

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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PETITION OF MOUNT JEZREEL BAPTIST : Case No. S-2877
CHURCH :
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A hearing in the above-entitled matter was held on August 17, 2015, commencing at 9:33 a.m., at the Stella B. Werner Council Office Building, 100 Maryland Avenue, Second Floor RDMHR, 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:
Jody S. Kline, Esq.
Miller, Miller & Canby
200-B Monroe Street
Rockville, Maryland 20850
301-762-5212

Expert Witness - Architect:
Logan Schutz, AIA
Grimm & Parker
11720 Beltsville, Drive, Suite 600
Calverton, Maryland 207056
301-595-1000

Witness for Petitioner:
Donna Creedon
Mission First Housing Group
1330 New Hampshire Avenue, N.W., Suite 116
Washington, D.C. 20036
202-223-3403

WITNESSES:	DIRECT
Samuel Jones	7
Todd Reddan	14
Reverend Eldridge Spearman	29
Kevin Foster	46
Logan Schutz	74
Donna Creedon	95
Ron Welke	111
Howard Weiss	126

EXHIBITS:	MARKED:
Exhibit No. 36	9
Exhibit No. 37	14
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1 the final decision in the case. If you disagree with my
2 report and recommendation you have 10 days to request oral
3 argument before the Board of Appeals. All right? Would the
4 parties kindly identify themselves for the record?
5 MR. KLINE: Good morning, Ms. Robeson. For the
6 record, my name is Jody Kline, I'm an attorney with the law
7 firm of Miller, Miller and Canby, with offices at 200 Monroe
8 Street here in Rockville.
9 MS. ROBESON: Thank you. Is there anyone here
10 that is going to oppose this application? Okay. Is there
11 anyone that is not affiliated with the Applicant that wants
12 to testify? Okay. I see one hand. Anyone else? Two
13 hands. Okay. Let me just explain that you are able -- the
14 testimony is under oath and subject to cross-examination.
15 You have the right to ask questions of any of the witnesses,
16 and you have the right to give your direct testimony,
17 whatever you wish to say. Now -- and you also have the
18 ability to come sit at the table so you can see and question
19 what's going on. Would anyone like to come sit at the
20 table? Okay. What we're going to do is we're going to have
21 the gentleman with the sign, that is using the sign language
22 interpreter, yes, come forward, if possible. Please raise
23 your -- we're going to take this out of order, Mr. Kline, as
24 I think you already got the e-mail that we're going to try
25 and take his testimony first, unless you would like to

P R O C E E D I N G S

1
2 MS. ROBESON: I'm going to open the hearing. This
3 is a public hearing in the application of Mount Jezreel
4 Baptist Church requesting a Special Exception for housing
5 for senior adults with 75 units located at 420 East
6 University Boulevard, Silver Spring, Maryland. Before we
7 start further I am going to have to certify, swear in, today
8 we do have a sign language interpreter. Can you please
9 state your name for the record.
10 MS. YOCOM: Jessica Yocom, Y-O-C-O-M.
11 MS. ROBESON: Okay. Thank you. Can you briefly
12 state your training?
13 MS. YOCUM: I am a certified, a nationally
14 certified sign language interpreter by the registry of
15 interpreters for the deaf. I am also hold a certification
16 of special certificate legal, I have a Bachelors and Masters
17 in interpreting from Gallaudet University.
18 MS. ROBESON: Okay. Thank you. Now, please raise
19 your right hand.
20 (Interpreter sworn.)
21 MS. ROBESON: Thank you. Now we can go ahead. My
22 name is Lynn Robeson, I am the Hearing Examiner on this
23 case, which means I am going to be taking all the testimony
24 and evidence, and I'm going to write a report and
25 recommendation to the Board of Appeals who is going to make

1 present your opening argument first?
2 MR. KLINE: No, I'm comfortable with that, but may
3 I make a suggestion?
4 MS. ROBESON: Yes.
5 MR. KLINE: I did have an opportunity to talk to
6 Mr. Jones and the interpreter, and I do have an
7 understanding of his, what his issue is --
8 MS. ROBESON: Okay.
9 MR. KLINE: -- and I would, I presume he'd like to
10 kind of hear our response to his comments, so I will modify
11 my order of presentation to be able to address his issues so
12 he can depart, or she can depart if he wishes to do so.
13 MS. ROBESON: Okay. Is that acceptable to you?
14 MR. JONES: That's fine with me. Yes.
15 MS. ROBESON: Okay.
16 MR. KLINE: And can I extend that? I -- Sorry.
17 Yes. I heard Mr. Weiss ask the stenographer how long it was
18 going to take, I have estimated it will take all morning,
19 maybe into the early afternoon for our full presentation. I
20 would make the same offer to Mr. Weiss who is also present,
21 if he would like to testify in advance and not have to wait
22 around, otherwise he'll have to wait till our case is
23 completed and that may be later, much later in the morning,
24 I would think. So, I'll make that offer.
25 MS. ROBESON: Are you Mr. Weiss?

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1 MR. WEISS: Yes.
2 MS. ROBESON: I saw him kind of wave in the back,
3 and he was kind of waving at you, so are you Mr. Weiss?
4 MR. WEISS: I'm the only one without a tie, so --
5 MS. ROBESON: Okay. Would you like to testify in
6 advance and then, or would you prefer to listen to all of
7 the Applicant's witnesses? This is the order, typical order
8 of proceeding, there's an opening statement, the Applicant
9 gets to put on all his witnesses, then each witness gets to
10 be questioned, then you get, normally you would testify, and
11 then Mr., the Applicant would be able to put on evidence
12 relating to your testimony. I think what Mr. Kline is
13 offering is to let, so that you don't have to sit here all
14 day and listen to all of his witnesses that you be able to
15 testify early in the proceedings.
16 MR. WEISS: Well, I can see advantage and
17 disadvantages to both.
18 MS. ROBESON: Well, it's up to you.
19 MR. WEISS: You know, I can, I have, I set it
20 aside at the least the morning.
21 MS. ROBESON: Okay. Then we'll hold off on yours,
22 and if you feel that you need to leave at some point you
23 need to let us know and we'll let your testimony go on.
24 MR. WEISS: That sounds fair.
25 MS. ROBESON: Okay. What I'm going to do, do you

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1 want to make an opening statement first, or just --
2 MR. KLINE: Not necessary.
3 MS. ROBESON: Okay. Sir, okay, please raise your
4 right hand. For the record he is raising his right hand.
5 (Witness sworn.)
6 MS. ROBESON: All right. Please be seated. Does
7 she need a mic, Kathy? Because she's going to be --
8 COURT REPORTER: I think we'll be okay.
9 MS. ROBESON: -- speaking for him.
10 COURT REPORTER: I think we're fine.
11 MS. ROBESON: Okay. All right. Please go ahead.
12 MR. JONES: Good morning. My name is Samuel
13 Jones. I live in Montgomery Knolls, which is a townhouse
14 community, so I am a member of that community.
15 MS. ROBESON: Okay, can he state --
16 MR. JONES: Do you need my address?
17 MS. ROBESON: Yes.
18 MR. JONES: And my address is 9147 September Lane.
19 I'm used to a lot of traffic coming through every day
20 because of the University nearby. I've heard of the project
21 that the Church is wanting to expand to the senior center.
22 One incident happened in the past, in the neighborhood
23 that's surrounding the church there are several inlets and
24 outlets on the streets, and there's one ramp in particular,
25 which is the south one, and there's a grade on the street

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1 which makes some parts of the land much lower than other
2 parts of the land, so it's a big dip, and so when you're
3 trying to leave out of that street you have to rise up and
4 you come to the top of that grade. I witnessed in the past
5 trucks that would come in the north side and try to leave
6 the south, and once they got to the very top of that incline
7 they would bottom out and their frame would be stuck on the
8 ramp, and then they would have to, of course, have to spin
9 their wheels until somebody paid to try to get them out,
10 because they weren't able to go forward or backward at that
11 point. And I notice that that's been happening more where
12 they have to have tow trucks that come in and rescue people
13 that try to come in with big trucks out of this
14 neighborhood. So, I am wondering if we continue, or if you
15 continue with this project and if it's approved will you fix
16 this ramp issue so that buses of people living at the home,
17 or any trucks they may need for construction will be able to
18 safety get in and out and not block traffic? And that's all
19 I wanted to, to bring.
20 MS. ROBESON: Okay. I have a question. Can you
21 name the roads that you witnessed this occurring?
22 MR. JONES: I can show you. I don't remember if I
23 actually know the name.
24 MS. ROBESON: Okay. For the record, the witness
25 is approaching Exhibit, do we have an exhibit?

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1 MR. KLINE: It doesn't have -- Mr. Jones? Sir?
2 MS. ROBESON: One, one --
3 MR. KLINE: Hold -- yes.
4 MS. ROBESON: One second.
5 MR. KLINE: I think the -- excuse me, Jody Kline
6 speaking. I think his testimony probably would be best
7 understood using the rendered plan that we've got of the
8 site plan, which is not an exhibit in the record, so I'd ask
9 it be made an exhibit so --
10 MS. ROBESON: Okay. And what exhibit would it --
11 well, I can --
12 MR. KLINE: Yes.
13 MS. ROBESON: That's what I'm supposed to do
14 later.
15 MR. KLINE: Well, it looks like it's 36.
16 MS. ROBESON: Thirty-six. All right.
17 MR. KLINE: The Affidavit of Posting was 35.
18 MS. ROBESON: Okay.
19 MR. KLINE: So, I'll mark this as number 36.
20 MS. ROBESON: Okay. And you call this the
21 rendered site plan?
22 MR. KLINE: That's correct.
23 (Exhibit No. 36 was marked for
24 identification.)
25 MS. ROBESON: All right. Continue.

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1 MR. JONES: The two north entrances are here.
2 MS. ROBESON: Okay. For the record, he's pointing
3 to the two, the -- looking at Exhibit 36 he's pointing to
4 the lowest entrance to the circular driveway and the
5 northernmost entrance to the circular driveway. And he's
6 pointing to a spot just on the curve of the lower entrance,
7 is that where the grade is?
8 MR. JONES: Correct, right here.
9 MS. ROBESON: Okay.
10 MR. JONES: And once they hit the top of this
11 grade this is where the trucks will bottom out and the
12 trains will be stuck blocking traffic.
13 MS. ROBESON: Okay. So, the grade is going up as
14 you approach the street?
15 MR. JONES: Correct.
16 MS. ROBESON: Okay.
17 MR. JONES: Right.
18 MS. ROBESON: All right.
19 MR. JONES: And that's where the wheels begin to
20 spin.
21 MS. ROBESON: Okay. All right. Thank you.
22 MR. KLINE: Was he finished?
23 MR. JONES: That is all. Thank you.
24 MR. KLINE: Mr. Jones, why don't you stay, ask him
25 to stay up there for a second.

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1 MS. YOCOM: Sure.
2 MR. KLINE: The exhibit that's beside Mr. Jones is
3 a colored version of the Zoning Vicinity Map that's Exhibit
4 No. 10A in the file.
5 MS. ROBESON: Okay. All right.
6 MR. KLINE: And I'd like to ask Mr. Jones if he
7 could point out to the Hearing Examiner where he lives, his
8 townhouse community?
9 MS. ROBESON: Can you name the street that he's
10 pointing to? Why doesn't he do this --
11 MR. JONES: September Lane. I live on September
12 Lane.
13 MS. ROBESON: I live on September Lane. Can he
14 mark on that Zoning Map just mark approximately where he
15 lives with a blue X?
16 MS. YOCOM: Wait. He's going to do a circle until
17 I tell him. Wait, can you give us --
18 MS. ROBESON: A circle is fine.
19 MS. YOCOM: Okay.
20 MS. ROBESON: A circle is fine. Thank you. Thank
21 you.
22 MR. JONES: Am I done now, or?
23 MS. ROBESON: Okay.
24 MR. KLINE: If I can have -- it's a townhouse
25 community, the streets are private, so the name of the

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1 street does not show up on the Zoning Vicinity Map.
2 MS. ROBESON: I wondered about that.
3 MR. KLINE: Right. That's --
4 MS. ROBESON: That's what I couldn't figure out.
5 MR. KLINE: -- correct.
6 MS. ROBESON: Okay. Thank you.
7 MR. KLINE: Right. What I propose to do is take a
8 witness out of order to address that subject so Mr. Jones
9 can have the benefit of hearing how we analyze the
10 situation.
11 MS. ROBESON: All right. That's fine.
12 MR. KLINE: Is that okay?
13 MS. ROBESON: Thank you. He indicated yes.
14 MR. KLINE: Okay.
15 MS. ROBESON: For the record --
16 MR. KLINE: He can stay there.
17 MS. ROBESON: -- did you say yes?
18 MR. JONES: Yes.
19 MS. ROBESON: Yes. Okay. I have to think about
20 what goes up on the transcript. All right. Mr. Kline, why
21 don't you call --
22 MR. KLINE: I'd like to call Mr. Todd Reddan to
23 come up --
24 MS. ROBESON: Okay.
25 MR. KLINE: -- and speak. I'm not going to

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1 qualify him as an expert at this point in time simply
2 because I think it'll take too much time, and secondly,
3 because I don't think his testimony will be expert, per se.
4 If you're okay with that I'll do that at a later point in
5 time. If you'd rather have him do it now I'll go ahead
6 and --
7 MS. ROBESON: I'd rather have him do it now --
8 MR. KLINE: Fine. Okay, fine.
9 MS. ROBESON: -- and then -- it's too confusing --
10 MR. KLINE: Right.
11 MS. ROBESON: -- when you read the transcript.
12 MR. KLINE: Right. If the, if Mr. Jones will bear
13 with us it's going to take me a moment to qualify --
14 MS. ROBESON: We have to go through some legal
15 things. Is this --
16 MR. KLINE: Mr. Reddan --
17 MS. ROBESON: Go ahead.
18 MR. KLINE: Mr. Reddan, would you please state and
19 spell your name, and give us your business address?
20 MR. REDDAN: Todd Reddan, R-E-D-D-A-N. I'm with
21 Gutschick, Little and Weber, 390 --
22 MS. ROBESON: Okay.
23 MR. REDDAN: 3909 National Drive in Burtonsville.
24 MS. ROBESON: Please raise your right hand.
25 (Witness sworn.)

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1 MS. ROBESON: I am marking his resume as 37.
2 Exhibit 37.
3 (Exhibit No. 37 was marked for
4 identification.)
5 MS. ROBESON: Okay, continue, Mr. Kline.
6 MR. KLINE: Sure. Mr. Reddan, you're an employee
7 with the firm of what?
8 MR. REDDAN: Gutschick, Little and Weber.
9 MR. KLINE: Which is a firm with what specialty
10 areas?
11 MR. REDDAN: Civil engineering, land planning, and
12 surveying.
13 MR. KLINE: And your title within that firm is
14 what?
15 MR. REDDAN: Associate.
16 MR. KLINE: What does that put you in charge of?
17 What do you do in that position?
18 MR. REDDAN: I'm a project manager for all aspects
19 of projects for land development from grading, layout,
20 infrastructure design, sediment control, and from the
21 beginning of the project to permit acquisition and as-
22 built.
23 MR. KLINE: I'd like to have you explain a little
24 bit of your background, what is your --
25 MS. ROBESON: Before we do that, have you ever

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1 qualified as an expert in, are you qualifying him in
2 civil --
3 MR. KLINE: In civil engineering.
4 MS. ROBESON: Have you ever qualified as an expert
5 in civil engineering in a court, or an administrative
6 proceeding?
7 MR. REDDAN: No.
8 MS. ROBESON: I see why --
9 MR. KLINE: And that's what it's taking --
10 MS. ROBESON: Yes.
11 MR. KLINE: -- a little bit longer.
12 MS. ROBESON: Okay. Go ahead.
13 MR. KLINE: Sure. Sure. Would you -- well, I've
14 given the Hearing Examiner a copy of your resume, please
15 just describe your academic training, first of all.
16 MR. REDDAN: I have a Bachelor of Science degree
17 in Agricultural Engineering from the University of Maryland,
18 I graduated in 1984. Since graduation --
19 MR. KLINE: And before you leave that, what is
20 agricultural engineering? Since I haven't --
21 MR. REDDAN: What is agricultural engineering?
22 MR. KLINE: -- seen that one before?
23 MR. REDDAN: I've answered that question
24 frequently. Agricultural engineering is the implementation
25 of engineering in the field of agriculture, for example,

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1 power and machinery would be a mechanical engineering
2 application in the farming and agricultural use; you would
3 have biological processes engineering would be the food
4 preparation from agriculture; and --
5 MS. ROBESON: You must have gone to the University
6 of Maryland?
7 MR. REDDAN: I did.
8 MS. ROBESON: You did? Oh, yes, you did.
9 MR. REDDAN: I am a Terrapin. Surface water
10 hydrology is another aspect of agricultural engineering for
11 erosion control and management of water, of runoff, and
12 that's really the segue to civil engineering. When I
13 graduated from the University of Maryland I went into the
14 field of land development and went right into sediment
15 control, stormwater management, and storm drain design.
16 MR. KLINE: And did you start that career at
17 Gutschick, Little and Weber?
18 MR. REDDAN: I did not.
19 MR. KLINE: Okay.
20 MR. REDDAN: I started --
21 MR. KLINE: Tell us where you were.
22 MR. REDDAN: I started at the Washington Suburban
23 Sanitary Commission in 1985, worked there for two years
24 until 1987, and then I went to Stanley Engineering
25 Corporation in Upper Marlboro until 1989, and in 1989 I came

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1 to Gutschick, Little and Weber.
2 MR. KLINE: And since 1989 describe for the
3 Hearing Examiner what your responsibilities have been, and
4 your familiarity, or exposure to the things we're talking
5 about today.
6 MR. REDDAN: Well, as indicated I've been a
7 project manager since I arrived in 1989, the work in Prince
8 George's, Montgomery, and Howard Counties, and it would be
9 taking a project from meeting with a client on what they
10 would like to, what use they would like to put on a site,
11 whether it be commercial, institutional, residential, and
12 taking it from the early planning stages through design,
13 through permit submission, and permit acquisition, and
14 through construction management.
15 MR. KLINE: And you've been doing that exclusively
16 during that time period you've been with Macris, Hendricks
17 and Glascock -- I'm sorry.
18 MR. REDDAN: Gutschick, Little and Weber.
19 MR. KLINE: Gutschick, Little and Weber. GLW,
20 I'll just say it that way, I won't get it wrong again next
21 time. I see the list of all your professional registrations
22 and memberships, just give us a quick explanation of all of
23 those.
24 MR. REDDAN: Well, I'm a registered professional
25 engineer in Maryland, I've been registered since 1989; I'm a

1 member of the American Society of Civil Engineers; I am a
2 member of the Maryland Society of Professional Engineers, as
3 well as the National Society of Professional Engineers; and
4 a member of the Maryland Building Industry Association.

5 MR. KLINE: And I saw Mr. Grossman use this
6 stumping question, do you know what your professional
7 registration number is?

8 MR. REDDAN: 17285

9 MS. ROBESON: Well, if he knows his number then
10 he's an expert.

11 MR. KLINE: Very good.

12 MS. ROBESON: Now --

13 MR. KLINE: Based on his professional experience
14 and his professional associations, and I guess I should ask,
15 you regularly testify before the Montgomery County Planning
16 Board on issues of civil engineering?

17 MR. REDDAN: I have before the Montgomery County
18 Planning Board, yes.

19 MR. KLINE: Just haven't qualified as a, quote,
20 expert, that's all?

21 MR. REDDAN: That's correct.

22 MS. ROBESON: Okay.

23 MR. KLINE: Having said that I would like to offer
24 him as an expert in the field of civil engineering.

25 MS. ROBESON: I'll accept him as an expert as, in

1 civil engineer.

2 MR. KLINE: Thank you. Mr. Reddan, you had an
3 opportunity to hear Mr. Jones' explanation of the problem
4 that he perceived on this site, and using Exhibit No. 36, or
5 for that matter any of the exhibits, and you've got some
6 underneath here if you want them, would you first of all
7 describe the three driveways from University Boulevard to
8 the property, how they all function, what they do?

9 MR. REDDAN: Well, the southern driveway is
10 showing --

11 MR. KLINE: You can go to the board if you'd like
12 to, just put yourself at a place where he can see it, and
13 she can see what you're doing.

14 MR. REDDAN: The southern driveway right here is a
15 full service driveway, which is, which means it's right in,
16 right out, and left in and left out. There is a northern
17 driveway which is right in and right out.

18 MS. ROBESON: You can -- hold on one second. Is
19 it easier for you to move --

20 MS. YOCOM: It is, I was --

21 MS. ROBESON: -- over there? I'll move --

22 MS. YOCOM: -- I didn't want to cross in front of
23 you.

24 MS. ROBESON: -- over here, you move over there,
25 how's that? Okay. Go ahead.

1 MR. REDDAN: As I was saying, the northern
2 entrance is a right in, right out entrance because there's a
3 median prohibiting left turns; there's a middle entrance
4 which is a right in only entrance. Yes, I believe was, I
5 believe the gentleman was speaking about this entrance.

6 MS. ROBESON: I think he --

7 MR. JONES: That's correct.

8 MS. ROBESON: -- said both the north and the south
9 entrance.

10 MR. REDDAN: Okay. I visited the site a number of
11 times, there is a grade drop off here, it does raise and
12 then drop. I did not see anything that would lead me to
13 believe that there was a problem with any trucks getting
14 stuck. I didn't see that up here, either. This is a much
15 more gradual slope. I don't foresee anything with the use
16 that's proposed here that anything would be any different
17 with any trucks coming in beyond what's already there today.

18 MR. KLINE: Let me ask you a couple of questions
19 about I'll say permutations, I think I heard Mr. Jones start
20 off by saying he had seen trucks come in on the northern
21 entrance, and then when they looped around and came out the
22 southern exit --

23 MR. REDDAN: This direction?

24 MR. KLINE: -- they -- yes, right, they tended to
25 bottom out.

1 MR. REDDAN: I don't foresee this use having any
2 trucks come in on this entrance. I would foresee anything
3 that would come in here larger than a passenger vehicle for
4 trash collection and what have you to use this entrance and
5 turn in and circulate in this direction.

6 MR. KLINE: Did you do any calculations, or do you
7 know what the grade is, or how, what is the topography where
8 that all occurs?

9 MR. REDDAN: Well, I didn't do any calculations, I
10 can't state exactly what --

11 MR. KLINE: All right.

12 MR. REDDAN: -- the slope of the grade is offhand.
13 It is steep, but I, upon looking at it when I was out there
14 I didn't notice that there would be a problem with the
15 vertical clearance of a truck, which I think is what he's
16 referring to. I didn't look at it from that perspective.
17 It can be looked at from that perspective when we go through
18 the final design.

19 MR. KLINE: Well, good point. This property will
20 go through the subdivision phase, would that issue be raised
21 at the time of subdivision?

22 MR. REDDAN: I don't know if it would be raised.
23 It's been raised here today, so we can take a look at it,
24 because I don't know if the Applicant has had any experience
25 with any trucks getting stuck that anybody's had to service.

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1 MR. KLINE: You're showing -- will you point to
2 the location where there are sidewalks adjacent to that
3 road?
4 MR. REDDAN: Right here?
5 MR. KLINE: How you --
6 MR. REDDAN: Do you mean --
7 MS. ROBESON: Okay. When you say right here,
8 you're pointing to --
9 MR. REDDAN: Yes.
10 MS. ROBESON: -- the southern driveway access,
11 correct?
12 MR. REDDAN: Correct. On the northern side of the
13 southern driveway there's a sidewalk proposed to connect
14 with a sidewalk on University Boulevard.
15 MR. KLINE: And that's colored in tan?
16 MR. REDDAN: Yes. Correct. Right here there's
17 a --
18 MR. KLINE: When you say right here?
19 MR. REDDAN: I'm sorry. On the, close to
20 University Boulevard on that entrance --
21 MS. ROBESON: The southern entrance.
22 MR. REDDAN: On the southern entrance there is a
23 handicap ramp that will need to be constructed that will
24 I'll use the term wrap around, goes in one direction, turns
25 in another, and then goes back to the sidewalk, that is in

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1 evidence that there is a grade there that exceeds five
2 percent that comes in. Otherwise, we would not have to do
3 that.
4 MR. KLINE: Would you be designing the pathway
5 system though that it would be, meet the accessibility
6 requirements?
7 MR. REDDAN: Yes, we would.
8 MR. KLINE: All right. So, you'll be able to roll
9 a wheelchair, or a handicap person would be able to walk on
10 that pathway?
11 MR. REDDAN: They would.
12 MR. KLINE: Doesn't the risk of trucks bottoming
13 out seem to be inconsistent with the concept of handicapped
14 accessible?
15 MR. REDDAN: It does.
16 MS. ROBESON: May I ask, it would help me if you
17 could just, and I know we're jumping ahead, if you have a
18 different witness for this tell me, the site circulation,
19 how do you anticipate traffic for the new senior living
20 facility, because the church is already there, how is that
21 going to circulate through the site, and where is the trash
22 dumpster?
23 MR. REDDAN: As I was stating earlier, traffic
24 should, is expected to come out on the southern entrance,
25 which is the full service entrance.

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1 MS. ROBESON: Come out, or go in?
2 MR. REDDAN: Come in.
3 MS. ROBESON: Come in?
4 MR. REDDAN: Come in.
5 MS. ROBESON: Okay.
6 MR. REDDAN: Either from the northbound lanes or
7 the southbound lanes.
8 MS. ROBESON: Okay.
9 MR. KLINE: Before you leave, though, that's
10 because if you're coming from the north you could only use
11 that driveway, right?
12 MR. REDDAN: Well, there's another driveway
13 further to the north, but if you're coming from the north
14 this would be the first driveway you would see, so I would
15 expect --
16 MR. KLINE: Well, no. But you said you couldn't
17 use the northernmost driveway because your --
18 MS. ROBESON: Southbound.
19 MR. REDDAN: No.
20 MS. ROBESON: Southbound.
21 MR. KLINE: Yes, if you're going southbound.
22 MR. REDDAN: If you're going southbound you would
23 have to use the southernmost --
24 MR. KLINE: Okay.
25 MR. REDDAN: -- entrance.

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1 MR. KLINE: And if you're going northbound it's
2 the first driveway you're going to come to?
3 MR. REDDAN: It will be the first driveway, and --
4 MR. KLINE: So, it will probably have the highest
5 volume of usage?
6 MR. REDDAN: Yes.
7 MR. KLINE: Okay. Thank you.
8 MR. REDDAN: So, the highest volume of traffic
9 would be coming in the southern entrance, and the
10 circulation to the senior housing would be through the
11 southernmost driveway, that will be a driveway connection to
12 the proposed parking for the senior housing on the I'll call
13 it a southern entrance to lot one on the southernmost side,
14 that would be for visitors and dropping off and picking up
15 people that live in the facility. Furthermore, one could
16 continue along that driveway and come back to an aisle, an
17 access aisle in the back, and there really isn't going to be
18 a dumpster there, it's going to be an internal compactor
19 located inside the building, which is back here.
20 MR. KLINE: Could you --
21 MS. ROBESON: Okay.
22 MR. KLINE: Could you --
23 MS. ROBESON: By back here --
24 MR. REDDAN: I'm sorry, which is in the rear of
25 the facility --

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1 MS. ROBESON: The northernmost end of the
2 building, correct?
3 MR. REDDAN: Yes. Northeast corner of the
4 building.
5 MS. ROBESON: Okay.
6 MR. REDDAN: I'll have to check my direction.
7 MR. KLINE: Okay.
8 MS. ROBESON: And there's enough room for that
9 trash to, trash truck to turn around, to maneuver in that --
10 MR. REDDAN: Yes.
11 MS. ROBESON: And then how will the trash truck
12 leave?
13 MR. REDDAN: The trash truck would leave out the
14 northernmost entrance, and that is keeping it separate from
15 the circulation of visitors. They would come out the
16 northernmost entrance of lot one, the senior housing lot,
17 turn right, and go out the northernmost entrance onto
18 University Boulevard. If it had to go south on University
19 Boulevard it could either go up and make a u-turn, or it
20 could, because this is wide enough for two-way traffic all
21 the way around, it could make a left out of here, continue
22 down here, and make a left out of the entrance, the
23 southernmost entrance.
24 MS. ROBESON: If necessary, and I haven't heard
25 all the testimony, could you restrict the traffic so the

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1 truck could only come out of the north, or is that, is there
2 a median there on, would that be problematic?
3 MR. KLINE: I would have to have a witness dealing
4 with the operational issues ask them if it's possible --
5 MS. ROBESON: Okay.
6 MR. KLINE: -- to control that.
7 MS. ROBESON: Thank you.
8 MR. KLINE: To wrap up on this subject, your field
9 observations did not lead you to see anything that you
10 thought that you needed to change the grades of any of the
11 existing circulation system?
12 MR. REDDAN: I didn't.
13 MR. KLINE: All right. And there is nothing about
14 the operation of the facility that would bring any
15 equipment, to the best of your knowledge, that would have a
16 likelihood of bottoming out?
17 MR. REDDAN: No, that's correct.
18 MR. KLINE: Okay. I have no further questions of
19 Mr. Reddan. If Mr. Jones has some, obviously, he's
20 available to answer any.
21 MS. ROBESON: Mr. Jones. Mr. Jones --
22 MR. JONES: I have nothing further at this time.
23 MS. ROBESON: Okay. Do you want to comment on
24 what Mr. Reddan just testified to?
25 MR. JONES: Well, it's just one incident, if a

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1 large truck goes up I know that their frames might get
2 stuck, so just keep that in mind.
3 MS. ROBESON: Okay. I --
4 MR. JONES: Okay. That's all.
5 MS. ROBESON: -- have a question. Can you
6 describe the truck, how long it was, or how, do you recall?
7 MR. JONES: It was about 53 feet, and it was
8 completely full, so it had a trailer that was completely
9 full. And the truck in the very front, at the front point
10 was all the way to the pavement when it was stuck, so it
11 couldn't, it couldn't move at all. I don't know how long it
12 took for them to solve it because I only watched for a few
13 minutes, but I feel like it will probably happen again in
14 the future with trucks of that size, and that had that kind
15 of load on them.
16 MS. ROBESON: When you saw it was it existing from
17 the southern driveway?
18 MR. JONES: It was exiting from the southern
19 driveway, and it was taking a right going north on
20 University Boulevard.
21 MS. ROBESON: Okay. All right. Mr. Kline --
22 MR. KLINE: I have no --
23 MS. ROBESON: -- based on his comments do you
24 have --
25 MR. KLINE: No, thank you.

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1 MS. ROBESON: Okay. All right. Thank you very
2 much, that was very helpful. And you may be excused if you
3 wish.
4 MR. JONES: I might stay a little bit longer.
5 Thank you.
6 MS. ROBESON: Okay. All right. We went out of
7 order, so now I'm going to let you go back into order. So,
8 you can begin where you --
9 MR. KLINE: Okay. And I'm glad that he stayed
10 because my first witness is basically in charge of the
11 property, so he may have some familiarity with this
12 incident.
13 MS. ROBESON: Okay. That would be great.
14 MR. KLINE: So, I'd like to call Reverend
15 Spearman, please.
16 MS. ROBESON: Welcome, Reverend.
17 REVEREND SPEARMAN: Thank you.
18 MS. ROBESON: I feel funny making you raise your
19 right hand because I know you'll tell me the truth, but
20 please raise your right hand.
21 (Witness sworn.)
22 MS. ROBESON: Please state your name and address
23 for the record.
24 REVEREND SPEARMAN: My name is Eldridge Spearman,
25 I'm Senior Pastor of the Mount Jezreel Baptist Church,

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1 located at 420 University Boulevard East, Silver Spring,
2 Maryland 20901.
3 MS. ROBESON: Okay. Go ahead.
4 MR. KLINE: Well, clearly I'd like to ask you if
5 you have any familiarity with the incident that Mr. Jones
6 talked, but there's a more pressing question, and the
7 Hearing Examiner would love to know more about the biblical
8 references, choice of the name --
9 REVEREND SPEARMAN: Oh, the biblical --
10 MR. KLINE: -- from Mount Jezreel. What, where
11 does the name come from?
12 MS. ROBESON: Oh, no.
13 REVEREND SPEARMAN: Well, it's from the Old
14 Testament, and it's reference to a location in fact where
15 Ahab, if you know the Old Testament that --
16 MS. ROBESON: Yes.
17 REVEREND SPEARMAN: -- Ahab and Jezebel, one of
18 the references is to the mount where they had a residence.
19 The name itself from the Hebrew means to scatter or to sow,
20 and so we believe that our forefathers in establishing the
21 congregation in 1873 in the District of Columbia came out of
22 Vermont Avenue Baptist Church, and they lived in what is now
23 Southeast and Capitol Hill area and didn't want to walk the
24 distance to Northwest, and so they organized the church in
25 the Capital Hill area and they sowed, so to speak, a new

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1 congregation.
2 MS. ROBESON: Okay. Interesting.
3 REVEREND SPEARMAN: Yes.
4 MS. ROBESON: Well, that -- thank you.
5 REVEREND SPEARMAN: You're welcome.
6 MS. ROBESON: I was interested. Okay.
7 MR. KLINE: So --
8 MS. ROBESON: Now --
9 MR. KLINE: -- my second question is did you ever
10 have to go over to push a truck out of the driveway?
11 REVEREND SPEARMAN: No.
12 MR. KLINE: Do you have any familiarity with the
13 incident, or have you had any complaints of vehicles having
14 problems maneuvering on the property?
15 REVEREND SPEARMAN: No, we have not. In fact,
16 there was a reference made to trash trucks, and of course
17 every, at least twice a week we have trash trucks that come
18 that southern entrance to pick up trash from, what's our
19 trash company? Waste Management, I think, and they have no
20 problem coming in, they have no problem getting out, both in
21 the summer as well as the winter. What may have occurred,
22 and I'm speculating, what may have occurred, and we do see
23 this from time to time, truck drivers use our driveway, our
24 area, they see a large area, they made a mistake, made a
25 wrong turn and they need to turn around and need to go back

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1 in another direction, or need to make some adjustment and
2 they, that may have happened, but usually this is an
3 experience that we are not accustomed to seeing. No.
4 MS. ROBESON: Okay.
5 MR. KLINE: Mr. Spearman, what I'd like you to do
6 is kind of just explain this program and how you, you and
7 your church consider this to be part of the mission of the
8 church, what is it you're trying to accomplish here?
9 REVEREND SPEARMAN: Well, if I may just make
10 reference again to our history and our organization, we were
11 organized in 1873 in the District of Columbia as a Baptist
12 congregation, and we moved to our present location in 1996.
13 Our location was formerly a synagogue, and we have retained
14 some of the character, if you will, of the synagogue within
15 our sanctuary. Overall, our goal and our, the pillars, if
16 you will, of our congregation are six areas that we tend to
17 focus on, service, that is service to the community, as well
18 as to our own congregation; certainly worship, a house of
19 worship; but also evangelism, that is reaching out into the
20 community, carrying our message of Christ; but also
21 education, both education of our congregants, or disciples,
22 but education in supporting members of our congregation who
23 go to college; but also supporting our neighborhood schools,
24 for example, we are going to distribute, again, over 130
25 backpacks to student, elementary schools in our

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1 neighborhood. In addition, economic development, we believe
2 that our congregation should be strong in supporting the
3 economic development of our community. And then sixthly,
4 pastoral care, providing services and encouragement to
5 persons who may be dealing with issues, for example, of drug
6 abuse, or homelessness, or domestic violence. So, all of
7 those are servants of pillar.
8 In the evangelism, and the reaching out, and the
9 service we have a number of missions projects, both home and
10 abroad, for example, we have missions partners in Liberia,
11 in South Africa, Brazil, as well as in Kenya and Guyana,
12 ongoing missions projects. But also in terms of
13 homelessness, a little closer, we're sending a team of
14 missions persons to go to New Orleans, the Ninth Ward, to
15 help rebuild after all of these years, after Hurricane
16 Katrina they're still rebuilding homes there in the Ninth
17 Ward, and we're sending a team as we've done for the past
18 several years to the Ninth Ward. But in addition to that,
19 again, our own immediate community where we provide support
20 and services to various needs, for example, hopefully by the
21 end of this month we're going to begin a community food, in
22 cooperation with the community food bank we're going to have
23 a community food bank at our church site. We already have
24 the, designated the area, we've made application, and we
25 expect approval, and we expect to begin to do that as soon

1 as possible. So, we have a sense, a spirit, if you will, of
 2 being actively engaged in the community as witnesses, but
 3 also to be supportive to meet the needs as we perceive them
 4 of those in our neighborhood. We have, we've been blessed
 5 to be on property that's over nine acres, and being on a
 6 property over nine acres we have a lot of open space, and
 7 we've said well, what we can we do with this space to
 8 further the kingdom and to be of benefit and a blessing to
 9 the community? And we looked at our neighbors, Korean
 10 Senior Housing Development and said ah, that's a good idea,
 11 senior housing, and so we began the process to identify a
 12 partner that would help us develop senior housing for what
 13 we believe a growing community, I'm becoming more a part of
 14 that myself, the senior community, and senior housing seemed
 15 to be a need in the County, and so we said we've got some
 16 property, let's begin to develop it. And so, we sent out a
 17 questionnaire and invited developers to partner with us, and
 18 we got back several responses, but the one that we liked was
 19 Mission First, and so we partnered with Mission First to
 20 develop our property for senior housing, affordable senior
 21 housing in Montgomery County. And that's sort of a summary
 22 of where we are and what we've done.

23 MS. ROBESON: Thank you.

24 MR. KLINE: The Church is the Petitioner in this
 25 case, the Church agrees to be bound by all conditions

1 imposed by the Board of Appeals based on the Hearing
 2 Examiner's report?

3 REVEREND SPEARMAN: Yes.

4 MR. KLINE: And comply with all those conditions?

5 REVEREND SPEARMAN: Yes.

6 MR. KLINE: All right. I have no further
 7 questions of Reverend Spearman.

8 MS. ROBESON: All right. Anyone else in the
 9 audience have questions of Reverend Spearman? Seeing none,
 10 you may be excused. Thank you.

11 REVEREND SPEARMAN: Thank you. If you have any
 12 questions about Jezreel just ask.

13 MS. ROBESON: Okay. All right, Mr. Kline?

14 MR. KLINE: I didn't want to make an opening
 15 statement, but I did want to kind of give you a heads up
 16 about two issues --

17 MS. ROBESON: Okay. Go ahead.

18 MR. KLINE: -- that are going to come up, and I
 19 kind of got a little out of sync in doing that.

20 MS. ROBESON: Yes.

21 MR. KLINE: What I want to do first of all was I
 22 mentioned I had Exhibit 10A over here, which is the Zoning
 23 Vicinity Map --

24 MS. ROBESON: Right.

25 MR. KLINE: -- which basically highlights the

1 property on the east side of University Boulevard. There is
 2 on 10A a strip of land on the southern side which is the
 3 remaining platted property of Malibu Street, and what I
 4 wanted to do was bring your attention, a letter that's
 5 attached to the Staff Report that I thought was going to be
 6 in the record from the Hearing Examiner, and what it is is
 7 before we filed the application we pointed out to the
 8 Hearing Examiner that Malibu Street, and I'm in the middle
 9 of Exhibit 10A, Malibu Street was platted, it shows where
 10 it's completely platted to its full width today, and then it
 11 was originally platted about three-quarters of the length of
 12 the subject property.

13 MS. ROBESON: On the southern boundary there?

14 MR. KLINE: On the southern boundary, that's
 15 correct. Half of that Malibu Street was abandoned in
 16 conjunction with the subdivision of the land to the south of
 17 that, this crosshatched area labeled N268 and N267 is a
 18 townhouse community, and immediately to the east of that is
 19 open space associated with the townhouse community, and as
 20 part of the re-subdivision application, that part, in the
 21 road code if a street has been platted but never opened you
 22 can abandon it, so the southern half of the property was
 23 abandoned. The dilemma we had was that we knew we were
 24 going to ultimately re-plat our property, but we didn't know
 25 if we could do, we could include the to be abandoned

1 property as part of the application, and there's a letter
 2 that's attached to the Staff Report that I'm going to say is
 3 like Exhibit C or something, it's about two-thirds of the
 4 way through, it's a letter dated January 28th, 2014 from Mr.
 5 Grossman to myself and Mr. Orobona of our office. If you
 6 see --

7 MS. ROBESON: I've got it.

8 MR. KLINE: Okay. Yes. Yes. It's right after
 9 those drawings showing that.

10 MS. ROBESON: I see it.

11 MR. KLINE: Well, this is in response to our
 12 inquiry whether we can include the land area for the
 13 abandonment within the scope of the Special Exception, even
 14 though it had not yet gone abandoned, and the Hearing
 15 Examiner's recommendation was yes, you can, you just have to
 16 make sure that there's a condition in the Special Exception
 17 that says you can't implement anything. We set everything
 18 up so that the building could still be built in the location
 19 where it's shown on the plans even if we couldn't, even if
 20 we didn't get the abandonment, in other words, the setbacks
 21 are all mapped, but it is an interesting twist that will be
 22 addressed at the time of subdivision.

23 MS. ROBESON: Okay.

24 MR. KLINE: The other thing, and I guess I'm going
 25 to have to tell you I'm about to testify, because it's more

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1 than kind of an, it's an explanation that I think I need to
2 make because whenever I try to do it anybody else they all
3 kind of, their eyes glaze over, and Ms. Reilly's Staff
4 Report is kind of a good example of that problem.
5 MS. ROBESON: I actually went through this
6 figuring this out, it's because the front of the lot is
7 Malibu Drive.
8 MR. KLINE: That is correct. That is correct.
9 MS. ROBESON: I -- yes.
10 MR. KLINE: Okay. Madam Hearing Examiner, what
11 I've given you is a graphic that's tried to highlight --
12 MS. ROBESON: Is this in the record?
13 MR. KLINE: No, that's what I was going to say.
14 We've used it as an exhibit at the Planning Board, but we'd
15 like to make it an exhibit in the record at this point in
16 time, and I think it's going to be, I'll just say parking
17 service, or parking setback waiver exhibit.
18 MS. ROBESON: Well, do you have anybody -- who
19 prepared this?
20 MR. KLINE: That would have been prepared by
21 Gutschick, Little and Weber, I could have either Mr. Foster
22 or Mr. Reddan verify it.
23 MS. ROBESON: Why don't you quickly --
24 MR. KLINE: Sure.
25 MS. ROBESON: -- since you're not under oath?

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1 MR. KLINE: Mr. Reddan, please.
2 MR. REDDAN: Yes.
3 MS. ROBESON: And this will be 38, and it's
4 exhibit for parking setback waiver.
5 (Exhibit No. 38 was marked for
6 identification.)
7 MR. KLINE: Mr. Reddan, did you prepare this
8 exhibit at my request, and --
9 MR. REDDAN: I did.
10 MR. KLINE: -- explain what it shows?
11 MR. REDDAN: Yes.
12 MS. ROBESON: Okay. Just --
13 MR. KLINE: Yes.
14 MS. ROBESON: I actually looked at this issue
15 because I was confused --
16 MR. KLINE: Yes, it's tricky.
17 MS. ROBESON: -- and I do understand --
18 MR. KLINE: Okay.
19 MS. ROBESON: -- I understand the parking waivers.
20 MR. KLINE: Okay. Okay.
21 MS. ROBESON: But just tell me --
22 MR. KLINE: Yes.
23 MS. ROBESON: -- in this Exhibit 38, Mr. Reddan,
24 there's hatched red lines, can you just explain the parking
25 waivers? Can he --

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1 MR. KLINE: Yes. Yes.
2 MS. ROBESON: Can you just explain the parking
3 waivers requested?
4 MR. KLINE: On both sides, or --
5 MS. ROBESON: On -- well, let's go one by one.
6 How about the northern property line?
7 MR. REDDAN: The northern property line is the
8 rear yard of lot one, which is the lot that the Special
9 Exception use will be on.
10 MS. ROBESON: And why does this need a parking
11 waiver?
12 MR. REDDAN: The Zoning Ordinance, the sections
13 that are referenced on the exhibit, require parking to be
14 setback the equivalent of the building setback line from
15 adjacent residential zones.
16 MS. ROBESON: Okay. And so, the one on the
17 northern property line that's a rear yard setback, correct?
18 MR. REDDAN: That's a rear yard setback, correct.
19 MS. ROBESON: Okay. Now, the one on the --
20 MR. KLINE: And before you leave that you'll
21 notice on Exhibit 38 I guess it was, it's showing that it's
22 a 20-foot setback, and the reason I wanted to get in this
23 was because the Staff Report talks about 25-foot setback --
24 MS. ROBESON: I saw that, too.
25 MR. KLINE: -- and that was my mistake because of

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1 the material I gave to Ms. Reilly, looked it up, thought it
2 was R-90 and just gave her the wrong setback. So, this --
3 MS. ROBESON: The setback in the R-60 Zone is
4 what, Mr. Reddan?
5 MR. REDDAN: It's 20 feet in the rear.
6 MS. ROBESON: Okay. So, the setback you're
7 requesting is how much?
8 MR. REDDAN: There would be no setback.
9 MS. ROBESON: Right. So, you needed a --
10 MR. REDDAN: Twenty --
11 MS. ROBESON: -- waiver, I should have said the
12 waiver you're requesting is 20 feet.
13 MR. REDDAN: Twenty feet.
14 MS. ROBESON: Okay. Now, can we move to this?
15 MR. KLINE: You're doing fine. Yes, that's fine.
16 MS. ROBESON: The western property line, tell us
17 about that.
18 MR. REDDAN: The western property line is a little
19 more interesting than the northern property line.
20 MS. ROBESON: Oh, no.
21 MR. REDDAN: There is, the western property line
22 is the side yard of lot one, the lot that the Special
23 Exception use is on. The side yard setback is eight feet on
24 each side, a total of 17 feet combined. So, the parking
25 would need to be setback from the adjacent residential use

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1 by at least eight feet.
2 MS. ROBESON: And when you say adjacent
3 residential use are you referring to the Church?
4 MR. REDDAN: The Church's property, which will be
5 lot two.
6 MS. ROBESON: Yes. And what is that zoned?
7 MR. REDDAN: R-60.
8 MS. ROBESON: Okay.
9 MR. KLINE: Now, you mentioned the eight feet, but
10 the Zoning Ordinance has a doubling standard, so could you
11 add that to your --
12 MR. REDDAN: In the Special Exception section of
13 the Zoning Ordinance they require -- I'm sorry, no, in the
14 Parking Section of the Zoning Ordinance they require a side
15 yard setback to be doubled for parking adjacent to a
16 residential use.
17 MS. ROBESON: Okay.
18 MR. REDDAN: So, the eight becomes 16-foot setback
19 from lot one.
20 MS. ROBESON: Okay. No, lot one?
21 MR. REDDAN: From lot two. I'm sorry. The lot,
22 yes, the setback from lot two would be 16 feet, which is
23 twice the side yard of eight feet.
24 MS. ROBESON: Okay.
25 MR. REDDAN: And that's required under the Special

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1 Exception Section --
2 MS. ROBESON: So, the total waiver you're asking
3 for there is?
4 MR. KLINE: Well --
5 MR. REDDAN: There's an additional one, there's a
6 green, there's a green shaded line, and under another
7 section of the parking of the Zoning Ordinance you have to
8 set your parking setback for a residential zone based on the
9 setback of the adjoining zone, of the adjoining zone, which
10 is R-60, it's really the same, it's the same zone, but the
11 lot two, that's the rear yard of lot two, because lot two
12 fronts on University Boulevard.
13 MS. ROBESON: Right.
14 MR. REDDAN: So, the rear yard of lot two has a
15 20-foot setback just like rear yard of lot one does.
16 MS. ROBESON: I see.
17 MR. REDDAN: So, that goes beyond 16 feet, so 16
18 feet wouldn't have been enough.
19 MR. KLINE: So, on the western side, the cross-
20 hatched red area is a 16-foot setback, double the Special
21 Exception standard the green is the additional four feet
22 that's required in order to satisfy --
23 MR. REDDAN: Yes.
24 MR. KLINE: -- Section 59E3.81A?
25 MR. REDDAN: Yes.

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1 MR. KLINE: Thank you.
2 MS. ROBESON: Okay. I missed the green one, so
3 thank you for this exhibit.
4 MR. KLINE: So, and what we did is we figured
5 there were two that applied, so we --
6 MS. ROBESON: Right.
7 MR. KLINE: -- basically asked for the maximum for
8 the, we figured the largest one had to be the one that
9 actually applies.
10 MS. ROBESON: And the total amount of both, on the
11 western property line the total amount of both waivers is
12 20 --
13 MR. KLINE: Twenty feet.
14 MS. ROBESON: -- because you need the extra for
15 the rear yard. I --
16 MR. KLINE: Right.
17 MS. ROBESON: -- understand.
18 MR. KLINE: Right.
19 MS. ROBESON: And just while you're here, the
20 front yard is the --
21 MR. KLINE: For which lot?
22 MS. ROBESON: The front yard of lot one, proposed
23 lot one. Can you describe where the front yard is?
24 MR. REDDAN: The front yard of lot one fronts on
25 Malibu Street.

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1 MS. ROBESON: Which is in the --
2 MR. REDDAN: Southern, southeastern --
3 MS. ROBESON: Southeastern --
4 MR. REDDAN: -- corner.
5 MS. ROBESON: -- corner. Okay. Thank you.
6 MR. KLINE: You made it easy, thank you.
7 MS. ROBESON: No, I missed the green. I didn't
8 understand the green, so thank you very much.
9 MR. KLINE: I'll call our next witness then. Mr.
10 Foster.
11 MS. ROBESON: Mr. Foster, please raise your right
12 hand.
13 (Witness sworn.)
14 MS. ROBESON: I assume this is Mr. Foster's
15 resume.
16 MR. KLINE: Yes, ma'am.
17 MS. ROBESON: And that will be 39.
18 (Exhibit No. 39 was marked for
19 identification.)
20 MS. ROBESON: Now, I know Mr. Foster, he has
21 testified here, do you want to go through --
22 MR. KLINE: I'll do the easy way.
23 MS. ROBESON: Why don't we just, he can tell me
24 where he's been accepted as --
25 MR. KLINE: Sure.

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1 MS. ROBESON: -- an expert, and what you want him
2 qualified as.
3 MR. KLINE: Mr. Foster, have you ever been
4 accepted as an expert before the Hearing Examiner or some
5 similar body or court of law as an expert in land planning?
6 MR. FOSTER: Yes, I have.
7 MR. KLINE: How recently?
8 MR. FOSTER: In Montgomery County most recently
9 probably was 2012, but, so, multiple cases in Montgomery and
10 Prince George's County.
11 MR. KLINE: But you have appeared before Ms.
12 Robeson and --
13 MR. FOSTER: Yes, I have.
14 MR. KLINE: -- been accepted in the past?
15 MR. FOSTER: Yes, I have.
16 MS. ROBESON: And it's as a land planner?
17 MR. FOSTER: Both land planner and landscape
18 architect.
19 MS. ROBESON: Architect. Okay. And you're
20 currently licensed in Maryland as --
21 MR. FOSTER: The State of Maryland, yes.
22 MS. ROBESON: -- as a landscape architect?
23 MR. FOSTER: Landscape architect, I'm also a
24 certified planner.
25 MS. ROBESON: Okay. Then I will accept you as an

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1 expert in land planning and landscape architecture.
2 MR. KLINE: Mr. Foster, you're associated with
3 what firm?
4 MR. FOSTER: Gutschick, Little and Weber.
5 MR. KLINE: Okay. And you've been with them for
6 how long?
7 MR. FOSTER: Twenty years this month.
8 MR. KLINE: Okay. You know, I was going to start
9 by having you kind of give us an orientation of the existing
10 conditions and everything, but we've kind of covered so much
11 ground. You have available to you several boards here, why
12 don't you just basically tell us what we need to know about
13 what's there, and what's going to be there so the Hearing
14 Examiner can kind of put all this in context?
15 MR. FOSTER: Okay. Well, I guess the first, I'd
16 just like to take a step back and look at the larger
17 context, and the Zoning Map is Exhibit --
18 MR. KLINE: 10A.
19 MR. FOSTER: -- 10A, so I'm referring to Exhibit
20 10A with the colored existing subject property in the center
21 of Exhibit 10A, which fronts on University Boulevard, which
22 is moving diagonally across the exhibit from northwest to
23 southeast. The site is in a, was in the neighborhood, which
24 I think was established in the Staff Report, which is
25 generally from Franklin Avenue to the northwest Stream

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1 Valley Park, to the east, Piney Branch Avenue to the south,
2 and I think it was Long Branch Avenue to the west. So,
3 those were the general --
4 MR. KLINE: Before you leave that, Mr. Foster --
5 MR. FOSTER: Yes?
6 MR. KLINE: -- on page nine of the Staff Report
7 there is a map showing the site location.
8 MS. ROBESON: Okay.
9 MR. FOSTER: Yes, we -- I just don't think --
10 MR. KLINE: Page nine.
11 MR. FOSTER: -- there was an exhibit in the --
12 MS. ROBESON: Thank you.
13 MR. FOSTER: Yes.
14 MR. KLINE: And the zoning neighborhood as defined
15 by Staff was outlined in black, from a professional point of
16 view do you feel that's a reasonable neighborhood for --
17 MR. FOSTER: Yes, I do.
18 MR. KLINE: Okay. Fine.
19 MR. FOSTER: I just wanted to get a sense of what
20 that general neighborhood was. A majority of that
21 neighborhood is residential in character, there is some
22 commercial uses down towards Piney Branch, there are also
23 several schools, other institutional uses in that
24 neighborhood, and then the northwest Stream Valley Park,
25 which is a very connected, very extensive park in Montgomery

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1 to the east. The site itself, the subject property fronts
2 on University Boulevard, which is a very major thoroughfare
3 in Montgomery County connecting the Beltway down in toward
4 Silver Spring. The site itself is basically a nine-acre
5 site I think what Reverend Spearman described was originally
6 built as a synagogue, and when that congregation found,
7 moved back in '96 the current congregation moved in. I'm
8 now referencing Exhibit 36, which is the colored rendering
9 of the site, proposed site. The, I'm referencing Exhibit 36
10 that shows the existing church facility basically in the
11 center of the subject property, faces University Boulevard,
12 there is generally a circular driveway that connects to
13 University Boulevard that circulates around the existing
14 church, and there's also a school, an existing school that
15 is part of the church facility that operates during the
16 week, and as part of the circulation there is also parking
17 distributed pretty much around the entire circulation that
18 operates, you know, the church operates typically on
19 weekends, the school operates during the week, and it's a
20 big part of the community.
21 MR. KLINE: Mr. Foster, before you leave that --
22 MR. FOSTER: Yes.
23 MR. KLINE: -- you've made multiple site visits, I
24 presume?
25 MR. FOSTER: Yes, I have.

1 MR. KLINE: Okay. Anything that you observed
2 while you were out there that would have given you cause for
3 concern about circulation, trucks being able to move through
4 the property without getting caught or bottoming out?

5 MR. FOSTER: No. No. Actually, one day when I
6 was out there there was a trash truck that came through and
7 emptied some dumpsters, and I was in the back of the site so
8 I actually didn't see them come off University Boulevard or
9 get back on University Boulevard, but it circulated through,
10 emptied the dumpsters and --

11 MR. KLINE: Okay.

12 MR. FOSTER: -- and left the site, so --

13 MR. KLINE: Sorry to interrupt. Go ahead.

14 MR. FOSTER: So, I was describing the existing
15 build conditions on the site, the back third of the property
16 is undeveloped, contains a large grass areas that used I
17 think mostly as recreation currently for some of the school
18 facilities or tot lot back there; and then there's an
19 existing forested area that was allowed to grow up it seems
20 after the original construction on the site, there are
21 certainly some signs of some fill that was done during the
22 initial construction, the quality of the forest that's back
23 there is not very high, it's a pretty low quality forest, a
24 lot of early succession plant material, a lot of invasive
25 species. We did a natural resources inventory forest stand

1 delineation that was approved by Park and Planning, and all
2 of that is documented as part of that inventory, but, so
3 that's really the back eastern portion of the property
4 contains that forest. And as we really got into the design
5 of the property that's really what we used for the basis of,
6 you know, coming up with a plan with the architects.

7 MR. KLINE: And that's where I think I wanted you
8 to move to is that is taking the client's program and kind
9 of how to deal with some of the features of the property, I
10 mean, what were the problems that would have basically been
11 challenges for you in the implementing of the client's
12 program?

13 MR. FOSTER: Well, the program we were given,
14 obviously, was a senior housing project, so we have a
15 building that's of a certain mass, and then there are
16 certain parking requirements, trying to fit that in with an
17 existing condition of a church, a school, circulation,
18 getting all that to work so that the two uses complement
19 each other; and at the same time getting that to fit into
20 the character or the context of the overall neighborhood
21 itself, because we have to think about the impact of that
22 building and how it fits into the fabric of the existing
23 neighborhood. And in this case, being able to put that
24 building really into the back of the site really gave us an
25 opportunity to put that building someplace where it was

1 almost hidden to some degree from a lot of the community,
2 and allowed us to really maintain a lot of the residential
3 character of the surrounding neighborhood without having a
4 lot of impact.

5 As we looked at really placement of the building
6 we could really put the building behind the existing church,
7 so really as you're driving down University Boulevard you're
8 really not going to see a lot of this building because it's
9 really behind the existing church, and we're using a lot of
10 the forest conservation on the north, the eastern, and what
11 we're rebuilding on the southern portion of the site to
12 really create buffers around the site to, you know, really
13 engage the building as it kind of I guess encloses the
14 parking that we're putting in there to really, you know,
15 really mask this building that we're putting in there.

16 MR. KLINE: You've explained, or I guess you've
17 described the advantage of this is a great location for this
18 kind of use --

19 MR. FOSTER: Right.

20 MR. KLINE: -- what challenges were there by
21 having to work with that land area itself?

22 MR. FOSTER: Some of the challenges were a little
23 bit of what was left from the original development, some of
24 the grade back there, there is some steep grade that we had
25 to deal with, with how to fit this building in with some

1 retaining walls, and, you know, how to get that all to work.
2 You know, there was a certain mass of buildings we had to
3 fit in with 75 units, and trying to keep it in a certain
4 height so it was in character, so the architects came up
5 with an L-shaped building that really fit into the site
6 well, and we had a certain number of parking spaces that we
7 had to put in there, so using the building we really used
8 the building and tucked those in in front of the building so
9 that they weren't really, you know, affecting the community
10 really, you know, at large. So, I think we used those
11 elements as best we could, you know, on that site.

12 MR. KLINE: Going back to the conversation we had
13 about the parking waiver, and it was based on your
14 familiarity with the Zoning Ordinance --

15 MR. FOSTER: Yes.

16 MR. KLINE: -- are you comfortable that the
17 waivers requested can be granted, not impair the operation
18 of the Parking Section of the Zoning Ordinance?

19 MR. FOSTER: Yes, I do.

20 MS. ROBESON: I had a question. I got some
21 amended, it looked like the Planning Board recommended
22 reducing the patio, or the size of the patio to lower the
23 retaining wall, and I did see some floor plans that you
24 submitted, but not an amended site plan, so I just, can you
25 address, tell me what that's all about?

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1 MR. KLINE: Yes, and let me just check, because
2 you were supposed to get revised plans.
3 MS. ROBESON: I got floor plans.
4 MR. KLINE: So, I'm looking at Exhibit 25.
5 MS. ROBESON: Oh, 25, 25B.
6 MR. KLINE: Yes.
7 MS. ROBESON: And A. Yes. Those look like floor
8 plans to me, but maybe I'm wrong. Yes. Oh, I guess --
9 MR. KLINE: Well, there were floor plans provided
10 to me, I just didn't think I submitted them.
11 MS. ROBESON: Well --
12 MR. KLINE: I take that back. Okay. On this
13 sheet it looks like I did.
14 MS. ROBESON: -- I do see something's going on
15 with the rear patio, but can you --
16 MR. FOSTER: Yes.
17 MR. KLINE: Yes, all right.
18 MS. ROBESON: -- can you --
19 MR. KLINE: Yes.
20 MS. ROBESON: -- before --
21 MR. KLINE: Sure.
22 MS. ROBESON: If he's not the right --
23 MR. KLINE: No, no.
24 MS. ROBESON: -- witness --
25 MR. KLINE: This -- because the -- explain the

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1 conversation, the dialog we had with the Planning Board, and
2 the Planning Board, in, to maximize the preservation of
3 existing forest stand, what were their suggestions to do
4 that?
5 MR. FOSTER: I think Mr. Dreyfuss was leading the
6 discussion --
7 MR. KLINE: And that's a Planning Commissioner,
8 correct?
9 MR. FOSTER: Yes, Planning Commission Dreyfuss,
10 based on his years and years of experience with Leisure
11 World he was concerned that, with a couple of issues, one,
12 that the size of our patio we were, he thought we were
13 providing too much space, outdoor space based on his
14 experience for what seniors would need, and he thought we
15 could provide a smaller patio, still provide very adequate
16 outdoor space, and then use that reduced outdoor patio area
17 to reduce our retaining walls, and reduce the impact to the
18 rear of the site. So, I'm now referencing Exhibit 36, which
19 actually shows the reduced retaining walls, and reduced
20 patio area, and what was done was the, the plaza or patio
21 area was reduced in size --
22 MR. KLINE: And on Exhibit 36 that's the shaded or
23 the flesh colored area?
24 MR. FOSTER: Yes, the tan area to the, I guess
25 this is the southeast rear portion of the building, and so

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1 the, it, in the previous plan there was a semi-circular arch
2 to the shape to the patio, or to the plaza, what's now
3 rectangular in shape and parallel to the building, so it
4 gave us the opportunity to take the, there are tiered
5 retaining walls on the southeast portion, originally
6 proposed that way, southeast portion of the building, and
7 the revised plaza now being narrower it allows us to take
8 the closest retaining wall and bring it closer to the
9 building, and the second retaining wall now we can push it
10 further away and reduce the height and separate them, so we
11 were able, excuse me, able to reduce the walls by about
12 three feet in height, and also increase the afforestation
13 area back there, so basically limiting the impact, or
14 reducing the impact of the walls and the heights back there,
15 which I think was what the original conversation at the
16 Planning Board was really leading us to.
17 MS. ROBESON: Does the Applicant agree that the
18 space is sufficient, or --
19 MR. KLINE: When I have the architects testify
20 they will explain how they coordinated with the Applicant,
21 and this was a combination of work done by the architects
22 and the engineers to address the Planning Board's concerns.
23 Do you feel this solution is responsive to the Planning
24 Board's issues?
25 MR. FOSTER: Yes, I do.

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1 MR. KLINE: We did send copies of these plans to
2 Park and Planning Commission, so were you to want to hear
3 from Ms. Reilly about her opinion --
4 MS. ROBESON: I think I have to leave the record
5 open.
6 MR. KLINE: Yes. Right.
7 MS. ROBESON: You sent, did you send these plans,
8 or the site plans?
9 MR. KLINE: No, the ones you've got.
10 MS. ROBESON: Because I think I need a site plan
11 to refer back.
12 MR. KLINE: We can get that to you, as well.
13 MS. ROBESON: And to her?
14 MR. KLINE: Yes. Sure.
15 MS. ROBESON: Yes.
16 MR. KLINE: I mean, I'll get it to you
17 simultaneous.
18 MS. ROBESON: The Zoning Ordinance requires me to
19 send it back --
20 MR. KLINE: Right.
21 MS. ROBESON: -- for, and get a comment.
22 MR. KLINE: When I submitted 25A and B I sent her
23 a copy of it, also. I didn't think she'd probably have a
24 chance to respond to you before the hearing, though.
25 MS. ROBESON: Yes. I understand.

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1 MR. KLINE: And we may need to tell her more is
2 coming for her to look at, also.
3 MS. ROBESON: I guess my question is -- okay, go
4 ahead. It's -- is this something that's good for the people
5 living there?
6 MR. KLINE: Well, I'll go ahead and opine on that,
7 but certainly the architects can address that.
8 MS. ROBESON: Well, I guess whoever is going to
9 manage it, or the architect can --
10 MR. KLINE: Yes.
11 MS. ROBESON: -- address it, but was anyone
12 complaining about the height of the retaining wall?
13 MR. KLINE: There was no one who testified at the
14 Planning Board hearing in opposition to the application.
15 There is a letter in the file from an earlier representative
16 of a neighboring citizens association that felt the changes
17 had been, addressed their issues.
18 MS. ROBESON: Okay. All right. I'm sorry. I'm
19 sorry, go ahead.
20 MR. FOSTER: So, I think we feel it was a positive
21 change --
22 MS. ROBESON: Yes. Okay.
23 MR. FOSTER: -- that was made.
24 MS. ROBESON: That was my question.
25 MR. FOSTER: Yes. No, I think we feel it

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1 definitely was a positive change, and if you really look at
2 the scale of the patio that's out there it's still a very
3 large patio, I mean, when you look at, when you start
4 looking at the furniture that can be out there and how many
5 people it'll serve it's still a very large patio.
6 MS. ROBESON: Okay.
7 MR. FOSTER: And, you know, and, you know,
8 reduction of the wall, I mean, it's certainly a positive
9 from a construction cost, and buildability --
10 MS. ROBESON: It is. Okay.
11 MR. FOSTER: -- you know, I mean, so it's --
12 MS. ROBESON: All right.
13 MR. FOSTER: -- a positive all the way around --
14 MS. ROBESON: Okay.
15 MR. FOSTER: -- for everyone involved, so from
16 that end we certainly support it.
17 MR. KLINE: Since some of the discussion we just
18 had related to forest preservation why don't you address the
19 forest conservation issue and the tree labor, or the tree
20 grants issues at this point in time?
21 MR. FOSTER: Do we have the copy of that here? We
22 can do it without it, but --
23 MS. ROBESON: The -- are you looking for the --
24 MR. FOSTER: Forest conservation plan. I know
25 that we had it.

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1 MS. ROBESON: If you can tell me an exhibit it
2 should be in here, exhibit number, I mean.
3 MR. KLINE: Yes. 18D as in dog.
4 MS. ROBESON: I don't see it, unless there's
5 another file. We could -- let me just check one more thing.
6 18D?
7 MR. KLINE: Yes, it's in a bundle of material, I
8 can't remember, we submitted a lot of plans on March 27th.
9 MS. ROBESON: I have the NRIFST. Well, is it
10 reproduced in the Staff Report by any chance? Oh, wait, I
11 have more plans. I didn't see this extra set of plans here,
12 so this is probably it. Well, I tell you what, is it in the
13 Staff Report?
14 MR. FOSTER: Not the plan.
15 MR. KLINE: I don't see it.
16 MR. FOSTER: Maybe we can give a copy?
17 MR. KLINE: Yes, if you do see anything with
18 landscape plans it's immediately, 18C were landscaping
19 plans, 18 --
20 MS. ROBESON: I have 18C.
21 MR. KLINE: Okay. Well, 18D was the next one in
22 there, so --
23 MS. ROBESON: Well, let me give these to you and
24 you can go through these.
25 MR. KLINE: Yes. I mean, we can make this work,

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1 that's not a problem.
2 MS. ROBESON: Okay.
3 MR. KLINE: Yes.
4 MS. ROBESON: If you can make it work that's fine.
5 Do you want to take these, because you're probably more
6 familiar with it than I am?
7 MR. KLINE: Well, let me do, let me suggest we do
8 it this way, because the rendered site plan, Exhibit 36,
9 basically shows the areas that are going to be put in --
10 MS. ROBESON: That's fine.
11 MR. KLINE: -- for it, I think we can identify
12 them off of that.
13 MS. ROBESON: That's fine.
14 MR. FOSTER: I'll just need reference any of those
15 over there.
16 MR. KLINE: Okay. Make sure we give them back to
17 her.
18 MR. FOSTER: Right.
19 MR. KLINE: Yes. Okay. So, using Exhibit 36 --
20 MR. FOSTER: Using Exhibit 36, forest
21 conservation, we'll talk about forest conservation, the
22 property contains roughly three acres of existing forest,
23 most of which is on the eastern portion of the property; and
24 as I mentioned earlier, based on our approved NRIFST most of
25 that was low quality forest, contains a lot of early

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1 character with this neighborhood, so I think we've really
2 tried to keep, use a building that's really in character
3 with this neighborhood.
4 MR. KLINE: Is there anything about the site that
5 would cause a non-inherent characteristic of this type of
6 use to be a problem, or have an adverse effect on the
7 surrounding neighborhood?
8 MR. FOSTER: No, I don't, I don't think there's
9 anything with this particular site that would create any
10 type of impact to the surrounding neighborhood here.
11 MR. KLINE: Is it your professional opinion then
12 that the proposal is consistent with the recommendations in
13 the master plan?
14 MR. FOSTER: Yes.
15 MR. KLINE: Okay. And that the use and design
16 would be in harmony and character with the surrounding
17 neighborhood?
18 MR. FOSTER: Yes, it would be.
19 MR. KLINE: Okay. And would this use alter the
20 character of the surrounding neighborhood in any way?
21 MR. FOSTER: No, it would not.
22 MS. ROBESON: How, did you characterize, how would
23 you characterize the surrounding neighborhood?
24 MR. FOSTER: The surrounding neighborhood, I mean,
25 most of it was built probably in the '50s and '60s with some

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1 infill development probably in the '70s with a lot of I
2 guess ranch style, or split level, that was the, you know,
3 red brick style that you see in a lot of lower Montgomery
4 County, very residential in nature, single-family, and then
5 there's been a lot of infill development after that with
6 some townhouse, some two, two and a half story single-family
7 development infill, and with a lot of other institutional
8 uses, schools, churches, and then some commercial
9 development mostly south of the site. So --
10 MS. ROBESON: So, primarily --
11 MR. FOSTER: -- primarily residential.
12 MS. ROBESON: -- residential?
13 MR. FOSTER: Yes, primarily residential, for sure.
14 MS. ROBESON: Are you going to address, I noticed
15 there's, it's a big neighborhood, but there are quite a few,
16 and if you're getting to this I don't want to take it out of
17 order, but --
18 MR. KLINE: Yes.
19 MS. ROBESON: -- there's a list of Special
20 Exceptions somewhere in this report, if you're going to
21 address that in a minute, Mr. Kline, I'll hold off on this
22 question.
23 MR. KLINE: Well, I tried to, but a little bit
24 more cursorily than you probably have --
25 MS. ROBESON: Oh, I'm --

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1 MR. KLINE: -- when I talked about changing the
2 character of the neighborhood, so --
3 MS. ROBESON: I see.
4 MR. KLINE: Yes. Looking at page nine of the
5 Staff Report --
6 MS. ROBESON: Yes, that's it.
7 MR. KLINE: -- recommendation, do you feel this
8 Special Exception in conjunction with the other Special
9 Exceptions that are listed there in any way alter the
10 character of the neighborhood?
11 MR. FOSTER: No. I was looking at this earlier,
12 and as I, you know, drove the neighborhood in the past, you
13 know, with the size of this neighborhood and where all these
14 are located no, I do not feel that this is going to change
15 the character of the neighborhood.
16 MR. KLINE: I have no further questions of Mr.
17 Foster.
18 MS. ROBESON: All right. Does anyone, Mr. Jones
19 or Mr. Weiss, do you have any questions that you would like
20 to ask Mr. Foster?
21 MR. WEISS: Just one thing.
22 MS. ROBESON: Can you come forward, please?
23 MR. WEISS: Sure.
24 MS. ROBESON: Yes. And just at one of those
25 chairs is fine, and if you could just state your name and

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1 address for the record?
2 MR. WEISS: Yes, my name is Howard Weiss. I, my
3 home is what is the development site in question.
4 MS. ROBESON: Okay. Can you state your address?
5 MR. WEISS: Yes, 9414 Weaver Street, we're the I
6 think designated lot on the three, in the back yard on the
7 street, I think this is us here.
8 MS. ROBESON: So, you are the, on Exhibit 36
9 you're the --
10 MR. WEISS: Right, our home basically at the, I
11 guess this is the northern edge of the --
12 MS. ROBESON: Of the --
13 MR. WEISS: -- development.
14 MS. ROBESON: It's parallel?
15 MR. WEISS: It splits our, it splits our --
16 MS. ROBESON: Okay.
17 MR. WEISS: -- structure there. Okay.
18 MS. ROBESON: Okay. Why don't you sit and you can
19 ask Mr. Foster a question.
20 MR. WEISS: Yes. Well, I just recently got the
21 plans to the, which I downloaded on my device here, of
22 plantings, which I was very pleasantly surprised, I mean, no
23 one told me about that, and I was never informed that they
24 were going to put trees there. Well, what made you pick the
25 trees that you're going to use to line?

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1 MR. KLINE: And you mean species and the size?
2 MR. WEISS: Yes, the species and stuff like that.
3 MR. KLINE: Yes. Right.
4 MR. FOSTER: Well, the --
5 MS. ROBESON: Can you show me what trees, is he
6 talking about the new landscaping that's going there?
7 MR. WEISS: Yes, specifically trees --
8 MS. ROBESON: Okay. He's referring to the
9 landscaping that will be installed, not the forest land.
10 MR. WEISS: Right along the land that's disturbed.
11 MR. FOSTER: Right. Let me just to pull up the
12 landscape plan and take a look.
13 MS. ROBESON: Oh, that is 18C.
14 MR. WEISS: Because everybody always uses that, I
15 think they have red maple and a birch, I think.
16 MS. ROBESON: It's one of these.
17 MR. WEISS: At least right behind my place.
18 MR. FOSTER: Does this look like the plan to you?
19 MR. WEISS: Yes, that's it.
20 MR. FOSTER: I'm referencing Exhibit 18C. And I'm
21 looking at the northern, northeastern end of the building on
22 Exhibit 18C, what was your name again, sir?
23 MR. WEISS: You can call me Howard.
24 MR. FOSTER: Alan?
25 MR. WEISS: Howard. Howard.

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1 MS. ROBESON: Howard Weiss.
2 MR. FOSTER: Howard?
3 MR. WEISS: Yes.
4 MR. FOSTER: Okay. Because your house is
5 basically just to the east.
6 MR. WEISS: We're, we're --
7 MR. FOSTER: Right.
8 MR. WEISS: -- along here.
9 MR. FOSTER: Right, just to the east of the
10 northern end of the building. So, I was -- right now we're
11 proposing there are trees that have a BN designation, those
12 are river birch, and AC, those are I think amelanchier.
13 MR. WEISS: Yes, red maple, I think.
14 MR. FOSTER: Was it?
15 MR. WEISS: Yes.
16 MR. FOSTER: Oh, there's a -- AR, those are the
17 red maple. I was just --
18 MR. WEISS: Correct. AR is red maple.
19 MR. FOSTER: Right, red maple. Right. So, we're
20 typically, these are medium sized shade ornamental tree,
21 we're trying to pick a tree that's really going to match
22 with the scale of the building. A river birch is a real
23 decorative kind of tree, it has a really nice bark,
24 exfoliating, they get about 40 feet tall, so, you know, they
25 can get a little taller than that, as well, you know, so if

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1 you're talking about a three-story building they're going to
2 probably be up toward the roof of the building when, the
3 time they grow. Obviously, a red maple is going to be even
4 taller than that. The amelanchiers and the, these are red
5 buds and amelanchiers, I'm now pointing to trees that are a
6 little further south along the eastern --
7 MS. ROBESON: What's their designation?
8 MR. FOSTER: AC and CC.
9 MS. ROBESON: CC.
10 MR. FOSTER: These are ornamental trees, so these,
11 those trees will really be along the mid-level of the
12 structure, so if you're looking to it these trees will
13 really be masking the middle of the building, so these are
14 flowering trees, more under story.
15 MS. ROBESON: Does the grade slope down to the
16 east?
17 MR. FOSTER: Well, this area, this area of the
18 site it slopes down a little and then back up toward your
19 house, not nearly as drastically as it does here.
20 MS. ROBESON: As over there.
21 MR. FOSTER: So, it's a little more closely to --
22 MR. WEISS: Yes.
23 MR. FOSTER: -- to grade to your house.
24 MR. WEISS: Well, yes, it goes down.
25 MR. FOSTER: It goes down and then back up a

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1 little. Closer down to Malibu it really goes down, but
2 where your house is it's not quite as bad. But, so we're
3 landscaping, and then this area, the area between the
4 landscaping and your house is a forest conservation area
5 where we're keeping trees, but we're also going in there and
6 we're going to be doing what's called an invasive species
7 management plan where we're going and cleaning out all the
8 invasive species, and we have to actually go back in there
9 and replant a lot of plant material in there because right
10 now it's all the vines and a lot of crazy stuff growing
11 there, it's --
12 MR. WEISS: Yes, it's --
13 MR. FOSTER: -- pretty ratty.
14 MR. WEISS: I personally would prefer that stuff
15 there.
16 MR. FOSTER: Well, but that doesn't --
17 MR. WEISS: When I get my chance to speak I'll say
18 why.
19 MR. FOSTER: Well, the County, the --
20 MR. WEISS: Okay.
21 MR. FOSTER: -- environmental staff at the County
22 doesn't because in the long term it doesn't create a really
23 good sustainable forest, so they would rather us go in there
24 and take some of that invasive stuff out to plant high
25 quality plant material that's going to last a long time, so

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1 that's what they're going to require us to do.
2 MR. WEISS: I see.
3 MS. ROBESON: Okay. All right. Well, anymore
4 questions? At this point it's just questions.
5 MR. WEISS: No. No, that's it. No.
6 MS. ROBESON: Okay.
7 MR. WEISS: Okay.
8 MS. ROBESON: Anyone else? Seeing none, Mr.
9 Kline?
10 MR. KLINE: I have no further questions of Mr.
11 Foster.
12 MS. ROBESON: Mr. Foster can be excused.
13 MR. FOSTER: Thank you.
14 MS. ROBESON: Thank you. Your next witness.
15 MR. KLINE: Mr. Schutz.
16 (Discussion off the record.)
17 MS. ROBESON: Mr. Schutz, please raise your right
18 hand.
19 (Witness sworn.)
20 MS. ROBESON: Okay, go ahead.
21 MR. KLINE: Mr. Schutz, would you please give us
22 your professional address?
23 MR. SCHUTZ: Yes, 11720 Beltsville Drive,
24 Calverton, Maryland 20903, Suite 600.
25 MR. KLINE: And what is your profession?

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1 MR. SCHUTZ: I am an architect.
2 MR. KLINE: Have you ever qualified as an expert
3 in the field of architecture before this Hearing Examiner,
4 another Hearing Examiner, or some similar board or
5 commission?
6 MR. SCHUTZ: Yes, in all the jurisdictions around
7 Washington, D.C., including Montgomery County.
8 MR. KLINE: Have you had the pleasure of appearing
9 before Ms. Robeson before?
10 MR. SCHUTZ: I don't remember doing that.
11 MS. ROBESON: I don't remember you either, but --
12 MR. KLINE: Maybe Mr. Grossman?
13 MR. SCHUTZ: Yes. Yes.
14 MR. KLINE: How recently did you qualify as an
15 expert before Mr. Grossman?
16 MR. SCHUTZ: I think that was the Victory Oaks
17 project.
18 MR. KLINE: In White Oak?
19 MR. SCHUTZ: White Oak, which was three years ago,
20 four years, five years ago.
21 MS. ROBESON: And I see you've learned because
22 your license numbers are on your resume. I'm going to
23 mark -- okay, go ahead. Are you asking to qualify him as an
24 expert architect?
25 MR. KLINE: Yes, please, based on his previous

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1 qualification --
2 MS. ROBESON: Okay.
3 MR. KLINE: -- and his expertise as set forth in
4 his resume.
5 MS. ROBESON: And I think we are up to 40. Yes,
6 so that will be Exhibit 40.
7 (Exhibit No. 40 was marked for
8 identification.)
9 MS. ROBESON: Go ahead, Mr. Kline.
10 MR. KLINE: Mr. Schutz, I see that you brought
11 some exhibits with you today, I see over on the left a
12 perspective, and I see you have mounted rendered elevations.
13 MR. SCHUTZ: Yes.
14 MR. KLINE: Have those been changed at all since
15 we made our initial submission? I just want to make sure
16 I'm having you talking from the right exhibits.
17 MR. SCHUTZ: I think in the case of the rear patio
18 there has been some adjustments, which we have already, Mr.
19 Foster talked about. I think as far as the elevations no,
20 we have not changed anything.
21 MR. KLINE: Okay. Fine. Well, it doesn't look to
22 me like the perspective that you've got posted is included
23 in the record, so I'm going to ask that that be made an
24 exhibit in the record.
25 MR. SCHUTZ: That's fine.

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1 MR. KLINE: Okay. That would be number 41, if
2 that's, and we'll call it rendered perspective.
3 MS. ROBESON: Okay.
4 (Exhibit No. 41 was marked for
5 identification.)
6 MR. SCHUTZ: It did appear on the title sheet of
7 the set that was submitted, but this is fine because it's
8 been pulled out separately now.
9 MR. KLINE: Mr. Schutz, what I think I'd like to
10 start by is by looking at Exhibit 36 and just discuss,
11 you've heard the testimony today about some of the
12 architectural techniques that you used in order to make the
13 building, reduce its mass and scale.
14 MR. SCHUTZ: Right.
15 MR. KLINE: So, just talk to us about how the
16 siting of the building was chosen for this siting.
17 MR. SCHUTZ: We selected an L-shaped or a bent
18 plan to reduce the length of the corridors to tuck it in
19 behind the building and to not have any really any large
20 masses that you would view as you come off New Hampshire
21 Avenue you, or excuse me, University Boulevard you will see
22 the end of the building, and then as you come around, as you
23 go east and come up you will start to see the entrance to
24 the building which is on the flat piece of the bend, and
25 what we did to help articulate it, the roof has lots of

1 returning gables, it's got bays, we also rather than having
2 just a straight peak around the entire building we raised
3 the center of the front, and let me go to the exhibit here,
4 so Exhibit No. 36, we took this portion of it, kind of
5 raised it two feet --

6 MR. KLINE: And this is the sort of at the elbow
7 at the center?

8 MR. SCHUTZ: At the elbow.

9 MR. KLINE: Okay.

10 MR. SCHUTZ: To help accentuate the entry to make
11 it a little more prominent, but also just to break the mass
12 up. And then you see all of these return gables all the way
13 around, and you can see them on Exhibit 41 on the elevation,
14 which is kind of a view just outside or in this area which
15 is in Exhibit 36, which is the color site plan, looking
16 through some trees --

17 MS. ROBESON: When you say this area you're
18 looking at the --

19 MR. SCHUTZ: This is the roundabout.

20 MS. ROBESON: -- first landscape island --

21 MR. SCHUTZ: Yes. The first of the main --

22 MS. ROBESON: -- that you come from the south?

23 MR. SCHUTZ: Yes, the main landscape island. And
24 this is one the landscape, the flowers will be changed
25 seasonally, and we place the, we have done, this will be our

1 66th senior building that we've done in the right region,
2 and one of the things we have found is that seniors?

3 MS. ROBESON: Who is we?

4 MR. SCHUTZ: What's that?

5 MS. ROBESON: Who is we?

6 MR. SCHUTZ: Oh, Grimm and Parker.

7 MS. ROBESON: Okay.

8 MR. SCHUTZ: And since I've been there and done
9 all of them, I guess, I'm responsible for all of them since
10 1977.

11 MS. ROBESON: Okay.

12 MR. SCHUTZ: And what we've discovered is that
13 seniors like to sit out on the front porch, they want to see
14 things come and go. We've had situations where we've had
15 our senior projects back up to lakes, and the first units
16 that rent are the ones that face the parking lot, not the
17 lake. I don't know if I will get to that stage, but maybe I
18 will, I don't know, I will want to look at my car, or I
19 don't know. But what happens is this is where all the
20 activity of the site is, and it's great because it screens
21 it from the surrounding community, but as the UPS trucks
22 comes, as mail, as the grandchildren come and arrive folks
23 love to sit out there, they don't like to be in the sun, so
24 they like to sit undercover of the porch, but we do provide
25 in the rear of the building off the great room a patio space

1 so that if there are parties or affairs that people would
2 like to be outside and go inside and outside, and have kind
3 of indoor/outdoor rooms back here they can do that, and
4 there will be umbrellas, and then because of the way it's,
5 the building is oriented, north is to the top of the sheet
6 here, the top of the L, you would get sun which will come
7 around, which will hit the patio, come around and also hit
8 the front, which we like to have because we don't like to
9 have our entries facing north.

10 MR. KLINE: You mentioned the patio a couple of
11 times, take the opportunity to go back and address the
12 Hearing Examiner's question earlier about when we shrunk the
13 patio, or reduced the depth was that advantageous, or
14 deleterious?

15 MR. SCHUTZ: Oh, no, that worked out well. It was
16 a very large patio.

17 MS. ROBESON: Okay. Let me halt you for one
18 minute. Just for the record, Mr. Jones is leaving. Is that
19 yes?

20 MS. YOCOM: Oh, is that a question, sorry. I
21 thought that was -- yes, he's leaving.

22 MS. ROBESON: Okay, and you are leaving, too?

23 MS. YOCOM: Yes, ma'am.

24 MS. ROBESON: I just have to clarify that he no
25 longer needs your services.

1 MS. YOCOM: Correct.

2 MS. ROBESON: Okay. Thank you.

3 MR. JONES: All done. Thank you.

4 MS. ROBESON: Okay, thank you. I'm sorry to
5 interrupt. Go ahead.

6 MR. SCHUTZ: Actually, I, that's the first time
7 I've done it with a --

8 MR. KLINE: For most of us.

9 MR. SCHUTZ: -- interpreter.

10 MR. KLINE: For most of us.

11 MR. SCHUTZ: And it was amazing to see how much
12 she can with her hand tell a story. I just was marveling.

13 MS. ROBESON: How quickly she can do it. Yes.

14 MR. SCHUTZ: Wow. Yes. So, anyway, we were back
15 to the patio area, and so, what we were able to do was to
16 instead of having one very large retaining wall were able to
17 step it down, which will allow us to plant that out, and in
18 doing that and pulling it closer to the building we did
19 decrease the size of the patio, but not to the point where
20 it's going to really affect their, in fact, you don't want a
21 huge sea of concrete out there, we may have oversized it at
22 the time, but we feel that at this point it will be
23 appropriately sized, and we're going to have the patio
24 broken down so there will be activities, what we like to do
25 in these buildings is to create areas that flow into each

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1 other space which you can combine them, but that there are
2 private areas, because seniors will come down with a friend,
3 they may play cards, and so all our spaces of the buildings
4 are kind of see through, you see through one space to the
5 next because to have a lot of activities it's important, you
6 want to have, we call this center area a living room, which
7 it spills out into the outdoors. Their apartments, although
8 they're full, fully, you know, they've got kitchens and
9 bathrooms and everything, we really want their apartments to
10 act as bedrooms, we just want them, we want them to come
11 down during the day and be involved in the events of the
12 day, and one of them, of course, is seeing what's happening.
13 MR. KLINE: How about, first of all, just using
14 the Exhibit 41, just tell us about some of the materials --
15 MR. SCHUTZ: Sure.
16 MR. KLINE: -- leading up to are these materials
17 that are found in the neighborhood, and are they blended
18 into the residential character of the neighborhood?
19 MR. SCHUTZ: We drove around and looked at the, a
20 lot of the homes in the area, and I'm looking at Exhibit 41
21 and looking at this rendering that appears on the front, we
22 kind of took some of the craftsman style shingle that you
23 see back there, there is a lot of split level homes, all
24 usually with gable roofs, we actually had steepened the
25 pitch, and we're using architectural shingles to create a

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1 very residential feel, we also want to break down the size
2 of walls and roofs, and so by adding the porch on the front
3 broke this field down, we are using brick color that is kind
4 of reminiscent of a lot of the brick that's in the area,
5 although when you go around there's all kinds of brick, I
6 mean, there's really wonderful looking brick, and there's
7 not so nice looking brick, some people have painted their
8 brick. The siding which we, it has on a lot of homes back
9 there is a HardiePlank or Hardie siding type which is a
10 cementitious siding, we've also broken that up with some
11 cementitious panels and the intent is to create something
12 that's almost maintenance free that will retain its looks
13 for many, many, many years. We have lots of windows we've
14 added, especially in the living rooms to get lots of lights,
15 and single hung, we picked windows that are very similar to
16 what's in the neighborhood. And we've altered the color to
17 not, to create, kind of break up things and make it a little
18 more lively composition.
19 MR. KLINE: Mr. Schutz, you may have heard me ask
20 I think it was Mr. Foster this question, but the master plan
21 had some language which I think is sort of like a perfect
22 platform for an architect to launch into a presentation, the
23 plan hopes that new or expanded structures should be
24 sensitive to the character of the scale of adjoining, of the
25 adjoining neighborhood, and would you just describe how you

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1 feel this design meets that goal?
2 MR. SCHUTZ: Yes. I -- by breaking, you know, we
3 looked at schemes that came straight across --
4 MR. KLINE: And you're referring to Exhibit 36
5 now?
6 MR. SCHUTZ: I'm going back to 36, the color
7 rendition. Straight across schemes, I schemes, H schemes,
8 and this one appeared to let the sun come in, it broke the
9 scale down, it was with it going three stories more
10 appropriately scaled so that it's kind of a nice
11 transitional building from what is here. You've got some
12 three-story townhomes up front here, so there are a lot of
13 three-story buildings in the neighborhood, and so as you go
14 to three, then you come down the hill through the woods and
15 you start to pick up these two-story and one and a half
16 story homes. So, I think it'll be a nice addition to the
17 community.
18 MR. KLINE: Since I have you up here let's talk
19 about some of the mechanical issues. There was a
20 description about how trash was going to be handled, could
21 you describe that and the location, how it's going to
22 function?
23 MR. SCHUTZ: That's correct. We have on Exhibit
24 36 at the end of the building on the north side we have a
25 trash chute which will, folks will be able to go down and

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1 put their trash into a trash chute, the trash will then fall
2 to a compactor where it's compacted into little dumpsters,
3 the dumpsters then will be held in a compactor room until
4 trash day, at which time they will be rolled out and the
5 trash truck will then come in and our intent --
6 MS. ROBESON: Come in through the north?
7 MR. SCHUTZ: They will probably --
8 MS. ROBESON: Or does it matter?
9 MR. SCHUTZ: It really doesn't matter.
10 MS. ROBESON: Okay.
11 MR. SCHUTZ: They can come in either direction.
12 MS. ROBESON: So, there's nothing logistical
13 restricting them from coming in either way?
14 MR. KLINE: That was a question.
15 MR. SCHUTZ: I would say not, but I'm not a
16 traffic expert, but it --
17 MS. ROBESON: Yes.
18 MR. SCHUTZ: -- appears that both entrances are
19 very equal, we would probably prefer that they come in and
20 come out this way because there's less parking on that road.
21 MR. KLINE: And you're talking about --
22 MS. ROBESON: So, the south side?
23 MR. KLINE: -- the southern --
24 MR. SCHUTZ: To the southern side, we would
25 probably prefer the southern side, but they come up, and

1 then they will come into the north side of the building,
2 pick up the trash, which, again, the trash is being held
3 inside until trash day, then it's rolled out, and then it
4 will be removed.

5 MR. KLINE: I guess I'd like you to describe a
6 little bit more about the system. We're not going to have
7 something that's a dumpster sitting outside --

8 MR. SCHUTZ: No.

9 MR. KLINE: -- where you pick it up and bang it a
10 couple of times and wake everybody up next door?

11 MR. SCHUTZ: No, and one of the things we'll do is
12 with, and with the management people is they will select a
13 time during the day that is convenient because there will
14 be, like I say there is going to, there will be some noise
15 at some point, but at once or twice a week what they do is
16 they take this dumpster and the lift it up and dump it, and
17 that's it. So, but it won't be something that's happening
18 at night, or Sunday mornings, or it would be something
19 during the work week.

20 MR. KLINE: You and I have been involved --

21 MS. ROBESON: During the work week?

22 MR. SCHUTZ: Yes.

23 MS. ROBESON: You haven't done any noise analysis?

24 MR. KLINE: That's where I was going. Yes. Well,
25 two things, you and I have been involved in projects where

1 some of the mechanical equipment did have a noise issue --

2 MR. SCHUTZ: Yes.

3 MR. KLINE: -- how are you handling the air
4 conditioning, the, all the mechanical equipment?

5 MR. SCHUTZ: That's an excellent question, we have
6 a requirement in the County that at the property line we
7 have to reach a certain decibel level, so we have to have an
8 emergency generator which is also located in the north, we
9 will have to acoustically isolate that, which we did on the
10 Victory Oaks project, and others. The mechanical units for
11 the most part we have stationed in the front of the building
12 and they're kind of nestled in here, we're using some split
13 systems which have a very high SEER rating, so they're very
14 efficient, and they run at a quieter level, but they do make
15 noise, so we'll have to locate all of these so that the
16 sound and the hum will not exceed the requirements.

17 MR. KLINE: Well, if they're to be located in the
18 picture on the left, on 41, in that area then doesn't the
19 building itself attenuate the noise --

20 MR. SCHUTZ: Yes. Yes. That does --

21 MR. KLINE: -- so it won't go in the neighborhood?

22 MR. SCHUTZ: And I failed to mention that. Yes,
23 putting them on this side will, the building will --

24 MS. ROBESON: When you say this side you mean the
25 front of the building?

1 MR. SCHUTZ: The northwest or the west side will
2 shield them from the homes --

3 MR. KLINE: Right.

4 MR. SCHUTZ: -- on the east, to the east.

5 MR. KLINE: Right. But the Staff Report did
6 contain a condition saying noise study at the time of
7 subdivision, so is that more for to protect the residents,
8 or to -- I'm sorry, the residents of the new project, or the
9 surrounding neighborhood?

10 MR. SCHUTZ: To protect the surrounding
11 neighborhood.

12 MR. KLINE: Okay. So, at the time of subdivision
13 you'll conduct a noise studying showing one, that these
14 functions you describe will not have an adverse effect
15 offsite --

16 MR. SCHUTZ: That is correct.

17 MR. KLINE: -- and the people living in the
18 building won't be bothered by University Boulevard or
19 something like that?

20 MR. SCHUTZ: That is correct. And the building
21 location behind the church obviously, and the distance from
22 University Boulevard they will not be affected by noise from
23 the road, road noises.

24 MS. ROBESON: Are you going to have to measure
25 from the front of the building to the lot two, proposed lot

1 two?

2 MR. KLINE: That's interesting.

3 MS. ROBESON: The school?

4 MR. KLINE: That's interesting.

5 MS. ROBESON: Well, do you have --

6 MR. SCHUTZ: It talks about -- I'll have to go
7 back and look at the Ordinance, but I think it talks about
8 in connection with residential properties, this is
9 residential, but there's not somebody living there. It's a
10 good question.

11 MR. KLINE: I've always thought that the school is
12 going to create more noise than the --

13 MS. ROBESON: Yes.

14 MR. KLINE: -- senior housing is.

15 MS. ROBESON: Yes, I guess some --

16 MR. KLINE: Yes.

17 MS. ROBESON: -- I guess sometimes what we do is
18 if we defer a study normally if we defer a noise issue or
19 something we have a condition saying if there's any changes
20 to the site plan you would have to come back, but what
21 you're saying right now is as far as the neighbors to the
22 north, east, and south you don't think there's a problem,
23 correct?

24 MR. SCHUTZ: No. There can't be, then we won't be
25 allowed to move forward unless we address it.

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1 MS. ROBESON: But, I mean, just based on your --
2 MR. SCHUTZ: Yes.
3 MS. ROBESON: -- expertise right now, see, that's
4 what I kind of have to find. So, you don't think there will
5 be an issue as to that? North, east, and south?
6 MR. SCHUTZ: That is correct. But you just gave
7 me, threw me a loop with the west.
8 MS. ROBESON: There's lots of loops in this. It
9 took me forever to figure out that Malibu was your frontage,
10 and then it all fell into place, but okay.
11 MR. KLINE: I would like you to, because height of
12 the building is an issue were you on the phone earlier
13 calling on, getting final measurements on the building?
14 MR. SCHUTZ: Yes, we were just --
15 MR. KLINE: Yes.
16 MR. SCHUTZ: -- checking, I wanted to make sure
17 that we had them measured properly. And what had happened,
18 and I had given you a dimension that was eight inches off
19 because the way you measure the elevation is from the grade,
20 and what we had done was measured, just when we were talking
21 to you, not what's in the record, we had measured from the
22 first floor where we keep the ground eight inches below, so
23 there is an eight-inch addition. So, the elevation I was
24 discussing, Jody, was actually eight inches.
25 MR. KLINE: All right. Well, let me do it this

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1 way, the zone allows for buildings 35 feet in height.
2 MR. SCHUTZ: Yes, sir.
3 MR. KLINE: You have a building that is how tall?
4 MR. SCHUTZ: It is, the majority of the roof is 38
5 feet.
6 MR. KLINE: Thirty-eight feet. And --
7 MR. SCHUTZ: And then in the center piece we went
8 up two feet to kind of create a little bit --
9 MR. KLINE: I see. Sure. I understand.
10 MR. SCHUTZ: We could have gone with a much lower
11 pitched roof, and met the Ordinance, but the aesthetics of,
12 I don't know if you've seen them, the very low pitched, just
13 very more commercial looking, institutional looking, and we
14 just felt this was much more attractive to have a higher
15 pitch, we weren't changing anything on this level, it was
16 just really dealing with the articulated, to create more
17 interest.
18 MR. KLINE: Right. And as the Staff Report points
19 out you can go up to six stories if the building is in
20 keeping with the character of the neighborhood, so can you
21 just kind of describe what's around it that makes you feel
22 this whatever, maybe three feet to four feet higher is still
23 in keeping with the character of the neighborhood?
24 MR. SCHUTZ: Yes, we're not -- the nearest home
25 here off of Compton and Malibu is quite a distance away,

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1 these are back --
2 MR. KLINE: So, you're now talking about the east
3 of the site?
4 MR. SCHUTZ: On the east side.
5 MR. KLINE: Right.
6 MR. SCHUTZ: For the homes to the east side are
7 separated by quite a good distance as well as the north
8 side. And the scale as you look -- when we drove around we
9 actually did some imagery where we looked between the homes
10 just, and through the computer set the building in just to
11 make sure that we wouldn't be looming or towering over
12 anything. And quite frankly with the trees that are there,
13 and with the ones that we're going to plant it felt fine, it
14 felt good, but we articulated the back of the building like
15 we did the front because you will see it in the wintertime,
16 there, as the leaves drop off you will see it, and so you
17 want the building to be attractive. We really are visible
18 360 degrees.
19 MR. KLINE: And there is a letter that I sent Ms.
20 Reilly at Park and Planning Commission sort of justifying
21 the height issue by saying that there are buildings in the
22 surrounding neighborhood, usually institutional buildings,
23 that are taller than 35 feet.
24 MR. SCHUTZ: That is correct.
25 MR. KLINE: Yes. Right. So, you feel this blends

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1 in, fits in, and is in harmony with the character of the
2 neighborhood?
3 MR. SCHUTZ: Yes, sir.
4 MR. KLINE: I have no further questions of Mr.
5 Schutz.
6 MS. ROBESON: Okay. So, you have the articulation
7 all the way around?
8 MR. SCHUTZ: That's correct.
9 MS. ROBESON: Okay. All right. Mr. Weiss, do you
10 have any questions of Mr. Schutz?
11 MR. WEISS: In the noise study, you're talking
12 about cumulative noise study, that also taking the generator
13 and the transformers?
14 MR. SCHUTZ: That's correct. Transformers don't
15 really generate any noise, but the emergency generator does.
16 MR. WEISS: Well, actually, transformers, I've
17 been next to transformers, they do, especially if they're
18 not maintained, so it may not do it now, but within five
19 years if you don't maintain it --
20 MR. SCHUTZ: Yes.
21 MR. WEISS: -- it will make a noise.
22 MR. SCHUTZ: Yes, these will make noise, too.
23 MR. WEISS: Yes.
24 MS. ROBESON: Okay. Anything, do you have any
25 follow up based on that?

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1 MR. KLINE: Well, I will just say, just why don't
2 you quickly just describe how you come up with a noise
3 attenuation box for that transformer to ensure that the
4 noise doesn't spill out?
5 MR. SCHUTZ: The generator.
6 MR. KLINE: The generator. Yes, right.
7 MR. SCHUTZ: Well, you can actually just go down
8 the street and see one, which is at the Victory Court
9 project, that has a, it's almost as if you put the generator
10 and you build a box around it, and the sound has baffles in
11 it, and I have to say when you don't have it it's very noisy
12 and you can walk up to that one and you can't hear anything,
13 it's amazing. But it's pricy, but to meet the Code you have
14 to do that.
15 MR. KLINE: All right. No further questions.
16 MS. ROBESON: Okay. Thank you. Your next
17 witness.
18 MR. KLINE: Miss. Creedon.
19 (Discussion off the record.)
20 MS. ROBESON: Please raise your right hand.
21 (Witness sworn.)
22 MS. ROBESON: Okay. Go ahead, Mr. Kline.
23 MR. KLINE: Ms. Creedon, could you please spell
24 your name and give us your professional address, your
25 business address?

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1 MS. CREEDON: Yes, it's Donna Creedon, C-R-E-E-D-
2 O-N, my address is 1330 New Hampshire Avenue, Northwest,
3 Suite 116 in Washington, D.C. 20036.
4 MR. KLINE: And you're employed by whom?
5 MS. CREEDON: I'm employed by Mission First
6 Housing Development Corporation, which is a member of the
7 Mission First Housing Group. We are a non-profit 501(c)(3)
8 developer of affordable housing, and provider of resident
9 services.
10 MR. KLINE: And what is your role with Mission
11 First?
12 MS. CREEDON: My role is Senior Development
13 Manager, and as such I am responsible for working with our
14 partners in identifying potential projects, working with
15 them to fine tune their vision and their goals, assembling a
16 project team of qualified consultants, arranging for the
17 financing, overseeing the design and construction, and
18 working through lease up, at which point the property
19 management component takes over and manages the property.
20 MS. ROBESON: Okay.
21 MR. KLINE: And is it fair to say that you and
22 your company use your expertise in this field of housing to
23 convert the vision that you heard from Reverend Spearman
24 into a workable building and operations program?
25 MS. CREEDON: Yes, we have been in business for

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1 over 25 years doing that.
2 MS. ROBESON: Do you -- who owns the property
3 after you develop it?
4 MS. CREEDON: Well, the property will be developed
5 through low income housing tax credits.
6 MS. ROBESON: Okay.
7 MS. CREEDON: The owner of the property will
8 actually be a single purpose entity, LLC.
9 MS. ROBESON: Oh, I see. Okay.
10 MS. CREEDON: Composed of the tax credit
11 investors, and then the other members of the team.
12 MS. ROBESON: Okay, just for that property.
13 MS. CREEDON: Yes.
14 MS. ROBESON: I understand.
15 MS. CREEDON: Mount Jezreel will retain an
16 ownership interest, Mission First will retain an ownership
17 interest, as well.
18 MS. ROBESON: And then the investors will?
19 MR. KLINE: Uh-huh.
20 MS. ROBESON: Okay. I understand.
21 MR. KLINE: Should we be asking the Hearing
22 Examiner to include a condition that there is an entity yet
23 to be created that will actually be the operator of the
24 Special Exception, that should be the Special Exception
25 holder, and should we be asking to grant it in the name of

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1 Mount Jezreel or an entity to be designated in the future?
2 MS. CREEDON: YES, I think that would be
3 appropriate.
4 MS. ROBESON: Okay.
5 MR. KLINE: Frankly, that just came to my mind.
6 It's certainly a common element.
7 MS. ROBESON: Right. Right. Okay.
8 MR. KLINE: Yes.
9 MS. ROBESON: Go ahead. That was a good thought.
10 MR. KLINE: Well, it comes up regularly in this
11 kind of thing because of all the tax --
12 MS. ROBESON: Right.
13 MR. KLINE: -- increment. The reason I'm
14 hesitating here for a second is whether I should go through
15 the exercise of qualifying her as an expert because you can
16 tell she certainly has a lot of experience doing this, but
17 I'm not sure it necessarily needs to be expert testimony
18 either.
19 MS. ROBESON: I don't think it does. I think
20 it --
21 MR. KLINE: That's fine.
22 MS. ROBESON: -- your experience goes to the
23 weight of the testimony, though, and I'm not sure exactly
24 how, what area I would qualify you in I was kind of thinking
25 that, too. So, but it will certainly go to how much weight

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1 we give your testimony.
2 MR. KLINE: Well, then let me take you back to the
3 comment about what your role was, when Mount Jezreel
4 approached Mission First how did you sit down and work out
5 the game plan?
6 MS. CREEDON: We met with Reverend Spearman, Mr.
7 Louviere who is also here, Mr. Paul Rowe, Ms. Carolyn
8 Allston, and other members of their committee, and first of
9 all listened to them describe what it was they wanted to
10 achieve, and we described for them how we would approach the
11 project, what steps we would take. We knew that there would
12 be a Special Exception process to go through, and a
13 subdivision process to go through, we described that, those
14 processes to the Church. We made recommendations as to who
15 we would assemble on the project team, and introduced the
16 Church to those members of the project team. We began to
17 develop a preliminary budget, talked about the unit mix that
18 would be appropriate for senior housing in this location,
19 and worked with them to begin the implementation of the
20 process.
21 MS. ROBESON: Thank you.
22 MR. KLINE: I'm not sure that we've really talked
23 that much about what is the mix, so tell us what we want to
24 do here?
25 MS. CREEDON: Okay. So, the, it's a 75-unit

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1 property, it is a mix of one and two-bedroom apartments.
2 We --
3 MR. KLINE: Let me make it easier for you --
4 MS. CREEDON: Yes.
5 MR. KLINE: -- here. Okay. So, the Technical
6 Staff Report recommendation says 85 residences is my
7 recollection. Okay?
8 MS. ROBESON: I thought they said 75.
9 MS. CREEDON: Seventy-five units.
10 MR. KLINE: It's 75 units.
11 MS. ROBESON: I'm sorry.
12 MR. KLINE: And recommended condition number two
13 on page two says maximum numbers of residents may not exceed
14 86 persons. And in our preparation for this hearing today
15 we kind of did this oops, can you explain the oops?
16 MS. CREEDON: Yes. Mission First --
17 MS. ROBESON: I'd say that was a leading question,
18 but I'm not sure where, so go ahead.
19 MR. KLINE: Well, she's going to get to blame me
20 for the oops, so that's --
21 MS. ROBESON: Okay. Go ahead.
22 MS. CREEDON: No, we'll share the blame for this
23 because I didn't catch it earlier, either. When we were in
24 the process of preparing the documents on this project we
25 had a conversation in which we talked about how many people

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1 per unit we would typically assume. If they were all one-
2 bedroom units we would typically assume a factor of 1.15, in
3 other words --
4 MS. ROBESON: Okay.
5 MS. CREEDON: -- there could be some one-bedroom
6 apartments that could have a couple living in them, a
7 married couple living in them, or two people, two siblings
8 living in them.
9 MS. ROBESON: Right.
10 MS. CREEDON: So, it's more than a one to one.
11 During that conversation we neglected to calculate the
12 number of people that would be living in the two-bedroom
13 apartments, which would typically be two people. So, we --
14 MS. ROBESON: Okay.
15 MS. CREEDON: -- have 56 apartments that are one-
16 bedrooms, and if you multiply those times 1.15 you get 64
17 residents likely.
18 MS. ROBESON: Okay.
19 MS. CREEDON: We have 19 two-bedroom apartments.
20 MS. ROBESON: Okay.
21 MS. CREEDON: And if you multiply the 19 times two
22 you get an additional 38 potential residents, so we're
23 really looking at a likely head count if you will of 102
24 residents.
25 MS. ROBESON: Okay.

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1 MR. KLINE: And the --
2 MS. ROBESON: You know where that leads me? Does
3 it affect your traffic statement? You don't have to answer
4 that at the moment --
5 MR. KLINE: Sure.
6 MS. ROBESON: -- but go ahead.
7 MS. CREEDON: Well, I asked the same question when
8 we discovered this, and my understanding is the traffic cap
9 is based on the unit count.
10 MS. ROBESON: Oh, the ITE is, is that in the
11 record? Well, when I refer it back --
12 MR. KLINE: Well, we'll have a witness. Yes.
13 MS. ROBESON: -- I'll get that from them.
14 MR. KLINE: Yes. Let me tell we're -- well, let
15 me ask this question. So, the 85 is actually the 75 units
16 times 1.15 assuming they were all one-bedroom units --
17 MS. CREEDON: Right.
18 MR. KLINE: -- and that's why we came up short.
19 We --
20 MS. ROBESON: Well, wait, I thought she said 56
21 one bedrooms equals 64 residences, is that --
22 MS. CREEDON: Yes.
23 MS. ROBESON: -- correct?
24 MS. CREEDON: Yes.
25 MS. ROBESON: Okay.

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1 MS. CREEDON: But if we, we mistakenly took the 75
2 total apartment number and multiplied it times 1.15.
3 MS. ROBESON: I see. Okay. I understand. I'm
4 sorry, go ahead.
5 MR. KLINE: No, and it was, the mistake was in our
6 office, and we heard 1.15, we just multiplied it times 75
7 instead of breaking it down --
8 MS. ROBESON: Okay.
9 MR. KLINE: -- and came up with a short number.
10 So, what I was going to do was file an amended statement of
11 operations and come up with the proper math as to increase
12 the population up to 103, submit that to you and Ms.
13 Reilly --
14 MS. ROBESON: Okay.
15 MR. KLINE: -- and ask for Staff and Park and
16 Planning to opine on both the plans we submitted to them
17 plus this additional --
18 MS. ROBESON: Okay.
19 MR. KLINE: -- factor. And, but there will be
20 testimony today from the traffic engineer confirming that
21 there, it has no relevance to the traffic --
22 MS. ROBESON: Okay.
23 MR. KLINE: -- issue. And, I will, but I will be
24 asking Ms. Creedon is if we have 20-some more people is it
25 going to be louder, or more active, that sort of thing.

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1 MS. ROBESON: This is independent alone?
2 MS. CREEDON: Independent living.
3 MS. ROBESON: Not independent assisted, just
4 independent?
5 MS. CREEDON: Independent living.
6 MR. KLINE: Yes.
7 MS. ROBESON: Okay, go ahead.
8 MR. KLINE: Well, so taking it back to my comment
9 about the level of activity, how this operates, I mean, what
10 are the hours of operation? How does it actually, when you
11 open it up how does it work?
12 MS. CREEDON: Okay. So, in a property of this
13 size, I'll talk about staffing first, we would typically
14 have between three and four full-time employee equivalents.
15 There would be a full-time property manager; there would be
16 a porter; and there would be a maintenance tech; and then at
17 certain times we would have a fourth staff person there,
18 typically during initial lease up when things are very busy
19 with people moving in; and then at various other times, for
20 example, when income re-certifications have to be done, or
21 there's an unusual amount of paperwork that has to happen.
22 The business hours are typically business hours, 9:00 to
23 5:00, 8:30 to 5:30, somewhere in that range, and because
24 this is independent living the property is not staffed
25 around the clock, there are no healthcare professionals on

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1 site, it's strictly independent living. Some of these
2 residents may in fact still be working. So --
3 MS. ROBESON: Is it age restricted?
4 MS. CREEDON: It is age restricted. yes.
5 MS. ROBESON: Fifty-five plus?
6 MS. CREEDON: Fifty-five plus.
7 MR. KLINE: Actually, in the Zoning Ordinance it
8 will be 62.
9 MS. CREEDON: Sixty-two, I'm sorry.
10 MR. KLINE: Sixty-two. Yes.
11 MS. ROBESON: Oh, that's right. You're right.
12 Okay.
13 MS. CREEDON: Thank you.
14 MR. KLINE: Just so there's no mistake.
15 MS. ROBESON: I wasn't saying we were going to
16 cheat.
17 MR. KLINE: Yes. And I do want to make sure we
18 don't -- condition number three, recommended condition
19 number three says maximum number of employees will be four
20 with no more than three on site at any one time.
21 MS. ROBESON: Okay.
22 MR. KLINE: Is that still consistent with --
23 MS. CREEDON: Yes.
24 MR. KLINE: -- what you're describing?
25 MS. CREEDON: Yes.

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1 MR. KLINE: Okay. There was a question about
2 trash pickup, the recommended condition was after 9:00 a.m.
3 on weekdays, can you control that, can you enter into
4 contract --
5 MS. CREEDON: Oh, yes.
6 MR. KLINE: -- with trash companies to be able to
7 control that?
8 MS. CREEDON: Yes, our property management staff
9 would enter into a contract and specify the hours --
10 MR. KLINE: Okay.
11 MS. CREEDON: -- they would be restricted to.
12 MR. KLINE: Just tell us about what's the
13 lifestyle going to be? What are you doing for these people?
14 What are the services you're going to be providing?
15 MS. CREEDON: Okay. Sure. Well, we strive to
16 build and manage properties where seniors can be as active
17 as they would like to be. We do not provide food service or
18 meal service or anything like that, these folks are expected
19 to be able to prepare and serve their own meals, but we do
20 provide a range of activities for them that they can
21 participate in if they would like to. So, one of the
22 biggest jobs of the property manager is to set up a calendar
23 of activities, and that can include things such as having
24 speakers come in talk about health and wellness, they can
25 bring someone in to do a blood pressure screening every

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1 quarter, there could be movie nights, there could be BINGO,
2 or mahjong, or bridge, you know, arts and crafts, field
3 trips to places of interest, to the library. The church,
4 I'll talk about this a little bit out of order, but the
5 church does have several vans, 12, 16-person vans which they
6 are going to make available to the residents --
7 MS. ROBESON: Good.
8 MS. CREEDON: -- to take them to a variety of
9 different places. Certainly this region has a vast --
10 MS. ROBESON: Lots to do.
11 MS. CREEDON: Lots to do.
12 MS. ROBESON: Yes.
13 MS. CREEDON: Lots of places to go and things to
14 do.
15 MR. KLINE: Is there any, I was going to use the
16 word symmetry, but I guess it's actually synergism between
17 the elderly housing, the school, and the church? I mean, do
18 you envision being able to do some things together because
19 of having all those different age groups in one place?
20 MS. CREEDON: Yes, I definitely do, and I think
21 that is one of the aspects that made the site so appealing
22 to us as a potential site is the fact that there is the
23 school right across the driveway, and the church has
24 certainly expressed an interest in being able to provide
25 various ministries to the residents. We anticipate that

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1 some of the residents will in fact be church members,
2 although it certainly won't be restricted in any way.
3 MR. KLINE: You've had a chance to familiarize
4 yourself with the Zoning Ordinance requirements dealing with
5 income eligibility.
6 MS. CREEDON: Yes.
7 MR. KLINE: Do you know today kind of what
8 percentages of very low, low MPU incomes you're going to
9 have, or how you're going to satisfy the Ordinance
10 requirements?
11 MS. CREEDON: Yes. The proforma that we have been
12 operating from right now shows that we will have five
13 percent of the units will be at 30 percent area median
14 income, or AMI; seven percent of the units will be at 40
15 percent; 15 percent will be at 50 percent.
16 MS. ROBESON: I'm sorry, how many?
17 MS. CREEDON: Fifteen percent, I'm sorry, will be
18 at 50 percent.
19 MS. ROBESON: Okay.
20 MS. CREEDON: And I'll run through and give you
21 the unit counts, as well, when I'm done with this. Another
22 27 percent will be at 60 percent; and then there will be 11
23 percent of the units will be unrestricted.
24 MR. KLINE: What you would call market rate units?
25 MS. CREEDON: We would call them market rate, but

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1 typically when we have unrestricted units we try to target
2 them toward folks who might be in that 80 to 90 percent AMI
3 range, so slightly below what would be seen in the market as
4 a true market rate. So, of the 75 units then four would be
5 at 30 percent, five would be at 40, 11 would be at 50, 47
6 would be at 60, and then we would have eight unrestricted.
7 MR. KLINE: And will that proforma change as you
8 go out into the, quote, market to find lending, or tax
9 finance, how, whatever, however you're going to finance the
10 property?
11 MS. CREEDON: Well, it can only change up to the
12 point at which we apply for our low income housing tax
13 credit allocation, at which point it's set in time, so once
14 that allocation has been made we're legally bound to meet
15 that kind of distribution.
16 MR. KLINE: Okay. But that mixture will satisfy
17 the Zoning Ordinance requirements --
18 MS. CREEDON: Yes.
19 MR. KLINE: -- for the mix? Okay. Great. Would
20 this -- did you anticipate this project would have an
21 activity level that would be incompatible or inconsistent
22 with the surrounding residential neighborhood?
23 MS. CREEDON: No, not at all, we hope that our
24 properties are active, but given the population I think
25 that, you know, the activity will largely be within the

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1 building, that there, you know, we're not expecting large
2 loud parties on Saturday nights necessarily, although we
3 certainly do expect that there will be some activities that
4 the seniors will want to participate in. I don't foresee
5 anything that would be viewed as detrimental to the
6 neighborhood or inconsistent with the neighborhood.
7 MR. KLINE: Did you say how many of these
8 facilities you've done? Or maybe you said how long you've
9 been doing it?
10 MS. CREEDON: I talked about how long I've been
11 doing it. I personally have been involved with 11 senior
12 residential developments, including time before I was with
13 Mission First. Mission First has developed over 2,000
14 units, I'm going to estimate that about 300 of those units
15 are probably senior housing.
16 MR. KLINE: And what I'm leading up to is a Zoning
17 Ordinance question about is there anything about the use
18 that itself, the operations, noise, fumes, odors, anything
19 that would be objectionable to the surrounding neighborhood,
20 or to residents in the building?
21 MS. CREEDON: No, I don't think so. It is a
22 multi-family building, it does have a trash compactor in it,
23 but one reason we have moved toward using trash compactors
24 rather than dumpsters is because it's much easier to control
25 that which is, you know, probably seen as the, you know, the

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1 most likely to cause an odor problem.
2 MR. KLINE: Okay. So, you feel this use could be
3 operated in harmony with the surrounding predominantly
4 residential neighborhood?
5 MS. CREEDON: Yes, I do.
6 MR. KLINE: Okay. No further questions of Ms.
7 Creedon.
8 MS. ROBESON: Okay. Thank you.
9 MS. CREEDON: Thank you.
10 MS. ROBESON: I'm sorry, Mr. Weiss, do you have
11 any questions for this witness?
12 MR. WEISS: No, I don't.
13 MS. ROBESON: Okay. Go ahead.
14 MR. KLINE: Okay.
15 MS. CREEDON: Thank you.
16 MR. KLINE: Mr. Welke.
17 MS. ROBESON: Mr. Welke, please raise your right
18 hand.
19 (Witness sworn.)
20 MS. ROBESON: Thank you. Go ahead and I will make
21 his resume Exhibit 42.
22 (Exhibit No. 42 was marked for
23 identification.)
24 MS. ROBESON: Go ahead, Mr. Kline.
25 MR. KLINE: Just by way of explanation, if you

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1 look at our statement of operations you'll see, or I'm
2 sorry, summary of proof, you'll see that we had listed a
3 traffic engineer, Mr. Cherian Eapen --
4 MS. ROBESON: Yes, I saw that.
5 MR. KLINE: Right. Mr. Eapen is in India as we
6 speak, and though he is, loves this project he was not going
7 to change his travel plans, so I'm going to ask Mr. Welke to
8 basically explain your relationship with Mr. Eapen and why
9 you're here today?
10 MR. WELKE: Okay. Yes. My name is Ron Welke. I
11 live at -- that's W-E-L-K-E, I live at 7078 Catalpa Road in
12 Frederick, Maryland 21703. Mr. Eapen and I worked together
13 for several years at the Park and Planning Commission in
14 Montgomery County where I was Supervisor of Development
15 Review, and he was one of the Planners that worked for me.
16 MS. ROBESON: Okay. Did you take over from Joe
17 Davis?
18 MR. WELKE: No, I took over for Bud Lean --
19 MS. ROBESON: Okay.
20 MR. WELKE: -- and Ed Ferger before.
21 MS. ROBESON: Okay. I'm qualifying him. No.
22 MR. KLINE: Well, it's interesting because I was
23 going to say have you ever qualified as an expert? And the
24 simple fact of the matter is he's been telling people what
25 to come up here and say, and he's probably not --

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1 MS. ROBESON: I know, but --
2 MR. KLINE: -- ever appeared before -- have you
3 ever appeared before the Hearing Examiner?
4 MS. ROBESON: Oh, as an expert. Okay. All right.
5 MR. WELKE: I have appeared before the Hearing
6 Examiner, before the County Council, and before the Planning
7 Board, but in a generation back. Stan Abrahms --
8 MS. ROBESON: Particular --
9 MR. WELKE: -- was, and then --
10 MS. ROBESON: Okay. We --
11 MR. WELKE: Anyhow.
12 MS. ROBESON: Wait. If knowing Stan Abrahms means
13 you're an expert that's not swaying me.
14 MR. WELKE: Okay.
15 MS. ROBESON: No. I'm teasing.
16 MR. KLINE: I think you say I was doing it
17 backwards, Stan Abrahms was sitting --
18 MS. ROBESON: Okay.
19 MR. KLINE: -- in your seat.
20 MS. ROBESON: All right. No, I --
21 MR. KLINE: Which tells you how old we are
22 getting.
23 MR. WELKE: That's right. Yes.
24 MS. ROBESON: All right.
25 MR. KLINE: Mr. Welke's resume shows an extreme

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1 depth of experience, he's now I guess working on his third
2 job with agencies in the Transportation Planning Traffic
3 Engineering industry, and I'd like to, I'll offer him as an
4 expert in those subjects.
5 MS. ROBESON: Are you an expert traffic engineer,
6 or transportation planner?
7 MR. WELKE: Interesting question. My degree is in
8 engineering --
9 MS. ROBESON: Right.
10 MR. WELKE: -- which I did for 30-plus years with
11 the District of Columbia and Montgomery County. When I went
12 to Park and Planning I was considered a transportation
13 planner.
14 MS. ROBESON: Okay. But you are an engineer?
15 MR. WELKE: I am an engineer.
16 MS. ROBESON: Okay.
17 MR. WELKE: Yes.
18 MS. ROBESON: I'll qualify him as a traffic
19 engineer transportation planner, how's that?
20 MR. KLINE: That's fine. That's wonderful.
21 MS. ROBESON: Okay.
22 MR. KLINE: Let's get, take care of the first
23 thing, and that is you heard our discussion with Ms. Creedon
24 about the desire to increase the population of the building,
25 does that have any affect or any repercussions with regard

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1 to the traffic study that's in the record of the case?
2 MR. WELKE: No, it does not, the trip generation
3 is based on number of units, not on number of people.
4 MS. ROBESON: Does it matter if it's one or two
5 bedroom units?
6 MR. WELKE: No.
7 MS. ROBESON: No? Okay.
8 MR. KLINE: Mr. Welke, in the record is a, and I
9 won't say an LATR, but a traffic study prepared by Mr.
10 Eapen, have you had an opportunity to review that study?
11 MR. WELKE: Yes, I have.
12 MR. KLINE: In fact, did you and Mr. Eapen discuss
13 this project at all while he was preparing this study?
14 MR. WELKE: Yes, we got together at his home on
15 August 5th and he went over in detail the traffic statement
16 that he had prepared, and the backup information for it.
17 MR. KLINE: Okay. Could you please describe Mr.
18 Eapen's, basically his methodology of analysis, and his
19 findings and conclusion?
20 MR. WELKE: Yes, the adequate public facilities
21 ordinance has two components, local area, transportation
22 review, and transportation policy area of review, I have to
23 remember the acronyms that are --
24 MS. ROBESON: Yes, they're changing every --
25 MR. WELKE: Yes, they are. Yes.

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1 MS. ROBESON: -- couple of years.
2 MR. WELKE: With regard to LATR Mr. Eapen
3 determined based on the trip generation in ITE that the
4 senior housing facility would generate fewer than 30 weekday
5 peak hour trips morning and evening, therefore a traffic
6 study is not required. With regard to policy area, this
7 site is located in the Silver Spring/Takoma Park policy
8 area, and that requires a transportation mitigation payment
9 based on inadequate transit capacity within that area, and
10 the Applicant is prepared to satisfy that requirement by
11 making a payment equivalent to 25 percent of the general
12 district transportation impact tax prior to releasing any
13 building permits. So, those two together satisfy the APF
14 requirements.
15 MS. ROBESON: Okay.
16 MR. KLINE: This property will have to go through
17 the subdivision process because there are two unplatted lots
18 today?
19 MR. WELKE: That's correct.
20 MR. KLINE: At the time of the preliminary plan of
21 subdivision there will be a new traffic study done to
22 analyze these issues again, and to take into account the
23 operation of the church/school, as well?
24 MR. WELKE: Yes. Matter of fact, Mr. Eapen has
25 already conducted a traffic study, it was dated January,

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1 2015.
2 MS. ROBESON: Okay.
3 MR. WELKE: It has been submitted to the Planning
4 Board and has been accepted by the Planning Board, the State
5 Highway Administration, and the County Department of
6 Transportation as being acceptable.
7 MR. KLINE: And that is pending review of the
8 preliminary plan of subdivision which will be taken up when
9 the Special Exception is completed?
10 MS. ROBESON: Now, does that, that doesn't require
11 any road improvements, does it?
12 MR. WELKE: No. There was a finding that the
13 intersections meet the congestion standard, and the only
14 improvement I'm aware of is building a shared use path
15 across the frontage of the property.
16 MS. ROBESON: Okay. All right.
17 MR. KLINE: Then for the, at the point where we
18 are today is Mr. Eapen's conclusion that the transportation
19 network in existence adequate to accommodate that traffic
20 will be generated by the proposed use?
21 MR. WELKE: Yes, that's correct. I've reviewed
22 his statement and yes, that is correct.
23 MR. KLINE: And that was my next question. And
24 you've reviewed that, and you concur in his conclusions?
25 MR. WELKE: Yes, I did.

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1 MS. ROBESON: Okay.
2 MR. KLINE: I have no further questions of Mr.
3 Welke.
4 MS. ROBESON: Okay. All right. Thank you.
5 MR. WELKE: You're welcome.
6 MS. ROBESON: Mr. Weiss, do you have any questions
7 of Mr. Welke?
8 MR. WEISS: Yes. I think a couple.
9 MS. ROBESON: Can you come forward so the tape,
10 the transcript picks you up?
11 MR. WEISS: I noticed that the study only took
12 into consideration traffic on University Boulevard, and the
13 affect that the property has on it, is that correct?
14 MR. WELKE: Yes.
15 MR. WEISS: Is there a reason why you didn't do a
16 study also on the residential streets that surround the
17 property?
18 MR. WELKE: All right. Let me distinguish, a
19 traffic study was not performed for the Special Exception, a
20 traffic statement was submitted indicating that a traffic
21 study was not required because of the number of trips
22 generated by the Special Exception. So, there was no
23 traffic study done for the --
24 MR. WEISS: Okay.
25 MR. WELKE: -- Special Exception.

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1 MR. WEISS: But you haven't done no study, or, was
2 done on the effect of traffic or parking in the residential
3 roads?
4 MR. WELKE: That is correct.
5 MR. WEISS: Are you required to do that, or no?
6 MR. WELKE: No, we're not. No.
7 MR. WEISS: Okay.
8 MS. ROBESON: Thank you. Any follow up, Mr.
9 Kline?
10 MR. KLINE: No. No follow up.
11 MS. ROBESON: Okay. You may be excused. Thank
12 you.
13 MR. WELKE: Thank you.
14 MR. KLINE: You don't have to hang out if you
15 don't want to.
16 MR. WELKE: Okay. Thanks.
17 MS. ROBESON: Any other witnesses?
18 MR. KLINE: Go back to Mr. Reddan, and wrap it up
19 with Mr. Reddan.
20 MS. ROBESON: Okay. Thank you. Mr. Reddan?
21 You're still under oath.
22 MR. REDDAN: Understood.
23 MR. KLINE: But you're still an expert, though.
24 (Discussion off the record.)
25 MS. ROBESON: For the record, I was referring to

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1 Mr. Welke's exit. Okay, go --
2 MR. KLINE: Well, no. No. I mean, Mr. Welke has
3 had a distinguished career with the District of Columbia,
4 then with the County DOT, then with Park and Planning, and
5 now still acts as a consultant, so he's been doing this a
6 long time.
7 MS. ROBESON: Okay, Mr. Reddan.
8 MR. KLINE: Let's just, let's talk about Exhibit
9 36, we were talking about the subdivision with Mr. Welke.
10 The black line that sort of outlines the footprint of the
11 building represents the difference between lot one and lot
12 two on the proposed preliminary plan of subdivision?
13 MR. REDDAN: That's correct. Right.
14 MR. KLINE: Okay. And the forest conservation
15 easements that Mr. Foster talked about will be imposed on
16 both lots, I guess --
17 MR. REDDAN: Correct.
18 MR. KLINE: -- right? Okay. And the green area
19 is actually, I guess you've got probably a little notation
20 up here at the top that says forest conservation, so this
21 Exhibit 36 shows the general location where that's going to
22 occur?
23 MR. REDDAN: Yes.
24 MR. KLINE: All right. And --
25 MS. ROBESON: Now, let me just ask you, is this

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1 rebuttal, do you want to have Mr. Weiss come up, or is
2 this --
3 MR. KLINE: It actually finishes out his
4 testimony.
5 MS. ROBESON: Okay. I'm sorry. Go ahead.
6 MR. KLINE: Right. I mean, I've probably maybe
7 belabored that point a little bit, I don't have to go too
8 far for that. Condition number eight of the, I'm sorry,
9 recommended condition number eight says the Applicant must
10 have a public access easement at least 20 feet wide over the
11 looped driveway, so I presume that's the looped driveway we
12 talked about?
13 MR. REDDAN: It is the looped driveway we talked
14 about.
15 MR. KLINE: And it's required because why? This
16 is on private property?
17 MR. REDDAN: It's required because lot two has no,
18 would have no functional access to it from Malibu Street, it
19 fronts on Malibu Street but it won't have a functional
20 access.
21 MR. KLINE: Did you get those lot numbers right?
22 MR. REDDAN: I'm sorry, lot one is where the
23 senior housing is going to be located, it fronts on Malibu
24 Street, it satisfies the requirement of fronting on a public
25 road, but it has no functional access, so the only

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1 functional access will be from University Boulevard, which
2 is on another piece of property, you'd have to cross lot two
3 to get to lot one.
4 MR. KLINE: Okay. Do you recall or do you have
5 access to basically a development standards table? How much
6 parking, when we talk about where parking is located, how
7 much is required and how much is being provided?
8 MR. REDDAN: Fifty-three spaces are required, and
9 55 spaces are provided.
10 MR. KLINE: And that's, is that all within the
11 limits of the Special Exception area?
12 MR. REDDAN: All 55 parking spaces are within the
13 limits of lot one, the Special Exception lot.
14 MR. KLINE: So, the parking that is shown on the
15 north side of the access driveway in what would be on lot
16 two is, is what?
17 MR. REDDAN: The parking that's shown on lot two
18 would be for the use of lot two, the church, it would be for
19 the church's use.
20 MR. KLINE: Presumably overflow parking on Sundays
21 if they needed --
22 MR. REDDAN: Yes.
23 MR. KLINE: -- spaces back there? Okay. There is
24 on the face of one of our plans, I don't have it in front of
25 us here, a development standards table, does the proposed

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1 use meet all the development standards of the zone, or the
2 requirements for the Special Exception conditions?
3 MR. REDDAN: Yes.
4 MS. ROBESON: How wide is that access? How wide
5 is that loop?
6 MR. REDDAN: It's 20 feet.
7 MS. ROBESON: Okay. How --
8 MR. REDDAN: Clear.
9 MS. ROBESON: Okay. How wide is that middle
10 access roadway?
11 MR. REDDAN: The right in from University
12 Boulevard?
13 MS. ROBESON: Yes.
14 MR. REDDAN: I don't recall offhand how wide that
15 is. I don't know offhand.
16 MS. ROBESON: But that's not going to be covered
17 by the public accesses?
18 MR. REDDAN: It's not. No, that would not be
19 covered by the ingress/egress easement.
20 MS. ROBESON: Okay.
21 MR. KLINE: But it probably doesn't need to be 20
22 feet wide because it's only going to function inbound only,
23 right? You can't --
24 MR. REDDAN: Correct.
25 MR. KLINE: -- go up that?

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1 MR. REDDAN: It's one way.
2 MS. ROBESON: Okay. And then to get out you
3 circle out to the outer loop?
4 MR. REDDAN: That's correct.
5 MR. KLINE: All right.
6 MS. ROBESON: Okay.
7 MR. KLINE: Just give us a brief explanation of
8 how the property will be served by public sewer and water
9 service.
10 MR. REDDAN: There is currently water service to
11 the church, a fire line and a domestic line separate. The
12 church is also served by an existing sanitary line which
13 goes from the church through lot two, I'm sorry, from the
14 church through lot one, and down to Malibu Street. The
15 sanitary line for the senior housing would connect to that
16 sanitary line I just described coming from the church. The
17 water service for the senior housing would come from, I'm
18 forgetting the name of the street, Greer Avenue, water
19 service would come from Greer Avenue, and --
20 MR. KLINE: Which is to the north of the property?
21 MR. REDDAN: Which is to the north of the
22 property.
23 MS. ROBESON: And it's labeled on that Exhibit 36?
24 MR. REDDAN: Greer Avenue is labeled.
25 MS. ROBESON: Yes.

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1 MR. REDDAN: And there will be a water meter
2 placed out there, and a separate dedicated line, meaning
3 only for the use of lot one, there will be a dedicated water
4 line serving both fire and domestic in the same line going
5 to senior housing.
6 MS. ROBESON: Okay.
7 MR. KLINE: So, the property will be served by
8 adequate public sewer and water?
9 MR. REDDAN: It will.
10 MR. KLINE: Okay. In your professional opinion
11 from an engineering perspective is there anything about the
12 proposed use that would be detrimental to the use or
13 enjoyment of the surrounding properties, or residents in the
14 building, or visitors to the building?
15 MR. REDDAN: No, it would not be detrimental.
16 MS. ROBESON: Did you cover stormwater?
17 MR. KLINE: I'm sorry. Thank you. Thank you.
18 Would you please cover stormwater?
19 MR. REDDAN: Sure. We have an approved stormwater
20 concept plan from Montgomery County Department of Permitting
21 Services approved I think in January of this year.
22 MS. ROBESON: Okay.
23 MR. REDDAN: Basically, it complies with the
24 current State of Maryland stormwater management
25 environmental site design regulations, there will be micro-

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1 bio-retention facilities in the parking area here, micro-bio
2 retention, which is basically water quality, it's a very
3 long drawn out term for water quality facility that filters
4 the water and discharges it into the storm drain system.
5 There will be a bio-filtration facility back here, as well,
6 and a couple of bio-filtration facilities here that will be
7 treating the impervious area.
8 MR. KLINE: And when you say here, the island in
9 the center?
10 MR. REDDAN: Sorry, the large island in the center
11 in front of the main entrance to the facility will have two
12 bio-filtration devices.
13 MS. ROBESON: Okay.
14 MR. REDDAN: There will be additional devices in
15 the front, north of the front of the south leg of the
16 building in some planter boxes in the back, all tree
17 impervious area from the parking lot.
18 MR. KLINE: Exhibit G attached to the Staff Report
19 is a copy of the letter from the Department of Permitting --
20 MS. ROBESON: Okay.
21 MR. KLINE: -- Services granting the stormwater
22 management --
23 MS. ROBESON: Okay.
24 MR. KLINE: -- concept.
25 MS. ROBESON: Great. All right.

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1 MR. KLINE: I have no further questions of Mr.
2 Reddan. And that does conclude our presentation, also.
3 MS. ROBESON: Okay. Mr. Weiss, do you have any
4 questions of Mr. Reddan?
5 MR. WEISS: Not in particular, no.
6 MS. ROBESON: Okay. All right. You may be
7 excused, Mr. Reddan. Mr. Weiss, it's your turn, you've been
8 very patient. It's your turn to come up and say what you
9 would like to say, and raise any concerns that you have.
10 MR. WEISS: Thank you.
11 MS. ROBESON: Please raise your right hand.
12 (Witness sworn.)
13 MS. ROBESON: Okay. Thank you.
14 MR. WEISS: Okay.
15 MS. ROBESON: Oh, well, first -- I'm sorry. You
16 have to say your -- I'm not sure --
17 MR. WEISS: Name and address?
18 MS. ROBESON: -- we have your name and address,
19 and address on the record, do you mind just --
20 MR. WEISS: Sure.
21 MS. ROBESON: -- stating it?
22 MR. WEISS: My name is Howard Weiss, I live at
23 9414 Weaver Street in Silver Spring, the property on the, I
24 guess that's the east side of the property that we're
25 talking about.

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1 MS. ROBESON: Parallel to the north side face of
2 the building.
3 MR. WEISS: Right. Of the, yes, the upper part of
4 the L --
5 MS. ROBESON: Yes.
6 MR. WEISS: -- shape. In fact, the property --
7 MR. KLINE: I think we decided you're right here?
8 MR. WEISS: Yes, that's right. That's right.
9 MS. ROBESON: And right here is the third house
10 down from the north arrow.
11 MR. WEISS: That's right. And basically, the, if
12 you draw a line parallel to the edge of the north face it
13 splits my property.
14 MS. ROBESON: Okay.
15 MR. WEISS: And I just have a few concerns about
16 the project that I think haven't been addressed, although a
17 lot of them have been addressed --
18 MS. ROBESON: Okay.
19 MR. WEISS: -- which is why I'm glad I stayed and
20 listened. One thing is that the vegetation in the back of
21 the project is being reduced to just a 50-foot easement
22 between basically my property and there, and I have a real
23 concern about security. By removing all that vegetation
24 there was a discouragement for people from going from the
25 church property to actually accessing any of the houses on

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1 that street, and now with it reduced to 50 feet, and plus
2 you're telling me that they're also going to start removing
3 vegetation from there it's going to make it much more
4 desirable for someone to basically just come on the property
5 there and have access to the back of my house, or houses
6 along there, commit a crime, and then leave that way. Just
7 to let you know, the past six years my house has been broken
8 into three times, and they've come through the back but they
9 had to leave through the front because they couldn't go
10 through the back because of the vegetation. It didn't
11 really do much good knowing only one person saw a van one
12 time that I was broken into. But the thing is is that now,
13 now they don't have to go through, it looks to me that they
14 don't have to even park in front of the house, they can just
15 park in the lot in the back, go through there, go through
16 the back through the forest and have much easier access to
17 not only my house but other houses along that line.
18 When we first moved in here, into that house in
19 1982, we're the second owners, there was actually a trail
20 going through that forest, I happened to, from, to the, and
21 at the time was the synagogue that was there, and kids used
22 to go through there, the forest all the time as a way of
23 getting through. In fact, when we first moved our car was
24 there, someone attempted to break into the car, they only
25 did it that one time that we were there, and I think they

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1 came in through, I think what they did is they came in
2 through the forest, saw the car, and they saw an opportunity
3 and tried to take advantage of it. And fortunately, they
4 didn't get very far, and nothing really came of it.
5 But anyway, so my first real concern is security,
6 that by removing the forest you're making it much easier
7 access to the homes in the back.
8 I had a concern about the noise, but we discussed
9 that, and I'm very happy that they have addressed that.
10 And as far as also with the traffic, I asked about
11 the study, well, fairly thorough, and at least from what I
12 can determine did not address the effect of traffic in the
13 surrounding area. There isn't any direct access by cars,
14 but I know from experience people tend to park on Greer, and
15 I think it's Lowander, was it the, that's the --
16 MS. ROBESON: Right.
17 MR. WEISS: Yes.
18 MS. ROBESON: You're referring to Exhibit 36?
19 MR. WEISS: Thirty-six. Here's Greer, and then
20 Lowander is the street that goes around here.
21 MS. ROBESON: Okay. It goes parallel to the
22 northwest property line.
23 MR. WEISS: Right. And there's a pair of steps
24 there, people have access --
25 MS. ROBESON: When you say here you say --

1 MR. WEISS: Onto the --
 2 MS. ROBESON: -- to Greer --
 3 MR. WEISS: Yes. Yes.
 4 MS. ROBESON: -- onto the subject property?
 5 MR. WEISS: Right.
 6 MS. ROBESON: Okay.
 7 MR. WEISS: And what it is that I know, like I
 8 said, I know from experience that people tend to not park in
 9 here, they'll park over here because, especially if there's
 10 an event or something happening they'll park on Greer
 11 because the traffic to get out is much better than having to
 12 wait to access University Boulevard. So, what happens is
 13 that you have people parking all along here, and --
 14 MS. ROBESON: And when you say here?
 15 MR. WEISS: Lowander, and the northern part, and,
 16 and I just think that maybe a study should include how it
 17 affects traffic and parking around now that there will be
 18 more people wanting to stay here they may find it more
 19 convenient for them, as far as leaving, because rather than
 20 park on the property, park on some of the side streets
 21 instead.
 22 MS. ROBESON: Okay.
 23 MR. WEISS: And we have some concerns about the
 24 height of the building being 40 feet. I know, I saw some,
 25 the very preliminary design was that they had the building

1 actually up against our property line.
 2 MS. ROBESON: Okay.
 3 MR. WEISS: That's another thing. And that would
 4 have been, I mean, it would have -- but 40 feet and 50 feet
 5 away. I guess and when I saw that they, I only got your
 6 clerk sent me the, they had the CD, I had access to the file
 7 that you have --
 8 MS. ROBESON: Okay.
 9 MR. WEISS: -- and there was a CD on there and
 10 your clerk e-mailed me the contents of it which is how I got
 11 a lot of the plans and stuff.
 12 MS. ROBESON: Okay. Good.
 13 MR. WEISS: Which I would suggest that you try to
 14 get that available online.
 15 MS. ROBESON: We are working on it.
 16 MR. WEISS: Okay. And I saw the vegetation
 17 planting, which I was very happy to see --
 18 MS. ROBESON: Okay.
 19 MR. WEISS: -- that they actually had pretty nice
 20 plants, as far as I'm concerned, as far as the type of trees
 21 they're planting.
 22 MS. ROBESON: Okay.
 23 MR. WEISS: But still, 40 feet is 40 feet, and
 24 especially my wife is concerned because she does most of the
 25 gardening, and she plots some, but that's not as high a

1 priority. And also, I noticed that there was no timeline as
 2 far as how, when the project is finally approved to
 3 completion. I would, it would be at least helpful for me to
 4 know how long they're going to take to actually build this
 5 project so that we know when it's either being delayed, or
 6 when to expect certain things to happen so that --
 7 MS. ROBESON: Okay.
 8 MR. WEISS: -- when we see people going in the
 9 back there and moving stuff --
 10 MS. ROBESON: That you don't -- yes.
 11 MR. WEISS: -- we know it's not just some, that
 12 it's someone connected to the project.
 13 MS. ROBESON: Okay. Okay.
 14 MR. WEISS: Yes. And as far as everything else is
 15 concerned that's my main concern, main concern is security
 16 part of it, that --
 17 MS. ROBESON: Okay.
 18 MR. WEISS: -- I, especially since I, the last
 19 time we were broken into was a couple of months ago, so --
 20 MS. ROBESON: A couple of months.
 21 MR. WEISS: Uh-huh.
 22 MS. ROBESON: Okay.
 23 MR. WEISS: Uh-huh.
 24 MS. ROBESON: All right. Thank you. Don't leave
 25 yet. Mr. Kline, do you have any questions?

1 MR. KLINE: Only one question for Mr. Weiss.
 2 Would you agree with me that because of the topo with the
 3 natural features Greer is the only likely place that
 4 anybody's ever going to park offsite and come on the
 5 property?
 6 MR. WEISS: Yes, I think that's the most popular
 7 one because it has that access, I mean, it has those --
 8 MR. KLINE: Yes.
 9 MR. WEISS: -- stairs there which basically are
 10 inviting people to --
 11 MR. KLINE: Okay.
 12 MR. WEISS: -- the park there.
 13 MR. KLINE: No other questions.
 14 MS. ROBESON: Okay. Do you have any rebuttal?
 15 Let me do this, let's take a 10 minute break --
 16 MR. WEISS: Yes. Thank you.
 17 MS. ROBESON: -- and then you can think about it
 18 and we'll come back on the record --
 19 MR. WEISS: Yes, very good.
 20 MS. ROBESON: -- at 12:30.
 21 (OFF THE RECORD.)
 22 (ON THE RECORD.)
 23 MS. ROBESON: All right. We are back on the
 24 record. Go ahead, Mr. Weiss.
 25 MR. KLINE: Sure. We'll have, we'll call two very

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1 quick rebuttal witnesses.
2 MS. ROBESON: Okay. Fine.
3 MR. KLINE: Reverend Spearman, you've been here
4 through the whole presentation, you heard Mr. Weiss'
5 comments, can you describe basically your responses to some
6 of his concerns?
7 REVEREND SPEARMAN: Well, first of all, let me say
8 that we agree with Mr. Weiss that we are concerned about
9 security, and certainly as a church, and a church with a
10 school, elementary school children we are concerned about
11 security. And certainly with our project, seniors, seniors
12 are always concerned about safety and security, and we would
13 ensure that the property and project would be as secure as
14 possible, and I'm sure the architect can speak to other
15 elements of that.
16 With regard to parking to the north side, it has
17 been our experience in certainly recent years that certainly
18 members of our congregation have not misused the parking
19 responsibilities, and I think with the development it's
20 going to clear more open space, but also, again, provide an
21 opportunity for greater security, so we're concerned, we
22 take Mr. Weiss' comments very seriously.
23 And let me just add, Ms. Robeson, that during this
24 process in getting to this point that we've been engaged
25 with the community, the Franklin Knolls Civic Association,

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1 as well as the Clifton Park Civic Association. Franklin
2 Knolls to the north, Clifton Park to the south. They've
3 been, members of the community have joined with us in
4 helping shape this plan, in fact, we reduced the size of the
5 project because of the community's response, so we tend to
6 be very responsive to the community and their concerns.
7 MS. ROBESON: Okay.
8 MR. KLINE: Going along with Mr. Weiss' comments
9 about it would be nice to know when they're going to get
10 started, do you have some program in mind of when you're
11 ready to begin to work on the project you'll be letting the
12 neighborhood know?
13 REVEREND SPEARMAN: Oh, absolutely. In fact, one
14 of the things I think we look forward to is to invite the
15 community back again to say this is what has been approved,
16 this is where we're going, this is the time table that we've
17 been given for the project. Certainly.
18 MS. ROBESON: Okay.
19 MR. KLINE: No further questions.
20 MS. ROBESON: Okay. Mr. Weiss, do you have any
21 questions of Reverend Spearman?
22 MR. WEISS: No, I take his comments very
23 sincerely, and I appreciate him.
24 MS. ROBESON: Okay.
25 MR. WEISS: Addressing those concerns.

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1 MR. KLINE: Did you get those, are those on the
2 record, did you hear what he said?
3 MS. ROBESON: I didn't hear the very last thing.
4 MR. WEISS: I appreciate everything the Reverend
5 said.
6 MS. ROBESON: Okay. All right. Mr. Kline?
7 MR. SCHUTZ: Rather than sit down I should
8 probably just --
9 MR. KLINE: Sure.
10 MR. SCHUTZ: -- go straight to the drawing.
11 MR. KLINE: That's fine.
12 MS. ROBESON: You're still under oath, Mr. Schutz.
13 MR. KLINE: Mr. Schutz, a question came up that
14 let you be the urbanist, the security, we know we're going
15 to have to clear up some of the invasive species, and it
16 certainly does make it easier to move through those woods,
17 but on the other side, new development will do what to maybe
18 mitigate that movement?
19 MR. SCHUTZ: Well, it's definitely going to put
20 more eyes on the street. What we have planned for the
21 building is that there will be lights that go around the
22 building, and again, none of our light can cross over the
23 property line.
24 MS. ROBESON: Right.
25 MR. SCHUTZ: But we have lights that can light the

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1 ground because we have concerns also in the back of any of
2 our buildings that someone can come up and then enter
3 through one of the lower windows. So, we're going to be
4 lighting the ground. There's also this parking lot here,
5 again, the light goes down so it's just on the lot, so right
6 now, which is a very dark area, and there's an open area
7 where people could go, that won't be a possibility, well,
8 they would certainly be seen though as they try to get
9 through there with the light.
10 MS. ROBESON: Are there windows? You said it was
11 articulated all the way around --
12 MR. SCHUTZ: Yes.
13 MS. ROBESON: -- are there windows on the rear of
14 the building?
15 MR. SCHUTZ: Yes. Oh, yes. There are as many
16 windows on the rear as there are on the front.
17 MS. ROBESON: Okay. All right.
18 MR. SCHUTZ: Yes, the building is basically a
19 double loaded corridor, so what is on the front is on the
20 back, so there are --
21 MS. ROBESON: Okay.
22 MR. SCHUTZ: -- a lot of apartments that will be
23 on the rear, and hence our concern over security. We will
24 have cameras on some of the doors, and to keep an eye on --
25 MS. ROBESON: Did you plan to have any cameras on

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1 the rear?
2 MR. SCHUTZ: No, we hadn't planned that, that's
3 not to say, you know, we couldn't, but the cameras certainly
4 today are not, they're not an expensive thing, so we could
5 certainly put some in a location that would service maybe
6 this loading area and this area right here, again, the
7 lights around here, so yes.
8 MR. KLINE: Well, while we were on break and you
9 were talking to Mr. Weiss I think I heard you say maybe the
10 polite way of saying it is the residents tend to be
11 inquisitive, or --
12 MR. SCHUTZ: Yes.
13 MR. KLINE: -- maybe even nosy, so --
14 MR. SCHUTZ: Yes.
15 MR. KLINE: -- is your point you now have a lot of
16 windows looking down at that area, and people if they see
17 something that looks unusual they'll probably react to that?
18 MR. SCHUTZ: Yes, seniors are very concerned about
19 what goes on around them, and people they don't recognize or
20 look suspicious they call quite often, so our buildings do
21 get a lot of calls, people just being concerned.
22 MR. KLINE: So, maybe eyes on the streets is not
23 the right phrase, but eyes on the lawn, eyes on the trees,
24 and eyes on the woods.
25 MR. SCHUTZ: Yes. Absolutely.

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1 MR. KLINE: There will be people observing that
2 from their own living space.
3 MR. SCHUTZ: Yes.
4 MR. KLINE: Right. No further questions of Mr.
5 Schutz.
6 MS. ROBESON: Okay. Mr. Weiss, do you have any
7 questions?
8 MR. WEISS: I think they've addressed most of my
9 concerns.
10 MS. ROBESON: Okay.
11 MR. WEISS: And the only other thing I would --
12 MS. ROBESON: Why don't you come up because it has
13 to be on the record.
14 MR. WEISS: No, I mean, the only other thing which
15 I'm not saying they should do or even advocate is like
16 building an eight-foot fence around, okay. I don't know if
17 that, but that may be a little bit too much. Plus, it keeps
18 out the deer, by the way.
19 MS. ROBESON: Well, yes, you're going to have to
20 use the sprays and stuff for the deer. But okay. All
21 right. Anything further from your side, Mr. Kline?
22 MR. KLINE: No, not at all.
23 MS. ROBESON: Okay.
24 MR. KLINE: I'll waive any sort of closing
25 argument and maybe just have a dialog with you about things

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1 to be done in the future?
2 MS. ROBESON: I was hoping we would get that. I
3 did talk to Staff on I can't remember the day, and I thought
4 she was going to require you to submit more than just these
5 floor plans, but an actual site plan, so I'm just giving you
6 a heads up --
7 MR. KLINE: Okay. Okay. All right.
8 MS. ROBESON: -- that I think she's going to need
9 a site plan for the rear, and if there's any changes to the
10 landscaping.
11 MR. KLINE: Okay.
12 MS. ROBESON: Now, whatever else Staff needs, you
13 know, that was just a very quick conversation because what I
14 wanted to do is ask her how long she needed to review it,
15 and --
16 MR. KLINE: I understand.
17 MS. ROBESON: -- we didn't, you know, we didn't
18 quite get an exact --
19 MR. KLINE: Right. Well, here's what I'd like to
20 do, I'd like to give you an amended statement of operations
21 to deal with the population issues that came up today.
22 MS. ROBESON: Okay.
23 MR. KLINE: Get that into your hands, and to Ms.
24 Reilly right away.
25 MS. ROBESON: Okay.

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1 MR. KLINE: Then I'll call Ms. Reilly, find out
2 what she thinks she needs to supplement the --
3 MS. ROBESON: Okay.
4 MR. KLINE: -- the submission of August the 7th,
5 and then get the team to work on that.
6 MS. ROBESON: I will say, I mean, we're going to
7 need more than the, for our record we're going to need a
8 revised site plan with the narrower patio.
9 MR. KLINE: We brought with us --
10 MS. ROBESON: Oh, is that a revised --
11 MR. KLINE: Yes.
12 MS. ROBESON: -- site plan?
13 MR. KLINE: This is probably a copy. We're
14 checking right now.
15 MS. ROBESON: Okay.
16 MR. REDDAN: Well yes this is revised.
17 MR. KLINE: Okay. So, we do have those plans.
18 MS. ROBESON: Okay. So, if you can get that, I
19 know she's going to want that, and we need a copy, so that's
20 August 7th, revised August 17th, is that --
21 MR. REDDAN: August 7th.
22 MS. ROBESON: August 7th.
23 MR. REDDAN: Yes, it's current.
24 MS. ROBESON: Okay.
25 MR. KLINE: All right. So --

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1 MS. ROBESON: Well, let me take that into the
2 record now --
3 MR. KLINE: Okay.
4 MS. ROBESON: -- and just, if you can mark that --
5 MR. KLINE: And let me do --
6 MS. ROBESON: -- 43.
7 MR. REDDAN: That is outside.
8 MR. KLINE: This is the -- yes, this is overall
9 site plan --
10 MS. ROBESON: Okay.
11 MR. KLINE: -- on the back side is the blow up
12 site plan of just lot one, which is --
13 MS. ROBESON: Okay.
14 MR. KLINE: -- which is the way they are in the
15 record. So, if you'll tell me what numbers you want on
16 these ones.
17 MS. ROBESON: Okay. 43 will be the revised large
18 scale, or not large scale --
19 MR. KLINE: Overall site plan.
20 MS. ROBESON: Overall, yes.
21 MR. KLINE: You said that's 43?
22 MS. ROBESON: Yes.
23 (Exhibit No. 43 was marked for
24 identification.)
25 MR. REDDAN: Do you want to look at the plan on

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1 the back, Jody?
2 MR. KLINE: Yes.
3 MS. ROBESON: And then 44 will be the --
4 MR. KLINE: And this one's called --
5 MS. ROBESON: -- the revised, the --
6 MR. KLINE: -- lot one site plan.
7 MR. REDDAN: Oh okay.
8 MR. KLINE: Yes.
9 MS. ROBESON: So, I know she's going to require
10 those.
11 MR. KLINE: Yes. Not a problem.
12 MS. ROBESON: Now --
13 MR. KLINE: And did we change the landscaping plan
14 in conjunction with that?
15 MR. REDDAN: We did, yes.
16 MR. KLINE: Okay.
17 MS. ROBESON: Okay.
18 MR. KLINE: I don't think that one's been
19 submitted.
20 MS. ROBESON: If you don't have it here just --
21 MR. KLINE: Yes.
22 MS. ROBESON: -- if you can submit it to both
23 Kathy and I.
24 MR. REDDAN: Yes, we've got it.
25 MR. KLINE: Okay. They don't have it, that's all.

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1 That's all.
2 MS. ROBESON: And if that changes the lighting
3 plan I don't know, just updated --
4 MR. KLINE: I understand.
5 MS. ROBESON: -- updated set of plans with the
6 CV --
7 MR. KLINE: Yes.
8 MS. ROBESON: -- on CD. And the only other thing
9 maybe a statement from Mr. Welke or Mr. Cherian, I mean,
10 Cherian Eapen --
11 MR. KLINE: Mr. Eapen, yes.
12 MS. ROBESON: -- that it --
13 MR. KLINE: No change, or no impact, no traffic
14 impact.
15 MS. ROBESON: Yes, just --
16 MR. KLINE: Okay.
17 MS. ROBESON: -- update your traffic exemption
18 statement.
19 MR. KLINE: Yes. Okay. Yes, okay.
20 MS. ROBESON: Okay?
21 MR. KLINE: Yes.
22 MS. ROBESON: Okay. So, any plans that are
23 affected by that patio I guess we have to have.
24 MR. KLINE: Yes.
25 MS. ROBESON: I have one further question, is

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1 there going to be a sign, an identification sign, or are you
2 deciding that?
3 MR. KLINE: There will be a sign. Can I have a
4 second here?
5 MS. ROBESON: Sure.
6 MR. KLINE: We don't have an image yet, do we?
7 MR. REDDAN: The building sign?
8 MR. KLINE: Yes.
9 MR. REDDAN: I don't think we've done one yet.
10 MR. KLINE: Yes. Right. I --
11 MS. ROBESON: Because usually it's in this, I'm
12 just trying to keep you from having to come back --
13 MR. KLINE: I agree.
14 MS. ROBESON: -- and change the site, and amend
15 the site plan.
16 MR. KLINE: Well --
17 MR. REDDAN: Actually it's out along University,
18 it's not in the special exception.
19 MR. KLINE: Yes.
20 MS. ROBESON: Well, could you show it on the
21 overall, what did we call it, the overall site plan? The
22 location?
23 MR. KLINE: We may have done that already.
24 MR. REDDAN: I don't think we have that.
25 MS. ROBESON: I mean, you'll do it at preliminary,

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1 my guess is, I don't know if there's a sight distance issue
2 or anything, but you may do it at preliminary plan, but
3 you've got to have it on -- sorry, this was stabbing me,
4 something happened. You can, you may do it -- I'm not sure
5 whether you do it on preliminary plan or not, but if you put
6 it in it's got to be on the site plan, so --
7 MR. KLINE: Well, we actually had a Special
8 Exception before Mr. Grossman about three weeks ago where
9 that was an issue, and the question came up whether it
10 conflicted with a shared use pathway.
11 MS. ROBESON: Right.
12 MR. KLINE: So, it does show up on the preliminary
13 plan so they know that it doesn't --
14 MS. ROBESON: Okay.
15 MR. KLINE: -- go on that site. So, it will be
16 addressed at that point.
17 MS. ROBESON: Okay. All right.
18 MR. KLINE: And we'll make sure we catch it then.
19 MS. ROBESON: Okay. Then you'd have to file a
20 copy of -- wait.
21 MR. KLINE: I have no problem with a condition
22 that when we get it subdivided we'll -- you're going to put
23 a condition in that says if anything changes you've got to
24 come back --
25 MS. ROBESON: Right.

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1 MR. KLINE: -- and tell us about it.
2 MS. ROBESON: Okay.
3 MR. KLINE: So, that's no problem.
4 MS. ROBESON: Okay.
5 MR. KLINE: So, I'll just give you a copy of the
6 preliminary plan and anything that had to get adjusted.
7 MS. ROBESON: Okay, that's fine. Now, how long --
8 I guess we kind of need Staff for this.
9 MR. KLINE: That's what I was going to say. Ms.
10 Reilly has a, I don't know what her vacation schedule is.
11 MS. ROBESON: Yes, I don't -- I think she's gone
12 this week.
13 MR. KLINE: Okay.
14 MS. ROBESON: So, I was thinking three, to try and
15 give her three weeks.
16 MR. KLINE: When she gets back.
17 MS. ROBESON: I know it's not desirable but what
18 are we doing, just changing the --
19 MR. KLINE: We're doing the population number,
20 and --
21 MS. ROBESON: Right.
22 MR. KLINE: -- we're giving you plans, or giving
23 her plans --
24 MS. ROBESON: Let's --
25 MR. KLINE: -- that are consistent with the

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1 Planning Board's recommendations.
2 MS. ROBESON: Let's give her 10 days from --
3 MR. KLINE: Her return?
4 MS. ROBESON: Well, I'm just going to say 10 days
5 from Monday, next Monday.
6 MR. KLINE: Okay.
7 MS. ROBESON: This is the 24th.
8 MR. KLINE: Yes. Yes. Right. Okay.
9 MS. ROBESON: So, that would be September 3rd,
10 right?
11 MR. KLINE: And if she needs more time to get in
12 touch with you.
13 MS. ROBESON: Right.
14 MR. KLINE: She'll get in touch with you.
15 MS. ROBESON: So, it'll be September 13th.
16 MR. KLINE: Okay.
17 MS. ROBESON: Unless that's a holiday, and then it
18 will be the, I didn't bring my calendar here, then it'll be
19 the following Monday. Okay? So, let's do that, and the
20 record will stay open for that long unless she can,
21 hopefully it won't delay my recommendation too much because
22 I can be working on the recommendation while she's reviewing
23 the plan.
24 MR. KLINE: Being the only person in the world who
25 still uses a paper calendar, the 13th is actually a Sunday.

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1 MS. ROBESON: I knew.
2 MR. KLINE: Yes. And it's Rosh Hashannah to boot.
3 MS. ROBESON: Oh, that's not good.
4 MR. KLINE: We should have gotten you to tell us
5 that. So, if you want to make it Monday the 14th?
6 MS. ROBESON: Yes.
7 MR. KLINE: Okay.
8 MS. ROBESON: Okay. So, what we're going to --
9 MR. KLINE: Okay.
10 MS. ROBESON: -- do is there anything further that
11 you wanted?
12 MR. KLINE: No.
13 MS. ROBESON: So, you're going to get a revised
14 set of plans to, and a revised statement of operation
15 including a statement that it doesn't change your traffic,
16 or you're not having to do a full LATR study, and the record
17 will stay open till 9/14 for Staff's review, and if you want
18 to comment for, you know, if something occurs then you can
19 tell me when --
20 MR. KLINE: Yes.
21 MS. ROBESON: -- they submit their comments.
22 MR. KLINE: Yes. When I say Staff, could whatever
23 you're going to do say by the 14th Staff's comments will be
24 into your office?
25 MS. ROBESON: Right.

1 MR. KLINE: Yes.
 2 MS. ROBESON: Okay.
 3 MR. KLINE: And I'll be just sitting here, I'll,
 4 if anything comes in I need to respond to I'll do so, but I
 5 don't think that'll happen.
 6 MS. ROBESON: Okay. All right. Okay. So, with
 7 that --
 8 MR. KLINE: Okay.
 9 MS. ROBESON: -- anything else?
 10 MR. KLINE: No.
 11 MS. ROBESON: Okay.
 12 MR. KLINE: The flow is a little different than it
 13 usually is, but I think we all got an education with the
 14 interpreter, it was very interesting.
 15 MS. ROBESON: Oh, yes. Yes. It is a much
 16 different hearing with any really, any interpreter.
 17 MR. KLINE: Yes, right.
 18 MS. ROBESON: Okay. With that we're going to
 19 adjourn this hearing, the record is open till 9/14 for the
 20 reason that are already on the record, and then I have 30
 21 days to write my report and recommendation. If anybody
 22 disagrees with my recommendation you have an additional 10
 23 days to request oral argument before the Board of Appeals.
 24 All right. Thank you very much.
 25 MR. KLINE: Thank you very much.

1 (Whereupon, at 12:46 p.m., the hearing was
 2 concluded.)
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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
 8 Petition Mount Jezreel Baptist Church
 9 Special Exception No. S-2877

10
 11
 12 By:
 13
 14

15
 16
 17
 18 _____
 19 Paula Underwood, Transcriber
 20
 21
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