

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF VICTORY HOUSING, INC. : Case No. S-2873
:
:
OZAH No. 14-02
:
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A hearing in the above-entitled matter was held on
October 17, 2014, commencing at 9:31 a.m., at the Office of
Zoning and Administrative Hearings, 100 Maryland Avenue,
Rita Davidson Memorial Hearing Room, Rockville, Maryland
20850 before:

Tammy CitaraManis
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Jody S. Kline, Esq.

Miller, Miller & Canby

200B Monroe Street

Rockville, Maryland 20850

E X H I B I T S

Exhibit No.		Marked/Received	
42	Affidavit of posting	9	176
43	Detailed preliminary plan	44	176
44	Résumé of Kevin Mack	49	176
45	Preliminary existing conditions	61	176
47	Preliminary landscape plan	76	176
48	December 6, 2013, letter to Mr. Marquez from DPS	82	176
49	Revised final forest conservation plan	89	176
50	Résumé of Bruce Mongrain	113	176
51	Building Elevations, Sheet A-2.1	118	176
52	Main entrance	134	176
53	Front of building	134	176
54	Résumé of Christopher Kabatt	156	176

C O N T E N T S

Witnesses:	Direct	Cross	Redirect	Recross
James A. Brown, Jr. By Mr. Kline:				24
Kevin D. Mack By Mr. Kline:				49
Bruce Mongrain By Mr. Kline:				112
Christopher L. Kabatt By Mr. Kline:				156

P R O C E E D I N G S

1
2 MS. CITARAMANIS: Good morning. My name is Tammy
3 Citaramanis. I'm the Hearing Examiner in this matter. I
4 will conduct this hearing, take evidence, and will write a
5 report and recommendation to the Board of Appeals.
6 This is a public hearing in the matter of Victory
7 Housing, Incorporated, Special Exception S-2873, OZAH No.
8 14-02. This is a petition for a special exception under
9 Zoning Ordinance 59-G-2.35 to construct a 105-unit apartment
10 building for housing and related facilities for elderly and
11 handicapped persons of low and moderate income. The
12 facility will be called Victory Crossing.
13 The subject consists of 2.51 acres of leased land
14 located on Lot P790, Block A, White Oak Subdivision, at
15 Milestone Drive in Silver Spring, Maryland 20904. The
16 property is in the R-90/TDR slash 6 zone and is owned by
17 Montgomery County, Tax Account No. 01399098. The leased
18 property is part of a 12.79-acre tract of land located in
19 the 1997 White Oak Master Plan area, and a portion is
20 currently improved with the 3rd District Police Station,
21 which was approved as a mandatory referral by the Planning
22 Board on December 16th, 2010.
23 Can I have the parties identify themselves? I see
24 we have a whole line of individuals in the back, and I'll --
25 you'll tell me, one, if they're with you, and if not, we'll

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1 find out who they are.
2 MR. KLINE: Right. Good morning.
3 MS. CITARAMANIS: Good morning.
4 MR. KLINE: My name is Jody Kline. I'm an
5 attorney with the law firm Miller, Miller & Canby, with
6 offices at 200 Monroe Street here in Rockville --
7 MS. CITARAMANIS: Okay.
8 MR. KLINE: -- right across the street, as a
9 matter of fact.
10 MS. CITARAMANIS: Okay.
11 MR. KLINE: Everyone who's present in the room
12 today is a witness who we'll be calling or is a member of an
13 organization, either as a consulting organization or with
14 Victory Housing. I can give you their names now, if you'd
15 like, or I'll just do it --
16 MS. CITARAMANIS: If you would --
17 MR. KLINE: Sure.
18 MS. CITARAMANIS: -- I mean, because all I have
19 right now is what you --
20 MR. KLINE: Sure. Sure.
21 MS. CITARAMANIS: -- submitted as part of the,
22 your, I guess, your summary of proof.
23 MR. KLINE: Sure. The representative from the
24 petitioner itself, Mr. Jim Brown of Victory Housing, Inc.,
25 will be our first witness.

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1 MS. CITARAMANIS: Okay.
2 MR. KLINE: He'll be followed by Mr. Kevin Mack of
3 Dewberry, who's basically done all the site design work on
4 the project.
5 MS. CITARAMANIS: Okay.
6 MR. KLINE: He'll be followed by Mr. Bruce
7 Mongrain, M-O-N-G-R-A-I-N, with the --
8 MS. CITARAMANIS: Wait a minute. Bruce -- could
9 you spell that again? I'm sorry.
10 MR. KLINE: Well, I'm hoping I got it right,
11 M-O-N-G-R-A-I-N.
12 MR. MONGRAIN: Correct.
13 MR. KLINE: Thank you. With the architectural
14 firm of Grimm and Parker.
15 MS. CITARAMANIS: Is he to replace Logan Schutz?
16 MR. KLINE: That's correct.
17 MS. CITARAMANIS: Okay.
18 MR. KLINE: And, finally, Mr. Kabatt, Chris Kabatt
19 of Wells and Associates will speak briefly about traffic
20 issues.
21 MS. CITARAMANIS: In place of Mr. --
22 MR. KLINE: Yes, Mr., we probably had -- we had
23 Shahriar Etemadi --
24 MS. CITARAMANIS: How do you say that name?
25 MR. KLINE: -- that is correct.

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1 MS. CITARAMANIS: Etemadi?
2 MR. KLINE: Etemadi, yes.
3 MS. CITARAMANIS: Okay. All right. And everybody
4 else is just watching?
5 MR. KLINE: There's no outsider here today.
6 MS. CITARAMANIS: Okay. Then I'm assuming we -- I
7 didn't see any opposition.
8 MR. KLINE: There --
9 MS. CITARAMANIS: The only thing I saw was from
10 the homeowners association --
11 MR. KLINE: That is correct.
12 MS. CITARAMANIS: -- a letter from them --
13 MR. KLINE: Yes, that's correct.
14 MS. CITARAMANIS: -- and I'm sure you'll address
15 the concerns, although they did --
16 MR. KLINE: Yes.
17 MS. CITARAMANIS: -- indicate support.
18 MR. KLINE: Yes.
19 MS. CITARAMANIS: No individual is going to be
20 testifying; so that certainly makes the preliminaries a
21 little bit easier. Being here all the time, you're fully
22 aware of what the nature of the proceedings are and what you
23 need to do at this point.
24 MR. KLINE: Fortunately, not only have I been here
25 before but this, this petitioner has been here before. So

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1 everyone that's in the room today has a good sense of how
2 you like to run the hearing and what is expected of them.
3 MS. CITARAMANIS: Okay. Just put your case on and
4 authenticate everything so --
5 MR. KLINE: Well, let me do a couple preliminary
6 things. My understanding is that Ms. Forbes has given you
7 the affidavit of posting. It was --
8 MS. CITARAMANIS: Yes, and I've marked it as
9 Exhibit 42.
10 (Exhibit No. 42 was marked
11 for identification.)
12 MR. KLINE: Okay. Let me just add that to the
13 list then.
14 MS. CITARAMANIS: Yes, and as an aside too, I will
15 mark things if there's additional information, but if you're
16 going to be referring to maps, it's important, just so that
17 the record is clear when I go back to read the transcript --
18 MR. KLINE: Right.
19 MS. CITARAMANIS: -- because we have a number in
20 here that have been revised, that we're working off of the
21 most current one --
22 MR. KLINE: Correct.
23 MS. CITARAMANIS: -- that is also a subject --
24 MR. KLINE: And in a couple cases, because they're
25 rendered, which they aren't in the record, just for purposes

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1 of the presentation, we'll be, we'll be submitting new
2 exhibits or superseding exhibits into the record that are
3 rendered versions of that.
4 MS. CITARAMANIS: Refresh my memory. What is
5 rendered?
6 MR. KLINE: Meaning colored.
7 MS. CITARAMANIS: Okay. I was like --
8 MR. KLINE: Sorry. Yes. Yes. No --
9 MS. CITARAMANIS: That's okay, didn't know if it
10 was a legal term that I missed.
11 MR. KLINE: Yes, just so things stand out a little
12 better. If we put a black-and-white up, it would be hard to
13 see everything. So the architects and the engineers and
14 the, you know, landscape architects love to color them up so
15 that you really -- things pop out and stand out.
16 MS. CITARAMANIS: Which I like coloring too --
17 MR. KLINE: Right. Right.
18 MS. CITARAMANIS: -- because it definitely does
19 have, especially when the lines get a little closer and all
20 the details, but just so that I can connect the dots --
21 MR. KLINE: Right.
22 MS. CITARAMANIS: -- the main exhibit and then
23 we'll mark that as a follow-up.
24 MR. KLINE: I will be referencing exhibits off
25 the --

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1 MS. CITARAMANIS: Thank you. That's --
2 MR. KLINE: -- exhibit list, and if it's a
3 replacement, I'll tell you that and we'll put it into the
4 record.
5 MS. CITARAMANIS: It will make everybody's job
6 easier.
7 MR. KLINE: If I can do one other procedural
8 matter, Ms. CitaraManis, the statement of -- I know you've
9 read the record, but this is probably something you wouldn't
10 have picked up that much -- but the second paragraph of our
11 statement of operations says that Victory Housing, Inc., is
12 the petitioner but they're filing on behalf of a
13 single-purpose entity to be formed and named in the future
14 and will be a wholly owned subordinate affiliate that'll be
15 controlled by Victory Housing, and at the time of the
16 granting of the special exception, we'd like to substitute
17 that entity for Victory Housing, Inc.
18 MS. CITARAMANIS: Right.
19 MR. KLINE: Subsequently, Victory Housing has
20 created that entity in anticipation of a successful outcome,
21 and so what I'd either like to do is either amend the
22 application today or ask that if it were to be granted, it
23 be granted in the name of Victory Crossing, LP, Limited
24 Partnership.
25 MS. CITARAMANIS: Okay. Well, then do whatever

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1 you need to do --
2 MR. KLINE: Okay.
3 MS. CITARAMANIS: -- to amend it today --
4 MR. KLINE: Okay.
5 MS. CITARAMANIS: -- and --
6 MR. KLINE: When I get to Mr. Brown's testimony,
7 then I'll have him go ahead and basically do that at that
8 point in time.
9 MS. CITARAMANIS: Okay. And that's, that was
10 under your statement of operations, correct?
11 MR. KLINE: It's -- yes, right.
12 MS. CITARAMANIS: Yes, I have that. Actually, I
13 do have that highlighted.
14 MR. KLINE: Okay. It's the second paragraph on
15 page 1 of --
16 MS. CITARAMANIS: Okay. So who will be doing
17 that?
18 MR. KLINE: We'll have Mr. Brown --
19 MS. CITARAMANIS: Mr. Brown.
20 MR. KLINE: -- describe that to you when we get to
21 him, our first witness.
22 MS. CITARAMANIS: Okay.
23 MR. KLINE: Okay.
24 MS. CITARAMANIS: All right. Let me see.
25 Anything else you have preliminary?

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1 MR. KLINE: Well, I think, just because -- there's
2 some unusual features about this that probably would be
3 easier for me to explain at the beginning than as we do it
4 through the witnesses. So if I could take the, use Exhibit
5 11(a), which is the zoning vicinity map --
6 MS. CITARAMANIS: Okay.
7 MR. KLINE: -- that's been put up on this board --
8 MS. CITARAMANIS: 11(a)?
9 MR. KLINE: 11(a), right.
10 MS. CITARAMANIS: Okay.
11 MR. KLINE: And what I've got up here is the exact
12 copy of what you've got in the file.
13 MS. CITARAMANIS: Okay. All right.
14 MR. KLINE: The subject property, as you described
15 it, was a 2-plus-acre parcel of land. What's interesting
16 about it is it's within a larger 12.97-acre parcel of land,
17 all owned by Montgomery County, Maryland, and this is --
18 essentially, Victory Housing is doing this at the
19 encouragement of Montgomery County to provide affordable
20 housing.
21 So the subject property, which is highlighted in
22 yellow on Exhibit 11(a), is sort of on the, I guess I'll
23 say, the southern right-hand side of the larger county-owned
24 parcel of land, which is, if you live over in this part of
25 the county, I don't know, is, sits beside a public facility

1 which is known as the District 3 Police Station.
 2 MS. CITARAMANIS: Yes.
 3 MR. KLINE: So this road going off here on the
 4 right-hand side, sort of oblique angle, is Route 29 --
 5 MS. CITARAMANIS: Yes.
 6 MR. KLINE: -- Columbia Pike. Going up pretty
 7 much north-south on the west side of the property is New
 8 Hampshire Avenue, and then basically you have the
 9 intersection of 29 and New Hampshire Avenue and then New
 10 Hampshire Avenue going down south, off the bottom of the
 11 drawing.
 12 The reason I wanted to kind of get into this is
 13 there's a lot of stuff going on out here, as you can see by
 14 all of the zoning patterns and everything. If I can just do
 15 this, directly south of the site and the box Graphic
 16 Pattern, that stands for C-2, general commercial. So it's
 17 the White Oak Shopping Center --
 18 MS. CITARAMANIS: Yes.
 19 MR. KLINE: -- in this location. Directly east of
 20 the property, this pattern stands for multifamily
 21 development --
 22 MS. CITARAMANIS: Yes.
 23 MR. KLINE: -- which are primarily garden
 24 apartments. Slightly south and southwest, this zoning
 25 pattern that I mentioned at the intersection of 29 and New

1 Hampshire Avenue in the southwest quadrant, that's high-rise
 2 multifamily. And then to the, let's say at about 10 o'clock
 3 or, no, I mean, more like 8 o'clock, southwest of the
 4 property, a townhouse development in the R-90 zone, which
 5 means it was done with a cluster form of development.
 6 That's the line that townhouses will be clustered,
 7 surrounded by single-family detached immediately to the west
 8 with the R-1, RE-1 one-acre zone and the R-200 zones as you
 9 proceed north on New Hampshire Avenue.
 10 There'll be some discussion about uses that are in
 11 the area, and the most predominant issues that you'd see, if
 12 you went out there, was, as I said, the police station,
 13 because it's brand-new and it sits right at the, right at
 14 the point where the highways come together. Slightly north
 15 of that is a taller, another elderly housing building. It
 16 was initially acquired by Constellation and then sold to
 17 Sunrise, who operates it today as a seniors' housing
 18 facility. And now on the north side of Heartfield Drive,
 19 which is on the east side of New Hampshire Avenue, you have
 20 the White Oak Library there. So you do have some
 21 institutional uses in the area.
 22 We'll be telling you how the property is developed
 23 in a way to protect and screen the single-family
 24 neighborhood. That's why you got the letter from the
 25 community. They thought we had done a responsible job, and

1 they monitored everything we did to make sure that's what
 2 happened, but -- and then I guess I'll say, a little bit
 3 further up to the east, you again have high-rises,
 4 multifamily, on the east side of Columbia Pike, plus this
 5 between Stewart Lane and Old Columbia Pike. That's actually
 6 an industrial classification for some low- and mid-rise
 7 industrial, more R&D and office parking lot.
 8 A lot of stuff going on out there. It's a very
 9 active area, which is why, one of the reasons why Victory
 10 Housing wanted to be there. But I wanted to give you that
 11 so that when you read the neighborhood description in the
 12 staff report, you kind of understood what was going on out
 13 there.
 14 MS. CITARAMANIS: Okay. And is this just for --
 15 did you want this as part of it, or are you just explaining
 16 it?
 17 MR. KLINE: Well, since it's already, yes, since
 18 it's already in the record, I just was using this as an
 19 opportunity to kind of orient you to the general area.
 20 MS. CITARAMANIS: It's demonstrative. That's
 21 fine. Otherwise, I was going to mark it, but it doesn't
 22 seem like --
 23 MR. KLINE: No, you don't -- you already have it
 24 in the record.
 25 MS. CITARAMANIS: There's no reason to do that.

1 MR. KLINE: But unless you have any questions from
 2 what I just said, I'll be glad to call our first witness.
 3 MS. CITARAMANIS: Let me just look at my list --
 4 MR. KLINE: Yes.
 5 MS. CITARAMANIS: -- and make sure that the
 6 preliminary, anything else I had. I just wanted to confirm
 7 that I have the most recent copy of all the revised plans in
 8 electronic form. I have the forest conservation and then
 9 Exhibit 36(f), there's a long list --
 10 MR. KLINE: Right.
 11 MS. CITARAMANIS: -- of stuff on there, and then
 12 Exhibit 41, and the other disc I have is 18, but I think
 13 that's superseded.
 14 MR. KLINE: Let me check. Oh, the -- oh, yes,
 15 yes, exactly.
 16 MS. CITARAMANIS: 18 would be superseded; so I
 17 don't --
 18 MR. KLINE: Yes, right, yes.
 19 MS. CITARAMANIS: -- but I do have these three
 20 discs and making sure that --
 21 MR. KLINE: I think you'll find that 41 and 36(f)
 22 are the two that you'll be looking at the most --
 23 MS. CITARAMANIS: Right.
 24 MR. KLINE: -- and if -- when we submit anything
 25 today or, as I said, the colored versions of anything, if

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1 you say you'd like to receive those in CD, we can obviously
2 get that done right away.
3 MS. CITARAMANIS: Yes, I will --
4 MR. KLINE: Okay.
5 MS. CITARAMANIS: -- I'll tell you that right now.
6 MR. KLINE: All right. Okay.
7 MS. CITARAMANIS: It certainly makes for reports
8 with colored pictures --
9 MR. KLINE: Very good. That's good.
10 MS. CITARAMANIS: -- and also, I write those
11 reports off site. I, independent contractor, so --
12 MR. KLINE: Sure.
13 MS. CITARAMANIS: -- I come here for this and then
14 I go home, and it's not here in -- where are we? Montgomery
15 County? No.
16 MR. KLINE: You don't want to be working, using
17 the library for your office. I understand.
18 MS. CITARAMANIS: No. Okay. All right. So
19 you'll do that? You'll get --
20 MR. KLINE: Sure. Mr. Mack will be basically
21 talking about those things that would be a substitute
22 drawing. We'll provide that disc for you. Probably it'll
23 take until Monday, but we'll get it for you.
24 MS. CITARAMANIS: Okay. That's fine.
25 MR. KLINE: Okay.

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1 MS. CITARAMANIS: And your various witnesses,
2 depending on what they're testifying to, will -- these are
3 the issues that I saw that the homeowners association
4 expressed in their October 13th, 2000, letter. Of course,
5 they said that they would prefer that it remain forest and
6 just the police station but, if it does occur, this is a
7 good proposal. That's what I got out of it, but they did
8 raise the parking, narrow streets not suitable for on-street
9 parking, talked about the tree elimination and maintaining
10 the existing buffer 200 feet from the existing homes,
11 sufficient landscaping between the buildings and Sherbrooke
12 Road given the height of the building, and outdoor lighting
13 focused downward to minimize visibility with the lights from
14 a distance.
15 Certainly, if other interpretations are out there,
16 this would be the opportunity to --
17 MR. KLINE: Sure, I understand.
18 MS. CITARAMANIS: -- but you know, I believe that
19 the staff report addresses some of these, but since it's
20 your petition --
21 MR. KLINE: I understand. Well, let me just give
22 you sort of a teaser, and that is, Mr. Mack is not only the
23 designer for Victory Housing, but he's also, his firm has
24 done all of the work for the county on the design for the
25 police station. So he's been in all those meetings, trying

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1 to maximize the preservation of the forest stand, and he'll
2 be delighted to be able to tell you how they accomplished
3 that.
4 MS. CITARAMANIS: That's great, and I think you
5 also mentioned, too, that, you know, the community has been
6 with you along the whole way, which is good news because
7 usually, once you flush out all the information and they
8 feel that they've received the information, I have found in
9 my past that it helps everybody all the way to the end. And
10 one thing I noted, that I did get a report -- I did see the
11 one report, the traffic report from a year ago --
12 MR. KLINE: Yes.
13 MS. CITARAMANIS: -- and one on the noise study,
14 noise analysis. No résumés were provided. Am I correct in
15 assuming that all of your experts have qualified as experts
16 here?
17 MR. KLINE: Not necessarily. That's not
18 necessarily the case, and I apologize. I should have
19 submitted those in advance. I brought them with me today,
20 but I didn't --
21 MS. CITARAMANIS: Okay.
22 MR. KLINE: -- I didn't submit them in advance.
23 MS. CITARAMANIS: Okay. Well, as we get to each
24 of them, you'll --
25 MR. KLINE: Sure, yes.

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1 MS. CITARAMANIS: -- clarify that if they have
2 already qualified. Of course, the résumé, they don't have
3 to, but certainly it's --
4 MR. KLINE: Right, yes.
5 MS. CITARAMANIS: -- nice to see it, but if they
6 haven't, then I have to qualify them. I mean --
7 MR. KLINE: Well, we'll have three experts. One
8 of them has qualified. Is that right, Mr. Kabatt?
9 MR. KABATT: Yes.
10 MR. KLINE: Yes, and the other, we will need to
11 qualify the other two.
12 MR. MACK: Actually, I qualified.
13 MR. KLINE: What?
14 MR. MACK: I'm qualified.
15 MR. KLINE: Oh, yes. Okay. Okay.
16 MS. CITARAMANIS: Okay. Well, nobody's --
17 MR. KLINE: Yes. I'm sorry, that's right. That's
18 right, yes.
19 MS. CITARAMANIS: That's all right. And we'll
20 repeat that because nobody's under oath and --
21 MR. KLINE: Right. Yes.
22 MS. CITARAMANIS: All right. So I don't know if
23 that was just your background, if you wanted to make an
24 opening statement. If you felt like a need to make an
25 opening statement, you --

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1 MR. KLINE: Not really. I think my orientation
2 was all I really wanted to do, and -- but the case is fairly
3 straightforward, and you've got a lot to look at in there.
4 So I don't think -- I think we can skip opening statement.
5 MS. CITARAMANIS: Yes, I was assigned this case
6 just this week from Mr. Grossman, and he did have one
7 question that I will throw out. He said, what took so long
8 regarding the forest conservation plan amendment and is
9 there a formal approval by the Planning Board, which I think
10 there is.
11 MR. KLINE: You have the resolution in the record
12 now.
13 MS. CITARAMANIS: Yes, and that would be --
14 MR. KLINE: Yes, but we'll be glad to, because we
15 were going to ask him to call down and tell them to speed
16 things up, but --
17 MS. CITARAMANIS: Yes. I mean, that's what I
18 thought. It's, I think, marked as --
19 MR. KLINE: It's Exhibit No. 39.
20 MS. CITARAMANIS: 39, correct.
21 MR. KLINE: Right. Yes.
22 MS. CITARAMANIS: And -- yes. So I thought I'd
23 throw it out to make sure I was on the right page.
24 MR. KLINE: Yes, and we finally got it straight,
25 and Mr. Mack can explain to you what was going on there.

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1 MS. CITARAMANIS: Okay.
2 MR. KLINE: Okay?
3 MS. CITARAMANIS: If we don't have anything else,
4 then go ahead and begin your case and --
5 MR. KLINE: Sure. Mr. Brown, do you want to come
6 up here and sit right here? Are you okay with this
7 configuration of us this way?
8 MS. CITARAMANIS: I'm fine --
9 MR. KLINE: Okay.
10 MS. CITARAMANIS: -- just so long as the court
11 reporter can hear it all. Okay.
12 MR. KLINE: Yes. I'll just get him to introduce
13 himself; then you can swear him. Mr. Brown, could you
14 please state and spell your name and give us your business
15 address?
16 MR. BROWN: I'm Jim Brown, B-R-O-W-N, and we're at
17 Victory Housing, and that's at 11400 Rockville Pike, Suite
18 505, Rockville, Maryland 20852.
19 MS. CITARAMANIS: Okay. I need you to raise your
20 right hand.
21 (Witness sworn.)
22 MS. CITARAMANIS: Okay. So just wait for
23 Mr. Kline's questions, and if I have any questions, I'll ask
24 after he's done.
25 THE WITNESS: Terrific.

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1 DIRECT EXAMINATION
2 BY MR. KLINE:
3 Q Mr. Brown, I'm not sure if I heard you say it.
4 Did you give us your title?
5 A President of Victory Housing.
6 Q Okay. And what is the scope of that job?
7 A I oversee development and operations for Victory
8 Housing.
9 Q Okay. And what is Victory Housing? Who is
10 Victory Housing?
11 A We are the nonprofit housing arm of the Catholic
12 Archdiocese of Washington, and we specialize in the
13 development and operation of affordable housing; in
14 particular, seniors' housing.
15 Q You've given this speech before, I think.
16 A A few times. A few times.
17 Q Jim, tell the Hearing Examiner how many times
18 you've developed something in Montgomery County, which -- I
19 think it's just easier to keep in this county, or talk about
20 the whole D.C. area.
21 A Well, I guess, in my career at Victory Housing, we
22 have 30 communities now, and 15 are in Montgomery County,
23 and in my career probably developed in excess of 40
24 communities.
25 Q So you've been in this room, going through this

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1 exercise a dozen times or so for projects within Montgomery
2 County?
3 A I'm not sure if it's a dozen, but a number of
4 times, yes.
5 Q To do this properly, I probably should ask where
6 you live, but name a couple projects that the Hearing
7 Examiner may have driven by or be familiar with.
8 A Oh, perhaps Bartholomew House, which is right on
9 River Road at St. Bartholomew's Parish; Byron Houses and Our
10 Lady of Mercy Parish in Potomac. Victory Terrace is in
11 Potomac on Newbridge Drive. Victory Court is right across
12 the street from where we are. Let's see. There's Andrew
13 Kim House out off of 108 in Olney, and there's Grace House
14 on Norbeck Road in Silver Spring. Victory Oaks is in Silver
15 Spring.
16 Q That'll be fine.
17 A Okay.
18 Q That'll be fine. You're everywhere.
19 MS. CITARAMANIS: You're everywhere.
20 MR. KLINE: Yes, right.
21 BY MR. KLINE:
22 Q You heard my dialogue with the Hearing Examiner
23 about the entity that you created to essentially, I guess,
24 operate this. Well -- so tell us who, what is Victory
25 Crossing, Limited Partnership?

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1 A Okay. That is an affiliate organization to
2 Victory Housing, and it is a partnership so that we can
3 utilize low-income housing tax credits, which we need for
4 this project.
5 Q And you would like to amend the application so
6 that the special exception would be granted in the name of
7 Victory Crossing, Limited Partnership?
8 A Victory Crossing, comma, LP.
9 Q Or LP, thank you.
10 A Yes, that's correct.
11 MS. CITARAMANIS: Mr. Kline, would you be able to
12 put that in a --
13 MR. KLINE: Letter?
14 MS. CITARAMANIS: -- written letter or a --
15 MR. KLINE: Yes, I'll be glad to give you a
16 letter, yes, ma'am. Yes.
17 MS. CITARAMANIS: -- pleading or whatever --
18 MR. KLINE: Not a problem.
19 MS. CITARAMANIS: -- giving notice?
20 MR. KLINE: You'll have it this afternoon.
21 MS. CITARAMANIS: Okay. That way, one, we have
22 the title correct --
23 MR. KLINE: Yes.
24 MS. CITARAMANIS: -- and it's on the record.
25 BY MR. KLINE:

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1 Q So the request is that upon the granting of the
2 special exception, it be granted in the name of the entity
3 we just discussed?
4 A Correct.
5 Q Right. But nevertheless, Victory Housing, Inc.,
6 and yourself will be responsible for ensuring compliance
7 with any terms and conditions that might be associated with
8 the grant of the special exception?
9 A That's correct. We will be the controlling entity
10 within Victory Crossing, LP.
11 Q Would you describe now Victory Crossing's legal
12 interest in this property? What is your arrangement with
13 Montgomery County that kind of got you into this?
14 A Well, we have a purchase and sale agreement with
15 the county, but pursuant to their request, we are in
16 discussions now to convert it to a 75-year ground lease, and
17 it appears that that will be the final relationship here.
18 We were actually invited into this community by the county.
19 This parcel, as you may know, has had a number of different
20 proposals, all of which failed, and finally, the county
21 thought that perhaps senior housing might be the most benign
22 of the possibilities out there. And so, again, we are in,
23 at the behest of the county, a great working relationship,
24 and it appears we will end up with a 75-year ground lease
25 with the county.

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1 Q Okay. Before I get into the operational issues,
2 the Hearing Examiner made a good point about working with
3 the community. Describe for her the frequency and the tone
4 of the conversations in the meetings you've had with the
5 neighborhood. Maybe you didn't go to all of them, but I
6 know you and Mr. Blackwell have attended a number of
7 meetings.
8 A Yeah.
9 Q Just describe that.
10 A Well, I think we've had probably five meetings,
11 approximately five meetings with the neighbors, and I think
12 it's been a great working relationship. We have made
13 concessions on their behalf. Initially we had a five-story
14 building, which was going to be 123 units. We are now a
15 four-story building with 105 units. Our materials and our
16 architecture were designed to be compatible with the
17 neighbors, and we had quite a few discussions about that.
18 And so at the end of the day, I think, of the
19 possibilities that were out there for this particular site
20 -- i.e., an office building or, you know, much more intense
21 multifamily -- I think they came to the conclusion that
22 seniors' housing was probably the most benign, and they
23 have, as you, as you've noticed, given us a letter of
24 support for our community.
25 Q Thank you. Thank you. Let me take you then to

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1 kind of what's the project itself. You just mentioned it's
2 going to be a 105-unit building. Give the Hearing Examiner
3 kind of, so she can have an understanding of, what's your
4 typical occupant like? How old are they? Who are they?
5 Are they couples? What are they looking for?
6 A Well, they -- typically, in the independent
7 seniors -- we do have a number of assisted living
8 communities, but this will be for independent seniors --
9 typically, they would come in in their late 70s, coming in
10 in pretty good shape, pretty healthy, not a whole lot of
11 needs when they come in. So we will have relatively few
12 services early on, and then we will tier on later as folks
13 age in place. But we will have, you know, things like
14 speakers coming in; a visiting nurse, perhaps, for blood
15 pressure and counseling, things of that sort; exercise
16 class, professionals would come in; some entertainers would
17 come in -- so typical activities that you would find in
18 seniors' housing.
19 Q Okay. Within the 105 units, what's the mix or the
20 breakdown in terms of the size of the units?
21 A There will be 80 one bedrooms and 25 two-bedroom
22 units.
23 Q And your experience in other places tells you that
24 will result sort of in a population of how many folks? More
25 than 105, I presume.

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1 A Yeah, there will be some couples. So we typically
2 estimate probably one-and-a-half, 1.5 people per unit, which
3 would yield approximately 158 seniors in the building.
4 Q The Planning Board's recommendation to the Hearing
5 Examiner, which, Ms. Citaramanis, is Exhibit --
6 MS. CITARAMANIS: 40 --
7 MR. KLINE: Yes, ma'am.
8 MS. CITARAMANIS: -- I believe. Yes.
9 BY MR. KLINE:
10 Q Basically changed a condition, because they talked
11 about hours of operation and I brought to their attention,
12 it seemed that you wouldn't have hours of operation when it,
13 in essence, is an apartment building, albeit for seniors.
14 So just kind of tell us how the day -- the flow of activity
15 during the day.
16 A Well, I think there would be staff on site during
17 typical business hours, probably 8:30 to 5:00, and perhaps
18 every day of the week, but in terms of, you know, there
19 would be people coming in typically non-rush hour to, you
20 know -- the service people that I just mentioned. The staff
21 on site would typically be no more than four. There'd be a
22 manager. There'd be an assistant manager. There'd be a
23 maintenance person and perhaps and activities director as
24 well. That would be the staff.
25 Q And that's sort of the max. Is there a minimum or

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1 is there a point in time when there's nobody in the building
2 at all?
3 A There's a point in time when nobody's in the
4 building, yes, you know, at the end of the day.
5 Q That's probably weekend days or --
6 A Weekend days and nights; you know, we don't have
7 staff on the premises at night. So, again, that would be
8 the personnel within the building and people coming in,
9 going, deliveries, and again, some professionals coming to
10 the building to provide some level of service during the
11 day.
12 Q There's a provision in the zoning ordinance
13 dealing with elderly housing when you're going in
14 residential neighborhoods, that there need to be a number of
15 units reserved for affordable housing units. When we did
16 our statement of operations, we stated what was sort of your
17 idea at that time, and you told me this morning that that's
18 kind of evolved over time. There's no condition locking you
19 into anything, but explain for the Hearing Examiner where
20 you started and where you are now and where you might be
21 going in the future.
22 A Okay. Well, we'll have 10 market-rate units. The
23 rest will be affordable to people making less than, or at or
24 below 60 percent of median. Our mission is affordable
25 housing. So we strive to be as affordable as possible. By

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1 virtue of some of the issues that have come along, we will
2 not be as affordable as we had hoped, but we, suffice it to
3 say, we will be well in excess of the mandates of
4 affordability imposed on us by the county, and we estimate
5 that all of the units, but for the 10 market-rate, will be
6 at 60 percent of median or less, so well in excess of the
7 affordability mandates.
8 MS. CITARAMANIS: So low-income?
9 THE WITNESS: Pardon me?
10 MS. CITARAMANIS: Low-income?
11 THE WITNESS: Yes, low- to moderate-income, yes,
12 within the definition of the county.
13 BY MR. KLINE:
14 Q And if I can point out, the section in the zoning
15 ordinance uses three different terms based on the percentage
16 of affordability. So I just kind of throw it out and say
17 it's all affordable, but there's low, there's medium-low,
18 there's low-low, something like that --
19 A Yes.
20 Q -- based on the percentages.
21 THE COURT: But I believe what he's describing is,
22 characterizes low-income.
23 BY MR. KLINE:
24 Q In that category?
25 MS. CITARAMANIS: Is that correct?

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1 THE WITNESS: It -- well, it could be that we will
2 have people in various categories, but suffice it to say,
3 the mandates that are imposed upon us, we will be in well
4 excess of those mandates in terms of affordability. So we
5 will have low-income. We expect to have some very
6 low-income, but when you look at the thresholds, we will,
7 again, tremendously exceed those thresholds of
8 affordability. Only 10 of the 105 will be at market rate.
9 Ninety-five percent will meet one or the other of those
10 mandates, of those levels of affordability.
11 MS. CITARAMANIS: And does it require an agreement
12 with DHCA, I think, based on the percentages?
13 THE WITNESS: Yes, we will have an agreement with
14 DHCA, and we're subject to the mandates of the low-income
15 housing tax credit program, which also has mandates --
16 MS. CITARAMANIS: Okay.
17 THE WITNESS: -- and regulatory agreements, which
18 maintain that they will be affordable for a long time, for
19 many years.
20 MS. CITARAMANIS: And is this agreement in place,
21 or is this -- when would that take place?
22 THE WITNESS: Well, certainly we --
23 MS. CITARAMANIS: I'm sorry. Am I asking your
24 questions? Sorry.
25 MR. KLINE: No, no. You're the one that we need

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1 to get, get you comfortable. So that's fine.
2 THE WITNESS: Closer to the time when our
3 financing has settled down and we know when we're going to
4 start and we know what the interest rates are, et cetera,
5 et cetera, et cetera, but we have already committed with the
6 county to exceed the mandates imposed upon us. So it will
7 not happen otherwise. The county will not sign this 75-year
8 ground lease unless we are meeting their mandates, and that
9 will be reinforced by a regulatory agreement, which will
10 enforce it for the long term.
11 MR. KLINE: From a practical point of view, at
12 least for the private sector, and I assume it applies in
13 this case, you just can't get a building permit from the
14 Department of Permitting Services until DHCA signs off that
15 it has an agreement. So it will wait that long in the
16 process.
17 MS. CITARAMANIS: And to ensure that --
18 THE WITNESS: Correct.
19 MS. CITARAMANIS: -- those percentages are
20 complied with.
21 MR. KLINE: Correct.
22 THE WITNESS: Correct.
23 MS. CITARAMANIS: Okay.
24 BY MR. KLINE:
25 Q Mr. Brown, based on your other facilities,

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1 obviously you have developed a sense of what's an
2 appropriate location for this kind of use, and the staff
3 report talked a lot about a concern, well, not a concern,
4 but the master plan referenced a concern about having
5 institutional or nonresidential uses on the major highways
6 in this planning area. Would you just kind of describe,
7 based on your experience in locating these facilities, how
8 you feel this, Victory Crossing, does not violate that
9 recommendation in the master plan?
10 A Okay. Well, I mean, certainly the major
11 attraction is we're right at a crossroads there and then --
12 hence the name Crossing -- right across the street from a
13 major shopping center, which is a terrific location for
14 seniors, right at bus stops. I mean, we think the location
15 is superb for seniors, but vis-à-vis the neighbors, we are
16 insulated, you know, from the neighbors by the police
17 station parking lot and then 230 feet of forest conservation
18 between us and the neighbors -- I'm sorry, 230, we are 230
19 feet from the nearest home, I should say. Let me correct
20 that. Our building to the nearest home is about 230 feet.
21 So that gives us some separation there, and because of the
22 down slope that we are on, we are approximately the same
23 height as the homes adjacent, and that was very important to
24 the neighbors as we went through the discussions.
25 Of course, our use is residential. We're doing

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1 apartments, you know, residential apartments, and in fact,
2 seniors' housing is among, you know, various types of
3 residential housing, about as benign as you can get. And so
4 we do have -- we do think we are insulated from the
5 neighborhood. We are residential. We are seniors. We view
6 that this is very compatible with the neighborhood, and
7 apparently, the neighbors concur.
8 Q Is there anything about the operation of a Victory
9 Housing facility -- in this case, Victory Crossing, LP --
10 that has any objectionable quality to it at all -- noise,
11 fumes, glare? Would there be anything that would be
12 bothersome to the surrounding property owners?
13 A No, I would say quite the contrary -- again, no
14 impact on the schools and no, very, very little rush-hour
15 traffic. So those are the two things, when we meet with
16 neighbors, that are, you know, kind of at the foremost of
17 their agenda, and they like the fact that seniors' housing
18 doesn't have much impact on those two areas.
19 Q Okay. One of the standards in the zoning
20 ordinance is that the facility can be built and operated in
21 a manner that would be in harmony with the general character
22 of the neighborhood, considering the surrounding conditions
23 and activity level anticipated for the use. Do you feel
24 that your proposed use will satisfy that criteria of zoning?
25 A Absolutely.

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1 Q And then the petitioner is content with the
2 conditions recommended by the staff and the Planning Board
3 as modified in Exhibit 40 --
4 A Yeah.
5 Q -- right?
6 A We are.
7 Q Okay.
8 MR. KLINE: I have no further questions of
9 Mr. Brown.
10 MS. CITARAMANIS: Just to add on to the last part,
11 with regards to the conditions imposed by the Planning Board
12 as well as technical staff, just so the record is clear,
13 Exhibit 38 would be the technical staff report --
14 MR. KLINE: Was I wrong? Okay. Yes.
15 MS. CITARAMANIS: No, no.
16 MR. KLINE: Oh, okay.
17 MS. CITARAMANIS: And the Planning Board was 40.
18 MR. KLINE: Yes. Okay.
19 MS. CITARAMANIS: And I don't know if the, also
20 the forest conservation, if that's part of --
21 MR. KLINE: I'll have a separate witness address
22 that, yes, ma'am.
23 MS. CITARAMANIS: Okay. So you accept and adopt
24 everything that's in the technical staff report and the
25 Planning Board --

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1 THE WITNESS: We do.
2 MS. CITARAMANIS: -- as part of your testimony?
3 THE WITNESS: We do.
4 MS. CITARAMANIS: Okay. And I'm just going to
5 backtrack a little bit. You mentioned the number of staff
6 on site was four?
7 THE WITNESS: No more than four.
8 MS. CITARAMANIS: No more than four, and that
9 would be a manager, assistant manager, maintenance, and?
10 THE WITNESS: Activities director.
11 MS. CITARAMANIS: Okay. And just so that I
12 understand the type of facility this is, it's independent,
13 and you said few services, will add visiting nurse?
14 THE WITNESS: Well, oftentimes we will have a
15 visiting nurse to do weights and blood pressures, not
16 providing medical services --
17 MS. CITARAMANIS: Right.
18 THE WITNESS: -- on the premises, but more
19 wellness checkups. We will have a wellness center within
20 the building, so will be weights, blood pressure, nutrition
21 counseling, things of that sort periodically. There won't
22 be a staff nurse or anything of that sort. It'll be
23 somebody that stops by periodically, from time to time, just
24 to check up on the seniors who wish to speak with a visiting
25 nurse.

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1 MS. CITARAMANIS: And is this something that you
2 anticipate as a growth down the road, as people get older,
3 or --
4 THE WITNESS: Well --
5 MS. CITARAMANIS: -- or as you find it is needed
6 to serve the people that are there who are short of going
7 into assisted living?
8 THE WITNESS: Yes, we, our services -- we would
9 like to grow our services commensurate with the needs of the
10 seniors, but it will not be licensed as assisted living. We
11 have six assisted living communities. So when the seniors
12 get to a certain point, we have other communities that they
13 can go to --
14 MS. CITARAMANIS: Okay.
15 THE WITNESS: -- to meet their needs, with three
16 meals a day, laundry, linens, housekeeping, and all the
17 things of that sort, personal care. We will not have that
18 at this facility, though.
19 MS. CITARAMANIS: Okay. So how would that, if you
20 do add that nurse, how would that impact the condition that
21 no more than four staff on site?
22 THE WITNESS: I'm sorry. Maybe I misspoke. We
23 will not add a nurse on staff. It will be a visiting nurse
24 that will stop by once in a while --
25 MS. CITARAMANIS: Oh, okay.

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1 THE WITNESS: -- just to do, you know, like I
2 said, the weights and the blood pressures, things of that
3 sort, that'll stop by once a month or something. It's not
4 something that we anticipate having on staff there.
5 MS. CITARAMANIS: In independent living, if
6 somebody were to go into hospice, would that be someplace
7 that you would send them off or ask them or how would that
8 impact more staff coming onto the property? And I realize
9 they wouldn't be your staff; they would be through hospice.
10 Does that impact the operations?
11 THE WITNESS: Well, you know, we don't control --
12 this is the person's home. If they bring --
13 MS. CITARAMANIS: Right.
14 THE WITNESS: -- hospice in, they have the right
15 to do so. So we can't control that, but I can tell you that
16 it typically, you know, our -- doesn't usually happen in our
17 independent living communities, happens much more often in
18 the assisted living communities when somebody gets to that
19 point.
20 MS. CITARAMANIS: Okay.
21 MR. KLINE: Ms. CitaraManis, if I can add, in a
22 dialogue that I had Wednesday down at Park and Planning
23 Commission on another special exception for elderly housing,
24 we had a discussion about the staff and then -- well, I'll
25 call it the supplemental staff --

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1 MS. CITARAMANIS: Yes.
2 MR. KLINE: -- and we kind of came to a resolution
3 that as long as the special visitors, the nurse case or the
4 educator or something, come outside of the peak travel hours
5 -- let me phrase it this way -- that's why we're talking
6 about not more than four staff, because it has a travel
7 factor --
8 MS. CITARAMANIS: Right.
9 MR. KLINE: -- and these people would not be
10 coming between 7:00 and 9:00 in the morning and 4:00 and
11 6:00 in the evening. They'd be coming during the day or
12 something like, or maybe they'd bring a bus of school kids
13 in to visit for the Christmas party or something like that.
14 MS. CITARAMANIS: And I assume that once you get
15 to the Planning Board with the subdivision review with
16 regards to the traffic --
17 MR. KLINE: Exactly.
18 MS. CITARAMANIS: -- that that will be delved
19 into --
20 MR. KLINE: Very much so, correct. Yes.
21 MS. CITARAMANIS: -- but having --
22 MR. KLINE: Yes.
23 MS. CITARAMANIS: -- personal experience with an
24 elderly --
25 MR. KLINE: Yes.

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1 MS. CITARAMANIS: -- father-in-law in nursing
2 care --
3 MR. KLINE: Okay.
4 MS. CITARAMANIS: -- it's like, oh, what would you
5 do here?
6 MR. KLINE: Yes.
7 MS. CITARAMANIS: I wish it had been independent,
8 but it was not.
9 MR. KLINE: Right. Well, in that context, the
10 discussion was -- and we were responding to the comments
11 from a traffic engineer at Park and Planning Commission who
12 said, if they are not coming during those peak hours, then I
13 don't need to know about them because -- unless there was a
14 lot of them and you suddenly had a change in the intensity
15 level, but from a traffic point of view, it was not
16 necessary to be reported.
17 So Mr. Kabatt, when he does his, probably will be
18 told, you know, you don't need to tell me if there's going
19 to be a visiting nurse or a beautician there at 10 o'clock
20 on, two days a week or something like that.
21 MS. CITARAMANIS: Right. Okay. It was originally
22 scheduled to be five -- planned to be a five-story, and you
23 moved it down to four, and just give me a visual, if you
24 can. You talked about the slope in terms of capability
25 based on the height, because that was one of the things that

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1 they raised, was -- I've not seen the site, and I mean, I
2 drive down 29, but -- so just support that. Tell me how it
3 is compatible based on the topography so that it doesn't
4 look like a four-story single-family home that's really not
5 a single-family home.
6 THE WITNESS: Right. Right.
7 MR. KLINE: Mr. Brown, before you answer, I think
8 it probably would help if you had a little bit better
9 visual. Okay?
10 MS. CITARAMANIS: What --
11 MR. KLINE: This is the rendered or colored
12 version of Exhibit -- well, actually, you know what? This
13 is the preliminary plan; so it's not even in the record. So
14 could I ask that this document not presently in the record
15 be placed in the record?
16 MS. CITARAMANIS: Absolutely. Let me -- if you
17 can just bring it up here, and I'll stamp it and we'll mark
18 it. That way we won't forget --
19 MR. KLINE: Yes.
20 MS. CITARAMANIS: -- which we all do sometimes.
21 And you'll get me a --
22 MR. KLINE: CD.
23 MS. CITARAMANIS: -- this on disc?
24 MR. KLINE: CD of that, right.
25 MS. CITARAMANIS: So we're on 43. We'll be

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1 organized if it kills us.
2 (Exhibit No. 43 was marked
3 for identification.)
4 MR. KLINE: There's nothing wrong with that.
5 MS. CITARAMANIS: Yes.
6 MR. KLINE: Given that I come back over here to go
7 through your files periodically, it helps when it's
8 organized.
9 MS. CITARAMANIS: Yes. Okay. So we've marked
10 that as Exhibit 42, and you can describe what that is and
11 then answer my question or however Mr. Kline wants to
12 rephrase it.
13 MR. KLINE: Mr. Brown, what we've done is we've
14 put up a mounted version of what's now been labeled Exhibit
15 No. 43, which is the detailed preliminary plan which has
16 been rendered to basically show the features on the property
17 and shows off site, not rendered, single-family detached
18 houses in the neighborhood. And with that as an exhibit --
19 and feel free to go up here if you'd like to do so -- but
20 just try and answer the Hearing Examiner's question, using
21 that exhibit.
22 THE WITNESS: Yeah. Well, I think I'd like to
23 defer to the architect on the particulars, actually, but
24 suffice it to say that from those single-family homes that
25 you see at the top, the site slopes down. So even though

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1 the homes are two story and we are four story, we don't, we
2 don't rise to a level that you would equate if they were
3 next to each other because we're downhill, if you will. So
4 you will not notice a typical two-story differential between
5 the heights of these two, two buildings.
6 MS. CITARAMANIS: Okay.
7 MR. KLINE: And --
8 THE WITNESS: So it's approximate, but I think we
9 were within three feet.
10 MS. CITARAMANIS: But the slope is --
11 MR. KLINE: Within three feet.
12 MS. CITARAMANIS: -- the slope is from Seton
13 Drive? Where's the slope?
14 MR. KLINE: Seton Drive is this private street on
15 county-owned land that runs through the green area which
16 runs sort of parallel to the southern edges of these
17 single-family houses.
18 MS. CITARAMANIS: That's in place now?
19 MR. KLINE: It is there, yes, correct.
20 MS. CITARAMANIS: That is in place. Okay. I
21 wasn't sure if it was future.
22 MR. KLINE: And Mr. Mack can explain a little bit
23 more the history of that, but it is there, yes. And the
24 green area immediately north or above the Victory Crossing
25 building and on the north side of existing Seton Drive, this

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1 crosshatch, that's representing an existing vegetation and a
2 forest that will remain.
3 THE WITNESS: Forest preservation area. So that's
4 a buffer in and of itself.
5 MS. CITARAMANIS: Okay.
6 THE WITNESS: And then the height, I believe the
7 height of our roof vis-à-vis the height of the closest home
8 is within three feet, something like that. We are only
9 taller by three feet --
10 MS. CITARAMANIS: Oh, okay. See, that --
11 THE WITNESS: -- whereas typically you would think
12 two stories, you know, thinking 20 feet --
13 MS. CITARAMANIS: Right.
14 THE WITNESS: -- it's only three because our
15 building starts at a lower elevation than the homes.
16 MS. CITARAMANIS: That's the visual I was --
17 MR. KLINE: Sure.
18 MS. CITARAMANIS: -- was asking for, is, you know,
19 if I'm out on my back deck, am I going to see two stories of
20 this building, am I going to see one story, or am I going to
21 see part of the roof because of the topography.
22 THE WITNESS: Correct.
23 MR. KLINE: And we'll have Mr. Mack --
24 MS. CITARAMANIS: Okay.
25 MR. KLINE: -- go through that in more detail.

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1 MS. CITARAMANIS: That gives me a frame of
2 reference. Thank you.
3 THE WITNESS: Sure.
4 MS. CITARAMANIS: Okay. And with regards to
5 changing the name, I realize it was in your summary of,
6 statement of operation. I also note that you had the letter
7 from the county with authorization.
8 MR. KLINE: Yes.
9 MS. CITARAMANIS: Will that affect -- does that
10 need to be amended, or does that cover this change?
11 MR. KLINE: The, it's called an Agency
12 Authorization, doesn't address the name at all. So the
13 county would not care --
14 MS. CITARAMANIS: Okay.
15 MR. KLINE: -- who was the entity. Let me
16 rephrase that. The entity that we're going to convert to
17 will actually ultimately be the lessee on the ground lease.
18 So the county will not sign the ground lease until they've
19 accepted the change in the name.
20 MS. CITARAMANIS: Okay.
21 MR. KLINE: Okay.
22 MS. CITARAMANIS: And I didn't know if that meant
23 that they were going -- that authorization needed to be
24 amended or it's just later down the road and --
25 THE WITNESS: It's down the road when we sign the

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1 lease.
2 MR. KLINE: Yes.
3 MS. CITARAMANIS: Okay. I mean --
4 THE WITNESS: And they're aware of all this.
5 MS. CITARAMANIS: I was going to say, and
6 obviously they're aware of --
7 THE WITNESS: Yes, they are.
8 MS. CITARAMANIS: But I just want to make the
9 record clear that that doesn't need to be changed for my
10 purposes to make the --
11 MR. KLINE: That's correct.
12 MS. CITARAMANIS: Okay. All right. All right. I
13 don't have any questions. Did my questions generate any
14 questions that you would like to follow up on?
15 MR. KLINE: No, ma'am.
16 MS. CITARAMANIS: Okay. All right.
17 MR. KLINE: Thank you, Mr. Brown.
18 MS. CITARAMANIS: Thank you, Mr. Brown.
19 THE WITNESS: You're welcome.
20 MR. KLINE: Mr. Mack, do you want to do any
21 organization here in terms of boards or anything? And while
22 you're doing that, I'll give the Hearing Examiner a copy of
23 your résumé.
24 MS. CITARAMANIS: Okay.
25 MR. KLINE: I've got more if you need any more.

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1 MS. CITARAMANIS: Well, yes, I have to put one in
2 the -- we're going to mark this, right?
3 MR. KLINE: 44 is this one?
4 MS. CITARAMANIS: Okay. Oh, here it is.
5 (Exhibit No. 44 was marked
6 for identification.)
7 MR. KLINE: When you're ready, Madam Hearing
8 Examiner.
9 MS. CITARAMANIS: Okay. All right. Call your
10 next witness.
11 MR. KLINE: Mr. Mack, would you please state and
12 spell your name and give us your business address?
13 MR. MACK: Good morning. My name is Kevin Mack.
14 It's M-A-C-K, and I work for Dewberry, and the address is
15 203 Perry Parkway, Suite 1, Gaithersburg, Maryland 20872.
16 MS. CITARAMANIS: Okay. Raise your right hand.
17 (Witness sworn.)
18 MS. CITARAMANIS: Okay. Listen for Mr. Kline's
19 questions.
20 THE WITNESS: Okay.
21 DIRECT EXAMINATION
22 BY MR. KLINE:
23 Q Mr. Mack, what is your profession?
24 A I am a licensed landscape architect.
25 Q And with Dewberry what is your job title?

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1 A I'm the senior land planner and landscape
2 architect for the Gaithersburg office.
3 Q And you're responsible for management of projects
4 such as Victory Crossing?
5 A Yes. Yes.
6 Q And that entails what? What is the scope --
7 A As, as --
8 Q -- of your supervision responsibilities?
9 A As a project manager, I'm, I supervise both the
10 land planning and the, all the way up through final
11 engineering design of site development for commercial,
12 residential, and every type of developments.
13 Q And you've testified in hearings like this before?
14 A Yes.
15 Q And you basically have addressed all the issues
16 related to the development aspects of a project, both --
17 A Yes.
18 Q -- landscape architecture --
19 A Uh-huh.
20 Q -- your specialty, but engineering as well?
21 A Yes.
22 Q Your résumé indicates that you have qualified as
23 an expert witness before the Zoning Board and Commission of
24 Montgomery County and for the Circuit Court. You qualified,
25 or what was the terminology they used for you when you

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1 qualified?
2 A The original one they qualified me as a landscape
3 architect and land planner --
4 Q Yes.
5 A -- and the second time was as a landscape
6 architect and land planner.
7 Q Right.
8 MS. CITARAMANIS: Actually, I'm a little confused
9 because in your --
10 MR. KLINE: Probably a summary of proof, listing
11 the witnesses.
12 MS. CITARAMANIS: Well, yes. You have him listed
13 as a civil engineer.
14 MR. KLINE: That's because I made a mistake, and
15 he corrected me on it.
16 MS. CITARAMANIS: Okay, because I'm going, wait a
17 minute.
18 MR. KLINE: Yes. Yes.
19 THE WITNESS: I have to correct people on a
20 constant basis that, to remind them that I'm not actually a
21 civil engineer. They always think I am.
22 MS. CITARAMANIS: Okay. So then you're going to
23 have to tell me what -- you have to explain what you do
24 and --
25 MR. KLINE: Yes, exactly.

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1 THE WITNESS: Okay.
2 MS. CITARAMANIS: -- what you're looking to have
3 him be an expert in.
4 MR. KLINE: Yes, exactly. Because he does so much
5 civil engineering -- in all the meetings we've gone to, he's
6 always talked about all the civil engineering -- I
7 mistakenly assumed that he was a civil engineer. He
8 corrected me when he saw kind of the outline I prepared for
9 him.
10 BY MR. KLINE:
11 Q So what I think the Hearing Examiner needs to hear
12 from you is the scope of your supervisory responsibilities
13 that would qualify you to be able to address civil
14 engineering and site design issues that you'll be addressing
15 today.
16 A Okay. Basically, in my work I do the initial
17 designs, a lot of times myself or I supervise one of my
18 other staff planners in the basic design of developments,
19 and also, I work hand in hand with our staff engineers in
20 the design of other elements, including traffic design, or
21 traffic -- road design, utility design, stormwater
22 management, sediment control. I work with them and pretty
23 much do, can do everything up to the minutia of the
24 number-crunching part of the engineering. So I'm fairly
25 well conversant with the requirements of the various

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1 engineering for utilities and stormwater and grading and
2 whatnot.
3 Q So you wouldn't be able to certify a plan, an
4 engineering plan with a seal that says you're a civil
5 engineer --
6 A No. No.
7 Q -- but you would have been the one who ultimately
8 approved it; then somebody else would have signed it --
9 A Yes.
10 Q -- right?
11 A Yeah. Yes. I do, I basically do the design, and
12 I have the engineers do the final number-crunching and the
13 detail stuff, primarily because that's what they do best,
14 and then I make sure that everything is coordinated between
15 all the different engineering elements and the site plan
16 itself.
17 Q And you've been the point person and the primary
18 spokesman for the county on the development of this property
19 and the construction and implementation of the --
20 A Yes.
21 Q -- District 3 Police Station?
22 A Yes. Yes. Again, in the development of the
23 District 3 Police Station, I was involved as the primary
24 site development and land planner and project manager for
25 the police station all the way from the initial feasibility

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1 studies back in 2007 all the way up through the final
2 construction. So --
3 Q And --
4 A -- I worked with the county and the architects,
5 sometimes daily, on the issues and worked with the, met with
6 the neighborhood to deal with all of their issues and
7 questions and responding to their concerns through the
8 development of the police station and -- which is vastly
9 different from where it was originally and, as a direct
10 result of the coordination with the community.
11 Q And for how many years have you been serving this
12 role as a general supervisor of the work product of your
13 office?
14 A I've been a project management supervisor now for,
15 I believe, 11 years, 10 or 11 years.
16 Q And you have worked in the land development
17 industry for how long?
18 A Twenty-seven years.
19 Q Twenty-seven years.
20 MR. KLINE: With that as background,
21 Ms. CitaraManis, I'd like to offer Mr. Mack as an expert in
22 what I'll call site design, which I hope would sort of
23 encompass the scope of all the disciplines involved, and he
24 could -- when we get to forest conservation, he obviously
25 can talk about that specifically.

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1 So maybe I should add in there as an expert in
2 landscape architecture, as well, since that is his primary
3 training, but as you can see, he's taken on other sort of
4 responsibilities, but by using the term site design, which
5 isn't a profession per se, but it -- I think it covers the
6 scope of what he does and what needs to be addressed today.
7 And I will say, I have done this before because not
8 everybody quite fits in a perfect pigeonhole all the time.
9 MS. CITARAMANIS: Right.
10 THE WITNESS: And, also, development, especially
11 with the current regulations, everything is pretty well
12 integrated, and as a result, I have to understand the basis
13 for the final engineering design and how that affects the
14 site design itself, and it works hand in hand from the
15 beginning.
16 MS. CITARAMANIS: And just clarify for me, in your
17 résumé you said you have been qualified as an expert
18 witness. What -- as an expert witness in what before the
19 Zoning Board and --
20 THE WITNESS: The previous qualifications were as
21 a land planner and landscape architect.
22 MS. CITARAMANIS: Okay. And that, in the last two
23 years or -- just a general idea, if you can remember.
24 THE WITNESS: Actually, it was about six -- six or
25 seven years ago was the last time I was before the Board.

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1 MS. CITARAMANIS: Okay. All right. I mean, based
2 on the clarification, taking out the civil engineering, I
3 believe that he is qualified as such. And you want him
4 qualified as a -- he says land planner; you say site design.
5 I don't know if they're not one and the same.
6 THE WITNESS: It's basically the same thing.
7 MS. CITARAMANIS: Right, and landscape architect.
8 So with that --
9 THE WITNESS: Yeah.
10 MR. KLINE: Fine.
11 MS. CITARAMANIS: -- I accept him as an expert in
12 that field.
13 THE WITNESS: Holy Cross Hospital was actually the
14 one that I was --
15 BY MR. KLINE:
16 Q Sure. Okay.
17 A -- qualified on.
18 Q Well, thank you very much. Now I'll kind of get
19 down to the nuts and bolts here. It probably would help,
20 because you heard the Hearing Examiner say, I'd like to
21 understand a little bit kind of how the property lays out --
22 A Uh-huh.
23 Q -- you know, how things work, so you've got a
24 couple of exhibits up here. The one on the left is
25 Preliminary -- you've put both. What I'd like you to do is

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1 kind of tell us what's out there today. Give us some of the
2 features --
3 A Okay.
4 Q -- of what's out there today, and then we can kind
5 of work into the specifics --
6 A Sure.
7 Q -- for Victory Housing. The drawing on the
8 left-hand side, is that the non-rendered version of Exhibit
9 43, or what is that? It doesn't look like it is, looks like
10 it's a separate --
11 A It's -- this one is actually the same as the
12 rendered version of those --
13 MS. CITARAMANIS: Let's go off the record for one
14 minute so we can get the exhibits in order.
15 MR. KLINE: Okay. Thank you.
16 (Whereupon, at 10:27 a.m., a brief recess was
17 taken.)
18 MS. CITARAMANIS: Okay. We'll go back on the
19 record. Thank you.
20 THE WITNESS: Okay. Exhibit 45 is the existing
21 conditions map for the, which covers -- it's actually
22 focused on the subject property. So it does not currently
23 show the full extent of the western portion of the overall
24 12.79-acre site, but as it shows here, the subject property
25 for this issue is the 2.51-acre lease area which on the, on

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1 the southeast is bounded by Milestone Drive, which is a
2 service road --
3 MS. CITARAMANIS: Okay.
4 THE WITNESS: -- parallel to Route 29.
5 MS. CITARAMANIS: Yes.
6 THE REPORTER: It's okay. Keep going.
7 MS. CITARAMANIS: Thank you. Do you need him to
8 repeat anything?
9 THE REPORTER: No. It's fine.
10 MS. CITARAMANIS: Okay.
11 THE WITNESS: On the southwest side of the subject
12 lease area is the parking entrance and front -- front
13 entrance drive and public parking for the 3rd District
14 Police Station. It has two entrances directly off of
15 Milestone Drive, one here and one here. To the west is the
16 police station secure parking lot itself. It is actually
17 surrounded by an eight-foot-high security fence. To the
18 north is the forest conservation reserve and existing Seton
19 Drive, and then further to the north is the Heartsfield, or
20 Sherbrooke Woods Subdivision, single-family housing. To the
21 northeast is the remainder of the county property, which is
22 under the area shown on the master plan for a future
23 split-grade interchange --
24 MS. CITARAMANIS: Yes.
25 THE WITNESS: -- for Stewart Road -- Stewart Lane

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1 and Columbia Pike.
2 The subject property is currently forested. The
3 forest line comes down along here. Basically, you can --
4 BY MR. KLINE:
5 Q Kevin, when you say down along here, just kind of
6 tell us how it's highlighted or something.
7 A It basically, the forest area -- the forest area
8 encompasses the, effectively the northern half of the site.
9 There's a strip along Milestone and adjacent to the police
10 station parking lot that was previously cleared as part of
11 the construction of the police station. The rest of it is a
12 low-quality regenerated forest. Back in the 50s it was a
13 farm here, and this forest area grew up over time. It's
14 heavily inundated with invasive species, which is part of
15 the forest conservation. They will be, invasives are being
16 removed.
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: So that's basically what the
19 conditions, the existing conditions are.
20 BY MR. KLINE:
21 Q All right. And, Kevin, before you leave that --
22 A Okay.
23 MR. KLINE: There is an exhibit in the record,
24 Madam Hearing Examiner --
25 MS. CITARAMANIS: Yes.

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1 MR. KLINE: -- Exhibit 14, titled Existing
2 Conditions, and I believe it's the same thing as what we
3 just marked --
4 THE WITNESS: Yes, it should be.
5 MR. KLINE: -- other than maybe the highlighting
6 in red of the subject property lease area --
7 THE WITNESS: Yeah.
8 MS. CITARAMANIS: So you think --
9 MR. KLINE: -- and maybe that, in and of itself,
10 would justify making it a separate exhibit, but I -- but you
11 may stumble into the fact someday that 45 and 14 are
12 essentially the same thing.
13 THE WITNESS: They're essentially the same. It's
14 just this one is probably a little more current with some of
15 the notes and everything that go to things. So --
16 MS. CITARAMANIS: Okay. No, and I appreciate you
17 letting me know --
18 MR. KLINE: Yes, right.
19 MS. CITARAMANIS: -- because deciphering
20 through --
21 THE WITNESS: Yeah.
22 MS. CITARAMANIS: -- and then -- that's great. So
23 might be tiny differences but for the most part it's the
24 same as Exhibit 14, and just so that I'm correct, you
25 identified No. 45 as the preliminary existing conditions?

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1 THE WITNESS: Yes.
2 MS. CITARAMANIS: Okay. Thank you.
3 (Exhibit No. 45 was marked
4 for identification.)
5 THE WITNESS: Exhibit 46 is the overall
6 preliminary subdivision plan which actually shows the entire
7 12.79 acres that's owned by the county, but on this one it
8 actually, it demonstrates the proximity of New Hampshire
9 Avenue to the west. To the -- actually, starting in the
10 middle of the site is the existing police station.
11 MS. CITARAMANIS: Yes.
12 THE WITNESS: To the north and to the west of the
13 police station parking lot is the existing forest
14 conservation buffer that was recorded as part of the police
15 station. Northwest of the police station and the forest
16 conservation are three existing single-family houses and one
17 vacant property which have access off of Milestone Drive,
18 immediately adjacent to New Hampshire Avenue on a common
19 driveway. At the northwest corner is the existing senior
20 housing for Sunrise.
21 BY MR. KLINE:
22 Q Sunrise.
23 A Sunrise. The rest of this is the existing --
24 Q And when you say the rest of this, the
25 development --

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1 A The rest of the north -- the north side is the
2 single-family housing, and this is the -- the eastern point
3 of the site is the future interchange for Stewart, and then
4 just to the east of the police station is where our housing
5 for this subject property is, right in here.
6 Q Kevin, you mentioned, or the Hearing Examiner
7 mentioned Seton Drive. It's --
8 A Okay.
9 Q -- it's a little unusual, and I --
10 A Okay. Yeah. All right. This is a new one
11 that's --
12 Q Explain to her what it is.
13 A Okay. Not to go too far back into the history,
14 but when, when the Sherbrooke Woods Subdivision was
15 developed, it was basically -- Heartsfield Drive is a single
16 cul-de-sac road that loops back in with egress out onto New
17 Hampshire Avenue and then a single side street to the south
18 of Sherbrooke Woods Lane. At the time of the development of
19 that, the State Highway had only allowed them a right-turn
20 exit only; there was no left-turn exit out of the
21 subdivision. So as part of that subdivision, they built
22 what was originally envisioned as a temporary connection out
23 to Milestone to complete access to the site, and that's what
24 Seton Drive is.
25 That was built on the land which, at the time, was

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1 privately owned; the county had not purchased the land at
2 that time, but they created an ingress -- a public-use
3 easement for the road. It was never dedicated, and it was,
4 it was actually intended to be relocated during the
5 development of the subsequent properties, but during
6 negotiation and working with the community, the community
7 was very adamant that they wanted to maintain Seton Drive in
8 perpetuity at which point the county agreed that that would
9 -- that Seton Drive would stay rather than being relocated
10 as originally was planned, Sherbrooke Woods going straight
11 through to, through the center of the site. The original
12 plan was that the police station would be to the west of the
13 Sherbrooke Woods Lane extended and the housing would be to
14 the east side, but they wanted to keep the road where it
15 was.
16 Q So there's a dedicated public street up to a
17 point that you're --
18 A Yes. From Heartsfield Drive extending south to
19 the property line is Sherbrooke Woods Lane, and that is a
20 dedicated secondary 60-foot-wide right-of-way, open section
21 road, and then upon our property it then becomes known
22 either as Sherbrooke Woods Lane, depending on which map you
23 look at, it either is designated Sherbrooke Woods Lane all
24 the way through or properly, because of what was approved by
25 DPS, it's, it's actually called Seton Drive --

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1 Q And --
2 A -- and that's in a private, I won't say -- it's in
3 a public, public-use easement as opposed to a right-of-way.
4 So it's owned by, currently owned by DGS.
5 Q And I was going to say, you probably slipped back
6 into your role as the spokesman for the county because you
7 said, on our property, but in fact, Seton Drive is not
8 located within the special exception area --
9 A Correct.
10 Q -- right --
11 A Correct.
12 Q -- in the lease area?
13 A Yeah, I'm sorry. Yeah. It's on the 12-acre
14 overall site, not on the --
15 MS. CITARAMANIS: It's not on the leased area --
16 THE WITNESS: Not on leased area.
17 MS. CITARAMANIS: -- the 2.51 acres.
18 THE WITNESS: Right.
19 MS. CITARAMANIS: Okay.
20 THE WITNESS: Yeah, forgive me. Sometimes I
21 switch back and forth.
22 BY MR. KLINE:
23 Q No, no.
24 MS. CITARAMANIS: That's okay. That's why you
25 have us.

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1 BY MR. KLINE:
2 Q And just kind of give us the 15-second version of
3 when are we finally going to know what the interchange is
4 going to look like, 29 and Stewart lane, or maybe better
5 stated, regardless of what it looks like, have you reserved
6 enough right-of-way to be able to --
7 A Yeah.
8 Q -- accomplish that improvement?
9 A The right-of-way for the -- the interchange itself
10 is, was established by the master plan for White Oak, and
11 the only thing that's been developed so far is SHA has done
12 a preliminary study to determine what type of interchange it
13 would be. There's been a, currently is calling for a
14 modified diamond interchange where it's a, the ramps go up
15 and they split and cross. It's basically identical to the
16 Falls Road and 270 interchange. It's the only one that I
17 can think of that actually looks like that in the county.
18 Stewart Lane would then be, would cross over Columbia Pike
19 and have a loop back down to Milestone to connect it into
20 the, into Milestone to serve local traffic on the north side
21 of Columbia Pike.
22 There -- SHA did a preliminary study to come up
23 with this configuration. They currently do not have that
24 funded or even on their six-year plan for either design or
25 construction. It doesn't, it's not on anybody's plan

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1 currently. So it -- when it will be built is sometime way
2 in the future --
3 Q Okay.
4 A -- there's no current plans for it. And this is
5 basically, we based our reservation on their configuration
6 that SHA developed.
7 Q You gave us a, basically a qualitative statement
8 of the quality of the forests there, but I'd like you to
9 maybe go back, addressing what the Hearing Examiner was
10 saying. If she lived in one of those single-family houses
11 and she went out on the deck on the back of her house, what
12 would she be able to see? You --
13 A Okay.
14 Q -- talked about what sort of a quality the -- how
15 tall is it? I mean, is it tall enough to give us
16 substantial screening, and maybe talk about the negotiations
17 between the county and the neighborhood --
18 A Okay.
19 Q -- in terms of maximizing the protection.
20 A Yes. Actually, the majority of the large trees on
21 the overall 12-acre site before construction are along the
22 north side of the property. Those trees range from a
23 42-inch-diameter trunk up to a 26-inch-diameter trunk.
24 There's 12 of them, I believe it is, scattered around the
25 site.

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1 The -- to the very north edge, the strip of land
2 between the single-family housing and Seton Drive is a, did
3 not qualify as a forest under the Maryland definition of a
4 forest because of the -- basically, it was just a little bit
5 too narrow with the existing stand. As part of the police
6 station development, we did a preliminary and final forest
7 conservation plan where this area was -- the entire area,
8 from the single families down to the Seton Drive easement,
9 was placed into a forest conservation, and the portion of it
10 that did not have forestation on it was reforested. That
11 reforestation planting was established a year ago now. The
12 existing plants along there are predominantly pine trees and
13 other -- mixed evergreens, and they range in height. I
14 believe that section is in the 15- to 40-foot range,
15 depending on the particular trees.
16 South of Seton Drive and north of the proposed
17 Victory Crossing, that also is another 65-plus-foot strip of
18 forest. That portion is an existing forest that -- in this
19 particular area, the trees are in the 45- to 55-foot height
20 approximately. It's -- most of the trees are fairly large
21 along Seton Drive, being more than a 10-inch-diameter trunk.
22 In that area there's mostly deciduous trees. So there is a
23 mix of evergreens that some of it comes up into that area.
24 Most of the evergreens are to the, to the east of the site.
25 This is the portion of the site that has the least amount of

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1 invasive species in it. Actually, one of the worst areas
2 for invasives is right where we're developing. So it worked
3 out very nicely that --
4 MS. CITARAMANIS: Yes, it worked out nicely.
5 THE WITNESS: And as part of the overall forest
6 conservation and tree preservation, there is a -- when the
7 police station was developed, they came into the forest area
8 to the north and west of the police station and have
9 replanted along the edge of the parking area for
10 reforestation and they also cleared out all the invasive
11 species in this section of it and did supplementary planting
12 to bring the density of the trees back up --
13 MS. CITARAMANIS: Yes.
14 THE WITNESS: -- to the Maryland Code requirement
15 for, of 100 stems per acre to define it as a forest. So all
16 of this was cleared and replanted, or cleaned, not cleared,
17 cleaned. They cleaned out all the invasives and put
18 additional plantings, trees in there to thicken up the
19 underbrush. So it's, the forest is pretty, pretty solid.
20 You can't really see much through it during the --
21 MS. CITARAMANIS: Now, just correct me --
22 THE WITNESS: Uh-huh.
23 MS. CITARAMANIS: -- deciduous means the leaves
24 fall, right?
25 THE WITNESS: Yes. Deciduous is like a maple

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1 tree, oak tree, broadleaf, that the trees fall -- the leaves
2 fall every winter, every fall. Evergreen would be like
3 pines --
4 MS. CITARAMANIS: Right.
5 THE WITNESS: -- spruces, cedars, and whatnot that
6 are needles, predominantly in this area is needle, although
7 hollies are also considered evergreen, even though they're
8 broadleaf.
9 BY MR. KLINE:
10 Q Suffice it to say then, I don't know how, I guess
11 we consider it a letter from the neighboring citizens
12 association, the county and Victory Housing have done a good
13 job of maintaining the maximum depth and width and quality
14 of that forest to screen the proposed building?
15 A Yes. Yeah. The intention of the development,
16 going back all the way to the police station, which sort of
17 set the framework for the entire site, the -- to back up a
18 little bit, the original plan for the police station
19 actually had the police station all the way up in the
20 northwest corner of the site, and through the negotiations
21 with the citizens, we pulled it down closer to, to be right
22 directly on Milestone and thereby created this, what's a
23 180- to 200-foot buffer, depending on where you are, of
24 forest, which the citizens felt would be sufficient to
25 preserve the character of the site as far as maintaining the

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1 forest there and providing a sufficient buffer between their
2 houses and the uses on the --
3 Q Was there anything else on the existing conditions
4 that you wanted to address, or did you want to move to the
5 proposed facility itself?
6 A That pretty well covers the existing conditions.
7 MS. CITARAMANIS: Before you go on, I'd like to
8 ask questions.
9 MR. KLINE: Yes. Yes.
10 MS. CITARAMANIS: With regards to the, I guess is
11 that the north side?
12 THE WITNESS: North side.
13 MS. CITARAMANIS: So just outside the building,
14 that strip that's just south of --
15 THE WITNESS: This one right here.
16 MS. CITARAMANIS: Is it Seton? Seton?
17 THE WITNESS: Yes, this is Seton Drive here.
18 MS. CITARAMANIS: Okay. Tell me what, what the
19 mix, and maybe you did already, but remind me what the mix
20 of that landscaping is, and how far around does it go around
21 the J of the building?
22 THE WITNESS: Okay. The forest area to the north
23 of Victory Crossing would extend from the northern entrance
24 into the secure parking lot --
25 MS. CITARAMANIS: Yes.

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1 THE WITNESS: -- of the police station, extends
2 from that point in a band that's between a mere 80 feet and
3 then 65 feet wide, and the forestation area extends around
4 the northeast corner of the building down to about the 2:30
5 position --
6 MS. CITARAMANIS: Okay.
7 THE WITNESS: -- around in here. And then within
8 the future right-of-way, the forest actually continues all
9 the way down. There's a triangular portion of the future
10 right-of-way that is currently wooded with predominantly
11 pine trees that will stay until such time as the interchange
12 is developed. And then to the east side of the building,
13 that area is where we have our stormwater management
14 facilities, and they have a landscape and tree canopy on
15 those.
16 So it's, it'll be -- once everything's developed
17 and grown up a little bit, the forest area will be a heavy
18 forest area and then it'll be slightly lighter tree cover
19 without the understory portion of the forest on the eastern
20 area, where the --
21 MS. CITARAMANIS: And those are existing trees on
22 that side, where you have your hand right now, on the east?
23 THE WITNESS: Well, these are all existing trees
24 here. It's all existing, and we would be, as part of the
25 development, we would be clearing out just the area on our

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1 site up to the future right-of-way --
2 MS. CITARAMANIS: Right.
3 THE WITNESS: -- from about, I'd say, from about
4 the 2:30 position down to Milestone. So right here is,
5 would be cleared and then replanted with landscaping. The
6 forest would be this portion here.
7 MS. CITARAMANIS: And so what's the distance
8 between the back of the building to the, assuming, to the
9 right-of-way --
10 THE WITNESS: From the closest point of the
11 building to --
12 MS. CITARAMANIS: -- where the interchange would
13 go?
14 THE WITNESS: -- to the -- okay. From the
15 building to the interchange is 73 feet, is the closest point
16 to the future interchange, and at that point, that's also
17 where the end of the forest conservation area would come
18 around to --
19 MS. CITARAMANIS: Yes.
20 THE WITNESS: -- at that closest point. The idea
21 was to try to -- we wanted to design the site so that it was
22 fronted out towards the public space on the right-of-way and
23 then to maximize the forest and vegetative buffer around the
24 back sides of the building and along the north and the east
25 to the maximum possible that we could fit in there.

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1 MS. CITARAMANIS: Okay. And the landscaping along
2 the, parallel with Milestone --
3 THE WITNESS: Right here?
4 MS. CITARAMANIS: -- that part of the building, is
5 there landscaping?
6 THE WITNESS: Yes. Yes, and actually, that would
7 show --
8 MS. CITARAMANIS: What kind of landscaping?
9 THE WITNESS: -- that shows very well on here.
10 MS. CITARAMANIS: Perfect. I was going to ask if
11 you had a picture of --
12 THE WITNESS: Okay.
13 MR. KLINE: Can I interject for a second --
14 MS. CITARAMANIS: Absolutely.
15 MR. KLINE: -- just to kind of, so the record is
16 complete on this?
17 MS. CITARAMANIS: Absolutely.
18 BY MR. KLINE:
19 Q So Dewberry has filed a preliminary plan and
20 subdivision for the entire county land area, correct?
21 A Yes, the whole -- the 12.79 acres.
22 Q Right. And that'll be the subject of the
23 development review committee meeting on Monday --
24 A Yes.
25 Q -- where you'll be told what needs to be done to

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1 make the plan ready to be presented at the Planning Board?
2 A Yes.
3 Q And in the event the special exception is granted,
4 then you'll reactivate the preliminary plan and it'll be
5 presented to the Planning Board. Ultimately, the property
6 will all be platted as a single lot, right?
7 A Yes. It's basically, the current plans are a
8 single lot for the, that would cover the --
9 Q And you're referring back now to Exhibit No. --
10 A I'm referring back to Exhibit 46. Lot 1 would be
11 the entire portion of the site, encompassing the forest
12 conservation areas, the police station, and the Victory
13 Crossing. That would be Lot 1, and then currently we're
14 going with a separate Parcel A for the future interchange.
15 MS. CITARAMANIS: That's Phase III?
16 THE WITNESS: That would be the phase --
17 MS. CITARAMANIS: Is that Phase III?
18 MR. KLINE: Yes. Yes, right.
19 THE WITNESS: -- what we're calling Phase III
20 because it's --
21 MR. KLINE: You read the plans.
22 THE WITNESS: Yeah.
23 MS. CITARAMANIS: I did.
24 THE WITNESS: Yeah. So currently the plans are
25 showing it as a single Lot 1 and Parcel A. That is --

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1 BY MR. KLINE:
2 Q Yes. Yes. Thanks for the clarification, right.
3 A -- that's the intention, and you know, the county
4 may have some issues with that too, but I think we've got
5 that pretty well settled with the county as to how that's
6 going to play out.
7 MR. KLINE: So I kind of interrupted your, flow of
8 your questions. I just didn't want to leave those
9 preliminary plan exhibits. Well --
10 THE WITNESS: Oh.
11 MS. CITARAMANIS: Oh, no.
12 THE WITNESS: Oh, it kind of shows on all of them.
13 So --
14 MR. KLINE: Yes.
15 MS. CITARAMANIS: I'm trying to get a picture
16 because, in terms of compatibility as well as --
17 MR. KLINE: Sure.
18 MRS. CITARAMANIS: -- the noise too --
19 MR. KLINE: Yes. Yes, right.
20 MS. CITARAMANIS: -- because that part, that lower
21 end is pretty close to 29 and --
22 THE WITNESS: Well, actually, to that point --
23 MS. CITARAMANIS: Is this one marked? If it's not
24 marked, let's mark it before we get you started.
25 THE WITNESS: No. Yeah.

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1 MS. CITARAMANIS: So we are on 47?
2 THE WITNESS: Yes.
3 BY MR. KLINE:
4 Q What's the name on that one, Kevin?
5 A Preliminary Landscape Plan, right here.
6 (Exhibit No. 47 was marked
7 for identification.)
8 MS. CITARAMANIS: So however you identify it is
9 how it's going to show up on the exhibit list. So it's --
10 THE WITNESS: Okay. It's --
11 MS. CITARAMANIS: -- real important that it
12 matches.
13 THE WITNESS: Okay. Yeah. Exhibit 47 is the
14 preliminary landscape plan, and it's been rendered for
15 clarity to highlight the proposed and existing vegetation.
16 So on this -- this is, again, zoomed in a little tighter on
17 the overall site to just focus on the area of the subject
18 2.5 acres. It shows -- on the north edge here, it shows the
19 existing Seton Drive, and to the west it shows the, a
20 portion of the existing police station development. This is
21 the parking lot to the immediate west of our site, the
22 secure parking lot, and the -- to the south of our site is
23 the entrance drives and the public-access parking for the
24 police station.
25 The forest area that we've -- the forest

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1 conservation areas are a little more clearly shown on the
2 rendering here, and they wrap around to about this position
3 here at the, about 2:00 or 3 o'clock position. Then that
4 existing forest currently extends all the way down to
5 Milestone Drive, and there's a, about a 60-foot-wide strip
6 of that existing forest that is on the future interchange
7 parcel. This, this black line and red line here demarcates
8 the difference between Lot 1, proposed --
9 MS. CITARAMANIS: Yes.
10 THE WITNESS: -- and Parcel A, proposed.
11 MS. CITARAMANIS: Okay.
12 THE WITNESS: The site was laid out so that,
13 actually, as far as the -- to address the noise question,
14 one of the ideas on the layout of the site was we used --
15 the building itself is a, is integral to the noise issue.
16 MS. CITARAMANIS: Yes.
17 THE WITNESS: All of the external functional space
18 of the site is -- we have on the left side of the site, at
19 the middle of the building is the, a covered porch that
20 comes out onto the parking area, and that has seating and
21 gathering space, and then right on the -- to the inside
22 corner on the north, north side of the entrance is our patio
23 space; it's an open patio and gathering area and activity
24 space there. And the idea on this was that the building
25 itself creates the noise buffer against 29, and Bruce can

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1 talk more about specifically how that's accomplished through
2 the structure of the building itself. So the building
3 provides the noise buffering, and not only to our amenities
4 and open space but the building provides noise buffering for
5 the existing houses, also, as a, as a bonus to them.
6 The -- excuse me.
7 MS. CITARAMANIS: Do you need some water, grab
8 some water?
9 THE WITNESS: No, I'm good. I'm just fighting
10 something right now.
11 BY MR. KLINE:
12 Q Don't say that in public space right now, okay?
13 MS. CITARAMANIS: I was going to say -- okay. Do
14 you have a fever?
15 THE WITNESS: Just -- no. No, just, just
16 allergies.
17 UNIDENTIFIED SPEAKER: Just an allergy.
18 MS. CITARAMANIS: Hopefully, you don't. Go ahead.
19 THE WITNESS: Okay. So do you want to go on,
20 continue on this, or do you want to --
21 BY MR. KLINE:
22 Q Oh, yes. No, go ahead, yes.
23 A Okay. So the way this site is laid out is the two
24 entrances into the police station are in a, basically a
25 triangular configuration: two legs of parking on the

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1 northeast and northwest and the third leg of the triangle is
2 Milestone Drive.
3 MS. CITARAMANIS: Yes.
4 THE WITNESS: We will have a reciprocal
5 ingress/egress easement with the county to provide access
6 for our site on both legs with this existing parking here.
7 The, there's a security gate which ties into the northeast
8 corner of the police station. The fence comes along there,
9 and then there's a gate at the north point of the
10 public-access portion; there's the gate, which is the
11 primary entrance into the police parking area.
12 The police also have an exit out onto Seton Drive
13 on the north end, and they have another exit out onto
14 Milestone on the west end of their development, but
15 primarily, this is the entrance coming off of the east side.
16 MS. CITARAMANIS: Where's the parking for this
17 unit?
18 THE WITNESS: Okay. Our parking comes off and
19 creates the fourth leg of this intersection, just outside
20 the security gate. And then there's -- parking is a, is
21 basically just a simple loop and comes back out. So there's
22 one entrance and a loop around with actually -- probably
23 this is a better one. So --
24 MS. CITARAMANIS: I think that one's marked.
25 THE WITNESS: Yeah, it is. Okay. We got that

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1 one. Okay. So --
2 MS. CITARAMANIS: Which one are you referring to?
3 THE WITNESS: This is Exhibit 43, the detailed
4 preliminary plan rendering, and so this -- this one shows a
5 little clearer the structure of the site. So the parking
6 area is double-loaded parking in a loop in the, kind of a
7 pocket that's created by the -- the building wraps around it
8 slightly, and then there's a little wing that comes off up
9 to the north here. Our utilities and our service are
10 clustered in this portion right in here.
11 BY MR. KLINE:
12 Q Where? Give us a little bit better definition of
13 that.
14 A To the, to the north of the parking and west end
15 of the building.
16 Q And by that, you mean loading and --
17 A There's loading and the trash --
18 MS. CITARAMANIS: Dumpster?
19 THE WITNESS: -- facilities, and there's also the
20 emergency generator, are in this quadrant right here.
21 The site is developed using the new Environmental
22 Site Design guidelines for stormwater management, and it was
23 actually -- it was actually developed, before those
24 regulations came into effect, as an extension of the way the
25 police station was developed, using ESD. And the way we've

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1 developed the site is, there's a series of five
2 micro-bioretenion facilities that are spread throughout the
3 site. Two of them are in the island in the center of the
4 driveway loop. There's another one adjacent to the west
5 side of the building, just south of the main entrance of the
6 building, and then there's two more on the east side of the
7 building. All of these are microbiofilters, which will be
8 heavily vegetated, as part of their final design, with
9 native perennials and grasses in the bottom; there's a mix
10 of native shrubs around it, and then also there's a canopy
11 of predominantly native trees.
12 BY MR. KLINE:
13 Q If I can interrupt. So you have a stormwater
14 management concept plan that has been reviewed and approved
15 by the --
16 A Yes.
17 Q -- County Department of Permitting Services?
18 A Yes. Yeah, that was, that was approved.
19 MR. KLINE: I'd like to submit as an exhibit in
20 the record a letter from County Department of Permitting
21 Services approving the stormwater management concept plan as
22 described by Mr. Mack.
23 MS. CITARAMANIS: Okay. Just two seconds. Let me
24 -- and that hasn't been --
25 MR. KLINE: That's not in the record, I don't

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1 believe.
2 MS. CITARAMANIS: It's not in the record. Okay.
3 So then let me -- this is 48. Just have him look at it.
4 Tell me what it is.
5 (Exhibit No. 48 was marked
6 for identification.)
7 MR. KLINE: He doesn't need to -- I just gave you
8 two copies. If you don't need two, we'll take it back.
9 MS. CITARAMANIS: I'll put one in. Okay. So
10 marked into -- Exhibit No. 48, December 6, 2013, letter to
11 Mr. Marquez from Department of Permitting and Services, is
12 that correct, Mr. Kline --
13 MR. KLINE: That is what the exhibit is.
14 MS. CITARAMANIS: -- from Mr. Mark Etheridge?
15 Okay.
16 MR. KLINE: Right. Okay.
17 MS. CITARAMANIS: Just to make sure. Okay. Go
18 ahead.
19 THE WITNESS: So, I mean, it's pretty
20 straightforward for the design of the parking and the
21 stormwater. ESD, environmental site design, commonly known
22 as ESD, requires that stormwater be treated effectively at
23 the source rather than the old style, where you put in a
24 pipe, shove it off to the corner, would be one big facility.
25 MS. CITARAMANIS: Mosquito catcher.

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1 THE WITNESS: Yeah. Now we have multiple
2 facilities, that each treats, depending on the facility
3 type, usually a maximum of 20,000 square feet per facility
4 to treat it and deal with the infiltration and the quality.
5 It deals with quantity, quality, and infiltration all
6 combined into one, and because they are so tightly
7 integrated into the site design, because of the nature of
8 how they're developed, they -- basically, when we design
9 something, we look at stormwater first now. It used to be
10 that was the last thing you looked at. We just, we'd give a
11 partial on the side, do it later, but now it's integral to
12 the fundamental design. So given that it's also, employs
13 vegetation as part of the system, that becomes a primary
14 element to the landscaping on the site also.
15 So we've created this, this significant-sized
16 island in the middle of the parking which serves multiple
17 purposes of stormwater management. It also breaks up the
18 mass of the parking so that you've only got a single row of
19 parking at any given point instead of having a giant parking
20 lot, sea-of-asphalt sort of effect. It brings it more into
21 a residential-type character and still meeting your parking
22 requirements.
23 And on the -- we also have the two facilities on
24 the east side, which would be, effectively, an extension of
25 the forest conservation area buffer around the north and the

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1 east, but they would be, not a forest, because they would
2 have -- actually, they would be maintained and mowed. So
3 they wouldn't have an understory, but they will have shrubs
4 and trees in these conservation area, or these stormwater
5 management facilities here.
6 Along the front of -- along Milestone Drive, as
7 shown on Exhibit 47, the landscape plan, we have a
8 significant row of ornamental cherries along there, which is
9 an extension of the same effect that we have, that we put
10 along the front of the police station. So the entire
11 frontage of Milestone has the same contiguous effect of the
12 vegetation, both the ornamental trees as well as the plants
13 that are used in the biofiltration areas. On our site, they
14 match the same theme that was established on the police
15 station. On -- there's a series of one, two, three, four
16 stormwater facilities in front of the police station that --
17 we kept that same theme across the whole thing.
18 MS. CITARAMANIS: Yes.
19 BY MR. KLINE:
20 Q When you finish with stormwater --
21 A That's about it. That's about it.
22 Q -- and I think you've probably covered it pretty
23 well --
24 A That's about it. That's about it, yeah.
25 Q -- but I don't want to leave that because it gives

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1 you some good detail. You were talking about the covered
2 entry.
3 A Uh-huh.
4 Q Show the Hearing Examiner where there's kind of a
5 pull-off area so --
6 A Okay. Yeah.
7 Q -- you can basically bypass if somebody's dropping
8 someone off.
9 A Looking back on Exhibit 43, the parking lot has
10 head-in parking, double-loaded on the aisle, except right at
11 the, where the covered porte cochere -- is that where the
12 porte cochere, yeah -- entrance is there's a drop-off
13 area/pull-off so that someone can, you can actually pull off
14 there --
15 MS. CITARAMANIS: Yes.
16 THE WITNESS: -- and then not actually block the
17 driveway. So that would be right in front of the main
18 entrance, and so this -- on the pedestrian level, we also
19 have a sidewalk. There's an existing sidewalk that extends
20 from Seton Drive along the Milestone frontage all the way
21 over to New Hampshire Avenue that was constructed as part of
22 the police station, and we have a walkway on our site which
23 ties to that on the west end of the building and then it
24 extends along the, between the parking and the building to
25 have a continuous sidewalk, granting access from the

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1 building to the parking.
2 We also, on the northwest corner of the, of our
3 site, we've added a sidewalk connection that wraps around
4 the forest conservation area and goes along the north police
5 entrance drive and connects into Seton Drive, which this
6 connection provides a convenient shortcut to access to the
7 north, because the forest area effectively blocks access
8 from our site to the north with the exception of this one
9 sidewalk we've added.
10 We also are proposing to put a sidewalk along
11 Seton Drive, from Milestone up to Sherbrooke Woods Lane --
12 MS. CITARAMANIS: Yes.
13 THE WITNESS: -- to provide a pedestrian access,
14 and that was a major element that the community was seeking
15 from us, and so we included that in our development here,
16 which provides -- effectively, combine this with the
17 sidewalk system in Sherbrooke Woods and on New Hampshire
18 Avenue, and there's a full circle of pedestrian around our
19 site, up to the library, down New Hampshire, and there's
20 also sidewalk connections all the way, extending down New
21 Hampshire Avenue to the shopping center.
22 BY MR. KLINE:
23 Q If I can draw your attention back to the core area
24 again --
25 A Okay.

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1 Q -- following up on my question about the drop-off,
2 just, would you quickly just run through the parking
3 calculations? A 105-unit building with the bedroom mix
4 we're proposing would require how many parking spaces?
5 A It requires 79.7 spaces.
6 Q And you are providing?
7 A And we're providing the, a total of 80 spaces on
8 the site.
9 Q And the landscaping that you showed on the exhibit
10 that you had up there a second ago --
11 A Uh-huh.
12 Q -- that's going to meet all the landscaping
13 requirements --
14 A Yes.
15 Q -- the coverage and --
16 A Yes. It actually -- there's a special condition
17 for a special exception for senior housing. It requires
18 that the parking area be landscaped to cover 30 percent of
19 the paved, parking lot pavement. So the landscaping has --
20 that's also part of the whole design of making the green
21 space in the middle, which it -- we meet the 30 percent
22 coverage of the pavement. I think we actually have --
23 almost 31 percent coverage --
24 MS. CITARAMANIS: Yes, that's what I thought.
25 THE WITNESS: -- is what it came out to be. And

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1 as far as the interior green space requirement for a parking
2 lot, we are well above that at --
3 MS. CITARAMANIS: Isn't that 50 percent?
4 THE WITNESS: I don't have that number handy, but
5 it's in -- I know it's well over eight percent, and Maryland
6 requires five percent. So --
7 MS. CITARAMANIS: Maybe I'm thinking of something
8 else.
9 THE WITNESS: That's the interior parking lot
10 green space as opposed --
11 MS. CITARAMANIS: Interior parking lot is eight
12 percent; is that what you're saying?
13 THE WITNESS: It's, I believe it's around eight
14 percent.
15 MR. KLINE: I can check in the book.
16 MS. CITARAMANIS: Okay.
17 THE WITNESS: The requirement is five percent, and
18 we're --
19 MS. CITARAMANIS: You're over.
20 THE WITNESS: -- with the landscaping area in the
21 middle, it just makes it so much more than that.
22 BY MR. KLINE:
23 Q Kevin, I know you talked a number of times about
24 the location where this forest conservation area is --
25 A Uh-huh.

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1 Q -- and since we've got an approved forest
2 conservation plan, I'm not going to -- I don't think we need
3 to go through it too much, but I did want to ask you to
4 answer the Hearing Examiner's question, or the absent
5 hearing examiner's question about, why did it take us so
6 long to get it approved, and it's going to require you to
7 take a --
8 MS. CITARAMANIS: He might ask.
9 BY MR. KLINE:
10 Q -- it's going to require you to take a step back
11 and explain --
12 A Okay.
13 Q -- how this was originally approved.
14 MS. CITARAMANIS: Thank you.
15 THE WITNESS: Okay. The only difference between
16 this and what was submitted is that this is the version that
17 doesn't say Special Exception on it.
18 BY MR. KLINE:
19 Q We ought to put it in the record then.
20 A Okay. All right. This would be the revised final
21 forest conservation plan.
22 MS. CITARAMANIS: 49. Okay.
23 (Exhibit No. 49 was marked
24 for identification.)
25 BY MR. KLINE:

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1 Q Kevin, let me see if I can kind of focus this a
2 little bit.
3 A Okay.
4 Q When you went to mandatory referral and the police
5 station got built, there was a forest conservation plan
6 approved for the entire property?
7 A Yes.
8 Q Okay. And because the Victory Crossing project
9 modified that, there was some question about how we amended
10 the original approved plan --
11 A Yes.
12 Q -- is that correct?
13 A Yes, correct.
14 Q Yes.
15 A Basically, the mandatory referral had an approved
16 preliminary forest conservation plan, and then in order to
17 carry it through to construction, we submitted and got an
18 approved final forest conservation --
19 Q Can I interrupt you for a second, because I'm
20 going to guess that's a phrase you haven't heard very often,
21 if at all.
22 MS. CITARAMANIS: Yes.
23 MR. KLINE: Mandatory referral is a process --
24 MS. CITARAMANIS: I saw it. I read it, but --
25 MR. KLINE: Okay. Mandatory referral is a process

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1 by which public county facilities, usually, that don't have
2 to comply with the zoning and subdivision or anything but,
3 nevertheless, the Regional District Act does require that
4 the Planning Board review the proposal and make courtesy
5 comments on it, which the county then can decide to adopt or
6 not, as they see fit. So you have a hearing before the
7 Planning Board and the staff report and everything; it's not
8 regulatory in the sense that there's any enforcement
9 mechanism at all, but it's advisory, and we try and adhere
10 to it, to the extent possible.
11 So a mandatory referral was in conjunction with
12 the review of the police station, and at the time, there was
13 a property, or I'm sorry, there was a potential user of the
14 site that we're now looking at that subsequently dropped out
15 of the bidding for it.
16 MS. CITARAMANIS: Right. Okay. I appreciate
17 that.
18 THE WITNESS: And further on that, the forest
19 conservation plan that was approved in conjunction with the
20 mandatory referral was a separate action, and that is an
21 enforceable action because it's --
22 BY MR. KLINE:
23 Q Okay. That's true, yes.
24 A -- it is not part of the mandatory referral
25 per se. It's a separate action, that the conditions of

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1 approval of the forest conservation plan are enforceable,
2 not simply advisory. So as a result of that, the county did
3 go ahead and record the forest conservation easements that
4 were shown on that approved final forest conservation plan
5 which comprised the area --
6 Q I think you covered it pretty well before --
7 A Okay. All right.
8 Q -- where they are. Just --
9 A Okay. Well, anyway, every part that was on the
10 approved forest conservation plan was recorded as an
11 easement in the land records, and in addition to the forest
12 area, there's significant landscape trees within the parking
13 lot of the police station that were also recorded under a
14 Category II tree conservation easement to bring up the total
15 canopy to the required amount for forest conservation. So
16 there's a combination of Category I, forest, and Category
17 II, tree conservation, that make up our requirement for
18 forest conservation.
19 The site was originally contested by the
20 neighborhood. They didn't want -- really, they didn't want
21 anything --
22 MS. CITARAMANIS: Right.
23 THE WITNESS: -- but that was standard. They
24 took, they took issue with the original police station
25 design where we were -- the police was going to maximize the

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1 use of the land by, effectively, on the original plans we
2 were clearing 100 percent of the site and doing all of the
3 forest conservation off site on other county-controlled
4 land; primarily it was going to be in the Paint Branch
5 stream valley.
6 Q Kevin, I think I probably misled you by suggesting
7 we had to give her some background. That's probably more
8 background than she needs.
9 A Okay. Okay.
10 Q The simple fact of the matter is we, we were
11 modifying and going --
12 A Okay. Yeah.
13 Q -- encroaching into some of the forest
14 conservation area?
15 A It goes back, it goes back into why it took so
16 long to get through this, because there was -- there were so
17 many different elements that were moving on this that,
18 during the mandatory referral, we finally settled out that
19 we would do the final forest conservation for the police
20 station, record the easements that were shown on that plan,
21 and that plan showed the future Phase II area to be
22 developed, and all the calculations were made assuming that
23 Phase II would clear all of the remaining land in there so
24 that 100 percent of the forest conservation requirement was
25 met on site. So they started off at zero, and they ended up

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1 doing 100 percent.
2 Because they moved forward with the final forest
3 conservation plan but the Board action only referred to the
4 preliminary forest conservation plan, when we initially
5 submitted the plans for this project, for the Victory
6 Crossing, we had submitted the, a modified final forest
7 conservation plan to which the staff then came back and
8 said, no, we had to modify the preliminary first. So that
9 was the predominant thing that caused delay, was we had to
10 go back and switch gears a little bit.
11 They're basically the same plan, just a different
12 title, but there's a few little details in what -- the
13 difference between a preliminary and a final, but that was,
14 that was the main reason why --
15 MS. CITARAMANIS: Okay.
16 BY MR. KLINE:
17 Q Just took us a while to work it out.
18 A Yeah.
19 Q Yes.
20 A There wasn't really an issue of the plan itself.
21 It was more of a procedural thing. Plus the planners --
22 MS. CITARAMANIS: That's what it sounds like.
23 THE WITNESS: -- the planners that are currently
24 reviewing the plan were not familiar with it and were not
25 the ones that had reviewed and approved the previous plan.

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1 So there was a, I want to say, an education period where I
2 had to bring them up to current on what all the issues were
3 and where all the places and everything, because it's a very
4 busy, as you can see, it's a very busy and very complicated
5 plan. Most forest conservation plans are nowhere near this
6 complicated.
7 MS. CITARAMANIS: But it's approved now.
8 THE WITNESS: The --
9 MR. KLINE: We have an approved --
10 THE WITNESS: We have --
11 MR. KLINE: -- preliminary, and it's in the
12 record, yes.
13 THE WITNESS: Yes.
14 MR. KLINE: All right.
15 MS. CITARAMANIS: Okay. Thank you for that.
16 MR. KLINE: I'm sorry. Did you --
17 MS. CITARAMANIS: No. I said --
18 MR. KLINE: Yes.
19 MS. CITARAMANIS: -- thank you for that
20 explanation.
21 BY MR. KLINE:
22 Q In the Hearing Examiner's preliminary comments,
23 she mentioned lighting.
24 A Okay.
25 Q Both you and the architect have worked together on

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1 the lighting, but what do you have that can show us the
2 lighting, but suffice it, suffice it to say, your
3 photometric studies showed that the lighting fixtures that
4 are proposed --
5 A Yes.
6 Q -- will meet the zoning ordinance standards --
7 A Yes.
8 Q -- as set forth in the ordinance, right?
9 A Yeah. The lighting exhibit that was submitted --
10 I'm not sure which exhibit it is, but it should be in the
11 record.
12 Q Yes, it's definitely in there, yes.
13 MS. CITARAMANIS: Let's find it. 6(b)?
14 MR. KLINE: Thank you. Yes, that's exactly what
15 it is.
16 MS. CITARAMANIS: Is there an updated one, or is
17 that it?
18 THE WITNESS: No. No.
19 MS. CITARAMANIS: 6(b). Okay. It's in here.
20 MR. KLINE: I might be able to get it faster than
21 you can.
22 MS. CITARAMANIS: No, here it is. Here it is.
23 Here you go.
24 THE WITNESS: Okay. So --
25 MS. CITARAMANIS: It's already marked.

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1 THE WITNESS: I guess, since I'm talking to you, I
2 can just do it here. The --
3 MS. CITARAMANIS: You can come up if you want. I
4 assume he has follow-up questions.
5 THE WITNESS: The photometric study that was done
6 established the, that the lighting on the site, basically at
7 the limits of the lease area --
8 MS. CITARAMANIS: Yes.
9 THE WITNESS: -- the lighting is at .1 or less to
10 meet the code requirements for lighting. The average
11 lighting is around -- what did you say?
12 MR. MONGRAIN: Between .75 and one.
13 MS. CITARAMANIS: Okay.
14 MR. KLINE: You better --
15 MS. CITARAMANIS: Yes, he -- yes.
16 THE WITNESS: It's between .7 and --
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: -- between .7 and one footcandle is
19 the average, and there are -- at each of these light
20 fixtures, the light level increases, and I think the
21 brightest one is still less than five footcandles, which is
22 well within the county guidelines.
23 BY MR. KLINE:
24 Q So we meet the zoning ordinance --
25 A Yes.

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1 Q -- standards, and the fixtures selected will not
2 cause any glare --
3 A No.
4 Q -- or spillage onto --
5 A Right.
6 Q -- adjacent properties?
7 A The fixtures are a, they're a down-light fixture.
8 So the light, it minimizes the sky view, and it keeps the
9 light down so the albedo of the --
10 MS. CITARAMANIS: Right.
11 THE WITNESS: -- site is contained. There are
12 also house side shields along the building side.
13 MS. CITARAMANIS: House side shields?
14 THE WITNESS: It's a -- basically, it's a little
15 shield that's inside the light fixture --
16 MS. CITARAMANIS: Oh, okay.
17 THE WITNESS: -- and it cuts the light off so it
18 doesn't glare directly into the lights of the apartment
19 building.
20 MS. CITARAMANIS: Okay.
21 THE WITNESS: There are also cutoffs on the police
22 station and the north side to contain the light on our site
23 so it doesn't spill over, and that's how we get to the .1 or
24 less along the perimeter.
25 MS. CITARAMANIS: And I think what I was talking

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1 about in preliminary was referring to the HOA's item:
2 outdoor lighting focused downward to minimize visibility of
3 the light from a distance --
4 THE WITNESS: Yes.
5 MS. CITARAMANIS: -- and that's what you're
6 talking about?
7 THE WITNESS: And that's what the, yeah,
8 there's --
9 MS. CITARAMANIS: And are these the lights that
10 are 10 feet off the ground on the building, or are they
11 talking, are you --
12 THE WITNESS: They're --
13 MS. CITARAMANIS: -- what lights are you talking
14 about, fixtures?
15 THE WITNESS: It's a combination of wall-mounted
16 lights --
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: -- along the building, and
19 they're --
20 UNIDENTIFIED SPEAKER: Just under the soffit, 10
21 feet.
22 THE WITNESS: Yeah, they're 10 feet off the
23 ground, and there's also pole lights in the parking area,
24 and so they are, they're situated to give the coverage, to
25 direct all the light towards the interior and away from the

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1 perimeter and with the shields and a fixture that will
2 reduce the off-site view of light. You can't -- the nature
3 of lighting, you can't actually have no light show. You can
4 block the direct glare of it, but it still shows, but that
5 -- it's what they were asking for, the community, is to
6 reduce the visibility. They didn't want to see them being
7 shopping center effect --
8 MS. CITARAMANIS: Right.
9 THE WITNESS: -- and that's what we've designed it
10 to do, is to --
11 MS. CITARAMANIS: You don't have any ball fields
12 in this, do you?
13 THE WITNESS: No. No. No. We've kept the
14 lighting down low, pedestrian --
15 MR. KLINE: Not even bocce.
16 MS. CITARAMANIS: I suspect the room would be a
17 little fuller.
18 MR. KLINE: Yes, sure.
19 THE WITNESS: Yeah, the lighting design was to
20 create a residential lighting so that it was compatible with
21 the neighborhood, and actually, the police station has
22 brighter lighting than we do, but we also took measures to
23 reduce the off-site on theirs, the -- they're brighter than
24 we are, but --
25 MS. CITARAMANIS: So are these the security lights

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1 that are going to be on all night?
2 THE WITNESS: Yes. Right?
3 UNIDENTIFIED SPEAKER: Yeah.
4 MS. CITARAMANIS: Okay. All right.
5 BY MR. KLINE:
6 Q Kevin, I think I'm finished with the boards, if
7 you want to come back here.
8 A Okay. All right.
9 Q While you're coming back, I should sort of just
10 ask you that general question about, did your firm verify
11 that sewer and water service to the site is going to be
12 adequate for the proposed use?
13 A Yes. We've, we've been in preliminary contact
14 with WSSC regarding water and sewer, and the plan is that
15 the -- our water will be a new service that will be taken
16 from the existing water line in Milestone Drive, and our
17 sewer service will be a branch stub off of the sewer service
18 that serves the police station that actually we -- during
19 the process, we did a modification of the existing sewer
20 outfall for the police station to create a stub branch onto
21 our site, and that's been approved and, according to the
22 county, will be under construction shortly.
23 MS. CITARAMANIS: In the first part, I heard you
24 say new, but what's going to be new before the sewer branch?
25 The water is new?

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1 THE WITNESS: The water, the water, there's -- in
2 Milestone Drive, there's a water main in Milestone Drive,
3 and we'll be tapping directly into that --
4 MS. CITARAMANIS: Okay.
5 THE WITNESS: -- and bringing that in, and that
6 comes in on the southeast corner of the building to a, the
7 water service in there, and then there's a water line that
8 comes back out of the building and goes into the parking
9 area to serve the on-site fire hydrants for fire coverage.
10 MS. CITARAMANIS: Okay. Thank you.
11 BY MR. KLINE:
12 Q On Exhibit 43 I see sort of the vertical column,
13 and that's basically your analysis of the development
14 standards for the --
15 A Uh-huh.
16 Q -- use in the zone?
17 A Yes.
18 Q And in all regards, the proposed use satisfies all
19 the development standards required in the zoning
20 ordinance --
21 A Yes.
22 Q -- for general and for the specific use, correct?
23 A Yes. Yes.
24 Q Okay. Then, Mr. Mack, I'm going to kind of wrap
25 it up. Unless you had something you wanted to add, I'm

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1 going to -- so in your professional opinion, based on the
2 expertise that we've qualified you for today and you've
3 talked about, in your professional opinion, will this use
4 have a detrimental, or will it be detrimental to the use or
5 enjoyment or development potential of properties in the
6 general surrounding neighborhood?
7 A In my opinion, no, it will not.
8 Q From a site design and the whole package of stuff
9 you studied in your office, will the proposed use adversely
10 affect the health, safety, and welfare of either the
11 residents of the building, the --
12 A No.
13 Q -- people who live around the site, or visitors to
14 the site?
15 A No, it will not.
16 MR. KLINE: I have no further questions of
17 Mr. Mack.
18 MS. CITARAMANIS: Okay. I think I asked most of
19 them along the way so I wouldn't forget. Just going back to
20 the sidewalks real quick --
21 THE WITNESS: Okay.
22 MS. CITARAMANIS: -- just the one on the northern,
23 northwest, would that be, the one that's near the police
24 station --
25 THE WITNESS: Yes.

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1 MS. CITARAMANIS: -- that connects up -- yes, that
2 one.
3 MR. KLINE: So you're looking at Exhibit 43.
4 MS. CITARAMANIS: Exhibit 43, thank you. And does
5 that connect up, will that connect up across the road? I
6 don't see any connection into, on the other side of Seton,
7 connecting into it. Or is --
8 THE WITNESS: Currently it was, the plan was to
9 make a connection across Seton.
10 MS. CITARAMANIS: Crosswalk?
11 THE WITNESS: Crosswalk there. That's actually
12 one of the comments, that there was -- we got back from the
13 traffic, highway and traffic division. They want us to make
14 some changes to the sidewalk, which was basically to move
15 the sidewalk to the other side of the road so that there
16 wouldn't be a crosswalk here. The sidewalk would be on the
17 south side of Seton Drive instead of the north side. So
18 that's, that was what their request was.
19 MS. CITARAMANIS: So talking about adding a
20 sidewalk along the perimeter --
21 THE WITNESS: Yes.
22 MS. CITARAMANIS: -- of the south?
23 THE WITNESS: Yeah.
24 MS. CITARAMANIS: No, no. I --
25 THE WITNESS: The north side sidewalk is the one

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1 that we're proposing.
2 MS. CITARAMANIS: Correct.
3 THE WITNESS: What DPS has come back with, they
4 said that they would, they would rather see it on the south
5 side along here.
6 MS. CITARAMANIS: Oh, I see what you're saying.
7 THE WITNESS: So we're just going to move it to
8 the other side of the road, which eliminates the need for a
9 mid-block crossing --
10 MS. CITARAMANIS: Okay.
11 THE WITNESS: -- and gives --
12 MS. CITARAMANIS: So the sidewalk to the north,
13 that is not in existence at this point, or is there a part
14 of one for the --
15 THE WITNESS: On the, on the 12-acre site, there
16 is no sidewalk currently. The sidewalk on the Sherbrooke
17 Woods Subdivision terminates at the property line. So
18 there's just a few dead-end sidewalks on either side of
19 Sherbrooke Woods --
20 MS. CITARAMANIS: Right.
21 THE WITNESS: -- Way, and they both terminate
22 right here.
23 MS. CITARAMANIS: Okay. So you just would have a
24 crosswalk across the little driveway?
25 THE WITNESS: Well, there wouldn't even be a

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1 crosswalk -- there would be a crosswalk here.
2 MS. CITARAMANIS: Yes.
3 THE WITNESS: Yes, on this driveway.
4 MS. CITARAMANIS: Right. So people have the
5 ability to get out into the neighborhood --
6 THE WITNESS: Yes.
7 MS. CITARAMANIS: -- if they want to go for a walk
8 or walk to the library?
9 MR. KLINE: Right. Right.
10 THE WITNESS: Exactly.
11 MR. KLINE: Right. Right.
12 THE WITNESS: Exactly.
13 MS. CITARAMANIS: And the connections to -- I
14 don't know who'd cross 29, but --
15 MR. KLINE: That's not going to happen.
16 THE WITNESS: 29 is --
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: -- a whole different issue.
19 Basically, State Highway, in their analysis, during the
20 development of the police station, they categorically said
21 that they have no intention of putting a pedestrian
22 crosswalk at Stewart Lane; that would be reserved for when
23 the future interchange is put on. The future interchange
24 will include a bike trail connection and sidewalk over the
25 bridge, but because of the --

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1 MS. CITARAMANIS: I was just concerned about the
2 connectivity of the sidewalk so that people from the
3 facility could walk into the neighborhood, get out.
4 THE WITNESS: Right, and that was, that was the
5 scope of the sidewalks that we built along Milestone as part
6 of the police station. That connects all the way from Seton
7 Drive west towards New Hampshire and connects into the
8 existing sidewalks on New Hampshire. And then the
9 Sherbrooke Woods Subdivision has sidewalks on both sides of
10 their streets, connecting out to New Hampshire and the
11 library, and so the last piece of the puzzle was our section
12 that we're putting in on Seton Drive --
13 MS. CITARAMANIS: Okay.
14 THE WITNESS: -- and that creates a full loop
15 through the, through the neighborhood.
16 MS. CITARAMANIS: And maybe your next witness
17 will, with regards to the outdoor recreation area, the
18 patio, how big is that and its use.
19 MR. KLINE: Sure. Sure.
20 MS. CITARAMANIS: I thought I read somewhere there
21 was shared parking with -- is there shared parking with the
22 police station?
23 MR. KLINE: Well, the police won't let us anywhere
24 close to their parking. So --
25 THE WITNESS: We were negotiating with the police

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1 department on the use of the parking in the front here of
2 the police station, and it ended up that because, they ended
3 up with -- with the change of everything, due to their
4 reconfiguration, as part of their negotiations with the
5 community, they ended up putting in 23 less spaces than they
6 had originally scoped for the police station here. So they
7 were not amenable to us using those spaces. Even though
8 they're there for visitors' spaces, they will be mostly
9 vacant most of the time. So they are actually currently
10 signed as for Police Visitor Only.
11 However, the two driveways will be part of a, the
12 access easements for our site. So people coming to Victory
13 Crossing can come in either one of the entrances; they're
14 not restricted to just one, and there is -- on the eastern
15 entrance, there's one strip of parking on our side of that
16 driveway, about 10 spaces along that side that front
17 directly out onto that common driveway.
18 MS. CITARAMANIS: And that's not a part of the 80?
19 THE WITNESS: It is part of the 80, yes.
20 MS. CITARAMANIS: It is part of the 80?
21 THE WITNESS: Yeah, it's part of the 80, and also,
22 as part of the police station improvements, we had developed
23 Milestone Drive to create a grass shoulder along Milestone
24 and an open ditch along the sidewalk. So as a result of
25 that, it created a functional shoulder on Milestone where

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1 before there was no -- you couldn't pull off the pavement
2 before.
3 So the shoulder is available as parking. It's --
4 the DOT stated previously that they would have no issue with
5 that being used as parking on the shoulder. Unless there
6 becomes an issue and someone gives, has a complaint or
7 something in the future, then they would consider putting No
8 Parking there, but for now parking will be allowed on the
9 grass shoulder for a high-event-type thing, but it would
10 only be for occasional use for those.
11 MS. CITARAMANIS: So there's no shared parking --
12 THE WITNESS: No shared parking.
13 MS. CITARAMANIS: -- no reciprocal agreement to
14 share parking?
15 THE WITNESS: Yeah, not for the parking itself,
16 only for the access drive.
17 MS. CITARAMANIS: Now I'm confused.
18 THE WITNESS: Okay.
19 MS. CITARAMANIS: The 10 spots, you're saying?
20 THE WITNESS: The 10 spots are on the petition
21 site.
22 MS. CITARAMANIS: That's not on-street parking?
23 THE WITNESS: No, because this, this --
24 MS. CITARAMANIS: No, that -- okay.
25 THE WITNESS: -- because this is a private

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1 driveway --
2 MS. CITARAMANIS: Okay.
3 THE WITNESS: -- going into the police station.
4 This is, this -- the police station comes off of Milestone
5 Drive with two private entrances which serve only the police
6 station and Victory Crossing, and the parking spaces that
7 are not within the 12, or the 2.5 acres of the Victory
8 Crossing site are both sides of the west entrance and the
9 west side of the east entrance, and those, that parking
10 exists and that is reserved for police. We will be
11 constructing as part of our site 10 additional spaces on the
12 east side of the east entrance which are part of the 80
13 spaces that we're providing. So it's 10 spaces here and
14 another 70 in the loop.
15 MR. KLINE: So all 80 spaces are on this, within
16 the special exception area.
17 THE WITNESS: All 80 spaces are within the special
18 exception area, yes.
19 MS. CITARAMANIS: Okay. Okay.
20 THE WITNESS: Yes.
21 MS. CITARAMANIS: Okay.
22 MR. KLINE: I have no other questions.
23 THE WITNESS: And to address the, your question on
24 the patio space, it's approximately 45 feet by 30 feet of
25 open patio, which would be used for seating, picnicking

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1 areas, so gathering. They can have some outdoor activities
2 in there. It's pretty much open to whatever needs to be
3 done for that area, because the -- there's space for
4 furniture, and it has lighting in it, and the furniture is
5 movable.
6 MS. CITARAMANIS: Okay. Thank you.
7 MR. KLINE: We'll call our next witness then.
8 MS. CITARAMANIS: I'd like to take a
9 five-minute --
10 MR. KLINE: Sure. Sure.
11 MS. CITARAMANIS: -- break, and so we'll --
12 MR. KLINE: Sure.
13 MS. CITARAMANIS: -- a few minutes, run to the
14 restroom.
15 (Whereupon, at 11:38 a.m., a brief recess was
16 taken.)
17 MS. CITARAMANIS: Okay. Go back on the record,
18 about quarter of 12:00.
19 MR. KLINE: We're prepared to call our next
20 witness.
21 MS. CITARAMANIS: Okay.
22 MR. KLINE: Mr. Mongrain, would you please state
23 and spell your name and give us your business address?
24 MR. MONGRAIN: Sure. It's Bruce Mongrain,
25 M-O-N-G-R-A-I-N, at 11720 Beltsville Drive, Calverton,

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1 Maryland 20705.
2 MS. CITARAMANIS: Okay. Raise your right hand.
3 (Witness sworn.)
4 MS. CITARAMANIS: Okay. And listen for
5 Mr. Kline's questions.
6 DIRECT EXAMINATION
7 BY MR. KLINE:
8 Q Mr. Mongrain, what's your profession?
9 A I'm an architect.
10 Q So I got that right --
11 A You did.
12 Q -- on the listing? Yes. And Mr. Schutz is not
13 with us today because?
14 A He had other --
15 Q Got you. Thank you.
16 MS. CITARAMANIS: He had other commitments?
17 THE WITNESS: Commitments.
18 MS. CITARAMANIS: Give me a --
19 MR. KLINE: Yes.
20 BY MR. KLINE:
21 Q And --
22 MS. CITARAMANIS: Bear with me for a second.
23 MR. KLINE: Sure, I understand.
24 MS. CITARAMANIS: The last one you had was 49?
25 MR. KLINE: Yes, ma'am.

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1 MS. CITARAMANIS: So we're at 50. Okay.
2 MR. KLINE: Yes.
3 MS. CITARAMANIS: It's always nice to be on the
4 same page. Okay. So I have your résumé here. So go ahead,
5 Mr. --
6 (Exhibit No. 50 was marked
7 for identification.)
8 BY MR. KLINE:
9 Q But, Mr. Mongrain, you've been the principal or
10 lead architect on this project from the beginning, have you
11 not?
12 A That is correct.
13 Q Okay. Mr. Mongrain, in this situation, I had your
14 profession right, but you have not qualified to date in a
15 court of law or a board such as this as an expert in the
16 field of architecture.
17 A That's correct.
18 Q So what the Hearing Examiner would like to know is
19 a bit about your background and everything, like where you
20 went to school, how long you've been doing this --
21 A Okay.
22 Q -- and what have you been doing.
23 A All right. I started my college career in Boston
24 at a school called Wentworth. It was for building
25 construction and architectural design, and subsequently I

1 transferred from there to Miami University in Oxford, Ohio,
2 where I got my bachelor's of fine arts in architecture in
3 1978. I've been in the architecture business since 1978,
4 practicing full-time for a number of different firms. I've
5 been with Grimm and Parker Architects for 10 years now.

6 Q And I see on what's been marked as Exhibit No. 50
7 a number of the projects with which you've been associated
8 -- some Victory Housing projects; other, I guess, maybe pure
9 residential projects?

10 A Yes. Mostly -- I've worked on a number of Victory
11 Housing projects, including Victory Court right up the
12 street here, and I've done a number of other projects with
13 other developers, both market-rate and low-income and --
14 low-income and moderate-income housing.

15 Q You're a member of AIA?

16 A I am a member of the AIA, and I'm also a member of
17 the CSI, which is the Construction Specifications Institute.

18 Q Okay. And you have a, the proper term, I guess,
19 is a license or a permit to practice architecture in what
20 jurisdictions?

21 A I am registered to practice architecture in the
22 State of Maryland, Washington, D.C.

23 MS. CITARAMANIS: Since? For how long? Did you
24 already, you might have already -- for how long have you
25 been licensed? Since '78?

1 will entail how many units we're looking for, the mix of
2 units, what types of amenity spaces they want to see, and
3 the configuration of the building and how it's going to
4 work. We also look at, of course, the site plan and work
5 with the building program to fit it on the site as best as
6 possible.

7 Q Did the client give you a direction on what I
8 guess I'd call an architectural style, or was that something
9 you had discretion to select?

10 A I think we -- we had discretion to select it.
11 Having worked with Victory Housing on a number of projects,
12 we kind of know what they like to see, something that is not
13 contemporary per se but more traditional in look, using
14 materials that are very residential in nature, and color,
15 that is something that is important for Victory Housing.

16 Q Before I have you go through some of your exhibits
17 you brought here today, I know the staff -- this is more of
18 a personal interest -- the staff report used the term
19 neo-Craftsman for the --

20 A Uh-huh.

21 Q -- for the general theme of your building. Would
22 that -- would you agree with that general characterization?

23 A Yes, I would. I think that's fairly accurate. We
24 do have a lot of Craftsman details in the building, and that
25 was kind of the theme that we were looking for for the

1 THE WITNESS: I've been licensed since 1985.

2 MS. CITARAMANIS: '85. Okay.

3 MR. KLINE: Based on that, I guess, 25, 30-some
4 years of experience and the scope of projects that are
5 mentioned in his résumé, I'd ask that Mr. Mongrain be
6 accepted as an expert in the field of architecture for
7 purposes of the hearing today.

8 MS. CITARAMANIS: Okay. Welcome to the club.

9 THE WITNESS: Thank you.

10 MR. KLINE: We probably should, like when they --
11 when you cross the International Date Line, they do all of
12 these terrible things with me. Maybe we should do the same
13 thing next time.

14 MS. CITARAMANIS: Yes.

15 BY MR. KLINE:

16 Q Mr. Mongrain, you brought some exhibits with you
17 today, and we've sort of preliminarily marked them. I'm
18 going to let you kind of do this as you see fit, but --

19 A Okay.

20 Q -- when you and Mr. Brown and Mr. Blackwell sat
21 down with the Victory Housing folks, what is sort of the
22 general guidance they gave you for what it should look like
23 and how it should work?

24 A Well, generally, we sit down with our clients and
25 work out what we call the program for the building, and that

1 project.

2 Q And is that a theme that's sort of found in the
3 neighborhood that helps it blend into the neighborhood?

4 A The neighborhood being single-family residential,
5 there are some buildings that are similar, but this is a
6 little bit more on a larger scale of the Craftsman style.

7 Q You didn't want to take any design cues from the
8 police station?

9 A No. The police station was not kind of in the
10 range or the scope or the design --

11 Q Okay.

12 A -- parti we wanted to use.

13 Q Bruce, you brought some boards with you. Using
14 those -- and we've got to mark them first -- go ahead and
15 just, kind of just, because I think the Hearing Examiner
16 wants to kind of understand how the massing works and the
17 materials, things like that.

18 A Sure.

19 Q And --

20 MS. CITARAMANIS: Whichever one you're going to
21 use first, just bring it to me and I'll mark it.

22 BY MR. KLINE:

23 Q Yes. You pick the order. Then just let her know
24 what you think she should label each exhibit.

25 A Okay. We'll start with this one.

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1 MS. CITARAMANIS: Okay. So this one will be?
2 BY MR. KLINE:
3 Q What is that one called, Bruce?
4 A This is Building Elevations, Sheet A-2.1.
5 MS. CITARAMANIS: I'm sorry. This is 51.
6 (Exhibit No. 51 was marked
7 for identification.)
8 THE WITNESS: Exhibit No. 51.
9 MS. CITARAMANIS: So 51 --
10 BY MR. KLINE:
11 Q Okay. Does it have a direction, or what side of
12 the building are we talking about?
13 A Well, it's multiple sides.
14 Q Okay.
15 A It's South Elevation, West Elevation, Northwest
16 Elevation, and Southwest Elevation.
17 MR. KLINE: So the record is complete, this is a
18 rendered or colored version of Exhibit 5(a) that's in the
19 record already.
20 THE WITNESS: Correct.
21 MS. CITARAMANIS: Okay. Would it be easier if he
22 stood over here so that you could hear him as well? Are you
23 good?
24 MR. KLINE: On this one I can see it's going to
25 work out okay.

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1 MS. CITARAMANIS: Okay.
2 THE WITNESS: Do you want to move over on this
3 side?
4 MS. CITARAMANIS: Because you can move that other
5 easel back.
6 MR. KLINE: Yes.
7 MS. CITARAMANIS: Or --
8 MR. KLINE: Maybe.
9 MS. CITARAMANIS: There you go.
10 THE WITNESS: Okay.
11 BY MR. KLINE:
12 Q All right. So referring to Exhibit 51, we're
13 looking at, I guess I see in that upper right-hand corner
14 the front view of the building, actually.
15 A This is the main entrance of the building. This
16 is our porte cochere, which is, functions both as an
17 entranceway, covered entranceway into the main entrance of
18 the building here, and also serves as flanking either side
19 as a porch, a covered porch area for the residents to sit on
20 the outside in chairs and --
21 Q And elaborate on that, because I'm always
22 fascinated whenever I visit a Victory Housing project:
23 there's quite a security bug guard out there.
24 A Yes. Well, we, we have, is -- in the lobby we
25 have, the two outside entrance doors are open, and then you

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1 can go into an interior vestibule --
2 MS. CITARAMANIS: Yes.
3 THE WITNESS: -- which is secured. The two
4 interior doors are secured, and in there you will have the
5 telephone entry system; so that if someone's coming in to
6 visit someone or someone's coming in for deliveries, they'll
7 have to get checked in and buzzed in through the security,
8 inner doors of the vestibule.
9 BY MR. KLINE:
10 Q I was probably being a little too facetious. What
11 I should have said, it's true that the residents love to
12 spend time out in that front door --
13 A Oh, yes. This is, this is a very popular area
14 with -- like in, at Victory Court, there's rocking chairs
15 out here, and then people are out there all times of the
16 day, relaxing and conversing and socializing.
17 Q Sorry. Go ahead.
18 A Next door to that, which I'm going to just go to
19 Exhibit 43, which is the site plan, this is the porte
20 cochere here. Here's the main entrance drop-off --
21 MS. CITARAMANIS: Yes.
22 THE WITNESS: -- coming in here. This is the
23 covered porch area, and right adjacent to that is the patio
24 area that Kevin was talking about so that people can either
25 sit under cover here or move out into the open patio area --

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1 MS. CITARAMANIS: Yes.
2 THE WITNESS: -- during the nice weather.
3 MS. CITARAMANIS: Patio is uncovered, did you say?
4 THE WITNESS: The patio is uncovered. Back to
5 Exhibit 51, the building materials that we're using on the
6 base of the building and up the projections on the face of
7 the building, we have a manufactured stone material.
8 MS. CITARAMANIS: Yes.
9 THE WITNESS: On the second floor up to the fourth
10 floor, we have vinyl siding in one color, and then on the
11 upper floor we have vinyl siding in a second lighter color,
12 and this helps to break up the facade in different
13 quadrants. So you have a darker, a medium, and then a
14 lighter color. It brings the facade, gives a more
15 interesting look to it and it doesn't look quite so heavy.
16 We have, in the middle where the windows are, we
17 have fiber cement panel, which will be white, and the
18 windows are single-hung fiberglass windows, white also. And
19 then we have, on the upper floor, we have these decorative
20 railings that we call Juliet balconies. They're not really
21 balconies; you can't go out on them, but they're more just a
22 decorative element on the upper floor here.
23 BY MR. KLINE:
24 Q What's that delightful architectural term you used
25 for those?

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1 A Juliet balcony. The roof is a sloped roof with
2 architectural shingles all the way around. On the porte
3 cochere, we have standing seam metal roof that will be
4 covering the top of that in a color to complement the stone.
5 The building facade has -- I'm going to go back to
6 Exhibit 43, the site plan, which shows the plan of the
7 building a little better. You can see the plan of the
8 building is kind of a modified C-shape, where this is Route
9 29/Columbia Pike and this is interior. And so we have the
10 -- as was discussed earlier, the patio and the covered area
11 is shielded from the environmental impact/noise impact from
12 Route 29 by the building, and then the building facade is
13 broken up by these bump-outs here, where we have shown --
14 where we have our stone coming up vertically to emphasize
15 the verticality here and break up the facade so that we
16 don't have one flat facade along any portion of the
17 building.
18 MS. CITARAMANIS: Is that for aesthetic value
19 and --
20 THE WITNESS: It is for aesthetic value. It
21 gives, it gives the facade more interest because it creates
22 shades and shadows as the building face moves in and out.
23 So you'll see, like here, this is, this is popped out so you
24 get a shadow line across here; this is popped out, get
25 another shadow line across here. What that also does is we

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1 mimic it with the roofline so that the roofline isn't just a
2 plain flat --
3 MS. CITARAMANIS: Yes.
4 THE WITNESS: -- pitched roof. It also bumps out
5 with these pop-outs here to give the interest, more interest
6 to the roofline.
7 MS. CITARAMANIS: It doesn't affect the noise
8 value or --
9 THE WITNESS: No.
10 MS. CITARAMANIS: -- help impede noise? It's --
11 THE WITNESS: No.
12 MR. KLINE: No.
13 MS. CITARAMANIS: -- just aesthetic?
14 MR. KLINE: Yes. Yes, right.
15 MS. CITARAMANIS: Okay.
16 THE WITNESS: It's mostly aesthetic, yes.
17 MR. KLINE: Right.
18 MS. CITARAMANIS: Okay. Okay.
19 THE WITNESS: Yes. As I mentioned, the windows
20 are fiberglass single-hung windows. They're insulated
21 glass. The frames of the windows are filled with rigid foam
22 for both aesthetic, not aesthetic, for sound attenuation and
23 for insulation value. Our wall system, our exterior wall
24 system is 2 by 6 framing with insulation filling the void of
25 the 2 by 6. We also have insulated sheathing on the outside

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1 to give us a continuous insulation barrier, which helps for
2 both energy conservation and for sound attenuation.
3 Going back to Exhibit 43, the site plan, a portion
4 of the building that's facing Columbia Pike will be exposed
5 to the environmental noise from the traffic --
6 MS. CITARAMANIS: Yes.
7 THE WITNESS: -- down 29. We had our acoustical
8 consultant, Miller, Beam & Paganelli, did a field study at
9 the site and determined that the section along 29 here and
10 here --
11 BY MR. KLINE:
12 Q Could you be a little more elaborate, Bruce --
13 A Sure.
14 Q -- just in terms of what you're pointing out?
15 MS. CITARAMANIS: Thank you.
16 THE WITNESS: Okay. I'm sorry. I'm pointing at
17 the elevation of the building that is facing towards
18 Columbia Pike/Route, U.S. Route 29.
19 BY MR. KLINE:
20 Q So the lower bend, I guess you'd call it.
21 A The lower bend of it --
22 Q Right.
23 A -- and then also the main spine of the building
24 that is facing Route 29. In their study they noted that the
25 day-night decibel level in this area was above 65. So their

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1 recommendations were that we needed to upgrade the windows,
2 the STC rating of the windows along the -- I'm sorry.
3 MS. CITARAMANIS: Do you want the --
4 UNIDENTIFIED SPEAKER: Southeast.
5 THE WITNESS: Southeast.
6 MS. CITARAMANIS: Attachment 3 is the noise
7 studies he's referring to.
8 MR. KLINE: It wasn't so much that as I think he
9 was just trying to figure out what side of the building
10 we're talking about.
11 MS. CITARAMANIS: Okay.
12 MR. KLINE: Yes.
13 THE WITNESS: Southeast.
14 BY MR. KLINE:
15 Q So the east, southeast --
16 A The study is --
17 MS. CITARAMANIS: I thought you were referring to
18 that, and if that had to --
19 MR. KLINE: I didn't remember we put it into the
20 record. That's great.
21 MS. CITARAMANIS: But it's attached to the staff
22 report too. It's --
23 MR. KLINE: Oh, that's the reason. Okay, theirs.
24 MS. CITARAMANIS: -- it's Attachment No. 3.
25 MR. KLINE: Thank you. Sure.

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1 MS. CITARAMANIS: Just for consistency, if that's
2 what you're relying on in how they're describing where
3 these --
4 THE WITNESS: Where we're having impact from --
5 MS. CITARAMANIS: Yes.
6 THE WITNESS: -- from Route 29.
7 MR. KLINE: Yes.
8 MS. CITARAMANIS: Yes.
9 THE WITNESS: And so based on their study, we, in
10 our wall sections, we have -- our 2 by 6 wall sections have
11 an STC rating of 39, which is excellent, and where we have
12 stone the STC rating is 45. So the walls were very good.
13 The only weak parts of the building facade was at the
14 windows, and so their recommendation was to increase the STC
15 rating of the windows along the southeast, the east side
16 portion of the northeast side.
17 So we have improved the windows to an STC of 28,
18 which is what we're required in the report, from the north
19 portion of elevation -- north elevation corner all the way
20 around, down along the eastern side, the southeastern side,
21 and we returned it back to, on the southeastern elevation of
22 the building. So these windows along this side all have an
23 STC of 28, and that will provide us with a minimum, or a
24 45-decibel level inside the units when they're completed.
25 MR. KLINE: Ms. CitaraManis, on another day I

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1 would probably ask him to give you an explanation of what
2 the STC rating is, but having spent several hours with
3 Mr. Grossman on a veterinary clinic, I know it's got a lot
4 of variables to it. Suffice it to say, the last line is
5 what's important, is those STC ratings will allow us to
6 achieve the 45-decibel level on the interior of the units --
7 THE WITNESS: Interior.
8 MR. KLINE: -- and we will end up having the
9 building inspected and certified to that effect, and that's
10 a condition in the -- that we accept to be in compliance
11 with.
12 MS. CITARAMANIS: Okay. So you just heard all
13 that he said.
14 BY MR. KLINE:
15 Q Do you agree with that?
16 MS. CITARAMANIS: Do you agree with that --
17 THE WITNESS: Yes.
18 MS. CITARAMANIS: -- and do you want to add to
19 that and explain anything, because really it's --
20 MR. KLINE: Yes. Thank you.
21 MS. CITARAMANIS: -- I mean, it's a great summary.
22 MR. KLINE: Sorry.
23 MS. CITARAMANIS: What you're telling me is what I
24 need to hear.
25 BY MR. KLINE:

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1 Q Is there a quick summary of STC to help --
2 A It stands --
3 MS. CITARAMANIS: Well, just to, just --
4 THE WITNESS: -- for sound transmission
5 coefficient, but I don't --
6 MS. CITARAMANIS: I did do a veterinary clinic --
7 MR. KLINE: Okay.
8 MS. CITARAMANIS: -- and read through the paper --
9 MR. KLINE: Yes. You know what --
10 MS. CITARAMANIS: -- didn't, wasn't quick.
11 MR. KLINE: Exactly. You know what I mean then.
12 That's fine, right.
13 MS. CITARAMANIS: Up and down, and I was like,
14 really, really, I mean, because I was actually going to ask
15 questions on the interior, just with regards to any of the
16 drywall on the inside. Is that -- or you're just talking
17 complete shell, the shell --
18 THE WITNESS: I'm talking shell right now.
19 MS. CITARAMANIS: Just shell. Okay.
20 THE WITNESS: Yeah, just shell right now. So, so
21 in summary --
22 MS. CITARAMANIS: So I have a general
23 understanding --
24 THE WITNESS: Okay. In summary --
25 MS. CITARAMANIS: -- probably not all correct.

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1 THE WITNESS: -- the combination of our wall
2 section, what we have for insulation, it's wood frame --
3 MS. CITARAMANIS: Yes.
4 THE WITNESS: -- what we have for the windows, the
5 fiberglass windows and the upgraded glazing to get the
6 higher STC, we will meet the 45-decibel level that is
7 required on the interior unit, and as Jody mentioned, we
8 will certify that at the end of the project.
9 BY MR. KLINE:
10 Q You know, I haven't asked you at all the height of
11 the building. We know it's four stories, but what's the
12 height of the building?
13 A Okay. The overall height of the building is 53
14 feet.
15 Q And I take it that's not as measured by the zoning
16 ordinance, but that's the actual peak --
17 A That's --
18 Q -- of the roofline?
19 A That is correct.
20 Q Okay.
21 A So back on Exhibit No. 51, this point right here
22 is 53 feet high.
23 Q So you're pointing to the lower right-hand --
24 A I'm pointing to the lower right-hand southwest
25 elevation. It shows the peak of the roofline, the highest

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1 point of the roof --
2 Q Is 53, or you're doing the math right now?
3 A No, we --
4 Q Yes.
5 A -- we haven't drawn this --
6 Q Yes.
7 A -- I mean, we do have an exhibit that shows it.
8 Q I understand.
9 A Fifty-three feet.
10 Q Okay. So you end up with what, four floors at 12
11 to 13 feet apiece?
12 A We start at -- the ground floor is 405, and then
13 the second floor is 10, is at 10 feet, and then we go to
14 nine foot --
15 Q I see.
16 A -- each one up.
17 Q Okay. So you have a little more --
18 A The first floor has a higher ceiling than the
19 upper floors.
20 Q And that's because you have some of the common
21 areas on the lower level?
22 A We have common areas on the lower level. We like
23 to give them -- they're bigger spaces; so we want to give
24 them higher ceilings to make them feel a little more, a
25 little larger. Plus we have a lot more duct work and

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1 everything else that's going to be running through those
2 areas; so we need a little bit extra space to get those to
3 all run through there.
4 Q I didn't want to cut you short on the description
5 of the materials or the fixtures, but -- so you tell me when
6 you're finished with that.
7 A I'm done.
8 Q Okay. How about going back to the site plan then,
9 because I would like you to show the Hearing Examiner where
10 you propose to put a monument sign, identification sign.
11 A Okay. Back to Exhibit 43, site plan, right now we
12 have a sign, a monument sign located right here as a V.
13 Q And that's what we'll call the southeast corner of
14 the site.
15 A Southeast corner of the site, the entrance off of
16 Milestone Drive, the first shared entrance --
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: -- and then the sign will be
19 constructed of concrete block, and then the facing will be
20 the stone that will match what the building has on it, with
21 a precast face with the building information on it.
22 BY MR. KLINE:
23 Q I can't see it from here. Is it --
24 A Sorry.
25 Q -- V-shaped with two faces?

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1 A It's V-shaped with two faces. So as you come down
2 Milestone from this side, you'll see this face --
3 MS. CITARAMANIS: Oh, okay.
4 THE WITNESS: -- and if you come from this side,
5 you'll see this face.
6 BY MR. KLINE:
7 Q And --
8 A The sign is also lit.
9 Q Okay. Ground-mounted or internal?
10 A No, the sign is illuminated from the top by an LED
11 light on both faces of the signage.
12 MS. CITARAMANIS: It's attached to the --
13 THE WITNESS: It's attached to the sign, and it
14 hangs over. It's kind of like a shepherd's hook --
15 MS. CITARAMANIS: Yes.
16 THE WITNESS: -- and so it illuminates it
17 downward.
18 BY MR. KLINE:
19 Q Since in the zoning ordinance we're only allowed
20 two square feet of signage in a residential zone, presumably
21 this sign will need to obtain a sign variance from the Sign
22 Review Board, right?
23 A Correct.
24 Q Okay. But you feel that it's appropriate in terms
25 of its size and scale and message and materials?

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1 A Yes, I do.
2 MS. CITARAMANIS: What is its size?
3 THE WITNESS: Pardon me?
4 MS. CITARAMANIS: What is its size?
5 THE WITNESS: The size of the sign is eight feet
6 -- each leg is eight feet long. So on the V this leg is
7 eight feet, and this leg must be eight feet, and it is, from
8 grade it is five feet high.
9 MS. CITARAMANIS: And is there a, is there any --
10 I mean, you're referring to something. Is that in as an
11 exhibit?
12 MR. KLINE: Yes. It's Exhibit No. 16 in the
13 record.
14 MS. CITARAMANIS: Thank you.
15 MR. KLINE: Mr. Mongrain's got a reduced version
16 of it, if that would help you.
17 MS. CITARAMANIS: That print is a little bit
18 smaller. Okay. I'm looking at Exhibit 16, five feet high,
19 eight feet wide on each --
20 THE WITNESS: Each leg --
21 MS. CITARAMANIS: And is --
22 THE WITNESS: -- each leg of the V.
23 MS. CITARAMANIS: So there's only two walls. It's
24 not a, there's no triangle -- oh, there's no across there.
25 THE WITNESS: No, there's nothing across there.

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1 MS. CITARAMANIS: Okay. Okay. Yes, I noted that
2 in the staff report it said that it would need a --
3 MR. KLINE: Yes.
4 MS. CITARAMANIS: -- sign variance before the Sign
5 Board Committee or --
6 MR. KLINE: Called the Sign Review Board.
7 MS. CITARAMANIS: Thank you. Okay. Let me just
8 -- okay.
9 THE WITNESS: Okay. I'd like to get these two
10 entered, please.
11 MS. CITARAMANIS: Okay. Which one first?
12 THE WITNESS: This one. This would be the main
13 entrance.
14 MS. CITARAMANIS: This is 52 and -- okay. So just
15 describe each when you get to them.
16 (Exhibit Nos. 52 and 53 were
17 marked for identification.)
18 THE WITNESS: Sure.
19 MS. CITARAMANIS: With regard to that, just a
20 quick question, with regard to the signage, it's not a
21 shared sign with the police department; they have their own,
22 right?
23 MR. KLINE: They --
24 MS. CITARAMANIS: Or they don't have --
25 MR. KLINE: As a matter of fact, do you mind if I

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1 call Mr. Mack up, because you maybe saw him talking,
2 whispering in my ear. Can you answer that question,
3 Mr. Mack?
4 MS. CITARAMANIS: Okay. Just --
5 MR. KLINE: Yes.
6 MS. CITARAMANIS: -- Mr. Mack is stepping up to
7 the easel.
8 MR. MACK: Referring to Exhibit 43, again, the
9 police station has the new Montgomery County public space,
10 public facility sign for their, for the police station. It
11 is a, I can't remember what the exact dimensions on it are,
12 but it's a two-panel -- a two-faced single-panel sign that
13 is in the order of about seven feet tall, I think, and about
14 a little over five feet wide. It actually has a variable
15 message board on both sides and the police station sign.
16 That sign is located on the east side of the west front
17 entrance to the parking in this location right here.
18 MS. CITARAMANIS: Second entrance --
19 THE WITNESS: To the, yeah, this --
20 MS. CITARAMANIS: -- if you're coming south?
21 THE WITNESS: -- the second entrance is on the
22 east side --
23 MS. CITARAMANIS: Okay.
24 THE WITNESS: -- of that entrance, and our sign is
25 on the east side of the east entrance. So, signage-wise,

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1 people would be directed more towards the western entrance
2 to the police, more towards the eastern entrance to the
3 residential.
4 MS. CITARAMANIS: Okay.
5 THE WITNESS: The practicality is, the police use
6 this one, to the east, more because of the, they don't have
7 to turn again, but --
8 MS. CITARAMANIS: Okay. Did you have any
9 follow-up questions? Okay. Thank you very much for that
10 clarification.
11 THE WITNESS: Uh-huh.
12 MR. KLINE: There's an optimist. Here, I'll hold
13 it for you.
14 UNIDENTIFIED SPEAKER: I'll hold it. I'll hold
15 it. I got it.
16 THE WITNESS: Okay. This is, this is a colored
17 rendering of the front of the building, and when I say the
18 front, the parking lot side of the building, showing the
19 porte cochere and the covered porch.
20 MS. CITARAMANIS: What exhibit is this?
21 THE WITNESS: This is Exhibit No. 53.
22 MS. CITARAMANIS: Okay.
23 THE WITNESS: And so this gives a little bit
24 better idea of the different materials that we're using on
25 the building and how the overhang works for the roofline.

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1 So we have the stone veneer here, comes in the pop-out. We
2 have the vinyl siding here, have vinyl siding up here, and
3 then as we talked about, in between we have the fiber cement
4 panels where the windows are on these pop-out areas.
5 At the main entrance area, we've brought that up
6 with an arched roofline to kind of accentuate the
7 entranceway to the building, and then we have the Juliet
8 balconies which are located here, here, and here, just to
9 kind of decorate the facade and accentuate the upper levels
10 of the building.
11 Exhibit No. 52, a similar colored rendering.
12 MR. KLINE: I'm sorry. 52?
13 MS. CITARAMANIS: Yes.
14 MR. KLINE: Okay. Thank you.
15 THE WITNESS: Coming in off the driveway off of
16 Milestone, this would be the end of the building, the south,
17 south end of the building and then coming into the driveway
18 here and, again, the porte cochere and the front entrance.
19 This is just giving a little bit better idea of the colors
20 of the stone and of the siding and of the asphalt shingle
21 roof.
22 MS. CITARAMANIS: And are all of those windows?
23 Those are units? Those are --
24 THE WITNESS: These are all units.
25 BY MR. KLINE:

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1 Q Well, by way of -- on that, say, on the third
2 floor up, is that one, two, or three units?
3 A There, this would be -- the building is divided
4 down the center by a corridor --
5 MS. CITARAMANIS: Yes.
6 THE WITNESS: -- access corridor. So you have
7 units on either side of the corridor, and then at the ends
8 we have -- this would be two units. This would be a unit to
9 here and then a unit to this side.
10 BY MR. KLINE:
11 Q Right. Mr. Mongrain, since I've got you up there
12 with all those drawings right now, I'll sort of draw your
13 attention to some of the standards in the zoning ordinance
14 then. Does this package, the combination of design and
15 materials, result in a building that has a residential
16 appearance?
17 A Yes, it does.
18 Q Okay. I think this is one you probably will be
19 glad to answer. Does the building reflect distinct planes
20 by wall offsets or architectural articulation to achieve
21 compatible scale and massing?
22 A Yes, it does.
23 Q In spades?
24 A In spades.
25 Q You don't usually get to design a building with

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1 that many, I bet, turns in the building?
2 A Yeah, we, this is -- we purposely, because the
3 building is kind of long, we used the building shape and
4 popped out the facade to add interest, as I talked about in
5 that shade and shadow to the building, and also increased
6 the interest of the roofline.
7 Q And, finally, in your professional opinion, is the
8 proposed building in harmony with the, with its residential
9 neighbors?
10 A Yes, it is.
11 Q Okay. Thank you.
12 MR. KLINE: I have no further questions.
13 MS. CITARAMANIS: I'd actually like a little bit
14 more with regards to that last question --
15 MR. KLINE: Sure. Sure.
16 MS. CITARAMANIS: -- how the design is in keeping
17 with the general character of the surrounding
18 neighborhood --
19 MR. KLINE: Great. Sure.
20 MS. CITARAMANIS: -- and I bring in the height
21 impact and -- because, I mean, it's a very nice-looking
22 building, but it's --
23 MR. KLINE: Sure.
24 MS. CITARAMANIS: -- not a single-family --
25 MR. KLINE: Sure.

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1 MS. CITARAMANIS: -- residence or townhouses on
2 the end, which was what the master plan recommended for this
3 area --
4 MR. KLINE: Yes.
5 MS. CITARAMANIS: -- 1997.
6 MR. KLINE: Yes, sure.
7 MS. CITARAMANIS: So what you've put there now,
8 just -- I know we've heard about the buffering --
9 THE WITNESS: Uh-huh.
10 MS. CITARAMANIS: -- but just beef up what you
11 just said with regards to how the general character of the
12 surrounding neighborhood is minimally impacted or it's
13 consistent with it or --
14 THE WITNESS: Well, we -- through the use of
15 materials is number one. We used residential-type materials
16 in the stone and in the vinyl siding and then the fiber
17 cement siding. These are typically materials that are used
18 in residential construction. We also have a pitched roof,
19 which is typical of single-family residential, where we
20 don't have -- excuse me. We've pitched the roof and we've
21 staggered the roof to give it some interest, but the basic
22 style of the roof is a residential pitched slope roof
23 building.
24 MS. CITARAMANIS: You wouldn't have the same with
25 commercial? I mean, the roof would be different if it was

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1 commercial?
2 THE WITNESS: A lot of times it might be flat, a
3 flat roof with a parapet around it --
4 MS. CITARAMANIS: Right. Right.
5 THE WITNESS: -- instead of a pitched roof. In
6 this case, we also are using the pitched roof area to hide
7 the mechanical systems; so that on the ground we don't have
8 any condensing units --
9 MS. CITARAMANIS: Yes.
10 THE WITNESS: -- we've put all the condensing
11 units in a, what we call a bathtub on the roof. So the
12 pitched part of the roof hides the bathtub where the
13 mechanical units are located.
14 BY MR. KLINE:
15 Q Can you go to Exhibit 43 and kind of show the
16 Hearing Examiner where there's sort of a trough in the roof
17 where those would go?
18 A You can see that -- well, it's hard to tell here
19 -- but there's dashed lines right here which indicates where
20 we have the bathtub areas, and this will be a condenser for
21 them that will service all the units in the common areas.
22 So on the ground, all the way around, we have no condenser
23 units whatsoever. Everything has been located up on the
24 roof; so that for sound and for visual attenuation, no one
25 will ever know it's up there.

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1 MS. CITARAMANIS: Never heard of that.
2 MR. KLINE: They've done it before, and it's very
3 clever, and unless you fly over it in an airplane, you'd
4 never know where the units are.
5 MS. CITARAMANIS: I didn't think about the
6 units --
7 MR. KLINE: Yes. Yes.
8 MS. CITARAMANIS: -- and it's like, yes, you're
9 right, there are none on the outside, which is nice. Okay.
10 So that's -- the units are in the roof. The roof is being
11 used to its maximum.
12 THE WITNESS: Right. We've used single-hung
13 windows, which are very residential in style. They're made
14 to look like a normal vinyl window or a wood window. These
15 -- oops, sorry. Back to Exhibit No. 51, these are typical
16 residential-type windows --
17 MS. CITARAMANIS: Yes.
18 THE WITNESS: -- single hung, as I had mentioned.
19 They have divided lights in the upper light, which is very
20 residential in style. We have corner beads that run up and
21 down each corner of the building, which is very typical of
22 residential design. We have columns at the porte cochere
23 that are very, are residential in design. They have
24 capitals and bases to them that sit on stone bases. This
25 would be very typical in Colonial-type architecture or

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1 Craftsman-style, as you have here.
2 MS. CITARAMANIS: And the lighting is residential?
3 THE WITNESS: The lighting is residential. You
4 wanted to talk a little about the inside of the building?
5 MS. CITARAMANIS: With regards to -- I mean, yes,
6 sure. I'd like to know how each unit -- yes. I don't know
7 if anybody mentioned the size of the units. You said
8 one-bedroom and two bedrooms --
9 MR. KLINE: Oh.
10 THE WITNESS: Right.
11 MS. CITARAMANIS: -- but the actual sizes, if they
12 were all --
13 THE WITNESS: Yeah. Can you hand me the --
14 MS. CITARAMANIS: I saw somewhere where 681 was
15 the square foot of --
16 THE WITNESS: Yeah, the average --
17 MS. CITARAMANIS: -- I'm assuming, one bedroom.
18 THE WITNESS: The average one-bedroom is 681
19 square feet, and the average two-bedroom is 903 square feet.
20 MS. CITARAMANIS: Okay.
21 THE WITNESS: We have six units that are handicap
22 accessible, and we have two units that are VHI, which is
23 visual- and hearing-impaired. They will have a doorbell --
24 MS. CITARAMANIS: Two?
25 THE WITNESS: -- at the front door. Two, yes.

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1 MS. CITARAMANIS: Okay.
2 THE WITNESS: Basically, the inside is gypsum
3 board, both walls and ceilings. Floor coverings are tile,
4 carpeting, and vinyl and vinyl plank. We have lighting down
5 the corridors, wall sconces. We have chair rail and
6 handrail down the corridors for the seniors. The amenity
7 spaces, we have a large multipurpose room that has a pantry
8 off of it, and then there's a theater down next to it. We
9 have a library. We have a sunroom. We have an arts and
10 crafts room. We have a wellness center. We have a fitness
11 center, and all these are accessible to all the residents.
12 MS. CITARAMANIS: And this is on the first floor?
13 THE WITNESS: This is on the first floor.
14 MS. CITARAMANIS: And the office space for the
15 minimal staff is on the first floor?
16 THE WITNESS: As you go in -- as you come into the
17 main lobby area, the offices are to the right; the library
18 would be to the left.
19 MS. CITARAMANIS: Okay. And with regards to the
20 height, who'd be the one to justify going from the R-90
21 height, which is 35 --
22 MR. KLINE: Yes.
23 MS. CITARAMANIS: -- up to four, which I know you
24 can have up to six --
25 MR. KLINE: Right.

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1 MS. CITARAMANIS: -- if you meet that criteria.
2 THE WITNESS: Right.
3 MS. CITARAMANIS: And --
4 MR. KLINE: I think she's looking for a little
5 justification as to why the height that we're showing is
6 appropriate in this location and why it's needed to be able
7 to make the special exception work.
8 THE WITNESS: Well, we tried -- we've compressed
9 the building as we, to what we could, keeping the first
10 floor at 10 feet and the other floors at nine, as I talked
11 about --
12 MS. CITARAMANIS: Yes.
13 THE WITNESS: -- and we kept the pitch of the roof
14 as low as we possibly could and still keep our bathtub so
15 that we could hide our equipment up there on the roof. So I
16 believe this meets the requirements, and it also has the --
17 at the height, the total height that it is, it's very close
18 to what the height of the adjacent single-family homes are
19 across the way.
20 MR. KLINE: If I could help you a little bit --
21 THE WITNESS: Sure.
22 MR. KLINE: -- or it may be better to help myself,
23 the maximum building height is four stories or what's
24 allowed in the zone, which would be two-and-a-half stories,
25 but you can go up to six stories if the additional height is

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1 in conformity with the general character of the
2 neighborhood, considering population, density, design,
3 scale, bulk of the proposed building, et cetera. So going
4 back to some of the things you've already mentioned, the
5 additional story and a half up to four stories is justified
6 by the things that you talked about, is that --
7 THE WITNESS: Correct, like the materials, the
8 type of roof that we're using, and the minimum amount of
9 height that we tried to keep of the building.
10 MS. CITARAMANIS: And does the topography play any
11 part in that.
12 THE WITNESS: Topography does play a part.
13 MS. CITARAMANIS: And what part does it play?
14 THE WITNESS: Well, the building is lower than the
15 adjacent single-family homes, and so that -- when you look
16 at a cross section through that area, the building, even
17 though it's four stories --
18 MS. CITARAMANIS: Yes.
19 THE WITNESS: -- its actual height is only about
20 three feet higher than the adjacent single-family home
21 roofs, rooflines. So that 53 feet here equates to about 50
22 feet on the single-family homes, but since we are lower, the
23 height of the building is mitigated.
24 MS. CITARAMANIS: It's not popping out of a field
25 of daisies, to be --

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1 THE WITNESS: Correct.
2 MS. CITARAMANIS: -- I mean -- okay. So the
3 impact is, the visual impact is mitigated?
4 THE WITNESS: Correct.
5 MS. CITARAMANIS: Okay. And with regards to the
6 forest buffer, does that have any impact on the visual
7 impact?
8 THE WITNESS: Sure. As Kevin pointed out, the
9 landscaping plan goes all the way around the building. We
10 have a lot of buffer area --
11 MS. CITARAMANIS: Yes.
12 THE WITNESS: -- between the building and the
13 roadway and also the existing single-family homes.
14 MS. CITARAMANIS: Okay. All right.
15 MR. KLINE: I have no further questions of
16 Mr. Mongrain.
17 MS. CITARAMANIS: Okay. With regards to the
18 windows, you mentioned -- it was you, right, the windows?
19 I --
20 THE WITNESS: The windows, yes.
21 MS. CITARAMANIS: It was him. Okay. The windows,
22 so you're only going on the outskirts of the, the outer part
23 of the building. Why not the whole building, considering
24 its orientation towards New Hampshire Avenue as well as 29?
25 THE WITNESS: Well, we went by what the acoustical

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1 consultant's report told us, and that was that the only
2 areas that were going to be impacted with the environmental
3 noise from Route 29 were along this area here. There's a
4 cost implication --
5 MS. CITARAMANIS: Yes.
6 THE WITNESS: -- to adding the higher STC windows,
7 and since this area was not going to be impacted by the
8 environmental noise from Route 29, these would go back to a
9 standard 23 STC window.
10 MS. CITARAMANIS: So the noise on the front side
11 or the alcove, I don't know the --
12 MR. KLINE: Patio area, yes.
13 THE WITNESS: This would --
14 MS. CITARAMANIS: The patio, that area would --
15 THE WITNESS: This is limited to parking and just
16 vehicular traffic for the building.
17 MS. CITARAMANIS: And any noise from New Hampshire
18 Avenue --
19 THE WITNESS: Would be --
20 MS. CITARAMANIS: -- would not --
21 THE WITNESS: Would be blocked by the building
22 itself.
23 MR. KLINE: Well --
24 MS. CITARAMANIS: Not on the front side.
25 MR. KLINE: No, that's okay. Okay. That's all

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1 right. That's all right.
2 MS. CITARAMANIS: Let's give him a chance. Okay.
3 So where the patio is, that whole, that whole --
4 THE WITNESS: Right.
5 MS. CITARAMANIS: -- let's say the inside of the
6 J --
7 THE WITNESS: Uh-huh.
8 MS. CITARAMANIS: -- I mean, New Hampshire Avenue
9 is this way, right?
10 MR. KLINE: It's on the west.
11 THE WITNESS: Over here.
12 MR. KLINE: Yes.
13 MS. CITARAMANIS: Okay. So there's no noise
14 impact?
15 THE WITNESS: There was no noise impact, no.
16 MS. CITARAMANIS: Okay. All right. I was just
17 curious as to why it didn't -- I mean, it's pretty close to
18 29 and their living units.
19 THE WITNESS: The impact here was at the
20 65-decibel level, which is the break-off point. Over here
21 it was not that high. It was that high here because we were
22 so, such close proximity to Route 29.
23 MS. CITARAMANIS: Okay. And the interior walls,
24 they're just gypsum; they're not sound-rated walls on that
25 side? The units on that area, there's no sound attenuation?

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1 I don't know that that would even --
2 THE WITNESS: No. The actual construction gives
3 us enough sound attenuation.
4 MS. CITARAMANIS: Enough to stop it from even --
5 THE WITNESS: To stop it, yes.
6 MS. CITARAMANIS: -- getting to the drywall?
7 Okay.
8 THE WITNESS: Yes.
9 MS. CITARAMANIS: Okay. Did my questions generate
10 any questions for you?
11 MR. KLINE: No, ma'am.
12 MS. CITARAMANIS: Okay. Okay. I don't think I
13 have any more questions. Famous last words, right? In
14 terms, and I don't know if he's the right person, in terms
15 of -- I know that the first gentleman, Mr. Brown, talked
16 about the units in terms of the low-income.
17 MR. KLINE: Yes.
18 MS. CITARAMANIS: We don't need any more on that?
19 MR. KLINE: Well, actually, if you think you do,
20 then maybe we do, but I think --
21 MS. CITARAMANIS: I'm trying to recall in your
22 statement that -- just let me --
23 MR. KLINE: Well --
24 MS. CITARAMANIS: -- that when you got to the
25 hearing --

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1 MR. KLINE: Right.
2 MS. CITARAMANIS: -- stage, you would have more.
3 Let's see. It's on page 6: By the time of the public
4 hearing, the petitioner will be able to advise the Hearing
5 Examiner of the manner in which the application will satisfy
6 the requirements of 59-G-2.35(a)(1) regarding the percentage
7 of units reserved for families of varying incomes.
8 MR. KLINE: Right, and what -- Mr. Brown's gone,
9 right?
10 MR. BROWN: No, I'm here.
11 MR. KLINE: Oh, he is here. Okay. Well, I should
12 probably call him back. What Mr. Brown and I were trying to
13 get to was an understanding that, ultimately, whatever he
14 works out with DHCA will satisfy the requirements of
15 59-G-2.35 but that today we've already once tried to nail it
16 down and realized that that probably was a mistake because
17 it changes as the project evolves and that the percentage
18 that will be MPDU, low, very low, or area median, will
19 basically, possibly be changed again. So we didn't want to
20 give you a fixed number other than tell you we will be able
21 to exceed the standards required in the zoning ordinance.
22 MS. CITARAMANIS: I'm just looking at the
23 conditions from --
24 MR. KLINE: It wasn't a condition. It's
25 referenced in the staff report, but it's not a condition.

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1 MS. CITARAMANIS: Right. Well, and that's what I
2 was --
3 MR. KLINE: Yes.
4 MS. CITARAMANIS: -- looking to see, if that is --
5 MR. KLINE: I wouldn't have been surprised if the
6 staff report had said you must comply with 59-G-2.35(a).
7 That would make sense and that certainly would be no problem
8 for us.
9 MS. CITARAMANIS: Right, and that's why I'm
10 asking --
11 MR. KLINE: Yes.
12 MS. CITARAMANIS: -- because, if things are
13 changing a little bit, I mean, it's obviously going to be
14 nailed down for -- when you get farther down the road with
15 the county --
16 MR. KLINE: Correct.
17 MS. CITARAMANIS: -- and you have the agreement,
18 and deciding right now the exact makeup, with the proviso
19 that it would meet or exceed whatever the requirement is --
20 MR. KLINE: We will exceed it, yes.
21 MS. CITARAMANIS: -- so I might be inclined to
22 include that as a condition, is my point, if --
23 MR. KLINE: I'd have no problem.
24 MS. CITARAMANIS: -- you're not in a position --
25 MR. KLINE: I'd have no problem with that.

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1 MS. CITARAMANIS: -- if you're not in a position
2 to meet that right now --
3 MR. KLINE: That -- sure. I'm sorry.
4 MS. CITARAMANIS: -- because that's what you said
5 in your summary.
6 MR. KLINE: The petitioner must -- the petitioner
7 should have an executed agreement with the Department of
8 Housing and Community Affairs, satisfying the standards of
9 59-G-2.35, prior to obtaining a building permit or whatever
10 you want to key it into.
11 MS. CITARAMANIS: Well, that is certainly language
12 that you could include in the letter that you have to send
13 to me --
14 MR. KLINE: Okay. Yes.
15 MS. CITARAMANIS: -- with regards to amending --
16 MR. KLINE: Right.
17 MS. CITARAMANIS: -- the entity.
18 MR. KLINE: I can do that, yes.
19 MS. CITARAMANIS: And that way it's very clear
20 what it is you all are agreeing to and making it a
21 condition --
22 MR. KLINE: That's fine.
23 MS. CITARAMANIS: -- unless I get word that I
24 needed more, and then I'll let you know.
25 MR. KLINE: Yes. That's not a problem. We can do

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1 that.

2 MS. CITARAMANIS: Okay. All right.

3 MR. KLINE: We've taken a bit longer --

4 MS. CITARAMANIS: Thank you.

5 MR. KLINE: -- than I had anticipated, and I know

6 there's at least two people leaving to go out of town, and I

7 have some, an appointment at Park and Planning. I had asked

8 Mr. Kabatt to be here today, even though I know subdivision

9 will address the adequate public facilities, issues related

10 to traffic, but I was just going to have him kind of tell

11 you where he was right now to give you a level of comfort

12 that things are moving along well. I won't do that if you

13 don't think it's necessary, simply to save time, to be

14 honest with you, but I'll, if you say, no, Jody, I'd

15 probably like to hear where he is, I'll call him.

16 MS. CITARAMANIS: Yes, I definitely would like to

17 hear because --

18 MR. KLINE: Okay.

19 MS. CITARAMANIS: -- because of the difference in

20 staff report and the traffic statement that was part of the

21 record.

22 MR. KLINE: Sure.

23 MS. CITARAMANIS: I mean, they're completely

24 different --

25 MR. KLINE: Okay.

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1 MS. CITARAMANIS: -- and I understand that the FO

2 will be decided at the subdivision stage --

3 MR. KLINE: Yes.

4 MS. CITARAMANIS: -- but at the same time, I have

5 to answer --

6 MR. KLINE: On the checklist, I understand.

7 MS. CITARAMANIS: Yes, I do. So --

8 MR. KLINE: I'll call our next witness then.

9 MS. CITARAMANIS: Okay. Thank you, Mr. --

10 MR. KLINE: Mr. Kabatt, could you please state and

11 spell your name and give us your business address?

12 MR. KABATT: Sure.

13 MS. CITARAMANIS: Okay. Let me get --

14 MR. KABATT: My name is Chris Kabatt. Kabatt is

15 spelled K-A-B-A-T-T, and I'm with Wells and Associates, a

16 principal associate there, and I'm a registered professional

17 engineer in the State of Maryland, and the business address

18 is 8730 Georgia Avenue, Suite 200, Silver Spring.

19 MS. CITARAMANIS: Okay. Mr. Kabatt, raise your

20 right hand.

21 (Witness sworn.)

22 MS. CITARAMANIS: Okay. And you are in place of

23 Mr. Etemadi?

24 MR. KLINE: Shahriar Etemadi.

25 MS. CITARAMANIS: Thank you. Okay. And you have

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1 his --

2 THE REPORTER: Can somebody spell that, please?

3 MR. KLINE: S-H-A-H-R-I-A-R E-T-E-M-I-D-I.

4 MS. CITARAMANIS: E-T-E-M- --

5 UNIDENTIFIED SPEAKER: It's E-T- --

6 MS. CITARAMANIS: I think it's A-D-I.

7 UNIDENTIFIED SPEAKER: A.

8 MR. KABATT: A-D-I.

9 MR. KLINE: A-D-I.

10 UNIDENTIFIED SPEAKER: A-D-I.

11 MS. CITARAMANIS: And it's two words. It's not a

12 long name.

13 MR. KLINE: Yes, right.

14 MS. CITARAMANIS: Okay. So we have your résumé,

15 and let me just -- 54? Are you on 54?

16 MR. KLINE: Yes, ma'am.

17 MS. CITARAMANIS: 54, and this would be 2873.

18 Okay. Mr. Kabatt, just answer Mr. Kline's questions.

19 (Exhibit No. 54 was marked

20 for identification.)

21 MR. KLINE: Well, actually, I'm going to let him

22 pretty much talk on his own.

23 DIRECT EXAMINATION

24 BY MR. KLINE:

25 Q But let me just do kind of one zoning ordinance

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1 checkoff, and that is, we're expected to demonstrate that

2 the circulation system on this proposed site is safe,

3 adequate, and efficient. Have you had an opportunity to

4 review the plan, and do you have a conclusion whether what's

5 shown on Exhibit 43 is a circulation system that's safe,

6 adequate, and efficient for the proposed use?

7 MS. CITARAMANIS: Do we want to -- you're offering

8 him as an expert?

9 MR. KLINE: Oh, let's do that.

10 MS. CITARAMANIS: It's okay --

11 MR. KLINE: Yes, I got this one --

12 MS. CITARAMANIS: -- it's past lunch; you might be

13 hungry.

14 MR. KLINE: -- I got this one right, and so I

15 forget to qualify him.

16 MS. CITARAMANIS: It's all right. We, I just --

17 see, I'm impressed that I remembered.

18 MR. KLINE: Thank you.

19 BY MR. KLINE:

20 Q Mr. Kabatt, what is your profession?

21 A I'm a transportation consultant, a traffic

22 engineer.

23 Q And you have qualified multiple times before with

24 a hearing examiner or maybe even in a court of law as an

25 expert in that field, have you not?

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1 A Yes, I have been accepted as an expert in front of
2 a hearing examiner --
3 Q How about --
4 MS. CITARAMANIS: Can you see if the door is
5 unlocked? We should not be locked in here.
6 MR. KLINE: Yes. You're not going to let us --
7 MS. CITARAMANIS: Could you leave it open, because
8 it's starting to get stuffy in here for me?
9 UNIDENTIFIED SPEAKER: Okay.
10 MS. CITARAMANIS: Thank you.
11 BY MR. KLINE:
12 Q Mr. Kabatt, when was the last time you qualified?
13 Was it a hearing that maybe Ms. CitaraManis would recognize?
14 A The latest one was for West Lane. It was in front
15 of Mrs. Robinson.
16 MS. CITARAMANIS: Robeson?
17 THE WITNESS: Robeson.
18 MS. CITARAMANIS: Yes.
19 THE WITNESS: And that was in --
20 BY MR. KLINE:
21 Q So that was a development plan amendment in
22 Bethesda?
23 A Yes.
24 Q Yes. Okay.
25 MS. CITARAMANIS: Okay. So --

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1 MR. KLINE: Well, based on his previous
2 qualifications, I'd like to offer him as an expert in
3 traffic engineering and transportation planning.
4 MS. CITARAMANIS: Okay.
5 MR. KLINE: With a request that he answer my first
6 question about, if the circulation is safe, adequate, and
7 efficient.
8 THE WITNESS: I have reviewed the exhibit. Is
9 that 43?
10 BY MR. KLINE:
11 Q Yes.
12 A Exhibit 43 and the two driveways on Milestone and
13 then the, call it the interior driveway to the senior
14 housing facility are safe, adequate, and efficient.
15 Q Thank you. This case is a little unusual in terms
16 of the fact that, when we started, we didn't have a police
17 station, and then the police station opened; it changed some
18 of the operating activity in the area. Would you explain to
19 the Hearing Examiner what you've done and where you are on
20 the transportation analysis that'll be part of the
21 subdivision review at Park and Planning Commission?
22 A Certainly. We did a traffic statement for this
23 application, a special exception, and that's what is in the
24 record --
25 MS. CITARAMANIS: Yes.

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1 THE WITNESS: -- in 2013. And then during that
2 review process, the police station did open and
3 transportation staff did bring to light that when you go for
4 adequate public facilities, you have to include the entire
5 property to determine whether a traffic study is required or
6 not.
7 So we had -- they had asked to do some driveway
8 counts at the police station once it was opened. We did
9 that in June of last year, and with the police station and
10 with this senior, the proposed senior housing/independent
11 living, a traffic study is required. The entire site would
12 generate more than 30 peak-hour trips, and therefore for the
13 preliminary plan, a subdivision approval, we have to conduct
14 a traffic study, and right now we have started that process.
15 We have scoped the study with transportation staff,
16 Mr. Axler.
17 BY MR. KLINE:
18 Q Using that term, just explain what that means.
19 You've worked out the parameters of the study, right?
20 A Yes, in other words, we identified which off-site
21 intersections we will analyze. Transportation staff gives
22 us the list of pipeline projects to include, and we
23 discussed the trip generation and determined the appropriate
24 trip generation rates to use for the senior living units.
25 Q And at this point in time, you're basically, I

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1 guess, writing the report and taking the counts and
2 converting it into a standard LATR and -- with
3 recommendations?
4 A Correct. We're right -- we're in the middle of it
5 right now.
6 Q Does your gut -- professionals have that sort of
7 call -- does your --
8 MS. CITARAMANIS: Your expert gut.
9 BY MR. KLINE:
10 Q Yes, your expert gut. At this point in time, can
11 you make a preliminary recommendation of whether there needs
12 to be any kind of mitigation done and, if so, how that will
13 be addressed?
14 A Well, we do know that the intersection of 29, U.S.
15 29 and Stewart Lane operates beyond a congestion standard.
16 That's an existing condition that has been documented in the
17 past. So we anticipate, or we will have to do some kind of
18 mitigation to mitigate our sites' impact on that
19 intersection, and that exact measure has yet to be
20 determined and will be worked out during the review process
21 with the county. The state will likely be involved since it
22 is a state route, Route 29, as well as the county, DOT.
23 Q You probably have alternatives or options about
24 how to satisfy the LATR requirements?
25 A Yes, there's multiple options: a physical

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1 geometric improvement at the intersection itself or there's
2 other non-auto options, such as sidewalks, or payment to a
3 capital facilities project is also an option, but there are
4 multiple options to mitigate site trips to reduce the
5 congestion standard or the critical lane volume measurement
6 at the intersection.
7 Q None of those options will alter in any way the
8 design that's been described here today to the Hearing
9 Examiner, right? These are all off-site features, or
10 maybe --
11 A That's correct.
12 Q -- sidewalks may be on site, but everything will
13 be pretty much off site?
14 A That's correct, likely the improvement would be in
15 the immediate area but off site.
16 MS. CITARAMANIS: The immediate area?
17 THE WITNESS: Usually, an improvement, one, the
18 main focus would be for the intersection in question, if
19 there was an intersection, 29 and Stewart; usually, you
20 would look at that intersection itself, and if there's
21 nothing feasible there, you may look at other options in
22 proximity. However, the non-auto, if you go towards a
23 non-auto facility improvement, first, usually Park and
24 Planning and/or DOT, they like to look at right in the
25 immediate site area and then, if there's nothing identified

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1 there, they go to a larger policy area location.
2 MS. CITARAMANIS: Is Stewart a lighted
3 intersection?
4 UNIDENTIFIED SPEAKER: Signal.
5 THE WITNESS: Yes. On 29 it is a -- there is a
6 traffic signal.
7 MS. CITARAMANIS: Oh, and that's higher up. I got
8 it. But Seton is, is not?
9 UNIDENTIFIED SPEAKER: It's --
10 THE WITNESS: That intersects Seton.
11 MS. CITARAMANIS: Okay. He's the only one --
12 UNIDENTIFIED SPEAKER: Okay. No. I'm just
13 going --
14 MS. CITARAMANIS: -- on the stand right now.
15 UNIDENTIFIED SPEAKER: -- I'm just going to change
16 your --
17 MS. CITARAMANIS: Oops.
18 THE WITNESS: Seton does intersect with Milestone,
19 and that is a stop-controlled intersection.
20 MS. CITARAMANIS: Stop-controlled. And from Seton
21 onto 29, that's stopped? I mean --
22 THE WITNESS: Seton terminates --
23 MS. CITARAMANIS: Does Seton access 29 yet?
24 THE WITNESS: No. It terminates at Milestone.
25 MS. CITARAMANIS: Okay.

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1 THE WITNESS: And then Milestone, you know, would
2 travel north to get to Stewart Lane.
3 MS. CITARAMANIS: You can go up.
4 THE WITNESS: Yeah, sure.
5 MS. CITARAMANIS: Just tell me which one you're
6 looking at.
7 BY MR. KLINE:
8 Q Yes, cite the exhibit you're looking at, please.
9 A This is Exhibit 46.
10 MS. CITARAMANIS: Okay, 46. So Seton ends at
11 Milestone. There's no access to 29 from Seton?
12 THE WITNESS: Correct. So --
13 MS. CITARAMANIS: Correct.
14 THE WITNESS: -- you would, if you were on Seton,
15 you would turn left and travel north on Milestone, and then
16 on Exhibit 46, the existing Stewart Lane, it's really a
17 short connection between Milestone and 29. It's up in the
18 top right corner, and that is where the traffic signal is,
19 and then Stewart Lane continues.
20 MS. CITARAMANIS: On the other side.
21 THE WITNESS: On the other side, to the east.
22 MS. CITARAMANIS: So I'm having a remembrance of
23 somewhere in here that one of the complaints for the
24 residents was construction traffic coming through their
25 neighborhood. I was under the impression that Seton is --

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1 so they wouldn't come in off of 29; so they're going to have
2 to go through the neighborhood.
3 MR. KLINE: No, I -- well --
4 MS. CITARAMANIS: Or how do they --
5 MR. KLINE: Yes. I mean, the only thing that
6 would take them through the neighborhood would be if you
7 came off of New Hampshire Avenue. I mean, we'll come off of
8 Stewart, take Milestone right into the property. I'm --
9 MS. CITARAMANIS: Oh, so Stewart connects up with
10 Milestone?
11 THE WITNESS: Yes.
12 MS. CITARAMANIS: Maybe that's where my disconnect
13 is.
14 MR. KLINE: Yes, right.
15 MS. CITARAMANIS: Okay. So Stewart?
16 THE WITNESS: Yes. If you would -- I can bring
17 this closer to you if you'd like to see.
18 MS. CITARAMANIS: That would be great. That's a
19 good idea, instead of me, didn't bring my --
20 THE WITNESS: Okay.
21 MS. CITARAMANIS: Okay. So we're looking at
22 Exhibit 46. Show me where Stewart is.
23 THE WITNESS: This is Columbia Pike on the right
24 side --
25 MS. CITARAMANIS: Yes.

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1 THE WITNESS: -- and Stewart --
2 MS. CITARAMANIS: Yes, I see.
3 THE WITNESS: -- and then Milestone does run
4 parallel to --
5 MS. CITARAMANIS: Got it.
6 THE WITNESS: -- Columbia Pike, and then Stewart
7 is this little connection.
8 MS. CITARAMANIS: Oh, okay.
9 THE WITNESS: It's really, Stewart is really more
10 on the east side.
11 MS. CITARAMANIS: And at Stewart and 29,
12 connecting to Milestone, is that stopped or is that lighted?
13 THE WITNESS: Well, Milestone will have --
14 Milestone will have stop signs. There is a traffic signal
15 at Stewart and 29. So if you were on Milestone, you would
16 turn either right or left onto Stewart, and there you would
17 be stopped by a, you'd be controlled by a traffic signal.
18 MS. CITARAMANIS: And does Milestone go more
19 north, or does it end at Stewart?
20 THE WITNESS: It travels north for a bit of a
21 distance.
22 MS. CITARAMANIS: It continues to run parallel
23 with 29?
24 THE WITNESS: Yeah, for a little bit.
25 MS. CITARAMANIS: Okay. Okay. See, I didn't

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1 recognize that. I thought that this was how people were
2 getting in, Seton.
3 THE WITNESS: Oh.
4 MS. CITARAMANIS: That's why you ask, right?
5 Okay. All right. Thanks.
6 BY MR. KLINE:
7 Q And my final question, Mr. Kabatt, is, and unless
8 you are able to come up with a mitigation of this project's
9 traffic that satisfies the Montgomery County Planning Board,
10 we will not receive preliminary plan approval and therefore
11 will not be able to obtain a record plat or a building
12 permit to implement the project?
13 A That's correct, yeah.
14 Q So subdivision will ultimately control how we
15 satisfy the traffic situation?
16 A That is correct.
17 MR. KLINE: I have no further questions of
18 Mr. Kabatt.
19 MS. CITARAMANIS: So based on your testimony, what
20 you, what was submitted before really is of no value,
21 Exhibit No. 10, at this point. Is that my understanding? I
22 say no value. I'm not, maybe that's not the best way --
23 MR. KLINE: Yes.
24 MS. CITARAMANIS: -- that it sounds like the
25 factual scenario has rendered it moot.

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1 MR. KLINE: It has changed.
2 MS. CITARAMANIS: Or changed it.
3 MR. KLINE: When we started on this process, it
4 was not anticipated the property would be subdivided. So
5 his traffic statement was adequate --
6 MS. CITARAMANIS: Right.
7 MR. KLINE: -- to get us through the system. The
8 subdivision then kicked in, and the delays kicked in, the
9 police station and having to do the traffic impact analysis,
10 and that does require him to do all the work he's doing now.
11 So the public will be better served, I guess, by having more
12 attention paid to the traffic.
13 MS. CITARAMANIS: In looking at the staff report,
14 I mean, it is different. They say that -- in this traffic,
15 it says, no -- it's exempt from LATR because there's not
16 enough --
17 MR. KLINE: Right.
18 MS. CITARAMANIS: -- peak-hour trips. This says
19 there are because it's --
20 MR. KLINE: Right.
21 MS. CITARAMANIS: -- taking the whole site.
22 MR. KLINE: Right.
23 MS. CITARAMANIS: This says TPAR mitigation --
24 MR. KLINE: TPAR, right.
25 MS. CITARAMANIS: -- is 25 percent.

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1 MR. KLINE: Right.
2 MS. CITARAMANIS: This says it's exempt from that
3 because it's senior housing. So, you see --
4 THE WITNESS: Yes.
5 MR. KLINE: It is changed circumstances since we
6 started.
7 MS. CITARAMANIS: Okay.
8 MR. KLINE: Yes.
9 MS. CITARAMANIS: So what staff has -- you've read
10 the staff report?
11 THE WITNESS: I have, yes.
12 MS. CITARAMANIS: And you agree with -- their
13 analysis is limited, it seems like, until you get to the
14 full-blown traffic study. Do you agree with that, or is
15 that a fair question?
16 THE WITNESS: Yes, we agree we have to do a
17 traffic study, and we'll review the TPAR --
18 MS. CITARAMANIS: And the --
19 THE WITNESS: -- as part of that as well.
20 MS. CITARAMANIS: Okay. And the driveway counts
21 you mentioned, and it also is referenced. What is a
22 driveway count? I'm not asking you --
23 MR. KLINE: I understand.
24 MS. CITARAMANIS: -- I'm asking the expert.
25 THE WITNESS: So we, as part of the transportation

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1 review, we look at a.m. and p.m. peak periods --
2 MS. CITARAMANIS: Yes.
3 THE WITNESS: -- and they're identified as 6:30 to
4 9:30 a.m. and 4:00 to 7:00 p.m., and a driveway count would
5 be an actual count of vehicles entering and exiting the
6 driveways along Milestone to the police station during
7 those, each of those three-hour periods.
8 MS. CITARAMANIS: And is that a document that is
9 -- is that an internal memo? Is that something that is part
10 of a report?
11 THE WITNESS: It would -- they'll be included in
12 the traffic study.
13 MS. CITARAMANIS: But at this stage, is it
14 something that is generated --
15 MR. KLINE: It's really a subdivision exercise --
16 MS. CITARAMANIS: Okay.
17 MR. KLINE: -- only at this point in time.
18 MS. CITARAMANIS: Okay.
19 THE WITNESS: We did share those with --
20 MR. KLINE: Right.
21 THE WITNESS: -- staff, with Ed Axler and
22 transportation staff, but it wasn't -- it was more for the
23 subdivision traffic study than for --
24 MS. CITARAMANIS: Okay. I'm just looking at
25 staff's report. It talks about the actual driveway counts,

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1 and then it gives a chart. I mean, is that the summary of
2 it?
3 THE WITNESS: Yes, those are the --
4 MS. CITARAMANIS: Those are the --
5 THE WITNESS: -- summaries.
6 MS. CITARAMANIS: Okay. So that would be the
7 result. Okay. And certainly that is a condition as well,
8 the traffic study --
9 MR. KLINE: Yes.
10 MS. CITARAMANIS: -- you have to do it.
11 MR. KLINE: Yes. Well, there is, I think, a
12 stated condition today, you have to go through the
13 subdivision process, which essentially says that means you
14 can't get a building permit --
15 MS. CITARAMANIS: Without it.
16 MR. KLINE: -- until you satisfy the APF
17 requirements.
18 MS. CITARAMANIS: Right. And then it says, No. 6:
19 At the preliminary plan, Applicant must submit a traffic
20 study for the entire site to satisfy the LATR test. Okay.
21 Thank you for that clarification for me, and I think it's on
22 the record now --
23 MR. KLINE: Yes.
24 MS. CITARAMANIS: -- because I would never have
25 made the connect from that to this without that --

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1 MR. KLINE: Well --
2 MS. CITARAMANIS: -- without you testifying. So
3 anything else you would like to --
4 MR. KLINE: That, with Mr. Kabatt, that completes
5 our presentation. I don't think the case warrants having
6 some closing argument. I would like to just double-check
7 that I got an accurate list of the things you still would
8 like me to submit.
9 MS. CITARAMANIS: Okay.
10 MR. KLINE: But do you have any questions of
11 anybody before I sort of wrap it up?
12 MS. CITARAMANIS: That's a good question. Let me
13 look at my notes.
14 MR. KLINE: Yes.
15 MS. CITARAMANIS: Take a few-minute break, just
16 to --
17 MR. KLINE: Sure. Sure.
18 MS. CITARAMANIS: -- so we make sure we have
19 everything.
20 (Whereupon, at 12:55 p.m., a brief recess was
21 taken.)
22 MS. CITARAMANIS: Back on the record. So what did
23 you have on -- what's on your list? You don't want to do
24 closing argument?
25 MR. KLINE: I don't think it's necessary unless

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1 you say, Mr. Kline, I'd like to hear you sort of, how you
2 explain something, but it's a fairly straightforward case
3 and --
4 MS. CITARAMANIS: Well, give me the synopsis of
5 it.
6 MR. KLINE: Pardon?
7 MS. CITARAMANIS: Just give me your, a synopsis of
8 it, just --
9 MR. KLINE: It's always a compliment to Victory
10 Housing when the county calls up and says, look, we need
11 some affordable housing in eastern Montgomery County, you've
12 got a great track record, you really do a nice product, and
13 we'd like to work with you. So I sometimes kiddingly say,
14 if the county is our landlord and the county is approving
15 our plans, there's no way we could lose this case, and yet
16 sometimes it doesn't always work out that way.
17 Here this property has always been the subject of
18 a lot of interest. I, myself, have tried to rezone it twice
19 for various people, office uses. I -- and I worked on a
20 residential developer that didn't get very far with the
21 neighbors either. So I think it's a compliment to Victory
22 Housing that they went through the exercise of being able to
23 win over the community or at least neutralize the community
24 to try and develop something that was -- that the county
25 wanted to encourage and was palatable to the neighborhood,

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1 and that's basically what's been the process. You can see,
2 with a favorable staff report and a favorable hearing,
3 Planning Board recommendation, that this is the right use.
4 I was a little surprised that anybody questioned
5 whether there should be something of this type on the
6 property because it doesn't really lend itself to the kind
7 of development that the master plan contemplated. And with
8 the police station not always the best adjacent property
9 owner for you, it probably made it even more difficult to
10 achieve any kind of residential development.
11 Here you've got residential development with more
12 even of -- with more of a social benefit and an extremely
13 attractive building, basically set up in a way that not only
14 protects the people who live there but, as you heard, not
15 only -- sort of raises the level of design in the
16 neighborhood and serves as, to some extent, a buffer from
17 some of the objectionable effects they have from the traffic
18 and the noise on the highway.
19 So it just struck us that this was a very
20 appropriate land use for this location, and the design
21 basically took, took advantage of the site and actually
22 designed the building in a way that protected it from the
23 adverse effects of the surrounding area.
24 I think it's always -- I've always thought that it
25 easily met all the standards in the zoning ordinance, and

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1 I'm sorry it took us so long to kind of go through the
2 elaboration of all those standards today, but it's always
3 nice when I come in front of you with two strong, favorable
4 recommendations from the public agencies and at least a
5 letter from the neighborhood, saying, well, if it's got to
6 be something, this is the, this is pretty good.
7 MS. CITARAMANIS: They seemed a little more
8 positive.
9 MR. KLINE: Yes. Okay. I'll leave, I'll leave it
10 at that.
11 MS. CITARAMANIS: That was my interpretation.
12 MR. KLINE: All right. That's great. So that
13 would be our summary then.
14 MS. CITARAMANIS: Okay. Okay. All right. So I'm
15 assuming you would like to have all of the exhibits admitted
16 into the record.
17 MR. KLINE: I would like to so move.
18 MS. CITARAMANIS: And I would need to do that. So
19 I believe we're -- I'm going to admit all of the exhibits
20 into the record at this point. I think we're up to 50 --
21 MR. KLINE: 4, is it?
22 MS. CITARAMANIS: 54 --
23 MR. KLINE: Yes.
24 MS. CITARAMANIS: -- and if it's 55, so be it.
25 It'll be more because you're going to send me another --

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1 (Exhibit Nos. 42-54 were
2 received in evidence.)
3 MR. KLINE: Well, I guess it will be --
4 MS. CITARAMANIS: It'll be more --
5 MR. KLINE: Right. Yes.
6 MS. CITARAMANIS: -- because you'll send me --
7 MR. KLINE: So I would request that you leave the
8 record open maybe until the middle of next week, and I would
9 be submitting a letter to you, addressing two subjects: a
10 formal request to change the name to the entity described by
11 Mr. Brown today and then, secondly, a suggested condition
12 regarding the compliance with the provision of the zoning
13 ordinance dealing with the delivery of affordable units in
14 the project.
15 And then I would separately, through the
16 assistance of the people who've testified today, give you
17 two CDs -- one with all the plans that Mr. Mack put into the
18 record today, and the other one with the plans that
19 Mr. Mongrain put in the record today -- and I should be able
20 to have that to you by Tuesday or Wednesday of next week.
21 MS. CITARAMANIS: And all of these that have been
22 marked are going to stay here. Is there any way you can
23 make, get me copies --
24 MR. KLINE: Yes.
25 MS. CITARAMANIS: -- because I -- I mean, I can't

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1 take these home.
2 MR. KLINE: No. Actually, what I was going to --
3 MS. CITARAMANIS: And I can't work in there.
4 MR. KLINE: What I was going to do, because a
5 number of folks have to run, I was going to take these, put
6 them in the library, and tell Ms. Forbes that I'll come back
7 this afternoon after my meeting at Park and Planning, detach
8 them from the boards and fold them up for you so that
9 they'll be in a form that will go into your file, and then
10 you'll get the CDs next week.
11 MS. CITARAMANIS: Okay.
12 MR. KLINE: Would that be okay?
13 MS. CITARAMANIS: Is there any chance you have
14 extra copies?
15 MR. KLINE: I see what you mean.
16 MS. CITARAMANIS: Those will stay, but if you had
17 extra copies, or they'll be on the CD exactly the way they
18 are?
19 MR. KLINE: They would be exactly the way they are
20 here, yes.
21 MS. CITARAMANIS: Okay.
22 MR. KLINE: I understand now, because you're
23 working at home --
24 MS. CITARAMANIS: Yes, I do it, and --
25 MR. KLINE: -- and you'd like to be able to take

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1 something with you. I see your point. I mean, I can get
2 you a package, but I couldn't get it to you until --
3 MS. CITARAMANIS: Yes.
4 MR. KLINE: -- Monday or Tuesday.
5 MS. CITARAMANIS: That's fine.
6 MR. KLINE: Okay.
7 MS. CITARAMANIS: That's fine.
8 MR. KLINE: You're like me, though: you like the
9 full-size plans and not the CD.
10 MS. CITARAMANIS: Absolutely.
11 MR. KLINE: I understand completely. All right.
12 MS. CITARAMANIS: The little ones -- so if you can
13 accommodate that --
14 MR. KLINE: Then I'll sort of request of the two
15 consultants if they could deliver to my office --
16 MS. CITARAMANIS: Extra copies.
17 MR. KLINE: -- copies of these plans, in addition
18 to the CDs --
19 MS. CITARAMANIS: Yes.
20 MR. KLINE: -- and that would help. Thank you.
21 MS. CITARAMANIS: Definitely.
22 MR. KLINE: And I'll remember that in the future.
23 I hadn't thought of that as --
24 MS. CITARAMANIS: Yes, because --
25 MR. KLINE: -- since Mr. Grossman is so tech. I

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1 mean, he does everything off of his computer. So I'm glad
2 that there's still somebody who works off of paper.
3 MS. CITARAMANIS: Oh, yes. I'm very visual.
4 Okay. So you will get that, and I am actually going to
5 leave the record open, I don't think that -- 10 days I'm
6 going to leave it open.
7 MR. KLINE: Okay. Okay.
8 MS. CITARAMANIS: I don't think anything that
9 happened here today requires 15 days.
10 MR. KLINE: Okay.
11 MS. CITARAMANIS: Do you?
12 MR. KLINE: I do not, no, ma'am.
13 MS. CITARAMANIS: Okay. I think everything is
14 sufficient enough so that -- will that be enough time for
15 you to get me --
16 MR. KLINE: I'm sure, yes.
17 MS. CITARAMANIS: -- everything you need, because,
18 I mean --
19 MR. KLINE: Yes. The consultants, they're more
20 technologically aware than you and I are, I guess.
21 MS. CITARAMANIS: The record will close by close
22 of business on the 27th of October --
23 MR. KLINE: Okay. Okay.
24 MS. CITARAMANIS: -- which is a Monday, and --
25 MR. KLINE: If I can press you, if I submitted

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1 things in advance of that, would you be comfortable closing
2 it when all the materials are received?
3 MS. CITARAMANIS: No. Let's just --
4 MR. KLINE: Okay.
5 MS. CITARAMANIS: -- that's got too many other
6 things going on.
7 MR. KLINE: Mr. Brown would have kicked me for not
8 asking that.
9 MS. CITARAMANIS: Oh. So we'll close on the 27th,
10 because life is what happens while you're busy making the
11 plans. Things happen and then you're --
12 MR. KLINE: I understand.
13 MS. CITARAMANIS: -- e-mailing me: Can we leave
14 the record open a little bit longer? So -- which you still
15 can do if something changes --
16 MR. KLINE: Okay.
17 MS. CITARAMANIS: -- but right now the record will
18 close on Monday the 27th, and with that, I think we are
19 adjourned. And thank you everybody for coming out, and it
20 is five after 1:00.
21 MR. KLINE: Thank you very much.
22 MS. CITARAMANIS: Thank you.
23 UNIDENTIFIED SPEAKER: Thank you.
24 (Whereupon, at 1:04 p.m., the hearing was
25 adjourned.)

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C E R T I F I C A T E
DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:
Petition of Victory Housing, Inc.
Special Exception No. S-2873
OZAH No. 14-02

By:

Wendy Campos, Transcriber

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