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Transcript of Hearing - Day 2

Date: September 27, 2017

Case: Cellco Partnership d/b/a Verizon Wireless

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Transcript of Hearing - Day 2
Conducted on September 27, 2017

1 (348 to 351)

348		350	
1	OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS	1	172 Tuckers Road
2	FOR MONTGOMERY COUNTY, MARYLAND	2	Pawley's Island, SC 29585
3	-----x	3	
4	In Re: :	4	SUSAN LEE
5	CELLCO PARTNERSHIP : Case No. CU-T-17-01	5	VP West Montgomery County Citizens' Association
6	d/b/a VERIZON WIRELESS :	6	12900 Circle Drive
7	-----x	7	Rockville, MD 20850
8		8	
9	HEARING	9	TERRENCE MacPHEARSON
10	Before Hearing Examiner Tammy Citramannis	10	7360 Guilford Drive, Suite 200
11	Rockville, Maryland	11	Frederick, Maryland
12	Friday, September 27, 2017	12	
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15		15	Rockville MD 20150
16		16	
17		17	HEIKA MEINHEART, Citizen
18		18	8500 Scarborough Court
19		19	Potomac, MD
20		20	LAWRENCE MONROE
21		21	3113 Billiard Court
22		22	Wake Forest, NC
23	Job: 161818	23	
24	Pages: 348 - 679	24	RUSSELL REESE, Surveyor
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349		351	
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16	BILL CHEN, ESQ.	16	C O N T E N T S
17	Counsel for Opposition	17	
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19	Rockville, MD	19	TESTIMONY OF RON DANIELIAN
20		20	TESTIMONY OF LAWRENCE MONROE
21	CHERYL WETTER, Citizen	21	TESTIMONY OF RUSSELL REESE
22	6 Snug Hill Court	22	TESTIMONY OF GRACE CHEN
23	Potomac, MD 20854	23	TESTIMONY OF JOSEPH DAVIS
24		24	TESTIMONY OF JANINE REZNIK
25	JOSEPH DAVIS	25	TESTIMONY OF GREER DELLAFIORA
			PAGE
			362
			425
			465
			526
			551
			556
			628
			648

Transcript of Hearing - Day 2
Conducted on September 27, 2017

2 (352 to 355)

E X H I B I T S			352	354
1	NO.	DESCRIPTION	PAGE	1 Cathy Borten, on behalf of Cellco partnership d/b/a Verizon Wireless.
2	191(c)(i)	Photo from South side of Snug Hill Lane	431	2
3	191(c)(ii)	Photo Snug Hill Court near mailbox of Number 5 Snug Hill Court	431	3 GREG DIAMOND: And Greg Diamond on behalf of Cellco Partnership d/b/a as Verizon Wireless.
4	191(c)(iii)	Photo of view from rear of last townhome	431	4 THOMAS BARNARD: Tom Barnard of Baker Donaldson on behalf of East Gate.
5	191(d)	Resume of Joseph Davis	556	5 TAMMY CITRAMANNIS: Welcome.
6	191(e)	Career summary of Joseph Davis	557	6 CATHY BORTEN: So before we close our case in chief,
7	191(f)	Statement of Joseph Davis	557	7 Mr. Barnard just wanted to address, I think, two issues on behalf of East Gate.
8	191(j)	Survey	530	8 THOMAS BARNARD: Yes, ma'am. My --
9	203	PowerPoint Presentation	485	9 TAMMY CITRAMANNIS: Well, why don't we just let them identify themselves as well. Just--
10	204	Surveyor Reese's illustration showing number of parking spaces that would be affected	542	10 CATHY BORTEN: Oh, I'm sorry. I'm sorry.
11	205	Surveyor Reese's partial plotting of the subject property	545	11 TAMMY CITRAMANNIS: I think we see some new faces. So, and --
12	206-219	Reznik photographs	628	12 FEMALE VOICE: (Inaudible)
13				13 TAMMY CITRAMANNIS: They're as loud as they can go. You just maybe need to sit closer to them, I don't know.
14				14 We'll try to keep everybody's voice up. Okay. You all just identify yourself for the record. Better?
15				15 CHERYL WETTER: Cheryl Wetter.
16				16 BILL CHEN: Bill Chen.
17				17 SUSAN LEE: Susan Lee, West Montgomery County Citizens Association.
18				18
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P R O C E E D I N G S			353	355
1	TAMMY CITRAMANNIS: Good morning everybody. Today is September 27th, we are continuing the hearing of Cellco and East Gate conditional use application, CU-T-17-01, and administrative modification, case number S596. Yesterday we ended with applicants last witness, but you wanted to wait until this morning decide whether you were going to close; if you had anything else before we went on to Mr. Chen.			1 TAMMY CITRAMANNIS: And welcome to the new faces. We're going to have Mr. Barnard --
2	CATHY BORTEN: Correct, yes.			2 THOMAS BARNARD: Barnard, yes, ma'am.
3	TAMMY CITRAMANNIS: Can you hear her?			3 TAMMY CITRAMANNIS: My apologies.
4	FEMALE VOICE: No.			4 THOMAS BARNARD: No. I understood there was a question yesterday about -- two questions regarding East Gate as a co-applicant, one being the question of landscaping and whether or not East Gate had in fact approved the amended plan which included certain landscaping in the design, and I'm just representing to the Hearing Examiner that that had been --
5	CATHY BORTEN: Okay. It's on.			5 BILL CHEN: Objection.
6	TAMMY CITRAMANNIS: That's correct.			6 TAMMY CITRAMANNIS: Please let him finish and then you can object.
7	CATHY BORTEN: Yes, that's correct.			7 BILL CHEN: Well, I don't want --
8	TAMMY CITRAMANNIS: Okay. All right. So then what we will do is to go on to --			8 THOMAS BARNARD: Hold on a second. I just want to let the Hearing Examiner know that that amended plan had been approved and the amended plan was approved by the --
9	CATHY BORTEN: Well, we can close our case in chief now. We just have a couple of matters to --			9 adopted by the co-applicant and is part of the record, and it has consented -- they're going to consent to the required, or recommended landscaping as part of their plan. Second, whether or not any conditions recommended by the Staff in the approval of this plan; and East Gate has no objections to any of the conditions that have been recommended by the Staff for the proposed plan.
10	TAMMY CITRAMANNIS: Oh.			10
11	CATHY BORTEN: -- take care of right before we do that.			11
12	TAMMY CITRAMANNIS: Oh. Okay.			12
13	CATHY BORTEN: If that's acceptable. All right. So,			13
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22				22
23				23
24				24
25				25

Transcript of Hearing - Day 2
Conducted on September 27, 2017

3 (356 to 359)

<p>356</p> <p>1 TAMMY CITRAMANNIS: Okay. Mr. Chen, your objection?</p> <p>2 BILL CHEN: I object and move to strike. Mr. Barnard</p> <p>3 is a very fine attorney, he's not a witness, and he's just</p> <p>4 given factual information, and it's factual information</p> <p>5 that is not properly before the Hearing Examiner. A lawyer</p> <p>6 can't do -- I'll give you -- he's not sworn, he's not been</p> <p>7 identified as a witness.</p> <p>8 TAMMY CITRAMANNIS: I think he's representing on</p> <p>9 behalf of his client, not testifying. I mean we talked</p> <p>10 about this yesterday. It's their application and they've</p> <p>11 signed their application and --</p> <p>12 BILL CHEN: I'm with you.</p> <p>13 TAMMY CITRAMANNIS: Okay.</p> <p>14 BILL CHEN: They need a witness.</p> <p>15 TAMMY CITRAMANNIS: You need a witness for --</p> <p>16 BILL CHEN: Factual information. That's factual</p> <p>17 information. Yes, ma'am.</p> <p>18 TAMMY CITRAMANNIS: Response?</p> <p>19 THOMAS BARNARD: I think that the question of whether</p> <p>20 or not our position in this hearing -- what our position is</p> <p>21 in this hearing is not a question of fact. The question is</p> <p>22 our position in this hearing as co-applicant to the amended</p> <p>23 application as filed by Verizon and I do not believe that</p> <p>24 requires a fact witness because it's simply stating our</p> <p>25 position on the record of whether or not it is in fact our</p>	<p>358</p> <p>1 TAMMY CITRAMANNIS: All right. Okay. And so why</p> <p>2 don't you put what you just said in writing. He can</p> <p>3 respond and you all can send me something and I'll rule on</p> <p>4 it from there.</p> <p>5 BILL CHEN: Yeah but oh, it will be really simple.</p> <p>6 I'll send you a letter copying Counsel with a cite to a</p> <p>7 case. It's the Court of Special Appeals about five years</p> <p>8 ago.</p> <p>9 TAMMY CITRAMANNIS: Okay. It's always good to have.</p> <p>10 All right. So with that --</p> <p>11 CATHY BORTEN: Yes. So on behalf of Celco</p> <p>12 Partnership doing business as Verizon Wireless we close our</p> <p>13 case in chief however reserve the opportunity for rebuttal</p> <p>14 in accordance with the rules of procedure, and also with</p> <p>15 the understanding that I think we all agree that we would</p> <p>16 be moving in the exhibits at the close of both parties'</p> <p>17 cases.</p> <p>18 TAMMY CITRAMANNIS: Correct. And also, you know, I</p> <p>19 wanted to discuss this with you all because everything is</p> <p>20 so fresh and I know you can do closing arguments now or you</p> <p>21 can wait until we meet again. I frankly would prefer that</p> <p>22 you do closing arguments on what we have done so far and</p> <p>23 you can -- we can amend it at the very end, at the next</p> <p>24 hearing when you have your one witness.</p> <p>25 THOMAS BARNARD: East Gate, with regard to closing we</p>
<p>357</p> <p>1 -- that we have adopted their amended application and that</p> <p>2 is East Gate's position.</p> <p>3 BILL CHEN: It's factual information and there's even</p> <p>4 cases on it.</p> <p>5 TAMMY CITRAMANNIS: Okay. Well, then why don't we do</p> <p>6 this. You can send me those cases and --</p> <p>7 Bill Chen: Okay. (inaudible) after today, yeah.</p> <p>8 TAMMY CITRAMANNIS: -- and I'll hold on my ruling</p> <p>9 until you send me those cases. It's --</p> <p>10 THOMAS BARNARD: I'll just, I'll also note for the</p> <p>11 Hearing Examiner's reference, the lease requires, and it</p> <p>12 references amended plans. And that the -- there's a time</p> <p>13 limit on when the party may, specifically East Gate, may</p> <p>14 object to any amended plans. And just as a reference to</p> <p>15 that, that lease is, I understand, already in the record</p> <p>16 and there's been no objections stated and it does say that</p> <p>17 any amended plans, without a noted objection, are adopted</p> <p>18 as part of the application. So there is no objection also.</p> <p>19 So that's another way to view the same coin.</p> <p>20 BILL CHEN: Again, I object and move to strike.</p> <p>21 TAMMY CITRAMANNIS: I know.</p> <p>22 BILL CHEN: This is factual information and quite --</p> <p>23 TAMMY CITRAMANNIS: I'm going to --</p> <p>24 BILL CHEN: -- as I understand the lease, by the way,</p> <p>25 you can't turn that on my client as an obligation.</p>	<p>359</p> <p>1 also consent to closing our case in chief with the</p> <p>2 exception of the ability to -- the issue raised by the</p> <p>3 Commissioner this morning, any supplement that we may need</p> <p>4 to file to address that issue.</p> <p>5 TAMMY CITRAMANNIS: Commissioner?</p> <p>6 BILL CHEN: Hearing Examiner.</p> <p>7 THOMAS BARNARD: Hearing Examiner, sorry. Right.</p> <p>8 Hearing Examiner.</p> <p>9 TAMMY CITRAMANNIS: Okay. Mr. Chen.</p> <p>10 BILL CHEN: Madam Examiner, I suggest that -- at some</p> <p>11 point today I assume we're going to open our calendars and</p> <p>12 look at possible hearing dates.</p> <p>13 TAMMY CITRAMANNIS: Yes, we are. I'm getting those</p> <p>14 dates so that we can set it at the end of the hearing.</p> <p>15 BILL CHEN: Okay. May I suggest then that maybe</p> <p>16 closing arguments and exhibits that we maybe wait until the</p> <p>17 end of the day on that issue?</p> <p>18 TAMMY CITRAMANNIS: Yeah.</p> <p>19 BILL CHEN: And see where we are.</p> <p>20 TAMMY CITRAMANNIS: No, we are going to wait until the</p> <p>21 end of the day, yes.</p> <p>22 CATHY BORTEN: We have no objection to doing closing</p> <p>23 today if that's your preference. We're prepared to do</p> <p>24 that.</p> <p>25 TAMMY CITRAMANNIS: Okay. The other thing, I think I</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

4 (360 to 363)

360

1 mentioned too -- I did mention to you last night, it was a
2 long night, about an interpreter. That is not going to
3 happen today I just found that out, the Director was not
4 able to obtain services because it really -- the request
5 came in, maybe, 24 hours via email from somebody just
6 saying three people wanted it. So this is, because we
7 could not obtain an interpreter -- and they've been advised
8 so that there won't be an interpreter here so we won't be
9 doing -- stopping at 10:00 for that. But the other option
10 was that when we meet for the next time we would allow
11 those three, if they are so inclined to give testimony have
12 an interpreter. That way we have plenty of time to set up
13 the interpreter. So it was just -- it's -- okay. I'm
14 going to have -- hold on one second. Can you ask them to
15 shut the door or something. So that won't be happening and
16 I also have been advised that there are schoolchildren that
17 would like to come and testify, but they don't get out
18 until 2:30 so they'll be here after 3:00. I suspect we'll
19 still be here at 3:00, but I just want to make sure that if
20 we end before 3:00, we're not going to end before 3:00,
21 because they are going to come over. And let me just
22 double check. We'll get hearing dates. For the audience,
23 we will -- my goal is to take a lunch break between 12:30
24 and 1:30. Of course we might adjust that depending on
25 where we are in testimony. A cafeteria is downstairs,

361

1 first floor to the right out of the elevator. Bathrooms
2 are one up here, and there's one every floor so. I didn't
3 announce that yesterday but you all did great. Again, you
4 will get your opportunity to give testimony at the
5 appropriate time. Please turn off all your cell phones and
6 no outbursts because I don't take any testimony from the
7 audience. You can only give testimony in the witness
8 stand. And with that, Mr. Chen, are you ready to begin?
9 BILL CHEN: Yeah. Yes, yes.
10 TAMMY CITRAMANNIS: Okay.
11 BILL CHEN: Just a --
12 TAMMY CITRAMANNIS: Call your first witness.
13 BILL CHEN: Preliminarily, you've got your exhibit
14 list. There will be some exhibits that I'm going to be
15 referring to similar to Ms. Borten did yesterday, and to
16 give you a heads up on that, Madam Examiner, one will be
17 from Exhibit number 65 which was our initial prehearing
18 submission. That was followed by an additional prehearing
19 submission in December which is Exhibit 72.
20 TAMMY CITRAMANNIS: Seventy-two or 76?
21 BILL CHEN: Seventy-two. Well, goodness, I've got --
22 oh, I apologize, it is 76. And there was then the most
23 recent one that was filed relative to the amended
24 application, and that is Exhibit 191.
25 TAMMY CITRAMANNIS: Correct. I have those. Okay.

362

1 BILL CHEN: Okay. My first witness will then be
2 Terrence MacPhearson.
3 BILL CHEN: Okay.
4 TAMMY CITRAMANNIS: Ready Mr. MacPhearson?
5 TERRENCE MACPHEARSON: Yes. Just (inaudible). Yes,
6 I'm ready.
7 TAMMY CITRAMANNIS: I need you to raise your right
8 hand. Do you promise to tell the whole truth, in this --
9 in giving your testimony under the penalty of perjury?
10 TERRENCE MACPHEARSON: I do.
11 TAMMY CITRAMANNIS: State your full name and your
12 address and wait for Mr.-- no, the other way -- Chen's
13 questions.
14 TERRENCE MACPHEARSON: My full name is Terrence
15 William MacPhearson; and my address is 7360 Guilford Drive,
16 Suite 200, Frederick, Maryland.
17 BILL CHEN: Mr. MacPhearson, what is your occupation?
18 TERRENCE MACPHEARSON: I'm a real estate appraiser.
19 TAMMY CITRAMANNIS: You need to stand closer to a mic,
20 Mr. Chen.
21 MALE VOICE: (inaudible) closer to Mr. MacPhearson, I
22 have another microphone.
23 BILL CHEN: Okay. Did you get the question?
24 TAMMY CITRAMANNIS: Just repeat it.
25 BILL CHEN: What is your occupation, sir?

363

1 TERRENCE MACPHEARSON: I may real estate appraiser and
2 consultant.
3 BILL CHEN: Showing you, excuse me, 191(g), can you
4 identify that?
5 TERRENCE MACPHEARSON: That's my resume.
6 BILL CHEN: Mr. MacPhearson, in addition to the
7 information supplied on your resume have you been qualified
8 as an expert witness in the area of land appraisals?
9 TERRENCE MACPHEARSON: Yes.
10 BILL CHEN: And can you briefly in a summary fashion,
11 identify the jurisdictions, courts, boards, that have
12 recognized you as an expert witness?
13 TERRENCE MACPHEARSON: Yes. Circuit courts in
14 Frederick, Carroll, Washington Counties, Garrett Counties,
15 Federal Bankruptcy Court in Greenbelt and then various
16 administrative boards; state tax court.
17 BILL CHEN: How long have you been doing this?
18 TERRENCE MACPHEARSON: Over 35 -- or about 35 years.
19 BILL CHEN: Madam Examiner, I would request that Mr.
20 MacPhearson, examined by Counsel for the applicant, and Mr.
21 Barnard and thereafter be accepted as an expert witness as
22 a real estate appraiser.
23 TAMMY CITRAMANNIS: Real estate appraiser?
24 BILL CHEN: Yeah.
25 TAMMY CITRAMANNIS: Okay. Any voir dire?

Transcript of Hearing - Day 2
Conducted on September 27, 2017

5 (364 to 367)

<p>364</p> <p>1 GREG DIAMOND: No voir dire. 2 THOMAS BARNARD: None. 3 TAMMY CITRAMANNIS: Okay. You're (inaudible) 4 qualified. 5 BILL CHEN: Okay. Thank you. Mr. MacPhearson, what 6 was your assignment with regard to the application of 7 Verizon Wireless and the East Gate Recreation Association 8 relative to the telecommunications tower at the East Gate 9 subdivision? 10 TERRENCE MACPHEARSON: It was to estimate whether 11 there were any damages to the neighborhood or confronting 12 properties as a result of the proposed conditional use. 13 BILL CHEN: What did you do? 14 TERRENCE MACPHEARSON: First of all, I prepared a 15 diminution in value study. And that looks at the impact of 16 the value, or the impact of the proposed use on the 17 surrounding properties. 18 GREG DIAMOND: Objection. Now I'm confused. There 19 was no study submitted and what are we referring to? 20 There's no documented evidence? 21 BILL CHEN: There was one document submitted and the 22 information (inaudible) a verbal report. 23 GREG DIAMOND: What exhibit is that? 24 TAMMY CITRAMANNIS: It was in the prehearing 25 statement.</p>	<p>366</p> <p>1 confronting properties at Snug Hill. Is that correct? Is 2 that your testimony? 3 TAMMY CITRAMANNIS: Wait a minute. Wait a minute. 4 What I'm hearing him say is what he collected to make his - 5 - to reach a decision he -- 6 GREG DIAMOND: But there's no -- 7 TAMMY CITRAMANNIS: Part of his -- 8 GREG DIAMOND: Is this data that none of us have seen? 9 TAMMY CITRAMANNIS: That's a good question. 10 GREG DIAMOND: That's what I'm trying to understand. 11 Is he testifying about Potomac Crest data -- 12 BILL CHEN: Well, he -- 13 GREG DIAMOND: -- which -- 14 BILL CHEN: He will be testifying about Potomac Crest. 15 It has been disclosed that he will be giving a verbal 16 report and he's entitled in giving a verbal report to 17 identify the basis for his report. 18 GREG DIAMOND: And -- 19 BILL CHEN: That's all that's going on. 20 GREG DIAMOND: And so none of us have seen any of this 21 data, and he's going to -- I'm just trying -- okay. I'm 22 thoroughly confused but I guess I'll withdraw my objection. 23 TAMMY CITRAMANNIS: No, no. I don't want you to, you 24 don't need to withdraw your objection. It will be noted 25 and you can cross examine him and raise it at the end if</p>
<p>365</p> <p>1 BILL CHEN: One ninety-one H. 2 TAMMY CITRAMANNIS: It was in the prehearing statement 3 and it said it was -- 4 GREG DIAMOND: And identified as the report of this 5 expert witness? 6 TAMMY CITRAMANNIS: -- that he was going to give a 7 verbal report. 8 GREG DIAMOND: Okay. Okay. 9 BILL CHEN: You can continue. 10 TERRENCE MACPHEARSON: So I prepared a verbal 11 appraisal report, or a market study report of the 12 diminution in potential value of confronting and adjoining 13 properties. As part of this process I investigated and 14 analyzed sales data. I prepared questionnaires. I've 15 questionnaire to an interview listing and sales agents in 16 the market and I also, excuse me, considered the various 17 articles that are published by appraisal organizations as 18 pertaining to the impact of cellular towers. 19 BILL CHEN: Cell (inaudible) 20 TERRENCE MACPHEARSON: Towers on the value of 21 properties. 22 GREG DIAMOND: Objection. So now I am really confused 23 because I understand that documentation was submitted about 24 some place called Potomac Crest and the witness is 25 testifying about data that he has about adjoining and</p>	<p>367</p> <p>1 you're not satisfied and I'll address it at that point. 2 But I'm going to let him proceed, but it will be noted and 3 you can renew it. 4 THOMAS BARNARD: Madam Hearing Examiner, East Gate 5 also objects to his reliance to any data, reports, things, 6 facts, that he considered that have not been disclosed pre- 7 hearing as proper and (inaudible) 8 TAMMY CITRAMANNIS: So noted. Mr. Chen. 9 BILL CHEN: Go ahead. You can continue with your 10 information. 11 TERRENCE MACPHEARSON: Okay. As part of my analysis I 12 considered the location of the cellular tower. It's going 13 to be, as has been testified to, it's going to be sited on 14 a swim and tennis club facility at the entrance to the 15 subdivision. And it's also important to note that the 16 subject property is part of a subdivision that is in close 17 proximity to Bethesda and it's a very valuable, or a very 18 highly sought after location due to the proximity to 19 Bethesda and the public schools and private schools in the 20 Potomac area. 21 BILL CHEN: Let me interrupt you just for one 22 question. When you say you were considering the proposed 23 conditional use, you were supplied information relative to 24 the pending conditional use application; the amended 25 application that was filed at the end of June of this</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

6 (368 to 371)

<p>368</p> <p>1 summer. Is that correct?</p> <p>2 TERRENCE MACPHEARSON: That is correct.</p> <p>3 BILL CHEN: Okay. So when you're referring to the</p> <p>4 conditional use, that is the proposal that you are</p> <p>5 referencing?</p> <p>6 TERRENCE MACPHEARSON: That's correct.</p> <p>7 BILL CHEN: Thank you.</p> <p>8 TERRENCE MACPHEARSON: Okay. And it's also important,</p> <p>9 I think, what I considered in my analysis was the income</p> <p>10 level of residents within a five-mile radius of the subject</p> <p>11 property; or the proposed conditional use. The average</p> <p>12 household income is \$221,555, and that becomes significant</p> <p>13 because income permits mobility. In other words, with an</p> <p>14 income that can, or a buyer that can qualify to purchase a</p> <p>15 property, they can either buy in East Gate, or they can go</p> <p>16 somewhere else. And it's important because that impacts</p> <p>17 the proposed conditional use. People that have higher</p> <p>18 income levels have more options. They don't have to</p> <p>19 purchase in East Gate. So that was another consideration</p> <p>20 that I gave in my analysis.</p> <p>21 BILL CHEN: Okay. And you're finding this? Now, let</p> <p>22 me back up for a minute. You ran queries that you have</p> <p>23 undertaken to assemble data and information that you've</p> <p>24 identified. That's been an ongoing activity by you since</p> <p>25 you received the amended application. Is that correct?</p>	<p>370</p> <p>1 he's about -- where he's about to go is to identify what he</p> <p>2 looked at.</p> <p>3 TAMMY CITRAMANNIS: Okay. And is there any intent to</p> <p>4 produce any documentation?</p> <p>5 BILL CHEN: Orally, yes. You know, he'll --</p> <p>6 TAMMY CITRAMANNIS: Nothing -- and how are they</p> <p>7 supposed to have -- I mean what is -- if the shoe was on</p> <p>8 the other foot how would --</p> <p>9 BILL CHEN: There's no requirement that we pre-file a</p> <p>10 written report. There is an obligation to supply a summary</p> <p>11 of opinions, which we have done. We've complied, I</p> <p>12 believe, with the rules.</p> <p>13 TAMMY CITRAMANNIS: I believe it also says that you</p> <p>14 need to submit reports that you intend to introduce.</p> <p>15 BILL CHEN: Well, it talks about reports but there's</p> <p>16 nothing requiring a written report. Now, if the Examiner</p> <p>17 wants the data we can photocopy it and give it to Counsel,</p> <p>18 but there is no requirement that --</p> <p>19 TAMMY CITRAMANNIS: Yeah, I understand you can make a</p> <p>20 verbal report but at the same time I think in all fairness</p> <p>21 they are entitled to have the time to review that</p> <p>22 information.</p> <p>23 BILL CHEN: Well --</p> <p>24 TAMMY CITRAMANNIS: So they obviously can't do it now.</p> <p>25 You have to go based on the information that they provide</p>
<p>369</p> <p>1 TERRENCE MACPHEARSON: That's correct.</p> <p>2 BILL CHEN: Okay. Fine.</p> <p>3 GREG DIAMOND: Objection. We -- what data? I have no</p> <p>4 idea what we're talking about. This is invisible data.</p> <p>5 BILL CHEN: He's identifying it.</p> <p>6 THOMAS BARNARD: It's leading as well.</p> <p>7 TAMMY CITRAMANNIS: Thank you. Yes. Direct</p> <p>8 questions. I know it's -- I want to hear his answers.</p> <p>9 (inaudible) But the -- do you want him to further talk</p> <p>10 about that?</p> <p>11 BILL CHEN: Well, I thought he had but please --</p> <p>12 TAMMY CITRAMANNIS: The data. What are you referring</p> <p>13 to?</p> <p>14 TERRENCE MACPHEARSON: Yeah. I'm going to discuss</p> <p>15 that later. You want me to just summarize it?</p> <p>16 BILL CHEN: That's where he was --</p> <p>17 TAMMY CITRAMANNIS: That's where he was going?</p> <p>18 BILL CHEN: That's where I thought he was about to go.</p> <p>19 TERRENCE MACPHEARSON: Yeah.</p> <p>20 GREG DIAMOND: There's no documentation of the data.</p> <p>21 TAMMY CITRAMANNIS: Do you have any --</p> <p>22 BILL CHEN: This is a verbal report. It's based upon</p> <p>23 his ongoing, and I apologize for leading on the one</p> <p>24 question, but it's based upon information that he has</p> <p>25 gathered since the filing of the amended application. And</p>	<p>371</p> <p>1 and that might require additional time for them to --</p> <p>2 BILL CHEN: I don't -- we don't have a problem with</p> <p>3 that.</p> <p>4 TAMMY CITRAMANNIS: (inaudible) that's the only way to</p> <p>5 cure that at this point because they are allowed to make a</p> <p>6 verbal report but I agree that in terms of fairness you</p> <p>7 don't really have anything to go against other than his</p> <p>8 testimony which I'm sure you all will be perfectly fine in</p> <p>9 doing that but I think you are entitled to have additional</p> <p>10 information.</p> <p>11 GREG DIAMOND: Yes, but the only thing I would note</p> <p>12 for the record and that's under Rule 3.4 of the rules that</p> <p>13 we're operating under is that the opposition was required</p> <p>14 under 3.4(b) to submit copies of all reports intended to be</p> <p>15 introduced at the hearing. Well, it's very clear that this</p> <p>16 witness has a report because this kind of data can't he</p> <p>17 just remembered for hundreds or dozens of properties, or</p> <p>18 whatever he has. So he actually had a report, but he's</p> <p>19 kept it a secret, and there was an obligation to provide</p> <p>20 copies of all reports.</p> <p>21 BILL CHEN: There is no written report; there is no</p> <p>22 obligation to have a written report.</p> <p>23 GREG DIAMOND: Well then, is it fair then that the</p> <p>24 applicant -- that the witness not have any data in front of</p> <p>25 him if it's only going to be an oral report? I mean he's</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

7 (372 to 375)

<p>372</p> <p>1 got a file in front of him which is his report that he's 2 working from that none of us have seen. If it's only going 3 to be oral, then he doesn't need a file apparently. 4 BILL CHEN: Well he can have a file. Any witness, 5 including an expert can have documents in front of them to 6 assist them. 7 GREG DIAMOND: So he has his report. 8 TAMMY CITRAMANNIS: Well, you can certainly ask to see 9 his report when you cross examine him. 10 THOMAS BARNARD: Okay. East Gate (inaudible) I would 11 request copies of any documents the -- copies of any 12 documents the witness brought to the stand with him that 13 those be copied and provided to counsel for review prior to 14 having to -- prior to closing our ability to deal with this 15 issue. 16 BILL CHEN: We don't have a problem with that. 17 TAMMY CITRAMANNIS: There's no problem with that? 18 BILL CHEN: Yes. 19 TAMMY CITRAMANNIS: Okay. All right. So let him give 20 his verbal report and you all will get your information and 21 if you need more time we'll give it to you. Okay. So why 22 don't you continue. 23 TERRENCE MACPHEARSON: Okay. So as part of my 24 analysis as an appraiser there are different techniques of 25 data analysis that one can use. And they include a pair or</p>	<p>374</p> <p>1 GREG DIAMOND: I withdraw. I apologize. 2 TAMMY CITRAMANNIS: Okay. I think you have that in 3 front of you. I think. 4 GREG DIAMOND: I do. 5 TAMMY CITRAMANNIS: You do. It's on his resume. 6 Sorry, Mr. Chen, go ahead. 7 TERRENCE MACPHEARSON: So the object of this analysis 8 was to try to isolate the impact of the proximity and 9 exposure to the co-located cell towers but also there is 10 the right-of-way for the overhead high tension wires. And 11 if you look at the bottom of the sheet, the average sale 12 price per square foot for Group 1 which are those that are 13 located next to the right of way, they sold at \$264 a 14 square foot. I did an analysis excluding payments of 15 closing costs and things of that nature. And that resulted 16 in a price per square foot of \$263.90 a square foot. And 17 the -- 18 BILL CHEN: And you're using the exact Exhibit 191(a) 19 as you're reading right there. Is that correct? 20 TERRENCE MACPHEARSON: That's correct. 21 BILL CHEN: Okay. Go ahead. 22 TERRENCE MACPHEARSON: And the bottom line is that 23 there was a difference, the properties in Group 1 which 24 adjoined the overhead power line and the co-located 25 antennas sold for about 11¼ to 11½ percent less. Also</p>
<p>373</p> <p>1 -- I did a data grouping analysis, I did paired analysis, 2 and interviews with stakeholders in the marketplace. And I 3 used all three to come up with my opinion of value. I 4 think it's Exhibit number 191(h) is an analysis that I 5 prepared on Potomac Crest which was also used, I believe, 6 by the applicant's (inaudible) or expert. And in that 7 analysis I looked at sales. Well, first of all Potomac 8 Crest is -- a part of it adjoins a Pepco right-of-way that 9 has poles with co-located cellular towers on it. And what 10 I analyzed was sales of properties that adjoined that 11 right-of-way, and were exposed to it and they were 12 identified as Group 1. And then in Group 2 there were the 13 sales that were not exposed to that influence. And below 14 the exhibit there's a map identifying where the sales in 15 Group 1 are, which is -- 16 GREG DIAMOND: Wait a second. Now there's groups and 17 maps? 18 BILL CHEN: It's on the map. 19 TERRENCE MACPHEARSON: It's on my exhibit. 20 GREG DIAMOND: Oh, Potomac Crest. I'm sorry. I 21 thought we were talking Snug Hill. I apologize. I lost 22 the train. 23 TAMMY CITRAMANNIS: Okay. Everybody pay attention. 24 GREG DIAMOND: Potomac Crest. 25 TAMMY CITRAMANNIS: Let him finish.</p>	<p>375</p> <p>1 analyze the sales are based on just a lump sum, in other 2 words what the property sold for. But that's not as 3 reliable because you need a unit of comparison similar to 4 what the expert for the applicant used, and that was a 5 price per square foot of gross living area. But if you 6 look at it on a price per square foot of just the lump sum 7 sale price it's still less. It's less than 5 percent, but 8 there still is a diminution or a negative impact on value. 9 BILL CHEN: What was, based upon this information and 10 the information reflected in Exhibit 191, what were your -- 11 191(h) what were your opinions? 12 TERRANCE MACPHEARSON: My opinion was that the cell 13 tower can result in a diminution or a damage to adjoining 14 and confronting properties in neighborhoods. 15 GREG DIAMOND: Objection. This was to -- and the 16 objection is that an opinion has just been given about a 17 cell tower, although the Potomac Crest study was done of 18 power lines. 19 TAMMY CITRAMANNIS: You want to clarify that? 20 BILL CHEN: Sure. No problem. 21 TAMMY CITRAMANNIS: I agree. I was wondering how a 22 cell tower jumped in there. 23 BILL CHEN: Now, in your analysis of Potomac Crest you 24 are indicating that there is both the transmission power 25 lines and the cell towers, correct?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

8 (376 to 379)

<p style="text-align: right;">376</p> <p>1 TERRENCE MACPHEARSON: Correct. And I'm not -- and 2 within that diminution in value that 11 percent there is 3 certainly some attributed to the overhead power lines, but 4 there is also some attributed to, based upon information 5 that I'm going to submit and testify to later on, that 6 there was a diminution in value attributed to the co- 7 located -- 8 BILL CHEN: Are you able to distinguish out to any 9 extent any different impact vis-à-vis the power lines and 10 the cell phone towers? 11 TERRENCE MACPHEARSON: No. 12 GREG DIAMOND: But there -- so -- objection. So the 13 phrase cell phone tower is being used and power line but I 14 don't think there's been any foundation laid that there are 15 two different structures at this one location. 16 BILL CHEN: I think this goes to weight. 17 TAMMY CITRAMANNIS: Yeah. No, I heard what he said. 18 I know what he said and I don't -- he -- you have said when 19 you talk about the cell tower, just clarify that because I 20 feel like we are crossing lines in terms of, he started off 21 with the power lines and then he attributed it to co- 22 located, and then it dropped off from there. So -- 23 BILL CHEN: Well, Mr. MacPhearson, you've heard the 24 Examiner's concern about the distinction. Okay. Can you 25 respond to that?</p>	<p style="text-align: right;">378</p> <p>1 TAMMY CITRAMANNIS: Perfect areas of cross- 2 examination. Go ahead Mr. Chen. 3 BILL CHEN: Okay. You were about -- 4 TAMMY CITRAMANNIS: Keep them direct questions. 5 BILL CHEN: You were going to move on, I think, before 6 the interruption to the other data and the conclusions that 7 you were able to draw based upon this field study shown on 8 Exhibit 191(h). 9 TERRENCE MACPHEARSON: Right. Well, that was one 10 indication that there is a diminution in value of 11 residential properties that are exposed to, in this case, 12 not only to poles that support high tension wires with co- 13 located antennas. So there is a diminution. I couldn't 14 allocate a diminution in this case but it led me to believe 15 that there may be, as I developed my report, that there 16 could be diminution in value. So I went to East Gate and 17 looked at the sales in that subdivision which is probably 18 more relevant because it's right in where the cell tower is 19 going to be constructed. 20 BILL CHEN: Okay. And what did you find when you 21 looked at East Gate? 22 TERRENCE MACPHEARSON: Well there were, first of all, 23 I -- given the lack of significant data. I questioned and 24 interviewed listing agents and sales agents in the -- that 25 had property in East Gate. And the listing agent at 10215</p>
<p style="text-align: right;">377</p> <p>1 TERRENCE MACPHEARSON: Certainly. The -- what I was 2 trying to prove is: one, whether there is a damage caused 3 by cell towers on residential properties in the Potomac 4 area. There's not a lot of locations where one can do 5 that. So I started with Potomac Crest because there was 6 sufficient data and there is a diminution in value. Is it 7 -- does it include other things than a cell tower? Yes. 8 It includes I think also the -- there's a high tension wire 9 in there. There's and (inaudible) but what it -- 10 TAMMY CITRAMANNIS: Is there a cell tower at that 11 location? 12 TERRENCE MACPHEARSON: Yes. They are co-located on 13 the power line. On the poles. 14 TAMMY CITRAMANNIS: Okay. See I didn't hear that. 15 TERRENCE MACPHEARSON: Yes. 16 GREG DIAMOND: Well, so now we have a definitional 17 problem. There -- what -- there is a high-power line pole. 18 That's not a cell tower. That's a high-power line -- 19 TAMMY CITRAMANNIS: And that is also something -- 20 GREG DIAMOND: -- that he's calling a cell tower. 21 TAMMY CITRAMANNIS: Okay. That is certainly something 22 that you can cross examine him on and I -- it's just me, I 23 know I will make the distinction as well. Let's let him -- 24 GREG DIAMOND: I'll withdraw the objection and save it 25 for cross-examination.</p>	<p style="text-align: right;">379</p> <p>1 Gainsborough Road indicated that she had had a seller, a 2 potential seller, or broker, call her about inspecting the 3 property. The agent was from Silver Spring and she 4 indicated that the -- 5 GREG DIAMOND: Objection. Hearsay. 6 BILL CHEN: But you -- it -- two points. An expert 7 can rely upon hearsay and number two, we're in an 8 administrative proceeding that allows hearsay. 9 TAMMY CITRAMANNIS: I agree with you there. Does he 10 have any identification more than a person? 11 BILL CHEN: He -- 12 TAMMY CITRAMANNIS: And qualify -- 13 BILL CHEN: We can go there. 14 TAMMY CITRAMANNIS: I mean to qualify who he's talking 15 about and the basis for the information he -- 16 BILL CHEN: We can do that. 17 TAMMY CITRAMANNIS: Make it a little more than he went 18 to this agent, this agent, and this agent and they had a 19 problem. 20 BILL CHEN: Okay. In accordance with the Hearing 21 Examiner's request, when you provide information identify 22 who you spoke with and give all, as much detailed 23 information as possible. 24 TERRENCE MACPHEARSON: What I -- 25 BILL CHEN: If there was a reticence to disclose</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

9 (380 to 383)

<p style="text-align: right;">380</p> <p>1 identities before, take it away. Identify everybody. 2 TERRENCE MACPHEARSON: Okay. In order to prepare the 3 survey or to interview the market stakeholders that I felt 4 relevant, I researched on MRIS which is the multiple list 5 service, listing agents that had properties in proximity to 6 the proposed cell tower. I printed out a list of 7 properties that had been listed, withdrawn, and were 8 active. And from that list I obtained the name and phone 9 number of the listing agents. Then I called them and 10 answered -- asked them a series of questions based on a 11 questionnaire. I did not disclose what side I represented 12 or who hired me. Rather I told them I was doing this for 13 analysis purposes and then I asked a series of questions. 14 I think there were eight. And I got responses from that. 15 And I was just highlighting some of the individuals that I 16 spoke to. 17 BILL CHEN: Do you have that data with you? 18 TERRENCE MACPHEARSON: Yes. Most of it I do. 19 BILL CHEN: Okay. 20 TERRENCE MACPHEARSON: Yes. 21 BILL CHEN: Now here's what I'm going to ask you to do 22 okay. When you go to that data as the Examiner has 23 mentioned you should disclose who you spoke with, the date 24 you spoke with, the exchange that you had and to the extent 25 that you have notes on it, or that form we will supply it.</p>	<p style="text-align: right;">382</p> <p>1 \$1,024,000. Ms. Taher indicated that if the cell tower was 2 constructed -- 3 GREG DIAMOND: Objection. It's -- I'm sorry is Ms. 4 Taher a -- 5 TERRENCE MACPHEARSON: Taher, T-A-H-E-R -- 6 GREG DIAMOND: A home owner or a real estate agent? 7 BILL CHEN: A real estate agent. 8 FEMALE VOICE: She's a real estate agent. 9 TERRENCE MACPHEARSON: A real estate agent. 10 GREG DIAMOND: A real estate agent. Okay. 11 TERRENCE MACPHEARSON: Yes. And she indicated that if 12 the property was listed after the cell tower was 13 constructed the owner could expect a price, or a sales 14 price of less than \$1 million. So those are some of the 15 agents I talked to. I did talk to one individual that I 16 think I have listed in here. I don't want to give their 17 name, but -- 18 BILL CHEN: But (inaudible) work. 19 TERRENCE MACPHEARSON: No. There was a disclosure 20 issue I think that wouldn't -- 21 BILL CHEN: Okay. Then don't rely upon it. 22 TERRENCE MACPHEARSON: Yeah, and I didn't rely upon 23 it. 24 BILL CHEN: Fine. Thank you. Okay. 25 TERRENCE MACPHEARSON: So the next step, once I had</p>
<p style="text-align: right;">381</p> <p>1 TERRENCE MACPHEARSON: Okay. The -- Lauren Hatton was 2 the agent, listing agent at 10215 Gainsborough Road, and 3 I'm going to have to find it later, but I can get the 4 information. 5 BILL CHEN: You've got it? We can get it today? 6 TERRENCE MACPHEARSON: Yes. I can get it today. It's 7 not in the file here, it's at my office, but I can get it. 8 BILL CHEN: Okay. 9 TERRENCE MACPHEARSON: And so she is the one that 10 explained about the impact of the announcement that the 11 cell tower was proposed. Then Beverly Graham was the agent 12 I talked to at 10275 Gainsborough Drive. She had a 13 listing, or listed that property back on October 16, 2016 14 shortly after the notice came out about the cell tower. 15 She originally listed it for \$895,000. She's lowered the 16 price I think two or three times and it's currently listed 17 at \$815,000. And I spoke with her recently and she said 18 that they were going to have to drop the price down into 19 the \$700,000 range to sell the property. I also spoke to 20 the listing agent and also the owner at 8201 Snug Hill Lane 21 -- 22 BILL CHEN: Identities? 23 TERRENCE MACPHEARSON: He's here in the audience, and 24 the listing agent was Jenna Taher or Taheri (phonetic), and 25 that listing expired. It was originally listed for</p>	<p style="text-align: right;">383</p> <p>1 conducted the interviews and also considering the data that 2 I extracted from Potomac Crest, that led me to believe that 3 there was probably, and most likely a diminution in value 4 of confronting properties at least, and maybe other 5 properties in the neighborhood, or in the subdivision. So 6 my next step was to analyze the sales of properties that 7 had sold after the date of the announcement of the cell 8 tower, which would reflect the impact of the proposed cell 9 tower on price. And I compared that with two sales of 10 properties that had sold prior to the announcement. And 11 this is called a paired data analysis. You adjust the 12 property so they are similar except for the one item that 13 you are trying to isolate, which in this case is the impact 14 of the cell tower. 15 BILL CHEN: Now before you go any further, okay. I'm 16 going to want you to identify by address the properties 17 that you are talking about, dates, numbers. 18 TERRENCE MACPHEARSON: Yes. The first property that 19 sold after the announcement was 8307 Snug Hill Lane. And 20 it's interesting. The property was previously listed for 21 \$1 million 2, and it was withdrawn from the market and then 22 relisted. And I spoke to the listing agent named, I'm 23 getting it; so much data. It's here. His name was Kris, 24 C- or its K-R-I-S, Paolini, P-A-O-L-I-N-I; and he indicated 25 that the -- during the time that he had the property listed</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

10 (384 to 387)

<p>384</p> <p>1 information came out about the tower. He had an -- 2 received an offer that was not acceptable. The owner 3 subsequently took the property off the market and then it 4 was relisted. And the relisting and the sale was what I 5 used as a property that was exposed, or reflected the 6 impact of the cell tower. 7 BILL CHEN: And what was that? 8 TERRENCE MACPHEARSON: And that was at 8307 Snug Hill 9 Lane and that sold for \$1,038,000 in July of 2017. Then 10 there were two other properties which I considered that 11 transferred prior to the announcement and the exposure. 12 BILL CHEN: Identify them please. 13 TERRENCE MACPHEARSON: Yes. The first one is 8320 14 Snug Hill Lane which is just around the corner at the end 15 of the cul-de-sac, and that sold in June of 2016 for 16 \$1,200,000. And then there is a lot of data that was 17 available. But then I used a sale at 10240 Democracy Lane. 18 That was one -- a semi detached house. These are -- the 19 two previous ones are detached houses. And that sold for 20 \$921 -- \$925,000. If you adjust all the sales, the two 21 sales at Snug Hill Lane, 8320 Snug Hill Lane, and 10240 22 Democracy Lane, if you adjust those so they are similar to 23 the sale which sold under the influence of the cell tower, 24 except for the announcement of the cell tower that was 25 coming; that indicated that there was a diminution in value</p>	<p>386</p> <p>1 was a diminution. The sources that I used were the article 2 that I mentioned that -- it's from an appraisal journal 3 article. And then after that I used an analysis of Potomac 4 Crest. The weakness of that analysis was that there were 5 other things within the diminution value that I extracted 6 other than the co-located towers, but it nonetheless 7 indicated a diminution. And then the subject subdivision 8 where I interviewed listing agents and agents that had sold 9 properties. And then finally I used a paired data analysis 10 where I compared the sale of the property that had sold 11 after the announcement of the pending cell tower 12 conditional use, and then two sales prior to that. And 13 that analysis also indicated there would be a diminution in 14 value. 15 BILL CHEN: Are these approaches unusual in attempting 16 to ascertain an impact on diminution as to value? 17 TERRENCE MACPHEARSON: No. They're standard 18 approaches that are used by all appraisers. 19 BILL CHEN: You've used them before? 20 TERRENCE MACPHEARSON: Yes. 21 BILL CHEN: Okay. Now based upon these approaches 22 that you utilized in this case, were you able to reach any 23 opinions about the value and the impact of the value by the 24 conditional use? 25 TERRENCE MACPHEARSON: Yes. It's my opinion that the</p>
<p>385</p> <p>1 and of about 10 percent; approximately 10 percent. And 2 with that data analysis it's my opinion that the -- 3 GREG DIAMOND: This is all -- 4 BILL CHEN: Excuse me. There is no question pending. 5 Now, just in summary form -- 6 TAMMY CITRAMANNIS: (Inaudible) 7 BILL CHEN: -- just for the benefit of the Examiner 8 and Counsel -- 9 TERRENCE MACPHEARSON: Yes. 10 BILL CHEN: What were the three, just summarize, you 11 don't -- you've already given us the testimony but just 12 summarize the three different steps that you took to reach 13 the ultimate position where we're going to go to in a 14 moment about opinion. 15 TERRENCE MACPHEARSON: Okay. 16 BILL CHEN: But just identify, right, what you did in 17 summary form. 18 TERRENCE MACPHEARSON: Okay. 19 BILL CHEN: You don't have to go through all the sales 20 again and whatnot. Just identify the three different 21 disciplines or methodologies that you used. 22 TERRENCE MACPHEARSON: And the reason I use different 23 approaches just as a check to see if I had the same 24 results. And so -- and it did indicate -- every 25 methodology and approach that I use indicated that there</p>	<p>387</p> <p>1 conditional use will result in the diminution in value, or 2 economic value of the properties confronting; and also 3 extending back into portions of the subdivision. And I 4 need to explain a little bit of that. 5 BILL CHEN: Well, my next (inaudible) is to please 6 explain the backup to that opinion. 7 TERRENCE MACPHEARSON: Okay. In my survey, which 8 every appraiser is supposed to do, you talk to participants 9 in the marketplace, buyers, sellers, agents. I was 10 impressed by several individuals that indicated that the 11 houses in East Gate were built in the early '70s and there 12 are many residents that are still living there. There are 13 some, but it's also popular for young families that are 14 moving in. And so the young families typically like 15 recreational amenities. They like some type of a swim club 16 or a tennis court, things of that nature. And one of the 17 agents that I interviewed said that -- 18 BILL CHEN: Can you identify please? 19 TERRENCE MACPHEARSON: Yes. It was Jenna Taheri. She 20 indicated that it -- I think it was. She indicated that 21 some of her clients when she shows them properties, they 22 have electromagnetic devices and they get out of the car 23 and they scan in the area of where the properties are 24 located. And she said, and even if, the, you know, there 25 is no detectable electromagnetic field; if there are cell</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

11 (388 to 391)

<p>388</p> <p>1 towers or things of that nature many times they'll either 2 walk away or -- what -- and this is my interpretation, they 3 would ask for a price reduction to cover their objection. 4 BILL CHEN: But you're not expressing any opinion 5 about cell phone towers or anything like that? You're just 6 reporting what the market is? 7 TERRENCE MACPHEARSON: Right. And my opinion isn't 8 drawn not based on my opinion, it's not how I feel, how it 9 would reflect or affect me, it's based on the market. And 10 again it's important to note that this market is -- it's a 11 high income level, highly educated market. And again, 12 income creates mobility. If they don't buy here they'll 13 buy somewhere else. And to entice them to buy at this 14 location I feel there would have to be some type of price 15 reduction. 16 BILL CHEN: Did you have any other opinions based upon 17 your research and the approaches that you took? 18 TERRENCE MACPHEARSON: No. 19 BILL CHEN: Thank you. Okay. I have no further 20 questions. 21 TERRENCE MACPHEARSON: I had some conclusions. 22 GREG DIAMOND: Well, there's no question pending. 23 BILL CHEN: I just asked him -- 24 TAMMY CITRAMANNIS: Let him ask the question. 25 TERRENCE MACPHEARSON: Okay.</p>	<p>390</p> <p>1 gentleman is doing right now. Now, there's another way, I 2 guess I can approach it and just say -- 3 TAMMY CITRAMANNIS: Why don't we try that. 4 BILL CHEN: Based upon your experience in determining 5 values of real estate do you have an opinion as to whether 6 or not a recreational facility with a cell phone tower will 7 have any implication for value? 8 GREG DIAMOND: Objection. 9 TAMMY CITRAMANNIS: I'm going to allow it and give it 10 the weight I think it deserves. Go ahead. 11 BILL CHEN: And now right now my question is, do you 12 have an opinion. It's a yes or no. 13 TERRENCE MACPHEARSON: Yes. 14 BILL CHEN: Okay. Now, I want you to give the 15 Examiner your opinion and please, in your opinion, fully 16 explain to her the basis for that opinion. 17 TERRENCE MACPHEARSON: Okay. I just think it's 18 another layer of potential problem with a segment of the 19 marketplace. Not only does the tower face -- will confront 20 five properties if someone -- and I think it's relevant 21 because the typical buyer here is probably going to be a 22 young family. And if the young family member -- if there's 23 a young family looking to buy the property and they want to 24 use the swimming pool and the cell tower is there and in 25 such close proximity, certainly it's not going to be for</p>
<p>389</p> <p>1 BILL CHEN: Other than the opinions that you've 2 expressed so far were there any other conclusions that you 3 were able to draw based upon the research of the three 4 approaches? 5 TERRENCE MACPHEARSON: Yes. The location of the 6 proposed conditional use on the recreational facility 7 creates a very unique situation to the subject. And 8 because is located within, I think one of the experts said, 9 42 feet from the entrance to the swim club and the tennis 10 court; so an individual that is wary of, or does not want 11 to be close to a -- 12 GREG DIAMOND: Objection. This is way beyond the 13 scope of a real estate appraiser as to the mindset of 14 people who like to go swimming. 15 TAMMY CITRAMANNIS: I agree. You want to clarify 16 that? I mean -- 17 BILL CHEN: Well, yeah -- 18 TAMMY CITRAMANNIS: I think this is what they might 19 feel is what I'm hearing. 20 BILL CHEN: Well, what I heard was he was trying to 21 separate it and he was, I thought, being candid saying 22 these are not my personal feelings. He's reporting the 23 market and I believe that a real estate appraiser he's well 24 within the basis of an opinion and even observations, what 25 the market reflects. And I understand this is what this</p>	<p>391</p> <p>1 every recreational facility; but in this case it's 42 feet 2 from the entrance and if the segment of the market that we 3 have is a young family and a lot of those are concerned 4 with it, then yes, it would have an effect. 5 BILL CHEN: That's your opinion? 6 TERRENCE MACPHEARSON: Yes. 7 BILL CHEN: It's based upon your research and your 8 years of experience? 9 TERRENCE MACPHEARSON: Yes. 10 BILL CHEN: I have no further questions. 11 TAMMY CITRAMANNIS: Okay. Cross? 12 GREG DIAMOND: You have qualified today as an expert 13 as an appraiser. Isn't that correct? 14 TERRENCE MACPHEARSON: That's correct. 15 GREG DIAMOND: And tell me what an appraiser does with 16 regard -- let's say to an individual home. How do you do 17 an appraisal? 18 TERRENCE MACPHEARSON: Use comparable sales to 19 analyze, to indicate the value. 20 GREG DIAMOND: Do you go inside the home? 21 TERRENCE MACPHEARSON: The subject property? 22 GREG DIAMOND: Sure. A specific property that you're 23 going to do an appraisal of -- 24 TERRENCE MACPHEARSON: Yes. 25 GREG DIAMOND: -- tell me the things that you would</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

12 (392 to 395)

<p style="text-align: right;">392</p> <p>1 normally do with your 35 years of experience.</p> <p>2 TERRENCE MACPHEARSON: Well, it depends on what</p> <p>3 context you're asking. If it's an appraisal on an</p> <p>4 individual property, yes. If it's preparation of a</p> <p>5 diminution in market value study, no.</p> <p>6 GREG DIAMOND: So if I understand correctly, you</p> <p>7 didn't actually do individual appraisals of any of the</p> <p>8 homes that you've discussed here today.</p> <p>9 TERRENCE MACPHEARSON: No. Well, excuse me. I -- the</p> <p>10 paired data analysis does adjust the comparable sales so in</p> <p>11 that sense I estimated the value of these properties to</p> <p>12 extract my opinion of whether there was a diminution in</p> <p>13 value.</p> <p>14 GREG DIAMOND: Just for clarification. So you were</p> <p>15 referring to the Potomac Crest paired --</p> <p>16 TERRENCE MACPHEARSON: No.</p> <p>17 GREG DIAMOND: No?</p> <p>18 TERRENCE MACPHEARSON: No that -- the Potomac Crest</p> <p>19 was not a paired data analysis. That's a --</p> <p>20 GREG DIAMOND: That's just a collection of data.</p> <p>21 TERRENCE MACPHEARSON: It's a group data analysis,</p> <p>22 correct?</p> <p>23 TERRENCE MACPHEARSON: It's a group data analysis,</p> <p>24 correct.</p> <p>25 GREG DIAMOND: So let's refer to the -- for a moment</p>	<p style="text-align: right;">394</p> <p>1 cellular tower with a fenced equipment area and a</p> <p>2 generator.</p> <p>3 GREG DIAMOND: Okay. And so is that going to be a</p> <p>4 bare pole where everyone can see the pole and the antennas?</p> <p>5 TERRENCE MACPHEARSON: It's going to be camouflaged.</p> <p>6 GREG DIAMOND: Oh, so it's a camouflaged and so what's</p> <p>7 it going to look like? What's your understanding of what</p> <p>8 it's going to look like?</p> <p>9 TERRENCE MACPHEARSON: It's designed to look like an</p> <p>10 evergreen tree.</p> <p>11 GREG DIAMOND: Okay. Did you do any studies of the</p> <p>12 other, we're going to call -- can we call this a tree</p> <p>13 monopole just so that we can both --</p> <p>14 TERRENCE MACPHEARSON: Sure.</p> <p>15 GREG DIAMOND: -- have the same -- did you do any</p> <p>16 studies of other tree monopoles in Potomac, Maryland?</p> <p>17 TERRENCE MACPHEARSON: No, because there were no</p> <p>18 situations similar to that and that's why you have to use</p> <p>19 the data that's available rather than to make a</p> <p>20 guesstimate.</p> <p>21 GREG DIAMOND: So you --</p> <p>22 TERRENCE MACPHEARSON: And you base the data on --</p> <p>23 GREG DIAMOND: Sorry.</p> <p>24 TERRENCE MACPHEARSON: -- and I used the market data</p> <p>25 that was available. I used it independently and that's</p>
<p style="text-align: right;">393</p> <p>1 to the Potomac Crest data. In essence what you did there</p> <p>2 is you just collected public data, correct?</p> <p>3 TERRENCE MACPHEARSON: Yes.</p> <p>4 GREG DIAMOND: And you did a market analysis of what</p> <p>5 the public data told you?</p> <p>6 TERRENCE MACPHEARSON: But there was another</p> <p>7 component. I also interviewed realtors and listing agents</p> <p>8 about the properties that adjoined the right-of-way.</p> <p>9 GREG DIAMOND: So in essence what you did was a market</p> <p>10 analysis rather than an appraisal analysis?</p> <p>11 TERRENCE MACPHEARSON: No. That's not true. It's,</p> <p>12 maybe it's semantics. But in order to estimate the adverse</p> <p>13 impact of an item, an externality there are three different</p> <p>14 ways you can do it. You can use the group data analysis,</p> <p>15 excuse me, which is what I did and you can use the</p> <p>16 interview of stakeholders which is what I used, and you can</p> <p>17 use a paired data analysis which is what I did. And that's</p> <p>18 how you find out where -- that's how you support an opinion</p> <p>19 as to whether there's a diminution in value of a property -</p> <p>20 - of a group of properties; of confronting properties,</p> <p>21 properties within East Gate.</p> <p>22 GREG DIAMOND: Tell me what is proposed to be</p> <p>23 constructed under this conditional use? What's your</p> <p>24 understanding of what is being constructed?</p> <p>25 TERRENCE MACPHEARSON: It's going to be a monopole</p>	<p style="text-align: right;">395</p> <p>1 what I came up with.</p> <p>2 GREG DIAMOND: Your answer is there were no situations</p> <p>3 similar to the present one, so does that mean that you</p> <p>4 undertook a study to determine whether the other tree</p> <p>5 monopoles in Potomac, Maryland are similar -- such</p> <p>6 similarly situated to the proposed pole at -- in this case?</p> <p>7 TERRENCE MACPHEARSON: There is never an exact</p> <p>8 comparable and there is never an exact location. What I'm</p> <p>9 saying is that the proposed cellular tower, like your</p> <p>10 expert found, there were only two situations, and I used</p> <p>11 the Potomac Crest which is most similar in terms of lot</p> <p>12 size and design. And based on that data I came up with an</p> <p>13 indication. I also used two other approaches. In</p> <p>14 situations where you don't have a lot of data that's why</p> <p>15 you use a questionnaire. It's an accepted procedure and in</p> <p>16 fact I just talked to an attorney that used it in a</p> <p>17 condemnation case, so it's used. Paired data, same</p> <p>18 situation. It's an acceptable appraisal technique and</p> <p>19 that's what's done.</p> <p>20 GREG DIAMOND: Let's talk about the Potomac Crest</p> <p>21 paired data report.</p> <p>22 TERRENCE MACPHEARSON: No, that's not paired data.</p> <p>23 That's the group data analysis.</p> <p>24 GREG DIAMOND: Use the phrase again.</p> <p>25 TERRENCE MACPHEARSON: A group data analysis --</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

13 (396 to 399)

<p style="text-align: right;">396</p> <p>1 GREG DIAMOND: Okay.</p> <p>2 TERRENCE MACPHEARSON: -- where you group properties;</p> <p>3 sales of properties according to groupings. In this case,</p> <p>4 Group 1 adjoined the Potomac Pepco right-of-way and the co-</p> <p>5 located towers.</p> <p>6 GREG DIAMOND: Okay. So you chose to do one</p> <p>7 independent study, is that correct? And this is the data</p> <p>8 from your own independent study?</p> <p>9 TERRENCE MACPHEARSON: I also did two other --</p> <p>10 GREG DIAMOND: No. Just -- it's a yes or no. You</p> <p>11 choose to do this one study?</p> <p>12 TERRENCE MACPHEARSON: On Potomac Crest.</p> <p>13 GREG DIAMOND: Where there was an existing structure</p> <p>14 rather than a theoretical structure. In theory you did a</p> <p>15 paired analysis at Snug Hill, but there's no tower there.</p> <p>16 There's just a concept of a tower. Isn't that correct?</p> <p>17 TERRENCE MACPHEARSON: But market is based upon</p> <p>18 perception.</p> <p>19 GREG DIAMOND: So let me ask you again.</p> <p>20 TERRENCE MACPHEARSON: Yeah.</p> <p>21 GREG DIAMOND: Did you undertake only one study where</p> <p>22 there are actual -- an actual structure exists today?</p> <p>23 TERRENCE MACPHEARSON: Yes.</p> <p>24 GREG DIAMOND: Okay. And that's the Potomac Crest</p> <p>25 site?</p>	<p style="text-align: right;">398</p> <p>1 between the poles are high power lines that carry over --</p> <p>2 current elsewhere in the power network?</p> <p>3 TERRENCE MACPHEARSON: Yes.</p> <p>4 GREG DIAMOND: And were you able to separate out the</p> <p>5 affect of the high-power lines from anything else that</p> <p>6 might have been affecting price per square foot in that</p> <p>7 neighborhood?</p> <p>8 BILL CHEN: Objection. On direct examination he said</p> <p>9 that he was not able to distinguish between the</p> <p>10 implications of the power lines and anything else.</p> <p>11 GREG DIAMOND: Why can't he answer that question?</p> <p>12 BILL CHEN: He did.</p> <p>13 GREG DIAMOND: I'm sorry, you're not testifying.</p> <p>14 TAMMY CITRAMANNIS: Overruled.</p> <p>15 BILL CHEN: I'm objecting to, asked and answered.</p> <p>16 TAMMY CITRAMANNIS: Okay. Overruled. He can repeat</p> <p>17 it. Yeah.</p> <p>18 TERRENCE MACPHEARSON: Yes. I could not separate.</p> <p>19 GREG DIAMOND: So at the site that you chose, Potomac</p> <p>20 Crest, there are cellular antennas attached to a pre-</p> <p>21 existing structure. Is that correct?</p> <p>22 TERRENCE MACPHEARSON: Yes.</p> <p>23 GREG DIAMOND: The cell company didn't build a</p> <p>24 monopole, correct?</p> <p>25 TERRENCE MACPHEARSON: Correct.</p>
<p style="text-align: right;">397</p> <p>1 TERRENCE MACPHEARSON: Correct.</p> <p>2 GREG DIAMOND: Now, at the Potomac Crest site the</p> <p>3 structures that exist there are Pepco high power overhead</p> <p>4 power lines. Is that correct?</p> <p>5 TERRENCE MACPHEARSON: Yes.</p> <p>6 GREG DIAMOND: Now do Pepco overhead high-power power</p> <p>7 lines support structures have disguises or stealth like a</p> <p>8 tree design?</p> <p>9 TERRENCE MACPHEARSON: No.</p> <p>10 GREG DIAMOND: So it's a bare pole?</p> <p>11 TERRENCE MACPHEARSON: Yes.</p> <p>12 GREG DIAMOND: And is it fair to say that there's</p> <p>13 multiple, like a long row of these poles, not just one</p> <p>14 single one?</p> <p>15 TERRENCE MACPHEARSON: Yes.</p> <p>16 GREG DIAMOND: In fact are -- they're usually in pairs</p> <p>17 and run parallel don't they?</p> <p>18 TERRENCE MACPHEARSON: There are multiple poles, yes.</p> <p>19 GREG DIAMOND: So how many poles were within the</p> <p>20 neighborhood of -- that you were studying where people</p> <p>21 could see -- from a home could they see 12 poles?</p> <p>22 TERRENCE MACPHEARSON: No.</p> <p>23 GREG DIAMOND: No. How many?</p> <p>24 TERRENCE MACPHEARSON: One, maybe two at the most.</p> <p>25 GREG DIAMOND: And is it fair to say that strung</p>	<p style="text-align: right;">399</p> <p>1 GREG DIAMOND: Do you know when the antennas were</p> <p>2 attached to the pole?</p> <p>3 TERRENCE MACPHEARSON: I do not.</p> <p>4 GREG DIAMOND: Did you attempt to find out when the</p> <p>5 antennas were attached to the pole?</p> <p>6 TERRENCE MACPHEARSON: I did not.</p> <p>7 GREG DIAMOND: Could you have done your same analysis</p> <p>8 before the antennas were attached and then compared it to</p> <p>9 after the antenna were attached to see if the same 11</p> <p>10 percent difference happens because of the electric poles,</p> <p>11 not the cell antennas?</p> <p>12 TERRENCE MACPHEARSON: Well, there's still a pole. I</p> <p>13 mean I think you're ignoring that fact. There is a pole</p> <p>14 and on the pole there is co-located antennas and also the</p> <p>15 overhead power lines. So if the antennas weren't there the</p> <p>16 pole's still there which is what we have.</p> <p>17 GREG DIAMOND: You're not saying a pole you've already</p> <p>18 admitted there's many poles.</p> <p>19 TERRENCE MACPHEARSON: But in the view site of the</p> <p>20 houses it's typically one, maybe two.</p> <p>21 GREG DIAMOND: But these things are in pairs almost</p> <p>22 always aren't they?</p> <p>23 TERRENCE MACPHEARSON: Well, you were saying they were</p> <p>24 in rows. It depends. I mean it depends on the location.</p> <p>25 GREG DIAMOND: Did you go -- did you actually go to</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

14 (400 to 403)

<p>400</p> <p>1 this location?</p> <p>2 TERRENCE MACPHEARSON: I did.</p> <p>3 GREG DIAMOND: Okay. So you can tell us how many</p> <p>4 pairs of poles there were.</p> <p>5 TERRENCE MACPHEARSON: I can't tell you exactly how</p> <p>6 many pairs, but there weren't 12.</p> <p>7 GREG DIAMOND: Okay. Do you know how tall the Pepco</p> <p>8 structure is?</p> <p>9 TERRENCE MACPHEARSON: They're are around 150 feet.</p> <p>10 They actually range from 90, to I think, 150 or in that</p> <p>11 range.</p> <p>12 GREG DIAMOND: Okay. So at 150 feet the proposed</p> <p>13 structure at the Snug Hill neighborhood would be about half</p> <p>14 the size of the Pepco structure. Is that correct?</p> <p>15 TERRENCE MACPHEARSON: Yes. That is located at the</p> <p>16 entrance to the recreational facility.</p> <p>17 GREG DIAMOND: And the Pepco structure has no</p> <p>18 disguise. Is that correct?</p> <p>19 TERRENCE MACPHEARSON: That's correct.</p> <p>20 GREG DIAMOND: And at the Pepco structure -- does the</p> <p>21 cell tower, is it going to have high power lines attached -</p> <p>22 -</p> <p>23 TERRENCE MACPHEARSON: No.</p> <p>24 GREG DIAMOND: -- to the top?</p> <p>25 TERRENCE MACPHEARSON: No.</p>	<p>402</p> <p>1 excellent location for you to do your study rather than</p> <p>2 150-foot tall powerline poles?</p> <p>3 TERRENCE MACPHEARSON: I didn't consider it.</p> <p>4 GREG DIAMOND: There is a tree monopole at the Avenel</p> <p>5 Golf Course. Do you know where the Avenel Golf Course is</p> <p>6 in Potomac? And it's got a tree monopole. Actually were</p> <p>7 you unable to find these things because they're not</p> <p>8 noticeable?</p> <p>9 TERRENCE MACPHEARSON: No --</p> <p>10 TAMMY CITRAMANNIS: Please. Please everybody.</p> <p>11 TERRENCE MACPHEARSON: No. It's not only where</p> <p>12 they're -- I mean it's not only that there's location. Is</p> <p>13 it a location and proximity to a sufficient number of</p> <p>14 houses and data to extract.</p> <p>15 GREG DIAMOND: Okay. How -- are you familiar with the</p> <p>16 National Women's and Children's Center what's known -- on</p> <p>17 Greentree Road in Bethesda, North Potomac?</p> <p>18 TERRENCE MACPHEARSON: Yes.</p> <p>19 GREG DIAMOND: And so there's a tree monopole on that</p> <p>20 site isn't there?</p> <p>21 FEMALE VOICE: Is there one in your backyard?</p> <p>22 TAMMY CITRAMANNIS: Okay.</p> <p>23 GREG DIAMOND: I live in that neighborhood, yeah.</p> <p>24 TAMMY CITRAMANNIS: Everybody. No. Nothing from the</p> <p>25 audience please. I know it's hard to do that but he's</p>
<p>401</p> <p>1 GREG DIAMOND: Could you have undertaken a study</p> <p>2 similar to the way you did at Potomac Crest at an existing</p> <p>3 tree monopole structure in Potomac before and after it was</p> <p>4 constructed to do a similar analysis of those that can see</p> <p>5 the pole and those that can't to come up with an analysis</p> <p>6 of whether the existence of a tree monopole affects the</p> <p>7 property values on the immediately confronting and</p> <p>8 adjoining properties?</p> <p>9 TERRENCE MACPHEARSON: I didn't find any of those</p> <p>10 locations.</p> <p>11 GREG DIAMOND: So did you actually attempt to find</p> <p>12 those locations in Montgomery County?</p> <p>13 TERRENCE MACPHEARSON: I attempted to find them in the</p> <p>14 Potomac area. Again, it's important -- you can have a cell</p> <p>15 tower next to a property, say along Beersmill (phonetic)</p> <p>16 Boulevard or in any entry levels subdivisions. It will</p> <p>17 have any impact. But when you move into Potomac and the</p> <p>18 income levels and the levels of education it does impact</p> <p>19 their decisions. So that's why I try to keep it in the</p> <p>20 Potomac market.</p> <p>21 GREG DIAMOND: Okay. So there is a tree monopole at</p> <p>22 the VFW site on MacArthur Boulevard in Potomac that has</p> <p>23 existed for over 10 years. Wouldn't that have been a</p> <p>24 perfect location to go in a -- right adjacent to a</p> <p>25 residential neighborhood. Wouldn't that have been an</p>	<p>403</p> <p>1 allowed to be up here to testify with no intimidation from</p> <p>2 the audience. Let the attorneys do their job please. Go</p> <p>3 ahead Mr. --</p> <p>4 GREG DIAMOND: So if there's a tree monopole that's</p> <p>5 existed at the National Women and Children's Center on</p> <p>6 Greentree Road North Bethesda, and it is completely</p> <p>7 surrounded by residential properties. Wouldn't that have</p> <p>8 been an excellent place for you to do your study of before</p> <p>9 and after the pole was constructed and the affect on those</p> <p>10 who could see the pole and those who can't in terms of a</p> <p>11 difference in property value?</p> <p>12 TERRENCE MACPHEARSON: The reason I didn't -- I mean I</p> <p>13 didn't know about that. But the reason Bethesda is not a</p> <p>14 good market, it's a different type of buyer in Bethesda as</p> <p>15 compared to East Gate and it really wouldn't have captured</p> <p>16 what we're looking at at the East Gate site and that's why</p> <p>17 it would not be appropriate -- (inaudible) I didn't do it.</p> <p>18 GREG DIAMOND: But -- so you're saying if the -- let's</p> <p>19 say the VFW property on MacArthur Boulevard if that</p> <p>20 property is adjacent to residential neighborhood that would</p> <p>21 have been a good place to study? And I know you don't know</p> <p>22 the property, but if it immediately confronts and adjoins</p> <p>23 residential property that are approximately 300 feet from</p> <p>24 the pole, 3-350, that that would have been a good place to</p> <p>25 study a tree monopole which is exactly what's proposed in</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

15 (404 to 407)

<p style="text-align: right;">404</p> <p>1 this case?</p> <p>2 TERRENCE MACPHEARSON: I didn't look at it. It could</p> <p>3 be. It may not be. I didn't study it.</p> <p>4 GREG DIAMOND: So you won't concede that that really</p> <p>5 would have been the place to study? To come up, you know,</p> <p>6 35 years of experience. You're an expert. I'm trying to</p> <p>7 get you to concede for the record, out of fairness to your</p> <p>8 expertise and your profession, that studying 150 foot</p> <p>9 electric poles is really different than studying let's say</p> <p>10 a 130 foot tree monopole in terms of what we're trying to</p> <p>11 learn in this case.</p> <p>12 TERRENCE MACPHEARSON: It's a -- I think it was</p> <p>13 relevant. Your expert used the same subdivision.</p> <p>14 GREG DIAMOND: This isn't about my expert. This is</p> <p>15 about whether you, in preparing a report, could have come</p> <p>16 up with a better report if you had actually studied a tree</p> <p>17 monopole.</p> <p>18 TERRENCE MACPHEARSON: I considered that. I didn't</p> <p>19 find a situation where there was evidence that I could</p> <p>20 analyze and data to support that analysis that's why I did</p> <p>21 not use it.</p> <p>22 GREG DIAMOND: You did an analysis of the Snug Hill</p> <p>23 neighborhood. Is that correct?</p> <p>24 TERRENCE MACPHEARSON: (no audible response)</p> <p>25 GREG DIAMOND: Now there's not actually a tree</p>	<p style="text-align: right;">406</p> <p>1 TERRENCE MACPHEARSON: No. No, not at the time I</p> <p>2 undertook my study. They were there at -- I think shortly</p> <p>3 after the sign went up.</p> <p>4 GREG DIAMOND: Okay. So, but out of fairness to the</p> <p>5 record you spoke to a number of realtors.</p> <p>6 TERRENCE MACPHEARSON: Yes.</p> <p>7 GREG DIAMOND: And while a protest was going on in the</p> <p>8 neighborhood. Is that correct?</p> <p>9 TERRENCE MACPHEARSON: I wouldn't call it a protest.</p> <p>10 GREG DIAMOND: You wouldn't? It --</p> <p>11 TERRENCE MACPHEARSON: No.</p> <p>12 GREG DIAMOND: -- you wouldn't call, "cell no" a</p> <p>13 protest?</p> <p>14 TERRENCE MACPHEARSON: I mean --</p> <p>15 GREG DIAMOND: How would you characterize that?</p> <p>16 TERRENCE MACPHEARSON: A protest, when I envision a</p> <p>17 protest I --</p> <p>18 GREG DIAMOND: I'm --</p> <p>19 TAMMY CITRAMANNIS: Okay. Hold on a second. For some</p> <p>20 of you who weren't here or -- because yesterday the</p> <p>21 audience followed the rules. This record is important and</p> <p>22 if we don't get the testimony -- similar if we don't get</p> <p>23 your testimony and it's not clear and there's a appeal,</p> <p>24 it's on the record. So it's imperative that everybody</p> <p>25 restrain themselves from calling out. I know you're not</p>
<p style="text-align: right;">405</p> <p>1 monopole in that neighborhood is there?</p> <p>2 TERRENCE MACPHEARSON: No.</p> <p>3 GREG DIAMOND: So there -- the applicant has posted a</p> <p>4 sign on the swimming pool property. Is that correct?</p> <p>5 TERRENCE MACPHEARSON: That's correct.</p> <p>6 GREG DIAMOND: Were there other signs in the</p> <p>7 neighborhood about the tree monopole that may have affected</p> <p>8 people's concerns?</p> <p>9 TERRENCE MACPHEARSON: Yes, Your Honor, and that's an</p> <p>10 important point because the definition of market value is</p> <p>11 an informed buyer and an informed seller. With all the</p> <p>12 signs the buyers were informed.</p> <p>13 GREG DIAMOND: What's --</p> <p>14 TERRENCE MACPHEARSON: They knew about a cell tower</p> <p>15 pending.</p> <p>16 GREG DIAMOND: Could you just describe what signs were</p> <p>17 there?</p> <p>18 TERRENCE MACPHEARSON: Well, I understand there were -</p> <p>19 - I didn't see them but I understand there were signs that,</p> <p>20 no cell tower, like the --</p> <p>21 GREG DIAMOND: So there were signs of protest on --</p> <p>22 not on the swimming pool property, well, maybe on the</p> <p>23 swimming pool property too, but there are signs of protest</p> <p>24 in the neighborhood at the time that you undertook your</p> <p>25 study?</p>	<p style="text-align: right;">407</p> <p>1 going to like the cross-examination. He's entitled to do</p> <p>2 it as Mr. Chen is entitled to do his. So please you will</p> <p>3 have your opportunity. Restrain yourself. Thank you.</p> <p>4 GREG DIAMOND: I lost my train of thought. So we were</p> <p>5 -- I was asking you about protest in the neighborhood and</p> <p>6 possible signage that has been posted; leaflets handed out</p> <p>7 in the neighborhood. Are you aware of that?</p> <p>8 TERRENCE MACPHEARSON: I guess I have an issue with</p> <p>9 your definition of protest. When I think of protest, I</p> <p>10 think of Charlottesville or some other extreme situation.</p> <p>11 What I know -- or what I have been told happened there were</p> <p>12 signs up and people indicating that the cell tower was</p> <p>13 going to be placed or there was a conditional use</p> <p>14 application pending. And that been informed the typical</p> <p>15 buyer that it was going to happen and therefore that was a</p> <p>16 good situation to analyze to determine the impact of the</p> <p>17 proposed tower.</p> <p>18 GREG DIAMOND: You made reference to specific</p> <p>19 properties. I believe a potential sale at 8320 Snug Hill</p> <p>20 Road. Did you undertake an analysis of whether the</p> <p>21 property at 8320 Snug Hill would have a view of the</p> <p>22 proposed monopole?</p> <p>23 TERRENCE MACPHEARSON: No.</p> <p>24 GREG DIAMOND: Although -- so your study at Potomac</p> <p>25 Crest was based on those that could see and those that</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

16 (408 to 411)

<p>408</p> <p>1 could not see the structure? Is that correct?</p> <p>2 TERRENCE MACPHEARSON: That's correct.</p> <p>3 GREG DIAMOND: But at 8320 Snug Hill you provided us</p> <p>4 data that you don't know whether that can see the proposed</p> <p>5 monopole or not.</p> <p>6 TERRENCE MACPHEARSON: And I think you're -- you've</p> <p>7 essentially supported my position because the fact that the</p> <p>8 monopole is going to be placed on the recreational</p> <p>9 amenities that impacts not only the confronting properties,</p> <p>10 it impacts the whole neighborhood and that's what my</p> <p>11 analysis has shown and so therefore the mere fact that</p> <p>12 there was an announcement and a disclosure to buyers that</p> <p>13 there was going to be a cell tower, a potential cell tower,</p> <p>14 on the recreational facility impacted the value of the</p> <p>15 properties, the buyers.</p> <p>16 GREG DIAMOND: So let me be positive I understand what</p> <p>17 you're saying. It's very important. You're saying whether</p> <p>18 you're an immediately confronting property owner who have</p> <p>19 got the tower right in front of them or somewhere else in</p> <p>20 the neighborhood where they can't see the tower, it's going</p> <p>21 to have the same affect? You're saying there is an affect</p> <p>22 on property value and the affect is the same?</p> <p>23 TERRENCE MACPHEARSON: Right now it has an affect on</p> <p>24 the areas along Gainsborough Road and Snug Hill. And it</p> <p>25 also affects those properties that aren't directly</p>	<p>410</p> <p>1 GREG DIAMOND: Is that correct?</p> <p>2 TERRENCE MACPHEARSON: Yes.</p> <p>3 GREG DIAMOND: What article was that? Did you submit</p> <p>4 that to the record ahead of time? I'm just -- I'm not</p> <p>5 sure.</p> <p>6 TERRENCE MACPHEARSON: No.</p> <p>7 GREG DIAMOND: Because there was an article submitted</p> <p>8 by Mr. Chen.</p> <p>9 BILL CHEN: Yeah, I don't think -- I think this was -</p> <p>10 -</p> <p>11 TERRENCE MACPHEARSON: No.</p> <p>12 GREG DIAMOND: And I didn't know which one of his</p> <p>13 experts secretly submitted this.</p> <p>14 BILL CHEN: Well, there was no secret. Okay. There</p> <p>15 was no secret.</p> <p>16 GREG DIAMOND: Was it --</p> <p>17 BILL CHEN: There was no secret.</p> <p>18 GREG DIAMOND: Did it come from one of your witnesses?</p> <p>19 I'm trying to understand.</p> <p>20 BILL CHEN: We submitted it --</p> <p>21 TAMMY CITRAMANNIS: Well, why don't we ask him what</p> <p>22 the name of the article is.</p> <p>23 GREG DIAMOND: Did it come --</p> <p>24 TERRENCE MACPHEARSON: The article is "The Affect of</p> <p>25 Distance to Cell Phone Towers on House Prices in Florida".</p>
<p>409</p> <p>1 confronting it. Now the degree of impact or affect I</p> <p>2 didn't measure that.</p> <p>3 GREG DIAMOND: Is it fair to say that what you're</p> <p>4 telling the Hearing Examiner is that it really doesn't</p> <p>5 matter where the specific location of the monopole is in</p> <p>6 this neighborhood? The fact that it's anywhere in the</p> <p>7 neighborhood, it has the same affect on all properties?</p> <p>8 TERRENCE MACPHEARSON: No. No.</p> <p>9 GREG DIAMOND: No?</p> <p>10 TERRENCE MACPHEARSON: What I'm saying is that it has</p> <p>11 an effect. Naturally it's going to have a greater affect</p> <p>12 on the confronting properties, but when I interviewed the</p> <p>13 agents up off of Gainsborough Road which does not have a</p> <p>14 view and I interviewed two or three of those, they</p> <p>15 indicated they had to reduce the list price because these</p> <p>16 people, potential buyers, would want to use the amenities.</p> <p>17 If the recreational amenities had a cell tower that is</p> <p>18 proposed then a lot of the, or some of the buyers would</p> <p>19 object and would not want to live there and so it did</p> <p>20 affect. But did it affect all the same? No. No. It</p> <p>21 wouldn't affect all the same.</p> <p>22 GREG DIAMOND: I believe you stated that in preparing</p> <p>23 to give your expert opinion today you relied on an</p> <p>24 appraisal journal article.</p> <p>25 TERRENCE MACPHEARSON: Yes.</p>	<p>411</p> <p>1 GREG DIAMOND: Okay. And when was that published?</p> <p>2 TERRENCE MACPHEARSON: That was published by the -- in</p> <p>3 the Appraisal Institute's Appraisal Journal of 2007.</p> <p>4 GREG DIAMOND: Okay. So did you undertake a review of</p> <p>5 literature in general to find out if there was opposing</p> <p>6 views to that journal article?</p> <p>7 TERRENCE MACPHEARSON: What -- the Appraisal Institute</p> <p>8 has an article or has a, it's called loan library, and I</p> <p>9 just searched cell phone towers and these are the articles</p> <p>10 that popped up.</p> <p>11 GREG DIAMOND: And so you didn't come up with any</p> <p>12 articles published, let's say, by the American Bar</p> <p>13 Association with an exactly opposite opinion?</p> <p>14 TERRENCE MACPHEARSON: I did not.</p> <p>15 GREG DIAMOND: Did not. Okay. Indulgence for a</p> <p>16 moment. When you do your own appraisals of properties do</p> <p>17 you bring along an electromagnetic field device to measure</p> <p>18 as part of your appraisal whether that's a relevant issue?</p> <p>19 TERRENCE MACPHEARSON: No. But I'm not the -- I think</p> <p>20 I should answer it, but I'm not the typical buyer in this</p> <p>21 neighborhood.</p> <p>22 TAMMY CITRAMANNIS: You have to wait for him to ask a</p> <p>23 question.</p> <p>24 TERRENCE MACPHEARSON: Oh. Okay.</p> <p>25 TAMMY CITRAMANNIS: It was a yes or no answer and if</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

17 (412 to 415)

<p>412</p> <p>1 he wants to know more, Mr. Chen will follow up. 2 TERRENCE MACPHEARSON: Okay. 3 GREG DIAMOND: And I forgot the whole subject. So 4 let's go back to your being here today as an expert. In 5 the normal course of your practice as an appraiser do you 6 prepare written reports to give to your clients so that 7 they can review the data and your opinions? 8 TERRENCE MACPHEARSON: Yes. 9 GREG DIAMOND: And in this case, did you provide a 10 written report and data to the person that hired you? 11 TERRENCE MACPHEARSON: No. 12 GREG DIAMOND: Is that highly unusual? 13 TERRENCE MACPHEARSON: It happens. 14 GREG DIAMOND: I'm asking you if it's unusual. Is it 15 a 1 in 100? 16 TERRENCE MACPHEARSON: It's not typical. 17 GREG DIAMOND: If you were preparing an opinion for 18 Montgomery County government on the issuance of bonds would 19 you prepare a written report? 20 TERRENCE MACPHEARSON: Yes. 21 GREG DIAMOND: If you were to prepare an appraisal 22 report for the loan on a home for a lender to look at would 23 you prepare a written report? 24 TERRENCE MACPHEARSON: Yes. 25 GREG DIAMOND: And so is it fair to say that not</p>	<p>414</p> <p>1 TERRENCE MACPHEARSON: That's correct. 2 BILL CHEN: After June 29th, yeah. 3 TERRENCE MACPHEARSON: That's correct. 4 BILL CHEN: Now as I understand your testimony the 5 analysis that you did or the data collection that you did 6 for Potomac Crest that is one of the locales that the 7 applicants' expert used also. Isn't that right? 8 TERRENCE MACPHEARSON: That's correct. 9 BILL CHEN: Okay. And they -- the data collection 10 that you obtained for Potomac Crest was one of your three 11 different approaches. Is that right? 12 TERRENCE MACPHEARSON: That's correct. 13 BILL CHEN: Okay. And how did you consider that one 14 approach in conjunction with the other approaches? 15 TERRENCE MACPHEARSON: I gave less weight to it but I 16 -- due to the lack of data you try all different sources to 17 try to give an independent opinion. If that had indicated 18 that there was no damage then that may have affected my 19 opinion of value. That's why I thought it was very 20 relevant to consider that. 21 BILL CHEN: And you weighed it in conjunction with the 22 other information that you received? 23 TERRENCE MACPHEARSON: Yes. 24 THOMAS BARNARD: Objection. Leading. 25 BILL CHEN: Now, is it your opinion that you're</p>
<p>413</p> <p>1 producing a written report prevents people from reviewing 2 your data? 3 TERRENCE MACPHEARSON: Yes. 4 GREG DIAMOND: No further questions. 5 BILL CHEN: Why didn't you prepare a written report in 6 this case? 7 TAMMY CITRAMANNIS: I think Mr. -- 8 BILL CHEN: Oh. I apologize. You're right. I 9 apologize. 10 TAMMY CITRAMANNIS: They were so quiet yesterday. We 11 have to get use to the change. You want some water? I 12 forgot to ask. 13 TERRENCE MACPHEARSON: Oh. 14 THOMAS BARNARD: I have no questions. 15 TAMMY CITRAMANNIS: Okay. Now you can go Mr. Chen. 16 BILL CHEN: Thank you very much. Why didn't you 17 prepare a written report? 18 TERRENCE MACPHEARSON: My schedule was such that I 19 didn't have time. I was involved in a condemnation 20 mediation case and I'm mentioned to you that I wouldn't 21 have time to prepare the report. I could do the research 22 to render an opinion but I didn't have time to prepare the 23 report. 24 BILL CHEN: And you were contacted after the amended 25 application was filed.</p>	<p>415</p> <p>1 expressing today? 2 TAMMY CITRAMANNIS: Go ahead. Just keep the questions 3 direct. 4 BILL CHEN: I wasn't going -- 5 TAMMY CITRAMANNIS: Did you hear his objection? He 6 just -- Mr. Barnard just objected. 7 BILL CHEN: Oh, I didn't hear. I apologize. I didn't 8 hear any objection. 9 TAMMY CITRAMANNIS: Oh. Okay. That's what I thought. 10 BILL CHEN: If there's an objection -- 11 TAMMY CITRAMANNIS: The objection was just leading. 12 BILL CHEN: Okay. Okay. Fine. Does your opinion 13 relative to the adverse impact of the proposed cell phone 14 tower and equipment in this case apply to every 15 recreational facility? 16 TERRENCE MACPHEARSON: No. 17 BILL CHEN: What is significant about this or why do 18 you have that opinion with regard to this particular 19 conditional use application and this recreational facility? 20 TERRENCE MACPHEARSON: It's the proximity of the cell 21 phone tower to the entrance to the swimming pool. It's my 22 -- based on my research and discussions with different 23 realtors and listing agents that a significant portion of 24 the segment of the market is concerned. Whether it's a 25 legitimate concern or not on being exposed to or in</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

18 (416 to 419)

<p>416</p> <p>1 proximity to a cell tower and it would affect their, in my 2 opinion, their price they would be willing to pay for 3 properties in the East Gate development because if you look 4 at it the recreational amenities in any subdivision they're 5 reflected in the contributory value of the houses within 6 that subdivision. So if you damage the contributory value 7 of the recreational amenity you impact, adversely impact, 8 the houses that use that facility. 9 BILL CHEN: Does that mean all the houses in the 10 subdivision? 11 TERRENCE MACPHEARSON: Yes. To various degrees, but 12 yes. 13 BILL CHEN: I don't have any further questions. 14 TAMMY CITRAMANNIS: Re-direct? 15 GREG DIAMOND: When did Mr. Chen first contact you -- 16 TAMMY CITRAMANNIS: Wait -- 17 GREG DIAMOND: -- about being an expert witness in 18 this case? 19 TAMMY CITRAMANNIS: Hold on a second. 20 BILL CHEN: Yesterday it was applicant on direct, 21 cross-examination, rebuttal. 22 GREG DIAMOND: You raised new issues. 23 BILL CHEN: No, I didn't. 24 TAMMY CITRAMANNIS: I'm going to let him finish and 25 then we'll get back to (inaudible)</p>	<p>418</p> <p>1 TERRENCE MACPHEARSON: Probably back in June or July. 2 GREG DIAMOND: Between July and September 1st you were 3 unable to produce a written report? 4 TERRENCE MACPHEARSON: I originally -- I think I 5 originally declined to take the assignment. 6 GREG DIAMOND: But you were first contacted in July, 7 is that right? 8 TERRENCE MACPHEARSON: Right. 9 GREG DIAMOND: No further questions. 10 THOMAS BARNARD: I don't have any questions. 11 TAMMY CITRAMANNIS: Okay. So Ms. Wetter do you have 12 any questions? 13 CHERYL WETTER: No, I don't. 14 TAMMY CITRAMANNIS: Ms. Lee? 15 SUSAN LEE: No. 16 TAMMY CITRAMANNIS: Okay. This is an opportunity -- 17 the individuals in the audience you also have a right to 18 ask questions and how we did this yesterday is you would 19 pass your question to Mr. Chen and he would read it. We 20 did that because that way it would stop people from feeling 21 like they could make their testimony at this time. That's 22 not that opportunity. Right now is nothing more than, if 23 you did not hear any question that you had and it wasn't 24 asked now is the time to ask it. If it was already asked 25 really, the objection is going to be it was asked and</p>
<p>417</p> <p>1 BILL CHEN: Okay. Every one of my questions tagged on 2 to a question on cross-examination. I have not raised 3 anything new. 4 TAMMY CITRAMANNIS: What would -- where are you going? 5 GREG DIAMOND: He -- the witness has testified that 6 the reason he didn't produce a report was because he didn't 7 have enough time. This case has been pending for a year. 8 I'm trying to determine when did Mr. Chen first contact 9 him, since Mr. Chen's been hiring experts since December -- 10 BILL CHEN: (crosstalk) 11 GREG DIAMOND: -- of 2016. 12 TAMMY CITRAMANNIS: Okay. 13 BILL CHEN: I won't have a -- I don't -- that's not 14 what the question began -- 15 TAMMY CITRAMANNIS: Okay. 16 BILL CHEN: -- but I don't have an objection to that 17 question. 18 TAMMY CITRAMANNIS: And maybe so that we don't 19 continue to go through this we'll let him finish the 20 question and then we'll address it instead of half-way 21 through thinking what we think he's going to say. We all 22 do that. So -- 23 GREG DIAMOND: So my question is; when did Mr. Chen 24 first contact you about being an expert witness in this 25 case?</p>	<p>419</p> <p>1 answered so really it's new questions that you did not 2 hear. And it worked very well yesterday. So if you have a 3 question, Mr. Chen will relay that question for you. So -- 4 BILL CHEN: Please write clearly. 5 TAMMY CITRAMANNIS: Yeah. Clearly. And so there's a 6 gentleman behind you raising his hand. You want to see if 7 you can help him? So does anybody have a question for Mr. 8 Chen? You can come up and talk to him, but -- and you can 9 whisper in his ear if you want that's fine. He's just 10 going to be the spokesperson basically for everybody. I 11 heard her say, it's up to you. So if -- I did hear that. 12 So if, you know. 13 BILL CHEN: I'll try. 14 TAMMY CITRAMANNIS: Okay. So you're -- 15 BILL CHEN: The lady had a -- I'll try. 16 TAMMY CITRAMANNIS: Okay. Question from an 17 individual. 18 BILL CHEN: Mr. MacPhearson, does the length of time 19 that a property is on the market for sale have any 20 implication relative to the opinions that you've expressed 21 today? 22 TERRENCE MACPHEARSON: It can. I tried to extract in 23 the marketing, times and analyze those, but I -- there were 24 so few sales I didn't have enough that I could really rely 25 on.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

19 (420 to 423)

<p>420</p> <p>1 BILL CHEN: Fine. Thank you. Did you contact the 2 Department of Assessments and Taxation to determine if 3 allowance for adverse effect of tower? 4 TERRENCE MACPHEARSON: No. I did not. 5 TAMMY CITRAMANNIS: Anybody else have any questions 6 for Mr. Chen to ask? Okay. Did that generate any more on 7 your part? Are we good on the side? Let's see. 8 FEMALE VOICE: I've got a question. 9 TAMMY CITRAMANNIS: Okay. So ask Mr. Chen to relay it 10 for you if you don't mind. 11 BILL CHEN: Sure. Okay. 12 TAMMY CITRAMANNIS: One more question. Thanks. 13 BILL CHEN: Yes. I can do this I believe accurately. 14 TAMMY CITRAMANNIS: Okay, but you need to speak up. 15 BILL CHEN: If someone purchased their residence in 16 the East Gate subdivision in July and assumed that the 17 telecommunications tower conditional use is approved and 18 that person then wants to sell their house, what can they 19 expect to lose on the sale? 20 GREG DIAMOND: Objection. Beyond the scope of the 21 original examination. 22 TAMMY CITRAMANNIS: I think it also might be a little 23 speculative. 24 BILL CHEN: Yeah. Oh well, I guess the question is 25 can you even render an opinion on this?</p>	<p>422</p> <p>1 BILL CHEN: Fine. Fine. 2 TAMMY CITRAMANNIS: Unless everybody absolutely needs 3 to have a restroom break right now. 4 BILL CHEN: And then he'd be subject to recall on 5 examination on the documents, I assume. 6 TAMMY CITRAMANNIS: The documents are -- I think you 7 need the documents anyway and you certainly could -- 8 BILL CHEN: Okay. 9 TAMMY CITRAMANNIS: -- recall him if you needed to. 10 BILL CHEN: Fine. 11 GREG DIAMOND: Perfect. 12 TAMMY CITRAMANNIS: I think that would only be fair. 13 BILL CHEN: Yeah. We don't have any problem with 14 that. 15 TAMMY CITRAMANNIS: Okay. So at lunch you will get 16 those -- 17 BILL CHEN: Yeah. 18 TAMMY CITRAMANNIS: -- give them. So at this point -- 19 that just means when they say recall you might be back 20 there. Okay. Thank you. 21 BILL CHEN: Thank you. 22 TAMMY CITRAMANNIS: Okay. Oh, I'm sorry Ms. Wetter. 23 You're just too quiet. 24 CHERYL WETTER: It's not for him. It's a housekeeping 25 --</p>
<p>421</p> <p>1 TERRENCE MACPHEARSON: I can only say that there was a 2 diminution. I can't say the percentage. 3 BILL CHEN: Yeah. You just, what you've already said. 4 TERRENCE MACPHEARSON: Right. Exactly. 5 TAMMY CITRAMANNIS: Okay. Okay. Any more little 6 papers? No. You all are doing great. All right. With 7 that I -- are you all -- you all are (inaudible) then -- 8 BILL CHEN: Well, excuse me. For benefit of counsel, 9 what we will do, I guess the best time to do it is 10 photocopy some of this data and then provide it to counsel. 11 TAMMY CITRAMANNIS: Yeah. We can do that. I was 12 going to -- I don't know that we can give the documents to 13 staff downstairs. Take a few minute break, restroom break 14 do that. 15 BILL CHEN: Can you do that? 16 TAMMY CITRAMANNIS: And get those documents to you. I 17 mean -- 18 BILL CHEN: Okay we're -- are we going to have a break 19 this morning before lunch or what are your plans? 20 TAMMY CITRAMANNIS: I'm just saying if you want to -- 21 or you can do the copying during lunch. 22 THOMAS BARNARD: That would be (inaudible) 23 TAMMY CITRAMANNIS: That would work? Yeah. Okay. 24 BILL CHEN: During lunch is -- did I hear? 25 TAMMY CITRAMANNIS: Yeah. I think that's --</p>	<p>423</p> <p>1 TAMMY CITRAMANNIS: Okay. 2 CHERYL WETTER: -- question kind of for you. 3 TAMMY CITRAMANNIS: Okay. 4 CHERYL WETTER: When they're making copies of this, 5 can we also get a hard copy of what Mr. Dugan gave us 6 yesterday? The information about the downloaded, all the 7 Verizon bits per second coming in because that was not 8 provided to us. He said he had it on a cell phone. 9 TAMMY CITRAMANNIS: He provided everything in his 10 report. He had a written report and we already talked 11 about that, that that was a compilation of his notes in the 12 report. And -- 13 CHERYL WETTER: All those downloads? That particular 14 chart? 15 TAMMY CITRAMANNIS: No. No. But I think everything 16 was mentioned in there. I mean we talked about -- we've 17 already talked about all of that information that it's -- 18 the report speaks for itself. And that's a compilation of 19 his notes. 20 CHERYL WETTER: Okay. On the break I'll take a look 21 at that report because I -- 22 BILL CHEN: Yeah, I don't remember that being in the 23 report either. 24 SUSAN LEE: No. 25 TAMMY CITRAMANNIS: Okay. Well, you can certainly</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

20 (424 to 427)

424

1 raise it later, but I'm not sure that -- I think when it
2 was raised we weren't -- he didn't have all of his notes.
3 But he doesn't have a report. He's rendering his opinion
4 based on documents so --
5 CHERYL WETTER: I just remember Mr. Dugan holding up
6 his phone and saying I have everything here, but we
7 couldn't look at it.
8 TAMMY CITRAMANNIS: Right. And I don't know why. I
9 mean it was part of his report.
10 GREG DIAMOND: Yes. I don't think we get Mulligans
11 here where we get to go back to witnesses from, you know,
12 9:00 a.m. yesterday and go I had some great questions I
13 didn't ask. And so I --
14 CHERYL WETTER: That's not what I said.
15 TAMMY CITRAMANNIS: No, no. Okay. I understand. At
16 this point his notes aren't going to be reviewed, or
17 they're part of his report of the two reports that he had
18 and you had the opportunity to cross-examine him at that
19 point. Okay. So, thank you Mr. MacPhearson.
20 TAMMY CITRAMANNIS: Your next witness Mr. Chen.
21 BILL CHEN: Ronald Danielian, Your Honor.
22 TAMMY CITRAMANNIS: Danielian?
23 BILL CHEN: Yes.
24 TAMMY CITRAMANNIS: Okay. Just make sure I got the
25 right pronunciation. And do you promise to tell the truth,

425

1 the full truth, and nothing but the truth in your testimony
2 today under the penalty of perjury?
3 RON DANIELIAN: I do.
4 TAMMY CITRAMANNIS: Okay. State your name and your
5 address and wait for Mr. Chen's questions.
6 RON DANIELIAN: Ronald Lawrence Danielian. I am a
7 licensed real estate agent in the state of Maryland, D.C.,
8 and Virginia. I've been licensed in Maryland since 19 --
9 yeah, 1989 and my address, business address, is 14995 Shady
10 Grove Road, Rockville Maryland 20150.
11 BILL CHEN: Mr. Danielian I'm showing you Exhibit 65A.
12 Can you identify that please?
13 RON DANIELIAN: Yes. That's my CV.
14 BILL CHEN: Thank you. Mr. Danielian, you have been
15 previously recognized as an expert witness by the Office of
16 Zoning and Administrative hearings and the Board of
17 Appeals. Is that correct?
18 RON DANIELIAN: That's correct.
19 GREG DIAMOND: In what capacity?
20 TAMMY CITRAMANNIS: I think he's getting to that.
21 GREG DIAMOND: I just --
22 TAMMY CITRAMANNIS: Yeah.
23 BILL CHEN: What is the area of expertise as to what
24 you've been recognized, sir?
25 RON DANIELIAN: The area of expertise was basically

426

1 economic value of properties.
2 BILL CHEN: As that term is utilized in the zoning
3 ordinance?
4 RON DANIELIAN: As that term is used, that's correct.
5 BILL CHEN: Okay. And what has been your assignment
6 in this particular case involving the Verizon Wireless
7 conditional use application and the special exception
8 modification of the East Gate Recreation Association?
9 RON DANIELIAN: To look at the area and figure out
10 what -- express an opinion on the effect that that will
11 have on the houses in that development.
12 BILL CHEN: In the context of economic value?
13 RON DANIELIAN: That's correct. In the context of
14 economic value.
15 BILL CHEN: What is your understanding of the meaning
16 of the terminology economic value?
17 RON DANIELIAN: Economic value is a, both a financial
18 and a economic term that it basically means one person has
19 \$100,000, the other person has a house. When they exchange
20 those two assets it's the actual sale price, sold price.
21 It's the price that that house has sold for. That's the
22 economic value. It's not a subjective judgment of value.
23 BILL CHEN: Do you have an opinion about whether the
24 proposed telecommunications conditional use will have an
25 adverse impact on the economic value of nearby residences?

427

1 RON DANIELIAN: Yes, I do.
2 BILL CHEN: And what is that?
3 RON DANIELIAN: That it will have an impact.
4 GREG DIAMOND: Well, well --
5 TAMMY CITRAMANNIS: Wait.
6 GREG DIAMOND: We've jumped from voir dire --
7 (crosstalk)
8 BILL CHEN: Okay. What?
9 TAMMY CITRAMANNIS: You want to have him qualified as
10 an expert?
11 BILL CHEN: Well I'd asked that he be recognized for
12 the expertise that he's identified. And he's, as I say,
13 he's been previously identified twice for the virtue of the
14 very same (inaudible)
15 TAMMY CITRAMANNIS: I should at least give them an
16 opportunity to --
17 BILL CHEN: Yeah.
18 TAMMY CITRAMANNIS: -- ask a question if --
19 GREG DIAMOND: Yes. I don't have any questions on
20 voir dire. I just thought we jumped in time --
21 TAMMY CITRAMANNIS: You're right, we did.
22 GREG DIAMOND: -- maybe I had passed out.
23 TAMMY CITRAMANNIS: We're all getting excited and
24 that's okay. Go ahead. So do you have any --
25 THOMAS BARNARD: No, thank you.

Transcript of Hearing - Day 2
Conducted on September 27, 2017

21 (428 to 431)

<p>428</p> <p>1 TAMMY CITRAMANNIS: Okay. So you're qualified. 2 BILL CHEN: Okay. 3 MALE VOICE: All set. 4 BILL CHEN: Okay. The question I believe was, and 5 I'll repeat it is do you have an opinion about whether the 6 proposed telecommunications conditional use application 7 will have an adverse impact, not application -- whether the 8 proposed telecommunications tower will have an adverse 9 impact on the economic value of nearby residences? 10 GREG DIAMOND: And here I do have an objection. There 11 has been no foundation laid leading up to -- 12 TAMMY CITRAMANNIS: He's asking him if he has an 13 opinion. And then my guess is he's going to lay the 14 foundation. 15 BILL CHEN: Yeah. 16 GREG DIAMOND: Without a foundation after -- 17 BILL CHEN: This is only yes or no. 18 TAMMY CITRAMANNIS: Okay, he's just saying do you have 19 one. Yeah. So that's -- why don't we -- 20 RON DANIELIAN: Yes. 21 BILL CHEN: Thank you. Now Mr. Danielian, have you 22 been to the East Gate Recreation Association property? 23 RON DANIELIAN: Yes, I have. 24 BILL CHEN: Okay. And what have you done in that 25 regard when you've been on the property?</p>	<p>430</p> <p>1 BILL CHEN: She sustained the objection. 2 RON DANIELIAN: Okay. 3 BILL CHEN: And you've also had an opportunity -- have 4 you had an opportunity to review the conditional use 5 application that's before the Hearing Examiner? 6 RON DANIELIAN: Yes. 7 BILL CHEN: Okay. Have you reviewed the plans? 8 RON DANIELIAN: Yes. 9 BILL CHEN: What is your understanding of what the 10 application requests? 11 RON DANIELIAN: That there's going to be an 80 foot 12 cell tower with some camouflage on it that's going to be 13 within very close proximity to the swimming pool and the 14 tennis courts. And it will have a -- well, I call it an 15 equipment shed, but it's part and parcel of the tower; 20 16 by 29. 17 BILL CHEN: I believe you, have you taken some 18 photographs? 19 RON DANIELIAN: Yes. 20 BILL CHEN: Let me -- Madam Examiner that (inaudible) 21 TAMMY CITRAMANNIS: Okay. 191(c)(i). All right. Let 22 me ask you this. Does that have the one, two, and three? 23 BILL CHEN: No. But I'm going to -- 24 TAMMY CITRAMANNIS: You're going to do that. 25 BILL CHEN: I'm going to emulate Ms. Borten.</p>
<p>429</p> <p>1 RON DANIELIAN: Taken a look at the property. Looked 2 at the neighborhood. Look at the houses in the 3 neighborhood, look at some of the values of the houses in 4 the neighborhood. And also, I took some pictures. 5 BILL CHEN: Just as an aside, did you have any 6 problems with your cell phone service in that area? 7 THOMAS BARNARD: Objection. 8 TAMMY CITRAMANNIS: Relevance? 9 BILL CHEN: Okay. Well -- 10 RON DANIELIAN: I -- 11 BILL CHEN: -- well he, you've been in the area, is 12 that right? 13 RON DANIELIAN: Oh, absolutely. 14 BILL CHEN: Okay. 15 RON DANIELIAN: I mean, you want me to answer? 16 TAMMY CITRAMANNIS: Sustained. Sustained. No. No 17 answer. 18 BILL CHEN: Okay. 19 RON DANIELIAN: Just say no? 20 TAMMY CITRAMANNIS: No answer. 21 BILL CHEN: By the way -- 22 RON DANIELIAN: Oh, no answer. 23 TAMMY CITRAMANNIS: It's good. The question has -- 24 RON DANIELIAN: Oh the question, there's no question. 25 TAMMY CITRAMANNIS: Right.</p>	<p>431</p> <p>1 TAMMY CITRAMANNIS: Okay. Thank you. 2 BILL CHEN: Let me show you what has been marked, Mr. 3 Danielian, as Exhibit 191(c)(i). Can you identify that? 4 RON DANIELIAN: Yes. This is a shot looking from the 5 south side of Snug Hill Lane across -- 6 BILL CHEN: What is the -- 7 TAMMY CITRAMANNIS: (inaudible) 8 BILL CHEN: Hold on a minute. 9 TAMMY CITRAMANNIS: Tell me what the caption says. 10 BILL CHEN: Just read the caption (inaudible) 11 RON DANIELIAN: Okay. Snug Hill Lane looking toward 12 the swim center near the intersection of Snug Hill Court 13 and Snug Hill Lane. 14 BILL CHEN: Okay. What are we looking at in this 15 photograph? 16 RON DANIELIAN: You're looking at the buildings the 17 recreation facility. 18 BILL CHEN: Who took this photograph? 19 RON DANIELIAN: I did. 20 BILL CHEN: It's an accurate depiction of what it 21 purports to show? 22 RON DANIELIAN: That is correct. 23 BILL CHEN: When did you take it? 24 RON DANIELIAN: I don't have the date with me right 25 now but it was --</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

22 (432 to 435)

<p>432</p> <p>1 BILL CHEN: Approximate, as best you can do. 2 RON DANIELIAN: June, July. 3 BILL CHEN: Okay. Let me show you -- 4 RON DANIELIAN: I mean I have the day, it's in the 5 camera someplace. 6 BILL CHEN: Let me show you Exhibit -- what has been 7 marked as Exhibit 191(c)(ii) with the title Snug Hill Court 8 near mailbox of Number 5 Snug Hill Court. Can you identify 9 that, sir? 10 RON DANIELIAN: That is correct. It is -- I'm backed 11 up to the mailbox. There's a rise there; Snug Hill Court 12 rises to take approximately the same picture but there's a 13 huge bush on the side there. 14 BILL CHEN: Does this photograph accurately depict 15 that which it purports to show? 16 RON DANIELIAN: Yes. 17 BILL CHEN: Okay. And it was taken about the same 18 time as the previous -- 19 RON DANIELIAN: Yes. 20 BILL CHEN: -- and all these photographs? 21 RON DANIELIAN: Yes. 22 BILL CHEN: Okay. Thank you. Showing you Exhibit 23 number 191(c)(iii) with the caption below. View from rear 24 of last townhome. 25 RON DANIELIAN: Yes. This was a view standing on</p>	<p>434</p> <p>1 RON DANIELIAN: Because while the tree is going to be 2 over on the left-hand -- the tree. The cell tower which is 3 tree looking is going to be over here and it would be hard 4 to see. But at the same time at the opportune time when 5 you're taking people around to see houses there's not going 6 to be as many trees with leaves on them. 7 BILL CHEN: Mr. Danielian, (inaudible) point with your 8 finger to the area that you're identifying. Take this red 9 marker and just mark the area where the tree or where the 10 tower is supposed to be from your understanding. 11 RON DANIELIAN: At this (inaudible) yeah. 12 TAMMY CITRAMANNIS: You're going to submit that 13 exhibit? 14 BILL CHEN: Yeah. 15 TAMMY CITRAMANNIS: The original's in here and we'll 16 just -- 17 BILL CHEN: Right. Right. 18 TAMMY CITRAMANNIS: -- add it to that. 19 BILL CHEN: Right. I'm showing you Exhibit 20 191(c)(iii). Why did you take that photograph? 21 RON DANIELIAN: Because when you're looking down the 22 road people are -- Gainsborough is a highly trafficked 23 road. People looking at properties, they look all around 24 when you're -- and they'll look down that road and of 25 course the disguised tree will be very prominent.</p>
<p>433</p> <p>1 Gainsborough on the -- at the east side of Gainsborough 2 backed up to the back of the -- what are the townhouses on 3 the rest of Snug Hill Lane across from Gainsborough looking 4 down the entrance to the swim center. 5 BILL CHEN: Okay. Now, and I take it -- when did you 6 take these photographs? I'll withdraw that question. Why 7 did you take the photograph that's been identified as 8 Exhibit 191(c)(ii)? 9 RON DANIELIAN: Well, there had been a depiction of 10 the tower disclosed as a cell tower that's going to be 11 going up and it would have come into the view over on the 12 left-hand side of this picture. And I took it because that 13 area, there's a whole bunch of -- if you look at this there 14 is a significant amount of trees here which are deciduous 15 trees. There's some that are not. There are a lot that 16 are not and there's a lot that are. I haven't taken a 17 study of all of the numbers, and the real estate market 18 when you're showing real estate in the most opportune time 19 in Washington are two different times. End of January to 20 March is a very good time for sales of houses, March and 21 April and the next time, which is almost as a market is 22 from approximately after the summer vacation, so the end of 23 August until November the 27th basically, you know, 24 Thanksgiving. 25 BILL CHEN: So why did you take 191(c)(ii)?</p>	<p>435</p> <p>1 BILL CHEN: Okay. That's why you took the photo? 2 RON DANIELIAN: That's why I took the photo. 3 BILL CHEN: I'm showing you Exhibit 191(c)(i). Why 4 did you take that photograph? 5 RON DANIELIAN: Well, that's taken actually on Snug 6 Hill Lane on the south side of Snug Hill Lane. Not quite 7 to Snug Hill Court, and again the tower would be basically 8 -- 9 BILL CHEN: Let's on this exhibit also, with the red 10 felt tip please indicate where you're pointing. 11 RON DANIELIAN: You would see it basically there. It 12 would just be a tip of the branches. That's what you would 13 see. 14 BILL CHEN: Madam Examiner, we'll give you these -- 15 TAMMY CITRAMANNIS: Let them see them as well. 16 RON DANIELIAN: That's approximate I didn't take -- 17 BILL CHEN: Okay. Now Mr. Danielian, based upon your 18 visit to the property and your experience and knowledge 19 were you able to formulate an opinion about whether or not 20 there would be an adverse impact on the economic value of 21 residences in the East Gate subdivision? 22 RON DANIELIAN: Yes. 23 BILL CHEN: What is it? 24 RON DANIELIAN: That it would have an impact on the 25 economic value of the property.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

23 (436 to 439)

<p>436</p> <p>1 BILL CHEN: Explain how you get to that opinion. 2 RON DANIELIAN: When real estate agents have engaged a 3 client and they end up visiting properties there are quite 4 a number of affects of things around the property that 5 would affect their view and purchase price of the property. 6 Heavily trafficked roads, towers, towers basically of any 7 sort, cell towers, electric towers and it makes a big 8 difference to them. If a property you're going to visit 9 has that impact. In two particular properties, one in 10 Potomac and one in the North Potomac area -- 11 BILL CHEN: Keep your voice up please. 12 RON DANIELIAN: In two particular areas, the one in 13 Potomac and one in North Potomac towers being the high- 14 tension lines that are up in North Potomac that cross over 15 Route 28, those towers people would drive up to a house 16 that backed up to them. They had to take one look, they 17 wouldn't even -- they say don't stop. Just go. In terms 18 of heavily trafficked roads, Brickyard Lane; I had a 19 problem there on a listing where basically what happened 20 was we had a contract on a property and the buyer had gone 21 through an inspection and everything and saw the signs 22 laying in the bushes about don't hurt our Brickyard Lane. 23 And what ended up happening was they went to the website 24 and it apparently looked very funny that all of a sudden 25 the County was thinking about putting a bus depot a school</p>	<p>438</p> <p>1 site-specific then? 2 RON DANIELIAN: Yes. 3 BILL CHEN: And with particular regard to the East 4 Gate Recreation property, and you've looked at the 5 conditional use application; what is the concern or the 6 factor in your opinion that drives your opinion about the 7 adverse impact? 8 RON DANIELIAN: It's been stated before that a lot of 9 families don't like or are worried about like the 10 propagation and so forth of a signal. The fact that 11 there's a tower there. It concerns them. In addition, the 12 fact that it's right next to the center rather than maybe 13 off in another corner somewhere presents a real problem. 14 BILL CHEN: There's a exhibit in the record, Exhibit 15 number 77. Have you seen that exhibit, sir? 16 RON DANIELIAN: Yes, I have, and I have a copy of it 17 right here. 18 BILL CHEN: You have a copy. 19 GREG DIAMOND: Is that the (inaudible) letter? 20 MALE VOICE: I've got one. I'll give you my copy 21 rather than digging it out, but I'd like it back if you 22 don't mind. 23 TAMMY CITRAMANNIS: Did you, does Counsel have it? 24 CATHY BORTEN: Tell me what that is. 25 BILL CHEN: It's in the record.</p>
<p>437</p> <p>1 bus depot on that empty land on the right-hand side of 2 Brickyard. 3 BILL CHEN: How does that correlate to a 4 telecommunications tower? 5 RON DANIELIAN: Well, it's an encumbrance on the view 6 and the quiet enjoyment of a piece of property. And the 7 feeling of a buyer as to whether or not they want to live 8 next to that. 9 BILL CHEN: Well, are you saying then that -- 10 TAMMY CITRAMANNIS: Can you hear? 11 MALE VOICE: Can you lean a little closer? 12 BILL CHEN: I apologize. I apologize. 13 TAMMY CITRAMANNIS: Sorry. 14 BILL CHEN: No, it's me. Does your opinion apply to 15 all recreational facilities and subdivisions? 16 RON DANIELIAN: No. It wouldn't. It would apply, I 17 mean it depends on the proximity of the things that they're 18 complaining about. The structure, whatever it is that 19 turns them off and the -- if you're right next to it, 20 viewing it out of your front yard or your backyard it has 21 more of an effect. If it's a large piece of property, 22 maybe even a country club, and you put it way out in the 23 middle of nowhere generally speaking you're not going to 24 have as much of an affect. 25 BILL CHEN: Do I understand you to be saying this is</p>	<p>439</p> <p>1 TAMMY CITRAMANNIS: I want know. 2 BILL CHEN: It's 77. Exhibit 77. It's Exhibit 77. 3 CATHY BORTEN: It says prehearing statement from Brian 4 (inaudible). 5 RON DANIELIAN: No. No, no it should have this 6 attached. 7 BILL CHEN: Yeah, that is what it is. That is Exhibit 8 77. 9 TAMMY CITRAMANNIS: It -- okay. 10 BILL CHEN: Now, Mr. Danielian, you've read this 11 exhibit? 12 GREG DIAMOND: Well, I'm not sure. For some reason we 13 feel like we're missing this one. If I could just see 14 also? 15 TAMMY CITRAMANNIS: Okay. I think that -- 16 GREG DIAMOND: These were -- (inaudible) to the -- 17 just, these were just letters that came in straight to the 18 record? 19 BILL CHEN: Yes. 20 GREG DIAMOND: Okay and got into -- 21 BILL CHEN: (inaudible) 22 GREG DIAMOND: Understood. It wasn't Bill's pre- 23 hearing. 24 CATHY BORTEN: (inaudible) 25 BILL CHEN: She understood.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

24 (440 to 443)

<p>440</p> <p>1 GREG DIAMOND: Okay.</p> <p>2 TAMMY CITRAMANNIS: You're good?</p> <p>3 BILL CHEN: Mr. Danielian, directing your attention to</p> <p>4 that Exhibit 77, you've read it?</p> <p>5 RON DANIELIAN: Yes.</p> <p>6 BILL CHEN: And that document contains some</p> <p>7 information. Is that correct?</p> <p>8 RON DANIELIAN: That is correct.</p> <p>9 BILL CHEN: To what extent does that information</p> <p>10 correlate to your opinion that you've expressed this</p> <p>11 morning about adverse impact on economic value?</p> <p>12 RON DANIELIAN: It correlates -- there is a</p> <p>13 correlation.</p> <p>14 THOMAS BARNARD: I'm going to object, since it's</p> <p>15 asking him to vouch on another exhibit rather than give his</p> <p>16 own testimony.</p> <p>17 BILL CHEN: He's not vouching.</p> <p>18 TAMMY CITRAMANNIS: Yeah, what is that this is?</p> <p>19 BILL CHEN: The question was how does the information</p> <p>20 contained in that exhibit --</p> <p>21 TAMMY CITRAMANNIS: Did he read this and did it impact</p> <p>22 his --</p> <p>23 BILL CHEN: How does it correlate to his opinion about</p> <p>24 economic value and what he was about -- well, I don't want</p> <p>25 to say that. But the question is how does it correlate to</p>	<p>442</p> <p>1 TAMMY CITRAMANNIS: Right.</p> <p>2 BILL CHEN: And the question is how does that concern</p> <p>3 reflected in that exhibit, correlate to his professional</p> <p>4 opinion and how he gets the professional opinion on adverse</p> <p>5 impact on economic value.</p> <p>6 THOMAS BARNARD: Well, my objection is that he's</p> <p>7 entitled to give an opinion about documents he considered</p> <p>8 informing his opinion, is not allowed to take other</p> <p>9 people's opinions to use to bolster his own opinion.</p> <p>10 That's an improper type of expert testimony and that the</p> <p>11 document essentially speaks for itself and if he wants to</p> <p>12 say that he agrees or disagrees that's one thing. But him</p> <p>13 saying that it correlates or bolsters his opinion is not</p> <p>14 appropriate expert testimony.</p> <p>15 CATHY BORTEN: Exactly.</p> <p>16 BILL CHEN: It's not a matter of bolstering. When I</p> <p>17 say -- when I use -- the word correlate is used it is</p> <p>18 essentially, is it going to the same place as his</p> <p>19 professional opinion and how he reaches that professional</p> <p>20 opinion.</p> <p>21 TAMMY CITRAMANNIS: Right.</p> <p>22 BILL CHEN: That's what correlate means.</p> <p>23 TAMMY CITRAMANNIS: Right. I understand. But at the</p> <p>24 same time --</p> <p>25 BILL CHEN: And I agree with you.</p>
<p>441</p> <p>1 his opinion. That's a fair question.</p> <p>2 TAMMY CITRAMANNIS: Yeah.</p> <p>3 BILL CHEN: I think. I (inaudible)</p> <p>4 TAMMY CITRAMANNIS: Well, you need to come up and sit</p> <p>5 up here.</p> <p>6 BILL CHEN: Don't want to do that.</p> <p>7 TAMMY CITRAMANNIS: How does it correlate to his --</p> <p>8 BILL CHEN: Yes.</p> <p>9 TAMMY CITRAMANNIS: I don't -- I understand if he's a</p> <p>10 read it.</p> <p>11 BILL CHEN: No.</p> <p>12 TAMMY CITRAMANNIS: But I don't understand how it</p> <p>13 correlates.</p> <p>14 BILL CHEN: Well, how it correlates to his opinion as</p> <p>15 to the adverse impact on the economic value of properties</p> <p>16 in East Gate and --</p> <p>17 TAMMY CITRAMANNIS: But have we had Brian come up and</p> <p>18 present this?</p> <p>19 BILL CHEN: Oh I -- I don't think that I need to bring</p> <p>20 -- in fact, I don't even know the gentleman, Brian</p> <p>21 Pashkoff, whatever his name is.</p> <p>22 BRIAN: I'm right here.</p> <p>23 BILL CHEN: Well, the bottom line is this is a piece</p> <p>24 of -- an exhibit in the record and it expresses a concern.</p> <p>25 It expresses a concern signed by certain people --</p>	<p>443</p> <p>1 TAMMY CITRAMANNIS: I also have a -- my own binder of</p> <p>2 letters of opposition that includes similar type issues. I</p> <p>3 mean is -- how is that any different?</p> <p>4 BILL CHEN: Well, I think it's -- this is very</p> <p>5 different because it is a document supposedly submitted by</p> <p>6 realtors and --</p> <p>7 TAMMY CITRAMANNIS: Right. Realtors that I have no</p> <p>8 names. I only have signatures and I've not heard from Mr.</p> <p>9 Pashkoff so I'm not sure that that is -- I mean I'm going</p> <p>10 to -- I agree with their position.</p> <p>11 BILL CHEN: Okay. Okay.</p> <p>12 TAMMY CITRAMANNIS: So I'm going to sustain their</p> <p>13 objection.</p> <p>14 MALE VOICE: (inaudible)</p> <p>15 RON DANIELIAN: That's a no?</p> <p>16 TAMMY CITRAMANNIS: That's a no.</p> <p>17 MALE VOICE: That's a no.</p> <p>18 BILL CHEN: I don't have any further questions.</p> <p>19 GREG DIAMOND: Yes. If I understand your opinion</p> <p>20 today --</p> <p>21 TAMMY CITRAMANNIS: Is your mic on?</p> <p>22 GREG DIAMOND: Thank you. Sir, if I understand your</p> <p>23 opinion today, it is said that a communications monopole</p> <p>24 has a negative effect on buyers' choices as to whether they</p> <p>25 would want to buy adjacent to that monopole. Is that</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

25 (444 to 447)

<p>444</p> <p>1 correct?</p> <p>2 RON DANIELIAN: That's correct.</p> <p>3 GREG DIAMOND: Which out of fairness is not to say</p> <p>4 that someone might, in fact, want to live in that home and</p> <p>5 buy it. Is that correct? It's not the home will never</p> <p>6 sell, it's just that some buyers might not want to?</p> <p>7 RON DANIELIAN: That's correct.</p> <p>8 GREG DIAMOND: And in fact, the buyer might purchase</p> <p>9 it at the highest and best appraised value. That is one of</p> <p>10 the possibilities isn't it?</p> <p>11 RON DANIELIAN: Not necessarily.</p> <p>12 GREG DIAMOND: You're saying there's no one who would</p> <p>13 buy a home adjacent, no one, at the highest and best price</p> <p>14 even though some people wouldn't?</p> <p>15 RON DANIELIAN: Every house will sell for a price.</p> <p>16 And what will happen is it will be a lower price than other</p> <p>17 houses in the neighborhood.</p> <p>18 GREG DIAMOND: So did you undertake any study or</p> <p>19 prepare any report comparing sales of homes adjacent to</p> <p>20 treat monopolies in Montgomery County Maryland comparing</p> <p>21 sales and square -- price per square foot of homes before</p> <p>22 and after the pole was built?</p> <p>23 RON DANIELIAN: No. Because I'm talking about the</p> <p>24 reaction of the buyer to not even wanting to see the house.</p> <p>25 GREG DIAMOND: But you could have undertaken such a</p>	<p>446</p> <p>1 they.</p> <p>2 RON DANIELIAN: I would have no way of knowing that.</p> <p>3 And in fact, in answer --</p> <p>4 GREG DIAMOND: There's no question pending.</p> <p>5 RON DANIELIAN: No.</p> <p>6 TAMMY CITRAMANNIS: Wait for his question.</p> <p>7 RON DANIELIAN: Can I finish --</p> <p>8 TAMMY CITRAMANNIS: Mr. Chen, if Mr. Chen wants to</p> <p>9 follow up he'll clarify. But he asked you your question</p> <p>10 and you can only answer the question he asked.</p> <p>11 GREG DIAMOND: So I want to be sure I understand. You</p> <p>12 believe that the proposed monopoly at the current location</p> <p>13 will have an effect on the immediate surrounding homes?</p> <p>14 RON DANIELIAN: Yes.</p> <p>15 GREG DIAMOND: In terms of their economic value?</p> <p>16 RON DANIELIAN: Yes.</p> <p>17 GREG DIAMOND: Is it fair to say that your opinion</p> <p>18 would be the same if we moved that monopoly to a distant</p> <p>19 part of that same neighborhood in terms of the residences</p> <p>20 that surround that monopoly?</p> <p>21 RON DANIELIAN: I don't -- what distance are you</p> <p>22 talking about? How far?</p> <p>23 GREG DIAMOND: Let's say out of sight of the current</p> <p>24 location.</p> <p>25 BILL CHEN: Objection.</p>
<p>445</p> <p>1 study, couldn't you?</p> <p>2 RON DANIELIAN: Well, there aren't that many sales --</p> <p>3 GREG DIAMOND: Within your area of expertise, could</p> <p>4 you have undertaken the type of study that I describe?</p> <p>5 RON DANIELIAN: I could look at some of the statistics</p> <p>6 but I'm not an appraiser.</p> <p>7 GREG DIAMOND: Did you actually go and look at any of</p> <p>8 the tree monopolies that have been constructed in Potomac,</p> <p>9 Maryland?</p> <p>10 RON DANIELIAN: Look or see --</p> <p>11 GREG DIAMOND: Did you actually go and look at them?</p> <p>12 RON DANIELIAN: No, I did not. No.</p> <p>13 GREG DIAMOND: So you're giving an opinion about a</p> <p>14 tree monopoly to be constructed at the Snug Hill property</p> <p>15 that you've never seen one, a tree monopoly?</p> <p>16 RON DANIELIAN: No, I have.</p> <p>17 GREG DIAMOND: Oh, you have seen tree monopolies?</p> <p>18 RON DANIELIAN: ICC example on the left-hand side.</p> <p>19 Yes.</p> <p>20 GREG DIAMOND: Okay. Have you seen the tree monopolies</p> <p>21 that were constructed in Montgomery -- in Potomac,</p> <p>22 Maryland?</p> <p>23 RON DANIELIAN: A tree -- no. Not a camouflaged tree</p> <p>24 monopoly.</p> <p>25 GREG DIAMOND: They're very well disguised aren't</p>	<p>447</p> <p>1 GREG DIAMOND: I'm -- he's an expert who gives</p> <p>2 opinions.</p> <p>3 TAMMY CITRAMANNIS: Okay. Let -- just hear what his</p> <p>4 objection is.</p> <p>5 GREG DIAMOND: If we move the monopoly to another part</p> <p>6 of this --</p> <p>7 TAMMY CITRAMANNIS: Mr. Diamond.</p> <p>8 GREG DIAMOND: Oh. I'm sorry.</p> <p>9 TAMMY CITRAMANNIS: No, just let me see if --</p> <p>10 BILL CHEN: If he wants to ask a question of putting</p> <p>11 this monopoly in the same setting at a different portion of</p> <p>12 the subdivision I have no objection to that. But the way</p> <p>13 this hypothetical has been posited is, as I understand it,</p> <p>14 some other property, some other place in --</p> <p>15 TAMMY CITRAMANNIS: Be a little more specific.</p> <p>16 GREG DIAMOND: Okay. So you've given an opinion about</p> <p>17 a monopoly that doesn't exist at the current property.</p> <p>18 Isn't that right?</p> <p>19 RON DANIELIAN: Yes.</p> <p>20 GREG DIAMOND: So is it fair to say that you could</p> <p>21 also give an opinion about a monopoly that doesn't exist,</p> <p>22 maybe somewhere else in the neighborhood surrounded by</p> <p>23 residences? Apples for apples.</p> <p>24 RON DANIELIAN: As long as it's viewable, especially</p> <p>25 in the key months of house looking where there is deciduous</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

26 (448 to 451)

<p>448</p> <p>1 trees still don't have their leaves on it, yeah.</p> <p>2 GREG DIAMOND: Well, let's say that this monopole</p> <p>3 built elsewhere in the neighborhood would have the exact</p> <p>4 same visibility as the one that is proposed at the swim</p> <p>5 club.</p> <p>6 BILL CHEN: Excuse me.</p> <p>7 GREG DIAMOND: I haven't finished the question.</p> <p>8 BILL CHEN: I apologize. Go right ahead. I</p> <p>9 apologize.</p> <p>10 GREG DIAMOND: Would you be able to give an opinion as</p> <p>11 to whether you think that the effect of that tree monopole</p> <p>12 on its immediately surrounding residences would be the same</p> <p>13 as you're describing at the Snug Hill site?</p> <p>14 RON DANIELIAN: Yes. But the --</p> <p>15 BILL CHEN: Excuse -- pardon me. I object because of</p> <p>16 the word used by Counsel is monopole. We're not dealing in</p> <p>17 this case with a monopole. We're dealing in this case with</p> <p>18 a telecommunications tower conditional use. And under the</p> <p>19 language, the very words of the zoning ordinance a</p> <p>20 telecommunications tower conditional use consists of a</p> <p>21 support structure and related equipment. So if Counsel</p> <p>22 corrects the question so that we are now talking about what</p> <p>23 is -- if we're talking about apples to apples as Counsel is</p> <p>24 saying then you don't use the word monopole. You use the</p> <p>25 terminology telecommunications conditional use.</p>	<p>450</p> <p>1 that are immediately around it, within the 300 to 400 foot</p> <p>2 range to the theoretical tree monopole and communications</p> <p>3 facility with the effect on economic -- would your opinion</p> <p>4 on economic value be the same as at the current location?</p> <p>5 The one that's proposed in this case.</p> <p>6 RON DANIELIAN: Yes, at some level.</p> <p>7 GREG DIAMOND: I don't think I have anything further.</p> <p>8 THOMAS BARNARD: I have nothing. Thank you.</p> <p>9 TAMMY CITRAMANNIS: Mr. Chen.</p> <p>10 BILL CHEN: In your last answer you just said at some</p> <p>11 level. What did you mean by that?</p> <p>12 RON DANIELIAN: As the site of a tower and whatever</p> <p>13 comes with it is less and less further away. Number one,</p> <p>14 there would be still a affect once people find out about it</p> <p>15 or see it. But more importantly unfortunately in this</p> <p>16 particular instance it's right next to a swim club. And</p> <p>17 the one thing that communities have that helps increase</p> <p>18 their value is to have a swim club, tennis club, et cetera</p> <p>19 that they can join for their children and neighborhoods</p> <p>20 turn over. And I realize that it's probably an older</p> <p>21 neighborhood there right now, but that's not going to last.</p> <p>22 And kids are going to move in and that's also going to</p> <p>23 affect it. It's the proximity which probably -- which does</p> <p>24 affect its -- it's like a -- it's certainly not an inherent</p> <p>25 issue with a normal swim club.</p>
<p>449</p> <p>1 TAMMY CITRAMANNIS: We all know what he's saying and I</p> <p>2 don't believe that you've used all that terminology as</p> <p>3 well. So it's -- we all know that we're dealing with -- he</p> <p>4 gave his opinion as to what the reaction is of buyers to</p> <p>5 the visibility of it. And if you want to clarify --</p> <p>6 BILL CHEN: Well, on cross --</p> <p>7 TAMMY CITRAMANNIS: If you want to clarify, you know,</p> <p>8 the additional stuff as well, or he can clarify and add and</p> <p>9 say whatever. But I'm going to overrule that. If you -- I</p> <p>10 know the question you're trying to ask him --</p> <p>11 GREG DIAMOND: And he's already -- I believe he</p> <p>12 answered yes initially.</p> <p>13 TAMMY CITRAMANNIS: And I think he has.</p> <p>14 GREG DIAMOND: And so, and what is your opinion?</p> <p>15 RON DANIELIAN: Yes. It depends on the distance.</p> <p>16 GREG DIAMOND: Assuming the distances were the exact</p> <p>17 same as the one that is proposed at the current site,</p> <p>18 distances from the monopole to people's homes, just in</p> <p>19 another part of the same neighborhood, you know, a half-</p> <p>20 mile away, theoretical; when the effect on those homes be</p> <p>21 the same, in your opinion, as at the proposed site?</p> <p>22 RON DANIELIAN: There would be an effect. But as it</p> <p>23 was testified earlier by the appraiser as you get further</p> <p>24 away the amount of sales value that might be lost is less.</p> <p>25 GREG DIAMOND: But at the theoretical site the homes</p>	<p>451</p> <p>1 BILL CHEN: Is this effect that you just --</p> <p>2 TAMMY CITRAMANNIS: Closer.</p> <p>3 BILL CHEN: The affect that you just described does</p> <p>4 that apply to every recreational facility in a subdivision?</p> <p>5 RON DANIELIAN: You mean does that apply to a pole</p> <p>6 next to every --</p> <p>7 BILL CHEN: In every recreation facility in a</p> <p>8 subdivision.</p> <p>9 RON DANIELIAN: I think it -- yes. I believe it</p> <p>10 would.</p> <p>11 BILL CHEN: Okay.</p> <p>12 RON DANIELIAN: I believe it would. It wouldn't if it</p> <p>13 -- as the gentleman was explaining, you know, a little bit</p> <p>14 away, but is not a little bit. If you go two miles away, a</p> <p>15 mile away, so -- but yes. If it's within sight and</p> <p>16 especially during marketing time it's just bad.</p> <p>17 BILL CHEN: And with regard to monopolies in Potomac</p> <p>18 have you seen camouflaged, and I'm not talking about a</p> <p>19 telecommunications facility, you know. I'm talking about</p> <p>20 monopolies now; have you seen monopolies in Potomac that are</p> <p>21 camouflaged?</p> <p>22 RON DANIELIAN: Monopolies that are camouflaged?</p> <p>23 BILL CHEN: Yes. Towers.</p> <p>24 RON DANIELIAN: No, I haven't.</p> <p>25 BILL CHEN: That's all I got.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

27 (452 to 455)

<p>452</p> <p>1 TAMMY CITRAMANNIS: Okay. No questions before I open 2 it up to Ms. Wetter, Ms. Lee and then the audience? Okay. 3 Ms. Wetter, do you have any questions? 4 CHERYL WETTER: No, I don't. 5 TAMMY CITRAMANNIS: Ms. Lee? 6 SUSAN LEE: No (inaudible) 7 TAMMY CITRAMANNIS: Anybody in the audience have a 8 question, a piece of paper for Mr. Chen? 9 MALE VOICE: I have some questions. I have my own 10 (inaudible) 11 BILL CHEN: What's going on? Just say -- 12 TAMMY CITRAMANNIS: I -- this is the point where if 13 the audience wants to ask a question they can present it to 14 you. 15 BILL CHEN: Okay. That's fine. Someone was -- 16 MALE VOICE: I'll start with one. 17 TAMMY CITRAMANNIS: Everybody come in -- 18 CHERYL WETTER: But he needs to explain the rules to 19 this gentleman. (Crosstalk) 20 TAMMY CITRAMANNIS: I'm going to go off the record for 21 a moment. I just spilled all of my -- 22 (Off the record.) 23 (On the record.) 24 TAMMY CITRAMANNIS: Ask questions. Somebody -- you 25 were talking to somebody about asking questions.</p>	<p>454</p> <p>1 Rockville. It's an entirely different the zoning 2 jurisdiction. 3 TAMMY CITRAMANNIS: Yeah, I'm not sure I -- yes. I'm 4 not sure I understand the relevance in a city office 5 building in Rockville. 6 BILL CHEN: Well, it's a matter of -- 7 GREG DIAMOND: Bill can't really defend the question 8 can he? He's just repeating them out loud because then 9 he's -- if he starts defending people's questions he's 10 representing them. I'm concerned about -- 11 TAMMY CITRAMANNIS: No. He's not representing them. 12 GREG DIAMOND: I'm concerned about that. 13 BILL CHEN: I can -- 14 TAMMY CITRAMANNIS: Okay. So -- 15 BILL CHEN: Okay. I think there was somebody I think 16 there was somebody else. 17 TAMMY CITRAMANNIS: Okay. 18 BILL CHEN: Because we've taken care of the first 19 question. 20 TAMMY CITRAMANNIS: All right. What's the next 21 question? 22 BILL CHEN: Mr. Danielian, have you observed 80 foot 23 telecommunications monopolies in Potomac? 24 RON DANIELIAN: Well, I've observed monopolies in 25 Potomac.</p>
<p>453</p> <p>1 BILL CHEN: Thank you very much. Thank you very, very 2 much. 3 TAMMY CITRAMANNIS: Let's just make sure the court 4 reporter is ready. If he's not ready we're not ready. 5 He's ready. Okay. Mr. Chen, you have any questions from 6 individuals that would like to ask? 7 BILL CHEN: Madam Examiner, yes. A couple of people 8 have come to me. They do have questions. They haven't 9 written them. They're orally going to give them to me, and 10 I'm going to, hopefully, accurately convey them to the 11 witness. 12 TAMMY CITRAMANNIS: Okay. Turn it off please thank 13 you. Go ahead. 14 BILL CHEN: Thank you. 15 TAMMY CITRAMANNIS: We're back on the record at five 16 of 12:00. 17 BILL CHEN: Thank you. Mr. Danielian, assume, sir, if 18 you would that the monopoly was right here in this room 19 Could you please convey what would be the affect of that? 20 GREG DIAMOND: Objection. We're in the city of 21 Rockville. 22 COURT REPORTER: Please turn on your microphone. 23 TAMMY CITRAMANNIS: Someone didn't turn their 24 microphone on, Mr. Diamond. 25 GREG DIAMOND: Objection. We are in the city of</p>	<p>455</p> <p>1 BILL CHEN: Yeah. Okay. 2 RON DANIELIAN: The Bullis monopoly. 3 BILL CHEN: Do you know how many residences were sold 4 in East Gate subdivision within the past 10 months? 5 RON DANIELIAN: I didn't look at that. 6 TAMMY CITRAMANNIS: What was the answer? You have to 7 speak up. 8 RON DANIELIAN: I did not look at that. 9 TAMMY CITRAMANNIS: Okay. 10 RON DANIELIAN: I can find out for you. 11 TAMMY CITRAMANNIS: Okay. 12 RON DANIELIAN: But -- 13 TAMMY CITRAMANNIS: Any other questions? 14 BILL CHEN: Mr. Danielian, assuming that the 15 telecommunications tower conditional use is approved and 16 there after the height of the supporting structure is 17 increased to 155 feet do you have an opinion as to whether 18 or not that would have an effect on adjacent and nearby 19 properties? 20 RON DANIELIAN: It would. 21 GREG DIAMOND: Objection. This, that fact -- 22 TAMMY CITRAMANNIS: I'm going to overrule that. 23 GREG DIAMOND: -- is not in evidence. 24 TAMMY CITRAMANNIS: He can give his opinion as to 25 whether he thinks height would change it. His opinion.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

28 (456 to 459)

<p>456</p> <p>1 RON DANIELIAN: I can?</p> <p>2 TAMMY CITRAMANNIS: Yes.</p> <p>3 RON DANIELIAN: My opinion is that, absolutely.</p> <p>4 BILL CHEN: In what way?</p> <p>5 RON DANIELIAN: It's an affect on a buyer that is</p> <p>6 going to bring a lower price for the house.</p> <p>7 BILL CHEN: Mr. Danielian, do you have any evidence to</p> <p>8 indicate that the proposed telecommunications conditional</p> <p>9 use would not have an adverse impact on adjacent and nearby</p> <p>10 properties?</p> <p>11 RON DANIELIAN: No.</p> <p>12 TAMMY CITRAMANNIS: Anybody else?</p> <p>13 BILL CHEN: Is the opinion that you expressed</p> <p>14 pertaining to the East Gate subdivision this morning</p> <p>15 specific to this site?</p> <p>16 RON DANIELIAN: Well, I have expressed an opinion</p> <p>17 specific for the site.</p> <p>18 BILL CHEN: Why is it specific -- what is there about</p> <p>19 this specific site that leads you to that conclusion?</p> <p>20 RON DANIELIAN: Well, the one thing mentioned in my</p> <p>21 testimony was the proximity to the recreational facility</p> <p>22 which will have an effect on the -- any kind of inherent</p> <p>23 issues that involves that, and the use of it by the</p> <p>24 individuals. New families moving in with children and not</p> <p>25 wanting to be next to one of these facilities.</p>	<p>458</p> <p>1 conjecture.</p> <p>2 GREG DIAMOND: He just asked me to reword it for him,</p> <p>3 didn't he, or repeat it?</p> <p>4 RON DANIELIAN: I did.</p> <p>5 TAMMY CITRAMANNIS: Right. Okay. I just --</p> <p>6 BILL CHEN: Well --</p> <p>7 TAMMY CITRAMANNIS: You're asking for an example. Do</p> <p>8 you have an example specifically?</p> <p>9 BILL CHEN: That's a different --</p> <p>10 RON DANIELIAN: No. I answered that question before,</p> <p>11 when he asked me if I, you know, it's seeing any, another</p> <p>12 camouflaged --</p> <p>13 TAMMY CITRAMANNIS: No. I think what he's asking you</p> <p>14 is if you have any examples of a single case in which you</p> <p>15 know that somebody didn't buy a property because of the</p> <p>16 presence of a tree model cell tower. Is that --</p> <p>17 GREG DIAMOND: That's the question.</p> <p>18 TAMMY CITRAMANNIS: That's accurate. Okay. Without</p> <p>19 the word conjecture in it.</p> <p>20 RON DANIELIAN: At this point no.</p> <p>21 TAMMY CITRAMANNIS: All right. And -- okay. So Ms.</p> <p>22 Wetter, you have a question?</p> <p>23 CHERYL WETTER: Mr. Danielian, is there any place you</p> <p>24 could turn to to get that information? Would there be any</p> <p>25 place where it would be recorded that a person did not buy</p>
<p>457</p> <p>1 TAMMY CITRAMANNIS: Any other questions?</p> <p>2 GREG DIAMOND: I do have one follow-up.</p> <p>3 TAMMY CITRAMANNIS: Okay.</p> <p>4 GREG DIAMOND: Can you give the Hearing Examiner a</p> <p>5 single actual example of a single house sale that was, in</p> <p>6 any way, impaired by the existence of a disguised tree</p> <p>7 monopole in the neighborhood of that -- a sale in the</p> <p>8 neighborhood of that tree monopole? So is your opinion so</p> <p>9 far, based on just your experience as a realtor or on</p> <p>10 actual examples where you could give us names of people</p> <p>11 whose sales were affected?</p> <p>12 BILL CHEN: Objection. It's beyond the cross. The</p> <p>13 questions that have been asked from the audience.</p> <p>14 TAMMY CITRAMANNIS: I'm going to rule that I think</p> <p>15 that somebody talked about that.</p> <p>16 BILL CHEN: Okay.</p> <p>17 TAMMY CITRAMANNIS: I mean and it's actually a good</p> <p>18 question. I'd like to know the answer.</p> <p>19 RON DANIELIAN: Repeat that again.</p> <p>20 GREG DIAMOND: So what it comes down to is do you have</p> <p>21 actual examples of individuals who did not purchase a home</p> <p>22 in the proximity of a tree monopole or is this your</p> <p>23 conjecture based on your experience as a realtor that you</p> <p>24 think it would prevent people from buying homes?</p> <p>25 BILL CHEN: Objection to the use of the word</p>	<p>459</p> <p>1 a house because of a tree monopole?</p> <p>2 RON DANIELIAN: Well, you can make a survey of all the</p> <p>3 places where there are tree monopolies and see what happened</p> <p>4 to the statistics similar to what the appraiser does.</p> <p>5 CHERYL WETTER: But you wouldn't know -- but would you</p> <p>6 know from that whether the decisions were --</p> <p>7 RON DANIELIAN: No.</p> <p>8 CHERYL WETTER: -- made based on that?</p> <p>9 RON DANIELIAN: You wouldn't know for those decisions</p> <p>10 unless you drove -- unless you were driving with the people</p> <p>11 and you were hired by the individual --</p> <p>12 CHERYL WETTER: Correct.</p> <p>13 RON DANIELIAN: -- to find a house.</p> <p>14 CHERYL WETTER: Correct.</p> <p>15 RON DANIELIAN: That's the only way I would know.</p> <p>16 CHERYL WETTER: So there's no place-- no place</p> <p>17 knowing. Okay.</p> <p>18 RON DANIELIAN: They would just say no. Don't stop</p> <p>19 here. I don't want to be here.</p> <p>20 CHERYL WETTER: Right. Okay. Thank you.</p> <p>21 TAMMY CITRAMANNIS: Okay.</p> <p>22 MALE VOICE: Hold it. Wait a minute.</p> <p>23 TAMMY CITRAMANNIS: I'm going to allow them -- your</p> <p>24 question generated this and then at that point hopefully if</p> <p>25 we're generating more questions for you and then we can</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

29 (460 to 463)

460	462
<p>1 move on. But if it does, you can let me know. So you have 2 a question for somebody? 3 BILL CHEN: I have been handed one written and I've 4 got one oral. 5 TAMMY CITRAMANNIS: Okay. And then this is the last 6 opportunity to make -- to ask these questions. So go 7 ahead. 8 BILL CHEN: This is the -- 9 TAMMY CITRAMANNIS: Oh no. I'm not. Would it be 10 easier for her to just ask the question? 11 BILL CHEN: If you would excuse us. The lady is 12 offering to let you -- 13 TAMMY CITRAMANNIS: I'm just asking. Would it be 14 easier for you to ask your question yourself? 15 Understanding that he's a seasoned attorney and he can 16 handle the objections from the other side. They have every 17 right to make the same objection to you and I just want to 18 forewarn you. 19 HEIKA MEINHEART: I don't mind. Sure. 20 TAMMY CITRAMANNIS: Okay can you come forward for a 21 second. Identify yourself and, you know, that it's a 22 question, not a statement. It's not your time to make a -- 23 and I'll see it (inaudible) individual time. So state your 24 name and your address and then ask. 25 HEIKA MEINHEART: My name is Heika Meinheart. I live</p>	<p>1 before. So really, asked and answered. 2 BILL CHEN: Okay. I -- 3 TAMMY CITRAMANNIS: I know. You're just reading. But 4 I think he said he didn't -- 5 BILL CHEN: Except for the ICC example. 6 TAMMY CITRAMANNIS: Oh. Except for the ICC. But I 7 don't think that's relevant to 40 feet from the entrance to 8 the swimming pool. 9 TAMMY CITRAMANNIS: Okay. 10 BILL CHEN: The person has asked if the question could 11 be amended to delete the word camouflaged? 12 TAMMY CITRAMANNIS: Say that again. 13 BILL CHEN: The person who handed me this says, can 14 the question be amended to delete using the word 15 camouflaged. 16 TAMMY CITRAMANNIS: Sure. 17 BILL CHEN: Okay. Are any of the poles within 40 feet 18 of a swimming pool? 19 RON DANIELIAN: I don't believe they are. 20 BILL CHEN: All right. And these are poles you have 21 seen is what -- 22 RON DANIELIAN: No. I've seen many poles and I don't 23 believe there are swimming pools around them. 24 BILL CHEN: Okay. 25 TAMMY CITRAMANNIS: Okay.</p>
461	463
<p>1 at 8500 Scarborough Court, Potomac, in the neighborhood of 2 where this vicinity will be placed. And I'm asking, given 3 most of the people sitting in this room are people who 4 bought property. It's not -- there's data available there 5 are people here who bought property in this very 6 neighborhood. So it's very relevant. 7 TAMMY CITRAMANNIS: Do you have a question? 8 HEIKA MEINHEART: Have you known anyone who says that 9 they would not have purchased the property they did 10 purchase if a tree monopole that is being suggested were 11 placed? 12 TAMMY CITRAMANNIS: Can you answer that question? 13 RON DANIELIAN: No. I do not know personally of 14 anybody who has -- the answer is no. 15 TAMMY CITRAMANNIS: Okay. 16 RON DANIELIAN: All right. 17 TAMMY CITRAMANNIS: Thank you. Ms. Meinheart. Okay. 18 I let you out of your chair one minute, you come back with 19 a piece of paper. 20 CHERYL WETTER: This is some show right. 21 BILL CHEN: Are any of the camouflaged holes located 22 within 40 feet of a swimming pool? 23 GREG DIAMOND: Objection. He's testified that he did 24 not see any of the camouflaged poles. 25 TAMMY CITRAMANNIS: I believe that was his answer</p>	<p>1 GREG DIAMOND: Do I get a follow up on that? Just on 2 that exact question? Can you tell us which monopoles at 3 swimming pools you are aware of? 4 RON DANIELIAN: No. I said I -- 5 TAMMY CITRAMANNIS: I don't think he said that. 6 RON DANIELIAN: I didn't say that. 7 BILL CHEN: He said (inaudible) 8 GREG DIAMOND: Oh so you -- 9 RON DANIELIAN: I have not seen -- 10 GREG DIAMOND: Have not. Oh then I withdraw the 11 question. 12 TAMMY CITRAMANNIS: Okay yeah. 13 RON DANIELIAN: -- around a swimming pool. 14 TAMMY CITRAMANNIS: No, he said no. 15 RON DANIELIAN: A fire station yes, but not a swimming 16 pool. 17 TAMMY CITRAMANNIS: Different. 18 RON DANIELIAN: A library, yes, but not a swimming 19 pool. 20 TAMMY CITRAMANNIS: Okay. Ms. Lee, you've been so 21 quiet. No questions? 22 BILL CHEN: I have no more questions handed to me. 23 TAMMY CITRAMANNIS: Okay. So I think we can let you 24 off the stand. 25 RON DANIELIAN: All right.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

30 (464 to 467)

<p style="text-align: right;">464</p> <p>1 TAMMY CITRAMANNIS: Thank you. For your patience and 2 my incident. Okay. So at this point it is -- is your next 3 witness -- 4 BILL CHEN: It's 12:10. 5 TAMMY CITRAMANNIS: It's 12:10. Do you -- your next 6 witness I'm sure won't take 20 minutes. If we stick to the 7 -- 8 BILL CHEN: No, it's going to take -- 9 TAMMY CITRAMANNIS: If we stick to the 12:30-- 10 BILL CHEN: We can start but it's not going to be done 11 in 20 minutes. 12 TAMMY CITRAMANNIS: So we could break now and start 13 back at 10 after 1:00. That way -- 14 BILL CHEN: Logically -- 15 TAMMY CITRAMANNIS: Logically I think that makes 16 sense. So if that's good everybody, it's 12:10 go enjoy 17 some lunch. Outside it's very hot. Be back here at 12:00, 18 I mean 1:10 we'll start at that time. Thank you. 19 BILL CHEN: Thank you. 20 (Off the record at 12:10.) 21 TAMMY CITRAMANNIS: Mr. Chen, would you like to call 22 your next witness? 23 BILL CHEN: Thank you, Madam Examiner. My next 24 witness will be Mr. Rusty Monroe. 25 TAMMY CITRAMANNIS: Mr. Monroe. Okay. Are you ready?</p>	<p style="text-align: right;">466</p> <p>1 of local governments between them and the carriers or the 2 tower companies. 3 BILL CHEN: During the course of that profession do 4 you become involved with evaluating applications for 5 wireless facilities? 6 WITNESS: Yes. 7 BILL CHEN: What does that entail you doing, sir? 8 WITNESS: It basically entails reviewing and analyzing 9 the application in the context of compliance with federal 10 law, state law, and local law. 11 BILL CHEN: Does that involve the issues involving 12 need for wireless facilities? 13 WITNESS: Yes, it does. 14 BILL CHEN: In fact have you drafted ordinance 15 language for such types of regulatory provisions? 16 WITNESS: Hundreds of times, yes. 17 BILL CHEN: And you operate through a business, is 18 that correct sir? 19 WITNESS: Yes. 20 BILL CHEN: What is the name of that business? 21 WITNESS: Monroe Telecom Associates. 22 BILL CHEN: And where is it located? 23 WITNESS: Located, excuse me, in Wake Forest, North 24 Carolina. 25 BILL CHEN: Madam Examiner I am offering Mr. Monroe as</p>
<p style="text-align: right;">465</p> <p>1 Okay. I need you to raise your right hand. Do you promise 2 to tell the truth, the whole truth, and nothing but the 3 truth in giving your testimony under the penalty of perjury 4 today? 5 RUSTY MONROE: I do. 6 TAMMY CITRAMANNIS: Thank you. State your name and 7 your address and then wait for Mr. Chen to ask you 8 questions. 9 WITNESS: My name is Lawrence Monroe. 10 TAMMY CITRAMANNIS: Is your mic on? Push it all the 11 way to the left. 12 WITNESS: My name is Lawrence Monroe. I reside at 13 3113 Billiard Court in Wake Forest, North Carolina. 14 BILL CHEN: Mr. Monroe, I'm showing you Exhibit number 15 191(a). Can you identify that sir? 16 WITNESS: That's my CV. My curriculum vitae. 17 BILL CHEN: Thank you. 18 TAMMY CITRAMANNIS: What number is that? 19 BILL CHEN: 191(a). 20 TAMMY CITRAMANNIS: Thank you. 21 BILL CHEN: Mr. Monroe, what is your profession? 22 WITNESS: I'm a consultant to local governments on the 23 issue of permitting wireless facilities and related towers. 24 I also am retained to draft local ordinances regulating 25 that issue. And too often times negotiate leases on behalf</p>	<p style="text-align: right;">467</p> <p>1 an expert witness to testify on the issue of need. You've 2 got his CV, and you heard his oral testimony just now about 3 his experience as a consultant to the government at all 4 levels with regard to the issue of need and wireless 5 facilities including drafting legislation. 6 TAMMY CITRAMANNIS: Voir dire? Is your mic on? 7 GREG DIAMOND: Yes. My mic is on. Sir, do you hold 8 an undergraduate degree in engineering? 9 WITNESS: No. 10 GREG DIAMOND: Do you hold any graduate degree in 11 engineering? 12 WITNESS: No. 13 GREG DIAMOND: Do you hold any specialty educational 14 things that you can offer to the Hearing Examiner to show 15 that you have unique and special training in the field -- 16 we're discussing the area of need, is that correct? 17 WITNESS: Well, I assume that's one of the areas. 18 GREG DIAMOND: Now, you have been offered as an expert 19 on the issue of need. 20 WITNESS: No, excuse me. The issue is need in the 21 context of regulatory ordinances. Not in determining need 22 from point of -- from the original situation. I do not 23 design systems. I do not do needs analyses for carriers. 24 GREG DIAMOND: So do you have an answer to the 25 question about whether you hold any advanced educational</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

31 (468 to 471)

<p style="text-align: right;">468</p> <p>1 degrees or certificates in the issue of engineering or need 2 for radio communications? 3 WITNESS: Yes, I had an answer and the answer is no. 4 GREG DIAMOND: Then I would move that he not be 5 accepted as an expert. Although his business provides some 6 kind of consultation to government, this witness has no 7 personal expertise in the field, which is radio engineering 8 field. 9 BILL CHEN: Excuse me. Am I -- 10 TAMMY CITRAMANNIS: Absolutely. Yes. 11 BILL CHEN: (Inaudible) okay. As Mr. Monroe said, he 12 is not being offered to testify about the design 13 (inaudible) those facilities. What's his expertise does 14 however go to is two issues of need as a regulatory 15 control. His CV that you have, he's done this thousands of 16 times. He reported, he has drafted legislation relative to 17 need. He has testified that he provides that type of 18 service mainly to governments at all three levels on the 19 issue of need. It's a very specialized area. I recognize 20 that. But in this case we have ordinance provision, as you 21 well know, on the issue of need. And that is what he is 22 going to be addressing as to whether or not the applicant 23 in this case has satisfied the ordinance requirements on 24 need and that's where we are on this. I think his 25 expertise -- he doesn't have to have an engineering degree</p>	<p style="text-align: right;">470</p> <p>1 telecom companies have to pay a fee to him to get their 2 towers built in those communities. There is no legislation 3 pending here. We're working with an adopted ordinance. 4 And so his area of expertise might be relevant before the 5 County Council, but not before the Hearing Examiner. 6 TAMMY CITRAMANNIS: Question. He has how many years 7 experience, but what is that based on? Is it -- what I'm 8 hearing is he provides something and then edits it or -- 9 BILL CHEN: He evaluates -- 10 TAMMY CITRAMANNIS: He creates something -- he creates 11 it based on what knowledge? 12 BILL CHEN: Okay. As I understand it, I'll ask him. 13 TAMMY CITRAMANNIS: Okay. 14 BILL CHEN: If I wasn't clear on this, but my instinct 15 is he evaluates applications for these types of facilities 16 as are before you and I thought I had asked him but maybe I 17 hadn't. He, on behalf of mainly governments evaluates 18 applications mainly as to whether or not the application 19 has demonstrated the need for the facility. 20 TAMMY CITRAMANNIS: I understand that but we are 21 coming from what gives us the -- 22 BILL CHEN: His background -- okay. 23 TAMMY CITRAMANNIS: What gives us the authority to be 24 able to evaluate or -- so -- 25 BILL CHEN: Let me --</p>
<p style="text-align: right;">469</p> <p>1 to provide that type of service. Indeed the gentleman has 2 been doing it for at least 20 years. So in that context 3 and for the type of expertise that he has I think he 4 clearly does have it and I think it does key to the 5 ordinance language. I mean it would be one thing, quite 6 candidly, you had a witness yesterday, Mr. Dugan, who 7 talked about designing wireless facilities things like 8 that. I respect that. But that's not what we're coming 9 from because, quite candidly, we think that the control is 10 the ordinance language. 11 TAMMY CITRAMANNIS: So -- okay go ahead. 12 GREG DIAMOND: So if there were legislation pending 13 before the Hearing Examiner and Mr. Monroe wanted to 14 testify as an expert in the drafting of a wireless 15 telecommunications ordinance that is apparently something 16 that his business does, that he has done many times. That 17 he, in essence, sells ordinances to communities and then 18 has a consultant business -- 19 WITNESS: Excuse me. We do not sell them. 20 GREG DIAMOND: -- that's advising -- 21 TAMMY CITRAMANNIS: Wait a minute. Let him finish and 22 then -- 23 GREG DIAMOND: And then according to his own CV he 24 provides ordinances to communities and then the setup is 25 that his company becomes the consulting company and the</p>	<p style="text-align: right;">471</p> <p>1 TAMMY CITRAMANNIS: I need you said he has no degrees, 2 that doesn't mean that he doesn't have knowledge, but we 3 didn't hear, or I didn't hear anything as to the basis for 4 -- 5 BILL CHEN: Gotcha. 6 TAMMY CITRAMANNIS:-- the job that he does. 7 BILL CHEN: Mr. Monroe, you don't have any degrees in 8 engineering. 9 WITNESS: That's correct. 10 BILL CHEN: But as yours CV reports you consult with 11 government at all three levels as to applications similar 12 to what's before the Hearing Examiner in this case. Is 13 that correct? 14 WITNESS: That's correct. 15 BILL CHEN: Okay. Now, and you've been doing that for 16 many, many years 17 WITNESS: Probably 20 to -- more than 20 years. 18 BILL CHEN: How did it come to the that you got 19 engaged in this type of endeavor? 20 WITNESS: I was originally the vice president of one 21 of the nation's larger cable companies. We built and owned 22 towers all around the country. And became acquainted with 23 the wireless industry, if you will, the cellular industry 24 when they started leasing space from us. I was involved in 25 the approving, supervising and approving the design,</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

32 (472 to 475)

472

1 construction, et cetera of towers, you know, throughout the
2 country. I decided to change directions in my career,
3 moved to the public sector side for some principled
4 reasons, if you will. In the meantime I had become very
5 familiar with the wireless issue. This was circa 19 -- the
6 mid-1990s. I met a gentleman who had been a director of
7 operations for -- a COO and, yeah and COO for one of the
8 nation's first and largest cellular companies. A gentleman
9 by the name of Richard Comey. With his experience in
10 wireless and high experience in towers it seemed like a
11 natural fit and over the course of probably reviewing 2000
12 applications myself I became -- well, I've been recognized
13 a number of times as an expert in the area by any number of
14 governmental agencies.
15 BILL CHEN: So as I understand your testimony, you
16 began your career in designing and constructing these
17 facilities?
18 WITNESS: Well, I didn't do the design. I supervised
19 and approved.
20 BILL CHEN: And at some point in time apparently the
21 question of the need for these types of facilities became
22 to your knowledge in some way. Is that right?
23 WITNESS: Yes. The wireless carriers started asking
24 us to the space on our towers.
25 BILL CHEN: Okay. How did the concept of need come

473

1 into being as far as your services?
2 WITNESS: The concept -- if you're talking about
3 wireless, the need for a wireless facility or what type of
4 a wireless facility --
5 BILL CHEN: As in this --
6 WITNESS: -- that didn't come into being until we got
7 into the regulatory side; the switch to the public sector
8 side.
9 BILL CHEN: Okay. And at that time I take it -- well,
10 excuse me. At that point in time did the issue of need
11 become part of that regulatory process?
12 WITNESS: It became critical. It became the
13 underlying issue.
14 BILL CHEN: And Mr. Diamond has said and emphasize
15 that you draft legislation and sell it to governments. Is
16 that -- accepting that, and I know it -- but let's just
17 accept that for a moment. Does that accurately reflect the
18 scope of the services that you provide to governments?
19 WITNESS: Well, first of all, we don't sell. We don't
20 charge for our legislative work. Secondly, and by the way,
21 we are, to correct the record, we are not paid by the
22 carriers or the applicants. Thirdly -- I'm sorry. What
23 was the last part of your -- oh yes. The issue of
24 ordinance draftsmanship is maybe 1/10 of one percent of
25 what I do.

474

1 BILL CHEN: When you say --
2 WITNESS: 99.9 percent has to do with the issues very
3 similar to what's before this -- the Hearing Examiner today
4 and before the County.
5 BILL CHEN: When you say issues, what are you
6 referring to, sir?
7 WITNESS: Specifically the permitting of towers and
8 wireless facilities and determining if the need has been
9 proven as required under any given ordinance. If they have
10 met the test for the need. That's one of the first task,
11 if you will everything pretty much stems from there unless
12 you're -- I don't want to go afield here, but unless you're
13 talking about under some relatively new federal legislation
14 and in many cases state legislation that eliminates the
15 need to have -- all eliminates the industry's ability to
16 have to prove for what are called eligible facilities,
17 which are smaller facilities.
18 BILL CHEN: And accordingly, well that's fine. The
19 question, I think that basis -- offered him as an expert.
20 TAMMY CITRAMANNIS: An expert of what?
21 BILL CHEN: The narrow field of testifying under
22 ordinance regulations requiring compliance with a need for
23 a telecommunications tower. And I don't mean to be
24 critical, but I think this is right in the -- squarely the
25 strike zone of what this gentleman has done for 20 years.

475

1 GREG DIAMOND: Merely being the owner of the tower
2 would not then qualify you as an expert to talk about the
3 design of the foundation and the design of the structure.
4 You need to be an engineer to do that. Similarly, merely
5 being the owner of a tower who leases space to people who
6 want to put antennas on your tower is not by osmosis create
7 the expert knowledge in engineering needed to be able to
8 give an expert opinion on the issue of radio facility
9 design what height is needed and what areas need to be
10 covered. That's an area of expertise. That's why the --
11 for instance the Montgomery County Tower Committee, if you
12 look at their webpage Tower Committee is made up of voting
13 members who are like committee heads of the parts of
14 government -- I actually have a copy of their webpage I can
15 show you. But they are supported by a support staff, and
16 that support staff is made up of four professional
17 engineers. And that is how the County government gets its
18 evaluation, an independent evaluation on the issue of need
19 from professional engineers. And I also have, and could
20 show you, that the minutes of the meeting at which this
21 case was discussed was presented by a gentleman by the name
22 of Lee Afflerbach.
23 THOMAS BARNARD: Fullerbach.
24 GREG DIAMOND: I may be torturing his name. But is
25 one of the professional engineers who supports our

Transcript of Hearing - Day 2
Conducted on September 27, 2017

33 (476 to 479)

<p>476</p> <p>1 government's tower committee. In this case, there is this 2 business called the Center for Municipal Solutions, and I 3 believe Mr. Monroe is not the only employee of the Center 4 for Municipal Solutions, but he's the one here today 5 testifying. And he has no credentials to establish that he 6 can address the issues of radio engineering which is what 7 needs is an issue all about.</p> <p>8 BILL CHEN: If I may.</p> <p>9 THOMAS BARNARD: Well I have a slightly --</p> <p>10 BILL CHEN: What -- well -- I'm (inaudible) I didn't 11 mean to interrupt anybody.</p> <p>12 THOMAS BARNARD: I have a slightly different objection 13 to this and I'll just say it so that Bill can respond to 14 both. I'm objecting on the basis of helpful to the Hearing 15 Examiner. The question, as I've heard Mr. Chen defined his 16 role is in expertise in interpreting regulations and laws 17 and making determinations on whether or not people meet 18 tests. Essentially in Maryland that role is the role of 19 the Hearing Examiner, not an expert witness. And generally 20 on the law experts are not called to help essentially tell 21 the Hearing Examiners or Judge what their decision should 22 be. That's called an expert in law and regulation, it's 23 not generally considered to be helpful to an examiner. So 24 I think on the basis of it's not specifically scientific or 25 technical expertise that's bringing he's essentially beign</p>	<p>478</p> <p>1 virtually what Mr. Monroe does. He has been doing this for 2 decades. He lists here that he's done 4,000 applications 3 reviewed for 900 client communities. I mean goodness this 4 -- I just am stunned quite frankly with this opposition.</p> <p>5 TAMMY CITRAMANNIS: I don't disagree that he has the 6 exposure and the knowledge. What I'm hearing from them is 7 he doesn't have the engineer background to talk about the 8 RF designed. He said he wasn't going to talk about design.</p> <p>9 BILL CHEN: That's right.</p> <p>10 TAMMY CITRAMANNIS: He wasn't talking about designing 11 it so I k now you all said that but I do need just further 12 clarification as to -- I mean people can learn and they 13 don't always have to have an education to have done 14 something with their experience. That doesn't mean that it 15 has to be highly technical and made into expert opinion, 16 but at the same time you said he has qualified as an expert 17 title. What has he qualified as and where and I guess I'm 18 -- your title got pretty long as to what you wanted him to 19 be an expert in and so --</p> <p>20 BILL CHEN: Okay. Let's maybe handle it this way. 21 Mr. Monroe, if you could, can you give us a succinct title 22 to identify your area of expertise? And once you do that 23 can you help the Examiner and identify those instances to 24 the best you can where you have been recognized to be an 25 expert and have that expertise to express an opinion.</p>
<p>477</p> <p>1 called to do the Hearing Examiner's job or tell the Hearing 2 Examiner what their opiiion should be and I don't think 3 that's an appropriate topic for an expert witness.</p> <p>4 BILL CHEN: Madam --</p> <p>5 TAMMY CITRAMANNIS: Well, I've had several experts 6 tell me what their opinion is and hopefully that I follow 7 their opinion so I don't know that I agree with --</p> <p>8 THOMAS BARNARD: The question of whether or not 9 someone was interpreting what a regulation means or a law 10 means and whether or not someone making a determination 11 whether or not that they meet that test my argument would 12 be that that's an inappropriate push to designate person in 13 that capacity. I understand that someone needs to talk 14 about that but that's the role he's been defined in his 15 expertise and I don't think that's an appropriate role to 16 be defined in.</p> <p>17 BILL CHEN: Hearing examiners, as well as I think many 18 administrators in different regulated industries receive 19 testimony about compliance with standards.</p> <p>20 FEMALE Voice: All the time.</p> <p>21 BILL CHEN: Yeah. And that's what's going on here. 22 And to respond to Mr. Diamond respectfully, when he talks 23 about the staff of the Tower Review Committee, what he 24 described as what the service is that that staff provides 25 to the appointed officials or Professional Staff is</p>	<p>479</p> <p>1 LAWRENCE MONROE: I'd be pleased to. The shortest 2 title I can give you is an expert on the permitting of 3 towers and wireless facilities. I have done so -- well, we 4 represent something in excess 900 communities in 38 states 5 that rely on us for that. I am very -- I hate to sound 6 somewhat self-aggrandizing, but I'm very pleased with the 7 fact that no recommendation I have ever made to a client 8 has ever been successfully challenged by an applicant.</p> <p>9 BILL CHEN: And essentially what you're doing is 10 reviewing the application documents and evaluating them in 11 light of the standards required by the local ordinance or 12 statute.</p> <p>13 LAWRENCE MONROE: That's correct and determine if they 14 comply with the local ordinance. If they are technical 15 documents for example, structural; we have structural 16 engineers, et cetera that do that aspect. I don't. But my 17 specialty happens to be analyzing someone else's design of 18 a network, and you do not have to be an engineer to be able 19 to analyze someone else's work. Any more than you have to 20 be a math professor to analyze someone else's solution to a 21 math problem.</p> <p>22 TAMMY CITRAMANNIS: So how is that different than the 23 real estate agent saying, you know, this is my analysis. I 24 mean whether I agree with it or follow it, what he's 25 saying, he's just looking at our statutes, our ordinance</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

34 (480 to 483)

<p>480</p> <p>1 and based on the application this is what he thinks, 2 whether it complies or not. Whether I believe him or not, 3 and it sounds like that's what he's been doing so -- what's 4 your response? 5 GREG DIAMOND: So it sounds like what is being 6 described is land planning. And, in fact, they have an 7 expert named in land planning to determine, to look at the 8 application, and determine, does this application meet all 9 the elements in the zoning ordinance. That's a land 10 planning function. It's why we come to Park and Planning's 11 Division to get a recommendation. They go through the 12 zoning ordinance with land planners who then provide a 13 recommendation to the Hearing Examiner and both sides have 14 presented, or will present land planners on the issue of 15 compliance with the Montgomery County zoning ordinance. 16 This witness is being offered only specific and unique 17 issue of radio engineering need. The determination of the 18 height -- 19 TAMMY CITRAMANNIS: That's the propagation map? 20 GREG DIAMOND: Yes. It's the height of the tower 21 needed, the reason that we're required to go -- we -- the 22 reason that Verizon Wireless is required to go before the 23 Montgomery County Tower Committee when proposing a new 24 tower is to establish for them that they are -- they're not 25 -- that building the tower at a place where they need the</p>	<p>482</p> <p>1 that is what he is being offered for and that is what he, 2 if allowed, that is what he will testify about is the 3 adequacy of the application that is before you on the issue 4 of need. 5 TAMMY CITRAMANNIS: The adequacy and I read his 6 statement as to whether the information that was provided 7 by the applicant, in his experience, has proven need or -- 8 BILL CHEN: Demonstration, yeah. 9 TAMMY CITRAMANNIS: -- not necessarily that you didn't 10 -- issue. Is -- he's looking at it from that perspective. 11 The application and -- 12 BILL CHEN: Thank you. Whether it's -- yeah. Yeah. 13 Yes. 14 TAMMY CITRAMANNIS: Right. because the expert did it 15 based on certain factors that based on his experience not 16 all of the information was presented to be able to make 17 that decision. 18 BILL CHEN: Yeah. 19 TAMMY CITRAMANNIS: Is that -- that's what I took from 20 his statement. So -- 21 BILL CHEN: But it appears to be a lay opinion at -- 22 like it's by being in the industry for 20 years by osmosis 23 this witness is suggesting to you that he can provide you 24 with expert advice to help you make your decision. When in 25 fact, he has admitted he has no expert training, but has</p>
<p>481</p> <p>1 tower and at the smallest possible height that they can 2 achieve their goals. And they do that by presenting radio 3 engineering evidence that is reviewed by a staff of 4 engineers who give a recommendation to the Committee. The 5 applicant presented a professional engineer with a 6 specialty in radio engineering on the subject of need. I 7 don't understand where the expertise comes on this -- for 8 this witness on the issue of radio engineering need for a 9 tower at this height at this location. 10 BILL CHEN: This -- are you finished, Counsel? 11 GREG DIAMOND: Yes. 12 BILL CHEN: This expertise is no different than your 13 analogy a moment ago. When a realtor or an appraiser gives 14 an opinion about the value, economic value in the zoning 15 ordinance that individual is not a land planner. He's not 16 offered as a land planner. It's recognized that there are 17 certain provisions in ordinances and statutes including 18 zoning ordinances where there are areas of expertise. In 19 this particular case you've got a section of the zoning 20 ordinance that is particular to telecommunications towers 21 that go to need. That is why you had the one witness 22 yesterday to address that issue. You do not have to have 23 an engineering degree to evaluate an application. And 24 that's what's going on here. This gentleman and his 25 expertise is evaluating the adequacy of an application, and</p>	<p>483</p> <p>1 just been around the industry for 20 years. 2 TAMMY CITRAMANNIS: Okay. So all experts have a 3 certain -- you have to have a degree and -- is that what 4 you're saying? A degree in certification? 5 GREG DIAMOND: Well, in -- on an issue like radio 6 engineering, yes. It's -- for instance in Prince George's 7 County they use the same Tower Committee coordinators that 8 Montgomery does. They require the opinion of the engineer 9 be under seal. And so Mr. Monroe could not, because he 10 can't submit opinions under seal of an engineer, he could 11 not give an opinion. I'm not sure that the Montgomery 12 County Tower Committee, I haven't done an application 13 recently, whether they require that it be under seal. But 14 Prince George's, as an example -- these are areas of 15 expertise in engineering and no different than you know, 16 designing the structure of the tower or the foundation. 17 BILL CHEN: I don't think the analogy holds at all. 18 It's a different jurisdiction. I don't have anything more. 19 Excuse me. I think you understand the issue. I think 20 we're beating a dead horse. Either we're there or not. 21 TAMMY CITRAMANNIS: No. I think that I understand now 22 and while I don't believe that he is -- how I just 23 described it. He is going to be offering his opinion based 24 on the application, whether the information included -- you 25 have an expert that says it does meet it because of X, Y,</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

35 (484 to 487)

<p>484</p> <p>1 and Z. What I'm reading from his statement and his 2 experience is that he thinks that there should be other 3 information in there based on his experience over the 4 years, 20 some odd years, so I think that will be valuable. 5 But it doesn't mean that he's going to be able to tell me, 6 like your engineer who is an engineer in RF emissions, it's 7 another perspective but I think, by virtue of the 8 experience and the title that he just -- permitting of a 9 wireless tower and facility, the review of it is basically 10 how I'm going to be taking it. That he has reviewed it and 11 based on his experience these parts are missing so the 12 opinion from the other side may not be complete. So I will 13 accept him based on that, and your title permitting of a 14 wireless -- review of permitting of wireless tower and 15 facilities. 16 BILL CHEN: Okay. Mr. Monroe, you have submitted a 17 report for the file, and for the record that's Exhibit 90 - 18 - 191(c). Is that correct, sir? 19 LAWRENCE MONROE: That's correct. 20 BILL CHEN: Okay. Now in conjunction with your report 21 as I understand it you have provided for a PowerPoint 22 presentation to take the Examiner through essentially 23 what's in the report to explain your opinions as to me. Is 24 that right? 25 LAWRENCE MONROE: That's correct.</p>	<p>486</p> <p>1 BILL CHEN: Yes, I'm ready. 2 TAMMY CITRAMANNIS: Let's show them what you want to 3 show them and -- 4 BILL CHEN: Mr. -- 5 TAMMY CITRAMANNIS: We need to stamp it. 6 BILL CHEN: (inaudible) 7 TAMMY CITRAMANNIS: It's okay. You get me in trouble. 8 BILL CHEN: Mr. Monroe, going to show you Exhibit 9 number 203. Can you identify this? 10 LAWRENCE MONROE: Yes. That's (inaudible) 11 59-3.5.2.c.2.b.vii of the County's regulations. 12 BILL CHEN: Is this the regulation you're dealing 13 with? 14 LAWRENCE MONROE: Yes. 15 BILL CHEN: Leave that for me. Now, Mr. Monroe, you 16 have a PowerPoint presentation that you're prepared to 17 present. Is that right? 18 LAWRENCE MONROE: Yes. 19 BILL CHEN: Okay. Could you tell us what is this 20 PowerPoint presentation, what do you have here? And I 21 don't want you to get into what it says. I want you to 22 explain to the Examiner and the assemblage, including 23 Counsel, what is this PowerPoint presentation? 24 LAWRENCE MONROE: It is effectively a counter to the 25 justification statement that was submitted. This will</p>
<p>485</p> <p>1 BILL CHEN: Okay. Now also you are only focusing on 2 one -- 3 TAMMY CITRAMANNIS: Can we move those? What are those 4 things? 5 FEMALE VOICE: Easels. 6 TAMMY CITRAMANNIS: Thank you. 7 BILL CHEN: What is your next exhibit number? 8 TAMMY CITRAMANNIS: Oh. Next exhibit number would be 9 203. 10 BILL CHEN: Why don't we just do this. Mi'am, my I go 11 fix that? It's not showing the PowerPoint -- 12 TAMMY CITRAMANNIS: Sure. 13 BILL CHEN: Thank you. 14 TAMMY CITRAMANNIS: Okay. Yeah, he needs to fix the 15 PowerPoint. 16 GREG DIAMOND: Is this 76T? Portions of it? We're 17 trying to figure out what -- 18 BILL CHEN: (inaudible) 19 GREG DIAMOND: Is this word from word from the 20 exhibit? 21 BILL CHEN: No, that's not what it -- 22 GREG DIAMOND: The exhibit that's been submitted? 23 BILL CHEN: It's (inaudible) 24 TAMMY CITRAMANNIS: Okay. That's -- you all -- you 25 ready?</p>	<p>487</p> <p>1 demonstrate that the County does not have the needed 2 information or the Hearing Examiner does not have before it 3 the information needed to make a truly informed decision. 4 If this were in any one of hundreds of communities it would 5 be deemed an incomplete application. 6 BILL CHEN: Okay. 7 GREG DIAMOND: Objection. 8 BILL CHEN: Well let me just finish getting the 9 identification of what it is first and you can object 10 (inaudible) 11 GREG DIAMOND: Okay. 12 BILL CHEN: It -- 13 GREG DIAMOND: Complete. Understood. 14 BILL CHEN: How does this reflect what would be your 15 testimony? 16 GREG DIAMOND: No. I think I can make my objection 17 now. So Exhibit 76T is Mr. Monroe's opinion, his report -- 18 TAMMY CITRAMANNIS: 76S? 19 BILL CHEN: 70 -- that's a superseded document. 20 TAMMY CITRAMANNIS: You know, statement. You're 21 talking about the statement. Is that correct? 22 GREG DIAMOND: Yeah. 23 BILL CHEN: 76T, I believe it's been superseded. 24 GREG DIAMOND: Okay. So there's the September 1st, 25 2017 report of Monroe Telecom.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

36 (488 to 491)

<p>488</p> <p>1 TAMMY CITRAMANNIS: 191B. 2 BILL CHEN: 191C I think. 3 GREG DIAMOND: Okay. 191C. 4 BILL CHEN: C. 5 GREG DIAMOND: I have the wrong number on that. 6 TAMMY CITRAMANNIS: I have B. 7 CATHY BORTEN: 191C is photos. 8 TAMMY CITRAMANNIS: I have B. 9 GREG DIAMOND: B? 10 BILL CHEN: Wait. Is it B? 11 TAMMY CITRAMANNIS: Thank you Ms. Borten. 12 GREG DIAMOND: So if Mr. -- apparently we are now 13 getting a different report from Mr. Monroe's pre-submitted 14 report that we haven't seen. It's a PowerPoint, we don't 15 have a copy of it. 16 BILL CHEN: It's not a report. It's his testimony. I 17 mean we can turn it off and, you know, he can read off of 18 sheets of paper that he's got there or -- 19 TAMMY CITRAMANNIS: So it's being done for 20 illustrative purposes while he's testifying? 21 BILL CHEN: Yeah. I mean that -- 22 TAMMY CITRAMANNIS: I mean -- 23 GREG DIAMOND: If that's all it is. If this isn't -- 24 TAMMY CITRAMANNIS: That's how I'm taking it. 25 GREG DIAMOND: If this is information that in theory</p>	<p>490</p> <p>1 everything. All -- personally I've always liked the way 2 Ronald Reagan originally put it, that being: the purpose of 3 government in a regulatory context is to trust but verify. 4 I will tell you that in hundreds of communities around the 5 country Verizon does comply with ordinances that require 6 that these three factors be proven. The need for a 7 facility at all, the need for the specific location to the 8 exclusion of any less objectionable locations and the need 9 for something more intrusive that, excuse me, than less 10 intrusive alternatives or more options. As I said, Verizon 11 does, as a matter of course, comply with those. Whoops. 12 I'll learn how to use this yet. Okay. Why the need to 13 verify. Here are some examples of the types of things that 14 we find incorrect in applications. 15 BILL CHEN: This is this permit review process, right? 16 LAWRENCE MONROE: Yes. It is permit review process. 17 In propagation maps; you need the modeling information or 18 the variables that are inputted into the software to 19 produce them. We regrettably regularly find errors and 20 omissions of information; basically resulting in maps 21 needing to be corrected. They are, when we asked them to. 22 The problem cannot be identified without the modeling 23 information, however. That's an example. Another reason 24 for verification is dealing with structural analyses. When 25 the calculations are required to be submitted along with</p>
<p>489</p> <p>1 is already covered in his report for illustrative purposes, 2 but if this is a new report then I'm going to continue my 3 objection at a later date. 4 TAMMY CITRAMANNIS: Right. If it's a new -- 5 BILL CHEN: I will tell you, my understanding is it's 6 not a new report. This is a, if anything, I would 7 characterize it in common language, it's a summary rather 8 than have him go through everything on every page of the 9 report. 10 TAMMY CITRAMANNIS: So it's summarizing his report? 11 LAWRENCE MONROE: Summarizing and illustrative. 12 TAMMY CITRAMANNIS: Right. So what, yeah. 13 BILL CHEN: All right. 14 TAMMY CITRAMANNIS: I'm going to allow it in you can 15 certainly renew your objection if it goes too far afield 16 for you. 17 BILL CHEN: Okay. Now Mr. Monroe, would you please 18 take the Examiner through the PowerPoint presentation. 19 LAWRENCE MONROE: Certainly. It starts with, or I 20 started with the fact that I believe there are some 21 assumptions made, some erroneous assumptions behind what I 22 have read in the application; starting with the fact that - 23 - let me. Whoops. They taught me how to -- or showed me 24 how I'm supposed to use this. Yes. You know what is the 25 need, first of all. and secondly the need to verify</p>	<p>491</p> <p>1 the report, our professional engineers, our structural 2 engineers, not infrequently find errors and or good-faith 3 omissions in structural analyses; especially as regards 4 existing facilities attaching to or modifying on existing 5 facilities. They are, as I said, either good-faith errors 6 in calculation or omissions as to what was included as a 7 loading factor or a load on the structure. In structural 8 design standard, we have the issue of class, excuse me, 9 that should be Class II versus Class III towers which have 10 to do with the designed strength of the facility. Class 11 III being required under -- it was mentioned yesterday 12 under testimony, TIA 222 for services -- for facilities 13 that support essential services. 14 GREG DIAMOND: So objection. Are we getting beyond 15 the issue of need into structural engineering and he has 16 absolutely made it clear that he is not a structural 17 engineer. 18 BILL CHEN: He's not getting into that. He just made 19 a comment as this is one aspect that's part of the review 20 process and how they handle it. 21 TAMMY CITRAMANNIS: That's how I'm interpreting it, is 22 that this would be the parameters that he's not saying that 23 it's not meeting the design. 24 BILL CHEN: Exactly. 25 TAMMY CITRAMANNIS: It's how I'm interpreting it.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

37 (492 to 495)

<p>492</p> <p>1 BILL CHEN: That's how I'm interpreting it. 2 LAWRENCE MONROE: I don't have the information to make 3 those determinations here. 4 TAMMY CITRAMANNIS: Right. 5 LAWRENCE MONROE: Right. 6 FEMALE VOICE: We're talking about information. 7 LAWRENCE MONROE: There is a -- 8 TAMMY CITRAMANNIS: Okay. Ma'am, ma'am, this is -- 9 FEMALE VOICE: (inaudible) he's badgering the witness. 10 TAMMY CITRAMANNIS: Okay. You can't do this. This is 11 how the process goes. It's not pretty all the time, this 12 is how it goes. So I'd appreciate it if you would just 13 restrain yourself. Thank you. Okay. 14 LAWRENCE MONROE: There's another issue with 15 structural that is fairly common, that being, as I -- I 16 corrected the slide here. It should be Class II versus 17 Class III as regards to the strength of the structure 18 that's supporting the antennas; Class III being required 19 for essential services. And there is some discourse and 20 argument about that throughout the industry. I will tell 21 you that Verizon has recently acknowledged and is -- 22 GREG DIAMOND: I can, I have to object. He's now 23 getting into the specifics and details of engineering 24 design. 25 BILL CHEN: Well he didn't -- he wasn't doing that.</p>	<p>494</p> <p>1 can and do regularly attach to virtually anything that will 2 support their equipment. Those photos are examples of on 3 needed towers. Towers that -- where there are two or more 4 towers, one of which could have been used and the others 5 are not needed. 6 GREG DIAMOND: I'm going to object. 7 LAWRENCE MONROE: In other words there is towers 8 unnecessarily built. 9 GREG DIAMOND: There is no -- 10 TAMMY CITRAMANNIS: Okay. 11 GREG DIAMOND: Objection. 12 TAMMY CITRAMANNIS: When there's an objection, 13 unfortunately you have to stop. You just have to stop 14 because they have a right to object and he has a right to 15 respond and then I'll tell you what I think. 16 GREG DIAMOND: So there is no foundation whatsoever 17 for each and every one of these photos to describe where 18 it's located, what the circumstances were, why if a tower 19 was constructed next to another structure. We have no 20 foundation and therefore to hear an opinion that these are 21 the examples of failures has no foundation. 22 TAMMY CITRAMANNIS: Mr. -- 23 BILL CHEN: Mr. Monroe can you -- 24 TAMMY CITRAMANNIS: I agree. Sustained. 25 BILL CHEN: -- can you provide the -- detailed</p>
<p>493</p> <p>1 He was getting into which I -- 2 LAWRENCE MONROE: That is not what I am saying. 3 TAMMY CITRAMANNIS: Okay. Why don't you let Mr. Chen 4 ask you questions -- 5 BILL CHEN: Just stick to -- 6 TAMMY CITRAMANNIS: I'm going to sustain your 7 objection, and you're going to bring him back. 8 BILL CHEN: Don't go outside like you just were about 9 to, sir. Just stay with the presentation. 10 TAMMY CITRAMANNIS: Why don't -- maybe just ask him 11 questions as he's going along to keep him on track. 12 BILL CHEN: Well -- 13 TAMMY CITRAMANNIS: Or however. 14 BILL CHEN: I just want you to do your clicker and 15 just go through each page. I've got them here but -- 16 LAWRENCE MONROE: All right. 17 BILL CHEN: -- explain what you're explaining. 18 LAWRENCE MONROE: The size of the search ring is often 19 an issue. Unreasonably -- being unreasonably small so that 20 in effect, and I'm not asserting that that was the case 21 here, I'm saying there is not the information in the 22 application to make that determination. Some common 23 misconceptions and assumptions, in this case made by 24 Verizon apparently; that being a tower is a technical 25 necessity. As I think everybody knows, wireless carriers</p>	<p>495</p> <p>1 information for each one of these photographs? 2 LAWRENCE MONROE: I'm sorry, can I? 3 BILL CHEN: Can you provide the information as to the 4 photographs that are shown on the slide? Where they are 5 and what is the issue that -- 6 LAWRENCE MONROE: I can provide the -- 7 BILL CHEN: -- that cause you to say there's no need. 8 LAWRENCE MONROE: I can provide the information on 9 one. The other two I don't recall specifically. 10 BILL CHEN: Okay. Okay. 11 LAWRENCE MONROE: The one that -- 12 THOMAS BARNARD: I'm going to object then because I 13 think why another tower failed or was not proper is totally 14 irrelevant to the determination of this particular 15 application. 16 BILL CHEN: He's not going to failure. He's talking 17 about the analysis of the information needed. And I, you 18 know, I would have to concede that two of these photos are 19 not going to be acceptable. But the one he does have the 20 information on. 21 TAMMY CITRAMANNIS: But also, he is going into the 22 opinion as to it failing. And I don't -- 23 BILL CHEN: Well, if he knows. 24 LAWRENCE MONROE: I'm not talking about failures. 25 TAMMY CITRAMANNIS: Well, okay. Well, the way in</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

38 (496 to 499)

<p>496</p> <p>1 which he -- you were -- your answers were -- didn't seem 2 like it was providing information is needed. You were 3 going to a conclusion and we need the information before 4 you can go to that conclusion and if that -- if you can 5 make that conclusion. 6 BILL CHEN: If you have the information. But as to 7 the one photograph, tell us what you know about the details 8 on that photograph. 9 TAMMY CITRAMANNIS: In which photograph is it? 10 BILL CHEN: Yes. 11 LAWRENCE MONROE: The one on the left was down in -- 12 outside of Sarasota, Florida. We were asked to come 13 evaluate if any of those towers were unneeded. 14 BILL CHEN: This is an actual specific project that 15 you were involved in? 16 LAWRENCE MONROE: Yes. And it was probably 15 years 17 ago. 18 BILL CHEN: Okay. And you had to make an evaluation 19 as to the issue of need in Sarasota? 20 LAWRENCE MONROE: Yes. 21 THOMAS BARNARD: I'm going to object as irrelevant. 22 TAMMY CITRAMANNIS: I'm going to sustain that. 23 BILL CHEN: Can you with the -- 24 TAMMY CITRAMANNIS: Go to the -- 25 LAWRENCE MONROE: All right. The antenna in that was</p>	<p>498</p> <p>1 exhaustive examination and analysis of all potentially less 2 intrusive alternative solutions. 3 BILL CHEN: I'm (inaudible) you. Is that, you're 4 talking about the application by Verizon? 5 LAWRENCE MONROE: Yes. 6 BILL CHEN: Yeah, okay. 7 LAWRENCE MONROE: The application by Verizon. The 8 quote from the report was, I have not identified any other 9 existing tall structures, underscored by me, suitable for 10 co-location in this target area. The search was limited to 11 tall structures only, and I saw no verifiable technical 12 evidence submitted showing that using any other type of 13 existing or less intrusive structure to attach to is not 14 technologically feasible. Propagation maps. And I am not 15 trying to design the service here. Maps -- these maps were 16 done at too small a scale, in my opinion, to have any 17 meaningful analytical value and they show the situation 18 only in the most general terms. Whoops. I'll -- the 19 gentleman told me -- there we are. This is the proposed 20 service area for this facility. This is a one mile square 21 area around it. The point of being you can't tell other 22 than in the most approximate vague manner what the service 23 situation is even for any given neighborhood at the scale. 24 And I'm not disagreeing with her conclusions. I can't 25 tell. And I've reviewed thousands of propagation maps.</p>
<p>497</p> <p>1 -- 2 TAMMY CITRAMANNIS: No. You have -- 3 LAWRENCE MONROE: Oh, I'm sorry. 4 TAMMY CITRAMANNIS: You have to move on to the next 5 question. 6 LAWRENCE MONROE: All right. Cellular or -- 7 TAMMY CITRAMANNIS: Mr. Chen has to go on to the next 8 question. 9 LAWRENCE MONROE: Yeah. 10 BILL CHEN: What is -- move on to your next slide, 11 sir. 12 LAWRENCE MONROE: These are simply recounting what 13 federal law requires and does not require. And I would not 14 really patronize the Hearing Examiner -- 15 BILL CHEN: Then we don't -- 16 LAWRENCE MONROE: -- by going over that. Other than 17 the fact that one of the key issues is a community is not 18 required to permit a single facility, in other words to 19 grant a permit to cover an area from a single facility. It 20 is commonly done, nowadays especially, to require that to 21 be done from multiple smaller less intrusive facilities. 22 There is no requirement to permit a single facility. 23 BILL CHEN: Continue. 24 LAWRENCE MONROE: Okay. In the evidence that I looked 25 at there is no evidence submitted of a reasonably</p>	<p>499</p> <p>1 That's the point. Secondly, let me move back. Excuse me. 2 Yeah, I wanted to stay at the 80 foot height. So it's too 3 small a scale. There's little difference between the 4 coverage predictions at the different heights. In point of 5 fact, if you look at the one from 40 feet and compare -- 6 whoops -- compare that to the previous one, you'll see that 7 in this area there are still -- I really apologize. This 8 is not my pointer. Gosh. Okay. This is at -- excuse me, 9 40 feet. You'll notice there is some white area here. A 10 little bit down in here and a little bit down in here. If 11 we go back to the 80 foot level you'll see that there is 12 negligible difference. So it's not a big gain doubling the 13 size, the height of the tower. 14 BILL CHEN: These are their own propagation maps that 15 they have submitted, right? 16 LAWRENCE MONROE: These are Verizon's propagation 17 maps. Another concern of mine is that they only show, as 18 it shows up here, 700 megahertz service and yet there are 19 multiple bands of service going as high as 2100 megahertz 20 that propagates at only a fraction of the distance that 700 21 megahertz does, for example. It's not showing on here. So 22 it doesn't show a fair picture, if you will, of who's going 23 to be able to get what service. Yes -- where is that. 24 Here we go. Yes, these people in this area will get 700 25 service. But in all probability this is going to be the</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

39 (500 to 503)

<p>500</p> <p>1 limit, approximately, and again because of the scale of the 2 map I can't be more exact. But approximately 200 to 300 3 yards from the site will get 21 megahertz service. So 4 there's going to be -- somebody's -- either there's going 5 to have to be something different done or there's going to 6 be a segment of the population that isn't going to get all 7 the services Verizon is offering, or will be offering. In 8 my opinion, the propagation map and what's required in any 9 of our 900 plus communities is to show the most robust 10 service, in this case 700 megahertz and the least robust. 11 Everything else falls in between those (inaudible). 12 BILL CHEN: Have they done that? Have they done that? 13 LAWRENCE MONROE: I'm sorry? 14 BILL CHEN: Have they done that? 15 LAWRENCE MONROE: No, they have not. They have not 16 shown the 21 megahertz propagation of coverage area. And 17 again if we compare you'll see that there is negligible 18 difference at least as can be determined from these maps in 19 the coverage area or service area. Now, determining the 20 validity, accuracy, and correctness of the propagation map, 21 propagation maps are verifiable only if accompanied by the 22 modeling information. That's the variables that are 23 inputted into the software to produce them. The maps in 24 this application were accompanied by no modeling 25 information and thus in my opinion are useless from a</p>	<p>502</p> <p>1 LAWRENCE MONROE: One of the concerns -- this is an 2 example of the concern with propagation maps. The one on 3 the left was done to prove the need for a 199 foot tower. 4 And it was -- this was the problem they asserted. That was 5 the gap. Do you see it's negative 85 is the green. This 6 is the gap that was remaining, they asserted after if it 7 was built at 120 feet, and they wanted 199. Upon reviewing 8 the propagation maps we found that they were done 9 incorrectly. They had a good faith error, had inputted the 10 wrong ambient tree height and all of a sudden, magically, 11 the vast majority of that gap disappears. What's left are 12 halls or swales if you will and those can be filled with 13 smaller devices. But that's an example of what happens 14 when mistakes are made in the modeling information. This 15 is an example of the form that we applicants to fill out 16 containing the modeling information. 17 THOMAS BARNARD: Object to that as is relevant. It's 18 the State of Maryland. 19 TAMMY CITRAMANNIS: Sustained. 20 LAWRENCE MONROE: That is the modeling information I'm 21 referring to. 22 TAMMY CITRAMANNIS: It's an example. 23 BILL CHEN: Well, is this typical -- if I may? 24 TAMMY CITRAMANNIS: Yes please. 25 BILL CHEN: Is this slide, that's my terminology,</p>
<p>501</p> <p>1 regulatory or permitting perspective, since the results 2 can't be verified. It may very well be -- they may be 3 accurate. They may not be. They may contain good-faith 4 errors, they may not. They may be missing information. I 5 can't tell because we don't have the information. Excerpt 6 from a common, and you may not want to talk about, and 7 language in ordinances. That's up to you if you want -- 8 GREG DIAMOND: I'm going to object. 9 THOMAS BARNARD: I'm going to object to any language 10 other than in any Maryland statute. 11 LAWRENCE MONROE: Okay. 12 TAMMY CITRAMANNIS: So can you just talk about 13 Maryland statute? The ordinance. 14 LAWRENCE MONROE: I can tell you that this is in a 15 Walkersville statute and in the -- 16 BILL CHEN: Montgomery County. 17 TAMMY CITRAMANNIS: Montgomery County. 18 BILL CHEN: Use Montgomery County. 19 LAWRENCE MONROE: Yes. No, not in Montgomery County. 20 I don't believe Walkersville is -- 21 BILL CHEN: Walker's not. Tie it to the language in 22 the Montgomery County zoning ordinance. 23 TAMMY CITRAMANNIS: Right. 24 LAWRENCE MONROE: Oh. No. Okay. I cannot. 25 TAMMY CITRAMANNIS: Okay.</p>	<p>503</p> <p>1 reflect typical information required for proper modeling? 2 LAWRENCE MONROE: Yes. Has -- and do you have an 3 opinion as to whether or not there has been adequate 4 information provided in this application to utilize 5 modeling to verify the information supplied as to need, by 6 Verizon? 7 THOMAS BARNARD: I'm going to object as to foundation. 8 As to knowing every -- all the information that was 9 provided. 10 TAMMY CITRAMANNIS: I agree with him. I was going to 11 ask you the same thing. Does he know, I haven't heard 12 anything as to how he would know -- 13 BILL CHEN: Well -- 14 TAMMY CITRAMANNIS: -- other than to he's reviewed the 15 application, but I don't know that that other information 16 is available. Or is it? 17 BILL CHEN: Well you have -- 18 GREG DIAMOND: The Tower Committee application is a 19 public record. Pardon me. 20 BILL CHEN: You have reviewed the application that has 21 been submitted to the Office of Zoning and Administrative 22 hearings for this application. Is that right, sir? 23 LAWRENCE MONROE: Yes. Yes. 24 BILL CHEN: They go to the issue of need to show 25 compliance with the zoning ordinance. Is that right?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

40 (504 to 507)

<p>504</p> <p>1 LAWRENCE MONROE: Yes. 2 BILL CHEN: Okay. 3 TAMMY CITRAMANNIS: But we're talking about the 4 modeling information. Is that -- that's what you're 5 objecting to. 6 THOMAS BARNARD: I'm objecting that he's comparing the 7 Office of Zoning Hearing Application to the Tower Committee 8 application and applying the Tower Committee application 9 standards to an OZHA standard, and we're mixing two sets of 10 standards. 11 LAWRENCE MONROE: I'm not mixing. 12 TAMMY CITRAMANNIS: Okay. 13 LAWRENCE MONROE: I'm not mixing. I'm not going to 14 the Tower Committee -- 15 TAMMY CITRAMANNIS: You're going to fix that. Yes. 16 BILL CHEN: Yeah, I've stuck so far to the 17 application. What they filed with the office of -- the 18 Tower Review committee may be one thing. What they have 19 filed with your office to satisfy the requirements of the 20 zoning ordinance is another matter. And that is where 21 their duty or their obligation is to supply information to 22 show compliance with the ordinance. And that's where these 23 questions go. 24 TAMMY CITRAMANNIS: So are you suggesting that from 25 our perspective we're supposed to get exactly the same</p>	<p>506</p> <p>1 or the Examiner gets to hear is the application and cannot 2 take the input and rely on the representations and staff 3 work by the supporting staff when I think that we're again 4 I feel like we're mixing two functions here and ignoring 5 the fact that there's another staff section that does some 6 of this and looking only at this OZHA application. I don't 7 think that's -- I don't think the expert's opinion is being 8 used to apply to this area instead that. 9 BILL CHEN: Respectfully, the burden is on the 10 applicant. The applicant has the burden to present an 11 application to demonstrate compliance with the zoning 12 ordinance. And that is all that this witness is doing. 13 The witness is talking about the standard contained in 14 Section 59 3.5.2.C.2.b.vii, and that is a standard of need. 15 That's the language used in the ordinance, it's just like 16 any other section of the zoning ordinance and I hate to say 17 it, but the Examiner, I think your analogy is relevant. 18 The issue of economic value; that is one of the standards 19 in the zoning ordinance. It is no different basically then 20 the issue of the. And that's all that this witness is 21 doing. And what he is saying, and I'm not putting words in 22 his mouth, is that they have not provided information to 23 demonstrate need that can be verified. They're saying 24 something, but they're not providing that information to 25 demonstrate that it can be -- what they're saying can be</p>
<p>505</p> <p>1 thing that the Tower Committee gets? 2 BILL CHEN: No. I'm not -- 3 TAMMY CITRAMANNIS: Okay. 4 BILL CHEN: -- I'm not saying that. 5 TAMMY CITRAMANNIS: Just -- 6 BILL CHEN: No. No, I'm not saying that. I'm saying 7 what you need is enough information to demonstrate that the 8 question of me, the claim for need -- 9 TAMMY CITRAMANNIS: Right. 10 BILL CHEN: -- is verifiable. That's as far as were 11 going. I think that's been very clear in this gentleman's 12 testimony. 13 LAWRENCE MONROE: That is the essence of what I'm 14 going to be testifying -- 15 GREG DIAMOND: Objection. 16 THOMAS BARNARD: I'm going to object as well. 17 GREG DIAMOND: So the standard it just stated isn't 18 anywhere in any ordinance that the standard is to prove a 19 need, but you don't have to necessarily have an independent 20 verifiable thing that says that your statement of need is 21 then accurate. That's adding a level of standard in the 22 ordinance that does not exist. 23 BILL CHEN: That is not what I have said. 24 THOMAS BARNARD: I'm going to object on the grounds 25 that it's assuming that the only thing that the Commission,</p>	<p>507</p> <p>1 verified. That's, and that's a fair attack on the 2 application. 3 TAMMY CITRAMANNIS: Okay. 4 LAWRENCE MONROE: Without this information -- 5 TAMMY CITRAMANNIS: Wait. Wait, wait. 6 LAWRENCE MONROE: Oh, I'm sorry. 7 TAMMY CITRAMANNIS: The information that -- they're 8 objections are noted and I'm taking this more as a 9 illustrative and steps that should be taken whether that 10 information is in the zoning ordinance that I'm required to 11 go down to that level of detail, we have the Tower 12 Committee who does that. But at the same time, I have to 13 have enough information that the evidence before me is -- 14 carries weight. So that's how I'm taking this information 15 and whether I give it much weight will (inaudible) when I 16 do my decision. But -- so for that purpose I'm going to 17 allow you to go on. 18 BILL CHEN: That's exactly where we are on this. 19 Literally. 20 TAMMY CITRAMANNIS: That's how I'm -- 21 BILL CHEN: Yeah. 22 TAMMY CITRAMANNIS: -- so your objections are noted 23 with that explanation. 24 LAWRENCE MONROE: Yes, ma'am, that's exactly what 25 we're trying to do.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

41 (508 to 511)

<p>508</p> <p>1 TAMMY CITRAMANNIS: Okay.</p> <p>2 LAWRENCE MONROE: Without this information, there is</p> <p>3 no way to determine the truth, accuracy, or correctness of</p> <p>4 what's shown in there quote proof of need information, i.e.</p> <p>5 the propagation maps.</p> <p>6 BILL CHEN: Now, Mr. Monroe, let me --</p> <p>7 LAWRENCE MONROE: Only the person who did the original</p> <p>8 propagation study would know that without this information.</p> <p>9 BILL CHEN: Mr. Monroe, you have given the Examiner</p> <p>10 and through your testimony a couple of examples thus far</p> <p>11 where the application filed by Verizon, in your opinion, is</p> <p>12 defective as far as providing sufficient information on</p> <p>13 the, you quoted the (inaudible) report. You've shown the</p> <p>14 propagation maps and the issues with the propagation maps.</p> <p>15 Are there any other aspects of the application that has</p> <p>16 been filed by Verizon as to the issue of need that has not</p> <p>17 provided information that can be verified to demonstrate</p> <p>18 that there has been compliance with the zoning ordinance</p> <p>19 requirement of need?</p> <p>20 LAWRENCE MONROE: As regards need, I would say that --</p> <p>21 I'm trying to think of how to phrase this within the</p> <p>22 confines of your question. In the context of verification,</p> <p>23 is that permissible of what's needed to verify something?</p> <p>24 BILL CHEN: Yeah.</p> <p>25 LAWRENCE MONROE: There is a no evidence submitted</p>	<p>510</p> <p>1 available?</p> <p>2 LAWRENCE MONROE: Yes.</p> <p>3 BILL CHEN: What are they?</p> <p>4 LAWRENCE MONROE: The most commonly accepted one is</p> <p>5 what is called small cell and I heard the witnesses -- the</p> <p>6 witness yesterday. I would adamantly disagree and state</p> <p>7 that it's being done in this County as we speak, small cell</p> <p>8 is being deployed. And I can give you a litany of other</p> <p>9 communities where Verizon is deploying small cell to cover</p> <p>10 large areas as opposed to what's represented in the</p> <p>11 application where it says it's limited to small areas.</p> <p>12 TAMMY CITRAMANNIS: I don't believe we have small --</p> <p>13 that hasn't been approved yet, has it, the small cell</p> <p>14 towers.</p> <p>15 BILL CHEN: The testimony is --</p> <p>16 GREG DIAMOND: There is a long legislative --</p> <p>17 TAMMY CITRAMANNIS: Pardon me?</p> <p>18 GREG DIAMOND: -- process going on.</p> <p>19 TAMMY CITRAMANNIS: That's what I thought.</p> <p>20 GREG DIAMOND: I thought you were looking at me.</p> <p>21 BILL CHEN: Well there is a --</p> <p>22 TAMMY CITRAMANNIS: There's a CTA out now that -- but</p> <p>23 it hasn't been approved yet, has it?</p> <p>24 GREG DIAMOND: That we are actively involved in, but</p> <p>25 has not been approved.</p>
<p>509</p> <p>1 that the negative 95 of the white areas on the propagation</p> <p>2 map represent negative 95 DBM, or worse, signal quality.</p> <p>3 There is no drive test information which would have</p> <p>4 identified the specific locations for specific signal</p> <p>5 strengths are what they are at any given location. This is</p> <p>6 a different means of determining need. It's what's called,</p> <p>7 generally, a drive test and it records as the vehicle</p> <p>8 drives the signal strength on any given frequency that's</p> <p>9 being tuned to at any given location; and to my knowledge</p> <p>10 that's about to prove actual signal strengths.</p> <p>11 BILL CHEN: Anything else?</p> <p>12 LAWRENCE MONROE: Nothing that is specifically missing</p> <p>13 that I can recall.</p> <p>14 BILL CHEN: Now in your experience in evaluating</p> <p>15 permits for wireless facilities, do you look at and make</p> <p>16 determinations as to tower height?</p> <p>17 LAWRENCE MONROE: Yes. And actually you just</p> <p>18 triggered the thought. What is missing is proof that</p> <p>19 nothing less intrusive would work technically, or would not</p> <p>20 work. And that an 80 -- I guess it's now an 89 foot</p> <p>21 monopole at this specific location is the only alternative,</p> <p>22 if you will, or viable alternative that there is nothing</p> <p>23 less visually intrusive that would work too substantially</p> <p>24 to what they are trying to do. That has not been shown.</p> <p>25 BILL CHEN: To your knowledge, are there alternatives</p>	<p>511</p> <p>1 TAMMY CITRAMANNIS: Right.</p> <p>2 GREG DIAMOND: And so --</p> <p>3 TAMMY CITRAMANNIS: So it's not an option here.</p> <p>4 GREG DIAMOND: It's not an option in Montgomery County</p> <p>5 yet (inaudible)</p> <p>6 TAMMY CITRAMANNIS: That's what I thought.</p> <p>7 LAWRENCE MONROE: Then let's take Montgomery County</p> <p>8 aside --</p> <p>9 TAMMY CITRAMANNIS: Why don't you let him ask you a</p> <p>10 question first.</p> <p>11 LAWRENCE MONROE: Oh, I'm sorry.</p> <p>12 TAMMY CITRAMANNIS: Okay.</p> <p>13 BILL CHEN: Okay. You just heard that that type --</p> <p>14 that form of providing wireless service has not yet been</p> <p>15 approved in Montgomery County. Are you aware of that, sir?</p> <p>16 LAWRENCE MONROE: I am now.</p> <p>17 BILL CHEN: Now what is the height of the proposed</p> <p>18 monopole in this case?</p> <p>19 LAWRENCE MONROE: My understanding is it's 89 feet.</p> <p>20 It's been revised, I understand to 89 feet.</p> <p>21 BILL CHEN: Okay. And how do you get to 89 feet?</p> <p>22 LAWRENCE MONROE: I'm sorry?</p> <p>23 BILL CHEN: How do you get to 89 feet?</p> <p>24 LAWRENCE MONROE: How do you get to 89 feet?</p> <p>25 BILL CHEN: How do you compute 89 feet?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

42 (512 to 515)

<p>512</p> <p>1 LAWRENCE MONROE: I would have no idea how they came 2 up with that. 3 BILL CHEN: That was not the question. You know, in 4 this case, how did you make the determination that the 5 proposed supporting structure is 89 feet? 6 LAWRENCE MONROE: Oh. I read it. In the material 7 that was submitted. 8 BILL CHEN: Fine. What did you read that leads you to 9 that conclusion, sir? 10 LAWRENCE MONROE: I would have to find a specific 11 document, but it was a revised -- it was part of a 12 revision. 13 BILL CHEN: By Verizon? 14 LAWRENCE MONROE: Yes, by Verizon. 15 BILL CHEN: That reported 89 feet? 16 GREG DIAMOND: Is Mr. Chen testifying? 17 BILL CHEN: Yeah, I know. I apologize. I apologize 18 and withdraw it. 19 TAMMY CITRAMANNIS: He'll get to the answer. Just 20 asking. 21 BILL CHEN: Yeah, eventually. Okay. No, that's fine. 22 In your understanding is that it's at 89 feet based upon 23 Verizon submissions. That's to summarize that. 24 LAWRENCE MONROE: Yes. 25 BILL CHEN: Okay. That's all I've got.</p>	<p>514</p> <p>1 what you said? 2 BILL CHEN: Excuse me. Just, Madam Examiner. I'm 3 going to let this go, but this report has been superseded 4 by a more recent report. But, you know, Counsel - - 5 TAMMY CITRAMANNIS: So are you withdrawing that one? 6 BILL CHEN: Well, it's clear it was superseded. But I 7 have no problems with questioning the witness about it. I 8 mean -- 9 TAMMY CITRAMANNIS: Well, if it superseded then you 10 don't want to be in the record? Or -- I mean is it 11 superseded completely? 12 BILL CHEN: I have no objection to the line of 13 questioning is (inaudible) where I'm going with this. 14 TAMMY CITRAMANNIS: Okay. Well then -- 15 GREG DIAMOND: I can say where I'm going with this. 16 Is that there are differences in the two reports and I 17 already have copies so whether I put it in the record or we 18 go with the one we go with the one that -- 19 TAMMY CITRAMANNIS: All right. So that's my question. 20 BILL CHEN: He's entitled to do that I -- 21 TAMMY CITRAMANNIS: If -- which one do you want or do 22 you just leave both of them in? 23 BILL CHEN: Let him -- I'm fine with the cross- 24 examination. 25 TAMMY CITRAMANNIS: Okay. Then they're both in, and</p>
<p>513</p> <p>1 TAMMY CITRAMANNIS: Cross-examination Mr. Diamond, and 2 turn on your mic. I can see it, there's no red light. 3 GREG DIAMOND: Mr. Monroe, Mr. Chen submitted a report 4 that you wrote dated December 20th, 2016. I believe it is 5 Exhibit 76S. This was the first submission -- 6 BILL CHEN: It was the first report. 7 GREG DIAMOND: -- 76S. 8 TAMMY CITRAMANNIS: I have that as his resume. 9 GREG DIAMOND: Okay. So it would not be S. 10 TAMMY CITRAMANNIS: But I could have that wrong. But 11 we can double check. Let me pull out the -- do you know 12 what off the top of your head? 13 CATHY BORTEN: (inaudible) statements. 14 GREG DIAMOND: So T; 76T. 15 TAMMY CITRAMANNIS: Yes. That's what -- but what date 16 is that one? 17 GREG DIAMOND: It's a report dated December 20th -- 18 TAMMY CITRAMANNIS: Oh. I see. 19 GREG DIAMOND: -- 2016. 20 TAMMY CITRAMANNIS: Got it. 21 GREG DIAMOND: And in that report you stated, and I 22 will read it exactly, but you stated that the County is 23 placed in an awkward and difficult position because it's at 24 a distinct disadvantage in that it doesn't have the 25 technical information that it needs. Is that generally</p>	<p>515</p> <p>1 their fair game. 2 BILL CHEN: Yeah. 3 GREG DIAMOND: Exhibit 191B is a similar report dated 4 September 1, 2017. And let's confirm if I've got the right 5 exhibit number. 6 TAMMY CITRAMANNIS: You do. 7 BILL CHEN: Yeah, B right? 8 TAMMY CITRAMANNIS: B, correct; 191B. 9 GREG DIAMOND: Let me go back to the first one. In 10 the first report which was Exhibit 76T, you referred to the 11 fact that the County was in a difficult situation because 12 they really didn't have enough data in front of them, and 13 I'm summarizing one of your first paragraphs. Is that 14 fair? You have to answer out loud. 15 LAWRENCE MONROE: That's a fair assessment, yes. 16 GREG DIAMOND: And in your September 1st, 2017 17 version of this report, Exhibit 191B, in that same 18 paragraph, the first, kind of first paragraph of the 19 agreement you stated that the Hearing Examiner -- 20 BILL CHEN: (inaudible) Counsel. 21 GREG DIAMOND: I'm sorry? Your -- this is your 22 TAMMY CITRAMANNIS: Statement. 23 LAWRENCE MONROE: -- statement, not agreement. Your 24 statement you stated that the Hearing Examiner has been 25 placed in an awkward position and difficult, so you changed</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

43 (516 to 519)

<p>516</p> <p>1 the wording of your report.</p> <p>2 LAWRENCE MONROE: In that sense, yes, I did.</p> <p>3 GREG DIAMOND: Did you write these reports yourself?</p> <p>4 LAWRENCE MONROE: Yes.</p> <p>5 GREG DIAMOND: And did you change the wording?</p> <p>6 LAWRENCE MONROE: Yes.</p> <p>7 GREG DIAMOND: Because?</p> <p>8 LAWRENCE MONROE: Because I became aware procedurally</p> <p>9 of what was happening.</p> <p>10 GREG DIAMOND: Okay. In your first report in Exhibit</p> <p>11 76T, there are no references to the U.S. Code in that</p> <p>12 document. However, in Exhibit 191B you have a number of</p> <p>13 footnotes in which you start referencing 47 U.S.C. Section</p> <p>14 14445(a). you reference 47 U.S.C. 332(c)(7)(B)(2). Is --</p> <p>15 did you write that, sir?</p> <p>16 LAWRENCE MONROE: Yes, sir.</p> <p>17 GREG DIAMOND: And why did you change -- what happened</p> <p>18 between December and September that caused you to re-write</p> <p>19 your report that you needed to reference the U.S. Code?</p> <p>20 LAWRENCE MONROE: I thought it would be more clear.</p> <p>21 GREG DIAMOND: Did you undertake your own independent</p> <p>22 study of the Snug Hill community, the topography, do any of</p> <p>23 your drive tests?</p> <p>24 LAWRENCE MONROE: No, sir. And the reason was that --</p> <p>25 GREG DIAMOND: I -- that was a yes, no. Thank you.</p>	<p>518</p> <p>1 community to determine the accuracy of that assessment?</p> <p>2 LAWRENCE MONROE: No, sir.</p> <p>3 GREG DIAMOND: When you wrote your report dated</p> <p>4 December 20th, 2016 were you aware of the Montgomery County</p> <p>5 Department of Technology Services Transmission Facility</p> <p>6 Coordinating Group? Commonly known here as the Tower</p> <p>7 Committee.</p> <p>8 LAWRENCE MONROE: I was aware that something to that</p> <p>9 effect existed, yes.</p> <p>10 GREG DIAMOND: So on December 20th, 2016 did you know</p> <p>11 what that committee does in the process of applying for a</p> <p>12 tower in Montgomery County, Maryland?</p> <p>13 LAWRENCE MONROE: No, I didn't.</p> <p>14 GREG DIAMOND: Between December 20th and September</p> <p>15 1st, 2017 have you done any follow-up to determine what the</p> <p>16 Montgomery County Tower Committee does in the process of a</p> <p>17 tower application in Montgomery County?</p> <p>18 LAWRENCE MONROE: No, sir.</p> <p>19 GREG DIAMOND: Yet, it's still your opinion that the</p> <p>20 Hearing Examiner doesn't have enough data in front of her</p> <p>21 to make a decision -- to make a determination on need?</p> <p>22 That's the opinion you've given today.</p> <p>23 LAWRENCE MONROE: Based on the record that I have</p> <p>24 read, that I was provided, yes, I am still of that opinion.</p> <p>25 GREG DIAMOND: Even though you don't know what Tower</p>
<p>517</p> <p>1 LAWRENCE MONROE: No, I did not.</p> <p>2 GREG DIAMOND: Did you -- were you here yesterday to</p> <p>3 hear the testimony?</p> <p>4 LAWRENCE MONROE: Yes.</p> <p>5 GREG DIAMOND: And did you hear the testimony of</p> <p>6 Robert Posilkin regarding scrubbing the area looking for</p> <p>7 alternate structures on which to place the antennas?</p> <p>8 LAWRENCE MONROE: Yes.</p> <p>9 GREG DIAMOND: So isn't it a fact that Verizon</p> <p>10 Wireless, through its consultants and did attempt to look</p> <p>11 for existing structures in the neighborhood on which to</p> <p>12 locate antennas?</p> <p>13 LAWRENCE MONROE: A specific type of structure, yes.</p> <p>14 Not all structures potentially feasible.</p> <p>15 GREG DIAMOND: Did Verizon Wireless in fact, look for</p> <p>16 existing structures on which to locate antennas?</p> <p>17 BILL CHEN: Objection. Asked and answered. He gave</p> <p>18 an answer.</p> <p>19 GREG DIAMOND: That's a yes or no.</p> <p>20 LAWRENCE MONROE: Yes, minimally.</p> <p>21 GREG DIAMOND: You can certainly, on redirect, clarify</p> <p>22 that if you'd like. And was it the testimony yesterday</p> <p>23 that an alternate structure did not exist in the community?</p> <p>24 LAWRENCE MONROE: That was the testimony, yes.</p> <p>25 GREG DIAMOND: And did you personally investigate the</p>	<p>519</p> <p>1 Committee does?</p> <p>2 LAWRENCE MONROE: I said based on the information that</p> <p>3 I have had access to that was provided to me that I have</p> <p>4 reviewed.</p> <p>5 GREG DIAMOND: At any time have you reached out to</p> <p>6 talk to anyone at the Montgomery County Tower Committee?</p> <p>7 LAWRENCE MONROE: Intentionally, no.</p> <p>8 GREG DIAMOND: At any time have you reached out to the</p> <p>9 Support Staff, which is an independent company, to their</p> <p>10 professional engineers to ask them about this application?</p> <p>11 LAWRENCE MONROE: Intentionally, no.</p> <p>12 GREG DIAMOND: At any time did you review any of the</p> <p>13 public records about the Tower Committee, either the</p> <p>14 application, the minutes of the meeting at which the case</p> <p>15 was presented, or the final findings?</p> <p>16 LAWRENCE MONROE: Intentionally, no.</p> <p>17 GREG DIAMOND: No further questions.</p> <p>18 BILL CHEN: Why didn't you --</p> <p>19 TAMMY CITRAMANNIS: Wait a minute. Let me see --</p> <p>20 BILL CHEN: I'm sorry. Mr. --</p> <p>21 TAMMY CITRAMANNIS: Did you have any questions?</p> <p>22 THOMAS BARNARD: No questions. Thank you.</p> <p>23 BILL CHEN: Why didn't you contact the Tower Committee</p> <p>24 or its staff, for its report and review --</p> <p>25 LAWRENCE MONROE: I wanted to approach this from a</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

44 (520 to 523)

<p>520</p> <p>1 purely objective, unbiased, untainted perspective in the 2 context of did, you know, was the information necessary to 3 make an informed decision provided. That's primarily all I 4 was concerned with. Is what does the -- 5 BILL CHEN: You say the -- 6 LAWRENCE MONROE: -- written record that I was 7 provided show as regards information that was provided. 8 BILL CHEN: And you were provided with the Verizon 9 application? 10 LAWRENCE MONROE: Yes. 11 BILL CHEN: Is that the information you were provided? 12 LAWRENCE MONROE: Sorry? 13 GREG DIAMOND: Objection. Which application because 14 there was a number of applications in this process. 15 BILL CHEN: I apologize. Yes. Did you receive the 16 amended a Verizon application? 17 LAWRENCE MONROE: Yes. 18 BILL CHEN: That's the -- 19 GREG DIAMOND: Is that the application for the 20 conditional use, or Tower Committee application, because 21 there are two separate applications. 22 BILL CHEN: He said he's never looked at anything at 23 Tower, but I'll clear it up. 24 TAMMY CITRAMANNIS: Okay. All right. 25 BILL CHEN: Thank you. Did you review the amended</p>	<p>522</p> <p>1 BILL CHEN: Why did you not do a study in Sugar -- of 2 Snug Hill? 3 LAWRENCE MONROE: Because I'm not in the business of 4 designing. I would never represent myself to be qualified 5 to design. My job was to determine does the County 6 adequate information, based upon the thousands of 7 applications that we reviewed including probably, well, I 8 know hundreds by Verizon, as to -- and what they have 9 provided, does the County have information, or the Hearing 10 Examiner have information on which to make an informed 11 decision. That was it. 12 BILL CHEN: All right. Thank you. 13 TAMMY CITRAMANNIS: (inaudible) 14 BILL CHEN: No. That's it. 15 TAMMY CITRAMANNIS: Ms. Wetter, you have any 16 questions? 17 CHERYL WETTER: (no audible response) 18 TAMMY CITRAMANNIS: Ms. Lee? 19 SUSAN LEE: (no audible response) 20 TAMMY CITRAMANNIS: Okay. Is there anybody in the 21 audience have a question for Mr. Chen to pass on? I hear 22 ripping. 23 BILL CHEN: Could changing the orientation of the 300 24 foot tower located in Potomac Crest, which is less than one 25 mile from the proposed tower site, improve the signal</p>
<p>521</p> <p>1 conditional use application that is pending before the 2 Hearing Examiner? 3 LAWRENCE MONROE: Yes. 4 BILL CHEN: Did Verizon look at any sources for its 5 wireless facility other than structures? 6 THOMAS BARNARD: Objection. Foundation. 7 BILL CHEN: Well I think that's -- 8 TAMMY CITRAMANNIS: Repeat your question. I'm sorry. 9 BILL CHEN: Yeah. I asked had Verizon -- let me 10 change it a little bit. Based upon the information that 11 you've heard from the search that Verizon has undertaken 12 has it undertaken any search to locate a wireless facility 13 in this general area where it says it needs service, other 14 than structures? 15 LAWRENCE MONROE: Other than the tall existing -- 16 THOMAS BARNARD: Objection. What is there other than 17 structures? 18 BILL CHEN: Tall, excuse me. I apologize. Tall 19 structures. 20 TAMMY CITRAMANNIS: Okay. He's (inaudible) 21 LAWRENCE MONROE: I'm not aware of any. 22 BILL CHEN: In fact you showed that on your PowerPoint 23 already this morning. 24 LAWRENCE MONROE: Yes. If we had gotten to that 25 point.</p>	<p>523</p> <p>1 strength so this new tower is not needed? 2 GREG DIAMOND: Objection. This is -- he's testified 3 that he can't design facilities, only comment on whether 4 you have enough information. 5 TAMMY CITRAMANNIS: Plus, I haven't heard any 6 testimony that he has any knowledge -- 7 LAWRENCE MONROE: That would have been my response 8 anyway. 9 TAMMY CITRAMANNIS: -- of any of that. Yeah. So 10 sustained. Just for -- anybody? You have any others? 11 BILL CHEN: I have not been given any additional 12 questions. 13 TAMMY CITRAMANNIS: Ms. Wetter, you change your mind? 14 CHERYL WETTER: And this may not be the right person 15 to ask. Does a small cell have the capability, a small 16 cell tower have the capability of supporting other carriers 17 on it? 18 LAWRENCE MONROE: Let's -- 19 TAMMY CITRAMANNIS: Wait a minute. Wait a minute. 20 LAWRENCE MONROE: -- back up. Small -- 21 TAMMY CITRAMANNIS: Wait. 22 CATHY BORTEN: Wait. 23 TAMMY CITRAMANNIS: Mr. -- 24 LAWRENCE MONROE: Oh, I'm sorry. 25 TAMMY CITRAMANNIS: Seconds. They have an</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

45 (524 to 527)

<p>524</p> <p>1 opportunity. So it's like a two second delay. 2 CATHY BORTEN: No. We would object. There has 3 already been a discussion that small cells are not an 4 option right now in Montgomery County. That's -- that 5 legislation doesn't -- 6 TAMMY CITRAMANNIS: Right. 7 CHERYL WETTER: Well, let me ask it a different way. 8 Would Verizon be proposing this a large, tall, monopole so 9 that they can, not only get past small cell problem, but 10 also so they can sell carrier space? 11 CATHY BORTEN: Objection. 12 THOMAS BARNARD: Objection. 13 TAMMY CITRAMANNIS: Sustained. 14 CHERYL WETTER: That's okay. It's in the record. 15 TAMMY CITRAMANNIS: But you got to ask it. Okay. Any 16 other before we go on? Anybody have anything in follow-up? 17 Okay. Thank you, Mr. Monroe. 18 LAWRENCE MONROE: Thank you. 19 TAMMY CITRAMANNIS: You're free to go. How do we turn 20 off the PowerPoint? 21 BILL CHEN: It has to be done (inaudible) 22 TAMMY CITRAMANNIS: Oh. Okay. Is there somebody up 23 there? Thank you. Oh, Mr. Monroe, (inaudible) Okay. 24 GREG DIAMOND: Proving that somebody is up there. 25 TAMMY CITRAMANNIS: Yeah, exactly. Okay. So Mr.</p>	<p>526</p> <p>1 Administrative Hearings? 2 RUSSELL REESE: Yes. 3 BILL CHEN: And we've submitted your CV with that 4 information? 5 RUSSELL REESE: That's correct. 6 BILL CHEN: You've even appeared, I believe, in 7 Circuit Court for Montgomery County? 8 RUSSELL REESE: That is correct, yes. 9 BILL CHEN: Madam Examiner, I offer Mr. Reese as an 10 expert witness as a land surveyor. 11 GREG DIAMOND: No objection to this witness on the 12 limited issue of land surveying, but not anything beyond 13 that. 14 TAMMY CITRAMANNIS: I'm not sure what that -- I know 15 what you mean, other than -- 16 THOMAS BARNARD: Well beyond -- 17 GREG DIAMOND: Well, I think it's -- so Mr. Chen, of 18 course, and his prehearing suggests what the witness might 19 be testifying to. 20 BILL CHEN: Yeah. 21 GREG DIAMOND: And I believe where the examination is 22 going to go it goes beyond just actually surveying land. 23 But then giving opinions about construction of 24 communication facilities, which would be beyond the scope 25 of his expertise.</p>
<p>525</p> <p>1 Chen, call your next witness. I lost a pen. Oh. 2 BILL CHEN: Russell Reece please. 3 TAMMY CITRAMANNIS: Okay. Do you promise to tell the 4 truth, the whole truth, and nothing but the truth in your 5 testimony under the penalty of perjury today? 6 RUSSELL REESE: I do. 7 TAMMY CITRAMANNIS: State your name and your address 8 and then wait for Mr. Chen to ask you questions. And is 9 the red button, is it red? 10 RUSSELL REESE: It is. 11 TAMMY CITRAMANNIS: You're good. 12 RUSSELL REESE: My name is Russell E. Reese. I'm with 13 Maddox Engineers and Surveyors. I'm -- we practice at 3204 14 Tower Oaks Boulevard, Rockville, 20852. 15 BILL CHEN: Mr. Reese, I'm showing you Exhibit 191(i). 16 Can you identify that? 17 RUSSELL REESE: That's my resume. 18 BILL CHEN: Mr. Reese, what is your occupation? 19 RUSSELL REESE: I'm a professional land surveyor. 20 BILL CHEN: Okay. And have you testified as an expert 21 witness as a professional land surveyor? 22 RUSSELL REESE: Yes I have. 23 BILL CHEN: In Montgomery County? 24 RUSSELL REESE: Yes, sir. 25 BILL CHEN: Before the Board of Zoning and</p>	<p>527</p> <p>1 BILL CHEN: Well, let's -- let me -- I don't think I'm 2 going where Mr. Diamond anticipates, but let's talk about 3 one aspect just to maybe clear things up as we go down the 4 road. As part of your services as a land surveyor, 5 particularly in Montgomery County, does that type of 6 service, land surveying, include identification and 7 establishment of setback locations? 8 RUSSELL REESE: Yes, it does. 9 BILL CHEN: That would be setbacks which are contained 10 within various provisions of the Montgomery County zoning 11 ordinance. 12 RUSSELL REESE: That's correct, yes. 13 BILL CHEN: How often have you done that? 14 RUSSELL REESE: To numerous to count. 15 BILL CHEN: Among your activities as a land surveyor 16 is to survey land for the determination of setback 17 locations? 18 RUSSELL REESE: Yes. 19 BILL CHEN: Okay. With -- so that Madam Examiner, 20 just to maybe go back a little bit. I submit that within 21 this gentleman's area of expertise as a land surveyor it 22 does include, and this is maybe for Counsel is going and so 23 I'm trying to head it off, it does include the survey work 24 for setbacks, particularly setbacks as required under the 25 provisions of the Montgomery County zoning ordinance.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

46 (528 to 531)

<p>528</p> <p>1 TAMMY CITRAMANNIS: Okay. And response to that? I 2 mean I'm looking at his resume and that seems to be part of 3 his expertise. 4 GREG DIAMOND: I have no problem with his ability to 5 give testimony about surveying this property. However, 6 there is a question of-- I guess well, maybe I'll wait 7 until we get into the questions. 8 TAMMY CITRAMANNIS: Okay. Well I'm going to qualify 9 him. 10 GREG DIAMOND: Qualify him as an expert witness. 11 TAMMY CITRAMANNIS: He has -- yeah, he -- well, and 12 his resume seems to include, I mean you can certainly 13 object at any point you want, but I think his resume 14 includes the information that you're concerned about. That 15 will address it when it comes up and we'll do it then. But 16 go ahead Mr. Chen. 17 BILL CHEN: Thank you very much. Have you surveyed 18 the area that is known as the East Gate Recreation property 19 located at 10200 Gainsborough Road in Potomac? 20 RUSSELL REESE: Yes, we have. 21 BILL CHEN: Okay. And just for future reference, I'll 22 probably call it East Gate or the Recreation area, that's 23 what I'm talking about. 24 RUSSELL REESE: Understood. 25 BILL CHEN: And that is the area --</p>	<p>530</p> <p>1 BILL CHEN: Okay. Mr. Reese, I'm showing you what has 2 been marked as Exhibit, at one place it's as you said 3 earlier, it's 195, but that was filed with darker lines and 4 the darker lined one is 191(j). 5 RUSSELL REESE: Well, reverse that. But -- 6 BILL CHEN: Yes. I'm sorry. The darker lines is 195. 7 RUSSELL REESE: Mm-hmm (affirmative). 8 BILL CHEN: What is this document? 9 RUSSELL REESE: This is a graphic representation of 10 our survey results. It shows the subject property in the 11 main field of the plat. It's comprised of two adjacent 12 platted parcels. And this is pretty much reproducing what 13 was shown on the applicant's site plan, and just showing 14 some of the found property evidence we used to reestablish 15 it. It also, around the perimeter of that area, shows the 16 adjacent, or confronting homes that were shown on the 17 setback exhibit to be used to calculate the 300 foot tower 18 setbacks. 19 BILL CHEN: Okay. Now could you explain to the 20 Examiner just what the setbacks, where they are on this 21 graphic and what they're trying to depict? 22 RUSSELL REESE: Certainly. Can I approach the 23 exhibit? 24 TAMMY CITRAMANNIS: Yes. 25 RUSSELL REESE: Thank you.</p>
<p>529</p> <p>1 TAMMY CITRAMANNIS: Water? 2 BILL CHEN: I -- 3 CHERYL WETTER: (inaudible) any of these things? 4 BILL CHEN: No. I don't (inaudible) 5 CHERYL WETTER: Oh. Okay. 6 BILL CHEN: That is the property that is the subject 7 of the proceedings for the Hearing Examiner. Is that 8 correct? 9 RUSSELL REESE: That's correct, yes sir. 10 BILL CHEN: What was the assignment? 11 RUSSELL REESE: We were engaged to verify the boundary 12 as shown on the applicant's Site Plans, specifically C1 and 13 to establish both the property line setbacks, the 80 feet 14 in question per the application and the setbacks from the 15 nearby homes. And to do that by survey and show it on a 16 document, that's Exhibit 191(j) and then resubmit it as a 17 darker version Exhibit 195. 18 BILL CHEN: And is that the setbacks that are required 19 for the telecommunications tower that's before the Hearing 20 Examiner? 21 RUSSELL REESE: That was our initial understanding, 22 was that the -- and per the application that it was an 80 23 foot one, per one. 24 BILL CHEN: Okay. And you did undertake that survey? 25 RUSSELL REESE: That's correct, yes.</p>	<p>531</p> <p>1 TAMMY CITRAMANNIS: I'm just be mindful that the mic 2 is right there. Don't sit on it. Sometimes -- 3 RUSSELL REESE: No. So this area here represents the 4 -- 5 BILL CHEN: I apologize. 6 TAMMY CITRAMANNIS: Yeah. Hold on a second. 7 BILL CHEN: Let me give you (inaudible) hang on. A 8 red felt tip and when you mark just use the red felt tip. 9 RUSSELL REESE: Understood. In the area I'm outlining 10 in red is the 80 foot setback requirement per the 11 application at 80 foot one for one. These dimensions that 12 I'm circling are offset dimensions to the nearby homes. 13 The 300 foot setback requirement to the west, north, and 14 east and then a measured offset to the proposed tower 15 location for the Site Plan and that's this dimension down 16 here. 17 TAMMY CITRAMANNIS: Say that dimension. 18 BILL CHEN: What is that dimension? 19 RUSSELL REESE: Oh. 20 BILL CHEN: Sorry. (inaudible) 21 RUSSELL REESE: That's 307.1 feet. It differs 22 slightly from the Site Plan. It's actually a little bit 23 greater than shown on the applicant's Site Plan. 24 BILL CHEN: What is the portion of the graphic that 25 has the title inset?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

47 (532 to 535)

<p>532</p> <p>1 RUSSELL REESE: Yeah this is a blowup of this area. 2 And this shows a -- 3 BILL CHEN: When you say this area, what -- 4 RUSSELL REESE: I'm sorry. This area on the main body 5 of the plat -- 6 BILL CHEN: Why don't you highlight that area in 7 yellow. I think -- 8 RUSSELL REESE: Very good. The area I'm highlighting 9 in yellow is what was referred to yesterday as the sliver, 10 or the area -- 11 TAMMY CITRAMANNIS: The hatched area? 12 RUSSELL REESE: The hatched area within the available 13 offset. And we determined and actual -- one of the 14 purposes of the survey was to just term in the square 15 footage and we've labeled it here on the plan as 729 square 16 feet. That 729 square feet is what shown in the inset. 17 We've also borrowed some of the graphics from the 18 applicant's plan to overlay that setback area on top of 19 those existing features. We've also provided some 20 dimensions showing the depth, or width of that setback 21 area. 22 BILL CHEN: Okay. And what is the widest width of 23 that hatched or slivered area? 24 RUSSELL REESE: That's 8.6 feet and it's at the very 25 eastern end of it.</p>	<p>534</p> <p>1 GREG DIAMOND: Okay. 2 BILL CHEN: Did you hear his testimony yesterday 3 relative to placing the conditional use, the proposed 4 conditional used within the setback area? 5 RUSSELL REESE: Yes. 6 BILL CHEN: Okay. What is your recollection of -- 7 GREG DIAMOND: Objection. 8 TAMMY CITRAMANNIS: There's an objection. 9 GREG DIAMOND: So my objection now we're going to 10 design of the communications facility which is beyond the 11 scope of this applicant's expertise. This applicant can -- 12 with expertise does it show us the outside boundaries of 13 the property and crosshatch places within the property. 14 But once it reaches the issue of design of a communications 15 facility he does not have the expertise to express an 16 opinion. 17 TAMMY CITRAMANNIS: That wasn't the question I heard. 18 BILL CHEN: That's not my question. 19 TAMMY CITRAMANNIS: My question -- what I heard, and I 20 could be wrong and he'll clarify is that the 21 telecommunications towers with the equipment facility, the 22 way that you all have represented it would fit in that 23 hatched area, is what I'm hearing. 24 BILL CHEN: That's right. 25 TAMMY CITRAMANNIS: Is that what you meant?</p>
<p>533</p> <p>1 BILL CHEN: Okay. The area that -- do you know the 2 area that Verizon is proposing on its plans to have the 3 enclosure to area for its support structure and related 4 equipment? 5 RUSSELL REESE: Yes. The principal area there showing 6 the 700 square feet. The additional future area adds 7 another 400 some square feet for a total of about 1200 8 square feet. 9 BILL CHEN: Okay. 10 TAMMY CITRAMANNIS: Mr. Dun, could you turn on your 11 mic when he standing near you so that we get him as well? 12 Thank you. 13 BILL CHEN: Okay. You heard the testimony of the 14 engineer who testified yesterday. Is that correct? 15 RUSSELL REESE: Yes. 16 BILL CHEN: And I think you -- did you hear his 17 testimony about the height of the structure of the 80 feet? 18 RUSSELL REESE: Yes. 19 BILL CHEN: And you also, on questions from me, 20 express the statement that he could not put the equipment 21 and the -- 22 GREG DIAMOND: Objection. 23 BILL CHEN: Well -- 24 GREG DIAMOND: I'm sorry. You haven't finished. 25 BILL CHEN: Yeah.</p>	<p>535</p> <p>1 BILL CHEN: Yes. Yes. 2 TAMMY CITRAMANNIS: I think that's a little different 3 than what -- or what -- 4 BILL CHEN: And that doesn't go to design. We're 5 using their own numbers. 6 TAMMY CITRAMANNIS: Yeah. I -- 7 GREG DIAMOND: So does it -- is this witness capable 8 of designing the communications facility? Because what -- 9 here's what we don't know. We don't know whether this 10 witness knows that, for instance, the equipment on the 11 ground doesn't necessarily have to be immediately adjacent 12 to the pole, because he's not an expert in the field of 13 designing communications facilities he can't reach this 14 issue. 15 TAMMY CITRAMANNIS: Well, I think that he can break 16 that question down. So I'm going to overrule, and -- 17 BILL CHEN: Well, answer the question. But I want to 18 respond to that to this extent. They have to stand on the 19 information that they've given. The numbers that they have 20 given, okay, they have said that we are proposing 700 21 square feet for the enclosure for the telecommunications 22 conditional use. Please. Under the definition -- 23 TAMMY CITRAMANNIS: I know what the definition is. 24 BILL CHEN: Okay. Fine. 25 TAMMY CITRAMANNIS: I (inaudible)</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

48 (536 to 539)

<p>536</p> <p>1 BILL CHEN: So they have represented 700 square feet 2 and the additional expansion which they have as of right -- 3 some, I'm sorry. 4 THOMAS BARNARD: Well, Mr. Reese has already given 5 that number. 6 TAMMY CITRAMANNIS: Right. 7 BILL CHEN: Okay. We're not making up numbers. He's 8 not trying to tell, you know, you what they should have. 9 He is using their numbers. 10 TAMMY CITRAMANNIS: Yeah. I think that's what I was 11 saying. 12 GREG DIAMOND: So there is an assumption in evidence 13 here that the 700 square feet must be contiguous. Now, if 14 you were the -- an engineer who designs communications 15 facilities you would know you can put the communications 16 pole on one portion of the property and as was testified 17 yesterday, have the equipment be somewhere else on the 18 property. And so because this witness does not have that 19 expertise he should not be reaching that issue. 20 BILL CHEN: (inaudible) 21 TAMMY CITRAMANNIS: Okay. I've heard both sides and I 22 -- he's -- I think he can answer based on what you have. 23 Yes. It could -- and maybe that's not, but he's asking as 24 you have proposed it right now, not at the -- you know, as 25 you have proposed it if it was moved over to the alternate</p>	<p>538</p> <p>1 specifically show what the shape is and the dimensions are 2 and the location are and I think that's what he's referring 3 to. So I'm going to overrule -- 4 THOMAS BARNARD: Okay. 5 TAMMY CITRAMANNIS: -- and he can answer the question. 6 BILL CHEN: (inaudible) 7 TAMMY CITRAMANNIS: You want to re-- 8 BILL CHEN: No, he remembers. 9 TAMMY CITRAMANNIS: He remembers. Okay. 10 RUSSELL REESE: I think I remember. I do recall the 11 gentleman's testimony yesterday, the engineer from MRA. 12 And those two combined areas, just in square footage, not 13 in shape exceeds the available 729 square feet that's a 14 result of this setback study. 15 BILL CHEN: So they can't put it in there? 16 RUSSELL REESE: Correct. 17 GREG DIAMOND: Objections. 18 TAMMY CITRAMANNIS: They can't put it in there based 19 on -- 20 GREG DIAMOND: That's the -- 21 BILL CHEN: Obviously. They cannot put it in there 22 based on -- 23 GREG DIAMOND: Is this a question or testimony? 24 BILL CHEN: I was responding to the Hearing Examiner. 25 TAMMY CITRAMANNIS: Okay.</p>
<p>537</p> <p>1 the size that you have represented would it fit. That's -- 2 I don't -- I don't hear him asking all the other 3 alternative questions. So I don't -- I think that that 4 question is valid and he can answer it. 5 THOMAS BARNARD: Can I make an objection too? 6 TAMMY CITRAMANNIS: Mm-hmm (affirmative). 7 THOMAS BARNARD: I think my objection is the 8 representation that our application is in a single -- I 9 think the (inaudible) was the representation that our 10 application it's a total number of the not in a particular 11 shape or location. So I think the representation their 12 application is limited to a particular shape and contiguous 13 nature of the distance is not an accurate representation of 14 the possibilities. 15 BILL CHEN: Well, you know -- 16 TAMMY CITRAMANNIS: Okay. Wait a minute. Just -- 17 (inaudible) for a second. I can't hear because people are 18 talking. I know this is -- I need to be able to hear what 19 they're saying. You'll have to say that again. 20 THOMAS BARNARD: My objection is to the 21 characterization of the application to be, in this 22 instance, 700 contiguous single location feet. All it is 23 is a total of number of feet not in a particular shape or 24 combination. 25 TAMMY CITRAMANNIS: Well, I think your plats</p>	<p>539</p> <p>1 BILL CHEN: Based upon your own -- 2 TAMMY CITRAMANNIS: Rephrase. 3 BILL CHEN: Based upon their own information can they 4 put it in that setback -- the permissible setback area? 5 THOMAS BARNARD: I'm going to object to the 6 (inaudible) 7 GREG DIAMOND: Objection to permissible setback area. 8 TAMMY CITRAMANNIS: Right. Okay. This -- 9 BILL CHEN: Well -- 10 TAMMY CITRAMANNIS: In the hatched area, the size of 11 the hatched area versus, is that what I'm hearing? 12 BILL CHEN: Yeah. I think that is the permissible 13 setback area, but I'll use hatchback area. 14 TAMMY CITRAMANNIS: Well, I think they want to know -- 15 hypothetically, with the way that you have put it on your 16 amended application and based on his drawing which shows a 17 sliver the size doesn't fit. Or is that what you're 18 saying? That it will fit in that area? All that will fit 19 in that area. I mean that's -- 20 BILL CHEN: I thought that he had already answered 21 that question. 22 TAMMY CITRAMANNIS: Right, and they objected to it. 23 BILL CHEN: Yeah, but he's already testified to that 24 point. And all I was doing was a follow-up that we're 25 talking about the permissible setback area, which I</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

49 (540 to 543)

<p>540</p> <p>1 understand to be based upon his previous testimony is that 2 slivered area. That is the permissible setback area. 3 TAMMY CITRAMANNIS: Right. That is the -- 4 THOMAS BARNARD: I was objecting to the use of 5 (inaudible) as undefined, vague, and (inaudible) and I 6 don't know what he was including that definition of it. 7 TAMMY CITRAMANNIS: Oh. Okay. Well, that's fair. 8 BILL CHEN: Fine. I mean it pertains to the compound 9 areas that Verizon has proposed for both its compound and 10 the two carriers. So that -- 11 RUSSELL REESE: May I elaborate on that? 12 BILL CHEN: Yes. 13 RUSSELL REESE: My understanding of that definition 14 was the area required to construct the tower structure 15 itself, and its associated equipment. I'm not saying that 16 you're locked into the equipment yard as shown on the Site 17 Plan. I don't know. But we were giving square footage for 18 the required area the tower and its associated equipment 19 and its eventual expansion area. Assuming those are 20 minimal areas added together, they don't fit on the 21 allowable setback area. 22 BILL CHEN: Your next is 20? 23 TAMMY CITRAMANNIS: The next exhibit would be 204. 24 BILL CHEN: Do you want me to use the stamp on this 25 document?</p>	<p>542</p> <p>1 smaller area is a mistake in the reading of the ordinance. 2 BILL CHEN: He -- that's misleading. May I respond? 3 TAMMY CITRAMANNIS: You may respond. All right, your 4 microphone Mr. Chen. Thank you. 5 BILL CHEN: If I may, the full reading on that says 6 that a reduced setback may be approved only if there is a 7 location on the property where the setback requirements can 8 be made. And that sentence means they, in seeking a waiver 9 for the setback, they still, nonetheless, must be able to 10 demonstrate a location on the site where the conditional 11 use, the superstructure the -- okay. You understand what 12 I'm saying? 13 TAMMY CITRAMANNIS: I totally understand. I knew 14 where you were going yesterday. And it's an argument as to 15 the language in the ordinance and I -- he just has an 16 alternate interpretation of it and it's arguable. Whether 17 it's a valid, but it's arguable and so I'm going to allow 18 it and so you may continue. 19 RUSSELL REESE: Thank you. 20 BILL CHEN: Mr. -- 21 RUSSELL REESE: Reese. 22 BILL CHEN: Mr. Reese -- 23 RUSSELL REESE: He usually just calls me guy. 24 BILL CHEN: Maybe some other things too. But you were 25 in the middle -- about to give an answer and I --</p>
<p>541</p> <p>1 TAMMY CITRAMANNIS: Yeah. Just -- oh, yeah. Just put 2 204 and I'll put the case number. I'm going to have in my 3 -- 4 GREG DIAMOND: I'd like to renew an objection at this 5 time, read a section of the Code to try to help clarify and 6 maybe provide the clarity to help you rule on the 7 objection. 8 TAMMY CITRAMANNIS: Okay. I think I did rule on the 9 objection. 10 GREG DIAMOND: So that I'm renewing an objection at 11 this time with the help of the Code. And specifically what 12 the zoning ordinance says is the Hearing -- is it okay to 13 read? The Hearing Examiner may reduce the setback 14 requirement to not less than the building setback for a 15 detached house building type in the applicable zone or to a 16 distance of one foot from an off-site dwelling for every 17 foot of height of the support structure. The support 18 structure, whichever is greater. If the evidence indicates 19 that a reduced setback will allow the support structure to 20 be located on the property in a less visual -- less 21 visually intrusive location. The focus on that section is 22 on the setbacks for the support structure, and not the 23 other, you know, portions of the communications facility. 24 So this line of questioning which is trying to establish 25 that the entire 700 square feet can't fit within the</p>	<p>543</p> <p>1 TAMMY CITRAMANNIS: Do you remember the question? 2 BILL CHEN: I'm (inaudible) 3 RUSSELL REESE: I do. Well, we were still discussing 4 the -- whether or not the facility could fit within the 5 shaded area that depicts the allowable setback zone. There 6 were still a couple of issues pending which I think you're 7 getting to but one of the things I would point to was 8 yesterday's testimony of the engineer who said that he 9 doesn't even know if the support structure would fit in 10 this area because they haven't designed it. And that -- 11 and he explained very eloquently that, you know, you need 12 your technical data and you need to design a foundation for 13 it. But if that foundation goes beyond 7½ to 8 feet, even 14 that alone won't fit in this area. 15 BILL CHEN: That does not include the related 16 equipment? 17 RUSSELL REESE: Correct. 18 BILL CHEN: Okay. I've marked a document as Exhibit 19 204. Can you identify what that is? 20 RUSSELL REESE: Yes. We've labeled it Exhibit M2, 21 just it was the second one I produced for you. And it 22 shows a shaded area that illustrates the number of parking 23 spaces that would be affected by the proposed application. 24 BILL CHEN: And it shows the enclosures for the 25 conditional use plus the two carriers?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

50 (544 to 547)

<p>544</p> <p>1 RUSSELL REESE: The initial 35 foot length of the 2 equipment yard and then the additional 29. 3 BILL CHEN: Where did you get the data to prepare that 4 document? 5 RUSSELL REESE: From the applicants' package. 6 BILL CHEN: Okay. And let me show you, direct your 7 attention to exhibit -- 8 TAMMY CITRAMANNIS: You need to talk louder understand 9 your mic. 10 BILL CHEN: Oh, I'm sorry. 11 TAMMY CITRAMANNIS: You're wandering. 12 BILL CHEN: Let's go to 205. Can you identify that 13 document please? 14 RUSSELL REESE: Yes. This is just a partial plotting 15 of the same survey we looked at on -- 16 BILL CHEN: When you say the survey you are looking at 17 you mean Exhibit 20 -- 18 RUSSELL REESE: No. Exhibit 191(j). 19 BILL CHEN: Fine. Okay. 20 RUSSELL REESE: And slash 195. 21 GREG DIAMOND: Injection in that these exhibits are 22 new and were not submitted previously to the record for 23 evaluation. 24 BILL CHEN: Okay. There's no need to. It's not a 25 report.</p>	<p>546</p> <p>1 is 205. 2 TAMMY CITRAMANNIS: Okay. 3 BILL CHEN: And could you please identify 205? 4 RUSSELL REESE: Yeah. It's a in partial plotting of 5 the subject property. And we -- on this drawing we have 6 applied and 89 foot setback versus an 80 foot setback to 7 illustrate that when doing so there is no allowable setback 8 area for an alternate location for the tower. 9 BILL CHEN: I don't have any further questions 10 (inaudible) 11 TAMMY CITRAMANNIS: Okay. Mr. Diamond? Will you 12 please -- 13 GREG DIAMOND: Mr. Reese, we've got -- 14 TAMMY CITRAMANNIS: Okay. 15 GREG DIAMOND: Mr. Reese, you don't design 16 communications facilities for a living. Is that correct? 17 RUSSELL REESE: That's correct. 18 GREG DIAMOND: Do you know whether the ground 19 equipment that helps to operate the antennas at the top of 20 a tower must be immediately adjacent, next to a 21 communications facility, or is that beyond the scope of 22 your knowledge? 23 RUSSELL REESE: That would be beyond the scope of my 24 expertise. 25 GREG DIAMOND: And is it also fair to say you don't --</p>
<p>545</p> <p>1 TAMMY CITRAMANNIS: No, do they have copies? Have 2 they seen them? 3 BILL CHEN: That's all I even have (inaudible) are 4 those. 5 TAMMY CITRAMANNIS: Okay. Well, they should probably 6 be able to look at them before you start describing them. 7 BILL CHEN: Fine. Well, wait a minute. We've had 8 things come in before -- 9 TAMMY CITRAMANNIS: I know. But -- okay. So you 10 don't have extra copies? 11 BILL CHEN: I -- I might. 12 TAMMY CITRAMANNIS: You all can look at it from 13 (inaudible) gave me. There you go. 14 MALE VOICE: Questions from people that (inaudible) 15 she had to pick up her child from school. Can she submit 16 written testimony later on? Or what time is this going to? 17 TAMMY CITRAMANNIS: Let's get through this and I'll 18 answer your question. 19 MALE VOICE: Okay. 20 TAMMY CITRAMANNIS: Okay. Did you mark this one? 21 BILL CHEN: I haven't marked (inaudible) I thought I 22 had (inaudible) 23 TAMMY CITRAMANNIS: What were you referring to? I 24 thought you said 204 and 205. 25 BILL CHEN: The exhibit that says M2 is 204. And M3</p>	<p>547</p> <p>1 you also don't know whether the foundation of the tree 2 monopole whether it would fit in the sliver area that has 3 been identified as the alternate potential location of -- 4 for the tower. You don't know whether or not a tower could 5 fit in that space? 6 RUSSELL REESE: That's correct. Apparently nobody 7 does. 8 GREG DIAMOND: Not the entire 700 square feet, but 9 just the tower. 10 RUSSELL REESE: Just a tower, yes. 11 GREG DIAMOND: Okay. And so you're expressing no 12 opinion on that subject? 13 RUSSELL REESE: Correct. 14 GREG DIAMOND: I don't have any further questions. 15 THOMAS BARNARD: None, thank you. 16 TAMMY CITRAMANNIS: Okay. 17 BILL CHEN: Excuse me. You heard the testimony of the 18 engineer yesterday about the -- 19 TAMMY CITRAMANNIS: Your mic. We're going to have to 20 pin a mic on you. 21 BILL CHEN: You heard the testimony yesterday from the 22 Verizon engineer about the caisson and the size of the 23 caisson for the foundation. Is that correct? 24 RUSSELL REESE: That's correct. 25 BILL CHEN: What was the size that the engineer for</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

51 (548 to 551)

<p>548</p> <p>1 Verizon used?</p> <p>2 RUSSELL REESE: Well --</p> <p>3 GREG DIAMOND: Objection. So he says he doesn't have</p> <p>4 the expertise to do it himself and that was asked and</p> <p>5 answered yesterday by an engineer.</p> <p>6 TAMMY CITRAMANNIS: I actually think it was already</p> <p>7 asked whether --</p> <p>8 BILL CHEN: Well, you're right. I think he already</p> <p>9 did get into --</p> <p>10 TAMMY CITRAMANNIS: He did testify already --</p> <p>11 BILL CHEN: Yes he did, you're right.</p> <p>12 TAMMY CITRAMANNIS: -- that he heard it and --</p> <p>13 BILL CHEN: Yeah, he --</p> <p>14 TAMMY CITRAMANNIS: -- based on what he said it --</p> <p>15 BILL CHEN: That if you -- remember that, that's why</p> <p>16 I'm -- that's fine by me.</p> <p>17 TAMMY CITRAMANNIS: That's what I remember.</p> <p>18 BILL CHEN: Fine. That works for me.</p> <p>19 TAMMY CITRAMANNIS: (inaudible) yeah okay.</p> <p>20 BILL CHEN: I have no further questions.</p> <p>21 TAMMY CITRAMANNIS: All right. Now I can go on to Ms.</p> <p>22 Wetter.</p> <p>23 CHERYL WETTER: No, thank you.</p> <p>24 TAMMY CITRAMANNIS: Ms. Lee?</p> <p>25 SUSAN LEE: No.</p>	<p>550</p> <p>1 (Off the record.)</p> <p>2 (On the record.)</p> <p>3 TAMMY CITRAMANNIS: It's just after 3:15. Okay. I</p> <p>4 understand we have two students that are here and have</p> <p>5 asked if they can -- I think they need to get home to do</p> <p>6 homework so I think they would like to give their testimony</p> <p>7 now and Mr. Chen has graciously agreed to let them go</p> <p>8 before he finishes his other witness so if the applicant</p> <p>9 doesn't have any problem with that. Could I see the two or</p> <p>10 whoever, who are the students? Okay. Come on up. Right</p> <p>11 over here. Okay. Come on up. Welcome. You're first.</p> <p>12 Public speaking? Okay. Go ahead and have a seat and I'll</p> <p>13 just tell you how are going to do this. Okay. So you have</p> <p>14 a statement to read?</p> <p>15 GRACE CHEN: Yeah.</p> <p>16 TAMMY CITRAMANNIS: Okay. So how this process works</p> <p>17 is am going to swear you in so everything that you're</p> <p>18 saying is true. And these individuals here, they can ask</p> <p>19 you questions about your statement. They may, they may</p> <p>20 not. But, this is your opportunity to tell them and tell</p> <p>21 me what you think about this. So I need you to raise your</p> <p>22 right hand. Do you promise to tell the truth, the whole</p> <p>23 truth and nothing but the truth in your testimony today</p> <p>24 under the penalty of perjury?</p> <p>25 GRACE CHEN: Yes, I do.</p>
<p>549</p> <p>1 TAMMY CITRAMANNIS: Any individuals have a question</p> <p>2 for Mr. Reese? I don't hear any paper or -- okay. All</p> <p>3 right. Thank you Mr. Reese.</p> <p>4 RUSSELL REESE: Thank you.</p> <p>5 TAMMY CITRAMANNIS: I'm going to answer the</p> <p>6 gentleman's question real quick in the audience. He just</p> <p>7 asked about --</p> <p>8 MALE VOICE: A lady here had to go pick up her</p> <p>9 children she was wondering that if she (inaudible)</p> <p>10 TAMMY CITRAMANNIS: Yes. Because we will have a</p> <p>11 limited third hearing for, as we discussed yesterday. So</p> <p>12 the record was still be open. Absolutely. Anybody can</p> <p>13 submit --</p> <p>14 MALE VOICE: And where do they send it to?</p> <p>15 TAMMY CITRAMANNIS: They send it to the office</p> <p>16 downstairs.</p> <p>17 MALE VOICE: Okay.</p> <p>18 TAMMY CITRAMANNIS: Where they've been sending all of</p> <p>19 them. I've got them all. (crosstalk) okay. Okay.</p> <p>20 BILL CHEN: Can we take a 10 minute break?</p> <p>21 TAMMY CITRAMANNIS: Okay. We can take a break.</p> <p>22 THOMAS BARNARD: There's hands at the back of the</p> <p>23 room.</p> <p>24 TAMMY CITRAMANNIS: I know. I'm going to answer his</p> <p>25 question. Let's -- so we'll go off the record.</p>	<p>551</p> <p>1 TAMMY CITRAMANNIS: Okay. You need to say your name,</p> <p>2 your address, into that microphone so everybody can hear</p> <p>3 you. Take your time. It's okay. We've all been there.</p> <p>4 So state your name and your address. And then go ahead and</p> <p>5 read your statement.</p> <p>6 GRACE CHEN: Okay. My name is Grace Chen. My address</p> <p>7 is 10217 Gainsborough Road, Potomac, Maryland 20854.</p> <p>8 TAMMY CITRAMANNIS: Okay. Go ahead and read your</p> <p>9 statement.</p> <p>10 GRACE CHEN: Hello. I am here to oppose the building</p> <p>11 of a cell phone communication tower at East Gate Swim and</p> <p>12 Tennis on Democracy Boulevard and Gainsborough Road.</p> <p>13 Although some people might say that constructing the cell</p> <p>14 tower is beneficial, it must be realized that having a cell</p> <p>15 tower is not only a safety hazard and unnecessary, but will</p> <p>16 also ruin the lives of the hundreds of people living there.</p> <p>17 First off, having a cell tower in the middle of the street</p> <p>18 is potentially dangerous for children and adults. There</p> <p>19 are two bus stops directly at the site of construction. A</p> <p>20 bus from Bell's Mill Elementary school stops at Snug Hill</p> <p>21 Road and every morning and afternoon dozens of parents</p> <p>22 parked their cars and wait for their children. There is</p> <p>23 also a Ride-On bus stop in front of the East Gate pool</p> <p>24 entrance. Many people use this bus to get to the nearby</p> <p>25 Montgomery Mall. Students also use this Ride-On bus to get</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

52 (552 to 555)

<p>552</p> <p>1 back and forth from Winston Churchill High School. Every 2 day students ride the public bus as a quick way to arrive 3 home or to school safely. Bell's Mill Elementary and 4 Churchill High School are not only the school nearby the 5 proposed location for the cell tower. Calvin John Middle 6 School and Seven Locks Elementary School are also 7 dangerously close. And both schools have bus routes going 8 through Gainsborough Road. Adults are also harmed by the 9 building of the cell tower. During the day many adults 10 take walks and runs on the street. Many people also walk 11 their dogs. In this community in particular there are many 12 elderly resting and homes and taking daily struggles. At 13 night the loud hum of the engine at the base will keep 14 everyone awake. Adults and students who get up early for 15 work and other events will suffer dramatically lowering the 16 ability of work. Students who do not get enough sleep will 17 experience stress at school and grades will drop. This 18 could affect the schools test averages and performance 19 level. The proposed tower location is right by the side of 20 a community swimming and tennis center. All kids that use 21 this facility will be under direct radiation of the cell 22 tower. Also, there is a possibility that the cell tower 23 will fall down. Although some of you might ask what are 24 the chances of a cell tower falling down, the question is 25 if it actually falls down what will happen to the community</p>	<p>554</p> <p>1 a different area where it is hidden and doesn't bother 2 human life. The cell tower could easily affect people. 3 Especially when they are so close to its dangerous 4 radiation every single day. The telecommunications tower 5 is also extremely unnecessary. I Verizon signal is always 6 -- is already very strong in the area so there is no need 7 to locate a cell tower here. Some people's coverage is bad 8 due to the various signals from other cell towers bouncing 9 off of each other. More than 32 cell phone towers already 10 exist in the area within a (inaudible) mile radius making 11 it even more unnecessary. The communities nearby had 12 absolutely no say in the construction of the tower which is 13 less than 50 feet away from the nearest community. The 14 cell tower is so close to the residences yet no one knew 15 about it until a year later the contract was signed. Would 16 you want to have a cell tower in your backyard? Do you 17 want your children to live under a dangerous tower with 18 radiation and then end up getting bad grades? Would you 19 want your house value to decrease? Do you want to live 20 with the constant worry of having a cell tower in your 21 backyard? Do you want a hideous tower in your beautiful 22 neighborhood? Our community and people elected you to 23 represent and stand up with our voices. We expect you to 24 fulfill your duty and support us. As County representative 25 you are our voice. Speak up for us and defend our views.</p>
<p>553</p> <p>1 there. There will always be a risk of a cell tower 2 destroying houses and blocking roads. We are also in a 3 flooding zone area. We have gotten various flood warnings 4 in the area. The tower will also ruin the environment, 5 community, and the lives of people. Instead of a calming 6 view of trees swaying behind houses and clouds floating 7 peacefully in a clear blue sky you will see a gigantic 8 tower looming over and blocking everything in view. No one 9 will want to live in such a horrible place. The community 10 here is extremely welcoming and supportive of one another. 11 With the building of a cell tower the positive and lovable 12 community will be destroyed and the value of residences 13 will drop significantly. The impact of community life is 14 great. People can no longer sacrifice their life quality 15 and personal happiness for technology. Human life, without 16 question, is more important than money and technology. The 17 cell tower situated so close to communities would ruin the 18 childhood of many children. On Halloween night the nearby 19 communities have children running up and down the street 20 ringing doorbells for candy and treats. The hill right 21 next to the proposed constructional area of the tower is a 22 popular place for children to sled in the winter, snowy 23 months. Usually cell towers are hidden in forest and are 24 now out in the open. . Especially not in the middle of a 25 street and parking lot. The cell tower should be moved to</p>	<p>555</p> <p>1 Thank you. 2 TAMMY CITRAMANNIS: Thank you Ms. Chen. Questions 3 anybody? Questions? Pardon me? Any questions? Thank you 4 very much for coming out. 5 GRACE CHEN: Thank you. 6 TAMMY CITRAMANNIS: You did great. Okay. So we will 7 go on to Mr. Chen -- you have? Pardon me? 8 BILL CHEN: There were two. 9 TAMMY CITRAMANNIS: I thought there were two. I don't 10 see, is there another student? Is it just one student? 11 Yeah. I don't know where I got two. Sorry. Okay. Mr. 12 Chen, your next witness. Is this your -- all right. Mr. 13 Davis. Is that on red? 14 JOSEPH DAVIS: On red. 15 TAMMY CITRAMANNIS: Okay. Do you promise to tell the 16 truth, the whole truth, and nothing but the truth in your 17 testimony under the penalty of perjury? 18 JOSEPH DAVIS: I do. 19 TAMMY CITRAMANNIS: Okay. State your name and your 20 address and wait for Mr. Chen's questions. 21 JOSEPH DAVIS: Okay. My name is Joseph Davis. My 22 address is 172 Tuckers Road, Pawley's Island, South 23 Carolina 29585. 24 BILL CHEN: Mr. Davis, I'm showing you exhibit number 25 191(d). Can you identify it?</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

53 (556 to 559)

<p>556</p> <p>1 JOSEPH DAVIS: Yes. That's my curriculum vitae, and 2 resume. 3 TAMMY CITRAMANNIS: What number did you have, 191? 4 BILL CHEN: D. Is that wrong? 5 TAMMY CITRAMANNIS: For his resume? September 4th, 6 2017 or is that -- 7 BILL CHEN: That's my understanding. 8 TAMMY CITRAMANNIS: That's his statement. I have it 9 as F. 10 BILL CHEN: I've got, well maybe I've -- 11 TAMMY CITRAMANNIS: It's D? Wait a minute. 12 BILL CHEN: I've got the CV as D. 13 TAMMY CITRAMANNIS: Okay. Give me a moment. It's 14 important we reference the right one. 15 BILL CHEN: The statement I've got as F. All right. 16 TAMMY CITRAMANNIS: One ninety-one. This is -- Okay. 17 So it is D. That's different than the career summary, 18 right? Which one are you looking at? 19 BILL CHEN: Yes. Yes. 20 TAMMY CITRAMANNIS: The CV? 21 BILL CHEN: Yes, you've got a career summary as E. 22 TAMMY CITRAMANNIS: E, and then F is his statement. 23 Okay. Thank you. I had it wrong. 24 BILL CHEN: Okay. Mr. Davis, what is your occupation? 25 JOSEPH DAVIS: A land planner.</p>	<p>558</p> <p>1 subdivision supervisor and I did approximately eight years 2 or so is the subdivision supervisor and then I was again 3 promoted to chief of the development and review division. 4 I retired from the Park and Planning commission in 2004. I 5 then took a position with Montgomery County where I was 6 director of redevelopment working primarily in the Wheaton 7 area. Then I was working with a broader range of issues in 8 terms of redevelopment and those activities. I left the 9 County in 2007 and I opened my planning consultant 10 business, (inaudible) Planning Solutions, Inc., a Maryland 11 corporation; and I operated that business until I closed in 12 2014. And then I retired. But from time to time I get 13 called back for some reason. 14 BILL CHEN: And have you been recognized as an expert 15 witness, sir, in any agencies or courts? 16 JOSEPH DAVIS: Yes, I have been recognized as an 17 expert witness in land planning in Montgomery County 18 Circuit Court. I have been recognized by the Hearing 19 Examiners. I have been recognized by the Board of Appeals 20 to testify in their proceedings as an expert witness. 21 Montgomery County property review board. I qualified with 22 them on some combination cases I was working with it as a 23 land planner. And obviously before the planning commission 24 and the Park and Planning commission and the County 25 Council. Infer that you don't really, as a staff member</p>
<p>557</p> <p>1 BILL CHEN: And what does that encompass? 2 JOSEPH DAVIS: In my experience it has covered from 3 working with Master Plans, to zoning, to subdivision and 4 then basically doing studies, special studies. I've 5 involved in legislation, zoning legislations, subdivision 6 legislation. 7 BILL CHEN: You were employed by the Maryland National 8 Capital Park and Planning Commission? 9 JOSEPH DAVIS: That's correct. I was -- 10 BILL CHEN: It's on your CV. 11 JOSEPH DAVIS: Yes. 12 BILL CHEN: Could you just, in a summary, brief away 13 explain to the Hearing Examiner your career with the 14 Maryland National Capital Park and planning Commission? 15 Your positions and your responsibilities. 16 JOSEPH DAVIS: Okay. Well I started with the Maryland 17 national capital Park and planning commission on the Prince 18 George's site back in 1972 and then I moved, and basically 19 the work I did there, I was working with a comprehensive 20 rezoning division, so there I learned a lot about in terms 21 of implementation and Master Plan recommendation is through 22 that. I then transferred to Montgomery County in 1980 23 where I took a position as principal planner working with 24 zoning applications and was on the legislation. And I did 25 that work for about 8½ years and then I was promoted to the</p>	<p>559</p> <p>1 you don't really qualify -- have to qualify as an expert. 2 BILL CHEN: Did that -- did I cut you off? 3 JOSEPH DAVIS: That's all right. 4 BILL CHEN: Does that area of expertise include 5 expressing opinions relative to compliance with the zoning 6 ordinance? 7 JOSEPH DAVIS: Yes. 8 BILL CHEN: Subdivision regulations? 9 JOSEPH DAVIS: Yes. 10 BILL CHEN: Master plan? 11 JOSEPH DAVIS: Yes. Master plans as well. 12 GREG DIAMOND: So I guess I have an objection 13 regarding qualifying as an expert on subdivisions. There's 14 no subdivision in this case. This is only a zoning matter 15 and subdivision is an entirely different ordinance of the 16 code. 17 BILL CHEN: Well, this is a area -- we're in the 18 opposition. 19 TAMMY CITRAMANNIS: It's in an area of his expertise - 20 - 21 BILL CHEN: Not only that, if I may help the Examiner 22 we're in the opposition case and we contend through our 23 prior filings that there is a subdivision regulation 24 involved in this case that precludes this development. 25 Your nodding -- from nodding your head I --</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

54 (560 to 563)

<p>560</p> <p>1 TAMMY CITRAMANNIS: No. I -- your objection is noted. 2 He's been recognized as an expert in land planning and I 3 believe subdivision, if that is part of their defense then 4 it's within his expertise. Whether you agree with it, and 5 you certainly will argue against it, I think it's within 6 his area of expertise (inaudible) you are qualified again. 7 JOSEPH DAVIS: Thank you. 8 BILL CHEN: Mr. Davis while we're on that subdivision 9 aspect I want to direct your attention to several exhibits 10 in the record that have been filed. Specifically have you 11 had an opportunity to review the subdivision approval 12 documents for the East Gate of Potomac Subdivision? 13 JOSEPH DAVIS: Yes, I have. 14 BILL CHEN: Okay. What are those documents? 15 JOSEPH DAVIS: Well, first is the preliminary plan of 16 subdivision which was approved in 1970, or actually 17 approved in 1969, excuse me. There are two record plants 18 that encompass the subject property and these are East Gate 19 of Potomac plans. At, I believe for your record, Madam 20 hearing Examiner, the plat numbers are 96, 529660. I just 21 say that because it's Park and planning commission and 22 these 508 numbers at the bottom. 23 TAMMY CITRAMANNIS: Is it marked as exhibits? 24 BILL CHEN: Yes. I'm going to (inaudible) 25 TAMMY CITRAMANNIS: Okay.</p>	<p>562</p> <p>1 the preliminary plan of the East Gate Recreational -- East 2 Gate subdivision. 3 JOSEPH DAVIS: Okay. 4 BILL CHEN: Have you got it there? 5 JOSEPH DAVIS: This was a document you sent to me and 6 it's the East Gate preliminary plan and I'm just looking 7 for the preliminary plan number on it; 1-96144 is the 8 preliminary plan number for this. It is a cluster plan and 9 it shows the subject property for the modification is 10 special exception for the conditional use application. It 11 identifies it as proposed Recreation Association. 12 BILL CHEN: And you say you've got the plats as well? 13 JOSEPH DAVIS: Correct. Two plats, the first one all 14 described as plat number 9652 and that plat is for the 15 eastern portion of the area and it includes the eastern 16 portion of the subject site and is identified as parcel C 17 3.12 acres to be conveyed to East Gate Recreation 18 Association Inc. There's also a note on that plat which is 19 very important and is required to be on this plat. And it 20 says, note: This land lies within an approved cluster 21 subdivision. Subdivision or resubdivision is not permitted 22 and development of the land is only permitted in accordance 23 with the land use shown on the approved development plan 24 which is the cluster preliminary plan. That same note also 25 applies on the second record plat in almost the same</p>
<p>561</p> <p>1 BILL CHEN: Did you get these Technical Staff report 2 too? 3 JOSEPH DAVIS: Yes. I have a Technical Staff report - 4 - on the this is a Technical Staff report on the -- not 5 only subdivision, on the subdivision is pretty much of 6 those documents. I take that back there is a letter to 7 John Broda that you had sent to me. John Broda is a former 8 subdivision supervisor, Park and planning commission, 9 concerning the subdivision applications. 10 BILL CHEN: Okay. If I may Madam Examiner to help you 11 and Counsel, these documents were prefled back in December 12 and I'm referring to Exhibit 76A, B, C, D. what type of 13 subdivision is the East Gate subdivision? 14 JOSEPH DAVIS: It's a residential cluster subdivision. 15 BILL CHEN: And what type of subdivision is that? 16 JOSEPH DAVIS: Okay. That's the type of subdivision 17 and it occurs in the one family residential zones R90, 18 R200. A variety of those zones. And what it is it's an 19 ability to reduce lot sizes in exchange for the provision 20 open space. It's also a provision of open space could be 21 far stream valley protection, steep slope protection, or 22 for active recreation. So that's -- it's a basic trade-off 23 to try and gain additional open space for the community. 24 BILL CHEN: Would you please, utilizing the, as you 25 need, the preliminary plan -- excuse me. Directing you to</p>	<p>563</p> <p>1 location, towards the bottom center and the subject site, 2 the western portion is parcel C and it's 1.366 acres. And 3 those two pieces comprise the subject site. 4 BILL CHEN: What do those -- that form of development, 5 a cluster, and those notes mean? 6 JOSEPH DAVIS: What it means is that the land area 7 which is subject to this special method of development is 8 in fact. It's for perpetuity. It's not intended to be re- 9 subdivided. It's not intended to create additional lots. 10 It's intended to maintain for perpetuity the open space 11 associated with it. And in this case where you have 12 recreational involved with it it's to convey those to the 13 proper entity. And I say that as it's sort of a normal 14 feature of subdivision that there would often be a 15 different -- there would be a group establish that would be 16 responsible for the long-term maintenance and operation of 17 any facility associated with it like a swim and tennis 18 club. 19 BILL CHEN: And in this particular case what is the 20 use that is -- that the subdivision plat approval required 21 for this property? 22 JOSEPH DAVIS: It did require a swim club and the 23 document I'm looking at -- well, first of all it says on 24 the plat to be conveyed to East Gate Recreation 25 Association.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

55 (564 to 567)

<p>564</p> <p>1 BILL CHEN: What's the use for that area again?</p> <p>2 JOSEPH DAVIS: And it says that it is -- on the plat</p> <p>3 it says to be conveyed to that group, but on the approved</p> <p>4 cluster plan it's shown as proposed recreation association.</p> <p>5 THOMAS BARNARD: Madam Hearing Examiner, I'm going to</p> <p>6 object on a scope ground. And this is the ground. As</p> <p>7 Counsel is aware, there is a pending state Circuit Court</p> <p>8 action about the appropriateness of the planning and the</p> <p>9 meaning of the various covenants and deeds. And unless</p> <p>10 we're prepared to try that case also in front of you,</p> <p>11 because he's kind of tiptoeing to open that door, and once</p> <p>12 we open the door then I'm going to have to retry that, or</p> <p>13 pre-try that entire case here. And I don't think that's</p> <p>14 really part of the elements of the -- and so I would</p> <p>15 object to expanding the scope of this hearing to step into</p> <p>16 the jurisdiction of the Circuit Court and advise that we</p> <p>17 stick to the hearing application standards and not into the</p> <p>18 interpretation of the deeds.</p> <p>19 BILL CHEN: That is admittedly a count in the lawsuit</p> <p>20 involves the subdivision, however this is a zoning matter.</p> <p>21 And again, going back to your ruling on that one motion.</p> <p>22 Quite frankly I'm not clear jurisdiction. I think zoning's</p> <p>23 primary jurisdiction is here. And when I use the word</p> <p>24 primary jurisdiction I use that as a technical word that's</p> <p>25 recognizing the law. I think the primary jurisdiction for</p>	<p>566</p> <p>1 scope was did not include that. I understand that there</p> <p>2 may be issues of subdivision but this, going back to the</p> <p>3 original plots, the covenants, the means, the intended uses</p> <p>4 is way beyond the scope. Intended use is not an issue for</p> <p>5 the Hearing Examiner to decide.</p> <p>6 BILL CHEN: Well, I agree with that last statement.</p> <p>7 The intended use is for you.</p> <p>8 TAMMY CITRAMANNIS: He said it is not for me. Is that</p> <p>9 what you said?</p> <p>10 THOMAS BARNARD: That's correct.</p> <p>11 BILL CHEN: Well --</p> <p>12 TAMMY CITRAMANNIS: He said it is not for me.</p> <p>13 BILL CHEN: Well, excuse me. The use of the land is</p> <p>14 before you. And I've heard the reference to the</p> <p>15 declarations in the covenants. We're not using them. I</p> <p>16 know they've been prefled, but that again, is where, as I</p> <p>17 explained, I think the first day and Mr. Barnard wasn't</p> <p>18 here, that was filed in that expansive way as a consequence</p> <p>19 of the language in your one ruling. But subdivision is</p> <p>20 part of zoning. We are not going to get into the</p> <p>21 covenants. I recognize the issues involving the covenants</p> <p>22 and that type of matter, but I think you made it very clear</p> <p>23 in your ruling.</p> <p>24 TAMMY CITRAMANNIS: It's not before me.</p> <p>25 BILL CHEN: Yeah.</p>
<p>565</p> <p>1 a zoning matter including, and subdivision is part of</p> <p>2 zoning, as you well know, is before this Agency. Now quite</p> <p>3 candidly, I'm not sure what the Circuit Court would you as</p> <p>4 jurisdiction. I know we got our stay for instance, which</p> <p>5 is a voluntary stay is pending the outcome of these</p> <p>6 proceedings. And there is an overlap. I'll candidly admit</p> <p>7 that. But it is our position and it always has been our</p> <p>8 position since we got involved in this case which was</p> <p>9 before the lawsuit, that the subdivision issue is before --</p> <p>10 properly before this Agency because it's part of the zoning</p> <p>11 process and regulates the use of the land. And that's the</p> <p>12 basic reason why that issue is properly before you.</p> <p>13 TAMMY CITRAMANNIS: Response.</p> <p>14 THOMAS BARNARD: We'll respond briefly that the phrase</p> <p>15 subdivision issue designed to then allow an interpretation</p> <p>16 of the plots, the covenants, the very essence of the</p> <p>17 Circuit Court case --</p> <p>18 BILL CHEN: I'm not (inaudible)</p> <p>19 THOMAS BARNARD: -- essentially getting an</p> <p>20 administrative opinion on something before the parties are</p> <p>21 prepared, the parties are understanding that that issue is</p> <p>22 going to be litigated in the subsequent case is a kind of,</p> <p>23 you know, it's kind of a backdoor way of essentially</p> <p>24 litigating this issue here before parties are prepared. I</p> <p>25 think the clear ruling of the Hearing examiner on what the</p>	<p>567</p> <p>1 TAMMY CITRAMANNIS: Right.</p> <p>2 BILL CHEN: And we're not -- we are not proposing to</p> <p>3 raise that. I will tell you that right now. We're going</p> <p>4 to -- and a preliminary plan, the plants, that's all part</p> <p>5 of zoning.</p> <p>6 THOMAS BARNARD: I'll just follow up and then I'll let</p> <p>7 Mr. Diamond say his. The clear testimony a second ago that</p> <p>8 attempted to start the door was this idea of the</p> <p>9 recreation, he even use the phrase recreational use,</p> <p>10 recreational purpose, that is the essence of the definition</p> <p>11 of that. And the meaning within the East Gate Recreation</p> <p>12 Association bylaws is the essence of the circuit course</p> <p>13 case. And I know whether it's directly or indirectly the</p> <p>14 intended point of that point is to lead the Hearing</p> <p>15 Examiner to believe that this is somehow violating of the</p> <p>16 intended use of the property, which is not the issue for</p> <p>17 this hearing. And that is my objection. And that kind of,</p> <p>18 either doing it directly or indirectly is the same problem.</p> <p>19 BILL CHEN: May I respond to that? There is no --</p> <p>20 TAMMY CITRAMANNIS: I think Mr. Diamond was motioning</p> <p>21 --</p> <p>22 BILL CHEN: Oh, I'm sorry.</p> <p>23 TAMMY CITRAMANNIS: That way you can respond to both</p> <p>24 of their --</p> <p>25 BILL CHEN: Sure.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

56 (568 to 571)

<p>568</p> <p>1 GREG DIAMOND: I'm going to let Bill respond. 2 TAMMY CITRAMANNIS: Okay. 3 GREG DIAMOND: But then I would like to join. 4 TAMMY CITRAMANNIS: You would like to what? 5 GREG DIAMOND: Join this discussion. 6 TAMMY CITRAMANNIS: Oh. Okay. I thought you said 7 something else. 8 GREG DIAMOND: No. 9 BILL CHEN: There are multiple reasons why this 10 project is, in view of my clients, not permissible. Some 11 have been presented in the Circuit Court lawsuit. Those 12 issues particularly I'm alluding to the representations in 13 the covenants, they are not being raised in this forum. We 14 are raising the subdivision issue because this subdivision, 15 the land was involved -- I'm about to sneeze, is subject to 16 a zoning restriction. Excuse me. Okay. I mean thank you. 17 The subdivision of this land and its use is under the 18 zoning. It's a part of it. And if it involves zoning it 19 is the primary forum, primary jurisdiction for that type of 20 determination is this Agency and not the Circuit Court. 21 And that is very simply our position. And I appreciate Mr. 22 Barnard's concern about the covenants, but I've said, we're 23 not going to get into that. We're sticking, hewing closely 24 to only the zoning issues. 25 TAMMY CITRAMANNIS: The history of the zoning of this</p>	<p>570</p> <p>1 the scope of your required findings. 2 BILL CHEN: If I may respond to that. If you look at 3 section 7.3.1.E.I.a the language for a necessary findings 4 says to approve a conditional use application the Hearing 5 Examiner must find that the proposed development a) 6 satisfies any applicable previous approval on the subject 7 site or if not that the previous approval must be amended. 8 That is straight down the pipe on why the subdivision 9 approval for this site is part of the zoning process and 10 has to be addressed as part of the necessary findings and 11 as we are coming from 12 TAMMY CITRAMANNIS: So your interpretation of that is 13 that it includes not previous special exceptions or 14 modifications, you are saying that any approval on this 15 particular property -- 16 BILL CHEN: Any land use approval has to be addressed 17 in this subsection. Yes, Madam Examiner. That is correct. 18 That includes subdivision and what to me is more basic 19 about it or not more, but just as basic is that it is 20 recognized that a subdivision is part of the zoning 21 process. It's part of the land use process. 22 TAMMY CITRAMANNIS: Is this an issue that Staff is 23 charged with picking up? 24 BILL CHEN: They missed. And I attended meetings. I 25 will tell you that the word cluster was raised in the</p>
<p>569</p> <p>1 land, is that what you're talking about, as opposed to -- 2 BILL CHEN: Yeah. 3 TAMMY CITRAMANNIS: -- going into the bylaws and the 4 covenants? 5 BILL CHEN: We're not getting into the bylaws 6 (inaudible). 7 TAMMY CITRAMANNIS: Mr. Diamond. 8 GREG DIAMOND: Okay. So I think the part that's 9 missing in part of this dialog are the rules and 10 regulations that govern the Hearing Examiner's supposed 11 list of findings in this case. And those are found in 12 Division 7.3.1 on a conditional use, subsection E, 13 necessary finding. Subsections F and the extent to which 14 this zoning hearing reaches just the slightest bit into 15 subdivision concerns whether the subject property and the 16 subject use will be adequately served by public facilities, 17 schools, police, fire, there's a list and if that public 18 facility's test is required; if you find it is required in 19 this case then you have to determine whether a preliminary 20 subdivision plat is part of it. So the only testimony in 21 this case so far is that the property is already adequately 22 served by all the facilities. If Mr. Chen wants to be 23 asking this witness about adequate public facilities and 24 that certainly is appropriate. But getting into the deep 25 weeds of the subdivision from the 1950s is going way beyond</p>	<p>571</p> <p>1 meeting. They missed it. 2 TAMMY CITRAMANNIS: What? 3 BILL CHEN: That the word cluster subdivision, they 4 missed it. They flat-out missed it. So it was presented 5 at a meeting last year, was it last year? 6 FEMALE VOICE: Yes. 7 GREG DIAMOND: So the applicants' thought is what 8 we're really looking at here is an issue in building 9 permits that as part of the building permit process if 10 there are any issues related to obtaining a permit 11 including any necessary additional subdivision that it 12 would be handled then. But it's not part -- it's really 13 not part of the list of necessary findings of this hearing 14 examiner as to whether the proposed use is compatible with 15 the property and the conditions in the ordinance. 16 BILL CHEN: I don't know how he can say that when I 17 just referred to -- 18 TAMMY CITRAMANNIS: No. I totally get both sides and 19 -- 20 THOMAS BARNARD: Well, I'll just add that the idea of 21 statutory interpretation if we were to take Mr. Chen's 22 interpretation that he would essentially undercut any 23 limitations the rest of the regulations places on the scope 24 of the hearing examiner by saying, well, any issue that was 25 ever ruled upon in any forum, about this land before, the</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

57 (572 to 575)

<p>572</p> <p>1 hearing examiner should read and see if this is consistent 2 with. So I don't think that his reading of it is limited 3 to those topics which are made by the essential findings 4 later in the regulation, not in and above those. Otherwise 5 those limitations would be superfluous in the 6 interpretation of the regulation. 7 BILL CHEN: I've not said any issue. I said the 8 zoning reg says any prior approval, and this is a prior use 9 approval. 10 TAMMY CITRAMANNIS: Your same prior approval goes back 11 to -- 12 BILL CHEN: The subdivision. 13 TAMMY CITRAMANNIS: -- the moment it was subdivided. 14 BILL CHEN: The subdivision. Because this is a 15 cluster subdivision and it control the approval of that 16 controls use. 17 TAMMY CITRAMANNIS: Okay. And when you raised it with 18 Staff they said what? 19 BILL CHEN: They didn't. They didn't understand. 20 Honestly, they didn't. 21 TAMMY CITRAMANNIS: If they didn't understand, we're 22 in trouble. 23 BILL CHEN: It went right over their head. Their 24 lawyer was there, they -- you know, I -- 25 GREG DIAMOND: And so there is a Staff Report which</p>	<p>574</p> <p>1 land by virtue of the subdivision. 2 TAMMY CITRAMANNIS: Right. 3 THOMAS BARNARD: Also known as a covenant. 4 BILL CHEN: No. 5 THOMAS BARNARD: An implied covenant or whatever he 6 wants to call it, and some kind of restriction. 7 BILL CHEN: It's not a covenant. It is -- we learned 8 that at a preliminary hearing. 9 TAMMY CITRAMANNIS: Okay. So you all voluntarily 10 stayed this. Why didn't you get a decision on this before 11 you came here? 12 THOMAS BARNARD: Because the idea was to have the 13 zoning decision made and then if that were appealed and 14 adverse to the plaintiffs then all these issues would be 15 taken up at the same time by the Circuit Court rather than 16 piecemeal. And I think this is now attempting to reverse 17 that into a piecemeal. 18 TAMMY CITRAMANNIS: Right. And I don't want to do 19 that. 20 BILL CHEN: We're not doing that. This is a use 21 issue. It is a zoning issue. 22 TAMMY CITRAMANNIS: Okay. So this is what I'm going 23 to do. I'll give you a little bit of latitude but the 24 objection, and if it comes in, you all can certainly give 25 me briefs on this. But at this point, you know, I don't</p>
<p>573</p> <p>1 addresses this direct finding of the -- and it does not 2 address subdivision. 3 TAMMY CITRAMANNIS: Right. I know that. I've read 4 the staff report. And we're -- I feel like we are 5 splitting hairs to a certain degree. Because I don't want 6 that door opened. The circuit door -- the Circuit Court 7 door. 8 BILL CHEN: I don't want to open it either. I'm with 9 you on that. 10 TAMMY CITRAMANNIS: Because it's not rightly before 11 me. That is beyond my scope. I could say something and it 12 would mean nothing in that regard because I don't have the 13 power or the jurisdiction to address that. And I 14 shouldn't. Otherwise zoning -- we wouldn't be able to 15 handle the zoning issues. 16 BILL CHEN: There is, and there is a count on it, as 17 Mr. Barnard represented. There is an account involving the 18 bylaws and the covenants and you're not going to hear about 19 that at all. 20 TAMMY CITRAMANNIS: Right. But I believe you're going 21 down the road to say this subdivision is not being complied 22 with. 23 BILL CHEN: Yeah. 24 TAMMY CITRAMANNIS: Is that -- 25 BILL CHEN: Well, there's a restriction on the use of</p>	<p>575</p> <p>1 want to open up that door and it needs to be very, very 2 limited. I'm not sure I agree with your interpretation of 3 all approvals but then again, if we get to that point you 4 will provide me with legal support for that, legislative 5 history that -- I'm just saying. Because I think it's open 6 for interpretation. When I look at it's -- you know, the 7 approvals that are on at like for a special exception or a 8 private conditional use, that doesn't mean that I'm right. 9 That's why we have lawyers to make arguments and file 10 briefs. And so I'll give you a little bit of latitude but 11 if it starts to open that door I'm going to agree with the 12 applicant that we're not going to open that door. 13 BILL CHEN: No. I think -- 14 TAMMY CITRAMANNIS: That's something that you can deal 15 with at this point. 16 THOMAS BARNARD: Thank you. 17 TAMMY CITRAMANNIS: And -- 18 BILL CHEN: Well, just if I may repeat. The ordinance 19 language says applicable previous approval on the subject 20 site. 21 TAMMY CITRAMANNIS: I heard you the first time. 22 BILL CHEN: Okay. Okay. And quite frankly, we've 23 already got evidence before you that subdivision of this 24 property on this parcel in particular is restricted to 25 recreational use. That's already been --</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

58 (576 to 579)

<p>576</p> <p>1 GREG DIAMOND: Objection.</p> <p>2 BILL CHEN: That's already been -- that's testimony</p> <p>3 already.</p> <p>4 GREG DIAMOND: Objection.</p> <p>5 TAMMY CITRAMANNIS: Okay. All right. He can tell us</p> <p>6 that -- what the subdivision process is for properties, not</p> <p>7 necessarily go down to the specifics of this property</p> <p>8 because to me that is walking towards the door in the other</p> <p>9 case.</p> <p>10 BILL CHEN: Well, you know --</p> <p>11 TAMMY CITRAMANNIS: Again. You can argue the other</p> <p>12 way but at the same time it's -- I don't know how you're</p> <p>13 going to get around that.</p> <p>14 BILL CHEN: Well, the testimony has been that this</p> <p>15 site is subdivided as a cluster subdivision and it</p> <p>16 restricts, and that on the subject parcel it's restricted</p> <p>17 to recreational use.</p> <p>18 GREG DIAMOND: Objection. I mean that --</p> <p>19 THOMAS BARNARD: I think the solution would be if you</p> <p>20 want to allow the testimony for them to, like how he just</p> <p>21 said; it's been said already, all you, I think, as the</p> <p>22 Hearing Examiner have to say is the testimony has been</p> <p>23 entered. There's been an objection.. At this point I'm</p> <p>24 not considering it in making my ultimate decision. If it's</p> <p>25 not relative to an issue that you have to decide. He has</p>	<p>578</p> <p>1 BILL CHEN: Was there a question pending? I'm not</p> <p>2 sure there was.</p> <p>3 JOSEPH DAVIS: No. I think I had finished answering.</p> <p>4 TAMMY CITRAMANNIS: I think he had to.</p> <p>5 BILL CHEN: How was that recreational use on the</p> <p>6 subject property implemented?</p> <p>7 JOSEPH DAVIS: It was implemented through a special</p> <p>8 exception application --</p> <p>9 GREG DIAMOND: Objection. There is no recreational</p> <p>10 use on the property is the nature of the objection.</p> <p>11 THOMAS BARNARD: We just objected and said the</p> <p>12 testimony has come in it's been done, and were going to</p> <p>13 move on and then we went right back to it.</p> <p>14 BILL CHEN: It's been -- and I agree that he can</p> <p>15 object but the way that recreational restriction has been</p> <p>16 implemented is through the special exception and that's</p> <p>17 been recognized.</p> <p>18 CATHY BORTEN: Madam Hearing Examiner, if I may.</p> <p>19 That's the issue. The restriction. Everybody knows there</p> <p>20 is currently a recreational use on the property.</p> <p>21 TAMMY CITRAMANNIS: Right.</p> <p>22 CATHY BORTEN: It has not been decided because it is</p> <p>23 pending in the Circuit Court if there is a restriction and</p> <p>24 any testimony that goes towards these documents creating a</p> <p>25 restriction is not appropriate in this venue.</p>
<p>577</p> <p>1 then made his -- it's been put in the record as he said,</p> <p>2 however there's an objection and you've made a decision,</p> <p>3 and we can move on to finish the witness's testimony.</p> <p>4 BILL CHEN: Well --</p> <p>5 TAMMY CITRAMANNIS: All right. And I think that's</p> <p>6 with any witness that I hear.</p> <p>7 BILL CHEN: I'm basic --</p> <p>8 TAMMY CITRAMANNIS: Essentially. But (inaudible)</p> <p>9 BILL CHEN: I'm not sure I disagree with that.</p> <p>10 TAMMY CITRAMANNIS: Okay.</p> <p>11 BILL CHEN: I think that maybe the best way to handle</p> <p>12 this.</p> <p>13 TAMMY CITRAMANNIS: I think it is the best way to</p> <p>14 handle it and well said. Thank you. And you agree.</p> <p>15 BILL CHEN: Yeah, and we're in the opposition case.</p> <p>16 This is a land-use issue we are in.</p> <p>17 TAMMY CITRAMANNIS: Exactly. And at the end of the</p> <p>18 dam not going to decide covenants. And I'm not going to</p> <p>19 decide it's -- it is an issue and whether -- I'll give it</p> <p>20 the weight that I think it deserves but if the door starts</p> <p>21 to open I am going to not let it go open. I -- thank you</p> <p>22 Mr. -- I think Ms. Borten wanted to say something, but that</p> <p>23 was -- okay.</p> <p>24 BILL CHEN: All right.</p> <p>25 TAMMY CITRAMANNIS: Still over there?</p>	<p>579</p> <p>1 BILL CHEN: I'm not trying to get into the lawsuit.</p> <p>2 But what I am getting at is that there is an underlying</p> <p>3 special exception that is the subject of this proceeding</p> <p>4 and I'm entitled to go to that area.</p> <p>5 TAMMY CITRAMANNIS: Case S596?</p> <p>6 BILL CHEN: Yes.</p> <p>7 TAMMY CITRAMANNIS: Okay. So that's the restriction</p> <p>8 he's talking about?</p> <p>9 BILL CHEN: Yes. That's what I'm talking about.</p> <p>10 TAMMY CITRAMANNIS: Okay.</p> <p>11 CATHY BORTEN: It's not a restriction.</p> <p>12 THOMAS BARNARD: That's -- that's --</p> <p>13 TAMMY CITRAMANNIS: Okay.</p> <p>14 CATHY BORTEN: And that's what he's trying --</p> <p>15 TAMMY CITRAMANNIS: The special -- Oh I see.</p> <p>16 BILL CHEN: I never used the word restriction.. I</p> <p>17 said how is the</p> <p>18 CATHY BORTEN: Yes you did.</p> <p>19 TAMMY CITRAMANNIS: Okay. I think you did.</p> <p>20 BILL CHEN: I apologize.</p> <p>21 TAMMY CITRAMANNIS: But in that special -- the</p> <p>22 underlying --</p> <p>23 BILL CHEN: How is the --</p> <p>24 TAMMY CITRAMANNIS: -- underlying special exception.</p> <p>25 BILL CHEN: How is that -- I apologize. If I used the</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

59 (580 to 583)

<p>580</p> <p>1 word restriction I sincerely apologize. 2 THOMAS BARNARD: That's why we objected. 3 BILL CHEN: Okay. 4 TAMMY CITRAMANNIS: That's -- sustained. 5 BILL CHEN: You know -- how has the recreational 6 designation on the subdivision been implemented? 7 JOSEPH DAVIS: A special exception that was applied 8 for and approved and it was applied for and approved back 9 in 1970 -- well, eight. 10 BILL CHEN: And that is a special exception that's 11 involved in the modification in this proceeding? 12 JOSEPH DAVIS: That's correct. 13 BILL CHEN: Okay. Great. 14 JOSEPH DAVIS: I don't have anything more to say about 15 the subdivision. 16 BILL CHEN: No, I know that. I don't have -- I have 17 no more to ask you about it. 18 TAMMY CITRAMANNIS: That was good. Thank you. We 19 needed that levity. 20 BILL CHEN: Okay. But I do want to talk about the 21 special exception. Okay. Now have you reviewed the 22 application that is before the hearing examiner that 23 proposes to modify that special exception? 24 JOSEPH DAVIS: Yes, I have. 25 BILL CHEN: Okay. And is that proposal permissible --</p>	<p>582</p> <p>1 was that I was identifying issues associated with that, but 2 I didn't see them in those reports. So in effect, I was 3 having to initiate my own sort of mini-staff review as if I 4 was on the staff, but to look at it from the standpoint of 5 trying to determine what issues are here that would create 6 a problem in terms of the application being able to go 7 forward on it because of a procedural or a regulatory -- 8 adherence to some sort of procedure or -- 9 BILL CHEN: And you're talking about modification of 10 the special exception? 11 JOSEPH DAVIS: Yes. The modification. As well as 12 then looking at the -- 13 BILL CHEN: Conditional use. 14 JOSEPH DAVIS: -- conditional use. 15 BILL CHEN: I understand but I just want to talk about 16 the modification yet. 17 JOSEPH DAVIS: Okay. 18 BILL CHEN: Okay. With regard to the proposed 19 modification, the requested modification what are the 20 issues raised by the modification that is requested -- 21 JOSEPH DAVIS: Okay. 22 BILL CHEN: -- and taking into conjunction the 23 proposed development on the site. 24 JOSEPH DAVIS: Okay. The proposal is for the 25 construction of a telecommunications tower and it's a</p>
<p>581</p> <p>1 excuse me. Do you have an opinion -- do you agree with the 2 report and testimony of Mr. Landfair about the modification 3 being permissible for the special exception? 4 JOSEPH DAVIS: I -- no. I don't agree with that. 5 BILL CHEN: Why? 6 JOSEPH DAVIS: Let me see. How to begin with this. I 7 think that I have an issue with the report that Mr. 8 Landfair prepared as well as the Technical Staff report and 9 that concern is that when I was looking at the material 10 that was sent to me to prepare and to do my work of 11 analyzing the items I've already referenced, and then 12 looking at the special exception, the approved special 13 exception and the modification to that special exception 14 when I looked at those reports to be honest with you I just 15 felt like there wasn't anything there that I could utilize 16 in terms of my approach to analyzing the case. And what I 17 mean to say by that is that in my review of the plans I 18 could begin to spot issues as I compared them to the zoning 19 ordinance. And for this case we have to look at not only 20 the current 2014 zoning ordinance, but we also have to look 21 at the pre-2014 zoning ordinance. 22 BILL CHEN: Why is that? 23 JOSEPH DAVIS: That's because special exceptions that 24 were approved prior to 2014 still, under the former zoning 25 ordinance requirements. And so the problem I was having</p>	<p>583</p> <p>1 being, in effect, retrofitted into a recreational area and 2 both are being reviewed together under the authority of the 3 Hearing Examiner, the Board of Appeals has referred that 4 matter to the Hearing Examiner procedurally to analyze the 5 modification as well as the conditional use, and the new 6 proposed use for the property. I think one of the -- in 7 looking at the standards for that I looked at setback 8 standards I was looking at height issues, I was looking at 9 all of the various requirements that are established for 10 both uses in terms of using an older subdivision for the 11 modification -- excuse me. The older zoning ordinance for 12 the modification and the new ordinance for the new uses. 13 With regard to the conditional use application I did have 14 issues with the setbacks. I had some issues with the 15 parking in terms of that change. That actually related 16 more towards the modification issue. I had some issues as 17 well with looking at the need for additional landscaping, 18 and in my review of that I found that actually under the 19 parking regulations of the 2004 zoning ordinance there 20 would be a necessity for this case to bring parking into 21 compliance with the requirements, basically, of the 2004 22 zoning ordinance. Now there are some however that are 23 associated with that. I don't have the language right in 24 front of me. And still there's the opportunity, the idea 25 is bring it into compliance. It's too difficult to bring</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

60 (584 to 587)

<p>584</p> <p>1 into compliance then maybe you do part of it. But the 2 element that was there was a perimeter landscaping around 3 the edges of the parking area so then I said, well, this is 4 another feature. This is something that has to be 5 considered by the Hearing Examiner and it's not part of the 6 application. It's not part of the modification to have 7 that landscaping and it's not part of the new case. So 8 that created a little bit of a dilemma. Then again when 9 I'm looking at the tower, excuse me. I should say the 10 telecommunications tower proposal I was having some 11 additional difficulty with the fact that locating that 12 within the existing special exception area raised internal 13 compatibility issues in my mind. That created internal 14 compatibility issues that needed to be looked at and 15 addressed. Again, I didn't have anything to work from the 16 reports other than I will notice the Technical Staff report 17 did highlight a need I think for landscaping up by Snug 18 Hill Lane and that was shown. 19 BILL CHEN: As that shown on the modification request? 20 The special exception modification request? 21 JOSEPH DAVIS: It's on the -- I think that shown in 22 the conditional use but the -- it would be 145C, the land - 23 - the Site Plan for the case so it's shown there. So 24 there's another element to this and that's a little 25 concerning and that is there's a condition of the original</p>	<p>586</p> <p>1 or if it is appropriate and still a viable condition then 2 there should be some proposal in terms of providing that 3 required driveway access to Democracy Boulevard. So in 4 terms of the S596, those are the kind of issues that I was 5 coming up with. Then when I looked at the conditional use 6 application to bring the tower onto the property I was also 7 struck, I mentioned previously about what I see as internal 8 compatibility. It's almost as if in reviewing this tower 9 the language of the special exception, and now I'm talking 10 about the current zoning ordinance for the conditional use 11 application, talks about effects on surrounding properties. 12 But I think that under the Master Plan there was sort of a 13 recommendation as part of the special exception policy, I 14 believe, for a heightened review of special exceptions. 15 And that brings me now to the Master Plan being the 2003 16 Potomac Sub-region Master Plan. And there, there is a 17 policy enunciated in the Plan for the treatment of special 18 exceptions. And that was also laid out in terms of the 19 Technical Staff Report and the Landfair Report. But -- I 20 lost my train of thought for a second. But in terms of 21 that special exception recommendations in the Master Plan 22 there are a number of items identified that I thought were 23 important that I don't feel were addressed. And I'm 24 talking about things like, in terms of the policy when it 25 was talking about a heightened review or a more scrutiny</p>
<p>585</p> <p>1 special exception S596 that specified that at the time 2 Democracy Boulevard was extended west across the frontage 3 of this property that there was supposed to be a second 4 access driveway provided to the swim club. That was never 5 done. So again I'm looking at it and thinking well, it 6 should've been done sooner, but this is probably the time 7 it should be looked at. So I was beginning to see a number 8 of little issues that were association with the 9 modification coming up but I wasn't sure in terms of the 10 modification process, since this is in effect a minor 11 modification as to whether or not you'd be able to deal 12 with these. You being the Hearing Examiner. But I think 13 in reviewing the amendment procedures I think you have 14 obviously that flexibility and opportunity as a part of 15 this process. But I don't think there's nothing -- we 16 don't have anything here upon which to review it. Now to 17 finish what I was saying about the access driveway. This 18 is, it's like touching a base, going around the, you know, 19 the infield in that it wasn't put in. Maybe it should, 20 maybe it shouldn't. I don't have the judgment as to 21 whether it should or not, but it's a requirement. So it 22 would seem to me that at the minimum either the County 23 Department of Transportation needs to be contacted to say 24 no, they never want an access point there, which would be 25 appropriate then for modification (inaudible) part of this,</p>	<p>587</p> <p>1 been paid to special exceptions within the area I thought 2 that that had application to the site. It was talking 3 about the issue of making sure that in the review of 4 special exceptions that there's adherence to all of the 5 requirements. Another recommendation was looking towards 6 the idea of multiplicity of special exceptions within the 7 area. I do note that in the Landfair report, I believe he 8 identified that there's one previous special exception 9 which is the modifications which is S596, and then this is 10 on top of that. Well, I saw that potentially there is a 11 need for heightened scrutiny there because while they are 12 the only two being that they're right there with each 13 other, is this an over intensification associated with 14 that. Another issue is that there's a bike path that's 15 proposed in the Master Plan. It's a Class I bike path that 16 will run along Democracy Boulevard. The plan didn't state 17 which side of the road, but yet that's in there and it 18 seems to me that we need to be careful if we've got this 19 special exception at this location along Democracy 20 Boulevard, that with the introduction of the 21 telecommunications tower if that path, because this is a 22 wooded frontage along the road. If that off-road path 23 takes trees out that you're going to be affecting the 24 screening and the buffering that have been very important 25 for the special exception uses. So I, in terms of my</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

61 (588 to 591)

<p>588</p> <p>1 opinion of looking at them Master Plan aspects of this I 2 felt that this was not in compliance with the Master Plan, 3 and I saw that is problematic. 4 BILL CHEN: Do you have an opinion as to whether or 5 not given the overall proposal of improvements that are to 6 occur on the site, not outside of the 700 square foot area, 7 that whether or not the proposed Master Plan, excuse me, 8 special exception modification should be treated as a major 9 or a minor modification? 10 JOSEPH DAVIS: I would say that in my opinion I would 11 think that it's risen to the level of being a major 12 modification. 13 BILL CHEN: Why is that? 14 JOSEPH DAVIS: Because of the number of items, the 15 number of issues that are becoming a part of it. The 16 introduction of a new use within it. You know there's, I 17 think that the language tends to be generalized language in 18 terms of, you know, when it would be required to be a major 19 modification. 20 BILL CHEN: Does that include the parking? 21 JOSEPH DAVIS: Yes. 22 BILL CHEN: Landscaping? 23 JOSEPH DAVIS: Landscaping. The use has been affected 24 by this and I think that that makes it sort of rise to that 25 level. But I noticed that some flexibility here so I don't</p>	<p>590</p> <p>1 property boundary on the west, north, and east sides. But 2 at the current location where it is proposed it does not 3 meet the 80 foot requirement and a waiver has been included 4 as part of this application to help address that particular 5 issue. Now the problem with that is the ordinance is 6 structured, it talks about meeting the one foot setback for 7 each foot of height or 300 feet to the nearest units, 8 dwelling units. And this particular drawing does appear to 9 me and satisfy the 300 feet requirement, 300 feet to the 10 dwelling units but it does not address the boundary, but 11 the fact is that under the requirement you have to be able 12 to demonstrate that you could otherwise locate the tower on 13 the property, or you don't qualify for consideration for 14 consideration of a waiver. That brought rise to this wedge 15 area which was -- and this is on Exhibit 1-- 16 BILL CHEN: Ninety-five. 17 JOSEPH DAVIS: And then there's a number under it. 18 BILL CHEN: That's the old -- 19 JOSEPH DAVIS: The old number? 20 BILL CHEN: Yeah, the more current one is 195. 21 JOSEPH DAVIS: One ninety-five, which created an area 22 that under the 80 foot height limit is sort of identified 23 as being the area where that requirement could be 24 satisfied. But it also has been noted in testimony earlier 25 today and testimony yesterday afternoon there does to seem</p>
<p>589</p> <p>1 want to just absolutely say no, it must be a major, but I'm 2 inclined to say it certainly seems to smell like and look 3 like it's a major modification. But I think possibly a 4 week something could be addressed as part of this current 5 process. 6 BILL CHEN: Okay. Now do you have an opinion as to 7 whether or not the proposed conditional use satisfies the 8 setback requirements for a telecommunications tower? 9 JOSEPH DAVIS: I do. And I believe that it does not 10 meet the zoning ordinance requirements for that. 11 BILL CHEN: Can you explain why? 12 JOSEPH DAVIS: Yes. Do we have the Site Plan? The 13 145C, I believe is the exhibit number. 14 BILL CHEN: It's mounted. 15 JOSEPH DAVIS: C1, I think it is. 16 TAMMY CITRAMANNIS: The furthest from the wall. It's 17 been marked. What number is that again? 18 JOSEPH DAVIS: This is Exhibit 145C. 19 TAMMY CITRAMANNIS: Thank you. 20 JOSEPH DAVIS: Can you hear me? 21 BILL CHEN: Yeah. Just (inaudible) 22 JOSEPH DAVIS: Okay. In terms of the setbacks that 23 are required at this location the tower height is proposed 24 at 80 feet. And as is already basically been discussed, 25 the application can meet the eight foot setback from the</p>	<p>591</p> <p>1 to be some questions as to the ability to provide for 2 location of the telecommunications tower within this wedge 3 area. In fact there's concerns to whether the support 4 structure can be located in it and I think not -- I think 5 the argument has been made that that maybe depend on some 6 further study. But, I think what's important in terms of 7 my reading of the zoning ordinance is that while it talks 8 about measuring to the base of the support structure, which 9 is fine, I understand that provides an ease of measurement. 10 That it's appropriate then to begin to site it based on 11 that. But I'm not aware of anything that otherwise says 12 that the equipment, supporting equipment is allowed to be 13 located within the minimum setback area. And I say that 14 because I know the measurements are structured but the 15 definition of telecommunications tower talks about the 16 support structure and related equipment. So I see that as 17 being problematic. Particularly in light when the fact 18 that I know that in the zoning ordinance and there are 19 provisions that deal with encroachment and to setbacks. 20 And this is not identified as an area where you can have 21 features of the use encroached into that setback area. So 22 that makes me basically determine that if they cannot 23 locate those areas -- if the only way they can located this 24 into a minimum setback which is the problem that you have 25 here they can't really locate the telecommunications tower</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

62 (592 to 595)

<p>592</p> <p>1 and meet the setback standards of the zone. Now, as if we 2 need to compound that, we now have a -- it was originally 3 submitted I guess, as a just plain pole but now it's being 4 proposed as a tree type facility at a height of 89 feet. 5 And if you go to a height of 89 feet, and I believe it was 6 testified to yesterday you have no area on the site that 7 could qualify for being able to accommodate the equipment 8 necessary, in fact, including even the support structure. 9 So this is a very important issue for the site. And I 10 think that the fact that it does not, if it's not able to 11 accommodate it and then you're not able to have a waiver. 12 And if you can have the waiver then that location that's 13 been proposed cannot work on the site. I do note that in 14 terms of the height of 89 feet that the reports would note 15 the 89 feet associated with the additional branches, I 16 guess, for the structures but the height at 80 feet, I find 17 interesting in light of a couple of cases that have been, 18 you know, that have been before the Hearing Examiner for 19 special exceptions that have involved this type of a tree 20 telecommunications tower, and the fact that they were 21 measured before measurement was to the top of the branches 22 because in effect it became part of the visual structure. 23 I will say in the cases I looked at the didn't seem to be 24 much in the way of discussion about it, it just showed that 25 it was to the top of those items. Now I can give you the</p>	<p>594</p> <p>1 cases, and we haven't had time to do any kind of a 2 exhaustive search, but I felt that it was important to note 3 that there is precedent associated with doing measuring to 4 the top of the branches. 5 BILL CHEN: Is a telecommunications tower a 6 recreational use under the zoning ordinance? 7 CATHY BORTEN: Objection. 8 THOMAS BARNARD: Objection. 9 TAMMY CITRAMANNIS: What was the question again? 10 BILL CHEN: Is a telecommunications tower conditional 11 use a recreational use? 12 GREG DIAMOND: Objection. 13 TAMMY CITRAMANNIS: Generally -- 14 BILL CHEN: Huh? 15 TAMMY CITRAMANNIS: Not in this particular, are you 16 just saying -- 17 BILL CHEN: I'm 18 TAMMY CITRAMANNIS: You're just saying is it a 19 recreational use? 20 BILL CHEN: Yeah, exactly. Exactly. 21 TAMMY CITRAMANNIS: (inaudible) answer -- 22 GREG DIAMOND: Isn't that closing argument? 23 BILL CHEN: Well I -- no. I beg your pardon. 24 TAMMY CITRAMANNIS: He's just asking him his opinion 25 if it's a -- do you know if it's a recreational use?</p>
<p>593</p> <p>1 cases that we looked at, S2729. This was a 2008 case the 2 site of the Trolley Museum I guess on Bellprey (phonetic) 3 Road. And there it was a tree pole. This involved land 4 that was owned by the Trolley Museum. It was owned by the 5 Maryland National Capital Park and Planning Commission. 6 Tree pole is 140 feet in height. I believe on Page 11 of 7 the hearing examiner report the report recommended approval 8 with conditions. But it was a noted, and there is actually 9 a drawing depicting that telecommunications tower with 10 those dimensions. So it was 100 and feet measured to the 11 top. The second case, S2706. This was a 2009 case. This 12 was West Grove United Methodist Church. It's an 80 foot 13 pole with stealth tree branches extending the overall 14 height to 87 feet. Eighty-seven feet was utilized for the 15 height as part of that application. And even looked, there 16 was a mandatory referral case which, you know, is reviewed 17 and approved by the Planning Board and the mandatory 18 referral case was for a large telecommunications tower on 19 land owned by International Monetary Fund, so I guess 20 that's why it was a mandatory referral. It's a 21 governmental agency. And the height of the tree pole there 22 was 155 feet. But, in the course of the review, it was 23 changed to a flag type pole, I guess I'll say a flagpole, 24 155 feet in height. And I believe that that mandatory 25 referral was approved. So in terms of looking at a few</p>	<p>595</p> <p>1 JOSEPH DAVIS: No, it is not a recreational use. 2 BILL CHEN: Why is that? 3 JOSEPH DAVIS: Well, the easy answer is when you look 4 at the list of uses in the zoning ordinance for the zone in 5 its, you know, it's listed as communications, for 6 communications uses. 7 BILL CHEN: So it's a separate use in a -- okay. Are 8 you aware of the requirements under the zoning ordinance of 9 the analysis of the inherent and non-inherent adverse 10 effects? 11 JOSEPH DAVIS: Yes. 12 BILL CHEN: How are you aware of that provision in the 13 zoning ordinance? 14 JOSEPH DAVIS: Well, this goes back to like the mid- 15 1990s, but there was a case called the Mossberg case, which 16 the County I think was very unhappy with the outcome where 17 in the County felt that they had a case and this was, I 18 think for like (inaudible) landfill or -- I'll say a 19 landfill because I think that's really what it was. The 20 County wanted to deny it but in effect they were forced to 21 approve it because the feeling of the court was that going 22 back to, I guess, in the Schultz decisions earlier 23 decisions that those decisions sort of recognized that 24 there are certain inherent uses associated with special 25 exceptions. And that when you identified the user also</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

63 (596 to 599)

<p>596</p> <p>1 identifying it's appropriate based on the inherent features 2 of the special exception. Then there was a need, the 3 County decided that they wanted to have legislation. The 4 felt that they had had the ability and the authority to 5 legislate in addition to inherent uses to recognize that 6 there could be non-inherent uses of that in a fact could be 7 -- could posit for a special exception to have issues that 8 would be ripe to disapprove. And the legislation was 9 approved in 1999 and it basically established the inherent, 10 non-inherent features associated with a special exception 11 review. It also brought in the idea of Master Plan 12 compliance -- 13 BILL CHEN: How are you familiar with this legislative 14 history? 15 JOSEPH DAVIS: I was the chief of the Development 16 Review Division then and this was a project that was being 17 worked on. Dennis Canavan (phonetic) was the zoning 18 supervisor that work for me, and he was assigned to that, 19 but I did work with him on it and -- 20 BILL CHEN: Actually drafted legislation? 21 JOSEPH DAVIS: The legislation was sort of drafted by 22 committee, I think you might say. There were a lot of 23 hands involved in that. But it was a very important -- it 24 was very important to the County, the County executive was 25 actually involved in it, the County Council, the County</p>	<p>598</p> <p>1 JOSEPH DAVIS: I think that some other issues 2 potentially could rise to that level. Yes I do. Another 3 aspect of this is the telecommunications tower is located 4 in the parking lot area. It was testified yesterday the 5 fence around the compound would be something on the order 6 of about 42 feet to the sidewalk entrance to the pool. In 7 my own opinion, I believe that the -- that compound is not 8 in harmony, or not -- I don't think that it's appropriate. 9 I think that what it does is create an incompatibility 10 within the site and I think that that has to be addressed. 11 It could be addressed through landscaping which would be, I 12 think the best way to do it, but the problem is, as it 13 sited you really don't have much opportunity to landscaper 14 screen it without having to do further modification to 15 parking circulation and that sort of thing. So I think 16 that that rises to a level of a non-inherent issue because 17 again, it's one of the site specific kinds of things that 18 is not -- you usually don't find that with these 19 telecommunication towers. 20 BILL CHEN: Do you have an opinion as to whether or 21 not the proposed conditional use complies with the 22 requirements of the zoning ordinance? 23 JOSEPH DAVIS: I believe, well in terms of the setback 24 issues I believe it does not comply with the zoning 25 ordinance. In terms of the height, I think that the height</p>
<p>597</p> <p>1 attorney, Park and planning, Planning Board, the Staff. It 2 was a significant project. And I think in terms of today, 3 looking at the inherent, non-inherent issues I think that 4 it's really dramatically improved, I think, the county's 5 ability to deal with these special, excuse me, conditional 6 uses. And I think Peter a better understanding of what 7 conditional use is in the County now. 8 BILL CHEN: In your opinion are there any non-inherent 9 or non-inherent in combination with inherent adverse 10 effects that are associated with the proposal for the 11 conditional use in this case? 12 JOSEPH DAVIS: Yes. 13 BILL CHEN: What are they? 14 JOSEPH DAVIS: I believe that the setback problem 15 becomes a non-inherent issue for the property. This is 16 kind of a site specific issue that comes to mind and I 17 think that it's appropriate that it's in the realm of a 18 non-inherent effect that needs to be addressed. 19 BILL CHEN: A non-inherent? 20 JOSEPH DAVIS: Correct. 21 BILL CHEN: Okay. And what, if any, non-inherent 22 effects are there? 23 JOSEPH DAVIS: I think that the setback problem 24 represents a non-inherent effect. 25 BILL CHEN: Any others?</p>	<p>599</p> <p>1 should be evaluated at 89 feet. But if it's not, if it 2 somehow determined to somehow be 80, I think that there is 3 still a problem with being able to fit the equipment into 4 the site without it encroaching into setbacks which I 5 believe is impermissible. 6 BILL CHEN: And I think -- and the last thing on my 7 list Master Plan, but you spoken a lot about the Master 8 Plan. Have you addressed all the Master Plan issues that 9 you -- 10 JOSEPH DAVIS: I believe so. The bike path, I think 11 so. 12 BILL CHEN: I have no further questions. 13 GREG DIAMOND: Mr. Davis, (inaudible) button. 14 BILL CHEN: Ms. Wetter? 15 TAMMY CITRAMANNIS: Wait, I think Ms. Wetter. 16 CHERYL WETTER: No, I -- 17 TAMMY CITRAMANNIS: Okay. It's late in the day. 18 Sorry. You're finished your questions? Right. And 19 they're going to be able to -- do you have a question? Are 20 you -- I've been calling on you after they've had their -- 21 SUSAN LEE: Oh. Okay. 22 TAMMY CITRAMANNIS: Throw me off there. Guess I'll go 23 ahead. 24 GREG DIAMOND: Okay. Mr. Davis, can you tell us 25 approximately when you were contacted to be an expert</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

64 (600 to 603)

<p>600</p> <p>1 witness in this case?</p> <p>2 JOSEPH DAVIS: I was first contacted I believe it was</p> <p>3 back in probably mid June.</p> <p>4 GREG DIAMOND: And did you prepare a written report to</p> <p>5 submit to the Hearing Examiner?</p> <p>6 JOSEPH DAVIS: No, I did not.</p> <p>7 GREG DIAMOND: Now you were at Parking Planning for</p> <p>8 over 30 years, is that right?</p> <p>9 JOSEPH DAVIS: Correct.</p> <p>10 GREG DIAMOND: Wouldn't it be fair to say that the</p> <p>11 standard in land use and planning is to draft a Technical</p> <p>12 Report which runs through the elements and explains</p> <p>13 compliance or inconsistency with compliance?</p> <p>14 JOSEPH DAVIS: I think in this instance that I didn't</p> <p>15 really have the time, nor was it part of my assignment.</p> <p>16 But I would say that often cases I work with in terms of</p> <p>17 even testimony in the Circuit Court I don't have a written</p> <p>18 report per se. I respond to the questions posed by the</p> <p>19 attorneys who --</p> <p>20 GREG DIAMOND: Isn't it fair to say --</p> <p>21 JOSEPH DAVIS: -- in court and deposition.</p> <p>22 GREG DIAMOND: I didn't mean to interrupt you. Isn't</p> <p>23 it fair to say that Parking Planning staff did a detailed</p> <p>24 report in this case? Which then provided you the</p> <p>25 opportunity to evaluate it? Is that correct?</p>	<p>602</p> <p>1 GREG DIAMOND: When you were at Park and planning as a</p> <p>2 supervisor and higher positions did you work on any of the</p> <p>3 tree monopoles that were approved in Potomac, Maryland?</p> <p>4 JOSEPH DAVIS: No. I haven't been in Park and</p> <p>5 Planning since 2004 but I mean I know that Avenel was a big</p> <p>6 issue, but that was after I think that was after my time.</p> <p>7 GREG DIAMOND: What about the communications monopole</p> <p>8 at the Bullis School which goes back while you were at</p> <p>9 parking planning?</p> <p>10 JOSEPH DAVIS: I don't recall being involved in that</p> <p>11 particular case. My involvement with telecommunications</p> <p>12 towers was primarily legislative back in the '80s when they</p> <p>13 were beginning to deal with the ordinance requirements for</p> <p>14 it. My assignments were not to review the special</p> <p>15 exceptions.</p> <p>16 GREG DIAMOND: Indulgence for a second. With regard</p> <p>17 to the question of inherent and non-inherent, I believe you</p> <p>18 were using the phrase inherent uses. In the current code</p> <p>19 is actually inherent adverse effects.</p> <p>20 JOSEPH DAVIS: Okay.</p> <p>21 GREG DIAMOND: Isn't that correct?</p> <p>22 JOSEPH DAVIS: You're correct.</p> <p>23 GREG DIAMOND: I can provide you a copy of the</p> <p>24 ordinance if you --</p> <p>25 JOSEPH DAVIS: Yes. Yes, I remember that.</p>
<p>601</p> <p>1 JOSEPH DAVIS: They did provide a report, yes.</p> <p>2 GREG DIAMOND: And isn't it fair to say that Mr.</p> <p>3 Landfair on behalf of the applicant wrote a report in this</p> <p>4 case and so that you had the opportunity to evaluate it?</p> <p>5 JOSEPH DAVIS: That's correct.</p> <p>6 GREG DIAMOND: But you did not submit a report for</p> <p>7 evaluation by the Hearing Examiner?</p> <p>8 JOSEPH DAVIS: No. Because I was spending my time</p> <p>9 evaluating the application to identify the issues and the</p> <p>10 problems with it.</p> <p>11 GREG DIAMOND: Did you contact Park and Planning staff</p> <p>12 regarding this case?</p> <p>13 JOSEPH DAVIS: No, I did not.</p> <p>14 GREG DIAMOND: Is there any reason that you couldn't</p> <p>15 have met with Parking Planning staff to talk with them</p> <p>16 about this case?</p> <p>17 JOSEPH DAVIS: I typically don't meet with the staffs.</p> <p>18 I like to do an independent assessment.</p> <p>19 GREG DIAMOND: Did you review parking planning staff</p> <p>20 support?</p> <p>21 JOSEPH DAVIS: Yes.</p> <p>22 GREG DIAMOND: And is it fair to say that the opinions</p> <p>23 that you have expressed today are not consistent with the</p> <p>24 findings of Park and planning staff's?</p> <p>25 JOSEPH DAVIS: That's correct.</p>	<p>603</p> <p>1 GREG DIAMOND: So you described as one of this</p> <p>2 inherent, non-inherent problems is the setback. Is that</p> <p>3 correct?</p> <p>4 JOSEPH DAVIS: Correct.</p> <p>5 GREG DIAMOND: However you've indicated, and I think</p> <p>6 you understand there is a waiver of applied for in this</p> <p>7 case.</p> <p>8 JOSEPH DAVIS: Yes.</p> <p>9 GREG DIAMOND: And that if the waiver is granted then</p> <p>10 there's no longer a setback violation. Is that correct?</p> <p>11 JOSEPH DAVIS: Correct.</p> <p>12 GREG DIAMOND: So that's not really an inherent, non-</p> <p>13 inherent if the zoning hearing Examiner grants the waiver</p> <p>14 is a nonissue.</p> <p>15 JOSEPH DAVIS: In my opinion is not going to qualify</p> <p>16 and therefore I think it would be non-inherent.</p> <p>17 GREG DIAMOND: Well, if it doesn't qualify then in</p> <p>18 theory the application may not be able to be approved. Is</p> <p>19 that correct?</p> <p>20 JOSEPH DAVIS: Correct.</p> <p>21 GREG DIAMOND: So it's really not inherent, non-</p> <p>22 inherent, it's either you're going to get the waiver or</p> <p>23 not.</p> <p>24 JOSEPH DAVIS: Well, but I think that it's a non-</p> <p>25 inherent adverse effect if they can't get the waiver.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

65 (604 to 607)

<p>604</p> <p>1 Understand what I'm saying? You show placement of a tower 2 down at that lower edge, it's not supposed to be there. 3 And there are issues associated with that. I think that 4 even if it were determined to be there I still think 5 they're still compatibility issues that have to be 6 addressed associated with that tower. I'm not saying it 7 can't be done, but it would have to be addressed. 8 GREG DIAMOND: Okay. There are special exception 9 sites in Montgomery County that have two uses on one 10 property. Isn't that correct? 11 JOSEPH DAVIS: Correct. 12 GREG DIAMOND: So there is no explicit place in the 13 County zoning ordinance which says you may not have two 14 special exceptions on one property. 15 JOSEPH DAVIS: You are correct. I was only addressing 16 it in the context of the Master Plan emphasis on the issue 17 of the proliferation of special exceptions. I know that 18 there is a requirement there, I did a head scratch looking 19 at, you know, we have one, and then another one is right on 20 top of it. I mean that's sort of a proliferation right at 21 that spot but I'm not sure that that's impermissible. 22 GREG DIAMOND: No further questions. 23 THOMAS BARNARD: Nothing. Thank you. 24 TAMMY CITRAMANNIS: Ms. Wetter? 25 CHERYL WETTER: Cheryl Wetter. I think part of your</p>	<p>606</p> <p>1 effect reducing the area available for recreation. I just 2 want to note that as an issue that I think would have to be 3 -- should be looked at and address as part of a 4 modification, or as part of the new application. 5 CHERYL WETTER: Nothing else, thank you. 6 TAMMY CITRAMANNIS: Ms. Lee. 7 SUSAN LEE: No, thank you. 8 TAMMY CITRAMANNIS: Do you have any follow-up 9 questions, Mr. Chen? 10 BILL CHEN: Adjust to observe that you have submitted 11 a summary of your testimony which is Exhibit 191(f). isn't 12 that correct, sir? 13 JOSEPH DAVIS: Yes. 14 BILL CHEN: That's all it got. And that was submitted 15 back in September. 16 GREG DIAMOND: So it was my understanding that that 17 was Mr. Chen's summary of the applicants -- 18 BILL CHEN: (inaudible) 19 GREG DIAMOND: Yes, it's written in the third person. 20 Joe Davis will do this. Joe Davis will do -- Mr. Davis, it 21 was written by you. 22 BILL CHEN: No. It was not written by me. 23 GREG DIAMOND: So was this a Planning report? 24 TAMMY CITRAMANNIS: What out you ask him who wrote it? 25 BILL CHEN: Mr. Davis --</p>
<p>605</p> <p>1 answer got lost before when you talked about in 2004 there 2 was a new compliance rule for this -- for the parking and 3 with the conditional use request are asking that the 4 parking spaces be moved to an area that was not -- may be a 5 special exception was not able to be approved. We did try 6 to move them there. Could you address that a little bit? 7 JOSEPH DAVIS: Yes. I'm actually you brought that up 8 because there's something I forgot to mention related to 9 that area. But the 2000 -- 10 CHERYL WETTER: But wait, let me just backstep one 11 step. I'm referring back to S596 -- 12 JOSEPH DAVIS: Correct. 13 CHERYL WETTER: -- that said we could not put the 14 parking spaces around the tennis court. 15 JOSEPH DAVIS: I'm not aware of the requirements and 16 you could not put them there. 17 CHERYL WETTER: Okay. Sorry. 18 JOSEPH DAVIS: My point about 2004 was it's the 2004 19 zoning ordinance that would apply. The relocation of 20 spaces that are proposed, I have an issue with that in the 21 context of its pushing it into what is, in effect, a 22 recreation area. It could either be passive or it could be 23 active. My understanding in discussions of what I've heard 24 from people in the neighborhood is that there some active 25 components on there, sled riding in the winter. So it's in</p>	<p>607</p> <p>1 TAMMY CITRAMANNIS: Well, just ask him. 2 BILL CHEN: Mr. Davis, directing your attention to 3 Exhibit 191(f). 4 JOSEPH DAVIS: Yes. 5 BILL CHEN: Who wrote this statement? 6 JOSEPH DAVIS: I wrote it. I wrote it in third person 7 because I thought was the stylistic aspect of it. 8 BILL CHEN: I have no further questions. 9 TAMMY CITRAMANNIS: It's certainly an argument you can 10 make. But he just said he wrote it. You can challenge 11 that. 12 GREG DIAMOND: So this was identified as -- 13 BILL CHEN: What? 14 GREG DIAMOND: -- as the expert report of Mr. Davis? 15 BILL CHEN: The rules require a summary statement from 16 experts. I asked for a summary report, or summary from Mr. 17 Davis, and he gave me this and I filed it. It's a 191(f). 18 I didn't write this. 19 GREG DIAMOND: You wrote all the summaries of your 20 other experts. 21 BILL CHEN: No, I don't think I did. 22 TAMMY CITRAMANNIS: I don't know where that came from. 23 BILL CHEN: I thought -- yeah. I asked -- 24 GREG DIAMOND: I'll withdraw it. 25 TAMMY CITRAMANNIS: Okay.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

66 (608 to 611)

<p>608</p> <p>1 BILL CHEN: By the way, just over on this, one point 2 that were done with Mr. Davis. 3 TAMMY CITRAMANNIS: Well, I haven't asked -- yeah, no 4 we're not done. 5 BILL CHEN: Fine. 6 TAMMY CITRAMANNIS: But you have another question for 7 you? 8 BILL CHEN: No. 9 MALE VOICE: I have one because I was saying you 10 haven't asked the -- 11 TAMMY CITRAMANNIS: Okay. Yeah, that's what I was 12 going to do. Is there anyone who wants to pass a question 13 to Mr. Chen? 14 BILL CHEN: Let me change glasses. 15 TAMMY CITRAMANNIS: Change glasses. Your individual 16 reading glasses. 17 BILL CHEN: Do you know whether the proposed 18 modifications to S596 specifically changes to the parking 19 lot would trigger requirements for compliance with the 20 Maryland Accessibility Code? 21 JOSEPH DAVIS: It actually requires compliance with 22 all of the requirements of the parking regulations. But in 23 my testimony I did indicate that there was -- if it's too 24 grievous a -- like if it affects more than a certain number 25 of spaces and then they can back down. There's</p>	<p>610</p> <p>1 require additional area for equipment. But they don't have 2 to really deal with it now unless another carrier comes in. 3 BILL CHEN: But this approval does seek approval for 4 two additional carriers. 5 JOSEPH DAVIS: I don't believe that it six approval 6 for them at all. It's just that I believe that it's the 7 capacity on the -- 8 BILL CHEN: Oh I (crosstalk) -- pardon me. I didn't 9 mean approve carriers, but the authority to add two 10 carriers 11 JOSEPH DAVIS: My understanding is that that's part of 12 it. But then again, I'm not focusing on the technical use 13 -- 14 BILL CHEN: Yeah. We don't know who they're going to 15 be. They're down the road. 16 JOSEPH DAVIS: I just like to go, I can hear you now. 17 TAMMY CITRAMANNIS: Nobody else? I do have one 18 question. Just going back to the administrative 19 modification request you mentioned something about 20 extinguishing a second driveway. Is it your testimony that 21 -- or access -- this access point you're saying it's a 22 requirement that this would impair that ability and as part 23 of the review Board should consider that, or -- I wasn't 24 just a clarification. 25 JOSEPH DAVIS: I was stating that it is a condition of</p>
<p>609</p> <p>1 opportunities to waive some of it, but it seems like the 2 predominant requirement is for the perimeter landscaping to 3 be provided for these areas. And I know that, because I 4 wrote the parking regulations with Alex (inaudible) in 5 1983, '84. 6 BILL CHEN: A second question, Madam Examiner. 7 TAMMY CITRAMANNIS: Okay. 8 BILL CHEN: I'm more telecommunication towers that are 9 reviewed as conditional uses the zoning ordinance says a 10 support structure must be constructed to hold a minimum of 11 three wireless communication carriers unless a Hearing 12 Examiner finds the equipment compound must have sufficient 13 area to accommodate equipment, sheds, or cabinets 14 associated with all carriers. Please explain the 15 description in the plans were a future expanded compound 16 and relocated remote parking spaces, if the constructed 17 compound would accommodate all three carriers plan for the 18 site. 19 JOSEPH DAVIS: You want me to? 20 TAMMY CITRAMANNIS: Can you answer that question? 21 JOSEPH DAVIS: I know -- based in terms of just the 22 knowledge of knowing that is required that when you build 23 one of these facilities that you have to create the 24 capacity for the additional towers. And it will require, 25 his testimony was provided yesterday, by others it will</p>	<p>611</p> <p>1 the original special exception approval. It has not been 2 done. The road at that time, Democracy Boulevard did not 3 extend across the frontage of the property. It is there 4 now. I'm not indicating where that access should be. I 5 think that would be a determination basically by County 6 Department of Transportation working with the property 7 owners. I see it as sort of an unfulfilled condition that 8 needs to be addressed one way or the other and that's why I 9 wanted to raise that. As this would be the mechanism for 10 dealing with that. 11 TAMMY CITRAMANNIS: And would that be something that 12 the Board of Appeals should pick up, or is that something 13 that should have been in the application, or, and/or both. 14 JOSEPH DAVIS: Well, I would say and/or both. I think 15 I would leave it to you in terms of the procedural aspect 16 of, you know, can you do it as part of your, you know, 17 charge (inaudible) 18 TAMMY CITRAMANNIS: I'm my role is just to make a 19 recommendation on whether it's (inaudible) modification and 20 (crosstalk) 21 JOSEPH DAVIS: And I saw that. So I thought of that - 22 - 23 TAMMY CITRAMANNIS: Yeah, it's going to go straight 24 back to them and they are going to -- 25 JOSEPH DAVIS: Then I can decide what they want to do.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

67 (612 to 615)

<p>612</p> <p>1 TAMMY CITRAMANNIS: I was just curious procedurally as 2 that was the first I have heard of that and I know if it 3 was -- 4 JOSEPH DAVIS: Right. But I do think it is an 5 important issue since it is a condition prior approval and 6 should be dealt with one way or another. 7 TAMMY CITRAMANNIS: Or raised. Okay. Did my question 8 generate any questions? 9 GREG DIAMOND: Actually, Ms. Wetter's question raised 10 one for me. 11 TAMMY CITRAMANNIS: Oh, okay. 12 GREG DIAMOND: If I might. 13 TAMMY CITRAMANNIS: Yes. 14 GREG DIAMOND: Your asked about parking relocation and 15 indicated oh, yeah, you said you meant to address that 16 before. You think the relocated parking is in an 17 unacceptable location? 18 JOSEPH DAVIS: I think it's a problem from the 19 standpoint of the space available for recreational use on 20 the site. 21 GREG DIAMOND: Would you concede that again, Parking 22 Planning Staff in writing their report on this case 23 disagrees with you? 24 JOSEPH DAVIS: They can disagree if they want to. I'm 25 just establishing that I think that that's an important</p>	<p>614</p> <p>1 BILL CHEN: Well, I'm -- 2 GREG DIAMOND: And so -- 3 TAMMY CITRAMANNIS: Mr. Diamond, your red light's not 4 on. 5 GREG DIAMOND: I'm sorry. So -- 6 BILL CHEN: I'm not arguing. I just -- 7 GREG DIAMOND: Sure. If we could address that just as 8 an issue of law and interpretation I'm prepared to actually 9 address it. 10 BILL CHEN: Well could I get the cite? 11 GREG DIAMOND: No. Yes. I don't think there is a 12 cite. And the reason for this is in the VFW tree monopole 13 case we actually litigated this issue, and -- on two 14 special exceptions on one property. The zoning ordinance 15 is silent in that it doesn't say that you can't have two 16 special exceptions on one property. There is not an 17 affirmative line in the ordinance this says, oh yeah, you 18 can have. It's just -- 19 TAMMY CITRAMANNIS: Right. 20 GREG DIAMOND: It's silent. And ultimately that 21 silence is the expression of the County Council saying 22 that's not a problem. If you can otherwise meet each 23 special exceptions conditions of approval. 24 BILL CHEN: I appreciate the information. There's no 25 zoning ordinance cite, but there is a case that's been</p>
<p>613</p> <p>1 issue in this case. 2 TAMMY CITRAMANNIS: Did that generate any questions? 3 Thank you very much. You are free to go. Okay. 4 BILL CHEN: While we were at break, Mr. Landfair, 5 yesterday, if you recall, I asked a question about the 6 authority to have more than one use on a special exception 7 site and he said there was a zoning ordinance provision 8 that he would give us. And I'm just -- I'm looking for it. 9 He said he would give us a cite to it. 10 TAMMY CITRAMANNIS: Well, they're not listening so 11 they would know. 12 CATHY BORTEN: I'm sorry. 13 TAMMY CITRAMANNIS: I know. It's -- we're all 14 starting to fade a little bit. It's getting warmer in 15 here. It's naptime. 16 BILL CHEN: Mr. Landfair yesterday in response to one 17 of my questions about the authority for having multiple 18 special exceptions are conditional uses on one site, he 19 said there was a provision in there somewhere -- 20 TAMMY CITRAMANNIS: You need to talk up. 21 BILL CHEN: He said there was a provision in the 22 zoning ordinance and that he would give us the cite. 23 GREG DIAMOND: Right. And I think it's really an 24 issue of law. It's either they're in the ordinance or it 25 isn't.</p>	<p>615</p> <p>1 decided on that issue. 2 GREG DIAMOND: You know it (inaudible) reported. It 3 wasn't a special exception. It wasn't reported. And it 4 wasn't a reported opinion. 5 BILL CHEN: Okay we can -- 6 TAMMY CITRAMANNIS: Yeah. (crosstalk) talk about that 7 later. Ms. Wetter, you raised your hand? 8 CHERYL WETTER: I just had a question about something 9 that Mr. Diamond just said. He said that -- can I ask? 10 TAMMY CITRAMANNIS: Yeah, go ahead. 11 CHERYL WETTER: You just said that there was no 12 problem having two special exceptions on one property as 13 long as they didn't something to the effect that that as 14 long as they didn't interfere with the purpose, what did 15 you just say? 16 GREG DIAMOND: That's not what I said. 17 TAMMY CITRAMANNIS: Yeah, I don't think that's what he 18 said. 19 CHERYL WETTER: Okay, but what -- 20 GREG DIAMOND: Each special exception must come before 21 the appropriate authority and at the time satisfy the 22 condition. 23 CHERYL WETTER: Okay. Satisfy the condition. 24 GREG DIAMOND: Each one separately must come before 25 the zoning authority at that time and satisfy the</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

68 (616 to 619)

<p>616</p> <p>1 conditions of approval but there is no explicit band in the 2 ordinance from having two special exceptions on one 3 property. 4 CHERYL WETTER: Okay. 5 TAMMY CITRAMANNIS: Okay. 6 CHERYL WETTER: So if a property's purpose is to 7 create a recreation association -- 8 GREG DIAMOND: Objection. 9 TAMMY CITRAMANNIS: Yeah. I -- 10 CHERYL WETTER: Okay. 11 TAMMY CITRAMANNIS: Okay. 12 BILL CHEN: This, if I may between, on a housekeeping 13 matter -- 14 TAMMY CITRAMANNIS: Okay. Well let -- 15 BILL CHEN: Okay. 16 TAMMY CITRAMANNIS: Okay. This is where we are. You 17 have, besides the expert witness that you are going to -- 18 the one extra photo sins, besides that you have no more 19 witnesses to present? 20 BILL CHEN: No. No more experts. Two of my clients 21 want to testify among other people. 22 TAMMY CITRAMANNIS: And so you're not finished. Okay. 23 BILL CHEN: But I'm not calling anybody. As far as 24 Bill Chen is concerned there are members of the community 25 who wish to speak and --</p>	<p>618</p> <p>1 stay until 6:00, I can stay until 6:00 and -- but I would 2 really, I don't want to send anybody home. 3 SUSAN LEE: My only -- I just wondered -- my concern 4 is that I may be unavailable for a good chunk of the next 5 couple of months and I just wondered if you had any idea 6 what the next date might be. Because if they don't finish 7 by 6:00 and I would have to come back for the next day, 8 that would help. 9 TAMMY CITRAMANNIS: Right. 10 BILL CHEN: Do you want to go now? 11 TAMMY CITRAMANNIS: Oh, yeah. If you want to -- 12 SUSAN LEE: (crosstalk) 13 TAMMY CITRAMANNIS: I'd be happy to take that. I mean 14 I have a list. I'm going to go down the list, but -- 15 SUSAN LEE: I'm sorry for them because I really, I 16 really appreciate that they've come and they've stayed so 17 long. And if you have a hearing date that's just next week 18 or anytime between -- before about October 27th, I'm okay. 19 But -- 20 TAMMY CITRAMANNIS: The idea is I do have some hearing 21 dates and I'm going to throw them out. But Mr. Chen is, 22 I'm going to give him 10 days to find an expert and then 23 how much time do you all need to receive the report? I'm 24 talking to Mr. Diamond, Ms. Borten -- in terms of him 25 getting an expert and -- do you need much time to receive</p>
<p>617</p> <p>1 TAMMY CITRAMANNIS: Right. But my question is are you 2 calling any lay witnesses? 3 BILL CHEN: No. 4 TAMMY CITRAMANNIS: So if the individuals that are 5 speaking happen to be your clients the coming in under the 6 individual giving their narrative. 7 BILL CHEN: Yeah. I think they've tried to cut things 8 in half and be (inaudible) 9 TAMMY CITRAMANNIS: Right. So we don't have -- you 10 have to speak up. You're speaking -- 11 BILL CHEN: I'm sorry. I think what they're trying to 12 do is coordinate things so that -- 13 TAMMY CITRAMANNIS: I appreciate that. That's really 14 a good idea. Okay. So you're done basically with the 15 exception of the one expert that were going to be dealing 16 with later. So we're going into the individual stage. It 17 is a quarter to 5:00. We have all of these people have 18 been waiting and I really would like to give them the 19 opportunity so that they don't have to come back. I mean 20 they can come back, because -- 21 BILL CHEN: I don't have any more witnesses. 22 TAMMY CITRAMANNIS: -- we're fun to be with but you 23 don't -- they can get their testimony in. Is everybody 24 free with that? That we, you know, proceed forward? I 25 know were all fading, but that if the court reporter can</p>	<p>619</p> <p>1 his report or are you find just -- 2 GREG DIAMOND: No. I think we could follow up quickly 3 after -- 4 TAMMY CITRAMANNIS: I was thinking the same thing but 5 I just wanted to be fair and make sure because -- 6 GREG DIAMOND: We could follow up quickly. 7 TAMMY CITRAMANNIS: Yes, you have shown that. Okay. 8 So I am looking at October 10th, 13th. This hearing room 9 is available those dates and I'm available those dates. We 10 need to pick one of those dates. 11 SUSAN LEE: That was my only consideration because I 12 wanted to make sure that I get a chance and I -- 13 TAMMY CITRAMANNIS: Absolutely. You've (crosstalk) 14 SUSAN LEE: The 10th and 13th is good. 15 TAMMY CITRAMANNIS: We're going to pick one of those 16 dates. 17 SUSAN LEE: Either one is fine for me. 18 TAMMY CITRAMANNIS: And I will say, well I'll wait 19 until everybody's looked at their calendars. 20 BILL CHEN: I'm not electronic. 21 TAMMY CITRAMANNIS: Oh. 22 SUSAN LEE: Neither am I. 23 TAMMY CITRAMANNIS: Are you okay with that date? 24 BILL CHEN: I'm looking now. 25 SUSAN LEE: That's all right. Take your time.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

69 (620 to 623)

<p>620</p> <p>1 BILL CHEN: The 13th. 2 TAMMY CITRAMANNIS: The 13th works? 3 BILL CHEN: Better, yeah. I'm looking at what I've 4 got stuff that I have to do. 5 TAMMY CITRAMANNIS: The 13th, would that work? 6 BILL CHEN: Between the two, yeah. 7 TAMMY CITRAMANNIS: For you? Works on the applicant's 8 side? Ms. Wetter's fine. Mr. Chen is fine. Ms. Lee is 9 fine, the 13th will be the next hearing. The last hearing. 10 It will be limited to -- although wait a minute. We've got 11 to talk about rebuttal and so -- 12 BILL CHEN: Yeah. 13 TAMMY CITRAMANNIS: And closing. But we'll get to 14 that in a second. So it might be a little bit longer than 15 just the witness because I really do need -- you all have 16 to -- I'm sure you might have rebuttal witnesses and so it 17 may be a full day. But the idea is that -- sorry Mr. Chen. 18 You gotta follow the process. 19 CHERYL WETTER: It would include me to right? 20 TAMMY CITRAMANNIS: Absolutely. Yes, yes, yes. And 21 Ms. Wetter she's can do it. So we're good. 22 SUSAN LEE: We're good. 23 TAMMY CITRAMANNIS: There is -- 24 SUSAN LEE: Together time. 25 TAMMY CITRAMANNIS: But I just wanted to also point</p>	<p>622</p> <p>1 BILL CHEN: Wait. What was the date? 2 TAMMY CITRAMANNIS: It would be October 13th. Let's 3 see, that is a -- 4 BILL CHEN: Friday. 5 MALE VOICE: My birthday. 6 BILL CHEN: But you also (crosstalk) 7 TAMMY CITRAMANNIS: We're not suspicious. We are not 8 going to worry about that. The red will wear it off. 9 Okay. So the 13th, 9:30, the hearing will be in this room. 10 BILL CHEN: I'm trying to find a (inaudible) you were, 11 when I was looking for my calendar you made mention that, I 12 thought, a deadline when I have to identify an expert on 13 the -- 14 TAMMY CITRAMANNIS: Yes. So you have -- 15 BILL CHEN: Just give me the -- 16 TAMMY CITRAMANNIS: No. Your expert. I asked him how 17 much lead time they needed from your identification to the 18 hearing and they said how much? 19 GREG DIAMOND: Almost none. 20 TAMMY CITRAMANNIS: Almost none. 21 CATHY BORTEN: He has 10 days to identify. 22 TAMMY CITRAMANNIS: He has, yeah. I -- 23 BILL CHEN: That's what I was looking for. 24 TAMMY CITRAMANNIS: I (inaudible) his time and that's, 25 I mean -- because technically you had the last two weeks</p>
<p>621</p> <p>1 out that that we're going to take all of the individuals 2 now and we've had a request as I was mentioning to you that 3 there are three individuals who need an interpreter. We 4 were not able to get that interpreter. They were notified 5 but also there going to let us know if they want to 6 testify. We're going to give them the opportunity now that 7 I have a date and if they say yes we definitely want to, 8 that will be the limited individual part at that point. 9 Because we will have already completed it here, but I just 10 wanted to let that be a caveat that was because we couldn't 11 accommodate that today. But this, in the meantime, the 12 Director is dealing with finding somebody that can do it. 13 So it might not happen. But just so that everybody is 14 aware that that, besides the expert, rebuttal, closing. 15 CATHY BORTEN: Right, so just on the closing matter. 16 I don't think it's something that we do want to address 17 today. 18 TAMMY CITRAMANNIS: I don't think so. 19 CATHY BORTEN: I think there's too much left to do. 20 TAMMY CITRAMANNIS: I think there's too much left to 21 do and I think it would be too early. I need to hear all 22 of it at once. And, you know, so I think -- 23 BILL CHEN: I agree with Ms. Borten. 24 TAMMY CITRAMANNIS: So everything -- okay. That's 25 good. So at this point --</p>	<p>623</p> <p>1 and you've already been searching -- 2 BILL CHEN: No, no, I'm 3 TAMMY CITRAMANNIS: -- so I'm just that's why I 4 (inaudible) on that week instead. I know, I know you're 5 not trying to get away with anything. I'm just -- 6 BILL CHEN: I just wanted to know if there was a day, 7 that's all. 8 TAMMY CITRAMANNIS: You lawyers can you just can ask a 9 straight question. Right. 10 CATHY BORTEN: So the 7th. 11 BILL CHEN: Is it the 7th? 12 THOMAS BRADFORD: Ten days from now. 13 CATHY BORTEN: It would be the 7th of October. 14 TAMMY CITRAMANNIS: That's a Saturday so we're looking 15 at the 9th. 16 BILL CHEN: Okay. 17 TAMMY CITRAMANNIS: Okay. So hopefully it will have 18 somebody and if they have a written report you can -- and 19 photo sim stuff definitely. 20 BILL CHEN: If I got one is going to be sim, photo 21 sims. 22 TAMMY CITRAMANNIS: That's what I mean. Never mind. 23 That's what I meant. So yes. So the night. And certainly 24 if there's an issue you all can talk about it because I'm 25 sure nobody wants to delay the hearing. All right.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

70 (624 to 627)

<p>624</p> <p>1 BILL CHEN: Do you want us to get out of the way for 2 the people that are testifying? 3 TAMMY CITRAMANNIS: Yeah, no. This will going to do. 4 So let me just I have a lot of people signed up. 5 BILL CHEN: Yeah, you can go. 6 (Crosstalk) 7 TAMMY CITRAMANNIS: So we're going to have Ms. Lee go 8 first. Is that what -- 9 SUSAN LEE: Oh you -- 10 TAMMY CITRAMANNIS: No, because you'll be here. 11 SUSAN LEE: I'll be here the (crosstalk) 12 TAMMY CITRAMANNIS: You'll be here. Never mind. 13 SUSAN LEE: That's why we did it that way. 14 TAMMY CITRAMANNIS: See that's why there's all of us 15 here. We're all slipping. Okay. So this is where we are 16 at this stage. It's an opportunity for citizens to come up 17 and do exactly what everybody else did. You have seen the 18 process this is your opportunity to make a narrative 19 statement. To make a statement about what your position is 20 on this. Of course the attorneys have the right to object 21 during narratives. They'll just cross it you but you know 22 the procedure. You've been watching it all day. And you 23 can be cross-examined and then you can go. So I will-- I 24 can start on list or have you all amongst yourselves said - 25 -</p>	<p>626</p> <p>1 TAMMY CITRAMANNIS: Okay. Just one second. 2 BILL CHEN: Mr. Danielian just said to me that he 3 wasn't sure if he made a misstatement or not. 4 TAMMY CITRAMANNIS: Who? 5 BILL CHEN: Mr. Danniellian. He's the gentleman and 6 yeah. And I don't know what it is, but he's concerned that 7 he may have made a misstatement that's -- you want -- 8 TAMMY CITRAMANNIS: Okay. Wait a minute. Wait a 9 minute. All right. Let's go off the record for a minute. 10 (Off the record.) 11 (On the record.) 12 TAMMY CITRAMANNIS: Let's mark them up at the top. 13 Exhibit 1 and it says Reznik testimony, but I will give you 14 the exhibit number. Exhibit 1 is Exhibit 206. Number 2 is 15 207. Number 3 is 208. Number 4 is 209. Number 5 is 210. 16 Number 6 is 211. Seven is 212. Eight is 213. 17 JANINE REZNIK: I didn't give them those because those 18 already the photos that are in there. Those are Verizon's 19 photos. 20 TAMMY CITRAMANNIS: Well, you didn't provide them with 21 the exhibit number so they have these exhibit numbers. 22 They're yours because you -- 23 JANINE REZNIK: Right. I -- 24 TAMMY CITRAMANNIS: Well, this one -- 25 JANINE REZNIK: Right. (Inaudible) file.</p>
<p>625</p> <p>1 FEMALE VOICE: I didn't sign the list, but I signed 2 yesterday but I didn't sign today. 3 TAMMY CITRAMANNIS: Okay that's fine. I'm going to 4 even, even when I look at the list all say okay, is there 5 anybody else in there. All right. So I can start with the 6 list. I have several pages. Or I can just start -- 7 FEMALE VOICE: But I don't know if everyone knew that 8 that was the list to actually testify. 9 MALE VOICE: That's right. 10 TAMMY CITRAMANNIS: Okay. Well that's okay. Then who 11 else wants to testify? Okay. So all right. Okay. So 12 we'll start with this young lady. And just also another 13 thing too. If there's anybody, you know, that wants to 14 have one person express your thoughts because, you know, to 15 go over the same thing over and over again becomes 16 repetitive. And I conservatively limit you at that point 17 or if it becomes irrelevant. So if you would like to step 18 up here. 19 JANINE REZNIK: I just have some pictures and quick 20 references for you things I'm talking about. 21 TAMMY CITRAMANNIS: Okay. Have you provided them with 22 anything? 23 JANINE REZNIK: I haven't. 24 BILL CHEN: Madam, examiner, just while -- on a 25 housekeeping matter.</p>	<p>627</p> <p>1 TAMMY CITRAMANNIS: Okay. Just hold on a second. 2 We'll just have to identify these then, because they don't 3 have the numbers on them. Goes up to -- she'll identify 4 the pictures, but it goes up to 219. 5 BILL CHEN: 219? 6 TAMMY CITRAMANNIS: Mm-hmm (affirmative). I'm going 7 to give you these because I -- it's imperative that you 8 refer to the exhibit number, not your exhibit number, until 9 you get to the ones that don't have your own. 10 JANINE REZNIK: Okay. 11 TAMMY CITRAMANNIS: So I'm going to swear you in. Do 12 you promise to tell the truth, the whole truth, and nothing 13 but the truth in giving your testimony under the penalty of 14 perjury today? 15 JANINE REZNIK: I do. 16 TAMMY CITRAMANNIS: Okay. So state your name, your 17 address, and is that a statement that you have already 18 submitted? 19 JANINE REZNIK: Now, this is just (inaudible). 20 TAMMY CITRAMANNIS: It's just your notes. Okay. And 21 you understand that once you're -- if you refer to 22 exhibits, you need to identify those exhibits, and you 23 understand that they are going to be would ask you 24 questions. 25 JANINE REZNIK: Okay.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

71 (628 to 631)

<p>628</p> <p>1 TAMMY CITRAMANNIS: Okay. So if you hear an 2 objection, I have to deal with it. Obviously, you've seen 3 so far. 4 JANINE REZNIK: Okay. 5 TAMMY CITRAMANNIS: But make sure your mic is on. 6 Good. And go. 7 JANINE REZNIK: My name is Janine Reznik, and I reside 8 at 4 Snug Hill Court. 9 BILL CHEN: (Inaudible) swear in the witness. 10 TAMMY CITRAMANNIS: I just did. 11 BILL CHEN: Oh. 12 TAMMY CITRAMANNIS: It's okay. (Inaudible) Reznik. 13 JANINE REZNIK: My name is Janine Reznik and I reside 14 at 4 Snug Hill Court, directly across the street from the 15 location of the proposed cell phone tower, about 350 feet 16 away. I'm vehemently opposed to this conditional use 17 application to erect an 89 foot telecommunications tower 18 and equipment compound in the middle of the parking lot of 19 our community's recreational area. The photo that I have 20 up on the board there, which is I guess Exhibit 206, is the 21 beautiful winter view from my front door overlooking our 22 lovely community green space, swimming pool, and tennis 23 courts. We purchased our home 13 years ago and paid 24 \$840,000.00 a house built in 1972 that needed to be 25 completely updated; new roof, windows, furnace, sighting,</p>	<p>630</p> <p>1 known that there would be an 89 foot cell phone tower 2 across the street from our house -- sorry -- my husband and 3 I would never in a million years have invested the kind of 4 money we did into renovating our home. We could have 5 chosen to move. Oh, we would have chosen to move as I do 6 not wish to raise my children within 350 feet of a cell 7 phone tower and allow them to be the guinea pigs in this 8 cell tower radiation experiment. I'm extremely concerned 9 about the effect the tower will have on my property value 10 and here's why. Our home appraised for \$1.25 million last 11 year in July 2016 and I have provided a copy of my 12 appraisal as Exhibit 207. One of the comps used to 13 determine this appraised value was the house of the street 14 on Snug Hill Lane, that sold for \$1.2 million in June 2016, 15 which was only on the market for one day before going under 16 contract. You see, that is how quickly houses used to sell 17 in our neighborhood. The neighborhood is so desirable that 18 many original owner sold to their own children. Realtors 19 used to joke about the neighborhood having a waitlist to 20 get in. Many residents have sold their houses to friends 21 or to a friend of a friend. I use to have friends 22 constantly asking me of one of my neighbors were getting 23 close to retiring so they could knock on the door and ask 24 them if they were interested to sell -- and selling to 25 them. In fact, I was the one who informed my dear friends,</p>
<p>629</p> <p>1 kitchen, bathrooms, the list goes on and on. And although 2 the house wasn't perfect, the neighborhood and the view 3 from my front door was picturesque. We were so fortunate 4 to have found the perfect neighborhood to raise our two 5 children. East Gate Three, or Snug Hill as we fondly call 6 it, is truly a hidden gem where the children are always 7 outside playing whether it's running around, playing soccer 8 and tag in our community green space, or hopscotch and 9 foursquare in the street of the cul-de-sacs, riding bikes, 10 lemonade stands, and participating in the neighborhood get- 11 togethers, are at our favorite -- or our favorite being the 12 Halloween party. And in the winter, our favorite memories 13 were made when all the kids in the neighborhood would 14 gather at the hill at East Gate to go sleigh riding. When 15 we finally saved up the money to renovate our home, we 16 struggled with the decision to invest the money, time, and 17 aggravation into remodeling our Snug Hill home, or to move 18 to a house that was already finished. After searching for 19 a few years and seeing many beautifully renovated homes, we 20 discovered that there was just no other neighborhoods that 21 had the community feel, the outdoor lifestyle for our 22 children, and wonderful neighbors who truly looked out for 23 one another and all the children like East Gate did. So we 24 decided to invest our -- invest in our home and stay in our 25 wonderful neighborhood which we love so dearly. But had we</p>	<p>631</p> <p>1 the Bayranas (phonetic) about a home that was about to go 2 on the market and Snug Hill Lane, which is an adjoining 3 property to East Gate Swim Club. And they been living 4 there for one and a half years now. And now, only one year 5 later, because of the giant zoning change sign at the 6 entrance to our neighborhood and the potential for the 7 construction of a cell tower, we already realizing the 8 effects the tower will have on our property values and the 9 tower hasn't even been built. The houses aren't selling 10 fast and they are not selling for \$1.2 million anymore. My 11 neighbors by me on Snug Hill Lane put their house on the 12 market in October 2016, the same month that the zoning 13 change sign one up, and they list it for \$1.2 million. 14 This home had comparable updates in size to the house up 15 the street that I mentioned before that sold for -- that 16 sold out one day on the market \$1.2 million, four months 17 prior. However, this house took nine months to sell and 18 sold for \$1,038,000.00, which is \$186,000.00 less than the 19 original list price. And this is what concerns me the 20 most; \$186,000.00 is a huge loss. And remember, the tower 21 hasn't even been built yet. My husband and I own a small 22 business. We don't have a pension and we don't have a 23 matching 401(k) plan from our employer. Our home on Snug 24 Hill Court is our retirement income. We are depending on 25 every penny when we sell her house to go towards our</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

72 (632 to 635)

<p style="text-align: right;">632</p> <p>1 retirement. We cannot afford to lose \$186,000.00. Getting 2 back to the view from my front door, Exhibit 206. Because 3 my house at a much higher elevation than the base of the 4 tower, I will look directly down into the equipment 5 compound in the middle of the parking lot. The equipment 6 will be directly behind the tennis courts and in front of 7 the trees along Democracy Boulevard along the Democracy 8 Boulevard property line and I will be over to see it 9 perfectly to the base of the existing trees along the 10 tennis court. Because Verizon has failed to provide any 11 details that are simulations of what the base and equipment 12 compound is going to look like, I did some research and I 13 provided an example of a photo of what one of these 14 industrial looking equipment compounds look like and that 15 is my second photo, Exhibit 208. The equipment compound in 16 this photo is similar -- has a similar fence as the one 17 that Verizon is proposing to install in their amended 18 application except Verizon plans to put a green slat in and 19 these are brown. Also, the equipment compound in this 20 photo appears to be much smaller than the 1280 square feet 21 compound Verizon proposes to install when they have their 22 co-locators on it. The angle that this photo was taken 23 from them, upon a hill looking down into the compound, is a 24 very similar viewpoint as I will have into the equipment 25 compound proposed by East Gate -- proposed at East Gate.</p>	<p style="text-align: right;">634</p> <p>1 the cost of its own pool management and maintenance. There 2 is no way the monopine tower will blend in with the 3 existing trees especially since it will be 20 feet tall -- 4 20 feet higher than the trees behind and it will be located 5 in front of the other trees along the southern property 6 line, many of which lose their leaves and are bare six 7 months out of the year. 8 TAMMY CITRAMANNIS: Excuse me. I don't think these 9 are the ones that don't -- you have to look at the exhibit 10 number on the back. 11 JANINE REZNIK: Oh, okay. 12 TAMMY CITRAMANNIS: But you have to describe it so 13 they match up so I know which one you're talking about. 14 JANINE REZNIK: Okay. 15 TAMMY CITRAMANNIS: You can't just say picture because 16 you've got four up there. 17 JANINE REZNIK: Okay. Just thought I would refer to 18 them as they were referred to in the file. Okay. 19 TAMMY CITRAMANNIS: Do they have different captions? 20 JANINE REZNIK: Up there they do. No, they all say, 21 Snug Hill proposed monopole. So I just want to put this up 22 there. 23 TAMMY CITRAMANNIS: Call it by its exhibit number and 24 I will know which -- 25 JANINE REZNIK: Okay.</p>
<p style="text-align: right;">633</p> <p>1 As you can clearly see in this photo, the slats in the 2 chain-link fence provide minimal screening of the equipment 3 and provides completely -- and proves completely 4 ineffective at camouflaging the equipment and storage sheds 5 when looking down from up above at a higher elevation, as 6 all the houses in our neighborhood do; they set up at a 7 higher elevation than the base of the tower. The it will 8 look hideous. It will look like an industrial compound 9 that is completely out of place. It absolutely will not be 10 compatible with the character of our beautiful residential 11 neighborhood. In Verizon's amended application, which I 12 might point out was never signed by the co-applicant EGRA, 13 they propose to plant trees in front of the tennis courts 14 to minimize the visual impact of the properties to the 15 north. But if EGRA had never signed the amended 16 application, where's the evidence that they are even aware 17 of this landscape plan? Verizon has failed to provide 18 photo simulations of what the streets will look like and if 19 in fact they will completely camouflage the base compound 20 from the higher elevation homes such as mine. And who will 21 be responsible for ensuring that the trees actually get 22 planted and who will bear the cost of the maintenance of 23 the trees and cleanup of the fallen leaves? I can't 24 imagine Verizon expects East Gate Swim Club to take on this 25 additional financial burden when the pool cannot even cover</p>	<p style="text-align: right;">635</p> <p>1 TAMMY CITRAMANNIS: -- It is. I'll have that. 2 JANINE REZNIK: The photo simulations that Verizon 3 provided in their amended application are completely 4 inaccurate and misleading. Let me mind you -- let me 5 remind you of the photos of the monopine that Verizon has 6 submitted with their amended application on June 29 and are 7 Exhibit 145 in this case file. Sorry. (Inaudible). This 8 is Exhibit 145, the photos submitted with their amended 9 application. As you can see, that show the mono pine 10 within the trees along the property line, when in fact, the 11 tower will be in the parking lot in front of the property 12 line trees, as per the drawings, the sketches that were 13 previously provided by Verizon. But Verizon tried to slide 14 this deception three with the original application as well. 15 I'm about to show you the photos that were included in the 16 original application, which are both in Exhibits 3 and 5B 17 of the case file. So these are the photos that were 18 included in the original application, the ones on the left. 19 BILL CHEN: The numbers? 20 JANINE REZNIK: They are Exhibit 3 and 5B in the 21 (inaudible) case file and they are 215 and 216 in this 22 file. It wasn't until a resident on Snug Hill Lane, Joe 23 Pace (phonetic), emailed Mastech, the greater the photos, 24 and pointed out the misleading photo simulations. I've 25 included a copy of that email exchange dated 12-16 -- 12-6-</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

73 (636 to 639)

<p>636</p> <p>1 16 --</p> <p>2 TAMMY CITRAMANNIS: (Inaudible).</p> <p>3 JANINE REZNIK: -- As my exhibit (inaudible) I'm sorry</p> <p>4 -- 209 (inaudible). Okay. Joshua Shicola (phonetic) from</p> <p>5 Mastech responded in this email that I provided, and</p> <p>6 amended their photo simulations to more actively reflect</p> <p>7 the proposed location of the monopole in the parking lot.</p> <p>8 Although, still conveniently omits the industrial compound</p> <p>9 enclosure beneath the tower in the middle of the parking</p> <p>10 lot. So just be clear, the only reason Verizon submitted</p> <p>11 amended photos that more accurately reflected the location</p> <p>12 of the cell tower on -- and they amended -- and they sent</p> <p>13 these in on 12-16, and that was Exhibit 74 in the OZHA</p> <p>14 file. The only reason they resubmitted these corrected</p> <p>15 photos is because a resident pointed out the misleading</p> <p>16 photo. So now let's look at the amended application photos</p> <p>17 again and you'll see that Verizon has this tree pole within</p> <p>18 the tree line.</p> <p>19 COURT REPORTER: I'm sorry, can you say that a little</p> <p>20 louder?</p> <p>21 JANINE REZNIK: Oh, I'm sorry.</p> <p>22 TAMMY CITRAMANNIS: Yeah, you've got to be mindful of</p> <p>23 the mics (inaudible).</p> <p>24 JANINE REZNIK: Yeah.</p> <p>25 TAMMY CITRAMANNIS: That's a good idea. Just speak</p>	<p>638</p> <p>1 members will walk and drive by and it will be the first</p> <p>2 thing they see every time they enter the once a serene and</p> <p>3 peaceful, private swim club. The land planning witness,</p> <p>4 William Landfair, testified that the minimum requirement</p> <p>5 for a two-way driveway the pool is 20 feet. After taking</p> <p>6 measurements on site, must point out that the maximum</p> <p>7 distance between the curbs in front of the entrance is 18</p> <p>8 feet, 2 feet short of the minimum. And I provided a photo</p> <p>9 of that in Exhibit 210. If the expert witness wasn't</p> <p>10 correct with this measurement, what other measurements are</p> <p>11 inaccurate in his testimony? And with this narrow were</p> <p>12 driveway, how are the service trucks is supposed to get</p> <p>13 through? And with two additional unknown co-locaters, how</p> <p>14 many other maintenance vehicles will be coming into the</p> <p>15 swimming pool lot and how often will they visit? The</p> <p>16 construction of this tower will absolutely, without a</p> <p>17 doubt, be the demise of the East Gate Swim Club.</p> <p>18 Membership is already down due to change in demographics in</p> <p>19 the area and too many swim clubs. Putting an 89-foot cell</p> <p>20 tower right next to a sewing pool will not attract new</p> <p>21 members. In fact, it will cause many to find another pool</p> <p>22 without a cell tower as there are at least five other pools</p> <p>23 in a two-mile radius that they can choose from. And when</p> <p>24 this pool eventually closes due to an even greater</p> <p>25 reduction membership because of the unsightly cell tower at</p>
<p>637</p> <p>1 louder.</p> <p>2 JANINE REZNIK: You can see that this is the amended</p> <p>3 application photo simulations and this tree pine monopole</p> <p>4 (inaudible) is within the trees as they were similarly</p> <p>5 misrepresented in the initial application. They were</p> <p>6 corrected and fixed and now you can see how it is outside</p> <p>7 the trees in the parking lot and much more visible.</p> <p>8 However, they failed to accurately represent monopine,</p> <p>9 which (inaudible) when they sent in their amended</p> <p>10 application. Let me remind you that Park and Planning</p> <p>11 issued its most recent recommendation dated September 15,</p> <p>12 2017, based on these inaccurate and misleading photos of</p> <p>13 the monopole hidden within the trees. I've been</p> <p>14 emphasizing the phrase, the middle the parking lot, for a</p> <p>15 reason. This proposed hours not going to be located in the</p> <p>16 back corner of the property in an obscure location where</p> <p>17 nobody notices it, where nobody is going to walk by it or</p> <p>18 drive by it. It can't be located in the back corner</p> <p>19 because it wouldn't meet the 300-foot residential setback</p> <p>20 requirements stipulated in the zoning ordinance. And I</p> <p>21 must point out that witnesses testified to the fact that</p> <p>22 there is no location on the property where the 89-foot</p> <p>23 tower would meet all required setbacks. Instead, Verizon</p> <p>24 is proposing to place the tower in the middle of the</p> <p>25 parking lot at the entrance to the swimming pool where</p>	<p>639</p> <p>1 its entrance, our beautiful neighborhood will be left with</p> <p>2 a cell tower and an abandoned pool on our recreational</p> <p>3 space. And this combination is sure to bring our home</p> <p>4 values down even more and I just provided a picture of an</p> <p>5 abandoned pool, which I guess I will put back up.</p> <p>6 (Inaudible) here.</p> <p>7 BILL CHEN: Exhibit number?</p> <p>8 JANINE REZNIK: It is, abandoned pool, Exhibit 211.</p> <p>9 So this is the Oak View community pool in Silver Spring,</p> <p>10 Maryland. It is an abandoned -- it is abandoned and it has</p> <p>11 a Verizon cell tower on the property. Not only will the</p> <p>12 inevitable amended pool at the entrance to our neighborhood</p> <p>13 be an eyesore, it will be unsafe. Once again, this tower</p> <p>14 will change the nature and character of our neighborhood</p> <p>15 and recreational area. At a public informational meeting</p> <p>16 that Verizon held on November 2 of last year in the Potomac</p> <p>17 community library, one of the many questions asked by</p> <p>18 community members was, why didn't Verizon try to disguise</p> <p>19 the monopole as a tree. The response that the Verizon, I</p> <p>20 believe it was an engineer one of the people, gave was, do</p> <p>21 you mean make it look like a Franken-tree (phonetic).</p> <p>22 Those things are horrible looking and they don't look</p> <p>23 anything like a real tree, or something along those lines.</p> <p>24 He even went on to point out the Franken-tree on the</p> <p>25 intercounty connector just east of Olney as an example. So</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

74 (640 to 643)

<p style="text-align: right;">640</p> <p>1 (inaudible) checked out this Franken-tree, and is my 2 Exhibit 212, on the intercounty connector and it doesn't 3 look like a tree. It is so ugly, does not look like a 4 tree, and since Verizon's engineer cannot provide us with 5 the exact model tree that will be used in this proposed 6 application, who knows? The one we end up with at East 7 Gate could end up looking exactly like this one on the ICC. 8 On Verizon's original application, the mission idea of a 9 tree disguised -- a tree disguised for the monopoly. I've 10 included a copy of the Transmission Facility Coordinating 11 Group's record of action, which is already in as Exhibit 5 12 in the case file, but now it's 213. It is just a quick 13 reference. And on page 2 of this report it states the 14 applicant's report that Verizon Wireless did not consider a 15 tree disguise because the monopoly will be partially 16 camouflaged by the existing trees surrounding the site. As 17 I showed you before on the board with Verizon's photo 18 simulations, the photo of the proposed monopoly and 19 Verizon's original application is misleading as it looks 20 like it is mostly hidden within the trees. However, as 21 mentioned previously and is shown in the photos, Verizon 22 subsequently submitted corrected photos of the tower in 23 front of the trees and it is not camouflaged by trees 24 whatsoever. To continue with that same paragraph on page 2 25 of the TFCG report, goes on to say, in addition, tree</p>	<p style="text-align: right;">642</p> <p>1 Correlating Facility Group made a recommendation based on 2 erroneous, incomplete, and inaccurate information. Also, 3 Verizon entered into a lease with EGRA over two years ago 4 in October 2015. This means they had over two years to 5 prepare their case and their witnesses and their witnesses' 6 reports. Verizon's amended application was filed on June 7 29, 2017, which means the opposition only had 2½ months to 8 find expert witnesses, prepare the reports, and submit the 9 report within 20 days of the hearing, which really gave 10 them less than two months to prepare. I just wanted to 11 make note of that since Verizon kept asking why we didn't 12 have certain reports and (inaudible). I would also like to 13 mention for the record, that I have excellent cell service 14 in my home. I do not agree at all with Verizon's claim 15 that there is a need for an 89-foot cell tower to improve 16 the coverage in our area. Verizon's electrical engineer 17 expert, Paul Dugan, stated in his testimony that this 18 proposed tower at East Gate is supposed to provide 19 increased data speed to the house within a three-quarter 20 mile radius of the tower. When I'm using my phone in home 21 -- in my home, I'm not using cellular data and speed is not 22 a concern for me because I'm using my Wi-Fi when I'm at 23 home, which is always faster than cellular data speed. In 24 Verizon's application, they include a property value report 25 written and prepared by Valbridge Property Advisors, which</p>
<p style="text-align: right;">641</p> <p>1 design would not allow for co-location from at least two 2 additional carriers, which is required by the Montgomery 3 County zoning ordinance. Let me just repeat that. Verizon 4 said a tree design would not allow for co-location from at 5 least two additional carriers. That's a very interesting 6 statement considering that Verizon's amended application 7 proposes a monopoly with a tree disguised with the ability 8 of at least two additional carriers to co-locate. Yet 9 another false statement made by Verizon. On page 3 of the 10 same TFCG report, the fourth paragraph and concluding 11 sentence says, the plans show that the location for the 12 monopoly on the property will meet required setbacks. This 13 statement, and we know for fact, is not true as Verizon is 14 not requesting a 51-foot waiver of the property line 15 setback requirement on the southern side of the recreation 16 area along Democracy Boulevard. So to summarize this 17 report, the Tower Coordinating Facility Group never saw 18 Verizon's corrected photos that show the monopoly in the 19 parking lot in front of the trees. They did not review the 20 amended application submitted one year after the original 21 Tower Committee recommendation was given which proposes a 22 new height of the tree and antenna -- a new antenna height 23 as well. And it did not see Verizon's corrected statement 24 that the monopoly does not meet all the required setbacks 25 and it is now seeking a waiver, which means that the Tower</p>	<p style="text-align: right;">643</p> <p>1 is Exhibit 53B in the OZHA file. The report is called, 2 Impact on Residential Values. Two specific neighborhoods 3 they do a property analysis on and this is Kentsdale and 4 Potomac Crest. What you will notice about the reports is 5 that there are no photos included in it. They didn't 6 provide any photos of what the tower views are from any of 7 the properties that are analyzed. If they did, they would 8 show that the house is in Kentsdale Estates do not face the 9 tower. Most of the homes cannot even see the tower. You 10 can't even compare our neighborhood's visual impact of a 11 cell phone tower and equipment compound with theirs. None 12 of the homes in Kentsdale Estate strictly face the tower 13 and equipment compound like ours will in Snug Hill. Again, 14 another report that is completely misleading as are the 15 photo simulations that Verizon provided. I would also like 16 to point out that Potomac Crest neighborhood is along the 17 power line where there is overhead transmission lines, 18 which zoning ordinance talks about that's where they should 19 be placed. They split towers along the overhead 20 transmission lines so that you're not placing towers in the 21 middle of people's neighborhoods and that's where there are 22 multiple antennas along those power lines. Our 23 neighborhood, we don't even have overhead power lines. We 24 don't have any large lights or any electrical equipment, 25 which is what adds to the beauty and uniqueness of this</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

75 (644 to 647)

<p>644</p> <p>1 neighborhood. I would like to conclude with one final 2 analogy, that this application for conditional use to 3 install an 89-foot cell tower and a 1280 square feet 4 equipment compound on a 4½ acres of private property in the 5 middle of a residential neighborhood so that the co- 6 applicant can make \$26,500.00 a year in additional revenue 7 is approved, it will set quite a precedent. The president 8 will be that anyone can put up a cell tower and equipment 9 compound on their front lawn as long as the residential 10 dwelling setback of 300 feet is made. They can install the 11 tower 25 feet or less from the property line if they can 12 ask for a waiver of that property line setback and have it 13 granted. Imagine if this were to happen, what this County 14 would become. Everyone would be requesting a cell phone 15 tower to be installed on the property because \$26,500.00 a 16 year is more than some people make in a year. And they 17 would be approved because if an exception was made for East 18 Gate, then why not Jane Doe. We do not want a cell phone 19 tower to be the focal point of our neighborhood. I do not 20 want to walk outside my front door every day and have the 21 first thing I see the 89-foot cell phone tower and 1280 22 square feet industrial equipment compound. Madam Hearing 23 Examiner, I sincerely request that you deny Verizon's 24 application to erect an 89-foot cell phone tower at the 25 entrance to the swimming pool on our community's</p>	<p>646</p> <p>1 JANINE REZNIK: Thank you. Okay. Who's next? Come 2 on up. Okay. Go ahead and give that to them and I will -- 3 they are all exactly the same? 4 GREER DELLAFIORA: Yes. (Inaudible). 5 TAMMY CITRAMANNIS: Oh, they're already marked? 6 GREER DELLAFIORA: Yes, I put the Exhibit (inaudible). 7 TAMMY CITRAMANNIS: Okay. I have some of them with my 8 -- 9 GREER DELLAFIORA: Yeah. 10 TAMMY CITRAMANNIS: -- With my number. Okay. Just 11 give me a moment just to make sure I got -- if they're not 12 already stuff that's -- okay. So that's well, actually, 13 this when you can refer to -- well, I'll just go ahead and 14 keep it simple. Don't be nervous. You're okay. I just 15 have to follow this so the record is clear. Let me ask you 16 this so: do these go to this or -- 17 GREER DELLAFIORA: (Inaudible) Exhibit (inaudible). 18 TAMMY CITRAMANNIS: Oh, got it. Okay. Never mind. 19 Okay. Let me do this. (Inaudible) 218. It's two pages. 20 I'm going to have you refer to these and then you can do 21 that. We're just trying to get everybody heard today. 22 (Inaudible). Okay. So where's the copy? This is the 23 copy? I'll keep this one. Get this one back to me and we 24 will switch, but this way you will have the exhibit number. 25 GREER DELLAFIORA: Okay.</p>
<p>645</p> <p>1 recreational space in the middle of our beautiful 2 residential neighborhood. The tower will have a negative 3 visual impact, a negative impact on our property values, 4 and it will change the nature and character of our 5 recreational area and our neighborhood forever. Thank you. 6 TAMMY CITRAMANNIS: Does anybody have any questions? 7 JANINE REZNIK: You want these back, right? 8 TAMMY CITRAMANNIS: Questions? Do the (inaudible) 9 have any questions? Thank you, very much. Could I get 10 those back from you -- 11 JANINE REZNIK: Yes, you can. 12 TAMMY CITRAMANNIS: -- So that I can properly mark 13 (inaudible)? 14 JANINE REZNIK: Do you want them in order to question 15 mark 16 TAMMY CITRAMANNIS: No, if you can just put them back 17 (inaudible) the folder. The one thing that I do need from 18 you is if you can -- do you have these that -- you are 19 supposed to submit them in a CD. 20 JANINE REZNIK: (Inaudible). In a CD? 21 TAMMY CITRAMANNIS: Just -- yes. 22 JANINE REZNIK: Okay. 23 TAMMY CITRAMANNIS: On a CD, the photos and the CDs. 24 JANINE REZNIK: Okay. 25 TAMMY CITRAMANNIS: Thank you, Ms. Reznik.</p>	<p>647</p> <p>1 TAMMY CITRAMANNIS: And you will give them their 2 copies. Okay. I need to have her start. You can take it 3 with you and bring it back to me. 4 GREER DELLAFIORA: Okay. 5 TAMMY CITRAMANNIS: Okay. You ready? 6 GREER DELLAFIORA: No. 7 TAMMY CITRAMANNIS: You'll be fine. Raise your right 8 hand. Do promise to tell the truth, the whole truth, 9 nothing but the truth in your testimony under the penalty 10 of perjury? 11 GREER DELLAFIORA: I do. 12 TAMMY CITRAMANNIS: Okay. State your name and your 13 address and when you refer to a document, you have to -- 14 they don't have the number. Just get the title and the 15 exhibit number so they know what you are referring to. 16 GREER DELLAFIORA: Okay. 17 TAMMY CITRAMANNIS: Okay? So go ahead. State your 18 name and your address. 19 GREER DELLAFIORA: I am (inaudible) Dellafiora. I 20 live at 8201 Snug Hill Lane, Potomac, Maryland. I just 21 want to say that I'm not going to be quite as kind as 22 Janine because I'm so angry about this. So I apologize. 23 I'm very appreciative of being able to speak today about my 24 concerns about the proposed a cell tower in our 25 neighborhood. I'm a 17 year resident of East Gate</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

76 (648 to 651)

<p>648</p> <p>1 neighborhood and a member of the East Gate Recreation 2 Association. I was also on the unelected board of the East 3 Gate Recreation Association for a number of years as 4 treasurer. Because my testimony today might be used in the 5 currently staid lawsuit, I want to make sure I've gone on 6 record now about this so that I may defend myself if need 7 be. In my testimony today, I will explain why am adamantly 8 opposed to the installation of an enormous cell tower in 9 the middle of our neighborhood. Even more so of its 10 placement in our recreation area. I live on Snug Hill 11 Lane. Snug Hill Lane, if you've not been there, is a 12 narrow lane that winds up a hill and ins into small cul-de- 13 sacs. They're only 31 homes in our little neighborhood. 14 At the entrance to our neighborhood, lining the left side 15 of the lane is a green square of land. It has grassy 16 (inaudible), trees, a pool, two tennis courts, and a field. 17 This is our neighborhood recreation area. It is on this 18 little (inaudible) of land that the East Gate Recreation 19 Association has contracted with Verizon to install a giant 20 cell tower. Twenty years ago, when we were younger, my 21 husband and I were looking to leave the DC area. We are 22 not city folk, but life has a way of scuttling plans and we 23 had to stay in the area for the time being. The best we 24 could do was move further out of the city where houses were 25 not as closely packed and where there was more green space.</p>	<p>650</p> <p>1 surrounded by berms on three of its four sides. Whenever 2 it snowed, the kids make a beeline for the berm by the 3 field. They jumped on their sleds and whizzed down the 4 hill knowing that they will come to us a stop by the time 5 they have (inaudible) the field without hitting anything. 6 We also spent many hours on the field over the years 7 playing with or walking our dog Daisy, especially as 8 neighbors begin -- began putting up privacy fences. Over 9 the past few years, we have not used the pool as we once 10 did. The kids lost their passion for swimming and moved on 11 to other pursuits. My husband and I started working crazy 12 hours to pay for kids' college. We still sled when it 13 snows, but Daisy is now 17 and is no longer able to gallop 14 around the field as she was good. However, my last child 15 just left for college and my husband and I are once again 16 looking forward to swimming and enjoying an adult beverage 17 with friends on the pool deck. I know our experience of 18 that wonderful little spot is not unique to us. The East 19 Gate Recreation Area was established for the residents of 20 our neighborhood. It was established for a reason. If the 21 developer could have built more houses on the land, he 22 would have. Businessmen do not give up prime pieces of 23 real estate without cause. The reason in this case, is 24 that ours is a cluster development. In order for the 25 developer to build houses on our hilly piece of land, yet</p>
<p>649</p> <p>1 When we saw a house in Snug Hill Lane, we cannot believe 2 our luck. It was a gem of a neighborhood. It was a quiet, 3 sleepy, bucolic little lane with green, spaces, and best of 4 all, a recreation area right outside our front door. One 5 of the biggest reasons we bought our house was this 6 recreation area. What could be more perfect than that for 7 a family with two small kids and a dog? Over the next 10 8 years, we used that recreation area as an extension of our 9 backyard. Every summer, the kids swam on the swim team, 10 the adults burned things on the grill, and we all played 11 ping-pong under the canopy. Besides the pool, there was 12 also the tennis courts, a rusty basketball hoop, and a 13 field to be enjoyed. During adult swim, we would either 14 run over to the courts and hit a few balls were run over to 15 the field to enjoy a little soccer until we could run back 16 to the pool and cool off again. That was the summer. 17 During the rest of the year when the pool was closed, we 18 would play tennis. The kids had tennis lessons. I play 19 with friends and our family enjoyed games of round robin 20 when the mood took us. One of the great spots in our 21 recreation area is the small field. We used this field all 22 year round and this is the only place in our neighborhood 23 that is where enough, flat enough, and big enough to play 24 soccer, lacrosse, rugby, and kick the can. It is also the 25 place where the kids laid. The recreation area is</p>	<p>651</p> <p>1 to make the parcels of land smaller than the R200 large 2 lots mandated by the zoning designation. In order for the 3 County zoning office to agree to this, the developer had to 4 give up something in return. The something in return was 5 East Gate Recreation Area. In fact, a letter dated January 6 10, 1978, filed with the zoning office from the developer 7 of the neighborhood, Robert Mitchell, says the following; 8 the NNC (inaudible) -- 9 GREG DIAMOND: I'm just going to have to object to the 10 scope. 11 TAMMY CITRAMANNIS: I'm going to -- 12 BILL CHEN: It's in the record. 13 GREG DIAMOND: It's, pardon? 14 BILL CHEN: It's in the record. 15 GREER DELLAFIORA: I'm quoting a letter. 16 BILL CHEN: It's in the special exception record. 17 GREG DIAMOND: The scope. I'm just objecting on the 18 scope. 19 TAMMY CITRAMANNIS: (Inaudible). 20 GREER DELLAFIORA: I was going to give to the exhibit. 21 It's Exhibit 1. I'm sorry. I should have said that first. 22 TAMMY CITRAMANNIS: Oh, no. He is objecting to the 23 scope. Were you here earlier when they were talking about 24 -- when the gentleman was talking about the subdivision 25 cluster? Maybe not.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

77 (652 to 655)

<p>652</p> <p>1 GREER DELLAFIORA: Well, I've prepared my testimony. 2 I've been taking a year to prepare the test money and I 3 didn't adjust it -- 4 TAMMY CITRAMANNIS: Okay. 5 GREER DELLAFIORA: (Inaudible). 6 TAMMY CITRAMANNIS: Their objection will be noted. 7 BILL CHEN: I guess I object to the objection. I 8 think we've had to disagree before and I respect the 9 ruling. 10 TAMMY CITRAMANNIS: Good. 11 BILL CHEN: Just on behalf of my clients, I think this 12 is (inaudible). 13 TAMMY CITRAMANNIS: Well, she is -- I'm letting her 14 read it. 15 BILL CHEN: I understand you are. Thank you. 16 TAMMY CITRAMANNIS: You can go ahead. 17 GREER DELLAFIORA: There might be a lot you object to 18 them. 19 TAMMY CITRAMANNIS: That's possible and we'll address 20 it, but they have a right to object. 21 GREER DELLAFIORA: Okay. In a meeting of pool members 22 on November 28, 2016, the volunteers leading the meeting 23 explain to the pool members that he had signed a lease to 24 save the pool. He said that if we did not save the pool 25 and it went belly up, the land could become a 7/11 or</p>	<p>654</p> <p>1 TAMMY CITRAMANNIS: Just -- 2 GREER DELLAFIORA: Is the volunteer just a really bad 3 attorney or does he feel at liberty to do as he wishes with 4 an 800-pound gorilla on his back -- in his back pocket? 5 Are they counting on the fact that we do not have unlimited 6 funds to continually challenge them on all their irregular 7 actions including not filing the tax returns are prepared 8 for them? It would appear so. It is my sincerest hope 9 that you, Madam Hearing Examiner, when not allow a 10 conditional use exception -- and you know, maybe I'm using 11 the words incorrectly -- to be laid on top of an already 12 existing special exception and put an end to this. Or put 13 another way, not create a hole in the special exception in 14 which to place the tower. The creation -- the recreation 15 area belongs to the neighborhood. This is our recreation 16 area. It does not belong to the secret society that now 17 runs the pool and other doesn't belong to Verizon. We do 18 not exist because of the recreation area. The recreation 19 area exists because of us. If we had thought that there 20 was a possibility that are recreational green space could 21 be turned into an industrial business owner, we never would 22 have purchased the house. We relied on the representations 23 that were made to us that this was a recreation area and I 24 have that representation in writing. If you look at 25 Exhibit 2, this was the sailed document --</p>
<p>653</p> <p>1 something equally unsavory. To be honest, he scared the 2 heck out of us because what could be worse than that. My 3 husband and I immediately sent him \$1000.00 to help stave 4 off this horror. But as time passed, I came to find out 5 that the volunteer's words were not true. This passively 6 cannot be made into a 7/11. It's recreation land overlaid 7 with a special exception. I would like it noted that the 8 East Gate Recreation Association without his parking lot to 9 the Heights School. Again, I'm blown away by the fact that 10 at least one of the three attorney volunteers is a real 11 estate attorney and is either not aware, or just chooses to 12 flagrantly ignore the fact that this is not a permitted use 13 of the land and it is a violation of the special exception. 14 GREG DIAMOND: I'm just going to object any kind of 15 personal tax about any members of the East Gate Rec 16 Association. 17 TAMMY CITRAMANNIS: So noted. 18 GREER DELLAFIORA: The Association has to get 19 permission to set up a basketball hoop, for goodness sake. 20 The request is in the OZHA file. Is the -- I guess I will 21 start and you just object whenever you want. I'm not sure 22 what I can say what I can't say. I mean, I'm not naming 23 any names. 24 TAMMY CITRAMANNIS: Just keep reading. 25 GREER DELLAFIORA: Okay.</p>	<p>655</p> <p>1 GREG DIAMOND: Again, I'm going to object to the 2 scope, but I understand you are making a statement. But 3 we're going back to the purpose and use and representations 4 at the time. It's outside the scope of this hearing. 5 TAMMY CITRAMANNIS: What you -- what is the document 6 you are -- 7 GREER DELLAFIORA: I'm showing -- I'm just trying to 8 give -- bolster my words when I say I purchased the house 9 because we were told there was a nice recreation area, and 10 I have a piece of paper to support my argument. I have 11 two. 12 TAMMY CITRAMANNIS: (Inaudible) history and her 13 feelings about it. 14 GREG DIAMOND: I have no objection to history and 15 feelings. 16 TAMMY CITRAMANNIS: That's -- 17 GREG DIAMOND: But the documentation or -- we are 18 opening up -- if we start to admit new evidence of new 19 documents, then I do think we -- that's where I'm drawing 20 the line. 21 TAMMY CITRAMANNIS: Okay. Which document are you 22 referring to question what well, how about we let her get 23 through and then you can object to -- motion (inaudible) 24 into the record. 25 GREER DELLAFIORA: So I actually referred to Exhibits</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

78 (656 to 659)

<p>656</p> <p>1 2 and 3, because 2 is for my house and 3 is for a 2 neighbor's house that was also marketed as the -- the 3 recreation space was marketed as a point to why you buy the 4 house. We relied on our review of the Master Plan before 5 signing our purchase contract. We did not see any 6 industrial structures located on this land and we did not 7 see any dotted lines for what was going to be added later 8 as they did with Democracy Boulevard. We purposely avoided 9 looking at any houses that were located near power lines 10 when looking to purchase our house. We did not, and still 11 do not feel that it is safe to live near power lines or 12 cell phone towers and because we are not alone in feeling 13 like this, we would not risk our biggest investment by 14 purchasing a home that would be more difficult to sell and 15 would sell at a lower price than homes not near power lines 16 and other sources of radio emissions. Our neighborhood has 17 no overhead wiring, none. There are no telephone or power 18 lines to be seen. There are no utility poles. The only 19 thing we have are widely spaced, short, dimly lit lamp 20 posts. At night, it's a joy to walk down the street 21 because it's dark and you can see the stars. This 22 neighborhood is very different to other neighborhoods. An 23 89-foot tower is not going to go unnoticed to those living 24 near it or swimming under it. The tower will not only 25 change the character of the neighborhood, it will change</p>	<p>658</p> <p>1 down Democracy? Why have they shown no other solutions to 2 the problem? If they can trundle cells on wheels or 3 (inaudible) the golf courses to add capacity during golf 4 tournament, why is no other solution other than a great big 5 tower in our pool parking lot? My children and I use AT&T 6 on her cell phones. My husband uses Verizon on his cell 7 phone, and we use Verizon as our home service provider for 8 phone, TV, and Internet. In the past number of years, and 9 I think I -- it is not 17, it's pretty close to that I 10 believe, that we have use Verizon. We have never had 11 problems with reception either in our house or in the 12 recreation area. We also have never had trouble with 13 dropped calls traveling down Democracy, a road we use 14 frequently as in the main artery outside our neighborhood. 15 Exhibit 5 is testimony -- I don't know if I can say that -- 16 is testimony of a commuter who has used Democracy for four 17 years and has never lost coverage. RadioOpt is an app that 18 measures Internet traffic speed. I have it on my phone. 19 It tells me at any given moment when the traffic speeds 20 (inaudible) wherever I'm currently located. These are the 21 results as I experienced them on Sunday when typing this 22 testimony and I was sitting outside. Your download speed 23 is faster than other uses in your region. Your upload is 24 faster than for other users in your region and your paying 25 is faster than for other users in your region. To</p>
<p>657</p> <p>1 the look and the character of the pool forever. As will be 2 explained later, it already has. In order for a tower to 3 be built, there has to be a need for the cell tower. At 4 the information meeting held by Verizon on November 2, 5 2016, the Verizon engineer, and I presume -- I think he was 6 an engineer -- explicitly stated that the tower was not 7 needed for our community, but for people driving down 8 Democracy. He further explained that commuter calls were 9 being dropped as drivers headed down the hill on Democracy 10 Boulevard on their way to Potomac. Mr. Shicola, Verizon's 11 witness, provided the following as a reason for the tower; 12 coverage and capacity relief for Verizon's Tuckerman site, 13 Potomac site -- 14 CATHY BORTEN: Objection. One moment. Mr. Shicola is 15 not a witness in this case. 16 TAMMY CITRAMANNIS: She is just -- you objection is 17 noted. She is just (inaudible) what she went through. 18 Doesn't mean that it's (inaudible). 19 GREER DELLAFIORA: The Potomac site, the Bethesda 20 Country Club site, provide supplemental coverage to the 21 residents and commuters along Democracy Boulevard and 22 Gainsborough Road. And this statement is clearly stating 23 that our neighborhood already has his needs addressed as it 24 is being serviced and covered by three other sites. Why 25 can't they install something smaller? Some small antenna</p>	<p>659</p> <p>1 reiterate, my downloads are faster than for anyone else. 2 Verizon as a check your cell coverage feature on their 3 website. You type in your address and it will tell you 4 whether you have coverage or not. The map is always red, 5 showing wall-to-wall coverage in our neighborhood. So 6 given the above, I think it is reasonable to assume that 7 perhaps Verizon has not shown the need for cell tower in 8 our recreation area and they certainly have not offered any 9 other solutions. The cell tower they are proposing is 10 built -- to be built, is as big as towers on other sites. 11 This does not scream relief to me. The screams taken 12 advantage why you can and get ready for 5G. And just an 13 FYI, there are already 39 towers and 381 antennas within a 14 4 mile radius of our recreation area, see Exhibit 6 -- I'm 15 sorry. I keep given the wrong -- 226. Surely Verizon 16 could piggyback on one of these. It is true that my 17 husband and I live in Potomac. When people hear the word 18 Potomac, they think money, lots of money. They think that 19 people like us have money and are just bitching because we 20 are unreasonably, just don't want a cell tower in our 21 backyard. This is simply not true. There is Potomac and 22 there is Potomac. We live in the second, humbler Potomac. 23 We borrowed the down payment from a relative and we bought 24 the house from a relocation company since it was the 25 cheapest and all we could afford. I am not now a stay-at-</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

79 (660 to 663)

<p>660</p> <p>1 home mom, but I was for a time until my son was nine. My 2 son was diagnosed on the autism spectrum and required 3 therapy for everything. Anyone with a kid like this will 4 know what I'm talking about. The time, effort, and 5 resources needed to help them were huge. It really put us 6 in a financial hole. With things got turned around for 7 him, I went back to work. I'm a working mom. Even though 8 my husband and I have worked diligently over the years, we 9 still need the proceeds from our house to find a large 10 chunk of our retirement. We have stayed in this house as 11 it has been, until now, great investment. But now, not so 12 much. We have Artie the seen a decline in the price of 13 houses in our neighborhood and we are just talking about a 14 tower, never mind actually having one. Last year, I know 15 of at least one house that went for \$1.2 million, and a 16 fixer-upper for \$950,000.00 on our little street. This 17 year, someone put their house on the market for \$1.224 18 thousand and ended up selling it for \$1,000,038.00. That's 19 a drop of \$186,000.00, or 15 percent; 15 percent. You can 20 check the numbers on Zillow. This is one case where we can 21 absolutely point to the tower being a factor in the price 22 of the house. The seller told me that at least two 23 purchasers were -- purchasers were concerned about the 24 tower and that one of the perspective purchasers called 25 both Bill Chen and the County zoning office to determine</p>	<p>662</p> <p>1 initial application, Verizon stated that a tree design was 2 not possible as it did not allow for co-location. So did 3 the engineer really believe a tower was the better route to 4 go aesthetically or did he merely state this to support the 5 application that nixed the tree idea already? Second 6 example; the first application stated that a tree 7 (inaudible) could not be used as it did not support the co- 8 location, and yet, the amended application has the tree 9 design and it allows for co-location. So again, it would 10 appear that the Verizon engineers that drafted the first 11 submission, either did not know what they were talking 12 about or maybe they were just saying whatever was needed to 13 support the application. There is a third example. In 14 Cathy Borten's justification statement, and I -- this I do 15 know is Exhibit 3 in the OZHA file -- and she states the 16 following; as noted in the impact on residential values 17 report prepared by Valbridge Property Advisor, there is no 18 evidence that having a view of this type of facility has 19 any negative impact on property values. I have looked at 20 this report and I can't find that language anywhere. On 21 page 4 of this document, she also states that approximately 22 four parking spaces are expected to be displaced by the 23 proposed use. The zone enjoys show the relocation of these 24 spaces elsewhere on the property. I have to say that this 25 statement sounds relatively benign. It doesn't sound too</p>
<p>661</p> <p>1 the status of the tower. They did not buy. Another 2 purchaser also said they would not buy the house because of 3 the tower. Verizon is a business. The employee's job, no 4 matter which company they work for, is to promote the 5 company's goals. Verizon employees are no different. 6 Their livelihood depends on it. They are the face of the 7 company and must promote this tower no matter what. 8 Everything they say and present at this hearing must 9 support the goal of getting the tower erected whether they 10 personally think that there is no way that they would want 11 a tower radiating waves at their heads 24/7 or whether they 12 would say, no way would we join a pool where our kids are 13 swimming under an antenna of a cell tower. Or no way would 14 we spend our weekend sitting on the pool deck with the 15 electrical humming of the generator as background music. 16 They can also acknowledge the possibility of a 15 percent 17 drop in house value. Yes, the law may obligate them to be 18 truthful, but truth is a fundable thing and Verizon, with 19 all its money clout, will only present the truth and facts 20 that support their goal. Here are some examples based on 21 statements made by Verizon that support my way of thinking. 22 Example 1: at the meeting held by Verizon on November 2, 23 2016, the rise and engineers that we do not want the 24 Franken-tree instead of a tower. These were his words. He 25 pointed out how ugly the one on ICC was. In Verizon's</p>	<p>663</p> <p>1 bad on the face of it. However, if you look at the field 2 on the site plan, you will see that the field has been 3 completely destroyed and taken over by 10 to 12 parking 4 spaces. It could be construed that Ms. Borten is 5 whitewashing words to show the plan in a more favorable 6 light. In my book, this is just another example of facts 7 being fundable and being banked to suit their purpose. The 8 statement that there is no evidence having a view of this 9 type of facility has any negative impact on home values is 10 hard to believe, especially considering what has happened 11 in our neighborhood since the conditional use sign went up. 12 It is also hard to believe that Mr. Landfair, Verizon's 13 evaluation expert, and his report put streets and 14 neighborhoods that don't belong and he has failed to show 15 what houses have sold for in our neighborhood both before 16 and after the conditional use sign went up in our corner. 17 In his testimony yesterday, Mr. Landfair stated that he had 18 not used homes sold by parents to children in his report. 19 I beg to differ. At least two of the addresses I saw in 20 his report, number 8304 Snug Hill Lane, Mr. Ferber's 21 (phonetic) house, and number 8205 Snug Hill Lane, Mr. 22 (inaudible), were both parent to child sales. It's 23 interesting that he used these two particular houses of all 24 those he could have picked since there were only two 25 original owners in our neighborhood, to demonstrate how</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

80 (664 to 667)

<p>664</p> <p>1 well our neighborhood had increased in value compared to 2 other neighborhoods. Mr. Ferber's house was purchased in 3 1997 from his mother-in-law for \$419,000.00. He has one of 4 the bigger models. Mr. Lamarow (phonetic) bought his house 5 from his mother-in-law in the amount of \$337,000.00 in May 6 2000. It is a smaller model than Mr. Ferber's house. I 7 bought my house, which is the exact same model as Mr. 8 Lamarow's house, at exactly the same time, May 2000. And 9 we purchased our house for \$530,000.00. This is a 10 difference of \$190,000.00 greater than that paid by Mr. 11 Lamarow. All I can think is, what else did Mr. Landfair 12 get wrong. No matter what this expert was paid by Verizon 13 asserts, people do not want to buy near cell towers in the 14 cell tower will make it more difficult to sell. The 15 obvious he did not hang around the neighborhood this summer 16 questioning buyers and sellers. He would have heard what 17 is really going on. If people do not mind purchasing homes 18 near cell towers, there would not be so much opposition to 19 the tower in our neighborhood. The people did not mind 20 purchasing homes near cell towers, then what did Mr. -- why 21 did the buyers of Mr. Ferber's mother-in-law's house say 22 the cell tower had not been disclosed to them? If people 23 do not mind purchasing homes near cell towers, why have 24 sellers in the neighborhood, such as Judy Donatelli, vector 25 neighbors to remove their signs of opposition because it</p>	<p>666</p> <p>1 Recreation Association and Verizon, it was filled with 2 errors. For example, the photograph attached to the 3 submission were not accurate. The tower was not shown with 4 its enormous space and the tower was shown to be in the 5 trees, 8 feet back from the tower's actual location in the 6 parking lot as shown on the site joints. Also, the drawing 7 makes it appear as though there is not -- there is loads of 8 space in the parking lot to accommodate the tower. There 9 isn't. The parking lot at the point where the tower 10 enclosure is to be located narrows considerably. You would 11 be hard-pressed to fit a car, never mind a truck between 12 the enclosure and the pool entrance, but you can't see this 13 clearly on the submitted drawings. There is no way the 14 drawing measurements are correct. You just have to stand 15 in the parking lot to see that. (Inaudible) just believe 16 that they will be able to get a delivery truck down the 17 drive to the spot where the tower and enclosure are to be 18 built, never mind have space in which to build this 19 behemoth. Are East Gate Recreation Association and Verizon 20 going to pull up and destroyed the clubhouse entrance 21 plantings and sidewalk to gain access to the spot they 22 desire? This is something else they forgot to put an 23 application. Application states that no trees were 24 removed, but neither Verizon, the East Gate Recreation 25 Association or Parks and Planning have addressed this issue</p>
<p>665</p> <p>1 was affecting her ability to sell her house? I believe 2 another resident, Mrs. Meekham (phonetic), was also trying 3 to sell her house, has also requested that her neighbors 4 not put up any signs either. If people don't mind 5 purchasing homes near cell towers, why has my husband 6 refused to put up a large protest banner that would, for 7 all intents and purposes, advertise the tower before ever 8 came up and harmed the value of our home was Mark please, 9 look around the room. Look and see how many people don't 10 want this tower. And by the way, there are studies showing 11 the negative impact of cell towers on home values. Here is 12 one, Exhibit 7. The National Institute for Science Law and 13 Public Policy produce the results of the study is conducted 14 titled, Neighborhood Cell Towers and Antennas. They do 15 impact a property's desirability. The survey was completed 16 by 1000 respondents. To sum up the results, the 17 overwhelming majority of respondents, 94 percent of them, 18 reported that cell tower and antennas in the neighborhood 19 or on the building, would impact interest in the property 20 and the price they would be willing to pay for it. 21 Further, 79 percent said, under no circumstances would they 22 ever purchase or rent a property within the blocks -- 23 within a few blocks of a cell tower antenna. He was a 24 perfect example of how fundable the applicant's facts can 25 be. When the first application was filed by East Gate</p>	<p>667</p> <p>1 at all. I wonder if anyone at Parks and Planning even 2 visited the site. Where were the applicant's photo 3 simulations of what the tower will look like with its base? 4 And one final example; Cathy Borten, in her justification 5 statement knows that, as noted in Mr. Landfair's report, 6 the proposed additional use will not result in any adverse 7 effect on health. Why does Ms. Borten raise this issue 8 specifically? Is she not aware the FCC prohibits using 9 health effects as an argument against cell towers? Or is 10 she aware, as the rest of us are, that there is cause for 11 concern and tried to allay everyone's fears anyway? I have 12 no doubt that as soon as Ms. Borten is anyone mention 13 health effects, she will leap to squash it. But what is 14 sauce for the goose is sauce for the gander and will 15 therefore be erring my thoughts on the subject too. To sum 16 it up, Verizon was either intentionally trying to mislead 17 or they were sloppy. I'm inclined to believe it was both. 18 Verizon is a very, very, very big company. They had been 19 doing this for a very long time. It also has a lot of 20 money and enjoys tremendous support from both local 21 government and the FCC. The FCC has implemented the shot 22 clock, allowing Verizon to pressure interested parties and 23 many plate proceedings to their advantage. The SEC has 24 also gagged the citizenry from raising any health concerns, 25 the major reason why homebuyers like me do not want to buy</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

81 (668 to 671)

<p>668</p> <p>1 or live near a cell tower. I grew up with thalidomide 2 babies who were not supposed to exist because it was 3 declared a harmless drug, who also lived through a 20-year 4 fight after which the government finally capitulated and 5 admitted that, contrary to petroleum industry experts' 6 studies, leaded gas was indeed dangerous and has since been 7 banned. There are countless studies out there including 8 one from the NIH that show we should all be greatly 9 concerned with the effects of radiation from cell towers. 10 It's already an undisputed fact that cell phones help to 11 the ear too often and for too long cause cancerous tumors. 12 But I digress. Let's look at the County's role. Let's 13 start with Parks and Planning and then the Tower Committee. 14 I believe Parks and Planning failed in his duty to protect 15 our community from a monstrosity and blight in our 16 neighborhood. It is incomprehensible that the erection of 17 a Franken-tree right in the entrance to our neighborhood in 18 a narrow strip of parking lot will not forever and 19 irreparably change the feel and character of the 20 neighborhood and recreation area. Parks and Planning 21 believes that this Franken-tree that could be up to twice 22 the height of any other tree around it, will still not be 23 noticed if some shrubbery is planted along the perimeter of 24 the property. How do the plantings become the solution to 25 hiding a behemoth, 89 feet tall and 8 feet in diameter? Do</p>	<p>670</p> <p>1 March -- sorry -- on November 28, 2016, at the pool meeting 2 that the Association is \$30,000.00 in the hole. And that 3 was the tip of the iceberg with their problems. Well, so 4 much for Parks and Planning. And now onto the Tower 5 Committee. Our dealings with it have left me speechless. 6 I believe they are tasked with making the decision as to 7 whether a tower should be installed or not, or modified or 8 not. Why the Tower Committee was established, I don't 9 know. As interested parties, citizens may attend the 10 meetings, but they may not talk or ask questions. Verizon, 11 on the other hand, has an open mic. In addition, the Tower 12 Committee appears to be making decisions based on 13 information they do not have. For example, they use the 14 propagation maps provided by the applicant to verify there 15 is a lack of coverage in an area without ever having the 16 data to support this map. This is like a teacher looking 17 at a student's pie chart and saying it's correct, but never 18 looking at the underlying data to verify the pie chart is 19 correct. Further, in our case, the tower committee did not 20 review the amended application by Verizon. Before Verizon 21 ever sent the amended application, Parks and Planning told 22 the tower committee that the changes were to be cosmetic 23 only and therefore, the amended application did not have to 24 be reviewed again by the tower committee. And there were 25 engineering changes. I think one of the most egregious</p>
<p>669</p> <p>1 they have any idea how big the tower would be with that 2 growth and enclosure that would start at 700 square feet 3 but will end up at 1280 square feet with other carriers 4 moving in equipment? Of course they don't, because Verizon 5 did not provide photo simulations of this. I have brought 6 a photo of a tree that is big. I really do apologize that 7 it's a tree lying on a car, but it's the only one I could 8 find and it clearly says an 8-foot diameter and that's what 9 it looks like. And I'm looking at Exhibit 8. That's how 10 big that is. As you can see, the trunk is huge. Imagine 11 this towering over us in the parking lot and pool deck. No 12 wonder our green field has to be destroyed to make way for 13 this industrial installation. Parks and Planning made some 14 effort at hiding the tree from the street, but I think even 15 they realize it's a fool's errand and even tried to hide 16 the base of the tree in the 20 x 29' enclosure from those 17 actually in the recreation area and so have not attempted 18 to do so. If approved, the space will be a cell tower site 19 with a pool and tennis courts next to it. I don't know 20 whether to laugh or cry when I saw Parks and Planning 21 approved the tower as long as the foliage was in place. 22 And besides which, who will pay for the installation and 23 maintenance of the trees was more the trees will not be on 24 Verizon's square of land and the East Gate Recreation does 25 not have the funds to do so. We were told in November,</p>	<p>671</p> <p>1 statements I ever heard came from a Tower Committee member, 2 Ted Bowser. When we asked him at the Tower Committee 3 meeting -- I'm sorry -- after a Tower Committee meeting, 4 how were decisions made to approve applications, he said, 5 and I'm quoting, we do not read the application. We might 6 give it a cursory glance before the meeting, but really, 7 we're just a rubberstamp. We are just a rubberstamp. I 8 think his comment sums up Verizon's feelings and hours in 9 this application process. No wonder they could be sloppy 10 and/or misleading. They thought no one would care. I'm 11 sure some of you are wondering why Mr. Ferber would build a 12 tower next to this property if they lower home values and 13 cause health issues. Do remember my exhibit from earlier? 14 The one in which 79 percent of respondents would not 15 consider buying a house within a few blocks of a tower? 16 Well, Mr. Ferber is not in that group. He is in the 21 17 percent who don't care. As for Mrs. Ferber, she explained 18 to me and my husband at the meeting that her husband had 19 not told her he was signing the lease with Verizon until 20 after he had done so. So I guess, like it or not, she will 21 have to deal with it. Madame Examiner, one of the 22 applicants, the other one that's the other half being 23 amazingly absent, has stated frequently and emphatically 24 throughout their application and testimony that this tower 25 will not interfere with the harmonious enjoyment of the</p>


Transcript of Hearing - Day 2
Conducted on September 27, 2017

82 (672 to 675)

<p style="text-align: right;">672</p> <p>1 neighborhood and recreation area. They are dead wrong. 2 His application to turn that green space into an industrial 3 site has wreaked havoc in our neighborhood already. This 4 is a small place. The majority of us have lived here a 5 long time and we've always got along really well. That 6 tower has changed all that. No one looks up when they are 7 walking or waves from the drive-by anymore. The 8 (inaudible) members who invited this blight into our 9 neighborhood and kept it secret for all those years from 10 the neighbors and pool members, have been ostracized. I 11 know of at least one couple who tried to move this summer 12 because of the tower, me. And I know a number of families 13 have left the pool. Please do not, for all the reasons 14 that have been raised during this proceeding; the failure 15 to meet the setbacks on any part of the land for an 89-foot 16 tower, the loss of economic value, the lack of evidence of 17 need, and the fact the tower will not be harmonious and 18 will alter the character of the surrounding neighborhood; 19 please do not allow this intrusion into our lives to 20 continue. We would like to continue as we have two enjoy 21 our lovely, bucolic, friendly community and a dip in the 22 pool. 23 TAMMY CITRAMANNIS: I will give you this back. I just 24 need the ones that are marked. 25 GREER DELLAFIORA: Okay.</p>	<p style="text-align: right;">674</p> <p>1 submit testimony. 2 FEMALE VOICE: I know that I have stuff that's 3 different (inaudible). 4 TAMMY CITRAMANNIS: Okay. I'm not trying to dissuade 5 people from the testimony. I'm just saying that what both 6 of them were saying, were set a little differently, but 7 they were very similar. And if that is your point and you 8 want to just add to it and say, I agree with Ms. Dellafiora 9 or Ms. Reznik, but I would like to add two more points, 10 that would be fine. I'm just trying to get everybody up 11 and out because we don't have much time. I'm not even sure 12 how long we can stay here. But the goal is to leave at 13 6:00, and of course -- 14 THOMAS BARNARD: Madam Examiner, I would say from my 15 perspective, (inaudible) I have continued objections to 16 scope and personal attack Comments, I would waive any 17 cross-examination if they would like to submit written 18 statements and those to go on to the record. 19 MALE VOICE: (Inaudible) have (inaudible) statements 20 (inaudible). 21 TAMMY CITRAMANNIS: At this point, we would have to 22 discuss that. That was not the focus of having the next 23 meeting, but we might -- I mean, how many more people want 24 to present something? We have one, two, three, four, five. 25 Is that -- did I count correctly?</p>
<p style="text-align: right;">673</p> <p>1 TAMMY CITRAMANNIS: Okay. Thank you. All right, 2 ladies and gentlemen, court reporter -- I have to check 3 with the court reporter because I said 6:00. You've heard 4 a great deal of detail from both Ms. Reznik and Ms. 5 Dellafiora, and certainly if you want to agree with it as 6 your testimony, that will save time because if you're going 7 to say exactly the same thing they said over and over, he 8 gets more repetitive, but at the same time, they both were 9 pretty clear, pretty thorough. So just in the interest of 10 time, if you want to say I agree with them and have that be 11 your testimony, then we can leave at a reasonable time. 12 MALE VOICE: (Inaudible). 13 TAMMY CITRAMANNIS: I'm sorry. 14 MALE VOICE: Will we be able to testify the next 15 meeting? 16 TAMMY CITRAMANNIS: That was not the plan because we 17 were going to try to it all done here today. That hearing 18 is -- was supposed to be limited, but looking at all the 19 people, I'm not sure if -- otherwise, I'm -- 20 FEMALE VOICE: (Inaudible) could submit a written 21 testimony. 22 TAMMY CITRAMANNIS: Absolutely can submit a written 23 and indicate that you are here. It's up to them because 24 they have the right to cross-examine if that is fine with 25 them, but we can do that. Otherwise, well, you can still</p>	<p style="text-align: right;">675</p> <p>1 MALE VOICE: But there might be some people who left. 2 CHERYL WETTER: (Inaudible). 3 TAMMY CITRAMANNIS: Part of me. 4 CHERYL WETTER: Some people left. (Inaudible) today. 5 That gentlemen? 6 TAMMY CITRAMANNIS: Nobody is scheduled for anything. 7 I was scheduled -- today was the hope that we were going to 8 get all individuals in. 9 MALE VOICE: (Inaudible) put a time limit on people. 10 Say five minutes, speak for five minutes. That would help. 11 TAMMY CITRAMANNIS: I really can't do that technically 12 unless -- 13 BILL CHEN: Been there, done that. 14 TAMMY CITRAMANNIS: Huh? 15 BILL CHEN: Been there, done that. 16 TAMMY CITRAMANNIS: Yeah, would like to do times, but 17 I don't think that I can do that. Ms. Wetter? 18 CHERYL WETTER: As party of record, can I go on the 19 13th was Mark that will save time here and then -- 20 TAMMY CITRAMANNIS: Yes. 21 CHERYL WETTER: -- It is still going -- okay. 22 TAMMY CITRAMANNIS: I mean -- 23 CHERYL WETTER: And also -- 24 TAMMY CITRAMANNIS: Yeah, I mean -- 25 SUSAN LEE: You are already going on the 13th.</p>

Transcript of Hearing - Day 2
Conducted on September 27, 2017

83 (676 to 679)

<p>676</p> <p>1 CHERYL WETTER: Right.</p> <p>2 TAMMY CITRAMANNIS: Right.</p> <p>3 SUSAN LEE: I have a note. I just really encourage</p> <p>4 you to be able to accommodate everyone who is wanting to</p> <p>5 speak even if you have --</p> <p>6 TAMMY CITRAMANNIS: I think that's what I'm trying to</p> <p>7 do.</p> <p>8 SUSAN LEE: Even if you have to add another day</p> <p>9 because their people who were here two days and stayed all</p> <p>10 day and (inaudible).</p> <p>11 TAMMY CITRAMANNIS: I hear you. I just --</p> <p>12 SUSAN LEE: (Inaudible).</p> <p>13 TAMMY CITRAMANNIS: I'm just trying to pose that to</p> <p>14 the audience and some people might say, yeah, not really</p> <p>15 want to speak, but I want to count as if I did speak</p> <p>16 because it is an option. But if we have five more people</p> <p>17 and you should speak for as long as they did, we're not</p> <p>18 going to get out of here until 1:00 and I -- I'm not -- I</p> <p>19 can't say that late. We have a court reporter. So -- and</p> <p>20 that means that people have to come back because -- and</p> <p>21 come back at 9:30 in the morning on a Friday and I don't</p> <p>22 know if that's a problem for some people, but we can keep</p> <p>23 continuing this hearing because we are close to -- they</p> <p>24 presented their case. They each have one more witness.</p> <p>25 THOMAS BARNARD: How about this Madam Examiner? How</p>	<p>678</p> <p>1 heard so I think that's a good compromise and we will see</p> <p>2 you either on the 13th or we will see your testimony as if</p> <p>3 you came here. Thank you everybody. Okay. With regards</p> <p>4 to the attorneys, I know I have a few items that -- I'll</p> <p>5 just send you an email --</p> <p>6 THOMAS BARNARD: Okay. Fine.</p> <p>7 TAMMY CITRAMANNIS: Asked to tidy up things.</p> <p>8 Otherwise that's one thing though, those exhibits you have</p> <p>9 --</p> <p>10 GREG DIAMOND: Do you want us to (inaudible)?</p> <p>11 TAMMY CITRAMANNIS: Keep them and bring them to the</p> <p>12 13th.</p> <p>13 GREG DIAMOND: (Inaudible).</p> <p>14 BILL CHEN: Okay. I -- yeah, you answered my</p> <p>15 question. Yeah.</p> <p>16 TAMMY CITRAMANNIS: All right.</p> <p>17 (Off the record at 6:20 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>677</p> <p>1 about we set it on the 13th, a couple of hours (inaudible).</p> <p>2 How about on the 13th, we leave a couple of hours to take</p> <p>3 additional statements and then folks have an opportunity to</p> <p>4 either come and submit and give a statement, or they don't</p> <p>5 want to come back, they can submit by written letter to</p> <p>6 your office and those can be added as exhibits on the 13th,</p> <p>7 first thing?</p> <p>8 TAMMY CITRAMANNIS: That -- I mean, that's -- that</p> <p>9 sounds good to me. Yes? Okay. So at this point, then we</p> <p>10 will do that. It's at 6:20. By the time everybody gets</p> <p>11 out of here and I get this locked up and take all this</p> <p>12 stuff down, we're pushing it. So we will come back on the</p> <p>13 13th, 9:30 we will start. Those of you who cannot make</p> <p>14 that, but what your testimony as if you set up here, you</p> <p>15 can submit that testimony and it will go into the record as</p> <p>16 if you showed up here based on the applicant's agreement to</p> <p>17 that. Am I correct?</p> <p>18 MALE VOICE: Yes.</p> <p>19 TAMMY CITRAMANNIS: Yes. I have an agreement. So one</p> <p>20 of the other. You can show up or you can submit your</p> <p>21 testimony in lieu of city where Ms. Reznik and Ms.</p> <p>22 Dellaflora did, or you can, give your testimony, but that</p> <p>23 is that hopefully you will pair your points down to add to</p> <p>24 them, not repeat. Does that make sense everybody? Okay.</p> <p>25 I appreciate everybody's patients. I want everybody to be</p>	<p>679</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, MOLLY BUGHER, do hereby certify that the foregoing</p> <p>3 transcript is a true and correct record of the recorded</p> <p>4 proceedings; that said proceedings were transcribed to the</p> <p>5 best of my ability from the audio recording and supporting</p> <p>6 information; and that I am neither counsel for, related to,</p> <p>7 nor employed by any of the parties to this case and have no</p> <p>8 interest, financial or otherwise, in its outcome.</p> <p>9</p> <p>10 </p> <p>11 _____</p> <p>12 Molly Bugher</p> <p>13 DATE: October 6, 2017</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>