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Transcript of Hearing - Day 2

Date: December 2, 2025
Case: Notley Road

WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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1 M A R Y L A N D:
2   IN THE MONTGOMERY COUNTY OFFICE OF ZONING AND
3   ADMINISTRATIVE HEARINGS
4 ------------------------x
5 In re NOTLEY ROAD   :
6   : Case No.: H-159
7   :
8   :
9   :
10 ------------------------X
11
12   HEARING DAY 2
13   BEFORE THE HEARING EXAMINER KHANDIKILE SOKONI
14   Rockville, Maryland
15   Tuesday, December 2, 2025
16   11:36 a.m.
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20
21
22 Job No: 610913
23 Pages: 336 - 572
24 Recorded by: Jamie Ogihara, CER
25 Transcribed by: Deborah S. Anderson, CET-998

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1 Hearing, held mixed-remote:
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6 Montgomery County Office of Zoning and
7 Administrative Hearings
8 County Office Building
9 100 Maryland Ave, Room 200
10 Rockville, MD 20850
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15 Pursuant to agreement, before Jamie Ogihara,
16 Notary Public in and for the State of Maryland.
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1   A P P E A R A N C E S
2
3 ON BEHALF OF APPLICANT:
4 ELIZABETH ROGERS, ESQUIRE
5 ERIN E. GIRARD, ESQUIRE
6 Lerch, Early & Brewer
7 7600 Wisconsin Avenue, Suite 700
8 Bethesda, MD 20814
9
10 ON BEHALF OF WITNESS:
11 MICHELE ROSENFELD, ESQUIRE
12 The Law Office of Michele Rosenfeld, LLC
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14 Rockville, MD 20850
15 (301) 204-0913
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20 Administrative Hearings
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22 100 Maryland Ave, Room 200
23 Rockville, MD 20850
24 (240) 777-6660
25

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1   A P P E A R A N C E S (Cont'd)
2
3 ALSO APPEARING:
4 Candace Anderson, Community Member, via Zoom
5 Larry Checcos, Community Member, via Zoom
6 Pat Corey, Community Member
7 Toni Debarock, Community Member, via Zoom
8 Christina Eaglin, Community Member, via Zoom
9 Bob Eller, Community Member, via Zoom
10 Ayana Machen, Community Member, via Zoom
11 Rafael Mattera, Community Member, via Zoom
12 Wayne Nelson, Community Member, via Zoom
13 Clay Nuquist, Community Member, via Zoom
14 Dung Phan, Community Member, via Zoom
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C O N T E N T S

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C O N T E N T S

E X H I B I T S

(Retained by the Hearing Examiner)

APPLICANT'S

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P R O C E E D I N G S

HEARING EXAMINER SOKONI: Good morning, everybody. Thank you so much for your patience and, you know, just flexibility. There's a lot going on, a lot of moving parts, the least of which is under our control, which is the weather.

I'm from upstate New York. I'm told that what happened this morning was inclement weather.

But on a much more serious note, we do want everyone to be safe. And OZAH does follow the MCPS weather policy, so thank you so much for your flexibility.

I know that as a result, people would have been inconvenienced somewhat, so we'll try and give each other some grace and see how much we can work through and accommodate. We -- this is a hybrid hearing, so, obviously, we have people on Zoom as well.

Do I have confirmation that the Zoom is functioning fine?

THE ZOOM OPERATOR: Yeah. (Inaudible.)

HEARING EXAMINER SOKONI: We have a signal from people on Zoom. Even just one person, just a show of hands that you can hear us and see

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us?

Okay. I see a thumbs-up.

All right. We're gathered here for application -- it's an application for a local map amendment, case number H-159. The Applicant is Notley Assemblage, LLC.

This is a continuation of the public hearing on the application as amended for H-159, submitted by Notley Assemblage, LLC. The first OZAH hearing -- public hearing on this matter was held on November 6th, 2025.

The LMA -- abbreviation for local map amendment -- proposes to change the zoning of the subject property from the present classification of R-200 to CRNF-1.0, C-0.0, R-1.0 with a height of 50 feet. The property that is the subject of this application is part of Lot 1, part of Lot 2, and Lots 3 to 5 in the Price Subdivision, as recorded among the Montgomery County records at Plot 1767; and two unrecorded parcels, P-500 and P-525 in Beall's Manor, located at 13707, 13711, 13715, 13719, 13727, and 13733 Notley Road and 13704 New Hampshire Avenue, Silver Spring, 20904. The Applicant has presented a Floating Zone Plan issued on April 17th, 2025, bearing the

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1 professional seal number 3716 of Joshua C. Sloan.
2 By way of introduction, my name is
3 Khandikile Sokoni. I sit as Hearing Examiner in
4 this case, which means that I will hear the
5 testimony. I will review the evidence and render
6 a report and recommendation for submission to the
7 district council, which is the Montgomery County
8 Council sitting as district council, on the
9 criteria set forth for local map amendments in
10 Article 59, Section 7.2.1 of the Montgomery County
11 Zoning Ordinance.
12 My report and recommendation is due to
13 be issued within 45 days of the closing of the
14 record. Any party of record or aggrieved party
15 may, within ten days of the Hearing Examiner's
16 report and recommendation, file a written request
17 to the district council to present oral argument.
18 Any party who submits a request for oral argument
19 must send a copy of the request to all the parties
20 of record.
21 Given the amount of time that was
22 estimated by the parties for presentation of the
23 case in chief and in opposition, clearly, in this
24 case, we determined that there was a need for more
25 than one day of hearings. And explaining the

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1 obvious, we reconvened to this room only because I
2 was anticipating high participation from
3 interested parties. And we had some concerns
4 about the capacity of the room on the second
5 floor.
6 I just want to assure everyone we have
7 placed notices everywhere, in the elevator, at the
8 hearing room. Staff is monitoring the hearing
9 room on the second floor so that anyone who did
10 not get notice that this has been reconvened will
11 be redirected here.
12 I just want to identify the parties
13 present. And, Ms. Rosenfeld, I presume you made
14 it to your -- did the planning meeting still
15 happen?
16 MS. ROSENFELD: They did. It was a
17 largely virtual meeting, so it started this
18 morning at 9:30. I very much appreciate the
19 accommodation that you offered, but happy to say
20 that I'm here for the entire meeting.
21 HEARING EXAMINER SOKONI: Sure. You're
22 welcome.
23 Just want to ID parties for the
24 Applicant. And I should warn you this is a
25 hearing room which -- it operates on opposite

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1 there. I believe, when it's red, it's go, you're
2 on. And then when it's off, there's just no
3 light.
4 MS. ROGERS: Great. Good morning.
5 Elizabeth Rogers with Lerch, Early, & Brewer on
6 behalf of the Applicant.
7 MS. GIRARD: Erin Girard, also with
8 Lerch, Early & Brewer and also on behalf of the
9 Applicant.
10 HEARING EXAMINER SOKONI: Thank you.
11 And then?
12 MS. ROSENFELD: Michele Rosenfeld here
13 on behalf of Greater Colesville Citizens
14 Association and abutting property owner Kyle
15 Smiddie.
16 HEARING EXAMINER SOKONI: Thank you.
17 Any other parties of record in --
18 present, Mr. Nusbaum?
19 MR. NUSBAUM: Yes. Keith Nusbaum is
20 present.
21 HEARING EXAMINER SOKONI: Uh-huh. Some
22 tech details. This is a hybrid hearing, so we
23 have participation by people on Zoom. Please note
24 that Zoom interacts best with Microsoft Edge or
25 Chrome. It may not perform well with Safari. If

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1 you're on Safari or any other platform, you may
2 wish to switch browsers now.
3 For the hybrid hearings, we ask that you
4 try to not interrupt while someone else is
5 speaking unless you're raising a legal objection.
6 We do have a court reporter taking a verbatim
7 recording. And whenever you have people
8 cross-talking on Zoom, it's very difficult to
9 track who is speaking.
10 Okay. I also want to urge everyone on
11 Zoom to remain on mute with your camera off if
12 you're not speaking. However, if you wish to
13 testify, at the right time, you may unmute
14 yourself, and you must switch your camera on. You
15 cannot give testimony with your camera off.
16 The Zoom is not being recorded, and the
17 chat function is disabled. So the court
18 reporter's transcript will be the only official
19 record of the proceeding.
20 Anyone participating virtually will not
21 be able to share their screen during this process.
22 If a party wishes to refer to an exhibit in the
23 evidence, please just alert me to what it is. And
24 we have a Zoom operator who will pull it up for
25 us.

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1   There's some details here about not
2 being able to rename yourself on Zoom once you've
3 logged in. I think, if you need to change the
4 name that appears on your Zoom, you may have to
5 disconnect and rejoin, having already changed the
6 name that you want to identify as.
7   Nature of the proceeding -- this is an
8 administrative proceeding. Administrative
9 proceedings, by their very nature, are somewhat
10 informal but -- somewhat more informal than, say,
11 a traditional trial, but they're still governed by
12 certain formalities.
13   My apologies. That was my cue to let
14 everyone know, make sure your phone is silenced.
15   So administrative proceedings are
16 generally informal, more informal than traditional
17 trials. Although, they are governed by certain
18 formalities and rules of procedure.
19   Everything said here by parties or, you
20 know, persons of interest, testimony is taken
21 under oath and is subject to cross-examination.
22 The proceeding will follow this order.
23   So today, we're actually continuing the
24 Applicant's case in chief. But the general --
25 just to recap the general order of things, you

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1 have opening statements by both parties, if
2 desired.
3   The Applicant goes first. The Applicant
4 did start the case in chief on November 6th and
5 will continue today.
6   The opposing parties will proceed with
7 their case in chief after completion of the
8 Applicant's case in chief. And you have the same
9 drill. Even the Opposition witnesses are subject
10 to cross-examination.
11   Any other interested persons may then
12 present a factual case with an opportunity for
13 cross-examination, and then the Applicant has the
14 opportunity for rebuttal. In other words, the
15 Applicant gets the last word, so they -- you come
16 back to the Applicant for rebuttal.
17   I wish to turn to preliminary matters
18 here, and we have a few. So there were some
19 objections that were submitted.
20   We had some objections addressed at the
21 November 6th hearing. I reserved ruling on some,
22 including -- there was an objection that the
23 Applicant had raised in connection with the
24 qualification as an expert for one of the
25 witnesses that Ms. Attorney Rosenfeld had

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1 identified in her pre-hearing statement.
2   So, Ms. Rosenfeld, you had asked for an
3 opportunity to ensure that your proposed expert
4 witness will be able to give testimony about the
5 qualifications, and that still stands. As far as
6 the ruling itself, I was going to reserve. But
7 you will definitely have an opportunity to have
8 your proposed expert witness testify.
9   There have since been more objections
10 raised, and this arose as a result of -- on
11 Wednesday, November 26th, 2025, Attorney Rogers
12 submitted supplemental materials that the
13 Applicant requested to introduce at the December
14 2nd hearing, at today's hearing. These are online
15 and have been marked merely for convenience as
16 Exhibits 79 to 82, but they're not yet admitted
17 into evidence.
18   I put them -- we've put them up just for
19 ease of reference. We'll get to whether they get
20 admitted or not.
21   Once Ms. Rogers submitted those proposed
22 supplemental materials on November -- Wednesday,
23 November 26, and requested that these be
24 introducing to -- proposing to introduce these at
25 today's hearing -- and once that happened,

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1 Mr. Nusbaum presented some objections.
2   Ms. Rosenfeld, my apologies.
3 Ms. Rosenfeld, you sent an email yesterday,
4 December 1st, stating that you'll not object to
5 the updated traffic counts and new aerial image,
6 provided that you're given the opportunity to
7 cross-examine the Applicant's traffic expert on
8 those materials at a hearing, which will be Day 3,
9 to allow you an ample opportunity to -- and time
10 to prepare your cross-examination in connection
11 with those materials.
12   And then, Ms. Rosenfeld, you also asked
13 that the Applicant confirm that the recently filed
14 and signed land use report is otherwise unchanged
15 from the unsigned report that was already in the
16 record. So maybe let's dispose of -- let's start
17 with the easy one.
18   MS. ROGERS: Yes. We can confirm it's
19 exactly the same. The only thing added was the
20 letterhead on Page 1 and the signature page at the
21 end. Everything else -- nothing was changed.
22   HEARING EXAMINER SOKONI: Thank you very
23 much.
24   MS. ROGERS: Thank you.
25   HEARING EXAMINER SOKONI: In that case,

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1 I'll turn it over -- Mr. Nusbaum, in the interest
2 of time and efficiency, I thought your objections
3 were very clear and, you know, outlined them in a
4 lot of detail in your email, which I asked staff
5 to include. If we could -- I just want to
6 mention, we have the exhibit list.
7   Those online -- access to the internet,
8 you can go to the hearing page and pull up the
9 exhibit list. All the exhibits are there.
10   For those who are in the room, we have
11 printouts of the exhibit list, I believe, probably
12 at the entrance and on the counsel desk. Please
13 feel free to grab a copy so you can follow what we
14 are talking about.
15   So these additional Exhibits 79 through
16 82 have been added, not yet admitted into
17 evidence. So unless you -- you're welcome to
18 summarize your objections. But I thought they
19 were clear and -- but did you want an opportunity
20 to talk about what your objections were?
21   MR. NUSBAUM: Sure. I'd just like to
22 clarify a little bit on the first objection
23 regarding the traffic study, as it is an expert
24 report that is required to be included with the
25 pre-hearing statement. And we've missed that

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1 procedural deadline and that procedural
2 requirement. I think it's important that we look
3 to the case law that exists that we have, which
4 the Maryland Supreme Court has been pretty clear
5 in their case of Taliaferro vs. State of the
6 factors that the Hearing Officer should look to to
7 determine if --
8   HEARING EXAMINER SOKONI: Could you
9 kindly repeat the citation?
10   MR. NUSBAUM: Yeah. It's Taliaferro vs.
11 State, T-A-L-I-A-F-E-R-R-O, and that's 295 Md.
12 376. And I'll just go through the factors so that
13 we are all aware of them.
14   So the first one is whether the
15 disclosure was a violation, was technical, or if
16 it was substantial; whether the timing of the --
17 what was the timing of the ultimate disclosure;
18 what was the reason, if any, for the violation;
19 and the degree of prejudice to the parties
20 respectively offering and opposing the evidence.
21   I would say here, the violation is
22 substantial. This is a material piece of evidence
23 that is part of their analysis and should have
24 been disclosed in the prehearing statement.
25   The disclosure is weeks after the

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1 deadline and on the eve of this hearing. The fact
2 that they weren't able to perform this traffic
3 analysis during the 43 days of government
4 shutdown, nothing prevented them from performing
5 this analysis in September before the government
6 shutdown, or doing it when they performed their
7 comprehensive traffic analysis in the spring of
8 2025.
9   The delay was simply the result of the
10 Applicant failing to perform it in a timely
11 fashion. And to allow multiple changes -- and I
12 would point out that this is the third document
13 that has been submitted on the traffic analysis
14 after the deadline.
15   I did not object to the first two. I
16 didn't believe that they were relevant. I find
17 this one to be relevant, and that's why I'm
18 objecting to this one.
19   But to have this continuous,
20 ever-changing target upon which the Opposition has
21 to bring their case is unduly prejudicial to the
22 Opposition. And the fact that it wasn't filed
23 timely is solely at the behest of the Applicant.
24 So that's my position with that one.
25   I would also just like to note, with the

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1 photographs, if the Hearing Officer does allow
2 those in, I would request that Opposition be
3 provided the opportunity to file additional
4 exhibits before our testimony that they're dead.
5 Thank you.
6   HEARING EXAMINER SOKONI: Can I just ask
7 a question? So your grievance is that their --
8 you know, the traffic study is late, is -- you are
9 conceding it's relevant, but it's late. As far
10 as -- could you just -- I'm trying to get to the
11 issue of prejudice, you know.
12   MR. NUSBAUM: Sure.
13   HEARING EXAMINER SOKONI: The extent, of
14 course, you know, this timeliness, what would help
15 you -- to the extent you feel disadvantaged, what
16 would help?
17   MR. NUSBAUM: I feel like we're -- not
18 admitting the evidence is what I'm looking for. I
19 feel like we are -- we're chasing a different
20 target.
21   What was filed a week before at the last
22 hearing was a similar traffic analysis about the
23 exact same intersection. And now we have this
24 hearing, and now there's another traffic analysis.
25 And what are we going to find at the third

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1 hearing?
2   I think we have to say there's a
3 deadline. There's a rule, and the parties need to
4 abide by that.
5   If they want to introduce this in
6 rebuttal, in true rebuttal fashion, if this
7 evidence is actually brought up by anyone in the
8 Opposition, then they would have the right to do
9 that. I don't expect that anybody in the
10 Opposition is going to bring up these traffic
11 studies in their case in chief, so they missed
12 their chance.
13   And I think that that's -- you know,
14 again, that's not the fault of anyone in the
15 Opposition. It's not the fault of the rules. The
16 Applicant just didn't file their expert
17 information on time.
18   And I think, if we are going to allow it
19 on rebuttal, we can have objections then. And we
20 can discuss that of whether or not there was or
21 was not information provided by us in our case in
22 chief that would allow rebuttal testimony. But I
23 think that's for a different hearing at a
24 different time.
25   HEARING EXAMINER SOKONI: Okay. And I

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1 have it on record, Ms. Rosenfeld, you're not
2 objecting to the introduction of the traffic
3 study?
4   MS. ROSENFELD: We are not, provided we
5 have an opportunity to cross-examine the traffic
6 expert at the next hearing.
7   HEARING EXAMINER SOKONI: Okay. I'll
8 turn it over to the Applicant's team to address
9 the objections.
10   MS. ROGERS: Thank you. Just -- I would
11 note, in terms of Ms. Rosenfeld's request, to be
12 able to cross-examine on the third day. The
13 Applicant does not object to that. We would be
14 happy to accommodate that.
15   Regarding Mr. Nusbaum's objections to --
16 I'll take each in turn -- the supplemental traffic
17 analysis, we would note that -- and the Applicant
18 obviously has the burden of proof here -- this
19 additional analysis regarding traffic volumes is
20 limited to the intersection of New Hampshire and
21 Midland Road, and it's being submitted to
22 supplement the record.
23   As Mr. Nusbaum noted, these couldn't be
24 prepared ahead of the previous hearing due to the
25 government shutdown, which prevented new counts

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1 from being taken. We performed new counts in a
2 timely fashion, as soon as the government shutdown
3 ended, and quickly submitted this report ahead of
4 the hearing by last Wednesday.
5   This information is supplemental, as I
6 mentioned, to the information that's already in
7 the record. That was not objected to in Exhibit
8 66.
9   We had submitted that supplemental memo
10 prior to the last hearing. That analysis
11 specifically noted that due to the government
12 shutdown, we couldn't take new counts. But we
13 were instead performing analysis based on counts
14 we had taken, and information from SHA regarding
15 turning movements and extrapolating that data to
16 show that the intersection was operating below the
17 critical lane volumes.
18   Now that the government shutdown is
19 concluded, we are supplementing that information
20 with new counts taken. This is in direct response
21 to questioning that has been raised by Opposition
22 regarding the prerequisites that are applicable or
23 met by this Applicant, and we feel that it is
24 germane to the application and to responding to
25 those objections that have been received.

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1   And Ms. Wagner certainly can testify to
2 this in detail when she, you know, puts on during
3 our case in chief. Today, we felt that it was
4 actually being more fair to submit it ahead of
5 time to give parties an -- all parties an
6 opportunity to review that information. And
7 she -- as the Hearing Examiner has noted, we can
8 also introduce this during rebuttal testimony, as
9 it gets to the issue of prerequisites, which has
10 already been raised by Opposition in this case.
11   Regarding the photographs, I would note
12 that the OZAH Rules of Procedure don't speak to
13 deadlines for hearing materials to be submitted.
14 This is historically -- you know, before COVID, we
15 introduced materials on the fly during a hearing.
16 I understand that OZAH has a new policy that those
17 materials be submitted the Wednesday at noon
18 before hearing, which we complied with so that
19 they would be available for all parties to review
20 ahead of today's hearing.
21   These photos are to further clarify
22 testimony that was raised during the previous
23 hearing on November 6th. And again, Mr. Sloan
24 certainly could testify to these on rebuttal. We
25 felt that it was helpful to introduce them in

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1 advance.
2   And then, lastly, regarding the massing
3 exhibit, this exhibit is intended to compare the
4 massing directly between a hundred-foot massing
5 and -- which is allowed by the binding elements,
6 and the 80-foot massing that was shown on the
7 previous Floating Zone Plan. With all due
8 respect, we believe that the characterization of
9 the Hearing Examiner's request in Mr. Nusbaum's
10 objections isn't accurate. It was not our
11 understanding the Hearing Examiner asked for an
12 exhibit.
13   The Hearing Examiner raised a question
14 about what the difference would be if we had a
15 hundred-foot massing versus 80-foot massing. And
16 Mr. Sloan testified to that orally in his
17 testimony, but we thought that this exhibit
18 directly comparing the two would help visually
19 depict that testimony. It's something we planned
20 to introduce during Mr. Sloan's rebuttal, but
21 submit it in advance so that the parties had an
22 opportunity again to review it well ahead of time.
23   HEARING EXAMINER SOKONI: Thank you.
24   MS. GIRARD: I would just add, too, I
25 actually had a case where this type of objection

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1 came up. It actually is a reported opinion.
2   Brandywine Senior Living at Potomac, LLC
3 vs. Paul. That's 237 Md. App. 195. The Court
4 ruled that as long as opposing parties are given a
5 time to review the evidence and cross-examine, as
6 Ms. Rosenfeld noted, that it is admissible.
7   HEARING EXAMINER SOKONI: Thank you.
8   Ms. Rosenfeld, could you kindly address
9 your -- you were joining Mr. Nusbaum in the
10 objection to the massing exhibit. Could you
11 please address it?
12   MS. ROSENFELD: I, again, do think that
13 the impression that I had at the last hearing was
14 that any supplemental massing exhibit would
15 compare perhaps the hundred feet with the existing
16 homes. This is going from memory and notes. It
17 may not be accurate. If the current massing
18 exhibit is the one the Applicant chooses to rely
19 on in furthering their burden of proof, I would
20 withdraw my objection, provided, again, that we
21 have the opportunity to question the land use
22 expert on it, cross-examine at the next hearing.
23   HEARING EXAMINER SOKONI: Sure. And I
24 just want to be clear, I wasn't requiring the
25 Applicant to provide any particular massing

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1 exhibit. Mine was simply a question, so that was
2 a helpful clarification.
3   On the exhibits, especially given the
4 flexibility -- and now I should step back a little
5 bit. When we set that, you know, deadline of the
6 Wednesday before, it's actually more -- it has
7 more to do with -- if anything came after that,
8 we're not going to -- we will not get it up on the
9 website in time for the hearing.
10   But in a proceeding like this, it is
11 typical that, you know, even members of the public
12 usually can introduce evidence at the hearing.
13 And, you know, we can have a discussion about
14 whether it's relevant and whether it's admissible.
15   Under these circumstances, I've
16 weighed -- I know there are some objections I'm
17 still going to reserve ruling on like the expert.
18 But with regard to these exhibits, I'm inclined
19 to -- I will admit them on condition that -- I'm
20 granting Ms. Rosenfeld's request that she get
21 ample opportunity to cross-examine and -- at Day
22 3, whenever Day 3 will be. And we'll get to that,
23 and then we'll have to talk about what -- you
24 know, when we're scheduling the Day 3.
25   But I think -- with that, I think I do

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1 get the -- I feel like the -- sort of the scales
2 of equity and justice are addressed by giving
3 everyone the opportunity -- reasonable opportunity
4 to convene. The objections are not lost on me. I
5 understand the concern about timeliness, and, you
6 know, you are preparing your case based on
7 information you have.
8   But I think the explanation presented is
9 perfectly understandable, and I think I'm granting
10 the request to have these admitted into evidence.
11 These will therefore be entered into evidence as
12 Exhibits 79, 80, 81, and 82.
13   (Applicant Exhibits 79 through 82, were
14 admitted into evidence and retained by the Hearing
15 Examiner.)
16   HEARING EXAMINER SOKONI: Could you
17 kindly pull up -- let's go -- if you could kindly
18 scroll down the exhibit list to -- starting at 79?
19 Okay. So Exhibit 79 is entered into evidence.
20 It's the supplemental analysis -- it's a
21 supplemental traffic analysis at the intersection
22 of New Hampshire Avenue and Midland Road.
23   All right. If we could go back to the
24 exhibit list, Exhibit 80? We enter into evidence
25 Exhibit 80, arial photographs of New Hampshire

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1 Avenue and street view.
2   And I'll expect Applicant, who have --
3 you know, Applicant's experts should testify to
4 this. And the other parties will have every
5 opportunity to cross-examine.
6   MS. ROSENFELD: Thank you.
7   HEARING EXAMINER SOKONI: Thank you.
8 We'll turn to Exhibit 81, the -- I'm presuming
9 this is no longer a draft, right? This is the --
10 it's the updated land use report, the only
11 difference being it's now signed.
12   So if we can go back to the exhibit
13 list, please. I know we entered it as draft land
14 use report, so we will --
15   MS. ROSENFELD: That's it right here.
16   HEARING EXAMINER SOKONI: Let's correct
17 that. I will -- may the record reflect that's a
18 final land use report signed, and we have
19 confirmation that that's -- and I don't believe --
20 it wasn't labeled draft. I think staff -- OZAH --
21 we inadvertently labeled it a draft. It's a
22 final.
23   Exhibit 82 is entered into evidence.
24 That's the Applicant's massing exhibit. Thank
25 you.

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1   And we can go back to the list. I also
2 enter -- I will enter into the evidence Exhibit
3 83, which is the email exchange, the email -- just
4 the email exchanges between Counsel for the --
5 Ms. Rosenfeld and the Hearing Examiner.
6   If we could go back to the exhibit list
7 one more time? I requested that Mr. Nusbaum's
8 objection -- so let me rephrase this.
9 Exhibit 83 -- this may not have been updated yet.
10 What will be entered as Exhibit 83 will be
11 Mr. Nusbaum's objections.
12   MR. NUSBAUM: Okay.
13   (Opposition Exhibit 83 was marked for
14 identification, admitted into evidence, and
15 retained by the Hearing Examiner.)
16   HEARING EXAMINER SOKONI: And what is
17 showing up right now as Exhibit 83 will, in fact,
18 become Exhibit 84 because that's Ms. Rosenfeld's
19 response to that. So anyone with a physical
20 exhibit list, you can just write in that
21 correction. There's an additional Exhibit 84.
22   (Opposition Exhibit 84 was marked for
23 identification, admitted into evidence, and
24 retained by the Hearing Examiner.)
25   MS. ROGERS: It's actually correct, Your

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1 Honor.
2   MS. GIRARD: It's correct, yeah.
3   HEARING EXAMINER SOKONI: Oh, there's --
4   MS. ROGERS: On the printed copy.
5   HEARING EXAMINER SOKONI: Okay. So
6 there probably is a lag in getting it corrected
7 online. I had asked that it be corrected.
8 Perfect.
9   All right. With that, do we have any
10 other preliminary issue?
11   Yes, Ms. Rosenfeld?
12   MS. ROSENFELD: I would like to mention
13 that at the last hearing, I think that you had
14 established that the community could offer their
15 testimony at the close of the Applicant's case.
16 And unsure of whether or not that would happen
17 today.
18   But when you were outlining the order of
19 proceedings, I would ask that we continue to
20 maintain that order. There are a lot of people
21 that have sat through quite a bit with shifting
22 schedules. And I just wanted clarification, for
23 the people who are present on Zoom and in the
24 hearing room, who would like to testify as to how
25 that will be managed.

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1   HEARING EXAMINER SOKONI: Thank you so
2 much for raising that. That -- it's extremely
3 important.
4   So we had -- you remember, first, we had
5 said, you know, members of the public would have
6 an opportunity to speak in the morning. It was
7 clear that the Applicant wouldn't be -- wasn't
8 done with their case in chief, so we said, Let's
9 move that to members of the public testifying.
10 We're anticipating maybe around 12:30, thinking
11 you would have had all morning to present your
12 case.
13   So what's your estimate on how much time
14 you need to complete your case in chief today?
15 And I won't hold you to it. I know it's -- those
16 are estimates.
17   MS. ROGERS: It's a little hard to
18 estimate. I mean, I would anticipate that we
19 probably have at least four hours of testimony,
20 maybe would take the better part of the day. We
21 would still like to get through our case in chief
22 so that there's -- you know, we can clarify a
23 number of things for the record before a number of
24 members of, you know, the public testify.
25   HEARING EXAMINER SOKONI: Uh-huh.

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1 That's noted. I am concerned about, you know,
2 people taking time off from work. And, you know,
3 it's -- this is Day 2 of hearing, so I really
4 would not like to see people who wanted to speak
5 not be heard.
6   Can I have -- I am inclined to -- I know
7 this throws things out of order somewhat, and I
8 know that you are very interested in completing
9 your case in chief. But this is right around the
10 time when people were going to testify.
11   Can -- I think I would like to hear from
12 one or two -- I know we have a large group out
13 there. But I would like to hear from one or two
14 people about, you know, what hardship, if any, is
15 there.
16   Yes, sir. Would like to come to the
17 podium, identify yourself, and --
18   MR. TEWEY: Yes, ma'am. My name's Jim
19 Tewey. I'm a member of the public. I'm a citizen
20 of Colesville.
21   THE COURT REPORTER: Sir, can you please
22 turn on your microphone?
23   HEARING EXAMINER SOKONI: Thank you.
24   MR. TEWEY: Thank you. My name's Jim
25 Tewey. I'm a member of the public.

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1   I'm a resident of Colesville. I live
2 within about a quarter-mile of the proposed -- the
3 parcels that the Applicant proposes to rezone.
4   And I'm a retiree. So any concern about
5 me taking off work -- they show up on Day 3 -- is
6 not a consideration. I actually have prepared a
7 little packet of material that I want to use when
8 I testify, which I haven't been able to email
9 because the packet's too big. And so it wouldn't
10 go through.
11   But I have hard copies that I can make
12 available to you and to the staff and -- or to
13 your personnel and also the other attorneys.
14 And -- but coming back on Day 3 is fine by me.
15   And, you know, I don't want there to be
16 any objection that I haven't been able to, you
17 know, distribute the materials that I've prepared.
18 And by the way, I have not consulted with any
19 other attorneys, you know --
20   HEARING EXAMINER SOKONI: So you're
21 speak --
22   MR. TEWEY: -- Ms. Rosenfeld.
23   HEARING EXAMINER SOKONI: You're
24 speaking --
25   MR. TEWEY: This is me.

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1   HEARING EXAMINER SOKONI: -- on your --
2   MR. TEWEY: I put this together.
3   HEARING EXAMINER SOKONI: On your own
4 behalf.
5   MR. TEWEY: So --
6   HEARING EXAMINER SOKONI: Unless there
7 are objections, I would take that packet and
8 identify it, and so we can have it up on the
9 record. Any --
10   MR. TEWEY: I have the --
11   HEARING EXAMINER SOKONI: Any
12 objections?
13   MS. ROSENFELD: No objections from me.
14   HEARING EXAMINER SOKONI: Any
15 objections?
16   MS. ROGERS: Does he have it ready now?
17   HEARING EXAMINER SOKONI: Yes.
18   MR. TEWEY: Yes, ma'am.
19   MS. ROGERS: Yeah.
20   HEARING EXAMINER SOKONI: He says he has
21 a hard copy.
22   MS. GIRARD: I think, as long as we can
23 have a chance to see it.
24   MR. TEWEY: Can I go --
25   HEARING EXAMINER SOKONI: Sure.

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1   MR. TEWEY: -- grab it? And I'll bring
2 it.
3   HEARING EXAMINER SOKONI: Yes, please.
4   Before we admit it, I think it should be
5 circle -- it should be passed on to -- if you
6 could just glance at it, I'll make a ruling on it
7 later on. But --
8   MR. TEWEY: I also brought a thumb drive
9 with me that has a electronic copy of it. But the
10 file was too large to --
11   HEARING EXAMINER SOKONI: Okay. So the
12 thumb drive is a concern. I know IT doesn't let
13 us take external thumb drives, I believe. It
14 has --
15   UNIDENTIFIED SPEAKER: And if people on
16 Zoom see what's happening, we just have a
17 screen-share up.
18   HEARING EXAMINER SOKONI: Could we pull
19 down the -- could we kindly pull down the -- they
20 would like a view of the room. And I believe
21 their instructions about how to view the room --
22 is that your pin? What are the instructions?
23   Yes. There we go. Thank you very much.
24   What has just been circulated by
25 Mr. Tewey is a written statement, a submission

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1 sub -- quite a few pages long with a combination
2 of written material as well as some drawings.
3   MR. TEWEY: There's five --
4   HEARING EXAMINER SOKONI: And
5 photographs.
6   MR. TEWEY: Five pages -- I'm sorry to
7 interrupt, Your Honor. There's five pages of my
8 written statement, and then Tabs A through V, as
9 in Victor. And it involves, you know, various
10 materials that I've compiled, pictures that I've
11 taken that I want to refer to --
12   HEARING EXAMINER SOKONI: Uh-huh.
13   MR. TEWEY: -- in my testimony.
14   HEARING EXAMINER SOKONI: Thank you.
15   I would like to give the Applicant an
16 opportunity to take a look, and let me know if
17 there are any objections. It will be -- it -- the
18 proposal would be that this be entered into
19 evidence as Exhibit 85, not entered yet until I
20 hear from the Applicant. And then we will --
21 we'll cross that bridge where we get to it, as far
22 as the electronic piece, if this gets admitted.
23   MR. TEWEY: And Ms. Rosenfeld, who I've
24 not consulted with before on this, just mentioned
25 that she would scan it and email it to the --

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1   HEARING EXAMINER SOKONI: If you're
2 going to --
3   MS. ROSENFELD: If we're going to put it
4 into the record. And I want to confirm that until
5 this moment, I've not spoken with Mr. Tewey. But
6 I can scan this and email it in to the -- for the
7 record.
8   HEARING EXAMINER SOKONI: Thank you,
9 thank you.
10   MR. TEWEY: I will -- yeah. She
11 represents the GCCA, and I'm a member. You know,
12 I paid dues to the GCAA, but I'm not sure -- I
13 don't think she's representing me. She's
14 representing the GCCA.
15   HEARING EXAMINER SOKONI: Yes.
16   MR. TEWEY: And so I've never talked to
17 her, and she's never, -- you know, never -- so --
18   HEARING EXAMINER SOKONI: Okay. Yeah.
19   MR. TEWEY: And I'll stay through the --
20 out the remainder of today's hearing, and I'll be
21 at the next one.
22   HEARING EXAMINER SOKONI: Sure.
23   MR. TEWEY: I'll be at all the remaining
24 hearings --
25   HEARING EXAMINER SOKONI: So --

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1   MR. TEWEY: -- basically.
2   HEARING EXAMINER SOKONI: -- what I'll
3 do is, I'll rephrase the question. Is there
4 anyone in the room or online who feels they would
5 be disadvantaged if they could not testify until
6 the end of the Applicant's testimony today, which
7 could be another three, four hours?
8   MS. EAGLIN: Your Honor, just ask --
9 Christina Eaglin. I am a 30-plus-year resident of
10 Colesville. I shifted my work schedule today, and
11 I would not be available after. But I'm happy to
12 accommodate a third day.
13   MS. ANDERSON: If I may make a
14 suggestion for those on Zoom, should the
15 hearing -- those running the hearing agree, if we
16 could just do a show of hands, one way or the
17 other? For example, a show of hands for those
18 that are okay with shifting to another day. That
19 could make this faster and maybe a little less
20 cumbersome for a bunch of people coming off mute.
21   HEARING EXAMINER SOKONI: That's a
22 reasonable suggestion. Can we have a show of
23 hands -- well, you -- first, you should hear what
24 you're showing your hands for. Can we have a show
25 of hands for anyone who would find it to be a

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1 hardship if you did not testify to -- is today the
2 only -- can you -- is it today or never? If
3 you're in the category of, I have to speak today.
4 I have to speak now or never. Otherwise, it's a
5 hardship, please raise your hand.
6   I scared everyone off now. There are no
7 hands showing.
8   MR. NUSBAUM: That's good. That means
9 you could do it third day.
10   HEARING EXAMINER SOKONI: A show of
11 hands for people who could testify at a later
12 date. We don't know what that later date is but
13 could make arrangements to testify at a different
14 date.
15   Okay. Six-plus. And we have one in the
16 room could testify at the -- yeah. Okay. So it
17 sounds like we stick with the proposal. Okay.
18 Based on the show of hands, I believe we will
19 stick with the proposed -- we'll proceed with
20 Applicant completing their case in chief.
21   To those who had planned to testify
22 today and have taken time from work, you know,
23 really apologize for any inconvenience. We'll try
24 and work with you. But I think for now, let's
25 proceed -- I'm getting an echo.

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1   MS. ROGERS: My apologies.
2   HEARING EXAMINER SOKONI: That's okay.
3   Okay. So let's get going. I think
4 let's turn it over to the -- now, I do have a
5 raised hand by Debra Gonski. All right. If -- is
6 that a question?
7   You may unmute yourself, turn on your
8 camera. And if you have a question, you're
9 welcome to speak.
10   MS. GONSKI: If -- no, I'm fine. I can
11 definitely make -- I can do testimony another day.
12 I'm actually remote today. I have been in the
13 hearing before, so sorry.
14   HEARING EXAMINER SOKONI: Okay. You--
15   MS. GONSKI: Talking at once. I'm
16 sorry.
17   HEARING EXAMINER SOKONI: No worries.
18 Thank you very much.
19   So it sounds like that's out of the way.
20 Let's get going. I think the Applicant can
21 proceed with their case in chief.
22   Do you -- any reaction yet? Do you need
23 more time on reacting to Mr. Tewey's submission?
24   MS. GIRARD: I think we're fine, since
25 we'll have a chance to cross-examination -- or

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1 cross-examine him when he talks.
2   HEARING EXAMINER SOKONI: Yes.
3   MR. TEWEY: Thank you, Your Honor.
4   HEARING EXAMINER SOKONI: In that case,
5 that is entered as Exhibit 85.
6   (Applicant Exhibit 85 was marked for
7 identification, admitted into evidence, and
8 retained by the Hearing Examiner.)
9   MS. GIRARD: And I just wanted to note,
10 when we set this hearing date, I already had a
11 conflict at one o'clock. So I'm going to be
12 leave -- not that I don't want to hear what Katie
13 says. But I'm going to be ducking out briefly,
14 and I'll be coming back. I just wanted --
15   HEARING EXAMINER SOKONI: No problem.
16   MS. GIRARD: -- everyone to know.
17   HEARING EXAMINER SOKONI: Yeah.
18   You may proceed.
19   MS. ROGERS: Great. Thank you very
20 much. Our first witness for today will be
21 Ms. Katie Wagner with Grove Slade.
22   (Witness summoned.)
23   HEARING EXAMINER SOKONI: I will
24 administer the oath. Ms. Wagner, if you could
25 kindly raise your right hand for me?

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1   (The oath was administered.)
2   MS. WAGNER: I do.
3 Whereupon,
4   KATHERINE WAGNER,
5   called as a witness for the Applicant,
6 having been duly sworn, testified as follows:
7   HEARING EXAMINER SOKONI: Thank you.
8 And could you kindly state -- spell your name for
9 the record?
10   THE WITNESS: Yes. Katherine Wagner,
11 K-A-T-H-E-R-I-N-E, Wagner, W-A-G-N-E-R.
12   HEARING EXAMINER SOKONI: Thank you.
13   MS. ROGERS: Thank you. Madam Hearing
14 Examiner, Ms. Wagner has been previously qualified
15 before this body as an expert in transportation
16 engineering. We're prepared to proceed with a
17 series of questions. Or if the Hearing Examiner
18 would like to requalify her as an expert, we can
19 skip those questioning.
20   HEARING EXAMINER SOKONI: I will
21 requalify. Any objections?
22   MS. ROSENFELD: We'll stipulate to her
23 expertise.
24   HEARING EXAMINER SOKONI: Thank you.
25   MS. ROGERS: Thank you.

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1   HEARING EXAMINER SOKONI: She's
2 recognized.
3   DIRECT EXAMINATION
4 BY MS. ROGERS:
5   Q   Ms. Wagner, have you prepared traffic
6 reports and provided -- sorry. It's not this
7 case. Those were my other questions. Thank you.
8   Are you familiar with the local map
9 amendment applications before the Hearing Examiner
10 today as H-159?
11   **A   Yes, I am.**
12   Q   Great. And before we get into the
13 specifics of this application, can you please
14 explain for the record some of the sources that
15 you use and, kind of setting the stage for your
16 testimony, why traffic engineers and county uses
17 objective data when evaluating transportation
18 impacts, and how some of that data may sometimes
19 conflict with other perceptions?
20   **A   Yes. So traffic engineers,**
21 **transportation engineers, as well as the county**
22 **and state -- we evaluate transportation and**
23 **traffic using objective, data-driven methods**
24 **rather than anecdotal experiences, perceived**
25 **experiences. When we assess potential traffic**

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1 impacts with a proposed development, we rely on
2 that data and standardized methodologies, such as
3 regional travel behavior surveys; trip generation
4 rates from the Institute of Transportation
5 Engineers, ITE; the Urban Land Institute, ULI; and
6 observed traffic counts. So we have cameras that
7 we set up out in the field that specifically count
8 how many cars are at an intersection driving on
9 different roads.
10   These data sets are based on thousands
11 of real-world observations from similar land uses
12 and provide a reliable foundation for forecasting
13 how much traffic a new development is likely going
14 to generate. It's important to emphasize that
15 this objective data offers -- often differs from
16 the public's perception. People's day-to-day
17 experiences with traffic, especially during the
18 peak rush hour, commuting time periods, can
19 understandably feel more severe than the data
20 suggests.
21   The public's perception is so often
22 shaped by the most congested moments they
23 experience, again, traveling to and from work,
24 between dropping their kids off at school. In
25 contrast, engineering analysis evaluates average

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1 conditions across multiple time periods,
2 accounting for real distributions of trips
3 throughout the day and across different routes.
4   For example, while it may seem
5 reasonable to assume that every household
6 generates three- or four-vehicle trips during --
7 at the same time during the morning and afternoon
8 commuting time periods, data consistently shows
9 otherwise. Actual trip generation and traffic
10 counts are much more varied.
11   Many residents leave outside the peak
12 hours, carpool, work remotely, or make non-work
13 trips throughout the day. The result is that
14 peak-hour impact per home is significantly lower
15 than what is often assumed in public's perception.
16 By grounding our analysis and measure data and
17 established methods, we ensure that the decisions
18 about transportation impacts are accurate,
19 consistent, and defensible, being derived from
20 data.
21   Q   Thank you. We'll now get into some of
22 the specifics of your traffic analysis as it
23 relates to this property and the proposed use.
24 Have you made a personal inspection of the site?
25 And are you familiar with the area surrounding

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1 this property?
2   A   Yes. I visited the site on numerous
3 occasions and are familiar with the surrounding
4 area.
5   Q   Thank you. And can you describe your
6 responsibilities with respect to this local map
7 amendment application?
8   A   Yes. So we were responsible for
9 evaluating the transportation for the LMA
10 application. So that primarily consisted of
11 preparing an LATR, local area transportation
12 review. This is Montgomery County's traffic
13 impact analysis.
14   And so what we needed to do is, we
15 needed to follow the county's and state's
16 requirements for the LMA, which included
17 conducting that LATR. We started this process by
18 coordinating with MNCPPC, Montgomery County's Park
19 and Planning Department, on the scope of the
20 traffic study. We also consulted with SHA, the
21 State Highway Administration, as well as
22 Montgomery County Department of Transportation,
23 MCDOT, on the trip generation associated with the
24 proposed project, and the requirements for what
25 they would like to see in that traffic impact

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1 study.
2   We use the LATR guidelines to figure out
3 what the scope of the study would need to be. As
4 part of that study, we reviewed -- I reviewed the
5 proposed plans, the vehicular access and
6 circulation with that -- with the proposed plans.
7 And then, based on the access and vehicle trip
8 generation for the development, we, again, in
9 consultation with MNCPPC, MCDOT, and LA -- and
10 ASHA, we agreed upon the scope of the traffic
11 study.
12   The scope of the traffic study was
13 signed by all of those agencies, agreeing on what
14 would need to be reviewed as part of that study.
15 That study outlines what needs to be prepared and
16 documented in the traffic study, and we then
17 conducted the LATR traffic study in accordance
18 with what was agreed to on this scope.
19   I also contributed to the preparation of
20 the land use report and the transportation-related
21 elements of that. And then, finally, we, as --
22 after the traffic study was submitted and reviewed
23 by the different jurisdictions, we addressed all
24 of their concerns and comments related to the
25 transportation and the LATR traffic study.

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1   MS. ROGERS: Thank you.
2   If we can, we have some of the exhibits
3 that were in the PowerPoint we were using last
4 time. If we could pull up Exhibit 68? If we can
5 go, I think, to Page 68?
6   THE ZOOM OPERATOR: Page --
7   MS. ROGERS: 68.
8   (Pause in proceedings.)
9   HEARING EXAMINER SOKONI: So for anyone
10 following, the Exhibit 68 was a PowerPoint
11 presentation that the Applicant had pulled
12 together.
13   But it pulls from other exhibits in your
14 packet, right? Are we at the right --
15   MS. ROGERS: If you want to go up? If
16 I'm reading that right, 54?
17   THE ZOOM OPERATOR: That's 54. Go
18 ahead.
19   MS. ROGERS: 55.
20   MS. GIRARD: 56.
21   THE ZOOM OPERATOR: There we go.
22   MS. ROGERS: There we go. Thank you.
23   Q   Ms. Wagner, can you please describe how
24 vehicles currently and -- enter and exit the
25 subject property, and then also the proposed

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1 access -- the proposed project?
2   A   Yeah. So as this exhibit shows, there
3 are multiple access points along both Notley --
4 along Notley Road as well as New Hampshire, so
5 each of those different single-family houses are
6 accessed by a different driveway. And I would
7 like to note that it has been well documented in
8 transportation engineering studies that the more
9 access points there are, it creates more conflict
10 points between vehicles.
11   And so the more access points, the more
12 chance for a potential crash, both -- while there
13 are no sidewalks today on Notley Road, that also
14 introduces the conflicts with not just
15 pedestrians, but also -- or not just vehicles, but
16 also pedestrians and bikes that may be walking or
17 biking down the side of Notley and New Hampshire
18 Road as well. And so then, in the future, these
19 access points will be combined into two -- only
20 two access points on Notley Road.
21   THE WITNESS: The -- oh, sorry. Next
22 slide. Thank you. Next slide shows where the --
23 oh, that's --
24   THE ZOOM OPERATOR: Sorry.
25   MS. ROGERS: That one's good.

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1   A   This slide shows where the two access
2 points will be. The easternmost access point will
3 be aligned with Petwyn Court. That was
4 specifically aligned as -- by -- with staff's
5 recommendation as well as Mr. Sloan. And I also
6 agreed that this is the best access point from a
7 transportation engineering perspective, again,
8 aligning the two access points for safety so that
9 when vehicles are approaching, the stop bar to --
10 at Notley Road, they're able to see the other
11 vehicles on the opposite side of Notley Road.
12   HEARING EXAMINER SOKONI: And just
13 because it's very difficult -- it's not the
14 clearest, you know, for anyone observing -- do you
15 mind just pointing out where those access points
16 are?
17   THE WITNESS: Can we get up?
18   HEARING EXAMINER SOKONI: Or -- yes,
19 please.
20   THE WITNESS: So the -- this is the
21 easternmost driveway, and it is aligned with
22 Petwyn Court that exists today. And then this is
23 the westernmost driveway, and the Petwyn Court is
24 over 400 feet away from New Hampshire.
25   HEARING EXAMINER SOKONI: Thank you.

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1   MS. ROGERS: And next slide, please.
2 Thank you.
3   Q   Ms. Wagner, what is the roadway
4 classification of New Hampshire Avenue?
5   A   New Hampshire is classified as a town
6 center boulevard.
7   Q   And can you describe for the record for
8 those listening what we're looking at on the
9 screen?
10   A   So what we're looking on this screen is
11 the Notley classification and Complete Streets
12 definitions. So on the left of the screen is a
13 screenshot of the Master Plans of Highways. That
14 is a county document that classifies all of the
15 different roads -- or most of the roads within the
16 county and what their purpose or classification
17 is.
18   And then on the right is the definition
19 of New Hampshire as a boulevard, and that
20 screenshot is from the complete street. So it
21 provides specific more details than I will provide
22 today about kind of the functionality of a
23 boulevard.
24   Q   Thank you. And what is the roadway
25 classification of Notley Road?

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1   A   So Notley Road -- and there has been a
2 little bit of confusion about Notley Road. So
3 Notley Road has recently been updated. Again,
4 it's called the MPOHT, the Master Plans of
5 Highways and Transitways.
6   So that was recently updated by county
7 council in 2025, and not all of the online
8 materials were updated to reflect the county's
9 change -- the council's change in the
10 classification.
11   So the council approved the 2025
12 technical update reflected in Resolution 20-890,
13 and then Page 72 of the planning board draft
14 recommended reclassifying Notley Road between New
15 Hampshire to the ICC right of way from a
16 neighborhood connector to an area connector. The
17 council's resolution, which approved the planning
18 board draft, with only select modifications, did
19 not change this recommendation. The approved --
20 this approved reclassification is reflected in the
21 GIS map.
22   And then -- but Notley is classified as
23 an area connector, and area connectors are
24 primarily residential through streets that tend to
25 serve a moderate amount of traffic volume. These

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1 streets may have longer comparable blocks -- block
2 lengths and often serve longer-distance travel
3 compared to a neighborhood connector, which it was
4 previously classified. The area connectors are
5 important connections for motor vehicles but also
6 have a strong need to accommodate other modes of
7 transportation.
8   MS. ROGERS: Thank you.
9   And we'd like to note for the record, as
10 we were preparing for today's hearing,
11 unfortunately, immediately before the hearing, we
12 discovered, as Ms. Wagner was testifying to, that
13 not all the materials online were correct with
14 reflecting -- this most recent 2025 technical
15 update was just passed by the council earlier this
16 year. And so if we go one slide up, you'll notice
17 in our PowerPoint that we had submitted, it
18 incorrectly lists Notley Road as a neighborhood
19 connector.
20   And, as Ms. Wagner just testified to, it
21 was recently changed by the county council to an
22 area connector. And so we would just request --
23 and we can submit a hard copy afterwards that we
24 had prepared. We brought copy of the updated map
25 as well as the council resolution and -- that

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1 adopts the planning board resolution showing that
2 change. If we could submit that into the record?
3   HEARING EXAMINER SOKONI: Any
4 objections?
5   MS. ROSENFELD: I would like to see the
6 documents.
7   HEARING EXAMINER SOKONI: Ms. Rogers,
8 what's the pertinent exhibit that that's
9 replacing?
10   MS. ROGERS: It would be replacing
11 Page 71 of Exhibit 68. And they're -- just to
12 clarify for it, it's all matter of public record
13 in terms of the map from the county's GIS system,
14 the definition from Complete Streets, and then the
15 council resolution, and an excerpt from the
16 planning board draft, just showing for the record
17 that change that was approved.
18   MS. ROSENFELD: We don't object to
19 admission of this packet.
20   HEARING EXAMINER SOKONI: Mr. Nusbaum,
21 any objection?
22   MR. NUSBAUM: No objection.
23   HEARING EXAMINER SOKONI: That will be
24 entered into evidence. I would like to enter that
25 as -- thank you very much. I'd like to enter that

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1 as Exhibit 68-A because it's supplementing
2 Exhibit 68.
3   We'll just drop a sub-phrase there,
4 updated pages to Exhibit 69 reflecting
5 reclassification of Notley Road. So that's
6 entered into the record without objection.
7   MS. ROGERS: Thank you.
8   (Applicant's Exhibit 68-A was marked for
9 identification, admitted into evidence, and
10 retained by the Hearing Examiner.)
11   Q   And, Ms. Wagner, can you please explain
12 kind of how this information is used by the county
13 for determining what's the appropriate
14 infrastructure and street sections?
15   A   Yeah. So as this exhibit shows on the
16 screen, this is again -- this is for a
17 neighborhood connector, but it's an example of
18 what would be shown in the Complete Streets guide
19 that the county has. And so this graphic
20 illustrates on the right what infrastructure would
21 be needed for different types of roads, so replace
22 this with an area connector.
23   And so it would show the widths of the
24 sidewalks needed, the travel lanes, things like
25 that. And so that guides, when a project like

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1 this comes forward to the county, what the
2 recommendations are going to be for the frontage
3 improvements associated with that project. So it
4 gives definitions for what the expected buffers
5 with -- buffer with the street trees, the sidewalk
6 widths, if there's bike lanes needed, or things
7 like that.
8   And I'd also really like to emphasize
9 that the county really relies on projects like
10 this to build a lot of the pedestrian and bike
11 infrastructure that we -- they've spent a lot of
12 years focused on vehicular capacity. And so roads
13 got built but the -- are lacking sidewalk and
14 pedestrian infrastructure. And so, again, the
15 county is very dependent on projects like this to
16 address frontage improvements as well as offsite
17 improvements.
18   MS. ROGERS: Thank you.
19   Next slide.
20   Q   And can you just clarify for the record
21 how SHA classifies Notley Road? I believe that's
22 what we're seeing here?
23   A   Yes. They are -- SHA also has another
24 classification map that SHA is not always in --
25 because they manage roads for the entire state,

393

1 they don't have the same classifications as the
2 county. And so SHA is classifying this as a
3 county -- as a major collector, again, that Notley
4 road is collecting traffic from neighborhood
5 streets. And that is the definition that SHA uses
6 for Notley.
7   Q   Thank you. You touched on this, but
8 just for the record, can you reiterate the
9 exhibits regarding the written reports that you
10 prepared in connection with this local map
11 amendment and your local area transportation
12 review?
13   A   Yes. So the LATR is going to be Exhibit
14 52-A, and the land use report is going to be
15 Exhibit -- oh, sorry, is now Exhibit 81.
16   Q   Thank you. And you are -- are you
17 familiar with Montgomery County's local area
18 transportation review guidelines?
19   A   Yes, I am.
20   Q   And is this project subject to local
21 area transportation review?
22   A   Yes. The project is subject to LATR
23 transportation review because it generates more
24 than 30 peak-hour trips during both the a.m. and
25 the p.m. peak hour.

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1   Q   And were your traffic counts taken in
2 accordance with those LATR guidelines?
3   A   Yes, they were. The traffic counts were
4 conducted in February -- on February 25th, 2025,
5 which is in compliance with the LATR guidelines.
6   MS. ROGERS: Next slide, please.
7   Q   This is an excerpt from your local area
8 transportation review report, which, as you
9 identified, was Exhibit 52-A in the record. Can
10 you please explain how the trip generation for the
11 project was calculated?
12   A   Yes. So the trip generation for the
13 project was --
14   HEARING EXAMINER SOKONI: So -- I'm so
15 sorry to interrupt. I have two raised hands. I
16 just want to check if those are legal objections.
17 Rafael Mattera and two others have raised hands.
18   Are you raising a legal objection to
19 anything?
20   MR. MATTERA: I'm -- this is Rafael
21 Mattera, and I'm not raising a legal objection. I
22 just have a question regarding the
23 reclassification from neighborhood connector to
24 area connector.
25   Did someone specifically request this

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1 reclassification? Because it sounds like it's
2 very timely for the developer. So did someone
3 request this reclassification?
4   HEARING EXAMINER SOKONI: Do you want to
5 address that now? Or can we hold that for
6 cross-examination?
7   MS. ROSENFELD: I think we can hold.
8   HEARING EXAMINER SOKONI: Okay. If you
9 -- I just want to advise, at this point, we have a
10 presentation of a case in chief. So if you have
11 questions, or you want to cross-examine the
12 witness, if you could just make a note of those,
13 you have an opportunity when they complete their
14 presentation of their case in chief.
15   MR. MATTERA: Thank you.
16   HEARING EXAMINER SOKONI: Uh-huh.
17   MS. WATSON: May I please -- I just want
18 to clarify something that I heard verbally.
19 Notley Road is a dogleg road. There is another
20 section of Notley that is north of Bonifant Road,
21 and I want to make sure that Notley applies -- as
22 I understand it, reclassification applies to that
23 section of Notley Road because it's not, say,
24 Notley Road, but a section of Notley Road.
25   HEARING EXAMINER SOKONI: Okay.

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1   MS. WATSON: Thank you.
2   HEARING EXAMINER SOKONI: I'll repeat
3 the -- I'll repeat what I just said previously.
4 If you could hold your questions and can raise
5 them during cross-examination? If you hear
6 something that sounds inconsistent, or something
7 you have a question with -- about, please hold
8 onto your questions, and you can raise those.
9   Unless -- you can interrupt if it's a
10 legal objection. If you're saying, I object.
11 That's incorrect, or, That should not be admitted,
12 that's a legal objection. Other than that, if
13 it's questions, you have to hold them until the
14 end. Thank you.
15   MS. ROGERS: Thank you.
16   HEARING EXAMINER SOKONI: You may
17 proceed.
18   Q   Ms. Wagner --
19   MS. ROGERS: So just for the record, the
20 image up on the screen is an excerpt from Exhibit
21 52-A, which is in the record.
22   Q   Ms. Wagner, can you please explain how
23 the trip generation for this project was
24 calculated?
25   A   Yes. So trip generation for this

397

1 project was, again, conducted per the LATR
2 guidelines, and the LATR guidelines require us to
3 use what's called the Institute of Transportation
4 Engineers Trip Generation Manual. And that trip
5 generation manual has different rates for
6 different land uses. In this case, we used the
7 existing land use, which is six -- or is five
8 single-family detached housing units and a
9 proposed -- we -- 135 single-family attached
10 housing units.
11   I want to note that we over -- we want
12 to be conservative in our traffic analysis, that
13 we want to make sure that we've assume the most
14 housing units that could be built -- well, as we
15 move through the LMA, as we move through
16 preliminary plan and site plan that follow, this
17 number can be reduced. But we want to make sure
18 that we've analyzed the total possible amount of
19 traffic, as we don't underestimate the number --
20 the amount of traffic that could be generated by
21 the proposed development. So that's why we do
22 have 135 units when that's not currently reflected
23 on the plan.
24   But -- so we use ITE Trip Generation for
25 those different land uses, and then Montgomery

398

1 County has specific rates for different adjustment
2 factors. They understand that ITE is a manual
3 used for all different land uses throughout the
4 country and that Montgomery County has specific
5 characteristics with being a very bikeable,
6 walkable, transit-friendly county that is
7 different in different policy areas.
8   And so the county is divided up into
9 multiple, different policy areas and has
10 adjustment factors to take into consideration the
11 different land uses in the different policy areas.
12 And so we apply those policy adjustment factors
13 for the Colesville policy area, and that is how we
14 come up with the trip generation for each of those
15 different land uses shown on the screen. So the
16 proposed project will generate 48 more vehicle
17 trips in the a.m. peak hour, 57 vehicle trips in
18 the p.m. peak hour, and then, on a daily basis,
19 generate 731 more vehicle trips on -- again, on a
20 daily basis.
21   Q   And those IT trip generation rates, just
22 to clarify in terms of -- you were describing that
23 they're conservatives. Do they include all
24 vehicles coming and going, including residents and
25 visitors and the like?

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1   A   Yes, yes. They include all assumed
2 vehicle travel to and from the site.
3   Q   And the trip generation rate you used
4 was for single-family attached. There is a
5 binding element in this case that would allow for
6 triplexes, townhouses, or duplex units.
7   Does this classification -- use
8 classification also include those different
9 building typologies?
10   A   Yes. They include all
11 single-family-type housing units that share walls.
12 So that was taken into consideration.
13   Q   Thank you. Can you please describe your
14 transportation analysis as it relates to motor
15 vehicle adequacy? And I think, for this one,
16 we'll go to the next slide?
17   A   Thanks. So what this picture is
18 depicting is the study intersections that --
19 again, we worked with MCDOT, Montgomery County
20 Park and Planning, and the Maryland State Highway
21 Administration to determine what intersections
22 would be most impacted by this project. And per
23 the LATR guidelines, we agreed to this scope of
24 reviewing study intersections.
25   And so the intersections include New

400

1 Hampshire Avenue and the ICC interchange. So
2 that's going to be your northernmost intersection.
3   We looked at New Hampshire and Notley;
4 we looked at New Hampshire and Randolph Road,
5 Notley Road and the two site driveways, as well as
6 Notley Road and Sherwood Forest Road. And I will
7 continue on describing kind of what goes into our
8 traffic study. It is pretty technical.
9   So the next part of our study is, we
10 look at if we want to evaluate the impacts of this
11 project on the roadway network. And we also want
12 to take into consideration that it takes a couple
13 of years for this project to be built.
14   There are other projects that may
15 already have approvals to be built, and so we need
16 to look at what's -- if there's any background
17 development projects in the area. And so that's
18 if there's any other approved development projects
19 that have approvals in the nearby area that may be
20 traveling through these intersections. And we
21 worked with the local jurisdictions to determine
22 that there were no other developments approved in
23 the vicinity of the study.
24   THE WITNESS: And so then if you can go
25 to the next slide?

401

1   A   What we needed to do is, we needed to
2 review the critical lane volumes for each of the
3 different study area intersections that we
4 described -- that I just described. And so,
5 again, as I said, we describe -- we reviewed how
6 they're operating today, and so that's the
7 existing conditions. And then we also looked at
8 in the future in 2030.
9   And so -- sorry. So we looked at those
10 intersection results. Sorry. I'm just trying to
11 understand the different -- and as you can see
12 that all of these intersections are within the CLV
13 requirement for this -- for the Colesville policy
14 study area, the LATR was reviewed by MCDOT, SHA,
15 and Park and Planning. And all three agencies
16 agreed that no mitigation is required to pass the
17 motor vehicle adequacy test by this application.
18   And then the approvals for -- from all
19 three agencies can be found in the Park and
20 Planning staff report on Page 33. The MCDOT
21 later -- letter is dated October 30th, and the SHA
22 letter is dated September 30th. And those are in
23 the record as Exhibits 56-I-I.
24   Q   I'm sorry. I might have misheard you,
25 but the MCDOT letter -- you said SHA was dated

402

1 September 30th. The MCDOT letter is dated --
2   A   Oh, it was dated October 20th. I
3 might -- I said that wrong. Thank you.
4   Q   Thank you. And just to clarify, for
5 what we're looking at with this CLV table, this is
6 showing the kind of future CLV projected at that
7 intersection, taking into account, as you
8 described in your testimony, both kind of existing
9 background and then factoring in the proposed
10 future. What is the CLV threshold for the
11 Colesville policy area that's applicable to this
12 project?
13   A   1350.
14   MS. ROGERS: Thank you.
15   And just, I guess, to clarify for the
16 record, for those who have to look online, the CLV
17 table we're looking at here is Table 6 from Page
18 21 of the LATR that's in the record as Exhibit
19 52-A.
20   Q   And did you also prepare a traffic
21 signal warrant analysis for the intersection of
22 Notley and New Hampshire Avenue?
23   A   Yes, we did.
24   Q   And was that requested by SHA?
25   A   Yes. So we prepared -- it was requested

403

1 by SHA and MC -- Montgomery County Department of
2 Transportation to review a traffic signal warrant
3 at the intersection of Notley and New Hampshire.
4 And what that does is, while we may want traffic
5 signals to get in and out of our neighborhood,
6 they need to be fully examined to see if there's
7 enough traffic volumes, if there is a specific
8 safety reason, if there's a large number of
9 pedestrians at an intersection to determine
10 exactly where it is safe to put traffic signals.
11   And I'd also like to note traffic
12 signals are expensive, and so the county does
13 not -- the county and state do not have -- does
14 not have the budgets to put in traffic signals
15 wherever we want them to go for both safety and
16 cost reasons. And so we -- they did ask us to
17 look at a traffic signal warrant for this to
18 determine if a traffic signal is needed at this
19 intersection.
20   When we scoped our traffic study, SHA
21 was not fully aware that they had already done a
22 study at this intersection on the request of the
23 community. And so they asked us to look at the
24 traffic signal. We determined a traffic signal
25 was warranted with the existing traffic volumes.

404

1   And when we were interacting with the
2 community, we found out they had already had the
3 study done by SHA. And again, our contact at SHA
4 didn't know the study was being done.
5   And so the study indicated a traffic
6 signal is needed at the intersection, and it is
7 warranted. So we did our preliminary analysis and
8 then found out that SHA had already done the
9 study, so we didn't do any more analysis because
10 SHA had already determined that a traffic signal
11 was needed at that intersection.
12   Q   And just for the record, which warrants
13 did your study show were met?
14   A   So we looked at the four -- the Warrant
15 2, which is a four-hour-vehicular-volume warrant,
16 so we look at four hours of vehicular traffic.
17 And then we also looked at the peak-hour warrant,
18 which is Warrant 3.
19   Q   And have you had further correspondence
20 with SHA? I know you just indicated that they had
21 previously, you know, come to the conclusion that
22 a signal was warranted to this intersection. But
23 regarding SHA's plans for constructing that
24 intersection -- or have they done any design work?
25   A   Yes. Once we found out that the -- that

405

1 they had already said a traffic signal could go
2 there, we reached out to SHA to coordinate with
3 them to kind of understand the status of that
4 project, to understand the status of their study.
5 And so what that -- what our conversation
6 indicated is that it is warranted. It is on
7 what's called the O-O-T-S, OOTS, and TEDD
8 single-advertisement projects for signalization.
9   What that means is, again, that it's a
10 place where they know that a signal is warranted.
11 When they have the approved -- when they have the
12 budget, and that signal gets to the list of
13 prioritization, they will design the signal and
14 construct the signal.
15   Understanding that the entitlement
16 process takes a while, the budget process for the
17 state takes a while, we agreed to stay in
18 coordination. The Applicant team will stay in
19 coordination with SHA to kind of -- whoever gets
20 there first.
21   And that way, we can all work together
22 to make sure a signal does get built with this
23 project, whether it's by SHA, that they get to it
24 first. We don't want to hold them up because it
25 is something that is needed for the community.

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1 But then if it -- if they designed it, and we need
2 to build it, we'll continue to stay in
3 coordination with them to make sure that the
4 signal gets built with the project.
5   Q   But to date, just for the record, SHA
6 has not actually allocated any funding to the
7 design or construction --
8   A   Not --
9   Q   -- to your knowledge?
10   A   -- to my knowledge, no, when we had our
11 conversation, I believe, in September.
12   Q   And in your professional opinion, will
13 the proposed traffic signal improve both vehicular
14 circulation for the surrounding neighborhood?
15   A   Yes.
16   THE WITNESS: If you could go to the
17 next slide?
18   So this exhibit shows -- and do you want
19 me to stand up?
20   HEARING EXAMINER SOKONI: Yes, please.
21   A   It's a little blurry over here. So the
22 site is the white shaded area that, again, is off
23 Notley Road, which is the yellow line; New
24 Hampshire is the pink line; and the blue line is
25 Randolph Road. It's hard to tell, again, on here,

407

1 but there's traffic -- there's -- we would like
2 to -- there's a traffic signal that we -- will be
3 built with this project, a traffic signal here.
4   And so what is really happening today is
5 that because New Hampshire is such a
6 heavily-traveled, high-speed road, that it is very
7 difficult for anybody traveling on Notley to make
8 a left, let alone make a right. And so what we
9 are -- have heard from the community, what we
10 believe is happening, based on kind of driving
11 around the site, things like that, is that a lot
12 of the neighborhood streets are feeding onto
13 Notley.
14   And because they're not able to get onto
15 New Hampshire, they are using Sherwood Forest
16 Road, which is a lower-classification residential
17 street. But it does connect Notley to Randolph
18 Road.
19   They're using that as a cut-through
20 street. Instead of traveling on the major roads,
21 they're using that route. And so with a traffic
22 signal at Notley, it will be easier for vehicles
23 to be able to turn left and right, that they will
24 have a specific, dedicated green time that they
25 are able to cross and to travel onto New

408

1 Hampshire.
2   Q   And in terms of pedestrian circulation
3 as well, can you just touch on how that will also
4 improve at this specific location?
5   A   Yes. That -- there is also really no --
6 there is a crossing up here, but there really are
7 no crossings for pedestrians to be able to cross.
8 There's no protected crossings, so pedestrians
9 really have no way to kind circulate throughout
10 their neighborhood to get from one side to the
11 other that there -- everybody is forced to drive
12 if there's really no safe crossing. So the signal
13 would also provide protected pedestrian crossings
14 where vehicles have to stop in -- for them.
15   Q   Thank you. And can you please describe
16 the -- regarding your transportation LATR report
17 and your analysis, the factors that went into both
18 pedestrian and transit and bicycle tests as well?
19   A   Yes. So the county is focused on not
20 just providing vehicular capacity for roads, that
21 they have really emphasized that our -- it needs
22 to be a local area transportation review, and not
23 everyone solely relies on cars. And so we --
24 there is a requirement to look at transit
25 adequacy, pedestrian adequacy, and bicycle

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1 advocacy -- adequacy as part of our transportation
2 studies. And so there are specific tests that we
3 need to evaluate for each of those.
4   So the first test that we -- that I will
5 talk about was the transit test. And so what we
6 have to look at is inventorying the transit access
7 within 500 feet of the property.
8   We do have the -- it is -- we don't
9 choose 500 feet. 500 feet is -- there are tiers
10 of study size based on the number of trips
11 generated by the project. And so that's -- that
12 is the 500 feet and why we -- why the
13 transportation study looked at that. There are
14 currently no bus stops within a quarter-mile of
15 the project.
16   Bus service -- there was bus service
17 along the site frontage when we did initially
18 prepare a traffic study. And then the county did
19 a Ride on Reimagined countywide adjusting the bus
20 routes during the 2025 summer. And so the bus
21 route along the New Hampshire frontage was taken
22 away.
23   In conversations with MCDOT, the reason
24 why that this bus stop was taken away was that
25 there was low ridership, and I think that that

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1 really could be attributed to the fact that there
2 was a lack of pedestrian and bike infrastructure
3 to allow people from the neighborhood to safely
4 walk to the bus stop, that that is one of the
5 things that really makes transit work is, being
6 able to get to and from bus stops. And if you
7 don't have sidewalks to walk there safely,
8 residents are going to be less likely to use the
9 bus.
10   I will also, though, note that there is
11 a planned BRT route along New Hampshire, and they
12 do plan to have the end of the line be at the
13 Colesville Park & Ride, which is within a
14 quarter-mile of the property. And there are bus
15 stops along -- currently, there's bus stops along
16 Randolph Road within a half-mile of the property.
17   Q   And is it true that there's some
18 conflicting information on -- that you've seen
19 online regarding where the BRT will end, whether
20 it's at Randolph, or it's at the Park & Ride? And
21 could you just clarify your testimony about where
22 it's planned to end? Was that based on a
23 conversation with DOT recently?
24   A   Yes. Yeah. There are -- there is a
25 website dedicated to the New Hampshire BRT route,

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1 and it does -- the graphics make it look like the
2 BRT route is ending at the intersection of New
3 Hampshire and Randolph Road. We reached out to
4 MCDOT in preparation for this -- for the planning
5 board hearing as well as this hearing to kind of
6 understand where it actually -- it makes sense to
7 have it end at the Park & Ride since there is a
8 dedicated facility up there. And so they did
9 indicate that it was going to be -- that end of
10 the route would be at the Park & Ride along New
11 Hampshire.
12   HEARING EXAMINER SOKONI: There's a
13 raised hand. Is that a legal objection? Or a
14 question?
15   UNIDENTIFIED SPEAKER: Yes. I had a
16 question while that slide was up.
17   HEARING EXAMINER SOKONI: Can we hold
18 the question? If -- just note the question. You
19 will have an opportunity for --
20   UNIDENTIFIED SPEAKER: Sure.
21   HEARING EXAMINER SOKONI: --
22 cross-examination.
23   Q   Thank you. Did -- can you describe
24 pedestrian analysis?
25   A   Yes. So, again, per the LATR

412

1 guidelines, we needed to look within around 250
2 feet of the property to understand what's called
3 the pedestrian level of comfort, PLOC. That
4 really is to figure out how comfortable it is for
5 pedestrians to walk somewhere.
6   It's not just, is there a presence of a
7 sidewalk, because you may have a sidewalk, but
8 it's four feet wide and next to a 60-mile-per-hour
9 road. That is not a very inviting pedestrian
10 environment.
11   And so there are different requirements
12 for different types of roads to indicate how
13 comfortable it is for a pedestrian, that that may
14 be a much nicer -- much more comfortable sidewalk
15 situation on a low-volume residential street
16 versus a road like New Hampshire. And so there
17 are different requirements for the PLOC based on
18 the types of road that the sidewalk is next to.
19 And so the PL -- the pedestrian study indicated
20 that there are several segments in the study area
21 that do not meet the PLOC standards, in large part
22 because there's gaps with missing -- there's gaps
23 in the form of missing sidewalks and insufficient
24 sidewalks, like the sidewalk along New Hampshire.
25   As part of that study, we also had to

413

1 look at the ADA analysis, so the understanding
2 how -- really looking at curb ramps to understand
3 if someone in a wheelchair, if a stroller can
4 traverse a curb ramp, and if it meets the
5 standards for that in the terms of slope. And we
6 did find that there are deficiencies for the ADA
7 evaluation, too.
8   And then I'll just continue on with
9 the bicycle infrastructure. We do have -- we
10 looked at the bicycle infrastructure within 400
11 feet of the property, is, again, what is required
12 per the traffic study guidelines, and that there
13 are several deficiencies noted in this study area
14 with regards to the bike standards. And again,
15 it's -- bike level of traffic stress is what it's
16 called, so really how stressful it is for a biker
17 to ride in a bike facility. And so, again,
18 there's different standards for -- to -- for
19 evaluating the level of traffic stress.
20   And then, finally, our study takes
21 into account all of these deficiencies, and we
22 evaluate where those deficiencies are. And then
23 at future stages of the development review
24 process, the Applicant will be responsible for
25 mitigating a certain dollar amount of deficiencies

414

1 related to vehicular -- vehicles, pedestrians,
2 bikes, and transit. And so we will work with
3 MCDOT, SHA, and Park and Planning, understanding
4 community concerns of where that money will be
5 spent to make sure that the project is addressing
6 their fair share of deficiencies in the
7 transportation network surrounding the property.
8   Q   And just to clarify, the -- that pool of
9 money that you're talking about that goes towards
10 addressing deficiencies -- does that go only to
11 offsite deficiencies that are not along the
12 property's frontage?
13   A   Yes, yes. It's what's called the
14 proportionality guide, and it is specifically for
15 all offsite deficient -- or to address offsite
16 deficiencies that the Applicant is responsible for
17 all their site improve -- site frontage
18 improvements that's outside of this offsite.
19   Q   And did you also prepare a Vision Zero
20 statement?
21   A   Yes, we did.
22   MS. ROGERS: You can go to the next
23 slide.
24   Q   As part of the Vision Zero statement,
25 did your study provide the required information

415

1 about accident history and speed data?
2   THE WITNESS: Yes.
3   Sorry. Can you go to the -- one more --
4   MS. ROGERS: Actually, one more.
5   THE WITNESS: -- slide down?
6   MS. ROGERS: Yeah. Thank you.
7   THE WITNESS: Thank you.
8   A   Yes. So we did have to do the -- it's a
9 Vision Zero test, and that requires the collection
10 of accident and crash data as well as speed data
11 surrounding the property. And so the study area
12 requirement is 250 feet, which is what this
13 graphic shows here. This graphic shows that there
14 are -- were a number of crashes observed at the
15 Notley and New Hampshire intersection.
16   We looked at the crash history from the
17 last five years. We evaluate if the crashes are
18 severe, fatal, and document the type of crash and
19 the mode of crashes that happened. There were 22
20 crashes between 2020 and 2025, and all of the
21 crashes were reported as injury classes.
22   This is a to-be-expected result. It is
23 difficult for vehicles -- as I previously have
24 described, for them to exit -- or travel along
25 Notley and to enter or exit onto New Hampshire,

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1 that it is a high-speed, six-lane road.
2   Again, the signal will really be able to
3 help address this, where the signal will provide
4 green time for side-street movements on and off
5 Notley Road. And that will really help the safety
6 and address some of these crashes that have been
7 observed.
8   We also did speed a speed study. We
9 were required to collect 48 hours of speed data as
10 part of the Vision Zero statement. And so what we
11 did is, we collected the -- we collected speed
12 studies along New Hampshire Avenue between Notley
13 and Orchard Way, and then we also collected speed
14 studies on Notley between Petwyn Court and Shannon
15 Drive. The speed data is presented in the LATR.
16   And what we found is that both speed
17 studies have vehicles -- we classify it into the
18 50th and 85th percentile speeds and to really
19 understand what's -- how fast cars are going in --
20 50 percent of them or 85 percent of them are
21 going. And we found that both roads had vehicles
22 exceeding the posted speed limit.
23   The posted speed limit for Notley is
24 30 miles per hour; the posted speed limit for New
25 Hampshire is 45 miles per hour. And we really

417

1 found that the 85th percentile speed for Notley
2 Road is closer to 39 miles per hour, and the 85th
3 percentile speed for New Hampshire is closer to 49
4 miles per hour. And so, again, as part of our
5 future process at the preliminary plan stage, we'd
6 work with MCDOT and SHA to determine if some of
7 the transportation improvements could go towards
8 addressing speed to help, again, with the safety
9 of pedestrians and vehicles in the study area.
10   MS. ROGERS: And I just wanted to note,
11 the crash data exhibit that we are looking at that
12 Ms. Wagner was just testifying to is Figure 4 from
13 that LATR report. So it's already in the record,
14 but that's what was up on the screen.
15   THE WITNESS: Can you go to the next
16 slide? Thank you.
17   A   And so, again, kind of to address safety
18 and Vision Zero concerns, we heard from the
19 community. This graphic here is illustrating the
20 picture of the Notley and Sherwood Forest Road
21 intersection. As you can see from this image, the
22 stop bar lines are faded. We've heard that people
23 really don't obey the traffic -- the stop sign,
24 the traffic control.
25   I also just talked about how vehicles

418

1 are traveling fast along Notley Road. And again,
2 we've heard that from the community as far as
3 concerns. And so we could work with MCDOT to
4 figure out some ways to address kind the stop
5 concerns that people are not obeying the stop sign
6 as well as -- the graphic on the right is an
7 example of some -- a speed control measure --
8 they're called optical speed bars -- and that
9 figure is from the Complete -- the Montgomery
10 County Complete Streets design guidelines, again,
11 to address speeding concerns.
12   Q   And so these type of improvements that
13 you're describing now -- I mean, those are some of
14 the things that will be considered by MCDOT and
15 Park and Planning at the time of preliminary plan,
16 when looking at kind of where to spend the offsite
17 funds that the Applicant will be required to
18 provide?
19   A   Yes, yes. We will work with MCDOT and
20 SHA and Park and Planning at the preliminary plan
21 stage to figure out what deficiencies these --
22 this project needs to address.
23   Q   In your professional opinion, will the
24 proposed development improve pedestrian safety and
25 circulation?

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1   A   Yes, it will. We -- I believe, with the
2 consolidation of the curb cuts as well as the
3 proposed frontage improvements related to both --
4 for both pedestrians and bikes, will significantly
5 improve pedestrian safety and circulation,
6 specifically the Notley road sidewalks that --
7 currently, there is a park next -- to the west of
8 the project. And there are no sidewalks to get to
9 that park, and the -- this project specifically is
10 extending the open space into the park, and so it
11 will connect a sidewalk to the park.
12   The traffic signal will also help with
13 the circulation of providing pedestrians of
14 protected crossing across New Hampshire, where
15 there currently is not one. And then, again, as
16 we've talked about at the time of preliminary
17 plan, we'll work with staff to address even more
18 places to improve deficiencies in the pedestrian
19 environment. So there are still more
20 opportunities for projects to be identified.
21   Q   And in your professional opinion, will
22 vehicular access be safe, adequate, and efficient?
23   A   Yes. The site access, circulation
24 pattern, frontage improvements, and all the
25 internal streets will be constructed to provide

420

1 safe and efficient access for all users. The
2 Mr. -- or the future people that are testifying
3 will talk about that we did a preliminary site
4 distance evaluation for the two driveways and that
5 both driveways are going to be able to meet the
6 county standards for with -- even with the
7 observed speeds on Notley Road, that they will be
8 able to meet the site distance requirements for
9 the driveways.
10   The project will be required, again, to
11 provide frontage improvements for pedestrian,
12 bikes, and motor vehicles that we've worked with
13 staff to identify the correct location for site
14 driveways on Notley Road, that we're going to be
15 aligned with Petwyn Court so that vehicles can see
16 each other, and that we also have worked with the
17 county and SHA to determine that Notley Road is
18 the most appropriate location for the driveways to
19 access the site, that SHA does have a intersection
20 SPAC requirement of 750 feet. This site has a
21 limited frontage along New Hampshire.
22   And so Notley Road is the lower
23 classification of street, the lower volume of
24 traffic, which, again, is in -- aligned with
25 county policies as well as state policies of

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1 intersection spacing. And so Notley Road is the
2 appropriate location for the site driveways.
3   Q   And just -- I think you touched on this,
4 and I'm sorry. But just to clarify, both in terms
5 of the county policy, you talked about in terms of
6 access off of the lower-classification street.
7   Would there also be challenges to access
8 off New Hampshire Avenue with the required
9 intersection's facing --
10   A   Yes.
11   Q   -- requirements?
12   A   Yes, that the site frontage is not --
13 there is not 750 feet to place a driveway away
14 from the intersection of New Hampshire and Notley
15 Road.
16   Q   And did Park and Planning staff review
17 your LATR study and agree with the conclusions in
18 your LATR report?
19   A   Yes. Pages 33 to 35 of the staff report
20 discuss staff's findings. Staff confirmed the
21 Floating Zone Plan does not exceed the CLV,
22 critical lane volume, standard for the study
23 intersections, as applicable under the planning
24 board's LATR traffic study guidelines.
25   In addition, the motor vehicle adequacy

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1 was tested as part of this application. The
2 non-motorized adequacy -- that's the pedestrian
3 bike and transit -- tests were also conducted and
4 consistent with the LATR guidelines, and the
5 deficiencies were noted. And then mitigation will
6 be determined at the time of preliminary plan in
7 consultation with staff.
8   Q   And then MCDOT and SHA -- have they also
9 reviewed your traffic study and agreed with your
10 conclusions?
11   A   Yes. SHA concurs with the responses and
12 the report's findings for this project as
13 currently proposed and will not require the
14 submission of any additional traffic analysis.
15 MCDOT concluded -- they also approved the traffic
16 study. MCDOT concluded that extending the
17 northbound left-turn lane may be required on New
18 Hampshire Avenue at Notley Road.
19   However, SHA has the final
20 determination, as SHA owns New -- or is in control
21 of New Hampshire. In addition, the Applicant
22 would need to consider a right-turn lane on Notley
23 Road into the site.
24   And while the Applicant team does not
25 believe that this is necessary, given that it is

423

1 400 feet of separate -- there's 400 feet of
2 separation between the easternmost driveway and
3 New Hampshire. But we will work with MCDOT, at
4 the time of preliminary and site plan, and
5 determine if that right-turn lane into the site is
6 actually necessary.
7   Q   And if that right-turn lane is
8 determined at preliminary plan to be necessary,
9 will it have any meaningful impact on, you know,
10 the Applicant's ability to proceed with the
11 project?
12   A   No. The -- we have figured out -- we
13 have drafted that and have confirmed that the --
14 there is ample space --
15   Q   Okay.
16   A   -- to accommodate the turn lane, if it
17 is necessary.
18   MS. ROGERS: Thank you.
19   If we can go to the next slide? Thank
20 you.
21   Q   Can you please explain how this project
22 meets the transportation-related prerequisites
23 under Section 5(1)(3)(d)?
24   A   Yes. We meet the transit and
25 infrastructure category prerequisites that

424

1 requires all signalized intersections within a
2 quarter-mile of the site boundary are operating
3 below the applicable congestion standard. And so
4 what this table is showing is showing that, again,
5 we're below the congestion standard for all the
6 intersections that were required to be studied in
7 the LATR study.
8   Again, that -- the LATR study was
9 prepared in accordance with what Montgomery
10 County, Department of Transportation, SHA would
11 like us to look at. When we prepared this study,
12 it was not determined that the intersection of
13 Midland Road and New Hampshire needed to be
14 included in the LATR study, that that intersection
15 is primarily serving the Colesville Shopping
16 Center and the neighbor -- and a neighborhood
17 street that, really, all of the traffic -- most of
18 the traffic with our -- with -- associated with
19 this project is going to be traveling through that
20 intersection. And so SHA and MCDOT and Park and
21 Planning did not determine that that intersection
22 needed to be studied, which is why it was not
23 originally included, and why we have conducted a
24 few -- the supplemental memos.
25   And so what we have -- what we did in

425

1 preparation for the previous hearing is, we
2 prepared a analysis at that intersection because
3 the federal government was shut down for quite a
4 bit of time before the last hearing. So we used
5 old counts, and that was a supplemental analysis
6 we submitted before the previous hearing.
7   Since then, the federal government
8 reopened, and we were able to actually collect
9 traffic counts before the Thanksgiving holiday and
10 in preparation for this hearing. And so we were
11 able to do -- and this is Exhibit 79. We were
12 able to do the CLV analysis for the Midland
13 intersection and, again, are able to show that
14 that intersection operates within the acceptable
15 congestion standard.
16   Q   Thank you. And so, in your professional
17 opinion, the prerequisite that requires all
18 signalized intersections within a quarter-mile of
19 the site boundary, the operating below the
20 applicable congestion standard, based on your
21 updated analysis with accounts that were taken
22 that are entered into the record as Exhibit 79 has
23 been met?
24   A   Yes.
25   MS. ROGERS: And can you please

426

1 explain -- and for this, if we can please pull up
2 Exhibit 80? Wait a sec.
3   THE ZOOM OPERATOR: Which page?
4   HEARING EXAMINER SOKONI: We'll start at
5 the first page. Thank you. Perfect. Thank you.
6   Q   Can you please explain how the project
7 also meets the vicinity and facilities
8 prerequisite, which requires the site be adjacent
9 to a bicycle route that provides access to the
10 commercial services within three miles?
11   A   Yes. As Josh Sloan testified to, there
12 is an existing signed-and-striped bike lane on New
13 Hampshire Avenue that provides access between the
14 property and the commercial shopping center
15 located at the intersection of New Hampshire and
16 Randolph Road.
17   During Josh Sloan's testimony,
18 Mr. Nusbaum pointed out that there is an old sign
19 that indicates that the bike lane ends at the
20 intersection of New Hampshire Avenue and Midland
21 Road.
22   First, we would like to note that even
23 if this were the case, this is one of the main
24 entrances to the commercial shopping center, so
25 this prerequisite would have been met. But,

427

1 importantly, this bike lane does not end at
2 Midland Road. Rather, SHA embarked on a project
3 in 2024 to undertake improvements to the New
4 Hampshire Avenue striping among other things.
5   And then, as demonstrated -- and I guess
6 I can come up and point to it -- so what we're
7 showing here is a 2019 aerial of -- this is the
8 shopping center here, and this is New Hampshire,
9 North and South. As you can see from this 2019 --
10 kind of see from this blurry image from the 2019
11 exhibit that there is no bike lane visible.
12   THE WITNESS: And so then if you can
13 scroll down?
14   A   And again, this is just from Google
15 Street View. We're again right in front of the
16 shopping center. This was -- is about the red
17 arrow is pointing to, is where this image is taken
18 from.
19   Q   And you can't see it, but it's dated
20 August 2019?
21   A   So it's August 2019. There, again, is
22 no bike lane visible from Google Street View.
23   THE WITNESS: If you can go to the next
24 slide?
25   A   So here, this is the 2024 aerial image.

428

1 You can see now that there is a bike lane that has
2 been striped. I think it's easiest to see these
3 dotted little green stripes right there.
4   THE WITNESS: If you scroll down one
5 more?
6   A You can see again here, this is the bike
7 lane that is approaching the intersection. And
8 what -- while it's a little bit hard to tell that
9 this is an actual bike lane, these dashed lines
10 indicate for both vehicles and bicyclists that are
11 using the bike lane that vehicles will be
12 maneuvering across the bike lane to get into the
13 southbound right turn lane, and so that -- there
14 is a bike lane present there.
15   Q And when you said this bike lane is
16 approaching the intersection, this is in the photo
17 approaching the intersection of New Hampshire and
18 Randolph Road, correct?
19   A Yes, it is. Yeah.
20   Q Thank you. So the striping of the bike
21 lane, in your professional opinion, goes all the
22 way from the property to the intersection of New
23 Hampshire and Randolph Road?
24   A Yes, and -- yes, it does. And the sign
25 that Mr. Nusbaum pointed out is likely just an old

429

1 sign that was failed to be removed with this bike
2 lane --
3   MR. NUSBAUM: Objection.
4   A -- project.
5   HEARING EXAMINER SOKONI: Please.
6   MR. NUSBAUM: I don't know how she knows
7 it's likely that it's an old sign. It's
8 speculative.
9   HEARING EXAMINER SOKONI: It's offered
10 as an opinion. It's a professional opinion.
11 Overruled.
12   MS. ROGERS: Thank you.
13   Q So in your professional opinion, does
14 this project meet the prerequisite that the
15 vicinity facilities requires a bike route be
16 provided to provide access to a commercial service
17 within three miles of the property?
18   A Yes, it does.
19   Q Is this site served by public
20 transportation? And if so, can you just reiterate
21 the transportation services provided?
22   A So, currently, there are no bus stops
23 within a quarter-mile of the site, as I previously
24 testified, that has recently -- service along the
25 site frontage has recently been removed. However,

430

1 there are four bus stops within walking distance
2 of the property within a half-mile of the site.
3 These bus stops are served by two WMATA bus
4 routes, the M42 and M44.
5   42 provides a connection between College
6 Park and North Bethesda Station while M -- Route
7 M44 provides connections between the Hyattsville
8 Crossing Station and North Bethesda Station with
9 frequencies about every 30 minutes. And also, as
10 we discussed, there is a new bus rapid transit
11 stop to be located at the Colesville Park & Ride
12 within a quarter-mile of the site.
13   Q And based on your professional opinion,
14 will adequate parking be provided onsite to avoid
15 any adverse impacts to the surrounding community?
16   A Yes. The parking will exceed the
17 Montgomery County zoning requirements for parking.
18 There will be over a hundred and -- there will be
19 423 parking spaces that are -- will be provided.
20 Only 243 are required per zoning, and so that's
21 180 parking spaces over.
22   We also looked at -- ITE also publishes
23 a parking manual. And so that really is another
24 manual that provides information based on data
25 collected at similar sites. They provide a

431

1 average demand for single -- they provide a demand
2 model rate for different types of uses.
3   So we looked at ITE to determine how
4 many parking spaces would be needed for an
5 attached single-family housing project with 130
6 units. And that came out to 183 parking spaces on
7 average and then a 85th percentile. So, again, 85
8 percent of the time, in the most heavily-used time
9 periods, that would be 295 parking spaces. So,
10 again, ITE indicates that we would have enough
11 parking spaces.
12   We also looked at ULI Shared Parking
13 Manual, so that's the Urban Land Institute.
14 Again, they provide recommendations on how many
15 parking spaces are needed.
16   And so for a project like this, they
17 indicated it would be 355 parking spaces. And
18 that includes also parking spaces for visitors in
19 that 355 number. So we believe that -- I believe
20 that the parking will be sufficient for this
21 project.
22   MS. ROGERS: And there was some
23 testimony submitted in the record, written
24 testimony raising concerns regarding overflow
25 parking on either Notley Road or Greenspring

432

1 Drive. In your professional opinion, is there
2 likely to be overflow parking that would adversely
3 affect the neighborhood?
4   And if we could, I guess, go back to
5 Exhibit 68, the very last page? There's an
6 aerial.
7   THE ZOOM OPERATOR: Okay.
8   A   So there was testimony about park --
9 overflow parking being accommodated in the
10 neighborhood. And specifically calling out
11 Greenspring Lane, which is north of the property,
12 and that residence with the -- in the proposed
13 development will likely park on Greenspring Lane.
14   One, I believe that there will be plenty
15 of parking provided onsite, given what we just
16 talked about. But then also, there are no
17 pedestrian connections through the site for people
18 to be able to park on Greenspring Lane and then
19 access the subject property. And so I don't
20 believe that there will be overflow parking in the
21 neighborhood.
22   Q   And can you also touch on Notley?
23   A   Yes. Notley Road is also a two-lane
24 road with no shoulder, and so there really is no
25 place for vehicles to be able to park on Notley

433

1 Road.
2   Q   And in terms of also the -- can you
3 touch on how the Project Streetscape improvements
4 are going to further make that the case that it'll
5 prevent parking along Notley Road?
6   A   Yes. They'll now have a curb and a
7 sidewalk on Notley Road. So in addition to that,
8 we can also work with MCDOT to put up no-parking
9 signs along the site frontage on both sides of
10 Notley Road to prevent -- to further prevent
11 potential parking.
12   Q   And just to -- I guess, to sum up all
13 your testimony, you don't -- in your professional
14 opinion, you don't feel like that -- you don't
15 believe that is likely to happen because there is
16 adequate parking being provided --
17   A   Yes.
18   Q   -- onsite?
19   A   Yes. I believe there's adequate parking
20 onsite and do not believe there will be overflow
21 parking in the neighborhood.
22   Q   Moving to some of the necessary
23 findings, Section 721(E)(2)(e) requires a finding
24 that the Floating Zone Plan will generate traffic
25 that does not exceed the critical lane volume or

434

1 volume capacity ratio standards, as applicable
2 under the planning board's LATR guidelines; or, if
3 the traffic exceeds the applicable standards, the
4 Applicant demonstrates an ability to mitigate such
5 adverse impacts.
6   In your professional opinion, will the
7 project satisfy this requirement?
8   A   Yes. All studied intersections will
9 operate below the maximum congestion standard of
10 the yellow policy area, which is 1350 CLV. I also
11 want to note that because a preliminary plan is
12 subsequently required, the planning board is
13 charged with approving adequate public facilities
14 at that time as well. The Applicant will continue
15 to work with planning staff to mitigate
16 deficiencies, any ped bike and transit network
17 identified in the LATR, as well as work with SHA
18 to ensure that a signal is constructed at the
19 Notley and New Hampshire Road intersection.
20   Q   And do you believe, from a traffic
21 standpoint, that the proposed project and the
22 proposed use is compatible with the surrounding
23 area?
24   A   Yes. It's compatible from a
25 transportation perspective because we meet all the

435

1 LATR standards and per my previous testimony,
2 which is the intent of the growth and
3 infrastructure policy and the APF legislation.
4 Proposed housing density will also help support
5 additional transit options within the surrounding
6 area by providing necessary users to justify
7 additional services.
8   Q   There was some written testimony in the
9 record regarding concerns that the project would
10 result in excessive cut-through traffic on
11 Sherwood Forest Drive. In your professional
12 opinion -- I know you touched on this, but can you
13 kind of elaborate on whether you think the project
14 will increase or decrease traffic on Sherwood
15 Forest Drive?
16   A   In my professional opinion, I believe
17 that traffic -- the project with the associated
18 traffic signal will actually decrease traffic on
19 Sherwood Forest Road, that it will allow residents
20 to be able to use the signal at Notley and New
21 Hampshire to be able to travel north and south on
22 New Hampshire.
23   Q   And once the traffic signal is installed
24 at the intersection of Notley and New Hampshire
25 Avenue, creating kind of controlled traffic

436

1 movements, will that provide more convenient
2 access to where some of the trips are anticipated
3 to be dispersed from the site, as compared to
4 Randolph and Sherwood Road intersection --
5   **A Yes.**
6   Q   -- or Forest?
7   **A   The Sherwood Forest and Randolph Road**
8 **intersection is unsignalized. As part of the LATR**
9 **traffic study, we work with staff to determine**
10 **kind of the distribution of traffic, where**
11 **vehicles will be coming and going from the site.**
12 **And the trip generation -- trip distribution in**
13 **the LATR only has ten percent of the**
14 **site-generated traffic traveling eastbound on**
15 **Randolph Road and 30 percent of the traveling**
16 **southbound on New Hampshire Avenue. As such, it's**
17 **highly unlikely that these vehicles would use**
18 **Sherwood Forest Road, where they would need to**
19 **cross three lanes of traffic at an unsignalized**
20 **intersection to access eastbound Randolph Road,**
21 **which would take them back to New Hampshire Avenue**
22 **to travel southbound instead.**
23   **With the new traffic signal at Notley**
24 **Road, cars anticipated to choose to use the**
25 **signalized intersection at New Hampshire Avenue,**

437

1 **which provides two dedicated southbound left-turn**
2 **lanes and three southbound through lanes. As**
3 **such, the project would likely result in, again,**
4 **the reduction in vehicles traveling on Sherwood**
5 **Forest Road.**
6   Q   And does the intersection of Sherwood
7 Forest and Notley Road operate within applicable
8 and appropriate standards?
9   **A   Yes. The intersection of Sherwood and**
10 **Notley was included in our LATR study, and we**
11 **found that it operated well below the congestion**
12 **standard it operated at an LOSA.**
13   Q   And in your professional opinion, will
14 the proposed development create any adverse
15 impacts for residents entering or exiting on
16 Petwyn Court?
17   **A   No. Based on community feedback**
18 **highlighting concerns of eastbound cues at New**
19 **Hampshire and Notley intersection, a gap analysis**
20 **was conducted. And so what that is is, it's**
21 **looking at cars traveling on Notley Road, and the**
22 **gaps in traffic for cars to be able to turn left**
23 **or right out of Petwyn Court or onto Petwyn Court.**
24 **And our gap analysis indicated that there were**
25 **plenty of gaps to accommodate both the existing**

438

1 **traffic on Petwyn Court as well as the future**
2 **proposed traffic with this development and so that**
3 **there will be plenty of gaps to be able to enter**
4 **and exit Petwyn Court as well as our -- the**
5 **proposed project.**
6   Q   And in your -- so in your professional
7 opinion, is the Montgomery County Council, sitting
8 as the district council, able to make the
9 necessary findings, as they relate to
10 transportation, to approve the Floating Zone
11 Planning section with this local map amendment?
12   **A   Yes.**
13   Q   And did the planning board and planning
14 department staff agree with that?
15   **A   Yes, they did. They agreed with that.**
16   MS. ROGERS: We don't have any further
17 questions for Ms. Wagner at this time.
18   HEARING EXAMINER SOKONI: Uh-huh. Turn
19 it over to cross-examination, and I propose that I
20 start with Ms. Rosenfeld. My -- I would just like
21 to urge no one's -- you know, everyone has the
22 option -- well, you know, those present have the
23 option to cross-examine.
24   But if you feel -- you know, if --
25 there's no point in repetition. So, you know, if

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1 the questions you have have been addressed, it's
2 okay to pass.
3   But, you know, why don't you go first,
4 Ms. Rosenfeld? And then I'll turn it over to
5 Mr. Nusbaum.
6   MS. ROSENFELD: Certainly. Thank you
7 very much.
8   CROSS-EXAMINATION
9 BY MS. ROSENFELD:
10   Q   You had offered some analysis about the
11 adequacy of parking, and you had mentioned that
12 you had also looked at parking requirements -- or
13 parking standards under, I believe, ULI and the
14 ITE. Can you just point me to where in your
15 report that analysis is shown?
16   **A   We looked at --**
17   Q   Which exhibit?
18   **A   -- that to prepare for this hearing as**
19 **well as in the -- one moment.**
20   (Counsels confer.)
21   **A   So we also provided that information in**
22 **the Exhibit 56-J, the Applicant's response to**
23 **community comments.**
24   Q   Okay. And that's where that analysis
25 of -- under the ULI and the IGE --

440

1   A Yes.
2   Q -- as well?
3   A Yeah.
4   Q Okay. Thank you. In terms of parking,
5   what is your testimony with respect to the
6   potential for overflow parking on Petwyn Court? I
7   think you talked about Motley. And is it
8   Greenspring but not Petwyn?
9   A Yes. So I believe that there will be
10   plenty of parking onsite. Again, we're -- we have
11   over 80 -- over 180 parking spaces required per
12   zoning. Again, per ITE and ULI, there also is
13   more than enough parking, so don't believe Petwyn
14   Court will also have overflow parking.
15   Q If there were to be offsite parking,
16   would Petwyn Court be the closest, most convenient
17   offsite parking to this property --
18   A No.
19   Q -- to the site?
20   A No. The park would actually probably be
21   the most convenient in the fact that there is a
22   sidewalk.
23   Q And how many parking spaces are there at
24   the park?
25   A I do not know that.

441

1   Q Okay. And that's your response, even
2   for the housing units that would be directly
3   across from the Petwyn Court site --
4   A Yes. There is --
5   Q -- or the court entrance?
6   A The Petwyn Court would require -- if
7   residents were to park on Petwyn Court, they would
8   need to walk across a road that has vehicles
9   traveling on it; whereas if they're able to park
10   at the park, they're parking in a parking lot and
11   have a very comfortable sidewalk to be able to
12   walk to the development.
13   Q In your experience, do people tend to
14   park closer to their destination if they're trying
15   to park at a location convenient to where they're
16   actually going?
17   A Yes. But I think they also take into
18   consideration vehicles, that they may be
19   traversing across and the safety of if they're
20   traveling with small children, elderly. Safety is
21   also something that people take into consideration
22   when finding parking.
23   Q Okay. And if somebody were to go from
24   Petwyn Court to the subject property, are there
25   sidewalks on either side of the entrance leading

442

1   into the development on the entrance road?
2   A Yes, there are.
3   Q Okay. And do you know the distance
4   between the parking lot at the park and the
5   entrance --
6   A I do not know.
7   Q -- at the Petwyn -- okay. I also have
8   some questions about the size of the parking
9   spaces associated with the units themselves, both
10   the driveway and the parking spaces within the
11   units. Are you the right witness for those
12   questions? Or would that be --
13   A I don't --
14   Q -- the civil engineer?
15   A I don't believe I'm the right --
16   Q Okay.
17   A -- witness for that.
18   MS. ROSENFELD: Ms. Rogers, would that
19   be the civil engineer --
20   MS. ROGERS: Yeah. I think Mr. Sloan --
21   MS. ROSENFELD: -- for those dimensions?
22   MS. ROGERS: -- who testified -- well, I
23   think Mr. Sloan had testified to the parking in
24   his previous testimony.
25   MS. ROSENFELD: Okay. I'm not sure he

443

1   answered questions about dimensions, though. I
2   think he deferred to the civil engineer on that as
3   well.
4   MS. ROGERS: I don't believe so. We had
5   covered all of our parking questions with
6   Mr. Sloan.
7   MS. ROSENFELD: Okay. But your civil
8   engineer would know the dimensions of the plan,
9   correct?
10   MS. ROGERS: I mean, the -- yes. The
11   civil engineer can read dimensions of the plan,
12   although the -- kind of the layout of the units
13   and all of that was something that Mr. test --
14   Mr. Sloan had testified to in terms of the depth
15   of the driveways and the garage parking spaces.
16   Q Okay. In Exhibit 81, which is the
17   current signed land use report, could you identify
18   for me what pages of that report you are
19   responsible for drafting --
20   A Yes. I believe --
21   Q -- or sections?
22   A If you go to the last page --
23   Q Uh-huh.
24   A -- we have attached our signatures as
25   well as a description of all of the different

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1 parts that were --
2   Q   Excellent.
3   A   So you can find that there.
4   Q   Okay.
5   A   And it's --
6   Q   Great.
7   A   -- based on sections, not exact page
8 numbers.
9   Q   Okay. That works. Thank you. When you
10 testified about the BRT on New Hampshire, has that
11 project yet entered the design phase?
12   A   I do not believe so.
13   Q   And do you know if it has any funding?
14   A   I do not know.
15   Q   Do you know the timing of when that --
16 the BRT is planned to be constructed?
17   A   I do not know that.
18   Q   Okay. I believe you testified that with
19 respect to where the BRT would end, there's some
20 conflict in the information available as to
21 whether that would end at the Park & Ride or end
22 at Colesville. And these are from my notes; is
23 that correct?
24   A   I would just clarify that we had -- we
25 noted that it was odd that a BRT line would end

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1 before -- end where there was -- in proximity to a
2 Park & Ride, based on the graphics that were
3 provided online. And so we wanted to reach out to
4 MCDOT to understand if it was going to be at the
5 Park & Ride, or if it was actually at -- as the
6 graphics had indicated, at New Hampshire and
7 Randolph Road. And staff identified that it was
8 at the Colesville Park & Ride.
9   Q   Okay. And who did you speak with at
10 State Highway on that?
11   A   We spoke with MCDOT, Jamie Henson.
12   Q   Okay. And do you know if he has any
13 written documentation or any SHA-approved, you
14 know, documentation that confirms that this would
15 be the location of determination?
16   A   I do not know. There is a New Hampshire
17 BRT website, and I'm not sure of all the materials
18 that are on that website or have been on that
19 website.
20   MS. ROSENFELD: Okay. I have no further
21 questions.
22   HEARING EXAMINER SOKONI: Thank you.
23   Mr. Nusbuam, you ready for
24 cross-examination?
25   MR. NUSBAUM: Yes, thank you.

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1   CROSS-EXAMINATION
2 BY MR. NUSBAUM:
3   Q   Good afternoon, Ms. Wagner. If we could
4 turn to Exhibit 52-A, which is your LATR, and
5 specifically Page 26 of that report?
6   HEARING EXAMINER SOKONI: Could you
7 please pull it up?
8   THE ZOOM OPERATOR: Oh, one second. 16?
9   MR. NUSBAUM: 26.
10   THE ZOOM OPERATOR: Oh.
11   MR. NUSBAUM: That's perfect.
12   Q   If you will look at the box -- I just
13 have to see here -- that is labeled 2, I believe,
14 for the intersection of New Hampshire and Notley
15 Road; is that correct?
16   A   Yes.
17   Q   Okay. You indicated in this that there
18 was a peak a.m. volume for eastbound traffic of
19 218 vehicles; is that correct?
20   A   Of eastbound vehicles?
21   Q   Correct.
22   A   I see -- oh, yes, yes. I see that, in
23 the a.m. peak hour.
24   Q   Correct. 213 turning right and five
25 turning left; is that correct?

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1   A   Yes. Yeah.
2   Q   Okay. So this is the peak traffic
3 volume on Notley in the a.m.?
4   A   Yes.
5   Q   Okay. Can we turn to your technical
6 attachments? I believe they're 52-A-I, and
7 specifically Page 21?
8   THE ZOOM OPERATOR: Here?
9   MR. NUSBAUM: Sure. I can't tell from
10 here. I'm sorry.
11   THE ZOOM OPERATOR: Okay. It's all
12 right.
13   MR. NUSBAUM: It is very small.
14   Q   On the paper version, if you're able to
15 look at that, you'll see that on the righthand
16 side, it indicates a peak volume of 218,
17 corresponding to what you had in your LATR; is
18 that correct?
19   A   Yes.
20   Q   Okay. Is -- the 218 is actually the
21 lowest hourly morning volume for eastbound traffic
22 on Notley Road, isn't it?
23   A   I think I would need to do math, and
24 that could take a second.
25   Q   Okay. If you'd like to, that's fine.

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1 I'm --
2   A And if you want to continue on, I can --
3   Q The next question is really to whether
4 or not it is actually the lowest and not the
5 highest volume for the morning rush hour?
6   A I need to pull out -- I would need to --
7 it will take a minute.
8   Q Well, let's just look at -- we can
9 start -- the 6:30 to 7:30 block -- is that greater
10 than or less than 218?
11   A Yes, it is greater.
12   Q Okay. How about the 6:45 to 7:45 block?
13   A Let's see. 6:45. It's greater.
14   Q Okay. I can keep doing this, but I'll
15 posit, you know, that every single one is greater
16 than the 218. Let's look specifically at the 8:15
17 to 9:15, if you don't mind.
18   Can you tell me what the peak hourly
19 volume is from 8:15 to 9:15 a.m.?
20   A Over 261.
21   Q Okay. So that's more than 20 percent
22 higher than the 218 percent that you put into the
23 LATR, correct?
24   A Correct.
25   MR. NUSBAUM: Okay. Can we look at

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1 Exhibit 55, Attachment A, please? Attachment A.
2 Sorry.
3   THE ZOOM OPERATOR: That was, I think,
4 Attachment K.
5   MR. NUSBAUM: Oh, I'm sorry. It might
6 be the wrong -- can you go back to the --
7   THE WITNESS: It's just if you scroll
8 down.
9   MR. NUSBAUM: Oh, it's -- okay. It's --
10   THE WITNESS: It's in there, if you
11 could scroll to Page 7.
12   THE ZOOM OPERATOR: Oh, I see. Okay.
13   Q This is a traffic study performed at the
14 end of --
15   A These are just traffic counts.
16   Q Correct. These are traffic counts
17 performed by MDOT or SHA at Notley Road and New
18 Hampshire Avenue on October 25th, 2023; is that
19 correct?
20   A Yes.
21   Q Okay. And that study shows a peak
22 morning hourly volume on eastbound Notley of 269
23 vehicles; is that correct?
24   A Between 7 and 8 a.m., yes.
25   Q Okay. So, again, that's 20 -- more than

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1 20 percent higher than the 218 that you put into
2 your LATR; is that correct?
3   A Yes.
4   Q Okay. I'd now just like to draw your
5 attention to the letter that you submitted on
6 November 3rd entered as Exhibit 66. In that
7 letter, you acknowledged that you were not at that
8 time able to perform a traffic count at the corner
9 of Midland in New Hampshire; is that correct?
10   A Yes.
11   Q And that was because of the government
12 shutdown that we discussed earlier?
13   A Yes.
14   Q Okay. But you did perform traffic
15 counts at other intersections on February 2025?
16   A Yes.
17   Q Nothing prevented you at -- in February
18 of 2025 from performing a traffic count at this
19 intersection, correct?
20   A No, that is incorrect. We do a traffic
21 study in accordance with Montgomery County LATR
22 guidelines, and so we work with SHA, MCDOT, and
23 Park and Planning to determine what the
24 appropriate study intersections are.
25   And as, in my testimony, I indicated,

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1 the Midland and -- the Midland Road intersection
2 was not determined to be a significant
3 intersection that Park and Planning, SHA, and
4 MCDOT thought that this project would be
5 impacting. And so they did not require that to be
6 reviewed as part of the traffic study.
7   And so we prepared this supplemental
8 analysis, really, in response to correspondence
9 that we received from the community. So, really,
10 again, to be preparing for this hearing, we
11 determined that we would go above and beyond what
12 the local jurisdictions required to be included as
13 part of the traffic study. So there was no reason
14 to collect the counts prior to the -- preparing
15 for this hearing.
16   Q Okay. I'll go back to my actual
17 question, which was, nothing prevented you from
18 doing a traffic study in February 2025, correct?
19   A Nothing prevented us to. We don't do
20 traffic studies just to do traffic studies. We do
21 them to meet the requirements of review for the
22 local jurisdictions.
23   Q So you did this now because you wanted
24 to meet the requirement for the prerequisite,
25 which is part of this LMA process, correct?

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1   A   No, we did -- yes. And we did this in
2 response to community comments that we received.
3   Q   Did someone in the community ask you to
4 do a traffic study at Midland and New Hampshire?
5   A   We were responding to comments regarding
6 this intersection.
7   Q   Did someone ask you to do a traffic
8 study?
9   MS. ROGERS: She -- I think Ms. Wagner
10 just responded that she was respond -- that they
11 took these counts in response to the prerequisite
12 and in response to correspondence that had been
13 received.
14   MR. NUSBAUM: And I asked if anyone
15 at -- in the community asked her to do a traffic
16 count.
17   A   No. They did not ask to do a traffic
18 count.
19   MR. NUSBAUM: Okay. Can we turn to the
20 newly-admitted Exhibit 79 -- actually, I'm sorry.
21 Before we do that, can we go back to 66? I'm
22 sorry.
23   Q   In the conclusion of 66, if you scroll
24 down, you state that All intersections are
25 expected to operate below the established CLV; is

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1 that correct?
2   A   Yes.
3   Q   Okay. And if we go to the beginning of
4 this letter, you state that you anticipate to be
5 able to operate within the acceptable thresholds
6 in the introduction paragraph; is that correct?
7   A   Yes.
8   MR. NUSBAUM: Okay. Let's go back.
9 Let's go to Exhibit 79, please.
10   Q   Exhibit 79 is the newly-performed
11 traffic count and analysis that you did at New
12 Hampshire Avenue and Midland Road intersection; is
13 that correct?
14   A   Yes.
15   Q   Like Exhibit 66, in the introduction
16 paragraph, you stated that you anticipate that the
17 traffic will be within the acceptable thresholds;
18 is that correct?
19   A   Yes.
20   Q   And similarly in the conclusion that you
21 expect the traffic to operate below the
22 established standard; is that correct?
23   A   Yes.
24   MR. NUSBAUM: Can we turn to the trip
25 generation section on Page 2 of this report? I

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1 just want to make sure that I understand this.
2   Q   It appears that you are stating that
3 there will be no trip generations of anyone
4 leaving the shopping center to return to the 130
5 new townhomes being built in either the morning or
6 evening hour; is that correct?
7   A   That is correct.
8   Q   Okay. Likewise, the traffic generation
9 report states that there will be no trip
10 generations for anyone leaving the giant gas
11 station or the shopping center to the east on
12 Midland to go back to the 130 new townhomes being
13 built, either morning or evening; is that correct?
14   A   Correct.
15   Q   So your conclusion is that building 130
16 townhouses a quarter-mile from two shopping
17 complexes, one with a grocery store and one with a
18 gas station, will result in no new traffic turning
19 from those locations back to the new townhomes?
20   A   No, that's not correct. So when we do a
21 traffic study, we look at trip distributions. For
22 a residential project, we have what's called
23 primary trips, and so that is traffic that is on
24 its full destination.
25   When you do a traffic study for a use

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1 like a gas station or a grocery store, what you
2 also take into consideration is a pass-by trip.
3 And so when the traffic studies for those uses
4 were prepared, they likely assumed what is called
5 a pass-by trip. And so what that does is, it
6 knows that we have residential development nearby,
7 not just this project, but all of the existing
8 homes in the area.
9   And so when that traffic study was done,
10 what it did was, it considered pass-by trips. And
11 so it would -- I'm going to get pretty technical.
12 It would have negative traffic on the southbound
13 through movement; and it would add a right-turning
14 vehicle into the site; and then it would have a
15 right-turning vehicle out of the gas station and
16 to basically balance the traffic volume.
17   So while our traffic study did not
18 assume that, that has already been baked into the
19 traffic models that the county has, the state has
20 for their different roadways. So while it's not
21 specifically in this project, it would have been
22 done in the traffic studies for the gas station
23 and the grocery store.
24   Q   Okay. You said it was likely assumed to
25 have been done, if --

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1   A   I have not specifically reviewed the
2 traffic study, but I have done traffic studies for
3 gas stations and grocery stores. And that is what
4 we are required to do for the LATR guidelines and
5 traffic studies in the county.
6   Q   But you did this traffic count, correct?
7   A   I did this traffic count, but I also
8 understand what goes into a traffic study for
9 different land uses in the county.
10   Q   Okay. Notley Road is a non-residential
11 street, correct?
12   A   Notley Road is classified as a
13 neighborhood connector and so that -- and area
14 connectors, excuse me. And so that is a street
15 that is going to be gathering -- understanding
16 that it's likely through a residential area,
17 gathering residential traffic to be able to
18 connect to a larger area.
19   Q   Okay. I'll rephrase. Is Notley Road a
20 residential street? Or a non-residential street?
21   A   I don't know if we specifically classify
22 them as residential versus non-residential.
23   Q   Are you aware that the prerequisites
24 classify streets as residential and
25 non-residential?

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1   MS. ROGERS: Ms. Wagner didn't testify
2 to that prerequisite in her testimony. Mr. Sloan
3 testified to that in his testimony.
4   MR. NUSBAUM: She's a traffic expert.
5   MS. ROGERS: She just -- she didn't
6 testify to that prerequisite.
7   MR. NUSBAUM: That's fine, but she's an
8 expert on roads and traffic. I would think that
9 she could tell me if a road is residential or not
10 residential.
11   MS. ROGERS: Your cross is related to
12 the testimony that she just provided.
13   MR. NUSBAUM: If she's objecting, then I
14 defer to you. I don't know if she's objecting or
15 not.
16   HEARING EXAMINER SOKONI: The cross is -
17 - she's correct that the cross is restricted to
18 the testimony. It doesn't negate your
19 frustration.
20   MR. NUSBAUM: Okay.
21   HEARING EXAMINER SOKONI: But the cross
22 is related to the testimony.
23   Q   Okay. You testified, based on Page 76
24 of -- sorry. I have to go back to your exhibit
25 list. Of Exhibit 50 -- I'm sorry. It was the

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1 present -- it was your presentation, which I
2 believe is Exhibit 68, excuse me. Page 76 of
3 Exhibit 68?
4   A   Sorry. What page?
5   Q   76. You testified that there was a
6 pedestrian crossing across New Hampshire Avenue at
7 I-200 at the top of that picture; is that correct?
8   A   I thought there was. I thought there
9 was near the trail crossing. I may be remembering
10 incorrectly.
11   Q   Okay. So you don't know if there is or
12 not?
13   A   I thought there was, but -- I am
14 picturing in my mind, but I don't remember for
15 sure.
16   Q   Okay. I just want to highlight -- or
17 touch on a couple of things on the BRT different
18 than what Ms. Rosenfeld tossed -- talked about.
19 Do you know when the BRT master plan was developed
20 for this route?
21   A   I don't know.
22   Q   And the planned BRT stations, even if at
23 the Colesville Park & Ride -- that's outside of
24 the 500-foot transportation radius that you
25 studied, correct?

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1   A   Correct.
2   Q   Regarding the bike lanes and the photos
3 that you just showed on Exhibit 78 -- or, excuse
4 me, 80, if we can -- that's perfect. Are there
5 any bike lane signs along New Hampshire Avenue
6 indicating that a bike lane exists at this
7 location?
8   A   I do not know for sure.
9   Q   Okay. Do you see any in the picture?
10   A   No.
11   Q   Are there any roadway markings, bike
12 symbols that are typical on bike lanes that are on
13 this picture?
14   A   No.
15   Q   Are there -- are you aware if there are
16 or are not any on this section of the road?
17   A   I do not know if there is a bike symbol
18 on New Hampshire Avenue.
19   MR. NUSBAUM: Okay. Give me one moment.
20 I just need to pull up another -- if we can go
21 back to Exhibit 68? Indulgence for one moment
22 while I grab the page.
23   (Pause in proceedings.)
24   MR. NUSBAUM: It's going to be Page 48.
25   Q   On the top right picture here, which is

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1 north of the site, you see that there are -- there
2 is a bike lane sign identifying that bike lane at
3 that point, correct?
4   **A   Yes.**
5   Q   And the picture below that, you see the
6 sign at the bike lane, where it indicates that the
7 bike lane ends at the Colesville Park & Ride?
8   **A   Yes.**
9   MR. NUSBAUM: Okay. I have nothing
10 further. Thank you.
11   HEARING EXAMINER SOKONI: I will open it
12 up to anyone else who wants to cross-examine. But
13 before we do that, could -- I just want to get a
14 clarification.
15   EXAMINATION BY THE HEARING EXAMINER
16   HEARING EXAMINER SOKONI: And just -- I
17 wish I had -- so there's the picture you testified
18 to earlier, with the -- you know, the pink line
19 and the yellow line. And the explanation about
20 the neighborhood gets a lot of cut-through traffic
21 right now. I think you were explaining to us that
22 the neighborhood gets a lot of cut-through traffic
23 because there are no traffic signals and that this
24 will be -- the installation of these traffic
25 signals will mitigate that.

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1   But -- so for in -- what I'm trying to
2 understand is, if you put the traffic signals now,
3 certainly, it will mitigate the pass-through
4 traffic throughout the neighborhood, right? But
5 if the traffic signals go in, but you also have
6 much more traffic because there's 130 townhouses,
7 how does someone struggling with that -- are we
8 back to square one? You put the traffic lights,
9 but then we've also increased the vehicles.
10   So now we're back to square one as far
11 as cut-through traffic through the neighborhood?
12 Or is that a misplaced concern?
13   THE WITNESS: That is a misplaced
14 concern. Our traffic study looks at that
15 intersection with a traffic signal. And even with
16 the additional development, a traffic signal is
17 meant to handle increased volumes on side streets
18 to really be able to get cars out of -- off those
19 side streets onto a larger street like New
20 Hampshire.
21   And so our traffic study looks at the
22 traffic volume with and without the new
23 development, and we also looked at for -- per
24 SHA's request, we looked at queuing. And both the
25 queuing as well as the operations work

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1 considerably better with the project, with the
2 traffic signal than they do in existing
3 conditions. So -- and so it will operate better
4 with the -- even with the new project.
5   And like I testified, we really are not
6 adding that much traffic with the project, that we
7 have about 60 peak hour trips in each of the
8 morning and afternoon peak hours, which is about
9 one trip every minute. So it's really not a large
10 volume of traffic that's being added to that
11 intersection.
12   HEARING EXAMINER SOKONI: I'll open it
13 up to cross-examination. How many more you --
14   MS. ROGERS: We'll do a little --
15   HEARING EXAMINER SOKONI: You are going
16 to want --
17   MS. ROGERS: -- bit of redirect.
18   HEARING EXAMINER SOKONI: -- to
19 redirect, right?
20   MS. ROGERS: And then we have Mr. Kelso,
21 our civil engineer, will be providing testimony.
22   HEARING EXAMINER SOKONI: Okay. And
23 after cross-examination, I'm assuming you want to
24 redirect?
25   MS. ROGERS: Yes.

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1   HEARING EXAMINER SOKONI: Okay. Do --
2 does anyone else want to cross-examine? Let's
3 start with the room.
4   Yes, sir. Would you like to step
5 forward?
6   MR. CORY: I think you can hear me from
7 here.
8   THE ZOOM OPERATOR: You have to unmute.)
9   HEARING EXAMINER SOKONI: It's the --
10   MS. ROGERS: (Inaudible) the mike.
11   HEARING EXAMINER SOKONI: You do need to
12 use the mike. We have people on Zoom.
13   MR. CORY: That was the slide I was
14 going to use. Thank you.
15   HEARING EXAMINER SOKONI: If you would
16 please kindly identify yourself?
17   MR. CORY: Oh, Pat -- my name is Pat
18 Cory. I live on 41 Shaw on -- in the --
19 Colesville.
20   HEARING EXAMINER SOKONI: Thank you.
21   CROSS-EXAMINATION
22 BY MR. CORY:
23   Q   You testified, I think, in the -- in
24 your study that you looked at the left-turn lane
25 during rush hour in the evening. That backs up

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1 now.
2   And you're saying that you may have to
3 extend that left-turn lane?
4   **A   That is one of the things that we will**
5 **work with SHA at the time of preliminary plan,**
6 **when we do look at the design and installation of**
7 **the traffic signal. And so, again, the traffic**
8 **signal will give green time to the northbound,**
9 **left-turning movement. So, again, the traffic**
10 **signal will also help with that movement and**
11 **addressing the existing concerns that you're**
12 **raising, too.**
13   Q   And you're saying that -- and you're
14 also stating that people will be able to exit
15 during rush hour and not have to turn right and go
16 down Sherwood because they'll able to exit
17 properly?
18   **A   Yes.**
19   MR. CORY: We just find that very hard
20 to believe.
21   HEARING EXAMINER SOKONI: Anyone else in
22 the room wishing to cross-examine Ms. Wagner?
23   Hearing none in the room, I'll turn to
24 Zoom. Is there anyone on Zoom who wishes to
25 cross-examine Ms. Wagner?

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1   MS. EAGLIN: Yes.
2   HEARING EXAMINER SOKONI: Kindly turn --
3   MS. EAGLIN: Oh.
4   HEARING EXAMINER SOKONI: -- on your
5 camera.
6   MS. EAGLIN: Okay. Hold on. Okay. Can
7 you see me?
8   THE ZOOM OPERATOR: I can see her.
9   HEARING EXAMINER SOKONI: You can?
10   MS. EAGLIN: Can you see me?
11   MR. NUSBAUM: No -- well, yes.
12   CROSS-EXAMINATION
13 BY MS. EAGLIN:
14   Q   Okay. My question is, in taking account
15 into all your traffic studies --
16   HEARING EXAMINER SOKONI: Just one --
17 one sec --
18   MS. EAGLIN: -- are you aware of --
19   HEARING EXAMINER SOKONI: Sorry. One
20 second. One second, sorry. The view we have
21 here, --
22   MS. EAGLIN: Uh-huh.
23   HEARING EXAMINER SOKONI: -- we cannot
24 see.
25   THE ZOOM OPERATOR: Okay.

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1   MS. EAGLIN: You can't see me?
2   HEARING EXAMINER SOKONI: We -- it might
3 be the setting on the Zoom screen.
4   MS. EAGLIN: Can you see me now?
5   UNIDENTIFIED SPEAKER: (Inaudible.)
6   HEARING EXAMINER SOKONI: Okay.
7   MS. EAGLIN: Hello?
8   HEARING EXAMINER SOKONI: We'll go
9 ahead. Folks in the room, we cannot see you but
10 we -- I believe -- we believe you're there.
11   MS. EAGLIN: I'm here. Okay.
12   HEARING EXAMINER SOKONI: Please go
13 ahead.
14   MS. EAGLIN: My name's Christina Eaglin.
15 I've been a cultural resident over 30 years.
16   Q   My question is, are you aware of the
17 religious festivals that happened in the area?
18 And what is your -- sorry. My dog is testifying
19 at the same time.
20   And what is your opinion on how many
21 households during the holidays may have guests
22 overnight and/or for dinners, birthday
23 celebrations, anniversary celebrations? And
24 wouldn't that exceed the capacity for parking?
25   **A   I will start with the religious**

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1 **institutions in the vicinity. I am aware that**
2 **these are there. I'm aware that the neighbors**
3 **have concerns regarding them. We do --**
4   Q   Do you know where they park now?
5   **A   I do not know where they park now.**
6   Q   They park all along Notley Road in the
7 shoulder?
8   MS. ROGERS: Just --
9   Q   It's very dangerous?
10   MS. ROGERS: Just to be clear, she's not
11 supposed to provide testimony. She's asking
12 questions.
13   MS. EAGLIN: I'm not an attorney, so I
14 don't know. Sorry. I was just trying to let her
15 know.
16   HEARING EXAMINER SOKONI: Just a
17 reminder, your cross-examination of Ms. Wagner has
18 to do with the testimony that Ms. Wagner gave.
19   MS. EAGLIN: Correct. So my test -- my
20 cross-examination is questioning her about, did
21 she take into account that, you know, 20
22 Thanksgiving dinners out of 130 homes would have
23 an excess of X amount of cars. I'm not the
24 traffic expert. She is.
25   HEARING EXAMINER SOKONI: So -- I mean,

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1 that's a fair question. She is --
2   THE WITNESS: Uh-huh. I can answer
3 that.
4   HEARING EXAMINER SOKONI: You've
5 testified to the parking adequacy.
6   THE WITNESS: Uh-huh.
7   HEARING EXAMINER SOKONI: She's asking,
8 did you consider these factors?
9   A Yes. We look at the parking demand of
10 what -- again, I testified to ITE, ULI, 85th
11 percentile parking demand for both of those over
12 the county requirements. And so it's -- again, we
13 don't design to the -- when we're designing roads
14 and parking lots, we don't design to the 120
15 percent of capacity. Otherwise, we would have too
16 many roads, too many parking spaces.
17   And so we design to provide enough
18 parking for the likely amount of visitors, the
19 likely amount of excess capacity. And so that's
20 where, working with the Applicant team, we thought
21 that the amount of parking that we are providing
22 would be able to handle large gatherings.
23   They're not going to be able to
24 accommodate 20 people coming to every single
25 townhouse per -- townhouse in this development.

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1 But the excess parking that we are providing, we
2 believe, will be enough, and that is confirmed by
3 both ULI and ITE, so using our resources, that we
4 are avail -- that are available to us based on,
5 again, data at similar locations. And so we do
6 believe that that is enough parking that will be
7 provided.
8   Q What is the data on an average holiday,
9 let's say Christmas? And how many people might
10 come to one person's home?
11   A Again, we don't design to those
12 once-in -- once-a-year occasions.
13   Q So --
14   A Again, these are designed to 85th
15 percentile of the time period that it's going to
16 be able to accommodate and at different site
17 locations.
18   Q So there's no data on the average home
19 gathering or holidays, like ten extra cars, maybe?
20   A No. There is no data like that
21 available that I'm aware of.
22   MS. EAGLIN: Well, that's a shame, yeah,
23 because the parking has less than eight parking
24 spaces. So I don't see that as being a viable
25 option, as you had mentioned either?

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1   MS. ROGERS: Just --
2   MS. EAGLIN: I'm done.
3   MS. ROGERS: And just to --
4   MS. EAGLIN: Thank you, Your Honor.
5   MS. ROGERS: -- clarify, my objection to
6 the record is that I was -- I understand
7 Ms. Eaglin isn't an attorney, but the extra
8 testimony she was providing wasn't questions about
9 where people park for the religious institutions.
10 And I just want to make that clear for the record
11 that that was not part of the cross.
12   HEARING EXAMINER SOKONI: Okay. Thank
13 you.
14   Did you have any further
15 cross-examination?
16   MS. EAGLIN: No. I'm trying to figure
17 out how to mute myself right now. I'm good, thank
18 you.
19   HEARING EXAMINER SOKONI: Okay. Thank
20 you.
21   We have a hand raised by Rafael Mattera.
22   MR. MATTERA: Yes, good afternoon.
23   HEARING EXAMINER SOKONI: Good
24 afternoon. If you could -- if you haven't
25 already, please turn on your camera. And you can

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1 cross-examine Ms. Wagner.
2   I just want to remind everyone that your
3 cross-exam -- in cross-examination, you will have
4 your own -- people will have their opportunity to
5 present their information or present their
6 concerns. For cross-examination, you're asking
7 questions about specific testimony that Ms. Wagner
8 provided.
9   You may proceed.
10   MR. MATTERA: Yes. My name is Rafael
11 Mattera, and I live on 14307 Notley Road.
12   CROSS-EXAMINATION
13 BY MR. MATTERA:
14   Q The question I have is regarding the
15 study on the additional trip generation by this
16 project. I remember you mentioned an estimate for
17 a.m. and p.m.
18   Could you please repeat that number?
19   THE WITNESS: I'd actually like to just
20 clarify for everyone, if you could go to
21 Exhibit 68, Page 73? That has the trip generation
22 for the proposed townhouses.
23   Q Okay. So you have an estimate per hour
24 of 48 in the a.m. and also 50 7 p.m. So you are
25 talking about an estimated calculation 730

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1 vehicles trips per day?
2 **A Yes.**
3 Q Right, right, because the number of cars
4 that would probably be parked at this facility
5 is -- you know, 130 townhouses times 1.5 vehicle
6 per family is probably 200 cars that would be
7 present at the development. And you're estimating
8 that those 200 cars would result in 700 additional
9 trips; am I correct? I am understanding your
10 number well?
11 **A So I don't have information provided on**
12 **the number of cars per household. This is based**
13 **on ITE and Montgomery County's land use adjustment**
14 **factors for trip generation per day. So yes, 730**
15 **more car -- more trips to and from the project on**
16 **a daily basis.**
17 MR. MATTERA: Yeah. But probably 200
18 cars is a reasonable estimate without considering
19 people visiting the facility. All right. Thank
20 you for your help.
21 HEARING EXAMINER SOKONINext in the queue
22 for cross-examination on Ms. Wagner's testimony?
23 It says four others. Do we have --
24 MS. OTTAVIANI: Can I just ask a quick
25 question? I'm here for testimony also.

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1 But the way things got shifted around
2 today because of the late start, et cetera, will
3 we be getting to testimony today? Or will that
4 probably be the next day, the final day?
5 HEARING EXAMINER SOKONI: We don't know
6 yet. It's -- we took a poll at the start to see
7 who was okay with test -- with giving their public
8 testimony next time, and the majority said they
9 could do it next time. So we don't know yet.
10 We're going -- we're trying to cover as
11 much ground as possible. The answer, is we don't
12 know yet.
13 MS. OTTAVIANI: Okay.
14 HEARING EXAMINER SOKONI: Thank you. So
15 --
16 MS. OTTAVIANI: And -- sure. And how
17 late will we go today? Until four? Or after?
18 HEARING EXAMINER SOKONI: We're hoping
19 to go through five, if we can.
20 MS. OTTAVIANI: Oh, okay. Thank you.
21 HEARING EXAMINER SOKONI: Next in line
22 for cross-examination?
23 So, Candace Anderson, you can drop
24 your -- that was the question that just got
25 answered. You can drop your hand next in line for

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1 cross-examination.
2 MS. ANDERSON: No. This is Candace
3 Anderson.
4 HEARING EXAMINER SOKONI: Oh, sorry,
5 sorry. Please go ahead.
6 MS. ANDERSON: Uh-huh. I can jump in.
7 CROSS-EXAMINATION
8 BY MS. ANDERSON:
9 Q I guess I have a clarifying question to
10 start, which is, I believe I heard, in regards to
11 the cut-through traffic in the testimony about the
12 cut-through traffic, specifically on Sherwood
13 Forest Drive, that the -- you looked at ten
14 percent of the global trip distribution that goes
15 eastbound traffic on Randolph Road -- sorry, not
16 eastbound, but from-to the southeast. And that
17 would be towards Route 29. And I heard the second
18 part of this was that the signal at Notley and New
19 Hampshire would help with this, specifically that
20 such a light helps with accessing New Hampshire
21 North and South.
22 Did I get that all correct? Or did I
23 miss any of those details?
24 **A I think you got it correct. Wait for**
25 **your question, and then I'll see if I can --**

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1 Q Sure. So when I was listening to this
2 discussion about cut-through traffic, it was --
3 specifically sounded like only talking about that
4 from and towards the southeast, that ten percent
5 number for Randolph Road. However, I didn't hear
6 any mention on the from and to the southwest part
7 of the global trip distribution. That's the one
8 that's classified as 20 percent, noting that's the
9 second-highest number on the global trip
10 distribution.
11 I'm looking at the LATR?
12 **A Yeah, Page 27.**
13 Q Page 18 for that. And just that -- I'm
14 curious what the comments or analysis are for
15 that, for accessing Randolph going from and to the
16 southwest, that 20 percent number?
17 **A It's a similar response in that vehicles**
18 **will be -- it will be much easier to get out onto**
19 **New Hampshire. Sherwood -- I drove through -- on**
20 **Sherwood Forest. It is not a road that vehicles**
21 **want to be traveling on, that not -- that exiting**
22 **out onto New Hampshire is a much more**
23 **accommodating road for vehicles to be moving, that**
24 **it's a wide road with higher speeds.**
25 **And so we believe that the traffic**

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1 **signal at Notley and New Hampshire will also**
2 **address any vehicles, really, wanting to travel**
3 **south, that it will require vehicles to go out of**
4 **their way to travel onto Sherwood Forest Road and**
5 **it -- a circuitous route to be able to travel**
6 **south on New Hampshire and to the east and west on**
7 **Randolph Road. So, again, the inter -- the signal**
8 **will accommodate that traffic.**
9 Q Okay. But what -- that doesn't seem to
10 factor in, going towards Rockville on Randolph
11 would require going through four traffic lights.
12 And Sherwood Forest has, you know, a right-hand
13 turn, meaning it's not -- it doesn't follow the
14 previous testimony, right, that talks about
15 cutting across all the Randolph traffic or a
16 left-hand-turn lane, right-hand turns being a lot
17 easier from Sherwood onto Randolph?
18 **A Similarly, you would have right turns**
19 **from Notley onto New Hampshire and Randolph --**
20 **from New Hampshire to Randolph that you would be**
21 **having -- you would be going through right turns**
22 **as well there.**
23 Q But waiting for traffic lights, right?
24 Because I guess the -- I'm curious about what kind
25 of, like, traffic study analysis occurs to take

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1 into account the natural avoidance of congestion
2 at traffic lights?
3 **A Again, we follow -- we work with the**
4 **county to determine these distributions, to**
5 **determine the appropriate roadways for vehicles to**
6 **be traveling. It is circuitous to travel over to**
7 **Sherwood Forest Road there -- Sherwood Forest**
8 **Drive and that using Randolph and New Hampshire**
9 **are roads designed to accommodate primary trip**
10 **distribution. And so we -- I believe that**
11 **vehicles will be using those roads and not be**
12 **using Sherwood Forest as a cut-through route.**
13 MS. ANDERSON: Okay. Thank you.
14 MR. ELLER: Hello?
15 HEARING EXAMINER SOKONI: Yes. Next?
16 MR. ELLER: Yes. My name is Bob Eller.
17 I've lived on Sherwood Forest Drive for over
18 30 years.
19 It is Sherwood Forest Drive. Not sure
20 where Forest Road, by the way. And in the
21 mornings, traffic at the light from all New
22 Hampshire Avenue to the light at Randolph Road is
23 often backed up to Notley Road in the mornings,
24 which makes it difficult for the current number of
25 cars to turn right onto New Hampshire Avenue from

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1 Notley.
2 And 20 years ago, my neighbor across the
3 street finally got a petition through to put the
4 four speed bumps on New Hampshire on -- excuse me,
5 on Sherwood Forest Drive, which has slowed down
6 traffic somewhat. But if your study did not take
7 into account cars that turned from Randolph and
8 make a left-hand turn onto Sherwood Forest Drive,
9 to get to Notley Road is a pretty large number --
10 I can tell you from experience -- and the same
11 from any car on Notley, again wanting to avoid the
12 congestion on New Hampshire Avenue in the mornings
13 and afternoons, that Sherwood Forest is the
14 easiest, simplest cutthroat for so many cars and
15 the pedestrians, the bike riders, people walking
16 dogs again.
17 A few months ago, I did see a young man,
18 high-school age, in a wheelchair -- electric
19 wheelchair, paraplegic. Sherwood Forest cannot
20 handle that volume traffic.
21 MS. ROGERS: Sorry, Hearing Examiner.
22 Can you just clarify again that these are supposed
23 to be questions, and he'll have an opportunity to
24 testify later.
25 ///

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1 CROSS-EXAMINATION
2 BY MR. ELLER:
3 Q Okay. My question is, your study that
4 you took on the current volume was in February,
5 and that was before cars were -- or, excuse me,
6 government workers and so many others were
7 required to come back to the office; is that
8 correct?
9 **A No, that is not correct. So there was**
10 **an executive order mandating federal departments**
11 **in remote-work arrangements, and that was given on**
12 **January 20th, 2025. The U.S. Office of Management**
13 **and Budget issued guidance and memorandum dated**
14 **January 22nd, 2025, that set a target date of**
15 **approximately 30 days of full compliance. So that**
16 **would have been February 19th, 2025.**
17 **So many federal employees were required**
18 **to return to the office on or before February 19th**
19 **of 2025, and we collected our traffic counts**
20 **February 25th of 2025. So we collected our**
21 **traffic counts in accordance with the LATR**
22 **guidelines, and many federal workers had already**
23 **returned to the office by the time that we had**
24 **collected our traffic counts.**
25 Q So five days after that, do you

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1 honestly -- well, in your opinion, do you think
2 that that number would be similar today as it was
3 five days after the mandate for return to work
4 would be?
5 **A Yes. I think we -- Montgomery County**
6 **policy was issued in 2022, I believe, and has**
7 **accepted traffic counts since then, that we have**
8 **returned to the new normal in their policy, and**
9 **that traffic counts are consistently changing --**
10 **that employers and residents within the county are**
11 **constantly changing their travel patterns and**
12 **using different modes of transportation than they**
13 **maybe used previously. So traffic counts are now**
14 **at our new normal. So, yes, I do --**
15 Q Any --
16 **A -- believe the traffic counts --**
17 Q Any --
18 **A -- we used are accurate.**
19 Q Any chance that another study would be
20 to hopefully capture that same number?
21 MS. ROGERS: I think Ms. Wagner was
22 testifying to what's -- what we're limited to
23 question today is what's in the record today.
24 MR. ELLER: Okay. Understood, ma'am.
25 All right. I am finished. Thank you.

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1 HEARING EXAMINER SOKONI: Do we have one
2 more -- we have another -- one more raised hand
3 for cross-examination. A reminder that the
4 cross-examination is limited to the testimony that
5 Ms. Wagner gave today.
6 Yes. Unfortunately, I cannot see the
7 display we -- for now, there are three. So if you
8 could turn on your camera and unmute yourself?
9 And you may proceed with cross-examination.
10 Please provide your name.
11 MR. NELSON: Yes, hi. I'm Wayne Nelson.
12 I live on 14901 Notley Road.
13 CROSS-EXAMINATION
14 BY MR. NELSON:
15 Q And just for clarification today, from
16 the testimony, I wonder -- we're referring to
17 Notley Road for this project. Are we referring to
18 the -- we're not referring to the Notley Road that
19 extends northward from Bonifant over to Bonifant
20 and north, correct? We're just referring to the
21 road that goes south of Bonifant over to New
22 Hampshire; is that correct?
23 HEARING EXAMINER SOKONI: And --
24 **A Yes.**
25 HEARING EXAMINER SOKONI: One second.

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1 MR. NELSON: Okay.
2 HEARING EXAMINER SOKONI: Sorry. One
3 second. What I see on the screen says, talking.
4 Well, previously, it --
5 MR. NELSON: It says --
6 HEARING EXAMINER SOKONI: It says, Zoom
7 --
8 MR. NELSON: -- user.
9 HEARING EXAMINER SOKONI: it says, Zoom
10 user. Do we have a name?
11 MR. NELSON: Yes, yes. William Nelson.
12 I stated my name and where I live.
13 HEARING EXAMINER SOKONI: Sorry -- I'm
14 sorry, sir. My question is directly to the Zoom
15 operator in the room.
16 THE ZOOM OPERATOR: It says, Zoom user.
17 HEARING EXAMINER SOKONI: You -- so Zoom
18 -- do we have -- we have the name, right? I just
19 want to make sure.
20 THE ZOOM OPERATOR: He said his name,
21 yes.
22 HEARING EXAMINER SOKONI: Yes. I want
23 to make sure the court reporter -- we have the
24 name. Okay. Thank you. Sorry, sir. Go ahead.
25 MR. NELSON: That's my question. Thank

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1 you.
2 HEARING EXAMINER SOKONI: You --
3 MS. ROGERS: That was his question.
4 THE WITNESS: Yes.
5 MS. ROGERS: Is that the last online?
6 HEARING EXAMINER SOKONI: Okay. Yes.
7 Next?
8 MR. PHAN: Can you hear me?
9 HEARING EXAMINER SOKONI: Yes.
10 MR. PHAN: Okay. If you can refer --
11 like, if the staff can look -- can go back to the
12 Exhibit 68?
13 HEARING EXAMINER SOKONI: Okay. And
14 could you please provide your name, sir? I think
15 I see.
16 MR. PHAN: Oh, I'm sorry. Yeah.
17 HEARING EXAMINER SOKONI: That's all
18 right. I can see it on -- I can see your name on
19 the screen, but please say it for the record.
20 MR. PHAN: Okay. Yes. My name is Dung
21 Phan. I live at 13734 Notley Road, across from
22 the proposed development.
23 HEARING EXAMINER SOKONI: Thank you.
24 You have a question in cross-examination for
25 Ms. Wagner on the testimony she provided today?

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1   MR. PHAN: Yes. If the staff can go to
2 the Exhibit 68, Page -- oh, is it the page --
3 maybe, yeah, the existing -- the title of the
4 slide, Existing Access, you know, where she
5 described, like, existing access driveway and then
6 combine them into two. So --
7   MS. ROGERS: So Page 68.
8   MR. PHAN: So if you go to Slide 62? I
9 see the number now, yeah. This one's good enough,
10 yeah, which is the same thing as 62.
11   CROSS-EXAMINATION
12 BY MR. PHAN:
13   Q   So this is your current, right? This is
14 the current driveway, and then the development
15 proposed to combine into two driveways.
16   So if you can go to the next one, they
17 called Floating Zone Plan. So these two driveway,
18 the east one on the right and the west one on the
19 left, right? And if you look at that, like, very
20 gray -- the gray out but across from the west
21 access driveway -- the proposed west access right
22 driveway is my house, and that's the driveway
23 right there, directly aligned with my driveway.
24   So I don't understand that -- like,
25 what's the reason that the west driveway aligned

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1 with my driveway, this residential driveway? You
2 pumping 130 new townhome traffic into my driveway,
3 and that doesn't -- I mean, according to the
4 county zoning Section 6.1.3, any development must
5 ensure safe entry exit for vehicle, pedestrian,
6 cyclist to and from development and the backing
7 sign.
8   And so what's the reason that, like,
9 this development aligned with my driveway?
10   MS. ROGERS: With all due respect,
11 that -- the site layout was something that
12 Mr. Sloan testified that he prepared the site
13 layout in terms of kind of locating the blocks and
14 the streets. I don't really feel like that's --
15 Ms. Wagner didn't prepare the plan.
16   She testified to -- briefly on site
17 access and safe site distance, which Mr. Kelso
18 will also testify to. But she didn't prepare this
19 plan to have influenced why that was located
20 there.
21   HEARING EXAMINER SOKONI: She testified
22 to site access, and she pointed to this.
23   MS. ROGERS: She testified to the
24 consolidation of access points from the eight into
25 two, and in terms of how that would improve

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1 pedestrian and vehicular safety.
2   HEARING EXAMINER SOKONI: Uh-huh.
3   MS. ROGERS: But she hasn't testified to
4 the site layout. She's just -- she candidly is
5 not the right expert to testify to why a drive was
6 located where it was because Mr. Sloan was the one
7 who prepared the site layout.
8   HEARING EXAMINER SOKONI: Okay. And is
9 that a question we can have addressed at some
10 point by the appropriate person?
11   MS. ROGERS: Yeah. I'm happy to have --
12   HEARING EXAMINER SOKONI: Okay.
13   MS. ROGERS: -- Mr. Sloan testify to
14 that.
15   HEARING EXAMINER SOKONI: Thank you.
16 Let's keep track of that question. We'll --
17   MR. PHAN: I definitely will.
18   HEARING EXAMINER SOKONI: We'll reserve
19 that question for now because Ms. Wagner is not
20 best suited to address it.
21   MR. PHAN: Okay. Thank you. That's all
22 I have.
23   HEARING EXAMINER SOKONI: Thank you. We
24 have one other raised hand?
25   THE ZOOM OPERATOR: Yeah. Go ahead,

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1 yes.
2   MS. MACHEN: Yes. My name is Ayana
3 Machen. I live on Petwyn Court, directly across
4 from the proposed site. I had two questions.
5   CROSS-EXAMINATION
6 BY MS. MACHEN:
7   Q   My first question was, there was
8 testimony about traffic being that the
9 preferred -- the preferred road would be for the
10 traffic to go from Notley to New Hampshire, as
11 opposed to Sherwood, and that this light would
12 funnel traffic that way through Notley Road and
13 onto New Hampshire. My question is, as it
14 currently stands without the traffic light, during
15 rush hour, traffic backs up and blocks the Petwyn
16 Court.
17   And so when there is a traffic light so
18 that people are forced to stop even longer,
19 presumably, how will Petwyn Court residents then
20 be able to get in and out?
21   **A   So as part of our traffic study, we**
22 **prepared what's called a queuing analysis in**
23 **addition to the critical lane volume, where we**
24 **look at how the intersection will operate. The**
25 **queuing analysis looks at how long cars will be**

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1 stacked up at a particular leg of an intersection,
2 a turn movement. And there, in the traffic study,
3 we do include that queuing analysis and do show
4 that the queues are significantly reduced with the
5 presence of the traffic signal and their proposed
6 development.
7   So that concern would be alleviated with
8 the traffic signal because cars actually have a
9 chance to get out onto New Hampshire, where right
10 now there's a steady stream of traffic, and
11 they're not able to exit out. And so that is why
12 the queue is occurring.
13   Q Well, can you just clarify? Because
14 right now, there's a stop sign, so people stop
15 briefly in turns -- or there actually is a
16 continuous movement to the right at least.
17 Whereas with the traffic light, I assume that will
18 not be the case any longer?
19   A Our traffic analysis, we use Synchro and
20 SimTraffic software to simulate what will happen
21 with the traffic volumes. We model it after
22 real-world conditions, and the traffic signal
23 will -- is indicating that it will improve
24 conditions compared to how it exists today.
25   Q And if that is not the case in the real

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1 world, then what is the remedy from a traffic
2 standpoint?
3   A These are the standard procedures and
4 traffic control devices that the county and the
5 state used to relieve congestion concerns like
6 you -- the one you bring up today, that it will
7 allow cars -- more cars to get out on a single
8 green time, as opposed to today, where it's --
9 every single car has to stop. Traffic engineering
10 studies continually show that traffic signals help
11 alleviate and process more traffic than a stop
12 sign. So this is again proven by traffic
13 engineering studies that the traffic signal will
14 alleviate the concern that is existing today.
15   Q And does that take into account the
16 200-plus additional cars that are going to be
17 turning left onto Notley, right at Petwyn Court?
18   A I'm not sure where the 200 cars come
19 from, but the traffic study and traffic signal
20 analysis take into account the proposed
21 development and the trip generation associated
22 with the proposed trip -- with the proposed
23 development with -- the analysis takes into
24 consideration all the study intersections I listed
25 above previously, the site driveways as well as

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1 the Notley and New Hampshire traffic --
2 intersection.
3   Q I'm -- yes. The 200 came from your
4 testimony where you said that you wanted people to
5 go toward New Hampshire, as opposed to towards
6 Sherwood Forest. And that's where I was getting
7 that from.
8   My second question was about your
9 testimony about the overflow parking not affecting
10 Petwyn Court. Given that you testified that you
11 thought any overflow parking would go to the park,
12 and there are, I think, seven spots that are not
13 handicapped in the park for these 130
14 townhouses -- and that park is about a
15 quarter-mile away from the main entrance, where
16 Petwyn Court is directly across the street -- what
17 would your remedy be if people -- if that park is
18 not adequate overflow parking, and then people use
19 Petwyn Court instead?
20   A I believe I said that the park would be
21 more logical for safety reasons to park there.
22 Again, I'll reiterate that I do not believe that
23 there will be overflow parking, that we have 180
24 park -- more parking spaces than are required by
25 zoning. And so I do not believe overflow parking

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1 will be required for this project.
2   Q Is it possible that the residents of
3 this townhouse might have parents with cars,
4 teenagers with cars? And so your analysis may be
5 underestimating the number of cars per townhouse?
6   A I'll again reiterate we use both ITE and
7 ULI that are founded in real-world data that's
8 been collected for similar uses. And, yes,
9 there -- some residents may have more cars; some
10 residents may only have one car. So, again, our
11 data -- our analysis is founded in real-world data
12 from IT, ULI, the County Zoning Code and so
13 believe that there is more than enough parking
14 that's been provided for this project.
15   Q Okay. But utilizing common sense that
16 maybe the people that happen to buy in this
17 development are multi-generational families more
18 so than you estimate, what would be the remedy for
19 Petwyn Court residents that are not able to park
20 in front of their own houses or have their
21 visitors park in front of their houses? What
22 would the -- be the traffic remedy for that?
23   A Again, I'll -- I will restate, I believe
24 we have enough parking provided for this site. I
25 think that it's just as likely that the Petwyn

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1 Court or residents in the neighborhood would also
2 need to park within this proposed development.
3   I think on-street parking is provided
4 for all county residents for these overflow events
5 that multiple people have brought up. So it's
6 likely that the existing residents could also use
7 the overflow parking that has been provided by
8 this development.
9   These are county roads. They are not
10 privately-owned roads, and so we have these
11 on-street parking spaces to accommodate guests for
12 all overflow events.
13   Q   I wasn't speaking about overflow events.
14 I was speaking about just a regular day because
15 many of these townhome residents may have
16 multi-generational families. So that's -- that
17 was what I was asking about, as opposed to
18 overflow events?
19   A   I'm sorry. I don't know what else I can
20 say. We believe we have enough parking.
21   There are 180 extra spaces more than
22 required by zoning. That should be sufficient for
23 these everyday, multi-generational housing that
24 some of the -- a significant portion of the units
25 will have four parking spaces per unit, and that

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1 should accommodate that type of family that's
2 being described.
3   MS. MACHEN: Thank you. No further
4 questions.
5   HEARING EXAMINER SOKONI: I see no more
6 hands on Zoom. I see a hand in the room.
7   Sir, would you like to come to the
8 podium?
9   MR. CHECCO: A relatively quick and easy
10 question.
11   HEARING EXAMINER SOKONI: If You could
12 please switch on the mike and --
13   MR. CHECCO: Oh.
14   HEARING EXAMINER SOKONI: -- identify
15 yourself, please?
16   MR. CHECCO: Yes. Larry Checcos,
17 C-H-E-C-C-O, 508 Scott Drive, Silver Spring.
18   HEARING EXAMINER SOKONI: Thank you.
19   CROSS-EXAMINATION
20 BY MR. CHECCO:
21   Q   I'm just wondering how much
22 consideration has been given to the fact that
23 these roads we're talking about have virtually no
24 shoulder. My -- I drive that road not only about
25 three or four times a day.

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1   It's dangerous now because there's no
2 room for error. It -- there's -- those roads are
3 already very, very narrow, and it's impossible for
4 me to believe that putting more cars on those
5 roads is going to make them any safer. That's my
6 question?
7   A   Yeah. So we are correcting a lot of the
8 wrongs of the past right now with traffic
9 engineering in general, that by providing a
10 shoulder, it actually makes you feel more
11 comfortable to drive faster speeds. And the
12 faster cars are driving, the more severe a
13 crash -- if a crash was to occur, the more severe
14 the incident that would happen.
15   And so one of the things that we are
16 really doing as traffic engineers as a whole in
17 the county is addressing safety issues. And so
18 while it may feel more uncomfortable to you to
19 drive, that's going to force you to drive slower,
20 which, at the end of the day, is more safe.
21   And so this is in -- aligned with county
22 policies on how we design roads that no shoulder
23 is proposed or required for Notley Road. And so,
24 again, that narrow street, we want to find ways to
25 slow cars down, that speeding is something that we

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1 observed in our studies. And we would like to
2 continue to work with the county to make our roads
3 more safe.
4   Q   But all due respect, it sounds a little
5 counterintuitive, though. You're going to make
6 the roads more dangerous so that we slow down, and
7 that doesn't make any sense to me.
8   I mean, you're going to now -- you --
9 not that you're intentionally narrowing the roads,
10 but they're narrow now. And you're saying that
11 That's okay. And we're going to even make them
12 more narrow so that people slow up. It just
13 doesn't make sense --
14   A   I don't believe I said --
15   Q   -- from a practical point of view.
16 Because --
17   A   Yeah.
18   Q   -- as I said, I drive those roads all
19 the time, and it's dangerous. In the daytime,
20 they're dangerous. At nighttime --
21   MS. ROGERS: It has to be a question.
22   A   -- it's worse.
23   MS. ROGERS: It has to be a question at
24 this time.
25   MR. CHECCO: Sorry.

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1   MS. ROGERS: Yeah. I just wanted to
2 remind you, this has to be questions --
3   MR. CHECCO: Okay.
4   MS. ROGERS: -- of her and not --
5   MR. CHECCO: All right.
6   MS. ROGERS: -- your testimony.
7   MR. CHECCO: Well, the question -- I
8 already gave my question.
9   Q   You know, have you given enough
10 consideration to that, the shoulder? That's
11 the --
12   MS. ROGERS: And I think, Katie, you
13 were going to clarify.
14   THE WITNESS: Oh, yes.
15   MS. ROGERS: You didn't say.
16   **A   Yes, we did. And the county does not**
17 **require us -- they don't want a shoulder for**
18 **Notley Road, and so we are designing our frontage**
19 **improvements in align with what the county would**
20 **like for the road. And we are -- we will continue**
21 **to work with the county. As I discussed in my**
22 **testimony, we're looking to address the speeding**
23 **that is occurring by things like optical speed**
24 **bars, other measures that we can work with the**
25 **county at the time a preliminary plan to address**

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1 **the speeding that is occurring today to make the**
2 **road more safe.**
3   MR. CORY: Thank you.
4   HEARING EXAMINER SOKONI: Any more
5 cross-examination for Ms. Wagner in the room?
6   I think that's it for now, and I propose
7 we take a break.
8   MS. ROGERS: And then we'll be able to
9 redirect when we come back from the break or --
10   HEARING EXAMINER SOKONI: Yes.
11   MS. ROGERS: Okay. Great.
12   HEARING EXAMINER SOKONI: Yes. Did you
13 -- oh, did you --
14   MS. ROGERS: That's okay, yeah.
15   HEARING EXAMINER SOKONI: That's okay?
16   MS. ROGERS: That's fine.
17   HEARING EXAMINER SOKONI: Okay. All
18 right. We will -- a half-hour, 30 minutes. Yes,
19 please.
20   (Whereupon, a recess was taken at
21 2:46:17 p.m.)
22   MR. TEWEY: If you were in federal
23 court, you couldn't talk to the witness.
24   MS. ROGERS: We're not in federal court.
25 This isn't federal court.

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1   MR. TEWEY: Just asking.
2   MS. ROGERS: I plan to talk to my whole
3 team during the break. That's the purpose of the
4 break, for us to also talk to Mr. Kelso ahead of
5 his testimony. I'm not sure I understand the
6 objection or the question.
7   HEARING EXAMINER SOKONI: Sorry, could
8 you please clarify your -- are you objecting to us
9 taking the break -- we --
10   MR. TEWEY: I'm not objecting to the
11 break.
12   HEARING EXAMINER SOKONI: Okay.
13   MR. GIRARD: He's objecting to coaching
14 the witness during the break.
15   MR. TEWEY: Yes, coaching the witness
16 during the break. The witness is on the stand.
17   MR. GIRARD: Under oath.
18   MR. TEWEY: Under oath.
19   MS. ROGERS: We're taking a break, and
20 we're going to come back on record.
21   MR. TEWEY: I've stated my objection.
22   HEARING EXAMINER SOKONI: Thank you.
23   MR. GIRARD: Asking for a ruling from --
24   MS. ROGERS: I would point out, we'll
25 get to recall Katie at the end of our case, and,

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1 like, this coordination is part of how this works.
2 Obviously, she has ethical obligations to not let
3 us put --
4   HEARING EXAMINER SOKONI: I would say
5 the same. I mean, I'd like -- you know, Counsel
6 is aware of the rules of evidence and is governed
7 by ethics, so I don't want to impute anyone's -- I
8 think we -- we'll take a break for half an hour,
9 and we'll resume.
10   MS. ROGERS: Thank you.
11   (Pause in proceedings.)
12   HEARING EXAMINER SOKONI: Proceed with
13 redirect, and then we'll move along.
14   And, Ms. Wagoner, I just remind you,
15 you're still under oath from pre-recess.
16   MS. ROGERS: Sorry, I was just trying to
17 get our exhibits to reload.
18   REDIRECT EXAMINATION
19 BY MS. ROGERS:
20   Q   Ms. Wagoner, can you, for the record,
21 please clarify the BRT project that you testified
22 to? That's not an SHA project, correct?
23   **A   Correct. The BRT project is an MCDOT,**
24 **Montgomery County Department of Transportation**
25 **project.**

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1   Q   Okay. And so that's why, when you were
2 inquiring about where the stop would end, you
3 inquired with MCDOT?
4   A   Yes, that's correct.
5   Q   I also wanted to clarify, someone on
6 cross had -- when asking a question, made the
7 statement that your testimony was indicating that
8 we were making Notley more unsafe, to then kind of
9 improve, you know, safety by slowering [sic]
10 speeds. Was that an accurate classification of
11 what you had said?
12   A   No, I made no indication that we were
13 making Notley more unsafe.
14   Q   Right, and you were just, for the
15 record, clarifying that -- well, can you just
16 explain for the record what you were clarifying?
17   A   I was just clarifying for the record
18 that we had taken a speed study, that we
19 understand how Notley currently exists, how the
20 County has it proposed to be designed in the
21 Complete Streets Design Guidelines, and that the
22 project will continue to work with Staff to
23 identify improvements to be able to improve
24 existing conditions of Notley.
25   Q   Thank you. Also, I just wanted to

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1 clarify regarding your testimony on the bike lane.
2 In your professional opinion, those the on-street
3 striping that we were looking at in Exhibit 80,
4 are consistent with a bike lane and how that is
5 striped on the roadway, correct?
6   A   Yes, the bike lanes that are striped on
7 New Hampshire Avenue are consistent with bike lane
8 stripes throughout the County and along SHA
9 routes.
10   Q   And so that striping is clear regardless
11 of signage?
12   A   Yes.
13   Q   Thank you. Can you please elaborate
14 on -- there was some question at the end, and I
15 just wanted to make sure it was clear for the
16 record -- regarding how the signal is going to
17 reduce the queuing problem that some in the
18 community have indicated exists along Notley
19 leading up to New Hampshire?
20   A   Yes, currently there is a stop sign
21 there. That means that every car that approaches
22 the -- that is on Notley that approaches New
23 Hampshire has to pull up, stop, and then proceed.
24 When you have a traffic signal, you will have a
25 flow of cars that are able to go at one time, that

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1 they don't have to each individually stop. And so
2 when there is green time, there is time for --
3 green time on the Notley approach, that there is
4 time for all of those cars to clear the queue with
5 the green time. So that is proposed to make the
6 intersection operate better.
7   Q   Thank you. Can you please also explain
8 how LATR guidelines dictate what volumes you study
9 in your LATR analysis?
10   A   Yes. In our LATR analysis, again,
11 follows the LATR guidelines. We are required to
12 follow those guidelines. As part of those
13 guidelines, we look at different time periods.
14 And the LATR guidelines dictate what time periods
15 we look at and how we look at those traffic
16 volumes.
17   We collect traffic volumes in the a.m.
18 and p.m. peak hours, so between 6:30 and 9:30 a.m.
19 and 4:00 to 7:00 p.m. And what we do -- what we
20 look at in our traffic study is we look at what's
21 called the system peak hour. We don't pick and
22 choose different approaches, having different
23 volumes, that we don't look at Notley having more
24 traffic volumes from 6:00 to 7:00 a.m. and then
25 another approach at 8:00 to 9:00 a.m.

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1   We look at the system peak as a whole to
2 understand, looking at our different study area
3 intersections, what time period has the most
4 traffic traveling on all of the roadways in our
5 study area at the same time. And so that is
6 where -- that is how the LATR guidelines dictate
7 how we perform our traffic study. And so that is
8 how the traffic study was done.
9   Q   And so the line of questioning earlier
10 about certain hours having a higher number of
11 trips is irrelevant to then how you look at the
12 system peak?
13   A   Yes, because we understand that there
14 may be different time periods, that some
15 approaches have more volumes than others. That
16 happens when you have a school nearby, that you
17 may have a large volume of traffic happening at --
18 in a 30-minute interval, but then another
19 30-minute interval doesn't have anything
20 happening. And so that's why we look at the
21 system as a whole to understand -- to understand
22 how the project will affect the entire roadway
23 network, not just a single -- a single segment of
24 road.
25   Q   Thank you. There were some questions

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1 regarding kind of the total number of daily trips
2 that are shown in your LATR report. Does that
3 daily trip number include cars coming and going?
4   **A   Yes, as shown in the Trip Generation**
5 **Table in Exhibit 68, I believe is the number of**
6 **it. We don't have to look at it. It does have**
7 **the a.m. and p.m. peak hour for in and out traffic**
8 **volumes during the peak hours, and then the total**
9 **daily traffic, and that includes in and out -- in**
10 **and out traffic volumes.**
11   Q   Can you clarify -- there were some
12 questions regarding the distribution that was used
13 in your supplemental analysis at the Midland and
14 New Hampshire intersection. What is that
15 distribution based on?
16   **A   So that distribution, again, is based**
17 **off of the LATR guidelines. There's tables in**
18 **these guidelines that are based off of travel**
19 **demand modeling for the entire county and where**
20 **different land uses are going to send different**
21 **trips.**
22   **And so the trip generation assumed in**
23 **the LATR, as well as in that Midland analysis, is**
24 **done in accordance with the LATR guidelines, as**
25 **well as trip distribution approved by Montgomery**

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1 **County Park and Planning, MCDOT, and SHA, of where**
2 **traffic would be distributed during the peak**
3 **hours.**
4   Q   Thank you. There was also a concern
5 raised on cross regarding the timing of your
6 counts, and you've addressed that. I just wanted
7 to reiterate for the record, were your counts done
8 in accordance with LATR guidelines and approved by
9 all three reviewing agencies in terms of Park and
10 Planning, SHA, and MCDOT?
11   **A   Yes, all of the reviewing agencies**
12 **approved the time in which the traffic counts were**
13 **collected.**
14   Q   And did you also look into historical
15 counts from SHA to verify that you felt those
16 counts were accurately representing the existing
17 conditions?
18   **A   Yes, and those can be found -- our**
19 **comparison can be found in Exhibit 65 in the**
20 **attachments. We provided an analysis of**
21 **historical counts collected by SHA in 2012, 2018,**
22 **2023, and then our traffic counts that were**
23 **collected in February of 2025.**
24   **And the 2025 traffic volumes,**
25 **specifically, we were reviewing the Notley and New**

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1 **Hampshire intersection. The volumes in 2025 were**
2 **the highest of all of the time periods that we**
3 **reviewed them, comparing them to.**
4   MS. ROGERS: Thank you. That concludes
5 my additional questions.
6   HEARING EXAMINER SOKONI: Thank you.
7 Are you proceeding with your case in chief? You
8 have more witnesses?
9   MS. ROGERS: We do. Ms. Rosenfeld and
10 us had communicated during the break and wanted to
11 see if the Hearing Examiner felt like this was an
12 appropriate time to talk about scheduling the next
13 hearing date --
14   HEARING EXAMINER SOKONI: Sure.
15   MS. ROGERS: -- and potentially
16 scheduling two just to be conservative before we
17 proceed with Mr. Kelso just given the time of the
18 afternoon.
19   HEARING EXAMINER SOKONI: Yes, we can do
20 that. So are you likely to finish your case in
21 chief today, if we went through 5:00 p.m.?
22   Thank you very much.
23   If we went through 5:00 p.m.?
24   MS. ROGERS: I would say it depends on
25 the number of cross.

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1   HEARING EXAMINER SOKONI: I see. And
2 how many witnesses do you have?
3   MS. ROGERS: We just have one witness
4 left.
5   HEARING EXAMINER SOKONI: Just one
6 witness left. Okay.
7   And I know you had -- Ms. Rosenfeld, you
8 adjusted your estimate last time. You said
9 you're -- because initially you had estimated
10 needing a day and a half, and you adjusted that
11 down.
12   MS. ROSENFELD: I think it's fair to say
13 a day.
14   HEARING EXAMINER SOKONI: A day.
15   MS. ROSENFELD: And then there's -- I
16 don't know how much public testimony we'll have,
17 but, you know, you've had a number of --
18   HEARING EXAMINER SOKONI: Yeah. So it
19 looks like we need two more days at least. Yeah,
20 two more -- let's plan for two more days.
21   Schedule-wise, let me actually pull up
22 the -- are you able to just -- can we go to the
23 OZAH? I can put it up on my laptop, but the -- if
24 you moved out one to just the hearing page, just
25 want to see our calendar.

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1   I certainly understand the applicant
2 probably wants to go -- you know, wants us to wrap
3 up ASAP, but we have the combination of other
4 cases and some time away, and lots of adjustments
5 going on in OZAH. So let's see. December 9 --
6 yeah. Fitting a date in December is going to be
7 very, very difficult because I can't have anything
8 land on my calendar after the 15th.
9   Let's see, today -- and we ruled out
10 tomorrow is not an option? The third is not an
11 option. I think we're looking at January at least
12 because this is the hearing schedule, and then
13 there's other things like decisions being written
14 for cases already heard.
15   MS. ROGERS: Sure.
16   HEARING EXAMINER SOKONI: So I
17 certainly -- I had blocked off tomorrow just in
18 case. So I think we need to look at dates in
19 January.
20   MS. ROSENFELD: I have two hearings
21 tomorrow. I can't.
22   HEARING EXAMINER SOKONI: Yeah, you
23 know, understood. Understood. That's why I'm
24 saying, I think realistically we're looking at
25 January. So let's see. Let me pull up my

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1 January.
2   What's mid-January looking like for
3 people?
4   (Counsel confer.)
5   HEARING EXAMINER SOKONI: And I do need
6 to mention, I have an e-mail from -- I have an
7 email from a Terry Sitz. Not sent to the -- you
8 know, I've said, please email everybody. So this
9 email is sent directly to me. Terry Sitz,
10 S-I-T-Z, 13602 Montvale Drive, Colesville,
11 Maryland 20904, wanting to testify today.
12   Yeah, that doesn't. So, yeah. Okay.
13 I'm going to put that aside for a moment.
14   THE COURT REPORTER: Someone has their
15 hand raised on Zoom.
16   HEARING EXAMINER SOKONI: Sorry?
17   THE COURT REPORTER: Somebody has their
18 hand raised on Zoom.
19   MR. TEWEY: That's her.
20   HEARING EXAMINER SOKONI: Oh. Terry
21 Sitz?
22   MS. SITZ: I couldn't hear you. Were
23 you thinking that I wanted to testify today?
24   HEARING EXAMINER SOKONI: Yes, because I
25 have an email from you saying you want to testify

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1 today.
2   MS. SITZ: I'm sorry. I'm having
3 trouble with the audio.
4   THE COURT REPORTER: Did you turn your
5 mic -- is your microphone on?
6   HEARING EXAMINER SOKONI: Oh, I'm sorry.
7   MS. SITZ: And I'm fine with testifying
8 on day three.
9   HEARING EXAMINER SOKONI: Okay.
10 Perfect. Did you just send me an email saying you
11 needed to testify today?
12   MS. SITZ: No, no, no. I sent an email
13 earlier this morning because I couldn't raise my
14 hand on the first day, and I wanted to make sure I
15 was included, but I'm perfectly fine testifying on
16 the third day.
17   HEARING EXAMINER SOKONI: Okay. And
18 just when I went to -- so when I went to lunch
19 break, I saw your email from this morning.
20   MS. SITZ: Yes.
21   HEARING EXAMINER SOKONI: Saying you
22 wanted to testify today.
23   MS. SITZ: Well, I assumed that's when
24 we were going to be testifying until I found out
25 there was a third day. So I'm fine with the third

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1 day.
2   HEARING EXAMINER SOKONI: Okay. So in
3 that case, let's look at dates in -- let's look at
4 January. Let me throw out a few dates.
5   So how is the week of the -- I believe
6 there's a holiday on the 19th. How's the week of
7 the 12th? The latter half of the week is better
8 for me. So, you know, 13th, 14th, 15th of
9 January. Are those options?
10   MR. TEWEY: 15th, 16th are good for me.
11   MS. ROGERS: 13th, 14th, 15th --
12   HEARING EXAMINER SOKONI: Oh, sorry, we
13 cannot do a 14th because the Board of Appeals --
14 well, hang on a second.
15   MR. TEWEY: I have a problem with the
16 14th anyway.
17   HEARING EXAMINER SOKONI: You have a
18 problem with the 14th anyway?
19   MS. ROSENFELD: The 15th works here.
20   HEARING EXAMINER SOKONI: The 15th
21 works. Okay.
22   MS. ROSENFELD: The 15th work for --
23 yes.
24   HEARING EXAMINER SOKONI: Mr. Nusbaum,
25 15th, January 15th?

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1   MR. NUSBAUM: January -- just need to
2 look at my phone. Yes, 15th is fine.
3   HEARING EXAMINER SOKONI: I just want to
4 make sure I don't get in trouble by double-booking
5 here.
6   HEARING EXAMINER SOKONI: So I think
7 January 15th. Let's plan for January 15th.
8   MR. TEWEY: I got a meeting here, but I
9 can skip that.
10   HEARING EXAMINER SOKONI: And it would
11 be nice if we could do --
12   MR. TEWEY: That's probably a holiday
13 for them.
14   HEARING EXAMINER SOKONI: Can we --
15 well, that's a little -- okay. Could we do day
16 three on the 15th? And day -- would people be
17 able to -- if we just did it two days in a row,
18 does that work? I know it's a holiday weekend,
19 and I don't know what the school schedules are,
20 but 15th, 16th, which is, you know, Thursday,
21 Friday, two days in a row?
22   MS. ROSENFELD: I'm sorry, 16th doesn't
23 work here.
24   HEARING EXAMINER SOKONI: 16th doesn't
25 work. I wondered about that. It's just up

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1 against the holiday on the 19th.
2   Okay. So 15th works for all. The
3 following week, I have a hearing, so on the 23rd.
4 Yeah, I have a January 23rd. So after the 15th of
5 January, the next availability for me would be
6 that final week of January, 26th, 27th, and
7 possibly 29. So 26th, 27th, or 29th of January.
8 Any of those work?
9   MR. TEWEY: Whole week's good for me.
10   HEARING EXAMINER SOKONI: We just need
11 to pick one more day apart from the 15th. And for
12 me, that could be 26, 27, or 29.
13   MR. NUSBAUM: 26th is tough. There's no
14 school that day, so that's tough for me. But so
15 the 27th -- you said 27th or 29th?
16   HEARING EXAMINER SOKONI: Correct.
17   MR. NUSBAUM: Those would be better.
18   HEARING EXAMINER SOKONI: 27th, 29th?
19   MS. ROGERS: 27th. 27th works for us.
20   HEARING EXAMINER SOKONI: 27th. Sorry,
21 sorry, sorry. Did you say --
22   MS. ROGERS: 27th.
23   HEARING EXAMINER SOKONI: 27th works for
24 you? Does 29th work?
25   MS. ROGERS: It might. It just makes me

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1 nervous because Thursday's a Planning Board date.
2 I don't know.
3   Michelle, do you have risk of things
4 coming up, but --
5   MS. ROSENFELD: Yes, the 27th is
6 available for all three here, and so I would
7 prefer that over the 29th.
8   HEARING EXAMINER SOKONI: How about we
9 go with the 27th, and, Mr. Nusbaum, we do have it
10 virtual --
11   MR. NUSBAUM: No, the 26th was the
12 issue. 27th is no problem.
13   HEARING EXAMINER SOKONI: Oh, 26th was
14 an issue. You're fine with 27th?
15   MR. NUSBAUM: Yes.
16   HEARING EXAMINER SOKONI: I'm solving a
17 problem that doesn't exist, then let's do the
18 27th.
19   MR. TEWEY: It should be easy.
20   HEARING EXAMINER SOKONI: Okay. So
21 we're going to go with -- the next two dates will
22 be January 15th and January 27th. Let's see how
23 far you can go today. We're tentatively -- should
24 we -- for the 15th, I propose we start with the
25 community testimony.

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1   And does anyone have a sense of whether
2 it's easier for people if we went with community
3 testimony at the start of the day or midday,
4 midway through the day?
5   (Counsel confer.)
6   MS. ROSENFELD: All right. The
7 consensus here is start of the day.
8   HEARING EXAMINER SOKONI: Start of the
9 day? Okay.
10   Anyone in the room, start of the day
11 versus midway through the day?
12   MR. TEWEY: Either is fine.
13   HEARING EXAMINER SOKONI: Okay. Thank
14 you.
15   All right. So the next two hearings
16 will be scheduled for January 15th and January
17 27th. And if I could just have a minute to -- I
18 would like to announce the location before the
19 conclusion of this hearing to avoid having to send
20 out a notice of hearing. I don't know about the
21 availability -- but once we hit January, that's
22 not yet budget time, no? So I just need to check
23 on the availability of this room.
24   But let us tentatively -- let's say 7th
25 floor hearing room. If that changes, we'll do the

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1 reverse. We'll put the notes -- we'll put the
2 stickers on this door saying, go back to where it
3 all happens. 15th and 27th here in the 7th floor
4 hearing room. And we plan to start with community
5 testimony on the 15th.
6   Okay. Okay. Thank you for raising
7 that. A big relief to have that out of the way.
8 And let's continue with case in chief.
9   MS. ROGERS: Thank you. Our last
10 witness will be Mr. Kelso.
11   HEARING EXAMINER SOKONI: And if you
12 just give me two minutes while you get settled,
13 I'm going to send the notes so Staff can start
14 looking at availability for this room on the 7th.
15   MS. ROGERS: Of course.
16   (Pause in proceedings.)
17   HEARING EXAMINER SOKONI: Are you ready
18 to proceed?
19   MS. ROGERS: Yes.
20   HEARING EXAMINER SOKONI: Thank you.
21 I'll administer the oath.
22   First of all, can you identify yourself,
23 full names.
24   MR. KELSO: For the record, Logan Kelso.
25 L-O-G-A-N, K-E-L-S-O.

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1   HEARING EXAMINER SOKONI: Thank you,
2 Mr. Kelso.
3   MR. KELSO: Yes.
4   HEARING EXAMINER SOKONI: If you could
5 raise your right hand.
6 Whereupon,
7   LOGAN KELSO,
8   called as a witness for the Applicant,
9 having been duly sworn, testified as follows:
10   HEARING EXAMINER SOKONI: Okay. Thank
11 you.
12   MS. ROGERS: Similarly, Mr. Kelso has
13 previously been qualified before this body as an
14 expert in civil engineering. For the hearing,
15 would you like to re-qualify him or for us to
16 proceed with our questioning?
17   HEARING EXAMINER SOKONI: No need to,
18 but do you have a case number or case numbers
19 before OZAH?
20   MS. ROGERS: Yes. Give me one second.
21   HEARING EXAMINER SOKONI: Sure.
22   MS. ROGERS: I think I have it written
23 down. It was the Spectrum Retirement Conditional
24 Use on River Road.
25   HEARING EXAMINER SOKONI: And you said

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1 he was previously qualified in the area of civil
2 engineering?
3   MS. ROGERS: Uh-huh.
4   THE WITNESS: Correct.
5   HEARING EXAMINER SOKONI: Yeah. That's
6 fine. If you don't have the case number at your
7 fingertips, that's okay. And on the basis of
8 that, we will acknowledge, and you're qualified
9 here again.
10   MS. ROGERS: Thank you.
11   THE WITNESS: Thank you.
12   DIRECT EXAMINATION
13 BY MS. ROGERS:
14   Q Mr. Kelso, are you familiar with the
15 local map amendment application which is before
16 the hearing today as H-159?
17   **A Yes. I assisted with the preparation of**
18 **the local map amendment application in the**
19 **Floating Zone Plan for the proposed rezoning of**
20 **the property in the northwest quadrant of the**
21 **intersection of New Hampshire and Notley Road to**
22 **accommodate the redevelopment of the property with**
23 **up to 130 units.**
24   Q And can you please describe your
25 responsibilities with regard to the local map

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1 amendment application?
2   **A Yes. The analysis of existing site**
3 **conditions, the suitability of the site for the**
4 **proposed redevelopment, the analysis of existing**
5 **and surrounding infrastructure and public**
6 **facilities serving the property, preparation with**
7 **site layout plans, including the Floating Zone**
8 **Plan, the water and sewer layout, storm drain**
9 **outflow analysis, and stormwater strategies and**
10 **concept layout. I also assisted with the**
11 **preparation of the civil engineering items in the**
12 **Land Use Report.**
13   Q And just for the record, that's now
14 Exhibit 81. Thank you.
15   Have you or other members of your firm
16 made a personal inspection of the subject
17 property?
18   **A I have. In addition to my colleagues,**
19 **I've personally been out to the site on various**
20 **occasions. Standard civil engineering practice**
21 **to, you know, check out the edge conditions, also,**
22 **understanding that site distance would be a**
23 **consideration here, I personally put eyes on it**
24   Q Can you please -- well, actually, sorry.
25 If we could pull back up Exhibit 68 and go to

520

1 Page 62. Thank you.
2   Can you please describe the vehicular
3 access and circulation of the project?
4   **A   Yes. As Katie previously testified,**
5 **there's currently eight separate vehicular**
6 **driveways to be consolidated into two access**
7 **points on Notley. Also, the, you know,**
8 **easternmost access point on Petwyn Court is lined**
9 **up with the consideration and direction from**
10 **Staff, Agency Staff.**
11   **And the final locations of these access**
12 **points will be determined at the preliminary plan.**
13 **And at that time, DOT will approve our site**
14 **distance evaluation forms.**
15   Q   And if we can go two slides down,
16 please. Thank you.
17   In your professional opinion, will
18 vehicular access be safe and adequate from a site
19 distance perspective?
20   **A   Yes. Vehicular access will be safe and**
21 **adequate. The site distance evaluation for the**
22 **proposed entrances all exceeded the requirements**
23 **based on the roadway parameters, and often, you**
24 **know, exceeded significantly. Not only was the**
25 **design analyzed for the posted speed, but also**

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1 **based on Grove Slade's 85th percentile speed study**
2 **in the LATR.**
3   **Again, the access points will be**
4 **analyzed through the preliminary plan process and**
5 **approved by MCDOT at that time, officially. And**
6 **it is --**
7   Q   In terms of what we're looking at on the
8 screen, both on this slide and the next slide, can
9 you just describe, are these site distance
10 evaluations, and what we're looking at just for
11 the record in the transcript?
12   **A   Yes, for the record. Exhibit -- I'm not**
13 **sure what's on the screen.**
14   Q   Slide 64 of Exhibit 68.
15   **A   It is a site distance, including the**
16 **site distance MCDOT form, that will be officially**
17 **approved at the preliminary plan stage.**
18   Q   And Slide 64 is for?
19   **A   Site distance plan for what we call**
20 **Entrance 1, which is the westernmost entrance,**
21 **closer to the park.**
22   Q   And then Slide 65, if we go down one
23 page for the transcript.
24   **A   Yes, for the record, this slide is the**
25 **site distance, what we call Entrance 2, which is**

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1 **the easternmost entrance closest to Notley, which**
2 **is lined up with Petwyn Court.**
3   Q   And just so that it's clear for the
4 record, these site distance evaluations that you
5 prepared were not just looking at what was the
6 posted speed limit, but you took into account the
7 85th percentile speed of the study that Katie
8 Wagoner had testified to in terms of the observed
9 speeds to ensure that there would be safe and
10 adequate site distance based on that speed,
11 correct?
12   **A   That is correct.**
13   HEARING EXAMINER SOKONI: So just a
14 quick question. For the layperson who has no
15 engineering background, what is this meant to
16 capture? Site distance sounds really nice and
17 fancy. What does that mean? What are you
18 capturing?
19   THE WITNESS: Sure. Site distance is a
20 safety check in the engineering world that's
21 established by AASHTO Green Book standards and
22 furthermore detailed with Montgomery County
23 Department of Transportation.
24   It gives a factor of safety when
25 considering if you're sitting at an entrance and

523

1 you're going to make a left turn, the traffic
2 coming at you as well as the stopping site
3 distance of a car coming into the lane that you're
4 pulling into. Yes.
5   HEARING EXAMINER SOKONI: Okay, and
6 thank you.
7   Q   And does, based on that 85th percentile
8 speed, does what we're looking at show kind of how
9 far in terms of a metric you need to be able to
10 see in either direction to provide for that safe
11 access? And when you're testifying that we have
12 adequate site distance, are you testifying that we
13 meet or exceed that required distance of vehicles?
14   **A   Yes. Yes. We meet and exceed -- well,**
15 **we meet and exceed the site distances as set by**
16 **AASHTO Green Book as well as MCDOT.**
17   Q   And, sorry, I just wanted to -- I know
18 you said this, but just for the record, to wrap it
19 all up, so you've confirmed that with the site
20 distance analysis that's been submitted into the
21 record for both of the access points?
22   **A   That's correct.**
23   Q   And MCDOT will further analyze this and
24 finally approve it when those access points are
25 approved at time of preliminary plan?

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1   A   That's correct.
2   Q   And have you evaluated the availability
3 of water, sewer, gas, and other utilities at this
4 location, and are there -- is there adequate
5 capacity to accommodate the proposed development?
6   A   Yes. There is currently -- utilities
7 are serving the property, gas, electric, water,
8 and sewer. The property in regards to water and
9 sewer it's within WSSC jurisdiction. It is
10 categorized as a W-1 and S-1, and by definition,
11 W-1 and S-1 are areas served by existing public
12 facilities or undergoing construction.
13   Classification confirms that the
14 property is eligible to receive public water and
15 sewer service and is expected to connect to those
16 systems.
17   Here, the existing properties are served
18 by water and sewer. What is on the screen, I'm
19 not sure what slide it is, but this is WSSC
20 200-foot sheets. It's a grid system in Montgomery
21 County and Prince George's County, which
22 essentially map the GIS systems of the existing
23 utilities.
24   As you can see, our site is both
25 surrounded by an existing water system as well as

525

1 an existing sewer outfall. The water and sewer
2 needs are expected to be met by WSSC through the
3 connections in the existing water and sewer
4 located in Notley, specifically the water
5 service --
6   HEARING EXAMINER SOKONI: Sorry, the
7 slide you're describing is slide --
8   MS. ROGERS: 66.
9   HEARING EXAMINER SOKONI: 66, thank you.
10   A   The water service connections are
11 proposed to be established connecting to the
12 existing ten-inch line in Notley, and the sewer
13 service is also proposed to be connected to the
14 existing eight-inch sewer manhole in Notley. And
15 we also have another opportunity in New Hampshire.
16 However, I believe the current design connects to
17 Notley.
18   Q   I'm sorry to jump back, but on site
19 distance, I just wanted to ask one more question,
20 which was, you mentioned in your testimony that
21 the private road is aligned with Petwyn Court,
22 which Ms. Wagoner had also testified to in terms
23 of the reasoning for that. Is that also located
24 at the highest point of the road, and what does
25 that mean for a site distance perspective?

526

1   A   Yes, it is located at the highest point
2 in the road, and also, just to add on, that it is
3 on a constant-sloped road. Usually when there's
4 undulations, site distance can be more difficult
5 and, you know, sometimes not work because of that
6 road design.
7   However, this is located at the top of
8 the high point of the road section in the
9 frontage, which you can look down both sides of
10 the slopes, which are both continuous slopes. So
11 generally, it's a safer location for an entrance.
12   Q   Thank you. Sorry for that. To jump
13 back to infrastructure, in your professional
14 opinion, does the project meet the
15 infrastructure-related prerequisite under Section
16 513(d)?
17   A   Yes. Based on industry standards and
18 accepted engineering practices, such as the size
19 of the infrastructure required for specific
20 product type and densities, as well as the age of
21 the existing infrastructure, such as pipe
22 materials, pipe slopes, of the existing
23 infrastructure, in my professional opinion, the
24 existing water and sewer lines are sufficient to
25 support the proposed development.

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1   With the adjacent infrastructure, it
2 will likely not require an upgrade or a pump
3 station. I will note that the sewer system,
4 because it is at a high point, we mentioned that
5 at the site distance. Also, gravity systems such
6 as sewer will be located at the top of the system,
7 so generally there's not capacity issues with
8 those terminal lines.
9   As such, the project meets the
10 prerequisite. The site is served by existing
11 water and sewer infrastructure that would not
12 require an upgrade to the service line or
13 installation of a pump station due to the proposed
14 development.
15   Q   Is a stormwater management concept plan
16 required for this project?
17   A   It is required. However, the formal
18 stormwater concept plan is not required as part of
19 the LMA application. As required, the stormwater
20 management strategy narrative has been submitted,
21 describing how the stormwater management is
22 intended to be addressed for the project.
23   Q   If we can go one more slide down, which
24 is Slide 67.
25   So the stormwater concept plan will be

528

1 finalized with the subsequent preliminary site
2 plan applications; is that correct?
3   A   That is correct. We do fully anticipate
4 that the proposed stormwater concept plan
5 submitted at the next appropriate step of
6 entitlement process will be approvable.
7   Also to note that Montgomery County
8 Department of Permitting Services, or MCDPS,
9 approval of the stormwater concept is the first
10 step in the approval process with two more steps
11 to be completed prior to the application for the
12 sediment control and stormwater management permit.
13   MCDPS approval of the sediment control
14 and stormwater management plan is required to
15 beginning the construction of the proposed
16 improvements. So it is guaranteed that the
17 project will comply with all stormwater management
18 regulations.
19   Q   Can you please briefly describe what the
20 stormwater approach will be for the proposed
21 project?
22   A   Yeah. So the site does not currently
23 present any modern stormwater management
24 facilities. No quality or quantity control, based
25 on our research, is existing. The proposed

529

1 development provides an important opportunity to
2 improve that existing condition.
3   In accordance with the 2010 MDE
4 stormwater management regulations, the project
5 will implement environmental site design, or ESD,
6 as we call it short, practices to the maximum
7 extent practicable. In order to manage the
8 required stormwater volume, the Petitioner
9 proposes to utilize a mix of stormwater management
10 practices, which include ESD facilities such as
11 graded out and for planter-style microbio
12 facilities.
13   We do believe that non-ESD structural
14 underground vaults will be required for this
15 project as well to meet the stormwater management
16 attenuation requirements. It is expected that the
17 proposed layout of the project will fully
18 accommodate stormwater management facilities that
19 meet and/or exceed applicable state and county law
20 or requirements.
21   Q   And in your professional opinion, will
22 the project negatively impact offsite drainage
23 from this property?
24   A   The project design will meet the
25 jurisdictional requirements for off-site and

530

1 on-site drainage requirements. The project will
2 result in either net neutral or better conditions
3 as compared to today.
4   There will be a significant decrease in
5 the amount of water runoff to the north and west
6 properties through the adjustment, a slight
7 adjustment, to the drainage divides using
8 stormwater management facilities and use of onsite
9 attenuation, which we, you know, use underground
10 storage vaults with a weir and/or orifice to
11 slowly release the additional runoff based on the
12 new impervious area. And it will be designed to
13 be released at the existing condition or less than
14 that of the existing condition of the flow.
15   So just to hit on the water attenuation
16 again, anytime you introduce new impervious area,
17 chances of increasing the stormwater runoff from
18 the site increases. We acknowledge that and
19 acknowledge that by law you cannot send stormwater
20 onto other people's property adjacent. So with
21 this amount of water, we do anticipate requiring
22 to attenuate it before sending it into the
23 existing system with the weir and/or orifice
24 structure, as I just briefly described.
25   No water from the developable property

531

1 will be directed towards the surrounding
2 single-family homes. Rather, the water will be
3 treated for quality and quantity on site and
4 ultimately directed into the closed storm drain
5 system and existing infrastructure. It's
6 consistent with current MCDPS policies. Direct
7 and concentrated water off-site isn't permissible.
8 In this application, we will utilize current MDE
9 best management practices to treat the required
10 stormwater within our project site.
11   This project will actually improve the
12 existing conditions. As mentioned, there's no
13 existing stormwater on site with the developed
14 houses, sheds, and driveways. So we will be
15 bringing in modern stormwater management. So as
16 any current offsite drainage is going to be
17 minimized and controlled through the redevelopment
18 process, consistent with Maryland and county law.
19 Again, it's -- I think --
20   Q   Well, I'm just going to clarify for kind
21 of more of the layman in terms of that orifice and
22 weir and all that. Just to clarify, the water
23 that's currently leaving the site and going
24 towards the north and the west, will that be
25 decreased with the proposed development?

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1   A   It will be decreased.
2   Q   And with the redevelopment, are you
3 taking more of the existing water on the site,
4 including any increased water from any, you know,
5 the proposed development, and taking it towards
6 the New Hampshire Avenue controlled storm drain
7 system?
8   A   That's correct.
9   Q   And in terms of the water attenuation
10 you were talking about with the orifice and the
11 weirs and the underground vaults, what that means
12 in a layman's perspective, are you basically
13 holding that water on site so that you can slowly
14 release it so that there's no net increase in the
15 water flow leaving the site into the New
16 Hampshire --
17   MR. NUSBAUM: Objection.
18   MS. ROSENFELD: Objection.
19   MR. NUSBAUM: Leading.
20   MS. ROSENFELD: Leading.
21   HEARING EXAMINER SOKONI: Sustained.
22   Q   Okay. Well, can you just -- what I
23 wanted to get at was that when you said orifice
24 and weir, can you just please explain again what
25 that does to the water leaving the site towards

533

1 New Hampshire?
2   A   Sure. So there's stormwater management
3 that's quality. And whenever we think about
4 quantity, that's whenever we think about the
5 attenuation. Stormwater management, in technical
6 terms, treats the runoff. Attenuation limits the
7 runoff. So there's both treatment and
8 attenuation.
9   How we generally attenuate is if you
10 think of a bathtub, the weir would be overflowing
11 outside of the bathtub. Obviously, we're not
12 going to overflow our vault, but just that's the
13 definition of a weir.
14   Orifice is like a drain. We design it
15 so the more water that backs up, we will size that
16 underground vault for the impervious area increase
17 from our development to have an orifice and/or
18 weir system that lets out the water from our site
19 at an existing runoff condition or better.
20   Q   Thank you. And is this property located
21 in a special protection area?
22   A   It is not.
23   Q   And in your professional opinion, as it
24 relates to civil engineering elements, does the
25 proposed Floating Zone Plan satisfy all applicable

534

1 zoning requirements for approval of a local map
2 amendment?
3   A   Yes.
4   Q   And to reiterate your testimony, the
5 stormwater management concept plan, will that be
6 absolutely required before the Planning Board can
7 approve a preliminary plan for the proposed
8 development?
9   A   That is correct.
10   Q   And will a subsequent stormwater
11 management approval be required before building
12 permits can be issued?
13   A   That's correct.
14   Q   And do you agree with the findings made
15 by Park and Planning Staff in their Staff Report
16 with respect to these very civil engineering
17 testimony, pieces you testified on?
18   A   Yes.
19   Q   And do they agree that the project in
20 the proposed Floating Zone Plan can satisfy these
21 civil engineering elements that are required for
22 approval of a local map amendment?
23   A   Yes.
24   Q   Is there anything else you would like to
25 add?

535

1   A   No, thank you.
2   MS. ROGERS: That concludes our
3 questioning for Mr. Kelso.
4   HEARING EXAMINER SOKONI: Thank you.
5   Cross-examination?
6   MS. ROSENFELD: Yes. Yes, thank you.
7   CROSS-EXAMINATION
8 BY MS. ROSENFELD:
9   Q   I'd like to start on Exhibit 81, Page 9,
10 which is your stormwater management concept plan.
11 It's that section of the Land Use Report. And in
12 the last paragraph of that section, you talk
13 about, (reading):
14   The majority of the site conveys to New
15   Hampshire in a closed system (underground
16   structures and pipes).
17   Would that be the piping and the weir
18 system that you were just describing? And I'm
19 reading from Page 9 of that report, of Exhibit 81.
20   MS. ROGERS: Sorry, I'm just trying to
21 get there.
22   MS. ROSENFELD: Sure.
23   MS. ROGERS: I don't know if Mr. Kelso
24 was clear. Can you restate where you're reading
25 from for his question for him?

536

1   Q   Sure. On Page 9, it's the second full
2 paragraph. And in the middle of that, the second
3 sentence talks generally about what you're going
4 to do with respect to regrading. And then in
5 that, you talk about, (reading):
6   The majority of the site conveys to New
7   Hampshire Avenue in a closed system
8   (underground structures and pipes).
9   Do you see --
10   A   Yes.
11   Q   Is that the system you were just talking
12 about, the underground weirs and the underground
13 collection?
14   A   No. The underground attenuation vault
15 will be proposed with our design of the
16 development.
17   Q   Okay. So what is this talking about,
18 this closed system, underground structures, and
19 pipes?
20   A   Closed system just means a storm drain
21 system versus, you know, a stream or a ditch or a
22 swale.
23   Q   Okay.
24   A   That's an open system.
25   Q   Okay. And so is this an existing storm

537

1 drain system in New Hampshire Avenue?
2   A   Correct.
3   Q   Okay. And is that something separate
4 and apart from the sewer system?
5   A   Yes.
6   Q   It doesn't go into the sewer, it goes
7 into something different --
8   A   Correct.
9   Q   -- like the stormwater runoff.
10   A   Storm drain, correct.
11   Q   Okay. Okay. Thank you.
12   A   Yeah.
13   Q   I'd like to go back to -- on Exhibit 68,
14 it's Slide 64, which is where you are talking
15 about the site distances.
16   And I'm having a really hard time
17 reading these numbers online and in my hard copy.
18 If we could start on Page 64, and I think this is
19 the westernmost, is this the westernmost ingress,
20 egress?
21   HEARING EXAMINER SOKONI: And on that
22 point, I was struggling until I pulled out my hard
23 copy. So question, I know that these are inserts
24 in your PowerPoint. Are they easier to expand if
25 we go to the source document?

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1   So for instance, you've inserted this
2 exhibit into your PowerPoint, but is it any --
3 let's say if it was Exhibit 45, I'm not sure
4 that's what it is, but is it any easier to expand
5 if you pulled the source one?
6   MS. ROSENFELD: I don't think this one
7 had a source, but can I -- if we email, are you
8 able to pull up the original source?
9   HEARING EXAMINER SOKONI: Oh, no. No,
10 I'm actually okay. I'm concerned about people in
11 the room because that's why --
12   MS. ROSENFELD: Or did -- correct.
13   HEARING EXAMINER SOKONI: -- I'm pulling
14 it up on my screen so I can zoom in and out, but
15 I'm worried about people observing who cannot make
16 out what's on the screen. But that's okay. I'm
17 following, so we can proceed.
18   MS. ROSENFELD: Okay.
19   Q   So Page 64, could you remind me which
20 entrance, ingress, egress this is? Is this the
21 one closer to New Hampshire? Or more distant?
22   A   This is 64?
23   MS. ROGERS: Sorry, no, I pulled up 64.
24   THE WITNESS: This is 64?
25   MS. ROGERS: Yeah.

539

1   A   64, which is shown on the screen, is the
2 westernmost entrance, further away from --
3   Q   Closest to the park?
4   A   Correct.
5   Q   Okay. And then here's where I'm having
6 trouble. In the chart on the left-hand side that
7 says, sight distance evaluation, I see columns. I
8 see on the far right column, there's four rows,
9 and on the far right of each of those rows, it
10 says, Yes. What does that yes mean?
11   A   That the sight distance is okay.
12   Q   Okay. And then so in the first row, it
13 looks like 445 and 446. I'm not sure. What is
14 each of those numbers, and what does each one
15 stand for?
16   A   Each of those numbers is the target
17 and -- well, the first column is the target
18 distance, and the second column is the measured
19 distance of the calculated design distance for the
20 sight distance.
21   Q   Okay.
22   A   Measured along the center line of the
23 Notley Road.
24   Q   So, in layperson terms, what does that
25 mean?

540

1   A   It's a calculated number based on AASHTO
2 Green Book standards based on a posted speed
3 limit. As mentioned, we did both posted speed as
4 well as the 85th percentile speed, which is
5 greater than the posted speed.
6   Q   Okay. So does this mean that by your
7 calculation, you are one foot over the target
8 distance?
9   A   At this point, we were, you know,
10 measuring to make sure the minimums worked. We
11 know that it will exceed.
12   Q   Is the 446 the measured distance?
13   A   I'm sorry. The 445?
14   Q   445 is the target distance, right?
15   A   Correct.
16   Q   And so 446, is that the measured
17 distance?
18   MS. ROGERS: I think it's the --
19 sorry --
20   MS. ROSENFELD: Right here.
21   MS. ROGERS: -- copy that the --
22   A   It's 445, which, again, we made sure
23 that the distances worked.
24   Q   Okay. I'm sorry. I'm really not trying
25 to be difficult here, and it may just be I'm not

541

1 reading it correctly.
2   A   Uh-huh.
3   Q   The first upper left row is 445, and
4 then the number next to it is what?
5   A   445.
6   Q   Oh, 445, not 446?
7   A   Yeah. Yeah.
8   Q   Okay. And is 445 the measured distance?
9 Is that the precise distance between where you're
10 supposed to measure the entrance and your target,
11 or is it greater than that?
12   HEARING EXAMINER SOKONI: And may I
13 suggest that if it's helpful to walk up to the
14 screen and point things out to us, that would be
15 helpful.
16   A   So, again, I'll just reiterate that, you
17 know, this was a preliminary analysis that we
18 prepared in anticipation of, you know, submitting
19 this to MCDOT to provide, you know, that the site
20 distances work.
21   Generally, DOT may have us go to the
22 furthest point we've received, but we wanted to,
23 you know, do our due diligence at this stage and
24 ensure that I can provide expert testimony.
25   HEARING EXAMINER SOKONI: Okay.

542

1   Q   Is this based on modeling, or is this
2 based on actual measurements on the ground?
3   A   This particular exhibit is based on, you
4 know, the GIS and known profiling, as you can see.
5 It's very rainy up here, but we do it two ways.
6 You know, number one, like I mentioned, we put
7 eyes on it. I remember, you know, parking at the
8 park and walking to the entrance and seeing up to
9 Petwyn Court, so I was very confident that these
10 site distances were going to be okay.
11   So -- I'm sorry, I kind of went off
12 track there. Could you repeat what your question
13 is?
14   Q   My question was, was this based on
15 modeling, or was this based on actual
16 measurements?
17   A   So this was based on -- specifically,
18 this is graphed based on GIS and infield survey
19 data.
20   Q   And looking at the site distance for
21 Page 65, I would have the same question. Was this
22 based on actual measurements, or is this based on
23 modeling?
24   A   Again, this particular exhibit is GIS
25 and infield survey data.

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1   Q   So is it possible that once your design
2 gets more refined, that that entrance directly
3 across from Petwyn Court might need to shift
4 somewhat based on site distance?
5   A   I'm not sure it would need to, based on
6 site distance.
7   Q   But you won't know for certain until
8 it's actually been designed; is that correct?
9   A   Based on our due diligence of the design
10 check that we've done, my expert opinion is that
11 the site distance will work.
12   Q   Also in Exhibit 81, I'm going to
13 Page 11.
14   UNIDENTIFIED SPEAKER: Which exhibit?
15   MS. ROSENFELD: Exhibit 81.
16   Q   This is Page 11, and on Page 11, it
17 talks about other services. The last sentence of
18 that first paragraph says, (reading):
19   WSSC will evaluate the water and sewer
20   capacity through a hydraulic planning
21   analysis.
22   Can you tell me what that means? What
23 is a hydraulic planning analysis?
24   A   Similar to, you know, the stormwater
25 management process with MCDPS, there's stages in

544

1 **the design and ultimately permitting process. So**
2 **in WSSC world, in water and sewer world, a**
3 **hydraulic planning analysis, or an HPA, is the**
4 **first step in that process for the redevelopment,**
5 **similar to what MCDPS does for a stormwater**
6 **management concept.**
7 **WSSC has -- the hydraulic planning**
8 **analysis checks for, you know, sewer capacity, the**
9 **water pressure capacities based on their**
10 **proprietary GIS system, and that is also a**
11 **prerequisite to the approval in ultimate Planning**
12 **Board and preliminary plan.**
13 Q So when you say it checks for sewer
14 capacity, does that mean they're looking to make
15 sure that the size of the existing sewer mains can
16 handle the additional load of the new development?
17 **A That's correct.**
18 Q And when you say that it checks for
19 water pressure capacity, is that an analysis to
20 determine if there's enough water pressure to
21 serve the water demands of the new development?
22 **A That's correct.**
23 Q Okay. I'm looking at the Staff Report,
24 the Park and Planning Staff Report, which is
25 Exhibit 56. And I'm looking at Page 29 of

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1 Exhibit 56 under the heading of Water and Sewer,
2 the last paragraph says, (reading):
3 WSSC will evaluate capacity through a
4 hydraulic planning analysis and determine if
5 upgrades or extensions are needed at the time
6 of preliminary plan.
7 Do you see that?
8 **A Yes.**
9 Q Would that be the same hydraulic
10 planning analysis that you referenced in the Land
11 Use Report?
12 **A That's correct.**
13 Q Okay. Until WSSC does that hydraulic
14 analysis, is it possible to say with 100 percent
15 certainty that there will not be any requirement
16 for an upgrade to the water or service lines for
17 this project?
18 **A I would say, based on my engineering**
19 **experience and expertise in the county and WSSC**
20 **jurisdiction, that the adjacent infrastructure**
21 **will have capacity for the additional density.**
22 Q Well, I can appreciate that that's your
23 opinion. It seems to me if that opinion were
24 sufficient, there would be no need for a hydraulic
25 planning analysis.

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1 So I'll ask my question again. Until
2 WSSC concludes that hydraulic planning analysis,
3 can you say with 100 percent certainty that there
4 will not be a requirement for an upgrade to the
5 water or sewer utilities, mains, lines -- excuse
6 me -- lines serving this property?
7 **A Not with 100 percent certainty.**
8 MS. ROSENFELD: Thank you.
9 I have no further questions.
10 HEARING EXAMINER SOKONI: Thank you.
11 Mr. Nusbaum?
12 CROSS-EXAMINATION
13 BY MR. NUSBAUM:
14 Q Good afternoon, Mr. Kelso.
15 **A Good afternoon.**
16 Q We can actually stay right where we
17 were. Exhibit 81, Page 21 for me.
18 THE COURT REPORTER: Page 21?
19 MR. NUSBAUM: Yes, please.
20 HEARING EXAMINER SOKONI: That's the
21 Land Use Plan?
22 MR. NUSBAUM: Right. There we go.
23 Perfect.
24 Q This section of the report, if you
25 scroll up a little bit higher, please. That's

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1 part 40b(5)(ii), little two there. That section
2 is attributed to you, correct?
3 **A 6b(5)(ii)?**
4 Q Yes.
5 **A Correct.**
6 Q Okay. So in that section, you state
7 that this site will not require either an upgrade
8 to the service line or installation of a pump
9 station, correct?
10 **A Correct.**
11 Q Okay. You then highlight that the
12 property is currently served by a ten-inch water
13 line on Notley Road for water access and an eight-
14 inch sewer line on Notley Road for sewer access;
15 is that correct?
16 **A That's correct.**
17 Q Okay. What's the current number of
18 houses and businesses that obtain their water from
19 this ten-inch water line?
20 **A I mean, I could look at the GIS 200-foot**
21 **sheet and get you a count. The --**
22 MS. ROSENFELD: Excuse me?
23 THE WITNESS: Yes.
24 MS. ROSENFELD: Could you just tell me
25 what exhibit you're referencing here?

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1   THE WITNESS: This is going back to the
2 200-foot sheet.
3   MS. ROGERS: It's 68-page -- Slide 66.
4   MS. ROSENFELD: Page what?
5   MS. ROGERS: 66.
6   MS. ROSENFELD: Thank you.
7 **A   Between looping connection points of the**
8 **ten-inch, a handful of single families, I'd have**
9 **to get a larger vicinity map to give you an exact**
10 **number.**
11   Q   Okay. Do you know what the current
12 usage percentage is for that line?
13 **A   I'm sorry?**
14   Q   Do you know what the current usage
15 percentage would be for that line?
16 **A   Usage percentage?**
17   Q   Yeah, you had talked about in the
18 hydraulic planning analysis that they would
19 determine if there was sufficient capacity. So I
20 guess I'll rephrase that.
21   Do you know what the current capacity
22 percentage is, or how much available capacity
23 there is in that line?
24 **A   For the water pressure?**
25   Q   Yes.

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1 **A   Not off the top of my head, no.**
2   Q   Okay. Do you know what it would be
3 after construction of the project?
4 **A   It's generally -- not off the top of my**
5 **head, no.**
6   Q   What pump station serves this ten-inch
7 line?
8 **A   The exact pump station I would have to**
9 **get you, but the pressure zone -- again, I don't**
10 **have it at the tip of my fingers right now.**
11   Q   Okay. Let's go to the sewer line then.
12 Do you know what the current usage or capacity
13 rate is for that eight-inch sewer line?
14 **A   Not at the top of my head, no.**
15   Q   Okay. And so you don't know what it
16 will be after the development either?
17 **A   Not at the top of my head.**
18   Q   You testified earlier that a hydraulic
19 planning analysis is the first step in the process
20 to check for capacity of water and sewer. That
21 hasn't been performed though, correct?
22 **A   We have submitted a first stage of the**
23 **HPA.**
24   Q   But the HPA has not been completed yet,
25 correct?

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1 **A   The HPA has not been formally approved**
2 **by WSCC.**
3   Q   Okay. Let's turn to Exhibit 21, please.
4 Oh, that got it replaced, I'm sorry. Exhibit 45.
5   I know it's tough to see on there. I
6 think there's a larger copy someplace, but I was
7 just looking for some clarification. The areas
8 that are labeled MBF and RD, can you explain what
9 those are?
10 **A   It's a description for a microbio filter**
11 **and a roadside microbio filter.**
12   Q   Okay. And what are microbio filters?
13 **A   It's an environmental site design**
14 **practice that catches point source polluted water**
15 **through a filtration process via mulch, a layer of**
16 **planting media, a layer of sand, and a layer of**
17 **gravel.**
18   Q   Okay. So in layman's terms, it's kind
19 of like a collection area for stormwater?
20 **A   It's a stormwater quality best**
21 **management practice.**
22   Q   Okay. And there are lines that come off
23 of each one of the MBFs and the RDs, correct?
24 **A   That's correct.**
25   Q   And are those stormwater pipes to move

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1 that water after it goes through the filtration
2 process?
3 **A   Yes. Once the water filters through the**
4 **stormwater management facility, it will feed into**
5 **the proposed storm drain system.**
6   Q   Okay. And the streets also appear to
7 show multiple drains connected to those stormwater
8 pipes?
9 **A   Correct.**
10   Q   And then all of those stormwater pipes
11 eventually collect to a single pipe on the east
12 side of the property at New Hampshire Avenue; is
13 that correct?
14 **A   Correct.**
15   Q   And all of the water from New Hampshire
16 Avenue and from this site, where does that lead
17 from that storm drain?
18 **A   It connects into an existing closed**
19 **system, which eventually goes to a state highway**
20 **pond.**
21   Q   Okay. And where does that state highway
22 pond eventually lead?
23 **A   Downstream.**
24   Q   Okay. So the state of Maryland owns
25 that pond?

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1   A   State of Maryland maintains that pond.
2   Q   Do you know who owns that land?
3   A   I would have to look it up.
4   Q   Okay. What conversations have you had
5   with the state of Maryland regarding the
6   stormwater management plan and moving the
7   stormwater from your facility to their detention
8   pond?
9   A   Connecting to an existing infrastructure
10   in the state highway right-of-way?
11   Q   Correct. You're moving all of the
12   stormwater from your property onto the state
13   system and then into the state's collection pond,
14   correct?
15   A   Standard development practices, you
16   know, we coordinate with the SHA at the
17   appropriate time, which would be the preliminary
18   site plan and permitting process.
19   Q   Right. At this point, it's just to come
20   up with a strategy, correct?
21   A   Correct.
22   Q   Okay. And so the strategy right now is
23   to take all the water from your property, pipe it
24   over to the state, and put it into their pond,
25   correct?

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1   A   As an engineer, we cannot adversely
2   impact the downstream system.
3   Q   Okay. But what other strategy do you
4   have other than just piping it into the state
5   pond?
6   A   As described in my expert testimony, the
7   attenuation vault is the main strategy for the
8   storm drain attenuation to not adversely impact
9   the downstream system.
10   Q   Okay. At present, are there storm
11   drainpipes on the property that drain across New
12   Hampshire into the state pond?
13   A   I'm sorry. Could you --
14   Q   Yep. Are there storm drains on the
15   property that currently drain to the state pond
16   where you're looking to put the water?
17   A   The existing contract drawings from SHA
18   when designing the state pond included the greater
19   majority of the whole property.
20   Q   My question is, at present, is
21   stormwater piped through stormwater drains from
22   this property to the state-controlled pond?
23   A   The runoff from the property collects
24   into existing storm drainpipes that go to the SHA
25   storm drain pond.

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1   Q   For the entire property?
2   A   For the greater majority.
3   Q   Okay. Mr. Sloan testified that there
4   was a divide through the middle of this property
5   that split the stormwater to two different
6   locations. Do you recall that?
7   A   Yes.
8   Q   Okay. Do you recall where that divide
9   is?
10   A   Yeah, at the high point.
11   Q   Do you recall where the high point is on
12   the property?
13   A   It's about midway.
14   Q   Okay. So half of it doesn't drain over
15   to that pond --
16   A   But the --
17   Q   -- at least half of it?
18   A   The existing topographic would suggest
19   that the greater majority does not currently drain
20   to the MSHA pond.
21   MR. NUSBAUM: Okay. Thank you. Those
22   were my questions.
23   HEARING EXAMINER SOKONI: Anyone else in
24   the room would like to cross-examine?
25   Yes, sir. Turn on the microphone and

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1   identify yourself again.
2   MR. COREY: Hi, I'm Pat Corey.
3   CROSS-EXAMINATION
4   Q   I have two questions. The first one is,
5   you talk a lot about the sidewalks and the
6   improvement of the sidewalks on New Hampshire
7   Avenue and Notley. Are there any sidewalks in the
8   development to get you to those sidewalks? Or are
9   they going to walk along the egress and ingress
10   driveways and along the alleyways? How would they
11   get to those sidewalks that you guys tout? From
12   inside the development, how do they get to the
13   sidewalks?
14   MS. ROGERS: Mr. Kelso doesn't know
15   about sidewalks.
16   Q   Is there a sidewalk to them? Is there a
17   sidewalk to them?
18   MS. ROGERS: I'm not sure I'm
19   understanding your question. Mr. Kelso wasn't
20   testifying to the internal sidewalks in his
21   testimony.
22   MR. COREY: I thought he was a civil
23   engineer and was testifying to the property and
24   the development.
25   MS. ROGERS: He didn't provide any

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1 testimony about sidewalks right now.
2   MR. COREY: Okay. So he doesn't know
3 anything about the sidewalks?
4   MS. ROGERS: He didn't provide any
5 testimony about sidewalks. Mr. Sloan did.
6   Q   Okay. The stormwater collection area,
7 is that also counted as green space? Not that it
8 could be actually used as green space, but is it
9 counted as green space?
10   A   I think --
11   MS. ROGERS: Again, he didn't testify to
12 our green cover.
13   MR. COREY: All right. Never mind.
14 Thank you.
15   MS. ROGERS: Thank you.
16   HEARING EXAMINER SOKONI: I just want to
17 mention that I have a full-size of the stormwater
18 management, the Exhibit 45. A lot of time was
19 spent on that, so if anyone was struggling to see
20 the one on the screen, there is a full-size.
21 You're welcome to take a look.
22   One more -- yes, please.
23   MR. TEWEY: We did a higher resolution
24 electronic copy of that stormwater management
25 strategy plan.

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1   MS. ROGERS: We had submitted a higher
2 resolution. I think that what -- it was a Staff
3 that asked for a lower resolution so that it was
4 loading easily because people were complaining
5 that it was taking a while to load. So I'm happy
6 to resend it, but you do have a higher resolution
7 one that we could try reloading.
8   HEARING EXAMINER SOKONI: Okay.
9   MS. ROGERS: But there was an IT issue
10 with it.
11   HEARING EXAMINER SOKONI: Yes, and I do
12 recall that issue. I think when we -- the higher
13 resolution one that was provided, people thought
14 it was a blank document because it took a while to
15 load.
16   MS. ROGERS: Sure.
17   HEARING EXAMINER SOKONI: So much data,
18 but is there any way to -- is this the compressed
19 -- the one that we have is the compressed version.
20   MS. ROGERS: We can find another middle
21 ground and see if that works better. We're happy
22 to.
23   HEARING EXAMINER SOKONI: Okay.
24   MS. ROGERS: But that was the problem.
25   HEARING EXAMINER SOKONI: That would be

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1 helpful.
2   And in the meantime, I just want people
3 to know that the full-size print is available.
4 You can stop by at OZAH and take a look at the --
5 because our electronic file matches the hard copy.
6   Do we have -- yes, I do have a hand on
7 Zoom.
8   THE COURT REPORTER: Two hands.
9   HEARING EXAMINER SOKONI: Oh, two.
10 Okay.
11   Mr. Phan, you want to go first? If you
12 could unmute yourself and turn on your camera,
13 please. Thank you.
14   MR. PHAN: Yeah, I just want to add to
15 that. Like, can we also have a higher resolution
16 copy of the sight distance line that we couldn't
17 read it blurry? Remember the number was blurry?
18 So can we have a copy of a higher resolution of
19 that slide also?
20   MS. ROGERS: That's not currently a
21 separate exhibit. We'd be happy to provide it and
22 make it a separate exhibit so that people can read
23 it more legibly.
24   MR. PHAN: Okay. Thank you.
25   MS. ROGERS: Do you -- Madam Examiner,

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1 would you like to --
2   HEARING EXAMINER SOKONI: Did you have
3 any cross -- did you have any questions for
4 cross-examination?
5   Okay. Maybe not.
6   Next in line. Yes. It's showing up on
7 my end as Nuquist, N-U-Q-U --
8   THE COURT REPORTER: There's somebody
9 else there.
10   HEARING EXAMINER SOKONI: Is there
11 somebody else? So why don't you --
12   MR. NUQUIST: Yes, Clay Nuquist.
13   HEARING EXAMINER SOKONI: Yes.
14   CROSS-EXAMINATION
15 BY MR. NUQUIST:
16   Q   I'm a Colesville resident. I currently
17 live in the Morningside community on Bregman Road,
18 and I've lived here for 32 years. I have a
19 question about the stormwater management plan.
20   Does this storm management plan take
21 into effect any snow accumulation, plowing, and
22 melting, and what that would have an effect on the
23 storm management plan? Does the storm management
24 plan take that into account as to the amount of
25 snow, the plowing, the removing, and the melting

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1 of the snow, and how that will affect the storm
2 management plan?
3   And did your plan address to the HOA as
4 to how they are -- when this development is going
5 to be developed, how is the HOA going to manage
6 the snow plowing, removing, storage, and
7 accumulation of the snow as part of this storm
8 management plan? Thank you.
9   HEARING EXAMINER SOKONI: Yes.
10   MS. ROGERS: I would object to the
11 question about the HOA piece just because
12 Mr. Kelso hasn't testified to that, nor is that in
13 his purview.
14   HEARING EXAMINER SOKONI: That's fair.
15 So at least answer the question with regard to the
16 stormwater management plan.
17   **A   Yes. It is an interesting question,**
18 **but, you know, when we design our storm drain**
19 **systems, we design to a ten-year storm and a**
20 **100-year storm for flooding, which is generally a**
21 **lot more intense than, you know, the melting of**
22 **snow.**
23   **So I would say that the storm drain**
24 **closed system does account for, you know, the**
25 **quantity of water that will be introduced by the**

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1 **impervious area, and to address the snow plowing,**
2 **the salt accumulation, the dirt, the mud that may**
3 **accumulate into the snow plows, that's exactly**
4 **what the stormwater management facilities do.**
5   **They take out the suspended solids, the**
6 **dirt, the grime from, you know, whether it's**
7 **rainwater or snow, and it filters through these**
8 **stormwater management facilities, microbio**
9 **facilities, to provide the quality treatment.**
10   Q   Okay. Just to follow up on that, I
11 mean, currently now we have, you know, this is
12 five residential areas with single-family homes,
13 and so they're not actually plowing that snow out
14 anywhere or anything like that.
15   Most of the snow accumulation is
16 basically just melting on each of their
17 properties, but the driveways, I mean, we're
18 talking about six or seven driveways, and whatever
19 they do with their snow, that's what they're doing
20   But what we're talking about now is
21 putting this 130-townhouse community in here, and
22 it's a very tight place, and what they're going to
23 do? How they're going to plow that snow, where
24 are they going to put that snow? You're only
25 talking about ten percent green space in order to

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1 put that snow at.
2   I mean, in my Morningside community, we
3 have four townhouse communities with four separate
4 roads, and basically, there for storm management.
5 They have to plow out each of those areas and just
6 pile it up onto Bregman Road and allow Bregman
7 Road to tolerate that extra snow from melting and
8 things of that nature.
9   But now that you're talking about
10 putting this small community in here with all
11 these townhouses, you know, if we get a drastic
12 snowstorm of 12, 15, 20, 25 inches of snow, which
13 will happen, where is that going to do and, you
14 know, how is that going to do that?
15   Has that been a part of this storm
16 management plan in planning for a 10-inch,
17 20-inch, 30-inch snowstorm, because they do come?
18   MS. ROGERS: Madam Hearing Examiner, I
19 would object to the questions regarding plowing.
20 Mr. Kelso hasn't testified regarding plowing. He
21 did attempt to answer what would happen -- how the
22 stormwater facilities would handle the snow and
23 kind of filtering the sediment, but it sounds
24 like, you know, Mr. Nuquist is asking questions
25 about how the plows are going to run on these

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1 roads, and that's not something that --
2   HEARING EXAMINER SOKONI: But aside from
3 how the plows will run, I think he ends by saying
4 if you have this accumulation of, you know -- like
5 this huge accumulation of snow, eventually that
6 snow melts, right? Does that also still go into
7 the stormwater?
8   **A   Yeah, a lot slower than what, you know,**
9 **a ten-year rainfall event would do.**
10   HEARING EXAMINER SOKONI: Okay. So
11 that's the answer.
12   **A   Yeah.**
13   MR. NUQUIST: Thank you.
14   HEARING EXAMINER SOKONI: Do we have one
15 more person on --
16   THE COURT REPORTER: One more.
17   HEARING EXAMINER SOKONI: One more on
18 Zoom.
19   Toni? Yes.
20   CROSS-EXAMINATION
21 BY MR. DEBEROCK:
22   Q   Good afternoon, Mr. Logan. I am trying
23 to understand the stormwater management system, so
24 I have a couple of questions there. The first
25 question is, you said that the stormwater

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1 management system is size-based, and I believe
2 it's in the exhibit as well, is size-based on a
3 ten-year storm; is that correct?
4   **A   The storm drain system, correct.**
5   Q   And what volume of water are we talking
6 about when we say a ten-year storm?
7   **A   It's, I mean -- the exact volume, you**
8 **know --**
9   Q   Just like how much rainfall in an hour
10 would that be equivalent to?
11   **A   Ten-year, 7.07 inches per hour.**
12   Q   Okay. And when you're designing this,
13 what source are you using for assessing what
14 actual rainfall the site has been experiencing?
15   **A   It's the Montgomery County drainage**
16 **design criteria.**
17   Q   Okay. So there's no statistics on what
18 actual rainfall has been? It's, like, historical?
19   **A   It's based on empirical data.**
20   Q   Okay. The microbio retention
21 facilities, as I understand them, they're
22 basically rain gardens; is that correct?
23   **A   Very similar.**
24   Q   Very similar. Okay. And what volume of
25 water can those facilities accommodate?

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1   **A   So the stormwater management facilities,**
2 **such as the microbio facilities, are not, you**
3 **know, capturing volume.**
4   Q   Okay.
5   **A   Those are made for stormwater management**
6 **treatment.**
7   Q   Right.
8   **A   Every microbio facility requires an**
9 **under-drain system with perforated PVC to slowly**
10 **drain out the water that's filtering through, as**
11 **well as a riser system, which captures the**
12 **ten-year storm and larger.**
13   Q   Okay. So is that riser system -- so if
14 you get a ten-year storm, if you get something
15 that's, you know, as you said, seven inches per
16 hour of rain, and those bio-retention facilities
17 overflow, where does the water go? I assume that
18 that water would not be treated, correct?
19   **A   Maryland state law does not require the**
20 **treatment of a ten-year storm.**
21   MR. DEBEROCK: Okay. That's all my
22 questions. Thank you.
23   HEARING EXAMINER SOKONI: I think we
24 have no one else on Zoom for cross-examination.
25   Oh, yes.

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1   MS. ROSENFELD: Can I ask just one
2 follow-up question?
3   RECROSS-EXAMINATION
4 BY MS. ROSENFELD:
5   Q   I think I understood you to say that a
6 ten-year storm is 7.07 inches per hour. Is it
7 possible you misspoke?
8   **A   With the time and concentration of five**
9 **minutes, the ten-year intensity duration frequency**
10 **is 7.07 inches per hour.**
11   MS. ROSENFELD: Okay. Thank you.
12   THE WITNESS: You're welcome.
13   HEARING EXAMINER SOKONI: And the source
14 you're --
15   THE WITNESS: Montgomery County drainage
16 design criteria, Department of Transportation,
17 final November 7, 2013. I believe it's '14,
18 actually. Yes, revised final June 10, 2014.
19   HEARING EXAMINER SOKONI: We've got a --
20   MS. ROGERS: Just a few.
21   REDIRECT EXAMINATION
22 BY MS. ROGERS:
23   Q   I guess I'll stick with stormwater since
24 that's where we left off. Mr. Kelso, you've
25 obviously -- well, is a stormwater management

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1 concept plan, I would like to reiterate, required
2 at this LMA stage?
3   **A   No.**
4   Q   Have you begun to evaluate the
5 stormwater design for the site in detail in
6 anticipation of a preliminary plan?
7   **A   Great detail.**
8   Q   And so in some of the details you're
9 providing now, are they in anticipation of that
10 next step, the stormwater concept?
11   **A   That's correct.**
12   Q   So they're beyond the stage of the
13 stormwater strategy?
14   **A   That's correct.**
15   Q   And in your professional opinion --
16 well, I'm sorry, let me ask another question
17 first, which is in approving a stormwater
18 management concept plan at the time of preliminary
19 plan, is there a very specific state and county
20 standard that must be met to get a stormwater
21 concept plan approved?
22   **A   Yes.**
23   Q   And in your professional opinion, based
24 on the analysis you've done to date, will this
25 project be able to provide stormwater management

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1 in accordance with county and state requirements
2 to get an approved stormwater concept plan?
3   A   Yes.
4   Q   Regarding the HPA, is it typical to have
5 an approved HPA at the time of local map
6 amendment?
7   A   Not that I'm aware.
8   Q   And the HPA, what's the appropriate time
9 in your experience for the approval of an HPA?
10   A   Preliminary plan.
11   Q   Regardless, as you testified to, have
12 you submitted an HPA plan and begun that process?
13   A   Yes.
14   Q   And have you received comments from WSSC
15 on the HPA plan?
16   A   Yes.
17   Q   And did WSSC in those comments raise any
18 concerns with the adequacy of the adjacent
19 infrastructure? And were any comments indicating
20 that there would need to be any infrastructure
21 upgrades to accommodate the water, sewer from this
22 site?
23   A   There was no comments in regards to
24 capacity issues.
25   Q   And will an HPA need to be approved

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1 before the subsequent entitlements, and then
2 ultimately building permits?
3   A   Yes.
4   Q   And going back to stormwater and storm
5 drain, in your professional opinion, is it typical
6 to direct water to a public closed drain system
7 versus sheet flowing off the site?
8   A   Yes.
9   MS. ROGERS: I think those are all of
10 our questions.
11   HEARING EXAMINER SOKONI: Thank you.
12   Okay. I think the Applicant is done
13 with case in chief, right?
14   I'm sorry to take us back to scheduling
15 because I thought we had concluded that, but I got
16 a response on the room. Of course, this is the
17 council room, and we always have to check with
18 their schedule before we can borrow this room. So
19 I'm told 27th, I think, was one of our dates.
20 27th, apparently, it's highly likely that we can
21 have access to the room. The 15th is a maybe.
22   And I received word that it's much
23 easier to secure this room on a Tuesday. So I
24 just was curious, because the 15th is a Thursday,
25 sorry to take us back, but does that Tuesday, the

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1 13th, work? Just to increase the chances that --
2 it doesn't.
3   Okay. You know what? Let's keep it.
4 We'll keep the dates 15th and 27th, and hopefully
5 we get the room. If we don't, we'll figure it
6 out.
7   So the hearing is adjourned until
8 January 15th, same location, different year, 2026.
9   (Off the record at 5:01:09 p.m.)
10 ///

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1   CERTIFICATE OF TRANSCRIBER
2   I, Deborah S. Anderson, do hereby certify
3   that the foregoing pages, to the best of my
4   ability, are a true and correct transcription from
5   the official electronic sound recording and
6   annotations of the proceeding take on December 2,
7   2025, in the above-entitled matter; and that I am
8   neither counsel for, related to, nor employed by
9   any of the parties to this case and have no
10 interest, financial or otherwise, in its outcome.
11   *Deborah Anderson*
12
13
14 _____
15 Deborah S. Anderson, CET-998
16 December 10, 2025
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