBESON: I didn't know Potomac was exempt
19 from roadway. Okay.
20 MS. GIRARD: Do you know the basis for that? Why
21 is it exempt?
22 MR. LENHART: They don't require LATR test even if
23 you generate more than 30 peak hour trips they don't require
24 LATR analysis or traffic impact analysis unless it impacts
25 certain intersections.

Page 153

1 MS. ROBESON: Okay. All right. Continue.
2 MR. LENHART: Yes. That's basic parts of the
3 traffic statement really it was just the exemption from the
4 LATR and the TPAR analysis as well.
5 MS. ROBESON: Okay.
6 MS. GIRARD: And while your analysis does not take
7 into account, it doesn't, as I understand it and please
8 confirm, it doesn't project that a certain percentage would
9 take transit or anything? It's assuming that everyone would
10 come in a vehicle?
11 MR. LENHART: Correct.
12 MS. GIRARD: But despite that, is there transit
13 available to the property?
14 MR. LENHART: Yes, there is a bus stop, a WMATA
15 bus stop for the River Road line, it's the T-2 line that
16 runs from, bear with me, it runs from the Rockville Metro
17 Station to the Friendship Heights Metro Station and that
18 takes River Road out to Falls Road and then it repeats
19 itself throughout the day.
20 MS. GIRARD: Okay. And did transportation staff
21 at the Maryland National Capital Park and Planning
22 Commission review your traffic report?
23 MR. LENHART: Yes.
24 MS. GIRARD: And did they agree with your
25 conclusions?

Page 154

1 MR. LENHART: Yes, they did, in the transportation
2 staff report they reiterated my findings.
3 MS. GIRARD: Okay. One issue that we've talked
4 about already today is the bike path along the frontage of
5 the property. You're initial recommendation or your initial
6 analysis found that it was not required under the Master
7 Plan and the Bikeways Plan. Could you please explain the
8 basis of that analysis?
9 MR. LENHART: Yes, so the 2002 Potomac Master Plan
10 included a requirement for shared use path. And when the
11 2005 countywide Functional Bikeways Master Plan was
12 implemented and adopted it changed the findings on the River
13 Road corridor. And bear with me, I'm looking for some maps.
14 Table 2-2 of the Countywide Bikeways Master Plan.
15 MS. ROBESON: Okay. Go ahead.
16 MR. LENHART: States and this is from Table 2-2
17 and I'm going to read from the status and condition for
18 group DB as in David boy dash 2, which this is a bike route
19 DB-2 from the D.C. line to Seneca Road and the status and
20 condition in the Countywide Bikeways Plan states that a
21 shared use path exists in segments and other segments are
22 proposed. A shared use roadway is the new proposal in the
23 Countywide Bikeways Plan. The discussions --
24 MS. ROBESON: Was that after, I read that --
25 MR. LENHART: Yes. The --

Page 155

1 MS. ROBESON: So that was after the Master Plan?
2 MR. LENHART: The Potomac Master Plan was 2002.
3 MS. ROBESON: Right.
4 MR. LENHART: The Countywide Bikeways Plan was
5 2005.
6 MS. ROBESON: Okay. So this replaced the Master
7 Plan discussion on bikeways. The discussion then in the
8 2005 Master Plan states that and I'm quoting, adequate
9 shoulder space exists for signed shared roadway along the
10 majority of the road. Short segments of shared use path
11 have been constructed by developers on the north side, west
12 of I-495. The Potomac Subregion Master Plan recommended a
13 shared use path between I-495 and Seneca Road. New
14 proposals include shared use path between the D.C. line and
15 495 and a signed shared roadway from the D.C. line to Seneca
16 Road. We believe that there's a typo there that instead of
17 D.C. line to Seneca Road that should be 495 to Seneca Road
18 because that discussion breaks down, it says that new
19 proposals include a shared use path between the D.C. line
20 and the beltway and then it would make sense that it then
21 says and signed shared roadway from 495 to Seneca Road, if
22 you look at the two segments. But either way you read it
23 between the beltway and Seneca Road it's signed shared
24 roadway in the Countywide Bikeways Plan.
25 MS. GIRARD: And what does that mean, the signed

Page 156

1 share roadway?
2 MR. LENHART: Signed shared roadway, if I read
3 from --
4 MS. ROBESON: Would that include part of the
5 access driveway?
6 MR. LENHART: It includes the shoulders of the
7 roadway.
8 MS. ROBESON: Right.
9 MR. LENHART: So the signed share roadway taken
10 from the Countywide Bikeways Master Plan a definition of a
11 signed share roadway is paved shoulders, with a minimum
12 width of 6 feet is desirable. This allows a cyclist to ride
13 far enough from the edge of the pavement to avoid debris,
14 yet far enough from passing vehicle to avoid conflicts. So
15 as long as you have a shoulder that's 6 feet or wider, which
16 we do, this is 8 feet, 8 to 10 feet in places, then this
17 satisfies the Master Plan as a signed share roadway.
18 MS. ROBESON: But when you say shared roadway that
19 doesn't include pedestrians, right?
20 MR. LENHART: No.
21 MS. ROBESON: It's just bicyclists?
22 MR. LENHART: That's correct.
23 MS. ROBESON: Okay. And staff said it has to be
24 shared use bicycle pedestrian? I think that's what they
25 said.

Page 157

1 MR. LENHART: I don't recall honestly --
2 MS. ROBESON: Okay. That's fine.
3 MR. LENHART: -- if they specified pedestrian or
4 not. But we do satisfy the shared use path for bikes, bikes
5 and vehicles, the shared use, I'm sorry the signed share
6 roadway.
7 MS. GIRARD: And despite those arguments which you
8 know the original Site Plan had only shown the signed share
9 roadway, staff did not agree with you that that was
10 sufficient?
11 MR. LENHART: And I think it was more the Planning
12 Board was concerned and they wanted to have bicyclists off
13 the shoulder and so they said they wanted to see the shared
14 use path.
15 MS. ROBESON: I don't think they said anything
16 about it in their recommendation.
17 MS. GIRARD: Are you referring to the verbal --
18 MS. ROBESON: No, that's not in my record.
19 MR. LENHART: The verbal discussion.
20 MS. GIRARD: Right. I know I'm just saying that
21 may be where he's getting it from.
22 MS. ROBESON: No, I'm just --
23 MS. CARLSON: They did instruct the staff to
24 approve it with that requirement.
25 MS. GIRARD: With the bike --

1 MS. ROBESON: Okay. Keep going. I'm not
 2 disagreeing one way or the other.
 3 MS. GIRARD: Right.
 4 MR. LENHART: Sure.
 5 MS. ROBESON: I'm just thinking if it was that
 6 important, I don't know what they said unless they put it in
 7 writing.
 8 MR. LENHART: Sure.
 9 MS. ROBESON: But go ahead.
 10 MS. GIRARD: And we've spoken about the
 11 constraints, the applicant in response to the Planning Board
 12 and staff has proffered to include the 10 foot shared use
 13 path along the majority of the frontage, but not the entire
 14 frontage as you have been sitting here listening to and
 15 there is constraints, there's physical constraints on the
 16 west side. But what is your opinion as far as whether that
 17 would be sufficient from a transportation?
 18 MR. LENHART: I believe our proposal to construct
 19 the majority of it, I think it was described as
 20 approximately 75 percent of it, would satisfy the Master
 21 Plan requirements and I think it would be sufficient for
 22 safe bicycle and pedestrian use along the frontage of our
 23 property, particularly given those constraints that were
 24 discussed earlier. If you head west from our site from our
 25 western property border heading west to Clewerwall Drive,

1 there is no shared use path today along that section. There
 2 is only, there is a shared use path that begins at
 3 Clewerwall Drive and travels west to the Congressional
 4 Country Club, access --
 5 MS. ROBESON: And when you say shared use it's not
 6 shared roadway it's pedestrian, it's marked pedestrian
 7 bicycle path?
 8 MR. LENHART: It's a constructed, a physical
 9 constructed bicycle path --
 10 MS. ROBESON: Okay.
 11 MR. LENHART: -- off the shoulder of the road.
 12 That is it begins about 1,000 feet or so --
 13 MS. ROBESON: Do you mind putting the 47 up, I
 14 think it is? Okay. So --
 15 MR. LENHART: So --
 16 MS. ROBESON: -- can you show me where it starts?
 17 MR. LENHART: Yes. So our site boundary begins on
 18 the north side of River Road --
 19 MS. ROBESON: Yes.
 20 MR. LENHART: -- approximately at the Cabin Branch
 21 Bridge, or the Cabin John Bridge. Sorry. It heads west
 22 along our site frontage, it stops about --
 23 MS. ROBESON: Where that 190 just --
 24 MR. LENHART: -- just west of the, or just east of
 25 the 190, it's about --

1 MS. ROBESON: I think that's south on that, but I
 2 could be wrong.
 3 MR. LENHART: It's about 1,000 feet approximately
 4 from --
 5 MS. ROBESON: From your access?
 6 MR. LENHART: Correct. And then roughly another
 7 1,000 feet continuing west to Clewerwall Drive.
 8 MS. ROBESON: Okay.
 9 MR. LENHART: There is no bicycle path to the west
 10 of our site up to Clewerwall Drive.
 11 MS. ROBESON: Okay.
 12 MR. LENHART: Bicyclist would have to use the
 13 shoulder of the road --
 14 MS. ROBESON: The shoulder.
 15 MR. LENHART: -- along that section of the
 16 roadway.
 17 MS. ROBESON: Okay.
 18 MR. LENHART: To our immediate west all the way to
 19 Clewerwall Drive. There is a residential subdivision off of
 20 Clewerwall Drive and therefore very unlikely that a separate
 21 bike path would ever be built by a private sources.
 22 MS. ROBESON: It's already developed.
 23 MR. LENHART: It's already developed.
 24 MS. ROBESON: Okay.
 25 MR. LENHART: Once you get to Clewerwall Drive,

1 continuing west there is a bike path between Clewerwall and
 2 the entrance to the country club and at that location
 3 however the road widens out. I'm sorry, River Road widens
 4 as you head west toward Congressional to provide separate
 5 turn lanes and there is no shoulder on River Road as you
 6 approach Congressional.
 7 MS. ROBESON: I see.
 8 MR. LENHART: Therefore, there is no ability for a
 9 bicycle to have a shoulder so it makes sense that you have a
 10 shared path off road in that location.
 11 MS. ROBESON: I understand.
 12 MR. LENHART: There is a shoulder across our
 13 entire frontage and all the way to Clewerwall Drive that can
 14 be as a signed share roadway.
 15 MS. ROBESON: Okay.
 16 MR. LENHART: And therefore if we were to provide
 17 a path for a portion of our site, whether you end three-
 18 quarters of the way through our site or go the entire
 19 distance through our site, bicyclists would have to come
 20 back out onto the shoulder when they reach our property
 21 limit anyway.
 22 MS. ROBESON: Okay.
 23 MR. LENHART: So.
 24 MS. GIRARD: Thank you. And Mr. Lenhart, you've
 25 listened to the testimony that we just had from Mr. Koenig

1 and Ms. Carlson and you've heard their concerns about
2 existing conditions on River Road and their concerns that
3 the project would exacerbate those. Could you please
4 address those concerns?

5 MR. LENHART: Yes. And there was significant
6 discussion about this at the Planning Board as well. There
7 is a perceived safety problem for westbound motorist on
8 River Road stopping to turn left into --

9 MS. GIRARD: Carderock.

10 MR. LENHART: -- Carderock Springs Drive. And
11 they sit there, there's not a separate left turn lane so as
12 they sit and wait for a gap to turn left westbound traffic
13 behind them has to stop in order, you know to wait for them
14 to make their left turn.

15 MS. ROBESON: Is that, okay, go ahead, I'm sorry.
16 Go ahead.

17 MR. LENHART: And --

18 MS. ROBESON: I'm getting confused because I
19 thought the north arrow followed River Road but I could be
20 wrong.

21 MR. LENHART: Well it kind of goes on a diagonal.

22 MS. ROBESON: Is it kind of --

23 MR. LENHART: This plan has a, okay.

24 MS. ROBESON: Okay. So traveling, so which way
25 are they traveling on River Road?

1 MR. LENHART: Well it's kind of northwest, so I
2 think some people may have referred to it as north and some
3 may have referred to it as west.

4 MS. ROBESON: Yes, that's where I was getting --

5 MR. LENHART: If you're coming from the Capital
6 Beltway --

7 MS. ROBESON: Okay. I got you.

8 MR. LENHART: -- coming from the beltway driving
9 northwest on River Road.

10 MS. ROBESON: I understand. Okay.

11 MR. LENHART: As soon as you cross the bridge at
12 Cabin John Creek there is, which has shoulders one lane in
13 each direction and shoulders that are roughly 8 feet in
14 width. It's not wide enough to put a separate left turn
15 lane or bypass lane across the bridge. There is not enough
16 room to widen or restripe. And within about 50 feet you
17 have the intersection for the left turn to desensitized and
18 so the community would stop and sit and wait for a gap to
19 make a left turn --

20 MS. ROBESON: To left turn, yes.

21 MR. LENHART: -- and you know there is a concern
22 about speeding vehicles, driving northwest and rear-ending
23 them as they're waiting to make a left turn. And again
24 three was significant discussion at the Planning Board most
25 if not all of the Planning Board members agreed that there

1 is an existing speeding problem along the roadway and
2 understood the safety concern that they were talking about.
3 However, everyone agreed, the Planning Board members, a
4 number of them made statements and I believe as well --

5 MS. ROBESON: Well why don't you keep it to what
6 you believe --

7 MR. LENHART: Okay.

8 MS. ROBESON: -- because --

9 MR. LENHART: In my opinion so if you're driving
10 west on River Road, if you're going to get into the site
11 you're going to make a right turn. You don't have to sit
12 and wait. You're not --

13 MS. ROBESON: Correct.

14 MR. LENHART: -- exposed, you're not sitting and
15 so you turn and you're immediately out of traffic. If you
16 are driving the other direction on River Road, driving
17 towards the beltway, and you want to make a left turn to get
18 into the site, there is a striped right turn lane to turn
19 into Carderock Springs Road or Carderock Springs Drive, that
20 can be used as a bypass lane if someone is sitting to make
21 that left turn. So vehicles can kind of get around them.

22 There is adequate site distance in both directions. The
23 traffic volumes here --

24 MS. ROBESON: You mean it meets SHA standards for
25 site distance?

1 MR. LENHART: Yes, it exceeds SHA standards for
2 site distance. The traffic volumes in and out of this
3 proposed facility are much lower than the traffic volumes in
4 and out of Carderock Springs Drive. And the addition --

5 MS. ROBESON: But that doesn't count the
6 concentration of visitors at particular times. I know the
7 empirical studies, but they don't have Cabin John Bridge --

8 MR. LENHART: Sure.

9 MS. ROBESON: -- and some of the other issues.
10 So I guess --

11 MR. LENHART: So the staff, or the conditions says
12 that there will be three shifts, no more than 18 I believe
13 the number was 18 --

14 MS. ROBESON: Right.

15 MR. LENHART: -- on site at one time.

16 MS. ROBESON: But it doesn't relate to visitors.

17 MR. LENHART: It doesn't relate to visitors. I
18 think, are you going to call him back up?

19 MS. ROBESON: How many on each shift?

20 MS. GIRARD: Yes, we're looking into visitor
21 issue.

22 MS. ROBESON: How many on each shift?

23 MR. LENHART: 18 maximum on one shift. So you'd
24 have 18 people entering in a shift --

25 MS. ROBESON: And 18 exiting.

1 MR. LENHART: -- 18 exiting. Exiting is not
2 what's been testified as the issue. The issue that has been
3 indicated is somebody turning into the site and the safety
4 of that movement. And so you'd have 18 --

5 MS. ROBESON: Well, if you have people stacked to
6 make a left into --

7 MS. CARLSON: Carderock Springs Drive.

8 MS. ROBESON: -- Carderock Springs, wouldn't it be
9 difficult to make a left going east?

10 MS. CARLSON: Yes.

11 MR. LENHART: No, they just wait until they have a
12 gap in traffic, number one. Number two, the fact that they
13 have agreed to shift work that's off peak, the traffic
14 volumes on River Road based on State Highway data that I've
15 obtained, off peak traffic on River Road is much lower than
16 the peak hour traffic volumes. Therefore, anybody that was
17 waiting to turn, or wanted to turn into the site wouldn't
18 have to sit and wait for --

19 MS. ROBESON: Okay. I'm sorry to interrupt.

20 MR. LENHART: -- an extended period. That's okay.

21 MS. ROBESON: Finish your statement.

22 MR. LENHART: Wouldn't have to sit and wait for a
23 gap for an extended period of time. The volume is much
24 lower, they'd be able to get in and out much easier during
25 the shift times.

1 MS. ROBESON: Are you saying peak hour or peak
2 period?

3 MR. LENHART: Well peak period is typically three
4 hours in the morning and three hours in the evening.

5 MS. ROBESON: I know that's why I asked.

6 MR. LENHART: But then the volumes --

7 MS. ROBESON: Because we don't have a peak hour
8 here, right? Since we didn't do a traffic study?

9 MR. LENHART: Well I have counts from State
10 Highway that I found in 2011.

11 MS. ROBESON: Okay.

12 MR. LENHART: And so it's a few years old but it's
13 indicative of the nature of the traffic out there. It
14 wouldn't have changed since substantially.

15 MS. ROBESON: How much development has been put in
16 since 2011? Do you know what --

17 MR. LENHART: I don't know the exact answer to
18 that.

19 MS. ROBESON: Okay.

20 MS. CARLSON: Can I --

21 MR. LENHART: But I could say --

22 MS. ROBESON: No, I'll give you another chance.

23 MS. CARLSON: Yes. Yes, yes.

24 MR. LENHART: I can say that regional, I've done
25 studies across the state, hundreds and hundreds of studies,

1 and the predominant traffic growth works out anywhere from
2 one to three percent per year. So there would not have been
3 a significant change in this and that's pretty consistent
4 across the board about 1 to 3 percent per year. So this
5 wouldn't be significantly different.

6 MS. ROBESON: Does the SHA have accident data from
7 that intersection?

8 MR. LENHART: They would have accident data, they
9 don't release it. They're very careful about releasing that
10 data because of liability issues. So it's not something I'd
11 have easy access to.

12 MS. ROBESON: Well I would think they'd have to
13 release it. Because it's a public record.

14 MR. LENHART: It depends on what --

15 MS. ROBESON: But I won't talk the Maryland Public
16 Information Act with you --

17 MR. LENHART: Yes.

18 MS. ROBESON: -- but I do think and we've had that
19 data in other cases.

20 MR. LENHART: They will release it depending on
21 the request. If I request it, they won't just give it --

22 MS. ROBESON: I was wondering --

23 MR. LENHART: -- to me, but public agencies they -
24 -

25 MS. ROBESON: -- but maybe if I request it.

1 MR. LENHART: If you or staff would request they
2 probably would, yes. So the shift here from 6:00 a.m. being
3 one of the turnover times, the traffic volumes on River Road
4 at 6:00 a.m. are less than half, about 40 to 45 percent of
5 the actual peak flow. So the peak flow occurs between 7:00
6 a.m. and 8:00 a.m., actually between 7:00 a.m. and 9:00 a.m.
7 It jumps up --

8 MS. ROBESON: What are you basing this on?

9 MR. LENHART: I'm basing this on a traffic count I
10 have from State Highway.

11 MS. ROBESON: From 2011?

12 MR. LENHART: From 2011.

13 MS. ROBESON: Okay.

14 MR. LENHART: So the peak, well you look at three
15 hours in the morning and three hours in the evening. This
16 is actually a 13 hour count that the State Highway did at
17 River Road and Carderock Springs Drive, from 6:00 a.m. to
18 7:00 p.m. And from 6:00 a.m. to 7:00 a.m. which is in the
19 period of time that we would be having our shift change, the
20 traffic flow is about half, a little less than half of what
21 occurs between at 7 o'clock the volumes jump up and are
22 consistent for a couple of hours and then they drop back
23 down. At 6:00 a.m. they're again, less than half. So the
24 volumes out here are low. This would operate a level of
25 service A at that time, based upon State standards.

Page 170

1 MS. ROBESON: At which time, 6:00 a.m. to 7:00
2 a.m.?
3 MR. LENHART: At 6:00 a.m. Yes, based upon the
4 State volumes.
5 MS. ROBESON: Okay.
6 MS. GIRARD: Is there anything further you wanted
7 to say on that?
8 MR. LENHART: No, that's great.
9 MS. GIRARD: Okay. And you had mentioned site
10 distance, is this the site distance evaluation that you were
11 referring to?
12 MR. LENHART: Yes.
13 MS. GIRARD: I want to submit this into the
14 record.
15 MS. ROBESON: And this is Exhibit --
16 MS. GIRARD: 52.
17 MS. ROBESON: -- 52, yes. Did you give a copy of
18 this to Ms. Carlson?
19 MS. GIRARD: That's the only one I have. I can --
20 MS. ROBESON: Okay. What I'm going to do after we
21 finish with Mr. Lenhart, I am going to take a break for
22 lunch. I was trying to avoid it but I don't think I'm going
23 to make it. So what I'll do is maybe we'll take a break
24 after his direct and I can let them look at this over the
25 lunch break.

Page 171

1 MS. GIRARD: Sure. Yes.
2 MS. ROBESON: So this will be 52. Let me just,
3 and that is SHA site distance measurement.
4 (Hearing Exhibit No. 52 was
5 marked for identification.)
6 MS. ROBESON: All right. Go ahead, Mr. Lenhart.
7 MS. GIRARD: Okay. You were concluded on that,
8 right?
9 MR. LENHART: Yes.
10 MS. GIRARD: So I just want to go through some
11 conclusions with you and make sure to put a cap on your
12 testimony. From a transportation engineering standpoint do
13 you believe the proposed development would be consistent
14 with the General Plan and Potomac Master Plan in terms of
15 transportation planning?
16 MR. LENHART: Yes, I do.
17 MS. GIRARD: And from a transportation engineering
18 standpoint would the proposed development be in harmony with
19 the character of the surrounding neighborhood considering
20 traffic conditions?
21 MR. LENHART: Yes, I do, for all the reason I
22 stated before, this is a very low traffic generator, it's
23 exempt from LATR. Staff has agreed with our findings and,
24 yes.
25 MS. GIRARD: And from a transportation engineering

Page 172

1 standpoint will the proposed improvements cause undue harm
2 to the use, peaceful enjoyment, economic value or
3 development potential of abutting and confronting properties
4 for the general neighborhood?
5 MR. LENHART: It will not create any undue harm,
6 no.
7 MS. GIRARD: And from a transportation engineering
8 standpoint do you believe the proposed improvements would
9 cause any objectionable physical activity?
10 MR. LENHART: No, I do not.
11 MS. GIRARD: Do you believe they would have a
12 detrimental effect on vehicular or pedestrian traffic or
13 safety?
14 MR. LENHART: No. Again, this is a very low
15 traffic generator.
16 MS. GIRARD: And from a transportation engineering
17 standpoint is the proposed conditional use and development
18 suitable for this site and compatible with the surrounding
19 neighborhood?
20 MR. LENHART: Yes.
21 MS. GIRARD: That concludes.
22 MS. ROBESON: You know I just had one follow up
23 question. In your opinion would some kind of speed camera
24 or slow down the traffic that's been reported on would
25 assist in the safety of this site or that was, I heard

Page 173

1 somebody mention that. In your expert opinion?
2 MR. LENHART: Yes. I believe that it would
3 improve safety on River Road. And again I don't think that
4 there is a connection between this application and what's
5 being represented as the existing conditions. But I do
6 believe that speed cameras would slow traffic down, it would
7 improve the situation that the community is experiencing
8 while they're sitting and waiting to make a left turn. Yes,
9 I believe it would.
10 MS. ROBESON: Okay. Do you have any follow up
11 questions based on my questions?
12 MS. GIRARD: No.
13 MS. ROBESON: Okay. Let's do this. Do you have
14 questions for Mr. Lenhart?
15 MS. CARLSON: Just a couple.
16 MS. ROBESON: Okay. Then let's try to get this
17 over now. I would like you to review this. This is the
18 site distance study and is this the only paper you had?
19 MS. GIRARD: That's the only copy of it or the
20 only --
21 MS. ROBESON: Yes, the only copy.
22 MS. GIRARD: Yes, that's the only copy.
23 MS. ROBESON: Okay. Let me do this, let me take a
24 five minute break and I'll get you copies.
25 MS. GIRARD: We'd be happy to have somebody, we

1 has the River Quarry Townhouse project. So traffic has been
2 increasing on River Road as the County has been approving
3 more projects. So there are just more opportunities for
4 trouble. My experience sitting on River Road trying to make
5 a left into Carderock Springs Drive, what often happens is
6 people try and utilize that shoulder to zip around and so --
7 MS. ROBESON: So I see what you're saying.
8 MS. CARLSON: -- the person behind me says I'm
9 going to zip around and then you have a series of people who
10 may be are paying attention that they can zip around too and
11 then you have somebody who isn't paying attention and bad
12 news.
13 MS. ROBESON: Okay. All right. Any --
14 MR. KOENIG: I have a question, if I could?
15 MS. ROBESON: Yes.
16 MR. KOENIG: What is the traffic count from 6:00
17 p.m. to 7:00 p.m.? You say it's half of the peak, but in
18 the peak it's probably bumper to bumper standstill. How
19 many cars an hour are they talking about?
20 MR. LENHART: So if you are from 6 o'clock to 7
21 o'clock in the morning and this was an --
22 MR. KOENIG: Uh-huh.
23 MR. LENHART: -- 2011 traffic count, from the
24 beltway heading northwest on River Road --
25 MR. KOENIG: Uh-huh.

1 MR. LENHART: -- during that hour there were 153
2 vehicles traveling northwest.
3 MR. KOENIG: Per?
4 MR. LENHART: For that hour.
5 MR. KOENIG: For that hour?
6 MR. LENHART: 153 vehicles for that hour. When it
7 gets up into the 7 o'clock, 8 o'clock hours that jumped to
8 470 to 480 vehicles per hour.
9 MS. CARLSON: I'm sorry --
10 MS. ROBESON: What --
11 MS. CARLSON: Sorry.
12 MS. ROBESON: -- about eastbound to the beltway?
13 MR. LENHART: Eastbound, 6 o'clock hour was 630
14 vehicles traveling east and 7 o'clock to 8 o'clock and 8
15 o'clock to 9 o'clock it jumped to about 1,150. So during
16 the time of our shift change when most of our traffic is
17 coming out, traffic volumes are much lower. There is --
18 MS. ROBESON: Do you have that traffic count
19 sheet?
20 MR. LENHART: I do.
21 MS. ROBESON: May I have it in the record?
22 MR. LENHART: Certainly.
23 MS. ROBESON: And just so I don't have to go back
24 to the transcript and remember --
25 MR. LENHART: Sure.

1 MS. ROBESON: -- all the counts.
2 MS. CARLSON: Any chance we could get a copy of
3 that as well?
4 MS. ROBESON: Absolutely. There is writing.
5 UNIDENTIFIED PERSON: That's just by, the shift
6 times, so.
7 MS. ROBESON: So this will be, I think I'm on --
8 MS. GIRARD: Three.
9 MS. ROBESON: -- 53. Am I on 53?
10 MS. GIRARD: Yes, you are.
11 MS. ROBESON: Okay. And it's SHA traffic counts.
12 (Hearing Exhibit No. 53 was
13 marked for identification.)
14 MS. ROBESON: Okay. And I'll give you a copy.
15 MR. KOENIG: Am I correct to understand that
16 there's an eastbound was 630 an hour during the 6:00 a.m. to
17 7:00 a.m. period, which is 10 per minute or one car every
18 six seconds going down at high speeds. It may be half of
19 the peak hours, but it's still one every six seconds and
20 fewer the other way.
21 MR. LENHART: But that's not how traffic flows
22 typically occurs. You'll have a platoon of vehicles that
23 move through and then you'll have a huge gap and then have a
24 platoon of vehicles. And I'd like to add that based upon
25 our shift changes, those traffic volumes, the intersection

1 would operate at a level of service A using the critical
2 lane volume methodology which is what Park and Planning and
3 State Highway both use. So while we're talking about 600
4 vehicles, I think it's important to add that that is a level
5 of service A.
6 MS. ROBESON: No, I understand that. I guess but
7 we don't just look at LATR.
8 MR. LENHART: Correct, yes.
9 MS. ROBESON: We also look at whether the site
10 actually functions safely that's part of our compatibility
11 analysis and the case law. And there are certain situations
12 that aren't captured by LATR. So while LATR is a tool for
13 road capacity, it's not necessarily the end of the answer
14 when it comes to access safe and secure. All right.
15 Anything else? Ms. Girard, any follow up?
16 MS. GIRARD: No.
17 MS. ROBESON: Okay. You're welcome to stay, I do
18 think I'm going to, I am going to take a lunch break for an
19 hour or so and we'll come back at a quarter to three and
20 we'll have the architect testify and then I probably, I am
21 going to leave the record open for information. I'd like to
22 submit the Site Plan to SHA and for safety or accident data
23 on that intersection.
24 MS. GIRARD: And I may recall Jay, just to hit a
25 couple of points.

Page 182

1 MS. ROBESON: Jay? Oh yes.
2 MS. GIRARD: Just so you know what the plan is.
3 MS. ROBESON: I had pics in my head. So okay so
4 with that we're going to take a lunch break until 2:45 p.m.
5 All right. Yes, sir?
6 MR. KOENIG: So is the record going to be open in
7 case anyone that could not make the meeting wants to submit
8 a statement? Or is it just open for the SHA?
9 MS. ROBESON: It's only open for the matters that
10 I'm --
11 MR. KOENIG: Okay.
12 MS. ROBESON: -- it's not just open for SHA, but
13 it's not open for anybody to complain about anything.
14 MR. KOENIG: Okay.
15 MS. ROBESON: If you have a response to
16 information that's submitted by SHA or by staff, you have
17 the opportunity to submit something into the record. And
18 I'm going to try to set some deadlines, but if somebody
19 wants to come in and object to the appearance, then I'm not
20 going to accept that into the record. All right. So the
21 record is going to be open for a limited purpose, otherwise
22 the hearing you know would go on forever.
23 MS. CARLSON: And just so I know, how would we
24 know when the record was --
25 MS. ROBESON: I'll tell you, we're going to agree

Page 183

1 upon a date after the last witness and we'll see what other
2 follow up if there's any other follow up and then I will set
3 deadlines for certain things.
4 MS. CARLSON: So if we need to find that
5 information out, do we contact Ellen Forbes?
6 MS. ROBESON: Yes, you can either, if you want to
7 leave now you can either contact Ellen Forbes and also we
8 get the transcript of this hearing within 10 business days,
9 yes. But once we get it we post it on our website. So you
10 can see everything that transpired at the hearing. But I am
11 going to set deadlines. The only reason for you, perhaps,
12 that you may want, if you want to stay today you might want
13 to have input on the deadline for you responding to anything
14 that comes in from SHA.
15 MS. CARLSON: Okay.
16 MS. ROBESON: Okay?
17 MS. CARLSON: Great.
18 MS. ROBESON: All right. And make sure both of
19 your e-mail addresses and other contact information is on
20 the sign-up sheet so, you have to be CC'd on the
21 communications between OZHA, any communications that come
22 from us or to us. All right. So make sure that information
23 is on the sign-up sheet. All right.
24 MS. CARLSON: Thank you very much.
25 MS. ROBESON: And with that, we're going to take a

Page 184

1 recess until 2:50 p.m. Thank you.
2 MR. KOENIG: Thank you.
3 (OFF THE RECORD.)
4 (ON THE RECORD.)
5 MS. ROBESON: All right. We're back on the
6 record. Ms. Girard, do you want to bring up your next
7 witness?
8 MS. GIRARD: Yes, my next witness is Dan Dokken.
9 MS. ROBESON: Okay.
10 MR. DOKKEN: Dokken.
11 MS. GIRARD: Dokken. Sorry.
12 MR. DOKKEN: That's all right.
13 MS. GIRARD: It's been a while.
14 MR. DOKKEN: Let's see, let me get set up first.
15 Okay.
16 MS. ROBESON: Please raise your right hand. Do
17 you solemnly affirm under penalties of perjury that the
18 statements you're about to make are the truth, the whole
19 truth and nothing but the truth?
20 MR. DOKKEN: Yes.
21 MS. ROBESON: Okay. Ms. Girard?
22 DIRECT EXAMINATION
23 MS. GIRARD: Mr. Dokken, you've previously
24 testified before the Hearing Examiner in Montgomery County,
25 have you not?

Page 185

1 MR. DOKKEN: Yes, that's right.
2 MS. GIRARD: And do you remember what case that
3 was?
4 MR. DOKKEN: That was the Memory Care Assisted
5 Living in Olney.
6 MS. GIRARD: And approximately how long ago was
7 that?
8 MR. DOKKEN: Boy, maybe 2011, maybe.
9 MS. GIRARD: Okay. We can go through his
10 qualifications if you would like, his resume is in the
11 record at Exhibit 27.
12 MS. ROBESON: Okay. Are you qualifying him as an
13 architect --
14 MS. GIRARD: As an architect.
15 MS. ROBESON: -- in architecture?
16 MS. GIRARD: Yes.
17 MS. ROBESON: Okay. That's fine.
18 MR. DOKKEN: Okay.
19 MS. ROBESON: We can qualify him.
20 MS. GIRARD: Great. Mr. Dokken, are you familiar
21 with the conditional use property surrounding --
22 MS. ROBESON: Oh one thing --
23 MS. GIRARD: Sure.
24 MS. ROBESON: -- I forgot we're supposed to ask
25 now, are you licensed as an architect in Maryland? I forgot

1 to ask.

2 MR. DOKKEN: Yes, I am.

3 MS. ROBESON: Okay. Go ahead.

4 MS. GIRARD: Are you familiar with the conditional
5 use property surrounding area in application number CU 15-
6 05?

7 MR. DOKKEN: Yes.

8 MS. GIRARD: Can you review your design concept
9 for the building proposed in the application, including the
10 building features, materials, elevations, floor plans?

11 MR. DOKKEN: Sure. What this, as Jay kind of
12 touched on a little bit this morning, this is a prototype
13 approach for you know, a building for people that have
14 memory care issues and that and it's kind of a proven
15 concept that we really started designing back in like 1994 I
16 think was the first one that we did where before Alzheimer's
17 had been kind of taken care of in nursing homes and that.
18 And at the time I was designing or designing wings in
19 nursing homes for Alzheimer's but then then it was like well
20 we can do this in a freestanding building that can be
21 dedicated for these persons and because the environment is
22 such a big part of the care for these individuals, you know,
23 it just made more sense to do a freestanding building. And
24 some of the components that we deal with is trying to remove
25 barriers from them that's just the frustration of going to

1 places they can't go into that they think they should and it
2 just causes frustration in that. And then also, you know, a
3 big component is just providing spaces for activities
4 because they're basically their days are filled with daily
5 activities that keep them busy and make them feel like
6 they're doing you know things that they're supposed to in
7 their average, you know, daily life. So you know and then
8 the other aspect is security. Just making sure that they're
9 safe, that they don't wander off.

10 So what we've done and I'm going to refer to
11 Exhibit 9 of you know basically the building is made up of a
12 core or a town center, as we call it, that has a lot of the
13 administrative activities and some community spaces that
14 residents can go to for specific you know activities that
15 involve beauty, barber, or crafts and things like that. And
16 then out from that center area which is you know where the
17 main entry is into the building, we create four households
18 that are basically like, you know, just a smaller, you know,
19 house for residents, because we found that if you get too
20 many residents, you know, if everybody just intermixed all
21 the time it's overwhelming, you know, to them, because
22 there's, you know if we had 72 residents just wandering
23 around. So we compartmentalize and we try to create this
24 little homier environment and so basically each one of these
25 houses that's in the four quadrants have their own living

1 room and dining room and we call it a pantry but it's like
2 it's a serving kitchen that looks like one you would have at
3 home. All the meals are cooked in the main kitchen in the
4 core area and they're carted out, you know, but actually the
5 residents a lot of times are involved in plating the food
6 and you know setting the table, and that. So you know it's
7 part of that care program. And then another aspect is
8 queuing too because we have a situation where we have four
9 households, somebody goes from one household to the other
10 they might, you know, be confused or they might think this
11 is their bedroom when it's not. So we give each house a
12 theme and it's you know not only color scheme and that, but
13 also you know theme like the beach house wing will have, you
14 know, famous artwork and that will evoke, you know, that
15 environment and that, so it's a little easier to recognize.

16 And then the aspect of providing, you know, or
17 removing barriers in that too, that's part of the reason we
18 create a closed courtyard around the sides and the back of
19 the building so that the residents, when the weather is nice
20 and that they can freely wonder in and out of the facility
21 and you know basically take care of that wandering need that
22 so many of them have.

23 And then you know it creates a little bit of a
24 different situation in that you know we're, we have all of
25 our services and that come through the front door, then you

1 know where like in most facilities it's like well you have a
2 loading dock in the back and that's where you bring stuff
3 in. But because that's dedicated to the residents, we bring
4 all that in the front.

5 And another thing, you know, we will run into
6 issues too where a lot of the residents will, you know, they
7 wake up in the morning and they're like, you know, why am I
8 here, whose, you know, my son is going to come pick me up,
9 you know, this afternoon or something like that. So you
10 know what we try to do is make it feel residential like, you
11 know, so it kind of helps them feel like hey this is my
12 house. And going hand in hand with that is what we do on
13 the exterior appearance. You know we try, I mean it's a big
14 building but you know we try to break it up and use
15 residential materials, a single story and pitched roofs and
16 that. So it's kind of, I don't know, it's not really all
17 that innovative in that, but you know it's just something
18 that, you know, we combined those type of queuing and
19 security and that that, you know, just really lets the
20 architecture kind of help with the care giving. So that's
21 basically, well you know I guess too, you know, what we have
22 that's different here than other places is again slight
23 related where you know where we're recessing this into a
24 hillside, you know, with the walls around the back and the
25 really and then also doing a parking garage, you know, which

1 is site specific, typically we would just do surface
2 parking. But just to kind of accommodate the site, we make
3 those modifications which you know part of that is since we
4 have a parking garage down below grade, we have a basement
5 area or a lower level area that's under this core that
6 people can get from the parking garage into the building and
7 there's an elevator there that will bring them up to the
8 lobby and so that's a little bit of a twist on how we would
9 normally do, and that's just kind of to accommodate the
10 special site.

11 MS. GIRARD: Okay. And when you were referencing
12 the architecture, are these the plans that you were
13 referring to?

14 MR. DOKKEN: Yes.

15 MS. GIRARD: They're Exhibit 10 in the record,
16 just make sure they are. And can you briefly describe for
17 us the lighting associated with the use?

18 MR. DOKKEN: Well what we typically do is back in
19 well obviously like for parking and that, you know, will
20 have some lighting and you know the good thing here is that
21 most of that's, you know, down below. So there isn't a lot
22 of impact on lighting the parking lot. But you know those
23 type of, you know still we have some drives, you know at the
24 drop off and that, so those will be illuminated too. You
25 know I think we, you know some places are you know 2 to 3

1 foot candles kind of in those areas, but we do cut off
2 fixtures and actually do photometric study to make sure that
3 we don't have any bleed off and we'll utilize the fixture,
4 manufacturer's data to model, actually put in a model when
5 we say you know it's so high on the light poles and that and
6 it will generate all that so that we can confidently say
7 that you know we're not letting light bleed over the
8 property lines. And then you know back in the courtyard
9 area where the residents are free to wander and that, we --

10 MS. ROBESON: Would that be interior courtyards or
11 the west side --

12 MR. DOKKEN: Uh-huh.

13 MS. ROBESON: -- the open area?

14 MR. DOKKEN: West. Yes, that's west out here.

15 MS. ROBESON: Is that what you're referring to?

16 MR. DOKKEN: Yes.

17 MS. ROBESON: Yes.

18 MR. DOKKEN: Basically I mean we do have these
19 interior ones --

20 MS. ROBESON: Okay.

21 MR. DOKKEN: -- that are for access from inside
22 the building there.

23 MS. ROBESON: Okay.

24 MR. DOKKEN: But you know this, you know, what we
25 would do is typically we would pull a fence off you know to

1 one side of the building and go clear around and then return
2 back on the other side up towards the front.

3 MS. ROBESON: I see.

4 MR. DOKKEN: So that gives the residents this area
5 to wander and we do like some you know light bollards and
6 some low level sidewalk lighting there and you know, so
7 there's really not a huge impact with any of that kind of
8 lighting. I mean it's just real low level and again in this
9 case we're pushed down you know so nobody can see it. I
10 mean somebody made a comment about really the building being
11 almost invisible, it really is the case on this.

12 MS. ROBESON: What do you see from River Road?
13 What would you see?

14 MR. DOKKEN: You know you would see, you know, at
15 nighttime, I think you would see, you know, lighting, let me
16 just utilize this, 37C exhibit. You know as you're going
17 down River Road there is light poles that are going to
18 illuminate --

19 MS. ROBESON: The drive?

20 MR. DOKKEN: -- that drive. And even though there
21 is trees in between I mean you're going to see some light
22 bleed through on that. But it's pretty minimal I think and
23 it's, you know, really beyond that going up, you know, once
24 it gets up to the building you know it's so much higher from
25 River Road I don't think you'll really --

1 MS. ROBESON: Yes, that's why I was wondering if
2 you even see with the SHA right-of-way is that forested?

3 UNIDENTIFIED PERSON: Yes.

4 MS. ROBESON: Oh coming up, all right.

5 MR. DOKKEN: Yes, you kind of see this is all
6 shown --

7 MS. ROBESON: Yes, all right.

8 MR. DOKKEN: -- treed there, so I mean like I say
9 you'll see some light through the trees obviously, but
10 pretty minimal, I mean you'd have to almost be kind of
11 looking for it. But as far as the building, I don't think
12 you'll see, you know, anything from the building. You know
13 maybe as you get up to the top here, you know, there will be
14 some light poles up here that maybe you could see up through
15 the trees, but like we were saying, I mean this is like 60
16 feet, you know it's like 100 feet from down that River Road.

17 MS. ROBESON: River Road?

18 MR. DOKKEN: Yes. So and there really is other
19 than you know this trail of light, you know, the drive going
20 up I think that's all you'll see from River Road. Okay.

21 MS. GIRARD: In the photometric there is a revised
22 photometric that's in the record as 37D and that photometric
23 that you prepared complies with all codes?

24 MR. DOKKEN: Yes.

25 MS. GIRARD: Okay. And then we go into our

Page 194

1 standards. So from an architectural standpoint will the
2 proposed conditional use be architecturally compatible with
3 and in harmony with the character of the surrounding
4 neighborhood considering design, scale and bulk, the
5 proposed development?
6 MR. DOKKEN: Yes, you know, some of the houses in
7 the area are multistory and that, you know, I mean there is
8 a little bit of difference, but you know like I say we try
9 to do the residential materials and you know we've actually
10 on this particular project kind of done more than what we
11 normally would on a project. We're doing a lot of stone on
12 it and we've kind of created these porches that have
13 craftsman style columns and that you know holding up the
14 porches and you know hardiplank siding and that you know it
15 will be painted. So I mean we really you know try to create
16 that residential look which you know definitely, you know,
17 fits in that you know design a nomenclature you know if fits
18 in to the neighborhood.
19 MS. GIRARD: Right. And from an architectural
20 standpoint will the proposed conditional use cause undue
21 harm to the use, peaceful enjoyment, economic value or
22 development of abutting or confronting properties or the
23 general neighborhood?
24 MR. DOKKEN: I don't think so, no.
25 MS. GIRARD: And from an architectural standpoint,

Page 195

1 do you believe the proposed improvements would cause any
2 adverse effect on the health, safety or welfare of any
3 neighboring residents, visitors or employees of the area?
4 MR. DOKKEN: No.
5 MS. GIRARD: And from an architectural standpoint
6 will the proposed conditional use cause any objectionable
7 noise, odors, dust, illumination, glare or physical activity
8 at the site?
9 MR. DOKKEN: No.
10 MS. GIRARD: That's all I have for Mr. Dokken.
11 MS. ROBESON: Well if I had known I wouldn't have
12 taken lunch.
13 MS. GIRARD: Well we still have Jay and he has a
14 plane to catch actually which I didn't know until lunchtime.
15 MS. ROBESON: Okay. Well, just for the record the
16 two individuals that were here who testified in opposition
17 have left. So there is no cross-examination.
18 MR. DOKKEN: Okay.
19 MS. ROBESON: So if you have no further questions
20 then you may be excused.
21 MS. GIRARD: Okay. You can catch your plane.
22 MS. ROBESON: Thank you.
23 MS. ROBESON: All right. Yes, thanks.
24 MS. GIRARD: Thank you.
25 MR. DOKKEN: Thanks guys. See you.

Page 196

1 MS. GIRARD: So we were going to recall Jay Hicks.
2 MS. ROBESON: All right. Mr. Hicks, you're still
3 under oath.
4 MR. HICKS: Yes, ma'am.
5 MS. GIRARD: Mr. Hicks, we just needed you to
6 clarify a couple of things that have been said or questioned
7 about since you were here. The first is the shifts. We had
8 a discussion with Mr. Lenhart about the 18 on the peak
9 shift. Is that true of all the shifts, that they would all
10 be 18?
11 MS. ROBESON: I'm sorry, what's the peak shift?
12 Because they both cover peak hours.
13 MS. GIRARD: Well maybe --
14 MR. HICKS: Well maybe I can explain.
15 MS. ROBESON: Okay. Go ahead.
16 MR. HICKS: We've been talking about 18 staff
17 members at the most there and that's the first shift from
18 6:00 a.m. to 2:00 p.m. What's important now is that on
19 second shift the numbers go down to 12 and third shift there
20 is no more than six. So I just thinking about this 18
21 became the --
22 MS. ROBESON: So it's 18 from 6:00 a.m. to 2:00
23 p.m.?
24 MR. HICKS: And then 12 from 2:00 p.m. to 10:00
25 p.m.

Page 197

1 MS. ROBESON: 12 from 2:00 p.m. to 10:00 p.m.
2 MR. HICKS: And six from 10:00 p.m. to 6:00 a.m.
3 MS. ROBESON: Okay.
4 MR. HICKS: So just --
5 MS. ROBESON: 10:00 p.m. to 6:00 a.m.
6 MR. HICKS: That's right. Just so we don't get
7 too hung up on the 18, the other shifts have fewer staff
8 understandably.
9 MS. GIRARD: Right. And have you had any further
10 insight on visitors to the project?
11 MR. HICKS: Yes. I called Melissa Stewart who is
12 our executive director at the Olney facility I described,
13 which is still leasing up ahead of schedule and we feel the
14 Potomac market is even more underserved than Olney. And I
15 asked her about this just to confirm. She attended the
16 Planning Board meeting with us, but didn't have cause to
17 testify, and she's been the executive director of other
18 memory care assisted living facilities that are virtually
19 identical to ours, so she's very informed. And I asked her
20 quite simply when do you get your visitors, knowing that
21 they could come 24/7, and after she talked about how we get
22 less visitors than typical assisted living, I said I know
23 I've said that, let's go a little further on that. She said
24 typically weekends and after dinner on weekdays. And I said
25 well on a week night let's say, what's the typical number of

Page 198

1 visitors you'd have on a week night after dinner. She said
2 probably five. And that comports with my understanding and
3 although I've not been an executive director, I've worked
4 with a lot of executive directors and I'm happy to go on
5 record with those numbers.
6 MS. ROBESON: Okay.
7 MS. GIRARD: The question was also raised about
8 the overflow parking and when you think that might be
9 needed.
10 MS. ROBESON: Is Olney a similar size?
11 MR. HICKS: Yes. That is 64, we're at 72.
12 MS. ROBESON: 72.
13 MR. HICKS: And she was speaking from experience
14 and went beyond Olney at prior facilities that were all
15 memory care and --
16 MS. ROBESON: Okay.
17 MR. HICKS: -- and there is a slightly different
18 unit count, but other than that it's the same facility.
19 MS. ROBESON: I'm sorry, go ahead.
20 MS. GIRARD: It's okay. And the question of the
21 overflow parking was raised as to when you think that would
22 be needed and whether that would be in peak hours or off
23 peak hours.
24 MR. HICKS: Yes, if it would be needed, my
25 thinking is that by definition would be off peak because

Page 199

1 it's the rare holiday that we do this. So when people talk
2 about rush hour traffic on weekdays, holidays by definition
3 aren't work days. So I think you have that avoidance of
4 conflict at that point.
5 MS. GIRARD: Okay. And you heard the testimony
6 from the citizens about their concerns with River Road and
7 conflicts that may arise. And I believe you mentioned at
8 the Planning Board but I wanted to make sure you said it on
9 your record, your willingness to support efforts that the
10 community may go to to you know seek traffic calming or
11 improvements.
12 MR. HICKS: Yes.
13 MS. GIRARD: Not improvements as in lane
14 improvements --
15 MR. HICKS: Right.
16 MS. GIRARD: -- but just in their dealings with
17 the State Highway.
18 MR. HICKS: Right. I think you know I said it, I
19 don't know if I said it on the record at the Planning Board
20 meeting, certainly I've said it to the neighbors that you
21 know we'd like to join the chorus of people that would be
22 there supporting any necessary legitimate improvements to
23 River Road if we, that's why I described it as joining the
24 chorus. If there's concerns out there, you know, we'd have
25 a vested interest in a shared response to those concerns and

Page 200

1 we're happy to work with them.
2 MS. GIRARD: But just to be clear --
3 MR. HICKS: Yes.
4 MS. GIRARD: -- that your testimony was that you
5 don't believe you're exacerbating the problem?
6 MR. HICKS: No.
7 MS. GIRARD: And this would be more in the good
8 neighbor --
9 MS. ROBESON: I get that.
10 MR. HICKS: Absolutely. That's the spirit in
11 which we offer it. That's right.
12 MS. GIRARD: And my final question is we've talked
13 about the record closing and I know you've been working
14 closely with the neighbors, was it your understanding that
15 one or some of them were going to try to write letters into
16 the record that maybe haven't arrived yet?
17 MR. HICKS: Yes. I've worked closely with Mrs.
18 Long who is here and --
19 UNIDENTIFIED PERSON: Yes.
20 MR. HICKS: -- left, she's attended all the
21 meetings to date. Mr. Barnello and Shorb's. Yes, at least
22 one letter I know is coming in, in support of us, it just
23 hasn't come in yet. I would hope you could leave the record
24 open for those three people so that --
25 MS. ROBESON: Well unfortunately I just told the

Page 201

1 people that I was only going to leave it open for now, I saw
2 Mrs. Long here --
3 MR. HICKS: Right.
4 MS. ROBESON: -- so if that is evidence of there
5 is support in the community then I did see her here.
6 MR. HICKS: Okay. Good.
7 MS. ROBESON: So I don't want to leave the record
8 open for the letters of support after I told them --
9 MS. GIRARD: Right.
10 MS. ROBESON: -- it would be only be traffic, so.
11 MR. HICKS: No that is a good point.
12 MS. ROBESON: And technically support or not
13 support you know is not one of the legal criteria. But I
14 will tell you I did see Mrs. Long here and she did not
15 testify in opposition.
16 MR. HICKS: That's correct.
17 MS. ROBESON: And I do have your testimony that
18 you have worked with the citizen groups. So I don't want
19 impinge on your case, but I did recognize that and I don't
20 want to do something different than what I told them.
21 MR. HICKS: No, I understand. That's a good
22 point.
23 MS. ROBESON: And it probably wouldn't change one
24 way or the other --
25 MS. GIRARD: Right.

1 MS. ROBESON: -- my decision.
 2 MR. HICKS: Understood.
 3 MS. GIRARD: Okay. That's all the concerns.
 4 MR. HICKS: Is that it?
 5 MS. GIRARD: Anything else?
 6 MR. HICKS: No. I think that's it for me.
 7 MS. ROBESON: Okay.
 8 MR. HICKS: Thank you.
 9 MS. ROBESON: Thank you. So what I'd like to do
 10 is to run the Site Plan, I don't know who is doing the plan
 11 reviews now for SHA. I would like to solicit comments from
 12 them. I have no idea how long that that would take.
 13 MS. GIRARD: For what it's worth, our traffic
 14 engineer thought their usual turnaround time was 45 days.
 15 MS. ROBESON: Well I'm going to set 30 days and --
 16 MS. GIRARD: If we can close it faster, we'd love
 17 to and you probably have more clout getting a response than
 18 we would.
 19 MS. ROBESON: Well that's what I was thinking but
 20 I can't be too unreasonable. So it's the 25th, and then we
 21 have that holiday. So let's try this, let's try the 17th of
 22 July. I'm going to ask for their comments by July 17th.
 23 And I'm also going to ask for the accident data. I also
 24 need the Parks consent.
 25 MS. GIRARD: I can get that to you probably in a

1 couple of days.
 2 MS. ROBESON: Well I'll send, is Bill Griese still
 3 doing the --
 4 MS. GIRARD: Yes.
 5 MS. ROBESON: -- Parks stuff?
 6 MS. GIRARD: And he's who we've met with so he
 7 would be very familiar.
 8 MS. ROBESON: Okay. Well I can send the request
 9 to him so he has, there's something on the record from me --
 10 MS. GIRARD: Okay.
 11 MS. ROBESON: -- saying meet this date, please,
 12 unless you really can't. So June 17th is when I'm going to
 13 ask the Agency's comments to be in. All right.
 14 MR. HICKS: July.
 15 MS. GIRARD: July.
 16 MS. ROBESON: Yes.
 17 MR. HICKS: I'm sorry.
 18 MS. ROBESON: I should have had more lunch. So
 19 I'm going to set that as the Agency comment date. And then
 20 do you want some time to be able to respond?
 21 MS. GIRARD: Yes.
 22 MS. ROBESON: Okay. How much time would you like?
 23 MS. GIRARD: We can within three or four business
 24 days probably.
 25 MS. ROBESON: Well let's --

1 MS. GIRARD: Or give us like a week, I guess.
 2 MS. ROBESON: Okay. I need to give them time too,
 3 so let's just say that 7/24 is your deadline to respond.
 4 I'd like to get, yes, 7/24 is your deadline to respond. I
 5 may ask staff for comments but I don't think, the only issue
 6 that you had with staff was their interpretation of the
 7 Bikeways Plan, correct?
 8 MS. GIRARD: Yes. Correct.
 9 MS. ROBESON: Okay. So they already set out their
 10 position. Okay. The only other thing it could have been is
 11 if SHA does something, says something that says you need to
 12 change X, Y and Z on this Site Plan --
 13 MS. GIRARD: Yes.
 14 MS. ROBESON: -- I am required to refer that back
 15 to technical staff. So but we're not there yet.
 16 MS. GIRARD: Yes.
 17 MS. ROBESON: So I would like to leave it up until
 18 I see what SHA says. Under the new Zoning Ordinance I have
 19 to give Park and Planning no more than 30 days, but I think
 20 I can make the deadline more quick than. I will wait and
 21 see what SHA and the Parks Department have to say and if we
 22 need to extend it more so you can submit a revised Site
 23 Plan, that's fine. But let's hope for the best.
 24 MS. GIRARD: Okay. Yes.
 25 MS. ROBESON: Okay. So right now assuming that

1 the Site Plan doesn't change I'll set the Agency deadline
 2 for July 17th and then the parties responses to July 24th.
 3 And all communications between you and I, everybody is going
 4 to get CC'd on all the communications that come from me and
 5 to me. I mean you can communicate amongst yourselves but if
 6 you can include, get their e-mail from Ellen of our office -
 7 -
 8 MS. GIRARD: Yes.
 9 MS. ROBESON: -- then you can copy them on all the
 10 communications. All right.
 11 MS. GIRARD: Yes.
 12 MS. ROBESON: Anything else?
 13 MS. GIRARD: I was just going to make a brief
 14 closing statement.
 15 MS. ROBESON: Go for it.
 16 MS. GIRARD: Not to keep us all here a little
 17 longer. I just wanted to touch on the three high points
 18 that I think have come up time and time again today. The
 19 one being the stream crossing issue and whether that was an
 20 inherent or non-inherent adverse impact. I think where we
 21 ultimately got although I sense there's disagreement between
 22 the Hearing Examiner and Ms. Bryant about it, is that that
 23 whether it is or is not an inherent adverse impact, it
 24 appropriately mitigated. And the exhibit that is now in the
 25 record, Exhibit 49, I think really demonstrates that,

Page 206

1 because it shows the area that would be disturbed and the
 2 area that would be conveyed to Parks in exchange for that
 3 disturbance and that ratio is actually 16 to 1, and I think,
 4 I'm willing to guess here that you're going to hear from
 5 Parks that they thought that was a very, very favorable
 6 situation. So I think that that obviously or hopefully has
 7 reached resolution and that's appropriately mitigated.
 8 With regard to the Master Plan, we've touched on
 9 this and I know the issue came up about whether
 10 recommendation in the Master Plan that anywhere in the
 11 subregion is appropriate for senior housing is or is not
 12 enough to meet the conditions, the revised conditions of the
 13 Zoning Ordinance pertaining to a concentration of uses and
 14 we had back and forth about the quarry, but I think what you
 15 can't avoid is that the Master Plan did call for whether it
 16 be on the quarry or somewhere in the subregion, senior
 17 housing. And they recognize the need of this and as we've
 18 said and I think that as Jay conveyed, it's only getting
 19 worse. There is not that many projects that have been
 20 approved in this subregion to meet this need and this is
 21 very necessary and the Master Plan in recommending it for
 22 the quarry or this area has recognized that the time it made
 23 that recommendation, Congressional was there and Northwood
 24 was there, they understood that this was going to be another
 25 conditional use in that area.

Page 207

1 And then on the last, on SHA we hear the
 2 community. I mean I personally probably would be here to
 3 testify if I got rear-ended trying to turn in my
 4 neighborhood as well. So we understand that and we're
 5 sympathetic to that and as you heard Mr. Hicks say he's
 6 willing to help in their efforts to get an appropriate
 7 response from SHA. But this project in and of itself has
 8 testified to by Mr. Lenhart is just not generating enough to
 9 require this project in and of itself to create turn lanes
 10 or anything like that. There is adequate circulation here
 11 and aside from the LATR there is adequate circulation in and
 12 out of the site to not pose any safety concerns.
 13 We also had the struggle of the two lane policy,
 14 so I would just note that that may be something that they
 15 hear from SHA. It's hard to overcome the Master Plan in
 16 that regard. So I just wanted to touch on those --
 17 MS. ROBESON: In its wisdom or not.
 18 MS. GIRARD: Exactly.
 19 MS. ROBESON: Right.
 20 MS. GIRARD: And we all know how bound we have to
 21 be by that. So I just wanted to touch on those points, but
 22 thank you very much --
 23 MS. ROBESON: Okay.
 24 MS. GIRARD: -- for your listening to all of our
 25 experts today.

Page 208

1 MS. ROBESON: Thank you.
 2 MR. HICKS: Thank you.
 3 MS. ROBESON: Thank you for your testimony and so
 4 what we're going to do is leave the record open until July
 5 17th for Agency comments and 7/24 for the parties comments
 6 unless for some reason that needs to be extended. If it
 7 does need to be extended, it will be extended in writing.
 8 MS. GIRARD: Okay.
 9 MS. ROBESON: And just so you know I have 30 days
 10 after the record closes to write my report. We try very
 11 hard not to take the full amount of time, but that is our
 12 deadline and then you have 10 days from the date the report
 13 is issued, if you disagree with any findings to request oral
 14 argument with the Board of Appeals. All right. With that,
 15 the hearing is adjourned. Thanks.
 16 MS. GIRARD: Thank you.
 17 MR. HICKS: Thank you.
 18 (Whereupon, at 3:22 p.m., the hearing was
 19 concluded.)
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Page 209

1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that
 3 the attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Office of Zoning and Administrative Hearings for Montgomery
 6 County in the matter of:
 7 Petition of Artis Senior Living
 8 Case No.: CU 15-05
 9
 10 By:
 11
 12
 13
 14 Diane Wilson, Transcriber
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**Artis Senior Livinf
Revised**

<p style="text-align: center;">A</p>	<p>0:11 accurate (3) 0:25,23,3</p>	<p>0:15 adjust (1) 0:10</p>	<p>0:16,11,10,11,9,1,12, 14 age (2) 0:22,10</p>	<p>0:7,5,8,9,10,21,23, 24,8,4,14,17,22,3,8,24, 25,16,16,19 ambiance (4) 0:11,3,7,25</p>
<p>ABC (1) 0:11</p>	<p>acre (6) 0:9,6,18,2,20,16</p>	<p>adjusted (4) 0:11,24,25,14</p>	<p>agencies (1) 0:23</p>	<p>amendment (2) 0:1,6</p>
<p>ability (3) 0:11,16,8</p>	<p>acres (3) 0:9,10,15</p>	<p>Administration (3) 0:4,4,12</p>	<p>Agency (3) 0:1,19,5</p>	<p>amongst (1) 0:5</p>
<p>able (10) 0:15,1,3,9,18,17,18, 20,24,20</p>	<p>acronyms (1) 0:24</p>	<p>Administration's (1) 0:21</p>	<p>Agency's (1) 0:13</p>	<p>amount (12) 0:14,18,1,17,6,2,13, 20,23,23,8,11</p>
<p>above (5) 0:20,5,6,1,8</p>	<p>across (19) 0:22,3,6,9,15,24,17, 4,10,13,12,21,17,2,11, 12,15,4,25</p>	<p>Administrative (3) 0:9,13,5</p>	<p>ago (8) 0:5,6,8,3,16,7,7,6</p>	<p>analysis (26) 0:24,13,23,10,5,5,25, 25,10,12,20,3,4,6,9,10, 12,13,14,15,18,24,24,6, 8,11</p>
<p>abruptly (1) 0:17</p>	<p>Act (1) 0:16</p>	<p>admission (1) 0:16</p>	<p>agree (5) 0:18,22,24,9,25</p>	<p>analyzed (3) 0:13,13,5</p>
<p>absent (1) 0:25</p>	<p>activities (6) 0:4,20,3,5,13,14</p>	<p>admitted (1) 0:15</p>	<p>agreed (5) 0:10,3,25,13,23</p>	<p>and/or (2) 0:25,16</p>
<p>absolutely (5) 0:22,22,15,4,10</p>	<p>activity (5) 0:4,22,16,9,7</p>	<p>adopted (3) 0:17,5,12</p>	<p>agreement (1) 0:18</p>	<p>angled (1) 0:1</p>
<p>abut (3) 0:2,2,25</p>	<p>actual (7) 0:24,20,25,3,13,5,21</p>	<p>adult (2) 0:13,16</p>	<p>ahead (27) 0:9,12,16,24,8,9,17, 23,23,7,8,8,9,18,7,21,1, 15,9,15,16,6,16,3,13, 15,19</p>	<p>angle (3) 0:14,5,5</p>
<p>abuts (4) 0:10,2,20,8</p>	<p>Actually (55) 0:4,2,5,12,13,15,4,8, 5,12,18,19,19,9,24,25, 1,3,6,11,15,18,1,23,8, 23,24,1,10,10,11,16,14, 16,1,9,22,1,11,15,11, 16,11,19,21,9,6,16,10, 4,2,4,9,14,3</p>	<p>advance (1) 0:8</p>	<p>aisle (5) 0:18,5,16,17,23</p>	<p>Anne (2) 0:2,11</p>
<p>abutting (6) 0:17,10,2,8,3,22</p>	<p>ad (1) 0:9</p>	<p>advances (1) 0:17</p>	<p>Alfred (3) 0:8,20,25</p>	<p>annual (3) 0:18,14,11</p>
<p>accel (1) 0:14</p>	<p>ADA (4) 0:2,24,25,16</p>	<p>adversely (4) 0:8,9,14,25</p>	<p>align (1) 0:14</p>	<p>anticipate (3) 0:11,13,1</p>
<p>accel/decel (1) 0:1</p>	<p>add (6) 0:10,22,12,8,4,24</p>	<p>advocate (1) 0:17</p>	<p>alignment (5) 0:10,19,21,2,19</p>	<p>anticipated (1) 0:11</p>
<p>accept (4) 0:23,8,16,20</p>	<p>added (2) 0:1,17</p>	<p>aerial (7) 0:3,9,14,15,2,11,16</p>	<p>allow (3) 0:6,15,17</p>	<p>anticipating (2) 0:8,25</p>
<p>acceptance (1) 0:23</p>	<p>adding (5) 0:2,11,11,1,8</p>	<p>aesthetically (1) 0:22</p>	<p>allowed (7) 0:15,6,21,20,14,14,3</p>	<p>anymore (1) 0:19</p>
<p>access (50) 0:10,14,10,16,16,17, 21,21,24,25,7,22,10,8, 8,14,17,18,6,16,12,17, 9,13,16,18,18,13,24,4, 14,5,12,19,9,13,21,21, 16,8,10,11,13,5,4,5,11, 15,14,21</p>	<p>addition (4) 0:13,25,22,4</p>	<p>affect (3) 0:8,9,25</p>	<p>allows (2) 0:22,12</p>	<p>Anyways (1) 0:24</p>
<p>accessed (1) 0:11</p>	<p>additional (12) 0:10,15,8,15,15,17, 13,8,20,25,4,11</p>	<p>affected (1) 0:24</p>	<p>almost (7) 0:9,14,24,3,6,10,11</p>	<p>apartments (1) 0:13</p>
<p>accesses (2) 0:23,13</p>	<p>address (17) 0:1,2,9,25,13,20,1,6, 9,13,24,4,18,19,21,20,4</p>	<p>affecting (1) 0:14</p>	<p>alone (1) 0:24</p>	<p>apologies (1) 0:10</p>
<p>accessible (4) 0:5,19,20,16</p>	<p>addressed (3) 0:17,2,22</p>	<p>affidavit (1) 0:14</p>	<p>along (29) 0:8,14,9,20,8,13,2,6, 3,23,25,1,1,18,25,20, 20,10,14,6,18,4,9,1,13, 15,22,22,1</p>	<p>apologize (2) 0:18,18</p>
<p>accident (6) 0:13,19,6,8,22,23</p>	<p>addresses (2) 0:7,19</p>	<p>affirm (7) 0:8,19,3,13,11,18,17</p>	<p>alter (1) 0:5</p>	<p>apparently (1) 0:1</p>
<p>accidents (1) 0:15</p>	<p>adequate (10) 0:1,7,15,11,20,2,8, 22,10,11</p>	<p>afflicted (1) 0:14</p>	<p>altered (1) 0:16</p>	<p>appealed (1) 0:2</p>
<p>accommodate (5) 0:2,14,16,2,9</p>	<p>adjacent (18) 0:25,4,4,12,14,12,5, 23,16,19,3,4,22,10,10, 12,16,17</p>	<p>afforested (1) 0:19</p>	<p>alternate (3) 0:9,17,21</p>	<p>Appeals (5) 0:1,7,3,3,14</p>
<p>accommodated (1) 0:7</p>	<p>adjoin (1) 0:13</p>	<p>aforementioned (1) 0:7</p>	<p>alternative (1) 0:5</p>	<p>appear (1) 0:12</p>
<p>accommodations (1) 0:20</p>	<p>adjoining (1) 0:16</p>	<p>afternoon (2) 0:16,9</p>	<p>Although (7) 0:25,1,24,21,17,3,21</p>	<p>appearance (5) 0:12,3,22,19,13</p>
<p>accordance (2) 0:4,8</p>	<p>adjoined (1) 0:16</p>	<p>again (34) 0:19,18,17,18,25,12, 16,15,12,21,9,3,7,22, 22,6,8,9,20,23,5,13,20, 9,15,13,14,23,23,3,14, 22,8,18</p>	<p>altogether (1) 0:3</p>	<p>appears (1) 0:13</p>
<p>accordingly (1) 0:10</p>	<p>account (7) 0:2,7,16,1,2,5,7</p>	<p>against (8)</p>	<p>always (6) 0:19,11,14,6,16,22</p>	<p>appendix (1) 0:21</p>
<p>accounts (1)</p>	<p></p>	<p></p>	<p>Alzheimer's (20)</p>	<p>applicant (14) 0:8,13,19,1,7,20,23,</p>

24,7,19,19,14,22,11 applicant's (4) 0:6,10,21,22 Application (16) 0:3,4,16,8,9,1,9,9,12, 14,7,7,24,4,5,9 applies (1) 0:10 apply (1) 0:12 appreciably (2) 0:12,25 appreciate (2) 0:21,9 approach (3) 0:9,6,13 appropriate (15) 0:1,11,2,11,14,1,6, 21,5,13,13,14,20,6,11 appropriately (3) 0:11,24,7 approval (22) 0:16,20,22,6,9,19,22, 25,10,20,10,15,19,2,8, 12,11,12,18,4,17,8 approvals (3) 0:16,10,25 approve (4) 0:6,23,1,24 approved (19) 0:4,11,9,14,19,1,17, 13,1,12,13,15,19,21,4, 5,17,24,20 approving (3) 0:23,2,2 approximately (17) 0:9,3,25,25,9,4,5,8, 24,6,1,11,16,3,20,20,6 April (3) 0:19,20,5 apron (1) 0:20 arborvitaes (2) 0:4,6 architect (10) 0:5,2,5,11,5,12,20, 13,14,25 architectural (5) 0:16,1,5,19,25 architecturally (1) 0:2 architecture (6) 0:9,10,15,15,20,12 Arden (2) 0:9,14 area (126) 0:11,4,24,4,2,3,7,14, 14,19,19,24,9,9,14,24, 14,15,16,11,12,8,17,19, 22,23,5,9,13,16,17,19, 22,22,23,3,13,1,2,15, 22,1,1,6,12,12,17,20,5, 5,6,8,4,6,7,8,12,17,22,	22,23,25,1,2,4,7,14,16, 19,22,4,12,17,17,7,12, 14,19,6,11,6,8,10,13, 20,20,23,24,25,25,9,24, 6,15,18,21,1,3,16,6,4, 20,24,7,3,15,24,4,6,9, 12,6,4,5,16,4,5,5,9,13, 3,7,1,2,22,25 areas (13) 0:4,21,23,8,24,25,19, 21,13,14,10,11,1 aren't (6) 0:15,8,14,12,12,3 argue (2) 0:16,9 argument (2) 0:2,14 arguments (2) 0:21,7 arise (1) 0:7 around (30) 0:12,20,21,14,2,15,7, 17,21,21,23,24,4,20,8, 11,16,21,8,21,12,14,21, 6,9,10,18,23,24,1 arrangements (2) 0:1,14 arrived (1) 0:16 arrow (1) 0:19 Artis (39) 0:3,9,10,2,19,7,1,14, 15,15,19,19,24,25,21,5, 22,24,1,10,10,12,21,4, 5,12,17,20,23,25,14,17, 18,4,5,6,14,9,7 artwork (1) 0:14 aside (4) 0:8,4,14,11 aspect (5) 0:2,24,7,8,16 asphalt (1) 0:3 assessment (1) 0:7 asset (1) 0:21 assist (1) 0:25 assisted (14) 0:8,7,10,16,22,10,23, 8,10,23,7,4,18,22 associated (7) 0:11,20,7,9,19,12,17 Association (6) 0:13,15,1,11,5,2 associations (1) 0:2 Assume (2) 0:1,25	assuming (2) 0:9,25 assurance (1) 0:22 attached (1) 0:3 attended (2) 0:15,20 attention (3) 0:8,10,11 atypical (1) 0:5 audience (1) 0:13 authoritatively (1) 0:9 Authority (1) 0:10 authorization (2) 0:9,12 available (4) 0:2,21,9,13 Avenel (1) 0:13 average (3) 0:23,14,7 avoid (7) 0:21,13,11,13,14,22, 15 avoidance (1) 0:3 aware (6) 0:6,20,25,10,22,23 away (8) 0:12,13,16,13,1,7,15, 4	barely (1) 0:14 Barnello (1) 0:21 Barnello's (1) 0:6 barreling (2) 0:20,10 barriers (2) 0:17,25 base (1) 0:18 based (23) 0:21,10,12,7,25,7,19, 10,11,3,4,9,16,22,23, 14,25,3,11,6,7,10,24 basement (1) 0:4 bases (1) 0:14 basic (1) 0:2 basically (8) 0:14,4,11,18,21,21, 24,18 basing (2) 0:8,9 basis (3) 0:12,20,8 beach (1) 0:13 bear (4) 0:18,16,20,13 beauty (1) 0:15 became (1) 0:21 become (2) 0:9,14 becomes (2) 0:8,1 becoming (1) 0:3 bed (6) 0:4,4,21,8,5,23 bedroom (1) 0:11 beds (6) 0:2,13,4,22,8,9 began (1) 0:3 begin (1) 0:13 begins (6) 0:21,20,7,2,12,17 behind (11) 0:17,6,9,22,5,10,11, 7,24,13,8 below (10) 0:10,25,12,24,17,14, 15,16,4,21 beltway (9) 0:21,17,20,23,6,8,17,	12,24 benefit (3) 0:25,8,12 best (5) 0:22,23,23,20,23 Bethesda (8) 0:3,13,14,23,8,9,21,8 better (6) 0:18,5,6,20,19,17 beyond (6) 0:25,18,4,6,23,14 bicycle (6) 0:24,7,9,9,9,22 bicyclist (2) 0:1,12 bicyclists (4) 0:10,12,21,19 big (7) 0:10,19,15,17,3,13, 22 bigger (2) 0:2,5 biggest (2) 0:13,13 biggie (1) 0:8 bike (13) 0:3,14,10,14,15,23,3, 9,4,18,25,1,21 bikes (2) 0:4,4 Bikeways (10) 0:4,7,7,10,11,14,20, 23,24,7 Bill (2) 0:4,2 binding (4) 0:23,3,5,14 bio (6) 0:19,13,15,7,12,19 bit (21) 0:10,3,5,15,21,17,6, 7,13,20,17,9,12,19,1, 16,13,12,23,8,8 bleed (3) 0:3,7,22 blinker (1) 0:21 Blocher (1) 0:8 block (1) 0:22 Board (33) 0:22,14,1,5,20,20,1, 21,21,1,7,2,25,6,15,2, 18,25,4,21,2,3,12,11,3, 6,24,25,4,16,8,19,14 Board's (3) 0:8,14,11 boards (1) 0:23 body (1) 0:6
		B		
		baby (1) 0:22 bachelor's (1) 0:13 back (57) 0:23,25,10,11,18,11, 17,2,2,13,19,17,19,16, 19,14,16,17,23,11,12,4, 7,1,7,14,23,9,4,24,2,5, 16,3,7,14,20,19,10,20, 18,22,6,11,13,19,23,5, 2,15,18,24,2,8,18,14,14 backed (1) 0:16 background (4) 0:12,22,16,25 backs (1) 0:21 bad (2) 0:2,11 ballpark (1) 0:3 barber (1) 0:15	become (2) 0:9,14 becomes (2) 0:8,1 becoming (1) 0:3 bed (6) 0:4,4,21,8,5,23 bedroom (1) 0:11 beds (6) 0:2,13,4,22,8,9 began (1) 0:3 begin (1) 0:13 begins (6) 0:21,20,7,2,12,17 behind (11) 0:17,6,9,22,5,10,11, 7,24,13,8 below (10) 0:10,25,12,24,17,14, 15,16,4,21 beltway (9) 0:21,17,20,23,6,8,17,	

Artis Senior Livin'
Revised

bollards (1) 0:5	9,12,16,18,19,20,24,1, 3,3,5,8,8,11,12,13,15, 17,20,21,24,24,3,5,6,7, 9,9,11,12,13,14,15,17, 17,17,19,21,23,24,25,2, 4,5,8,10,12,14,14,18, 20,23,3,5,6,8,11,12,17, 19,21,23,25,4,5,7,12, 20,22,3,7,16,22	0:15,5 bypass (2) 0:15,20	capable (1) 0:20 capacity (5) 0:14,14,15,17,13 Capital (2) 0:21,5 capture (1) 0:15 captured (2) 0:25,12 car (5) 0:18,7,19,23,17 Carderock (31) 0:14,15,10,17,19,20, 9,25,25,4,10,14,23,23, 25,4,8,12,17,14,15,20, 4,9,10,19,19,7,8,17,5 care (29) 0:4,5,17,2,3,3,5,6,8, 12,5,7,8,11,16,23,23,3, 18,16,4,7,14,17,20,21, 22,18,15 careful (1) 0:9 carefully (1) 0:9 caregivers (2) 0:9,10 caregiving (3) 0:13,15,16 Carl (1) 0:20 Carlson (112) 0:2,2,12,15,19,3,6, 11,15,17,2,5,7,21,19, 24,1,11,11,12,17,18,19, 21,21,24,24,2,3,3,3,5,5, 7,7,7,9,10,11,12,13,13, 14,15,15,17,17,18,19, 19,20,21,22,24,24,25, 11,14,21,25,2,3,6,8,10, 11,12,13,19,20,21,23, 23,24,25,5,6,13,23,24, 24,19,22,24,8,23,1,7, 10,20,23,15,18,3,4,9, 15,17,18,21,23,24,25,2, 8,9,11,4,15,17,23,24	19,8 cases (6) 0:3,5,15,21,7,19 catch (2) 0:14,21 categories (3) 0:8,16,19 category (3) 0:25,17,11 cater (1) 0:9 cause (15) 0:15,15,8,11,20,15,3, 4,25,1,9,1,6,16,20 causes (1) 0:2 caveats (1) 0:18 CC (1) 0:2 CC'd (3) 0:9,20,4 center (6) 0:1,19,9,14,12,16 centered (1) 0:18 central (1) 0:3 certain (7) 0:16,7,8,25,8,11,3 certainly (5) 0:22,10,12,22,20 certifies (1) 0:2 cetera (2) 0:11,17 challenge (1) 0:17 chance (5) 0:24,22,22,14,2 change (29) 0:12,20,22,25,25,3,1, 7,8,14,2,4,9,11,14,12,2, 25,18,24,25,25,1,3,19, 16,23,1,12 changed (7) 0:21,20,11,19,23,12, 14 changes (10) 0:24,24,8,15,17,10, 19,10,17,25 changing (2) 0:15,6 channel (2) 0:12,2 chapter (5) 0:20,9,11,13,21 character (12) 0:12,21,22,5,11,1,5, 6,14,1,19,3 characteristics (3) 0:9,22,8 characterize (1)
bonus (1) 0:5		C		
boom (1) 0:22		Cabin (19) 0:11,5,12,23,3,24,17, 20,10,8,17,10,24,9,12, 20,21,7,12 call (26) 0:1,5,6,23,24,13,12, 7,2,6,14,11,10,11,12, 16,4,14,8,11,12,18,18, 1,12,15 callbox (5) 0:5,6,22,25,23 called (7) 0:13,7,23,23,14,23, 11 calling (2) 0:2,11 calls (2) 0:2,6 calming (2) 0:19,10 came (3) 0:16,17,9 camera (2) 0:24,23 cameras (3) 0:13,19,6 can (157) 0:22,23,23,7,12,12, 13,16,24,1,1,3,10,15, 16,19,23,7,14,16,20,21, 22,24,2,2,8,15,16,19, 21,25,25,12,18,22,5,11, 12,17,23,1,1,3,9,13,9,7, 16,22,14,1,1,13,16,22,2, 20,10,17,25,5,5,8,13, 17,21,1,8,9,19,21,22, 25,4,4,22,21,4,6,12,15, 12,20,24,25,5,9,22,6,4, 8,12,23,9,9,15,16,25,5, 6,7,15,17,18,19,6,10,2, 10,17,5,7,16,19,2,3,7, 11,12,12,15,13,16,20, 21,20,24,19,24,1,6,10, 6,7,9,10,19,8,14,20,20, 20,6,6,9,16,14,21,5,6,8, 9,16,20,22,23,25 can't (9) 0:24,24,1,3,18,2,24, 22,1 candidates (1) 0:19 candles (2) 0:7,1 canopy (1) 0:23 cap (1) 0:11	capable (1) 0:20 capacity (5) 0:14,14,15,17,13 Capital (2) 0:21,5 capture (1) 0:15 captured (2) 0:25,12 car (5) 0:18,7,19,23,17 Carderock (31) 0:14,15,10,17,19,20, 9,25,25,4,10,14,23,23, 25,4,8,12,17,14,15,20, 4,9,10,19,19,7,8,17,5 care (29) 0:4,5,17,2,3,3,5,6,8, 12,5,7,8,11,16,23,23,3, 18,16,4,7,14,17,20,21, 22,18,15 careful (1) 0:9 carefully (1) 0:9 caregivers (2) 0:9,10 caregiving (3) 0:13,15,16 Carl (1) 0:20 Carlson (112) 0:2,2,12,15,19,3,6, 11,15,17,2,5,7,21,19, 24,1,11,11,12,17,18,19, 21,21,24,24,2,3,3,3,5,5, 7,7,7,9,10,11,12,13,13, 14,15,15,17,17,18,19, 19,20,21,22,24,24,25, 11,14,21,25,2,3,6,8,10, 11,12,13,19,20,21,23, 23,24,25,5,6,13,23,24, 24,19,22,24,8,23,1,7, 10,20,23,15,18,3,4,9, 15,17,18,21,23,24,25,2, 8,9,11,4,15,17,23,24	
border (1) 0:25				
boring (3) 0:2,18,20				
borrow (1) 0:7	Bryant's (1) 0:10			
both (18) 0:17,25,11,1,12,16, 16,7,22,6,9,11,14,16, 22,3,18,12	bucolic (2) 0:4,8 buffer (13) 0:12,13,17,3,5,15,16, 18,21,25,13,7,13 buffered (2) 0:2,16 buffering (1) 0:11 buffers (3) 0:11,17,20 build (19) 0:13,25,2,22,4,5,7, 11,13,20,21,7,1,25,24, 14,18,16,20 builder (1) 0:11 builders (1) 0:2 building (82) 0:1,3,12,12,17,18,20, 25,25,25,3,11,2,3,4,6,8, 15,17,2,7,11,2,12,14, 25,25,8,10,12,15,16,16, 18,20,9,10,11,11,23,18, 3,13,15,4,13,17,10,23, 24,2,18,18,2,11,18,1,2, 7,9,12,3,11,2,19,21,9, 10,11,13,14,17,19,20, 23,1,6,10,11,12,22,24 buildings (6) 0:24,4,9,10,1,13 built (1) 0:21 bulk (1) 0:4 bump (1) 0:23 bumper (2) 0:18,18 burden (3) 0:8,5,8 bus (11) 0:20,21,7,9,16,20,3, 19,23,14,15 buses (1) 0:19 bush (1) 0:15 business (5) 0:25,2,13,8,23 busy (2)			
bottom (10) 0:1,25,14,3,5,10,15, 14,11,4				
bound (1) 0:20				
boundary (5) 0:1,1,16,18,17				
box (2) 0:9,15				
Boy (3) 0:22,18,8				
Bradley (1) 0:1				
Branch (1) 0:20				
break (12) 0:3,8,16,20,21,23,24, 25,8,18,4,14				
breaks (2) 0:3,18				
bridge (10) 0:5,12,23,10,16,21, 21,7,11,15				
brief (3) 0:12,2,13				
briefly (7) 0:16,20,20,2,25,11, 16				
bring (7) 0:25,17,14,6,2,3,7				
BRL (1) 0:8				
broad (1) 0:25				
broken (3) 0:17,20,10				
brought (1) 0:17				
brown (1) 0:24				
Bryant (105) 0:3,1,2,2,3,6,6,9,10, 12,13,15,18,20,21,23, 24,1,8,10,10,13,13,17, 18,20,20,22,24,24,6,8,				

**Artis Senior Livinf
Revised**

0:24 Charred (2) 0:8,21 chart (1) 0:16 check (2) 0:17,8 checked (1) 0:7 Chicago (1) 0:17 child (2) 0:13,11 children (3) 0:15,16,10 Chimney (1) 0:7 chips (1) 0:11 choose (1) 0:3 chorus (3) 0:16,21,24 chose (9) 0:4,22,18,19,23,7,20, 19,19 chosen (2) 0:20,3 churches (3) 0:10,14,18 circulation (3) 0:21,10,11 cite (1) 0:6 citizen (2) 0:1,18 Citizen's (3) 0:1,5,1 citizens (1) 0:6 civil (8) 0:2,5,6,15,18,20,23,9 clarify (2) 0:21,6 clarifying (1) 0:15 clear (17) 0:19,7,9,5,11,1,8,24, 4,6,8,12,13,24,1,1,2 cleared (12) 0:24,5,9,17,22,23,17, 23,3,1,21,16 clearing (4) 0:6,17,23,8 Clewerwall (22) 0:10,13,14,21,25,4,6, 20,20,21,10,22,15,1,3, 7,10,13,19,20,25,25 client (2) 0:17,24 cliff (1) 0:24 cliffs (1)	0:17 climbable (1) 0:1 climbed (1) 0:1 close (7) 0:13,12,18,23,5,4,16 closed (1) 0:18 closely (2) 0:14,17 closer (3) 0:2,7,14 closes (1) 0:10 closest (1) 0:6 closing (5) 0:22,16,21,13,14 closure (1) 0:20 clout (1) 0:17 Club (7) 0:5,7,17,20,6,2,4 clustered (1) 0:13 cobble (1) 0:6 cobblestone (2) 0:1,6 code (6) 0:9,16,11,15,24,24 codes (1) 0:23 cohort (1) 0:20 cohorts (1) 0:22 collected (1) 0:17 collisions (2) 0:22,22 colloquial (1) 0:20 color (1) 0:12 Columbia (2) 0:19,22 columns (1) 0:13 combination (2) 0:6,24 combined (2) 0:17,18 coming (30) 0:11,24,11,21,17,18, 13,11,13,24,22,22,8,12, 3,8,9,17,19,23,5,19,5,8, 2,10,25,17,4,22 comment (5) 0:16,13,14,10,19 commenting (1)	0:9 comments (13) 0:14,21,13,15,3,18,6, 5,11,13,22,5,5 commercial (15) 0:16,25,25,16,18,20, 22,23,5,16,18,20,24,20, 3 Commission (1) 0:22 commit (1) 0:6 committed (1) 0:21 common (2) 0:19,10 communicate (1) 0:5 communicated (1) 0:8 communication (3) 0:17,22,4 communications (6) 0:7,21,21,3,4,10 community (35) 0:16,23,14,10,13,15, 8,21,9,2,2,7,8,9,15,21, 5,3,21,21,8,2,8,9,11,11, 8,21,12,18,7,13,5,10,2 companies (1) 0:2 company (2) 0:7,23 comparable (2) 0:1,1 compare (1) 0:24 compared (1) 0:17 compartmentalize (1) 0:23 Compatibility (2) 0:4,10 compatible (5) 0:2,6,6,18,2 competing (4) 0:11,14,15,17 complain (1) 0:13 complaint (1) 0:24 completely (3) 0:25,25,25 compliance (1) 0:10 complied (1) 0:21 complies (1) 0:23 comply (2) 0:12,16 component (2) 0:7,3	components (1) 0:24 comports (1) 0:2 compromised (1) 0:14 compromising (1) 0:8 computations (1) 0:15 conceivably (1) 0:22 concentration (4) 0:6,17,6,13 concept (11) 0:3,6,9,13,15,18,25, 1,7,8,15 concern (16) 0:12,18,15,19,19,20, 4,21,1,1,25,2,21,4,14, 21 concerned (10) 0:20,18,22,19,7,13,3, 15,11,12 concerns (14) 0:18,3,8,25,22,17,1, 2,4,6,24,25,3,12 concerts (1) 0:19 concluded (2) 0:7,19 concludes (1) 0:21 concluding (1) 0:3 conclusionary (1) 0:23 conclusions (5) 0:9,4,12,25,11 concur (2) 0:1,25 condition (9) 0:25,11,8,14,25,25,6, 17,20 conditional (44) 0:4,15,21,15,10,8,11, 20,20,13,23,3,8,22,23, 24,4,14,15,17,18,19,21, 11,18,20,25,3,5,10,11, 24,25,5,25,6,23,17,21, 4,2,6,20,25 conditioning (2) 0:15,16 conditions (25) 0:16,19,22,21,21,21, 24,2,5,1,2,10,14,15,20, 23,12,7,6,2,11,5,20,12, 12 condo (2) 0:5,14 condominium (6) 0:25,2,7,9,9,14 condominiums (2)	0:6,13 conduct (1) 0:7 conducted (2) 0:10,13 confident (1) 0:17 confidently (1) 0:6 configuration (3) 0:17,25,25 confined (1) 0:4 confirm (2) 0:8,15 conflict (3) 0:6,13,4 conflicts (2) 0:14,7 conform (2) 0:12,22 conformance (2) 0:6,14 conforms (4) 0:4,24,23,14 confronting (6) 0:17,1,10,2,3,22 confuse (1) 0:17 confused (3) 0:18,24,10 Congressional (15) 0:13,4,6,7,14,17,19, 23,24,25,23,3,4,6,23 connect (4) 0:16,6,8,16 connection (4) 0:12,2,11,4 connections (2) 0:10,4 consent (3) 0:17,5,24 conservation (20) 0:4,25,15,15,17,13, 18,20,18,4,6,6,7,8,8,9, 11,12,24,4 consider (6) 0:22,9,20,12,7,3 considerable (2) 0:5,20 considerably (1) 0:23 consideration (3) 0:17,21,18 considered (2) 0:8,3 considering (5) 0:21,11,8,19,4 consistent (3) 0:3,22,13 consistently (1) 0:21 constraints (6)
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0:3,2,11,15,15,23 construct (3) 0:4,4,18 constructed (4) 0:11,11,8,9 constructible (1) 0:2 construction (5) 0:24,17,10,7,12 consultant (4) 0:18,23,6,13 contact (5) 0:5,8,5,7,19 contains (1) 0:21 contiguous (1) 0:9 continue (13) 0:13,3,8,9,25,1,23,8, 21,24,6,1,1 Continued (1) 0:22 continues (3) 0:5,10,16 continuing (2) 0:1,7 continuous (1) 0:3 continuum (1) 0:22 contours (1) 0:13 contract (1) 0:5 contribute (1) 0:15 control (1) 0:22 controlled (4) 0:16,21,8,12 controller (1) 0:8 controls (2) 0:9,1 convenience (1) 0:1 conversation (1) 0:22 converted (1) 0:24 convey (6) 0:7,5,17,25,25,7 Conveyance (1) 0:23 conveyed (2) 0:2,18 cooked (1) 0:3 copies (3) 0:20,11,24 copy (15) 0:15,3,4,2,4,16,19, 24,17,19,21,22,2,14,9	core (5) 0:3,7,4,12,5 corner (12) 0:2,2,20,1,14,18,18, 19,9,14,17,16 correspondence (1) 0:2 corridor (2) 0:1,13 corridors (1) 0:7 couldn't (4) 0:11,8,21,25 Council (13) 0:9,12,17,19,21,22, 23,1,4,9,17,19,22 counsel (1) 0:8 count (7) 0:5,9,16,16,18,23,18 counted (1) 0:6 counter (1) 0:3 counting (1) 0:21 country (8) 0:4,5,7,17,20,6,2,4 counts (8) 0:7,14,15,18,9,20,1, 11 County (29) 0:21,21,1,17,14,11,7, 8,8,12,15,23,2,6,12,14, 15,25,2,12,16,17,22,8, 25,10,2,24,6 County's (3) 0:23,2,5 Countywide (7) 0:4,10,11,14,20,23, 24 couple (9) 0:20,20,21,21,22,15, 25,6,1 course (3) 0:6,6,3 court (3) 0:8,18,25 Courts (6) 0:9,14,19,6,18,10 courtyard (3) 0:5,18,8 courtyards (2) 0:1,10 cover (6) 0:24,19,14,20,4,12 coverage (4) 0:9,10,19,20 covered (4) 0:15,7,20,8 covers (2) 0:13,23 CR (1)	0:10 crafts (1) 0:15 craftsman (1) 0:13 Craig (1) 0:24 crashes (2) 0:12,25 crawled (1) 0:15 create (9) 0:14,3,23,5,17,18,23, 15,9 created (1) 0:12 creates (1) 0:23 creating (1) 0:10 Creek (8) 0:5,13,16,23,17,20, 10,12 crime (1) 0:13 crisis (1) 0:21 criteria (3) 0:6,9,13 critical (4) 0:20,9,11,1 cross (5) 0:19,23,4,11,13 crossed (1) 0:23 crosses (2) 0:22,3 cross-examination (5) 0:17,7,23,2,17 crossing (2) 0:20,19 crosswalk (1) 0:16 CRT (1) 0:19 CU (5) 0:9,14,24,5,8 cul- (1) 0:19 cul-de- (2) 0:8,11 cul-de-sac (7) 0:12,7,12,5,11,16,17 cultural (1) 0:5 culvert (1) 0:24 curb (7) 0:10,15,12,5,5,8,10 curious (1) 0:21 current (5) 0:8,8,10,24,25	currently (5) 0:11,16,15,11,21 curve (1) 0:7 cut (4) 0:10,15,14,1 cutoff (1) 0:4 cutouts (1) 0:2 cyclist (1) 0:12	DC (5) 0:14,15,17,19,19 deadline (6) 0:13,1,3,4,20,12 deadlines (3) 0:3,11,18 deal (6) 0:11,19,15,1,3,24 dealings (1) 0:16 deals (1) 0:16 debris (2) 0:8,13 decades (1) 0:7 decel (1) 0:14 December (1) 0:10 decided (2) 0:24,9 deciduous (6) 0:25,7,10,13,22,24 decision (7) 0:12,13,20,1,2,21,1 decreased (1) 0:18 dedicate (2) 0:8,17 dedicated (4) 0:21,23,3,21 dedicating (1) 0:20 deemed (1) 0:15 deep (1) 0:14 defer (2) 0:24,1 defined (3) 0:16,17,19 definitely (2) 0:7,16 definition (5) 0:9,14,10,2,25 degree (3) 0:13,14,5 degrees (1) 0:17 delay (1) 0:21 delineated (1) 0:4 delineating (1) 0:25 delineation (6) 0:7,16,18,12,10,23 deliveries (10) 0:5,17,17,8,13,19,20, 25,25,16 delivery (3) 0:12,2,21
D				
			DA (1) 0:12 daily (3) 0:18,4,7 damage (2) 0:6,20 damned (2) 0:24,25 Dan (2) 0:4,8 Danchez (1) 0:9 danger (2) 0:10,1 dangerous (5) 0:5,17,24,24,7 dangers (1) 0:22 dark (1) 0:7 darker (2) 0:14,21 dash (2) 0:18,18 dashed (4) 0:22,14,17,3 data (14) 0:25,13,10,14,3,6,8, 10,14,19,8,22,4,23 date (8) 0:19,18,12,1,21,11, 19,12 dated (2) 0:24,14 David (1) 0:18 day (8) 0:15,16,4,8,15,14,14, 19 Daycare (1) 0:11 days (13) 0:3,7,20,8,4,3,1,14, 15,19,24,9,12 DB (1) 0:18 DB-2 (1) 0:19	

**Artis Senior Livinf
Revised**

demand (6) 0:2,21,22,24,25,18	0:1,17,18,19	0:4	16,18,18,18,20,21,24, 24,4,6,9,10,18,24,25	25,8,14,10,14,21,23,3, 7,10,13,19,20,25,25,4, 10,19,7,17,5,19,19,20
dementia (8) 0:6,12,9,24,9,4,15,17	detrimental (1) 0:12	directions (2) 0:7,22	don't (99) 0:5,10,12,15,23,24, 25,22,4,9,10,18,19,3,2, 5,7,12,2,19,5,7,9,14,8, 19,22,18,25,16,18,20, 12,17,6,15,16,25,25,5, 7,25,12,15,17,1,1,10, 12,15,16,23,22,6,12,14, 2,2,3,22,2,3,3,8,13,14, 19,5,22,23,1,15,6,5,7, 11,7,9,17,3,22,15,18,7, 23,9,16,3,11,25,6,24,5, 7,18,19,19,5,10	driver (1) 0:11
demonstrates (1) 0:25	develop (3) 0:14,24,5	directly (8) 0:13,15,1,16,20,22, 14,11	done (20) 0:19,20,5,9,10,7,24, 12,6,20,3,18,20,21,4, 15,15,24,10,10	driver's (1) 0:11
denial (4) 0:7,8,15,17	developed (11) 0:10,12,15,18,20,5, 18,17,24,22,23	director (3) 0:12,17,3	door (4) 0:1,17,24,25	drivers (3) 0:2,12,13
density (2) 0:7,13	developer (2) 0:10,10	directors (1) 0:4	DOT (1) 0:3	drives (1) 0:23
Department (18) 0:18,23,8,18,11,14,4, 4,10,13,20,24,15,19,24, 7,9,21	developer's (1) 0:18	disabled (1) 0:24	double (1) 0:17	driveway (48) 0:12,13,17,4,9,23,6, 7,12,13,20,23,23,25,3, 7,21,21,19,21,14,15,1, 3,11,18,18,19,5,8,16, 17,6,16,22,1,5,4,6,14, 20,24,2,12,17,18,15,5
depend (1) 0:3	developers (2) 0:2,11	disagree (3) 0:4,2,13	down (57) 0:4,23,1,25,11,3,19, 23,24,14,7,13,11,13,18, 25,7,12,15,18,25,13,13, 7,11,15,11,20,1,22,10, 14,20,25,10,18,20,20,9, 16,24,17,20,3,10,18,23, 6,24,7,18,4,9,16,17,21, 19	driveways (1) 0:16
depending (4) 0:8,9,2,20	developing (2) 0:21,10	disagreeing (1) 0:2	downtown (1) 0:14	driving (6) 0:16,8,9,16,16,22
depends (1) 0:14	development (34) 0:17,2,14,16,4,20,22, 24,9,18,3,10,11,1,1,1, 21,5,1,3,4,16,2,4,4,17, 3,15,3,13,17,18,5,22	disagreement (1) 0:21	downward (1) 0:4	drop (5) 0:13,12,18,22,24
DEPOSITION (1) 0:2	developments (4) 0:13,8,13,24	disagrees (1) 0:1	dozen (1) 0:20	drop-offs (1) 0:8
depressed (4) 0:18,17,8,14	devoted (1) 0:6	disbursed (1) 0:13	draft (3) 0:21,2,5	dropped (3) 0:11,12,7
depressing (2) 0:24,25	diagonal (2) 0:11,21	discussed (3) 0:2,8,24	drain (5) 0:15,16,17,18,16	due (1) 0:19
de-sac (1) 0:20	diameter (2) 0:2,5	discussion (10) 0:20,8,17,7,7,18,19, 6,24,8	drainage (6) 0:7,10,23,10,9,13	dump (1) 0:11
describe (6) 0:11,22,13,11,5,16	Diane (1) 0:14	discussions (4) 0:4,12,17,23	downstream (2) 0:14,15	during (16) 0:12,15,16,6,18,6,9, 12,5,14,24,3,5,1,15,16
described (4) 0:24,19,12,23	dictated (1) 0:8	disorder (1) 0:22	dust (4) 0:12,15,15,7	Dustin (1) 0:20
describes (1) 0:23	didn't (23) 0:22,12,22,20,23,23, 18,3,6,10,5,18,10,3,4, 13,16,19,10,18,8,14,16	disputing (1) 0:17	District (1) 0:13	e- (1) 0:12
description (3) 0:21,7,1	difference (2) 0:2,8	disruption (1) 0:14	disturbance (3) 0:11,9,3	earlier (11) 0:21,1,24,3,6,15,10, 22,25,24,4
desensitized (1) 0:17	different (13) 0:11,8,18,10,22,22,1, 12,5,22,24,17,20	disruptive (1) 0:22	disturbed (1) 0:1	easement (40) 0:11,14,1,10,13,14, 22,1,3,11,15,19,21,24, 6,15,22,22,21,23,1,4, 20,13,18,6,19,20,21,18, 18,12,6,10,11,13,15,16, 7,14
deserves (2) 0:16,23	difficult (2) 0:17,9	distance (14) 0:4,21,8,1,19,2,22, 25,3,10,10,18,14,19	document (2) 0:20,21	easements (1) 0:20
design (13) 0:8,19,10,11,9,9,1, 14,22,18,8,4,17	dignity (1) 0:15	distinguishes (2) 0:16,20	doesn't (29) 0:23,21,24,14,3,15, 24,6,11,15,25,6,25,1, 22,6,4,15,12,1,9,7,8,18, 19,5,16,17,1	easier (2) 0:24,15
designed (6) 0:9,24,7,14,15,5	dimension (1) 0:3	District (1) 0:13	Dokken (39) 0:5,1,4,8,8,10,10,11, 12,14,18,20,20,23,2,7, 11,4,5,8,12,14,14,14,	Easily (2) 0:3,17
designing (3) 0:15,18,18	dimensional (2) 0:25,2	disorder (1) 0:22		east (25) 0:7,6,10,21,25,14,2, 10,17,17,5,6,20,21,18,
desirable (1) 0:12	dining (1) 0:1	disorder (1) 0:22		
despite (2) 0:12,7	dinner (2) 0:24,1	disorder (1) 0:22		
detached (2) 0:21,25	dips (1) 0:25	disorder (1) 0:22		
detail (9) 0:5,16,19,21,4,5,5,7, 12	DIRECT (9) 0:23,24,11,8,20,17, 23,24,22	disorder (1) 0:22		
detailed (2) 0:1,5	direction (7) 0:20,24,24,10,1,13, 16	disorder (1) 0:22		
details (1) 0:8	directional (1) 0:20,24,24,10,1,13, 16	disorder (1) 0:22		
determine (2) 0:7,12		disorder (1) 0:22		
determined (4)		disorder (1) 0:22		

E

**Artis Senior Livinf
Revised**

8,8,11,9,18,23,4,24,9, 14 eastbound (3) 0:12,13,16 eastern (5) 0:22,25,1,1,5 easy (2) 0:10,11 economic (5) 0:16,9,1,2,21 edge (4) 0:3,19,11,13 educational (2) 0:12,3 effect (5) 0:21,6,25,12,2 effects (1) 0:7 effort (5) 0:12,19,24,8,14 efforts (6) 0:17,11,11,2,9,6 eight (1) 0:5 either (9) 0:6,24,1,15,22,21,22, 6,7 elderly (13) 0:3,5,12,22,8,12,20, 24,22,22,14,2,1 electric (1) 0:20 electronic (2) 0:15,4 element (1) 0:14 elements (3) 0:23,3,5 elevation (7) 0:10,4,3,1,2,25,22 elevations (1) 0:10 elevator (1) 0:7 Ellen (6) 0:23,2,25,5,7,6 else (19) 0:22,8,14,4,3,12,17, 18,21,4,25,13,1,2,4,11, 15,5,12 elsewhere (1) 0:11 eluded (3) 0:1,7,3 e-mail (11) 0:19,1,22,1,25,3,5,9, 12,19,6 e-mails (1) 0:13 embankment (2) 0:12,14 emergency (2) 0:1,1	empirical (4) 0:9,14,7,8 employee (1) 0:19 employees (14) 0:11,23,22,1,4,1,7, 19,21,22,3,21,10,3 empty (1) 0:21 enclosed (3) 0:1,2,15 enclosure (1) 0:23 end (18) 0:6,1,2,23,14,4,6,18, 21,24,16,18,19,3,16,17, 17,13 ended (1) 0:6 ends (2) 0:20,15 engineer (15) 0:16,17,5,12,13,3,1, 2,5,2,14,10,16,17,14 engineering (14) 0:6,15,18,20,23,7,10, 19,19,7,12,16,17,25 enhanced (1) 0:15 enjoying (1) 0:18 enjoyment (6) 0:16,9,1,15,2,21 enough (9) 0:19,10,22,13,14,14, 15,8,12 enter (3) 0:2,3,17 entering (3) 0:4,20,24 enters (1) 0:20 entertainment (1) 0:5 entire (6) 0:21,20,8,13,13,18 entirely (3) 0:15,9,12 entitled (2) 0:18,4 entity (1) 0:5 entrance (22) 0:8,17,24,2,11,18,19, 21,22,24,24,1,3,5,10, 19,21,21,23,5,20,2 entrances (3) 0:14,11,25 entry (9) 0:14,17,24,3,21,11, 13,9,17 environment (8) 0:17,12,21,4,6,15,21,	24 environmental (10) 0:9,24,1,4,25,4,14, 15,14,18 environmentally (2) 0:19,19 envision (1) 0:12 envisioning (1) 0:6 equal (1) 0:2 equipment (1) 0:3 Erin (4) 0:7,19,1,16 ESD (1) 0:23 especially (3) 0:6,4,2 essentially (3) 0:13,10,12 established (2) 0:22,14 establishes (1) 0:10 estate (2) 0:15,17 estates (1) 0:2 et (2) 0:11,17 evaluation (1) 0:10 even (26) 0:5,22,22,6,19,6,10, 21,22,20,8,8,15,6,24, 13,2,23,20,6,14,25,22, 2,20,14 evening (10) 0:6,12,17,1,25,4,15, 6,14,16 event (2) 0:12,14 events (2) 0:15,10 evergreen (3) 0:1,1,24 evergreens (2) 0:11,14 everybody (5) 0:15,2,4,20,3 everyone (4) 0:1,13,9,3 everywhere (1) 0:13 evidence (5) 0:18,4,11,12,4 evoke (1) 0:14 exacerbate (1) 0:3 exacerbating (1)	0:5 exact (1) 0:17 exactly (6) 0:21,22,1,2,9,18 EXAMINATION (7) 0:23,24,8,20,17,23, 22 Examiner (9) 0:9,25,1,2,6,11,25, 24,22 Examiner's (1) 0:24 example (1) 0:8 excavating (1) 0:10 exceed (3) 0:5,13,4 exceeds (2) 0:4,1 Except (1) 0:12 exception (11) 0:11,1,4,22,14,20,12, 9,13,22,24 exceptional (1) 0:4 exceptions (4) 0:9,17,7,1 excerpts (1) 0:21 excess (2) 0:20,6 excessive (1) 0:11 excessively (1) 0:6 exchange (3) 0:19,11,2 excuse (1) 0:7 excused (2) 0:23,20 executive (4) 0:12,17,3,4 exempt (10) 0:19,1,3,10,13,14,18, 21,23,23 exemption (2) 0:19,3 exercise (2) 0:7,3 exhibit (54) 0:17,19,6,9,15,18,2, 13,6,7,19,19,9,11,22, 23,24,2,14,16,20,24,8, 10,15,3,8,10,10,11,11, 12,17,18,20,14,5,18,4, 8,3,10,11,14,4,15,14, 12,11,11,15,16,24,25 exhibits (1) 0:13	exist (2) 0:20,21 existing (56) 0:9,11,14,11,15,17, 12,21,20,1,2,9,17,20, 24,8,14,15,15,15,17,18, 18,19,23,24,3,9,11,15, 21,5,2,12,13,2,4,5,13, 15,17,19,19,2,4,12,14, 21,15,19,25,19,8,1,2,5 exists (4) 0:16,19,9,21 exit (2) 0:10,3 exiting (3) 0:25,1,1 expand (2) 0:7,11 expanded (2) 0:1,16 expanding (3) 0:13,4,16 expect (1) 0:21 expected (1) 0:20 expensive (1) 0:22 experience (18) 0:8,15,17,1,5,12,20, 22,23,14,18,7,9,10,4,6, 4,13 experiencing (1) 0:7 expert (11) 0:20,8,10,6,25,5,7, 25,5,4,1 experts (4) 0:3,20,15,25 explain (4) 0:20,6,7,14 explanation (1) 0:22 explore (1) 0:22 exposed (1) 0:14 express (4) 0:11,18,3,21 expressed (1) 0:15 expressing (1) 0:17 extend (3) 0:12,22,22 extended (6) 0:7,20,23,6,7,7 extending (1) 0:22 extension (3) 0:8,13,21 extent (5) 0:18,25,25,3,10
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**Artis Senior Living
Revised**

<p>exterior (1) 0:13</p> <p>extra (2) 0:6,10</p> <p>extreme (5) 0:3,9,13,14,11</p> <p>extremely (1) 0:15</p>	<p>Family (16) 0:16,21,10,17,22,2,2, 12,15,24,5,10,20,11,9, 17</p> <p>famous (1) 0:14</p> <p>far (19) 0:10,9,19,7,11,5,7,8, 10,24,20,7,16,18,7,13, 14,16,11</p> <p>farm (2) 0:4,5</p> <p>farther (1) 0:11</p> <p>fashioned (1) 0:2</p> <p>fast (1) 0:15</p> <p>faster (2) 0:22,16</p> <p>fastest (1) 0:22</p> <p>father (1) 0:11</p> <p>favor (2) 0:15,22</p> <p>favorable (1) 0:5</p> <p>feasibility (1) 0:24</p> <p>feature (1) 0:25</p> <p>features (2) 0:5,10</p> <p>February (2) 0:24,14</p> <p>FedEx (1) 0:20</p> <p>fee (6) 0:17,16,5,14,15,16</p> <p>feedback (2) 0:21,19</p> <p>feel (12) 0:8,2,5,15,25,9,19, 10,5,10,11,13</p> <p>feeling (1) 0:11</p> <p>feet (55) 0:2,3,3,10,5,5,7,9,10, 11,12,19,14,17,23,24,2, 12,14,17,25,1,15,22,4, 21,6,1,7,12,14,9,9,21,1, 2,2,22,3,4,8,4,7,23,12, 15,16,16,3,7,12,13,16, 16,16</p> <p>fell (1) 0:25</p> <p>fellow (1) 0:1</p> <p>felt (2) 0:1,2</p> <p>fence (4) 0:21,1,24,25</p>	<p>fencing (4) 0:20,21,21,25</p> <p>Fenway (8) 0:3,10,11,11,21,17, 19,14</p> <p>few (13) 0:17,24,25,10,2,2,6, 12,6,8,10,11,12</p> <p>fewer (4) 0:18,11,20,7</p> <p>FIB (1) 0:21</p> <p>field (2) 0:19,19</p> <p>figure (2) 0:7,11</p> <p>figured (1) 0:3</p> <p>file (1) 0:2</p> <p>filled (1) 0:4</p> <p>final (3) 0:13,4,12</p> <p>finally (1) 0:17</p> <p>find (7) 0:8,22,23,13,11,13,4</p> <p>findings (6) 0:23,4,2,12,23,13</p> <p>fine (14) 0:10,18,24,22,24,10, 17,11,22,2,19,21,17,23</p> <p>finger (3) 0:8,8,21</p> <p>Finish (2) 0:21,21</p> <p>finished (1) 0:1</p> <p>fire (19) 0:10,12,14,9,17,1,12, 3,4,8,10,21,24,12,17, 15,18,18,24</p> <p>Firehouse (1) 0:11</p> <p>first (20) 0:20,5,6,6,13,23,12, 15,16,12,19,25,8,24,19, 3,14,16,7,17</p> <p>fit (1) 0:5</p> <p>fits (2) 0:17,17</p> <p>five (10) 0:3,4,10,12,4,21,2, 24,8,2</p> <p>fixture (1) 0:3</p> <p>fixtures (1) 0:2</p> <p>flashing (1) 0:17</p> <p>flat (4) 0:15,19,24,22</p>	<p>flip (1) 0:4</p> <p>flipping (1) 0:22</p> <p>floating (2) 0:21,12</p> <p>flooding (1) 0:15</p> <p>floodplain (2) 0:5,9</p> <p>floodplains (1) 0:10</p> <p>floor (5) 0:11,1,13,24,10</p> <p>flow (6) 0:3,7,9,5,5,20</p> <p>flows (1) 0:21</p> <p>focus (3) 0:7,13,13</p> <p>folks (2) 0:24,9</p> <p>follow (10) 0:20,19,6,22,17,10, 22,15,2,2</p> <p>followed (1) 0:19</p> <p>following (1) 0:2</p> <p>follows (2) 0:1,17</p> <p>Food (5) 0:18,15,19,25,5</p> <p>foot (19) 0:11,20,22,25,25,14, 4,15,2,10,22,2,3,15,18, 23,7,12,1</p> <p>footage (2) 0:1,12</p> <p>footprints (1) 0:11</p> <p>Forbes (4) 0:2,1,5,7</p> <p>force (2) 0:14,25</p> <p>foremost (1) 0:4</p> <p>forest (38) 0:4,25,25,14,13,10, 15,16,12,25,4,18,19,17, 4,6,6,7,8,8,9,11,12,24, 6,16,17,13,15,20,23,20, 21,19,10,12,16,20</p> <p>forested (3) 0:9,13,2</p> <p>forever (2) 0:7,22</p> <p>forget (1) 0:4</p> <p>forgot (2) 0:24,25</p> <p>forgotten (1) 0:18</p>	<p>formal (1) 0:3</p> <p>formalities (1) 0:16</p> <p>format (1) 0:9</p> <p>formulas (2) 0:7,9</p> <p>forth (5) 0:23,10,19,7,14</p> <p>Fortune (2) 0:11,12</p> <p>forward (5) 0:15,7,8,12,20</p> <p>found (5) 0:22,8,6,10,19</p> <p>foundation (3) 0:6,18,25</p> <p>four (14) 0:1,20,1,16,13,21,15, 10,25,4,8,17,25,23</p> <p>fourth (1) 0:13</p> <p>FP (2) 0:4,8</p> <p>free (3) 0:17,19,9</p> <p>freely (2) 0:11,20</p> <p>freestanding (2) 0:20,23</p> <p>Frequently (3) 0:11,21,21</p> <p>Friendship (1) 0:17</p> <p>front (18) 0:25,10,6,7,9,11,17, 15,1,25,11,17,1,18,16, 4,25,2</p> <p>frontage (17) 0:6,10,15,25,16,2,5, 4,1,3,21,4,13,13,14,22, 22</p> <p>frustrated (1) 0:8</p> <p>frustration (2) 0:2,25</p> <p>full (3) 0:4,8,11</p> <p>Functional (1) 0:11</p> <p>functions (1) 0:10</p> <p>further (11) 0:16,17,12,18,21,18, 15,6,9,19,23</p> <p>future (6) 0:8,24,17,2,2,1</p>
F				
<p>face (2) 0:9,20</p> <p>faces (1) 0:23</p> <p>facilitate (1) 0:16</p> <p>facilitation (1) 0:12</p> <p>facilities (29) 0:18,2,1,5,24,24,25, 6,13,15,13,16,8,16,25, 7,23,25,7,13,12,17,17, 16,2,15,1,18,14</p> <p>Facility (70) 0:3,4,4,5,5,19,12,1,9, 16,20,22,24,3,4,24,7, 11,12,23,3,5,3,16,17, 23,24,15,18,19,8,5,23, 25,2,10,12,4,4,5,5,8,12, 16,18,20,22,23,24,14, 17,19,25,25,4,5,6,14, 23,23,23,21,25,3,8,9, 10,20,12,18</p> <p>facility's (1) 0:15</p> <p>fact (11) 0:4,25,19,25,7,13,18, 21,11,12,10</p> <p>fail (1) 0:17</p> <p>failed (1) 0:18</p> <p>failing (1) 0:12</p> <p>fails (4) 0:7,14,16,17</p> <p>fair (5) 0:19,2,23,22,25</p> <p>fairly (3) 0:17,15,8</p> <p>falling (2) 0:20,19</p> <p>Falls (5) 0:17,12,18,19,18</p> <p>familiar (16) 0:7,13,16,21,24,15, 17,25,25,1,23,1,23,20, 4,7</p> <p>familiarity (2) 0:14,7</p> <p>families (5) 0:12,5,16,17,4</p>	<p>game (1)</p>			
G				

**Artis Senior Livinf
Revised**

0:23 gap (6) 0:9,12,18,12,23,23 garage (19) 0:3,3,5,9,10,21,22, 25,10,11,13,17,7,9,9, 17,25,4,6 garages (1) 0:18 garden (2) 0:8,15 gas (3) 0:13,22,3 geez (1) 0:16 general (18) 0:6,10,24,17,11,11, 25,3,20,2,23,17,10,16, 18,4,14,23 generally (4) 0:20,12,25,24 generate (7) 0:11,14,17,24,23,10, 6 generated (3) 0:2,1,7 generates (1) 0:16 generating (2) 0:9,8 generation (6) 0:13,21,2,20,22,7 generations (1) 0:5 generator (6) 0:1,20,23,15,15,22 gentleman (1) 0:19 geometrically (1) 0:7 gets (5) 0:24,1,14,7,24 Giancola (1) 0:15 GIRARD (338) 0:7,7,13,1,2,2,6,6,7,9, 11,13,18,25,2,5,11,12, 13,16,21,22,23,24,1,5, 8,10,11,14,15,18,19,13, 15,20,22,1,25,2,7,10, 22,2,4,9,13,15,17,18, 21,24,25,9,12,14,21,1, 6,6,12,12,16,18,18,19, 21,22,23,24,3,5,8,10, 14,14,17,20,23,25,25,2, 3,4,6,7,8,8,10,11,12,13, 13,14,15,16,19,20,22, 23,2,22,5,14,16,19,19, 22,23,4,6,24,2,15,18,5, 25,1,3,5,7,7,17,17,19, 19,19,20,22,22,1,3,6,7, 9,9,12,14,16,16,17,21, 24,25,25,22,25,3,7,9, 13,2,7,10,13,14,15,22, 24,2,4,9,10,16,19,22, 24,1,2,4,4,6,13,2,5,8, 12,19,23,24,4,6,7,8,11, 17,21,1,3,10,10,17,2,3, 13,21,22,24,1,2,3,3,6,7, 10,10,11,13,14,16,18, 18,18,19,22,23,1,3,5,5, 9,13,14,17,22,24,24,2, 6,12,20,20,22,24,3,7, 17,20,25,25,3,10,24,9, 20,1,6,7,7,9,10,11,12, 13,16,16,17,19,19,21, 22,25,25,3,11,12,8,10, 15,16,24,2,2,6,6,8,9,11, 13,14,16,20,21,23,23,4, 8,11,15,21,25,1,5,5,9, 10,13,13,19,21,24,25,2, 4,5,7,7,9,12,13,16,20, 25,1,3,4,5,6,8,8,10,11, 13,13,13,15,16,16,16, 21,23,24,25,8,16,18,20, 24 given (3) 0:4,13,23 gives (4) 0:6,21,5,4 giving (1) 0:20 glancing (1) 0:21 glare (1) 0:7 glasses (1) 0:21 goals (2) 0:24,24 goes (12) 0:20,21,9,5,10,6,15, 23,15,25,21,9 golf (4) 0:1,24,6,6 good (21) 0:21,15,18,22,13,19, 20,9,5,23,6,11,24,19, 16,16,20,6,7,11,21 governing (2) 0:18,20 grade (25) 0:10,9,10,25,25,7,10, 19,2,14,16,22,24,25,25, 3,4,8,11,12,16,17,22, 15,4 grades (2) 0:8,6 grading (1) 0:19 grand (1) 0:16 grandfathered (1) 0:25 grant (1) 0:1	granted (1) 0:14 grass (1) 0:22 grassed (1) 0:2 grasses (2) 0:14,21 grateful (2) 0:19,1 great (12) 0:11,16,16,7,25,11, 12,9,19,8,17,20 greater (3) 0:5,16,19 greatly (1) 0:21 green (3) 0:14,14,18 Griese (1) 0:2 gross (1) 0:9 ground (1) 0:12 group (4) 0:19,14,12,18 groups (2) 0:16,18 grow (1) 0:17 growing (2) 0:16,19 growth (1) 0:1 guard (1) 0:1 guards (1) 0:13 guess (23) 0:11,2,7,8,8,10,13, 18,17,15,4,4,9,2,19,23, 10,10,24,6,21,1,4 guessing (1) 0:7 guests (1) 0:1 guideline (1) 0:21 guidelines (4) 0:9,15,16,6 gutter (1) 0:13 guys (1) 0:25	hall (1) 0:3 hallmarks (2) 0:12,18 hand (12) 0:8,19,14,1,3,16,13, 11,18,16,12,12 handle (1) 0:12 hands (1) 0:14 happen (11) 0:6,15,16,2,23,1,5,6, 18,25,11 happens (3) 0:6,16,5 happy (7) 0:8,19,15,24,25,1,4 hard (4) 0:21,21,11,15 hardiplank (1) 0:14 harm (10) 0:15,8,20,3,4,25,2,1, 5,21 harmful (1) 0:5 harmonious (2) 0:20,5 harmony (3) 0:11,18,3 hasn't (2) 0:21,23 hatch (4) 0:11,13,14,6 hatched (3) 0:11,1,14 haven't (5) 0:22,13,3,21,16 hazardous (1) 0:16 hazards (1) 0:6 HCM (2) 0:8,11 He'll (1) 0:19 he's (7) 0:16,24,21,23,21,6,5 head (6) 0:19,22,4,4,24,3 heading (2) 0:25,24 heads (3) 0:14,16,21 health (5) 0:5,21,21,3,2 hear (10) 0:2,6,10,6,18,9,18,1, 4,15 heard (6) 0:22,24,1,25,5,5 hearing (31)	0:16,22,19,6,7,9,25, 1,25,2,5,20,6,10,11,8, 15,3,3,10,24,25,4,12,8, 10,22,24,22,15,18 Hearings (2) 0:9,5 heavier (1) 0:16 heavily (1) 0:1 heavy (1) 0:4 height (6) 0:1,3,10,21,8,9 Heights (1) 0:17 help (7) 0:6,18,1,14,19,20,6 helpful (6) 0:3,6,14,14,7,8 helps (2) 0:16,11 here's (3) 0:13,14,21 hereby (1) 0:2 hey (1) 0:11 HICKS (148) 0:10,10,1,1,5,6,7,10, 11,13,24,25,1,4,5,8,9,9, 11,12,17,17,18,20,20, 20,22,22,24,24,25,4,5, 7,7,9,16,18,23,24,3,6,7, 9,10,13,19,21,1,2,5,6,8, 9,12,12,19,23,1,1,1,4,5, 6,6,12,17,18,19,20,23, 1,3,5,5,7,7,8,11,13,13, 14,15,17,18,20,20,21, 23,24,17,22,25,2,6,7, 10,10,11,13,16,19,24, 24,25,7,25,3,21,24,20, 1,2,2,4,4,5,6,11,14,16, 24,3,3,6,6,10,11,11,12, 13,15,16,17,17,18,20, 21,24,2,4,6,8,14,17,2,5, 17 high (17) 0:19,1,1,1,7,22,21,6, 24,3,5,3,9,16,18,5,17 higher (2) 0:2,24 highlight (1) 0:21 Highway (15) 0:20,13,22,24,1,3,4, 12,6,10,10,14,16,3,17 hiker/biker (1) 0:2 Hill (16) 0:14,14,15,13,25,17, 12,23,24,8,20,22,8,11, 18,20
	H		
	habitat (1) 0:21 half (11) 0:12,13,18,6,15,4,20, 20,23,17,18		

<p>Hills (1) 0:1</p> <p>hillside (1) 0:24</p> <p>hint (1) 0:4</p> <p>historically (3) 0:2,9,23</p> <p>hit (4) 0:22,1,4,24</p> <p>HOA (1) 0:14</p> <p>hold (1) 0:21</p> <p>holding (1) 0:13</p> <p>holes (2) 0:23,24</p> <p>holiday (2) 0:1,21</p> <p>holidays (2) 0:8,2</p> <p>holly (1) 0:5</p> <p>holly's (3) 0:25,3,10</p> <p>home (6) 0:7,17,9,19,25,3</p> <p>homeowners (1) 0:14</p> <p>homes (8) 0:22,5,6,10,9,10,17,19</p> <p>homier (1) 0:24</p> <p>honestly (1) 0:1</p> <p>honeycomb (2) 0:12,25</p> <p>hope (4) 0:2,24,23,23</p> <p>hopefully (2) 0:17,6</p> <p>horse (1) 0:4</p> <p>hour (38) 0:12,4,5,25,21,6,7,16,17,18,15,16,24,25,11,23,1,7,16,16,3,3,9,12,15,16,18,18,1,4,5,6,8,13,16,19,19,2</p> <p>hours (21) 0:24,4,6,8,12,17,18,19,4,4,15,15,22,11,11,14,7,19,12,22,23</p> <p>House (16) 0:8,18,19,21,13,24,8,22,20,25,9,16,11,12,13,19</p> <p>household (1) 0:9</p> <p>households (2) 0:9,17</p>	<p>houses (7) 0:12,1,22,2,17,25,6</p> <p>housing (29) 0:3,6,17,14,5,12,22,8,3,12,20,24,22,22,2,3,6,9,9,10,13,1,5,11,12,17,20,11,17</p> <p>huge (3) 0:8,23,7</p> <p>humor (2) 0:10,24</p> <p>hundreds (2) 0:25,25</p> <p>hung (1) 0:7</p> <p>hurry (1) 0:17</p> <p>hydraulic (1) 0:9</p>	<p>0:4,23,24</p> <p>identify (3) 0:5,25,17</p> <p>idiosyncrasy (1) 0:11</p> <p>illuminate (1) 0:18</p> <p>illuminated (1) 0:24</p> <p>illumination (5) 0:2,3,16,6,7</p> <p>immediate (5) 0:24,9,17,2,18</p> <p>immediately (4) 0:14,24,22,15</p> <p>impact (27) 0:17,7,17,18,18,15,8,7,9,2,3,8,14,18,2,5,7,6,7,14,15,16,24,7,22,20,23</p> <p>impacted (3) 0:12,15,16</p> <p>impacting (1) 0:11</p> <p>impacts (17) 0:25,25,15,19,21,13,24,5,12,13,20,5,11,7,18,12,24</p> <p>impinge (1) 0:19</p> <p>implementation (1) 0:7</p> <p>implemented (1) 0:12</p> <p>implements (1) 0:14</p> <p>implies (2) 0:20,24</p> <p>imply (1) 0:4</p> <p>importance (1) 0:15</p> <p>important (9) 0:14,19,15,19,1,16,6,4,18</p> <p>imposed (1) 0:6</p> <p>impossible (1) 0:22</p> <p>improve (3) 0:25,3,7</p> <p>improvement (1) 0:3</p> <p>improvements (10) 0:17,4,9,1,8,1,11,13,14,22</p> <p>improving (2) 0:16,22</p> <p>INC (1) 0:2</p> <p>inch (7) 0:1,13,7,8,9,17,19</p> <p>inches (2)</p>	<p>0:5,6</p> <p>include (13) 0:16,1,8,9,2,12,19,4,14,19,19,12,6</p> <p>included (14) 0:10,22,10,7,11,12,3,7,22,25,10,20,3,10</p> <p>includes (5) 0:17,9,17,1,6</p> <p>including (8) 0:3,16,8,12,7,2,11,9</p> <p>incompatibility (1) 0:19</p> <p>inconvenient (1) 0:6</p> <p>incorporates (1) 0:12</p> <p>incorporating (1) 0:15</p> <p>increase (4) 0:22,2,1,18</p> <p>increased (1) 0:23</p> <p>increasing (1) 0:2</p> <p>Indeed (1) 0:14</p> <p>independent (2) 0:6,10</p> <p>independently (2) 0:1,16</p> <p>indicated (4) 0:8,4,15,3</p> <p>indicative (1) 0:13</p> <p>individuals (5) 0:6,10,14,22,16</p> <p>inevitable (1) 0:18</p> <p>infiltration (3) 0:3,5,25</p> <p>informal (1) 0:16</p> <p>information (10) 0:1,21,13,16,22,21,5,16,19,22</p> <p>informed (1) 0:19</p> <p>infrequent (3) 0:4,5,2</p> <p>ingress (1) 0:19</p> <p>inherent (11) 0:6,6,15,16,19,23,10,14,7,20,23</p> <p>initial (2) 0:5,5</p> <p>initially (1) 0:21</p> <p>initiative (1) 0:14</p> <p>injury (1) 0:16</p>	<p>innovative (1) 0:17</p> <p>input (3) 0:9,9,13</p> <p>inside (2) 0:5,21</p> <p>insight (1) 0:10</p> <p>instances (1) 0:8</p> <p>Instead (4) 0:15,19,10,16</p> <p>institutional (2) 0:17,18</p> <p>instruct (1) 0:23</p> <p>intact (1) 0:21</p> <p>intake (1) 0:20</p> <p>integrity (3) 0:14,14,18</p> <p>intended (2) 0:1,7</p> <p>intense (1) 0:17</p> <p>intensity (9) 0:22,21,2,4,13,14,24,2,13</p> <p>intensive (1) 0:3</p> <p>intention (1) 0:3</p> <p>intentionally (2) 0:4,21</p> <p>intents (1) 0:3</p> <p>interest (1) 0:25</p> <p>interested (1) 0:18</p> <p>interestingly (1) 0:9</p> <p>interfere (1) 0:19</p> <p>interior (3) 0:21,10,19</p> <p>intermixed (1) 0:20</p> <p>interpret (1) 0:19</p> <p>interpretation (3) 0:17,20,6</p> <p>interpreted (1) 0:24</p> <p>interrupt (3) 0:5,23,19</p> <p>interrupting (1) 0:25</p> <p>intersection (34) 0:18,23,25,5,7,2,9,12,25,6,12,15,22,16,1,8,4,13,15,20,21,24,7,</p>
	I			
	<p>I'd (14) 0:6,14,23,25,10,13,19,16,10,2,21,24,4,9</p> <p>I'll (31) 0:10,18,19,20,11,19,18,10,19,24,5,5,6,19,7,8,20,1,14,15,22,23,23,20,22,23,24,14,25,1,2</p> <p>I'm (132) 0:2,7,10,17,22,25,1,6,7,16,20,21,8,11,16,17,19,24,8,9,11,1,18,1,4,6,8,13,15,20,23,11,18,22,13,14,16,21,4,7,7,8,8,18,18,19,1,3,12,25,1,22,5,19,12,14,6,7,2,18,23,23,6,22,23,8,21,20,16,18,7,14,18,8,17,6,7,10,22,9,17,19,22,1,10,13,5,13,14,17,4,13,23,17,5,8,13,17,20,22,1,3,5,15,18,9,19,20,22,1,6,12,16,24,7,8,9,18,10,18,19,10,11,4,19,12,15,17,19,22,23,4</p> <p>I've (22) 0:8,11,17,14,18,7,9,14,15,20,12,21,22,19,2,14,24,23,3,3,17,20</p> <p>I-495 (2) 0:12,13</p> <p>idea (3) 0:21,7,12</p> <p>ideal (1) 0:10</p> <p>identical (1) 0:19</p> <p>identification (9) 0:20,7,8,21,11,4,11,5,13</p> <p>identified (3)</p>			

Artis Senior Livin'
Revised

<p>10,15,25,19,17,7,1,2, 13,23,25</p> <p>intersections (1) 0:25</p> <p>into (98) 0:15,15,18,5,7,9,12, 13,19,23,24,2,7,11,19, 8,2,17,21,25,4,11,17, 19,24,8,16,9,21,24,6,6, 16,7,20,7,11,16,14,19, 3,8,24,25,5,9,14,19,5,1, 21,22,15,18,3,5,12,12, 13,16,23,15,18,6,11,16, 19,20,16,24,20,1,2,5,7, 10,18,8,10,18,19,20,3, 6,17,13,9,5,7,17,20,1,5, 17,23,6,25,15</p> <p>introduce (2) 0:14,7</p> <p>invariably (1) 0:15</p> <p>inventory (1) 0:15</p> <p>investigation (1) 0:18</p> <p>investigations (2) 0:19,2</p> <p>invisible (2) 0:6,11</p> <p>involute (1) 0:11</p> <p>involve (2) 0:23,15</p> <p>involved (3) 0:8,2,5</p> <p>irrelevant (1) 0:14</p> <p>isn't (5) 0:17,22,5,11,21</p> <p>isolated (1) 0:21</p> <p>issue (29) 0:3,6,16,20,24,3,7,7, 10,11,8,12,20,4,13,10, 13,11,19,3,3,21,2,2,6, 18,5,19,9</p> <p>issued (1) 0:13</p> <p>issues (15) 0:7,24,13,7,18,24,25, 21,12,9,13,9,10,6,14</p> <p>it's (248) 0:11,13,13,14,16,13, 16,17,17,19,20,22,23,1, 2,5,6,9,11,20,23,3,6,9, 12,23,10,12,15,20,24, 25,1,3,3,4,5,5,7,7,7,8, 14,15,15,21,1,3,20,25, 1,21,1,8,22,2,2,15,4,6, 8,10,2,10,11,23,1,2,16, 18,18,20,24,1,1,4,6,9, 16,20,21,17,1,7,19,24, 1,1,6,13,15,17,12,16,</p>	<p>17,19,23,4,19,24,24,24, 10,1,3,10,11,12,15,19, 19,19,2,3,14,19,20,20, 22,23,24,25,15,21,1,9, 10,14,14,15,17,19,20, 20,22,5,19,3,19,24,5,5, 6,7,22,5,13,23,24,3,6,1, 24,24,21,25,7,9,16,22, 9,12,13,12,13,14,21,24, 4,7,9,14,17,18,19,20, 22,1,8,9,9,9,10,11,13, 13,14,15,23,21,23,3,5, 6,6,8,22,23,25,1,14,10, 12,12,13,22,7,10,12,16, 4,11,13,17,18,19,9,12, 13,13,1,1,2,6,11,12,13, 14,15,16,16,17,21,5,8, 16,22,23,24,22,1,18,20, 13,20,15,18</p> <p>items (1) 0:2</p>	<p>14,10,21,6,4,14,4,5,5,9, 3,4,13,13,14,17,13,14, 1,16,12,1,21,21,22,23, 11,11,14,16,17,20,1,2, 5,7,9,10,10,12</p> <p>kitchen (3) 0:14,2,3</p> <p>knee (1) 0:1</p> <p>knoll (1) 0:22</p> <p>Knolls (2) 0:21,11</p> <p>knowing (1) 0:20</p> <p>knowledge (3) 0:19,23,24</p> <p>known (1) 0:11</p> <p>knos (3) 0:5,20,23</p> <p>KOENIG (56) 0:11,13,15,20,20,21, 25,6,8,14,16,17,18,20, 4,5,6,7,7,9,14,14,17,21, 21,23,24,25,25,1,3,4,5, 6,7,8,8,9,10,11,15,15, 18,20,25,3,5,14,15,16, 22,25,2,6,11,14</p> <p>K-O-E-N-I-G (1) 0:20</p>	<p>larger (4) 0:25,1,9,5</p> <p>largest (1) 0:10</p> <p>last (8) 0:21,4,15,21,10,22,1, 1</p> <p>late (1) 0:23</p> <p>later (7) 0:8,13,21,19,19,18,9</p> <p>latest (1) 0:7</p> <p>LATR (15) 0:23,9,16,17,21,21,4, 10,22,24,23,7,12,12,11</p> <p>LaVay (135) 0:15,18,22,25,2,4,4, 7,7,7,7,9,10,10,11,13, 14,15,16,16,17,21,21, 25,1,4,4,5,5,7,8,9,12, 15,16,18,20,20,22,23, 24,24,25,1,3,4,5,7,8,11, 12,12,16,18,20,21,23, 23,23,24,25,3,10,11,14, 15,16,16,19,19,23,23, 23,24,1,1,4,6,8,10,13, 15,15,15,18,21,22,24, 24,25,3,3,5,5,7,12,13, 23,25,1,1,4,7,13,16,21, 23,23,2,3,6,7,7,9,11,12, 13,14,16,17,2,5,8,10, 12,12,13,21,23,23,23, 25,10,16,18</p> <p>law (2) 0:17,11</p> <p>lawn (1) 0:15</p> <p>laws (1) 0:18</p> <p>lead (1) 0:16</p> <p>leads (2) 0:7,3</p> <p>learned (1) 0:11</p> <p>lease (1) 0:21</p> <p>leased (1) 0:25</p> <p>leasing (1) 0:13</p> <p>least (6) 0:20,2,5,11,21,21</p> <p>leave (12) 0:15,5,23,13,16,21,7, 1,7,23,17,4</p> <p>leaving (9) 0:24,21,22,5,7,8,9, 16,3</p> <p>left (36) 0:7,4,8,14,14,9,24,8, 7,23,9,12,12,7,16,18,6,</p>	<p>22,8,11,12,14,14,17,17, 19,20,21,23,6,9,8,9,5, 17,20</p> <p>legacy (3) 0:4,8,18</p> <p>legal (2) 0:2,13</p> <p>legend (2) 0:15,17</p> <p>legitimate (1) 0:22</p> <p>length (4) 0:21,6,21,4</p> <p>Lenhart (155) 0:18,2,4,4,4,7,7,8,13, 16,17,17,20,20,21,22, 24,25,2,2,3,3,6,7,9,10, 11,11,13,14,15,17,17, 18,20,21,22,23,23,24,1, 1,2,2,3,4,6,9,9,11,16, 19,20,22,25,3,4,6,8,8,8, 9,11,12,12,15,15,16,17, 18,18,20,23,23,24,24, 25,1,1,5,5,7,8,8,9,10, 11,11,14,15,17,17,21, 21,23,23,1,1,3,6,8,9,9, 11,12,12,14,14,17,17, 20,20,21,22,23,24,2,3, 5,6,8,9,10,12,14,14,16, 20,21,21,2,3,5,12,13, 18,19,21,23,23,24,25,1, 4,6,8,13,20,20,21,22, 23,25,8,8</p> <p>less (8) 0:15,19,6,7,4,20,23, 22</p> <p>Let's (20) 0:23,7,3,14,5,16,2, 16,16,20,13,16,14,23, 25,3,21,21,23,25</p> <p>lets (1) 0:19</p> <p>letter (18) 0:5,6,2,14,13,7,16, 20,2,5,8,19,19,19,19, 24,25,22</p> <p>letters (7) 0:7,4,12,14,22,8,15</p> <p>letting (1) 0:7</p> <p>level (7) 0:11,24,1,4,5,6,8</p> <p>levels (1) 0:12</p> <p>liability (1) 0:10</p> <p>libbing (1) 0:9</p> <p>licensed (1) 0:25</p> <p>lieu (1) 0:24</p> <p>life (2)</p>
	J			
	<p>Jay (15) 0:10,1,6,13,14,23,7, 20,3,24,1,11,1,13,18</p> <p>John (18) 0:11,5,12,23,3,24,17, 20,10,8,17,10,24,9,12, 21,7,12</p> <p>join (2) 0:16,21</p> <p>joining (1) 0:23</p> <p>July (7) 0:2,2,14,15,22,22,4</p> <p>jump (2) 0:16,21</p> <p>jumped (2) 0:7,15</p> <p>jumps (1) 0:7</p> <p>June (2) 0:6,12</p> <p>juries (1) 0:16</p> <p>justify (2) 0:4,5</p>			
	K			
	<p>keep (10) 0:25,9,24,7,14,14,1, 5,5,16</p> <p>keeping (1) 0:20</p> <p>kept (1) 0:10</p> <p>keypad (3) 0:14,17,24</p> <p>kind (48) 0:4,22,9,12,2,5,2,9,</p>	<p style="text-align: center;">L</p> <p>labeled (3) 0:15,13,15</p> <p>labels (1) 0:17</p> <p>lack (1) 0:4</p> <p>land (14) 0:8,11,11,1,3,24,5,7, 25,5,9,15,4,8</p> <p>landed (1) 0:24</p> <p>landscape (5) 0:9,10,15,15,25</p> <p>landscaping (6) 0:7,17,9,12,11,21</p> <p>lane (25) 0:23,1,6,25,25,11,1, 5,10,14,15,16,21,10,9, 11,11,12,15,15,18,20,2, 13,13</p> <p>lanes (6) 0:13,14,10,13,5,9</p> <p>language (5) 0:2,22,6,21,23</p> <p>large (9) 0:17,5,8,1,15,22,22, 23,3</p> <p>largely (1) 0:10</p>		

**Artis Senior Livinf
Revised**

0:16,7 light (13) 0:7,24,14,15,17,5,5, 7,9,14,17,19,21 lightening (1) 0:3 Lighting (10) 0:6,25,4,5,6,8,15,17, 20,22 lightly (1) 0:19 likely (4) 0:25,23,16,1 likes (1) 0:2 likewise (1) 0:22 limit (3) 0:17,20,21 limitations (1) 0:8 limited (3) 0:13,11,21 line (42) 0:18,22,25,10,16,17, 2,9,11,12,13,13,25,7,9, 16,25,4,5,14,14,11,17, 19,14,15,16,17,13,5,1, 23,8,2,16,15,15,14,15, 17,19,19 liner (1) 0:11 lines (8) 0:2,17,2,4,12,21,20,8 Linowes (1) 0:7 list (2) 0:17,16 listed (3) 0:17,22,7 listen (1) 0:7 listened (1) 0:25 listening (2) 0:14,24 little (38) 0:15,10,14,6,6,8,11, 5,15,15,2,21,17,6,7,11, 13,20,10,17,21,9,12,19, 1,16,24,9,13,20,12,15, 23,24,8,8,23,16 live (3) 0:15,5,20 lived (5) 0:5,20,15,21,18 lives (1) 0:21 Living (27) 0:3,4,9,11,2,8,3,6,7, 10,16,22,10,10,8,22,23, 4,8,10,23,8,5,25,18,22, 7	loading (5) 0:22,23,1,2,2 lobby (6) 0:2,4,11,13,17,8 local (6) 0:23,17,2,15,6,6 located (4) 0:4,24,24,25 location (19) 0:16,17,22,16,18,11, 20,16,20,8,2,2,2,8,24,4, 16,2,10 locations (1) 0:19 lock (1) 0:11 Locks (5) 0:1,1,12,17,12 Lonesome (1) 0:9 Long (13) 0:8,1,19,21,16,1,18, 15,6,2,14,18,12 Long's (1) 0:7 longer (1) 0:17 look (20) 0:10,22,17,23,17,18, 21,1,14,8,9,14,19,22, 14,24,14,7,9,16 looked (1) 0:11 looking (20) 0:14,18,24,12,12,1, 17,9,20,21,24,9,22,1, 18,8,23,13,20,11 looks (4) 0:6,1,6,2 loop (1) 0:17 loss (2) 0:7,15 lot (36) 0:19,12,16,22,23,20, 24,20,24,8,25,19,8,23, 25,16,20,6,20,11,12,11, 12,18,3,14,10,11,18,5, 6,12,21,22,11,4 lots (6) 0:22,23,1,20,11,17 love (2) 0:16,16 lovely (1) 0:1 low (11) 0:17,6,7,25,20,5,24, 14,22,6,8 lower (13) 0:7,3,4,1,17,7,2,9,3, 15,24,17,5 lunch (6) 0:22,25,18,4,12,18	lunchtime (1) 0:14 M ma'am (1) 0:4 mail (2) 0:13,25 main (10) 0:5,1,4,7,8,24,25,3,3, 17 maintain (3) 0:7,14,18 maintained (1) 0:19 maintaining (6) 0:16,19,21,24,15,18 maintains (1) 0:25 major (3) 0:19,25,7 majority (3) 0:10,13,19 makes (7) 0:12,8,3,13,2,23,9 making (2) 0:12,8 manage (1) 0:10 management (11) 0:5,22,6,15,4,7,12,1, 12,17,20 manages (1) 0:1 maneuver (1) 0:10 maneuvered (1) 0:7 manhole (1) 0:14 Manor (4) 0:6,7,8,11 manufacturer's (1) 0:4 many (24) 0:21,11,16,10,6,12, 11,13,24,22,10,15,20, 21,21,19,22,1,9,25,19, 20,22,19 map (4) 0:4,8,25,6 maples (2) 0:25,9 maps (1) 0:13 March (2) 0:20,1 mark (1) 0:17 marked (13) 0:20,3,7,10,19,8,21, 11,4,11,6,5,13	market (2) 0:24,14 Marks (1) 0:19 Marshal (2) 0:21,25 Maryland (5) 0:3,21,21,15,25 mass (1) 0:4 Master (61) 0:2,17,13,5,10,11,11, 16,19,23,3,5,7,12,13, 19,23,11,13,23,14,6,6, 20,1,1,6,8,9,16,17,23,1, 3,4,16,17,24,25,4,12, 13,20,1,2,6,6,8,9,10,11, 12,14,17,20,14,8,10,15, 15,21 master's (1) 0:14 material (4) 0:1,1,17,3 materials (4) 0:18,10,15,9 math (1) 0:23 matter (9) 0:12,20,20,2,11,24, 22,8,6 matters (3) 0:6,3,9 max (1) 0:20 maximized (1) 0:11 maximum (7) 0:11,9,8,9,19,8,23 may (35) 0:25,16,20,12,8,9,2, 21,3,17,18,20,21,22,3, 19,13,20,22,11,5,20,21, 2,3,10,18,21,24,12,20, 7,10,5,14 maybe (35) 0:8,2,12,25,14,18,11, 18,10,18,23,10,22,4,18, 4,25,6,24,15,20,7,21, 21,25,23,4,23,8,8,13, 14,13,14,16 McLean (2) 0:3,23 Meadow (3) 0:2,6,6 meals (1) 0:3 mean (36) 0:9,16,22,8,23,22,5, 23,21,17,22,6,6,5,16, 13,1,8,2,3,25,25,24,11, 13,8,8,10,10,15,18,21, 7,15,5,2 means (6)	0:6,24,14,18,8,15 meant (1) 0:4 measurement (1) 0:3 measures (4) 0:15,25,5,19 mechanism (2) 0:23,18 medical (1) 0:17 meet (16) 0:9,13,10,9,12,7,18, 23,8,5,13,4,19,11,12,20 meeting (8) 0:10,18,2,6,8,7,16,20 meetings (2) 0:22,21 meets (3) 0:9,4,24 Melissa (1) 0:11 member (1) 0:25 members (3) 0:3,25,17 memorized (1) 0:22 memory (10) 0:5,6,2,3,8,22,4,14, 18,15 mention (5) 0:8,15,19,10,1 mentioned (26) 0:3,10,24,4,9,21,9,7, 25,7,9,15,21,10,15,24, 24,1,5,8,21,11,10,3,9,7 MEP (2) 0:11,12 merit (1) 0:23 met (5) 0:6,16,7,11,6 meter (1) 0:4 methodology (1) 0:2 Metro (2) 0:16,17 micro (1) 0:13 middle (13) 0:13,17,10,25,17,19, 8,2,22,12,2,5,15 might (5) 0:4,12,10,10,8 Mike (1) 0:18 mile (4) 0:12,13,1,11 miles (4) 0:22,15,7,18 million (2)
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0:3,5 mind (4) 0:18,10,25,13 mine (1) 0:20 minimal (9) 0:14,18,10,6,22,24,1, 10,22 minimally (1) 0:18 minimize (4) 0:21,15,7,15 minimum (4) 0:12,8,14,11 minor (1) 0:15 minus (1) 0:13 minute (9) 0:11,3,16,20,21,12, 24,8,17 minutes (1) 0:12 miraculous (1) 0:4 misunderstood (1) 0:4 mitigate (2) 0:17,6 mitigated (4) 0:10,11,24,7 mitigation (2) 0:15,5 mix (3) 0:25,9,11 mixed (3) 0:7,6,14 model (2) 0:4,4 modeled (1) 0:7 modest (1) 0:11 modification (1) 0:3 modifications (1) 0:3 modified (1) 0:11 modify (1) 0:3 moment (2) 0:9,1 Montessori (1) 0:10 Montgomery (16) 0:21,21,1,17,14,11,8, 12,23,2,14,2,8,25,24,5 month (3) 0:21,3,16 months (2) 0:5,14 Montrose (1)	0:11 Moore (1) 0:4 more (66) 0:21,25,13,14,5,13, 15,4,4,13,21,4,4,18,7,9, 10,10,3,5,5,6,13,15,15, 20,2,19,6,3,7,7,15,21, 12,11,15,20,11,15,3,23, 2,7,17,7,16,18,21,16, 23,11,12,22,3,3,23,10, 14,20,7,17,18,19,20,22 Moreover (1) 0:18 morning (16) 0:13,13,15,4,18,1,24, 4,15,5,6,13,15,21,7,12 most (20) 0:12,15,25,13,1,25, 24,24,12,15,15,16,24,7, 10,24,16,1,21,17 mostly (2) 0:5,19 Mother's (2) 0:4,8 Motorist (3) 0:8,19,7 motorists (3) 0:12,1,1 move (16) 0:12,18,11,20,20,22, 25,9,15,14,7,16,19,8,8, 23 moved (2) 0:8,21 movement (2) 0:12,4 Moves (4) 0:19,7,14,16 moving (7) 0:2,15,22,12,18,18, 22 Mrs (3) 0:2,14,17 much (32) 0:5,2,17,12,16,23,1, 1,2,15,5,14,20,8,14,7, 24,11,13,1,7,24,3,15, 15,23,24,17,24,24,22, 22 mulched (1) 0:1 multifamily (9) 0:15,11,1,3,3,5,6,10, 11 multistory (3) 0:19,21,7 must (1) 0:8 myself (3) 0:6,25,8	N	neighbors (12) 0:17,4,10,15,24,5,16, 17,16,1,14,20 network (1) 0:13 Nevertheless (1) 0:6 new (25) 0:21,10,10,9,19,21, 17,4,8,9,17,16,8,11,4, 16,23,7,9,21,14,13,18, 22,18 newest (2) 0:3,6 news (1) 0:12 next (11) 0:8,12,14,1,25,17,24, 23,12,6,8 nice (4) 0:3,22,25,19 night (2) 0:25,1 nighttime (1) 0:15 nobody (2) 0:13,9 noise (7) 0:19,11,15,2,15,1,7 nomenclature (1) 0:17 non (2) 0:14,12 non- (3) 0:5,11,17 non-commercial (1) 0:8 none (3) 0:8,15,1 Non-inherent (16) 0:1,5,6,6,10,14,15, 16,20,2,7,11,13,15,19, 20 nonpeak (1) 0:18 non-peak (2) 0:7,19 non-residential (1) 0:6 non-rush (1) 0:6 nonstandard (1) 0:25 Norbeck (1) 0:10 normally (3) 0:18,9,11 north (22) 0:11,24,24,15,3,20,2, 20,23,4,21,25,19,19,8, 12,23,13,11,18,2,19 northeast (1) 0:20	northern (1) 0:14 northwest (9) 0:8,23,20,4,1,9,22,2, 24 Northwood (1) 0:23 Norwood (8) 0:1,6,8,14,19,20,24,9 notarized (1) 0:15 note (9) 0:13,4,9,18,9,14,14, 15,14 noted (2) 0:23,25 notice (3) 0:2,16,18 notion (1) 0:17 November (1) 0:7 number (35) 0:7,2,5,10,3,9,14,15, 17,24,2,20,9,22,12,12, 11,14,24,4,21,7,3,4,11, 23,24,4,13,12,12,1,8,5, 25 numbers (3) 0:25,19,5 nursing (2) 0:17,19 nutshell (1) 0:8
			O	
			o'clock (11) 0:21,6,7,7,13,14,14, 15,15,20,21 Oak (3) 0:7,8,21 oaks (1) 0:10 oath (2) 0:17,3 object (5) 0:2,6,23,13,19 objection (4) 0:25,1,3,18 objectionable (4) 0:11,15,9,6 objectives (2) 0:24,24 obtained (1) 0:15 obtaining (1) 0:15 obviously (11) 0:8,3,6,25,24,9,15, 24,9,19,6 occasional (1) 0:3	

<p>occasions (2) 0:16,13</p> <p>occupancy (2) 0:1,9</p> <p>occupation (1) 0:25</p> <p>occupied (1) 0:16</p> <p>occur (3) 0:16,23,19</p> <p>occurs (3) 0:5,21,22</p> <p>October (1) 0:5</p> <p>oddly (1) 0:1</p> <p>odors (3) 0:12,15,7</p> <p>off (37) 0:11,12,10,15,1,14, 18,19,20,12,18,1,16,17, 18,20,22,23,5,4,20,12, 10,11,19,13,15,9,18,3, 9,1,3,24,25,22,25</p> <p>offer (1) 0:11</p> <p>offering (1) 0:10</p> <p>office (9) 0:2,8,8,8,8,1,13,6,5</p> <p>offices (2) 0:2,4</p> <p>official (3) 0:2,15,18</p> <p>offs (1) 0:13</p> <p>offset (1) 0:3</p> <p>often (2) 0:6,5</p> <p>Old (5) 0:2,6,6,2,12</p> <p>older (1) 0:7</p> <p>Olney (9) 0:20,23,8,9,5,12,14, 10,14</p> <p>omit (1) 0:6</p> <p>once (9) 0:13,16,7,24,7,18,25, 9,23</p> <p>oncoming (2) 0:10,17</p> <p>one (106) 0:7,25,11,2,13,24,7, 12,18,20,3,4,10,18,13, 7,19,19,3,5,25,6,6,2,10, 4,5,7,5,5,16,16,17,21, 21,1,5,6,18,5,5,9,11,18, 21,23,25,25,9,13,15,24, 24,22,21,18,10,12,16, 22,12,15,7,16,25,7,19,</p>	<p>6,10,11,13,9,22,25,25, 14,14,17,3,2,12,15,23, 2,3,12,19,22,3,5,5,15, 16,17,19,22,2,9,16,24, 1,13,15,22,23,19</p> <p>one's (1) 0:14</p> <p>ones (1) 0:19</p> <p>ongoing (1) 0:9</p> <p>only (46) 0:5,1,15,24,25,8,25, 1,4,5,16,22,25,1,7,25, 21,23,1,10,18,22,14,18, 13,9,13,14,3,8,2,18,19, 19,20,21,22,15,9,11,12, 1,10,5,10,18</p> <p>onto (12) 0:10,14,16,12,20,10, 11,21,21,20,12,15</p> <p>open (21) 0:21,7,12,23,23,4,5, 12,15,21,6,8,9,12,13, 21,13,1,8,24,4</p> <p>opening (5) 0:5,11,12,16,25</p> <p>operate (7) 0:25,3,14,4,3,24,1</p> <p>operation (2) 0:4,6</p> <p>operational (1) 0:22</p> <p>operations (2) 0:1,3</p> <p>opinion (19) 0:14,20,9,6,5,10,14, 15,2,4,9,10,23,24,4,16, 9,1,23</p> <p>opportunities (2) 0:14,3</p> <p>opportunity (8) 0:19,3,15,17,6,23,24, 17</p> <p>opposed (4) 0:20,15,20,16</p> <p>opposite (7) 0:25,20,13,24,3,11, 14</p> <p>opposition (4) 0:22,19,16,15</p> <p>option (1) 0:4</p> <p>options (1) 0:8</p> <p>oral (2) 0:2,13</p> <p>orange (1) 0:13</p> <p>order (7) 0:6,4,15,22,9,20,13</p> <p>Ordinance (19) 0:7,16,22,17,22,20,</p>	<p>17,5,22,23,7,16,19,14, 24,19,24,18,13</p> <p>organizations (1) 0:8</p> <p>orientation (3) 0:20,10,12</p> <p>oriented (1) 0:16</p> <p>original (2) 0:6,8</p> <p>originally (4) 0:13,4,5,8</p> <p>ornamental (7) 0:6,12,12,14,14,21, 21</p> <p>others (2) 0:22,11</p> <p>otherwise (4) 0:3,3,1,21</p> <p>ours (1) 0:19</p> <p>out (91) 0:2,17,23,18,19,11, 20,22,7,22,17,4,5,11, 12,14,11,12,17,22,23, 24,7,2,14,19,17,11,14, 7,11,4,10,17,18,23,16, 14,14,11,15,19,22,7,10, 5,25,9,12,15,22,22,4,9, 18,23,5,9,11,5,1,1,14, 23,18,25,3,20,2,4,15,1, 13,24,24,2,5,6,10,11, 21,25,17,5,4,16,20,14, 24,9,12</p> <p>outdoor (6) 0:14,19,18,3,24,17</p> <p>outdoors (2) 0:19,20</p> <p>outfall (5) 0:3,11,11,22,16</p> <p>outline (1) 0:13</p> <p>outreach (8) 0:11,14,12,13,10,7,8, 12</p> <p>outside (10) 0:14,17,25,15,5,10, 16,11,14,19</p> <p>outstanding (1) 0:18</p> <p>over (24) 0:22,6,10,5,20,18,10, 6,17,8,24,10,17,17,20, 4,8,10,4,10,7,17,24,7</p> <p>overcome (1) 0:15</p> <p>overdeveloped (1) 0:19</p> <p>overflow (6) 0:3,16,21,11,8,21</p> <p>overgrowth (1) 0:2</p> <p>overhead (2)</p>	<p>0:16,19</p> <p>overseen (1) 0:11</p> <p>overwhelming (1) 0:21</p> <p>own (5) 0:15,7,5,14,25</p> <p>owned (2) 0:25,25</p> <p>owner (3) 0:17,1,9</p> <p>owners (2) 0:17,16</p> <p>OZHA (2) 0:8,21</p>	<p>16,15,23,10,10,21,23, 16,20,7,9,12,24,11,16, 25,24,6,4,10,7,17,22,3</p> <p>particular (7) 0:15,18,17,10,25,6, 10</p> <p>particularly (7) 0:2,4,10,5,25,16,23</p> <p>parties (3) 0:5,2,5</p> <p>parts (1) 0:2</p> <p>passable (1) 0:1</p> <p>passed (2) 0:21,17</p> <p>passengers (1) 0:3</p> <p>passes (1) 0:19</p> <p>passing (3) 0:12,13,14</p> <p>passive (1) 0:20</p> <p>past (8) 0:13,15,17,3,25,2,10, 8</p> <p>Pat (7) 0:3,17,5,7,18,24,20</p> <p>path (41) 0:2,11,11,14,16,19, 23,2,4,8,14,19,16,2,3, 10,14,15,23,24,3,10,4, 4,10,10,13,14,14,19,21, 1,1,2,7,9,9,10,13,17,21</p> <p>pathway (1) 0:7</p> <p>Patrick (1) 0:14</p> <p>Patuxent (1) 0:22</p> <p>paved (2) 0:25,11</p> <p>pavement (5) 0:14,13,23,14,13</p> <p>paying (2) 0:10,11</p> <p>payment (1) 0:19</p> <p>PDF (2) 0:12,14</p> <p>peaceful (5) 0:15,9,1,2,21</p> <p>peak (43) 0:12,12,15,4,5,25,21, 22,24,25,11,23,1,1,3,5, 5,7,13,14,15,16,3,5,9, 11,11,11,12,15,15,16, 18,19,17,18,19,8,11,12, 22,23,25</p> <p>pedestrian (11) 0:16,17,25,12,18,3, 24,6,6,22,12</p>
P				
			<p>pad (6) 0:21,11,11,14,5,24</p> <p>page (15) 0:15,8,9,20,1,3,9,14, 23,12,13,14,3,11,17</p> <p>pages (11) 0:1,5,5,6,7,8,17,20, 25,2,3</p> <p>pains (1) 0:4</p> <p>painted (1) 0:15</p> <p>pantry (1) 0:1</p> <p>paper (1) 0:18</p> <p>paragraph (6) 0:9,3,8,9,24,16</p> <p>parcel (1) 0:19</p> <p>parcels (2) 0:22,24</p> <p>parent (1) 0:17</p> <p>park (27) 0:10,19,10,6,10,10, 10,4,17,7,23,25,21,23, 25,19,4,5,9,17,11,12, 21,5,6,2,19</p> <p>park's (14) 0:10,11,19,22,11,17, 20,3,6,6,21,10,23,13</p> <p>Parking (26) 0:7,3,9,10,13,20,22, 10,10,4,11,17,25,17,21, 18,15,11,25,2,4,6,19, 22,8,21</p> <p>parkland (3) 0:2,16,9</p> <p>Parks (20) 0:18,23,7,8,18,5,15, 20,4,5,4,12,16,18,7,5, 21,24,2,5</p> <p>part (31) 0:4,11,3,4,23,6,12,</p>	

<p>pedestrians (3) 0:1,2,19</p> <p>penalties (7) 0:8,19,3,14,12,18,17</p> <p>pencil (1) 0:22</p> <p>people (49) 0:9,9,10,15,19,10,14, 15,23,3,14,6,3,4,23,25, 3,10,22,7,9,17,9,20,20, 3,17,17,3,5,23,3,15,21, 15,2,24,5,2,7,25,6,9,13, 6,1,1,21,24</p> <p>per (8) 0:18,21,5,2,4,3,8,17</p> <p>perceive (1) 0:14</p> <p>perceived (1) 0:7</p> <p>percent (24) 0:6,7,20,21,5,21,19, 4,4,15,3,10,24,1,5,18,5, 6,15,16,20,2,4,4</p> <p>percentage (1) 0:8</p> <p>perfect (3) 0:24,12,16</p> <p>performance (1) 0:22</p> <p>perhaps (2) 0:10,11</p> <p>peril (1) 0:9</p> <p>perimeter (2) 0:21,18</p> <p>period (9) 0:2,3,19,20,23,12,15, 19,17</p> <p>periodically (1) 0:21</p> <p>periods (3) 0:8,12,5</p> <p>perishables (1) 0:18</p> <p>perjury (7) 0:8,19,4,14,12,19,17</p> <p>permissible (1) 0:22</p> <p>permit (5) 0:10,10,23,25,16</p> <p>permits (3) 0:12,7,21</p> <p>permitting (2) 0:24,14</p> <p>perpendicular (2) 0:14,4</p> <p>Persimmon (1) 0:20</p> <p>person (12) 0:24,23,20,5,18,19,5, 7,5,8,3,19</p> <p>personal (2) 0:16,6</p>	<p>personally (3) 0:13,2,2</p> <p>persons (2) 0:5,21</p> <p>perspective (2) 0:25,19</p> <p>perspectives (1) 0:13</p> <p>pertaining (1) 0:13</p> <p>pervious (1) 0:12</p> <p>Petition (1) 0:7</p> <p>Phase (2) 0:8,11</p> <p>phonetic (2) 0:7,9</p> <p>photo (4) 0:18,18,7,10</p> <p>photograph (7) 0:3,15,11,16,9,12,25</p> <p>photometric (5) 0:2,2,21,22,22</p> <p>physical (9) 0:1,6,8,21,16,8,15,9, 7</p> <p>pick (3) 0:7,25,8</p> <p>picked (3) 0:1,2,9</p> <p>pickup (2) 0:20,2</p> <p>pics (1) 0:3</p> <p>picture (4) 0:14,3,6,18</p> <p>piece (2) 0:8,22</p> <p>pieces (1) 0:14</p> <p>Pine (2) 0:9,4</p> <p>pipe (2) 0:18,25</p> <p>pipeline (1) 0:19</p> <p>pipes (1) 0:6</p> <p>pitched (2) 0:8,15</p> <p>place (8) 0:25,15,9,12,22,1,12, 24</p> <p>placed (1) 0:15</p> <p>places (5) 0:11,16,1,22,25</p> <p>plan (109) 0:4,11,25,2,13,3,10, 14,15,17,20,23,5,5,12, 13,14,25,15,17,13,19,3, 4,6,9,10,11,11,13,16,</p>	<p>16,23,3,5,7,12,13,15, 15,19,23,8,25,11,13,23, 14,11,6,6,20,22,1,6,6,8, 9,12,17,23,1,3,4,4,5,8, 16,17,24,25,4,12,13,20, 1,2,4,7,7,7,8,8,9,10,11, 12,14,17,20,23,24,21, 23,14,14,22,2,1,7,10, 10,12,23,8,10,15,15,21</p> <p>plane (2) 0:14,21</p> <p>planned (1) 0:20</p> <p>planner (6) 0:11,1,3,5,16,18</p> <p>planner's (1) 0:8</p> <p>planning (49) 0:14,15,22,17,14,15, 1,5,10,20,20,10,8,1,13, 1,5,7,19,4,15,18,2,5,15, 2,18,25,3,14,21,21,9, 11,6,21,11,11,3,6,24, 25,15,7,2,16,8,19,19</p> <p>Planning's (1) 0:6</p> <p>plans (8) 0:11,5,8,15,7,1,10,12</p> <p>plant (6) 0:16,17,17,18,3,14</p> <p>planted (2) 0:24,8</p> <p>planter (1) 0:14</p> <p>planting (2) 0:6,22</p> <p>plantings (2) 0:18,25</p> <p>plants (4) 0:9,12,14,21</p> <p>plating (1) 0:5</p> <p>platoon (2) 0:22,24</p> <p>playgrounds (1) 0:19</p> <p>please (17) 0:5,7,18,2,4,9,13,23, 10,18,17,17,7,7,3,16,11</p> <p>plenty (1) 0:12</p> <p>plus (3) 0:12,16,25</p> <p>pm (35) 0:13,14,14,14,22,23, 25,21,9,9,18,3,3,4,5,13, 14,17,20,20,24,24,17, 17,1,4,1,1,2,5,18,23,24, 25,18</p> <p>point (37) 0:10,12,15,17,7,2,8, 17,19,16,19,22,3,8,14, 19,7,13,24,23,16,11,4,</p>	<p>15,5,7,11,13,18,11,17, 22,18,25,4,11,22</p> <p>pointing (8) 0:1,15,19,14,21,12, 12,11</p> <p>points (5) 0:7,18,25,17,21</p> <p>poles (3) 0:5,14,17</p> <p>Police (4) 0:12,13,12,17</p> <p>policy (10) 0:6,25,3,4,6,9,10,11, 12,13</p> <p>political (1) 0:14</p> <p>pool (4) 0:18,19,20,9</p> <p>pools (1) 0:6</p> <p>poorly (1) 0:8</p> <p>population (1) 0:17</p> <p>porches (2) 0:12,14</p> <p>portion (13) 0:20,22,20,1,16,13, 20,6,24,23,5,2,17</p> <p>pose (1) 0:12</p> <p>posed (1) 0:22</p> <p>position (2) 0:10,10</p> <p>positions (1) 0:4</p> <p>possible (2) 0:15,12</p> <p>possibly (2) 0:5,14</p> <p>post (1) 0:9</p> <p>posting (1) 0:14</p> <p>potential (8) 0:14,2,16,10,1,24,15, 3</p> <p>potentially (5) 0:11,25,20,5,12</p> <p>Potomac (26) 0:18,8,15,16,17,5,5, 20,11,8,17,17,5,6,6,20, 17,4,6,18,2,9,12,14,8, 14</p> <p>Poughkeepsie (1) 0:18</p> <p>power (1) 0:17</p> <p>practicable (1) 0:10</p> <p>practical (1) 0:2</p>	<p>precedent (3) 0:3,1,17</p> <p>predominant (1) 0:1</p> <p>predominantly (1) 0:12</p> <p>predominately (2) 0:10,13</p> <p>prefer (4) 0:5,16,17,16</p> <p>prehearing (1) 0:4</p> <p>preliminary (6) 0:6,3,25,7,11,11</p> <p>premature (1) 0:2</p> <p>prepared (7) 0:14,19,25,23,20,23, 23</p> <p>present (3) 0:17,25,10</p> <p>presented (1) 0:4</p> <p>presents (1) 0:7</p> <p>preserve (1) 0:9</p> <p>preserving (1) 0:16</p> <p>President (6) 0:1,4,1,5,21,21</p> <p>pressing (1) 0:12</p> <p>pretty (11) 0:18,7,11,19,16,1,20, 1,3,10,22</p> <p>previous (1) 0:21</p> <p>previously (6) 0:11,21,13,25,24,23</p> <p>primarily (3) 0:24,10,22</p> <p>primary (1) 0:22</p> <p>prior (4) 0:15,16,2,14</p> <p>prison (1) 0:13</p> <p>private (6) 0:18,7,10,2,23,21</p> <p>probably (23) 0:20,20,1,16,20,2,20, 9,20,21,21,20,13,7,2, 18,20,2,23,17,24,25,2</p> <p>problem (10) 0:22,10,2,20,24,20, 12,1,7,5</p> <p>problems (1) 0:5</p> <p>procedural (2) 0:6,13</p> <p>procedure (2) 0:20,25</p>
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<p>proceed (3) 0:10,8,17</p> <p>proceedings (1) 0:4</p> <p>process (8) 0:15,24,16,21,16,18,19,22</p> <p>product (2) 0:10,6</p> <p>productivity (1) 0:14</p> <p>professional (3) 0:11,4,20</p> <p>professionally (1) 0:6</p> <p>proffered (1) 0:12</p> <p>program (2) 0:8,7</p> <p>programming (1) 0:22</p> <p>prohibit (1) 0:24</p> <p>prohibiting (1) 0:15</p> <p>project (42) 0:23,24,21,12,16,15,12,7,13,16,21,5,14,5,22,24,3,23,3,6,7,9,10,18,24,9,14,15,13,19,20,22,16,8,3,25,1,10,10,11,7,9</p> <p>projections (1) 0:15</p> <p>projects (11) 0:8,15,17,21,15,3,1,14,15,3,19</p> <p>promising (1) 0:18</p> <p>promulgated (1) 0:8</p> <p>proof (3) 0:8,5,8</p> <p>properties (11) 0:17,10,17,24,12,18,2,9,12,3,22</p> <p>property (114) 0:5,18,19,21,23,25,13,16,21,4,6,7,7,10,11,18,20,20,25,2,4,9,10,11,11,17,19,6,2,8,14,18,20,22,23,24,24,1,1,5,9,11,15,17,17,20,21,3,6,13,14,18,6,21,2,8,10,23,3,4,14,14,23,24,25,6,13,20,14,17,22,3,16,12,13,15,18,23,25,7,14,23,15,24,19,1,21,23,3,3,7,15,23,23,9,10,24,25,3,6,12,8,9,9,23,13,5,20,23,25,22,21,5,8</p> <p>property's (1) 0:2</p>	<p>proposal (5) 0:5,14,18,22,18</p> <p>proposals (2) 0:14,19</p> <p>propose (3) 0:16,3,11</p> <p>proposed (62) 0:21,2,19,16,15,11,11,15,20,14,18,19,5,8,9,11,12,10,23,8,11,20,20,6,9,11,22,14,14,16,2,5,9,10,10,20,22,25,5,5,22,23,8,19,22,13,20,4,6,22,3,1,8,13,17,18,9,1,2,5,6,20</p> <p>proposing (11) 0:13,22,4,21,18,7,11,12,7,18,24</p> <p>proprietary (1) 0:20</p> <p>protect (1) 0:1</p> <p>protecting (1) 0:16</p> <p>protection (2) 0:21,12</p> <p>protections (1) 0:17</p> <p>prototype (1) 0:12</p> <p>prove (1) 0:17</p> <p>proven (1) 0:14</p> <p>provide (15) 0:1,3,19,20,9,14,16,7,9,2,5,14,4,16,7</p> <p>provided (2) 0:9,9</p> <p>provides (1) 0:7</p> <p>providing (5) 0:1,4,6,3,16</p> <p>provision (5) 0:3,10,2,8,1</p> <p>provisions (1) 0:23</p> <p>proximity (3) 0:9,14,4</p> <p>prudent (1) 0:4</p> <p>public (17) 0:17,2,8,12,16,20,22,4,3,13,7,7,11,2,13,15,23</p> <p>published (1) 0:8</p> <p>PUE (9) 0:24,25,20,21,3,5,11,14,19</p> <p>pull (1) 0:25</p> <p>pulls (1)</p>	<p>0:6</p> <p>purple (1) 0:11</p> <p>purpose (1) 0:21</p> <p>purposely (1) 0:25</p> <p>purposes (4) 0:23,2,25,25</p> <p>pursuing (1) 0:24</p> <p>push (1) 0:4</p> <p>pushed (3) 0:16,19,9</p> <p>pushing (1) 0:7</p> <p>put (35) 0:21,5,7,8,9,2,3,7,10,9,11,9,17,25,11,18,3,20,15,6,15,8,7,12,15,6,20,11,1,9,6,14,15,11,4</p> <p>puts (2) 0:12,15</p> <p>putting (6) 0:1,6,2,15,6,13</p>	<p>0:8</p> <p style="text-align: center;">R</p> <p>R- (1) 0:10</p> <p>R-200 (4) 0:9,15,11,21</p> <p>rainfall (1) 0:14</p> <p>raise (7) 0:7,18,2,13,11,17,16</p> <p>raised (4) 0:22,4,7,21</p> <p>raising (1) 0:10</p> <p>rare (2) 0:13,1</p> <p>rate (5) 0:22,9,2,5,7</p> <p>rates (2) 0:21,22</p> <p>rather (4) 0:24,5,12,21</p> <p>ratio (2) 0:25,3</p> <p>RE- (1) 0:21</p> <p>RE-2 (3) 0:17,23,24</p> <p>reach (6) 0:22,24,19,4,23,20</p> <p>reached (2) 0:18,7</p> <p>reaching (1) 0:23</p> <p>reaction (1) 0:14</p> <p>read (10) 0:20,8,15,12,6,17,2,17,22,24</p> <p>ready (2) 0:19,12</p> <p>real (6) 0:15,17,18,20,1,8</p> <p>realities (1) 0:13</p> <p>really (30) 0:16,19,7,7,7,22,13,18,10,25,16,1,2,10,1,3,5,15,16,19,25,7,10,11,18,23,25,15,12,25</p> <p>rear (3) 0:25,4,6</p> <p>rear-ended (2) 0:7,3</p> <p>rear-ending (1) 0:22</p> <p>reason (11) 0:23,4,25,21,6,2,11,21,11,17,6</p> <p>reasonable (2) 0:2,20</p>	<p>reasonably (1) 0:22</p> <p>reasons (4) 0:21,1,20,12</p> <p>reassured (1) 0:19</p> <p>rebuild (1) 0:21</p> <p>recall (4) 0:1,1,24,1</p> <p>receiving (1) 0:6</p> <p>recent (4) 0:3,15,2,23</p> <p>recently (7) 0:15,20,3,12,10,10,6</p> <p>recess (1) 0:1</p> <p>recessing (1) 0:23</p> <p>recognize (3) 0:15,19,17</p> <p>recognized (2) 0:12,22</p> <p>recommend (1) 0:5</p> <p>recommendation (11) 0:10,11,11,14,4,22,24,5,16,10,23</p> <p>recommendations (5) 0:18,5,11,22,25</p> <p>recommended (6) 0:20,1,8,3,7,12</p> <p>recommending (2) 0:17,21</p> <p>recommends (1) 0:13</p> <p>record (65) 0:1,6,15,21,8,10,13,13,16,14,2,1,6,19,20,8,22,1,3,10,5,6,7,19,16,24,4,5,11,12,13,13,14,18,13,14,9,10,11,13,21,21,3,4,6,6,11,17,20,21,24,15,22,15,5,7,9,13,16,19,23,9,25,4,10</p> <p>recording (1) 0:4</p> <p>recreational (4) 0:5,8,24,5</p> <p>rectangle (1) 0:21</p> <p>rectangular (1) 0:2</p> <p>red (9) 0:13,18,22,25,14,16,17,9,2</p> <p>reduce (4) 0:6,12,10,5</p> <p>refer (3) 0:13,10,14</p> <p>reference (2) 0:16,22</p>
		<p style="text-align: center;">Q</p> <p>quadrants (1) 0:25</p> <p>qualifications (3) 0:17,7,10</p> <p>qualified (4) 0:10,24,2,5</p> <p>qualify (4) 0:20,1,6,19</p> <p>qualifying (1) 0:12</p> <p>quality (3) 0:2,1,22</p> <p>Quarry (30) 0:4,8,9,22,5,5,2,23,9,23,24,22,7,8,9,4,14,15,2,15,23,5,15,25,25,25,1,14,16,22</p> <p>quarter (5) 0:6,1,9,11,19</p> <p>quarters (1) 0:18</p> <p>queuing (2) 0:8,18</p> <p>quick (3) 0:20,1,20</p> <p>quickly (4) 0:11,19,10,19</p> <p>quirks (1) 0:5</p> <p>quite (3) 0:9,3,20</p> <p>quote (1) 0:17</p> <p>quoting (1)</p>		

<p>references (1) 0:19</p> <p>referencing (2) 0:22,11</p> <p>referred (3) 0:15,2,3</p> <p>referring (8) 0:13,23,11,12,17,11, 13,15</p> <p>refers (1) 0:13</p> <p>refuge (1) 0:1</p> <p>regard (3) 0:9,8,16</p> <p>regarding (3) 0:4,22,1</p> <p>regardless (4) 0:10,25,14,16</p> <p>regional (1) 0:24</p> <p>regular (1) 0:4</p> <p>regulation (1) 0:7</p> <p>regulations (1) 0:8</p> <p>regulatory (1) 0:19</p> <p>reiterated (1) 0:2</p> <p>relate (5) 0:22,23,23,16,17</p> <p>related (5) 0:18,24,24,13,23</p> <p>relates (3) 0:23,8,1</p> <p>relating (1) 0:5</p> <p>relatively (1) 0:22</p> <p>release (3) 0:9,13,20</p> <p>releasing (1) 0:9</p> <p>relevance (1) 0:5</p> <p>relevant (6) 0:1,7,6,7,10,20</p> <p>religious (1) 0:7</p> <p>remain (2) 0:3,19</p> <p>remaining (2) 0:24,3</p> <p>remains (1) 0:5</p> <p>remarkable (1) 0:6</p> <p>remember (15) 0:6,13,24,2,4,4,12, 16,24,2,21,9,5,24,2</p> <p>removal (2)</p>	<p>0:24,5</p> <p>remove (1) 0:24</p> <p>removed (2) 0:6,9</p> <p>removing (1) 0:17</p> <p>repeats (1) 0:18</p> <p>replace (2) 0:16,18</p> <p>replaced (1) 0:6</p> <p>Report (10) 0:10,20,1,19,6,18,22, 2,10,12</p> <p>reported (1) 0:24</p> <p>reporter (1) 0:8</p> <p>reports (1) 0:8</p> <p>represent (1) 0:3</p> <p>representative (1) 0:1</p> <p>represented (1) 0:5</p> <p>reprinting (1) 0:10</p> <p>request (16) 0:25,11,14,17,5,4,4, 3,2,19,1,21,21,25,8,13</p> <p>requested (5) 0:15,25,2,13,15</p> <p>requesting (2) 0:3,24</p> <p>require (9) 0:23,16,16,7,8,15,22, 23,9</p> <p>required (15) 0:17,17,3,9,1,5,13, 25,2,4,10,12,17,6,14</p> <p>requirement (9) 0:5,23,9,16,17,21,5, 10,24</p> <p>requirements (14) 0:21,10,8,10,13,17,4, 22,13,14,17,6,19,21</p> <p>requires (6) 0:17,20,25,6,9,16</p> <p>requiring (1) 0:25</p> <p>Rescue (4) 0:14,9,12,9</p> <p>research (1) 0:11</p> <p>resembles (1) 0:19</p> <p>residence (8) 0:13,14,7,17,14,18, 20,23</p> <p>resident (2)</p>	<p>0:21,16</p> <p>residential (40) 0:12,14,16,4,17,2,12, 3,19,20,8,9,25,13,21, 23,12,15,17,17,21,23, 11,15,19,20,18,5,6,18, 21,2,1,9,19,19,10,15,9, 16</p> <p>residents (45) 0:2,15,17,21,15,20, 20,23,24,9,11,10,12,3, 15,16,22,23,20,21,1,4, 9,5,4,17,7,23,1,14,17, 25,15,17,3,5,6,14,19, 19,20,22,4,9,3</p> <p>resolution (2) 0:16,7</p> <p>resource (2) 0:23,8</p> <p>resources (1) 0:15</p> <p>respect (3) 0:18,22,13</p> <p>respectfully (2) 0:4,3</p> <p>respond (5) 0:24,20,3,4,20</p> <p>responding (2) 0:1,13</p> <p>response (9) 0:12,18,21,10,11,15, 25,17,7</p> <p>responses (2) 0:5,2</p> <p>responsive (1) 0:15</p> <p>rest (1) 0:11</p> <p>restrained (1) 0:9</p> <p>restriction (1) 0:9</p> <p>restripe (1) 0:16</p> <p>result (1) 0:18</p> <p>resume (5) 0:8,18,10,12,10</p> <p>retain (1) 0:5</p> <p>retaining (7) 0:3,1,13,22,25,20,14</p> <p>retention (6) 0:19,13,15,7,12,19</p> <p>re-testify (1) 0:25</p> <p>retirement (1) 0:17</p> <p>return (2) 0:8,1</p> <p>review (25) 0:2,24,16,1,10,15,1, 2,15,15,23,9,5,4,3,9,12,</p>	<p>15,15,10,22,17,6,14,8</p> <p>reviewed (3) 0:21,8,13</p> <p>reviews (1) 0:11</p> <p>revised (5) 0:13,9,21,22,12</p> <p>revisions (1) 0:10</p> <p>rezoned (1) 0:6</p> <p>Rice (2) 0:21,24</p> <p>ride (1) 0:12</p> <p>rig (1) 0:23</p> <p>right (167) 0:21,21,24,6,10,18, 24,25,2,4,7,11,12,16,1, 15,24,25,1,3,4,6,9,24, 18,19,2,3,8,25,7,9,11, 12,1,16,24,12,18,1,3,8, 3,1,3,9,13,20,3,10,19, 21,24,24,10,17,25,3,4, 6,10,11,15,2,3,11,1,3, 24,3,8,8,11,11,21,16, 20,23,3,2,8,13,16,20, 22,25,5,9,13,23,23,4,8, 9,12,25,1,11,18,23,24, 18,9,12,13,20,1,8,9,10, 14,18,22,10,12,18,1,5, 9,12,14,16,17,20,23,3, 8,19,20,3,11,14,18,8,6, 8,22,22,13,14,1,5,5,12, 16,18,20,22,23,4,7,2,6, 9,19,23,3,9,11,15,18, 25,10,13,25,14,19</p> <p>right-of- (1) 0:11</p> <p>right-of-way (30) 0:4,21,2,2,10,19,5, 15,16,17,19,22,23,1,2, 6,10,11,12,16,16,2,4, 15,20,3,19,22,8,2</p> <p>riprap (1) 0:2</p> <p>rise (2) 0:11,16</p> <p>risk (3) 0:3,15,13</p> <p>River (147) 0:5,11,3,5,20,23,4, 21,7,11,10,9,14,16,16, 19,20,1,3,13,14,15,25, 9,10,11,12,13,17,2,3,1, 2,6,5,7,11,11,19,9,14, 20,21,19,1,2,3,3,4,5,11, 13,16,17,18,19,22,24, 25,25,25,5,12,15,16,17, 20,21,2,16,23,9,16,18, 20,25,8,10,23,1,9,14, 16,17,22,4,4,5,6,7,8,8,</p>	<p>9,9,9,11,16,18,25,11, 12,13,16,17,20,23,24,2, 4,14,18,10,16,15,18,12, 3,5,18,2,8,9,10,16,19, 25,3,14,15,17,3,7,12, 15,18,1,2,4,24,12,16, 17,17,20,25,6,23</p> <p>RMX-1 (2) 0:19,22</p> <p>Road (188) 0:3,5,11,1,2,2,3,5,6,6, 20,23,3,4,21,7,11,10,9, 14,16,17,19,20,1,3,9, 10,11,11,12,13,17,18, 19,19,22,2,3,1,2,6,11, 15,25,4,5,7,11,11,14, 19,7,9,11,14,20,21,11, 17,13,19,1,1,2,3,3,4,5, 11,11,14,16,17,18,18, 19,19,22,24,25,25,25,5, 6,12,15,16,17,21,25,11, 18,2,16,23,1,9,16,18, 20,25,8,10,13,23,1,9, 14,16,18,22,4,5,5,6,9,9, 11,16,18,21,25,9,11,13, 16,17,20,23,24,2,4,14, 19,10,16,24,6,15,18,18, 19,10,13,13,16,17,17, 19,21,23,3,3,5,10,11, 13,18,2,8,9,10,16,19, 19,25,3,14,15,17,3,7, 12,15,18,2,4,13,24,12, 16,17,17,20,25,6,23</p> <p>roads (1) 0:13</p> <p>roadway (29) 0:4,4,16,21,16,3,13, 14,15,19,24,1,2,6,7,9,9, 9,11,15,17,18,21,22,24, 6,14,16,1</p> <p>ROBESON (655) 0:2,5,12,16,2,3,4,8, 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**Artis Senior Livinf
Revised**

9,14,14,22,24,2,2,4,10, 11,21,24,2,3,17,19,20, 22,22,25,25,1,2,5,8,9, 10,12,13,15,16,3,4,6,6, 9,11,13,15,18,18,20,24, 25,2,2,5,7,8,10,19,20, 22,22,25,7,8,9,12,12, 15,16,19,21,23,4,7,8, 11,15,17,18,19,23,1,2, 4,4,6,9,11,12,14,15,16, 18,19,23,23,25,1,3,4,6, 7,8,10,10,12,12,13,15, 16,16,18,19,20,22,24,1, 3,8,11,15,17,21,24,3,5, 8,10,14,18,21,21,2,3,5, 7,7,12,14,15,15,17,18, 19,23,23,25,1,1,1,3,4,5, 6,8,10,11,11,13,14,14, 16,16,17,17,18,20,21, 22,22,23,25,6,12,20,23, 1,1,4,4,6,6,10,18,20,22, 23,24,2,2,4,6,10,12,15, 16,18,18,22,22,23,5,7, 13,15,16,17,19,1,1,2,6, 6,8,12,13,15,15,18,20, 22,22,23,24,4,4,5,6,9,9, 16,16,19,21,21,23,25, 25,2,6,11,12,15,19,21, 22,1,1,1,5,5,5,8,8,12, 14,16,16,17,18,19,20, 21,23,1,2,3,4,6,8,15,15, 18,18,21,22,23,24,1,1, 5,5,5,7,8,9,10,11,11,13, 14,15,16,17,19,22,22, 23,24,4,5,5,7,8,9,10,13, 14,15,16,18,19,20,22, 22,24,24,25,1,5,5,6,7,8, 8,11,11,12,13,15,15,18, 19,19,21,22,22,25,1,2, 5,6,10,13,15,16,17,20, 21,22,23,1,2,3,4,6,8,10, 11,13,14,16,17,19,20, 20,21,22,22,24,1,4,6,7, 7,9,9,10,11,12,13,14, 15,17,18,21,23,1,3,5,6, 9,9,12,12,15,15,16,16, 17,18,19,21,22,24,25, 25,3,1,3,4,7,10,12,13, 15,17,17,19,20,23,1,2, 3,5,11,11,15,15,19,22, 22,23,4,6,7,9,10,10,12, 12,16,17,19,23,25,1,2, 2,5,7,8,9,9,9,11,12,14, 15,15,16,17,18,19,22, 25,25,1,3,9,17,19,23	roof (3) 0:10,5,8 roofs (1) 0:15 room (8) 0:21,1,4,5,5,16,1,1 rooms (1) 0:1 rotate (1) 0:17 roughly (2) 0:6,13 route (1) 0:18 row (1) 0:24 R-T (5) 0:17,20,22,23,24 run (6) 0:15,2,25,15,5,10 runs (7) 0:21,21,13,13,25,16, 16 ruptured (1) 0:2 rural (3) 0:21,24,1 rush (6) 0:16,17,18,15,16,2	saving (1) 0:20 saw (4) 0:20,21,17,1 saying (27) 0:22,23,3,5,6,6,4,7, 18,25,23,6,11,1,22,23, 20,21,23,18,8,20,1,15, 7,15,11 scale (2) 0:5,4 scenario (1) 0:6 schedule (1) 0:13 scheduling (1) 0:21 schematic (1) 0:4 scheme (1) 0:12 School (9) 0:1,2,8,19,20,9,10, 10,11 schools (3) 0:14,18,7 science (1) 0:14 screen (3) 0:21,1,16 screened (3) 0:1,10,10 second (6) 0:16,13,3,17,16,19 seconds (2) 0:18,19 section (9) 0:14,17,19,23,20,5, 13,1,15 Sectional (1) 0:6 sections (3) 0:4,2,4 secure (3) 0:16,1,14 security (3) 0:13,8,19 sedated (1) 0:9 seek (1) 0:10 seeking (1) 0:3 seem (2) 0:3,3 seems (1) 0:4 segments (4) 0:10,21,21,22 semi-rural (4) 0:10,3,7,25 send (6) 0:19,1,19,24,2,8	Seneca (7) 0:13,15,17,17,19,21, 23 Senior (23) 0:3,4,9,10,1,2,5,17,8, 4,3,6,9,10,12,5,11,12, 17,20,7,11,16 seniors (3) 0:22,14,17 sense (14) 0:12,6,18,8,13,2,15, 4,9,1,20,9,23,21 sensitive (3) 0:15,4,19 sent (5) 0:4,12,14,25,20 sentence (1) 0:19 sentences (3) 0:10,11,22 separate (7) 0:1,20,5,4,20,11,14 separated (1) 0:18 septic (2) 0:18,21 series (4) 0:25,6,24,9 served (6) 0:19,20,24,13,7,11 service (19) 0:11,15,1,8,11,13,3, 7,10,13,21,17,19,1,22, 12,25,1,5 services (10) 0:3,18,14,22,7,11,25, 5,25,2 servicing (2) 0:19,16 serving (1) 0:2 session (1) 0:12 set (15) 0:13,16,4,18,2,7,24, 2,11,14,18,1,9,15,19 setback (1) 0:8 setbacks (3) 0:6,13,14 sets (1) 0:11 setting (7) 0:3,3,19,20,24,25,6 seven (6) 0:4,1,12,25,17,12 several (3) 0:17,11,23 Sewer (16) 0:11,12,13,15,16,20, 22,3,9,10,11,13,8,18, 18,13 SHA (65)	0:18,23,4,5,5,5,6,9, 13,14,18,20,23,24,24,2, 10,25,5,15,19,4,9,13, 23,1,11,2,4,10,3,20,5, 17,18,21,1,13,13,5,7, 12,6,8,15,16,1,24,6,3, 22,11,22,8,12,14,16,2, 11,11,18,21,1,7,15 SHA's (1) 0:6 shade (1) 0:10 shaded (1) 0:1 share (10) 0:12,10,3,1,5,8,9,11, 17,14 shared (29) 0:2,4,24,24,2,2,4,5,9, 10,10,13,13,14,15,18, 19,21,21,22,23,24,1,2, 5,6,10,12,25 she'll (1) 0:3 She's (4) 0:20,17,19,20 shed (2) 0:22,19 sheds (1) 0:15 sheet (3) 0:19,20,23 shelter (4) 0:22,1,10,15 sheltered (1) 0:23 shelters (1) 0:12 shielded (1) 0:21 shift (16) 0:19,22,23,24,2,13, 19,25,5,16,25,9,11,17, 19,19 shifts (9) 0:4,11,12,13,15,12,7, 7,9 shoot (1) 0:1 shopping (1) 0:13 Shorb's (2) 0:7,21 shore (1) 0:5 short (4) 0:12,20,9,10 shoulder (15) 0:10,13,14,17,9,13, 15,5,9,11,12,13,14,20,6 shoulders (4) 0:6,11,12,13 shouldn't (2)
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rock (2) 0:8,12 Rockville (1) 0:16 role (1) 0:21 roll (1) 0:20	sac (2) 0:9,12 sad (1) 0:13 safe (8) 0:14,15,9,10,3,22,14, 9 safely (3) 0:16,18,10 safety (26) 0:18,22,25,21,24,1, 21,3,2,7,9,13,16,25,1,8, 16,2,7,3,3,13,25,22,2, 12 Saint (1) 0:19 same (10) 0:3,6,9,4,16,12,1,14, 19,18 sanitary (2) 0:8,13 sat (1) 0:1 satisfied (1) 0:5 satisfies (1) 0:17 satisfy (2) 0:4,20 save (2) 0:6,13			

Artis Senior Livin'
Revised

0:20,16 show (11) 0:24,9,21,2,5,13,22, 10,8,24,16 showed (1) 0:3 showing (5) 0:17,20,14,14,6 shown (10) 0:8,14,17,4,12,3,3,1, 8,6 shows (9) 0:5,6,10,15,21,23,24, 14,1 shrub (1) 0:20 shrubs (3) 0:1,13,20 shuttle (1) 0:15 side (42) 0:3,4,11,18,23,25,25, 11,3,11,16,2,10,14,14, 14,4,6,5,6,15,19,20,21, 21,21,11,19,17,8,6,8, 11,12,13,23,11,16,18,1, 2,11 sides (6) 0:25,10,23,25,10,18 sidewalk (5) 0:12,12,12,17,6 siding (1) 0:14 sight (1) 0:15 sign (3) 0:9,12,21 signals (2) 0:13,2 signed (13) 0:14,2,5,8,9,9,11,15, 17,21,23,25,14 significant (9) 0:24,5,24,8,13,20,5, 24,3 significantly (2) 0:15,5 signup (2) 0:20,23 similar (11) 0:8,10,16,24,25,9,12, 25,22,15,10 simplifying (1) 0:10 simply (4) 0:17,12,21,20 single (21) 0:1,1,13,25,21,17,8, 22,1,2,12,14,15,17,24, 5,10,10,9,17,15 sink (1) 0:14 sit (16)	0:18,20,22,24,24,10, 15,20,6,22,11,11,12,18, 18,22 site (121) 0:1,19,17,19,19,22, 22,23,2,10,1,8,11,13,1, 11,17,2,6,6,8,22,13,8,9, 10,14,15,16,8,11,12,5, 5,10,18,19,8,18,9,14, 24,5,9,13,23,3,13,15,1, 12,14,19,21,24,10,23,9, 22,1,2,21,24,11,15,19, 21,25,2,25,13,23,6,20, 1,1,2,3,4,5,10,14,16,19, 25,6,8,10,17,17,18,19, 22,24,2,10,15,18,22,25, 3,17,3,9,10,18,18,25, 14,18,9,22,1,2,10,8,1, 10,12,22,12 sites (4) 0:8,12,15,8 sits (6) 0:19,19,22,3,2,19 sitting (6) 0:18,14,14,20,8,4 situation (10) 0:12,11,13,2,9,14,7, 8,24,6 situations (1) 0:11 six (6) 0:14,14,18,19,2,20 size (4) 0:25,6,6,10 slight (1) 0:22 slightly (2) 0:12,17 slope (6) 0:18,21,4,21,25,17 slopes (3) 0:12,25,18 slow (5) 0:1,2,6,24,5 slowest (1) 0:16 slowly (1) 0:18 small (5) 0:2,3,14,4,5 smaller (7) 0:16,17,15,19,23,10, 18 smart (1) 0:10 smarter (1) 0:20 smell (2) 0:19,21 smoothly (1) 0:8 snakes (2) 0:13,14	soft (1) 0:5 softest (1) 0:23 soil (3) 0:1,17,20 sold (1) 0:24 solely (1) 0:9 solemnly (7) 0:8,19,3,13,11,18,17 solicit (1) 0:11 Somebody (11) 0:21,25,3,1,25,1,9, 11,18,9,10 somehow (1) 0:20 someone (9) 0:5,13,24,25,11,15, 10,25,20 sometime (1) 0:4 sometimes (1) 0:14 somewhat (2) 0:21,4 somewhere (2) 0:8,16 son (1) 0:8 soon (3) 0:3,13,11 sooner (1) 0:2 sorry (38) 0:18,7,8,16,10,13,7, 22,3,5,19,14,24,5,25, 23,23,23,18,14,13,8,5, 13,17,19,5,3,21,15,19, 16,9,11,11,11,19,17 sort (9) 0:13,23,12,1,19,13, 23,24,7 sound (2) 0:15,4 sounds (1) 0:8 sources (1) 0:21 south (9) 0:25,2,24,18,19,11, 12,24,1 southeast (1) 0:14 southwest (4) 0:19,9,15,6 southwestern (1) 0:18 sp (2) 0:7,9 SPA (1)	0:21 space (4) 0:10,4,23,9 spaces (7) 0:10,12,15,20,4,3,13 speak (10) 0:8,13,16,5,2,9,7,7,6, 8 speaking (1) 0:13 special (15) 0:11,1,4,9,21,14,17, 20,6,12,1,8,22,24,10 species (2) 0:12,14 specific (8) 0:9,25,5,11,11,6,14,1 specifically (4) 0:2,22,1,14 specifics (1) 0:8 specified (1) 0:3 specify (1) 0:1 specimen (3) 0:3,4,9 speculate (1) 0:11 speed (9) 0:8,10,16,17,20,19, 24,6,23 speeding (4) 0:15,2,1,22 speeds (1) 0:18 spend (1) 0:12 spirit (1) 0:10 Split (1) 0:7 spoken (1) 0:10 spread (1) 0:14 Springs (32) 0:14,5,10,17,19,20,1, 9,25,4,10,14,24,25,5,8, 12,18,4,14,14,15,20,4, 10,19,19,7,8,17,25,5 square (5) 0:9,5,22,12,12 stabilized (1) 0:25 stacked (1) 0:5 staff (42) 0:9,22,13,9,10,24,4, 11,15,20,8,25,20,19,6, 25,6,18,19,15,19,21,2, 5,18,20,2,9,23,23,12, 11,1,23,15,16,16,7,16,	5,6,15 staff's (2) 0:15,17 staffing (2) 0:4,9 stage (2) 0:13,22 stagger (1) 0:15 staggered (1) 0:7 stairs (2) 0:10,2 standard (2) 0:17,6 standards (16) 0:13,8,5,18,22,3,4,8, 10,12,17,24,1,24,25,1 standpoint (16) 0:14,15,7,10,14,19,7, 1,8,12,17,18,1,5,20,25 standstill (1) 0:18 start (13) 0:19,24,1,25,10,18,6, 1,3,2,17,12,8 started (5) 0:21,16,4,8,15 starting (3) 0:21,9,18 starts (10) 0:6,6,7,25,4,14,19, 12,16,19 state (26) 0:13,20,24,15,20,18, 8,13,22,3,9,24,3,3,12,6, 18,9,10,14,16,25,25,4, 3,17 stated (3) 0:20,13,22 statement (21) 0:5,11,13,17,1,1,3, 10,3,6,23,5,10,12,14, 14,18,3,21,8,14 statements (8) 0:9,20,4,14,12,19,4, 18 states (5) 0:5,21,8,16,20 stating (1) 0:18 station (6) 0:14,3,18,3,17,17 statistics (1) 0:19 status (4) 0:10,11,17,19 stay (7) 0:7,15,15,25,5,17,12 steep (10) 0:12,12,12,18,1,8,20, 22,11,20 step (2)
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0:2,14 Stewart (1) 0:11 sticks (1) 0:1 still (15) 0:11,9,2,8,23,17,21, 12,24,19,23,2,13,13,2 stone (2) 0:16,11 Stoneyhurst (18) 0:4,5,23,2,7,8,17,19, 20,23,24,9,12,18,12,15, 22,23 stop (16) 0:1,20,4,1,7,16,20,9, 12,16,3,19,14,15,13,18 stopped (4) 0:13,1,4,11 stopping (1) 0:8 stops (2) 0:9,22 storm (23) 0:17,6,15,4,5,5,7,11, 15,24,1,11,11,13,14,16, 17,18,16,8,13,17,20 story (12) 0:1,13,25,10,4,6,8, 10,16,7,10,15 straight (2) 0:25,6 straightaway (3) 0:15,19,10 straws (1) 0:13 stream (22) 0:12,13,24,1,2,4,6,7, 8,8,14,17,21,25,25,13, 7,13,20,8,17,19 streams (1) 0:10 street (11) 0:6,1,2,2,24,23,24,1, 15,11,11 strength (1) 0:23 stress (1) 0:15 stripe (1) 0:22 striped (1) 0:18 striping (2) 0:18,1 stripped (2) 0:24,8 stroller (1) 0:25 strong (3) 0:22,24,18 struck (1) 0:12	structure (4) 0:8,24,11,8 structured (1) 0:15 struggle (2) 0:9,13 struggles (1) 0:5 struggling (1) 0:7 stubbed (1) 0:16 studies (4) 0:8,7,25,25 study (4) 0:2,8,18,2 stuff (3) 0:14,2,5 style (3) 0:9,22,13 subdividing (1) 0:1 subdivision (3) 0:16,9,19 subject (7) 0:17,1,10,18,10,11,3 submission (1) 0:5 submit (14) 0:15,5,25,16,13,11, 12,12,15,13,22,7,17,22 submitted (6) 0:13,5,8,12,8,16 submitting (1) 0:14 subregion (12) 0:3,5,8,13,9,15,6,21, 12,11,16,20 substantial (2) 0:10,13 substantially (2) 0:4,14 sufficient (3) 0:10,17,21 suggest (1) 0:12 suggesting (3) 0:4,24,15 suggestion (1) 0:16 suggests (1) 0:12 suitability (2) 0:14,5 suitable (2) 0:5,18 Suite (1) 0:3 Summerford (1) 0:7 supplemental (1) 0:25 support (7)	0:16,5,8,9,12,13,22 supported (1) 0:18 supporting (1) 0:22 supposed (5) 0:25,17,5,24,6 Sure (44) 0:7,19,4,9,18,23,6, 13,23,5,11,13,14,18,19, 25,7,13,18,7,5,23,10, 18,19,8,9,12,23,24,4,8, 8,1,11,25,18,22,23,8, 11,2,16,8 surface (5) 0:25,11,13,18,1 surge (1) 0:12 surprisingly (2) 0:25,17 surrounded (1) 0:23 surrounding (25) 0:4,1,12,8,21,7,12, 13,13,4,9,24,7,21,6,6,1, 6,4,23,18,19,21,5,3 survey (1) 0:10 suspect (1) 0:21 suspense (1) 0:15 SVB (1) 0:12 Sweep (1) 0:7 swimming (1) 0:6 swing (2) 0:9,16 switch (2) 0:18,5 swoop (1) 0:25 sympathetic (2) 0:13,5 system (7) 0:12,15,16,16,18,13, 9	talking (8) 0:14,15,14,21,2,3,19, 16 talks (4) 0:23,3,10,11 taller (1) 0:11 tap (1) 0:17 taps (1) 0:6 tax (1) 0:6 teasing (1) 0:1 technical (11) 0:9,20,2,18,11,15,20, 8,7,19,15 technically (2) 0:23,12 television (1) 0:13 telling (2) 0:8,21 tend (2) 0:14,2 tends (2) 0:12,8 tennis (6) 0:18,19,6,18,25,10 term (3) 0:7,22,6 terminate (1) 0:12 termination (1) 0:9 terminology (1) 0:2 terms (11) 0:18,11,11,3,3,25,2, 8,9,12,14 test (8) 0:19,21,2,17,2,4,22, 24 testified (13) 0:25,18,11,25,15,2,5, 16,25,2,24,16,8 testifies (1) 0:1 testify (13) 0:14,8,9,22,23,24,3, 10,18,20,17,15,3 Testimony (28) 0:17,5,13,8,13,1,7,8, 4,18,5,10,6,11,11,15, 21,25,5,11,4,16,25,12, 4,5,17,3 Thanks (4) 0:18,23,25,15 that'd (1) 0:16 that's (206) 0:20,22,25,1,5,10,12,	16,18,25,17,24,2,11,4, 5,5,18,24,1,6,9,9,16,19, 23,13,16,17,17,19,22,8, 9,12,13,20,8,23,24,17, 23,6,9,18,19,20,22,20, 21,4,4,5,9,13,15,20,20, 4,5,6,8,9,13,16,22,7,12, 13,14,21,21,1,3,12,18, 25,1,9,10,10,15,18,21, 23,25,1,2,12,14,19,21, 21,23,3,17,18,23,1,16, 17,14,3,9,25,17,3,16, 17,24,2,6,6,7,10,11,12, 17,1,7,24,19,20,23,15, 16,3,10,20,22,3,8,17, 18,3,16,22,7,10,11,25, 1,2,2,15,18,22,24,1,4,3, 5,13,20,8,19,19,22,24, 1,3,5,6,14,16,17,18,19, 21,21,25,5,10,21,1,12, 16,17,2,3,17,20,22,25, 25,1,5,8,9,14,20,21,22, 6,10,17,10,11,16,21,23, 3,6,19,23,7 theme (2) 0:12,13 There's (56) 0:11,12,14,2,2,8,20, 3,8,17,23,11,13,11,19, 20,6,8,14,3,5,14,16,1,9, 2,8,9,2,16,18,23,23,9, 17,19,12,8,3,19,21,11, 18,15,16,16,15,11,16,2, 22,7,7,24,9,21 therefore (5) 0:7,8,16,20,16 they'd (2) 0:12,24 they'll (4) 0:8,16,17,12 They're (36) 0:2,15,19,18,11,13, 16,5,14,7,16,23,4,8,9, 21,11,14,17,18,12,14, 15,23,9,23,8,8,14,4,4,6, 6,7,8,15 they've (6) 0:23,15,1,1,15,15 thinking (7) 0:10,14,15,5,20,25, 19 third (5) 0:11,9,23,7,19 thorough (1) 0:7 thoroughly (1) 0:10 though (5) 0:13,5,20,21,20 thought (13) 0:24,14,15,24,25,4,3, 23,8,9,19,14,5 thousand (1)
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**Artis Senior Livinf
Revised**

0:22 thousands (1) 0:16 three (30) 0:12,2,20,15,12,5,10, 15,21,23,5,6,13,7,8,12, 24,2,3,4,14,15,14,16, 16,8,19,24,17,23 three- (1) 0:17 throughout (6) 0:18,6,7,6,21,19 throwing (1) 0:10 times (15) 0:17,18,11,1,4,4,7,6, 14,20,6,3,25,6,5 timing (1) 0:12 T-M-X (1) 0:14 today (24) 0:15,3,9,24,12,15,18, 18,23,21,4,8,24,19,21, 6,10,22,22,4,1,12,18,25 toes (1) 0:2 together (1) 0:14 told (7) 0:20,5,20,22,8,20,25 tone (1) 0:16 took (3) 0:9,3,18 tool (1) 0:12 top (7) 0:14,24,9,24,4,17,13 topics (1) 0:19 topographic (2) 0:24,4 topographically (1) 0:17 topography (16) 0:20,24,2,8,9,10,12, 14,14,17,22,3,12,12,15, 25 total (3) 0:10,8,22 totaled (1) 0:9 totally (1) 0:6 touch (9) 0:19,11,20,10,3,23, 17,16,21 touched (5) 0:1,7,14,12,8 tournament (1) 0:6 toward (2)	0:23,4 towards (10) 0:7,7,15,17,20,24,9, 17,8,2 town (1) 0:12 townhouse (6) 0:2,13,3,8,13,1 TPAR (9) 0:2,3,4,4,5,7,8,13,19 tracking (1) 0:14 tractor (3) 0:15,17,19 traditional (2) 0:17,25 traffic (103) 0:18,6,7,12,13,19,15, 17,23,11,12,6,2,4,5,10, 13,18,1,3,21,24,25,4,5, 8,10,20,11,2,6,7,9,10, 12,15,16,17,18,18,22, 24,14,15,17,19,8,8,8, 12,14,15,16,16,19,12, 13,14,17,18,3,22,24,24, 2,3,12,15,23,1,3,8,9,12, 13,13,15,16,20,6,12,15, 20,22,24,5,10,18,19,23, 1,11,16,16,17,18,21,23, 25,2,10,10,13 trail (3) 0:3,2,19 trailer (2) 0:17,20 trailers (1) 0:15 trans (1) 0:5 Transcriber (1) 0:14 transcript (5) 0:1,2,24,8,3 transferring (1) 0:12 transformer (1) 0:1 Transit (8) 0:6,9,12,13,14,17,21, 23 transition (1) 0:21 transitional (1) 0:6 transmittal (1) 0:8 transpired (2) 0:17,10 transportation (21) 0:6,11,7,4,2,6,15,16, 18,6,9,20,1,17,7,12,15, 16,17,25,6 trash (16) 0:1,13,1,3,4,5,5,6,8,	12,20,23,15,2,1,16 travel (1) 0:7 traveling (6) 0:8,9,24,25,2,14 travels (1) 0:3 traversable (1) 0:17 traverse (1) 0:10 traverses (2) 0:3,2 traversing (1) 0:17 treated (2) 0:1,24 treatment (2) 0:8,23 tree (6) 0:24,4,5,9,22,21 treed (1) 0:8 trees (22) 0:4,7,3,20,22,9,2,4,7, 7,10,11,12,13,20,22,24, 24,16,9,15,21 triangular (1) 0:8 trip (4) 0:21,20,21,7 tripping (1) 0:20 trips (18) 0:17,25,15,13,24,17, 18,23,24,25,11,23,1,3, 4,10,21,25 trouble (1) 0:4 truck (5) 0:13,8,9,17,16 trucks (5) 0:1,6,12,22,22 True (5) 0:1,3,11,3,9 truth (21) 0:9,10,10,20,21,21,5, 5,5,15,15,16,13,13,14, 20,20,20,18,19,19 truths (1) 0:7 try (19) 0:13,6,14,9,13,7,16, 6,18,10,13,14,23,8,15, 15,21,21,10 trying (26) 0:9,7,25,15,24,5,2, 14,10,6,8,9,3,5,11,18,4, 6,22,9,11,12,13,4,24,3 tuck (2) 0:10,17 Tuckerman (1) 0:10	turn (44) 0:23,25,2,2,13,8,20, 21,24,7,13,1,8,9,12,5, 12,18,7,16,18,6,5,8,11, 11,12,14,14,15,17,17, 18,18,19,20,21,23,17, 17,8,9,3,9 turnaround (2) 0:8,14 turning (11) 0:13,2,9,10,11,12,10, 13,13,16,3 turnout (1) 0:18 turnover (1) 0:3 turns (1) 0:16 twice (2) 0:18,19 twist (1) 0:8 two (52) 0:14,25,18,23,15,24, 10,15,4,20,17,18,12,12, 4,14,22,3,6,10,15,20, 25,1,15,1,2,2,7,25,10, 25,3,9,19,7,18,10,11, 11,22,1,1,24,13,22,12, 3,6,6,16,13 type (14) 0:17,17,4,10,24,21,2, 19,9,8,9,19,18,23 types (3) 0:24,3,12 typical (10) 0:15,8,12,20,19,10, 16,17,22,25 typically (9) 0:23,17,3,17,22,1,18, 25,24 typo (1) 0:16	0:8 understood (6) 0:12,17,22,2,2,24 undertaken (1) 0:19 undue (10) 0:15,8,20,3,4,25,2,1, 5,20 unfortunate (1) 0:13 unfortunately (1) 0:25 unheard (1) 0:18 UNIDENTIFIED (8) 0:23,20,5,5,7,5,3,19 uninterest (1) 0:14 unique (5) 0:19,3,5,24,25 unit (3) 0:11,24,18 unless (9) 0:3,6,11,18,11,24,6, 12,6 unlikely (1) 0:20 unreasonable (1) 0:20 unsupervised (1) 0:15 up (110) 0:5,7,22,20,10,8,21, 7,9,16,20,17,18,25,18, 18,25,25,1,2,8,5,14,12, 15,18,19,2,2,3,7,9,10, 14,16,25,14,14,15,22, 22,1,1,7,16,17,23,16, 10,25,10,21,5,25,25,23, 6,13,19,15,16,18,23,24, 6,16,16,22,14,15,16,20, 23,16,9,12,16,21,10,13, 18,7,21,10,22,7,15,2,2, 6,14,7,8,11,14,2,4,7,13, 14,14,20,23,24,7,13,13, 17,18,9 updates (1) 0:15 upgrade (1) 0:4 upgraded (2) 0:24,21 upon (6) 0:23,25,3,6,24,1 upper (3) 0:4,6,17 UPS (1) 0:17 urban (1) 0:14 use (96) 0:4,8,13,14,16,2,8,9, 12,7,16,2,11,12,15,21,
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Artis Senior Livin'
Revised

15,16,24,24,10,2,8,9, 11,13,20,20,13,16,25, 10,14,10,11,22,4,12,15, 15,19,19,21,10,11,15, 16,22,25,3,5,5,10,11, 16,24,25,25,5,24,19,7, 25,6,10,12,23,4,5,10, 10,13,14,14,19,21,22, 24,1,2,5,12,12,22,2,17, 3,21,5,14,17,2,6,20,21, 25	0:1 view (8) 0:8,13,25,25,15,15, 19,1 views (3) 0:24,10,14 Virginia (2) 0:3,17 virtually (1) 0:18 visibility (4) 0:16,18,14,15 visible (2) 0:18,3 visit (5) 0:16,3,11,13,5 visitation (2) 0:4,8 visited (1) 0:10 visiting (1) 0:8 visitor (3) 0:17,19,20 visitors (34) 0:16,2,8,12,20,23,1, 2,3,9,20,24,5,22,22,1,4, 12,16,19,24,17,21,1,2, 6,16,17,17,3,10,20,22,1	wander (5) 0:21,13,9,5,9 wandering (3) 0:16,21,22 wants (5) 0:20,18,13,7,19 wasn't (4) 0:21,10,18,8 watched (1) 0:13 water (32) 0:1,25,1,8,11,20,25, 25,7,17,6,15,4,5,5,7,11, 15,24,1,11,11,13,7,13, 20,8,18,12,17,20,22 waterfront (1) 0:8 way (25) 0:15,12,2,12,12,24, 14,20,21,16,10,22,21,4, 12,12,17,22,2,13,18,18, 24,20,24 ways (1) 0:21 we'd (14) 0:24,19,16,5,7,20,12, 16,18,19,25,21,24,16 we'll (32) 0:8,18,20,19,7,7,11, 20,15,21,13,18,22,18, 19,25,17,19,24,10,14, 16,10,3,21,22,23,8,19, 20,1,3 we're (91) 0:8,6,9,13,1,1,6,8,22, 23,4,6,12,20,22,6,1,12, 11,4,7,8,21,4,6,13,15, 15,7,15,15,19,21,5,10, 18,4,7,11,12,7,10,1,4, 12,16,24,4,7,16,18,25, 16,2,11,17,3,2,5,9,20, 20,22,10,4,7,21,12,10, 20,11,13,13,14,17,3,4, 5,24,25,25,23,24,7,9, 11,1,11,15,4,4 we've (35) 0:4,9,14,23,11,12,15, 6,8,9,13,20,21,20,20,7, 6,9,17,13,20,20,11,8,3, 10,18,10,9,12,16,12,6, 8,17 weather (1) 0:19 website (1) 0:9 week (8) 0:18,18,19,19,10,25, 1,1 weekdays (2) 0:24,2 weekends (2) 0:17,24 walls (2) 0:8,24	0:4 weight (2) 0:16,23 welcome (5) 0:21,19,2,14,17 welfare (4) 0:22,21,4,2 weren't (1) 0:10 west (57) 0:6,7,9,6,9,12,17,4,6, 7,8,9,11,11,21,25,13, 21,14,16,17,7,5,9,19, 19,21,20,1,4,9,23,14, 16,19,19,2,5,6,1,11,1,3, 4,7,9,16,18,21,24,24, 25,3,10,11,14,14 west/northwest (1) 0:24 westbound (4) 0:20,21,7,12 western (8) 0:24,18,25,16,17,13, 19,25 wetlands (2) 0:10,20 What's (14) 0:11,17,18,9,24,22, 19,8,10,2,4,11,18,25 whatnot (1) 0:11 whenever (1) 0:14 Whereupon (1) 0:18 wherever (2) 0:18,7 white (1) 0:12 who's (1) 0:11 whole (12) 0:10,9,21,17,5,13,6, 15,10,13,20,18 wholly (1) 0:23 whose (1) 0:8 wid (1) 0:2 wide (13) 0:22,7,5,6,14,2,3,22, 18,21,2,4,14 widen (5) 0:19,23,25,9,16 widened (2) 0:19,5 widening (4) 0:12,14,9,13 widens (2) 0:3,3 wider (1) 0:15	widespread (1) 0:25 width (5) 0:13,10,12,12,14 willing (4) 0:4,23,4,6 willingness (2) 0:9,9 Wilson (1) 0:14 wing (1) 0:13 wings (4) 0:1,11,18,18 winter (2) 0:5,7 wisdom (1) 0:17 wise (2) 0:21,1 wish (3) 0:13,20,10 wishes (3) 0:14,22,18 within (21) 0:14,23,15,17,22,21, 23,2,13,14,3,15,12,9, 18,1,3,14,16,8,23 without (9) 0:12,9,9,7,11,7,4,24, 8 witness (10) 0:13,5,13,14,1,20,25, 1,7,8 witnesses (4) 0:22,21,3,22 WMATA (1) 0:14 woeful (1) 0:4 won't (6) 0:16,11,8,9,15,21 wonder (2) 0:17,20 wondering (3) 0:16,22,1 wood (1) 0:11 wooded (2) 0:23,23 woods (1) 0:24 wording (1) 0:23 words (2) 0:9,9 work (17) 0:20,15,13,15,6,5,6, 18,25,17,16,6,14,25,13, 1,3 worked (8) 0:9,11,17,11,7,3,17, 18
V				
valley (14) 0:12,13,24,3,4,7,17, 21,25,13,7,13,20,17 value (5) 0:16,9,1,2,21 varied (1) 0:3 variety (1) 0:9 various (2) 0:18,4 vehicle (10) 0:24,24,5,9,25,9,13, 2,10,14 vehicles (13) 0:22,2,5,21,22,15,2, 4,6,8,14,22,24 vehicular (2) 0:5,12 verbal (2) 0:17,19 version (4) 0:13,8,11,12 vested (1) 0:25 Vice (3) 0:1,4,1 Victoria (1)	volume (5) 0:6,23,9,23,2 volumes (12) 0:2,3,23,3,6,14,16, 21,24,4,17,25	W		
	W1 (2) 0:24,25 wait (18) 0:6,9,13,13,17,19,2, 24,6,14,12,12,13,18,11, 18,22,20 waited (1) 0:8 waiting (5) 0:2,13,23,17,8 wake (1) 0:7 walk (4) 0:3,20,25,2 walked (2) 0:8,8 walkthrough (1) 0:3 walkway (1) 0:20 wall (7) 0:4,1,1,13,22,24,20 walls (2) 0:8,24	wander (5) 0:21,13,9,5,9 wandering (3) 0:16,21,22 wants (5) 0:20,18,13,7,19 wasn't (4) 0:21,10,18,8 watched (1) 0:13 water (32) 0:1,25,1,8,11,20,25, 25,7,17,6,15,4,5,5,7,11, 15,24,1,11,11,13,7,13, 20,8,18,12,17,20,22 waterfront (1) 0:8 way (25) 0:15,12,2,12,12,24, 14,20,21,16,10,22,21,4, 12,12,17,22,2,13,18,18, 24,20,24 ways (1) 0:21 we'd (14) 0:24,19,16,5,7,20,12, 16,18,19,25,21,24,16 we'll (32) 0:8,18,20,19,7,7,11, 20,15,21,13,18,22,18, 19,25,17,19,24,10,14, 16,10,3,21,22,23,8,19, 20,1,3 we're (91) 0:8,6,9,13,1,1,6,8,22, 23,4,6,12,20,22,6,1,12, 11,4,7,8,21,4,6,13,15, 15,7,15,15,19,21,5,10, 18,4,7,11,12,7,10,1,4, 12,16,24,4,7,16,18,25, 16,2,11,17,3,2,5,9,20, 20,22,10,4,7,21,12,10, 20,11,13,13,14,17,3,4, 5,24,25,25,23,24,7,9, 11,1,11,15,4,4 we've (35) 0:4,9,14,23,11,12,15, 6,8,9,13,20,21,20,20,7, 6,9,17,13,20,20,11,8,3, 10,18,10,9,12,16,12,6, 8,17 weather (1) 0:19 website (1) 0:9 week (8) 0:18,18,19,19,10,25, 1,1 weekdays (2) 0:24,2 weekends (2) 0:17,24 walls (2) 0:8,24	0:4 weight (2) 0:16,23 welcome (5) 0:21,19,2,14,17 welfare (4) 0:22,21,4,2 weren't (1) 0:10 west (57) 0:6,7,9,6,9,12,17,4,6, 7,8,9,11,11,21,25,13, 21,14,16,17,7,5,9,19, 19,21,20,1,4,9,23,14, 16,19,19,2,5,6,1,11,1,3, 4,7,9,16,18,21,24,24, 25,3,10,11,14,14 west/northwest (1) 0:24 westbound (4) 0:20,21,7,12 western (8) 0:24,18,25,16,17,13, 19,25 wetlands (2) 0:10,20 What's (14) 0:11,17,18,9,24,22, 19,8,10,2,4,11,18,25 whatnot (1) 0:11 whenever (1) 0:14 Whereupon (1) 0:18 wherever (2) 0:18,7 white (1) 0:12 who's (1) 0:11 whole (12) 0:10,9,21,17,5,13,6, 15,10,13,20,18 wholly (1) 0:23 whose (1) 0:8 wid (1) 0:2 wide (13) 0:22,7,5,6,14,2,3,22, 18,21,2,4,14 widen (5) 0:19,23,25,9,16 widened (2) 0:19,5 widening (4) 0:12,14,9,13 widens (2) 0:3,3 wider (1) 0:15	widespread (1) 0:25 width (5) 0:13,10,12,12,14 willing (4) 0:4,23,4,6 willingness (2) 0:9,9 Wilson (1) 0:14 wing (1) 0:13 wings (4) 0:1,11,18,18 winter (2) 0:5,7 wisdom (1) 0:17 wise (2) 0:21,1 wish (3) 0:13,20,10 wishes (3) 0:14,22,18 within (21) 0:14,23,15,17,22,21, 23,2,13,14,3,15,12,9, 18,1,3,14,16,8,23 without (9) 0:12,9,9,7,11,7,4,24, 8 witness (10) 0:13,5,13,14,1,20,25, 1,7,8 witnesses (4) 0:22,21,3,22 WMATA (1) 0:14 woeful (1) 0:4 won't (6) 0:16,11,8,9,15,21 wonder (2) 0:17,20 wondering (3) 0:16,22,1 wood (1) 0:11 wooded (2) 0:23,23 woods (1) 0:24 wording (1) 0:23 words (2) 0:9,9 work (17) 0:20,15,13,15,6,5,6, 18,25,17,16,6,14,25,13, 1,3 worked (8) 0:9,11,17,11,7,3,17, 18

**Artis Senior Livinf
Revised**

workers (1) 0:1 working (4) 0:6,10,18,13 works (4) 0:22,8,14,1 worse (1) 0:19 worth (1) 0:13 wouldn't (16) 0:21,22,16,6,9,10,6, 5,8,5,8,14,17,22,11,23 Wow (1) 0:24 write (5) 0:3,23,24,15,10 writing (5) 0:22,17,7,4,7 written (2) 0:1,20 wrong (5) 0:2,4,6,2,20 wrote (1) 0:16 WSSC (5) 0:6,15,15,19,11 WSSC's (2) 0:8,11	12,23,13 young (1) 0:4 <hr/> Z <hr/> zero (1) 0:23 zip (3) 0:6,9,10 Zone (11) 0:11,14,17,23,24,11, 18,19,19,21,1 zoned (1) 0:21 zones (4) 0:4,8,11,25 Zoning (25) 0:7,16,17,17,4,22,8, 23,16,18,14,23,3,9,19, 22,24,24,7,19,21,24,18, 5,13 <hr/> 0 <hr/> 0.1 (1) 0:7 05 (1) 0:6	3,8,3 15- (1) 0:5 15.5 (1) 0:22 150 (3) 0:9,18,1 15-05 (4) 0:9,14,24,8 153 (2) 0:1,6 159 (1) 0:14 15th (1) 0:14 16 (6) 0:5,5,3,20,15,3 1-6 (1) 0:14 1651 (1) 0:2 17 (1) 0:16 174 (1) 0:25 17th (6) 0:10,2,12,21,22,5 18 (14) 0:12,13,23,24,25,1,4, 10,7,8,10,16,20,22 19 (1) 0:20 190 (4) 0:3,1,23,25 1929 (1) 0:7 1967 (1) 0:3 1976 (1) 0:8 1980 (1) 0:5 1994 (1) 0:15 1998 (1) 0:9 <hr/> 2 <hr/> 2 (6) 0:25,1,20,22,18,25 2.1 (1) 0:9 2:00 (9) 0:13,13,9,9,17,1,18, 22,24 2:45 (1) 0:4 2:50 (1) 0:1 20 (18) 0:11,20,22,10,11,11, 14,19,14,23,9,15,18,21,	2,2,22,3 200 (7) 0:15,10,1,7,7,11,23 2000 (2) 0:7,12 2002 (5) 0:6,5,9,2,9 2005 (3) 0:5,8,11 2011 (6) 0:10,11,12,16,23,8 2012 (1) 0:5 2013 (2) 0:25,23 2014 (4) 0:18,20,5,24 2025 (1) 0:5 20817 (2) 0:4,22 22 (1) 0:22 2-2 (2) 0:14,16 24 (1) 0:5 24/7 (5) 0:14,16,8,8,21 24th (1) 0:2 25 (10) 0:21,19,15,10,21,19, 24,5,5,15 250 (1) 0:22 25th (1) 0:20 26 (1) 0:5 268 (1) 0:22 26th (1) 0:19 27 (2) 0:20,11 270 (2) 0:2,12 27th (1) 0:20 28 (3) 0:14,4,23 29 (1) 0:10 <hr/> 3 <hr/> 3 (3) 0:17,4,25 3.16 (1) 0:23 3.3.2E (1) 0:18	3:00 (5) 0:20,22,23,24,25 3:22 (1) 0:18 30 (12) 0:10,17,2,5,14,17,18, 11,23,15,19,9 32 (1) 0:21 335 (1) 0:12 35 (1) 0:4 36 (3) 0:2,3,10 37A (3) 0:11,24,12 37B (15) 0:15,16,18,13,19,17, 3,16,19,21,23,2,3,3,12 37C (4) 0:13,14,1,16 37D (1) 0:22 37E (4) 0:24,13,25,25 38 (7) 0:10,12,23,21,2,11, 17 <hr/> 4 <hr/> 4 (3) 0:2,17,20 4:00 (5) 0:3,4,13,19,24 40 (6) 0:5,19,20,21,4,4 40,000 (1) 0:9 45 (5) 0:5,18,23,4,14 450 (1) 0:25 46 (2) 0:18,19 47 (17) 0:3,6,15,23,2,19,9,8, 10,11,11,12,19,20,18,4, 13 470 (1) 0:8 48 (3) 0:6,7,3 480 (1) 0:8 49 (5) 0:1,18,19,20,25 495 (8) 0:10,9,20,7,14,15,17, 21 4th (2) 0:6,2
Y	1			4
year (4) 0:19,17,2,4 years (20) 0:21,5,15,4,6,8,6,11, 3,21,19,7,7,8,3,4,10,8, 10,12 yellow (1) 0:17 yesterday (1) 0:8 York (1) 0:17 you'd (15) 0:7,8,17,10,5,13,22, 14,4,13,6,23,4,10,1 You'll (11) 0:2,24,2,23,9,22,23, 9,12,20,25 you're (69) 0:20,3,10,11,12,12, 15,17,4,22,8,14,12,18, 25,3,9,24,24,24,1,15, 19,24,18,4,1,3,19,22,2, 14,19,23,1,1,11,15,22, 21,8,12,16,24,15,19,23, 10,19,8,17,5,5,9,10,11, 12,14,15,23,7,17,18,15, 16,21,2,5,4 You've (19) 0:24,2,24,24,10,18,9, 25,18,6,2,24,24,1,9,10,	1 (7) 0:9,9,18,11,20,4,3 1,000 (3) 0:3,7,12 1,150 (1) 0:15 1,200 (2) 0:3,4 1.41 (1) 0:15 10 (17) 0:6,9,2,3,23,24,4,3, 16,20,7,16,12,17,8,15, 12 10:00 (7) 0:14,14,20,1,2,5,24 100 (12) 0:3,5,3,5,1,14,1,5,17, 18,5,16 11 (3) 0:15,22,1 12 (7) 0:7,9,4,11,1,19,24 12:00 (1) 0:21 13 (2) 0:22,16 14 (3) 0:2,12,10 15 (10) 0:19,20,23,23,4,4,7,			

**Artis Senior Living
Revised**

	20			
5	7.7.1B5 (1) 0:13			
5 (2) 0:3,24	7/24 (3) 0:3,4,5			
50 (12) 0:9,10,12,5,8,14,18, 23,7,16,16,18	7:00 (12) 0:5,6,18,18,1,3,5,13, 20,24,17,17			
500 (1) 0:15	72 (15) 0:4,4,1,3,21,21,21,8, 13,23,22,8,22,11,12			
51 (1) 0:24	7-39 (1) 0:13			
51A (2) 0:2,3	75 (9) 0:7,20,14,20,4,4,3, 24,20			
51B (2) 0:6,10	76 (1) 0:24			
52 (5) 0:2,4,16,17,14				
53 (3) 0:9,9,12	8			
56 (2) 0:9,14	8 (13) 0:5,21,3,3,7,14,7,16, 16,13,7,14,14			
57 (1) 0:3	8:00 (1) 0:6			
59 (5) 0:20,9,12,13,21	8008 (1) 0:3			
59- (1) 0:17	8301 (3) 0:5,5,2			
5922Z15 (1) 0:12	86,000 (1) 0:12			
59-7.3 (1) 0:19				
59g (1) 0:19	9			
6	9 (2) 0:15,11			
6 (9) 0:19,22,21,17,12,15, 6,13,20	9:00 (1) 0:6			
6.4.4e (1) 0:6	9:30 (4) 0:4,13,13,14			
6:00 (17) 0:13,14,8,2,4,17,18, 23,1,3,15,16,16,2,5,18, 22	9014 (1) 0:21			
6:30 (5) 0:4,11,12,13,16	97 (2) 0:6,24			
60 (3) 0:25,25,15				
600 (1) 0:3				
630 (2) 0:13,16				
64 (1) 0:11				
66 (3) 0:1,7,8				
7				
7 (8) 0:14,5,14,7,21,7,14,				