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# Transcript of Hearing

**Date:** March 7, 2024

**Case:** Worldshine Home, LLC (CU 23-11)

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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY, MARYLAND  
Case No. CU 23-11

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In Re Application Of:  
Worldshine Home, LLC

-----x

HEARING BEFORE HEARING EXAMINER ANDREA LEWINTER  
Rockville, Maryland  
Thursday, March 7, 2024  
9:31 a.m.

Job No: 526392  
Pages: 1 - 199  
Transcribed by: Nicole Mastro Simone

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Hearing held at:

100 Maryland Avenue  
County Office Building, Room 200  
Rockville, Maryland 20850

Before Brennan Plummer, Notary Public in and for  
the State of Maryland.

3

A P P E A R A N C E S

On Behalf of the Applicants:  
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1 PROCEEDINGS

2 Whereupon,

3 MS. LEWINTER: We are resuming conditional use

4 application 23-11. It is March 7, 2024. I apologize to

5 everybody that it took us so long to get back on the

6 calendar. My recollection is that we had completed the

7 direct examination of Ms. Nancy Randall, the applicant's

8 traffic expert, and she was going to be available for

9 cross-examination. Is that in accord with everybody else's

10 recollection?

11 MR. ROBINS: Yes.

12 MS. LEWINTER: Great. So if we can proceed,

13 Ms. Randall, I'll remind you that you're under oath. And

14 can we just start with cross-examination, or was there

15 anything else preliminarily that we needed to address?

16 MS. ROGERS: No.

17 MS. LEWINTER: Great. All right. So if there's

18 anybody in the audience who wanted to ask Ms. Randall some

19 questions, if you could, raise your hand and we'll just go

20 in turn. Did anyone have any questions for Ms. Randall?

21 Okay. Is there a way to ask on Zoom?

22 (Technical discussion held off the record.)

23 MS. LEWINTER: Is there anyone on Zoom who has any

24 questions for Ms. Randall?

25 Okay. Hearing none, Ms. Randall, I just did have

7

1 a couple of followup questions that I'd just like to ask.

2 And I apologize if anything's repetitive, but I don't think

3 it is.

4 NANCY RANDALL,

5 having been previously duly sworn or affirmed, was examined

6 and testified as follows:

7 EXAMINATION BY THE HEARING OFFICER

8 BY MS. LEWINTER:

9 Q If you could, explain from a traffic perspective

10 how deliveries would work, and what kind of deliveries are

11 anticipated for a configuration like this.

12 A The type of vehicles that are going to be --

13 sorry. The type of vehicle that is going to be delivering

14 and the time of day would probably be best answered by the

15 client's representative.

16 Q Okay.

17 A But they will be coming by way of Maryland 355.

18 If they were coming from the south, they would make a

19 left-hand turn from the site from -- sorry. Northbound,

20 make a left from 355 to West Old Baltimore, and then make a

21 right-hand turn into the project, and they would leave the

22 same way. If they were coming from the north, they'd make a

23 right-hand turn from 355 in. They're very unlikely to take

24 any other route because of the distance required from, say,

25 Cabin Branch which is to the north, and West Old Baltimore

8

1 Road is a long way around when they can go straight down

2 Maryland 355.

3 Q Internal to the site, do you anticipate any

4 limitations on like size of vehicle issues if, you know, you

5 had a particularly large delivery truck maneuvering through

6 the site?

7 A No. There are going to be spaces allocated within

8 the on-street parking section, as I understand it, for those

9 trucks. They would then go back toward the parking area,

10 circulate around and then exit out of the site. Most of the

11 deliveries would be made, you know, for food service and

12 that kind of thing would be made there at that first

13 building, which is where the main office is. And then UPS

14 and FedEx would use that same similar process.

15 Q And do you have any -- had you been given any

16 information about how many types of deliveries you would be

17 anticipating?

18 A I think we -- I think I was given that answer, but

19 again I think it would be best to ask that question of the

20 operators.

21 MR. ROBINS: Also, if I can just interrupt for a

22 second, I don't have the exhibit list, but I think this

23 information you're asking about, the amount of deliveries,

24 the time of deliveries, that's all in our statement of

25 operations.

9

1 MS. LEWINTER: Yeah.  
 2 MR. ROBINS: It's Exhibit 20. And the statement  
 3 of operations generally states that deliveries would be  
 4 made -- would be arranged during regular business hours,  
 5 generally outside of the peak hours in consideration of both  
 6 on-site residents and the surrounding community. Food  
 7 deliveries are typically made twice a week by a 20-by-30 box  
 8 truck. All other deliveries are simply made by United  
 9 States Postal Service, FedEx or UPS on standard routes. All  
 10 laundry linens, etcetera is performed in house and require  
 11 no outside vendors.  
 12 THE WITNESS: Right. In my -- just to build on  
 13 that, in my trip generation analyses, when ITE does an  
 14 analysis of facilities -- and there are many that went into  
 15 assisted living -- all vehicles are accounted for. So  
 16 visitors, staff, delivery, everything is accounted for in  
 17 that trip generation both inbound, obviously, and outbound.  
 18 MR. ROBINS: I'm sorry. Just one other thing that  
 19 I left out that Liz pointed out to me is in the  
 20 recommendations and conditions from the Planning Board,  
 21 which were acceptable to us, the food supplies delivered to  
 22 the facility were limited to twice a week under condition  
 23 four.  
 24 BY THE HEARING EXAMINER:  
 25 Q That actually brings me to my next question. When

10

1 the trip generation -- so my understanding, right, we have  
 2 an assisted living facility, but then we also have kind of a  
 3 growth of things like Uber, which means people who may not  
 4 have had the ability to drive in the past now have a lot  
 5 more access to -- are things like Uber trips incorporated  
 6 yet into that?  
 7 A Yes, they are. Uber started awhile ago, and ITE  
 8 updates their trip generation information every couple of  
 9 years. The most recent edition, the 11th edition, came out  
 10 just several years ago, so Uber is included in that. And  
 11 when people are using Uber, they don't have their own car.  
 12 They actually drive less. There's less vehicle activity.  
 13 Q Right. But my understanding is the population for  
 14 this assisted living facility is anticipated to not really  
 15 be driving. So --  
 16 A That's correct.  
 17 Q If they're going to do anything privately, I  
 18 guess, not with the van that's associated with the facility,  
 19 they would be using Lyft or Uber or one of those?  
 20 A They may be, or family is coming to pick them up,  
 21 visit, take them out. Recently my mother was in assisted  
 22 living. There was actually very little on the way of Uber.  
 23 My mother knew how to use that system, but, more often than  
 24 not, they would use the van system to get around. So much  
 25 of what's in an assisted living facility provides for most

11

1 of the daily wants and needs. So family will come in and  
 2 take people out for lunch or dinner or shopping. But, that  
 3 being said, Uber is accounted for within the trip  
 4 generation.  
 5 Q And it's accounted for within the context of an  
 6 assisted living facility?  
 7 A Well, again, anybody that's coming in and out of  
 8 an assisted living facility, when we do the count, you are  
 9 counting every single car, every car. No matter who's  
 10 driving, or what the purpose of the trip is, every single  
 11 vehicle is accounted for. So whether it's a visitor, staff,  
 12 delivery vehicle, the resident who may still drive, Uber,  
 13 everything is accounted for. They don't -- they do not --  
 14 Q Distinguish?  
 15 A -- lift out. Yeah. Exactly. Thank you.  
 16 MS. LEWINTER: Those are my questions. Is there  
 17 any -- sorry. Ms. Krishnan?  
 18 MS. KRISHNAN: Yes.  
 19 MS. LEWINTER: If you could, just state your name,  
 20 because we have a new --  
 21 MS. KRISHNAN: Sure.  
 22 MS. LEWINTER: -- court reporter.  
 23 MS. KRISHNAN: Vjayanthi Krishnan.  
 24 CROSS-EXAMINATION  
 25 BY MS. KRISHNAN:

12

1 Q So, when you mentioned that Uber analysis, how do  
 2 you know, given that this is around 200 people, like 120  
 3 plus 200 -- you know, 70 people, how do you make an estimate  
 4 of how many trips will happen there? I mean what is the  
 5 basis of that --  
 6 A Yeah. So ITE bases the trip generation on the  
 7 number of beds, and there are 120 beds in the facility.  
 8 That's not going to be 200 people. That will be 120. A bed  
 9 is a bed. So there are 120 beds in the facility, and the  
 10 trip generation is based on that and the activity associated  
 11 with a facility of that size. So, if it were 90 beds, or  
 12 100, or 120, 200, the number of vehicle trips would increase  
 13 or decrease depending upon the number of beds.  
 14 Q So, if I understand it correctly, there is a  
 15 number of Uber trips that's linked to a bed somewhere? Like  
 16 there is a correlation that one bed equals X number of Uber  
 17 trips?  
 18 A No. Again, it's not segregating out whether --  
 19 it's what we refer to as the independent variable when  
 20 we're -- when they do these regression analyses. These are  
 21 many studies done all over the country. And it's in a  
 22 regression equation, or the average number of trips coming  
 23 and going from a site. The independent variable in many  
 24 uses could be the square footage, or in a school it's the  
 25 students, but it's capturing every vehicle. Whether it is

13

1 **the staff, or the resident, or visitors, trucks, Uber, it**  
 2 **doesn't matter. The analysis is capturing every single**  
 3 **vehicle that goes through a driveway.**  
 4 Q Okay. And how many visitors are you thinking each  
 5 bed would --  
 6 A **Again, my analysis is not pulling out individual.**  
 7 **It's looking at what the peak-hour vehicles are coming and**  
 8 **going. It doesn't distinguish between a visitor, the**  
 9 **resident, the staff, or the number of deliveries.**  
 10 Q Okay. I got that. Okay.  
 11 A **Yes.**  
 12 Q So one other question, which I didn't think  
 13 before, but, you know, if it's okay to ask now, when you did  
 14 the analysis for the traffic, was it -- you did mention it  
 15 was a period of time. Was it during school times?  
 16 A **Yes, it was. We're required to look at three**  
 17 **hours for determining what the one-hour peak will be within**  
 18 **that three-hour window. And our three-hour window in the**  
 19 **morning peak hours required by the county is from 6:30 to**  
 20 **9:30, and then from four to seven. We have to look at the**  
 21 **highest volume on the mainline roadway, in this case, West**  
 22 **Old Baltimore and Maryland 355. So yes, it captures the**  
 23 **school.**  
 24 Q Except the school times in West Old Baltimore Road  
 25 start from two p.m. to four p.m., because all the buses that

14

1 do come to drop off the kids during that time, including the  
 2 extracurricular buses that come after 4:30. So they come  
 3 between, you know -- between 1:45 because there's a  
 4 Clarksville High School depot -- the bus depot is also  
 5 nearby, so there are a lot of buses that actually are going  
 6 to the schools during that time between one and 1:30 and  
 7 two, and then from two and four there are a number of buses  
 8 that are coming to drop off the kids, the elementary, middle  
 9 school, and the high school all on West Old Baltimore Road,  
 10 because there are multiple stops on that --  
 11 A **Sure.**  
 12 Q So how was that considered, given that there was  
 13 also the -- you know, shift change happens around two p.m.  
 14 for the facility on the same road.  
 15 A **Yeah. So the four schools that have service --**  
 16 **Gibbs Elementary School starts at 9:25. They don't let out**  
 17 **until 3:50. Clarksburg Elementary School starts at 9:25.**  
 18 **They don't let out until 3:50. Rocky Hill starts at --**  
 19 **that's the middle school -- starts at 8:15. They let out at**  
 20 **three o'clock. And then Clarksburg High School starts at**  
 21 **7:45, and they let out at 2:30. Our shift change occurs**  
 22 **around two o'clock. There's an ebb and flow, but the**  
 23 **highest time for change is right at two o'clock.**  
 24 Q So you would be expecting cars to be coming out  
 25 from that -- what I'm saying, your four to seven p.m. in the

15

1 evening did not take into the fact that there would be much  
 2 more pressure during between two and four in that area,  
 3 including 3:55 because it does get jammed up. I go across  
 4 that road to pick up my kid, you know, 2:50. 2:45, 2:50  
 5 you're stuck in 355 because there are buses coming in and  
 6 out.  
 7 A **Right.**  
 8 Q And you're just stuck there. So your four to  
 9 seven p.m. doesn't look like it would cover that traffic  
 10 period.  
 11 MS. LEWINTER: Ms. Krishnan, I just want to  
 12 remind --  
 13 MR. ROBINS: Is there a question?  
 14 MS. KRISHNAN: I'm just asking how would that be  
 15 accounted for.  
 16 Q If it is not part of the trip generation, how  
 17 would that be accounted for?  
 18 A **Well, trip generation has nothing to do with the**  
 19 **school hours. It has to do with the volume on the roadway**  
 20 **itself. And the peak time for the greatest volume of**  
 21 **traffic on the road occurs between those three hours in the**  
 22 **morning and those three hours in the afternoon. The fact**  
 23 **that there are school buses on the road system, whether we**  
 24 **are putting a car out at 2:30 when there's a bus, everybody**  
 25 **has to stop for that bus. Does it delay traffic for that**

16

1 **period of time that a student is getting out of the bus, of**  
 2 **course, but it is not the highest volume of traffic on the**  
 3 **roadway and that's what we're required to study.**  
 4 MS. KRISHNAN: Okay. Thanks for that. Thanks for  
 5 the clarification.  
 6 THE WITNESS: Yeah.  
 7 MS. LEWINTER: Are there any other questions from  
 8 the audience?  
 9 Do you have any redirect?  
 10 MR. ROBINS: Not at this time.  
 11 MS. LEWINTER: Okay. Thank you, Ms. Randall.  
 12 THE WITNESS: You're very welcome.  
 13 MS. LEWINTER: So does that conclude your case in  
 14 chief for now?  
 15 MR. ROBINS: It does. Well, we will, in all  
 16 likelihood, have some rebuttal; but, other than that, yes.  
 17 MS. LEWINTER: Okay. Thank you.  
 18 All right. So now I know is the time that  
 19 everybody in the audience has been waiting for. This is  
 20 your opportunity to testify. If you are interested in  
 21 testifying, we will go -- I guess I'm just going to kind of  
 22 go from second or third row -- third row. No. Second row  
 23 back. We'll just go in order. You can come up, say your  
 24 piece. We're going to swear you in. And then the applicant  
 25 can ask you cross-examination questions.

17

1 So I don't remember everybody's name. I'm sorry.  
 2 Did you want to testify?  
 3 MS. MEYER: That's okay.  
 4 MS. LEWINTER: Did you want to testify?  
 5 MS. MEYER: Sure. Yes.  
 6 MS. LEWINTER: Okay. All right. So we'll just go  
 7 in order, unless somebody has some concern about that. And  
 8 if you can, again, just say and spell your name for the  
 9 court reporter, and then I'll swear you in.  
 10 MS. MEYER: Okay. Yes. My name is Terri Meyer,  
 11 T-E-R-R-I M-E-Y-E-R.  
 12 MS. LEWINTER: All right. Ms. Meyer, are you  
 13 ready?  
 14 MS. MEYER: Yes.  
 15 (The witness was sworn.)  
 16 MS. LEWINTER: Thank you.  
 17 TERRI MEYER,  
 18 having been first duly sworn or affirmed, was examined and  
 19 testified as follows:  
 20 DIRECT TESTIMONY OF TERRI MEYER  
 21 MS. MEYER: Okay. Thank you. Good morning,  
 22 everybody.  
 23 MR. ROBINS: Good morning.  
 24 MS. MEYER: My name is Terri Meyer, and I live on  
 25 Ivy Leaf Drive located directly behind the proposed

18

1 development, and I appreciate the opportunity to testify  
 2 today.  
 3 Since August of 2019 when I was first informed of  
 4 the requested zoning change to accommodate an assisted  
 5 living facility, I have provided significant and thoughtful  
 6 input on at least three occasions to representatives of  
 7 Worldshine explaining why I believe that this particular  
 8 site was not a good choice. Here are my reasons.  
 9 First, the neighbors on Ruby Drive, Ivy Leaf Drive  
 10 and Ivy Leaf Court have already endured dramatic growth in  
 11 the area, first with the Banner School, then with this huge  
 12 Cabin Branch Development, which is still in progress, and,  
 13 most recently, with the Tapestry Development, which abuts  
 14 the other side of Ruby Drive where over 35 acres of forest  
 15 were completely cleared to accommodate for that development.  
 16 This is a lot of growth for such a small area. I think it's  
 17 only probably, what, a half square mile of land that we're  
 18 talking here. Worldshine proposes to construct and run a  
 19 very large facility compared to the other houses there,  
 20 which would be sandwiched in-between two streets with single  
 21 family homes, a much less dense area than the Tapestry or  
 22 any of the other areas in the area. And I believe we have  
 23 endured more than our fair share of sacrifices to our  
 24 quality of life in the name of development.  
 25 Secondly, the facilities proposed would be

19

1 operated as a 24-by-seven business requiring a parking lot  
 2 whose lighting, according to the Worldshine testimony, would  
 3 not directly shine onto my property because I abut right  
 4 behind the parking lot, but would certainly cause diffused  
 5 light to lighten up the back of my house, and those of us  
 6 abutting the facilities. I mean, I can sometimes see the  
 7 glow from, you know, always away where there's a shopping  
 8 center. The parking lot would sit directly across from my  
 9 two-storey bedroom window since my property sits nine feet  
 10 below the proposed site. The loss of darkness at night is a  
 11 definite hit to the quality of the nighttime environment.  
 12 Thirdly, the statement of operations, Exhibit 20,  
 13 states the facility will employ a maximum of 75 team  
 14 members, and a maximum of 44 staff on site at any given  
 15 time. It also states that shift changes occur at two, 10:15  
 16 and 5:45 a.m. So, if this facility was built, every morning  
 17 before I even get up and every night after I've already gone  
 18 to bed, up to 44 employees would be arriving or leaving, and  
 19 I would have to endure hearing these people chatting on  
 20 their way to their cars, all those doors slamming and up to  
 21 44 motors starting during those shift changes, and this  
 22 would greatly hurt my quality of rest.  
 23 Therefore, I strongly oppose the proposal to  
 24 change the zoning of this R-200 property because of the  
 25 issues I have described, as well as those of my neighbors,

20

1 and ask that fair consideration be given to protecting  
 2 existing property owners' way of life.  
 3 MS. LEWINTER: Thank you, Ms. Meyer.  
 4 I just had a request from Nana. I'm sorry.  
 5 Ms. Johnson. She is asking if you could put your mailing  
 6 address and e-mail on the record just so that we can make  
 7 sure that we are accurately including everybody in the  
 8 followup. So if we could just take a minute for you to do  
 9 that, and when we start other people's testimony, we'll do  
 10 that.  
 11 MS. MEYER: Okay. My address is 2205 Ivy Leaf  
 12 Drive, Boyds, Maryland 20841, and my e-mail is  
 13 tjeanmeyer@aol.com.  
 14 MS. LEWINTER: Thank you, Ms. Meyer.  
 15 Do you have any cross-examination for Ms. Meyer?  
 16 MR. ROBINS: Give me one second.  
 17 MS. LEWINTER: Sure.  
 18 MR. ROBINS: Just one question.  
 19 CROSS-EXAMINATION BY COUNSEL FOR THE APPLICANT  
 20 BY MR. ROBINS:  
 21 Q Good morning.  
 22 A Good morning.  
 23 Q You had mentioned, Ms. Meyers, that you have  
 24 endured a lot of development around the area like Tapestry,  
 25 Cabin Branch. What else did you say?

21

1 **A The Banner School, which is on the other side.**  
 2 Q You wouldn't equate eight cottage homes to that  
 3 size of development; would you?  
 4 **A Well, what I'm saying is in this tiny little area**  
 5 **we've seen lots of dense development.**  
 6 Q But you wouldn't say that eight cottage homes is  
 7 equated to a Cabin Branch, or a Tapestry, or the other --  
 8 the school that you mentioned?  
 9 **A No.**  
 10 Q It's certainly not on that magnitude, correct?  
 11 **A No, because there's only so much land there.**  
 12 Q And are you --  
 13 **A But the density of people, yes.**  
 14 Q And to Cabin Branch and to Tapestry? Okay.  
 15 **A Well, to --**  
 16 Q When you mentioned a comparison of the homes, you  
 17 say these are huge cottages. Have you done any analysis of  
 18 that?  
 19 **A My house and my neighbor's house are the same**  
 20 **size. We sit directly behind. Our houses are 2,650. If**  
 21 **you add the garage, we're still, like, maybe 28, probably**  
 22 **27. Most of the houses on that street are like 3,000.**  
 23 **That's a big difference to me than 5,800. That's pushing**  
 24 **the limit for this sandwiched-in area, in my opinion.**  
 25 Q But you haven't actually evaluated the dimensions

22

1 of these homes?  
 2 **A I've evaluated when I look at the property, the --**  
 3 Q Visually?  
 4 **A No, on -- if you go to the records of what the**  
 5 **square footages of these houses are. There's no houses over**  
 6 **5,000.**  
 7 Q You mentioned also about staffing at 44 people,  
 8 you know, coming in and out 5:45. Did you look at the  
 9 staffing schedule carefully?  
 10 **A Well, I just read the exhibit, and it said what**  
 11 **the time shift changes were.**  
 12 Q I would suggest looking at Exhibit 20 on the --  
 13 **A That was from Exhibit 20.**  
 14 Q -- operations --  
 15 **A That was exactly from that exhibit.**  
 16 Q -- and you'll see that there's different levels of  
 17 staff on different schedules.  
 18 **A But the 44 was for the people --**  
 19 Q Maximum  
 20 **A Right. So I said that. I said up to 44 people.**  
 21 Q But you said on each shift.  
 22 **A No. I said the ones that are -- the two o'clock**  
 23 **is fine. It doesn't matter to me.**  
 24 Q Just if -- I just wanted to clarify. It's --  
 25 **A I read specifically from that exhibit. I quoted**

23

1 **it word for word.**  
 2 Q Okay. Not on each shift.  
 3 **A Okay. In the exhibit it did talk about how many**  
 4 **people -- like there's only two, say, cooks or whatever.**  
 5 **And I added up the people that were on the staff that were**  
 6 **there at one time and would be leaving at one time, and I**  
 7 **got it from Exhibit 20.**  
 8 Q I just wanted to make sure that you --  
 9 **A Sure.**  
 10 Q -- read that carefully.  
 11 **A Yeah, I did. I did. Anything else?**  
 12 MR. ROBINS: No. Thank you.  
 13 MS. LEWINTER: Thank you, Ms. Meyer. You can be  
 14 excused.  
 15 Mr. Krishnan, did you want to testify?  
 16 To the reporter, do you need her to spell her  
 17 name? I know you got it before.  
 18 Okay. So Ms. Krishnan, if you could, just state  
 19 your address and your e-mail for the record, and then I'll  
 20 let you testify.  
 21 MS. KRISHNAN: So I live in the Summerfield  
 22 Crossing community, and my e-mail address is  
 23 vyjool@gmail.com  
 24 THE REPORTER: Is that zero, zero or --  
 25 MS. KRISHNAN: O-O, O as in orange, O as in

24

1 orange, the number 1@gmail.com  
 2 (The witness was sworn.)  
 3 MS. LEWINTER: Thank you. Go ahead.  
 4 VYJAYANTHI KRISHNAN,  
 5 having been first duly sworn or affirmed, was examined and  
 6 testified as follows:  
 7 DIRECT TESTIMONY OF VYJAYANTHI KRISHNAN  
 8 MS. KRISHNAN: So good morning, everyone. And  
 9 before proceeding to the points of concern regarding the  
 10 application, I would like to highlight one key concern in  
 11 the processing of this application. The key issue has been  
 12 communication. The applicant, to our knowledge, did not do  
 13 any significant or easily-accessible community outreach, nor  
 14 did they engage with the community or civic associations in  
 15 the Clarksburg area for the 2023 new application. Using the  
 16 limited outreach on older plans and showing aberrant  
 17 compliance with the community outreach requirements for the  
 18 2023 new application should not be considered valid. The  
 19 impact of this lack of outreach to the community has been  
 20 significant, and has altered the baseline for the community  
 21 interactions needed to evaluate the impact on the  
 22 surrounding areas of such a large facility. I respectfully  
 23 request that the hearing examiner require that outreach with  
 24 the nearby residents and communities be included before even  
 25 evaluating this plan. Given the sensitive nature of the

<p style="text-align: right;">25</p> <p>1 area, not having engaged with environmental groups, the  2 Clarksburg Civic Association or even nearby HOAs to get the  3 community feedback has minimized the awareness of the  4 significant change to the existing neighborhood area, as  5 well as, you know, on the quality and the potential impact  6 it would have on the quality of life and water quality  7 issues for the entire area that gets impacted by this  8 facility.  9 Now coming to the application itself, so the  10 special protection assessed area assignment means that extra  11 care is needed with a case-by-case review of each  12 application. No limits on imperviousness are put in the SPA  13 area in the section because, per the master plan, every inch  14 of increase is crucial and can negatively affect the overall  15 health of the watershed. In other words, no limit does not  16 mean the highest limit is okay to go forward. Rather, it  17 should be the other way around where every inch should be  18 carefully monitored and should be evaluated by the county.  19 A 34.7-percent imperviousness for this site, if it was in a  20 different non-SPA area, would be okay probably, but not  21 here. In this area the 35 percent is not just very high for  22 R-200, but it could be irreversibly damaging to the well  23 water supply, the Seneca Creek streams nearby, and can  24 impact the water table and other unintended effects. Also,  25 the Piedmont Aquifer, which is the sole source aquifer</p>	<p style="text-align: right;">27</p> <p>1 overall presence of such a large facility. If the above is  2 not possible due to procedural limitations, then impervious  3 surface should be restricted to the 15 to 19 percent as the  4 rest of the R-200 in the area for this site build out. A  5 full building facility, instead of eight buildings, would  6 allow this limit to be maintained. This restriction will at  7 least assure that, in the absence of data, the impact would  8 be no greater than a regular R-200 at least in terms of  9 person imperviousness.  10 The next point, West Old Baltimore area has  11 multiple neighborhoods along both sides of the road, Hurley  12 Ridge, Summerfield Crossing, as well as Tapestry Homes. In  13 all West Old Baltimore Road is used by at least a thousand  14 plus homes and at least 2,000 cars every day just from these  15 homes. In addition, we have Black Hill Regional Park with  16 the Little Seneca Lake, which is our reserve water supply  17 for the area. Many visitors make use of this park for its  18 amenities. The road is also an alternate connector to the  19 Clarksburg Premium Outlet, which is about three miles away.  20 As such, the road does see a lot of traffic from the local  21 residents and park and outlet traffic. The applicant  22 property has 80 feet right-of-way that can be used for a  23 dedicated right turn into the property. The property on  24 Ruby Drive that is to the east of Ruby Drive also appears to  25 be belonging to the owner as a private property of the</p>
<p style="text-align: right;">26</p> <p>1 supplying the entire area, is beneath this area and is  2 designated as a protected status by the US EPA, yet no  3 geotechnical or water survey or analysis of this impact of  4 such a huge facility was done.  5 On the previous hearing day in February, there  6 were other experts -- they were experts in other areas, but  7 not in water quality, providing their personal opinions that  8 it would all be, quote, unquote, okay and no impact to the  9 water table, etcetera, is expected. However, no real data  10 has been provided in this regard. While it may be  11 acceptable for an applicant building a facility in a SPA  12 area to do the geotechnical study after approval, given the  13 SPA status and the above potential impacts to the water  14 quality and our concern that the watershed and the aquifer  15 should be preserved, we request that the geotechnical survey  16 be conducted before the application is approved. This  17 should be done by an independent expert who is approved by  18 local environmental groups such as the Seneca Creek  19 Watershed Partners or Friends of 10-Mile Creek, etcetera,  20 who have been super knowledgeable on these areas. The  21 facility construction may require blasting, as per my  22 understanding, for making the basements for these eight  23 large buildings. These are not cottages. The study should  24 look at the short-term and the long-term impact of that, as  25 well as other effects that could be happening due to the</p>	<p style="text-align: right;">28</p> <p>1 Worldshine owner and also has 80 feet right-of-way access.  2 Given the increase of traffic, we believe using this 80 feet  3 right-of-way on both the properties to have an extended  4 right lane that allows for a right-turn lane both into Ruby  5 Lane and also into the entrance of the facility would  6 alleviate any future traffic issues that could arise. Also  7 note that this area has multiple school bus stops on both  8 sides, and afternoon pickup and drop off coincides with  9 quite a bit -- with the shift change as well as the service  10 vehicle plans of the facility. As such, this dedicated lane  11 will minimize the incoming shift's vehicular traffic at this  12 facility and reduce the issues of school kids' and parents'  13 safety. Other neighborhoods have had to accommodate the  14 excess traffic brought on by their communities by adding  15 dedicated left-turn or right-turn lanes in West Old  16 Baltimore Road. We believe that with nearly 200 people on  17 this property Worldshine also should include this dedicated  18 right lane to accommodate the presence on this road. The  19 extended right lane into both Ruby Drive and the facility  20 will prevent any abrupt turns or backups that can be caused  21 by just having a dedicated right turn into the facility  22 alone.  23 In summary, we are strongly opposed to this  24 facility being built on a sensitive area in a special  25 protection area due to its large footprint, and believe that</p>



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1 there are other areas in Clarksburg that are better suited  
 2 for this facility. We have serious concerns about immediate  
 3 construction related to blasting of the sensitive area, as  
 4 well as longer-term impacts. Therefore, if this plan has to  
 5 be approved, then the hearing examiner should ask for actual  
 6 data from a geotechnical survey and have engagements with  
 7 the environmental groups that are knowledgeable in this area  
 8 before approving the application. If that can't be done due  
 9 to procedural issues, then, due to the absence of such data,  
 10 the facility should be restricted to four buildings, instead  
 11 of eight buildings so that the present imperviousness is  
 12 maintained at the current R-200 level for the area. A  
 13 dedicated right lane utilizing the ROW of both the applicant  
 14 property and the private property abutting West Old  
 15 Baltimore Road on the east side should be constructed to  
 16 provide relief for the remaining homeowners in the area in a  
 17 manner that is similar to other developers who have built  
 18 the community entrances of West Old Baltimore Road. Thank  
 19 you for your time.  
 20 MS. LEWINTER: I have one question. You said we.  
 21 Are you speaking for yourself, or are you speaking --  
 22 MS. KRISHNAN: I'm speaking for myself, but I  
 23 think a lot of residents have privately provided me  
 24 feedback, so I am just representing, you know, their  
 25 feelings also. But yeah, I'm coming here as an individual.

30

1 MS. LEWINTER: Okay. Thank you for your  
 2 clarification.  
 3 Did you have cross-examination?  
 4 MS. ROGERS: We do.  
 5 MS. LEWINTER: Okay.  
 6 CROSS-EXAMINATION BY COUNSEL FOR THE APPLICANT  
 7 BY MS. ROGERS:  
 8 Q Ms. Krishnan, just to, I guess, piggyback on the  
 9 question of the hearing examiner, at the Planning Board you  
 10 represented that you were testifying on behalf of the  
 11 Summerfield Crossing HOA, and, therefore, were afforded six  
 12 minutes to testify.  
 13 A **Hm-hm.**  
 14 Q Were you testifying as an individual, or on behalf  
 15 of the HOA?  
 16 A **Today?**  
 17 Q I'm asking at the Planning Board for the record.  
 18 A **At that time I was -- I said I represented the**  
 19 **HOA, but I was -- I was speaking on my behalf.**  
 20 Q But only representatives authorized on behalf of  
 21 HOA get additional time when they're representing that  
 22 they're testifying on behalf of HOA. So that's what was --  
 23 you got the additional time in relation to that. Were you  
 24 authorized by the HOA to give that testimony?  
 25 A **No. I was representing my HOA based on saying**

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1 **that I'm also the president of the HOA. I'm not -- I was**  
 2 **representing myself. And I don't know if they got confused**  
 3 **or not, but I gave -- I was representing myself.**  
 4 Q Okay. So the HOA, just for the record, has not  
 5 authorized you to speak on their behalf?  
 6 A **I have not -- I have not necessarily represented**  
 7 **that I'm representing the HOA, because, again, I think --**  
 8 Q The question is just whether you have been  
 9 authorized on behalf of the HOA.  
 10 A **No.**  
 11 Q Thank you.  
 12 A **I've not said that at all ever.**  
 13 Q Okay. You said in your remarks today that there  
 14 has not been significant outreach. Are you aware of the  
 15 zoning ordinance requirements for notice and outreach for  
 16 conditional use applications?  
 17 A **To the extent that we were informed the prior**  
 18 **notifications in 2017 and not having provided here, I know**  
 19 **that there's been some -- either a drop off or a utilization**  
 20 **of the rules where the HOA or the community members were**  
 21 **informed that Worldshine was making the --**  
 22 Q That's not my question. My question is, are you  
 23 aware of the noticing requirements of the zoning ordinance  
 24 for a conditional use application?  
 25 A **To the -- yes. I think so.**

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1 Q Could you state for the record what the zoning  
 2 ordinance requires for notice of a conditional use  
 3 application?  
 4 A **That the nearby HOAs and the community residents**  
 5 **should be informed. They don't specify specifically that,**  
 6 **you know, within a .2 or .5-mile radius. I don't know**  
 7 **exactly the number, but somewhere around that number.**  
 8 Q For clarification, the zoning ordinance is very  
 9 specific in terms of the mile radius for HOA and civic  
 10 associations and what adjoining and fronting property owners  
 11 get noticed. So that --  
 12 A **So can you tell me what that number is?**  
 13 MS. LEWINTER: This is not appropriate --  
 14 Q I'm asking you a question.  
 15 A **Okay.**  
 16 Q Thank you. The other question I have for you on  
 17 that is -- and you were alluding to this. Are you aware  
 18 that the petitioner did do voluntary outreach with the  
 19 community? It's a yes or no question.  
 20 A **At what time?**  
 21 Q Over the course of this application, has the  
 22 commissioner -- has the petitioner -- so the zoning  
 23 ordinance does not require a community meeting for a  
 24 conditional use application. Did the petitioner hold some  
 25 community meetings on this application?

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1 **A On 23-11? On 23-11 application?**  
 2 Q This conditional use application has been pending,  
 3 I think, since -- we could find out the date, but it's not a  
 4 2023 application. It's been pending for quite sometime.  
 5 I'm asking, on this conditional use application, did the  
 6 petitioner hold voluntary community outreach?  
 7 **A On 23-11? The application 23-11 -- because there**  
 8 **is no link between 23-11 and any of the older applications,**  
 9 **to my knowledge. So the 23-11 application there was no**  
 10 **outreach as far as I know.**  
 11 Q Okay. I'll frame it a different way. Did the  
 12 petitioner hold community meetings to discuss their plans  
 13 for the redevelopment --  
 14 **A -- plan?**  
 15 Q -- point in time?  
 16 **A No. I don't know. There's -- I mean, I don't**  
 17 **know of all the things that they've done. But as of 23-11,**  
 18 **which is the only application and the only plan that we are**  
 19 **talking about --**  
 20 Q Why are you saying that that community outreach  
 21 dropped off and that there's been a drop off?  
 22 **A Because the only time that I do know that --**  
 23 **personally, I do know that there was an older application,**  
 24 **but there was nothing when this application was submitted,**  
 25 **or anything to that effect because it's a new plan, a new**

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1 **completely different thing. There has been no outreach.**  
 2 **And that's exactly what I'm trying to convey, that --**  
 3 Q Well, are you --  
 4 **A Knowing that there was -- knowing that there was**  
 5 **significant opposition to the initial plan, there was**  
 6 **probably a concerted effort to not engage the community.**  
 7 **And that's fine, but I'm just stating the facts as we see**  
 8 **it, and that's about it.**  
 9 Q Are you aware that in the petitioner's outreach  
 10 the petitioner made several offers to meet with the  
 11 community and was -- I don't know the right word to say it,  
 12 but very summarily dismissed in terms of wanting to take up  
 13 offers to have meetings --  
 14 **A Which community -- which community are you talking**  
 15 **about?**  
 16 Q I'm asking.  
 17 **A No. Which community, ma'am, are you talking**  
 18 **about? Because there are many communities there. Which**  
 19 **community did they outreach to?**  
 20 Q I'm not going to -- I'm not answering questions.  
 21 I'm asking you questions.  
 22 **A So I mean --**  
 23 Q I will move on.  
 24 MS. ROGERS: If we could please pull up Exhibit  
 25 37, we have some other questions that we would like to ask

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1 Ms. Krishnan.  
 2 Q While that's being pulled up, Ms. Krishnan, do you  
 3 have any formal educational training in land planning? Do  
 4 you have any formal educational training in land planning,  
 5 environmental planning or transportation planning?  
 6 **A I'm a resident.**  
 7 Q So is the answer yes or no?  
 8 **A No.**  
 9 Q Thank you. During your cross of the petitioner's  
 10 witnesses, you asked a series of questions regarding the  
 11 project's impact on the streams and tributaries in the  
 12 surrounding area. Do you personally have any study or data  
 13 showing how much runoff of this site will reach those creeks  
 14 and tributaries?  
 15 **A I do not. I do --**  
 16 Q Thank you.  
 17 **A I do want to have a study. That is why I do think**  
 18 **there is a study required. If the data was available, it**  
 19 **would be easier for the rest of the community to figure out**  
 20 **what's going on.**  
 21 Q Your written testimony is in the record as Exhibit  
 22 22I.  
 23 **A Hm-hm.**  
 24 Q It included a lot of information regarding the  
 25 master plan. Do you have any qualifications that give you

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1 expertise in evaluating a master plan?  
 2 **A I think the ability to read and comprehend is**  
 3 **there, but I know enough to know that, if there are things**  
 4 **that say a further study is required, then it is -- you**  
 5 **know, it is okay to ask for that further study, not assume**  
 6 **that -- you know, everybody does not have to be a**  
 7 **geotechnical expert to know that a geotechnical study might**  
 8 **be a good thing, given the amount of, you know, concern**  
 9 **about environmental issues for this area.**  
 10 MS. ROGERS: Okay. If you can, let's scroll down  
 11 a little bit.  
 12 Q This is an excerpt from your written testimony  
 13 where you cite to -- in the highlighted section just right  
 14 there, you cite to page 142 of the master plan, and you  
 15 quote, The greatest constraints environmentally are east of  
 16 I-270 and in the area of the stream valley of the Seneca  
 17 Creek.  
 18 **A Hm-hm.**  
 19 MS. ROGERS: If you'd go to the next slide,  
 20 please.  
 21 Q I would just state for the record your testimony  
 22 included many quotations, like I just read one. Were those  
 23 direct quotes from the master plan?  
 24 MS. ROGERS: One slide up, actually. Thank you.  
 25 **A So which one are you talking about?**

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1 Q I'm just asking generally. Your letter you  
 2 submitted at 221 has a number of quotes.  
 3 A Right.  
 4 Q You put quotes around sentences. Are those exact  
 5 quotes from the master plan?  
 6 A To the extent that I -- given it was a 500-page  
 7 plan, I, to the extent that I could as a nonexpert, provide  
 8 the -- you know, the cut and paste from a PDF that is 500  
 9 pages plus. I do think that many of these are exact quotes.  
 10 However, I will not say that every one of them is exact,  
 11 because, again, copy, paste and not having an admin staff to  
 12 take care of it.  
 13 Q Well --  
 14 A But, if you have any specific concerns, which I do  
 15 think you have --  
 16 Q Yes. I --  
 17 A -- talked about the particular one --  
 18 Q I will walk you through a few of them.  
 19 A Yes.  
 20 Q So this is actually an excerpt from -- a  
 21 screenshot from page 142 of the master plan. Can you please  
 22 read the language that's highlighted?  
 23 A Yeah. I do see that it says --  
 24 Q Can you please read the language --  
 25 A The least constrained areas are located east of

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1 270.  
 2 Q Correct. And the quote from your letter, just to  
 3 reiterate what I said, is you said, The greatest constraints  
 4 are east of 270.  
 5 A And I can -- I can assume that that might have  
 6 been a typo. But you also see that I have --  
 7 Q Well, wouldn't you agree this is completely --  
 8 this quote from the master plan is actually completely  
 9 contrary to what you represented in your letter? Least  
 10 constrained versus the greatest constrained, aren't those --  
 11 A No.  
 12 Q -- completely contrary?  
 13 A I might -- I would assume that if it is an error,  
 14 I would -- I would apologize for it. But I can also see  
 15 that I have one, two, three, four, five, six, seven, eight,  
 16 nine, 10 --  
 17 Q We can get --  
 18 A Nine, 10 points which -- allow me to speak too.  
 19 Nine, 10 points just in that environmental issue itself,  
 20 none of which have errors. And you have not been able to  
 21 point those out, which you have obviously done a very good  
 22 job of looking at it. So there is a typographical error in  
 23 out of one of 10 points; and, therefore, I can -- I can  
 24 accept the typo.  
 25 Q Okay.

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1 A But the rest of them that talk about -- I can -- I  
 2 can -- let me finish.  
 3 Q Ms. Krishnan, that's not the question, because we  
 4 will go through further the --  
 5 A Okay.  
 6 Q -- example, so I'm asking you a question on this  
 7 example.  
 8 A Okay.  
 9 Q And we certainly will get to the rest of your  
 10 testimony later. To follow up on this misconstrued language  
 11 from the master plan, do you know the buffer distance  
 12 required on either side of a stream in the county? Do you  
 13 know what the exact buffer distance is that's required for a  
 14 stream?  
 15 A I can't think of it off the top head right now.  
 16 Q Do you know how far this site is from the nearest  
 17 stream?  
 18 A I think it's around a thousand feet, plus, minus.  
 19 Q Isn't it true that this property is not located in  
 20 a stream buffer or a stream valley?  
 21 A It's close enough to a stream.  
 22 Q Is it located in a stream buffer or a stream  
 23 valley?  
 24 A I'm not aware yes or no because I'm not the  
 25 expert.

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1 Q Isn't it true --  
 2 A -- some expert person to look at that and say  
 3 whether that has --  
 4 Q I understand that.  
 5 A -- impact.  
 6 Q If you could just answer my questions, that would  
 7 be great. Isn't it true that the property is located east  
 8 of I-270?  
 9 A As many other properties, yes.  
 10 Q Thank you.  
 11 MS. ROGERS: If you could go to the next slide.  
 12 Q So we would note that this is Figure 45, which is  
 13 cited in page 142 of Ms. Krishnan's letter, including their  
 14 testimony I'd just like, for the record, if you could look  
 15 at this. Could you, please -- this ranks the environmental  
 16 constraints such as steep slopes, floodplains, poor soils,  
 17 all that and their effects on development potential. How is  
 18 the property classified on this exhibit? There's three  
 19 classifications, moderate, severe or slight.  
 20 A I cannot even figure out -- the quality of this is  
 21 so bad in the master plan also. I cannot, as a nonexpert,  
 22 figure out what that is, which is why I want experts to look  
 23 at it and make an assessment.  
 24 Q Thank you.  
 25 A I really cannot --

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1 MS. LEWINTER: Can you slow down for the record?  
 2 Q You can easily see where I-270 is. You can see  
 3 where 355 is, and then you can actually see the stub of Ruby  
 4 Road when we put a star right where it is.  
 5 A **When you explain – blow it up like this, it's**  
 6 **possible, but not when you're looking at it in a PDF from**  
 7 **online. Sorry. I cannot – I cannot make the difference**  
 8 **between spotted gray and gray and things at this point even**  
 9 **with this. Sorry.**  
 10 Q Well, the classification is slight. Is there any  
 11 classification lower than slight on this map? There was  
 12 three classifications, moderate, constrained and slight.  
 13 A **I can't figure out from this. Sorry. I'm really**  
 14 **sorry.**  
 15 Q Thank you.  
 16 A **My eyesight is not that good.**  
 17 Q Your written testimony included citations to  
 18 numerous master plan recommendations. Again, are you  
 19 certain that those master plan recommendations were  
 20 applicable to this property?  
 21 A **Yes, I do.**  
 22 MS. ROGERS: Can we go to the next slide, please?  
 23 A **To this whole area. Not necessarily to this**  
 24 **property. To the whole area. Again –**  
 25 Q Well, the Clarksburg Master Plan, of course, is

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1 applicable --  
 2 A **Right.**  
 3 Q -- only to Clarksburg.  
 4 A **Correct.**  
 5 Q So there are sections within there that are  
 6 applicable just to certain areas. I'm asking, were those  
 7 citations in your letter applicable to this area of  
 8 Clarksburg?  
 9 A **To the best of my knowledge, yes.**  
 10 Q Thank you.  
 11 MS. ROGERS: If we can go to the next slide,  
 12 please.  
 13 Q This was an excerpt from your written testimony  
 14 where you cite to page 150. Again, I would note this is  
 15 not -- you represented that this was a quote. It is not an  
 16 accurate quote, but that's not the purpose of my  
 17 questioning. If you can go to the next page, we did provide  
 18 a screenshot of page 150.  
 19 A **Hm-hm.**  
 20 Q And can find -- looking at the header of this  
 21 section, isn't it true that this discussion in the master  
 22 plan is in reference to Little Bennett Creek Watershed and  
 23 Little Bennett Creek?  
 24 A **I don't think so, and the reason – I'll tell you**  
 25 **why. When you look at the actual – and I put a printout of**

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1 **this because I was confused too whether this particular area**  
 2 **was just specific to Little Bennett or not when I was**  
 3 **qualifying it. And I print a printout of this. And if you**  
 4 **can take a look at this, because it's tough to see it**  
 5 **online, Little Bennett, the entire discussion is our Little**  
 6 **Seneca Watershed – it states in the Little Seneca Watershed**  
 7 **Creek – Little Seneca Creek warrants extraordinary**  
 8 **attention to the site layout, BMP integration, construction**  
 9 **practices to ensure maintenance of a healthy stream system.**  
 10 **Most of the watershed's development should be covered by**  
 11 **enhanced environmental guidelines. And this is specifically**  
 12 **for Little Seneca Creek, which you're not showing here, but**  
 13 **that's okay. But this is what's called for for Little**  
 14 **Seneca Creek.**  
 15 **Then they go to Little Bennett, and they go all**  
 16 **the way and they finish here on page 149, and they say, you**  
 17 **know, standard environment conditions. On the next page, as**  
 18 **you can see, the indentation is not the same, and it reverts**  
 19 **back to the indentations for the watersheds. And this**  
 20 **looks – this eventually starts talking about Clarksburg,**  
 21 **and it says – if you can see, there's an indentation that**  
 22 **it goes back to the initial or close to the initial**  
 23 **indentation and not as part of the Little Bennett Watershed**  
 24 **discussion anymore. And the next four paragraphs talk about**  
 25 **Clarksburg. They talk about the Piedmont Aquifer. They**

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1 **talk about the ill-designed and abandoned septic leach**  
 2 **fields. They talk about the drastic study that the county**  
 3 **made, all of which do not only reference to Little Bennett,**  
 4 **but through the whole area. So it was a drastic study, and**  
 5 **things of that nature were not only done for the Little**  
 6 **Bennett, but for the whole area. So if you see the**  
 7 **indentation, given that there is a typo there and the fact**  
 8 **that, you know, the previous paragraph does not link to**  
 9 **anything within that Little Bennett, I do believe and – we,**  
 10 **you know, might have to talk to the master plan areas as to**  
 11 **why they indented it further out so that they could separate**  
 12 **it out from the Little Bennett Watershed description.**  
 13 **Because, again, by inference, all the other following**  
 14 **information about the population and all that is true for**  
 15 **all the, you know, watersheds in this area.**  
 16 Q And could --  
 17 A **So that's my understanding, and I do not think**  
 18 **that this is misquoted or misrepresented.**  
 19 Q Could you find your quote on that page, what you  
 20 represented in quotes? I could not find it, for the record.  
 21 I won't waste time to have you sit there and find it on that  
 22 page, but I could not find the exact quote.  
 23 A **Yeah, but it is there. I didn't take it as a**  
 24 **quote. I think I –**  
 25 Q Well, it was represented in quotes in your

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1 testimony. So something that's in quotes is represented as  
 2 a quote.  
 3 **A Only one sentence of it, and then the rest of it**  
 4 **is paraphrased because I could not write the whole damn**  
 5 **thing.**  
 6 Q Ms. Krishnan, you come across as a very thorough  
 7 person; but, for a very thorough person, it seems like  
 8 you've misconstrued many facts in your testimony. Again, we  
 9 will -- our rebuttal testimony may introduce some other  
 10 errors further. I don't think I need to introduce more.  
 11 Could you explain this, how you could misconstrue quotations  
 12 in your testimony?  
 13 **A So I will -- I mean, I think I understand why you**  
 14 **need to paint that picture. I respect your position that**  
 15 **you need to paint that picture. But I will tell the people**  
 16 **who have not read my testimony I had four pages of written**  
 17 **testimony. Okay? Of that, section one was basically about**  
 18 **the environmental issue where 350 times in 400 pages the**  
 19 **word was used. I think you have to pay attention to the**  
 20 **fact that the Clarksburg Master Plan was --**  
 21 Q I'm not asking you to restate your testimony.  
 22 **A No. And so yeah. So let me -- let me -- I'm**  
 23 **coming to that. I'm coming to that. I am coming to that.**  
 24 **So my four pages of testimony had a lot of things to do to**  
 25 **show that the Clarksburg Master Plan had a lot of attention**

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1 **needed, or it was imploring a lot of attention to**  
 2 **environmental issues, and I was making the point -- I had**  
 3 **four pages. Okay? So -- and was reading a 650-page**  
 4 **document with, as you said, not an expert --**  
 5 Q But you're a very careful person, and --  
 6 **A That's fine.**  
 7 Q -- there are misquotes all through your testimony.  
 8 **A Let's look -- let's go through that.**  
 9 **A No. I'm going to keep --**  
 10 **A No, no, no.**  
 11 Q I'm asking the questions here.  
 12 **A I didn't -- I didn't -- I didn't finish my**  
 13 **testimony.**  
 14 MS. LEWINTER: So, Ms. Krishnan, if you want, at  
 15 the end I'll give you some chance to --  
 16 MS. KRISHNAN: So let me -- so let me ask --  
 17 MS. LEWINTER: -- rebuttal. But she's asking her  
 18 cross-examination questions.  
 19 MS. KRISHNAN: Okay. So let me -- so let me  
 20 answer that question.  
 21 MS. LEWINTER: Okay. If you can limit it to the  
 22 question; although, I will just ask no testimony on either  
 23 side. Okay? So if you -- we've chastised Ms. Krishnan  
 24 before for testifying before her questions. So if we can be  
 25 careful on both ends.

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1 MS. KRISHNAN: Okay. So my first question, I had  
 2 one, two, three, four, five, six, seven, eight, nine, 10,  
 3 11, 12 -- 12 points on environment. You picked out two, of  
 4 which only one was correct. The other one is debatable. I  
 5 think I'm correct there. Okay? So 12 points, one of them I  
 6 don't think you should construe it as to any  
 7 mischaracterizations. Okay? So I do take offense at that,  
 8 but I understand why you're doing it.  
 9 The second one where I had two other pages full of  
 10 stuff, none of the other that you could, but you have done a  
 11 very thorough analysis also. Looks like a very careful  
 12 person, but you were not able to find -- out of those 12  
 13 points, you found one point where there was a copy-paste  
 14 error. So I think that record shows that, you know, it  
 15 wasn't something that was misquoted all over the place.  
 16 And, again, many of my quotes are meant to say  
 17 that please do a technical survey before jumping into this.  
 18 That's all it says. It doesn't say your application is  
 19 wrong or it is incorrect because we say so. I'm saying  
 20 there are so many cases, so many, you know, statements here  
 21 that are imploring that the county should take a closer  
 22 look. And that's all I'm saying, that do the studies, have  
 23 the data before you do something so dramatic. That's all.  
 24 BY MS. ROGERS:  
 25 Q Thank you.

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1 MS. ROGERS: Can we please go to the next slide?  
 2 Q Ms. Krishnan, you live in the Summerfield Crossing  
 3 community, correct?  
 4 **A Yeah. I know that you know that.**  
 5 Q You certainly wouldn't have objected to the  
 6 development of Summerfield Crossing; would you?  
 7 **A I was not -- I was not part of the community when**  
 8 **the Summerfield community was being built. I came in after**  
 9 **the --**  
 10 Q Would you have objected to the development of  
 11 Summerfield Crossing --  
 12 **A I don't know.**  
 13 Q -- you live in?  
 14 **A I don't know. I wouldn't know because I'm not --**  
 15 Q When did you purchase your house?  
 16 **A 2008. 2007. Something around then.**  
 17 Q Was Tapestry approved or developed before you  
 18 moved in?  
 19 **A No.**  
 20 Q Did you oppose the Tapestry development?  
 21 **A I was not -- I was told that Tapestry had already**  
 22 **been approved. Again, because part of the master plan**  
 23 **expected improvements in that area, a lot of the**  
 24 **improvements for West Old Baltimore and 355 are linked to**  
 25 **the Tapestry. So the assumption was that it was not**

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**1 something that was meant to be negotiated. It was already**  
**2 part of the master – Clarksburg Master Plan, and the master**  
**3 plan had already approved or included that in their**  
**4 assessment of the health of that area, which is very**  
**5 different from this, which is a conditional use and changing**  
**6 quite a few of the R-200 requirements in that area.**  
 7 Q So, just for the record, the answer -- a simple  
 8 yes or no -- did you oppose the Tapestry development?  
 9 A **I was not aware that there was opposition needed.**  
 10 Q Okay. You mentioned in your remarks today that  
 11 the properties in the surrounding R-200 zones have only 15  
 12 to 19-percent impervious coverage. Do you know what the  
 13 impervious coverage is for Tapestry?  
 14 A **I'm seeing that there, but my statement was coming**  
**15 from your proposal, which said 15 to 19 is the average for**  
**16 R-200s in the area. And you did not bring up Tapestry in**  
**17 your setup either. You were saying the average quoted was**  
**18 15 to 19 percent from your report, not nine.**  
 19 Q Is an average different than saying that there's  
 20 not other -- I mean, an average -- well, I'm going to ask  
 21 the question. Could you read for the record -- this is an  
 22 excerpt from the staff report for the Tapestry preliminary  
 23 plans and site plans development applications that were  
 24 required for its approval -- what the impervious area is for  
 25 Tapestry?

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**1 A I can see it there. I don't know what the entire**  
**2 context is. You might be taking it out of context. But I**  
**3 also know that the Tapestry imperviousness was included --**  
**4 was also including the improvements on 354 West Old**  
**5 Baltimore Road, and that was included as part of their**  
**6 imperviousness. So it was between 25 and 27, if I**  
**7 understood correctly. However, I do not know whether the**  
**8 Planning Board was correct or not correct in that. It's**  
**9 water under the bridge. I don't think two wrongs -- if it**  
**10 was wrong, doesn't mean two wrongs make a right.**  
 11 MR. ROBINS: Madam Hearing Examiner, can I just  
 12 shift for one second? My co-counsel's asked a question.  
 13 It's a very simple answer as to what was on the screen.  
 14 What's the answer? Not a dissertation on a situation. It's  
 15 just a very simple answer.  
 16 MS. LEWINTER: I mean, I just think you should be  
 17 a little bit realistic about how she's going to respond  
 18 here.  
 19 MS. KRISHNAN: If it's -- if it's -- if it's a  
 20 legal --  
 21 MS. LEWINTER: Ms. Krishnan, just one second.  
 22 If the point is to establish that you have issues  
 23 with the credibility of her testimony, I think there's  
 24 plenty of time in closing argument. I get the point. But  
 25 to sit here and have her, you know, contradict herself and

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1 explain why she's contradicting herself, personally, I think  
 2 it's just easier to point out those contradictions and let  
 3 somebody make that conclusion.  
 4 MR. ROBINS: Thank you.  
 5 BY MS. ROGERS:  
 6 Q Ms. Krishnan, you questioned the petitioner's  
 7 architect regarding whether the proposed cottages look like  
 8 the homes on Ruby Drive and those on the south side of West  
 9 Old Baltimore during our last hearing.  
 10 MS. ROGERS: Can we go to the next slide?  
 11 Q Do you recognize this house?  
 12 A **I do.**  
 13 Q And whose house is it?  
 14 A **It's the house. I do recognize it.**  
 15 Q Is this your house?  
 16 A **What do you -- do you know if it's my house?**  
 17 Q I'm asking you.  
 18 A **I'm not -- I'm not going to answer yes or no,**  
**19 because, again, this is the question that I brought it up**  
**20 that -- first of all, Summerfield Crossing was excluded from**  
**21 your surrounding neighborhood evaluation. You specifically**  
**22 removed Summerfield crossing out, so to bring a home --**  
 23 MS. LEWINTER: Ms. Krishnan --  
 24 A **-- that is present in Summerfield Crossing --**  
 25 MS. LEWINTER: Ms. Krishnan, she's asking you if

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1 this is your house. If you don't --  
 2 MS. KRISHNAN: Yes.  
 3 MS. LEWINTER: -- feel comfortable answering that  
 4 question, you can say I do not feel comfortable --  
 5 MS. KRISHNAN: I do not feel comfortable answering  
 6 it.  
 7 MS. LEWINTER: Okay.  
 8 BY MS. ROGERS:  
 9 Q Wouldn't you agree that this house on the screen  
 10 and the other homes in Summerfield Crossings don't look like  
 11 the homes on Ruby Drive?  
 12 A **They are sufficiently different. Yes.**  
 13 Q Are they more modern?  
 14 A **I don't know what is modern. We thought that this**  
**15 was a colonial. I thought colonial is considered old. And,**  
**16 again, I was not there while the property was being built,**  
**17 so asking me whether this house looks like any other is**  
**18 water under the bridge. You should be talking to the**  
**19 developers who did that.**  
 20 Q Would you view a home like the one that's on the  
 21 screen to be compatible with those on Ruby Drive and West  
 22 Old Baltimore Road?  
 23 A **Not really. No. I wouldn't think this would go**  
**24 well with Ruby Drive as it is right now. No.**  
 25 Q But I'm not asking you just about Ruby Drive. I'm

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1 also asking about West Old Baltimore Road. How about the  
 2 surrounding neighborhood? Is this compatible with homes in  
 3 the area?  
 4 **A It depends on what you define as neighborhood.**  
 5 **This home within Summerfield neighborhood is compatible with**  
 6 **the surrounding homes within the Summerfield neighborhood,**  
 7 **yes.**  
 8 MS. ROGERS: Next slide, please.  
 9 **A It's not a cottage. I'm sure -- I'm glad someone**  
 10 **mentioned that it's not a cottage.**  
 11 Q Isn't it true that the house on the left from  
 12 Summerfield Crossing looks very similar to the proposed  
 13 cottages with this application?  
 14 **A If it was -- this house -- I'm not an expert, but,**  
 15 **if you're asking me to compare two images here --**  
 16 Q I'm just asking if they look similar.  
 17 **A They look similar. And as you said -- as I said,**  
 18 **this is on Gorman Circle and not on Ruby Drive. So if**  
 19 **another house was next on this on Gorman Circle with this**  
 20 **type of thing, it would look very similar. On Gorman**  
 21 **Circle, yes, it will look very similar.**  
 22 Q Do you know how large your house is?  
 23 **A 4,000, plus another 1,500 under basement. Yeah.**  
 24 **Somewhere around that. You know -- you know my --**  
 25 Q In addition to the living area of your house, do

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1 you have a one or two-car garage?  
 2 **A A two-car garage.**  
 3 Q So accounting for the size of your garage,  
 4 wouldn't you agree that your house is similar in size to the  
 5 proposed cottages?  
 6 **A Are you calling my house a cottage?**  
 7 Q I'm asking if your house -- I used the word  
 8 house -- is similar in size to our proposed cottages.  
 9 **A I'm assume -- no. I think you said last time when**  
 10 **someone asked online you said it was close to 8,000 square**  
 11 **feet, including the basement. That was the number 8,000,**  
 12 **plus, minus. So definitely I wouldn't think 6,000 is equal**  
 13 **to 8,000 and some change. I don't know the exact number,**  
 14 **but there was a significant discrepancy between houses that**  
 15 **were on Ruby Drive or even on Ivy Leaf. And, again, this is**  
 16 **Gorman Circle, which is different from Ruby Drive and**  
 17 **even -- even my house is not that big, even with the garage.**  
 18 Q So a house that has above-grade living area of  
 19 almost 4,200 square feet, plus a 1,400 square-foot finished  
 20 basement, plus a two-car garage, in your opinion, is not  
 21 similar to the size of the cottages proposed by the  
 22 petitioner?  
 23 **A If you were saying it was around 9,000, I still**  
 24 **don't think the numbers would add up. But yeah, that's my**  
 25 **off --**

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1 Q Thank you.  
 2 **A -- off-the-cuff calculation.**  
 3 MS. ROGERS: If we can go two slides down.  
 4 Q This image is showing measurements. They're  
 5 screenshots taken of a house in Summerfield Crossing. Can  
 6 you please read the dimensions of that cottage?  
 7 **A Again, it's not a cottage.**  
 8 Q That house.  
 9 **A I can't see it from here. Sorry.**  
 10 Q I can read it for you. It's 45.8 feet deep by  
 11 55.1 feet wide.  
 12 **A Okay.**  
 13 Q This is --  
 14 **A This is -- this is still on Gorman Circle, though,**  
 15 **not Ruby Drive.**  
 16 Q Correct. It is.  
 17 **A Yeah.**  
 18 Q Wouldn't you agree that the dimensions of this  
 19 house are similar to that of the proposed cottages?  
 20 **A You'd have to show me the numbers, but --**  
 21 MS. ROGERS: If we can go to the next slide, we  
 22 have --  
 23 **A You're talking about square footage, right?**  
 24 Q I'm asking you if the footprint --  
 25 MS. ROGERS: If you go to the next slide, there's

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1 a comparison that Ms. Krishnan can look at. Thank you.  
 2 Q This is an excerpt on the right from the  
 3 petitioner's submission, which shows the footprint at  
 4 approximately 55 by 52 and the home in Summerfield Crossing  
 5 at 45.8 by 55.1. Wouldn't you agree that this house on  
 6 Gorman Circle has a similar footprint as compared to the  
 7 proposed cottages?  
 8 **A I wouldn't agree. I wouldn't agree because that's**  
 9 **10 feet more, and the area and the topology also matter. So**  
 10 **I wouldn't agree with that at all, because -- as I'm not an**  
 11 **expert, I would not agree those are true, or I would not**  
 12 **disagree because I'm not the expert. Sorry.**  
 13 Q Thank you. Are the homes in Summerfield  
 14 Crossing -- wouldn't you agree they're much closer together  
 15 than the proposed cottages in terms of spacing?  
 16 **A It is true because --**  
 17 Q Thank you.  
 18 **A The reason I'm -- I would like to make a statement**  
 19 **here that Summerfield Crossing has an 18.7 --**  
 20 MS. LEWINTER: Ms. Krishnan --  
 21 **A Has an 18.7 imperviousness.**  
 22 MS. LEWINTER: Yes. She is asking you questions  
 23 on cross-examination.  
 24 MS. KRISHNAN: Hm-hm  
 25 MS. LEWINTER: You've answered the question.

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1 MS. KRISHNAN: Okay.  
 2 MS. LEWINTER: Okay.  
 3 MS. ROGERS: Thank you. Next slide, please.  
 4 BY MS. ROGERS:  
 5 Q This is an image of a house on the south side of  
 6 West Old Baltimore Road that we took from Google Streetview.  
 7 Wouldn't you agree that if compared to the proposed cottage  
 8 elevation -- again, it's in the record. Wouldn't you agree  
 9 that they are similar in character?  
 10 A I'm not the expert. I would just say that Ruby  
 11 Drive is different and West Old Baltimore Road is different.  
 12 I'm not the expert. I think you're wasting your time trying  
 13 to ask for a yes or no --  
 14 Q Do they both have two storeys?  
 15 A From what you're showing, it looks like it. Yeah.  
 16 Q Do they both have gable roofs, or kind of like  
 17 peaked roofs? Do you know the term gable?  
 18 A Yeah.  
 19 Q Okay. Do they both have similar patternings of  
 20 windows?  
 21 A Yeah.  
 22 Q Thank you. Do you or anyone in your neighborhood  
 23 have a direct view of the property?  
 24 A No.  
 25 Q Okay. What direct impacts will the proposed

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1 development have on you that are unique compared to others  
 2 in the surrounding neighborhood?  
 3 A My biggest concern has been the fact that the  
 4 imperviousness is sky high. The fact that when we had to do  
 5 355 West Old Baltimore realignment there was a lot of  
 6 concern about realignment, because it would impact the  
 7 Seneca Creek streams that were nearby. And there was a lot  
 8 of concern about that. And so the fact that there's not  
 9 even being considered here is a concern. So the long-term  
 10 concern is that the water quality could be impacted, and we  
 11 are jumping in without knowing what could happen. And  
 12 that's a concern that affects a lot of people, not just me.  
 13 But I am talking, speaking because I do think that, if there  
 14 is not done carefully, then that will be a personal hardship  
 15 to me where I am expecting, you know, water, and I'm not  
 16 having the confidence that that water could be -- you know,  
 17 could be contaminated, or there's long-term impact for  
 18 myself and my family.  
 19 And second thing is the traffic, which I know the  
 20 traffic studies are showing that it's not there, but I do  
 21 know I live there. I work there. I go back and forth on  
 22 that road, and I know how much each -- each community has  
 23 created, there's been traffic. And, you know, during  
 24 construction, there's a lot of traffic, and after that also  
 25 there's a lot of traffic. So I live there. So I do feel

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1 there's going to be an impact. And, again, that's my --  
 2 that's my other concern, that it will affect a lot of our  
 3 folks in the Summerfield Crossing, but definitely myself and  
 4 my family.  
 5 Q And just to reiterate, my question was what are  
 6 the unique impacts on you that others in the neighborhood  
 7 don't have. I'm just curious. Are there unique impacts on  
 8 you and --  
 9 A I wouldn't know -- I wouldn't know what other  
 10 people have or don't have. I can only tell you what my --  
 11 what the impacts are on me. I would have to know what all  
 12 other people have for me to know what is unique or not  
 13 unique, which I'm not privy to.  
 14 Q You questioned the petitioner's experts regarding  
 15 impact to well and septic. Is your property and the  
 16 properties in Summerfield Crossing on well and septic?  
 17 A They are not, but --  
 18 Q Okay. My question --  
 19 A Again, I redirect my question that my concern is,  
 20 if any of those get impacted, then the water quality in the  
 21 whole area will get impacted, and I would just want to make  
 22 sure that that doesn't happen, or have data that that is not  
 23 going to happen.  
 24 Q You repeatedly raised concerns about developing in  
 25 a special protection area. Can you, for the record,

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1 describe what a special protection area is?  
 2 A It says so in my master plan that anything that is  
 3 requiring a heavy -- you know, more concern to the  
 4 environment than a lot of sensitive areas and needs careful  
 5 consideration case by case. And there are a lot of -- the  
 6 whole area under the Clarksburg SPA is -- because it is so  
 7 vital to the entire region, not just Clarksburg or  
 8 Germantown, but to the entire county. You know, there has  
 9 been that assessment. Now, if you want me to give the  
 10 definition, I might have to go back to the Clarksburg Master  
 11 Plan, but that's the general idea of this 500-page document  
 12 that is called the Clarksburg Master Plan.  
 13 Q What code -- well, do you know what section of the  
 14 code governs special protection areas in the county?  
 15 A Not offhand.  
 16 Q Do you know what a water quality plan is and who  
 17 approves it and when it's required?  
 18 A I do -- I'm fairly aware of it, but I do know that  
 19 there is a process to it and at different stages, and which  
 20 is why I'm bringing it up that, you know, maybe an exception  
 21 should be made here to do that before approval.  
 22 Q Do you know that the approval of the water quality  
 23 plan ensures that development in SPA will be done in an  
 24 environmentally-sensitive manner?  
 25 A I'm not aware of that. No.



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1 Q Is the SPA meant to prohibit development?  
 2 A **No. It's meant to be careful about it.**  
 3 Q Are you aware that the DPS, DEP, technical staff  
 4 from Parking and Planning, the Planning Board have all  
 5 reviewed the water quality plan for this project?  
 6 A **I saw -- I saw letters there, but it didn't say**  
 7 **that there was a geotechnical survey or an --**  
 8 Q Did they approve the water quality plan for this  
 9 project?  
 10 A **I just saw one single letter. I don't know the**  
 11 **basis of that letter. No.**  
 12 Q It is in the record, and our expert testified that  
 13 it was -- the water quality plan had been improved. Do you  
 14 question the professional abilities of the county staff in  
 15 reviewing and approving the water quality plan?  
 16 A **The water quality plan, as I understand it, is**  
 17 **supposed to be further approved based on actual analysis.**  
 18 **And the SPA does say that on a case-by-case basis a**  
 19 **geotechnical survey should be done, especially when the**  
 20 **water table or there are wells and septic nearby, which Ruby**  
 21 **Drive does have. My concern is that, if that is not done**  
 22 **ahead of time, there might be surprises and it might be too**  
 23 **late to go back after the approval has been provided.**  
 24 Q You said in your testimony in the very first --  
 25 the written testimony in the record, 221, quote, The

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1 property is both adjacent and abutted by multiple streams of  
 2 Little Seneca Creek. What streams are you referring to that  
 3 are adjacent and abutting to the property?  
 4 A **All the streams in the 1,400-foot area, which all**  
 5 **the way go below 355. You can see blue streams everywhere.**  
 6 Q Are those adjacent or abutting?  
 7 A **Yeah. I would think 1,400 feet is close by.**  
 8 **Yeah. Given that it's water and it's going down and you**  
 9 **have -- it's all water going down there, yes, I would think**  
 10 **that anything there is close by and you should take**  
 11 **appropriate mitigation efforts. Yes.**  
 12 Q Is close by the same as adjacent and abutting?  
 13 A **It's one way of saying it.**  
 14 MS. ROGERS: Next slide, please.  
 15 Q Based on the county's GIS measurements, can you --  
 16 MS. ROGERS: There's two, if you can scroll back  
 17 up a little bit.  
 18 Q Can you read what it shows as how far the property  
 19 is from the nearest streams or tributaries?  
 20 A **I can't see it. Sorry. 1,400. Yeah. Around**  
 21 **1,400.**  
 22 Q That's one dimension. And just to be transparent  
 23 for the record, the other dimension is 898.  
 24 A **So 900 feet from the property is what you're**  
 25 **saying?**

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1 MS. ROGERS: Thank you. If you can zoom out a  
 2 little bit more.  
 3 Q Isn't it true that there are whole neighborhoods  
 4 and roads separating this property from both of those  
 5 streams?  
 6 A **I mean --**  
 7 Q It's a yes or no question.  
 8 A **Yeah. I mean, I think there's --**  
 9 Q Thank you.  
 10 A **The water flows in the direction that it has to**  
 11 **flow. It doesn't go by neighborhood, as far as I know.**  
 12 Q Do you know that Summerfield Crossing was  
 13 developed within an SPA?  
 14 A **Yeah.**  
 15 MS. ROGERS: Okay. You can go to the next slide,  
 16 please.  
 17 A **I was not there when it was made, but yeah.**  
 18 Q This is similarly a measurement. Can you tell me  
 19 what this slide shows in terms of how close the nearest home  
 20 is in the Summerfield Crossing community to the stream?  
 21 A **It says 324, but there is -- the total impervious**  
 22 **area of Summerfield Crossing is 18.7.**  
 23 Q That wasn't the question.  
 24 A **Yeah, but I'm saying it because 18.7 impervious**  
 25 **area is what Summerfield Crossing's is.**

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1 MS. LEWINTER: You can just say objection.  
 2 Q Are there any other communities or roads  
 3 separating your neighborhood from the stream?  
 4 A **There are trails that go to the -- that go to the**  
 5 **back of the community.**  
 6 Q Are there communities? Communities, developments.  
 7 A **One side of Summerfield Crossing --**  
 8 Q Separating Summerfield Crossing from that stream  
 9 to the south, are there any intervening roads or  
 10 developments?  
 11 A **That are -- that are --**  
 12 Q It's just a yes or no question.  
 13 A **Yeah. I mean, there are roads. There are roads.**  
 14 Q Separating Summerfield Crossing from that stream,  
 15 there's a road?  
 16 A **There's a trail. There's a trail. There's a road**  
 17 **there. Yeah, which goes to -- which -- which needs to be**  
 18 **filled out by whenever it happens. But there are -- there**  
 19 **are, you know, in the conservation area -- there's a forest**  
 20 **conservation area, which is the green space, and then there**  
 21 **is a --**  
 22 Q A trail?  
 23 A **Yeah, a trail there.**  
 24 Q Isn't it true that your neighborhood is actually  
 25 significantly closer to a stream than the proposed

65

1 development?

2 **A Closeness is not the only issue that I'm concerned**

3 **about.**

4 Q I understand that. I'm asking a question. And

5 the question is specifically, is Summerfield Crossing closer

6 to a stream than the proposed development?

7 **A I think the question is misleading, because you --**

8 **can you rephrase the question?**

9 (Crosstalk.)

10 MS. LEWINTER: Sorry. I'm trying to watch here.

11 So if you have an objection, please just say objection, and

12 then I can ask her to please limit your answers to the

13 question. If you want to speak afterwards, I will give you

14 a chance to have some kind of rebuttal testimony.

15 MS. KRISHNAN: Okay.

16 BY MS. ROGERS:

17 Q So, just for the record, isn't it true that your

18 neighborhood is significantly closer to a stream than the

19 proposed development?

20 **A One house of it, yes.**

21 Q Do you have any prior experience with senior

22 living developments either in a professional or personal

23 capacity?

24 **A No.**

25 Q Are you familiar with operational aspects of

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1 senior living facilities?

2 **A I didn't think I had needed that qualification to**

3 **testify.**

4 Q It was a simple question. Do you have any direct

5 personal experiences regarding impacts that a senior living

6 community has on a surrounding neighborhood?

7 **A On a surrounding neighborhood, no. But I do know**

8 **that they do have a lot of back-and-forth trips. There's a**

9 **lot of ER visits that happen. It's not one ER visit a**

10 **month. I do know that because that's -- you know, I just**

11 **know that based on the understanding of how the older**

12 **generation needs support.**

13 Q But if you don't have any previous experience

14 with -- first of all, did the petitioner's information or

15 record say that there would only be one ER trip per month?

16 **A It kind of said that. It said something we are**

17 **limiting -- we expect about one ER per month. I did see**

18 **that in some planning, you know, report. And that seemed**

19 **very odd to me that they were thinking it might be one ER**

20 **visit. But, even then, it looked like, you know -- so**

21 **that's -- you asked me the question about -- you asked me**

22 **the question about whether I had experience, and I said this**

23 **is the limit of my experience. Yeah.**

24 Q So the petitioners -- and we can find it. It did

25 not say one ER visit per month was what was expected. But

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1 do -- what experience do you have, because you just said you

2 don't have personal experience with operation of senior

3 living facilities, to question the petitioner's and staff's

4 analysis regarding how many ER visits are anticipated by the

5 site?

6 **A Just general knowledge that you have -- if you**

7 **have 120 people who need constant medical care, one ER visit**

8 **seems, even for a layperson like me in this area, I don't**

9 **think I need to have a degree in that. I would think, you**

10 **know, that that seems pretty low. For 120 people who need**

11 **24-7 support, that seems a little low.**

12 Q And were you here during the petitioner's

13 testimony in which they testified that part of the reason

14 why the ER visits are low is because there's 24-hour nursing

15 care for these residents on site?

16 **A I mean, that doesn't --**

17 Q Were you here when the petitioner --

18 **A I don't remember that part, but I do -- I do still**

19 **believe that that might be higher, even with the 24-7**

20 **support.**

21 Q Are you aware that the R-200 zone allows building

22 heights up to 50 feet by right?

23 **A R-200 is R-200. I'm just saying limit the --**

24 **limit the imperviousness to R-200, not --**

25 Q -- would you object if one of the homes on the

68

1 south side of West Old Baltimore or Ruby Drive expanded and

2 added a storey?

3 **A A single -- I don't think I have any objection**

4 **with height.**

5 Q Are you aware that a by-right development in the

6 R-200 zone for this property would allow mathematically nine

7 to 10 houses on this property?

8 **A Single family homes with single family number of**

9 **people, yes.**

10 Q Are you aware that a church or cultural

11 institution could be developed on the property without any

12 conditional use approval?

13 **A I was not aware of that.**

14 Q Are you aware that a large --

15 **A Would the church -- would the church be a 24-7**

16 **facility with 120 people all the time?**

17 MS. LEWINTER: Mr. Krishnan, again, can you just

18 answer the question?

19 MS. KRISHNAN: I don't know people that are that

20 religious. I'm just checking.

21 BY MS. ROGERS:

22 Q Are you aware that a single building that looks

23 like and operates like a multifamily building could have

24 been proposed for this residential care facility under the

25 zoning ordinance, as opposed to eight individual cottages,

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1 one large building?

2 **A Can you – can you repeat the question again?**

3 Q Are you aware of that the zoning ordinance and its

4 allowance of a residential care facility, which this use is,

5 would have allowed one large single building to house all of

6 the residents, as opposed to eight individual cottages?

7 **A It would still be a conditional use.**

8 Q But are you aware --

9 **A It would –**

10 Q It would. I'm asking, are you aware the zoning

11 ordinance would have allowed that building form for this use

12 on this property?

13 **A I'm not aware – I don't think that – again, it**

14 **would have been a conditional use, per my understanding, so**

15 **it would not have been allowed. It would have – you would**

16 **have been allowed to apply for it. I agree that you would**

17 **have been allowed to apply for conditional use, but I don't**

18 **think it directly would allow.**

19 Q Thank you. Would you agree that, despite your

20 dislike for the application, the petitioner has gone to

21 great efforts to provide a product that is more unique than

22 one large single institutional style building and more

23 compatible with the surrounding neighborhood?

24 **A I have no concern about the style. I'm only**

25 **concerned about the imperviousness aspect, and the impact on**

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1 **that. So I'm unsure as to why you're asking these**

2 **questions, because, again, those were not the intent of my**

3 **testimony. I've never talked about height anywhere, nor**

4 **does Clarksburg Master Plan talk about it.**

5 MS. ROGERS: That is the end of our questions.

6 MS. LEWINTER: Okay. I promised Ms. Krishnan, if

7 you would want -- at this point, if you want to have a brief

8 rebuttal if there's anything that you felt that you were

9 asked that you didn't get to fully explain.

10 MS. KRISHNAN: So can I take a five-minute recess

11 and come back? I think I got grilled quite a bit here.

12 MS. LEWINTER: I'd prefer not. I mean, it's not

13 common that I allow rebuttal. It's really just to be

14 limited to anything that you were asked that you felt -- and

15 it's limited to what she asked you. It's not new testimony.

16 MS. KRISHNAN: Okay.

17 MS. LEWINTER: That you felt you couldn't say your

18 piece.

19 REBUTTAL TESTIMONY OF VYJAYANTHI KRISHNAN

20 MS. KRISHNAN: Right. I think -- okay. So I'll

21 just say that. I'll say that the fact that they have

22 targeted on -- the expectation of a testimony from a

23 resident is supposed to be just that, a layperson's

24 testimony and their concerns. Asking for specialized -- you

25 know, asking for specialized education to be able to read a

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1 document or have concerns about a document seems to be

2 minimizing the concerns that residents might have, which

3 should be not taken lightly. The fact that a 650-page --

4 given that we didn't get enough time to -- none of us, none

5 of the people here got enough time to prepare their work,

6 given the less communication that I have talked about, to

7 ask for, you know, data about, oh, do you know this, do you

8 know that, which ordinance, I think that's a little bit of

9 intimidating tactics that the applicant's team is doing.

10 I would like to say that the Summerfield Crossing

11 that they seem to think I'm going to say that because others

12 are allowed, therefore, they should be allowed, two wrongs

13 may not make a right. The Summerfield Crossing has 18.7

14 percent imperviousness. It's a two -- it's 118 acres, of

15 which 97.5 percent is -- 97 acres is green acres, is green

16 space. So in addition to the imperviousness being well

17 below that 15 to 19 that the applicant's, you know, approval

18 documents say, it also gives green -- a green space, which

19 is a huge impact in terms of maintaining water quality. The

20 applicant's property does not have that ability to overcome

21 the 35 percent imperviousness with green space. So to kind

22 of pick and choose which data they want to say or use is

23 borderline unethical I would think at this point. But, you

24 know, this is what they're trying to do the best for their

25 clients. So I'm okay with -- I have to accept it.

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1 The second thing is, during their entire planning

2 approval thing, if you look at their surrounding

3 neighborhood area -- I mean, you could go back to slide nine

4 of Exhibit 32, if someone can show that.

5 MS. ROGERS: Objection. We didn't question her on

6 the surrounding neighborhood.

7 MS. KRISHNAN: No. I'm talking about my -- I'm

8 giving my rebuttal. Okay?

9 MS. LEWINTER: Yeah, I understand, but the

10 rebuttal is limited to the questions that she asked.

11 MS. KRISHNAN: Right.

12 MS. LEWINTER: So if you can just explain to me --

13 MS. KRISHNAN: Okay. So I'll bring up the thing.

14 The fact is Summerfield Crossing and my -- and the Gorman

15 Circle house was indicated as a comparator for the Ruby

16 Drive homes and the so-called, quote, unquote, cottages that

17 are being built. However, Summerfield Crossing was not part

18 of their surrounding neighborhood evaluation. In fact,

19 Summerfield neighborhood, they exactly, you know, stop the,

20 you know -- what they call the surrounding neighborhood,

21 they excluded Summerfield Crossing from that, including the

22 Gorman Circle area that they were showing as comparable. So

23 either they need to accept that if they are going to do the

24 comparison with Summerfield Crossing, then they need to

25 include us in the surrounding neighborhood survey and redo

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1 the entire application again, or -- or do not make those  
 2 comparisons and try to cherry pick which time they will use  
 3 Summerfield Crossing for the comparator and which time they  
 4 would exclude the Summerfield Crossing neighborhood for  
 5 their comparison. So if either -- either they accept that,  
 6 you know, they should have included us in the early  
 7 engagement and done all the work that's expected, or remove  
 8 us out completely and do not try to use our so-called -- we  
 9 are not cottages, and neither is theirs. So the semantics  
 10 needs to be figured out. But even with all the things, they  
 11 shouldn't be using it if they initially said we are not part  
 12 of the surrounding neighborhood assessment. So that's where  
 13 I'll leave that.

14 The 18.7 impervious area of the Summerfield  
 15 Crossing neighborhood is important, given that even such a  
 16 large area was able to make it under that average, and these  
 17 guys have to also try to -- if they want to be aligned with  
 18 the environmental protections that are needed for this area,  
 19 at least the effort should be made to limit that in the 15  
 20 to 19 percent.

21 MS. LEWINTER: Okay.  
 22 MS. KRISHNAN: Thank you.  
 23 MS. LEWINTER: Thank you.  
 24 All right. I just want to check in. We've been  
 25 going for about an hour and a half. Are people comfortable,

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1 or does anybody need a comfort break?  
 2 Okay. So I think we can move to the third. Did  
 3 you want to testify?  
 4 MS. MARTIN: I'll go.  
 5 UNIDENTIFIED SPEAKER: She'll go.  
 6 MS. MARTIN: It's ridiculous. It's all about  
 7 greed. Carl, you sit next to me in case they stare me down.  
 8 My name is Jeanean Martin. I live at 21909 --  
 9 MS. LEWINTER: Ms. Martin, if you could actually  
 10 make your microphone green, that will help. There's a  
 11 little button at the bottom. There you go.  
 12 MS. MARTIN: My name is Jeanean Martin. I live at  
 13 21909 Ruby Drive, Boyds, Maryland, and I've lived there for  
 14 44 years with my husband, and we have five children and 12  
 15 grandchildren.

16 MS. LEWINTER: Okay. Ms. Martin, I'm going to  
 17 stop you for one second. If you could give us your e-mail  
 18 address.  
 19 MS. MARTIN: Yes. It's a very long one.  
 20 MS. LEWINTER: Okay.  
 21 MS. MARTIN: Jeaneansongcomartin6@gmail.com.  
 22 MS. LEWINTER: Thank you.  
 23 (The witness was sworn.)  
 24 MS. LEWINTER: Okay. So you can now make your  
 25 statement and then they'll cross-examine.

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1 JEANEAN MARTIN,  
 2 having been first duly sworn or affirmed, was examined and  
 3 testified as follows:  
 4 DIRECT TESTIMONY OF JEANEAN MARTIN  
 5 MS. MARTIN: As I said, we have raised our  
 6 children here, and our extended family and many friends in  
 7 the neighborhood love to gather at our house. When  
 8 Worldshine did their multiple visits to our road for years,  
 9 when you saw the street, you were probably impressed with  
 10 the idyllic setting as we were 44 years ago. The mature  
 11 forest and open fields embrace the senses with the  
 12 connection to nature. I'm an artist. I'm a painter.  
 13 That's why I moved there. I love upcounty, and the upcounty  
 14 is being destroyed little by little. Change has come to  
 15 this area in leaps and bounds. Some of the change is good  
 16 and some of it not so good, but, of course, that depends on  
 17 your opinion. If you're building something like Worldshine  
 18 is to make money, then this is a very good change. I have  
 19 come to terms with the loss of the openness of the  
 20 landscape, and have made friends with some of the new  
 21 neighbors of the recent developments, but I am not happy  
 22 about the density and ever-increasing traffic.  
 23 My biggest concern, though, is about our wells and  
 24 our septic system. We love our water. We love not having  
 25 to pay for water or septic. All of the homes on Ruby Drive

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1 are on wells and septic systems. We are living directly  
 2 opposite this facility. A complex this big certainly has  
 3 the potential to create a pathway for pollutants to enter  
 4 the groundwater and be absorbed into our wells and into our  
 5 home drinking water. Laundry detergents, biohazard waste,  
 6 residue from 120 residents? Give me a break. 75 employees  
 7 and visitors contaminating our wells and septic systems,  
 8 which in these older homes are already fragile, who will pay  
 9 for the public water system and sewer installation for the  
 10 five houses on Ruby Drive? Beaumont Estates, Greenbridge  
 11 Acres and also some of the houses on West Old Baltimore  
 12 Road, who will pay for this? We want to keep our wonderful  
 13 drinking water. We also do not want the expense of paying  
 14 for water or sewers.

15 We hold no malice toward Worldshine. The work  
 16 they do with the senior community is an admirable one.  
 17 Providing a safe and loving environment for the elderly who  
 18 need help with care is becoming an increasing reality. I  
 19 know about caring for the elderly, as both of my parents  
 20 came to live in our home and that's where they died, and my  
 21 husband also took care of his mother who had Alzheimer's.  
 22 We are aware of the need. Not everyone has children who can  
 23 take care of them in their old age, so I do think there is a  
 24 need for senior care. However, I am not a fan of living  
 25 next to a large capacity senior facility. Would any of you

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1 want to live next door to it? Would you like to wake up in  
 2 the morning and see this? I don't think so. Instead of  
 3 seeing mature trees, open fields and grasses, I will see  
 4 tall buildings which are much taller than my house. I will  
 5 see lights and a parking lot with 24-hour workers coming and  
 6 going, adding to the already busy traffic on West Old  
 7 Baltimore Road. The threat of contamination of our wells  
 8 and septic are the real concern.  
 9 The thing is this huge complex does not fit in  
 10 with the residential character of our street. No matter how  
 11 many studies you show us, no matter how much the architect  
 12 tries to design so-called a cottage, this is not a cottage.  
 13 These are big houses that will totally not fit in with our  
 14 little community on Ruby Drive. I'm not against having  
 15 houses. In fact, I wish you would just build senior houses,  
 16 instead of a complex. Why are you building a complex;  
 17 because you can fit 120 people in there and charge a lot of  
 18 money. This is all about greed.  
 19 I urge you -- I urge you to reconsider your  
 20 proposal. Why not use this lovely land to create a smaller  
 21 version of what you envision? Instead of warehousing 120  
 22 people, 15 people crammed into one building, a so-called  
 23 cottage, make senior housing. Make houses that fit into the  
 24 neighborhood. I'm sure your capable architect can come up  
 25 with a new design that will better serve your population and

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1 our neighborhood.  
 2 We respectfully request that the hearing examiner  
 3 reject this proposal and deny this project, which clearly  
 4 does not comply with the Clarksburg Master Plan and will  
 5 negatively impact our homes. We love our home. We're  
 6 retired now. We finally paid it off. We worked hard to pay  
 7 for our home. We don't want to live next door to your  
 8 complex.  
 9 MS. LEWINTER: Thank you.  
 10 Cross-examination?  
 11 MR. ROBINS: Just a few questions.  
 12 CROSS-EXAMINATION BY COUNSEL FOR THE APPLICANT  
 13 BY MR. ROBINS:  
 14 Q Good morning. Ms. Martin, you seem disturbed by  
 15 the application.  
 16 A **Very disturbed.**  
 17 Q You really don't want to see anything built there;  
 18 do you?  
 19 A **That's not true. I have come to terms with the**  
 20 **fact that something will be built there. They came to -- I**  
 21 **hate to use the word, but they came to acquire houses. They**  
 22 **bought Minnie's house. These houses have names. These are**  
 23 **people. They bought my neighbor Minnie's house. They**  
 24 **bought Bill's house. They bought Haba's house. They bought**  
 25 **the old farmhouse. Why; because they want to build this big**

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1 **complex.**  
 2 Q When you talk about you are okay with seeing  
 3 something built there, in your most recent testimony that I  
 4 think you submitted into the record yesterday, and then read  
 5 from today -- that's correct? It's the same testimony that  
 6 you --  
 7 A **Yes.**  
 8 Q Thank you. You had mentioned that what you really  
 9 wanted was to be able to sit and observe the open space, the  
 10 fields and leave it like that.  
 11 A **Absolutely, but I realize --**  
 12 Q How does that --  
 13 A **-- I can't do that. I realize that I cannot do**  
 14 **that.**  
 15 Q Okay. So then you do realize that in the R-200  
 16 zone eight houses can be built there, correct?  
 17 A **I realize that, and I would rather see houses.**  
 18 Q And are you aware of the size houses that could be  
 19 built there?  
 20 A **I have no problem with the size houses. I have a**  
 21 **problem with the parking lot.**  
 22 Q So the size house could be equal to or larger than  
 23 the cottages that are --  
 24 A **I have no problem with that. If they want to**  
 25 **build a goddamn castle, they can.**

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1 Q I don't think we need to express it that way.  
 2 A **I can say what I want.**  
 3 Q That's up to the hearing examiner.  
 4 MS. LEWINTER: It would -- if you can refrain from  
 5 any profanity.  
 6 MS. MARTIN: I'll try, but, you know, these two  
 7 people -- I used to work for attorneys. I know what your  
 8 job is, and your job is to trip me up.  
 9 MS. LEWINTER: Okay.  
 10 BY MR. ROBINS:  
 11 Q My job is just to get at the questions that I'm --  
 12 MS. LEWINTER: I'm going to stop this. All right.  
 13 I appreciate that this is a very emotional situation.  
 14 MS. MARTIN: It's very --  
 15 MR. ROBINS: Actually, so do we, and we're just  
 16 trying to get some --  
 17 MS. MARTIN: And it's been going on for a number  
 18 of years, and they're wearing us down little by little by  
 19 little by little.  
 20 MR. ROBINS: Can I continue?  
 21 MS. LEWINTER: Okay. Wait a second.  
 22 MS. MARTIN: What do you want to know? What?  
 23 BY MR. ROBINS:  
 24 Q Okay. So --  
 25 MS. LEWINTER: Just wait.

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1 MR. ROBINS: Oh, I'm sorry.  
 2 MS. LEWINTER: No. It's fine. I'm just saying.  
 3 MS. MARTIN: I'll try to refrain.  
 4 MS. LEWINTER: Thank you.  
 5 BY MR. ROBINS:  
 6 Q Okay. So you answered the question that --  
 7 A **Yes.**  
 8 Q -- you are aware that homes could be built --  
 9 A **Yes.**  
 10 Q -- on the property?  
 11 A **I am aware of that.**  
 12 Q And that it would be okay?  
 13 A **Yes. You know, it's going to be built. I realize**  
 14 **that. No more fields, no more trees. Cut them all down.**  
 15 Q Okay. I am a little confused at a couple other  
 16 statements. You make sort of authoritative statements in  
 17 your --  
 18 A **I copied it.**  
 19 Q Excuse me. I'm asking the question.  
 20 A **Go ahead. I know what you're referring to.**  
 21 Q Please. I'm trying -- I'm just trying to ask you  
 22 a question. You say that laundry detergents, biohazardous  
 23 waste, residue from 120 residents, 75 employees and visitors  
 24 contaminating our wells and septic system, which in these  
 25 older homes are fragile. That makes a statement that we, in

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1 fact, will be contaminating your water system. Do you have  
 2 any studies, any proof, anything other than your own  
 3 emotional statement here that that would happen?  
 4 A **You know exactly that I do not have any**  
 5 **statements. I have no proof, but I am not a dummy. If you**  
 6 **have that many people, there's something going to come and**  
 7 **ruin our wells. I do not trust it at all. I don't trust**  
 8 **your assessment at all.**  
 9 Q Okay. So that's just based on your own opinion?  
 10 A **Yes.**  
 11 Q Okay. Thank you. You indicated that in your most  
 12 recent letter that you hold no malice towards Worldshine,  
 13 and you've actually made some very nice statements in your  
 14 letter. They work to do the -- the work they do with the  
 15 senior community is an admirable one. Providing a safe  
 16 loving environment for the elderly who need help with care  
 17 is becoming an increasing reality. Did Worldshine ever  
 18 reach out to you to try to discuss this application?  
 19 A **They have made a few calls in regard to whether I**  
 20 **wanted to sell my house.**  
 21 Q But did you recognize the name Ellen Coren?  
 22 A **I don't know.**  
 23 Q You don't remember Ellen Coren?  
 24 A **No, I don't remember.**  
 25 Q That Ellen Coren -- you don't recall Ellen Coren

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1 reaching out to you?  
 2 A **I do remember someone from Worldshine calling me**  
 3 **to say did I want to further discuss this project. No, the**  
 4 **discussions are over. Of course I don't want to discuss it.**  
 5 Q So let me ask you a question. And I'd like to  
 6 hand you a document, which I also would like to get marked  
 7 into the record. So this is an e-mail, if you will, from --  
 8 first from Ellen Coren dated April 26, 2022 where she's  
 9 writing on behalf of Worldshine Group to follow up to an  
 10 invitation to meet. Can you read the highlighted --  
 11 A **I'd be happy to.**  
 12 Q -- of your response?  
 13 A **I'd be happy to.**  
 14 Q And explain to me how that --  
 15 A **I'd be happy to.**  
 16 Q -- relates to having no malice towards Worldshine.  
 17 A **You know why, because when you first had this**  
 18 **proposal, I was upset.**  
 19 Q Okay. Could you just read it?  
 20 A **Sure. As we've stated over and over again, we do**  
 21 **not want Worldshine Senior Living in our residential**  
 22 **neighborhood. I still stand by that. Please just go away**  
 23 **and stop harassing us, which you did. You called us many**  
 24 **times.**  
 25 Q I'm just asking you to read the statement. Thank

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1 you.  
 2 A **It is so unfair to pressure people to accept their**  
 3 **greedy proposal to build an unwanted business in a**  
 4 **residential neighborhood. Please go build somewhere else.**  
 5 Q It doesn't say please.  
 6 A **Oh, okay. I added --**  
 7 Q It says go build somewhere else with two  
 8 exclamation points, correct?  
 9 A **Take it and go. We don't want -- we don't want**  
 10 **Worldshine's proposal. We will accept maybe houses for**  
 11 **seniors. But, obviously, they have more money. The person**  
 12 **who owns this lives in --**  
 13 MR. ROBINS: Objection.  
 14 A **You know, it's a question of greed, and it's a**  
 15 **question of who has the more money. We can afford the --**  
 16 MR. ROBINS: Objection. I just asked her to read  
 17 the --  
 18 MS. LEWINTER: Ms. Martin, you had your chance to  
 19 testify.  
 20 MS. MARTIN: I'm tired of these people always  
 21 harassing us.  
 22 MR. ROBINS: Objection.  
 23 MS. LEWINTER: Ms. Martin, I appreciate that these  
 24 are very formal hearings and proceedings, and it can be very  
 25 difficult to follow the constraints of the way we're trying

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1 to proceed. But it's their turn to ask questions, and you  
 2 had an opportunity to testify. Okay?  
 3 BY MR. ROBINS:  
 4 Q One last question. Do you recall the prior -- the  
 5 original application having access directly off of Ruby  
 6 Drive?  
 7 A Yes, I do.  
 8 Q Okay. Thank you. Do you believe that this  
 9 application taking all access off of Ruby Drive and creating  
 10 our own access onto Old West Baltimore alleviates that  
 11 concern?  
 12 A No, I don't.  
 13 Q And why not?  
 14 A Because we're still going to have a lot of traffic  
 15 and people will still park on Ruby Drive, trust me, and  
 16 they'll walk up the hill to go up to Worldshine. And who  
 17 knows what else is going to come? People hanging around  
 18 smoking, and workers coming and going. My grandchildren  
 19 won't be able to ride their bikes there anymore. I can tell  
 20 you that. You can never convince me that this is a good  
 21 thing for our neighborhood. It is not.  
 22 Q I'm not trying to convince you. I was just asking  
 23 you a question.  
 24 A Well, the question's no.  
 25 MR. ROBINS: Okay. No further questions.

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1 MS. LEWINTER: Thank you.  
 2 MS. MARTIN: Do you want to say anything, Carl?  
 3 MR. ROBINS: And I have -- I do have this.  
 4 MS. LEWINTER: Okay. I think we're on Exhibit --  
 5 I think we're on Exhibit 42. This will be 44.  
 6 (Exhibit 44 was entered into evidence.)  
 7 MS. LEWINTER: Okay. I'm sorry. Did Mr. Martin  
 8 want to testify? Did you want to testify, Mr. Martin?  
 9 MR. MARTIN: No.  
 10 MS. LEWINTER: Okay. Thank you.  
 11 Again I'm just going to ask. Do people need a  
 12 comfort break, or okay to keep going?  
 13 Okay. If you want to come up. Then if you could  
 14 state your name for the record, and provide your address and  
 15 e-mail.  
 16 MS. DUFFIN: My name is Debra Duffin, D-E-B-R-A,  
 17 Duffin, D-U-F-F-I-N. I live at 21917 Ruby Drive, Boyds,  
 18 Maryland. My e-mail is had.duffin@yahoo.com.  
 19 MS. LEWINTER: Thank you, Ms. Duffin.  
 20 (The witness was sworn.)  
 21 MS. LEWINTER: Thank you. Ms. Duffin, if you'd  
 22 like to proceed.  
 23 DEBRA DUFFIN,  
 24 having been first duly sworn or affirmed, was examined and  
 25 testified as follows:

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DIRECT TESTIMONY OF DEBRA DUFFIN  
 MS. DUFFIN: I want to start off, I don't -- I  
 don't have anything written. I'm going to just leave it.  
 I'm just going to go with how I feel like just emotionally.  
 So I'm sorry if I'm going to be emotional. I will try not  
 to use potty words, but I'm going to go with emotion.  
 I want to start off with when we were here two  
 weeks ago I guess it was it -- we've added 11 exhibits now  
 since we were here, and I believe that they're going by what  
 we stated and what we said, and they're tagging on to it and  
 they're adding on to it. So, to me, that's annoying. I  
 just want to say that.  
 I also want to say that -- I'm gonna go back to  
 when Worldshine first started. You guys keep stating that  
 they addressed us, they wanted to meet with us. I never met  
 this man ever. He sent people. There's a gentleman named  
 Kurt -- excuse me if I say it wrong -- H-A, Ha. He's a  
 realtor. He came to my home. I'm not 100 percent sure, but  
 I believe it was the gentleman in the back is the engineer,  
 Mr. Kevin, with this Kurt. And he wanted to meet with me  
 about Worldshine. He came to my property. I wanted my  
 husband there, and I couldn't. He proceeded to say what  
 they wanted to do when it was the first project. I can't  
 remember the date. It was early on. 2002, four. I don't  
 even know what the date is. He threatened. He told me it

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1 was in my best interest for me to sell a piece of my  
 2 property. At that time is when they wanted to go up Ruby  
 3 Drive and do a circle at the end of the street for fire  
 4 rescue. When the conversation went that way, I used potty  
 5 words and told him in potty-word language to get off my  
 6 property. So yes, I've never met the owner of Worldshine.  
 7 He purchased 21901, 21905, 21908 in different names.  
 8 Mr. Kurt, who represents Worldshine, realtor, he is the one  
 9 that is getting the money for rent for these properties.  
 10 I'm kind of transparent. You see what you get.  
 11 I'm gonna say what I'm gonna say. And when Goddard School  
 12 built, Ross, he came to our community. And when I say  
 13 community, I mean Ruby Drive. And he met with us. He told  
 14 us what he was planning on doing when he built that.  
 15 Tapestry, same thing. Miller and Smith, they did the  
 16 development. They talked to us and told us what they were  
 17 planning on doing. Did I still not want it; heck to the  
 18 yes. I didn't want that. I'm 57 years old. I grew up on  
 19 Ruby Drive. I like it the way it is. Can I control it; no,  
 20 I can't. I don't own it. So I get that. But I'm still  
 21 gonna give you my opinion. I'm not saying you're gonna like  
 22 it, but I'm gonna give you my opinion.  
 23 So 37 they added after our last meeting and  
 24 highlighted that I hand wrote a note about Tapestry. And I  
 25 did. I didn't want Tapestry. I got an in-ground pool in

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1 the back. We have, you know, young kids that come over. I  
 2 have livestock. I have animals. I didn't want that. I  
 3 didn't want Goddard. But they came to our community and  
 4 told us what they were doing. I could run into whoever owns  
 5 Worldshine in the grocery store. I wouldn't know who he is.  
 6 I see their trucks coming up at midnight, all activity of  
 7 the night for them storing in the property that they want to  
 8 build in.  
 9 I'm getting off track. I am not interested at all  
 10 in Worldshine developing. You keep saying that it's a  
 11 cottage. If you look up the definition of a cottage, it's a  
 12 small house, typically one level. That's not one level.  
 13 It's not a cottage. I did change the appearance of my  
 14 family home. I have my mother who lives with me. I raised  
 15 my family, so I did. I took a rancher -- I didn't rebuild.  
 16 It was called an addition. It's an addition in Montgomery  
 17 County. And I went up a level. I'm still raising my  
 18 family. I'm not making profit on my property. It's a  
 19 family. It's my children. It's my mother. It's who I am.  
 20 You guys are being paid to be here. I'm using leave to be  
 21 here to fight for something that I shouldn't fight for where  
 22 I live.  
 23 There's plenty of property in Clarksburg. Go down  
 24 Burnt Hill Road, plenty of property. Worldshine bought on  
 25 Ruby Drive because it was a residential property, which was

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1 a low cost, under \$500,000. They will not be able to buy  
 2 that in a big field somewhere. So this is all about money.  
 3 It's not about taking care of your elderly. It's not. It  
 4 sounds good, you know, but it's not. It's about profit. So  
 5 yes, I did change the look of my house to raise my family.  
 6 Not 11 people, five people, which was my family. And I'm  
 7 not making profit on it. And I stand behind it. I just --  
 8 it's not right.  
 9 It's R-200. It should be R-200. We're on well  
 10 and septic. You're going to have lawn care. You're gonna  
 11 put fertilizer. They're not gonna want dandelions. I don't  
 12 know. If they run that business like they do the rental  
 13 properties, maybe they don't care about that. But that's my  
 14 opinion.  
 15 It's going to affect our well. You can't tell me  
 16 that it's not, and you haven't showed us in anything that  
 17 it's not. And I think that might be about it. That's just  
 18 how I feel. I don't think that it should be approved to do  
 19 any type of business in an R-200. They're not being  
 20 transparent. If they were worried about what the community  
 21 would say when whatever her name was -- Ellen, yep, she sure  
 22 did. She reached out. We had a Zoom session. She had all  
 23 of us on mute. We have our hands up. She just kept going.  
 24 So that's what you consider, you know, reaching out to the  
 25 community and seeing how we feel about it, then that's

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1 wrong. They had one meeting at the church way, way before.  
 2 And, again, the people from Worldshine weren't even there.  
 3 It was paid people like the lawyers that are here that are  
 4 doing their job. So if they really care about the  
 5 community, he would have came and spoke to us in person, but  
 6 he didn't.  
 7 I guess that's it.  
 8 MS. LEWINTER: Okay. Thank you. Thank you.  
 9 Do you have cross-examination?  
 10 MS. ROGERS: We have a few questions.  
 11 CROSS EXAMINATION BY COUNSEL FOR THE APPLICANT  
 12 BY MS. ROGERS:  
 13 Q So you mentioned in your testimony today that  
 14 Tapestry and Goddard came to you and Worldshine didn't?  
 15 A **Hm-hm.**  
 16 Q But you also mentioned Ellen at the end. So, just  
 17 to reiterate for the record, do you recall having a phone  
 18 conversation with Ellen --  
 19 A **Yep.**  
 20 Q -- in January --  
 21 A **Yep.**  
 22 Q -- of 2022?  
 23 A **I don't remember the date, but I do remember the**  
 24 **call.**  
 25 Q And in that conversation did you indicate you

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1 weren't interested in meeting or talking further with  
 2 Worldshine?  
 3 A **Probably did.**  
 4 Q Did --  
 5 A **But I didn't speak to the owners. I think I said**  
 6 **like Ross is the owner of Goddard. I met with him directly.**  
 7 Worldshine, do you all (indiscernible)? That was what I was  
 8 saying.  
 9 Q And I'm asking -- I understand. I'm asking  
 10 questions in terms of did the petitioner through even people  
 11 working for them reach out to you. Did you have a  
 12 followup -- receive a followup letter? I'd like introduce  
 13 this for the record, but it's dated March 9 from Ellen Coren  
 14 in which she noted your January conversation in which you  
 15 indicated you didn't want to speak further but wanted to  
 16 reiterate her offer to meet with you. Did you receive that  
 17 letter in the mail?  
 18 A **Maybe.**  
 19 Q Did you take her up on that offer?  
 20 A **Was that the Zoom session you're talking about?**  
 21 Q No. It was a one-on-one offer to meet with you.  
 22 It says, You declined, but I wanted to renew that offer just  
 23 in case. Please e-mail me and let me know if you'd like to  
 24 meet with the Worldshine team, and we will get something on  
 25 the calendar soon.



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1 **A Maybe. Probably if I saw who it was from I threw**  
 2 **it away and didn't read it.**  
 3 Q Did you also attend the May 11, 2022 community --  
 4 voluntary community meeting that Worldshine did hold through  
 5 Zoom for close in neighbors?  
 6 **A Hm-hm.**  
 7 Q Okay. And did you have an opportunity to express  
 8 your opinion during that meeting?  
 9 **A I think I stated that they had us on mute. We**  
 10 **couldn't talk.**  
 11 Q Well, there was -- there were people -- we have  
 12 minutes from the meeting -- that spoke during --  
 13 **A Certain people they let in. Were you --**  
 14 Q I have written -- I have comments, quotes from you  
 15 from the meeting.  
 16 **A Yeah. There -- there were times, but a majority**  
 17 **of it we were indicating to try to talk, and they weren't**  
 18 **allowing us to talk.**  
 19 Q Did you take up Worldshine on any of their offers  
 20 to engage in meaningful conversations about changes that  
 21 could have been incorporated into the design?  
 22 **A Never had an opportunity.**  
 23 Q Weren't you concerned about traffic from this  
 24 project on Ruby Drive?  
 25 **A Traffic, yeah, I would say so when it was -- when**

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1 **it was access to Ruby Drive, I think then, yes, that was one**  
 2 **of my concerns.**  
 3 Q Okay. And I guess, despite not taking the  
 4 petitioner up on their offers for meaningful discussions,  
 5 are you aware that the petitioner still responded to that  
 6 concern by changing the access and having access entirely  
 7 off West Old Baltimore so that there is no vehicular access  
 8 on Ruby Drive?  
 9 **A Was that purchasing Reinhold's house is what**  
 10 **you're saying?**  
 11 Q Yes. We testified that we acquired the  
 12 intervening property on West Old Baltimore so that we could  
 13 accommodate concerns and take traffic off of Ruby Drive.  
 14 Did the petitioner revise the plan to take vehicular access  
 15 off of Ruby Drive?  
 16 **A No.**  
 17 Q Do we have vehicular access to our property off of  
 18 Ruby Drive?  
 19 **A You're gonna be on it. Yeah.**  
 20 Q Is there parking provided on --  
 21 **A -- able to add more patients by having more**  
 22 **property. So you gain by that. It has nothing to do with**  
 23 **traffic, in my opinion, my unprofessional opinion.**  
 24 MS. ROGERS: We could the pull back up Exhibit 37.  
 25 Q You alluded to some of this in your testimony. I

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1 just want to clarify for the record.  
 2 **A Hm-hm.**  
 3 Q You questioned the petitioner's architect during  
 4 the last hearing whether the proposed cottages are  
 5 compatible with the homes on Ruby Drive.  
 6 **A Hm-hm.**  
 7 MS. ROGERS: If you can go to the slide -- stop.  
 8 Up one more. Thank you.  
 9 Q Do you recognize this house?  
 10 **A It's very old, because it's very different now,**  
 11 **but yeah. That's my house. I live there.**  
 12 Q And as you testified, I just want to clarify for  
 13 the record, isn't it true that you converted, in your words,  
 14 the three-bedroom rancher into a four-bedroom colonial and  
 15 added a large addition to your house around 2005?  
 16 **A Yeah.**  
 17 Q And so wouldn't you agree that changed the  
 18 character of your home?  
 19 **A It changed that I was able to raise my family and**  
 20 **take care of my elderly mother in that house. So did it**  
 21 **change; yeah, it did change, but it's still a family home.**  
 22 **I'm not making a profit.**  
 23 Q And how large approximately was the addition that  
 24 you added?  
 25 **A I don't know.**

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1 Q Well --  
 2 **A Well, it was probably -- let's see. The ranchers**  
 3 **were probably, what, 1,100, 1,200 square foot. And I think**  
 4 **we bumped it out in the back maybe five feet for the**  
 5 **kitchen. I'm not sure, but it did -- it enlarged it. I**  
 6 **agree. Sure did.**  
 7 MS. ROGERS: Can you go to the next slide? One  
 8 more. Sorry.  
 9 Q This is just an aerial comparing 2000 to 2003  
 10 showing -- to clarify for the record, you added a rear  
 11 addition and a second floor addition, correct?  
 12 **A Wait a minute. So 2002 was when an addition was**  
 13 **already on. Oh, no, it wasn't. My bad. Sorry. I see**  
 14 **trailers in the field. Yeah.**  
 15 Q Okay.  
 16 **A So whatever you say, yeah. Yeah. No, I'm not**  
 17 **denying we didn't enlarge it. I mean, we paid for it**  
 18 **ourselves.**  
 19 Q I understand.  
 20 **A -- family, not a business. I know that.**  
 21 MS. ROGERS: If you can go just one more down.  
 22 Q So I understand you don't recall how large it is.  
 23 **A I honestly don't. We went up a level.**  
 24 Q Understood.  
 25 **A Footprint is still the same.**

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1 Q Could you please read for the record --

2 A **I cannot see that. Please do not ask me to read**

3 **that.**

4 Q For the record, the DPS building permit records

5 show that a 2,040 square-foot addition was added to the

6 house in 2005. And on the next slide it shows that a 1,296

7 square-foot garage was added to the house. Does that sound

8 about accurate?

9 A **Wait. What garage is that big?**

10 Q I'm just reading for --

11 A **Is that on the house? Is that what you pulled, on**

12 **the house? Is that what you called it? Is that what that**

13 **is, on the house or is it --**

14 Q -- are county permits --

15 A **Okay.**

16 Q -- for your property.

17 A **Well, I'm pretty sure that that's the garage in**

18 **the field.**

19 Q Okay. Did anyone -- well, I guess are any other

20 homes on Ruby Drive currently two storeys tall?

21 A **Uh-uh.**

22 Q Okay. Did anyone object, though, to you adding a

23 second floor addition and a larger addition to your home?

24 A **No. I think they were happy that I was bringing**

25 **my family to raise them there and not a business. A family,**

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1 **we were a family. Yeah. And I didn't make profit, just in**

2 **case you didn't catch that before.**

3 Q I got it. Can your neighbors on Ruby Drive

4 similarly expand on their house like you did to make it

5 taller, wider, larger?

6 A **They can.**

7 Q Okay. Do you know approximately how large the

8 footprint of your house is?

9 A **Uh-uh.**

10 MS. ROGERS: If we can go to the next slide.

11 Q I'm happy to read it for you.

12 A **Hm-hm.**

13 Q But based on --

14 MS. KRISHNAN: Excuse me.

15 MS. LEWINTER: Yes.

16 MS. MARTIN: What is the relevance of a

17 single-family dimensions impact about a business which has

18 been running -- I just want to get to know why we are going

19 in such detail about one individual's home and their history

20 of expansion or nonexpansion, as opposed to eight-building

21 9,000 things. I just want to know why am I wasting time on

22 that.

23 MS. LEWINTER: What is the relevance?

24 MS. ROGERS: The relevance is to show the

25 character of the surrounding neighborhood, and that other

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1 homes are of similar size and proportion when it gets to in

2 terms of compatibility, and also to show that those other

3 homes don't all have the same architectural style. There

4 was a lot of questioning of the petitioner's expert

5 witnesses regarding whether these cottages look like their

6 homes and were compatible. And that's what this testimony

7 is intending to illustrate for the record.

8 MS. KRISHNAN: So shouldn't we be looking at all

9 the homes on Ruby Drive, rather than one home and

10 specifically on one individual and trying to make it so

11 personal?

12 MS. LEWINTER: This is their case to pursue as

13 they see fit. So I will let you continue.

14 MS. ROGERS: Thank you.

15 BY MS. ROGERS:

16 Q So just for the record, the DPS measurements show

17 that it's about 71 feet wide by about 49.9 feet deep.

18 MS. ROGERS: If you'll go to the next slide.

19 Q This shows a comparison of those dimensions with

20 the cottages that we are proposing. Wouldn't you agree that

21 your house has a similar footprint as compared to the

22 proposed cottage?

23 A **It's not a cottage, number one. The building, no,**

24 **I would not agree.**

25 Q So your house is 49.9 by 71, and the cottages are

100

1 55 by 52.

2 A **Is that with the basement?**

3 Q -- larger? I'm asking about a footprint, the

4 actual --

5 A **I know, but is a footprint including all three**

6 **levels, or just two levels?**

7 Q That would be like square footage. I'm not asking

8 about square footage. I'm asking about like the actual how

9 the house sits on the ground, the footprint.

10 A **No.**

11 Q Is yours larger in terms of a footprint? 71 by

12 49.

13 A **Hm.**

14 Q Are you also aware that up to nine to 10 dwelling

15 units, single-family homes can be developed by right on the

16 Worldshine property?

17 A **God, I wish that would happen.**

18 Q Okay.

19 A **That would be great. We would have neighbors.**

20 Q Are you aware that those homes could be between 40

21 to 50 feet tall?

22 A **Yeah. I mean, I would love to have a development**

23 **like that.**

24 Q Okay.

25 A **To be family oriented, not business.**

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1 Q So you would not object to --

2 A **Absolutely not because it would be equal to. It**

3 **would be family. It would be -- it wouldn't be a business.**

4 Q Okay. Are you aware that the zoning ordinance

5 would have allowed up to 169 beds to be developed on the

6 property?

7 A **Was I aware of that, I didn't give it much**

8 **thought.**

9 Q Is it fair to say what you're really opposed to is

10 change?

11 A **You want me to be honest, probably. Like I said**

12 **before, I wish it would stay the same the way it was back in**

13 **the day. I don't own it. I get that. I totally get that.**

14 MS. ROGERS: That's all of our questions. Thank

15 you.

16 MR. ROBINS: Thank you very much.

17 MS. LEWINTER: Thank you.

18 All right. Well, I'm going to suggest that we

19 take just a five-minute break for my own convenience, so

20 just a quick break for people to run to the restroom or

21 whatever. We'll be back at 11:30. Actually, it's six

22 minutes technically.

23 (A recess was taken.)

24 MS. LEWINTER: Okay. Just to recap for the

25 record, we just took a seven-minute comfort break. When we

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1 came back, Ms. Krishnan asked whether she could read

2 testimony from somebody from the -- Ann Smith from the

3 Seneca Creek Watershed Partners because Ms. Smith has a

4 medical emergency and could not be here today. We were

5 trying to ascertain whether Exhibit 41, which has been

6 submitted by Seneca Creek Watershed Partners, is the same as

7 the testimony that Ms. Smith is asking to be read.

8 Can you just scroll down for a second to see who

9 signed it, if anybody? It's not signed. There's no name.

10 Okay.

11 Okay. So, Ms. Krishnan, what Ms. Smith sent you,

12 can you scroll back up to the top?

13 MS. KRISHNAN: I'm trying to -- just give me one

14 second. Can you scroll down a bit because I don't -- yeah.

15 Yeah. I'm just trying to -- so this is -- yeah, the water

16 quality, environmental concerns such as soil erosion and

17 water quality warrant close attention, high number of

18 engineered --

19 MS. LEWINTER: Okay. So then there's no reason we

20 need to read it into the record since it's already in the

21 record.

22 MS. KRISHNAN: So that will be automatically

23 reviewed as part of the --

24 MS. LEWINTER: Yeah.

25 MS. KRISHNAN: Okay. Thanks. That's all I wanted

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1 to know. Thanks.

2 MS. LEWINTER: Okay. Thank you.

3 Okay. So we had finished the --

4 MR. ROBINS: I just wanted to also --

5 MS. LEWINTER: Oh, right. I'm sorry.

6 Mr. Rogers --

7 MR. ROBINS: Ms. Rogers.

8 MS. LEWINTER: Robins. Sorry.

9 MR. ROBINS: Easily confusable. Ms. Rogers had

10 asked Ms. Duffin about a particular letter, and introduced

11 that into the record. So I just failed to give you a copy.

12 MS. LEWINTER: Right. So this would be Exhibit

13 45. This is the letter from Ms. Coren.

14 (Exhibit 45 was admitted into evidence.)

15 MS. LEWINTER: Okay. We've done the second row.

16 We've done the third row. Did you want to testify, the

17 first person in the fourth row?

18 Okay. If you'd like to come up, sir. If you can

19 state your name for the record.

20 MR. SEVILLA: Elias Sevilla.

21 MS. LEWINTER: And, Mr. Sevilla, if you could give

22 us your address, your mailing address.

23 MR. SEVILLA: Yes. It's 21913 Ruby Drive, and

24 that's in Boyds, Maryland, obviously.

25 MS. LEWINTER: And if you could give us your

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1 e-mail address.

2 MR. SEVILLA: Ejsevilla@hotmail.

3 MS. LEWINTER: Thank you, Mr. Sevilla.

4 (The witness was sworn.)

5 MS. LEWINTER: Thank you.

6 ELIAS SEVILLA,

7 having been first duly sworn or affirmed, was examined and

8 testified as follows:

9 DIRECT TESTIMONY OF ELIAS SEVILLA

10 MR. SEVILLA: So, as I mentioned, my name is Eli.

11 I am, I guess, probably one of the newer families in Ruby

12 Drive, and I'm a recently retired Navy veteran. And so I do

13 have a, you know, family, wife, three kids, little small 16,

14 13, and seven years old. We do a lot of activities, play

15 soccer, you know, all the things, I guess, younger families

16 do. And, you know, we do ride a lot of bikes, you know.

17 I came over here. I wasn't gonna say anything,

18 but I do want to come here and show support for some of my

19 neighbors. And, you know, I am concerned about the property

20 that is being built right, I would say, in front of us.

21 And, you know, that's one of the areas that we normally ride

22 our bikes every day. And I'm concerned some of the stuff

23 that was mentioned that -- you know, like I said, I'm no

24 expert at any of it, you know. I work hard for my family.

25 We got a couple of -- I got a couple of jobs, and it's hard

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1 to even come here. This is the first time I've been able to  
 2 show up in person. I've been supporting via, you know,  
 3 virtual. But, you know, I am concerned with the traffic.  
 4 You know, like I said, we do a lot of outdoor activities.  
 5 My wife stays home. She's the one that shuttles our kids  
 6 back and forth, you know, from, you know, elementary all the  
 7 way to high school. And so, you know, all I hear is, you  
 8 know, about the traffic that -- you know, that she faces  
 9 daily. You know, I do see the traffic, you know, when I  
 10 come home. It's very heavy between three and six. Just  
 11 last night, you know, I spent a lot of time. It takes me an  
 12 hour and a half to get home from Washington. That's where I  
 13 work. You know, so, I am concerned with, you know, some of  
 14 the comments -- not comments, but some of the statements  
 15 have been said, you know, regarding the septic, regarding  
 16 traffic, regarding, you know, just the quality of life  
 17 itself, you know. So I'm no expert at anything, you know.  
 18 I just want to show some support with everybody in my  
 19 neighborhood, and, you know, just show them, you know, that,  
 20 you know, I am concerned with everything that's been said.  
 21 And, like I said, no expert, but I just want, you know --  
 22 and we don't know, you know, what -- really what's going to  
 23 happen, you know. You know, one-on-one thing, you know,  
 24 they say that, you know, these guys talk about the well, the  
 25 septic, you guys say that it's going to be all right, you

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1 know, but in the long time, you know, nobody knows. When my  
 2 septic breaks down, I mean, who do I call? When I don't  
 3 have any water, what do I do? You know, so those are just  
 4 the things that, you know, I personally think about, you  
 5 know, with raising a family. You know that it's -- it's  
 6 not -- I don't have anything in writing or anything, but I  
 7 just wanted to show some support to my fellow neighbors.  
 8 And I know they've worked hard and are bringing up, you  
 9 know, some really good points. And that's basically all I  
 10 want to say.  
 11 MS. LEWINTER: Thank you, Mr. Sevilla.  
 12 Do you have any questions for Mr. Sevilla?  
 13 MR. ROBINS: No questions. Thank you.  
 14 MS. LEWINTER: Thank you, sir. You can be  
 15 excused.  
 16 MR. SEVILLA: Thank you.  
 17 Mr. Pajot? Did I say it correctly?  
 18 MR. PAJOT: You did. Thank you. How are you?  
 19 MS. LEWINTER: I'm good.  
 20 MR. PAJOT: Are we still on morning time? Good  
 21 morning.  
 22 MR. ROBINS: Good morning.  
 23 MS. LEWINTER: Yes, barely. Mr. Pajot, if you  
 24 could, again, say your name for the record, your full name,  
 25 and state your mailing address, and your e-mail.

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1 MR. PAJOT: Sure. Jerome Pajot, J-E-R-O-M-E, last  
 2 name P-A-J-O-T, mailing address is 11 Ivy Leaf Court, and  
 3 that is in Boyds, Maryland 20841. My e-mail address is  
 4 pajots@yahoo.com.  
 5 MS. LEWINTER: Thank you, Mr. Pajot. Is it like  
 6 Stephen Colbert, you don't say the T?  
 7 MR. PAJOT: That is French, and there's a silent  
 8 T, as does the language require.  
 9 (The witness was sworn.)  
 10 MS. LEWINTER: Thank you.  
 11 JEROME PAJOT,  
 12 having been first duly sworn or affirmed, was examined and  
 13 testified as follows:  
 14 DIRECT TESTIMONY OF JEROME PAJOT  
 15 MR. PAJOT: I don't have anything formal, just  
 16 notes, and so I think we're just gonna kind of flow here. I  
 17 want you to consider two points is really my testimony. One  
 18 is housing compatibility or incompatibility. There's a lot  
 19 of mention, or there has been a lot of mention that the  
 20 project is to blend in. And I think we've seen a few  
 21 iterations of the applicant's plan, and there have been some  
 22 changes, for sure. I do feel, though, that the applicant  
 23 has minimized what this project is in terms of size.  
 24 Is it possible to pull up Exhibit 2, please? And  
 25 scroll down to, I guess, the first iteration of -- the first

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1 picture. It's an awesome colorful picture. I don't know  
 2 what slide number it is. Keep going. Right there. So no.  
 3 I'm sorry. One more down. And I think we'll just scroll  
 4 down from there.  
 5 So I want to point out the fact this, I believe,  
 6 was one of the first renderings where -- it looks great. No  
 7 doubt about it. My reference to minimizing are all of these  
 8 gray blocks that are surrounding this proposal, which, I  
 9 believe, are meant to represent the surrounding  
 10 neighborhood. Definitely, these are not to scale. You  
 11 know, the structures that are proposed --  
 12 And we can scroll down, I think, to the next  
 13 iteration, the next slide, please.  
 14 Again, different iteration for the Worldshine  
 15 proposal, but, again, I think disproportionate gray boxes  
 16 representing the surrounding homes. And I'm pointing at the  
 17 bottom of the screen. These three huge blocks represent  
 18 Mrs. Duffin, Mrs. Martin, and I believe Mr. Sevilla's homes.  
 19 Clearly not representative of actual size. On the opposite  
 20 side of the slide, the top part of the slide would represent  
 21 actually where I live, one of those gray blocks, and I can  
 22 attest that my house does not sit level with the proposal.  
 23 I believe Ms. Meyer testified that she is about nine feet  
 24 down. I concur. We're about nine to 10, maybe 11 feet.  
 25 I've not measured specifically. So, again, I think it's a

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1 little bit misleading.  
 2 If we can scroll to the next slide, please.  
 3 Similar, I think. In the bottom left presentation  
 4 there, you know, again, Ms. LeWinter, the surrounding homes  
 5 are made to seem bigger than they actually are so that the  
 6 proposal shows that we are blending -- quote, unquote,  
 7 blending in. The topography is not taken into consideration  
 8 for Ivy Leaf Court or Hurley Ridge in general. Again, as I  
 9 testified, or was it testimony or cross-examination with  
 10 Mr. Sloan, there's an elevation difference of about 10 feet  
 11 from where I am behind the fence. So I just --  
 12 May we go down one more slide, please? And I  
 13 forget what that one is.  
 14 And so here we go again. Now we're including all  
 15 of Ruby Drive, and again it's just more of the same. So my  
 16 point being that it looks -- it looks great. It's a great  
 17 sales presentation, but I think we're minimizing in order to  
 18 define the word blend.  
 19 The other thing that I think that we're talking  
 20 about a lot is footprint. And I'm not gonna argue  
 21 measurements. Somewhere in that presentation is my home.  
 22 And, you know, is the footprint similar to what you're  
 23 proposing; sure. I mean, how much -- you know, give or take  
 24 a few, right? I'm no real estate expert. I believe that  
 25 when real estate agents are talking about properties they

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1 talk about square footage, and so I want to focus on that a  
 2 little bit. You repeatedly referred to the proposal as  
 3 cottages. And this is somewhat repetitive because my  
 4 community members have already mentioned this, but a cottage  
 5 is, in fact, a small building. And it's about 1,000 to  
 6 2,000 square feet. And so to have Worldshine or the  
 7 representatives say that an 8,700 square-foot building is a  
 8 cottage, I think, it is an oxymoron. I don't think it fits.  
 9 And the 8,700 square feet that I'm coming up with, I  
 10 believe, was testimony by the architect where it was 2,900  
 11 square feet per floor, and then the basement came up as  
 12 conditioned space that would be used for community rooms and  
 13 also office space. I would also think that, if there was a  
 14 need, that could also be converted to living space, if  
 15 needed, if and when needed, if there was demand, or  
 16 overcrowding, or things like that. The square footage, you  
 17 know, again, you spent a lot of time with Ms. Krishnan and  
 18 Gorman Circle. Again, as I stated, I live on Ivy Leaf  
 19 Court, which is -- I'm trying to get my directions here.  
 20 Is it north or west?  
 21 (Crosstalk.)  
 22 West. Okay. So my property line divides on the  
 23 western side on the proposal and my property. Hurley Ridge,  
 24 again, I think ranges from 2,700 square feet on the above  
 25 ground to maybe 33. I actually don't even know what mine is

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1 listed at. Maybe 32 or 3,300. Maybe you have that -- I'm  
 2 not sure -- on the public record. And so, you know, for the  
 3 homes that maybe have added a finished basement, I think if  
 4 we're generous and add a thousand square feet, maybe I'm  
 5 sitting at, you know, 43, my neighbors maybe 43, 4,500  
 6 square feet. Again, I think that's a far cry from the 8,700  
 7 square foot times eight that is being proposed. I think  
 8 that's a mismatch there as well. I did do a quick search to  
 9 find comparables, and there are no 8,700 square-foot homes  
 10 in our area. I believe I found one maybe in Damascus, and  
 11 that was just one house. I believe the rest are in your  
 12 neck of the woods, Mr. Robins, down in Potomac. I think  
 13 there are a few of them down there, but none to be found  
 14 anywhere near where we live.  
 15 You know, and then lastly, on the compatibility,  
 16 Mr. Sloan testified and we've heard it today that the county  
 17 could allow eight to 10 homes, single family homes, which is  
 18 fine. You know, it is what it is. What I would want you to  
 19 consider, how big would those homes actually be in order to  
 20 match the neighborhood, because you put in eight 8,700  
 21 square-foot single family homes in a general area that only  
 22 has maybe upwards of five or 6,000 square feet maybe down in  
 23 Summerfield Crossing, it skews the entire property value  
 24 system, and I think that needs to be considered.  
 25 Ms. LeWinter, the other point I want you to

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1 consider is potentially the bigger -- the bigger plan that  
 2 could be at play. I think it'd be shortsighted to overlook  
 3 the potential for expansion. You've heard from Ms. Martin  
 4 and Ms. Duffin that somebody went door to door to try to  
 5 purchase her property. Not illegal, I guess. I don't know.  
 6 I'm not a lawyer. Is it uncommon; I think so. But with the  
 7 fact that Mr. Lee has acquired a number of properties on  
 8 Ruby Drive, it just lends itself to, you know, what's the  
 9 bigger plan. So originally, I believe, Mr. Lee bought 21901  
 10 Ruby Drive, and that is listed under his name on the  
 11 Maryland public record, which, by the way, is listed as a  
 12 principal residence. And he is also listed as a principal  
 13 residence 10808 Brickyard Court down in Potomac. So he's  
 14 listed two properties as a primary residence, or principal  
 15 residence. I'm sorry. I'm not sure if that's common.  
 16 21905 was bought by -- under the name of Baron Investments.  
 17 And Baron Investments, an LLC, I'm not sure when it was  
 18 created. I don't have that handy on my notes. Mr. Lee is  
 19 listed as a principal contact or principal agent for Baron.  
 20 And then, as we know, he bought 21908 Ruby Drive, which he  
 21 transferred to Greenland Properties. So, you know, we have  
 22 three properties, three different names. And so I don't --  
 23 I'm not sure what we're -- what we're masking here, why we  
 24 can't just -- I don't -- I'm not smart enough to understand  
 25 why the need for various LLCs and why the need to hide

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1 behind various companies when you're acquiring a  
 2 neighborhood. And so, you know, with 21908 being the bigger  
 3 property looking to be developed, now the addition of these  
 4 two originally purchased properties, which I don't know  
 5 that -- if I may, I'm going to point to the screen here.  
 6 These two properties down here are the original purchases  
 7 that Mr. Lee acquired. Those are the original two addresses  
 8 that I just mentioned at the entrance of Ruby Drive. And  
 9 so, you know, if you look at the entire property, that's 20  
 10 percent -- those two properties represent 20 percent of the  
 11 properties on the --  
 12 Is that the East side?  
 13 UNIDENTIFIED SPEAKER: East.  
 14 MR. PAJOT: East side of Ruby Drive. And so he  
 15 was looking to acquire the other 80 percent. And the last  
 16 point I'd like to make on that is, you know, we heard  
 17 testimony from Mr. Huang, the engineer, who's a principal at  
 18 Endesco. He did testify that he was not aware of what Baron  
 19 Investments is, and that's fair. But he also testified that  
 20 he has a personal relationship with Mr. Lee. Mr. Huang also  
 21 opened or created -- I don't know what the right word is --  
 22 an LLC called Endesco -- is it Endesco Properties or Endesco  
 23 Developments, LLC -- and through that company acquired 12404  
 24 West Old Baltimore. That property sits, if we're looking at  
 25 the screen right here, directly -- if I may, directly

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1 left -- and again I'm geographically confused here. That  
 2 property sits right here. So it would be, I think, directly  
 3 across or just whereabouts or close from the proposed  
 4 entrance. That lot was purchased in 2019, and has been  
 5 vacant. And that's fine. I would ask, you know, is it  
 6 typical for an engineering company to buy an R-200 property  
 7 and leave it vacant? You know, he was hesitant to disclose  
 8 that personal relationship. And so again it just lends  
 9 itself to what's really going on. And I think if you give  
 10 this a green light, I think it'll just allow them to expand  
 11 the entire project, and just affect the neighborhood at a  
 12 greater level.  
 13 Those are my thoughts.  
 14 MS. LEWINTER: Did you have cross-examination?  
 15 CROSS-EXAMINATION BY COUNSEL FOR THE APPLICANT  
 16 BY MS. ROGERS:  
 17 Q I just have a few questions.  
 18 A Sure.  
 19 Q I guess I just wanted to -- on your point about  
 20 the expansion, wouldn't an expansion of this conditional use  
 21 require another public process and another hearing if we  
 22 were to expand to include additional properties?  
 23 A I would assume so. Yes.  
 24 Q Okay. And so that would have another opportunity  
 25 where those set of facts could be considered before

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1 approving any such expansion?  
 2 A Sure.  
 3 Q So the relevance -- the fact that there are other  
 4 properties owned nearby are not relevant to the hearing  
 5 examiner's consideration of this application today?  
 6 A Possibly, but I would say I would assume and  
 7 presume that if a conditional use is granted for the bigger  
 8 or the initial project that it would be easier for the  
 9 applicant to submit an additional or additional request to  
 10 add onto that.  
 11 Q But that's your assumption?  
 12 A Sure.  
 13 Q That's not based on any facts?  
 14 A Of course.  
 15 Q And have --  
 16 MS. ROGERS: Do you want to ask that --  
 17 BY MR. ROBINS:  
 18 Q I'm sorry. We typically will not tag team here,  
 19 and please don't take it that way. I just had a question --  
 20 A It's not a problem at all.  
 21 Q At the Planning Board, I think you were interested  
 22 also in seeing if the outcome would be -- or the petitioner,  
 23 I'm sorry, would be willing to do anything regarding  
 24 landscaping --  
 25 A Sure.

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1 Q -- along the western side of the property. Have  
 2 you seen the landscape plan?  
 3 A I saw the original landscape plan. I believe  
 4 you're referring to my concern about the evergreens --  
 5 Q Yeah.  
 6 A -- and things like that. And so if, in fact, this  
 7 gets approved, then yes, I am definitely concerned --  
 8 Q What I was actually asking you is are you familiar  
 9 with the fact that we've actually submitted a landscape plan  
 10 that does provide additional screening on the western  
 11 boundary?  
 12 A I did not see that.  
 13 Q Okay. You'll see it in a few minutes.  
 14 A Sure.  
 15 Q I just wanted to see if you had seen that and  
 16 whether it addressed your concern. But, since you haven't  
 17 seen it yet --  
 18 A Nor did I bring it up today.  
 19 Q -- I respect your answer.  
 20 A Sure.  
 21 Q Thank you very much.  
 22 A Sure.  
 23 MS. LEWINTER: No other questions?  
 24 MS. ROGERS: No other questions.  
 25 MS. LEWINTER: All right. Thank you, Mr. Pajot.

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1 MR. PAJOT: Thank you.  
 2 MS. LEWINTER: Did you want to testify, sir? I'm  
 3 trying to see if there's anybody else back there. You're  
 4 right. Come on up. All right. Thank you, sir. If you  
 5 could state your name for the record, and then your address,  
 6 and your e-mail.  
 7 MR. CINQUE: My name is Jay Cinque, C-I-N-Q-U-E.  
 8 I live at 22300 Slidell Road in Boyds. My e-mail -- my real  
 9 name is Julius, first name Julius. My e-mail address is  
 10 julius.cinque@gmail.com  
 11 MS. LEWINTER: Thank you, Mr. Cinque.  
 12 (The witness was sworn.)  
 13 MS. LEWINTER: Thank you.  
 14 JULIUS CINQUE,  
 15 having been first duly sworn or affirmed, was examined and  
 16 testified as follows:  
 17 DIRECT TESTIMONY OF JULIUS CINQUE  
 18 MR. CINQUE: Okay. My name is Jay Cinque. I am  
 19 the Treasurer of The Friends at Tenmile Creek and the Little  
 20 Seneca Reservoir and the Sugarloaf Conservancy, but I'm here  
 21 today as a concerned citizen to express strong opposition to  
 22 the proposed Worldshine Assisted Living Facility on Old  
 23 Baltimore Road in Clarksburg. I join in support of the  
 24 thousands of residents of the Summerfield Crossing community  
 25 who are opposing the location of the senior living facility.

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1 When this community was initially conceived -- Summerfield  
 2 Crossing, when this community was initially conceived,  
 3 developed, and approved, it had gone through extensive and  
 4 careful consideration of its impact on Little Seneca Creek  
 5 and the Seneca Creek Watershed. Sensitivity to the  
 6 importance of this watershed to Little Seneca Reservoir  
 7 remains very high in the Clarksburg area and in northern  
 8 Montgomery County.  
 9 The creation of the Clarksburg Master Plan, as you  
 10 know, was a very long and painful process, both for the  
 11 members of the community, for the Maryland National Park and  
 12 Planning Commission and the County Council members. It  
 13 involved dozens of meetings, multiple studies, public  
 14 hearings, drafts, redrafts, a final document, and then  
 15 additional addendums. But throughout this process, the  
 16 significance and importance of protecting the multiple  
 17 streams and tributaries that make up the Seneca Creek  
 18 Watershed remained paramount, as is clearly indicated in the  
 19 final Clarksburg Master Plan.  
 20 The proposed Worldshine Assisted Living Facility's  
 21 located immediately adjacent to the multiple streams of  
 22 Little Seneca Creek and the tributaries of Seneca Creek  
 23 Watershed. The proposed Worldshine Assisted Living Facility  
 24 is a major commercial venture that is completely  
 25 incompatible with the existing community and the Clarksburg

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1 Master Plan. It comprises eight large buildings housing 120  
 2 permanent residents, and will have 70 plus staff members.  
 3 The operation will require multiple visits to and from  
 4 residents' doctors, nurses, therapists, etcetera, and daily  
 5 visitors from family members and friends of the residents.  
 6 Recognizing the need to give Little Seneca Creek special  
 7 protection, the master plan also calls for a limit on retail  
 8 and employment uses, and makes specific recommendations in  
 9 the master plan concerning the future placement of elderly  
 10 housing, which should be concentrated towards public  
 11 facilities. This proposal is not concentrated towards  
 12 public facilities, nor is it away from sensitive areas that  
 13 require special protection. It is located in a very  
 14 environmentally sensitive area that has no public  
 15 facilities, thus limiting access by close friends and family  
 16 members.  
 17 The current proposal -- I'm sorry. The current  
 18 build out of this proposed facility will require roughly a  
 19 34.7 percent imperviousness, which is twice as high as the  
 20 average for the R-200 zone where the property is located.  
 21 In previous testimony, the applicant dismissed this issue by  
 22 stating they will treat the water on their property before  
 23 it is released. Treating the water will not address the  
 24 impact of frequent storms or high rain events, which can now  
 25 be more regularly anticipated with the changing climactic

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1 conditions. Sudden deluges of water can seriously degrade  
 2 or destroy the fragile stream banks along Seneca Creek. The  
 3 impact of the treatment itself has not been adequately  
 4 studied, nor even identified, and may have serious  
 5 deleterious effects on the aquifer and the fragile well  
 6 conditions in close proximity to the proposed site.  
 7 In closing, while I and many others in the  
 8 community recognize the need for senior assisted living in  
 9 the Clarksburg area, the specific location of this project  
 10 or this proposal is a serious mistake and should be  
 11 disapproved. Thank you.  
 12 MS. LEWINTER: Thank you, sir. Do you have  
 13 cross-examination?  
 14 MS. ROGERS: Just a few questions. Thank you.  
 15 CROSS-EXAMINATION BY COUNSEL FOR THE APPLICANT  
 16 BY MS. ROGERS:  
 17 Q You mentioned in your remarks, I just want to  
 18 clarify for the record, that there was a thousand residents  
 19 of Summerfield Crossing opposing this project, but earlier  
 20 today Ms. Krishnan clarified she was not authorized to  
 21 testify on behalf of the HOA. So are you aware of others  
 22 besides Ms. Krishnan from Summerfield Crossing that are  
 23 opposing this project that have done so on the record?  
 24 A I'm not sure if they've done so on the record.  
 25 There's been a lot of community concern both with the

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**1 several – the other developments on Old Baltimore Road**  
**2 about the impact of this particular project. So I don't**  
**3 know if it's on the record or not, but there's a great deal**  
**4 of community concern.**  
 5 Q Okay. But I just -- just for the record, when you  
 6 say a thousand, do you have anything that shows that there's  
 7 a thousand people that --  
**8 A No.**  
 9 Q -- opposing this project?  
**10 A No.**  
 11 Q Thank you. You mentioned that the property is  
 12 located immediately adjacent to Little Seneca Creek. Just  
 13 to again to clarify the record, are you aware that this  
 14 property is not in a stream buffer and is separated by those  
 15 streams -- by roads and other developments from those  
 16 streams?  
**17 A Yes, I am aware.**  
 18 Q Okay. Thank you. You also mentioned that this  
 19 property isn't in a -- I didn't get your exact words, but  
 20 highly environmentally sensitive area, something to that  
 21 effect. Earlier today we showed an excerpt from the master  
 22 plan that classified the environmental constraints of this  
 23 portion of the master plan as slight, lowest of the three.  
 24 So can you clarify --  
**25 A I'm not sure -- I'm not sure what she means. I**

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**1 don't understand the question.**  
 2 Q I wanted to clarify. You represented that this is  
 3 highly environmentally sensitive, this property  
 4 particularly. And earlier when we put up an exhibit, the  
 5 master plan, it showed this area was actually the lowest of  
 6 the three classifications in terms of environmental  
 7 constraints.  
**8 A Well, where the property is located, to the south**  
**9 of you is some of the headwaters or the tributaries to**  
**10 Little Seneca Creek, and west of you is also the watershed.**  
**11 So that's what I was talking about.**  
 12 Q Okay. So separate -- not on this property  
 13 particularly --  
**14 A No.**  
 15 Q -- you're talking about?  
**16 A No.**  
 17 Q Okay. Thank you.  
**18 A But water doesn't constrain itself to the**  
**19 boundaries of the property.**  
 20 Q And in your remarks -- I just wanted to clarify  
 21 what you were testifying. Are you aware that a water  
 22 quality plan has been approved for this property by the  
 23 county?  
**24 A Yes. I'm troubled by that.**  
 25 Q Okay. Are you -- are you -- is it -- are you

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1 suggesting that the county's not professionally qualified in  
 2 terms of approving that plan?  
**3 A No. I don't know if they're professionally**  
**4 qualified. I wouldn't question their qualifications. I'm**  
**5 not sure if they realize the intent of the master plan in**  
**6 protecting this area. So I would be at odds with the**  
**7 Planning Board about whether or not they really gave this**  
**8 adequate study.**  
 9 Q Okay. And are you aware that the petitioner's  
 10 project includes numerous mechanisms that our experts have  
 11 testified to address and treat storm water management on the  
 12 property?  
**13 A I am not aware of that. In fact, I didn't -- I**  
**14 attended the earlier meeting, and I didn't think it was**  
**15 enough -- enough information available to opine on what's**  
**16 going to happen to the water when you have the severe rain**  
**17 events, these severe downpours and stuff that seem to be**  
**18 happening quite frequently now.**  
 19 Q But you are aware of the county's storm water  
 20 management regulations that apply to this project --  
**21 A Yes.**  
 22 Q -- in terms of treatment of storm water  
 23 management.  
**24 A Okay. Right.**  
 25 MS. ROGERS: I have nothing else. Thank you.

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1 MR. ROBINS: Thank you.  
 2 MR. CINQUE: My wife Anne who is -- she's also  
 3 President of the Friends of Tenmile Creek, and she had a  
 4 fall and broke some ribs. She could not attend today. She  
 5 did attend the earlier meeting. I have some bulleted points  
 6 of hers. I don't know if we would send those in in a  
 7 letter, or I can -- I can enter into the record now, or how  
 8 you want to do handle it. They wouldn't have an opportunity  
 9 to cross-examine the points.  
 10 MS. LEWINTER: Yeah. Either way, there wouldn't  
 11 be, but other people have submitted testimony.  
 12 Would you have an objection either to or a  
 13 preference for him to just read them in and then you could  
 14 potentially address them on rebuttal, or to submit them and  
 15 ask to keep the record open?  
 16 MR. ROBINS: I think reading them now.  
 17 MS. LEWINTER: Okay. So if you could just state  
 18 her name --  
 19 MR. CINQUE: Yes.  
 20 MS. LEWINTER: -- for the record, and if you can  
 21 provide us her e-mail address. I'm assuming you live in the  
 22 same home.  
 23 MR. CINQUE: Yeah, it's the same home. Yeah. Her  
 24 name is Anne Cinque, C-I-N-Q-U-E.  
 25 MS. LEWINTER: Is it Anne with E or Ann --



125	<p>1 MR. CINQUE: Anne with an E.                  2 MS. LEWINTER: Okay.                  3 MR. CINQUE: Anne M. Cinque. She lives at 22300                  4 Slidell Road. Her e-mail address would be                  5 ajcinque2@gmail.com. Okay. And she apologizes she couldn't                  6 be here; but, trust me, she couldn't be here.                  7 Okay. This is some of her highlighted points.                  8 She feels that it's essential that the staff review its                  9 comments and decisions about the imperviousness and                  10 maintenance of the water quality on the Worldshine                  11 application. Some points to consider are that -- some                  12 points that need additional consideration are there has been                  13 no discussion on why the staff is considering allowing that                  14 34.7 percent impervious rate on a property zoned R-200 where                  15 the acceptance rate or average rate is around 15 percent.                  16 Staff refers to the doubling of this rate as slightly                  17 higher, quote. In the preliminary water quality plan,                  18 Exhibit 19, it makes no reference to the tributaries on the                  19 property and the streams adjacent the property. There is no                  20 data as to the potential impact of the doubling impervious                  21 rate. There are no studies, no data as to the potential                  22 impact of the streams and tributaries which flow to Little                  23 Seneca Reservoir. There is no study or even speculation                  24 about the effects of the water usage, the toilets, the                  25 baths, the kitchens on the 120-bed, 75-employee facility, no</p>	127	<p>1 vote. It's 12:15. 12:13. We can keep going, and then,                  2 optimistically, finish around one and then have time for                  3 closing arguments, or we can take a lunch break and then                  4 come back. I don't want anybody to be uncomfortable or --                  5 you know, I understand people have different constraints.                  6 Mr. Pajot?                  7 MR. PAJOT: I just have a process question. I                  8 don't have a sense of how long we would actually be here                  9 today. I know four o'clock is the closing bell. I'm trying                  10 to juggle a work schedule. And so I have no problem                  11 staying. But, you know, if your presentation is 45 minutes,                  12 how much do we allot for closing statements, and what is                  13 there afterwards, if anything?                  14 MS. LEWINTER: After closing statements, hopefully                  15 we're done.                  16 MR. PAJOT: I'm assuming you don't render a                  17 decision --                  18 MS. LEWINTER: I am not going to render the                  19 decision today.                  20 MR. PAJOT: Again, I'm not familiar with the                  21 process. That's why I ask.                  22 MS. LEWINTER: So what happens, just -- because                  23 we'll get to this at some point, so we might as well do it                  24 now. The record usually stays open for 10 days mainly to                  25 get the transcript. Once we get the transcript returned, 10</p>
126	<p>1 study on the impact of the hazardous waste, laundry,                  2 etcetera. There is little reference, if any, to the                  3 Clarksburg Master Plan. In this plan there are numerous                  4 references to the significance of Little Seneca Creek,                  5 Little Seneca Reservoir and the land near them, which has                  6 multiple streams and tributaries, which ultimately flow into                  7 reservoir. The master plan is filled with such statements                  8 as Little Seneca Creek warrants an extraordinary attention                  9 and should be covered by enhanced environmental guidelines.                  10 No data have been presented as to the potential impact of                  11 the facility under fragile area streams and reservoir.                  12 Finally, the preliminary plan makes no reference to the                  13 tributaries on the property or streams on the adjacent                  14 properties.                  15 Thank you.                  16 MS. LEWINTER: Thank you.                  17 Okay. Was that the last person who wants to                  18 testify in opposition?                  19 Okay. So I understand, Ms. Rogers and Mr. Robins,                  20 that you have a rebuttal case. Do you -- I'm not going to                  21 hold you to it, but do you have a sense of how long you                  22 think you would need for the rebuttal?                  23 MR. ROBINS: I would estimate between 30 and 45                  24 minutes.                  25 MS. LEWINTER: Okay. Maybe we can do this by</p>	128	<p>1 days from then, I have 30 days to craft and publish a                  2 decision.                  3 MR. PAJOT: Sure.                  4 MS. LEWINTER: And then, if there was an appeal to                  5 the next level, that would happen from that date that the                  6 decision comes out, whether it's, you know, on the 30th day,                  7 or the 25th day, or whatever.                  8 MR. PAJOT: So we're looking at two hours --                  9 MS. LEWINTER: So my guess is yeah. I would hope                  10 so. I mean, my request to those in opposition is to try and                  11 be concise. If someone has made your argument -- and                  12 closing is really about argument. It is not an opportunity                  13 to make further testimony and presentations.                  14 MR. PAJOT: Right.                  15 MS. LEWINTER: So it's just to hit a couple of top                  16 points that you want to make sure that I am aware of, but                  17 it's not another, you know, opportunity to go through the                  18 record.                  19 MR. PAJOT: No slideshow?                  20 MS. LEWINTER: No slideshow. So, given that, are                  21 people okay to keep going? I don't want to compromise                  22 anybody's workday if I don't have to.                  23 MR. PAJOT: I'm in. Let's go.                  24 MS. LEWINTER: Okay. All right. If you'd like to                  25 call your first rebuttal witness.</p>

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1 MS. ROGERS: Great. We call Mr. Joshua Sloan.  
 2 MS. LEWINTER: Mr. Sloan, I'll remind you that  
 3 you're still under oath.  
 4 MR. SLOAN: I understand.  
 5 MS. LEWINTER: Thank you.  
 6 Mr. Court Reporter, do you need his information  
 7 again?  
 8 Okay. Mr. Sloan, if you could, just state and  
 9 spell your name for the record.  
 10 MR. SLOAN: Joshua Sloan, J-O-S-H-U-A S-L-O-A-N.  
 11 MS. LEWINTER: All right. Go ahead.  
 12 MS. ROGERS: Great. Thank you.  
 13 JOSHUA SLOAN,  
 14 having been previously duly sworn or affirmed, was examined  
 15 and testified as follows:  
 16 REBUTTAL EXAMINATION BY COUNSEL FOR THE APPLICANT  
 17 BY MS. ROGERS:  
 18 Q Mr. Sloan, can you just please reiterate for the  
 19 record what the property is zoned?  
 20 A R-200.  
 21 MS. ROGERS: Okay. We have a few questions for  
 22 Mr. Sloan regarding what could be developed on the site. We  
 23 recognize this is not dispositive for approval of a  
 24 conditional use application, but it's important to note  
 25 clearly for the record what could be developed on the

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1 property to illustrate the petitioner has given great care  
 2 to what they're proposing to develop on the site.  
 3 Q So, Mr. Sloan, under the R-200 zone --  
 4 MS. ROGERS: If we could pull up Exhibit 40 while  
 5 I'm asking.  
 6 MS. LEWINTER: I am sorry. I completely forgot  
 7 about -- was there anybody on Zoom who -- is anybody still  
 8 in the room?  
 9 THE TECHNICIAN: Well, there's people in the room,  
 10 but no one's waved saying they want to speak.  
 11 MS. LEWINTER: All right. They can hear me. My  
 12 apologies to those on Zoom.  
 13 MS. MARTIN: My daughter was waiting.  
 14 MS. LEWINTER: Okay. Because I did not invite  
 15 them --  
 16 My apologies to the petitioner's case.  
 17 Is there anybody on Zoom? Now would be the time  
 18 to raise your hand if you would also like to testify. My  
 19 apologies for excluding you from that process.  
 20 (Technician speaking off mic.)  
 21 MS. LEWINTER: Right. Yeah. If you could, raise  
 22 your hand if you would like to testify. And I cannot see  
 23 them.  
 24 (Technician speaking off mic.)  
 25 MS. LEWINTER: I am sorry. We're going to go back

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1 into opposition. I think just because they're not on the  
 2 screen, out of sight, out of mind.  
 3 Is that your daughter?  
 4 MS. MARTIN: Yes.  
 5 MS. LEWINTER: Okay. Hi. So your first name is  
 6 Emily. What's your last name?  
 7 MS. MARTIN: Oh, hi. My name is Emily Martin.  
 8 MS. LEWINTER: Okay. Ms. Martin, if you could --  
 9 if you could spell your name for the record.  
 10 MS. MARTIN: Sure. It's E-M-I-L-Y.  
 11 MS. LEWINTER: And could you provide us your  
 12 mailing address and your e-mail?  
 13 MS. MARTIN: I'm 12204, Clarksburg, Maryland  
 14 20871. My e-mail is my name emilyspostoffice@gmail.com  
 15 THE REPORTER: Can I get the address again?  
 16 MS. LEWINTER: Can you hear that? Can you provide  
 17 your address again?  
 18 MS. MARTIN: 12204 Fountain Drive, Clarksburg,  
 19 Maryland.  
 20 MR. ROBINS: I don't know --  
 21 MS. LEWINTER: Mountain Drive, I think. Felton  
 22 Drive?  
 23 MS. MARTIN: Fountain.  
 24 MS. LEWINTER: Can you spell it?  
 25 MS. MARTIN: F-O-U-N-T-A-I-N.

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1 MS. LEWINTER: Okay. Thank you. There's just a  
 2 little bit of a --  
 3 MR. ROBINS: There's an echo or something.  
 4 MS. LEWINTER: -- echo on the line. I apologize.  
 5 (Technical discussion off the record.)  
 6 MS. LEWINTER: All right. Ms. Martin, I'm  
 7 assuming you've been following closely; but, just to  
 8 reiterate, I'm going let you talk, and then, if the  
 9 petitioner's attorneys have any questions for you, they will  
 10 address them. I'm going to turn my mic off, because that's  
 11 part of the problem with us hearing clearly.  
 12 (The witness was sworn.)  
 13 MS. LEWINTER: Thank you. All right. You may  
 14 testify.  
 15 EMILY MARTIN,  
 16 having been first duly sworn or affirmed, was examined and  
 17 testified as follows:  
 18 DIRECT TESTIMONY OF EMILY MARTIN  
 19 MS. MARTIN: I'll keep it short. I've been  
 20 following since the inception of everything. My parents are  
 21 Carl and Jeanean Martin. They're at 21909 Ruby Drive, and  
 22 they babysit my children multiple times per week. I  
 23 probably go over there four to five times a week. I have  
 24 three kids.  
 25 So I'm in opposition for all of the same reasons

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1 as a lot of my neighbors, just undue traffic, water  
 2 concerns, lighting concerns. Right now there are no lights  
 3 on Ruby Drive. We have raised farm animals there. Having a  
 4 facility come in with lights all of a sudden already  
 5 changes, like, the entire, you know, structure of the  
 6 neighborhood. I walk my kids up and down the street. It's  
 7 not going to be as safe. There are -- like one of the  
 8 things that really stuck out at me at the last meeting was  
 9 the architect saying that she wanted to move towards the  
 10 future with this business. And all of the structures on the  
 11 Ruby Drive have essentially been ignored in terms of size.  
 12 So that just really seems incompatible with this proposal.  
 13 My parents' house, we open the door and what we see right  
 14 across the road -- it's more like a driveway, a very small  
 15 road, would be these houses, or dwellings, or whatever  
 16 they're proposing, and they would see us. And I don't feel  
 17 that it's compatible in terms of size, scale. There are  
 18 many, many reasons. Like I said, I'm going to keep it short  
 19 because a lot of people touched upon it. But I strongly  
 20 implore -- I strongly implore you to take a pause in this  
 21 whole development.  
 22 MS. LEWINTER: Is that it?  
 23 MS. MARTIN: Yes.  
 24 MS. LEWINTER: Thank you, Ms. Martin.  
 25 Do you have any cross-examination for Ms. Martin?

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1 MR. ROBINS: No.  
 2 MS. ROGERS: No.  
 3 MS. LEWINTER: Thank you.  
 4 MS. MARTIN: Thank you.  
 5 MS. LEWINTER: Is there anyone else on Zoom who  
 6 wanted to testify? If you could, raise your hand, or use  
 7 the raise-hand feature.  
 8 Can you go back to gallery so I can see?  
 9 MS. KRISHNAN: I mean, I think Ann Smith was able  
 10 to make it. So I don't know if she wanted to testify.  
 11 MS. LEWINTER: I can't speak for her. She had the  
 12 opportunity. She does, like you said, have the letter in  
 13 the record so --  
 14 All right. So if I can ask you to turn that back  
 15 on.  
 16 (Crosstalk.)  
 17 MS. LEWINTER: Anne, did you want to testify? Oh,  
 18 sorry. Ms. Smith, did you want to testify?  
 19 MS. SMITH: No. Did someone read the letter  
 20 from --  
 21 MS. LEWINTER: Your letter has been submitted into  
 22 evidence, and so -- as an exhibit.  
 23 MS. KRISHNAN: But I couldn't read it.  
 24 MS. LEWINTER: It's in the -- it's in the  
 25 exhibits, and it will be read. I know the petitioners have

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1 read it. The person who needs to read it the most is me,  
 2 and I have it. So it's part of the record.  
 3 MS. SMITH: All right. Thank you.  
 4 MS. LEWINTER: You're welcome.  
 5 Ms. Smith's request is to make sure that her  
 6 letter was part of the record, and it is.  
 7 All right. My apologies, Mr. Sloan. I think we  
 8 can go back to petitioner's rebuttal case. Mr. Sloan has  
 9 provided all of his information. You had stated that this  
 10 was an R-200 zone and were going to go through what is  
 11 permitted as a matter of right in the zone. Correct?  
 12 MS. ROGERS: Yes.  
 13 MS. LEWINTER: Thank you.  
 14 MS. ROGERS: If we could pull up Exhibit 40.  
 15 Thank you.  
 16 BY MS. ROGERS:  
 17 Q Mr. Sloan, under the R-200 zone, what development  
 18 would be allowed by right on this property?  
 19 **A So for the property, given its overall size, you**  
 20 **could theoretically get nine to 10 units on it based on the**  
 21 **development standards for a single family home. But these**  
 22 **densities aren't typically realized, because of other**  
 23 **things. Like you have to have proper road terminus for a**  
 24 **public road, and Ruby Drive is a public right of way. It**  
 25 **was originally intended to actually go further north, but it**

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1 **has a hammerhead turnaround now, which is not -- does not**  
 2 **accommodate fire access. So we would typically put in a**  
 3 **proper cul-de-sac for this road in this case. Because of**  
 4 **the property alignment, it would be entirely within the**  
 5 **subject property, and you could get eight units that would**  
 6 **fit within the development standards for R-200. And so this**  
 7 **is a case in which we, we the applicant, look towards the**  
 8 **general character of a neighborhood, what can we build, and**  
 9 **in this development try to stay in line with that. It's**  
 10 **quite unique for a senior living building to build more than**  
 11 **one building, as they have here with the eight buildings.**  
 12 **These units could be up to 45 feet tall. They could have 25**  
 13 **percent coverage of the lot. They would be subject to all**  
 14 **of the other standards, forest conservation, water quality**  
 15 **plan and whatnot, that are currently -- have been currently**  
 16 **submitted and have been approved.**  
 17 Q Thank you. And could the homes on Ruby Drive or  
 18 the ones that are south of West Old Baltimore be expanded to  
 19 be larger, say, between 40 and 50 feet tall and larger  
 20 footprints without any analysis regarding compatibility?  
 21 **A Yes. Any of the existing homes on Ruby Drive, on**  
 22 **West Old Baltimore, or in the neighborhood could expand.**  
 23 **They could increase their impervious area. They could be 40**  
 24 **to 50 feet tall, depending on their lot size. And existing**  
 25 **homes, interestingly, are exempt from water quality plan,**

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1 **special protection area, impervious caps.**  
 2 Q Several individuals have couched in their  
 3 testimony compatibility in terms of like a strict similarity  
 4 of our proposed cottages to the surrounding homes. While  
 5 the petitioner's testimony has attempted to illustrate that  
 6 the proposed cottages are in line with the size and  
 7 character of the surrounding homes, is that really the right  
 8 way to be looking at compatibility?  
 9 A **It's not the way we usually look at compatibility.**  
 10 **This case is quite unique. We have done many of these over**  
 11 **the past 30 odd years I've been doing this; and, without**  
 12 **exceptions, the projects that I've looked at have been a**  
 13 **single building. They've been with surface parking, all of**  
 14 **the outdoor space that you typically see with such a**  
 15 **facility. So we look at residential characteristics very**  
 16 **differently in those cases. And these are what we're**  
 17 **typically providing as findings to the hearing examiner. We**  
 18 **do look at overall height. We look at the roof type,**  
 19 **whether it's a gabled roof, rather than a flat roof, because**  
 20 **that typically indicates more of an industrial or**  
 21 **institutional use. We look at window sizing, spacing, type.**  
 22 **We look at the siding materials, and go into a great detail**  
 23 **about the design features of the building itself, whether**  
 24 **they have porches, whether they have awnings at their**  
 25 **entrances, those kind of elements.**

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1 **And when we're looking at compatibility of size,**  
 2 **because these are almost always single buildings, we're not**  
 3 **looking at square footage, we're not looking at the**  
 4 **footprint itself. We're looking at the width of the wings**  
 5 **of these buildings. And so we typically have wings of a**  
 6 **large building that will be roughly 40 to 50 feet, because**  
 7 **that is what most of the buildings around us are in on width**  
 8 **dimension.**  
 9 **So this proposal is different. We're looking**  
 10 **really – and we've made quite a long discussion about**  
 11 **whether or not these are similar or not to the existing**  
 12 **houses around. And I think it's – it's a benefit of the**  
 13 **project that that's the discussion we're having, rather than**  
 14 **about these finer technical points of design. The projects**  
 15 **we've done have ranged – the two most recent ones, 43 to 57**  
 16 **percent impervious area, building coverage maxed out at 25**  
 17 **percent.**  
 18 **There are similarities. We're providing open**  
 19 **space for the residents. We are, as I noted, talking about**  
 20 **building design language. We, of course, have surface**  
 21 **parking and access circulation. And the operations are**  
 22 **going to be similar. They're still the nursing, the dining,**  
 23 **and everything else that's been discussed in the operations.**  
 24 **But there's significant differences. The**  
 25 **applicant has taken it upon themselves to break this up into**

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1 **eight buildings. Their building coverage is at 14 percent**  
 2 **of the site area. The impervious coverage is around 36**  
 3 **percent. That's been discussed. This also doesn't have any**  
 4 **environmentally sensitive features on its site. Two**  
 5 **previous special exceptions, conditional uses that we did**  
 6 **with this type of facility both had stream buffers on site,**  
 7 **and we had to take consideration, mitigation and design of**  
 8 **environmentally sensitive areas to take care of those stream**  
 9 **buffers. We don't have that here. We're quite a distance**  
 10 **away from any stream buffers.**  
 11 Q And, just to clarify, if you looked at the  
 12 impervious area just on this site and excluded kind of  
 13 right-of-way improvements like the sidewalk and the like,  
 14 what would the impervious coverage be approximately?  
 15 A **So without the right-of-way improvements, which**  
 16 **include the sidewalk connections off to the west or the**  
 17 **east, we would be at closer to 34 percent.**  
 18 Q Could this use have been developed -- well, I  
 19 think you say this, but just to reiterate, could this use  
 20 have been developed on the property in one larger building?  
 21 A **Yes. It's much more typical.**  
 22 Q Thank you. And what is the maximum number of beds  
 23 that the code would permit for this use on this property?  
 24 A **So for this size property and the use standards**  
 25 **under the zoning ordinance, you could propose up to 169**

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1 **beds.**  
 2 Q It has been repeatedly suggested in testimony that  
 3 this is, you know, more of a commercial use. Just to  
 4 clarify the record, is that use classification correct?  
 5 A **It's not. This is classified as a residential**  
 6 **use.**  
 7 Q Switching to landscaping, does the proposed  
 8 landscape and lighting comply with the landscape and  
 9 lighting requirements of the zoning ordinance?  
 10 A **It does. Our screening requirements are one of**  
 11 **two options. The option that this applicant has selected is**  
 12 **a 12-foot minimum width with two canopy trees, four**  
 13 **understory or evergreen trees, eight large shrubs, 12 medium**  
 14 **shrubs along their – along their abutting property lines**  
 15 **with the R-200 zoning property, R-200 TDR properties.**  
 16 MS. ROGERS: As noted in the petitioner's case in  
 17 chief, the petitioner agreed to provide additional evergreen  
 18 screening along the western property boundary to respond to  
 19 requests received from the community following the Planning  
 20 Board hearing. We did submit a revised landscape plan into  
 21 the record. We note that adding those evergreens -- we  
 22 noticed that in doing so a layer got turned off on some of  
 23 the shrubs, and so we would like to introduce a revised  
 24 landscape plan, which I believe you have an e-mail to pull  
 25 up today for that, which made sure that layer was back on.

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1 The first one.  
 2 And so and I have a hard copy too. So we would  
 3 like to introduce this as an exhibit in the record.  
 4 MS. LEWINTER: Right. Do you want it to like  
 5 replace --  
 6 MS. ROGERS: I would like it to replace the one  
 7 that was submitted.  
 8 MS. LEWINTER: Do you know the number offhand?  
 9 MS. ROGERS: Yes.  
 10 MS. LEWINTER: I know Ms. Johnson was working on  
 11 this at the last minutes, so I'm not sure my --  
 12 MS. ROGERS: Exhibit 36.  
 13 MR. ROBINS: 36.  
 14 MS. LEWINTER: Okay. So this will be a  
 15 replacement Exhibit 36.  
 16 MS. ROGERS: Yes.  
 17 MS. LEWINTER: And I know she was going to try and  
 18 post that for everybody to see.  
 19 MS. ROGERS: Okay.  
 20 MS. LEWINTER: Okay.  
 21 BY MS. ROGERS:  
 22 Q Mr. Sloan, can you please walk through the  
 23 revisions of the initial evergreen landscaping that the  
 24 petitioner provided?  
 25 A Yes. We specifically worked on increasing the

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1 number of evergreens on or abutting lot 10 and lot 13, two  
 2 folks who have testified about concerns about lighting, and  
 3 placed those so that they would be in-between the lights on  
 4 the property and their subject property. So we've gone  
 5 above the requirement there.  
 6 Q Thank you.  
 7 MS. ROGERS: Regarding some questions on the  
 8 master plan, I note for the record Mr. Sloan has provided  
 9 in-depth testimony regarding the project's conformance with  
 10 the master plan. These are just intended to be some  
 11 supplemental questions.  
 12 Q Mr. Sloan, did you review Ms. Krishnan's testimony  
 13 submitted in the record on January 31, 2024 as Exhibit 22I?  
 14 A I did. I reviewed it in detail.  
 15 Q Thank you. Can you please just walk through that  
 16 testimony and provide your response to some of the points  
 17 raised?  
 18 A Yes. So technical staff does review this for  
 19 master plan conformance, and we agreed with their  
 20 assessment, but we take the comments and questions about  
 21 master plan requirements, in particular, the environmental  
 22 standards very seriously and wanted to make sure that we  
 23 were addressing them properly. So in going through her  
 24 testimony, I wanted to make sure that we had addressed all  
 25 of the careful points made. But we did have some trouble,

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1 as Ms. Rogers has noted, making sure that we understood the  
 2 quotations and took them as such.  
 3 So, for example, in point one, the statement about  
 4 being literally on top of Little Seneca Creek streams, we've  
 5 testified before and want to make sure it's clear that we're  
 6 .2 to .26 miles from the closest stream, and we do not have  
 7 any stream valley buffers or other critical environmentally  
 8 sensitive areas on our site. Also, any impacts to the  
 9 environment would not be non-inherent, and we want to  
 10 reiterate that because it's important to the findings for a  
 11 conditional use.  
 12 On the quote on page 149 of the master plan that  
 13 standard guidelines would be considered for other --  
 14 acceptable for other areas are insufficient for this  
 15 environmentally sensitive area, we agree, and that's  
 16 specifically why a water quality plan is required.  
 17 Sensitive areas, though, are defined as streams and stream  
 18 buffers, floodplains, steep slopes, and known habitats of  
 19 rare or threatened, endangered species. We typically just  
 20 call those RTEs. None of those apply to the subject site,  
 21 and everyone from the Maryland Department of Natural  
 22 Resources to the Department of Permitting Services to Park  
 23 and Planning staff all weigh in on these elements. The  
 24 quote is more of a paraphrase, as Ms. Krishnan has noted  
 25 that sometimes she had done, which we were able to follow,

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1 and that's fine. The key is that the extraordinary  
 2 attention that applies to this property is that it is in a  
 3 special protection area, and that special protection area  
 4 has separate regulations. It has a separate section of the  
 5 code for water -- for storm water management, which goes  
 6 through the water quality planning process. And it has a  
 7 separate section of the environmental guidelines that were  
 8 adopted in 2021. So these were put in place as regulations  
 9 for special protection areas so that they have -- that they  
 10 actually implement the more -- the more stringent  
 11 requirements. So a storm water management plan is typically  
 12 under Chapter 19, Article II, but a water quality plan is  
 13 under Chapter 19, Article V, and that article also includes  
 14 requirements for monitoring programs and coordinating  
 15 procedures, performance goals and requirements for  
 16 development in the SPA that will mitigate adverse impacts on  
 17 water resource areas during and after construction or other  
 18 land-disturbing activities. That's in the purpose clause  
 19 for that Section 1960.(b)(2). This project has submitted a  
 20 water quality plan. It has established the performance  
 21 goals necessary. And in that water quality plan I wanted to  
 22 point out that there is a geotechnical report in the report  
 23 that accompanies the water quality plan submission, and that  
 24 does include infiltration testing, and it does include test  
 25 pits, and none of the test pits actually found -- hit

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1 groundwater. So these elements for storm water management  
 2 will be above the water table for this area, which is  
 3 important to water quality.  
 4 So going a little bit further in 1B, the  
 5 impervious percentage, as noted, there is no impervious  
 6 percentage cap, and we are not within headwater area of the  
 7 master plan from any of the tributaries are quite ways  
 8 away. I think we've talked a good bit about that. I'm not  
 9 going to go into the impervious coverage on that piece.  
 10 Going on to point D about the master plan quote on  
 11 page 18 regarding efforts beyond the current environmental  
 12 guidelines that this master plan recommends, the next  
 13 sentence actually provides the specific way that this is  
 14 implemented and addresses this concern and says, This plan  
 15 protects the most sensitive environmental resources by  
 16 applying additional water quality review and monitoring  
 17 requirements, and this plan does comply with that. And that  
 18 data is provided in the water quality plan report that goes  
 19 along with the water quality plan.  
 20 The other quote on page 18 about protecting the  
 21 most sensitive areas in the watershed with a water quality  
 22 plan, etcetera has been done. The percentage of impervious  
 23 area, it actually determines the amount of water that you  
 24 have to control on site. And we did note that there is a  
 25 lot of Department of Environmental Protection monitoring of

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1 this that was established after the master plan. DEP is  
 2 required to monitor, and they track fish and macro  
 3 invertebrates, the bugs and things that are around, snakes  
 4 and frogs, the herpetofauna, stream habitat, physical and  
 5 chemical elements. These are all then used to inform  
 6 policy, and policy is updated in line with the findings of  
 7 that monitoring, for example, adding the special protection  
 8 area section to the environmental guidelines in 2021. So  
 9 the master – the Planning Board is specifically directed to  
 10 find conformance with the environmental guidelines for  
 11 special protection areas. We were curious because there are  
 12 quite a number of special exceptions allowed in residential  
 13 zones, and we actually looked at all of the – all of the  
 14 special exception – or special protection areas, all of the  
 15 special exceptions that are in R-200, RE-1 or RE-2 zones.  
 16 MS. LEWINTER: Can I just clarify? When you say  
 17 special exception, just because we're talking about special  
 18 protections --  
 19 MR. SLOAN: Conditional use.  
 20 MS. LEWINTER: Okay. That's what you mean. I  
 21 just wanted to be clear.  
 22 MR. SLOAN: Yeah.  
 23 A So we looked at – we looked at all those special  
 24 protection – special exceptions or conditional uses in  
 25 special protection areas because we wanted to make sure that

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1 we are not out of line with what has been approved in other  
 2 cases. And there are 14 special exceptions or conditional  
 3 uses with 32 percent or greater impervious area in special  
 4 protection areas in R-200, RE-1, and RE-2 zones. We did not  
 5 count accessory apartments because detached homes are  
 6 exempt. Existing detached homes are exempt from impervious  
 7 caps, and they would actually skew things I'll say -- I'll  
 8 say in quotes in our favor, because most single family homes  
 9 have more than 30 percent coverage of their lot with  
 10 impervious area.  
 11 MS. LEWINTER: So, again, just to make sure I'm  
 12 following you, what you said was you have counted 14  
 13 conditional uses granted with an impervious surface of over  
 14 32 percent in SPAs?  
 15 MR. SLOAN: Correct.  
 16 A Going a little bit further, the quote from page  
 17 139 on the Little Seneca Creek Watershed or sub basin, sub  
 18 watershed, this actually applies to the transit quarter  
 19 district, not the area of the Brink Road transitional that  
 20 we're within, so that is not an applicable element. And  
 21 West Old Baltimore Road is not mentioned at all on that.  
 22 That's a discussion of public road connections running  
 23 east-west. It's not about development. So we just wanted  
 24 to clarify that that's not applicable to this case.  
 25 The quote on 138 about extraordinary measures,

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1 we've discussed that about water quality plan is the  
 2 extraordinary measure, and the environmental guidelines  
 3 reviewed by the Planning Board and planning staff. Again,  
 4 this quote itself is actually taken from a bullet under the  
 5 paragraph describing the town center, which is further up in  
 6 the watershed and closer to the headwaters than we are, so  
 7 it's not directly attributable also.  
 8 In H I wanted to clarify because the placement of  
 9 the large facility that's noted in Ms. Krishnan's testimony  
 10 about being – placement being a non-inherent impact, I  
 11 wanted to make sure – I disagree with – I don't think  
 12 placement of a building, unless some characteristic of the  
 13 property itself forced that placement of a building, for  
 14 example, steep slopes pushed it towards something or away  
 15 from something, that would be a non-inherent effect or  
 16 impact, but not actually placement of a building on a site  
 17 that's not constrained otherwise.  
 18 A lot of these are repetitive quotes in the master  
 19 plan, because the master plan is, obviously, very concerned  
 20 with environmental impacts. The quote on 142, I in the  
 21 testimony about greatest – oh, we already talked about the  
 22 greatest constraints environmentally. They're not east of  
 23 270. They're west.  
 24 I'm trying not to be repetitive, but I want to  
 25 make sure I cover specific topics. The quote on 146.J about

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1 the headwaters again in comparable studies, the water  
 2 quality planning report and the environmental guideline  
 3 analysis, those are the studies that are reviewed by  
 4 technical staff and are prepared by expert professionals,  
 5 and those have been found to comply with the law or exceed  
 6 the requirements for the law.  
 7 It was brought up a couple times in this testimony  
 8 on bullet L under .1 about hazardous waste, laundry,  
 9 wastewater, etcetera. We're actually switching from a  
 10 septic system to a public sewer system. So anything like  
 11 laundry, or anything just like any home would go into the  
 12 public sewer system and be taken to a treatment facility.  
 13 It would not go into the groundwater in a septic field as it  
 14 does now. And, as I mentioned before, there have been  
 15 geotechnical reports and drilling to ensure that any of our  
 16 facilities for storm water management are above the water  
 17 table, and will not be leaching directly into groundwater.  
 18 And all of those are filtered through several layers of both  
 19 mechanical filters such as filtration cloths, or through  
 20 soils, sands, and gravel layers. So those are -- those are  
 21 the what used to be called BMPs, best management practices,  
 22 now called ESDs, environmental site design, required by  
 23 state law and carried out by each county differently.  
 24 Montgomery County is one of the strictest.  
 25 The other concerns that are raised in her

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1 testimony I think we've covered quite a bit. We are not in  
 2 any sensitive areas or their buffers. We are in the R-200  
 3 zone. It does not require a TDR overlay zone to allow such  
 4 a use. We are a residential use as codified, as I testified  
 5 earlier, by the County Council when they adopted the zoning  
 6 ordinance.  
 7 And questions about whether other parcels or other  
 8 areas are available is irrelevant to this case. And the  
 9 facts of this case need to stand on their own for this  
 10 property.  
 11 **BYMS. ROGERS:**  
 12 Q Thank you, Mr. Sloan. Continuing on with the  
 13 master plan, is the project in compliance with a  
 14 two-to-four-unit-per-acre recommendation of the master plan?  
 15 A Yes. I testified last time we were here about it  
 16 being an overall recommendation for this master plan area at  
 17 the Brink Road transition area. But, again, we wanted to  
 18 dive in a little bit deeper. We are not providing dwelling  
 19 units, and our impacts are different for those reasons.  
 20 We're providing beds. Dwelling units typically come with  
 21 different traffic and different requirements for schools,  
 22 for example.  
 23 In terms of the building form, we have the eight  
 24 buildings, which are approximately 1.7 buildings per acre.  
 25 The Brink Road transition area, it recommended an end-state

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1 development of up to 1,000 residential units. We looked at  
 2 every property within the Brink Road transition area, and,  
 3 to date, 953 units have been built or existing in this area.  
 4 So, if you want to think of it this way, there is capacity  
 5 for that number within that overall recommendation of units  
 6 per acre.  
 7 There is a separate -- someone has raised the  
 8 point that there is a separate restriction on unempoyment  
 9 uses and commercial uses. If you wanted to look at it that  
 10 way, this area allows up to 871,000 square feet of  
 11 nonresidential uses. Virtually none of that has actually  
 12 come to pass, and that would actually be closer to the  
 13 stream in the I3 zones, what used to be I3 zones when the  
 14 master plan was done.  
 15 Q Thank you. Is there a section of the master plan  
 16 that specifically discusses possible concerns about  
 17 groundwater contamination and strategies for addressing  
 18 those risks?  
 19 A Yes. Those are discussed on pages 148 through  
 20 150.  
 21 Q And in that section were certain sub watersheds  
 22 specifically noted as having higher potential for  
 23 groundwater contamination outside of the protective stream  
 24 buffers?  
 25 A Yes. In the category Branch Creek was

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1 specifically noted as having two areas identified out of  
 2 stream buffers for a higher potential groundwater  
 3 contamination. The area we're in was not noted as having  
 4 that particular concern. And, as I've noted, we've done  
 5 geotechnical analysis to ensure that we are above the water  
 6 table.  
 7 Q And for those with Cabin Branch Creek where there  
 8 was identified areas that had a higher potential for  
 9 groundwater contamination, what was the mechanism employed  
 10 in the master plan to address those concerns?  
 11 A The mechanism was putting those areas within a  
 12 special protection area.  
 13 Q Thank you. Are you familiar with Article V,  
 14 Chapter 19 of the Montgomery County Code?  
 15 A Yes. That's the water quality review and special  
 16 protection areas section of the code.  
 17 Q And just to reiterate for the record, at high  
 18 level what's the purpose of that article?  
 19 A So it implements monitoring programs in the SPA.  
 20 It establishes coordinated procedures, goals, criteria,  
 21 requirements for development in SPAs that will mitigate  
 22 adverse impacts on water resources during and after  
 23 construction or other land-disturbing activities. It  
 24 ensures that no wetland loss is as a result of development.  
 25 It authorizes a fee to administer and enforce this article,

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1 including monitoring development impacts on streams in SPAs.  
 2 And it provides a focused and coordinated approach with the  
 3 county water quality protection and monitoring SPAs.  
 4 Q And is this article applicable to this conditional  
 5 use application?  
 6 A It is. This application is subject to this  
 7 article.  
 8 Q And what plan is required to demonstrate  
 9 conformance with the article?  
 10 A That is the water quality plan.  
 11 Q And what agencies are involved in that review?  
 12 A MNCPPC, Montgomery County Planning Department, and  
 13 the Planning Board have authority over some aspects. DPS  
 14 and DEP have authority over other aspects.  
 15 Q And does the project comply with the environmental  
 16 guidelines which were, as you noted in your testimony,  
 17 specifically amended to address special protection areas?  
 18 A Yes. So the application had to be reviewed under  
 19 both of those pieces that I noted, the environmental  
 20 guidelines and the water quality plan review in connection  
 21 with a preliminary water quality plan. This will go through  
 22 two additional phases of discussion, but we did have to do  
 23 our initial analysis and reporting for the preliminary,  
 24 which was approved.  
 25 Q And does the water quality plan approval ensure

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1 that adequate protections and considerations for development  
 2 in SPA are given and assessed by the various local  
 3 government agencies in their review and approval of that  
 4 plan?  
 5 A It does. Each agency has its own experts in land  
 6 planning, in engineering, and in other elements of this  
 7 review, and they have to approve the plan.  
 8 Q Thank you. Did you have a chance to review the  
 9 letter submitted into the record by the Seneca Creek  
 10 Watershed Partners?  
 11 A Yes, I did.  
 12 Q Can you also please share just some of your  
 13 thoughts regarding a few of those points raised?  
 14 A Yes. I want to -- you know, again, it's brought  
 15 up that this is a property that is close to streams. It's  
 16 not that close to streams. We've noted it's .2 miles or  
 17 more away. Their points about a comprehensive environmental  
 18 assessment and mitigation measures being needed we  
 19 absolutely agree with. That is the process that we go  
 20 through. They mentioned dry ponds, and I think it's a --  
 21 it's a typo. We have dry wells on site, which is a way to  
 22 take in this case roof water from each of the -- each of the  
 23 buildings into an area that can contain and filter that  
 24 water and allow it to cool and allow pollutants and  
 25 siltation to be filtered out.

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1 Their suggestion that the high number of  
 2 engineered structures they call it suggests a significant  
 3 preexisting drainage issue is incorrect. There are no storm  
 4 water facilities on site right now. Everything sheet flows  
 5 from the site off to the surrounding properties. What is  
 6 provided is provided for post-development mitigation.  
 7 A couple other points. The houses with wells, if  
 8 you look at the topography of the area, the houses with  
 9 wells to our east in particular, they're at a higher  
 10 elevation, and all of our outfalls and drainage actually go  
 11 to the northwest and to the south to Ruby Drive into the  
 12 swale and the storm drain system there. We don't have water  
 13 that's flowing to the east of the site, so those areas are  
 14 not actually downstream of our drainage area or the  
 15 outfalls.  
 16 There was a note about highly-erodible soil and  
 17 limitations of drainage issues. If you look at the NRI FSD  
 18 that was approved, which is the natural resource inventory,  
 19 those soils are labeled and listed, and none of them are  
 20 highly erodible or hydric, which are two things that we  
 21 typically look out for.  
 22 The number of facilities is raised as a concern.  
 23 We're actually encouraged to provide more and smaller  
 24 facilities on site. The entire aim is to replicate the  
 25 drainage into the groundwater as if the site were forest in

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1 good condition. So you have many small facilities, rather  
 2 than one large facility, so that you can get groundwater  
 3 recharge in several areas, and so that if there is any one  
 4 small failure it's correctable without any catastrophic  
 5 issues such as the old dry ponds that would sometimes  
 6 overflow or have dam breaches. So that's -- the concern  
 7 about the number of them, I think, is misplaced, and it's  
 8 actually important to have many of them.  
 9 MR. MARTIN: Excuse me.  
 10 MS. LEWINTER: Yes. You have an objection?  
 11 MR. MARTIN: That statement about the drainage of  
 12 the water is not true at all. This property is at a higher  
 13 elevation than the houses at Ruby Drive. The water comes  
 14 off of this property down to Ruby Drive. So how can he say  
 15 the opposite?  
 16 MS. LEWINTER: Well, that's his testimony. And I  
 17 would register that you are objecting.  
 18 MR. SLOAN: So, to confirm, I would review the  
 19 conditional use plan, and you can see the contour elevations  
 20 and the drainage patterns that are shown on there.  
 21 MS. LEWINTER: Just to clarify, you're putting  
 22 that into the record --  
 23 MR. SLOAN: Into the record so that --  
 24 MS. LEWINTER: -- for the hearing examiner to  
 25 confirm because you have your --



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1 MR. SLOAN: Correct. Sorry.  
 2 A The Seneca Creek Watershed Partners, they're the  
 3 only one so far who has raised a particular concern about  
 4 variance trees being removed. That's part of the  
 5 preliminary forest conservation plan. It's an important  
 6 thing to understand. Removal of those requires a variance  
 7 that's approved by the Planning Board. They did approve.  
 8 So Montgomery County is one of the only counties around the  
 9 area that actually requires mitigation for removal of those.  
 10 Most counties, if they grant the variance, that's the end of  
 11 it. But Montgomery County, their policy is to actually  
 12 provide mitigation trees, and we provide, typically, three  
 13 trees per one removal so that we have – we replace the  
 14 long-term ecological services that those trees we agree  
 15 provide for the area.  
 16 So just a couple of clarifications, but some  
 17 important points that they raised that we wanted to make  
 18 sure we had addressed.  
 19 Q Thank you. Moving on to some questions on  
 20 impervious coverage, just to reiterate for the record since  
 21 it's been sometime since the last hearing, does the  
 22 Clarksburg Master Plan have a recommended impervious cap for  
 23 this property?  
 24 A It does not.  
 25 Q In your professional opinion, is the project in

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1 conformance with the impervious recommendations contained in  
 2 the master plan?  
 3 A It is. I agree with staff's analysis of this.  
 4 It's been suggested that there aren't experts looking at the  
 5 master plan recommendations. Having worked at the planning  
 6 department for many years, and then working as a  
 7 professional under review by the planning department, they  
 8 take them incredibly seriously, and they have several  
 9 experts in different fields that look at those. And the  
 10 Planning Board has to make specific findings, both in the  
 11 recommendation to the hearing examiner and when the  
 12 preliminary plan is reviewed about the master plan. It  
 13 recommends diverse housing opportunities, including housing  
 14 for elder populations. This zone does allow residential  
 15 care facilities as a conditional use. The project, as I  
 16 noted, has significantly less impervious than a typical  
 17 project of the same kind, and that was largely due to the  
 18 recommendations of the master plan pushing, if you will, the  
 19 design of the development in one way.  
 20 We have noted that a connection to Ruby Drive  
 21 would help us decrease our impervious area, and we could  
 22 probably be – I did a quick sketch design – less than 30  
 23 percent if we changed our access and came off of Ruby Drive  
 24 with a simplified road system, fire access and so we would  
 25 need fewer – of course, we wouldn't need the drive access

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1 on West Old Baltimore, and our sidewalk configuration would  
 2 be a little bit different.  
 3 The environmental site design facilities that we  
 4 provide were not contemplated in 1994. We had best  
 5 management practices. They were just coming into being. It  
 6 was so we – we again are mitigating the impact of  
 7 impervious. The impervious area sets the calculation  
 8 requirements. It does not have a cap on it.  
 9 Q Thank you. And I know you touched on this a  
 10 little bit. If you could, just dive a little bit further  
 11 into whether the proposed impervious coverage of this  
 12 project is in line with other special exception uses.  
 13 Similarly in SPAs, I know you mentioned, for example, the  
 14 overall number that over 30 percent, but kind of diving  
 15 further into how many of those are in Clarksburg and some of  
 16 your other numbers will be helpful.  
 17 A Yes. So, as I noted, there are five special  
 18 protection areas. Three of those have overlay zones.  
 19 Overlay zones are zones put on top of your base zoning. For  
 20 those who aren't aware, that can increase or decrease the  
 21 requirements or standards for a property. These overlay  
 22 zones for the special protection areas, some of them  
 23 actually allow more uses. Some of them have specific  
 24 requirements for impervious caps. Overlay zones are  
 25 different. There's not an overlay zone for this area of the

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1 Clarksburg SPA. There are two overlay zones to our north  
 2 and to our west. We've done a lot of development in those  
 3 areas. We've done development in the overlay zone to the  
 4 west, and Tennile Creek and that was for a senior living  
 5 project that actually had 40 – over 40 percent impervious  
 6 area. And, again, the impervious area dictates how a water  
 7 quality plan is completed. It's not a – it's not a  
 8 specific number to reach. So, from a planning perspective,  
 9 those zoning standards are very different in the overlay  
 10 zones than the master plan recommendations, for which the  
 11 standard of review is substantial conformance. It's not a  
 12 direct standard, regulatory standard. And even then there  
 13 are exemptions and waivers that are allowed in SPAs.  
 14 So, as I noted, we looked at all of the special  
 15 protection areas and the special exceptions conditional uses  
 16 within them for the three low-density residential zones.  
 17 There are 80 projects, excluding, as I noted, accessory  
 18 apartments. 13 of those or 14 of those have over 30  
 19 percent. There are four in the Clarksburg area SPA that are  
 20 actually over 30 percent. So this is not unusual for these  
 21 zones. And even in the upper Paint Branch and the upper  
 22 Rock Creek overlay zones, which have an eight percent cap,  
 23 there are 42. So over half of the special exceptions of  
 24 conditional uses are over the cap in the zoning ordinance,  
 25 just to reiterate that that's not – that's not the focus.

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1 **The focus is water quality in the end, not the number in the**  
 2 **beginning.**  
 3 Q Thank you. And just to reiterate for the record,  
 4 how does the proposed impervious coverage compare with other  
 5 more traditional senior living developments?  
 6 A So, as I noted, the two most recent ones we did at  
 7 a 43 to 57 percent impervious coverage, one large building,  
 8 25 percent building coverage, and both had stream buffers.  
 9 This one breaks that massing down into much less impervious  
 10 coverage and building coverage, and we do not have any  
 11 stream buffers or sensitive environmental areas on site.  
 12 Q And just because I think it's important for the  
 13 record, can you please reiterate whether the petitioner  
 14 would have been able to decrease impervious coverage on the  
 15 property had they not reconfigured the site to accommodate  
 16 vehicular access off of West Old Baltimore?  
 17 A Yes. By moving the access to West Old Baltimore,  
 18 if we had gone back to Ruby Drive, we could have decreased  
 19 the impervious area by about five percent.  
 20 Q Okay. Moving on to inherent versus non-inherent.  
 21 To reiterate for the record, the Park and Planning staff and  
 22 the Planning Board, in fact, in their recommendations  
 23 identify the Clarksburg SPA as a non-inherent effect  
 24 associated with this proposed residential care facility?  
 25 A No, they did not.

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1 Q And non-inherent adverse effects are physical and  
 2 operational characteristics not necessarily associated with  
 3 the particular use, or adverse effects that are created by  
 4 unusual characteristics of the site. In your professional  
 5 opinion, can you reiterate for the record whether you  
 6 believe the property's location within an SPA should be  
 7 considered a non-inherent condition?  
 8 A I don't believe it should be. It's not a  
 9 characteristic of the site. It's a regulatory framework  
 10 overlaid on a general area, regardless of site constraints,  
 11 and, therefore, not an element under a non -- not a  
 12 non-inherent condition. That's a double negative.  
 13 Q Even if the hearing examiner were to disagree and  
 14 find the property's location with an SPA was an inherent  
 15 condition, in your professional opinion, would that  
 16 non-inherent condition have any adverse impacts on the  
 17 surrounding neighborhood?  
 18 A No. If it was determined that the SPA was a  
 19 non-inherent condition of the property, the water quality  
 20 plan is the mechanism specifically by which it is ensured  
 21 that it's not -- would not have an adverse impact. And the  
 22 environmental guidelines also are an element of the  
 23 regulatory framework to ensure that there's not an adverse  
 24 impact.  
 25 Q And, Mr. Sloan, would it be appropriate for the

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1 hearing examiner to add a condition that requires this  
 2 conditional use to comply with the requirements of the water  
 3 quality plan?  
 4 A It would be. It's been done in other cases to  
 5 ensure compliance. There was a condition for creating  
 6 Memories Children's Learning Center that required compliance  
 7 with the conditions of approval of water quality plan,  
 8 approved by the Planning Board and Department of Permitting  
 9 Services. Adding that condition to this approval would be  
 10 appropriate.  
 11 Q And, just for the record, is it true that DPS has  
 12 already determined that this conditional use meets the  
 13 requirements when they approve the water quality plan?  
 14 A It has. But, as I noted, it has to go through two  
 15 more steps, and we would be fine ensuring that compliance  
 16 with the final water quality plan approval is followed by  
 17 this application.  
 18 Q In the break between the last hearing and this  
 19 one, is there anything that would have changed regarding  
 20 your professional opinions and testimony that's already in  
 21 the record regarding the project's compliance with all of  
 22 the requirements of the zoning ordinance, meeting both the  
 23 specific use and development standards, and the project's  
 24 substantial conformance with the master plan?  
 25 A No, I would not change my opinion.

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1 Q Is there anything else you'd like to add?  
 2 A There have been concerns raised about whether or  
 3 not things are submitted, reviewed by experts, and I want to  
 4 assure folks that are concerned that these elements are  
 5 taken very seriously. Myself, the engineers, the other  
 6 landscape architects and planners, we're licensed  
 7 professionals. We are required to uphold the health,  
 8 safety, and welfare of communities, and our plans are  
 9 submitted to meet or exceed the requirements of the law.  
 10 And the people reviewing them also, I know, take them very  
 11 seriously, and they're also experts in their fields when  
 12 they recommend approval. So it's not something that we are  
 13 taking lightly, and that's why we've gone into such depth,  
 14 maybe too much depth on ensuring that we've reviewed all of  
 15 this testimony that we've heard with legitimate questions  
 16 and concerns, and we want to ensure that they're properly  
 17 addressed.  
 18 (Ms. Duffin speaking off mic.)  
 19 MS. LEWINTER: Ms. Duffin.  
 20 Any other questions?  
 21 I'm sure we'll get to cross. And I was going to  
 22 ask -- I was asking if --  
 23 MS. ROGERS: No more questions. Thank you.  
 24 MS. LEWINTER: Okay. So if you have  
 25 cross-examination questions, if you can raise your hand, and

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1 then we'll just kind of go in order. Ms. Duffin, if you  
 2 want to come up first.  
 3 CROSS-EXAMINATION BY MS. DUFFIN  
 4 Q I just had a question. It's not an examination.  
 5 You were stating -- you had commented on other facilities  
 6 that you -- that have been done that eight buildings, then  
 7 one building. My question is --  
 8 Wait. What?  
 9 MS. LEWINTER: Can you turn the microphone?  
 10 MS. DUFFIN: Sorry.  
 11 My question is, were those facilities in a  
 12 residential development like Ruby Drive, and, you know,  
 13 Hurley Ridge, like ours? You stated -- I don't know how far  
 14 back, because it was a lot. Just saying -- that there were  
 15 other facilities that you worked on that was like one  
 16 building and then there was other buildings. My question  
 17 that I was wondering is, is it in a development? Is it in a  
 18 residential setting such as ours?  
 19 **A Yes. They're both in -- sorry. They're both in**  
 20 **RE-1 or RE-2 zones, and they were both abutting single**  
 21 **family housing.**  
 22 Q Same setting as ours, like on a street with the  
 23 houses to the property?  
 24 **A They were each on a street with abutting**  
 25 **residential properties around them. Yes.**

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1 MS. DUFFIN: Okay. That was my only question.  
 2 MS. MARTIN: I just have one question.  
 3 MS. LEWINTER: Okay.  
 4 CROSS-EXAMINATION BY MS. MARTIN  
 5 Q I guess -- I've listened to all the testimonies,  
 6 but I'm still not clear who exactly did the water testing.  
 7 Is it your company?  
 8 **A No. The water quality plan report and I --**  
 9 MR. SLOAN: Is there an exhibit that we could  
 10 bring up?  
 11 **A So the water quality plan report was done by the**  
 12 **civil engineer, Endesco. They rely, in turn, on a**  
 13 **geotechnical engineer. And so there are -- that is all done**  
 14 **in the record. We can pull it up to show you.**  
 15 Q No. You don't have to pull it up. I just -- I'm  
 16 just question -- so Endesco, which is also affiliated with  
 17 Worldshine, hired them to do their survey. So it wasn't  
 18 done by Montgomery County people? It was done by a separate  
 19 entity?  
 20 **A Montgomery County staff, either at the county or**  
 21 **at Park and Planning, they do not provide any of the data**  
 22 **for the application. The applicant is responsible to get**  
 23 **the right professionals to provide that information. It's**  
 24 **reviewed by the county staff and Park and Planning staff.**  
 25 Q So they picked who they wanted to do this review?

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1 MS. DUFFIN: -- be licensed for well and septic?  
 2 MS. LEWINTER: Okay. One --  
 3 MS. DUFFIN: Sorry.  
 4 MS. LEWINTER: Ms. Martin's question.  
 5 **A The information that is provided in those reports**  
 6 **has to be done by a licensed professional in their field.**  
 7 Q Okay. And that licensed professional is  
 8 determined by the person who hires them, so they could  
 9 easily be influenced in a way that may or may not be  
 10 completely kosher?  
 11 **A That would be an unethical standard of practice.**  
 12 MS. MARTIN: Which happens a lot. That's all my  
 13 point is.  
 14 MS. LEWINTER: Thank you.  
 15 Yes, sir.  
 16 MS. DUFFIN: That's crazy.  
 17 MS. MARTIN: It is crazy. It should be --  
 18 MS. LEWINTER: Okay.  
 19 MR. CINQUE: Do I have to say my name?  
 20 MS. LEWINTER: No. Mr. Cinque, we've got it.  
 21 CROSS-EXAMINATION BY MR. CINQUE  
 22 Q Yeah. Just to confirm, if you could, I forget  
 23 your name and what organization you're from. But I know at  
 24 the last meeting we had some expert testimony, and later  
 25 found out that they had a financial interest in this

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1 particular company.  
 2 MR. CINQUE: So can we confirm that there's no  
 3 financial interest here?  
 4 MS. LEWINTER: You can ask Mr. Sloan -- this is  
 5 Mr. Sloan -- if he has -- what his relationship is with the  
 6 petitioner.  
 7 Q Okay. Do I have to restate that?  
 8 **A No. I can --**  
 9 MS. LEWINTER: You can take that question.  
 10 MR. SLOAN: Okay.  
 11 MS. LEWINTER: If you can explain your financial  
 12 relationship with the petitioner.  
 13 **A So I've been hired as a consultant. I'm a**  
 14 **landscape architect and certified planner. I have no**  
 15 **financial ties. Whether this project succeeds or fails does**  
 16 **not influence my opinion, and I don't get anything from it.**  
 17 Q Okay. You have no financial connections to it,  
 18 other than whatever you're paid as a salary, correct?  
 19 **A Well, not as a salary, but yes --**  
 20 MS. LEWINTER: Are you paid hourly?  
 21 MR. SLOAN: Yeah.  
 22 MR. CINQUE: Yeah, yeah. Okay. All right. Thank  
 23 you.  
 24 MS. LEWINTER: Are there any other  
 25 cross-examination questions?

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1 MS. KRISHNAN: Just one question.  
 2 MS. LEWINTER: Ms. Krishnan.  
 3 MS. DUFFIN: Can I ask? I just have one more  
 4 question.  
 5 MS. LEWINTER: One more?  
 6 MS. DUFFIN: Excuse me.  
 7 RECROSS-EXAMINATION BY MS. DUFFIN  
 8 Q So you stated that for the well that -- the  
 9 gentleman in the back that's resting right now, he's the one  
 10 that's testing the well and septic. I wanted to know if  
 11 he's aware how deep our wells are at this point, if he's --  
 12 MS. LEWINTER: That would have to be a question  
 13 for -- unless you know, Mr. Sloan, how deep their wells are.  
 14 MS. DUFFIN: I can only ask him that?  
 15 MS. LEWINTER: You can only ask him that.  
 16 BY MS. DUFFIN:  
 17 Q Okay. So then I'm going to ask you. Did the  
 18 engineer check our wells? Is he aware of our -- the depth  
 19 of our wells on Ruby Drive?  
 20 **A I don't know.**  
 21 Q Is there anything stated in any of the records of  
 22 the depth of our wells?  
 23 MS. LEWINTER: Well, if Mr. Sloan doesn't know --  
 24 MS. DUFFIN: No. I'm --  
 25 Q Is there anything, Mr. Sloan, in the records about

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1 our wells? If he's tested and is saying that we won't be  
 2 affected, is there anything in your records or whatever  
 3 on --  
 4 **A I had not seen anything in the records that states**  
 5 **the depth of your wells.**  
 6 Q So how can he say they're going to be okay? I'm  
 7 confused. I don't understand that then, if nobody's come  
 8 out to see the work that's going to be done within feet.  
 9 MS. LEWINTER: Ms. Duffin, you can explain in your  
 10 closing argument that this is a credibility issue for you or  
 11 something but --  
 12 Q Okay. So you don't know?  
 13 MS. LEWINTER: He does not know. He stated that  
 14 on the record.  
 15 Okay. Ms. Krishnan, you had some questions?  
 16 CROSS-EXAMINATION BY MS. KRISHNAN  
 17 Q So you said that there were 14 in the SPA areas.  
 18 Is that all in the Clarksburg SPA?  
 19 **A So we analyzed all five of the SPAs.**  
 20 Q Within --  
 21 **A So there's Clarksburg, there's Piney Branch,**  
 22 **there's Clarksburg East, Clarksburg West. They're split.**  
 23 **There's Upper Paint Branch, and there's Upper Rock Creek.**  
 24 **We looked at the special exceptions in all of them.**  
 25 Q Okay. And there were 14 of them which had around

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1 30 percent imperviousness?  
 2 **A There are -- I can go through them, if you'd like.**  
 3 Q No. Just tell me --  
 4 **A Okay.**  
 5 Q There are 14. And of which how many were in RE-1  
 6 and how many of them were in R-200 versus RE-1 and RE-2  
 7 among the 14?  
 8 **A I didn't break that out.**  
 9 Q You didn't think that was necessary to break out,  
 10 given that we're talking about R-200s?  
 11 **A The RA-1 and the RA-2 actually have -- typically**  
 12 **they have a larger lot area, and so less coverage. So we**  
 13 **are trying to be conservative in our estimates.**  
 14 Q Okay. And in the 2014 Clarksburg Amendment that  
 15 happened in 2014 to the Clarksburg Master Plan, the Tenmile  
 16 Creek was given a six percent impervious, and the east of  
 17 270, which this area falls in, was recommended at 15  
 18 percent. Even though you can parse it around -- of course  
 19 you can parse it around based on what you think of east of  
 20 270, but is there any reason why you would think this area  
 21 should not have the same 15 percent imperviousness in terms  
 22 of just the fact that the whole area is sensitive? And if  
 23 one portion north of it has 15 percent, don't you think that  
 24 the same, you know 15 percent, given that it's also an  
 25 R-200, shouldn't that be also considered? Is that something

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1 that you can opine on, given your expertise?  
 2 **A Given my expertise and what the County Council**  
 3 **voted on, they established the boundary of that 15 percent**  
 4 **impervious cap as the Clarksburg East overlay zone, and did**  
 5 **not include this area of Clarksburg in that overlay zone for**  
 6 **a reason.**  
 7 Q So they left it to say it could be anything, and  
 8 it could be on a case-by-case basis, which could be, again,  
 9 construed back to the master plan where it says every inch  
 10 matters?  
 11 **A Every inch does matter --**  
 12 Q Correct.  
 13 **A -- and that's what goes into calculation of the**  
 14 **water quality plan. I agree with that.**  
 15 Q Okay. So every inch matters, and that's why the  
 16 limit was not put for this particular area east of 270, even  
 17 though east of 270 did have a 15 percent?  
 18 MS. ROGERS: Is there a question?  
 19 MS. KRISHNAN: There is a question, yeah.  
 20 **A It was not in the overlay zone that has a 15**  
 21 **percent cap.**  
 22 MS. KRISHNAN: Okay. Thank you.  
 23 MS. LEWINTER: Are there any additional  
 24 cross-examination questions for Mr. Sloan?  
 25 Did you have any rebuttal, or -- sorry --

<p style="text-align: right;">173</p> <p>1 redirect?</p> <p>2 MS. ROGERS: No.</p> <p>3 MS. LEWINTER: Okay. Thank you.</p> <p>4 Thank you, Mr. Sloan.</p> <p>5 Did you have any other witnesses you wanted to</p> <p>6 call on rebuttal?</p> <p>7 MS. ROGERS: One second. Sorry.</p> <p>8 MS. LEWINTER: Sure.</p> <p>9 (Counsel confer.)</p> <p>10 MS. ROGERS: No.</p> <p>11 MS. LEWINTER: Wonderful. Thank you. Okay. So</p> <p>12 that will conclude the testimony presentation of the case.</p> <p>13 So in terms of closing arguments -- well, first</p> <p>14 let me ask. Did you want all of the exhibits --</p> <p>15 MS. KRISHNAN: I think there's some --</p> <p>16 MS. LEWINTER: Oh, I'm sorry. Was there</p> <p>17 something? Thank you. Thank you very much, Ms. Krishnan.</p> <p>18 I keep forgetting.</p> <p>19 Was there any -- yes, Ms. Smith. Okay. Just give</p> <p>20 us one second. Ms. Smith, give us one second.</p> <p>21 Okay. Ms. Smith, can you hear me?</p> <p>22 MS. SMITH: Yes.</p> <p>23 MS. LEWINTER: All right. Did you have questions</p> <p>24 for Mr. Sloan?</p> <p>25 CROSS-EXAMINATION BY MS. SMITH</p>	<p style="text-align: right;">175</p> <p><b>1 record.</b></p> <p>2 Q Okay. That makes sense, but it still exists</p> <p>3 there, and it's still part of hydraulics that the homeowners</p> <p>4 have looked into and are asking questions about the level of</p> <p>5 the water on Ruby Drive, not just your side of Ruby Drive,</p> <p>6 because it's an equity issue when you have eight houses --</p> <p>7 MS. LEWINTER: Ms. Smith, this is an opportunity</p> <p>8 to ask questions, not for additional testimony.</p> <p>9 Q So what is the equity issue that you see with Ruby</p> <p>10 Drive, or is there any with the well water and the aquifer?</p> <p><b>11 A I don't know of any equity issue.</b></p> <p>12 Q Because it's not in the regulatory review?</p> <p>13 MS. LEWINTER: He said that he does not see an</p> <p>14 equity issue.</p> <p>15 MS. SMITH: Okay. Thank you.</p> <p>16 MS. LEWINTER: Thank you.</p> <p>17 MS. SMITH: Thank you for answering my questions,</p> <p>18 and thank you for reviewing the Seneca Creek Watershed</p> <p>19 Partners letter.</p> <p>20 MS. LEWINTER: All right. Is there anybody else</p> <p>21 on Zoom who has any questions for Mr. Sloan?</p> <p>22 MS. ABYANEH: I have a clarification question, if</p> <p>23 possible.</p> <p>24 MS. LEWINTER: Yes. Since we haven't heard from</p> <p>25 you before, Ms. Abyaneh -- I apologize if I'm saying that</p>
<p style="text-align: right;">174</p> <p>1 Q I have a question about the Piedmont SSA Aquifer</p> <p>2 that we wrote about in the Seneca Creek Watershed Partner</p> <p>3 letter. That is -- the edge of that is along that Ruby</p> <p>4 Drive area. So the -- it wasn't that you're -- it is that</p> <p>5 you're doing extra hydraulic work for the property itself,</p> <p>6 but -- and that the water would go downstream. But when you</p> <p>7 have an aquifer like that where people right next to you in</p> <p>8 a small R-200 are colliding on that aquifer fragments in the</p> <p>9 ground for the well water, which sometimes is less than a</p> <p>10 hundred feet, then that was a significant water thing that</p> <p>11 is not necessarily part of the overlay or part of East</p> <p>12 Clarksburg, and that's why it was explained in the letter</p> <p>13 that that needs to be reviewed for this area on Ruby Drive.</p> <p>14 MS. LEWINTER: Ms. Smith, do you have a question</p> <p>15 for Mr. Sloan?</p> <p>16 MS. SMITH: Yes. He did not bring that up. So</p> <p>17 that would be my question, why was the aquifer aspect --</p> <p>18 along with what the landowners were saying about their well</p> <p>19 water, I think that's significant. The water quality</p> <p>20 testing is required by the -- to be done before continued</p> <p>21 construction.</p> <p>22 MS. LEWINTER: All right. I'm going to let</p> <p>23 Mr. Sloan address that.</p> <p><b>24 A I didn't bring it up because it's not part of the</b></p> <p><b>25 regulatory review for the plans that we submitted in the</b></p>	<p style="text-align: right;">176</p> <p>1 wrong.</p> <p>2 MS. ABYANEH: Yeah. No problem. Yeah. Fojan</p> <p>3 Abyaneh. I live at 13 Ivy Leaf Court in Boyds, which will</p> <p>4 be right behind the new development.</p> <p>5 MS. LEWINTER: Okay. And if you could give us</p> <p>6 your e-mail address.</p> <p>7 MS. ABYANEH: Sure. It's my first name,</p> <p>8 fojan.solimane@gmail.com.</p> <p>9 MS. LEWINTER: Thank you. If you want to ask your</p> <p>10 question of Mr. Sloan.</p> <p>11 CROSS-EXAMINATION BY MS. ABYANEH</p> <p>12 Q Sure. I believe this will go off of Ms. Duffin's</p> <p>13 question about the other location of Worldshine. You</p> <p>14 mentioned that the other locations are also in residential</p> <p>15 developments; is that correct?</p> <p><b>16 A Yes.</b></p> <p>17 Q Okay. Because, as far as I see, the Worldshine in</p> <p>18 Germantown is next to a lot of commercial developments,</p> <p>19 which is a dental lab and a data corporation. Are you aware</p> <p>20 of that?</p> <p><b>21 A No. I was not referring to that project.</b></p> <p>22 MS. ABYANEH: Okay. All right. Thank you.</p> <p>23 MS. LEWINTER: Is there anyone else on Zoom who</p> <p>24 has any questions for Mr. Sloan?</p> <p>25 Okay. Seeing none, we can proceed with closing.</p>

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1 Thank you, Mr. Sloan.  
 2 I'm going to just ask the petitioner -- typically,  
 3 I allow the petitioner to go last since you have the burden  
 4 of proof. Is there any reason that you'd want --  
 5 MR. ROBINS: No. That's fine.  
 6 MS. LEWINTER: Okay. So that means that those in  
 7 opposition get to present closing first. Closing is really  
 8 just a summary statement of your main arguments. Again,  
 9 it's not an opportunity to present new information, or new  
 10 points, or new testimony. It's just conclusions that you  
 11 would like to make sure that people are aware of that -- you  
 12 know, you're trying to help my thinking in terms of  
 13 processing all of the information that has been put before  
 14 us in the last two hearings. Because there are a lot of  
 15 you, I would just ask to be respectful of the fact that, if  
 16 somebody just said everything you want to say, you don't  
 17 necessarily need to repeat it. And, again, this is not  
 18 testimony. It's not considered as evidence. So it's  
 19 completely voluntary. Would anybody like to make a closing  
 20 statement? I see Ms. Duffin. Is there anybody else? So  
 21 one, two, three, four, five. Okay. Ms. Duffin, you can go  
 22 first.  
 23 MS. DUFFIN: Here we go again. I just want to  
 24 state that this is the first time that they've done a  
 25 project like this. They said that multiple times. So it

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1 puts a lot of question in my head they really don't know  
 2 because they have not done anything of this before. So a  
 3 lot of it is guesswork. A lot of it is I'm hoping and I  
 4 think.  
 5 I am concerned about the well. So with that being  
 6 said, Mr. Kevin back here is the engineer. He is in charge  
 7 of the well and the septic is what I'm told. I want to know  
 8 if -- I have it noted that he has not checked our wells. He  
 9 has not checked the depth of our wells. He has no idea  
 10 anything on our wells. And he is the engineer for the  
 11 project; that's correct? Right?  
 12 He also purchased the lot in Endesco's name across  
 13 from the property, which makes me wonder what else is going  
 14 on with him and with Mr. Quinn Lee, the owner of Worldshine  
 15 which nobody's ever met. There's a lot of question in my  
 16 head on what's going on with the multiple properties that  
 17 they own on our street, a vacant lot now that they purchased  
 18 across from Reinhold's property, which is their most recent  
 19 property that they're exiting onto now. It's a lot of  
 20 question in my head what's the intent. You know, multiple  
 21 times we've had people come to buy our property, almost  
 22 bullied like about our property, that we need to, you know,  
 23 give up a piece of our lot to them. So it's just a lot of  
 24 question.  
 25 Well water and septic is huge if this project goes

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1 through, and nobody's able to tell us other than it's good,  
 2 water's good. You know, and I heard the lawyer over here  
 3 saying about we can tap in. Who's gonna pay for that? I'm  
 4 not paying for that. My water's free right now. It's gonna  
 5 be free, unless they're paying for all of us to tap in.  
 6 So I guess that's my closing. You know, you guys  
 7 really aren't answering certain questions that are high on  
 8 our question list. And it's a lot of -- I don't know --  
 9 shadiness going on with the business itself, including the  
 10 residential properties that they have on the street. That's  
 11 it. Thank you.  
 12 MS. LEWINTER: Mr. Pajot?  
 13 MR. PAJOT: Sure.  
 14 MS. LEWINTER: I'm trying to remember who raised  
 15 their hands in what order.  
 16 MR. PAJOT: No worries. This one I prepared.  
 17 Ms. LeWinter, as this hearing on the proposed land  
 18 use development comes to its conclusion, I want to emphasize  
 19 the significance of the decision before you. The future of  
 20 this community hangs in the balance, and it is your  
 21 responsibility to ensure that any changes to land use align  
 22 with the best interests of all stakeholders involved.  
 23 Throughout this process, you have heard impassioned  
 24 testimony from both sides, those advocating for the proposed  
 25 development, and those expressing heavy concerns about its

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1 potential impact. It is your duty to make an informed  
 2 decision guided by the principles of sound land use  
 3 planning, and by weighing the facts that will impact the  
 4 local community not only now, but in the future as well.  
 5 First and foremost, you must consider the impact  
 6 of this development on the surrounding environment, and  
 7 whether it will preserve green spaces, protect wildlife  
 8 habitats such as for our local hawks, owls, and potentially  
 9 endangered species, and mitigate any potential risks to air  
 10 and water quality. You cannot be willing to compromise the  
 11 integrity of our natural resources for tax revenue.  
 12 Equally important is the effect this development  
 13 will have on the character and livability of our community.  
 14 The applicant's associates have testified that they have  
 15 never operated this type of business, and, therefore, you  
 16 must consider that they have no real knowledge of its  
 17 compatibility or long-term impact. You must consider  
 18 whether this project will enhance the quality of life for  
 19 current residents and foster a sense of place and belonging.  
 20 You must consider whether it will negatively impact property  
 21 values of current residents who have invested life savings  
 22 into their homes. You must prioritize the long-term  
 23 sustainability and resilience of our neighborhoods.  
 24 Furthermore, you must evaluate whether the  
 25 proposed land use is just the first step of a much bigger

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1 plan, given the various land acquisitions by the applicant  
 2 and his associates. Giving the green light for this  
 3 proposal will undoubtedly yield further erosion of our  
 4 community and its natural resources in the long term as the  
 5 applicant looks to expand.  
 6 In conclusion, I urge you to deliberate  
 7 thoughtfully and conscientiously on this matter. Please  
 8 consider not only the interests of the applicant, but, more  
 9 importantly, the needs and aspirations of the broader  
 10 community. You are in a position to decide what this place  
 11 we call home will look like for generations to come.  
 12 Thank you.  
 13 MS. LEWINTER: Thank you.  
 14 Ms. Krishnan.  
 15 MS. KRISHNAN: Ms. LeWinter, thank you for taking  
 16 the time today and allowing us to express our concerns. I  
 17 do realize that, you know, there's been a lot of  
 18 personalization of the issues, and, you know, specifying  
 19 people's addresses and locations here, which kind of  
 20 indicated to me that there's a lot more that the applicant  
 21 feels that they need to do, and, rather than providing the  
 22 data or providing that support, they are trying to shame  
 23 and, you know, bully the people who might have real  
 24 concerns.  
 25 The issue or, you know, trying to conflate the

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1 fact that there are eight units as eight houses, and somehow  
 2 that the imperviousness of eight single family homes would  
 3 somehow be -- again, the 35 percent seems to be the common  
 4 theme here. The fact is that the imperviousness, along with  
 5 the 120 people, plus the 70 employees, all of that together  
 6 do not conform to or not equivalent to having eight single  
 7 family homes, which would be having, you know, less than 15  
 8 percent impervious per lot. There would be grass. There  
 9 would be, you know, lots of -- you know, the imprint is  
 10 different because these are actual units where -- you know,  
 11 it's like an apartment complex. It's 120 people, plus 70  
 12 employees.  
 13 So the conflation stuff, as a nonexpert and as a  
 14 regular resident who have jobs and lives and families, it is  
 15 tough to obviously argue against a lawyer. But the concern  
 16 is I hope you still realize that it's valid that putting  
 17 something with 200 people in a location with eight  
 18 buildings, close to 8,000 to 8,500 square feet with multiple  
 19 traffic impacts is not something that you would expect to  
 20 see in an R-200 of that -- in this specific R-200 on Ruby  
 21 Drive and West Old Baltimore Road.  
 22 I just think that the ability to communicate with  
 23 the hearing board or even with the applicant was limited,  
 24 and it was on purpose in terms of trying to get limited  
 25 engagement. And, you know, again, you know, doing the best

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1 we can, we have done what -- we have conveyed the concerns  
 2 of multiple residents, individuals within our communities  
 3 across different neighborhoods, not just my own  
 4 neighborhood, but different neighborhoods who have come and  
 5 showed and talked to the Planning Board. They have sent  
 6 their letters, so it's not that, you know, the four people  
 7 who can come here are the ones who can afford to come here.  
 8 The rest of them are working and making a -- you know,  
 9 making their living.  
 10 So with that said, again, I would like to implore  
 11 you to examine both the -- not just the regulations, but  
 12 also adhere to the spirit of the Clarksburg Master Plan and  
 13 the following amendments, rather than doing a, you know,  
 14 check-box exercise of saying this facility has done what it  
 15 barely needs to do.  
 16 I do reiterate the fact that, in order to keep the  
 17 R-200 at the 15 to 19 percent, which even larger communities  
 18 have held, in addition to imperviousness, there's a  
 19 combination of putting green space, which other communities  
 20 have done in the area, not try to pick and choose the  
 21 highest and try to just meet the bar, or, you know, try to  
 22 be one more in that, and try to adhere to the spirit of the  
 23 Clarksburg Master Plan and the amendments, and try to  
 24 maintain within the 15 to 19 percent imperviousness so that  
 25 that can then flow out into the, you know, expectation of an

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1 R-200 in this area. And that can be achieved by going from  
 2 eight to four buildings. If they can get the right of way  
 3 and get us a dedicated right turn lane that goes both into  
 4 Ruby Drive and the building facilities, that would allow  
 5 for, you know, some lessening of the traffic that is  
 6 expected on West Old Baltimore Road going westward,  
 7 including the Black Hill Regional Park area where Little  
 8 Seneca Creek is located there.  
 9 So, with those, I'm again thankful to -- and,  
 10 again, with the aquifer being there and that not being part  
 11 of the regulations and, therefore, not being looked at, I  
 12 think, given that it is protected by the USP EPA, I think  
 13 there should be some special concentration on that, and  
 14 there should be some understanding of what that means, and  
 15 not just in terms of did the well waters get affected, but  
 16 what does it -- what does it mean if that sole supply, sole  
 17 source supply they call it -- and, again, it says that in  
 18 the Clarksburg Master Plan that the Piedmont Aquifer is the  
 19 sole source supply. If that is something that is not being  
 20 looked at, then it should be looked at carefully before  
 21 rendering a decision on something that is so vital to water  
 22 supply in the whole area. It doesn't matter whether you're  
 23 well or public sewer. Those water supplies is what comes  
 24 into those public facilities and ends up into our water  
 25 taps. I want to be able to say that my children and

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1 everybody's children can drink water and not know six months  
 2 later that it was contaminated. So just make sure that you  
 3 are doing the due diligence and, you know, adhering to the  
 4 spirit as well as to the requirements, and not just doing a  
 5 check-box exercise.  
 6 So thank you very much for your time.  
 7 MS. LEWINTER: Thank you, Ms. Krishnan.  
 8 Mr. Cinque, I think you wanted to make some  
 9 statement too?  
 10 MR. CINQUE: Just a brief comment. I don't think  
 11 you can really get an appreciation for what this large  
 12 commercial enterprise is about, unless you've had an  
 13 opportunity to actually visit the site. And I don't know if  
 14 it's routine or unusual for a hearing examiner to actually  
 15 see the site before you make a recommendation, but you  
 16 really have to see this site to understand what everybody's  
 17 talking about. So that's -- that's what I would implore you  
 18 to do. Thank you.  
 19 MS. LEWINTER: Was there any -- sorry. Was there  
 20 anyone else in the audience today who wanted to make a  
 21 closing statement? Okay.  
 22 THE TECHNICIAN: I think we've got a hand up on  
 23 the Zoom, actually.  
 24 MS. LEWINTER: Yeah. That's what I was going to  
 25 ask next. I was going to actually remember. So I see

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1 Ms. Smith's hand's up. Okay.  
 2 MS. SMITH: This is Ann Smith.  
 3 MS. LEWINTER: Yes, Ms. Smith. Go ahead.  
 4 MS. SMITH: So in conclusion for the Seneca Creek  
 5 Watershed Partners, we viewed the site and reviewed the  
 6 master plan. We went over some information that we knew,  
 7 some sampling information, the percent increase of the  
 8 population in that area, which is sufficient, and recommend  
 9 that it remain at this time an R-200 without the full plan  
 10 that they have presented.  
 11 MS. LEWINTER: Anything else, Ms. Smith?  
 12 MS. SMITH: I'd like the county itself to do their  
 13 diligence in testing the water quality in the area. Sites  
 14 like this that are not -- do not have an overlay or not  
 15 right up to the stream that have been bombarded with this  
 16 kind of information, there should be really up-to-date  
 17 information available to all concerning stream quality that  
 18 is -- they are now, not 2013, not, you know, ignoring well  
 19 water, water quality. Those things can be done according to  
 20 the master plan, and it would save the applicants a lot of  
 21 anguish. It's written into the master plan what was to be  
 22 done before further development. If you increase a  
 23 population 2,000 percent in 20 years, you need to have water  
 24 quality up to date. We looked hard for water quality  
 25 indexes that were completely up to date in that exact area,

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1 and they were hard to find.  
 2 Thank you.  
 3 MS. LEWINTER: Is there anyone else online?  
 4 Seeing none, I'm going to allow the petitioner to  
 5 make their closing argument.  
 6 MR. ROBINS: Thank you very much. Before I make a  
 7 brief closing statement, I think you were getting to the  
 8 question about that all the exhibits be admitted into the  
 9 record so --  
 10 MS. LEWINTER: Sorry. We were going back and  
 11 forth.  
 12 MR. ROBINS: We would request that all the  
 13 exhibits, 1 through whatever your --  
 14 MS. LEWINTER: I think it's 45. Thank you very  
 15 much, Mr. Robins.  
 16 So the petitioner -- I just want to be clear for  
 17 everybody. The petitioner is asking for all of the exhibits  
 18 to be admitted. That actually includes a number of  
 19 submissions of testimony and letters that have been  
 20 submitted by those in opposition as well. If anybody has  
 21 any objection, this would be the time to raise it;  
 22 otherwise, I'm going to allow all the exhibits that have  
 23 been provided to be admitted into evidence.  
 24 Yes, Ms. Krishnan?  
 25 MS. KRISHNAN: I would like to remove Exhibit 37

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1 from the setup because it had personal information and  
 2 questions that were related to -- that were related to a  
 3 surrounding neighborhood area that was not included as part  
 4 of the surrounding neighborhood.  
 5 MS. LEWINTER: So my understanding was that the  
 6 personal information was redacted. Were you able to review  
 7 that and make sure that it was?  
 8 MS. KRISHNAN: I did. But, again, since it is not  
 9 part of the surrounding neighborhood for comparison -- they  
 10 were using it for comparison of homes on Gorman Circle,  
 11 which were not part of the surrounding neighborhood as  
 12 defined by the applicant. The surrounding neighborhood  
 13 excluded Summerfield Crossing; and, therefore, that entire  
 14 comparison and saying that something is, you know, 6,000  
 15 square feet there is not relevant to the application,  
 16 because it's not part of the surrounding neighborhood, as  
 17 per their own admission and their own evaluation.  
 18 MS. LEWINTER: Ms. Rogers?  
 19 MS. ROGERS: We would object, and we would ask  
 20 that it be admitted to the record. The hearing examiner  
 21 certainly, in her professional capacity, can give it the  
 22 weight that the testimony deserves, but we think that it was  
 23 relevant testimony that should be in the record.  
 24 MS. LEWINTER: Ms. Duffin?  
 25 MS. DUFFIN: As well they have a handwritten



<p style="text-align: right;">189</p> <p>1 letter that I submitted back in two thousand -- I forget --  2 to Tapestry along with that. Why is that -- that has no --  3 MS. KRISHNAN: Relevance.  4 MS. DUFFIN: I have no idea why they have that in  5 there. So that's in on 37 as well.  6 MS. LEWINTER: So I'm going to allow 37 to remain.  7 I do appreciate your concern, Ms. Krishnan, about how the  8 comparison is being drawn when it wasn't included in the  9 subject area. I will make note of that.  10 Ms. Duffin, I think they were putting in that  11 letter just to show relative community responses to various  12 developments, so --  13 MS. KRISHNAN: I don't think that was the  14 entire --  15 MS. DUFFIN: I don't think so either.  16 MS. KRISHNAN: It was very -- it was very  17 specific. It was very -- even for -- even for the Gorman  18 Circle thing when the personal information has been  19 redacted, it was very specific. So I think the intent is  20 also, as I said, not just the spirit, it should be the  21 intent also.  22 Again, since it's not part of this -- again, the  23 Tapestry communication is not relevant to this application.  24 The Summerfield Crossing area has been specifically excluded  25 from the surrounding neighborhood evaluation when they</p>	<p style="text-align: right;">191</p> <p>1 will defer to you, Mr. Robins, for your closing.  2 MR. ROBINS: Thank you so much. Okay. Now that  3 we've gotten the exhibits addressed, let me indicate that  4 through our testimony of our expert witnesses, as well as  5 the petitioner both in direct and in rebuttal, plus the  6 information in the record, including the land use report,  7 the traffic study, the traffic analysis, the staff report,  8 the Planning Board's recommendation of approval, and the  9 approval of the preliminary water quality plan, the  10 petitioner has clearly demonstrated that the proposed  11 conditional use application satisfies all of the zoning  12 ordinance requirements, including the conditional use  13 findings of Section 597.3.1(e) for the redevelopment of the  14 property with a residential care facility over 16 persons.  15 Additionally, as you've heard today and as the  16 planning staff and the Planning Board have found, the  17 project is in substantial conformance with the goals and  18 recommendations of the 1994 Clarksburg Master Plan.  19 Also, I would note that there has been no evidence  20 to suggest that there would be any negative economic impact  21 from this project on the surrounding area. Mr. Sloan's  22 rebuttal testimony with cross-examination of Ms. Krishnan  23 and other witnesses has refuted that testimony. It is clear  24 from the testimony and cross-examination of the neighbors  25 that, while they recognize senior housing is much needed,</p>
<p style="text-align: right;">190</p> <p>1 submitted their application with the Planning Board. With  2 all these, I don't see how that could be considered in  3 agenda. Otherwise, put it back in. Put all the information  4 that -- you want to compare apples to apples with  5 Summerfield Crossing, let's do that. You can't pick and  6 choose and then tell us that it is okay because it would be  7 considered. There is no -- it's either in or it's either  8 out.  9 MS. LEWINTER: Well, I appreciate that you  10 disagree with me, but I am going to allow it in. I have  11 noted your objection.  12 Given that, the exhibits are admitted.  13 (Exhibits 1 through 43 were admitted into  14 evidence.)  15 MS. LEWINTER: I believe Ms. Johnson keeps them  16 online for like 24 hours, and then they get taken down. So  17 I do encourage you if you want to have any for your own  18 personal records to make sure that you download them because  19 they will disappear from the OZAH website.  20 Given that Mr. Rogers -- Mr. Robins. I apologize.  21 MR. ROBINS: Did you just call me Mr. Rogers? My  22 goodness.  23 MS. LEWINTER: Ms. Rogers, if you have taken your  24 husband's name or not, but I apologize to him as well, if  25 you have, and to Fred Rogers of record, of memory. But I</p>	<p style="text-align: right;">192</p> <p>1 they just really don't want it here, even if the petitioner  2 has fully addressed the specific concerns they raised, like  3 taking traffic off of Ruby Drive, and even if all other  4 agencies have also considered the concerns, especially  5 regarding water quality approvals.  6 We responded to all the testimony, both written  7 and oral and, through thoughtful and precise manner. All  8 the professionals, including our experts, Park and Planning,  9 DEP, which is Department of Environmental Protection, DPS,  10 Department of Permitting Services, staff and the Planning  11 Board have evaluated this conditional use application and  12 its associated technical plans, which is all within the  13 purview of what they're supposed to review, and determined  14 that it merits approval.  15 Parking and Planning, as you know, is extremely  16 familiar with the master plan, and all the government  17 agencies are completely focused, as Mr. Sloan had testified,  18 on environmental considerations and concerns like water  19 quality. They certainly don't take their responsibilities  20 lightly, and require the petitioner to analyze and provide  21 much detail to obtain approval of a water quality plan  22 pursuant to Chapter 19 of the code. The water quality plan  23 also takes into consideration storm water management  24 considerations. All of the agencies, again, Park and  25 Planning, DPS, DEP reviewed and ultimately recommended</p>

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1 approval for the water quality plan, which ultimately was  
 2 approved.  
 3 This truly is an excellent use for the property,  
 4 particularly given its close proximity to goods and services  
 5 available in the area, and the need for senior housing  
 6 within the upcounty region. And, as you have heard from our  
 7 witnesses, the project has been designed to promote  
 8 compatibility with the surrounding area. The petitioner  
 9 went through great efforts to make certain that the project  
 10 will be compatible with the surrounding area. The project  
 11 designed as we have described them as cottage homes blends  
 12 in well with the surrounding area, and is entirely  
 13 appropriate the R-200 zone. Although the code would have  
 14 allowed for the construction, as you have heard, of a one  
 15 singular structure in a residential care facility, most like  
 16 a multifamily building, which is most common for senior  
 17 facilities, and it also would have allowed up to 169 beds,  
 18 the petitioner has thoughtfully designed the site to  
 19 accommodate senior housing in keeping with the scale and  
 20 character of the surrounding homes, and, again, with only  
 21 120 beds.  
 22 There has been significant and material  
 23 misrepresentations by certain members of the opposition on  
 24 many parts raised and thereafter refuted by Mr. Sloan and  
 25 through cross-examination. Insisting that the property is

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1 adjacent to a stream, the property is in the most  
 2 environmentally constrained area when, in fact, the master  
 3 plan says just the opposite, misquotings and the like had to  
 4 be exposed through cross-examination and rebuttal. And  
 5 that, in fact, is what exactly happened.  
 6 This is a residential use by definition in the  
 7 zoning ordinance and in terms of its character and design.  
 8 Certainly it is not an industrial or commercial use as has  
 9 been suggested by certain members of the opposition. The  
 10 insistence that the residential care facility uses a  
 11 commercial use and shouldn't be allowed in the R-200 zone is  
 12 simply incorrect. There are many residential care  
 13 facilities for greater than 16 persons all over the county  
 14 in residential zones. The County Council, by classifying  
 15 the use as being permitted with the approval, of course, of  
 16 a conditional use, has made a determination that a  
 17 residential care facility for greater than 16 persons  
 18 essentially is compatible in the R-200 zone and other  
 19 residential zones, subject to meeting the general conditions  
 20 for conditional use, and specific requirements for  
 21 conditional uses. And we have provided overwhelming  
 22 testimony and evidence in the record, which all support the  
 23 hearing examiner to make the findings in the affirmative.  
 24 And as you have heard through Nancy Randall's  
 25 testimony, the use is a very low traffic generator. In

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1 fact, so low that it didn't even require a local area  
 2 transportation review study. And her analysis certainly  
 3 concluded that no road improvements like a dedicated  
 4 right-turn lane would be needed or justified to support this  
 5 use. This is a quiet, respectful use. The petitioner has  
 6 thought through the operations that will make certain that  
 7 deliveries, as you heard, are kept to a minimum, and that  
 8 shift changes are not disruptive.  
 9 Despite this community opposition that is here  
 10 today and in the last hearing, the petitioner remains open  
 11 to establishing a positive working relationship with the  
 12 neighbors. We recognize that change isn't always easy, but  
 13 pledges to be not only a good neighbor, but a welcome  
 14 addition to the community. It is the petitioner's hope that  
 15 this can happen should the hearing examiner approve this  
 16 application.  
 17 We are very proud of this application and how we  
 18 arrived here today. We also very much appreciate the  
 19 hearing examiner's review, including having two hearings,  
 20 especially under somewhat last-minute notice. And, again, I  
 21 think all of us in this room appreciate the efforts that you  
 22 have shown in participating in the hearing.  
 23 On that note, we respectfully request that the  
 24 record be closed upon the completion of this hearing with  
 25 the exception of admitting the transcript, and that the

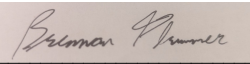
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1 hearing examiner subsequently approves this application.  
 2 Thank you very much for your time.  
 3 MS. LEWINTER: Thank you. So, just to reiterate,  
 4 we give the court reporter 10 days to complete his  
 5 transcript. Then that is entered into the record, and the  
 6 record is officially closed. But there really shouldn't be  
 7 any need for anything else to be admitted, unless there's  
 8 something truly exceptional that happens. So beyond the  
 9 transcript, the hearing would be concluded as of us cutting  
 10 off today. And then we will wait the 10 days, and then I  
 11 have 30 days to issue a decision.  
 12 I did listen carefully to everybody's testimony,  
 13 to all of the closing arguments. I did definitely hear the  
 14 imploring of me to review this record very diligently, which  
 15 I promise I will do a hundred percent. But I do want to be  
 16 clear, at the very beginning when we started, I did state  
 17 the approval of petition is based on the criteria set forth  
 18 in the zoning ordinance, which is included in the planning  
 19 staff report, and is online and accessible if anybody wants  
 20 to Google Montgomery County's zoning code. My decision, and  
 21 I have not made up my mind, but it is constrained by those  
 22 ordinances that are passed by your County Council. So  
 23 whether it is the petitioner or those in opposition, if the  
 24 outcome is not what you wanted, your recourse is to appeal,  
 25 but your other recourse is to look at the laws, the


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1 ordinances, the rules that are passed by your governing  
 2 body, your legislative body as to what is allowed and not  
 3 allowed in various zones within the county. So those rules  
 4 are set not by me. It's my job to apply the rules to the  
 5 situation. So I just want to be clear about what my  
 6 responsibilities and obligations are. But, again, however  
 7 this comes out, either side has the option to appeal to the  
 8 next level and on up there.  
 9 So yes, Mr. Pajot?  
 10 MR. PAJOT: How do you render your decision?  
 11 MS. LEWINTER: What do you mean?  
 12 MR. PAJOT: Is it a -- is it -- how do we get it?  
 13 MS. LEWINTER: It's in writing, and it will be  
 14 issued on OZAH website. So if you're on our e-mail list,  
 15 Ms. Johnson should be e-mailing it to you. So you should  
 16 get a copy.  
 17 MR. PAJOT: Thank you.  
 18 MS. LEWINTER: All right. Are there any other  
 19 questions?  
 20 That will conclude our hearing today. I  
 21 appreciate everybody's patience. And particularly the  
 22 community members that had to take two days from their  
 23 regular lives, thank you.  
 24 (The hearing adjourned at 1:55 p.m.)  
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1 CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC  
 2  
 3 I, Brennan Plummer, the officer before whom  
 4 the foregoing deposition was taken, do hereby certify that  
 5 said proceedings were electronically recorded by me; and  
 6 that I am neither counsel for, related to, nor employed by  
 7 any of the parties to this case and have no interest,  
 8 financial or otherwise, in its outcome.  
 9  
 10 IN WITNESS WHEREOF, I have hereunto set my  
 11 hand and affixed my notarial seal this 19th day of March,  
 12 2024.  
 13  
 14   
 15 \_\_\_\_\_  
 16 Brennan Plummer, Notary Public  
 17 For the State of Maryland  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1 CERTIFICATE OF TRANSCRIBER  
 2  
 3 I, Nicole Mastrosimone, do hereby certify that  
 4 the foregoing transcript is a true and correct record of the  
 5 recorded proceedings; that said proceedings were transcribed  
 6 to the best of my ability from the audio recording and  
 7 supporting information; and that I am neither counsel for,  
 8 related to, nor employed by any of the parties to this case  
 9 and have no interest, financial or otherwise, in its  
 10 outcome.  
 11  
 12  
 13  
 14   
 15 \_\_\_\_\_  
 16 Nicole Mastrosimone  
 17 March 19, 2024  
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