

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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:
PETITION OF : Case No. S-2881
COLUMBIA/WEGMAN ACQUISITIONS, LLC :
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A hearing in the above-entitled matter was held on Friday, July 10, 2015, commencing at 9:35 a.m., at the Office of Zoning and Administrative Hearings, Stella B. Werner Council Office Building, 100 Maryland Avenue, Second Floor, Rita Davidson Memorial Hearing Room, Rockville, Maryland 20850 before:

Martin L. Grossman
Hearing Examiner

A P P E A R A N C E S

On Behalf of the Petitioner:

Jody S. Kline, Esq.
Miller, Miller & Canby
200-B Monroe Street
Rockville, Maryland 20850

Witnesses: Direct

Greg Elmore 18
Shahriar Etemadi 112
William Vest 127

Also Present:

Mr. Daniel Wilhelm 149

P R O C E E D I N G S

1 MR. GROSSMAN: Good morning all. All right. All
2 right. Mr. Kline, are you ready to proceed?
3 MR. KLINE: Yes, sir.
4 MR. GROSSMAN: All right. Let me call the case.
5 This is a public hearing in the matter of Columbia/Wegman
6 Acquisitions, LLC, Board of Appeals No. S-2881, OZAH No. 15-
7 06, an application for a nursing home/domiciliary care home
8 Special Exception in the R-200 zone under Zoning Ordinance
9 Section 59G2.37. This Special Exception is sought to build
10 and operate an assisted living facility with 113 units and
11 136 beds on 5.977 acres. The parcel is P-305 located at
12 13908 New Hampshire Avenue, Silver Spring, Maryland. And
13 the owner is United Christian Church under Tax Account No.
14 0500258778. Petitioner is contract purchaser and
15 petitioner's agent is Lenity Architecture. And the facility
16 will be called Colesville Senior Living. This hearing is
17 conducted on behalf of the Board of Appeals. My name is
18 Martin Grossman. I'm the hearing examiner, which means I
19 will take evidence and write a report and recommendation to
20 the Board of Appeals, which will make the decision in this
21 case. Will the parties identify themselves, please, for the
22 record?
23 MR. KLINE: Good morning, Mr. Grossman. For the
24 record, my name is Jody Kline. I'm an attorney with the law
25

E X H I B I T S

Exhibit No.	Marked/Received
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1 firm of Miller, Miller & Canby with law offices at 200-B
2 Monroe Street, here in Rockville. We'll be calling three
3 witnesses today, Mr. Greg Elmore, E-L-M-O-R-E; Mr. William
4 Vest or Bill Vest, V-E-S-T; and Mr. Shahriar Etemadi, whose
5 card has been given to the transcriber. And I know he's
6 familiar to you.
7 MR. GROSSMAN: Yes.
8 MR. KLINE: And there is a party present who has
9 asked me to try and complete our presentation by noon today
10 so Mr. Wilhelm can get out of here at a reasonable hour, so
11 I'm figuring it's going to be about two to three hours' time
12 to complete our presentation in chief.
13 MR. GROSSMAN: All right. And Mr. Wilhelm is the
14 president of the Greater Colesville Citizens Association.
15 MR. WILHELM: Yes, sir. I'm here.
16 MR. GROSSMAN: Yes, sir.
17 MR. WILHELM: I'm Dan Wilhelm, Greater Colesville,
18 president of Greater Colesville Citizens Association.
19 MR. GROSSMAN: Thank you, sir. Please feel free
20 to have a seat at counsel table. All right. And you are
21 here on behalf of the Greater Colesville Citizens
22 Association today?
23 MR. WILHELM: Yes, sir.
24 MR. GROSSMAN: All right. And are you, and I saw
25 your letter so I take it you are here to support the

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1 application?
2 MR. WILHELM: Yes, sir. And answer any questions
3 that may come up.
4 MR. GROSSMAN: All right, sir. Okay. Is there
5 anybody else in the audience who wishes to be heard today
6 who is not a witness to be called by Mr. Kline? Seeing no
7 hands, we'll proceed. Let me say a couple of words about
8 the nature of these proceedings that Mr. Kline has heard
9 many times before. This is a combination of formalities and
10 informalities. We're formal in the sense that we operate
11 pretty much the way a courtroom does. All witnesses are
12 sworn in. They are subject to cross-examination. There is
13 a court reporter who takes everything down. There will be a
14 transcript of these proceedings, which will be posted on our
15 website.
16 We're here today for a Special Exception, which is
17 now called under the new Zoning Ordinance which doesn't
18 apply to this case because it was filed prior to the new
19 Zoning Ordinance being enacted, but it's a conditional use
20 under the new Zoning Ordinance which is a better description
21 of what it really is. It's not a variance, but it is a use
22 that's permitted by the Zoning Ordinance if certain
23 conditions both general that apply to almost every Special
24 Exception and specific ones that apply to this type of
25 Special Exception are met. All right. And we operate

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1 pretty much, as I said, like a, like a courtroom does, a
2 little less formal perhaps.
3 Okay. And let's see. We have some preliminary
4 matters. Mr. Kline, I'd like a, an electronic copy of any
5 new exhibits that you produce today. I believe that you
6 indicated to my staff that you will have an updated Special
7 Exception plan, including a bike rack.
8 MR. KLINE: That is correct.
9 MR. GROSSMAN: All right. So that will --
10 MR. KLINE: And a location of the sign also. And
11 I couldn't get it to you in advance. I'm sorry. Yeah. But
12 we'll --
13 MR. GROSSMAN: All right. So that will be filed
14 today?
15 MR. KLINE: We'll, we'll have the site plan here
16 today. I'll have to have the engineer send me a disk that
17 has it on it so I'll be able to deliver that to you on
18 Monday.
19 MR. GROSSMAN: Okay. I would note that under the
20 Board of Appeals rules that before amendments that occur
21 within 10 days of the hearing or at the hearing, we are
22 required to keep record open for 15 days thereafter. So
23 that would apply here. I don't know if there's anything
24 additional that you would be planning to file after the
25 hearing.

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1 MR. KLINE: Not, well, you may be asking for
2 something. We did file before the hearing the photometric
3 incentive plan because I'd figure you'd want some feedback
4 from Park and Planning on anything that we're submitting
5 today.
6 MR. GROSSMAN: Right. That's been exhibitized
7 already, so.
8 MR. KLINE: Yeah. Exhibitized. Yes. I like that
9 word.
10 MR. GROSSMAN: I coined it and, and my former
11 colleague, Francoise, drove her crazy so I especially used
12 it as a result. All right. Okay. I would like you to have
13 a witness address the signed compliance issue which was
14 raised by the Technical Staff report.
15 MR. KLINE: Yes, sir.
16 MR. GROSSMAN: Also addressing the question of
17 whether there is a need in this kind of facility to have
18 something, a sign large enough to be visible from the
19 street. Will it be compatible? And is it governed by the
20 subdivision entry sign provision of Section 59F4.2(a)(3)?
21 Please have a witness address also compatibility and safety
22 impacts of additional traffic. And as I presume Mr. Etemadi
23 is here to address at least the traffic impacts. Please
24 have a witness address potential impacts on confronting
25 properties across New Hampshire Avenue because that was not

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1 really addressed when, when Technical Staff drew its
2 proposed surrounding area or general neighborhood. It did
3 not include the properties across New Hampshire Avenue. I
4 think that they should be included even though, of course,
5 New Hampshire Avenue is a major street. And so, we should
6 have some evidence regarding any impacts on the neighborhood
7 across New Hampshire Avenue from the establishment of the
8 nursing home. Or I should say assisted living facility.
9 Also please have a witness address what you
10 consider to be the front of the property. That was an issue
11 that had baffled me a bit in terms of the photometric plan.
12 Although the new one you submitted, I think, eliminates that
13 issue as a direct, as a direct issue, but the, of course,
14 the Zoning Ordinance has specific provisions that talk about
15 rear and side lot lines, but not front and so, that's a
16 specific issue. Okay.
17 And please have a witness address parking lot
18 shading and setback compliance under Code Section 59E
19 because that was not, I did not see it addressed in the
20 Technical Staff report and I'd like to have some evidence as
21 to that's compliance.
22 Do you accept the conditions recommended by
23 Technical Staff as amended during the Planning Board
24 hearing?
25 MR. KLINE: I was going to ask Mr. Elmore to

1 confirm that. The answer is yes, but I would ask for
2 qualification of No. 6. And here, if I can make a brief
3 statement to give you a little background? Mr. Grossman,
4 there's an aerial photograph that we put up on the board
5 that I thought was part of the package, but I don't see it
6 on the list of exhibits. So could I ask that the, actually
7 I guess, first of all, my Affidavit of Posting be made an
8 exhibit or it can --

9 MR. GROSSMAN: Okay. Well, let me just, and
10 before you launch on to that, are there any other
11 preliminary or procedural matters that you have?

12 MR. KLINE: Only that you have the Affidavit of
13 Posting and I think you've got the original one.

14 MR. GROSSMAN: Okay. Well, let's see if, no one
15 put it in the file.

16 MR. KLINE: I just assumed Ms. Forbes probably put
17 it in there. I just didn't notice.

18 MR. GROSSMAN: Yes, it is here indeed. And it's
19 labeled as Exhibit No. 41. Okay, sir. What were you going
20 to say?

21 MR. KLINE: Yes. Could I ask that the aerial
22 photograph that's been brought with us today that, I think
23 there's a reduced version maybe on the, the front is piece
24 of the application materials, but ask that this full size
25 exhibit be made an exhibit in the record of the case?

1 MR. GROSSMAN: Okay. Would you label that as
2 Exhibit 42, please?

3 MR. KLINE: Yes, sir.

4 MR. GROSSMAN: Aerial photo of the neighborhood, I
5 guess we'd say. Okay. And --

6 MR. KLINE: And Mr. Elmore will be talking about
7 this, but for purposes of your question about the
8 condition --

9 MR. GROSSMAN: So what's the date of the photo
10 first? When was it taken? I see it's a Google Earth photo,
11 but

12 UNIDENTIFIED PERSON: It's 2015.

13 MR. KLINE: It says 2015 Google, but no specific
14 date.

15 MR. GROSSMAN: Okay. All right. So it's Google
16 2015. I don't really like their new traffic, their new
17 mapping thing. Have you seen their new mapping program
18 online?

19 MR. KLINE: I'm, I'm sure the gentlemen of the
20 office are more familiar with it than I am. Yeah.

21 MR. GROSSMAN: Things drop down and block the
22 view. I don't know why they think that's an improvement.
23 Somebody thought that they had to do something to change it,
24 but you now don't get a clear view of the map you're looking
25 at because they have so many dropdowns. It's just

1 ridiculous.

2 MR. KLINE: Well, I noticed that there's little
3 icons on here and you did help me figure out what each of
4 these users are since this apparently is, has a little
5 church symbol on it.

6 MR. GROSSMAN: Yes, but it's not part of, I'm
7 talking actually Google Maps rather than Google Earth, but,
8 okay. Yes.

9 MR. KLINE: Right.

10 MR. GROSSMAN: All right. So go ahead.

11 MR. KLINE: Mr. Grossman, Exhibit No., I'm sorry,
12 Condition No. 6 in the Staff report basically said comply
13 with the recommendations and the functional Master Plan and
14 the, and the applicant must reconstruct the existing
15 sidewalk on New Hampshire Avenue frontage to be a 10-foot
16 wide shared use pass with a green panel and street trees.

17 MR. GROSSMAN: Right.

18 MR. KLINE: We just really hadn't focused on it
19 that much before. The applicant pointed out to me this
20 morning that there is a new sidewalk that you can actually
21 see in this aerial photograph with new concrete coming on
22 the west side of New Hampshire Avenue and it extends down in
23 front of the property. And that somebody said that it's
24 nicer than the sidewalk in front of my house. And we would
25 like to reserve the opportunity to talk to the Planning

1 Board at the time of preliminary planning of the subdivision
2 of being able to work with the sidewalk that's there rather
3 than rip everything out and have to replace it. So I was
4 going to ask if you would consider amending Condition No. 6
5 to add a phrase at the end that said, which would be built,
6 re-build this, if required by the Planning Board at the time
7 of preliminary plan review because we will be returning to
8 the Planning Board and the sidewalk is really a subdivision
9 issue at that time.

10 MR. GROSSMAN: Well, I don't have a problem with
11 the, with having some flexibility, but the, there are two
12 problems. One, of course, is they modified that very
13 condition at the Planning Board hearing. They changed the
14 language just a bit. They didn't change the meaning.

15 MR. KLINE: Um-hmmm.

16 MR. GROSSMAN: Secondly, because of that
17 Constellation Potomac case --

18 MR. KLINE: Um-hmmm.

19 Mr. GROSSMAN: -- there is a problem with the
20 Board agreeing to some change in the plans that they don't
21 approve at the, at their own hearing. It's a little
22 different when you have preliminary plan because in the
23 preliminary, and which you have in this case. In
24 preliminary plan situations, the Code expressly gives that,
25 that permission and, in fact, requires that the, that the

1 Board of Appeals have a condition saying that subject to
2 the, the preliminary plan. So I guess we can do something
3 like that. I just want to make sure that we have a record
4 here that says the Board of Appeals is satisfied that the,
5 any proposed changes you would make based on this review by
6 the Planning Board would be in accordance with what the
7 Board of Appeals would want. So we need some evidence in
8 that regard. Okay.

9 MR. KLINE: Well, and, and since we're going to be
10 returning to Park and Planning for their comment on some of
11 these plans, you could go ahead and, or I'll bring it to
12 their attention that I've asked for this and you can get a
13 comment from them whether they think that that would even be
14 something that would be appropriate to address at the time
15 of the Planning Board hearing.

16 MR. GROSSMAN: Well, we'll certainly, since the
17 record is going to have to be open for 15 days in any event,
18 they will have an opportunity to review it.

19 MR. KLINE: Right.

20 MR. GROSSMAN: And I'd ask that you actually send
21 down to them any, any additional --

22 MR. KLINE: Yes. Yes.

23 MR. GROSSMAN: -- language changes you propose.
24 I'm talking about, but the Board of Appeals under that
25 Constellation Potomac case has to be satisfied that the

1 conditions it sets would be met and would not necessarily
2 subject to other agencies making changes except for that
3 preliminary plan exception. And so, that's the only thing.
4 We want to make sure that there's enough evidence in the
5 case that they're, that the Board of Appeals not the
6 Planning Board, but the Board of Appeals can be satisfied
7 that anything that is put there will be in accordance with
8 what they would approve. Okay.

9 MR. KLINE: Okay. I'm guessing we've gotten a
10 little spoiled because I have three preliminary plan
11 hearings at the Planning Board yesterday and in each case,
12 there was a DOT letter that the condition was written to
13 the, you will do what DOT says to do, comma, unless DOT
14 changes its mind and issues a new letter. So I was thinking
15 we, try and give us that flexibility.

16 MR. GROSSMAN: Well, I'll give you whatever
17 flexibility I think you can legally have.

18 MR. KLINE: Okay. Very good. Okay. Sure. Thank
19 you. But the answer to your basic question was all of the
20 conditions are acceptable to the applicant with the hope
21 that maybe six can be modified a touch. And you might have
22 to work with us a little bit later on because I didn't
23 receive a copy of the Planning Board's transmittal letter so
24 I didn't get to see the ultimate text of some of the
25 conditions. Mr. Elmore asked me --

1 MR. GROSSMAN: Okay.

2 MR. KLINE: -- a couple questions so I may need to
3 ask you to help me understand a couple of conditions when we
4 get to them.

5 MR. GROSSMAN: If Ellen is monitoring it, perhaps,
6 although she wouldn't have a copy there. I can have her
7 make a copy of the letter.

8 MR. KLINE: If you could, if you could give us a
9 30 second recess, I'll carry it over and ask if she could
10 copy it.

11 MR. GROSSMAN: Okay. Sure.

12 MR. KLINE: That would, that would be very helpful
13 when we get to that. Thank you.

14 MR. GROSSMAN: It's Exhibit 37 and they also
15 attached 36A, which was a PowerPoint presentation made by
16 the Technical Staff.

17 MR. KLINE: Thank you. I'll bring this right back
18 so don't, thank you, Mr. Grossman.

19 MR. GROSSMAN: You're welcome.

20 MR. KLINE: Ms. Forbes was on the phone, but she
21 said she'd get it done right away. I think I interrupted
22 you. So you were asking us about the conditions.

23 MR. GROSSMAN: Yes. Well, I think you've answered
24 that. That you said other than the modification to
25 Condition 6 that you're requesting and they eliminated

1 according to Technical Staff withdrew its request for
2 Condition 5.

3 MR. KLINE: Yes.

4 MR. GROSSMAN: As part of this. Although I'm not
5 sure that we shouldn't have some condition that reflects the
6 issue, but in any event, that's what Technical Staff came up
7 with.

8 MR. KLINE: And Mr. Etemadi would feel left out if
9 we didn't ask him to say something.

10 MR. GROSSMAN: I understand that. All right. You
11 may proceed.

12 MR. KLINE: Fine. Well, Mr. Grossman, you know I
13 normally like to start off with doing a little orientation,
14 but based on all the letters you'd sent to us earlier, I
15 could tell you had really studied the case in detail and so
16 I don't think I need to tell you where the property is and
17 everything else.

18 MR. GROSSMAN: All right.

19 MR. KLINE: But I will, there is an aerial
20 photograph over here and I'm going to go ahead and just sort
21 of skip any orientation or introductory comments and just go
22 right into our testimony.

23 MR. GROSSMAN: All right.

24 MR. KLINE: If you're okay with that.

25 MR. GROSSMAN: And did I understand Mr. Wilhelm

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1 needs to leave?
2 MR. WILHELM: No, sir.
3 MR. GROSSMAN: Okay.
4 MR. WILHELM: I, I can, I'm planning to stay so.
5 MR. GROSSMAN: All right. All right. So we
6 usually try to accommodate witnesses from the community who
7 wish to be heard and if they have to leave, we try to take
8 them out of order as, as need be, but --
9 MR. WILHELM: I was kidding him. I said let's get
10 this thing done in the morning.
11 MR. KLINE: And I did make the offer you just
12 alluded to and he said, no, actually I'm kind of interested
13 in seeing how this goes. He may change his mind after about
14 two or three hours.
15 MR. GROSSMAN: Stranger things have happened. All
16 right.
17 MR. KLINE: If you're ready, I'll begin.
18 MR. GROSSMAN: Yes, sir. Please.
19 DIRECT EXAMINATION
20 MR. KLINE: Mr. Elmore, could you please state and
21 spell your name and give us your business address?
22 MR. ELMORE: Sure. My name is Greg Elmore, E-L-M-
23 O-R-E. I work at Lenity Architecture. And the office is
24 3150 Kettle Court, Salem, Oregon 97301.
25 MR. GROSSMAN: Would you raise your right hand,

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1 please?
2 MR. ELMORE: Yes, sir.
3 MR. GROSSMAN: Do you swear or affirm to tell the
4 truth, the whole truth and nothing but the truth under
5 penalty of perjury?
6 MR. ELMORE: I do.
7 MR. GROSSMAN: All right. You may proceed.
8 MR. KLINE: Mr. Elmore, in his introductory
9 remarks, Mr. Grossman pointed out that Lenity is the
10 authorized agent. I'm not sure that was the right term.
11 But authorized applicant on behalf of Columbia/Wegman. Tell
12 us first of all what is Lenity so we understand what its
13 role is in all of this.
14 MR. ELMORE: Sure. Lenity Architecture is a full-
15 service firm. We specialize mostly in senior housing. It's
16 about 90 percent of our, our business. We currently handle
17 three major senior housing clients across the country and a
18 handful of other minor regional senior housing clients. And
19 we offer services to those clients from entitlement, from
20 the entitlement process and all the way through certificate
21 of occupancy and final state licensing.
22 MR. KLINE: And I'm going to come back to kind of
23 the relationship between the two, but tell us then who is
24 the petitioner? What is Columbia/Wegman Acquisitions?
25 MR. ELMORE: Sure. Columbia/Wegman Acquisitions,

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1 they're a developer with over 30 years' experience in senior
2 housing across the country and even globally. They have
3 offices both in, in Seattle, Washington and then, which is
4 Columbia Pacific Advisors and then Wegman Companies, which
5 is based out of Rochester, New York.
6 MR. KLINE: And they are in the business of
7 operating these types of facilities that we're proposing
8 today?
9 MR. ELMORE: They, they are the developer and then
10 they have a handful of operators that they have very close
11 relationships with that do all, that do the operations.
12 Columbia Pacific Advisors used to have in-house when we
13 first started our, our, our relationship together, they had
14 in-house but they have since sold that, that in-house
15 operations.
16 MR. KLINE: What I, what I guess I'd like to do is
17 maybe communicate a number or something to Mr. Grossman so
18 he has a sense of how big Columbia/Wegman is and how, their
19 bona fides in this industry.
20 MR. ELMORE: Sure. Between the two companies,
21 they kind of merged about three or four years. The two of
22 them just kind of combined some efforts East Coast and West
23 Coast. And they two --
24 MR. GROSSMAN: That's Columbia and Wegman?
25 MR. ELMORE: Columbia, yeah. Sorry. Columbia

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1 Pacific Advisors and the Wegman Group combined to make
2 Columbia/Wegman Acquisitions. And between the two of them,
3 Columbia Pacific Advisors is the larger. They had several
4 hundred of these at one point. They have got different
5 portfolios, but they've done several hundred assisted living
6 and, or senior housing anywhere from skilled nursing all the
7 way up through independent living. And then the Wegman,
8 this Wegman Group is a developer that does a lot of multi-
9 family and then got into the senior housing about five years
10 ago. And, and that group has put together, thank you. That
11 group has put together about 15 to 20 of these.
12 MR. KLINE: And Columbia/Wegman, the petitioner,
13 has authorized your firm and you to be the authorized
14 spokesmen on their behalf today?
15 MR. ELMORE: Yes, they have. I have been doing
16 this now for four years with them when we started the
17 relationship. And this is, that's primarily my job.
18 MR. KLINE: Right. And --
19 MR. GROSSMAN: I thought you were, I had said
20 agent and you said they're really the applicant. I didn't
21 quite understand that because the, Columbia/Wegman
22 Acquisitions is the applicant.
23 MR. KLINE: Yeah. I did mean to say that
24 Columbia/Wegman was the, I should have said petitioner, but
25 applicant also. But, yeah, agent is the right term.

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1 MR. GROSSMAN: Yes. Under the new, by the way,
2 under the new Code, they're all called applicants. We no
3 longer have petitioners, but under the old Code --
4 MR. KLINE: Another step, another step in my being
5 obsolete in the process of the Zoning regs.
6 MR. GROSSMAN: Join the crowd. All right.
7 MR. KLINE: The hearing examiner would like to
8 know that Columbia/Wegman agrees to be bound by any terms
9 and conditions of a Special Exception should they be granted
10 by the, ultimately by the Board of Appeals.
11 MR. ELMORE: Absolutely. Yes.
12 MR. KLINE: Very good. And I was correct in
13 saying that the conditions in the Staff report but for
14 Condition No. 6 are acceptable to the, to the petitioner?
15 MR. ELMORE: Yes. They're all, they're all
16 acceptable. We'd love the opportunity, like you mentioned,
17 to, to discuss 6, but if that becomes a major sticking
18 point, we don't have any issues with that one either.
19 MR. GROSSMAN: And it's possible that I would add
20 some additional conditions as well. I mean you've seen
21 other senior housing cases that I've filed --
22 MR. ELMORE: Sure.
23 MR. GROSSMAN: -- so you might see one additional
24 condition which pops up, I would think, would be proposed
25 development must comply with the conditions of the

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1 preliminary Forest Conservation Plan approved by the
2 Planning Board until approval of a final Forest Conservation
3 Plan and then comply with that. Something to that effect.
4 MR. KLINE: Mr. Elmore, what I, what I'd like to
5 do is kind of have the hearing examiner understand the role
6 that Lenity and you play in the packaging of this
7 application and the presentation to the, to the hearing
8 examiner. Because we're going to sort of be treating you as
9 a Renaissance man here today.
10 MR. ELMORE: Perfect.
11 MR. KLINE: And I'd kind of like to have you
12 explain the firm's role, how you're responsibility in terms
13 of preparing the application and then your personal
14 background and your role today.
15 MR. ELMORE: Sure.
16 MR. GROSSMAN: And could I interrupt just one
17 second.
18 MR. KLINE: Yes, sir.
19 MR. GROSSMAN: I just noticed I don't think that
20 the Planning Board letter indicates whether they
21 specifically approved the Forest Conservation Plan.
22 MR. KLINE: There actually was a separate letter
23 on that.
24 MR. GROSSMAN: Oh, I don't think that's in the
25 file yet.

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1 MR. KLINE: Let me see if I've got that, Mr.
2 Grossman. Unfortunately, this is not the only one of these
3 I've got. I remember that did happen that way in, in
4 another case, but, no, I don't, I don't see it in the sub-
5 file I've got for that, but my recollection was that the
6 Forest Conservation approval came immediately and this
7 letter took a bit more presentation, a little bit more work
8 on it.
9 MR. GROSSMAN: Could I ask that you supply us with
10 a copy of the Planning Board letter. They don't, because
11 this is a Board of Appeals case still, I presume that when
12 the new, the new conditional use applications, they'll be
13 sending these letters directly to me rather than to the
14 Board of Appeals, but, in any event, I'd appreciate getting
15 a copy of the --
16 MR. KLINE: As soon as we finish here today, I'll
17 check in with Mr. Zeigler or Ms. Lindsey, who would have
18 been the author of it and get it for you right away.
19 MR. GROSSMAN: Okay. All right. Thank you.
20 MR. KLINE: But it was approved, I know that.
21 MR. GROSSMAN: Okay.
22 MR. KLINE: And I thought I had a copy of the
23 letter, but I just don't see it here.
24 MR. GROSSMAN: All right. I'm sorry I interrupted
25 you.

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1 MR. KLINE: Yeah. Sure. That's good. So, go
2 ahead?
3 MR. GROSSMAN: Go right ahead, Mr. Elmore.
4 MR. ELMORE: Sure. Lenity Architecture, we kind
5 of pride ourselves on a full-service firm. We have both
6 architectural services. We have on staff mechanical,
7 electrical, plumbing, engineering, landscape architecture.
8 We do, we have land use management professionals which,
9 which I kind of fall into that, into that. We have an
10 interior design, civil engineering, professional planners
11 onboard. Structural coordination as well as graphic design.
12 This client basically, we've been working with them, like I
13 said, for four years and together we've kind of, we've,
14 we've created this prototype building that you see now. And
15 we've designed and built this prototype along with a two-
16 story option. This is the three-story option. And I've
17 been that program lead since the beginning of that
18 relationship. And that, that, that has been in that
19 relationship in the, in the four years we've got five of
20 them currently up and, and in operations now. We have
21 several, and those, those that are operating now are from
22 Ohio to Massachusetts and Florida and Arizona. We have
23 several projects that are currently under construction.
24 About seven of those under construction from California to
25 New York, across the country again. And then there's about,

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1 I'd say there's more than dozen of them that are in the
2 process that we're in today, kind of going through the
3 approval process so we can get the buildings approved and
4 then, and then under construction.
5 MR. KLINE: We you engaged the services of our law
6 firm, you provided me with this, what, I'm holding up a
7 booklet that's basically encompassed all the Special
8 Exception plan. So you had already prepared much of the
9 material and asked us to kind of give you a review of. Tell
10 us kind of what you did, how you got all that information
11 from --
12 MR. ELMORE: Sure.
13 MR. KLINE: -- being an out of town person.
14 MR. ELMORE: Sure. I would say 80 percent of the,
15 of the projects that we do across the country we handle all
16 of this, this portion on our, on our own. We, only when we
17 are, when we bump up against these that are little bit more
18 complex or we are required by the jurisdiction to actually
19 hire an attorney do we even hire an attorney. That's
20 usually handled by, by myself and my staff. We put the, we,
21 we go through the regulations. We, we read any overlying
22 design criteria that we might have. That information is, is
23 kind of gathered. We put together, it was, it's a
24 remarkable petition and, and we spent weeks on it. And then
25 as we submitted it, we talked to Carlton and he said so

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1 who's your attorney?
2 MR. KLINE: And that was Mr. Gilbert at Park and
3 Planning Commission?
4 MR. ELMORE: Yes. I'm sorry. Carlton Gilbert at,
5 at Mr., at Park and Planning. And he said well, who's your
6 attorney? And I said let me find one.
7 MR. GROSSMAN: It's usually a good idea in this
8 jurisdiction. We have --
9 MR. ELMORE: We have since found that out. You
10 know, some, some praise that we did get from, from your
11 office, Mr. Kline, was that, that we did a pretty decent job
12 on it. There was a handful of things that we needed to
13 correct. But, but really, we kind of pride ourselves on, on
14 getting it all ready, make, making the presentations to the
15 jurisdictions and then, and then we hired these guys to make
16 sure that we've, that we went through the fine tuning and,
17 and we got, we, we made it through the steps as needed.
18 MR. GROSSMAN: Well, you found a great attorney so
19 you're way ahead.
20 MR. ELMORE: Well, that's you're only --
21 MR. KLINE: That's not why I asked the question
22 the way I did, but thank you.
23 MR. ELMORE: And, and, you know, a joke would be
24 you're the first that said, but no, you're, you're not the
25 first that said that and I think we've, I think we've done a

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1 pretty good job and we're, and we're, we're making our way
2 to through the process quite smoothly.
3 MR. KLINE: And the point I'm leading up to is
4 essentially your firm and you yourself --
5 MR. ELMORE: Um-hmmm.
6 MR. KLINE: -- are basically responsible for the
7 figuring out how to get the, the approvals.
8 MR. ELMORE: Yes.
9 MR. KLINE: How to design the building and then
10 how to go through the process, actually getting it approved.
11 MR. ELMORE: That is correct.
12 MR. KLINE: Right. And all the exhibits we're
13 going to be presenting today were done under your
14 supervision and your management leadership?
15 MR. ELMORE: If they were not done directly by me,
16 then they were done under my supervision. That's correct.
17 MR. KLINE: Right. And you yourself are trained
18 as well. What is your profession?
19 MR. ELMORE: Well, I went to school, to
20 architectural and, and planning school. I am not a licensed
21 architect, but I've been working in this field for 23 years
22 now. And, and I just didn't go about the licensing portion
23 of it because a lot of, a lot of that was, was geared
24 towards design work, site plan and then, and then getting
25 the entitlement approvals.

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1 MR. KLINE: And you --
2 MR. GROSSMAN: Is Mr. Elmore going to be offered
3 as an expert?
4 MR. KLINE: I am going to offer him as an expert.
5 The --
6 MR. GROSSMAN: Okay.
7 MR. KLINE: The problem is kind of what, what
8 classification for him. And let me, let me tell you where
9 I'm going. His, his expertise is going to cover a lot of
10 areas and you can hear him explain. You know, I had a hands
11 on in terms of learning everything about Montgomery County
12 and then designing the site. So, based on his four years'
13 experience he mentioned with the firm and the 23 years
14 before that, I was going to offer him as an expert in the
15 design and operations because he will be testifying about
16 operational information of assisted living facilities with a
17 mental, with a wellness, dementia care dimension to them as
18 well. And offer him with that very unique expertise. And
19 I'll ask him this question. Have you ever qualified as an
20 expert in any category or what I just described?
21 MR. ELMORE: Yes, I have.
22 MR. KLINE: Okay. Can you elaborate on that a
23 little bit then?
24 MR. ELMORE: Sure. As the, elaborate on the
25 qualifications or --

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1 MR. KLINE: Yeah. What was the situation? Where
2 was it and what you were qualified as?
3 MR. ELMORE: Sure. Recently in, in Pennsylvania
4 and then also in, well, in several jurisdictions. Most of
5 the time on the, on the East Coast when we go into these
6 types of court type settings, that's when I have been, been
7 asked to, to provide my expertise and been qualified as a,
8 as a, as a professional witness or, or an expert in these
9 situations.
10 MR. GROSSMAN: But an expert in what? What were
11 you qualified and what body qualified you?
12 MR. ELMORE: Well, the, the, I think it's site
13 design. It's the architectural design piece of it. I, I
14 have for 19 years now my main focus has been senior housing.
15 That's the design, the working with the operator of the
16 facility to, to determine what's the best layout for this,
17 for this type of a resident. And, and then how do I present
18 that, that, this building on to a site that, that benefits
19 both the community and the, and the residents and the
20 operations of this, of this building.
21 MR. GROSSMAN: Well, I'm sure that describes what
22 you do and I think that's kind of what this client outlined,
23 design and operation of assisted living facilities. But I
24 just, trying to find out exactly what a specific body, court
25 or administrative agency qualified you as an expert in,

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1 previously. You say in Pennsylvania. What did they say
2 specifically? Somebody would have announced I accept this
3 person as an expert in. And I'm trying to find out what
4 follows the in and who did it?
5 MR. ELMORE: The in was, was planning and then
6 design and operation of a facility.
7 MR. GROSSMAN: Of a facility. Of?
8 MR. ELMORE: Of, of this facility.
9 MR. GROSSMAN: Assisted living type of facility?
10 MR. ELMORE: Yes, sir.
11 MR. GROSSMAN: And --
12 MR. ELMORE: And it was actually this building.
13 MR. GROSSMAN: All right. And who was it? What
14 agency or court qualified you as an expert in that?
15 MR. ELMORE: The Towamencin Township.
16 MR. GROSSMAN: I'm sorry. Town what?
17 MR. ELMORE: The Towamencin.
18 MR. KLINE: You better spell that for us.
19 MR. ELMORE: T-O-W-A-M-E-N-C-I-N.
20 MR. GROSSMAN: T-O-W-A-M-C-I, I'm sorry, C-I what?
21 MR. ELMORE: M-E-N-C-I-N. T-O-W-A-M-E-N-C-I-N.
22 MR. GROSSMAN: Okay. Towamencin. Township. And
23 what body in, in that town?
24 MR. ELMORE: That was the Planning Commission and
25 the Board of Supervisors.

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1 MR. GROSSMAN: And was this testimony under oath?
2 MR. ELMORE: Yes, it was.
3 MR. GROSSMAN: Okay. All right. Any other agency
4 or court qualify you as an expert?
5 MR. ELMORE: Gilbert, Arizona.
6 MR. GROSSMAN: All right. And what did they
7 qualify you as an expert in? What, what agency of Gilbert,
8 Arizona?
9 MR. ELMORE: That was the Planning Commission and
10 that was, that was, it was very similar. Planning. I
11 handled the planning. I was qualified as a, as an expert in
12 the planning of the site and also of general operations for,
13 for assisted living, memory care.
14 MR. GROSSMAN: Okay. You mentioned that you were
15 schooled in architecture and planning, but you didn't tell
16 me where you were schooled and what happened with that.
17 Would you tell me that?
18 MR. ELMORE: Sure. I have a bachelor's in
19 environmental design at Texas A&M University. Graduated in
20 1992.
21 MR. GROSSMAN: Okay. Any other school
22 qualifications that you want to list?
23 MR. ELMORE: No, sir.
24 MR. GROSSMAN: Okay. And does that degree include
25 training in architecture?

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1 MR. ELMORE: Yes, it does.
2 MR. GROSSMAN: Okay.
3 MR. ELMORE: It's an undergraduate degree.
4 MR. GROSSMAN: And you say planning. Is that,
5 what kind of planning are you talking about?
6 MR. ELMORE: The, in the schooling?
7 MR. GROSSMAN: Yes.
8 MR. ELMORE: That was anywhere from we had general
9 knowledge in site planning and also general knowledge in, in
10 city and urban development.
11 MR. GROSSMAN: Okay. Any other school
12 qualifications you wish to mention?
13 MR. ELMORE: No, sir.
14 MR. GROSSMAN: Okay. All right. And then after
15 that, what did you do?
16 MR. ELMORE: After that I was an architectural
17 intern in a, in a firm in Dallas, Texas for about two years
18 specializing in healthcare design. And --
19 MR. GROSSMAN: What's the firm?
20 MR. ELMORE: It was Page, Southland, Page.
21 MR. GROSSMAN: Page spelled?
22 MR. ELMORE: P-A-G-E, Southland, S-O-U-T-H-L-A-N-
23 D, Page.
24 MR. GROSSMAN: Okay.
25 MR. ELMORE: Now known as simply PSP.

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1 MR. GROSSMAN: Okay. All right.
2 MR. ELMORE: And then that was '92 to '94. And
3 then '94 moved to Salem, Oregon and, and worked, worked with
4 Architects Four for a couple of years there. And then
5 actually left and worked with what was Mountain West Senior
6 Housing and is now Bonaventure Senior Housing. That's
7 another national chain, mostly regional, but they have got
8 some national senior housing. And I was the third person
9 hired for that and created a, did all the design work,
10 architectural design work for that group as an in-house
11 designer and, and then they, they turned into an operations,
12 professional operators of these facilities. My, my boss at
13 that time was, was, designed them and, and hand them over.
14 He found out there was some, he liked the caring and the,
15 the ability so he, he became the operator as well. And I
16 worked there for 11 years before they sold.
17 MR. GROSSMAN: Have you designed and planned other
18 assisted living facilities similar to the one proposed here?
19 MR. ELMORE: I have about 80 plus that, and I
20 would say of those 80, about 48 of them I have designed and
21 done the construction documents for and got entitlements and
22 approvals. All --
23 MR. GROSSMAN: I'm sorry. What were 40 you said
24 of those 80 that you --
25 MR. ELMORE: No, about 60 of those.

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1 MR. GROSSMAN: 60.
2 MR. ELMORE: That I did. I did the work almost
3 alone. And then joined this larger firm that I'm with now.
4 MR. GROSSMAN: Okay.
5 MR. ELMORE: But I have direct contact with the
6 operations groups. We sit down, we, I created this master
7 plan that you see here with, sitting down with operations
8 and discussing how they, how they go about, how, how each
9 different operational group that I've dealt with, how they
10 like to present and, and, and provide care for these
11 residents.
12 MR. GROSSMAN: Okay. Have you ever done anything
13 in Montgomery County, Maryland before?
14 MR. ELMORE: I have not. My firm that I currently
15 work with has, but I have not.
16 MR. GROSSMAN: All right. Mr. Kline, do you have
17 any additional questions regarding this witness's expertise?
18 MR. KLINE: No. You, you covered the ground.
19 You, you understand why I call him the Renaissance man.
20 MR. GROSSMAN: Right. All right. Mr. Wilhelm, do
21 you have any questions regarding this witness's expertise?
22 MR. WILHELM: No, sir.
23 MR. GROSSMAN: Okay.
24 MR. WILHELM: He's qualified as far as I'm
25 concerned.

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1 MR. GROSSMAN: All right. And as far as I'm
2 concerned as well. An expert does not have to be somebody
3 who has a specific degree in a specific field, but an expert
4 under the law is somebody who can assist the fact finder
5 with evidence beyond the ken of the average layman. And so,
6 you certainly qualify for that. And so, I believe the way
7 you designated this gentleman, Mr. Elmore's expertise, was
8 in design and operation of assisted living facilities?
9 MR. KLINE: With memory care and dementia
10 expertise.
11 MR. GROSSMAN: With memory care and dementia
12 expertise. And I accept him as an expert as such. There is
13 a different problem, however, in terms of the plans and
14 certification by the person who prepares it. Usually under
15 state law, there's a requirement that, that plans submitted
16 and accepted by any governmental body in the state by an
17 expert be certified by that expert. I don't know what the,
18 I haven't looked at the certifications here. What's the
19 status of that in terms of any plans you've submitted?
20 MR. KLINE: Some of the plans that will be
21 exhibited to you, presented to you today have been prepared
22 by Timmons Group in Northern Virginia, which Mr. Vest will
23 be in a position if they aren't certified then I'm sure we
24 can get those done. There are some plans that have probably
25 been prepared by Lenity.

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1 MR. ELMORE: That's correct.
2 MR. KLINE: And we have the capability of having
3 them certified by your office?
4 MR. ELMORE: Yes. Daniel Roach is, is, is the, is
5 the architect that, that signed and stamps these. He's,
6 he's the shareholder in the office that signed and stamped
7 these drawings. He's also my neighbor so if you need
8 anything.
9 MR. GROSSMAN: Do we have a, Mr. Kline, do you
10 have that modified plan that you were going to be
11 submitting? The Special Exception plan. So I can see the
12 plan at this point.
13 MR. KLINE: Yeah. Sure. This is a revised
14 version of, I don't, I'll say 29, or 27, 28. If I can do
15 the drawing up here?
16 MR. GROSSMAN: Okay.
17 MR. KLINE: So that should be 28(b), an amendment
18 of 28(b). I submitted a revised site plan on March 17th.
19 And that's a later revision.
20 MR. GROSSMAN: This is the latest revision, I take
21 it. That I have, I'm holding in my hand.
22 MR. KLINE: Yeah. And actually, that one would
23 have been prepared by the Timmons Group.
24 MR. GROSSMAN: Yes.
25 MR. KLINE: Mr. Vest's firm.

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1 MR. GROSSMAN: I see Timmons Group.
2 MR. KLINE: Right.
3 MR. GROSSMAN: I don't see a seal from them on
4 this, by the way. So --
5 MR. KLINE: Right. What I, what I would propose
6 to do is all the exhibits that are, have been submitted
7 already that don't have any seals on them, I'll get that
8 done and we'll electronically transmit those to you.
9 MR. GROSSMAN: I don't think you can
10 electronically transmit a sealed document for the file.
11 We'd need the hard copy sealed document.
12 MR. KLINE: Okay. All right. Okay. No problem.
13 MR. GROSSMAN: All right. I'm going to label this
14 Special Exception site plan as Exhibit 43. So call it
15 revised Special Exception Site Plan. And I see you've got
16 the bike rack on here.
17 (Hearing Exhibit No. 43 was
18 marked for identification.)
19 MR. KLINE: The, really the only two changes on
20 that were the bike rack and the location of the sign and
21 that little triangular pork chop at the entrance to the site
22 off New Hampshire.
23 MR. GROSSMAN: Right. Yes. And the sign had been
24 further south on New Hampshire if I recall.
25 MR. ELMORE: That's correct.

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1 MR. GROSSMAN: And it's moved to the mid-point of
2 the entry. Is that the idea?
3 MR. KLINE: Yes, sir.
4 MR. GROSSMAN: Okay.
5 MR. KLINE: And, and we will have testimony about
6 its legitimacy.
7 MR. GROSSMAN: Size, et cetera. Yes. All right.
8 All right. Thank you. I wrote Exhibit 43 on there. Thank
9 you, sir. All right. You may proceed.
10 MR. KLINE: Mr. Elmore, there's two exhibits up on
11 the boards right now. The one on the right, No. 40, 40, I
12 guess it is, is the aerial photograph I mentioned. The one
13 on the left is a rendered version of the landscaping plan
14 which is Exhibit No., the landscaping plan today I'm going
15 to file as Exhibit No. 28(e). This is a rendered version of
16 it, which I'd ask be made an exhibit in the record of the
17 case.
18 MR. GROSSMAN: Okay. Somehow I think I've seen
19 that already, have I not?
20 MR. ELMORE: I think it was in the, I think it was
21 submitted with a packet.
22 MR. GROSSMAN: The rendered version I thought was
23 in the file already, but --
24 MR. ELMORE: I believe you are correct.
25 MR. GROSSMAN: No. Maybe not. Maybe I --

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1 MR. ELMORE: It might have been in the PowerPoint.
2 MR. GROSSMAN: Yes.
3 MR. KLINE: That's what I was thinking.
4 MR. GROSSMAN: Okay.
5 MR. ELMORE: It was in, it was in the PowerPoint
6 that you submitted.
7 MR. GROSSMAN: All right. So the rendered
8 landscape plan, Exhibit 44. Okay.
9 (Hearing Exhibit No. 44 was
10 marked for identification.)
11 MR. KLINE: Using these, Mr. Elmore, using these
12 two exhibits as you see fit, what I'd like you to do is just
13 kind of start off telling us something about the property.
14 The hearing examiner, as you can tell, has read the file and
15 everything, but just give us an idea of its features that
16 sort of drove your design and then lead us into, well, let's
17 do that first.
18 MR. ELMORE: Sure.
19 MR. KLINE: What about the property dictated the
20 design?
21 MR. ELMORE: Standard rectangular shape. The
22 topography of the site, kind of the high point, is right
23 along New Hampshire Avenue and kind of gradually heads to
24 the, to the west. North and west we abut a single family
25 residential and then the southern portion of that we abut

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1 the church. Kind of a mixed use across the street from us.
2 We have churches, some institutional and then, I believe,
3 there's a, there are also a couple of single family houses
4 across the way as well.
5 MR. KLINE: Tell us what kind of vegetation do you
6 have on the property today.
7 MR. ELMORE: There are some, some existing trees.
8 The biggest ones that we have been asked to kind of
9 concentrate on were the, there's a kind of a heavily
10 forested area across the western property line and a little
11 bit across the north. There's some bamboo in that northern,
12 that we kind of need to control so it doesn't get out of
13 hand. But those are the two areas. There's a, there's a
14 few scattered through, throughout the site. We've done a
15 pretty good job of, of saving what we could, but there's a
16 handful of those trees that, that were coming down. And
17 part of those trees coming down is why we had to go through
18 the, the mitigation or the, the report stage.
19 MR. KLINE: With that as a context, just kind of
20 tell us what that context does in terms of telling you what
21 kind of building, how it should be oriented. How it should
22 be organized.
23 MR. ELMORE: Sure. Months ago when we came in, we
24 originally, we originally had a two-story plan because we
25 weren't, we weren't sure how this would work. When we

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1 talked with staff, we talked to environment, they asked us
2 to, to decrease our, our building footprint, which brought
3 us to the three-story. They were actually the ones that
4 came to us and said use the three-story. And, and set the
5 building so that three-story is closer to the, the
6 commercial or the, the church use. So we, we, we pulled the
7 building closer to the, to the church use. You can see
8 we've got pretty extensive setback and landscape buffer to
9 the west. That, because we have, our closest neighbors were
10 the neighbors to the west. We also, when we pulled it a
11 little bit further to the south that gave us a pretty good
12 landscape buffer and a, and a, and a larger setback of the
13 building to our, to our neighbors along the north side of
14 the property as well. But, and, and as far as the natural,
15 as far as we, this is a little bit more of a flat area up at
16 the, at the top with a little bit more slope as we head to
17 the back of the site. So this, this, this is where we, we
18 kind of set it up there. We like the exposure to the main
19 artery of traffic. It gives us a little bit of a, of an
20 advantage marketing wise and we knew that when we pulled it
21 toward the front, it allowed us to create that buffer and
22 that kind of nice outdoor landscape for our residents and
23 also the buffer to the neighbors.
24 MR. KLINE: I'd like to ask you some questions
25 just to kind of walk us through kind of how the building is

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1 organized internally and how it caters to the needs of the,
2 the residents. I'm not sure what's the best exhibit to do
3 that so if you think the site plan or something else is a
4 better exhibit because I'd like to start off just having the
5 hearing examiner understand how you've segregated, but
6 allocated people within the building.
7 MR. ELMORE: Sure.
8 MR. KLINE: So you're going to be working off
9 Exhibit 44. Right? Is that right?
10 MR. ELMORE: Exhibit 44. Yes.
11 MR. KLINE: Okay.
12 MR. ELMORE: The, the kind of T or a donut, we
13 kind of break the building into, into two buildings. The,
14 the T shape at the front, and really what we should focus on
15 is kind of this donut shape. That is our memory care. It's
16 a single story memory care. That's another reason we, we,
17 we kind of put this single story piece at the front. It,
18 it --
19 MR. GROSSMAN: When you say at the front, I mean
20 it's the southeastern portion of the building.
21 MR. ELMORE: Sorry. Along New Hampshire Avenue.
22 So the, yeah, the southeast and the south, sorry, the
23 eastern property line. This cross that runs across, through
24 the building is, is our three-story portion. All of this
25 down here --

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1 MR. KLINE: You're, you're highlighting this.
2 MR. ELMORE: All of this down at the, at the
3 southeast corner is a, is a single story. That kind of
4 gives, allows us to kind of blend into this neighborhood.
5 It gives us a little bit more of residential field than a
6 single story, but we also recognize and understand that
7 we're kind of that transition between the church or the
8 commercial version and the commercial that's, that's runs
9 along New Hampshire as we blend in to the, to the
10 neighborhood.
11 MR. GROSSMAN: And your memory issue patients are
12 in that southeaster donut, as you say?
13 MR. ELMORE: My, my memory patients are in here.
14 And, and this is kind of a classic memory care design. What
15 that allows, I don't know if we have the floor plan. But
16 what it does allow for --
17 MR. KLINE: Mr. Elmore, just tell me, what are you
18 looking for or --
19 MR. ELMORE: Is there a floor plan?
20 MR. KLINE: There's not a floor plan.
21 MR. ELMORE: Okay. That's fine. This memory care
22 donut is set up where I have activity and resident rooms
23 that are on both sides of an internal corridor. That
24 internal corridor kind of gives these residents a pathway.
25 The, the memory care resident tends to, to wander. And,

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1 and, and as they wander, you don't ever want them to get to
2 a point where they, they have to stop or they come to a dead
3 end because it provides a little bit of confusion. That
4 internal path allows them to walk that path and, and it's
5 very calming for that resident. You don't ever want them to
6 have obstacles that, that, that get in their way because it
7 can be frustrating to the resident.
8 MR. GROSSMAN: By the way, there are floor plans
9 in Exhibit 12, if you wanted to --
10 MR. KLINE: I just didn't have them mounted.
11 That's all.
12 MR. GROSSMAN: Yes. You didn't want it then.
13 Okay.
14 MR. ELMORE: And if we need more --
15 MR. KLINE: Mr. Elmore, sir, are you telling me
16 that basically where we do have the hole in the donut there,
17 to use as sort of an industry term, it's not a double-loaded
18 corridor. They basically as they're walking, they've always
19 got glass and probably into the court, use the courtyard on
20 the inside?
21 MR. ELMORE: There are a handful of units that
22 look into that courtyard, but around this entire interior
23 space, there are common areas or, or stimulating focal
24 points that, that help this resident either jog a memory or,
25 or allow them to interact and, and just stimulate the mind.

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1 And, and those open up into that courtyard as well. The
2 dining room, the activity spaces, the living room are all
3 lined on this interior courtyard. It also gives the staff
4 the ability to, to, we don't have a nurse's station or a
5 staff station where, where my staff in this area are, are
6 sedentary. They actually are up walking around and
7 interacting with the residents that live there. So this,
8 that provides us, you know, the shape provides us that hole
9 in the middle, which is actually a, an outdoor secured
10 courtyard for my residents.
11 MR. GROSSMAN: That's the central courtyard you've
12 been referencing.
13 MR. ELMORE: This is the central courtyard.
14 MR. GROSSMAN: Is the hole in the donut?
15 MR. ELMORE: Is the hole in the donut.
16 Absolutely. So we have an internal path. We have a
17 courtyard and even when you go into the courtyard and you
18 look at the landscaping and, and the hardscaping and the
19 sidewalks that are in there, there's always kind of a figure
20 8 path or some sort of a circle because, again, a resident,
21 if they, if they, we find that if they get nervous or if
22 they, they tend to just kind of wander and meander, as long
23 as you don't run them into a dead end or run them into a, a,
24 something that's over-stimulating, then it, it calms them
25 down and, and, and is used to, to help, control is a bad

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1 word, but it just, it just helps control that resident and
2 make sure that they don't get agitated.
3 MR. GROSSMAN: Right.
4 MR. KLINE: I probably should have asked this
5 question before about sort of describe the typical resident.
6 And you actually did a pretty good job on that. So we have
7 25 units in the dementia care --
8 MR. ELMORE: Yes.
9 MR. KLINE: -- section.
10 MR. ELMORE: There's 25 units. There's actually
11 40, I'm going to get this one wrong, no. There's 48
12 licensed beds in that memory care. The 28, the 28 units,
13 there's a handful of them that are private units where a
14 resident and a family of, a family comes in and says they,
15 that they, they really want mom or dad to be in a, in a
16 private unit. But we also offer a semi-private unit which
17 is kind of a state of the art direction that this firm has
18 gone, that this operations has gone. It's, there's two beds
19 in a room, but they are, they are private spaces and they
20 only share a bathroom. It's a little bit, it's a way to
21 provide a price point for, for the residents that move in.
22 MR. GROSSMAN: How can there be two beds in a room
23 that are private? I don't understand. How is it?
24 MR. ELMORE: I need a floor plan. And I
25 apologize.

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1 MR. KLINE: Could we borrow your file then for a
2 second, Mr. Grossman?
3 MR. GROSSMAN: Sure. Absolutely. Just --
4 MR. ELMORE: Thank you.
5 MR. GROSSMAN: Exhibit 12 in there has a series of
6 floor plans.
7 MR. ELMORE: Are they in this here?
8 MR. GROSSMAN: Yes. It should be in that envelope
9 somewhere.
10 MR. KLINE: Should be in order.
11 MR. GROSSMAN: And while you're looking for that,
12 I mean I realize that the state law now requires new
13 hospital institutions to have only private rooms, if I
14 recall. I don't know about assisted living facilities. Do
15 you know anything about that, Mr. Kline?
16 MR. KLINE: Well, I, I certainly knew that our
17 hospital clients were going to single rooms, but I thought
18 it had more to do with, I didn't realize it was a
19 requirement.
20 MR. GROSSMAN: Yes, I think it's part of, I think
21 that the state agencies adopted some architectural
22 recommendation or something like that, if I recall, from a
23 case a couple of years ago. So I think that all of the new,
24 newly designed hospital facilities are single rooms.
25 MR. KLINE: Well, it, I certainly knew that was

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1 the arrangement, but I just didn't realize it would be
2 mandated.
3 MR. ELMORE: Yeah. And I believe in the hospitals
4 you're allowed to have a single room, but sometimes they may
5 not even have a private bathroom in that room. But you
6 might have to go to a, and which is very similar to what,
7 what, what, I know this doesn't sound good. It's not a
8 hospital.
9 MR. KLINE: So Mr. Elmore, you've got Exhibit 12,
10 which is the floor plan that you were going to use to --
11 MR. ELMORE: Yes.
12 MR. KLINE: -- explain the answer to Mr. Grossman.
13 MR. GROSSMAN: 12. It's got a sub-category so
14 just --
15 MR. KLINE: You want us to --
16 MR. ELMORE: This is 12, I'm just going to start
17 with 12(a).
18 MR. GROSSMAN: Okay.
19 MR. ELMORE: Can I just pin it on top of this one?
20 MR. KLINE: Yeah.
21 MR. GROSSMAN: I take it there's no similar kind
22 of state requirement for assisted living facilities of
23 having only single rooms.
24 MR. ELMORE: In the assisted living, they, they
25 have to be a private room and/or shared by spouse or family

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1 member. Two sisters could move into a single room. A
2 husband and wife could move into a single room. Two
3 brothers could move into a single room. But I can't, I
4 can't say, you and I couldn't, couldn't share an assisted
5 living room because we're not related by blood or marriage.
6 MR. GROSSMAN: So I don't understand. So your
7 plans for these semi-private rooms --
8 MR. ELMORE: Yes.
9 MR. GROSSMAN: They, they would be shared by
10 related people. Is that what you're --
11 MR. ELMORE: They would, in a memory care, they
12 can be shared by, they can be shared by non-related, in
13 fact, you can see some of the designs in some facilities
14 where they'll actually have a single room and they'll put
15 two beds in that room. And then they have a bathroom. And
16 they'll separate it by a curtain. Much like a, much like
17 the old hospital. It might be a little bit harder to see
18 from this distance, but a semi-private room for us, they
19 each actually have their own, a, a door that enters. They
20 have a small closet. There's a sink in the bedroom, a sink
21 in the living space in the bedroom. So it's more like a
22 studio apartment with a bathroom. And then this bathroom
23 actually passes through so you can get to the, get to this
24 one bathroom from either side, but this is my private space.
25 This is your private space. We just share a bathroom.

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1 MR. GROSSMAN: Okay.
2 MR. ELMORE: Between the two of them.
3 MR. GROSSMAN: There's a wall or whatever between
4 the beds.
5 MR. ELMORE: There's a wall between the beds.
6 MR. GROSSMAN: All right. But, but they share the
7 bathroom.
8 MR. ELMORE: They share the bathroom.
9 MR. GROSSMAN: And that's, you're defining that as
10 semi-private?
11 MR. ELMORE: That is, and that is semi-private.
12 MR. GROSSMAN: And you're saying that is
13 consistent with whatever state regulation is on that?
14 MR. ELMORE: That is consistent with, with,
15 absolutely. And this is a little bit further than the state
16 requires us to go. Again, if we wanted to, we could come in
17 and put a single bathroom in there and two bedrooms, two
18 beds in one room.
19 MR. GROSSMAN: Well, how would that be private? I
20 don't understand that.
21 MR. ELMORE: Those are called shared rooms. I, I,
22 my client goes, my client goes above and beyond that. We
23 don't, we don't, we don't provide the shared. There's a
24 shared, a semi-private and a private. This facility does
25 not provide the shared. We only provide semi-private and

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1 private.
2 MR. GROSSMAN: And shared is consistent with
3 Maryland State law?
4 MR. ELMORE: I am not even sure that it is in this
5 state, but we know that the, that the semi-private is.
6 MR. GROSSMAN: Okay. All right. You may proceed.
7 MR. ELMORE: Okay. So you can see that we've got,
8 we've got a handful of units that surround, this is that
9 internal, the internal pathway that I was talking about on
10 the inside that are activity spaces, are dining rooms.
11 These residents will, will dine separate from my assisted
12 living, but we've got a central commercial kitchen that just
13 comes in through a warming kitchen that serves the two
14 dining rooms.
15 MR. GROSSMAN: So that floor plan seems to be
16 arranged in the opposite direction of your other map because
17 it's, you're looking to the, what would be the northwest, if
18 that's not --
19 MR. ELMORE: Yeah. My north is, my north is, on,
20 on these plans are upside down. You're absolutely right.
21 The orientation of that plan is incorrect. So you read it
22 this way.
23 MR. GROSSMAN: Okay.
24 MR. ELMORE: So my entrance drives comes in on the
25 northeast corner of the site.

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1 MR. GROSSMAN: Right.
2 MR. ELMORE: This is the along New Hampshire
3 Avenue. This is the one-story piece. As, as I flip, you'll
4 see that the two-story, it's kind of in a cross shape for my
5 assisted living as it goes to second and third floors.
6 MR. GROSSMAN: Right.
7 MR. ELMORE: This T shape right here is all of my,
8 is all of my memory care and Alzheimer's.
9 MR. GROSSMAN: Okay.
10 MR. ELMORE: They have the access to this interior
11 courtyard. They also have access to this gated courtyards.
12 It's just got an eight-foot kind of a wrought iron fence out
13 there. So it just gives them a second option for an outdoor
14 space.
15 MR. GROSSMAN: Right.
16 MR. ELMORE: The rest of building from, and, and
17 just to kind of give, give you a little bit more of an idea.
18 These residents, they're not, they're not in, we don't like
19 to call it lockdown, but there are some, their secured
20 exits. No one enters the building from any of these
21 locations. That's just security reasons for my, for my
22 residents. Because they, they're not, they're not mentally,
23 they're not, they're not dumb. And we, we, we have to, we
24 train our staff very, very, very well because if a staff
25 member leaves the building from that door, these residents

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1 will, will actually have the ability to just sit there,
2 study how it works and they'll follow them out. And that's,
3 that's, you know, that's a, a wandering issue. That's why
4 we try to keep these residents, residents safe.
5 MR. GROSSMAN: I understand.
6 MR. ELMORE: The rest of the building is all kind
7 of set up and designed for the assisted living, the assisted
8 living residents which are, you know, both of these age
9 groups are about 80. That's kind of the average. Low 80s,
10 young 80s is, is when we start seeing these residents move
11 in. You might get a little bit younger in the memory care
12 if you have early onsets of dementia or Alzheimer's, but,
13 but typically it's, our residents are about 80. So mobility
14 becomes an issue. We are not, I know that, that under the,
15 the Zoning Code that domiciliary care and nursing home are
16 kind of lumped together. We do not go for a nursing home
17 license with the state. The state license in assisted
18 living and memory care.
19 MR. GROSSMAN: Okay.
20 MR. ELMORE: Which means I can't have bedridden.
21 All of my residents in the assisted living must be
22 ambulatory. So you'll have canes. You'll have walkers.
23 You'll have wheelchairs. But nobody can be bedridden. And
24 if you're sick or, or you've got, there's a, there's a
25 lenience that the, that the state allows for anyone that

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1 needs to stay in bed.
2 MR. GROSSMAN: Right.
3 MR. ELMORE: And we bring them services. But if,
4 if it's chronic or it becomes an issue, we actually have, we
5 can't, we cannot house them for our licensing. We have to
6 help them find a, a skilled nursing or a rehab. Even if
7 it's a rehab that continues over. I'm not exactly sure of
8 the dates on this one, but I think it's two weeks. If it
9 continues over two weeks, goes into the month, then we have
10 to get them into a rehab situation. Then they can come back
11 home.
12 MR. GROSSMAN: Sort of like Victory Housing, if I
13 recall. That they have the assisted living. Different
14 levels.
15 MR. KLINE: Yeah. Yeah. Assisted, correct.
16 Yeah.
17 MR. GROSSMAN: I mean my, the main focus of this
18 hearing is zoning so it's not so much, I mean the question
19 of the care of individuals and what happens inside the
20 building --
21 MR. ELMORE: Sure.
22 MR. GROSSMAN: -- is a state matter or for other
23 agencies. My concern or what I'm supposed to address is the
24 impact on surrounding areas.
25 MR. ELMORE: Okay.

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1 MR. GROSSMAN: So that's, from a zoning
2 standpoint. That's, that's --
3 MR. KLINE: Then you can cut me off --
4 MR. GROSSMAN: Well, I just wanted to, I mean it's
5 fine. I mean obviously, the reason I raised also the issue
6 about state compliance is that if you're planning a building
7 that will not be approved by the state, it's going to affect
8 the shape, reshape it on the outside too. So, but, I'm just
9 saying obviously that's a very important concern. It's that
10 my focus is more on the impact on the community because
11 that's what zoning is about.
12 MR. KLINE: Absolutely.
13 MR. ELMORE: Sure. We've gone through the state
14 process. They, they know about the building. And then
15 we've, we've worked all of those details out with the state.
16 MR. GROSSMAN: Okay.
17 MR. ELMORE: Yes, sir.
18 MR. KLINE: Would you just confirm for us the
19 number of units and the number of residents or the maximum
20 number?
21 MR. ELMORE: Sure. 20, there's, it's 113 suites
22 all together. 136 licensed beds. 88 of which are assisted
23 living. And the remainder will be the memory care.
24 MR. KLINE: And how many people do we need to take
25 care of these folks? Talk to us about the, tell us about

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1 the operational issues. In your written statement you say
2 hey, we're 24 hours a day, seven days a week. There, there
3 is no hours of operation.
4 MR. ELMORE: That is, that is correct. Pretty
5 unique to this is we don't, we, we're a business, but we
6 don't operate so much as a business as far as staffing and,
7 and, and shift changes. We have three major shift changes,
8 but it's kind of a morning and afternoon and an evening
9 shift change. We will employ 50 plus staff. And that'll be
10 full- and part-time. Sometimes, I think on the notes it
11 said, it said 50 or about 50 that would be employed.
12 Sometimes we find it's, it's easier if we do, some people
13 like to job share these, these types of jobs. So that's why
14 we say 50 plus shared and part-, or part-time and full-time
15 employees. Our largest staff is 24. When we're fully
16 occupied. They will be some wrap up time where we don't
17 need, we don't need 24 staff members as we, as we start to
18 fill the facility with our residents. Those shift changes
19 happen, generally we stagger our shift changes across the
20 entire day, but about, there's a 5:00 to 6:00 a.m. when we
21 have a handful that come in. That's mostly to, to relieve
22 night shift and to prep, preparations for breakfast service.
23 We'll have a handful that come in around the 10:30 mark to
24 prep for the lunch service. And, and then take care of
25 activities of daily need. If a resident needs some help

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1 that family, that community atmosphere that happens inside
2 the building. Deliveries. They're very strictly scheduled.
3 They happen after breakfast and before lunch because my
4 staff is busy at breakfast and they are busy during lunch
5 hours. Prepping, cleaning, prepping, cooking, serving,
6 cleaning. And then they happen after lunch service and
7 before dinner service. So mid-mornings and mid-afternoons
8 and then we don't take any deliveries after hours because
9 we're cleaning up and, and pulling our staff down to a, to a
10 certain number and, and my, my five members on staff need to
11 be present for the residents. Not taking in deliveries.
12 MR. GROSSMAN: All right.
13 MR. ELMORE: So is that, is that even what you
14 asked me?
15 MR. KLINE: Yeah. Yeah. No, no, no, no. No,
16 you, you covered it all. Okay. I'm, I'm, I'm trying to get
17 myself organized to get back to the question of, can we go
18 back to, I guess, the, the plan beneath that.
19 MR. ELMORE: Sure.
20 MR. KLINE: Okay. Because I want to get the
21 answer to the question about the front of the building.
22 MR. ELMORE: Okay.
23 MR. GROSSMAN: You can just stick it in there. I
24 don't know whether it's --
25 MR. ELMORE: Well--

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1 MR. GROSSMAN: Yes. After I went through it, I'm
2 not sure I have got it back in order.
3 MR. KLINE: Sure. So, so the front of the lot is
4 the New Hampshire Avenue frontage.
5 MR. ELMORE: Yes, sir.
6 MR. KLINE: And by our zoning ordinance, I would
7 basically say that's the front of the, the property, but
8 what do you treat as the front of the building? What do you
9 envision as being the, the main focal point of the front?
10 MR. ELMORE: That's harder for me to answer
11 because we kind of pride ourselves on that there's no back
12 of house to this building. We have, we even doll up every
13 side of that building because my residents live all, all the
14 way around it. Yeah, we have a commercial kitchen. Yes, we
15 have commercial trash and deliveries that have to take
16 place. But we, we take care of that as discretely as
17 possible. This would be the front of the --
18 MR. GROSSMAN: This being the eastern side on New
19 Hampshire Avenue?
20 MR. ELMORE: Sorry. Along, along New Hampshire
21 would be the, the eastern side, along New Hampshire would be
22 our presentation to the community. Because the only way
23 that you're going to see any of the rest of the building is
24 if you actually drive into the building. The front of our
25 building per se or, or where the main drop-off is is on the

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1 north end of that building. We'd come in to the side of the
2 northeast corner and, and we have a covered drop-off for
3 foul weather. I take mom out and we go have lunch. I come
4 back and it's snowing or pouring down rain, we like the, we
5 like the ability to let mom out without dumping her.
6 MR. GROSSMAN: Right. There's some kind of a
7 portcullis or whatever?
8 MR. ELMORE: There you go. And then we reserve
9 those, these front parking stalls for our handicapped
10 parking stalls and our visitors.
11 MR. GROSSMAN: And then you're, you're identifying
12 the circular area to the left of the --
13 MR. ELMORE: Yes. The circular area just on the
14 north side and right outside the, the main entrance to the
15 building. Those parking stalls are reserved for any short-
16 time guests, any elderly guests that come in and then our
17 handicapped parking stalls are right next to the, to the
18 main entrance. The rest of this is all kind of based on
19 staff needs and then we handle these parking spaces and the
20 ones that are closer to the front.
21 MR. GROSSMAN: These being the northern parking
22 spaces?
23 MR. ELMORE: The, the, the western and the
24 northern parking spaces are for the rest of the visitors.
25 We, we make staff kind of park back along the back and then

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1 come back up to the front.
2 MR. GROSSMAN: The back being the west and south?
3 MR. ELMORE: The, the, yes. The southwest corner.
4 Yes, sir.
5 MR. GROSSMAN: So, do I understand from this that
6 the, in terms of a lot itself, the actual front of the lot
7 is the eastern side that, that borders New Hampshire Avenue?
8 MR. KLINE: It, it, the lot is defined, the front
9 is defined as that part of the, the lot that fronts on the
10 public street and there's only one public street. So the
11 east side has to be the, the front for zoning ordinance
12 purposes.
13 MR. GROSSMAN: Okay.
14 MR. KLINE: -- or the front yard setback is
15 what's, runs from the New Hampshire Avenue to the front of
16 the building.
17 MR. GROSSMAN: Okay.
18 MR. ELMORE: Yes, sir.
19 MR. GROSSMAN: We got it.
20 MR. KLINE: Probably a good opportunity to talk
21 about what it looks like. And I know you brought elevations
22 with you or perspectives in elevations. So.
23 MR. ELMORE: We can start with the elevations.
24 MR. KLINE: Now before --
25 MR. ELMORE: They're never as much fun in two

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1 dimension.
2 MR. KLINE: Okay.
3 MR. ELMORE: As they are --
4 MR. KLINE: Or let me, let me catch up with you.
5 MR. ELMORE: Sure.
6 MR. KLINE: Because I, I don't think what's in the
7 file are rendered versions.
8 MR. GROSSMAN: I think --
9 MR. KLINE: Because we've got, got prepared by
10 others, I'm just not quite sure what I've got in there. The
11 elevations haven't changed?
12 MR. ELMORE: The elevations have not changed. And
13 I, yeah.
14 MR. KLINE: Okay. Fine. Then, then I guess what
15 we, we do have 9(a) and I have (c) says renderings so I'm --
16 MR. ELMORE: Yeah.
17 MR. KLINE: -- going to guess --
18 MR. ELMORE: Okay.
19 MR. KLINE: -- that what we're using is looking at
20 Exhibit 9(c).
21 MR. ELMORE: Yes.
22 MR. KLINE: All right. So what you put up as
23 Exhibit 9(c) is the elevations of all four sides of the
24 building and maybe you can kind of just walk us through and
25 the organization and then the materials and the pallet.

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1 MR. ELMORE: Sure. One thing that, that, that is
2 kind of a challenge to us is, is we understand it's, it's
3 kind of commercial in size, but, but it's still a home to
4 our residents. So we take great strides to give this a
5 residential scale. So even in the third story, in the
6 three-story portions of the building as you go around the
7 buildings, the building, you can see even on the front
8 elevation or the east elevation, that's not. Well, now you
9 got me. On the east elevation, you can see that there's two
10 story elements and we even bring it down to single story
11 elements around the entryway and, and we have entry and
12 exits all have a kind of one-story eyebrow just to bring
13 that down to a residential scale. The, the elevation on to
14 New Hampshire parkway, you can see, we kind of go from a
15 one-story --
16 MR. KLINE: And, and you're drawing our attention
17 to the, the left elevation on the lower --
18 MR. ELMORE: It's called the, it's called the left
19 elevation. It's, it's really the, the, the east elevation
20 along New Hampshire Avenue. This is the one-story portion
21 that sits out right here. This is a little bit deceiving.
22 That right there, this right here. There's one section
23 right in the middle of this that's the three-story section
24 that you're really going to see from the street. And this
25 three-story section has two, one, single and two-story

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1 elements that will, that bring that residential scale down
2 as well.
3 MR. GROSSMAN: All right. So you're looking at
4 the center portion of the bottom, or left elevations on the
5 exhibit?
6 MR. ELMORE: That's correct.
7 MR. GROSSMAN: Okay.
8 MR. ELMORE: That is, that, that's our three-story
9 that kind of fronts along New Hampshire Avenue.
10 MR. GROSSMAN: Okay.
11 MR. ELMORE: This, this leg off to the right of
12 that elevation actually sits back and, and is this three-
13 story portion here, but in front of, in front of that is, is
14 quite a bit of landscaping and buffer.
15 MR. KLINE: And, and you're referring to Exhibit
16 44 now where you're talking about that wing or arm on the
17 northern end?
18 MR. ELMORE: Yes. The wing, the wing on Exhibit
19 44. It's set back from the, from the New Hampshire side.
20 It's got a fairly large landscape buffering in front of it.
21 So really what you, what you would ever see from the New
22 Hampshire Avenue is, is just this small portion of, of the
23 building.
24 MR. GROSSMAN: Okay.
25 MR. ELMORE: Materials that we've used, we've

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1 taken, we've, we spent quite a bit of time early on driving
2 around and walking around neighborhoods. We've taken a
3 brick, a similar brick sample to the neighborhoods, from the
4 neighborhood. And we've also got cementitious siding which
5 is, it's that --
6 MR. GROSSMAN: How do you spell that?
7 MR. ELMORE: Yeah. C-E-M-E-T-I-T-I-O-U-S.
8 MR. GROSSMAN: All right.
9 MR. ELMORE: A popular brand is like a Hardi,
10 Hardiplank or Hardiboarding, but, but we kind of leave it
11 open. We don't like to throw brand names out. But a
12 cementitious lap siding and really all it is is it's a, it's
13 a cement fiberboard. It last longer than, than the wood
14 does. It holds paint for quite a bit longer. Your paint
15 will hold, you know, six to eight years and cementitious lap
16 siding will hold paint for about 15 years with limited to no
17 color fading. And we, we provide both lap siding and kind
18 of a board and batten to break up, again, to break up the
19 massing across the entire building. That gives it a little
20 bit different definition and, and allows some of, allows us
21 to bring some of that scale or bulk down to a residential
22 scale using the materials as well. Three different color
23 pallets on our, on our sidings plus the brick.
24 MR. KLINE: Do you feel that --
25 MR. GROSSMAN: You're trying to, I take it you're

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1 trying to match the neighborhood coloration and so forth?
2 MR. ELMORE: The colors, the colors, we have a
3 pretty good sample board and some of the neighbors were nice
4 enough to have us, have discussions with them so we kind of
5 borrowed some colors from them and others we kind of, you
6 know, from the street level. We didn't go stalking any
7 neighbors' paint colors, but we --
8 MR. GROSSMAN: Okay.
9 MR. ELMORE: -- we picked them pretty good from
10 the -- and I think, you know, the best representation is
11 when you, when you start looking at this and looking at the
12 building and in three dimension.
13 MR. KLINE: Wait. Can, can you hold, you know,
14 let me catch up with you. You're using an exhibit and I
15 want to make sure we've got it in the record here.
16 MR. ELMORE: Certainly.
17 MR. GROSSMAN: That's actually --
18 MR. ELMORE: Is it a different --
19 MR. GROSSMAN: 9(c), I think. And I'm not sure it
20 matches exactly, but I --
21 MR. ELMORE: It is. That is 9(c).
22 MR. GROSSMAN: Okay.
23 MR. ELMORE: It's a little bit different and the
24 only reason that it's a little bit different than, than what
25 you have there is we took off all the landscaping and, and

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1 kind of the fluff so you can see the building. We took all
2 the trees off the front of it so you can actually see all of
3 the architecture of the building without having the trees
4 cover it. Because in 15 years, you won't even, based on the
5 landscape plan that we're providing right now, you won't
6 even see this much of the building.
7 MR. GROSSMAN: So actually we talked before about
8 whether or not you had a rendering, a rendered version of
9 the --
10 MR. ELMORE: Elevations?
11 MR. GROSSMAN: -- elevations. And the answer is
12 no because 9(c), which we thought that's what it was is
13 actually --
14 MR. KLINE: Right. I see I got that wrong.
15 MR. GROSSMAN: So let's, let's mark that since
16 it's an elevation. Let me just see if, let's make that
17 9(d).
18 MR. ELMORE: Sure.
19 (Hearing Exhibit No. 9(d) was
20 marked for identification.)
21 MR. GROSSMAN: It's a rendered elevations. And
22 9(c) we'll modify to be rendered view of building. Is that,
23 how would you --
24 MR. KLINE: Perspective.
25 MR. ELMORE: Perspective.

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1 MR. GROSSMAN: Rendered perspective of building.
2 MR. ELMORE: This will be 9(c)?
3 MR. GROSSMAN: Yes.
4 MR. ELMORE: Very good.
5 MR. GROSSMAN: Well, we already have a 9(c).
6 MR. KLINE: Again. So --
7 MR. GROSSMAN: And is, you're saying this is --
8 MR. KLINE: Yeah. This is --
9 MR. GROSSMAN: This is a little different.
10 MR. KLINE: Right.
11 MR. GROSSMAN: Yes. I see it is a little
12 different. So let's make that what?
13 MR. KLINE: 9(e), I guess.
14 MR. GROSSMAN: All right. 9(e) it is. In for a
15 dime, in for a dollar, right? 9(e) is updated rendered or
16 rendering of the building. Okay.
17 (Hearing Exhibit No. 9(e) was
18 marked for identification.)
19 MR. ELMORE: And, and --
20 MR. KLINE: Before you go on.
21 MR. ELMORE: Sure.
22 MR. KLINE: Let me kind of give you a lead --
23 MR. ELMORE: Catch me up.
24 MR. KLINE: Yeah. A leading question. Does any
25 ordinance encourage you to come up and do the features, go

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1 to the neighborhood, try and find features from the
2 neighborhood that give it a residential appearance? So
3 using Exhibit 9(e) just explain to us what those features
4 and treatments are that give it a residential character?
5 MR. ELMORE: Okay. Sure. The reason I like the
6 three dimensions a little bit and especially this view, it
7 kind of, it gives you the idea of, of all three floors,
8 you'll never experience this building in a, in a flat
9 elevation. This is a view from the, from the northwest
10 corner. You can see the arrow here. This would be any of
11 the neighbors on the north of the west that, that would be
12 looking, if you could find a way through the vision through
13 the forest, this is, this is what you would be seeing. This
14 one, this is a good example because I have a one-story
15 element here. This is my main entrance, kind of in the
16 middle, just underneath the porte cochere.
17 MR. GROSSMAN: All right.
18 MR. ELMORE: This is my main entrance. It, as
19 soon as you drop-off under the porte cochere, my height of
20 that is dictated by my fire department. It's 13 1/2 or 14
21 foot tall. To this. But it immediately pulls you down to
22 the residential height of a single story with a nice
23 colonnade across the front. This is an outdoor patio that
24 actually has an outdoor fireplace in it so that --
25 MR. GROSSMAN: That's a little bit more like in

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1 the center of the photograph and to the right of --
2 MR. ELMORE: To the right of the main entrance.
3 MR. GROSSMAN: Yes.
4 MR. ELMORE: And the center, and center of the
5 picture. Yes. It's, it's an outdoor activity space. It's
6 got an outdoor fireplace. It also, this space happens to be
7 right outside of our wellness area and our activity room.
8 So if you have arts and crafts that want to move outside on
9 a nice day, we can do that. We have exercise groups that --
10 MR. GROSSMAN: You say it's an outdoor fireplace.
11 What do you mean exactly by that? It looks like it's
12 inside.
13 MR. ELMORE: Well, this is all open breezeway
14 right here.
15 MR. GROSSMAN: I see.
16 MR. ELMORE: And then there is, there is a,
17 there's, there are three fireplaces in the building. Two of
18 them are internal. And then this one is actually --
19 MR. GROSSMAN: I see. It's a breezeway. Okay.
20 MR. ELMORE: This is all, this is all open area
21 across, where you see all these, these columns across the
22 entire --
23 MR. GROSSMAN: The right portion after we, as
24 we're looking at the exhibit.
25 MR. ELMORE: Yes, sir. Exhibit 9(e).

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1 MR. KLINE: Looks like you have an arbor treatment
2 or something along there.
3 MR. GROSSMAN: Okay.
4 MR. ELMORE: So --
5 MR. GROSSMAN: By the way, let's make sure that I
6 get electronic copies of these exhibits 9(d) and (e).
7 MR. KLINE: You bet. Yes, sir. Yep. I
8 understand.
9 MR. GROSSMAN: As well as the other, 42, 43 and
10 44.
11 MR. KLINE: Yes, sir.
12 MR. GROSSMAN: Okay.
13 MR. ELMORE: And then, so from the single story
14 across the, the entrance and, and the, the major entry,
15 focal point of the building, you can see the two-story
16 elements and these are in the middle here. These are our
17 living rooms, our entry, our entry, kind of make this a
18 grand entry. Large living room. Big reception area.
19 There's a monumental stair as you walk in. That'll get you
20 right up to the second floor. And then there's a, as you
21 move back, you can see the, these are the three story of the
22 assisted living, the assisted living units that are, that
23 happen on the second and third floor. And those are kind of
24 represented here on the right hand, on the far right hand
25 side of this, of this rendering. But we have, we have, you

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1 know, architectural elements at all the gable locations, the
2 lap siding and the color breaks up that vertical and gives
3 me a little bit more of a horizontal. Again, just to kind
4 of bring that scale down and make sure it's got a good
5 residential feel to it. The brick. The brick at the
6 entryways and all of our, has our common areas, just has a
7 little bit more of that residential feel to this. We, we
8 need to make it as much of a home setting for our residents
9 as we can because they are moving from probably a house that
10 they've lived in for many, many years. And, and it can't,
11 you can't walk in, we want you to walk in and, and have the
12 resort feel. But you want, we want you to be able to walk
13 around the building and then still feel like a home.
14 MR. GROSSMAN: Okay.
15 MR. KLINE: The, what is the height of the, the
16 tallest point of the building?
17 MR. ELMORE: It's just over 40 feet. I think we
18 have in there that a maximum of 41 feet to the peak. And
19 that's just at the, at the peak of the, the three-story
20 which I believe is at least nine feet below my maximum
21 height in this area.
22 MR. KLINE: And you mentioned earlier in terms of
23 how, why you chose to locate the building where you did
24 that, let me rephrase it this way. The building meets all
25 the dimensional standards required by either the zone or the

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1 use itself in terms of height, setbacks, coverage.
2 MR. ELMORE: We are, we are above and beyond
3 setbacks. We are, we are again not, about, at least nine
4 feet below the maximum building height. I believe we have a
5 combined side yard, now we're going to go back to the, the
6 north and south are our side yards. We have a combined
7 setback on the side yards of 25 feet. And I believe we are,
8 let me check my notes because I think Mr. Gilbert resolved
9 that for us. Didn't he in a chart?
10 MR. GROSSMAN: Yes. He did.
11 MR. KLINE: Yeah. Right.
12 MR. GROSSMAN: Yes. He does.
13 MR. ELMORE: 16, right? No.
14 MR. GROSSMAN: Page 17.
15 MR. ELMORE: 17. Sure. So, yeah, our, our
16 minimum side yard setback is 12 feet. And the minimum that
17 we have is 30 and our combined is 103. When combined, it
18 had to be 25. Rear lot setback is 30 feet. And our
19 building is setback from our rear lot at about 275 or 280
20 feet, if I remember correctly.
21 MR. GROSSMAN: 278, according to --
22 MR. ELMORE: Very good.
23 MR. GROSSMAN: -- Mr. Gilbert.
24 MR. ELMORE: That's, we'll go with that one. And
25 our front yard setback I believe is 40. 40 foot required.

1 We worked pretty hard with, with environmental and, and we
2 know that there's some noise and some sound issues that we
3 have so we, we increased that from 40 to 90 feet just to
4 kind of pull us off of that, that main arterial. One, for
5 our, for our use, but we knew that it wasn't going to, you
6 know, hamper the, the setback requirements for the back
7 yard.

8 MR. GROSSMAN: Okay.

9 MR. KLINE: Since you said that magic word, noise,
10 and since so many of the conditions that we have to certify
11 later on.

12 MR. ELMORE: Certainly.

13 MR. KLINE: Just tell us in addition to the
14 special separation, will there be any special treatment to
15 the building to insure to be able to meet the county's noise
16 standards?

17 MR. ELMORE: Yes. We've, we've gone through the
18 noise standards. Our engineers are, our in-house engineers
19 has gone through the noise standards. We, we will hire an
20 acoustic engineer just to, to verify it, but we've had, we
21 have stricter noise standards than this county in, in
22 certain locations and our standard building insulated
23 windows and insulation that we put in the building has met
24 those with an even smaller setback than the 90 that we set
25 here to this type of a road.

1 MR. GROSSMAN: All right.

2 MR. ELMORE: So I think we're fine.

3 MR. GROSSMAN: Can I see the, your amended site
4 plan for a minute, please? Because I seem to remember when
5 I looked at the other --

6 MR. ELMORE: Is that right? Nope.

7 MR. GROSSMAN: -- site plan. That would be
8 Exhibit --

9 MR. KLINE: Yeah. We marked, we marked it as --

10 MR. GROSSMAN: Yes. 40 --

11 MR. KLINE: 43.

12 MR. GROSSMAN: 43 is the, yes, revised site plan.

13 MR. ELMORE: That's it.

14 MR. GROSSMAN: Can, can I see it up here, please?

15 MR. ELMORE: Oh, sure.

16 MR. GROSSMAN: Thanks. Yes, it's, I thought I saw
17 that. When I looked at the site plan that you have earlier
18 in the file, it was, the measurements of the setbacks were
19 somewhat different from what, or at least one of them, from
20 what Mr. Gilbert had on page 17, the Staff report. Because
21 this says 20 foot building setback and he says in his chart,
22 30 foot.

23 MR. ELMORE: Well, I think it's, it's a required,
24 that's probably a little bit confusing. I'm required a 20
25 foot building setback.

1 MR. GROSSMAN: Uh-huh.

2 MR. ELMORE: But the building is actually a 10
3 foot additional. This is, this is a required, I think this
4 one right here just calls out what, what I'm required. A 20
5 foot building setback is required on this side and this
6 side.

7 MR. GROSSMAN: I see.

8 MR. ELMORE: And a 24 foot parking setback.

9 MR. GROSSMAN: And do you, and I see. So here
10 you're saying it --

11 MR. ELMORE: I'm required a 30 --

12 MR. GROSSMAN: 30 foot rear setback.

13 MR. ELMORE: But I --

14 MR. GROSSMAN: And you actually provide --

15 MR. ELMORE: 278.75 feet.

16 MR. GROSSMAN: 270, is that 8 or 6? I don't know
17 which. All right. He has 278 here. You actually have, I
18 think, 276.75, but, I mean, there are minor discrepancies.

19 It's just what, because I'm looking for anything that shows
20 the actual side yard setback on your diagram. Is there
21 anything on here that shows the actual side yard setbacks?

22 MR. ELMORE: I have an old --

23 MR. GROSSMAN: Because you do have an actual front
24 and rear.

25 MR. KLINE: We, we have available to us an earlier

1 version of the site plan that actually is dated June 15th.

2 MR. ELMORE: Actually this is fine. It just
3 doesn't have the preliminary forest conservation plan.

4 MR. GROSSMAN: Yes.

5 MR. ELMORE: This is, this the right plan.

6 MR. KLINE: Okay. That does have some of the
7 setback scale on it.

8 MR. GROSSMAN: And I'm not sure why they're not on
9 your final site plan.

10 MR. KLINE: Well, and, and I, let me suggest the
11 difference is that this, what we're looking at here, Exhibit
12 43, was prepared by the Lenity and the exhibit we brought
13 here, I think it was prepared --

14 MR. ELMORE: This is Lenity. That's, that's --

15 MR. KLINE: That's the other way around?

16 MR. ELMORE: Yeah. That's the --

17 MR. KLINE: Okay. Sorry.

18 MR. GROSSMAN: This says Lenity on it.

19 MR. KLINE: Yeah. Okay.

20 MR. ELMORE: But, that, this one was prepared
21 by --

22 MR. GROSSMAN: And it says Lenity Timmons?

23 MR. ELMORE: Yes, sir.

24 MR. GROSSMAN: All right. Well --

25 MR. ELMORE: So we do, we do have another exhibit

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1 that does have the dimensions on it.
2 MR. GROSSMAN: Can you hold on one second? Well,
3 you have it in your, in your list of, on, in the table. You
4 just don't have it on the diagram I. I assume it's not
5 critical. I was just a little misled by, when I saw the 20
6 foot building setback, it didn't say required building
7 setback. So I understood that to mean that's what it was,
8 but --
9 MR. ELMORE: That, and that's probably my fault.
10 When we, when we designed the whole thing, we kind of, we
11 kind of go in and say, we build a line that says here's my
12 setbacks.
13 MR. GROSSMAN: Right.
14 MR. ELMORE: And I've got to stay within them. So
15 we probably create a building envelope.
16 MR. GROSSMAN: Right.
17 MR. ELMORE: Yes, sir.
18 MR. GROSSMAN: Okay. Well, if there's nothing
19 else that has to be changed, I wouldn't bother to redo
20 anything for that thing since you do have it in the box.
21 MR. ELMORE: Okay.
22 MR. GROSSMAN: I just did remember when I looked
23 at it that when I looked at the site plan that was in the
24 file and I compared it to the numbers that Mr. Gilbert had,
25 they didn't match up. But, okay.

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1 MR. KLINE: Mr. Elmore, did I give you an adequate
2 opportunity to answer the question about noise attenuation
3 measures?
4 MR. GROSSMAN: I think so. That, it was
5 sufficient for my purposes.
6 MR. KLINE: Yeah.
7 MR. ELMORE: Okay. Perfect.
8 MR. KLINE: Very good. Very good. I guess I'd
9 like to probably take you to a parking issue. Do you have,
10 with all the stuff we've given you, do you remember how many
11 parking spaces you've got? Actually, let's go back first of
12 all, I love the comments you made earlier. How many
13 residents actually have cars today? Go ahead.
14 MR. ELMORE: Well, I would say in this building, I
15 would count on less than five.
16 MR. KLINE: All right. Five percent or five
17 people?
18 MR. ELMORE: I would count on less than five.
19 MR. KLINE: Five vehicles?
20 MR. ELMORE: For my residents.
21 MR. KLINE: Okay.
22 MR. ELMORE: And that's probably a pretty good
23 number. And, and again, those five will come with a car and
24 usually six months into it, they're asking family to come
25 and get the car. I don't use.

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1 MR. GROSSMAN: Right.
2 MR. KLINE: Um-hmmm. Do you remember the number
3 of spaces required and provided for the use?
4 MR. ELMORE: Well, I believe the Code says I need
5 one per four beds plus one for every two staff, which is, it
6 was a little bit low for what we, what we like to provide.
7 And that's only because Mother's Day, Valentine's Day,
8 Thanksgiving and Christmas, we might get a few more guests
9 that come in. Typically or historically what we like to
10 provide is about one space, about half a space for every
11 bed. So at 136 beds, half a space would be about 68 beds, I
12 believe, for this facility and we've parked at 71. Staff
13 seem to, when we went through the whole process, they, they
14 were, they were comfortable with that. They were talking
15 about few other projects in town that one had way too many
16 parking spaces and one had way too few parking spaces so
17 they, they liked the idea of the number that we provided.
18 MR. GROSSMAN: Right. And you, you clearly more
19 than meet the statute --
20 MR. ELMORE: Yes.
21 MR. GROSSMAN: -- which requires 46. Okay.
22 MR. KLINE: I'm going to kind of take you into the
23 Zoning Ordinance evaluation unless you felt there was any
24 other thing physical about the design, the layout, the
25 operation you wanted to, that I missed or you wanted to hit

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1 now before we kind of take a step back and do the big
2 picture.
3 MR. ELMORE: I, I, I think I'm okay unless you
4 have any additional --
5 MR. GROSSMAN: I think I'm okay. Did you, shall
6 we take a five minute break here, morning break or is there
7 only a couple of minutes left?
8 MR. KLINE: Yeah. Probably a good idea.
9 MR. GROSSMAN: Okay. All right. We'll come back
10 in five minutes.
11 MR. KLINE: Right. Thanks.
12 MR. GROSSMAN: 11:25 or so.
13 (OFF THE RECORD.)
14 (ON THE RECORD.)
15 MR. GROSSMAN: Are you ready to go back on the
16 record?
17 MR. KLINE: We're ready, sir.
18 MR. GROSSMAN: All right. Let's do that. And I
19 might mention as I checked my email when I went in and I had
20 an email from Technical Staff and Don Zeigler saying that
21 staff approves your new photometric lighting plan.
22 MR. KLINE: Wonderful. Okay.
23 MR. GROSSMAN: So I'll make that Exhibit
24 something.
25 MR. KLINE: I think --

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1 MR. GROSSMAN: Exhibit 45. They sent you a copy.
2 They emailed you a copy too.
3 (Hearing Exhibit No. 45 was
4 marked or identification.)
5 MR. KLINE: Thank you.
6 MR. GROSSMAN: Okay. All right. You may
7 continue.
8 MR. KLINE: When you're ready, sir. Following up
9 on the offline conversation we just had, Mr. Elmore. Would
10 you advise the hearing examiner what changes were made to
11 the original photometric plan to bring it into compliance
12 with the Montgomery County Zoning Ordinance requirements for
13 lighting and still lighting?
14 MR. ELMORE: Sure. My understanding was we had,
15 we had a few of the lights that, that we have a .1 foot
16 candle that needs to, that needs, is a maximum as we get to
17 a, the property line.
18 MR. GROSSMAN: Side and rear property lines. Yes.
19 In a residential area.
20 MR. ELMORE: Yes, sir. And, and we just, we just
21 reconfigured the shielding on the lights and, and I believe
22 one of the lights was actually pulled out and, and changed
23 to meet those criteria and now, I believe, we're, we're, I
24 believe we're at zero now on, at all the property lines.
25 MR. GROSSMAN: All right.

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1 MR. ELMORE: So, I think that, I think that was
2 the direction that we went with that. Yes, sir.
3 MR. GROSSMAN: And I take it that with the
4 shielding that the proposed lighting will not create glare
5 into the surrounding neighborhood?
6 MR. ELMORE: Not only that, but, but our residents
7 like it as well. So we, we typically set those lights,
8 light poles up so we're shining directly down on to, on to
9 the drive paths and the parking for safety and security
10 reasons. Glare is taken away from all of our external. And
11 then even on our sidewalks, closer to the, to our building,
12 we use the, we use a Bollard lighting to handle all the, all
13 of our evacuation type lighting that we need to get to the
14 right-of-ways. So we don't use the taller poles there.
15 MR. GROSSMAN: Sounds good.
16 MR. KLINE: Mr. Elmore, I know you, you had an
17 opportunity, have you had an opportunity to look at the
18 County Zoning Ordinance for the, that contains the standards
19 for the approval of this kind of use?
20 MR. ELMORE: Yes, we have.
21 MR. KLINE: And you see that one of the conditions
22 is in accordance with the master plan for the planning area.
23 MR. ELMORE: Yes.
24 MR. KLINE: Yeah. Okay. And to what extent did
25 your firm investigate what the master plan said about this

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1 property or the planning principles applicable to the
2 property?
3 MR. ELMORE: Sure. And we spent a lot of time
4 with the, the White Oak Master Plan. Is that what you're --
5 MR. KLINE: Yes, sir.
6 MR. ELMORE: The '97. The '97 White Oak Master
7 Plan was, I mean, we kind of used it as our basis for design
8 and were actually encouraged when we got to it when we, when
9 we looked through it specifically. There were no
10 recommendations currently for the site. So we kind of felt
11 like there was, there was some open space there that we
12 could, we could at least open the discussion to, to talk
13 about it. And we kind of look at ourselves as, as, as a
14 residential use. We understand it's commercial, but we also
15 kind of took into account the surrounding uses and felt that
16 we were a good transition from that commercial or
17 institutional use into the, into the residential, which was,
18 was talked about quite a bit in the, in the White Oak. And
19 we're also very encouraged by the, that the plan had the
20 foresight to and the idea to provide for senior housing with
21 the aging population in the area. It was, there were
22 several paragraphs with, throughout that, that report that
23 mentioned at some point the aging population was going to
24 need to have this, this type of facility.
25 MR. KLINE: So, though not specifically mentioned

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1 for any treatment in the master plan felt that what you're
2 delivering is in, consistent with the intent and the
3 principles of the master plan?
4 MR. ELMORE: We, yes. We like to believe so.
5 MR. KLINE: Okay.
6 MR. ELMORE: Yes.
7 MR. KLINE: I, I shared with you Mr. Grossman's
8 earlier correspondence questioning, raising the question
9 about what's, what's the proper neighborhood. I realize
10 that's kind of a local zoning fiction, but maybe the aerial
11 photograph is the best exhibit to have up there.
12 MR. ELMORE: I guess to, for, for both, I
13 understand why staff might use New Hampshire because it is
14 a, a wider, it's a pretty big arterial that runs through,
15 runs through the neighborhood and I can understand why they
16 would create that as the boundary. When we started though,
17 and we, we did our initial notification to all the
18 neighbors, we included residents on the east side of New
19 Hampshire when we had, when we opened up our discussion.
20 And, and invited them to our early neighborhood meetings.
21 I, I can, I can see why you, you'd like to get some sort of
22 an input on, on what that might happen. If you look at the
23 lots directly across the street from us, there's a, I think
24 there's one or two houses there, but a lot of it is
25 institutional or, or the churches. And, and the lots are

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1 quite large. I'm not sure how they're going to develop here
2 in the near future. What might happen to that. I think my,
3 my stance on it from, from the beginning and, and still now
4 is we, we're such a low impact to, to traffic and we've done
5 a pretty good job of, of buffering ourselves really on all
6 four sides of this that regardless of whether that, that
7 neighborhood line moved to the lots directly across,
8 directly east of New Hampshire, I'm not sure that, that
9 we're going to adversely affect those in any way regardless.
10 MR. GROSSMAN: Well, let me ask you to rephrase
11 that. Rather than I'm not sure that, do you have an opinion
12 as to whether or not it will adversely affect the lots
13 across --
14 MR. ELMORE: My opinion is that they will, that
15 they will not. We are, we are a quiet neighbor. And, and I
16 don't think we adversely affect the neighbors that are, that
17 are adjacent to us on our side of the road. When you, when
18 you have the, the six lanes of traffic between us and the
19 neighbors across the street, I think we're even, we're far
20 less adverse to, to those neighbors as we are to the ones
21 that are adjacent to us. Yes, sir.
22 MR. GROSSMAN: All right. And you started to
23 mention what is across the street. I'm not exactly sure.
24 You said there's institutional. You mean the church across
25 the street or --

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1 MR. ELMORE: Yeah. The church, there's churches.
2 I believe that there's a, a, I'm, I'm pretty sure that, that
3 these two are, these two --
4 MR. KLINE: Can you just identify the aerial
5 photograph that, what you're pointing to?
6 MR. ELMORE: Sure. On No. 42, Exhibit 42, on the
7 aerial photograph. Kind of off of our southeast corner,
8 directly across the street there are two residential uses
9 there. And then the, then off of the northeast corner of
10 our building, there's the, there's churches and then, and
11 then I, I have to be honest with you, behind the fence I'm
12 not exactly sure what happens at that property there.
13 MR. GROSSMAN: Okay.
14 MR. KLINE: Mr. Grossman, sort of a side point.
15 Back on January 22nd, '15, we sent Mr. Gilbert an exhibit to
16 use in the Staff report as what the petitioner thought was
17 the neighborhood. Apparently he didn't like it because he
18 didn't use it. If, if you are going to recommend a
19 different or conclude a different neighborhood is
20 appropriate, I'm more than glad to let you use this if you
21 see fit to do so.
22 MR. GROSSMAN: Well, I already, I'm going to go
23 just to the confronting properties. I'm going to define the
24 neighborhood --
25 MR. KLINE: Right.

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1 MR. GROSSMAN: -- as including the confronting
2 properties across New Hampshire Avenue. And that's as far
3 to the east as I'm going to go.
4 MR. KLINE: I, I believe the statement of
5 justification we prepared for Mr. Gilbert suggested the
6 first, what I call the first tier of lots --
7 MR. GROSSMAN: Okay.
8 MR. KLINE: -- on the east side where --
9 MR. GROSSMAN: So --
10 MR. KLINE: Because I think it's hard not to, to
11 just ignore somebody who confronts your property.
12 MR. GROSSMAN: Confronting. Exactly. For the
13 same reason that the Zoning Ordinance requires that they be
14 sent notice and so on directly.
15 MR. KLINE: Sure. All right. Without asking you
16 whether you understand the concept of inherent or not
17 inherent.
18 MR. GROSSMAN: Well, would anybody exactly on this
19 thing.
20 MR. KLINE: This is favorite part of this
21 application. We do have some local touches here, don't we?
22 Is there anything about this use that's unique in that,
23 because of what you typically design, in this location there
24 is a problem of what you're proposing. Maybe not elsewhere,
25 but in this location something about the features of the

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1 context in which it's located has a problem.
2 MR. ELMORE: No.
3 MR. KLINE: No.
4 MR. ELMORE: No. I don't, and maybe I'm getting,
5 maybe I, I think I understand this at this point. There is
6 nothing that we had to do to this building to make it fit
7 into this. That if we were to build it anywhere in, in this
8 county, it, it would change. We would, we would still be,
9 we would still have this type of building. We would still
10 have this type of design. I, I, I can't foresee anything as
11 I, as I muddled through that, that section that, that would,
12 that would be different. No, sir.
13 MR. KLINE: Yeah. And, and I probably didn't ask
14 quite as artfully as it should have been asked. But let's
15 say is there anything about, we'll say the existing
16 conditions that when you place this building here, there is
17 a problem? For instance, Mr. Etemadi is going to talk about
18 the U-turns that are necessary to get to the site.
19 MR. ELMORE: Right.
20 MR. KLINE: Is there anything about the site
21 itself that maybe you're, suddenly you're, you're towering
22 five stories above everybody else around you or something
23 like that?
24 MR. ELMORE: No. No, I think our three-story
25 design as we went through with staff and determined that was

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1 the best direction to go, no. This is, this is, this is an
2 appropriate design for this location as, as it would be in
3 others.
4 MR. KLINE: So the operational and design features
5 that you've described are within this, the range of what the
6 County Council would have anticipated to occur on the site
7 when it said let's make this a Special Exception use?
8 MR. ELMORE: That's correct.
9 MR. KLINE: All right. Thanks. I just ask you
10 then about some of the standard conditions, well, actually
11 let me skip and go to the general conditions. Rephrase
12 that. Special conditions. On page 16 and following under
13 the Technical Staff report, there is a category called
14 General Development Standards. And I had previously asked
15 the question whether the proposed design met all the
16 dimensional standards required in the Zoning Ordinance for
17 the use or for the zone in which it's located.
18 MR. ELMORE: Yes.
19 MR. KLINE: Okay. The park, you've explained the
20 parking requirements. You brought an exhibit of the sign
21 today. Let's, can we talk about that for a second?
22 MR. ELMORE: Sure.
23 MR. KLINE: And could you put up the site plan
24 that would show where the sign is proposed to be located?
25 And we've marked that as Exhibit 43, is that right?

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1 MR. GROSSMAN: The new site plan was Exhibit 43.
2 MR. KLINE: Bear with me, Mr. Grossman. I'm just
3 trying to find where the sign --
4 MR. GROSSMAN: It's right in the middle of the --
5 MR. KLINE: Yeah, well, what I've got as an
6 exhibit, because I know it was included in the bundle, but
7 it may have just been a sub-feature on one of the plans.
8 MR. GROSSMAN: Yes. I think it was actually an
9 attachment to one of the --
10 MR. KLINE: Like a landscaping plan?
11 MR. GROSSMAN: You know, it was on another page of
12 one of the plans. I can't remember. I've actually seen it.
13 MR. KLINE: So let me do this. Let me just mark
14 this.
15 MR. GROSSMAN: Okay. Sure.
16 MR. KLINE: If that's okay. Could you mark what's
17 labeled Project Sign as Exhibit No. --
18 MR. GROSSMAN: 46.
19 (Hearing Exhibit No. 46 was
20 marked for identification.)
21 MR. KLINE: 46.
22 MR. GROSSMAN: Make sure I get all those.
23 MR. KLINE: Yes, sir.
24 MR. GROSSMAN: When, before you leave that those
25 are left here.

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1 MR. KLINE: Mr. Vest is making a big list for me
2 of everything you, you need.
3 MR. GROSSMAN: Yes. Also, now, on the electronic
4 copies, I'm trying to get a little head start because I'm
5 going on vacation.
6 MR. KLINE: Okay.
7 MR. GROSSMAN: So I'd like to get those electronic
8 copies by Monday. Okay.
9 MR. KLINE: Okay. They, they hear you.
10 UNIDENTIFIED MALE: Um-hmmm. We do.
11 MR. GROSSMAN: I'm actually ordering an expedited
12 transcript too so I can get something done before I go.
13 MR. KLINE: Okay. We like to hear the word
14 expedited. That, that's okay. We'll do our part then.
15 MR. GROSSMAN: You're still going to, I mean you
16 have, the record is going to be, have to be open anyway for
17 15 days, but --
18 MR. KLINE: I understand. Sure. Mr. Elmore,
19 first of all, Exhibit No. 46 is the sign that you propose to
20 install on this location, at this site advertising the
21 facility?
22 MR. ELMORE: Yes, sir.
23 MR. KLINE: Okay. Can you just give us some of
24 the details of what you've got here? Just color, size, that
25 type of --

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1 MR. ELMORE: Sure. This is a, this is a typical
2 sign that we like to, we would like to present on this. And
3 we usually pull in some of the building elements. This will
4 be the same brick that we're using on the building. And
5 then the, the surround of the, and the colors on the sign
6 will also match the, the siding. Overall dimensions of the
7 sign are about eight foot by six foot. The signage panel
8 itself is about six foot by, I believe, yeah, six by 43, six
9 foot by 43 inches.
10 MR. KLINE: And then referring to Exhibit 43, you
11 propose to install it in what location?
12 MR. ELMORE: It'll be located in the middle of the
13 traffic calming or pork chop at the entrance to the
14 facility.
15 MR. KLINE: Okay.
16 MR. ELMORE: On the northeast corner off of New
17 Hampshire.
18 MR. KLINE: And you, you, when you filed the
19 application, it was your understanding that the sign would
20 be permitted by right in the zone?
21 MR. ELMORE: It was. Yes.
22 MR. KLINE: All right. You've asked questions
23 about that, Mr. Grossman?
24 MR. GROSSMAN: Yes. Because, I mean, ordinarily
25 in the R-200 zone you're restricted to two square feet, if I

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1 me they think a variance is need also.
2 MR. GROSSMAN: The Board of Appeals is going to
3 have to make a determination as to whether the proposed sign
4 is appropriate from compatibility standpoint.
5 MR. KLINE: That --
6 MR. GROSSMAN: Because that's --
7 MR. KLINE: Yeah.
8 MR. GROSSMAN: And that's why I think that it's
9 got to be evidence in this record to address that.
10 MR. KLINE: I, I agree with you. And, and, and I
11 need that help when I go to the Sign Review Board also.
12 MR. GROSSMAN: Right.
13 MR. KLINE: Because they want to know that it's
14 been blessed --
15 MR. GROSSMAN: What the board --
16 MR. KLINE: -- from a compatibility point of view.
17 MR. GROSSMAN: Right.
18 MR. KLINE: I just don't want to give up the
19 possibility that DPS might suddenly say, oh, no, we could
20 treat this multi-family.
21 MR. GROSSMAN: Yes. I mean whatever it says, it's
22 still, even if it were treatable as permissible under the
23 Code.
24 MR. KLINE: Yeah.
25 MR. GROSSMAN: It would still have, the Board of

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1 Appeals would still have to say it's compatible. And I
2 think that, if I recall, the dimensions were slightly over
3 the 40 square feet. I think it was in there for the, for,
4 in that section, subsection.
5 MR. KLINE: Well, 40, it is 40 square feet.
6 You're right about that.
7 MR. GROSSMAN: And I think this was slightly over
8 that.
9 MR. KLINE: Yeah.
10 MR. GROSSMAN: The one that you had in them,
11 previously.
12 MR. KLINE: Well, I, I actually think you'd only
13 count the panel. I, I'd count it as being nothing more than
14 a four feet by --
15 MR. GROSSMAN: I think even counting the panel, if
16 I did some, some calculations before even just counting the
17 panel, I think it was slightly over the 40 square feet.
18 MR. ELMORE: Well, six foot by four foot.
19 MR. GROSSMAN: No. It wasn't six feet by four.
20 It was, I mean it extends up a ways and when you counted the
21 whole thing, I think it was, I, you know, it may be not an
22 important issue, but I think that if you have to comply with
23 that provision, you'd want to make sure that it's within the
24 40 square feet.
25 MR. ELMORE: Okay.

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1 MR. KLINE: All right. All right. No, I mean we,
2 I'm sure we could make the adjustment if we were lucky
3 enough to get to that point. But if it --
4 MR. GROSSMAN: And I'm not even sure that just the
5 panel is the issue because obviously if you have a monument
6 like that, it is imposing in its own way.
7 MR. KLINE: I'll --
8 MR. GROSSMAN: But, so --
9 MR. KLINE: I'll, I'll go actually dig up some
10 dimensions for a couple other sign variances we got and
11 check on that. Yeah.
12 MR. GROSSMAN: But anyway, we would like to hear
13 from your witness in terms of compatibility with the area
14 and the need for visibility and so on.
15 MR. KLINE: Sure. If you can go ahead and, excuse
16 me, oh, I'm losing my voice. Does the sign, is it
17 appropriate in this location, compatible with the
18 neighborhood, and is it going to provide the visibility that
19 you feel you need in a way that it won't cause any
20 transportation problems on the highway?
21 MR. ELMORE: Yes. I think, again, this is a
22 typical sign that, that we, or a typical design that we like
23 to do in several of these locations. I think we selected
24 this design based on, or I know we selected this design
25 based on the signage that we saw out, I've seen along New

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1 Hampshire Avenue. I think it's compatible with other signs
2 that are, that are, the church type signs and the little
3 more commercial type ventures. If we need to make it a
4 little bit smaller, we don't have, we don't have an issue
5 with that. But we can't make it too much smaller because
6 we, we do need that, we need that visibility off of New
7 Hampshire Road just to make sure that our residents and our
8 guests can find it.
9 MR. KLINE: Okay.
10 MR. ELMORE: As you mentioned, Mr. Grossman, the,
11 the two square foot is going to be a little bit hard to
12 justify for this type of, for this type of development.
13 MR. GROSSMAN: And in terms of compatibility with
14 the neighborhood?
15 MR. ELMORE: I think, I think it's, it's
16 tastefully done. We, we, the neighborhood as far as the
17 houses are concerned, maybe not as much, but, but the, the
18 adjacent churches and the churches across the street and,
19 and, and within a few blocks of this, absolutely. Yes, sir.
20 It, it's compatible.
21 MR. GROSSMAN: Okay. When we say not so much with
22 the residency, what exactly do you mean by that?
23 MR. ELMORE: Well, I don't have this type of, of
24 sign out in front of my home.
25 MR. GROSSMAN: Right.

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1 MR. ELMORE: But, but the, the entrances to the,
2 to some of those residents, the entrance to the
3 subdivisions, they, they have larger signs than this, but
4 they, they do take care, take into consideration some of the
5 brick, brick as far as a monument type sign out, out in
6 front of those subdivisions. So, so yes, we've taken
7 elements, for the entire project, we've kind of taken
8 elements from the neighborhood and, and, and made them as
9 compatible as we can with, with the neighborhood.
10 MR. GROSSMAN: Okay. All right.
11 MR. KLINE: Continuing on in my litany of standard
12 dealing with specific use, would you repeat again what you
13 had said about you felt building compatibility in the
14 residential context in which it's located? The structure
15 itself, its design materials, is it compatible with its
16 neighborhood?
17 MR. ELMORE: Yes. The, the, the materials most
18 definitely. There are not three-story houses, but there are
19 some larger scale commercial and institutional type uses in
20 the area. We like to be that transition between the two. I
21 believe using some of our, our single story and our two-
22 story elements around the entire building allows us to, to
23 make that, that successful blend between those larger
24 commercial uses and the, and the neighbors that we are
25 abutted to.

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1 MR. KLINE: Based on your experience and knowledge
2 of the operations of a facility of this type, looking at the
3 Zoning Ordinance standard, do you feel that this use would
4 not adversely affect the character of the surrounding
5 development due to bulk traffic, noise or number of
6 residents?
7 MR. ELMORE: No. I, I, I believe that, that the,
8 just under six acres, again the buffering that we've
9 provided, the bulk of this project, I think, we, we, we've
10 done a really good job of, of setting this building into
11 this site, designing the site kind of around the building to
12 make sure that we are compatible with our neighbors. Noise
13 generation from this is, is limited. We don't, we don't
14 have the big parties late at night. Noise. What else did
15 you mention?
16 MR. KLINE: Well, I, I, fumes, odors, dust,
17 illumination, glare, physical activity.
18 MR. ELMORE: No. We've taken, we've taken the
19 lighting, we've, we've, we've resolved our lighting. We
20 don't have any glare. We have no cut, we have cutoff to all
21 the surrounding areas. The landscaping alone and the
22 buffers is going, are going to be large enough that, that I
23 don't think anybody from, from the neighborhood side of
24 this, you're going to be hard pressed to even, to even see
25 our building with the buffering that we're providing. There

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1 will be some trash, but we're not going to create as much
2 trash as a, as a large community of single family housing
3 would produce. Our trash is going to be picked up. We'll
4 work through that with, with the local provider, but on
5 average, early on, until we're full, at full capacity,
6 we're, our trash is picked up twice a week. That's just, we
7 just do a pretty good job with our trash and our recycling.
8 And it's in an adequate enclosure.
9 MR. GROSSMAN: What about noise from H-VAC or, or
10 generators?
11 MR. ELMORE: Sure. We have an emergency
12 generator. The state requires us to have that. It only
13 comes on in cases of emergency and tested once a month, but
14 that testing is during the day. We don't want to disturb
15 our residents let alone the residents and our neighbors
16 around us. All of our mechanical equipment is up on
17 mechanical wells up on top of the roof. We don't put any
18 ground mounted mechanical units so it's, there's not going
19 to be any buzzing from that. The parapets and the, and the,
20 the mechanical wells are actually buried in there so there's
21 no visual of any of those mechanical well, mechanical
22 equipment as well. And --
23 MR. GROSSMAN: Will the noise produced exceed the
24 county limits at any point?
25 MR. ELMORE: No.

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1 MR. GROSSMAN: Okay.
2 MR. ELMORE: No, sir.
3 MR. KLINE: And sort of the ultimate wrap-up
4 question is based on your knowledge and, of the operations
5 and of these facilities and the design of this facility, in
6 your professional opinion do you believe that the use would
7 adversely affect the health or safety or the welfare of the
8 residents, visitors or the surrounding, the residents in the
9 surrounding neighborhood?
10 MR. ELMORE: No, sir. And, and, in fact, I think
11 you'll find when we open these types of facilities,
12 residents that come to see us, they're awful, oftentimes
13 frail and even there's some depression that comes in. As
14 far as the health of our, of our residents and our staff and
15 our visitors that come to these sites, we, we see an
16 increase, a betterment of, of life as that, as that
17 progresses. Adversely to the, to the neighbors, I don't, I
18 don't see it. We've done, again, I've done several of these
19 across the country and, and even at this, with this
20 prototype and in very similar locations, this is, this is a
21 prime location for us because we, we look at what is that
22 commercial use or that commercial arterial that, that,
23 frankly, houses don't necessarily like to go into and we
24 like to be that buffer. You know, we, we will, we will
25 create something that, that is beneficial to the community

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1 and, and that is, has a use along that commercial
2 development that separates that commercial to the, to the
3 residents behind us.
4 MR. KLINE: I think that was a good wrap-up to our
5 presentation, Mr. Grossman. I have no further questions of
6 this witness.
7 MR. GROSSMAN: All right. I should have asked you
8 also, Mr. Kline, do you accept the Technical Staff report
9 that is Exhibit 31 findings as part of your evidence in this
10 case?
11 MR. KLINE: Do I accept, well, they were
12 consistent with the presentation we made so I guess the
13 answer is yes, I do. Yeah.
14 MR. GROSSMAN: All right.
15 MR. KLINE: There was, there was none that I --
16 MR. GROSSMAN: Their findings and conclusions, I
17 guess I --
18 MR. KLINE: Yeah. Yeah. There were none that I
19 felt compelled sort of take, got a different what --
20 MR. GROSSMAN: All right. Yes. Okay. Mr.
21 Wilhelm, do you have any questions for this witness?
22 MR. WILHELM: Yes, I do.
23 MR. GROSSMAN: All right.
24 MR. WILHELM: On the sign issue, I agree two by
25 two is too small and a bigger sign --

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1 MR. GROSSMAN: Well, this is actually, you're
2 going to have an opportunity to testify.
3 MR. WILHELM: Oh.
4 MR. GROSSMAN: But right now the, you have an
5 opportunity to cross-examine the witness if you --
6 MR. WILHELM: Okay. Well, my question has to do
7 with the placement of the sign and what, if I understood you
8 correctly, it's at the entrance. Did you check to make sure
9 when cars are leaving that there's a line of sight? They're
10 not blocking the line of sight?
11 MR. GROSSMAN: Great question.
12 MR. ELMORE: Yes, sir. We have. We've, we've set
13 that up. And the pork chop, the, the, we call it a pork
14 chop. That little traffic calming triangle as you enter and
15 exit, the, the, we've pulled the sign back to the, to the
16 back of that and we get a good visibility from New Hampshire
17 Avenue. But, but as the, as the driver moves up into a
18 position to enter on to New Hampshire, our sight lines are
19 clear.
20 MR. GROSSMAN: Okay.
21 MR. WILHELM: That was, that was my concern.
22 MR. GROSSMAN: All right. I have no further
23 questions of the witness. So call your next witness.
24 MR. KLINE: I'm just going to re-offer to Mr.
25 Wilhelm if he wants to get it out and listen to rest of us,

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1 we --
2 MR. WILHELM: Oh, I'm, I'm going to go the
3 duration.
4 MR. KLINE: Okay. I'm going to go a little off
5 sequence simply because I think Mr. Etemadi probably has a
6 fairly concise testimony and we can, no reason to even keep
7 him here, I wouldn't say boring, but, Mr. Etemadi.
8 MR. ETEMADI: Not at all.
9 DIRECT EXAMINATION
10 MR. KLINE: Mr. Etemadi, could you please state
11 and spell your name and give us your business address?
12 MR. ETEMADI: I am Shahriar Etemadi. It's S-H-A-
13 H-R-I-A-R. Last name is E-T-E-M-A-D-I. The address is 6449
14 Red Keel, Columbia, Maryland 21044.
15 MR. GROSSMAN: Could you raise your right hand,
16 please, Mr. Etemadi? Do you swear or affirm to tell the
17 truth, the whole truth and nothing but the truth under
18 penalty of perjury?
19 MR. ETEMADI: I do.
20 MR. GROSSMAN: All right. Please proceed.
21 MR. KLINE: Mr. Etemadi, what is your profession,
22 sir?
23 MR. ETEMADI: I'm a transportation planner,
24 traffic engineer.
25 MR. KLINE: Have you ever qualified as such before

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1 a hearing examiner like this or a board or a commission?
2 MR. ETEMADI: Yes. Yes.
3 MR. KLINE: Could you give us a specific reference
4 that the hearing examiner might be familiar with?
5 MR. ETEMADI: Yes. Actually I have testified in
6 this setting several times in the past 20 years as I have
7 worked for the Planning Department for 18 years and, and my
8 position required me to come to this chamber actually and
9 testify here and many other locations.
10 MR. KLINE: Mr. Grossman, I have a copy of Mr.
11 Etemadi's resume and ask to make it an exhibit in the record
12 of the case?
13 MR. GROSSMAN: Okay. And that will be Exhibit 47.
14 Resume of Shahriar Etemadi. Okay.
15 (Hearing Exhibit No. 47 was
16 marked for identification.)
17 MR. KLINE: Mr. Grossman, based on Mr. Etemadi's
18 experience and previous appearances before you, I, I was
19 surprised to actually hear that he qualified as an expert
20 while testifying for Park and Planning Commission, but
21 you're certainly familiar with his background and I would
22 like to submit him as an expert in the field of
23 transportation planning and traffic engineering.
24 MR. GROSSMAN: All right. Do you have any
25 questions of him, Mr. Wilhelm?

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1 MR. WILHELM: No, sir.
2 MR. GROSSMAN: As, as to his expertise? No. Yes,
3 I'm familiar with Mr. Etemadi and his qualifications and I
4 accept him as an expert in transportation planning and
5 traffic engineering.
6 MR. KLINE: Mr. Etemadi, I shared with you some
7 questions that the hearing examiner had initially shared
8 with Park and Planning Commission about some of the issues
9 associated with this case. Did you have an opportunity to
10 investigate those issues and, if so, can you please tell us
11 your findings and conclusions?
12 MR. ETEMADI: Yes, I have had the chance to
13 investigate the questions and come up with my opinions and I
14 will share it with you, but before I go there, I would like
15 to clarify a couple of facts. Because it's going to help us
16 with our discussions in the future. So, first of all, the,
17 the only applicants generating more than 30 peak hour trips
18 are required to analyze intersections. And, for example, an
19 applicant generating between 30 and 249 peak hour trips are
20 required to analyze any intersections or do a traffic study.
21 This proposed development is expected to generate 22 a.m.
22 and 22 p.m. peak hour trips, which is below the threshold
23 for any kind of local area transportation review test. And
24 I have to actually say that the, the 22 trips that I'm
25 talking about is something that the staff, the Park and

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1 Planning staff has indicated. However, if we go to LATR
2 guidelines and look at the trip generation rates there, this
3 proposed development generates a lot less than 22 peak hour
4 trips that is in the Staff report.
5 MR. GROSSMAN: Yes. I'm not really concerned
6 about LATR in the sense --
7 MR. ETEMADI: Yes. Correct. Correct.
8 MR. GROSSMAN: Because that actually, the, since
9 this is a case that requires subdivision --
10 MR. ETEMADI: Correct.
11 MR. GROSSMAN: -- under the Zoning Ordinance it is
12 the Planning Board at subdivision which determines the
13 adequacy of public facilities.
14 MR. ETEMADI: Correct.
15 MR. GROSSMAN: My, I'm addressing here the
16 question of compatibility and safety --
17 MR. ETEMADI: Correct.
18 MR. GROSSMAN: -- concerns that were raised by
19 the, by the Technical Staff report and by neighbors, as I
20 understand it.
21 MR. ETEMADI: Yes. I understand that. And the
22 reason that I went through this and gave you some numbers
23 here is because it's, it's relating to the number of U-
24 turns, for example, that some people raised the question.
25 We want to see if really is that a big, big number. Or the

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1 critical lane volume analysis that you have asked the
2 question, we want to see if these numbers really makes any
3 difference in the, in the analysis of intersection. That's
4 why I'm giving those numbers.
5 MR. GROSSMAN: Yes. Nobody, I think what I'd
6 asked about that is nobody had actually indicated in the
7 record what the critical lane volume standard was for those
8 intersections so I wanted to have that in the record.
9 MR. ETEMADI: Okay. Great. So we did look at
10 the, the nearest intersections and collected some data. And
11 the, the nearest intersection to the south, signalized
12 intersection is New Hampshire Avenue and Midland Road. And
13 the, the critical lane volume for that intersection is 991
14 in the morning and 1,061 in the afternoon. And that is well
15 below the congestion standard for this policy area.
16 MR. GROSSMAN: Which is what?
17 MR. KLINE: Which is what?
18 MR. ETEMADI: Which is 1,475. We were not able to
19 find turning movement counts for the nearest signalized
20 intersections to the north, which is ramps going to ICC
21 from, from New Hampshire Avenue. However, as you know, this
22 interchange was built a few years ago and was designed as
23 part of the ICC design to accommodate the traffic for the
24 next 20, 30 years. And therefore, even we don't have
25 turning movement counts at these intersections, but we know

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1 that the interchange was designed to, to accommodate the
2 traffic increase for the next 20 or 30 years. Therefore, it
3 is our assessment that these intersections or signalized
4 ramps will, will operate within the congestion standards.
5 But --
6 MR. GROSSMAN: Is that 1,475 CLV standard, is that
7 throughout the entire area that's in question in here?
8 MR. ETEMADI: Correct.
9 MR. GROSSMAN: Okay.
10 MR. ETEMADI: Correct. So I think that's about
11 the traffic. You want to go into safety or --
12 MR. KLINE: Yes. Yes.
13 MR. ETEMADI: Okay.
14 MR. KLINE: That would be fine.
15 MR. ETEMADI: Okay. The safety issues that, the
16 questions that were raised about that we were able to obtain
17 traffic accidents for a three year period between 2011 and
18 2013. That's the latest data that we could obtain from the
19 state and the county and for the segment of the New
20 Hampshire Avenue between ICC and Randolph Road, where this
21 proposed development is located. So we looked at every
22 intersections. We looked at the numbers. And we found that
23 first of all the, this segment of the road is not any, is
24 not unsafe on the average for a similar major roadway in
25 Maryland. State of Maryland, the State Highway

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1 Administration has an index. It's called Severity Index.
2 To measure the, the safety of roadways. And this was
3 average or below average. And then, in fact, we found out
4 that the last two years of those three years, 2012 and 2013,
5 had less traffic accidents and lower accidents of severity
6 as compared to the 2011. So it seems like actually the
7 number of accidents has reduced during the last two years of
8 the period that we have looked at.
9 MR. GROSSMAN: And where do they fit on the
10 Severity Index?
11 MR. ETEMADI: They are average.
12 MR. GROSSMAN: Okay.
13 MR. ETEMADI: Basically. Average 2011, but below
14 on 2012 and 2013. But average, for the three years is, is
15 about average. And the next one, the next question or
16 concern was related to the traffic making a U-turns at the
17 median breaks or at the signalized intersection. So again,
18 we looked at the three year period accident reports and we
19 found no accidents involving a U-turn. Vehicles making a U-
20 turn and colliding with another traffic or any other
21 accidents. However, I have to clarify something. In the
22 summary sheet of the accident reports that we obtained it
23 said there was actually one accident involving a U-turn.
24 However, we went and looked at each individual accident
25 report to find that U-turn to see where it was and we could

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1 not find it. So I think there was a, an error or mistake or
2 typo that they, in the summary sheet said there is one U-
3 turn accident. So we think that there is no U-turn
4 accidents.
5 MR. GROSSMAN: But I guess the real concern is
6 when this facility is opened it would be more people making
7 U-turns.
8 MR. ETEMADI: Correct. Actually --
9 MR. GROSSMAN: So that was the --
10 MR. ETEMADI: Yes. There will be, according to
11 the Planning Staff, there will be at the most probably six
12 or seven cars making U-turns during the peak hour, but this
13 is where I would like to come back to the beginning where I
14 said the number of trips being generated from the site, 22
15 estimated by the staff is, if we go and like take a look at
16 the LATR guidelines trip rates, the traffic is actually less
17 than the numbers that is in the Staff report. Therefore,
18 when we are saying, when staff is saying that seven trips
19 may make a U-turn, in fact, if we go by the LATR guideline,
20 that could be less. So --
21 MR. GROSSMAN: Well, staff based it on --
22 MR. ETEMADI: The maximum number is probably seven
23 that makes a U-turn.
24 MR. GROSSMAN: And staff based it on the ITE
25 rather than the LATR. Is that --

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1 MR. ETEMADI: No. They, they based it on the
2 information they received from the applicant for a similar
3 facility in New York or somewhere else. But the LATR
4 guideline has a number trip rates for assisted living which
5 is much less than the numbers that is in the Staff report.
6 So --
7 MR. GROSSMAN: What are the numbers in, for the
8 LATR trip rates? How would they --
9 MR. ETEMADI: Actually it would be three in the
10 morning and seven in the afternoon. And I have to say that
11 those LATR guideline trip generation rates are basically
12 developed by the Planning Department based on the data that
13 were collected in Montgomery County.
14 MR. GROSSMAN: Right.
15 MR. ETEMADI: So it's probably more like, more
16 relevant numbers.
17 MR. GROSSMAN: I was actually surprised to see
18 their numbers in the Staff report because it seemed high to
19 me --
20 MR. ETEMADI: Correct.
21 MR. GROSSMAN: -- for this type of facility when
22 the shift changes were not during the --
23 MR. ETEMADI: Exactly.
24 MR. GROSSMAN: -- during the rush hour.
25 MR. ETEMADI: That's exactly right.

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1 MR. GROSSMAN: So I, but --
2 MR. ETEMADI: That's exactly right. So, so we
3 talked about the --
4 MR. GROSSMAN: So, so what's your estimate?
5 What's your best estimate? Your opinion, expert opinion as
6 to how many U-turns are likely to be made during the, to
7 access or leave this facility during the peak periods?
8 MR. ETEMADI: Okay. My, you know, very
9 conservative estimate, if we assume that 50 percent of all
10 the traffic being generated to the site needs to make a U-
11 turn because of the median.
12 MR. GROSSMAN: Right.
13 MR. ETEMADI: That will brings us to like three or
14 four cars making a U-turn.
15 MR. GROSSMAN: That's three or four cars during
16 each peak --
17 MR. ETEMADI: Peak hours.
18 MR. GROSSMAN: Peak hours.
19 MR. ETEMADI: Correct.
20 MR. GROSSMAN: Okay.
21 MR. KLINE: And could I pursue that when I get a
22 chance, Mr. Grossman?
23 MR. GROSSMAN: And, and, yes. And I assume that
24 that would be the point of maximum danger from a U-turn. Is
25 that --

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1 MR. ETEMADI: Well, in fact, when we look at the
2 history of accidents.
3 MR. GROSSMAN: Yes.
4 MR. ETEMADI: And there has been no accidents
5 involving a U-turn for thousands of cars going through this
6 area, I would say I cannot say 100 percent that there will
7 never be an accident, but when you compare the history of
8 accidents and the number of cars which is very, very few
9 generated to this site, then I would the chance of having an
10 accident resulted from a U-turn by a vehicle that is
11 generated to this site is very, very low.
12 MR. GROSSMAN: All right.
13 MR. ETEMADI: There is one more thing that I would
14 like to add and then --
15 MR. GROSSMAN: So your, your conclusion is that
16 this is, the proposed setup, including the necessity for U-
17 turns, is a safe arrangement?
18 MR. ETEMADI: Yes.
19 MR. GROSSMAN: For both vehicular and pedestrian
20 traffic?
21 MR. ETEMADI: Based on what we have seen in the
22 past. Correct.
23 MR. GROSSMAN: Okay.
24 MR. KLINE: And, and if I can at this point in
25 time. Did you get a chance to make a site visit?

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1 MR. ETEMADI: Yes.
2 MR. KLINE: Okay. So you knew where the points
3 were where you would be, people would be making U-turns?
4 MR. ETEMADI: Correct. Correct.
5 MR. KLINE: Did, was there adequate stacking room
6 and protected areas so that they would be able to sort of
7 get out of the main flows north and south?
8 MR. ETEMADI: Yes. Yes. Actually that's, that's
9 exactly what we did. I, for a second time yesterday, I went
10 there and looked at it because I wanted to make sure that
11 it's fresh in my mind for today's meeting. And we have
12 sufficient, in our opinion, it appears that the sufficient
13 stopping site distance are provided at all the side streets
14 that coming to New Hampshire Avenue. The site itself is
15 getting their access from New Hampshire Avenue, but it has a
16 sufficient site distance. So --
17 MR. KLINE: So my other, my other question would
18 be then is the speed, what is the road posted or actual
19 speed?
20 MR. ETEMADI: 45 miles per hour.
21 MR. KLINE: 45 miles an hour. And are there
22 adequate gaps then so that cars can go ahead and make that
23 U-turn movement and not put themselves in jeopardy?
24 MR. ETEMADI: Well, the, actually there has been,
25 when we looked at these accidents, there has been some

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1 accidents that, of course, many of those accidents that I'm
2 talking about are at the intersection of Randolph Road and
3 New Hampshire Avenue obviously. Very few accidents that has
4 happened along the other intersections where people trying
5 to make a left turn or go through. And they were collided.
6 However, there is sufficient site distance. The gap when we
7 are talking about that, we have a major, a traffic signal,
8 intersections at Randolph and Midland and then to the north,
9 we have the ramps to the ICC. Those traffic signals kind of
10 adjust the time for creating some gaps for people to come in
11 or out of the side streets. However, during the peak hours,
12 obviously in the morning, southbound traffic is very heavy
13 and northbound traffic is very heavy in the p.m. And it
14 makes it a little bit more difficult. But with cautious, I
15 think, I think it's, it's safe. Again, based on the number
16 of traffic accidents that we have seen in the past three
17 years.
18 MR. GROSSMAN: Okay.
19 MR. KLINE: And I guess, I think you've probably
20 said this all. And the lines of sight are such that making
21 those U-turns --
22 MR. ETEMADI: Yes.
23 MR. KLINE: -- you've got, you can adequately see
24 the distance --
25 MR. ETEMADI: You can adequately see and there is

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1 two ways. One for the cars that is coming out of the side
2 street, which is a site distance we call. And then for the
3 cars that is already on the road and we call that stopping
4 site distance is for the car that's traveling to see the car
5 coming out and being able to stop the car before hitting
6 the, the car coming out. So I think for both of them, there
7 is sufficient, sufficient site distance and stopping site
8 distance.
9 MR. GROSSMAN: Okay.
10 MR. KLINE: Was there anything else you wanted to
11 add, Mr. Etemadi?
12 MR. ETEMADI: No. You asked a few other questions
13 about the circulation and stuff and basically --
14 MR. KLINE: Well, you just find the internal site
15 circulation to be safe, adequate and efficient for the
16 proposed use?
17 MR. ETEMADI: Correct. You can see that the
18 circular driveway and drop-offs there and then the, the
19 parking lot is, is designed in a way that is, it can
20 accommodate the traffic going in and out. The only thing,
21 the other thing that I wanted to say is that the sidewalks
22 on both sides of the New Hampshire Avenue are adequate and
23 there are two bike lanes on the road on each side. It's
24 Class 2 bikeways. And so.
25 MR. KLINE: I have no further questions of Mr.

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1 Etemadi.
2 MR. GROSSMAN: Is Mr. Etemadi or some other
3 witness going to address the question of the parking lot
4 shading and, you know, other compliance --
5 MR. KLINE: Yes. The last witness will talk about
6 the landscaping plan and forest conservation.
7 MR. GROSSMAN: Okay. Mr. Wilhelm, do you wish to
8 brutalize this witness?
9 MR. WILHELM: I'd like to clarify something. Not
10 brutalize him. When you were visiting the site, did you see
11 a lot of cars making U-turns and I'm, with the, and you
12 said, talked about, I think you said four, three or four
13 more cars making U-turns. Would that additional three or
14 four cars overload the intersection?
15 MR. ETEMADI: I honestly, I did not see any when I
16 was there. I was there maybe for a half an hour, 45
17 minutes. I did not see any making a U-turn.
18 MR. GROSSMAN: All right.
19 MR. WILHELM: That's all.
20 MR. GROSSMAN: Any redirect as a result of that
21 question?
22 MR. KLINE: No, sir.
23 MR. GROSSMAN: All right. Did I, I don't know if
24 I have any other questions of you, Mr. Etemadi. Hold on one
25 second.

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1 MR. KLINE: We'll call our next and last witness.
2 MR. GROSSMAN: Hold on one second.
3 MR. KLINE: I'm sorry. I'm sorry. I take it, Mr.
4 Etemadi, that, that the additional traffic anticipated from
5 this proposed use, in your opinion, would not create any
6 compatibility issues with the neighborhood?
7 MR. ETEMADI: No. The traffic being generated to
8 the site is going to be on New Hampshire Avenue and is so
9 few that it's not going to make any difference in the
10 overall traffic operation or safety.
11 MR. GROSSMAN: Okay. All right. I have no other
12 questions. Anybody else have a question based on my
13 question? No. All right. Thank you, Mr. Etemadi.
14 MR. ETEMADI: Thank you.
15 MR. GROSSMAN: Good to see you again.
16 MR. ETEMADI: Appreciate it.
17 MR. KLINE: Mr. Vest, come join us.
18 DIRECT EXAMINATION
19 MR. KLINE: Mr. Vest, would you please state and
20 spell your name and give us your business address?
21 MR. VEST: Yes, sir. My name is William Vest. W-
22 I-L-L-I-A-M, V-E-S-T. I work for Timmons Group. Our
23 address is 20110 Ashbrook Place, Suite 195, Ashburn,
24 Virginia 20147.
25 MR. GROSSMAN: Would you raise your right hand,

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1 please? Do you swear or affirm to tell the truth, the whole
2 truth and nothing but the truth under penalty of perjury?
3 MR. VEST: I do.
4 MR. GROSSMAN: All right. You may proceed.
5 MR. KLINE: Mr. Vest, what is the Timmons Group?
6 MR. VEST: The Timmons Group is a civil
7 engineering, environmental engineering firm. It's based in
8 Richmond, Virginia. I manage the Northern Virginia office.
9 The company itself has about 365 employees as a few days
10 ago. In our office we have 17 engineers and surveyors
11 within our office.
12 MR. KLINE: And you're, you're, you yourself are
13 what as a professional?
14 MR. VEST: I am a licensed professional engineer,
15 civil engineer in the State of Maryland.
16 MR. KLINE: We talked today you didn't have an
17 opportunity to bring a resume with you so would you please
18 just give us a quick description of your educational
19 background and your professional experience?
20 MR. VEST: Yes, sir. I graduated from Old
21 Dominion University with a civil engineering degree in '98.
22 I worked for the Navy for a while, but I have been working
23 in the Greater D.C. area as a civil engineer for the last 16
24 years doing site plan work, utility work, transportation
25 engineering and some planning work. And I've been with

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1 Timmons Group now for 12 years. As of this summer, I've
2 done work in Virginia, Maryland and Washington, D.C. I'm
3 licensed in all.
4 MR. GROSSMAN: Do you happen to remember your
5 Maryland license number?
6 MR. VEST: I think it might actually be on --
7 MR. GROSSMAN: Oh, okay. On your --
8 MR. VEST: On one of the exhibits. I could read
9 it off to you.
10 MR. GROSSMAN: All right. That'd be great.
11 MR. VEST: 41874.
12 MR. GROSSMAN: Okay.
13 MR. KLINE: What, what professional organizations
14 do you belong to?
15 MR. VEST: I belong to some local jurisdiction
16 profession, professional societies in Virginia. The main
17 one is Engineering and Surveyors Institute where I teach
18 actually classes, continuing education classes for engineers
19 working in the Greater D.C. area.
20 MR. KLINE: And your professional experience has
21 been involved with design and development of and creating
22 the infrastructure to support facilities such as the one
23 proposed here today?
24 MR. VEST: Yes, sir.
25 MR. KLINE: And tell me again how many years you

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1 said you've been doing this?
2 MR. VEST: 16 years. 16 long years.
3 MR. KLINE: Have you, I was going to say have you
4 ever had an experience like this one, but what I think I
5 meant to say was have you ever qualified as an expert in the
6 field of civil engineering before a hearing examiner or a
7 board or commission?
8 MR. VEST: Not under oath, I have not. However, I
9 worked on several Special Exception projects and re-zoning
10 projects where I've actually prepared the plats and giving,
11 given testimony in a public forum on those, on those
12 applications.
13 MR. KLINE: But, but never, you were never offered
14 or accepted as an expert witness or --
15 MR. VEST: No, sir. No, sir.
16 MR. KLINE: Mr. Grossman, based on Mr. Vest's
17 educational background and his experience for the last, I
18 guess, 16 years at least anyway, I'd like to offer him as an
19 expert in the field of civil engineering.
20 MR. GROSSMAN: All right. Mr. Wilhelm, do you
21 have any questions regarding this witness's expertise?
22 MR. WILHELM: No, sir.
23 MR. GROSSMAN: All right. Based --
24 MR. WILHELM: Fine with me.
25 MR. GROSSMAN: All right. Based on Mr. Vest's

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1 license as an engineer in Maryland and his background as
2 he's described it, I accept him as an expert in civil
3 engineering.
4 MR. KLINE: Mr. Vest, just as a general start at
5 questioning. Is there anything about the site that posed
6 unique civil engineering issues, things that you had to
7 wrestle with or dictated the layout of the site?
8 MR. VEST: Well, each site is unique. Each site
9 is different. We did spend some time looking at different
10 building footprints. Much like Mr. Elmore discussed
11 earlier, looking at this rectangular shaped site, looking at
12 the existing topography and looking at the, the vegetation,
13 quite frankly, that was on the site, and meeting with county
14 staff, I think we were, we were nudged towards going towards
15 a smaller building footprint that had a higher elevation as
16 a three-story elevation to limit actually the impervious
17 surface that we were going to create on, on the, on the site
18 itself. We, we, so we looked at that plus we also
19 recognized through the NRI and the forest delineation that
20 there is some existing vegetation on the western portion of
21 the site that we felt maybe could be saved depending on how
22 the, the final layout kind of worked out. Again, I'm, I'm,
23 I'm always concerned about the grading and the storm water
24 management, drainage and utility. So --
25 MR. GROSSMAN: And that's an issue here with the

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1 neighbors so I would like you to address that.
2 MR. VEST: Exactly. So we can talk about that if
3 you would like to.
4 MR. GROSSMAN: Yes.
5 MR. VEST: I don't know if you want me to drop
6 right into that, but I can.
7 MR. KLINE: Well, I, no, that's fine. I have sort
8 of four bullet points I want to get through.
9 MR. VEST: Okay.
10 MR. KLINE: And sewer was, or not sewer, but storm
11 water management was the one that Mr. Wilhelm has been
12 involved in this also. So explain --
13 MR. GROSSMAN: And the next door neighbor too.
14 MR. WILHELM: Yeah.
15 MR. KLINE: Explain what the issue was. Explain
16 how you worked with Mr. Jackson and how you solved the
17 problem.
18 MR. VEST: Sure. I have an exhibit and I think, I
19 hope it's in part of the record. It's a Concept Storm Water
20 Management Plan. And I apologize. I don't know the exact
21 number.
22 MR. GROSSMAN: That's, I'll tell you.
23 MR. KLINE: We have something titled the Erosion
24 Plan. That would not be the same?
25 MR. VEST: No, sir. We, it was requested that we

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1 would go through the --
2 MR. KLINE: Before you do this.
3 MR. VEST: Sure.
4 MR. KLINE: Mr. Grossman, I don't see a Storm
5 Water Management Concept Plan so I'm going to ask that we
6 make this an exhibit in the record.
7 MR. GROSSMAN: Okay. I thought there was a, was
8 there an, an approval of the Storm Water Management Concept
9 Plan attached as a, from Permitting Services?
10 MR. KLINE: Yeah. That's an attachment to the
11 Staff report, I believe. Yeah.
12 MR. GROSSMAN: Yes, that's attachment --
13 MR. KLINE: It's Exhibit, Attachment 3.
14 MR. GROSSMAN: Attachment 3.
15 MR. KLINE: Right.
16 MR. GROSSMAN: To the Technical Staff report,
17 Exhibit 31.
18 MR. KLINE: Yes, sir.
19 MR. GROSSMAN: But I think it would be sensible to
20 have the Storm Water Management Concept Plan --
21 MR. KLINE: I agree.
22 MR. GROSSMAN: -- in the record so what's the,
23 let's see. We're up to Exhibit 48. Storm Water Management
24 Concept Plan. Okay.
25 (Hearing Exhibit No. 48 was

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1 marked for identification.)
2 MR. KLINE: So I heard a discussion out in the
3 hall about where was the ridge line on the center --
4 MR. VEST: Right.
5 MR. KLINE: -- the highest point of the property.
6 Kind of explain the topo of the property. How that affects
7 your storm water management --
8 MR. VEST: Sure.
9 MR. KLINE: -- treatment and then your --
10 MR. VEST: Right.
11 MR. KLINE: Go from there.
12 MR. VEST: For environmental site design,
13 obviously we want to, when we analyze the site to start off,
14 we look at the existing drainage divide. So we, we, to the
15 maximum extent possible, you need to arm your drainage
16 divides simply because the drainage that surrounds the site
17 is supposed to be set up for the drainage coming off of that
18 site and intercepted. So the site has a saddle point about
19 two-thirds of the way over from the western property line,
20 right through the building, right through the building
21 there's a saddle point right now. So --
22 MR. GROSSMAN: A saddle point is what?
23 MR. VEST: A saddle point is a break in the
24 drainage divide such that one half of the saddle drains one
25 side and one half drains the other so it's a pretty distinct

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1 drainage, drainage divide line. We call it a saddle point
2 in layman terms. So this site, about a third, a little more
3 than a third of the eastern portion of the site drains
4 towards New Hampshire Avenue. And a little less than two-
5 thirds of the site drains to the west, to the, to the
6 properties to the west. So when we set up storm water
7 management concept, what we've done is per Code, we have
8 treat every impervious area that we introduce to the site
9 locally. So we break it up into smaller divides and treat
10 it with environmental site design practices. In this case,
11 we incorporated several BMPs, several --
12 MR. GROSSMAN: BMP stands for?
13 MR. VEST: Best management practices.
14 MR. GROSSMAN: Okay.
15 MR. VEST: They are storm water filtration
16 practices, filtration and infiltration practices is what
17 they are.
18 MR. GROSSMAN: Like bioretention facilities?
19 MR. VEST: Yes, sir. Bioretention facilities is
20 exactly what they are. Then we do have one bioswale. But
21 other than that, we propose a --
22 MR. GROSSMAN: Where, where's the bioswale?
23 MR. VEST: The bioswale would be located on the
24 southeastern portion of the, along that southeastern portion
25 of the building, of the lot. So in doing all the

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1 calculations for the concept storm water management plan, we
2 honored the divides and we are going to drain a little more
3 than a third of the eastern portion of the building to New
4 Hampshire Avenue into an existing storm drainage system
5 after we treat it. After we filter it and promote
6 infiltration, any runoff will go to the systems it's already
7 within on New Hampshire Avenue. The challenge we have for
8 this site was Mr. Jackson. He owns the property to the
9 southwest corner of the property. He contacted the team
10 during the early stages of our application to let us know
11 that he's having existing drainage problems at the rear of
12 his yard. So several members from Timmons Group and Greg,
13 we all, we contacted Mr. Jackson to set up a site visit to
14 his backyard. When we went to his yard, we spent a couple
15 hours investigating the drainage patterns in and around his
16 backyard. We, then when we moved forward with our storm
17 water concept plan, we took his drainage issue into
18 consideration for how we ultimately designed the drainage
19 for this. So about half of his backyard receives drainage
20 from the, the subject site. The other half of his backyard
21 actually receives drainage from the, the Buddhist Temple
22 property and residential properties there to the south of
23 him. So we wanted to help alleviate his, his, his ponding
24 and flooding issues in his backyard. So, again, we went to
25 a site visit first. Figured out exactly what's going on and

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1 the proposal that we came up with and approved with the
2 concept plan was that we're actually going to install a pipe
3 with two inlet structures to pick up the drainage in his
4 backyard and pipe it across his rear yard to an existing
5 drainage system that's piped underground that heads further
6 west down, down to the interceptor to the west.
7 MR. GROSSMAN: And this requires an easement on
8 his property, as I recall from his letter?
9 MR. VEST: Yes, sir. It requires a private
10 easement between these two homeowners.
11 MR. GROSSMAN: Okay.
12 MR. VEST: So. So we worked with them several
13 times.
14 MR. GROSSMAN: When you say between these two
15 homeowners?
16 MR. VEST: Yes, sir. Between the Jacksons and the
17 owner, excuse me, and the owner of the subject parcel.
18 MR. GROSSMAN: Okay.
19 MR. VEST: All right. And so that's, we
20 incorporated that in. So we're, we wanted to work with him
21 to alleviate so, again, all this water that's currently
22 sheet flowing to the west, we're actually going to pick up
23 in a storm system such that it bypasses his backyard.
24 MR. GROSSMAN: Will it drain ultimately to New
25 Hampshire Avenue or where will it drain to?

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1 MR. VEST: It actually drains, this one drains
2 west. It drains about 2,000 feet to, to the west. I forget
3 the exact name of that outfall, but it runs through the
4 western neighborhood.
5 MR. KLINE: Is it on the aerial, by any chance?
6 Did it go that far?
7 MR. VEST: I think it is. It certainly, it could
8 be. It drains through, across Pleasant Grove down Shannon
9 Court and outfalls to the southwest of the cul-de-sac at the
10 end of Shannon, Shannon Court. Actually it outfalls right
11 there.
12 MR. GROSSMAN: So you will actually have a pipe
13 running that distance?
14 MR. VEST: This pipe is already existing from Mr.
15 Jackson's backyard all the way to here.
16 MR. GROSSMAN: I see. So you're going to connect
17 to that pipe, existing pipe.
18 MR. VEST: Yes. Yes, sir.
19 MR. GROSSMAN: Okay.
20 MR. VEST: Yes, sir. And again, we coordinated
21 with Mr. Jackson. I think he was happy that we actually
22 were, were accommodating for his backyard as much as we can.
23 MR. GROSSMAN: Right.
24 MR. VEST: Picking up the storm drainage and we,
25 we worked with county staff on the concept plant. And we

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1 have an approved storm water concept plan.
2 MR. GROSSMAN: Okay.
3 MR. VEST: So obviously our final plans will have
4 much more hydraulic calculations, but I, I, I feel, as I've
5 done this for 16 years, I know, I don't want to put a
6 concept plan out that will not work. So I'm, I'm confident,
7 in my opinion, this, this, this is the best solution for his
8 backyard.
9 MR. GROSSMAN: And will you achieve on-site
10 environmental site design, complete compliance with
11 environment site design?
12 MR. VEST: Yes, sir.
13 MR. GROSSMAN: Okay. So. As required by the
14 county and the state.
15 MR. VEST: Yes, sir. That, that in a nutshell --
16 MR. KLINE: Let me ask you about basically public
17 service to the property. The property will be served by
18 public sanitary sewer and public water?
19 MR. VEST: Yes, sir.
20 MR. KLINE: And how will those services be
21 provided?
22 MR. VEST: There is an existing water and sewer
23 main within New Hampshire Avenue. We will, we are going to
24 build a water line and sewer line obviously for the building
25 itself. Both of them will be tapped off of New Hampshire

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1 Avenue on the, on the eastern side of the property. So the,
2 the water line inside of the property will be private and
3 owned by the property owner.
4 MR. KLINE: Anything in your investigation to
5 indicate that there's any problems with transmission or
6 treatment capacity of the sewer flow?
7 MR. VEST: No, sir.
8 MR. KLINE: Okay. So you anticipate being able to
9 obtain all necessary permits from the sanitary commission?
10 MR. VEST: Yes, we do.
11 MR. KLINE: All right. Let me draw your attention
12 then to the, the forest issues associated with the property.
13 Explain to the hearing examiner your efforts dealing with
14 the forest conservation plan and what you ended up with as
15 a, as a program there.
16 MR. VEST: Right. Well, we, after the completion
17 of the NRI and the forest stand delineation with Amy Lindsay
18 and other county staff, we recognized there was an existing
19 area on the western side of the property that we could add
20 to with a forestation plan to create an increased buffer
21 basically on the western side of the property. We had to do
22 that plus include our ESDs also on the western side of the
23 property.
24 MR. KLINE: You better just define that, please.
25 MR. VEST: Okay. On the western side of the

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1 property, basically the, the western, about 100 feet of the
2 western, all the western property line is going to be in a
3 forestation area. We kind of married that forestation plan
4 with our ESDs, our bioretention areas, and at the suggestion
5 of the county, Amy Lindsay, we've actually added in. Show
6 on this. We added in a trail, a trail network that actually
7 meanders through the forestation area so it could be an
8 enhancement for the design element.
9 MR. KLINE: Why don't we use the colored
10 landscaping plan?
11 MR. VEST: Here is it.
12 MR. KLINE: Right.
13 MR. VEST: Sorry. Exhibit No. 44 shows this very
14 well. So, again, the, the western portion of the lot is
15 going to be in forestation or it's going to be, to remain in
16 forest or adding forest and we've added a walking trail that
17 meanders through the forest with the forest on the, on the
18 western side and then the bioretentions which are actually
19 planted landscaping beds is really what they look like, such
20 that it becomes like a nature walk through, through the
21 forestation areas.
22 MR. GROSSMAN: Yes. I think that's a great idea
23 for the residents.
24 MR. VEST: It is. It's, it's, I think it's a
25 betterment. It feeds into the trail that actually

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1 circulates the whole property. So.
2 MR. KLINE: Okay. So you, in fact, corrected me
3 when we took a break that you know you've received a copy of
4 the forest, preliminary forest concept management plan
5 approval.
6 MR. VEST: Yes, sir.
7 MR. KLINE: And you'll be sending that to me and
8 we'll be providing it to the hearing examiner.
9 MR. VEST: Yes, sir.
10 MR. KLINE: So Park and Planning has approved your
11 FCP?
12 MR. VEST: Yes, sir.
13 MR. KLINE: Okay. Give us an overview then
14 because your office prepared the landscaping plan for the
15 project also.
16 MR. VEST: We have, we have worked with Lenity on
17 the landscaping plan. The landscaping plan does two things
18 exclusive of the reforestation area and the plantings within
19 the bio, bioretention areas. The planting plan on this site
20 is what I consider to be enhanced based on a typical use.
21 The proposed plan not only buffers the site from the north,
22 certainly the south and there's some street trees along New
23 Hampshire that are proposed, but also the parking lot will
24 be shaded by, by landscaping that's been added into the
25 islands separating the parking spaces and along the outside

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1 rim of the, of the parking spaces. So the, the landscaping
2 will be provided at or above Code for the, for this site.
3 And additionally is that there's, there's extensive
4 landscaping around the entire perimeter of the building that
5 adds to the, the overall landscaping plan and, and the feel
6 of the, of the final product. And most of our clients don't
7 go that far with landscaping. I, I feel this is really
8 going to be an enhanced site where even the lower part of
9 the building is going to be somewhat buffered by this
10 additional landscaping.
11 MR. KLINE: I think you probably answered, but let
12 me make sure. Because you heard the hearing examiner say
13 have you provided the adequate coverage issues. So does
14 your landscaping plan meet all these requirements of the
15 Montgomery County Zoning Ordinance applicable standards for
16 landscaping issues?
17 MR. VEST: Yes. The, the plan will, will meet all
18 the, all the standards.
19 MR. GROSSMAN: Well, more specifically, for
20 shading in parking lots.
21 MR. VEST: For shading in this parking lot. Yes,
22 sir.
23 MR. GROSSMAN: Okay. And I take it there's also
24 the setback compliance in the parking lot? I couldn't hear
25 that.

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1 MR. VEST: Yes, there, oh. Sorry, sir. Yes.
2 The, the parking lot, yes, there will be setback from the
3 property lines to meet the, meet the buffer requirements.
4 MR. GROSSMAN: Okay.
5 MR. KLINE: From your professional point of view
6 as civil engineer and, and from your, that particular
7 perspective, is there anything about the proposed use that
8 would, get a, get a, the right terminology here, would,
9 would have any adverse effect to any surrounding property
10 owners or to the residents and employees on the site?
11 MR. VEST: In my opinion, no. I, I, I believe
12 actually this use enhances the site. If it was to be cut up
13 into single family homes, I think it would, it would have
14 generated more traffic. You wouldn't have as much
15 landscaping. I think this use is a, is a, is an excellent
16 fit for this piece of property. And the improvements
17 they're putting on it, it's going to actually enhance the
18 neighborhood and reduce traffic that could have actually
19 been there with the single family homes. So.
20 MR. KLINE: And the use can be served by adequate
21 public services?
22 MR. VEST: Yes, sir.
23 MR. KLINE: I have no further questions of Mr.
24 Vest.
25 MR. GROSSMAN: Mr. Wilhelm, do you have questions

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1 of this witness?
2 MR. WILHELM: Yes. One clarification. With Mr.
3 Jackson you said his existing drainage problem, some of it
4 comes from the site and some of it comes from neighboring
5 sites. In your judgment, after the proposed changes are,
6 are implemented, would they improve his current situation or
7 make it worse?
8 MR. VEST: It's going to drastically improve his,
9 his backyard and, and the ponding and flooding issues that
10 he has.
11 MR. WILHELM: That's my only question.
12 MR. GROSSMAN: Okay. Do you have any redirect
13 based on that?
14 MR. KLINE: No, sir.
15 MR. GROSSMAN: All right. Let me just look over
16 something and. Are there other Special Exception uses in
17 the area? I don't --
18 MR. KLINE: The answer to your question, Mr.
19 Grossman, is yes and no. We did --
20 MR. GROSSMAN: That's a very lawyerlike answer.
21 All right.
22 MR. KLINE: We, we did provide for Mr. Gilbert a
23 list of all the Special Exceptions and I've actually got a
24 map here. They were, in most cases, they were accessory
25 apartments.

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1 MR. GROSSMAN: Okay.
2 MR. KLINE: I don't think that I, I, there was --
3 MR. GROSSMAN: Yes. He just put in here, in the,
4 on page 15 of the Technical Staff report, he just said the
5 proposed use will not increase the number, intensity and
6 scope of Special Exception uses sufficiently to adversely
7 affect or alter the predominantly residential nature of the
8 area. But I, he didn't indicate, I don't believe anywhere
9 in his report --
10 MR. KLINE: Yeah.
11 MR. GROSSMAN: -- how many there were and where
12 they were and what they were.
13 MR. KLINE: Well, I, I can provide that to you.
14 We, we gave it to Mr. Gilbert.
15 MR. GROSSMAN: Okay.
16 MR. KLINE: He elected not, I see there is a
17 daycare slightly northeast of the property, but everything
18 else that we identified was the accessory apartment. And
19 I --
20 MR. GROSSMAN: What's the daycare and where is
21 that?
22 MR. KLINE: Maybe I can do this. Let's see here.
23 So it's at the corner of Hobbs and so it, it would be this
24 building at the corner of New Hampshire Avenue and Hobbs.
25 MR. GROSSMAN: All right.

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1 MR. WILHELM: That's the north side.
2 MR. GROSSMAN: Huh?
3 MR. WILHELM: It's the north side of Hobbs.
4 MR. KLINE: Yeah. Right.
5 MR. VEST: Right there. Right there. Yeah.
6 MR. GROSSMAN: North side of Hobbs at New
7 Hampshire Avenue.
8 MR. KLINE: And as I, BAS 1388.
9 MR. GROSSMAN: 1388?
10 MR. KLINE: Yes, sir.
11 MR. GROSSMAN: That's a daycare center or a, or
12 some other daycare?
13 MR. KLINE: I, I just show the daycare.
14 MR. GROSSMAN: Okay. And then you said the only
15 other Special Exceptions in the neighborhood are accessory
16 apartments?
17 MR. KLINE: There is a, we have BA 3, and this is
18 a little hard to read, 3, I'll say 333. This is the
19 accessory apartment on the south side of Colesville Drive
20 west of New Hampshire Avenue. There's one on the third
21 lot --
22 MR. GROSSMAN: What was that, what was that number
23 again?
24 MR. KLINE: It's a little hard to read, Mr.
25 Grossman, but I'm going to say BA 333. I'm sorry. BA 1367.

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1 MR. GROSSMAN: Okay.
2 MR. KLINE: And, and south of Orchard Way, the
3 third lot in is BA --
4 MR. GROSSMAN: Well, that's actually outside of
5 the neighborhood, I believe.
6 MR. KLINE: Okay. Well --
7 MR. GROSSMAN: Yes, it's not a confronting
8 property. It's across --
9 MR. KLINE: It's not a confront, yeah.
10 MR. GROSSMAN: And it's across New Hampshire
11 Avenue.
12 MR. KLINE: Right. That's, that's true. Yeah.
13 Those are the only ones I can identify.
14 MR. GROSSMAN: Okay.
15 MR. KLINE: There are maybe three or four
16 variances, but that's a bit complicated.
17 MR. GROSSMAN: Right. Okay.
18 MR. KLINE: So we had submitted something to Mr.
19 Gilbert that indicated in our opinion that this was not a
20 Special Exception that would cause a saturation or change of
21 character of the neighborhood.
22 MR. GROSSMAN: Right. Right. I don't disagree.
23 I just wanted to see if I had the information.
24 MR. KLINE: Yeah. I understand. Yeah.
25 MR. GROSSMAN: Okay. I have no other questions.

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1 MR. KLINE: The petitioner has completed his case
2 then, sir.
3 MR. GROSSMAN: All right. Let's turn to Mr.
4 Wilhelm. Do you have a statement you wish to make, Mr.
5 Wilhelm?
6 MR. WILHELM: I'd like to just clarify, add or
7 amplify a few things.
8 MR. GROSSMAN: I'm going to allow you to do that.
9 Would you just fully state your full name, address and the
10 organization that you wish to testify on behalf of?
11 MR. WILHELM: Yes. I am Dan Wilhelm or Daniel
12 Wilhelm. I live at 904 Cannon Road, which is about, I guess
13 about two miles from this site, on the southeast side,
14 direction. And I'm with the Greater Colesville, I'm
15 president of the Greater Colesville Citizens Association,
16 which represents this area.
17 MR. GROSSMAN: And here to testify on their
18 behalf?
19 MR. WILHELM: Yes, sir.
20 MR. GROSSMAN: Would you raise your right hand,
21 please? Do you swear or affirm to tell the truth, the whole
22 truth and nothing but the truth under penalty of perjury?
23 MR. WILHELM: Yes, sir.
24 MR. GROSSMAN: All right. You may proceed.
25 DIRECT EXAMINATION

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1 MR. WILHELM: Greater Colesville Citizens
2 Association supports this application. We think it fits
3 well within the neighborhood. The proposed site is well
4 buffered with the existing neighbors on all the sides. I
5 would like to comment on two things. One is the sign. We
6 think a reasonable size sign is, makes sense. I don't know
7 what the regulations stand for, but two by, two foot is, two
8 foot is too small. You need to be able to see it.
9 MR. GROSSMAN: And I take it that the sign that
10 they, that the applicant has proposed is --
11 MR. WILHELM: That type of sign, you know, is
12 acceptable. Yes.
13 MR. GROSSMAN: Okay.
14 MR. WILHELM: I don't know about the dimensions,
15 but that's for the technical people to sort out. But
16 something close to that, yeah. I look at it as compatible
17 with church signs and stuff, other institutional signs in
18 the neighborhood. That size would be acceptable. The other
19 thing is on the number of U-turns on New Hampshire Avenue.
20 I drive that road occasionally. You know, three or four
21 times a week. And I see, rarely see anybody making U-turns
22 in this stretch of New Hampshire Avenue. So I think adding
23 three or four cars would not have any additional impact on
24 any of the traffic. And there's traffic lights, as it was
25 testified, both north and south which will give you breaks

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1 in traffic. So. That's all I have to say.
2 MR. GROSSMAN: All right. Mr. Kline, since I gave
3 him the opportunity to brutalize your witness, you want to
4 brutalize Mr. Wilhelm?
5 MR. KLINE: Having sat and watched Mr. Wilhelm for
6 an hour and a half yesterday listen to transportation
7 planning issues, there's no way I'm going to ask him a
8 question having anything to do with traffic at all. So I
9 have no questions at all.
10 MR. GROSSMAN: All right. Okay. Thank you very
11 much, Mr. Wilhelm, for taking your time to come down here
12 and share your views and those of the Greater Colesville
13 Citizens Association. Appreciate it.
14 MR. WILHELM: Yes, sir. By the way, our size of
15 our association, we represent 3,500 houses in this area. So
16 it's a good size group.
17 MR. GROSSMAN: That is. That is. Well, I think
18 it's always important, it makes a big difference when we get
19 people from the community to participate for or against or
20 just commentary in these proceedings because we can adjust,
21 sometimes even if a Special Exception is granted, we can
22 ameliorate any concerns with the conditions and so on. So
23 we do appreciate it.
24 MR. KLINE: Well, and if I can, on behalf of the
25 applicant is thank Dan for helping facilitate the interface

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1 with Mr. Jackson. He was very helpful in that regard. And
2 I think worked to the benefit of both of us and Mr. Jackson
3 and the community as a whole.
4 MR. GROSSMAN: Seems that way.
5 MR. WILHELM: And also I would like to thank, on
6 the record, Mr. Vest working with Mr. Jackson and myself on
7 trying to figure out the best solution to address the storm
8 water management problems that exist. And I, my
9 unprofessional opinion is, I agree with Mr. Vest that this
10 proposal will actually help reduce what's out there. Won't
11 eliminate it, but it will reduce it.
12 MR. GROSSMAN: Seems that way. Seems like a good
13 idea. All right, then. Anything else?
14 MR. KLINE: No, sir.
15 MR. GROSSMAN: Did you want to, you have a closing
16 statement, Mr. Kline?
17 MR. KLINE: I, I really don't. I mean I, I know,
18 I can tell from the questions you asked, you reviewed the
19 file really well. We didn't have anything unusual and for
20 me to give you a closing statement would just waste all of
21 our time when we would like to read. Probably like to just
22 check with you and make sure I've got my checklist of things
23 to be done.
24 MR. GROSSMAN: Okay.
25 MR. KLINE: And maybe we should pick a date when

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1 you want to make sure they're all in. Although you've
2 already told us quickly.
3 MR. GROSSMAN: Yes. Well, for the electronic
4 copies --
5 MR. KLINE: Yeah.
6 MR. GROSSMAN: -- certainly, because as I say, I
7 want to work on some parts of this report next week.
8 MR. KLINE: Right.
9 MR. GROSSMAN: And I'm going to be going away --
10 MR. KLINE: Not on vacation, Mr. Grossman.
11 MR. GROSSMAN: No.
12 MR. KLINE: Oh, okay.
13 MR. GROSSMAN: That's, I'm going to be going away
14 on vacation.
15 MR. KLINE: Okay.
16 MR. GROSSMAN: I won't be working on it on
17 vacation. So I wanted to get some, a start on it because
18 I'll be away for a couple of weeks.
19 MR. KLINE: Okay. Sure. Yeah.
20 MR. GROSSMAN: And so Monday would be helpful for
21 all the electronic copies of all the exhibits, the plans, et
22 cetera that you've submitted today.
23 MR. KLINE: Yes, sir.
24 MR. GROSSMAN: And that would be, so we're talking
25 about 9(d) and (e), and then 42, 43, 44, 46, and 48.

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1 MR. KLINE: Okay. And as Mr. Vest indicated,
2 he'll include the Storm Water Management, I'm sorry, the
3 Forest Conservation Plan approval letter --
4 MR. GROSSMAN: Right.
5 MR. KLINE: -- from Park and Planning in that
6 bundle.
7 MR. GROSSMAN: Right. And I mean the record will
8 remain open until, let me get a calendar up here. Fifteen
9 days by Board rule. Okay. So that would take us, we're
10 currently at the 10th, so we're talking about the 25th. I'm
11 sorry. The 25th is a Saturday. So it would have to end on
12 the 27th. So the record will close on July 27. So
13 certainly anything that you have, we want to give people, I
14 think that you've now supplied us with any updates. Right?
15 That you, you're not, you don't have any additional updates
16 to introduce?
17 MR. KLINE: You're getting, you're getting nothing
18 more from me. Park and Planning still needs the plan with a
19 bike rack location or, because there's a, the most current
20 one has a sauna. And they still need that. And --
21 MR. GROSSMAN: Yes. Make sure any of the plans
22 that have been changed or added, get to them --
23 MR. KLINE: Yes.
24 MR. GROSSMAN: -- on Monday also.
25 MR. KLINE: Okay.

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1 MR. GROSSMAN: Because they have, they're entitled
2 to get their 10 days --
3 MR. KLINE: I understand.
4 MR. GROSSMAN: -- response so if we want to get
5 the record closed by the 27th.
6 MR. KLINE: Right.
7 MR. GROSSMAN: If for some reason, there's a
8 problem, I'm going to be out of town at that time, talk to
9 my colleague, Lynn Robeson, if you need to get it extended
10 in any way.
11 MR. KLINE: Well, earlier in the meeting before I
12 was telling them that I knew they could move quickly. I
13 wasn't quite so sure about Park and Planning, but Mr.
14 Zeigler's transmission to you of stuff I sent him just a few
15 days ago, he stepped in to fill in for Mr. Gilbert, who is
16 out of the office for a while. So I'm, I'm confident that
17 he can get his work done by the 27th.
18 MR. GROSSMAN: When you transmit it to him, would
19 you let him know that the record closes on the 27th?
20 MR. KLINE: Yes. Yes.
21 MR. GROSSMAN: So any comments they have must be
22 filed by then.
23 MR. KLINE: Yes, sir. Um-hmmm.
24 MR. GROSSMAN: Okay.
25 MR. KLINE: Okay.

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1 MR. GROSSMAN: And I take it that you'd like to
2 admit all of the exhibits? That I have --
3 MR. KLINE: That were in the record and were
4 submitted to you today. Yes, sir. Please make them --
5 MR. GROSSMAN: And, well, all of them, the whole
6 shebang. All right. So Exhibits 1 through 48 and their
7 subparts are admitted. All right. Let's see if we have
8 anything else that has to be handled. I don't think so.
9 All right. Anything else that we need to cover?
10 (Hearing Exhibits Nos. 1
11 through 48, previously marked
12 for identification, were
13 received in evidence.)
14 MR. KLINE: No. Very, very enjoyable day. Good
15 way to end up the week. Unless you --
16 MR. GROSSMAN: Well, we don't want to make it too
17 enjoyable for you.
18 MR. KLINE: Well --
19 MR. GROSSMAN: You have to earn your money.
20 MR. KLINE: Mr. Elmore's got a, what, a five-hour
21 flight to Salem, Oregon tonight facing him. So.
22 MR. GROSSMAN: Oh, well, that sounds like fun.
23 All right. Well, I thank you all for coming down. And you
24 have a great weekend.
25 MR. KLINE: Thanks, Mr. Grossman. Very good.

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1 MR. ELMORE: Thank you, sir.
2 MR. GROSSMAN: We are adjourned.
3 (Whereupon, at 1:01 p.m., the hearing was
4 concluded.)
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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:

Petition of Columbia/Wegman Acquisitions, LLC
Case No.: S-2881

By:

Consuella Miles, Transcriber

<p style="text-align: center;">A</p>	<p>4:12;107:8</p>	<p>102:9;112:11,13; 126:3;127:20,23; 132:1;149:9;152:7</p>	<p>149:21</p>	<p>20,21;64:25;67:20; 68:9;75:2;104:25; 110:1;124:4;135:24; 142:22,25</p>
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