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Transcript of Hearing

Date: January 15, 2021

Case: Spectrum Retirement Communities, Inc.

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Transcript of Hearing
Conducted on January 15, 2021

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1 A P P E A R A N C E S	1 P R O C E E D I N G S
2 ON BEHALF OF APPLICANT, SPECTRUM RETIREMENT	2 HEARING EXAMINER BAUMGARTNER: -- 2021. This is a
3 COMMUNITIES, INC.:	3 public hearing of Montgomery County Office of Zoning and
4 STEVEN ROBINS, ESQUIRE	4 Administrative hearings. I'm going to turn on the recording
5 ELIZABETH ROGERS, ESQUIRE	5 unless -- there it is. All right. This session or this
6 LERCH, EARLY & BREWER	6 hearing is now being recorded. We are here to hear OZHA
7 7600 Wisconsin Avenue	7 case CU 20-05 requesting a conditional use for a residential
8 Suite 700	8 care facility over 16 persons for the property located at
9 Bethesda, Maryland 20814	9 9545 River Road, Potomac, Maryland. This property is
10 Phone: (301) 986-1300	10 located in Montgomery County Maryland.
11	11 My name is Derek Baumgartner. I'm joined by my co-
12 ON BEHALF OF WEST MONTGOMERY CITIZENS ASSOCIATION:	12 hearing examiner, Ms. Lynn Roberson-Hannan. We will be
13 DAVID BROWN, ESQUIRE	13 listening to you -- to this case today. We will be taking
14 KNOPF & BROWN	14 evidence and we will write a decision. You may request an
15 401 E. Jefferson Street, #206	15 appeal to the board of appeals within 10 days of the date of
16 Rockville, Maryland 28050	16 that written decision. As you have no doubt seen here
17 Phone: (301) 545-6100	17 today, we are using a virtual hearing platform called
18	18 Microsoft Teams.
19	19 If you are logged in, if you have trouble with the
20	20 video, or your audio, or calling in and you're having
21	21 trouble with this particular tool, please call our office at
22	22 240-777-6663. Again, that's 240-777-6663. Ms. Johnson will
23	23 try to help you with any of those technical issues.
24	24 This hearing is being recorded as I mentioned earlier.
25	25 We also have a court reporter present who will be taking

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2 (5 to 8)

5	<p>1 dictation. A couple of ground rules, both for hearings in a 2 virtual space that we are all having to work in these days. 3 Number one, please mute yourselves when you're not speaking 4 or giving testimony. Background noise including laundry, 5 other noise, kids, traffic, et cetera, can make it a little 6 bit difficult to hear when folks are providing testimony. 7 We have been using the raise your hand feature on 8 Microsoft Teams recently, which has been pretty helpful. If 9 you look on your screen, there should be a tab there that 10 says raise your hand. If you are on the -- if there is -- 11 there is an ellipses, three dot thing there, that will have 12 the raise your hand feature. So if you have an objection, 13 if you have a question, there's something going wrong, 14 please use that raise your hand feature. Or if you are on 15 video, raise your physical hand and we will try to address 16 that issue. 17 The chat feature on Microsoft Teams, we will not be 18 using. So please don't try to use that chat feature. 19 HEARING EXAMINER ROBESON-HANNAN: Mr. -- Derek, I'm 20 sorry to interrupt. I'm looking at the chat feature and I 21 see someone named Eric who says he wants to register to 22 testify today. Do you want to address that? 23 HEARING EXAMINER BAUMGARTNER: Sure. 24 HEARING EXAMINER ROBESON-HANNAN: He's on chat. 25 HEARING EXAMINER BAUMGARTNER: Sure. I wasn't going to</p>	7	<p>1 HEARING EXAMINER BAUMGARTNER: Great. So what we will 2 do is when we begin the case in chief, which we're going to 3 do in a couple of moments, we will let counsel identify 4 themselves, briefly introduce their witnesses, and then once 5 they close their case, we will allow any testimony in 6 support of the application. We will turn it over to any 7 folks in opposition to the application and then they can 8 provide testimony. 9 And then we will close with counsel for the Applicant. 10 So I hope that answers the questions in terms of timing. 11 We're going to try to roll through this as efficiently as 12 possible. So if folks are on the line, that you're not 13 going to be waiting for hours and hours on end. But it's a 14 rather big project, a lot of moving parts. So we will have 15 to get through all of that testimony first. 16 Ms. Robeson-Hannan -- 17 MR. ROBINS: Excuse me Mr. Hearing -- 18 HEARING EXAMINER BAUMGARTNER: Is there anything else 19 you needed at this point? 20 Mr. Robins? 21 MR. ROBINS: Yes, thank you very much. For the record, 22 Steve Robins with Lerch, Early & Brewer. 23 I was wondering. I understand what you said about the 24 order of the hearing, but if there are just a couple of 25 people here that wanted to testify, do you think you would</p>
6	<p>1 acknowledge the chat itself, but we will go through the 2 ground rules in terms of the order of testimony. And if 3 there is an individual that wants to testify -- let me pull 4 down the list of attendees real quick. It looks like I have 5 a fairly full house. 6 The individual who wanted to testify, are you still on 7 the line? 8 MR. GAULL: I am. 9 HEARING EXAMINER BAUMGARTNER: All right. And what is 10 your name, sir? 11 MR. GAULL: Erik Gaull, it's; E-R-I-K, G-A-U-L-L. 12 HEARING EXAMINER BAUMGARTNER: Okay. You had indicated 13 you wish to testify here today. Typically -- and we go 14 through this at the end of the meeting here too. The order 15 of testimony will be the Applicant first. They will present 16 their witnesses and then we will turn it over to anyone else 17 who would like to testify in opposition or in support of a 18 project. Would you be okay with testifying along that same 19 timeline? 20 MR. GAULL: Yes. 21 HEARING EXAMINER BAUMGARTNER: Okay. And it looks like 22 we have another individual, Joel Albert. 23 MR. ALBERT: Good morning. I just wanted to let you 24 know I don't know how you sign up to testify, but I'm 25 prepared to testify in support of the Applicant.</p>	8	<p>1 entertain allowing them to sort of testify out of order so 2 that they didn't have to wait around for a long period of 3 time? 4 HEARING EXAMINER BAUMGARTNER: Sure. That's certainly 5 fine with me if that's all right with the Applicant. 6 MR. ROBINS: It's fine with us. 7 HEARING EXAMINER BAUMGARTNER: Okay. Then what we will 8 do is we will -- once we begin the case in chief, which we 9 will do in a minute, we will open it up for folks from the 10 community that want to testify in either support or in 11 opposition. We will give them the opportunity to raise 12 whatever points that they wish. What I would like to do is 13 after the Applicant's case in chief, we will still allow 14 community folks that want to comment on the presentation as 15 well. 16 That way they can have the opportunity can say what 17 they want to testify in the beginning and also address any 18 issues that come up during the testimony. So it's a little 19 bit like two bites of the apple, but I think it's fair to 20 give them the time. The preliminary issues; any preliminary 21 issues that we need to address before we get started here 22 today? Hearing none -- 23 MR. ROBINS: I'm not aware -- 24 HEARING EXAMINER BAUMGARTNER: Okay. 25 MR. ROBINS: I was going to say I'm not aware of any.</p>

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3 (9 to 12)

9	<p>1 HEARING EXAMINER BAUMGARTNER: Okay. And from email</p> <p>2 communication from all parties, we are aware that some</p> <p>3 agreement has been met between the community members, or at</p> <p>4 least the Association, and the Applicants. So once we</p> <p>5 introduce ourselves, I would like to hear both from the</p> <p>6 Applicant and any -- and from Mr. Brown about what those</p> <p>7 concessions are and kind of where this stands at this point.</p> <p>8 When this case was originally filed, there was</p> <p>9 significant opposition, and I understand that there has been</p> <p>10 movement in that direction. But I would like to hear from</p> <p>11 both sides as to -- you know, kind of where we stand right</p> <p>12 now. So the Applicant's counsel can once again identify</p> <p>13 themselves for the record and introduce any witnesses that</p> <p>14 they are going to be producing today.</p> <p>15 MR. ROBINS: Is this my chance to give a brief opening</p> <p>16 statement?</p> <p>17 HEARING EXAMINER BAUMGARTNER: Yes.</p> <p>18 MR. ROBINS: Okay. Thank you, so much. Well, good</p> <p>19 morning and happy new year to all. It's a pleasure to see</p> <p>20 both hearing examiners, even if we are virtual. I know that</p> <p>21 many of us have been at this practice for a long time and I</p> <p>22 can honestly say this is the first hearing I've had before</p> <p>23 the hearing examiner that's virtual. I know that you all</p> <p>24 have done an excellent job and your office has been</p> <p>25 extremely helpful in keeping the case moving. So we are</p>	11	<p>1 matter, I know, to both hearing examiners, that on January</p> <p>2 11 technical staff for parking planning submitted a</p> <p>3 statement indicating their review of the revised</p> <p>4 application. I didn't see that in the exhibit list, but I'm</p> <p>5 assuming --</p> <p>6 HEARING EXAMINER ROBESON-HANNAN I'm sorry, Mr. Robins.</p> <p>7 What did they --</p> <p>8 MR. ROBINS: On January 11 --</p> <p>9 HEARING EXAMINER ROBESON-HANNAN (Inaudible) what</p> <p>10 (inaudible).</p> <p>11 MR. ROBINS: On January 11, Elizabet submitted a</p> <p>12 statement to you all about the revised application.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN Oh, oh, I'm sorry.</p> <p>14 Okay.</p> <p>15 MR. ROBINS: Right. And then I also believe she</p> <p>16 submitted an email to you about the approval of the</p> <p>17 preliminary -- the revised preliminary forest conservation</p> <p>18 plan. And I just -- we don't have the most up-to-date</p> <p>19 exhibit list. I know that it's on the web, but I just</p> <p>20 wanted to make sure that those were in fact in the record as</p> <p>21 procedural matters.</p> <p>22 As the hearing examiners are aware from our application</p> <p>23 materials, the Petitioner is here today to request approval</p> <p>24 of a conditional use for a residential care facility of over</p> <p>25 16 persons containing both assisted-living and memory care</p>
10	<p>1 very appreciative. And Mr. Baumgartner, we welcome you to</p> <p>2 the office.</p> <p>3 HEARING EXAMINER BAUMGARTNER: Thank you.</p> <p>4 MR. ROBINS: And thank you very much for participating</p> <p>5 in this as well. And good morning, Ms. Robison-Hannan.</p> <p>6 For the record, I'm Steve Robins with the law firm of</p> <p>7 Lerch, Early & Brewer. And with me here today as co-counsel</p> <p>8 is my colleague Elizabeth Rogers. Our firm represents the</p> <p>9 Petitioner in this case, Spectrum Retirement Communities.</p> <p>10 With us today on behalf of the Petitioner are Mike</p> <p>11 Longfellow, who is with Spectrum Retirement, Josh Sloan,</p> <p>12 with VIKA Architecture, our landscape architect and land</p> <p>13 planner, Logan Kelso, who was also with VIKA, our project</p> <p>14 engineer, civil engineer, Brian Van Winkle with Vessel</p> <p>15 Architecture, he is the architect on the project.</p> <p>16 And Nancy Randall, and I will only call her that once.</p> <p>17 She goes by Nancy Randall and she always gives me a hard</p> <p>18 time when I use the name Anne, but that is her real first</p> <p>19 name, but we all know her as Nancy Randall, with Wells +</p> <p>20 Associates, our traffic consultant. And Don Boucher --</p> <p>21 excuse me -- a real estate appraiser with Boucher and</p> <p>22 Boucher, Inc.</p> <p>23 As a procedural matter, I just wanted to note that the</p> <p>24 affidavit of posting was filed with your office. I believe</p> <p>25 it's in the record as Exhibit 123. And also as a procedural</p>	12	<p>1 units on the property located at 9545 River Road in Potomac,</p> <p>2 Maryland. The application is for 100 living suites</p> <p>3 containing up to 130 beds. The Montgomery County Planning</p> <p>4 Board reviewed and voted unanimously to recommend approval</p> <p>5 of the project at the regularly scheduled hearing on July</p> <p>6 30, 2020.</p> <p>7 While the Petitioner concurs with the Planning Board</p> <p>8 and believes that the original application was in fact</p> <p>9 compatible with the surrounding neighborhood and met all the</p> <p>10 other requirements necessary to approve a conditional use,</p> <p>11 the Petitioner is a long-term owner and operator always has</p> <p>12 been committed to ensuring that the surrounding community</p> <p>13 feels the same way. As such, over the past several months</p> <p>14 following the Planning Board hearing, the Petitioner engaged</p> <p>15 in meaningful discussions with the immediately surrounding</p> <p>16 neighbors in the West Montgomery County Citizens Association</p> <p>17 to see if we can close the gap on their opposition related</p> <p>18 to the application.</p> <p>19 We appreciated the hearing examiners' willingness to</p> <p>20 modestly propose -- postpone the hearing to allow the</p> <p>21 parties an opportunity to explore whether these efforts</p> <p>22 would be fruitful, which it was. We are pleased to say, as</p> <p>23 a result of these collaborative workings and a genuine</p> <p>24 desire by all to reach consensus, the Petitioner was able to</p> <p>25 revise the plans to address the comments and concerns raised</p>

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4 (13 to 16)

13	<p>1 by the West Montgomery Association and the surrounding</p> <p>2 neighbors that were opposed to the application.</p> <p>3 The agreed-upon plan revisions are reflected in the</p> <p>4 amended application materials that the Petitioner submitted</p> <p>5 on November 24 and thereafter on December 19th, and the</p> <p>6 specific details of which our experts will discuss in their</p> <p>7 testimony. I do want to publicly thank David Brown and his</p> <p>8 clients for their good faith efforts to resolve our</p> <p>9 differences.</p> <p>10 Working towards a resolution is never easy especially</p> <p>11 with the large number of individuals involved and especially</p> <p>12 during a pandemic. We all worked towards this goal and came</p> <p>13 to an agreement. We are truly pleased that the Petitioner</p> <p>14 and the community's hard work has resulted in a plan that</p> <p>15 everyone can accept as confirmed by the opposition's</p> <p>16 withdrawal of their opposition that was in a letter -- a</p> <p>17 revised prehearing statement issued by Mr. Brown on November</p> <p>18 27, 2020.</p> <p>19 As the hearing examiners are aware, the planning staff</p> <p>20 also supports the amended application and concurs that the</p> <p>21 amended application materials do not alter the intent or</p> <p>22 findings that the Planning Board relied on in making their</p> <p>23 decision to recommend approval of the conditional use and</p> <p>24 preliminary forest conservation plan. Through our witnesses</p> <p>25 today, we will demonstrate that the conditional use</p>	15	<p>1 really the exhibit. It makes things easy. While many of</p> <p>2 those are already in the record, it's one PDF that you can</p> <p>3 use it to just go from witness to witness and it will be</p> <p>4 much easier to follow along. So we thought that would be</p> <p>5 helpful. And again, I mentioned that I also want to make</p> <p>6 certain that staff's most recent memo to the hearing</p> <p>7 examiners, I believe dated January 11, is in the record.</p> <p>8 So with that, unless the hearing examiners have any</p> <p>9 questions, we are prepared to move forward. Thank you, very</p> <p>10 much.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN I have one question.</p> <p>12 Pardon me. What is the status -- are we going to have an</p> <p>13 approved PFCP?</p> <p>14 MR. ROBINS: Yes, you should have received an email</p> <p>15 from Elizabet Testay. She sent an email to I believe you,</p> <p>16 Madam Hearing Examiner, yesterday.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN I saw that, but it</p> <p>18 didn't say it was approved.</p> <p>19 MR. ROBINS: I think that excuse me for one second for</p> <p>20 leaning forward. It said that the revised FCP is approved</p> <p>21 and will be stamped and signed by the environmental reviewer</p> <p>22 as soon as the situation permits. That was --</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Okay, I missed that.</p> <p>24 MR. ROBINS: That was in the bullet point. So the</p> <p>25 preliminary FCP has been approved. It's just a question of</p>
14	<p>1 application satisfies the development standards of the RE2</p> <p>2 zone, the conditional use application satisfies the</p> <p>3 standards contained in section 59 3.3.2.E for a residential</p> <p>4 care facility of over 16 persons.</p> <p>5 The available public facilities and services will be</p> <p>6 adequate to serve the proposed development. The conditional</p> <p>7 use substantially conforms to the recommendations of the</p> <p>8 Potomac Subregion Master Plan and approval of the</p> <p>9 conditional use complies with the required general and</p> <p>10 specific findings contained in the zoning ordinance under</p> <p>11 section 59 7.3.1.E.</p> <p>12 We will be calling six witnesses today. Mike</p> <p>13 Longfellow, the senior vice president of construction and</p> <p>14 development of Spectrum Retirement Communities. He is here</p> <p>15 representing the Applicant. Joshua Sloan of VIKA, our land</p> <p>16 planner and landscape architect. Logan Kelso, also of VIKA</p> <p>17 as our civil engineer. Brian Van Winkle of Vessel -- excuse</p> <p>18 me --- of Vessel Architecture, who is the project architect.</p> <p>19 Nancy Randall of Wells + Associates, our transportation</p> <p>20 planner. And again, to wrap it up, Don Boucher, our real</p> <p>21 estate appraiser with Boucher and Boucher, Inc.</p> <p>22 We also submitted a presentation that contains the</p> <p>23 various exhibits that our witnesses will use as part of</p> <p>24 their testimony. I believe that's been entered into the</p> <p>25 record as Exhibit 121. For the hearing examiners, that's</p>	16	<p>1 getting people into their new building to actually sign it.</p> <p>2 We did speak to Patrick Butler, who is now the area</p> <p>3 supervisor for area three. I don't know what they call it</p> <p>4 now. They changed the names, but --</p> <p>5 HEARING EXAMINER ROBESON-HANNAN I think it's Up</p> <p>6 County.</p> <p>7 MR. ROBINS: Up County. But Mr. Butler indicated that</p> <p>8 while you are leaving the record open for the transcript to</p> <p>9 be dealt with, that he believed that he would be able to get</p> <p>10 the FCP that's been approved signed for you.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN Thank you.</p> <p>12 MR. ROBINS: You are very welcome.</p> <p>13 HEARING EXAMINER BAUMGARTNER: Okay. Mr. Brown, are</p> <p>14 you still on the line, sir?</p> <p>15 MR. BROWN: Yes, I'm here.</p> <p>16 HEARING EXAMINER BAUMGARTNER: All right. And if you</p> <p>17 can, just give us some thoughts on any areas that are still</p> <p>18 in opposition. I understand from Mr. Robins that community</p> <p>19 members who were in opposition have withdrawn that</p> <p>20 opposition. But I just wanted to get from you, if that is</p> <p>21 your understanding that the revised documents submitted on</p> <p>22 November 24th and December 19th with the revised plans</p> <p>23 reflect the agreement that you and Mr. Robins, and Ms.</p> <p>24 Rogers have come to on this case.</p> <p>25 MR. BROWN: Yes, good morning Mr. Baumgartner and Ms.</p>

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5 (17 to 20)

17	<p>1 Robison-Hannan. Dave Brown for Knopf & Brown representing 2 the West Montgomery County Citizens Association and a group 3 of about a dozen or so adjacent homeowners who have been 4 working assiduously with the Applicant led by -- with the 5 leadership of Peter Levine, who did an awful lot of work to 6 help move things along.</p> <p>7 Everything that Mr. Robins said, I agree with 8 completely including his description of the withdrawal of 9 our opposition to the project as well as the fact that there 10 are various items of change in the documents and the 11 application that were part of the consideration for the 12 withdrawal of our opposition, which is reflected in a formal 13 withdrawal that has been filed with you. The -- there are 14 no other considerations or aspects of that agreement between 15 us that are not reflected in those documents.</p> <p>16 So you have the entirety of the understanding between 17 the parties. I just -- my role as I see it now, although 18 I'm still representing parties in this proceeding, is 19 something of a bystander. I still have the -- I think the 20 right to ask questions, but you can anticipate that I will 21 have almost nothing to say from here on out. I may have a 22 few questions for Mr. Longfellow at the end of his 23 presentation, but they are really not in the way of cross- 24 examination.</p> <p>25 And I've asked my clients, they have nothing that they</p>	19	<p>1 now. But per our discussion earlier, what I would like to 2 do is turn it over to any community folks that would like to 3 give testimony on this case. Before we do that, just some 4 basic ground rules about hearings like this. Typically, 5 when either side wants to give testimony they will call 6 their witnesses. They will ask questions of their 7 witnesses. When they are complete with that examination we 8 will turn it over to any, was called cross-examination of 9 that witness. So for folks who are logged on either on 10 phone or on Teams, that would be your opportunity to ask 11 direct questions of the Applicant's witnesses, but 12 pertaining to the testimony that they already provided. So 13 that's not your opportunity to give your opinion about a 14 matter or to testify on your own. That's simply the 15 opportunity to ask questions of that witness.</p> <p>16 Normally, the Applicant would go first. They would put 17 on their witnesses. It would be a cross-examination of 18 those witnesses. And then when they are done we turn it 19 over to the opposition to then do the same thing. But as 20 we've mentioned before, all parties have agreed to change 21 that order a little bit. So right now what I would like to 22 do is open it up to community members who would like to 23 provide testimony.</p> <p>24 We will go down the list here. When I call on you, 25 please provide your name for the record. And then you are</p>
18	<p>1 want me to present in the way of questions or concerns. So 2 we will be monitoring and kind of standing by other than I 3 have described. I want to say just as one further comment 4 with regard to the changes in the application, that our 5 opposition was predicated on our disagreement with the staff 6 report that a three-story building in this location was 7 compatible with the neighborhood.</p> <p>8 And as you will see in the presentation today, it is 9 now down to two stories. And we give great credit to the 10 Applicant for agreeing to rework its plans in that 11 direction. When this case went back to the Planning Board 12 for review as a two-story project in recent weeks, you got 13 back from Elsabet Testay what I would regard as the most 14 grudgingly descriptive comment on those changes that one can 15 possibly imagine. She said that they are, quote, mostly 16 consistent with the previous findings of the Planning Board.</p> <p>17 I think you'll find as we move through this proceeding 18 that those changes are not just mostly consistent with the 19 previous findings, but they greatly improve upon the project 20 and strengthen the Planning Board's previous findings. But 21 that of course ultimately is for you to judge. In the 22 meantime, I will be just sitting back and listening. Thank 23 you.</p> <p>24 HEARING EXAMINER BAUMGARTNER: Thank you, Mr. Brown. 25 We are going to get into the Applicant's case in chief</p>	20	<p>1 welcome to provide testimony, keeping in mind that the 2 Applicant can also ask questions of you as well. So from 3 earlier there were two individuals that indicated they 4 wanted to provide testimony. Let's see here.</p> <p>5 I believe there was an Erik who wanted to provide 6 testimony.</p> <p>7 MR. GAULL: I'm here.</p> <p>8 HEARING EXAMINER BAUMGARTNER: All right, sir, can you 9 provide your full name for the record, please?</p> <p>10 MR. GAULL: Sure. My name is Erik, that's; E-R-I-K. 11 The last name is Gaull; G-A-U-L-L.</p> <p>12 HEARING EXAMINER BAUMGARTNER: All right, Mr. Gaull, 13 what would you like to tell us here today?</p> <p>14 HEARING EXAMINER ROBESON-HANNAN: Derek, I'm sorry. 15 Before he starts, having gone through -- could you -- Mr. 16 Gaull, could you provide your email address as well? That 17 assists us to get notices to you.</p> <p>18 MR. GAULL: Sure. It's just first name, dot last name, 19 at Gmail.com.</p> <p>20 HEARING EXAMINER BAUMGARTNER: All right. And Mr. 21 Gaull, could you please raise your right hand for me? I 22 forgot to swear in the witnesses.</p> <p>23 And sir, do you swear or affirm under the penalties of 24 perjury that the testimony you're about to give is the 25 truth, the whole truth and nothing but the truth?</p>

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6 (21 to 24)

21	<p>1 MR. GAULL: I do.</p> <p>2 HEARING EXAMINER BAUMGARTNER: Thank you, very much.</p> <p>3 What would you like to tell us here today?</p> <p>4 MR. GAULL: So I have a prepared statement that I will</p> <p>5 read. And if you have questions for me, I'm happy to answer</p> <p>6 them afterwards.</p> <p>7 HEARING EXAMINER BAUMGARTNER: Sure.</p> <p>8 MR. GAULL: My name is Erik Gaull. I'm a resident of</p> <p>9 Cabin John at 7605 Arden Road, a volunteer paramedic who has</p> <p>10 served the communities of Cabin John, West Bethesda, and</p> <p>11 Potomac since 1986. I know these areas intimately and have</p> <p>12 seen them develop and grow over the years. I am testifying</p> <p>13 to voice my strong support for the approval of Spectrum</p> <p>14 Retirement Community's application for a senior living</p> <p>15 community at 9545 River Road.</p> <p>16 I have heard some people express concerns that this</p> <p>17 proposal would put a strain on our fire and emergency</p> <p>18 medical services. I can say with confidence that these</p> <p>19 worries are unfounded. We have several assisted living</p> <p>20 facilities and nursing homes in the area including a very</p> <p>21 large one located at 8300 Burnet Road. While these</p> <p>22 communities have created a small uptick in demand for fire</p> <p>23 and emergency medical services over the years, this increase</p> <p>24 in demand is well within our capability to provide service</p> <p>25 in a timely manner. Residents of the proposed building</p>	23	<p>1 the -- adding to the ranks of senior citizens. Again, we</p> <p>2 need more of these communities for this most valued</p> <p>3 generation. It's not up to me, to residents like me, to</p> <p>4 tell seniors where they can and cannot live. Rather, we</p> <p>5 should honor their generation by opening up as many choices</p> <p>6 for them as possible.</p> <p>7 So I therefore respectfully ask that you approve</p> <p>8 Spectrum's conditional use application for 9545 River Road.</p> <p>9 And I thank you for your time this morning and I will answer</p> <p>10 any questions that you may have.</p> <p>11 HEARING EXAMINER BAUMGARTNER: Thank you, Mr. Gaull.</p> <p>12 Were there any questions for this witness?</p> <p>13 Seeing none, I thank you for your testimony, sir.</p> <p>14 Going down the line, we also had a Joel Albert. Mr.</p> <p>15 Albert, are you there?</p> <p>16 MR. ALBERT: Yes, good morning.</p> <p>17 HEARING EXAMINER BAUMGARTNER: Good morning. Could you</p> <p>18 please provide your name for the record, and your email</p> <p>19 address?</p> <p>20 MR. ALBERT: My name is Joel Albert; J-O-E-L, A-L-B-E-</p> <p>21 R-T. My email address is JRALbert37@gmail.com.</p> <p>22 HEARING EXAMINER BAUMGARTNER: Now, Mr. Albert, could</p> <p>23 you please raise your right hand?</p> <p>24 And sir, do you swear or affirm under the penalties of</p> <p>25 perjury that the testimony you're about to give is the</p>
22	<p>1 would receive the same high level of service as any other</p> <p>2 citizen living in the Potomac area, and delivering those</p> <p>3 services to new residents won't impinge on the services</p> <p>4 current residents receive.</p> <p>5 As a local resident, I was very pleased to learn that</p> <p>6 the West Montgomery Citizens Association and the closest</p> <p>7 neighbors have withdrawn their application -- their</p> <p>8 opposition to the application. And I applaud Spectrum for</p> <p>9 their work to adjust their application to address the</p> <p>10 Association and neighbors' concerns, including reducing the</p> <p>11 height of the building to two stories and adding more</p> <p>12 landscaping and screening.</p> <p>13 The plain and simple fact in my mind is that we need</p> <p>14 more senior living communities in Montgomery County as we</p> <p>15 look to our future. Communities as the one Spectrum is</p> <p>16 proposing affords seniors an opportunity to stay in the area</p> <p>17 near friends and family, and services they've come to know</p> <p>18 and trust. Why should someone be forced to move far away</p> <p>19 simply because the current residence no longer suits their</p> <p>20 needs as well as a senior living community might?</p> <p>21 And might I add that the graying of America, the</p> <p>22 population shift to the right, is going to (inaudible) an</p> <p>23 even more important issue in the future. A significant</p> <p>24 portion of the nation's population is living longer and the</p> <p>25 bubble of the baby boomer generation is adding ranks to</p>	24	<p>1 truth, the whole truth and nothing but the truth?</p> <p>2 Mr. ALBERT: I do.</p> <p>3 HEARING EXAMINER BAUMGARTNER: Thank you, very much.</p> <p>4 You are welcome to tell us whatever you would like about</p> <p>5 this project, sir.</p> <p>6 HEARING EXAMINER ROBESON-HANNAN Mr. Albert, I'm sorry</p> <p>7 to interrupt.</p> <p>8 MR. ALBERT: Go ahead.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN Before you -- could we</p> <p>10 get your home address if you're --</p> <p>11 MR. ALBERT: Certainly. I will give it in my</p> <p>12 testimony.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN (Inaudible).</p> <p>14 MR. ALBERT: But it's 9904 Colebrook Avenue;</p> <p>15 C-O-L-E-B-R-O-O-K, Avenue, in Potomac.</p> <p>16 HEARING EXAMINER ROBESON-HANNAN Thank you.</p> <p>17 MR. ALBERT: Good morning.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN (Inaudible). Go</p> <p>19 ahead.</p> <p>20 MR. ALBERT: Say again?</p> <p>21 HEARING EXAMINER ROBESON-HANNAN Nothing. Go ahead.</p> <p>22 MR. ALBERT: Okay. Good morning. I'm Joel Albert. I</p> <p>23 live at 9904 Colebrook Avenue in the Bedfordshire area of</p> <p>24 Potomac, just about 3 miles from the proposed Spectrum</p> <p>25 senior facility, which I'm here to support. You know better</p>

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<p>25</p> <p>1 than I the statistics on our burgeoning senior population 2 and the strain on current infrastructure to handle their 3 needs, or rather our needs. I'm a case study, or about to 4 be one, on the verge of 84 years, just a step or two away 5 from packing my bags and looking for a comfortable, 6 welcoming place to spend the last years. 7 My first choice would be to stay close to where I've 8 spent most of my life, a place that's properly staffed and 9 equipped, and close to the community necessities; a 10 barbershop, supermarket, post office, bank, a pizza joint, 11 and of course, a Chinese restaurant, and a hardware store. 12 Potomac Village, just up the street from this proposed 13 Spectrum development, has all those things and more. And if 14 Spectrum is built, there is even a bus right at the front 15 door to take care of transportation needs. So we need more 16 of these places, not fewer, not the same. We are aging and 17 these places are needed. 18 As this process moved from its initial plan to its 19 present form, I was happy to see that Spectrum made the 20 adjustments that respect the concerns of the most immediate 21 neighbors such as dropping the height of the building. But 22 at the same time, I would admonish our planners and owners, 23 you on the board and your colleagues in county government, 24 to hold them to their promise. 25 I would like to see no repeat of the Clarksburg or</p>	<p>27</p> <p>1 building and out of the building at rush hours. 2 As I read some of the objections seeking to keep things 3 as they were, I smile. Had that been true, I and my snug 4 quarter acre lot would've been shut out, unable to afford a 5 five-acre homesite in this beautiful community in 1971. My 6 Glen Road would still be the rutted dirt country lane of 7 that time. They would still be milking cows at the dairy 8 barn a couple of blocks away. And there would be the great 9 Clagett farm, and polo ponies, and Dunham's garage. And the 10 post office would still be the little room at the back of 11 the drugstore. 12 No, we change as we must, evolving gradually and 13 gracefully over time. For me, this Spectrum project is 14 wholly consistent with that graceful change to meet the 15 needs of and provide opportunities, in this case for 100 16 lucky seniors. Don't let those opportunities slip away. 17 It's yes as far as I'm concerned for CU 20-05. Happy new 18 year. Thanks for the chance to speak. 19 HEARING EXAMINER BAUMGARTNER: Thank you very much Mr. 20 Albert. Any questions for this witness? 21 MR. ROBINS: We don't have any questions. Thank you 22 very much to Mr. Albert for appearing today. And also to 23 Erik as well. 24 HEARING EXAMINER BAUMGARTNER: Are there any other 25 community members that wanted to testify here at this time?</p>
<p>26</p> <p>1 Simis (phonetic) building fiasco. There are other things to 2 recommend this project such as putting parking underground 3 so that the neighbors are not offended by the sight of a 4 car. Actually, underground parking does make good use of 5 the space and a complement the builder. My testimony is 6 also that given the likelihood of visitations by family, 7 especially on weekends, there ought to be more parking, if 8 possible. I've seen the diagram and 16 visitor spots in 9 front it seems on the skinny side. 10 Spectrum says, and again, you know whether it's 11 accurate, that they have more than met the setback and green 12 space requirements. They report that they boosted screening 13 and buffers. We like that; all to the good. Some have said 14 that this development is a dangerous place for us oldsters, 15 it's too risky to walk from Spectrum to the nearby Potomac 16 Village. 17 So county government, make it safer and more welcoming. 18 Put in wider sidewalks and fewer steep hills. I know the 19 terrain over there is in need of some amelioration. Some 20 have said it will bring too much traffic. Sure it will 21 bring a little bit more traffic, but as the gentleman 22 testified about the demand for fire service, it's a drop in 23 the bucket compared to the morning and nightly slow jam 24 parade now along River Road. Spectrum, if needed, can 25 adjust its staff shifts to avoid putting people in the</p>	<p>28</p> <p>1 You can either raise your virtual hand -- let me see, we 2 have -- seeing none. 3 MR. ROBINS: No, I think there was Matthew Gordon. 4 HEARING EXAMINER BAUMGARTNER: Mr. Gordon? 5 MR. GORDON: I should have done it the old-fashioned 6 way. I was trying to use the raise hand function. 7 HEARING EXAMINER BAUMGARTNER: That's okay. 8 MR. GORDON: I'll be quick. 9 HEARING EXAMINER BAUMGARTNER: Sure. Can you provide 10 your name, email address, and a physical address, please 11 sir? 12 MR. GORDON: Sure. Matthew Gordon. And you don't need 13 to add me as a party of record, but I can give you my 14 information if you'd like. 15 THE COURT: We do have to add you. 16 MR. GORDON: Oh, okay. All right. I will try and save 17 you. Address would be 4416 E. West Highway, 4th floor, 18 Bethesda, Maryland 20814. 19 HEARING EXAMINER BAUMGARTNER: And once again, email 20 address? 21 MR. GORDON: M as in Matt, and then my last name, 22 Gordon, at SGRWLaw, L-A-W, dot com. 23 HEARING EXAMINER BAUMGARTNER: Okay. Mr. Gordon can 24 you raise your right hand for me? 25 And sir, do you swear or affirm under the penalties of</p>

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29	<p>1 perjury that the testimony you're about to give is the</p> <p>2 truth, the whole truth, and nothing but the truth?</p> <p>3 MR. GORDON: I do.</p> <p>4 HEARING EXAMINER BAUMGARTNER: All right. You are</p> <p>5 welcome to provide your testimony here today.</p> <p>6 MR. GORDON: Okay. Good morning. My name is Matthew</p> <p>7 Gordon and I'm testifying on behalf of the greater Bethesda</p> <p>8 Chamber of Commerce to express our support for CU 20-05, an</p> <p>9 application by Spectrum Retirement Communities for an</p> <p>10 assisted living and memory care facility at 9545 River Road.</p> <p>11 We offer the following comments for your consideration.</p> <p>12 The plans provide for extensive setbacks and screening</p> <p>13 around the site, way beyond the required distances.</p> <p>14 Spectrum is going above and beyond to provide natural</p> <p>15 buffers, screening for neighboring homes, including</p> <p>16 maintaining and adding a stand of trees. Buffers and</p> <p>17 landscaping will substantially screen the building from</p> <p>18 River Road. And Spectrum increased landscaping and</p> <p>19 screening even more after discussion with the community and</p> <p>20 its neighbors.</p> <p>21 The architecture reflects the Potomac community</p> <p>22 aesthetic. In response to the neighbors' concerns, Spectrum</p> <p>23 reduced to the building height only two stories matching the</p> <p>24 height for neighboring homes. Taking community feedback</p> <p>25 into account, the architecture includes a variety of</p>	31	<p>1 crucial need. As members of the baby boomer generation</p> <p>2 continue to age, Montgomery County must be able to meet</p> <p>3 their needs on a variety of levels. One of the greatest</p> <p>4 desires of our valued seniors is the ability to remain in</p> <p>5 the community they love. There has been much discussion</p> <p>6 about the importance of aging in place. Equally important</p> <p>7 is the ability to age in a community. Spectrum has focused</p> <p>8 on making this project an asset to Potomac and an excellent</p> <p>9 option for elderly residents who want to remain in their</p> <p>10 community. They worked closely with community leaders and</p> <p>11 close in neighbors and adjusted the application to address</p> <p>12 their concerns.</p> <p>13 For all these reasons, the greater Bethesda Chamber of</p> <p>14 Commerce supports application CU 20-05, and requests that it</p> <p>15 be approved. Thank you for the opportunity to testify.</p> <p>16 HEARING EXAMINER BAUMGARTNER: Thank you, Mr. Gordon.</p> <p>17 Were there any questions for this witness?</p> <p>18 MR. ROBINS: We have none. Thank you, Mr. Gordon.</p> <p>19 HEARING EXAMINER BAUMGARTNER: Seeing none, opening it</p> <p>20 up -- opening this back up one more time for any other</p> <p>21 community members who would like to testify at this time.</p> <p>22 See no virtual hands or other indication of testimony, we</p> <p>23 will turn this back over to the Applicant to present their</p> <p>24 case in chief. As a reminder for folks who have already</p> <p>25 testified, you are welcome to stick around to watch the rest</p>
30	<p>1 features that give the building a design of a Potomac feel.</p> <p>2 Spectrum plans to extend the walking path into the Potomac</p> <p>3 Village just down the street.</p> <p>4 Walking, jogging, and biking have increased on River</p> <p>5 Road during the pandemic; safety continues to be a concern,</p> <p>6 but Spectrum's plan for a new 10 foot wide path along River</p> <p>7 Road will make that activity safer and more enjoyable for</p> <p>8 the broader community. Even better, the new landscape panel</p> <p>9 effectively separates the path from River Road vehicular</p> <p>10 traffic. Spectrum's plans include impressive improvements</p> <p>11 to the site's environmental sustainability. In its current</p> <p>12 condition, site includes a great deal of impervious surface</p> <p>13 including paved surface, parking, cement services, and</p> <p>14 gravel throughout.</p> <p>15 Spectrum will cut the amount of impervious surface by</p> <p>16 more than half. Spectrum also plans to eliminate the</p> <p>17 majority of surface parking by building a new underground</p> <p>18 garage to hold the majority of parking spaces for staff,</p> <p>19 community care, and residents. A small number of spaces</p> <p>20 will remain above ground for visitor parking and handicap</p> <p>21 parking. In terms of storm water management, the proposal</p> <p>22 calls for extensive bio retention and landscape filtration</p> <p>23 facilities throughout the site. Additionally, Spectrum will</p> <p>24 include stream valley buffers on the site where appropriate.</p> <p>25 Perhaps most importantly, this proposal serves a</p>	32	<p>1 of the hearing. If you have other things to do on this</p> <p>2 Friday morning, you are welcome to go to that.</p> <p>3 Turning it over to Mr. Robins for the Applicant's case</p> <p>4 in chief.</p> <p>5 MR. ROBINS: Thank you. And I turn my mic back on. My</p> <p>6 goal here today is to not be told that you are on mute. So</p> <p>7 that's good.</p> <p>8 Our first witness will be Mike Longfellow, who is the</p> <p>9 Applicant for Spectrum Retirement Community. Mr. Hearing</p> <p>10 Examiner, did you want to swear him in before start my --</p> <p>11 HEARING EXAMINER BAUMGARTNER: That would be great,</p> <p>12 thank you. Mr. Longfellow, can you please raise your right</p> <p>13 hand?</p> <p>14 And sir, do you swear or affirm under the penalties of</p> <p>15 perjury that the testimony you're about to give is the</p> <p>16 truth, the whole truth, and nothing but the truth?</p> <p>17 MR. LONGFELLOW: I do.</p> <p>18 HEARING EXAMINER BAUMGARTNER: Sir, please provide your</p> <p>19 name and business address, please.</p> <p>20 MR. LONGFELLOW: My name is Mike Longfellow, senior</p> <p>21 vice president with Spectrum Retirement Communities. Our</p> <p>22 business address is 4600 S. Syracuse Street, Suite 1100,</p> <p>23 Denver, Colorado 80237.</p> <p>24 HEARING EXAMINER BAUMGARTNER: Thank you, very much.</p> <p>25 Mr. Robins, the floor is yours.</p>

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<p>33</p> <p>1 MR. ROBINS: Thank you. That was my first question. 2 So you knocked off question number one for me. Thank you. 3 Mr. Longfellow, could you please provide a brief 4 description of your educational and professional background? 5 MR. LONGFELLOW: Yes, thank you, Steve. I'm an 6 architect licensed to practice in four states and spent the 7 first 10 years of my career in traditional architecture 8 practice. I've worked nationally and internationally on a 9 wide variety of building types, but have spent the last 13 10 years solely devoted to senior living. 11 MR. ROBINS: And can you please provide some background 12 on Spectrum Retirement Communities and Spectrum's experience 13 for the record? 14 MR. LONGFELLOW: Yes, founded in 2003, Spectrum 15 Retirement Communities is an owner, operator, and developer 16 of senior living communities across the United States. We 17 currently own and operate 48 properties with nearly 6,500 18 units in 10 states. Spectrum has over 3,000 employees, 19 approximately 20 of whom are in development and therefore 20 the vast majority of our company is devoted to the 21 operations management of our communities. And the 22 operations management includes a wide variety of 23 multidisciplinary individuals from resident care, to of 24 course entertainment programming, food and beverage, 25 administration, et cetera.</p>	<p>35</p> <p>1 MR. ROBINS: Can you hear me okay? 2 MR. LONGFELLOW: Yes. 3 HEARING EXAMINER ROBESON-HANNAN Yes. 4 MR. ROBINS: Okay. Mr. Longfellow, it's fair to say -- 5 Mike, you can hear me? 6 MR. LONGFELLOW: Yes, I can. You cut off for a moment, 7 but now I can hear you. 8 MR. ROBINS: Okay. Are you familiar with the 9 conditional use application that is the subject of today's 10 hearing? 11 MR. LONGFELLOW: Yes, I am. 12 MR. ROBINS: And what legal interest does Spectrum 13 Retirement have in the property? 14 MR. LONGFELLOW: Spectrum is the contract purchaser of 15 the property. 16 MR. ROBINS: Okay. And there is an owner's 17 authorization submitted into the record to your knowledge, 18 correct? It's Exhibit 3? 19 MR. LONGFELLOW: Yes, that's correct. 20 MR. ROBINS: Thank you, sir. Can you please describe 21 how you go about choosing a site and why you believe this 22 site is so well-suited for the proposed residential care 23 facility? And Mr. Hearing Examiner, can you post or -- I 24 don't know whether either you or Ms. Roberson-Hannan is 25 running the slides, but on the exhibit that we submitted</p>
<p>34</p> <p>1 MR. ROBINS: Thank you. And how long have you worked 2 at Spectrum? And what are your responsibilities there? 3 MR. LONGFELLOW: I have been with Spectrum for over 13 4 years. For the first three years of my time at Spectrum, I 5 was vice president of construction and development. And 6 since that time, I have been SVP of construction and 7 development. In this role, I lead Spectrum's 8 multidisciplinary team, internal team, and all development 9 activity. And this team includes design, engineering, 10 construction management, legal and financial professionals. 11 And leading all of that charge, I actually still work on all 12 of the initial design of our new communities in very close 13 collaboration with Brian Van Winkle, from whom you will hear 14 later, who is our architects for all of our projects. But 15 I'm still very, very closely in designing them. 16 (Off the record discussion; technical difficulties.) 17 MR. ROBINS: Okay. I'm sorry. My computer actually 18 froze. We are in separate conference rooms. So I pivoted 19 and Ms. Rogers has now moved out of the way to let me finish 20 up my testimony with Mr. Longfellow. So I'm sorry about 21 that. 22 HEARING EXAMINER BAUMGARTNER: Not a problem. 23 MR. ROBINS: I will try to get that fixed in the 24 interim. You can hear me though okay? 25 HEARING EXAMINER BAUMGARTNER: Yes, we can.</p>	<p>36</p> <p>1 that is the PDF. 2 HEARING EXAMINER BAUMGARTNER: Yes, which exhibit? Oh, 3 the PDF. So I have -- 4 MR. ROBINS: Yeah. 5 HEARING EXAMINER BAUMGARTNER: 73. I also have the -- 6 MR. ROBINS: The one that Liz Rogers submitted. 7 HEARING EXAMINER ROBESON-HANNAN Derek. Derek, I think 8 it's 121. 9 HEARING EXAMINER BAUMGARTNER: Got it. 10 MR. ROBINS: Is it? 11 HEARING EXAMINER BAUMGARTNER: So it should be on the 12 screen now. 13 MR. ROBINS: I see your website. I don't see the 14 exhibit. 15 HEARING EXAMINER BAUMGARTNER: That is strange. 16 MR. FREY: It's up. Just give it a second. 17 MR. ROBINS: Yeah, there you go. 18 HEARING EXAMINER BAUMGARTNER: Okay. Yeah, it took a 19 moment to load, but it should be up there right now. 20 MR. ROBINS: Yep, I see it. Okay. So could you go to 21 slide 2, please? 22 HEARING EXAMINER BAUMGARTNER: Can you see that? 23 MR. ROBINS: The second side? Oh, you're giving me 24 control? 25 HEARING EXAMINER BAUMGARTNER: No, I still have</p>

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37	<p>1 control.</p> <p>2 MR. ROBINS: Oh, this is -- am I - am I taking -- you</p> <p>3 are taking -- oh, okay.</p> <p>4 MR. FREY: Your connection is just slow, Steve. It's</p> <p>5 working. Just give it a second.</p> <p>6 MR. ROBINS: Oh. So --</p> <p>7 HEARING EXAMINER BAUMGARTNER: Sometimes it buffers for</p> <p>8 a while. So you just have to give it 10 or 15 seconds.</p> <p>9 MR. ROBINS: Okay.</p> <p>10 HEARING EXAMINER BAUMGARTNER: But the aerial context</p> <p>11 map should be up on your screen now.</p> <p>12 MR. ROBINS: I do see it. Thank you. Mr. Longfellow,</p> <p>13 can you please describe how you go about choosing a site and</p> <p>14 why you believe the site is so well-suited for the proposed</p> <p>15 residential care facility?</p> <p>16 MR. LONGFELLOW: Yes. Spectrum chooses sites that</p> <p>17 allow seniors to age with dignity. That is really a --</p> <p>18 really one of the sole criteria that we look at and</p> <p>19 certainly the most important. We do not choose the easiest</p> <p>20 to develop sites at all times that are often situated on the</p> <p>21 periphery of communities, but rather residential settings</p> <p>22 that allow seniors to continue to live and contribute to the</p> <p>23 community that they have been a part of, built, and worked</p> <p>24 in for years or decades.</p> <p>25 We currently operate in the Midwest and western U.S.</p>
38	<p>1 We have been looking in the mid-Atlantic for a few years now</p> <p>2 home and quickly began to focus on Montgomery County as our</p> <p>3 area of first interest. And as I noted, we look for</p> <p>4 beautiful, residential settings that are close to town</p> <p>5 centers, schools, other foundational elements of the greater</p> <p>6 community that we always seek to engage with and be a part</p> <p>7 of.</p> <p>8 As a long-term owner and operator of our facilities and</p> <p>9 therefore active members of the greater community, we are</p> <p>10 also very conscious about finding sites that we can truly</p> <p>11 improve. The aging condition of the existing commercial use</p> <p>12 provides us with just such an opportunity to redevelop the</p> <p>13 site with a more compatible and serene residential use.</p> <p>14 Before we considered the subject site, we had been</p> <p>15 working on another site in Potomac. We had engaged at that</p> <p>16 time in productive discussions with the West Montgomery</p> <p>17 County Citizens Association. But after a lot of dialogue, a</p> <p>18 lot of productive dialogue, it was clear to us that there</p> <p>19 would not be community support for the project at that</p> <p>20 location. We were encouraged by them to try to find another</p> <p>21 site in the area that would be more well-suited for our</p> <p>22 concept.</p> <p>23 So we terminated our efforts at that site even though</p> <p>24 we had gone fairly far with studies and plans at the time.</p> <p>25 We found the subject site thereafter and became very excited</p>
39	<p>1 about it, given its size, its residential setting, its</p> <p>2 proximity to Potomac Village Center, which you can see on</p> <p>3 the exhibit. And also, the opportunity once again to truly</p> <p>4 improve the site from its existing condition to again, a</p> <p>5 more serene residential setting and really a more beautiful</p> <p>6 setting along River Road for the good of the greater</p> <p>7 community as well.</p> <p>8 Of course we also spent considerable time and</p> <p>9 resources, as you can imagine, evaluating current supply and</p> <p>10 demand in the market. We have both internal and third-party</p> <p>11 professionals dedicated to this and the unmet demand here</p> <p>12 strong. So for all of these reasons, this really checked</p> <p>13 all of the boxes, so to speak, for us in terms of it being a</p> <p>14 residential setting, being close to the village center and</p> <p>15 multiple activities and opportunity to improve the site and</p> <p>16 of course the market for this being very strong.</p> <p>17 MR. ROBINS: Would you please put -- please briefly</p> <p>18 explain how the site surroundings do or do not play a role</p> <p>19 in the project's design?</p> <p>20 MR. LONGFELLOW: Yes. As Brian Van Winkle will discuss</p> <p>21 in greater detail, we really study the surroundings of every</p> <p>22 site that we look at to determine the best design approach</p> <p>23 to the site. We conduct a survey of the surrounding</p> <p>24 architectural styles of the homes in this area and to ensure</p> <p>25 an architectural compatibility. Once again, I am an</p>
40	<p>1 architect. That's my background, my first love</p> <p>2 professionally. So that is something that we take very</p> <p>3 seriously, I personally take very seriously, as does my</p> <p>4 company.</p> <p>5 We looked at the subject site's relationship to the</p> <p>6 surrounding residential homes as well, importantly as its</p> <p>7 relationship to River Road. Our goal from the start was to</p> <p>8 maximize open space and meaningful landscape buffers by</p> <p>9 providing a compact building footprint, which is why we</p> <p>10 initially proposed a three-story building. But this is also</p> <p>11 why we made the very important and significant decision from</p> <p>12 the very beginning to locate the majority of parking below</p> <p>13 the building.</p> <p>14 MR. ROBINS: Could you please describe the community</p> <p>15 outreach that has been undertaken in connection with the</p> <p>16 proposed conditional use plan?</p> <p>17 MR. LONGFELLOW: Yes. And to start for context, I</p> <p>18 would say that once again we are a long-term owner and</p> <p>19 operator and as such community outreach is of utmost</p> <p>20 importance to Spectrum. We plan to be a contributing member</p> <p>21 of the neighborhood and Potomac community for a long time.</p> <p>22 And frankly, it is paramount in our success as a company.</p> <p>23 It's frankly part of our business plan to engage and be a</p> <p>24 part of the community. Because of this, our approach is</p> <p>25 always to engage as early and often as possible.</p>

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11 (41 to 44)

<p style="text-align: right;">41</p> <p>1 We've extended significant efforts to engage the 2 community and get feedback on the plan before even filing 3 the application. We met with the West Montgomery County 4 Citizens Association leadership very early on when 5 considering the site. We met with them again at its 6 regularly scheduled meeting before filing the conditional 7 use. They allowed us to speak with their membership at that 8 meeting, which we greatly appreciate. 9 We also hosted a dinner meeting with close in neighbors 10 in the Potomac Village Center to share our plans for the 11 site; although, only one family attended, which we certainly 12 wish there could have been a greater participation at that 13 meeting. 14 And then we also sought early input of course from 15 staff and the various agencies having jurisdiction through 16 the filing of a voluntary concept plan. We subsequently 17 continued our efforts to engage the surrounding community 18 after filing the application. We voluntarily mailed more 19 than 1,000 letters to residents within the larger use of the 20 property, some more than three quarters of a mile away. We 21 created a detailed website for the project giving all the 22 information and early renderings. We continued outreach to 23 HOA and civic associations separate from our conversations 24 with West Montgomery County Citizens Association. 25 (Off the record discussion; technical difficulties.)</p>	<p style="text-align: right;">43</p> <p>1 As a result of these discussions, we made changes to 2 the plans, I would say significant changes including 3 eliminating the third story entirely. This was a 4 significant challenge, as you can imagine, from a design and 5 operational perspective. But we are very pleased we could 6 make this work. To accommodate the square footage lost by 7 eliminating that third story, the building footprint 8 expanded slightly. We worked closely with the neighbors on 9 how to accommodate this on-site, on how to accommodate that 10 side expansion of the building footprint. 11 This included notching the building along the front 12 façade, basically at the two ends. And that was done in 13 order to reduce the perceived length of the building along 14 River Road. And we were also able to achieve this by 15 placing landscaping in those notched areas and in other 16 places in order to frame the building and reduce its 17 perceived length. We substantially increase the perimeter 18 landscaping as well to provide additional screening of the 19 building from the surrounding neighbors and along River 20 Road. 21 We had a meeting with the neighbors on-site, a socially 22 distanced meeting with the neighbors on-site, where we 23 collectively walked their properties to determine specific 24 view corridors where additional screening was most 25 important. Once again, I would say that was very productive</p>
<p style="text-align: right;">42</p> <p>1 MR. ROBINS: Okay, thank you. I'm having a little 2 trouble with this Internet, which is a little frustrating. 3 But I will do our best here. 4 Mr. Longfellow, the experts will get into the technical 5 details of the conditional use plan, but can you please just 6 provide a little background on the amended application that 7 is under consideration by the hearing examiners today and 8 how they came to be? 9 MR. LONGFELLOW: Yes. So maybe starting with how it 10 came to be. As noted, we always wanted to reach an 11 agreement with the opponents to this application. And the 12 neighbors and the West Montgomery Association who were 13 previously in opposition to this application reached out to 14 start a dialogue with us after the Planning Board hearing, 15 which we very much appreciate. 16 Although we were far along in the process certainly at 17 that point, and even after the Planning Board had 18 recommended approval, we agree to enter into discussions 19 with the community. As I mentioned before, this is a very 20 high priority for us. We had extensive and very productive 21 discussions over the course of several months that have led 22 to the plans that are before the hearing examiners today. I 23 want to thank David Brown and his clients, particularly Mr. 24 Levine for his efforts, considerable efforts in this 25 process.</p>	<p style="text-align: right;">44</p> <p>1 and always very helpful. There is no substitute for being 2 on the ground and looking from someone's property onto the 3 subject property. So we thank once again the neighbors for 4 the opportunity to do so. 5 We made slight adjustments to the building 6 architecture, particularly in terms of the materials, just 7 to provide a more total design, work on the colors a bit, 8 and to really provide a more sophisticated use and one that 9 was in keeping with the neighborhood. And we also agreed to 10 replace the existing 8-foot tall fence, which had fallen 11 into a state of disrepair, with a new 8-foot tall privacy 12 fence. 13 Although we still firmly believe that the original 14 application was compatible with the surrounding 15 neighborhood, it is important, very important to us that the 16 community feels the same from the beginning. And this 17 certainly was a heavy lift, but we are pleased that we were 18 able to make it work. We are confident that once open, we 19 will continue positive and lasting relationships with our 20 neighbors, with the greater Potomac community, which again 21 is our top priority. 22 MR. ROBINS: And Mr. Longfellow, this was all done 23 during the pandemic, correct? 24 MR. LONGFELLOW: That is correct. There was -- 25 MR. ROBINS: So I guess just as a sidebar and a little</p>

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12 (45 to 48)

45	<p>1 light levity for the hearing examiners, I'm sure you</p> <p>2 appreciated the use of FaceTime while you had your boots on</p> <p>3 the ground with the neighbors to walk the property as if you</p> <p>4 were actually on-site as well, seeing everything that was</p> <p>5 going on.</p> <p>6 MR. ROBINS: Very much so, Steve. And I would like to</p> <p>7 have in the record that I was the most socially distanced</p> <p>8 member of that meeting.</p> <p>9 HEARING EXAMINER BAUMGARTNER: Yes you were. Thank</p> <p>10 you.</p> <p>11 I'm now going to ask you a series of questions</p> <p>12 regarding the proposed operation in the facility. What</p> <p>13 levels of care will the proposed senior living facility</p> <p>14 provide?</p> <p>15 MR. LONGFELLOW: We will be providing assisted-living</p> <p>16 and memory care.</p> <p>17 MR. ROBINS: And can you briefly describe the</p> <p>18 differences between the two uses? Although, please also</p> <p>19 explain that they all fall under assisted-living.</p> <p>20 MR. LONGFELLOW: That is correct. And thank you for</p> <p>21 that qualification to begin with. They do all fall under</p> <p>22 assisted-living. But assisted-living offers a resident --</p> <p>23 assisted-living facilities offer a residential environment</p> <p>24 first and foremost, that includes personal services such as</p> <p>25 housekeeping and laundry, three meals per day in a</p>	47	<p>1 MR. LONGFELLOW: A total of 85 parking spaces will be</p> <p>2 provided on-site, of which is 16 will be surface spaces.</p> <p>3 And then 69 spaces will be in the garage. As you will hear</p> <p>4 from others, we are putting the majority of the parking</p> <p>5 underground in order to eliminate the visual impact of the</p> <p>6 parking. And this comes at an increased cost, but we</p> <p>7 believe is the right thing to do at this location, and</p> <p>8 again, was one of the very first decisions that we made.</p> <p>9 MR. ROBINS: In your experience, what percentage of the</p> <p>10 residents will have cars and/or actually drive?</p> <p>11 MR. LONGFELLOW: Well, it's good that that's a two-part</p> <p>12 question. The -- we expect the range here in terms of</p> <p>13 member residents who have cars to be in the 20 percent</p> <p>14 range, maybe as high as 30 percent. And while some</p> <p>15 residents keep their cars because of the independence it</p> <p>16 symbolizes -- just as a side note, I never felt more free</p> <p>17 than when I got my driver's license. So I think it's one of</p> <p>18 the last things that people want to give up. But a very</p> <p>19 small percent of residents actually use their cars.</p> <p>20 MR. ROBINS: So they would actually not drive?</p> <p>21 MR. LONGFELLOW: Right, yes.</p> <p>22 MR. ROBINS: Gotcha. And based on your experience,</p> <p>23 will the parking be sufficient that you are proposing to</p> <p>24 accommodate demand?</p> <p>25 MR. LONGFELLOW: Absolutely, yes.</p>
46	<p>1 restaurant style environment, all with the security of a</p> <p>2 24-hour staff in an environment designed for the resident's</p> <p>3 security, safety, well-being and enjoyment. Very</p> <p>4 importantly though, assisted-living also includes care</p> <p>5 provided by our resident care team members on-site.</p> <p>6 Examples of care provided include assistance with</p> <p>7 medications, bathing, and dining among many others.</p> <p>8 Memory care offers the same services as assisted-living</p> <p>9 also in a residential setting. However, a memory care</p> <p>10 community specializes in caring for seniors with Alzheimer's</p> <p>11 and other forms of dementia. This includes specialized</p> <p>12 entertainment and programming, specialized food and beverage</p> <p>13 considerations in an environment that is designed</p> <p>14 specifically in terms of the suites, the common areas,</p> <p>15 outdoor spaces that provide enhanced security and wellness</p> <p>16 for our memory care residents. There is an entirely different</p> <p>17 approach to design that goes into memory care. And as you</p> <p>18 can imagine, it's quite specialized given the nature of the</p> <p>19 illnesses that our residents are dealing with.</p> <p>20 MR. ROBINS: And how many units and beds are you</p> <p>21 proposing in this facility?</p> <p>22 MR. LONGFELLOW: We are proposing up to 100 living</p> <p>23 suites or up to 130 beds.</p> <p>24 MR. ROBINS: And how many parking spaces will be</p> <p>25 provided on-site?</p>	48	<p>1 MR. ROBINS: And how many employees will be employed at</p> <p>2 the facility?</p> <p>3 MR. LONGFELLOW: The community will employ a total of</p> <p>4 approximately 68 team members. That doesn't sound very</p> <p>5 approximate. It might go up or down a bit. But certainly</p> <p>6 not all 68 team members at one time. That's a total</p> <p>7 employment of the community. This number will include</p> <p>8 leadership, administrative staff, resident care,</p> <p>9 housekeeping and maintenance, entertainment programming, and</p> <p>10 food and beverage.</p> <p>11 MR. ROBINS: And what times does your staff typically</p> <p>12 arrive?</p> <p>13 MR. LONGFELLOW: We have -- this falls into a few</p> <p>14 different categories. There are other environments where</p> <p>15 maybe three, eight-hour shifts, but that is not the case in</p> <p>16 our communities. So resident care staff work on three,</p> <p>17 eight-hour shifts, shift changes usually occurring at 7</p> <p>18 a.m., 3 p.m., and 11 p.m. Food and beverage staff also work</p> <p>19 on three shifts which go from 6 a.m. to 2 p.m., 10 a.m. to</p> <p>20 2 p.m., and then from 2 p.m. to 8 p.m., which you can see</p> <p>21 goes -- basically they will have breakfast, lunch, and</p> <p>22 dinner.</p> <p>23 All other employees including administrative,</p> <p>24 housekeeping, maintenance teams work from 8 a.m. to 5 p.m.</p> <p>25 the maximum number of employees working in any shift, during</p>

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13 (49 to 52)

49	<p>1 any shift period will be 42. And this will happen from</p> <p>2 10 a.m. to 2 p.m. And basically that's because where</p> <p>3 everything overlaps the greatest including lunch time. And</p> <p>4 that no more -- we will have no more than 52 employees on</p> <p>5 site at any given time. And this is to accommodate for the</p> <p>6 shift change. So they would never be any more than 42</p> <p>7 working. And then on site at any given time will be 52 due</p> <p>8 to the overlap at shift change.</p> <p>9 MR. ROBINS: And Mr. Longfellow, just to interrupt you</p> <p>10 for a second.</p> <p>11 MR. LONGFELLOW: Sure.</p> <p>12 MR. ROBINS: You recognize that that was a</p> <p>13 recommendation from the Planning Board as well? A condition</p> <p>14 that they recommended?</p> <p>15 MR. LONGFELLOW: I do. Yes, thank you.</p> <p>16 MR. ROBINS: Okay. Keep going.</p> <p>17 MR. LONGFELLOW: And then the typical number of</p> <p>18 employees on site from 7 a.m. to 11 p.m. on Saturday and</p> <p>19 Sunday will be approximately 24.</p> <p>20 MR. ROBINS: Thank you. And will the facility provide</p> <p>21 any on-site health care services for your residents?</p> <p>22 MR. LONGFELLOW: Yes. Care services are an essential</p> <p>23 part of assisted-living in memory care. As I noted before,</p> <p>24 this includes assistance with activities of daily living,</p> <p>25 medication, assistance with medication and other activities.</p>	51	<p>1 residents and specifically designed for memory care</p> <p>2 residents. So that outdoor space enhances -- right enhanced</p> <p>3 resident security and safety.</p> <p>4 Assisted living will have separate indoor common</p> <p>5 amenities separate from memory care, that is. And this will</p> <p>6 include a commercial kitchen that serves three chef prepared</p> <p>7 meals daily in a central restaurant bistro, restaurant and</p> <p>8 be sure, also a health club, multipurpose community center.</p> <p>9 We will have a theater, salon, multiple lounges. As I noted</p> <p>10 before a clinic space will also be included. There are also</p> <p>11 outdoor amenity spaces, very importantly, like courtyards,</p> <p>12 landscaped areas with benches all connected by walking paths</p> <p>13 that allow and really encourage our residents to enjoy the</p> <p>14 outdoors.</p> <p>15 MR. ROBINS: Will you offer any sort of concierge</p> <p>16 service?</p> <p>17 MR. LONGFELLOW: Yes, we will. And that concierge</p> <p>18 service does a wide variety of things including helping our</p> <p>19 residents with activities, schedule activities, schedule</p> <p>20 trips to local markets, et cetera, and also aid with medical</p> <p>21 appointments. Yes, we will have that service.</p> <p>22 HEARING EXAMINER BAUMGARTNER: And based on your</p> <p>23 significant experience with your other similar facilities,</p> <p>24 what noise do you anticipate would be generated by the use</p> <p>25 of the facility? Particularly the outdoor facilities?</p>
50	<p>1 We have an on-site RN and caregivers. We will also have a</p> <p>2 clinic space for doctor visits and importantly now, more</p> <p>3 importantly now than ever, telehealth.</p> <p>4 MR. ROBINS: Thank you. And what kind of amenities</p> <p>5 will the proposed facility provide? And I don't know who is</p> <p>6 controlling the screen. Is that you Mr. Hearing Examiner?</p> <p>7 HEARING EXAMINER BAUMGARTNER: Yes, it is.</p> <p>8 MR. ROBINS: If you could, turn to slide 3. I think</p> <p>9 Mr. Longfellow might want to reference -- there you go.</p> <p>10 Thank you. Can you see that, sir?</p> <p>11 MR. LONGFELLOW: Yes, thank you very much. So this --</p> <p>12 and the slide that you are seeing gives an example of</p> <p>13 amenity spaces. And I also want to point out that also</p> <p>14 speaks to the quality of the space that we are providing. I</p> <p>15 don't want to steal Mr. Van Winkle's thunder as he speaks</p> <p>16 later about architecture, but this is something that we are</p> <p>17 very proud of. And so what you see on the screen here in</p> <p>18 the upper left are the lobby with a bistro in the</p> <p>19 background. The upper right is our main restaurant. And</p> <p>20 then on the bottom center there is an example of an outdoor</p> <p>21 amenity space, in this case, a patio with a pergola.</p> <p>22 But memory care in general -- generally speaking,</p> <p>23 memory care will have a dining room, living room,</p> <p>24 entertainment, and programming spaces and an outdoor</p> <p>25 courtyard that is for the exclusive use of memory care</p>	52	<p>1 Amenities rather, excuse me.</p> <p>2 MR. LONGFELLOW: Yes. Yeah, very little in short. Our</p> <p>3 facilities make for very quiet neighbors in general. One</p> <p>4 thing to keep in mind is that this will be our residents'</p> <p>5 home. It will be their house, so to speak. And that a</p> <p>6 quiet and peaceful environment is a very, very important</p> <p>7 attribute for them.</p> <p>8 The outdoor amenities are not noise generators. On the</p> <p>9 contrary, they are meant for quiet enjoyment, walking,</p> <p>10 talking with a friend or family member, reading a book, and</p> <p>11 enjoying the outdoors. And the way that these are designed</p> <p>12 is really to enhance that experience and again, provide a</p> <p>13 quiet environment for them to really enjoy their home.</p> <p>14 MR. ROBINS: And can you briefly describe the type of</p> <p>15 programs and events that Spectrum provides to its residents</p> <p>16 and you would expect to provide at this facility?</p> <p>17 MR. LONGFELLOW: Yes, thank you. The community will</p> <p>18 offer a wide variety of activities and wellness programs and</p> <p>19 services that are designed to promote a certain lifestyle,</p> <p>20 and certainly wellness engagement and very importantly,</p> <p>21 socialization among the residents. We have initiatives you</p> <p>22 can certainly see on our website including, Be Healthy,</p> <p>23 which is for example classes for strength and balance</p> <p>24 training, yoga, meditation, and dance.</p> <p>25 Also, Be Involved, which we -- in which we really focus</p>

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14 (53 to 56)

53	<p>1 on providing opportunities for residents to give back to the 2 community through organized volunteering. And you can 3 imagine the effect this has not only among -- with the 4 socialization among residents, but also a sense of purpose, 5 and community engagement, and connection. And also, Be 6 Inspired, which really gives opportunities for our residents 7 to engage their creativity and also check off some bucket 8 list items.</p> <p>9 MR. ROBINS: And I guess your bucket list items are 10 different in different parts of the country for your 11 experience, correct?</p> <p>12 MR. LONGFELLOW: Yes. Yes, certainly. Although, there 13 are some that I think are probably pretty universal, but 14 yes, in different parts of the country we do have some 15 different opportunities and requests.</p> <p>16 MR. ROBINS: Now you mentioned that access to goods and 17 services is a key consideration for Spectrum when selecting 18 a location for a future community. Will the facility 19 provide transportation for residents to access off-site 20 services and amenities, goods and services, and the like?</p> <p>21 MR. LONGFELLOW: Yes, we will. Spectrum provides at 22 all of our communities a private, luxury minibus for the 23 transportation of our residents for off-site excursions. 24 That includes shopping appointments, volunteer 25 opportunities, and social events. The exact operation of</p>	55	<p>1 local services that are provided.</p> <p>2 MR. ROBINS: And again, this was something that was 3 represented as part of the presentation before the Planning 4 Board as well?</p> <p>5 MR. LONGFELLOW: Yes.</p> <p>6 MR. ROBINS: The number of trash removals and the like? 7 How about deliveries? How would deliveries be made and how 8 often?</p> <p>9 MR. LONGFELLOW: Yes, food deliveries are typically 10 made twice per week by 20 to 30 foot box truck. We will not 11 exceed 10 food deliveries per month per the Planning Board's 12 recommended condition of approval. Importantly, all 13 laundry, linens, et cetera are done in house. No outside 14 vendors are needed for that. That can, with some operators, 15 be a pretty significant generator of trips of deliveries. 16 So that is all done in-house at our communities.</p> <p>17 And then deliveries generally will be arranged during 18 regular business hours in consideration of both the 19 surrounding community and on-site residents. Again, this is 20 our -- the home of our on-site residents and they like a 21 quiet environment. And all other deliveries are made by 22 USPS, FedEx, USPS on their standard routes just like any 23 residential neighborhood.</p> <p>24 MR. ROBINS: And Mr. Longfellow, you intend on behalf 25 of Spectrum, to meet all licensing and other regulatory</p>
54	<p>1 that shuttle service varies by facility, but currently we 2 anticipate that the shuttle service will run seven days per 3 week.</p> <p>4 Additional trips are always available to be scheduled 5 for social events. And then additional add-ins can also be 6 scheduled on a private, personal basis depending on those 7 requests and availability. The shuttle typically provides 8 access to facilities within a 10 mile radius. Again, this 9 is part of the community engagement and also engagement with 10 other local businesses. Trips typically are scheduled 11 between 8 a.m. and 4 p.m. And the shuttle can typically 12 accommodate, this varies a little bit, but up to 16 13 residents per trip. And then the shuttle service is 14 privately funded by Spectrum and the cost of the service is 15 covered by the monthly rent. There is no additional charge.</p> <p>16 MR. ROBINS: And can you describe where and how often 17 trash and recycling will be collected in the facility?</p> <p>18 MR. LONGFELLOW: Yes. An enclosed dumpster will be 19 located to the southeast of the building and adjacent to the 20 underground parking garage entrance. And this will be 21 emptied approximately twice per week by a standard garbage 22 truck, the same garbage truck that comes through residential 23 neighborhoods typically. The exact schedule of course will 24 be determined much closer to the time that we open, but it's 25 typically twice per week based on our generation and the</p>	56	<p>1 requirements for this use?</p> <p>2 MR. LONGFELLOW: Yes, absolutely. We will be required 3 to and we intend to.</p> <p>4 MR. ROBINS: And after this conditional use, what are 5 the next steps?</p> <p>6 MR. LONGFELLOW: The next steps will be seeking 7 preliminary plan approval from the Montgomery County 8 Planning Board. We are eager to file that plan and then we 9 will -- of course our goal is always to move as quickly and 10 efficiently toward beginning construction and then 11 completing construction, as possible.</p> <p>12 MR. ROBINS: Well, I thank you for your testimony. Is 13 there anything else that you would like to add for the 14 benefit of the hearing examiner or others listening?</p> <p>15 MR. LONGFELLOW: Yes, thank you. This has been a long 16 but very productive process. The community engagement is 17 very committed. And like I said before, we welcome it, we 18 appreciate it. We recognize that we are newcomers to this 19 community and that's not something that we take lightly in 20 large part because while we may be newcomers, we intend to 21 be here for a very long time. We worked very hard to 22 redesign the project to make it even more compatible with 23 the surrounding community. That's been a goal from the 24 beginning. And we look forward to completing the rest of 25 the approval process, constructing the facility, and</p>

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15 (57 to 60)

57	<p>1 becoming a lasting fixture in and contributor to this</p> <p>2 beautiful community that we are seeking to be a part of.</p> <p>3 And thank you very much.</p> <p>4 MR. ROBINS: And you believe that you have achieved the</p> <p>5 goal of making this compatible with the surrounding</p> <p>6 community?</p> <p>7 MR. LONGFELLOW: We certainly do, yes.</p> <p>8 MR. ROBINS: Thank you, sir. I have no further</p> <p>9 questions.</p> <p>10 HEARING EXAMINER BAUMGARTNER: Thank you, Mr.</p> <p>11 Longfellow. Ms. Robison-Hannan, did you have any questions</p> <p>12 for Mr. Longfellow?</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: I think he did a</p> <p>14 wonderful job explaining his -- the company and the</p> <p>15 operations.</p> <p>16 MR. LONGFELLOW: Thank you. Thank you.</p> <p>17 HEARING EXAMINER BAUMGARTNER: Any questions from those</p> <p>18 attending today of Mr. Longfellow?</p> <p>19 MR. BROWN: I have a few questions.</p> <p>20 HEARING EXAMINER BAUMGARTNER: Mr. Brown, sure, go</p> <p>21 ahead.</p> <p>22 MR. BROWN: As I said.</p> <p>23 Good morning, Mr. Longfellow. Once again, it's nice to</p> <p>24 see you electronically once again. I hope we get to meet</p> <p>25 someday actually.</p>	59	<p>1 or foresee an evolving senior living market for selling</p> <p>2 these senior living units within the combined facilities</p> <p>3 where the seniors would actually own part of the property?</p> <p>4 MR. LONGFELLOW: Well, certainly it is an evolving</p> <p>5 market, but that is -- but the short answer is, no, I do not</p> <p>6 foresee that for Spectrum. And I would say that that has</p> <p>7 been a model that has been explored by others at times. And</p> <p>8 in the history of -- the recent history, being the last 30</p> <p>9 years maybe, of senior living, there have been many buy-in</p> <p>10 facilities and that's a different model than what we</p> <p>11 operate. Ours is a strict lease structure with no buy-in.</p> <p>12 But the short answer for us is no, we do not foresee that.</p> <p>13 MR. BROWN: But those buy-in facilities are still --</p> <p>14 they are still contractual in nature rather than real</p> <p>15 property, aren't they?</p> <p>16 MR. LONGFELLOW: Typically, yes.</p> <p>17 MR. BROWN: Thank you, very much. I very much</p> <p>18 appreciate that. It's going to be important to future</p> <p>19 policy development in the County.</p> <p>20 MR. LONGFELLOW: All right. Thank you, Mr. Brown.</p> <p>21 HEARING EXAMINER BAUMGARTNER: And Mr. Robins, any</p> <p>22 questions prompted by Mr. Brown's questions?</p> <p>23 MR. ROBINS: Mr. Longfellow, I would just ask you to</p> <p>24 reiterate, you -- this project is including only assisted</p> <p>25 living and memory care, not independent units at the --</p>
58	<p>1 MR. LONGFELLOW: Someday I'm confident we will. Thank</p> <p>2 you.</p> <p>3 MR. BROWN: I have just a very short list of questions</p> <p>4 that are important, that require only very short answers.</p> <p>5 And I would very much appreciate your cooperation.</p> <p>6 MR. LONGFELLOW: Okay.</p> <p>7 MR. BROWN: When the application was first filed with</p> <p>8 OZHA, did it include a number of senior independent living</p> <p>9 units along with the assisted living and memory care units?</p> <p>10 MR. LONGFELLOW: Yes. Yes, did.</p> <p>11 MR. BROWN: Were you at that point following a business</p> <p>12 plan of combined living levels that Spectrum has used with</p> <p>13 success elsewhere in the Midwest and the West?</p> <p>14 MR. LONGFELLOW: Certainly, yes.</p> <p>15 MR. BROWN: Well, with those senior independent living</p> <p>16 units, that your target market include seniors who are</p> <p>17 thinking or may have concluded that the benefits of home</p> <p>18 ownership have declined compared to the burdens?</p> <p>19 MR. LONGFELLOW: Yes, that is correct.</p> <p>20 MR. BROWN: So when you sell these folks an independent</p> <p>21 living unit, the seniors are not buying home ownership, they</p> <p>22 are purchasing a contractual right to use and occupancy of</p> <p>23 property that is owned by Spectrum, is that right?</p> <p>24 MR. LONGFELLOW: That is correct, yes.</p> <p>25 MR. BROWN: Okay. Just one last question. Do you see</p>	60	<p>1 MR. LONGFELLOW: That is correct, yes.</p> <p>2 HEARING EXAMINER ROBESON-HANNAN: I apologize. I</p> <p>3 forgot to ask one question. The staff report was quite a --</p> <p>4 many revisions ago. Do you have -- do you still agree with</p> <p>5 the conditions listed in the staff report? Or assuming they</p> <p>6 approve the new -- you know, the revised physical</p> <p>7 improvements, do you still agree with the conditions</p> <p>8 originally listed in the staff report?</p> <p>9 MR. ROBINS: Is that for me to answer for Mr.</p> <p>10 Longfellow?</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Well, and whoever</p> <p>12 wants to.</p> <p>13 MR. ROBINS: I mean, I can help -- the staff -- the</p> <p>14 conditions that the Planning Board articulated at the</p> <p>15 hearing as modified?</p> <p>16 HEARING EXAMINER ROBESON-HANNAN: Yeah.</p> <p>17 MR. ROBINS: There were modifications -- those are</p> <p>18 still agreeable to the applicant.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: Oh, okay.</p> <p>20 MR. ROBINS: They went to mainly the operational</p> <p>21 characteristics, which were not impacted by the physical</p> <p>22 changes to the building or the additional landscaping and</p> <p>23 the like.</p> <p>24 HEARING EXAMINER ROBESON-HANNAN: So you are agreeable</p> <p>25 to the conditions in the Planning Board's recommendation?</p>

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16 (61 to 64)

61	<p>1 MR. ROBINS: As modified.</p> <p>2 HEARING EXAMINER ROBESON-HANNAN: Yeah.</p> <p>3 MR. ROBINS: They made -- if you remember, the made</p> <p>4 some changes at the hearing that we --</p> <p>5 HEARING EXAMINER ROBESON-HANNAN: Right. I think they</p> <p>6 listed them in their written recommendations.</p> <p>7 MR. ROBINS: Yeah. So as modified, that is correct.</p> <p>8 HEARING EXAMINER ROBESON-HANNAN: Okay. That was my</p> <p>9 only question.</p> <p>10 MR. ROBINS: Thank you.</p> <p>11 HEARING EXAMINER BAUMGARTNER: All right Mr. Robins,</p> <p>12 your next witness.</p> <p>13 MR. ROBINS: I'm going to turn over to my co-counsel to</p> <p>14 begin the direct testimony of Mr. Sloan. So I will turn it</p> <p>15 over to Liz.</p> <p>16 MS. ROGERS: Great, thank you. Just one thing I was</p> <p>17 going to note, is before I begin I'm going to try to avoid</p> <p>18 looking at the screen to the extent I can because I'm</p> <p>19 recovering from a concussion I got last weekend. So I'm not</p> <p>20 doing that out of disrespect. It's more to minimize screen</p> <p>21 time.</p> <p>22 HEARING EXAMINER BAUMGARTNER: Understood.</p> <p>23 MR. ROBINS: I forgot to actually mention that in my</p> <p>24 opening statement. But thank you for mentioning that Liz.</p> <p>25 MS. ROGERS: So next we have Mr. Joshua Sloan. If</p>	63	<p>1 HEARING EXAMINER BAUMGARTNER: So as an expert witness</p> <p>2 in land planning. And do we have an up or a down with</p> <p>3 respect to landscape architecture?</p> <p>4 MR. SLOAN: I have been sworn in as an expert in</p> <p>5 landscape architecture as well.</p> <p>6 HEARING EXAMINER BAUMGARTNER: Okay.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN: Yes, I believe that</p> <p>8 is true as well.</p> <p>9 HEARING EXAMINER BAUMGARTNER: And he is so designated</p> <p>10 as an expert in land planning, and landscape architecture.</p> <p>11 MS. ROGERS: Great, thank you.</p> <p>12 HEARING EXAMINER BAUMGARTNER: Ms. Rogers, you may</p> <p>13 examine your witness.</p> <p>14 MS. ROGERS: Thank you, very much. Mr. Sloan, are you</p> <p>15 familiar with the conditional use application that is before</p> <p>16 the hearing examiner today designated as CU 20-05.</p> <p>17 MR. SLOAN: I am. The proposed redevelopment of</p> <p>18 approximately 5 acres after dedication along River Road,</p> <p>19 about a half a mile from Potomac Village zoned RE2 for a</p> <p>20 residential care facility with up to 100 residential care</p> <p>21 suites.</p> <p>22 MS. ROGERS: Great, thank you. And can you please</p> <p>23 briefly describe your responsibilities with respect to the</p> <p>24 conditional use application?</p> <p>25 MR. SLOAN: Sure. I began with analysis of the site</p>
62	<p>1 you'd like to swear him in before I begin my questioning.</p> <p>2 HEARING EXAMINER BAUMGARTNER: Mr. Sloan, where are</p> <p>3 you, sir? There you are, upper left-hand corner.</p> <p>4 And do you swear or affirm under the penalties of</p> <p>5 perjury that the testimony you're about to give is the</p> <p>6 truth, the whole truth, and nothing but the truth?</p> <p>7 MR. SLOAN: Yes, I do.</p> <p>8 HEARING EXAMINER BAUMGARTNER: Please provide your full</p> <p>9 name and business address, please.</p> <p>10 MR. SLOAN: Joshua Sloan, I'm director of planning and</p> <p>11 landscape architecture for VIKA Maryland. Address is 20251</p> <p>12 Century Boulevard, Suite 400 in Germantown, Maryland 20874.</p> <p>13 HEARING EXAMINER BAUMGARTNER: Thank you.</p> <p>14 MS. ROGERS: Great. And we are prepared to begin a</p> <p>15 series of questions that are intended to qualify Mr. Sloan</p> <p>16 as an expert in land planning and landscape architecture if</p> <p>17 the hearing examiners wish. But I would note that Mr. Sloan</p> <p>18 has been previously qualified before this body. So I wanted</p> <p>19 to pause before doing so to see how you would like us to</p> <p>20 proceed.</p> <p>21 HEARING EXAMINER BAUMGARTNER: Sure.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN: For Mr. Baumgartner's</p> <p>23 sake, he has qualified as an expert in land planning and I</p> <p>24 believe landscape architecture. But I could be wrong in</p> <p>25 that. But definitely land planning.</p>	64	<p>1 itself, it's context within the regulatory context of the</p> <p>2 2002 Potomac Subregion Master Plan and the zoning ordinance</p> <p>3 and other applicable codes such as forest conservation and</p> <p>4 helped with storm water integration and things like that.</p> <p>5 So primarily looking at the regulatory environment, the</p> <p>6 master plan compliance with the zoning ordinance, and this</p> <p>7 project's design and conformance with those documents.</p> <p>8 I also worked with the design team including the</p> <p>9 architect, civil engineer, traffic planner, on the overall</p> <p>10 site layout of the development to ensure that the project</p> <p>11 was compatible with the applicable codes.</p> <p>12 Primarily on-site design did much of the grading and</p> <p>13 landscape design that is paramount to ensuring compatibility</p> <p>14 and working with the neighbors. So the planting design,</p> <p>15 using environmental buffers and forest conservation</p> <p>16 techniques and choosing species that we talked to the</p> <p>17 community about early on that created habitat and replicated</p> <p>18 some of the natural habitats that they were interested in</p> <p>19 seeing. Beyond that, also working on the natural resources</p> <p>20 inventory that was approved by Park and Planning and</p> <p>21 insisting that the forest conservation plans that were</p> <p>22 submitted and have now been preliminarily approved and the</p> <p>23 land use report. So involved in a lot of aspects.</p> <p>24 MS. ROGERS: Great. Thank you. You mentioned that</p> <p>25 VIKA and yourself helped prepare the land use report that's</p>

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17 (65 to 68)

<p>65</p> <p>1 part of this application. I would like to note for the 2 record that Exhibit 98 in its most updated format. 3 MR. SLOAN: Correct. I worked with the team on 4 preparation of that report. 5 MS. ROGERS: Great. Thank you. And have you made a 6 personal inspection of the property that's the subject to 7 this application? And are you familiar with the area 8 surrounding the property? 9 MR. SLOAN: I am very familiar with it. We have 10 visited the site I'm not sure how many times at this point, 11 to do additional analysis, to meet with the Maryland 12 Department of Environment about some aspects out there that 13 we wanted to ensure we had documented correctly, and also 14 with the neighbors. We walked the site several times with 15 the neighbors going around every inch of the perimeter. And 16 then meeting with them on separate occasions on their 17 properties, to analyze our site from their perspective was 18 very important to the design later on. 19 MS. ROGERS: Thank you. And I know you mentioned this 20 briefly when you are answering a previous question, but for 21 the record, did you prepare a natural resource inventory 22 forest stand donation for the property and has that been 23 approved by Park and Planning? 24 MR. SLOAN: Yes and yes. 25 MS. ROGERS: Thank you. Can you please briefly just</p>	<p>67</p> <p>1 property. You can see that the property is outlined in red. 2 River Road runs along the south, southwest of the property. 3 North is page North. So right now the existing site has a 4 nursery and garden center, several aging buildings, many of 5 them in disrepair. As Mike Longfellow noted, there is an 8 6 foot fence that has been falling down around the perimeter 7 of the property. And that will be replaced with a much 8 nicer fence in proper condition that we can maintain well. 9 There are no storm water features on site. The site 10 was developed quite a while ago as a special exception for 11 the nursery. There was one catch basin in the northeast of 12 the property that has long ago silted in. I will describe 13 that a little bit later in more detail. But otherwise, the 14 site has unimpeded runoff from River Road to the northeast 15 of the property work meets the drainage swell that connects 16 to a tributary for the North. And our civil engineer will 17 talk a little bit about that. 18 There is significant impervious area on site; 70 plus 19 percent of the site is impervious with compacted gravel 20 area, storage spaces for landscape materials, and paving for 21 parking. According to DNR and our site walks -- DNR is 22 Department of natural resources for Marilyn, State of 23 Maryland. In our site walks there is no threatened or 24 endangered species or habitats. We've analyzed and looked 25 at FEMA mapping. There are no floodplains in sight and we</p>
<p>66</p> <p>1 describe the location and general characteristics of the 2 property? 3 MR. SLOAN: Okay. Can we start running through the 4 slide starting with I think four? 5 MS. ROGERS: Yeah, it would be that same -- 6 MR. SLOAN: Aerial context map. 7 MS. ROGERS: Exhibit 121. 8 HEARING EXAMINER BAUMGARTNER: Yep. We can do that. 9 Give me one second. 10 MS. ROGERS: Thank you. 11 MR. SLOAN: Okay. So you can see the site in relation 12 in particular to Potomac Village, which is about four-tenths 13 of a mile northwest of the site. Directly surrounding the 14 site are large lot residential properties to the northeast, 15 the east, and south and southeast, we're right at the border 16 of a transition in zoning from RE2, 2 acre lots to R200, 17 20,000 square foot lots, and we're directly along River Road 18 at 9545. Right now the property is accessed from River 19 Road. It does not have any other frontage along a parking 20 area and largely uncontrolled entry points along the 21 property. 22 MS. ROGERS: And can you please describe the existing 23 conditions of the property itself? 24 MR. SLOAN: Sure. If we could, moved to an excerpt 25 from Exhibit 69. This is a closer view, aerial view of the</p>	<p>68</p> <p>1 are not within a special protection area. 2 MS. ROGERS: Great. Thank you. And are there any 3 streams, wetlands or other environmental features on the 4 property that you would note? 5 MR. SLOAN: Yes. If we could, look at Exhibit 84, 6 which is the next slide. So there is -- these plan views of 7 the site rotate north so that it's roughly diagonally in the 8 north sheet, northwest. There is a stream that runs to 9 the -- from the Northwest, it's piped under a residential 10 yard and then daylights again almost directly north of us. 11 That stream is off-site; it's not on-site. And there are 12 buffers associated with that stream on the property in the 13 northwest corner and again in the north in what I call the 14 little tab of the property. 15 There is also, in that tab of the property in the 16 North, a small area that Montgomery Planning Department has 17 considered a MC (inaudible) regulated wetland, although the 18 MDE has not designated a wetland and they have jurisdictions 19 over the wetlands in the State of Maryland. We did provide 20 information on the natural resources inventory and the 21 preliminary force conversation plan that was approved. That 22 wetland is not under any state protection and it will be 23 removed under the forest conservation plan, although the 24 area mostly is being put back and forest conservation. 25 MS. ROGERS: It just to reiterate, Park and Planning,</p>

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18 (69 to 72)

69	<p>1 although they wanted you to reflect that on the NRI does not 2 want you to retain that man-made wetland, correct? 3 MR. SLOAN: Correct. They have approved its removal 4 under the preliminary forest conservation plan. 5 MS. ROGERS: Thank you. Can you please describe how 6 you defined the surrounding neighborhood in your land use 7 report and the conditional use materials that were submitted 8 into the record? 9 MR. SLOAN: Okay. So the next slide is an enlargement 10 of Exhibit 92-C. And on this exhibit you can see running 11 from -- let's start with page left on the northwest side; 12 Sotweed Drive and Schultz Lane are running around to that I 13 can't quite read it on here -- Conestoga if I remember 14 right. And then north of the site Bedcross Drive coming 15 down on the east side is Newbridge Drive and then Logan and 16 Persimmon Tree coming back up to River. So those areas and 17 some definition between parcels to our north define find the 18 property in my opinion. 19 MS. ROGERS: And are you familiar with -- 20 MR. SLOAN: (Inaudible) neighborhood. 21 MS. ROGERS: I'm sorry. Was there a question? 22 MR. SLOAN: No, they -- I didn't mean to define the 23 property. I mean they define the neighborhood that is most 24 impacted by this property. 25 MS. ROGERS: Thank you. And are you familiar with the</p>	71	<p>1 around us. So these are large houses, generally centrally 2 located on large lots with perimeter buffers and setbacks, 3 and single driveways, circular driveways are typical in this 4 area coming off of the primary roads. Most of them are two- 5 story lots. Many of them quite grand and having some 6 elements that are even taller than that. If you include 7 Victory Terrace in staff's neighborhood boundary, there is 8 then of course a much larger building, but also with a 9 residential character surrounded by setbacks and landscape. 10 HEARING EXAMINER ROBESON-HANNAN: Okay, thank you. 11 HEARING EXAMINER BAUMGARTNER: And Mr. Sloan, going 12 back to Exhibit 69, which should be on your screen right 13 now. 14 MR. SLOAN: Yeah. 15 HEARING EXAMINER BAUMGARTNER: Looking across River 16 Road, there is a stand of trees. And then if you can see my 17 cursor, if you know, what is this property right here? 18 MR. SLOAN: That is a house. We actually met with that 19 neighbor. 20 HEARING EXAMINER BAUMGARTNER: Okay. 21 MR. SLOAN: That is a house with an extended -- I think 22 they put a greenhouse in, a pool. These are pretty grand 23 estates around this area. 24 HEARING EXAMINER BAUMGARTNER: Yeah, gotcha. And how 25 is that at first glance, I thought it might have been some</p>
70	<p>1 surrounding area boundaries that staff identified in their 2 staff report? 3 MR. SLOAN: Yes. The next slide is from Exhibit 66, 4 the planning board staff report on page 4. They took a much 5 more general approach than we typically take with the 6 neighborhood boundary, simply taking a, I think a half mile 7 radius around the site, which is quite broad for a site of 8 this size and doesn't -- it encompasses a lot of properties 9 that I don't think were directly impacted from this. 10 That said, it really doesn't change the character. 11 These are all still large lots in RE2 zoned or R200 zoned 12 properties similar to what we had. It does add Victory 13 Terrace into the picture, which is another senior living 14 facility to our east. But we tend to think more of 15 circulation flows, and roads, and properties that are little 16 tighter and more directly impacted from the property for our 17 neighborhood. So we don't agree on the specific boundary, 18 but we don't think as any impact on the analysis. 19 HEARING EXAMINER ROBESON-HANNAN: Mr. Sloan, can you 20 just -- I heard a little bit of you defining the character. 21 Can you just give me an idea of either delineation? Can you 22 just go a little bit more into the character of the area? 23 MR. SLOAN: Sure. The character of the area is 24 predominantly detached homes on large lots from 20,000 acre 25 (sic) lots to our west and north, to 2 acre plus lots on --</p>	72	<p>1 kind of institutional use or some other non-purely 2 residential use. So I just wanted to confirm that that is a 3 single-family detached house. 4 MR. SLOAN: It is. 5 HEARING EXAMINER BAUMGARTNER: All right. Thank you. 6 Ms. Rogers, you can continue. 7 MS. ROGERS: Thank you. Mr. Sloan, just getting back 8 to the character of the surrounding neighborhood, could you 9 also just briefly reiterate the zoning classifications of 10 this property and the surrounding properties? 11 MR. SLOAN: Sure. And thanks for bringing up Exhibit 12 7. This is the certified zoning map. And you can see that 13 we are in an area of -- the way the zoning map works when 14 you click on a property, it connects all contiguous 15 properties in the same zone. So that red outline is the RE2 16 zoning. You can see the -- here and to the south these are 17 the large lots, detached houses in the center, landscaped 18 areas around. Most of them have direct frontage on to a 19 road, although there are some pipestem lots directly north 20 of us. And to our northwest and across Persimmon Tree to 21 our south are those R200 lots. These are 20,000 square foot 22 lots, but generally the same kind of character, detached 23 homes in the center of the lots surrounded by landscaping. 24 MS. ROGERS: Thank you. And in your professional 25 opinion, will the proposed development impact the character</p>

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19 (73 to 76)

<p>73</p> <p>1 the surrounding neighborhood as you just described?</p> <p>2 MR. SLOAN: Yes, but in very positive ways. I think it</p> <p>3 will immensely improve the character. So we are putting in</p> <p>4 a use that is much more sympathetic with the residential</p> <p>5 surroundings. So we are proposing to replace a commercial</p> <p>6 special exception with a residential conditional use. I</p> <p>7 think that the impact will be quite positive in that we are</p> <p>8 providing a use that is much more sympathetic with the</p> <p>9 residential character of the area. We are replacing a</p> <p>10 commercial special exception with a residential conditional</p> <p>11 use and have designed the building in concert really with</p> <p>12 the neighbors and community that its siting, in its massing</p> <p>13 and its design articulation, much more compatible with the</p> <p>14 homes around it.</p> <p>15 The original application that we filed with the three</p> <p>16 stories I think was also compatible, but I understand the</p> <p>17 design differences of opinion that we wanted to -- that we</p> <p>18 were working through. And so I think we only further meet</p> <p>19 the standards of compatibility by going to a two-story</p> <p>20 building with the wings that are kind of internally turned.</p> <p>21 So as we look at the landscape design and architecture, we</p> <p>22 will talk about that. We do provide significant screening</p> <p>23 and landscape around the property really creating a front</p> <p>24 and side yards as well as a backyard.</p> <p>25 And very importantly, improve the site access for</p>	<p>75</p> <p>1 MR. SLOAN: Thank you. Yeah, there is a lot going on</p> <p>2 on our technical plans and I think this really helps</p> <p>3 visualize what is actually going to be on the ground, so to</p> <p>4 speak. So working with the architect and the applicants, we</p> <p>5 really looked at this as you would citing a -- as a home.</p> <p>6 This is a home for the residents that will be living here</p> <p>7 and it is a home in a neighborhood surrounded by residential</p> <p>8 homes.</p> <p>9 So like the properties around us, we have a generally</p> <p>10 centrally located residents. We have a front yard. We have</p> <p>11 our streetscape as part of that front yard. Part of the</p> <p>12 master plan is -- for the Potomac Subregion, is to create</p> <p>13 River Road as this two lane green corridor. Right now</p> <p>14 that's mostly parking lot on our site and we are</p> <p>15 transforming that into a much more -- much greener property.</p> <p>16 As one of the people testified earlier, there is quite a bit</p> <p>17 of slope on our site especially as you proceed northwest.</p> <p>18 And we are going to be ameliorating quite a bit of that and</p> <p>19 flattening this shared use path so that it's much easier to</p> <p>20 navigate for not only our senior residents and others</p> <p>21 around, but everyone.</p> <p>22 So we have this front, side yards, and backyard. Our</p> <p>23 side yours are going to be primarily placed into landscape</p> <p>24 and forest conservation areas. So we have significant</p> <p>25 buffers on each side more than meeting the requirement for a</p>
<p>74</p> <p>1 safety reasons for the design aesthetic along River Road, we</p> <p>2 are creating a front yard with a tree paneled streetscape,</p> <p>3 creating the shared use path and whatnot to -- and only two</p> <p>4 drive instances that are inbound and outbound respectively</p> <p>5 to control access and make it much safer in this area. And</p> <p>6 finally, just generally, most of these lots around you can</p> <p>7 see do not have that much impervious area whereas our site</p> <p>8 currently does and we will be decreasing that impervious</p> <p>9 area in a much more residential nature.</p> <p>10 MS. ROGERS: Thank you. And as you testified to you</p> <p>11 before, the property is currently classified in the RE2</p> <p>12 zone. Is a residential care facility permitted in the RE2</p> <p>13 zone?</p> <p>14 MR. SLOAN: It is allowed as a conditional use, yes.</p> <p>15 MS. ROGERS: Thank you. And can you please briefly</p> <p>16 explain the overall planning and design concepts for this</p> <p>17 proposed project?</p> <p>18 MR. SLOAN: Okay. I will try to be brief, but the site</p> <p>19 has a lot going on and it's, I think, quite exciting in</p> <p>20 transformation. If we could, go to the next slide, which is</p> <p>21 a rendered site plan. I'm not sure if this was a specific</p> <p>22 exhibit to the record or -- a more typical presentation aid.</p> <p>23 MS. ROGERS: And for the record, this is substantively</p> <p>24 the same as the conditional use plan that's in the record.</p> <p>25 It's just been colorized.</p>	<p>76</p> <p>1 conditional use abutting a residential use. In our -- in</p> <p>2 the rear yard, that's where we have some constraints. We --</p> <p>3 as the low -- the northeast corner is the low spot of the</p> <p>4 site and that is where our drainage currently goes on the</p> <p>5 property and we are maintaining that, although collecting</p> <p>6 quite a bit of it in stormwater facilities.</p> <p>7 We also have a sewer easement that is to the benefit of</p> <p>8 our neighbors, on our northwest and east sides, that</p> <p>9 connects them to the north and runs into the neighborhood</p> <p>10 beyond. So we are maintaining that sewer easement and</p> <p>11 connecting to it for our building. But we're not allowed to</p> <p>12 do a lot of heavy landscape or any structures on top of</p> <p>13 that. So that's that green kind of upside down T-shaped.</p> <p>14 You can see it on our forest conservation area. But we are</p> <p>15 able to add plantings and we are able to put our fence at</p> <p>16 the edge of our property along there.</p> <p>17 So we have significant setbacks exceeding the minimum</p> <p>18 required for side and rear, and the landscaping and</p> <p>19 buffering that I had talked about. The backyard is going to</p> <p>20 be the area with our primary amenity space is. This is</p> <p>21 tucked in between the two wings that kind of fold in on our</p> <p>22 north side, creating a backyard like many with a patio</p> <p>23 space, some dining area for outside, and some shade area</p> <p>24 with a fountain. Our memory care facility has its own</p> <p>25 courtyard in one of the -- inside of one of the wings that's</p>

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20 (77 to 80)

<p>77</p> <p>1 walled with a fence for safety reasons. But they have 2 seating and a fountain and amenities for -- to enjoy. 3 Some of the things that -- that's the access that you 4 can see that I mentioned. We have now two control access 5 points on the southeast side of the site on River Road. 6 That is a in only. That takes us to our forecourt with some 7 visitor and handicap parking. Or you can drive to the 8 southeast side of the site where the facilities that Mike 9 Longfellow mentioned are, the trash facilities and whatnot, 10 and the garage. 11 Importantly, that's about 10 feet lower than River 12 Road. So we not only have the buffering of the landscape, 13 we have a grading condition that we took advantage of to get 14 parking and services about 8 to 10 feet below our neighbor 15 to the southeast and River Road. But if you continue from 16 that access point across the site, there is a little 17 turnaround that we -- is necessary for fire access. But 18 then you can continue out of the site and that is an exit 19 only with significant grading modifications for safety, 20 sight distance concerns, to River Road. 21 MS. ROGERS: And I know -- 22 MR. SLOAN: Anything else you want to run through? 23 MS. ROGERS: Well, I was going to ask you, I think you 24 were briefly touching on some of the improvements to the 25 streetscape. I know you mentioned the improved access</p>	<p>79</p> <p>1 have a low wall and shrubs screening our parking. So we 2 minimized the view to that, but we increased significantly 3 the plantings and then made the plantings much larger. And 4 further to that, we looked at ways that we could grade the 5 site so that you are actually -- the slope of the site will 6 mostly come up from River Road as it goes towards our drive 7 aisle that runs parallel to the building in berms that we've 8 created, and then slope back down to the drive aisle so that 9 we increased the height and capacity to screen these 10 areas -- that area. 11 MS. ROGERS: And I think that we have one slide in here 12 that is the next slide that might help illustrate that point 13 a little. 14 MR. SLOAN: Sure. It's very hard to visualize the site 15 as it is now versus what it will be like, especially on our 16 northwest -- or the corner of the site by River Road. There 17 is a significant berm right there which would be very 18 dangerous if it wasn't modified. That's going to be cut 19 down, but the building, because there is about a 30 foot 20 drop from the corner by River Road on our west side to the 21 corner in the northeast in that tab where the property -- 22 where the drainage currently goes to. 23 It's about a 30 foot drop, which over this large of a 24 site is only about 4 percent on average. It's not a lot of 25 slope, but it's significant. And this building has to</p>
<p>78</p> <p>1 points particularly. But could you also elaborate on both 2 the improvements to -- for pedestrian movement along the 3 site's frontage and also any specific grading and landscape 4 provisions that were made to the frontage and response to 5 neighbor comments received? 6 MR. SLOAN: Yes. We originally came in with a very 7 nice streetscape, but a little more traditional with a tree 8 panel, the shared use path, and the tree -- and the 9 streetscape plantings, the trees. This is about I think 10 gave 50, 50-ish foot front yard really, that's mostly within 11 SHA right away. So what we did in walking the site and 12 looking from various vantage points with the neighbors, is 13 go back to the drawing board and look at ways that we could 14 further minimize the visual impact of the site. 15 We had much more open sightlines. We want people to 16 see the building. We think the building and its entry area 17 is going to be quite lovely. But we understand that some 18 changes were wanted. And so what we did is we bumped up the 19 number of plantings we have beyond our sort of -- this alley 20 of trees that you walk under when you're on the shared use 21 path with evergreens as a backdrop. And then we tightened 22 up our visual corridors looking into the building. So you 23 have a view in at the entry specifically. 24 At the -- we have what you can see right along this 25 kind of this curved entry forecourt with the parking, we</p>	<p>80</p> <p>1 nestle into that. So that's what's allowed us to create the 2 low point for the parking, but also a low point in this 3 front section that you see where River Road is on the right 4 side in the top section and you are significantly higher 5 than the building. 6 You can see as you move from right to left, there is 7 a -- it grades up to the shared use path. There will be 8 street tree plantings on either side. Just take this 9 opportunity to note, we have a 66 inch water line that goes 10 through our frontage and we are staying well away from that 11 were structural changes or large trees. But we have the 12 ability on each side to work with smaller plantings in the 13 grade. 14 But then we -- so again, moving back from the shared 15 use path, moving left across the top section, we berm 16 further up and then slope down and we put our screening 17 plantings at the top of that berm to our driveway. Then 18 there is a sidewalk for the pedestrian -- there is really a 19 pedestrian circular route around the building for the 20 visitors and the residents to walk. And then you drop down 21 to meet our finished floor elevation quite a bit, up to 6 22 feet. So from River Road it's, visually, is a one-story 23 building on this end. 24 We then looked at the back of the site in a similar 25 fashion. This is looking left to right now from the</p>

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21 (81 to 84)

<p style="text-align: right;">81</p> <p>1 building to our neighbor to the north. We have, in many 2 places, we have stormwater facilities that take our roof 3 leaders drainage off the building. Those are heavily 4 planted. Then we have our backyard space or either patio or 5 lawn. 6 And what we've done is originally we had a sloping lawn 7 and then an area by the -- this backyard has -- our backyard 8 has the sewer easement in it, so we can only do low 9 plantings there, and then our fence, which then that is on a 10 berm that subs down to our neighbor. But what we've found 11 is that we can make our lawn area and patio space much more 12 usable for the residents on site, as well as get an 13 additional about 4 feet of screening by creating a small 14 wall outside of -- just to the south of the sewer easement, 15 and getting our plantings up quite high. So these go in -- 16 and some of these are going in at 14 to 16 feet, but now 17 with the increase in little -- in the slope there, another 4 18 feet. Quite a significant impact on day one. So that gives 19 you a sense of the grade and the landscape that we are 20 working with. 21 MS. ROGERS: Thank you. And you've testified to the 22 significant landscape and forest conservation buffers on our 23 property. That's just on our property and not the 24 additional forest that surrounds the property, correct? 25 MR. SLOAN: Yes. So I -- let's see. Where are we in</p>	<p style="text-align: right;">83</p> <p>1 these areas and have provided about 100 -- or 1.5, 1.05 2 acres of afforestation area on our property, and only a 3 little bit is going to be provided through off-site banking 4 or a fee in lieu. Very unusual for a project like this that 5 I've worked on. 6 MS. ROGERS: Thank you. And I think you've testified 7 to this a little bit, but just for the record to make it 8 clear. The retaining walls that have been put in, will 9 those have the benefit of retaining the existing mature 10 trees that are on our adjacent properties? 11 MR. SLOAN: Yes. Yeah, we specifically put in some of 12 these retaining wall so that we could limit our disturbance 13 area and protect off-site trees. And then we got the added 14 bonus of a little bit of height for our new plantings rather 15 than planting them on a complete slope. 16 MS. ROGERS: Thank you. And has the Planning Board and 17 staff approved the preliminary forest conservation plan? 18 MR. SLOAN: They have. They approved the original 19 preliminary forest conservation plan. After discussion with 20 the neighbors, and talking through very carefully some of 21 the -- we sort of worked on a menu of plant species and 22 their different attributes and looked back at specific ways 23 to plant and screen them. Staff has accepted those plants 24 that does plantings within the afforestation areas and 25 approved the modified preliminary forest conservation plan.</p>
<p style="text-align: right;">82</p> <p>1 the number of slides? The next one down, Exhibit 112-B, 2 that's a -- that's the perimeter forest conservation plan. 3 These areas on the left of the property, the north and to 4 the southeast, they have sort of a crosshatching in them. 5 Those are all forest conservation areas. We've covered most 6 of our stream valley buffers and we've augmented the off- 7 site plantings and protection of some -- the very few number 8 trees in the northwest corner that we could, and maintain 9 our limits of disturbance further away than we originally 10 intended when we graded the site so that we could protect 11 off-site trees as we walked those properties with the 12 neighbor. 13 So yeah, when you zoom in as you have, you can see 14 these crossed areas. The large separation between the 15 hatching on the North and the West are category one 16 easements. Those are naturalized areas. They are going to 17 be planted, protected, and maintained as natural space. On 18 the South side we have a forest conservation area that's 19 actually what we call a category two conservation easement. 20 That could be a little more maintained, but it still has a 21 significant number of plantings. We did this so that we can 22 have specific varieties and protect some significant off- 23 site pine trees that our neighbor wanted to make sure 24 weren't impacted adversely. 25 In all, we've got a couple of hundred trees going in</p>	<p style="text-align: right;">84</p> <p>1 And as we noted earlier, that should be in the record before 2 the close of the record. 3 MS. ROGERS: Thank you. Going back just a moment to 4 the project design, could you just briefly describe also the 5 signage -- both building and site signage has proposed? 6 MR. SLOAN: Absolutely. 7 MS. ROGERS: And I don't think we have a slide in here 8 on that, but just for the record, we had a signage exhibit 9 that was submitted as 79-A in the record. 10 MR. SLOAN: Right. So 79-A -- excellent. Cool. So 11 this is a -- so we are looking at 79-A. You can see on this 12 exhibit there are three large red letters, A, B, and C. A 13 is near our entrance. This is a proposed monument sign. It 14 is, I will note, in the state highway dedicated right-of- 15 way. So we will have to go through their permit process. 16 But this is a monument sign to provide basic information, 17 our address and location, and property name. 18 We may also be putting signage on the location at B. 19 This is a crescent-shaped wall. It blocks some of our 20 parking, but also could provide for site signage. And those 21 would be probably metal, pin mounted signage on a backdrop 22 of masonry. And then C is a building mounted sign that 23 would be on a -- I think the canopy over the porte-cochere 24 or on the frontage of the building there somewhere. So each 25 of those will have to go through the SHA in the case of A,</p>

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22 (85 to 88)

85	<p>1 and then the sign review board if they don't meet the -- any</p> <p>2 of the standards for the sign ordinance.</p> <p>3 MS. ROGERS: Thank you. Just for the record, I think</p> <p>4 we also had examples of the individual signs in this</p> <p>5 package. But we will, as Mr. Sloan mentioned, work with the</p> <p>6 sign review board on those approvals.</p> <p>7 Switching now to master plan conformance. Mr. Sloan,</p> <p>8 what's -- can you for the record, what is the relevant</p> <p>9 master plan for this property?</p> <p>10 MR. SLOAN: The master plan is the 2002 Potomac</p> <p>11 Subregion.</p> <p>12 MS. ROGERS: Thank you. Have you reviewed the master</p> <p>13 plan?</p> <p>14 MR. SLOAN: Yes. We analyzed the master plan quite</p> <p>15 closely.</p> <p>16 MS. ROGERS: And based on that review, in your</p> <p>17 professional opinion, is the proposed development in</p> <p>18 substantial conformance with the overall goals and</p> <p>19 recommendations that are contained in the Potomac Master</p> <p>20 Plan?</p> <p>21 MR. SLOAN: I am of the opinion that the project is in</p> <p>22 substantial conformance with the master plan.</p> <p>23 MS. ROGERS: Can you walk through, please, which kind</p> <p>24 of the overall goals and recommendations pertain</p> <p>25 specifically to this property?</p>	87	<p>1 opinion on how this addresses that?</p> <p>2 MR. SLOAN: I --</p> <p>3 HEARING EXAMINER ROBESON-HANNAN: Are you familiar with</p> <p>4 the language?</p> <p>5 MR. SLOAN: Yes. Yes. And I think the primary -- my</p> <p>6 primary view of it is that we have a special exception</p> <p>7 that's being replaced by a conditional use and there aren't</p> <p>8 any, except for about a half a mile away, that we looked at</p> <p>9 with the staff's neighborhood exhibit; and there is not an</p> <p>10 over (inaudible).</p> <p>11 HEARING EXAMINER ROBESON-HANNAN: Villa -- the other</p> <p>12 residential care facility that I think Mr. Longfellow -- no,</p> <p>13 you mentioned in the larger neighborhood.</p> <p>14 MR. SLOAN: It's in their larger neighborhood, yes.</p> <p>15 Yeah, the Victory Terrace.</p> <p>16 HEARING EXAMINER ROBESON-HANNAN: Victory, right.</p> <p>17 MR. SLOAN: About just under half a mile away. So</p> <p>18 there is not an overabundance of --</p> <p>19 HEARING EXAMINER ROBESON-HANNAN: Now, the other thing</p> <p>20 they mentioned is they didn't -- and I think I've heard</p> <p>21 multiple times, the answer to this. But they also wanted to</p> <p>22 keep Falls Road looking residential. And so can you just</p> <p>23 address that?</p> <p>24 MR. SLOAN: Yeah, Falls Road is another one of the</p> <p>25 roads in the master plan the as this two lane policy that</p>
86	<p>1 MR. SLOAN: Sure. Although the plan is 18-ish years</p> <p>2 old, it does still have a -- some recommendations that are</p> <p>3 valid and that we took into consideration. There are no</p> <p>4 site-specific recommendations for this property in the</p> <p>5 master plan, but it does have some discussion of the need</p> <p>6 for senior housing in the Potomac Subregion, and</p> <p>7 specifically providing senior housing within the boundaries</p> <p>8 of the area. As Mr. Longfellow noted, we don't want to push</p> <p>9 people to the outside of their communities. We want them</p> <p>10 integrated in their communities as they age in place. And I</p> <p>11 think the Potomac Village -- or the Potomac Subregion master</p> <p>12 plan took that into consideration.</p> <p>13 So we are providing that senior housing. It is within</p> <p>14 about a half a mile, a little less to the Potomac Village</p> <p>15 Subregion and as also noted before, that makes it nice for</p> <p>16 trips for the community to go to the restaurants, and</p> <p>17 grocery stores and whatnot that are there, within close</p> <p>18 proximity to their home. I think those are the general</p> <p>19 recommendations about senior housing that I can recall.</p> <p>20 HEARING EXAMINER ROBESON-HANNAN: If I could just ask a</p> <p>21 question. I handled the residential care facility out on</p> <p>22 Falls Road several years ago. And the master plan had</p> <p>23 language that they didn't want an over concentration of</p> <p>24 special exception conditional uses. This was actually a</p> <p>25 conditional use fronting major corridors. What's your</p>	88	<p>1 has a very large right-of-way, 150 feet, to accommodate two</p> <p>2 lanes of traffic. That keeps it very residential, very</p> <p>3 green. And right now, that's conspicuously absent on this</p> <p>4 site, which has driveway and parking abutting the asphalt of</p> <p>5 the drive lanes. So we worked quite hard on addressing that</p> <p>6 and creating the residential character that's similar to our</p> <p>7 neighbors to the east, west, south, north, depending on how</p> <p>8 you look at it, of us on each side of us, to create a -- 30</p> <p>9 feet of lawn and large trees, the shared use path, and then</p> <p>10 the buffering of the landscape that you would see on a</p> <p>11 typical residence, so it's much more residential in</p> <p>12 character now.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN: Thank you.</p> <p>14 MS. ROGERS: And Mr. Sloan, just elaborating a little</p> <p>15 bit on the hearing examiner's questions, which I think get</p> <p>16 to that specific special exception policy that's contained</p> <p>17 within the master plan. In reading that special exception</p> <p>18 policy, there is a few main criteria, which you touched on</p> <p>19 briefly, but if we could dive into each one in just a little</p> <p>20 bit more detail. Could you please explain how this project</p> <p>21 will be architecturally compatible with the surrounding</p> <p>22 neighborhood from obviously your areas of expertise in terms</p> <p>23 of site design?</p> <p>24 MR. SLOAN: Yes, that's a -- that's a good point there.</p> <p>25 There are several recommendations on senior housing</p>

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23 (89 to 92)

<p style="text-align: right;">89</p> <p>1 specifically throughout, but then there are also specific 2 recommendations about how to deal with special exceptions 3 which have become conditional uses, the first of which is 4 architectural compatibility with the surrounding 5 neighborhood. So special exceptions for conditional use 6 should be compatible. 7 And as Mr. Van Winkle will discuss, the architecture 8 has been strategically designed to be compatible. It's 9 residential in neighborhood and he will be able to describe 10 this much better than I, but it does have that articulation, 11 the punched windows, the roof gables, and design features 12 for the façade that are characteristic of residential homes. 13 We have modified the three-story building to a two-story 14 building, which is similar to the houses directly around us 15 and that further promotes that compatibility. 16 Another one of the recommendations about special 17 exceptions and conditional uses now, is that they are -- the 18 commercial appearance and parking is minimized. And so we 19 have put the majority of the parking below grade. That 20 parking for visitors and handicap space is directly by the 21 front door. And our forecourt is screened by a wall and 22 planting so that we have minimized any commercial look. 23 Although a lot of these -- a lot of the houses around here 24 have a forecourt in a circular drive for drop-offs and 25 whatnot.</p>	<p style="text-align: right;">91</p> <p>1 connect to bus stops to our east/west, north/south opinion 2 on how you put it. 3 MS. ROGERS: Thank you. And just for the record, in 4 your professional opinion will the proposed development 5 result in any of over concentration of special exceptions? 6 MR. SLOAN: No, there is no increase in special 7 exceptions. 8 MS. ROGERS: Thank you. Did the Maryland National 9 Capital Park and Planning Commission staff and the Planning 10 Board, in making their various recommendations, agree with 11 your conclusions that this project will be in substantial 12 conformance with the goals and recommendations of the master 13 plan? 14 MR. SLOAN: They did. They made a specific analysis of 15 the recommendations. Page 27 of their staff report made 16 that finding. And then the Planning Board's transmittal 17 agreed with that finding. They agreed with the technical 18 staff conclusion. 19 And then in a subsequent note about our revised plan 20 after negotiations and revisions of the landscape and the 21 building around that's the landscape around the perimeter 22 and the right-of-way and then of course the building 23 reduction, they noted, I think specifically, that the 24 revised plans are consistent with the recommendations of the 25 master plan and that they are compatible with the</p>
<p style="text-align: right;">90</p> <p>1 And the last is that there should be enhanced to 2 screening. And I think I talked quite a bit about the 3 extensive screening and plantings that we've done around the 4 perimeter of the property to minimize visual impacts and to 5 integrate this new building, this new home into to the homes 6 around it. 7 MS. ROGERS: Thank you. And in terms of improving 8 connections within the master plan area, I know you touched 9 on this briefly, but will the project be providing 10 improvements for pedestrian connections along our frontage? 11 MR. SLOAN: Yes, we have -- right now we have a parking 12 lot and a shared use path that is quite frequently used. 13 Almost every time I been out there I've seen people jogging 14 or walking to stores or just walking their dogs quite a bit. 15 They have to cross a parking and very wide unprotected drive 16 aisles. And it's a little sketchy. So we have minimized 17 our ingress and egress points to one in one out that are 18 significantly minimized in their width. 19 The shared use path will now be a flush crossing of 20 that shared use path. So pedestrians, bicyclists, people 21 with strollers or in wheelchairs will actually -- they are 22 given priority over the vehicles in these areas. And very 23 difficult to grade and drain around this kind of things, but 24 we made it work. And we've decreased the slopes through the 25 grading. So it's a much more comfortable path. These</p>	<p style="text-align: right;">92</p> <p>1 surrounding area. 2 MS. ROGERS: And just for the record, that last point 3 that Mr. Sloan raised was directly from paragraph two of 4 staff's revised memo that was submitted on January 11. 5 Thank you very much. We're now going to turn to asking 6 you a series of questions based on your knowledge of the 7 zoning ordinance. Obviously you're familiar with the 8 project and your expertise. Are you familiar with the 9 zoning ordinance for Montgomery County including its 10 provisions related specifically to the RE2 zone? 11 MR. SLOAN: I am. 12 MS. ROGERS: Thank you. Does the proposed residential 13 care facility comply with the lot and density requirements 14 of the RE2 zone? 15 MR. SLOAN: It does. And if we can go back to the 16 exhibits, it would just have to point out a couple -- a 17 couple of things. Exhibit 92-B is the conditional use plan. 18 92-A is the data table excerpted from that. But they are on 19 the same slide so I think we can just look at the slide. We 20 combined them. Or we can look at either. 21 And I was just going to run through real quickly as 22 our -- as all of our exhibits show, we exceed the minimum 23 lot area of the property which is 2 acres for this use; 24 we're providing a lot of 5.04 acres. The lot with the front 25 of the building is about 650 feet; the requirement is 150,</p>

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24 (93 to 96)

<p>93</p> <p>1 so far exceeding that.</p> <p>2 We do, of course, have frontage on River Road and we</p> <p>3 meet the maximum density. The minimum requirement is 1,200</p> <p>4 square feet per bed as shown on the table which would allow</p> <p>5 up to 183 beds. We're proposing 120 beds, or 130 beds,</p> <p>6 sorry. And so that -- that would equate to about 1,600 in</p> <p>7 square -- 1,680 square feet per bed, so we're below the</p> <p>8 minimum required -- we're below the maximum density allowed,</p> <p>9 if that were --</p> <p>10 And then, we are below the 25 percent maximum lot</p> <p>11 coverage, which was -- that was one of the most interesting</p> <p>12 things to figure out during the negotiations, but our</p> <p>13 architecture team, Applicant, and architect did an excellent</p> <p>14 job creating this self-contained set of wings to accommodate</p> <p>15 that but did not minimize our setbacks at all.</p> <p>16 So given the large size that we have for this use and</p> <p>17 our minimum coverage, I think this is an excellent fit. And</p> <p>18 it doesn't feel, I guess, tightly sandwiched in between</p> <p>19 these two lots to our north and south.</p> <p>20 MS. ROGERS: Great. Thank you. Does the proposed</p> <p>21 residential care facility comply with the placement</p> <p>22 requirements of the RE2 zone?</p> <p>23 MR. SLOAN: It does. As the table shows the minimum</p> <p>24 setback is 50 feet in front; that is one that we're the</p> <p>25 closest to, but we also have the significant setback along</p>	<p>95</p> <p>1 to do.</p> <p>2 We have spoken with the Department of Permitting</p> <p>3 Services, Mark Beall, the zoning manager there, and shown</p> <p>4 him the evidence of the fence and confirmed his position on</p> <p>5 the grandfathering. So it was a specific request; we think</p> <p>6 6 foot 6 inches is an adequate fence, but a specific request</p> <p>7 during our negotiations with the neighbors, and so we will</p> <p>8 be replacing that 8-foot fence.</p> <p>9 MS. ROGERS: All right. Thank you. Will adequate</p> <p>10 parking the provided on-site from a code perspective to meet</p> <p>11 the proposed development?</p> <p>12 MR. SLOAN: Yes. We are providing 85 parking spaces</p> <p>13 which is above the minimum requirement of 59 for the number</p> <p>14 of beds and employees; as Mr. Longfellow testified, we will</p> <p>15 have on the site at any one time. So we've got 85, 16 are</p> <p>16 surface. They're at the forecourt of the building with a</p> <p>17 drop-off area, screened as required; a landscape canopy as</p> <p>18 required is provided over those. And then from -- the rest</p> <p>19 underground. And this is more than we think is needed for a</p> <p>20 parking perspective, and certainly more than is needed by</p> <p>21 Code.</p> <p>22 And we don't expect any kind of adverse impacts for</p> <p>23 parking. Not that there is, like, a close street that</p> <p>24 anyone could park and walk to but we have plenty on site.</p> <p>25 MS. ROGERS: All right. Thank you. And can you just</p>
<p>94</p> <p>1 River Road for the dedication and the lawn area there. A 20</p> <p>2 foot minimum is a side setback. We meet that. Our building</p> <p>3 is set at a minimum of 80 feet and more on the north side.</p> <p>4 We also have a rear setback requirement of 35 feet; at the</p> <p>5 tightest point we're at 45 feet and much more on the south</p> <p>6 side, southeast side of the site where we have a deeper lot.</p> <p>7 MS. ROGERS: Thank you. And do you have a sense of</p> <p>8 what that maximum rear setback is in terms of how much we're</p> <p>9 exceeding the setback by?</p> <p>10 MR. SLOAN: At its most, I think we're about 140 feet</p> <p>11 back from the rear lot line.</p> <p>12 MS. ROGERS: Thank you. You noted earlier in your</p> <p>13 testimony that the projects proposing to replace the</p> <p>14 existing 8-foot tall fence with a new 8-foot tall privacy</p> <p>15 fence. Does this fence comply with the zoning ordinance;</p> <p>16 and if not, is any additional relief required for that</p> <p>17 replacement?</p> <p>18 MR. SLOAN: Typically, it would not comply with the</p> <p>19 fence requirements which are 6 feet 6 inches at the property</p> <p>20 line. Because we've had an existing 8-foot fence along our</p> <p>21 perimeter for, I think when -- back when this was Behnke's</p> <p>22 and before this use or this element, site element this</p> <p>23 8-foot fence, is grandfathered under Section 7.7.1 A 1</p> <p>24 which allows nonconforming legal uses to be continued,</p> <p>25 renovated, reconstructed and that's exactly what we're going</p>	<p>96</p> <p>1 for the record, reiterate how loading and trash will be</p> <p>2 accommodated on site?</p> <p>3 MR. SLOAN: Yes. You will -- any loading and service</p> <p>4 vehicles will come into the site on our southeast entry</p> <p>5 point. They will turn around the southeastern part -- to</p> <p>6 the southeast part of the building which goes down in grade</p> <p>7 several feet to either the contained trash and recycling</p> <p>8 receptacle corral, or to a loading space that's at the</p> <p>9 bottom of this hill. From that point they'll --</p> <p>10 HEARING EXAMINER ROBESON-HANNAN When you say this</p> <p>11 hill, you're referring to a hill on the east side of the</p> <p>12 site?</p> <p>13 MR. SLOAN: Correct. Yeah. If you -- yeah, looking at</p> <p>14 the exhibit if you see the drive that goes around that</p> <p>15 southeast side of the building and all of these little</p> <p>16 numbered lines that are going across the property, those are</p> <p>17 drops of two feet each. So 2, 4, 6, 8 feet down and even 10</p> <p>18 from River Road, in that area; the endpoint is our loading</p> <p>19 area and also part of the fire access lane.</p> <p>20 That loading area you'll be able to unload there and</p> <p>21 directly go into the garage, or you'll be able to get to the</p> <p>22 trash corral to collect the recyclables and trash. And</p> <p>23 we've designed this area below, this kind of weird -- that's</p> <p>24 why it's kind of a weird squiggly shape, to be able to turn</p> <p>25 around in a minimal area and come back out to minimize any</p>

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25 (97 to 100)

<p>97</p> <p>1 noise from backing vehicles. 2 MS. ROGERS: Thank you. And is there adequate fire 3 access to the site? 4 MR. SLOAN: Yes. So we have Exhibit 99 in the record 5 and that was our submitted fire access plan. We had an 6 original approval from Maria at DPS who does all the review. 7 I'm sorry that is on the slide, the next slide. I keep 8 forgetting the exhibits are very well organized by our team. 9 So that was our originally approved fire access plan. 10 And one thing that I want to note is that during the 11 negotiations with the community and the reduction of the 12 building height to two stories and these wrapped wings, they 13 create quite an interesting condition where we're typically 14 laying out a fire access plan with a walkable path to the 15 furthest door from where the -- a vehicle can get and that's 16 for determining how long -- how far from a fire truck the 17 emergency personnel can drag their hoses and get to the 18 building frontage, or the building façade. 19 In this case we had shown in the revised plan the path 20 to those doors, and on our east, page right side, you can 21 see the building where we're well below that and our fire 22 access path is -- we can get to every inch of the building. 23 When we sat down with Marie and just talked again, finally 24 yesterday, with her, on the north side of the building, the 25 left side of the page, where we have this little green spur</p>	<p>99</p> <p>1 building; is that what -- 2 MR. SLOAN: The western side in the southern notch of 3 the building where there's a little green -- on this exhibit 4 the little green spur. 5 HEARING EXAMINER ROBESON-HANNAN I see. Okay. 6 MS. ROGERS: And I don't know if it's feasible or 7 helpful. I know Mr. Sloan has sketched this out in talking 8 with Marie directly; but one of us could share our screen or 9 send that over to Nana if that's helpful to see. 10 HEARING EXAMINER ROBESON-HANNAN That's okay. Is it 11 going to change the PFCP that's about to be approved? 12 MR. SLOAN: No. We have the -- we have not changed the 13 conservation easement or any plantings that are approved 14 under that. 15 HEARING EXAMINER ROBESON-HANNAN Okay. 16 MR. SLOAN: And it won't change the storm water concept 17 that we have been approved under. 18 HEARING EXAMINER ROBESON-HANNAN Okay. I don't need to 19 see it. Your description is good enough for me unless Mr. 20 Baumgartner wants to see it. 21 HEARING EXAMINER BAUMGARTNER: No, I'm fine. 22 MS. ROGERS: So if it's okay with the hearing 23 examiners, we would just like to be able to make those very 24 minor impacts to submit updated conditional use plans after 25 this hearing so that it's part -- officially part of the</p>
<p>98</p> <p>1 and the walkable path to that door, she's asked us to extend 2 that about 18 feet so that she can get to, again, every inch 3 of the façade within 450 feet. We do have some windows and 4 some patio doors for the units there. 5 So we have an adjustment in process. I've done a quick 6 sketch with this. It basically pushes our vehicular access 7 18 feet which just pushes our stair about 18 feet, which 8 creates a little bit different situation with the ramp. 9 Instead of one long ramp we're now going to have a 10 switchback ramp that goes down -- goes north for a little 11 bit and then turns down -- turns around and then lands where 12 the stairs do. So it's not a significant change to the 13 design. We did not have to change our forest conservation 14 area, our storm water design, our drainage patterns, nor 15 importantly, the plantings that we worked on very carefully 16 with the community because we -- that notched area that you 17 see in both extremes of the building façade, on the right 18 and left of the building those wings are notched so that we 19 could specifically provide additional plantings. And so the 20 change actually increases the planting area, strangely, in 21 that area. And we now have -- 22 HEARING EXAMINER ROBESON-HANNAN: When you say that 23 area, can you just -- 24 MR. SLOAN: Yeah. 25 ROBESON: The change is on the western side of the</p>	<p>100</p> <p>1 plans that get approved, or that are subject to this 2 application. 3 HEARING EXAMINER BAUMGARTNER: Yeah, that's fine. 4 MS. ROGERS: Okay. Thank you. 5 HEARING EXAMINER ROBESON-HANNAN Just timing -- at the 6 end we'll have to talk timing about when you can do that. 7 But that's fine. I don't have a problem with it. 8 MS. ROGERS: Thank you. Mr. Sloan, can you just 9 briefly also describe where the facility's generator will be 10 located and if it complies with the County's noise 11 ordinance? 12 MR. SLOAN: Yes. So we've made the corral on the -- 13 are we calling this the east side of the building? On 14 the -- by the trash enclosure, we've made that corral large 15 enough to actually accommodate the generator if it can't go 16 underground so that it will be protected by a wall and 17 therefore will certainly meet the noise ordinance. Of 18 course, it's only going to be used in emergencies so 19 hopefully that will minimal time. 20 And not only do we have the corral but then we have the 21 8-foot difference in grade and then we have another eight 22 feet of fence. So we've got quite a bit in between our 23 neighbors and our generator. 24 MS. ROGERS: Thank you. And can you please describe 25 how the proposed site lighting complies with the lighting</p>

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26 (101 to 104)

101	<p>1 requirements of the zoning ordinance? And the next slide</p> <p>2 has an excerpt from the record. Thank you.</p> <p>3 MR. SLOAN: Yes. The next slide is Exhibit 109-A from</p> <p>4 the record. The photometrics show -- all the little blue</p> <p>5 squares that are hard to read unless you actually have the</p> <p>6 full-size PDF, those are all areas where after this site</p> <p>7 lighting gets installed have zero foot candles, which is a</p> <p>8 very -- that's the minimum requirement, or maximum you can</p> <p>9 have at any property line.</p> <p>10 So you can see significant areas, especially in our</p> <p>11 conservation areas and our buffer areas that are at zero</p> <p>12 illumination levels around the property. But then, we have</p> <p>13 along our pathways and at the entry and along the right-of-</p> <p>14 way in particular, a little bit higher levels to make sure</p> <p>15 that it's safe for evening walks and whatnot because we do</p> <p>16 expect the residents, and visitors, and staff to use this</p> <p>17 pathway as a place to walk and exercise a little bit.</p> <p>18 As I noted with the fire access plan, because of this</p> <p>19 change in the ramp and everything we will be updating our</p> <p>20 lighting along with that and we'll actually be removing one</p> <p>21 of the higher level light posts and will be decreasing our</p> <p>22 illumination levels on that north side so we will have that</p> <p>23 for you as well.</p> <p>24 All of those will be -- we worked with the manufacturer</p> <p>25 to make sure that we can get the proper shields, reduce any</p>	103	<p>1 a 10-minute recess. Do you think that's --</p> <p>2 HEARING EXAMINER BAUMGARTNER: That's fine.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN How many more</p> <p>4 witnesses do you have?</p> <p>5 MR. ROBINS: So we have -- let's see. We have our</p> <p>6 civil engineer, our architect, our transportation consultant</p> <p>7 and then the last witness we have is Mr. Boucher who we'd</p> <p>8 want to talk to about whether he had submitted a report into</p> <p>9 the record and we wanted to talk to you -- both hearing</p> <p>10 examiners whether you felt you needed that testimony or you</p> <p>11 felt that we might be able to eliminate that actual witness</p> <p>12 given that we -- you've already heard we do not believe</p> <p>13 there's any noninherent impacts. And his testimony really</p> <p>14 gets to that point, which we were submitting information</p> <p>15 into the record because at the time Mr. Brown had</p> <p>16 potentially raised that as an issue, but obviously since</p> <p>17 we've worked out our differences that issue may now -- is</p> <p>18 off the table, at least as it relates to the participants in</p> <p>19 the hearing.</p> <p>20 HEARING EXAMINER BAUMGARTNER: So for your next</p> <p>21 witness, how long do you anticipate that witnesses' direct</p> <p>22 exam?</p> <p>23 MR. ROBINS: I would say that Mr. Sloan probably has</p> <p>24 probably about 15 or 20 minutes left, maybe a little less</p> <p>25 and then --</p>
102	<p>1 glare and we spoke with one neighbor in particular about an</p> <p>2 existing light that's on the nursery that just shines right</p> <p>3 into his deck area, and we won't have any high lighting like</p> <p>4 that for security or anything -- he's to the northwest of</p> <p>5 us.</p> <p>6 MS. ROGERS: And Mr. Sloan, those minor changes in</p> <p>7 lighting that will be refinements to this plan as a result</p> <p>8 of the revisions to the fire access, will those continue to</p> <p>9 meet the standards of the Code?</p> <p>10 MR. SLOAN: They will. We will maintain a zero or</p> <p>11 lower illumination, a zero foot candle or lower illuminating</p> <p>12 level at the property line and the .5 at the front line, or</p> <p>13 the right of way.</p> <p>14 MS. ROGERS: So if it's okay with the hearing</p> <p>15 examiners, we would also like to submit an updated</p> <p>16 photometrics plan when we submit the updated fire access</p> <p>17 plan into the record.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN So at the end, I would</p> <p>19 appreciate -- well first, I'm going to have to -- I can</p> <p>20 either leave or we can recess. I'm getting some emails that</p> <p>21 I'm going to have to answer and I don't want to take my</p> <p>22 attention from the hearing. If we could just go on, like --</p> <p>23 Derek, I'm sorry.</p> <p>24 HEARING EXAMINER BAUMGARTNER: That's all right.</p> <p>25 HEARING EXAMINER ROBESON-HANNAN If we could just go on</p>	104	<p>1 HEARING EXAMINER ROBESON-HANNAN Well, let me ask you</p> <p>2 something. Does he disagree with the information in the</p> <p>3 staff report?</p> <p>4 I'm just trying to --</p> <p>5 MR. SLOAN: Yeah.</p> <p>6 MR. ROBINS: We're -- I appreciate --</p> <p>7 HEARING EXAMINER ROBESON-HANNAN I'm just trying to get</p> <p>8 to a bottom line here. Now, I do want to, you know, I would</p> <p>9 want to know of any changes like what Mr. Sloan just</p> <p>10 described.</p> <p>11 MR. ROBINS: Right.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN But you know what --</p> <p>13 MR. ROBINS: We --</p> <p>14 HEARING EXAMINER ROBESON-HANNAN I'm getting emails</p> <p>15 from counsel staff and executive staff so what I'd like to</p> <p>16 do -- think about where there is -- if it's okay, unless</p> <p>17 Derek, you want to continue, I need about, I'm going to say</p> <p>18 10 minutes, hopefully. I thought I had kept everyone at bay</p> <p>19 this morning, but apparently I didn't.</p> <p>20 MR. ROBINS: Do you want us to just keep going with Mr.</p> <p>21 Sloan and finish up since I do think that your answer is in</p> <p>22 the affirmative that he does agree with the findings, but it</p> <p>23 would be good just to have them on record finishing this up,</p> <p>24 and Mr. Baumgardner obviously is --</p> <p>25 HEARING EXAMINER ROBESON-HANNAN Well, is somebody</p>

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105	<p>1 going to appeal if I -- you just suddenly -- you know what, 2 I'd rather just go on recess just for 10 minutes and I'll 3 take care of this and then we can come back with both 4 hearing examiners. 5 MR. ROBINS: Okay. And then what will do is in the 10 6 minutes we will figure out a way how to -- I mean obviously, 7 we want to get through this expeditiously as well. So we'll 8 talk as a team as well. 9 HEARING EXAMINER ROBESON-HANNAN All right. 10 HEARING EXAMINER BAUMGARTNER: So let's break for 10 11 minutes and reconvene at 12:20. 12 HEARING EXAMINER ROBESON-HANNAN Okay. 13 HEARING EXAMINER BAUMGARTNER: And then will finish Mr. 14 Sloan's testimony and then we will have to see about lunch, 15 or any other further witnesses. But will break for 10 16 minutes and come back on the record at 12:20 p.m. 17 HEARING EXAMINER ROBESON-HANNAN Thank you. 18 MR. ROBINS: Okay. 19 (Recess) 20 HEARING EXAMINER BAUMGARTNER: So we had left off with 21 the direct exam of Mr. Sloan. We are back on the record in 22 case CU 20-05 for a residential care facility for over 16 23 persons for a property located at 9545 River Road in 24 Potomac, Maryland. We were on the direct exam of Mr. Sloan. 25 My suggestion for everyone is that we finish this</p>	107	<p>1 MS. ROGERS: Do you agree with staff's findings that 2 all of the requirements of Article 6 of the zoning ordinance 3 are met by the proposed application? 4 MR. SLOAN: Yes. So turning back into the slides, the 5 one right before that is part of Exhibit 111-A, which is a 6 composite landscape plan. This shows just our significant 7 trees, tree plantings. Most of the evergreens that we were 8 placing very carefully as we walked around, the neighbors -- 9 we were out there putting the flags where we thought things 10 so this shows the screening of the primary evergreens in 11 large deciduous trees on this exhibit, providing the 12 screening. 13 And then, we have also supplemented that with 14 individual detailed sheets that staff -- park and planning 15 staff reviewed. Then we went back and forth on -- to make 16 sure that we were compliant with the screening requirements 17 that are required by Article 6 for a conditional use 18 abutting a residential use, and that includes so many 19 evergreens and understory trees, canopy trees, shrubs of 20 different sizes in fencing or berming. And we do comply 21 completely with those requirements. 22 MS. ROGERS: Thank you. And did park and planning 23 staff and the Planning Board agree with your evaluation that 24 the proposal meets the development -- 25 MR. SLOAN: Completely.</p>
106	<p>1 direct exam, and then any cross-examination or questions for 2 Mr. Sloan, and then look at the witnesses for the rest of 3 today to base either a 30 minute or an hour break for lunch. 4 But my recommendation is to get through the examination of 5 Mr. Sloan now, and then have that discussion. Any objection 6 to that concept? 7 MR. ROBINS: No. Just one point. I think you said for 8 up to 16 people, for more than 16 people. 9 HEARING EXAMINER BAUMGARTNER: Oh, I'm sorry. 10 MR. ROBINS: I hate to correct the hearing examiner, I 11 just want to make -- 12 HEARING EXAMINER BAUMGARTNER: No, no, no. 13 MR. ROBINS: -- we all refer to it correctly. 14 HEARING EXAMINER BAUMGARTNER: Sometimes I can't read 15 my own writing. No problem with that. 16 MR. ROBINS: Thank you. No, no disrespect, sir. 17 HEARING EXAMINER BAUMGARTNER: Not at all. Fair 18 enough. 19 Ms. Rogers, if you wanted to continue, the floor is 20 yours. 21 MS. ROGERS: Thank you very much. 22 Mr. Sloan, does the proposed project comply with the 23 various landscape and lighting requirements contained in the 24 zoning ordinance? 25 MR. SLOAN: Yes, it does.</p>	108	<p>1 MS. ROGERS: -- the RR2 zone? 2 MR. SLOAN: Yes. 3 MS. ROGERS: Thank you. And for the record, that's 4 about through planning staff's initial report, the Planning 5 Board transmittal memo and then staff's most recent memo 6 that was submitted on January 11th. 7 Moving to the use of standards for a residential care 8 facility over 16 persons, are you familiar with Section 9 3.3.2 E 2 (c)(ii) that lays out the very specific standards 10 that are required for a residential care facility? 11 MR. SLOAN: I am. 12 MS. ROGERS: Okay. I'm going to walk you through each 13 of those in turn regarding the application's conformance 14 with those standards. 15 Does the proposed facility provide ancillary services 16 such as transportation, common dining rooms, kitchen, 17 activity rooms, et cetera that are subject to the zoning 18 ordinance section 3.3.2 E 2 (c)(ii)? 19 MR. SLOAN: Mr. Zions used to make fun of having to go 20 through all of those different letters. 21 (Off the record discussion.) 22 MR. SLOAN: So with respect to the ancillary services 23 in the citation that as noted by counsel, I think Mr. 24 Longfellow had described the operations and services quite 25 thoroughly. There are such services as a shuttle, common</p>

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<p>109</p> <p>1 dining facilities within the building and other amenities; a 2 movie room, lounges, a salon, a fitness center. I mean all 3 of us have been looking at this site, like boy, when we get 4 old, if only. If we can afford it we will go there. 5 And then, of course, outdoors the courtyards, walking 6 paths to some activity areas like a seating area around a 7 fountain and a small dining and kitchen area outside. 8 MS. ROGERS: Thank you. For the record, subsection B 9 and subsection C aren't applicable because this is not a 10 group home for children, and no residential dwelling units 11 are proposed. 12 So moving on to subsection D which requires a minimum 13 lot size of 2 acres or 1,200 square feet per bed, whichever 14 is greater. Does the proposed conditional use meet this 15 requirement? 16 MR. SLOAN: It does. So it is above 2 acres. For the 17 number of beds provided where it should be about a minimum 18 of 3.5 acres and we're certainly above that at the 5.04. 19 MS. ROGERS: Thank you. And for subsection E does the 20 proposed facility comply with the minimum side setbacks of 21 20 feet? 22 MR. SLOAN: It does. We're a minimum of 80 feet to the 23 building on each side. 24 MS. ROGERS: Thank you. For the record, subsection F 25 and J -- F, G, and H are not applicable as we're not in the</p>	<p>111</p> <p>1 zoning standards under 59.4.4 B. 2 MS. ROGERS: Thank you. This requires the hearing 3 examiner to consider inherent and noninherent adverse 4 effects of the proposed use on nearby properties in the 5 general neighborhood. While inherent effects are those 6 necessarily associated with the use, noninherent effects are 7 not necessarily associated with the use, or created by 8 unusual characteristics of the site. 9 Could you please briefly describe the inherent effects 10 that staff identified as being associated with the proposed 11 residential care use? 12 MR. SLOAN: Yes. The primary one being that staff 13 found, and I agree with them, that the proposed scale of the 14 building is an inherent characteristic. As they noted, it's 15 designed in a manner that complements the residential 16 characteristics of the surrounding development in terms of 17 size, scale, and scope, massing, architectural features, 18 building materials, orientation, open space, and 19 landscaping. And that there are no inherent adverse 20 impacts -- no noninherent adverse impacts of the proposed 21 building and site design. 22 And regarding parking, parking is an inherent effect of 23 the use and particularly because of the fact that we're 24 putting much of it underground. We are maintaining the 25 residential character of the neighborhood. So these</p>
<p>110</p> <p>1 R10 or R20 zone and there are no dwelling units provided. 2 So moving to the next requirement of subsection I which 3 requires that the height and density coverage and parking 4 are compatible with the surrounding use. Is it your 5 professional opinion that the building and site design as 6 has been amended is compatible with the residential 7 character of the surrounding neighborhood? 8 MR. SLOAN: Yes. I think as I previously described it 9 the use density coverage, parking, site design, elements are 10 all compatible with the surrounding neighborhood. 11 MS. ROGERS: Thank you. Subsection J is also not 12 applicable as we're not an AR zone. So concluding this 13 section of our testimony, Mr. Sloan, did park and planning 14 staff and the Planning Board agree with your evaluation that 15 this proposal satisfied the required findings for a 16 residential care facility? 17 MR. SLOAN: Staff and the Planning Board both found 18 that the proposal satisfied the findings for approval, both 19 in the original approval and then again in a staff memo on 20 January 11, 2021 confirming. And I have the -- quote, that 21 the revisions do not affect the Planning Board's findings, 22 recommendations, as contained in the transmittal letter of 23 September 3, 2020 with respect to compliance with the 24 specific requirements of Section 59.3.3.2 C, general 25 conditional use requirements of Section 7.1.3 E and the</p>	<p>112</p> <p>1 operational characteristics, trash pickup, delivery, 2 loading, delivery as Mr. Longfellow noted, UPS comes to 3 everyone's house. These are all -- all meet the 4 requirements of the zoning ordinance and are inherent 5 effects. 6 Likewise, lighting -- this lighting has been designed 7 as a, you know, residential character. They are low light 8 wall washers, step washers, bollards, kind of things that I 9 have been designed in residential gardens before. And the 10 staff found, and I agree with them, that the lighting is 11 appropriate as used in the subject location. 12 The vehicular trips that are to and from the site, 13 employees, visitors, residents, delivery, those are all 14 inherent and not -- will not adversely impact the 15 neighborhood. Then, the passive recreation that's on site, 16 that's what we would typically do in our backyards; patio 17 space, grill, sitting areas are all inherent to the use. 18 Finally, any emergency access to the site that's 19 necessary is also inherent in typical of a residential use, 20 or any emergency situations. 21 MS. ROGERS: Thank you. Do you agree with these, and 22 in your opinion are there any other inherent characteristics 23 of the use? 24 MR. SLOAN: I agree with staff's analysis of the use, 25 and I don't have any additional --</p>

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113	<p>1 MS. ROGERS: Thank you. Have you also evaluated</p> <p>2 whether there are any noninherent effects associated with</p> <p>3 the proposed residential care facility use?</p> <p>4 MR. SLOAN: I have. And it's my opinion that there are</p> <p>5 no noninherent effects associated with the residential care</p> <p>6 facility.</p> <p>7 MS. ROGERS: As set forth in 59.7.3.1 E; as you</p> <p>8 confirmed, a residential care facility requires approval of</p> <p>9 a conditional use in the RE2 zone. I'm going to walk</p> <p>10 through each of the sections of the code regarding the</p> <p>11 application compliance with them. With regard to these</p> <p>12 specific findings, 7.3.1 E 1 A requires the condition you</p> <p>13 satisfy any applicable previous approvals. Are there any</p> <p>14 approvals for this property that the project needs to comply</p> <p>15 with?</p> <p>16 MR. SLOAN: There are no additional, or previous</p> <p>17 approvals that need to be complied with. The existing</p> <p>18 special exception will be vacated once we get our use</p> <p>19 occupancy.</p> <p>20 MS. ROGERS: Great. And in accordance with 7.3.1 E 1</p> <p>21 b; a finding -- condition 6, as modified by the Planning</p> <p>22 Board, that the prior special exception would be vacated.</p> <p>23 Sorry.</p> <p>24 Moving on to 7.3.1 E 1 b; does the project satisfy the</p> <p>25 requirements of the zone use standards applicable general</p>	115	<p>1 residential neighborhood detached zone is the number,</p> <p>2 intensity, or scope of conditional uses sufficiently to</p> <p>3 affect the area adversely, or alter the predominantly</p> <p>4 residential nature of the area. In your professional</p> <p>5 opinion, will the proposed conditional use effect the area</p> <p>6 adversely, or alter the residential nature of the area?</p> <p>7 MR. SLOAN: In my opinion, it will not adversely impact</p> <p>8 the residential character of the area. I think it will</p> <p>9 greatly enhance the residential character of the area; and</p> <p>10 it is replacing an existing special exception with a</p> <p>11 conditional use and not increasing the intensity of -- of</p> <p>12 those uses.</p> <p>13 MS. ROGERS: Thank you. Section 7.3.1 E 1 f, requires</p> <p>14 a finding that the project will be served by adequate public</p> <p>15 facilities and services; although a preliminary plan is</p> <p>16 subsequently required where the Planning Board will make</p> <p>17 similar findings regarding adequate public facilities. In</p> <p>18 your professional opinion, will the conditional use be</p> <p>19 served by adequate public services and facilities with</p> <p>20 respect to schools, storm drain, water, sanitary sewer,</p> <p>21 police and fire protection?</p> <p>22 MR. SLOAN: Yes. In particular for those areas that I</p> <p>23 looked at, the police, fire, healthcare facilities under the</p> <p>24 SSP; it meets all adequate public facilities. Our</p> <p>25 transportation planner and civil engineer will speak to</p>
114	<p>1 requirements under Article 59.6 of the zoning ordinance?</p> <p>2 MR. SLOAN: Yes, the project does satisfy the</p> <p>3 requirements of the zone for the use standards, general</p> <p>4 requirements under 59.6.</p> <p>5 MS. ROGERS: Thank you. Under Section 7.3.1. E 1 c; a</p> <p>6 conditional use must substantially conform with the master</p> <p>7 plan; you testified to this, but is it your professional</p> <p>8 opinion that the project does substantially conform with the</p> <p>9 goals and recommendations of the master plan?</p> <p>10 MR. SLOAN: It is. And I'll refer to my previous</p> <p>11 testimony on master plan conformance.</p> <p>12 MS. ROGERS: Thank you. Section 7.3.1. E 1 d requires</p> <p>13 a conditional use being in harmony, and not alter the</p> <p>14 general character of the neighborhood. Have you had an</p> <p>15 opportunity to review the plan in this context?</p> <p>16 MR. SLOAN: I have. I think in the proposed use</p> <p>17 significantly improves the property in terms of harmonious</p> <p>18 relationship to the surrounding neighborhood, replacing the</p> <p>19 commercial establishment -- the parking field along River</p> <p>20 Road in particular with a residential use designed</p> <p>21 specifically to address the residential character of the</p> <p>22 neighborhood, and the site design of a residential site.</p> <p>23 MS. ROGERS: Thank you. Section 7.3.1 E 1 e requires</p> <p>24 the conditional use will not, when evaluated in conjunction</p> <p>25 with existing and approved conditional uses in any</p>	116	<p>1 transportation, and utility, and infrastructure respectively</p> <p>2 on that finding.</p> <p>3 MS. ROGERS: Thank you. Section 7.3.1 E 1 g requires</p> <p>4 that the conditional use will not cause undue harm to the</p> <p>5 neighborhood as a result of noninherent adverse effects</p> <p>6 alone or a combination of inherent and noninherent adverse</p> <p>7 effects. In your professional opinion will the conditional</p> <p>8 use cause any harm to the surrounding neighborhood as a</p> <p>9 result of noninherent adverse effects?</p> <p>10 MR. SLOAN: In my opinion there are no noninherent</p> <p>11 adverse impacts and so I do not believe that there will, of</p> <p>12 course, then be any adverse effects.</p> <p>13 MS. ROGERS: And did planning staff and the Planning</p> <p>14 Board agree with your analysis that there were no</p> <p>15 noninherent adverse impacts?</p> <p>16 MR. SLOAN: The staff and Planning Board both agreed</p> <p>17 with that analysis.</p> <p>18 MS. ROGERS: Thank you. In summary, is your</p> <p>19 professional opinion that the conditional use plan permits</p> <p>20 the hearing examiners to make the necessary findings</p> <p>21 outlined in Section 59.7.3.1 E of the zoning ordinance?</p> <p>22 MR. SLOAN: Absolutely, yes.</p> <p>23 MS. ROGERS: In your professional opinion does the</p> <p>24 proposed conditional use satisfy all applicable code</p> <p>25 requirements?</p>

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117	1 MR. SLOAN: It does. 2 MS. ROGERS: Do you agree with the findings made by 3 park and planning staff in their staff report and the 4 Planning Board? 5 MR. SLOAN: I do, yes. 6 MS. ROGERS: Is there anything else that you would like 7 to add? 8 MR. SLOAN: I think we've covered things in quite a 9 good bit of detail. It's been an excellent project to bring 10 along this far, and I think it will have a fantastic -- 11 fantastically beneficial impact to the character of the area 12 and for the community. 13 MS. ROGERS: Thank you. That concludes our questioning 14 from Mr. Sloan. 15 HEARING EXAMINER BAUMGARTNER: Mr. Brown, any questions 16 for Mr. Sloan? 17 Does anyone else have any questions for Mr. Sloan? 18 All right, that concludes this witness. 19 HEARING EXAMINER ROBESON-HANNAN Wait, I didn't hear 20 Mr. Brown's answer. Did the court reporter? 21 Mr. Brown, did you say you didn't have any questions? 22 MR. BROWN: I didn't say one way or the other. I don't 23 have any questions. 24 HEARING EXAMINER ROBESON-HANNAN Okay. Just for the 25 record. Thank you.	119	1 keep moving. We have no objection if you all want to 2 take -- to eat something while we're testifying. 3 HEARING EXAMINER ROBESON-HANNAN That's a new one. 4 MR. ROBINS: We have no problem accommodating it. 5 We're good to go, if you want to eat and listen, seriously, 6 it's not a problem. 7 HEARING EXAMINER ROBESON-HANNAN I'm going to leave 8 that one to Derek -- Mr. Baumgartner. 9 HEARING EXAMINER BAUMGARTNER: Well, let's do this. I 10 am pretty hungry. I had coffee and a granola bar this 11 morning at 6 a.m. Let's take a brief lunch break. We can 12 do 30 minutes and be back at 1:15. 13 MR. ROBINS: Okay. 14 HEARING EXAMINER BAUMGARTNER: Does that work for 15 everyone? And we can get through your witnesses in the hour 16 or so after that and conclude as does that make sense for 17 everyone? 18 HEARING EXAMINER ROBESON-HANNAN That sounds good. I 19 have one request for the Applicant. Can you make a list of 20 all the plans that are going to be revised and have that 21 ready to go so we can clarify what's going to be submitted 22 in the record? Because the record, we can keep it open for 23 the transcript and only those plans. All right. 24 MR. ROBINS: Absolutely. 25 HEARING EXAMINER ROBESON-HANNAN And the other thing
118	1 HEARING EXAMINER BAUMGARTNER: So that concludes 2 this -- 3 HEARING EXAMINER ROBESON-HANNAN You're (inaudible) 4 silent, Mr. Brown. 5 Okay. Go ahead. I'm sorry, go ahead. 6 HEARING EXAMINER BAUMGARTNER: In terms of the rest of 7 the witnesses; did the Applicant have an opportunity to 8 consider the timing here? Are we going to take a break for 9 lunch and come back and finish with our witnesses, or what 10 was your thinking? 11 MR. ROBINS: We are. We are happy to forge ahead we've 12 had a discussion. We've heard what the hearing examiner 13 said as it relates to the technical staff report in terms of 14 whether we have -- whether there's anything else to add for 15 the record. So we would like to walk our witnesses through 16 some testimony, and we're happy to do that without a lunch 17 break, if you want to keep going. We think it's probably, 18 with all due respect, about an hour. It might be a little 19 more, or a little less. 20 So we're happy to keep going unless you feel that you 21 want to take a half-hour break and then come back. It's up 22 to you. One thing we do know we want to do is finish. We 23 do want to complete the hearing today. 24 HEARING EXAMINER BAUMGARTNER: Sure. 25 MR. ROBINS: We're -- it's your call. We're happy to	120	1 is, I don't have; from your submittal I don't have any 2 questions for anybody except Ms. Randall; my question is you 3 took a credit for the existing nursery and is the nursery 4 really operating at the level of the credit you took? 5 Otherwise I have no question about what you submitted. 6 MS. RANDALL: Would you like me to answer that now, or 7 at the time of my testimony? 8 HEARING EXAMINER ROBESON-HANNAN No. Let's let Mr. 9 Baumgartner eat because I don't want him disappearing from 10 that beautiful office there. Okay. 11 HEARING EXAMINER BAUMGARTNER: We'll take a 30-minute 12 break and we'll come back at 1:15. 13 HEARING EXAMINER ROBESON-HANNAN Okay. 14 MS. ROGERS: Thank you. 15 HEARING EXAMINER BAUMGARTNER: All right. Thank you 16 all very much. We'll see you soon. 17 (Recess) 18 HEARING EXAMINER BAUMGARTNER: In OZHA case number 19 20-05 requesting a conditional use for a residential care 20 facility for over 16 persons located at 9545 River Road in 21 Potomac, Maryland. 22 We had completed with a witness, Mr. Sloan, and now 23 we're on to the Applicant's remaining witnesses. Counsel is 24 free to call their next witness for the hearing. 25 MS. ROGERS: Great. Thank you.

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121	<p>1 Our next witness will be Logan Kelso. Before calling 2 Mr. Kelso I wanted to pause to just briefly ask the hearing 3 examiners whether, in our time remaining, you would like for 4 us to call Mr. Don Boucher to give additional testimony or 5 if you think the market analysis he had submitted into the 6 record is sufficient or if you had other questions you'd 7 like us to bring him on to answer? 8 HEARING EXAMINER BAUMGARTNER: The market analysis was 9 sufficient for me, especially in light of the withdrawal of 10 opposition and the testimony regarding the lack of 11 noninherent adverse effects. 12 Ms. Robeson-Hannan, did you have any other thoughts on 13 whether we should hear from the witness on the market 14 analysis? 15 HEARING EXAMINER ROBESON-HANNAN My only question is 16 for Mr. Brown, are you challenging staff's finding that 17 there's no noninherent adverse impacts? That's a double 18 negative. Are you challenging -- 19 MR. BROWN: Not in this case. 20 HEARING EXAMINER ROBESON-HANNAN You're reserving that 21 for other cases? 22 MR. BROWN: Absolutely. 23 HEARING EXAMINER ROBESON-HANNAN Thank you. Well with 24 that, since it's not being challenged, I think we can go on 25 the record with Mr. Boucher -- I agree with Mr. Baumgartner.</p>	123	<p>1 MR. ROBINS: So thank you very much. So with that, I'm 2 assuming -- I'm getting from the hearing examiners that Mr. 3 Boucher, if he wants to sit and listen that's -- he's more 4 than welcome to, but that you all are comfortable with the 5 study and not having to hear live testimony on that? 6 HEARING EXAMINER BAUMGARTNER: That is correct. 7 HEARING EXAMINER ROBESON-HANNAN He may be excused. 8 MR. ROBINS: Thank you. Okay. 9 Don, you -- I see you online. 10 MR. BUCHER: Yeah. 11 MR. ROBINS: I'm assuming you heard everything that 12 we've said. 13 MR. BUCHER: Thanks guys, and by the way it's [Boo' 14 chur] not [Bu' chur]. 15 MR. ROBINS: Boucher. 16 MR. BUCHER: Yeah. And I'm not going to put my tie on. 17 MS. ROGERS: Thank you. 18 MR. BUCHER: See you later. 19 MS. ROGERS: Thank you. So next up will have Mr. 20 Kelso. Would you like to swear him in before I begin? 21 HEARING EXAMINER BAUMGARTNER: Mr. Kelso, can you raise 22 your right hand, please? 23 Answer, do you swear or affirm under the penalties of 24 perjury that the testimony you're about to give is the 25 truth, the whole, and nothing but the truth?</p>
122	<p>1 MS. ROGERS: Great. 2 HEARING EXAMINER ROBESON-HANNAN We'll go on the record 3 with his report. 4 MS. ROGERS: Great. 5 HEARING EXAMINER BAUMGARTNER: And just for the record, 6 I had reviewed that market analysis, and it's very thorough. 7 It's very, very (inaudible) so this is not a single pager 8 where facts are merely summarized. It's a very detailed 9 analysis. And I have reviewed that, for the record. 10 MR. ROBINS: Mr. Baumgartner, as Ms. Rogers indicated, 11 and as I also indicated before, we had submitted that at the 12 time before we had reached agreement with our -- with the 13 community when there was a potential issue of whether there 14 was going to be a noninherent impact, and it was basically 15 based on a three-story versus a two-story, I think, 16 predominantly. 17 I and I appreciate Mr. Brown's acknowledgment that 18 the -- not only have we closed the gap completely, but that 19 he is not challenging in that issue. So that's the -- just 20 by a brief history, that's the reason why we submitted that. 21 As you heard from Mr. Sloan, we do not believe there's any 22 noninherent adverse impact, but just wanted to make sure the 23 record was clear in case that issue had (inaudible). 24 HEARING EXAMINER BAUMGARTNER: All right. 25 MS. ROGERS: Great.</p>	124	<p>1 MR. KELSO: I do. 2 (Discussion off the record; technical difficulties.) 3 HEARING EXAMINER BAUMGARTNER: Ms. Rogers, the floor is 4 yours. 5 MS. ROGERS: Thank you very much. 6 Logan, can you please state your -- and you state your 7 full name and your primary occupation? 8 MR. KELSO: Logan Kelso, professional civil engineer. 9 MS. ROGERS: And how long have you been employed -- 10 HEARING EXAMINER ROBESON-HANNAN In his business -- do 11 we have -- can you say your business address? 12 MR. ROBINS: Yeah, I'm not sure he put that on the 13 record. Thank you. 14 MR. KELSO: Yes. VIK A Maryland, LLC, 20251 Century 15 Boulevard, Suite 400, Germantown, Maryland 20874. 16 MS. ROGERS: Thank you. And how long have you been 17 employed as a civil engineer? 18 MR. KELSO: Seven years and nine months. 19 MS. ROGERS: Can you please just describe your 20 professional and educational background, any professional 21 designations or accreditations you've received? 22 MR. KELSO: A bachelor in science in civil engineering, 23 and a bachelor of science in engineering mathematics from 24 Pennsylvania State University and Waynesburg University. 25 MS. ROGERS: And are you licensed in Maryland as a</p>

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125	<p>1 professional engineer?</p> <p>2 MR. KELSO: Yes.</p> <p>3 MS. ROGERS: You stated for the record your current</p> <p>4 employer where is VIKA Maryland. What are your current</p> <p>5 positions at VIKA Maryland, and what are the</p> <p>6 responsibilities of that position?</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Well, let me just ask.</p> <p>8 We thought his resume in the record. Is there anyone</p> <p>9 that -- are you going to qualify him as an expert in civil</p> <p>10 engineering?</p> <p>11 MS. ROGERS: Yes, we'd like him to be qualified as an</p> <p>12 expert in civil engineering and site in development.</p> <p>13 HEARING EXAMINER ROBESON-HANNAN Do I hear any</p> <p>14 objections?</p> <p>15 Okay. Just to move things along --</p> <p>16 HEARING EXAMINER BAUMGARTNER: Got it.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN Mr. Baumgartner, are</p> <p>18 you comfortable with qualifying him?</p> <p>19 HEARING EXAMINER BAUMGARTNER: Looking over the resume,</p> <p>20 yes I am. He's so designated as an expert in civil</p> <p>21 engineering.</p> <p>22 MS. ROGERS: Thank you. Mr. Kelso, are you familiar</p> <p>23 with the conditional use that before the hearing examiner</p> <p>24 today?</p> <p>25 MR. KELSO: Yes.</p>	127	<p>1 project, and how it conforms with the state highway</p> <p>2 administration standards?</p> <p>3 MR. KELSO: Yes. Could we pull the slides back up, Mr.</p> <p>4 Baumgartner, please?</p> <p>5 HEARING EXAMINER BAUMGARTNER: Certainly. Just give me</p> <p>6 one second. So in front of you should be appearing 92-B.</p> <p>7 MR. KELSO: I think there may be one above this. Yes.</p> <p>8 Perfect. Right. So this exhibit on the screen shows the --</p> <p>9 HEARING EXAMINER ROBESON-HANNAN What is the number of</p> <p>10 this exhibit so we can -- so the transcript can identify it?</p> <p>11 MS. ROGERS: It's --</p> <p>12 HEARING EXAMINER ROBESON-HANNAN I mean, I know we're</p> <p>13 on number on 121, but what is this an excerpt of?</p> <p>14 MS. ROGERS: This photo was not actually included in</p> <p>15 the OZHA's record. It had been used before the Planning</p> <p>16 Board at our hearing before. But it just happens to</p> <p>17 (inaudible).</p> <p>18 HEARING EXAMINER ROBESON-HANNAN Okay. Well, I have on</p> <p>19 my screen -- I have it as page 18 of 41. So that's what</p> <p>20 we're -- of 121. So that's what we're referring to.</p> <p>21 MR. KELSO: Right. Yes. Page 18. This is a vantage</p> <p>22 point from the southeast corner of our site. As you're</p> <p>23 looking northbound at River Road, the existing vehicular</p> <p>24 access is largely uncontrolled. There is a stretch</p> <p>25 approximately 337 linear feet of parking pavement on the</p>
126	<p>1 MS. ROGERS: Can you just very briefly describe the</p> <p>2 civil engineering services provided by VIKA with respect to</p> <p>3 the conditional use?</p> <p>4 MR. KELSO: Yes. Helped with the analysis of the</p> <p>5 existing site conditions and the suitability for the site</p> <p>6 and of the proposed use. Also helped the team with site</p> <p>7 layout plans including the conditional use the site layout</p> <p>8 plan, stormwater concept, sight distance analysis and storm</p> <p>9 drain conveyance, et cetera.</p> <p>10 MS. ROGERS: Thank you. And did VIKA prepare a written</p> <p>11 civil engineering report that's part of the record?</p> <p>12 MR. KELSO: Yes. We assisted with the civil</p> <p>13 engineering components on the land use report, including the</p> <p>14 stormwater management, the vehicular access based on the</p> <p>15 required sight distance, and the fire access requirements.</p> <p>16 MS. ROGERS: And have you personally made a personal</p> <p>17 inspection of the property?</p> <p>18 MR. KELSO: I have. I was directly involved with the</p> <p>19 sight distance. I've been out on site numerous times along</p> <p>20 with a few of my other colleagues. I'm very familiar.</p> <p>21 MS. ROGERS: Wonderful. I know others have</p> <p>22 described -- Mr. Sloan testified of about the vehicular</p> <p>23 access circulation, but from your civil engineering</p> <p>24 perspective of some of the more technical aspects, could you</p> <p>25 please describe the vehicular access and circulation of the</p>	128	<p>1 current site today that connects with River Road and</p> <p>2 approximately 115 feet of that is uncontrolled site access.</p> <p>3 Next slide, please.</p> <p>4 And this is the enlargement colorization of Exhibit</p> <p>5 92-B. This slide is an overlay of our project showing that</p> <p>6 we will provide vehicular access via two controlled one-way</p> <p>7 movements as previously testified by Mr. Sloan in great</p> <p>8 detail. But these were specifically located to meet the SHA</p> <p>9 site stopping distance requirements. The entrance is on the</p> <p>10 blue highlighted section on the plan right, for the</p> <p>11 southeast corner.</p> <p>12 The entrance is approximately 200 linear feet from the</p> <p>13 southeast property corner, as compared to the pavement today</p> <p>14 which is the light gray highlight -- the existing pavement</p> <p>15 starts today at approximately 48 linear feet from the</p> <p>16 southeast property corner. The improvement with this</p> <p>17 project further spaces the controlled entrance into the site</p> <p>18 from the confronting single-family driveway improving the</p> <p>19 entrance condition. The exit is on the plan left,</p> <p>20 approximately 73 linear feet from the southwest property</p> <p>21 corner. In this is further up the vertical curve on River</p> <p>22 Road, yet also improving the safe exit from the site.</p> <p>23 MS. ROGERS: Thank you. And does of the proposed exits</p> <p>24 meet the standards for the state highway administration?</p> <p>25 MR. KELSO: Our sight distance study has been reviewed</p>

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<p>129</p> <p>1 by SHA and confirmed that the access as proposed meets SHA 2 requirements. As previously testified to by Mr. Sloan there 3 is significant grading proposed in connection with the 4 application which dramatically improves the sight distance 5 from what exists today.</p> <p>6 Would you please go to the next slide, Mr. Baumgartner?</p> <p>7 This is a reproduction of Exhibit 101. This is an 8 exhibit of the entrance and our SHA site, and stopping sight 9 distance study. The studies the two vehicles traveling 10 north and both southbound on River Road making a right, or 11 making a left into the site. So this study is whether the 12 cars behind have enough stopping sight distance from the 13 time that they see the car turning into the site. This also 14 studies the cars turning left into the site coming 15 southbound and making sure that there's adequate sight 16 distance for the cars going northbound. All three of these 17 movements far exceeded the SHA distance requirements.</p> <p>18 Next slide please. Oh sorry, up one.</p> <p>19 So this is a reproduced action of Exhibit 101. This is 20 the exit from the site and our SHA sight distance analysis 21 for this. And this is for the cars turning out of the site 22 northbound and southbound onto River Road. This also 23 studied the stopping sight distance required for the cars 24 coming -- to the vehicles turning out as well. But the 25 sight distances at the intersection were greater than those</p>	<p>131</p> <p>1 sewer capacity through a hydraulic planning analysis at the 2 time of the preliminary plan. And the gas, electric, 3 telephone, and cable utilities are all available to the site 4 through connections of the existing services. As previously 5 testified, given that the preliminary plan is subsequently 6 required, the Planning Board will make a detailed finding 7 regarding the adequacy of the public facilities in proving 8 the preliminary plan.</p> <p>9 MS. ROGERS: Thank you. And is the storm water 10 management concept plan required for this project?</p> <p>11 MR. KELSO: Yes. Storm water concept approval is 12 typically not required at the time of conditional use 13 approval whereas preliminary plan is substernal required. 14 We did prepare and have the storm water management concept 15 plan approved for this project. In addition to preparing 16 the plan, we also had soil borings tested for the soil 17 characteristics. We have announced a head start on the 18 final engineering. Next slide, please.</p> <p>19 This is an excerpt from Exhibit 69. There's 20 significant imperviousness onsite where a water sheet flows 21 over the site untreated, and there is no storm water 22 management on the site today. Next slide please.</p> <p>23 I think this is slide 23.</p> <p>24 MS. ROGERS: Yes.</p> <p>25 HEARING EXAMINER BAUMGARTNER: Okay.</p>
<p>130</p> <p>1 stopping sight distances. So with that, all the movements 2 exceeded SHA distance requirements.</p> <p>3 In conclusion, we -- not only because the sight 4 distance plans demonstrate that we meet the minimum 5 requirements of but we actually exceed the standards, and 6 based on the current access points shown on the conditional 7 use they are safe and efficient based on the driveway 8 spacing distance requirement -- sight distance requirements, 9 closest speed surrounding streets and as previously 10 mentioned, the additional landscaping and berming will not 11 impact the sight distance.</p> <p>12 MS. ROGERS: Thank you. I know Mr. Sloan testified 13 earlier to the fire access. Do you agree with his 14 conclusion that there is adequate fire access to the site?</p> <p>15 MR. KELSO: Yes, I agree with Josh Sloan -- Mr. Sloan's 16 prior testimony conclusions with the stated revisions.</p> <p>17 MS. ROGERS: Thank you. Have you evaluated the 18 availability of water, sewer, gas and other utilities at 19 this location and are capacities adequate to serve the 20 proposed development?</p> <p>21 MR. KELSO: Yes. There is adequate gas, electric, 22 power, water and sewer. The property is located in the 23 Washington Suburban Sanitary Commission or the WSSC in a 24 water and sewer category one meaning that there is water 25 availability to the site. WSSC will evaluate the water and</p>	<p>132</p> <p>1 MR. KELSO: Sustainable decrease in the permeable area. 2 So this is a side-by-side comparison of the drastic 3 reduction of imperviousness from existing conditions to the 4 proposed conditions. Next slide, please.</p> <p>5 So this is a colorized reproduction enlargement of 6 Exhibit 95-A. The green highlighted areas are storm water 7 management facilities throughout the site. They are graded 8 in planter style microbio retention facilities. We 9 strategically placed them throughout the site to be as close 10 to the source as possible, meaning that the roof drains 11 connect directly into the facilities, the curb cuts from the 12 pavement allow for flow directly into the facilities 13 catching the dirtiest water at the source. Next slide, 14 please.</p> <p>15 This is a colorized reproduction enlargement, and the 16 blue highlight is the drainage area on the site that is 17 captured and treated stormwater management facilities. With 18 this approval design to the maximum extent practicable, 19 upwards of 96 percent of the target EST volume was achieved.</p> <p>20 And in conclusion, storm water management is provided 21 for the site, DPS has approved our most recent storm water 22 management concept plan. DPS being Montgomery County 23 Department of Permitting Services.</p> <p>24 MS. ROGERS: And I believe DPS's approval letter is 25 Exhibit 115 in the record. Thank you.</p>

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133	<p>1 Can you please describe your evaluations regarding the</p> <p>2 safe conveyance of water from the site?</p> <p>3 MR. KELSO: Yes. Given that the preliminary plan, as</p> <p>4 subsequently required Montgomery County Department of</p> <p>5 Transportation will formally review the storm drain capacity</p> <p>6 and impact analysis, which requires an approval prior to</p> <p>7 preliminary plan approval. Again, in anticipation of this</p> <p>8 requirement and to confirm the safe conveyance we prepared</p> <p>9 the analysis.</p> <p>10 I'm sorry, can you please go to the next slide, Mr.</p> <p>11 Baumgartner?</p> <p>12 HEARING EXAMINER BAUMGARTNER: Sure.</p> <p>13 MR. KELSO: This is, I believe, slide 26.</p> <p>14 MS. ROGERS: Correct.</p> <p>15 MR. KELSO: So this is a sheet from our storm drain</p> <p>16 analysis study. Remodeled the contributing drainage areas</p> <p>17 off-site that convey through our site as well as our own</p> <p>18 site and impact, our study point was the northeast corner.</p> <p>19 Yeah, at point D. Yes.</p> <p>20 The proposed development does not negatively modify the</p> <p>21 drainage pattern to the outfall on the side, meaning that</p> <p>22 we're not taking water from one drainage divide and adding</p> <p>23 it to another one that does not have capacity. It stays</p> <p>24 within the same drainage divide. We perform field visits to</p> <p>25 analyze the safe conveyance including evaluating the</p>	135	<p>1 Thank you.</p> <p>2 HEARING EXAMINER BAUMGARTNER: I had one quick</p> <p>3 question. One exhibit that still -- it should still be up</p> <p>4 on your screen, Page 26.</p> <p>5 MR. KELSO: Yeah.</p> <p>6 HEARING EXAMINER BAUMGARTNER: Exhibit 121. Am I</p> <p>7 reading this correctly that if you look at what's marked C</p> <p>8 and then it reads as an open channel flow; is that water</p> <p>9 that sheets across River Road or does it go underneath River</p> <p>10 Road or am I reading that incorrectly?</p> <p>11 MR. KELSO: So at a certain length in the modeling</p> <p>12 process it is considered open channel whether that's an open</p> <p>13 swale; it can be a grass swale or it can be a culvert, it</p> <p>14 can be an open channel culvert. So from point C it begins</p> <p>15 the open channel flow or a flow through a grass channel into</p> <p>16 the low point in River Road where there is inlets that</p> <p>17 collect it into a pipe system that gets piped through the</p> <p>18 site and outfall and discharges at the study point.</p> <p>19 HEARING EXAMINER BAUMGARTNER: Okay. Thank you.</p> <p>20 MR. KELSO: You're welcome.</p> <p>21 HEARING EXAMINER BAUMGARTNER: Any other questions for</p> <p>22 Mr. Kelso?</p> <p>23 HEARING EXAMINER ROBESON-HANNAN I have one. Where is</p> <p>24 the riprap you referred to?</p> <p>25 MR. KELSO: So actually it's -- if you pull that last</p>
134	<p>1 existing riprap culvert to channel off-site. Our analysis</p> <p>2 yielded results that there's no over banking to the existing</p> <p>3 channel and proposed conditions, and with this chart was</p> <p>4 decreased by approximately 10 percent from existing to</p> <p>5 proposed conditions due to the reduction in imperviousness.</p> <p>6 In our conclusion is that our analysis yielded a decrease in</p> <p>7 peak discharge of the stormwater and a safe conveyance of</p> <p>8 water in the existing riprap channel.</p> <p>9 MS. ROGERS: Thank you. And is the property located in</p> <p>10 a special protection area?</p> <p>11 MR. KELSO: No.</p> <p>12 MS. ROGERS: So are any additional water quality</p> <p>13 measures required?</p> <p>14 MR. KELSO: No additional water quality measures are</p> <p>15 required.</p> <p>16 MS. ROGERS: And in your professional opinion, does the</p> <p>17 proposed conditional use satisfy all applicable code</p> <p>18 requirements?</p> <p>19 MR. KELSO: Yes.</p> <p>20 MS. ROGERS: And you have anything else you would like</p> <p>21 to add?</p> <p>22 MR. KELSO: It's been a fun project so far. I look</p> <p>23 forward to the final engineering and moving forward with</p> <p>24 this. And I think that will conclude my testimony.</p> <p>25 MS. ROGERS: Perfect. We have no further questions.</p>	136	<p>1 exhibit back up, it starts at approximately point D at the</p> <p>2 property line. So the existing site had a corrugated metal</p> <p>3 pipe that ends at approximately the property line and it</p> <p>4 turns to an existing riprap channel which further -- if you</p> <p>5 follow it down there's a line that connects to the wet</p> <p>6 channel.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Okay. I see it.</p> <p>8 Thank you.</p> <p>9 MR. KELSO: You're welcome.</p> <p>10 HEARING EXAMINER BAUMGARTNER: Any other questions for</p> <p>11 Mr. Kelso?</p> <p>12 Seeing none, that's the close of his testimony.</p> <p>13 Back over to you counsel.</p> <p>14 MR. ROBINS: Thank you. Our next witness is Brian Van</p> <p>15 Winkle the architect for the project.</p> <p>16 Mr. Baumgartner, I'll leave it to you to swear him in,</p> <p>17 please.</p> <p>18 HEARING EXAMINER BAUMGARTNER: Sure. Let's see if we</p> <p>19 can find him.</p> <p>20 MR. ROBINS: Brian can you -- oh, he's right above</p> <p>21 Madam Hearing Examiner, in my screen.</p> <p>22 HEARING EXAMINER BAUMGARTNER: There you are, sir.</p> <p>23 Welcome, welcome. Could you please raise your right</p> <p>24 hand?</p> <p>25 Do you swear or affirm under the penalties of perjury</p>

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137	<p>1 that the testimony you're about to give is the truth, the</p> <p>2 whole truth, and nothing but the truth?</p> <p>3 MR. VAN WINKLE: I do.</p> <p>4 HEARING EXAMINER BAUMGARTNER: And sir, what is your</p> <p>5 full name and please give us your professional address as</p> <p>6 well.</p> <p>7 MR. VAN WINKLE: Brian Van Winkle. And Vessel</p> <p>8 Architecture and Design, Inc. is my company, located at 600</p> <p>9 Emerson Road, Suite 401, St. Louis, Missouri 63141.</p> <p>10 MR. ROBINS: Okay. To the hearing examiners, we are</p> <p>11 going to want to qualify Mr. Van Winkle as an expert in</p> <p>12 architecture. His resume has been submitted into the</p> <p>13 record, I think in multiple locations. And I don't know if</p> <p>14 you've had a chance to actually review his resume. He has</p> <p>15 24 years of experience as an architect --</p> <p>16 HEARING EXAMINER ROBESON-HANNAN I -- excuse me. I did</p> <p>17 review it. I had a question whether he was licensed in</p> <p>18 Maryland.</p> <p>19 MS. ROGERS: So Mr. Van Winkle you can --</p> <p>20 HEARING EXAMINER ROBESON-HANNAN Well don't --</p> <p>21 MR. ROBINS: I'm sorry.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN Yeah. Go ahead.</p> <p>23 MR. ROBINS: I was going to say he can answer that.</p> <p>24 Brian?</p> <p>25 MR. VAN WINKLE: Yes. No, I'm not currently licensed</p>	139	<p>1 HEARING EXAMINER BAUMGARTNER: I did not.</p> <p>2 HEARING EXAMINER ROBESON-HANNAN Well, then if you want</p> <p>3 to qualify him that's okay with me.</p> <p>4 HEARING EXAMINER BAUMGARTNER: Sure. Having reviewed</p> <p>5 the resume and the questions asked by the hearing examiner,</p> <p>6 we'll qualify Mr. Van Winkle as an expert in architecture.</p> <p>7 Are there any other related areas that your testimony might</p> <p>8 go into other than architecture?</p> <p>9 MR. VAN WINKLE: I don't believe so.</p> <p>10 HEARING EXAMINER BAUMGARTNER: Okay. So it will just</p> <p>11 be architecture.</p> <p>12 MR. ROBINS: Thank you very much.</p> <p>13 HEARING EXAMINER BAUMGARTNER: Back to you.</p> <p>14 MR. ROBINS: In Mr. Van Winkle, you've testified on</p> <p>15 multiple other applications in other jurisdictions similar</p> <p>16 to this, correct?</p> <p>17 MR. VAN WINKLE: Yes.</p> <p>18 MR. ROBINS: Would you describe your responsibilities</p> <p>19 with regard to the conditional use application?</p> <p>20 MR. VAN WINKLE: Sure. Yeah. As the architect I've</p> <p>21 been responsible for designing a senior living building</p> <p>22 that's compatible with the community and working closely</p> <p>23 with our team and community stakeholders to design a</p> <p>24 building that's a beautiful and harmonious with the</p> <p>25 neighborhood. And also meeting the highly technical code,</p>
138	<p>1 in Maryland.</p> <p>2 MR. ROBINS: But are you planning on receiving that</p> <p>3 license when the project is built and the plans go in for</p> <p>4 permanent (inaudible)?</p> <p>5 MR. VAN WINKLE: Yes. So I'll elaborate; at the</p> <p>6 beginning of each project that we do in another state we do</p> <p>7 a research process on licensure and when we're required to</p> <p>8 be licensed in that state. And in talking to the Maryland</p> <p>9 Board of Architects they communicated to us that we did not</p> <p>10 need to be licensed until the project moved into</p> <p>11 construction documents.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN Okay. Usually when we</p> <p>13 have this and we qualify someone as an expert in</p> <p>14 architecture they're either licensed or working with someone</p> <p>15 who is licensed. But would you say you're familiar with the</p> <p>16 requirements of Maryland law in architecture?</p> <p>17 MR. VAN WINKLE: Yes, absolutely. And beyond that I'm</p> <p>18 a long-standing member of the American Institute of</p> <p>19 Architecture and certified by the National Counsel of</p> <p>20 Architectural Registration boards which is recognized by the</p> <p>21 State of Maryland as the accreditation body for licensure in</p> <p>22 Maryland.</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Okay. That's good. A</p> <p>24 good answer. Thank you.</p> <p>25 Did you have any questions, Derek?</p>	140	<p>1 health, safety and wellness requirements inherent in senior</p> <p>2 living design.</p> <p>3 MR. ROBINS: And have you -- you're familiar with the</p> <p>4 conditional use, obviously that we are speaking about today.</p> <p>5 Have you worked with Spectrum over the years?</p> <p>6 MR. VAN WINKLE: Yes. We've worked with Spectrum for</p> <p>7 many years now. I believe it's around 12 years.</p> <p>8 MR. ROBINS: And have you had an opportunity to visit</p> <p>9 the site, and are you familiar with the surrounding area?</p> <p>10 MR. VAN WINKLE: Yes. We've spent time walking and</p> <p>11 touring the surrounding neighborhoods, and recorded</p> <p>12 observations about prevalent architectural styles, style,</p> <p>13 scale of nearby homes, et cetera.</p> <p>14 MR. ROBINS: In did the research that you perform, did</p> <p>15 that form the basis of sorting your architectural</p> <p>16 formulation of ideas and concepts for the project?</p> <p>17 MR. VAN WINKLE: Yes, it did.</p> <p>18 MR. ROBINS: And based upon your observation during</p> <p>19 your site visits, can you please describe the architectural</p> <p>20 character of the surrounding community?</p> <p>21 MR. VAN WINKLE: Sure. The surrounding (inaudible) --</p> <p>22 MR. ROBINS: Do you want the -- excuse me. Do you want</p> <p>23 the slides pulled up?</p> <p>24 MR. VAN WINKLE: Yes, actually I'll be referring to, I</p> <p>25 believe it will be slide 27. It will come right after Mr.</p>

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<p>141</p> <p>1 Kelso's slide.</p> <p>2 MR. ROBINS: Thank you.</p> <p>3 MR. VAN WINKLE: We provided some images of houses in</p> <p>4 the surrounding neighborhoods. There is a rich mix of</p> <p>5 architectural styles that vary from classic Georgian to much</p> <p>6 more modern and contemporary homes. And you can see there's</p> <p>7 also some rococo mixed in there. And you know, ultimately</p> <p>8 as we analyzed the sort of architectural fabric of the</p> <p>9 surrounding community we realize that the prominent style,</p> <p>10 is decidedly Georgian, but there's a sort of contemporary</p> <p>11 flair that's quite nice in the surrounding neighborhood. So</p> <p>12 it gave us lots of design options, directions that we could</p> <p>13 take the design of the building.</p> <p>14 MR. ROBINS: Are a lot of the homes around the subject</p> <p>15 site very large homes; almost estate style homes?</p> <p>16 MR. VAN WINKLE: Yeah. There is, you know, many of</p> <p>17 them are on an estate scale. Mostly two stories, but many</p> <p>18 of them have fairly grand walkout basements and so they are</p> <p>19 essentially three stories on the rear of the residences. So</p> <p>20 quite tall, and very proud roof lines, with steeper pitches</p> <p>21 as well.</p> <p>22 And I think we can go ahead and page to the next slide,</p> <p>23 here.</p> <p>24 MR. ROBINS: And how has the design of the building</p> <p>25 that you designed been influenced by its surroundings?</p>	<p>143</p> <p>1 variety to help break down the scale. To use those</p> <p>2 materials in the sort of textural quality of materials to</p> <p>3 create human scale places throughout the design, and also to</p> <p>4 take the opportunity to introduce materials like wood and to</p> <p>5 bring the landscape architecture and planting sort of into</p> <p>6 the design of the building. Not just right up next to the</p> <p>7 building, but also bring some of the plantings into the</p> <p>8 architecture itself.</p> <p>9 MR. ROBINS: And what type of amenities are in the</p> <p>10 building itself?</p> <p>11 MR. VAN WINKLE: Yeah sure. So rich with amenities</p> <p>12 that are all designed to support wellness and healthy</p> <p>13 lifestyles. We have a pub, a cafe, tech and media center,</p> <p>14 various social spaces, a rooftop terrace and a nature trail</p> <p>15 for the residents to be able to enjoy the surrounding</p> <p>16 landscape.</p> <p>17 MR. ROBINS: Now, I see the hearing examiner is moving</p> <p>18 the next set of slides which he must be anticipating that</p> <p>19 we're going to use; correctly. And I'm going to ask you a</p> <p>20 couple of questions for you to respond to these slides.</p> <p>21 Did the building design evolve from your initial</p> <p>22 concept based on interactions with the community and the</p> <p>23 park and planning staff?</p> <p>24 MR. VAN WINKLE: Yes, absolutely. And so I think we</p> <p>25 can go ahead and page to the next slide there.</p>
<p>142</p> <p>1 MR. VAN WINKLE: Sure. So the architectural language</p> <p>2 is designed to be controlled and sophisticated, reflecting</p> <p>3 that Georgian style that's prevalent in the area. In the</p> <p>4 presence of so many modern contemporary home designs gave us</p> <p>5 an opportunity to infuse the design with a contemporary</p> <p>6 aesthetic. And ultimately, the context led us to a design</p> <p>7 that I would describe as contemporary Georgian.</p> <p>8 Let's keep moving on the slides. Here we go. As you</p> <p>9 can see, there's just a rich variety of houses, some of</p> <p>10 which are quite large. There's a more contemporary looking</p> <p>11 home.</p> <p>12 MR. ROBINS: And how did the context inform your</p> <p>13 decision-making?</p> <p>14 MR. VAN WINKLE: Yeah. Sure. Well, we are keenly</p> <p>15 aware that we're designing a home for our elders. And so we</p> <p>16 want to design that home that's fitting, not just for our</p> <p>17 elders, but also fits in the area, fits in the neighborhood.</p> <p>18 In the best designed homes are immediately comforting,</p> <p>19 relatable, and inviting. Then as we designed this building</p> <p>20 it was important to employ fundamental principles of home</p> <p>21 designed to inspire feelings of comfort and refuge.</p> <p>22 MR. ROBINS: And how about building materials and that</p> <p>23 sort?</p> <p>24 MR. VAN WINKLE: Yeah, sure. So you know, for the</p> <p>25 materiality of the building it was important to have a rich</p>	<p>144</p> <p>1 HEARING EXAMINER ROBESON-HANNAN For the record, we're</p> <p>2 at page 32 of 41.</p> <p>3 MR. ROBINS: Thank you.</p> <p>4 MR. VAN WINKLE: Thank you. So yes, the design's gone</p> <p>5 through several dramatic iterations actually, based on our</p> <p>6 collaboration with key stakeholders in the community, as</p> <p>7 well as staff. And early in the process we presented this</p> <p>8 design that you see on this slide to staff and members of</p> <p>9 the community that was around April and then again in June</p> <p>10 of 2019. In informal meetings that we conducted with the</p> <p>11 staff and neighbors we also presented our initial plans and</p> <p>12 building design to the larger community at West Montgomery</p> <p>13 County Citizens Association on October 9th before we filed</p> <p>14 for the project.</p> <p>15 The feedback we received from those early meetings was</p> <p>16 generally positive. People noted the restrained elegant</p> <p>17 detailing of this design and the sophisticated proportions</p> <p>18 but some of the stakeholders pointed out that the colors</p> <p>19 were bland and thought that the roofline was boring. We</p> <p>20 felt like those comments were very perceptive, helpful, and</p> <p>21 on point so we really appreciated that feedback and</p> <p>22 immediately started working on making adjustments to the</p> <p>23 design. So if you can see at the bottom of that slide --</p> <p>24 MR. ROBINS: Which slide are you referring to?</p> <p>25 MR. VAN WINKLE: Slide 32. It's not showing up on my</p>

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<p>145</p> <p>1 screen right now, but if you go down one more image. So we 2 made adjustments to make the building look like this. 3 MR. ROBINS: So this is slide 33. 4 MR. VAN WINKLE: We're on slide 33 now, sorry. I 5 couldn't see the page break. 6 MR. ROBINS: Okay. 7 MR. VAN WINKLE: Thanks. Yeah, of collaboration led us 8 to a much more compatible design that harmonizes the 9 architectural fabric of the community. A much richer, 10 warmer, natural materials you can see are introduced into 11 this version of the design. We used the material and the 12 color to break down the mass of the building into smaller, 13 more residential scale masses, and we introduced more human 14 scale design elements like operable shutters, cornices, 15 chimneys, and residential style windows and trim elements. 16 And then we dramatically increase the landscape around the 17 building, the buffering, but also up against the building. 18 So if we could keep going to slide 34. So then, you 19 know, the most significant revision that we made was to 20 reduce the building from three to two stories. You know, 21 while we had believed that the three-story building was 22 compatible with the surrounding residential homes, we 23 recognize that our neighbors felt differently about that. 24 And therefore, as a result of that collaboration and after 25 considerable redesign effort, we figured out how to</p>	<p>147</p> <p>1 appear. 2 MR. ROBINS: Do you think the project, in your opinion, 3 is that through negotiation and working with the community 4 and Mr. Brown actually results in a better project? 5 MR. VAN WINKLE: Absolutely. 6 MR. ROBINS: Okay. Have you reviewed the 2002 Potomac 7 Subregion Master Plan? 8 MR. VAN WINKLE: Yes. 9 MR. ROBINS: When you've heard Mr. Sloan's testimony on 10 the master plan from my conformance to the master plan. I 11 just would like to -- that's correct, right? 12 MR. VAN WINKLE: Yes, I have. 13 MR. ROBINS: Okay. I'd like for you just to run 14 through some of the recommendations of the master plan in 15 terms of how they sort of fit into your level of expertise 16 referring to the architectural detail and design, the 17 massing and that information; if you could just briefly for 18 the hearing examiner just tell them your opinion of that. 19 MR. VAN WINKLE: Oh absolutely. Be glad to. So Mr. 20 Sloan's already testified regarding the site design 21 elements, so I'll just comment on building design. The 22 basic intent of the master -- 23 MR. ROBINS: Excuse me one minute, Brian. Would you -- 24 I think you want to go to slide 37? I think that's the one 25 that you want.</p>
<p>146</p> <p>1 eliminate the third story to address the community's 2 concern. This was not a simple task but it resulted in a 3 major reduction of building height that further enhance the 4 compatibility with the community. 5 These images that you see here are of the final design. 6 HEARING EXAMINER ROBESON-HANNAN So here, you're 7 looking at page 34 of 121? 8 MR. ROBINS: Right. 9 MR. VAN WINKLE: Yeah. And if you could go ahead and 10 page to the next slide, we'll just look at some of the other 11 renderings of the finished design. The final design. 12 MR. ROBINS: And did you also design notches in the 13 front of the building along the river road frontage to 14 minimize the massing of the building? 15 MR. VAN WINKLE: Yes, we did. And unfortunately, 16 they're just out of the frame in this particular rendering. 17 MR. ROBINS: I think you might be able to see it on the 18 slide before that. 19 MR. VAN WINKLE: Perhaps. One of the features of the 20 design is that, you know, these renderings that you see are 21 actually quite accurate with respect to the location of the 22 landscaping. And the building is so heavily landscaped that 23 there, you know, in these renderings you don't see a lot of 24 the building and that's very much on purpose and very 25 realistic to, you know, how the project will actually</p>	<p>148</p> <p>1 MR. VAN WINKLE: Sure. We can just leave it there. 2 That's the one. 3 MR. ROBINS: Yeah that's good. Thank you. 4 MR. VAN WINKLE: The final slide showing the final 5 design. Thank you, Steve. 6 So you, the basic intent of the master plan 7 recommendations as regards to the design of the building is 8 to preserve the residential character and protect the 9 residential areas, and ensure compatibility with the 10 surrounding neighborhood. 11 And so we basically accomplished that in sort of two 12 primary modes. You know, one was through the architectural 13 design and detailing, and per my earlier comments and as you 14 can see with the renderings that we've shown, we took great 15 care to emphasize the residential appearances in keeping 16 with the surrounding homes. And then, when it comes to the 17 massing of the building we massed the building in such a way 18 as to make the building read as multiple smaller buildings. 19 The -- yeah, I don't want to comment too much on the 20 landscaping, you know, because Josh has already covered 21 that. But I would just like to emphasize that the 22 collaboration between our office as the architect and Josh 23 and his teams, the landscape architect, was really an 24 important part of the design. Then, you know, we 25 collaborated to design the river road landscaping to reduce</p>

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<p>149</p> <p>1 views of the building and created new park like greenway 2 along River Road. As you can see in this rendering that 3 greenway is really going to be a nice asset to the community 4 with ample width for joggers, people walking, and bicycles, 5 et cetera. 6 MR. ROBINS: Significantly different than what's there 7 today? 8 MR. VAN WINKLE: Significantly better, yes. 9 MR. ROBINS: And are you familiar with the Montgomery 10 County Zoning Ordinance, and the provisions of the RE2 zone 11 and how they relate to the design and development components 12 of this project? 13 MR. VAN WINKLE: Yes. Before beginning the design we 14 performed a detailed review. 15 MR. ROBINS: And did you find that the project meets or 16 exceeds these requirements? 17 MR. VAN WINKLE: Yes. Yes it does. 18 MR. ROBINS: Okay. And lastly, the zoning ordinance 19 section 7.3.1.E.1.d requires that the proposed development 20 be harmonious with, and will not alter the character of the 21 surrounding neighborhood in a manner inconsistent with the 22 plan. In your opinion, -- expert opinion as an architect, 23 please explain how this is harmonious and compatibility with 24 the surrounding area is achieved. 25 MR. VAN WINKLE: Sure. First, a contemporary Georgian</p>	<p>151</p> <p>1 HEARING EXAMINER BAUMGARTNER: Any questions from 2 anyone else for Mr. Van Winkle? 3 Ms. Robeson-Hannan, any questions? 4 HEARING EXAMINER ROBESON-HANNAN No, thank you. 5 HEARING EXAMINER BAUMGARTNER: I'm going through my 6 notes. 7 MR. ROBINS: We did try to truncate the testimony and I 8 appreciate, Brian, your thoroughness with the responses in 9 an expeditious fashion. Thank you. 10 MR. VAN WINKLE: Glad to help. 11 HEARING EXAMINER ROBESON-HANNAN Before we get to the 12 next witness I do see, I think Mr. Albert, Joel Albert may 13 still be on the meeting. I'm not sure. But we did post -- 14 he sent me an email during the recess and it is posted on 15 our website. 16 And Mr. Albert, if you're there we did receive it and 17 we will consider it. Thank you. 18 Sorry for that interruption. Go ahead, Mr. Robins. 19 MR. ROBINS: Okay. 20 HEARING EXAMINER ROBESON-HANNAN Thank you Mr. Van 21 Winkle. 22 MR. ROBINS: Okay. We have our last witness. I say 23 last, but not least because of all that -- well, you 24 certainly are familiar with this witness. I'd like to call 25 Nancy Randall who is with Wells + Associates as an expert in</p>
<p>150</p> <p>1 design style that I mentioned earlier reflects that 2 predominant style in the surrounding neighborhoods. Second, 3 residential design principles that create a home for our 4 elders, and just by nature of creating a home that looks 5 like a home, feels like a home, and is a home, it will be a 6 nice fit in the neighborhood. 7 Third, sensitive treatment of massing and materials to 8 reduce the scale of the building. And fourth, careful 9 crafting of the landscape to minimize the building and 10 enhance the public trail system. 11 MR. ROBINS: And I know that we repeated this a number 12 of times, but just comment on how you think all this was 13 achieved; the important factors. 14 MR. VAN WINKLE: Yeah sure. No, I appreciate that. 15 You know, I think I've covered sort of architectural 16 toolbox, if you will, of design strategies in sort of how we 17 tackled the design of the building to make it compatible, 18 but I think that the most important how, for this project 19 was collaboration with the community. It was not an easy 20 process, but it was a really fruitful collaboration and in 21 this case I have to compliment all the stakeholders that 22 engaged with us and helped us design a successful project. 23 MR. ROBINS: Is there anything else you'd like to add? 24 MR. VAN WINKLE: No. 25 MR. ROBINS: That's all I have.</p>	<p>152</p> <p>1 transportation planning. 2 HEARING EXAMINER ROBESON-HANNAN Anne. No, she's a 3 planner, not an (inaudible), get it straight. 4 MS. RANDALL: It's Annie that he teases me with. He 5 always pronounces the E at the end. 6 MR. ROBINS: I almost said Anne Nancy Randall. But you 7 know, I just -- the ramifications are too difficult on that 8 one. 9 MS. RANDALL: It's Anne. I don't mind Anne. It's 10 fine. 11 MR. ROBINS: So could you state your -- well, excuse 12 me. 13 Mr. Hearing Examiner I also forgot to allow you to do 14 your thing. 15 HEARING EXAMINER BAUMGARTNER: Ms. Randall, can you 16 raise your right hand, please? 17 And ma'am, do you swear or affirm under the penalties 18 of perjury that the testimony you're about to give is the 19 truth, the whole truth, and nothing but the truth? 20 MS. RANDALL: I do. 21 HEARING EXAMINER BAUMGARTNER: And please state your 22 full name and professional address for the record. 23 MS. RANDALL: Yes. My full legal name is Anne Murray 24 Randall. I go by Nancy. My business address is 1110 25 Bonafant Street in Silver Spring, Suite 210. And I work for</p>

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153	<p>1 Wells + Associates.</p> <p>2 (Discussion off the record; technical difficulties.)</p> <p>3 MR. ROBINS: So to the hearing examiners, I would like</p> <p>4 to qualify Ms. Randall as an expert in transportation</p> <p>5 planning. She's been before you multiple times. If you'd</p> <p>6 like me to qualify her I'm happy to do it, unless you feel</p> <p>7 that you can go based on her resume in your past experience;</p> <p>8 I leave that to you.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN She has qualified as a</p> <p>10 transportation planner many times, so I'm willing to accept</p> <p>11 her, unless Mr. Baumgartner has a different opinion.</p> <p>12 HEARING EXAMINER BAUMGARTNER: Not at all. She is so</p> <p>13 designated as an expert in transportation planning, barring</p> <p>14 no objections from anyone else on the line right now.</p> <p>15 MR. ROBINS: Thank you.</p> <p>16 HEARING EXAMINER BAUMGARTNER: She is so designated.</p> <p>17 MR. ROBINS: Okay. Thank you so much.</p> <p>18 Ms. Randall, have you prepared traffic reports and</p> <p>19 provided expert testimony in connection with this facility?</p> <p>20 MS. RANDALL: I have.</p> <p>21 MR. ROBINS: Okay. I want to get into the specifics of</p> <p>22 your analysis as it relates to the property in the proposed</p> <p>23 use. And first and foremost, you're familiar with the</p> <p>24 zoning ordinance requirements that the Petitioner must</p> <p>25 satisfy, which requires that the conditional use application</p>	155	<p>1 Based on the results of the trip generation comparison</p> <p>2 using ITE and then the adjustment factors as required by</p> <p>3 LATR this site actually reduces the potential for person</p> <p>4 trips as well as vehicle trips. And therefore, met the</p> <p>5 criteria for providing just a traffic statement.</p> <p>6 MR. ROBINS: Is that the excerpt that the hearing</p> <p>7 examiner is showing on the --</p> <p>8 MS. RANDALL: Yes, that's correct. The trip generation</p> <p>9 table is that there. I believe that my traffic statement</p> <p>10 letter is -- that contained this trip generation table is in</p> <p>11 the record so I'm not going to go through all of those</p> <p>12 details. But staff agreed with our conclusions and accepted</p> <p>13 this trip generation table and qualifications for just the</p> <p>14 statement of traffic impact.</p> <p>15 MR. ROBINS: And the Planning Board accepted that as</p> <p>16 well?</p> <p>17 MS. RANDALL: They did.</p> <p>18 MR. ROBINS: Did you also review the proposed plans for</p> <p>19 vehicular access?</p> <p>20 MS. RANDALL: I did. One --</p> <p>21 MR. ROBINS: And -- I'm sorry. Go ahead. No, no, go</p> <p>22 ahead.</p> <p>23 MS. RANDALL: One of my concerns, if you look at the</p> <p>24 existing, and I believe there is a photograph it's going to</p> <p>25 come up, the next exhibit, if you look at this exhibit, you</p>
154	<p>1 not cause undue harm with respect to traffic and that there</p> <p>2 be adequate traffic capacity for the proposed use?</p> <p>3 MS. RANDALL: I am.</p> <p>4 MR. ROBINS: Thank you. And are you familiar with</p> <p>5 the -- I think you already answered, you're familiar with</p> <p>6 the conditional use application which is before the hearing</p> <p>7 examiners today?</p> <p>8 MS. RANDALL: Yes.</p> <p>9 MR. ROBINS: And have you made a personal inspection of</p> <p>10 the site? Are you familiar with the area surrounding the</p> <p>11 property?</p> <p>12 MS. RANDALL: I am. And yes, I did.</p> <p>13 MR. ROBINS: Please describe your responsibilities</p> <p>14 regarding this application.</p> <p>15 MS. RANDALL: When we first started the project, since</p> <p>16 there is an existing use on the side, the first thing that</p> <p>17 we did was to determine whether or not this project would be</p> <p>18 required to do a complete LATR traffic impact study versus a</p> <p>19 traffic statement.</p> <p>20 Based on conversations with park and planning staff, we</p> <p>21 submitted to them a comparison of the trip generation for</p> <p>22 the property under the existing special exception versus the</p> <p>23 proposed conditional use application. That was a comparison</p> <p>24 of a garden center/nursery versus the 130 bed assisted</p> <p>25 living facility.</p>	156	<p>1 can see --</p> <p>2 HEARING EXAMINER ROBESON-HANNAN And that's page 39 of</p> <p>3 the Exhibit 121.</p> <p>4 MS. RANDALL: That's correct. And this actually only</p> <p>5 shows part of the opening. The opening that's shown there</p> <p>6 with the arrows is about 49, 50 feet wide, somewhere in that</p> <p>7 general area. And you can see that it's a load of</p> <p>8 cinderblocks that had been there to kind of control access.</p> <p>9 And further south, or east on the property, is actually an</p> <p>10 opening of 115 feet.</p> <p>11 MR. ROBINS: There might be -- the next slide might</p> <p>12 help you with --</p> <p>13 MS. RANDALL: Yes. I think it would.</p> <p>14 MR. ROBINS: -- that slide is --</p> <p>15 MS. RANDALL: There you go.</p> <p>16 MR. ROBINS: That's slide 40.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN So this is -- yeah.</p> <p>18 MS. RANDALL: Yes. So you can see in this slide the</p> <p>19 photograph is about where the cursor is. That said that</p> <p>20 opening, and then further to the right, or to the east --</p> <p>21 HEARING EXAMINER ROBESON-HANNAN Okay. Sorry to stop</p> <p>22 you. But the transcript doesn't know where the cursor is.</p> <p>23 MS. RANDALL: Oh yes, thank you.</p> <p>24 MR. ROBINS: I apologize, thank you. Thank you.</p> <p>25 MS. RANDALL: Thank you very much. And in the center</p>

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<p>157</p> <p>1 of the photograph you can see an opening and you can see 2 some traffic arrows that bring the volume in. There's 3 actually a car entering. And it would be just to the left 4 of the darker roof. If you drew a straight line north/south 5 to the road. So but go down to River Road and that's about 6 where that 50 foot opening is, at that point. 7 And there's a dark line that is on the right side from 8 that point. There's a dark line, and there is a bit of 9 curbing there though you could easily drive over it, it's 10 fairly low. And then the next opening, starting at that 11 dark boxed area, further to the right, or to the east on the 12 drawing, that opening is 115 feet wide. And you can see the 13 parking spaces that are immediately adjacent to that, just 14 to the north. So there, if you parked in that spot you 15 would be backing into the entry, essentially. 16 So what's out there today it's kind of a free-for-all 17 with regards to activity in motion. And that eastern side 18 also where that entry is located is directly across the 19 street from a residence and there is limited sight distance 20 at that location, which is why we have moved the access 21 points more towards the center of the property, and then 22 further uphill toward the northern, or western end of the 23 property to improve that site, which Logan just spoke about. 24 MR. ROBINS: So do you believe the project providing 25 separated one way access points to maximize sight distance,</p>	<p>159</p> <p>1 Road. Only because this is a T intersection, the only queue 2 that would occur would be the east about left into the 3 property out on River Road, and was there sufficient gaps 4 within the westbound, or the northbound flow on River Road 5 such that there would not be a queue backing up on River 6 Road waiting for somebody to make the left-hand turn. 7 The results of that analyses are shown on Table 1 in my 8 letter on the supplemental analyses. And we looked at it 9 two different ways. We anticipate that about 25 percent of 10 the traffic that will occur during peak hours is going to 11 come from the north and about 75 percent from the south. 12 But we tested it both with the 25 percent as well as 13 assuming a worst case, if 100 percent of the traffic was 14 heading in the eastbound direction or southbound to make the 15 left into the property. In both instances there were less 16 than a vehicle length queue occurring. 17 And I was going to go onto the crash analysis? 18 MR. ROBINS: Yeah. I was just going to say -- yeah. 19 MS. RANDALL: Great. So the second thing we did was to 20 review the crash history over the last 3-1/2 years. There 21 was partial data for 2020 available to us so we included 22 that. There were a total of 11 accidents that occurred on 23 River Road; none of these accidents occurred along the 24 property frontage. There were accidents towards Persimmon 25 Tree, that intersection at Persimmon Tree and River Road.</p>
<p>158</p> <p>1 will that significantly improve the situation? 2 MS. RANDALL: It absolutely does. It greatly improves 3 the safety of the overall property. 4 MR. ROBINS: Did transportation planning staff and the 5 Planning Board agree that the access will be adequate and 6 efficient? 7 MS. RANDALL: They did. 8 MR. ROBINS: And the Planning Board's transmittal 9 letter agrees with the staff findings and recommendations as 10 well? 11 MS. RANDALL: That's correct. 12 MR. ROBINS: Ms. Randall, did you also provide a 13 supplemental analysis to the hearing examiner regarding 14 cueing and crash history? 15 MS. RANDALL: I did. As has been required in other 16 conditional use applications we also looked at queue and 17 accident history along and adjacent to the property. The 18 queue analyses that we did we looked at the trip generation 19 to and from the site. For worst-case scenario we assumed 20 all of the volume would be at one location, both inbound and 21 outbound. Rather than separating them out because that 22 actually changes the calculations and makes the queue look 23 better. 24 So we looked at this as the total volume at one 25 location and looked at the potential for queues on River</p>	<p>160</p> <p>1 And then also, to the south on Northridge. 2 There was -- the only thing that I can say about those 3 accidents is that the majority of those occurred with a 4 vehicle traveling in the eastbound direction. So there may 5 be some sunlight issues in the morning, earlier in the day, 6 but there is nothing that was occurring at our site, and 7 certainly with the improvements that we are proposing to 8 make, I would expect that we will be making the safety of 9 the site far greater than it is today. 10 And it should be noted that these are the reported 11 accidents. We have no information on unreported accidents 12 that may have occurred along the property frontage. 13 MR. ROBINS: So in your professional opinion would you 14 say that the vehicular access would be safe, adequate, and 15 efficient? 16 MS. RANDALL: Yes, it will be. 17 MR. ROBINS: Okay. 18 MS. RANDALL: Oh, I would like to ask the hearing 19 examiners. I realized in this document that there was not a 20 map provided with the milepost locations for these 21 accidents; I can provide that if you would like that since 22 we're going to be providing some supplemental information, 23 I'd be happy to do that. 24 MR. ROBINS: That was one of the things, Madame Hearing 25 Examiner that I was going to say that we would submit to</p>

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161	<p>1 you. It's actually --</p> <p>2 HEARING EXAMINER ROBESON-HANNAN That's fine. It's</p> <p>3 helpful.</p> <p>4 MS. RANDALL: Yes.</p> <p>5 MR. ROBINS: Very good. Ms. Randall, from a</p> <p>6 transportation perspective how would you characterize the</p> <p>7 residential care facilities impact on traffic capacity with</p> <p>8 respect to its impact on public roads as required by the</p> <p>9 zoning ordinance?</p> <p>10 MS. RANDALL: In this particular site and redevelopment</p> <p>11 of the existing garden center is going reduce the impacts to</p> <p>12 the neighborhood from that of the garden center special</p> <p>13 exception. And will also greatly improve the access to the</p> <p>14 property.</p> <p>15 MR. ROBINS: And what are the traffic related inherent</p> <p>16 characteristics associated with a residential care facility</p> <p>17 identified in the staff report?</p> <p>18 MS. RANDALL: The inherent characteristics would</p> <p>19 include is there sufficient parking; the answer is yes.</p> <p>20 Vehicular trips to and from the site by employees, visitors,</p> <p>21 trash pickup, and then also the internal vehicular</p> <p>22 circulation system that's shown on the plan.</p> <p>23 MR. ROBINS: And your analysis includes -- when you did</p> <p>24 the person trip analysis to determine the -- not only the</p> <p>25 adequacy, but how far you needed to go in terms of analyzing</p>	163	<p>1 which was a library. Had another public user or private</p> <p>2 user had the ability to put in a library without going</p> <p>3 through any process, similar to this we have a garden</p> <p>4 center/nursery at this location. They have a special</p> <p>5 exception so if they had found a buyer, clearly the project</p> <p>6 for the site was on the market. If they had found a buyer</p> <p>7 like the old user Behnke, or even Homestead Gardens --</p> <p>8 HEARING EXAMINER ROBESON-HANNAN So they could have</p> <p>9 used the --</p> <p>10 MS. RANDALL: Exactly. Exactly.</p> <p>11 HEARING EXAMINER ROBESON-HANNAN Okay.</p> <p>12 MS. RANDALL: So yes. While they are winding down at</p> <p>13 this particular moment, that's being done because they've</p> <p>14 got a purchaser. And they're not going to put that -- that</p> <p>15 money into inventory that they would then be stuck with. So</p> <p>16 yeah.</p> <p>17 So what we do is we compare to ITE, to ITE, not</p> <p>18 existing --</p> <p>19 HEARING EXAMINER ROBESON-HANNAN Okay.</p> <p>20 MS. RANDALL: -- with ITE.</p> <p>21 HEARING EXAMINER ROBESON-HANNAN All right.</p> <p>22 MR. ROBINS: Shall I continue?</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Yes, I'm sorry.</p> <p>24 MR. ROBINS: Okay.</p> <p>25 HEARING EXAMINER ROBESON-HANNAN I'm nodding my head</p>
162	<p>1 the site, you included all employees, residents, visitors,</p> <p>2 trash, everything, correct?</p> <p>3 MS. RANDALL: Absolutely. Those are inherent within</p> <p>4 the trip generation calculations. They are -- when a trip</p> <p>5 generation study is done and the rates are developed for a</p> <p>6 specific use it is a count at the driveway of a</p> <p>7 particular -- or many facilities I should say. And it</p> <p>8 captures all vehicle trips coming and going from a project.</p> <p>9 So a mail truck, if it's a residential use -- anybody who's</p> <p>10 having work done on their house, mail trucks, buses, school</p> <p>11 buses --</p> <p>12 HEARING EXAMINER ROBESON-HANNAN It's --</p> <p>13 MS. RANDALL: -- everything.</p> <p>14 HEARING EXAMINER ROBESON-HANNAN My question was really</p> <p>15 when you did the counts for the garden center there, in</p> <p>16 your -- I'm looking at an excerpt from 88, is that the right</p> <p>17 thing to look at?</p> <p>18 HEARING EXAMINER BAUMGARTNER: Yes.</p> <p>19 MR. ROBINS: Yeah.</p> <p>20 HEARING EXAMINER ROBESON-HANNAN Do you use the actual</p> <p>21 existing traffic, or do you use a trip -- you know, the ITE</p> <p>22 rate?</p> <p>23 MS. RANDALL: Right. No, we use the ITE rates for the</p> <p>24 site. In similar to what we did just recently in the case</p> <p>25 for Centrenia (phonetic) we looked at what the use was,</p>	164	<p>1 and not saying anything.</p> <p>2 MR. ROBINS: Okay. I wanted to make sure we answered</p> <p>3 your question.</p> <p>4 HEARING EXAMINER ROBESON-HANNAN No, you did.</p> <p>5 MR. ROBINS: Okay. Thank you so much.</p> <p>6 Ms. Randall, do you agree with the inherent</p> <p>7 characteristics that were identified by staff and in your</p> <p>8 professional opinion, are there any others, or is that what</p> <p>9 you agree with?</p> <p>10 MS. RANDALL: No, I agree with theirs, and I did not</p> <p>11 come up with the others.</p> <p>12 MR. ROBINS: Do you have -- you feel that there are in</p> <p>13 the noninherent impacts associated with the residential care</p> <p>14 facility?</p> <p>15 MS. RANDALL: I have not identified any.</p> <p>16 MR. ROBINS: Okay. And Section 7.3.1.E.1.g, and Madam</p> <p>17 Hearing Examiner I agree with you this is a long strand.</p> <p>18 HEARING EXAMINER ROBESON-HANNAN Now it's your</p> <p>19 (inaudible) there. No, I'm leaving it at --</p> <p>20 MR. ROBINS: Well, anyway. That section requires a</p> <p>21 finding that the project will not result in any adverse</p> <p>22 traffic impacts as a result of noninherent adverse effects</p> <p>23 alone or a combination of inherent or noninherent effects,</p> <p>24 and I believe you testified that you didn't believe there</p> <p>25 were any noninherent impacts that would have any adverse</p>

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<p>165</p> <p>1 effects, or cause any undue harm on the surrounding 2 neighborhood; is that correct? 3 MS. RANDALL: That is correct. 4 MR. ROBINS: Okay. 5 MS. RANDALL: And in fact, I think the site will 6 improve, significantly improve safety for this piece of 7 property. 8 MR. ROBINS: We're on the home stretch here; just a few 9 more questions. Is the property served by public 10 transportation; and if so, what? 11 MS. RANDALL: It is. It's served by the Ride-On bus, 12 route T2. There is a stop both to the East End to the west. 13 One at Northbridge, and another at Persimmon Tree. The one 14 to the east is Northbridge and there is a -- 15 MR. ROBINS: Do -- 16 MS. RANDALL: -- a crosswalk. 17 MR. ROBINS: Newbridge. 18 MS. RANDALL: Newbridge, I'm sorry. Typical me and my 19 handwriting. I always forget the name of that road, and I 20 wrote it down. So I apologize. Newbridge. Newbridge is to 21 the east. There is a bus stop on both sides of the road so 22 it's serving both northbound and southbound traffic. And 23 there is a crosswalk at that intersection. 24 It's about one quarter of a mile from the center of the 25 property. And --</p>	<p>167</p> <p>1 came in, and I don't know how we could put that with in our 2 system and serve the southbound direction of bus service. 3 Additionally, it would put the bus, if it came into the 4 property it puts it adjacent to perpendicular parking 5 spaces. There is grave issues and insufficient distance to 6 widen that for that bus service which would then greatly 7 affect the planting that has been proposed on the site. 8 MR. ROBINS: And that's been carefully worked out with 9 the community? 10 MS. RANDALL: Yes. 11 MR. ROBINS: Okay. But you do believe that the bus 12 stops in the locations where there at would be adequate, and 13 efficient, and safe to accommodate any individuals that 14 would be interested in using public transportation for this 15 particular use? 16 MS. RANDALL: Yes, I do. 17 MR. ROBINS: Okay. From a traffic standpoint, do you 18 believe that the use is compatible with the surrounding 19 area? 20 MS. RANDALL: I do. 21 MR. ROBINS: For what reasons? 22 MS. RANDALL: It is a low trip generator. It's more of 23 a residential use than the garden center that said there. 24 And additionally, it is substantially improving the site 25 access and is continuing the trail system as they are today.</p>
<p>166</p> <p>1 MR. ROBINS: And -- I'm sorry. Go ahead. 2 MS. RANDALL: And to the north, at Persimmon Tree, it 3 is served both northbound and southbound. There are stops 4 on both, but there is no sidewalk system on the southern 5 side of the road, or in the eastbound direction, and there 6 are no crosswalks at that location. 7 MR. ROBINS: On the side of the -- on the side of the 8 property in which our property is located, which would be 9 the northern part of River Road, is there a trail system 10 that would connect to -- 11 MS. RANDALL: Yes. 12 MR. ROBINS: Not only the site, but to the bus system? 13 MS. RANDALL: Exactly. There are. 14 MR. ROBINS: And do you believe that those stops are 15 adequate for the users that may use public transportation to 16 come to and from the site? 17 MS. RANDALL: Yes. I believe so. And particularly the 18 site at Newbridge with the crosswalk; it's slightly a 19 shorter distance and slightly lower grade access to that -- 20 access to the facility. And just as a quick note, the bus 21 service runs approximately with 30 minute headways. 22 MR. ROBINS: Okay. And do you believe that that 23 addresses the comment that came in from the -- one of the 24 supporters of the project, Mr. Albert? 25 MS. RANDALL: It does. And I did see the email that</p>	<p>168</p> <p>1 This is the gap in the trail system that will finally -- 2 people will not have to walk through the middle of the 3 parking field with vehicles coming in and out from all 4 different locations. 5 MR. ROBINS: I'm sorry. I was just making sure that I 6 didn't have anything else for you, which I don't actually. 7 I conclude my direct with Ms. Randall. I appreciate 8 her being straight into the point in getting through the 9 testimony in a fashion that hopefully accommodate your 10 schedule as well. 11 I leave it to you if you have any questions for her, 12 I'm done with my direct. And then we can address some of 13 the housekeeping comments. 14 HEARING EXAMINER BAUMGARTNER: Any other questions 15 for -- or I should say any questions for Ms. Randall? 16 See none, I had a couple of general questions, not for 17 Ms. Randall from a traffic perspective, but some of the 18 prior testimony. I'll just go through very, very briefly 19 before we sum up and do those housekeeping matters. 20 MR. ROBINS: Mr. Hearing Examiner, can I make one quick 21 comment before you get to your questions? 22 HEARING EXAMINER BAUMGARTNER: Sure. 23 MR. ROBINS: The witness before Ms. Randall was Mr. Van 24 Winkle, the architect. 25 HEARING EXAMINER BAUMGARTNER: Yes.</p>

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169	<p>1 MR. ROBINS: And I have learned a piece of information</p> <p>2 that directly responds to Hearing Examiner Robeson-Hannan's</p> <p>3 question about whether he is, in fact, licensed. I can</p> <p>4 bring Mr. Van Winkle back to answer that question, but he</p> <p>5 was in the process of getting licensed and received word</p> <p>6 during the hearing that he actually received his license</p> <p>7 from Maryland. I can give you the number if you like but --</p> <p>8 HEARING EXAMINER ROBESON-HANNAN No, that's okay</p> <p>9 MR. ROBINS: -- he is in fact, licensed.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN Well, congratulations.</p> <p>11 MR. VAN WINKLE: I apologize for the confusion.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN No, it's fine. Thank</p> <p>13 you.</p> <p>14 MR. ROBINS: It literally happened, I think just today,</p> <p>15 or somewhere around today.</p> <p>16 MR. VAN WINKLE: Well, no. I just was not aware that</p> <p>17 my staff had completed the paperwork for the licensure and I</p> <p>18 wanted to be careful not to say something incorrect.</p> <p>19 HEARING EXAMINER BAUMGARTNER: Well, the State of</p> <p>20 Maryland appreciates whatever fee you are required to pay in</p> <p>21 order to receive that registration.</p> <p>22 MR. VAN WINKLE: You're welcome.</p> <p>23 MR. ROBINS: I apologize for interrupting you, sir.</p> <p>24 HEARING EXAMINER BAUMGARTNER: That's quite all right.</p> <p>25 I think this is something even Mr. Robins, or Ms. Rogers, or</p>	171	<p>1 that stretch along River Road for the screening and design</p> <p>2 of the landscaping, and the buffering and berming along</p> <p>3 River Road to make certain that that worked.</p> <p>4 And then, of equal importance, we have two very</p> <p>5 important neighbors on our east and west side that we were</p> <p>6 very focused on to make certain that the buffering that they</p> <p>7 had on their own site and in terms of the trees that they</p> <p>8 had would not be impacted by the work on our site. So Mr.</p> <p>9 Sloan gave (inaudible).</p> <p>10 HEARING EXAMINER BAUMGARTNER: (inaudible) feedback</p> <p>11 possibly.</p> <p>12 MR. ROBINS: I think one of my electronic devices or</p> <p>13 going crazy. Anyway, what I was saying is to make certain</p> <p>14 that the trees that were on our neighboring properties were</p> <p>15 protected as well. And then, of course, the last thing was</p> <p>16 working through with the department of permitting services</p> <p>17 regarding the replacement of the 8-foot privacy fence as</p> <p>18 opposed to a 6 foot 6 fence which we thought would also</p> <p>19 provide adequate screening, but the neighbors prefer to</p> <p>20 leave an 8-foot fence in place, and we were certainly</p> <p>21 willing to accommodate that, as well.</p> <p>22 Josh, did I miss anything? You're on mute, by the way,</p> <p>23 which is the phrase of 2020. Josh?</p> <p>24 MR. SLOAN: No. I think I -- I think I've taught you</p> <p>25 well.</p>
170	<p>1 one of your witnesses can answer. In a general sense, from</p> <p>2 when this project was originally proposed to its current</p> <p>3 form, what I'm getting from this case is that number one, it</p> <p>4 was dropped from three stories to two stories which slightly</p> <p>5 altered what the eventual footprint will be. And then,</p> <p>6 there was increased screening or landscaping that was added</p> <p>7 around the periphery of the building; is that accurate in</p> <p>8 terms of where we went from the original filing until the</p> <p>9 current proposal?</p> <p>10 MR. ROBINS: I think that's generally accurate. When</p> <p>11 you say there was additional screening and landscaping, I</p> <p>12 think through the testimony of what -- well, yes, definitely</p> <p>13 dropped from three to two stories which was a significant</p> <p>14 change.</p> <p>15 But the other thing, the other element, which is the</p> <p>16 screening and landscaping that you're talking about was so</p> <p>17 carefully worked out with the community in terms of meeting</p> <p>18 on site and working with them and making certain that the</p> <p>19 screening and landscaping worked. But it was not only</p> <p>20 screening and landscaping, but it was also, as Mr. Sloan can</p> <p>21 chime in, working with the topography of the site, providing</p> <p>22 additional retaining walls so that we could elevate some of</p> <p>23 the landscaping as he mentioned, particularly in the rear of</p> <p>24 the site.</p> <p>25 Also, along River Road there was substantial focus on</p>	172	<p>1 MR. ROBINS: There you go.</p> <p>2 HEARING EXAMINER BAUMGARTNER: And then lastly, in the</p> <p>3 prehearing -- and the updated prehearing statement there was</p> <p>4 reference to -- because of the reduction in stories</p> <p>5 expanding the building's footprint a little bit that would</p> <p>6 cause the building to encroach slightly the stream valley</p> <p>7 buffer on the north side of the property; and there was a</p> <p>8 reference to environmental mitigation that would occur at</p> <p>9 that particular point of the property. Could you just very</p> <p>10 briefly go into what that mitigation might look like?</p> <p>11 MR. ROBINS: I'm going to pass this over to Mr. Sloan.</p> <p>12 MR. SLOAN: Okay. This is Josh Sloan again. We</p> <p>13 actually were able to keep the building out of the stream</p> <p>14 valley buffer. We've got a small area of planting and</p> <p>15 sidewalk that will -- is within the buffer and what we've</p> <p>16 done is in a separate area of the site, we're going to be</p> <p>17 providing mitigation plantings; natural habitat plantings</p> <p>18 that will be finalized in the final forest conservation plan</p> <p>19 to address that impact.</p> <p>20 HEARING EXAMINER BAUMGARTNER: Okay.</p> <p>21 HEARING EXAMINER ROBESON-HANNAN Is that going to be --</p> <p>22 there's some case law saying we can't delegate. Is that</p> <p>23 going to be shown on the conditional use plan?</p> <p>24 MR. SLOAN: We could --</p> <p>25 HEARING EXAMINER ROBESON-HANNAN Say -- yes.</p>

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173	<p>1 MR. SLOAN: We can put that on when we address the</p> <p>2 other comments.</p> <p>3 HEARING EXAMINER ROBESON-HANNAN That would be good.</p> <p>4 HEARING EXAMINER BAUMGARTNER: I think that those were</p> <p>5 the only follow-up questions that I had marked.</p> <p>6 So in terms of cleanup here, there were a number of --</p> <p>7 so we're going to hold the record open for 10 days after</p> <p>8 today's hearing.</p> <p>9 HEARING EXAMINER ROBESON-HANNAN If 10 days is enough.</p> <p>10 HEARING EXAMINER BAUMGARTNER: I was going to say, will</p> <p>11 10 days and be sufficient to get us -- there was the forest</p> <p>12 conservation revised -- I'm taking notes. There was the --</p> <p>13 MS. ROGERS: Updated photo metrics.</p> <p>14 HEARING EXAMINER BAUMGARTNER: Yeah, photo metrics.</p> <p>15 MR. SLOAN: That's the background changes.</p> <p>16 HEARING EXAMINER ROBESON-HANNAN That's --</p> <p>17 MR. SLOAN: It's going to be in --</p> <p>18 HEARING EXAMINER ROBESON-HANNAN I'm sorry?</p> <p>19 MR. SLOAN: Because of the background changes for</p> <p>20 almost all plans, and now the mitigation plantings that we</p> <p>21 are going to show is -- were basically going to do a new set</p> <p>22 so it would just be a clean, complete.</p> <p>23 MS. ROGERS: Just to clarify --</p> <p>24 MR. ROBINS: Yeah. The --</p> <p>25 MS. ROGERS: -- if we --</p>	175	<p>1 HEARING EXAMINER ROBESON-HANNAN My suggestion would be</p> <p>2 this. Give yourselves a couple of extra days to make sure</p> <p>3 you can get it in. If it comes in earlier, is not going to</p> <p>4 delay our decision because we can start writing we get the</p> <p>5 stuff.</p> <p>6 MR. ROBINS: Okay.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN We just -- it's harder</p> <p>8 to reopen the record and all that kind of stuff. So that</p> <p>9 would be my suggestion.</p> <p>10 MR. SLOAN: Then my guess is because this is going to</p> <p>11 be part of the final forest conservation plan, I do want to</p> <p>12 work with staff a little bit as well as the conditional use</p> <p>13 plan for these mitigation things. I would suggest like to</p> <p>14 working weeks, so 1/29.</p> <p>15 MR. ROBINS: That's 10 calendar days. I mean 10</p> <p>16 business days.</p> <p>17 HEARING EXAMINER ROBESON-HANNAN Is that a -- I don't</p> <p>18 have my calendar.</p> <p>19 MR. ROBINS: That's 10 business days from today.</p> <p>20 HEARING EXAMINER ROBESON-HANNAN Is it a Monday though?</p> <p>21 Or is it -- not Monday. Is it a weekday?</p> <p>22 MR. SLOAN: Yes.</p> <p>23 MR. ROBINS: Yeah. It's a Friday.</p> <p>24 HEARING EXAMINER ROBESON-HANNAN Okay. I see it,</p> <p>25 January 29th.</p>
174	<p>1 MR. ROBINS: The extension of the -- for fire access is</p> <p>2 a background condition that just shows up on all the various</p> <p>3 plans. So we talked to during the break and Mr. Sloan said</p> <p>4 the best thing to do probably would just be to revise the</p> <p>5 plans and just show it instead of just on the conditional</p> <p>6 use plan.</p> <p>7 HEARING EXAMINER ROBESON-HANNAN Okay. And the only</p> <p>8 reason I say that about the mitigation, just for the record,</p> <p>9 is that there is case law saying we can't -- if it affects</p> <p>10 the landscape plan, or something like that, we can't</p> <p>11 delegate that to a future entity. And I don't want you to</p> <p>12 have to come back and modify the conditional use just to do</p> <p>13 something you know about now.</p> <p>14 MR. ROBINS: So Josh, Josh will put that on the plan</p> <p>15 then?</p> <p>16 MR. SLOAN: Yes.</p> <p>17 MR. ROBINS: Is what you're saying. Okay. I guess the</p> <p>18 operative question is, is 10 days enough, Josh, while the</p> <p>19 record is open for the transcript being prepared, to get the</p> <p>20 setback into the hearing examiner, the final set?</p> <p>21 MR. SLOAN: So is that 10 business days, or 10 total</p> <p>22 days; 1/25 it would be due?</p> <p>23 HEARING EXAMINER ROBESON-HANNAN Well, my -- it's</p> <p>24 calendar days.</p> <p>25 MR. SLOAN: Okay.</p>	176	<p>1 MR. ROBINS: I tell you, Josh, if you want to do</p> <p>2 January 29, or do you want to do February 1, it doesn't -- I</p> <p>3 don't know that either -- if you wanted -- if you needed</p> <p>4 that we can for some reason. It's up to you.</p> <p>5 MR. SLOAN: No. I'm going to design the plantings and</p> <p>6 get it in front of Josh Penn directly.</p> <p>7 MR. ROBINS: Okay. So January 29.</p> <p>8 HEARING EXAMINER BAUMGARTNER: All right. So will hold</p> <p>9 the record open until January 29th for that supplemental</p> <p>10 filing.</p> <p>11 Ms. Randall had also offered to submit the mile marker</p> <p>12 sheet for the accidents.</p> <p>13 MS. RANDALL: Yes. And they're done so, you know, it's</p> <p>14 easy to do. I'll get that over to be part of the entire</p> <p>15 package unless you would like them earlier. And I'm happy</p> <p>16 to do that.</p> <p>17 HEARING EXAMINER BAUMGARTNER: No. All in one, in one</p> <p>18 submittal is better just to keep them -- just in concert.</p> <p>19 HEARING EXAMINER ROBESON-HANNAN Yes.</p> <p>20 HEARING EXAMINER BAUMGARTNER: And then were there any</p> <p>21 other items that were in that bunch? I don't think so but</p> <p>22 this is why we don't --</p> <p>23 MR. ROBINS: (inaudible).</p> <p>24 HEARING EXAMINER BAUMGARTNER: -- conditional.</p> <p>25 MR. ROBINS: So the record is being left open</p>

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<p>177</p> <p>1 specifically for the purpose of revising these plans. It's</p> <p>2 essentially closed for any other reason?</p> <p>3 HEARING EXAMINER BAUMGARTNER: That's correct.</p> <p>4 MR. ROBINS: Okay.</p> <p>5 MS. ROGERS: The only other thing I would note that</p> <p>6 will come in all the record is being left open is the signed</p> <p>7 forest conservation plan from Park and Planning is also to</p> <p>8 come over to you all.</p> <p>9 MR. ROBINS: Correct.</p> <p>10 HEARING EXAMINER ROBESON-HANNAN Okay. So the record</p> <p>11 will be open for a second set of plans showing the</p> <p>12 mitigation and the fire access changes; Ms. Randall's map of</p> <p>13 accidents and the signed PFCP.</p> <p>14 MR. ROBINS: And it will also show the -- well, you</p> <p>15 said the mitigation, the plantings.</p> <p>16 HEARING EXAMINER ROBESON-HANNAN Yes.</p> <p>17 MR. ROBINS: That's right. And the plants -- the other</p> <p>18 plants that have the fire access, the addition of the -- a</p> <p>19 bit of that paving will be updated as basically background</p> <p>20 information on the other plans; that where it shows. So</p> <p>21 we'll be giving you a new set.</p> <p>22 HEARING EXAMINER ROBESON-HANNAN That's fine.</p> <p>23 MR. ROBINS: Wonderful.</p> <p>24 HEARING EXAMINER BAUMGARTNER: That makes sense to me.</p> <p>25 Were there any other closing items we need to address before</p>	<p>179</p> <p>1 associated with that into really a beautiful residentially</p> <p>2 zoned conditional use that I think the community will be</p> <p>3 proud of.</p> <p>4 And frankly, and finally, I'd like to also throw some</p> <p>5 kudos to Spectrum because they -- Mike told me from day one,</p> <p>6 and we looked at a lot of different sites, and he told me</p> <p>7 from day one that it is extremely important for Spectrum to</p> <p>8 try to work through issues with the community because they</p> <p>9 are owners and operators that will be there for a very, very</p> <p>10 long time. They own and operate their properties. They</p> <p>11 don't get them approved and then sell them. And it was very</p> <p>12 important to close the gap and to try to work through the</p> <p>13 issues. And he did that with a lot of work and heavy</p> <p>14 lifting to make that happen. But I think he too is grateful</p> <p>15 for the community effort and support, and to where we are</p> <p>16 today.</p> <p>17 And finally, to the hearing examiners for giving us a</p> <p>18 little bit of latitude to put the hearing aside for a month</p> <p>19 or two to really try to work this through. And I had no</p> <p>20 doubt with all of us putting our minds to this and working</p> <p>21 together that we were going to get that done. And that's</p> <p>22 where we are today. I think the hearing was smooth look,</p> <p>23 under the circumstances, and we look forward, and would</p> <p>24 respectfully request a recommendation of approving. Or not</p> <p>25 a recommendation, but actually approving the project because</p>
<p>178</p> <p>1 we close the hearing?</p> <p>2 MR. ROBINS: No, I just wanted to say on behalf of our</p> <p>3 team thank you very much for the patience, particularly</p> <p>4 under these stressful pandemic situations. It's just been</p> <p>5 an interesting and unique process, in my opinion given that</p> <p>6 we did have one application on file, went before the</p> <p>7 Planning Board, and then were able to resolve our</p> <p>8 differences with Mr. Brown's clients.</p> <p>9 I do want to thank David for his diligence and</p> <p>10 particularly, Peter Levine who was instrumental in getting</p> <p>11 12 different property owners together and keeping them</p> <p>12 focused, and keeping there I and the ball with Mr. Brown so</p> <p>13 that we could have multiple, after multiple zoom calls to</p> <p>14 work this through. And I am -- I'm also particularly</p> <p>15 thankful for the West Montgomery Association for also</p> <p>16 participating and following the lead of the immediately</p> <p>17 surrounding community owners -- community property owners</p> <p>18 that were so interested in this.</p> <p>19 And ultimately, while it could have been, and was</p> <p>20 stressful and, you know, differences of opinions at times,</p> <p>21 it proved that we could close the gap, put our differences</p> <p>22 aside and work through something that made the plan and even</p> <p>23 better plan that is completely compatible with the</p> <p>24 surrounding area that makes the situation today where</p> <p>25 there's a commercial special exception that has issues</p>	<p>180</p> <p>1 we're very excited to move to the next step and ultimately</p> <p>2 to get this project built and be part of this community.</p> <p>3 So thank you very much. We really do appreciate it.</p> <p>4 HEARING EXAMINER BAUMGARTNER: Thank you, Mr. Robins.</p> <p>5 Mr. Brown, any final words before we close down the</p> <p>6 hearing?</p> <p>7 MR. BROWN: I think the only unanswered question that I</p> <p>8 can think of is that I don't understand why Steve had Liz</p> <p>9 broadcasting from the jail where the Attorney General of</p> <p>10 Michigan is holding former Governor Rick Snyder. But other</p> <p>11 than that, I'm good to go.</p> <p>12 HEARING EXAMINER ROBESON-HANNAN With that enlightening</p> <p>13 thought --</p> <p>14 MR. ROBINS: We're in different conference rooms. You</p> <p>15 know, I mean I haven't -- this is the first time I've</p> <p>16 physically seen Liz since March, even though we spend a lot</p> <p>17 of time zone teams calls every day. But I do want to say I</p> <p>18 know that she had an accident, you know, and she is not</p> <p>19 feeling great. And I do appreciate -- this case is very</p> <p>20 important to her and I appreciate her participating the way</p> <p>21 she did. She's been terrific through this process, and I</p> <p>22 know the client appreciates her efforts to. So I just want</p> <p>23 her to feel better.</p> <p>24 MR. BROWN: I was just trying to figure out that</p> <p>25 background. I just couldn't put my head around it.</p>

Transcript of Hearing
Conducted on January 15, 2021

46 (181 to 184)

181

1 MR. ROBINS: That's okay. We'll have you over to the
2 conference room, David.
3 HEARING EXAMINER BAUMGARTNER: Well, thank you all.
4 MR. ROBINS: Thank you very much.
5 MS. ROGERS: Thank you.
6 HEARING EXAMINER ROBESON-HANNAN Thank you.
7 HEARING EXAMINER BAUMGARTNER: Thank you very much,
8 this will conclude this hearing on (inaudible) on January
9 the 15th, 2021. The time is 2:50 p.m.
10 Thank you all very much for your time, and have a good
11 afternoon, and a good weekend.
12 (The recording was concluded.)
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182

1 CERTIFICATE OF TRANSCRIBER
2 I, Molly Bugher, do hereby certify that the foregoing
3 transcript is a true and correct record of the recorded
4 proceedings; that said proceedings were transcribed to the
5 best of my ability from the audio recording as provided; and
6 that I am neither counsel for, related to, nor employed by
7 and of the parties to this case and have no interest,
8 financial or otherwise, in its outcome.
9
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11
12



13 Molly Bugher, CDLT-161
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