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# Transcript of Hearing

**Date:** March 24, 2023

**Case:** Corso DC, LLC, In Re: (H-148)

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Transcript of Hearing  
March 24, 2023

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<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER: This is a public hearing in the</p> <p>3 matter of local map amendment H-148, the application of Corso</p> <p>4 DC, LLC requesting rezoning -- requesting to rezone property</p> <p>5 located at 7100 Connecticut Avenue, Chevy Chase, Maryland,</p> <p>6 from the R-60 to the commercial, residential neighborhood</p> <p>7 floating zone CRNF. And I'm not going to repeat all the</p> <p>8 numbers. They are on the application.</p> <p>9 My name is Lynn Hannan. I will -- I'm the hearing</p> <p>10 examiner. I will listen to what you have to say and consider</p> <p>11 the evidence you present and I will write a report and</p> <p>12 recommendation to the County Council who makes the final</p> <p>13 decision in the case. If you disagree with the findings in</p> <p>14 my report or my recommendation, you have the right to request</p> <p>15 oral argument before the council. Oral argument is based</p> <p>16 solely on the testimony and evidence that is presented today.</p> <p>17 So everything that you want to say, you should say it here.</p> <p>18 I'm just going to go through a word about our</p> <p>19 remote hearings. We have -- hopefully we will be hybrid</p> <p>20 soon. But we have some supply chain delays. But for the</p> <p>21 remote hearings, the hearing today is being held remotely via</p> <p>22 Microsoft Teams. And we do have some rules when we use in</p> <p>23 this platform. Crosstalk, which means interrupting each</p> <p>24 other, please don't do that, because it makes it very</p> <p>25 difficult for the court reporter to pick up what you're</p>	<p style="text-align: right;">7</p> <p>1 looks like 21 binding elements. It looks like it's been a</p> <p>2 lot of work. And so I do commend the parties for doing that.</p> <p>3 MR. ROBINS: Thank you.</p> <p>4 HEARING EXAMINER: But we're going to get into</p> <p>5 that in a minute. Okay. And I think -- anyone else that is</p> <p>6 going to be testifying or presenting witnesses?</p> <p>7 MR. RUSH: Yes. I'm Barney Rush. I'm the mayor</p> <p>8 of the Town of Chevy Chase.</p> <p>9 HEARING EXAMINER: Okay. Thank you.</p> <p>10 MR. DALRYMPLE: Good morning. Bob Dalrymple with</p> <p>11 Selzer Gurvitch on behalf of the Town.</p> <p>12 HEARING EXAMINER: Okay.</p> <p>13 MR. BOLT: Good morning. Ron Bolt on behalf of</p> <p>14 the Town of Chevy Chase as well.</p> <p>15 HEARING EXAMINER: Okay.</p> <p>16 MR. HOFFMAN: Good morning. Todd Hoffman, town</p> <p>17 manager, Town of Chevy Chase.</p> <p>18 HEARING EXAMINER: Okay. And any -- I see a Mr.</p> <p>19 Gary.</p> <p>20 MR. ROBINS: He's one of our witnesses.</p> <p>21 HEARING EXAMINER: Okay. Now I do see -- is there</p> <p>22 anyone here -- I see some names I do not recognize. Is there</p> <p>23 anyone here that is not going to be called by any of the</p> <p>24 Towns that wish -- is going to want to testify in this case?</p> <p>25 I see -- okay. Hearing none, we'll go forward. And just a</p>
<p style="text-align: right;">6</p> <p>1 saying. So if you wish --</p> <p>2 I'm going to share my screen. I'm sure you're all</p> <p>3 more than familiar with this, but -- whoops. Let me do this.</p> <p>4 At the top there is a -- at the top of your screen there is</p> <p>5 the raise your hand button. If you want to be recognized,</p> <p>6 please use that. And I do monitor that. Now if you have an</p> <p>7 objection, you can interrupt. And then if someone hears an</p> <p>8 objection, please just stop speaking and wait a few moments</p> <p>9 until you're recognized.</p> <p>10 The hearing is also -- you'll see a recording and</p> <p>11 transcription box at the top. Now the session is being</p> <p>12 recorded in Microsoft Teams and by the court reporter. The</p> <p>13 official record is the court reporter's verbatim transcript.</p> <p>14 The Teams recording is used only as a backup for the reporter</p> <p>15 in case something is garbled. Okay.</p> <p>16 Will the parties identify themselves for the</p> <p>17 record?</p> <p>18 MR. ROBINS: Good morning. Steve Robins with the</p> <p>19 law firm Lerch, Early, &amp; Brewer, here with my colleague</p> <p>20 Elizabeth Rogers. Do you want me to also identify all of our</p> <p>21 witnesses today?</p> <p>22 HEARING EXAMINER: No.</p> <p>23 MR. ROBINS: Okay.</p> <p>24 HEARING EXAMINER: Thank you. We're going to -- I</p> <p>25 commend the parties here for working together on this. It</p>	<p style="text-align: right;">8</p> <p>1 word for those who -- I know there's lots of experience in</p> <p>2 this room, but -- or in this virtual room.</p> <p>3 But I will say for anyone else that the nature of</p> <p>4 our proceedings are informal with certain formalities. What</p> <p>5 you say will be under oath and recorded. You may be asked</p> <p>6 questions about the testimony and it's subject to cross-</p> <p>7 examination. The order of proceedings is the Applicant's</p> <p>8 opening statements, the case in chief, cross-examination of</p> <p>9 the Applicant's witnesses, the opposition -- any opposition's</p> <p>10 case, cross-examination of their witnesses, and then closing</p> <p>11 statements. Is there -- are there any other procedural</p> <p>12 matters? Okay.</p> <p>13 Hearing none, I just had a couple of questions.</p> <p>14 There is a graphic showing the building heights in the</p> <p>15 record. Let me get -- and my question was, is that graphic</p> <p>16 still valid given -- I saw something about the façade being</p> <p>17 55 feet and the corners and the edges being another height.</p> <p>18 Is that graphic still valid?</p> <p>19 MS. ROGERS: It is.</p> <p>20 MR. ROBINS: It is.</p> <p>21 HEARING EXAMINER: Okay. And the other thing is,</p> <p>22 and we don't have to address it now. We can address in your</p> <p>23 testimony. But I did have a question about the threshold</p> <p>24 findings I need to make because what I see that the parties</p> <p>25 have agreed to is to defer the traffic impact, to later</p>

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<p>9</p> <p>1 proceedings. But there's no -- the binding element says you 2 have to work with them. And believe me, I trust all the 3 parties to do that in good faith. But I have to make a 4 finding that traffic isn't going to have a negative impact. 5 So I say that as well. I don't see Nancy Randall on the 6 list. 7 MR. ROBINS: She's here. 8 HEARING EXAMINER: She is? Okay. So I raised 9 that in my emails prior to this. So that's a question I had. 10 All right. With that, are there opening statements? And 11 who -- I guess Mr. Robins or -- 12 MR. ROBINS: Yes. 13 HEARING EXAMINER: Or Ms. Rogers would start. 14 MR. ROBINS: Thank you. I appreciate it. So good 15 morning. It's a pleasure to see the Hearing Examiner and 16 everyone else online virtually. Hopefully one day we will be 17 able to do this back in person. But this is I guess the 18 second best way to do this. 19 For the record, I'm Steve Robins with the law firm 20 of Lerch, Early, &amp; Brewer. And as I mentioned before, I'm 21 here with my colleague, Elizabeth Rogers, also from Lerch, 22 Early, &amp; Brewer. And our law firm represents the Applicant 23 in this case, Corso DC, LLC. Now with us on behalf of the 24 Applicant are Tim Gary. You can actually see him online. 25 Tim Gary with Galarie Senior Living. Grant Epstein who is to</p>	<p>11</p> <p>1 these in real time online. Does anyone have an objection to 2 accepting them now? And I had a question on the covenants. 3 Do they reflect -- there's two things, the binding element 4 have been changed -- were changed by the Planning Board. 5 MR. ROBINS: Right. 6 HEARING EXAMINER: To these -- 7 MS. ROGERS: The binding elements reflect the 8 changes made both by staff through their staff report and 9 then by the Planning Board and the Planning Board 10 transmittal. Like you can see here, this was the extra 11 sentence that the Planning Board added about coordination 12 with Section 3 to binding element 2. So all of those changes 13 have been reflected. 14 HEARING EXAMINER: Okay. But also the FZP, the 15 floating zone plan, has that been amended to update the 16 binding elements -- 17 (Crosstalk) 18 MS. ROGERS: -- introducing that as an exhibit 19 during our expert testimony. 20 HEARING EXAMINER: Okay. Now this is a little -- 21 okay. Could you stop? Do any of the parties object? I know 22 you haven't seen this before. Do any of the parties object 23 to admitting it now? Or would you like to -- I have to leave 24 the record open for 10 days anyway to get the transcript into 25 the record. Does anyone object to admitting it now? Or</p>
<p>10</p> <p>1 my immediate right with Community Gray. We have Timothy 2 Hoffman, Jane Przygocki, and Daniel Park with Soltez, our 3 civil engineer, land planner, and landscape architects 4 respectfully. We have Sarah Alexander with Torti Gallas + 5 Partners, who is our architect. And then Nancy Randall with 6 Wells &amp; Associate who is our traffic and transportation 7 consultant. 8 I did have one procedural matter. We do have the 9 affidavit of posting. And I hope I can do this right. Let's 10 see. I'm going to show it on the -- I'm going to share my 11 screen, okay? 12 HEARING EXAMINER: Okay. 13 MR. ROBINS: I don't -- I'm going to let Liz and 14 share my screen. Okay. So we have the affidavit of posting 15 as well as the draft declaration of covenants that reflect 16 the -- 17 HEARING EXAMINER: I wondered about that. Okay. 18 MR. ROBINS: Yeah, that was the currently proposed 19 binding elements. 20 HEARING EXAMINER: Now -- 21 MR. ROBINS: And we would like to submit them into 22 the record. And of course when the hearing is over, we will 23 immediately get them over to the Hearing Examiner in the 24 procedures that you suggest we do that. 25 HEARING EXAMINER: Okay. I don't -- we can't post</p>	<p>12</p> <p>1 would you like an opportunity to comment? 2 MR. DALRYMPLE: I think on behalf of the Town, we 3 don't have a problem with it being admitted now. And I trust 4 that the binding elements that have been agreed upon between 5 the Applicant and the Town are reflected in that document. I 6 do think that it is, in a way, a bit of a living document 7 meaning that to the extent binding elements change or there 8 are additional binding elements that come about as a result 9 of this hearing, that there may be a need to further amend 10 the document before it's considered to be final in the 11 record, if that makes sense. 12 HEARING EXAMINER: I completely agree. So this -- 13 admitting it doesn't mean the binding elements are set in 14 stone. It just means that we're admitting it as evidence for 15 reflecting the current stage. 16 MR. DALRYMPLE: Right. 17 HEARING EXAMINER: All right. Thank you for 18 presenting them. We will add them to the record, but we 19 can't put them on the website at the moment. 20 MR. ROBINS: Okay. 21 MS. ROGERS: Ms. Hannan, let me clarify. As we go 22 through we will have a few additional exhibits. So can we do 23 note which one will be Exhibit 52 and which will be Exhibit 24 53 for the declaration and the affidavit of posting, just to 25 follow along?</p>

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<p>13</p> <p>1 HEARING EXAMINER: Say that again.</p> <p>2 MS. ROGERS: I just wanted to -- when we've done</p> <p>3 these virtual proceedings we'll note what new exhibit number</p> <p>4 will go with each exhibit that we are introducing into the</p> <p>5 record.</p> <p>6 HEARING EXAMINER: Right.</p> <p>7 MS. ROGERS: So if it's okay with you --</p> <p>8 HEARING EXAMINER: Well, the affidavit will be</p> <p>9 Exhibit 52. And the declaration will be Exhibit 53.</p> <p>10 MS. ROGERS: Thank you.</p> <p>11 MR. ROBINS: Okay. And then the last just</p> <p>12 procedural matter is that when we call our witnesses, we're</p> <p>13 going to have -- we're going to use a PowerPoint presentation</p> <p>14 that will have images that our expert, experts plan to</p> <p>15 reference during the testimony. Many of these images are</p> <p>16 already in the record. They are just compiled in one place.</p> <p>17 And then there are a few new images that will have some --</p> <p>18 HEARING EXAMINER: Okay. You're supposed to put</p> <p>19 everything -- submit everything two days in advance so we can</p> <p>20 get it on so that everybody can see it. To the extent that</p> <p>21 there is new images, you're going to have to identify the</p> <p>22 images and send us the PowerPoint and I'll have to -- all</p> <p>23 have to -- no, I'm not objecting. I'll have to ask if</p> <p>24 there's any objections.</p> <p>25 MR. ROBINS: I understand.</p>	<p>15</p> <p>1 residential care facility for over 16 persons including a</p> <p>2 senior care facility containing independent living, assisted</p> <p>3 living, and memory care uses on the property. A unique</p> <p>4 feature of the property is the dense existing tree canopy</p> <p>5 forests that surround the property on three sides and</p> <p>6 provides both a visual and physical buffer from the</p> <p>7 surrounding residential community, which we are largely</p> <p>8 maintaining and preserving with this application.</p> <p>9 As such, there are limited views of the buildings</p> <p>10 from the surrounding neighborhood. However, as our team will</p> <p>11 describe, the Applicant has paid particular attention to</p> <p>12 ensuring compatibility of the project's design with the</p> <p>13 surrounding neighborhood and has worked closely with the</p> <p>14 various stakeholders, particularly the Town of Chevy Chase,</p> <p>15 the municipality in which the property is situated, to</p> <p>16 accomplish this goal.</p> <p>17 The Montgomery County Planning Board reviewed and</p> <p>18 voted to unanimously recommend approval of the LMA at the</p> <p>19 regularly scheduled meeting on March 9, 2023. The Planning</p> <p>20 Board recommended modifications to certain binding elements</p> <p>21 in response to the Town of Chevy Chase and community</p> <p>22 testimony. The Applicant agreed to these modifications as</p> <p>23 reflected in the Planning Board's transmittal letter. And to</p> <p>24 follow up on your question, is also shown in the covenants</p> <p>25 and also in the floating zone plan that we will be using and</p>
<p>14</p> <p>1 HEARING EXAMINER: All right?</p> <p>2 MR. ROBINS: I understand.</p> <p>3 HEARING EXAMINER: It's a little like old home</p> <p>4 week. All right.</p> <p>5 MR. ROBINS: Okay. Can I keep -- can I just keep</p> <p>6 going?</p> <p>7 HEARING EXAMINER: You may. Just go.</p> <p>8 MR. ROBINS: Okay.</p> <p>9 HEARING EXAMINER: Does no more exhibits, okay?</p> <p>10 MR. ROBINS: No. Well -- okay. So as the Hearing</p> <p>11 Examiner is aware from the application materials, the</p> <p>12 Applicant is here today to request approval of the local map</p> <p>13 amendment to rezone the national 4-H conference center</p> <p>14 property located at 7100 Connecticut Avenue from the R-60</p> <p>15 zone to the CRNF zone. And I'll do the same thing as you,</p> <p>16 not mention all the taglines that go along with that. That's</p> <p>17 in the record.</p> <p>18 HEARING EXAMINER: Thank you.</p> <p>19 MR. ROBINS: Of course. To allow for the</p> <p>20 rezoning --</p> <p>21 HEARING EXAMINER: They told me they were going to</p> <p>22 simplify the zoning ordinance. Okay. Go ahead. I'm joking.</p> <p>23 MR. ROBINS: No, I -- well, I didn't want to</p> <p>24 comment on that, but that's actually true. For the</p> <p>25 redevelopment of the long-standing institutional use with a</p>	<p>16</p> <p>1 then introducing those binding elements as modified are on</p> <p>2 that plan as well.</p> <p>3 Over the past year the Applicant has engaged in</p> <p>4 meaningful and extensive community outreach, particularly</p> <p>5 with the immediately surrounding neighbors in the Town of</p> <p>6 Chevy Chase, to work towards consensus on the application</p> <p>7 that met the Applicant's needs, but also insured the end</p> <p>8 product would be compatible with the surrounding neighborhood</p> <p>9 and fit in well with the Town of Chevy Chase, particularly as</p> <p>10 I mentioned before, since this property is within the town's</p> <p>11 municipal limits.</p> <p>12 The Applicant engaged in extensive outreach that</p> <p>13 you will hear about which resulted in the application that is</p> <p>14 before you with the binding elements, and supported by the</p> <p>15 Town of Chevy Chase. The Applicant, and we think the Town</p> <p>16 would agree, that this agreement and relationship is a</p> <p>17 significant accomplishment that we are all proud of.</p> <p>18 We are pleased to say that as a result of these</p> <p>19 collaborative working efforts and the genuine desire by all</p> <p>20 to reach consensus, the Applicant was able to revise the</p> <p>21 plans to address the comments and concerns raised by the town</p> <p>22 and other stakeholders and planning staff. The agreed-upon</p> <p>23 plan revisions are reflected in the application materials</p> <p>24 that are and will be before the hearing examiner.</p> <p>25 I do want to publicly thank the town, its mayor,</p>

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<p style="text-align: right;">17</p> <p>1 Barney Rush, and other council members as well as the town 2 manager, Todd Hoffman, and other stakeholders for their 3 efforts. Working towards a resolution is never easy, 4 especially with the large number of individuals involved, and 5 especially during a pandemic. We all worked towards this 6 goal and came to an agreement. 7 Through our witnesses today, we will demonstrate 8 among other things that the LMA application satisfies the 9 standards, requirements, and other findings necessary for the 10 district council to approve the LMA. The application meets 11 the development standards, purposes and requirements of the 12 CRNF zone. The public facilities and services will be 13 adequate to serve the proposed development. The application 14 substantially conforms to the recommendations of the 15 Bethesda, Chevy Chase master plan and the rezoning and 16 proposed development is appropriate for this property and is 17 compatible with its surroundings. 18 We will be calling on six witnesses today, Tim 19 Gary, as I mentioned before, who is president of Galarie 20 Senior Living, representative of the Applicant, Grant 21 Epstein, president of Community Three. Also on behalf of the 22 Applicant, Tim Hoffman of Soltez, our civil engineer, Jane 23 Przygocki of Soltez, our land planner, Daniel Park of Soltez, 24 our landscape architect, Sarah Alexander of Torti Gallas + 25 Partners, our project architect. And then finally and last</p>	<p style="text-align: right;">19</p> <p>1 your right hand. 2 Do you solemnly affirm under penalties of perjury 3 that the statements you're about to make are the truth, the 4 whole truth, and nothing but the truth? 5 MR. GARY: I do. 6 HEARING EXAMINER: And before I begin, I'm going 7 to ask all witnesses to give their email address in addition 8 to the street address, because that helps us communicate in 9 further proceedings in the case. So if you could add your 10 email, any email address that gets to you, that would be very 11 helpful. Okay. Go ahead, Mr. Robins. 12 MR. ROBINS: Thank you. So Mr. Gary, can you 13 please state your full name, primary occupation, full 14 business address, and your email address? 15 HEARING EXAMINER: Thank you. 16 MR. GARY: Yes, thank you. I'm Tim Gary, the 17 owner and operator, developer of Corso DC. I'm located at 18 3424 Peach Tree Road, Atlanta, Georgia 30326. My email 19 address is Tim@GalarieLiving.com 20 MR. ROBINS: And that's G-A-L-A-R-I-E. 21 HEARING EXAMINER: Okay, thank you. 22 MR. ROBINS: You're welcome. Can you please 23 provide some background on Corso DC, LLC, its relation to the 24 Galarie Senior Living and Galarie's Experience for the 25 record?</p>
<p style="text-align: right;">18</p> <p>1 but not least, Nancy Randall with Wells &amp; Associates, our 2 transportation planner. 3 And as I mentioned, we have a PowerPoint 4 presentation that contains previously submitted exhibits and 5 some updated materials that our witnesses will use as part of 6 their testimony. These exhibits are the reproductions from 7 an existing exhibit that has been so identified. We are -- 8 where an image is new, we will note it as such and ask that 9 it be made part of the record. With that, I would like to 10 call our first witness. 11 HEARING EXAMINER: Okay. Does any other party 12 have an opening statement? 13 MR. DALRYMPLE: The Town will be making a 14 statement, but we can wait until after the case in chief is 15 presented. 16 HEARING EXAMINER: Okay. That's fine. Anyone 17 else have an opening statement? 18 Okay. Hearing none, go -- you can proceed and 19 call your first witness Mr. Robins. 20 MR. ROBINS: Okay. Thank you, very much. So our 21 first witness is Tim Gary on behalf of the Applicant. 22 HEARING EXAMINER: Okay. 23 MR. ROBINS: And I think you see him on your 24 screen. 25 HEARING EXAMINER: I do. Mr. Gary, please raise</p>	<p style="text-align: right;">20</p> <p>1 MR. GARY: Yes. Galarie Senior Living owns and 2 operates the Corso DC, LLC. We've been in business since 3 1996 and we have been owners and operators of communities 4 since 1996. And we're also having Corso plan a project here 5 in Atlanta, Georgia. And we're currently developing a second 6 Corso project with Emory University here in Atlanta, Georgia. 7 MR. ROBINS: And how long have you worked at 8 Galarie Senior Living? And what are your responsibilities in 9 your position? 10 MR. GARY: I'm the founder and CEO of Galarie 11 Senior Living. We've been -- I've been an owner and 12 operator, developer since 1996. The Galarie Leaving brand 13 has been established since 19 -- 2014. 14 MR. ROBINS: And are you familiar with the local 15 map amendment application that is the subject of today's 16 hearing? 17 MR. GARY: Yes. 18 MR. ROBINS: Can you please describe -- ma'am, can 19 you hear him okay? 20 HEARING EXAMINER: Yes, I can. 21 MR. ROBINS: I just want to make sure you all can 22 hear. Okay. 23 HEARING EXAMINER: No, he's loud and clear. Well, 24 not loud, but he's very clear. 25 MR. ROBINS: Okay, thank you. Please describe,</p>

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<p>21</p> <p>1 Mr. Gary, what you believe the site is so well-suited for the 2 proposed residential care facility. When I refer to the site 3 I'm obviously referring to the property in question. 4 MR. GARY: Yes. Galarie Living chose the site 5 because it has great proximity to families which provide 6 great dignity to families and residents to age gracefully in 7 a beautiful amenity in this location. Second of all, there 8 is a huge unmet demand for senior living in this market. And 9 also, we saw this as a long-standing institutional property 10 that provides a unique opportunity to redevelop the site with 11 a more compatible residential use. 12 MR. ROBINS: Thank you. What levels of care are 13 you proposing for this senior living facility? 14 MR. GARY: We are proposing an independent living, 15 assisted living, and memory care services. 16 MR. ROBINS: And can you briefly describe the 17 difference between the three? 18 MR. GARY: Yes. Independent living has minimal 19 levels of care and assistance when needed or on demand. 20 Assisted living is an additional level of care. It has 21 qualifications around activities of daily living which we 22 provide, which include food, medication, and activities such 23 as bathing and grooming. Memory care is a more secure space 24 with the same activities of daily living services. 25 MR. ROBINS: Thank you. And how many units and</p>	<p>23</p> <p>1 the other shifts? 2 MR. GARY: It's approximately 30 on the second 3 shift, and approximately 12 on the third shift. 4 HEARING EXAMINER: Okay, thank you. 5 MR. ROBINS: And the third shift, just -- the 6 first shift would be in the morning, afternoon second shift, 7 and then the evening is the third shift. Is that your 8 thinking? 9 MR. GARY: Yes. 10 MR. ROBINS: Okay. And what type of employees 11 will be employed at this development? 12 MR. GARY: Yes. So we will have our 13 administrative staff. We will have the food and beverage 14 staff which will include chefs, assistant cooks, waitstaff, 15 bus people, people in the food and beverage community. We 16 will have marketing teams. We will have maintenance. We 17 will have a security team, valet teams, and doormen. We will 18 have activities, nurses, med techs, and CNAs. 19 MR. ROBINS: And -- 20 MR. DALRYMPLE: I'm not very good at math. But 21 the numbers that he indicated don't add up to 150, at least 22 by way of my math. 23 MR. GARY: Yeah, you're correct. Because what we 24 have is that we will have seven day. And so we have multiple 25 people hired to cover the seven day timeframe. And so then</p>
<p>22</p> <p>1 beds are proposed for this facility? 2 MR. GARY: We have proposed 287 independent 3 dwelling units, 190 assisted living, and 30 memory care. 4 MR. ROBINS: And approximately how many employees 5 will be employed at the facility? I know it's early on in 6 the process, but just at least what's your thinking now. 7 MR. GARY: We presently envision our community 8 will have approximately 150 people on staff at any one time. 9 The first shift would have approximately 40. The second 10 shift would have approximately 30. And the third shift would 11 have approximately 12. 12 HEARING EXAMINER: Can I interrupt? I didn't pick 13 up -- you said 150 staff at one time? 14 MR. GARY: No, ma'am 15 HEARING EXAMINER: No, total? 16 MR. GARY: Total. 17 HEARING EXAMINER: Okay. 18 MR. ROBINS: Yeah. I was going to actually go 19 back to that because it may have been a little confusing. 20 HEARING EXAMINER: Okay. So it's -- 21 MR. ROBINS: I think the answer is total. 22 HEARING EXAMINER: Okay. Is it 40 for the first 23 shift? 24 MR. GARY: Yes, ma'am 25 HEARING EXAMINER: And then what was -- what were</p>	<p>24</p> <p>1 it goes -- so your average employee is running about 35 to 40 2 hours a week. 3 MR. DALRYMPLE: Thank you for that. 4 HEARING EXAMINER: Well, I'm confused. I'm not 5 good at math. So it's 150 total employees? 6 MR. GARY: Yeah, this is an approximate number. 7 I'm not giving you an exact number. 8 HEARING EXAMINER: Oh, the shifts don't reflect 9 the employees because you have part-time employees? 10 MR. GARY: Yes, ma'am. We have part-time 11 employees, full-time employees. And we have to cover seven 12 days a week 365 days a year. So we also have holidays and so 13 we have to cover time off, sick days and so forth. 14 HEARING EXAMINER: Correct. I understand. Thank 15 you. Mr. Dalrymple's math is better than mine. Okay, go 16 ahead. 17 MR. DALRYMPLE: You're in trouble. 18 MR. ROBINS: You don't want to see my math. 19 HEARING EXAMINER: Go ahead. Go ahead Mr. Gary. 20 I'm sorry. 21 MR. ROBINS: Okay. So my next question is, will 22 the facility provide any sort of on-site healthcare services 23 for residents? 24 MR. GARY: Yes. Just to give you an example of 25 some of those healthcare services that we will have on site,</p>

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<p style="text-align: right;">25</p> <p>1 we will have certified med techs who will provide medication  2 management. We will have nurses on site that will oversee  3 the activities of daily living for the site. And then we  4 will have a food and beverage team. And it is necessary to  5 have all of these -- it's essential to have all of these  6 components to be qualified as assisted living because that's  7 part of the requirement to provide food, medication  8 management, and the activities of daily living.  9 MR. ROBINS: And Mr. Gary, what kind of amenities  10 are unique to this proposed facility?  11 MR. GARY: Yeah, this project is very unique and  12 it's been exciting to work with the community because they've  13 embraced some of the most exciting parts of the amenity  14 packages that we like to see. And that is we have indoor and  15 outdoor amenity spaces in which we can have intergenerational  16 connectivity. It allows us to create dignified spaces and  17 comfortable spaces for families to interact and enjoy. Some  18 of the amenity spaces within the building are a theater, spa,  19 pool, a greenhouse, clubhouse.  20 We have multiple lounges. They have various  21 restaurants. And we have three chef prepared meals per day  22 which are of high quality. We also provide transportation  23 services for off-site excursions. The transportation could  24 also include transportation to organized community services,  25 volunteer events, holiday events, and planned social events.</p>	<p style="text-align: right;">27</p> <p>1 that the community has worked with us through this very long  2 procedure. But it has been a necessary process for us to  3 come to the high detail in which we've been able to design  4 this community. And we're very thankful that we were able to  5 accommodate work to a lot of these accommodations in the  6 redesign so that we could meet the needs of all of the  7 stakeholders in the community. We look forward to continuing  8 this process. We know it is not complete. We know we will  9 continue to have many more meetings. And last of all, we  10 look forward to being a long-term amenity to this community.  11 MR. ROBINS: Thank you. That's all I have for Mr.  12 Gary.  13 HEARING EXAMINER: Thank you. Does anyone have  14 any questions? And anyone who's on the call was not  15 represented can ask questions as well. But will start with  16 Mr. -- does anyone have any questions for this witness based  17 on his testimony?  18 MR. DALRYMPLE: Not from the Town.  19 HEARING EXAMINER: Anyone else? Okay. Hearing  20 none, you may be excused for the time being, although I'm  21 sure you want to hang around. Thank you.  22 Mr. Robins, do you want to call your next witness?  23 MR. ROBINS: Yeah, I do. Thank you. I'm going to  24 call Grant Epstein, who is to my immediate right. Can you  25 see him on the screen?</p>
<p style="text-align: right;">26</p> <p>1 Our residents continue to say very active in the  2 community and continue to dissipate in their volunteer  3 services. And we make sure that they can do that with these  4 transportation services. We also provide limited shop  5 spaces. This is also very important to us to make sure that  6 we can continue to support that intergenerational  7 connectivity between the families and the residents and the  8 local residents who are within walking distance.  9 MR. ROBINS: Will the facility provide any sort of  10 regional connectivity for the residents to access off-site  11 services and amenities?  12 MR. GARY: Yes. We provide private transportation  13 to medical appointments, the local shopping, and local social  14 events. The exact operation of the shuttle varies based on  15 the community. We currently anticipate it will run seven  16 days a week. During the week you have most of your medical  17 services and social events. Weekends you have theater events  18 and local religious services. This site is also very blessed  19 to be next to public transportation. It is connected to  20 various bus routes and the proximity to the future purple  21 line and (indiscernible) Metro station. So we're very  22 excited about that.  23 MR. ROBINS: Is there anything else that you would  24 like to add for the record?  25 MR. GARY: I just like to say I'm very thankful</p>	<p style="text-align: right;">28</p> <p>1 HEARING EXAMINER: Just a minute. I have to unpin  2 some names.  3 MR. ROBINS: So he's my immediate right.  4 HEARING EXAMINER: Yes, I can see him. Thank you.  5 MR. ROBINS: Okay. Thank you, very much.  6 HEARING EXAMINER: Mr. Epstein, please raise your  7 right hand.  8 Do you solemnly affirm under penalties of perjury  9 that the statements you're about to make are the truth, the  10 whole truth, and nothing but the truth?  11 MR. EPSTEIN: Yes.  12 HEARING EXAMINER: Go ahead, Mr. Robbins.  13 MR. ROBINS: Thank you. Can you please state your  14 full name, primary occupation, your business address, and  15 your email address?  16 MR. EPSTEIN: Thank you. Thank you. Yes. Grant  17 Epstein, I'm president of Community Three with a business  18 address of 700 K Street Northwest, Washington, DC 20001. My  19 email address is GWE@CommunityThree.com. And that's all  20 spelled out; T-H-R-E-E.  21 MR. ROBINS: Thank you. Can you please provide a  22 brief description of your professional background?  23 MR. EPSTEIN: Yes, I'm a real estate developer  24 with over 25 years experience in the real estate industry.  25 I'm also a licensed architect registered in the District of</p>



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<p>29</p> <p>1 Columbia. And I'm responsible for leading all of the</p> <p>2 company's development and entitlement activities.</p> <p>3 MR. ROBINS: Please provide some background on</p> <p>4 Community Three's experience and what is your position with</p> <p>5 Community Three?</p> <p>6 MR. EPSTEIN: Community Three is a full-service</p> <p>7 real estate development company that was founded in 2007.</p> <p>8 We've developed over a dozen projects in and around the</p> <p>9 Washington metropolitan area including several in Montgomery</p> <p>10 County during this time. We specialize in both adaptive</p> <p>11 reuse and ground-up projects, and emphasize neighborhood</p> <p>12 integration and contextualism in each of those projects.</p> <p>13 MR. ROBINS: And are you familiar with the local</p> <p>14 map amendment application that is the subject to today's</p> <p>15 hearing?</p> <p>16 MR. EPSTEIN: Yes.</p> <p>17 MR. ROBINS: And what has been your role in the,</p> <p>18 what I'll call the LMA process?</p> <p>19 MR. EPSTEIN: I'm the Applicant's point person for</p> <p>20 the LMA application. I manage and coordinate between all the</p> <p>21 team members, consultants, and county staff. And I'm also</p> <p>22 responsible for community outreach.</p> <p>23 MR. ROBINS: And can you please describe the</p> <p>24 community outreach that has been undertaken in connection</p> <p>25 with this proposed local map amendment?</p>	<p>31</p> <p>1 all of the presentations were posted to the Town of Chevy</p> <p>2 Chase's website. We also held many smaller meetings with the</p> <p>3 immediate surrounding neighbors to discuss the project. Some</p> <p>4 of them were held on street corners and others within the</p> <p>5 living rooms of nearby residents.</p> <p>6 We facilitated a walk-in-ar, which was new to me at</p> <p>7 the time, in September 2022. And it focused on mainly the</p> <p>8 forest stand delineation and stormwater management and</p> <p>9 landscaping strategies that we would be looking at for this</p> <p>10 project. The walk-in-ar was open to the public, shared on the</p> <p>11 Town of Chevy Chase's website calendar, and attended by over</p> <p>12 50 community members and included some of the County planning</p> <p>13 staff.</p> <p>14 To further facilitate community interaction and</p> <p>15 understanding the project, we invited several of the town</p> <p>16 council members and members of the town council special</p> <p>17 committee on the project to one of its similar projects in</p> <p>18 Atlanta, Georgia in April 2022. We also reached out to the</p> <p>19 adjacent community groups including Section 3 of the village</p> <p>20 Chevy Chase and held a virtual meeting with several members</p> <p>21 of the Council and the village manager. We continue our</p> <p>22 efforts cases from the community after filing the</p> <p>23 application, and will continue to do so throughout the entire</p> <p>24 process.</p> <p>25 MR. ROBINS: And are you familiar with the binding</p>
<p>30</p> <p>1 MR. EPSTEIN: Sure. Along -- as a long-term owner</p> <p>2 and operator of course with Chevy Chase, community outreach</p> <p>3 is of utmost important to us as we plan to be a part of this</p> <p>4 committee for quite some time. A primary focus of that our</p> <p>5 is driven by our desire to ensure that the project is</p> <p>6 integrated and compatible with the surrounding neighborhood.</p> <p>7 We expended significant efforts to engage the</p> <p>8 community and get feedback on the plan even before filing</p> <p>9 this application. Understandably, a large focus of this</p> <p>10 outreach was focused on the Town of Chevy Chase since the</p> <p>11 property is within the municipal boundaries of the town.</p> <p>12 We're going to be building something within the town and our</p> <p>13 residents will ultimately be residents of the town. So it</p> <p>14 was very important for us to start off that process well.</p> <p>15 We did conduct broader outreach with the</p> <p>16 surrounding municipalities in the greater community as well.</p> <p>17 Several of our outreach efforts include several formal</p> <p>18 community meetings with the Town of Chevy Chase, notably in</p> <p>19 September 2021, February 2022, and June 2022, where we shared</p> <p>20 our vision for the project and answer questions from the town</p> <p>21 Council and the town select committee created specifically</p> <p>22 for this purpose.</p> <p>23 We also answered questions from the members of the</p> <p>24 community at large. These public meetings were webcasts,</p> <p>25 well attended with between 100 and 200 attendees each. And</p>	<p>32</p> <p>1 elements proposed by the application as modified through the</p> <p>2 Planning Board's transmittal letter?</p> <p>3 MR. EPSTEIN: Yes. These binding elements are the</p> <p>4 result of our highly collaborative process with the Town of</p> <p>5 Chevy Chase and we are pleased that the town is supporting</p> <p>6 this development, which is a testament to the result of this</p> <p>7 collaboration.</p> <p>8 MR. ROBINS: And you're comfortable with those</p> <p>9 binding elements?</p> <p>10 MR. EPSTEIN: Yes, we are comfortable with those</p> <p>11 binding elements and the revisions proposed by the Planning</p> <p>12 Board.</p> <p>13 MR. ROBINS: Now as the expert will discuss in</p> <p>14 greater detail, there is a small amount of commercial density</p> <p>15 proposed by this application. Can you give some background</p> <p>16 on what that is?</p> <p>17 MR. EPSTEIN: Sure. These are really shops and we</p> <p>18 believe that shops is best to describe them, because they are</p> <p>19 primarily there to support the residents and their business</p> <p>20 and guests. However, we wanted to make sure that these were</p> <p>21 publicly accessible to serve as a community amenity. We</p> <p>22 think that the interaction between the residents in the</p> <p>23 community will be a great benefit to this project and these</p> <p>24 neighborhood serving uses are an organic way to facilitate</p> <p>25 those interests.</p>

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<p>33</p> <p>1 MR. ROBINS: And after the local map amendment, 2 what are the next steps?</p> <p>3 MR. EPSTEIN: After approval of the local map in 4 the, we will be seeking preliminary plan and site plan 5 approval from the Montgomery County Planning Board.</p> <p>6 MR. ROBINS: And is there anything else that you 7 would like to add to the record?</p> <p>8 MR. EPSTEIN: Yes. I want to reiterate the Town's 9 participation and thank them for their support and 10 willingness to learn throughout this process. It has been 11 new for some and I just really appreciate the fact that we've 12 come together to understand each other. We recognize that 13 there is much more collaboration and outreach that has to be 14 done and we will continue to work in the same manner and 15 fashion that we have thus far. We look forward to more 16 discussions with the stakeholders and during the next phase 17 of this entitlement process.</p> <p>18 MR. ROBINS: That's all I have for this witness.</p> <p>19 HEARING EXAMINER: Okay. Any questions from 20 anybody on this call?</p> <p>21 MR. DALRYMPLE: None from the Town.</p> <p>22 HEARING EXAMINER: Okay. Mr. Hoffman, are you 23 here? No, it's not Mr. Hoffman. I'm sorry. It's Ms. 24 Harney. Does the Village --</p> <p>25 MS. HARNEY: I'm here.</p>	<p>35</p> <p>1 HEARING EXAMINER: In other words, if there is a 2 requirement for a parking demand analysis, but it doesn't say 3 at the end of the day that all parking is going to be on 4 site.</p> <p>5 MR. ROBINS: Our application reflects that the 6 parking is on site.</p> <p>7 HEARING EXAMINER: But that's not binding.</p> <p>8 MR. ROBINS: So you're suggesting that you would 9 want us say in the binding element that the parking -- that 10 the recommendation from the study regarding the parking will 11 be located on site, a commitment that is on site?</p> <p>12 HEARING EXAMINER: Or a commitment -- I'm not 13 suggesting anything. I'm just struggling with how to say 14 that this won't have an adverse impact. So I guess with the 15 commitment be that you will follow the recommendations of the 16 parking demand analysis? And you don't have to answer at 17 this moment. And we can -- I would like for other people to 18 weigh in on this as well. But that's my -- that's what I'm 19 struggling with because a lot of the binding elements are 20 that you will work with -- but the question is, I need to 21 make a finding that is not going to have an adverse impact.</p> <p>22 MR. DALRYMPLE: If I may interject if it's 23 appropriate, Madam Hearing Examiner.</p> <p>24 HEARING EXAMINER: Go ahead. And then I have Ms. 25 Harney has her hand raised. So you'll be after Mr.</p>
<p>34</p> <p>1 HEARING EXAMINER: Yes. Is the Village going to 2 testify?</p> <p>3 MS. HARNEY: Yes, I am.</p> <p>4 HEARING EXAMINER: Okay. Well, you get to 5 participate as a party. If you have any questions, just 6 wanted to let you know.</p> <p>7 MS. HARNEY: Thank you.</p> <p>8 HEARING EXAMINER: I guess my question -- well, 9 and maybe this is better for another witness. But my 10 question is, as I read the binding elements, they all -- the 11 commitment is to work with the Applicant or to work with the 12 town and various entities to do later studies. But my issue 13 is, I have to make a finding now that it's not going to have 14 an adverse impact on the neighboring properties and the 15 surrounding area. So do you have an opinion on how that's 16 going to be addressed?</p> <p>17 MS. HARNEY: I'd like --</p> <p>18 HEARING EXAMINER: Or should I wait for another 19 witness, Mr. Robins?</p> <p>20 MR. ROBINS: Well, the studies that are referenced 21 in the binding elements, they are voluntary in nature. So 22 we're committed to doing those studies.</p> <p>23 HEARING EXAMINER: But you're not committed to 24 doing what the studies recommend?</p> <p>25 MR. ROBINS: (Inaudible).</p>	<p>36</p> <p>1 Dalrymple.</p> <p>2 MR. DALRYMPLE: The Town's position is that the 3 binding elements that have been negotiated required these 4 studies and that upon implementation of the recommendations 5 of the studies the Town is convinced that the project won't 6 have an adverse impact on the community. So I think that it 7 is taking the can down the road a little bit, but we believe 8 that the framework is in place to ensure that as we move 9 entitlement processes, that the proper studies are being 10 conducted and that these studies will identify things that 11 need to be addressed in order to --</p> <p>12 HEARING EXAMINER: But there is nothing -- there 13 is nothing in the binding elements that require the Applicant 14 to comply with the recommendations of the various studies.</p> <p>15 MR. DALRYMPLE: I think that's a point well taken. 16 It could be amended to read that way if Mr. Robins find that 17 acceptable.</p> <p>18 MS. ROGERS: I was just going to add to that, that 19 the -- that you will hear through our expert witnesses today, 20 the Hearing Examiner is able to make the finding that the 21 local map amendment states that there won't be an adverse 22 impact. If you take parking for example, our experts will 23 testify that we have more than adequate parking on site to 24 meet the requirements of the zoning ordinance.</p> <p>25 Additionally --</p>

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<p>37</p> <p>1 HEARING EXAMINER: Then why have the parking 2 demand analysis? 3 MS. ROGERS: Well, we've added the additional 4 parking demand analysis as additional safeguards give the 5 Town comfort that that requirement in the zoning ordinance 6 which has been established by the County Council is going to 7 provide a no parking on site through that there's no impacts 8 to the surrounding neighborhood. And that binding element in 9 particular requires that we will commission the parking 10 demand analysis for on-site parking for all employees, 11 visitors during the uses is adequate. 12 So I think by the very wording of that binding 13 element and we are considering additional changes, is that 14 the recommendations of that parking demand analysis will be 15 implemented to ensure that adequate parking is provided on 16 site. Additional safeguards in addition to those findings 17 that the Hearing Examiner must make based on the code. 18 HEARING EXAMINER: Okay. Let me get to Ms. 19 Harney. Ms. Harney, did you -- you have had your hand 20 raised. 21 MS. HARNEY: All I wanted to say that the 22 developer has gone through his whole presentation, Section 3 23 would like to address our concerns both about parking and 24 traffic. So I would rather wait for them to go through their 25 whole presentation and then speak to the very narrow issues</p>	<p>39</p> <p>1 that the statements you've made and the statements you will 2 make are the truth, the whole truth, and nothing but the 3 truth? 4 MR. RUSH: I do. 5 MS. HARNEY: I do. 6 HEARING EXAMINER: And later in the testimony 7 we're going to get your name and email address for the 8 record. All right. So I will follow Ms. Harney's -- and Mr. 9 Rush, do you mind lowering your -- taking your hand down? 10 MR. RUSH: I hadn't finished my point. 11 HEARING EXAMINER: Oh, I'm sorry. Go ahead. 12 MR. RUSH: You wanted me to take the oath before I 13 could finish my sentence. 14 HEARING EXAMINER: Yes. 15 MR. RUSH: Which I'm certainly willing to do. I 16 wanted to say I agree with Ms. Harney. I think it would be 17 best to have this conversation after we've heard from the 18 various testimony. But I do want to just make the point that 19 the parking study is something that very much a request 20 writing from the Town because we had seen only frankly what 21 we consider to be a rather gross miscalculation in metric for 22 the number of parking spaces. 23 And what we wanted to see with the detailed 24 buildup of what would be required by residents, what would be 25 required by employees, and what would be required by visitors</p>
<p>38</p> <p>1 of parking and traffic. If that's all right with you. 2 HEARING EXAMINER: Section 3, when you say Section 3 3, you're talking about the Village, not the town, correct? 4 MS. HARNEY: Section 3 of the Village of Chevy 5 Chase is directly opposite the -- 6 HEARING EXAMINER: Correct. Okay. And Mr. Rush 7 has his hand up. Ms. Harney, can you lower your -- make sure 8 to lower your hand on the Teams? 9 MS. HARNEY: Yes. 10 HEARING EXAMINER: Okay. Mr. Rush, your hand is 11 up. 12 MR. RUSH: Sure. By the way, just for 13 clarification, there is Chevy Chase Village, which is a 14 completely separate municipality. And Ms. Harney represents 15 Section 3 of the Village of Chevy Chase. 16 HEARING EXAMINER: I understand. 17 MR. RUSH: Okay. You're clear with that, all 18 right. 19 HEARING EXAMINER: Yes. 20 MR. RUSH: I agree very much with what Ms. Harney 21 just said. 22 HEARING EXAMINER: Okay. Let me do this. Neither 23 of you were under oath. So can you both raise your right 24 hand? 25 Do you solemnly affirm under penalties of perjury</p>	<p>40</p> <p>1 on peak days. And that's what we need to see to really come 2 to our own determination as to the adequacy of the parking. 3 And for the binding element, it's certainly our view, we are 4 happy if there has to be some additional clarity of the 5 language. 6 But our view is that indeed this does obligate the 7 Applicant to ensure that there will be enough parking, full 8 stop. Obviously the study itself doesn't itself make that 9 happen. But the recommendations arising from the study 10 could. And we would expect the developer to undertake those 11 recommendations if they turned out to be different than what 12 they had previously thought. 13 HEARING EXAMINER: Okay. I'm just taking a note. 14 That's why -- all right. Thank you very much. Are there any 15 questions of anyone who hasn't spoke? All right. Seeing 16 none, now Mr. -- yes, you're very good at this. Okay. So 17 let's -- I'm going to take Ms. Harney's suggestion to deal 18 with this once we've heard all of the testimony. And we will 19 revisit this later. And I apologize for interrupting your 20 presentation, Mr. Robins. If you can -- if you're finished 21 with this witness, we can proceed to your next witness. 22 MR. ROBINS: Yeah, we're done with this one. 23 HEARING EXAMINER: Okay, thank you. 24 MR. ROBINS: We're going to -- we are just going 25 to switch chairs.</p>

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<p>41</p> <p>1 HEARING EXAMINER: Okay.</p> <p>2 MS. ROGERS: Okay. We are ready to proceed with</p> <p>3 our next witness if I could.</p> <p>4 HEARING EXAMINER: Okay. Please raise your right</p> <p>5 hand.</p> <p>6 Do you solemnly affirm under penalties of perjury</p> <p>7 that the statements you're about to make are the truth, the</p> <p>8 whole truth, and nothing but the truth?</p> <p>9 HEARING EXAMINER: Please go ahead, Ms. Rogers.</p> <p>10 MS. ROGERS: Thank you. Can you please state your</p> <p>11 full name and primary occupation?</p> <p>12 MR. HOFFMAN: I'm Timothy Hoffman. I'm a civil</p> <p>13 engineer with a professional engineers license for the state</p> <p>14 of Maryland.</p> <p>15 MS. ROGERS: Thank you. And can you please state</p> <p>16 it was her current employer, your full business address, and</p> <p>17 your email address for the record?</p> <p>18 MR. HOFFMAN: Yes. I'm employed by Soltez located</p> <p>19 at 3 Research Place, Suite 400, Rockville, Maryland, 20850.</p> <p>20 My email address is THoffman@SoltezCo.com.</p> <p>21 MS. ROGERS: Thank you. And how long have you</p> <p>22 been employed as a civil engineer?</p> <p>23 MR. HOFFMAN: For 23 years.</p> <p>24 MS. ROGERS: Can you please describe --</p> <p>25 HEARING EXAMINER: Let me just interrupt. Mr.</p>	<p>43</p> <p>1 assistance with the preparation of the land-use report.</p> <p>2 MS. ROGERS: You mentioned that you assisted with</p> <p>3 the preparation of the land-use report. Did you prepare a</p> <p>4 written civil engineering report that was part of the record?</p> <p>5 MR. HOFFMAN: Yes, we assisted with the</p> <p>6 preparation of the civil engineer components of the land-use</p> <p>7 report, which is in the record as Exhibit 29A.</p> <p>8 MS. ROGERS: Thank you. Have you or other members</p> <p>9 of your firm made a personal inspection of the subject</p> <p>10 property?</p> <p>11 MR. HOFFMAN: Yes. In addition to my colleagues,</p> <p>12 I visited the site many times. I'm very familiar with the</p> <p>13 property.</p> <p>14 MS. ROGERS: Great. As Mr. Robins mentioned, I'm</p> <p>15 going to share my screen to share a PowerPoint. Give me one</p> <p>16 moment.</p> <p>17 HEARING EXAMINER: So the PowerPoint will be</p> <p>18 exhibit -- I think we're 52, 53.</p> <p>19 (Crosstalk)</p> <p>20 HEARING EXAMINER: So this will be 54.</p> <p>21 MS. ROGERS: Thank you. And for the ease of the</p> <p>22 record, as you will see I think certain of these exhibits</p> <p>23 that are within the PowerPoint will get their own exhibit</p> <p>24 references. But we can address that when we get there.</p> <p>25 HEARING EXAMINER: Okay. Then I --</p>
<p>42</p> <p>1 Hoffman has been qualified as an expert in civil engineering</p> <p>2 many times before OHZA. Is there anyone -- and his resume is</p> <p>3 in the record. Is there anyone who would object to his been</p> <p>4 qualified as an expert in civil engineering?</p> <p>5 MR. DALRYMPLE: No objections from the Town.</p> <p>6 HEARING EXAMINER: Okay. Hearing none, I'm going</p> <p>7 to qualify Mr. Hoffman as an expert in civil engineering.</p> <p>8 MS. ROGERS: Thank you. Mr. Hoffman, are you</p> <p>9 familiar with the local map amendment application that's</p> <p>10 before the Hearing Examiner today?</p> <p>11 MR. HOFFMAN: Yes, I am. The LMA application</p> <p>12 request for rezoning for the 12.29 acre parcel of land</p> <p>13 located at 7100 Connecticut Avenue from R-60 zone to the</p> <p>14 commercial residential neighborhood floating zone to allow</p> <p>15 for the element of the long-standing institutional use with a</p> <p>16 more compatible with senior living community.</p> <p>17 MS. ROGERS: Thank you. And can you please</p> <p>18 describe the scope of services being provided by Soltez with</p> <p>19 respect to civil engineering matters for the local map</p> <p>20 amendment application?</p> <p>21 MR. HOFFMAN: Yes. The scope of services provided</p> <p>22 by Soltez includes analysis of the existing site and</p> <p>23 suitability of the site for its use, preparation of site</p> <p>24 layout plans including the floating zone plan, water and</p> <p>25 sewer, and the storm water management narrative, and</p>	<p>44</p> <p>1 MS. ROGERS: And --</p> <p>2 HEARING EXAMINER: I take back what I said. And</p> <p>3 we'll do it page by page. Okay. Go ahead.</p> <p>4 MS. ROGERS: So just for the record, this is a</p> <p>5 reproduction of Exhibit 24 that's already in the record. Mr.</p> <p>6 Hoffman, did Soltez prepare a natural resource inventory</p> <p>7 forest delineation for the project?</p> <p>8 MR. HOFFMAN: Yes, the NRIFSD has been approved by</p> <p>9 Park and Planning, which is Exhibit 24.</p> <p>10 MS. ROGERS: Thank you. Can you please describe</p> <p>11 the location and general characteristics of the property?</p> <p>12 For this, Ms. Robeson, I have a -- Ms. Hannan, sorry -- I</p> <p>13 have an aerial view of the property that we'd like to</p> <p>14 introduce as an exhibit for the experts to use during their</p> <p>15 testimony.</p> <p>16 HEARING EXAMINER: Okay. Are there any objections</p> <p>17 to using this aerial photograph? Hearing none --</p> <p>18 MR. DALRYMPLE: None from the Town.</p> <p>19 HEARING EXAMINER: Okay. Hearing none, I will</p> <p>20 admit that as Exhibit 53.</p> <p>21 MS. ROGERS: 54, I believe.</p> <p>22 HEARING EXAMINER: I mean, I'm sorry, yes. You're</p> <p>23 right. Okay, go ahead.</p> <p>24 MR. HOFFMAN: Thank you. The property is located</p> <p>25 within the Town of Chevy Chase on the west side of</p>

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<p style="text-align: right;">45</p> <p>1 Connecticut Avenue within the Lower Rock Creek watershed.</p> <p>2 The existing condition of the property includes various aging</p> <p>3 buildings as well as the associated surface parking. The</p> <p>4 existing site access is off -- along Connecticut Avenue and</p> <p>5 is proposed to be retained. There is pre-2000 storm water</p> <p>6 management on the site consisting of oil rich separators</p> <p>7 which will be replaced with practices meeting the current</p> <p>8 code. There are no threatened or endangered species on the</p> <p>9 property. There are no floodplains or protected wheels on</p> <p>10 the property in the property is not within a specific</p> <p>11 protection area.</p> <p>12 MS. ROGERS: Thank you. Are there any streams,</p> <p>13 wetlands, or other environmental features on the property?</p> <p>14 MR. HOFFMAN: There are no streams and wetlands on</p> <p>15 the property. There is existing forest which we are largely</p> <p>16 preserving through this application.</p> <p>17 MS. ROGERS: Thank you. For the record, this is</p> <p>18 just a production of Exhibit 32 from the record. Mr.</p> <p>19 Hoffman, can you please describe the particular access and</p> <p>20 circulation of the proposed project?</p> <p>21 MR. HOFFMAN: Sure. There are two existing access</p> <p>22 points off of Connecticut Avenue that have long served the 4-</p> <p>23 H conference center and are proposed remain.</p> <p>24 MS. ROGERS: Thank you.</p> <p>25 MR. HOFFMAN: Each --</p>	<p style="text-align: right;">47</p> <p>1 application when the building designs are finalized.</p> <p>2 MS. ROGERS: Thank you. Have you evaluated the</p> <p>3 availability of water, sewer, gas, and other utilities at</p> <p>4 this location? And are capacities adequate to serve the</p> <p>5 proposed development?</p> <p>6 MR. HOFFMAN: Yes. There is adequate electric</p> <p>7 power, water, gas, and sewer available to property. The</p> <p>8 property is within WSNC water category W1 and sewer category</p> <p>9 S1.</p> <p>10 MS. ROGERS: Thank you. Is the storm water</p> <p>11 management concept plan required for this project?</p> <p>12 MR. HOFFMAN: Yes, a storm water strategy</p> <p>13 narrative has already been submitted describing how the storm</p> <p>14 water management will be addressed. The stormwater concept</p> <p>15 is not required for the LMA. The stormwater concept will be</p> <p>16 submitted in connection with the preliminary site plan which</p> <p>17 will fully anticipate the concept plan as approvable. The</p> <p>18 stormwater concept required prior to the application for the</p> <p>19 sediment control permit. And the sediment control permit and</p> <p>20 stormwater approvals are required prior to construction of</p> <p>21 the proposed improvements.</p> <p>22 MS. ROGERS: Thank you. And although from your</p> <p>23 testimony it's not required for the approval of the local map</p> <p>24 amendment, can you please briefly describe the stormwater</p> <p>25 strategies that will be employed on the site?</p>
<p style="text-align: right;">46</p> <p>1 MS. ROGERS: Okay. Please, go ahead.</p> <p>2 MR. HOFFMAN: Give you a little bit more. Each</p> <p>3 access point will provide one way vehicle movements with the</p> <p>4 northern access point providing for the entrance or egress,</p> <p>5 in the southern access point providing for the exit so as to</p> <p>6 avoid merging and confusing traffic flows. The proposed</p> <p>7 roundabout seen on screen allows for exiting from the site</p> <p>8 without passing through the gates. And then the proposed</p> <p>9 gatehouse has two entrances to allow for both residents and</p> <p>10 visitors.</p> <p>11 MS. ROGERS: Thank you. And did Soltez provide a</p> <p>12 site distance analysis? And if so, what did it so</p> <p>13 MR. HOFFMAN: Yes. The site distance analysis of</p> <p>14 the existing site distance at the existing access ports is</p> <p>15 adequate. No changes are proposed and as such the project</p> <p>16 will continue to meet the SHA site distance requirements.</p> <p>17 MS. ROGERS: Thank you. For the record, this is a</p> <p>18 reproduction of Exhibit 31 from the record. Mr. Hoffman, is</p> <p>19 there adequate fire access provided at this site?</p> <p>20 MR. HOFFMAN: Yes. Fire access is provided from</p> <p>21 Connecticut Avenue with turning movements safely within the</p> <p>22 site for Montgomery County fire and service rescue vehicles</p> <p>23 and serving adequate space for turning to the front and the</p> <p>24 rear of the buildings. We will obtain approval for the fire</p> <p>25 access plan in connection with the preliminary site plan</p>	<p style="text-align: right;">48</p> <p>1 MR. HOFFMAN: Sure. The proposed stormwater</p> <p>2 management system includes green roofs and micro-bio</p> <p>3 retention facilities throughout the site in sequence with</p> <p>4 underground structural treatment practices to provide the</p> <p>5 required treatment volumes. The stormwater management design</p> <p>6 will be further developed at the time the preliminary site</p> <p>7 plan -- I'm sorry -- preliminary and site plan and then</p> <p>8 finalized as part of the sediment control permit.</p> <p>9 MS. ROGERS: And I believe he stated this, but</p> <p>10 just so is clear for the record, is the property located in a</p> <p>11 special protection area?</p> <p>12 MR. HOFFMAN: No, it is not.</p> <p>13 MS. ROGERS: In your professional opinion, the</p> <p>14 proposed loading zone plan satisfy all applicable zoning</p> <p>15 requirements?</p> <p>16 MR. HOFFMAN: Yes, it does.</p> <p>17 MS. ROGERS: And do you agree with the findings</p> <p>18 made by MNTPPC staff in their staff report?</p> <p>19 MR. HOFFMAN: Yes, I do.</p> <p>20 MS. ROGERS: And is there anything else you would</p> <p>21 like to add?</p> <p>22 MR. HOFFMAN: No. Thank you, very much.</p> <p>23 MS. ROGERS: Thank you. That concludes our</p> <p>24 questions of Mr. Hoffman.</p> <p>25 HEARING EXAMINER: Thank you. Are there any</p>

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<p style="text-align: right;">49</p> <p>1 questions based on the questions that -- based on Mr.  2 Hoffman's testimony?  3 MR. DALRYMPLE: None from the Town.  4 HEARING EXAMINER: Okay. Thank you, Mr. Hoffman.  5 You may be excused, but you may want to hang around until we  6 get to the end of this.  7 MR. HOFFMAN: Thank you.  8 HEARING EXAMINER: Okay. Mr. Robins or Ms.  9 Rogers, do you want to call your next witness?  10 MR. HOFFMAN: Yeah. She's walking over. Our next  11 witness will be Jane Przygocki if you would like to swear her  12 in before we begin questioning.  13 HEARING EXAMINER: Sure. Please raise your right  14 hand. Do you solemnly affirm -- are you still sharing your  15 screen, Ms. Rogers?  16 MS. ROGERS: Oh, I can stop and then re-share in a  17 moment.  18 HEARING EXAMINER: Thank you. Ms. Przygocki,  19 please raise your right hand.  20 Do you solemnly affirm under penalties of perjury  21 that the statements you're about to make are the truth, the  22 whole truth, and nothing but the truth?  23 MS. PRZYGOCKI: I do.  24 HEARING EXAMINER: I'm just going to briefly -- I  25 know she's got to state her name and address for the record,</p>	<p style="text-align: right;">51</p> <p>1 the local map amendment application before the Hearing  2 Examiner today?  3 MS. PRZYGOCKI: Yes, I am.  4 MS. ROGERS: Thank you. Can you please describe  5 your responsibilities with regard to the local map amendment  6 application?  7 MS. PRZYGOCKI: I reviewed the 1990 approved and  8 adopted Bethesda, Chevy Chase master plan and the zoning  9 ordinance, and evaluated conformance with the message when  10 and the zoning ordinance as well as compatibility of the  11 proposed development with the surrounding neighborhood.  12 Soltez participated in the review and preparation of the land  13 report as Exhibit 45.  14 MS. ROGERS: I think for clarification the land  15 report is Exhibit 29A of the record.  16 MS. PRZYGOCKI: Oh, excuse me. Yes, so Soltez  17 prepared or contributed to the preparation of the land use  18 report, Exhibit 29.  19 MS. ROGERS: Thank you. And have you made a  20 personal inspection of the property that's subject to today's  21 local map amendment application? And are you familiar with  22 the surrounding area?  23 MS. PRZYGOCKI: Yes, I have been to the site,  24 website, and studied the neighborhood, drove around the  25 entire neighborhood. And I'm familiar with the general area.</p>
<p style="text-align: right;">50</p> <p>1 but Ms. Przygocki has been accepted many times in OHZA cases  2 as an expert in land planning. I assume that's how you're  3 going to qualify her today.  4 MS. ROGERS: Yes, that's correct.  5 HEARING EXAMINER: Okay. Is there anyone that  6 objects to admitting -- her resume is in the record. Is  7 there anyone that objects to admitting Ms. Przygocki as an  8 expert in land planning?  9 MR. DALRYMPLE: No objections.  10 HEARING EXAMINER: Thank you. Hearing none I'm  11 going to qualify her ahead of time as an expert land planner.  12 And you can go ahead with the name and address and email.  13 Thank you.  14 MS. PRZYGOCKI: All right. Thank you and good  15 morning. My name is Jane Przygocki. And I'm employed at  16 Soltez. The address B2 Research Place, Suite 100 in  17 Rockville, Maryland, 20850. My email address is  18 JPrzygocki@SoltezCo.com. And I can spell that for you if  19 need be.  20 HEARING EXAMINER: I know how to spell your name.  21 MS. PRZYGOCKI: Okay.  22 HEARING EXAMINER: I have spell checked it many  23 times. Go ahead.  24 MS. ROGERS: Okay, thank you. I am going to re-  25 share my screen. Well, Ms. Przygocki, are you familiar with</p>	<p style="text-align: right;">52</p> <p>1 MS. ROGERS: Thank you. For the record, this is  2 just an enlargement of the neighborhood without the  3 delineation that is shown in the staff report, which is  4 Exhibit 45 of the record.  5 HEARING EXAMINER: Okay.  6 MS. ROGERS: Ms. Przygocki, are you familiar with  7 the surrounding neighborhood boundaries that were identified  8 by staff and their staff report, which is Exhibit 45?  9 MS. PRZYGOCKI: Yes, I am. And staff provided  10 this document in page 7 of the staff report. Staff defines a  11 neighborhood by major highways including East-West Highway to  12 the north, Bradley Lane to the south, Brookville Road to the  13 east, excuse me, and as shown in this diagram, Maple Avenue  14 to the west.  15 MS. ROGERS: Was there any discrepancy between the  16 exhibit shown in the staff report on page 7 and staff's  17 written description of the surrounding neighborhood?  18 MS. PRZYGOCKI: Yes. In the text immediately  19 above this exhibit, they describe the neighborhood as  20 being -- the western boundary being the western boundary of  21 the Town of Chevy Chase in the text. However, the graphic  22 shows it as being along Maple Avenue. I would agree more  23 with the boundary shown in the black. The other boundary is  24 a little bit large and this would be more remote site. So I  25 would definitely concur with their black line shown in the</p>

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<p>53</p> <p>1 graphic.</p> <p>2 MS. ROGERS: For clarification of the record, do</p> <p>3 you agree with staff's delineated boundary as shown in this</p> <p>4 exhibit, figure 1, within the staff report?</p> <p>5 MS. PRZYGOCKI: Yes, I do.</p> <p>6 MS. ROGERS: Thank you. And in your professional</p> <p>7 opinion, I guess can you please briefly describe kind of what</p> <p>8 is the character of the surrounding neighborhood within the</p> <p>9 affiliated boundary that's shown on the screen? And also</p> <p>10 state in your professional opinion if the proposed</p> <p>11 development will impact the character of the surrounding</p> <p>12 neighborhood?</p> <p>13 MS. PRZYGOCKI: Well, the character of the</p> <p>14 surrounding neighborhood is largely residential in nature,</p> <p>15 but it also includes some institutional uses including Chevy</p> <p>16 Chase Elementary School and Chevy Chase United Methodist</p> <p>17 Church in addition to the long-standing institutional use</p> <p>18 that the 4-H property occupied. And I believe that the</p> <p>19 character of this neighborhood would be -- is -- would be the</p> <p>20 same whether they used the large boundary or the smaller</p> <p>21 boundary. It's largely residential.</p> <p>22 MS. ROGERS: Thank you. And in your professional</p> <p>23 opinion, with the proposed development impact the character</p> <p>24 of that surrounding neighborhood?</p> <p>25 MS. PRZYGOCKI: I think it will in a positive way.</p>	<p>55</p> <p>1 the right-of-way may be less than that and the buildings on</p> <p>2 the opposite side of the street, they are actually very</p> <p>3 comparable in terms of their setback from the curb. I can</p> <p>4 tell you at the closest point, the building will be set back</p> <p>5 44 feet from the curb. Although this is expressed on the</p> <p>6 plans as, for zoning purposes because that's how it's</p> <p>7 measured, as an 18 foot setback from the right-of-way.</p> <p>8 There's cross-Section here.</p> <p>9 MS. ROGERS: And so this is that one of the</p> <p>10 Sections was in the staff report. The other one which is</p> <p>11 taken at a different point on Connecticut was not. So for</p> <p>12 the record we would like to introduce this as a new exhibit</p> <p>13 in the record.</p> <p>14 HEARING EXAMINER: And this would be 55 I think.</p> <p>15 Hold on one second.</p> <p>16 MS. PRZYGOCKI: Right. So in the town --</p> <p>17 HEARING EXAMINER: Wait, just stop. Stop talking,</p> <p>18 please.</p> <p>19 MS. PRZYGOCKI: Oh, okay. I'm sorry.</p> <p>20 HEARING EXAMINER: I'm sorry.</p> <p>21 MS. PRZYGOCKI: That's okay.</p> <p>22 HEARING EXAMINER: 55. Which one was in the</p> <p>23 record before? Which view?</p> <p>24 MS. ROGERS: The aerial view was Exhibit 54.</p> <p>25 That's what we put in the record last.</p>
<p>54</p> <p>1 The project has been very carefully designed. The</p> <p>2 significant feedback from the Town of Chevy Chase to ensure</p> <p>3 compatibility with the surrounding neighborhood and</p> <p>4 addressing all of their concerns and their wishes for the</p> <p>5 property. The project proposes to replace an institutional</p> <p>6 use with the residential use, which in my opinion would be</p> <p>7 more compatible with the surroundings.</p> <p>8 And as the architect will testify to, the</p> <p>9 buildings themselves have been designed to have a full</p> <p>10 appearance comparable with the character of the surrounding</p> <p>11 neighborhood. The bulk and the massing of the buildings have</p> <p>12 been designed to ensure compatibility with the scale of the</p> <p>13 surrounding homes. And setbacks are comparable to the</p> <p>14 building line on the west side of Connecticut Avenue as</p> <p>15 described by the cross Section on page 20 of the staff</p> <p>16 report.</p> <p>17 (Crosstalk)</p> <p>18 MS. PRZYGOCKI: That cross-Section --</p> <p>19 MS. ROGERS: For later in your testimony.</p> <p>20 MS. PRZYGOCKI: Okay. Well, I can just speak to</p> <p>21 it. Inasmuch as the -- on the side of Connecticut Avenue</p> <p>22 that the subject property is on, which is the west side,</p> <p>23 there has already been additional dedication on that side of</p> <p>24 the road and in order to meet the master plan right-of-way</p> <p>25 for the future. So while the setback for the building from</p>	<p>56</p> <p>1 MS. PRZYGOCKI: Right. But I'm looking at this</p> <p>2 slide. I'm going to call this Exhibit 55, compatibility</p> <p>3 cross-Section. But which -- is at the top or bottom one</p> <p>4 that --</p> <p>5 MS. ROGERS: I believe it's the top one that was</p> <p>6 not in the staff report. The bottom one was shown in the</p> <p>7 staff report. I could find it for you --</p> <p>8 (Crosstalk)</p> <p>9 HEARING EXAMINER: No, it's okay.</p> <p>10 MS. ROGERS: Okay.</p> <p>11 HEARING EXAMINER: I'll take your word for it.</p> <p>12 All right. Are there any objections to admitting this entire</p> <p>13 slide as Exhibit 55?</p> <p>14 MR. DALRYMPLE: No objections.</p> <p>15 HEARING EXAMINER: Okay. Hearing none, I will</p> <p>16 admit this as Exhibit 55, the slide.</p> <p>17 MS. PRZYGOCKI: Thank you Ms. Hannan. As you can</p> <p>18 see, on the left, the red line is -- shows the location of</p> <p>19 where the cross-Section was taken. And on the right is what</p> <p>20 that Section looks like in the cross Section and in real</p> <p>21 life. So as you can see, the distance to the homes from the</p> <p>22 curb to the building on the east side of the centerline of</p> <p>23 Connecticut Avenue, the buildings are set back 41 feet. And</p> <p>24 on the left side, the buildings are -- and that is from the</p> <p>25 curb --</p>

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<p>57</p> <p>1 (Crosstalk)</p> <p>2 HEARING EXAMINER: Wait just a second. Someone is</p> <p>3 talking in the background and it makes it difficult for me to</p> <p>4 hear. You can mute. And also, Ms. Przygocki, you can't use</p> <p>5 left or right because the transcript doesn't understand that.</p> <p>6 So I think what you're saying is the setback is 41 feet on</p> <p>7 the east side of Connecticut.</p> <p>8 MS. PRZYGOCKI: Correct. And on the west side,</p> <p>9 the setback from the curb is 53 feet. On the diagram to the</p> <p>10 bottom in the plan view on the left -- excuse me. The plan</p> <p>11 view and then there is a cross-Sectional view. This is at</p> <p>12 the narrowest point. Although it's identified as 18 feet</p> <p>13 from the property line, it is actually 44 feet from the</p> <p>14 actual curb of the road. So the setback from the buildings</p> <p>15 from the curb line is actually very comparable and in this</p> <p>16 case more than that of the buildings on the opposite side of</p> <p>17 the street. And I know this was a concern for compatibility.</p> <p>18 And I believe that this shows compatibility with the street</p> <p>19 Section and the character of the roadway. So in addition to</p> <p>20 that, the project will be substantially screened from view on</p> <p>21 three sides. The project largely preserves the existing</p> <p>22 forest on the northern and western --</p> <p>23 HEARING EXAMINER: Wait. Can you stop? Because I</p> <p>24 think -- which exhibit are we supposed to be looking at now?</p> <p>25 MS. ROGERS: Well, I was just going back to the</p>	<p>59</p> <p>1 MS. PRZYGOCKI: In addition, as Timothy Hoffman</p> <p>2 mentioned, the particular access to the site will be</p> <p>3 maintained as it is today with a one way in and one way out</p> <p>4 onto Connecticut Avenue. As detailed in the binding element</p> <p>5 number two, the Applicant will continue to coordinate with</p> <p>6 the SHA and the Town of Chevy Chase and Section 3 of Chevy</p> <p>7 Chase Village regarding the particular access in connection</p> <p>8 with the preliminary and site plan applications.</p> <p>9 The project will also provide porosity and</p> <p>10 connectivity for pedestrians of the neighborhood as there are</p> <p>11 pedestrian connections from Thorn Apple that allow residents</p> <p>12 in the surrounding neighborhoods to access the site as well</p> <p>13 as the access from Connecticut Avenue. The project provides</p> <p>14 environmental benefits such as modern storm water management</p> <p>15 replacing the pre-2000 storm water management facilities with</p> <p>16 facilities that are compliant with current code.</p> <p>17 MS. ROGERS: Thank you. For the record, this is</p> <p>18 just a reproduction of Exhibit 6 from the record, the</p> <p>19 certified zoning map. Ms. Przygocki, have you official</p> <p>20 zoning definity map for the property and the surrounding</p> <p>21 area?</p> <p>22 MS. PRZYGOCKI: Yes, I have. And as you can see</p> <p>23 from this exhibit, the zoning existing on the property is R-</p> <p>24 60 as well as the surrounding neighborhood.</p> <p>25 MS. ROGERS: Thank you. And what is the proposed</p>
<p>58</p> <p>1 last exhibit that we had seen, which was the staff</p> <p>2 reproduction, just to get back in order.</p> <p>3 HEARING EXAMINER: Okay. Thank you. Okay. Go</p> <p>4 ahead.</p> <p>5 MS. PRZYGOCKI: Okay. So in terms of fitting in</p> <p>6 with the character of the neighborhood, the project preserves</p> <p>7 the existing forest on the northern and western property</p> <p>8 boundaries and a portion of the southern boundary with</p> <p>9 provide both a visual and physical buffer from the</p> <p>10 surrounding neighborhood. And as shown in the loading zone</p> <p>11 plan, which we can call up, the setbacks proposed by the</p> <p>12 project significantly exceed that which is required by the</p> <p>13 zoning ordinance.</p> <p>14 HEARING EXAMINER: From the curb line?</p> <p>15 MS. PRZYGOCKI: No, actually -- well, the setbacks</p> <p>16 prescribed by the zoning ordinance are set from the property</p> <p>17 boundary, not from the curb.</p> <p>18 HEARING EXAMINER: Okay.</p> <p>19 MS. PRZYGOCKI: But even so, the project proposes</p> <p>20 setbacks that are well in excess of those setbacks as they</p> <p>21 preserve forest that is within their setbacks in order to</p> <p>22 provide the substantial buffer both visually and distance-</p> <p>23 wise to the building and preserve a lot of the natural</p> <p>24 characteristics of the site.</p> <p>25 HEARING EXAMINER: Okay.</p>	<p>60</p> <p>1 zoning classification of the property?</p> <p>2 MS. PRZYGOCKI: The property is proposed to be</p> <p>3 zoned in the commercial residential neighborhood protein</p> <p>4 zone, or CRNF, with a different fee of 1.5 FAR with</p> <p>5 commercial 0.25 and residential being 1.25 FAR and a maximum</p> <p>6 height of 70 feet.</p> <p>7 MS. ROGERS: Thank you. And as a residential care</p> <p>8 facility over six persons and retail service establishments</p> <p>9 up to 5000 square foot permitted in the CRNF zone?</p> <p>10 MS. PRZYGOCKI: Yes, pursuant to Section 5.3.3.a.1</p> <p>11 and 3.1.6 of the Montgomery County zoning ordinance, retail</p> <p>12 and service establishments up to 5000 square feet are</p> <p>13 permitted by right in CRNF zone. And a residential care</p> <p>14 facility over 16 persons is permitted as a limited use in the</p> <p>15 CRNF zones subject to compliance with requirements of Section</p> <p>16 3.3.2.e.2.c.i of the zoning ordinance. That requirement for</p> <p>17 the limited use requires that the project after rezoning go</p> <p>18 through a site plan review. So adding further protection to</p> <p>19 the community and interest of the County.</p> <p>20 MS. ROGERS: Thank you. And as Mr. Epstein</p> <p>21 testified, the project will subsequently go through site plan</p> <p>22 review. So in your professional opinion, does the</p> <p>23 application meet those limited use standards for a</p> <p>24 residential care facility?</p> <p>25 MS. PRZYGOCKI: Yes.</p>



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<p style="text-align: right;">61</p> <p>1 MS. ROGERS: Thank you. Can you please briefly --</p> <p>2 well, I will actually, just before we begin, Ms. Hannan, this</p> <p>3 is a revised floating zone plan that was revised to reflect</p> <p>4 the updated binding elements that we would like to introduce</p> <p>5 to the record.</p> <p>6 HEARING EXAMINER: And that will be Exhibit 56,</p> <p>7 revised FZP.</p> <p>8 MR. DALRYMPLE: No objection.</p> <p>9 HEARING EXAMINER: Anyone else have an objection?</p> <p>10 Okay. Hearing none, it will be admitted.</p> <p>11 MS. ROGERS: Excuse me. Ms. Przygocki, can you</p> <p>12 please briefly explain the overall planning concepts for</p> <p>13 development proposal of this property?</p> <p>14 MS. PRZYGOCKI: Yes. Sarah Alexander will go into</p> <p>15 greater detail in her testimony regarding architecture, but</p> <p>16 regarding the other central concepts that were achieved here,</p> <p>17 is preserving existing forest, to provide both physical and</p> <p>18 mental barrier and buffer to the community, preserving site</p> <p>19 access off of Connecticut Avenue, inclining development to</p> <p>20 the existing areas of disturbance, and assuring compatible</p> <p>21 building height with taller heights strategically oriented</p> <p>22 towards the internal center of the property and stepping down</p> <p>23 towards the neighborhood.</p> <p>24 MS. ROGERS: Thank you. Next I'm going to switch</p> <p>25 to some questions regarding master plan conformance. Ms.</p>	<p style="text-align: right;">63</p> <p>1 functioning and stable and they did not anticipate any</p> <p>2 changes on this land to the use. However, they did mention</p> <p>3 that of the industrial uses that are in this area, that if</p> <p>4 they at some time were to change views, that it would be --</p> <p>5 if they were redeveloped, that the primary alternative would</p> <p>6 be to convert them to a residential use.</p> <p>7 MS. ROGERS: And just for the record, I think you</p> <p>8 meant the existing industrial uses. Did you meet the</p> <p>9 existing institutional uses?</p> <p>10 MS. PRZYGOCKI: I'm sorry. Did I say industrial?</p> <p>11 I meant institutional. My apologies. I could go on.</p> <p>12 MS. ROGERS: Yes, do.</p> <p>13 MS. PRZYGOCKI: The master plan include several</p> <p>14 overarching goals and recommendations which are pertinent to</p> <p>15 this project and includes an emphasis on the need to meet the</p> <p>16 housing and service needs of the elderly. It promotes the</p> <p>17 following goals including providing for a balanced housing</p> <p>18 supply so that persons of varying income level, age,</p> <p>19 backgrounds, and household characteristics may find suitable</p> <p>20 housing appropriate to their needs. And the project meets</p> <p>21 this objective by providing diverse housing opportunities on</p> <p>22 site that will help meet the needs of the surrounding</p> <p>23 community.</p> <p>24 The project as Mr. Gary referred to, it includes a</p> <p>25 variety of unit sizes, a variety of layouts, three levels of</p>
<p style="text-align: right;">62</p> <p>1 Przygocki, can you please state for the record what is the</p> <p>2 relevant master plan for this property?</p> <p>3 MS. PRZYGOCKI: It's the 1990 approved and adopted</p> <p>4 Bethesda, Chevy Chase master plan.</p> <p>5 MS. ROGERS: And have you reviewed the 1990</p> <p>6 Bethesda, Chevy Chase master plan?</p> <p>7 MS. PRZYGOCKI: Yes.</p> <p>8 MS. ROGERS: Based on your review of the master</p> <p>9 plan and in your professional opinion, is the proposed</p> <p>10 development in substantial conformance with the overall goals</p> <p>11 and recommendations contained in the master plan?</p> <p>12 MS. PRZYGOCKI: Yes, I would say it is. And I</p> <p>13 would note for the record, that the master plan is over 30</p> <p>14 years old and usually they forecast out roughly 20 years. So</p> <p>15 it is a little bit past its life, but I think the policies</p> <p>16 and the zoning changes that have occurred since then even</p> <p>17 this would -- excuse me -- nevertheless, the project</p> <p>18 substantially conforms with the goals and recommendations of</p> <p>19 the plan and is reflective of the current land use policies</p> <p>20 for the county.</p> <p>21 MS. ROGERS: Does the master plan include any</p> <p>22 site-specific recommendations for the property?</p> <p>23 MS. PRZYGOCKI: No, it doesn't specifically</p> <p>24 mention this site. However, it does make references to</p> <p>25 institutional uses. And at the time the 4-H center was fully</p>	<p style="text-align: right;">64</p> <p>1 care including independent living, assisted living, and</p> <p>2 memory care, and to allow residents of the existing community</p> <p>3 in the County to enjoy being able to age in place basically</p> <p>4 and stay in the neighborhood that they are very familiar with</p> <p>5 and have connections and ties to.</p> <p>6 Another goal is -- of the master plan, is to</p> <p>7 protect the high quality residential communities throughout</p> <p>8 the planning area as well as the services and</p> <p>9 environmental -- qualities that enhance the area. Here I</p> <p>10 would say the project layout has been carefully designed to</p> <p>11 protect those qualities being the existing tree canopy that</p> <p>12 exists along the northern, western, and southern boundaries,</p> <p>13 and the natural screening provides a significant physical and</p> <p>14 visual barrier from the surrounding community, but it also</p> <p>15 protects the environmental benefits and features that the</p> <p>16 forest itself present.</p> <p>17 The building design is compatible with the</p> <p>18 neighborhood and incorporates classic design elements and</p> <p>19 environmental -- and materials, excuse me, of the surrounding</p> <p>20 architecture. The third goal of the master plan is to</p> <p>21 protect the natural resources and the environmental qualities</p> <p>22 of the planning area. This project will preserve and enhance</p> <p>23 the natural resources that exist on the site and the</p> <p>24 environment and provide for permanent protection through</p> <p>25 forest conservation easements.</p>

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<p style="text-align: right;">65</p> <p>1 It includes the protection of the steep slopes on  2 the side that exists along the west boundary and the natural  3 habitats within these areas. It also provides stormwater  4 management on-site, replacing the outdated methods and  5 facilities with current best practices. Fourth, the goal is  6 to contribute to a strong sense of community and help  7 reinforce community cohesion.  8 I think we've already seen a great deal of  9 cooperation with the community and the Applicant seeks to be  10 good neighbor in the community as well as through their  11 planning efforts to bring this facility to the community.  12 It's been thoughtfully designed to be compatible with and  13 complement the character of the neighborhood. And as Sarah  14 will describe, building architecture, it takes cues from the  15 architectural styles that exist and the architecture in the  16 community.  17 And the master plan recognizes the special needs  18 of our elderly also relates to our sense of the community  19 that cares about our residents. And in this way the project  20 accomplishes this by providing a range of services for those  21 that are over the age of 62 and would serve the County  22 residents and allow Chevy Chase residents to age in place.  23 And the master plan also supports increased housing densities  24 and types where compatible with nearby properties.  25 And this is in the master plan on page 21. It</p>	<p style="text-align: right;">67</p> <p>1 provisions related to the CRNF zone?  2 MS. PRZYGOCKI: Yes.  3 MS. ROGERS: Thank you. Section 59-5.1.2 sets  4 forth the intents and purposes of the floating zones. Did  5 you evaluate the rezoning application in connection with this  6 section?  7 MS. PRZYGOCKI: Yes.  8 MS. ROGERS: Thank you. There are three intents  9 of the zone, first of which seeks to implement the  10 comprehensive planning objectives. That's 5.1.2.a of the  11 zoning ordinance. In your professional opinion, can you  12 please explain how the proposed project furthers this goal?  13 MS. PRZYGOCKI: Yes. Section 5.1.2.a lists three  14 ways in which the intent to implement comprehensive planning  15 activities to be achieved. One, by for the goals of the  16 control plan and the master plan for the area and functional  17 master plans. And as prescribed in my testimony earlier, the  18 project furthers that goal of the master plan by redeveloping  19 this use as a -- that was an institutional use with a  20 residential senior living community that supports the needs  21 of the elderly, which is a master plan goal.  22 And two, by ensuring that the proposed uses are in  23 balance with and supported by the existing and planned  24 infrastructure in the general plan, the applicable master  25 plan and functional master plan staging and applicable public</p>
<p style="text-align: right;">66</p> <p>1 emphasizes the need to meet housing and services needs of  2 the -- excuse me, I'm sorry. To meet the housing and service  3 needs of the elderly which has also been identified as a need  4 county wide. This project accomplishes both of these  5 objectives for the redevelopment of this long-standing  6 institutional use with a full senior housing development that  7 is compatible with the surrounding neighborhood.  8 MS. ROGERS: Thank you. Did the Maryland National  9 Park and Planning commission staff and the Planning Board, in  10 making their recommendation, agree with your conclusions that  11 the proposed project is in substantial conformance with the  12 goals and recommendations of the master plan?  13 MS. PRZYGOCKI: Yes, they did. The staff  14 discusses the master plan on pages 21 through 23 and  15 specifically find conformance with the master plan as well as  16 the Planning Board transmittal adopts the findings of the  17 staff report and specifically notes that the Planning Board  18 found the LMA application to be in harmony with the general  19 intent and objectives of the master plan.  20 MS. ROGERS: Thank you. Just for the record, the  21 staff report is Exhibit 45 and the Planning Board transmittal  22 memo is Exhibit 47 in the record.  23 Next, Ms. Przygocki, I'm going to ask you a few  24 questions related to development standards. Are you familiar  25 with the zoning ordinance for Montgomery County including its</p>	<p style="text-align: right;">68</p> <p>1 facility requirements, the project is supported by existing  2 infrastructure and will be -- provide a compatible infill  3 development in furtherance of smart growth principles. Just  4 the fact that it is currently served and it is a  5 redevelopment of an area currently served by utilities,  6 transit, transportation, and corridors and -- pedestrian  7 corridors is testament to smart growth principles.  8 The third way is by allowing design flexibility to  9 integrate development to circulation that works, land-use  10 patterns and natural features within and connected to the  11 property. The application of the floating zone in this  12 instance will allow the property to be integrated into the  13 existing committee and will enhance the existing community.  14 It will provide needed senior housing in some neighborhood  15 serving shops, which although they are primarily designed for  16 the rest of, they will also be available to the visitors and  17 the neighborhood.  18 It protects and maintains the tree canopy and  19 steep slopes around the property and it puts that in  20 permanent easements and provides a physical and visual buffer  21 to the property. And it is integrated with the existing  22 infrastructure and transportation facilities.  23 MS. ROGERS: Thank you. The second content  24 provided in 5.1.2.e is to encourage the appropriate use of  25 land. Can you please describe how the project promotes the</p>

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<p>69</p> <p>1 appropriate use of land?</p> <p>2 MS. PRZYGOCKI: The intent to encourage the</p> <p>3 appropriate use of land here can be achieved by providing</p> <p>4 flexible ability to respond to a changing economic and</p> <p>5 demographic and planning trends. And specifically as master</p> <p>6 plans are developed, sometimes there is a space between when</p> <p>7 sexual maps are updated. So by providing flexibility into</p> <p>8 the zone, it can help achieve some of the goals of the master</p> <p>9 plan.</p> <p>10 It allows various uses, building types, and</p> <p>11 density as determined by the property size and its base zone</p> <p>12 as well. And it ensures that the development satisfies</p> <p>13 basically sustainability requirements. The proposed floating</p> <p>14 zone meets this intent. It will allow the petitioner the</p> <p>15 flexibility to redevelop the long-standing institutional use</p> <p>16 with a compatible mixed-use predominantly residential.</p> <p>17 The project promotes sustainability and smart</p> <p>18 growth principles through infill development. It is already</p> <p>19 served by public infrastructure, transportation, and</p> <p>20 services. The project will also provide the needed</p> <p>21 additional senior housing, which is a need in not only the</p> <p>22 Town of Chevy Chase, but the county at large. And I think by</p> <p>23 these methods it is very appropriate that this land-use be</p> <p>24 permitted and this be allowed.</p> <p>25 MS. ROGERS: Thank you. And lastly, section</p>	<p>71</p> <p>1 CRNF zone allow for the project layout that promotes</p> <p>2 compatibility with the surrounding fully established</p> <p>3 neighborhood. Zone allows us to provide limited but</p> <p>4 desirable retail uses and providing shops that the residents</p> <p>5 and community members can both enjoy. And it provides some</p> <p>6 variety and density in character the neighborhood, which</p> <p>7 satisfies that goal.</p> <p>8 MS. ROGERS: Thank you. And next I would like to</p> <p>9 ask you some questions regarding the applicability of the</p> <p>10 CRNF floating zone.</p> <p>11 HEARING EXAMINER: Well, can I interrupt for a</p> <p>12 minute? Do you have any -- do you -- can we do this by</p> <p>13 simply -- do you have any argument with staff's analysis of</p> <p>14 the applicability requirements? And can you adopt that as</p> <p>15 your own testimony? I'm just concerned we've got a couple of</p> <p>16 people we are going to need to get in today. So rather than</p> <p>17 go through every requirement, does anyone object if you just</p> <p>18 state that you agree with the staff report?</p> <p>19 MR. DALRYMPLE: I would object if they didn't</p> <p>20 accept your recommendation.</p> <p>21 HEARING EXAMINER: Okay. Can you just say whether</p> <p>22 you agree with staff's findings as the applicability of the</p> <p>23 applicability requirements of the floating zone?</p> <p>24 MS. PRZYGOCKI: Yes. I would agree to that. I</p> <p>25 think the staff did a thorough analysis and it was our intent</p>
<p>70</p> <p>1 5.1.2.c, the content statement requires that established</p> <p>2 neighborhoods be protected. Is it your professional opinion</p> <p>3 that the project will protect and be compatible with the</p> <p>4 existing surrounding neighborhood?</p> <p>5 MS. PRZYGOCKI: Yes, I do believe that the</p> <p>6 Applicant has gone to great lengths to protect the</p> <p>7 neighborhood, protecting the environmental aspects, and</p> <p>8 protecting the neighborhood through compatibility and</p> <p>9 engaging with the community to really have their input and --</p> <p>10 into the form and structure of the community.</p> <p>11 MS. ROGERS: Thank you. Section 5.3.2 sets forth</p> <p>12 the purposes of the CR floating zones. Can you please</p> <p>13 describe how the project satisfies the purpose of a CR</p> <p>14 floating zone?</p> <p>15 MS. PRZYGOCKI: So the purposes of the CR floating</p> <p>16 zones are one, to allow development of mixed-use centers and</p> <p>17 communities at a range of densities and heights flexible</p> <p>18 enough to respond to various settings, to allow flexibility</p> <p>19 and uses for a site, and to provide mixed-use element that is</p> <p>20 compatible with adjacent development. The proposed CRNF zone</p> <p>21 facilitates the construction of desirable addition of the</p> <p>22 senior housing at this site in support of the master plan's</p> <p>23 goal of providing additional housing and services for the</p> <p>24 elderly.</p> <p>25 Furthermore, the flexible design standards of the</p>	<p>72</p> <p>1 only to get each of those purposes and requirements in the</p> <p>2 record and show how this application does meet those. But</p> <p>3 I'm happy to accept the staff analysis with basically the</p> <p>4 same thing, Ms. Hannan, that we are trying to get into the</p> <p>5 record. And those are spelled out in staff report. I'm</p> <p>6 sorry, did you have a --</p> <p>7 MS. ROGERS: And they are spelled out, I think Mr.</p> <p>8 Robins was just noting, in our land planning report which</p> <p>9 Soltez contributed to. We also go through each of those</p> <p>10 requirements including a prerequisite, which I think is what</p> <p>11 the Hearing Examiner is getting to, some of those underlying</p> <p>12 floating zone requirements are part of what Ms. Przygocki is</p> <p>13 accepting the staff's analysis for.</p> <p>14 HEARING EXAMINER: Okay, thank you. And if we're</p> <p>15 going to development standards now in article 4, can we do</p> <p>16 the -- do you have any problem doing the same thing rather</p> <p>17 than going through each development standard?</p> <p>18 MS. PRZYGOCKI: No, I think that the staff report</p> <p>19 adequately explained all of those. I will say that we did</p> <p>20 introduce this to vote some plan in which there was a typo on</p> <p>21 the open space where we correct that. The open space was</p> <p>22 listed as 11.1 percent, and it is in actuality 10.6 percent.</p> <p>23 And we apologize for the error, but once we recognize that we</p> <p>24 were quick to submit it to the record as a correction.</p> <p>25 HEARING EXAMINER: Okay, thank you.</p>

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<p>73</p> <p>1 MS. ROGERS: For the record, Ms. Przygocki, was 2 the open space exhibit that is part of the record correct in 3 terms of expressing the open space as 10.6 percent? 4 MS. PRZYGOCKI: I'm sorry. Can you repeat? 5 MS. ROGERS: So was the standalone open space 6 exhibit that staff referred to -- 7 MS. PRZYGOCKI: Oh, yeah. 8 MS. ROGERS: Did that correctly express the open 9 space? 10 MS. PRZYGOCKI: Yes, that exhibit also identified 11 that it was 10.6. It just did not make it into the 12 development charge. 13 MS. ROGERS: Thank you. 14 HEARING EXAMINER: Okay. 15 MS. ROGERS: I guess just because it is a -- the 16 only one that I will ask a specific question on since I know 17 this will come up later in testimony, Ms. Przygocki, could 18 you just say in your professional opinion whether adequate 19 parking will be provided on site for the proposed 20 development? 21 MS. PRZYGOCKI: Yes. I reviewed the parking 22 calculations and they are in accordance with the requirements 23 of zone and proposing 503 vehicular spaces as well as tandem, 24 42 tandem spaces. There are bicycle parking spaces both 25 short-term and long-term. So it is in conformance with --</p>	<p>75</p> <p>1 getting concerned that we have several people that want to 2 testify and I want to make sure we get to hear everybody. 3 MS. ROGERS: Understood. 4 HEARING EXAMINER: So to the extent you feel 5 comfortable, that would be helpful. 6 MS. ROGERS: Okay, thank you. So section 7 7.2.1. -- 7.2.1.e.2.a requires that the loading zone 8 substantially conform with the master plan. Is your 9 professional opinion that we meet this binding? 10 MS. PRZYGOCKI: Yes, as previously testified this 11 meets the requirement. 12 MS. ROGERS: Section 7.2.1.e.2.b requires the 13 floating zone plan to further the public interest. Is the 14 public interest met by this floating zone application in your 15 professional opinion? 16 MS. PRZYGOCKI: I believe it is, yes, by providing 17 additional services and housing opportunities for the 18 Applicant. Excuse me, for the neighborhood and the county. 19 MS. ROGERS: Section 7.2.1.e.2.c requires that the 20 floating zone plan satisfy the intent, purposes, and 21 standards of the zoning ordinance. Based on your previous 22 testimony and in your professional opinion, is this binding 23 satisfied? 24 MS. PRZYGOCKI: Yes, it is. 25 MS. ROGERS: Section 7.2.1.e.2.d requires that the</p>
<p>74</p> <p>1 and is also in conformance with the binding element which has 2 been offered, that they will conduct a parking demand 3 analysis later in the process at the site. But the 4 development meets the current requirements and is in excess 5 in order to provide for visitors and other folks that work at 6 the facility. 7 MS. ROGERS: Thank you. Next then, accepting -- 8 as you've accepted staff and the Planning Board's evaluation 9 that the project meets the development standards and the 10 floating zone requirements, we'll move on to the local map 11 amendment requirements and the findings that the district 12 council must make. As you know a zoning map changed to apply 13 a floating zone requires through the local map amendment, 14 district council must approve a local map amendment and make 15 specific findings in connection with the application set 16 forth in 7.2.1.e in the zoning ordinance. Have you reviewed 17 these criteria in connection with this local map amendment 18 application? 19 MS. PRZYGOCKI: Yes. 20 MS. ROGERS: With regard to the specific findings, 21 and if the Hearing Examiner accepts, we can abbreviate the 22 testimony by referring back to the local map amendment and 23 testimony that's already in the record to quickly walk 24 through the findings. 25 HEARING EXAMINER: That would be great. I just am</p>	<p>76</p> <p>1 proposed floating zone be compatible with existing approved 2 and adjacent development. Can you please elaborate a little 3 bit on your specific professional opinion regarding how the 4 project meets this requirement? 5 MS. PRZYGOCKI: Okay. I'm going to try to keep 6 this brief. As I have already testified, the project has 7 been carefully designed. It's been -- incorporated feedback 8 from the surrounding community. It is in conformance with 9 all compatibility regulations in terms of setbacks on height. 10 It's providing a buffer and it incorporates architecture of 11 the surrounding community making it very compatible. The 12 staff in the report has also agreed with this as well is the 13 Planning Board in their letter. Both of those being Exhibits 14 45 and 47. 15 MS. ROGERS: Thank you. And section 7.2.1.e.2.e 16 requires that the floating zone plan will generate traffic 17 that does not exceed a critical lane volume. That is one 18 that we will be asking Ms. Randall in her testimony. 19 MS. PRZYGOCKI: Yeah. So I would refer to Ms. 20 Randall for that testimony. 21 MS. ROGERS: Section 7.2.1.e.2.f requires the 22 finding that the proposed loading zone plan will not 23 adversely affect the character of the surrounding 24 neighborhood. In your professional opinion, is this finding 25 met?</p>

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<p style="text-align: right;">77</p> <p>1 MS. PRZYGOCKI: Yes, I believe it will not  2 adversely affect the surrounding neighborhood. Instead, it  3 will replace an institutional use with the residential use  4 that is more compatible and will be beneficial to the  5 community. The site and the architecture are designed to be  6 in character with the existing community and the staff again  7 agree and found that the use will be more compatible than the  8 previous use. On page 31, the staff recognizes that the  9 project will provide more compatible use by transforming this  10 long-standing institutional use into a residential scaled age  11 restricted community. Furthermore, the project's  12 architecture and building layout has been carefully designed  13 to promote compatibility with the surrounding residential  14 communities and the architecture and scale found therein.  15 MS. ROGERS: Thank you. Did you have an  16 opportunity to review the floating zone plan in connection  17 with its impact on public facilities?  18 MS. PRZYGOCKI: Yes, I did.  19 MS. ROGERS: Would you please briefly just address  20 those couple of facilities that you reviewed?  21 MS. PRZYGOCKI: In terms of school capacity the  22 project will have no impact on the school capacity because  23 this is the age restricted senior living and will not  24 generate any students to the public school state service.  25 Fire and police is of adequate service to the site. Chevy</p>	<p style="text-align: right;">79</p> <p>1 none, you may be excused for the time being. You maybe --  2 unless you are recalled. So, thank you.  3 MS. PRZYGOCKI: All right. Thank you, very much.  4 MS. ROGERS: Thank you. Our next witness will be  5 Daniel Park.  6 HEARING EXAMINER: Okay. Before Mr. Park starts,  7 is there anyone here in the meeting today that would like to  8 express a concern about the landscape architecture workforce  9 conservation or any of the natural features that are supposed  10 to be preserved in the SCP? Okay. I see --  11 MR. DALRYMPLE: Provided that the binding elements  12 are adopted by the Hearing Examiner we would not have any  13 issues.  14 HEARING EXAMINER: Okay. What I'd like to do is  15 rather than going through -- I don't mean to shortcut you,  16 but I think there are some issues that people have concerns  17 about, both Ms. Harney and myself, and perhaps the town. So  18 what I'd like to do is swear Mr. Park in. So let me do that.  19 But then I'm going to ask him if there's any way he can  20 either rely on the staff report or abbreviate, touch the  21 highlights so we can get through to the other people that  22 wish to testify. If you want to go off the record and  23 discuss it for five minutes, that's fine.  24 MR. ROBINS: No, I think we're okay with this  25 witness.</p>
<p style="text-align: right;">78</p> <p>1 Chase Fire Department Station 7 is located at 8001  2 Connecticut Avenue, only 1.1 mile from the site.  3 And the Montgomery County Police Department 2D is  4 located at 4823 Rugby Avenue, only 2.2 miles from the site,  5 or an eight minute drive. And Chevy Chase Village also has a  6 Police Department at 5906 Connecticut Avenue, about 0.8 miles  7 from the site. In terms of traffic, again, Nancy Randall  8 will discuss the traffic implications.  9 MS. ROGERS: Thank you. Just a few very  10 concluding questions. In your professional opinion, does the  11 floating zone plan satisfy all applicable code requirements?  12 MS. PRZYGOCKI: Yes, it does.  13 MS. ROGERS: Do you agree with the findings made  14 by park and planning staff in their staff report, Exhibit 45,  15 and the Planning Board and their recommendation which is  16 Exhibit 47?  17 MS. PRZYGOCKI: Yes, I do.  18 MS. ROGERS: Is there anything else you would like  19 to add?  20 MS. PRZYGOCKI: No, I think that should  21 (inaudible).  22 HEARING EXAMINER: All right. Any questions of  23 Ms. Przygocki based on her testimony?  24 MR. DALRYMPLE: None from the Town.  25 HEARING EXAMINER: Anyone else? Okay. Hearing</p>	<p style="text-align: right;">80</p> <p>1 HEARING EXAMINER: Okay.  2 MR. ROBINS: We're here for the entire proceeding.  3 HEARING EXAMINER: Okay. Mr. Park, please raise  4 your right hand.  5 Do you solemnly affirm under penalties of perjury  6 that the statements you're about to make are the truth, the  7 whole truth, and nothing but the truth?  8 MR. PARK: Yes.  9 HEARING EXAMINER: Okay. I'm going to -- Ms.  10 Rogers is going to ask you to state your name and address and  11 email address for the record. But before that I'm going to  12 say, Mr. Park has qualified many times as an expert in  13 landscape architecture before OHZA. And is there anyone  14 that's going -- and his resume is in the record. Is there  15 anyone that would object to qualifying him as an expert in  16 landscape architecture?  17 MR. DALRYMPLE: No objections from the Town.  18 HEARING EXAMINER: Okay. Hearing no other  19 objections, I will jump ahead and qualify him as an expert in  20 landscape architecture. And Ms. Rogers, you can go ahead  21 with her questioning including his name and address and email  22 address.  23 MS. ROGERS: Thank you. Mr. Park, can you please  24 state your name, your primary occupation, your address, and  25 your email address for the record?</p>

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<p>81</p> <p>1 MR. PARK: Yes. My name is Daniel Park. I'm a 2 landscape architect and land-use planner. I work at Soltez 3 located at 2 Research Place, Suite 100 in Rockville, 4 Maryland, 20850. My email address is DPark@SoltezCo.com 5 MS. ROGERS: Thank you. 6 HEARING EXAMINER: Thank you. 7 MS. ROGERS: And we will abbreviate Mr. Park's 8 testimony in reliance on information already in the record 9 and ask just a very few questions. Mr. Park, are you 10 familiar with the local map amendment before the Hearing 11 Examiner today? 12 MR. PARK: Yes, I am. 13 MS. ROGERS: Thank you. And did Soltez prepare a 14 written report that you contributed to that's part of the 15 record? 16 MR. PARK: That's correct. 17 MS. ROGERS: And could you confirm whether you 18 agree with the planning staff and Planning Board findings 19 that the project meets the requirements of the forest 20 conservation ordinance as expressed through the preliminary 21 forest conservation plan? 22 MR. PARK: Yes, I do confirm as I prepared the 23 NRIFSD the preliminary forest conservation plan and the tree 24 variance with the Soltez team, but I am the person who seals 25 the plans and I have thoroughly reviewed these plans as well</p>	<p>83</p> <p>1 they come in. Thank you. 2 MS. ROGERS: Mr. Park, and relying on the 3 underlying Planning Board approval and staff testimony in the 4 land-use report, if you could be very brief and just 5 highlight anything of note regarding the preliminary forest 6 conservation plan that you think is relevant to the Hearing 7 Examiner's consideration of this local map amendment. 8 MR. PARK: Yes. I just want to clarify that 9 because the project is preserving such a large portion of the 10 existing forest buffer on the northern, western, and a 11 portion of the southern boundary, and the tree variance also 12 has been improved with would require planting of 35 non- 13 deciduous or evergreen trees. Along the remainder of the 14 southern border we are seeking alternative compliance under 15 section 6.8.1, Ms. Robeson, to meet the requirements of 16 section 6.5.3. So both the dimensional requirements 17 obviously, as well as the plant density requirements are far 18 exceeded, but just wanted to put that on the record as well 19 Ms. Robeson. 20 MS. ROGERS: And to clarify the record Mr. Park -- 21 HEARING EXAMINER: Is 6.5.3 the perimeter, the 22 site perimeter landscaping requirement? 23 MR. PARK: Yes, it's the landscape screening 24 requirements around the property, correct. 25 HEARING EXAMINER: Okay.</p>
<p>82</p> <p>1 as the staff report and concurrent with the staff's 2 assessment of these plans and of the zoning ordinance 3 requirements. 4 HEARING EXAMINER: Okay. 5 MS. ROGERS: Just for the record, this was just a 6 reproduction of Exhibit 30 that is the approved preliminary 7 forest conservation plan. 8 HEARING EXAMINER: Now do you have the resolution 9 approving the preliminary -- the approved -- the -- okay, 10 just forget it. Do have the resolution -- 11 MS. ROGERS: (Inaudible) board approving the 12 preliminary forest conservation plan, yes. 13 HEARING EXAMINER: Is that in the record? 14 (Crosstalk) 15 MR. ROBINS: I don't think it is. 16 MS. ROGERS: I don't think it has been submitted 17 to the record, but we can submit it. 18 HEARING EXAMINER: That would be great. I'll 19 leave the record open for whatever period of time we might 20 need. I just -- I can't approve a plan under Chapter 22A 21 without consideration of the approved. So if you could just 22 submit the resolution, that would be great. 23 MS. ROGERS: Would you like to make that Exhibit 24 57 now? Or wait until we -- 25 HEARING EXAMINER: No. No, will go in order as</p>	<p>84</p> <p>1 MS. ROGERS: And just to clarify for the record 2 Mr. Park, that is not an alternative compliance we are 3 seeking the Hearing Examiner's approval of, but we will seek 4 alternative compliance at the time of site plan, correct? 5 MR. PARK: That's correct. And that is also noted 6 on the floating zone plan as well. 7 HEARING EXAMINER: Okay. Is that a binding 8 element? No? 9 MS. ROGERS: I do not believe it's a binding 10 element. 11 HEARING EXAMINER: I'm not sure it needs to be 12 because you're going to have to comply. 13 MS. ROGERS: Correct. 14 MR. ROBINS: Right. 15 HEARING EXAMINER: Did you do the -- did you do 16 the analysis of the intent in your -- any of the documents in 17 our record? 18 MS. ROGERS: No, I cannot -- I would have to look 19 at the latest report to confirm whether we went through that. 20 Mr. Park, could you just explain for the record kind of 21 the -- why, although we meet the dimensional requirements of 22 the screening requirements of the zoning ordinance, we can't 23 make the very specific planting requirements of section 24 6.5.3? 25 MR. PARK: Right. So it's an alternative</p>

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<p>85</p> <p>1 compliance to the minimum requirements of the buffer. So the 2 buffer, under 6.5.3 has a 10 foot dimensional option as well 3 as a visual dimensional option with planting that a canopy 4 level, understory level, or evergreen level, and then at a 5 shrub level. And because the project is retaining forest 6 that far exceeds that requirement -- I mean, I can give you 7 an example. The average number of trees per acre is 156, the 8 average number of shrubs is 700 in this existing forest 9 stand. So there is no need for a buffer beyond that as it 10 would compete with what's there. So that's our reason for 11 the alternative compliance in this scenario. 12 HEARING EXAMINER: Okay, thank you. 13 MS. ROGERS: How will the project satisfy open 14 space requirements for the CRNF zone on site? For the 15 record, which is Exhibit 42 of the record. 16 MR. PARK: Yes, Ms. Rogers. As Ms. Przygocki 17 mentioned in her testimony, the project as required to 18 provide 10 percent of the net lot area of public open space. 19 As depicted here on Exhibit 42 the project is proposing to 20 provide 10.6 percent public open space on site. This space 21 is provided along Connecticut Avenue and Thorn Apple Street 22 in accordance with section 6.3.6. This open space will abut 23 the public sidewalk. It will be a minimum of 15 feet. It 24 will include seating and the contiguous except when crossing 25 the driveway there, which is allowed per the zoning</p>	<p>87</p> <p>1 MR. PARK: Yes, it does. 2 MS. ROGERS: And do you agree with the findings 3 made by MNCPPC staff in their staff report in Exhibit 45 and 4 the Planning Board and their recommendation in Exhibit 47? 5 MR. PARK: Yes, I do. 6 MS. ROGERS: Is there anything else you would like 7 to add to your testimony? 8 MR. PARK: No, thank you, Ms. Rogers. Thank you, 9 Ms. Robeson. 10 HEARING EXAMINER: And I do appreciate your 11 streamlining this. It's quite helpful. I'm going to 12 recognize Mr. Rush. Mr. Rush, do you have any questions for 13 Mr. Park? 14 MR. RUSH: Yes, I do. Would you be kind enough 15 please to put back up on the screen, the map showing the open 16 space? 17 MS. ROGERS: Sure. 18 MR. RUSH: Sure. Here's my question. We know 19 there will be forest conservation areas to the west and 20 north. Could you please explain the distinction you're 21 trying to make regarding what you call open space is a lot of 22 the open space is a forest conservation area much like the 23 conservation area on the west that's not deemed to be open 24 space? I just really don't understand the distinction you're 25 trying to make.</p>
<p>86</p> <p>1 ordinance. And this space will be available for public 2 access. 3 MS. ROGERS: Thank you. And can you please 4 describe how the proposed site lighting will comply with the 5 requirements of the zoning ordinance? 6 MR. PARK: Yes. We will prepare a lighting and 7 photometric plan in connection with the site plan application 8 to demonstrate the project's compliance with the lighting 9 requirements contained in the zoning ordinance. However, in 10 conjunction with the LMA the binding element number 12, that 11 was really created to ensure that the Applicant shall provide 12 site lighting according to the applicable county regulations 13 and coordinated so as to minimize impact on the adjacent 14 properties. 15 HEARING EXAMINER: Okay. I see -- just for the 16 record, I see two hands up. Mr. Rush and -- oh, I thought I 17 saw some -- Ms. Rush. I see Mr. Rush's hand is up. Let me 18 finish Mr. Park's testimony and then you can ask a question. 19 It's your time just to ask questions. You'll get a chance to 20 testify in your own right later on. 21 MR. RUSH: I understand. 22 HEARING EXAMINER: Okay, go ahead. 23 MS. ROGERS: Mr. Park, in your professional 24 opinion, does the proposed floating zone plan satisfy all of 25 the applicable landscape and open space requirements?</p>	<p>88</p> <p>1 MR. PARK: Yes, sir. So the forest conservation 2 area per the zoning ordinance can be a part of the public 3 open space. We do have a walkway that follows that forest 4 conservation area. So the public experience through that can 5 be enjoyed by the general public. And so that the entire 6 area would qualify as a public open space for the enjoyment 7 of the public. 8 MR. RUSH: Because of the path going through it? 9 Is that what you're really saying here? 10 MR. PARK: Yes, it's the path going through it and 11 obviously the shade and the experience of being right next 12 to -- the natural experience there contributes to that, 13 correct. 14 MR. RUSH: Okay. I was just curious. Because 15 otherwise a lot of our residents have wondered what was the 16 definition of that open space in direct contrast to the open 17 space -- or to the forest conservation elsewhere on the west 18 and the south side. 19 MR. DALRYMPLE: And for the record, Mr. Rush was 20 referring to Exhibit 42 I believe. 21 HEARING EXAMINER: Yes, the public open space. 22 Thank you Mr. Dalrymple. 23 HEARING EXAMINER: Okay. Any other questions? 24 Okay. Hearing none, we can -- I do appreciate again, you're 25 abbreviating this. Is there -- as there's no other questions</p>

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<p style="text-align: right;">89</p> <p>1 we'll excuse Mr. Park for the time being. Who would your 2 next witness be?</p> <p>3 MS. ROGERS: We have two more witnesses. Our next 4 witness was going to be Sarah Alexander, the architect from 5 Torti Gallas. And that we have Ms. Nancy Randall from Wells 6 &amp; Associates.</p> <p>7 HEARING EXAMINER: Okay. What I'm going to do is 8 take a 10 minute break. And we'll come back with your next 9 witness.</p> <p>10 MS. ROGERS: Okay.</p> <p>11 HEARING EXAMINER: Please make sure to -- don't 12 leave the meeting, but please make sure to mute microphones 13 because I can hear everything you say. So please mute. 14 Thanks.</p> <p>15 MS. ROGERS: Thank you.</p> <p>16 (Off the record at 11:57 a.m. resuming at 11:48 17 a.m.)</p> <p>18 HEARING EXAMINER: On the record. And we -- 19 please -- we have Ms. Rogers's next witness. Please raise 20 your right hand.</p> <p>21 Do you solemnly affirm under penalties of perjury 22 that the statements you're about to make are the truth, the 23 whole truth, and nothing but the truth?</p> <p>24 MS. ALEXANDER: I do.</p> <p>25 HEARING EXAMINER: Okay. Go ahead, Ms. Rogers.</p>	<p style="text-align: right;">91</p> <p>1 architecture?</p> <p>2 MR. DALRYMPLE: None from the Town.</p> <p>3 HEARING EXAMINER: Okay, none from the Town. 4 Okay, hearing none, I'll go ahead and qualify you as an 5 expert in architecture.</p> <p>6 MS. ALEXANDER: Thank you.</p> <p>7 MS. ROGERS: Thank you. Ms. Alexander, are you 8 familiar with the local map amendment application that's 9 before us today?</p> <p>10 MS. ALEXANDER: Yes, I am.</p> <p>11 HEARING EXAMINER: Did she state her name and 12 address for the record?</p> <p>13 MS. ROGERS: She did.</p> <p>14 HEARING EXAMINER: I was choking on an almond. So 15 I may -- I was a little distracted. Okay, go ahead.</p> <p>16 MS. ROGERS: Thank you. And have you had an 17 opportunity to visit the site and are you familiar with the 18 surrounding area?</p> <p>19 MS. ALEXANDER: Yes, I have had the privilege of 20 visiting the site and I understand and appreciate the 21 surrounding context. And I understand how vitally important 22 that is to our design process.</p> <p>23 (Crosstalk)</p> <p>24 MS. ROGERS: Based on your observations during 25 your site visit, can you please describe the architectural</p>
<p style="text-align: right;">90</p> <p>1 MS. ROGERS: Thank you. Can you please state your 2 full name, your occupation, and your business address and 3 email address for the record?</p> <p>4 MS. ALEXANDER: Sure. Sarah Alexander, I'm an 5 architect at Torti Gallas + Partners. Our address is 1923 6 Vermont Avenue Northwest, 2nd floor, Washington DC. And my 7 email address is SAlexander@TortiGallas.com.</p> <p>8 MS. ROGERS: Now Ms. Hannan, Ms. Alexander has not 9 been previously qualified as an expert in architecture, 10 although her resume was submitted into the record as part of 11 Exhibit 27. Would you like to qualify her as an expert in 12 architecture? Or for us to walk through some qualifying 13 questions?</p> <p>14 HEARING EXAMINER: I'm sorry. If you could, just 15 briefly walk through. I do have a resume. Is there anything 16 you would like to add to your -- I have two questions. Is 17 there anything you would like to add to your resume? And 18 have you ever qualified as an expert before another 19 administrative or court proceeding?</p> <p>20 MS. ALEXANDER: Yes, I have. I have been 21 qualified as an expert witness before DC zoning commission 22 and their board of zoning adjustment.</p> <p>23 HEARING EXAMINER: Okay. I'll go ahead and -- 24 unless someone has an objection. Does anyone have an 25 objection to qualifying Ms. Alexander as an expert in</p>	<p style="text-align: right;">92</p> <p>1 character of existing buildings and surrounding community? 2 And I am just going to re-share my screen. We do have a few 3 additional exhibits. But Ms. Alexander will -- okay. This 4 is an existing site condition photo, which would be Exhibit 5 57.</p> <p>6 HEARING EXAMINER: Okay. Any objection to this?</p> <p>7 MR. DALRYMPLE: None.</p> <p>8 HEARING EXAMINER: Anyone else? Okay, hearing 9 none I will accept this as Exhibit 57, existing photos of 10 existing site conditions. And I don't mean to be a dead 11 horse, but we really -- our website says we have to -- and 12 the notice says you have to introduce the exhibits two days 13 in advance so we can post them. So for next time.</p> <p>14 MS. ROGERS: (Inaudible).</p> <p>15 HEARING EXAMINER: All right.</p> <p>16 MS. ROGERS: We will do that in the future. In 17 the past we've done it this way, but we will be sure to 18 follow that procedure.</p> <p>19 HEARING EXAMINER: Yeah, we had to change -- we 20 put in the -- we had to change our procedures because it was 21 leading to issues at the hearings. Anyway, go ahead. Thank 22 you.</p> <p>23 MS. ROGERS: So go ahead, please.</p> <p>24 MS. ALEXANDER: All right. So as we start all of 25 our design process is we always visit the site, get familiar</p>



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<p style="text-align: right;">93</p> <p>1 with the area, and make sure that whatever we come up with is  2 compatible with the surrounding area and the built features  3 of the surrounding environment. This property as you all  4 know is an existing campus and collectively the existing  5 campus is about 250,000 square feet of gross floor area.  6 There is also a large existing tree canopy that we've talked  7 about numerous times that we are looking to serve.  8 MS. ROGERS: And if it's okay with the Hearing  9 Examiner, Ms. Alexander has -- we have one (inaudible) we can  10 introduce I guess each of these as an exhibit or we can  11 introduce them together if you want me flip through them  12 quickly for ease of the record.  13 HEARING EXAMINER: Okay. So this, we'll just take  14 this as 57A. Does anyone have objections admitting this as  15 part of the record?  16 MR. DALRYMPLE: None.  17 HEARING EXAMINER: Okay, thank you. Hearing none,  18 go ahead.  19 MS. ALEXANDER: The surrounding neighborhood has a  20 rich mix of architectural --  21 HEARING EXAMINER: I'm going to call this photos  22 of neighborhood -- is this houses in the neighborhood?  23 (Crosstalk)  24 MS. ALEXANDER: Contact, yes.  25 MS. ROGERS: Existing buildings in the</p>	<p style="text-align: right;">95</p> <p>1 HEARING EXAMINER: All right. These photos, Ms.  2 Alexander do they fairly and accurately represent the  3 conditions at the time you took them? The photographs.  4 MS. ALEXANDER: On the previous slide?  5 HEARING EXAMINER: Yes.  6 MS. ALEXANDER: Yes.  7 HEARING EXAMINER: Thank you. Okay. Go ahead  8 with 57B.  9 MS. ALEXANDER: Okay. From the start of this  10 process, the desire was to craft a set of buildings that  11 complement the rich and diverse character of the surrounding  12 neighborhood. Given this property has always been more of a  13 campus, we continued that tradition by creating a series of  14 smaller buildings with a variety of sizes and heights. By  15 breaking down the scale, the project with the smaller  16 buildings versus just creating one larger structure, the  17 project better mimics the scale and rhythm of the adjacent  18 neighborhood.  19 One of the largest decisions was to provide sloped  20 roofs with dormers and gables style windows. This decision,  21 as opposed to the more typical solution for this type of  22 architecture of flat roofs with a parapet allows the  23 buildings to blend into a series of gables and pitched roofs  24 of its neighbors when viewed from afar, such as from  25 Connecticut Avenue.</p>
<p style="text-align: right;">94</p> <p>1 neighborhood.  2 HEARING EXAMINER: Hold on.  3 MS. ROGERS: Houses and a church.  4 HEARING EXAMINER: I'll just say photos of  5 neighborhood context. Okay, go ahead.  6 MS. ALEXANDER: All right. I was saying the  7 surrounding neighborhood has a rich mix of architectural  8 styles and they generally fall under the diverse umbrella of  9 the 20th century revival. You see some of those on the  10 screen. I'll mostly point out the Nichols house directly to  11 the south of the site. It's the lower left corner. I know I  12 can't say for the transcript, but that one. And then also  13 wanted to note that there is the United Methodist Church  14 across the street from the site. With regard to massing of  15 homes in the surrounding communities they are mostly two-  16 story homes ranging in size from bungalows up to 2½ story  17 colonial revivals and have a diverse richness of materials,  18 which we are tied into with our design.  19 MS. ROGERS: Thank you. This, for the record  20 would be, if no one objects, Exhibit 57B, which is just some  21 images illustrating how the design will integrate within the  22 surrounding neighborhood. Thank you.  23 HEARING EXAMINER: Just a second. Does anyone  24 object to admitting this exhibit?  25 MR. DALRYMPLE: No objection.</p>	<p style="text-align: right;">96</p> <p>1 And lastly, our choices for building materials and  2 architectural details were directly influenced from the  3 materials and details found throughout the neighborhood of  4 bricks, stones, slate roofs, bay windows, chimneys, dormers  5 and balconies. And I'm going to note the building material  6 is a binding element.  7 MS. ROGERS: This exhibit was submitted to the  8 Planning Board, but I don't think I made it to OZHA's  9 official record.  10 HEARING EXAMINER: That will be 57C. And can you  11 just tell us what it is? And then give me a minute to see if  12 there are objections?  13 MS. ROGERS: This exhibit compares the proposed  14 building footprints are overlaid in blue on top of the  15 existing site conditions to show the relationship of the  16 proposed development to the existing conditions.  17 HEARING EXAMINER: Okay. Does anyone object to  18 admitting this into the record?  19 MR. DALRYMPLE: No objection.  20 HEARING EXAMINER: Okay. Hearing none, I will  21 admit it as 57C comparison of building footprint. Thank you.  22 Go ahead.  23 MS. ROGERS: Thank you. Ms. Alexander, can you  24 briefly describe how the overall planning and design concept  25 said that were applied, and the principles upon which the</p>

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<p style="text-align: right;">97</p> <p>1 design of this project is based?</p> <p>2 MS. ALEXANDER: Sure. Thank you. As you can see</p> <p>3 here with the blue outline the proposed design largely</p> <p>4 confines of the building to the existing developed area. The</p> <p>5 site layout largely preserves the existing forest that</p> <p>6 surrounds the property which provides for the physical and</p> <p>7 visual buffer. And as a result of the preservation of this</p> <p>8 tree canopy, the building substantially exceeds the minimum</p> <p>9 setback requirements.</p> <p>10 HEARING EXAMINER: Okay.</p> <p>11 MS. ROGERS: And we apologize. In the future we</p> <p>12 will change how we handle this, but this would be a new</p> <p>13 exhibit 57D. It's just an illustrative of the site plan.</p> <p>14 HEARING EXAMINER: I'll call it illustrative</p> <p>15 concept plan. Any objection? Hearing none, I will admit it.</p> <p>16 MS. ALEXANDER: Okay. Here, we see the</p> <p>17 preliminary concept plan which shows the collection of</p> <p>18 smaller buildings which define a variety of landscaped</p> <p>19 courtyard. A series of walking paths both inside and</p> <p>20 throughout the site linked to the adjacent community to allow</p> <p>21 residents and neighbors opportunities to meet and interact,</p> <p>22 creating opportunities for greater health and enjoyment for</p> <p>23 the whole community.</p> <p>24 The project will also include up to 5000 square</p> <p>25 feet of publicly available neighborhoods serving retail</p>	<p style="text-align: right;">99</p> <p>1 midpoint of the frontage on Connecticut Avenue.</p> <p>2 MS. ROGERS: It's not shown on this building</p> <p>3 height exhibit. And we can have someone else testify again</p> <p>4 to the floating zone plan, but it is -- I think it is -- Ms.</p> <p>5 Alexander testified where it's located.</p> <p>6 MR. DALRYMPLE: Okay.</p> <p>7 HEARING EXAMINER: Go ahead, Ms. Alexander.</p> <p>8 MS. ROGERS: Thank you. Did the project design</p> <p>9 evolved at all from your initial concept based on</p> <p>10 interactions with both the community and Park and Planning</p> <p>11 staff?</p> <p>12 MS. ALEXANDER: Yes. The design has gone through</p> <p>13 several dramatic iterations based on a collaboration with key</p> <p>14 stakeholders, including the community, Town of Chevy Chase</p> <p>15 and the Park and Planning. Of note, we did commit to</p> <p>16 preserving a majority of the existing forest to the around</p> <p>17 the property, between 80 and 145 feet deep in most places.</p> <p>18 We have restricted the vehicular access to the long-standing</p> <p>19 existing access points along Connecticut Avenue. And we will</p> <p>20 continue to work with SHA and DOT on the final design of this</p> <p>21 intersection.</p> <p>22 We have lowered the height of the building façade</p> <p>23 to the northern, southern, and western properties from 5 to 4</p> <p>24 stories. And although the Parking Planning staff noticed it</p> <p>25 would be appropriate to increase the height of the buildings</p>
<p style="text-align: right;">98</p> <p>1 space. These retail areas have been oriented towards</p> <p>2 Connecticut Avenue and are intended to create interaction</p> <p>3 between the senior living community and the surrounding</p> <p>4 neighborhood. This retail will provide neighborhoods serving</p> <p>5 commercial uses for the surrounding community, but also</p> <p>6 provide for an opportunity for important interactions between</p> <p>7 the senior resident and the community.</p> <p>8 MS. ROGERS: For the record, this is just a</p> <p>9 reproduction of Exhibit 37.</p> <p>10 MS. ALEXANDER: And as requested by the Town of</p> <p>11 Chevy Chase, taller building heights have been oriented to</p> <p>12 the center of the site. You can see here on this diagram the</p> <p>13 green as the four-story, the blue the five stories, and we</p> <p>14 have stepped down at the perimeter of the site, as requested</p> <p>15 by the Town of Chevy Chase. Again, tapering down to the</p> <p>16 community. And on the north, west, and southern boundaries</p> <p>17 you can see here the binding element number 17 is a agreement</p> <p>18 to improvement limitation in terms of feet, which is</p> <p>19 acceptable to the Applicant. Building heights on Connecticut</p> <p>20 Avenue will also be limited to 60 feet, for a distance of 80</p> <p>21 feet from Connecticut Avenue. And that's the binding element</p> <p>22 number 7.</p> <p>23 MR. DALRYMPLE: Can you identify where the</p> <p>24 established building measuring point is?</p> <p>25 MS. ALEXANDER: Yes. It is on Connecticut Avenue</p>	<p style="text-align: right;">100</p> <p>1 along Connecticut Avenue to compensate for the loss of</p> <p>2 density, we did not consider this in respect to Section 3,</p> <p>3 which confronts of the property on the other side along the</p> <p>4 120 foot Connecticut Avenue right of way.</p> <p>5 And lastly, the project has been designed to be</p> <p>6 open to the community, for example, the shops and features</p> <p>7 which I mentioned before.</p> <p>8 MS. ROGERS: And just for the record, I know you</p> <p>9 mentioned that the 120 foot right-of-way. For clarity of the</p> <p>10 record, that is the recommended we get of the master plan.</p> <p>11 Ms. Alexander, is the existing right-of-way only 100 feet</p> <p>12 based on the fact that on the opposite side of Connecticut</p> <p>13 Avenue has a dedication of the full width from the</p> <p>14 centerline?</p> <p>15 MS. ALEXANDER: That is correct.</p> <p>16 MS. ROGERS: Thank you. Ms. Alexander, are you</p> <p>17 familiar with the Montgomery County zoning ordinance and the</p> <p>18 provisions of the CNRS zone as it relates to the design and</p> <p>19 development of this project?</p> <p>20 MS. ALEXANDER: Yes, I am. And the project meets</p> <p>21 or exceeds these requirements.</p> <p>22 MS. ROGERS: Thank you. Is the project subject to</p> <p>23 the height and setback compatibility requirements contained</p> <p>24 in Sections 4.1.8 of the zoning ordinance, and if so, does</p> <p>25 the project comply with these standards?</p>

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<p style="text-align: right;">101</p> <p>1 MS. ALEXANDER: Yes, it does. Under Section  2 4.1.8.a given the CRNS zoning imposes general building types,  3 the project is subject to the setback compatibility  4 requirements on the south and west property boundary square  5 the property abuts a residential detached zone and is  6 approved for residential use. We do, I guess, on the plan  7 here you can see those required setbacks. The minimum side  8 setback among the southern boundary is 1.5 times the minimum  9 setback required for a detached house on the abutting  10 property. This results in an effective minimum side yard of  11 12 feet as shown in the floating zone plan. It rather  12 significantly increases privacy, as you can see.  13 So the minimum rear yard boundary is equal to 1.5  14 times the minimum rear setback requirement for a detached  15 home on an abutting property on the western boundary. This  16 results in an effective minimum rear yard of 30 feet. Again,  17 I think you can say we significantly exceed that requirement.  18 And then, the front and side street setbacks, just  19 to note, are not modified by this Section, N.A.S.A. and  20 instead, see Section 4.1.8.8.2.c. And along the northern  21 portion of the property the building will be setback 81 feet  22 of the current property line.  23 MS. ROGERS: Thank you. I believe one of these  24 was entered within the staff report. But for the record, we  25 would like to introduce in this exhibit, compatibility --</p>	<p style="text-align: right;">103</p> <p>1 measured at a 45 degree angle, as you can see on these  2 drawings, projecting over the subject property measured from  3 a height equal to the height allowed for a detached house in  4 an abutting zone, the setback line is determined by Section  5 4.1.8.a.  6 Where the property confronts a residential  7 detached zone, the property is across the height  8 compatibility is measured at a 45 degree angle plane, because  9 you can see on these drawings, projecting over the subject  10 property, measured from a height equal to the height of the  11 allowed for a detached house in the confronting zone at the  12 front or side street setback line determines according to  13 Article 59.4. And note because Connecticut Avenue is greater  14 than 8 feet, the properties on the opposite side of  15 Connecticut Avenue are not confronting her definition in  16 Section 1.4.2 of the zoning ordinance.  17 MS. ROGERS: And so based on the exhibits that are  18 in the record does this project comply with those standards?  19 MS. ALEXANDER: Yes it does.  20 MS. ROGERS: Thank you. Moving on to the  21 findings, the applicable findings of the -- that the district  22 council must make in approving the local map amendment in  23 Section 7.2.1.2.e requires the Floating Zone to be compatible  24 with existing and improved adjacent development. In your  25 professional opinion, can you please comment on, and explain</p>
<p style="text-align: right;">102</p> <p>1 (Crosstalk)  2 HEARING EXAMINER: Well, this says this exhibit --  3 MS. ROGERS: I'm sorry, Exhibit 35. Yes, than  4 you.  5 HEARING EXAMINER: 36.  6 MR. ROBBINS: They sent you 35.  7 MS. ROGERS: Let me see if I wrote that down  8 wrong. Building Section --  9 Mr. ROBINS: No, it's 35. Those are the  10 elevations.  11 MS. ROGERS: They are the elevations I believe  12 that is supposed to be 36. Yes, it's right on the screen,  13 Exhibit 36.  14 HEARING EXAMINER: Well wait, it's -- hold on.  15 Okay. It's a reconfiguration of Exhibit 35. Okay. All  16 right. Thank you. Go ahead.  17 MS. ROGERS: Ms. Alexander, if you can please  18 continue your testimony regarding how the project is in  19 conformance with the height compatibility requirements of the  20 zoning ordinance.  21 MS. ALEXANDER: Sure. Under Section 4.1.8.b,  22 given the proposed CRNS zoning the project is subject to the  23 height compatibility requirements of the policy. When the  24 subject property abuts a residential detached zone, the  25 property to the south and west, the height compatibility is</p>	<p style="text-align: right;">104</p> <p>1 how the project satisfies this finding?  2 MS. ALEXANDER: Yes. As I have previously  3 testified to you the project will be compatible with existing  4 improved adjacent development. Compatibility is inherently  5 and an evaluation of the built environment and as it relates  6 to its surroundings, and the building massing and setbacks  7 have been strategically designed to promote compatibility  8 with the surrounding residential neighborhood. Taller  9 buildings heights internal to the property stepping down  10 around the edges, retaining tree canopy provides large  11 physical and visual buffers to the side. And we meet the  12 height and setback requirements contained in Section 4.1.8 of  13 the zoning ordinance.  14 MS. ROGERS: Thank you. In your professional  15 opinion does the proposed floating zone plan satisfy all  16 applicable code requirements?  17 MS. ALEXANDER: Yes, it does.  18 MS. ROGERS: And do you agree with the findings  19 made by Park and Planning staff and in the staff report at  20 Exhibit 45, and the Planning Board and their recommendation  21 at Exhibit 47?  22 MS. ALEXANDER: Yes, I do.  23 MS. ROGERS: Is there anything else you'd like to  24 add?  25 MS. ALEXANDER: Not at this time.</p>

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<p>105</p> <p>1 HEARING EXAMINER: Any questions of Ms. Alexander?</p> <p>2 MR. DALRYMPLE: I do have one or two quick</p> <p>3 questions. I understand that a lot of the architecture is to</p> <p>4 be determined still unless there's some illustrative nature</p> <p>5 to the exhibits, but could you just clarify for the record</p> <p>6 what aspects of Exhibits 57C, D, and Exhibits 36 and 37,</p> <p>7 which aspects of those are binding? And in particular I'm</p> <p>8 getting to building footprints and the heights that are</p> <p>9 established in those exhibits.</p> <p>10 MS. ALEXANDER: So the building heights and</p> <p>11 mass -- the building heights and setbacks, those are the</p> <p>12 binding elements in those documents.</p> <p>13 MR. DALRYMPLE: So are the building footprints</p> <p>14 that are shown binding aspects of the plan?</p> <p>15 MS. ALEXANDER: No, those are still in</p> <p>16 development and will continue to be developed during the</p> <p>17 site plan process.</p> <p>18 MR. DALRYMPLE: But the setbacks established in</p> <p>19 those footprints are binding, correct?</p> <p>20 HEARING EXAMINER: Mr. Dalrymple, I believe</p> <p>21 there's a Section of the zoning ordinance said that says the</p> <p>22 site perimeter setbacks are determined by the floating zone</p> <p>23 plan.</p> <p>24 MR. DALRYMPLE: Right. Which would make them --</p> <p>25 HEARING EXAMINER: Binding.</p>	<p>107</p> <p>1 Randall. And just for the record, Ms. Hannan, Section</p> <p>2 5.3.5.c.2 of the zoning ordinance says that setbacks from the</p> <p>3 site boundary and maximum height are established by the</p> <p>4 floating zone plan.</p> <p>5 HEARING EXAMINER: Okay.</p> <p>6 MR. DALRYMPLE: And that's the simplified zoning</p> <p>7 ordinance, right?</p> <p>8 MS. ROGERS: Yes.</p> <p>9 HEARING EXAMINER: Oh please. They married, you</p> <p>10 know, they mirrored the numbering in the fire code and</p> <p>11 building code. Anyway, I digress.</p> <p>12 Okay. Ms. Randall, please raise your right hand.</p> <p>13 Do you solemnly affirm under penalties of perjury that the</p> <p>14 statements you're about to make are the truth, the whole</p> <p>15 truth and nothing but the truth?</p> <p>16 MS. RANDALL: I do.</p> <p>17 HEARING EXAMINER: Okay. Go ahead, Ms. Rogers.</p> <p>18 Now is she -- Ms. Randall has appeared numerous times as an</p> <p>19 expert in transportation planning. Is that how you propose</p> <p>20 to qualify her today?</p> <p>21 MS. ROGERS: Yes, it is.</p> <p>22 HEARING EXAMINER: Does anyone have an objection</p> <p>23 to qualifying Ms. Randall as an expert in transportation</p> <p>24 planning?</p> <p>25 MR. DALRYMPLE: No objections.</p>
<p>106</p> <p>1 MR. DALRYMPLE: Which would make them binding as</p> <p>2 shown.</p> <p>3 HEARING EXAMINER: Correct. Now, I don't trust</p> <p>4 myself. It somewhere, but building setbacks are determined</p> <p>5 by the floating zone plan.</p> <p>6 MS. ROGERS: That's correct.</p> <p>7 MR. ROBINS: They are. The perimeter, but not</p> <p>8 between each other. In other words, building to building</p> <p>9 setbacks aren't, but from the property line they are.</p> <p>10 MR. DALRYMPLE: Yes. What's important to the Town</p> <p>11 are the perimeter setbacks and the building height and the</p> <p>12 stepping of the buildings. So we want to ensure that those</p> <p>13 are, in fact, binding.</p> <p>14 HEARING EXAMINER: Well, during a break I can</p> <p>15 double check but I'm 99 percent sure that the heights are --</p> <p>16 would be binding due to the binding elements. The setbacks,</p> <p>17 if they're addressed in the binding elements, but also, under</p> <p>18 the code the building perimeter setbacks are determined by</p> <p>19 the floating zone code.</p> <p>20 MR. DALRYMPLE: Okay. Thank you.</p> <p>21 HEARING EXAMINER: Anyone else have any questions?</p> <p>22 Okay. Hearing none, Ms. Rogers, you can best Ms.</p> <p>23 Alexander can be excused for the time being, and you can call</p> <p>24 your next witness.</p> <p>25 MS. ROGERS: So our next witness will be Ms. Nancy</p>	<p>108</p> <p>1 HEARING EXAMINER: Okay. Hearing none, I'll so</p> <p>2 qualify her. Ms. Rogers, you can proceed.</p> <p>3 MS. ROGERS: Thank you. Ms. Randall, can you</p> <p>4 please state your full name, occupation, and dress and email</p> <p>5 address?</p> <p>6 MS. RANDALL: I can. My legal name is Ann N.</p> <p>7 Randall, but I go by Nancy. My business address is 1420</p> <p>8 Spring Hill Road Suite 610 in Tysons, Virginia 22102. My</p> <p>9 email address is AMRandall@MGWells.com.</p> <p>10 MS. ROGERS: Thank you. Ms. Randall, have you</p> <p>11 prepared traffic reports and provided expert testimony in</p> <p>12 connection with other senior living facility cases?</p> <p>13 MS. RANDALL: I have.</p> <p>14 MS. ROGERS: Thank you. Are you familiar with the</p> <p>15 local map amendment application before the hearing examiner</p> <p>16 today?</p> <p>17 MS. RANDALL: I am.</p> <p>18 MS. ROGERS: And have you made a personal</p> <p>19 inspection of the subject property?</p> <p>20 MS. RANDALL: I have.</p> <p>21 MS. ROGERS: Can you please describe your</p> <p>22 responsibilities regarding the local map amendment</p> <p>23 application?</p> <p>24 MS. RANDALL: Yes, my responsibility was to</p> <p>25 determine what kind of a analyses is going to be necessary</p>

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<p style="text-align: right;">109</p> <p>1 for this project, which included meeting with, phone calls,  2 and resume with County staff, going over the LATR guidelines  3 and coordinating with them. Preparing a trip generation  4 comparison between the existing use and the proposed use, and  5 found that between the existing use and the proposed use that  6 this site would generate fewer trips than the existing use.  7 And in expedited field number 38-10, which  8 confirms that existing does not mean that the use must be  9 currently active to obtain a trip credit, but rather that the  10 building must be in place. And I believe that that's Exhibit  11 49A through 49D in the exhibit list. We then prepared this  12 trip generation comparison of the long-standing institutional  13 use.  14 This was based on ITE trip generation requirements  15 per the Montgomery County Guidelines, submitted that  16 statement, it was called -- in the LATR guidelines there is  17 what's called a traffic statement. And we prepared that  18 comparing the proposed use versus the 4-H Conference Center.  19 I believe that's Exhibit 10 of the record.  20 Under the LATR guidelines because the 4-H use was  21 active for more than 12 years, it qualifies for this use  22 credit and as the Planning Board and staff found 4-H operated  23 on the property for over 65 years and only recently ceased  24 operation and that was at the end, I believe it was December  25 of 2021 when they sold the property to the Applicant. We</p>	<p style="text-align: right;">111</p> <p>1 that of the long-standing use. And again, because the site  2 is existing and because it's existed for more than 12 years.  3 MS. ROGERS: For the record, this is just a  4 reproduction of the chart in Exhibit 10.  5 MS. RANDALL: Right. And in this exhibit team,  6 the existing use currently generates 285 a.m. peak hour and  7 299 p.m. peak hour person trips. The proposed senior living  8 use will generate 164 a.m., 239 p.m. peak hour person trips.  9 And the reduction on the street and neighboring pedestrian  10 facilities would result in 121 fewer a.m. and 60 fewer p.m.  11 peak hour person trips and then the existing long-standing 4-  12 H conference center. Per the guidelines, given that this is  13 a reduction in trips, a traffic statement is the only thing  14 that was required.  15 MS. ROGERS: And in planning staff and the  16 Planning Board agree with your approach and conclusions that  17 a traffic statement was all that being LATR guidelines  18 required?  19 MS. RANDALL: They did.  20 MS. ROGERS: Thank you. It was the LATR trip  21 credit -- had the LATR trip credit been accepted for other  22 local map amendment applications for a floating zone that you  23 are aware of? And for the record, we have two exhibit so  24 that really go together that are excerpts from a previous  25 local map amendment H-110 and this also includes a press</p>
<p style="text-align: right;">110</p> <p>1 also reviewed, or I also reviewed and was out in the field  2 looking at the proposed plans for vehicular access as well as  3 the obvious existing access.  4 MS. ROGERS: Thank you, Ms. Randall. For the  5 record, can you please state whether the project is subject  6 to the local area transportation review guidelines?  7 MS. RANDALL: Yes. Based on the LATR guideline --  8 MS. ROGERS: And just for one second I'm going to  9 reshare my screen. Ms. Hannan, this is just the excerpts  10 from the LATR guidelines as a screenshot.  11 HEARING EXAMINER: Okay. Is this an exhibit?  12 MS. ROGERS: It's not an exhibit. We took  13 excerpts from the LATR guidelines. If we could make this a  14 new exhibit. They're just screenshots from the guidelines.  15 HEARING EXAMINER: Does anyone have an objection?  16 MR. DALRYMPLE: None.  17 HEARING EXAMINER: Hearing none, this will be 58,  18 LATR excerpts.  19 MS. ROGERS: Thank you. All right. Ms. Randall,  20 please proceed.  21 MS. RANDALL: Yeah, the LATR guidelines  22 specifically say that the guidelines apply to zoning cases.  23 This project is required to provide a traffic exemption  24 statement based on what I had mentioned previously, a  25 comparison of the potential trips from the proposed use to</p>	<p style="text-align: right;">112</p> <p>1 release regarding that application. If we could introduce it  2 into the record.  3 HEARING EXAMINER: Does anyone have an -- I can  4 either do one of two things. I can take official notice of  5 this subject to objection, or I can -- I'll introduce them as  6 exhibits. Does anyone have an objection to introducing  7 the -- how would you describe things? These would be Exhibit  8 59. How would you describe them? And what are they?  9 MS. ROGERS: 59A is an excerpt from the hearing  10 examiner's report and recommendation in connection with local  11 map amendment H-110.  12 Exhibit 59B is an excerpt from the hearing  13 examiner's report and recommendation for that local map  14 amendment H-110, and a copy of the press release from the  15 Montgomery County Police Department regarding the relocation  16 of the police station which is connected to that rezoning.  17 HEARING EXAMINER: When did you put the picture in  18 there?  19 MS. ROGERS: It's just that -- I just screenshot  20 of the press release from the police department. This was in  21 that release. That picture just happens to be on the press  22 release. It demonstrates when that facility was vacated in  23 connection with the subsequent rezoning.  24 MS. ROGERS: If everyone is comfortable, we can  25 have Ms. Randall proceed with her testimony.</p>

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<p>113</p> <p>1 HEARING EXAMINER: Just -- I'm writing.</p> <p>2 MS. ROGERS: Of course.</p> <p>3 HEARING EXAMINER: I've called them A is excerpts</p> <p>4 from HE report in LMH-110. And B is excerpts from HE report</p> <p>5 LMH-110 and photo of press release regarding opening of</p> <p>6 development. All right. Go ahead.</p> <p>7 MS. ROGERS: So Ms. Randall, I'll restate my</p> <p>8 question for the record. Was the LATR trip credit under the</p> <p>9 LATR guideline accepted for other local map amendment</p> <p>10 floating zone applications that you are aware of?</p> <p>11 MS. RANDALL: Yes, it was. LMAH-110 for Art Space</p> <p>12 Project, Inc., for the rezoning of 801 Sligo Avenue was for</p> <p>13 the redevelopment of that police station just now discussed.</p> <p>14 And this project utilized the LATR trip credit.</p> <p>15 Specifically, in that case the trip credit was taken for the</p> <p>16 former police station use, although at the time of the</p> <p>17 analysis the police station was no longer operating.</p> <p>18 The police station closed on May 14, 2014. The</p> <p>19 traffic statement was prepared by Craig Hedburg on August 14,</p> <p>20 2015 and the hearing examiner's report was issued on January</p> <p>21 21, 2016. And I believe the trip generation table that is</p> <p>22 shown, you can see that Art Space would have required a</p> <p>23 traffic study without this credit. However, based on the</p> <p>24 LATR guidelines after applying the applicable trip credit for</p> <p>25 the former use, it was determined that the net new peak hour</p>	<p>115</p> <p>1 that threshold, but now it's based on person trips. Those</p> <p>2 factors were applied based on the requirements withing the</p> <p>3 LATR guidelines. It should be noted that trip generation for</p> <p>4 any use, whether it's single family home or it is this -- the</p> <p>5 institutional use of 4-H or for this project for the senior</p> <p>6 housing project, it's based on all traffic coming and going</p> <p>7 from the entry point.</p> <p>8 So that is the residents, the employees, the</p> <p>9 visitors, the trucks that may bring in delivery of goods,</p> <p>10 doctors, nurses that ae coming on a visit. It's everything,</p> <p>11 trash collection. It includes all vehicles. It's not</p> <p>12 specific just to the residents. It's all the services that</p> <p>13 the residents need.</p> <p>14 Similarly, we did calculate for the retain, the</p> <p>15 shops that are proposed. It's a small quantity but we did to</p> <p>16 take a reduction for what we are expecting in terms of an</p> <p>17 internal capture for that use. Again, to be conservative in</p> <p>18 our trip generation comparison between the existing use and</p> <p>19 this proposed use.</p> <p>20 MS. ROGERS: Thank you. Did MMCPPC staff review</p> <p>21 your topic statement and agree with your conclusion?</p> <p>22 MS. RANDALL: Yes, they did. On pages 30 and 31</p> <p>23 of the staff report, the staff discusses their findings and</p> <p>24 confirmed the trip credit was valid and agreed with our</p> <p>25 analysis that the project will in a net reduction of trips.</p>
<p>114</p> <p>1 trips would not require a traffic study.</p> <p>2 Which is similar to the current LATR guidelines in</p> <p>3 that as long as a project will not generate more than 50 new</p> <p>4 person trips, a project is exempt from full traffic study in</p> <p>5 the LATR. There is -- there in the analysis are the findings</p> <p>6 under Section 7.2.1.E.2.e, the hearing examiner found based</p> <p>7 on this traffic date meant that there was uncontroverted</p> <p>8 evidence that the development is exempt from the LATR and</p> <p>9 that roadway capacity is sufficient to serve in the proposal.</p> <p>10 HEARING EXAMINER: Well, the hearing examiner was</p> <p>11 amazed. I remember this. And it was never raised as an</p> <p>12 issue, but that's fine. We'll go with it.</p> <p>13 MS. ROGERS: Ms. Randall, can you please explain</p> <p>14 how the trip generation for the residential care facility was</p> <p>15 calculated?</p> <p>16 MS. RANDALL: Yes. Using the most current</p> <p>17 addition of the IGE trip generation manual that said the</p> <p>18 Institute of Transportation Engineers, as required by LATR,</p> <p>19 plus the adjustment factors that Montgomery County requires,</p> <p>20 to take vehicle trips and convert them into person trips,</p> <p>21 which is the walker, somebody who is sharing a ride in the</p> <p>22 automobile, the transit user, the by user, it is an</p> <p>23 adjustment factor to develop the total person trips and</p> <p>24 that's how we created the table that I had up before.</p> <p>25 And the requirement is based not on vehicle trips,</p>	<p>116</p> <p>1 MS. ROGERS: Did staff agree with your conclusion</p> <p>2 that a traffic study was not required to satisfy the LATR</p> <p>3 test?</p> <p>4 MS. RANDALL: They did. Again, this site is going</p> <p>5 to have a net reduction of trips as stated earlier. I</p> <p>6 think -- I believe, let me pull the number out. I'm sorry,</p> <p>7 121 fewer a.m. person trips and 60 fewer person trips in the</p> <p>8 p.m. peak hour.</p> <p>9 MS. ROGERS: Thank you. Do the LATR guidelines</p> <p>10 require that the use be currently operating in order to take</p> <p>11 advantage of the trip credit?</p> <p>12 MS. RANDALL: No, they do not.</p> <p>13 MS. ROGERS: Can you please elaborate on why the</p> <p>14 LATR guidelines allow you to take a trip credit in this</p> <p>15 application?</p> <p>16 MS. RANDALL: Yeah. The LATR guidelines only</p> <p>17 require that the proposed use is -- will be replacing an</p> <p>18 existing land use that that land was occupied for more than</p> <p>19 12 years. As I stated earlier, the 4-H conference center has</p> <p>20 been in use for over 65 years. The building and the property</p> <p>21 continue to be actively maintained. There is owners on site</p> <p>22 and maintenance staff and they're currently operating with</p> <p>23 all utilities operating, sewer, water, electricity, and gas.</p> <p>24 Montgomery's bill amendment to the adequate public</p> <p>25 facilities ordinance, bill 38-10 specifically removed the</p>

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<p style="text-align: right;">117</p> <p>1 requirement that the buildings had to have been occupied 2 during the previous 12 months to obtain a credit. This 3 revision recognized that vacant building could be re-tenanted 4 and should be evaluated with the view to that reality, which 5 is the case in this project. 6 The LATR methodology is how -- the methodology is 7 part of how adequate public facilities are determined. 8 Montgomery County Code Article 4, timely adequate public 9 facilities determination, Section 8-30 defines existing 10 building as a building that is substantially intact when an 11 application for a building permit is filed. The effective 12 removal of the previous language requiring occupancy is 13 consistent with how this credit has been interpreted and 14 applied by the Planning Board. 15 The existing use credit in the LATR guidelines has 16 long since been applied to projects in the county where prior 17 uses have ceased. If the buildings have been occupied for 18 more than 12 years. This was the case in the Art Space LMA 19 on Sligo Avenue. 20 MS. ROGERS: Thank you. Is any further traffic 21 analysis required under the LATR guidelines for this LMA 22 application? 23 MS. RANDALL: No. And the findings that the 24 district council make in approving LMA are specifically tied 25 to the LATR guidelines. There are numerous LMA --</p>	<p style="text-align: right;">119</p> <p>1 HEARING EXAMINER: I get that. I guess my 2 question is, okay so you're this comprehensive vehicular site 3 access study is focused on any issues relating just to the 4 site access? 5 MS. RANDALL: That's correct, along with the 6 parking, obviously. 7 HEARING EXAMINER: Well, that's a parking 8 demand analysis -- 9 MS. RANDALL: Yes. 10 HEARING EXAMINER: Which is in the -- 11 HEARING EXAMINER: Yes. 12 MS. RANDALL: A different part. 13 HEARING EXAMINER: A different binding element. 14 MS. RANDALL: Yes, exactly. But it's -- 15 HEARING EXAMINER: So what -- 16 MS. RANDALL: -- in that the parking that's 17 required by code this project has met and the Town has asked 18 for assurances and asked for that parking demand. Similarly, 19 this site access is meeting all of -- or the property itself 20 is meeting the requirements of the LATR, but the Town has 21 asked for more. And my client has accepted those binding 22 elements. 23 HEARING EXAMINER: Well, you've accepted doing a 24 study. So -- but you haven't accepted what happens -- you 25 know, will the study address queuing at the intersection?</p>
<p style="text-align: right;">118</p> <p>1 HEARING EXAMINER: Well, what about binding 2 element number 2? 3 MS. RANDALL: Binding element number 2 is separate 4 and apart from the LATR guidelines. 5 HEARING EXAMINER: Okay. 6 MS. RANDALL: This is with the Town and this 7 Applicant, and are not related to LATR. 8 HEARING EXAMINER: Okay. So what are you studying 9 in the comprehensive vehicular site access study and what 10 issue are you going to work with in Chevy Chase III to 11 address modified traffic impacts? Are you going to do 12 traffic counts or what's going to happen? 13 MS. RANDALL: We've actually started. We met with 14 staff and with the county. We've met with the State highway 15 administration. We've initially started this study. We have 16 not completed it but we did do a count at the entrance. 17 We're looking at the location of the existing crosswalk. 18 Working with the State to see what enhancements, what 19 improvements we can make at this intersection. 20 As you know, one of the other things that we're 21 doing is making sure that we've got great connectivity for 22 the pedestrian. We've got the bus stop located in front of 23 the site and so we're looking at all of those things in 24 relation to this, but it's separate and apart from the 25 findings of this LMA application.</p>	<p style="text-align: right;">120</p> <p>1 MS. RANDALL: I -- 2 HEARING EXAMINER: I'm just trying to understand 3 what these -- what exactly is being addressed by these 4 studies. I understand it's separate from LATR and your 5 position is LATR doesn't apply and I submitted the background 6 and legislative history of 3817 or whatever the bill is. 7 So -- but I'm trying to get what impacts are you looking at 8 in this access study? So would it address queuing? 9 MS. RANDALL: It's going to address queuing. It's 10 going to look at changes to signing, changes to traffic 11 control devices, that's why we met with County staff and with 12 SHA. As you know, this is a state road. And so we're in 13 that the pinning stage. We'll have to go through this same 14 process again at preliminary -- and -- but we'll be looking 15 at all of those things for the Town. We have -- 16 HEARING EXAMINER: But what else? You're looking 17 at whether a warrant is -- whether you can justify a warrant, 18 correct? 19 MS. RANDALL: Right. 20 HEARING EXAMINER: I assume you're looking at what 21 exactly are you looking at? You're looking at whether 22 signage would help? 23 MS. RANDALL: We're going to be looking at the -- 24 HEARING EXAMINER: Signage is needed? 25 MS. RANDALL: -- whole of those things. And if I</p>

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<p style="text-align: right;">121</p> <p>1 can I'll read the binding element we're going to follow  2 what's in that binding element with the Town. And again,  3 we're just in those initial stages but we're going to follow  4 what's in that binding element and include those things. If  5 there are additional things that --  6 HEARING EXAMINER: But what -- I'm sorry to  7 interrupt. I get it. And I'm not trying to be hard on you.  8 I just -- I need to make -- trying to get myself comfortable.  9 When you say you're looking at speed limits, what  10 if there's a speeding problem? Nothing in this binding  11 element says you need to do anything about that.  12 MS. RANDALL: Well, first let me speak to speed  13 limits. No private entity can change speed limits.  14 HEARING EXAMINER: That's true.  15 MS. RANDALL: It's regulated by the state.  16 HEARING EXAMINER: Right.  17 MS. RANDALL: So again, all of this is voluntary  18 and not a requirement to meet code requirements. And it  19 is --  20 HEARING EXAMINER: Well, why study speed limits  21 if -- okay. What about --  22 MS. RANDALL: I didn't say speed limits. I don't  23 know where that came from.  24 HEARING EXAMINER: It comes from your binding  25 elements. What about existing turning movement? What are</p>	<p style="text-align: right;">123</p> <p>1 correct me if I'm wrong, what you're saying is that all those  2 factors, you're going to study will reflect on the safety of  3 the intersection, and if those factors -- in other words,  4 traffic counts, future traffic volume, they impact on the  5 safety of the intersection and if those show there's a  6 problem with the intersection, you'll work with SHA to  7 determine ways to mediate it; is that what I'm hearing you  8 say?  9 MS. RANDALL: No, I think it's more --  10 HEARING EXAMINER: But we don't know if there's  11 a -- okay.  12 MS. RANDALL: If I could, I believe that it's a  13 more of the operational issues at this intersection. And I  14 do have more information and more opportunities to provide  15 you with concerns to the safety issue.  16 HEARING EXAMINER: Okay. I'll shut up then. And  17 then, I also want to get into the parking demand analysis,  18 but I'm going to let you proceed.  19 MS. ROGERS: Thank you. Based on your testimony  20 in the record, you have confirmed that additional traffic  21 analyses are not required?  22 MS. RANDALL: That's correct.  23 HEARING EXAMINER: Well, they're not required  24 under the LATR. But there is a threshold finding that it's  25 going to be the -- the development is going to be compatible</p>
<p style="text-align: right;">122</p> <p>1 you looking at there? What are you trying to --  2 MS. RANDALL: Again, this is --  3 HEARING EXAMINER: What impact are you trying to  4 address by looking at existing turning movement?  5 MS. RANDALL: I'm not quite sure how to address  6 that other than we're going to be looking to see whether or  7 not the intersection would need the warrants for  8 signalization. We'll look at the driveways to see whether or  9 not there are changes along Connecticut Avenue, changing how  10 the intersection functions as an example today. It is the  11 outbound lane which is the southern end or the southern --  12 HEARING EXAMINER: Right. It's a right in, right  13 out.  14 MS. RANDALL: It is an exit only. It is one way  15 and you must turn right. If this intersection were to be  16 signalized then there's opportunity for that intersection to  17 allow for both left and right. So there would be potentially  18 changes. But again, that requires the State Highway  19 Administration and MCDOT to review those things. There is  20 opportunity to move the crosswalk, to lessen the interference  21 with different turning movements, whether it goes to the  22 northern end up by the entrance or to the southern end. All  23 of these are going to be part of that review.  24 HEARING EXAMINER: So what I -- I've got to put it  25 in kind of plain language. I think what you're saying, but</p>	<p style="text-align: right;">124</p> <p>1 with --  2 MR. ROBINS: We've lost you.  3 HEARING EXAMINER: Uh-oh.  4 MR. ROBINS: You're on now, you're good. You're  5 on now.  6 HEARING EXAMINER: Oh, okay. Sorry.  7 MR. ROBINS: Will you go back and think what you  8 just said?  9 HEARING EXAMINER: Yeah, there's no -- nothing --  10 as you argue, there's nothing required under the LATR but  11 there is a compatibility requirement with adjacent uses.  12 So -- and if we could just -- is there any inkling that you  13 have now about whether there is an existing safety issue?  14 MS. ROGERS: And I'm going to share my screen.  15 And Ms. Robeson Hanahan, I think as Ms. Alexander testified,  16 to compatibility in terms of the built environment, how other  17 local map amendments applications have discussed that  18 finding. We do have a follow-up question that Ms. Randall  19 can speak to.  20 HEARING EXAMINER: And Ms. Randall, I am -- is  21 this the stuff that you are going to get to? I interrupted.  22 MS. RANDALL: Yeah.  23 MS. ROGERS: So we'll keep going because I think  24 we're going to answer your questions. So Ms. Randall, based  25 on testimony, this additional traffic analysis is not</p>



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<p style="text-align: right;">125</p> <p>1 required to meet the findings of a local map amendment</p> <p>2 application. However, have you evaluated whether the</p> <p>3 surrounding intersections operate at an appropriate,</p> <p>4 accessible level of service?</p> <p>5 MS. RANDALL: I have. I did pull up information</p> <p>6 off of the county's website to look at how the intersections</p> <p>7 along Connecticut Avenue, both North and South. There is</p> <p>8 existing volume information. So the first one being at</p> <p>9 Bradley Boulevard, and along Connecticut Avenue the COV</p> <p>10 standard, or the orange area is 1600 critical lane vehicles.</p> <p>11 And in 2019 when COVID -- this is pre-COVID.</p> <p>12 HEARING EXAMINER: Pre-COVID?</p> <p>13 MS. RANDALL: Yeah. And when 4-H was open and</p> <p>14 operating, the COV and in the a.m. peak hour was 1386. And</p> <p>15 in the p.m. peak hour it was 1221. In 2022, there were</p> <p>16 counts taken. The volume has come up a bit from COVID but --</p> <p>17 and 4-H of course was closed, but certainly not responsible</p> <p>18 for the majority of this reduction. But in 2022 the COV was</p> <p>19 1281. And in the p.m. peak hour, it was 1184. Again, the</p> <p>20 standard is 1600.</p> <p>21 We also looked at the without --</p> <p>22 HEARING EXAMINER: Was that also -- where the 2022</p> <p>23 COV, was that at Bradley and Connecticut?</p> <p>24 MS. RANDALL: It was. If all --</p> <p>25 HEARING EXAMINER: Okay. I just want to make</p>	<p style="text-align: right;">127</p> <p>1 assisting volume plus 4-H. Then we --</p> <p>2 HEARING EXAMINER: I'm sorry, what was the p.m.?</p> <p>3 MS. RANDALL: The p.m. was 1.5.</p> <p>4 HEARING EXAMINER: Okay. And I yes, Taylor and</p> <p>5 what was that --</p> <p>6 MS. RANDALL: Taylor and our site access points.</p> <p>7 HEARING EXAMINER: Oh. Okay.</p> <p>8 MS. RANDALL: Okay. So the site access and Taylor</p> <p>9 Avenue.</p> <p>10 HEARING EXAMINER: Gotcha.</p> <p>11 MS. RANDALL: Okay. Then, we took the existing</p> <p>12 volume and layered end what this project, Corso, will add to</p> <p>13 the road system. And the average delay was .7 second in the</p> <p>14 a.m. peak hour, a difference from 1.9 down to .7. And in the</p> <p>15 p.m. peak hour it was one second average delay. I'd also</p> <p>16 like to put out that the westbound delay which I know is of</p> <p>17 importance to Chevy Chase III as well as the Town, obviously,</p> <p>18 the delay for the westbound approach with 4-H the a.m. peak</p> <p>19 hour was 16.5 seconds of delay. This is just the approach.</p> <p>20 And 38. -- sorry, 35.8 of delay for that approach. And with</p> <p>21 our site, the reduction in volume, the delay for the</p> <p>22 westbound is 14.6. In the a.m. peak hour and 20 --</p> <p>23 HEARING EXAMINER: And that's -- I'm sorry. Okay.</p> <p>24 When you say westbound approach --</p> <p>25 MS. RANDALL: Yes, so.</p>
<p style="text-align: right;">126</p> <p>1 sure.</p> <p>2 MS. ROGERS: Yeah, all at one intersection.</p> <p>3 MS. RANDALL: Then, we pulled information that</p> <p>4 East West Highway, and now, because that intersection is in</p> <p>5 the red policy zone we can no longer do anything do any</p> <p>6 vehicular analysis at that location, but previously the COV</p> <p>7 standard was 1800. So pre-COVID there were counts in the</p> <p>8 2019 at that intersection -- oh and the COV standard was</p> <p>9 1800, just in case you stated that. In 2019 the counts</p> <p>10 pre-COVID and when 4-H was operating, the COV was 1463 in the</p> <p>11 a.m. peak hour, and 1479 p.m. peak hour. In 2022 the COV is</p> <p>12 1305 in the a.m. peak hour and 1377 in the p.m. peak hour.</p> <p>13 Again, the prior standard when it was required to</p> <p>14 go through a vehicle test it was 1800. We also, as I have</p> <p>15 indicated, we're going through this process and beginning our</p> <p>16 work on this binding element we took account at Taylor Avenue</p> <p>17 and our site access points. And layered in the 4-H traffic</p> <p>18 trip generation and that analysis, the standard again is 80</p> <p>19 seconds of delay for that intersection. And we've got</p> <p>20 layered end for the morning peak hour 1.9 seconds of delay.</p> <p>21 This is the overall weighted average of the entire</p> <p>22 intersection.</p> <p>23 HEARING EXAMINER: Right.</p> <p>24 MS. RANDALL: And in the p.m. hour it was 1.5</p> <p>25 seconds of delay. This is with the layering in of the</p>	<p style="text-align: right;">128</p> <p>1 HEARING EXAMINER: What approach are you --</p> <p>2 MS. RANDALL: The east -- Taylor Avenue.</p> <p>3 HEARING EXAMINER: Okay. All right. I'm sorry.</p> <p>4 MS. RANDALL: Yeah, no that's fine.</p> <p>5 HEARING EXAMINER: So the reduction with your site</p> <p>6 were what?</p> <p>7 MS. RANDALL: Because of the numbers, the</p> <p>8 reduction in traffic from 4-H. You know as I --</p> <p>9 HEARING EXAMINER: Yeah.</p> <p>10 MS. RANDALL: -- previously mentioned this site</p> <p>11 will --</p> <p>12 HEARING EXAMINER: The residential care.</p> <p>13 MS. RANDALL: Correct. So again, suing the same</p> <p>14 thing, we've got existing columns and then I put 4-H traffic</p> <p>15 into the intersection analysis. Okay?</p> <p>16 HEARING EXAMINER: Gotcha.</p> <p>17 MS. RANDALL: And test that. And so that was 16.5</p> <p>18 seconds delay bound approach.</p> <p>19 HEARING EXAMINER: Okay.</p> <p>20 MS. RANDALL: In the a.m. peak hour. And 35.8 in</p> <p>21 the p.m. peak hour with 4-H.</p> <p>22 HEARING EXAMINER: Okay.</p> <p>23 MS. RANDALL: Then, I ran the analysis again with</p> <p>24 the existing volumes, and the delay for that westbound</p> <p>25 approach -- and I'm sorry this is with Corso, all right. The</p>

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<p style="text-align: right;">129</p> <p>1 hose development.</p> <p>2 And in the a.m. peak hour for Corso, the delay</p> <p>3 drops down to 14.6. ... Wait a minute. Yes, sorry, 14.6.</p> <p>4 And for that same westbound approach and 27.6 for that same</p> <p>5 westbound approach. I wanted to show that not even the</p> <p>6 approach has admit that.</p> <p>7 HEARING EXAMINER: I under -- okay, thank you.</p> <p>8 Okay.</p> <p>9 MS. RANDALL: You're welcome.</p> <p>10 MS. ROGERS: And that Ms. Randall, just to confirm</p> <p>11 for the record, in your professional opinion, is that</p> <p>12 additional level of analysis is that required under the local</p> <p>13 map amendment finding district council MFA?</p> <p>14 MS. RANDALL: It is not.</p> <p>15 HEARING EXAMINER: Okay. I get your position on</p> <p>16 that. And that's fine.</p> <p>17 MS. RANDALL: Okay.</p> <p>18 HEARING EXAMINER: You don't have to repeat that.</p> <p>19 Now, it says, in addition -- I'm on binding elements to, in</p> <p>20 addition, the Applicant will coordinate with Chevy Chase</p> <p>21 Section 3 to address traffic related impact to that</p> <p>22 neighborhood. Are you aware right now of any traffic -- and</p> <p>23 I see Ms. Harney's hand up, but let me finish my question,</p> <p>24 Ms. Harney, and you'll have a chance to ask questions.</p> <p>25 Do you know of any traffic related impact to</p>	<p style="text-align: right;">131</p> <p>1 into the record to aid in --</p> <p>2 HEARING EXAMINER: Okay.</p> <p>3 MS. ROGERS: It would be Exhibit 60.</p> <p>4 MS. RANDALL: And the 85 -- I give you a --</p> <p>5 HEARING EXAMINER: I'm sorry. Is it Exhibit 60?</p> <p>6 UNIDENTIFIED SPEAKER: Yes.</p> <p>7 HEARING EXAMINER: Okay. I'm just going to call</p> <p>8 it site access photos.</p> <p>9 Does anyone object to introducing these? Okay.</p> <p>10 Hearing none, I'll admit them. Go ahead.</p> <p>11 MS. RANDALL: So the top left photograph is an</p> <p>12 ariel shot of the stie and the two entrances. The top left</p> <p>13 photograph is a shot of the entrance into the site. Top --</p> <p>14 sorry, I'm left-handed, I always mix them up.</p> <p>15 HEARING EXAMINER: Top right.</p> <p>16 MS. RANDALL: Top right, sorry. The bottom left</p> <p>17 is a photograph of the exit and you can see the signing that</p> <p>18 is there. It's posted on both sides of that driveway</p> <p>19 indicating that no left turn is permitted. And then, also at</p> <p>20 that entrance you can see the do not enter signs.</p> <p>21 HEARING EXAMINER: Okay.</p> <p>22 MS. ROGERS: Thank you. Ms. Randall, will the</p> <p>23 proposed use have any adverse impacts on the existing site</p> <p>24 access and surrounding?</p> <p>25 MS. RANDALL: No, it will not. And that's</p>
<p style="text-align: right;">130</p> <p>1 Section 3 right now?</p> <p>2 MS. RANDALL: From this project?</p> <p>3 HEARING EXAMINER: Yes.</p> <p>4 MS. RANDALL: No.</p> <p>5 HEARING EXAMINER: Okay. Now, I've interrupted</p> <p>6 you multiple times. If you can find your place where you</p> <p>7 were.</p> <p>8 MS. ROGERS: Yes. I think next we do have more</p> <p>9 questions, I think we'll get to some of the Hearing</p> <p>10 Examiner's questions raised by email. But I'm going to</p> <p>11 reshare my screen again. This is the ariel that we already</p> <p>12 made part of the record earlier as Exhibit 54.</p> <p>13 Ms. Randall, can you please describe how vehicles</p> <p>14 currently enter and exit the subject property and the</p> <p>15 proposed access for the project?</p> <p>16 MS. RANDALL: Yes. The northern entrance into the</p> <p>17 site provides the inbound access. The -- a southbound right-</p> <p>18 hand turn or a northbound left turn at that median break.</p> <p>19 The southern access point is signed for right turn only.</p> <p>20 There is a single lane coming out and you can somewhat see</p> <p>21 the pavement marking striping for the southbound and you can</p> <p>22 also see the signs that say do not enter.</p> <p>23 MS. ROGERS: All right. I just thought this would</p> <p>24 help in Ms. Randall's testimony. But this would be a new</p> <p>25 exhibit with existing site photos. If we could enter that</p>	<p style="text-align: right;">132</p> <p>1 demonstrated again by the fact that this has been a long-</p> <p>2 standing use at this site and this particular use will</p> <p>3 generate 121 fewer a.m. and 60 fewer p.m. peak person hour</p> <p>4 trips than the 4-H center.</p> <p>5 MS. ROGERS: Is the project proposing to retain</p> <p>6 the existing access points?</p> <p>7 MS. RANDALL: It is.</p> <p>8 MS. ROGERS: And so by virtue of the project</p> <p>9 retaining the existing access points and your testimony</p> <p>10 regarding the reduction of trips, will the proposed project</p> <p>11 have any adverse impacts?</p> <p>12 MS. RANDALL: It will not.</p> <p>13 MS. ROGERS: Per binding element number 2, I think</p> <p>14 the Hearing Examiner has noted the Applicant has voluntarily</p> <p>15 agreed to continue to coordinate regarding the vehicular</p> <p>16 access at the site. In your professional opinion will any</p> <p>17 improvements that result from that coordination with DOT and</p> <p>18 FHA, and various stakeholders, only result in further</p> <p>19 improvement of the site access points?</p> <p>20 MS. RANDALL: It will.</p> <p>21 MS. ROGERS: Is an analysis of crash data required</p> <p>22 for a local map amendment application?</p> <p>23 MS. RANDALL: Not for this, no.</p> <p>24 MS. ROGERS: And although from your testimony it's</p> <p>25 not required, have you prepared an analysis regarding recent</p>

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<p style="text-align: right;">133</p> <p>1 crash history in the vicinity of the property and for the 2 record, this is an additional exhibit that Ms. Randall 3 testified to that summarizes the crash data in response to 4 the Hearing Examiner's request. 5 MS. RANDALL: Yes, I have. 6 HEARING EXAMINER: I'm going to label that Exhibit 7 61. You're going to send us all of these exhibits, right? 8 MS. ROGERS: You can get them immediately following 9 the hearing, correct. 10 HEARING EXAMINER: Okay. I think they like 11 accident data vs. just data. Okay. Go ahead. 12 MS. RANDALL: We took a review. This is 13 information provided by the Maryland State Highway 14 Administration, with all recorded accidents throughout the 15 state whether they are in the -- on county roads or municipal 16 roads or state roads, they're all collected and compiled by 17 the State Highway Administration. This summary is from that 18 published data that we get through Montgomery County as well 19 as the State Highway Administration. 20 We looked at the last five years and two months 21 because we're two months into 2023. And in -- starting in 22 2018 there were a total of three accidents. One was property 23 damage. Two were an injury, but not severe injury, but two 24 injury crashes. One was a sideswipe. One was a rear-end. 25 And one an angled accident.</p>	<p style="text-align: right;">135</p> <p>1 HEARING EXAMINER: Right. 2 MS. RANDALL: That's what -- 3 HEARING EXAMINER: Thank you. 4 MS. RANDALL: And these were all listed in the 5 State Highway Administration accident report as being 6 associated with this area of the intersection be it Taylor 7 Avenue or the two driveways associated with 4-H. 8 HEARING EXAMINER: Okay. 9 MS. ROGERS: Thank you. Ms. Randall, Section 10 7.2.1.2.E.2.e requires a floating zone plan will generate 11 traffic that does not exceed the critical lane volume or 12 volume past the ration standard that is applicable under the 13 planning Board's LATR guideline or traffic exceeds the 14 applicable standards that the Applicant has demonstrated an 15 ability to mitigate such adverse impact. 16 In your professional opinion, will the project 17 satisfy this finding? 18 MS. RANDALL: It will. Again, it's going to be 82 19 fewer vehicular trips in the morning peak hour and 46 fewer 20 vehicular trips in the p.m. peak hour. In addition, you have 21 the provided analysis that, in addition to that, the very low 22 traffic generator just by the nature of the senior housing 23 and assisted living, especially when compared to what 4-H was 24 and had the potential to generate. 25 MS. ROGERS: Thank you. Is this property served</p>
<p style="text-align: right;">134</p> <p>1 And that angled accident occurred with a vehicle 2 exiting Taylor Avenue, turning northbound on Connecticut 3 Avenue. And someone -- 4 HEARING EXAMINER: So it was turning right coming 5 out of Taylor? 6 MS. RANDALL: That's correct. To travel north. 7 All of these accidents on the northbound side of Connecticut 8 Avenue. 9 HEARING EXAMINER: Okay. 10 MS. ROGERS: In 2019 there were no recorded 11 accidents. In 2020 there was one. In 2021, there were two 12 accidents and in 2022 and in 2023, the two months, there were 13 no accidents reported. So we have a total of 6 accidents 14 over five years. Three of which were property damage and 15 three of which were injury accidents. 16 The majority of the accidents were rear end 17 accidents that occurred along this stretch of Connecticut 18 avenue. Two were a sideswipe and one was that angled 19 accident that I mentioned that occurred in 2018. 20 HEARING EXAMINER: Okay. Did you say all six 21 accidents occurred on the eastern side of Connecticut exiting 22 the northbound flow direction of Connecticut. 23 HEARING EXAMINER: Okay. 24 MS. RANDALL: So on the east side of the roadway 25 or east of the median.</p>	<p style="text-align: right;">136</p> <p>1 by public transportation and if so what transportation? 2 MS. RANDALL: Yes, it is. It's served by the 3 Ride-on-Bus Route 1 and 11. It's also served by the metro 4 bus line L8. The bus stops are located right here at this 5 intersection adjacent to our property and on the other side 6 of Connecticut Avenue. There are bus stops immediately 7 adjacent to the property and Taylor Avenue. 8 The purple line stop is about a mile to the north 9 and the Bethesda Metro station is about a mile to the west, 10 as a crow flies in Bethesda. 11 MS. ROGERS: Do you believe from a traffic 12 standpoint that the use will be compatible with the 13 surrounding area? 14 MS. RANDALL: I do. 15 MS. ROGERS: Is there -- and is your belief that 16 the use is compatible based on the testimony you gave 17 regarding the LATR standards? 18 MS. RANDALL: It is. 19 MS. ROGERS: Thank you. Is there anything else 20 that you would like to add? 21 MS. RANDALL: I just wanted to reiterate that the 22 existing site and the prior use was generating significantly 23 more traffic than this. I think this will be a positive for 24 the surrounding neighborhoods as well as traffic operations 25 on Connecticut Avenue. It's a quiet residential use. And</p>

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<p style="text-align: right;">137</p> <p>1 the access, long-standing access is going to go through as we  2 indicated voluntarily a review an at this point we're not  3 anticipating any major changes. There's no access, which I  4 think is really important to both the Town as well as this  5 project, there's no direct vehicular access to any other town  6 streets. It's on Connecticut Avenue only.  7 And as we noted in the binding elements, not only  8 are we going to meet the requirements of the County but we  9 believe that there will be adequate parking on the site but  10 in order to assure the Town we're going to be doing a parking  11 demand analysis as well.  12 HEARING EXAMINER: And your -- is the basis of  13 your opinion that there will be adequate parking on the site,  14 is that because it meets the requirements of the zoning  15 ordinance? Or have you -- do you have another basis?  16 MS. RANDALL: I think that my client would be the  17 better one to answer his experience with Park and --  18 HEARING EXAMINER: I see. Okay.  19 MS. ROGERS: But as far as the code is concerned,  20 it's been my experience the code requirements are more likely  21 to be generous and provide too much parking in many  22 instances. So we've met the code, and I believe, correct me  23 if I'm wrong, I think we're exceeding that code requirement.  24 But I think the client would be the better person to talk  25 about his demands on site.</p>	<p style="text-align: right;">139</p> <p>1 on Connecticut Avenue. So Taylor Street, and thanks for the  2 correction. I live in Annapolis and very close to Taylor  3 Avenue so it's always in my mind, sorry. So Taylor Street,  4 we look at the volume of traffic that wants to turn right as  5 well as left and they're competing with the northbound flow  6 on Connecticut Avenue and the southbound flow on Connecticut  7 Avenue, particularly if you're making a left-hand turn.  8 In addition to that, for -- because of the offset,  9 as you know, for our exits vehicles can only make the right-  10 hand turn through that intersection. So there is very little  11 influence from our site traffic exiting, but there is  12 influence for the northbound flow because we add volume for  13 that -- that volume that will be turning left into our  14 entrance. So there is influence from our project. We add  15 volume to that northbound flow which goes past Taylor Street  16 to turn left into the site. So that it is looked at and how  17 we analyze what's happening on Taylor.  18 MS. HARNEY: Okay.  19 HEARING EXAMINER: Do you have any other  20 questions, Ms. Harney?  21 MS. HARNEY: No, I have my own take on this, but  22 I'll wait until the appropriate time for that. I think  23 Barney has some questions.  24 HEARING EXAMINER: Okay. Thank you. Mr. Rush?  25 Mr. Rush?</p>
<p style="text-align: right;">138</p> <p>1 HEARING EXAMINER: Okay.  2 MS. RANDALL: Based on other projects that he's  3 worked on.  4 HEARING EXAMINER: Okay. Anything else?  5 MS. RANDALL: No. Just thank you for the  6 opportunity to speak before you today. Thank you.  7 HEARING EXAMINER: Well, thank you. Okay. Ms.  8 Harney has had her -- I think, Ms. Harney and Mr. Rush's hand  9 is up and I don't know if Mr. Dalrymple has any questions.  10 So Ms. Harney, you've been very patient. I'm going to let  11 you ask questions.  12 MS. HARNEY: I just have -- I have my own  13 presentation which I'll wait until the end, until it's an  14 appropriate time, but I did have a question.  15 You referred to Taylor, which is by the way Taylor  16 Street, not Taylor Avenue.  17 MS. RANDALL: My apologies.  18 MS. HARNEY: And the 4-H, talking about the  19 intersection and all your calculations. It's not a  20 normalized intersection. It's an offset intersection so I'm  21 puzzled by how you could come up with statistics on delays  22 from where? At what point are there delays because it's an  23 offset intersection?  24 MS. RANDALL: Each approach in the analysis is  25 looked at by the demand, the northbound and southbound flow</p>	<p style="text-align: right;">140</p> <p>1 MR. DALRYMPLE: You are on mute, Barney.  2 HEARING EXAMINER: Mr. Rush, here on mute.  3 MR. RUSH: I just took myself off mute. Thank  4 you.  5 HEARING EXAMINER: There you go.  6 MR. RUSH: Happens to all of us all the time.  7 We're trying to be polite, and we don't notice.  8 HEARING EXAMINER: I know.  9 MR. RUSH: Thank you for this opportunity. And  10 I'll just focus here on questions.  11 HEARING EXAMINER: Yes, please do.  12 MR. RUSH: And like Andy, I have other comments to  13 make in my presentation but on the questions. Correct me if  14 I'm wrong, but the assumption was that the amount of use  15 of -- the traffic volume associated with the 4-H when it was  16 operating was deemed to be the equivalent of a 350 room  17 hotel; is that correct?  18 MS. RANDALL: Let me pull out my trip generation  19 table for you so I can read through what it was. It was 183  20 room hotel.  21 MR. RUSH: Oh, a 183 room hotel. Okay.  22 MS. RANDALL: Yes. And 93,301 square feet of  23 corporate headquarters building.  24 MR. RUSH: Okay. Was there ever any effort to  25 actually talk to the 4-H management as to what was the level</p>

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<p>141</p> <p>1 of traffic that they actually generated at the site?</p> <p>2 MS. RANDALL: No.</p> <p>3 MR. RUSH: The reason why am asking these</p> <p>4 questions is because from the point of view of near</p> <p>5 residents, when they saw those numbers of trips and generated</p> <p>6 they were quite astonished and thought that was a great deal</p> <p>7 higher than what, in fact, we normally happened. You had</p> <p>8 kids coming in by buses occasionally, a lot of kids walking</p> <p>9 around, but the idea of ongoing, regular traffic was</p> <p>10 something which was not at least apparent to the residents.</p> <p>11 And I guess, the question I have is if this really the best</p> <p>12 proxy to get at the actual level of use of the 4-H center,</p> <p>13 and should there have been something else, and should there</p> <p>14 have been some effort to have actually found out the levels</p> <p>15 of traffic that the management of the 4-H center would have</p> <p>16 represented took place?</p> <p>17 MS. RANDALL: The way the LATR guidelines work is</p> <p>18 for an existing use, or a proposed use, we are required to</p> <p>19 use the ITE trip generation rates. If I were to go to a</p> <p>20 specific gas station and run counsel for that particular gas</p> <p>21 station, if it was being replaced by something else, it's</p> <p>22 going to be different every time. We are required to use</p> <p>23 ITE. The site may have been more, it may have been less,</p> <p>24 sometimes higher and lower, this is the way the process</p> <p>25 works. Both with any study that I would do for the State</p>	<p>143</p> <p>1 which was not data of the facility, and I just want to make</p> <p>2 sure that clear for the record. They -- and that is one of</p> <p>3 the reasons of a major discrepancy in the views of the</p> <p>4 residents versus the statements that are in your account.</p> <p>5 The other is, I want to make sure, it's very</p> <p>6 important for us in regard to the study that going to be</p> <p>7 done, which is what we are really relying on, is that that is</p> <p>8 going to be based off of actual data, and then a view of what</p> <p>9 will be the use, the actual use in generated from the new</p> <p>10 project. That's what really matters to us. There isn't</p> <p>11 going to be any credit given against it deemed prior use in</p> <p>12 the context of that study; is that correct?</p> <p>13 MS. RANDALL: That's correct because when we do</p> <p>14 this analysis, we will be looking at the existing volumes</p> <p>15 that are on the road today. Obviously, 4-H is no longer</p> <p>16 operating on the building. So we want to understand exactly</p> <p>17 what will be coming and going from this particular property.</p> <p>18 This is not about credit, this is not about the regulations</p> <p>19 and requirements or meeting the zoning test in this case.</p> <p>20 This is separate and apart, and a voluntary study</p> <p>21 that we're going to be doing. So our base will be the</p> <p>22 existing volume plus the layering on top of that, the</p> <p>23 anticipated trip generation for this project into that</p> <p>24 analysis.</p> <p>25 MR. RUSH: Fair enough. And just for the record,</p>
<p>142</p> <p>1 Highway Administration, Montgomery County, Prince George's</p> <p>2 County, we go and use ITE. So we have a direct corresponding</p> <p>3 trip generation comparison.</p> <p>4 For the assisted living and the memory care, this</p> <p>5 all comes, similarly, from national data. We don't go and</p> <p>6 collect at course those other facilities. We use ITE as our</p> <p>7 direct comparison.</p> <p>8 MR. RUSH: Okay. So when you were saying that</p> <p>9 there are many fewer trips than existed, that's not a matter</p> <p>10 of fact, that they matter of supposition based off of the</p> <p>11 assumptions that you feel you're required to use through the</p> <p>12 ITE the data?</p> <p>13 MS. RANDALL: I wouldn't say they're assumption.</p> <p>14 It's a requirement of data that has been collected over 30 or</p> <p>15 40 years for the various uses that are listed. So that's our</p> <p>16 comparison. That's our Delta that we're using for this.</p> <p>17 MR. RUSH: Understood. But again, I'm not</p> <p>18 blaming -- this is what you're saying you have to do, is the</p> <p>19 statement that this effectively was a hotel, and this</p> <p>20 effectively was a corporate headquarters, which the residents</p> <p>21 believe was certainly not representative, it was actually a</p> <p>22 much lower level of traffic generated. But I understand what</p> <p>23 you're saying, which is this is what you're required to do.</p> <p>24 Let me ask one other question. I just want to</p> <p>25 make clear the end, that all this was derived from that data</p>	<p>144</p> <p>1 I would probably not use the term voluntary in this sense.</p> <p>2 It was the result of the discussion with the Town, which is</p> <p>3 fundamental to us, and part of the reason why we're</p> <p>4 supporting the project. So you can take that into account.</p> <p>5 MS. RANDALL: Yes.</p> <p>6 MS. ROGERS: I think she's trying to distinguish</p> <p>7 his zoning code requirements from --</p> <p>8 MS. RANDALL: Well, it's separate and apart.</p> <p>9 That's correct. Sorry if that was a poor choice of words.</p> <p>10 MR. RUSH: Okay.</p> <p>11 HEARING EXAMINER: But you're only looking --</p> <p>12 MR. RUSH: Thank you. Those are my questions.</p> <p>13 HEARING EXAMINER: -- at safety, right? You're</p> <p>14 not looking at delay analysis or anything like that?</p> <p>15 MS. RANDALL: We'll be looking at -- again, this</p> <p>16 is why we met with staff and client we met with the State</p> <p>17 Highway Administration. We're going to be looking at many</p> <p>18 different things. You know, what traffic control devices?</p> <p>19 You know, should this be signalized? Should immediately</p> <p>20 break to be opened or closed, or -- there's just a whole host</p> <p>21 of things. It's not just about safety, though that's an</p> <p>22 element of it. Should we locate the crosswalk? Would it be</p> <p>23 better served north or south? That doesn't necessarily mean</p> <p>24 it's safety, much as usability of that crosswalk. And so</p> <p>25 it's a whole host of things in looking at this intersection</p>

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<p>145</p> <p>1 as a whole.</p> <p>2 MR. RUSH: Okay. Good. Bob, I don't know if you</p> <p>3 had any questions you wanted to ask?</p> <p>4 MR. DALRYMPLE: I was going to go where you went</p> <p>5 Barney, but I'll just -- I don't think it's a bad thing to</p> <p>6 have it repeated again. But just for clarity. Binding</p> <p>7 element number 2, the analyses will be based on existing</p> <p>8 traffic and then traffic anticipated by the new Corso</p> <p>9 project. There will not be a credit for existing 4-H use?</p> <p>10 MS. RANDALL: Yes, that is correct.</p> <p>11 MR. DALRYMPLE: Okay.</p> <p>12 HEARING EXAMINER: Is that language you want added</p> <p>13 to the binding element, or is that -- you're just clarifying</p> <p>14 both of the studies?</p> <p>15 MR. RUSH: The latter. We did not read it to</p> <p>16 imply that there would be credit, or just wanted to confirm</p> <p>17 that there would not be.</p> <p>18 MR. DALRYMPLE: I actually got confused by the</p> <p>19 testimony because I had understood binding element 2 to be</p> <p>20 what we just talked about and not a negative value for new</p> <p>21 development being assigned to it.</p> <p>22 MS. RANDALL: Yes.</p> <p>23 MR. DALRYMPLE: As would be the case with the</p> <p>24 LATR.</p> <p>25 MS. RANDALL: Yes, exactly. I was speaking in</p>	<p>147</p> <p>1 together.</p> <p>2 And so you look at the side streets to see whether</p> <p>3 or not the side street, whether it's the east side, or the</p> <p>4 west side will meet the volume warrants that are required for</p> <p>5 that side street. And that's again, based on the number of</p> <p>6 lanes, and the volume exiting, not entering, exiting. The</p> <p>7 volume on the main line, whether it's making a turn, a right</p> <p>8 or a left, is just counted as part of that base volume on</p> <p>9 Connecticut Avenue. The turns into an out of a entrance from</p> <p>10 Connecticut Avenue are not factored into a warrant study the</p> <p>11 way the exiting volume from Taylor Street and the side access</p> <p>12 would be.</p> <p>13 And we're going to look at this in relation to not</p> <p>14 just the right turns out of our site, but to see whether or</p> <p>15 not Lance -- whether it would work with left turn volume. So</p> <p>16 we are going to be looking, as I said, at a lot of different</p> <p>17 things at this intersection when we do that warrant study.</p> <p>18 MR. DALRYMPLE: Just a couple of other questions</p> <p>19 or clarifications. On the parking demand study that you</p> <p>20 anticipate doing, will that take into consideration</p> <p>21 overlapping shifts?</p> <p>22 MS. RANDALL: It will.</p> <p>23 MR. DALRYMPLE: In other words, the spaces won't</p> <p>24 be freed up until the last shift leaves?</p> <p>25 MS. RANDALL: Yes. Yes, it will.</p>
<p>146</p> <p>1 terms of the production speaking strictly in relation to the</p> <p>2 LATR.</p> <p>3 MR. DALRYMPLE: Understood, ma'am. And then, I</p> <p>4 guess, just out of curiosity, with the exhibit that was a</p> <p>5 photo of the egress, if it's right only, why are there two</p> <p>6 lines?</p> <p>7 MS. RANDALL: One of those lanes is actually</p> <p>8 marked off. If you were to zoom back towards the building,</p> <p>9 it's almost functioning like a parking lane. You can't enter</p> <p>10 that lane. It channelized since everybody to the south lane</p> <p>11 through the use of pavement markings.</p> <p>12 MR. DALRYMPLE: With a split intersection such as</p> <p>13 this, how is the warrant study done for the state highway?</p> <p>14 Is it -- I'm just wondering if it was a consolidated entrance</p> <p>15 with the signalization warrant be a different study?</p> <p>16 MS. RANDALL: No, it wouldn't. Because of the way</p> <p>17 warrant studies are done the first test is the major street</p> <p>18 which is Connecticut Avenue. The volume on Connecticut</p> <p>19 Avenue both northbound and southbound is added together to</p> <p>20 get a value for 13 hours through the course of the day, based</p> <p>21 on the number of lanes. So we are looking at a total volume.</p> <p>22 Then, the side streets are looked at separately. They are</p> <p>23 never added together. So it doesn't matter whether they're</p> <p>24 offset or not, there are plenty of offset intersections</p> <p>25 around the state that are signalized, and coordinated</p>	<p>148</p> <p>1 MR. DALRYMPLE: Okay. And then, also just for</p> <p>2 curiosity, because I think the Town does have some concerns</p> <p>3 about the use, the ITE use categories that are being used for</p> <p>4 the previous 4-H use. If you were to -- I think that -- how</p> <p>5 should I put this. Using a hotel category with a conference,</p> <p>6 or a headquarter site, not sure is an adequate description of</p> <p>7 what that use was. And I'm just wondering if you</p> <p>8 contemplated if there were other use categories in ITE that</p> <p>9 might more accurately reflect what the impact of that truly</p> <p>10 work?</p> <p>11 MS. RANDALL: Yeah. And we did. And we had</p> <p>12 conversations, obviously, with staff. ITE is somewhat</p> <p>13 limited, but it was felt that this was the best fit. But, we</p> <p>14 did the lowest of volume based on the options that staff had</p> <p>15 given and through their discussions. There is meeting space</p> <p>16 on this campus. And we could have taken that meeting space</p> <p>17 and counted it as part of the corporate headquarter portion</p> <p>18 of this.</p> <p>19 Instead, we put that meeting space into the hotel</p> <p>20 because hotels have it meeting space, and so as I described</p> <p>21 before, all of the trips associated with the use are counted</p> <p>22 within that traffic impact study. So rather than pulling</p> <p>23 that out and put in that space into corporate headquarters,</p> <p>24 we put it into the hotel use. If we had pulled it out, this</p> <p>25 trip generation comparison would have been a much greater</p>

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<p>149</p> <p>1 reduction. So we were careful to take the most conservative</p> <p>2 approach on this.</p> <p>3 MR. DALRYMPLE: If you were to have not taken any</p> <p>4 credit for existing use and you were just doing your study</p> <p>5 based on existing counts, as we're going to do with binding</p> <p>6 element number 2, where you just do an existing count with</p> <p>7 traffic from the Corso project would that have triggered a 50</p> <p>8 person threshold, do you know?</p> <p>9 MS. RANDALL: Of course. Yes.</p> <p>10 MR. DALRYMPLE: Okay. I don't have any other</p> <p>11 questions. I don't know, Madame Hearing Examiner, if you do,</p> <p>12 or Mayor Rush, any additional questions?</p> <p>13 HEARING EXAMINER: I just had -- but what you're</p> <p>14 saying, the hotel is a higher trip generation?</p> <p>15 MS. RANDALL: The hotel.</p> <p>16 HEARING EXAMINER: Full disclosure, I was a 4-Hr</p> <p>17 from Derek County and I've been at that place.</p> <p>18 But the hotel was the higher trip generation?</p> <p>19 MS. RANDALL: No, that's incorrect.</p> <p>20 HEARING EXAMINER: Okay.</p> <p>21 MS. RANDALL: What we did for the hotel to work up</p> <p>22 the trip generation was, it wasn't based on the number of</p> <p>23 rooms. That's the independent variable in ITE. It's a based</p> <p>24 on rooms. It's not based on --</p> <p>25 (Crosstalk)</p>	<p>151</p> <p>1 higher?</p> <p>2 MS. RANDALL: It would have.</p> <p>3 HEARING EXAMINER: Not just for the corporate</p> <p>4 headquarters, but for the whole site?</p> <p>5 MS. RANDALL: Well, it's a combination. It is the</p> <p>6 site. It was -- it is the hotel portion of the site as well</p> <p>7 as the corporate headquarters. Okay? That's all part of</p> <p>8 what 4-H was.</p> <p>9 HEARING EXAMINER: Right. But if you would added</p> <p>10 the meeting rooms to the corporate -- as a corporate</p> <p>11 headquarters use under the ITE would the trip generation for</p> <p>12 the entire site have been higher?</p> <p>13 MS. RANDALL: For the existing 4-H side, yes, it</p> <p>14 would have been. Okay.</p> <p>15 HEARING EXAMINER: So why did you not add in the</p> <p>16 meeting space? Why did you choose -- you chose to add it to</p> <p>17 hotel because the convention --</p> <p>18 MS. RANDALL: Because it doesn't get counted in</p> <p>19 the hotel. I'm trying to be conservative in my analysis.</p> <p>20 HEARING EXAMINER: Well, wouldn't that be less</p> <p>21 conservative?</p> <p>22 MS. RANDALL: No. No. Because if -- I'm just --</p> <p>23 HEARING EXAMINER: I told you --</p> <p>24 MS. RANDALL: Can I do a quick example? So if</p> <p>25 I've got an existing use on the site and I run the</p>
<p>150</p> <p>1 HEARING EXAMINER: For a hotel?</p> <p>2 MS. RANDALL: -- of a meeting space.</p> <p>3 HEARING EXAMINER: Okay.</p> <p>4 MS. RANDALL: Based on the number of rooms. And</p> <p>5 so hotels, generally, have meeting space. They have</p> <p>6 restaurant space. They have all these different things</p> <p>7 contained within a hotel. But you don't pull those</p> <p>8 individual things out. In ITE hotels are based on the number</p> <p>9 of rooms provided, knowing that they got all of these other</p> <p>10 ancillary services. So I use the hotel rooms.</p> <p>11 If I had pulled this out, because that meeting</p> <p>12 space is not within that hotel building itself, on the</p> <p>13 campus. It was its own separate entity. So if I had counted</p> <p>14 that meeting space as part of the corporate headquarter</p> <p>15 space, that would have increased the square footage of the</p> <p>16 corporate headquarter space, which is how we calculate the</p> <p>17 trip generation for that use, which is based on square</p> <p>18 footage. So the corporate headquarters trip generation would</p> <p>19 have gone up. It wouldn't have changed my hotel number at</p> <p>20 all. It's I --</p> <p>21 HEARING EXAMINER: But which -- okay. I get it.</p> <p>22 MS. RANDALL: Okay.</p> <p>23 HEARING EXAMINER: So if you had added it to</p> <p>24 the -- is corporate headquarters -- so if you had added it to</p> <p>25 corporate headquarters, would the trip generation have been</p>	<p>152</p> <p>1 calculation and I'm just going to use raw numbers because</p> <p>2 it's far easier. So if I've got an existing use on the site</p> <p>3 and my hotel is going to generate 50 trips. Okay? And in</p> <p>4 that hotel I have some meeting space. Its' still going to be</p> <p>5 50 trips because it's based on, and I'm throwing a number</p> <p>6 out, 50 rooms. Okay? So I've got 50 trips, 50 rooms.</p> <p>7 It has a whole bunch of meeting space. Then, I've</p> <p>8 got corporate headquarters and it's 50,000 square feet and</p> <p>9 it's going to generate 100 trips. Okay? Now, I've got this</p> <p>10 meeting space, but it's sitting in this separate building and</p> <p>11 let's say that meeting space is 25,000 square feet. So now,</p> <p>12 I can either say it's associated with the hotel, it doesn't</p> <p>13 generate anything different. Okay? Or I can put it into</p> <p>14 corporate headquarters so now I've got 75,000 square feet of</p> <p>15 headquarters. So instead of the, I believe I used --</p> <p>16 MS. ROGERS: You said 100.</p> <p>17 MS. RANDALL: -- a hundred, thank you. I'm now</p> <p>18 going to generate 125 trips for the corporate headquarters.</p> <p>19 Okay? So by not putting it into that 100 trips and leaving</p> <p>20 it in hotel, I have this baseline of 150 trips. Okay?</p> <p>21 Headquarters at 100, the hotel at 50 and we're pretending</p> <p>22 that the meeting space is in the hotel. All right? So it's</p> <p>23 not generating anything more.</p> <p>24 Then, I'm comparing it to what Corso wants to do</p> <p>25 and they're going to generate 25 trips and I'm throwing,</p>

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<p style="text-align: right;">153</p> <p>1 again -- throwing a number out. If my subtraction is from  2 150, all right, versus 200, what's more --  3 HEARING EXAMINER: I get it. I'm sorry. I  4 understand. It's just that the credit --  5 MS. RANDALL: It's the credit.  6 HEARING EXAMINER: -- would be higher.  7 MR. DALRYMPLE: Right.  8 MS. RANDALL: Exactly. Exactly.  9 HEARING EXAMINER: Okay.  10 MS. RANDALL: I was trying to be as conservative  11 as I could be with this.  12 HEARING EXAMINER: I understand and I apologize.  13 I apologize if I'm slow.  14 Are there any other questions? Okay. Hearing  15 none, we have lunch to talk about. Do you want to shorten -  16 - how many people would like to testify that are going to be  17 called either by Mr. Dalrymple or Ms. Harney? How many  18 people do we have that want to testify after this?  19 MS. HARNEY: It's just me from Section 3, and  20 Barney.  21 MR. RUSH: Yeah, I'll be testifying as well.  22 HEARING EXAMINER: Okay. So I guess are we  23 comfortable with taking an hour for lunch, or would you  24 prefer to take less?  25 MR. ROBINS: Yeah, I -- we would be fine with less</p>	<p style="text-align: right;">155</p> <p>1 MR. RUSH: I guess I will go first if that's all  2 right?  3 HEARING EXAMINER: Well is it -- let me just  4 check, is Ms. Harney here?  5 MS. HARNEY: I am here, and I defer to Barney  6 because it's his turf.  7 HEARING EXAMINER: Okay.  8 MR. RUSH: That's a rather grandiose way to refer  9 to the capacity of being mayor. It's not my turf.  10 HEARING EXAMINER: Okay. Mr. Rush, please state  11 your name and address? I think I already swore you in?  12 MR. RUSH: Yes, you did.  13 HEARING EXAMINER: But I do need you to state your  14 name, address, and email address for the record, please.  15 MR. RUSH: Sure. My name is Barney Rush. The  16 address is 6917 Maple Avenue, Chevy Chase, Maryland 20815,  17 and my email address is Brush@townofchevy Chase.org.  18 HEARING EXAMINER: Okay. Thank you. What would  19 you like to say?  20 MR. RUSH: Okay. Thank you. Well, thank you very  21 much Ms. Robeson Hannan, I appreciate the chance to testify  22 here today. For the opportunity to comment on local map  23 amendment H-148. First, we'd like to -- and the Town, with  24 like to thank the Planning Department staff for the vital  25 role that they have played for doing the plan and</p>
<p style="text-align: right;">154</p> <p>1 time if that's good with you.  2 MR. DALRYMPLE: Yeah, a half-hour would be fine.  3 MS. HARNEY: I agree.  4 HEARING EXAMINER: Okay. If it's all right with  5 the parties, what I really want to do is make sure this  6 doesn't carry over into a second day. And you want some --  7 the Applicant may want some follow up after we hear from Ms.  8 Harney and Mr. Rush. So I appreciate your patience and if  9 I've beat dead horses it's because I'm hungry. All right.  10 So we will take -- we will be back -- we're going to adjourn  11 for a half an hour. We'll all be back at 2:00 p.m.  12 COURT REPORTER: Ma'am, we should leave the link  13 up and just mute it.  14 HEARING EXAMINER: Yes. Leave the meeting up, but  15 please, mute your (inaudible).  16 MS. ROGERS: Oh, you --  17 (Off the record at 1:29 p.m., resuming at 2:02  18 p.m.)  19 HEARING EXAMINER: Okay. We are back on the  20 record. Ms. Rogers, and Mr. Robins, I think you had finished  21 your case in chief, is that correct?  22 MS. ROGERS: That's correct.  23 HEARING EXAMINER: All right. So I think we have  24 Ms. Harney and Mr. Rush up to -- want to speak. Who wants to  25 go first?</p>	<p style="text-align: right;">156</p> <p>1 development. They have been available to hear our views and  2 be sure that we received information on a timely basis, and  3 made the process clear to us. And overall, the planning  4 staff and the Town agreed on many of the important elements  5 in this application,  6 HEARING EXAMINER: Okay.  7 MR. RUSH: And now, to reverse the complement that  8 we all heard earlier today from the side of the developers,  9 we would also like to thank the developers, Community 3 and  10 its president, Grant Epstein and the Galerie living and its  11 president Tim Carey -- Tim Gary. They have made several  12 presentation to our Town and residents including the  13 Walkinour, that grant you referred to around the facility,  14 hosted us for a visit at one of their retirement communities  15 in Atlanta, which was very helpful to us, and in general,  16 paid very close attention to the Town views and concerns.  17 As a result of this productive engagement, Corso  18 has committed in the proposed binding elements to address  19 issues that matter a great deal to our residence, and to  20 ensure compatibility with the single-family homes in our  21 community. For example, Corso has agreed to prohibit  22 construction of new public streets through the property,  23 provide -- it will provide certain paths connecting the  24 development to our community. It will place 3 acres of their  25 land in a category I conservation easement, and reducing the</p>



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<p>157</p> <p>1 heights of the façades facing the Town on the perimeter 2 buildings.</p> <p>3 The commitments made by Corso to undertake the 4 comprehensive traffic and parking studies are also of vital 5 importance to us. And I'll say more about those down below.</p> <p>6 Considering the modifications made to the plan 7 providing elements set out in the application, and Corso's 8 commitment to enter into a separate declaration of covenants 9 with the Town, which will include certain items not included 10 in these and binding elements, the Town of Chevy Chase 11 supports this LMA application. This is the unanimous view of 12 the town council, and we've come to that view after careful 13 solicitation of views of the residents and particularly the 14 residents and near the development. Therefore, we look 15 forward to the timely development and construction of this 16 project and to the Corso community becoming a part of the 17 Town of Chevy Chase.</p> <p>18 Regarding the draft set of binding elements now 19 before you, we have one significant comment. The traffic in 20 the parking studies should be undertaken and completed 21 sufficiently in advance of preliminary plan of subdivision 22 and site plan reviews so that the Town and other interested 23 parties can review these studies and thereby determine 24 appropriate positions to be taken at the time of such 25 reviews. The relevant binding elements in the transmittal</p>	<p>159</p> <p>1 forest ordinance and seek applicable variances thereof. The 2 Town will see, to the extent feasible, to preserve trees 3 along the perimeter of the limits of disturbance, and where 4 possible, other trees that are not within the footprints of 5 the proposed buildings. Traffic. Corso commits to a 6 comprehensive vehicular site at this study referred to 7 previously, which will include a forecast of future traffic 8 volumes and a signal warrant analysis. The Applicant also 9 commits to working with the State Highway Administration and 10 the Town to determine -- and it also now includes Section 3, 11 to determine the need for traffic management measures along 12 Connecticut Avenue. We appreciate the specificity of this 13 binding element as the issue is of vital interest to the 14 Town.</p> <p>15 And I want to make sure, I'm going to ad lib from 16 my written testimony. As you heard from the questioning I 17 had before, the Town is deeply skeptical of the estimated 18 amount of traffic arising previously from the 4-H center. We 19 can't -- we're not technical experts, and we can't speak to 20 the right proxies to use. We will simply observe that the 21 headquarters here had a very small staff. We will observe 22 that the residents of this quote/unquote hotel for students 23 who did not have cars, did not drive, and by and large robust 24 around. The idea that they represent the right proxies to 25 use it's what we referred to before by Ms. Randall, strikes</p>
<p>158</p> <p>1 from the Planning Board state only that the studies need to 2 be commissioned by the time of the submission of plan 3 applications.</p> <p>4 Now, what they interpret the word, commissioned, 5 to be authorized and perhaps initiated, but we feel strongly 6 that the studies need to be completed before submission of 7 these applications. That's really the only comment I have on 8 the binding elements themselves. We also recognize that 9 there are many issues of great importance to the Town that 10 are not resolved during the LMA application process, but will 11 be determined at the subsequent preliminary plan and 12 subdivision and site plan.</p> <p>13 And while we are pleased though, is that the LMA 14 application commits Corso to specific measures that ensure 15 town engagement on these issues. And I'm going to list a few 16 that are most important to us. First, stormwater management. 17 The town appointed engineer will be included in the review of 18 stormwater management plans and strategies.</p> <p>19 In the revised plans, we take note of the use of 20 green roofs. We find these a very desirable feature and 21 encourage their implementation. Forest conservation. The 22 town forester will be included in discussions regarding the 23 creation and maintenance of the conservation easement. In 24 addition, Corso has committed in its letter to the town dated 25 January 13, 2023, that it will comply with the Town's urban</p>	<p>160</p> <p>1 us as wildly excessive. We do not believe that that's an 2 accurate representation of what actually happened at the site 3 regardless of what might be required by other regulations.</p> <p>4 This does not inherently disturb us because -- 5 because of the obligation to undertake the study. And the 6 clarification that both Bob Dalrymple and I went over is very 7 important, we want the study to be as realistic as possible. 8 So it should take a count of current counts and a realistic 9 understanding. That, to us, is a sound basis to determine 10 appropriate traffic are potentially traffic mitigation 11 measures. So that's why we care so much about the study. We 12 do not accept the representations of materially reduced 13 traffic against previous use of proxies that we don't think 14 are appropriate.</p> <p>15 On parking adequacy, I think there too that study 16 is very important to us. We fully understand that the 17 Applicant believes that that there is a very adequate amount 18 of parking and we certainly respect the professional care 19 with which they would have developed any estimates based upon 20 their vast experience in retirement communities, that 21 obviously we in the Town don't have.</p> <p>22 And offhand, 500 spaces sounds like a very 23 reasonable number, so maybe that's just fine. But what we 24 have not seen in the background materials was that careful, 25 kind of buildup that would say okay, here is the amount of</p>

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<p style="text-align: right;">161</p> <p>1 use of that's expected of residents, here's the use and the  2 timing of the use from employees, and then, most importantly,  3 visitors and the visitors schedule, especially on heavy  4 visitor days. So what we're looking for are those, much more  5 concrete building up of a stack of traffic, if you will, of  6 parking requirements, if you will, than we have seen before.  7 And in terms of the binding element, and to the  8 point that you've been making Ms. Hearing Examiner, I think  9 the issue for us is the -- the way we've interpreted the  10 draft, as it is currently stated is that if the parking  11 study, built on the different elements that that I mentioned  12 proof to show there was an in adequate amount of traffic,  13 then per se, that binding element would not be met because  14 they wouldn't be able to assure us that there is enough  15 parking.  16 It would, in fact, require some additional changes  17 in the physical plans, such as that the study then, if it had  18 to be redone or amended would be adequate. So we felt that  19 there was protection built into that. Having said that, if  20 there's wording that certain more felicitous or clear to make  21 the intent more clear, we're happy to think about that as  22 well.  23 And clearly, from the point of view of the Town,  24 our perspective is that we want to see that kind of detail in  25 a parking analysis. It may show that everything is fine and</p>	<p style="text-align: right;">163</p> <p>1 to that continuing as we work through the remaining stages of  2 this process.  3 Thank you very much for the chance to give some  4 comments.  5 HEARING EXAMINER: Well, thank you very much. And  6 the letter submitted by Mr. Dalrymple is in the record as  7 well.  8 Does the Applicant have any questions of Mr. Rush?  9 Okay. Hearing none, does anyone else have any questions of  10 Mr. Rush?  11 All right. Hearing none, I am going to go next --  12 thank you, Mr. Rush, it sounds like this has been a lot of  13 work between all the parties so that way --  14 MR. RUSH: I think we can attest to the truth of  15 that.  16 HEARING EXAMINER: Yes. Okay. Thank you for your  17 efforts, and the Applicant. Ms. Harney, you are up next.  18 MS. HARNEY: So my name is Andy Leon Harney. I am  19 the village manager of Section 3 of the village of Chevy  20 Chase. And the address is PO Box 15070.  21 HEARING EXAMINER: Ms. Harney, you're muted.  22 MS. HARNEY: Sorry. So sorry. My name is --  23 HEARING EXAMINER: We'll --  24 MS. HARNEY: -- Andy Leon Harney, and I'm the  25 village manager of Section 3 of the Village of Chevy Chase,</p>
<p style="text-align: right;">162</p> <p>1 I'm sure the developers feel very confident about it, but to  2 us, the cornerstone of this is not just an obligation for a  3 study. It is that at the end of the day there be enough  4 parking on-site and that there will not be the use of town  5 streets.  6 Then, the other element that is very important to  7 us is the construction management agreement. Corso has  8 agreed in concert with the town to prepare and codify  9 construction regulations to minimize impacts of construction,  10 including noise disturbances on town residents. In addition,  11 the Town will monitor compliance of all the other building  12 binding elements, and we expect that town officials and  13 consultants will be included as members of the developer  14 review committee, which will discuss the issues to be  15 addressed at the preliminary plan of subdivision and site  16 plan reviews. And we will provide comments for the planning  17 staff for consideration at the time of these reviews.  18 The Town also remains a very interested in the  19 final architectural designs that will be reviewed more  20 intently at the site plan review. So, in sum, we look  21 forward to a productive engagement with Corso and the County  22 agencies, and the Plan Department to satisfactorily address  23 the issues that will be resolved during the upcoming reviews.  24 And again, we think we've made a very good start, a very  25 cordial relationship with the Applicant, and we look forward</p>	<p style="text-align: right;">164</p> <p>1 PO Box 15070, Chevy Chase, Maryland. And I --  2 HEARING EXAMINER: Were you sworn in before?  3 MS. HARNEY: Yes, I was, with Barney.  4 HEARING EXAMINER: Okay. I just wanted to double  5 check. In your email, your village email.  6 MS. HARNEY: Villagemanager@chevy ChaseSection3.org  7 HEARING EXAMINER: Thank you.  8 MS. HARNEY: So I'm here at the behest of our  9 elected council to share with you some of the concerns of our  10 residents, as you review the Corso Chevy Chase LMA. And my  11 focus -- everyone here has talked in broader terms. I'm  12 going to be very narrow and more informal in my discussion,  13 exclusively related to traffic and parking. Because those  14 are the concerns our council, and our community feel most  15 acutely, because we are directly opposite, as you noticed on  16 the map from Corso Chevy Chase.  17 We are concerned about cut through traffic by  18 people -- ways to avoid traffic jams on Connecticut Avenue by  19 using Taylor Street just opposite Corso. And were concerned  20 about the proposed entry and exit configuration that will  21 result, we think, in multiple traffic accidents, and an  22 unsafe crosswalk.  23 I'm going to try and share a --  24 HEARING EXAMINER: Is that what you -- do you want  25 to share what you submitted the other day?</p>

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<p>165</p> <p>1 MS. HARNEY: Yes.</p> <p>2 HEARING EXAMINER: I can share that. Hold on a</p> <p>3 second.</p> <p>4 MS. HARNEY: That would be wonderful because I</p> <p>5 have it up on my screen, but I don't think you can see it,</p> <p>6 can you?</p> <p>7 HEARING EXAMINER: No. But I know how to get to</p> <p>8 it.</p> <p>9 MS. HARNEY: So the first one is --</p> <p>10 HEARING EXAMINER: Give me a minute to --</p> <p>11 MS. HARNEY: Thank you for doing that.</p> <p>12 HEARING EXAMINER: Okay. Wait. I think this is</p> <p>13 your email. I apologize.</p> <p>14 MS. HARNEY: It's a --</p> <p>15 HEARING EXAMINER: That's the email. I'll get the</p> <p>16 exhibit.</p> <p>17 MS. HARNEY: It's 50A.</p> <p>18 HEARING EXAMINER: Okay. We are looking at</p> <p>19 Exhibit 50A.</p> <p>20 MS. HARNEY: It should be a picture of -- it</p> <p>21 should have the numbers 1, 2, and 3 on it. And I don't --</p> <p>22 HEARING EXAMINER: It does.</p> <p>23 MS. HARNEY: Oh it does. Okay.</p> <p>24 HEARING EXAMINER: Can everyone else see it?</p> <p>25 MS. HARNEY: I can't see it.</p>	<p>167</p> <p>1 assessment is not merely a simple mathematical equation where</p> <p>2 you take the numbers provided under LATR and combine them</p> <p>3 with the average age of the potential residents and come up</p> <p>4 with a no worries for the neighborhood peak visits fall under</p> <p>5 the threshold result. In December of 2022 the Town of Chevy</p> <p>6 Chase wrote the Planning Board and said, this is sort of</p> <p>7 mirroring what Barney has also said, but this is what they</p> <p>8 wrote in December of 2022.</p> <p>9 "Corso has determined that the plans are not</p> <p>10 subject to the local area transportation review</p> <p>11 because of the Wells &amp; Associates study that</p> <p>12 demonstrates traffic will be reduced compared to</p> <p>13 the time when the property was active as the 4-H</p> <p>14 center. This study presents a grossly inaccurate</p> <p>15 account of the traffic present when the 4-H center</p> <p>16 was active. It was a never an active hotel,</p> <p>17 generating the hypothetical amount of traffic</p> <p>18 attributed to that use.</p> <p>19 Most of the students who attended sessions at the</p> <p>20 center were transported in buses, and the number</p> <p>21 of staff was few. We are certain that Corso will</p> <p>22 bring substantial increase in traffic, including</p> <p>23 employees and visitors, compared to the time when</p> <p>24 the 4-H center was active. Therefore, we reject</p> <p>25 the developers assertion that they are exempt from</p>
<p>166</p> <p>1 MR. ROBINS: I cannot.</p> <p>2 MR. DALRYMPLE: No.</p> <p>3 HEARING EXAMINER: Okay. How about now?</p> <p>4 MS. HARNEY: Yes.</p> <p>5 HEARING EXAMINER: Okay. Go ahead.</p> <p>6 MS. HARNEY: Wonderful. So this is Connecticut</p> <p>7 Avenue by the proposed development, as it now stands. Each</p> <p>8 of the numbers references and opening in the median strip,</p> <p>9 which makes it possible for visitors to exit from the</p> <p>10 southernmost driveway onto northbound Connecticut Avenue.</p> <p>11 That's number 3.</p> <p>12 Number 2, there are arrows that preclude that</p> <p>13 apparently now, but that supply that cut in the median strip</p> <p>14 was made. Number 2 shows where drivers coming out of Taylor</p> <p>15 Street on the right-hand side, or on the east side can access</p> <p>16 southbound Connecticut Avenue. And number 1, shows the entry</p> <p>17 to the old 4-H used by buses coming from northbound</p> <p>18 Connecticut Avenue. As you can see, the crosswalk is in a</p> <p>19 crazy location without signals, south of Taylor Street, but</p> <p>20 north of the current exit that. There is a safer walk,</p> <p>21 several signals -- several blocks farther north for</p> <p>22 pedestrian, and bicyclist, and children crossing to go to</p> <p>23 Chevy Chase Elementary School, which is just one block in</p> <p>24 from Connecticut Avenue on Rosemary Street.</p> <p>25 So let's look at the traffic situation. A proper</p>	<p>168</p> <p>1 LATR and we view the commitment for a new</p> <p>2 comprehensive traffic study set in the binding</p> <p>3 elements, as a vital undertaking."</p> <p>4 And that's the end of the quote, but I would echo</p> <p>5 the fact that we too in Section 3 believe that the agreement</p> <p>6 to do a traffic study is vital. But our concern is that it</p> <p>7 will be inevitably slanted to reflect what the developers</p> <p>8 want, instead of taking into account, as you yourself point</p> <p>9 out, you, Ms. Robeson Hannan, what assurance is that there</p> <p>10 that traffic will not ultimately adversely affect Section 3?</p> <p>11 I would posit that the traffic problems would have a domino</p> <p>12 effect that could affect, not only residents of Section 3,</p> <p>13 and the Town who live on Connecticut Avenue, but all the</p> <p>14 neighborhoods south of the proposed development, up to Chevy</p> <p>15 Chase Circle.</p> <p>16 Current accident data which was presented by</p> <p>17 Wells, is irrelevant because police reports now only cover</p> <p>18 personal injury accidents are ones where someone thinks that</p> <p>19 there might be a personal injury, and the police come.</p> <p>20 Fender benders are not reported and are not part of the</p> <p>21 statistical database. So to say there were only six</p> <p>22 accidents, and they're mainly on the northbound side, is not</p> <p>23 a reflection of the accurate number of problems that occur.</p> <p>24 And part of this, I should say, the reason why there often on</p> <p>25 the northbound side is because the lanes are only 9 feet wide</p>

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<p>169</p> <p>1 at that point. That's a substandard size lane. None of that 2 seems to have been taken into account in any -- it needs to 3 be taken -- all of that needs to be taken into account, and 4 any traffic study.</p> <p>5 We asked the Plan Board to be included in the 6 binding elements because our residents are really concerned 7 about this traffic. And the exit configuration which the 8 developer proposes. The developer objected to the wording 9 that we suggested to be put into the binding elements and 10 sort of dismissed us as too many cooks. I think, because I 11 said I don't want to be rubberstamped. But we did -- the 12 Plan Board overruled them and dictated that we should be 13 coordinating with them, and it should be included in the 14 binding elements.</p> <p>15 Clearly, the breaks that you see there in the 16 median strip would be dangerous for the ongoing community. 17 It's hard to miss a bus coming to the 4-H, but traffic with 18 the new proposed use will be primarily motor vehicles and 19 those breaks in the median strip will definitely have to be 20 closed for safety reasons.</p> <p>21 And one doesn't have to be a traffic engineer to 22 understand that someone exiting the southernmost and drive -- 23 and the proposed permanent exit, who wishes to travel north 24 say to the Beltway, will be forced to go south. Where are 25 they going to make that fateful U-turn? The next possible</p>	<p>171</p> <p>1 the construction which will be two years, and large trucks 2 filled with debris from the demolition and building materials 3 having to make a right on exiting that facility. Where are 4 they going to turn around? Do you think they're going to go 5 all the way down to Chevy Chase Village before they turn back 6 up to go to the Beltway where they are probably headed 7 anyway? So we're worried about potential accidents which 8 will lead to personal injuries, traffic jams along the 9 corridor because of those things. We can't simply prohibit 10 left turns from southbound Connecticut Avenue onto Taylor or 11 Shepherd because our residents indeed to get to their homes.</p> <p>12 So this is -- this seems like a common sense 13 approach. When we asked State Highway engineers about this 14 problem, they agreed that this configuration does present 15 serious public safety hazards. As Kwesi Woodroffe Regional 16 District Engineer -- Regional Engineer for district 3 access 17 management for State Highway said, in a December email to 18 Grace Bogden, the lead reviewer for the Planning Board, the 19 main concern is the separated access points which creates a 20 somewhat offset intersection with Taylor Street.</p> <p>21 At that point, they and, I must admit, Section 3 22 were looking for a normalized four-way intersection. 23 However, we realized that solution would inevitably lead to a 24 lot of cut through traffic on Taylor Street. In later 25 discussions with developers and planners, and Planning Board</p>
<p>170</p> <p>1 intersection? Shepherd Street, in Section 3, a 16 foot wide 2 street south of Taylor Street, right by the church that you 3 may have seen in the photograph earlier, would mean 4 crossing -- quickly crossing three lanes of southbound 5 traffic. That's not very easy.</p> <p>6 If they made the turn there, the driver would have 7 to insert themselves into three narrow lanes of northbound 8 traffic. I should point out, again, that those lanes are 9 only 9 feet wide. The next closest intersection in the Town 10 is Rosemary Raymond. You can't make a left turn onto Raymond 11 there because there is a safety hazard and is not allowed. 12 So how about a U-turn, right at Rosemary? This street's 13 opening onto Connecticut Avenue is wide because it quickly 14 branches off into Meadow Lane.</p> <p>15 It's wide enough to make a quick U-turn if there 16 isn't a lot of waiting traffic. More than once, I've seen 17 cars make this U-turn at this intersection to get in line at 18 the light to turn left to go north on Connecticut Avenue. 19 And, I confess, I've even done it myself. You can't make a 20 U-turn at Brandon Lane because there are no left turns 21 allowed. So without going northbound from this a large 22 facility, cars and trucks are going to have to -- are going 23 to try and make risky U-turns to shave off a few minutes to 24 hand in their intended direction.</p> <p>25 I'm particularly concerned, as we all are, about</p>	<p>172</p> <p>1 staff, they developed two scenarios which I want to share 2 with you here. If you could put up number 50B, I think.</p> <p>3 Pattern of signals is more helpful in one than the 4 other. The first example shows the separate entries -</p> <p>5 HEARING EXAMINER: Okay. Just as just for the 6 record, were looking at Exhibit 50B. Go ahead, Ms. Harney.</p> <p>7 MS. HARNEY: Sure. The first option created by 8 State Highway traffic engineer to satisfy the developer's 9 desire to retain the separate entry and exits is labeled -- 10 it's labeled split phase lanes, alternative 2. It shows 11 lights controlling both the northbound and southbound 12 traffic, but it creates an easy cut through at Taylor Street. 13 As you can see, there's a light right at the end of Taylor. 14 And it doesn't prevent vehicles from exiting the community to 15 make dangerous U-turns. You see the exit still is southbound 16 only. You see the green arrow, so where are those people if 17 they want to go northbound? Where are they going to go?</p> <p>18 I would ask that you ignore the signal that is on 19 the photograph to the north of Taylor Street. That was an 20 inadvertent left over from the next solution. Because that 21 has no purpose in this one. So in this, the pattern that the 22 developer now wants has some problems from our point of view 23 because it's still doesn't answer the where are people going 24 to make a U-turn if they want to go north on Connecticut 25 Avenue from --</p>

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<p>173</p> <p>1 HEARING EXAMINER: Where's --</p> <p>2 MS. HARNEY: -- this --</p> <p>3 HEARING EXAMINER: Can I just -- I missed one</p> <p>4 thing you said, one problem you have with this proposed</p> <p>5 configuration is that it encourages U-turns. It doesn't</p> <p>6 provide for U-turns to go north. Did you have a second issue</p> <p>7 with it?</p> <p>8 MS. HARNEY: No.</p> <p>9 HEARING EXAMINER: No. Okay. I thought --</p> <p>10 MS. HARNEY: Our only concern about this one. And</p> <p>11 if you could put up the next final slide labeled 50, I think</p> <p>12 C in the exhibits. Yeah. It's the label on it is split</p> <p>13 phase alternative 1. It shows the northernmost drive as a</p> <p>14 two-way controlled by a light so visitors can go north or</p> <p>15 south safely. The southernmost entry would be reserved for</p> <p>16 truck deliveries and fire rescue vehicles.</p> <p>17 These two injuries could be artfully designed with</p> <p>18 the northernmost of being wider to accommodate two way</p> <p>19 traffic and the southernmost narrower and well signed</p> <p>20 exclusively for service vehicles. The service vehicles could</p> <p>21 then flow into the loading diagrams which are already in the</p> <p>22 exhibits prepared by the developer.</p> <p>23 While this may not be the ultimate solution, but</p> <p>24 at least this one allows for entry and exit only on</p> <p>25 Connecticut Avenue, which is what the Town and the developer</p>	<p>175</p> <p>1 all of our concerns. Ultimately, we would like to see the</p> <p>2 study recommend the safest solution, and their justification</p> <p>3 for that solution. While we are not traffic engineers, it's</p> <p>4 clear to us that the status quo will lead to illegal,</p> <p>5 dangerous U-turns resulting in backups and accidents at</p> <p>6 worst. In short, unsafe conditions for both vehicles and</p> <p>7 pedestrians.</p> <p>8 Let me move on to parking. Residents of both</p> <p>9 Section 3 and the Town of Chevy Chase have expressed</p> <p>10 understandable concerns regarding parking. Neither of us</p> <p>11 wants spillover parking in our communities. And we concur</p> <p>12 with the Town that the parking study needs to be done well in</p> <p>13 advance of the approval stage. I will point out that in the</p> <p>14 numbers that they provided for in the parking spaces that</p> <p>15 they are offering, those are all based on standards</p> <p>16 established by the County and a formula that may well work,</p> <p>17 except I would say 42 tandem spaces. I don't know if you've</p> <p>18 ever parked in a public parking lot with tandem spaces, but</p> <p>19 it is pretty much a nightmare.</p> <p>20 So I discount those 42 because that's really only</p> <p>21 21 from my point of view. It's just very difficult to manage</p> <p>22 at that, and so I know the County allows it, but it doesn't</p> <p>23 help, or encourage people to park on site if they know</p> <p>24 they're going to have to leave their keys, you know and</p> <p>25 juggle their cart with someone else.</p>
<p>174</p> <p>1 both want to keep traffic off their street. The required</p> <p>2 second entry which is needed for fire rescue is on</p> <p>3 Connecticut Avenue, and there is signal controls which allow</p> <p>4 for the safe passage of both vehicles and pedestrians alike</p> <p>5 without encouraging cut through traffic on Taylor Street</p> <p>6 because of the offset of the signal.</p> <p>7 A traffic study should evaluate these and other</p> <p>8 solutions from a public safety point of view and provide us</p> <p>9 with reasons why one solution or another does not adversely</p> <p>10 affect Section 3 -- residents of both Section 3 and the Town</p> <p>11 of Chevy Chase, and the thousands of commuters who travel</p> <p>12 Connecticut Avenue, who would be faced with traffic problems</p> <p>13 if this issue isn't well resolved.</p> <p>14 We concur with the Town of Chevy Chase that we</p> <p>15 need a traffic study well in hand prior to the preliminary</p> <p>16 stage so we can evaluate these conclusions. We are concerned</p> <p>17 that the traffic study will rely on LATR data and rationalize</p> <p>18 and rubberstamp the existing configuration. We need</p> <p>19 assurances that this stage through OZHA's process that we've</p> <p>20 done everything possible to mandate an outcome that addresses</p> <p>21 the concerns of the neighboring jurisdictions.</p> <p>22 Perhaps there's a way to word the traffic binding</p> <p>23 element so that the study would be required to take into</p> <p>24 consideration more than peak traffic flows and LATR standards</p> <p>25 about would demonstrate and optimal solution that embraces</p>	<p>176</p> <p>1 A better solution from a municipal point of view</p> <p>2 would be if the developer would agree to a binding element</p> <p>3 that all parking would be on site. If we rely on the</p> <p>4 facility staffing and projected use of numbers as, you know,</p> <p>5 they dictated earlier in this very hearing, I think we miss</p> <p>6 an important element because there are spec formulas for the</p> <p>7 number of independent seniors, staff, and visitors who would</p> <p>8 need a parking space. I understand that. But there's also</p> <p>9 going to be retail space in there. They want the community</p> <p>10 to come in and out.</p> <p>11 And more importantly, with 190 assisted living</p> <p>12 beds, we don't know how many units, and 30 memory care units,</p> <p>13 families of those two groups often hire additional staff for</p> <p>14 their loved ones, adding to the population serving the</p> <p>15 community and possibly commuting by car. In higher income</p> <p>16 areas like ours, the ratio of private aids to staff is even</p> <p>17 higher. So we want to be assured that the study takes into</p> <p>18 account privately hired staff in their analysis so there's a</p> <p>19 no spillover parking in the Town of Chevy Chase or in Section</p> <p>20 3 streets.</p> <p>21 The Town of Chevy Chase has done a really</p> <p>22 impressive job of working through many of the issues that</p> <p>23 will impact our communities in the binding elements. And</p> <p>24 community 3 has been good about working through many of these</p> <p>25 complex issues with them as evidenced by many of the binding</p>

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<p style="text-align: right;">177</p> <p>1 elements. We urge you though, however, to consider these two  2 crucial issues of traffic and parking and perhaps craft a  3 revised set of binding elements that would give us both  4 greater assurances that our concerns are being met so that  5 this large facility will be compatible with a neighborhood in  6 which it sits. Because if not, once set in stone, it's not  7 going to be easy to alter.  8 And I thank you for your time.  9 HEARING EXAMINER: Okay. Thank you for coming and  10 I know that you spent quite a bit of as well on this.  11 Is there anyone else at this point who would like  12 to testify? Okay. Then what we're going to do is go to  13 rebuttal witnesses.  14 Ms. Rogers, do you have any rebuttal witnesses?  15 MR. ROBINS: Just some comments.  16 MS. ROGERS: We have some comments.  17 HEARING EXAMINER: Okay. Well, you've heard a  18 request for some changes to the binding elements.  19 MR. ROBINS: And I think --  20 MS. ROGERS: Sorry.  21 (Crosstalk)  22 MR. ROBINS: Tim might be saying something but  23 he's on mute. Tim, are you trying to say something?  24 HEARING EXAMINER: I couldn't. Wait, when you all  25 talk it's hard for me to understand. Okay. So do you -</p>	<p style="text-align: right;">179</p> <p>1 binding element 2 to denote the elements that we had agreed  2 to study to address the Town's concerns.  3 MR. ROBINS: And your concern, which is how this  4 operates with Taylor Street. The three examples that you  5 showed -- well, actually one was just a curb cut, Andy, but  6 the other two were things that would be looked at in this  7 study as well, to determine how that whole access point, not  8 only with us but with Taylor Street works and whether it  9 should be modified, including but not limited to the  10 pedestrian crosswalks that you mentioned.  11 Whether there's any signalization, and adjustment  12 in the turning movements. All of this would be reviewed. So  13 not only what we had come up with as a preliminary  14 evaluation, but also these other drawings to take into  15 consideration all of this information and provide it in a  16 timely fashion so that we could deal with it as part of the  17 applications.  18 HEARING EXAMINER: Mr. Rush, you understand that  19 this is just an access study of this one intersection,  20 correct?  21 You're on mute.  22 MR. RUSH: Well, it's called that. When you  23 actually look at the individual elements that will be  24 included, which include the existing traffic counts and  25 proposed program at the proposed site, there is less it took</p>
<p style="text-align: right;">178</p> <p>1 you've heard some requests to change the binding elements and  2 I think the Town of Chevy Chase and Mr. Rush, you can correct  3 me if I'm wrong, but they -- well, it sounds like both the  4 Town of Chevy Chase and the Village would like the access  5 study done in advance of applying for the site plan or  6 preliminary plan approval.  7 Or at least -- I don't know how you'd pick the  8 timeframe, but they want time to look at it before this goes  9 to staff and the Planning Board.  10 MR. ROBINS: So okay. Okay. So yes, we have  11 given that some thought and they're reasonable requests. As  12 far as the two studies we are willing to complete those  13 studies before we file the applications. So we can --  14 MS. ROGERS: I was just going to say we were going  15 to propose to change the word commission in binding element  16 number 2 to say the Applicant will complete a comprehensive  17 access study and then same with binding element number 3,  18 change the word commission there to say complete because the  19 Applicant will complete a parking demand analysis.  20 MS. HARNEY: I just have a question about why we  21 only speak to access and not traffic?  22 MS. ROGERS: There is not a formal traffic study  23 for the County's purposes that's being triggered, as you  24 heard from our expert, by virtue of the County's regulations,  25 and policies and practices. So this language was provided in</p>	<p style="text-align: right;">180</p> <p>1 into account. Whatever it was called, the actual content is  2 effectively, a traffic study. So we were not troubled by it.  3 HEARING EXAMINER: Okay. Let me just say, as I  4 understand that from Ms. Wells (sic), it's going to look at  5 how efficiently and safely the intersection operates, using  6 existing -- using the elements that you discussed. And so --  7 but it's not like a traffic study can include traffic volumes  8 at other intersections, but this is just going to be focused  9 on this one intersection, and seeing what improvements would  10 be optimal.  11 MR. RUSH: True. But I guess part of this is  12 because this is the only place where traffic from -- is going  13 into our coming out of the facility.  14 HEARING EXAMINER: Right.  15 MR. RUSH: So it seems to me you're capturing in  16 this 100 percent of the impact of the project. I think Andy  17 made a, you know, a good point. Obviously when we're looking  18 at signalization, what would you have to consider  19 signalization here? Well, it's because otherwise people who  20 are turning south on Connecticut and had to do you terms or  21 elsewhere that can be a real problem. We're presuming that's  22 part of the study because that's what's going to drive the  23 review of whether you need to put some additional  24 signalization at that intersection.  25 So I don't think we have seen this as something</p>

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<p style="text-align: right;">181</p> <p>1 which is somehow leaving out, if you will, some key aspects 2 of what you looked at. We felt that it was simply a way of 3 focusing on where, in fact, the activity really is as a being 4 generated by this project is at this intersection. 5 HEARING EXAMINER: No, that's fine. I just wanted 6 to -- when you say -- when Ms. Harney and other people cite 7 traffic study, there can be -- traffic studies that deal with 8 congestions at intersections be on the site, caused by trips 9 coming into the site and leaving the site. So I just wanted 10 to clarify that because Ms. Harney keeps saying that I want a 11 traffic study. 12 But what I'm hearing you say, and correct me if 13 I'm wrong, what I'm hearing you say is you want this access 14 point studied to find the most optimal intersection 15 operation? 16 MR. RUSH: Right. Optimal. And it does 17 involve -- in order to come to a determination about that, it 18 has to involve a question of what would be the alternatives 19 by which traffic coming in or out of that site is a moving. 20 So it's certainly not meant to exclude what would happen if 21 signalization were not put in. So that does require looking, 22 as Andy said, and where else traffic would have to go, and 23 what it would do. 24 HEARING EXAMINER: I understand. 25 MR. RUSH: But it's focused on what you're going</p>	<p style="text-align: right;">183</p> <p>1 what the study encompasses. 2 MR. RUSH: Right. Our -- 3 HEARING EXAMINER: And yes, at the end of the day, 4 SHA is going to -- it's out of the Applicant's -- so there is 5 a power greater than all of us, and that the SHA. 6 MR. RUSH: Right. 7 HEARING EXAMINER: So I am just trying to make 8 sure everybody -- and that I understand the scope of what 9 this binding element does. 10 MR. ROBINS: The way you described it is the way, 11 I think, we understand that as -- and I think that leftover 12 with the Town, and also Andy who was shaking her head about 13 really focusing in on this intersection and making sure that 14 there is a study -- and access study, whatever you call it, 15 that said and done that takes into consideration the various 16 concerns, and comes up with whatever is the best solution. 17 And I think the mayor's point about SHA, I mean you're right. 18 We all clearly understand that it's the jurisdiction of 19 Connecticut Avenue is under SHA. But we're committed to 20 working closely, not only with you all, but with them to get 21 this right. 22 HEARING EXAMINER: So you don't have a problem -- 23 so no one has a problem, as I understand it, the Applicant 24 doesn't, if you change the word, "commission" to "complete"? 25 MR. ROBINS: That's right. So will have the</p>
<p style="text-align: right;">182</p> <p>1 to do at this intersection to solve the problems that could 2 arise because of traffic at the site. 3 HEARING EXAMINER: Okay. So we're all clear on 4 that. 5 MS. HARNEY: We are in agreement on that. We were 6 worried about the upstream and downstream effects of whatever 7 is proposed at that intersection. 8 HEARING EXAMINER: Yes. This reminds me of a 9 conditional use that was on Rockville Pike just south of the 10 Beltway, and all their traffic came in from Rockville Pike. 11 MR. RUSH: If I could make one other comment, 12 which is, I think also here that's something we pondered a 13 lot in the town. Is that ultimately, this location is -- 14 everything that happens on Connecticut, is determined by SHA, 15 you know. The Town could have a few, Section 3 could have a 16 view. We can all be -- the developers could have a view, we 17 could all be in complete agreement as to what, in fact, the 18 optimal solution, but we ultimately, still have to get 19 approval and support from SHA. 20 HEARING EXAMINER: Yes, I truly -- 21 MR. RUSH: That's a whole other matter. 22 HEARING EXAMINER: I fully understand that, and 23 that's why with this intersection I don't have a problem. I 24 mean, saying you'll do a study and work with the Town. I'm 25 just trying to clarify what your understanding is as far as</p>	<p style="text-align: right;">184</p> <p>1 study -- 2 HEARING EXAMINER: Can you do this? Can you send 3 a -- just to make sure nobody is confused about the wording, 4 can you send the proposed binding element -- the record is 5 going to be open for 10 days just to get the transcript, and 6 we're going to need a new SEP and declaration of covenants 7 with the revised conditions. But it may be helpful just to 8 send the exact wording of the condition to Ms. Harney, to us, 9 and Ms. Harney, and Mr. Rush, and Mr. Dalrymple ahead of 10 time. And just so we're all on the same page. 11 MR. ROBINS: Sure. 12 MS. HARNEY: I just have a question of the 13 developers. If your traffic study determines that that the 14 configuration that you are now presenting was not the right 15 one, are you willing to make that change? 16 MR. GARY: We are willing to work with the Town to 17 make whatever changes are necessary based on the State 18 Highway Department, the Town, and -- I mean it's going to be 19 a collaborative effort. No one of -- I don't think any of us 20 can come to the conclusion right now of what's it going to be 21 the perfect answer here. It's a complex traffic study so 22 obviously were going to be working with everybody to get to a 23 solution here. 24 MR. ROBINS: The one thing that I would say is 25 that we are committed to come getting the study into taking</p>

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<p style="text-align: right;">185</p> <p>1 into consideration all of these factors. The one factor 2 that -- we just lost -- can you hear us? 3 MR. DALRYMPLE: Yeah. 4 MR. ROBINS: We lost the video for a second. The 5 one factor is -- and that is of importance is fire access for 6 fire safety. And one of the reasons why we have, as proposed 7 a right in and write out, also, fire access is because 8 Montgomery County requires that those points as the fire 9 access point as opposed to one consolidated access on 10 Connecticut Avenue. They don't have an alternative if 11 there's a problem with only one consolidated access point. 12 So that's the one, if you want to call it a 13 constraint, that we might have. But other than that, it's 14 working with that in place, working on all of the other 15 issues that Ms. Harney and the Mayor mentioned. 16 MR. DALRYMPLE: You know, I think we're all 17 operating on the assumption that it's in the best interest of 18 all parties to have the access safe, and efficient, and 19 working well. You have residents of your project you have a 20 vested interest in keeping happy, I'm assuming. So you know, 21 I think that if we all keep up with that commonality of 22 needing this, not just wanting it, but we need it, and it has 23 to be safe, efficient, and working well, and we can all lend 24 whatever efforts we can to try to make this as safe and 25 efficient, and effective as possible.</p>	<p style="text-align: right;">187</p> <p>1 So you might want to just take a look. They did 2 eventually come to an agreement with the neighborhood. 3 MR. ROBINS: The other thing that I would mention, 4 if I could just change topics for one second, but it is 5 related to the binding elements. Is it the intent of the 6 parking analysis is, we intend, and will have all of our 7 parking contained on-site. That is not only required, but 8 certainly something that we will do. And we can provide some 9 language that will assure that the parking will be contained 10 on-site and that will implement the recommendation and the 11 parking analysis. 12 Again, subject to approval by the appropriate 13 governmental authority. You always sort of have to have that 14 clause in there because ultimately, even parking on the side, 15 as Mr. Dalrymple and others know, has to get approved as part 16 of a plan. So we will include that language too. I see Ms. 17 Harney shaking her head as if she agrees and is happy about 18 that. We're pleased to do that and the same with the Mayor 19 on behalf of the Town -- 20 HEARING EXAMINER: Are you suggesting -- I think 21 some of the issues we hear are that, especially in the metro 22 areas parking doesn't really -- the parking requirements 23 don't always reflect the demand because that there is an 24 assumption that people are going to take transit. 25 MR. ROBINS: We're not -- I mean, yeah. This is</p>
<p style="text-align: right;">186</p> <p>1 MR. GARY: Mr. Dalrymple, I reiterate that. We 2 are very interested in the safety of our residents. So Ms. 3 Harney, I do hear your concern about crosswalks and so forth, 4 and we are just as interested -- 5 MS. HARNEY: And U-turns. And U-turns. 6 HEARING EXAMINER: Well, just if you -- 7 MR. GARY: It's complex. 8 HEARING EXAMINER: -- if is the French School 9 conditional modification, the same U-turns scenario where you 10 come out of the site, and then you have to cut across four 11 lanes of traffic to do a U-turn to go north. You can look at 12 how they resolved that. But I can't remember the number 13 right now, but exactly Ms. Harney's concerns that -- and SHA 14 did too, dealing with the northbound traffic when it's a 15 write out only. And they did resolve it. And I just -- 16 well, anyway. 17 MS. HARNEY: What development was that, I'm sorry? 18 MR. ROBINS: The French school. 19 HEARING EXAMINER: It's S -- 20 MS. HARNEY: The French School? 21 HEARING EXAMINER: Yes. On -- it was just south 22 of the Beltway. And SHA wanted one thing, and it was crazy. 23 The entrance was right in, right out on Rockville Pike. And 24 there were lots of concerns about U-turns going north, or 25 cutting through these very small neighborhoods.</p>	<p style="text-align: right;">188</p> <p>1 not in the CBD, but that is true. 2 HEARING EXAMINER: And here is the -- I'll show 3 you the French School very quickly on my screen. It's SH- 4 62C. But very similar concerns to what Ms. Harney has. 5 MS. ROGERS: The other thing I would note, just 6 regarding parking, is that our parking was conservative that 7 we part for all 150 employees where the code only makes you 8 park for the number of employees on site at any given time, 9 which includes the overlap of a shift change, just physically 10 on site at any given time. But yet, we calculated based on 11 the full maximum number of employees, conservatively. And I 12 think, as Mr. Robins mentioned, there is -- we would need 13 that clause that it is subject to approval by the appropriate 14 governmental authorities because there is a maximum set by 15 the zones that we would need Planning Board approval if for 16 some reason the results of the study -- 17 HEARING EXAMINER: There is no maximum. Well, 18 there may be a maximum now. 19 MS. ROGERS: (Inaudible). 20 HEARING EXAMINER: Well, the other thing that 21 happens very frequently is -- we do a lot of things and a 22 concern in some Mother's Day. You know, peak parking 23 periods, a lot of these places have shuttle arrangements. 24 MS. HARNEY: Yes. (Inaudible). There's no place 25 to shuttle. That's the problem. There's really --</p>



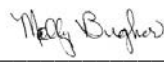
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<p>189</p> <p>1 HEARING EXAMINER: Well, I'm not saying that 2 you're doing the parking demand analysis and that's going to 3 tell you, but it's premature to say you have to do that. I'm 4 just -- 5 MR. ROBINS: I think Mr. Gary wanted to make a 6 responsive comment to what you just said, Madam Hearing 7 Examiner. 8 HEARING EXAMINER: Sorry, Mr. Gary. I didn't see 9 your hand. Go ahead. 10 MR. GARY: So the one thing I would like to say 11 about the parking demand, what's unique about senior living 12 is that that over time our parking demands, based on the 13 residents living in the communities that decrease, and that 14 because of, you know, the average acuity levels increasing, 15 or sometimes there is, you know, the optimistic view that 16 they will continue to use their car, and over time that 17 becomes less. 18 So there is -- are demand does decrease over time, 19 and will stabilize, and that typically happens around 2 to 3 20 years after our maximum number of units have been occupied. 21 HEARING EXAMINER: Okay. 22 MR. GARY: When it comes to actual events like 23 Mother's Day, because Mother's Day is a bigger event, we 24 typically spread those out over time's that we don't have 25 just one meal. We try to accommodate everybody because we do</p>	<p>191</p> <p>1 MR. ROBINS: As approved by the -- and this is 2 just language to the little, I might need to work on this. 3 But is approved by the necessary governmental authorities. 4 HEARING EXAMINER: Okay. 5 MR. ROBINS: Or as approved 6 HEARING EXAMINER: Okay. So how is everybody with 7 those binding elements? 8 Well, what we'll do is this. If the Applicant 9 will kindly just draft the revisions of binding elements 2 10 and 3 and send them to all the parties, which is everybody 11 that testified today. I mean, not the experts, but -- 12 MR. ROBINS: Right. We can. Yeah. 13 HEARING EXAMINER: -- the attorneys and the people 14 that testified if you can do that, I can -- the record is 15 going to be open -- when do you think you could get those to 16 people? 17 MR. ROBINS: That is the elements? Yeah. 18 (Crosstalk) 19 MR. DALRYMPLE: Steve, let -- 20 MR. ROBINS: -- we can get it on the -- 21 MR. DALRYMPLE: Steve, let Liz draft it. 22 MR. ROBINS: What is that? 23 MR. DALRYMPLE: Let Liz draft it, we want it to be 24 right. 25 MR. ROBINS: You know, that's not a bad point.</p>
<p>190</p> <p>1 have internal traffic concerns with our food and beverage 2 teams. So we spread those out throughout the day, and then, 3 we accommodate that with extra valet parking because we make 4 sure that we do additional double stacking car parking. 5 HEARING EXAMINER: Thanks for that information. 6 Well, I guess my bottom line question is aside from changing 7 the requirement from "commission" to will "complete" a 8 traffic -- a parking demand study, are there any other -- or 9 is the Applicant suggesting a change saying they will 10 accommodate parking on-site, or is everyone comfortable with 11 the other -- just changing it from complete -- I'm sorry. 12 Commissioned to completed. 13 MR. ROBINS: Yes, we did say that. 14 MS. HARNEY: I personally -- 15 MR. ROBINS: let me read you what I had written 16 down. Okay? 17 HEARING EXAMINER: Go slow. Go slow. 18 MR. ROBINS: All the number -- 19 MS. ROGERS: You need the numbers. 20 MR. ROBINS: Right. 21 MS. ROGERS: Number 3, yeah. 22 MR. ROBINS: Thank you. The Applicant will 23 implement the recommendations of the study to ensure that all 24 parking requirements for the project are contained on-site. 25 HEARING EXAMINER: Okay.</p>	<p>192</p> <p>1 We'll send it over to Matt. 2 Monday is fine. 3 HEARING EXAMINER: Full disclosure. Mr. 4 Dalrymple, Mr. Robins, and I all worked for the same firm at 5 one point, many, many -- I'm not saying how many years ago. 6 MR. DALRYMPLE: Yeah, don't. 7 HEARING EXAMINER: Many decades. Decades. 8 UNIDENTIFIED SPEAKER: I was going to say, Madam 9 Examiner, that the brilliance of your conduct of this hearing 10 reflects that you had a very good early training. 11 HEARING EXAMINER: Which was them. Okay. 12 MR. ROBINS: Of course, Bob, you were just a young 13 associate then. 14 MR. DALRYMPLE: I was. I'm still young. 15 HEARING EXAMINER: It was your dad. Okay. We 16 digress. Let's stay on topic. 17 MR. ROBINS: Yeah, we'll get the -- 18 HEARING EXAMINER: Okay. So you can do the -- 19 let's do this. If you can do that by Monday, then I'm going 20 to give the -- for the Town and the Village, how long do you 21 think you need to respond? 22 MS. HARNEY: I think by the end of the week. By 23 the end of the same week. 24 MR. DALRYMPLE: Yeah. We can do that easily. 25 Yeah.</p>

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<p style="text-align: right;">193</p> <p>1 MS. HARNEY: Yeah.</p> <p>2 HEARING EXAMINER: Okay. I just -- what I want to</p> <p>3 do is just double check our timing here because I like to get</p> <p>4 these done. So 10 days, I think would be April 4th. So if</p> <p>5 you get yours in by Friday -- if the Town and the Village</p> <p>6 could get theirs in by Friday the 31st, your comments.</p> <p>7 MR. RUSH: Right.</p> <p>8 HEARING EXAMINER: Can we finalize it by the 3rd?</p> <p>9 MR. RUSH: Yeah.</p> <p>10 HEARING EXAMINER: See, what I'm trying to do and</p> <p>11 let me do this -- they're going to have to change the</p> <p>12 declaration of covenants and the SCP. So is there any way</p> <p>13 that the Town and the Village could get your comments in by</p> <p>14 Thursday, the 30th?</p> <p>15 MR. RUSH: I think we could. I'm okay with that.</p> <p>16 HEARING EXAMINER: If you could do that and</p> <p>17 hopefully you'll all be copacetic then, we can get the</p> <p>18 revised SCP and declaration of covenants in by the 4th, and</p> <p>19 then the record will close.</p> <p>20 Mr. ROBINS: I mean, we're going to make changes</p> <p>21 to just these two binding elements. They are relatively</p> <p>22 simple changes. I don't think it's going to take a lot of</p> <p>23 review. And I'm assuming that, you know, any comments there</p> <p>24 will be a little bit of wordsmithing here and there, if that.</p> <p>25 The comments are restricted, essentially, to dealing with</p>	<p style="text-align: right;">195</p> <p>1 HEARING EXAMINER: -- you can have your agreement.</p> <p>2 I just can't base my decision on it.</p> <p>3 MR. DALRYMPLE: No. I understand. And I -- we</p> <p>4 could -- I'll talk to Steve and Liz offline on that and we</p> <p>5 can figure out what's best.</p> <p>6 HEARING EXAMINER: Okay. Well, right now I'm</p> <p>7 going to say the binding element revisions are due by Monday</p> <p>8 from the Applicant. The response is due by Thursday from the</p> <p>9 Town and the Village. And then, a revised SCP and</p> <p>10 declaration of covenants would be due by April 4th. And</p> <p>11 right now, that's when the record will close. If you need</p> <p>12 more time, based on this declaration of covenants, -- I</p> <p>13 mean -- sorry. Based on your private agreement, if you need</p> <p>14 more time let me know. It won't delay the decision.</p> <p>15 MR. ROBINS: No, I think we'll be fine.</p> <p>16 HEARING EXAMINER: Okay. Anyone else have</p> <p>17 anything to say? I skipped closing --</p> <p>18 MR. ROBINS: Just a quick question.</p> <p>19 MS. HARNEY: I do have a question too.</p> <p>20 MR. ROBINS: Just about the submission. Do you</p> <p>21 want to be copied on -- for the record, do you want to be</p> <p>22 copied on our transmittal to the Town and to Section 3 on the</p> <p>23 revised binding element, or do you want us to just to get you</p> <p>24 back, like, the final?</p> <p>25 HEARING EXAMINER: The final. I don't need to be</p>
<p style="text-align: right;">194</p> <p>1 these two binding elements.</p> <p>2 HEARING EXAMINER: Right.</p> <p>3 MR. ROBINS: So I think they'll --</p> <p>4 HEARING EXAMINER: Yeah, that's it. I can make --</p> <p>5 MR. ROBINS: -- look at it. It's going to be very</p> <p>6 simple. I'm guessing it's going to be pretty simple.</p> <p>7 HEARING EXAMINER: Okay. I will make that clear</p> <p>8 that the record is not open for anything except the comments</p> <p>9 on the binding elements, no more exhibits, and no more</p> <p>10 testimony, and no more new issues. Okay. We're going to get</p> <p>11 the transcript, the revised --</p> <p>12 MR. DALRYMPLE: I will just comment that we have</p> <p>13 outstanding a letter of agreement with the developer about a</p> <p>14 further declaration of covenants that will be put in to place</p> <p>15 at the time of a certified site plan that reflects private</p> <p>16 agreements and between the town and the developer. I had</p> <p>17 intended to put that letter of agreement into the record, but</p> <p>18 I don't -- I guess I don't feel that strongly one way or</p> <p>19 another about it. If we just have --</p> <p>20 HEARING EXAMINER: Well, it's up to you. I can --</p> <p>21 I mean, it's not going to delay my decision because I'll be</p> <p>22 working on the decision. I can work on the decision while</p> <p>23 the record is open. So if you feel that it's something you</p> <p>24 want to put in, but it, you know, contract is zoning --</p> <p>25 MR. DALRYMPLE: Yeah.</p>	<p style="text-align: right;">196</p> <p>1 in on the negotiation, if there are any. I just need the</p> <p>2 final revised SCP and the revised declaration of covenants.</p> <p>3 MR. ROBINS: Okay.</p> <p>4 HEARING EXAMINER: And just a wordsmithing thing,</p> <p>5 you don't need the words, in addition. My sister is an</p> <p>6 English professor. You don't need the words in addition some</p> <p>7 of the binding elements. You can just say what's required.</p> <p>8 Okay. Anything else? Ms. Harney?</p> <p>9 MS. HARNEY: Yes. Two things I want to clarify.</p> <p>10 You want us to get back to you, the Town and Section 3 to get</p> <p>11 back to you by Friday the 31st --</p> <p>12 MR. DALRYMPLE: No, the Thursday.</p> <p>13 MR. RUSH: Thursday, the 30th.</p> <p>14 MS. HARNEY: Oh the Thursday, okay. Because I --</p> <p>15 originally it was Friday. Okay. And then, do we have a</p> <p>16 commitment from the developer about when this traffic study</p> <p>17 is going to be completed?</p> <p>18 MR. ROBINS: Prior to filing.</p> <p>19 HEARING EXAMINER: I think that was the binding</p> <p>20 elements they are changing to say it will be completed before</p> <p>21 they apply for the subsequent approval.</p> <p>22 MR. ROBINS: Right.</p> <p>23 MS. HARNEY: But like the day before is not</p> <p>24 helpful.</p> <p>25 HEARING EXAMINER: Well. That is something I'm</p>

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<p>197</p> <p>1 going to let you argue about, although, you know, the</p> <p>2 application process, it takes, I don't know what it takes</p> <p>3 now, but it used to take --</p> <p>4 MR. RUSH: Yeah, I think -- if I can speak --</p> <p>5 might recollection --</p> <p>6 HEARING EXAMINER: I think a couple of months.</p> <p>7 MR. RUSH: Right. Well we've been told they</p> <p>8 actually have up to four months for approval of the plans.</p> <p>9 HEARING EXAMINER: Well, yeah.</p> <p>10 MR. RUSH: It will be faster than that, you think?</p> <p>11 MR. DALRYMPLE: I think as long as the studies are</p> <p>12 completed and distributed before they file, which can all be</p> <p>13 reviewing them as part of the review of the applications.</p> <p>14 I'm not concerned about that.</p> <p>15 MR. ROBINS: We agree --</p> <p>16 HEARING EXAMINER: It's a political question, how</p> <p>17 long they have. But yeah.</p> <p>18 (Crosstalk)</p> <p>19 MR. RUSH: Or whether we actually have a Planning</p> <p>20 Board or not, right?</p> <p>21 HEARING EXAMINER: Yeah. Okay. Well, they're all</p> <p>22 leaving in June I think.</p> <p>23 (Crosstalk)</p> <p>24 MS. HARNEY: -- in place.</p> <p>25 HEARING EXAMINER: All right. So are we clear</p>	<p>199</p> <p>1 hard work and painstaking explanations. And so with that I</p> <p>2 will adjourn the public hearing subject to the items for</p> <p>3 which the record is being held open.</p> <p>4 MR. RUSH: Thank you very much.</p> <p>5 MR. ROBINS: Thank you.</p> <p>6 HEARING EXAMINER: Thank you all very much.</p> <p>7 (Off the record at 3:10 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>198</p> <p>1 about the timeline? And then, I think that if you can just</p> <p>2 comply with the time -- I guess you better send the proposal</p> <p>3 to me when you send to each other. I don't mean to say, the</p> <p>4 back-and-forth, but just so I have proof that you met the</p> <p>5 time deadline, and there's no argument about that. And</p> <p>6 then, -- so right now the record is open until April 4. The</p> <p>7 Applicant will submit its revisions to the binding elements</p> <p>8 by Monday, this coming Monday. The Town and Village will</p> <p>9 respond, send any comments by March 30th, which is a</p> <p>10 Thursday. And the final SCP and declaration of covenants</p> <p>11 will be in by April 4th. And if you decide you want the</p> <p>12 private agreement with the Town in the record, you can either</p> <p>13 ask for extra time or get it in by April 4th. Okay.</p> <p>14 MR. ROBINS: Yeah. All good.</p> <p>15 HEARING EXAMINER: And just, you know, I know</p> <p>16 every -- most people are represented here, but I have 45 days</p> <p>17 to write my decision. We try not to take that long. You</p> <p>18 will get notification by email. It's not a decision in a</p> <p>19 rezoning case, it's a recommendation.</p> <p>20 You have 10 days if you don't like what I</p> <p>21 recommend, you have 10 days to request oral argument before</p> <p>22 the district county council. And all that will be spelled</p> <p>23 out in the decision and the notification that the decision --</p> <p>24 I keep saying decision, recommendation. Okay?</p> <p>25 So with that, I thank you for everyone's time and</p>	<p>200</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Molly Bugher, do hereby certify that the</p> <p>3 foregoing transcript is a true and correct record of the</p> <p>4 recorded proceedings; that said proceedings were transcribed</p> <p>5 to the best of my ability from the audio recording as</p> <p>6 provided; and that I am neither counsel for, related to, nor</p> <p>7 employed by and of the parties to this case and have no</p> <p>8 interest, financial or otherwise, in its outcome.</p> <p>9</p> <p>10 </p> <p>11 _____</p> <p>12 Molly Bugher, CDLT-161</p> <p>13 April 4, 2023</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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