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Transcript of Hearing

Date: March 1, 2019

Case: MHP Forest Glen, LLC

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<p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS</p> <p>2 FOR MONTGOMERY COUNTY, MARYLAND</p> <p>3 -----x</p> <p>4 IN RE: :</p> <p>5 MHP FOREST GLEN, LLC, : Case No.: H-129</p> <p>6 -----x</p> <p>7</p> <p>8 HEARING</p> <p>9 Rockville, Maryland</p> <p>10 Friday, June 1, 2019</p> <p>11 9:34 a.m.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 Job: 232694</p> <p>24 Pages: 1 - 129</p> <p>25 Transcribed by: Molly Bugher</p>	<p>3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR MONTGOMERY COUNTY OFFICE OF ZONING AND</p> <p>3 ADMINISTRATIVE HEARINGS:</p> <p>4 MARTIN GROSSMAN, HEARING EXAMINER</p> <p>5</p> <p>6 FOR THE APPLICANT:</p> <p>7 KATHERINE M. NOONAN, ESQ.</p> <p>8 EMILY VAIS, ESQ.</p> <p>9 BALLARD SPAHR LLP</p> <p>10 1909 K. Street NW</p> <p>11 12th Floor</p> <p>12 Washington, DC 20006</p> <p>13 (202) 661-2239</p> <p>14</p> <p>15 ALSO PRESENT:</p> <p>16 PAJ KASBEKAR, Senior Project Manager</p> <p>17 MONTGOMERY HOUSING PARTNERSHIP</p> <p>18</p> <p>19 DAVID STEMBEL</p> <p>20 GRIM & PARKER</p> <p>21 11750 Beltway Drive</p> <p>22 Alberton, MD 20705</p> <p>23</p> <p>24</p> <p>25</p>
<p>2</p> <p>1 Conditional Use Hearing held at:</p> <p>2 Montgomery County Office of Zoning and Administrative</p> <p>3 Hearings:</p> <p>4 100 Maryland Avenue</p> <p>5 County Office Building</p> <p>6 Room 200</p> <p>7 Rockville, MD</p> <p>8 (240) 777-6660</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15 Pursuant to agreement before Matthew Chin-Quee, a</p> <p>16 digital reporter and notary public, in and for the State of</p> <p>17 Maryland.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>4</p> <p>1 DAVID AGER</p> <p>2 Townscape Design</p> <p>3 6030 Daybreak Circle</p> <p>4 Suite A150</p> <p>5 Clarksville, MD</p> <p>6</p> <p>7 KENNETH JONES</p> <p>8 MACRIS, HENDRICKS & GLASSCOCK</p> <p>9 9220 Wightman Road</p> <p>10 Suite 120</p> <p>11 Montgomery Village, MD 20886</p> <p>12</p> <p>13 GLENN COOK</p> <p>14 THE TRAFFIC GROUP</p> <p>15 9900 Franklin Square Drive</p> <p>16 Baltimore, MD 21236</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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1	P R O C E E D I N G S		1
2	HEARING EXAMINER GROSSMAN: Okay. Court reporter		2
3	ready? Okay. Then I'll call the case. This is a public		3
4	hearing in the matter of LMA-H129, an application by MHP,		4
5	Forest Glen LLC, for a local map amendment to the zoning		5
6	ordinance requesting reclassification of 2.634 acres of a		6
7	gross tract of 3.59 acres from the R10 zone to the CRTF1.75		7
8	C0.25, R1.5, H70 commercial residential town Floating Zone.		8
9	That's quite a mouthful. The property identified as parcel		9
10	C, Block A, in the McKenney Hills subdivision, is located at		10
11	9920 Georgia Avenue and 2106 Belvedere Boulevard in Silver		11
12	Spring, Maryland, and is subject to the 1996 Forest Glen		12
13	Sector Plan. The property is owned by the applicant. The		13
14	applicant seeks to redevelop the property by removing the		14
15	existing improvements and constructing a new residential		15
16	building with approximately 220 residential units of which a		16
17	minimum 20 percent would be MPDUs, as well as adding a		17
18	structured parking facility. My name is Martin Grossman.		18
19	I'm the hearing examiner, which means I will take evidence		19
20	here and write a report and recommendation to the County		20
21	Council sitting as District Council, which will take the		21
22	final action in this case. Will the parties identify		22
23	themselves please for the record?		23
24	MS. VAIAS: Yes, sir. Emily Vaias with Ballard Spahr,		24
25	the attorney for the applicant.		25
1	HEARING EXAMINER GROSSMAN: All right.		1
2	MS. VAIAS: All right. Shall I introduce everyone now		2
3	or --		3
4	HEARING EXAMINER GROSSMAN: Yes, who are you planning		4
5	to call?		5
6	MS. VAIAS: Okay. So I also with me my associate,		6
7	Katie Noonan, also from Ballard Spahr. And our witnesses		7
8	will be Praj Kasbekar from Montgomery Housing Partnership,		8
9	the applicant. And we will also have Dave Stembel from Grimm		9
10	& Parker, the architect. We will have Ken Jones from Macris,		10
11	Hendrix, & Glasscock, the civil engineer. We will have Dave		11
12	Ager from Townscape Design, the landscape architect and land		12
13	planner, and Glenn Cook from The Traffic Group.		13
14	HEARING EXAMINER GROSSMAN: All right. And I noticed		14
15	there seem to be more than that number of people in the		15
16	audience. So I'll ask is there anybody in the audience here		16
17	who is not with the applicant or is not a witness to be		17
18	called by the applicant who wishes to be heard today?		18
19	MS. VAIAS: So Artie Harris is with us and Don Haig is		19
20	with us as well. They're both from MHP.		20
21	HEARING EXAMINER GROSSMAN: Okay. Yes, I see no hands		21
22	indicating other witnesses here today other than those to be		22
23	called by the applicant. So I note that for the record. All		23
24	right. Let me explain a little bit about the nature of the		24
25	proceedings here. This is -- our proceedings are pretty much		25

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<p>9</p> <p>1 the way a trial precedes. All witnesses are sworn in. There 2 is a court reporter, in fact, two of them here today, taking 3 down everything. There will be a transcript of these 4 proceedings and I would ask, by the way, that be produced on 5 a 48-hour basis in this case. And that's 48 working hours. 6 We had a little confusion about that once before. And all 7 witnesses are subject to cross-examination, if there was 8 somebody here to cross-examine. And proceedings are 9 generally the way you might expect in a trial. We have -- 10 we're a little bit less formal than a court room and there 11 are certain differences in the rules of evidence, but it's 12 generally the way you might expect. Let me discuss a few 13 preliminary matters. I note, first of all, that following 14 the issuance of the Technical Staff Report, Exhibit 43, and 15 the Planning Board letter of February 19, 2019, Exhibit 44, 16 the Applicants filed a revised Floating Zone plan, Exhibit 50 17 an NRIFSD, Exhibit 51, in its approved form, that's the 18 exhibit number. A Preliminary Forest Conservation Plan, 19 Exhibit 48 accompanied by a letter seeking a tree variance, 20 Exhibit 49, all in accordance with the recommendation of the 21 Planning Board. Since the Planning Board has not yet acted 22 on the preliminary Forest Conservation Plan as required by 23 Code Section 22A11(B)(2)(C), which must be done prior to 24 submission to the Council. How do you suggest that we 25 proceed in this matter?</p>	<p>11</p> <p>1 MS. VAIAS: The record in this case, but in the 2 Planning Board case. 3 HEARING EXAMINER GROSSMAN: Yes, because the Planning 4 Board proceedings are not necessarily part of our record. 5 The Planning Board letter and the order is part of our record 6 automatically. But nevertheless, we, by our rules, have to 7 keep the record open -0 8 MS. VAIAS: For whatever is submitted, okay. 9 HEARING EXAMINER GROSSMAN: In order to allow for 10 public comment for something that is added to the record. 11 MS. VAIAS: Okay. 12 HEARING EXAMINER GROSSMAN: So that's, I think Rule 11, 13 if I recall, in our rules. 14 MS. VAIAS: Okay. And it would just be for the limited 15 purpose of the Forest Conservation Plan. 16 HEARING EXAMINER GROSSMAN: Right, comments on that. 17 MS. VAIAS: Okay. So if we submit that on the 15th and 18 then the record will stay open until the 29th. 19 HEARING EXAMINER GROSSMAN: Well, hopefully it will be 20 submitted on the 14th. Hopefully we can get that -- get it 21 out and -- 22 MS. VAIAS: That day. 23 HEARING EXAMINER GROSSMAN: Yes. 24 MS. VAIAS: Okay. 25 HEARING EXAMINER GROSSMAN: I mean, we could make it a</p>
<p>10</p> <p>1 MS. VAIAS: We are requesting, and I believe that the 2 planning Staff agrees, that we should hold the record of an 3 until March 15. The Planning Board is scheduled to take up 4 the Forest Conservation Plan on March 14th, as well as the 5 resolution related to that. At the moment, Staff is 6 recommending approval of that plan. So we would like the 7 record the stay open and close on the 15th after we get the 8 resolution submitted. 9 HEARING EXAMINER GROSSMAN: Yeah, I have no problem 10 keeping the record open to that date. I can't close it on 11 the 15th because on our rules, we have to keep it up for 15 12 days after something is added to the record. 13 MS. VAIAS: Put in -- I see. Okay. 14 HEARING EXAMINER GROSSMAN: So what I would suggest is, 15 assuming that the Planning Board acts on the 14th, that we 16 close the record on 29th of March. 17 MS. VAIAS: Okay. 18 HEARING EXAMINER GROSSMAN: Which gives that 15 days 19 after the Planning Board action. I would encourage them to 20 get their letter out. 21 MS. VAIAS: Even if no one submits any testimony of any 22 kind? 23 HEARING EXAMINER GROSSMAN: Well, I won't know because 24 it will be on the public record until the 14th. And so they 25 couldn't --</p>	<p>12</p> <p>1 couple of days later just in case. And that may be the case. 2 MS. VAIAS: Well, I -- hopefully we can get that on the 3 14th. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MS. VAIAS: Okay. Then we will shoot for that. Can it 6 be submitted electronically by Staff? 7 HEARING EXAMINER GROSSMAN: That would be fine. If you 8 submit it electronically to me, I will get in the record that 9 day. 10 MS. VAIAS: Okay. Got it. 11 HEARING EXAMINER GROSSMAN: Okay. I have a couple of 12 questions I would like you to have your witnesses address. 13 One is the Floating Zone plan indicates that you plan 20 14 percent MPDUs and that you will provide -- and I understand 15 that you indicated will provide that pedestrian improvements 16 that Staff says you will need. Is there anything in the FCP 17 itself that binds you to those things? To at least 20 18 percent MPDUs and these improvements that the Staff 19 recommends? Exhibit 43, page 9? 20 MS. VAIAS: No. 21 HEARING EXAMINER GROSSMAN: Okay. 22 MS. VAIAS: Now, at the moment, we did not include that 23 as a binding element on the plan. 24 HEARING EXAMINER GROSSMAN: Should that not be a 25 binding element of the plan?</p>

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13	<p>1 MS. VAIAS: I don't know as if it has to be. I mean,</p> <p>2 we're willing -- I mean, I think that pedestrian improvements</p> <p>3 would come out of preliminary plan as opposed to necessarily</p> <p>4 out of the zoning case. So I would not generally ask that</p> <p>5 that be in. We are willing to put the 20 percent MPDUs as a</p> <p>6 binding element if it were seen as necessary to meet any</p> <p>7 burdens of proof.</p> <p>8 HEARING EXAMINER GROSSMAN: Well, you can see -- you</p> <p>9 can have your plan as you wish. It's up to you what you</p> <p>10 submit. But then the Council will consider it based on that.</p> <p>11 MS. VAIAS: Right.</p> <p>12 HEARING EXAMINER GROSSMAN: And I will consider it.</p> <p>13 MS. VAIAS: Yes.</p> <p>14 HEARING EXAMINER GROSSMAN: And the question is, is</p> <p>15 that sufficient without something binding you to --</p> <p>16 MS. VAIAS: Right to the --</p> <p>17 HEARING EXAMINER GROSSMAN: At least to the 20 percent</p> <p>18 MPDUs.</p> <p>19 MS. VAIAS: Right. The 20 percent we can submit as a</p> <p>20 binding part of the Floating Zone Plan.</p> <p>21 HEARING EXAMINER GROSSMAN: Right. And if you have</p> <p>22 binding elements covenants, that would have to be properly</p> <p>23 entered into the record and so on, and in the land use</p> <p>24 records.</p> <p>25 MS. VAIAS: Right. And we have to submit that before?</p>	15	<p>1 have your land planner address that.</p> <p>2 MS. VAIAS: All right.</p> <p>3 HEARING EXAMINER GROSSMAN: Do we have the letter from</p> <p>4 Montgomery County public schools regarding the school</p> <p>5 capacity for the students that the proposed project will</p> <p>6 generate?</p> <p>7 MS. VAIAS: No. No we do not.</p> <p>8 HEARING EXAMINER GROSSMAN: I me, in the past I've had</p> <p>9 that submitted and it is a suggestion and the Staff Report as</p> <p>10 to the numbers of students that will be produced. Usually</p> <p>11 those numbers come from MCPS.</p> <p>12 MS. VAIAS: Well, there is a generation rate that Staff</p> <p>13 generally uses. I don't know as if the school board</p> <p>14 necessarily submits that even as part of the preliminary plan</p> <p>15 process, which would be the actual APF review. I think</p> <p>16 that's when it would come up, but I think there are simply</p> <p>17 generation rates that are used. And our land planner can</p> <p>18 address that as well.</p> <p>19 HEARING EXAMINER GROSSMAN: Okay.</p> <p>20 MS. VAIAS: I don't think there was any dispute as to</p> <p>21 the student generation rates.</p> <p>22 HEARING EXAMINER GROSSMAN: No, but I guess the</p> <p>23 question; usually we get a letter. I've seen in the past we</p> <p>24 got a letter from --</p> <p>25 MS. VAIAS: MCPS?</p>
14	<p>1 HEARING EXAMINER GROSSMAN: Well, it depends. I guess</p> <p>2 that is a way to put them -- you could specify it on the</p> <p>3 Floating Zone plan without having a separate set of</p> <p>4 covenants. But once again, if you have a concern about</p> <p>5 whether or not the Council would accept that as sufficient,</p> <p>6 because if it's a covenant filed with the land records, it's</p> <p>7 not going to be changed absent a change to the covenants.</p> <p>8 MS. VAIAS: Right.</p> <p>9 HEARING EXAMINER GROSSMAN: Whereas if it's on the</p> <p>10 Floating Zone plan, an issue arises as to whether or not it</p> <p>11 could be modified --</p> <p>12 MS. VAIAS: Without coming back.</p> <p>13 HEARING EXAMINER GROSSMAN: Without coming back to the</p> <p>14 Council. So they -- so you may consider that.</p> <p>15 MS. VAIAS: Okay.</p> <p>16 HEARING EXAMINER GROSSMAN: Okay. Please have your</p> <p>17 transportation expert explain to me how the study results</p> <p>18 differed from ongoing Forest Glen Montgomery Hill Sector</p> <p>19 Plan's transportation analysis, as Staff asserts, Exhibit 43,</p> <p>20 page 11. Please have one of your witnesses address the</p> <p>21 effect of the pending updates that have been suggested to the</p> <p>22 1996 Forest Glen Sector Plan. I note that Staff has proposed</p> <p>23 that the subject site be rezoned to CRT 2.0, page 70, and what</p> <p>24 the impact of that is. It hasn't -- obviously, it hasn't</p> <p>25 been adopted yet as a new master plan, but I would like to</p>	16	<p>1 HEARING EXAMINER GROSSMAN: Yeah, MCPS, saying here is</p> <p>2 what we expect in terms of students and we do or do not have</p> <p>3 capacity to handle that. That's usually what the letter</p> <p>4 says.</p> <p>5 MS. VAIAS: Okay. I --</p> <p>6 HEARING EXAMINER GROSSMAN: So you might inquire as to</p> <p>7 that.</p> <p>8 MS. VAIAS: Okay.</p> <p>9 HEARING EXAMINER GROSSMAN: Okay. Have you specified</p> <p>10 the categories and amounts of public benefit points you will</p> <p>11 generate? I notice in reviewing this that this particular</p> <p>12 application will require a demonstration of public benefit</p> <p>13 points. So I would like somebody to address that in this</p> <p>14 case.</p> <p>15 MS. VAIAS: We will address -- right. Ultimately, how</p> <p>16 those benefit points would be generated.</p> <p>17 HEARING EXAMINER GROSSMAN: Right, I didn't -- I saw</p> <p>18 the reference to it in the Staff Report, but the Staffer</p> <p>19 didn't indicate where the specific points would come from.</p> <p>20 Obviously the MPDUs is a generator, but there had to be a</p> <p>21 number of categories as I was reading the zoning ordinance.</p> <p>22 MS. VAIAS: Right, but I guess that I believe that</p> <p>23 ultimately gets determined -- that sketch plan would be the</p> <p>24 actual determination. So what we have done is a general</p> <p>25 summary of where we suspect those points would come from.</p>

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<p>17</p> <p>1 HEARING EXAMINER GROSSMAN: Okay.</p> <p>2 MS. VAIAS: Because ultimately, that happens at sketch</p> <p>3 plan.</p> <p>4 HEARING EXAMINER GROSSMAN: All right. Let's see; I --</p> <p>5 the question I have; are there other proposed covenants. You</p> <p>6 indicate no. And just do you accept the findings of the</p> <p>7 Technical Staff report, Exhibit 43, as part of your proof</p> <p>8 here?</p> <p>9 MS. VAIAS: Yes, we do.</p> <p>10 HEARING EXAMINER GROSSMAN: You don't disagree with any</p> <p>11 of the findings there?</p> <p>12 MS. VAIAS: I do not think -- we do not disagree.</p> <p>13 We're okay, correct.</p> <p>14 HEARING EXAMINER GROSSMAN: Okay. Any other</p> <p>15 preliminary matters that you have?</p> <p>16 MS. VAIAS: We do have the affidavit of posting.</p> <p>17 HEARING EXAMINER GROSSMAN: Okay.</p> <p>18 MS. VAIAS: If you want --</p> <p>19 HEARING EXAMINER GROSSMAN: Bring that forward.</p> <p>20 MS. VAIAS: -- to bring that up.</p> <p>21 HEARING EXAMINER GROSSMAN: Thank you.</p> <p>22 MS. VAIAS: And would that become 52?</p> <p>23 HEARING EXAMINER GROSSMAN: No, that will be actually</p> <p>24 54.</p> <p>25 MS. VAIAS: 54, oh. I only have up to 51.</p>	<p>19</p> <p>1 HEARING EXAMINER GROSSMAN: Okay. I will leave it to</p> <p>2 you as to what you need in your record.</p> <p>3 MS. VAIAS: Okay. Thank you. So as I said, we are</p> <p>4 here to request the rezoning. We believe that the</p> <p>5 application as submitted will be able to show that it</p> <p>6 substantially conforms with the 1996 Forest Glenn Plan as</p> <p>7 well as the general plan and the various functional plans</p> <p>8 that we have reviewed. And in addition, actually, it will</p> <p>9 actually comply with the pending Force Glenn Montgomery Hill</p> <p>10 Sector Plan that is ongoing. As we have stated in our</p> <p>11 statement, we are here ahead of that Sector Plan simply</p> <p>12 because of unique situation related to this property and the</p> <p>13 financing and the need for MHP to have zoning in place before</p> <p>14 the summer in order to get financing, in order to upgrade the</p> <p>15 property. And Ms. Kasbekar will talk about that momentarily.</p> <p>16 And so we believe we can meet all of the master plan,</p> <p>17 including the pending plan, as well as the Floating Zone</p> <p>18 requirements related specifically to the CRTF zone and the</p> <p>19 general Floating Zone requirements. With that, we will go</p> <p>20 ahead and begin.</p> <p>21 HEARING EXAMINER GROSSMAN: All right. You may call</p> <p>22 your first witness, please.</p> <p>23 MS. VAIAS: So can you please state your name for the</p> <p>24 record?</p> <p>25 MS. KASBEKAR: Praj Kasbekar.</p>
<p>18</p> <p>1 HEARING EXAMINER GROSSMAN: Yeah, you should have an</p> <p>2 exhibit list of 53 exhibits.</p> <p>3 MS. VAIAS: 53?</p> <p>4 HEARING EXAMINER GROSSMAN: Yes. 52 is the email</p> <p>5 exchange --</p> <p>6 MS. VAIAS: Oh.</p> <p>7 HEARING EXAMINER GROSSMAN: Which we had regarding the</p> <p>8 -- about the filing and certifications of the MRFSD.</p> <p>9 MS. VAIAS: Okay.</p> <p>10 HEARING EXAMINER GROSSMAN: And 53 is the email</p> <p>11 exchange regarding the date the Planning Board will consider</p> <p>12 the preliminary Forest Conservation Plan.</p> <p>13 MS. VAIAS: Got it. Okay. Thank you.</p> <p>14 HEARING EXAMINER GROSSMAN: 54 is the affidavit of</p> <p>15 posting. Okay. Do you wish to make an opening statement?</p> <p>16 MS. VAIAS: Okay. I will do so briefly, since you</p> <p>17 covered it very well in your opening. Again, we are here on</p> <p>18 behalf of Montgomery Housing Partnership, the applicant,</p> <p>19 seeking rezoning to the CRTF1.75, C.25, R1.5, H70, for their</p> <p>20 property in Forest Glen. And we have submitted numerous</p> <p>21 things into the record to explain and to hopefully satisfy</p> <p>22 our burden of proof, but we will today go over those things,</p> <p>23 generally in summary form unless there is some additional</p> <p>24 technical information that's needed. And we will try to</p> <p>25 address the questions that you braced for us this morning.</p>	<p>20</p> <p>1 MS. VAIAS: And what is your position and tell us a</p> <p>2 little bit about yourself, your involvement.</p> <p>3 HEARING EXAMINER GROSSMAN: Well, before you go any</p> <p>4 further, would you raise your right hand please?</p> <p>5 MS. VAIAS: Oh, sorry.</p> <p>6 MS. KASBEKAR: Yes.</p> <p>7 HEARING EXAMINER GROSSMAN: Do you swear or affirm to</p> <p>8 tell the truth, the whole truth, and nothing but the truth</p> <p>9 under penalty of perjury?</p> <p>10 MS. KASBEKAR: Yes.</p> <p>11 HEARING EXAMINER GROSSMAN: All right. You may</p> <p>12 proceed.</p> <p>13 MS. KASBEKAR: Again, my name is Praj Kasbekar. I'm a</p> <p>14 senior project manager with Montgomery Housing Partnership,</p> <p>15 MHP. I have been with MHP for 12 years now doing a lot of</p> <p>16 the project management work for them. I have a degree in</p> <p>17 architecture from India and I have a Masters in regional</p> <p>18 planning from Cornell University, upstate New York. I have</p> <p>19 been -- I've worked as an architect in India for 12 -- for a</p> <p>20 couple of years before I came to this country for my Masters.</p> <p>21 And I'm very passionate about quality housing, especially</p> <p>22 mixed income affordable housing. So I am really excited</p> <p>23 about this project and this opportunity that it presents to</p> <p>24 Montgomery Housing Partnership. I would like to say a little</p> <p>25 bit about who MHP is. Montgomery Housing Partnership was</p>

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<p>21</p> <p>1 founded -- MHP was founded in 1989 with the mission to 2 preserve and expand affordable housing in Montgomery County. 3 As a nonprofit housing developer we provide close to 1800 4 apartments on 31 properties, mostly in Montgomery County. 5 Our goal is to house the residents, empower families in need, 6 and strengthen vulnerable neighborhoods. 7 HEARING EXAMINER GROSSMAN: Let me interrupt you for a 8 second. 9 MS. KASBEKAR: Yes. 10 HEARING EXAMINER GROSSMAN: The actual named applicant 11 here is not per se the full name of Montgomery Housing 12 Partnership. It's MHP LLC. 13 MS. KASBEKAR: Yes. 14 HEARING EXAMINER GROSSMAN: Is that correct? 15 MS. VAIAS: Correct. If you can explain. 16 MS. KASBEKAR: Correct. 17 HEARING EXAMINER GROSSMAN: And you were going to tell 18 me about Montgomery Housing Partnership, but I just want to 19 make sure that the record is clear as to who is the actual 20 applicant here. By title it's MHP LLC, unless I'm wrong 21 about that. 22 MS. VAIAS: That is correct, because that is the owner 23 of the property. 24 HEARING EXAMINER GROSSMAN: Okay. 25 MS. VAIAS: She can explain the relationship.</p>	<p>23</p> <p>1 make sure that our record is clear that the actual applicant 2 here is not the full title. It is just MHP LLC. 3 MS. KASBEKAR: MHP, yes. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MS. KASBEKAR: Yes, that is correct. And we just say 6 the full name just in case if people know us. But yeah, we 7 prefer to go with MHP. So if you see my business card, it 8 says MHP. 9 HEARING EXAMINER GROSSMAN: And one of the constituent 10 parts of MHP? 11 MS. KASBEKAR: I'm -- 12 HEARING EXAMINER GROSSMAN: Who's in the partnership? 13 You said Montgomery Housing Partnership. 14 MS. KASBEKAR: It's a name. It's -- there is no -- 15 HEARING EXAMINER GROSSMAN: There is no -- there are no 16 other -- 17 MS. KASBEKAR: It's a 501C3 nonprofit, a single entity. 18 I think when they founded it, there were like seven activists 19 sitting around the kitchen table who said we should do 20 something. 21 HEARING EXAMINER GROSSMAN: Okay. 22 MS. KASBEKAR: So I think maybe that's where the 23 partnership name came from. 24 HEARING EXAMINER GROSSMAN: Okay. 25 MS. KASBEKAR: There is no real partnerships legally in</p>
<p>22</p> <p>1 HEARING EXAMINER GROSSMAN: Okay. And also you 2 mentioned your qualifications. I take it that this witness 3 is not being called as an expert. Is that correct? 4 MS. VAIAS: She's not, but certainly could be. 5 HEARING EXAMINER GROSSMAN: Okay. 6 MS. VAIAS: I just -- yes. 7 HEARING EXAMINER GROSSMAN: I just -- because we should 8 qualify her, if in fact that's what you were calling her as. 9 MS. VAIAS: No. 10 HEARING EXAMINER GROSSMAN: Okay. All right. 11 MS. VAIAS: Go ahead. 12 HEARING EXAMINER GROSSMAN: Thank you. 13 MS. KASBEKAR: So yes, MH -- Montgomery Housing 14 Partnership, MHP, we have a nonprofit. And the ownership of 15 this particular property is MHP Forest Glenn LLC, which is 16 just -- which is a subsidiary, a legal subsidiary of MHP, 17 where MHP owns 100 percent of MHP Forest Glenn LLC. It's 18 really mostly a legal -- I guess, what's the word? 19 MS. VAIAS: Ownership structure. 20 MS. KASBEKAR: Yeah, it's just an ownership structure 21 for MHP as a nonprofit to own and operate properties. 22 HEARING EXAMINER GROSSMAN: Okay. Well, I just -- 23 MS. VAIAS: I just -- 24 HEARING EXAMINER GROSSMAN: Well, I mean, I do want to 25 know who the constituent parts are of MHP, but I just want to</p>	<p>24</p> <p>1 the organization. 2 HEARING EXAMINER GROSSMAN: Okay. 3 MS. KASBEKAR: No, it's a single 501C3 nonprofit. 4 HEARING EXAMINER GROSSMAN: Thank you. 5 MS. KASBEKAR: Yes. 6 HEARING EXAMINER GROSSMAN: So like I was saying, that 7 we really believe -- MHP believes in a holistic approach to 8 strengthening neighborhoods. So the work with the residence 9 in our properties and surrounding communities, we offer 10 community life programs, we call -- which is programs for our 11 residents and children, such as preschool programs aimed at 12 getting children ready for kindergarten, and after school 13 homework clubs for elementary and middle school kids, with 14 the goal to help close the achievement gap that we have seen 15 in Montgomery County schools. For adults we provide health 16 screenings, financial literacy classes, and work with parents 17 to help them navigate the school system, especially parents 18 whose first language is not English. We also work in 19 communities around the county to build local leadership, make 20 physical improvements, and support residents and local 21 businesses. So in summary, that is like really a short 22 summary of everything that we do, but I think just to give 23 you a flavor of what MHP is about. Going back to the exact 24 property, I think the -- this triangle-ish, or whatever the 25 shape is. This is the property that we are talking about.</p>

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25	1 HEARING EXAMINER GROSSMAN: Well, just for the record 2 so it's clear what you're talking about, what -- is that an 3 exhibit Ms. Vaias? 4 MS. VAIAS: Yes. That is -- 5 HEARING EXAMINER GROSSMAN: What exhibit numbers that? 6 MS. KASBEKAR: 41. 7 MS. VAIAS: Is it? 8 MR. AGER: For the record, David Ager. This is Exhibit 9 41(k) from the Planning Report. 10 HEARING EXAMINER GROSSMAN: Okay. 11 MR. AGER: I -- 12 MS. VAIAS: Right. Thank you. 13 HEARING EXAMINER GROSSMAN: Exhibit 41(k) from the 14 planning report or one of our exhibits? 15 MS. VAIAS: 41(k) from the record. 16 HEARING EXAMINER GROSSMAN: From the record, okay. 17 MS. VAIAS: Yes, it's a portion of the planning report 18 that is 41. 19 HEARING EXAMINER GROSSMAN: Okay. And so you are 20 highlighting the yellow -- 21 MS. KASBEKAR: The location. Yeah, where the property 22 is. 23 HEARING EXAMINER GROSSMAN: Okay. 24 MS. KASBEKAR: I just wanted to highlight the location. 25 When we say the address, I just want to make sure to give us	27	1 MS. VAIAS: You have to be very descriptive. 2 MS. KASBEKAR: Okay. My first rodeo. So I will keep 3 trying. So yeah. So this is the property. Right now, it -- 4 as it is now, it is 72 units, 29 one-bedrooms and 43 two- 5 bedrooms with surface parking. 6 HEARING EXAMINER GROSSMAN: And so let me -- so right 7 now, is 72 units. How many two-bedrooms? 8 MS. KASBEKAR: 43 two-bedrooms. 9 HEARING EXAMINER GROSSMAN: 43 two-bedrooms. 10 MS. KASBEKAR: And 29 one-bedrooms. 11 HEARING EXAMINER GROSSMAN: 29 one-bedrooms. Yeah, I 12 wasn't sure what your plans are for -- I noticed how many 13 units you were planning, but it didn't break it down on the 14 FCP. It didn't break down what you're planning in terms of 15 individual units. So it's hard for me to figure out parking, 16 by the way on that. I'm not sure how -- but I will let you 17 address that. 18 MS. KASBEKAR: Yes, I think the drawings, and I think - 19 - or the architect, David Stembel, should be able to give you 20 a more detailed view of the design where the parking is 21 tucked in and the topography, because that's what they are 22 taking the use of, the natural topography of the site, to 23 plan all of these uses. So I think David would be able to 24 explain that more in details. 25 HEARING EXAMINER GROSSMAN: Okay. All right.
26	1 an oral idea of where we are. 2 HEARING EXAMINER GROSSMAN: Yes. 3 MS. KASBEKAR: So again, this is Georgia Avenue. This 4 is our property, Forest Glenn Apartments, 9920 Georgia Avenue 5 and 2106 Belvedere. 6 HEARING EXAMINER GROSSMAN: All right. And you are 7 referring -- just for the record, you are referring to 8 Georgia Avenue being the major roadway directly to the east 9 of the property. I'm presuming that north is up on this 10 diagram. 11 MS. VAIAS: Correct. 12 MS. KASBEKAR: Yes. 13 HEARING EXAMINER GROSSMAN: Okay. An aerial photograph 14 I guess is what it is. And that Belvedere Boulevard -- 15 MS. KASBEKAR: Is this -- the court. 16 HEARING EXAMINER GROSSMAN: Is directly to the north of 17 the property. 18 MS. KASBEKAR: Yes. Yes. 19 HEARING EXAMINER GROSSMAN: Okay. Because your -- when 20 you use the pointer, that's fine for showing us. 21 MS. KASBEKAR: Oh, it was -- 22 HEARING EXAMINER GROSSMAN: That's fine for showing us, 23 but it doesn't get into the record unless somebody says it. 24 MS. KASBEKAR: Okay. 25 HEARING EXAMINER GROSSMAN: Right.	28	1 MS. KASBEKAR: So I really just wanted to really inform 2 what the existing condition of the property is. It is -- it 3 was built in the late 40s. And it has pretty much years of 4 neglect. We own -- we bought it in 2016 because just the 5 condition of the property is really bad. And I would like to 6 sort of mention that we really had to spend a lot of money, 7 almost a quarter of a million, to actually even bring it to 8 the life and safety codes. It is that bad, and it was just 9 years and years of deferred maintenance. So the building has 10 just become obsolete. There is -- it is -- it will take a 11 really obscene amount of money to try to bring it to the 12 current code and livable conditions that the residents there 13 deserve. So it is -- it was -- it was very much clear to us 14 that we definitely wanted to raze these buildings. They have 15 served their purpose. And it is -- like I said, it has old 16 original boiler. There is no air conditioning in the unit -- 17 in the units. And there is no elevators. So there's a lot 18 of senior, disabled residents there right now who just have 19 no way to get around. So it is just the existing project 20 just doesn't work. It has -- it's served its purpose. And 21 then also, overall, if you look at the -- it's location -- I 22 think I might want to move because this marker is not -- 23 HEARING EXAMINER GROSSMAN: You have a problem with 24 your laser pointer? 25 MS. KASBEKAR: Yeah, it's --

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<p>29</p> <p>1 HEARING EXAMINER GROSSMAN: I have one if you need to 2 use it. 3 MS. KASBEKAR: I think it's the angle of where I'm 4 sitting. 5 HEARING EXAMINER GROSSMAN: Okay. 6 MS. KASBEKAR: And the pointer, I think. Okay. 7 HEARING EXAMINER GROSSMAN: All right. 8 MS. KASBEKAR: So like I was saying; the existing 9 condition of the buildings are really bad. But if you look 10 at the overall location of the property, is 0.3 miles, or 11 five minutes' walk, from the Metro station. The Forest Glenn 12 Metro station is right here. It's close to the Beltway exit, 13 which is a block from the Metro station. And it is really 14 between two centers, like economic centers; Silver Spring on 15 the south and then Wheaton in the north. So it is sort of 16 located in the middle on Georgia. And so it's -- and the 17 major employer nearby is Holy Cross Hospital. So the 18 location of this property is just -- it's a very -- it's very 19 good for the redevelopment of what we want to do with it. 20 The goal again, like we mentioned before, is to redevelop the 21 property as a mixed income project with affordable and 22 workforce housing. Currently we are looking to put 23 approximately 220 units, and that's where -- because the 24 current is R10. And we would need the CRTF 1.75, C0.25, 25 R1.5, and H70 to get to that number. So I mean -- and that's</p>	<p>31</p> <p>1 it will be the next spring been for application. 2 HEARING EXAMINER GROSSMAN: So you're looking to have 3 council action by May 8: is that what you're saying? 4 MS. VAIAS: Correct. 5 MS. KASBEKAR: Yes. And I think I -- 6 HEARING EXAMINER GROSSMAN: And there is -- 7 MS. KASBEKAR: Sorry. 8 HEARING EXAMINER GROSSMAN: That's relatively close. I 9 mean theoretically at least, I have 45 days after the record 10 closes in which to do my report. I usually don't take that 11 amount of time, but still, if I were to take that you would 12 be past that deadline before the council could act. You 13 might be past that deadline before the council could act even 14 if I got the report out in half that time. Because they have 15 to issue notice, they have to get an opportunity for response 16 and so on. So I'm not sure -- how do you -- Ms. Vaias, how 17 do you conceive of this working out in terms of dates? 18 MS. VAIAS: We are hopeful that we can get your report 19 as soon as possible. And then we work with Council Staff to 20 try to get it on to their agenda as quickly as possible as 21 well. Hopefully that will be no parties that will appeal or 22 request oral argument, so that shortly after your submission, 23 10 days later, we will hope to get to the Council and try to 24 proceed as quickly as possible. 25 HEARING EXAMINER GROSSMAN: And what about subsequent -</p>
<p>30</p> <p>1 why we really wanted to be here to talk about this. Also, 2 like Emily sort of alluded to, when we bought this property 3 in 2016, we had a four-year acquisition financing on it, 4 which is -- comes due on June 2020, which is next year. And 5 we had to refinance. As we are also planning to redevelop 6 this property to apply for what they call a low income 7 housing tax credit financing program that the State of 8 Maryland runs, we -- it's a competitive program that all 9 developers have to submit their plans to. In the earlier 10 exhibit it said it was due by June. But actually the actual 11 date came out and it's May. So it even cut us more now to 12 meet May 8th, 2019. And for us to be eligible to even apply 13 for that, they need zoning in place because these dollars are 14 very highly sought after. So they want to make sure that the 15 property will be able to use these. And zoning is the thing 16 that will let us build these units. So it is -- and the way 17 the master plan is going, they are like almost a year behind. 18 So we just could not wait for them to -- for that process to 19 happen. And that's why really we are here before the master 20 plan. And that's why, in some ways, if you have seen the 21 email exchanges on, what are the dates when is it due. What 22 are the dates? It has all these moving pieces is because 23 pretty much we need to make that deadline and we need to be 24 in on May 8, or else it's an annual application. So we lose 25 a year. We will be really just sitting around because again,</p>	<p>32</p> <p>1 - they have to have, you were saying, the rezoning by then. 2 What about, is there any requirement for what you're planning 3 that you need to have for the action by the planning 4 department and the Planning Board before -- 5 MS. KASBEKAR: No. No. I think as long as the 6 rezoning is in place, the other subsequent process of 7 preliminaries sketch plan and everything, that's not a 8 requirement for the May 8th deadline. So we can go in with 9 this document saying that there is zoning in place. But they 10 understand that there is -- that's just a zoning. This is 11 just the first step. There is another step that come in. 12 They understand that, but that is not a requirement part of 13 this application. 14 HEARING EXAMINER GROSSMAN: Okay. All right. 15 MS. KASBEKAR: It's not. Yeah. So -- I mean, and 16 that's why in some ways it will be -- especially with the NRI 17 and FCP, the way the requirement came up, but the Planning 18 Board Staff-- the Planning Board and the Staff, they were 19 willing to work with us to try to get it as soon as we could 20 because we -- that's why we are just grateful that everyone 21 is really trying to sort of in some ways cheering on to be 22 like, okay, we will help you, but, you know. So -- 23 HEARING EXAMINER GROSSMAN: Well, I can't be part of 24 the cheering on. 25 MS. KASBEKAR: Okay. Right.</p>

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<p>33</p> <p>1 HEARING EXAMINER GROSSMAN: I have to make a decision 2 based on the record. 3 MS. KASBEKAR: I -- 4 MS. VAIAS: At least in terms of the process. 5 MS. KASBEKAR: Yes, I think the process -- 6 MS. VAIAS: They were both willing to move the process 7 as quickly as they could. 8 HEARING EXAMINER GROSSMAN: Okay. Yeah. 9 MS. KASBEKAR: Yes. And so we are very grateful for 10 that, that the process is helping -- getting through the 11 processes, trying to help us to get to that final goal. So 12 that's really where this whole need to get in front is coming 13 from. We have also actively met with our neighbors in the 14 community, who we will be ultimately affecting in a good way 15 and then during construction. We met with the condo ---these 16 condos, these high-rises, are called Americana Fenmark 17 condominiums. 18 MS. VAIAS: You need to describe. 19 HEARING EXAMINER GROSSMAN: These high-rises being 20 projects that are -- or developments that are south of your - 21 - 22 MS. KASBEKAR: Yes, they are south of our property. 23 HEARING EXAMINER GROSSMAN: Your property. 24 MS. KASBEKAR: Yes. So they are our next-door neighbor 25 to the south. We have -- we've met a couple times with them.</p>	<p>35</p> <p>1 MS. KASBEKAR: And then the other group thing that is 2 like a neighborhood wide group is Finding Forest Glenn. We 3 met with the representatives and they were actually very 4 supportive. I think they also submitted a letter, I was 5 told. 6 MS. VAIAS: Did you receive a letter? 7 MS. KASBEKAR: Of support from -- 8 HEARING EXAMINER GROSSMAN: I don't recall. What was 9 it called again? 10 MS. KASBEKAR: Finding Forest Glenn. 11 HEARING EXAMINER GROSSMAN: Finding Forest Glenn. 12 MS. KASBEKAR: And I think the letter was returned by 13 Porta Sangorma (phonetic). 14 MS. VAIAS: Yes, that is correct. 15 MS. KASBEKAR: So -- 16 HEARING EXAMINER GROSSMAN: Hold on while your attorney 17 -- 18 MS. KASBEKAR: Sorry. 19 MS. VAIAS: Do you want a -- 20 HEARING EXAMINER GROSSMAN: What's the -- 21 MS. VAIAS: I do have a copy. 22 HEARING EXAMINER GROSSMAN: What's the citation to the 23 record? 24 MS. VAIAS: Don't know if it's -- yeah, I don't see it 25 on the exhibit list.</p>
<p>34</p> <p>1 First time, just with the board of the condo association, 2 Americana Fenmark. And then in the -- in January, we met 3 with the whole residents, the group of residents. And we had 4 a very good meeting with them. They were very appreciative 5 that we care on what's happening with that property. And I 6 think overall, they were very encouraging. So that was a 7 good meeting. 8 HEARING EXAMINER GROSSMAN: Yeah, I'm just going to say 9 that's of course that's hearsay as to what their actual 10 position is. Although hearsay can be admitted in this type 11 of proceeding. I don't see any real harm in your -- at least 12 that's your impression of their feeling. 13 MS. KASBEKAR: And the impression was very encouraging. 14 HEARING EXAMINER GROSSMAN: Okay. 15 MS. KASBEKAR: I mean, of course -- I mean, I'm sure -- 16 and I think even processes going forward, we will work with 17 them on the sketch plans and the other plans will come up, 18 the design or whatever. Because we want to make sure we are 19 a good neighbor. So we will work with them moving forward, 20 but at least that initial meeting, they were very encouraging 21 and they didn't run us out of the room. 22 HEARING EXAMINER GROSSMAN: Okay. 23 MS. KASBEKAR: So I would take that as a good 24 indication. 25 HEARING EXAMINER GROSSMAN: All right.</p>	<p>36</p> <p>1 MS. VAIAS: When was the supposedly -- when was this 2 sent? 3 MS. KASBEKAR: I think on -- 4 MS. VAIAS: One moment. It's dated February 27. 5 HEARING EXAMINER GROSSMAN: Of this year? 6 MS. KASBEKAR: Yeah. 7 MS. VAIAS: Correct. Yes, 2019. 8 HEARING EXAMINER GROSSMAN: Well, it's probably -- it 9 probably hasn't gotten to us yet because -- 10 MS. VAIAS: Maybe. Was it email? Was it an email? 11 MS. KASBEKAR: It was an email. 12 HEARING EXAMINER GROSSMAN: Email to whom? 13 MS. KASBEKAR: To the -- 14 MS. VAIAS: I believe to your office, but we do have a 15 copy. Would you like that or -- 16 HEARING EXAMINER GROSSMAN: Okay. Yeah, let's mark 17 that. 18 MS. VAIAS: Okay. It is signed. 19 HEARING EXAMINER GROSSMAN: All right. So let's mark 20 this as Exhibit 55. That's a letter dated February 27, 2019 21 from Burkap (phonetic) Verma, who is founder -- 22 MS. VAIAS: Founder. 23 HEARING EXAMINER GROSSMAN: Of Friends of Forest Glenn. 24 MS. VAIAS: And Finding Forest Glenn. 25 HEARING EXAMINER GROSSMAN: In Montgomery Hills, in</p>

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37	1 support of LMA application. Okay. 2 MS. KASBEKAR: And we have also met with the current 3 residents of the property. It is our mission that we don't 4 want to displace them. So we will find an alternative 5 location for them when the redevelopment will happen. And 6 they will be welcomed back to new units if they choose, if 7 they so choose. 8 HEARING EXAMINER GROSSMAN: Well, presumably they would 9 have to move out while the development was going on. 10 MS. KASBEKAR: Yes. Yes. 11 HEARING EXAMINER GROSSMAN: And you are saying that you 12 would find an alternative place for them to live while -- 13 MS. KASBEKAR: Yeah, like in residential units for them 14 to live while we are redeveloping this property. And they 15 will have a choice to come back if they want to. 16 HEARING EXAMINER GROSSMAN: Okay. All right. 17 MS. VAIAS: Okay. Some -- one additional question 18 regarding the 20 percent MPDUs. Is the Applicant willing to 19 commit to a 20 percent minimum of MPDUs on the property? 20 MS. KASBEKAR: Yes, we are. 21 HEARING EXAMINER GROSSMAN: Okay. 22 MS. VAIAS: Okay. All right. I have nothing else for 23 this witness. 24 HEARING EXAMINER GROSSMAN: All right. Ms. Noonan, do 25 you wish to cross-examine this witness brutally?	39	1 MS. VAIAS: MPDUs. 2 HEARING EXAMINER GROSSMAN: But the percent of 3 affordable units overall is not clear at this point. 4 MS. VAIAS: That will be determined, right. Right. 5 When we finish the design and get into site plan and actually 6 figure out what will fit and what financing will provide. 7 HEARING EXAMINER GROSSMAN: Okay. 8 MS. VAIAS: I believe that was the only correction 9 technically to the Staff Report. 10 HEARING EXAMINER GROSSMAN: All right. 11 MS. VAIAS: Okay. Do want to swear in Mr. Stembel? 12 HEARING EXAMINER GROSSMAN: Yes. Sir, could you raise 13 your right hand, please? Do you swear or affirm to tell the 14 truth, the whole truth, and nothing but the truth under 15 penalty of perjury? 16 MR. STEMBEL: Yes, I do. 17 HEARING EXAMINER GROSSMAN: All right. You may 18 proceed. 19 MS. VAIAS: Okay. Can you please -- we are going to be 20 asking that Mr. Stembel be qualified as an expert in 21 architecture and site design. 22 HEARING EXAMINER GROSSMAN: All right let's have him 23 identify himself and his address and so on. 24 MS. VAIAS: Okay. 25 MR. STEMBEL: Sure. My name is David Stembel. My
38	1 MS. NOONAN: I have no questions. 2 MS. VAIAS: She better not. She's with me. 3 HEARING EXAMINER GROSSMAN: All right. Thank you, 4 ma'am. Appreciate it. 5 MS. KASBEKAR: Thank you, so much. Appreciate it. 6 MS. VAIAS: Okay. Our next witness will be Dave 7 Stembel, the architect. And I did want to correct one issue 8 with regard to the Staff Report. 9 HEARING EXAMINER GROSSMAN: Okay. 10 MS. VAIAS: I -- the Staff Report had stated that it 11 would include 220 affordable dwelling units. We are 12 uncertain at this point, as Dave will talk about, the exact 13 mix of units, the size units, and what that will be. So we 14 are committing to the 20 percent MPDUs, but -- and because it 15 is MHP's mission to provide affordable housing. But the 220 16 affordable dwelling units is not exactly correct. We don't 17 know how many more will be affordable, but -- 18 HEARING EXAMINER GROSSMAN: Okay. 19 MS. VAIAS: So we just wanted to clarify that for the 20 record. The intent is for this to be a mixed income project 21 with majority ultimately being affordable. But affordable 22 not really a defined term in this regard. So we just wanted 23 to clarify. 24 HEARING EXAMINER GROSSMAN: Okay. So the percent of 25 affordable, you are committing to 20 percent MPDUs.	40	1 address is 11750 Beltway Drive, Alberton, Maryland 20705. 2 HEARING EXAMINER GROSSMAN: All right. 3 MS. VAIAS: And -- 4 HEARING EXAMINER GROSSMAN: And your employer? 5 MR. STEMBEL: Sure. My employer is Grimm & Parker 6 Architects located in Maryland. 7 MS. VAIAS: And your education? 8 MR. STEMBEL: My education, I received a Bachelor of 9 Architecture degree from Temple University in 1983, with 10 highest honors. Since 2014 I've been a principal with Grimm 11 & Parker Architects and I am the director of the residential 12 and urban design studio. 13 HEARING EXAMINER GROSSMAN: Have you ever had occasion 14 to testify as an expert before? 15 MR. STEMBEL: Yes, I have, in multiple jurisdictions, 16 including Montgomery County Maryland, Homes on Quaker Lane, 17 the addition to the Friend's House Community. That was a 18 special exception. I've also -- 19 HEARING EXAMINER GROSSMAN: When was that, by the way? 20 MR. STEMBEL: It was ongoing between 2014, and it 21 concluded in 2017. 22 HEARING EXAMINER GROSSMAN: Okay. And you testified as 23 an expert in architecture before the Board of Appeals or 24 before the Hearing Examiner? 25 MR. STEMBEL: That was before the Hearing Examiner.

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41	1 HEARING EXAMINER GROSSMAN: Who was the Hearing 2 Examiner? 3 MR. STEMBEL: I don't remember. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MS. VAIAS: It was not Mr. Grossman? 6 HEARING EXAMINER GROSSMAN: No. 7 MR. STEMBEL: No. 8 HEARING EXAMINER GROSSMAN: All right. Lynn Robeson? 9 MR. STEMBEL: Yes. 10 HEARING EXAMINER GROSSMAN: Okay. 11 MR. STEMBEL: Thank you. 12 HEARING EXAMINER GROSSMAN: All right. And you were 13 accepted as an expert? 14 MR. STEMBEL: Yes, I was. 15 HEARING EXAMINER GROSSMAN: So we would like to move 16 Mr. Stembel as an expert? 17 HEARING EXAMINER GROSSMAN: All right. And his -- I 18 believe his resume is in the record, but I can't recall -- 19 MS. VAIAS: Yes, his resume is Exhibit 41(g). 20 HEARING EXAMINER GROSSMAN: Okay. 21 MS. VAIAS: I have an extra copy if you would like one. 22 HEARING EXAMINER GROSSMAN: I should have it here. 23 MS. VAIAS: Okay. 24 HEARING EXAMINER GROSSMAN: Just hold on one second. 25 All right. Based on Mr. Stembel's education, background, and	43	1 HEARING EXAMINER GROSSMAN: Locate 41(k) in here. 2 MS. VAIAS: So that -- right. That's Mr. Ager's report 3 and then these are blowups of some of his diagrams. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MS. VAIAS: And we -- 6 HEARING EXAMINER GROSSMAN: Just so that we are clear, 7 so the diagram on the board is one of a number of diagrams 8 that's in Exhibit 41(k). 9 MR. STEMBEL: Yes. 10 MS. VAIAS: Let's see. Where is it in here? 11 MS. VAIAS: Page -- 12 MR. STEMBEL: I'm sorry. It should be exhibit -- 13 MR. AGER: Figure 11, page 15 or 16. 14 HEARING EXAMINER GROSSMAN: All right. I see -- yes, 15 page 15, figure 11. Why don't we -- do you have that as a 16 separate exhibit at all? 17 MS. VAIAS: We do not. 18 HEARING EXAMINER GROSSMAN: The blowup? Okay. Let's 19 have it marked since -- 20 MS. VAIAS: Okay. 21 HEARING EXAMINER GROSSMAN: All right. And we will 22 mark that that we've been referring to as 41(k), will be 23 Exhibit 56. And that's key map of existing and approved 24 development, improved adjacent development. 25 MS. VAIAS: Surrounding or adjacent, right. Thank you.
42	1 previous testimony as an expert in architecture, including 2 his resume, Exhibit 41(g), I accept him as an expert in 3 architecture. 4 MS. VAIAS: Thank you. 5 MR. STEMBEL: Thank you. 6 MS. VAIAS: Okay. 7 HEARING EXAMINER GROSSMAN: You may proceed. 8 MS. VAIAS: If you could describe the property and how 9 it has conceptually been design at this point? 10 MR. STEMBEL: Using Exhibit 41(k), as Paj Kasbekar 11 pointed out, the site is located right in the center with a 12 slightly wedge shaped to it. Directly north above Belvedere 13 Boulevard, which is noted as 4 on the exhibit, is the 14 Belvedere Apartments, which are garden walk up, three and 15 four story garden walk ups based on the grade, three and four 16 stories. Directly to the northwest, which is noted as 3 and 17 to the west -- I'm sorry, is noted as three, is an area of 18 single-family homes, one and two stories. Directly to the 19 south of the subject property, as Praj mentioned, is the 20 Americana Fenmark condominium community. This community is a 21 mixture of midrise and high-rise, eight stories. I would 22 like to use the topography. 23 HEARING EXAMINER GROSSMAN: Hold on a second, if you 24 would, while I -- 25 MS. VAIAS: Sure.	44	1 HEARING EXAMINER GROSSMAN: Okay. That's now Exhibit 2 56. Don't forget to leave that with us when you -- 3 MS. VAIAS: Yes, we will leave -- yes. 4 HEARING EXAMINER GROSSMAN: And we also will need an 5 electronic copy of -- 6 MS. VAIAS: Okay. All right. 7 HEARING EXAMINER GROSSMAN: And what's being put up on 8 the board is? 9 MR. STEMBEL: Is the topography, which is also in the 10 planning report. 11 MS. VAIAS: All right. Which page is that? 12 MR. AGER: Page 11, figure 5. 13 HEARING EXAMINER GROSSMAN: And it appears that -- 14 well, the copy that I have by the way, is not in color. So I 15 -- the copy I have. So it's all -- 16 MS. VAIAS: Okay. 17 HEARING EXAMINER GROSSMAN: But you are -- so I see 18 figure 5. And there is the second -- is the bottom one 19 figure 6? Is that the -- or is that something different? 20 MS. VAIAS: In your report? 21 MR. STEMBEL: On the -- I'm sorry. 22 HEARING EXAMINER GROSSMAN: Yes, sir. 23 MS. VAIAS: The bottom one is the figure from the 24 report and the top is a blowup for ease of viewing. 25 HEARING EXAMINER GROSSMAN: I see. Okay. Why don't we

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12 (45 to 48)

45	1 mark that as Exhibit 57? And you have it labeled as 2 topographic map of the property and nearby existing 3 development. Is that a fair description? 4 MR. STEMBEL: Yes. 5 HEARING EXAMINER GROSSMAN: Okay. So Exhibit 57 is a 6 topographic map of property and nearby development. Okay. 7 MR. STEMBEL: This exhibit, I would like to talk about 8 the topography briefly, but you also can see on the lower 9 portion, this is the eight-story portion of the Americana 10 Fenmark. 11 MS. VAIAS: To the south. 12 HEARING EXAMINER GROSSMAN: All right. So that's the 13 very south -- so the southernmost part is a darker portion. 14 And that is the what? 15 MR. STEMBEL: That is the eight-story portion of the 16 Americana Fenmark condominiums. 17 HEARING EXAMINER GROSSMAN: Okay. 18 MR. STEMBEL: This is the Belvedere Apartments, garden 19 walk ups. 20 MR. STEMBEL: Describe this. 21 HEARING EXAMINER GROSSMAN: All right. That's to the 22 north of the -- 23 MR. STEMBEL: It's directly to the north of the subject 24 property. 25 HEARING EXAMINER GROSSMAN: Across from Belvedere and	47	1 HEARING EXAMINER GROSSMAN: And actually is on your 2 property? 3 MR. STEMBEL: And is on the property, exactly. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MR. STEMBEL: So now I would like to go to the Floating 6 Zone plan, which is Exhibit 50. It's on -- it's behind the 7 other two you've already got. 8 HEARING EXAMINER GROSSMAN: But before you take that 9 down -- 10 MR. STEMBEL: Yes. 11 HEARING EXAMINER GROSSMAN: I'm looking at also, the 12 Staff Report, page 3, and Staff has some lines on it. And I 13 want to know if those lines actually include the area of 14 Arthur Lane or do not include that. I see another parking 15 area further south. I'm just not sure. 16 MR. STEMBEL: It does include Arthur. 17 HEARING EXAMINER GROSSMAN: Okay. 18 MR. STEMBEL: The parking that you are seeing below the 19 parking line is part of the Americana Fenmark condominium. 20 HEARING EXAMINER GROSSMAN: Okay. 21 MR. STEMBEL: And that is a separate paved area and 22 that is not on our site, on the subject property site. 23 HEARING EXAMINER GROSSMAN: Okay. 24 MR. STEMBEL: And in the existing conditions, it is 25 listed as Belvedere Service Boulevard.
46	1 to the north of the subject property. 2 MR. STEMBEL: And to the northwest are the single- 3 family homes, which are one and two stories, across from 4 Belvedere Boulevard. 5 HEARING EXAMINER GROSSMAN: Okay. 6 MR. STEMBEL: North of Belvedere Boulevard. The 7 topography to note is that from the high side of the site, is 8 the Georgia Avenue, or the eastern portion. And it slopes 9 pretty uniformly to the west downward, sloping down. And the 10 fall across the site is just about 20 feet. 11 HEARING EXAMINER GROSSMAN: Is that of significance in 12 terms of -- 13 MR. STEMBEL: It will be in terms of how we've 14 accommodated for the parking and the screening of the 15 parking. 16 HEARING EXAMINER GROSSMAN: Okay. 17 MR. STEMBEL: The other feature to note is Arthur 18 Avenue, also sometimes called Arthur Lane on various County 19 maps, but this is shown on this exhibit as the white stripe, 20 the paved stripe, which is on the subject property within our 21 property line. It is not a public street, but it is labeled 22 on various public maps as Arthur Avenue. 23 HEARING EXAMINER GROSSMAN: And that is the street that 24 is due south of your property? 25 MR. STEMBEL: That is due south and is --	48	1 HEARING EXAMINER GROSSMAN: All right. 2 MS. VAIAS: Okay. Going to the -- and more -- sorry. 3 Any more questions? 4 HEARING EXAMINER GROSSMAN: And just before I forget, 5 the Technical Staff has also suggested a definition of the 6 neighborhood, on page 5 of the Staff Report. Are you an 7 agreement with that definition of a neighborhood? 8 MS. VAIAS: I believe Mr. Ager may address that. 9 HEARING EXAMINER GROSSMAN: Okay. 10 MS. VAIAS: I'm not sure the neighborhood is as 11 relevant for the Floating Zone plan, as we will be showing 12 that they are compatible with the adjacent properties as 13 opposed to the broader neighborhood that may have originally 14 been part of the study area where we had submitted the first 15 application as part of a change or mistake application. Now 16 that it's the Floating Zone application, I believe it's the 17 adjacency to compatibility would be the discussion. 18 HEARING EXAMINER GROSSMAN: Well, that certainly is the 19 compatibility, but also the impacts, the properties that are 20 most likely to be impacted visually or by other things by the 21 proposed development. But certainly compatibility is the 22 key. I'm not sure where the -- I'm looking at the Staff 23 Report -- whether the red area indicates the Sector Plan. 24 MS. VAIAS: Oh, right. That is the Sector Plan area. 25 HEARING EXAMINER GROSSMAN: Okay.

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13 (49 to 52)

<p>49</p> <p>1 MS. VAIAS: I apologize. Right, that is not 2 necessarily the neighborhood. But I did not think they had 3 defined the neighborhood any longer in the Staff Report. 4 HEARING EXAMINER GROSSMAN: Okay. 5 MS. VAIAS: I think that is the area of the proposed 6 Forest Glen Montgomery Hills sector. 7 HEARING EXAMINER GROSSMAN: Okay. What about figure 2, 8 existing vicinity zoning. He's got surrounding area. On 9 page 3 he outlines -- 10 MS. VAIAS: Oh, correct. The paragraph, the larger 11 surrounding area, right. 12 HEARING EXAMINER GROSSMAN: I just wanted to see if 13 there's any disagreement about what would be considered the 14 surrounding area for this rezoning. 15 MS. VAIAS: Okay. Do you have any -- 16 MR. STEMBEL: No, I do not have any disagreement. 17 HEARING EXAMINER GROSSMAN: Okay. All right. You may 18 proceed. 19 MS. VAIAS: If we could go to the Floating Zone plan, 20 which is Exhibit 50. 21 HEARING EXAMINER GROSSMAN: Okay. All right. 22 MR. STEMBEL: The Floating Zone plan here, exhibits 23 include the intended -- the intended redevelopment is shown 24 on this plan. From when it was originally submitted and then 25 to the process with Staff, there were three things changed</p>	<p>51</p> <p>1 the max allowed of 70, again, for flexibility. 2 HEARING EXAMINER GROSSMAN: Okay. You actually plan a 3 66 foot tall building? You are the architect. But the 4 statement on the Floating Zone plan refers to 70 now because 5 -- at the suggestion of the Planning Board. 6 MR. STEMBEL: Yes. 7 MS. VAIAS: And if that also -- 8 HEARING EXAMINER GROSSMAN: Yeah. You listed as 9 maximum allowed, 70. 10 MR. STEMBEL: Yes. 11 HEARING EXAMINER GROSSMAN: And once -- and for 12 setbacks, you do indicate minimum rather than absolutely 13 zero. 14 MR. STEMBEL: Yes. Yes. 15 HEARING EXAMINER GROSSMAN: So I guess it does give you 16 the flexibility, okay. 17 MR. STEMBEL: Exactly. 18 HEARING EXAMINER GROSSMAN: Okay. 19 MR. STEMBEL: And finally, the added note that all 20 design features are conceptually shown and will be determined 21 at the site planning submission. 22 HEARING EXAMINER GROSSMAN: Okay. 23 MR. STEMBEL: There are several things that we would 24 like to state about the proposed redevelopment. It is 25 proposed as a CRT zone, but it's important to note that,</p>
<p>50</p> <p>1 from the original submission. 2 HEARING EXAMINER GROSSMAN: Okay. 3 MS. VAIAS: The Floating Zone plan now shows all 4 setbacks as zero, as this was recommended by the Planning 5 Board to allow for more flexibility at site plan submission. 6 HEARING EXAMINER GROSSMAN: Does that -- yeah, I 7 wondered about that. They said to be consistent with the 8 zone, that's what the Planning Board said -- I'm not -- does 9 zone actually require that there be zero setback? 10 MR. STEMBEL: It doesn't require it. The -- we know 11 that it will be reviewed during the site plan submission. 12 And for flexibility, the Staff had recommended that we list 13 it as zero on the Floating Zone plan. 14 HEARING EXAMINER GROSSMAN: I saw that. I just 15 wondered about it. Because, why does zero give you 16 flexibility? What if you wanted to have it as a five foot 17 setback and why does zero, precisely zero, give you more 18 flexibility? I didn't really follow the logic there. I 19 mean, and maybe I'm just missing something. So maybe you can 20 straight me out. 21 MS. VAIAS: We may cover some of that with Mr. Ager as 22 well with regard to the land planning aspect. 23 HEARING EXAMINER GROSSMAN: Okay. Sure. Okay, that's 24 fine. 25 MR. STEMBEL: The height was also changed from 66 to</p>	<p>52</p> <p>1 while it's called a CRT zone, no commercial development is 2 intended. 3 HEARING EXAMINER GROSSMAN: Okay. 4 MS. VAIAS: And can you describe briefly the 5 illustrative or conceptual type of building design that you 6 have looked at in order for us to determine what zone might 7 work here? 8 MR. STEMBEL: Yes. 9 HEARING EXAMINER GROSSMAN: And I'm sorry. Can I 10 interrupt one more second there. On that point about no 11 commercial development, I noticed that in the definition of 12 the zone you are seeking, you specifically have a portion, a 13 density portion allocated to commercial. Is that -- did you 14 limit the residential portion to 1.5 because of the 15 restrictions in the zoning ordinance? 16 MR. STEMBEL: We -- 17 HEARING EXAMINER GROSSMAN: I know that you're limited 18 to 1.75 overall by the zoning ordinance. And I'm trying to 19 recall, does that also limit you to one segment being no more 20 than 1.5? 21 MR. STEMBEL: That's what we were -- that's the limit 22 that we were using for this conceptual development, yes, 1.5. 23 HEARING EXAMINER GROSSMAN: Well no, I'm not asking 24 what the limit was. 25 MR. STEMBEL: Okay.</p>

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14 (53 to 56)

<p>53</p> <p>1 HEARING EXAMINER GROSSMAN: I was asking whether or not 2 the reason why you limited residential to 1.5 and put in a 3 portion for commercial, even though you don't intend 4 commercial, was because that's a requirement of the zoning 5 ordinance. Is that an actual -- I know there are provisions 6 there that specify limits -- based on the fact that the 7 current existing zone is an R10, you must -- they limit the 8 density to 1.75 overall. And then they also had some other 9 provision about segments, but I can't recall if those -- 10 MS. VAIAS: Mr. Ager may also cover some of the zoning 11 criteria. 12 HEARING EXAMINER GROSSMAN: Okay. Mr. Ager covers that 13 as well, okay. 14 MS. VAIAS: Yes. So if you can address essentially, 15 the size, height, and density that again, are conceptual in 16 nature, but are what we are looking at for the property. 17 MR. STEMBEL: The Floating Zone plan shows intended 18 development, which could be characterized as a in-house. We 19 refer to it as a Z and C shaped structures that are linked. 20 The buildings thereby create south two -- south facing 21 courtyards. The courtyards themselves are over top of the 22 parking. The grade changes such that the parking will be 23 designed in a -- what building codes and architects and 24 builders refer to as a podium style structure, which is that 25 it is wholly below the structure, the residential portions.</p>	<p>55</p> <p>1 we will have the exact figure at site plan. 2 HEARING EXAMINER GROSSMAN: Okay. 3 MR. STEMBEL: All vehicular circulation for both 4 parking and service will be from Arthur Avenue or the 5 Belvedere Service Drive, which is on the property. 6 HEARING EXAMINER GROSSMAN: All right. 7 MR. STEMBEL: So there will be no inferences from 8 Belvedere -- from the curb of Belvedere Boulevard. All 9 vehicular and service access will be from Arthur Avenue. 10 HEARING EXAMINER GROSSMAN: Which is the southern 11 roadway? 12 MR. STEMBEL: Which is the -- along the southern 13 property line, but on the subject property. Arthur Avenue 14 connects to Belvedere Boulevard at the western end and it 15 connects to Georgia Avenue on the Eastern. 16 HEARING EXAMINER GROSSMAN: And what makes up the 17 difference between the tract that you are seeking to rezone 18 and the overall gross tract area? 19 MS. VAIAS: The engineer will likely cover -- 20 HEARING EXAMINER GROSSMAN: Okay. All right. 21 MS. VAIAS: They did the calculation for gross tract 22 area. 23 HEARING EXAMINER GROSSMAN: I'm sorry to jump the gun. 24 Okay. 25 MR. STEMBEL: We are proposing two different -- up to</p>
<p>54</p> <p>1 It is tucked into the grade with the 20 foot fall so that the 2 parking is not visible from Georgia Avenue and the parking 3 level only becomes somewhat visible from the westernmost 4 portion of the site. The parking will be screened in 5 accordance with County regulations and will be, for the most 6 part, below grade and not visible. The two courtyards that 7 are described are, therefore, over top of a portion of the 8 parking garage. It is the intention that the courtyards be 9 used for passive and limited active recreation for the 10 residents, and will be landscaped for both a visual and shade 11 type amenities based on the intended activities in the 12 courtyards. What is significant is that they are south 13 facing. So they will enjoy a great deal of -- a maximum 14 amount of sun. And they will also provide visual screening 15 for the buildings themselves from the south property of the 16 America Fenmark condominiums. 17 HEARING EXAMINER GROSSMAN: All right. Is that part of 18 your open-space? In other words, you have 10 percent of the 19 space? 20 MR. STEMBEL: We have 10 percent open-space and yes, we 21 will meet that requirement, yes. 22 HEARING EXAMINER GROSSMAN: Okay. Do you expect it to 23 be more than 10 percent or -- I know you understand it's 10 24 percent minimum. 25 MR. STEMBEL: We understand it's 10 percent minimum and</p>	<p>56</p> <p>1 six stories on the C-shaped, or the eastern portion, and up 2 to four stories on the Z-shaped or western portion, stepping 3 the buildings down so that the greatest massing is along 4 Georgia Avenue and it steps down if massing towards the 5 single-family neighborhood to the west. 6 HEARING EXAMINER GROSSMAN: All right. So six stories 7 on the C portion along Georgia Avenue? 8 MR. STEMBEL: Yes. 9 HEARING EXAMINER GROSSMAN: And four stories you said? 10 MR. STEMBEL: And four stories. 11 HEARING EXAMINER GROSSMAN: In the Z portion. 12 MR. STEMBEL: And -- 13 MS. VAIAS: How will the property satisfy parking? Can 14 you talk at least generally about the potential mix of units? 15 Again, not a binding element, but potential, so that you can 16 estimate how it might fit this? 17 MR. STEMBEL: Yes. This conceptual plan includes 18 parking for up to 250 vehicles, which is -- which satisfies 19 the criteria in terms of access points and for multiunit -- a 20 multiunit living community within the reduced parking area. 21 HEARING EXAMINER GROSSMAN: Okay. My question -- I 22 guess your counsel's question was; can you give some idea of 23 unit breakdown? 24 MR. STEMBEL: So the unit breakdown will be determined 25 through the funding application. It is not fixed at this</p>

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15 (57 to 60)

<p>57</p> <p>1 time. It will include one-bedroom, two-bedroom, and three- 2 bedroom units. 3 MS. VAIAS: And for parking purposes, we did do some 4 estimation -- 5 MR. STEMBEL: We did do -- 6 MS. VAIAS: Of a reasonable spread of those units. Can 7 you describe that? 8 MR. STEMBEL: Correct. The funding application that 9 Praj Kasbekar described, through the State of Maryland, the 10 way it's administered rewards extra points for communities 11 that have 30 percent three-bedroom units and 30 percent two- 12 bedroom units with a result, and 40 percent of the one- 13 bedroom units. And we did the parking collation based on 14 that type of mix for the maximum points allowed for the four- 15 story portion of the building, which is -- so that we -- so 16 when it comes -- 17 MS. VAIAS: Would that be the maximum amount of parking 18 that would -- 19 MR. STEMBEL: And so that would be the maximum number 20 of bedrooms on the site, and would generate the maximum need 21 for parking, the maximum parking need. 22 HEARING EXAMINER GROSSMAN: Okay. 23 MS. VAIAS: So the maximum height that we are 24 requesting for this, based on your design at this point. 25 MR. STEMBEL: Yes, so 70 feet is shown on the Floating</p>	<p>59</p> <p>1 MR. STEMBEL: And one story, one story less or 55. 2 HEARING EXAMINER GROSSMAN: Okay. Well, it's actually 3 two stores less according to -- 4 MR. STEMBEL: For the parking garage, because of the 5 grade change being 20 feet from one side to the other, the 6 parking garage is pushing that up. 7 HEARING EXAMINER GROSSMAN: I see. 8 MS. VAIAS: Okay. I believe that's all we have for Mr. 9 Stembel. 10 HEARING EXAMINER GROSSMAN: Mr. Stembel, in your 11 opinion, will this proposed building and any other -- and 12 related parking structure, be compatible with the surrounding 13 area? 14 MR. STEMBEL: Yes. 15 HEARING EXAMINER GROSSMAN: Architecturally, I take it? 16 MR. STEMBEL: Yes. 17 HEARING EXAMINER GROSSMAN: And why is that? 18 MR. STEMBEL: The building as we've envisioned the 19 massing and keeping the parking below grade for the most part 20 so that the parking is not a visual distraction, but in fact 21 is hidden from view for the largest part, and stepping the 22 building down with the largest massing being on Georgia 23 Avenue, main north-south boulevard and closest to the larger 24 structures in the neighborhood stepping down to the single- 25 family to the west means that the development will fit into</p>
<p>58</p> <p>1 Zone plan as we mentioned. The height of the proposed 2 buildings measured from the average grade point of the 3 building on Belvedere Boulevard at elevation 360 feet, is 4 approximately 65 feet, with the necessary step down to the 5 west side where it confronts the R60 zone family 6 neighborhood. 7 MS. VAIAS: But this is very preliminary in terms of 8 grading and height calculations? 9 MR. STEMBEL: Correct. 10 MS. VAIAS: And it's possibly go up two or three feet 11 and final design? 12 MR. STEMBEL: That is correct. 13 HEARING EXAMINER GROSSMAN: What does it step down to 14 on the west? 15 MR. STEMBEL: I'm sorry. What I meant -- I was 16 referring to the massing being stepping down, which stays 17 wholly with -- which it means that to the west, it's even 18 lower than that. 19 HEARING EXAMINER GROSSMAN: Right, but you've indicated 20 that is four stories to the west. 21 MR. STEMBEL: Yeah. 22 HEARING EXAMINER GROSSMAN: So I just wanted to get 23 some idea of what you think would be the likely height. You 24 said 65 feet is probably the height of on Belvedere Boulevard 25 on the east side. What about on the western side?</p>	<p>60</p> <p>1 the character of the neighborhood in terms of the height and 2 the massing. The -- something that hasn't been mentioned, 3 but the right of away on Belvedere Boulevard, which the 4 planner will talk about, is a significant right-of-way. So 5 that the planned development is significantly further back 6 from Belvedere Boulevard than it would be in just about any 7 other neighborhood setting. And that contributes to the 8 character and fitting into the neighborhood. 9 HEARING EXAMINER GROSSMAN: All right. And what are 10 the heights of the buildings around the proposed buildings? 11 I guess you could start out at the tip on the left's, the 12 southern -- I mean, the western portion with the individual 13 homes there. And then just go around clockwise. 14 MR. STEMBEL: Sure. The individual homes are all one 15 and two-story structures. So they are anywhere from 20 to 30 16 feet at the midpoint of their gable roofs. 17 MS. VAIAS: Is there -- there is -- are they shown on 18 the section I think. 19 MR. AGER: Yes, the section is there. 20 MR. STEMBEL: Okay. 21 MS. VAIAS: Okay. You can just flip it. Just flip it 22 up. 23 HEARING EXAMINER GROSSMAN: Sections -- what am I 24 looking at exactly? What exhibit? 25 MR. STEMBEL: Exhibit number -- it's part of Exhibit</p>

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16 (61 to 64)

<p>61</p> <p>1 38. 2 HEARING EXAMINER GROSSMAN: All right. Let's see what 3 38 is. 4 MS. VAIAS: 38 should have three plans, two sections 5 and a massing. 6 HEARING EXAMINER GROSSMAN: Well, I'm getting close, I 7 think. 8 MS. VAIAS: You are, because I saw the landscape plan 9 was 37. 10 HEARING EXAMINER GROSSMAN: 38, all right. 11 MS. VAIAS: And the buildings are 38. So you're close. 12 And there are two sections to that. 13 HEARING EXAMINER GROSSMAN: Two parts of it. Ah ha. 14 Okay. All right. So you want to continue? You said that 15 they are 20 to 30 feet in the single-family homes. And then 16 what? 17 MR. STEMBEL: Section A, which is the topmost, shows 18 the Belvedere Apartments. On the right-hand side of this 19 exhibit is a mixture of three and four story walk-ups. It 20 also shows, on the left-hand side of Section and section B, 21 the eight-story high-rise portion of the Americana Fenmark 22 condominiums. 23 HEARING EXAMINER GROSSMAN: All right. So the 24 Americana Fenmark are eight stories? 25 MR. STEMBEL: Yes.</p>	<p>63</p> <p>1 HEARING EXAMINER GROSSMAN: So is it your opinion that 2 this is in fact a transition in terms of size between what's 3 on the north and what's on the south? 4 MR. STEMBEL: Yes. 5 HEARING EXAMINER GROSSMAN: All right. 6 MS. VAIAS: And is there a section that shows the 7 residential area further to the west? 8 MR. STEMBEL: The second sheet of sections also show 9 the transition period in Section C shows the transition from 10 the lower portion of the proposed development, the four-story 11 portion and the single-family homes to the northwest. 12 HEARING EXAMINER GROSSMAN: I see. 13 MR. STEMBEL: And Section D is a longitudinal section 14 that shows -- that cuts through each portion of the intended 15 development and demonstrates -- it shows the two courtyards. 16 It shows how the parking is tucked under and set into the 17 grade, in the distance straight to the west of the single- 18 family neighborhood. 19 HEARING EXAMINER GROSSMAN: Okay. Thank you. That's a 20 useful set of diagrams. All right. Any other questions? 21 MS. VAIAS: And will the proposed building be able to 22 meet the compatibility and setback requirements of the zone? 23 MR. STEMBEL: Yes, it will. 24 MS. VAIAS: Great. That's all we have. 25 HEARING EXAMINER GROSSMAN: Okay. I have no further</p>
<p>62</p> <p>1 HEARING EXAMINER GROSSMAN: To the south. 2 MR. STEMBEL: Belvedere Apartments are three and four 3 stores. 4 HEARING EXAMINER GROSSMAN: Okay. Belvedere Apartments 5 -- 6 MS. VAIAS: And what are their architectural styles? 7 Anything in particular? The age of their -- 8 MR. STEMBEL: The Belvedere Apartments are a similar 9 age to the existing property, to the existing buildings on 10 the subject property. They are flat roofed, brick, 11 undistinguished post-World War II architecture. 12 HEARING EXAMINER GROSSMAN: Okay. 13 MS. VAIAS: And they -- 14 MR. STEMBEL: The Americana Fenmark condominium was 15 built in the '70s and has classic '70s exposed concrete and 16 large balcony type architecture. 17 HEARING EXAMINER GROSSMAN: Okay. So looking at 18 Exhibit 38 on page 1, the aerial photograph with a sim of 19 your proposed building, I take it I'm looking from the north 20 looking south. Is that correct? Because I see the taller 21 building there is the Americana Fenmark -- 22 MR. STEMBEL: That is correct. Your vantage point is 23 from the northwest looking southeast. 24 HEARING EXAMINER GROSSMAN: Okay. All right. 25 MS. VAIAS: Is that the other section --</p>	<p>64</p> <p>1 questions. Thank you, sir. 2 MR. STEMBEL: Thank you. 3 MS. VAIAS: Okay. Next we will bring up Dave Ager, who 4 can try and answer several other questions that you have 5 thrown out at this point. 6 HEARING EXAMINER GROSSMAN: Okay. 7 MR. AGER: No pressure, right? 8 MS. VAIAS: No pressure. It's all on you Dave. 9 HEARING EXAMINER GROSSMAN: Let's hope he doesn't throw 10 them out. 11 MS. VAIAS: You have to answer all the questions. 12 HEARING EXAMINER GROSSMAN: Mr. Ager, would you raise 13 your right hand, please? Do you swear or affirm to tell the 14 truth, the whole truth, and nothing but the truth under 15 penalty of perjury? 16 MR. AGER: I do. 17 HEARING EXAMINER GROSSMAN: All right. You may 18 proceed. 19 MS. VAIAS: So Mr. Ager's resume has been submitted as 20 Exhibit 41(f). 21 HEARING EXAMINER GROSSMAN: Okay. 22 MS. VAIAS: And we will like to qualify him as an 23 expert in landscape architecture and land planning. 24 HEARING EXAMINER GROSSMAN: All right. 25 MS. VAIAS: And site design. If he could -- do you</p>

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17 (65 to 68)

65	1 want to look at that or have him state his education? 2 HEARING EXAMINER GROSSMAN: I have that out there. 3 Yes, he can go briefly through his background. 4 MS. VAIAS: And professional -- okay. Mr. Ager, go 5 ahead. 6 MR. AGER: For the record, my name is Dave Ager, a 7 principal with Townscape Design. We are located in Howard 8 County. I am a licensed architect, certified planner. 9 HEARING EXAMINER GROSSMAN: What's your address, by the 10 way? 11 MR. AGER: I apologize. Our business address is 6030 12 Daybreak Circle, Suite A150, in Clarksville, Maryland. 13 HEARING EXAMINER GROSSMAN: Okay. 14 MR. AGER: And I'm principal at Townscape Design, LLC. 15 We've been in business since 2005. And my background is, I'm 16 a licensed landscape architect in Maryland, Virginia, and 17 Delaware. I'm a certified planner since 1992, and I'm LEED 18 certified for neighborhood development. My educational 19 background, I was trained as a landscape architect with a 20 specialty in regional planning, large-scale design in 21 regional planning. I graduated with honors. I received the 22 Dean's medal. And that was in 1980. I've practiced as a 23 landscape architect since 1986 and I've been practicing in 24 land planning in Montgomery County specifically since 1984. 25 MS. VAIAS: And have you qualified as an expert before	67	1 to be honest with you. 2 HEARING EXAMINER GROSSMAN: Okay. All right. Do you 3 wish to offer this witness as an expert in what field? 4 MS. VAIAS: In landscape architecture and land 5 planning. 6 HEARING EXAMINER GROSSMAN: All right. Based on Mr. 7 Ager's background, his education, and his prior testimony as 8 an expert in land planning, I accept him as an expert in land 9 planning and landscape architecture. 10 MS. VAIAS: Thank you. Okay. So Mr. Ager, if you 11 could begin with a description of the zoning of the property 12 and the requested zoning and the criteria that we are here to 13 satisfy with regard to that? 14 MR. AGER: Certainly. The current zoning as has been 15 mentioned previously is R10, high density, multifamily. 16 That's been the case since 1954 on the property, as my 17 research indicated. The requested zone is the CRTF Floating 18 Zone of 1.75, with a commercial component of 0.25, a 19 residential component of 1.5 FAR, and a height of 70 feet. 20 MS. VAIAS: And can you describe how we came about that 21 request with regard to the amount of density that's permitted 22 for residential and/or commercial based on the size of the 23 property? 24 MR. AGER: Right. In the Article 5 of the zoning 25 ordinance -- I'm not good at memory. So I may refer to it
66	1 in Montgomery County? 2 MR. AGER: Yes, I have. 3 MS. VAIAS: And what type of cases? 4 MR. AGER: I've had cases here at the Hearing 5 Examiner's -- 6 MS. VAIAS: Zoning cases? 7 MR. AGER: Zoning cases. I can list a couple. 8 HEARING EXAMINER GROSSMAN: Sure. 9 MR. AGER: Most recently, it was case H115. That was 10 the case for Three Son's Avalon, LLC. That was a Floating 11 Zone case. Prior to that, a couple years back, there was a 12 case for G957. That was Clarksburg Mews, LLC. That was a PD 13 zone rezoning under the former zoning. 14 HEARING EXAMINER GROSSMAN: I believe that was mine, 15 actually. 16 MR. AGER: I believe it was. I believe it was. 17 HEARING EXAMINER GROSSMAN: But not Three Son's Avalon. 18 That might've been Lynn Robeson. 19 MR. AGER: No, that was Lynn Robeson, right. 20 HEARING EXAMINER GROSSMAN: Yeah, right. Okay. And 21 you testified as an expert plan planner those cases? 22 MR. AGER: Yes, sir. 23 MS. VAIAS: And landscape architect and planner? 24 MR. AGER: In those cases, I believe it was land 25 planning. I don't recall if it was landscape architecture,	68	1 directly. But in Article 5 there is specific calculations on 2 what is permitted maximum density. It has particular 3 components. It's based upon the underlying base zone. 4 HEARING EXAMINER GROSSMAN: Right. 5 MR. AGER: In this case it's R10. The size of the 6 tract, which in this case is 3.95 acres and basically the 7 general request. I believe that's in Section 5.13. Don't 8 quote me on that one. I can check that. 9 HEARING EXAMINER GROSSMAN: Yeah, it's 535. 10 MR. AGER: 535A. 11 HEARING EXAMINER GROSSMAN: 59-535A2, which is a 12 Floating Zone. It is not recommended in the master plan. 13 The following density limits apply. And it lists them out 14 and then there is one category of R30, R20, and R10. And if 15 it's greater than 3 acres, the total density is limited to 16 1.75 and the C or R density is limited to 1.5. So that 17 answers my question. I had forgotten that I noted that down, 18 but that's the section. 19 MR. AGER: Thank you. 20 MS. VAIAS: Okay. So going through the additional 21 criteria that we need to show for the requested zone, does 22 the property front on a nonresidential street? 23 MR. AGER: Yes, it does. 24 MS. VAIAS: So going through the additional criteria 25 that we need to show for the requested zone, does the

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18 (69 to 72)

69	<p>1 property front on a non-residential street?</p> <p>2 MR. AGER: Yes, it does. And there, again, in Exhibit</p> <p>3 41K there are several figures or graphic illustrations. I've</p> <p>4 blown them up for purposes of this hearing, and I'd like to</p> <p>5 present one.</p> <p>6 HEARING EXAMINER GROSSMAN: Okay, sure. Don't forget</p> <p>7 my electronic copies of everything that you present.</p> <p>8 MS. VAIAS: Right, can we submit those -- I don't know</p> <p>9 if we have those with us today.</p> <p>10 HEARING EXAMINER GROSSMAN: No, you can submit them</p> <p>11 afterwards.</p> <p>12 MS. VAIAS: Can we submit those on Monday?</p> <p>13 HEARING EXAMINER GROSSMAN: Yeah, sure. Sure.</p> <p>14 MS. VAIAS: Okay.</p> <p>15 MR. AGER: The exhibit that I just placed on the easel</p> <p>16 is page 34 of the newly adopted Master Plan of Highways --</p> <p>17 HEARING EXAMINER GROSSMAN: Okay.</p> <p>18 MR. AGER: -- and Transitways.</p> <p>19 MS. VAIAS: So we want to make this a --</p> <p>20 HEARING EXAMINER GROSSMAN: Is this previously an</p> <p>21 exhibit in the file?</p> <p>22 MR. AGER: It's a figure in my planning report. You</p> <p>23 may -- if it's in there --</p> <p>24 HEARING EXAMINER GROSSMAN: Yeah. Let's mark it.</p> <p>25 We're going to refer to it this way. I think it's wise to</p>	71	<p>1 MR. AGER: And that number is on the Exhibit 58.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay. All right.</p> <p>3 MR. AGER: We've identified the subject property in red</p> <p>4 to the very right-hand side -- the extreme right hand side --</p> <p>5 HEARING EXAMINER GROSSMAN: The far east, yes.</p> <p>6 MR. AGER: -- of the property, immediately adjacent to</p> <p>7 Georgia Avenue.</p> <p>8 HEARING EXAMINER GROSSMAN: All right.</p> <p>9 MR. AGER: Which is colored in purple on the map. And</p> <p>10 just south of Hilda Rose Drive which is covered in a cyan on</p> <p>11 the map.</p> <p>12 HEARING EXAMINER GROSSMAN: All right.</p> <p>13 MR. AGER: Those maps -- those designations are</p> <p>14 referenced in a legend on the same page.</p> <p>15 HEARING EXAMINER GROSSMAN: Okay.</p> <p>16 MR. AGER: In the same exhibit. And Georgia Avenue is</p> <p>17 listed as a major highway with planned DRT. Belvedere Avenue</p> <p>18 is undesignated so that makes it a residential street. So we</p> <p>19 meet the criteria because we front on Georgia Avenue which is</p> <p>20 a nonresidential street.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay.</p> <p>22 MS. VAIAS: And kind of walk through the additional</p> <p>23 prerequisites requesting a Floating Zone pursuant to Section</p> <p>24 5.1.3 and can you please describe from their category 1,</p> <p>25 which is the transit and infrastructure category, and does</p>
70	<p>1 mark it. And somewhere in here I have my exhibit list of --</p> <p>2 MS. VAIAS: We've marked it 58.</p> <p>3 HEARING EXAMINER GROSSMAN: -- which I have buried.</p> <p>4 There it is. Okay. So I guess we're up to Exhibit 58?</p> <p>5 MR. AGER: Yeah.</p> <p>6 HEARING EXAMINER GROSSMAN: And how would you describe</p> <p>7 this exhibit?</p> <p>8 MR. AGER: This is a color photocopy of page 34 of the</p> <p>9 2018 adopted Master Plan of Highways and Transitways. It has</p> <p>10 the effective date listed at the bottom left-hand corner of</p> <p>11 the exhibit of 7/24/2018. This exhibit --</p> <p>12 HEARING EXAMINER GROSSMAN: What page again in the</p> <p>13 Master Plan of Highways?</p> <p>14 MR. AGER: Yes, Master Plan of Highways and</p> <p>15 Transitways.</p> <p>16 MS. VAIAS: What page?</p> <p>17 HEARING EXAMINER GROSSMAN: What page?</p> <p>18 MS. NOONAN: 35.</p> <p>19 MR. AGER: In my report it's on -- it's Exhibit 14 on</p> <p>20 page 22.</p> <p>21 HEARING EXAMINER GROSSMAN: No, I mean what page of</p> <p>22 the Master Plan Highways?</p> <p>23 MR. AGER: I apologize. It's page 34 of the Master</p> <p>24 Plan.</p> <p>25 HEARING EXAMINER GROSSMAN: Okay.</p>	72	<p>1 the site fit within the first category that it is at least 75</p> <p>2 percent of the site is within a Level 1 transit stop?</p> <p>3 MR. AGER: Yes, that is correct.</p> <p>4 MS. VAIAS: How close is the property to the Forest</p> <p>5 Glen Metro?</p> <p>6 MR. AGER: It is less than one quarter-mile to the</p> <p>7 Forest Glen Metro, and therefore meets in the criteria of</p> <p>8 three-quarter miles.</p> <p>9 HEARING EXAMINER GROSSMAN: Yeah, I actually thought</p> <p>10 they had -- the Staff had it yet is a little bit more</p> <p>11 distant I thought.</p> <p>12 MS. VAIAS: It was actually confusing at some point</p> <p>13 because it said -- it says three-quarters because that's</p> <p>14 what's required, but it's actually less than three-quarters.</p> <p>15 MR. AGER: It meets the three-quarter criteria.</p> <p>16 MS. VAIAS: It meets the three quarters criteria</p> <p>17 because it actually is only one-quarter.</p> <p>18 MR. AGER: But it's exceptionally close for --</p> <p>19 HEARING EXAMINER GROSSMAN: Only one-quarter mile.</p> <p>20 MS. VAIAS: So it wasn't exactly incorrect. It was</p> <p>21 just worded slightly differently.</p> <p>22 HEARING EXAMINER GROSSMAN: Okay.</p> <p>23 MS. VAIAS: And does the site have frontage on an</p> <p>24 vehicular, bicycle and pedestrian access to at least two</p> <p>25 roads, one of which is non-residential?</p>

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19 (73 to 76)

73	75
<p>1 MR. AGER: Yes, it does. It fronts on both Georgia 2 Avenue and Belvedere Boulevard with -- and it does have 3 vehicular access to both, via the service drive as we 4 discussed earlier, and there's sidewalks on both of those 5 streets. And so it has pedestrian and bicycle access as 6 well. 7 HEARING EXAMINER GROSSMAN: Okay. 8 MR. AGER: If I could just go back, just for purposes 9 of information. 10 HEARING EXAMINER GROSSMAN: Sure. 11 MR. AGER: In my report there's a proximity diagram, 12 Figure 12, that shows the location of the property relative 13 to the Forest Glen Metro and the distances. 14 HEARING EXAMINER GROSSMAN: What's the exhibit number 15 of your report again? 16 MR. AGER: 41(k). 17 HEARING EXAMINER GROSSMAN: 41(k). Okay, yeah. 18 MS. VAIAS: And what page? 19 HEARING EXAMINER GROSSMAN: Let me pull that out 20 again. 21 MR. AGER: I believe it's page 20. 22 MS. VAIAS: And page 21. I think it might be page 21 23 -- 24 MS. NOONAN: I think it's 21. 25 MS. VAIAS: -- on your version. And we're aware the</p>	<p>1 to -- if you need to see it. 2 MS. VAIAS: Okay. 3 HEARING EXAMINER GROSSMAN: Okay. I mean you don't 4 center it on the property, so -- 5 MS. VAIAS: Now, what does that radius? Where's the 6 center at? 7 HEARING EXAMINER GROSSMAN: The radius, the center of 8 the -- 9 MS. VAIAS: Circle. 10 HEARING EXAMINER GROSSMAN: -- of the circle is not on 11 the subject site. So it's a little bit misleading as to what 12 is a quarter of a mile. I mean it looks to me like it's -- 13 if I took that -- a radius of the quarter of a mile -- 14 MS. VAIAS: What is the center? 15 MR. AGER: The center is located at the door to the 16 Metro station. 17 HEARING EXAMINER GROSSMAN: Oh, that's at the Metro 18 station itself? 19 MS. VAIAS: So it's on the Metro. 20 MR. AGER: It's at the Metro station entrance. 21 HEARING EXAMINER GROSSMAN: I see. Okay. So that's 22 why you -- 23 MR. AGER: So -- 24 HEARING EXAMINER GROSSMAN: I see. Okay. 25 MS. VAIAS: To show that the property is within --</p>
74	76
<p>1 diagram printed -- 2 HEARING EXAMINER GROSSMAN: By the way, what makes it 3 a Level 1 facility entrance? 4 MR. AGER: Metro stations are considered Level 1 5 facilities. 6 HEARING EXAMINER GROSSMAN: I see. 7 MR. AGER: Other facilities that are fixed rail are 8 considered Level 2. WMATA stations are considered Level 3. 9 HEARING EXAMINER GROSSMAN: Okay. I don't -- I see 10 the proximity, I don't see it saying it's a quarter of a mile 11 here. It doesn't specifically say it. 12 MR. AGER: The quarter mile radius is referenced in the 13 upper portion of the exhibit. 14 MS. VAIAS: The circle? 15 MR. AGER: The circle. 16 MS. VAIAS: The circle that is showing? 17 MR. AGER: The dash circle is the quarter mile radius. 18 And there's an actual narrative that says it. I have a -- 19 HEARING EXAMINER GROSSMAN: Well, and if the dash 20 circle is a quarter of a mile -- Oh, I see. Yes, I see it. 21 Okay. Well one quarter mile radius. I see it. I'm sorry. 22 I didn't see that at first. 23 MR. AGER: Okay. 24 HEARING EXAMINER GROSSMAN: Okay. So it's actually -- 25 MR. AGER: I brought an enlargement of it if you want</p>	<p>1 HEARING EXAMINER GROSSMAN: I get it. 2 MS. VAIAS: Okay. 3 HEARING EXAMINER GROSSMAN: I get it. I'm a little 4 slow this morning. 5 MS. VAIAS: That's okay. 6 MR. AGER: That's okay. 7 MS. VAIAS: We're here to explain. 8 MR. AGER: As long as we're clear. I apologize for -- 9 MS. VAIAS: Okay. Moving to Category 2 prerequisite 10 with regard to the vicinity and facilities, is the site in a 11 transitional location between property in existing 12 residential, multi-unit, townhouse, or nonresidential zone 13 and property in a residential, multi-unit, townhouse, or a 14 residential detached zone? 15 MR. AGER: Yes, it is. As been described by previous 16 presenters, the property is in a multi-residential zone, it 17 has multi-residential zones north and south of it. It has a 18 townhouse and single family detached zones west of it. 19 Therefore, it qualifies as a transitional location. 20 MS. VAIAS: Is the site adjacent to a route that 21 provides access to an existing or master plan school within 22 one-half mile? 23 MR. AGER: Yes. The nearby elementary school is 24 located within one half mile and can be accessed -- we have 25 an exhibit. The Flora M. Singer Elementary School is west of</p>

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20 (77 to 80)

<p>77</p> <p>1 the subject property.</p> <p>2 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>3 MR. AGER: Is within one-half mile of the subject</p> <p>4 property and can be accessed via a sidewalk system.</p> <p>5 HEARING EXAMINER GROSSMAN:. All right. You have a --</p> <p>6 MR. AGER: And there is an exhibit in 41(k) that</p> <p>7 illustrates that as well.</p> <p>8 HEARING EXAMINER GROSSMAN:. Okay. What's the exhibit</p> <p>9 that illustrates that?</p> <p>10 MR. AGER: It is Exhibit -- oh, I'm sorry. Figure 18</p> <p>11 in Exhibit 41(k).</p> <p>12 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>13 MR. AGER: And it should be on page 27 of your copy.</p> <p>14 HEARING EXAMINER GROSSMAN:. I see. Okay. All right.</p> <p>15 MS. VAIAS:. Okay. Category 3 is environmental</p> <p>16 resources, and we will have our civil engineer discuss those</p> <p>17 topics.</p> <p>18 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>19 MS. VAIAS:. The next issue for Mr. Ager is with regard</p> <p>20 to open space requirements and the public benefits</p> <p>21 requirement for open space and how it is proposed. Again,</p> <p>22 much of this is conceptual at this stage but will the site be</p> <p>23 able to meet those criteria?</p> <p>24 MR. AGER: Yes. The architects design meets both the</p> <p>25 open space and the public benefits criteria established in</p>	<p>79</p> <p>1 HEARING EXAMINER GROSSMAN:. In other words you can</p> <p>2 meet the public open space --</p> <p>3 MR. AGER: Without them.</p> <p>4 HEARING EXAMINER GROSSMAN:. -- without them.</p> <p>5 MR. AGER: Yes, that's correct.</p> <p>6 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>7 MS. VAIAS:. And can you describe the public benefit,</p> <p>8 again conceptually, we've looked at -- have you looked at how</p> <p>9 public benefit points may be achieved for this site?</p> <p>10 MR. AGER: Yes, that's also in the report. The</p> <p>11 application, as designed by the architect, actually meets</p> <p>12 public benefit points in three categories. The one most</p> <p>13 significant is the inclusion of MPDUs beyond the minimum.</p> <p>14 The public benefit points also the minimum requirement is 50</p> <p>15 points and under this -- according to the calculations in the</p> <p>16 Code. But also, because of the subterranean parking there is</p> <p>17 points that can be achieved as a result of the parking</p> <p>18 structure. And the third category is transit proximity. But</p> <p>19 again, this would be determined later on in the process. But</p> <p>20 because there is a commitment for 20 percent MPDUs</p> <p>21 technically the application at the time of the sketch plan</p> <p>22 would only have to meet one category which would be the</p> <p>23 housing code category I believe.</p> <p>24 HEARING EXAMINER GROSSMAN:. I saw that you would</p> <p>25 actually -- the MPDUs would probably push you over the total</p>
<p>78</p> <p>1 the Code. With respect to open space, there is a -- based</p> <p>2 upon the scale of the development and the size of the</p> <p>3 property, the open space -- and the number of frontages the</p> <p>4 open space will be 10 percent and the Code defines that it</p> <p>5 will be public open space. I believe it's envisioned to be</p> <p>6 along the frontage roads, obviously, and will actually</p> <p>7 enhance compatibility because it will have public park space,</p> <p>8 or public open space in those areas.</p> <p>9 HEARING EXAMINER GROSSMAN:. It doesn't include the</p> <p>10 kind of patio areas or whatever you call them, garden open</p> <p>11 spaces?</p> <p>12 MR. AGER: The two courtyards --</p> <p>13 HEARING EXAMINER GROSSMAN:. Are those --</p> <p>14 MR. AGER: -- that face to the south --</p> <p>15 HEARING EXAMINER GROSSMAN:. Yeah, courtyards.</p> <p>16 MR. AGER: -- it's my understanding -- well, if the</p> <p>17 final design includes public open space along Georgia Avenue</p> <p>18 --</p> <p>19 HEARING EXAMINER GROSSMAN:. Yes.</p> <p>20 MR. AGER: -- and along Belvedere as illustrated here</p> <p>21 and, you know, it's accepted by Park and Planning in the</p> <p>22 final design that the public open space can be accommodated</p> <p>23 and those two open space facilities can be private.</p> <p>24 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>25 MR. AGER: So the --</p>	<p>80</p> <p>1 number of benefit points you needed, but I thought, if I</p> <p>2 recall the Code it actually required that it be in three</p> <p>3 categories.</p> <p>4 MR. AGER: It's, in my recollection, and I would have</p> <p>5 to check the Code specifically --</p> <p>6 HEARING EXAMINER GROSSMAN:. Right.</p> <p>7 MR. AGER: -- is that if you provide 20 percent or more</p> <p>8 MPDUs that the number of categories can be reduced from three</p> <p>9 to one.</p> <p>10 HEARING EXAMINER GROSSMAN:. Okay. Yeah, I don't</p> <p>11 recall seeing that in the Code. I don't say you're wrong, I</p> <p>12 just don't recall that. Let's see. Public benefits.</p> <p>13 MS. VAIAS:. 5.3.5.E.</p> <p>14 HEARING EXAMINER GROSSMAN:. E, yeah.</p> <p>15 MS. VAIAS:. Right. And then there's an MDPU.</p> <p>16 HEARING EXAMINER GROSSMAN:. And then it refers you to</p> <p>17 --</p> <p>18 MS. VAIAS:. Section.</p> <p>19 HEARING EXAMINER GROSSMAN:. 4.7.</p> <p>20 MS. VAIAS:. Right. 4.7.</p> <p>21 HEARING EXAMINER GROSSMAN:. And when I look there</p> <p>22 under CRTF it says for, you know, 10,000 square feet or</p> <p>23 greater than 1.5 max FAR it says public benefit .50 number of</p> <p>24 benefit categories, minimum three, but maybe there's some</p> <p>25 other section that --</p>

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21 (81 to 84)

<p>81</p> <p>1 MS. VAIAS: Yes, when we keep going to paragraph D, 2 number 6. 3 HEARING EXAMINER GROSSMAN: All right I don't have 4 that with me. Subparagraph D. So you're saying that in 5 Section 4.7 -- 6 MS. VAIAS: 3.D. 7 HEARING EXAMINER GROSSMAN: Point D? 8 MS. VAIAS: Line 6. 9 HEARING EXAMINER GROSSMAN: I'm sorry. Give me this 10 whole cite again. 11 MS. VAIAS: Okay. 4.7.3, paragraph D, number 6. 12 HEARING EXAMINER GROSSMAN: Okay. 13 MS. VAIAS: Is regarding moderately priced dwelling 14 units. And Mr. Ager, if you can read paragraph 6.E is the 15 specific paragraph. 16 MR. AGER: It's quote the -- 6.E it's; "For a project 17 providing a minimum of 15 percent MPDUs, one less benefit 18 category than is required under Section 4.5.4.A.2 and Section 19 4.6.4.A.2 must be satisfied. A project that provides a 20 minimum of 20 percent MPDUs does not have to satisfy any 21 other benefit category under Section 4.5.4.A.2 and Section 22 4.6.4.A.2." 23 HEARING EXAMINER GROSSMAN: Okay. 24 MR. AGER: But let me just say, my testimony is the 25 design meets three categories.</p>	<p>83</p> <p>1 MR. AGER: The build to area generally is the maximum 2 setback. You know there's a minimum and a maximum and again, 3 I'm going from memory, but there is -- when buildings are 4 placed within the build to area there's a certain percentage 5 of the building façade that needs to be -- to meet that 6 criteria. So for example if the building was to stagger or 7 to have courtyards in it, if the building frontage was within 8 the build to area the portion within the area would have to 9 meet a certain specified percentage of the build to area. 10 MS. VAIAS: So within the CRT and the CRTF zone 11 there's actually some -- the goal is actually to put 12 buildings, often times, closer to the street rather than 13 further away? 14 MR. AGER: That's correct. There's -- yes, that's 15 correct. 16 MS. VAIAS: And is that potentially why we are putting 17 a zero setback so that that can be determined at site plan as 18 to how far it should be from the street? 19 MR. AGER: Yes. That is correct so that there's 20 flexibility when the Planning Board reviews the application 21 at a future date. But as we discussed previously, there's 22 going to be a 10 percent public open space obligation that 23 would be met that's essentially between the building and the 24 right-of-way. 25 HEARING EXAMINER GROSSMAN: You are testifying there's</p>
<p>82</p> <p>1 HEARING EXAMINER GROSSMAN: In any event. 2 MR. AGER: But it also qualifies to meet it under this 3 criteria. 4 HEARING EXAMINER GROSSMAN: All right. They couldn't 5 have designed it in any more complicated form. 6 MR. AGER: I don't think so but no comment. 7 MS. VAIAS: Just so it isn't -- with regard to the 8 setbacks that we were discussing earlier can you describe how 9 we've gotten to the issue of zero as the minimum setbacks for 10 the property and how that's an appropriate setback for this? 11 MR. AGER: Right. Right. Visually, the architect, as 12 you can see on the Floating Zone Plan has envisioned a 13 building that's not at the zero setback line. However, the 14 Staff suggested that at the time of the Floating Zone plan 15 application and approval for the Floating Zone it would be 16 appropriate to have a zero minimum setback. And that the 17 final determination would be done at the sketch plan and/or 18 site plan. We agreed with that determination and we've 19 revised the Floating Zone Plan to show a minimum zero 20 setback, which is allowed in that particular zone. 21 MS. VAIAS: Can you describe briefly the concept of 22 the build to area that relates to the CRTF zone and why it's 23 unlike other standard Euclidian Zones that may have setbacks 24 as opposed to build to areas, and how that relates to this 25 zero setback?</p>	<p>84</p> <p>1 nothing in the Zoning Ordinance and that requires the setback 2 to be more than zero in this zone? 3 MR. AGER: Essentially yes. What the Code says is the 4 minimum is zero. 5 HEARING EXAMINER GROSSMAN: Okay. And as it's 6 currently set out on your Floating Zone Plan, not your 7 textual part but the diagrammatic portion, which is 8 conceptual, what is the setback that you have on that? 9 MR. AGER: I believe that the general minimum setback 10 that was envisioned by the architect, again I don't know if 11 it's in the record yet, but there is a WMATA easement located 12 -- 13 MS. VAIAS: Is that shown on the Floating Zone Plan? 14 MR. AGER: It is shown on the Floating Zone Plan. 15 MS. VAIAS: Exhibit 50? 16 MR. AGER: And I can describe it. It is a triangular 17 hatch shaped area roughly parallel in Georgia Avenue's right- 18 of-way. 19 HEARING EXAMINER GROSSMAN: I see it. 20 MR. AGER: And it's an underground easement that will 21 restrict building placement, but not tree planting, or 22 landscaping, or other potential public improvements. So that 23 will be part of the ultimate building setback in the final 24 design. And the architect, I believe, has envisioned 25 approximately 10 feet of building setback along Belvedere in</p>

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22 (85 to 88)

<p>85</p> <p>1 his preliminary illustrative design. The Floating Zone plan 2 indicates a greater setback at the westernmost portion of 3 Belvedere where the single-family detached homes are located. 4 That is for two reasons. One to provide compatibility, but 5 also to meet the height compatibility standards of the Code 6 4.1.8.B. 7 HEARING EXAMINER GROSSMAN:. You also have some micro- 8 bio retention facilities. 9 MR. AGER: That is correct. 10 HEARING EXAMINER GROSSMAN:. On the western side there? 11 MR. AGER: That's right. The lower side of the site, 12 yeah. Yes, sir. 13 HEARING EXAMINER GROSSMAN:. So in general, the setback 14 that I -- what appears to be about, I guess about 10 feet, 15 one that equals 30 feet along Belvedere and along the south 16 too it appears; is that correct? 17 MR. AGER: Yes. There is a dashed line that's 18 approximately 10 feet off of both of those lines on the 19 Floating Zone Plan. 20 HEARING EXAMINER GROSSMAN:. All right. And then a 21 little bit greater on the east because you have that 22 easement. 23 MR. AGER: That's correct. The easement -- 24 HEARING EXAMINER GROSSMAN:. What about the easement? 25 MR. AGER: -- and it's my personal opinion that we</p>	<p>87</p> <p>1 gun again. Yes, I'm sorry. 2 MS. VAIAS:. That's okay. 3 MR. AGER: There's previous dedications. 4 HEARING EXAMINER GROSSMAN:. Dedications, okay. 5 MS. VAIAS:. And will the proposed site meet the 6 minimum lot size requirements of the zone? 7 MR. AGER: Yes, it will. 8 MS. VAIAS:. Okay. And will there be sufficient 9 parking and recreation facilities available for the site? 10 MR. AGER: Yes. The parking I think has been described 11 by the architect and he has anticipated a general mix of unit 12 bedroom sizes and has accommodated the parking in the 13 underground facility to meet the minimum standards. With 14 respect to recreation, in the report that I provided I was 15 actually pleasantly surprised there was an abundance of off- 16 site recreation in this neighborhood. So much so that when 17 you run the calculations based upon the online calculator 18 that Park and Planning now provides within -- the zoning case 19 requires a three-quarter mile radius. The calculator does a 20 half-mile radius so it's a more restrictive, more 21 conservative counting metric. Actually, you can meet the 22 recreational requirements almost to -- for all age 23 categories, except for seniors, well in excess of 100 24 percent. But the criteria for the zoning case is 30 percent, 25 which it obviously exceeds in all age groups. And it exceeds</p>
<p>86</p> <p>1 anticipate that space will be approximately 15 feet. For 2 credit for public open space it needs to be 15 feet wide and 3 there is a 5 foot -- or I'm sorry. There's an expectation 4 for a 5 foot dedication along Georgia Avenue. The Master 5 Plan Highways and Transitways identifies and recommends 6 Georgia Avenue as a 110 foot right-of-way. The current 7 right-of-way is 100 feet. So it is our expectation that when 8 we apply for a sketch plan and preliminary plan approval we 9 will be required and requested to dedicate an additional five 10 feet along Georgia Avenue's frontage. So the building -- 11 HEARING EXAMINER GROSSMAN:. While the -- yeah. Go 12 ahead. 13 MR. AGER: I'm sorry. Just to close that comment, the 14 building, the architects and building location that's the 15 illustrative shown on the Floating Zone Plan anticipates that 16 setback and that's 15 feet of potential public open space 17 width. 18 HEARING EXAMINER GROSSMAN:. Okay. And perhaps this is 19 a good time to address what accounts for the difference 20 between the area being rezoned and the gross tract area? 21 MR. AGER: The civil engineer will speak to it more 22 specifically. 23 HEARING EXAMINER GROSSMAN:. Oh, okay. 24 MR. AGER: But there -- 25 HEARING EXAMINER GROSSMAN:. All right. I jumped the</p>	<p>88</p> <p>1 it for the 35 percent which will ultimately be the metric at 2 a half-mile radius when we do the development plan. 3 HEARING EXAMINER GROSSMAN:. Do you have a diagram of 4 that too in your -- 5 MR. AGER: Yes I do, sir. 6 HEARING EXAMINER GROSSMAN:. What page of that report? 7 MR. AGER: Give me one second. 8 HEARING EXAMINER GROSSMAN:. It looks like maybe page 9 28? 10 MR. AGER: It may be 28. Yes, sir. And I also 11 provided alternative calculations that come up with the same 12 conclusion of what I just expressed. There's an abundance of 13 off-site and we understand that the on-site will be provided 14 and will be determined at the time of the site plan. 15 HEARING EXAMINER GROSSMAN:. Okay. 16 MS. VAIAS:. So now we'll move to the Floating Zone 17 Plan substantially conforming to the recommendations of the 18 Master Plan, the General Plan, and other County plans. I 19 believe there's substantial testimony in your report 20 regarding this issue; is that correct? 21 MR. AGER: That is correct, yes. 22 MS. VAIAS:. And do you want to point to the pages 23 referenced as pages and then we will briefly walk through 24 them -- 25 MR. AGER: Okay.</p>

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23 (89 to 92)

<p>89</p> <p>1 MS. VAIAS.: -- with regard to the properties 2 conformance to the various master plans. 3 MR. AGER: It's Section 6 of the report. It starts on 4 page 34 and goes to page 53. 5 MS. NOONAN: It starts on 35. 6 MS. VAIAS.: 35 of your report. 7 HEARING EXAMINER GROSSMAN.: Okay. 8 MS. VAIAS.: So can you describe, again I think we can 9 cover the Forest Glen Sector Plan first as the current 10 approved plan as well as the proposed pending plan. 11 MR. AGER: Right. Yeah, the 1996 forest Glen Sector 12 Plan had three main goals and objectives. Number one was to 13 ensure that new developments is compatible with the character 14 of the existing residential neighborhood.. There is another 15 objective, number two, to protect the edges of the existing 16 what was referred to if you read the -- read further into the 17 Sector Plan and the single-family detached residential 18 neighborhoods along Georgia Avenue and to soften the impact 19 of major roadways on the adjacent single-family detached 20 homes. And then third focus new development and 21 redevelopment at appropriate locations near the Metro rail 22 station consistent with the General Plan. The specific land 23 use recommendations for the subject property in the Forest 24 Glen plan is high density multifamily. The application -- it 25 is my opinion that the application is consistent with these</p>	<p>91</p> <p>1 transitional designs in his massing of his buildings so that 2 the building relates to multifamily north and south of the 3 subject property and creates the smallest massing and lowest 4 portion of the building closest to the single-family detached 5 to the west. And also as illustrated on the Floating Zone 6 Plan some of the larger public open space components are 7 located in that area as well. 8 HEARING EXAMINER GROSSMAN.: So in your opinion as an 9 expert in land planning will this project as shown in the 10 Floating Zone Plan be compatible with the surrounding 11 development? 12 MR. AGER: Yes, it will. 13 HEARING EXAMINER GROSSMAN.: Okay. 14 MS. VAIAS.: Are there other aspects to the existing 15 Forest Glen plan? 16 MR. AGER: Well, there was a couple of other items. 17 One is there is a general recommendation in the Forest Glen 18 plan to provide a green corridor along Georgia Avenue. By 19 redeveloping this property this property can help fulfill 20 that goal of the Master Plan. And as a redevelopment project 21 there is an opportunity to upgrade pedestrian facilities that 22 are substandard as part of the redevelopment. Those are 23 identified in that plan as well. 24 MS. VAIAS.: And how about the pending Forest Glen 25 Sector Plan even though they are recommendations, is this</p>
<p>90</p> <p>1 main goals and objectives of the Sector Plan. And that is it 2 is consistent with the existing land use pattern in the area. 3 It's replacing multifamily with multifamily. The particular 4 proposal before us will actually improve compatibility 5 between land uses along Georgia Avenue and the Forest Glen 6 Metro station. 7 HEARING EXAMINER GROSSMAN.: How does it improve the 8 compatibility? 9 MR. AGER: Well, it actually will provide more -- well 10 a couple of things. And maybe I'm jumping to the General 11 Plan objectives but as a general practice, if you are able to 12 provide affordable housing or residential close proximity to 13 a Metro station it has several other benefits that are 14 described in all the plans. And so this proposal does that. 15 It actually takes substandard housing and replaces it on the 16 same property with more housing and will actually increase 17 the amount of housing in close proximity to the Metro 18 station. 19 HEARING EXAMINER GROSSMAN.: Well, that addresses a 20 goal of the plan. What about the compatibility with the 21 surrounding and existing property? 22 MR. AGER: Yeah. The compatibility is accomplished 23 through the design of the project as the architect 24 illustrated with his cross-sections. I don't recall the 25 exhibit numbers. The architect was very careful to create</p>	<p>92</p> <p>1 plan consistent with what we've seen to date? 2 MR. AGER: Yes it is. The Staff is in the process of 3 developing a formal Staff draft of the -- what they referred 4 to as the Forest Glen and Montgomery Hills Sector Plan, which 5 is more of a corridor that includes the subject property. In 6 those recommendations, which they have presented to the 7 Planning Board informally, they've identified the site as an 8 opportunity site for affordable housing which is close to 9 transit. They have come out with some general 10 recommendations for zoning on the property as well. Their 11 recommendation for zoning would be CRT2.0, C0.25, R2.0, H75. 12 So their recommendations are slightly higher -- 13 HEARING EXAMINER GROSSMAN.: A higher density. 14 MR. AGER: -- than the Applicant requests. 15 HEARING EXAMINER GROSSMAN.: So in your mind, how do 16 you reconcile those two? 17 MR. AGER: I don't see a particular issue with it. For 18 one, the Applicant has designed the building that they 19 believe is appropriate for the site, for all the issues that 20 we discussed previously with compatibility, height. And so 21 it fits into the neighborhood. The Staff, if this 22 recommendation goes forward, -- 23 HEARING EXAMINER GROSSMAN.: Right. 24 MR. AGER: -- has found that additional height, and 25 additional density would be appropriate from at least a</p>

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24 (93 to 96)

<p>93</p> <p>1 Master Plan standpoint on the site -- on the subject 2 property. So in the event that the Floating Zone Plan is 3 approved, we would be within that threshold that they have 4 identified, and I don't see any conflict in that. 5 HEARING EXAMINER GROSSMAN:. In other words what 6 they're recommending is a maximum in terms of density, not 7 that every project has to be as dense -- 8 MR. AGER: That's correct. 9 HEARING EXAMINER GROSSMAN:. -- and as high. 10 MR. AGER: That's a good way to put it. 11 HEARING EXAMINER GROSSMAN:. Okay. 12 MS. VAIAS:. And are we constrained by the Floating 13 Zone requirements, in any event, as to how much density we 14 could request? 15 MR. AGER: Yes. Under the Floating Zone application, I 16 believe we -- I testified that it's restricted based upon the 17 underlying zone, the number of frontages, and the size of the 18 tract. 19 HEARING EXAMINER GROSSMAN:. Under the current zoning 20 ordinance you are limited in any event? 21 MR. AGER: That's correct. 22 HEARING EXAMINER GROSSMAN:. And that the Master Plan 23 being discussed is -- or the Sector Plan being discussed is 24 still being discussed. It's not -- 25 MR. AGER: That's correct.</p>	<p>95</p> <p>1 MS. VAIAS:. Okay. And with regard to the CRT zone 2 itself and the purpose of the CRT zone, one which is to allow 3 development of mixed-use centers, and communities at a range 4 of densities and heights flexible enough to respond to 5 various settings. Does the proposed application, in your 6 opinion, meet that purpose? 7 MR. AGER: Yes, it does. 8 MS. VAIAS:. And an additional purpose is to allow 9 flexibility in uses for a site. Does it meet that purpose? 10 MR. AGER: Yes, it does. 11 MS. VAIAS:. And to provide mixed-use development 12 that's compatible with adjacent development. Does it meet 13 that purpose? 14 MR. AGER: Yes, as we discussed previously it's 15 compatible with adjacent development. 16 MS. VAIAS:. So overall do you agree with the Planning 17 Staff report or were there any items in that report that you 18 disagreed with? 19 MR. AGER: Well, I think the Planning Staff clarified 20 several items in the report just to bring the items we've 21 already discussed, one is the setback question. They've 22 clarified in their recommendation from the Planning Board 23 that it should be zero feet. The Staff Report, I believe, 24 identifies the previous version of the Floating Zone Plan. 25 HEARING EXAMINER GROSSMAN:. Right.</p>
<p>94</p> <p>1 HEARING EXAMINER GROSSMAN:. It's not an official plan. 2 MR. AGER: That is correct. 3 MS. VAIAS:. And can you briefly discuss how the 4 Floating Zone Plan conforms to the General Plan by the 5 County? 6 MR. AGER: Well, the General Plan has a specific land 7 use pattern that is generally referred to as the wedges and 8 corridors concept. Specifically, that plan, for a variety of 9 beneficial reasons, promotes and strongly encourages density 10 and development in the corridor so that the wedges can remain 11 low-density or undeveloped, protecting natural resources. 12 And the other general objectives and goals within that 13 general plan that have been more fully developed in the 14 refinement in 1993 and the housing element update in 2011, I 15 believe, encourages more residential close to the existing 16 transit. And especially for low and moderate income 17 households. So this application checks all the boxes with 18 respect to the General Plan. This is exactly what the 19 general plan envisions; giving people of limited income the 20 opportunity to walk to transit and have access to a wide 21 variety of jobs and activities within the metropolitan area. 22 MS. VAIAS:. So in your opinion does the plan 23 substantially conform to the recommendations of the various 24 master and Sector Plans? 25 MR. AGER: Yes, it does.</p>	<p>96</p> <p>1 MR. AGER: So that's one item. The second item is that 2 the Staff Report refers to 220 affordable units. It will be 3 determined. It's going to be a high percentage but it's not 4 known at this time. 5 HEARING EXAMINER GROSSMAN:. Right. 6 MR. AGER: I believe that's -- I don't recall any other 7 disagreements, oh, other than the one item is the surrounding 8 properties. I identified the same surrounding properties 9 they did. The only difference on my surrounding properties I 10 also included the Metro station property. 11 HEARING EXAMINER GROSSMAN:. Okay. 12 MR. AGER: They did not include that. So there is a 13 difference there, but it's not a difference of importance. 14 HEARING EXAMINER GROSSMAN:. Okay. 15 MR. AGER: Yeah. It's an important property in close 16 proximity to the subject property. 17 HEARING EXAMINER GROSSMAN:. All right. 18 MS. VAIAS:. Does the current Master Plan recommend a 19 Floating Zone for this property? 20 MR. AGER: No, it does not. 21 MS. VAIAS:. And hence the reason we've met some of the 22 additional criteria under the Code where you did not have a 23 Master Plan recommendation? 24 MR. AGER: That is correct. There are specific 25 direction in the Zoning Ordinance for our situation, and we</p>

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25 (97 to 100)

<p>97</p> <p>1 followed that.</p> <p>2 HEARING EXAMINER GROSSMAN: Okay.</p> <p>3 MS. VAIAS: And the Staff Report does include on page</p> <p>4 12 a mention of schools with regard to public facilities but</p> <p>5 is it your opinion that capacity finding is required for the</p> <p>6 Floating Zone application?</p> <p>7 MR. AGER: It's my understanding that a capacity</p> <p>8 finding is not required specifically, but that would be done</p> <p>9 at a later time is my understanding.</p> <p>10 MS. VAIAS: But based on the review at this time and</p> <p>11 the generation rates that are generally used in these type of</p> <p>12 applications, do you believe there is capacity currently?</p> <p>13 MR. AGER: Yes, there is. Based upon the current</p> <p>14 version of the subdivision staging policy the Einstein High</p> <p>15 School is open, and the generation of students is below the</p> <p>16 seat threshold that's identified in the SSP.</p> <p>17 HEARING EXAMINER GROSSMAN: How about the other</p> <p>18 schools? The middle school and the elementary school?</p> <p>19 MR. AGER: My recollection is that they are -- that</p> <p>20 they also have capacity as well.</p> <p>21 HEARING EXAMINER GROSSMAN: Okay.</p> <p>22 MS. VAIAS: I think -- was there any -- we've covered</p> <p>23 the updates to the Sector Plan which I know you had asked</p> <p>24 about, I believe.</p> <p>25 HEARING EXAMINER GROSSMAN: Right.</p>	<p>99</p> <p>1 discussions with Staff, Staff determined first that we did</p> <p>2 have sufficient gross tract area to at least get to the 1.5</p> <p>3 residential FAR to generate a sufficient density to allow the</p> <p>4 redevelopment. And it was their opinion, at that time</p> <p>5 anyway, that we could not go back to the original zoning but</p> <p>6 that it had to be the most recent sectional map amendment</p> <p>7 even though this property was not rezoned as part of that</p> <p>8 sectional map amendment. So in order to avoid a legal</p> <p>9 dispute regarding whether the timeframe should be from the</p> <p>10 original zoning, or the subsequent sectional map amendments,</p> <p>11 we determined that again with the time not on our side with</p> <p>12 regard to this case that we could move forward with the</p> <p>13 Floating Zone.</p> <p>14 HEARING EXAMINER GROSSMAN: We don't get many change</p> <p>15 or mistake Euclidean Zone changes these days.</p> <p>16 MS. VAIAS: I realize. We were excited to bring it to</p> <p>17 you.</p> <p>18 HEARING EXAMINER GROSSMAN: I've had a couple but</p> <p>19 years ago.</p> <p>20 MS. VAIAS: I realize that. I know. I had a change</p> <p>21 or mistake case many years ago. But like I said, in the</p> <p>22 interest of time and the client's needs we had to forgo that</p> <p>23 legal battle.</p> <p>24 HEARING EXAMINER GROSSMAN: Okay.</p> <p>25 MS. VAIAS: And pursue the Floating Zone.</p>
<p>98</p> <p>1 MS. VAIAS: Student capacity. I think we've --</p> <p>2 HEARING EXAMINER GROSSMAN: There were some</p> <p>3 transportation questions but I take it you'll leave that</p> <p>4 until --</p> <p>5 MS. VAIAS: We will probably leave those to -- right,</p> <p>6 to someone else. To our traffic expert so I believe we are</p> <p>7 done with Mr. Ager unless you have additional questions?</p> <p>8 HEARING EXAMINER GROSSMAN: Just out of curiosity was</p> <p>9 there a reason why initially when this was initially filed it</p> <p>10 was filed as an Euclidean Zone change. And then you amended</p> <p>11 it in December of 2018 to request it as a Floating Zone plan.</p> <p>12 MS. VAIAS: Yeah.</p> <p>13 HEARING EXAMINER GROSSMAN: Was there a thought</p> <p>14 process that that involved?</p> <p>15 MS. VAIAS: There was. I mean it was our belief,</p> <p>16 still is I think, that we could show a change in</p> <p>17 neighborhood. The issue which was potentially on the table</p> <p>18 in discussions with Staff was the time period from which that</p> <p>19 change had to be measured. And whether it was from the</p> <p>20 original zoning on the property, or from the subsequent</p> <p>21 sectional map amendments that did not change the zoning of</p> <p>22 that property. And in addition, there was some discussion as</p> <p>23 well about the total gross tract area and whether there would</p> <p>24 be enough area in order to satisfy the density requirements</p> <p>25 that we would need to move forward. And so through those</p>	<p>100</p> <p>1 HEARING EXAMINER GROSSMAN: Okay. I don't think I</p> <p>2 have any additional questions of Mr. Ager. Thank you, sir.</p> <p>3 MR. AGER: Thank you.</p> <p>4 HEARING EXAMINER GROSSMAN: Shall we take a break here</p> <p>5 for 5 or 10 minutes?</p> <p>6 MS. VAIAS: Sure.</p> <p>7 HEARING EXAMINER GROSSMAN: Let's say come back at 10</p> <p>8 to 12?</p> <p>9 MS. VAIAS: Okay.</p> <p>10 HEARING EXAMINER GROSSMAN: Okay.</p> <p>11 MS. VAIAS: Thank you.</p> <p>12 (Off the record at 11:43 a.m.; return at 12:00 p.m.)</p> <p>13 HEARING EXAMINER GROSSMAN: -- record. Please call</p> <p>14 your next witness.</p> <p>15 MS. VAIAS: Okay. We have Ken Jones from Macris,</p> <p>16 Hendricks, & Glasscock.</p> <p>17 HEARING EXAMINER GROSSMAN: Okay. Mr. Jones, would</p> <p>18 you raise your right hand, please? Do you swear or affirm to</p> <p>19 tell the truth, the whole truth, and nothing but the truth</p> <p>20 under penalty of perjury?</p> <p>21 MR. KEN JONES: Yes.</p> <p>22 HEARING EXAMINER GROSSMAN: All right. You may</p> <p>23 proceed, stating your name and address first.</p> <p>24 MR. JONES: Yes. Kenneth Jones, I'm with Macris,</p> <p>25 Hendricks & Glasscock, civil engineer. Business address is</p>

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<p>101</p> <p>1 9220 Wightman Road, Suite 120, Montgomery Village, Maryland 2 20886.</p> <p>3 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>4 MS. VAIAS:. And Mr. Jones' resume is Exhibit 41(i), 5 and we will be submitting him as an expert in civil 6 engineering and environmental design. So if you could please 7 describe your education and experience?</p> <p>8 MR. JONES: Yes. I graduated from the University of 9 Maryland in 2002 with a Bachelor of Science in mathematics. 10 I worked for MHG for -- and in the field of civil engineering 11 for more than 16 years. I'm a licensed professional engineer 12 in the State of Maryland. I obtained a licensure in early 13 2016 under the work experience option, which required a 14 minimum of 12 years work experience, 5 of which were in a 15 position of responsible charge. I was previously qualified 16 as an expert by you, Mr. Grossman, back in --</p> <p>17 HEARING EXAMINER GROSSMAN:. St. Anne's?</p> <p>18 MR. JONES: Yes, exactly. In December, case number 19 CU 18-11.</p> <p>20 HEARING EXAMINER GROSSMAN:. All right.</p> <p>21 MS. VAIAS:. So we would like to move Mr. Jones as an 22 expert in civil engineering and environmental design.</p> <p>23 HEARING EXAMINER GROSSMAN:. Well, I don't recall the 24 environmental design being part of your previous -- was that 25 included as part of your previous testimony as an expert?</p>	<p>103</p> <p>1 we can locate that. Is it a big plan or is it a --</p> <p>2 MR. JONES: It's an 8½ by 11.</p> <p>3 HEARING EXAMINER GROSSMAN:. 8½ by 11, okay. That 4 should narrow the field. Yeah, so you said exhibit what?</p> <p>5 MR. JONES: 27.</p> <p>6 HEARING EXAMINER GROSSMAN:. 27. Okay. Okay, back to 7 the drawing board. And again, maybe they put it back in the 8 file. Ah ha, that's where it is. All right.</p> <p>9 MR. JONES: We calculated the total gross tract area of 10 the property to be 3.59030 acres. The reason for the 11 discrepancy between that gross tract area and the actual area 12 of the property, which is 2.63 acres is the prior roadway 13 dedication, which has been granted to the Belvedere Boulevard 14 and Georgia Avenue rights-of-way.</p> <p>15 HEARING EXAMINER GROSSMAN:. And is that the area, is 16 that dedicated area the designated Area 1 on Exhibit 27?</p> <p>17 MR. JONES: Area 1 as designated on that exhibit was a 18 dedication to Belvedere.</p> <p>19 HEARING EXAMINER GROSSMAN:. I see.</p> <p>20 MR. JONES: And Area 2 was the prior dedication to 21 Georgia, approximately 50 feet and 20 feet respectively.</p> <p>22 HEARING EXAMINER GROSSMAN:. Okay. And so those are 23 the -- the Area 1, and Area 2 are -- make up the difference 24 between the area to be rezoned and the gross tract area?</p> <p>25 MR. JONES: That is correct.</p>
<p>102</p> <p>1 MR. JONES: No. The previous qualification was for 2 civil engineering only.</p> <p>3 HEARING EXAMINER GROSSMAN:. Okay. Was this --</p> <p>4 MS. VAIAS:. Right, but you're describing --</p> <p>5 HEARING EXAMINER GROSSMAN:. What do you mean by 6 (indiscernible) 2:10:45.</p> <p>7 MS. VAIAS:. Are you qualified to discuss storm water 8 management plans?</p> <p>9 MR. JONES: Yes.</p> <p>10 MS. VAIAS:. Storm water management control?</p> <p>11 MR. JONES: Yes, there's five different, I guess, 12 versions of the civil engineering exam that you can take. 13 The one that I -- my expertise is in water resources and 14 environmental engineering.</p> <p>15 HEARING EXAMINER GROSSMAN:. All right. Well, based on 16 your background and your previous testimony as an expert in 17 civil engineering, and your other qualifications including 18 your resume, Exhibit 41(i), I accept you as an expert in 19 civil engineering and environmental design.</p> <p>20 MR. JONES: Thank you.</p> <p>21 MS. VAIAS:. Okay. So could you please describe the 22 gross tract area calculations?</p> <p>23 MR. JONES: Yes. MHG has prepared a gross tract area 24 calculation which is Exhibit number 27, I believe.</p> <p>25 HEARING EXAMINER GROSSMAN:. All right. Let me see if</p>	<p>104</p> <p>1 HEARING EXAMINER GROSSMAN:. Okay. All right.</p> <p>2 MS. VAIAS:. Okay. So with regard to the additional 3 prerequisites before the local map amendment in this instance 4 it there's a category related to environmental and resources.</p> <p>5 Can you describe whether the limits of disturbance will 6 overlap any stream, floodplain, wetland, or environmental 7 buffer, or if there are any slopes greater than 25 percent, 8 or slopes greater than 15 percent where erodible soils are 9 present?</p> <p>10 MR. JONES: Yes. So that information is presented on 11 the NRI, the natural resources inventory which was submitted 12 to Park and Planning on the 21st, and approved on the 26th 13 earlier this week, which is Exhibit number 51. That's the 14 approved copy. So as shown on that plan there are no 15 wetlands, floodplains, streams or associated buffers that 16 exist on the property. There are no rare, threatened, or 17 endangered species observed on the property. It's not 18 considered a historic site. There are no forests existing 19 on-site, and it is not within a special protection area.</p> <p>20 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>21 MS. VAIAS:. Can you describe the storm water 22 management conceptual design that has been shown on the --</p> <p>23 MR. JONES: I'm going to go ahead and refer to the 24 Preliminary Forest Conservation Plan which is Exhibit number 25 48, correct?</p>

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<p>105</p> <p>1 MS. VAIAS:. Correct. You said it was 48?</p> <p>2 MR. JONES: Yeah. Although this information is also on</p> <p>3 the Floating Zone Plan. So we have not yet submitted a storm</p> <p>4 water management concept to MCDPS although one will be</p> <p>5 required as part of the preliminary plan process. The site</p> <p>6 will be required to implement environmental site design</p> <p>7 practices to the maximum extent practical in accordance with</p> <p>8 State and County requirements. This is a very conceptual at</p> <p>9 this point, but given the scope of the development area we</p> <p>10 anticipate that the bulk of the ESC practices that we would</p> <p>11 be implementing will be bio retention facilities, micro-bio</p> <p>12 retention facilities in planter boxes which will receive</p> <p>13 rooftop runoff from the adjacent buildings. We are showing</p> <p>14 some micro-bio retention facilities along the building</p> <p>15 frontage along Belvedere and then some also too along the</p> <p>16 drive aisle in the southern portion of the property. I think</p> <p>17 we've also discussed with the architect that we may seek to</p> <p>18 incorporate some micro-bio retention facilities in the</p> <p>19 courtyards as well, which are set up above the parking decks.</p> <p>20 HEARING EXAMINER GROSSMAN:. You also have some</p> <p>21 indicated on the Floating Zone Plan on the west of the site.</p> <p>22 MR. JONES: Yes. Yeah, there's some on the west of the</p> <p>23 site. In terms of micro-bio retention there it will receive</p> <p>24 roof runoff. And then, we were also thinking that given that</p> <p>25 we may also have to do an underground treatment quality</p>	<p>107</p> <p>1 expect to be able to connect into the Georgia Avenue supply?</p> <p>2 MR. JONES: That is correct. Yeah, there is a -- I</p> <p>3 guess because of the difference in the size is so great</p> <p>4 because it's such a large main WSCT (phonetic) typically</p> <p>5 limits connections, especially when there's other</p> <p>6 alternatives in the area to large diameter mains.</p> <p>7 HEARING EXAMINER GROSSMAN:. But the mains that are in</p> <p>8 Belvedere would be sufficient to supply the water you need?</p> <p>9 MR. JONES: Yes. At this preliminary stage we expect</p> <p>10 so.</p> <p>11 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>12 MS. VAIAS:. I believe that is all we have for Mr.</p> <p>13 Jones.</p> <p>14 HEARING EXAMINER GROSSMAN:. That was so swift that I</p> <p>15 hadn't time to think about it. Was there anything else that</p> <p>16 we left open from other witnesses of an engineering nature?</p> <p>17 MR. JONES: I know there was a question about the gross</p> <p>18 tract area.</p> <p>19 MS. VAIAS:. That we covered. The environmental</p> <p>20 prerequisites I believe we covered. Adequate public</p> <p>21 facilities we covered.</p> <p>22 MR. JONES: There's no storm drainage on the site</p> <p>23 currently. So we do expect to that, you know, will have to</p> <p>24 convey to the storm water management facilities that we</p> <p>25 discussed and then ultimately via storm drain to the public</p>
<p>106</p> <p>1 structure to supplement the total storm water treatment for</p> <p>2 the site.</p> <p>3 HEARING EXAMINER GROSSMAN:. Based on your expertise,</p> <p>4 and your knowledge of the site, will you be able to achieve</p> <p>5 full compliance with the environmental site design</p> <p>6 requirements?</p> <p>7 MR. JONES: Yes.</p> <p>8 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>9 MS. VAIAS:. And based on your expertise as a civil</p> <p>10 engineer, will you also be able to serve the site with public</p> <p>11 utilities?</p> <p>12 MR. JONES: Yes. So in terms of water and sewer the</p> <p>13 existing water and sewer categories are W1 and S1 meaning</p> <p>14 that there is already water and sewer service to the site.</p> <p>15 There are existing sewer mains in Belvedere Boulevard that,</p> <p>16 at least through preliminary analysis we expect will have</p> <p>17 capacity to provide treatment for the -- or to provide</p> <p>18 service to the development. There are water mains existing</p> <p>19 in a number of them. There's a 24 -- there's a 6 inch and 8</p> <p>20 inch main in Belvedere, and there is a 24 inch main in</p> <p>21 Georgia Avenue. We don't expect to be able to connect to the</p> <p>22 24 inch main given its size and the type of pipe that it is</p> <p>23 in Georgia Avenue. But we do expect that there is capacity</p> <p>24 within the mains in Belvedere, the 6 and the 8 inch mains.</p> <p>25 HEARING EXAMINER GROSSMAN:. So you're saying do not</p>	<p>108</p> <p>1 rights-of-way. And so there will be some storm drain built</p> <p>2 to convey that runoff from the site.</p> <p>3 HEARING EXAMINER GROSSMAN:. All right.</p> <p>4 MS. VAIAS:. And so in your opinion with regard to</p> <p>5 engineering and public facilities, will this proposed plan be</p> <p>6 compatible with the neighborhood?</p> <p>7 MR. JONES: Yes.</p> <p>8 HEARING EXAMINER GROSSMAN:. And there was something</p> <p>9 about the pedestrian facilities that Staff says would have to</p> <p>10 be added. And I think we referred that to your engineering</p> <p>11 witness.</p> <p>12 MS. VAIAS:. The pedestrian facilities. In the --</p> <p>13 HEARING EXAMINER GROSSMAN:. Yes it was --</p> <p>14 MS. VAIAS:. -- Staff Report?</p> <p>15 HEARING EXAMINER GROSSMAN:. Right. I don't see --</p> <p>16 MS. VAIAS:. I think they were --</p> <p>17 HEARING EXAMINER GROSSMAN:. 43 --</p> <p>18 MS. VAIAS:. -- recommended for a preliminary plan?</p> <p>19 HEARING EXAMINER GROSSMAN:. 43, page 9.</p> <p>20 MS. VAIAS:. So with regard to the Staff Report --</p> <p>21 MR. JONES: Yeah. So the Staff Report indicates that</p> <p>22 the public sidewalk along Georgia Avenue is four feet wide,</p> <p>23 and a landscape buffer is only three feet wide. And that</p> <p>24 that sidewalk will need to be reconstructed so that the</p> <p>25 sidewalk is no less than five feet wide with a six foot wide</p>

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109	<p>1 tree panel between the sidewalk and the edge of the roadway.</p> <p>2 So yes, we anticipate that the proposed development will</p> <p>3 include in its scope the replacement of that sidewalk to</p> <p>4 satisfy those requirements.</p> <p>5 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>6 MS. VAIAS:. And in addition there is a discussion</p> <p>7 about some of the ramps at the intersections.</p> <p>8 HEARING EXAMINER GROSSMAN:. Curb ramps.</p> <p>9 MR. JONES: Oh yes.</p> <p>10 MS. VAIAS:. And meeting ADA compliance.</p> <p>11 MR. JONES: Yes. So those -- so with the</p> <p>12 reconstruction of the sidewalk along Georgia Avenue that</p> <p>13 would also include installation of sidewalk ramps that are in</p> <p>14 compliance with ADA. Similarly, if there are sidewalk ramps</p> <p>15 associated with the public sidewalk that's along Belvedere</p> <p>16 those existing ramps would also need to be replaced. Both</p> <p>17 across access drives as well as from the public sidewalk to</p> <p>18 the buildings themselves that are proposed.</p> <p>19 HEARING EXAMINER GROSSMAN:. Okay. And all that can be</p> <p>20 done within your plans?</p> <p>21 MR. JONES: Yes. Yes so the -- that would be -- the</p> <p>22 actual construction drawings, the engineering drawings for</p> <p>23 the full construction of the site.</p> <p>24 HEARING EXAMINER GROSSMAN:. Okay. And I have no other</p> <p>25 questions. Thank you, Mr. Jones.</p>	111	<p>1 HEARING EXAMINER GROSSMAN:. Okay. As you've testified</p> <p>2 as?</p> <p>3 MR. COOK:. In most cases traffic engineer and</p> <p>4 transportation planner.</p> <p>5 HEARING EXAMINER GROSSMAN:. Okay. As an expert, and</p> <p>6 you've been qualified as an expert in those cases?</p> <p>7 MR. COOK:. Yes.</p> <p>8 HEARING EXAMINER GROSSMAN:. Okay. As based on Mr.</p> <p>9 Cook's resume and his prior, his background experience and</p> <p>10 his prior testimony as an expert in transportation planning,</p> <p>11 and traffic engineering I accept him as an expert as such.</p> <p>12 MS. VAIAS:. Thank you. So did you prepare an LATR</p> <p>13 report and can you describe what that is for this case?</p> <p>14 MR. COOK:. Sure. We did prepare an LATR, which stands</p> <p>15 for local area transportation review, study, which is a</p> <p>16 requirement of Park and Planning for any development</p> <p>17 application or zoning case. And what that consists of is an</p> <p>18 evaluation of a study area around a potential new development</p> <p>19 to determine what impact the new development is going to have</p> <p>20 on conditions and traffic in that area.</p> <p>21 HEARING EXAMINER GROSSMAN:. Right.</p> <p>22 MR. COOK:. We did that. The first step is to have a</p> <p>23 scoping agreement worked out with the Staff because the Staff</p> <p>24 dictates what intersections we should look at. Depending on</p> <p>25 the policy area you're in it dictates what methodology you</p>
110	<p>1 MS. VAIAS:. Okay.</p> <p>2 MR. JONES: Thank you.</p> <p>3 MS. VAIAS:. Now we'd like to call Mr. Glenn Cook.</p> <p>4 MR. GLENN COOK: Good morning.</p> <p>5 HEARING EXAMINER GROSSMAN:. Mr. Cook, would you raise</p> <p>6 your right hand, please? Do you swear or affirm to tell the</p> <p>7 truth, the whole truth, and nothing but the truth under</p> <p>8 penalty of perjury?</p> <p>9 MR. COOK:. I do.</p> <p>10 HEARING EXAMINER GROSSMAN:. All right. State your</p> <p>11 name and address.</p> <p>12 MR. COOK:. My name is Glenn Cook. I'm senior vice</p> <p>13 president of The Traffic Group. Our offices are located at</p> <p>14 9900 Franklin Square Drive, Baltimore Maryland 21236.</p> <p>15 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>16 MS. VAIAS:. Mr. Cook's resume is Exhibit 41(h) in the</p> <p>17 record. And we will be submitting Mr. Cook as an expert in</p> <p>18 traffic engineering and transportation planning. So if you</p> <p>19 could, please, state your educational and experience in that</p> <p>20 regard?</p> <p>21 MR. COOK:. Okay. I've been working in the traffic</p> <p>22 engineering and transportation planning field for 47 years.</p> <p>23 I've testified in many cases before yourself and other</p> <p>24 examiners that were there, as well is almost every municipal</p> <p>25 board in the State of Maryland.</p>	112	<p>1 use as far as the analysis is concerned. And then trip</p> <p>2 generation use information from the Institute of</p> <p>3 Transportation Engineers Trip Generation Report. And we'll</p> <p>4 talk about that because I think that's a question that you had</p> <p>5 asked earlier.</p> <p>6 HEARING EXAMINER GROSSMAN:. Right.</p> <p>7 MS. VAIAS:. And the Traffic Report is Exhibit 11.</p> <p>8 HEARING EXAMINER GROSSMAN:. Yes.</p> <p>9 MR. COOK:. Yes. So we went out. We did intersection</p> <p>10 turning movement counts. We focused on the peak hours along</p> <p>11 the roadways. And we looked at the intersections along 97,</p> <p>12 Georgia Avenue from Dennis Avenue to the north down Forest</p> <p>13 Glen. And we included the intersection of Belvedere Avenue</p> <p>14 and also Arthur Avenue. The Forest Glen and the Dennis</p> <p>15 Avenue intersections on 97 are presently signalized.</p> <p>16 Belvedere Avenue is not signalized but there is a full median</p> <p>17 break at that location. And Arthur Avenue is a right in,</p> <p>18 right out at this point. We did our traffic counts based on</p> <p>19 our conversations with the Staff, normally we include any</p> <p>20 other developments that are in the -- that would impact the</p> <p>21 intersections that we're studying and we were told that</p> <p>22 there's nothing in this immediate area that we need to</p> <p>23 include as part of the background traffic conditions for our</p> <p>24 study.</p> <p>25 MS. VAIAS:. That meaning approved developments?</p>

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113	<p>1 MR. COOK:. Yeah, that's for projects that are</p> <p>2 approved.</p> <p>3 MS. VAIAS:. But not yet constructed?</p> <p>4 MR. COOK:. Correct. Yes.</p> <p>5 HEARING EXAMINER GROSSMAN:. Okay. So there's not --</p> <p>6 there were none others in the pipeline is what you're saying?</p> <p>7 MR. COOK:. Correct. They have to be approved</p> <p>8 projects. Right, yeah. And then we conducted a trip</p> <p>9 generation analysis for our sight. There's --</p> <p>10 MS. VAIAS:. Was that based on 220 residential units?</p> <p>11 MR. COOK:. Yes, it was. And there was a comment from</p> <p>12 the Staff on page 10 of their Staff Report questioning the</p> <p>13 method that we used for calculating it. I think they said we</p> <p>14 were overly conservative in the way that we did it. But</p> <p>15 basically what it -- the discrepancy was that we had existing</p> <p>16 units on the site that are presently generating traffic. So</p> <p>17 we took that into consideration and reduced that from the</p> <p>18 trips being generated by 220 units because that traffic is</p> <p>19 already reflected in our traffic counts. When we took our</p> <p>20 credit we went through and calculated the person trips as we</p> <p>21 do according to the guidelines.</p> <p>22 HEARING EXAMINER GROSSMAN:. Right.</p> <p>23 MR. COOK:. The transit trips and everything. We did</p> <p>24 from the very beginning, we got the percentages that the</p> <p>25 guidelines require us to do. Then, we subtracted the trips</p>	115	<p>1 MR. COOK:. They showed 57 during the morning peak</p> <p>2 hour. If you look in our report, we showed 56 trips.</p> <p>3 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>4 MR. COOK:. And in the evening it's 72 for the Staff,</p> <p>5 71 for us.</p> <p>6 HEARING EXAMINER GROSSMAN:. How about the new person</p> <p>7 trips?</p> <p>8 MR. COOK:. They really -- the new person trips are</p> <p>9 part of the formula that's used to get the net new vehicle</p> <p>10 trips because the net new vehicle trips is what's being</p> <p>11 measured when you do your analysis, not the person trips.</p> <p>12 HEARING EXAMINER GROSSMAN:. Right.</p> <p>13 MR. COOK:. Okay. So we did that. We assigned the</p> <p>14 traffic to the road network based on existing traffic</p> <p>15 patterns in the area. And in this policy area we not only</p> <p>16 have to do analysis based on what's referred to the critical</p> <p>17 lane volume methodology which you're probably familiar with,</p> <p>18 and the highway capacity manual methodology.</p> <p>19 HEARING EXAMINER GROSSMAN:. Right.</p> <p>20 MR. COOK:. So we have to do it both ways. And when we</p> <p>21 did our analysis of all the intersections in this area we</p> <p>22 found that we would be well within the congestion standards</p> <p>23 established for this study area -- or for this policy area,</p> <p>24 which for the critical lane volume analysis has to be below</p> <p>25 1,600.</p>
114	<p>1 that are already on the road network. Okay. Staff took</p> <p>2 exception to that and said that we should have subtracted the</p> <p>3 trips that are on the road network before we did the</p> <p>4 percentage breakdown for the different modes. The bottom</p> <p>5 line is it resolved it in a difference of one trip during the</p> <p>6 morning peak hour and one trip during evening peak hour.</p> <p>7 HEARING EXAMINER GROSSMAN:. So Staff's bottom line on</p> <p>8 the number of new trips after you do all the subtractions was</p> <p>9 a greater number by one or a lesser number by one?</p> <p>10 MR. COOK:. Their number was one larger than what we</p> <p>11 had.</p> <p>12 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>13 MR. COOK:. So. And we didn't go back and they didn't</p> <p>14 ask us to go back and redo all of our calculations because</p> <p>15 obviously it didn't have any significant impact on anything</p> <p>16 we did.</p> <p>17 HEARING EXAMINER GROSSMAN:. So the numbers on the</p> <p>18 chart they have on page 10 of the Staff report, are those</p> <p>19 your numbers or are they Staff's numbers?</p> <p>20 MR. COOK:. Staff's numbers.</p> <p>21 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>22 MR. COOK:. On page 10 under net new vehicle trips,</p> <p>23 which are the cars that you put onto the road network to do</p> <p>24 your assessment --</p> <p>25 HEARING EXAMINER GROSSMAN:. Right.</p>	116	<p>1 HEARING EXAMINER GROSSMAN:. Right. That's the</p> <p>2 Kensington Wheaton policy area.</p> <p>3 MR. COOK:. Yes. And for the highway capacity manual</p> <p>4 the delay has to be yet less than 80 seconds. And at all the</p> <p>5 intersections we meet that criteria for both methodologies</p> <p>6 that we used. So therefore, we concluded that we can comply</p> <p>7 with the requirements of the LATR and that no intersection</p> <p>8 improvements are needed to address capacity at these</p> <p>9 intersections.</p> <p>10 HEARING EXAMINER GROSSMAN:. And the charts in the</p> <p>11 Staff Report, Exhibit 43 page 11 accurately reflect that?</p> <p>12 MR. COOK:. Yes.</p> <p>13 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>14 MR. COOK:. Table 3 shows that.</p> <p>15 HEARING EXAMINER GROSSMAN:. Okay. So you also have</p> <p>16 Table 2 and that's accurate as well?</p> <p>17 MR. COOK:. Table 2 is accurate.</p> <p>18 HEARING EXAMINER GROSSMAN:. Okay.</p> <p>19 MR. COOK:. But that's not showing the results of the</p> <p>20 analysis.</p> <p>21 HEARING EXAMINER GROSSMAN:. Right.</p> <p>22 MR. COOK:. That's just the calculations to determine</p> <p>23 the different modes.</p> <p>24 HEARING EXAMINER GROSSMAN:. I understand. Okay.</p> <p>25 MS. VAIAS:. And can you explain the bottom of Page 10</p>

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<p>117</p> <p>1 where it says the Applicant's conceptual drawings and plans 2 did not meet the threshold for pedestrian, bicycle, or 3 transit adequacy analysis? 4 MR. COOK: Okay. In -- under the new guidelines that 5 Park and Planning has been using over the past couple of 6 years as the Table 2 at the top of page 11 is a good 7 reference point because depending on the number of trips, if 8 you're generating more than 50 net vehicle driver trips you 9 have to do an analysis of the road network based on the 10 capacity analysis methods. But you also have to look at the 11 number of transit trips, the number of pedestrians and the 12 number of non-motorized trips which could be created by this 13 development. If any of those three categories exceed 50 14 during the peak hour then there is another study that has to 15 be done to address the one mode that is a problem, that 16 exceeds 50. In this particular case we have no other 17 categories that fall above 50 and therefore no additional 18 study is needed of those things. 19 HEARING EXAMINER GROSSMAN: So I don't understand. So 20 what's the basis for Staff's saying that the Applicant's 21 conceptual Floating Zone Plan did not meet the threshold -- 22 oh, I see. Didn't meet the threshold -- it didn't go above 23 50. 24 MR. COOK: Correct. 25 HEARING EXAMINER GROSSMAN: It wasn't that it didn't</p>	<p>119</p> <p>1 Administration's comment was because we're adding and 2 increasing the number of cars that would be making a left 3 turn or a U-turn at that location, that the County and the 4 State and developer should get together to discuss whether 5 something needs to be done, such as providing a left turn 6 lane. Because if you have the left turns and they can't turn 7 then they're blocking a through lane along 97 like they do at 8 many locations today. 9 HEARING EXAMINER GROSSMAN: Right. 10 MR. COOK: So that's purely an operational analysis. 11 I mean the intersection would work from a capacity standpoint 12 without that improvement. But that's an operational 13 improvement that the State was suggesting. And it's our 14 understanding we'll be addressing that at the next stage. 15 HEARING EXAMINER GROSSMAN: Okay. 16 MS. VAIAS: And is there sufficient right-of-way to 17 accommodate that and if it is needed? 18 MR. COOK: I've looked at the cross-section of the 19 roadway preliminarily and taken measurements and had someone 20 go out and look at it. And we feel we can squeeze a left 21 turn lane in. Most places along Georgia Avenue the left turn 22 lane's only eight or nine foot wide. But based on our 23 calculations we feel we can get the left turn lane in and 24 have sufficient length for that left turn lane to steward the 25 cars. But we have not done any formal design plans to submit</p>
<p>118</p> <p>1 meet requirements. It didn't meet the threshold for further 2 analysis. 3 MR. COOK: Correct. 4 HEARING EXAMINER GROSSMAN: I see. Okay. 5 MS. VAIAS: It's a little confusing what that means. 6 So then in your opinion, the proposed project satisfies the 7 LATR requirements? 8 MR. COOK: In my opinion, yes it does. 9 MS. VAIAS: And Staff did not disagree with that 10 opinion? 11 MR. COOK: No, they did not. 12 MS. VAIAS: Okay. And is the circulation and access 13 as shown conceptually as planned for the project safe and 14 reasonable in your opinion? 15 MR. COOK: At this point, yes. 16 MS. VAIAS: And are there any road improvements 17 recommended at this point? 18 MR. COOK: There are no road improvements recommended 19 at this point for capacity purposes. The State Highway 20 Administration in their response to their review of our study 21 did bring up the possibility of having a left turn provided 22 along northbound 97 to turn onto Belvedere. There is not a 23 left turn lane there today. There is other intersections 24 that are very similar to that along Georgia Avenue; some have 25 left turn lanes, some do not. The State Highway</p>	<p>120</p> <p>1 to anybody at this point, just a concept. 2 HEARING EXAMINER GROSSMAN: And what exactly does 3 Staff mean by the sentence on the abut clause on page 11 4 about the study results differ from the ongoing Forest Glen 5 Montgomery Hills Sector Plans transportation analysis largely 6 because different network and background traffic assumptions 7 are employed under the Sector Plan study methodology? 8 MR. COOK: There was some discussion; the proposed 9 Sector Plan talks about traffic congestion along Georgia 10 Avenue, particularly north of Dennis Avenue. 11 MS. VAIAS: Which is north of the site? 12 MR. COOK: Which is north of the site. Our study 13 showed that the intersection of Dennis Avenue is working at 14 an acceptable level. So they were just pointing out the fact 15 that the Sector Plan is saying that, you know, there will be 16 some congestion problems possibly in the future north of that 17 location. Trying to determine -- doing a study for a Sector 18 Plan versus doing a local area review study is like comparing 19 apples and oranges. I don't know the data that goes into 20 their Sector Plan, what they put into their Sector Plan, but 21 I do know that we use different counts which is the basis for 22 our study. When doing a Sector Plan study they look at land 23 that could potentially be developed based on zoning and 24 project traffic for that. Where, as I testified previously 25 in a local area review study you only look at properties that</p>

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<p>121</p> <p>1 have approval and are in the pipeline. So there's a 2 difference there. So you're never going to end up with the 3 same answers. And in this particular case the assumption 4 that they made for this property according to the Staff 5 Report was that the property was going to be developed with 6 additional density compared to what we are requesting 7 ourselves. So in reality their study is already overstating 8 the future possibilities if this property gets reasoned to a 9 Floating Zone. So all the assumptions are completely 10 different. None of them are consistent. So you'll never 11 reach the same conclusion using the two different methods of 12 computing it. 13 HEARING EXAMINER GROSSMAN: Yeah. I don't see that 14 Staff, I don't think said, where to go from that statement 15 that they made. They mentioned the State Highway 16 Administration's suggestion for improving operations, which 17 you mentioned, but they don't say what I'm to make of their 18 observation that the LATR capacity analysis is not consistent 19 with the Forest Glen Montgomery Hills Sector Plan. I 20 understand your differentiation saying you're considering 21 different factors. They're looking at potential development, 22 not necessarily approved and so on. I understand you to say 23 that. I'm just -- they didn't seem to take it anywhere. 24 MR. COOK: Yeah -- 25 HEARING EXAMINER GROSSMAN: Is there any way -- can I</p>	<p>123</p> <p>1 MS. VAIAS: All right. Okay. That is our last 2 witness. 3 HEARING EXAMINER GROSSMAN: All right. 4 MS. VAIAS: So we would close I guess by saying that 5 we do believe we've met the criteria for the Floating Zone 6 Requirements of 5.1.1.3, and the CRTF Zone of 5.3.5 and the 7 local map amendment findings of 7.2.1.E.2. And expect, 8 again, that we will get the Forest Conservation Plan 9 information to you before March 15th, or hopefully no later 10 than that, maybe the 14th if we can. And we'll also get you 11 electronic copies of everything that was added to the record 12 today. We will do that on Monday. If we can't get it to 13 you this afternoon, then Monday. 14 HEARING EXAMINER GROSSMAN: That's not a problem with 15 that one. Also, are you going to be amending your Floating 16 Zone Plan to state expressly that the 20 percent MPDUs is not 17 just conceptual but that's a -- you are guaranteeing that? 18 MS. VAIAS: We can. We can do that if you believe 19 it's necessary. I wasn't sure, I thought we had put that in 20 the chart that made it look binding but the -- 21 HEARING EXAMINER GROSSMAN: Let's see. Let me see. 22 MS. VAIAS: -- if you think that it does not appear 23 binding enough. 24 HEARING EXAMINER GROSSMAN: It's just you had a lot of 25 reservations that call things conceptual and I just want to</p>
<p>122</p> <p>1 take it anywhere? 2 MR. COOK: (indiscernible) 02:38:17 adding to their 3 Staff Report and really there wasn't any purpose to it. You 4 know, we did have a discussion with them about the 5 differences and explained to them why there are differences 6 and they concurred with that because they approved our study. 7 But why that statement was included in the Staff Report, I 8 think just kind of confuses the situation a little bit. 9 HEARING EXAMINER GROSSMAN: Okay. So you are 10 suggesting there's nowhere for me to go with that statement. 11 It's just an observation on their part? 12 MR. COOK: Correct. 13 HEARING EXAMINER GROSSMAN: And that what should 14 control are the LATR and Highway Capacity Manual 15 calculations? 16 MR. COOK: Correct. 17 HEARING EXAMINER GROSSMAN: All right. 18 MS. VAIAS: And the traffic study that you completed 19 and the proposed Floating Zone Plan here is consistent with 20 the existing Forest Glen Sector Plan which is the older 21 Forest Glen Sector Plan? 22 MR. COOK: Yes. 23 MS. VAIAS: Okay. 24 HEARING EXAMINER GROSSMAN: Okay. I have no further 25 questions. Mr. Cook, thank you, sir.</p>	<p>124</p> <p>1 make sure we get that (indiscernible) 02:41:07 2 MS. VAIAS: Okay. 3 HEARING EXAMINER GROSSMAN: Proposed commercial 4 residential Floating Zone, proposed unit count, plus or minus 5 20 and then you have plus or minus 20 percent. 6 MS. VAIAS: Okay. So we should make clear it's a 7 minimum of 20 percent. 8 HEARING EXAMINER GROSSMAN: Right. Right. 9 MS. VAIAS: Yes. So we will revise the Floating Zone 10 Plan. 11 HEARING EXAMINER GROSSMAN: I don't know that that has 12 to be covenanted in, just so -- 13 MS. VAIAS: Okay. Right. I think we can -- 14 HEARING EXAMINER GROSSMAN: I mean I would leave that 15 to you but you know if you can -- 16 MS. VAIAS: I think we just put it on the Plan for 17 now. 18 HEARING EXAMINER GROSSMAN: Okay. Yeah. 19 MS. VAIAS: And so we can revise that plan and submit 20 that as well. 21 HEARING EXAMINER GROSSMAN: On Monday? 22 MS. VAIAS: Yes. 23 HEARING EXAMINER GROSSMAN: Yeah, that would be great. 24 And an electronic copy of the revised plan. 25 MS. VAIAS: Electronic and paper. Okay. I believe</p>

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125	1 that's all that we have. 2 HEARING EXAMINER GROSSMAN:. All right. I presume you 3 wish to move into evidence the exhibits? 4 MS. VAIAS:. Yes, all the exhibits as previously 5 submitted as well as all of those discussed today. 6 HEARING EXAMINER GROSSMAN:. That you're about to -- 7 MS. VAIAS:. And added. 8 HEARING EXAMINER GROSSMAN:. -- submit including the 9 Planning Board's Exhibit List. Here it is. Including the 10 Planning Board's action on the preliminary Forest 11 Conservation Plan. So Exhibits 1 through 58 and their 12 subparts are admitted. And I'll also admit the filings, the 13 amended Floating Zone Plan that you will be filing on Monday 14 and the other exhibits including the -- that you will be 15 filing. Well, I guess there's nothing new that you will be 16 filing other than the electronic copies. 17 MS. VAIAS:. The electronic copies, right. 18 HEARING EXAMINER GROSSMAN:. Except for the Floating 19 Zone Plan, and the Preliminary Forest Conservation Plan 20 finding by the Planning Board. If the Planning Board rejects 21 the Preliminary Forest Conservation Plan I presume at that 22 point you will want the record to remain open for some 23 response from you, or what is your pleasure on that? Because 24 we can't guarantee that the Planning Board is going to -- 25 MS. VAIAS:. Correct. We cannot guarantee it will be	127	1 So we will act accordingly. 2 MS. VAIAS:. Thank you. 3 HEARING EXAMINER GROSSMAN:. All right. 4 MS. VAIAS:. I appreciate that. 5 HEARING EXAMINER GROSSMAN:. Is there anything further? 6 MS. VAIAS:. No. Just to say we appreciate everyone 7 and Staff at the Planning Board helping to at least push the 8 process forward for us. And for the weather cooperating 9 today so that -- 10 HEARING EXAMINER GROSSMAN:. Yes. 11 MS. VAIAS:. -- we are here. 12 HEARING EXAMINER GROSSMAN:. It all worked out. 13 Montgomery County is not as likely to close the schools as 14 some of the other jurisdictions. 15 MS. VAIAS:. I know. 16 HEARING EXAMINER GROSSMAN:. And they rarely, rarely 17 close the government itself, the County government. 18 MS. VAIAS:. Right. 19 HEARING EXAMINER GROSSMAN:. But just to ensure because 20 we have a public hearing process we want to make sure that 21 people can get to our hearing if they desire to come so we 22 link to the public school announcements. They also get those 23 out faster usually than the County government does. 24 MS. VAIAS:. The County government. 25 HEARING EXAMINER GROSSMAN:. We usually don't find out
126	1 approved. Yes, we would submit something I guess 2 simultaneously requesting that the record remain open such 3 that we could make amendments in order to obtain approval. 4 HEARING EXAMINER GROSSMAN:. Okay. All right. So 5 we'll tentatively -- we'll say tentatively, assuming that the 6 record -- that the Planning Board acts on March 14, that the 7 record will close 15 days later on March 29. 8 MS. VAIAS:. Yes. 9 HEARING EXAMINER GROSSMAN:. That you will endeavor to 10 get me copies for the record as soon as possible and 11 hopefully on the 14th -- 12 MS. VAIAS:. Yes. 13 HEARING EXAMINER GROSSMAN:. -- of that. If not it may 14 be pushed back a few days. And if for some reason, they 15 don't meet on March 14 then, and they meet on the 21st, then 16 we'll close it 15 days after that on April 5th. 17 MS. VAIAS:. Okay. 18 HEARING EXAMINER GROSSMAN:. So that's -- we'll leave 19 it tentative to that extent, but it will close essentially 15 20 days after the Planning Board acts. Unless, you know, 21 somebody files a comment that requires further comment from 22 you and you ask me to further -- 23 MS. VAIAS:. Leave it open. 24 HEARING EXAMINER GROSSMAN:. -- extend the record. But 25 I understand you're under some pressure to get this resolved.	128	1 about the county government closing until about 5:00 in the 2 morning. 3 MS. VAIAS:. Yes, so it all worked out. 4 HEARING EXAMINER GROSSMAN:. So all right. 5 MS. VAIAS:. So we appreciate all of that. 6 HEARING EXAMINER GROSSMAN:. All right. And if there's 7 nothing further, then I thank you all and have a good 8 weekend. 9 MS. VAIAS:. Thank you. 10 HEARING EXAMINER GROSSMAN:. We are adjourned. 11 (Off the record at 12:37 p.m.) 12 13 14 15 16 17 18 19 20 21 22 23 24 25

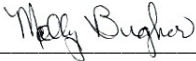
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CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher

DATE: March 5, 2019