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Transcript of Hearing

Date: December 9, 2025

Case: Glenmont Forest Investors (LMA H-149)

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Transcript of Hearing
Conducted on December 9, 2025

<p>1 OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS 2 FOR MONTGOMERY COUNTY, MARYLAND 3 -----X 4 In Re: : 5 GLENMONT FOREST INVESTORS : 6 v. : Case No.: 7 GLEN WAYE GARDENS CONDOMINIUM: LMA H-149 8 INC, : 9 -----X 10 11 HEARING 12 Before Hearing Examiner Khandikile Mvunga Sokoni 13 Rockville , Maryland 14 Tuesday, December 9, 2025 15 9:31 a.m. 16 17 18 19 20 21 22 Job No.: 608763 23 Pages: 1 - 146 24 Recorded By: Jasmine Pearson 25 Transcribed By: Molly Bugher</p>	<p>1 A P P E A R A N C E S 2 ON BEHALF OF GLENMONT FOREST INVESTORS: 3 STEVEN ROBINS, ESQUIRE 4 ELIZABETH C. ROGERS, ESQUIRE 5 LERCH EARLY BREWER 6 7600 Wisconsin Avenue, Suite 700 7 Bethesda, MD 20814 8 (301) 657-0747 9 ON BEHALF OF GLEN WAYE GARDENS CONDOMINIUM INC: 10 MICHELE ROSENFELD, ESQUIRE 11 THE LAW OFFICE OF MICHELE ROSENFELD 12 1 Research Court, Suite 450 13 Rockville, MD 20850 14 (301) 204-0913 15 ALSO PRESENT: 16 Steven Robins 17 Zach Paulos 18 Vickie Vergagni 19 James Johnston 20 Gary Unterberg 21 Brian Alford 22 Andrew Rouff 23 Ben Weishaar 24 Kelly Gutkowski 25 Tim Kamas</p>
<p>1 Hearing, held at the location of: 2 3 Montgomery County Office of Zoning and 4 Administrative Hearings (1100167) 5 100 Maryland Avenue County Office Building Room 200 6 Rockville , Maryland 20850 7 8 Pursuant to agreement, before Jasmine Pearson, Notary 9 Public in and for the State of Maryland. 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 C O N T E N T S 2 OPENING PAGE 3 By Mr. Robins 23 4 EXAMINATION OF WITNESSES PAGE 5 Gary Unterberg 6 By Ms. Rogers 27, 130 7 By Ms. Rosenfeld 100 8 9 10 E X H I B I T S 11 (Retained by Counsel) 12 HEARING EXHIBIT ID/ADMIT 13 Exhibit 71 Circuit Court's Order Remanding x/26 14 Case Back to district council 15 Exhibit 72 05/30/2025 Transcript of Hearing x/26 16 Exhibit 73 Email exchange for Transcript x/26 17 Corrections 18 Exhibit 74 Email exchange between Hearing x/26 19 Examiner and M-NCPPC 20 Exhibit 75A Montgomery County School adequacy ... x/26 21 Analysis 22 Exhibit 75B Montgomery County Neighborhood x/26 23 Compatibility Analysis 24 Exhibit 76 Montgomery County Planning x/26 25 Exhibit 77 Montgomery County Planning x/26</p>

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<p>5</p> <p>1 Exhibit 78 FY2026 School Utilization Report x/26 2 - Montgomery County Planning 3 Exhibit 79 7/1/2025 Public School Utilization .. x/26 4 Premium Payments Rates - Montgomery 5 County Planning 6 Exhibit 80 Applicant's Pre-Hearing Statement ... x/26 7 Exhibit 81 Certified Floating Zone Plan by 30/26 8 Hearing Examiner 9 Exhibit 82 Applicant's Supplemental Analysis ... 29/26 10 Exhibit 83 Applicant View 1 x/26 11 Exhibit 84 Applicant View 2 122/26 12 Exhibit 85 Notice of Public Hearing /26 13 Exhibit 86 Pre-Hearing Submission for Glen 26/26 14 Waye Gardens 15 Exhibit 87 Applicant's Objection to /26 16 Transportation Related Testimony 17 Exhibit 88 Response to Applicant's Objection ... 19/26 18 filed in Exhibit 87 19 Exhibit 89 Map 80/83 20 21 22 23 24 25</p>	<p>7</p> <p>1 adequacy, the Hearing Examiner is to permit further 2 testimony and evidence by the parties and other permitted 3 participants regarding that issue so that an adequate 4 factual basis can be developed to support recommendations 5 made by the examiner to the council consistent with the 6 evidence presented and so that the council will have an 7 adequate record on which to make any required determination 8 about the issue in connection with its consideration of the 9 Respondent's application and required public interest 10 factor. The Court further ordered that with respect to the 11 issue of compatibility with the surrounding neighborhood, 12 the Hearing Examiner is to permit further testimony and 13 evidence by the parties and any other permitted 14 participants so that an accurate factual basis can be 15 developed to support recommendations made by the Hearing 16 Examiner to the council with respect to compatibility with 17 the larger community to the north of the property. By way 18 of introduction, my name is Khandikile Sokoni. I'm the 19 Hearing Examiner in this case. I should mention, if it 20 wasn't obvious, I'm not the Hearing Examiner who sat 21 before. Kathleen Burn was the hearing examiner before, but 22 she's no longer a hearing examiner with the county. So as 23 Hearing Examiner, what does that mean? I will listen to 24 the testimony. I will review the evidence and render a 25 report and recommendation to be submitted to the district</p>
<p>6</p> <p>1 PROCEEDINGS 2 HEARING EXAMINER: We will go on the record. Good 3 morning. The date is December 9, 2025. We sit here on a 4 remand from Circuit Court on the decision of the district 5 council approving the application for local map amendment, 6 case number H-149, Applicant Glenmont Forest Investors, LP. 7 I like to formally open the hearing. This application was 8 remanded to the Hearing Examiner by order of the Circuit 9 Court entered on June 3, 2025. One second. Very 10 inconveniently, Teams is asking me to connect on this 11 matter. We are on Zoom, right? 12 UNIDENTIFIED SPEAKER: Mm-hmm 13 HEARING EXAMINER: I do I override the - it's asking 14 me to join Teams. Sorry about that. 15 COURT REPORTER: Excuse me. Will he state his name on 16 the record? I don't have his information. 17 HEARING EXAMINER: Sorry? 18 COURT REPORTER: Will he state his name on the record? 19 HEARING EXAMINER: Oh, the Zoom operator, yeah. 20 MR. ROUFF: Andrew Rouff, R-O-U-F-F. I'm the Zoom 21 operator. 22 HEARING EXAMINER: Thank you. So I was explaining 23 that this matter comes on remand from Circuit Court entered 24 on June 3, 2025. The Court, and I'm reading from the 25 order, ordered that with respect to the issue of school</p>	<p>8</p> <p>1 council. Unlike the prior time this matter was before the 2 Hearing Examiner, this time around the Hearing Examiner's 3 review is limited only to those two issues ordered by 4 Circuit Court. I will get to preliminary issues in a 5 short - in short order. I just want to ID the parties. I 6 know we have objections by the Applicant and I have a late 7 breaking response. So before we dive into the hearing, 8 into the testimony proper and argument, I'd like to address 9 those full luminary issues. But before that can we do 10 identification of the parties? 11 MR. ROBINS: Good morning. I'm Steven Robins, I'm 12 with the law firm of Learch, Early & Brewer. I'm here on 13 behalf of the Applicant, Glenmont Forest, investors, LLC. 14 MS. ROGERS: Good morning. Elizabeth Rogers, also 15 with the law firm of Learch, Early & Brewer on behalf of 16 the Applicant. 17 HEARING EXAMINER: Thank you. 18 MS. ROSENFELD: Good morning. Michelle Rosenfeld. 19 I'm here on behalf of the Glen Waye Gardens Condominium, 20 Inc., Ms. Vicki Vergagni, both in her roles as president of 21 Glen Waye Gardens Condominium, and as an individual. And 22 Mr. James E. Johnston, also a resident of Glen Waye 23 Condominium. 24 HEARING EXAMINER: Thank you. This is a hybrid 25 hearing. So we do have people on Zoom. And I just -- I</p>

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1 think we have the Zoom issues resolved. I just want 2 confirmation from the people on Zoom. Can you see us and 3 can you hear us? If someone could just raise a hand or - 4 UNIDENTIFIED SPEAKER: Yes. 5 HEARING EXAMINER: Thank you. 6 UNIDENTIFIED SPEAKER: Yes. 7 HEARING EXAMINER: Thank you. All right. If anyone 8 testifies on Zoom they will have to have their camera on. 9 Otherwise you can keep your cameras off and mute yourself. 10 I would like to caution against any crosstalk unless you're 11 raising a legal objection. It's very difficult. We have a 12 word for word transcript being taken by the court reporter 13 and it's very difficult to keep track of who is saying what 14 when we have crosstalk. I also just wanted to reiterate 15 the roles are similar to the underlying hearing we had 16 before. The burden of proof lies with the Applicant. So 17 the Applicant goes first and then if there is any support 18 or objections they go next. All testimony is taken under 19 oath subject to cross-examination. Are we all good? Any 20 questions? Let's get the primary issues. First let's 21 start with the exhibits. We have - if we could just pull 22 up online the exhibit list. And I should mention anyone 23 present, kindly sign the sign in sheet at the entrance. 24 That's how we track attendance and -- 25 MR. ROUFF: There we go.	1 HEARING EXAMINER: Does anyone have any additional 2 evidence that they are presenting today that we don't have 3 online? 4 MS. ROSENFELD: We have a demonstrative exhibit. We 5 are not necessarily introducing it as evidence, but we are 6 going to present it to show visually in 3D some 7 discrepancies in scale. 8 HEARING EXAMINER: And what format is that being 9 presented? 10 MS. ROSENFELD: Legos. 11 HEARING EXAMINER: That's a new one for me. Any 12 response? 13 MR. ROBINS: Yes, us too. 14 (Crosstalk) 15 MR. ROBINS: I haven't seen it. So -- 16 MS. ROSENFELD: We can take it up preliminarily or 17 perhaps when it's presented as part of the case, whichever 18 Hearing Examiner prefers. 19 HEARING EXAMINER: Why don't we handle it 20 preliminarily just so when we get to production it's -- I'd 21 like it to be smooth sailing. That's a new one. Our 22 evidence is typically in - you know, we need in the record. 23 So we usually get YouTube links. 24 (Crosstalk) 25 COURT REPORTER: It's just extra noise and I can't
10	12
1 HEARING EXAMINER: And that - could I just take 2 attendance real quick online? Who do you have? What's the 3 number of online -- 4 MR. ROUFF: I do. Give me one second. I've got five. 5 I've got Ben Weishaar and Jason Fisher. And then we have 6 someone from the OZAH office. 7 HEARING EXAMINER: Is that staff? 8 MR. ROUFF: IT staff, yeah. 9 COURT REPORTER: I'm sorry, what staff? 10 HEARING EXAMINER: Staff from OZAH, the Office of 11 Zoning and Administrative Hearings. 12 MR. ROUFF: And then the other two are the OZAH 13 moderators, that's me. And -- yeah. 14 HEARING EXAMINER: All right. Anyone on Zoom who 15 hasn't heard their name called or anyone whose attendance 16 on Zoom we need to record? All right. And anyone present 17 in the room; attendance will be taken by the sign in sheet 18 in the back. So we have the exhibit list up on the screen. 19 There should be prints available at counsel's desk. And if 20 anyone wants a copy, I think you have extras. Haven taken 21 a look at what - the latest addition was Ms. Rosenfeld's 22 submission which I saw this morning, but it came in 23 yesterday. Any objections to any of the exhibits for the 24 record? 25 MS. ROGERS: None here. No objections.	1 hear what it is that you're saying. 2 MS. ROSENFELD: I'll have Ms. Vergagni take a seat and 3 show you the exhibit and then everybody in the room will 4 know what we are talking about. 5 HEARING EXAMINER: Please come forward. I think I 6 just heard the comment that they cannot see. Mr. Johnston? 7 MR. JOHNSTON: No, I don't see it on this. 8 HEARING EXAMINER: It sounds like staff was bringing 9 to our attention that they on Zoom cannot see us. 10 UNIDENTIFIED SPEAKER: I can see you, but we can't see 11 the exhibit. Now it's all right. 12 HEARING EXAMINER: Thank you. I think the comment was 13 that on Zoom they are not able to see the exhibit list we 14 had pulled up. 15 COURT REPORTER: Who was speaking? 16 HEARING EXAMINER: Joni, staff, he's OZAH staff. Now 17 my initial impression - and I will literally explain what 18 we're aiming for. I am concerned about how to capture this 19 in the record. So you may - if you could, kindly explain 20 what you're aiming for. But I - just off the top of my 21 head, I am concerned about how I - I'm not sure we can get 22 this into the record. 23 MS. VERGAGNI: So this represents the building from 24 Glen Way Gardens that is closest to the buildings across 25 the street. This building from Glen Way gardens, we added

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1 69. Each one of these things represents 6 feet, each Lego.
2 And the buildings are 35 feet tall. So this is 41 feet
3 compared to the 45 feet over here and then the 75 feet that
4 they can see from here. So we wanted you to be able to see
5 this represents the 220 feet, the difference between the
6 Glen Waye Gardens building and the buildings proposed by
7 the Applicant. So that's what this one is. Then - and we
8 can't - I have to lay it out a little differently. But
9 this represents the difference that you see from the
10 single-family homes along Erskine versus the closest
11 building in the development. So this is about 30 feet high
12 because their homes are about two and a half to three
13 stories high. And this represents the 45 feet between
14 them. And this is the distance between the home and the
15 closest building.
16 MS. ROSENFELD: And Ms. Hearing Examiner, I would
17 suggest to enter these as exhibits, we can take a
18 photograph, an image, and email it to the Hearing Examiner,
19 perhaps one for each, so that they would be available in
20 the record.
21 HEARING EXAMINER: I will let the Applicants respond.
22 MS. ROGERS: We would object. I think that I
23 understand how the exhibits are trying to be offered as
24 testimony. I think the challenge is even a photograph
25 isn't going to accurately capture the scale of those in

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1 terms of submitting that into the record. It would be
2 distortion and I think that even themselves as Legos, it
3 can't accurately capture the scale in terms of distance or
4 in height. Ms. Vergagni testified that these were
5 intending to represent the height at 6-foot increments, but
6 the heights are not equally divisible by 6 feet, right?
7 And so the height of the homes is not precise as well. And
8 we believe it would be confusing for the record and I think
9 that testimony can be offered verbally to make their points
10 without relying on these exhibits.
11 HEARING EXAMINER: I think the objection is - not I
12 think. The objection is sustained. I'm concerned about
13 scale. These are not professional drawings. I will allow
14 the testimony. And if you feel you want to be guided by
15 your Lego exhibit, you certainly can do that. But I will
16 not be admitting the Lego depiction in the record. But you
17 certainly will have every opportunity to testify.
18 MS. VERGAGNI: Thank you.
19 HEARING EXAMINER: You're welcome.
20 MS. ROSENFELD: Thank you.
21 HEARING EXAMINER: With that I would like to allow
22 time on the outset for argument on the objections with
23 regard to the transportation testimony. I'd like to - I
24 know we have a written objection and then we received a
25 written response. I would like to hear the - I would like

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1 to hear - I would like to get both parties an opportunity
2 to argue the objections. I'm inclined to reserve my ruling
3 on the objection. And I will let the testimony in and at
4 the time of decision I will rule at that point. One of my
5 concerns is with a hearing like this we kind of get one
6 shot at it. I feel it will be very inefficient to - if at
7 a later stage I decide, having considered this case, you're
8 citing in the reply, after considering everything if I made
9 a ruling that we would have to schedule a new hearing at
10 that point feels inconvenient and inefficient. So I'm
11 inclined to reserve ruling. But for now I would like to
12 hear the objections and the reply.
13 MS. ROGERS: Thank you, Madam Hearing Examiner. We
14 strongly object to the inclusion of testimony on this
15 remand regarding walkability and the issues related to
16 pedestrian shortcuts to the metro and any issues that may
17 arise therefrom. The Hearing Examiner is not tasked today
18 with determining whether walkability and pedestrian
19 shortcuts and those issues are appropriate considerations
20 under compatibility. What the Hearing Examiner is tasked
21 with determining is whether those issues are appropriate to
22 be discussed during today's remand. And we believe that
23 the Court's order was clear that those specific issues were
24 considered by a district council before making their
25 decision. Therefore there was substantial evidence in the

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1 record to support the district council's determination on
2 those issues and therefore they are not appropriate to be
3 addressed on this remand. The judge clearly referenced to
4 those issues directly at least two times in the transcript
5 when he gave his decision on this case. He specifically
6 noted on page 57 that the record reflects that there were
7 comments made about the traffic and the shortcuts to the
8 metro station during the hearing and that correspondence
9 was submitted to the hearing examiner outlining in some
10 detail the concerns about anticipated problems related to
11 both vehicle and foot traffic and adequacies of measures to
12 address them. He then went on to conclude that because of
13 that, it was difficult to find that their words and absence
14 of substantial evidence to support the currently expressed
15 general concerns about transportation adequacy. Again, in
16 his conclusion on page 71 and 72 of the transcript, he
17 again noted that as far as the issue of adequacy of
18 transportation facilities, this is a concern
19 investors - this is the concern of petitioners regarding
20 whether the transportation facilities are inadequate with
21 respect to pedestrian, bicycle, and transit facilities and
22 whether - and that the vehicle transportation system is
23 unsafe and whether the public safety and welfare will be
24 eroded by the project if pedestrian concerns raised
25 relating to the pedestrian traffic and the shortcuts to the

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<p style="text-align: right;">17</p> <p>1 Glenrock metro station. He noted then that those issues 2 were preserved and could be addressed by petitioners at 3 other stages in the proceedings including the preliminary 4 plan stage. There were - we don't believe that a 5 permissive statement. He would have had no - the judge 6 would have had no reason to make that statement if he 7 wasn't foreclosing those issues from being addressed in 8 this remand proceeding. He specifically noted the 9 petitioners could raise it at a subsequent stage because 10 they were being foreclosed for discussion during this 11 proceeding. The remand today is limited to those issues 12 where the Court concluded there was not sufficient evidence 13 in the record to support the district council's previous 14 decision. We believe the judge was clear that these issues 15 regarding pedestrian traffic, shortcuts, and the resulting 16 problems from those activities had been considered by 17 district council before making its determination and 18 therefore were not issues that can be part of the 19 compatibility analysis on this remand. We would also note 20 that in the prehearing conference with the previous Hearing 21 Examiner, Ms. Burn, we did specifically seek confirmation 22 that no issues regarding transportation would be considered 23 on remand and that our transportation consultant would not 24 need to be a part of the hearing. And the Hearing Examiner 25 had confirmed that all transportation issues were not open</p>	<p style="text-align: right;">19</p> <p>1 MS. ROSENFELD: Which as you know includes vehicular, 2 pedestrian, and bicycle considerations. However, 3 compatibility - the compatibility question is separate and 4 distinct from the adequate public facilities determination 5 with respect to transportation. Compatibility is a broader 6 consideration. He goes to public health, safety, welfare, 7 are there adverse impact on nearby communities which goes 8 well beyond simply the consideration of transportation, the 9 public transportation system itself, adequate under the 10 APFO standards and guidelines that are set forth by the 11 council. I would point the Court to - I would point the 12 Hearing Examiner to, in particular, page 3 of our 13 submission which includes reference to a couple of cases. 14 One is People's Council v. Beechwood. 15 HEARING EXAMINER: One second. You are referring to 16 what is currently in as - 17 MS. ROSENFELD: It is the last exhibit, Exhibit 88. 18 And I am looking at page 3, paragraph 2 of that document. 19 And there are a couple of cases in particular noted in the. 20 The first one is People's Council v. Beechwood where the 21 Court recognized that zoning approvals must assess whether 22 proposed development can be properly integrated into the 23 surrounding neighborhood. Those are considerations far 24 beyond APFO. And the other is Abinoe Lewis (phonetic) 25 which is sustained a Circuit Court reversal of rezoning</p>
<p style="text-align: right;">18</p> <p>1 to discussion on the remand and thus, we do not need to 2 have our transportation consultant present to testify. 3 HEARING EXAMINER: Could you point me to Ms. Burn's 4 response on that? 5 MS. ROGERS: It was in our prehearing conference. 6 HEARING EXAMINER: Oh, I see. 7 MS. ROGERS: Yes. 8 HEARING EXAMINER: Do you want to reply? 9 MS. ROSENFELD: Yes, thank you. In looking at the 10 Court's decision, we agree that the Court found that the 11 record had sufficient evidence to support the council's 12 prior findings on transportation adequacy and the Court 13 declined to remand on that issue. However, this is not a 14 prescriptive limitation. Even the two quotes that Ms. 15 Rogers noted from the record regarding the Court's ruling, 16 number one - she cited two instances. Number one, there is 17 an absence of - he ruled that there was not an absence of 18 substantial evidence on transportation adequacy. In the 19 second one as far as adequacy of transportation facilities 20 is concerned there was not a lack of evidence in the 21 record. So his ruling led to the adequate public 22 facilities ordinance component transportation adequacy 23 which as you know - 24 HEARING EXAMINER: Excuse me. Excuse me. 25 MR. ROBINS: Sorry, Michelle.</p>	<p style="text-align: right;">20</p> <p>1 because the expert testimony was principally directed at 2 the rezoning's effect on adjoining single-family 3 residential area but lacked in the, quote, specific 4 testimony in regard to its effect on the other uses in the 5 general neighborhood, end quote. The effects on the 6 general debt on the other uses in the general neighborhood, 7 of course goes well beyond the effects of APFO, of 8 transportation adequacy. We've submitted submissions, we 9 provided submissions in the record and I expected testimony 10 will corroborate that the impact of increased pedestrian 11 traffic through the Glen Way Condominium property has 12 adverse impacts on that neighborhood that should be 13 considered and mitigated. Those are not APFO related 14 standards. Those are not pedestrian adequacy as its 15 reviewed and considered under the APFO. And we think it 16 falls outside the limitations imposed by the Court and the 17 law squarely before the Hearing Examiner for today's case. 18 HEARING EXAMINER: Any reply? 19 MS. ROGERS: After hearing comments - and we 20 wanted - believe that the Court said and Ms. Rosenfeld has 21 cited again, get to kind of broader, general considerations 22 regarding compatibility. We're not disputing, you know, 23 kind of that other issues besides just building mass can 24 come under compatibility in any given case. What 25 we're - our position is that in this case though, the judge</p>

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<p style="text-align: right;">21</p> <p>1 was clear. This very specific issue was specifically 2 mentioned, walkability to a metro and pedestrian shortcuts, 3 that that issue was already considered by the district 4 council, Hearing Examiner as well, and it was not an issue 5 that could be addressed on remand. I would note that part 6 of the reason for that is that is so intertwined with the 7 transportation adequacy improvements that were discussed 8 voluminously in the record regarding the improvements that 9 the Applicant is going to make not only to bear property 10 frontage, but other infrastructure nearby to improve 11 walkability. All of that is intertwined and that's why 12 those issues are, the judge found, not appropriate to be 13 addressed on remand today. But I will also note that in 14 addition to the record that was submitted, the information 15 in the record previously submitted in the underlying case, 16 there was oral argument testimony given by Mr. Johnston and 17 others regarding these issues. That oral argument for the 18 council the Court clearly found that that information was 19 substantial evidence in the record and therefore couldn't 20 be considered today. 21 MS. ROSENFELD: If I may? 22 HEARING EXAMINER: Yes. 23 MS. ROSENFELD: My understanding of the record before 24 the district council is the district council did not 25 exhibit testimony on the impacts -</p>	<p style="text-align: right;">23</p> <p>1 recommendation. With that, I will turn it over to the 2 Applicant to start. 3 MS. ROGERS: As a preliminary matter, then to address 4 the Hearing Examiner's previous question, when we go direct 5 testimony we will have an additional exhibit to offer into 6 the evidence. Not knowing when the Hearing Examiner is 7 going to rule on this issue, we want to make sure the 8 record is clear. And so when we get there we will identify 9 that. 10 HEARING EXAMINER: Thank you. 11 MS. ROGERS: We will call our - well actually, sorry. 12 It's opening statements. 13 MR. ROBINS: Would you like opening statements? 14 HEARING EXAMINER: Yes, please. 15 MR. ROBINS: Sure. 16 HEARING EXAMINER: You are welcome to. They are 17 optional, but you are welcome to present them. 18 MR. ROBINS: Well, thank you, very much. So good 19 morning. It is a pleasure to be here. For the record, I'm 20 Steve Robbins with the law firm of Learch, Early & Brewer. 21 With me here today is my colleague, Elizabeth Rogers. Our 22 firm, as I mentioned before, represents the Applicant in 23 this case, Glenmont Forest Investors, LP. With us today on 24 behalf of Glenmont Forest is Brian Alford with Brady 25 Management. He's raising his hand, let the record reflect</p>
<p style="text-align: right;">22</p> <p>1 (Crosstalk) 2 MS. ROSENFELD: It was pedestrians within the Glen 3 Way Condominium that they declined to hear that 4 information from Mr. Johnston at the oral argument. 5 MS. ROGERS: I think that was a distinction regarding 6 some of the concerns. My recollection is that there was no 7 testimony allowed in terms of Mr. Johnston's concerns 8 regarding safety impacts and other extraneous things, but 9 generally walkability, because the Applicant had testified 10 regarding the walkability to the Metro, there was still 11 some testimony provided regarding that factor before the 12 district council. 13 MR. ROBINS: I believe there was also an oral 14 argument - I think it will - the record will reflect that 15 what was happening at oral argument is Mr. Johnston was 16 also trying to introduce evidence at oral argument that was 17 not introduced below like certain photographs and things 18 like that. But there was testimony on walkability at the 19 oral argument. The issue was whether they could - whether 20 the scope of the oral argument was unit exceeded because 21 you're not allowed to introduce evidence at oral argument. 22 You have to rely on the record of the law. 23 HEARING EXAMINER: Thank you. Like I said, I will 24 reserve ruling on the objections. And so I turn it over 25 to - I think I will address it at the time of my report and</p>	<p style="text-align: right;">24</p> <p>1 that. And of course our expert witness, Gary Unterberg of 2 Rogers Consulting, expert land planner and landscape 3 architect. As the Hearing Examiner is aware, this remand 4 as you mentioned is limited in scope. The judge remanded 5 the application to permit for the testimony analysis on two 6 very specific issues, compatibility with the larger 7 community to the north of the property, more specifically 8 with a focus on Glen Way Gardens Condominium, and to take 9 evidence on the adequacy of school facilities. The local 10 map amendment application seeks to rezone the Glenmont 11 Forest Apartments property to the commercial residential 12 floating zone, CRF1.75 C.25 R1.5 H-75. That would be the 13 zone. To facilitate the redevelopment of this aged and 14 underutilized garden apartment complex into a more modern 15 mixed-use predominantly residential development containing 16 up to 2275 units and up to 5000 square foot of 17 nonresidential units. The proposed rezoning implements the 18 recommendations of the Glenmont sector plan to the T. The 19 Glenmont sector plan lays out a vision for the 20 transformation of Glenmont which includes the redevelopment 21 of this property, placing an emphasis on meeting housing 22 needs and providing additional connectivity. The sector 23 plan encourages rezoning of the property in part because it 24 is, quote, within easy walking distance of metro, end 25 quote. The additional housing density proposed for this</p>

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1 property was specifically recommended by the sector plan
2 even before the current housing crisis which the county is
3 in right now, began. This project is needed now more than
4 ever. As you will hear from our expert testimony today,
5 making this recommendation for the property, the district
6 council already determined the proposed zoning and
7 increased densities of development to be compatible with
8 Glen Waye Gardens. Although schools are more properly
9 addressed at the time of preliminary plan of subdivision,
10 when adequate public facilities determinations are
11 formalized, the Applicant will demonstrate that schools are
12 more than adequate to accommodate - excuse me - the
13 proposed development. As you will hear through our expert
14 today, the Applicant's school analysis is conservative and
15 demonstrates that all three school levels and have capacity
16 to accommodate the project and the local map amendment.
17 The Applicant's analysis is based on the well-established
18 and thoroughly evaluated schools test approved by the
19 county for the growth in infrastructure policy and the
20 annual schools test. The Montgomery County Planning
21 Department technical staff has submitted supplemental
22 analysis into the record as Exhibit 75A and B - I just want
23 to confirm that that is the number. Yes, 75A and B, which
24 reaches the same conclusion on both of these remand issues.
25 As such, through our witness today and the materials

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1 submitted into the record we will demonstrate that there is
2 more than sufficient information for the Hearing Examiner
3 and thereafter the district council, to make the necessary
4 findings and conclude that the rezoning and proposed
5 development is appropriate for this property, is compatible
6 with its surroundings, and certainly is in the public
7 interest. We will be calling one witness, as mentioned,
8 Gary Unterberg, Rogers Consulting. As a preliminary
9 matter, and I think Ms. Rosenfeld submitted something, an
10 email into the record this morning. There was a correction
11 on the exhibit list which referenced actually the
12 Applicant's exhibits, but that was corrected. And I think
13 that is Exhibit 86. We already responded and we had
14 obviously no issues with that at all. So with that, and
15 unless the Hearing Examiner has any questions, we would
16 like to call our first witness.
17 HEARING EXAMINER: You may.
18 MR. ROBINS: Thank you.
19 HEARING EXAMINER: And while we wait for the witness
20 to come forward, I asked if there were any objections to
21 exhibits. There were none. So all the exhibits as listed
22 on the website are entered. We are looking at Exhibits 71
23 through 88 without objection June
24 (Whereupon Exhibits 71 through 88 were admitted)
25 MR. ROUFF: May I ask if you're not speaking, to

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1 please mute your microphone? Thank you.
2 HEARING EXAMINER: So if you could provide your full
3 name on the record and then raise your hand for the oath.
4 MR. UNTERBERG: Good morning. Gary Unterberg of
5 Rogers Consulting.
6 HEARING EXAMINER: Please confirm that the testimony
7 you will provide will be the truth, the whole truth and
8 nothing but the truth.
9 THE WITNESS: I do.
10 HEARING EXAMINER: Thank you. Do you have spellings?
11 Are we okay with the spellings?
12 COURT REPORTER: I'm okay.
13 HEARING EXAMINER: Okay. You may proceed.
14 MS. ROGERS: Great, thank you, Madam Hearing Examiner.
15 We are prepared to begin a series of questions to qualify
16 Mr. Unterberg as an expert in land planning. He's
17 previously been qualified as an expert before this body.
18 So we would like to ask whether you would like us to
19 proceed with those questions are requalify him.
20 HEARING EXAMINER: Do you have a case number? At
21 least a case number that he has been qualified in?
22 MS. ROGERS: Yes, he was qualified in various matters.
23 There was the courts of Clarksburg, G881 of the Clarksburg
24 and 15-02 are two of the cases.
25 HEARING EXAMINER: I will take notice of those and we

28
1 can dispense with qualification. Any objections?
2 MS. ROSENFELD: No, we'll stipulate to his expertise.
3 HEARING EXAMINER: Thank you.
4 MS. ROGERS: Thank you.
5 MS. ROGERS: Mr. Unterberg, are you familiar you with
6 the local map amendment application that's before the
7 Hearing Examiner today on remand?
8 MR. UNTERBERG: Yes, I am. I've been working on this
9 application since it began a couple of years ago with the
10 client Grady Management representing Glenmont Forest. I've
11 been the principal project lead. I focused on Montgomery
12 County and the city of Gaithersburg for Rogers Consulting.
13 I attended the previous hearing for the zoning. I did not
14 testify. Three people from Rogers Consulting did testify,
15 Randall Renfro as an engineer, Steve Allison as our
16 environmental expert regarding forest conservation. They
17 are not here today because those are not topics of the
18 remand. Mr. Lankin testified as the land planner. He is
19 no longer with Rogers Consulting so I'm stepping in to
20 testify today. And again, I'm very familiar and I did sit
21 in that hearing to listen to testimony and then proceed
22 with the development with the client also.
23 MS. ROGERS: Thank you. And can you please describe
24 your responsibilities with regard to the LMA application
25 and more specifically this remand proceeding?

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1 MR. UNTERBERG: Yeah. So as mentioned, I've been
2 involved in and have supervised the production and
3 development of the floating zone plan. And more
4 specifically I've reviewed the 2013 Glenmont sector plan,
5 subsequent 2014 design guidelines associated with the
6 Glenmont plan. I reviewed the - more recently reviewed the
7 general plan which is known as Thrive 2050. And then the
8 various functional master plan, sector plans that applied
9 to this property. He also evaluated the project with the
10 compliance to the zoning ordinance and then specifically
11 been asked to just compatibility of the surrounding
12 neighborhood, particularly north of Randolph Road. And
13 then also asked to speak about school adequacy and
14 capacity.

15 MS. ROGERS: Did Rogers prepare a written report that
16 is part of the application submission for this application?

17 MR. UNTERBERG: Yes, we did, and I am the principal
18 author and its I believe still Exhibit 82 to the
19 supplemental report for the remand.

20 MS. ROGERS: And have you made a personal inspection
21 of the property subject to today's local map amendment
22 application? Are you familiar with the area surrounding
23 the property?

24 MR. UNTERBERG: Yes, and many visitors to the
25 property, walked the site, walked the neighborhood, and

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1 also driven the neighborhood.

2 MS. ROGERS: And can you please first explain the
3 overall planning concepts regarding the development
4 proposal for this property, particularly as it relates to
5 your analysis regarding compatibility?

6 MR. UNTERBERG: Yeah. So we want to - we will see how
7 this works the first time. We will bring up the - I guess
8 we want to bring up Exhibit 81, which is the previously
9 certified floating zone plan. We can do that and then we
10 can do that.

11 MS. ROGERS: Yes.

12 MR. UNTERBERG: We have been on the map. Probably
13 best I walk over there and point to a few things. Is there
14 a microphone over there? Or how does that all work with
15 the set up here?

16 MS. ROGERS: Just speak really loud when you're over
17 there.

18 UNIDENTIFIED SPEAKER: You can also turn the
19 microphone over that way.

20 UNIDENTIFIED SPEAKER: I will point - yeah.
21 (Crosstalk)

22 MR. ROBINS: Is there a handheld microphone? One of
23 those - no, okay.

24 HEARING EXAMINER: Unfortunately not.

25 THE WITNESS: So let me -

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1 HEARING EXAMINER: What is helpful is because after
2 this when I go back and read the transcript I will be - and
3 so if you could send geographic guidelines when you're
4 pointing rather than say here, you can say to the north of.

5 MR. UNTERBERG: And to that point, the top of the
6 pages to the north. Right is to the east. South is to the
7 lower part of the page and then west is to the left-hand
8 part of the page. So I'll speak within those parameters.

9 HEARING EXAMINER: Thank you.

10 MR. UNTERBERG: Particularly, this shows the site.
11 This was the previously signed floating zone plan for the
12 previous approval. I know that was vacated based on the
13 remand. And this is the approximate 35-acre site known as
14 Glenmont Forest. To the north is Randolph Road. To the
15 west is Georgia Avenue, or Route 97. To the south there is
16 a townhouse neighborhood. And then to the east, which is
17 the right-hand side, there is a single-family neighborhood.
18 And then to the lower part, the southern part, east is
19 Wheaton Regional Park owned by the county. There
20 are - there is a paper right of way, a street not built to
21 the southeast corner and also a separate private property
22 that is not developed. The Randolph Road is a town center
23 boulevard. It's master-planned to be a 140-foot right-of-
24 way. The right-of-way varies in width as you can see on
25 the north part right under the road. There is a little

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1 notch. There is a couple of notches in the right-of-way.
2 When we go to preliminary plan subdivision we will have to
3 dedicate miscellaneous distances to meet our half of that
4 140 right-of-way. Let's see. The zoning for this was
5 recommended in the master plan to change from R30, which is
6 the multifamily zone, to a CR, which is the commercial
7 residential zone, a height of 75 feet and a density and FAR
8 of 1.75. The residential density is to be 1.50. And then
9 there's also a commercial component. The proposal is
10 primarily residential to comply with master plan. So let's
11 walk around the property. And the primary design focus is
12 compact development, urban development, and grid of
13 streets. Some from West on Georgia Avenue there is a main
14 street and it's intersected by a grid of streets, also to
15 access points on Randolph Road to the north.

16 COURT REPORTER: Excuse me. Keep your voice up,
17 please.

18 MR. UNTERBERG: And I know I'm facing the wall
19 versus - so let's see. As I said, these are multifamily
20 buildings which are recommended in the master plan. The
21 maximum height is 75 feet. The master plan talks about
22 four to six story buildings. On the east side, let's talk
23 about compatibility specifically as it relates to the
24 single-family development on the east side, which is an
25 R90. We have - and it talks about - the master plan talks

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1 about zoning A 100-foot strip as CRN, which is CR
2 neighborhood. We proposed a binding element with the
3 previous approval that we would restrict at 100 feet to a
4 45-foot height, which is also recommended in the design
5 guidelines and the master plan. And then the rest of the
6 site is not restricted. It can be up to that 75-foot
7 height. The compatibility with the east side was
8 previously testified, and my understanding not part of this
9 remand, but will be subject to this binding element we
10 propose to stand to restrict that 100 feet to 45. The
11 other thing is that this will not only improve vehicle
12 access with the existing point of access in our grid
13 streets, but it will also improve history and walkability.
14 All these trees will have sidewalks and will connect with
15 the sidewalks on Georgia Avenue and Randolph Road. There
16 is also a trail system proposed to the southeast to connect
17 to Wheaton Regional Park which is part of the previous
18 plan. Other parts of the plan is there is an existing
19 stream to the southeast that will be preserved in a
20 streamland buffer. It also is for superuser that was one
21 of the requirements of the plan to save those natural
22 resources and to protect the forest and then provide that
23 as open space and also community open space as part of this
24 plan. So that's the general plan. And the - was there
25 anything else on that question? Or do we go on to

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1 compatibility?
2 MS. ROGERS: We can move on to kind of general
3 planning principles regarding - I guess I have two follow-
4 up questions on that piece. Which was you testified to
5 right now the multifamily; was a townhouse component as an
6 option with this project?
7 MR. UNTERBERG: Yeah. Yeah. So noted, the plan shows
8 all multifamily with the multifamily buildings and they all
9 or part of that street grid. They all have structured
10 parking. But as an alternate in one of the components was
11 also to vary the mix of housing and provide variety of
12 housing in the master plan. One option is noted that up to
13 250 units could be townhouses as an alternate and that
14 would proceed would carry forward the preliminary plan. So
15 this plan shows 2275 units. That's what we've been - there
16 was a discussion about that with schools on how to proceed.
17 But this unit, the intent is to - the maximum unit count is
18 2275. Of that maximum up to 250 those could be switched
19 out to townhouses. And then again would be a future plan
20 and would be addressed at preliminary plan.
21 MS. ROGERS: And one follow-up question. You
22 testified regarding kind of the height transition to the
23 east because of the sector plan recommendation. As part of
24 this kind of broader review of compatibility, could you
25 also touch on general planning principles as it relates to

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1 heights along certain streets?
2 MR. UNTERBERG: So Randolph Road, particularly to the
3 north, Randolph Road is a town center boulevard. It's
4 master-planned to be 140 feet. The master plan has no
5 height restrictions on either side of the street. The
6 shopping center - well, I will start by - so the police
7 station, which is part of our master plan neighborhood is
8 also recommended to be rezoned similar to Glenmont Forest.
9 And that's part of the master plan requirement. That could
10 be rezoned and go to a height of 75 feet. North of
11 Randolph Road is the Glenmont shopping center. That has
12 specific recommendations. We will get into those details
13 and a little bit. But that has specific recommendations
14 for development. As part of the sector plan it was rezoned
15 from commercial zone to CR. That was - and stands. That
16 is owned CR as an FAR of three. So a lot higher density
17 than Glenmont Forest at 1.75. Also it was rezoned to a
18 height of 120 feet. So it's taller. And that was - that's
19 noticed as the town center, the core. That is supposed to
20 be an even split of 3 FAR, 1.54 residential and 1.5 FAR for
21 commercial. So that has the most density and that's across
22 the street. And there is no height requirements or
23 restrictions between the two properties. Again, 75 feet,
24 120 feet. And then to the northwest on this plan, which is
25 the upper right-hand corner, there is about 260 frontage

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1 linear feet that across the street is the Glen Way Gardens
2 Condominiums. And those are existing condominiums. The
3 first building is about 70 foot back from the right-of-way
4 from there it is sometimes 35 feet. There is no
5 recommendation in the master plan for that to be
6 redeveloped.
7 MS. ROGERS: Could you just clarify for the record
8 what FAR is?
9 MR. UNTERBERG: So FAR is to floor to area ratio,
10 which is a - it's a mathematical equation. You take the
11 area of the site and acres. And for example, an acre is
12 43,560 square foot. An FAR of one would be that square
13 footage for that.
14 MS. ROGERS: Thank you. Can you describe - I think
15 you were touching on this, but just to be clear for the
16 record, the specific areas that you evaluated as part of
17 compatibility for this remand order?
18 MR. UNTERBERG: Specifically it would be the frontage
19 on Randolph Road and the - across the street would be the
20 Glenmont Shopping Center. And then also across the street
21 would be the Glen Way Gardens Condominiums.
22 MS. ROGERS: And in terms of the police station that
23 has technically more developed property, can you touch on
24 that briefly?
25 MR. UNTERBERG: So that's - it's zoned R30, which is a

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1 multifamily residential zone right now. The use is
2 commercial/institutional because it is the police station.
3 There is a parking lot and the police building there. It
4 is recommended in the master plan to be rezoned same as
5 Glenmont Forest, to be rezoned to a height of 75 feet and
6 an FAR of 1.75. So that could be redeveloped into the
7 police station. It could be redeveloped as a housing
8 component. It's owned by the county. We did initially
9 reach out to the county based on our discussions with the
10 planning board whether or not they would want to join this
11 application. They declined saying they had no plans right
12 now to redevelop, but that is an option in the future and
13 they would be the same height and the same zone as Glenmont
14 Forest.

15 MS. ROGERS: And did the police station - or your
16 conversations with the county, did they have any objections
17 to the Applicant's proposal?

18 MR. UNTERBERG: They did not. They did express that
19 they would redevelop in some time, but that is not known at
20 this point.

21 MS. ROGERS: Thank you. Can you please describe the
22 property and the project relationship with that larger
23 surrounding neighborhood to the north that is part of the
24 remand?

25 MR. UNTERBERG: So that last part again. Sorry.

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1 MS. ROGERS: Sorry. Can you just describe the
2 property and the project's relationship to that larger
3 community to the north, the shopping center and the Glen
4 Way Gardens Condominium?

5 MR. UNTERBERG: So the Glenmont Shopping Center right
6 now is a shopping center. So most of the area to the north
7 that shown on this exhibit is parking lot. Then the shops
8 are towards the back of the property. There's also
9 the - particularly as you go from the corner of Randolph
10 and Georgia Avenue, there is a few independent stores.
11 There is a bank. There is a McDonald's. And then the bulk
12 of that acreage is parking lot. And then toward the back,
13 which is off this exhibit, but to further north and further
14 western -

15 (Crosstalk)

16 MR. UNTERBERG: Further north and further east, get my
17 directions right here, is where the buildings are for the
18 shopping center. As we travel east there is a freestanding
19 building which is a Lidl grocery store. And that is the
20 building closest to Glen Way Gardens. As we travel east
21 you can see that building from Glen Way Gardens and then
22 their loading docks and access for deliveries that are
23 adjacent to Glen Way Gardens. There is a screen fence
24 that's approximately 8 foot tall and then as we move
25 further east and we have Glen Way Gardens which is a

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1 parking drive aisle. And then the various condominium
2 buildings. As we come towards Randolph Road, the first
3 building for Glen Way Gardens is about 70 feet from the
4 right-of-way. And then you have an access, driveway access
5 onto Randolph Road. That's very - it's off this exhibit,
6 but it's the very top northeast corner of our site.
7 Opposite that is their - there is a driveway exit off of
8 Randolph Road. It's signed. As you drive west on Randolph
9 Road, it is signed no entry. So you can't turn into that.
10 You can only leave and exit that parking lot onto Randolph
11 Road from Glen Way Gardens.

12 MS. ROGERS: If we could move to Exhibit 83. We just
13 have some questions on compatibility more specifically.
14 Thank you. Mr. Unterberg, can you please describe the
15 physical and visual relationship between the Glenmont
16 Forest property and those communities to the north,
17 particularly starting with Glen Way Gardens?

18 MR. UNTERBERG: So the plan on the left is the
19 existing condition of what's out there today. The
20 buildings are shaded in gray. So off of Greenery Lane to
21 the top of the page, which is north and east of Glenmont
22 Forest right-of-way, it shows the condominium buildings and
23 then it shows the corner of the first building that's
24 roughly 70 feet from the right-of-way for Randolph Road.
25 It shows the existing Lidl building. There is a screen

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1 wall or fence between the two properties. And then it does
2 show, in plan view it shows the buildings south of Randolph
3 Road that are part of the existing Glenmont Forest
4 Apartments today. The picture, the photograph on the
5 right-hand side shows the - as sure almost to the stop sign
6 to turn right coming out of Glen Way Gardens to turn right
7 on Randolph Road, it shows Glenmont Forest, the trees.
8 There is a tree buffered there now. And the first shot on
9 top is in the summer with leaves on the trees. The second
10 shot is in the winter once the trees are gone and you can
11 see the buildings just in the background. The property
12 does - from Randolph Road, the Glenmont Forest property
13 does fall away from Randolph Road. So those buildings that
14 do step down the hill as you go into Glen Way Gardens.
15 And if you could scroll down to show the next - so this is
16 an illustrative to put the proposed zoning plan on the map.
17 Across the street or north of Randolph Road it stays the
18 same with Glen Way Gardens, the existing Lidl building.
19 And then it shows apartment buildings from the floating
20 settlement plan. And that we have an illustrative. This
21 is a computer-generated, showing an apartment building and
22 how that would look from that - again, from the stop sign
23 turning out with the building. And this is a scenario with
24 up to the 75 feet shown. And again, we'll figure this out
25 at preliminary plan. We don't have specific architecture

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1 yet. This is a rendering to show the illustration that you
2 could build up to 75 feet here. And then the part of the
3 discussion is that this should be a 4 to 6 story apartment
4 complex. Use-wise, we have multifamily use in Glen Waye
5 Gardens, the north side of the road. And then we will
6 have - well, existing as multifamily, R30, same zone. When
7 the zoning is changed to CR it will continue to be the same
8 use, multifamily. The shopping center will be a mixed-use
9 development. Again, multifamily, more likely mixed-use
10 buildings with commercial as a component. There is a large
11 amount of commercial that can be on the shopping center.
12 But again, it will be CR zone to CR zone on either side of
13 Randolph Road.

14 MS. ROGERS: Regarding physical separation - and you
15 just testified that the Glen Waye Gardens Condominium
16 building is located approximately 70 feet from the right-
17 of-way. Was the overall distance between the Glenmont
18 Forest property and the closest building on the Glen Waye
19 Gardens Condominium property?

20 MR. UNTERBERG: So 70 foot is from the corner to Glen
21 Waye building to the right-of-way. The right-of-way in
22 this location is approximately 132 feet. So a bit less
23 than the master plan requirement of 140 feet. And we will
24 be dedicating a little bit of right-of-way when this plan
25 goes forward. And then we were showing a 10-foot setback

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1 from the right-of-way to the first building on Glenmont
2 Forest. So that's 70 plus 132 is a little over 200.
3 Another 10 feet we are about 210, 215 feet from building to
4 building on this exhibit.

5 MS. ROGERS: And this stretch of land offered, is
6 it - can you just come up for the record, provide a little
7 character for what type of neighborhood this is?

8 MR. UNTERBERG: Yeah. So this is a town center
9 boulevard. It's a divided highway. It's six lanes of
10 traffic plus turn lanes. There is a traffic signal at
11 Glenallen, which is the signal to our northeast just off
12 the corner of Glenmont Forest property and just northeast
13 of the exit for Greenery Lane. New come down, it's six
14 lanes. The turn lane with the signal at Glenallen Avenue.
15 As you come down there is a right in, right out, which is
16 midway on this exhibit between the two proposed apartment
17 buildings. And as you come down, which is our Street 1,
18 which is the existing traffic signal that is the main
19 entrance to the shopping center to the north, that is six
20 lanes. It also off this exhibit as you go down to Georgia
21 Avenue, that's a grade separated interchange. Randolph
22 Road, the six lanes go under Georgia Avenue at this traffic
23 light, which is also the main entrance to the police
24 station. There are side ramps, a compact interchange with
25 side ramps that goes up to - excuse me - go up to Georgia

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1 Avenue. Then the area of the road from the main entrance
2 at the traffic signal our Street 1 and the main entrance of
3 the shopping center, there are Jersey barriers. So you
4 cannot cross - at that line the road goes down under
5 Georgia Avenue. From this light, which is Street 1, the
6 main entrance to the retail, all the way up to Glenallen,
7 there is a median, but there is also a barricade and
8 guardrail that is in that middle median. Sidewalks and
9 crossings are at the two traffic lights with - as
10 appropriate.

11 MR. ROBINS: Sorry. I was just clearing my throat,
12 but I was trying not cough for the court reporter. Thank
13 you.

14 MS. ROGERS: Mr. Unterberg, can you please describe
15 the visual, the viewsheds from the Glen Waye Garden
16 property to Glenwood Forest?

17 MR. UNTERBERG: So the Glen Waye Gardens buildings are
18 at an angle and offset from - they are not parallel or
19 squared up to Randolph Road. The primary view from their
20 front door or windows on the front of the buildings is to
21 the shopping center. And there it will show on the next
22 exhibit we'll talk about there is a - well, you can see it
23 here, which is on this existing photo and the illustration,
24 there is a wooden fence, a visual barrier between Glen Waye
25 Gardens and the shopping center which is mainly the loading

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1 dock of the Lidl grocery store. That's approximately 8
2 foot tall. It's solid. And then it's - along the
3 perimeter of the common property line it does step with the
4 grade.

5 MS. ROGERS: And to clarify for the record, UIC, can
6 you just describe again what that graphically represents in
7 terms of height understanding it's conceptual in terms of
8 design?

9 MR. UNTERBERG: Yeah, so it shows Randolph Road, the
10 exit from Greenery Lane. It shows the guardrail on the
11 median. On the other side it shows street trees that would
12 be planted as a new development. And then it shows a
13 version of an apartment building across the street that is
14 up to 75 feet. The specific architecture would be either
15 step up, step down, et cetera. Those will be finalized at
16 preliminary plan.

17 MS. ROGERS: If you could, move to Exhibit 84. Mr.
18 Unterberg, if you would, please kind of describe what is in
19 this exhibit.

20 MR. UNTERBERG: So this is to show more of what will
21 happen on - what's recommended in the master plan for the
22 Glenmont Shopping Center in relation to Glen Waye Gardens.
23 A similar map with the building shown as gray on the left-
24 hand side for the existing condition. And then the photo
25 on top shows - well, we go further into the side, which is

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<p style="text-align: right;">45</p> <p>1 number two, which is a viewpoint. It shows the parking lot 2 in this scenario where there is a driveway and then there 3 is perpendicular parking on the side of the shopping 4 center. And we see the screen fence. And then we see the 5 back of the Lidl shopping center which is in the white or 6 the light gray. If we scroll down, this was a little bit 7 tough to get into the page here, but this shows an update 8 with the proposed development. On the shopping center side 9 we superimposed, that's a sketch from the 2014 design 10 guidelines that talk about height modifications and height 11 steps. So that is in the design guidelines under - for the 12 sector plan. 13 HEARING EXAMINER: So just so I'm clear, when you 14 reference the shopping center side, is that the area that 15 has the digits? 16 THE WITNESS: Yes. Yes. And 4, and number 4 in 17 particular are where the - it recommends that the height be 18 stepped are restricted to 45 feet. So there is specific 19 transition compatibility that's spoken to from the Glen 20 Way Gardens and the condominiums to the shopping center on 21 this adjacent or compatible side in the - so we have 22 the - this graphic starts to show how that's illustrated. 23 And so we have a parking lot and the parking on the right- 24 hand side. We had the existing screen fence. But then 25 what's recommended on the master plan, and that is in gray,</p>	<p style="text-align: right;">47</p> <p>1 In the distance you will see the multifamily buildings to 2 the south on Glenmont Forest. 3 MS. ROGERS: And is the Glenmont Shopping Center 4 envisioned for the highest intensity redevelopment in the 5 sector plan? 6 MR. UNTERBERG: Yes. 7 MS. ROGERS: And - 8 MR. UNTERBERG: And that's where this sketch on the 9 left-hand side is from 10 MS. ROGERS: And in terms of viewsheds then from Glen 11 Way Gardens in what we are looking at today, will the 12 Glenmont Forest Shopping Center, how will the rezoning of 13 Glenmont Forest Shopping Center in fact views from - 14 MR. ROBINS: One moment. 15 MR. UNTERBERG: So - 16 MS. ROGERS: I'm sorry. From the Glen Way Gardens 17 Condominium, how the redevelopment impacted these to our 18 site? 19 MR. UNTERBERG: Most of the impact in the view from 20 Glen Way Gardens will be to the shopping center and that 21 future development, limited or more distant view to the 22 Glenmont Forest, which is across the 140-foot right-of-way 23 to the south. 24 MS. ROGERS: In your professional opinion, are those 25 views also limited today from Glen Way Gardens to Glenmont</p>
<p style="text-align: right;">46</p> <p>1 and I believe number 5, it would be a parallel street on 2 the shopping center. And so that would be a street with 3 street trees, which is part of the illustration. Then it 4 would also be a - the first buildings would be limited to 5 45-foot height. The Glen Way Gardens - R30 is a maximum 6 of 35 feet height. And then beyond that you can go up to 7 120 feet. So this is showing all the taller buildings that 8 could be built per the recommendation and at the existing 9 zoning in the master plan. 10 MS. ROGERS: And I'm sorry, but did you note on 11 this - am I missing your testimony how the Glenmont Forest 12 property is depicted in this? 13 MR. UNTERBERG: So further in the distance, we are 14 still looking say from Greenery Lane, we are still looking 15 south. And that shows Randolph Road in the lower left-hand 16 portion of the illustration. It shows the exit point onto 17 Randolph and then shows the 75-foot multifamily buildings 18 in the distance on Glenmont Forest. Whether the point of 19 this exhibit is to show that most of the buildings, 20 condominium buildings, Glen Way Gardens, then primarily 21 face the shopping center - and this is going to be more 22 likely the view that most of the people see on the adjacent 23 shopping center with the street, with the street trees, the 24 four-story, the 45 foot high buildings and then behind 25 those, stepping up to the one in 20 foot per the zoning,</p>	<p style="text-align: right;">48</p> <p>1 Forest? 2 MR. UNTERBERG: Yes. And that's why we did the 3 existing proposal. 4 MS. ROGERS: Do you the height and compatibility 5 requirements contained in section 4.1.8 of the zoning 6 ordinance apply to the properties to the north of the 7 Glenmont Forest site? 8 MR. UNTERBERG: They do not. And there is three 9 components. One is I was start with use first. 10 The - specifically speaks to that, whether you're abetting 11 or confronting, but also specifically speaks to the zone. 12 So if you're next to an agriculture or residential zone, 13 specifically a single-family detached or a townhouse zone, 14 those regulations apply. They do not apply to a 15 multifamily zone. So that is per the code. And we are R30 16 on the Glen Way Gardens to - which is multifamily zone, to 17 the existing R30 on the Glenmont Forest. And then in 18 the - well, the shopping center is already zoned CR, the 19 commercial residential zone, which is a mixed-use zone. So 20 the uses do not apply. And then the abutting definition, 21 we do not touch - or the Glenmont Forest does not touch the 22 Glen Way Gardens specifically. It also does not touch the 23 shopping center. The shopping center is abutting to Glen 24 Way Gardens because they touch and there is specific 25 language in the master plan guidelines. The other</p>

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1 component is confronting, which accounts for if your
2 adjacent or if there is a road right-of-way next to you are
3 in between the two properties. That, per definition, is
4 restricted or limited to were noted that if that right-of-
5 way is 80 foot or less, those standards apply. And in this
6 case there is a 140 foot right-of-way between Glen Way
7 Gardens and between the shopping center to Glenmont Forest.
8 So in this case, 4.1.8 dealing with setbacks and height
9 compatibility do not apply.
10 MS. ROGERS: Thank you. Moving on to some questions
11 regarding the sector plan. Do you want to keep standing?
12 Or do you want to sit?
13 MR. UNTERBERG: Well, we're going to - I will stand.
14 I think we are going to have another exhibit or two come
15 up.
16 MS. ROGERS: For the record, what's the relevant
17 sector plan for this property?
18 MR. UNTERBERG: It's the approved and adopted 2013
19 Glenmont sector plan.
20 MS. ROGERS: And you mentioned this earlier, but just
21 for the record, have you reviewed that sector plan?
22 MR. UNTERBERG: Yes, I have.
23 MS. ROGERS: And does the sector plan include any
24 site-specific recommendations for the Glenmont Forest
25 property?

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1 MR. UNTERBERG: Yes, it does. And some of these also
2 overlap. There is a 2014 design guideline document that
3 was approved by the planning commission in coordination
4 with the sector plan. And that's where - both these
5 documents speak to these issues. For Glenmont Forest, the
6 only height and compatibility recommendation was for the
7 east side for the adjoining single-family neighborhood,
8 which is R90. There is a proposed binding element, passed
9 100 feet at adjoining side, would be restricted to 45 feet.
10 That also, since there adjacent, nonadjacent, abutting - a
11 lot of terms here. Since there abutting the previous 4.1.8
12 would apply with this height and setbacks which will be
13 finalized at the preliminary plan.
14 MS. ROGERS: If we could, pull up Exhibit 86A,
15 romanette i, and go to page 35 of the PDF. Thank you.
16 MS. ROGERS: Mr. Unterberg, could you please just
17 briefly describe what the specific recommendations are for
18 the Glenmont Forest block in the sector plan?
19 MR. UNTERBERG: Yeah. And actually, if you can scroll
20 down a little bit. It would be to recommendations. So at
21 the bottom of the page. Actually, if we can put
22 recommendations at the top. Perfect. So these are the
23 recommendations for Glenmont Forest for the sector plan.
24 So it does speak to that - a little bit different than the
25 shopping center described here. The shopping center was

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1 recommended to be rezoned and was rezoned as part of the
2 sector plan. In Glenmont Forest it was left R30 and then
3 recommended to be rezoned CR, commercial residential to the
4 1.75 FAR. And that's noted here with the 75 foot. So
5 that's why we're here today to rezoning for the
6 recommendation. It also recommended that the 100 foot next
7 to the eastern edge rezoned CRN with a lower FAR and then
8 with a 45 foot height. Instead of having two zones on the
9 property and working with the planning board's
10 recommendation, we've added a binding element is on the
11 property CR, but then the hundred foot adjacent abutting
12 edge with the residential to the east will be restricted in
13 height to accomplish the same thing. And then we have the
14 public benefit bullets, which the open-space was a key
15 component that is shown on the floating zone plan. Their
16 requirement 10 percent, uncomfortable that we are going to
17 exceed that. And the preliminary plan is where everything
18 is finalized. It does note that the MPDU, moderately
19 priced dwelling units, which is the affordable housing
20 program in the county, it is noted that its minimum is 12
21 and a half percent. And then the next - well, we also
22 proffered in part of the binding element that we do more
23 affordable housing, that we do a minimum of 15 percent,
24 which is part of the floating zone. Public use spaces
25 required, I think we are going to exceed that in the

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1 preliminary plan. The environmental buffers and the stream
2 and the forest, we are preserving that. Tree canopy, we
3 have an approved preliminary forest conservation plan that
4 was - went to the planning board. That will be updated and
5 tracked as we move forward with a preliminary plan and a
6 series of site plans. There is also recommendation to
7 complete the grid in the two streets to the east which are
8 part of the single-family neighborhood between Erskine and
9 Wallace, to connect those. And it says and/or. The plan
10 does not connect to Wallace. That was difficult due to
11 topography and tree save areas. So that is not connected
12 on the plan. Erskine is shown as a connection per this
13 recommendation. There was a condition for the previous
14 approval that Erskine, that the Erskine connection would be
15 reevaluated, that preliminary plan, based on traffic study
16 updates. So the floating zone plan that shows it
17 connected, but the revaluation about whether it will be
18 connected or not will be up to the planning board at that
19 time. And then there is also - it talks about a bike path
20 between Randolph Road and existing regional park. So our
21 series of streets and that grid network that connects to
22 Georgia Avenue and Randolph Road, all those streets have
23 sidewalks. So all those streets are walkable. There is
24 also going to be a series of bike paths in that - our new
25 neighborhood with that urban grid. And then there is a

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<p style="text-align: right;">53</p> <p>1 proposed path connection through the environmental area, 2 the stream valley, to a path that kind of leads into a 3 park. So that is also one of the components. I believe 4 those are all the recommendations. And most of these are 5 the previous testimony, but just repeating how these meet 6 the requirements of the master plan as well. 7 MS. ROGERS: And does the master plan recommend 4 to 6 8 story buildings for this property? 9 MR. UNTERBERG: Yes. 10 MS. ROGERS: And does the sector plan include any 11 specific restrictions on development for the Glenmont 12 Forest property as it relates to properties to the north? 13 MR. UNTERBERG: It does not, other than that 100 feet 14 that's adjacent to the eastern edge that goes all the way 15 up to Randolph Road. 16 MS. ROGERS: To the contrary, does the sector plan 17 include any specific restrictions for any other nearby 18 developments as they relate to Glen Way Gardens? I think 19 you touched on this previously, but if you could, just 20 reconfirm. 21 MR. UNTERBERG: Yeah, so the shopping center has 22 restrictions, which on the southwest side, all in angles, 23 but it's the south. Winexburg (phonetic) which is the 24 north of Glen Way Gardens had restrictions, but on the 25 common road going out there are no restrictions. And there</p>	<p style="text-align: right;">55</p> <p>1 that is recommended in the master plan; 4 is the transition 2 height. So these reddish buildings to the north or what's 3 abutting Glen Way Gardens. The height is restricted to 45 4 feet; 5 is the circulation network and the grid in the 5 middle. But there is a proposed street along the edge, 6 northern edge of the shopping center which is - about the 7 Glen Way Garden Condominiums. And then 6, they talk about 8 a gateway or landmark feature. That's all the way at the 9 southern - excuse me - point, which is the intersection of 10 Randolph Road and Georgia Avenue where the interchanges 11 that. 12 MS. ROGERS: And the recommended step down for the 35- 13 foot transition heights, do the design guidelines specify a 14 minimum distance that that height must be maintained at? 15 MR. UNTERBERG: There is no distance specified, but 16 there is a road between the two properties that is noted as 17 the - for a circulation network. And then they showed the 18 total edge from Randolph Road to Rayville Road with the 45 19 foot height. But the depth of that, there is no specific 20 depth. 21 MS. ROGERS: This is an excerpt that's in our exhibit 22 from the design guidelines. We just ask that the Hearing 23 Examiner take note of those design guidelines. If it would 24 be helpful, we're happy to submit the whole document into 25 the record.</p>
<p style="text-align: right;">54</p> <p>1 again, that is a multifamily development. They have a 2 taller building in the middle. They are approved on that 3 block or neighborhood. Winexburg is approved for an 85- 4 foot height, but there is no restriction between Glen Way 5 Gardens on the north and Winexburg to the south. 6 MS. ROGERS: Can we pull up Exhibit 82 and go to page 7 9, which might help? Sorry, go down. This - 8 MR. UNTERBERG: Page 9? 9 MS. ROGERS: One more page to the - at the very 10 bottom. Thank you. This is - I was hoping this was a 11 broader image. 12 MR. UNTERBERG: So this is a sketch from the design 13 guidelines for the shopping center, Glenmont Shopping 14 Center. 15 HEARING EXAMINER: Is it possible to expand it any 16 further? 17 MR. UNTERBERG: And then Randolph is to the southeast. 18 Georgia is to the West. Glen Way Gardens is to the north. 19 And this - these are the numbers that we were talking about 20 before that tell us what they are. There could be a 21 central open-space, enhanced streetscape. This, once we 22 develop, it will be a series of streets, urban grid. All 23 streets will have sidewalks, bike trails. So this will 24 help fill in that parking lot. It's going to replace the 25 parking lot. It will create an urban core and town center</p>	<p style="text-align: right;">56</p> <p>1 HEARING EXAMINER: That should not be necessary we 2 have references. It's noted. 3 MS. ROGERS: Thank you. 4 MS. ROGERS: And in making the recommendations for the 5 Glenmont Forest property, did the district council already 6 consider the issue of compatibility with Glen Way Gardens? 7 MR. UNTERBERG: Yes. And there is previous testimony, 8 although that is part of the remand so we are clarifying it 9 today. And the - with the sector plan and the design 10 guideline this is an example of how they specify specific 11 edges or neighbors that need to be addressed. 12 MS. ROGERS: Can we go up to the top of this page? 13 Was Mr. - was there a specific reference in the sector plan 14 regarding the district council's previous determination of 15 compatibility? 16 MR. UNTERBERG: Yes, there was. And what's on the 17 screen is from page 31 of the sector plan. This - each of 18 these neighborhoods are blocked, were detailed with 19 recommendations and whether to be rezoned or to be left 20 alone. And this speaks to Glen Way Gardens and the 21 discussion - I'm just going to read what's highlighted in 22 yellow. The discussion was that the site did not 23 want - they wanted to remain R30, the multifamily zone and 24 were not going to redevelop. They did say, which is 25 highlighted, zone recommendations of the adjacent</p>

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1 properties are designed to ensure compatibility with
2 buildings on this property. So this was considered by the
3 Council as part of the sector plan that the adjacent
4 properties, which includes the shopping center, it includes
5 the Glenmont Forest, it includes Winexburg, which is to the
6 north. It also includes the metro to the west. That does
7 adjacent properties to ensure compatibility that they are
8 compatible with the existing condition.
9 MS. ROGERS: And for the record Mr. Unterberg, can you
10 just know what page from the sector plan you were reading
11 from?
12 MR. UNTERBERG: Page 31 is where this is summarized.
13 MS. ROGERS: And we will get to this in more detail
14 later on, but in making the findings for the local map
15 amendment, does the district council need to find
16 compatibility with adjacent development?
17 MR. UNTERBERG: Yes.
18 MS. ROGERS: And how is adjacent defined in the zoning
19 ordinance?
20 MR. UNTERBERG: It's a looser term, but it's nearby.
21 Let's see. I lost my place here. But it's - adjacent
22 properties are those that are nearby the property. It does
23 not have to be abutting or confronting.
24 MS. ROGERS: So is the Glenmont Forest property
25 considered adjacent to Glen Way Gardens Condominium?

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1 MR. UNTERBERG: Yes.
2 MS. ROGERS: So in your professional opinion, does
3 this sentence about zone recommendations on adjacent
4 properties having been designed for compatibility, does
5 that encompass the Glenmont Forest property?
6 MR. UNTERBERG: Yes, because that is adjacent to the
7 south, southeast. And then as we mentioned, it is
8 adjacent, but it is not abutting Randolph Road.
9 MS. ROGERS: And is the rezoning that's been requested
10 for this local map amendment fully consistent with the
11 rezoning that is recommended in the sector plan for the
12 Glenmont Forest property?
13 MR. UNTERBERG: Yes.
14 MS. ROGERS: And based on your review of the sector
15 plan, in your professional opinion, is the proposed
16 development in substantial conformance with all of the
17 goals and recommendations contained therein?
18 MR. UNTERBERG: Yes, I believe so.
19 MS. ROGERS: What's the relevant general plan for this
20 property?
21 MR. UNTERBERG: So the general plan is now known as
22 Thrive Montgomery or Thrive 2050.
23 MS. ROGERS: And have you reviewed Thrive 2050?
24 MR. UNTERBERG: Yes.
25 MS. ROGERS: And how does Thrive influence the design

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1 of this project?
2 MR. UNTERBERG: It reinforces the sector plan and this
3 is the overarching new general plan, relatively new. It
4 was approved after the 2013 sector plan. There are several
5 components or goals of Thrive that I want to highlight.
6 One is housing, which is a goal of the county to add more
7 housing. That was parceled with - to Glenmont as a whole.
8 It's a series of neighborhood who had housing. It's next
9 to the Glenmont metro station, which is within a half a
10 mile of the Glenmont Forest site. That these hubs or these
11 cores along the corridors - this is a location, Glenmont,
12 specifically with the metro as a resource that would add
13 housing. And that's one of the components of Thrive.
14 There's a few more. Also with the housing component,
15 affordable housing is one of the aspirations. We have
16 committed to providing more affordable housing. Instead of
17 12.5 percent MPDUs, we are providing now that we propose 15
18 percent MPDUs. And then there's also a mix of housing.
19 Instead of all multifamily we have, which is on the
20 floating zoning plan, the option to do up to 250
21 townhouses, to provide a mixed size price point incentive
22 for housing. Another component of Thrive, which I briefly
23 mentioned, is to focus growth on corridors. Georgia Avenue
24 and Randolph Road are corridors within Thrive. And we are
25 putting the housing here. Again, the metro is on one of

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1 these corridors. So this is the place to put housing. The
2 shopping center is the core of that. And the town center,
3 you see there is a higher density with a 3 FAR. And that
4 the surrounding areas such as Glenmont Forest has a lower
5 density, but again, it's more than what's there now. There
6 is 482 units existing, the existing complex on Glenmont
7 Forest. With the FAR and the recommendation of up to 2275
8 units can go on Glenmont Forest for the Thrive 2050 zone.
9 Another key component of Thrive is complete communities and
10 15-minute living. So we have a grid, which are the new
11 development. This grid is to provide walkability and also
12 access within 15 minutes to a community. So the metro is
13 within a half a mile walking up Georgia Avenue from
14 Glenmont Forest. It's generally a 10-minute walk. So you
15 are in that 10 to 15 minute walk to the metro. And then we
16 are also going to be within the community, that 10 to 15
17 minute living or walk. And then north of Randolph Road,
18 when Glenmont Shopping Center, that would also reinforce
19 this complete neighborhood and 15-minute living. So there
20 will be additional retail, employment in the Glenmont
21 Shopping Center site, again, connected by a grid of
22 streets, pedestrian sidewalk, bikeways, all accessible to
23 the metro and walkable to the metro.
24 MS. ROGERS: And is Glenmont identified in the Thrive
25 as a larger center?

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1 MR. UNTERBERG: Yes. And the core of that is the
2 shopping center, but this is a core or a larger center, and
3 it's the intersection of two corridors, Georgia Avenue and
4 Randolph Road.

5 MS. ROGERS: And are large centers identified in
6 Thrive as areas envisioned for the highest intensities?

7 MR. UNTERBERG: Yes, and hence the - particularly the
8 3 FAR that's already in place on the shopping center.

9 MS. ROGERS: And lastly, does Thrive encourage
10 reinvestment in east county?

11 MR. UNTERBERG: So redevelopment in sites is
12 encouraged as a goal of the county. It brings reinvestment
13 and the argument with both these resources right now,
14 Glenmont Shopping Center, needs a shot in the arm. It's
15 been there forever. It needs some help. And then
16 it's - there's a lot better uses than just a parking lot to
17 use that property, particularly right across the street
18 from the metro. Likewise, with the Glenmont Forest
19 Apartments, they are older buildings. They will
20 need - regardless of the new zoning they're going to be
21 retrofitted, upgraded. With the new zoning adding the
22 density it ticks all of the marks with the - with Thrive,
23 with the sector plan that this is a place to do that. And
24 then we will be investing in the new property, new housing
25 for this core centrally located with the metro area.

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1 MS. ROGERS: What are the other relevant plans for
2 this property?

3 MR. UNTERBERG: There is a number of functional master
4 plans. But one in particular is the master plan of
5 highways, which again, classifies Randolph Road and Georgia
6 Avenue. There is other plans. There is a pedestrian plan
7 and a bike plan. All those are superseded by Thrive, but
8 they all will be coordinated and reviewed, though specific
9 components, when we move forward with the preliminary plan.

10 MS. ROGERS: And then based on your review of the
11 master plan highways and transit ways, is this project in
12 substantial conformance with the recommendations contained
13 therein?

14 MR. UNTERBERG: Yes, and particularly the - that's
15 where it comes back to the master plan right of ways.
16 Georgia Avenue, it's master plan is a 170-foot right-of-way
17 on our western edge. That is complete, so that right-of-
18 way is 170 feet. Randolph Road is master-planned for 140
19 feet. As I showed before, there is a couple jogs in the
20 right-of-way and a little bit less than 140. Whatever we
21 need to do to dedicate on our side when we redevelop,
22 whether it's 5 feet or 7 feet, it's in that range, we will
23 be doing those dedications as part of the preliminary plan.
24 And then there are subsequent similar dedications on the
25 shopping center side to cleanup and to achieve that 140

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1 feet for the master plan.

2 MS. ROGERS: So I want to look at one of their written
3 submissions have requested evergreen trees along the 260
4 foot of Randolph Road frontage that's across from the Glen
5 Way Gardens Condominium site. Can you just for the record
6 explain when street trees kind of will be evaluated and
7 what guidelines factor into what trees are appropriate
8 along this frontage?

9 MR. UNTERBERG: Yeah, so there is two steps which we
10 have a future preliminary plan subdivision. The road
11 right-of-ways and the subdivisions will be identified on
12 that plan. Street trees are a component of that. Then we
13 will go forward with a site plan. We're going to
14 be - there are several phases to this project because we're
15 going to be - we don't want to displace people. So we are
16 going to be removing or tearing down a section of the
17 existing neighborhood to redevelop that. And again, in
18 phases. So there are 3 to 4 phases we've looked at as part
19 of previous testimony. But each one of those phases will
20 have a separate site plan. That site plan is where you
21 pick the specific trees and those will be shown on the site
22 plan for the internal streets and the abutting streets
23 along our frontage. In the case of Randolph Road, that's a
24 county street. So we have to apply the county standards.
25 And so they have a list of street trees that are

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1 recommended or permitted in county right-of-ways. And
2 currently there is not an evergreen tree that is an option
3 to pick. They have - it's all deciduous trees. There is a
4 large category, there is a small category, but there is not
5 an evergreen tree as an option to plant in a county right-
6 of-way.

7 MS. ROGERS: In your professional opinion, will the
8 proposed development be compatible with the larger
9 properties and communities to the north?

10 MR. UNTERBERG: Yes, it will be compatible. It will
11 be compliant with the master sector plan and the design
12 guidelines, the heights and specific - uses relatively
13 status same with multifamily on the future shopping center
14 redevelopment and the multifamily use on the Glen Way
15 Gardens with our multifamily use south of Randolph Road.
16 And then the - we've discussed the heights. Where there is
17 recommendation for the height on Glenmont Forest for the
18 compatibility with the R90 or single-family zone to the
19 east, but there is no height restriction or comment on the
20 northern property across Randolph Road, either the shopping
21 center or the Glen Way Gardens.

22 MS. ROGERS: And did Park & Planning staff agree with
23 the evaluation that local map amendment would be compatible
24 with the properties to the north?

25 MR. UNTERBERG: Yes, and they've - we've gone through

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1 the process where they made recommendations for the zoning
2 plan and then subsequently they've submitted two memos of
3 the (indiscernible).
4 MS. ROGERS: And they're Exhibit 75A and B for the
5 record.
6 MR. UNTERBERG: One has to do with school capacity and
7 B particular has to do with compatibility. And they noted
8 that the floating zone as it stands right now is
9 compatible, and I agree with that.
10 MS. ROGERS: Moving on to school adequacy. When are
11 schools assessed and kind of final school capacity
12 determined?
13 MR. UNTERBERG: So in this is part of the original
14 zoning testimony, but school capacity, which is part of the
15 APF, or adequate public facilities, is approved at time of
16 the preliminary plan. So we can talk about capacity today,
17 but we will not be approved or vested with the school
18 numbers until we have a preliminary plan approved. And
19 that, we're going to talk about the 2275 units that are on
20 the zoning plan. If that number changes or comes down - it
21 will probably come down if we do townhouses, then all those
22 numbers will be adjusted accordingly and approved at time
23 of preliminary plan.
24 MS. ROGERS: What are the applicable County documents
25 that are used for evaluating school capacity?

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1 MR. UNTERBERG: So the GIP, which is the growth in
2 infrastructure policy that's been approved by the county
3 council, there is a four year period that that's valid for.
4 So the current growth policy is from fiscal year that well,
5 this year 2024 through to 2028. So any preliminary plan
6 that's approved between that four-year period has to comply
7 with the growth policy requirements. And not only the
8 number of schools, but it includes traffic and then it also
9 includes fire, police, and water and sewer, that again it
10 will be approved at the time of the preliminary plan.
11 MS. ROGERS: And does the planning board adopt a
12 schools test annually?
13 MR. UNTERBERG: Yes. So every year there is an update
14 to the school numbers, which is by July 1. And the
15 current - it's fiscal year '26 is what was approved this
16 year, end of in June. And was for the fiscal year. So
17 that starts July of '25 and goes through June - I guess
18 there's only 30 days in June for '26. So it's that same
19 fiscal year '26 school numbers.
20 MS. ROGERS: And have you previously served on any
21 student technical advisory teams?
22 MR. UNTERBERG: Yes. So back in 2019, I volunteered
23 to be on the STAT, school technical advisory team. And
24 this was a team - and I'm going to actually going to read
25 my cheat sheet over here. Bear with me.

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1 MS. ROGERS: No problem.
2 MR. UNTERBERG: So this team - and I'm just going to
3 read the list of who - here it is. So the - as I
4 mentioned, the growth policy is renewed - the growth policy
5 is renewed every four years. In advance of the 2020 to
6 2024 policy update there is a team, a technical team,
7 again, school technical advisory team, that was put
8 together. I volunteered as a citizen to be on that team to
9 discuss how that policy goes forward. And there are 25
10 members which include 12 residents of one of the residents
11 that applied and was appointed. But this group also
12 included representatives from CASA of Maryland, Coalition
13 for Smarter Growth, Montgomery County Housing Opportunities
14 Commission, the Montgomery County Civic Federation,
15 Montgomery County Economic Development Corporation, NAIIO,
16 which is the North American Industrial Office Group,
17 Montgomery County Public Schools, Montgomery County
18 Regional Student SGA, which is the student group,
19 Montgomery County Council of PTAs, the Building
20 Association, and also the City of Gaithersburg, the City of
21 Rockville, and the City of Takoma Park, which is mentioned
22 on the Park & Planning website. And I participated in that
23 and met about a half a dozen times. And this group looked
24 at the methodology of schools capacity in particular.
25 There is a large discussion - at the time this policy was

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1 known as the subdivision staging policy. It was then
2 changed. The title was changed to the growth in
3 infrastructure policy. But there was a major push to
4 demonstrate all the school numbers. The Montgomery County
5 Public Schools, they have all the documentation on
6 students, generation rates. And that was all combined and
7 pushed forward with that '20 to '24 growth infrastructure
8 policy. At that time, they established new parameters,
9 revised parameters. Prior to that a plan could be denied
10 based on school moratorium or based on school capacity
11 because there was a moratorium on certain school clusters.
12 The 2020 growth policy, that eliminated moratoriums. And
13 what it did do was reestablish the policy areas and created
14 new policy areas, Glenmont in particular. I don't know if
15 you want to pluck that exhibit or not. But Glenmont Forest
16 is within the Glenmont policy area. That is also - and
17 they re-created or redefined whether you are infill for
18 student generation, which Glenmont is, and that's more the
19 urban centers. And Glenmont is an urban center with the
20 metro.
21 MS. ROGERS: Could we pull back up Exhibit 82?
22 MR. UNTERBERG: Exhibit 82?
23 MS. ROGERS: And go to page 17 of the PDF, please.
24 MR. UNTERBERG: And then - so Glenmont is in the red
25 policy area, which is an urban center. And for school

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1 capacity and school estimates, it's an infill area.
2 MS. ROGERS: Perfect.
3 MR. UNTERBERG: And then there is also the established
4 turnover area, which are more residential neighborhoods.
5 And that term represents most of the school capacity is
6 from existing neighborhoods that age in place. So you move
7 there -
8 HEARING EXAMINER: I just want to make sure I'm
9 following. So we are at Exhibit 82. And what page are we
10 on?
11 MS. ROGERS: Page 17 is a PDF. It is one of the
12 attachments to Exhibit 82, which reflects the Glenmont
13 policy area billing agent, which is from a council
14 resolution number 20-651.
15 HEARING EXAMINER: Thank you.
16 MR. UNTERBERG: So Glenmont Forest is in the Glenmont
17 policy area and is an infill category for purposes of
18 school capacity. And so I participated in that advisory
19 group or team. And so I'm very familiar with our school
20 capacity is tracked and I think we are going to go through
21 some numbers.
22 MS. ROGERS: And just to reiterate, is there any
23 longer a mechanism to deny a residential project from
24 moving forward based on school capacity?
25 MR. UNTERBERG: There is not. And what they did -

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1 MS. ROGERS: Okay.
2 MR. UNTERBERG: What they did establish was a payment
3 process utilization premium payment or UPP. And they
4 relate back to impact taxes. So if a school is - is a two-
5 tiered system. It's complicated. I'm going to do a
6 general summary and I've got some of the numbers in front
7 of me. But if a two-Tiered system. So, does the school
8 have capacity. And then the one component is they track
9 if - and these are all individual. Is it a high school,
10 middle school, or elementary school, whether it has
11 capacity or not. And then - so and they track the payments
12 of three tiers and the impact fees go up. There is a Tier
13 1, Tier 2, and Tier 3, and their based on 105 percent
14 capacity, 120 percent capacity, and 135 percent capacity
15 for the three Tiers. But you may check that box, but there
16 is also, which is part of this annual school capacity
17 report that comes out, the fiscal year, in this case the
18 fiscal year '26 is what we are working from now. There is
19 also a number over that school capacity that applies. So
20 it's too steps. You may be 105 percent, but you still may
21 be within that number they published based on the
22 individual school, whether not you have to - whether or not
23 you meet the threshold for a Tier 1 or higher payment. And
24 we will walk through some of those details in a second.
25 MS. ROGERS: And it did the 2024 through 2028 growth

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1 infrastructure policy reconfirm that approach where there
2 is no moratoriums and instead this utilization premium
3 payment?
4 MR. UNTERBERG: Yeah. Yes, they move that forward
5 into the subsequent four years.
6 MS. ROGERS: Thank you. And what schools is this
7 property, Glenmont Forest property served by?
8 MR. UNTERBERG: So there is a cluster based on the
9 high school and this is John F. Kennedy high school. And
10 then, let's see. I always get this - is the Odessa Shannon
11 Middle School, which is south of property. And then the
12 Glenallen middle school which is east of the Glenmont
13 Forest property off of Glenallen.
14 MS. ROGERS: And can you please explain how the
15 calculation of school adequacy for this LMA was assessed?
16 MR. UNTERBERG: Yeah. So again, going back to that
17 fiscal year '26 school report, that tracks every school in
18 the county. So when we go - and as part of our - I don't
19 know if we want to bring it - do we had that page? It was
20 part of our supplementary report at the end. It tracks
21 every school. So we go to John F. Kennedy. Now the one we
22 highlighted in green, yeah. So -
23 MS. ROGERS: So page 19 of the PDF. This is page 19
24 of Exhibit 82, for the record, which is an excerpt from the
25 fiscal year of 2026 school's test.

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1 MR. UNTERBERG: So it's hard to read here, but whites
2 highlighted is the high school, which is Kennedy High
3 School. This shows their forecast for years 2029 to '30.
4 And then in this case, Kennedy High School has a surplus
5 capacity. And that's a capacity of surplus of 114 students
6 or seats. If we got onto the next, we will go down to
7 Odessa Middle School. It should be the next page. And
8 each of these - you can see each page is - this is all the
9 high schools, the supplemental schools. That also has a
10 surplus or an excess capacity of 85 students or seats. And
11 then if we go down one more into the elementary school,
12 which is Glenallen, that also has a surplus capacity of
13 ADCs.
14 COURT REPORTER: Excuse me. Do you mind closing that
15 door, please?
16 MR. UNTERBERG: So we start off with all the schools
17 that Glenmont Forest would attend. They all have excess
18 capacity or a surplus of seats.
19 MS. ROGERS: And can you get into the details of how
20 you then kind of - looking at the capacity that that all
21 three school levels, how you calculated the school adequacy
22 with respect to this particular project?
23 MR. UNTERBERG: Yes. And we're - I think I'm going to
24 the most conservative one.
25 MS. ROGERS: Before you jump in, can you just high-

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1 level explain why there were multiple analyses submitted?
2 MR. UNTERBERG: Okay. So we're basing this on the
3 maximum amount of units was 2275. We then - and then there
4 is a calculation of her high school, middle school, and
5 elementary school. And that's in the report how we
6 itemized that. But we also - we deducted - there's 482
7 units existing. There already in the existing capacity or
8 the existing school calculation. Those are kids that are
9 going to school right now. Since they are not new, they
10 are in the existing calculation. So we meted out the 482
11 existing units from the proposed 2275. Then there is a
12 generation chart that we go forward with. And do we have
13 that page? Yeah, it's the next page.
14 MS. ROGERS: Page 22 of Exhibit 82?
15 MR. UNTERBERG: Yeah. So there is a chart of
16 generation rates. And this is, again, working with
17 Montgomery County Public Schools, the planning board. This
18 was also approved with the Council with the growth policy
19 and then subsequently, this is also updated every year. So
20 this is speaking to trends. And this is the factual
21 numbers that the Board of Education has because they know
22 how many kids are in school. They know how many kids live
23 in a single-family or live in an apartment, et cetera. So
24 this has a number of categories. Glenmont Forest is in the
25 infill category with Glenmont policy area. And then there

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1 is different generation rates per single-family detached,
2 so single-family home, single-family attached of
3 townhouses, multifamily low-rise. That's defined as
4 anything for stories or less. It's low-rise per the county
5 code. And then multifamily high-rise, which is five
6 stories were about. And then there is also rates for
7 elementary school, middle school, and high school. So we
8 took these rates and applied them to a couple of scenarios
9 and then compared them to the surplus as available right
10 now. Where do you want to go next or go to?
11 MS. ROGERS: If you could just walk through the two
12 different analogies and as you do so explain where your
13 analysis may have been conservative or not.
14 THE WITNESS: So we did two scenarios. One is all
15 multifamily, the 2275. We deducted 482 existing out of
16 that total, they will be replaced in the system. And then,
17 we did a scenario since the generation rate is higher for
18 low-rise multifamily, and that's anything four stories or
19 less. We used that as a conservative that's going to
20 generate a higher number. So we used that to calculate our
21 numbers with high school, middle school, and elementary
22 school.
23 MS. ROGERS: Just because I think it will be easier
24 for the Hearing Examiner to follow along, if we could go to
25 page 6 of the Exhibit 82. Page 6 of the PDF, yes. Look at

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1 under subsection E, romanette little i has scenario 1.
2 Thank you. Just a little bit further down. Just a little
3 further.
4 THE WITNESS: Perfect. There you go. So this shows
5 the math. I'm not going to walk through all the numbers,
6 particularly listing through it. But this scenario again,
7 this is the - it's 1792 multifamily units. This is using
8 the low-rise or the higher generation rate for multifamily
9 to be conservative. This shows the generation in the high
10 school that is - go around. In this generates 88 students,
11 or seats where there is a surplus or a capacity of 114
12 seats available in the high school. The middle school
13 generated 61 seats where there is capacity or a surplus of
14 85 seats currently. And then, the elementary school
15 generates 119 seats where there is an 80-seat capacity.
16 That 119 is over the surplus or the capacity but it does
17 not get to the trigger for a Tier 1 payment. So there is
18 capacity in that school and again, said a two to
19 three - the UPP is a two-step payment. It's 105, 120, 135
20 percent over the capacity. But then, each of those - that
21 yearly test there's another number that you have to look at
22 to see whether you get to that Tier 1 threshold. And so
23 we're not approaching that because the Tier 1 threshold is
24 154 seats and we're generating 119 seats. So we're
25 within - we not trigger an extra payment on the impact

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1 taxes and there's capacity in that school. And then -
2 MS. ROGERS: If we can go down one page.
3 THE WITNESS: The second scenario. So this in many
4 ways is more conservative. We looked at - and again, all
5 these numbers will be trued up when we go to the
6 preliminary plan and whether or not the - if it's another
7 year that passes we will have to work with the numbers that
8 are publishing back in '27, or '28 and so forth depending
9 on when the preliminary plan is approved. But what we did
10 is we took another scenario or look. What's more
11 conservative? What would generate more students.
12 Townhouses generate more students than multifamily. It's a
13 higher generation rate. So same methodology. We took out
14 the 482 students. We added in 250 townhouse and then we
15 were at 1543 multi-families. And then again, so high
16 school, this generates 110 students and we have 114 student
17 capacity, so that's within the surplus. Middle school
18 generated 75 students. That's within the 85-seat capacity.
19 And then elementary school, we're up to 104, we will round
20 up to 144 students. And that's above the surplus capacity
21 but it's below the 154-seat Tier 1 premium payment
22 threshold. So there is capacity for high school. Both
23 scenarios are plausible. There's capacity that exists.
24 The only one that does go over the existing capacity or
25 surplus is elementary. But that's also below the premium

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1 payment threshold. So schools are adequate on these two
2 scenarios and we're in the preliminary plan with an APF
3 approval that's where these numbers will be finalized.
4 MS. ROGERS: In your professional opinion,
5 you stated that these were conservative analyses. In your
6 professional opinion would it be possible to actually
7 maximize density on this project while only developing
8 multifamily low rise and townhouse product types?
9 MR. UNTERBERG: It would not. So the 2275
10 units is buildings that approach that 75 foot height to get
11 that density. If we do primarily low rise apartments which
12 are in that four or less or we do more townhouses, that
13 density number is going to go down. And what that number
14 is we don't know yet, but we will not reach the 2275 unit
15 or maximum.
16 MS. ROGERS: Have you reviewed the staff
17 report that was provided by Park & Planning technical staff
18 which are exhibits 75-A and B in the record?
19 THE WITNESS: Yes.
20 MS. ROGERS: And what did you find in
21 reviewing those staff reports?
22 THE WITNESS: Well, their first document
23 they address schools. But they also - and they went even
24 more conservative because they took the 200 - sorry, 2275
25 maximum unit count as multifamily. They used low rise.

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1 But then, they added 250 townhouses to get over 2500 units.
2 That was not our intent. The intent with the FAR zone and
3 previous traffic studies, our maximum unit count would be
4 2275. And the first report from Park & Planning they added
5 250 townhouse units. So they went with a higher number.
6 They concluded that schools were adequate and again,
7 there's more capacity in the high school and middle school.
8 But they also showed that a premium payment would be
9 triggered. A Tier 1 would be triggered with that higher
10 number. We're not going to get to that higher number so
11 that's a different - they did amend that with the second
12 report. And I think they acknowledged that there is
13 capacity with the lower number, the 2275.
14 HEARING EXAMINER: So if I'm hearing you correct, can
15 you - it sounds like there were extra conservative, but if
16 they had done - because you wouldn't be doing those extra
17 250 townhouses. If you took those out their analysis -
18 THE WITNESS: They'd be similar numbers to what's in
19 our report.
20 MS. ROGERS: And their updated report which is 75-B,
21 does that reflect your analysis?
22 THE WITNESS: Yes. So we wanted to clarify that. But
23 the - yeah. All of the scenarios there's capacity and
24 tools are adequate. That unit count is not correct on the
25 first Park & planning assumption.

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1 MS. ROGERS: So in your professional opinion will
2 there be adequate school capacity for the proposed
3 redevelopment?
4 THE WITNESS: Yes. And you can see there is a surplus
5 of seats in most of the schools right now. And again,
6 those numbers were finalized and approved with the prelim
7 plan. We would also have an APF, adequate public
8 facilities, approval.
9 MS. ROGERS: And just - and just to reiterate that
10 we've obviously noted our objections to the testimony
11 regarding walkability. But knowing that that's not going
12 to be - the hearing examiner is reserving a ruling on that,
13 I will proceed with a line of questions regarding
14 walkability. Mr. Unterberg, in addition to your work on
15 compatibility and school adequacy, have you evaluated
16 walkability and pedestrian access between the Glenmont
17 Forest property and the Glenmont Metro station?
18 THE WITNESS: Yes, we have.
19 MS. ROGERS: And can you just describe your
20 familiarity with the existing pedestrian environment
21 between the Glenmont Forest property and the Metro station?
22 THE WITNESS: So starting with Glenmont Forest, which
23 is an existing community, we will redevelop that into a
24 grid of streets. All those streets will have sidewalks and
25 bikeways in compliance with the code and the different

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1 master plans. The primary access point outside the
2 community to the south there will be a path or a bikeway
3 that will get you over to Wheaton Regional Park. So that's
4 one component. The - sorry. The road connection to
5 Georgia Avenue connects to the sidewalks along Georgia
6 Avenue. There is a sidewalk that crosses the interchange
7 and goes all the way up Georgia Avenue to the metro
8 station. That's about a half a mile which in the tree plan
9 there it's about a 10-minute walk. When the two access
10 points that connect with Randolph Road there's existing
11 sidewalks on Randolph.
12 MS. ROGERS: It may be helpful for your testimony for
13 the record, as I mentioned earlier, we have put together an
14 additional exhibit -
15 THE WITNESS: That's in the back up there.
16 (Crosstalk)
17 THE WITNESS: - to the pedestrian ones -
18 (Crosstalk)
19 MS. ROGERS: - that better illustrates pedestrian
20 connectivity that we'd like to introduce into the record.
21 Can you bring up one of the copies that we -
22 MR. ROBINS: I'd rather give it to him. I saw it
23 poking out there. I did.
24 HEARING EXAMINER: Mr. Unterberg, you can move it to
25 the table too.

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1 THE WITNESS: Oh, no. So we have two sides also.
2 There's three full size. I think we -
3 MS. ROGERS: The same?
4 THE WITNESS: Yeah. I guess to show -
5 MS. ROGERS: So in light of the testimony on
6 walkability not yet being determined by the Hearing
7 Examiner and still writing your report, we would like to
8 introduce this additional exhibit. Mr. Unterberg will
9 testified to regarding pathways and walkability between the
10 Glenmont Forest property and the metro station.
11 HEARING EXAMINER: I guess give Ms. Rosenfeld an
12 opportunity to take a look and let me know if you've got
13 any objections.
14 MS. ROSENFELD: Sure. Ms. Hearing Examiner before you
15 make a decision on this exhibit just I see this would be
16 proposed Exhibit -
17 HEARING EXAMINER: 89.
18 MS. ROSENFELD: 89. I do have a question. There's
19 a - along the bottom near the center of the exhibit there
20 is an Erskine Avenue shown and Street 1. Erskine goes to
21 Glenallen and Street 1 goes to Randolph. I just would like
22 to know is that in your current plan? Is that built? What
23 is the status of that street condition?
24 THE WITNESS: I can answer that. The - this is a
25 proposed street connection from - well, these are new

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1 streets with the connection to Erskine Avenue which is on
2 the current closing panel plan. And this would be that
3 connection recommended in the Master Plan. So if Erskine
4 is built this is one option to walk to the Metro.
5 MS. ROSENFELD: If what is built?
6 THE WITNESS: If Erskine Avenue is built. If Erskine
7 Avenue is not built this would not be a - you know a
8 walkable access route to the Metro.
9 MS. ROSENFELD: E-R-S-K-I-N-E. And this may just be a
10 faulty memory on my part. I thought that Erskine - it had
11 been decided that Erskien would not be extended.
12 THE WITNESS: No.
13 MS. ROSENFELD: Has that decision been made?
14 THE WITNESS: The decision will be made at the
15 preliminary plan and the option to restudy that based on
16 need. It was deferred to the preliminary plan. So if it
17 is not needed for traffic then we do not need to connect to
18 Erskine. So that's a pending decision with the planning
19 board is how the resolution went forward from the council.
20 HEARING EXAMINER: Given the new exhibit would you
21 like a five-minute recess to confer with your client?
22 MS. ROSENFELD: I would. Yes, thank you.
23 HEARING EXAMINER: Why don't we take a 10-minute
24 recess. We can reconvene at about 11:50.
25 (Off the record at 11:37 a.m., resuming at 11:50 a.m.)

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1 MS. ROSENFELD: Yes, we did and thank you. I
2 appreciate the time to consult with my clients. Just with
3 the recognition that at this moment there's not a through
4 connection between Street 1 and Randolph Road to Glenallen
5 and Erskine that this is not reflecting current conditions.
6 With that clarification in the record we don't have any
7 objections to this exhibit.
8 HEARING EXAMINER: I think that - so I'm going to
9 admit that into evidence as Exhibit 89 with the
10 clarification noted that this is not reflecting current
11 conditions but a possible road. Yeah.
12 (Whereupon Exhibit 89 was admitted into evidence.)
13 MS. ROSENFELD: Thank you.
14 HEARING EXAMINER: And if we could kindly also have an
15 electronic version of it after -
16 MS. ROGERS: Yeah.
17 HEARING EXAMINER: You may proceed.
18 MS. ROGERS: Thank you very much. And I would just
19 note Ms. Rosenfeld's point about Street 1 and Erskine is
20 accurate. I'll just note that as Mr. Unterberg will
21 testify the remaining access points do reflect current and
22 proposed conditions. So Mr. Unterberg, with this new
23 Exhibit 89 in the record can you pick up where you left off
24 in terms of describing just the general pedestrian
25 environment between the Glenmont Forest property and the

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1 metro station?
2 THE WITNESS: Yes. And just to clarify that what we
3 are showing on Glenmont Forest is the proposed situation
4 and the proposed - the access points are existing right
5 now. But these - this reflects the proposed streets that
6 will have sidewalks on both sides. And also there's the
7 associated bike paths on these roads so that's - this is
8 the proposed. Now, I'm just going to go from left to
9 right. And we looked at how do you walk to the metro from
10 Glenmont Forest and then, this is a walkable community,
11 Glenmont sector plan talked about walkability and the asset
12 of the metro and how it's convenient to walk to it. So the
13 orange alignment or route is along Georgia Avenue. It's
14 from our - our street names are confusing because they
15 interconnect. But yeah, Street 1 is on Georgia Avenue.
16 This is a little over 2300 feet from the access point along
17 the sidewalk up to the metro on Georgia Avenue. That's
18 just under a half a mile; 2600 feet is about a half a mile.
19 So that's a 10-minute walk. That's an industry standard.
20 We talked about drive before. We talked about 15 minutes
21 living which that 15-minute walk which is more into the
22 three-quarters of a mile range. So we're within that. Go
23 to the green route. This would be in the middle of the
24 site on Randolph Road. You would cross at the light and
25 then you would go west along Randolph Road. And then up

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1 Georgia Avenue again to the metro. That's just about 25,
2 2471, just about 2500 linear feet. Again, just short of a
3 half mile or that 10-minute walk. Then we looked at
4 western routes and particularly there's been discussion
5 about a cutway - or a shortcut through Greek - Glen Waye
6 Gardens. But what we also did is we took - we took on a
7 different access points and so the red route would be from
8 our access point on Randolph Road. There's no light at
9 this location, six lanes of traffic so you're not going to
10 cut across the road. There's also a guard rail in this
11 location. So we went east to the intersection with
12 Glenallen. There's a traffic signal there with crosswalks
13 going across. Came back to Greenery Lane, went up. And
14 then when you get up, that's Layhill Road to the north,
15 there's a cross signal which is a light controlled crossing
16 for pedestrians. So if you push the button the light turns
17 red and the cars stop and then you cross at that location.
18 So but that's a little bit offset from Greenery so you have
19 to come back, cross Layhill and then the shortest route is
20 to go north a little bit and then there's a path
21 that - with the entrance to the metro garage. There's a
22 walk that goes down and goes from east to west and then you
23 can go back and walk along Georgia Avenue to get to the
24 metro. That's about 3600 linear feet. So that's pushing
25 more to three-quarters of a mile. So that's a longer

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1 route. And last, but not least is the blue which this
2 assumes Erskine would be rebuilt with sidewalks and it
3 would be an access route to Glenallen. So you would walk
4 east along Erskine, come up to Randolph, cross with the
5 light, it's a safe crossing, and then walk up Glenallen
6 with the sidewalk there up to Layhill and then come south
7 on Layhill and then similar to the red route you would take
8 the sidewalk under that and over to metro entrance. That's
9 the longest route at 3954 feet. So the two on the left are
10 shorter. They're within that half mile 10-minute walk.
11 The two are not direct. They're - you have to walk over
12 and then come back with the red and the blue they're
13 longer. So that's - and you know, those were typical
14 options that we saw that would be walkable. They're all
15 within that half mile to three-quarters of a mile walk.
16 But the ones the - if I was walking from Glenmont Forest I
17 would make more of a direct route to Georgia Avenue which
18 is the - these are the ones with the green route versus
19 backtracking and walking away from metro and then coming
20 back to metro. And with that I'll leave it there.
21 MS. ROGERS: Thank you. So in your professional
22 opinion, the route that uses Georgia Avenue, are those the
23 most direct routes to the metro station on the Glenmont
24 Forest property?
25 THE WITNESS: Yes, they are.

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1 MS. ROGERS: And the red route that goes up Greenery
2 Lane, does - is that route direct in your professional
3 opinion?
4 THE WITNESS: It is not direct and there's two major
5 road crossing that I would not cross the road at that
6 location. I would not cross Randolph Road. I'd walk
7 around as shown. And then, at Layhill Road there is a
8 signalized - a signal there. But then you have to - it's
9 not direct. You have to walk down, over, and then back for
10 the shortest route.
11 MS. ROGERS: And you mentioned this, but does your
12 plan in recommending a rezoning for this property make any
13 reference to its walkability to the metro station?
14 THE WITNESS: Yes, it does. And let's see. We've got
15 the page here, which is page 29. And that's why we want
16 density here, the metro's here, that's an asset. We want
17 to get people to the metro. The Glenmont Shopping Center
18 will be redeveloped with gridded streets so that's going to
19 make, once that's redeveloped other alternatives of how you
20 can walk to the metro. And that's also consistent. It's
21 mentioned in the master plan on page 29. It's also
22 consistent with Thrive 2050 with the 15 minute community
23 because all these walks are within that 15 minute walk.
24 MS. ROGERS: And if those internal street and block
25 lay out on the Glenmont Forest property, does that support

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1 the walkability and the access to metro that you've
2 testified to?
3 THE WITNESS: Yes, it does. And then we've created
4 that grid internally too and you will have the choice of
5 these different access points to continue to walk north to
6 the metro.
7 MS. ROGERS: Will this project provide streetscape
8 improvements on Randolph Road and Georgia Avenue when the
9 property is finished?
10 THE WITNESS: Yes.
11 MS. ROGERS: And will those improvements support a
12 more walkable pedestrian oriented environment?
13 THE WITNESS: Yes. And part of the APF, adequate
14 public facilities, again at preliminary plan, there will be
15 a traffic study. And part of that is the local area review
16 requirement which has a menu of requirements that you have
17 to review. And that has four components. It's a vehicle
18 test, the traditional traffic study. It's a transit test
19 which talks to bus access but also in more particular this
20 has metro. So we have transit heavy rail available to the
21 site and it's walkable. And then, there's also a
22 pedestrian test. So any internal but also abutting frontage
23 and then typically within a mile so it's a pretty broad
24 spectrum we have to evaluate the adequacy of sidewalks,
25 handicap ramps, whether they're wide enough, the

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1 streetscape under that test at preliminary plan and then,
2 the fourth component is bikes. So bike routes and how they
3 comply with the bike master plan also part of that test.
4 So all four of those would be part of the local area
5 review requirement at APF and that again, will be finalized
6 and mapped out at preliminary plan. And so there's
7 frontage improvements and then bikes, sidewalks, transit,
8 and vehicle part of that test and requirement.
9 MS. ROGERS: And it's assessed in detail in the
10 underlying record. Will the Applicant be contributing
11 money towards improvement to that infrastructure off of the
12 property and frontage?
13 THE WITNESS: Yes. And that's - there's a formula to
14 what you're share is. And what you're contributing based
15 on your frontage and your density. Your number of units.
16 And then, it comes back to what's adequate for - and who
17 would make that improvement in the public right-of-way and
18 whether it's shared with other property owners. So
19 there's - it gets pretty complex. But say a sidewalk is
20 only four feet wide and it needs to be wide - six feet wide
21 whether the Applicant will make that upgrade on their
22 frontage or whether there would be a payment for other
23 sidewalks that help complete this network will be part of
24 that study at preliminary plan. And whether it's an actual
25 improvement or it's a payment that will be determined at

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1 that time.
2 MS. ROGERS: So your testimony today is based on
3 existing conditions but at time of preliminary plan - will
4 there be potential changes in terms on the surrounding
5 infrastructure on Georgia Avenue?
6 THE WITNESS: Yes. And so there's sidewalk right now
7 that abuts the curb and the ideal situation is that you
8 have a tree panel. So those improvements will be outlined
9 and whether they are required or not required will be part
10 of the preliminary plan review.
11 MS. ROGERS: So in your professional opinion is it
12 possible that there is improvements that are made that
13 even - that makes the connection on Georgia Avenue even
14 more desirable from a pedestrian walk -
15 (Crosstalk)
16 THE WITNESS: Yes, very much so.
17 MS. ROGERS: And that will be done at the time of
18 preliminary plan?
19 THE WITNESS: Correct. And that ties back to the
20 adequate public facilities review component and approval of
21 the preliminary plan.
22 MS. ROGERS: In your professional opinion will the
23 project improve or worsen conditions for pedestrians and
24 their access to metro?
25 THE WITNESS: It will improve because the routes will

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1 be upgraded as needed and whether it's as simple as
2 widening a sidewalk or adding street trees those will all
3 be part of that process.
4 MS. ROGERS: And those enhanced pedestrian connections
5 that you just testified to, do those only benefit residents
6 of the Glenmont Forest property or do they benefit others?
7 THE WITNESS: Those, they benefit everyone within this
8 vicinity in addition to the Glenmont Forest.
9 MS. ROGERS: And in your professional opinion as a
10 land planner, is the projects approach to walkability and
11 metro access consistent with the county's analysis under
12 the Glenmont sector plan Thrive 2050, the pedestrian master
13 plan and other functional plans that you testified to
14 today?
15 THE WITNESS: Yes. They can only improve and as each
16 of these different areas, particularly the shopping center
17 is improved or redeveloped they improve. And that - the
18 connections improve and then the adequacy of some of the
19 existing facilities, they will also be studied and improved
20 if needed.
21 MS. ROGERS: And just to reiterate your testimony
22 previously, how many lanes is Randolph Road?
23 THE WITNESS: Randolph Road is six lanes plus turn
24 lanes at the signals.
25 MS. ROGERS: And is it a divided highway along the

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1 property's frontage?
2 THE WITNESS: Yes.
3 MS. ROGERS: And in your professional opinion will
4 pedestrians cross Randolph Road only at signal light
5 intersections or elsewhere along Randolph Road?
6 THE WITNESS: They should not cross Randolph Road
7 physically from Georgia Avenue to our street in the middle
8 of the proposal. It's - physical you're not able to cross
9 Randolph Road because the road goes under Georgia Avenue.
10 So there's a physical barrier there, a dropdown of traffic
11 as you go from that middle point east to Glenallen, again
12 it's six lanes. There's a guardrail and a median it's
13 dangerous to cross Randolph Road, plus that physical
14 barrier with the guardrail.
15 MS. ROGERS: And there are - are there marked
16 signalized crossings at the Glenmont Circle shopping center
17 and Georgia Avenue?
18 THE WITNESS: Yes. The three lights on Randolph Road
19 which includes Georgia Avenue, there are marked crosswalks,
20 handicap ramps really at the shopping center signal and
21 then, likewise, at the Glenallen signal that there are
22 crosswalks, handicap ramps that coordinate with those
23 signals.
24 MS. ROGERS: In your professional opinion is it
25 speculative to assume that pedestrians as the Plaintiff

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<p style="text-align: right;">93</p> <p>1 suggest will walk through Greenery Lane to access the 2 metro? 3 THE WITNESS: It is. That's not - it's been noted as 4 a shortcut. I don't think it's a shortcut because the 5 shorter route is up Georgia. The - some people may use 6 that but that - from Glenmont Forest I would not walk that 7 route. 8 MS. ROGERS: From a standpoint of walkability is there 9 anything incompatible with the Glenmont Forest property and 10 proposed development and the Glen Way Gardens Condominium 11 across the street? 12 THE WITNESS: No. And the existing sidewalks connect 13 to the proposed Glenmont Forest redevelopment. And then, 14 again, as a shopping center redevelops that gives even more 15 pedestrian connections to connect this route. But as 16 proposed it is compatible. 17 MS. ROGERS: Thank you. I'm going to move on to some 18 of the necessary findings for a local map amendment. As 19 you know, a zoning map change to apply floating zone 20 requires approval of the map amendment. District council, 21 must in approving that, make specific findings that are 22 outlined in Section 59-7.2.1 E of the zoning ordinance. 23 Have you had an opportunity to review these criteria? 24 THE WITNESS: Yes, I have. 25 MS. ROGERS: I'm going to touch on a few that are at</p>	<p style="text-align: right;">95</p> <p>1 center's redevelopment. As noted, housing investment and 2 connectivity. And then - yeah, the Council had previously 3 broadly noted that adequate public facilities under 4 the - they made a finding that adequate other facilities as 5 part of the Council's determination that the Applicant 6 shall be in the public interest. And then, part of the 7 remand, it talks about school capacity so adequate schools 8 are in the public interest and testified that they are and 9 that's a good thing. And then, also, the proposed 10 development is compatible, particularly with the 11 neighboring properties or the adjacent properties north of 12 Randolph Road. 13 MS. ROGERS: Section 7.2.1 E 2. c. requires proposed 14 floating zone plan satisfy the intent, purpose and 15 standards of CR floating zone to comply with the purpose of 16 the standard zone requirements of the zoning ordinance. 17 In your professional opinion is this finding satisfied? 18 THE WITNESS: Yes. And we had previous testimony and 19 then the review by the Hearing Examiner and then the 20 subsequent approval of the floating zone, it did meet those 21 requirements. 22 MS. ROGERS: And specifically, regarding the intent of 23 the zoning ordinance under section 5.1.2 C it requires 24 established neighborhoods be protected. In your 25 professional opinion does the proposed LMA meet that</p>
<p style="text-align: right;">94</p> <p>1 issue with this remand as identified in a previous email 2 from Hearing Examiner Burn. Section 7.2.1. E 2. b. 3 requires the proposed floating zone plan further the public 4 interest. The Court has in its order, has seen holes 5 within that finding in the public interest. In your 6 professional opinion is the project in the public interest 7 and is the district council able to make that finding on 8 remand? 9 THE WITNESS: Yes, it is in the public interest and 10 then we can go through individual components if you like. 11 MS. ROGERS: If you can just touch on them at a high 12 level and reiterate your testimony? 13 THE WITNESS: Okay. So public interest there's a 14 number of, quote, sector plans, from the different 15 functional plans, the zoning code, et cetera. So go 16 through a couple of these. New housing is in the public 17 interest. Redevelopment, and investment in the community 18 is to the public interest. Additional market rate units, 19 but also added affordable housing, particularly going from 20 the requirement of 12-1/2 percent MPD to 15 percent MPDs. 21 Any proposed street scape improvement, sidewalks, street 22 trees, et cetera along Georgia or Randolph are to the 23 public and the overall community interest versus just 24 Glenmont Forest. The improved connectivity with the 25 shopping center and coordination with the future shopping</p>	<p style="text-align: right;">96</p> <p>1 intent? 2 THE WITNESS: Yes. And a couple of items. So the 3 property will remain multifamily. The density is 4 increased. Part of that is that based on Thrive and the 5 sector plan the land plan embraces the 15-minute living 6 compact communities. This proposal is supported by all 7 garage - parking garage parking. The buildings themselves 8 are pushed to the edges of the block, the internal block, 9 the grid that we set up. Those buildings are pushed up to 10 Randolph Road. They are pushed up to the internal street. 11 They're pushed up to Georgia Avenue. And this is the - one 12 of the components of Thrive. It's one of the urban design 13 components with working with Park & Planning that the 14 buildings face the streets. They embrace the streets so 15 you have those eyes on the street in the public realm. And 16 so that's how this land plan was put together which helps 17 to establish this neighborhood and the overall - with the 18 intent of the sector plan and the zoning ordinance. 19 MS. ROGERS: And in furthering that intent to protect 20 established neighborhoods is it your professional opinion 21 that the height and density proposed in this project are 22 compatible with and will protect the surrounding 23 neighborhood? 24 THE WITNESS: Yes, they're compatible. And they're 25 consistent with the sector plan and the different</p>

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1 recommendations of height in the sector plan.
2 MS. ROGERS: And -
3 COURT REPORTER: Can you repeat the last thing you
4 said?
5 THE WITNESS: So yes, they're compatible based on
6 the - and comply with the sector plan and the zoning
7 ordinance. I think that's what I said.
8 MS. ROGERS: I would note for the record I'm only
9 asking for the intent and purposes that specifically relate
10 to compatibility on this remand. Regarding the purpose of
11 the floating zone section 5.3.2 C establishes a purpose to
12 provide mixed use development that is compatible with
13 adjacent development. In your professional opinion is this
14 purpose also satisfied with the proposed rezoning?
15 THE WITNESS: Yes, it does.
16 MS. ROGERS: And section 7.2.1. E 2 d requires that
17 the proposed floating zone plan be compatible with existing
18 and approved adjacent development. Can you please explain
19 how, in your professional opinion, the project satisfies
20 this necessary finding?
21 THE WITNESS: Yes. And there's - as previously
22 testified there's specifics in the 2013 sector plan, also
23 the 2014 design guidelines for Glenmont that talks about
24 the different neighborhoods and then how those are to be
25 assembled and then what heights are appropriate and then

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1 what heights are to be restricted. In the case of Glenmont
2 Forest the eastern edge of the property that 100 feet,
3 which is proposed as a binding element, we would restrict
4 the height to 45 foot which would be in compliance with the
5 zoning ordinance with the adjoining, abutting residential
6 R90 property. The rest of the property was deemed
7 compatible or consistent with the 75 foot that was
8 established with the approval of the second plan.
9 MS. ROGERS: And based on your - just to reiterate
10 does the district council in making that recommendation you
11 just testified to regarding rezoning this property deem it
12 to be compatible with Glen Way Gardens?
13 THE WITNESS: Yes. And as noted before, page 31 of
14 the sector plan summarizes the recommendation for Glen Way
15 Gardens and specifically talks about their existing
16 condition, that they would not redevelop but the adjacent
17 properties, the recommendations, the zoning are compatible
18 with Glen Way Gardens.
19 MS. ROGERS: Given the location of Randolph Road
20 between the Glenmont Forest property and Glen Way Gardens
21 is there a substantial physical buffer between the two
22 properties?
23 THE WITNESS: Yes there is and it's primarily from 140
24 foot, right-of-way master plan right-of-way for Randolph
25 Road. The first Glen Way Gardens condo building is set

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1 back 70 feet so you're over 200 feet so that is substantial
2 as far as the distance between the two properties, and
3 particularly the existing building and then the future
4 buildings to be built.
5 MS. ROGERS: In your professional opinion, looking at
6 that special relationship between the two properties Glen
7 Way Gardens and Glenmont Forest is - are there limited
8 view corridors between the two properties?
9 THE WITNESS: Yes. And that's about the frontage
10 along Randolph Road for the - it's about 260 feet Glenmont
11 Forest where you go across the street to Glen Way Gardens.
12 One hundred feet of that is restricted to 45 foot in
13 height. That leaves 120 feet of frontage which is a narrow
14 corridor for a viewshed and then the rest of the frontage
15 we have the shopping center across the street. So that is
16 a limited viewshed from Glen Way Gardens to the 75 foot
17 height versus the 45 foot that's restricted for that 100
18 foot eastern edge of the Glenmont Forest.
19 MS. ROGERS: So evaluating both the physical special
20 relationship, the existing and proposed view corridors, the
21 sector plan recommendations specific for the Glenmont
22 Forest property and in the Glenmont Sector plan as a whole,
23 is it your professional opinion that the proposed
24 development on Glenmont Forest property is compatible with
25 existing and approved adjacent development?

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1 THE WITNESS: Yes, it is compatible.
2 MS. ROGERS: And in your professional opinion does the
3 proposed floating zone plan satisfy all applicable code
4 requirements?
5 THE WITNESS: Yes.
6 MS. ROGERS: And do you agree with the findings made
7 by Park & Planning staff in their supplemental reports in
8 the record at Exhibit 75-A and B?
9 THE WITNESS: Yes. And they found, particularly, that
10 the property is compatible with the areas to the north.
11 Both the shopping center and Glen Way Gardens. They also
12 found that there's adequate school capacity for the
13 proposed development.
14 MS. ROGERS: That concludes our questioning at this
15 time.
16 HEARING EXAMINER: Thank you. Do you want to go over
17 to cross-examination? I'm happy to proceed. So I would
18 like to do cross-examination. If we are likely to take
19 more than an hour, then at that point I'll consider a lunch
20 break. Does that sound reasonable?
21 MS. ROSENFELD: That sounds reasonable.
22 HEARING EXAMINER: Okay.
23 MS. ROSENFELD: Thank you. Mr. Unterberg, I'd like to
24 start with what has been marked as Exhibit 89, I believe.
25 The handout that you just provided. You had testified that

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<p style="text-align: right;">101</p> <p>1 there is an existing guardrail in Randolph Road. I believe 2 beginning with the stoplight that's in the middle of the 3 frontage of the Forest Grove - the Glenmont Forest property 4 towards Glenallen. Did I understand that correctly? 5 THE WITNESS: Yes. There is a guardrail. 6 MS. ROSENFELD: And where is that guardrail located? 7 THE WITNESS: It's in the median and it goes 8 approximately from the middle stop line to halfway to two- 9 thirds down. It does not go all the way to Glenallen 10 intersection. 11 MS. ROSENFELD: Does it end in the vicinity of the 12 entry to Greenery Lane? 13 THE WITNESS: It does. 14 MS. ROSENFELD: And do you - have you observed people 15 crossing Randolph Road at that location? 16 THE WITNESS: I have not the couple of times I've 17 driven that recently. 18 MS. ROSENFELD: How much time have you spent out 19 there? 20 THE WITNESS: Last week in particular I was out there 21 a number of times driving the site. And a couple of 22 different times during the day. 23 MS. ROSENFELD: Okay. 24 THE WITNESS: Before that periodically. 25 MS. ROSENFELD: And was it rush hour? Was it middle</p>	<p style="text-align: right;">103</p> <p>1 probably 100 to 125 feet, without a specific measurement. 2 MS. ROSENFELD: Do you have a scale? I see this is a 3 scaled drawing. 4 THE WITNESS: I do. 5 MS. ROSENFELD: Could you tell me? 6 THE WITNESS: I could go get my scale. 7 MS. ROSENFELD: Okay. Pop quiz. 8 THE WITNESS: Well, this is to - so the guardrail is 9 shown on this base map which is this - these dotted lines. 10 It ends approximately in this location. 11 HEARING EXAMINER: And for the record, can you 12 describe what you're pointing to, please? 13 THE WITNESS: So I'm pointing to which is - 89. 14 Exhibit 89 and it's roughly across from where Greenway 15 Garden exits onto Randolph Road. And there are dots on the 16 exhibit that show the guardrail. And that distance is to 17 the blue line, which is roughly the crosswalk at the 18 intersection of Glenallen and Randolph is approximately 180 19 feet, which is also approximately the same, a little bit 20 less, the redline component that is on Randolph, the north 21 side of Randolph, is approximately 180 feet also. 22 MS. ROSENFELD: So if someone were to cross Randolph 23 Road, recognizing that's not a legal pedestrian movement 24 but if someone were to choose to do that how much distance 25 would that take off of your pink line? The three sixes?</p>
<p style="text-align: right;">102</p> <p>1 of the day? Do you know what time of day it was? 2 THE WITNESS: The first time was later afternoon 3 approaching rush hour. The second time was mid-morning. 4 And that was last week. 5 MS. ROSENFELD: Did you notice a lot of pedestrians 6 out at that time? 7 THE WITNESS: Not a lot of pedestrians at that time. 8 MS. ROSENFELD: Either visit? 9 THE WITNESS: Correct. 10 MS. ROSENFELD: And when - currently there is an 11 existing development out there at the property; is that 12 correct? 13 THE WITNESS: Correct, there's 482 existing units on 14 Glenmont Forest. 15 MS. ROSENFELD: And did you observe any of those 16 residents walking toward the metro at the time that 17 you - if you would know? 18 THE WITNESS: There were people walking on Georgia 19 Avenue closer to the metro. I could assume they're going 20 to the metro, but further down where they were walking to I 21 could not discern. 22 MS. ROSENFELD: Would you be able to tell me the 23 approximate distance from the end of the median to 24 Glenallen Avenue? That additional distance? 25 THE WITNESS: I can guess that distance. It's</p>	<p style="text-align: right;">104</p> <p>1 THE WITNESS: If they were to cross at that location, 2 well it's 180 feet twice so 360 feet. 3 COURT REPORTER: Excuse me. May you move the paper 4 off my mic? Thank you. 5 THE WITNESS: I'll confirm my math. So it would be, 6 like we show in the exhibit is 3,606 feet and if we 7 subtract 360 feet that length would be 3,246. 8 MS. ROSENFELD: And then I would have the same 9 question up at Layhill. The Layhill Road crossing to the 10 north. If people were to go from Greenery Lane and cross 11 Layhill Road and pick up the pink line on the other side 12 what would that do the overall distance? How much distance 13 would that cut off this pathway? 14 THE WITNESS: That distance if you don't use the 15 Hawk - the crossing at the Hawk signal is about 130 feet. 16 The - it's more complicated because there is some fencing 17 in the median and there's a grade change in the median. 18 So - but that 130 feet times two because the east side of 19 Layhill and the west side of Layhill would come off. So 20 that's 260 feet. It would go to 2986 feet if my math is 21 correct. 22 MS. ROSENFELD: And what does that do to the 23 walkability of this route? 24 THE WITNESS: It makes it shorter. Makes it more 25 dangerous because you're jay walking or crossing the road</p>

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1 without a signal and/or a crosswalk.
2 MS. ROSENFELD: And for people who, again, would be at
3 this Street 1, if they were to then walk from the pink dot
4 at the end of Street 1 and follow the green route what
5 would happen to the distance of that green route for the
6 people who were in that easternmost building?
7 THE WITNESS: I'm getting my exercise.
8 MS. ROSENFELD: You are. You'll get your steps in.
9 THE WITNESS: So the green route would become longer
10 and let me go measure that.
11 MS. ROGERS: Ms. Rosenfeld could you clarify what you
12 asked him to make sure I'm following?
13 MS. ROSENFELD: Sure. From the pink dot at the end of
14 Street 1 connect that to the green route if that's the
15 route they would take -
16 THE WITNESS: Going west.
17 MS. ROSENFELD: - going west. And then north of the
18 signal and then follow the green route up to the metro.
19 THE WITNESS: That is approximately 320 feet, 320 plus
20 the 2471 is 2791 feet.
21 MS. ROSENFELD: And you've made no personal
22 observations as to which of these two routes current
23 residents -
24 THE WITNESS: Correct. Correct, we have not studied
25 that.

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1 MS. ROSENFELD: Do you happen to know the signal
2 timing on the light at the street west of Street 1 at
3 Randolph?
4 THE WITNESS: I do not.
5 MS. ROSENFELD: Ms. Hearing Examiner, if I may have
6 just a moment?
7 HEARING EXAMINER: You can go off the record while she
8 takes a moment. Ready?
9 MS. ROSENFELD: Yes, thank you. This Exhibit 89 shows
10 several groups of buildings fronting on Randolph Road. And
11 behind Street 1 where it loops towards the rear of the
12 property there are other proposed structures behind Street
13 1. Is that correct? To the south of Street 1? Southwest.
14 THE WITNESS: Yes.
15 MS. ROSENFELD: Do you have any opinion as to which
16 route those residents might choose as between the green or
17 the pink? Would one be shorter than the other?
18 THE WITNESS: Yes. If you live on the left-hand side
19 the green is shorter. And it would - actually if you walk
20 from the pink dot in my opinion it would still be shorter
21 to take the green route versus going to the east and taking
22 the red route or the pink route.
23 MS. ROSENFELD: And I see here that you also have
24 shown the distance - the blue dot going from Erskine up to
25 the metro which is the longest route to the east. Do you

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1 have any reason to think that anybody would be taking that
2 route?
3 THE WITNESS: That's probably the least desirable
4 route. It's the longest route and I wouldn't - again I'd
5 prefer, you know, walking west versus walking away east and
6 then coming back west.
7 MS. ROSENFELD: I have no - okay. Thank you. From
8 here I would like to talk about the school analysis that
9 you did. And I had just some general questions about the
10 underlying numbers that were produced for this. Do you
11 know if when Park & Planning did its school generation
12 rates do you know if they used the average generation rate
13 for the county or do they use the generation rate - do they
14 project based on the specific districts? The demographic
15 of each district?
16 THE WITNESS: Well, they actually do both. There is
17 an average rate for the county. But they do the deep dive
18 into the specific school and then those individual rates,
19 which are the last page of - page 7 of attachment C of our
20 report. Those are specific to the -
21 HEARING EXAMINER: So by your report you're referring
22 to Exhibit?
23 MS. ROGERS: 82.
24 HEARING EXAMINER: Thank you.
25 THE WITNESS: And page 7. The housing type and then

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1 the specific elementary and middle school or high school
2 are used. And that's what we use, the specific rates per
3 that housing type and for the high school or the middle
4 school or the elementary school and not the average for the
5 county.
6 MS. ROSENFELD: And so on this page 7 attachment C of
7 the exhibit that you're referencing. Are those student
8 generation rates based on a countywide average or are they
9 based on generation rates for the particular council metric
10 district that that -
11 THE WITNESS: Well, it's not based on council
12 district. That's a separate, different thing. There's
13 two methodologies. Whether you're an infilled area and
14 that generates a rate number and those are specific as
15 noted for an elementary school rate, a middle school rate,
16 and a high school rate. And that is more urban and, for
17 instance Glenmont is an infill district which is a more
18 urban district or envisioned to be a more urban district
19 based on the corridors to metro, et cetera. And the rates
20 for turnover which is broader with the county which are
21 more residential neighborhoods, those are different
22 generation rates. And that's what specific, depending on
23 what policy area you're in and then what housing type you
24 are and then you go back to what school you're talking
25 about and whether it's high school, middle school, or

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<p style="text-align: right;">109</p> <p>1 elementary school.</p> <p>2 MS. ROSENFELD: In your opinion if a particular</p> <p>3 geographical area is more dense than the countywide average</p> <p>4 would it be fair to conclude that the generation model will</p> <p>5 underpredict the generation rate for the schools?</p> <p>6 THE WITNESS: Say that again, please.</p> <p>7 MS. ROSENFELD: If you're in a geographical area that</p> <p>8 is more densely developed than the countywide average</p> <p>9 development pattern would it be fair to conclude that the</p> <p>10 generation model based on a countywide average would</p> <p>11 underpredict the generation rate for schools in a more</p> <p>12 dense location?</p> <p>13 THE WITNESS: I don't think it underpredicts. I think</p> <p>14 the attempt here is to be more specific with the situation.</p> <p>15 So if it's a high rise multifamily unit in a urban setting</p> <p>16 those numbers are lower based on the Montgomery County</p> <p>17 Public Schools experience with how many kids are generated</p> <p>18 from that class of housing. So it's based on what they</p> <p>19 publish, it's pretty accurate per type versus and how it</p> <p>20 compares to the average is, you know - I don't think you</p> <p>21 can compare the two together or against one another.</p> <p>22 MS. ROSENFELD: And in your opinion is there a</p> <p>23 difference between people generation rate between market</p> <p>24 rate versus affordable housing?</p> <p>25 THE WITNESS: There is no difference or adjustment in</p>	<p style="text-align: right;">111</p> <p>1 to page 29 of that exhibit. In the third full paragraph</p> <p>2 there is - the first sentence of that paragraph in the</p> <p>3 later part of that sentence it says; the property may be</p> <p>4 suitable for future rezoning through a local map amendment</p> <p>5 to CR zone or an equivalent zone to encourage a multifamily</p> <p>6 redevelopment four to six buildings. Where you say it's</p> <p>7 expressly recommended rezoning, wouldn't you agree that the</p> <p>8 sector plan is more equivocal than that? They say it may</p> <p>9 be suitable for future rezoning, correct?</p> <p>10 THE WITNESS: The - if you go to the recommendations,</p> <p>11 which I think is the next page.</p> <p>12 MS. ROSENFELD: There is a recommendation, the first</p> <p>13 bullet at the bottom of page 29. If you could read the</p> <p>14 first, the second sentence under recommendations?</p> <p>15 THE WITNESS: So it says retain the R30 and then these</p> <p>16 properties may be suitable for rezoning via a local map</p> <p>17 amendment.</p> <p>18 MS. ROSENFELD: So again, it's - it's saying it may be</p> <p>19 suitable. It's not specifically compelling or making that</p> <p>20 affirmative statement at that point?</p> <p>21 THE WITNESS: Correct. It also says it's not</p> <p>22 recommended for the rezoning. So it's available to rezone.</p> <p>23 MS. ROSENFELD: Correct. I - correct. It's available</p> <p>24 to be rezoned. And also in your same report on page 8 and</p> <p>25 we're back to Exhibit -</p>
<p style="text-align: right;">110</p> <p>1 methodology. It's just a number of housing units that</p> <p>2 generate a certain number of units. Or a certain number of</p> <p>3 students. And whether expensive housing, low priced</p> <p>4 housing, that that is not part of that methodology.</p> <p>5 MS. ROSENFELD: Do you have any personal knowledge as</p> <p>6 to a discrepancy between the two?</p> <p>7 THE WITNESS: No.</p> <p>8 MS. ROSENFELD: One moment, please. Okay. I would</p> <p>9 like to turn your attention to the November 7 report.</p> <p>10 HEARING EXAMINER: What's your exhibit number so we</p> <p>11 can pull it up?</p> <p>12 MS. ROSENFELD: Give me one moment. Exhibit 82.</p> <p>13 THE WITNESS: What page?</p> <p>14 MS. ROSENFELD: I'd like to start on page 8, please.</p> <p>15 And did you write this report?</p> <p>16 THE WITNESS: Yes, I did.</p> <p>17 MS. ROSENFELD: Okay. So on page 8, the first full</p> <p>18 paragraph it says; as discussed above the sector plan</p> <p>19 expressly recommended rezoning the property to facility</p> <p>20 it's redevelopment with four to six multi-story family</p> <p>21 buildings. And next I'd like us to turn to - do you agree</p> <p>22 with that statement?</p> <p>23 THE WITNESS: Yes. Yes, it's in the report.</p> <p>24 MS. ROSENFELD: Okay. So if we could now turn to the</p> <p>25 sector plan, which is Exhibit 86-A1. And I'd like to turn</p>	<p style="text-align: right;">112</p> <p>1 THE WITNESS: Eight-two.</p> <p>2 MS. ROSENFELD: Eighty-two. You say in making this</p> <p>3 recommendation for the property the district counsel</p> <p>4 already found the rezoning and associated redevelopment to</p> <p>5 be compatible with the Glen Way Gardens condominium. When</p> <p>6 you say, in making this recommendation, you're talking</p> <p>7 about the recommendation on page 29 of the sector plan that</p> <p>8 we just talked about that the properties may be suitable</p> <p>9 for rezoning?</p> <p>10 THE WITNESS: No, I was talking about because the</p> <p>11 rezoning application was approved and so that was what I</p> <p>12 was referring to because the county council did approve it</p> <p>13 prior to the appeal. Or prior to the remand from the</p> <p>14 court.</p> <p>15 MS. ROSENFELD: Are you familiar with why the case was</p> <p>16 remanded?</p> <p>17 THE WITNESS: Yes.</p> <p>18 MS. ROSENFELD: Why was it remanded based on your</p> <p>19 understanding?</p> <p>20 THE WITNESS: Well, two specific, for school adequacy</p> <p>21 and then the further discuss compatibility with the proper</p> <p>22 zoning.</p> <p>23 MS. ROSENFELD: And you know why the judge remanded</p> <p>24 for further proceedings on those two issues?</p> <p>25 THE WITNESS: Well, that they did not or they did not</p>

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1 cover them more specifically. So.
2 MS. ROSENFELD: Is it your understanding that there
3 was not evidence in the record to support the district
4 council's finding?
5 THE WITNESS: I believe there was based on the sector
6 plan and what we testified that was in compliance with the
7 sector plan.
8 MS. ROSENFELD: Well, I appreciate that you think that
9 there was, but do you know if the judge thought that there
10 was adequate evidence?
11 THE WITNESS: That I don't know; what the judge
12 thought.
13 MS. ROSENFELD: I'd like to turn to page 9 of Exhibit
14 82. And I'd like to look at the figure at the bottom left.
15 At the bottom of that page. At the bottom of page 9.
16 Would you please describe what the rectangular blocks in
17 red represent along the Glen Way Gardens property to the
18 north?
19 THE WITNESS: Yes. So those are labeled with a 4.
20 And they're in the legend they're noted as transition
21 heights. And then, when you go back to the design
22 guidelines it talks about how those - that height should be
23 restricted to 45 feet.
24 MS. ROSENFELD: And what does the 3 stand for?
25 THE WITNESS: 3, per the legend is green space.

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1 MS. ROSENFELD: And you said just right at the maximum
2 height for this project would be 120 feet?
3 THE WITNESS: It is zoned for 120 feet, correct.
4 MS. ROSENFELD: And is there any recommendation in the
5 master plan as - or the sector plan as to where that 120
6 feet should be concentrated, the heights?
7 THE WITNESS: Not really. There's some general
8 language but it focuses on the edge that should be the
9 the number 4. And it talks about some of the higher
10 densities in the center or on the edges, but that's
11 generally everything else could be up to the 120 feet.
12 MS. ROSENFELD: And in your experience as a land
13 planner when you have major roadways - well, would you
14 consider Georgia Avenue and Randolph to be major roadways?
15 THE WITNESS: Yes.
16 MS. ROSENFELD: In your experience would you
17 consider - is it typical to concentrate greater heights
18 along major road corridors rather than more interior to the
19 site?
20 THE WITNESS: In this context, well, in an urban
21 context yes. The larger buildings, taller buildings would
22 go on the corridors in addition to the center. There
23 should be a variety of heights, not one consistent height
24 across this property in my opinion. But the compact
25 communities are mentioned in Thrive. And looking at other

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1 urban centers across the county that taller buildings on
2 the major roads it is acceptable and preferred because you
3 do want some buildings up to the street. You do want the
4 parking varied and in the middle of buildings and so forth.
5 MS. ROSENFELD: Are you - is there any design concept
6 that tries to make major roadway intersections like this
7 sort of a feature with building design? Or buildings
8 different architecture perhaps?
9 THE WITNESS: Yeah. Well, there should be different
10 architecture, different buildings on the site. We have not
11 done design for the site so that's subject to someone
12 looking at that.
13 MS. ROSENFELD: In your professional opinion would it
14 be likely that the height on this property would be
15 concentrated more along Georgia and Randolph and not toward
16 the Glen Way Gardens properties?
17 THE WITNESS: No. Because the - to achieve the
18 density that's approved in the existing zoning of 3 FAR
19 taller buildings would need to be across this site and
20 dependent on what's restricted on the edge. So to achieve
21 that density you need the taller buildings across the site,
22 not in a specific location.
23 MS. ROSENFELD: And I'm not suggesting that they
24 would - there would be a significant percentage of the
25 buildings at 45 feet. But you did say that there would be

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1 a variety of heights. Would it be your expectation that
2 the taller buildings would be along Georgia and Randolph as
3 opposed to along the Glen Way Gardens property line?
4 THE WITNESS: Well, taller buildings could not be
5 along the Glen Way Gardens property line because of
6 the - to comply with the master plan you need to have
7 that - they'd be 45 feet. What that distance is from the
8 common property line that is not specific. There's a
9 number of design standards, practices, where - I'll start
10 with number 6 at the corner of Randolph and Georgia.
11 That's called as a gateway or landmark. That could be a
12 tall building and as a focal point. But then, that doesn't
13 prohibit taller buildings along Randolph or Georgia or
14 Layhill. And also density in the center there, looking at
15 number 1 is a central open space. To activate that you
16 should have extra density and extra height at that open
17 space, you know, interior. So there are a couple focal
18 points that you would want more density and higher
19 building. But it doesn't preclude higher buildings being
20 elsewhere.
21 MS. ROSENFELD: And higher buildings could be
22 something between 45 and 120, right? Higher building
23 doesn't -
24 THE WITNESS: Correct.
25 MS. ROSENFELD: - 120?

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1 (Crosstalk)
2 THE WITNESS: Well, up to 120.
3 MS. ROSENFELD: Up to.
4 THE WITNESS: But you could have a number of buildings
5 at 120. You could have a number of buildings at 120. You
6 could have a number of buildings at 100, and the designs
7 you would have a variety buildings and building heights.
8 MS. ROSENFELD: Thank you. On page 10 of the same
9 report the top of the - the top sentence again says;
10 irrespective of the fact that the district council already
11 determined its proposed LMA and project to be compatible
12 with adjacent development you seek to independently analyze
13 compatibility. I have the same question as I did before
14 which is notwithstanding the fact that the district council
15 made that finding, did the court determine that the record
16 was deficient in that respect? If you know.
17 THE WITNESS: The - I would not use the word
18 deficient. But they emphasized that we need to revisit and
19 review compatibility north of the property.
20 MS. ROSENFELD: I would like to go to what's been
21 marked as Exhibit 83, Applicant View 1. In the bottom
22 left-hand drawing do I understand this to be an excerpt
23 from the floating zone plan that's in the record?
24 THE WITNESS: Yes.
25 MS. ROSENFELD: And I see where you have Greenery Lane

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1 marked and you have two different views, correct?
2 THE WITNESS: Correct.
3 MS. ROSENFELD: And the building - the arrows that are
4 pointing to the proposed residential apartments across from
5 Greenery Lane has two different colors on it. I see a
6 lighter tan to the east and then a darker tan or orange-ish
7 more to the west. Can you explain to me the difference
8 between those two colors? What do they represent?
9 THE WITNESS: Yes. So on the floating zone plan,
10 showing the buildings there was the darker color was to go
11 up to the 75 feet and the lighter color was a step-down,
12 possibly to 45 feet. But that was the - that's the plan
13 that's on the floating zone plan. But that is not the
14 absolute final version with architecture.
15 MS. ROSENFELD: Is there anything in the floating zone
16 plan that requires the lighter tan to remain 45 feet?
17 THE WITNESS: No. The binding element is for that 100
18 feet adjacent to the eastern property edge to limit to 45
19 foot. There's no other limitation.
20 MS. ROSENFELD: So the entirety of that building
21 fronting on Randolph Road could be 75 feet in height?
22 THE WITNESS: Correct.
23 MS. ROSENFELD: And on 1-C to the right, there is a
24 rendering, an image. What does the front - there's two
25 parts to that building. There's the front part of the

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1 building along Randolph Road frontage that appears to be
2 three stories. Is that correct?
3 THE WITNESS: Four stories.
4 MS. ROSENFELD: Four stories. And what height is this
5 supposed to reflect?
6 THE WITNESS: That would reflect 45 feet and then the
7 step up is to the roughly six stories within that 75 foot
8 limit.
9 MS. ROSENFELD: And so looking again to the left
10 it - does the lighter color show a 45-foot height limit
11 across the whole frontage of Glen Way confronting the
12 Greenery Lane entrance?
13 THE WITNESS: It shows a 45-foot building. It is not
14 limited.
15 MS. ROSENFELD: And does the image on the right, is
16 that a pictorial image of what is shown on the floating
17 plan with the coloration on the left?
18 THE WITNESS: It's an illustration of that plan, yes.
19 MS. ROSENFELD: And the portion of the building that's
20 taller in the back, I think you said it was six feet in
21 height, six stories.
22 THE WITNESS: Six stories.
23 MS. ROSENFELD: Is that reflective of a 75-foot
24 height?
25 THE WITNESS: It's - yes. it's probably a little bit

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1 shorter than 75 feet. There's an argument you could go up
2 to seven stories with 75 feet but this is showing six
3 stories. And based on previous - four to six stories is
4 the recommendation.
5 MS. ROSENFELD: And does the height - or do - what is
6 a typical height for one story in a multifamily building?
7 THE WITNESS: On average you could use 10. The ground
8 floor story could be taller based on amenities, lobbies and
9 so forth. And other buildings they're 11 or 12 for a
10 story; 12 feet for a story.
11 MS. ROSENFELD: And is there sort of a standard for
12 multifamily buildings that are currently being designed?
13 Do they -
14 THE WITNESS: The taller stories going to 12 feet is
15 probably the standard right now. And that will be
16 determined with an architect at the time of preliminary
17 plan. We will have more details on the building as we go
18 forward.
19 MS. ROSENFELD: So it - the image on the right, the
20 six stories, if that were six 12-foot tall stories what
21 would that height be in real life, not in a picture?
22 THE WITNESS: Well, 6 times 12 is 72 so that would be
23 72 feet which is within that 75 foot.
24 THE WITNESS: And the height of the six story portion
25 of this structure, is this image to scale?

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1 THE WITNESS: It's illustrative so it's based on our
2 computer programs that it's illustrative. It's - you know,
3 it's not absolutely to scale like a plan. But the intent
4 is that it would be relative to the heights shown.
5 MS. ROSENFELD: And I think you said that the way this
6 illustrative is shown you're showing it at approximately 60
7 feet in height?
8 THE WITNESS: If it's - we're a little bit over 60
9 foot, probably 65 on this example.
10 MS. ROSENFELD: So if we were looking at a six-story
11 building with 12-foot stories we really should add one more
12 level to this to make it reflective of the accurate - of
13 what the height could be?
14 THE WITNESS: The roof would be - we're still showing
15 the six stories but the roof top would go up.
16 MS. ROSENFELD: Would go up. Okay. By about one
17 story? If this is 62?
18 THE WITNESS: Ten, 12 feet, yes.
19 MS. ROSENFELD: So the image on the right does not
20 accurately reflect the potential maximum height or massing
21 of this building once it goes through subsequent review; is
22 that correct?
23 THE WITNESS: Correct. It does not reflect the
24 maximum height. It's an illustrative to show an example of
25 what could be here, which could be lower than 75 feet.

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1 MS. ROSENFELD: So do you have anything in the record
2 that shows what this structure would look like if it were
3 built at six-stories? Whether 60 or 65, or 75 feet high
4 along the full frontage of Randolph Road across from Glen
5 Way Condominiums?
6 THE WITNESS: We do not to show that up to 75 foot.
7 MS. ROSENFELD: Hmm. So you don't have anything in
8 the record for the Hearing Examiner to review that would
9 allow her to make a compatibility judgment based on the
10 maximum allowable height and density that you had requested
11 in this floating zone plan, do you?
12 THE WITNESS: The height is based on the
13 recommendation from the master plan. And that's - this is
14 an illustrative that shows an option of how to achieve
15 that.
16 MS. ROSENFELD: Right. But you're showing an
17 illustrative that's -
18 THE WITNESS: It is less than 75 feet.
19 MS. ROSENFELD: - what you potentially could build,
20 correct?
21 THE WITNESS: Correct.
22 MS. ROSENFELD: I'd also like to go to what's been
23 marked as Hearing Exhibit 84. Thank you. I'd like to
24 start at the upper - let's start at the upper left, which I
25 believe you testified was existing conditions; is that

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1 correct?
2 THE WITNESS: Correct.
3 MS. ROSENFELD: And on Greenery Lane there's a number
4 2 in a circle and it's got two arrows, which as I read it
5 is showing directions when looking at if you're standing on
6 number 2; is that correct?
7 THE WITNESS: Correct.
8 MS. ROSENFELD: And the buildings to the north of the
9 number 2, that's the closest stick of condominiums in the
10 Glen Way Condominium Association; is that correct?
11 THE WITNESS: Correct, to add dimension to it.
12 MS. ROSENFELD: Thank you. And then, going to view 2-
13 A, what is this parking area and drive aisle here?
14 THE WITNESS: That's the existing parking lot for the
15 condominiums.
16 MS. ROSENFELD: And to the right, the fencing. That's
17 the fencing between -
18 THE WITNESS: That's the existing fencing.
19 MS. ROSENFELD: And the white massing or white
20 structure beyond the fence that's - what is that?
21 THE WITNESS: That's the Lidl Grocery store. It's
22 part of it that is in that view.
23 MS. ROSENFELD: And so on the opposite side of those
24 parked cars that's where the stick of condominiums would be
25 located?

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1 THE WITNESS: Correct. Off the - or rear view versus
2 front view, yes.
3 MS. ROSENFELD: So if we go to view 2-B. The
4 structure on the right closest to the parked cars could you
5 please explain to me again what that structure is?
6 THE WITNESS: The - well, this shows there - the first
7 layer is street trees. And that's - there's supposed to be
8 a road per this sketch in the design guideline. And then
9 the -
10 MS. ROSENFELD: I'm sorry, say that again. There's
11 supposed to be a - oh, a row.
12 THE WITNESS: There's a road.
13 MS. ROSENFELD: Not a road, R-O-A-D?
14 THE WITNESS: A road, R-O - because when we go back
15 to - if you go to the plan view and the sketch and the
16 design guideline there's a road that parallels the screen
17 fence, which is one of the graphics from the design
18 guidelines and hence the sector plan. That will have
19 street trees and that's why we showed a row of street trees
20 on the other side of the fence. And then, the building is
21 a four story apartment building that would be up to the 45
22 feet. And we have shown a step in that roofline for the
23 gray portion on the right is a little bit taller and then
24 the tan portion's a little bit shorter, all to comply or
25 work with that 45-foot height.

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1 MS. ROSENFELD: And the structure behind it?
2 THE WITNESS: That's a taller building up to 120 feet.
3 And I believe we are showing that at 10 to 20 stories.
4 MS. ROSENFELD: So when you say up to 120 feet in this
5 image that you're showing what is the height that you're
6 showing for that back portion of the building?
7 THE WITNESS: So that again, that's going to be
8 about - if it's 10 stories at 11 - I'll do a couple of
9 scenarios. But if it's 10 feet per story that's 100
10 and - or 12 stories. And then, if it's - the other thing,
11 this one has a little bit tricky because you're looking up
12 also with perspective and it's stepped further back.
13 You - hold on a second. If you do 120 divided by 12, that
14 would be a 10-story building. If you do the 12 feet per
15 story.
16 MS. ROSENFELD: But this is projected - supposed to
17 show what a structure would look like if it were 120 feet
18 tall?
19 THE WITNESS: Correct. Right.
20 MS. ROSENFELD: And does this building exist now?
21 THE WITNESS: No. This would be proposed with the
22 redevelopment and this would - the Lidl Grocery
23 Center - or store, is there now. That would have to go
24 away for, particularly this corner of the world for this
25 redevelopment as recommended in the sector plan.

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1 MS. ROSENFELD: So this is your projected of what that
2 future not yet in the works project that could look like
3 this.
4 THE WITNESS: An illustration of what it could look
5 based on the recommendation in the sector plan.
6 MS. ROSENFELD: Now, I'd like to go to the more
7 distant image across Randolph Road. There is a box that
8 says Glenmont Forest property with an arrow to a structure.
9 And is that representative of the four story building
10 fronting on Randolph that we just saw on the previous page?
11 THE WITNESS: The other exhibit that would be in the
12 distance and it - appeared to be reduced in size based on
13 the distance from this vantage point.
14 MS. ROSENFELD: And is there any indication in here of
15 what that 75-foot-tall portion of the building would look
16 like along Randolph?
17 THE WITNESS: Yes. That's the rooftop that's shown in
18 at - same building graphic from the other exhibit that's on
19 this in perspective, that's on this graphic.
20 MS. ROSENFELD: Would you go up to the screen, please,
21 and show me which portion of that building is 75 feet tall
22 in that image?
23 THE WITNESS: So I believe this is the four story
24 component and the taller part would be behind this tree
25 that's existing.

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1 MS. ROSENFELD: Can you see any portion of that
2 building behind the tree?
3 THE WITNESS: You cannot.
4 MS. ROSENFELD: And again, there is nothing in the
5 plan or in the binding conditions that would limit that
6 four-story structure that says Glenmont Forest property
7 across Randolph Road to the height that's actually being
8 shown in this image is there?
9 THE WITNESS: The first 100 feet is restricted and
10 this image it is not restricted.
11 MS. ROSENFELD: Is any portion of that building within
12 that 100 feet?
13 THE WITNESS: No. I believe that is off the view to
14 the left.
15 MS. ROSENFELD: So there's nothing in this image or
16 exhibit that would offer the Hearing Examiner any evidence
17 to gauge what a 75-foot-tall structure fronting on Randolph
18 across from Greenery Lane and the Glen Way Gardens what
19 that height and massing would look like even in the context
20 of this hypothetically future redeveloped Lidl site is
21 there?
22 THE WITNESS: Well, in context it's behind that tree
23 which is existing. So from this vantage point you will not
24 see that based on the existing tree. Now, it's in the
25 summer. During the winter you will probably see that

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1 building behind it.
2 MS. ROSENFELD: That's a deciduous tree, correct?
3 THE WITNESS: Correct.
4 MS. ROSENFELD: So you could have shown it without
5 leaves, correct?
6 THE WITNESS: We could have.
7 MS. ROSENFELD: Is there any reason - do you have any
8 way to guarantee that that tree will survive the
9 construction of the redevelopment of the Lidl site?
10 THE WITNESS: It - well, it's not on the Lidl site.
11 That's a Glen Way Gardens tree. So that should remain
12 unless they take it down.
13 MS. ROSENFELD: That tree is on the Glen Way Gardens
14 side of the property line, correct?
15 THE WITNESS: I believe so.
16 MS. ROSENFELD: Have you ever seen a scenario where
17 offsite trees don't survive because of the impact to their
18 critical root zones on adjoining properties?
19 THE WITNESS: There is a possible scenario but we
20 don't have a final plan yet to make that determination.
21 MS. ROSENFELD: Sure, I understand that. But as you
22 sit here today is there any way you can guarantee that that
23 tree will survive construction on the Lidl site?
24 THE WITNESS: I cannot guarantee a tree can survive in
25 any situation. Because that tree may die tomorrow. So I

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129	1 cannot swear to that. 2 MS. ROSENFELD: And I'm sorry, I might have missed 3 this. Did you give me an estimated height of that tree? 4 THE WITNESS: I did not. 5 MS. ROSENFELD: Do you have a guess as to the height 6 of that tree? 7 THE WITNESS: The fence is 8 feet tall. My guess 8 would be that's in the 30 to 40 foot height. And that's a 9 ball-park guess. 10 MS. ROSENFELD: Ms. Hearing Examiner, I think I'm 11 almost done, if I could just have a moment to review my 12 notes? 13 HEARING EXAMINER: Yes. No problem. Yes, that's not 14 a problem. 15 MS. ROSENFELD: At different points during your 16 testimony you said that the master plan or the Glenmont 17 Sector plan basically assured that there would be 18 compatibility between the Glenmont Forest property and Glen 19 Way Condominiums because there was a recommendation that 20 it may be eligible for rezoning; is that correct? 21 THE WITNESS: Correct. 22 MS. ROSENFELD: And is that master plan language 23 dispositive as to whether or not a proposed development is 24 compatible with the existing adjoining or confronting 25 property?	131	1 In your professional opinion just observing pedestrians 2 walking, can you tell where they are going without 3 following them? 4 THE WITNESS: You cannot. 5 MS. ROGERS: In your professional opinion, would 6 unsignalized crossings for Randolph and Layhill be safe or 7 unsafe? 8 THE WITNESS: It would be - 9 MS. ROGERS: If you cross at unsignalized accessing - 10 THE WITNESS: That would not be safe. 11 MS. ROGERS: And is it professional planning practice 12 so evaluate unsafe and illegal crossing? 13 THE WITNESS: It is, but that's why you establish safe 14 crossing points in the hope that people would use those, 15 which is the light and the crosswalks that are out there. 16 MS. ROGERS: And in your professional opinion are 17 those unsafe - well, you said unsafe, but illegal crossings 18 of Randolph Road where you're not at a signal and Layhill 19 Road are those realistic? 20 THE WITNESS: I have no doubt people may cross there, 21 but that is - the majority of people will not do that. 22 MS. ROGERS: And based on the location of the 23 signalized crossing in connection with the Clara (phonetic) 24 Street proposed within the Glenmont Forest development is 25 this project further encouraging or discouraging crossings
130	1 THE WITNESS: Can you clarify dispositive? 2 MS. ROSENFELD: Sure. If there's language in the 3 master plan suggesting that a property might be Eligible 4 for rezoning does that mean there is no requirement for 5 further findings under 7.2.1.E of the zoning ordinance? The 6 necessary findings district council must make? 7 THE WITNESS: You still need to ensure that it is 8 compatible in that finding. 9 MS. ROSENFELD: You have testified that you cannot put 10 evergreens in the right-of-way, in the street right-of-way. 11 Did I hear that correctly? 12 THE WITNESS: You are correct. That is not an option 13 based on the county's approved street tree list. 14 MS. ROSENFELD: Does that preclude your ability to 15 plant evergreens or similar trees within your own property 16 outside of the public right-of-way? 17 THE WITNESS: You can plant evergreens on private 18 property. 19 MS. ROSENFELD: Ms. Hearing Examiner, I have no 20 further questions. 21 HEARING EXAMINER: Do you plan on redirect? 22 MS. ROGERS: Thank you. I have a few questions on 23 redirect starting with some about walkability. Mr. 24 Unterberg, there was a question about if you had observed 25 where pedestrians walking within Glenmont were traversing.	132	1 at signalized intersections? 2 THE WITNESS: I think it encourages crossing at 3 signalized intersections. And based on the exhibit 89, 4 the - there's more incentive to travel west and cross at a 5 signalized intersection than to travel east, cross at an 6 intersection and then double back. So the shorter route 7 are the routes that are along Georgia Avenue and the green 8 and the orange route. 9 MS. ROGERS: And looking at Exhibit 89, is the 10 majority of the density proposed on Glenmont Forest 11 shopping center - let me make a point of reference for my 12 question. The pink line on Exhibit 89 commences at the 13 intersection of Street 1 and Randolph Road, correct? 14 THE WITNESS: Correct. 15 MS. ROGERS: And is the majority of density in 16 Glenmont Forest's property to the west or the east of that 17 pink line? 18 THE WITNESS: The majority is to the west of that 19 lines. 20 MS. ROGERS: And if that Street 1 is not ultimately 21 connected to Erskine or built at that access point would 22 the residents kind of traversing along that pink pathway 23 that's shown in Exhibit 89, would that distance get longer 24 or shorter if that access point wasn't there? 25 THE WITNESS: It's relatively the same. If the blue

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1 goes away, then you'd still walk through the neighborhood
2 to get to Randolph Road at the pink dot. And then you'd
3 need to walk east and then walk back if you use the signal
4 crossing.
5 MS. ROGERS: But to clarify my question. If that
6 Street 1 connection between Erskine and Randolph ultimately
7 ends up not being made and it's determined it's not needed
8 at time of preliminary plan and that access goes away, so
9 you just have a signalized access at Glenmont Circle where
10 the green dot is. Would the length of travel that you
11 showed for the pink line, if you're showing it from access
12 point from the property get longer or shorter?
13 THE WITNESS: The pink or the blue?
14 MS. ROGERS: The pink line. If this access -
15 THE WITNESS: Oh, the -
16 MS. ROGERS: - if the access to Street 1 went away -
17 THE WITNESS: Well, that stays the same if the blue
18 goes away. Is that the question?
19 MS. ROGERS: I'm not - if you could answer my
20 question. My question was, if this - if the pink dot where
21 the access is went away and then -
22 THE WITNESS: Okay.
23 MS. ROGERS: - you had to rely on access you would
24 then have then would be at Glenmont Circle access point
25 where the green dot is, would be your access point on

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1 Randolph Road. If you took a measurement from that point
2 through the Glen Waye Gardens property at Greenery Lane
3 into the metro would that be longer -
4 THE WITNESS: I -
5 MS. ROGERS: - or shorter from what -
6 (Crosstalk)
7 THE WITNESS: From the green dot it would be longer if
8 you go - travel east and connect with the pink route.
9 HEARING EXAMINER: Please allow her to finish her
10 question.
11 MS. ROGERS: And then moving - thank you. And let me
12 just scroll. Sorry, I'm trying to read my - I'm just
13 trying to start thinking on the fly. Is the majority of
14 the county located in the turnover impact area or the
15 infilled impact area?
16 THE WITNESS: The majority of the county is in the
17 turnover area, with the more urban nodes than the infill
18 area.
19 MS. ROGERS: And do those urban infill impact areas
20 have higher or lower generation rates with respect to
21 students as compared to turnover?
22 THE WITNESS: They generally have lower rates based on
23 the housing type.
24 MS. ROGERS: And in establishing the infill versus
25 turnover impact areas did the council make a determination

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1 regarding whether that more urban housing type versus
2 single family turnover generate more school students?
3 THE WITNESS: The urban multifamily generated less per
4 the growth policy.
5 MS. ROGERS: Ms. Rosenfeld asked you some questions on
6 the sector plan and the language regarding the future
7 rezoning of this property. Did the district council include
8 in your professional opinion, a lot of detail or little
9 detail about what a future rezoning on this site should
10 accomplish?
11 THE WITNESS: They include substantial detail in the
12 specific recommendations, not only in the sector plan but
13 in the design guidelines.
14 MS. ROGERS: And in your professional opinion, does
15 that level of detail show that they closely and carefully
16 evaluated a future rezoning or didn't really evaluate it at
17 all?
18 THE WITNESS: They specifically evaluated rezoning.
19 MS. ROGERS: And was Thrive adopted before or after
20 the Glenmont sector plan?
21 THE WITNESS: Thrive was after.
22 MS. ROGERS: And has planning policy - does Thrive
23 include a specific focus on the need for increased housing?
24 THE WITNESS: Yes.
25 MS. ROGERS: And has the county's housing needs

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1 changed since the adoption of the Glenmont sector plan?
2 THE WITNESS: If anything the need or the amount of
3 housing needed has gotten worse. But the need is still
4 there.
5 MS. ROGERS: And when you say worse, do you mean that
6 more housing is needed?
7 THE WITNESS: More housing is needed at this time. Or
8 not enough housing is built - has been built since 2013.
9 MS. ROGERS: And so is it fair to say, like, the
10 county's focus in terms of planning practice and principles
11 have changed since the adoption of Glenmont Sector plan in
12 terms of encouraging more housing?
13 THE WITNESS: I don't think they've changed but
14 they've bene reinforced that there should be more housing
15 and the other components like the competitive elements, the
16 15-minute complete communities. Those have been reinforced
17 by Thrive.
18 MS. ROGERS: And is this property located in the
19 quote, core area of Glenmont?
20 THE WITNESS: Yes.
21 MS. ROGERS: And is - the Glenmont shopping center - I
22 mean, sector plan, sorry. And then, in Thrive is Glenmont
23 identified as one of the largest activity centers?
24 THE WITNESS: Yes. And it's also on two of the
25 corridors, Georgia Avenue and Randolph Road.

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1 MS. ROGERS: And is this - is Glenmont identified as a
2 red policy area?
3 THE WITNESS: Correct.
4 MS. ROGERS: Under the growth and infrastructure
5 policy?
6 THE WITNESS: Correct.
7 MS. ROGERS: And is a red policy are a -
8 MS. ROSENFELD: Objection. This is getting well
9 beyond - well beyond cross. I didn't -
10 MS. ROGERS: I don't -
11 MS. ROSENFELD: I didn't - there were no questions
12 about Thrive. There were no questions about red policy
13 areas. There were no questions about -
14 MS. ROGERS: But that's fair. I will stop. Regarding
15 height, Ms. Rosenfeld asked you a few questions about the
16 exhibits that we submitted into the record Exhibits 83 and
17 84 to - that we were looking at. And you testified too
18 that those were one example of what could be developed on
19 the site; is that correct?
20 THE WITNESS: Correct.
21 MS. ROGERS: Does the floating zone plan also
22 contemplate townhouse options on the property?
23 THE WITNESS: It does so that would be another
24 scenario different than the illustration.
25 MS. ROGERS: And if townhomes are built on this site

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1 from a planning process and principle where are those most
2 likely to be built?
3 THE WITNESS: Probably the northeast portion of the
4 property along Randolph Road which is Glen Way Gardens
5 would be opposite of that.
6 MS. ROGERS: And if townhomes were built would the
7 height depicted in Exhibit - sorry, 83 and 84 be
8 substantially less than what you've shown?
9 THE WITNESS: They'd be about the same. They'd be
10 within that four story, 45-foot height. They could be 3-
11 story townhouses which would be less than that 35-foot
12 range, if they're 4 stories they would be in the 45 foot
13 range.
14 MS. ROGERS: But the future development scenario that
15 you depicted on the property showed both a four story and a
16 six story component, correct?
17 THE WITNESS: For the multi-families, correct.
18 MS. ROGERS: And so if townhomes were built in your
19 professional opinion that four story would represent -
20 THE WITNESS: They would be similar to that four story
21 view.
22 MS. ROGERS: And regarding the question on evergreen
23 trees and you testified that you know, the Applicant could
24 provide evergreen trees along their property, would
25 planting evergreen trees along the property frontage be

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1 consistent with county planning principles in your
2 perspective and why or why not?
3 THE WITNESS: It all comes down to how much room you
4 have. And the compact communities encourage you to push
5 the buildings up to the right-of-way for that urban feel,
6 urban look. And so the streetscape is going to be
7 primarily street trees, sidewalk, buildings and then
8 foundation or landscaping along the building. So we want
9 to be a compact block development scenario which pushes the
10 buildings up to the right-of-way line which then limits the
11 area to plant evergreen trees or other larger trees.
12 MS. ROGERS: That's all for redirect. Thank you.
13 MS. ROSENFELD: May I ask one more question.
14 HEARING EXAMINER: To the witness?
15 MS. ROSENFELD: Yes, it's within the scope. Is there
16 any scenario going through future review where Street 1,
17 the intersection between Street 1 and Randolph Road will
18 not exist?
19 THE WITNESS: There's a scenario where that
20 intersection would not exist?
21 MS. ROSENFELD: Between Street 1 and Randolph Road.
22 THE WITNESS: We want to keep that access point and
23 we've shown it on the plan. There is a scenario where the
24 county would take that away but that is not our intent
25 right now.

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1 HEARING EXAMINER: Thank you. Before we do the
2 procedural breakdown to just check the - is there anyone on
3 Zoom who wants to cross-examine the current witness? I
4 don't know who we have left on Zoom. I guess for county
5 purposes is there anyone on Zoom who wish to cross-examine?
6 I'm not seeing any. Anyone in the room wishing to - anyone
7 else in the room wishing to cross-examine this witness? I
8 hear none. At this point I would say let's recess for
9 lunch and we'll come back and start Ms. Rosenfeld's case in
10 chief. Should we plan for - I'm determined to kind of work
11 our way through this. Let's plan for a 30-minute lunch
12 break. Does that work? Okay. Thank you very much. We'll
13 resume in half an hour.
14 (Off the record at 1:26 p.m., resuming at 2:42 p.m.)
15 MR. ROBINS: Yes, thank you for giving us that time.
16 We appreciate that.
17 HEARING EXAMINER: You're very welcome.
18 MS. ROGERS: I do think it was (indiscernible).
19 HEARING EXAMINER: Good. I'm glad to hear that.
20 MS. ROSENFELD: I'm very happy to say that we have
21 reached agreement on a binding element and a way we think
22 to resolve all of the issues in this case. We are
23 proposing a binding element. I'll read it into the record.
24 We can send it to you by email as well. I'll start with
25 that and then we'll - just a couple of comments. The first

Transcript of Hearing
Conducted on December 9, 2025

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1 binding element would be this. The building height shall
2 not exceed a maximum of 45 feet between the northeast
3 corner of the property at a point 470 feet plus or minus
4 west of that corner along Randolph Road for a -
5 COURT REPORTER: If you can pause for a moment just so
6 you can open the - because it's creating a -
7 (Crosstalk)
8 MR. PAULOS: While she's reading it then I can show
9 you what she's talking about. Go ahead.
10 HEARING EXAMINER: Well, hold on. Okay.
11 MR. PAULOS: So we're talking about the northeast
12 corner to that right there.
13 HEARING EXAMINER: Okay. Thank you so much. You can
14 go back on the record.
15 MS. ROSENFELD: For a depth of 100 feet as measured
16 from the Randolph Road -
17 HEARING EXAMINER: So I'm sorry. Could you - the
18 building height shall not exceed a maximum of 45 feet
19 between the northeast corner of the property?
20 MS. ROSENFELD: Yes.
21 HEARING EXAMINER: Mm-hmm.
22 MS. ROSENFELD: And a point 470 feet plus or minus
23 west of that corner along Randolph Road for a dept of 100
24 feet as measured from the Randolph Road property line. And
25 on behalf of all three of the clients that I represent here

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1 today, in exchange for that binding element we will
2 withdraw our objections based on school adequacy and based
3 on compatibility. We reserve the right to address
4 pedestrian issues at the time of preliminary plan
5 consistent with comments in the judge's ruling. The
6 circuit court ruling.
7 HEARING EXAMINER: So I wish to thank the attorneys
8 and their respective clients for the cooperation and for
9 the - for reaching agreement. This is excellent news. And
10 I know a lot of effort has gone into the case and I just
11 appreciate everybody's professionalism, it's commendable so
12 thank you very much.
13 MS. ROGERS: I would like to get on the record that
14 the Applicant agrees with that binding element.
15 HEARING EXAMINER: And we get them in.
16 MS. ROGERS: Yeah, the Applicant agrees with the
17 binding element.
18 HEARING EXAMINER: Okay. Wonderful. Thank you. On
19 that note, I would like to - does anyone have anyone
20 further to say? And thank you so much. We will - I will
21 keep the record open for the very limited purpose of
22 getting a transcript into the record and then I will
23 prepare the - because ultimately, you know, we still would
24 have to go through the process or send this happy news to
25 the district council and they still have a process there.

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1 So we - the record will be closed for all purposes
2 except - let me backtrack. We're keeping the record open
3 for the limited purpose of getting the transcript into the
4 record. And so for 10 business days.
5 MR. JOHNSTON: And the exhibit? The new exhibit?
6 HEARING EXAMINER: The new exhibits were already
7 entered into the record so those are simply a matter of
8 getting the electronic copies in.
9 MR. JOHNSTON: That's what I wanted to make sure
10 that -
11 HEARING EXAMINER: Perfect. Yes. No. Any
12 exhibits - well, all the exhibits we entered into the
13 record here, the getting the electronic copies will be
14 administrative.
15 MR. JOHNSTON: Okay.
16 HEARING EXAMINER: Yeah. But thank you for the
17 clarification. So I can - let me see if I can get you an
18 exact date. I think it will be helpful for the record if I
19 get some exact dates and just put it on my calendar. The
20 record will remain open until Tuesday, December 23rd, which
21 is 10 business days from this date for the limited purpose
22 entering into the record the transcript. Any exhibits that
23 were entered into the record in today's proceeding I ask
24 that the attorneys provide an electronic copies and within
25 45 days of the 23rd, and I can give you a date for that as

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1 well. Forty-five days from December 23rd which will be
2 Friday, February 6. On Friday, February 6th the hearing
3 examiner's report and recommendation will be transmitted to
4 the district council for further action. On that note
5 unless there are any further - no further business being
6 heard the hearing is closed.
7 (Off the record at 2:49 p.m.)
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1 a CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

2 I, Jasmine Pearson, the officer
3 before whom the foregoing proceedings were
4 taken, do hereby certify that any witness(es) in
5 the foregoing proceedings were fully sworn;
6 that the proceedings were recorded by me and
7 thereafter reduced to typewriting by a
8 qualified transcriptionist; that said digital
9 audio recording of said proceedings are a
10 true and accurate record to the best of my
11 knowledge, skills, and ability; and that I am
12 neither counsel for, related to, nor employed
13 by any of the parties to this case and have
14 no interest, financial or otherwise, in its
15 outcome.

16

17 *Jasmine Pearson*

18 _____
19 JASMINE PEARSON, NOTARY PUBLIC,
20 FOR THE STATE OF MARYLAND

21

22

23

24

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1 CERTIFICATE OF TRANSCRIBER

2 I, Molly Bugher, do hereby certify that this
3 transcript was prepared from the digital audio recording of
4 the foregoing proceeding; that said transcript is a true
5 and accurate record of the proceedings to the best of my
6 knowledge, skills, and ability; and that I am neither
7 counsel for, related to, nor employed by any of the parties
8 to the case and have no interest, financial or otherwise,
9 in its outcome.

10

11 *Molly Bugher*

12 _____
13 Molly Bugher, CDLT-161
14 December 18, 2025

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