



A P P E A R A N C E S

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A P P E A R A N C E S (Continued)

Witnesses:	Direct
Charles Irish	5, 87, 128, 170, 179
Susan Turnbull	193
4838 Montgomery Lane Bethesda, Maryland 20814	
Brent Polkes	270, 278
4808 Montgomery Lane Bethesda, Maryland 20814	

E X H I B I T S

Exhibit No.		Marked/Received
111	Updated Charles Irish Resume	5
112	Marked Version of Exhibit 77	12
113	Marked Version of 106D	12
114	Marked Version of 106G	30
115A	AASHTO Truck Illustrations page 22	88
115B	AASHTO Truck Illustrations page 31	88
116	2/15/13 Notice of Application	90
117	Composite Site Plan - 4825 Montgomery Lane	91
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P R O C E E D I N G S

1 MS. ROBESON: This is a continuation of the public  
2 hearing in the matter of Local Map Amendment No. G-954 filed  
3 by 4831 West Lane, LLC which requests re-zoning from the R-  
4 60 Zone to the TS-R Zone, a property known as 4901  
5 Montgomery Lane in Bethesda. It's also a continuation of  
6 the public hearing on Development Plan Amendment No. DPA 13-  
7 01 filed by the same applicant which requests an amendment  
8 to the development plan approved by the District Council on  
9 July 10th, 2007 in Zoning Application No. G-843. I believe  
10 there is an updated exhibit list by the sign-in sheet.  
11 We've added three exhibits. Okay. Good.  
12 MR. KNOPF: Thank you.  
13 MS. ROBESON: So I believe we left off, we're in  
14 the direct examination of Mr. Irish. Are there, is there  
15 any, are there any preliminary matters? Yes.  
16 MS. HARRIS: I have one preliminary matter, and  
17 that is Exhibit 35A, which is Mr. Irish's resume that was  
18 submitted with our pre-hearing statement --  
19 MS. ROBESON: Yes.  
20 MS. HARRIS: -- I realize that it does not reflect  
21 his most up-to-date resume, and if I would be able to  
22 provide --  
23 MS. ROBESON: Do you have an objection?  
24 MR. ABRAMS: No. No objection.  
25

1 MS. ROBESON: All right.  
2 MS. HARRIS: Thank you.  
3 MS. ROBESON: We'll admit it as 111. Yes. If you  
4 could -- thank you. So that will be updated resume of Mr.  
5 Irish.  
6 (Exhibit No. 111 was marked  
7 for identification.)  
8 MS. ROBESON: All right. Anything else? Okay.  
9 You can continue. You were starting a new topic but I don't  
10 remember what the topic was.  
11 MS. HARRIS: We were, but right before we started  
12 that new topic, we were discussing turning diagrams and I  
13 just want to go back because to that just for one minute.  
14 MS. ROBESON: Okay.  
15 DIRECT EXAMINATION (Continued)  
16 BY MS. HARRIS:  
17 Q Mr. Irish, if you could explain the various  
18 turning diagrams for the loading on Exhibit 88, and I would  
19 just like for you to put that in perspective in terms of  
20 other urbanized areas and whether the loading movements,  
21 turning movements that you describe, how do they compare  
22 with other similarly situated projects throughout the CBD or  
23 in the TS-R Zone.  
24 A They're virtually identical. I mean, as you know,  
25 most loading movements, the truck pulls up, backs in and

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1 then it pulls out which is essentially what, what we have  
2 here. The truck pulls up, backs in and then pulls out, so  
3 it's, it's a very normal movement, one that you'd see pretty  
4 much anywhere. In fact, the highrise Edgemoor has their  
5 loading, loading right here. I'd say if any --  
6 MS. ROBESON: When you're looking at, you're  
7 looking at 7 -- I can't see the --  
8 MS. HARRIS: Exhibit 77.  
9 THE WITNESS: Exhibit, I'm sorry, Exhibit 77.  
10 MS. ROBESON: 77.  
11 THE WITNESS: Eastern end of the Edgemoor  
12 highrise.  
13 MS. ROBESON: Okay.  
14 THE WITNESS: It is their loading space.  
15 MS. ROBESON: Yes.  
16 THE WITNESS: If you recall, the width of the  
17 pavement on Edgemoor is 20 feet from curb to curb.  
18 MS. ROBESON: Right.  
19 THE WITNESS: We're proposing to make West Lane 22  
20 feet wide.  
21 MS. ROBESON: Okay.  
22 THE WITNESS: So we actually have two feet more  
23 maneuvering room to back in to our loading space than you  
24 would have to get in and out of the Edgemoor. Unless I'm  
25 mistaken, I don't think City Homes have loading spaces.

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1 They've got the alleyways. I don't know how they, how a  
2 moving truck would accommodate one of them, whether they  
3 would park illegally on Montgomery Lane or back into the  
4 alley and block the other garages that would be in front of  
5 it or whatever unless there's a loading space I didn't see  
6 out there.  
7 BY MS. HARRIS:  
8 Q So is it your impression that in fact the  
9 configuration of the street, which is a little unusual with  
10 the hammerhead, may in fact create a preferred environment  
11 for loading movement?  
12 A It, it's better than virtually any you can imagine  
13 because you're at the end of a street. There's not --  
14 you're not going to be blocking traffic, or maybe one  
15 vehicle leaving one of the two structures further in for a  
16 brief moment while you back up as opposed to -- well, again,  
17 if you take Edgemoor, backing in there, any vehicle coming  
18 down there would have to wait while it backed up.  
19 Q Thank you.  
20 A Certainly more traffic on Montgomery Lane than  
21 West Lane.  
22 Q Thank you. Now we'll continue where we had left  
23 off which has to do with, as I noted yesterday, there's been  
24 a lot of discussion and perhaps some confusion regarding,  
25 and direct testimony and cross-examination about the

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1 building heights and the setbacks which may have left the  
2 record a little bit unclear, so I'd like you to clarify, if  
3 you could, what exists with respect to the building heights  
4 and setbacks along Montgomery Lane with respect to --  
5 A Certainly.  
6 Q -- the project. And I think we may want to refer  
7 back to another exhibit again. I think 77 is helpful.  
8 Okay.  
9 A The --  
10 MS. ROBESON: That's 106G?  
11 THE WITNESS: 106G. I've got two exhibits up, 77  
12 and 106G. If I could, I'd like to mark, make some notations  
13 on 77 so that you have, have those tied to the drawing.  
14 MS. ROBESON: Okay. Well, then I'll have to mark  
15 that as a new exhibit. Do you have an objection if he uses  
16 the old exhibit and marks on it?  
17 MR. ABRAMS: We just would like some consistency  
18 here because there are heights which were put on other  
19 exhibits in terms of the buildings along Montgomery  
20 surrounding the subject property. And somehow or another,  
21 it seems to me it's easier for not only you but for us to  
22 collate and correspond the testimony he's giving now with  
23 the heights that are on those specific exhibits.  
24 MS. ROBESON: You mean 106B?  
25 MR. KNOPF: One of those has it.

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1 MS. ROBESON: One of --  
2 MR. ABRAMS: One of those has --  
3 MS. ROBESON: I think it's one of those.  
4 MR. ABRAMS: -- has the type and FAR and things  
5 like that.  
6 MS. ROBESON: Yes.  
7 MS. HARRIS: Or what I would suggest, because I  
8 think it, for illustrative purposes, it, Exhibit 77 may be  
9 more helpful, is he can certainly repeat those things and  
10 put them on this exhibit as well.  
11 MS. ROBESON: Well, I don't -- can you pull up  
12 106B?  
13 THE WITNESS: I hadn't planned to speak to that  
14 one.  
15 MS. ROBESON: Well --  
16 THE WITNESS: But I'm sure we can find it.  
17 MS. ROBESON: It has --  
18 THE WITNESS: My intent is not to obfuscate things  
19 but to make it clearer.  
20 MS. ROBESON: I know.  
21 MS. HARRIS: We're getting off the list.  
22 THE WITNESS: So, and with respect to heights, if  
23 I disagree with any height, I certainly would make that  
24 clear in my testimony.  
25 MS. ROBESON: Okay. Have you, well, let me ask

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1 you, have you, anticipating cross-examination, have you had  
2 the opportunity to look at the actual heights of the other  
3 buildings?  
4 THE WITNESS: I've reviewed certain documents and  
5 we've made certain measurements, so I do have a good handle  
6 on most of the buildings.  
7 MS. ROBESON: Okay. Well, let's try 106B. Is  
8 that the one with the heights?  
9 MR. KNOPF: It may be 106D.  
10 MS. ROBESON: 106B --  
11 MS. HARRIS: Yes. It has the heights. Well, we  
12 can refer here and write it on there I guess. I mean, does  
13 that --  
14 THE WITNESS: If it's okay with you, could, I  
15 think this would make it clearer for you, I'd write it on  
16 here and I could write whatever dimensions on there as well.  
17 MS. ROBESON: All right. Put them both up.  
18 MR. KNOPF: I'm also calling the Hearing  
19 Examiner's attention, 106D which clearly has the heights  
20 stated on each.  
21 MS. ROBESON: Oh, that's it. I'm sorry. 106D. I  
22 think you're right. That is the exhibit I was thinking of.  
23 THE WITNESS: D as in Dave?  
24 MR. KNOPF: D as in Dave.  
25 MS. HARRIS: 106D?

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1 MS. ROBESON: D.  
2 MR. KNOPF: Yes.  
3 MS. HARRIS: That's not going to show --  
4 MS. ROBESON: Well, we're already into letting him  
5 use three exhibits so we're going to get there.  
6 THE WITNESS: 106C has the building heights on but  
7 I don't see other dimensions. Would that be okay? That's  
8 the one I'm holding up. Do you have D? I haven't found it  
9 yet. Let me see.  
10 MR. ABRAMS: D has the building heights.  
11 THE WITNESS: Well, C has the building heights.  
12 MR. ABRAMS: That's got building heights and some  
13 other information.  
14 MS. ROBESON: Here. Let me -- did you find D?  
15 THE WITNESS: Yeah, that's D.  
16 MR. KNOPF: Yes.  
17 MS. ROBESON: Okay. So whatever you decide to  
18 mark on is going to be a new exhibit. Those are all  
19 duplicates I believe so. Do you need the chair as a third  
20 easel? Why not? I hope you didn't want to sit.  
21 THE WITNESS: No.  
22 BY MS. HARRIS:  
23 Q Are you sure?  
24 A I'm fine. I'm fine.  
25 MS. ROBESON: All right. Now, we've got three

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1 exhibits.  
2 THE WITNESS: I think it would be helpful if I  
3 wrote on 77 --  
4 MS. ROBESON: Why don't you proceed --  
5 THE WITNESS: -- as well as 106D.  
6 MS. ROBESON: That's fine. Why don't you proceed  
7 with your testimony as you planned it, and then we'll, we'll  
8 duplicate.  
9 THE WITNESS: Is that going to be Exhibit 112  
10 which is --  
11 MS. ROBESON: I don't know which one he's marking.  
12 Which one are you going to, you're going to mark both?  
13 THE WITNESS: I would mark both if --  
14 MS. ROBESON: Okay. So 77, I've got to get, 77  
15 will be, that 77 duplicate is now going to be 112. Marked  
16 version of Exhibit 77. And then 113 will be marked version  
17 of 106D was it? Okay.  
18 (Exhibit Nos. 112 and 113 were  
19 marked for identification.)  
20 MS. ROBESON: Thank you, Mr. Irish. Let's --  
21 THE WITNESS: I hope you say that after I finish.  
22 My purpose --  
23 MS. ROBESON: Always.  
24 THE WITNESS: My intention is to walk down the  
25 street the way I understand you did and describe some of the

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1 spatial relationships.  
2 MS. ROBESON: Okay.  
3 THE WITNESS: So starting with the Edgemoor  
4 highrise -- well, actually, before we even go to that, the  
5 sidewalk, the brick sidewalk on the north side of --  
6 MS. ROBESON: Of Montgomery Lane?  
7 THE WITNESS: -- of Montgomery Lane is six feet  
8 wide. Six feet of brick. In some cases, there's a half a  
9 foot concrete band, either curb or band on the outside of  
10 that, but that six foot brick walk is very consistent  
11 essentially through that entire street. Basically six feet  
12 on south and north. One difference is that the, on the  
13 north side in front of the Edgemoor, there's a tree space or  
14 plant space, green strip in the location between the lay-by  
15 just east of their entrance and just west of their entrance.  
16 That tree space is approximately seven feet wide. On the  
17 City Homes side, that tree space is approximately nine feet  
18 wide so to say it differently, the sidewalk on the City  
19 Homes side is about two feet closer, two feet further away  
20 from the curb --  
21 MS. ROBESON: Okay.  
22 THE WITNESS: -- than the curb on the north side.  
23 MS. ROBESON: Okay. What is the setback -- okay.  
24 Go, go ahead.  
25 THE WITNESS: Similarly, the lay-by on the north

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1 side is also about that seven feet. All right. So if you  
2 measure from the face of the curb northward on the north  
3 side of Montgomery Lane, you have either a seven foot lay-by  
4 or a seven foot tree space and then a six foot brick  
5 sidewalk. So a lot of the relationships that I'll be  
6 describing are what it is from the brick sidewalk back  
7 because that's something you would walk along as a  
8 pedestrian, where you to get your feel of that relationship.  
9 The Edgemoor highrise, I mean, all of the  
10 buildings vary a little bit in their dimension because of  
11 the undulations in the front of the building. The Edgemoor  
12 on the west side is about 12 feet or 10 feet from that back  
13 of sidewalk to the building. In the middle of the  
14 building --  
15 MS. ROBESON: When you say back of sidewalk, are  
16 you talking about the sidewalk that's adjacent to, I can't  
17 see the little arrows, are you talking about the sidewalk  
18 that's adjacent to that green strip or that --  
19 THE WITNESS: Yes.  
20 MS. ROBESON: -- sidewalk that's adjacent to the  
21 curb?  
22 THE WITNESS: There isn't a sidewalk, there is not  
23 a sidewalk -- well, there's a sidewalk adjacent to the curb  
24 where the lay-by is, but where the tree space is is not  
25 adjacent to the curb. It's set back seven feet.

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1 MS. ROBESON: Okay. All right.  
2 THE WITNESS: So again, as I said, this -- I'm  
3 drawing my line, pen along the north curb line.  
4 MS. ROBESON: Okay. All right.  
5 THE WITNESS: If you go back --  
6 MS. ROBESON: That's helpful.  
7 THE WITNESS: -- seven feet, well, then that's,  
8 seven feet roughly, you get the width of the curb or  
9 whatever but let's just --  
10 MS. ROBESON: So can you just mark that curb line  
11 that -- I didn't mean to make you --  
12 MS. HARRIS: He's going to have sore knees by the  
13 end of the day.  
14 MS. ROBESON: -- genuflect or something. All  
15 right.  
16 THE WITNESS: So, so from that curb as you go to  
17 the building, you either have a driveway entrance, loading  
18 entrance, small tree space, lay-by, small tree space,  
19 another lay-by, and then you have a larger green space as  
20 you head west towards West Lane. Behind that, then you have  
21 this brick sidewalk.  
22 MS. ROBESON: Yes.  
23 THE WITNESS: The basic building is 10 to 12 feet  
24 back from that sidewalk, from the northern edge of that  
25 sidewalk.

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1 MS. ROBESON: Okay.  
2 THE WITNESS: However, in the middle, you see the  
3 steps coming down just to the right of the middle, they come  
4 down almost to the back of the sidewalk, a foot or so.  
5 Let's be generous and say two feet, or one to two feet  
6 there. Yeah. I believe you commented when you were walking  
7 there that it felt tight. If you're leading to Edgemoor and  
8 someone comes down, they barely have room to stand before  
9 they're on the sidewalk.  
10 Just to the west of that is an accessible ramp  
11 that, it takes up about half of that 10 to 12 foot space.  
12 So there's a, maybe four or five foot plant, planter there  
13 between the accessible ramp and this, and the sidewalk and  
14 then where you don't have the driveway or the loading,  
15 you've got about a 10 to 12 foot planted area. So I think  
16 the reason you felt a little tight there, not to suppose --  
17 MS. ROBESON: No, fine.  
18 THE WITNESS: -- I'm in your mind or anything --  
19 MS. ROBESON: That's fine.  
20 THE WITNESS: -- the space right at the front door  
21 there does seem tight. On the unbuilt project -- well, why  
22 don't I just add one more dimension. Edgemoor is about 172  
23 feet wide as you look at it from Montgomery Lane.  
24 BY MS. HARRIS:  
25 Q And, Mr. Irish, what's the height as well? We've

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1 talked about that a lot.  
2 A Yeah.  
3 Q But approximately, what's the height?  
4 A Yeah. The height as measured to the middle of the  
5 mansard, being, and the mansard's about 20 feet high on, on  
6 this building. As measured from this entry stair here, the  
7 top of that is 100 feet.  
8 A Thank you.  
9 Q So you'd add 10 feet to get to the top of the,  
10 visually, the top of that roof.  
11 MS. ROBESON: Okay.  
12 THE WITNESS: It's not how it's measured for  
13 zoning purposes.  
14 MS. ROBESON: Right. Right.  
15 THE WITNESS: The 4901 Hampden Lane project, you  
16 couldn't see because of house or two there --  
17 MS. ROBESON: Right.  
18 THE WITNESS: -- hasn't been built yet but it's  
19 been approved by the District Council and it is 76 feet wide  
20 approximately. You still have that same six foot brick  
21 sidewalk and their plan is also showing that nine foot  
22 planter. Not to mention, I'm scaling off, but it would  
23 make infinite sense to continue that long brick wall one  
24 more lot.  
25 MR. KNOPF: Excuse me. I'm sorry because I just

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1 saw your back. You said nine foot planter. Is that between  
2 the sidewalk and the building or between the building and,  
3 the sidewalk and the curb?  
4 THE WITNESS: Between the sidewalk and the curb.  
5 MR. KNOPF: Okay. Thank you. I couldn't see.  
6 THE WITNESS: Now --  
7 MS. ROBESON: Do we need to angle that a little  
8 differently?  
9 MR. KNOPF: I'll get up and stand over there.  
10 MS. ROBESON: Okay.  
11 THE WITNESS: I just need to not stand in front of  
12 it.  
13 MR. KNOPF: You have to hang from the ceiling.  
14 BY MS. HARRIS:  
15 Q You need to be transparent.  
16 A The critical dimension closest to the City Homes  
17 though, from the back of the sidewalk, where I was measuring  
18 the Edgemoor, to that face of the building is only three  
19 feet to scale off.  
20 Q So just to clarify that, from the southern edge of  
21 the sidewalk to the building is how much?  
22 A From the southern edge of the sidewalk to the  
23 western edge of the building as it faces Montgomery Lane is  
24 approximately three feet.  
25 Q Okay.

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1 MS. ROBESON: Wouldn't that be the northern edge?  
2 THE WITNESS: Northern edge of the building from  
3 the southern edge of the sidewalk.  
4 MS. ROBESON: Okay. Oh, oh. On the western side.  
5 Okay. I see what you're saying.  
6 THE WITNESS: The building does step back a little  
7 bit, not, not at the top but at the foundation level, away  
8 from Montgomery as it approaches Woodmont, kind of as a  
9 gesture to open up the view towards Woodmont, but relative  
10 to what we're really talking about, the location closest to  
11 City Homes is only about three feet behind that curb.  
12 BY MS. HARRIS:  
13 Q Behind that sidewalk.  
14 A I'm sorry. Behind the sidewalk. Thank you.  
15 MS. ROBESON: Yeah.  
16 THE WITNESS: There's enough opportunities for  
17 confusion. I don't need to --  
18 MS. ROBESON: How side is the sidewalk there? Are  
19 you saying it's --  
20 THE WITNESS: It doesn't exist. The sidewalk --  
21 MS. ROBESON: I mean on the plan. I mean on  
22 the --  
23 THE WITNESS: It would be -- they're showing a  
24 continuation of the six foot brick walk that's in front of  
25 the City Homes.

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1 MS. ROBESON: Okay. Okay.  
2 THE WITNESS: If you take that brick walk and  
3 extend it, and the nine foot planter area and extend that,  
4 you'll end up with that three foot space between the --  
5 MS. ROBESON: Brick sidewalk.  
6 THE WITNESS: -- side of the sidewalk closest to  
7 the building and the building.  
8 MS. ROBESON: Okay.  
9 THE WITNESS: So you've got room for some azaleas.  
10 MS. ROBESON: Okay.  
11 THE WITNESS: To put it in perspective, again, the  
12 City Homes has some undulations in the front, but that  
13 dimension from the City Homes is also about 10 to 12 feet.  
14 Again, from that, the sidewalk close, edge of the sidewalk  
15 close to the building to the building, it's about 12 feet  
16 at, at the easternmost edge and then the building gets a  
17 little fatter in the middle and it's about 10 feet there.  
18 That's not allowing for the step in front which is almost to  
19 store things up. I mean, the buildings have garages in them  
20 so these steps are taking them I would assume to a level  
21 above the garage. So they're very extensive grand steps.  
22 They're not just a couple steps up to a landing. They go up  
23 a lot further than the Edgemoor steps for example.  
24 BY MS. HARRIS:  
25 Q And can you explain the distance between the steps

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1 and the sidewalk?  
2 A Well, on the unit that I just marked, which is the  
3 easternmost City Homes unit, it's maybe a foot. The steps  
4 come right down to the sidewalk in that location. You can  
5 see that graphically on this exhibit. The steps just go  
6 right to that sidewalk. I'll mark the sidewalk there again.  
7 And you still have the nine foot planter. Now, while we're  
8 talking about City Homes, that relationship repeats for the  
9 next unit to the west. Then the last three, when I say  
10 units, sticks of units --  
11 MS. ROBESON: When you say left, that's west.  
12 THE WITNESS: West. That's correct.  
13 MS. ROBESON: Yes.  
14 THE WITNESS: On this exhibit to the left, the,  
15 the three westernmost City Homes units have a similar 10 to  
16 12 foot relationship from the main part of the structure to  
17 the back of the curb.  
18 BY MS. HARRIS:  
19 Q Excuse me, back of the sidewalk.  
20 A The back of the sidewalk.  
21 MS. ROBESON: 10 feet, correct?  
22 THE WITNESS: Ten to twelve feet.  
23 MS. ROBESON: Okay.  
24 THE WITNESS: The -- at the corners, it's probably  
25 12 because the building sits back a little bit. The middle

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1 part, you can see it more on the unit, the steps --  
2 MS. ROBESON: I -- yes.  
3 THE WITNESS: -- going straight down, bumps out.  
4 This stairway, as well as for the other two of the three  
5 westernmost, you come up from either side to a landing. The  
6 width of that stairway is a little wider than five feet so,  
7 so I'll be conservative and call it five feet. So if you've  
8 got 10 to 12 feet but you've got 10 feet in the middle where  
9 the building projects out, and then you have 5 feet of that  
10 space is taken up by the stairs, that then leaves you  
11 essentially five feet left for that plant space.  
12 MS. ROBESON: Okay.  
13 THE WITNESS: Okay. And you've got similar  
14 relationship to the other City Homes --  
15 MS. ROBESON: Sticks?  
16 THE WITNESS: -- sticks.  
17 MS. ROBESON: Yes.  
18 THE WITNESS: So to recap where we are there  
19 again, we've got a six foot brick sidewalk on the south side  
20 of Montgomery Lane, then it's separated from the curb by a  
21 nine foot planter. From that brick walk, I've marked  
22 dimensions to the various buildings. The City Homes are 10  
23 to 12 feet depending on the portion of the building you  
24 measure to, and the 4901 Hamden Lane is three feet at the  
25 western end of the building.

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1 BY MS. HARRIS:  
2 Q If I may, I want to ask you a couple questions  
3 with respect to the buildings that you just identified.  
4 A Okay.  
5 Q You noted that the height was 100 feet,  
6 approximately, the higher up here including all the mansard  
7 for the highrise Edgemoor, and that building, does that  
8 building include any MPDUs?  
9 A I don't believe it does.  
10 Q Okay. And so it's approximately what percentage  
11 over the recommended 65 foot guideline in the Sector Plan?  
12 MR. KNOPF: I'm going to inquire now as to whether  
13 they are, this is in his area of expertise. We seem to be  
14 shifting him to a planner rather than a civil engineer as to  
15 what the Sector Plan requires.  
16 MS. ROBESON: You know what? You can simply --  
17 he's already testified to the height and we can read the  
18 Master Plan, so I don't think he needs to opine as to that.  
19 THE WITNESS: So you don't want me to answer the  
20 question?  
21 MS. ROBESON: You can --  
22 MS. HARRIS: The mathematical question.  
23 MS. ROBESON: The answer is don't answer but, you  
24 know, all the evidence is there for you to make that  
25 argument.

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1 THE WITNESS: Well, as part of an engineering  
2 function when you do a site plan, you are looking at what  
3 allowable heights are or what recommended heights are, and  
4 what we were referring to here is recommended height of 65  
5 feet. In fact, it's 65 feet for all of the buildings on  
6 this exhibit until you get to Edgemoor at Arlington North  
7 and Edgemoor at Arlington.  
8 MS. ROBESON: Which is 35.  
9 THE WITNESS: At that point, it's 35.  
10 MS. ROBESON: Yes.  
11 THE WITNESS: So you've got 100 feet versus 65.  
12 MS. ROBESON: Right.  
13 THE WITNESS: Now, the 4825 Montgomery Lane  
14 project, also known as Sandy Spring Builders, also shows  
15 that continuation with the brick walk with, on this side,  
16 the seven foot planter.  
17 BY MS. HARRIS:  
18 Q Can you describe that seven feet just for the  
19 record, where you're drawing it, please, in the plan?  
20 A Directly, it's between the sidewalk in front of  
21 4825 Montgomery Lane and the curb.  
22 MS. ROBESON: So on Exhibit 112, it's where the  
23 line of trees is showing.  
24 THE WITNESS: Line of four trees, that's correct.  
25 MS. ROBESON: Yes.

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1 THE WITNESS: It would pick up from the western  
2 edge of the Edgemoor and continue up to West Lane.  
3 MS. ROBESON: Got it.  
4 THE WITNESS: So their building, again, has some  
5 undulations in it but at the closest point here, it is six  
6 feet.  
7 MS. ROBESON: And when you say here, it's where --  
8 THE WITNESS: At the midpoint of the --  
9 MS. ROBESON: Building.  
10 THE WITNESS: -- Montgomery Lane facade.  
11 BY MS. HARRIS:  
12 Q And you said that it's six feet. Six feet to  
13 what? Can you be clear on that, please?  
14 A Six feet from the northern edge of the sidewalk,  
15 closest edge of the sidewalk to the building, to the  
16 building.  
17 Q Thank you.  
18 A It's a little bit more on either side but at that  
19 pinch point, that's what you would see. The subject  
20 property is the next one that you come to and again, when  
21 you see that, you saw two, two homes there. That space  
22 hasn't been designed finally but you certainly would expect  
23 the continuation of the six foot sidewalk, brick sidewalk.  
24 Q Mr. Irish, if you could back for just one moment  
25 to 4825, what's the width of that building?

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1 A That building is approximately 46 feet wide, okay,  
2 as you face it from Montgomery Lane. It's certainly wider  
3 as you look at from West Lane. In fact, if I may, I'll set  
4 113 down and I can add --  
5 MS. ROBESON: That's fine.  
6 THE WITNESS: -- add those dimensions. On the  
7 upper right rendering from their development plan package,  
8 the right most area is the Montgomery Lane facade. It's  
9 really a view looking at, at it from West Lane when you see  
10 the four garages. But looking at it from the right would be  
11 the view that you would see looking at it were you standing  
12 on Montgomery Lane looking at it. So you could see the, the  
13 little bump out that's a good portion of the width of the  
14 building, that it is really only six feet from the, the  
15 sidewalk there.  
16 BY MS. HARRIS:  
17 Q And could you also now, since we've now revealed  
18 106G, could you just, could you just go back to the City  
19 Homes actually and just explain the relationship given that  
20 that photo does show the stairwell going up to that first  
21 end cap unit?  
22 A The photograph in the middle --  
23 Q In the middle.  
24 A -- on the top is a photograph of one of the City  
25 Home units, one of the three end ones, the westernmost ones.

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1 It would be -- I can't -- let's see. The driveway is on, on  
2 the right so it's either the middle one, probably the middle  
3 of the two. In fact, it would have to be with the driveway  
4 on the right.  
5 MS. ROBESON: The second to the furthest west.  
6 THE WITNESS: Yes.  
7 MS. ROBESON: Okay.  
8 THE WITNESS: But it, it's a similar relationship  
9 for that one and the one to the left of it and the one to  
10 the right of it.  
11 MS. ROBESON: Okay.  
12 THE WITNESS: What we're showing here is that  
13 stairway that goes up essentially a story. You see the  
14 garage on the right. You see the stairs coming up from both  
15 sides to a landing and then a doorway in. And I'm guessing  
16 there might be a couple steps inside because this doorway  
17 looks a little lower than this window but you can also see  
18 that there's a doorway into the end of that structure. I  
19 don't know whether that goes into the unit or into a storage  
20 space. I'm not familiar with the architecture. But the, I  
21 do see this major structure projecting out from the building  
22 almost a story high with handrails. To the left on the  
23 upper side is a view of the Edgemoor without the 4825  
24 building built next to it because that would block a portion  
25 of it, but it does show the windows on that western face of

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1 the Edgemoor. It would be looking directly at the 4825  
2 building.  
3 BY MS. HARRIS:  
4 Q And actually, by the way, do you have the  
5 dimension between 4825 and the highrise Edgemoor, what that  
6 is? What the setback is between those two buildings.  
7 A I do. I --  
8 Q It may be helpful.  
9 A Get my notes here.  
10 Q Oh, okay. It's dimensioned on one of the exhibits  
11 that, and that's Exhibit 106 --  
12 MS. ROBESON: Is that B?  
13 BY MS. HARRIS:  
14 Q That's B.  
15 A 106B is --  
16 Q It's right here.  
17 A It's difficult to read the reduction. 106 --  
18 MS. ROBESON: Yes.  
19 THE WITNESS: 106 --  
20 BY MS. HARRIS:  
21 Q I could have given you my glasses.  
22 A 106B has that dimension as 23 feet.  
23 MS. ROBESON: Okay. What dimension is that? I'm  
24 sorry.  
25 THE WITNESS: From this, from this little bump out

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1 on the --  
2 MS. ROBESON: I see.  
3 THE WITNESS: -- eastern edge of the 4825 to the  
4 Edgemoor is 23 feet.  
5 MS. ROBESON: So that's the space between the two  
6 side building facades.  
7 THE WITNESS: Two building sides, correct. So in  
8 other words, you've got this whole wall of unit windows.  
9 MS. ROBESON: Right.  
10 THE WITNESS: One, the first story is blocked by a  
11 fence I believe but then one, two, three, four, five, six,  
12 seven, seven stories above that first story and then two  
13 stories above that in the penthouse area. Now, the 4825  
14 Edgemoor is 65 feet to the flat roof plus a four foot  
15 parapet. And you talk about the Edgemoor being about 100  
16 feet. The 100 feet would, would, the 100 feet does -- this,  
17 this is the point that's, I --  
18 MS. ROBESON: You've marked --  
19 THE WITNESS: -- put a mark at the point about, on  
20 the top of one of the peaks of the Edgemoor in that view.  
21 That's where you would be about 110 feet, again, from this  
22 terrace which how ever many steps up from the roof. So  
23 the --  
24 MS. ROBESON: Okay. Hold on. We've marked  
25 another exhibit, which is fine, but it's 106G so that's --

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1 THE WITNESS: I described it. My pen hasn't  
2 touched it. I don't need another exhibit for that.  
3 MS. ROBESON: Oh, why not?  
4 THE WITNESS: It's one of the peaks on the  
5 Edgemoor.  
6 MS. ROBESON: So I'm just going to put 114, marked  
7 version of 106G.  
8 MR. KNOPF: 106, which one, D was that?  
9 MS. ROBESON: G.  
10 MR. KNOPF: G.  
11 (Exhibit No. 114 was marked  
12 for identification.)  
13 BY MS. HARRIS:  
14 Q And that marked 110 point of the top of the roof?  
15 A Yeah.  
16 Q Okay.  
17 A That would be the 110 feet from basically this  
18 level where I'm drawing a horizontal line which is the top  
19 of the, roughly the top of the stairs. It may be a little  
20 higher than that because of this walk in. See that? But  
21 that's essentially where the --  
22 MS. ROBESON: Height is measured.  
23 THE WITNESS: -- measuring point is. That 100  
24 feet would go to about right here where I'm drawing a  
25 horizontal line.

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1 MS. ROBESON: So you've drawn -- okay.  
2 THE WITNESS: Near the, near the top.  
3 MS. ROBESON: And you've, on the bottom, you've  
4 drawn a black line from the --  
5 THE WITNESS: It's blue.  
6 MS. ROBESON: -- measuring point, a blue line from  
7 the measuring point.  
8 THE WITNESS: I actually drew it, there's a wall  
9 that sticks out from the steps, and I couldn't see this flat  
10 point. It might be a foot below that.  
11 MS. ROBESON: Okay.  
12 THE WITNESS: But it's generally --  
13 MS. ROBESON: Approximately --  
14 THE WITNESS: Approximately, yeah.  
15 MS. ROBESON: -- where the measuring --  
16 MR. KNOPF: Excuse me. I'm sorry because I  
17 couldn't see anything. Would you just point, now that  
18 you've stepped back a little bit, where you said you drew  
19 the 100 foot line?  
20 THE WITNESS: The top of it?  
21 MR. KNOPF: Where you said you drew a 100 foot  
22 line someplace. I just couldn't see because -- I still  
23 can't see.  
24 THE WITNESS: I'll mark the dimension here.  
25 MS. ROBESON: Yes.

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1 MR. KNOPF: I just can't see anything. I still  
2 can't see.  
3 MS. ROBESON: Well, let's do this. He's marked  
4 the dimension. Can you angle that a little more toward --  
5 THE WITNESS: Toward the audience?  
6 MS. ROBESON: Yes. Toward the audience. And then  
7 if you could stand a little more -- is that -- and then if  
8 you could stand, when you're talking about that one, stand  
9 to this side. When you're talking about this one, stand to  
10 that side.  
11 THE WITNESS: Certainly.  
12 MS. ROBESON: If you could remember all that,  
13 that's just so people can see.  
14 MR. KNOPF: Thank you. This is confusing enough  
15 even when you can see it.  
16 MS. ROBESON: Yes.  
17 THE WITNESS: I'll do my best.  
18 MS. ROBESON: Thank you.  
19 THE WITNESS: So just a slight recap. The top  
20 three buildings are, from right to left, 4825 Montgomery,  
21 City Homes and the Edgemoor, that we marked their  
22 relationships so the curb and their, the width of also the  
23 4901 Hampden Lane building, on Exhibit 112. I was about to  
24 describe the subject property.  
25 MS. ROBESON: Okay.

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1 THE WITNESS: Which is not on Exhibit 114 but is  
2 on Exhibit 76.  
3 MS. ROBESON: All right.  
4 THE WITNESS: I also have marked on Exhibit 112  
5 that continues, continuation of the six foot brick sidewalk,  
6 it is seven feet back from the curb. And that seven feet  
7 being a plant, a tree planter space.  
8 MS. ROBESON: And that's where the three trees in  
9 front of the subject property are shown on --  
10 THE WITNESS: The three large, large green  
11 trees --  
12 MS. ROBESON: -- 112.  
13 THE WITNESS: -- adjacent to the curb.  
14 MS. ROBESON: Okay.  
15 THE WITNESS: Would you like me to mark the curb  
16 line there as well?  
17 MS. ROBESON: No. I think we're okay. I  
18 understand that.  
19 THE WITNESS: So the critical dimension that we're  
20 talking about here is the dimension from the building to the  
21 back of the walk like I measured in other places. This is  
22 12 feet plus, not plus or minus, plus. You know, you got  
23 width of curbs and so forth, but we stipulated that it will  
24 be 10 feet back from the right-of-way line which is about  
25 two feet behind the, the sidewalk. Hence, you have 12 feet

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1 to the sidewalk. So that space, other than the park area,  
2 is, as you can see in Exhibit 76, is shown with some benches  
3 adjacent to the sidewalk and a great deal of planting behind  
4 that. In other words, you've got 12 feet for that.  
5 BY MS. HARRIS:  
6 Q Again, compare that 12 feet to the pinch point on  
7 the highrise Edgemoor, please.  
8 A Pinch point, because the building exits there and  
9 has this large ADA ramp, a major portion of the frontage  
10 essentially comes right, the stair portion comes right to  
11 the sidewalk. Between the accessible ramp and the sidewalk  
12 is about a four or five foot planted area. On the end, the  
13 western end where the building steps back the farthest, you  
14 might get to 12 feet for that space but again, just in that  
15 area.  
16 Q And what's, not to make you mention something  
17 else, but the handicap, what's the width of the handicap  
18 ramp? So from that --  
19 A You mean --  
20 Q Correct. So sort of --  
21 A That, I have to scale.  
22 Q Okay.  
23 MS. ROBESON: Okay. I can't see the exhibit. Can  
24 you just --  
25 THE WITNESS: 112?

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1 MS. ROBESON: Yes. Can you show where you're  
2 talking, where the handicap ramp is?  
3 THE WITNESS: I'll mark it on here.  
4 MS. ROBESON: Thanks.  
5 THE WITNESS: The way that -- if you see that  
6 frontage of the building. On the east side, you have steps  
7 going up to a landing. To the west of it --  
8 MS. ROBESON: Okay.  
9 THE WITNESS: West of the steps approximately 20  
10 feet, you can enter the accessible ramp and then ramp up as  
11 you go to the right to get to that landing.  
12 MS. ROBESON: Okay.  
13 THE WITNESS: And Ms. Harris asked for that  
14 dimension which I'll scale to be about 45 feet.  
15 MR. KNOPF: She asked for the width.  
16 MS. ROBESON: I'm sorry?  
17 MR. KNOPF: I thought she asked for the width.  
18 MS. ROBESON: Oh, and what's --  
19 THE WITNESS: She had asked for that with --  
20 MS. HARRIS: I did. What the width --  
21 MS. ROBESON: The length.  
22 MS. HARRIS: Length.  
23 MS. ROBESON: That's fine.  
24 MS. HARRIS: Right.  
25 THE WITNESS: Well, the width is about five feet.

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1 MS. ROBESON: Yes.  
2 MS. HARRIS: I'm sorry.  
3 MS. ROBESON: No. It's --  
4 MS. HARRIS: Thank you for the correction.  
5 Length. My engineer knew what I was saying.  
6 THE WITNESS: Well, as you can see, you're 10 feet  
7 back from its closest point and the ramp takes up about half  
8 of that space.  
9 BY MS. HARRIS:  
10 Q Just compare the length of that to the frontage of  
11 Montgomery which nobody ever picked up on before.  
12 MS. ROBESON: 4825 Montgomery.  
13 THE WITNESS: 4825 Montgomery is 46 feet wide as,  
14 as I scaled it off the plan, and this scales 45 feet, so  
15 basically the same. That portion of the 172 foot frontage  
16 of the Edgemoor. I just marked 78 feet on the frontage of  
17 the subject property from the edge of the scallop to the  
18 western edge of the building. To again put it in  
19 perspective, it's larger than the 4825 and less than half of  
20 the width of the Edgemoor. The steps, you see there's  
21 multiple steps coming up to the landing in, in the, what we  
22 professionally call the pocket park.  
23 MS. ROBESON: Right.  
24 THE WITNESS: And we've had many discussions about  
25 the area of that which I could clarify if you'd like, but

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1 it's better seen in the rendering.  
2 MS. ROBESON: On 76?  
3 THE WITNESS: 76. Unlike the rendering of City  
4 Homes on 114 where it comes up almost a story, you see the  
5 steps here are fairly gradual. It actually enters a grade  
6 pretty much on the West Lane side, comes up a couple feet on  
7 the Montgomery Lane side. The steps are also designed on  
8 the western edge. You see they're double height so they're  
9 more designed as seating elements than steps. So it's  
10 actually part of the park area, the park as a central  
11 feature and planting. Again, it's not a final design but  
12 it's our illustration of what it could look like.  
13 So unlike any of the other projects, we, we've got  
14 more space. Well, at absolute best, you might get 12 feet  
15 in front of a portion of the Edgemoor. We're at least 12.  
16 I believe it's maybe 12 and a half so, in front of our whole  
17 frontage there, plus the pocket park which at its greatest  
18 stepback, is 28 feet further. On the rendering where the  
19 gray meets the brick on the left side is where it starts to  
20 curve back and then where the gray meets, or I guess  
21 probably right, pretty much right behind this tree by the,  
22 the Audi convertible is, in the rendering is -- I'm sorry.  
23 I misspoke. I think the two windows to the right of the  
24 brick into the gray is really where --  
25 MS. ROBESON: On the Montgomery Lane frontage.

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1 THE WITNESS: On the Montgomery Lane frontage is  
2 where the curb starts to go, and then the curb stops about,  
3 looks like it's between the light post and the tree. Little  
4 closer to the light post.  
5 MS. ROBESON: Near the convertible on 76.  
6 THE WITNESS: So that area, obviously, this is --  
7 MS. ROBESON: On the West Lane side.  
8 THE WITNESS: On the West Lane side.  
9 MS. ROBESON: Yes.  
10 THE WITNESS: This, this drawing -- I'm sorry. I  
11 was instructed to do it this way. This drawing is two-  
12 dimensional. It makes it harder to see, but I believe the  
13 architect started to change material before the scallop to  
14 accentuate the setback of the scallop and minimize the  
15 frontage. Then the scallop starts and works through in the  
16 area where I'm moving my pen, the center part of it, major  
17 center part of that gray area.  
18 MS. ROBESON: Okay. And can you --  
19 THE WITNESS: And you can see --  
20 MS. ROBESON: -- point out, I don't think they can  
21 see the light pole in the tree on West Lane. They couldn't  
22 see.  
23 THE WITNESS: Here's the tree. Here's the light  
24 pole. I'm drawing my line now closer to the light pole  
25 vertically on this --

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1 MS. ROBESON: On West Lane.  
2 THE WITNESS: -- exhibit about a half inch to the  
3 right of the light pole. That's about where the scallop  
4 would stop on the east side.  
5 BY MS. HARRIS:  
6 Q And you identified like the height along that 78  
7 foot frontage just so they can be consistent in your  
8 presentation of all the buildings?  
9 A Well, as testimony has shown before, that, that  
10 building steps back on that frontage 12 feet so the building  
11 height along there is 50 feet and it would be five stories.  
12 4825 Montgomery Lane is 65 feet. It also reaches five  
13 stories as you can see in Exhibit 114. So comparably,  
14 looking at it, similar height buildings, 4825 is actually  
15 higher but visually, five stories. Ours is in color, theirs  
16 is black and white so I think ours looks better.  
17 Q Could you also, on the pocket park, identify the  
18 distance from the back of the scallop to the edge of the  
19 sidewalk? To the edge of the --  
20 MS. ROBESON: When you say back of, can you --  
21 MS. HARRIS: Describe that?  
22 MS. ROBESON: Yes. I don't know where the back of  
23 the --  
24 BY MS. HARRIS:  
25 Q One inch to the right of the light pole --

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1 A You're talking this?  
2 Q Yes. To the edge of --  
3 MS. ROBESON: The scallop that's beginning on the  
4 West Lane frontage. Is that where you're talking about?  
5 MS. HARRIS: No. The scallop that -- yes, I'm  
6 sorry. The scallop that begins on the West Lane frontage to  
7 the back of the sidewalk, what is that dimension?  
8 MS. ROBESON: The back of the sidewalk on  
9 Montgomery Lane.  
10 MS. HARRIS: Yes. Thank you.  
11 THE WITNESS: Well, to --  
12 MR. KNOPF: Could I get a clarification? We used  
13 the term, you used the term and Ms. Harris used the term one  
14 inch or an inch. We were referring to, I presume, the  
15 rendering --  
16 THE WITNESS: One inch on the exhibit.  
17 MR. KNOPF: -- in the scale, not actually one inch  
18 of the, of area. Okay. Let the record reflect that. I  
19 think it got a little confusing. Thank you.  
20 THE WITNESS: It's difficult to visualize that  
21 dimension for, for several reasons. You can, as you can see  
22 in Exhibit, I'm sorry, 76 --  
23 MS. ROBESON: That's all right.  
24 THE WITNESS: -- the bricks, all the dimensions  
25 I've given have been from the edge of the brick sidewalk

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1 away from the curb.  
2 MS. ROBESON: Closest to the curb.  
3 THE WITNESS: No. Away from the curb. Furthest  
4 away from the curb.  
5 MS. ROBESON: Yes. Yes. Okay.  
6 THE WITNESS: So again, seven foot plant area  
7 which is wider than --  
8 MS. ROBESON: Yes.  
9 THE WITNESS: -- which is wider than Bethesda  
10 streetscape would recommend. Six foot brick sidewalk.  
11 MS. ROBESON: Right.  
12 THE WITNESS: In this case, 12 feet plus of  
13 landscape area.  
14 MS. ROBESON: Yes.  
15 THE WITNESS: Now, when you get to where Ms.  
16 Harris wanted me to make that dimension, make that  
17 measurement, it's easy to do mathematically because I know  
18 all the measurements, but you see the brick sidewalk goes  
19 all the way up to the steps so the brick walk is actually  
20 wider there.  
21 MS. ROBESON: Okay.  
22 THE WITNESS: Now, if you were to measure from  
23 that same point on the sidewalk, in other words, extend  
24 that, in this case, northern edge of the sidewalk across --  
25 MS. ROBESON: Okay.

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1 THE WITNESS: -- to measure from there to be  
2 consistent with the other dimensions, if you recall, we're  
3 12 feet plus back to the building --  
4 MS. ROBESON: Right.  
5 THE WITNESS: -- and the scallop is 28 feet, so if  
6 I can add properly in my head, that's 40 feet.  
7 MS. ROBESON: Right. Okay. I understand.  
8 MR. ABRAMS: Did you get the dimensions from the  
9 sidewalk, the back edge of the sidewalk to the building?  
10 Have you gone into that yet?  
11 THE WITNESS: Which building?  
12 MR. ABRAMS: Your building.  
13 THE WITNESS: I've mentioned it about three times.  
14 MR. ABRAMS: Okay. What is it?  
15 THE WITNESS: Twelve feet plus.  
16 MS. ROBESON: Wait, wait.  
17 THE WITNESS: Twelve feet plus.  
18 MS. ROBESON: No commentary. If you can just --  
19 MR. ABRAMS: There's so many figures going --  
20 THE WITNESS: He asked if I mentioned it.  
21 MR. ABRAMS: Twelve feet from the back edge of the  
22 sidewalk.  
23 THE WITNESS: Twelve feet from the northern edge  
24 of the sidewalk --  
25 MR. ABRAMS: To the --

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1 THE WITNESS: -- to the --  
2 MR. ABRAMS: -- base of the building.  
3 THE WITNESS: -- base, the closest edge of the  
4 building.  
5 MR. ABRAMS: Okay. No, I just --  
6 THE WITNESS: Could be 12-and-a-half. It's at  
7 least 12.  
8 MR. ABRAMS: We'll give six inches.  
9 THE WITNESS: Okay. I rounded down for our  
10 project, rounded it up for the others. Okay?  
11 BY MS. HARRIS:  
12 Q Actually, I'd like to just, given that commentary,  
13 please explain that last comment.  
14 A We could be, if we were 12-and-a-half feet, I'd  
15 round down to 12.  
16 Q To be conservative in other words?  
17 A To be conservative. If any of the other projects  
18 were 11-and-a-half feet, I might say 12.  
19 MS. ROBESON: I, I got that. You were being  
20 conservative in your testimony.  
21 THE WITNESS: Okay.  
22 MS. ROBESON: In your measurements.  
23 THE WITNESS: And we're dealing with feet so  
24 you've got 12 inches of variation. I haven't discussed it  
25 in fractions of a foot primarily because there's a lot of

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1 undulations in the face of the building. And we could do a  
2 very detailed survey and give you precise measurements but  
3 visually, this is what you're going to see and, or --  
4 MS. ROBESON: Minus the convertible.  
5 THE WITNESS: Well --  
6 MS. ROBESON: Well, maybe not. We don't know.  
7 THE WITNESS: I'm sure one of the tenants will  
8 probably have one of those.  
9 MR. KNOPF: A more expensive one.  
10 THE WITNESS: Simply put, this 12 plus foot  
11 planting area in front of the subject property is large,  
12 basically larger than all the others. Portions in front of  
13 the Edgemoor might approach that dimension. City Home would  
14 approach it but uses a lot of that space for stairways and  
15 frankly, planters you might read more as private as they're  
16 right off of that stairway.  
17 BY MS. HARRIS:  
18 Q You've designed a number of, you've been a civil  
19 engineer on a number of projects and I assume you get to see  
20 the finished product.  
21 A I do.  
22 Q Which is, must be satisfying. Can you explain,  
23 because you suggest, you indicated that the six foot  
24 sidewalk actually, at the corner, will read much wider than  
25 six feet.

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1 A Well, it will be wider.  
2 Q And can you explain once that's a finished  
3 product, how that will, in your opinion, how that will feel  
4 or how that will read?  
5 A Well, in this case, it's, you're walking into the  
6 park. See if I have those dimensions handy. While we're  
7 talking about the park, I thought it would be a good  
8 opportunity to clarify some of the measurements because Mr.  
9 Abrams seemed to be confused where some of that square  
10 footage went and I can, and we referred to this space as 615  
11 feet or 600 and some feet or 1,000 feet, so I've taken,  
12 taken several area measurements just to give you a feel for  
13 it. The one that's very easy to calculate is the area of  
14 the scallop that came out of the building, the 28 foot  
15 radius at 615 square feet.  
16 MS. ROBESON: From, is that from the 12 feet off  
17 the building face? Where do you begin that measurement?  
18 THE WITNESS: The 615 feet would be if you  
19 extended the --  
20 MS. ROBESON: Facade.  
21 THE WITNESS: -- southern face of the building and  
22 the eastern face.  
23 MS. ROBESON: Okay.  
24 THE WITNESS: That 28 foot quarter of a circle --  
25 MS. ROBESON: Okay.

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1 THE WITNESS: -- is 615 feet. If you then take  
2 the space from there out to the ultimate property line,  
3 right-of-way line which would be set back behind the  
4 sidewalk, it's an additional 393 square feet.  
5 MR. KNOPF: Excuse me. When you said there, where  
6 is there? Where -- there is where?  
7 THE WITNESS: What I just described verbally,  
8 between the 28 foot quarter of a circle portion of the park  
9 out to the ultimate right-of-way line which on Exhibit 112,  
10 basically, you could see a fine line here that's long with  
11 two shorts.  
12 MS. ROBESON: Why don't you mark that on Exhibit  
13 112 so we can see?  
14 MS. HARRIS: Or we have another exhibit where we  
15 could do it on this which is a blow-up of just that area.  
16 Would that be easier or do you want it on this one?  
17 MS. ROBESON: I would prefer it on this one --  
18 MS. HARRIS: All on this one.  
19 MS. ROBESON: -- so I have it all on one drawing.  
20 MS. HARRIS: Okay.  
21 MS. ROBESON: Because it is a lot of dimensions.  
22 THE WITNESS: I just marked a line coming east  
23 along Montgomery Lane curving to the north and a little bit  
24 up West Lane.  
25 MS. ROBESON: And is that the right-of-way line

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1 that you've marked?  
2 THE WITNESS: That's approximately where the  
3 right, the ultimate right-of-way line would be located for  
4 this project after one foot is dedicated on Montgomery and  
5 two-and-a-half feet are dedicated on West Lane.  
6 MS. ROBESON: Okay. So it's net of dedication.  
7 THE WITNESS: Yes.  
8 MS. ROBESON: Okay.  
9 THE WITNESS: So if you project the scallop  
10 straight out on either end to that line, you have the 615.74  
11 square feet that we started with and you add 393.24 to it to  
12 get to the right-of-way line. So on private property, round  
13 numbers, it's a little over 1,000 square feet.  
14 MS. ROBESON: Okay.  
15 BY MS. HARRIS:  
16 Q Can you just note those square footages on that  
17 plan, please?  
18 A I can. For what?  
19 Q The square footages for the area --  
20 MS. ROBESON: Extending the edge of the scallop to  
21 the net --  
22 THE WITNESS: It might be easier to use this.  
23 MS. ROBESON: -- right --  
24 MS. HARRIS: Actually --  
25 THE WITNESS: I have my, I have my worksheet if

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1 you want to exhibit, enter that in.  
2 MS. ROBESON: Well, they haven't had a chance to  
3 review that exhibit.  
4 THE WITNESS: I'd be happy to mark it on there.  
5 MS. ROBESON: Yes. I'd rather you just --  
6 THE WITNESS: I can use a different -- how about I  
7 use a red marker so that it stands out from the --  
8 MS. ROBESON: That's fine.  
9 THE WITNESS: But before I do that, let me give  
10 you one more area and then --  
11 MS. ROBESON: No. Do that first because we're all  
12 with you.  
13 THE WITNESS: It's in the same area though. I  
14 want to see which ones you want me to mark on because I have  
15 three.  
16 MS. ROBESON: Okay. All right.  
17 THE WITNESS: Actually, I have four. We took,  
18 initially, we took 615 feet of the scallop, then extend that  
19 out to the right-of-way, you get another 393 square feet.  
20 If you take that line and extend it straight out to the curb  
21 line, you get another 1171.95 square feet so.  
22 MS. ROBESON: In addition to --  
23 THE WITNESS: In addition to the roughly 1,000  
24 square feet in, on the property. If you were then to add  
25 these seating, the seating area in front of the building to

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1 the west of the scallop out to the curb, you pick up another  
2 398 square feet. So I mention all this so that you get a  
3 sense that this is not a small area. On the -- visually  
4 looking at Exhibit 76, you can't see where the property line  
5 is. You're going to see the curb line and the building.  
6 MS. ROBESON: Right.  
7 THE WITNESS: And from the curb line to the  
8 building, you've got 22, I'm adding quickly in my head,  
9 about 2200 square feet not even counting the seating area to  
10 the west of the scallop.  
11 MS. ROBESON: So do me a favor and have you  
12 marked, could you mark the square footage of -- let's see.  
13 You've got four measurements. You did one that's 615 feet  
14 which was from the building face, correct?  
15 THE WITNESS: Correct.  
16 MS. ROBESON: Can you mark that in some color  
17 roughly?  
18 THE WITNESS: Sure.  
19 MS. ROBESON: And write 615.  
20 THE WITNESS: I'll use red and draw a line to show  
21 that area, quarter of a triangle.  
22 MS. ROBESON: Yes. And can you do the --  
23 THE WITNESS: Thank you. That's correct.  
24 MS. ROBESON: And would you mind making this, the  
25 second one was to the 12, what was the second one, to the

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1 right-of-way?  
2 THE WITNESS: To the right, to the right-of-way  
3 line, the blue line.  
4 MS. ROBESON: Okay. Would you mind marking that?  
5 You have a green there  
6 THE WITNESS: I do.  
7 MS. HARRIS: To the property line.  
8 MS. ROBESON: Would you mind marking --  
9 MS. HARRIS: Right-of-way line.  
10 THE WITNESS: To the ultimate right-of-way line.  
11 MS. ROBESON: Right. And can you write that  
12 square footage in green on there, on 112?  
13 THE WITNESS: Again, I'm rounding down to be  
14 conservative. That is -- and then would you like me to mark  
15 that to the curb, what you'd really see?  
16 MS. ROBESON: That, I can understand from the  
17 graph. I'm thinking of trying to explain this to the  
18 Council. That's what I'm getting at. So I think -- why  
19 don't you mark to the curb line.  
20 THE WITNESS: Sure.  
21 MS. ROBESON: Just, if you don't mind leaving out  
22 the steps for -- I understand your point about the steps but  
23 I'd rather stick with apples and apples so.  
24 THE WITNESS: Sure. Not a problem.  
25 MR. KNOPF: It's much, much easier when you can

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1 see it. It's still not too easy.  
2 MS. ROBESON: Can we angle it differently do you  
3 think?  
4 MR. KNOPF: It's -- no.  
5 MS. ROBESON: Or is it just distance?  
6 MR. KNOPF: Well, it's --  
7 THE WITNESS: It's me standing in front of it  
8 making it, measuring it.  
9 MR. KNOPF: It's --  
10 MS. HARRIS: Norman, you could always move your  
11 chair over there. It might be helpful.  
12 MR. KNOPF: It's the distance plus his back, but  
13 that's all right. I can see once I --  
14 MS. ROBESON: You can?  
15 MR. KNOPF: I appreciate your spelling it out on  
16 the record with colors. That's my kind of demarcation.  
17 THE WITNESS: Since I'm not as good in my head as  
18 I am with my calculator --  
19 MS. ROBESON: That's fine.  
20 THE WITNESS: -- I added those three numbers. I  
21 get 2,179 square feet which I've used red, green and blue  
22 for area.  
23 MS. ROBESON: Right.  
24 THE WITNESS: Red green and black, so I will --  
25 MR. KNOPF: Which is the black?

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1 THE WITNESS: -- call it total.  
2 MR. KNOPF: I'm sorry.  
3 MS. ROBESON: The black is to the net, the curb,  
4 is that -- what's the black?  
5 THE WITNESS: I'll summarize in just a second.  
6 MR. KNOPF: Thank you. Glad it's just not me.  
7 THE WITNESS: Okay. Now that they're all on  
8 there, it's easier to refer to --  
9 MS. ROBESON: Okay.  
10 MR. KNOPF: Good.  
11 THE WITNESS: Starting with the scallop of the  
12 building, 615 square feet.  
13 MS. ROBESON: The red.  
14 THE WITNESS: That's shown in red.  
15 MS. ROBESON: Right.  
16 THE WITNESS: Between that and the right-of-way  
17 line after dedication shown in green, it's an additional 393  
18 square feet.  
19 MS. ROBESON: Okay.  
20 THE WITNESS: Between that and the curb line --  
21 MS. ROBESON: Okay.  
22 THE WITNESS: -- which is public space but as you  
23 can see in rendering 76, it's part of the park, there's an  
24 additional 1171 square feet noted in black. Within the  
25 building itself, I marked total 2,179 square feet for the

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1 sum of the red, the green and the black from curb to the  
2 scallop of the building.  
3 MS. ROBESON: Okay. Thank you.  
4 THE WITNESS: So we're clear on the size of the  
5 park.  
6 MS. ROBESON: Thank you.  
7 THE WITNESS: The other two buildings on Exhibit  
8 112, I have not yet addressed their relationships. If you'd  
9 like me --  
10 MS. ROBESON: The two closest to Arlington.  
11 THE WITNESS: Edgemoor at Arlington North and  
12 Edgemoor at Arlington.  
13 MS. ROBESON: Yes.  
14 THE WITNESS: I'd be happy to write those on, on  
15 as well. The Edgemoor at Arlington at the south, southeast  
16 corner of the intersection is a building that exists. I'm  
17 sure you saw it. It's a building that has a three-story  
18 front on both streets. Just very quickly, I think about 10  
19 feet back, steps up to 4 feet. And in that 10 feet step  
20 back I believe is a trellis or pergola or a patio area on  
21 the roof. The -- here's where the sidewalk gets a little  
22 different or difficult to measure, same way, addressing what  
23 Ms. Harris asked about measure from the sidewalk to the back  
24 of the scallop because in front of the Edgemoor at  
25 Arlington, it's basically all hardscape.

1 MS. ROBESON: I see.  
 2 THE WITNESS: I just marked ELEC on an area. That  
 3 is actually an underground electric transformer that sticks  
 4 up. It's not one that you can walk over easily. It doesn't  
 5 -- you could walk on it but you'd be stepping up, from  
 6 memory, more than a foot at the eastern corner I believe.  
 7 MS. ROBESON: Okay.  
 8 THE WITNESS: You may, you may recall seeing it.  
 9 The width of this building, I believe there is a cut-out  
 10 here. This is, might be showing the building above or  
 11 something but this dimension is 46 feet, and I've marked in  
 12 blue on here.  
 13 MS. ROBESON: The width along Montgomery Lane.  
 14 THE WITNESS: Correct. The continuation of that  
 15 six foot brick sidewalk basically goes to where I just drew  
 16 the arrow on this little stem walk that sticks to the east  
 17 off of their main steps along Montgomery. That's roughly  
 18 that continuation of the southern side of that brick walk.  
 19 From there --  
 20 MS. ROBESON: The brick walk?  
 21 THE WITNESS: This brick, brick sidewalk.  
 22 MS. ROBESON: I couldn't understand if you said  
 23 wall or walk. Okay, walk. So it's a continuation of the --  
 24 THE WITNESS: From there to the building face is,  
 25 is 11 feet.

1 MS. ROBESON: Okay.  
 2 THE WITNESS: And you still have roughly nine feet  
 3 of planter area here.  
 4 MS. ROBESON: Which is where the three trees are  
 5 shown on the southern side of Montgomery Lane.  
 6 THE WITNESS: This -- I don't -- this rendering  
 7 shows the sidewalk stepping, becoming wider to the north  
 8 just to the west of the westernmost City Home so the walk  
 9 would be wider. That would make this planter area narrower.  
 10 I don't recall that measurement there but I, the 11 foot is  
 11 consistent in measuring from the southern edge of that  
 12 continuous six foot walk. If you give me a moment, I can  
 13 check my notes. The planter area nixed down to seven feet.  
 14 If you recall on the, you've got continued six foot brick  
 15 sidewalk and east of there, a nine foot tree space.  
 16 In front of Edgemoor North, that tree space nixed  
 17 down to seven but the sidewalk is, goes from there all the  
 18 way to the building. So if we're trying to measure from a  
 19 continuous line so that we're showed comparable  
 20 measurements, this western edge of Montgomery Avenue facing  
 21 the building is 11 feet back from that, that line. Again,  
 22 the largest one being 12 feet plus. Maybe it's only half a  
 23 foot larger but it's at least larger than everything else.  
 24 The others step in towards, could be as close as three feet.  
 25 The last one is Edgemoor at Arlington North.

1 That's 65 feet wide and it's 11 feet also back from that  
 2 side of the walk. So 11, as you go left, west to east on  
 3 the north side, you've got 11, 12, 6, 12, 10, almost a foot.  
 4 On the south side, we still have a 3, 10 to 12 and then back  
 5 to 11.  
 6 BY MS. HARRIS:  
 7 Q Mr. Irish, you didn't identify, although you did  
 8 on the other projects, the heights of the Arlington,  
 9 Edgemoor at Arlington an Edgemoor at Arlington North.  
 10 A Edgemoor at Arlington North steps from 35 feet on  
 11 the Arlington Road side to 48 feet. Similarly, the Edgemoor  
 12 at Arlington steps at 33 feet to 46 feet.  
 13 MR. KNOPF: I'm sorry. We now have two Edgemoors  
 14 at Arlington. I think we need to distinguish.  
 15 MS. ROBESON: Oh.  
 16 THE WITNESS: Edgemoor at Arlington North, 35 to  
 17 48. Edgemoor at Arlington --  
 18 MS. ROBESON: Thank you.  
 19 THE WITNESS: -- 33 to 46. Basically the same.  
 20 Visually the same.  
 21 BY MS. HARRIS:  
 22 Q You identified, you noted that the subject  
 23 property enjoys a setback of 12 feet plus from the back of  
 24 curb compared to the other properties.  
 25 A From the back of sidewalk.

1 Q Back of sidewalk. I, I -- anyway --  
 2 A You're giving me less and less setback.  
 3 Q Can you explain the relationship of that building  
 4 as well as the other ones on the north side of the street to  
 5 the, that are across the street from the City Homes and the  
 6 relative distances between, the distances from the City  
 7 Homes to the subject, City Homes to 4825 and City Homes to  
 8 highrise Edgemoor?  
 9 MS. ROBESON: Excuse me.  
 10 MR. KNOPF: Excuse me. Didn't we have some --  
 11 MS. ROBESON: Say that again. I'm sorry. You  
 12 want him to compare --  
 13 MS. HARRIS: I'm asking the distance between the  
 14 northern face of the City Homes buildings to the buildings  
 15 immediately across the street from the City Homes.  
 16 MS. ROBESON: Okay.  
 17 MR. KNOPF: Excuse me, but I thought we already  
 18 had this testimony unless this is going to differ from what  
 19 Mr. Lanford testified to. He gave us all those dimensions.  
 20 MS. HARRIS: Well, I thought it was a little bit  
 21 confusing just because he noted that our, that the subject  
 22 building was set back a little further, so I just want to  
 23 make sure I'm clear on how it relates to the distance of the  
 24 subject from the City Homes as compared to the other, 4825  
 25 and the highrise Edgemoor.

1 MS. ROBESON: I'm going to let it in because there  
2 was some inconsistencies in both Land Fair and I think I  
3 wasn't sure -- well, go ahead.

4 THE WITNESS: The, from the subject, the face of  
5 the subject building, subject project, the Montgomery Avenue  
6 face, the furthest, the closest to the road, closest to City  
7 Homes, from there to the main portion of the building, not  
8 the step --

9 MS. ROBESON: Of the City Homes.

10 THE WITNESS: -- or the steps of the City Homes is  
11 about 73 feet.

12 BY MS. HARRIS:

13 Q Okay. Now, and you're also aware that there's a  
14 step back on the upper floors of 12 feet, correct?

15 A On the subject property.

16 Q So what would the distance be from the step back?

17 A 73 plus 12, so it would be 85.

18 Q Okay. And then the distance between the City  
19 Homes and 4825?

20 A Well, that would be six feet less, so 73 minus 6  
21 would be 67 feet.

22 Q Okay. And then the highrise Edgemoor. And their,  
23 since the handicap ramp takes up approximately a third, if  
24 you could measure from both there and the face of the  
25 building, that would be helpful.

1 A Well, it varies from maybe at the corner, 73 to 71  
2 or up to 10 feet, and then take say 5 feet off for the ramp,  
3 so 6, 6, I want to say 71 minus 5, so 67.

4 MS. ROBESON: No. 66.

5 THE WITNESS: I'm getting confused.

6 BY MS. HARRIS:

7 Q Thank you.

8 A I'm getting confused with inches and feet. 66  
9 feet to the, that would be to where you're holding the pen  
10 now which is the portion of the handicap ramp closest to  
11 Montgomery Lane. Probably a little less than that. We  
12 allow for the thickness of the wall and so forth, so it's,  
13 it's certainly closer than -- the dimension I've given you  
14 on the subject property is the closest point. Everything  
15 would be behind that.

16 Q So in conclusion, which building sits the furthest  
17 away from the City Homes?

18 A The subject applications building does.

19 Q And then one other -- well, let me just ask. Do  
20 you have any other general comments or, that you want to  
21 make with respect to the dimensions that you've just  
22 reviewed?

23 A No. I, I believe we've covered it. I hope it's  
24 clear.

25 MS. ROBESON: I --

1 THE WITNESS: It might make sense if you have  
2 questions now to ask before we go into other --

3 MS. ROBESON: I don't have a question on the  
4 dimension but, on the dimensions but I did have a question.  
5 Mr. Abrams accurately pointed out that the tabulations for,  
6 didn't match up as far as building area, footprint and --

7 MS. HARRIS: That's --

8 MS. ROBESON: Are you getting, are you going to  
9 address that?

10 MS. HARRIS: We're very close to getting to that  
11 question.

12 MS. ROBESON: Okay. Then I won't --

13 MS. HARRIS: You're pressuring -- no. We have a  
14 couple questions and then we are going to clarify that.  
15 Thank you.

16 BY MS. HARRIS:

17 Q One question I had, because there's been a lot of  
18 discussion about height versus differing elevations, based  
19 on your vast experience as a civil engineer in Montgomery  
20 County, can you explain the county's approach with respect  
21 to height and elevation and how they handle that?

22 MS. ROBESON: What do you mean how they handle it?

23 BY MS. HARRIS:

24 Q And whether there's any distinct, the -- as we can  
25 see throughout the Sector Plan, for instance on page 39,

1 they identify and recommend a given zone for a certain  
2 height. The Zoning Ordinance itself ties certain zones to  
3 certain heights. Does the, and the Council, in making those  
4 determinations of recommendations or requirements for  
5 heights, do they take into account elevations?

6 A No. They do not take into account ground  
7 elevations. The Zoning Ordinance limits height in either it  
8 doesn't have a limit or it has a limit to maximum height,  
9 and height is defined in the Zoning Ordinance as the  
10 measurement from a measuring point to a certain point on the  
11 roof depending on the type of the roof. It doesn't matter  
12 whether it's on the ground at elevation 100 or 200 or 102.  
13 It doesn't really -- that's not factored into the Zoning  
14 Ordinance. It doesn't feel that that needs to be factored  
15 in.

16 Similarly, the, I'm not aware of any Sector Plan  
17 that, that says that you, building can't exceed elevation X.  
18 The page 39 of the Sector Plan for Bethesda, I've seen so  
19 many times it's torn out of all the copies by the way, shows  
20 recommended height limits. Height, not elevation. So in  
21 this case, it's referring to 65 feet for this property and  
22 35 for the adjoining property as a recommended height, and  
23 that's again from where you would measure it from, not a  
24 dimension from some point on -- I mean, it could be a point  
25 on the ground but the point is, if you're comparing two

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1 buildings in that 65 foot zone, they're each measured on  
2 their own. They're not, if one of them happens to have a  
3 ground elevation five feet higher, that doesn't mean it  
4 could only go to 60 feet.  
5 MS. ROBESON: Well, wouldn't height or elevation  
6 go to compatibility?  
7 THE WITNESS: I don't think so. I mean, I think  
8 the Council, if they felt elevation was important, they  
9 would have limited it that way. And as you walk down the,  
10 as you walk down the street, your eyes are either lowering  
11 or raising as the ground elevation would do the same. The  
12 changes aren't dramatic in the sense there's not a cliff or  
13 anything like that. I've never seen it determined that way  
14 or limited that way. I don't think it, personally, I don't  
15 think it makes sense. The measuring point is fairly clearly  
16 defined and so you measure it that way.  
17 BY MS. HARRIS:  
18 Q So in your opinion, it would be highly unusual to  
19 take, to measure, to determine a maximum height based  
20 solely, based on the elevation of the ground.  
21 A Yes. I've never seen it done that way in  
22 Montgomery County.  
23 Q You spoke about the relationship of the subject to  
24 the properties across the street, the City Homes, and noted  
25 that there's a 73 foot distance, at a minimum, between those

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1 two buildings. Can you just briefly touch on the  
2 relationship between the City Homes and the subject building  
3 with respect to the impact from, in terms of light and air?  
4 A Sure.  
5 MR. KNOPF: Excuse me again. I'm going -- it  
6 sounds to me like we have land planning testimony here.  
7 MS. HARRIS: I think the civil engineer is --  
8 MS. ROBESON: What --  
9 MS. HARRIS: It's within his realm.  
10 MS. ROBESON: You're asking on the impact. Didn't  
11 we already have testimony from the architect on light and,  
12 shadow?  
13 MS. HARRIS: Who noted that the, that the subject  
14 property wouldn't be casting any --  
15 MS. ROBESON: So do you, does --  
16 MS. HARRIS: -- shadows on the City Homes.  
17 MS. ROBESON: Do you have anything to add to that?  
18 THE WITNESS: I do.  
19 MS. ROBESON: And what, do you want to proffer  
20 what it --  
21 THE WITNESS: I'd like to describe the, what I  
22 believe the view of this project would be from City Homes  
23 that are directly across the street.  
24 MS. HARRIS: There was additional testimony after  
25 the land, the architect testified to the, to just -- all he

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1 was noting was the fact that given the southern orientation  
2 of the sun, that there will be no impacts in terms of --  
3 MS. ROBESON: Right.  
4 MS. HARRIS: -- sun, but my question had more to  
5 do with light and air and that discussion came up yesterday  
6 after the landscape architect had testified. So it's not  
7 new -- it is new testimony. It is not rehashing old  
8 testimony.  
9 MS. ROBESON: Well, I guess I don't typically get  
10 this from the civil. Now, you do have rebuttal. Remember.  
11 MS. HARRIS: Right. I recognize that.  
12 MS. ROBESON: So to the extent we can avoid, you  
13 know, we've had a couple of, two land planners, plus the  
14 architect, plus the, the witness from the Coalition for  
15 Smarter Growth all testifying on Master Plan compliance  
16 so --  
17 MS. HARRIS: It's not Master Plan compliance and  
18 typically --  
19 MS. ROBESON: No. I'm just saying.  
20 MS. HARRIS: -- it's sight lines and frankly, of  
21 all of our experts, the only expert we have on our team to  
22 ever address an issue such as sight lines would be the civil  
23 engineer. We have no other expert for that.  
24 MS. ROBESON: If you want to limit it to sight  
25 lines, that's fine.

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1 THE WITNESS: Okay.  
2 MS. HARRIS: It actually may be helpful to refer  
3 to an exhibit that shows -- that would be a good one to  
4 refer to, 106B.  
5 MS. ROBESON: So we're looking at 106B?  
6 MS. HARRIS: Yes.  
7 MS. ROBESON: Or 108? 106B.  
8 THE WITNESS: 106B. And primarily, the address in  
9 the western three sticks of City Homes townhomes because the  
10 two east of there primarily would have the bulk of their  
11 view blocked by the 4825. I mean, there could be some views  
12 from maybe the first unit that also looks directly to  
13 Montgomery Lane at their back area which is, I'm sure you  
14 know, it's a very short balcony. It's only big enough for a  
15 grill and a person to stand there. But from there, from  
16 that location, you could look at, at the subject property  
17 and be looking right at the park.  
18 The two sticks directly across from the subject  
19 property are connected by alleyway that goes from building  
20 to building with six garage entrances on either side. The  
21 only one that has -- I believe this first unit that also  
22 looks directly to Montgomery Lane has a, I believe a short  
23 bay. If I could check my notes. Yeah. There are windows  
24 on either side of these first two sticks that face each  
25 other and so you could look out of those windows directly at

1 the building across the street but you certainly would be  
2 having to crane your neck quite a bit and have very limited  
3 views looking to the north. If you are able to though,  
4 you'd be looking basically at the eastern half of the  
5 building including the scallop and the park.

6 If you are looking out of the one end unit that  
7 looks that way, looks to the north, those windows would look  
8 directly at the building but they're 73 feet away, similar  
9 relationship to what you have at City Homes to Edgemoor but  
10 those buildings are closer together and I believe designed  
11 at the same time by the same developer. So they, the  
12 Council felt it was appropriate in approving the development  
13 plan and the applicant, or the developer certainly did, and  
14 we're set back further than that.

15 If you look out of the western edge of the  
16 westernmost stick, you really can't see our building. You  
17 look at the sight line. The western edge pretty much lines  
18 up with our western edge so you're, you basically will be  
19 looking at the view between the building which is basically  
20 the Edgemoor at Arlington North, their property, which the  
21 District Council also has already approved.

22 So they must have felt that the view from this  
23 City Home unit, the one in the west, westernmost stick  
24 looking to the north, it would be, would look out to the  
25 left but Edgemoor at Arlington North must have thought that

1 was appropriate and it too is closer to the road than in our  
2 building, or closer to City Homes. I guess it might be a  
3 little bit further if you measure on the angle but in terms  
4 of spatial relationship to the sidewalk and greenspace, it's  
5 a little bit closer.

6 The end unit on the second stick from the west  
7 looks directly on our park. You could look to the angle and  
8 see part of the, look to your left probably, you know,  
9 varying degrees but you'd have to look to the left to see  
10 the front face of the building. You're basically looking  
11 straight out on the park area which I think it shows a  
12 pretty nice, intended to be a very nicely designed space.

13 BY MS. HARRIS:

14 Q Can you --

15 A Sorry.

16 Q Go ahead and then I'll -- continue.

17 A Similarly, the front of the units in the third  
18 stick from the west that front on the mews have windows that  
19 look straight out across at each other. Again, the windows  
20 from that stick, if you look out, you're basically looking,  
21 looking directly at our park again. So their mews, if you  
22 extend that across, it's pretty, it kind of aligns with the  
23 curb of West Lane but, you know, in general, if you widen it  
24 out a little bit, you're widening out to our park area. So  
25 the portion of our building that is closest to the road

1 really doesn't engage that, that space like the 4825  
2 Montgomery Lane would directly across the street and half  
3 the distance back from the curb than we are which was I  
4 believe the most recently approved plan.

5 Q I wanted to -- that's very helpful. I think one  
6 other relationship may be helpful, which is the most eastern  
7 stick of the City Homes, as it relates to the 4901 and  
8 primarily, because there, you could be looking directly out  
9 of the windows. And what's the distance between those two  
10 buildings.

11 A Exhibit 106B shows 25 feet from the City Homes to  
12 the curb line of their driveway and an additional 23 feet to  
13 the 4901 Hampden project, so that would be 48 feet. So  
14 looking directly out, 48 feet away is a 71 foot I believe,  
15 or 70 foot 10 inches tall building, whereas looking out of  
16 the front of just two units as opposed to all six here,  
17 looking out of the front there, we're 73 feet away instead  
18 of 48. I really believe that this relationship not only is  
19 it a little bit larger than the largest anywhere else on the  
20 street, it also makes that, it goes to that consistent  
21 street edge that the Sector Plan referred to.

22 Q Thank you. Moving onto the public use space issue  
23 and to clarify the square footage, another topic on which  
24 there was some confusion, Mr. Abrams was very concerned  
25 about the several hundred feet of public use space and where

1 it went. Can you please explain that?

2 A I'd be happy to. I'm all about enlightenment.

3 Q Do we have an exhibit that may be helpful?

4 A We do. I want to make sure I'm on the same page  
5 here.

6 Q I think it was 85 that we're looking for, is that  
7 right?

8 A 85.

9 Q Yes, okay.

10 A If we --

11 Q Now, first -- go ahead.

12 A If we could, I'd like to mark on this to correct  
13 some inaccuracies on the plan, so do we need to enter it as  
14 an exhibit? It won't be --

15 MS. ROBESON: You mean on the development plan?

16 THE WITNESS: No. On Exhibit 85, which is a  
17 comparison from the Holiday public use space to the  
18 originally submitted SJG plan to the current SJG plan.

19 MS. ROBESON: But does this involve a change to  
20 the, what's on the development plan?

21 THE WITNESS: No.

22 MS. HARRIS: No. It's just that this, this  
23 exhibit we realized, in the course of the hearing, notes  
24 inaccurate square footages. The development plan is correct  
25 but in order to avoid future confusion, I think it would be

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1 helpful just to clarify what the square footages are.  
2 MR. ABRAMS: We would certainly object to changing  
3 exhibits at this point in time. We've had no opportunity to  
4 see what the changes are, what affects there are. I mean,  
5 we've been in this thing for six weeks now, or six hearings  
6 and we haven't received a proffer from the applicant that  
7 this exhibit is in error and we'd like to change it. I  
8 mean, now to come to a, to a public hearing and try to do  
9 this. It certainly puts us at a disadvantage.  
10 MS. HARRIS: It is not a change to the development  
11 plan. All the figures, facts and figures on the development  
12 plan are --  
13 MS. ROBESON: Well, I guess that's not the point  
14 because they haven't had the opportunity to review, I mean,  
15 one of the issues in this case is the correct, you know, is  
16 the green area and the open space, and they haven't had an  
17 opportunity, so what I'm going to do is this. I'm going to  
18 let him mark it up but I'm not, I'm going to reserve cross-  
19 examination for the 29th so they have, on that issue only.  
20 MS. HARRIS: That is fine, and I am sure once they  
21 hear Mr. Irish, they will realize that there's not a lot  
22 of --  
23 MS. ROBESON: Well --  
24 MS. HARRIS: -- issue related to the change.  
25 MS. ROBESON: Whatever --

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1 MS. HARRIS: That's fine. Whatever they would  
2 like.  
3 MR. ABRAMS: I guess there's going to be another  
4 exhibit number?  
5 MS. ROBESON: Yes. And you would provide them --  
6 MS. HARRIS: A corrected exhibit?  
7 MS. ROBESON: Yes. Except we can't let it out.  
8 THE WITNESS: I didn't do this exhibit, but we can  
9 certainly get together with the author of it and make the  
10 corrections. Us, as surveyors for the project, are more  
11 capable in precisely measuring areas. This I think was  
12 simply a mistake where they copied one image and forgot to  
13 change the numbers.  
14 MS. ROBESON: Well, that's a big mistake.  
15 THE WITNESS: Yes.  
16 MS. ROBESON: Because that's a critical issue here  
17 and as I said, the point of this proceeding like we have is  
18 that they, that everyone has the opportunity to really  
19 examine the project.  
20 MS. HARRIS: We would be more than happy to  
21 provide the opposing counsel with a revised exhibit.  
22 MS. ROBESON: And when do you think you could do  
23 that?  
24 THE WITNESS: I could have it done tomorrow so by  
25 Friday, we could send out a revised exhibit.

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1 MS. ROBESON: Okay. And then our next hearing --  
2 MS. HARRIS: Is the 29th.  
3 MR. ABRAMS: The next hearing is this, this  
4 Friday.  
5 MS. HARRIS: After this Friday.  
6 MS. ROBESON: The next hearing is Friday so if we  
7 reserve cross-examination until the 29th, then you'll have  
8 about a week.  
9 MS. HARRIS: To reserve cross-examination with  
10 respect to this exhibit.  
11 MS. ROBESON: This, yes. So --  
12 MR. ABRAMS: Is this to be a new exhibit number?  
13 MS. ROBESON: Well, yes.  
14 THE WITNESS: I'm not here on the 29th.  
15 MS. HARRIS: Would it, and would it -- may we, may  
16 I confer with Mr. Irish just logistically for one moment?  
17 MS. ROBESON: Why don't we take a five, ten minute  
18 break?  
19 (Whereupon, at 11:11 a.m., a brief recess was  
20 taken.)  
21 MS. ROBESON: Have you, are we able to do the 29th  
22 as a reserve date for cross-examination?  
23 MS. HARRIS: Actually, we didn't discuss that. In  
24 fact, we noted, what we discussed is the fact that we will  
25 not rely upon that exhibit 85 for the next portion of the

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1 testimony, and we would just note for the record that 85  
2 should not be relied upon with respect to the numbers that  
3 are on that plan. Does that solve the problem?  
4 MS. ROBESON: I guess the thing is it would have  
5 been nice to have the right numbers from the beginning but I  
6 can't say that I can, you know, deny testimony on it because  
7 it is a, you know, requirement of the zone, so I will let  
8 you, let Mr. Irish testify as to the correct amount of open  
9 space or green area. I can't remember the requirement off  
10 the top of my head.  
11 MS. HARRIS: Okay. And before we do that, I just  
12 want to go back to the last exhibit for one last question.  
13 My apologies. I overlooked a question that I thought was  
14 important.  
15 BY MS. HARRIS:  
16 Q Which was can you please dimension, identify the  
17 distance and then dimension it on Exhibit 112 between the  
18 face, northern faces of the City Homes and the northern  
19 portion of the scallop?  
20 A Yes. I'll add two dimensions. We've talked about  
21 the dimension from the face of the building across  
22 Montgomery Lane to be 73 feet. The scallop is an additional  
23 28 feet. So I'm noting in blue the dimension to the main  
24 portion of the City Homes as 101 feet.  
25 Q Thank you.

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1 A So it's 101 to the back of the scallop, 73 to the  
2 front of the scallop.  
3 Q Thank you. That's very helpful. Now, back to the  
4 question about the public use space.  
5 A Okay.  
6 Q Hold on. Let me get my question.  
7 A Thank you.  
8 Q So there was some concern expressed by opposing  
9 counsel with respect to the calculation of the public use  
10 space, and I think it may be helpful if you could rely upon  
11 Exhibit 70.  
12 A 70.  
13 Q 70 to explain the public use space numbers. Thank  
14 you.  
15 A Okay. Simply put, and hopefully, this will  
16 clarify where the space went, 4,092 square feet of public  
17 use space was the number that was shown on the original SJG  
18 submittal. Of that 4,092, 1781 square feet of it was along  
19 the northern property line. The Planning Board questioned,  
20 and I believe you did as well, how functional that could be  
21 as public use space.  
22 If you look at the Edgemoor at Arlington North on  
23 this Exhibit 70, you could see that they have a sidewalk  
24 coming back to a courtyard area in the northeast corner of  
25 their building. It's an easy thing to imagine that that

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1 might continue through to West Lane for some reason. So  
2 it's, it's certainly not an impossibility that it could  
3 someday be used as public use space when both projects  
4 develop but, and it certainly is every bit as functional as  
5 some of the other public use spaces that have been approved  
6 on other projects.  
7 MS. ROBESON: Wait. Are we justifying that or are  
8 you just --  
9 THE WITNESS: No.  
10 MS. ROBESON: I just want to know what the  
11 difference is.  
12 THE WITNESS: Okay. Of the 4,092 square feet that  
13 was shown on the original application --  
14 MS. ROBESON: Yes.  
15 THE WITNESS: -- that significantly exceeded the  
16 requirement, 1781 square feet of it, of that number was in  
17 that northern area. So 2,311, the difference between those  
18 two is the amount of square footage in the original  
19 application. It was along West Lane and Montgomery Lane  
20 frontage. 2,311 doesn't meet the 10 percent minimum. 2,841  
21 does. So there's a delta of over 500 square feet there. We  
22 added 615 square feet for the, for the scallop if nothing  
23 else changed but we also shortened this a little, the West  
24 Lane edge of it, to allow for the change to incorporate a  
25 loading dock there. So by adding the pocket park, adjusting

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1 for the loading dock, the public use space now, before the  
2 project, is, meets the minimum. The space top the north  
3 didn't go away.  
4 So call it whatever you want to call it. It's,  
5 it's not the whole truth to pretend that it went away and  
6 the public use space got smaller. Yes, the number got  
7 smaller but we just chose not to fight and call this public  
8 use space anymore. We have in fact added space to the plan  
9 of 87 square feet. The building square, the building  
10 footprint shrank by 87 square feet as a result of the change  
11 from the original submittal to the, to the current one, and  
12 all of that went into the additional green, plus some.  
13 MS. ROBESON: Okay.  
14 THE WITNESS: So the current plan is proposing the  
15 minimum --  
16 MS. ROBESON: Okay.  
17 THE WITNESS: -- 2,841 square feet.  
18 MS. ROBESON: What was the difference between, in  
19 green area, what's the difference between this and the  
20 original submission in square feet?  
21 THE WITNESS: You mean public use space?  
22 MS. ROBESON: Yes.  
23 THE WITNESS: The original submittal was 4,092.  
24 This submittal is 2,841 of area that we're choosing to call  
25 public use space. The 2,841 that we have still, in addition

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1 to that, we still have the 1781 square feet at the north.  
2 MS. ROBESON: Right, but I'm talking about just  
3 the public use space.  
4 THE WITNESS: We meet the minimum. We will at  
5 least meet the minimum, which is 2,841.  
6 MS. ROBESON: Okay.  
7 MS. HARRIS: Do you have any other questions  
8 for --  
9 MS. ROBESON: No, I don't.  
10 BY MS. HARRIS:  
11 Q I'm going to ask you to characterize, tell me if  
12 this characterization --  
13 MS. ROBESON: Well, I do. If the building area  
14 shrank by 87 feet, how come the gross floor area on the two  
15 development plans is the same? How come? Why is the gross  
16 floor area on the two development --  
17 THE WITNESS: I'm just talking the footprint at  
18 grade of the building. The --  
19 MS. ROBESON: But the footprint is what impacts  
20 the open space, right?  
21 THE WITNESS: Well, there were, there were other  
22 adjustments that were made to the building as well. I'm not  
23 the architect. I can't --  
24 MS. ROBESON: Oh, I see. You mean --  
25 THE WITNESS: -- in detail tell you what got

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1 changed but --

2 MS. ROBESON: You're saying it could have been the

3 GFA could have, more space could have been added to the GFA

4 somewhere else besides the footprint. So your testimony is

5 the footprint shrank by 887 square feet. The footprint.

6 THE WITNESS: Correct. In, in total.

7 MS. ROBESON: Okay.

8 THE WITNESS: I can say two simple explanations.

9 We talked about the western edge being 12 feet from the

10 property line. It was originally 15, so the building grew

11 there. The building used to come to a point at West Lane.

12 We cut the scallop out, so it shrank there. But the net of

13 that plus whatever else the architect did, I'm just looking

14 at the footprint dimensions. It is a reduction.

15 MR. ABRAMS: So that it's clear for the record,

16 are we talking about, when you say, the gross shrinkage of

17 87 square feet relates to the building footprint and not the

18 gross floor area.

19 THE WITNESS: Correct.

20 MR. ABRAMS: Okay. All right.

21 MS. ROBESON: Okay.

22 BY MS. HARRIS:

23 Q Are you aware of any other projects within the TS-

24 R Zone that came in originally with a public use space of 14

25 percent which is what the applicant proposed?

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1 A I don't recall. I know there are a lot of

2 projects that are struggling to get public use space. This

3 Exhibit 70 shows, for example, across the street, 4825

4 Montgomery Lane's three little green islands in between the

5 driveways and greenspace to the north on the side property

6 line. You kind of question the viability of that as public

7 use space. Similarly, the Edgemoor highrise includes their

8 entire ADA accessible ramp and stairway in that space. To

9 me, that space reads as private, not public. When we sit

10 down with a client and describe public use space and what

11 the requirement is, my description is that the space needs

12 to read like it's public. If you're enjoying that space,

13 you don't feel like you're intruding on someone's private

14 space.

15 Q And as noted, that the project meets the

16 requirement of the 10 percent public use space, correct?

17 A It does, and it will.

18 Q Thank you. Does the Sector Plan prohibit heights

19 in excess of 65 feet on this site?

20 A No, it does not. Page 39 of the Sector Plan

21 recommends a height minimum --

22 MR. KNOPF: Objection again. Here we go with some

23 land planning testimony.

24 MS. ROBESON: Yes. I, I really -- we've had a lot

25 of testimony on heights and I would prefer to move onto

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1 something else. I don't know --

2 MS. HARRIS: Well, I would just note that the

3 civil engineer, as part of his job, needs to take the Zoning

4 Ordinance and Sector Plan and integrate it into the physical

5 components of the site and so therefore, and those items

6 really can't be divorced.

7 MS. ROBESON: Well, we've already had, I mean, we

8 all know what the measuring height is, we know where it was

9 measured, and I really don't think that there's anything

10 that he's going to be able to add.

11 MS. HARRIS: Okay. We'll move on.

12 THE WITNESS: I was looking forward to that part.

13 MS. ROBESON: You can give it to your wife tonight

14 if you want to.

15 THE WITNESS: I'm sure she would enjoy it.

16 MS. HARRIS: Over a fine rose.

17 BY MS. HARRIS:

18 Q The next question's related to height but only to

19 clarify that, or to ask the question that the Sandy Spring

20 building project is 65 feet but then someone also noted that

21 it's 61 feet. Can you please clarify that?

22 A Yes. The development plan and the elevation

23 submitted with the development plan clearly show that the

24 building is 65 feet to the roof plus 4 feet for the parapet.

25 Q And has the site plan been approved for this, for

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1 that project?

2 A I don't know whether it's been approved and I have

3 not seen it. I have heard rumors that the height might

4 be --

5 MS. ROBESON: Well, we don't need to -- well, go

6 ahead. I don't want to go into rumors --

7 THE WITNESS: Well, let me --

8 MS. ROBESON: -- if that's all we know.

9 THE WITNESS: -- retract that sentence. The site

10 plan has to conform with limits on the development plan.

11 MS. ROBESON: Right.

12 THE WITNESS: If the development plan says the

13 height, 65 feet, they could submit a plan showing 63 feet.

14 MS. ROBESON: That's right.

15 THE WITNESS: And be in conformance. But they

16 couldn't submit a plan showing 65 feet, 1 inch.

17 MS. ROBESON: If, if, I think the TS-R Zone, the

18 height's determined at site plan unless they have a binding

19 element.

20 MS. HARRIS: Correct.

21 MS. ROBESON: Correct?

22 THE WITNESS: Correct.

23 MS. ROBESON: So unless you, you know, have

24 anything to add to that, you really don't know the height

25 right now.

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1 THE WITNESS: Well, I guess --  
2 MS. ROBESON: Or whether there's a cap on that  
3 height.  
4 THE WITNESS: Well, I guess I should -- what I'm  
5 trying to say is irregardless of what the site plan might,  
6 might or might not show for the height, it could be amended  
7 to be 65 feet without amending the development plan.  
8 MS. HARRIS: Thank you.  
9 MS. ROBESON: Well, that is a possibility.  
10 BY MS. HARRIS:  
11 Q Does the proposed development plan conflict in any  
12 way with the county Capital Improvement Program?  
13 A No, it does not. It doesn't rely on any Capital  
14 Improvement Program projects.  
15 Q And in your professional opinion, does the  
16 application, the local map amendment and the development  
17 plan meet all applicable code requirements?  
18 A It does and it will, yes.  
19 Q And then finally --  
20 MR. KNOPF: Well, excuse me. I presume you're  
21 referring, I mean, he's not -- there's code requirements  
22 about compatibility and about adverse impacts. He's not  
23 testifying about that. Let's narrow it down what type of  
24 code requirements he's blessing here.  
25 MS. HARRIS: All right. We'll go -- hold on one

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1 moment.  
2 MR. KNOPF: That's a little broad.  
3 THE WITNESS: I do think it's compatible.  
4 MS. ROBESON: Okay.  
5 THE WITNESS: I can't say?  
6 MS. ROBESON: Don't volunteer.  
7 THE WITNESS: Okay.  
8 MS. HARRIS: Bear with me for one moment. I'm  
9 looking for what --  
10 BY MS. HARRIS:  
11 Q In terms of Section 59-8.4, the development  
12 standards, does --  
13 A 59-C or B?  
14 Q Yes. 59-C, sorry, the TS-R Zone. Does the  
15 proposed project meet the minimum area requirements?  
16 A Yes.  
17 MR. KNOPF: Excuse me again. I don't mean to  
18 interrupt but this is going on so long. Didn't we have the  
19 architect swear to all of these things, the development  
20 standards and all the other things were met, and somebody  
21 else testified about public facilities and so on? I mean --  
22 MS. HARRIS: No. Mr. Irish testified to public  
23 facilities.  
24 MS. ROBESON: Yes. It would be the civil that  
25 does the public --

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1 MR. KNOPF: But I thought we already had this.  
2 That's what I'm getting at.  
3 BY MS. HARRIS:  
4 Q Okay. For sake of efficiency --  
5 MS. ROBESON: Well, I'm going to let him testify  
6 as to develop standards --  
7 MS. HARRIS: Thank you.  
8 MS. ROBESON: -- which are generally the height,  
9 bulk, you know. I don't think there's too many in the TS-R  
10 Zone but --  
11 MS. HARRIS: That is true.  
12 MS. ROBESON: -- that is something the civil, the  
13 civil engineer usually does.  
14 BY MS. HARRIS:  
15 Q Section 59-C-8.42, which it says that the density  
16 of the development must not exceed the FAR except that the  
17 maximum density committed may be increased to accommodate  
18 the construction of moderately priced dwelling units as  
19 required by Section 25A. Does the project meet that  
20 requirement?  
21 A It does. The standard FAR allowable for the site  
22 would be 2.5, and that section that you read allows for the  
23 density FAR to be increased --  
24 Q In accordance --  
25 A -- in accordance with Chapter 25, 25A I believe

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1 for MPDUs. That's such that you would, for 15 percent  
2 MPDUs, you would get a 22 percent bonus FAR. That  
3 multiplied by 2.5 is how we arrived at the 3.05 FAR.  
4 Q Thank you.  
5 MS. ROBESON: Okay. How about just does it -- are  
6 you familiar with the development standards that are set out  
7 in 59-C-8.4?  
8 THE WITNESS: Yes.  
9 MS. ROBESON: Okay. Why don't -- and does it  
10 comply with those?  
11 MS. HARRIS: Well, I was, that's what I was going  
12 through.  
13 MS. ROBESON: Yes. I know.  
14 MS. HARRIS: We only had three more but we can, I  
15 mean, I was -- until you requested that we go through those,  
16 I was going to summarize it but then I thought you actually  
17 wanted us to go through these specific --  
18 MS. ROBESON: No. I just --  
19 MR. KNOPF: I have no objection  
20 MS. ROBESON: I just want to identify that what  
21 he's testifying to is the development standards in 59-C-8.4.  
22 MR. KNOPF: And that's all I had in mind with my  
23 objection, just to what area.  
24 MS. HARRIS: It's unclear to me. Should I proceed  
25 and ask him about meeting the open space requirements of 59-

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1 C?

2 MS. ROBESON: Well, he's already testified to

3 that. Mr. Irish, does this project, in your opinion, meet

4 the development standards in 59-C-8.4?

5 THE WITNESS: Yes.

6 MS. ROBESON: Okay.

7 MS. HARRIS: Thank you.

8 BY MS. HARRIS:

9 Q And then one final question. Based on your many

10 years of experience in Montgomery County and experience in,

11 with projects within the Bethesda CBD and also with several

12 projects within this TS-R district, in your professional

13 opinion, would the project be compatible with the

14 surrounding area?

15 MR. KNOPF: Objection.

16 MS. HARRIS: He can base -- and what's the

17 objection based on?

18 MR. KNOPF: That's land planning testimony.

19 MS. HARRIS: Not --

20 MR. KNOPF: Or architectural.

21 MS. ROBESON: For the weight it deserves, he can

22 answer it.

23 THE WITNESS: My answer is absolutely. There's a

24 lot of reasons why it's compatible, and I've discussed many

25 of them.

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1 MS. ROBESON: Okay.

2 THE WITNESS: It's shorter than the tallest

3 building.

4 MS. ROBESON: Based on what you testified to.

5 THE WITNESS: Exactly.

6 MS. ROBESON: Okay.

7 MS. HARRIS: Thank you. That concludes our

8 testimony.

9 MS. ROBESON: All right. Cross-examination.

10 CROSS-EXAMINATION BY MR. ABRAMS

11 BY MS. HARRIS:

12 Q Okay. Mr. Irish, I don't want to leave you in the

13 state of speculation.

14 A We'd never want to be there. I'm sorry. You had

15 asked me to get copies of the truck exhibit. If I had those

16 made, would you --

17 MS. ROBESON: Oh, are you --

18 THE WITNESS: From yesterday.

19 MS. ROBESON: -- going to introduce those now?

20 MS. HARRIS: I'm sorry. I should have done that

21 before.

22 THE WITNESS: Whether they need to be in the

23 record or not, they asked for copies of them, I have them.

24 BY MR. ABRAMS:

25 Q Is this the turning radius?

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1 A The dimensions of the --

2 Q Trucks.

3 A -- trucks.

4 Q Yes. All right.

5 MS. ROBESON: Okay. Why don't we mark. Do you

6 have copies for --

7 THE WITNESS: I have four copies.

8 MS. ROBESON: Okay. Thank you.

9 THE WITNESS: Which exhibit number?

10 MS. ROBESON: Okay. And it would be number --

11 MR. KNOPF: 115.

12 MS. ROBESON: Is that what it is? Thank you. So

13 this is AASHTO truck illustrations.

14 MR. KNOPF: I note it's two-sided.

15 MS. ROBESON: Well, do you want to put A and B?

16 MR. KNOPF: For the sake of referring to it, maybe

17 it would help.

18 MS. ROBESON: Okay. So 115A I'm going to, it's

19 listed as page 22 at the bottom. And 122B is page 31 of --

20 MR. KNOPF: It's 115B.

21 MS. ROBESON: 115A is AASHTO truck illustrations,

22 page 22, and 115B is AASHTO truck illustrations, page 31.

23 MR. KNOPF: Thank you.

24 MS. ROBESON: Okay. Go ahead.

25 (Exhibit Nos. 115A and 115B were

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1 marked for identification.)

2 BY MR. ABRAMS:

3 Q I'll show you a document. What is that document?

4 A It's the first time I've seen it. There's

5 several, quite a few pages.

6 Q Okay. Let's go to the top.

7 A Notice of Application.

8 Q Okay. Which application?

9 A Preliminary plan 1-2013-0120, site plan 8-2013-

10 0150.

11 Q And what's the date of the notification?

12 A 2/15/13.

13 MS. HARRIS: Objection, or can there be copies

14 shared so that others --

15 MR. ABRAMS: Yes, as soon as --

16 MS. ROBESON: It's not admitted yet.

17 MR. ABRAMS: I admit it. It may not be admitted.

18 THE WITNESS: Why are we looking at it?

19 MS. HARRIS: Well, it's difficult for him to be

20 asking our --

21 MR. ABRAMS: Well, because he can testify to it.

22 MS. HARRIS: -- witnesses something if we haven't

23 seen it.

24 MR. ABRAMS: All right.

25 MS. ROBESON: Okay. Let's -- we can mark it as

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1 116. What is this?  
2 MR. ABRAMS: This is the notification of the site  
3 plan and preliminary plan filing for, with the Montgomery  
4 County Planning Board for the 4825 building. And basically,  
5 I'm going to follow that up with copies of the site plan and  
6 preliminary plan which show what has been filed in terms of  
7 the building height and the parapet wall height.  
8 MS. ROBESON: Which he testified to.  
9 MR. ABRAMS: Yes.  
10 MS. ROBESON: Okay. So I'll mark 116 is the  
11 2/15/2013 notice of application of, for 4825 Montgomery  
12 Lane.  
13 (Exhibit No. 116 was marked  
14 for identification.)  
15 MS. ROBESON: Wait just one second. And then 116  
16 is the, what is this, the --  
17 MR. ABRAMS: That's the composite site plan. It's  
18 on the bottom.  
19 MS. ROBESON: Oh, I see it. I see it. Is the  
20 composite site plan for the same project?  
21 MR. ABRAMS: This is a preliminary plan for the  
22 same project.  
23 MS. ROBESON: It's the preliminary plan?  
24 MR. ABRAMS: Yes.  
25 MS. ROBESON: Okay.

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1 MR. KNOPF: Was that an A, B, C or you gave it  
2 different numbers?  
3 MS. ROBESON: I gave it different numbers.  
4 MR. KNOPF: Okay. Thank you.  
5 MR. ABRAMS: Okay.  
6 MS. ROBESON: So 116 is the notification of the  
7 development plan hearing, 117 is the composite site plan and  
8 118 is the preliminary plan, all for 4825.  
9 (Exhibit Nos. 117 and 118 were  
10 marked for identification.)  
11 MR. ABRAMS: Do you want me to show this to  
12 Counsel at this time before the examination?  
13 MS. ROBESON: You may.  
14 MS. HARRIS: Did Mr. Irish get a good look at it?  
15 MR. ABRAMS: No. Not yet.  
16 MR. KNOPF: Do you have copies for Counsel?  
17 MR. ABRAMS: No. Norman, do you want to see  
18 these?  
19 MR. KNOPF: That's all right. I'll rely on -- are  
20 you using these?  
21 MR. ABRAMS: Yes.  
22 BY MR. ABRAMS:  
23 Q Now, Exhibit 116, is that the typical type of  
24 notification for a preliminary plans and site plan approvals  
25 before the Planning Board?

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1 A Yes.  
2 Q Okay. Now, I'm going to show you what has been  
3 marked as Exhibit 118, and what is that document?  
4 A Both of them?  
5 Q No. Just this one.  
6 A It's entitled Preliminary Plan Edgemoor, File No.  
7 1-2013-0120.  
8 Q And that matches the notification?  
9 A Yes.  
10 Q Okay. So essentially, is that the preliminary  
11 plan for 4825 Montgomery Lane?  
12 A Yes.  
13 Q Does it have a series of notes under a heading  
14 building heights?  
15 A Yes.  
16 Q I've check marked two of the numbers that I'm  
17 interested in your testimony to. What does it say about  
18 building height in terms of number of feet?  
19 A It's difficult to read due to the size, but it  
20 appears to say height of building from first floor to top of  
21 roof, 60 feet per architect.  
22 Q Okay. Now, what does the line under that say?  
23 A Height of building from first floor to top of  
24 parapet wall, 64 feet.  
25 Q Okay. So a 60 foot --

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1 A That's not how building height is measured for  
2 zoning purposes.  
3 Q I'll just ask you to read it.  
4 A Okay.  
5 Q Now, would a 60 foot building height on a site  
6 plan and preliminary plan, would there be any problem in a  
7 deviation from a 64 foot or 65 foot height in an approved  
8 development plan in terms of it being consistent?  
9 A I don't know that that's consistent with the  
10 development plan. The height is not measured from the first  
11 floor of the building per the zoning code.  
12 Q But it does say 60 feet.  
13 A It does say 60 feet.  
14 Q Is that the type, if it were properly measured,  
15 we're assuming that it is, it were properly measured, would  
16 a five foot difference or variation between the approved  
17 development plan and the site plan be a basis for  
18 disapproval on the grounds that it was not consistent with  
19 the development plan?  
20 A Let me restate what I think you're asking me  
21 because I'm not sure I understand. You're asking me that if  
22 a project had a development plan approval at 65 feet,  
23 measured appropriately per the Zoning Ordinance, and then a  
24 site plan were submitted with 60 feet, measured  
25 appropriately, which this doesn't do, would that be a

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1 grounds for denial of the plan or would it be appropriate.  
2 Q Would it be consistent with your approved  
3 development?  
4 A It wouldn't be the same. It would be allowable.  
5 Q Well, the sameness and consistency is equal in  
6 terms of the Zoning Ordinance provision requiring  
7 consistency of the site plan with the approved building  
8 plan.  
9 A I think it would probably be deemed consistent.  
10 I, as I mentioned before, I don't think there would be a  
11 problem with the building coming in slightly lower than what  
12 was shown in the development plan. You typically call for  
13 that.  
14 Q All right. Getting back to the public use space,  
15 I'm still somewhat confused and here's my confusion. The  
16 original building footprint, up until the time that the  
17 scallop corner piece came into being, wasn't that building  
18 footprint, including the southwest side of the building,  
19 further back by three feet than --  
20 A Further back from where?  
21 Q Further back from the southwest corner, property  
22 line, from the Arlington North. Is that --  
23 A The original project was submitted with a 15 foot  
24 setback from the western property line.  
25 Q Correct. Do we have an exhibit? Okay. I'm

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1 referring to Exhibit 108. 108, on the southwest side, shows  
2 a straight line proceeding north and south, does it not?  
3 A On the west side it does.  
4 Q Southwest side. Well, on the southwest side of  
5 the project.  
6 A Yes.  
7 Q Okay. Now, that is currently 12 feet, correct?  
8 A The, the current proposal for that face would be  
9 12 feet from the western property line, yes.  
10 Q Okay. Now, the original proposal, up to the time  
11 that the scallop portion came into being, wasn't that 15  
12 feet back?  
13 A Yes.  
14 Q Okay. Now, how many square feet was involved in  
15 that minor adjustment?  
16 A I don't know.  
17 Q You don't know. Where did that three foot  
18 difference go in terms of what part of the building and in  
19 terms of the first floor area of the building?  
20 A What I said under the direct testimony was I'm not  
21 the architect and I can't tell you exactly where it went.  
22 There's two simple places. The building was reduced by 615  
23 feet to take the scallop out, and it was increased by some  
24 amount to move the building closer to the western line by  
25 three feet. It was increased on one side and decreased on

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1 the other side, and I said that the net was 87 feet less at  
2 the ground area.  
3 Q And also, on the West Lane side, there were cut-  
4 outs in the face of the building.  
5 A Correct.  
6 Q To, I guess, increase the public use space on the  
7 west side of the building?  
8 A The revised plan does show some articulation along  
9 that face, yes.  
10 Q And where did the amounts factor into the gross  
11 floor area of this building? I mean, the gross floor area  
12 of this building has shown on the development plan, from the  
13 time it has been filed, this application filed, to the  
14 current time, remains, has remained the same.  
15 MS. HARRIS: I'm going to object. I think the  
16 witness has testified as to the footprint which he obviously  
17 knows as a civil engineer, but I believe what Mr. Abrams is  
18 asking has to do with how the interior space is configured  
19 to get to a certain square footage. That's certainly  
20 outside the realm of this witness.  
21 MR. ABRAMS: Well, we've been told that it's  
22 always the next witness including the architect telling  
23 us --  
24 MS. ROBESON: I have to say the architect's come  
25 and gone, and now we find out it's the gross floor area. Do

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1 you know the answer?  
2 THE WITNESS: What I can say is that the building  
3 was designed to the maximum allowable gross floor area by  
4 the architect, and that is analogous to a water balloon, if  
5 you will, in fixed size. And if it grew in one area, it  
6 shrank in another area and it morphed a little bit in the  
7 process, the intent -- and the building is not final design.  
8 This is the zoning plan. The intent of the project is that  
9 the building, within he setback limits defined will achieve  
10 a 3.05 FAR and how the architect fills that space is --  
11 MS. ROBESON: So you don't know exactly what  
12 happened.  
13 THE WITNESS: No.  
14 BY MR. ABRAMS:  
15 Q In terms of the building footprint, you said it  
16 shrunk by 87 square feet.  
17 A In total.  
18 Q In total. Now, did that 87 square feet include  
19 the area on the southwest side of this building which was  
20 expanded from the original plan?  
21 A I don't know how to answer your question. The  
22 footprint is 87 feet smaller. On the west side of the  
23 building, it's bigger than before. On the southeast side of  
24 the building, it's smaller. Out along the east side,  
25 there's articulation that I don't know whether it made it



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1 dimension between 4901 and City Homes is 48 feet. Between  
2 Edgemoor and Montgomery, 4825, is only 23 feet. Between the  
3 subject property and City Homes is anywhere between 73 feet  
4 and 101 feet.  
5 BY MR. ABRAMS:  
6 Q Okay. Why don't you put the distance between 4901  
7 Hampden Lane and the edge of the easternmost City Homes  
8 building.  
9 MS. ROBESON: And that's 48 feet did you say?  
10 THE WITNESS: 25 and 23 is 48.  
11 MS. ROBESON: What color are you using, black?  
12 THE WITNESS: Blue.  
13 MS. ROBESON: Oh, blue. And you've got arrows,  
14 okay.  
15 BY MR. ABRAMS:  
16 Q Now, again referring to Exhibit 106B, what is the  
17 distance between the Hampden Lane building on Hampden Lane  
18 and the three sticks of townhouses which it touches?  
19 A I believe they basically abut. The City Home was  
20 constructed -- well, that Hampden Lane project was not  
21 constructed. City Homes were built on the property line  
22 with no windows as one would be required to do if you build  
23 on the property line. That would then allow the building on  
24 the opposite side to abut as you see in many of them here.  
25 Q Okay. Realizing that Exhibit 112 does not, and

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1 this is number, Exhibit 77 duplicated with the markers, does  
2 not go all the way south to the property line with Hampden  
3 Lane, could you just put a line across here with the word  
4 Hampden Lane and what the setback is from City Homes?  
5 A It wouldn't be drawn to scale.  
6 Q I understand that, but I just want a relationship  
7 between these two exhibits to exist. You can do it toward  
8 the bottom.  
9 A What do you want me to call this building on  
10 Hampden Lane?  
11 MS. ROBESON: Just Hampden Lane.  
12 BY MR. ABRAMS:  
13 Q Just Hampden Lane.  
14 MS. ROBESON: That's how it's been referred to.  
15 BY MR. ABRAMS:  
16 Q The rendering that you used was Exhibit 77 or 76?  
17 A The one behind me is 76.  
18 Q 76. Was there another rendering which was 77?  
19 That's what I marked down. I think it's the one that you  
20 put a line at the top of one of the buildings.  
21 MS. ROBESON: Oh, that's the one with the multiple  
22 buildings?  
23 MR. ABRAMS: Yes. That's it. Is that 77?  
24 MS. ROBESON: Well, it's now --  
25 THE WITNESS: That's 114.

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1 MS. ROBESON: It's now 114 because he marked it.  
2 BY MR. ABRAMS:  
3 Q Now, those are rendered versions of those  
4 buildings, is that correct?  
5 A The -- some of them. The City Homes is clearly a  
6 program.  
7 Q Okay.  
8 A In terms of the representations on that exhibit,  
9 are they to scale?  
10 Q To the best of my knowledge, yes.  
11 A What's the scale? These are perspective drawings.  
12 Perspectives don't have a scale. They're three-dimensional.  
13 Q When you draw a line at the top, don't you have to  
14 know precisely the amount of height that you're talking  
15 about?  
16 A You would if you were scaling off of this drawing.  
17 I was illustrating on this drawing a dimension that I know  
18 to be the case from other exhibits, used this exhibit to  
19 illustrate it.  
20 Q Would you agree that you can't scale photographs  
21 such as this?  
22 MS. HARRIS: Objection. He didn't scale it.  
23 BY MR. ABRAMS:  
24 Q You haven't scaled photographs such as this.  
25 A I haven't scaled any.

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1 Q Now, the handicap ramp in the front of the  
2 building, and you can go back to that perspectives of the  
3 front of the building. I think it's the first one in that  
4 sheet.  
5 A Which building?  
6 Q Your building. Yours generically. Okay. Where  
7 is the handicap ramp on Montgomery Lane?  
8 A You mean to cross Montgomery Lane?  
9 Q No. On the Montgomery Lane side of the entrance,  
10 is there a handicap ramp there?  
11 A Handicap ramp right --  
12 Q No.  
13 A -- behind the lady in the pink shirt.  
14 Q Getting into the building from the sidewalk.  
15 A From Montgomery Lane, there are steps from West  
16 Lane and there's a grade.  
17 Q Okay. Would it be correct to say that there is no  
18 handicap ramp which would allow access from Montgomery Lane  
19 directly into the lobby of the building?  
20 A Not in this illustration.  
21 Q Well, is it or isn't it?  
22 A We're not at final design.  
23 Q When we were talking a few moments ago about the  
24 size of the building, proposed building, and the size of the  
25 side of the City Homes townhouses, the proposed building is

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1 approximately twice as wide as the City Homes townhouse  
2 stick, is that correct?  
3 A Yes. I've said that.  
4 Q Okay. If the width and mass of the City Homes  
5 buildings are smaller than the subject property, or the  
6 subject building, wouldn't the setback produce a visual and  
7 physical feel of closeness with regard to somebody passing  
8 your project, taking the setbacks from each side, as  
9 opposed, and relating those to the mass and scale of the  
10 building?  
11 A I think you would feel closer on the City Homes  
12 side because the, while the bulk of the building is  
13 essentially the same setback from the sidewalk as our  
14 building, City Homes has stairways that are essentially a  
15 story tall that project five or six feet into that space.  
16 Q Those are -- excuse me.  
17 A So essentially, half of that space is absorbed by  
18 private, you know, stairways or planters, whatnot so if  
19 you're walking on the sidewalk on the south side, the public  
20 space would appear smaller there than it would in front of  
21 our proposed building.  
22 Q Isn't that the same situation that occurs with the  
23 entrance and that little pocket park area, that it intrudes  
24 upon the right-of-way in the sidewalk area, it comes out  
25 from the building?

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1 A The pocket park, depending on how you define it,  
2 yes, projects into public space.  
3 Q And aren't the stairs that you described on the  
4 sides of the City Home units, aren't they basically exempted  
5 projections?  
6 A From a setback, yes, but I believe so. I'm not  
7 sure that the height of it meets them but, meets the  
8 setback, the setback exemption. These steps aren't part of  
9 the building. They're part of the park, and they're not as  
10 high as the City Homes steps as you can see from the  
11 rendering in 76, you know. It's to pick up the little bit  
12 of grade difference around the corner, between West Lane and  
13 Montgomery Lane. In terms of -- I believe that would all  
14 read as public space as opposed to an entry in a single  
15 unit.  
16 Q What is the total square footage of the roof area,  
17 do you know?  
18 A Not offhand.  
19 Q Is it on any of the drawings?  
20 A I honestly don't know. I don't, I don't see it.  
21 Q Okay. Let's try it this way. Exhibit 108 is a  
22 marked up copy of development plan. Can we find that,  
23 possibly use that for these next questions?  
24 A This 108 duplicate. I don't --  
25 Q Right. His markings are on that, that plan.

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1 A Okay.  
2 Q Now, if you're looking straight down and assume  
3 that the roof covers all of the, the building area -- first  
4 of all, is that a rational assumption?  
5 A Unless you want to get wet.  
6 Q Okay. With the --  
7 A I mean, if we carry it to a different level --  
8 Q With the exception of the setbacks in the front of  
9 the building.  
10 A Well --  
11 MS. ROBESON: The step back.  
12 THE WITNESS: Well, there's a roof over the front  
13 of the building. It just happens to be at the five story  
14 level. There's a roof over the seven story level.  
15 BY MR. ABRAMS:  
16 Q What I'm trying to do is get to the roof so that  
17 you can show us where the green roof portion is going to be  
18 and where the recreational private use space is going to be,  
19 or are they the same.  
20 A I don't know that that space has been designed  
21 from the standpoint of what active/passive uses might be on  
22 might or might not be on the roof.  
23 Q Well, isn't that --  
24 A As I've said, there's 6,000 feet of green roof.  
25 Q Isn't that important, in terms of the notes on the

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1 development plan, as to how much private, community use  
2 space there is?  
3 A I don't believe that it is. If we meet the  
4 minimum or meet the amount that we say without going on the  
5 roof, doesn't matter. If we have space on the roof that is  
6 active/passive but isn't accessible we state on the plan, is  
7 that a problem?  
8 Q It's not a question of being a problem. It's a  
9 question of being consistent with the development plan.  
10 It's a question about --  
11 MS. HARRIS: Objection. There was never any  
12 testimony indicating that the recreational space on the roof  
13 was, went toward the active and passive recreational  
14 requirement of the zone.  
15 MR. ABRAMS: Well, that's what I'm trying to find  
16 out. If it isn't, then it isn't.  
17 MS. HARRIS: Well, I think he just testified to  
18 that fact.  
19 MS. ROBESON: Well, just a second. I wasn't  
20 hearing the question in what you were starting to say.  
21 BY MR. ABRAMS:  
22 Q The question was is the active/passive private  
23 recreational space noted in terms of square footage, does  
24 that include the roof area.  
25 A I don't believe it has to.

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1 MS. ROBESON: No, but does it? Does it? Are you  
2 meeting your minimum, or whatever the percentage, does that  
3 include the roof?  
4 THE WITNESS: There is more than enough space at  
5 grade to meet the minimum. The development plan indicates  
6 that there is 7,421 square feet as opposed to the minimum of  
7 5,682 square feet, so an additional 6 percent. There's a  
8 community room proposed in the building that would count,  
9 there is a fitness center in the building that would count.  
10 I don't recall the size of those. It may be -- I did not  
11 make that calculation. It may be that the -- as I said  
12 earlier, the space, the space behind the building on the  
13 west side of the building exceeds the minimum requirement  
14 for active/passive. We will be exceeding that for the  
15 project just by adding community room and fitness center. I  
16 don't know whether the applicant intends to put recreation  
17 space on the roof or not. If she does, it would just be  
18 additional.  
19 BY MR. ABRAMS:  
20 Q How did you determine, if you are the person that  
21 determined this, the height of the City Homes buildings?  
22 A The -- I think what was indicated in testimony was  
23 that the height was to the peak of the roof which is not how  
24 it's measured for zoning but is what visually you would see  
25 there. So the 53 feet is roughly what you would get from

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1 the peak of the roof to the measuring point.  
2 Q So the actual zoning height, in terms of the  
3 building height definition in the Zoning Ordinance, how high  
4 are the City Homes buildings?  
5 A I believe they're approximately 48 feet. I  
6 haven't measured the, the peak of the roof to the, to the  
7 eave. We may have -- the one right across from us to the  
8 mean of the eave where you would measure it by zoning code  
9 is I believe about 47 feet.  
10 Q Okay. Now, if that's the case, the measurements  
11 on say Exhibit 106D and some of the similar measurements on  
12 similar exhibits, are they really accurate in terms of the  
13 representations on those exhibits?  
14 A Let me get the exhibit you're referring to first.  
15 MR. ABRAMS: This is the one, Pat.  
16 MS. HARRIS: No. I'm not sure.  
17 BY MR. ABRAMS:  
18 Q Okay. So the 53, this is Exhibit 106D, the 53  
19 feet shown on the City Homes exhibits, they go to the very  
20 tippy top of the building, right?  
21 A Correct.  
22 Q Okay. What is known for West Lane is, I think you  
23 got 71 feet. It's hard to read.  
24 A Seventy.  
25 Q Seventy feet, okay. That doesn't go to the tippy

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1 top of the structures on the roof, does it?  
2 A It goes to the top of the flat roof.  
3 Q Okay. It doesn't go to the top of the penthouse,  
4 does it?  
5 A No.  
6 Q And how many feet would that be, if you know?  
7 A I don't know.  
8 Q Does it go to the top of any other structures that  
9 are going up there?  
10 A What other structures?  
11 Q Well, I'm going to ask you as a follow-up  
12 question.  
13 A Well, it goes to the flat roof so if there's  
14 anything above the flat roof, it does not go to it.  
15 Q What other structures are going to be other than  
16 the penthouse?  
17 A None that I'm aware of.  
18 Q Okay. Above the penthouse, is there going to be  
19 equipment related to the elevators?  
20 A Above the penthouse?  
21 Q Above the penthouse.  
22 A I don't know. I thought the elevator would be  
23 part of the penthouse. That's architectural question. I  
24 don't know how he's designed that space.  
25 Q The box which is the penthouse on the roof, is

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1 that to take the elevator, I guess you call it the elevator  
2 enclosure, up to a certain height?  
3 A I don't know. It's, you're asking an  
4 architectural or a mechanical question. I'm a civil  
5 engineer.  
6 Q Okay. The same goes for, you've got the building  
7 height for 4825 Montgomery Lane as 65 feet.  
8 A That's correct.  
9 Q Okay. And that includes up to what point?  
10 A That's to the flat roof. It doesn't include any  
11 penthouse, if any, and it doesn't include the parapet.  
12 Q Notwithstanding that the preliminary plan says 60  
13 feet.  
14 A We've all heard of Clarksburg, and Clarksburg came  
15 about as a result of somebody buying townhouses that had  
16 site plan approval and built them to a height higher than  
17 the site plan called for but was allowed in the zone. My  
18 point is we've got a project that has County Council  
19 approval to be 65 feet tall. If somebody chooses to submit  
20 a site plan to call it 60 feet from first floor, so I don't  
21 know what that is from the measuring point but probably some  
22 point higher, and then sells the project and a new builder  
23 comes in, he could build it to 65 feet as long as he could,  
24 amended the site plan, wouldn't have to amend the  
25 development plan.

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1 Q When an, excuse me, when an application is filed  
2 down at Park and Planning for site plan or preliminary plan  
3 approval, before it's actually accepted, it's reviewed by  
4 staff, isn't it?  
5 A Yes.  
6 Q For completeness and for accuracy.  
7 A Yes.  
8 Q Okay. Wouldn't that have occurred before those --  
9 A For completeness.  
10 Q Wouldn't that had occurred before the  
11 notification, copy of the site plan were sent out to the  
12 community?  
13 A Yes.  
14 Q Now, on that same Exhibit 106D, there's a building  
15 height for Edgemoor at Arlington North being 48 feet. There  
16 are actually two steps to that height, isn't it, correct?  
17 A Yes. I marked, I believe I marked those on 112.  
18 Q Okay. And the front edge is what?  
19 A Thirty-five, I'm showing the height as 35 to 48 on  
20 Edgemoor at Arlington North, and 33 to 46 on Edgemoor at  
21 Arlington.  
22 Q Now, those height limits, do they include any roof  
23 elements or structures on the roof?  
24 A No.  
25 Q Do you know if there are roof elements or

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1 structures on the roof?  
2 A On the three story portion of the building that  
3 exists at Edgemoor at Arlington, I described that there is a  
4 pergola or terrace or whatever, so the actual four story  
5 roof appears to project out at that level. It's not solid  
6 mass there but there's terrace or whatnot there. Above on  
7 the four story portion above the floor, the floor of the  
8 roof if you will, Exhibit 106F shows an area outline for  
9 what I would assume is the penthouse and elevator override.  
10 A Using Exhibit 112, can you show me the high point  
11 of this area between Woodmont Avenue and Arlington Road  
12 elevation-wise?  
13 Q On Montgomery Lane?  
14 A Yes. Or in the vicinity of West Lane and  
15 Montgomery Lane.  
16 Q There aren't contours on there but I know from  
17 memory that the high point is somewhere in front of the 4825  
18 Edgemoor Lane building.  
19 A Okay. Do you know what that high point is?  
20 Q No. Not precisely.  
21 A But it's higher than where the building height  
22 measurement was taken for the subject, is that right?  
23 Q It's, it's about the same, yeah. Roughly the same  
24 elevation.  
25 A Okay. The elevations of the City Homes townhomes

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1 as they proceed down to Arlington Road are at lower  
2 elevations, is that correct?  
3 Q What do you mean, the elevations?  
4 A Elevations upon which City Homes townhomes are  
5 constructed as you proceed on West Lane down to Arlington  
6 Road and are at lower elevations.  
7 Q The road is at a lower elevation. I'm not certain  
8 whether the homes are because if you think about it, they  
9 access the same alleyway so presumably, the driveways would  
10 be, your garages would be roughly the same elevation.  
11 A So if you're walking down that pathway, whether  
12 they were or were not a downward slope, you would be able to  
13 perceive that, would you not?  
14 Q Perceive what?  
15 A Whether they were going on a downward slope from,  
16 on Montgomery Lane from West Lane down to Arlington Road.  
17 Q As you walk along Montgomery Lane, I don't believe  
18 you would, could identify whether the buildings are  
19 different in height. You could identify that you are  
20 walking downhill so as you proceed towards Arlington from  
21 4825 Montgomery, you would be declining in elevation. You  
22 would perceive it if you were thinking about am I going  
23 downhill or uphill. Most people, not thinking about it,  
24 would just think they're walking along flat. It's not that  
25 steep of a grade.

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1 A Aren't buildings constructed based upon the  
2 elevation and contours of property?  
3 Q Among other things.  
4 A Was the City Home built based upon the contours of  
5 the property adjacent to Montgomery Lane?  
6 Q Mr. Abrams, I don't know. What I --  
7 A Just say you don't know.  
8 Q What I told you, what I did say was that the first  
9 two sticks from the west share an alleyway. There's only,  
10 there's very limited grade that could be picked up east to  
11 west in that alleyway so I would assume that the garages are  
12 approximately the same elevation. If that's the case, then  
13 presumably, the houses are about the same elevation and  
14 since the road falls towards Arlington, the westernmost one  
15 would be higher. Taller.  
16 MR. ABRAMS: Excuse me, Madam Examiner. I'm  
17 trying to go through my notes for the architect who said it  
18 wasn't his function, that it was in your ballpark.  
19 MS. ROBESON: I do recall that.  
20 BY MR. ABRAMS:  
21 Q Okay. Can I direct you to, what I'm trying to do  
22 is ask you some questions about the loading area and dock  
23 area.  
24 A For our project?  
25 Q Yes. For this project.

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1 A Would you want to --

2 Q Was that something that you could --

3 A Turning of an exhibit?

4 Q Why don't you, we've been marking up Exhibit 108,

5 just can we use that? I don't want to go into another

6 exhibit. 108 is the development plan, the marked up version

7 of the development plan.

8 A Okay.

9 MR. KNOPF: Didn't we have that marked in red with

10 the grade? I thought we had an exhibit.

11 MS. HARRIS: That wasn't marked.

12 MR. KNOPF: Pardon?

13 MS. WILTSHIRE: That one wasn't hand-marked. That

14 was a different --

15 MS. ROBESON: Yes. That, that wasn't marked.

16 BY MR. ABRAMS:

17 Q Okay. Now, Exhibit 108 is a copy of the

18 development plan, and does that show the garage entrance?

19 A Of the subject building, yes.

20 Q Yes. Yes. Actually, there are two entrances. As

21 I understand the testimony, is one for like small service

22 trucks and the other is for residents and some larger

23 vehicles?

24 A The area on this exhibit labeled garage entrance

25 is how any vehicle that would be going down into the garage

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1 would enter. It's also an area where larger vehicles might

2 back into a little bit in order to turn around as I showed

3 on the turn movement exhibits. The vehicles that can go

4 into the garage is anything that would have a height less

5 than about 8 foot, 8 inches.

6 Q Okay. In terms of where it says loading below the

7 garage entrance on Exhibit 108 --

8 A Yes.

9 Q -- is that for the larger trucks or the smaller

10 trucks?

11 A Any -- well, I could tell you what it could

12 accommodate.

13 Q Okay.

14 A Because it can accommodate a truck up to, up to 10

15 foot in height and up to 30 feet in length, and anything

16 smaller would also fit in there.

17 Q Okay. So if there were a moving van, they would

18 use the area that's known as loading as opposed to the area

19 marked garage entrance.

20 A Not necessarily.

21 Q Where is the loading dock for the area of loading

22 marked on here?

23 A At the back of it.

24 Q At the back. Okay. Could you just put an LD at

25 the back portion there? Now, where is the loading dock, if

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1 there is one, for the portion which is marked garage

2 entrance?

3 A There's not a loading dock. There's a space

4 allocated in the garage for loading and would accommodate

5 vehicles up to a small U-Haul that, that's suitable for

6 moving a studio or small apartment.

7 Q Okay. If a moving truck were to use the area at

8 the loading dock which you marked, how do they get to the

9 elevators up to the units?

10 A I, I don't know. The architect, I'm sure, has

11 designed, has or will design a means to do that.

12 Q Okay. But there, to your knowledge, there are no

13 elevators located next to the loading dock.

14 A I don't know.

15 Q You don't know. You've never seen the drawings?

16 A I may have. I don't recall whether there's an

17 elevator at the loading dock or not.

18 MS. HARRIS: I believe the architect testified as

19 to where the elevator was in relationship to the loading

20 dock.

21 BY MR. ABRAMS:

22 Q Do you know what the garage door heights are going

23 to be?

24 A The height of the door, no.

25 Q No. That's an architectural?

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1 A Well, the building has been designed to

2 accommodate certain vehicles so it would have, I believe

3 it's at least an 8 foot, 7 inch clearance all the way down.

4 There's a portion where we've shown larger vehicles could

5 back in and turn around, not going in the garage, so that

6 the height there would be designed to accommodate those

7 vehicles.

8 Q So any vehicle which is above 8 feet plus few

9 inches could not back into the garage or the loading area.

10 A No. Not into the garage. The loading area would

11 be about 10 feet high.

12 Q The loading area is higher than the garage

13 entrance.

14 A That's correct.

15 Q And the loading area --

16 MS. ROBESON: I'm sorry. When you say loading

17 area, are you talking about the area marked on 108 and says

18 LD or are you talking about the garage?

19 THE WITNESS: I'm talking about the area that says

20 loading --

21 MS. ROBESON: Okay.

22 THE WITNESS: -- on that exhibit.

23 MS. ROBESON: Okay. All right.

24 THE WITNESS: That's to be designed to accommodate

25 a vehicle that would be 10 feet in height or less which is

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1 the largest U-Haul vehicle, the height of the largest U-Haul  
2 vehicle that would move even a three-bedroom apartment.  
3 BY MR. ABRAMS:  
4 Q Okay. We have Exhibit 115A and B. All right. I  
5 hope I got A right and B right but the, it's marked as page  
6 22 in the lower left-hand corner.  
7 MS. HARRIS: That's A.  
8 MS. ROBESON: That's 115A.  
9 MR. ABRAMS: Is that A?  
10 MS. HARRIS: That's 115A.  
11 THE WITNESS: Okay. I have it.  
12 BY MR. ABRAMS:  
13 Q Okay. You got it?  
14 A Yeah. Right here.  
15 Q Page 22, which is Exhibit 115A, what is the height  
16 of that truck?  
17 A It's not shown on the exhibit.  
18 Q I know. That's why I'm asking.  
19 MS. ROBESON: There is a scale although I don't  
20 know if you can --  
21 THE WITNESS: Thirteen-and-a-half feet.  
22 BY MR. ABRAMS:  
23 Q Okay. Now, is that the truck you just described  
24 as taking just about any apartment's furniture and --  
25 A No.

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1 Q So that's, is this a smaller one or --  
2 A Larger.  
3 Q This is larger. Okay. Now, could this fit inside  
4 either garage door or both garage doors?  
5 A It can't fit in the loading space. I believe it  
6 can back in slightly into the garage entrance if it would  
7 need to make a three-point turn to turn around.  
8 Q Okay. But it couldn't go all the way into the  
9 garage entrance.  
10 A It couldn't go all the way into the bottom of the  
11 garage. The turning movement exhibits show the limited it  
12 would, that it could go.  
13 Q The loading dock area has a lower or higher door  
14 than the entrance door? I'm trying to figure out which door  
15 is higher.  
16 A And I'm, and I'm not trying to be difficult. I'm  
17 trying to answer your question but part of it is I don't  
18 know. I don't know exactly where along the garage entrance  
19 where the door actually is, so what I do know is that we  
20 showed turning movement exhibits that showed a vehicle being  
21 able to back in there slightly and then pull out so.  
22 Q Assuming that there could be an inset into the  
23 face of the wall for the garage door, are we talking about  
24 four to six feet?  
25 A I brought up Exhibit 88, which shows the turning

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1 movements, and the upper right two show the extent that a  
2 SU-30 would, per this exhibit, could back in to make a turn  
3 around. Looking at the exhibit, I think they were a little  
4 generous with how far they'd have to back in. You could do  
5 it in a shorter distance but this shows how, theoretically,  
6 that movement could occur.  
7 Q Is Exhibit 115A an SU-30?  
8 A Yes.  
9 Q Okay. Now, Exhibit 115B, how high is that truck?  
10 A Thirteen and a half feet.  
11 Q And that's a semitrailer?  
12 A Yes.  
13 Q Could that fit within the opening of either garage  
14 door entry? Either the little loading area or the bigger  
15 garage entrance area.  
16 A It could back into a portion of the garage  
17 entrance in order to turn around. It could not go all the  
18 way down into the garage and it could not get into the  
19 loading dock.  
20 Q Now, how far back into the garage could this truck  
21 proceed?  
22 A I don't know exactly. I mean, we show in the  
23 turning movement exhibit that it could work. Presumably the  
24 architect will design the building to, to accommodate that  
25 move.

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1 Q Okay. You've got a building here which is  
2 approximately 80 feet in width.  
3 A Seventy-eight.  
4 Q Seventy-eight feet. Okay. And you've got a  
5 fairly steep grade for the internal driveway. Is that a  
6 fair, fair?  
7 A Yes.  
8 Q Okay. And what is the degree of slope?  
9 A I believe it's 14 percent at its steepest.  
10 Q And within a 78 foot wide building, how far down  
11 before you make the turn could you proceed with a truck  
12 considering the height of the ceiling?  
13 A I think you need to ask the architect this. I  
14 mean, he's designing the building.  
15 Q The architect is gone. Fourteen percent grade is  
16 a pretty steep grade, is it not?  
17 A It's all relative. It's not uncommon. I mean,  
18 it's 14 feet in 100 feet.  
19 Q Right.  
20 A So to put it in perspective, the width of this  
21 room is approximately 25 feet. So it would be a drop of  
22 about three-and-a-half feet over the width of this room, so  
23 that doesn't seem that steep.  
24 Q In order to make the turn in the garage, how many  
25 feet from the entrance of the garage, considering a 14

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1 percent slope, would be necessary to achieve that turning?  
2 A I don't understand the question.  
3 Q Once you get into the garage you've got a 78 foot  
4 wide building. How much leeway do you have to make that  
5 turn within the building?  
6 A What turn? Well, referring to Exhibit 88, any one  
7 of these turning movements which would bring you into,  
8 westerly and turning south.  
9 Q Right.  
10 A Okay. What is the question?  
11 Q The question is what is the maximum amount of  
12 feet, distance, between the garage entrance and the ability  
13 to make a turn into the west and south direction of the  
14 building?  
15 A I don't know what the ceiling height in -- well, I  
16 know that the lower level is, the garage level is 8 foot, 7  
17 inches floor to floor. I don't know what the slab thickness  
18 is and how that relates to the first floor.  
19 Q Do you know where the 8 foot height of the  
20 interior garage ceiling starts?  
21 A Well, it would be, the entire way would be at  
22 least 8 foot, 8 because it has to accommodate a vehicle that  
23 high, 8 foot, 7 inch height.  
24 Q Well, you said that the garage doors would be  
25 higher than eight feet.

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1 A No. I said I didn't know what the garage doors  
2 were. Yeah. It would be higher than eight feet. I would  
3 agree with you.  
4 Q Okay. And that you could move a truck back or  
5 forward into the garage. What I'm trying to determine is  
6 how many feet into the garage could you get a truck before  
7 it hits the eight foot ceiling. Do you know?  
8 A No. I do not know. Depends on how the -- the  
9 architect is going to design the building to accommodate it.  
10 Q Now, on Exhibit 108 -- well, let me -- okay, this  
11 was done, or do you know when this was done, this Exhibit  
12 88? Was this done for the original filing because I notice  
13 none of these have any portion of the new entrance?  
14 A Well, the loading bay didn't exist in the original  
15 filing so, so I assume these were done to accommodate the  
16 garage entrance and the loading bay, so that would be the  
17 more recent plan.  
18 (Discussion off the record.)  
19 MR. ABRAMS: That's all the questions I have.  
20 MS. ROBESON: Okay. We are going to take a lunch  
21 break at this point, so we will be back at 2:00. Mr. Knopf,  
22 it will be your turn for cross-examination.  
23 MR. KNOPF: I'll try to be brief because I'm still  
24 hoping we can finish.  
25 MS. ROBESON: We will try.

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1 (Whereupon, at a 1:01 p.m., luncheon recess was  
2 taken.)  
3 MS. ROBESON: Now we're back on the record. It is  
4 Mr. Knopf's turn for cross-examination of Mr. Irish.  
5 CROSS-EXAMINATION BY MR. KNOPF  
6 BY MR. KNOPF:  
7 Q Mr. Irish, I'll try to be brief to move this  
8 along. On the Exhibit 76, the so-called pocket park.  
9 A Yes.  
10 Q I heard you mention as part of your testimony that  
11 you didn't, couldn't answer certain things because it hasn't  
12 been finally designed, the concept there, is that correct?  
13 A Yes.  
14 Q That's not a final design. Are we looking that  
15 something that's an illustration or what can we rely on that  
16 we know we will have when this project is built? What will  
17 be required?  
18 A Well, as you well know, the process from  
19 conception through occupancy of a project goes through many  
20 stages. In this case, it starts with the re-zoning  
21 application that we're working with and then proceeds  
22 through preliminary plan, site plan and permit drawings, and  
23 the design gets ever more specific as you go through that  
24 process.  
25 Q Can the design shrink in terms of these square

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1 footages that you represented that the park has? I think  
2 you said about 1100 and, 2100 and some square feet.  
3 A Well --  
4 Q Can that shrink?  
5 A The -- it depends on what's in the binding  
6 elements.  
7 Q Exactly. And is the, to your knowledge, is there  
8 a binding element in here that freezes the amount of square  
9 footage, that it should be no less than X amount of square  
10 footage?  
11 A The square footage of what?  
12 Q Well, you gave us square footage for the, for the  
13 park space. I remember you had the, you had -- in fact, get  
14 that exhibit if you would, please. You marked an exhibit  
15 with and, a color-coded exhibit with the --  
16 MS. ROBESON: It's 112 I think.  
17 MR. KNOPF: No. That's -- I'm sorry. Yes.  
18 BY MR. KNOPF:  
19 Q You have, if I remember, there was 600 and some  
20 square feet, 615 marked in red.  
21 A Yes.  
22 Q Is -- then you had another green, 393 green area  
23 marked and a black area, I think, of 1171. Are any of those  
24 square footages binding elements here so that the Hearing  
25 Examiner is relying on this to find compatibility or

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1 whatever else she needs to find that will be there when the  
2 building's built?  
3 A I don't believe there's binding elements with, I'd  
4 have to re-read them again to double-check. If you give me  
5 a second, I'll scan down them just to make sure I haven't  
6 missed something.  
7 Q I think if you get to the very end, you'll see  
8 something maybe relevant. I'm not trying to influence you  
9 but trying to save time.  
10 MS. ROBESON: I would try item 20, but it's your  
11 testimony.  
12 MR. KNOPF: That's right.  
13 THE WITNESS: Well, item 20 says the public use  
14 space concept will substantially conform to the development  
15 plan amendment drawing and rendering shown on page 4 and 5  
16 of the technical staff report. So it --  
17 BY MR. KNOPF:  
18 Q So that's you, that's your answer.  
19 A That's the binding element.  
20 Q Right.  
21 A Now, obviously, when the planning staff and  
22 Planning Board reviewed the plan, they got to interpret  
23 whether or not the site plan or preliminary plan at that  
24 point satisfies this condition.  
25 Q Right. And the condition is substantial

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1 compliance. Your --  
2 A Substantially conform, yes.  
3 Q Substantially conform. Thank you. And if this is  
4 off by 25 percent square feet, is that substantial  
5 conformity or we just don't know?  
6 A My opinion, the 25 percent would be a substantial  
7 reduction and probably not something they would recommend  
8 approval on.  
9 Q But would you agree with me that the way this is  
10 written, we don't know for sure exactly what's going to be  
11 deemed substantial conformance and substantial now.  
12 A I'll say it this way. Binding element 20 does not  
13 require 615 square feet of a scallop.  
14 Q All right.  
15 A It could be 614. It could be 620.  
16 Q Of the 1171 square feet you talked about, let me  
17 take that back, the 615 square feet, does this binding,  
18 element, what does this binding element require? Can you  
19 say anything with certainty as to what it provides in total  
20 square footage compared to the 615?  
21 A It requires substantial conformance.  
22 Q But you can't give me a figure as to what that is,  
23 right? I'm not being critical. I'm just saying that's the  
24 name of the game, isn't it?  
25 A Exactly.

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1 Q All right. And --  
2 A As I said, it's part of a process and it evolves.  
3 Q Now, so --  
4 A We're not at a point where we would say  
5 specifically that it's 1171.35 square feet. That's  
6 premature to say that.  
7 Q All right. And isn't it --  
8 A But we can say it's generally as shown on the  
9 plan.  
10 Q But isn't it premature then to say, as you did in  
11 your testimony, exactly what people are going to see say  
12 from City Homes or as they walk down the street because we  
13 really don't know what's going to be there yet, do we?  
14 A Yes, we do. They can't -- people at City Homes  
15 looking out aren't going to tell whether that quarter of a  
16 circle is 615 square feet or 620 square feet. They're not  
17 going to be able to see that difference.  
18 Q So you're --  
19 A I wouldn't be able to see it without measuring it.  
20 Q You're assuming then we're limited. They can't  
21 deviate more than 25 feet, square feet. Is that what you're  
22 testimony is?  
23 A No.  
24 Q All right. Then let me ask another question. If  
25 we take the -- let's assume for your sake that what is shown

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1 on Exhibit 76 is exactly what's approved when, and this gets  
2 built. I want to know what do we have, it's a little bit  
3 confusing to me. You're counting as part of the 615 square  
4 feet, tell me if I'm wrong, the sidewalk that goes, leads  
5 one into the entranceway, is that correct?  
6 A Yes.  
7 Q So this, these two young girls walking along here  
8 around the quadrant, they're walking on the sidewalk into,  
9 into the building, so part of this park is --  
10 A How do we know they're going into the building?  
11 Q Well, would you agree --  
12 MS. ROBESON: Okay. Find another marker. Don't  
13 want to argue.  
14 BY MR. KNOPF:  
15 Q Would you -- am I correct pointing to where there  
16 are two pedestrians on the corner of, closest to the  
17 building on the corner of West Lane, am I correct that there  
18 is a pathway from there that goes leading to the front door,  
19 going right near the building next to the, adjacent to the  
20 building?  
21 A And continuing on to Montgomery Lane.  
22 Q I understand. But and that's, that would be,  
23 unless you have another name for it, the sidewalk, walkway  
24 going into the building, the entranceway.  
25 A That's a walkway across the front of the building.

1 You can stop and go into the building or you can continue on  
 2 and sit on the, the seats in this location here which would  
 3 be the western edge of the steps that were purposely  
 4 designed as seating areas for different than the benches  
 5 that are, are sat on behind the sidewalk itself.  
 6 Q My question really, could be answered by yes or  
 7 no. Yes, it is --  
 8 A But it might be misleading.  
 9 MS. ROBESON: Well, that's not up to you. You  
 10 have an attorney. This is cross-examination. It is yes or  
 11 no. And your attorney has the opportunity if something, if  
 12 she feels something you say is misleading, then she can  
 13 follow up and ask you a question to clarify it. It's easier  
 14 than arguing with the attorney that's asking you the  
 15 question.  
 16 THE WITNESS: Not to be difficult but --  
 17 MS. ROBESON: So --  
 18 THE WITNESS: -- you asked me to tell the truth,  
 19 the whole truth. To me, the whole truth is presenting the  
 20 image of --  
 21 MS. ROBESON: I know, but he asked you a yes or no  
 22 question and so if you look at it that way, you can simply  
 23 say yes, and your attorney's role is to come back and  
 24 clarify it.  
 25 THE WITNESS: Okay. Understood.

1 BY MR. KNOPF:  
 2 Q Let me try to make it easier. Would you agree  
 3 with me that right next to the facade of the building in  
 4 this present scallop shape area, there is a, a path, I guess  
 5 a concrete path, that one could use, if they wanted to, to  
 6 walk into the building?  
 7 A Yes.  
 8 Q Okay. And you're counting that as part of the  
 9 park, the square footage that that occupies, is that  
 10 correct?  
 11 A It's part of the square footages that I marked  
 12 on --  
 13 Q Right.  
 14 A -- Exhibit 112.  
 15 Q But that was a part of the 615 square feet that  
 16 you said was part of the pocket park, is that correct, or  
 17 did I misunderstand?  
 18 A It's part of the 615 feet that was cut out of the  
 19 building and designed as a park there, yes.  
 20 Q So that you're counting that as part of the park  
 21 area. I'm not mistaken if I say that sidewalk is  
 22 encompassed within what you say is the park area.  
 23 A That's correct.  
 24 Q Okay. Now, similarly, these steps going down to  
 25 Montgomery Lane to the left, no, going down to Montgomery

1 Lane, those steps also provide access to the building, is  
 2 that correct?  
 3 A That's one of --  
 4 Q Lead, that lead to the building.  
 5 A -- the things that they do, yes.  
 6 Q Yes. Right. And okay. So and that's, that,  
 7 those steps, the entranceway steps are also part of the  
 8 pocket park area that you advised us of.  
 9 A That is correct.  
 10 Q Okay. Now, if, pardon me but as a layperson, I --  
 11 A I'm sorry. I need to correct that. Part of them  
 12 is.  
 13 Q Part.  
 14 A Part of the steps --  
 15 Q Oh.  
 16 A -- are part of the park.  
 17 Q Are part of -- well, could you show me then which  
 18 part aren't? I misunderstood that. I thought all of the  
 19 steps were part of the park that we were talking about.  
 20 A On Exhibit 112, we, we drew the line straight out  
 21 from the, the crescent, the corner of the crescent on  
 22 Montgomery Lane. As you can see here, there's, we call it  
 23 steps or seating area/steps that extend west of that area.  
 24 Q And that's not part.  
 25 A That's not part of these areas that I mentioned.

1 Q Okay. Thank you for that clarification. Would  
 2 that be fair, well, I was going to say would it be fair to  
 3 say it's the gray part of the steps that's part of rather  
 4 than the white part of the steps but I'm not sure that's  
 5 exactly correct. That would be roughly, roughly the  
 6 dividing line?  
 7 A The darker gray portion that has higher treads --  
 8 Q Yes.  
 9 A -- would, is generally the space where we, where I  
 10 didn't count it in those measurements.  
 11 Q You didn't count it. Okay. Now --  
 12 MS. ROBESON: And you're looking at exhibit, what  
 13 is that, 76?  
 14 MR. KNOPF: 76.  
 15 BY MR. KNOPF:  
 16 Q Now, when I think of park, I think green. I know  
 17 you don't, but can you tell me how many square feet of  
 18 something green is in this park? Am I correct, I see just a  
 19 few feet of green planted area and the rest is concrete or  
 20 stone?  
 21 A Or sculpture or there's a variety of things.  
 22 Q Correct.  
 23 A The area is not final design. It's an area that  
 24 is intended to be a public space and in this illustration,  
 25 there's more hardscape than green.

1 Q You know, that reminds me. I see this lovely red  
 2 tree to the right, near the corner of Montgomery and, and  
 3 West Lane. I thought we had expert testimony that you can't  
 4 plant a tree so close to the building and yet, isn't that --  
 5 MS. HER: Objection.  
 6 BY MR. KNOPF:  
 7 Q -- literally between the sidewalk --  
 8 MS. HER: Objection. It was clear, it's been made  
 9 clear that this drawing is for illustrative purposes only.  
 10 It is not a landscape plan.  
 11 MS. ROBESON: Well, he can cross-examine on that.  
 12 MR. KNOPF: I'm trying to show that --  
 13 MS. HER: I'd also note that --  
 14 MR. KNOPF: -- what you see is not what you get.  
 15 MS. HER: -- Mr. Irish is not a landscape  
 16 architect but he may know the answer to --  
 17 MS. ROBESON: Well, he got to testify some on  
 18 compatibility which they don't usually do so.  
 19 BY MR. KNOPF:  
 20 Q Would you agree with me that in this park --  
 21 MS. ROBESON: You can --  
 22 BY MR. KNOPF:  
 23 Q -- whatever the parkland, that tree would not be  
 24 planted there because it's too close, you can't have a tree  
 25 that big next to a building?

1 A The tree in that illustration scales about nine  
 2 feet from the corner, the West Lane corner of the crescent.  
 3 Q Well --  
 4 A There are certainly ornamental trees that could be  
 5 planted in that location.  
 6 Q I see people sitting on a, on the concept here, on  
 7 what you would call a circular concrete wall or something.  
 8 I don't know what name, but do you see that circular wall?  
 9 A Yes.  
 10 Q What is the -- and then on that wall, there are  
 11 plantings which would be flowers?  
 12 A Yes.  
 13 Q And then behind that wall, presumably the wall  
 14 ends because we see that, you said that's the area where  
 15 there's a walkway. What's the width between that wall and  
 16 the building itself? Are we talking about three feet, four  
 17 feet, two feet, and that's where the tree is going?  
 18 A You're correct. It's about three or four feet.  
 19 Q So would you agree with me again that this concept  
 20 plan, even assuming the same number of square footage is  
 21 finally approved, it would not contain a tree in that  
 22 location, this size?  
 23 A No.  
 24 Q You wouldn't agree with that.  
 25 A I wouldn't.

1 Q Oh, I see. You think tree, a tree that size could  
 2 be planted within two feet of a building, three feet? I  
 3 mean, isn't there a walkway there to boot? It would be in  
 4 the middle of --  
 5 A So it wouldn't be within two feet of the building.  
 6 Q But what's the distance between the wall and the  
 7 building itself?  
 8 A I, I said that scaling off of Exhibit 112, that  
 9 that planter is about three or four feet wide. Let's say  
 10 it's four feet wide. And I said that it was nine feet from  
 11 the tree to the building.  
 12 Q I thought you said nine feet from the tree to the,  
 13 to the street.  
 14 A No. Nine feet from the corner of the crescent to  
 15 the tree. I've got a maple at my house that's about 10 feet  
 16 from the front of my house.  
 17 Q So you're saying there's nine feet behind this  
 18 wall to the, to the building facade.  
 19 A No. That's not what I said.  
 20 Q I'm sorry. I'm not trying to put words in your  
 21 mouth.  
 22 A I said there's --  
 23 Q I'm just trying to understand.  
 24 A I mean, we could ask her to read it back or I can  
 25 tell you. There's nine feet from the tree to the corner of

1 the crescent.  
 2 Q Would you point --  
 3 MS. ROBESON: And then how far from the tree to  
 4 the wall?  
 5 BY MR. KNOPF:  
 6 Q Going straight back from the tree in toward the  
 7 building. How --  
 8 A The closest dimension, scaling off of Exhibit 112,  
 9 the closest dimension from that -- I'll stand where you can  
 10 both see.  
 11 MS. ROBESON: Thank you.  
 12 THE WITNESS: This orange tree, circular thing  
 13 that represents a tree in the northeastern portion of  
 14 that --  
 15 MS. ROBESON: Scallop.  
 16 THE WITNESS: -- scallop, quarter of a circle, not  
 17 triangle, is the tree that was in the rendering. If you  
 18 scale from the center of that tree to closest point on that  
 19 scallop, it's about nine feet. The width of the planters,  
 20 as you mentioned, about three or four feet so that, so the  
 21 planter -- again, we're attributing a whole lot more  
 22 precision to this drawing that is intended --  
 23 MS. ROBESON: I understand.  
 24 THE WITNESS: -- but if we're going to rely on  
 25 this as you asked me to, then you've got, if the -- let's,

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1 for round numbers, let's say the planter's four feet wide.  
2 Center of the tree to the outside of the planter would be  
3 two feet. Subtracted from the nine would be a seven foot  
4 walk. Maybe when it's ultimately designed, the walk is six  
5 and the planters are wider. Whatever.  
6 BY MR. KNOPF:  
7 Q So the --  
8 A My point, you asked me if a tree can be put there  
9 and I said yes.  
10 Q It would be within seven feet of the wall, of the  
11 building, is that --  
12 A This is the third time I've said the tree would be  
13 nine feet from the building as illustrated there.  
14 Q I thought you said that included in this would be  
15 room for the planter in that nine feet.  
16 A Well, of course the planter is closer than the,  
17 than the trunk of the tree.  
18 Q Oh, I see.  
19 A Where do you want me to measure from.  
20 Q You're talking about the planter for the tree.  
21 I'm talking about the planter for those flowers.  
22 A They're the same planter.  
23 Q I'm calling this a planter. Oh, the tree is in  
24 the planter?  
25 A Yes.

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1 Q Oh, I'm sorry. I don't, I didn't see that in this  
2 diagram. You were making that assumption. I was making the  
3 assumption it was behind it. It looks like it was behind  
4 it. All right. But this is a much better, for my purposes,  
5 on Exhibit 112 I guess, it shows the pocket park with a  
6 swirl of greener which I presume is the, depicts the flowers  
7 planted here on the, on this wall.  
8 MS. ROBESON: On 76.  
9 BY MR. KNOPF:  
10 Q On 76. Just roughly, what square footage are we  
11 talking about in terms of that green area, actual green  
12 area? Are we talking about, you know, 50 square feet, 20  
13 square feet?  
14 A I haven't measured it. It's scaled approximately  
15 50 feet. Let me double-check that. Yeah. If you measure  
16 along the arc, it's scaled about 50 feet. If it's four feet  
17 wide, that would be 200 square feet.  
18 Q Excuse me. And you're saying that width remains  
19 constant?  
20 A No.  
21 Q So you multiplied a constant width times length,  
22 didn't you?  
23 A You suggested it was three to four feet. I agreed  
24 with you.  
25 Q Well, that's kind of you but now, I want you to

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1 tell the truth and not agree with you. Doesn't this seem to  
2 be wider as one faces Montgomery and then it narrows down as  
3 you go back?  
4 A It does.  
5 Q So we're talking about a lot of -- A So maybe  
6 it's more than 200 feet. If it's four feet at the narrowest  
7 and gets wider and I multiply 4 times 50, then it would be  
8 more than that.  
9 Q Are you representing to us that this is wider  
10 than, that this, the West Lane end is wider than the  
11 Montgomery Lane end?  
12 A No. It's narrower.  
13 Q Narrower. Exactly. And this is the four. Would  
14 this be the four feet width?  
15 A No. You asked me the dimension by the tree.  
16 MS. ROBESON: Okay. Just a second. I think it is  
17 your testimony that the arc with the flowers is narrower at  
18 the northwest, I mean northeast, than it is at the southern  
19 portion?  
20 THE WITNESS: Yes.  
21 MS. ROBESON: And what's the width at the  
22 northeast most point?  
23 THE WITNESS: It's three to four feet.  
24 MS. ROBESON: Okay.  
25 BY MR. KNOPF:

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1 Q Does this, I'm looking at Exhibit 112 or 77, does  
2 that have a scale on it?  
3 A It's one inch equals 20 feet.  
4 Q One inch equals 20 feet. Okay. And I'd ask you  
5 again to look at that carefully and tell me which end  
6 appears wider, the width at the Montgomery Lane side or the  
7 width at the West Lane side?  
8 A Again, we're attributing far too much precision --  
9 MS. ROBESON: I understand and --  
10 THE WITNESS: -- to the details of this drawing,  
11 but I'm happy to answer your question. If you look at  
12 Exhibit 112, there is a green crescent and inside of part of  
13 that is a yellow and pink dotted crescent. I am assuming  
14 that the yellow and pink dots are some type of ground cover  
15 and it would probably be illustrated by the area we're  
16 pointing now which is between the heads of the lady in the  
17 pink and the man in the white suit jacket.  
18 BY MR. KNOPF:  
19 Q All right. So I don't wish to argue. Let's move  
20 this along. Without being precise, we're saying roughly 200  
21 square feet possibly green planted area.  
22 A Easily.  
23 Q Okay, fine. Now, the -- so 200 square feet on  
24 the -- okay. Then why don't we want to move on to, we now  
25 go onto the 1100, 2100 and something square feet for the

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1 total park area that you talked about. Does that -- I'm  
2 trying to understand that. I believe you said that included  
3 the sidewalk. Where is your --  
4 MS. ROBESON: That's 112.  
5 BY MR. KNOPF:  
6 Q Yes. Here it is. Does that come out in taking --  
7 I'm trying to both of this at one time. I guess maybe it  
8 would be helpful to put it here. I'm just saying looking,  
9 looking at 76, I'm trying to understand what comes within  
10 the boundaries of what you said was the park. I presume  
11 that takes in this gray --  
12 A Yes.  
13 Q -- area of, sidewalk area. And does it take in  
14 any of the sidewalk area immediately next to what's green  
15 and gray?  
16 A Yes.  
17 Q And is that the public street? Is that the public  
18 right-of-way? Excuse me.  
19 A Well, the way I explained it in my testimony --  
20 Q Yes.  
21 A -- was that 615 feet of that area was created by  
22 cutting a quarter of a circle 28 foot radius --  
23 Q Right. I understand.  
24 A -- out of the building. That was 615 square feet.  
25 If you then added the space from there to the property line,

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1 the new property line where the right-of-way dedication line  
2 would be, you add 393 square feet.  
3 Q And just pause there for a minute. Where would  
4 that 393 square feet be here on this depiction to help us  
5 out?  
6 A Well, that's kind of the point. You don't see the  
7 property line on the ground when you're walking which is why  
8 I described the balance of the area as reading like part of  
9 the public space.  
10 Q Well, my problem is I don't see the park. That's  
11 why I'm trying to ask you if you could do this. All right.  
12 Where do you go with the 11, 2100? You get to the next  
13 step. We're taking in the sidewalk, public sidewalk, is  
14 that it, as counting that as part of the park?  
15 A Well, the 2100, as I said, goes all the way to the  
16 curb.  
17 Q So I'm just trying to understand that. So we are  
18 going down, is this the curb you're referring to? I'm  
19 pointing to the curb in front of the car.  
20 MS. ROBESON: On 76, yes.  
21 BY MR. KNOPF:  
22 Q Are you referring to this curb area here?  
23 A One in the same.  
24 Q I see. So under that definition, I gather we have  
25 everybody has parkland in front of their buildings up and

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1 down the street --  
2 A That's not what --  
3 Q -- because they're close to the curb?  
4 A No. What I was -- I was trying to clarify some  
5 area of confusion so I was explaining how we arrived at a, I  
6 believe the testimony was about a 1,000 square foot park.  
7 Q All right. Let me --  
8 A And so 615 plus 393 gets you to that, all on  
9 private property. In my direct testimony, I also stated  
10 that in reality, you're not going to see the property line  
11 so as you walk down the street or look across from the City  
12 Homes, this is the image you're going to see --  
13 MS. ROBESON: I understand.  
14 THE WITNESS: -- that all reads as parkland.  
15 BY MR. KNOPF:  
16 Q Okay. Thank you.  
17 A And I want to give you a sense of that area.  
18 Q The last question or almost last question on this  
19 is how does someone with handicaps, say a wheelchair,  
20 access to the building?  
21 A From right where your finger is.  
22 Q Right here. They, they would -- that was the  
23 sidewalk path we talked about before next to the building.  
24 A That's correct.  
25 Q Now, didn't I recall you mention -- and you're

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1 counting that as part of public park space in through this.  
2 A Just like every other project on the street.  
3 Q But didn't I hear you mention that the Edgemoor  
4 counted their handicap space as part of their public space  
5 and you disagreed with that, that you counted that as it  
6 read more like private space.  
7 A I said that the Edgemoor ramp and stairway reads  
8 more as private space than as public space. It's been  
9 approved by the Planning Board as public use space similar  
10 to other projects that I think I pointed out in other areas  
11 on the street that had spaces that are, aren't as desirable  
12 as our park space, as public use space. But the, but the  
13 difference between the Edgemoor and this, this case is that  
14 this, this is a single entrance into the building and it is  
15 an area where people that are coming from West Lane to  
16 Arlington could choose to walk there and down the steps  
17 rather than around the corner. No one is going to walk up  
18 that ramp in front of the Edgemoor unless they're going into  
19 the Edgemoor.  
20 Q And you're saying that people walking down West  
21 Lane could walk right next to the building and they would  
22 feel that that's not the building's entrance, that that's  
23 public space?  
24 A That would, that would read very similar to  
25 walking along a retail front. We unfortunately, the --

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1 Q That's not retail front though. It's a private --  
2 A It's a --  
3 Q -- door into a building, isn't it?  
4 A It's a door into the lobby of a building. But  
5 unfortunately, our renderer didn't follow instructions, but  
6 the purpose of the area that I'm pointing to where the steps  
7 look like they're double height is so that those, they can  
8 be designed as seating areas.  
9 MS. ROBESON: I understand.  
10 THE WITNESS: Some, something different than the  
11 benches, and that's an area in that space so if someone was  
12 there and they wanted to walk up West Lane, they get up,  
13 walk up the steps and go.  
14 MS. ROBESON: I understand.  
15 BY MR. KNOPF:  
16 Q Okay. Let me just quickly go to another -- I had  
17 the, here it is. If you could quickly, I want to move you  
18 from the front of the building to the back of the building.  
19 And we talked about, I don't want to spend much time on  
20 this, I'm looking at 108 and I see in the rear, I'm pointing  
21 to the rear of the building where it says garage entrance.  
22 I go beyond the garage entrance toward the north, and that's  
23 the 15 feet of open space we were talking about or --  
24 A Yes.  
25 Q Now, I see there's something there called, on 108,

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1 storm water vault.  
2 A Yes.  
3 Q What is that?  
4 A In my testimony about the storm water management  
5 concept plan, I talked about various ways that we would  
6 treat storm water management, and one of those was with an  
7 underground vault that I said would be located in that 15  
8 foot space at the north.  
9 Q My purpose of asking that is since we've been  
10 talking about this with the open space for use, is it, the  
11 existence of that structure mean that one could not plant  
12 trees on, in that area or other greenery because it would  
13 interfere with the vault or there wouldn't be any soil or it  
14 would be concrete?  
15 A No. It does not mean that.  
16 Q So you could plant trees on top of that?  
17 A No. I didn't say you could plant trees on top of  
18 it. You said in that area.  
19 Q Oh. I'm talking -- okay. Let me be very precise.  
20 In exactly this area demarked storm water vault, what kind  
21 of landscaping could one plant that would survive in terms  
22 of height of trees or nature of trees or bushes or what?  
23 A On top of the vault, you wouldn't plant trees.  
24 You could plant low shrubs. More likely, you would plant  
25 grass or ornamental grasses, something to that effect.

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1 Q Okay.  
2 A There would be --  
3 MS. ROBESON: Could you put an alley there on top?  
4 THE WITNESS: A pedestrian pathway could cross  
5 over, yes. There would be, I believe, two or three manhole  
6 covers that would come to the surface but the rest of it  
7 would be below grade and could have planting on top of it,  
8 not trees but trees nearby. And as I was mentioning how it  
9 could connect to the path on Edgemoor at Arlington North  
10 potentially --  
11 MS. ROBESON: Yes.  
12 THE WITNESS: -- that wouldn't restrict that.  
13 MS. ROBESON: That's kind of speculative at the  
14 moment. I was just, I just didn't know what could be put on  
15 top of that, so go ahead.  
16 MR. KNOPF: Either did I actually.  
17 THE WITNESS: It will be viewed as a landscaped  
18 area.  
19 MS. ROBESON: Okay.  
20 THE WITNESS: Other than the transformers, and  
21 they would be screened.  
22 BY MR. KNOPF:  
23 Q Now, let's look at what we know if this is  
24 approved. We have a garage entrance. Would it be fair to  
25 say the garage entrance wall would be the wall that would

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1 join this 15 feet?  
2 A Yes.  
3 Q Okay. And I presume there would be no windows.  
4 Certainly wouldn't be any residents there.  
5 A Correct.  
6 Q Okay. And then the building goes up at this point  
7 about 70 feet, is that correct?  
8 A Correct.  
9 Q Okay. Now, if we go across the 15 feet and we're  
10 next to the Village of Bethesda, there's a wall --  
11 MS. ROBESON: Norman, can you move to the right a  
12 little bit?  
13 MR. KNOPF: Sorry.  
14 BY MR. KNOPF:  
15 Q There's a wall on the north side of this space.  
16 A Yes. The Villages of Bethesda are at a higher  
17 elevation.  
18 Q High elevation. And do you know what the height  
19 of that wall is measured from the ground level on the 15  
20 feet?  
21 A We probably have it in the file somewhere. I  
22 don't recall if I --  
23 Q Could you roughly estimate? I mean, are we  
24 talking a 5 foot wall, a 50 foot wall?  
25 A No. It's maybe five.

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1 Q Maybe five. I'm just looking for, where is the  
2 aerial photo?  
3 (Discussion off the record.)  
4 BY MR. KNOFF:  
5 Q I'm looking at Exhibit 106F duplicate. Is this  
6 the wall? I'm pointing at a wall. Is that the wall we're  
7 talking about?  
8 A No. That's the side of the building.  
9 Q Side of the building.  
10 A I, I was referring to the grade of this courtyard  
11 in front of the, between the townhouses being a little bit  
12 higher than the grade at the, at the back of the subject  
13 property. And I believe at least for some distance there,  
14 there's a wall that holds the villages up.  
15 Q But what would your estimate be of the height of  
16 the building in that area that this, pointing to a brown  
17 structure that faces east?  
18 A Well, this brown edge of the building is the end  
19 of a townhouse and I believe they're three stories so if you  
20 want to go to the peak, you're probably 35 or 40 feet.  
21 Q And that's on top of a wall, I mean, the  
22 townhouses are on an elevated structure which is a wall  
23 holding the dirt for the elevation, correct?  
24 A Yes.  
25 Q So if we're, if we're behind the building, the

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1 subject building in that 15 sort of area, we have a 70 foot  
2 wall, so to speak, building on one side and at least a  
3 portion on the other side of roughly 30, 40 feet of masonry  
4 there too, is that correct?  
5 A That's correct.  
6 Q Okay. Thank you. Let me quickly run -- let's  
7 see. The exhibit that we had with the loading, this, I  
8 guess, well, we had the -- and the one that we've been  
9 using, well, we can use this one, the marking. Okay. For  
10 simplicity's sake, I'm going to refer to surface locating  
11 areas, meaning the one that doesn't go to the garage.  
12 MS. ROBESON: Okay.  
13 BY MR. KNOFF:  
14 Q And garage loading area. Does that make sense?  
15 A (No audible response.)  
16 Q Now, first let me understand. There is a lay-by.  
17 I'm trying to understand how this system works. I  
18 understand trucks a certain size might have three choices.  
19 They can go to the loading garage at the garage loading  
20 area, the surface loading area or they can go in the lay-by,  
21 is that correct?  
22 A That's correct.  
23 Q Okay. Now, the Federal Express type truck, UPS,  
24 Federal Express, you've given us an Exhibit 115. Is that --  
25 how would you describe that? I know they come in different

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1 sizes but the most common size UPS or Federal Express. Is  
2 that one of these that you've given us on 115A or B, or  
3 that's not.  
4 A No. That's, that AASHTO vehicle, the SU-30 that's  
5 on 15A or B, whichever, one is a WB-40, one SU-30. Those  
6 vehicles are larger than anything we would need to serve the  
7 project.  
8 Q No. I'm asking what size is a Federal Express or  
9 UPS truck in terms of is it, is it this SUV30, is that the  
10 typical size?  
11 A No. It would be smaller.  
12 Q Smaller.  
13 A If you give me a moment, I'll -- I thought I had  
14 it in my testimony but if not, either way, I can easily read  
15 it again. We actually measured a FedEx truck and a U-Haul  
16 truck that delivers to our office, an approximately 80,000  
17 square foot office building. The -- let's see. Let me find  
18 it on there. And I, and I believe this is already in the  
19 record but the, the FedEx box truck that delivered to our  
20 office we measured at 8 feet wide, 23 feet long, whereas  
21 your SU-30 is 30 feet long and 9 feet, 8 inches high where  
22 the SU-30 is 13-and-a-half feet, 13.5 feet high.  
23 Q So 8 feet by 23 feet, 8 feet wide, 23 feet long?  
24 A And 9 foot, 8 inches high.  
25 Q Nine foot, eight inches high.

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1 A And that vehicle will fit in the, certainly the  
2 lay-by.  
3 Q Right.  
4 A And it will also fit in the surface loading dock.  
5 Q Now, and the lay-by is how many feet wide? Is it  
6 six feet?  
7 A It's still six.  
8 Q That's what I thought. And I believe you  
9 mentioned the one at, by Edgemoor was seven feet.  
10 A I did.  
11 Q So if we have an eight foot wide just standard  
12 vehicle, UPS or whatever, that vehicle, assuming they pull  
13 right up to the curb, is still going to stick out into the  
14 travel lane.  
15 A When I described the Edgemoor, I said that the,  
16 the curb dimension is about 18 feet in some areas, even if  
17 you say it's 20 feet, right, I'm being generous, along  
18 Montgomery, I'm sorry, 18 feet is what's on West Lane, 20  
19 feet on Montgomery. With a seven foot lay-by would give you  
20 27 feet of pavement from the south curb to the lay-by.  
21 Q I thought we had six feet lay-by on West Lane.  
22 A I'm talking in front of the Edgemoor.  
23 Q Well, I --  
24 A I'm trying to explain the difference.  
25 MS. ROBESON: Just, just a second. Okay. Go back

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1 to 112. And, Mr. Knopf, you point to him the dimensions  
2 that you want to, him to compare. Okay.  
3 MR. KNOPF: I'm not -- let me restart. I'm  
4 interested in the lay-by on West Lane.  
5 MS. ROBESON: I know that.  
6 MR. KNOPF: Oh.  
7 MS. ROBESON: But are you comparing, are you  
8 trying to compare it to Edgemoor?  
9 MR. KNOPF: No. Well, no. First, I wanted to  
10 establish whether the one on West Lane would result in the  
11 vehicle sticking out into the travel lane, and I guess --  
12 MS. ROBESON: Oh, okay.  
13 MR. KNOPF: I guess you would --  
14 MS. ROBESON: I think he testified yes.  
15 MR. KNOPF: He would agree. He would agree it  
16 would stick out two feet.  
17 BY MR. KNOPF:  
18 Q Wouldn't it?  
19 A What I testified to was that there will be 22 feet  
20 of paving curb to curb on West Lane where there isn't a lay-  
21 by and when you add six feet for the lay-by, you have 28.  
22 So if you have an eight foot vehicle in the lay-by, then  
23 you've got 20 feet of pavement left which is more than ample  
24 for vehicles to pass one another.  
25 Q That's not my question.

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1 MS. ROBESON: Wait. I'm -- okay. It's going to  
2 stick out. If it's parked in the lay-by, it's going to  
3 stick into the travel lane, right?  
4 MR. KNOPF: That was my question.  
5 THE WITNESS: That's correct.  
6 MS. ROBESON: Okay. That's what I think he's  
7 trying to know.  
8 BY MR. KNOPF:  
9 Q That's all I wanted to know. Thank you.  
10 MS. ROBESON: I would be helpful if you could, I  
11 know you're, you want to argue your case and you're doing a  
12 great job. I just need you to answer his question because  
13 one of my jobs is to get through the hearing so.  
14 MS. HARRIS: And ours too but in fairness, Mr.  
15 Knopf actually referenced the lay-by in front of the  
16 highrise Edgemoor.  
17 MR. KNOPF: No. I was --  
18 MS. ROBESON: I'm not -- I know. I'm not  
19 criticizing anybody. It's been a long number of days but  
20 let's just stick -- so it will protrude into the travel lane  
21 by two feet approximately depending on how close it is to  
22 the curb, correct?  
23 THE WITNESS: Right. And of course the width of  
24 the vehicle.  
25 MS. ROBESON: Yes. Correct.

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1 THE WITNESS: The FedEx truck that I was  
2 describing was eight feet wide so it would, if it parked  
3 against the curb, it would project into the southbound lane  
4 approximately two feet.  
5 MS. ROBESON: Okay.  
6 MR. KNOPF: Thank you.  
7 BY MR. KNOPF:  
8 Q And we did say, now switching to front of  
9 Edgemoor, the Edgemoor has a seven foot width lay-by, is  
10 that correct?  
11 A Correct.  
12 Q Is there some reason why we don't have a seven  
13 foot or eight foot lay-by established on West Lane so that  
14 we don't protrude into the travel lane?  
15 A Well, there's several reasons. I'm a lead  
16 accredited professional and interested in green rather than  
17 non-green so we don't want to make, put anymore pavement  
18 down than we have to and when we -- the seven foot lay-by  
19 for the Edgemoor creates a total pavement width of 27 feet.  
20 The six foot lay-by in front of West Lane creates a total  
21 pavement width of 28 feet. I don't think it's warranted to  
22 have a wider lay-by there. Certainly could be done but it's  
23 not necessary.  
24 Q All right. Just let me, on the SUV, SU, SUV, I'm  
25 sorry, 30? How do you, what's the --

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1 A SU.  
2 MS. ROBESON: The one on 115A?  
3 MR. KNOPF: Right.  
4 BY MR. KNOPF:  
5 Q What's the width of that truck? I know the  
6 height's 13.5 feet. I wrote that down. I didn't write down  
7 the width.  
8 A Let me see yours. Yeah. The 115A or B.  
9 MS. HARRIS: Oh, yes.  
10 THE WITNESS: I'm sorry. I don't see that  
11 dimension on there either, but I, I probably should have  
12 copied this table for you. It has more dimensions. The --  
13 BY MR. KNOPF:  
14 Q Well --  
15 A -- SU-30 has a width of eight feet.  
16 Q Eight feet also. Okay. Thank you. Now, the lay-  
17 by that I was just referring to on West Lane, that is also  
18 to be used by, excuse me, visitors to the building for drop-  
19 off or pick-ups, regular vehicles, regular cars rather than  
20 deliveries. Just people that are picking up or dropping off  
21 people associated to that building would be using that lay-  
22 by.  
23 A Among other places, yes.  
24 Q What are the other places?  
25 A Just some extra spaces in the garage.

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1 Q If I were going to pick up somebody, I would go  
2 down into the garage to pick them up?  
3 A If you were coming to visit someone. I'm sorry.  
4 Maybe I misunderstood you.  
5 Q No. I meant I'm coming to pick up someone or I'm  
6 going to drop off someone, not stay.  
7 A Sure. They could use the lay-by for that.  
8 Q Because the, there isn't any other alternative, is  
9 there, as a practical matter unless they double park or park  
10 illegally, stop illegally on Montgomery Lane?  
11 A I don't know that there, you would prohibit  
12 stopping adjacent to the curb on Montgomery Lane to let  
13 somebody out.  
14 Q Okay. Fair enough. Now, if there is a Federal  
15 Express truck parked in a lay-by -- let me rephrase that.  
16 If you have a Federal Express truck parked in the lay-by, I  
17 believe you said that's 23 feet in length.  
18 A Yes.  
19 Q And am I correct that a parking space in  
20 Montgomery County, if you have a garage or a parking lot, is  
21 supposed to be 18 feet long for a car?  
22 A Any perpendicular space is 18 feet long.  
23 Q Right. So if we had a 23 foot truck parked in the  
24 lay-by and a car wanted to park 18 feet and 23 feet, we've  
25 already hit tilt, haven't we, in terms of a 40 foot lay-by

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1 length? We've already gone over that?  
2 A Eighteen plus twenty-three exceeds forty.  
3 Q Right.  
4 A There are plenty of vehicles that would still fit  
5 in there.  
6 Q I understand. Do you agree with me even less  
7 would fit in there if the, if the UPS truck didn't exactly  
8 pull all the way up and sort of just --  
9 A Sure.  
10 Q Right.  
11 A I would agree with you.  
12 Q Okay. So would you agree with me if we got two  
13 vehicles, such as the mailman or the UPS, they both couldn't  
14 fit in the lay-by if they came at the same time.  
15 A Depending on the size of their vehicles.  
16 Q I see. All right.  
17 A I mean, my mail truck is shorter than my car.  
18 Q All right. Let's say two UPS vehicles, or one UPS  
19 and one Federal Express, they both couldn't fit through at  
20 the same time, could they?  
21 A That's correct.  
22 Q And would you agree with me that if someone had a  
23 van, say a painter or electrician, and they parked in the  
24 lay-by, that would preclude having a, and they didn't park  
25 exactly up front but left a little room, it would preclude

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1 the UPS truck from doing that, from parking here also?  
2 A If they park closer than this dimension, yes, it  
3 could.  
4 Q Now, you said there was going to be spaces in the  
5 basement that visitors could park. Your understanding  
6 there's going to be spaces in the basement that service  
7 vehicles could park?  
8 A Yes.  
9 Q And do you know that there will be extra spaces?  
10 How many spaces is it your understanding are being provided  
11 totally in the garage?  
12 A I, I don't know the total number, didn't finally  
13 determine it.  
14 Q I see. Do you know the total number of units that  
15 they're planning on?  
16 A A maximum of 120.  
17 Q But you don't know the total number of units but  
18 you're still sure, parking spaces, but you're still sure  
19 there will be spaces for visitors?  
20 A It's the applicant's intention to have spaces  
21 there that visitors could use.  
22 Q It's the applicant's intention to have spaces  
23 where all the service vehicles can use?  
24 MS. HARRIS: Objection. Mr., two things. One is  
25 we covered this ad nauseam yesterday I believe with the

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1 traffic consultant and the architect previous, the traffic  
2 consultant. And second of all, Mr. Irish did not at all  
3 testify to the number of parking spaces in the building.  
4 MS. ROBESON: Well, I recall -- no he didn't. I  
5 recall, however, that some of the questions on parking were  
6 deferred to the civil engineer, and I think that's what  
7 you're responding to. I, I think you've, you know, I don't  
8 think we need to get too much more into this because I think  
9 you've made your point unless you have another series of  
10 questions.  
11 MR. KNOPF: I just want to ask -- yes. I'm going  
12 on.  
13 MS. ROBESON: Okay.  
14 MR. KNOPF: I'm almost done here.  
15 BY MR. KNOPF:  
16 Q When a truck, assume a truck of the proper size  
17 goes into the garage to use the loading facility or  
18 unloading facility in the garage. Am I not correct, we had  
19 testimony from the architect and I thought he deferred  
20 somewhat to you that the truck would have to go from the  
21 garage entrance pretty much the length of the building to  
22 get to where the elevator unloading area is, and I was  
23 trying to understand how that's to be accommodated in a  
24 garage where a truck path, where the truck would have access  
25 to the elevator and then how would the truck turn around to

1 get out? I'm trying to understand. This, is this in theory  
2 or in fact there's going to be a way for him to get in and  
3 out. You wouldn't, you wouldn't have him back out, would  
4 you?

5 A In fact, there will be a way for the, the vehicle  
6 to pull head first into the garage and head first out of the  
7 garage.

8 Q And that's how I'm wondering. How, how will that  
9 be provided that circulation area? Would that not take up  
10 quite a bit of room where, that normally would be assigned  
11 to parking?

12 A No.

13 Q Do you have a floor diagram of the garage that  
14 this --

15 A The kind of vehicle we're talking about is a large  
16 van or a pick-up truck. They typically can fit in a,  
17 basically a standard space. As I understand it from the  
18 architect, he's allocated a wider space to, to that loading  
19 area and allowed for an appropriate height. One of the  
20 requirements by law that we have to comply with is we have  
21 to allow a wheelchair van to go into the garage and park in  
22 one of the handicap spaces. The constraints that you have  
23 on a handicap van are similar to what you would have on, on  
24 some of the smaller trucks.

25 Q I didn't understand that. So we're talking about

1 pick-up trucks or vans rather than box trucks or UPS type  
2 trucks going into the garage.

3 A Well, the UPS truck wouldn't go into the garage  
4 but U-Haul has a vehicle that's a 10 foot box truck whose  
5 height is comparable to that of a handicap van. And in  
6 their, you can look it up on line, they advertise this  
7 vehicle as adequate to serve studio/apartment, so a small  
8 studio or a small apartment. So that vehicle would have  
9 three opportunities for places to unload, the lay-by, the  
10 loading space at grade or down in the garage.

11 Q And if I'm not mistaken, you testified that with  
12 regard to the, I refer to it as hammerhead turns, I don't  
13 know if that's the proper term. Where you have to go one  
14 direction and back up to make a turn, is that proper to say  
15 hammerhead or is there some other --

16 A It's a three-point turn.

17 Q Three-point turns. Thank you. I believe you  
18 testified that something to the effect that that is a very,  
19 that's a good, it's a good circulation system, it's the best  
20 you can get for this area or something like that.

21 A What I, what I believe you're referring to is I  
22 was comparing how you would back into our loading space at  
23 grade as to how you would back into pretty much any loading  
24 space. You drive along the street, you back in and then you  
25 pull out. This is, is very, is very similar. You drive in,

1 you back in and then you pull out.

2 Q Well, would you agree with me that an even better  
3 way for unloading such as you have a lot of unloading using  
4 the, possibly using the lay-by, correct? The trucks could  
5 come in there and make deliveries or unloading by going into  
6 the lay-by, is that correct?

7 A It's one of three opportunities.

8 Q Right. Would not be even more efficient or better  
9 way if this happened to have an arrangement where a truck  
10 could go around the block so that it would come in, go  
11 around the building. If this were open, the west way were  
12 opened, just came down west way and then pulled into that  
13 spot without having to back up, wouldn't that be a superior  
14 way to do that?

15 A That would improve the circulation to back into  
16 the lay-by. It wouldn't improve the movement into the  
17 garage or into the loading space at grade.

18 Q Would you agree with me that this is an unusual  
19 site since there seems to be very limited ability to access  
20 the building if you can't come in from Montgomery Lane and  
21 the West Lane was the only access point and that's a dead  
22 end, no outlet street? Sort of an, a difficult situation,  
23 isn't it?

24 A Well, I don't think it's difficult. It's, it's  
25 fortunate.

1 Q Oh, fortunate. Because?

2 A There's a lot less traffic on West Lane than on  
3 Montgomery Lane.

4 Q All right.

5 A Less interactions.

6 Q I see. One of the, one of the findings that the  
7 Hearing Examiner has to make is that the development would  
8 provide for the, quote, maximum safety, unquote, and that  
9 the proposed vehicular access would be safe, adequate and  
10 efficient. Do you think that this access points provided  
11 here, I understand it's been constrained by the site, do you  
12 think they provide for the maximum safety and efficiency?

13 A Yes. I do.

14 Q That's your -- you do. And that the, would you  
15 agree with me that if there were less deliveries, less move-  
16 ins because there were less units, that would also increase  
17 the safety and efficiency at this site by having less,  
18 lesser units so you have lesser, less traffic?

19 A I don't necessarily agree with that.

20 Q No. Okay. Well, you would agree that if you have  
21 less units, you're apt to have less traffic and less  
22 deliveries, aren't you?

23 A Yes. We're already at almost at de minimis level  
24 so reducing it by a couple is not that big of an  
25 improvement.

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1 Q All right. I have no further questions.  
2 MS. ROBESON: All right. Redirect, Ms. Harris?  
3 MS. HARRIS: Thank you.  
4 REDIRECT EXAMINATION  
5 BY MS. HARRIS:  
6 Q You testified that the project meets all the  
7 development standards.  
8 A Yes.  
9 Q Does it also meet the building frontage  
10 requirement?  
11 A There is no building frontage requirement in the  
12 TS-R Zone. There is a frontage requirement in some of the  
13 residential zones but the TS-R does not have a frontage  
14 maximum.  
15 Q So that the 172 foot wide, long I should say,  
16 excuse me, long highrise Edgemoor is in compliance with the  
17 zone, is that right?  
18 A Yes.  
19 Q As is the 78 foot wide West Lane project, subject  
20 property?  
21 A Yes.  
22 Q As are all the other ones on the block.  
23 A Yes.  
24 Q Thank you. In terms of the -- well, there's a lot  
25 of discussion immediately after lunch about the public use

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1 space in the front of the building and I just have a few  
2 questions on that, but can you please read the first two  
3 sentences on page 82 of the Sector Plan regarding, let me  
4 show it to you, regarding what the objective --  
5 A This?  
6 Q Exactly. What the objective, one of the  
7 objectives is in the Sector Plan in terms of open space and  
8 greenspace.  
9 A One possible resource for publicly oriented open  
10 space within the TS-R District is the area in front of new  
11 apartment structures along Montgomery Lane. Streetscape and  
12 special seating areas could be provided in the setback from  
13 the sidewalk to the building face creating an outdoor  
14 community space.  
15 Q Would you agree that it almost sounds as if the  
16 applicant took that sentence and defined a space to meet the  
17 sentence?  
18 A Think they did.  
19 Q Thank you. In terms of the public, in terms of  
20 the public use space definition in the Zoning Ordinance --  
21 MS. ROBESON: Yes. Go ahead.  
22 MS. HARRIS: Okay.  
23 BY MS. HARRIS:  
24 Q Are you aware of any requirement or distinction  
25 between how much hardscape and softscape can be provided?

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1 A No. There isn't one.  
2 Q So that a public use space could be primarily  
3 hardscaped?  
4 A It can be and in many cases is. Generally, the  
5 more urbanized areas have more hardscape than softscape or  
6 green area.  
7 Q Okay. In terms of the, moving onto the roof  
8 because there seems to be a lot of confusion about what's  
9 happening up on the roof, so I just want to better  
10 understand. When, when the green roof, which is a major  
11 component of the roof obviously, when will the details of  
12 that be worked out?  
13 A I believe my earlier testimony reflected a three  
14 stage process for the design of storm water management and  
15 we're actually a little bit ahead of the game with what we  
16 have at this point. Typically, at a preliminary plan stage,  
17 you would be required to have submitted a concept storm  
18 water management plan prior to submitting a preliminary  
19 plan. You have to have that concept approved prior to  
20 preliminary plan approval. That plan is then updated,  
21 further embellished, more details provided at site plan.  
22 Similar process, has to be submitted prior to submittal and  
23 approved prior to the Planning Board acting on the site  
24 plan. After that second stage is approved, then the final  
25 construction plans for the storm water management system

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1 would be detailed and provided permanently.  
2 As it relates to a green roof, we're at a stage  
3 where we've determined, between us and the architect,  
4 approximately how much area in the roof could be devoted to  
5 a green roof for storm water management purposes, and that's  
6 the 6, 6,000 feet. In terms of specifically where on the  
7 roof it would be and what type of plants would go in, we're  
8 not at that point. The landscape plans that would be  
9 prepared as part of the site plan would should a lot more  
10 detail on that and then obviously, the construction plans  
11 would.  
12 MS. ROBESON: I understand. I guess my question  
13 is if the green roof ends up being counted as open space,  
14 are you going to reduce the amount of green area or open  
15 space shown on this plan?  
16 MS. HARRIS: No, and maybe the first -- we'll  
17 answer that in detail but maybe it's good to explain the  
18 difference between the public use space requirement and the,  
19 and the open space requirement.  
20 THE WITNESS: Well, the, the TS-R Zone has two  
21 requirements.  
22 MS. ROBESON: Right.  
23 THE WITNESS: One is for public use space which we  
24 had a lot of discussion about. The other is active/passive  
25 recreation space. Public use space is required to be 10

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1 percent of the net lot area. Active/passive recreation  
2 space, the quantity is supposed to be a minimum of 20  
3 percent of lot area.  
4 MS. ROBESON: Right.  
5 THE WITNESS: But active/passive recreation space  
6 does not have to be exterior space. The amount of space  
7 that we have available outside the building that we've not  
8 counted for other things, not even counting the 15 foot  
9 strip at the north, exceeds the 20 percent requirement.  
10 MS. ROBESON: I understand that but I guess my  
11 question, for compatibility reasons is, well, maybe it's a  
12 question for the applicants, if, if the green roof ends up  
13 counting toward one of these, well, it wouldn't be public  
14 use space, but one of these spaces, is that going to reduce  
15 the space on the exterior that's counting toward open space?  
16 THE WITNESS: I think I can answer that.  
17 MS. ROBESON: You can?  
18 THE WITNESS: And the answer is no. What's going  
19 to be on the roof is going to be on the roof. We meet the  
20 requirements in the zone without counting the roof for any  
21 of those spaces.  
22 MS. ROBESON: I know that but my question is if  
23 you could count it, all right --  
24 THE WITNESS: Would we reduce the space.  
25 MS. ROBESON: -- would you reduce the exterior of,

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1 of what's showing on the plan?  
2 THE WITNESS: No.  
3 MS. ROBESON: That's my question.  
4 THE WITNESS: No. That space is designed for, for  
5 its purpose and there's no need to reduce that.  
6 BY MS. HARRIS:  
7 Q And actually, that reminds me of another question  
8 that I failed to -- sorry. In terms of the corner parapets,  
9 there was a suggestion that what we see on Exhibit 76 isn't  
10 exactly what will be, what will be constructed and we have,  
11 as you noted, a 10 percent public use space requirement.  
12 A Yes.  
13 Q And so just mathematically, because we have a 10  
14 percent public use space requirement, is it correct to say  
15 that the rough dimensions of that space will absolutely be  
16 as shown on the plan because we have to satisfy the 10  
17 percent requirement?  
18 A Yes.  
19 Q Thank you.  
20 MS. ROBESON: Are your setbacks a binding element?  
21 THE WITNESS: The setbacks that I believe we have  
22 as binding elements are the 12 feet from the west property  
23 line, 10 feet from the Montgomery Lane property line after  
24 dedication and 15 feet from the north property line.  
25 MS. ROBESON: Okay. All right.

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1 BY MS. HARRIS:  
2 Q In terms of loading, you're aware that the  
3 recommendations of DOT are that a building such as this  
4 should have one loading space, correct?  
5 A Yes.  
6 Q And how many are we providing?  
7 A We're providing three separate loading  
8 opportunities.  
9 Q So three times the requirement, is that correct?  
10 A Yes.  
11 Q And you mentioned, and I think it was helpful to  
12 identify the U-Haul, the size of the U-Haul truck that could  
13 fit into the garage space below grade.  
14 A Yes.  
15 Q Is there anything else that would -- can you  
16 please just reiterate what size, sorry, what size truck  
17 would fit into the loading bay at grade?  
18 A Yes. The best way to answer the question is to  
19 describe the process I went through. I researched U-Haul  
20 for lack of a, could have picked Ryder or whoever but U-Haul  
21 was the first website I went to, and they very conveniently  
22 had dimensions of their trucks as well as a description of  
23 the type of unit that they could serve.  
24 So I, I started with the 10 foot box truck. They  
25 have a smaller vehicle that's a large van that frankly, I

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1 think some people would probably use as well. But the 10  
2 foot box truck is what we were discussing with Mr. Knopf's  
3 questions which has a height that would allow it to go into  
4 the garage and use that space. And it is labeled as perfect  
5 for studio/apartment, so that's a 10 foot box truck.  
6 I then looked at 14, 17 and 20 foot box trucks.  
7 The 14 foot box truck is perfect for apartment up to two  
8 bedrooms, which is our maximum, and 17 foot truck is perfect  
9 for a home up to two bedrooms. Both of those vehicles have  
10 a height that would allow them to fit into our surface  
11 loading space, back into that space. The 20 foot truck is  
12 only about two inches taller so depending on whether, how  
13 tightly that space is designed, he may or may not fit.  
14 MS. ROBESON: What space?  
15 THE WITNESS: The loading, surface loading space.  
16 MS. ROBESON: Yes.  
17 THE WITNESS: It may or may not fit.  
18 MS. ROBESON: So it would have to go in the lay-  
19 by?  
20 THE WITNESS: Right. However, it is perfect for  
21 home up to three bedrooms. We don't even have a three  
22 bedroom apartment so.  
23 MS. ROBESON: What's the length of that third  
24 truck?  
25 THE WITNESS: The 20 foot box truck. So the

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1 dimension of the box itself is 16 foot, 8 and then has a,  
2 about a 4-and-a-half foot area that overhangs the cab and  
3 then the cab projects a little bit forward from that.  
4 MS. ROBESON: Okay.  
5 BY MS. HARRIS:  
6 Q And then just one final question to clarify  
7 because I think there was some concern yesterday that we  
8 were going to make people do their own manual labor moving  
9 in here. The fact that it's U-Haul doesn't necessarily  
10 suggest. That was just by way of example and obviously, a  
11 private mover would have trucks comparably sized, is that  
12 correct?  
13 A Sure.  
14 Q That's by way of -- okay.  
15 A I was just trying to find a truck that would  
16 illustrate.  
17 MS. ROBESON: Oh. I wasn't even thinking about --  
18 MS. HARRIS: Well, someone else made a comment.  
19 MS. ROBESON: -- the manual aspect of --  
20 MS. HARRIS: Someone else made that comment and  
21 suggestion --  
22 MS. ROBESON: Oh.  
23 MS. HARRIS: -- and I just wanted to clarify that.  
24 THE WITNESS: But to finish, the 20 foot truck,  
25 even though we don't expect them to need one that large,

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1 would fit in, that would be limited, most likely limited to  
2 the lay-by.  
3 MS. ROBESON: Okay.  
4 THE WITNESS: The, but the vehicles, it would  
5 accommodate a single-family home up to two bedrooms. The 17  
6 foot truck itself could back into the surface loading space.  
7 MS. ROBESON: But you couldn't accommodate on the  
8 site a tractor trailer. That was really the question.  
9 THE WITNESS: The --  
10 MS. ROBESON: Yesterday.  
11 THE WITNESS: The tractor trailer, we showed that  
12 it could pull in and turn around. Let me double-check  
13 the --  
14 MS. ROBESON: Well, wait. I don't want to rehash  
15 yesterday. Really, I don't. So, you know, I'll withdraw  
16 that. I think you did answer, answer that question, so  
17 let's not go there. Okay. Keep going.  
18 MS. HARRIS: Can I have one moment? That  
19 concludes our questioning for Mr. Irish.  
20 MS. ROBESON: Recross?  
21 MR. ABRAMS: Just one question.  
22 RE-CROSS-EXAMINATION BY MR. ABRAMS  
23 BY MR. ABRAMS:  
24 Q I'll try to make this real simple, Mr. Irish. The  
25 original plan, up to the time it went through the first

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1 meeting at the Planning Board, had public open space of  
2 4,092 square feet, correct?  
3 A Yeah.  
4 Q When the plan was revised -- and that was 14  
5 percent of the area.  
6 A Correct.  
7 Q Okay. When the plan was revised, it was reduced  
8 to 2841 square feet, down to 10 percent minimum, correct?  
9 A Yes.  
10 Q Okay. If my math is correct, that is a difference  
11 of 1251 square feet between those two numbers. Do you agree  
12 with that?  
13 A It sounds about right. I haven't run it through a  
14 calculator but I'll give you the benefit of the doubt.  
15 Q Thank you. Now, even considering the new cut-out  
16 area which I think you said contains 618 square feet in the  
17 quarter circle, isn't there still a net deficit of 1251  
18 square feet of public use space between what was in the  
19 original plan and what was in the current plan?  
20 A Yes.  
21 Q Okay. Now, is there space on site to provide  
22 additional frontage of public use space?  
23 A Well, you could get back above the original  
24 submittal by just counting the space that was counted on the  
25 north side of the building.

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1 Q Well, assuming that space is not going to be  
2 public use space in terms of the frontage area, could not --  
3 MS. HARRIS: Object.  
4 MS. ROBESON: I'm going to let him answer.  
5 BY MR. ABRAMS:  
6 Q -- could not the difference, the 1251 square foot  
7 difference, be included in the frontage along Montgomery  
8 Lane?  
9 A We've counted all of the frontage on Montgomery  
10 Lane now and haven't picked up the 1200 feet that you're  
11 referring to. There's no more space there.  
12 Q Well, that's the way the building is currently  
13 configured, correct?  
14 A Yes.  
15 Q Okay. If the building were slightly reconfigured  
16 to pick up 1251 square feet in the front of the area, what  
17 type of additional footage or setback would that require?  
18 A If you had 1251 feet divided by the 78 feet of  
19 frontage, it would require 16 feet, half an inch of, over,  
20 slightly over 16 feet of setback to pick that up, additional  
21 setback.  
22 Q Additional setback. Okay.  
23 A So it would go from 12 feet to 28 feet from the  
24 sidewalk.  
25 Q So that would be a maximum number for the

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1 frontage. It could be something less than that and the  
2 other areas could be expanded in terms of public use space  
3 either along West Lane or some other portion of the site.  
4 A Design it however you want hypothetically.  
5 Q Well, what we're obviously trying to see is  
6 whether there could be any further depth associated with the  
7 public use space, the green portion of the public use space  
8 in the, in the plans that have been submitted as well as  
9 what can be redeveloped or recalculated or redesigned on  
10 this project.  
11 A Well, not without changing the building. I feel  
12 like you're trying to say because we offered more than the  
13 minimum and then everybody said that's not really the best  
14 space, so we said fine, we won't count that area. Now that  
15 we're providing only the minimum, now we're saying we'll  
16 make that area up. There's no requirement that we provide  
17 14 percent.  
18 Q Well, if it was good enough to begin with, why  
19 isn't it good enough now?  
20 A Well, I still think it is, is as good as many of  
21 the other spaces on Montgomery Lane that have been counted.  
22 Q You're working with a blank slate here which can  
23 be designed any way you want to as long as it meets the  
24 minimum requirements of the Zoning Ordinance. Therefore --  
25 A We have that.

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1 Q Huh?  
2 A We have that.  
3 Q I know. That's the current design. My question  
4 is is it impossible, infeasible to redesign the building to  
5 acquire the original amount of public use space?  
6 MS. HARRIS: Objection.  
7 MS. ROBESON: Well, just -- I think it would be  
8 better if you just answered the question.  
9 THE WITNESS: To answer your question, it's not  
10 feasible without reducing the --  
11 MS. ROBESON: No, no.  
12 THE WITNESS: -- square footage of the building.  
13 MS. ROBESON: That's not the answer. His question  
14 is can you reconfigure the building to have more additional  
15 setback. That's his question. And the answer's got to be  
16 yes because you could reconfigure it. So if it isn't yes,  
17 you know, tell me but if you were starting with a blank  
18 state, could you redesign the building in a manner with  
19 additional setback?  
20 THE WITNESS: Well, it's like that proverbial  
21 water balloon. You push one place, it comes out somewhere  
22 else.  
23 MS. ROBESON: I know, but could you do it?  
24 THE WITNESS: Well, you could -- sure. You could  
25 draw a much smaller building on the site.

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1 MS. ROBESON: Okay.  
2 MS. HARRIS: May I ask a point of clarification?  
3 MS. ROBESON: Yes.  
4 MS. HARRIS: Is the purpose, once the applicant  
5 crosses, redirects, isn't the purpose of any additional  
6 questioning only to clarify things that came out on redirect  
7 which is what the basis of my objection was going to be  
8 because we --  
9 MS. ROBESON: Well, I thought --  
10 MS. HARRIS: -- certainly didn't get into that.  
11 MS. ROBESON: Okay. I thought your redirect had  
12 information on the amount of public use space.  
13 MR. ABRAMS: That's what I thought.  
14 MS. HARRIS: I think we were --  
15 MS. ROBESON: Okay. We'll --  
16 MS. HARRIS: Just, I'm noting my concern.  
17 MS. ROBESON: I understand, and you can --  
18 MS. HARRIS: Okay.  
19 MS. ROBESON: -- note your objection.  
20 MS. HARRIS: Thank you.  
21 MR. ABRAMS: That's all the questions I have.  
22 MS. ROBESON: Okay. Mr. Knopf.  
23 MR. KNOPF: No questions.  
24 MS. ROBESON: All right. Is that your last  
25 witness?

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1 MS. HARRIS: Yes.  
2 MS. ROBESON: Until rebuttal. Don't forget. You  
3 have rebuttal.  
4 MS. HARRIS: I know. I realize that.  
5 MS. ROBESON: Okay.  
6 MS. HAY: May we take a five minute break?  
7 MS. ROBESON: Yes.  
8 MR. KNOPF: Well, before you break, I have one  
9 question. Am I correct that because you have now ended your  
10 case in chief that you will, you are not accepting any of  
11 the recommended binding elements that the Planning Board's  
12 opinion suggested that haven't already been adopted?  
13 MS. HARRIS: No. I think what the Hearing  
14 Examiner had said that prior to rebuttal, we need to provide  
15 to the Hearing Examiner and Counsel --  
16 MS. ROBESON: Yes. There's no rule that they have  
17 to do that on, on, in their case in chief.  
18 MR. KNOPF: Okay.  
19 MS. ROBESON: And we do have it quite often to  
20 address concerns that have been raised. She hasn't heard  
21 your testimony yet so I think she said she would share, she  
22 did, they were considering some and they would provide them  
23 in advance of --  
24 MR. KNOPF: I missed that. sorry. I didn't  
25 mean --

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1 MS. HARRIS: And just to clarify, after our  
2 rebuttal, then closing argument and that's it, correct?  
3 MS. ROBESON: That's it as far as I'm concerned.  
4 MS. HARRIS: It better be. Otherwise --  
5 MS. ROBESON: Yes. Okay. So we're ending, we're  
6 going to take a 10 minute or 15 minute break and then Mr.  
7 Abrams, your first witness is on.  
8 MR. ABRAMS: Okay.  
9 MS. HARRIS: And is it, just for timing purposes,  
10 are we going to try to complete Mr. Abrams' case this  
11 afternoon?  
12 MS. ROBESON: Well, how many people do you have?  
13 MR. ABRAMS: Today, we have actually three.  
14 MS. ROBESON: Three.  
15 MS. HARRIS: And is that all of them?  
16 MR. ABRAMS: Huh?  
17 MS. HARRIS: Well, you said today we have three.  
18 MR. ABRAMS: There is one that could not make it  
19 today and one that's going to come on Friday, that will be  
20 here Friday.  
21 MS. ROBESON: Okay. Well, we will try, I mean, we  
22 will attempt --  
23 MS. HARRIS: So he can't complete his case anyway  
24 today.  
25 MS. ROBESON: No. But we can get as much of it

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1 done as possible and then --  
2 MR. ABRAMS: That would be a good idea.  
3 MR. KNOPF: Because if we don't make Friday with  
4 my case, I've got problems with witnesses. They're all,  
5 they're all available.  
6 MS. ROBESON: We're going to, we're going to do it  
7 all. Now, we may go past, if we want to get, depending on  
8 cross-examination, if we want to get the three witnesses in  
9 today and stay on schedule, we may go past 5:00.  
10 MR. ABRAMS: Okay. The Examiner has received,  
11 when this application was refiled, a motion from me. It's  
12 Exhibit 57A.  
13 MS. ROBESON: I remember that motion, yes, about  
14 how they couldn't file this --  
15 MR. ABRAMS: Right.  
16 MS. ROBESON: -- as a development plan amendment.  
17 MR. ABRAMS: That's right. And I was advised, I  
18 think by response of either e-mail or letter, to raise it  
19 and re-raise it.  
20 MS. ROBESON: Yes. I remember it.  
21 MR. ABRAMS: So it's my intention to re-raise it.  
22 It's not going to be long. You've got the substance of the  
23 memorandum.  
24 MS. ROBESON: Yes, I do.  
25 MS. HARRIS: If I recall correctly, that was

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1 raised on January 11th and you indicated that you, I mean,  
2 you didn't accept the argument that Mr. Abrams was putting  
3 forth.  
4 MS. ROBESON: I, what I said is there wasn't  
5 enough for me at the time. If he wanted to re-raise it, he  
6 could with additional, you know, legislative history or  
7 information.  
8 MR. ABRAMS: I do not have any additional  
9 legislative history so if you're going to rule on the  
10 motion --  
11 MS. ROBESON: Yes.  
12 MR. ABRAMS: -- it's in here. I need not, I  
13 guess, repeat the motion.  
14 MS. ROBESON: No.  
15 MR. ABRAMS: Okay.  
16 MS. ROBESON: No.  
17 MR. ABRAMS: All right. But I just want you and  
18 the record to be clear that it has been re-raised according  
19 to your prior --  
20 MS. ROBESON: Re-raise noted, but I'm not, my  
21 actions are going to be -- are you re-raising it now?  
22 MR. ABRAMS: Yes.  
23 MS. ROBESON: Okay. Then my actions are without  
24 the additional legislative background, I'm going to deny it.  
25 MR. ABRAMS: Good.

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1 MS. ROBESON: But the, but it's noted for the  
2 record.  
3 MR. ABRAMS: Thank you.  
4 (Whereupon, at 3:18 p.m., a brief recess was  
5 taken.)  
6 MS. ROBESON: Mr. Abrams.  
7 MR. ABRAMS: Yes. At the beginning of the  
8 proceedings, we deferred any opening statement until our  
9 case.  
10 MS. ROBESON: Yes. I remember that.  
11 MR. ABRAMS: I'm just going to give you a short  
12 synopsis of what our issues are and what we intend to show.  
13 Let it be understood, first of all, I'm representing a  
14 community of 29 townhouses which are across the street and  
15 they've been identified as City Homes. And the people and  
16 the organization within that area had been involved with the  
17 prior application on this property which has been identified  
18 as Holiday Corporation or G-843 I believe it was.  
19 Now, the application was subject to hearings for  
20 the development plan and as I think it's also been testified  
21 and in exhibits, there was a two-level building proposed to  
22 go on three of four lots, and that was four stories and six  
23 stories. This application currently, G-954, picked up a  
24 fourth lot and made it sort of the rectangular piece. But  
25 back then, and I'm talking about 2007, the community

1 supported the Holiday plan and they perhaps supported it,  
2 you know, to the man and woman.

3 And then comes along this application and what has  
4 I guess upset them are things that they relied upon in terms  
5 of the prior application being approved because what we have  
6 currently is an application which is almost two-and-a-half  
7 times the approved density for Holiday, it's got  
8 significantly more parking, 58 more parking spaces, it's got  
9 a density increase from 73 dwelling units to the acre to I  
10 think the latest count is somewhere between 127 and 135  
11 dwelling units to the acre, so that's about a 40 some  
12 percent increase, and the height has increased from four to  
13 six stories up to, you've heard seven stories without a, the  
14 10 feet or the penthouse. So they got something very  
15 different than what they originally thought that they were  
16 getting.

17 Now, their concern is not that something, you  
18 know, doesn't get developed on this property. They're  
19 concerned with what gets developed on this property. And  
20 basically, what they're looking for is a project which  
21 conforms to the Sector Plan in terms of building height,  
22 densities, you know, providing public use space, the  
23 transition going from Woodmont Avenue down to Arlington Road  
24 and seeing that the elements of the Sector Plan are adhered  
25 to as much as possible. The fact that the area has not

1 developed to maybe the high density that was envisioned is  
2 something that goes to the second element that they would  
3 like to see and perhaps it's even more important than the,  
4 than the Sector Plan element, and that is compatibility with  
5 what is immediately surrounding them.

6 And as the Hearing Examiner, your office, whether  
7 it's yourself or other examiners, has made the comparison of  
8 what happens in terms of compatibility. You have a piece of  
9 property in the center of say in a circle and those most  
10 affected are the people and the development which is  
11 immediately adjacent, immediately embodied and as you go  
12 further out from this center, the issue of compatibility  
13 becomes I say less and less acute to those people. So it's  
14 like a stone in a pond, you know, the biggest waves are  
15 closest to where you throw the stone in and that, I think,  
16 is the way floating zones such as this have been handled and  
17 that is the way I think the development plan amendments also  
18 have been handled with those, those cases.

19 When this case went back to the Planning Board,  
20 there were two issues. In other words, the massing and  
21 scaling, scale of the building, whether it had been  
22 adequately broken up, and the change in the public use space  
23 from the rear of the building to some other place.  
24 Basically what the community was looking for was additional  
25 public use space in the front. Well, they got it but they

1 got it in a different configuration. Now, we're not saying  
2 that they configuration that they have provided is, you  
3 know, inappropriate. It's just that we didn't get what was  
4 originally there.

5 They're still very early in the process. The  
6 ability to get what they originally came in with, and that's  
7 4,092 square feet or somewhere close to that, in public use  
8 space. And it's particularly important in this area because  
9 of the mixed street concept which we have all heard a lot  
10 about. It's pedestrian-oriented and, you know, it seems to  
11 me the more green, the more shade, the more benches, it  
12 keeps, things like that all make it more inviting to the  
13 pedestrians. We see an awful lot of this hardscape stuff up  
14 on Wisconsin Avenue associated with the tall highrise office  
15 buildings, some of the apartments, you know, and that's  
16 recognized as public use space but here, we have a different  
17 type of street than what is associated with those other  
18 buildings which use an enormous amount of hardscaping to  
19 fulfill their responsibilities.

20 Now, we could have brought out, you know, a lot of  
21 people. Basically, what we're going to do is present a few  
22 residents, two of which today, if we get that far for the  
23 second one, have prepared statements. And I'm going to ask  
24 some questions leading into the prepared statements, I may  
25 ask some questions further on after they have completed

1 their statements. So I just want you to know that there's  
2 not going to be a strict examination, cross-examination, at  
3 least from our standpoint, and they will present their own  
4 views as to those issues which I have identified in terms of  
5 the compatibility, Sector Plan, and there will be some  
6 issues dealing with traffic and parking. So the first  
7 witness I'd like to call, if she will stand up, is Susan  
8 Turnbull. Yes. Raise your right hand.

9 MS. ROBESON: Well, you can sit.

10 MR. ABRAMS: Well, I just want her to show you the  
11 proper respect.

12 MS. ROBESON: You're obviously -- well, never  
13 mind. I wish you were my teenagers. Please raise your  
14 right hand.

15 (Witness sworn.)

16 MS. ROBESON: Okay.

17 DIRECT EXAMINATION

18 BY MR. ABRAMS:

19 Q Ms. Turnbull, please relate to the Examiner your  
20 name, your address and your professional occupation.

21 A Sure. My name is Susan Turnbull. I live at 4838  
22 Montgomery Lane which is in the City Homes condominiums,  
23 townhomes. I have, I am currently an interior designer and  
24 specialize in, in commercial design.

25 Q Now, have you had any public service which is

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1 associated with land use?  
2 A Yes.  
3 Q All right. Can you fill the Examiner in on what  
4 that public service was?  
5 A For four years, I sat in that chair as Chair of  
6 the Board of Appeals. I served as Chair for three years and  
7 as a member for one year.  
8 Q And in the course of your -- so how many years did  
9 you say?  
10 A Four years.  
11 Q Four years. And in the course of your four years  
12 on the Board of Appeals, did you have occasion to evaluate  
13 the issue of compatibility and compliance with the Sector  
14 Plan in performing decisions on special exceptions?  
15 A Yes. When I was Chair of the Board of Appeals,  
16 all special exceptions came before the Board of Appeals, and  
17 I also dealt with compatibility on variance issues.  
18 Q And you have reviewed site plans associated with  
19 those cases?  
20 A Yes. And I've received recommendations from the  
21 Planning Board.  
22 Q And have you been present for all of the hearings  
23 in this case?  
24 A Yes, I have been.  
25 Q Have you been present for the meeting at the

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1 Planning Board, the two meetings?  
2 A I've attended the meetings of the Planning Board.  
3 Q Now, in evaluating the development plan in this  
4 case, did you examine the issues of compatibility and  
5 compliance with the Sector Plan?  
6 A Yes. That's exactly what I did.  
7 Q And could you relate to the Examiner what you  
8 believe your findings were?  
9 A Sure. But first I also would like to add that I,  
10 in addition to my degree in interior design, I have two  
11 separate degrees. I have a degree, I have two. I have a  
12 master's degree and a bachelor's degree in urban planning  
13 and urban studies which I think is relevant to this process  
14 but I am not putting myself before this Board as an expert  
15 today.  
16 I oppose several elements of this project because  
17 I believe the proposed development fails to conform with the  
18 Zoning Ordinance in the Sector Plan with resulting  
19 detrimental effect to the neighboring community. Throughout  
20 this process, I've actually been pretty distressed about the  
21 specific issues of compatibility because they've been, I  
22 think, dismissed by the developer but also misconstrued and  
23 incorrectly represented.  
24 First of all, the topography of the zone in the  
25 as-built conditions in the area have been downplayed,

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1 inaccurate and/or ignored in the presentation of the height  
2 and mass of the structure, especially in relation to the  
3 other neighboring buildings. Significant errors have  
4 occurred not only in the testimony but also in the  
5 applicant's submitted exhibits. We actually saw that  
6 earlier today when there was an attempt to, when an exhibit  
7 was corrected.  
8 It's sort of like the Washington Post Magazine  
9 puzzle on Sundays where there are two pictures on top of  
10 each other where there's been minor changes in the lower, in  
11 the lower picture and you're trying to find the changes.  
12 Well, unfortunately, I found way too many changes, many more  
13 than 12 in the regular Sunday puzzle. And so my argument,  
14 hopefully, will show that the applicant's proposed building  
15 flies in the face of the zone's purpose by being  
16 substantially detrimental the adjacent properties and  
17 surrounding neighborhood.  
18 In determining compatibility in the TS-R floating  
19 zone, it is the case that the immediate vicinity is the most  
20 important determinate, as Mr. Abrams has just said, in  
21 compatibility. City Homes residents and the pedestrians and  
22 cyclists using Montgomery Lane as a mixed street are who  
23 should be considered as those with the most relevant  
24 standing with regard to compatibility. I'm going to show my  
25 house to really situate us in this and to show why I am

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1 concerned about this building. Okay.  
2 Q What exhibit are you referring to?  
3 A I'm referring to Exhibit 106F which is a  
4 duplicate. I live in this house.  
5 MS. ROBESON: Okay. So you're in the middle --  
6 THE WITNESS: I am, I am in the third section from  
7 the west at the, in the unit closest to the HOC building and  
8 4901 Hampden Lane.  
9 MS. ROBESON: Okay.  
10 THE WITNESS: Okay. The back of my unit is a  
11 series of, is a driveway with a series of garages and  
12 balconies. The windows facing the driveways in all of these  
13 units, these three driveways, the windows of the driveway  
14 are limited. There is a garage on the first floor in a  
15 typical unit, and mine is a typical unit from that  
16 standpoint, a garage, the kitchen, a bathroom, and there are  
17 two windows on the floor above that. In some instances,  
18 it's a guest bedroom. In another instance, the other window  
19 is for the internal HVAC system which has a grate over it.  
20 You can't see out the window, you can't see the unit, the  
21 HA, HVAC unit.  
22 On the other side facing the mews, the parkland,  
23 the garden area, the first floor window is the office, the  
24 second floor window is the living room, the third floor  
25 window is the master bedroom with a bay window, as is the

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1 second floor window a bay window, and the fourth floor is a  
2 family room which currently has vistas to the park on over,  
3 because this building doesn't exist, to the park here on  
4 Arlington Boulevard.  
5 And one of the points that you made in, after  
6 walking this area, you had made a comment about how City  
7 Homes was about to be surrounded. Well, my house is  
8 probably the one that is, is going to be surrounded the  
9 most. Currently, I don't have a problem with the HOC  
10 building. First of all, it was there before I moved there  
11 but also because that wall is a, the wall facing the HOC  
12 building is a solid wall and I can't see the HOC building  
13 from my windows. This building is lit at night and on the,  
14 and actually provides lighting in the back in an odd way and  
15 so it is what it is.  
16 This building on this exhibit, which is going to  
17 be the Hampden Lane building, is actually shown wrong. This  
18 building has, has cut-outs at the gardens, and this is one  
19 of the examples of how, how frustrated I've been throughout  
20 these proceedings because this isn't the way it is, and  
21 there are three --  
22 MS. ROBESON: When you say gardens, you mean the  
23 mews --  
24 THE WITNESS: The mews.  
25 MS. ROBESON: -- are the cut-outs?

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1 THE WITNESS: I'm going to call them mews.  
2 MS. ROBESON: Okay.  
3 THE WITNESS: The mews and the two driveways.  
4 This one is like a mews. It's not --  
5 MS. ROBESON: It's like half a mews.  
6 THE WITNESS: It's not a driveway. It's half a  
7 mews. This is a mews and this is a driveway and a driveway.  
8 There are -- this building has several levels and also has  
9 several cut-outs. There's a cut-out at the front end of  
10 this building, at the, let's see, the northeast corner  
11 directly behind the mews. So this is a misinterpretation of  
12 this building, and it also doesn't show the viewpoint,  
13 vantage point from City Homes. So that's just one aspect of  
14 this exhibit but it places me.  
15 In a contrast to what other people have said, not  
16 only --  
17 MS. HARRIS: Can you move, I'm sorry, just a  
18 little bit --  
19 THE WITNESS: I'm sorry.  
20 MS. HARRIS: -- to the right or left?  
21 THE WITNESS: Okay. Not only can I see out my  
22 front windows and walk in my door at the front windows, I  
23 mean at the front door, I can see this building, and I am  
24 here today because my light and my vantage point is going to  
25 change dramatically with this structure. So that's --

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1 MR. KNOPF: By this structure, you're referring to  
2 the subject structure.  
3 THE WITNESS: The subject structure.  
4 MR. KNOPF: Thank you.  
5 THE WITNESS: West Lane. Okay. As a matter of  
6 fact, yesterday, there were questions about, you actually  
7 asked a question about what about that unit, and it was my  
8 unit you were talking to, talking about. So when I woke up  
9 this morning, I took pictures outside of my unit and I took,  
10 I took them from both the front and the back.  
11 MS. HARRIS: Objection. All exhibits were  
12 supposed to be in on March 7th.  
13 MR. ABRAMS: This is cross-examination of a  
14 witness put on yesterday, plus the fact that we have had  
15 introduction of essentially new exhibits on behalf of the  
16 applicant throughout the day today, marking up prior  
17 exhibits, offering them in evidence, which weren't offered  
18 before, so, you know, I think in fairness, this specific  
19 issue was brought up and we ought to have a chance to rebut  
20 the testimony which wasn't raised basically until yesterday.  
21 MS. ROBESON: Ms. Harris, your position is no new  
22 exhibits?  
23 MS. HARRIS: That was, that was my understanding,  
24 that there was no new exhibits. I mean, those were the  
25 ground rules that were established.

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1 MR. KNOPF: I'd like to comment that I know when  
2 the Hearing Examiner announced the procedures, I raised at  
3 that time --  
4 MS. ROBESON: I remember that.  
5 MR. KNOPF: -- that it was very difficult to, not  
6 hearing the applicant's case, then be bound by all exhibits  
7 when you haven't seen half the case yet to respond to it.  
8 MS. ROBESON: What I'm going to do is let the  
9 photo, non-expert exhibits in. In other words, the  
10 photographs. It was, I believe, the expert photographs or  
11 expert exhibits that I think I wanted the parties to have  
12 the ability to take a look at so I'm going to let the  
13 photographs in.  
14 MS. HARRIS: Well, for clarification purposes,  
15 when we come back on rebuttal, will the applicant have an  
16 opportunity, based on what we hear today and, and the next  
17 couple of days from opponents, that we will have the  
18 opportunity to submit additional exhibits to respond to  
19 things that we are now hearing in cross, in the opponent's  
20 case?  
21 MS. ROBESON: Well, this isn't, this isn't  
22 something -- this has been their claim, I thought, all  
23 along. I don't see their claim changing but of course, you  
24 will get the opportunity to rebut these photographs.  
25 MS. HARRIS: Okay. But it does seem to me since,

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1 as Mr. Abrams said, their concern all along, and he had said  
2 it very eloquently in his opening statement, he established  
3 what their concern has been all along, it would seem to me  
4 that photographs from the vantage points where they seem to  
5 be most concerned could have been submitted at the time that  
6 all exhibits were requested.  
7 MS. ROBESON: Why did you take the photographs  
8 yesterday?  
9 THE WITNESS: Because -- well, I took them this  
10 morning. And the reason --  
11 MS. ROBESON: This morning.  
12 THE WITNESS: -- I took them this morning was to  
13 rebut the comments yesterday that basically said I wouldn't  
14 be able to see out, that unit would not be able to see.  
15 MS. ROBESON: Why don't -- okay. Okay.  
16 THE WITNESS: And also, and the other thing was to  
17 rebut the -- this morning, we heard a lot of testimony about  
18 heights, and some of this is about that testimony from this  
19 morning.  
20 MS. ROBESON: Well, let's do this. Hold off on  
21 your photos --  
22 THE WITNESS: Okay.  
23 MS. ROBESON: -- and just testify to what you  
24 experienced and what you saw this morning.  
25 THE WITNESS: Okay. I will. Okay. After Hampden

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1 Lane is built, the only sky views from all rooms, in the  
2 front rooms in my home will disappear at the proposed  
3 height, at the proposed setbacks. The unit, these rooms are  
4 my office, living room, bedroom and family room. And  
5 understand that my house is like others in City Homes, a  
6 four-story townhouse with a rear garage, not a three-story  
7 home over a garage described by the applicant's land  
8 planner.  
9 MS. ROBESON: So can I ask you a question?  
10 THE WITNESS: Sure.  
11 MS. ROBESON: When you're in your front windows,  
12 can you describe for me what you see now?  
13 THE WITNESS: Okay. What I see now --  
14 MS. ROBESON: I just don't want it to get lost.  
15 THE WITNESS: Okay. Because it's a bay window, I  
16 see in three directions out of my front windows. I mean in  
17 my living room and in my master bedroom. What I see from  
18 my, from either or those rooms to the, to the south is, on  
19 the second and third floors is, are the existing houses on  
20 Hampden Lane which are below, which are below my view.  
21 MS. ROBESON: Okay.  
22 THE WITNESS: They go downhill, so it's below my  
23 view. What I -- I don't typically look, sit in my house and  
24 look out straight because you wouldn't put furniture in  
25 front of a bay window like that typically. So I don't look

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1 in that direction but if I do look, I'm looking at a  
2 townhouse that mirrors mine across a garden with trees in  
3 between and benches and green space. Okay. What I look  
4 when I look out my window towards the subject property is,  
5 is the driveway, the greenspace and the benches and the  
6 street and the, about half of the Wolf property, lot 26, and  
7 sky behind and above the Wolf property.  
8 MS. ROBESON: Wait. We need --  
9 THE WITNESS: I mean above, above the Wolf  
10 property.  
11 MS. ROBESON: Okay. I need to know what the Wolf  
12 property.  
13 THE WITNESS: Okay. The Wolf property is --  
14 MS. ROBESON: Is that the subject property?  
15 THE WITNESS: It's the subject property on the  
16 development plan which is --  
17 MS. ROBESON: Why don't you get 108. Do we have  
18 108 over there?  
19 THE WITNESS: Which one's 108?  
20 MS. ROBESON: It's the marked up development plan.  
21 MS. MAR: I think it was on a board by itself. It  
22 may be behind that.  
23 MS. ROBESON: There it is. Can you --  
24 THE WITNESS: 108, okay.  
25 MS. ROBESON: Okay.

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1 THE WITNESS: This is Lot 26.  
2 MS. ROBESON: Okay.  
3 THE WITNESS: Oh, wait a second. I'm sorry. Lot,  
4 the borders of Lot 26 are the, are the, let's see, southeast  
5 corner of the property is Lot 26. It is this area right  
6 here. This is actually the subject of the amendment because  
7 it is to put this in the TS-R Zone.  
8 MS. ROBESON: Right.  
9 THE WITNESS: So this is at that area. The  
10 existing house is shown, the Wolf building is shown --  
11 MS. ROBESON: On Lot 26.  
12 THE WITNESS: -- on Lot 26. And the building, and  
13 I see basically up, I'm showing on a, from a pen standpoint,  
14 up to here of the lot. So I will see, from my window, my  
15 pen is showing an angle that ends at that, the E in the  
16 FFE.33450.  
17 MS. ROBESON: Okay. Let's do this. Just mark  
18 approximately what portion you can see. Just mark that pen  
19 angle.  
20 THE WITNESS: Okay.  
21 MS. ROBESON: And is it to the west of that that  
22 you can see?  
23 THE WITNESS: I can see to the east of it.  
24 MS. ROBESON: East of it. So if you could put  
25 your initials. Okay. You don't have to go all the way up

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1 but --  
2 THE WITNESS: Oh, that's fine. But I might as  
3 well just show.  
4 MS. ROBESON: Oh, oh, okay.  
5 THE WITNESS: That's where I can see.  
6 MS. ROBESON: You're saying you have a vista.  
7 THE WITNESS: I have a vista that goes there.  
8 MS. ROBESON: Right.  
9 THE WITNESS: Okay. And that's SWT.  
10 MS. ROBESON: Okay.  
11 THE WITNESS: Okay. So that's what I can see now  
12 and this, on the aerial photo, it would be approximately,  
13 let's see, from here, it would be approximately like this.  
14 MS. ROBESON: Okay.  
15 THE WITNESS: And that, and that is the same  
16 representation as the, like immediately past the concave  
17 area so the, probably the second, up to the second window  
18 and then over --  
19 MS. ROBESON: To Villages of Bethesda.  
20 THE WITNESS: -- to Villages of Bethesda basically  
21 and beyond.  
22 MS. ROBESON: Okay.  
23 THE WITNESS: And there is nothing beyond this  
24 building at the height of what this building will be. That  
25 sort of lays out for that. My, because I live at the

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1 farthest unit, the farthest unit, the, these -- all of our  
2 townhomes have been described as sticks. If you move north  
3 on the stick, each of those units in their upper stories,  
4 second, third and fourth, will have even greater views  
5 because of the same angle. So in fact, the second or third  
6 unit would probably see almost to this like corner.  
7 MS. ROBESON: Okay. When you say second or third  
8 unit, you're talking about the second or third unit south of  
9 Montgomery Lane.  
10 THE WITNESS: Yes.  
11 MS. ROBESON: In this stick.  
12 THE WITNESS: In this stick.  
13 MS. ROBESON: Or in your, in your row.  
14 THE WITNESS: In my, my particular row.  
15 MS. ROBESON: Okay.  
16 THE WITNESS: So there are, and there are five  
17 units in my row as opposed to six units in some of these  
18 other rows.  
19 MS. ROBESON: Okay.  
20 THE WITNESS: Okay? So that's, so that's, so all  
21 of these residents. These residents, this is the back,  
22 however, they do have --  
23 MS. ROBESON: Wait. The back. Are we talking --  
24 THE WITNESS: The second stick and --  
25 MS. ROBESON: -- the second row?

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1 THE WITNESS: -- the first stick.  
2 MS. ROBESON: To the east.  
3 THE WITNESS: To the east. Both of them have  
4 kitchens and balconies and, across from the building.  
5 MS. ROBESON: Now, have you ever stood on those  
6 balconies? Can you --  
7 THE WITNESS: These balconies I have not stood on.  
8 However, I have walked the driveway.  
9 MS. ROBESON: The alley, okay.  
10 THE WITNESS: The alley between them to confirm  
11 it, and at, and at street level, back here in the alley, you  
12 can see, you can see going back at least three units, you  
13 can see into this, into the --  
14 MS. ROBESON: The southwestern edge of the --  
15 THE WITNESS: The southwest corner edge of the  
16 property. Okay. So that gives -- so you're talking  
17 about -- and then from this side, obviously, you would see,  
18 the orientation would be different.  
19 MS. ROBESON: Okay. So the westernmost row in the  
20 front facing the mews, or is that the alley?  
21 THE WITNESS: This is an alley.  
22 MS. ROBESON: Okay. So from the rear facing the  
23 alley, you're saying you can see the building.  
24 THE WITNESS: Yep. So you have one, two, three --  
25 so there's, and from the back -- because the balconies are

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1 parallel to each other, if you are on any of these  
2 balconies, you look directly into this building, and so  
3 there are 6, 12 and 5, 17 units that, whose views will be  
4 obstructed by this building. There is an additional unit  
5 here which is at the corner of the fourth unit facing  
6 Edgemoor, facing 4825 that has window, and that has windows  
7 on the rear and on the sides, bay windows, so they will be  
8 facing this property as well even though it is beyond the --  
9 MS. ROBESON: So you're saying the fourth row, the  
10 end, the northernmost unit on the fourth row from the west.  
11 THE WITNESS: Uh-huh.  
12 MS. ROBESON: Okay.  
13 THE WITNESS: So there's, so there, 18 of our 29  
14 units directly face this, will have vistas with this  
15 building. It's also the case, just to clarify at this  
16 point, these five units, which are the end units of the five  
17 sticks, face forward, face Montgomery Lane. The others are  
18 oriented in the other direction. The roofline for these  
19 five units is different than, than the other 24 units. This  
20 is higher as an architectural element. On none of these  
21 units is there any HVAC, is there anything coming over the  
22 unit. Okay. So now it's, I think to orient --  
23 BY MR. ABRAMS:  
24 Q While you're up there, stay up there at the aerial  
25 photograph. In terms of the views that you all have, does

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1 the impending construction of the Hampden Lane building  
2 somehow make it more critical in terms of what happens on  
3 the subject property?  
4 A Oh, absolutely.  
5 Q Explain that.  
6 A Which is why I almost had a nervous breakdown when  
7 I saw these, these exhibits not showing the cut-out here  
8 because the, the actual instance will be, it will have a  
9 setback in the mews, approximately the same north-south  
10 position as the HOC building.  
11 First, it will, it will about the property line and  
12 then at the cut-out for the mews, it will go back just a  
13 portion of the space beginning at the second level, the  
14 second floor. The open space will be the top five floors on  
15 this side which is, which is significant because there will  
16 be windows facing into my windows and my neighbor's windows  
17 from these two wings facing towards the center and then from  
18 the wing creating the U at the, what will be the southern  
19 part of the U division at the, at this place. So my, my  
20 view, vantage point from towards Hampden Lane is going to be  
21 completely diminished with immediate adjacent apartment  
22 views.  
23 Q Now, we'll come back.  
24 A Okay.  
25 Q The HOC building, how tall is that?

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1 A Okay. This is the other thing that's been fairly  
2 interesting. The HOC building, according to all of the as-  
3 built drawings, the proof plan and the building, is 48 feet  
4 high. While this aerial photo with a rendition of the  
5 building shows it to be below my home and the home directly  
6 across from mine, that is not the case. They are level.  
7 And there's actually an exhibit, one of the applicant's  
8 exhibits which shows a photo of that, showing them to be at  
9 the same height.  
10 Well, the interesting part about that is that if  
11 this building is 48 feet, and there's no reason not to  
12 believe that it's 48 feet because everything says it's 48  
13 feet, and it is in fact five feet below the wall, there's a  
14 wall five feet behind the City Homes ground, ground level,  
15 then this building to be the same size of, as, to get to the  
16 roofline of City Homes would mean that if they're the same  
17 size, City Homes is 43 feet, you take five feet down plus 48  
18 and, which would make this 43. On the other hand, every  
19 exhibit proffered by the applicant shows our buildings to be  
20 53. There's no evidence whatsoever that they are 53. The  
21 HOC building, as built, proves that not to be the case. And  
22 this morning, because I wanted to make sure that that was  
23 the case, I took photos from my third floor windows, opening  
24 the door on my third floor, and the fourth floor to confirm  
25 it looking at the relationship between the second stick of

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1 townhouse end unit and the HOC building, and they are level.  
2 Okay.  
3 The other thing is that while, while I'm standing  
4 up here, while this has been said to be 53 feet --  
5 Q The City Homes?  
6 A The City Homes have said to be 53 feet with  
7 nothing, even if you take the roof from the very front of  
8 the building, which someone might do, that's not the  
9 building height of this building. You have, you have to  
10 compare apples to apples. The 50 -- if you would do that,  
11 then you would have to include the mechanicals on West Lane,  
12 the mechanicals on the other buildings, the mechanical on  
13 this which isn't shown which is the Hampden Lane building,  
14 the mechanicals on that 4901 Hampden Lane building, and you  
15 would have to take off the mechanical on top of the 4825  
16 building which doesn't, it where, there is no evidence,  
17 actually, there's evidence to the contrary that there is no  
18 mechanical in view, with a vantage point from anywhere on  
19 4825.  
20 Q Now, does Montgomery Lane go downward from West  
21 Lane?  
22 A Yes. And actually, I'd like to refer to my notes  
23 and stuff to, to explain that. And to help go on with this,  
24 I would like to refer you to the exhibit. I think it's this  
25 exhibit. It's a chart that --

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1 Q It's 1011.  
2 A Okay. It's Exhibit 101.  
3 Q It's two pages.  
4 A 1011.  
5 Q Two pages.  
6 A Which might make this easier to follow. Okay. I  
7 also want to make clear that my husband and I did review the  
8 Master Plan and actually, more relevantly reviewed the plans  
9 for the approved projects. What was existing and approved  
10 since 2008 at the applicant's site was the existing home on  
11 Lot 26, which is described as the Wolf property, and the  
12 Holiday project next door which would face, which was on  
13 Montgomery Lane at 48 feet high. But with the proposal  
14 before us, what it seems like is that we're going to be  
15 surrounded, West Lane is last in line. It is the point  
16 where the water is going to overflow the cup. The proposed  
17 project is the last piece of what has previously been  
18 accepted by the District Council as an appropriate mosaic.  
19 So here's Exhibit 101. This is a chart we  
20 prepared to describe the detail of the actual heights and  
21 various elevations of the structures in the surrounding  
22 community.  
23 MS. ROBESON: Okay. Which 101 is it? I'm sorry.  
24 THE WITNESS: 1011.  
25 MR. ABRAMS: 1011.

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1 THE WITNESS: 101I.  
2 MS. ROBESON: Okay.  
3 THE WITNESS: Okay.  
4 MS. ROBESON: Sorry.  
5 THE WITNESS: As was evidenced in earlier, as was  
6 described in earlier testimony and was evidenced in your  
7 walking tour of the vicinity, Montgomery Lane and West Lane  
8 are extremely narrow pedestrian and cyclist friendly  
9 roadways. It's the only two-lane road with access from  
10 Woodmont and Arlington in the area, and the, and the two  
11 directions in one direction segments with a dead end route  
12 intersecting makes it unique and complicated.  
13 So in contrast, what you have too, because I want  
14 to sort of demonstrate the tightness of this. So this road  
15 is, goes west to east stopping immediately after West Lane  
16 is two lanes and then it is directional, is one directional  
17 from Woodmont to right, to West Lane and is, and so is the  
18 only two-lane road between Arlington and Woodmont. Hampden  
19 Lane is a four-lane road where the 72 foot building, and I'm  
20 going to talk more about that, is facing 100 percent  
21 commercial properties. A commercial parking garage with a  
22 building behind it, I mean commercial building, commercial  
23 parking garage with a building behind it, a parking lot  
24 behind, and a parking lot on Hampden Lane. On Edgemoor,  
25 which is also a four-lane road that goes from Arlington to

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1 Woodmont, you have the Villages of Bethesda, which are  
2 townhome communities, you have two swimming pools and the  
3 tennis court, and a highrise building with a significant  
4 setback leading up to the Chase which is on Woodmont Avenue.  
5 So this is a really unique situation because it's  
6 only two lanes but also, because unlike Hampden, which is a  
7 commercial, has commercial opportunities opposing on the  
8 south side of Hampden Lane, Montgomery Lane is exclusively,  
9 that with the approval of this project, will be an  
10 exclusively residential street. Edgemoor is also a  
11 residential street with wide vistas and wide and low lanes.  
12 Let's see.  
13 MS. ROBESON: Can I --  
14 THE WITNESS: Sure.  
15 MS. ROBESON: Did your community oppose 4825  
16 Montgomery Lane?  
17 THE WITNESS: No, we did not.  
18 MS. ROBESON: And do you know why not?  
19 THE WITNESS: I think for a few reasons. First of  
20 all, it's a rectangular lot that faces pretty much driveways  
21 and that it is not above the, either -- well, first of all,  
22 the density is four units and then secondly, the, the height  
23 is within the confines and the compatibility architecturally  
24 is very much in keeping with the other buildings. Okay.  
25 To discuss compatibility, it's necessary to

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1 discuss the previously approved Holiday project on  
2 Montgomery Lane. Over the last few weeks, there's been a  
3 great deal of discussion about the Holiday project. The  
4 applicant has repeatedly stated this is not that project.  
5 That's true. The other was approved and was not opposed by  
6 my neighbors because it adequately answered issues that are  
7 the biggest concerns that this project has raised. The  
8 comparisons were to Holiday as it is the existing approved  
9 development for three of the lots.  
10 Holiday is not just City Homes' standard of what  
11 is good planning. It was the universal standard, the  
12 Planning Board Hearing Examiner and District Council. And I  
13 don't dispute that the West Lane project is now a more  
14 efficient site because it's rectangular in shape but because  
15 it's more efficient and interestingly, according to previous  
16 testimony, the West Lane project actually costs less than  
17 the, than the site was, than the Holiday people paid for the  
18 same site so you would think that it would, the applicant  
19 would be in a better position than Holiday to make the  
20 adjustments to be more compatible but we haven't seen that.  
21 Instead, it is a project of 120 units as opposed to 48.  
22 Holiday was approved at 93 units per acre despite the  
23 maximum allowable density of 150 and for 48 units as opposed  
24 to the maximum allowable unit of 78 units, so it went below  
25 the maximum. That's part of the reason why I view this as

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1 something compatible.  
2 The relevancy of Holiday is that it is the  
3 existing planted street and it has been sited repeatedly in  
4 all the approvals to the projects currently in the pipeline  
5 ahead of West Lane. So what I won't accept is that when  
6 4825 was approved, the approval was based on a 48 -- I'm  
7 going to refer to Exhibit No. 85. Okay. 4825 -- and this  
8 is, this exhibit was, shows the Holiday plan, the previously  
9 proposed plan and the current proposed plan.  
10 When 4825 was approved in December of this year  
11 and when the, when the site plan was just approved, it was  
12 approved saying it was compatible with the Holiday project.  
13 The Holiday project at four stories for this portion of the  
14 building, which is the, the western, yeah, the western  
15 section of the building, a very large rectangle, and six  
16 stories for the rear portion of the building that faces West  
17 Lane. I think that's important to note because it wasn't  
18 based, it was expecting, through the language of the report,  
19 that this was going to be 65 feet and this was going to be,  
20 I believe, 48 feet, and that was a few months ago. It was  
21 also the case that when this building, which is Arlington  
22 North, was approved, it was based on Holiday again at 65 and  
23 48. When this building, Hampden Lane --  
24 MS. ROBESON: 4901.  
25 THE WITNESS: -- 4901 Hampden Lane was approved,

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1 it also is referencing a 65 foot building at West Lane when  
2 Hampden Lane was built. This is post-Holiday as well. So  
3 the approvals of the project site the Holiday project and  
4 the West, this project, the West Lane project does not meet  
5 the same standards of the projects, the other projects  
6 because they were deemed compatible with the Holiday  
7 building and now we're talking about a completely different  
8 building.  
9 The three key elements of compatibility, three of  
10 the key elements of compatibility are height, mass and  
11 density, and some of our other, some of my other neighbors  
12 are going to be discussing a lot of the operational aspects  
13 of the density but I, I must say a couple of quick things.  
14 When I moved into this, this townhouse, which is a three, a  
15 four-story building, I had two trailers, okay? Now, I  
16 realize that's a little excessive and my garage is filled to  
17 the gill, but that isn't the only truck that helped me  
18 settle in my house. I ordered a little table from Crate &  
19 Barrel. It doesn't come from FedEx. It comes from Crate &  
20 Barrel, and Crate & Barrel doesn't use a U-Haul sized  
21 vehicle. It has a big truck. Another big truck that came  
22 to my house was with a dining room table. A third was with  
23 a couch.  
24 People moving into apartment buildings are going  
25 to be moving constantly because leases change but in

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1 addition, they'll get deliveries that aren't regular  
2 deliveries, so the notion that we shouldn't worry because  
3 the UPS guy and the FedEx guy know to go to the back says  
4 nothing about the other gigantic trucks that try to get down  
5 a 20 foot street, don't know what to do when they reach a  
6 dead end and wind up driving up and down West Lane. And  
7 there are actually pictures that were submitted as exhibits  
8 from our neighborhood earlier to describe that. So three  
9 key elements of compatibility are height, mass and density  
10 and I don't believe that the building, as suggested, meets  
11 the criteria. Okay.  
12 Here is the Bethesda, the Exhibit No. 53 that came  
13 in from the applicant. Now, interestingly, this is one of  
14 those exhibits that has some problems. For example, for  
15 City Homes, it says the average unit size is 2460 square  
16 feet. Well, we calculate it to be 2,203 which is about a  
17 250 foot difference. This shows 4901 as approved and  
18 pending and it, again, it's been, it's not pending anymore.  
19 It's approved at this lower level so let's look at this,  
20 this size. This also doesn't show the --  
21 MS. ROBESON: What is the number of the exhibit,  
22 did you say?  
23 THE WITNESS: 53.  
24 MS. HARRIS: Objection because, or I would just  
25 like to note that an up-to-date exhibit was provided on

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1 February, hold on one moment, with one of the filings and we  
2 made that point actually at the beginning of the hearings  
3 last week.  
4 THE WITNESS: About, about the pending?  
5 MS. HARRIS: Yes.  
6 THE WITNESS: Okay. Did you change the City  
7 Homes?  
8 MS. HARRIS: I need to --  
9 MS. ROBESON: What exhibit was it?  
10 MS. HARRIS: Hold on just a moment.  
11 MS. ROBESON: Is it in the 70 to 80 range?  
12 MS. HARRIS: Yes. I think that's where it came  
13 in.  
14 (Discussion off the record.)  
15 MS. HARRIS: It was 80 --  
16 MR. ABRAMS: Is it 84? That was formally DPA 53.  
17 MS. HARRIS: Yes. That's it. Thank you.  
18 MS. ROBESON: So 84.  
19 MR. ABRAMS: 84.  
20 THE WITNESS: Okay. I, the only -- well, I'd like  
21 to see the --  
22 MR. ABRAMS: Here.  
23 MS. ROBESON: Yes.  
24 THE WITNESS: Okay.  
25 MS. ROBESON: Does she have it? Do you have it?

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1 MR. ABRAMS: Yes. I just handed it to her.  
2 MS. ROBESON: Oh.  
3 THE WITNESS: Okay. So the differences -- okay.  
4 The only difference really is that 4901 pending but it  
5 doesn't change the City Homes. The City Homes, I would say  
6 on Exhibit 84, that City Homes is described inaccurately. I  
7 also would suggest that Sandy Springs --  
8 MS. ROBESON: Which is 48 --  
9 THE WITNESS: Which is 4825 Montgomery Lane, is  
10 described at 33 average unit sizes, 3300, and that is also  
11 too high because that would not include the, the non-usable  
12 space in the unit that -- it would not be marketed at, it is  
13 not going to be marketed at 3300 square feet. It will, it  
14 is going to be marketed at approximately 2400 square feet  
15 according to the filings on it. Okay.  
16 So and what none of this talks, what this Exhibit  
17 84 and 53 don't show are the MPDUs that are in the zone. If  
18 you can, if you're using that Hampden Lane associate  
19 building and the 4901 Hampden Lane building, then you have  
20 to include the HOC building because then it's apples to  
21 apples, and that would add an additional 12 MPDU units to  
22 this area. If you're going to use the area for one thing,  
23 you've got to use it for everything. So that was, that was  
24 another concern that I had.  
25 The issue of appropriate height and density on

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1 this parcel was adjudicated in the approval of the Holiday  
2 project consistent with the Sector Plan which recommends a  
3 three to six-story building with a height of no more than 65  
4 feet. What has been lost in the discussion a lot of time  
5 too is that it wasn't just a 65 foot building. As I, as I  
6 mentioned before, an entire section of this building was  
7 four feet, four stories and the other section was six  
8 stories. That was compatible. That was in line with the  
9 Master Plan. Neither of the two lots in this, this section  
10 facing Montgomery Lane, was, two separate lots, neither of  
11 those two lots was at 65 feet. Both of those were at 40,  
12 approximately, was 48 feet which was the four stories. So  
13 the entire frontage of Montgomery Lane, because the Wolf  
14 property is an existing property that is here --  
15 MS. ROBESON: That's Lot 26.  
16 THE WITNESS: Lot 26. Was, was first of all, five  
17 feet back from what the, the West Lane project is proposed  
18 from, from Montgomery Lane, that had a five foot greater  
19 setback, but more importantly, it was all four stories with  
20 a fifth story penthouse on part of this, this property. The  
21 proposed property has 78 feet as we would, as just  
22 described, with all but 12 units at 70 feet. This is at the  
23 base, and I'm going to explain why 70 feet isn't 70 feet.  
24 It's 70 feet at the base for all but 12, and that this part  
25 was 50 feet but a longer stretch, 78 versus a, because the

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1 different measurement here but clearly, not 78 feet.  
2 MS. ROBESON: When you say here, you mean the --  
3 THE WITNESS: I mean on the --  
4 MS. ROBESON: -- Holiday project.  
5 THE WITNESS: -- on the southern elevation of the  
6 Holiday project. Okay. It's also shown in Exhibit 56B, I  
7 believe --  
8 BY MR. ABRAMS:  
9 Q B1.  
10 A B1 which is a 3-D massing diagram. Okay. I don't  
11 know where that is. That one will show you a couple of  
12 other things in massing. In order to be compatible, the  
13 Holiday project -- and does anyone have that massing  
14 diagram?  
15 MS. ROBESON: Do you know if it's a large exhibit  
16 or a small exhibit?  
17 MR. ABRAMS: It's a small exhibit --  
18 MS. ROBESON: Oh.  
19 MR. ABRAMS: -- which was part of my, well, it was  
20 submitted several times. Exhibit 56 --  
21 MS. ROBESON: Oh. I, I think I'm getting there.  
22 THE WITNESS: It's not on any of the other ones?  
23 MS. ROBESON: I have it.  
24 MR. ABRAMS: Could you show it to the witness?  
25 MS. ROBESON: Is this -- well, let me ask you.

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1 THE WITNESS: Yes. That's what I'm talking about.  
2 MS. ROBESON: Is this it?  
3 THE WITNESS: Yes.  
4 MS. ROBESON: Well, there's also this one. This  
5 is marked 56B1.  
6 THE WITNESS: Okay. So 56B1 will show, will  
7 demonstrate, and I'll show it on the plan, on the plan view,  
8 a couple of other things. First of all, not only was this a  
9 six-story building, section of Holiday, which is the rear  
10 section of Holiday, the northern exposure had a, had a  
11 stepdown facing Villages in Bethesda that was down to five  
12 stories, it had a stepdown facing what will, the future  
13 Edgemoor at Arlington North at five stories and I believe it  
14 had additional stepdowns on the -- it didn't have a  
15 stepdown. It had various level changes in the front  
16 elevations, in the front portion of the Holiday project.  
17 But the more important is there was a stepdown in the rear  
18 facing the Villages of Bethesda and a stepdown to the west  
19 facing Villages of, Edgemoor at Arlington North.  
20 It also shows that there was a 12, approximately  
21 12 foot or very narrow setback from Edgemoor at Arlington  
22 North and what appears to be even a larger setback than the  
23 new proposed setback to the north on the West Lane project  
24 and the public, the private passage space was to the, in the  
25 northwest corner, approximately, of the building versus the

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1 center area of the new West Lane project bringing the  
2 setback from Arlington North not at the 12 feet that is in  
3 the binding element but a, a very large area in the rear  
4 only to be used by the tenants of the building. Okay.  
5 What surprised me was when -- and because I'm who  
6 I am, I overlaid the Holiday project and the West Lane  
7 project and there is not a place in, except when you talk  
8 about penthouse space which is not included in the height  
9 requirement in the four-story section of Holiday, that is  
10 the only place, and it is only for the maybe one little  
11 corner of the West Lane project were they're even the same  
12 height at any location in, in the building.  
13 On top of it what has happened is you can see  
14 this, is that the orientation of the building has shifted to  
15 certainly take in Lot 26 in the southeast corner of the lot  
16 but to overbuild on it. The only way this building, West  
17 Lane, makes the FAR is by overbuilding on the new lot  
18 because otherwise, it, the, because if you look at it,  
19 they've shifted, you can see from this exhibit, Exhibit 85,  
20 that the building has, that the core of the building has  
21 shifted almost entirely to the most trafficked corner and  
22 most congested area of, of the property. So that, that was  
23 sort of an eye opener to say the least.  
24 So to be clear, Holiday was approved. It was for  
25 a multi-family building containing 48 dwelling units, and

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1 this is where this chart comes in.  
2 MS. ROBESON: And what, what exhibit is this?  
3 THE WITNESS: Chart 101I.  
4 MS. ROBESON: Okay.  
5 THE WITNESS: Okay. So this building, Holiday,  
6 was 60, was, was 65 feet up here.  
7 MS. ROBESON: At the northern part.  
8 THE WITNESS: At the northern part of it. Yet,  
9 that 65 feet was sited at eight inches lower ground  
10 elevation than this building. This one --  
11 MR. KNOPF: This building being --  
12 MS. ROBESON: Wait.  
13 THE WITNESS: The new building. Now, that's --  
14 MS. ROBESON: Can I stop you for a minute because  
15 I'm still trying -- what exhibit are you referring to?  
16 THE WITNESS: I'm referring to 84.  
17 MS. ROBESON: No, no.  
18 MR. ABRAMS: 101I.  
19 THE WITNESS: Oh, 101I.  
20 MS. ROBESON: I'm sorry.  
21 THE WITNESS: 101I which is the chart, and I think  
22 you took it out  
23 MS. ROBESON: No, I didn't. Give me one moment to  
24 get there. Okay. Now, could you tell me again what you're  
25 saying about this?

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1 THE WITNESS: Okay. If you look at the chart and  
2 you look at Holiday on the chart, approved Holiday at  
3 Montgomery, there's a six-story portion and a four-story  
4 portion. Both of them were sited at 335 feet .2 elevation.  
5 MS. ROBESON: Right.  
6 THE WITNESS: Okay. And the proposed West Lane  
7 project, on this chart it says 335.5 which is what it said  
8 on the original plans but it now says on the new development  
9 plan 335.8, so it picked up a couple of inches during this  
10 process but it's eight inches higher than what Holiday was,  
11 okay?  
12 BY MR. ABRAMS:  
13 Q The ground level elevation.  
14 A Yeah. The ground level --  
15 MS. ROBESON: Is this --  
16 THE WITNESS: That's --  
17 MS. ROBESON: Is this the elevation where they  
18 measured height?  
19 THE WITNESS: Yes.  
20 MS. ROBESON: Is that what you're saying?  
21 THE WITNESS: The elevation. The ground  
22 elevation.  
23 MS. ROBESON: Okay.  
24 THE WITNESS: The reason I want to show why the  
25 ground elevation is important is, and I'll show you

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1 something very simple. Two cups. These cups --  
2 MS. ROBESON: These are not in the record.  
3 THE WITNESS: These are not in the record. These  
4 cups are 70 feet. They're equal, 70 feet. Are these cups  
5 the same height now? No. They're not the same height.  
6 They are the same height --  
7 MS. ROBESON: Wait. What --  
8 THE WITNESS: Okay.  
9 MS. ROBESON: For the record --  
10 THE WITNESS: Okay. For the record --  
11 MS. ROBESON: -- what she's doing is taking one --  
12 THE WITNESS: One of the --  
13 MS. ROBESON: -- of them off the table and  
14 lowering it.  
15 THE WITNESS: And the reason that I'm suggesting,  
16 showing this is because I'm going to show you how West Lane,  
17 by being at the top of a crest of West Lane, that the site  
18 marking point for their height is at the highest point on  
19 West Lane and that as opposed to the other approved projects  
20 at that height, the 70 foot height, where the other approved  
21 projects adjacent to City Homes are at a different height.  
22 Significantly different height. For me, it's incredibly  
23 important that 49, that the Hampden Lane project is at a  
24 lower elevation because it really does change my vantage  
25 point, like in my face, but it also matters to my neighbors

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1 who face 4901 and for the entire streetscape as well,  
2 including for, for pedestrians.  
3 So the Holiday project, so if you take 65 feet,  
4 which is the northern part of the Holiday project, and add  
5 that to the height that the, at the elevation height at 33,  
6 335.2, we get to 370, well, to the -- I'm sorry. You take  
7 the 65 and add it to 335.2, get to 400.2 feet. That's the  
8 actual height, okay? And you compare that to the proposed  
9 West Lane which is really at, which is --  
10 MS. ROBESON: Wait, wait. What -- you mean 4825  
11 Montgomery Lane?  
12 THE WITNESS: No. The West Lane.  
13 MS. ROBESON: This project.  
14 THE WITNESS: I was just talking about Holiday.  
15 BY MR. ABRAMS:  
16 Q Give her the column numbers.  
17 A Okay. Holiday column --  
18 Q Six.  
19 A -- six which is --  
20 MS. ROBESON: Okay. I'm with you now.  
21 THE WITNESS: Which is the 65 foot height.  
22 MS. ROBESON: Yes.  
23 THE WITNESS: Gets to 400.2.  
24 MS. ROBESON: I, I'm with you.  
25 THE WITNESS: Okay. But what was approved on

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1 Montgomery Lane was not Holiday six stories, it was Holiday  
2 four stories. And four stories was, was 335.2 height and  
3 then 41 feet of the four stories, taking you to 376. So  
4 that's column 7. If you look at proposed West Lane and you  
5 correct the base elevation to be 335.8, which is what is  
6 represented on the development plans now, having changed  
7 from 335.5, you get to 405.8. That's the actual measure.  
8 MS. ROBESON: Okay. Give me what column number  
9 that is.  
10 THE WITNESS: One.  
11 MS. ROBESON: One, okay.  
12 THE WITNESS: Yep. And all of the citations for  
13 this exhibit are, are listed in the data source. Okay. So  
14 the approved Holiday on Montgomery Lane was the 41 foot high  
15 Holiday, which would bring you to 376.2, and what West Lane  
16 is asking for is 405.8. Now, we heard from Mr. Irish  
17 earlier that height doesn't tell us --  
18 MS. ROBESON: Elevation.  
19 THE WITNESS: Elevation doesn't make a difference.  
20 Elevation makes a difference.  
21 MS. HARRIS: Objection. Just for the record, I  
22 think it's important to note that the relative example in  
23 terms of the cups represented, if this is a 70 foot  
24 building, it represented a 70 foot height differential and  
25 certainly, what we're talking about is a matter of feet so

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1 the differential really looks like that just for the record  
2 so that there's no misunderstanding.  
3 MS. ROBESON: Well, we don't -- no. You're not --  
4 I agree that it's not to scale so to speak or to proportion.  
5 We don't know what, I don't have in the record what the  
6 actual differential is except these different elevations so,  
7 so I understand.  
8 MS. HARRIS: Okay. Thank you.  
9 THE WITNESS: Okay.  
10 MS. ROBESON: The transcript can't see the cups.  
11 THE WITNESS: Okay.  
12 MS. HARRIS: Right, but you can and I just wanted  
13 to make sure that you understood --  
14 MS. ROBESON: Yes.  
15 MS. HARRIS: -- that that was not exactly accurate  
16 in terms of its representation.  
17 THE WITNESS: And I think that, that's fair. It  
18 was basically a representation of what, to show that these  
19 built elevations --  
20 MS. ROBESON: Elevations matter.  
21 THE WITNESS: -- matter and that we're not talking  
22 about a flat table. We're talking about an elevation. And  
23 for someone walking, particularly someone walking on that  
24 street in heels, which is a good proportion of the people  
25 walking on that street to go to work for the, at the, and

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1 get on the Metro, there is an elevation to that street and  
2 there is an elevation from on Arlington Road and there's  
3 elevations all the way around here. So a 20 foot difference  
4 is a difference, or more than 20 feet difference.  
5 MS. HARRIS: But when you --  
6 MS. ROBESON: Yes.  
7 MS. HARRIS: Sorry.  
8 MS. ROBESON: Let her keep going.  
9 THE WITNESS: Okay. So in quoting, in talking  
10 about Holiday, what was said was that there were, there were  
11 different sections, different facades as to compliment the  
12 existing and adjacent uses, and I'm saying this doesn't do  
13 it. The terrain works against the approval of West Lane.  
14 The West Lane proposal is located on the crest of the hill  
15 that's going west to east. In addition, the north side of  
16 Montgomery Lane is higher than the south side of Montgomery  
17 Lane and the grade continues to slope up as you head north  
18 on West Lane.  
19 I'm going to go back to the aerial exhibit because  
20 although the aerial exhibit really doesn't show the  
21 elevation shifts, it's probably easier to talk about this.  
22 Okay. So the West Lane property was sited about here which  
23 is about --  
24 MS. ROBESON: And by about --  
25 THE WITNESS: Which is way back.

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1 MS. ROBESON: You're saying about three-quarters  
2 of the way north of the intersection of Montgomery --  
3 THE WITNESS: Yes.  
4 MS. ROBESON: -- and West Lane.  
5 THE WITNESS: Right. Three-quarters of the, from  
6 up West Lane from the corner of Montgomery and West Lane.  
7 And the slopes are up Montgomery Lane from Arlington to just  
8 at, just past West Lane and then up West Lane.  
9 MS. ROBESON: Moving north.  
10 THE WITNESS: Moving north. Okay. At a  
11 projection, at a height of 70 feet and above that  
12 projections that have been totally unspecified but typically  
13 described to be about 10 feet high, at the forward portion  
14 of the structure sited at 335.8, the building's going to be  
15 405.8. That height is the entirety of the structure with  
16 the exception of the 12 foot stepdown at the curb portion  
17 and the southern elevation. But to be clear, since the  
18 elevation on Montgomery Lane in front of the building is  
19 actually 328 feet, not 335.8, the height of this building  
20 at, from the curb on Montgomery Lane is 77.8 feet high.  
21 This does not compliment the existing and adjacent uses.  
22 In fact, not only would a 70 foot construction  
23 height be well above the other existing structures under  
24 normal circumstances but simply because they chose to site  
25 the project at the highest possible elevation, it makes it

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1 even higher. It's not that it's just going to appear to be  
2 higher. It will be higher. Even taller as compared to the  
3 adjacent structures. Okay. They're entitled to site the  
4 building wherever they choose and I completely understand  
5 that, but what they're not entitled to do is to build a  
6 building that's incompatible by being too high relative to  
7 the other approved projects.

8 Based on the submitted plans for a lot of these  
9 projects and due to the street's topography, both east-west  
10 and north-south, this building, the West Lane building, at  
11 405.8, would be 9.8 feet taller than the 4901 Hampden Lane,  
12 and you can refer to column 5 to get the figures there,  
13 okay? It's nine here. But the Montgomery Lane portion of  
14 4901 includes a cut-out in the north --

15 MS. ROBESON: West.

16 THE WITNESS: -- west corner that is 10 feet  
17 lower. So instead of being just nine feet, eight feet lower  
18 than West Lane, in fact, the corner on Montgomery Lane is 19  
19 feet taller, is 19 feet lower than West Lane. Let's see.  
20 Keep in mind that Woodmont is supposed to be the top of the  
21 tent. This building at the corner of Woodmont and  
22 Montgomery Lane s both 9 feet and 19 feet lower than the  
23 West Lane property. Okay.

24 And it's also, West Lane is also going to be 12  
25 feet taller than the approved structure at 4921 Hampden Lane

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1 which we describe as Hampden Lane, and it's at a parallel  
2 distance from Arlington Road in Woodmont as this structure,  
3 as the West Lane structure. The difference of 12 feet is  
4 about a story, is at least a story, so this seven foot story  
5 building with cut, with stepdowns throughout the entire  
6 building and cut-outs at this building is in fact a full  
7 story taller, I mean, lower than the equivalently,  
8 equivalent seven story building on West Lane, and that  
9 doesn't even include the penetrations on either of these  
10 buildings or --

11 So clearly, if you exclude Edgemoor, and this  
12 building was approved, the big Edgemoor on the north side of  
13 Montgomery Lane was approved with the understanding that it  
14 was not precedent setting. It was a complicated transaction  
15 that included the HOC building and City Homes. So the  
16 bookend for the tent is shorter than the, than the proposed  
17 building.

18 From where I sit, it's also been sort of oddly  
19 portrayed as to the comparison between structures. While  
20 it's depicted on the plans as being simple sticks facing  
21 courtyards, City Homes has five units facing Montgomery Lane  
22 and the other 24 facing each other. So the 53 foot height  
23 at this one point, which is not the building height of the  
24 structure but is being portrayed as the building height of  
25 the structure by the applicant, is the, is the comparison

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1 that needs to be made. This 53 should -- even if you say  
2 it's a 10 foot roof, you really get down to 46 feet, not 53  
3 feet, so it's 46 feet as opposed to the 40, it's a, it's  
4 totally lower. It's significantly lower than West Lane.

5 And we could do the math, and the math that we have done is  
6 we put it -- City Homes is sited at 332.1. Even if you add,  
7 and if you add 4 which is more than, than what I would say  
8 this building was built at, you get to 380 as opposed to 425  
9 across the street. Okay so.

10 MS. ROBESON: How are you measuring height when  
11 you use 46?

12 THE WITNESS: Forty six? We're taking it from the  
13 site plan, the site plan for City Homes.

14 MS. ROBESON: And is that the eave height?

15 THE WITNESS: And the site plan basically says,  
16 the site plan says a 40, the plans use, I'm using 48 as a  
17 conservative height.

18 MS. ROBESON: Yes.

19 THE WITNESS: Even if you take the 53, it's to  
20 the --

21 MS. ROBESON: The peak of the roof.

22 THE WITNESS: -- peak of the roof and so you could  
23 take a 10 foot roof, and we don't have 10 foot roofs, it  
24 makes it 46. And so I'm still, even if I put on this 48,  
25 which is conservative, which that puts us at 380 as opposed

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1 to the key number, which is 405.8, so it's 20.8 feet taller.  
2 Okay. And then the other reason that I take 48 is because  
3 the as-built 48 feet high HOC building, five feet lower,  
4 which would really make it 43 feet on the City Homes side,  
5 is visually, according to every photograph, including the  
6 applicant's, at an equal height, so this, that's how you  
7 would place that as well. Place the City Homes height.  
8 Okay.

9 So then, so it's also, it's also the case that the  
10 other -- one second. Okay. So then you have this building

11 MS. ROBESON: Which is?

12 THE WITNESS: -- which is Arlington, Edgemoor at  
13 Arlington which is 46 feet high at a lower elevation, and  
14 that is column 7, column 10, I'm sorry. That's at 325.5  
15 feet elevation, base elevation ,with 46 takes you to 371  
16 feet .5 as opposed to West Lane at 405.8. Okay.

17 It's also the case that the other multi-family  
18 projects built and proposed for Montgomery Lane have  
19 significantly responded to the urban village because while  
20 this is at 46 at its peak, there are stepdowns.

21 MR. KNOPF: By this, you're referring to?

22 THE WITNESS: This meaning --

23 MS. ROBESON: Edgemoor

24 THE WITNESS: -- Edgemoor at Arlington as well as  
25 Edgemoor North.

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1 MS. ROBESON: At Arlington North.  
2 THE WITNESS: At Arlington North. Both of them  
3 have varying heights, Hampden Lane has varying heights.  
4 MS. ROBESON: 49 --  
5 THE WITNESS: 4901 Hampden Lane has varying  
6 heights. The only building that doesn't have varying  
7 heights is the 4825 --  
8 MS. ROBESON: Montgomery.  
9 THE WITNESS: -- Montgomery Lane. But the height  
10 of Montgomery Lane property was described as 65 plus 4, and  
11 the site plan shows that it is going to be built at 60 plus  
12 the 4, so 64. So again, as far as the tenting is concerned,  
13 the tent is going down from --  
14 MS. ROBESON: From the highrises.  
15 THE WITNESS: -- from the highrise building and  
16 then would go back up, and the back up isn't just a couple  
17 of feet as has been described. The, the back up is seen in  
18 column 4. We were showing it originally at 397.9, but we  
19 would change this to the correct height which would be a  
20 building beginning at, even, this is at 332.9 and going up  
21 to 394.7, so it's 394.7 versus 405.8. This is a 10 foot  
22 drop down from West Lane meaning --  
23 MS. ROBESON: This is the 4825.  
24 THE WITNESS: -- the 4825. Okay. So it's all, so  
25 it's all relative. So in fact, elevations really do make a

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1 difference. So those are pretty much height issues as far  
2 as, as relative compatibility, and I would venture to say  
3 that County Council Resolution 16-246 in Holiday says that  
4 the original approved building heights were consistent with  
5 development across the street, City Homes and Edgemoor,  
6 which reflects townhouses and low-rise structures. If the  
7 Holiday design was consistent, it's illogical to believe  
8 that this new project is consistent. The proposed building  
9 is going to dwarf all of our neighborhood structures with  
10 height and bulk.  
11 The West Lane applicant has also tried to justify  
12 the appropriateness of the height and density by referencing  
13 the site plan for Hampden Lane, and that is the building  
14 that shares a significant perimeter with the southwest  
15 corner of City Homes of Edgemoor. You can -- let's see.  
16 Exhibit 101H is a section view of the property. It's a  
17 multi-unit building that has been approved at only 60 units  
18 which is half of what West Lane has been approved at. The  
19 property sits on a site that is 83 percent the size of the  
20 West Lane property, yet only 60 units is what --  
21 MS. ROBESON: Which, I'm sorry, which project?  
22 THE WITNESS: The Hampden Lane property.  
23 MS. ROBESON: Okay.  
24 THE WITNESS: Is 83 percent the size of the West  
25 Lane property but has been approved with only 60 units, half

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1 of what West Lane is proposing. Additionally, while that  
2 building is approved at 71 feet at its maximum height, I've  
3 shown that it's significantly lower and, with the multiple  
4 stepdowns, below that height. And this building was  
5 approved saying it was consistent after the Holiday project  
6 and noted to be compatible with the neighborhood.  
7 The other thing about it is that in the testimony  
8 for the Hampden Lane project, the height, the siting of the  
9 Hampden Lane project was at approximately the center of the  
10 building and due to the different measuring points and that  
11 developer's choice of the measuring point, there was  
12 testimony in that case saying that you cannot measure 71  
13 feet at the face of any point of the building. The building  
14 height is actually 68 feet high at its tallest point. I  
15 know that's complicated but the measuring point was taken  
16 midpoint. So if that project is, so that project is even  
17 three feet shorter than what it's been --  
18 MS. ROBESON: Oh, okay. I see what you're saying.  
19 THE WITNESS: -- than what the proposal as to  
20 what's really going to be 15 feet shorter because of the  
21 difference in the, because of the measuring point of the  
22 building. So if that building was, it was compatible, how  
23 can a building without proportional stepdowns and a  
24 significantly less, greater density meet that same standard.  
25 The Hampden Lane project approval also addressed

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1 the potential conflict the building would have with the  
2 adjacent City Homes, and that's why there are cut-outs.  
3 Okay. This is, this is where it gets a little crazy because  
4 the exhibits vary on whether or not they show those cut-outs  
5 and because they're very important in my life, I want to  
6 just present this. This is one of the exhibits, 106C, which  
7 shows no cut-outs.  
8 MS. HARRIS: Objection. Two things. One is in  
9 terms of the aerial, it was noted through testimony that the  
10 aerial was not intended, and in fact, there's a note on the  
11 aerial regarding the set, that it wasn't intended to, for  
12 setback relationships, and the architect testified what the  
13 purpose of it was. This exhibit, while it was identified  
14 simply for height purposes, it was not intended to show the  
15 wells in the HLA building. And in fact, there is an exhibit  
16 that does accurately show the wells.  
17 MS. ROBESON: Well --  
18 MS. HARRIS: So I would suggest that we, if we're  
19 going to talk about the wells and the relationship, we might  
20 as well be using the correct exhibit.  
21 MR. ABRAMS: Which exhibit?  
22 MS. HARRIS: 106B.  
23 THE WITNESS: Okay. Well, what I'm saying is -- I  
24 think this is 106B. Here's 106B.  
25 MS. HARRIS: Right.

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1 THE WITNESS: And quite honestly, thank God for  
2 106B because it is the only one that is accurately showing  
3 the, the relationship. So let's look at 106B which shows  
4 that there are courtyards, three courtyards in the Hampden  
5 Lane project which directly responded to City Homes. That  
6 was in a direct response to City Homes. There is no  
7 significant response in, in the West Lane property. And  
8 this property, the Hampden Lane property, as you will see,  
9 is one lot deep and four lots long so that if they would  
10 have attempted to have an additional setback at City Homes,  
11 it would have been an unbuildable lot. That circumstance  
12 does not exist anywhere on the West Lane property.  
13 West Lane has been described as a water balloon.  
14 You push it one place, you push it someplace else. Well, my  
15 question is why haven't they pushed it towards Edgemoor at  
16 Arlington North where there's been a lot of discussion about  
17 the 15 feet in the --  
18 MS. ROBESON: Villages of Bethesda.  
19 THE WITNESS: -- Villages of Bethesda and the 12  
20 feet here at Edgemoor at Arlington North, but the space that  
21 is reserved just for tenants with no public use is a  
22 significant space and is very different from the original  
23 setback approved for Holiday. So the, so the massing of the  
24 buildings are significantly different, and you can see that  
25 here is a building that has significantly responded to a

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1 massing potential problem by having cut-backs and setbacks  
2 and stepdowns. Okay.  
3 In fact, the approval for the Hampden Lane project  
4 I will quote, and the -- or no. I won't quote that. This  
5 is the approval for 4825. But proving that all of these are  
6 going along the same lines is the property to the north and  
7 west of the site. Holiday is approved for development of a  
8 multi-family building that will vary from four to six  
9 stories. Thus, the proposed building will be compatible  
10 with the existing and approved adjacent development in terms  
11 of height and use.  
12 The last thing I want to go, do one more thing  
13 about Hampden Lane as regards to compatibility. The Hampden  
14 Lane building across the street, as I described earlier,  
15 from on-street parking, parking lots and a parking garage,  
16 has a 1.48 space per unit as opposed to the one parking  
17 space per unit at West Lane. And, yes, I know that West  
18 Lane people can park in the library parking lot. That's  
19 what I tell my guests, but it is also a lot laden with signs  
20 saying you're only supposed to park there if you're actually  
21 using the library. So there is a --  
22 MS. ROBESON: I did use the library.  
23 THE WITNESS: I do too, and I urge my guests to  
24 use the library. It's clear, based on Lot 4825 height, four  
25 to six stories, Edgemoor at Arlington, Edgemoor at Arlington

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1 North, Hampden Lane, Hampden Lane facing Montgomery Lane,  
2 those, those things are showing what's compatible. The  
3 Sector Plan advocates for a low-rise, high-density urban  
4 village with buildings that appear to be townhouses but are  
5 actually three to six-story buildings. That's page 82, it's  
6 a clear statement. The maximum six stories, not seven, and  
7 appear like townhouses, not a uniform seven-story height  
8 topped by a mechanical unit over Montgomery Lane.  
9 With, with regard to density and mass, the Holiday  
10 project also demonstrates appropriate design standards of  
11 compatibility. The binding elements of Holiday included  
12 protections for the community to ensure this compatibility.  
13 The proposed changes eliminate key elements of those  
14 protections.  
15 The plan would produce a density nearly twice that  
16 previously approved and substantially higher than the  
17 recommended level. The Bethesda Sector Plan recommends  
18 residential uses for the site as a density of 45 to 100  
19 dwelling units per acre. The subject plan proposes a  
20 maximum proposed density of 135 units per acre, and remember  
21 that Holiday was 93. This is -- no. The original was 73  
22 dwelling units per acre. And I just want to note that the  
23 Holiday project shows that you can approve a project below  
24 the maximum allowable, and I think that is, is a way to  
25 demonstrate the compatibility, by showing that there are

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1 elements of Holiday that were below what was allowable in  
2 order to make it compatible.  
3 We've not heard any justification other than it is  
4 allowed. It is -- for the West Lane project. It is not  
5 allowed if it's not compatible. It is also the case when in  
6 determining compatibility, the closest surrounding area and  
7 future homeowners on Montgomery Lane and the Villages of  
8 Bethesda who reside in approved units of lower density are  
9 the most affected people. We are the most affected at City  
10 Homes because we share the street that holds the entrance to  
11 the property. We will be the recipients of the additional  
12 traffic, sound, light because of that so the -- and none of  
13 the closest adjacent and confronting properties have  
14 exceeded a 2.5 FAR and comparisons must be made giving  
15 greater weight to these neighboring properties.  
16 And it is the case very clearly. The District  
17 Council, the Planning Board, the Hearing Examiner approved  
18 those properties at that density. They're there. We are  
19 not going to be changing the density at City Homes and nor  
20 are we at Edgemoor or the new, or any of the other  
21 properties that have been approved, but we can recognize  
22 them to be important when you deal with density. The only  
23 justify, justification for more than doubling the density,  
24 the numbers of units in exceeding that 2.5 FAR has been that  
25 this is a different project and that it has MPDUs. There's

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1 no testimony to the effect that the MPDUs are affected,  
2 cannot be accomplished without the increased FAR or that  
3 they must be accomplished using the additional FAR. And I,  
4 as I stated, because of the overbuilding on Lot 26, Lot 26  
5 has, in its own right, would have a higher than 2.5 FAR.  
6 The density that is the subsequent result not only  
7 affects congestion but also light, air, conflicting design  
8 and traffic on Montgomery Lane, Lane, so I'll talk a little  
9 bit more about the general project as lined. The  
10 recommended binding elements for the original project  
11 approved by County Council included specific details of  
12 design which have been deleted from this project.  
13 What is notable is that the proposed design moves  
14 the building closer to Montgomery Lane for an additional 25  
15 feet and to explain that, it's the difference between this  
16 78 feet and which is the --  
17 MS. ROBESON: And you're referring to 85?  
18 THE WITNESS: Referring to the Exhibit 85, the  
19 southern elevation is 78 feet versus a 25 feet less on  
20 Montgomery Lane in the Holiday project at the same elevation  
21 but, and that in contrast to Holiday with half of its  
22 frontage 100 feet back, and I understand that it, that it  
23 didn't include the Lot 26 but it, the case is that it was  
24 100 feet back from Montgomery Lane and the entrance was 100  
25 feet back from the corner of West Lane and Montgomery Lane.

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1 The lobby entrance is now located at the corner of  
2 Montgomery Lane and West Lane. I'm pointing to that on  
3 Exhibit 85 at the entrance which is, which is also located  
4 directly across from four driveways that have now been  
5 approved for 4825 Montgomery Lane.  
6 Operationally, and others will talk about this,  
7 having this entry at this point is a magnet for illegal  
8 parking. There's just, and we, and there's been a lot of  
9 testimony about lay-bys and stuff but the bottom line is on  
10 Montgomery Lane, one truck trying to pass, trying to, one  
11 truck stopped at any point, even if it's just stopped, not  
12 parked on Montgomery Lane, impedes passage on Montgomery  
13 Lane.  
14 There are few design details that replicate the  
15 existing structures in the neighborhood, and I will go to  
16 the aerial photo on this one. There are bay windows on this  
17 building. There are insets and -- on the Edgemoor.  
18 MS. ROBESON: Highrise.  
19 THE WITNESS: I'm looking at highrise, Exhibit  
20 106F. Those aren't planned or anything. They're existing.  
21 Multiple rows of, of bay windows. On West, on 4825, the  
22 masonry mimics the, masonry mimics the Edgemoor property.  
23 The --  
24 MS. ROBESON: The Edgemoor highrise.  
25 THE WITNESS: The Edgemoor highrise. The

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1 fenestration on, while this is a, while the Edgemoor is a  
2 Georgian building and the City Homes are a Federal building,  
3 West Lane is a contemporary building and that, again, is a  
4 very different place as opposed to the 8, 4825 which  
5 combines the elements of a Federal building.  
6 The Edgemoor North and Edgemoor at Arlington both  
7 are almost, are heavily masonry and their fenestration makes  
8 it, makes it clear that these are both residential  
9 buildings. The, the accent of glass in the, in the concave  
10 area, which may be a lovely design element, does not make it  
11 conform with the other residential-appearing fenestration in  
12 the other buildings.  
13 It is also the case that all of the mechanical  
14 from the Edgemoor building is hidden. The mechanical for  
15 City Homes is hidden. The mechanical for 4825 is hidden  
16 whereas on West Lane building, the mechanical is forward and  
17 is not, and if it is hidden, it is only hidden by another  
18 structure.  
19 No significant design elements break the building  
20 elevations on either West Lane or Montgomery Lane to create  
21 multiple views and this, the views, multiple views and depth  
22 are advocated in the Sector Plan and were required in all of  
23 the previously approved projects in this vicinity. That was  
24 all the stepdowns on this -- on all of the other  
25 development, you can, you can see stepdowns.

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1 The other thing I wanted to say, okay, all,  
2 everything -- public use open space is at the bare minimum  
3 required and less than the 14 percent originally submitted,  
4 including a thin, unusable strip along West Lane that leads  
5 only to a garage, a garage entrance and a dead end. So this  
6 is part of the public space which is the eastern edge of the  
7 project property. Okay. The public -- so that, so I wanted  
8 to point that out.  
9 Also, and I hadn't prepared this but having  
10 listened to the testimony all day today about the cut-out  
11 area, there was a comparison, and I'll go to Exhibit 112,  
12 there was a comparison of the steps of City Homes and the  
13 handicap ramp of Edgemoor as reading as not public space.  
14 Well, if those areas are not public space, then the notion  
15 of the park that is immediately adjacent to the entrance of  
16 a 120 unit apartment building as being public space is a --  
17 to me, it's a silly notion.  
18 It is also the case that all throughout the  
19 testimony, the, and throughout these proceedings, the  
20 applicant has made it very clear that the entrance on West  
21 Lane was important to give a face to the building. The  
22 reason that that is important is really because the Sector  
23 Plan is ask, requires you to have, or recommends that there,  
24 it appears like a townhouse, which clearly, this isn't going  
25 to do, but also, has frontage on Montgomery Lane that has

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1 individual entries. This does not exist on West Lane so the  
2 only entry is, is in this park.  
3 Well, if this is pedestrian-friendly and there are  
4 steps, if West Lane is pedestrian-friendly and there are  
5 steps from Montgomery Lane to get into West Lane, what about  
6 handicap accessibility? The handicap accessibility is from  
7 a ramp halfway down West Lane so any handicapped person who  
8 needs the ramp has to be dropped off at the lay-by and to  
9 the, and moved all the way up West Lane, down West Lane to  
10 get into this building meaning that no one on Montgomery  
11 Lane needing accessibility can enter this building, and I  
12 think that is contrary to the Sector Plan completely. And  
13 the notion that the steps adjacent to West Lane would be  
14 viewed as public property but the steps and the planters  
15 next to the steps on, on the City Homes properties wouldn't  
16 be used as public space is just an unfathomable comparison  
17 as far as I'm concerned, but that's just as far as I'm  
18 concerned but I think it's fact.  
19 So those are the key, these are key elements about  
20 compatibility. This building isn't compatible, it has  
21 numerous failings, it's not compatible with the community,  
22 it fails to meet the recommendations of the Sector Plan and  
23 equally important, it's not compatible with the as-built  
24 conditions on Montgomery Lane and West Lane and approved  
25 projects ahead of it in the pipeline. The approval of this

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1 project and its current configuration would mean that a road  
2 designed and used daily as a local pedestrian route and in a  
3 biker-friendly area will be dominated by a building that  
4 does not contain the recommended and existing design  
5 elements of the streetscape and is inconsistent with the  
6 aesthetic quality of the other developments on the block.  
7 I strongly urge you to deny this application  
8 unless major conditions are included to make this a  
9 compatible building. Recommended conditions should reduce  
10 the height, bulk and density of the building by modifying  
11 the design elements and setbacks and stepdowns of the  
12 building, and by providing more usable open space, what will  
13 be used by pedestrians and benefit the adjacent and  
14 confronting neighborhood. Happy to answer any questions.  
15 MS. ROBESON: Thank you  
16 MR. ABRAMS: We're not finished yet.  
17 MS. ROBESON: I'll let Mr. Abrams follow up.  
18 BY MR. ABRAMS:  
19 Q Does conformity with the Sector Plan for the area  
20 enter into your analysis of compatibility?  
21 A Absolutely.  
22 Q And why is that?  
23 A Because the Sector Plan, first of all, the Sector  
24 Plan has had governing authority of all the previous  
25 projects approved in that, in the community and that the

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1 Sector Plan is requiring an urban, an urban village with  
2 mixed heights and varied sizes of buildings.  
3 Q Now, in terms of evaluating compatibility, you've  
4 listed some factors. I believe height, density, a  
5 transition type of fact. And is there anything else,  
6 possibly architectural I think you, you also listed.  
7 A Mass.  
8 Q Mass.  
9 A I think the mass, that's, I think, to me, the  
10 biggest problem. Well, the height and the density.  
11 MS. ROBESON: Well, let me, let me just ask you as  
12 to the height. What is your response -- what I hear the  
13 applicant saying is that when the Council amended the TS-R  
14 Zone, they essentially amended the height limits in the  
15 Sector Plan if you provide MPDUs, so what's your answer to  
16 that argument?  
17 THE WITNESS: And I think that is the case, that  
18 they, that's what the Council did. But the Council also  
19 recommends and approves projects on a case-by-case basis so  
20 the MPDUs would be fine if the building was compatible. The  
21 building is not compatible at that FAR largely because of  
22 the density.  
23 MS. ROBESON: Okay. I'm sorry to interrupt, Mr.  
24 Abrams. Go ahead.  
25 MR. ABRAMS: Oh.

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1 MS. ROBESON: Oh, do you have any other?  
2 MR. ABRAMS: Yes, I do.  
3 MS. ROBESON: Okay.  
4 BY MR. ABRAMS:  
5 Q If this project were approved in its current  
6 density, height, configuration, what incompatible and  
7 adverse effects will affect the immediate neighborhood?  
8 A Okay. Well, the incompatibility, clearly, the  
9 design elements and the height I talked about. And the  
10 height, the affect of the height is really vantage points.  
11 In contrast to the south side of Montgomery Lane, which is  
12 broken up, which has a definite rhythm, the north side of,  
13 of Montgomery Lane is not going to have the equivalent  
14 rhythm so a, a building that's 78 feet long at this location  
15 will in fact mirror a problem that I don't think anyone will  
16 deny in front of the, exists in front of the Edgemoor.  
17 As like my, I tell my kids and my mother told me,  
18 I don't care what they did. What's right is right and  
19 what's wrong is wrong. And this is 78 feet opposite a  
20 rhythm that is pedestrian-friendly. This is not going to be  
21 pedestrian-friendly. So it's not only the vantage points  
22 for the people living in these buildings with a big mass.  
23 It's also what happens to the people walking up and down the  
24 street. And because of the elevation shifts, this is going  
25 to be big, bigger than one expects it to be, for a very long

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1 part of the road in the, in the pedestrian experience on  
2 Montgomery Lane.  
3 And the density and massing affect the operation  
4 and the operation of the street may not be a problem at 8:30  
5 in the morning but is a problem the rest of the day when  
6 deliveries are made, when the mailman, the postman parks on  
7 Montgomery Lane illegally every single day, when, which is  
8 not the fault of the applicant but is an existing condition  
9 which they are going to exacerbate. And to say that 120  
10 units is going to have no more impact than 48 units, which  
11 is what was approved, is, is not a logical conclusion.  
12 Q Okay. You've given some testimony as to the  
13 Holiday project, Application G-843.  
14 A Uh-huh.  
15 Q Did you have an opportunity to review the Hearing  
16 Examiner's report --  
17 A Yes, I did.  
18 Q -- in that case?  
19 A Yes, I did.  
20 Q I want to direct the Hearing Examiner to page 41  
21 of the report, and it is the paragraph above the section  
22 entitled Shadow Studies. And this is the quotation of a  
23 letter from the applicant's counsel in rebuttal to certain  
24 comments that were received in that case, and I might add  
25 not by our clients. Now, this, again, is the applicant's

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1 letter in that case, and the entire letter is quoted  
2 verbatim so you can, you can read the entirety of the  
3 letter. It says a critical component in evaluating the  
4 compatibility of the project is the applicant's commitment  
5 through binding elements on the development plan, through  
6 various design elements of the project including those  
7 discussed above. Is that something that you agree with?  
8 A That -- this?  
9 Q No. That as a general proposition, a critical  
10 component in evaluating the compatibility of the project is  
11 the applicant's commitment through the binding elements on  
12 the development plan and various design elements of the  
13 project including those discussed above.  
14 A Yes.  
15 Q Okay. In terms of your review of the subject  
16 application, have you reviewed the binding elements on the  
17 current plan?  
18 A Yes, I have.  
19 Q And do you believe that those binding elements  
20 provide a commitment which will ensure compatibility of this  
21 project?  
22 A No. I don't believe that the binding elements do.  
23 A couple, one in, specifically is that the binding element  
24 regarding deliveries because I think that is, that it is  
25 unenforceable and if, it is isn't even stated in a way that,

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1 that could make it enforceable. That's one binding element.  
2 The other binding element which are about having to do with  
3 the setbacks, the setbacks were not, I do not believe are  
4 sufficient. Okay. Thank you. I do not believe the  
5 setbacks are sufficient. I'll go down the binding elements.  
6 I think that the element with a maximum height at  
7 70 feet as measured from 335.8 and is shown on the  
8 development plan is not consistent, is not compatible. The  
9 development will have a maximum density of 3.05 FAR, no. 2,  
10 is not compatible. The development will provide 15 percent  
11 of the units ultimately committed for construction as MPDUs.  
12 That actually is compatible.  
13 The development will provide a minimum of 10  
14 percent public use space. I do not believe that is  
15 compatible because of the massing of the building and the  
16 fact that the Sector Plan actually calls for public use  
17 space to be in usable section, usable chunks. I don't know,  
18 I don't have the exact wording here but in usable places,  
19 and I, I would contend that the West Lane portion of the  
20 public space will only be used for dog walkers.  
21 The development will provide a minimum of 20  
22 percent active and passive recreational space. I think  
23 that's, that the 20 percent, as a maximum, as a minimum is  
24 compatible. The 20 percent provided is compatible, is --  
25 actually, if there is going to be roof passive space, then I

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1 think that it will be overly generous in some respects due  
2 to the fact that we live within walking distance to several  
3 gyms and several recreation facilities. We have movie  
4 theaters, we have restaurants, we have, so you don't need to  
5 do anything more than the minimum there. Okay.  
6 The next binding element, the western facade of  
7 the development will include a minimum of 20 percent  
8 windows. Totally agree. That does not affect my view but I  
9 believe that's compatible. I think not having a binding  
10 element with a construction agreement with City Homes and  
11 concluding crane-swing provisions and pre and post-  
12 construction evaluations I think is not a compatible  
13 element. I think that we would want a construction  
14 agreement.  
15 I think dedicating two-and-a-half feet of frontage  
16 I think is appropriate. That's no. 8. In connection with  
17 the development -- let's see. I don't have, I don't have a  
18 statement on 9. No. 10 is compatible. Approving lead  
19 rating system is definitely compatible. I don't think flat  
20 roofs are actually compatible based on the fact that so many  
21 of the buildings have some articulation.  
22 The number -- this is another one. No. 13 says  
23 either, whether rental or condominium, this is, the  
24 management entity will require that all service deliveries  
25 occur through the service entry located on West Lane. This

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1 is one which I don't believe is enforceable and, in its, in  
2 its current wording, and one would almost need someone  
3 standing outside of the building to guarantee that service  
4 deliveries occur through the service entry located on West  
5 Lane. And the other thing that is, is concerning in that  
6 binding element is it says whether rental or condominium  
7 because there are tremendous differences in the  
8 representations made about this project as to whether or not  
9 it is a rental or condominium and lifestyles, there's a  
10 difference and partially because rental units will have a  
11 greater turnover than condominium units.

12 Fourteen, yes. Compatible to screened transformer  
13 units. I think it's interesting that the applicant is going  
14 to enter into a construction agreement with 4828 West Lane  
15 here, which is across the street, but not across Montgomery  
16 Lane, City Homes, so I think that's an interesting element  
17 and so it's not compatible unless City Homes is added. I  
18 think that 15 feet from the northern property line is more  
19 than generous against a brick wall over a brick wall. The  
20 outdoor private amenity space in keeping with the size and  
21 dimensions of the development plan, I don't see how that  
22 makes it more compatible. I would -- by providing private  
23 space rather than public space.

24 The sixth and seventh floors of the building will  
25 incorporate a 12 foot setback. I would say that 12 foot is

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1 not compatible because it, the, it's still -- first of all,  
2 that setback starts a full story higher than what Holiday  
3 was and it is also 12 feet as opposed to the 100 feet  
4 setback at that height and Holiday, so it's not compatible.  
5 The height of the landscape lighting and the private outdoor  
6 amenity space to a maximum of 24, that's probably  
7 compatible. And the public use space concept will  
8 substantially conform. I think the word substantially  
9 conform is, is a subjective term and I don't think that  
10 there is anything here that literally ties us to, to the  
11 representations that have been made. That's no. 20.

12 Q Now, also with respect to the Hearing Examiner's  
13 report in, in that case, and I'm specifically --

14 A You're talking about Holiday.

15 Q Yes. Holiday. And I'm specifically referring to  
16 page 43. There's a paragraph which is labeled community  
17 outreach. I'm wondering if you could read that short  
18 paragraph into the record.

19 A This is on page 43. Community outreach. Since  
20 the beginning of the proposed project, the applicant has  
21 worked diligently to reach out to the surrounding neighbors,  
22 to solicit their comments and to respond to their concerns.  
23 The applicant's commitment is reflected in many of the  
24 binding elements which incorporate the design standards and  
25 requirements specifically requested by surrounding

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1 neighbors. The applicant's responsiveness to the  
2 surrounding community to ensure that the project is  
3 compatible with the existing development is perhaps best  
4 illustrated by the fact that only three residents testified  
5 at the public hearing and these individuals submitted  
6 limited final comments. As Mr. Fishken (phonetic sp.)  
7 indicated at the public hearing, the applicant has developed  
8 a positive working relationship with the surrounding  
9 property owners. We look forward to the opportunity  
10 continuing to work with communities to assure a successful  
11 compatible project.

12 Q Now, you've been involved with meetings with the  
13 applicant?

14 A Yes.

15 Q Would you characterize those meetings as being  
16 responsive to concerns and requests of the community?

17 A No.

18 Q In what way? What did the community basically  
19 discuss and what was --

20 A The community's concerns have really been both,  
21 largely density. Density is a big concern because of the  
22 traffic concern, the internal circulation patterns and  
23 traffic concerns, but it's also been the massing. And the  
24 massing of this project has been, has obviously shifted from  
25 the western -- well, it shifted from just being narrow and

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1 low in the front to being just a big rectangular structure  
2 with a, a cut-out on the full lot. The -- we have requested  
3 a greater stepdown at the front elevation and also,  
4 throughout the building so that the, in addition to a  
5 stepdown on Montgomery Lane, a stepdown on West Lane. We  
6 did not request the pocket park. However, I would say  
7 that -- and that came as a surprise to use quite honestly,  
8 but it has not in fact changed either the density or the  
9 mass of the building.

10 We have made it very clear that we are concerned  
11 about the height multiple times, and in fact, we see no  
12 change of that. And we also have made it really clear that  
13 we think that the rear, the northern space could easily have  
14 been transferred to the Montgomery Lane side of the property  
15 with a greater setback on Montgomery Lane. And then lastly,  
16 we had requested multiple times that the lobby not be put on  
17 Montgomery Lane and that more articulation be made in the  
18 building to make it, make the design more compatible with  
19 existing structures.

20 Q Did you also request that the way-by, or the lay-  
21 by be increased in size?

22 A Yes, we did. We requested the lay-by because,  
23 because of the lack of parking on the streets.

24 Q Okay. In terms of the public use space, in those  
25 meetings which occurred before the first Planning Board

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1 meeting, did you make the suggestion to the applicants to  
2 take that public use space and bring it to the frontage on  
3 Montgomery Lane?  
4 A Yes, we did.  
5 Q And did the applicant respond to you before the  
6 public hearing or the public meeting of the Planning Board?  
7 Did they do that?  
8 A No.  
9 Q Okay. And do you believe that it was the  
10 suggestion of the Planning Board, after testimony at that  
11 public meeting as opposed to your meeting with the applicant  
12 and voicing your concern over the location of that public  
13 use space, that created the cut-out portion in the front of  
14 the building?  
15 A Yes. That came as a surprise to us.  
16 Q And in terms of the number of neighbors who were  
17 opposed, the letter indicates that there were only three  
18 people that opposed the Holiday project. Did anybody from  
19 City Homes oppose the Holiday project to your knowledge?  
20 A No.  
21 Q And has --  
22 A Supported the Holiday, only three people supported  
23 the Holiday project is what was --  
24 Q Correct. Now, in terms of the, the 29 units, how  
25 many oppose this project?

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1 A Twenty-nine.  
2 Q How do you know that?  
3 A Because 29 letters were, individual letters, were  
4 sent, composed and sent by each unit of City Homes.  
5 Q Okay.  
6 A To the Planning Board prior to the Planning Board  
7 hearings. And a number of, of my neighbors actually  
8 appeared at the Planning Board hearings to voice their  
9 concerns and testify.  
10 Q Okay. Were there numerous letters in opposition  
11 from the what I call big Edgemoor building units?  
12 A Yes. To the best of my knowledge, but I believe  
13 they'll testify about that. But as far as City Homes is  
14 concerned and our neighborhood association, it was rather  
15 remarkable but there were 29 out of 29.  
16 Q That's all the questions I have.  
17 MS. ROBESON: All right. Mr. Knopf, do you have  
18 any questions or cross-examination questions?  
19 MR. KNOPF: My question is what am I going to do  
20 this Friday when they come in here, that's --  
21 MS. ROBESON: I know. I'm thinking about that  
22 too.  
23 MR. KNOPF: No. I just compliment the witness for  
24 very excellent testimony. I have no questions.  
25 MS. ROBESON: Ms. Harris?

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1 MS. HARRIS: Numerous as to be expected.  
2 MS. ROBESON: I figured. Let's take a, I need to  
3 get my keys so let's take a five minute break and then we'll  
4 start your cross-examination. You have three other  
5 witnesses?  
6 MR. ABRAMS: I have, let's see, one, two are my  
7 witnesses. The gentleman in the slacks and green shirt here  
8 is a resident but he's not part of my case.  
9 MS. ROBESON: Okay.  
10 MR. ABRAMS: He wants to testify also.  
11 MS. ROBESON: Okay.  
12 MS. HARRIS: And I probably have about an hour-  
13 and-a-half worth of cross.  
14 MS. ROBESON: Okay. Well, we can stay here  
15 overnight or we can add another day. It's up to you.  
16 MS. HARRIS: We should add another day.  
17 MS. ROBESON: Now --  
18 MR. ABRAMS: Don't we have Friday this week?  
19 MS. ROBESON: Yes, but that's -- what I'm hearing  
20 is Mr. Knopf, how many days do you have? I mean, how many  
21 witnesses?  
22 MR. KNOPF: We have, there are three witnesses  
23 plus our expert, plus there's one person I don't represent  
24 that said they wanted to come and testify. And on the lay  
25 witnesses, I think, you know, an hour, hour-and-a-half

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1 total.  
2 MS. ROBESON: But on Mr. Doggett.  
3 MR. KNOPF: We're talking an hour of his testimony  
4 and then whatever the cross-examination is. We thought for  
5 sure we would get done half a day, three-quarters of day on  
6 Friday. My problem is I only nailed down all the witnesses  
7 for Friday because that's when we thought it was.  
8 MS. ROBESON: Right.  
9 MR. KNOPF: And I don't know what's going to  
10 happen once they get released or told they can't come. I do  
11 know that one of them on Friday can only be in the morning  
12 so that, that's where we are.  
13 MS. ROBESON: Well, let's do this. Well, I do  
14 have to take, I'm going to take the gentleman, I don't know  
15 your name, in the green shirt --  
16 MR. POLKES: Thank you.  
17 MS. ROBESON: -- tonight.  
18 MR. POLKES: I'll answer to that.  
19 MS. ROBESON: All right. I do -- let's take a  
20 five minute break because I can't get locked out, and then  
21 we'll figure out the rest of it but I'm not seeing -- how  
22 long do you think you'll have in -- well, you haven't heard  
23 his case, Mr. Knopf's case, so do you have an estimate of  
24 rebuttal at this point? No.  
25 MS. HARRIS: No.

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1 MS. ROBESON: Okay.  
2 MS. HARRIS: I mean, half a day maybe or less. I  
3 haven't, I don't know at this point.  
4 MS. ROBESON: Well, let's do this. We'll just, we  
5 can find a reserve date and hopefully won't need it, okay?  
6 MR. KNOPF: Well, I don't know that --  
7 MS. ROBESON: Not for your witnesses. I'm going  
8 to try to stay -- Mr. Abrams, do you have the ability to,  
9 you know, I don't want to split up your case but can you  
10 accommodate Mr. Knopf's witnesses on Friday?  
11 MR. KNOPF: Well, that --  
12 MR. ABRAMS: No.  
13 MS. ROBESON: No.  
14 MR. KNOPF: No. That would be --  
15 MS. ROBESON: No.  
16 MR. ABRAMS: No.  
17 MR. KNOPF: I'll have to contact my witnesses to  
18 see if they're available on the 29th.  
19 MS. ROBESON: That's what I think you need to do.  
20 MR. KNOPF: Yes. I --  
21 THE WITNESS: I am not available on the 29th.  
22 MS. ROBESON: No. I don't think we'll need you on  
23 the 29th.  
24 THE WITNESS: Okay.  
25 MS. ROBESON: I would like to get the gentleman in

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1 the green shirt tonight.  
2 MR. POLKES: Brent Polkes.  
3 MS. ROBESON: Like the man in the yellow hat. And  
4 then, yes, tomorrow, how about this, somewhere here I still  
5 have, had the dates that were available. I would see, you  
6 know, if you only need a half a day, we may not need extra  
7 dates but --  
8 MS. HARRIS: Yes. I mean, I was expecting to be  
9 able to be, to be able to give you a better idea after I  
10 heard the completion of their --  
11 MS. ROBESON: All the testimony.  
12 MS. HARRIS: Yes.  
13 MS. ROBESON: Well, just think about Friday May  
14 3rd, okay? That's what I know is available now as a --  
15 MR. DOGGETT: That is -- hopefully, I'll be done  
16 before then.  
17 MR. KNOPF: No, no. You might not be.  
18 MR. DOGGETT: I have my daughter's graduation to  
19 get her master's --  
20 MS. ROBESON: Wow.  
21 MR. DOGGETT: -- in documentary filmmaking.  
22 MS. ROBESON: Very nice.  
23 MR. DOGGETT: And right at my beginning, I said  
24 I'd never put work in front of my children.  
25 MS. ROBESON: And that's a wise philosophy.

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1 MR. DOGGETT: Yes.  
2 MS. ROBESON: And does that mean, do you have to  
3 be out of town May 3rd?  
4 MR. DOGGETT: May 3rd and May 4th, yes.  
5 MS. ROBESON: Okay. Well, I will try to get  
6 additional dates. Yes, Ms. Harris.  
7 MS. HARRIS: And let me just note my client is out  
8 of town May 2nd through the 10th.  
9 MS. ROBESON: Oh, so she's out of town too.  
10 MS. HARRIS: She couldn't do it anyway. Right.  
11 From 2nd, May 2 through 10.  
12 MS. ROBESON: Okay. Well, let me go get my keys  
13 and then I would like to take the gentleman in the green  
14 shirt. And then we will pick up Friday morning with cross-  
15 examination of Ms. Turnbull and then we will discuss  
16 possible dates on Friday.  
17 MS. HARRIS: Thanks.  
18 MR. KNOPF: I don't want to hold you up now but we  
19 can discuss it when you come back. I just don't know what  
20 witnesses am I to have available on Friday. We're going to  
21 have to try to work that out.  
22 MS. ROBESON: Well, that's why I think it's more  
23 productive to discuss it Friday. Friday, give you time to  
24 reach some of your witnesses about the 29th.  
25 MR. KNOPF: Right, but I mean, I'm going to have

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1 them come on Friday. That's what I'm getting at.  
2 MR. ABRAMS: Well, yes. I mean, he ought to have  
3 some of his witnesses here.  
4 MS. ROBESON: Yes. I mean, I can't guarantee a  
5 particular date and time. We're trying to get through this  
6 hearing so I don't know what order your witnesses are in. I  
7 can only, you know, I'm going to keep going as long as we  
8 have witnesses coming.  
9 MR. KNOPF: Okay.  
10 MS. ROBESON: I know there's expenses involved  
11 with witnesses who are here.  
12 MR. KNOPF: I understand. I also have a personal  
13 problem meeting, reaching people. I am at the Planning Boar  
14 tomorrow from 9:00 until 5:00. I have two major hearings  
15 all day so I will try my best tonight to reach people.  
16 MS. ROBESON: Well, what I'll do, I will do this  
17 tomorrow. I will try to get some dates to you tomorrow  
18 which is the Planning Board day but do you have a secretary  
19 that could disseminate those dates?  
20 MR. KNOPF: Yes. We can, we can do that.  
21 MS. ROBESON: Can Joy do that?  
22 MR. KNOPF: I would -- yes. I would assume  
23 between this Friday and the 29th if they're available, we  
24 will accomplish all my witnesses for sure. You'll have this  
25 Friday, presumably, I might --

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1 MS. ROBESON: I mean, I can't give you that  
2 assurance because there's a cross-examination, you know.  
3 MR. KNOPF: You're absolutely right.  
4 MS. ROBESON: Ms. Harris has an hour, you all have  
5 had an hour, so it's hard for me to tell you that.  
6 MR. KNOPF: You're absolutely right. Sorry.  
7 Okay.  
8 MS. ROBESON: I understand your, your concern. So  
9 let me go get my keys because I really have to do that, and  
10 then we're going to take one more witness. And we're going  
11 to reserve your cross-examination for Friday, okay? We'll  
12 be off the record for five minutes.  
13 (Whereupon, at 5:57 p.m., a brief recess was  
14 taken.)  
15 MS. ROBESON: So sir, whose name I don't know yet,  
16 would you raise your right hand?  
17 (Witness sworn.)  
18 DIRECT EXAMINATION  
19 MS. ROBESON: Please state your name and address  
20 for the record.  
21 THE WITNESS: My name is Brent Polkes and I reside  
22 at 4808 Montgomery Lane, Bethesda, Maryland 20814.  
23 MS. ROBESON: Okay. And do you mind just telling  
24 us where you live on -- are you part of City Homes?  
25 THE WITNESS: Yes. I reside in City Homes.

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1 MS. ROBESON: Okay. All right.  
2 THE WITNESS: And I live in the westernmost row of  
3 houses.  
4 MS. ROBESON: Okay.  
5 THE WITNESS: The second one in from the street.  
6 MS. ROBESON: Okay. Thank you.  
7 THE WITNESS: You're welcome.  
8 MS. ROBESON: Go ahead.  
9 THE WITNESS: First of all, I'd like to compliment  
10 my neighbor and my colleague on an absolutely wonderful  
11 presentation. I pride myself in being articulate but I  
12 would confess to all of you that following Susan is an act I  
13 would prefer not to do at any point in time. And given the  
14 fact that she was as thorough and articulate, I'm going to  
15 limit my comments as much as possible to the things that  
16 have been a concern to my wife and myself.  
17 MS. ROBESON: That's wonderful. I would like to  
18 hear. No. I don't, I don't mean that sarcastically --  
19 THE WITNESS: I thought that might be well  
20 received. No problem.  
21 MS. ROBESON: -- but I would like to hear, you  
22 know.  
23 THE WITNESS: This is my first opportunity to be  
24 present. Fortunately, I run a thriving business and I am  
25 otherwise engaged with our six children and nine grand-

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1 children with two additional ones on the way --  
2 MS. ROBESON: Wow.  
3 THE WITNESS: -- and the fact that we are blessed  
4 by virtue that they all live within 20 minutes of Bethesda  
5 leaves me in a position where I am not yet ready to retire.  
6 You know, I've been filled in on some of the expert  
7 testimony, I heard some of it today, and what strikes me is  
8 that all of these people are well-meaning, well-intentioned,  
9 possibly truly expert in everything that they say they are  
10 but you know what? If you don't live on the street, you  
11 really don't know what you're talking about.  
12 Lay-bys? That lay-by is going to attract illegal  
13 parkers and I assure you just as the lay-bys in front of the  
14 Edgemoor are filled every day by people who choose to park  
15 there illegally, the same will be true on West Lane which  
16 means that while it may be the intent of the developer and  
17 all of those involved to preserve this area for deliveries  
18 and for others, I absolutely guarantee you that that will  
19 not function much of the time for its intended purpose. And  
20 just as people --  
21 MS. ROBESON: Do you, okay, so do you observe  
22 illegal parking on Montgomery Lane or is it just the lay-by  
23 or --  
24 THE WITNESS: Well --  
25 MS. ROBESON: -- at Edgemoor highrise or --

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1 THE WITNESS: The illegal parking on Montgomery  
2 Lane is pervasive. There are approximately three to four  
3 legal spaces on Montgomery Lane which are across the street  
4 from the first of two lay-bys, the westernmost lay-by in  
5 front of the big Edgemoor. Behind the area which is legal,  
6 there's room for three or four cars to park, and they are  
7 routinely filled. The delivery trucks, when the lay-bys are  
8 filled, just park wherever and it creates an obstacle  
9 course, and that obstacle course is challenging enough but  
10 because the street and the traffic flow from Woodmont  
11 towards Arlington Road, which would be I guess east to west,  
12 has only one way traffic, yes, it's a hazard and, yes, it's  
13 a life safety issue because it obscures your view when  
14 you're pulling in and out of driveways. It's manageable.  
15 But the area on Montgomery Lane running east to  
16 west from West Lane to Arlington Road is a two way street  
17 that I'm told is 20 feet wide. If, as will absolutely be  
18 the case, FedEx trucks, UPS trucks, people dropping people  
19 off, people who just decide to park illegally, continues to  
20 be as it currently is, that will require that vehicular  
21 traffic move into the oncoming traffic lane in order to  
22 access either a left or right turn on Arlington Road.  
23 I'm not certain exactly what the statistics would  
24 be but I assure you that this type of traffic flow will  
25 dramatically increase the probability of accidents. It will



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1 to assume is what they're proposing, it bears no resemblance  
2 to anything else on Montgomery Lane and certainly, there  
3 isn't any way to look at that and describe it as being  
4 compatible with the surrounding buildings, and it's just  
5 unacceptable to be in a position where we're told well, we  
6 can do this so we will, and that's essentially how it's been  
7 presented to us. We can do this so we will. I'm finished.  
8 MS. ROBESON: Okay. Mr. Abrams, any follow-up  
9 questions?  
10 MR. ABRAMS: I have no questions other than to  
11 thank Mr. Polkes for taking the time to come out.  
12 MR. KNOPF: No questions.  
13 MS. ROBESON: Okay. Ms. Harris?  
14 MS. HARRIS: Can you give me two minutes?  
15 MS. ROBESON: Yes. And I thank you for coming out  
16 and staying as long as you have.  
17 THE WITNESS: You're welcome.  
18 MS. HARRIS: I just have a few questions.  
19 MS. ROBESON: Okay.  
20 CROSS-EXAMINATION BY MS. HARRIS  
21 BY MS. HARRIS:  
22 Q Mr. Polkes, you stated I think something to the  
23 effect that generally, you've been happy with all the  
24 development that's occurred thus far in the neighborhood, is  
25 that correct?

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1 A I said that I was happy with the development but  
2 not always happy with the process.  
3 Q So perhaps that goes to my next question which was  
4 were you involved in an appeal of the 4901 Hampden Lane  
5 case?  
6 A I was.  
7 Q And were you also involved in the appeal of the  
8 Hampden Lane Associates, the Hampden Lane project by City  
9 Homes?  
10 A Yes. And the circumstances were the same in both  
11 cases.  
12 Q Okay. All I wanted was a yes or no. Thank you.  
13 MS. ROBESON: Well, I let Mr. Irish more debate.  
14 THE WITNESS: Thank you.  
15 MS. ROBESON: But maybe I'll make a note to  
16 follow-up, so go ahead, Ms. Harris.  
17 BY MS. HARRIS:  
18 Q Were you aware that at the time of the Sector  
19 Plan, at the same time of the 1994 Sector Plan was adopted,  
20 that the TS-R Zone provided for additional density in the  
21 TS-R Zone to accommodate MPDUs?  
22 A I'm looking at page 82.  
23 Q No. Not of the -- I'm talking about of the Zoning  
24 Ordinance. Hold on. Let me rephrase that question. Are  
25 you aware that 59-C-8.4 reads as follows, and this is the

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1 development in the TS-R Zone. The density of development  
2 must not exceed the FAR, the dwelling units per acre allowed  
3 by the zone except that the maximum density permitted may be  
4 increased to accommodate the construction of MPDUs as  
5 required by 25A.  
6 MR. ABRAMS: When was that adopted? I think he's  
7 referring to the Sector Plan of 1994 and you're talking  
8 about an amendment to the Zoning Ordinance, so is that 1994  
9 or before?  
10 MS. HARRIS: I need to get --  
11 MS. ROBESON: It's my recollection your witness  
12 testified that it was a couple of years after. I can't  
13 remember which witness, but I could be wrong. I don't have  
14 the transcript yet.  
15 BY MS. HARRIS:  
16 Q When did you buy your house, Mr. Polkes?  
17 A 2000.  
18 Q So you bought your house at the time that the  
19 provision that I just read was in effect, is that correct?  
20 A I have no way of knowing when it was in effect.  
21 It wasn't provided to me when I was considering the  
22 purchase. At least it wasn't amongst the documents that  
23 were given to me.  
24 MS. ROBESON: When did you buy your house? I'm  
25 sorry.

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1 THE WITNESS: 2000.  
2 MS. HARRIS: I have no other questions. That  
3 concludes my questions.  
4 MS. ROBESON: Okay. Thank you --  
5 THE WITNESS: You're welcome.  
6 MS. ROBESON: -- for staying late. Okay. With  
7 that, what we'll do is this hearing's going -- I'm sorry.  
8 Oh. We will, this hearing is going to be continued to this  
9 Friday the --  
10 MR. KNOPF: 19th?  
11 MS. ROBESON: When is this Friday, the 8 --  
12 MR. KNOPF: 19th.  
13 MR. ABRAMS: 19th.  
14 MS. ROBESON: 19th. Got the wrong calendar again.  
15 It says pay day. Friday the 19th at 9:30. I'm going to  
16 have our administrator send all the parties some dates for a  
17 reserve hearing after May 10th, and if there's, you know, I  
18 encourage you to coordinate amongst yourselves as to witness  
19 schedules and who can be here when.  
20 MR. ABRAMS: The April 29th date that we discussed  
21 the last time --  
22 MS. ROBESON: We're having that.  
23 MR. ABRAMS: So we're having this Friday the 19th.  
24 MS. ROBESON: And the April 29th.  
25 MR. ABRAMS: And the April, okay.

1 MS. ROBESON: And then I'm just asking for reserve  
2 because we're running a little behind where I thought we'd  
3 be or we are, so we may or may not use that last date.

4 MR. KNOPF: If I could just do this off the  
5 record, I just want to inquire --

6 MS. ROBESON: Wait. Are we off the record?

7 MR. KNOPF: Okay. I'm just talking scheduling  
8 matters. It could be off the record.

9 MS. ROBESON: Okay. We can go off the record.

10 (Whereupon, at 6:29 p.m., the hearing was  
11 concluded.)

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2 C E R T I F I C A T E  
3 DEPOSITION SERVICES, INC., hereby certifies that  
4 the attached pages represent an accurate transcript of the  
5 electronic sound recording of the proceedings before the  
6 Office of Zoning and Administrative Hearings for Montgomery  
7 County in the matter of:

8  
9 4831 WEST LANE, LLC  
10 LOCAL MAP AMENDMENT G-954, DPA 13-01

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By:

Josephine Hayes, Transcriber

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