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Transcript of Hearing - Day 1

Date: January 31, 2022

Case: EYA Development, LLC

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Transcript of Hearing - Day 1
January 31, 2022

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2	FOR MONTGOMERY COUNTY, MARYLAND	2	KIP EDWARDS
3	-----x	3	CYNTHIA WERTZ
4	In Re: :	4	KATY PREBBLE
5	EYA DEVELOPMENT, LLC, and :	5	
6	BL STRATHMORE, LLC : Case No. LMA H-143	6	
7	-----x	7	
8		8	
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10	(Held Remotely)	10	
11	Before Hearing Examiner Derek Baumgardner	11	
12	Rockville, Maryland	12	
13	Monday, January 31, 2022	13	
14	9:37 a.m.	14	
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2 (5 to 8)

<p style="text-align: right;">5</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER BAUMGARDNER: -- County Office of</p> <p>3 Zoning and Administrative Hearings. This is case LMA 143,</p> <p>4 the rezoning of a property located at 4910-4920 Strathmore</p> <p>5 Avenue located in Montgomery County Maryland. This is an</p> <p>6 application to rezone the property from the R60 zone to the</p> <p>7 CRNF, which is commercial residential neighborhood loading</p> <p>8 zone.</p> <p>9 If everyone can go on camera if you have the</p> <p>10 ability to do so, we're going to go over some basics of this</p> <p>11 particular format, some basics of the hearing process we have</p> <p>12 here at OZAH. We will identify the parties of record and</p> <p>13 anyone else who is logged in so we can begin shortly. As I</p> <p>14 mentioned, my name is Derek Baumgardner. I'm the Hearing</p> <p>15 Examiner for this particular case, which means that I will</p> <p>16 listen to you today, taken evidence, write a decision, or in</p> <p>17 this case a recommendation, which will then be forwarded to</p> <p>18 the Montgomery County Council sitting as the district</p> <p>19 council. You may request oral argument if you do not like</p> <p>20 that decision, in front of the district council after that</p> <p>21 decision is rendered.</p> <p>22 A couple of basics, we are joined by our court</p> <p>23 reporter, Austin Costello. We thank him very much for being</p> <p>24 here. This hearing is also being recorded, which I will</p> <p>25 start now. You should be seeing a banner roll across the top</p>	<p style="text-align: right;">7</p> <p>1 that problem on Friday where there was a loud heating unit in</p> <p>2 the office that was causing interference. Please do not have</p> <p>3 two devices are locked into this platform in the same room.</p> <p>4 If you have a phone and a laptop or two separate</p> <p>5 devices, that can also cause a lot of interference between</p> <p>6 those two devices. We're going to avoid crosstalk or</p> <p>7 interrupting folks as they are testifying, that -- we avoid</p> <p>8 that during regular hearings. We are especially cognizant of</p> <p>9 that over the virtual hearing format as it becomes difficult</p> <p>10 for the court reporter to hear what is going on and it</p> <p>11 becomes difficult for me to hear what is going on.</p> <p>12 The general process for these hearings is that the</p> <p>13 Applicant will go first. They will have the opportunity to</p> <p>14 present their case in chief. They will call any witnesses</p> <p>15 that they would like to call. They will ask that witness</p> <p>16 questions. Other folks who are logged in will have the</p> <p>17 opportunity to ask that witness questions as well. When that</p> <p>18 witness is done, the Applicant will move on to their next</p> <p>19 witness.</p> <p>20 The Applicant will call as many witnesses as they</p> <p>21 like. When they are done they will close their case in chief</p> <p>22 and then we will turn it on -- turn it over to any other</p> <p>23 parties that would like to call witnesses or ask questions.</p> <p>24 Counsel for the Applicant will then have the ability to</p> <p>25 cross-examine or to ask questions of those witnesses. The</p>
<p style="text-align: right;">6</p> <p>1 of your screen. We also have the court reporter transcript</p> <p>2 which will be available within 10 days after the hearing as</p> <p>3 our primary transcript with the Microsoft Teams recording as</p> <p>4 a backup.</p> <p>5 A couple of rules about our cases here today, the</p> <p>6 procedures and how we will be moving forward. But no doubt</p> <p>7 you can tell we're using a virtual hearing format called</p> <p>8 Microsoft Teams. This allows us to have remote or virtual</p> <p>9 hearings. There are a couple of things that you should be</p> <p>10 keeping in mind. First, when you are speaking, please speak</p> <p>11 somewhat slowly and clearly. If you can intensely articulate</p> <p>12 your words, that is very helpful.</p> <p>13 Often times the microphones can have difficulty</p> <p>14 picking certain things up. Please sit close to your device,</p> <p>15 whatever you might be using, so that there is not a lot of</p> <p>16 distance. That can also cause interference or otherwise make</p> <p>17 it difficult for everyone to hear what you're saying. If you</p> <p>18 have any problems with the virtual format we're using or if</p> <p>19 you get kicked off or something like that, our phone number</p> <p>20 for the office is 240 (inaudible) 7-6663. And again, the</p> <p>21 numbers 240-777-6663.</p> <p>22 A couple of ground rules regarding our hearings in</p> <p>23 the virtual hearing format. Please mute yourselves when you</p> <p>24 are not speaking or asking a question. Often times</p> <p>25 background noise, kids, pets, doors, heating units, we had</p>	<p style="text-align: right;">8</p> <p>1 community members, other folks, that will be your opportunity</p> <p>2 to provide direct testimony regarding this application.</p> <p>3 So the first phase, we're going to hear from the</p> <p>4 Applicant and their witnesses. In the second phase, we will</p> <p>5 hear from any community members in support or in opposition</p> <p>6 to this application. That's -- both sides will be given the</p> <p>7 opportunity to give an opening statement if they so wish. In</p> <p>8 both sides will be able to give a closing statement if they</p> <p>9 so wish.</p> <p>10 In this particular case we have three parties of</p> <p>11 record. We have the Applicant, who is represented by Ms.</p> <p>12 Girard. We have the community association who is represented</p> <p>13 by Mr. Shaffer. And then we have Mr. Burdin as well who --</p> <p>14 my understanding is representing -- or not representing, will</p> <p>15 be speaking for himself today. So what I would like to do</p> <p>16 right now is to verify and identify counsel for the two</p> <p>17 parties. And then Mr. Burdin.</p> <p>18 And then after that we will identify anyone else</p> <p>19 who is interested in testifying here today or tomorrow who is</p> <p>20 not represented by counsel. So we will start with counsel</p> <p>21 first and we will start with the Applicant's counsel. And if</p> <p>22 you can, identify yourself for the record. Please give us</p> <p>23 your name, your personal address, and your professional email</p> <p>24 address.</p> <p>25 MS. GIRARD: Sure. Good morning everyone. This</p>

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<p style="text-align: right;">9</p> <p>1 is Erin Girard with Miles & Stockbridge, 11 N. Washington 2 Street, Suite 700, Rockville, Maryland. Email, it's a long 3 one, EGirard@MilesStockbridge.com. And I'm here on behalf of 4 Applicants. 5 MR. BAUMGARDNER: Thank you, Ms. Girard. Can you 6 introduce who you have with you here today? 7 MS. GIRARD: Sure. With me here today is Jack 8 Lester. He is going to be our first witness with EYA 9 Development LLC. Then we will call Brenda Bacon. She's with 10 BL Strathmore LLC, the Applicant, Jeff Amateau from Vika, 11 Josh Sloan from Vika, Katie Wagner from Gorove/Slade and also 12 in attendance on our side we have Pam Lee with EYA, Wyndham 13 Robertson with EYA, Ken Segarnick with Brandywine. Did I get 14 everyone on our side? I think that's it for our side. 15 MR. MCLAURIN: Jack McLaurin. 16 MS. GIRARD: Oh, sorry, Jack. And Jack McLaurin, 17 we identified as a potential witness. I don't intend to call 18 him as our case in chief. He is more rebuttal if needed. 19 MR. BAUMGARDNER: All right. Thank you, very 20 much. Mr. Shaffer, are you with this, sir? 21 MR. SHAFFER: Yes. Can you hear me okay? 22 MR. BAUMGARDNER: Yes, we can. 23 MR. SHAFFER: Okay. 24 MR. BAUMGARDNER: Can you give us your name, your 25 professional address, and your professional email address,</p>	<p style="text-align: right;">11</p> <p>1 retired. I do live on Strathmore right next to the 2 development. And my email is DBurdin@Verizon.net. 3 MR. BAUMGARDNER: Thank you. And so we can make 4 sure that things are getting mailed to the right place, what 5 is your home address, sir? Mr. Burdin, are you still there? 6 COURT REPORTER: Looks like you may have muted 7 yourself. 8 MS. BEHANA: Yeah, Mr. Burdin, you are on mute. 9 No, take it off one more time. You had it for a second. At 10 the top of the page there is a microphone next to the camera. 11 MR. BAUMGARDNER: So I can do it Sara. 12 MS. BEHANA: Okay. 13 MR. BURDIN: Okay. 14 MR. BAUMGARDNER: There you go. 15 MR. BURDIN: That's good, right? 16 MR. BAUMGARDNER: Yes, that is good. 17 MR. BURDIN: Thought I had it. Douglas Scott 18 Burdin, 5112 Strathmore Avenue, Rockville, Maryland, 20852. 19 And email is DBurdin@Verizon.net. 20 MR. BAUMGARDNER: Perfect. Thank you, sir. A 21 couple of things I missed earlier in this Microsoft Team's 22 platform are the icons. If you look at your screen towards 23 the top towards the right hand side there are several icons. 24 If you roll your cursor over the first one it kind of looks 25 like two little people I suppose. That is the show</p>
<p style="text-align: right;">10</p> <p>1 please? 2 MR. SHAFFER: David Shaffer, I'm with David 3 Shaffer Law PLLC at 1629 K Street NW, Washington DC, Suite 4 300, 20006. My email is David.Shaffer@DavidShafferLaw.com 5 MR. BAUMGARDNER: Thank you, very much, sir. Can 6 you identify who you have here today including witnesses? 7 MR. SHAFFER: I have Ted Edwards, president of the 8 (inaudible) Parks Association. I have Arthur Rubinstein, a 9 member of the Association, who lives on Strathmore. And I 10 may have Vanessa Wright (sic), but I'm not sure if she is 11 here or not. 12 MR. BAUMGARDNER: Okay. Thank you, very much. 13 MR. RIBEIRO: Can I just interrupt? Sorry. My 14 name is not Arthur Rubinstein. My name is Arthur Ribeiro. 15 MR. SHAFFER: I apologize, Arthur. Names have 16 never been a strong point of mine. 17 MR. BAUMGARDNER: Noted. Thank you very much, 18 sir. And now if we can identify any -- so we have Mr. Burdin 19 as well. Mr. Burdin, are you there sir? 20 MR. BURDIN: Yes, I am. 21 MR. BAUMGARDNER: Please give us your full name, 22 your business address, and a good email address for you, 23 please. 24 MR. BURDIN: Okay. My name is Douglas Scott 25 Burdin. I do not have a business address because I'm</p>	<p style="text-align: right;">12</p> <p>1 participants tab. If you click on that it should bring a 2 drop-down box on the right-hand side of your screen which 3 shows the names of folks who are signed in here today. 4 To the right of that is the show conversation or 5 the chat feature. We do not use the chat feature. That 6 allows you to send messages and things like that. We do not 7 use that for hearings. To the right of that is another icon. 8 If you roll your cursor over it will bring down several 9 emoticon type things. The only one of those that we do use 10 is the virtual raise your hand feature. It looks like a 11 little hand giving you a high-five. 12 If you have a question, if you have an issue, if 13 there is something that you're trying to bring to my 14 attention, you can raise your virtual hand by clicking on 15 that hand. That pops up on my screen and let me know that 16 you have a particular issue. As we have a lot of folks 17 assigning today that will be helpful because there's only so 18 many little windows that I can see at one time during the 19 hearing. 20 And then to the right of that, one, two, three 21 over, or the toggles to be able to control your video, your 22 audio, and then your share screen feature, which most of you 23 will probably not be using the share screen feature today. 24 All right. So turning back over to identifying folks. If 25 there's anyone who would like to testify either today or</p>

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<p style="text-align: right;">13</p> <p>1 tomorrow or possibly Wednesday, today who is not represented 2 by counsel and it is not the Applicant, Mr. Shaffer, or Mr. 3 Burdin, please identify yourself for the record and give me 4 your address and a good email address. So now is the time to 5 unmute yourself. And again, this is for folks who would like 6 to testify who are not represented by counsel. 7 MS. WEITZ: Hello. 8 MR. BAUMGARDNER: Yes, ma'am. 9 MS. WEITZ: Yes. I may want to testify. 10 MR. BAUMGARDNER: Okay. 11 MS. WEITZ: I have some restrictions with my time 12 today and tomorrow though. My name is Cynthia Weitz and I am 13 a resident at 5305 Strathmore Avenue in Kensington. And I am 14 a member of the Strathmore Place Homeowners Association. 15 MR. BAUMGARDNER: Okay. You have a good email 16 address, ma'am? 17 MS. WEITZ: Yes, I do. It is WeitzCyn@MSN.com 18 MR. BAUMGARDNER: Thank you, very much. And who 19 also like to testify here today is not represented by 20 counsel? 21 MS. PREBBLE: I would like to identify and testify 22 today. 23 MR. BAUMGARDNER: Okay. 24 MS. PREBBLE: My name is Katie Prebble. I'm the 25 president of the Academy of the Holy Cross. We are at 4920</p>	<p style="text-align: right;">15</p> <p>1 20896. 2 MR. BAUMGARDNER: Thank you, Councilwoman. 3 All right. With that, I do want to mention if you 4 see my head down, I am writing notes. Or if you see my head 5 turned towards war right and my left, I have a second screen. 6 So I'm not off doing other items. I am taking notes longhand 7 because that's how I do things, or using a second screen to 8 look at the exhibits that are referenced during the hearing. 9 With that, we're going to begin our hearing. 10 Before we start the Applicant's case in chief, are 11 there any preliminary matters that we have to do with first 12 Ms. Girard? 13 MS. GIRARD: Not for me. 14 MR. BAUMGARDNER: Mr. Shaffer, were there any 15 preliminary matters that we needed to handle first? 16 MR. SHAFFER: No, but your face just disappeared 17 from my screen. So is that something everybody is seeing or 18 is that just on my computer? 19 MR. BAUMGARDNER: So depending upon the setting 20 you have on Teams, sometimes as a voice-activated setting or 21 it can be a screen activated setting. There are a number of 22 different formats that each individual person can set up with 23 Teams depending on how they would like to view the screen. 24 MR. SHAFFER: (Inaudible). 25 MR. BAUMGARDNER: It could be that.</p>
<p style="text-align: right;">14</p> <p>1 Strathmore Avenue. In my email address is KPrebble -- first 2 initial, last name -- @AcademyoftheHolyCross.org. 3 MR. BAUMGARDNER: Thank you very much, ma'am. Is 4 there anyone else who would like to testify here today? I 5 say virtual hand raised by a Vanessa Lide, Lide. 6 MS. LIDE: Lide, yes. I'm just clarifying that 7 yes, I am here and I will testify with the Garrett Park 8 Estates White Flint Park group. 9 MR. BAUMGARDNER: Okay. Will you be testifying in 10 your own capacity or as with the Association? 11 MS. LIDE: I will happily testify with the 12 Association (inaudible). 13 MR. BAUMGARDNER: Okay. 14 MR. SHAFFER: I'll do the direct on her. This is 15 David Shaffer. 16 MR. BAUMGARDNER: Understood. Thank you very 17 much, Mr. Shaffer. Going down the line, we also have Gerilee 18 Bennett as well. 19 MS. BENNETT: Hello, can you hear me? 20 MR. BAUMGARDNER: Yes, ma'am. 21 MS. BENNETT: Great. Yes, my name is Gerille 22 Bennett. I'm in town councilmember represented the town of 23 Garrett Park and I would like to testify today or tomorrow. 24 My email address is CouncilGerilee@GarrettParkMD.gov. And 25 our mailing address is PO Box 84, Garrett Park, Maryland,</p>	<p style="text-align: right;">16</p> <p>1 MR. SHAFFER: All right. I'll sign out and sign 2 back on I will do it quickly. 3 MR. BAUMGARDNER: Mr. Burdin, any preliminary 4 issues that we need to deal with, sir? 5 MR. BURDIN: Not that I'm aware of. 6 MR. BAUMGARDNER: Okay, great. Then we will begin 7 our case in chief. I will turn it over to the Applicant's 8 counsel, Ms. Girard, for an opening statement if she so 9 desires. And then we will get into our first witness. 10 One nice thing about the timing of today. I 11 intend to break for lunch at 12:00 noon and we will do in our 12 lunch from 12:00 until 1:00 and then reconvene at 1:00 and 13 then go probably until 4:30 or so if that works for everyone. 14 We will do the same thing tomorrow and if we need a day, the 15 same thing on a Wednesday. So again, we will go from now 16 until noon and I will break for lunch and then reconvene at 17 1:00. So with that said, I will turn it over to Mr. R to 18 start her opening and then her case in chief. 19 MS. GIRARD: Good morning. Erin Girard again for 20 the record on behalf of the Applicants EYA Development LLC 21 and BL Strathmore LLC. As noted, this application is for 22 4910 and 4920 Strathmore Avenue in North Bethesda. This 23 application was submitted that's a local map amendment was 24 submitted on August 4, 2021, seeking a rezoning to the CR 25 zone. The -- or CRT zone -- CRN zone. Excuse me, sorry.</p>

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<p>17</p> <p>1 After that although is not technically required</p> <p>2 as part of the application process laid out in the zoning</p> <p>3 ordinance there has been a significant amount of outreach</p> <p>4 done as part of this application, which Mr. Lester will get</p> <p>5 into in his testimony. There also has been a significant</p> <p>6 amount of community involvement as noted in section 5 of the</p> <p>7 staff report, the staff report being Exhibit 62.</p> <p>8 The staff report went to great lengths to explain</p> <p>9 the concerns that were raised and how they were addressed.</p> <p>10 And the Applicant has been -- Applicants have been very</p> <p>11 involved in that as well offering their consultants to</p> <p>12 provide additional information to staff and address community</p> <p>13 concerns. Everything that we have heard in our various</p> <p>14 outreach meetings we have taken care to address one way or</p> <p>15 the other. As a result of all these efforts and as a result</p> <p>16 of all -- addressing all the technical requirements, staff</p> <p>17 recommended approval of the application to the planning</p> <p>18 board.</p> <p>19 The planning board recently recommended</p> <p>20 unanimously that the Hearing Examiner and county council</p> <p>21 approved this local map amendment. I just wanted to take a</p> <p>22 minute to note the major issue that has emerged in this case</p> <p>23 is traffic, which is not unusual. There is a feeling amongst</p> <p>24 the community that there can be no way in which this can't</p> <p>25 make things worse, that if you're adding this type of density</p>	<p>19</p> <p>1 conditions would be in the future.</p> <p>2 So the Applicants were asked to do a supplemental</p> <p>3 analysis which they have done, which is in the record. That</p> <p>4 will be reviewed by Ms. Wagner in her testimony. But that</p> <p>5 demonstrated a need for some turning lanes in a signal at the</p> <p>6 new entrance. That is all detailed in that report. That</p> <p>7 still met with some criticism on behalf of the community that</p> <p>8 perhaps of the supplemental analysis which used historical</p> <p>9 counts and it also applied growth factors into the very</p> <p>10 conservative estimate as to things like the enrollment at the</p> <p>11 school. It used in the number 600, which I believe it is in</p> <p>12 the record that they don't intend to go above 400. But very</p> <p>13 conservative analysis to do that, the supplemental analysis.</p> <p>14 But still there was some concern. So the</p> <p>15 Applicants went another step above and beyond and they had</p> <p>16 additional counts done in December and those are in the</p> <p>17 record as well. They will be explained by Ms. Wagner. But</p> <p>18 that showed a consistency with the numbers used in the</p> <p>19 supplemental analysis. So we are very confident that the</p> <p>20 numbers in the analysis that we are using with regard to</p> <p>21 traffic is verifiable, is accurate, and as Ms. Wagner will</p> <p>22 explain, will actually improve the situation.</p> <p>23 So as detailed in the staff report, as detailed in</p> <p>24 our application materials, we feel that this project clearly</p> <p>25 complies with all the findings for people contained in</p>
<p>18</p> <p>1 it will automatically make things worse.</p> <p>2 And while we understand that, as will be explained</p> <p>3 by Ms. Wagner, this actually is going -- this application</p> <p>4 would actually improve many of the exacerbating issues that</p> <p>5 are happening out on those roads today. There is an offset</p> <p>6 intersection between this existing school entrance and</p> <p>7 Stillwater Drive to the north. There is a lack of</p> <p>8 appropriate turning lanes and there is a lack of a signal</p> <p>9 that will get people through.</p> <p>10 So in a very real way this application will be</p> <p>11 improving upon existing conditions that are out there today.</p> <p>12 I also wanted to note that on the issue of traffic the</p> <p>13 Applicants have gone above and beyond what is typically</p> <p>14 required for this type of application. As would usually be</p> <p>15 the case, as part of this submission there was a traffic</p> <p>16 study done in accordance with the LATR guidelines. And that</p> <p>17 actually showed that no mitigation was required as part of</p> <p>18 the application.</p> <p>19 However, understanding that there were going to be</p> <p>20 concerns on behalf of the community and addressing concerns</p> <p>21 addressed by the State Highway administration and the</p> <p>22 Montgomery County Department of Transportation that perhaps</p> <p>23 the memorandum used by the planning board that applies a</p> <p>24 growth factor to current accounts to account for the</p> <p>25 pandemic, that that maybe was out reflecting what the actual</p>	<p>20</p> <p>1 section 59.7.2.1.E of the zoning ordinance. That's all for</p> <p>2 my opening statement. I can proceed with my first witness if</p> <p>3 you're ready.</p> <p>4 MR. BAUMGARDNER: That would be great, thank you.</p> <p>5 MS. GIRARD: So first we are going to call Jack</p> <p>6 Lester.</p> <p>7 MR. LESTER: (Inaudible).</p> <p>8 MR. BAUMGARDNER: Good morning. Okay, that's --</p> <p>9 I'm having feedback now. Let's see if this fixes it. All</p> <p>10 right. Mr. Lester, can you give us your full name, your</p> <p>11 business address, and a good email address for you, please?</p> <p>12 MR. LESTER: Yes. My name is Jack Lester. My</p> <p>13 business address is 4800 Hampton Lane, Suite 300, Bethesda,</p> <p>14 Maryland, 20814. My email is JLester@EYA.com</p> <p>15 Do you swear or affirm under the penalties of</p> <p>16 perjury that the testimony you're about to give is the truth,</p> <p>17 the whole truth?</p> <p>18 MR. LESTER: I do.</p> <p>19 MR. BAUMGARDNER: Thank you, very much. Ms.</p> <p>20 Girard, the witness is yours.</p> <p>21 MS. GIRARD: Thank you. Mr. Lester, what is your</p> <p>22 educational and professional background?</p> <p>23 MR. LESTER: First Erin, I just want to thank</p> <p>24 everyone. I want to thank the Court for making this day</p> <p>25 possible, the staff that's done the work to get in here and</p>

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<p>21</p> <p>1 all of the participants. Yes, I have a bachelors in science 2 and finance and economics and a Masters in business 3 administration. I've been in the homebuilding and real 4 estate development industry for 30 -- more than 30 years now. 5 I guess 31. 25 of those have been in the DC market. And the 6 past 17 I've spent at EYA.</p> <p>7 MS. GIRARD: And can you review your experience 8 with the design and construction of residential projects in 9 Montgomery County particularly?</p> <p>10 MR. LESTER: Yes, both EYA and we personally have 11 had a great deal of experience. EYA is a 30-year-old 12 company. We have developed or are in the process of 13 developing 50 projects. 13 of those projects have been -- 14 are ongoing in Montgomery County. My role over these past 17 15 years of engaged in 10 of those. Most recently I've led our 16 work on the Cabin John Village development that's been built, 17 Grosvenor Heights, which we completed a few years back, and 18 Westwood Village that is in the design and entitlement base. 19 All three are mixed-use, for sale townhome communities within 20 a larger existing neighborhoods.</p> <p>21 The primary focus of our firm is to create best in 22 class and, close-in, walkable neighborhoods that positively 23 impact the folks that live there and the communities in which 24 they are being built in a socially responsible way. And we 25 do this through three primary ways. Number one is through</p>	<p>23</p> <p>1 EYA is 100 person company. We have folks like 2 myself who are at the very start of the project through the 3 site selection and entitlement, but then all the way through. 4 The land development is overseen by EYA people. We serve as 5 our own general contractor. We sell, market, and warrant the 6 homes that we build. So we maintain control of that process 7 and through that we are able to mitigate impacts to the 8 surrounding neighborhood.</p> <p>9 MS. GIRARD: And with that in mind, Mr. Lester, 10 can you explain why you chose this proposed location for the 11 project?</p> <p>12 MR. LESTER: Yes. EYA is very selective in the 13 projects that it pursues. As I mentioned, in our 30 -- now 14 over 30 years, we have built or developed or are in the 15 process of 50 -- develop 50 projects. We select 1 to 2 per 16 year and in that we invest our time and our energy and our 17 creative thinking and resources into each of those projects. 18 Our primary criteria for choosing a site is consistency with 19 our brand promise and the commitment we make to our 20 customers. Our tagline, which is more than a marketing 21 tagline, is life within walking distance. And that is the 22 first criteria for the sites that we select.</p> <p>23 This site clearly has that with accessibility to 24 amenities, schools, transit. And so it checks many of the 25 boxes for us. The other key element that appeals to us is</p>
<p>22</p> <p>1 careful site selection. We choose to build where there is 2 existing infrastructure so that our communities don't 3 contribute to sprawl.</p> <p>4 We focus on areas that offer access to employment 5 centers, amenities, transit, retail, and excellent schools. 6 Next we thoughtfully plan our communities considering 7 integration and connection to the existing neighborhood. 8 When Hansen encourage these connections through thoughtful 9 design that encourages walking and biking and creates 10 opportunities for community gathering. Lastly, we develop 11 unique and exceptional architecture for each community that 12 fits within the larger context of the surrounding 13 neighborhood.</p> <p>14 We have an in-house architect who researches 15 existing community and designs homes that are appropriate 16 within that larger neighborhood context. We typically offer 17 a variety of housing choices to meet the needs of different 18 buyers including incorporating moderately priced dwelling 19 units that blended seamlessly with the market rate homes that 20 we build. An hour 30 years we have built in constrained 21 sites and places within or adjacent to environmentally and 22 historically sensitive areas. We have a sensitivity and 23 demonstrated ability to mitigate the impact of our 24 development and construction activities on our neighbors. We 25 do this because we are fully integrated.</p>	<p>24</p> <p>1 the idea of creating or being a part of a larger 2 intergenerational community. Our homebuilders often include 3 and will likely include here, broad demographics ranging from 4 singles, young families, and empty-nesters. We see this as a 5 unique site to partner with Brandywine and the residents that 6 will reside at their senior living building and the Academy 7 of the Holy Cross and its students. So a very unique 8 opportunity for us to create an intergenerational community.</p> <p>9 (Crosstalk)</p> <p>10 MS. GIRARD: You talked about the project. Mr. 11 Baumgardner, I think we -- you were going to pull up the 12 exhibits that he references. Or do you want us to?</p> <p>13 MR. BAUMGARDNER: Whichever you prefer. I can 14 bring them up or if you have them handy you're welcome to do 15 that as well. Whichever you prefer.</p> <p>16 MS. GIRARD: I don't have it on my screen. So if 17 you wouldn't mind pulling up Exhibit 40 (inaudible).</p> <p>18 MR. BAUMGARDNER: Sure.</p> <p>19 MS. GIRARD: Zone plan. So that as Jack begins to 20 explain the project we all have a point of reference.</p> <p>21 MR. BAUMGARDNER: Got it.</p> <p>22 MS. GIRARD: Thank you.</p> <p>23 MR. BAUMGARDNER: It should be appearing on your 24 screen shortly.</p> <p>25 MS. GIRARD: It is. Do you want the more detailed</p>

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<p style="text-align: right;">25</p> <p>1 plan? The next sheet? Sheet two of this?</p> <p>2 MR. LESTER: Yeah, a little bit more detail would</p> <p>3 be -- yeah.</p> <p>4 MS. GIRARD: There we go. Right there. Yeah.</p> <p>5 MR. LESTER: Super helpful, thank you.</p> <p>6 MS. GIRARD: All right. Continue.</p> <p>7 MR. LESTER: So the entire site is approximately</p> <p>8 15 acres. Roughly half of it is the St. Angela's Hall</p> <p>9 portion and the other half is the Academy of the Holy Cross</p> <p>10 portion, maybe a little bit less than half there. AHC will</p> <p>11 stay in its current location. That's directly to the south</p> <p>12 or at the bottom of the plan. And --</p> <p>13 MR. BAUMGARDNER: Mr. Lester?</p> <p>14 MR. LESTER: Yes.</p> <p>15 MR. BAUMGARDNER: I'm sorry. Just to clarify for</p> <p>16 everyone it was logged in, we are looking at Exhibit 40</p> <p>17 number which is the flooding zone plan. And we are looking</p> <p>18 at page 2 of that plan which details in a grayed out fashion</p> <p>19 where the proposed structures are going to be located. On</p> <p>20 the right of that plan are a number of proposed binding</p> <p>21 elements as well as a number of different -- I'm trying to</p> <p>22 zoom in here, if that's still clear. Still loading.</p> <p>23 MS. GIRARD: The development standards I think</p> <p>24 it's fair to say are there.</p> <p>25 MR. BAUMGARDNER: Yes. So just to make that clear</p>	<p style="text-align: right;">27</p> <p>1 alluded to it a minute ago. But what outreach and be done</p> <p>2 with neighbors and other interested parties regarding your</p> <p>3 proposal for the site?</p> <p>4 MR. LESTER: Yeah, thank you Erin. This is an</p> <p>5 important element for us. We have -- as infill developers,</p> <p>6 and we are going into communities and old town for instance</p> <p>7 better 350 years old or Capital Hill where they are 200 years</p> <p>8 old. And so engagement has been a big part of our work over</p> <p>9 the last 30 years in the projects we've developed. In this</p> <p>10 case we engage with communities early and consistently and</p> <p>11 we've been responsive to their request for information and</p> <p>12 follow-up for meetings.</p> <p>13 Our contact with that's our contract with AHC, the</p> <p>14 Academy and the sisters, became effective on November 30,</p> <p>15 2020. On January 8 of the following year we sent letters to</p> <p>16 110 neighbors and civic groups informing them of the decision</p> <p>17 by AHC and the Academy to sell their property, describing our</p> <p>18 conceptual plans for the site and providing our names and</p> <p>19 emails for follow-up in questions.</p> <p>20 We offered to hold in person and all my meetings</p> <p>21 with surrounding community and neighborhood groups and we met</p> <p>22 with groups who expressed interest. Specifically, we held a</p> <p>23 Zoom call with the mayor and staff from Garrett Park on</p> <p>24 January 19, 2021. We had a Zoom call with Garrett Park</p> <p>25 Estates, Friends of White Flint on February 12 and again on</p>
<p style="text-align: right;">26</p> <p>1 for everyone who is watching or listening in that's what we</p> <p>2 are looking at, Exhibit 40, the flooding zone plan. I'm</p> <p>3 sorry, sir. You can continue.</p> <p>4 MR. LESTER: No, thank you. Thank you for saying</p> <p>5 that. So I was saying, the school as to the bottom or south</p> <p>6 of the site. At the top is Strathmore Avenue. To the west</p> <p>7 is the existing community of Symphony Park. And to the east</p> <p>8 or the right as I'm looking at the plan is the Holy Cross</p> <p>9 parish and for the down the school. We propose for this site</p> <p>10 two uses. They are organized around the shared road. So the</p> <p>11 shared road is right below the ORE and Strathmore.</p> <p>12 And that's a relocated primary access point for</p> <p>13 AHC, the Academy of the Holy Cross. To the right of that is</p> <p>14 the Brandywine, proposed Brandywine Senior living building.</p> <p>15 And to the left you're seeing what is represented as strings</p> <p>16 of townhomes. And right where the cursor is now, nine</p> <p>17 single-family detached homes fronting on Strathmore. And to</p> <p>18 better meet the -- match the frontage and relate to the</p> <p>19 single-family homes across the street.</p> <p>20 In addition to the homes that you are seeing in</p> <p>21 the Brandywine building, we will have certs for internal</p> <p>22 circulation, sidewalks, a natural trail along the western</p> <p>23 portion of the site and several gathering places throughout</p> <p>24 the development.</p> <p>25 MS. GIRARD: Mr. Lester, can you explain -- I</p>	<p style="text-align: right;">28</p> <p>1 October 4.</p> <p>2 We had a Zoom call with representatives of</p> <p>3 Symphony Park HOA on February 26. We had a Zoom call with</p> <p>4 the Holy Cross Church and school and their representatives on</p> <p>5 March 30 and again on November 8. And we've also had several</p> <p>6 town halls with the Academy of Holy Cross parents and staff</p> <p>7 and we've made ourselves available and followed up after</p> <p>8 those meetings if questions were asked of us. At each</p> <p>9 meeting we shared our most current plans, answered questions,</p> <p>10 and followed up.</p> <p>11 For example, at the Garrett Park Estates, Friends</p> <p>12 of White Flint as for the supplemental traffic analysis that</p> <p>13 Erin mentioned we performed, but not required in the LMA</p> <p>14 application. We promptly provided that information to their</p> <p>15 representatives. At the same meeting someone described the</p> <p>16 flooding that occurs on Strathmore during rainstorms. We</p> <p>17 engaged our engineer Vika to perform an analysis of the</p> <p>18 existing condition described to us.</p> <p>19 We shared the results and indicated that</p> <p>20 approximately 1-1/2 acres of the St. Angela property</p> <p>21 contributes to the existing property and confirm that water</p> <p>22 would be captured on our site under our proposed plans. We</p> <p>23 also confirmed that we intended to provide the turn lane on</p> <p>24 the property from Strathmore without reducing the existing</p> <p>25 median.</p>

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<p style="text-align: right;">29</p> <p>1 Lastly, we've been engaged with the Holy Cross 2 church and school and planned with them to build a safe 3 connection along their frontage at least it through the 4 church property and ideally to the school property. We are 5 committed to working with our neighbors wherever we build. 6 We try to understand the impacts of our new communities on 7 existing residents and then work to mitigate them while 8 delivering on many of the benefits of our new community to 9 the neighborhood and to the county. 10 The primary concerns are raised by our neighbors 11 as Erin mentioned have been related to traffic and, to a 12 lesser extent, but equally important, pedestrian safety. To 13 address the issues and to address them-- to understand the 14 issues and address them, we begin by engaging our traffic 15 engineer to perform a traffic study in accord with the 16 Montgomery County Park and planning requirements. The scope 17 of the study is in fact reviewed and approved by county 18 staff. 19 That study is the basis for developing the 20 mitigation plan if needed. The results of that study 21 required no mitigation under the future condition. We then 22 asked our engineer to perform a supplemental analysis based 23 on MCDOT and state highway metrics. The results of that 24 study concluded mitigation was warranted. We will accept the 25 proposed mitigation as a condition of approval. We performed</p>	<p style="text-align: right;">31</p> <p>1 storm water and -- including capturing substantial storm 2 water that now leaves the property. The design of our homes 3 and the types of materials were used to construct will be of 4 high quality and compatible with surrounding homes. 5 MS. GIRARD: And Mr. Lester, in your opinion would 6 the proposed project adversely affect the character of the 7 surrounding neighborhood? 8 MR. LESTER: I do not. I believe this development 9 will contribute to the larger region and the character of the 10 neighborhood by offering diverse housing types for 11 intergenerational living, building housing that provides 12 access to jobs, amenities, retail, and transit that leverages 13 the county's investment in infrastructure and contributes to 14 the affordable housing stock. 15 Not only does the development introduce much- 16 needed housing for seniors in the context of a 17 multigenerational community, it also preserves 18 environmentally sensitive areas to conservation easements, 19 improves and enhances pedestrian access and safety and 20 mitigates existing and future traffic congestion. 21 MS. GIRARD: That's all I have for Mr. Lester. 22 MR. BAUMGARDNER: Thank you, Mr. Lester and Ms. 23 Girard. We will start with Mr. Shaffer. Are there any 24 questions for Mr. Lester? 25 MR. SHAFFER: Just a few, thank you.</p>
<p style="text-align: right;">30</p> <p>1 analysis beyond what was required for this application and 2 have committed to meet the mitigation measures recommended by 3 it. 4 MS. GIRARD: And Mr. Lester, are you familiar with 5 conditions of approval recommended by the planning board in 6 his review of the application? And just to be clear, those 7 are on page 2 of Exhibit 62. 8 MR. LESTER: Yes, I am familiar. 9 MS. GIRARD: And is the Applicant willing to 10 accept these conditions of approval? 11 MR. LESTER: Yes. 12 MS. GIRARD: Mr. Lester, in light of your 13 testimony and based on your familiarity with the plans and 14 expert reports submitted with the application, do you believe 15 the proposed development will be compatible with the existing 16 and approved adjacent development? 17 MS. GIRARD: I do. Our plan proposes compatible 18 uses, residential and senior living at appropriate heights 19 and densities. It contributes to a more walkable and likable 20 community by incorporating sidewalks, crosswalk, shared use 21 trails, and natural trail providing access to the now private 22 property. It will include open space and recreation areas in 23 accord with County standards and preserve approximately 4 24 acres of environmentally sensitive area. 25 It will incorporate best practices for managing</p>	<p style="text-align: right;">32</p> <p>1 MR. BAUMGARDNER: (Inaudible). 2 MR. SHAFFER: Good morning, Mr. Lester. 3 MR. LESTER: Good morning Mr. Shaffer. 4 MR. SHAFFER: So as we understand it, one of the 5 justifications for placing this development in this area was 6 the county's policy of encouraging development (inaudible) 7 development; is that correct? 8 MR. LESTER: I don't know that the county's policy 9 is what drove us or motivated us to pursue this. I think the 10 things that I had mentioned, it's ability -- of this site's 11 location allows us to deliver on that brand promise, which is 12 making use of existing infrastructure, providing homes in 13 areas that have access to jobs, amenities, schools. Those 14 were the primary reasons for as having an interest in going 15 under contract with the sisters and the Academy. 16 MR. SHAFFER: Okay. So you didn't consider 17 transit -- whether this was developed new transit to be 18 important to your choice of the selected site; is that 19 correct? 20 MR. LESTER: You know, it is a factor that I 21 think -- I listed a handful of factors. I would say not 22 every community that we develop meets every single one. It's 23 kind of a combination of things. So access to modes of 24 transit is typically one of those. In this case it does 25 provide that.</p>

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<p style="text-align: right;">33</p> <p>1 MR. SHAFFER: Some extent you are correct. But</p> <p>2 isn't it true that your application recognizes that use of</p> <p>3 Metro will be -- or and public transportation will be minimal</p> <p>4 in this development?</p> <p>5 MR. LESTER: You know, I couldn't speak to it. I</p> <p>6 think Katie can speak to it. My expectation is that folks</p> <p>7 will use Metro given its proximity. I think in our analysis,</p> <p>8 our traffic engineer assumed little use of Metro, but I would</p> <p>9 expect that our residents there will take advantage of it</p> <p>10 just like many of the school families do take advantage of</p> <p>11 the proximity of Metro.</p> <p>12 MR. SHAFFER: Well, the people in the retirement</p> <p>13 community aren't going to be taking advantage of Metro are</p> <p>14 they? In your opinion?</p> <p>15 MS. GIRARD: Objection.</p> <p>16 MR. LESTER: I will let Brenda speak to that.</p> <p>17 MS. GIRARD: Yeah, that's for Brandywine. Mr.</p> <p>18 Lester didn't explain any of the operations of the assisted</p> <p>19 living facility.</p> <p>20 MR. SHAFFER: Okay, fair enough. I will address</p> <p>21 that question to that witness. But basically, isn't this in</p> <p>22 the zone in which the county wanted to encourage transit</p> <p>23 oriented development?</p> <p>24 MR. LESTER: I'm sorry. Say that again.</p> <p>25 MR. SHAFFER: Isn't it true that the area that</p>	<p style="text-align: right;">35</p> <p>1 that's okay.</p> <p>2 MR. SHAFFER: Okay.</p> <p>3 MR. LESTER: And I don't know the answer that now</p> <p>4 or when they are called.</p> <p>5 MR. BAUMGARDNER: When they are called.</p> <p>6 MR. LESTER: Okay.</p> <p>7 MR. SHAFFER: When they are called. Sorry. I</p> <p>8 didn't mean to usurp you.</p> <p>9 MR. BAUMGARDNER: That's okay, Mr. Shaffer. I</p> <p>10 don't mind.</p> <p>11 MR. SHAFFER: I don't think I have any further</p> <p>12 questions at this time of this witness. I will turn it over</p> <p>13 to them.</p> <p>14 MR. BAUMGARDNER: Thank you, sir. Mr. Burdin, any</p> <p>15 questions of Mr. Lester?</p> <p>16 MR. BURDIN: Yeah, just a few. You mentioned the</p> <p>17 walk ability of the project. As far as walk ability off the</p> <p>18 project, to where are you referencing walk ability?</p> <p>19 MR. LESTER: I just meant it in a general sense</p> <p>20 that by adding sidewalks and crosswalks and traffic lights,</p> <p>21 it encourages walking. Our site design we think encourages</p> <p>22 walking. As we've done, I mentioned the 50 times before,</p> <p>23 where we really endeavored to make that public space, those</p> <p>24 public roads attractive. We put the -- on our rear load</p> <p>25 townhomes we put the garages with their garbage cans and so</p>
<p style="text-align: right;">34</p> <p>1 your developing is within the zone in which the county wants</p> <p>2 to encourage transit oriented development?</p> <p>3 MR. LESTER: You know, honestly, I don't know. I</p> <p>4 rely on Erin or land-use counsel to tell me what the specific</p> <p>5 zones are and recommendations by the county.</p> <p>6 MR. SHAFFER: Okay. But despite the assumptions</p> <p>7 of in the traffic report that you submitted you believe there</p> <p>8 will be some use of Metro arising out of this project.</p> <p>9 MR. LESTER: I'm not an expert on it. I'm</p> <p>10 somebody who lives near a Metro myself. And we use it. We</p> <p>11 don't use it exclusively, but we use it. And maybe it's not</p> <p>12 helpful for me to assume that the families living here would</p> <p>13 act like I would. But I'm just -- I guess a reasonable</p> <p>14 person with Metro nearby I imagine some folks would take</p> <p>15 advantage of it.</p> <p>16 MR. SHAFFER: Is there any consideration being</p> <p>17 given to offering shuttle to the Metro for this project?</p> <p>18 MR. LESTER: No. No.</p> <p>19 MR. SHAFFER: Is there any consideration being</p> <p>20 given to improving the accessibility of the 5W bus stop on</p> <p>21 either side of Strathmore around the intersection of</p> <p>22 Stillwater?</p> <p>23 MR. LESTER: I'm going to do for that question, if</p> <p>24 it's all right, to our engineer. I think I know the answer,</p> <p>25 but rather the guess I would rather just defer to them if</p>	<p style="text-align: right;">36</p> <p>1 forth in the back so that again, it makes that walking</p> <p>2 experienced more enjoyable. You know, of course this</p> <p>3 neighborhood has admitted these such as the schools that are</p> <p>4 nearby, music center. So there are, in addition to the trail</p> <p>5 we are proposing, there are opportunities to walk.</p> <p>6 MR. BURDIN: Okay. So other than the music center</p> <p>7 and the schools, you're not aware of any other destinations</p> <p>8 that these residents are likely to walk too?</p> <p>9 MR. LESTER: I mean, not living in the</p> <p>10 neighborhood, I wouldn't hazard a guess.</p> <p>11 MR. BURDIN: Okay. You also mentioned excepting</p> <p>12 mitigation as a condition of approval when you were talking</p> <p>13 about traffic. What specific mitigation are you talking</p> <p>14 about?</p> <p>15 MR. LESTER: Yeah. So I will answer, but maybe</p> <p>16 for a more precise answer, Vika can give that. The</p> <p>17 mitigation is the alignment of Stillwater. Right now it's</p> <p>18 kind of disjointed from the existing driveway. Adding a</p> <p>19 shared drive that will have a right turn out, so a dedicated</p> <p>20 turn to get out of the school, and a left turn in, dedicated</p> <p>21 left turn in, and then signaling that shared driveway onto</p> <p>22 Strathmore.</p> <p>23 MR. BURDIN: Okay. I will let -- other witnesses</p> <p>24 may expand on that. I think you missed a few. You mentioned</p> <p>25 the Holy Cross students using Metro as an indication that</p>

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<p style="text-align: right;">37</p> <p>1 some of the residence also could use Metro. Do you know 2 whether your residence will be able to cut through Holy Cross 3 school and use the pedestrian path that's a lot shorter to 4 Metro? 5 MR. LESTER: No, they would not. They would not 6 be permitted to cross private property. 7 MR. BURDIN: Okay. So your residents would have 8 to walk to Strathmore, turn west, cut through the path at 9 Symphony Park, and go past the music center to get the Metro? 10 MR. LESTER: I think that's a logical path they 11 would take. 12 MR. BURDIN: Okay. That's all I have for now. 13 MR. BAUMGARDNER: Thank you. Mr. Lester, based 14 upon those questions, if you had to, had to guess, how long 15 of a walk with that be for the majority of the residence in 16 this area to get to the Metro station? 17 MR. LESTER: I wouldn't -- I probably shouldn't 18 guess. 19 MR. BAUMGARDNER: (Inaudible). 20 MR. LESTER: I would say it's less than a mile. 21 MR. BAUMGARDNER: Less than a mile. And you had 22 mentioned that you live close to this property, sir? 23 MR. LESTER: No, I live near a Metro. 24 MR. BAUMGARDNER: A separate Metro station? 25 MR. LESTER: Separate Metro.</p>	<p style="text-align: right;">39</p> <p>1 Symphony Park HOA and asked if we could connect from the 2 natural surface trail we are proposing on the western 3 property line across the Stream Valley buffer, because we 4 would need if their permission because an easement does not 5 exist. When that property was developed a few years back, 6 the county didn't require them to put an easement. So a 7 connection would need their approval for us to make it. 8 MS. GIRARD: And just to be clear, when you say an 9 easement, for those who may not know, are there walking paths 10 on the Symphony Park property that connect Metro? 11 MR. LESTER: There is. There is a path system 12 there that runs parallel with our property line just on the 13 other side of the environmentally sensitive area. And we 14 discussed with the county and the county has encouraged us to 15 make a crossing, again, subject to the approval of the 16 Symphony Park Homeowners Association. 17 MS. GIRARD: And is that something that you intend 18 to continue to pursue through further entitlements should 19 this LMA be approved? 20 MR. LESTER: Absolutely. We would love to make 21 that connection. And of course we would share in the cost of 22 maintaining the trail on their side of the property, on their 23 property. 24 MS. GIRARD: And similarly, were this LMA approved 25 and you move on to preliminary plan, is it your understanding</p>
<p style="text-align: right;">38</p> <p>1 MR. BAUMGARDNER: And from your knowledge of this 2 area, working on this application, is in a predominantly car 3 driven area? Is it a mix of walking and biking and other 4 means? If you know. 5 MR. LESTER: I don't know. But my experience is 6 there is going to be a mix. We built a -- I led the efforts 7 on a project in Grosvenor Heights, which is probably, you 8 know, more than a mile. Whenever I visited Grosvenor 9 Heights, because I Metro to the office where I live in -- I 10 live in DC, and Metro to Bethesda, I Metro there. And again, 11 maybe I'm not -- I shouldn't make myself representative of 12 the folks that live there, but Metro is enormously convenient 13 and I've been taking it personally for over 20 years. And my 14 palms sweat when I have the drive to the office. So I can't 15 speak -- you know, I'm not going to be like the 125 families, 16 but I like and use Metro and I seem some the families will 17 use it for some of their trips. 18 MR. BAUMGARDNER: I understand. Mr. Girard, any 19 questions based upon the questions that have been asked so 20 far? 21 MS. GIRARD: Just two quick ones. Mr. Lester, 22 have you had any conversations with the Symphony Park 23 Homeowners Association regarding making a connection that 24 would make the connection to Metro a little bit quicker? 25 MR. LESTER: Yes, we did. We reached out to</p>	<p style="text-align: right;">40</p> <p>1 that sidewalk extensions, bus stops, improvements, bike 2 lanes, all that would be further studied at the time of 3 preliminary plan? 4 MR. LESTER: It is. 5 MS. GIRARD: That's all I have. 6 MR. BAUMGARDNER: Mr. Shaffer or Mr. Burdin, any 7 questions based upon those questions? 8 MR. BURDIN: Yeah, I do. 9 MR. BAUMGARDNER: Mr. Burdin, go ahead. 10 MR. BURDIN: Thank you. This proposed path to the 11 Symphony Park trail to Metro, do you know what it would 12 entail as far as cutting down trees and spanning the Creek 13 that is there? 14 MR. LESTER: I believe, Mr. Burdin, that it -- we 15 would identify with the county the location where it would 16 have the least impact to the environmentally sensitive area. 17 I believe we can do that without removing trees. It would 18 require bridging over the stream. 19 MR. BURDIN: You think you could do it without 20 removing trees? Okay. 21 MR. LESTER: I think so. I mean, what we would 22 do -- what we've done in these instances is we literally walk 23 in with the county's arborist and their team and we go out 24 with our engineer. We identify the place where it's going to 25 have the least impact. So we haven't identified that. We</p>

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<p style="text-align: right;">41</p> <p>1 have not done that specifically. We've walked it. The 2 county has walked it. But we haven't taken the step of 3 identifying where exactly they would approve it. 4 MR. BURDIN: Do you know if any of your 5 consultants would have a -- an opinion about being able to do 6 this without taking down trees? In which case that would 7 (inaudible). 8 MR. LESTER: I don't know. Maybe. They might. I 9 don't -- I don't know. 10 MR. BURDIN: Okay. And as of right now, you have 11 no agreement with Symphony Park, right? 12 MR. LESTER: Correct, no agreement. 13 MR. BURDIN: So at this point it's just 14 speculation whether this will ever come to pass and -- is 15 that correct? 16 MR. LESTER: Yes. We would absolutely like to do 17 in. If they don't want it, we can't tie into their private 18 property. 19 MR. BURDIN: For purposes of this decision before 20 the hearing officer and the county and counsel, this is an 21 uncertain event? And you can't guarantee? 22 MR. LESTER: I can't -- yeah, I can't guarantee 23 that they would be willing to allow us to connect at that 24 location. 25 MR. BURDIN: Thank you. That's all.</p>	<p style="text-align: right;">43</p> <p>1 car garages? 2 MR. LESTER: We haven't designed all of the homes 3 yet. So I can't answer at this stage. 4 MR. RIBEIRO: But is it a plan that you would -- 5 that these homes would have garages? 6 MR. LESTER: Yes. 7 MR. RIBEIRO: Okay. And are you planning -- so 8 the plan that you should right now did not have a connection 9 to -- and we've been talking about this, a more direct 10 connection. So you are not planning a more direct connection 11 to the Metro from this development to go through the schools 12 property? 13 MR. LESTER: Correct. Again, we wouldn't -- we 14 can't cross private property just like we can't connect to 15 the Strathmore Symphony Park private property, we can't build 16 a connection through AHC and I can't build a connection 17 through your front yard. 18 MR. RIBEIRO: Right. 19 MR. LESTER: So you've got to be respectful of 20 property rights. 21 MR. RIBEIRO: Correct. Okay. And then there are 22 three entrance road connections into this development as you 23 have planned right now. Did you consider instead of having 24 one or two, with fewer roads induce more use of public 25 transportation into your development?</p>
<p style="text-align: right;">42</p> <p>1 MR. BAUMGARDNER: Thank you. Councilwoman 2 Bennett, you have your virtual hand raised. Did you have a 3 question? 4 MS. BENNETT: I just wanted to ask Mr. Lester a 5 clarifying question. Did I hear correctly that the traffic 6 signal you're proposing would only be a signal across the 7 entrance road and not across the Strathmore Avenue itself? 8 And if this is going to be detailed and later testimony, then 9 we can wait to hear that. 10 MR. LESTER: I'm not sure I understand. The 11 signal we are considering under the supplemental analysis 12 would be at the new -- what we called the shared driveway, 13 but the main access and Strathmore. So it would be a signal 14 at that new intersection. 15 MS. BENNETT: With the signal span across 16 Strathmore Avenue and stop traffic traveling on Strathmore 17 Avenue? 18 MR. LESTER: Yes, it would, yes. It would be, I 19 guess the three-way signal. But if I'm wrong, somebody will 20 correct me. 21 MS. BENNETT: Thank you for clarifying. 22 MR. BAUMGARDNER: It looks like we have one more 23 question from Mr. Ribeiro. 24 MR. RIBEIRO: Thank you, very much. I have maybe 25 just a couple of questions. One, will all the homes have two</p>	<p style="text-align: right;">44</p> <p>1 MR. LESTER: I don't -- I don't know if that -- if 2 it would. I just don't know. I'm not qualified to say. 3 MR. RIBEIRO: Okay. And then one last question. 4 Do you think that the future residents of this development 5 would benefit from not having school traffic going to their 6 neighborhood every weekday if an entrance were built to the 7 school from Tuckerman Lane? 8 MR. LESTER: I couldn't say. I mean, we are in a 9 market business, right. So people select and they make big 10 investments on where they want to live and they understand 11 kind of the environment in which they are moving. Probably 12 like everybody on this call kind of knew what you were doing. 13 So I don't know if folks would see that as a benefit or not. 14 But they will absolutely know that there isn't that 15 connection when they choose to buy a home from EYA or move 16 into the Brandywine building. 17 MR. RIBEIRO: Okay. Thank you, very much. 18 MR. BAUMGARDNER: Ms. Girard, any re-direct? 19 MS. GIRARD: No, I'm good. Thank you. 20 MR. BAUMGARDNER: All right. Thank you very much 21 for your testimony Mr. Lester and for the questions for all. 22 We will move on to our next witness, Ms. Girard. 23 MS. GIRARD: Yes. Next I would like to call 24 Brenda Bacon. 25 MR. BAUMGARDNER: You are on mute, ma'am</p>

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<p style="text-align: right;">45</p> <p>1 MS. BACON: Good morning.</p> <p>2 MR. BAUMGARDNER: Good morning. What is your full</p> <p>3 name, your business address, and a good business email</p> <p>4 address, please?</p> <p>5 MS. BACON: My name is Brenda J. Bacon. My -- at</p> <p>6 Brandywine Living, 525 Fellowship Road, Mount Laurel, New</p> <p>7 Jersey, 08053. And my email address is</p> <p>8 BBacon@BrandyCare.com.</p> <p>9 MR. BAUMGARDNER: Thank you, very much. If you</p> <p>10 can, please raise your right hand.</p> <p>11 Do you swear or affirm under the penalties of</p> <p>12 perjury that the testimony you're about to give is the truth,</p> <p>13 the whole truth?</p> <p>14 MS. BACON: I do.</p> <p>15 MR. BAUMGARDNER: Thank you, very much. Ms.</p> <p>16 Girard, the witness is yours.</p> <p>17 MS. GIRARD: Thank you. Ms. Bacon, what is your</p> <p>18 educational and professional background?</p> <p>19 MS. BACON: Well, I think of a start with saying</p> <p>20 that for the first 12 years I was in the archdiocese of</p> <p>21 Washington schools at our Lady Queen of Peace in Elizabeth</p> <p>22 Seton High School. I think that my undergraduate degree at</p> <p>23 Hampton University in social work. And my MBA from the</p> <p>24 Wharton School, the University of Pennsylvania in healthcare</p> <p>25 management.</p>	<p style="text-align: right;">47</p> <p>1 living, assisted living community.</p> <p>2 And we find that people very much -- first of all,</p> <p>3 our residents love being around children. And so there are</p> <p>4 children in and out the community all the time with them and</p> <p>5 outside with them and engaging in activity. And people,</p> <p>6 usually when they want to take care of their parents when</p> <p>7 their parents need more assistance, then they bring them</p> <p>8 closer to them.</p> <p>9 And so it is -- it really fosters the opportunity</p> <p>10 for empty-nesters, for example, to have their grandchildren</p> <p>11 come over and also to have their moms and dads next door. So</p> <p>12 is a great opportunity. Is almost a perfect situation for</p> <p>13 just the quality of life that it brings to all of the</p> <p>14 generations.</p> <p>15 MS. GIRARD: And can you review your plans for</p> <p>16 this property in particular?</p> <p>17 MS. BACON: This would be -- Erin, do we have a</p> <p>18 picture, a rendering that we could show of the property?</p> <p>19 MS. GIRARD: (Inaudible).</p> <p>20 MS. BACON: A lot of times -- I don't know who has</p> <p>21 the exhibits.</p> <p>22 MS. GIRARD: Maybe it's easiest just to reuse the</p> <p>23 floating zone plan that we had on the screen a minute ago.</p> <p>24 MS. BACON: Well, yeah. The thing that I think is</p> <p>25 important is that sometimes people think that senior living</p>
<p style="text-align: right;">46</p> <p>1 I have spent 30 years in senior living, operating,</p> <p>2 owning assisted living communities. I've also spent time in</p> <p>3 government in the state of New Jersey and the governor's</p> <p>4 office prior to that. And I've owned my own businesses in</p> <p>5 healthcare, many areas of healthcare.</p> <p>6 MS. GIRARD: In what jurisdictions does Brandywine</p> <p>7 operate in?</p> <p>8 MS. BACON: We are in seven states. So</p> <p>9 Connecticut, New York, New Jersey, Pennsylvania, Delaware,</p> <p>10 Maryland, and Virginia.</p> <p>11 MS. GIRARD: And this Brandywine in good standing</p> <p>12 and all the jurisdictions you mentioned?</p> <p>13 MS. BACON: We are. We spent a lot of time on</p> <p>14 that. In fact, in New Jersey we are in advanced standing,</p> <p>15 which means we far exceed any regulations. And New Jersey is</p> <p>16 the only state that has that, that rates people that way.</p> <p>17 But we are the top-rated communities in New Jersey.</p> <p>18 MS. GIRARD: And Ms. Bacon, can you review why you</p> <p>19 chose the proposed location for the construction of a new</p> <p>20 Brandywine community?</p> <p>21 MS. BACON: I want to iterate something that Jack</p> <p>22 said. The opportunity to develop an intergenerational place</p> <p>23 for people to be is very attractive to us, particularly for</p> <p>24 our seniors, for our parents. We've done two communities</p> <p>25 like that before where they were townhouses and then a senior</p>	<p style="text-align: right;">48</p> <p>1 communities or nursing homes are institutional settings, and</p> <p>2 this that's our communities are never institutional looking.</p> <p>3 They are more residential looking because these are indeed</p> <p>4 residences for seniors. And so we would -- there is a</p> <p>5 Boulevard --</p> <p>6 MR. BAUMGARDNER: Ms. Bacon?</p> <p>7 MS. BACON: Yes.</p> <p>8 MR. BAUMGARDNER: I'm sorry to interrupt. This is</p> <p>9 Exhibit 40, the FZP, the floating zone plan for the record.</p> <p>10 Thank you, ma'am. You may continue.</p> <p>11 MS. BACON: Thank you. So you can see where our</p> <p>12 community is located. There is going to be a Boulevard</p> <p>13 coming off Strathmore. And the ground that slept in the</p> <p>14 back. So we're going to have open space and areas for our</p> <p>15 residents to enjoy the outdoors and also for there to be some</p> <p>16 passive and active recreational things out there on the, on</p> <p>17 the property.</p> <p>18 MS. GIRARD: And if I could trouble the Hearing</p> <p>19 Examiner, I apologize, to also pull up 48B. that was it.</p> <p>20 MS. BACON: I saw her for many, yes.</p> <p>21 MS. GIRARD: Yeah.</p> <p>22 MR. BAUMGARDNER: Right here?</p> <p>23 MS. BACON: No.</p> <p>24 MS. GIRARD: No. The picture, the colored</p> <p>25 picture. There we go.</p>

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<p style="text-align: right;">49</p> <p>1 MS. BACON: Okay.</p> <p>2 (Crosstalk)</p> <p>3 MR. BAUMGARDNER: Exhibit 58B, is that correct?</p> <p>4 MS. GIRARD: Yes.</p> <p>5 MR. BAUMGARDNER: Okay. There you go.</p> <p>6 MS. BACON: So you can see the look of our</p> <p>7 communities is very residential. It's not institutional, and</p> <p>8 very upscale and I think very fitting for the site.</p> <p>9 MS. GIRARD: And Ms. Bacon, can you briefly</p> <p>10 explain the operations of the site and what you expect as far</p> <p>11 as number of employees, shifts, that kind of thing?</p> <p>12 MS. BACON: Okay. So the -- there is 24 hour</p> <p>13 staffing, of course, in a community like this. It is that I</p> <p>14 would say that most employees that are there, the height of</p> <p>15 employees would be midday. So say 12:00, 1:00, 2:00 because</p> <p>16 that's when all of our department heads are in, the nursing</p> <p>17 staff is in, we're serving lunch in our restaurant, and a lot</p> <p>18 of activities are going on. So that is the height of</p> <p>19 staffing. Overnight there would be more like a people in the</p> <p>20 building, 8 to 10 people in the building because we are</p> <p>21 not -- the dining room is open. The indoor pool is not open</p> <p>22 and we are not doing a lot of activities that we usually have</p> <p>23 during the day. The -- it is -- you know, a lot of times</p> <p>24 when we are talking with neighbors and talking about our</p> <p>25 communities as we develop them, what appeals I think to</p>	<p style="text-align: right;">51</p> <p>1 purposely tried to design to fit into the neighborhood and,</p> <p>2 you know, feel comfortable with our neighbors. We have good</p> <p>3 relationships with our neighbors and all of our communities</p> <p>4 and we work hard at that.</p> <p>5 MS. GIRARD: And is there anything else you would</p> <p>6 like the Hearing Examiner to consider?</p> <p>7 MS. BACON: No, I'm happy to answer any questions</p> <p>8 that anyone may have.</p> <p>9 MS. GIRARD: That's all I have for Ms. Bacon.</p> <p>10 MR. BAUMGARDNER: Thank you, Mr. -- Ms. Bacon.</p> <p>11 Mr. Shaffer, you have any questions of Ms. Bacon at this</p> <p>12 time?</p> <p>13 MR. SHAFFER: Just a few. Good morning, Ms.</p> <p>14 Bacon.</p> <p>15 MS. BACON: Good morning Mr. Shaffer.</p> <p>16 MR. SHAFFER: The approximate age, according to</p> <p>17 your materials, I recall the residents will be around 83 to</p> <p>18 85 years old; is that correct?</p> <p>19 MS. BACON: That's correct.</p> <p>20 MR. SHAFFER: Will most of them be ambulatory?</p> <p>21 MS. BACON: Mostly, yes. Our residents are</p> <p>22 ambulatory. Some may use assistive devices, a walker or a</p> <p>23 self-operating wheelchair. They do not, by definition, need</p> <p>24 24 hour nursing, even though we have nurses on site 24 hours.</p> <p>25 It is as much a social community as it is healthcare support.</p>
<p style="text-align: right;">50</p> <p>1 people partially is that it does allow their parents to live</p> <p>2 close by. It's no burden on the school system. Our</p> <p>3 residents rarely drive. Some of them keep their car, but we</p> <p>4 have transportation that we provide in our cars and a bus</p> <p>5 that will take them on activities or anything that we want to</p> <p>6 do. So there is very little traffic or -- and no school</p> <p>7 impact.</p> <p>8 MS. GIRARD: Great. And Ms. Bacon, are you</p> <p>9 familiar with the conditions of approval recommended by the</p> <p>10 planning board in this review of the application? Again, for</p> <p>11 your reference that would be on page 2 of Exhibit 62.</p> <p>12 MS. BACON: I am.</p> <p>13 MS. GIRARD: And is the Applicant willing to</p> <p>14 accept as conditions of approval?</p> <p>15 MS. BACON: Yes, we are.</p> <p>16 MS. GIRARD: And in light of your testimony and</p> <p>17 based on your familiarity with the plans and expert reports</p> <p>18 submitted with the application, do you believe the proposed</p> <p>19 development will be compatible with existing and approved</p> <p>20 adjacent development?</p> <p>21 MS. BACON: I do.</p> <p>22 MS. GIRARD: And in your opinion, will the</p> <p>23 proposed development adversely affect the character of the</p> <p>24 surrounding neighborhood?</p> <p>25 MS. BACON: No, I don't think it will at all. We</p>	<p style="text-align: right;">52</p> <p>1 So once someone needs more care than we can provide onsite</p> <p>2 they would transition to a rehab center or to skilled</p> <p>3 nursing.</p> <p>4 MR. SHAFFER: Understood. So you talked about</p> <p>5 sort of transportation that you would be providing. A bus or</p> <p>6 something. Can you describe the transportation in more</p> <p>7 detail?</p> <p>8 MS. BACON: Yes, we have a 16 passenger bus that</p> <p>9 we use. If people are -- if our residents are going out to a</p> <p>10 play or the Kennedy Center, or in this case, or just on a</p> <p>11 trip during the day, we transport them. We have a</p> <p>12 chauffeured limo that we use for residents when they -- we</p> <p>13 want to take them to the doctor or they're going someplace</p> <p>14 individually or something like that is going on. So we have</p> <p>15 two modes of transportation and regular use in our</p> <p>16 communities.</p> <p>17 MR. SHAFFER: Okay. Have you any estimate of the</p> <p>18 number of persons that will be occupying the facility on a</p> <p>19 regular basis when fully developed?</p> <p>20 MS. BACON: When fully developed I would estimate</p> <p>21 130 to 140.</p> <p>22 MR. SHAFFER: Okay. And based upon your</p> <p>23 experience and knowledge of the industry, of a group like</p> <p>24 that approximately how many would be wanting to go in or out</p> <p>25 of the development every day whether to go shopping, or</p>

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<p>53</p> <p>1 transportation or wherever they would be going? Are they 2 very mobile, in other words? 3 MS. BACON: Yes, our residents are usually very 4 mobile. They enjoy being around people. They enjoy going 5 out. We don't do the kind of activities that some people do. 6 We do what we call escapades for life. So we like to have 7 all kinds of choices for people to engage. And certainly 8 being near so many -- so much culture, so much to do in the 9 Washington DC area, we were probably have our residents out a 10 lot. But everybody doesn't want to do everything. So there 11 is also a lot going on in the building. 12 In our community we have our own movie theater. 13 So there are movies that we show there. Again, we have two 14 or three dining venues. We have an indoor pool. So there is 15 a lot that they can do right within the community, but they 16 do tend to very much want to go out, as we all do. 17 MR. SHAFFER: So have you made any estimate about 18 the number of Metro access trips that would be generated 19 every day (inaudible)? 20 MS. BACON: The Metro trips, did you say? 21 MR. SHAFFER: Metro access, the peri transit 22 service provided by Metro for people with disabilities. 23 MS. BACON: Oh, yeah. I'm sorry. Very little. 24 We would not -- we would do the transport ourselves. We 25 would not be bringing in transport from others.</p>	<p>55</p> <p>1 MR. BURDIN: Yes, thank you. What are the shift 2 hours for your employees? 3 MS. BACON: Well, they can be -- it depends on if 4 they are full-time or part-time. And they work obviously 5 different shifts depending on what they're doing. So if I 6 were to look at care managers, they can -- and the nurses 7 that would be on site, the three or four nurses at any given 8 time, they could work 7:00 to 3:00 or they could work 6:00 to 9 2:00, 6:00 a.m. to 2:00 p.m. or 7:00 a.m. to 3:00 p.m. 10 We certainly have -- in terms of dining staff, we 11 are going to be more heavily staffed with dining in the 12 middle of the day and for dinner. So that might -- somebody 13 may be coming in from 4:00 to 8:00 if they are a part-time 14 employee in dining. The rest of the staff, the management 15 staff is probably there from 9:00 to whatever, 9:00 a.m. to 16 5:00, or whatever is going on. So it differs by what they 17 are doing for our residents, what time they would be there. 18 MR. BURDIN: And you mentioned the overnight staff 19 was approximately 8 to 10 and that the midday was the most 20 heavily staffed time. How many employees would be there at 21 midday? 22 MS. BACON: I would say between 35 and 40. And 23 that would be your -- at full capacity. And that would be 24 your -- you know, certainly your care support staff, what we 25 call care managers, your dining staff, your recreational</p>
<p>54</p> <p>1 MR. SHAFFER: So you would have enough buses 2 and/or chauffeured limousines to -- 3 MS. BACON: Yeah. 4 MR. SHAFFER: Meet the needs of that size to 5 community? 6 MS. BACON: Absolutely. Absolutely. 7 MR. SHAFFER: Okay. I thought when I asked you 8 previously that question that you said a chauffeured limo and 9 a bus. Does that mean more than one? 10 MS. BACON: One -- there is a 16 passenger bus. 11 So the trip so usually for 16 residents at a time. We have 12 several trips. So there is not a situation where you would 13 be taking 130 people out at one time. They get -- you know, 14 they can decide whether they want to go to this place with 15 that place. And maybe we run the bus twice to -- if there is 16 more than 16 that want to go. Or we would bring in from one 17 of our other communities, either Potomac or Alexandria if we 18 need supplemental assistance. But we would be self- 19 sufficient on that, not depending on County or state 20 resources. 21 MR. SHAFFER: Okay, thank you. 22 MS. BACON: Thank you. 23 MR. SHAFFER: I have no further questions. 24 MR. BAUMGARDNER: Thank you, Mr. Shaffer. Mr. 25 Burdin, any questions for Ms. Bacon?</p>	<p>56</p> <p>1 staff, your housekeepers. They would be there. You know, if 2 you pick the time in the day when you receive most of our 3 team members, it would probably be around noon. 4 MR. BURDIN: Okay. And what are your visitor 5 hours? 6 MS. BACON: Families can visit anytime. 7 MR. BURDIN: Anytime? 8 MS. BACON: Yeah. You know, we lock the door in 9 most of our communities at 9:00 at night just for security. 10 And we've got somebody at the front desk. But if a family 11 wanted to say, I want to stop by and see mom on my way home 12 or I want to come over and bring mom something, then we 13 accommodate that. 14 MR. BURDIN: Do you know how many parking spots 15 you have for visitors and residents? 16 MS. BACON: I'm not sure. Perhaps one of our 17 engineers or somebody could answer that for us. But I would 18 tell you that in a community like ours, there are very few, 19 say 10 residents, 10 to 15 residents would have their own 20 cars. And that's been our experience in every new community 21 that we've opened up. Part of the reason that people choose 22 our community is because they don't have to worry about 23 driving anymore. So I think that's an advantage to being 24 there. I don't (inaudible) parking. Most of it is 25 underground. I just don't know the numbers.</p>

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<p>57</p> <p>1 MR. BURDIN: Okay. And are you aware of any</p> <p>2 projections of the use of public transportation? By that I</p> <p>3 mean the Metro station, the bus line, or the Garrett Park</p> <p>4 Marta station by your employees?</p> <p>5 MS. BACON: I am not by our employees. I would</p> <p>6 say our residents, that would be close to zero. But by our</p> <p>7 team members, I would expect that they would use the Metro.</p> <p>8 Most do use public transportation when coming to our</p> <p>9 communities and working in our communities.</p> <p>10 MR. BURDIN: And are you aware of how long it</p> <p>11 takes to walk from the proposed site of your building to the</p> <p>12 Grosvenor Metro station?</p> <p>13 MS. BACON: I'm not.</p> <p>14 MR. BURDIN: Okay. Are you aware how long it</p> <p>15 takes to walk from your site to the Garrett Park Marta</p> <p>16 station?</p> <p>17 MS. BACON: No, I have not measured that. I mean,</p> <p>18 I know the area. We've driven it many times, but I've never</p> <p>19 walked it specifically. So I can't tell you the distance.</p> <p>20 MR. BURDIN: Okay. Did the Applicant's traffic</p> <p>21 consultant ever contact you for information about your --</p> <p>22 contact your company about transit use --</p> <p>23 (Crosstalk)</p> <p>24 MR. BURDIN: Residents or visitors?</p> <p>25 MS. BACON: Yes, we've spent a lot of time as we</p>	<p>59</p> <p>1 that, or Josh.</p> <p>2 MS. GIRARD: So -- but that would be an</p> <p>3 inappropriate question to ask the traffic consultant.</p> <p>4 MR. BURDIN: I'm asking her, does she know. If</p> <p>5 she doesn't know, she can say so.</p> <p>6 MS. BACON: I do not know what exhibit it is or</p> <p>7 where it's included in the traffic study. I do know that we</p> <p>8 talked extensively with our entire team about this.</p> <p>9 MR. BURDIN: Okay. And last question.</p> <p>10 Essentially the same question about the number of employees.</p> <p>11 Did the traffic consultant ask you, your company, for</p> <p>12 information about the shifts, the employee shifts, or the</p> <p>13 number of employees at different times of the day?</p> <p>14 MS. BACON: We -- yes, we have spoken quite a bit</p> <p>15 about that in terms of -- and I -- with our team about that</p> <p>16 in terms of shift time and the maximum time that we would</p> <p>17 have most employees there. So we provided that information.</p> <p>18 I did not personally talk to the traffic consultant. But</p> <p>19 members of my team did and certainly we've talked as a</p> <p>20 project team about that.</p> <p>21 MR. BURDIN: Are you saying that you, your</p> <p>22 company, did provide information about shifts and the number</p> <p>23 of employees to the traffic consultants?</p> <p>24 MS. BACON: We provided the information. I did</p> <p>25 not talk specifically to the traffic consultants, but yes, we</p>
<p>58</p> <p>1 were looking at that's project estimating. We knew that</p> <p>2 traffic is a concern of the community. And it would be a</p> <p>3 concern of ours as well. So we did spend a lot of time</p> <p>4 talking about that.</p> <p>5 MR. BURDIN: But my question specifically is</p> <p>6 whether the traffic consultant asked you for information</p> <p>7 about the use of transit by your employees, residents, or</p> <p>8 visitors.</p> <p>9 MS. BACON: We've talked to all of our -- yeah,</p> <p>10 the consultants about that. Are you asking me about a</p> <p>11 specific reference?</p> <p>12 MR. BURDIN: I'm asking if they requested from you</p> <p>13 any data you had about transit use by employees, residents,</p> <p>14 or visitors?</p> <p>15 MS. BACON: Yes.</p> <p>16 MR. BURDIN: And what did you provide them?</p> <p>17 MS. BACON: I would have to look at the</p> <p>18 information to tell you. Much of what I've told you here is</p> <p>19 that our residents do not use public transportation. We</p> <p>20 provide transportation. Our employees do use public</p> <p>21 transportation mostly, or they carpool. And so probably</p> <p>22 minimal use of -- minimal impact on traffic from us.</p> <p>23 MR. BURDIN: Okay. If that information you</p> <p>24 provided on the record anywhere?</p> <p>25 MS. BACON: Erin I think would have to answer</p>	<p>60</p> <p>1 provided the information.</p> <p>2 MR. BURDIN: Okay. And do you know if the</p> <p>3 information is in the record?</p> <p>4 MS. BACON: I don't know if it's in the record.</p> <p>5 MR. BURDIN: All right. Thank you. That's all.</p> <p>6 MR. BAUMGARDNER: I see a virtual and raised by a</p> <p>7 Cynthia Weitz. Did you have a question, ma'am?</p> <p>8 MS. WEITZ: I do. Can you hear me?</p> <p>9 MS. BACON: Yes.</p> <p>10 MS. WEITZ: Okay. Good morning. I'm trying to</p> <p>11 turn mine --</p> <p>12 MS. BACON: I see you.</p> <p>13 MS. WEITZ: Okay. Hi, how are you?</p> <p>14 MS. BACON: Fine, how are you?</p> <p>15 MS. WEITZ: I'm fine. I have a lot of personal</p> <p>16 experience with senior living. My mother lived very happily</p> <p>17 until she died suddenly at the age of 96 in a nearby senior</p> <p>18 independent living facility. So I feel like I have a deep</p> <p>19 knowledge of day-to-day, what occurs at such a facility. And</p> <p>20 I am wondering, first of all, if you have spoken, or your</p> <p>21 company has spoken to emergency services in the area. My</p> <p>22 experience was that my mother had weekly doctor's</p> <p>23 appointments and I was often in a queue with other family</p> <p>24 members.</p> <p>25 Usually there were three or four of us outside</p>

<p style="text-align: right;">61</p> <p>1 every morning when there was an appointment where we were 2 taking our -- and it was usually mothers, sorry men -- two 3 doctors appointments. And usually each time I either picked 4 her up or dropped her off. There was an ambulance there and 5 my mother used to laugh that there was an evidence every 6 single day at least once outside the building. 7 And I'm concerned that there are many new senior 8 living facilities coming up in Kensington. And I'm concerned 9 about response times now. I'm also concerned because where I 10 am living, Strathmore Place, we are a naturally 11 multigenerational community and at least half of us are 12 seniors. And as homes are being bought and sold, it's almost 13 completely split between seniors and younger families. So I 14 have a concern also that when my husband or I need an 15 ambulance that they are not going to be able to respond to 16 us. So could you discuss that? 17 MS. BACON: Well, I can discuss -- 18 MR. BAUMGARDNER: Ms. Bacon, before you -- before 19 you answer, real quick. So this is the opportunity to ask 20 Ms. Bacon questions about her testimony. If you have 21 testimony yourself, Ms. Weitz, you can certainly testify 22 later on in the hearing. Or Mr. Shaffer can call you as a 23 witness. You're certainly welcome to ask Ms. Bacon a 24 question about what she has testified to. I just don't want 25 to get on the road</p>	<p style="text-align: right;">63</p> <p>1 independent living where they really don't have the staff 2 there that could evaluate a situation. 3 MS. WEITZ: Okay. Going back to my first 4 question, is that something that you can make a commitment to 5 the nearby community that you would be offering that for your 6 staff? Because I have other questions later for the traffic 7 person. But I think that really I know personally the walk 8 would be difficult from where you are located in and it is 9 partially going to be uphill. Is that -- 10 MS. BACON: I have no -- I have no hesitancy 11 making that commitment that at shift change we will provide 12 transportation from the train station, the Metro. 13 MS. WEITZ: Thank you. 14 MR. BAUMGARDNER: Thank you, ma'am. Ms. Girard, 15 any questions based upon the questions that have been asked 16 and thus far? 17 MS. GIRARD: No, nothing further. 18 MR. BAUMGARDNER: Okay. I had a quick and that's 19 a few quick follow-up questions, Ms. Bacon. This buzz that 20 has been spoke about, the 16 passenger van or bus, or 21 whatever it might be. Is that on a regular schedule was Mark 22 or is that only an as needed or 23 MS. BACON: Is there at the community all the 24 time. So is the driver. So we set the schedule for it, what 25 it's doing</p>
<p style="text-align: right;">62</p> <p>1 MS. WEITZ: -- I appreciate that. I understand 2 that. So I do have a question. I have been reading about 3 difficulty with senior living maintaining employees and staff 4 retention being an issue. You have a 16 passenger bus. Are 5 you planning to offer your employees, as an incentive, to use 6 that bus for transportation to and from Metro during shift 7 changes? 8 MS. BACON: I want to answer both of your 9 questions. I will answer the second one is. Absolutely we 10 can transport our residents, our employees during shift 11 change to the Metro station. We do that in other communities 12 if the nearby bus or train is not close. And so we can 13 definitely offer that and are happy to be in your mom living 14 in independent living is a slightly different situation than 15 in assisted living. 16 One of the things that we have is we have a nurse 17 on site 24 hours a day, 24/7 we've got nurses there. So 18 often what happens is when you call in a balance and is a 19 911, you may not, in your own home or in an independent 20 living, have someone there that can evaluate the situation 21 and understand whether it needs to be a 911 call or whether 22 the nurse can call the doctor, their personal position, and 23 they can figure out what's going on. So we rarely have 911 24 calls in our communities. And that's just because of the 25 kind of model that we operate in our communities rather than</p>	<p style="text-align: right;">64</p> <p>1 MR. BAUMGARDNER: So there's not like an a.m. run 2 to the grocery store and a p.m. run to the grocery store 3 every day? It's special trips? 4 MS. BACON: Uh-huh. 5 MR. BAUMGARDNER: That's all I had. Ms. Girard, 6 any questions based upon mine? 7 MS. GIRARD: No. 8 MR. BAUMGARDNER: All right. We think Ms. Bacon 9 for her time in her testimony. 10 MS. BACON: Thank you, very much. 11 MR. BAUMGARDNER: I see -- 12 MS. BENNETT: May I ask one follow-up question to 13 your question, Mr. Baumgardner? 14 MR. BAUMGARDNER: Yes, Councilwoman. Go ahead. 15 MS. BENNETT: Thank you. Ma'am, the bus, will it 16 be during the day parked in front of the facility in the 17 circular? Or will it be part in the driveway this is behind 18 the care facility? 19 MS. BACON: It will be probably parked behind or 20 underneath in the underground parking. It's a beautiful bus, 21 by the way. You will like it. It's a very nice buzz. But 22 it will be part in our -- you know, it would not be normally 23 be part like there in front when we are doing the turnaround. 24 MS. BENNETT: Okay. And is the underground 25 facility entrance on the front side or in the back at service</p>

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<p style="text-align: right;">65</p> <p>1 insurance?</p> <p>2 MS. BACON: In the back. In the back.</p> <p>3 MS. BENNETT: Okay. So is it fair to say that in</p> <p>4 order for the -- that bus would be going -- once it dropped</p> <p>5 off or picked up passengers it would go back out onto</p> <p>6 Strathmore to get to that service insurance to park either in</p> <p>7 that parking lot or underground?</p> <p>8 MS. BACON: I don't believe it would have to, but</p> <p>9 I would have to depend on -- when they talk about traffic and</p> <p>10 the flow. I don't believe it has to. I think it can turn</p> <p>11 around and go right under.</p> <p>12 MS. BENNETT: Yeah, I don't see -- okay. Well, I</p> <p>13 don't see a direct interest of the service parking from</p> <p>14 the -- that road -- that roadway from the front.</p> <p>15 MS. BACON: I believe it would have to enter and</p> <p>16 maybe we can pull up the traffic --</p> <p>17 MS. BENNETT: The circulation plan, perhaps?</p> <p>18 MS. BACON: Yes.</p> <p>19 MS. BENNETT: Which is Exhibit 37, I think.</p> <p>20 MR. BAUMGARDNER: Would that be a better question</p> <p>21 for the traffic engineer? Or for Ms. Bacon?</p> <p>22 MS. BENNETT: That's fine. I just want to make</p> <p>23 sure it's understood how that bus would be moving around</p> <p>24 throughout the day at some point.</p> <p>25 MS. BACON: Thank you. I think it works better</p>	<p style="text-align: right;">67</p> <p>1 your email address for the record, please.</p> <p>2 MR. AMATEAU: Sure, good morning. My name is</p> <p>3 Jeffrey Amateau. I work for Vika Maryland. Office located</p> <p>4 at 20251 Century Boulevard, Suite 200 in Germantown,</p> <p>5 Maryland. ZIP is 20874. My email is Amateau@Vika.com.</p> <p>6 MR. BAUMGARDNER: Thank you, sir. And if you</p> <p>7 could, raise your right hand.</p> <p>8 Do you swear or affirm under the penalties of</p> <p>9 perjury that the testimony you're about to give is the truth,</p> <p>10 the whole truth?</p> <p>11 MR. AMATEAU: I do.</p> <p>12 MR. BAUMGARDNER: Thank you, very much. There</p> <p>13 seems to be some kind of rattle in the background. I don't</p> <p>14 know if that's from anyone in particular. It might be a</p> <p>15 computer issue or a device issue.</p> <p>16 MR. AMATEAU: I've been told that my ventilation</p> <p>17 system was always -- makes a noise. So --</p> <p>18 MR. BAUMGARDNER: Got it. It is what it is.</p> <p>19 MR. AMATEAU: (Inaudible).</p> <p>20 MR. BAUMGARDNER: As long as you know what it is.</p> <p>21 And we are certainly not going to make it or not the heat on</p> <p>22 a day like today. We will turn the witness over to Ms.</p> <p>23 Girard.</p> <p>24 MS. GIRARD: Mr. Amateau, what is your occupation?</p> <p>25 MR. AMATEAU: I'm a civil engineer.</p>
<p style="text-align: right;">66</p> <p>1 for the --</p> <p>2 (Crosstalk)</p> <p>3 MR. BAUMGARDNER: Question as well. So we will</p> <p>4 make sure that we answer that when the traffic engineer</p> <p>5 testifies.</p> <p>6 MS. BENNETT: Thank you, I appreciate it.</p> <p>7 MR. BAUMGARDNER: Thank you. All right. Thank</p> <p>8 you, Ms. Bacon. We're going to turn it back over to Ms.</p> <p>9 Girard for your next witness. Before you do that, let's take</p> <p>10 a five-minute break if that's okay with everyone. It's 11:08</p> <p>11 a.m. We will reconvene it 11:15 a.m. We will be right back.</p> <p>12 Thank you all, very much.</p> <p>13 (Off the record at 11:09 a.m., resuming at</p> <p>14 11:15 a.m.)</p> <p>15 MR. BAUMGARDNER: We're on the record. This is</p> <p>16 case LMA 143 for the property located at 4910-4920 Strathmore</p> <p>17 Avenue. The data center with 31st. It is -- sorry -- 11:15</p> <p>18 a.m. We had finished the direct examination and cross-</p> <p>19 examination of Ms. Bacon. We are turning it back over to Ms.</p> <p>20 Girard to call her next witness.</p> <p>21 MS. GIRARD: Thank you. Next I would like to call</p> <p>22 Jeff Amateau who hopefully is going to appear on the screen.</p> <p>23 There we go.</p> <p>24 MR. BAUMGARDNER: Good morning, sir. If you</p> <p>25 could, give us your full name, your business address, and</p>	<p style="text-align: right;">68</p> <p>1 MS. GIRARD: How long have you been engaged in</p> <p>2 this occupation?</p> <p>3 MR. AMATEAU: I've been working this field since</p> <p>4 1988.</p> <p>5 MS. GIRARD: Can you review for us your</p> <p>6 professional and educational background?</p> <p>7 MR. AMATEAU: Yes, I'm a 1988 graduate of the</p> <p>8 University of Maryland, College Park, with my bachelor of</p> <p>9 science in civil engineering. I'm a licensed professional in</p> <p>10 the state of Maryland, Commonwealth of Virginia, and the</p> <p>11 District of Columbia.</p> <p>12 MS. GIRARD: And can you review your work</p> <p>13 experience in the field of civil engineering?</p> <p>14 MR. AMATEAU: Yep. After graduating from the</p> <p>15 University of Maryland I went to work for Vika as a design</p> <p>16 engineer. I worked for Vika from 1988 to 1992. I -- in 1992</p> <p>17 I left Vika for a new position as a project engineer at</p> <p>18 Frederick Ward and Associates located in Bel Air, Maryland.</p> <p>19 And then in 1994 I left Frederick Ward to go back to Vika for</p> <p>20 a project manager's position. I've been at Vika since 1994</p> <p>21 and am currently the director of engineering in the Maryland</p> <p>22 office.</p> <p>23 MS. GIRARD: And have you ever qualified as an</p> <p>24 expert in civil engineering before?</p> <p>25 MR. AMATEAU: Yes. 2015 I testified for a change</p>

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<p style="text-align: right;">69</p> <p>1 in zoning case for the (inaudible) Habitat project in 2 Montgomery county. And before that I testified for a special 3 exception for the Potomac Valley nursing home in the city of 4 Rockville. 5 MS. GIRARD: I would like to note that Mr. 6 Amateau's resume is Exhibit 49A in the record. And I would 7 like to move his admission as an expert in civil engineering. 8 MR. BAUMGARDNER: Mr. Shaffer or Mr. Burdin, any 9 questions or further voir dire of this witness as an expert 10 as a promulgated expert in the field of civil engineering? 11 MR. SHAFFER: No, none for me. This is Dave 12 Shaffer. 13 MR. BURDIN: No, none for me. Thank you. 14 MR. BAUMGARDNER: Hearing no objection or further 15 voir dire, I've reviewed the resume and the testimony of Mr. 16 Amateau. I know that he has appeared before OZAH as an 17 expert in other matters. He is hereby admitted for the 18 purposes of this hearing as an expert in the field of civil 19 engineering. 20 MS. GIRARD: Thank you. Mr. Amateau, are you 21 familiar with the property that is the subject of a local map 22 amendment application, the surrounding area and the 23 application itself, LMA143? 24 MR. AMATEAU: Yes. My team has been working on 25 the project since the summer of 2020. And during that time</p>	<p style="text-align: right;">71</p> <p>1 MS. GIRARD: Can you describe for us the existing 2 public facilities serving the property? 3 MR. AMATEAU: There is an existing large diameter 4 public water main, 12 inch in size on Strathmore Avenue 5 service road. There is an existing large diameter public 6 sewer main along the west property boundary. There are 7 existing private storm drains which outfall on-site. There 8 is an existing gas main on Strathmore Avenue. Communication, 9 electric appear to be on utility poles on Strathmore Avenue. 10 And finally the existing site does not have any current storm 11 water management. 12 MS. GIRARD: Can you describe for us the 13 conceptual proposed public facilities including storm water 14 management? 15 MR. AMATEAU: Well, as I stated before, we have 16 prepared utility and stormwater plans to support the floating 17 zone plan. These plans will be refined with site-specific 18 calculations during the further entitlement permit processes, 19 which would include a (inaudible) hydraulic planning and 20 analysis. We would have to prepare a concept storm water 21 plan, a site development storm water plan, and the other 22 utility plans to support (inaudible) plan and site plan. 23 MS. GIRARD: And are you aware -- Mr. Lester 24 actually referenced it, that the community had raised 25 concerns about existing storm water flowing down Strathmore</p>
<p style="text-align: right;">70</p> <p>1 we have prepared civil engineering concept plans to support 2 the application. 3 MS. GIRARD: And have you analyzed the suitability 4 of the subject property for the proposed single-family and 5 residential care facility uses from a civil engineering 6 standpoint? 7 MR. AMATEAU: Yes, we've analyzed the storm water 8 management, water, sewer, storm drain, and grading. Our 9 concepts considered the constraints of the property and we 10 were able to provide the required development standards such 11 as redundant water collection, proper easement widths, 12 adequate or subtle clearances between utilities, proper sight 13 distances at the entrances of Strathmore Avenue, and 14 providing 100 percent of the storm water management volume 15 based on the current layout. 16 MS. GIRARD: Can you describe for us the existing 17 conditions environmental constraints of the property? And 18 how it relates to adjacent properties? 19 MR. AMATEAU: Yes. Well, the existing land use is 20 institutional, consisting of building, private streets, 21 parking, athletic fields. Environmentally there are two 22 streams on the property. One is along the entire West 23 boundary flowing from Strathmore Avenue to Cloister Drive. 24 In a smaller stream flowing east to west. Confluence of the 25 two streams is about 800 feet north of Cloister Drive.</p>	<p style="text-align: right;">72</p> <p>1 Avenue and pooling at the intersection of Stillwater? 2 MR. AMATEAU: Yes, I have walked the Stillwater 3 Avenue intersection with the Strathmore Avenue service Road. 4 In that area has a flat grade as it flows west to the 5 drainage as well and then south in the stream. 6 MS. GIRARD: And -- 7 MR. AMATEAU: The majority that I was going to say 8 the majority of that drainage area is from the development 9 north of Strathmore Avenue at Stillwater. And as Jack 10 mentioned, there is a small area about 1.8 acres from my 11 calculations from the project site that the existing 12 condition that flows towards that intersection. However, on 13 our current green plan and storm water plan we are 14 significantly reducing that drainage by picking up that on- 15 site water and conveying it to on-site stormwater which would 16 outfall south of the Strathmore -- Strathmore Avenue. 17 MS. GIRARD: Thank you. 18 MR. BAUMGARDNER: Would a particular exhibit be 19 helpful on Mr. Amateau and explaining the outfall and the 20 flow of storm water through the property? 21 MR. AMATEAU: Exhibit 46? Stormwater exhibit? 22 MR. BAUMGARDNER: Do you want me to pull that up? 23 It should be on your screen shortly. 24 MS. GIRARD: It's there. 25 MR. AMATEAU: It is on my screen, but pretty</p>

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<p style="text-align: right;">73</p> <p>1 small. So if we can, zoom in close to the Brandywine 2 facility up along Strathmore Avenue. It's very difficult to 3 see at this scale, but there is storm drain and if I was able 4 to use my cursor I could probably pick it up for you. 5 Because there is storm drain -- 6 MR. BAUMGARDNER: (Inaudible) exhibit which is 7 Exhibit 46, there are areas of marked in green. What are 8 those areas? 9 MR. AMATEAU: Those areas are storm water 10 management areas, a mixture of roadside bios and bio filters. 11 But what's conveying the water away from that intersection is 12 the storm drain system. And it's gray. Maybe we could pull 13 up the utility plan, which is Exhibit 35. Maybe that -- it's 14 not on my exhibit. 15 MR. BAUMGARDNER: I apologize, Ms. Girard. I'm a 16 visual person, so I like to see -- 17 MS. GIRARD: I totally understand that. 18 MR. BAUMGARDNER: The photos give me a really good 19 idea of what we are looking at here. Hopefully this loads. 20 All right. This is that's what's showing on my screen is 21 Exhibit 35. It should be showing on your screen right now. 22 MR. AMATEAU: And if you zoom into the middle 23 entrance there is a storm drain system that is picking up the 24 roadway and then it conveys it to the West in front of the 25 single families. And if you pan the sheet to the left, you</p>	<p style="text-align: right;">75</p> <p>1 to left-hand corner. I see Tuckerman Lane. 2 MR. AMATEAU: Yeah. So we looked at a connection 3 to Cloister, which is south of the Academy. But because of 4 the significant disturbance that would be required on the 5 steep slope -- it's hard to see, but that shaded area is a 6 steep slope -- stream valley buffer and significant 7 (inaudible) on the floodplain and a portion of forced 8 removal, that access is just not feasible. 9 MS. GIRARD: It's also been suggested by the town 10 of Garrett Park that trucks will be incentivized to back into 11 the loading area for the residential care facility from 12 Strathmore Avenue. Can you address that concern as well? 13 MR. AMATEAU: A truck turning analysis will be 14 prepared and submitted to MCDOT and MCDPS during the 15 (inaudible) plan and site plan process. So what is showing 16 on the floating zone plan is very conceptual. 17 MS. GIRARD: Will it be -- when it is designed, 18 would it be designed to have trucks use the Strathmore for 19 that turning movement? Or would that all be accomplished on- 20 site? 21 MR. AMATEAU: It will be accomplished on-site. I 22 think that is going to be required by -- during our 23 entitlement process, from my experience. 24 MS. GIRARD: Okay. And Mr. Amateau, from an 25 engineering perspective, does the application satisfy the</p>
<p style="text-align: right;">74</p> <p>1 will see it out falling into the stream south of Strathmore 2 Avenue. And so that water will be diverted from that 3 intersection, which would help. It is not going to solve the 4 problem. 5 MR. BAUMGARDNER: Okay. 6 MS. GIRARD: Jeff? 7 MR. AMATEAU: What's that? 8 MS. GIRARD: Mr. Amateau, that's all that you want 9 to review on those plans? 10 MR. AMATEAU: I think so. I think that unless 11 there is any questions. 12 MS. GIRARD: My next question is, certain members 13 of the community also suggested that the primary access for 14 the school and propose community should be moved to the south 15 of the Academy and connect to Cloister Drive or perhaps 16 Tuckerman. Have you evaluated the visibility of providing 17 such a connection? 18 MR. AMATEAU: Yes, early on in the process. I 19 think if we can pull up Exhibit 19, I think that would show 20 the best exhibit where we probably looked at -- on this 21 exhibit, if you want to zoom in to the intersection of 22 Tuckerman and Cloister, I think that will -- 23 MR. BAUMGARDNER: And where it might that be? 24 MR. AMATEAU: That's on the bottom of the page. 25 MR. BAUMGARDNER: All right. So it's in the lower</p>	<p style="text-align: right;">76</p> <p>1 intent and standards of the proposed zone and meet the 2 applicable requirements of the zoning ordinance? 3 MR. AMATEAU: Yes, it does satisfy the intent and 4 standards of his own. We looked at existing infrastructure 5 and the development is supported by the existing utility 6 infrastructure (inaudible) anticipated off-site improvements 7 being required. We looked at sight distance with proposed 8 entrances onto Strathmore and the sight distance were more 9 than adequate for both stopping and the intersection sight 10 distances. And we also prepared a concept storm water plan 11 to ensure that the -- what was presented through this 12 floating zone process would capture 100 percent of the 13 required storm water that would be -- that will be required 14 during the entitlement and the permit process. 15 MS. GIRARD: And on the point of storm water, can 16 you just briefly explain how storm water is reviewed? Both 17 that's at this stage that you mentioned it's conceptual. 18 Were the local map amendment approved in this were to move 19 forward to preliminary site plan, can you just give us a 20 sense of what level of detail you've looked at now and what 21 level of detail you would look at and those further 22 entitlements? 23 MR. AMATEAU: So Montgomery County, State of 24 Maryland, requires a three-tier submission process. The 25 first year would be the concept storm water plan. And that</p>

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<p style="text-align: right;">77</p> <p>1 typically, a Montgomery County, is submitted with the</p> <p>2 preliminary plan. And what we've done so far other than</p> <p>3 submitting to the county, who (inaudible) is prepare that</p> <p>4 storm water concept plan. So we have done some conceptual</p> <p>5 computations. We have made sure that the target rainfall of</p> <p>6 1.8 inches is achievable with the current floating zone plan.</p> <p>7 Actually on the EYA site we were able to hit 1.88 as it</p> <p>8 currently stands and on graded wine we were able to hit 1.80.</p> <p>9 Then after preliminary plan (inaudible) plan and site plan</p> <p>10 are being submitted separately, we would do a -- prepare a</p> <p>11 site development storm water plan which would be submitted to</p> <p>12 DPS and park in planning for review. It further enhances the</p> <p>13 concept storm water plan but actually brining in and</p> <p>14 designing the storm water facilities. And then after that we</p> <p>15 would then have to prepare permit document that submit those</p> <p>16 through DPS tax to get a permit to construct those</p> <p>17 facilities. Does that answer --</p> <p>18 MS. GIRARD: It does. Thank you.</p> <p>19 MR. AMATEAU: Okay.</p> <p>20 MS. GIRARD: I think that's just a helpful</p> <p>21 overview for people not quite familiar with the process. And</p> <p>22 Mr. Amateau, from an engineering perspective, with the</p> <p>23 proposed rezoning and uses be compatible with existing</p> <p>24 adjacent development?</p> <p>25 MR. AMATEAU: The project proposes townhouses,</p>	<p style="text-align: right;">79</p> <p>1 is just the storm water calculation on the actual volume</p> <p>2 that's required to be managed. And that's as far as we have</p> <p>3 taken it so far.</p> <p>4 MR. SHAFFER: So what is the volume you estimate</p> <p>5 to be graded?</p> <p>6 MR. AMATEAU: I would need to look that up and get</p> <p>7 back to, which I can. I have the computations on my network.</p> <p>8 MR. SHAFFER: When you, when you can't let the</p> <p>9 total amount of runoff expected from a certain surface area</p> <p>10 of impermeable surface, how do you calculate the amount of</p> <p>11 water? In other words, what factor of rainfall or other</p> <p>12 precipitation do you use to calculate the total volume of</p> <p>13 water that would be created by that impermeable surface?</p> <p>14 MR. AMATEAU: So in the State of Maryland, you</p> <p>15 base your impervious -- you calculate your impervious area</p> <p>16 and then you hit your target rainfall. In this case, using</p> <p>17 the (inaudible) manual of target rainfall that we would have</p> <p>18 to manage was 1.8 inches (inaudible).</p> <p>19 MR. SHAFFER: 1.8 inches for what? Hour? Day?</p> <p>20 Year?</p> <p>21 MR. AMATEAU: It is 1.8 in. per hour over a 24</p> <p>22 hour storm event.</p> <p>23 MR. SHAFFER: Over a continuous 24 hour span?</p> <p>24 MR. AMATEAU: Yet, the 1.8 is the peak of the 24</p> <p>25 hour rainstorm.</p>
<p style="text-align: right;">78</p> <p>1 single-family, and a care facility. These uses are similar</p> <p>2 and compatible to the existing surrounding neighborhood north</p> <p>3 of the proposed project, across from Strathmore existing</p> <p>4 residential single-family houses I think to the west of the</p> <p>5 proposed project or existing residential townhouses. East</p> <p>6 and South from the project our schools. So I think it's very</p> <p>7 compatible.</p> <p>8 MS. GIRARD: Thank you. That's all I have for Mr.</p> <p>9 Amateau.</p> <p>10 MR. BAUMGARDNER: Thank you, very much. We will</p> <p>11 start with Mr. Shaffer. Any questions for Mr. Amateau?</p> <p>12 MR. SHAFFER: Yes. Hello Mr. Amateau.</p> <p>13 MR. AMATEAU: Good morning.</p> <p>14 MR. SHAFFER: Have you calculated the total amount</p> <p>15 of impermeable surfaces that would be created by this</p> <p>16 product?</p> <p>17 MR. AMATEAU: Yes we have. That was included in</p> <p>18 our computation. That was just based on the conceptual plan</p> <p>19 that was submitted with the floating zone plan.</p> <p>20 MR. SHAFFER: Okay. And using that amount of</p> <p>21 impermeable surface that you calculated, did you use that</p> <p>22 figure to calculate the estimated storm runoff from that</p> <p>23 surface? That degree of surface?</p> <p>24 MR. AMATEAU: We will prepare -- that's typically</p> <p>25 done when we do a storm drain design. What we've done so far</p>	<p style="text-align: right;">80</p> <p>1 MR. SHAFFER: Okay. You said a peek. I'm asking</p> <p>2 you if your assumption is that is 1.8 times 24 hours.</p> <p>3 MR. AMATEAU: No, that's not I was calculated.</p> <p>4 MR. SHAFFER: Okay. Now when -- in using this 1.8</p> <p>5 calculation factor that you say is what the county requires</p> <p>6 you to use, can you tell me whether that 1.8 factor takes</p> <p>7 into account the climate -- climate change and increased</p> <p>8 amount of precipitation that we anticipate over the next 10</p> <p>9 to 20 to 30 or more years in this area?</p> <p>10 MR. AMATEAU: No, I don't know that answer.</p> <p>11 MR. SHAFFER: Okay. When is this project due to</p> <p>12 be completed and fully functioning?</p> <p>13 MR. AMATEAU: I don't know.</p> <p>14 MR. SHAFFER: Okay. Let's assume this project</p> <p>15 will be functioning by (inaudible) developer would like it as</p> <p>16 fast as possible. Let's say by the end of 2024.</p> <p>17 MR. AMATEAU: Okay.</p> <p>18 MR. SHAFFER: And let's just say (inaudible) at</p> <p>19 least has an estimated life of 50 years. Okay. Now using</p> <p>20 that kind of example, how would you project the anticipated</p> <p>21 amount of storm water drainage runoff that will be created</p> <p>22 when this project is fully developed and into its full</p> <p>23 operation?</p> <p>24 MR. AMATEAU: Well, as I stated previously, the --</p> <p>25 you know, there are three different submissions that are</p>

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<p style="text-align: right;">81</p> <p>1 required to go to this county. And those submissions will</p> <p>2 meet the current design criteria. If the design criteria</p> <p>3 changes, we would adapt and adjust our storm water designed</p> <p>4 to meet whatever the county and state regs are at that time.</p> <p>5 MR. SHAFFER: (Inaudible) County regs, and your</p> <p>6 professional opinion what would be the best estimate of the</p> <p>7 total amount of volume that would be runoff in say 20 years</p> <p>8 from now from this development?</p> <p>9 MR. AMATEAU: I couldn't make a guess.</p> <p>10 MR. SHAFFER: You couldn't make a guess?</p> <p>11 MR. AMATEAU: No.</p> <p>12 MR. SHAFFER: Do you have a way of calculating</p> <p>13 that?</p> <p>14 MR. AMATEAU: No.</p> <p>15 MR. SHAFFER: Have you looked at any projections</p> <p>16 of rainfall for this area over the next 10 to 50 years based</p> <p>17 upon climate change?</p> <p>18 MR. AMATEAU: No.</p> <p>19 MR. SHAFFER: Have you considered climate change</p> <p>20 in any way in your analysis?</p> <p>21 MR. AMATEAU: No.</p> <p>22 MR. SHAFFER: Thank you. I have no further</p> <p>23 questions.</p> <p>24 MR. BAUMGARDNER: Mr. Burdin, any questions for</p> <p>25 Mr. Amateau?</p>	<p style="text-align: right;">83</p> <p>1 about? So we are clear --</p> <p>2 MR. AMATEAU: I'm not. I'm not aware that there</p> <p>3 was a discussion on a path that would connect the project</p> <p>4 site to a -- across the stream to the Symphony site.</p> <p>5 MR. BURDIN: Okay. Did you say that the site</p> <p>6 currently has no storm water management?</p> <p>7 MR. AMATEAU: That is correct.</p> <p>8 MR. BURDIN: Okay. And by that you meant no man-</p> <p>9 made storm water management, right?</p> <p>10 MR. AMATEAU: None of your traditional underground</p> <p>11 storage systems, ponds, other sort of storm water facilities</p> <p>12 or grid separators that were popular in the 80s. I mean,</p> <p>13 there are some storm drain systems that collect water from</p> <p>14 the road and outfall on-site, which I did mention in my</p> <p>15 testimony. But as far as actual storm water, I've been to</p> <p>16 the site three or four times, walked in, and I have not seen</p> <p>17 any of those sort of facilities.</p> <p>18 MR. BURDIN: Okay. But the extensive grass on the</p> <p>19 side, particularly on the field part of it, and the streams</p> <p>20 they are, they act as a natural storm water management at</p> <p>21 least to some degree; is that fair to say?</p> <p>22 MR. AMATEAU: That is fair to say.</p> <p>23 MR. BURDIN: Okay, thank you. And you mentioned</p> <p>24 that the -- when you're talking about the surrounding area of</p> <p>25 the site, you mentioned that there are residential care</p>
<p style="text-align: right;">82</p> <p>1 MR. BURDIN: Yes. Did you hear Mr. Lester mention</p> <p>2 a proposed path from the walking trail of the project to the</p> <p>3 Symphony Park trail that ultimately leads to Metro?</p> <p>4 MS. GIRARD: Objection. He's -- and Mr. Amateau</p> <p>5 did not speak of that connection. He is trying to cross him</p> <p>6 on something that someone else spoke on. We will have a</p> <p>7 future witness who will speak to that. But I don't think</p> <p>8 that Jeff is the appropriate person.</p> <p>9 MR. BURDIN: Well, this witness talked about the</p> <p>10 idea of a road to Tuckerman and opined that it would be</p> <p>11 infeasible. And so I would like to have his opinion, if he</p> <p>12 has one, or if he's looked to know -- whether he has looked</p> <p>13 at this issue of the path that would cut from the proposed</p> <p>14 project to the Symphony Park path.</p> <p>15 MR. BAUMGARDNER: I will allow the question as</p> <p>16 long as it pertains to the engineering issues that are --</p> <p>17 that have been presented so far. So if the witnesses aware</p> <p>18 of that independent of Mr. Lester's testimony, Mr. Amateau</p> <p>19 can testify if he is aware of that as a prior possibility</p> <p>20 which was investigated. So Mr. Amateau, are you aware of</p> <p>21 that potential for that cut through with the other path in a</p> <p>22 previous induration of this plan?</p> <p>23 MR. AMATEAU: I am not. That was something my</p> <p>24 team and I did not look at.</p> <p>25 MR. BURDIN: Are you aware of what I'm talking</p>	<p style="text-align: right;">84</p> <p>1 facilities. What's the closest residential care facility to</p> <p>2 the site?</p> <p>3 MR. AMATEAU: I don't remember saying there are</p> <p>4 residential facilities. What I did say is that there are</p> <p>5 single-family so the North. There was townhouses to the West</p> <p>6 and to the south and east our school sites.</p> <p>7 MR. BURDIN: Well, can the court reporter go back?</p> <p>8 I mean, it's not a big issue --</p> <p>9 (Crosstalk)</p> <p>10 MR. BURDIN: Said -- he included residential care</p> <p>11 facilities in the nearby vicinity.</p> <p>12 MR. BAUMGARDNER: I don't recall that he made that</p> <p>13 statement, but you can certainly ask again.</p> <p>14 MR. BURDIN: It's -- that's right. It's not worth</p> <p>15 it. Thank you. That's all I have.</p> <p>16 MR. BAUMGARDNER: I had just a couple of quick</p> <p>17 follow-up questions Mr. Amateau. You said that there was a</p> <p>18 run of volume that was -- that you had calculated somewhere</p> <p>19 in your calculations, correct?</p> <p>20 MR. AMATEAU: Yes.</p> <p>21 MR. BAUMGARDNER: Can you pull that up for me? If</p> <p>22 you have any. Or if Mr. Girard knows or can identify an</p> <p>23 exhibit that may have those numbers. Either way is fine with</p> <p>24 me.</p> <p>25 MR. AMATEAU: Erin I don't believe any of those</p>

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<p style="text-align: right;">85</p> <p>1 were submitted as backup to the concept storm water. It 2 would just take me a couple of seconds to pull it up off our 3 network. 4 MS. GIRARD: I agree. I think it was an 5 underlying collation that went into the exhibit. But I don't 6 think the information is on the exhibit itself. 7 MR. BAUMGARDNER: If you can just take a minute to 8 pull it up, that would be helpful. 9 MR. AMATEAU: Yeah. Okay. I have the Excel 10 spreadsheet up. I just -- it's covering everybody. So hold 11 on. I'm going to move it around. 12 MR. BAUMGARDNER: All right. 13 MR. AMATEAU: So you're looking for the required 14 volume that needs to be managed on-site? 15 MR. BAUMGARDNER: That's correct. 16 MR. AMATEAU: So the required volume is 44,491 17 cubic feet. 18 MR. BAUMGARDNER: And you had also mentioned that 19 you had calculated the proposed impervious surface that would 20 result if the (inaudible) and the, at this point the concept 21 plan came to fruition. 22 MR. AMATEAU: Yes. 23 MR. BAUMGARDNER: Was that that's what was that 24 total impervious surface? 25 MR. AMATEAU: 6.81 acres.</p>	<p style="text-align: right;">87</p> <p>1 representing the Association. So we need to make sure that 2 if the folks are asking questions from the community they are 3 not representing the Association because I would not be 4 allowed. So with that caveat, with that caution, Ms. Weitz, 5 did you have any questions for Mr. Amateau? 6 MS. WEITZ: Yes, I did. But first I wanted to 7 clarify that I am not living within the Garrett Park Estates 8 Association. I am in the Strathmore Place Association and 9 that is a separate entity. 10 MR. BAUMGARDNER: Got it. Understood. 11 MS. WEITZ: Okay. So Mr. Amateau, forgive me, 12 because I feel I am not at all an expert in this. But I 13 would like a little more clarity about the possibility of an 14 entrance for the Academy of the Holy Cross using Tuckerman. 15 And as I understand it, there is already a parking lot and a 16 roadway that is on the Holy Cross property directly across 17 from Tuckerman Lane. And the roadway and Tuckerman roadbed 18 are at approximately the same elevation. And the ravine 19 between the two is approximately 20 to 30 feet lower 20 elevation and might possibly not require any disturbance 21 except for the installation of a single span bridge that 22 would only be slightly longer than the existing Stony Brook 23 community Bridge on Cloister Drive. So I'm just wondering 24 if -- and again, this is as a nonexpert in this. So I'm 25 asking you as the expert. It would seem to me that a</p>
<p style="text-align: right;">86</p> <p>1 MR. BAUMGARDNER: Thank you, very much. Ms. 2 Girard, any questions based upon mine or Mr. Shaffer's or Mr. 3 Burdin's? 4 MS. GIRARD: Just quickly, yes. Mr. Amateau, 5 you've described that you rely on County regulations that are 6 put out with certain calculations that you need to adhere to. 7 Would you consider using the county and state prescribed 8 standards as a best practice? 9 MR. AMATEAU: Yes, I do. 10 MS. GIRARD: And in your experience, would be 11 typical for a civil engineer to go above and beyond that and 12 make their own independent calculations as to future 13 conditions? 14 MR. AMATEAU: (Inaudible) I can't imagine a 15 situation where someone would do that. 16 MS. GIRARD: That's all I have. 17 MR. BAUMGARDNER: Thank you, Ms. Girard. I do see 18 two hands raised. We do need to be careful of OZAH's rules 19 here regarding questions from the public when they are 20 represented by counsel. So there is a long list of cases 21 dealing with when counsel is represented in association and 22 then having other individuals from that association question 23 witnesses. So I will ask Ms. Weitz and then I will ask Mr. 24 Ribeiro right now in that order if you have questions of Mr. 25 Amateau, but again being careful that Mr. Shaffer is</p>	<p style="text-align: right;">88</p> <p>1 separate entrance for the Academy of the Holy Cross on 2 Tuckerman would benefit not only the Academy, because 3 Tuckerman is a four-lane road that has very low traffic 4 volume which I know personally since I walk within the larger 5 neighborhood frequently. But it would also significantly 6 benefit, I would think, the new community, but the residents 7 of the new homes, as well as the Brandywine facility. And 8 could you talk to the possibility, whether you considered 9 using those existing parking lot and structures there? 10 MR. AMATEAU: I did not. My study was the 11 connection solely on our project property. It wasn't a study 12 we prepared to go across someone else's property and make 13 that connection. So I don't have an opinion one way or the 14 other if it would work were not work. 15 MS. WEITZ: So who would be able to determine 16 that? Or could that possibly be included? Because it just 17 appeared to me as a concerned citizen that there might be a 18 huge benefit to all parties with that separate entrance. 19 MR. BAUMGARDNER: So Ms. Weitz, I do understand 20 your question. But for the purposes of this application we 21 have plans in front of us. And those plans do not include 22 that option. So we really can't ask the civil engineer about 23 plans that have not been requested through the applicant and 24 we can't inquire from a neighboring property owner if there 25 might be another option, if that makes sense.</p>

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<p style="text-align: right;">89</p> <p>1 MS. WEITZ: Even though that neighboring property 2 owner is the property owner who is selling the current 3 property? 4 MR. BAUMGARDNER: It's not -- 5 MS. WEITZ: Because they are an interest in party. 6 MR. BAUMGARDNER: Sure, but it's not under the 7 subject application. And we -- 8 MS. WEITZ: With that be a question I could ask of 9 the Academy of the Holy Cross when they testify? 10 MR. BAUMGARDNER: Not today. You can certainly 11 ask that independent of this hearing. 12 MS. WEITZ: Thank you. 13 MR. BAUMGARDNER: Sure. Mr. Ribeiro, again with 14 the qualification that I believe your association is 15 represented by counsel, did you have a separate question? 16 MR. RIBEIRO: So yes, you're right. I am 17 represented. So I apologize for that. My question was 18 actually going to be -- I think he's already answered it. He 19 had talked in a statement about looking at the connection to 20 Cloister Drive. But I was going to ask my question and said 21 he was sort of getting to that as with a connection from the 22 Academy of Holy Cross to Tuckerman Lane. But if you're 23 saying that this is something that cannot be asked right 24 now -- I mean, I appreciate that Mr. Amateau has been to the 25 property several times. I'm not sure if that includes the</p>	<p style="text-align: right;">91</p> <p>1 record as I believe the witness testified, that they be made 2 a part of the record? 3 MR. BAUMGARDNER: So my understanding is that the 4 individual calculations were a part of the analysis that 5 resulted in the plans that were submitted. Ms. Girard, do 6 you have any objection to making those calculations a 7 separate exhibit to be submitted after the hearing? 8 MS. GIRARD: No. I mean, I think they are part of 9 the record by virtue of Mr. Amateau just putting them on the 10 record. So that's fine. 11 MR. BAUMGARDNER: Sure. 12 MS. GIRARD: I mean, we can certainly provide 13 those numbers in a separate document if that is what is 14 desired. 15 MR. BAUMGARDNER: That's what's being requested. 16 I think that's reasonable. I also think it's reasonable that 17 many Excel spreadsheets don't come into evidence because many 18 folks do not know how to read an Excel spreadsheet. So it's 19 certainly common that those calculations are done internally 20 and then are reproduced in a more readable format. But we 21 can certainly have those calculations broken down in a very 22 simple, yet brief form to be submitted after the hearing as 23 an additional exhibit. Is that sufficient for you, Mr. 24 Shaffer? 25 MR. SHAFFER: Yes sir, I believe so. I mean, as</p>
<p style="text-align: right;">90</p> <p>1 Academy's property and if he has seen the -- and he said he 2 reviewed the area around the Cloister Drive connection. So 3 in his professional opinion if there is a possibility to make 4 a similar sort of connection from the parking lot on the 5 south side of the Academy to Tuckerman Lane, that was going 6 to be my question. 7 MR. BAUMGARDNER: I understand. I certainly 8 understand the question. I don't think it's appropriate for 9 this hearing. But again, that is certainly something that 10 can be brought to the applicant's attention that they can 11 consider at a later time. But unfortunately, we are 12 constrained within the parameters of this application. 13 Having done this for many years, there are hundreds of 14 different possibilities for which things can be changed here 15 and there. Unfortunately, for the purposes of this 16 application we are simply constrained within the four walls 17 of the documents that we have here. It certainly doesn't 18 forestall the community's involvement reach back out to the 19 applicant if they have any interest at all and modifying 20 something. So unfortunately we will have to -- we will have 21 to leave that there. Again -- 22 MR. SHAFFER: Mr. Baumgardner, a point of order. 23 MR. BAUMGARDNER: Yes, sir. 24 MR. SHAFFER: (Inaudible). Can I request that, 25 since these underlying calculations were not submitted to the</p>	<p style="text-align: right;">92</p> <p>1 required under the best evidence rule when you give oral 2 testimony about the contents of a document that's not 3 (inaudible). 4 MR. BAUMGARDNER: Sure. Okay. We can do that. I 5 do see Mr. Edwards virtual hand rates. With the caveat and 6 qualification that I believe that Mr. Edwards is a member of 7 the Association that is represented by Mr. Shaffer. 8 MR. EDWARDS: Yes. Yes. 9 MR. BAUMGARDNER: Was there -- did you have a 10 separate question, sir? 11 MR. EDWARDS: I just wanted to clarify something. 12 So I'm actually the only officer present representing the 13 Garrett Park Estates (inaudible) Citizens' Association which 14 Mr. Shaffer represents. So Arthur Ribeiro, he was an ad hoc 15 member of the committee who we've asked to testify. But he 16 is not an officer of the committee. So he is not 17 technically, I don't believe, represented by Mr. Shaffer. 18 Neither is Cynthia or Ms. Lide, Vanessa. So they are all 19 just sort of members of the community who are here. They are 20 maybe aligned with positions of our Citizens' Association, 21 maybe. But I think technically I'm the only person 22 represented by Mr. Shaffer. Correct me if I'm wrong, but 23 just wanted to clarify. 24 MR. BAUMGARDNER: Understood. Understood. And 25 for the benefit of the court reporter, just looking on the</p>

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<p style="text-align: right;">93</p> <p>1 screen, this is Mr. Kip Edwards. Because the court reporter 2 is going to get mad at me because I have not identified you. 3 MR. EDWARDS: My apologies. 4 MR. BAUMGARDNER: Will you be testifying later, 5 sir? Or will you be -- will you be testifying later? 6 MR. EDWARDS: Yes, I will be called by Mr. Shaffer 7 to speak. 8 MR. BAUMGARDNER: Got it. Then we will get your 9 information later. I just wanted to make sure that that was 10 clear for the court reporter. 11 MS. GIRARD: Can we request clarification on that? 12 Because I've never -- I mean, is Mr. Edwards saying that Mr. 13 Shaffer and Mr. Edwards are only speaking on behalf of the 14 Board of Directors of the Association (inaudible)? 15 MR. BAUMGARDNER: And this is what gets very -- 16 and this is what gets very murky about when you have an 17 association represented by counsel in terms of how a hearing 18 is conducted. If I hear Mr. Edwards correctly, and if I 19 understand how we are proceeding today, Mr. Shaffer is 20 represented the Association. And I don't know how that 21 Association is organized. They are all organized 22 differently. But so that if there are individual members in 23 the community that wish to testify on their own, they can 24 certainly do so like any hearing. But if there's going to be 25 testimony from a director or some other official on behalf of</p>	<p style="text-align: right;">95</p> <p>1 for Mr. Amateau. 2 MR. BAUMGARDNER: Okay. The time is exactly noon. 3 It actually just clicked over to 12:01. So we are going to 4 take our hour lunch break right now. We will reconvene at 5 1:00 p.m. and then we will continue the direct exam of Ms. 6 Girard, of Ms. Girard's witnesses from the applicant. Any 7 questions, issues, or anything like that before we break and 8 reconvene for 1:00 p.m.? All right. Thank you all very 9 much. We will see you in about an hour. 10 (Off the record at 12:01:33 p.m.) 11 (Back on the record at 1:01:58 p.m.) 12 MR. BAUMGARDNER: Mr. Costello, are you there? 13 COURT REPORTER: Yes, I'm here. 14 MR. BAUMGARDNER: Great. So we are -- we're going 15 to reconvene this case. This is LMA 143, the rezoning of a 16 property located at 4910 (02:18:50) 4920 Strathmore Avenue. 17 We have completed a number of witnesses. We are going to 18 continue this case here today. It is approximately 1:02 p.m. 19 on January 31. We had left off with Ms. Girard's last 20 witness. So we are going to move forward with the applicant's 21 next witness. You're welcome to proceed whenever you 22 wish. 23 MS. GIRARD: Great. Thank you. What next like to 24 call Josh Sloan. 25 MR. SLOAN: Good afternoon.</p>
<p style="text-align: right;">94</p> <p>1 the Association, those questions and that testimony would 2 have to come through counsel and then through that witness 3 vis-à-vis the Association. Does that make sense Ms. Girard? 4 MS. GIRARD: It does. I just -- I think your 5 point is well taken from earlier that if Mr. Ribeiro is 6 actually a witness that's going to be called by the 7 Association, it seems a little strange that he is also being 8 allowed to act independently. I don't want to make a big 9 stink about it. I'm just saying it's -- I want to be clear 10 as to when Mr. Edwards and Mr. Shaffer speak, who they are 11 speaking on behalf of. 12 MR. BAUMGARDNER: It does get quite murky. The 13 reason I allow generally, limited questions from someone like 14 Mr. Ribeiro in this particular instance is that it can be on 15 behalf of personal, self, who happens to live in the 16 community who may or may not be a member of an association. 17 So that's why it's a little bit flexible. But we are not 18 going to go down the road of having each individual member 19 that's a member of the Association ask questions in addition 20 to Mr. Shaffer, because then the hearing itself just becomes 21 unwieldy at that point. That's the clarity on that 22 particular issue. All right. Any redirect Ms. Girard from 23 the testimony from Mr. Amateau? 24 MS. GIRARD: No. And I will (inaudible) we will 25 submit the calculations it separately. And that's all I have</p>	<p style="text-align: right;">96</p> <p>1 MR. BAUMGARDNER: Good afternoon, Mr. Sloan. 2 Please give us your full name, your business address, and a 3 good business email address, please. 4 MR. SLOAN: Joshua Sloan with Vika Maryland at 5 20251 Century Boulevard, Suite 400, Germantown, Maryland, 6 20874. Email is Sloan@Vika.com. 7 MR. BAUMGARDNER: Thank you. And can you please 8 raise your right hand? 9 (Oath Administered) 10 MR. BAUMGARDNER: All right. Ms. Girard, the 11 witness is yours. 12 MS. GIRARD: Thank you. Mr. Sloan, what your 13 occupation? 14 MR. SLOAN: I'm a landscape architect and planner 15 since the last 25 years or so. 16 MS. GIRARD: And what your professional and 17 educational background? 18 MR. SLOAN: I have a BA in biology and a Masters 19 of landscape architecture. I've spent about 18 years in 20 private practice in design, construction, and management of 21 landscape architecture and planning projects. And I have 22 about seven years of public practice experience in develop 23 and review master planning and zoning. 24 MR. BAUMGARDNER: Ms. Girard, I'm sorry. I 25 neglected to check with Mr. Shaffer to see if he was back</p>

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<p style="text-align: right;">97</p> <p>1 with us. Mr. Shaffer, are you there?</p> <p>2 MR. SHAFFER: Yes, I am. Are you not seeing me?</p> <p>3 MR. BAUMGARDNER: No, not on my screen, but that's</p> <p>4 just because of the way that my screen was. I just wanted to</p> <p>5 make sure that -- oh, there you are.</p> <p>6 MR. SHAFFER: Thank you.</p> <p>7 MR. BAUMGARDNER: Yeah. My apologies. Mr. R, you</p> <p>8 may continue.</p> <p>9 MS. GIRARD: No problem. I was just going to note</p> <p>10 that Mr. Sloan's resume is included in the record at Exhibit</p> <p>11 49B. And Mr. Sloan, have you testified before the hearing</p> <p>12 examiner before?</p> <p>13 MR. SLOAN: Yes, several times.</p> <p>14 MS. GIRARD: Given his previous admission as an</p> <p>15 expert and his resume and his background which you just</p> <p>16 reviewed, I would like to move that Josh Sloan be accepted as</p> <p>17 an expert in LAN planning and landscape architecture.</p> <p>18 MR. SHAFFER: Mr. Shaffer or Mr. Burdin, any</p> <p>19 further voir dire of this expert witness or any objection to</p> <p>20 him being admitted in the field of land planning?</p> <p>21 MR. BURDIN: No.</p> <p>22 MR. SHAFFER: Can I just ask what that entails?</p> <p>23 Landscape planning? A little more detail about his expertise</p> <p>24 and familiarity with the site. And to be frank, it has to do</p> <p>25 with the cross bath, whether that falls under his purview or</p>	<p style="text-align: right;">99</p> <p>1 MR. BAUMGARDNER: Okay. Mr. Sloan has been</p> <p>2 admitted by OZAH and other agencies as an expert before. I</p> <p>3 have reviewed his resume as Exhibit 49B. He is hereby</p> <p>4 admitted as an expert in land planning and landscape</p> <p>5 architecture for the purposes of this hearing.</p> <p>6 MS. GIRARD: Great. Thank you. Mr. Sloan, are</p> <p>7 you familiar with the property that is the subject of local</p> <p>8 map amendment LMA 143 in the area surrounding the property?</p> <p>9 MR. SLOAN: Yes, I worked on this project over the</p> <p>10 past year plus with of the applicant and the design team.</p> <p>11 I've been on site several times including meetings with the</p> <p>12 Maryland Department of Environment to establish boundaries of</p> <p>13 wetlands and streams and also did a significant amount of</p> <p>14 fieldwork with my colleagues on the NRIFSD and also have</p> <p>15 visited the site, taken Metro there to walk the walk and see</p> <p>16 what it was like, and also around the neighborhood.</p> <p>17 MS. GIRARD: Are you familiar with the approved</p> <p>18 and adopted North Bethesda Garrett Park master plan and its</p> <p>19 recommendations with respect to the subject property and the</p> <p>20 surrounding area?</p> <p>21 MR. SLOAN: Yes, I have read the master plan and</p> <p>22 focused on this particular area and recommendations in</p> <p>23 particular. It's a 1992 plan. I caught up on that.</p> <p>24 MS. GIRARD: And are you familiar with the</p> <p>25 requirements of the zoning ordinance with respect to local</p>
<p style="text-align: right;">98</p> <p>1 someone else.</p> <p>2 MR. BAUMGARDNER: Sure. Mr. Sloan, if you can</p> <p>3 expand a little bit in terms of the land planning aspect in</p> <p>4 the greater development world, what's included in land</p> <p>5 planning and the landscape architecture aspect of the</p> <p>6 particular plan.</p> <p>7 MR. SLOAN: Okay. I will give it a shot. So land</p> <p>8 planning is a pretty broad topic. I'm certified by the</p> <p>9 American Institute of certified planners, which is a national</p> <p>10 organization that ensures those of us in the field are</p> <p>11 practicing with of the public interest in mind under a code</p> <p>12 of ethics. And that covers everything from land-use planning</p> <p>13 and zoning, which is primarily the topic of this case, to</p> <p>14 specialties that some folks have an transportation planning,</p> <p>15 environmental planning, urban design. My particular focus</p> <p>16 being trained as a landscape architect originally is really</p> <p>17 on the urban design and environmental aspects of site design.</p> <p>18 So that's circulation patterns, block and road layout down to</p> <p>19 the specifics of site design elements like sidewalks and</p> <p>20 street trees and (inaudible) and recreation facilities. So</p> <p>21 pretty broad. I should build a take -- be able to answer</p> <p>22 questions that you have on these matters.</p> <p>23 MR. BAUMGARDNER: Any further questions about that</p> <p>24 particular area of expertise?</p> <p>25 MR. SHAFFER: I don't, thank you.</p>	<p style="text-align: right;">100</p> <p>1 map amendments?</p> <p>2 MR. SLOAN: Yes, I have analyzed the standards and</p> <p>3 requirements of the rezoning under a local map amendment.</p> <p>4 MS. GIRARD: Can you review for us the findings</p> <p>5 and conclusions of your land planning analysis?</p> <p>6 MR. SLOAN: Sure. So I will try not to repeat too</p> <p>7 much of what has been said. But want to offer some amount of</p> <p>8 detail to this. At first I would like to bring up Exhibit 7,</p> <p>9 which is the identification plat.</p> <p>10 MR. BAUMGARDNER: Sure, one second.</p> <p>11 MR. SLOAN: Thank you. So on the screen now as</p> <p>12 Exhibit 7. This is the identification plat that was created</p> <p>13 by the survey department at Vika and signed by a professional</p> <p>14 land surveyor. This shows parcel A, which is the property</p> <p>15 owned by the Sisters of the Holy Cross. In two pieces are</p> <p>16 parts of parcel B, which is owned by the Academy of the Holy</p> <p>17 Cross. The entirety of parcel A and part of parcel B on the</p> <p>18 northwest corner of the property are subject to this</p> <p>19 rezoning. Those total approximately 15.3 acres. The</p> <p>20 remaining parcel B that will be retained by the Academy of</p> <p>21 the Holy Cross, that is approximately -- I think it's 23.2</p> <p>22 acres. Oh, it's as it right on there. I didn't look at my</p> <p>23 notes. So that is not subject to the rezoning, but will be</p> <p>24 subdivided off at a later date with a preliminary plan.</p> <p>25 These two parcels, parcel A and parcel B are currently</p>

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<p style="text-align: right;">101</p> <p>1 bisected by a private drive that serves the Academy of the 2 holy cross. And that will be relocated. So those are the 3 subject areas of the application. And if we could bring up 4 Exhibit 19, I would like to walk through a little bit more on 5 the existing conditions and environmental aspects of the 6 property. 7 MR. BAUMGARDNER: One second while it loads. 8 MR. SLOAN: Yeah, there's quite a lot of 9 information on this. So this exhibit that's up now is 10 Exhibit 19, the approved NRIFSD. This was completed by Vika, 11 sent to MNCPPC and they have approved it. The NRIFSD, 12 natural resources inventory and force stand delineation, this 13 covers the entirety of the property, but the subject of this 14 application for rezoning. And a piece of property that is 15 not subject to the rezoning will be later re-subdivided. If 16 we could go to sheet 2, which I believe is the -- nope, 17 that's all of our geotechnical analysis and floodplain study 18 approvals. I don't know if we could actually go to sheet 3. 19 Sorry. I'm just going to walk in a little more detail around 20 the subject site. Starting in the Northwest, which is the 21 top left of the drawing, there is a culvert that a stream 22 runs through under Strathmore Avenue. It enters the site and 23 the northwest corner and travels along the western boundary 24 of the property all the way down to a culvert the goes under 25 Cloister, a private right-of-way that serves townhouses to</p>	<p style="text-align: right;">103</p> <p>1 MR. BAUMGARDNER: So this is page 5 of Exhibit 34. 2 MR. SLOAN: Thank you. So this exhibit shows an 3 aerial view of the property and the surrounding area. To the 4 north Garrett Park Estates, to the east, Garrett Park. To 5 the south is the Metro, some townhouse developments. To the 6 west is Symphony Park. The property that subject to the 7 rezoning is outlined in red. The neighborhood boundary that 8 we established is surrounded in -- is outlined in blue. And 9 it really encompasses many of the single-family detached 10 homes in Garrett Park Estates north of us, about two blocks 11 to the north, the institutional school uses to our east, of 12 course the school to ourselves, which I understand is causing 13 some confusion because it is not actually subject to this 14 application because it's going to be rezoned. And then 15 Symphony Park and the Strathmore Hall to our west. This 16 establishes those areas that are most impacted for testing 17 our compatibility standards. There were some questions 18 brought up when we were at park and planning hearing about 19 the townhouses further to the northwest. And those were not 20 included because they are not directly adjacent. And when we 21 are looking at neighborhood compatibility for issues, that's 22 a separate issue from whether there are any impacts to -- for 23 traffic, schools, or other things. Those have separate tests 24 that are not part of this neighborhood definitions running 25 property tests that we are looking at. So when we looked at</p>
<p style="text-align: right;">102</p> <p>1 our south. That tributary of Rock Creek is subject to a 2 (inaudible) floodplain as well as a Montgomery County 3 floodplain for which we submitted and had a study approved. 4 It's also the area where there is most of forested land and 5 steep slopes and stream Valley buffers. So as we go around 6 the top of the site on the northern boundary along Strathmore 7 Avenue, there are two large fields just to the east of the -- 8 that tributary. Then the bisecting road. And then the SHA 9 building itself and its parking lot. It is in parcel A. 10 About midway down the -- into the southeast of the Sisters' 11 property is a second tributary which comes from the east and 12 then travels to the west, goes under a culvert, which then is 13 piped to an outfall to the primary tributary on the western 14 side of the property. There are no forests associated with 15 this tributary, but there are some wetlands and an associated 16 stream valley buffer. The remainder of the property is 17 occupied by the fields, the building, the parking lot for the 18 Academy. There is some forest in land along the south east 19 and southern border of that property. So that's the general 20 overview of the site and the environmental characteristics in 21 a little more detail. So I think I can move on to a 22 description of the defined neighborhood and the surrounding 23 properties. And I think the easiest thing to do for this is 24 to look at Exhibit 34 of the land -- which is the land 25 planning report, and figure 2 in that land planning report.</p>	<p style="text-align: right;">104</p> <p>1 compatibility we are really looking at, does the residential 2 care facility, the detached homes, and the townhouses, are 3 they compatible with the uses and the general character of 4 the neighborhood directly surrounding us. And I found that 5 we certainly are similar uses and similar size and character 6 to the buildings that are around us. So looking a little bit 7 more at the that's a little more closely at the proposed 8 redevelopment, if we can look at Exhibit 40, that's the 9 floating zone plan, sheet 2 that we were looking at earlier. 10 MR. BAUMGARDNER: It should be coming up 11 momentarily. So this is Exhibit 40, page 2. 12 MR. SLOAN: Excellent, thank you. So this exhibit 13 shows the conceptual layout of the building footprints, the 14 street and sidewalk that works, and the -- not many of the 15 details yet, which we will be getting to when we hope to get 16 the site plan design. The residential care building is 17 proposed on the Sisters' property. It would replace the 18 existing retirement building that is in the northeast corner. 19 A central road is just to the west of that building running 20 from Strathmore Avenue in the connecting to the existing 21 driveway at the Academy midway down the combined properties. 22 To the west of that central road there are detached homes 23 basing Strathmore Avenue that would be served by an alley in 24 the rear of those homes. That alley then serves internal 25 townhouses. They are front and reloaded townhouses that are</p>

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<p style="text-align: right;">105</p> <p>1 entirely within the site, not abutting any of the adjacent 2 streets were properties. And there is a secondary road that 3 is along Stillwater, or across from Stillwater Avenue at the 4 intersection with Strathmore Avenue. This comes down to the 5 site heading south and then curved to our Central Street. 6 And then there are other streets and blocks that define that, 7 the internal areas of the site. To the -- or to the east of 8 the residential care building, we have a small service area 9 about where one of the existing driveway access point is for 10 the retirement care, retirement building that is on site now. 11 This will provide about nine parking spaces and access to 12 service and loading, but no access to a garage. So that will 13 only be used for service. 14 Of a small service area about where one of the 15 existing driveway access points is for the retirement 16 building that's on site now. This will provide about nine 17 parking spaces and access to service and loading but no 18 access to a garage so that will only be used for service. 19 The primary drop off area for the residential care 20 building is on their western facing side and then their 21 access to the garage is on the south facing side. The 22 question was brought up earlier about how the bus would pick 23 up, drop off and how it would get to the garage. All of that 24 is internal so when the garage or when the bus drops people 25 off after an event or an outing they would head south</p>	<p style="text-align: right;">107</p> <p>1 the pedestrian circulation system where there are shared use 2 paths, where there are the proposed natural surface trail, so 3 people can see how the circulation network will work for 4 various modes of transportation. So along Strathmore Avenue, 5 we are proposing a lawn panel and a shared use path that 6 would allow for bikers and pedestrians to use Strathmore 7 Avenue. That's an improvement over the existing sidewalk 8 that's there today. 9 You can see the turning movements at the center 10 showing the single lane coming into the site at our primary 11 access point, Street A, and then we have two lanes exiting 12 the site, one that will allow for left turns and one will 13 allow for right turns, and as I noted on Strathmore Avenue 14 itself now a three-lane road from the east allowing traffic 15 to turn into the site and not block traffic that wants to 16 continue on towards 355 along Strathmore Avenue. 17 And then, the intersection at Stillwater with what 18 we call Street C which is our secondary road on the west side 19 of the site, that is three way movements at all 20 intersections. So left, right, and straight are allowed at 21 each travel lane. 22 So this is the revised plan. It was not the 23 original plan that we brought to park and planning. 24 Originally we did have one primary access point for vehicular 25 traffic and given the amount of use and the types of use that</p>
<p style="text-align: right;">106</p> <p>1 internal to the site into the garage. 2 And we've been designing the building and the 3 garage -- great elevation so that we can accommodate that. 4 We've still got work to do on it, but we've got another phase 5 of design to go before we get through entitlement approvals. 6 So this primary road, we call Street A that runs 7 north, south through the center of the site, this is where a 8 proposed traffic light would go. This -- there are some 9 improvements that are just being conceptionally designed 10 right now to change this intersection from a two-lane road to 11 actually a three-lane road so we would have a dedicated left 12 turn. It requires a little bit of widening of a curb and 13 then some improvements to the bus stop to our north. So 14 that's that primary intersection. 15 I think, if we look for some more details at 16 Exhibit 37 of the circulation plan there are a couple of 17 questions and things that I think we can cover with that. I 18 don't think we've looked at this one yet. 19 HEARING EXAMINER BAUMGARDNER: So we don't have 30 20 up on the website. I can bring it up if you need it. 21 MR. SLOAN: Do we have 37, the revised? 22 HEARING EXAMINER BAUMGARDNER: Yes. 23 MR. SLOAN: So I think these were -- yes. 24 Excellent. So Exhibit 37 is the circulation plan and this is 25 a diagrammatic plan that shows vehicular movements, lays out</p>	<p style="text-align: right;">108</p> <p>1 was happening over the day with the school, the residential 2 care facility and the residences we worked with park and 3 planning technical staff to add this second entrance point. 4 It became a secondary entrance point aligned with Stillwater 5 to improve the safety conditions so that we were directly 6 aligned and you have a good line of site across the 7 intersection. 8 The current access point to the Academy is offset 9 a little bit and not as safe as it could be. We did not make 10 this our primary access point for several reasons. One, 11 because the Academy does require some dedicated queuing area 12 and so we allowed for that queuing space on Street A as well 13 as the parking that would not block any driveways that would 14 be -- that we would need if we were on our secondary road in 15 front of some of the townhouses. 16 Another reason is that making that area a primary 17 intersection point we would actually increase the width of 18 our right-of-way and that would push us into a protected 19 environmental buffers and the flood plain and our overall 20 goal with our footprint and our roads was to consolidate them 21 on as little space as possible and protect those 22 environmental buffers and minimize, or actually remove, any 23 impacts to the flood plain because we know there are concerns 24 about upstream flooding and we did not want to reduce any 25 capacity of the flood plain system that's on this property.</p>

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<p style="text-align: right;">109</p> <p>1 So we very carefully graded and established those</p> <p>2 footprints to ensure we were making this situation as good as</p> <p>3 possible. As good as it is today and even better for</p> <p>4 capacity.</p> <p>5 Another is that because we're serving three uses</p> <p>6 with our primary access we wanted to ensure that fire access,</p> <p>7 rescue access, had that signalized intersection and direct</p> <p>8 access to the different uses, not have to come through a</p> <p>9 couple of neighborhood streets where only the residential</p> <p>10 uses are. So those were the general guiding principles for</p> <p>11 circulation and layout plan for buildings, roads (inaudible).</p> <p>12 And next, I wanted to look a little more carefully</p> <p>13 at the environmental buffers and our forest conservation</p> <p>14 approach. So if we could bring up Exhibit 52, the</p> <p>15 preliminary forest plan. This will show a little more detail</p> <p>16 about how we approached this. So our (inaudible) getting</p> <p>17 feedback from Margaret.</p> <p>18 MARGARET: Oh sorry.</p> <p>19 MR. SLOAN: Sorry.</p> <p>20 MARGARET: Sorry, I'll hang up.</p> <p>21 MR. SLOAN: Oh, you didn't need to leave. Sorry.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Folks can come</p> <p>23 back, you just have to mute. That's okay.</p> <p>24 MR. SLOAN: So our natural resources inventory</p> <p>25 forest stand delineation plan and our flood plain study that</p>	<p style="text-align: right;">111</p> <p>1 the preliminary forest conservation plan and the conservation</p> <p>2 easements and the variance trees, which I'll note in a</p> <p>3 minute, those have all been approved by the planning board at</p> <p>4 this point.</p> <p>5 And then, we have a second round when we will do a</p> <p>6 final forest conservation plan that, without site plan</p> <p>7 submittal, that will add a lot of details to this; what kind</p> <p>8 of plant species and what not, we're going to be providing,</p> <p>9 and what kind of mitigation we're going to be providing for</p> <p>10 variance trees, those kind of things.</p> <p>11 So right now, we're established at 3.0 acres of</p> <p>12 conservation area in those two types of easements. That's</p> <p>13 about .3 acres above our requirement. We are doing a little</p> <p>14 bit extra because although we avoided all stream valley</p> <p>15 buffers with our building footprints and our roads we may</p> <p>16 have some areas that a deck or a patio, we want to keep that</p> <p>17 ability to be built and those are right along the edges of a</p> <p>18 couple of lots. So we're going to actually increased our</p> <p>19 conservation and our buffer area to kind of mitigate for any</p> <p>20 of those impacts.</p> <p>21 We do, along with that preliminary forest</p> <p>22 conservation plan, have an approved variance for removing</p> <p>23 what are called specimen trees. Those are trees that have a</p> <p>24 30 inch diameter at breast height, so about five feet off the</p> <p>25 ground, if the tree is 30 inches in diameter or larger, it</p>
<p style="text-align: right;">110</p> <p>1 went through the department of permitting services approval,</p> <p>2 that established our buffers. And in keeping with MNCPPC's</p> <p>3 environmental guidelines, we do everything we can to avoid</p> <p>4 environmental buffers, maintain pervious areas in those</p> <p>5 buffers and then prioritize them for establishment and</p> <p>6 protection of forests, protection of wetlands and an</p> <p>7 enhancement of those with planting through conservation</p> <p>8 easements.</p> <p>9 If we could look at the second sheet, I believe.</p> <p>10 That's the actual forest conservation plan. It's a very</p> <p>11 detailed plan, there's a lot to look at on this plan, but</p> <p>12 I'll just note a couple of things. The first is the</p> <p>13 tributary along our western side and the tributary that runs</p> <p>14 across the site east to west, those areas are all proposed</p> <p>15 for conservation easements and we have two types of</p> <p>16 conservation easements on this property, what are called</p> <p>17 category one conservation easements, which are basically</p> <p>18 natural state left alone. They will be replanted, reforested</p> <p>19 and habitat will be established there.</p> <p>20 Those certainly protect along the stream banks and</p> <p>21 the wetland areas. The other areas we have are called</p> <p>22 category 2 conservation easements and those are a little more</p> <p>23 flexible, although canopy and habitat plantings are proposed</p> <p>24 in those areas they do allow for some amount of recreation</p> <p>25 and engagement with those spaces. So those have been set,</p>	<p style="text-align: right;">112</p> <p>1 requires a variance for removal. And under the planning</p> <p>2 board's guidelines, although not state guidelines, there's</p> <p>3 mitigation for those. So for those removals we'll be</p> <p>4 planting an additional 40 or so replacement trees on site in</p> <p>5 areas that have sufficient soil volume and space to create a</p> <p>6 canopy that will match, basically, what we've been taking</p> <p>7 away.</p> <p>8 So those are -- that's the environmental strategy</p> <p>9 for this property. As noted, we've got another round to go</p> <p>10 that's going to add a lot of detail to that and we'll be</p> <p>11 working on those plans, we hope, in the upcoming months, if</p> <p>12 we get through the rezoning.</p> <p>13 So a couple of last points real quickly on the</p> <p>14 master plan. The master plan for this area does, and I don't</p> <p>15 have a specific exhibit for this. As I noted it's a 1992</p> <p>16 master plan. I was still in grad school when this was</p> <p>17 adopted and -- but it did have some overriding principals</p> <p>18 that I think have kept up with the times, increasing and</p> <p>19 preserving a variety of housing stock, especially around</p> <p>20 transportation options. Providing senior housing</p> <p>21 opportunities. Even then, we saw the bubble of senior</p> <p>22 housing needs coming and that has not abated at all.</p> <p>23 Provides safe and efficient transportation options so we have</p> <p>24 the shared use trail and the connectivity will be connecting</p> <p>25 to the bus stop, providing a crosswalk at a lighted</p>

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<p style="text-align: right;">113</p> <p>1 intersection out to that bus stop. Meeting recreational 2 needs of the public, we're going to be providing on-site 3 space for that recreation, but we also have significant park 4 facilities within walking distance. 5 And then, reducing environmental impacts. This is 6 a site without any stormwater management. There are fields 7 and things, but cut and mowed lawn is not the same as 8 providing the kind of forest and habitat that we're proposing 9 as well as the quality managing of the storm water that we're 10 proposing for roads that right now discharge directly into 11 the stream. 12 So technical staff went through the same analysis. 13 We agree with them on those general recommendations. But 14 also the replacement of the retirement community with a 15 residential care facility is basically a one-to-one change 16 in -- or not even change in use but very similar in 17 character. And then, the new residential uses that are 18 proposed near transportation, transit, infrastructure and 19 improving the environmental conditions is a balance that they 20 found was appropriate and we agree with. 21 It's been touched on before about compatibility of 22 these uses and I think the master plan analysis kind of 23 speaks to that as well. These are similar uses, residential 24 uses next to residential uses, building types that are 25 proposed that are similar or nearly identical to what our</p>	<p style="text-align: right;">115</p> <p>1 is termed in the zoning ordinance, public open space and that 2 is specifically required for the residential care facility 3 type of use. Then, there is a blue hatching that's on 4 several different areas that is showing our proposed common 5 open space which is the type of open space that is required 6 for the townhouse uses. 7 Our public open space is a network area of sort of 8 a little park seating area at our primary entrance near the 9 Strathmore Avenue Street A intersection just to the northwest 10 of this residential care facility. And then, we have two 11 areas that are under design right now that are south of the 12 residential care facility. We're looking at these as a kind 13 of a terraced garden space and then an intergenerational kind 14 of play, flexible open space that will accommodate all three 15 different uses. 16 And we set these up at the hub between the three 17 different types of uses so that they would be accessible and 18 visible to all, and we can start designing them with 19 programming that will benefit everybody. So it's a little 20 bit different than we typically establish our open spaces, 21 but we thought that this was an interesting way to do it and 22 meet the needs of various uses and protect the more important 23 areas of open space, which are the environmental conservation 24 areas. 25 The common open space, this is a little more</p>
<p style="text-align: right;">114</p> <p>1 next door or across from us. And the heights and massing of 2 those is also very similar. 3 We have not done -- we do a preliminary plan and 4 at that preliminary plan our next phase, there is a 2020 to 5 2024 growth and infrastructure policy under which we will be 6 doing our schools test. And so that's not done at this time, 7 but we feel we have a way forward on that piece. There are 8 other public facilities. We of course, have the schools 9 nearby, and as staff noted fire and rescue, police, parks and 10 recreation, those are all nearby facilities with adequate 11 capacity, and we agree with them on those topics. 12 So that's a broad overview of a lot of stuff for 13 the application. 14 MS. GIRARD: Thanks, Josh. And you touched on 15 this a little bit, but with regard to the open space, members 16 of the community have questioned the sufficiency of the 17 proposed spaces to serve the development, as well as the lack 18 of design. Can you address those concerns? 19 MR. SLOAN: Yes. I guess we could bring up -- I 20 didn't think about that. We could bring up the Exhibit 41, 21 the revised open space plan. So this is a unique site. And 22 coming up on the screen there is Exhibit 41 and that's the 23 open space exhibit. This shows the building footprints, the 24 road and sidewalk layout, with two distinct areas or types of 25 hatching. There is a red hatching that shows what we -- what</p>	<p style="text-align: right;">116</p> <p>1 diversified. There are a couple of internal spaces where the 2 townhouses form little park areas that will be primarily lawn 3 seating passive areas where people can play with young 4 children and picnic and throw a frisbee, those kind of 5 things. But our main element for that recreation open space 6 is going to be focused on this natural surface trail that 7 runs within our category 2 easement and to our -- to the west 8 and then the south of the townhomes. 9 This is really going to focus people and get them 10 down and engaged with the natural conservation areas where we 11 are going to be planting different types of habitat species 12 and provide screening to the school. And also maintain no 13 impervious area really, so that we can keep the environmental 14 quality there. So it's very unique in those aspects. It's 15 focused on the environmental open spaces. 16 The design is where it is at this point, is 17 conceptual in nature. We're working out these ideas. Staff 18 has given us good input on the direction, and when we have a 19 site plan design we're going to have the details much more 20 fleshed out for -- at a schematic level so people can give us 21 their feedback on what we're proposing in more detail at that 22 time. 23 MS. GIRARD: One other question on, not really 24 necessarily open space, but there has been a number of 25 comments in the community about the median that separates</p>

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<p>117</p> <p>1 this property from the north side of Strathmore Avenue. It's 2 a green strip within the right-of-way. And did you look at 3 what impacts the project may have on that green space? 4 MR. SLOAN: We did start looking at it and right 5 now our impacts are limited to the curb and the bus stop area 6 for improvements to the road that we think we're going to 7 need. That's a conceptual design that is going to need to be 8 fleshed out in much more detail when we sit down with DOT/SHA 9 and review agency at preliminary plan phase. We will also 10 have connections to utilities. There's water that we need to 11 connect to in Strathmore Avenue right-of-way and that may 12 cross the median. 13 So our goal will be at that point when we do our 14 hydro planning analysis that I think Mr. Amateau mentioned 15 with WSSC to locate that or construct it in a manner that 16 will minimize impacts and then any impacts will require a 17 right-of-way plan and a tree and lighting plan for that which 18 would then require mitigation for any tree removals, so that 19 we can reestablish the canopy and the buffer that I 20 understand the community is concerned about. 21 MS. GIRARD: Thank you. So in your opinion, based 22 on your testimony and your studies, your land planning report 23 included in the record, will the proposed rezoning comply 24 with the intent, standards and requirements of the CRN 25 floating zone?</p>	<p>119</p> <p>1 the plan, the general recommendations that I outlined 2 earlier. It also meets the recommendations of a much more 3 recent plan, the set up plans, the bicycle plan for the 4 county and the master plan of highways and transitways, 5 specifically by our -- with regard to our upgrades to the 6 right of way in Strathmore Avenue. 7 MS. GIRARD: And in your expert opinion as a land 8 planner, does the LMA further the public interest and satisfy 9 the intent and standards of the proposed zone and other 10 requirements of the zoning ordinance? 11 MR. SLOAN: Yes. My opinion is that it does serve 12 the public interest in several ways. One, it provides a 13 residential care facility, replacing the vacant building now 14 for our aging population. It provides housing including 15 moderately priced dwelling units at a time when we are facing 16 a housing shortage. It does place density appropriately near 17 transit and other services. And it will significantly 18 improve the environmental conditions of these two tributaries 19 that drain to the Rock Creek by placing conservation 20 easements on them and enhancing the habitat and forest in 21 those areas. 22 Regarding the zoning standards we still have a lot 23 to detail where we've got a lot to design at our next phase, 24 but we have met the intents and standards and requirements 25 that I went through before, I think, in detail.</p>
<p>118</p> <p>1 MR. SLOAN: Yes. The intents of the master plan, 2 the functional plans for the floating zone, they are really 3 to ensure that uses and density are in balance with 4 supporting existing infrastructure. We have water, sewer. 5 We have transportation network, multi-modal. Of course, 6 we'll touch on more detail, the vehicular aspects of that. 7 But we also have paths and -- shared use paths and sidewalks. 8 The CRN floating zone also has the intent to 9 provide flexible standards to integrate development into the 10 land use patterns, the circulation network and the natural 11 resource of the site. And we specifically took advantage of 12 those flexible standards to create a small footprint for our 13 developments for these units to take advantage of our natural 14 resources and actually be able to enhance them with 15 protective easements and engage the users of the property 16 with those natural resources, and then tie into the 17 circulation network with appropriate intersections and 18 circulation by sidewalk and path designs. 19 We also meet the use density open space and other 20 requirements of the CRN floating zone. 21 MS. GIRARD: Thank you. And in your opinion, does 22 the floating zone plan conform to the recommendations of the 23 North Bethesda Garret Park Master Plan and other applicable 24 county plans? 25 MR. SLOAN: Yes, it meets the recommendations of</p>	<p>120</p> <p>1 MS. GIRARD: And in your expert opinion as a land 2 planner, are the proposed uses suitable for the site and 3 compatible with the existing improved adjacent development? 4 MR. SLOAN: Yes. For compatibility as I noted we 5 typically look for similarity in uses, in massing and height 6 in the overall pattern of the blocks and street network and 7 we are proposing a very similar and suitably compatible set 8 of uses and land design for the proposal. 9 MS. GIRARD: Thank you. And finally, in your 10 expert opinion as a land planner, will the proposed 11 development adversely affect the character of the surrounding 12 area? 13 MR. SLOAN: No. I do not think it will adversely 14 impact the character of the surrounding neighborhood. The 15 uses are similar in nature, around residential, residential 16 care where there was a retirement facility which is also 17 residential use. Building heights and massing are not going 18 to adversely impact the neighborhood. We've got single unit 19 detached units facing single unit detached units, have placed 20 our townhouses within the site even though we're adjacent to 21 townhouses and pretty close to other ones. 22 And then, the roads, open spaces and block 23 patterns are very similar to those in the area. And so it 24 does not change the character of those neighborhoods in any 25 way.</p>

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<p style="text-align: right;">121</p> <p>1 MS. GIRARD: Thank you. That's all I had for Mr. 2 Sloan. 3 HEARING EXAMINER BAUMGARDNER: Thank you very 4 much. 5 Mr. Shaffer, any questions for Mr. Sloan? 6 MR. SHAFFER: Yes, thank you. 7 Well, good afternoon, Mr. Sloan. Going to the -- 8 you mentioned that you had gone out to the site with the 9 Maryland Department of Environmental Quality and evaluated 10 the wetlands and other protected areas; is that correct? 11 MR. SLOAN: Correct. The Maryland Department of 12 the Environment. 13 MR. SHAFFER: Okay. So have you made a 14 determination as to whether the project would have any 15 adverse impact on the wetlands there? 16 MR. SLOAN: As part of our forest conservation 17 plan, we have provided a -- right now, several of those 18 wetlands are actually mowed lawn and we will be providing 19 putting those areas -- and they're not protected by easement 20 either. We will be putting a conservation easement over 21 those areas and 25 foot buffers, and replanting those with 22 appropriate species rather than mowed lawn. So impacts to 23 those will not be adverse. 24 MR. SHAFFER: Okay. And have you studied the 25 stormwater drainage plan that has been provided by the</p>	<p style="text-align: right;">123</p> <p>1 MR. SHAFFER: So in calculating the amount of say, 2 storm water drainage that would affect these wetlands, I'm 3 trying to ask this a different way, did you use or did you 4 not use the conclusions on the volume of water generated by 5 the impermeable surfaces testified to by your previous 6 expert? 7 MR. SLOAN: No. 8 MR. SHAFFER: Did you consider the volume of water 9 to be generated by storm water drainage in any way upon your 10 conclusion that the wetlands would not be adversely affected 11 by the project? 12 MR. SLOAN: Impervious conditions impacting the 13 wetlands. Our general reliance would be on those buffers and 14 meeting the requirement. We did not specifically revise our 15 buffers or our strategy for that wetland area because of the 16 impervious area. These are inline wetlands, which means that 17 they're mostly fed by the stream which is collecting water 18 from east and northeast of our site. They're not isolated 19 wetlands that I would look at more carefully to ensure that 20 we're actually recharging them with our stormwater, but that 21 is one aspect we would definitely look at final forest 22 conservation and our strategy for planting that area. 23 I hope I'm answering your question and I don't 24 know that I can in -- 25 MR. SHAFFER: And you're saying that's something</p>
<p style="text-align: right;">122</p> <p>1 Applicant? 2 MR. SLOAN: I did work with our engineers on how 3 the stormwater management plan strategy would work. 4 MR. SHAFFER: Okay. And is your conclusion that 5 the lack of negative effect on the wetlands based upon the 6 stormwater drainage management plan and its conclusion? 7 MR. SLOAN: I'm not certain I understand the 8 question. Would the stormwater management plan adversely 9 impact the wetlands? 10 MR. SHAFFER: Let me rephrase. I'm sorry, let me 11 do better at that. Did you consider in determining your 12 opinion that there would be no negative impact on the 13 wetlands of this project, the stormwater management plan and 14 its conclusions that have been presented here this morning? 15 MR. SLOAN: We're a little early for a final 16 determination on the storm water impacts because we have 17 strategies in place, but we don't have the actual design in 18 place. So I'm -- I would be working with our engineers on 19 that aspect of it in a little more detail in the next phases. 20 I think the strategies that we've proposed are excellent ones 21 for capturing runoff from rooftops and road, filtering that 22 runoff and then allowing it to flow into the natural system 23 at a slower rate with fewer pollutants and with a lower heat 24 than we typically see, which I think is a benefit both the 25 stream and the wetlands.</p>	<p style="text-align: right;">124</p> <p>1 you're going to look at in the future, but haven't looked at 2 yet in forming your expert opinion on the appropriateness of 3 this project? 4 MR. SLOAN: Well, our expert opinion on the 5 appropriateness of the protection of the wetlands is based on 6 state and county regulation of those and instituting the 25 7 foot buffer for the wetlands, but even a more extensive 8 buffer because it's attached to a stream. So the replanting 9 of that area is definitely going to be an improvement and not 10 an adverse impact. 11 MR. SHAFFER: Okay. With regard to your testimony 12 about the secondary entrance and -- which I understand is 13 going to be straight across from the entrance of Stillwater; 14 is that correct? 15 MR. SLOAN: Yes. Yeah, that's -- 16 MR. SHAFFER: Okay. Now, that -- you'll have to 17 excuse some of my questions because I'm legally blind so I 18 can't see these plans so I'm trying to envision them in my 19 head. 20 MR. SLOAN: I understand. 21 MR. SHAFFER: So that secondary entrance is going 22 to lead up into what, townhouses; is that correct? 23 MR. SLOAN: The secondary entrance -- could you 24 repeat that please? 25 MR. SHAFFER: Okay. We're talking about the</p>

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<p style="text-align: right;">125</p> <p>1 secondary entrance --</p> <p>2 MR. SLOAN: Yes.</p> <p>3 MR. SHAFFER: That you're putting across from</p> <p>4 Stillwater.</p> <p>5 MR. SLOAN: Yeah.</p> <p>6 MR. SHAFFER: Where does that secondary entrance</p> <p>7 lead to?</p> <p>8 MR. SLOAN: That secondary entrance leads past</p> <p>9 detached units on the -- sorry. Front load townhouse units</p> <p>10 on its west, which would be the right as you're traveling</p> <p>11 south. There is a road, an internal street we call Street B</p> <p>12 that turns to the left running to our central spine road.</p> <p>13 And then, this road continues to the south and will curve</p> <p>14 around and connect to this central street A closer to the</p> <p>15 Academy property.</p> <p>16 MR. SHAFFER: Okay. So how far from this</p> <p>17 intersection that you're going to create would be the</p> <p>18 entrance to the school for parents and others to drop off?</p> <p>19 MR. SLOAN: So --</p> <p>20 MR. SHAFFER: How far --</p> <p>21 MR. SLOAN: -- the secondary road we're calling</p> <p>22 Street C.</p> <p>23 MR. SHAFFER: Okay. Street C is the entrance to</p> <p>24 the Holy Cross School; is that correct?</p> <p>25 MR. SLOAN: No. The entrance to the Holy Cross</p>	<p style="text-align: right;">127</p> <p>1 MR. SLOAN: I don't know if there will.</p> <p>2 MR. SHAFFER: I'm sorry. Well, currently are you</p> <p>3 aware that there is -- to have a cop stationed out there in</p> <p>4 the mornings and the evenings just to handle the flow in and</p> <p>5 out of that school?</p> <p>6 MR. SLOAN: I am not. That's beyond the purview</p> <p>7 of my analysis.</p> <p>8 MR. SHAFFER: Okay. So you didn't consider</p> <p>9 whether or not some sort of traffic control device, whether</p> <p>10 human or mechanical, was needed at the entrance to the</p> <p>11 Academy; is that correct?</p> <p>12 MS. GIRARD: Can I just object and say, I think</p> <p>13 this is a better question for the traffic engineer. Josh</p> <p>14 spoke to the entrances in terms of land planning, but he's</p> <p>15 not qualified to speak to what would trigger the need for a</p> <p>16 signal and all of that.</p> <p>17 MR. SHAFFER: Okay. Well, he did speak to the</p> <p>18 traffic so that's why I was going down this line, but I'm</p> <p>19 happy to defer that question further to the traffic expert.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Okay. That's fine.</p> <p>21 MR. SHAFFER: Let me go back to the secondary</p> <p>22 intersection -- the new intersection you're going to create.</p> <p>23 You mentioned, I believe, that there would be improvements</p> <p>24 made to the bus stops on those corners; is that correct?</p> <p>25 MR. SLOAN: Yes. So what we've done so far is</p>
<p style="text-align: right;">126</p> <p>1 School is from Street A. I mean, you could make -- you could</p> <p>2 be traveling east on Strathmore Avenue, turn right onto our</p> <p>3 secondary road, Street C, which is directly across from</p> <p>4 Stillwater, take that down to the central spine road, make</p> <p>5 another right and you could get to the Academy that way.</p> <p>6 MR. SHAFFER: Okay. So this is basically an</p> <p>7 alternative entrance to the Academy; is that correct?</p> <p>8 MR. SLOAN: It is an alternative to the Academy,</p> <p>9 but primarily seen as access for the residential townhouses</p> <p>10 internal to the site.</p> <p>11 MR. SHAFFER: Okay. And then, with respect to the</p> <p>12 entrance to the Academy. How far eastward from this new</p> <p>13 intersection will that be?</p> <p>14 MR. SLOAN: So the -- I'm doing this from my own</p> <p>15 screen. I have --</p> <p>16 MR. SHAFFER: I'm not asking you to the precise</p> <p>17 foot, just give me an idea.</p> <p>18 MR. SLOAN: Let me make sure that I'm scaling</p> <p>19 correctly. I'm not. So we're approximately from centerline</p> <p>20 of Street C, which is our secondary entrance across from</p> <p>21 Stillwater to the centerline of Street A, which is the</p> <p>22 primary access point, about 350 feet.</p> <p>23 MR. SHAFFER: Okay. Now, will there be any sort</p> <p>24 of traffic control device at Street C, which is the entrance</p> <p>25 to the Academy?</p>	<p style="text-align: right;">128</p> <p>1 with this submission we worked with MCDOT who had some</p> <p>2 initial questions on whether or not a left turn lane would be</p> <p>3 able to be accommodated as you're traveling west onto our</p> <p>4 primary road. We did a sketch design conceptual that's shown</p> <p>5 on the floating zone plan, which will require a shift in the</p> <p>6 curb that's where the current bus stop is and in addition,</p> <p>7 repaving the sidewalk and -- to that bus stop there. So that</p> <p>8 is proposed right now. That's the improvement that I was</p> <p>9 speaking of.</p> <p>10 MR. SHAFFER: Okay. So we are talking about the</p> <p>11 bus -- the 5W bus stop at the corner of Stillwater and</p> <p>12 Strathmore, correct?</p> <p>13 MR. SLOAN: No. I'm sorry. We're -- I thought we</p> <p>14 were talking about the new intersection of Street A with</p> <p>15 Strathmore. There are no proposed changes to the curb line</p> <p>16 or bus stops or any other element of the street at the</p> <p>17 intersection of Stillwater and Strathmore.</p> <p>18 MR. SHAFFER: So you've not considered whether an</p> <p>19 APS should be installed there or whether the bus stop should</p> <p>20 be brought up to ADA standards; is that correct?</p> <p>21 MR. SLOAN: I have not looked at that. We would</p> <p>22 typically do that with our traffic planner and engineer at</p> <p>23 preliminary plan.</p> <p>24 MR. SHAFFER: Okay. But that -- just to</p> <p>25 summarize, that new intersection will be signaled on three-</p>

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<p style="text-align: right;">129</p> <p>1 way turning, right?</p> <p>2 MR. SLOAN: I don't believe Street C has a</p> <p>3 proposed signal. The proposed signal is at Street A and</p> <p>4 Strathmore.</p> <p>5 MR. SHAFFER: That's -- Street A --</p> <p>6 MR. SLOAN: Is essential.</p> <p>7 MR. SHAFFER: Let me back up. Is there an</p> <p>8 intersection going to be created with a light that goes</p> <p>9 between Stillwater and your new street?</p> <p>10 MR. SLOAN: There is no intersection with a light</p> <p>11 at Stillwater. I hope I'm understanding you correctly, I'm</p> <p>12 sorry if I'm not.</p> <p>13 MR. SHAFFER: Okay. Where is the light then?</p> <p>14 MR. SLOAN: The light is proposed at the</p> <p>15 intersection of Street A with Strathmore Avenue. That's our</p> <p>16 central spine street which is about 350 feet east of</p> <p>17 Stillwater Avenue.</p> <p>18 MR. SHAFFER: And I suppose my next few questions</p> <p>19 are more for the traffic engineer so I will relinquish the</p> <p>20 floor on that for the moment. I pass MS. WAGNER.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Thank you, Mr.</p> <p>22 Shaffer.</p> <p>23 Mr. Burdin, did you have any questions for Mr.</p> <p>24 Sloan?</p> <p>25 MR. BURDIN: Yes, I did. Sticking with the</p>	<p style="text-align: right;">131</p> <p>1 road, some of that would be taken up for this adding this</p> <p>2 left turn lane; is that right?</p> <p>3 MR. SLOAN: No. It does not look like it. And as</p> <p>4 I noted we're at conceptual design here. We wanted to make</p> <p>5 sure that it was workable within the existing right of way</p> <p>6 and the impact to that area by the bus stop is minimal. It</p> <p>7 does not go into the tree stand or anything there.</p> <p>8 MR. BURDIN: I'm talking about the north side.</p> <p>9 MR. SLOAN: Correct.</p> <p>10 MR. BURDIN: Of Strathmore. That's what you're</p> <p>11 talking about also?</p> <p>12 MR. SLOAN: It is.</p> <p>13 MR. BURDIN: So just to be clear, there's going to</p> <p>14 be no impact to that area or there's going to be a potential</p> <p>15 that what is now either shoulder or grass is going to</p> <p>16 replaced with a lane?</p> <p>17 MR. SLOAN: I don't know if there's a way to get</p> <p>18 close in on the floating zone plan because there is a couple</p> <p>19 of feet of impact on that north side from the existing</p> <p>20 paving. If we can zoom in --</p> <p>21 HEARING EXAMINER BAUMGARDNER: I'm pulling up</p> <p>22 Exhibit 40, which is the floating zone plan. I'm zooming as</p> <p>23 much as I can with the resolution that is available here.</p> <p>24 MR. SLOAN: So there is -- our current concept is</p> <p>25 that the -- we hold the paving on the south side, which is a</p>
<p style="text-align: right;">130</p> <p>1 traffic light and left turn lane and focusing on the left</p> <p>2 turn lane, that would require making Strathmore wider at that</p> <p>3 point where the left turn lane is, correct?</p> <p>4 MR. SLOAN: Yes, I think we need about a foot to</p> <p>5 two of increased pavement at that point.</p> <p>6 MR. BURDIN: Would you then be losing the</p> <p>7 shoulder? How can you add a lane with a foot or two?</p> <p>8 MR. SLOAN: Because there's significant paving out</p> <p>9 there right now. I don't know what the best thing to bring</p> <p>10 up here is. I think it would be good if we could see can</p> <p>11 aerial view or something. There's a large shoulder on the</p> <p>12 south side of Strathmore Avenue. Then, there is a</p> <p>13 significant amount of paving and then most of the north side</p> <p>14 is -- would not be impacted at all. I'm trying to think of</p> <p>15 what's the best way to visualize this so we could bring it up</p> <p>16 and describe it for everyone.</p> <p>17 MR. BURDIN: I guess, maybe, to get to my point is</p> <p>18 to ask you whether, whatever widening of Strathmore you need</p> <p>19 to do to put in a -- your 50 or 150 foot left turn lane would</p> <p>20 that widening only occur on the site project property?</p> <p>21 MR. SLOAN: No. It would all occur within the</p> <p>22 established right-of-way. And that impacts a little bit to</p> <p>23 the north as well as the -- to the south.</p> <p>24 MR. BURDIN: So that the green buffer that was</p> <p>25 discussed before between Strathmore and the Strathmore access</p>	<p style="text-align: right;">132</p> <p>1 large shoulder most of it, right now. That will be the</p> <p>2 through lane going eastbound. The turn lane will then be</p> <p>3 almost directly centered on the existing paving that turns</p> <p>4 left. And then, the through lane westbound will be on the</p> <p>5 north side of the property -- or the north side of the road</p> <p>6 and there will be, it looks like, about two to three feet of</p> <p>7 shift in that paving edge to the north, along the queuing</p> <p>8 distance for that left lane. And then, also at the bus stop</p> <p>9 itself and then just to the west of the bus stop we tie back</p> <p>10 into the existing paving.</p> <p>11 MR. BURDIN: Okay. I'm not sure -- people that</p> <p>12 live on that access road were aware that some of that buffer</p> <p>13 zone would be lost to this addition of lane. So thank you</p> <p>14 for clarifying that.</p> <p>15 Are you familiar with the potential path from the</p> <p>16 project's west side, the footpath proposed on the project's</p> <p>17 west side across the stream to connect with the Symphony Park</p> <p>18 path that eventually goes to the Grosvenor Metro?</p> <p>19 MR. SLOAN: Yes. I worked on some conceptual</p> <p>20 ideas for how that might work, early on.</p> <p>21 MR. SLOAN: Okay. And I think you describe the</p> <p>22 area where that path would be as either most forested or</p> <p>23 heavily forested and that there are steep slopes there; is</p> <p>24 that correct?</p> <p>25 MR. SLOAN: Not precisely. The west property in</p>

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<p style="text-align: right;">133</p> <p>1 and the tributary that runs down there in general terms that 2 is the area where the site is most forested and where there 3 are some steep slopes and flood plains. Where we 4 specifically cross if we were allowed that connection would 5 not be an area that is forested. Tree cover (inaudible) two 6 different things. 7 MR. BURDIN: Okay. Where would it, starting from 8 the north -- from Strathmore going south either on your path, 9 your proposed path or the Symphony Park path, how far down 10 toward the music center would, you know, approximately, would 11 that cross path be proposed? 12 MR. SLOAN: That I don't know. I think Mr. Lester 13 was correct. That is the kind of thing that we walk in the 14 field and flag. There are a couple of specimen trees, those 15 large diameter trees that I mentioned earlier, you know, 16 roughly 50, 60 feet south of the road. We would want to 17 avoid those. There's an area where the stream is constricted 18 and it's -- the width of its bank and the contours seem most 19 appropriate for some kind of crossing, maybe another 50 feet 20 beyond that. 21 If we were given permission and we got the right 22 approvals, this would require significant approvals from the 23 state and probably federal because of Army Corps 24 requirements, it might go somewhere in there. That looked 25 most appropriate with the fewest environmental impacts. But</p>	<p style="text-align: right;">135</p> <p>1 most. My wife and I walk a lot of cities a lot of weekends. 2 And it took me about 7 to 8 minutes. We're members of the 3 SOs, we go down there a lot and I like to walk around. 4 MR. BURDIN: That's very rapid. Did you walk to 5 the Garrett Park MART station? 6 MR. SLOAN: No, I have not. 7 MR. BURDIN: Okay. And when you walked to the 8 Metro did you start at Strathmore, somewhere in the center of 9 the site along Strathmore or did you ever walk from the back 10 of the site? 11 MR. SLOAN: No I -- we actually walk -- we take 12 the metro down and then walk from the platform, across the 13 bridge, and then the trail that's in the back along the 14 stormwater pond to Strathmore Avenue. 15 MR. BURDIN: Okay. You mentioned the path for 16 pedestrians and bikes along Strathmore that's being proposed. 17 That would end at the east end of the property, correct? 18 MR. SLOAN: The east end of the property. Yes. 19 We would tie in where the sidewalk goes across the existing 20 bridge. 21 MR. BURDIN: Okay. But going east it would end at 22 your property? 23 MR. SLOAN: Well, right now we're working with our 24 neighbor and the floating zone plan shows this just to the 25 east of our property. We do have a conceptual design of a</p>
<p style="text-align: right;">134</p> <p>1 you know, not having permission we took it off the table for 2 now and I guess we'll -- the Applicant will catch up with the 3 homeowners association and see if it's viable in the future. 4 MR. BURDIN: Okay. And it would affect your 5 forest buffers and conservation easements; is that correct? 6 It would have to cross them? 7 MR. SLOAN: The buffers are established. So the 8 buffers are set just by rule. What happens in those would be 9 an element that would play into the conservation easement, 10 and that conservation easement can have terms that allow, for 11 example, natural surface trails or could allow the crossing. 12 So we would want that as part of our forest conservation plan 13 if we could do it. 14 MR. BURDIN: Okay. So would it be fair to say 15 that installing this path and getting all the approvals would 16 not be a simple matter? It would be somewhat involved; am I 17 hearing you correctly? 18 MR. SLOAN: That is fair to say. 19 MR. BURDIN: Okay. All right. Thank you. 20 I think you mentioned that you've walked from the 21 project site to Metro, the Grosvenor Metro? 22 MR. SLOAN: Correct. 23 MR. BURDIN: Did you note how long it took you to 24 walk? 25 MR. SLOAN: Yes, but I tend to be faster than</p>	<p style="text-align: right;">136</p> <p>1 shared use path that would get us to the next bus stop to our 2 east so there have been a lot of improvements there lately 3 and we don't want to disturb recently put in constructed 4 drainage facilities, and we don't want to disrupt -- there's 5 play equipment even further down and some fencing. So we're 6 looking at that, but we may be able to tie in our shared use 7 path a little further to our east and directly at our 8 frontage point. 9 MR. BURDIN: And what you're looking at, would 10 that continue past the bus stop on Strathmore's south side 11 and hook up with the sidewalk in Garret Park near Kenilworth? 12 MR. SLOAN: I don't think we've looked that far 13 down yet, except very conceptually. It's not something 14 certainly committed to on the floating zone plan that's in 15 front of us. I think that we only went to the next drive. 16 MR. BURDIN: Okay. And as far as you know, 17 there's nothing in place with the Holy Cross Parish and 18 school that would allow you to put in this extension of the 19 path? 20 MR. SLOAN: There's not, no. 21 MR. BURDIN: So if that extension doesn't happen 22 your path ends at the eastern end of your property, there's 23 no crosswalk at that point across Strathmore for pedestrians 24 or bikes to use to get to the Strathmore access road; is that 25 correct?</p>

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<p>137</p> <p>1 MR. SLOAN: That is correct.</p> <p>2 MR. BURDIN: Okay. So unless it's extended it</p> <p>3 wouldn't be much of a benefit to your residents unless they</p> <p>4 wanted to walk up and turn around and walk back; do you</p> <p>5 agree, is that fair to say?</p> <p>6 MR. SLOAN: No. I think the use would allow --</p> <p>7 you mean going east?</p> <p>8 MR. BURDIN: Going east and assuming that</p> <p>9 extension does not occur since there's no crosswalk there</p> <p>10 across Strathmore, that path, at least going east would be of</p> <p>11 limited benefit?</p> <p>12 MR. SLOAN: I think that's fair to say.</p> <p>13 MR. BURDIN: Okay. Thank you.</p> <p>14 You mentioned that the master plan promotes or</p> <p>15 encourages housing near transit; is that correct?</p> <p>16 MR. SLOAN: That is.</p> <p>17 MR. BURDIN: Okay. Are you aware that the LATR</p> <p>18 traffic study concluded that the use of transit by the</p> <p>19 project would be minimal?</p> <p>20 MR. SLOAN: I think I'm going to let the traffic</p> <p>21 engineer and planner speak to that.</p> <p>22 MR. BURDIN: Are you aware that they said that?</p> <p>23 That the report said that?</p> <p>24 MR. SLOAN: I don't think that's the -- no. I</p> <p>25 think they're --</p>	<p>139</p> <p>1 about what the traffic study says, that's fine. But Josh is</p> <p>2 here to talk about compliance with the master plan.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Sustained.</p> <p>4 MR. BURDIN: I'm -- the intergenerational area at</p> <p>5 the hub that you discussed, would there be playground</p> <p>6 equipment there for children, proposed?</p> <p>7 MR. SLOAN: I don't know. I don't know yet,</p> <p>8 honestly. We're really looking at trying to be -- come up</p> <p>9 with some innovative ideas that will engage multiple people</p> <p>10 of different ages and we have not come down on any specific</p> <p>11 solution yet.</p> <p>12 MR. BURDIN: And do you know of any research or</p> <p>13 data that suggest that high school students would use that --</p> <p>14 at Holy Cross, which is essentially a commuter school, would</p> <p>15 use this area?</p> <p>16 MR. SLOAN: No, I have not looked at that.</p> <p>17 MR. BURDIN: And assuming that there is no</p> <p>18 playground equipment, same question. Would parents with</p> <p>19 small children be likely to use that area without playground</p> <p>20 equipment?</p> <p>21 MR. SLOAN: Quite often we actually use more what</p> <p>22 we call nature based kind of and resource based activity</p> <p>23 areas where we're not specifically providing a swing set or a</p> <p>24 jungle gym, but we're providing elements along trails and</p> <p>25 around open spaces that are -- bring out more imagination and</p>
<p>138</p> <p>1 MR. BURDIN: Are you not aware?</p> <p>2 MR. SLOAN: I -- no, I'm -- I don't think that's</p> <p>3 the way to characterize it. But I'll let them speak to that.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Sorry. I will</p> <p>5 interrupt and I'll say that the -- whatever the report says</p> <p>6 will speak to itself. I don't think we need Mr. Sloan's</p> <p>7 opinion of what that report might conclude at this point.</p> <p>8 But we can certainly --</p> <p>9 MR. BURDIN: Well --</p> <p>10 HEARING EXAMINER BAUMGARDNER: -- ask those</p> <p>11 questions of the traffic expert.</p> <p>12 MR. BURDIN: Okay. But he did opine that one of</p> <p>13 the ways that this proposed project is consistent with the</p> <p>14 master plan is that the project is near transit. So I was</p> <p>15 asking him if he is aware that the traffic plan said that</p> <p>16 that use would be minimal.</p> <p>17 MR. SLOAN: The analysis of the traffic study and</p> <p>18 whether or not land uses are appropriate given the multi-</p> <p>19 modal availability are two different things. And I can speak</p> <p>20 to the latter but not the former.</p> <p>21 MR. BURDIN: Okay. Well, if it's near transit and</p> <p>22 nobody's using that transits or the use is minimal it at</p> <p>23 least --</p> <p>24 MS. GIRARD: Objection. We've gone over this a</p> <p>25 number of times. If he wants to ask the traffic engineer</p>	<p>140</p> <p>1 creativity. And in kids we like to make sure that they have</p> <p>2 the ability to do very many -- a number of different things,</p> <p>3 jumping, balancing, running those kind of things. So when we</p> <p>4 get into the design of recreation areas that's what we look</p> <p>5 at and we do see a lot of engagement with those more artistic</p> <p>6 and unique kind of environments than the typical playground.</p> <p>7 Although playgrounds are also used and we have several close</p> <p>8 by here.</p> <p>9 MR. BURDIN: Okay. Thank you. That's all I have.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Okay. Thank you,</p> <p>11 Mr. Burdin. We have several hands that are virtually raised.</p> <p>12 We'll start with Ms. Weitz's. Did you have a question,</p> <p>13 ma'am?</p> <p>14 MS. WEITZ: Yes, I do. I have question, Mr.</p> <p>15 Sloan, you described and we saw on your map the natural</p> <p>16 surface trail that's going to be built. And I have a</p> <p>17 question, would you please define for me what a natural</p> <p>18 surface trail means?</p> <p>19 MR. SLOAN: Yes. So these are typically compacted</p> <p>20 subgrade, which is just a fancy word for dirt. And then wood</p> <p>21 chips are maintained over those so that they remain pervious</p> <p>22 and we do some grading to make it a little bit flatter, but</p> <p>23 not much.</p> <p>24 MS. WEITZ: So then, that trail will not be ADA</p> <p>25 compliant?</p>

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<p style="text-align: right;">141</p> <p>1 MR. SLOAN: It's a curious question, because there</p> <p>2 is -- not everything -- you don't have to be paved to be ADA</p> <p>3 complaint, but I am not an ADA expert and would have to ask</p> <p>4 someone else to answer that.</p> <p>5 MS. WEITZ: Well, I'm reading now from</p> <p>6 AmericanTrails.org and they say that trails that comply with</p> <p>7 accessibilities --</p> <p>8 HEARING EXAMINER BAUMGARDNER: Ma'am, Ms. Weitz.</p> <p>9 MS. WEITZ: Yes?</p> <p>10 HEARING EXAMINER BAUMGARDNER: I'm sorry, but this</p> <p>11 is the time for questions only so we can't have you reading</p> <p>12 documents.</p> <p>13 MS. WEITZ: Okay. So then, a wood-chipped trail</p> <p>14 would make it very difficult for a family member who wishes</p> <p>15 to walk with a Brandywine resident and enjoy the open space.</p> <p>16 There are hawks, there are bald eagles that have been</p> <p>17 observed back in that area, if you have a mother or a loved</p> <p>18 one with a walker or wheelchair that mulched, or I had a</p> <p>19 sister-in-law with macular degeneration, that mulched surface</p> <p>20 area would not be easily accessible to those people; would</p> <p>21 you agree?</p> <p>22 MR. SLOAN: I think that's fair.</p> <p>23 MS. WEITZ: So would it be possible, or would you</p> <p>24 consider making this trail accessible to all the residents,</p> <p>25 both to the Brandywine but also to residents of Garrett Park</p>	<p style="text-align: right;">143</p> <p>1 will it be open? Will the community across -- north of</p> <p>2 Strathmore, are we going to be allowed to access this trail?</p> <p>3 MR. SLOAN: There are no gates proposed. And so</p> <p>4 it is directly connected to the sidewalk system. I don't</p> <p>5 know if you would count that as open. It's not going to have</p> <p>6 a sign that says for public use but it won't say not to, as</p> <p>7 far as I know right now.</p> <p>8 MS. WEITZ: Okay. But it will be really</p> <p>9 accessible to those who are able bodied only?</p> <p>10 MR. SLOAN: Yes, right now, it's wood chip mulch.</p> <p>11 MS. WEITZ: Okay. Thank you.</p> <p>12 HEARING EXAMINER BAUMGARDNER: Ms. Lide, did you</p> <p>13 have a question? I cannot recall if you are a member of the</p> <p>14 association or if you're testifying -- or if you're asking a</p> <p>15 question for yourself. What was your --</p> <p>16 MS. LIDE: I'd like to just ask a clarification on</p> <p>17 this curb, tweaking the curb and losing one or two feet.</p> <p>18 Just to clarify, can you explain, is there now no shoulder</p> <p>19 area on the north side of Strathmore?</p> <p>20 MR. SLOAN: So there is about three feet, I think,</p> <p>21 of paving between the solid white line and the edge of the</p> <p>22 pavement. And then, there is some grass area and then there</p> <p>23 are utility poles and then there are some plantings. So that</p> <p>24 area would be where we would be pushing say two, three feet.</p> <p>25 MS. LIDE: Okay. But does that pushing two or</p>
<p style="text-align: right;">142</p> <p>1 Estates, to residents at Strathmore Place and Symphony Park</p> <p>2 who might have accessibility issues?</p> <p>3 In addition, I don't know if you've ever tried to</p> <p>4 push a stroller, but I have seven grandchildren, if you've</p> <p>5 ever tried to push a stroller for a long distance over a</p> <p>6 mulched trail it can be very tiring, particularly if you're</p> <p>7 the grandmother. Would you consider making that more</p> <p>8 accessible to the community?</p> <p>9 MR. SLOAN: Well, I think it's a very good</p> <p>10 question. Because it's in an environmental buffer park and</p> <p>11 planning typically simply doesn't allow those to be paved.</p> <p>12 But it's worth raising that question with them again and see</p> <p>13 if there's any flexibility, but right now, this is the</p> <p>14 direction we've been given.</p> <p>15 MS. WEITZ: I understand that there are permeable</p> <p>16 surfaces, natural surfaces and I am not either a civil</p> <p>17 engineer, but I have walked on them that allow water -- they</p> <p>18 are permeable, but they are also accessible.</p> <p>19 MR. SLOAN: You're right. There are and thus far</p> <p>20 we have not been granted permission to use those in</p> <p>21 environmental areas without some kind of exception to the</p> <p>22 environmental guidelines, so I have not used them on a</p> <p>23 project in this kind of situation. But it's a good question</p> <p>24 for park and planning.</p> <p>25 MS. WEITZ: Okay. So then, this surface trail,</p>	<p style="text-align: right;">144</p> <p>1 three feet leave -- still leave a shoulder on the north side</p> <p>2 of Strathmore?</p> <p>3 MR. SLOAN: No, it does not.</p> <p>4 MS. LIDE: So there's no shoulder? Okay. Just</p> <p>5 want to point out that that shoulder currently is used quite</p> <p>6 frequently because the Kensington Fire Department goes along</p> <p>7 Strathmore Avenue and when traffic is backed up I have some</p> <p>8 photos and like to share later in my testimony, that's how</p> <p>9 cars pull over to let emergency vehicles through.</p> <p>10 And then, the other question I have is why, if you</p> <p>11 need that extra space that encroaches on the buffer zone, why</p> <p>12 can't you take it from the south side?</p> <p>13 MR. SLOAN: We are taking space for the lane on</p> <p>14 the south side, but we also need to align with our horizontal</p> <p>15 curvature and that your road alignment west of where we will</p> <p>16 have the signal and used. So we don't want to have a big dip</p> <p>17 in the road that moves the centerline significantly from</p> <p>18 where it is now. So we're more or less splitting the</p> <p>19 difference in that northern lane to accommodate it. That's</p> <p>20 the general reason.</p> <p>21 MS. LIDE: Okay. But it also leaves me,</p> <p>22 personally, very confused because in our conversations with</p> <p>23 EYA and in our conversations with members of Montgomery</p> <p>24 County planning department we've been assured that there is</p> <p>25 no -- any changes are on the south side. That there would be</p>

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<p style="text-align: right;">145</p> <p>1 no encroachment on the green buffer zone. And yet today, we 2 just learned something different. 3 MR. SLOAN: Well, whether -- is the green buffer 4 zone from paving to paving regardless If its lawn or 5 plantings or trees? Because where avoiding the plantings, 6 and I know there's definitely some brush and low growing 7 things just east of the bus stop. But there are no trees or 8 anything that would be -- 9 MS. LIDE: There is a tree there, yeah. It's 10 right in front of my house. I mean I'm not sure what the 11 definition of brush, but these are 15 foot high trees that 12 screen houses from the road noise and pollution. 13 MR. SLOAN: If EYA and Brandywine allow me, would 14 be happy to go out and walked beside and look at where 15 those -- or potentially the impacts are and see what we can 16 do to -- if a foot makes a difference then we could try to 17 work on that. But we are getting into, we hope, that level 18 of design soon. And I would be happy to look at that with 19 you. Because I don't see where we would be requiring the 20 removal of any trees right now with the shift of that I am 21 talking about. 22 MS. LIDE: Right, but you are essentially shifting 23 the road traffic one, two, three, feet closer to our homes. 24 That's what it sounds like to me. And that runs counter to 25 what we have been assured at several points by several</p>	<p style="text-align: right;">147</p> <p>1 MS. BENNETT: Yeah, it's quite low, isn't it? 2 MR. SLOAN: I didn't think to have that 3 information right in front of me so it's going to take me a 4 second. 5 MS. BENNETT: Because where it is, it sits at the 6 top of a hill. So with a 50 foot building at the top of the 7 hill that's going to be quite tall, block the view of the 8 church, which is a beautiful building, as you drive up that 9 hill. 10 Also, are there any existing commercial buildings 11 that are that close to Strathmore Avenue of that height and 12 massing? And are the guidelines for height and massing, do 13 they have anything to do with the relative distance to the 14 street? Because to me a building that's right up against, as 15 this one is proposed to be, Strathmore Avenue that is 50 feet 16 tall is going to appear much bigger to people on the street, 17 either pedestrians or drivers than the current ones which are 18 all set very far back from Strathmore Avenue. So I'm 19 wondering if there are any guidelines about what constitutes 20 consistent height and massing. 21 HEARING EXAMINER BAUMGARDNER: Ms. Girard, do you 22 have an architect who will be testifying? 23 MS. GIRARD: That's exactly what we had Jack 24 McLaurin on standby for. So we can certainly have him 25 address some of these issues.</p>
<p style="text-align: right;">146</p> <p>1 people; would you agree there's some disconnect here? 2 MR. SLOAN: I guess there was, Yes. 3 MS. LIDE: Okay. Thank you. 4 HEARING EXAMINER BAUMGARDNER: And last, 5 Councilwoman Bennett, did you have a question? 6 MS. BENNETT: yes, thank you. Mr. Sloan, you 7 mentioned several times that the development is consistent in 8 height and massing to other buildings in the area. Could you 9 give the specific differences between, in particular, the 10 care facility height, which looks to be approximately 50 feet 11 tall with the Holy Cross Church, Garrett Park Elementary 12 school, other existing buildings? Oh, and also, St. Angela 13 Hall. Like, what is the actual difference? 14 MR. SLOAN: I don't have the specific differences. 15 I don't have that height different. 16 MS. BENNETT: Well, what's the criteria then for 17 being consistent with height and massing? 18 MR. SLOAN: So I'm looking at the overall 19 footprints of the buildings for the massing of that. On 20 site, its footprint that it takes up over the site, and in 21 the rooflines that are 3 to 4 stories, depending on where you 22 look on the buildings around us. I did not measure the 23 specific types. 24 MS. BENNETT: How many stories is St. Angela Hall? 25 MR. SLOAN: The existing building?</p>	<p style="text-align: right;">148</p> <p>1 HEARING EXAMINER BAUMGARDNER: Would that be okay? 2 MS. BENNETT: Yeah, that would be great. Thank 3 you. 4 HEARING EXAMINER BAUMGARDNER: Okay. Great. 5 Yeah, the land planning certainly includes structural 6 elements to a plan, but if there's an architect that will be 7 better able to answer those types of specific questions that 8 might be a better witness. I don't want to take your show, 9 Mr. Sloan, but -- 10 MR. SLOAN: No, I know my boundaries. 11 HEARING EXAMINER BAUMGARDNER: Yeah. Typically 12 those questions would be better answered by the architect 13 that will be in charge of constructing buildings. 14 MS. BENNETT: Thank you. 15 HEARING EXAMINER BAUMGARDNER: Thank you. 16 Ms. Girard, any redirect of Mr. Sloan? 17 MS. GIRARD: Yes, just a couple of questions. 18 Well, one, just building on what was just being 19 asked, is a residential care facility considered commercial 20 or residential under the zoning ordinance? 21 MR. SLOAN: Sorry, I was writing a note down. 22 Could you run that by me one more time? 23 MS. GIRARD: It was just represented, I believe, 24 unless I misunderstood that a residential care facility is 25 commercial. And under the zoning ordinance is it considered</p>

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<p>149</p> <p>1 commercial or residential?</p> <p>2 MR. SLOAN: It's a residential use.</p> <p>3 MS. GIRARD: With regard to the sidewalk and its</p> <p>4 potential connection or not connection to the east, how does</p> <p>5 park and planning typically look at a sidewalk to nowhere or</p> <p>6 a bike path to nowhere? Does it matter that it doesn't</p> <p>7 connect in the present?</p> <p>8 MR. SLOAN: It does not. Just like way back when</p> <p>9 I was looking at Symphony Park on staff, we require frontage</p> <p>10 improvements to the standard regardless of whether or not</p> <p>11 they connect to east or west, so that at least they can</p> <p>12 happen over time.</p> <p>13 MS. GIRARD: With regard to the trail, and whether</p> <p>14 or not it will be accessible, if there were people that</p> <p>15 wanted to push a stroller or take their mother or father for</p> <p>16 a walk out of the Brandywine project, are there other places</p> <p>17 where they would be able to walk throughout the community</p> <p>18 that are accessible?</p> <p>19 MR. SLOAN: We have at least two other circulation</p> <p>20 routes that they would be able to walk through the community</p> <p>21 on different streets.</p> <p>22 MS. GIRARD: And while we'll probably be speaking</p> <p>23 to Jack more about the architectural issue, I think grading</p> <p>24 is more in yours and maybe Jeff's as well, but there was</p> <p>25 mention for the existing hill that St. Angela Hall sits on</p>	<p>151</p> <p>1 that's our initial take on it. We don't have a schematic</p> <p>2 design of the building yet beyond conceptual renderings. But</p> <p>3 I think you can -- yeah.</p> <p>4 MS. GIRARD: Okay. So it's fair to say that</p> <p>5 efforts have been taken to reduce the appearing of massing</p> <p>6 along Strathmore for that building?</p> <p>7 MR. SLOAN: Certainly. And Jack or someone else</p> <p>8 can speak to this. Both in the siting of the building, the</p> <p>9 terracing of the building and also in the rooflines given to</p> <p>10 the building with pitched roofs, slow down and what not.</p> <p>11 MS. GIRARD: And then with -- I'm sorry to jump</p> <p>12 around, but back to with regard to the natural trail. Are</p> <p>13 you aware that the Applicant as part of their application</p> <p>14 proffered as a binding element that it would be subject to an</p> <p>15 easement to make it available to the public?</p> <p>16 MR. SLOAN: I had forgotten that. That's right,</p> <p>17 yes.</p> <p>18 MS. GIRARD: Okay. That's all I had for Mr.</p> <p>19 Sloan.</p> <p>20 HEARING EXAMINER BAUMGARDNER: All right.</p> <p>21 MR. SHAFFER: Excuse me. This is David Shaffer,</p> <p>22 could I recross on that last point?</p> <p>23 HEARING EXAMINER BAUMGARDNER: Yes.</p> <p>24 MR. SHAFFER: Are you aware of other permeable</p> <p>25 means of making trails accessible to people in wheelchairs or</p>
<p>150</p> <p>1 top of. Will the Brandywine project be built on that hill?</p> <p>2 Or will there be regrading that's done and perhaps the</p> <p>3 renderings would be a good thing to refer to on that?</p> <p>4 MR. SLOAN: It could be. There is definitely</p> <p>5 going to be regrading. And it's also partially built into</p> <p>6 the hill because of the slope, we can take advantage of to</p> <p>7 hide parking below the -- perfect.</p> <p>8 HEARING EXAMINER BAUMGARDNER: I'm pulling up</p> <p>9 what's been marked Exhibit 35, grading and utility.</p> <p>10 MS. GIRARD: Does that help, Josh?</p> <p>11 MR. SLOAN: Yes. So the grading and utility plan</p> <p>12 does show some initial ideas about this would sit on the</p> <p>13 slope and the building will be up, but not as high as the</p> <p>14 current situation because of the slope of the road and the</p> <p>15 need for utility easements and things along the road.</p> <p>16 So we're actually going to be building the -- the</p> <p>17 slab of the building will actually be built into the grade</p> <p>18 and then it will step up. The grade steps up around it until</p> <p>19 it gets to Strathmore Avenue. So its highest point is</p> <p>20 actually going to be at its -- the highest point measured</p> <p>21 from grade will actually be at its far south end. That's</p> <p>22 where it will -- where it has the least impact on visibility.</p> <p>23 And then we're into the hill a story at least on the north</p> <p>24 side.</p> <p>25 Yeah, you can't zoom in as close as I can. So</p>	<p>152</p> <p>1 using assistive devices?</p> <p>2 MR. SLOAN: I am, yes.</p> <p>3 MR. SHAFFER: Can you give some them, list some of</p> <p>4 them for me?</p> <p>5 MR. SLOAN: So we've used several. We've used</p> <p>6 both pervious concrete, pervious asphalt, pervious paver</p> <p>7 systems. Those are all systems that are built over a gravel</p> <p>8 bed that can absorb water. They do require maintenance,</p> <p>9 vacuuming or something quite often.</p> <p>10 We've also used gravel type stone dust, decomposed</p> <p>11 granite systems with binders that set the material. We've</p> <p>12 used all of those. We simply haven't, in my experience,</p> <p>13 gotten them approved in environmental buffer areas for</p> <p>14 private development from park and planning yet.</p> <p>15 MR. SHAFFER: Well, let me give you example. I</p> <p>16 happen to have worked with the National Park Service on</p> <p>17 designing accessible trails at the National Park in Anacostia</p> <p>18 which go through wetlands and the water (indiscernible)</p> <p>19 #(03:56:46). And they used compressed pea gravel there,</p> <p>20 which they felt was compatible with the nature of the area as</p> <p>21 well as fully accessible to people in wheelchairs if it's</p> <p>22 simply pounded down every year or so to make it firm, but</p> <p>23 otherwise permeable. Would that be an alternative that you</p> <p>24 could use here?</p> <p>25 MR. SLOAN: If park and planning allowed it we</p>

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<p>153</p> <p>1 can --</p> <p>2 MR. SHAFFER: Well, I was referring to the Park</p> <p>3 Service.</p> <p>4 MR. SLOAN: -- (inaudible).</p> <p>5 MR. SHAFFER: They allowed it. But you don't know</p> <p>6 whether the Montgomery County Park and planning would allow</p> <p>7 it or not; is that right?</p> <p>8 MR. SLOAN: I don't. I have not been able to get</p> <p>9 them approved so far, no.</p> <p>10 MR. SHAFFER: Okay. Thank you.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Great. Thank you</p> <p>12 everyone. Thank you Mr. Sloan.</p> <p>13 Let's move on to the Applicant's next witness.</p> <p>14 MS. GIRARD: Okay. Here's the moment everyone's</p> <p>15 been waiting for. I would like to call Katy Wagner.</p> <p>16 MS. WAGNER: Hi.</p> <p>17 HEARING EXAMINER BAUMGARDNER: Hello, Ms. Wagner,</p> <p>18 can you please give us your full name, your business address</p> <p>19 and a good business email address for you, please?</p> <p>20 MS. WAGNER: Yes. My name is Katherine Lee</p> <p>21 Wagner. I am a transportation engineer at Gorove/Slade, 1140</p> <p>22 Connecticut Avenue, Suite 600, Washington, DC 2006. And my</p> <p>23 email address is KLW@GoroveSlade.com</p> <p>24 HEARING EXAMINER BAUMGARDNER: And Ms. Wagner, can</p> <p>25 you please raise your right hand?</p>	<p>155</p> <p>1 expertise in the field of transportation engineering?</p> <p>2 Seeing or hearing none -- yes?</p> <p>3 MR. BURDIN: Oh, I was going to say -- I was</p> <p>4 waiting for Mr. Shaffer. I don't have any. This is Doug</p> <p>5 Burdin.</p> <p>6 HEARING EXAMINER BAUMGARDNER: Okay. Thank you</p> <p>7 very much.</p> <p>8 Ms. Wagner has been admitted as an expert in this</p> <p>9 field before me and before other Hearing Examiners within</p> <p>10 OZHA in the past. Hearing no objections she is admitted for</p> <p>11 the purpose of this hearing as an expert in the field for</p> <p>12 transportation engineering.</p> <p>13 MS. GIRARD: Thank you.</p> <p>14 Ms. Wagner, are you familiar with the property</p> <p>15 that's the subject of a local map amendment application, LMA</p> <p>16 143 and the surrounding area?</p> <p>17 MS. WAGNER: Yes, I am.</p> <p>18 MS. GIRARD: And are you familiar with the</p> <p>19 County's adequate public facilities ordinance, recently</p> <p>20 adopted growth and infrastructure policy, and the local area</p> <p>21 transportation and review guidelines for development?</p> <p>22 MS. WAGNER: Yes, I am familiar with both those</p> <p>23 documents. I would like to mention at this time, that we</p> <p>24 scoped our traffic study, our LATR traffic study with</p> <p>25 Montgomery County Park and planning, Montgomery County</p>
<p>154</p> <p>1 Do you swear or affirm under the penalties of</p> <p>2 perjury that the testimony you're about to give is the truth,</p> <p>3 the whole truth?</p> <p>4 MS. WAGNER: Yes.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Ms. Girard, MS.</p> <p>6 WAGNER is yours.</p> <p>7 MS. GIRARD: Thank you.</p> <p>8 Ms. Wagner, what's your occupation?</p> <p>9 MS. WAGNER: I am a transportation engineer.</p> <p>10 MS. GIRARD: And what's your professional and</p> <p>11 educational background?</p> <p>12 MS. WAGNER: I received my bachelor of science in</p> <p>13 civil engineering from Gonzaga University, and I have been</p> <p>14 working in the transportation engineering field for over 12</p> <p>15 years now.</p> <p>16 MS. GIRARD: And have you previously been admitted</p> <p>17 as an expert in front of the Hearing Examiner?</p> <p>18 MS. WAGNER: Yes, I have multiple times, French</p> <p>19 International School, Landon School, as well as an assisted</p> <p>20 living facility on Liberty Mill Road.</p> <p>21 MS. GIRARD: So I would note that Ms. Wagner's</p> <p>22 resume is Exhibit 49-D in the record, and we move for her</p> <p>23 admission as an expert in transportation engineering.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, and</p> <p>25 Mr. Burdin any further voir dire questions about Ms. Wagner's</p>	<p>156</p> <p>1 Department of Transportation and the State Highway</p> <p>2 Administration staff in the fall of 2020 while the site was</p> <p>3 still governed by the North Bethesda policy area and</p> <p>4 therefore subject to the SSP and 2017 LATR traffic study</p> <p>5 requirements where the site was reviewed as an orange policy</p> <p>6 area.</p> <p>7 The policy area for the site changed to a red</p> <p>8 policy area, the Grosvenor policy area that was approve as</p> <p>9 part of the Montgomery County's 2020, 2024 growth and</p> <p>10 infrastructure policy when that went into effect January 1,</p> <p>11 2021.</p> <p>12 This -- under the new Grosvenor policy area</p> <p>13 designation the -- it's important to note that the project</p> <p>14 would not be subject to a vehicular capacity traffic analysis</p> <p>15 per the new LATR guidelines that have since been adopted.</p> <p>16 MS. GIRARD: And when you say SSP, can you just</p> <p>17 define what you're referring to?</p> <p>18 MS. WAGNER: Subdivision staging policy.</p> <p>19 MS. GIRARD: Thank you. And have you analyzed the</p> <p>20 suitability of the propped development of the subject</p> <p>21 property from a transportation engineering standpoint?</p> <p>22 MS. WAGNER: Yes. I have conducted the traffic</p> <p>23 analysis as well as I live near the subject property and I</p> <p>24 drive and run past the site frequently.</p> <p>25 MS. GIRARD: Can you review for us the findings</p>

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<p>157</p> <p>1 and conclusions of your initial transportation analysis that</p> <p>2 was completed in accordance with the parking planning</p> <p>3 guidelines?</p> <p>4 MS. WAGNER: Yes. As I mentioned before, we</p> <p>5 scoped a traffic study with staff in the fall of 2020. We</p> <p>6 recognize that this was when the pandemic was going on, as it</p> <p>7 still currently is, but we submitted the LATR for the</p> <p>8 proposed development of the site located at 4910 and 4920</p> <p>9 Strathmore Ave. in Montgomery County on December 18, 2020.</p> <p>10 And was further updated to address comments received from</p> <p>11 staff. This is provided as Exhibit 47.</p> <p>12 In this study, the analysis used counts collected</p> <p>13 in October and November 2020 in accordance with park and</p> <p>14 planning traffic counts during the pandemic policy update</p> <p>15 memorandum dated September 17, 2020. This LATR was</p> <p>16 grandfathered in under the, again, SSP, as the traffic study</p> <p>17 was scoped and submitted before GIP was formally implemented.</p> <p>18 The conclusions of the LATR is that the</p> <p>19 surrounding network can adequately support traffic generated</p> <p>20 by the proposed project without any roadway improvements or</p> <p>21 mitigation.</p> <p>22 MS. GIRARD: And was that analysis reviewed by</p> <p>23 park and planning staff?</p> <p>24 MS. WAGNER: Yes, that analysis was reviewed by</p> <p>25 park and planning staff as well as SHA and MCDOT.</p>	<p>159</p> <p>1 policy.</p> <p>2 In response to this, the Applicant team prepared a</p> <p>3 supplemental analysis using historic traffic counts that were</p> <p>4 available at study area intersections from 2016 and 2013.</p> <p>5 This analysis provided a conservative analysis as the traffic</p> <p>6 counts higher than those used in the LATR analysis. In</p> <p>7 addition, the analysis not only incorporated counts and that</p> <p>8 were higher than what we collected in 2020, but we also</p> <p>9 applied background growth to bring the counts from 2013 and</p> <p>10 2016 up to 2020 rates and these rates were based on</p> <p>11 historical counts collected by SHA to account for growth year</p> <p>12 over year in the area.</p> <p>13 That's all.</p> <p>14 MS. GIRARD: When you mention applying a growth</p> <p>15 factor, have you looked at whether there had, in fact, been</p> <p>16 growth over the years? Was there any data to suggest that</p> <p>17 there had been growth along some of these roads?</p> <p>18 MS. WAGNER: Yes, there was some growth on some of</p> <p>19 these years. There was also negative growth a lot of years,</p> <p>20 but we provided a conservative analysis and applied positive</p> <p>21 growth along the area roadways.</p> <p>22 MS. GIRARD: And what conclusions did you draw</p> <p>23 from your supplemental analysis?</p> <p>24 MS. WAGNER: Based on the supplemental analysis we</p> <p>25 found that medication was needed at the Strathmore Avenue and</p>
<p>158</p> <p>1 MS. GIRARD: Okay. And as far as Park and</p> <p>2 planning staff is concerned what was there conclusion</p> <p>3 regarding that study?</p> <p>4 MS. WAGNER: As the study was done to meet their</p> <p>5 guidelines during -- conducting a traffic study during a</p> <p>6 pandemic, we included a growth factor to assume that schools</p> <p>7 were not in session and people were telecommuting. In</p> <p>8 addition to that, we had to balance traffic volumes along the</p> <p>9 roadway as well as take into consideration the schools that</p> <p>10 were in the study area that were not operating at full, our</p> <p>11 regular capacity. Park and planning staff accepted the</p> <p>12 conclusions of that original study.</p> <p>13 MS. GIRARD: And with regard to the Montgomery</p> <p>14 county Department of Transportation, and Maryland State</p> <p>15 Highway Administration he mentioned that they reviewed that</p> <p>16 study as well?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MS. GIRARD: Can you --</p> <p>19 MS. WAGNER: Do you want me to just go?</p> <p>20 MS. GIRARD: I was just going to ask where you're</p> <p>21 going. What were their comments?</p> <p>22 MS. WAGNER: Yeah, so Montgomery County DOT as a</p> <p>23 well as SHA had concerns about the low level of traffic</p> <p>24 volumes collected in 2020, even with the adjustment said that</p> <p>25 we did apply as required by park and planning and their count</p>	<p>160</p> <p>1 the center site driveway intersection. This was needed in</p> <p>2 the form of traffic signal, as well as a westbound left turn</p> <p>3 lane into the new site, primarily to mitigate the traffic and</p> <p>4 generated by the school.</p> <p>5 In addition, we recognize that the community has</p> <p>6 raised concerns regarding the delays presented in this LATR</p> <p>7 as well as the supplemental analysis at the intersection of</p> <p>8 Strathmore and Stillwater. And I just wanted to address that</p> <p>9 as I go through some of the findings of our studies. In</p> <p>10 existing conditions, the delays at this specific</p> <p>11 intersection, Stillwater, and Strathmore, drastically exceed</p> <p>12 the congestion standard due to a number of reasons.</p> <p>13 Primarily being the offset of the HCA driveway and the</p> <p>14 Stillwater Avenue intersection. This caused significant</p> <p>15 vehicular delays. The current driveway only has one outbound</p> <p>16 lane causing delays due to any vehicle wanting to turn left</p> <p>17 and needing gaps in traffic in both directions.</p> <p>18 And then, a significant delay is decreased because</p> <p>19 we have taken away that shift and aligned Stillwater and</p> <p>20 site driveway intersection as well as shifted all of the</p> <p>21 school driveway traffic volumes. So those are the findings.</p> <p>22 MS. GIRARD: Okay. And in light of community</p> <p>23 input questioning the validity of the counts uses in both of</p> <p>24 those studies, have you completed any additional analysis?</p> <p>25 MS. WAGNER: Yes. We collected traffic counts in</p>

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<p style="text-align: right;">161</p> <p>1 December of 2021 in response to community concerns that were 2 raised at meetings as well as received in correspondence to 3 really have a better understanding of making sure that we 4 conducted a traffic study in the most appropriate manner 5 given the ongoing pandemic. And when we collected traffic 6 counts the pandemic was not where it is now and there was -- 7 schools were really back in session and we found that traffic 8 counts were -- traffic counts that we collected in 2021 were 9 till less than what were used in the supplemental analysis to 10 address the SHA and MCDOT concerns. 11 And that we did collect the counts on a day that 12 was in compliance with the park and planning LATR guidelines. 13 We have provided these counts in Exhibit 58-C and then the 14 data is summarized in 58-D in an Excel spreadsheet. The 15 traffic counts indicated that they were higher as I indicated 16 in our supplemental analysis at all but one of our study 17 intersections, which was the Kenilworth Avenue and Strathmore 18 Avenue intersection during the a.m. peak hour compared to the 19 counts collected in December of 2021. 20 The Strathmore Avenue and Kenilworth Avenue 21 intersection was found to operate well within congestion 22 standards and future conditions with the project, and the 23 slight increase in baseline traffic volumes during the 24 morning peak hour would not trigger additional mitigation as 25 a result of the proposed development.</p>	<p style="text-align: right;">163</p> <p>1 westbound left turn lane that allows for vehicles to not 2 block through traffic and they are able to shift down to be 3 able to turn into the site. And so those significantly 4 reduce the delays. 5 MS. GIRARD: And you've been here for the 6 testimony and I don't want to spend a lot of time on it, as 7 the Hearing Examiner has appropriately pointed out additional 8 connections or alternative connections isn't really within 9 the scope of the hearing but with so many members of the 10 community commenting on it and interested, can you just 11 quickly touch from a transportation engineer perspective why 12 a connection to Cloister or Tuckerman Lane would not be 13 appropriate? 14 MS. WAGNER: Yes. And again, as -- in addition to 15 the environmental concerns we also looked at providing the 16 connection to Cloister Drive as we have concerns regarding 17 the sight distance and safety at this intersection that the 18 driver would have to be not only provided through a private 19 road, Cloister Drive is not a public road and is owned by 20 Stonybrook Home Owners Association. But then, that is along 21 a curvature of roadway which would provide safety concerns 22 for vehicles turning out of that driveway. 23 MS. GIRARD: And as I mentioned I know you've been 24 watching the testimony here today. Can you address how the 25 traffic studies death with metro -- anticipated metro</p>
<p style="text-align: right;">162</p> <p>1 I have also received the counts collected by the 2 community in video format as well an excel Spreadsheet and 3 reviewed those. They are indicated that they were submitted 4 as part of an exhibit but I have not found those as an 5 exhibit. 6 And so I did review the video in comparison to 7 what the video of our counts showed and that the video 8 selected by -- recorded by the community was then output into 9 a spreadsheet format and I found that the spreadsheet 10 overexaggerated the number of vehicles traveling along 11 Strathmore Avenue. So I -- as well as they are not collected 12 on a typical weekday as required by the park and planning 13 staff. 14 MS. GIRARD: And can you -- and I know you may 15 have touched on this a little bit, but can you just explain 16 in a layman's term how the reduction -- I know you mentioned 17 the alignment of the intersection, but as far as installation 18 of turn lanes, traffic signals all of that what the 19 supplemental analysis showed -- now those measures 20 appropriately mitigate and in some cases improve, traffic 21 congestion? 22 MS. WAGNER: Yeah. So really mitigating the 23 impacts at the site driveway are found in the fact that we 24 are also providing not only a signal to provide gaps for 25 vehicles exiting the school, we have also provided a</p>	<p style="text-align: right;">164</p> <p>1 ridership? 2 MS. WAGNER: Yes. So I would like to bring up 3 Exhibit 47 and on page 18 of that PDF. And I can either 4 share my screen if I need to or someone else can. 5 HEARING EXAMINER BAUMGARDNER: That was page 18? 6 MS. WAGNER: Yes, please. 7 HEARING EXAMINER BAUMGARDNER: It should be on 8 your screen now. 9 MS. WAGNER: Yeah, if you can scroll down just a 10 little bit. Yeah, that mode split factors. 11 So when we are doing our traffic studies we have 12 to scope our traffic studies with Park and planning staff, 13 with Montgomery County Department of Transportation and SHA. 14 They have specific trip generation rates that we use for 15 different land uses, and in this case, we use multifamily 16 midrise for the townhouses. We used single-family detached 17 housing for the single-family homes, and at then assisted 18 living for the Brandywine facility. So we have to use those 19 specific rates, we can't just make up trip generation rates. 20 And this is based off the Institute of Transportation 21 Engineers trip generation manual that has rates provided for 22 all these uses and based on their evaluation of similar sized 23 uses. 24 In addition, in Montgomery County they provide 25 mode split factors, and this is shown on table 3. These are</p>

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<p>165</p> <p>1 base off of Montgomery County's survey of uses with in the 2 specific policy areas. So as you can see, these are the mode 3 split so that we had to use for our trip generation. And 4 these are -- there's been a number of questions raised about 5 our traffic study saying that there is going to be a low 6 number of transit use. This is because we have to use these 7 rates. 8 And the reason for this is that it provides a 9 conservative vehicular analysis that we don't want to 10 overestimate the number of transit trips because we would be 11 at this hearing talking about how we overestimated the number 12 of transit trips, and we have not specifically mitigated 13 vehicular concerns. And so that is why the traffic study 14 does say there is a small number of transit trips, it's 15 because these are the mode splits we have to use. 16 In addition, we have looked at these uses and the 17 number of trips that the calculations and do indicate and we 18 believe that based on our coordination with Brandywine, 19 specifically, and the assisted living facility and the number 20 of employees, shifts, visitors, residents, everything that we 21 have coordinated with them that these numbers are reasonable 22 as far as vehicular trips, and that they will be committed to 23 putting employees on shuttles to and from the Metro, and 24 incentivizing the use of transit. 25 MS. GIRARD: And similarly, when you were</p>	<p>167</p> <p>1 community that were critiquing your study and mentioned that 2 in some of your maps you had a connection shown through, I 3 think it was Bangor Drive that actually were not there. I 4 believe that they are cordoned off and don't actually 5 connect. Have you looked at that, and does that impact the 6 analysis in your study at all? 7 MS. WAGNER: Yes. And you can see that 8 specifically just represented the in a graphic on page 24 of 9 the LATR as well as some of the other figures. It is -- 10 these are fairly -- they are from GIS which is a database 11 where we get graphic so I don't have to draw all the lines on 12 these papers, on all these figures. And so on Bangor Drive 13 there is, the roadway does not connect them but it does not 14 change any of our traffic analysis and the way that traffic 15 volumes would have been rerouted, our site volumes would have 16 been rerouted. We did not affect any of those traffic 17 volumes. 18 MS. GIRARD: And you had mentioned the adoption of 19 the new growth and infrastructure policy and the movement of 20 this property into a red policy area. I think you mentioned 21 that that would not -- would mean in the future there 22 wouldn't be a -- I don't remember how you characterized it, 23 but the vehicular analysis component which you can expand on 24 in your response, but also what the growth policy -- we've 25 had conversations today about looking at upgrading bus stops,</p>
<p>166</p> <p>1 originally doing your scoping, when you were going out to do 2 a study and you had conversations over time with the 3 Brandywine about shifting other shifts, there are a number of 4 employees, how does that, or does that not impact the 5 information in the traffic study? 6 MS. WAGNER: So it really doesn't impact the 7 information of the traffic study. It really impacts the 8 operations of their facility. That we have had conversations 9 regarding -- there is a lot of school traffic, and that it 10 probably would be helpful for the overall development 11 operations as well as the Brandywine not to have the 12 employees coming and going when school is coming in and out, 13 that that will cause delays for their staff to be able to get 14 to work on time. And so there is coordination with the 15 internal project team. But it doesn't really affect the 16 traffic analysis, but it does affect the operations as we do 17 need to use these prescribed numbers given to us from Park 18 and planning staff. 19 MS. GIRARD: And there's nothing that you know, or 20 is there anything that you know about Brandywine's operations 21 that would make you think that the rates dictated by the 22 County and ITE would not be applicable here? 23 MS. WAGNER: No, there is not. 24 MS. GIRARD: There was also testimony, and I 25 believe it's in the record as well from members of the</p>	<p>168</p> <p>1 sidewalks, ADA compliance, is that part of the future studies 2 that will be required under the growth and infrastructure 3 policy? 4 MS. WAGNER: Yes. So as I mentioned the growth 5 and infrastructure policy went into effect January 1, 2021. 6 The LATR guidelines did not come out until July 2021 and so 7 we knew that we were moving this project forward and new that 8 a vehicular analysis would not be required if we were to do 9 our traffic study under the new GIP guidelines, and LATR 10 guidelines. And so we knew that traffic was going to be a 11 concern for the surrounding community and so we didn't want 12 to solely rely on a policy not requiring a study. We knew 13 that we needed to address the community's concerns with our 14 LAT our traffic study as well as our supplemental analysis as 15 well as our ongoing conversations. And so that is why we 16 went ahead and did the traffic study under the old 17 guidelines. And then, I will note that as part of our 18 preliminary plan approval process we will have to do another 19 traffic study to address the new GIP guidelines, and this 20 traffic study will have a much more in-depth review of the 21 pedestrian by the transit and safety surrounding the site, 22 and we will be undergoing that study in the future. 23 MS. GIRARD: Thank you. So based on your 24 analysis, will the proposed project see the traffic volume 25 standard under the planning boards LATR guidelines?</p>

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<p style="text-align: right;">169</p> <p>1 MS. WAGNER: No. As I stated previously based on</p> <p>2 the supplemental analysis the Applicant is committed to</p> <p>3 installing a traffic signal and a westbound left turn lane at</p> <p>4 the Strathmore Avenue and center driveway intersection in</p> <p>5 coordination with SHA.</p> <p>6 MS. GIRARD: And from a transportation engineering</p> <p>7 standpoint, will the proposed use is to be compatible with</p> <p>8 existing and approved adjacent development?</p> <p>9 MS. WAGNER: Yes, the project fits with the</p> <p>10 surrounding uses of the proposed development while also</p> <p>11 providing pedestrian connections for the existing</p> <p>12 developments and a traffic signal to reduce existing traffic</p> <p>13 delays on Strathmore Avenue.</p> <p>14 MS. GIRARD: That's all I had for Ms. Wagner.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Thank you very</p> <p>16 much. We'll start with Mr. Schaffer. Mr. Schaffer, did you</p> <p>17 have any questions for Ms. Wagner?</p> <p>18 MR. SHAFFER: Yes. If you can just be</p> <p>19 (inaudible).</p> <p>20 HEARING EXAMINER BAUMGARDNER: Sure. Take your</p> <p>21 time. You're back on mute, sir.</p> <p>22 Also, this would be a good time to let everyone</p> <p>23 know, Mr. Schaffer, you are still on mute. If anyone needs a</p> <p>24 break as well, please let me know. It's harder to leave the</p> <p>25 room in a virtual format than it is when you are physically</p>	<p style="text-align: right;">171</p> <p>1 specific period of time?</p> <p>2 MS. WAGNER: Yeah, so the way it works is in</p> <p>3 Montgomery County we have to include anything that hasn't</p> <p>4 been approved regardless if it won't be built until five</p> <p>5 years after your development is approved, you have to</p> <p>6 consider it in your traffic study.</p> <p>7 MR. SHAFFER: So do you have to consider the</p> <p>8 numbers in your traffic study as of today, or only over time?</p> <p>9 MS. WAGNER: When we do our scoping with staff.</p> <p>10 So as it's fall 2020 we had to include all of those</p> <p>11 developments in our analysis.</p> <p>12 MR. SHAFFER: Okay. Now, I was interested in this</p> <p>13 COVID adjustment factor. With respect to your most recent</p> <p>14 supplemental analysis do you apply any COVID adjustment</p> <p>15 factor to that?</p> <p>16 MS. WAGNER: No because the traffic counts used as</p> <p>17 the baseline of that traffic study, again, were collected in</p> <p>18 2013 and 2016 well before any of us adjusted our daily lives</p> <p>19 for Covid. And so instead of taking into adjustment a coven</p> <p>20 factor, we grow those traffic volumes year-over-year to</p> <p>21 adjust to the build out year of the project.</p> <p>22 MR. SHAFFER: Okay. So the current --</p> <p>23 HEARING EXAMINER BAUMGARDNER: I'm sorry. I'm</p> <p>24 going to ask a clarifying question there. So you would take</p> <p>25 the counts from 2013 and 2016 and then what factor or what</p>
<p style="text-align: right;">170</p> <p>1 present.</p> <p>2 Mr. Schaffer, I still can't tell if you're</p> <p>3 speaking to an associate or if you're aware that you are</p> <p>4 still on mute, sir.</p> <p>5 MR. SHAFFER: Oh, okay. I'm -- sure the keys</p> <p>6 don't -- on the same screen.</p> <p>7 Can you hear me now?</p> <p>8 HEARING EXAMINER BAUMGARDNER: Yes. Yes, sir.</p> <p>9 MR. SHAFFER: All right. Thank you. I apologize.</p> <p>10 HEARING EXAMINER BAUMGARDNER: No problem.</p> <p>11 MR. SHAFFER: Your traffic analysis looks at the</p> <p>12 impact of this project on the traffic along Strathmore and</p> <p>13 Rockville Pike and surrounding roads; is that correct?</p> <p>14 MS. WAGNER: Yes, that is correct.</p> <p>15 MR. SHAFFER: Does it look at the impact of any</p> <p>16 other developments in this area on those same intersections?</p> <p>17 MS. WAGNER: Yes. As detailed on page 21 of the</p> <p>18 LAT our study, there are 11 -- well, there were 12 background</p> <p>19 and developments considered that are approved within the --</p> <p>20 surrounding our study area. And the 11 of those were</p> <p>21 specifically included in our traffic study in both the LATR</p> <p>22 as well as the supplemental analysis.</p> <p>23 MR. SHAFFER: And for what period of time? In</p> <p>24 other words, if you've got a development coming 10 years down</p> <p>25 the line, is that included, or only ones that were within a</p>	<p style="text-align: right;">172</p> <p>1 element, or what aspect would be included to bring those to a</p> <p>2 2021/2022 time period?</p> <p>3 MS. WAGNER: So we look at, I'm seeing if it's</p> <p>4 detailed in a table. So if you go to Exhibit 50 on page 5 of</p> <p>5 that PDF.</p> <p>6 So here we look at traffic volumes along Rockville</p> <p>7 Pike and Strathmore between 2011 and 2019 really, because</p> <p>8 those that gave us a good sense of kind of what's been</p> <p>9 happening on both of those roadways since those are primarily</p> <p>10 traveled roads. And as you can see, along Rockville Pike</p> <p>11 we've had negative growth. And so -- and along Strathmore</p> <p>12 there has been positive growth along Strathmore. So we used</p> <p>13 a conservative analysis and assumed positive growth along</p> <p>14 both roadways and took the average annual growth from 2011</p> <p>15 two 2019 along Strathmore as .2 percent per year and then</p> <p>16 along Rockville Pike, even though it was negative, we still</p> <p>17 applied a positive growth. So taking the 2013 volumes we</p> <p>18 grew them too, I think 2024, and then along Rockville Pike we</p> <p>19 still took a .1 per year.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Understood. Mr.</p> <p>21 Schaffer, does that answer your question?</p> <p>22 MR. SHAFFER: I think so.</p> <p>23 HEARING EXAMINER BAUMGARDNER: Well, it certainly</p> <p>24 helped me. Thank you.</p> <p>25 MR. SHAFFER: So what have you considered the</p>

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<p style="text-align: right;">173</p> <p>1 possibility of cut through traffic through the Stillwater and 2 surrounding neighborhoods as people come out of the Academy? 3 MS. WAGNER: Yes, we have. And that's 4 specifically part of the design and coordination that the 5 project team has undergone with the Academy as part of this 6 project. The Academy will be directed to use, I don't 7 remember what street. Street see, Erin, the correct Street? 8 The middle Street? 9 MS. GIRARD: I believe it's A. 10 MS. WAGNER: What, what is it? 11 MS. GIRARD: I believe it's A. 12 MS. WAGNER: So the Academy will be directed to 13 use the street a and not use Street C which connects to 14 intersection 2 as shown here. And so they will be directed 15 to not cut through the neighborhood, and again that alignment 16 with the signal will encourage vehicles to turn left, or 17 right out of the site and not be encouraged to cut through 18 the neighborhood. 19 MR. SHAFFER: And how is it that commitment going 20 to be enforced? 21 MS. WAGNER: We will need to coordinate with the 22 school, but my understanding is that they will be directing 23 parents and students to not drive through the neighborhood. 24 MR. SHAFFER: Well, I mean a directive is all 25 nice, but if the light is red up at Rockville Pike and it's</p>	<p style="text-align: right;">175</p> <p>1 to R5W or for us to get over to the other side of 2 Strathmore either coming home on the bus or to walk up to the 3 Metro? 4 (iPad translating) 5 Sorry about that. My iPad suddenly started 6 translating everything I said into English. 7 MS. WAGNER: I think it's still going. 8 HEARING EXAMINER BAUMGARDNER: Not a problem, 9 we'll take a second. 10 MS. WAGNER: Let me know and I can respond to your 11 question. 12 MR. SHAFFER: I'm sorry. I've got three devices 13 going here to handling a hearing while blind. 14 I'm sorry, can the court reporter repeat my 15 question? 16 HEARING EXAMINER BAUMGARDNER: Mr. Costello, are 17 you with us? 18 COURT REPORTER: Yes, sir. Stand by. 19 HEARING EXAMINER BAUMGARDNER: Thank you so much. 20 (Requested portion played back) 21 MR. SHAFFER: Oh yes. Okay. With that prompt I 22 think I can start over again. 23 So have you considered any steps to increase 24 pedestrian safety at the cross walk between -- at Stillwater 25 and Strathmore so that people can access public</p>
<p style="text-align: right;">174</p> <p>1 backed up all the way down Strathmore, as it is sometimes, 2 isn't it going to be awfully convenient for people to take a 3 right on Stillwater and go around over to Rockville Pike that 4 way? 5 MS. WAGNER: We have looked at travel times and do 6 not anticipate that being a concern. 7 MR. SHAFFER: And have you looked at the ability 8 of people trying to make a left turn on Stillwater during 9 times when the Academy is letting students in and out? 10 MS. WAGNER: Yes, that is primary. There has been 11 conversation about what providing only one driveway, and that 12 is again why we are providing three driveways for the 13 project. Driveway 4 is for loading and back of house 14 activity to not be near a school or residential community. 15 Driveway 3 is to provide the traffic signal for the school 16 traffic and St. Angela's -- and the Brandywine facility and 17 then driveway 2 is to allow residents to have another access 18 point, emergency vehicles to have another access point to be 19 able to turn left and/or right to get out of the development 20 when schools are being -- at the pickup and drop off time 21 periods. 22 MR. SHAFFER: Now, for people that are walking 23 down to get the 5W at Strathmore and Stillwater have you 24 considered the -- any improvements to pedestrian safety to 25 make it easier for the residents of the community go get over</p>	<p style="text-align: right;">176</p> <p>1 transportation safely on either side of the street and across 2 the street? 3 MS. WAGNER: Yes, we have. That's -- aligning the 4 intersection helps tremendously with that safety improvement 5 that when vehicles are turning northbound and turning left 6 onto Strathmore that now they can see the pedestrians at that 7 intersection and they are not 100 feet away from the 8 pedestrian so they are much more in the visibility of the 9 vehicles. 10 In addition, they are -- as I mentioned 11 previously, we do still have to do a traffic study as part 12 of our preliminary plan approval process. And with that 13 study we have to do a lot of analysis looking at 14 pedestrian/bike transit safety connections through to the 15 area and we'll have to look at providing anything -- any 16 connections that do to meet ADA standards and so when we look 17 at -- when we do that traffic study we will have to make a 18 sure everything at that intersection is up to ADA standards. 19 So we have not committed to anything at this time, but that 20 will be part of the preliminary plan approval process. 21 MR. SHAFFER: Would that include an APS? 22 MS. WAGNER: We would have to coordinate that with 23 SHA and MCDOT that they oftentimes do not want APS at 24 driveways specifically, that it creates confusion for drivers 25 turning at the -- if they were to be turning off of</p>

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<p style="text-align: right;">177</p> <p>1 Stillwater Avenue that they can't see the flashing pedestrian 2 telling people to stop walking -- or telling vehicles to stop 3 walking that they can't, when they're making that right turn, 4 they can't see that. So that would have to something that's 5 evaluated during the preliminary plan process with SHA and 6 MCDOT. 7 HEARING EXAMINER BAUMGARDNER: And for the purpose 8 of the record, what is APS? 9 MR. SHAFFER: Audible pedestrian signal. 10 HEARING EXAMINER BAUMGARDNER: Thank you. 11 MR. SHAFFER: It can either tell you when the 12 lights have changed or it can tell you when it's safe to 13 walk. Many times it will activate yellow flashing lights to 14 indicate to drivers that a person's crossing the street. 15 Sometimes it flashes red light. 16 MS. WAGNER: And it will act -- it will be 17 required as part of the traffic signal at the site driveway 18 and there are bus stops near there as well, and so we will 19 have to look at that. We will have to provide APS at that 20 traffic signal. So that would provide a crossing there. So 21 that safety concern is also addressed with us providing that 22 traffic signal. 23 MR. SHAFFER: Does this include the upgrade of the 24 bus stops to meet Metro's ADA standards? 25 MS. WAGNER: That would be required as part of our</p>	<p style="text-align: right;">179</p> <p>1 of the reports generated. 2 MR. BURDIN: Okay. Are there any parts of these 3 reports you're not familiar with or your less comfortable 4 testifying about? 5 MS. WAGNER: Nope. 6 MR. BURDIN: Okay. And you're aware that the 7 proximity of the project to mass transit, such as a Metro 8 station is important when the County is deciding whether to 9 make a zoning change; is that right? 10 MS. WAGNER: Yes. 11 MR. BURDIN: Okay. You mentioned that you talk 12 with somebody at Brandywine, apparently not MS. WAGNER today, 13 but -- and got information about shifts and number of 14 employees; is that correct? 15 MS. WAGNER: Yes. 16 MR. BURDIN: Okay. Is any of that information or 17 analysis of that information in any of your reports, or 18 otherwise in the record? 19 MS. WAGNER: No, that is not. 20 MR. BURDIN: Okay. The L ATR says that the site 21 is expected to generate a minimal amount of transit trips, 22 which will not have detrimental impact on the surrounding 23 transportation network; do you stand by that conclusion? 24 MS. WAGNER: I already detailed this in my 25 testimony previously where the trip generation numbers that</p>
<p style="text-align: right;">178</p> <p>1 preliminary plan, traffic study is looking at that and 2 committing to improving things to standards. 3 MR. SHAFFER: Okay. Because you are aware they 4 are currently not? 5 MS. WAGNER: Yes, they are very limited bus 6 facilities, we recognize that. 7 MR. SHAFFER: Yes. I think I'll yield my 8 questions on this now, to Doug who I think has a much better 9 understanding since he lives right there. Thank you. 10 HEARING EXAMINER BAUMGARDNER: Thank you, Mr. 11 Shaffer. 12 Mr. Burdin, did you have any questions for Ms. 13 Wagner? 14 MR. BURDIN: Yes, I do. Thank you. 15 Ms. Wagner could you explain your role in 16 preparing the LATR, the supplemental analysis in the December 17 2021 report that you discussed? 18 MS. WAGNER: Yes. As I said, I am a traffic 19 engineer and so my role in preparing these studies is to 20 review and work with -- I have staff that I work with, and so 21 I reviewed their models, I review their projections of 22 traffic volumes, and then write the reports. 23 MR. BURDIN: Were you the lead on any role of 24 these reports? 25 MS. WAGNER: Yes, 100 percent the lead role on all</p>	<p style="text-align: right;">180</p> <p>1 are included in the LATR are dictated by County policy. And 2 so while our traffic study says that there will be a minimal 3 number of transit trips generated this is to not 4 underestimate the vehicular impacts and so we would be having 5 the opposite conversation today. 6 And so while the traffic study, yes, does indicate 7 that there is a minimal number of transit trips generated 8 based on the County policy, we have designed and coordinated 9 with the project team to encourage the use of public 10 transportation by staff members at the Brandywine facility as 11 well as residents having connections to make it easier to 12 travel to and from the Metro site. 13 MR. BURDIN: Is any of what you just discussed in 14 your report or otherwise in the record? 15 MS. WAGNER: Yes, that is -- we looked at that 16 previously on page 18 of the LATR that that was what we 17 talked about. We previously pulled that up. 18 MR. BURDIN: Page 18 of the LATR. Is that the 19 document page or the PDF page? 20 MS. WAGNER: The PDF page. 21 MR. BURDIN: Do you know what the document page 22 is? 23 MS. WAGNER: 11. 24 MR. BURDIN: Hopefully, I have it. 25 HEARING EXAMINER BAUMGARDNER: I can pull it up,</p>

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<p>181</p> <p>1 just one second.</p> <p>2 MR. BURDIN: Okay. I don't have it printed.</p> <p>3 Thank you.</p> <p>4 HEARING EXAMINER BAUMGARDNER: I believe that this</p> <p>5 is the page that means that Ms. Wagner was testifying about.</p> <p>6 MR. BURDIN: Okay. On that page, can you point</p> <p>7 out specifically how your conversations with Brandywine about</p> <p>8 their citizens and employees as reflected</p> <p>9 MS. WAGNER: In this report? As I previously</p> <p>10 said, we didn't include anything about our conversations with</p> <p>11 Brandywine in the document.</p> <p>12 MR. BURDIN: I'm sorry. I thought you just said</p> <p>13 you did?</p> <p>14 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, her</p> <p>15 testimony wasn't that those conversations were not included</p> <p>16 but that the -- in the trip generation summary the statement</p> <p>17 and the characterization that there will be minimal and</p> <p>18 transit is used, Ms. Wagner had stated that the source of</p> <p>19 that statement, or that thought was because of the minimum</p> <p>20 percentage required by the County is a factor in the trip</p> <p>21 generation summary. Ms. Wagner can correct me if I am wrong,</p> <p>22 but that was my understanding of her testimony.</p> <p>23 MS. WAGNER: Yes, you are correct.</p> <p>24 MR. BURDIN: Okay. I understand that. What I was</p> <p>25 trying to get at is you mentioned conversations with</p>	<p>183</p> <p>1 MS. WAGNER: Because we needed to follow the</p> <p>2 guidelines and doing traffic study per their guidelines, and</p> <p>3 we need to follow what we had scoped with MCDOT and SHA and</p> <p>4 County staff, and there are very prescribed rates that we</p> <p>5 have to use.</p> <p>6 MR. BURDIN: So to the extent you have stated that</p> <p>7 transits use is expected to be minimal that undermines any</p> <p>8 reliance on any county or master plan policy goal of putting</p> <p>9 housing near transit? Do you agree with that, is that fair</p> <p>10 to say?</p> <p>11 MS. GIRARD: Objection. We keep trying to</p> <p>12 conflate the master plan and the traffic study. Katie -- Ms.</p> <p>13 Wagner is an expert in transportation engineering. We're</p> <p>14 talking about her report. She is not here to testify about</p> <p>15 county policies that regard the master plan.</p> <p>16 HEARING EXAMINER BAUMGARDNER: I'll sustain the</p> <p>17 objection. What I'm getting from her testimony and from when</p> <p>18 I reviewed the report last night prior to the hearing was</p> <p>19 that there is a conservative estimate of the transit trips</p> <p>20 built into the analysis because of the numbers from the</p> <p>21 county. If those numbers are not correct, because in</p> <p>22 actuality more people use transit, that's a good thing for</p> <p>23 everybody.</p> <p>24 But instead of erring on the side of thinking</p> <p>25 there's going to be more transit, we err on the side of</p>
<p>182</p> <p>1 Brandywine about employees and shifts. I thought to suggest</p> <p>2 that the numbers you got in this report might be a little</p> <p>3 low; is that correct or incorrect?</p> <p>4 MS. WAGNER: No. The conversations we had with</p> <p>5 Brandywine are to make sure that our calculations and our</p> <p>6 trip generation seemed reasonable with what they are</p> <p>7 anticipating and are not underestimating or overestimating</p> <p>8 based on the prescribed rate that we are required to use by</p> <p>9 staff. And this so that is what we know detail every -- we</p> <p>10 don't detail all of the specifics in our traffic study with</p> <p>11 regards to employment data because we have to use the</p> <p>12 specific rates. And so we didn't want to -- that we</p> <p>13 anticipate more people using transit than our traffic study</p> <p>14 indicates. But we don't want to underestimate the number of</p> <p>15 vehicle trips generated by the project, and so we are not</p> <p>16 mitigating those impacts. We don't need to do anything to</p> <p>17 mitigate transit impacts, that's seen as a plus, that more</p> <p>18 people are using transit than are driving.</p> <p>19 MR. BURDIN: So I understand, if your</p> <p>20 conversations with Brandywine indicated that this county</p> <p>21 required assessment that you did use in their parameters,</p> <p>22 wasn't grossly underestimated anticipated transit trips,</p> <p>23 would you have mentioned that in your report?</p> <p>24 MS. WAGNER: Not necessarily, no.</p> <p>25 MR. BURDIN: Why would you put that in there?</p>	<p>184</p> <p>1 thinking that there's going to be less transit because the</p> <p>2 different mitigation strategies that are common amongst</p> <p>3 traffic experts and traffic planners mostly go towards</p> <p>4 vehicular traffic.</p> <p>5 So again, this is what I've gathered from Ms.</p> <p>6 Wagner's testimony today. I don't know if -- the question</p> <p>7 regarding the master plan really fits in here, Mr. Burdin.</p> <p>8 If you can ask your question another way perhaps, that</p> <p>9 might get better to the point of what you're trying to make.</p> <p>10 MR. BURDIN: Okay. I previously asked her if</p> <p>11 proximity of the project to mass transit, such as the metro</p> <p>12 is relevant to what you're going to make a recommendation on</p> <p>13 or what the County is going to decide about the zoning change</p> <p>14 and she said, yes it is. So what I'm trying to understand is</p> <p>15 that -- and other people have testified about the proximity</p> <p>16 to transit and being the root of the zoning change.</p> <p>17 But the statement in the report is that transit</p> <p>18 use is expected to be manual, and there's nothing in the</p> <p>19 report that says that that's wrong. And that this policy,</p> <p>20 whether it's in the master plan, or whatever, is going to be</p> <p>21 served by this project. And that's what I'm trying to I keep</p> <p>22 getting objected to and said it's not relevant and she's not</p> <p>23 an expert, well who is?</p> <p>24 HEARING EXAMINER BAUMGARDNER: I can understand</p> <p>25 your point. And I note your point, but I don't think that</p>

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<p>185</p> <p>1 this witness can comment on the master planning process going 2 forward if that makes sense. And I don't think this hearing 3 would be the best avenue in which to accomplish that. I'm 4 thinking of what other witness might be of value. But I 5 think we can move on from this point, but I do understand 6 your point, sir. 7 MR. BURDIN: Okay. 8 HEARING EXAMINER BAUMGARDNER: But I think we can 9 move on with any other questions that you have at this point. 10 MR. BURDIN: Okay. Turning to the LATR, you 11 concluded that all the intersections in the study were 12 operating within the congestion standards; is that right? 13 MS. WAGNER: Yes. 14 MR. BURDIN: Okay. The -- and this is Exhibit 47, 15 Table 7 shows the delays at the six intersections and the 16 existing background and the future conditions for a.m. peak 17 hours; have I got that right? 18 MS. WAGNER: Yep. 19 MR. BURDIN: Okay. Currently the intersection at 20 Strathmore and Stillwater includes the entrance to the Holy 21 Cross Academy, right? 22 MS. WAGNER: It's page 37. 23 HEARING EXAMINER BAUMGARDNER: Thank you. 24 MS. WAGNER: You're welcome. 25 MR. BURDIN: I may be using the document pages.</p>	<p>187</p> <p>1 MS. WAGNER: Into the background conditions 2 that -- existing conditions look at just -- I've -- sorry. I 3 think actually, existing conditions we had the count 4 adjustment factor as well as the school traffic. And then, 5 we look at volumes with those adjustments already considered. 6 So the existing conditions take into consideration the 7 school. 8 MR. BURDIN: And what were you adjusting? Your 9 2020 counts? 10 MS. WAGNER: I'm going to refer to the Exhibit so 11 that way we can -- if you go to page 25. 12 MR. BURDIN: Again, PDF or document? 13 MS. WAGNER: It's on the screen, it's page 18 of 14 the document. 15 So on the top of the little picture, scroll up 16 just a little bit. It says adjusted existing peak hour 17 traffic volumes includes the following. Peak hour traffic 18 volumes collected in the fall of 2020, removal of existing 19 school volumes captured in the 2020 counts. That takes into 20 consideration that the school was not operating normally. We 21 just removed virtual operations, whatever was happening at 22 the school, and then we added in the COVID-19 policy 23 adjustment as well as projected school volumes with a full 24 enrollment of 600 students. 25 MR. BURDIN: Okay. And then -- but didn't you</p>
<p>186</p> <p>1 MS. WAGNER: He's just pulling them up. You said 2 Table 7 so I just wanted to make sure we had the -- we're all 3 on the same page. Sorry, can you repeat your question? 4 MR. BURDIN: Sure. Currently the intersection at 5 Strathmore and Stillwater, which is reflected on the chart 6 includes the entrance to the Holy Cross Academy, right? 7 MS. WAGNER: Yes, it does. 8 MR. BURDIN: Okay. And for the counts that you 9 used in the LATR for this intersection if you had used a 10 count during 2020, during the pandemic when the Academy was 11 not in session in person meaning those students and no or few 12 staff that would grossly undercount the anticipated traffic 13 at that intersection even with the County's 1.07 adjustment 14 factor; is that fair to say? 15 MS. WAGNER: No. That is not correct. AS I 16 indicated previously we included background developments, as 17 well as taking into consideration schools that are not in 18 session -- that were not fully in operation. And so we did 19 add in, in addition to the count policy, background 20 developments, we also added in the schools traffic assuming 21 full approved enrollment, which is 600 students and the 22 school does not have any desire to reach that full enrollment 23 at this time. And so we did add in those fully 600 students 24 assuming full enrollment. 25 MR. BURDIN: Okay. You added them into what?</p>	<p>188</p> <p>1 make all these adjustments to historical traffic will counts 2 counts from 2013 and 2005? 3 MS. WAGNER: No. We have two different studies. 4 So this is the LAT our study that was done in accordance with 5 Montgomery County's policies, and then we have an LATR 6 traffic study -- or we have the supplemental analysis that 7 was done in accordance with park and planning's -- the 8 supplemental analysis was done to address MCDOT and SHA 9 comments. 10 MR. BURDIN: Okay. Yeah. I'm not confusing it 11 with the supplemental analysis. My understanding is since 12 you concluded that the counts and even adjusting the 2020 13 counts for the school would not be at all accurate because 14 the school was not in session, that you went back and used 15 2005 and 2013 actual counts for that intersection at 16 Strathmore and Stillwater, which is also the school entrance, 17 and you adjusted those to the current time and to an 18 enrollment of 600? 19 MS. WAGNER: Yes. Yes, now I see what your 20 question is. Yes, and that is provided on page 20 where we 21 calculated trip generation rates for previous driveway counts 22 done for the school to project out what a 600 enrollment and 23 traffic volumes would be. 24 MR. BURDIN: Okay. so you actually used 25 historical counts even though you suggest elsewhere those are</p>

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<p style="text-align: right;">189</p> <p>1 not proper for this particular intersection. I understand it</p> <p>2 totally. I think it was the right thing to do, but you used</p> <p>3 historical counts for that intersection, right? Strathmore</p> <p>4 and Stillwater.</p> <p>5 MS. WAGNER: We used historical counts to</p> <p>6 calculate the trip generation for the school. We did not use</p> <p>7 historical counts for that intersection.</p> <p>8 MR. BURDIN: Okay. In using your Table 7 shows</p> <p>9 for the Strathmore Stillwater intersection a delay of 445.2</p> <p>10 seconds for the a.m. existing conditions; is that correct?</p> <p>11 MS. WAGNER: Yes.</p> <p>12 MR. BURDIN: And for the background at the same</p> <p>13 intersection and time period is 449.9?</p> <p>14 MS. WAGNER: Yes.</p> <p>15 MR. BURDIN: And the LATR contributes that</p> <p>16 existing delay to a significant number of westbound left</p> <p>17 turning traffic turning into the school and northbound left</p> <p>18 turning traffic turning out of the school. I think you said</p> <p>19 that before, right?</p> <p>20 MS. WAGNER: Yes.</p> <p>21 MR. BURDIN: Okay. And, as I think you've said in</p> <p>22 the proposed future conditions the entrance as shifted to the</p> <p>23 center road so that the entrance and exit for the school is</p> <p>24 now the center drive entrance, right?</p> <p>25 MS. WAGNER: That's correct.</p>	<p style="text-align: right;">191</p> <p>1 by the school is going to be shifted from Strathmore and</p> <p>2 Stillwater under existing and background to Strathmore center</p> <p>3 entrance in the future conditions, right?</p> <p>4 MS. WAGNER: Yes, that is correct.</p> <p>5 MR. BURDIN: Okay. So from the perspective of</p> <p>6 trying to understand what happens to this delay that's</p> <p>7 indicated for existing and future versus -- I mean, existing</p> <p>8 and background versus future, those are the intersections to</p> <p>9 look at?</p> <p>10 MS. WAGNER: Again, like I said, it's not apples</p> <p>11 to apples but that is why there is a reduction in delay at</p> <p>12 the Strathmore and Stillwater intersection.</p> <p>13 MR. BURDIN: Okay. And the future conditions</p> <p>14 includes the traffic added that by the proposed development,</p> <p>15 including the homes and residential care facility; is that</p> <p>16 right?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MR. BURDIN: Okay. So if the delay, or congestion</p> <p>19 between the existing conditions and future conditions was</p> <p>20 reduced by about 40 times; is that right?</p> <p>21 MS. WAGNER: Yes.</p> <p>22 MR. BURDIN: And explain the reduction in delay</p> <p>23 the LATR mentions the alignment of the western most project</p> <p>24 road with Stillwater which eliminates a slight offset and</p> <p>25 moving the school traffic to the proposed center entrance.</p>
<p style="text-align: right;">190</p> <p>1 MR. BURDIN: Okay. So in terms of the Academy</p> <p>2 traffic between existing background and as compared to future</p> <p>3 conditions your report compares the delays to the existing</p> <p>4 Strathmore Stillwater intersection with the future Strathmore</p> <p>5 center entrance; is that right?</p> <p>6 MS. WAGNER: We have all of the intersections in</p> <p>7 here. None of them go away.</p> <p>8 MR. BURDIN: Right. But for purposes of</p> <p>9 understanding this delay at Strathmore and Stillwater which</p> <p>10 is in large part, or in some part caused by the school</p> <p>11 entrance and exit, and the new entrance and exit to the</p> <p>12 school the -- on the chart the relevant things to compare and</p> <p>13 look at are the 445.2 and 449.9 number and for the future</p> <p>14 conditions the 10.7 number for the Strathmore center site</p> <p>15 driveway?</p> <p>16 MS. WAGNER: No, you can't compare apples to</p> <p>17 apples because the Stillwater Strathmore intersection in</p> <p>18 background and existing conditions is an offset intersection.</p> <p>19 And it's a four-way intersection whereas, in the future</p> <p>20 condition it's only a T-intersection, and so the nature of an</p> <p>21 offset four-way intersection compared to a T-intersection</p> <p>22 they are not apples to apples comparison when we run our</p> <p>23 traffic models.</p> <p>24 MR. BURDIN: Okay. But your report says that the</p> <p>25 school traffic -- that the traffic and congestion generated</p>	<p style="text-align: right;">192</p> <p>1 This is a part of your explanation for the reduction in</p> <p>2 delay, is that right?</p> <p>3 MS. WAGNER: Yes, in addition to other analysis</p> <p>4 parameters.</p> <p>5 MR. BURDIN: Okay. You also point to adding a</p> <p>6 left turn lane out of the proposed school entrance so that</p> <p>7 there would be a single lane for traffic turning right into</p> <p>8 the school and separate right and left turns out of the</p> <p>9 school, did I get that right?</p> <p>10 MS. WAGNER: I didn't think that there was a right</p> <p>11 turn lane into the school.</p> <p>12 MR. BURDIN: I'm sorry, not a separate lane but</p> <p>13 cars on Strathmore would turn right into the school and into</p> <p>14 the lane?</p> <p>15 MS. WAGNER: Yes.</p> <p>16 MR. BURDIN: I'm just trying to establish</p> <p>17 this -- the other mitigating -- or other factor you</p> <p>18 mentioned, there's three lanes coming out of the school; is</p> <p>19 that right? Without worrying about --</p> <p>20 MS. WAGNER: There's two lanes coming out of the</p> <p>21 proposed driveway and one -- it's two lanes out and one lane</p> <p>22 in so that's (inaudible) intersection.</p> <p>23 MR. BURDIN: Yeah. Okay. Three. Right, right,</p> <p>24 that's what I was trying to get at. And as analyzed in the</p> <p>25 LATR are there any other ground changes affecting the delays</p>

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<p style="text-align: right;">193</p> <p>1 at the center school entrance? Are those three things 2 capture what's -- explaining the delay? 3 MS. WAGNER: So in our models we have to include 4 other parameters to account for on the ground conditions. 5 These include peak hour factors heavy vehicle percentages. 6 I'm trying to think of anything else. And those go into our 7 models as we -- that they are from our traffic counts that we 8 collect and so we have to put those into our models. And so 9 those are seeing in our -- in the reports included in the 10 appendix of our traffic study. And so those also affect the 11 analysis results. 12 MR. BURDIN: Okay. But nothing else on the 13 ground? 14 MS. WAGNER: Not that I am 15 MR. BURDIN: Counting, yeah. Okay. In the sort 16 of layperson's terms, is it fair to say that congestion or 17 delay is caused by too many cars with too few places to go on 18 the roads? I know you're an expert and that's not very 19 technical, but I'm trying to understand 20 MS. WAGNER: Yes. 21 MR. BURDIN: Okay. Now, can you explain, again, 22 in a layperson's terms how the alignment of the Stillwater 23 and the western entrance of the site is going to reduce the 24 delay and congestion? 25 MS. WAGNER: They are (inaudible) that are</p>	<p style="text-align: right;">195</p> <p>1 want to say primarily yes, but there are small tweaks that 2 happen, it's called progression factor where it's kind of 3 taking into the movement of cars along a corridor. So while 4 no, theoretically, but there is a small part that is affected 5 it. 6 MR. BURDIN: Okay. But for the most part it's not 7 going to solve that problem? 8 MS. WAGNER: Correct. 9 MR. BURDIN: Okay. So again, in layperson's 10 terms, to the best of your ability, can you explain what 11 happens to all the cars and congestion that's reflected Table 12 7 in the line about Strathmore and Stillwater and the 13 entrance, you know 445 seconds of delay that gets down to 10 14 seconds? That's very hard to understand. Like, what happens 15 to all those cars? How are things moving so much more 16 efficiently the delay is almost eliminated. 17 MS. WAGNER: I think that this is best shown in 18 Figure 31 -- or on page 31 of the LATR. Again, it's Exhibit 19 47. Where delay is calculated at the intersection, and it's 20 again that there are, little picture number 2 for 21 intersection 2, where you can see there are a lot of vehicle 22 turning movements at that intersection being removed. And 23 when you, again, have only a single lane exiting the site, 24 that all of the cars turning right are behind all the cars 25 turning left. And so just think about how much longer that</p>
<p style="text-align: right;">194</p> <p>1 considered in our models. I do not do these as hand 2 calculations, these are (inaudible) traffic software that we 3 use where we input all these parameters and the calculation 4 is done in the software. And so I can't really explain those 5 in layperson's terms because the manuals to do those 6 calculations are hundreds and hundreds of pages long. But it 7 has to do with the amount of reaction time, the delays caused 8 by turning left and then there's somebody turning right and 9 so you're not quite have the same ability to turn at the -- 10 to be at the intersection at the same time. 11 MR. BURDIN: But that -- well, first of all, the 12 numbers of people using Stillwater, either coming out of it 13 or turning into it were pretty low. Is that fair to say? 14 MS. WAGNER: Yes. Yep. 15 MR. BURDIN: Okay. And in this realignment of and 16 the western entrance will not affect, or improve people on 17 Strathmore heading west, turning left into the Academy and 18 the center entrance, right? 19 MS. WAGNER: Can you say your question again? 20 MR. BURDIN: Sure. The realignment of Stillwater 21 and the western entrance into the proposed development will 22 not address the identified problem of cars on Strathmore 23 heading West, turning left into the center entrance? 24 MS. WAGNER: No, but our models do take into 25 consideration other intersections in the network. And so I</p>	<p style="text-align: right;">196</p> <p>1 makes -- if you have a right turn movement that's more 2 readily available when vehicles are turning right into the 3 site, vehicles can turn right out of the site. 4 Again, that drastically reduces the delay in having 5 those two movements able to happen at the new intersection 3. 6 And then, any -- again, the -- providing the westbound left 7 turn lane that you have 111 cars in the morning peak hour 8 trying to turn into the site and then they're blocking all of 9 those cars behind them. And so -- 10 MR. BURDIN: I'm sorry, are you talking about on 11 Strathmore, the left turn lane? 12 MS. WAGNER: Yes. Yeah. 13 MR. BURDIN: Okay. Well, there is none in this 14 analysis, isn't that right? 15 MS. WAGNER: Right, but you were asking why the 16 delay is reduced so drastically and I'm trying to explain 17 that. 18 MR. BURDIN: Yeah, but you're pointing to a left 19 turn lane on Strathmore that doesn't exist in this analysis. 20 That's only in the supplemental analysis; isn't that right? 21 MS. WAGNER: Okay. Then I'll explain why. So 22 I'll take away that one. 23 MR. BURDIN: Okay. 24 MS. WAGNER: Other reasons why the delay got 25 reduced so drastically at this intersection. And it's -- and</p>

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<p style="text-align: right;">197</p> <p>1 then it's the conflicting movements with the southbound 2 vehicles is again why the delay is reduced so drastically. 3 MR. BURDIN: So the extra lane coming out of the 4 entrance, maybe that's what you were meaning to refer to will 5 help. That's understandable. But -- 6 MS. WAGNER: And the southbound conflicting 7 vehicles, yes. 8 MR. BURDIN: Okay. Are you suggesting cars 9 leaving the Holy Cross center -- the existing exit out of 10 Holy Cross Academy would take advantage of cars turning right 11 into the Academy to make a left turn? Did you say that or 12 did I mishear? 13 MS. WAGNER: In the future, when it gets shifted. 14 If a car's turning right in they can turn -- if a car is 15 turning right in then both cars can -- where if a car is 16 turning right in, a car can turn right out. Then whereas, 17 when there is only a single lane they are stuck behind the 18 left turning vehicle. 19 MR. BURDIN: Okay. I thought you said the cars 20 could turn -- take advantage of that car on Strathmore going 21 is turning into the Academy entrance, cars coming out of the 22 entrance could turn left and headed west on Strathmore. 23 Okay. You did not say that. 24 MS. WAGNER: No, I didn't mean to. If I did I 25 apologize.</p>	<p style="text-align: right;">199</p> <p>1 same intersection in a.m. peak was 77.7 seconds with no 2 signalization, right? 3 MS. WAGNER: Yep. 4 MR. BURDIN: Okay. And for this intersection, the 5 supplemental analysis used, the 2013 historical counts and 6 adjusted them in various ways including for 600 students; 7 isn't that right? 8 MS. WAGNER: Yes, that is correct. 9 MR. BURDIN: So the difference for this 10 intersection between the LATR and the supplemental was any 11 supplemental you did not use the 2005 counts, right? 12 MS. WAGNER: No, we used the -- because the 2005 13 counts were to take into consideration the 600 students. And 14 the 2013 counts, I think that we -- sorry, I just need to 15 refresh my memory. 16 MR. BURDIN: Sure. 17 MS. WAGNER: So we did the same. So on page 10 of 18 the supplemental analysis we also removes the 2013 driveway 19 counts because in 2013 the school was not at full enrollment, 20 and again, we wanted to kind of like a background project we 21 needed to make sure to assume all of the traffic that is 22 approved on the roadway network. And so that's why we 23 removed, again, the 2013 school driveway counts and added a 24 full 600 enrollment to the roadway network. 25 MR. BURDIN: Are you saying you did not rely on</p>
<p style="text-align: right;">198</p> <p>1 MR. BURDIN: Yes, that sounds very dangerous. 2 MS. WAGNER: Yeah. 3 MR. BURDIN: Okay. Is there anything else you 4 have to explain this 40 times at reduction between the 5 existing and future? 6 MS. WAGNER: Not that I can think of. 7 MR. BURDIN: Okay. Now, turning to the 8 supplemental analysis it uses different accounts and 9 adjustment factors for all the intersections than the 10 original LATR did; is that correct? 11 MS. WAGNER: Yes. 12 MR. BURDIN: And it has a table similar to Table 7 13 in the LTR that also contains the existing background and 14 future delays for the a.m. and p.m. for all the 15 intersections; is that right? 16 MS. WAGNER: Yes. And that is Exhibit 50, and 17 page 26. 18 MR. BURDIN: Okay. And that analysis resulted in 19 existing condition delays of 224.2 seconds at the Strathmore 20 Stillwater for the a.m. peak; is that right? 21 MS. WAGNER: Yes. 22 MR. BURDIN: Okay. And that's unsignalized, 23 right, that we're talking about right now? 24 MS. WAGNER: Yes. 25 MR. BURDIN: Okay. And then the future for that</p>	<p style="text-align: right;">200</p> <p>1 the 2013 historical counts as a starting point? 2 MS. WAGNER: No, I am not saying that. We had 3 2013 and 2016 counts not at every intersection. We had 4 2013 -- and this is detailed on page 4 of the supplemental 5 analysis. We had 2013 counts at Stillwater and Strathmore. 6 And then we had 2016 counts at Rockville Pike and Strathmore. 7 And so we need to be able to have full enrollment 8 of the school on the roadway network at all of the study 9 intersections, and so that's where we took away the 2013 10 turning movements for the school and added in the full 600 11 students enrollment onto the roadway network intersections. 12 So we did take in -- so while we did use the 2013 counts at 13 Strathmore and Stillwater, we still removed the school 14 traffic volumes and added in the full enrollment. 15 MR. BURDIN: Okay. So you essentially adjusted 16 them as if that 2013 counts as if there were 600 students? 17 MS. WAGNER: Yes. Yeah. 18 MR. BURDIN: Okay. And that similar to what you 19 did in the LATR with the 2005 and 2013 counts; is that right? 20 MS. WAGNER: Yeah, we did, And I think the table 21 is the exact same that was in the LATR that's in the 22 supplemental analysis. 23 MR. BURDIN: Okay. And you used the same modeling 24 program between the LATR and the supplemental analysis? 25 MS. WAGNER: We used Synchro, The traffic software</p>

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<p style="text-align: right;">201</p> <p>1 in both of our models, but we did have different parameters 2 that we had to use in our models to take into consideration 3 the different counts that were collected and used as the 4 baseline. 5 MR. BURDIN: But the difference between the counts 6 was that's between the two was, in one you used 2005 and '13, 7 and the other you only used 2013, right? 8 MS. WAGNER: No. No, you're getting -- it's kind 9 of confusion because the school counts were done in 2005 and 10 2013 and the historical counts at the traffic intersections 11 were done in 2016 and 2013. So LATR used 2020 traffic 12 volumes, supplemental analysis used 2013 and 2016 volumes 13 both studies used the 2005, 2013 school trip rates for 600 14 students. 15 MR. BURDIN: Okay. So the -- what's a little 16 strange to me and hopefully you can explain it is the LATR 17 had higher existing and background delays at the Strathmore 18 Stillwater intersection in the a.m. and the supplemental 19 analysis had a lower existing and background delays but the 20 LATR had lower future conditions and the supplemental had 21 higher future conditions. That seems very confusing to me. 22 One starts higher and ends up lower and one starts lower and 23 ends up higher. 24 MS. WAGNER: And I can see where that's confusing 25 and it goes into those parameters that I was explaining</p>	<p style="text-align: right;">203</p> <p>1 and input parameters into our models as prescribed in the 2 LATR guidelines. And when we don't have typical traffic 3 volumes to base our parameters on that we are going to input 4 into our models we can't just make things up. And that is, 5 again, why we did our supplemental analysis to make sure that 6 we had baseline volumes that reflected typical travel 7 patterns. 8 HEARING EXAMINER BAUMGARDNER: So Mr. Burdin, 9 we're going to one more question on this topic and then we're 10 going to have to move on. 11 MR. BURDIN: Okay. Well, let me turn to the 12 traffic signal. The Applicant has said they are committed to 13 installing a traffic signal and left turn lane westbound on 14 Strathmore at the future center entrance. But those can only 15 happen if approved by the Maryland SHA; is that correct? 16 MS. WAGNER: Yes. And we have received 17 correspondence that they support the traffic signal. 18 MR. BURDIN: What correspondence are those? 19 MS. WAGNER: It's detailed in the staff report. I 20 don't know exactly which exhibit that is. But the staff 21 report has email correspondence from both SHA and MCDOT as 22 well as our SHA approval letter. 23 MR. BURDIN: So are you saying that there's -- 24 that the traffic light, left turn lane is a sure thing based 25 on these emails?</p>
<p style="text-align: right;">202</p> <p>1 previously that because the counts were 2020 didn't reflect 2 really condition and part of the reason why did that 3 supplemental analysis was to make sure into consideration 4 typical traffic roadway patterns and those are what those 5 parameters adjusted. At the end of the day both studies say 6 that the Stillwater Strathmore intersection is really bad in 7 existing and background conditions. 8 And that that's why there's hundreds of seconds of 9 delay and staff recognizes that and then, it will get a lot 10 better when you align the intersection and remove the school 11 volumes to the center driveway. And again, the supplemental 12 analysis says because there is higher volumes that the delay 13 needs to be mitigated at the school driveway and why we have 14 proposed both a traffic signal and the westbound left turn 15 lane. 16 MR. BURDIN: Let me try a different way. Can you 17 explain why the reduction in delay reflected in the LATR is 18 the 40 times reduction and what I think are similar 19 explanations for why the delay is reduced in the supplemental 20 analysis. How is -- again, how does one start higher and end 21 lower and -- 22 MS. WAGNER: Because the parameters were not 23 typical and that is why we did the supplemental analysis. 24 And that is why we didn't have a baseline of what the 25 parameters should be, but we still have to follow policies</p>	<p style="text-align: right;">204</p> <p>1 MS. WAGNER: I cannot say a sure thing, but we 2 have support from SHA and MCDOT for a traffic signal and turn 3 lane. 4 MR. BURDIN: Support but not approval at this 5 time? 6 MS. WAGNER: I don't know what the full -- I 7 don't know exactly what the language says in both of those, 8 but I'm going to stick with support as the word. 9 MR. BURDIN: Okay. Are you aware that on days 10 that Holy Cross Academy has in person classes a police 11 officer directs traffic at the entrance during the morning 12 opening and afternoon dismissal times? 13 MS. WAGNER: Yes, I am aware of that and the 14 school is committed to keeping the police officer even with 15 the traffic signal. They recognize that that that is a vital 16 part of getting vehicles in and out vehicles in and out of 17 the school, and to help with pedestrian safety at that 18 intersection. 19 MR. BURDIN: Does your analysis mention, or 20 account for our analyzing the existence of the police officer 21 there? 22 MS. WAGNER: No, we cannot put a police officer 23 managing traffic into our Synchro models, unfortunately. 24 MR. BURDIN: Okay. 25 MS. WAGNER: It's only helps -- it would only help</p>

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<p style="text-align: right;">205</p> <p>1 our analysis results.</p> <p>2 MR. BURDIN: Okay. I think I've covered</p> <p>3 everything else with other witnesses. I thank you, Mr.</p> <p>4 Baumgardner for indulging me a little bit there.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Sure. Thank you</p> <p>6 all very much. We have a couple of questions. Again, were</p> <p>7 going to make sure that we keep these to questions of MS.</p> <p>8 WAGNER. If you are represented by counsel, please let your</p> <p>9 attorney asked those questions. We'll start with Ms. Lide,</p> <p>10 who has her virtual hand raised. Do you have any questions</p> <p>11 for Ms. Wagner at this time, ma'am?</p> <p>12 Ms. Lide, are you there? We'll come back to you.</p> <p>13 Ms. Weitz, do you have any questions for Ms. Wagner at this</p> <p>14 time?</p> <p>15 MS. WEITZ: I'm trying to --</p> <p>16 HEARING EXAMINER BAUMGARDNER: You were un-muted</p> <p>17 for a hot second, and now you are muted again. So I can</p> <p>18 unmute you.</p> <p>19 MS. WEITZ: Oh, please.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Just give me one</p> <p>21 second. All right, you are unmuted.</p> <p>22 MS. WEITZ: Thank you.</p> <p>23 HEARING EXAMINER BAUMGARDNER: What was your</p> <p>24 question?</p> <p>25 MS. WEITZ: I keep when I'm -- for some reason I'm</p>	<p style="text-align: right;">207</p> <p>1 Holy Cross traffic.</p> <p>2 And when they built Symphony Park which is just a</p> <p>3 short distance from Rockville Pike, they included a right</p> <p>4 turn lane so that those residents of Symphony Park who were</p> <p>5 heading into their community to not have to queue up.</p> <p>6 They're out of the queue on Strathmore Avenue.</p> <p>7 Now, I live in Strathmore Place and I don't know,</p> <p>8 Mr. Baumgardner if you would like me to clarify where that</p> <p>9 is, if you know where that is?</p> <p>10 HEARING EXAMINER BAUMGARDNER: I can pull up an</p> <p>11 exhibit real quick.</p> <p>12 MS. WEITZ: Well, I have something. Can you share</p> <p>13 my screen, or do I have to do that?</p> <p>14 HEARING EXAMINER BAUMGARDNER: I would prefer not</p> <p>15 to at this time because we're trying to ask Ms. Wagner</p> <p>16 questions about both the report and then --</p> <p>17 MS. WEITZ: Okay. So we are townhomes that are</p> <p>18 north of Strathmore, our access -- and we are west of</p> <p>19 Rockville Pike. We're right at the corner of Strathmore and</p> <p>20 Rockville Pike. Our only exit out of the community is via</p> <p>21 Jolly Way and if we wish to go either south on the Pike or</p> <p>22 east toward the Connecticut Avenue corridor we need to go</p> <p>23 onto Strathmore Avenue.</p> <p>24 And as -- and I'm sorry I don't remember the</p> <p>25 attorney for the developer's name, as she mentioned the maps</p>
<p style="text-align: right;">206</p> <p>1 having an lot of problems with muting and un-muting. Thank</p> <p>2 you very much.</p> <p>3 I have some questions for Ms. Sloan -- not Ms.</p> <p>4 Sloan, Ms. Wagner. Excuse me. Mr. Sloan testified that the</p> <p>5 Academy of the holy cross traffic required dedicated</p> <p>6 HEARING EXAMINER BAUMGARDNER: Sounds like</p> <p>7 there's --</p> <p>8 MS. WEITZ: I was getting an echo. I don't know</p> <p>9 why.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Let's try your</p> <p>11 question again, ma'am.</p> <p>12 MS. WEITZ: Yes, Mr. Sloan testified that the</p> <p>13 Academy of the Holy Cross required traffic -- required</p> <p>14 dedicated queuing space. And he then described that you were</p> <p>15 creating a queue out of the new main entrance which I believe</p> <p>16 is road A, correct? That's going to be two lanes out?</p> <p>17 MS. WAGNER: Yes.</p> <p>18 MS. WEITZ: And then a new left turn lane heading</p> <p>19 west, correct?</p> <p>20 MS. WAGNER: Yes, that's correct.</p> <p>21 MS. WEITZ: So I'm extremely concerned because I</p> <p>22 feel there is an elephant in the room that has not been</p> <p>23 mentioned once and that is the significant traffic heading</p> <p>24 east from Rockville Pike that is heading towards the</p> <p>25 Connecticut Avenue corridor in addition to the Academy of the</p>	<p style="text-align: right;">208</p> <p>1 in the area were incorrect as neither Bangor Road nor the</p> <p>2 Strathmore access road cut through so we have no access to</p> <p>3 Stillwater at all. We have to exit onto Strathmore Avenue.</p> <p>4 Now, every morning my husband and I walk during the school</p> <p>5 drop off times. Traffic is backed up every single morning,</p> <p>6 sometimes it goes --</p> <p>7 HEARING EXAMINER BAUMGARDNER: Ms. Weitz?</p> <p>8 MS. WEITZ: Yes?</p> <p>9 HEARING EXAMINER BAUMGARDNER: I'm very sorry to</p> <p>10 interrupt you but we do need a question for Ms. Wagner.</p> <p>11 MS. WEITZ: Okay. So my question is, why is there</p> <p>12 no right turn queuing on laying which I believe would</p> <p>13 significantly reduce the traffic heading east that occurs</p> <p>14 every day and even with the lights there are people also --</p> <p>15 heavy through traffic so that people wishing to make a right</p> <p>16 turn into the Academy of the Holy Cross, or into the</p> <p>17 community are not going to be able to make those right turn</p> <p>18 lanes because through traffic will be stopped at the light.</p> <p>19 MS. WAGNER: Yes. And I understand your concern.</p> <p>20 We are in a place in the community -- or in the county where</p> <p>21 we need to balance the traffic impacts as well as pedestrian,</p> <p>22 bike, and transit safety. When you provide a right turn lane</p> <p>23 you have a through lane and then a right turn lane, and so</p> <p>24 you've increased the distance that pedestrians have to cross</p> <p>25 the street. And so we have to balance the two. We have to</p>

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<p style="text-align: right;">209</p> <p>1 balance how long a person crossing a street needs to be in a 2 roadway where vehicles are traveling and how much that 3 reduces the delay. And so we can work with staff further on 4 that, but right turn lanes are not encouraged because of 5 that, because it increases the time and distance pedestrians 6 have to be in the vehicular travel way. So that is why a 7 right turn lane has not been included as part of this 8 proposed project.</p> <p>9 MS. WEITZ: Well, if you look at Symphony Park 10 the -- there is a pedestrian walkway that is right after 11 their right turn lane on the --</p> <p>12 MS. WAGNER: And I know where it is --</p> <p>13 MS. WEITZ: The east side.</p> <p>14 MS. WAGNER: Yes.</p> <p>15 MS. WEITZ: Yes.</p> <p>16 MS. WAGNER: And again, that project was approved 17 that you know that there's -- you hear on the news all the 18 time of number of pedestrian incidents that we have in the 19 county and so it's really trying to reduce vehicular travel 20 speeds. That project was approved before there was this 21 commitment to pedestrian safety and Vision Zero and so that 22 is why one development may, two blocks away, have a right 23 turn lane and then this one does not have a right turn lane.</p> <p>24 MS. WEITZ: So then the figures that Mr. -- Doug 25 presented where it showed the intersection at Stillwater and</p>	<p style="text-align: right;">211</p> <p>1 traffic light they cannot make a right turn on red so the 2 traffic is going to back up during the traffic light just 3 like it does now when we have the policeman there and he 4 blocks the traffic so there are left turn lanes and the 5 traffic backs up onto Rockville Pike. It will be the same 6 condition but with a traffic light.</p> <p>7 MS. WAGNER: But we have relocated where the 8 traffic is coming out of. We have provided gaps with having 9 a traffic signal as well as two outbound lanes and the 10 westbound left turn lane. So it's completely -- it's not the 11 same situation, it's --</p> <p>12 MS. WEITZ: Well, it is --</p> <p>13 MS. WAGNER: -- (inaudible) the traffic realigned 14 the intersection and provided additional turning lanes.</p> <p>15 MS. WEITZ: I'm having difficulty understanding 16 it. As I see it, you have replaced the traffic policeman 17 with a traffic light at the new road A. And when the traffic 18 going east, which is significant is stopped at a red light, 19 correct, just as they are currently stopped by the policeman, 20 and you have traffic that's going to be turning left into the 21 new road A and traffic that's going forward that's fine for 22 westbound traffic will be moving.</p> <p>23 But eastbound traffic is going to continue to be 24 backed up. It will continue to back up on Stillwater. It 25 will continue to -- and maybe instead of going onto Rockville</p>
<p style="text-align: right;">210</p> <p>1 Strathmore being many, many times over the allowed amount of 2 traffic, are you saying that all of that traffic is due to 3 westbound lane -- westbound traffic which will be mitigated 4 with that one left turn lane? Are you negating the traffic 5 that's backing up eastbound?</p> <p>6 MS. WAGNER: No. We have taken that fully into 7 consideration but when you consider all -- you consider a 8 right turn lane has a much easier time. They don't have 9 to -- when you're looking at a left turn they have to wait 10 for gaps in the eastbound traffic. And so that's why by 11 providing that left turn lane it allows the through movements 12 to go through but the right turn lane that is rarely blocked 13 by any other movement.</p> <p>14 So they have the right of way to turn right and so 15 they are not going to significantly reduce delays. And 16 again, that's why a right turn lane is not always proposed is 17 because it again, increases the pedestrian distance that they 18 have to cross and the benefit for reducing delays is not 19 significant.</p> <p>20 MS. WEITZ: But what happens with all the cars 21 that are going through? Then those cars cannot make that 22 right turn because they're blocked by (inaudible).</p> <p>23 MS. WAGNER: Everybody's just going through or 24 turning right and so there's very few -- there's no delays.</p> <p>25 MS. WEITZ: But when there is now going to be a</p>	<p style="text-align: right;">212</p> <p>1 Pike will continue to block our exit out of Jolly Way and, by 2 the way, Symphony Park Drive so that we have difficult times 3 exiting, trying to go east.</p> <p>4 MS. GIRARD: Objection. That was more -- I don't 5 even think there was a question. We're getting into 6 testimony at this point as to her opinion.</p> <p>7 HEARING EXAMINER BAUMGARDNER: I would agree. Do 8 you have any other follow up questions?</p> <p>9 MS. WEITZ: Yes. You said that there's going to 10 continue to be a policeman, is that going to be at Stillwater 11 or at the new traffic light at Road A?</p> <p>12 MS. WAGNER: At Street A, as parents and students 13 will be directed to use that as the primary access point for 14 the school.</p> <p>15 MS. WEITZ: Then the new realignment of Stillwater 16 and Road C, they're going to be directly across from each 17 other. How does that become safer if you then have two 18 cars, one going from Stillwater east onto Strathmore, one 19 wanting to go west or one wanting to go right and they are 20 directly across to each other? I don't see how that's going 21 to be any better. How does that help the traffic?</p> <p>22 MS. WAGNER: Because the vehicles will be aligned 23 and not offset and as well as the massive reduction in 24 vehicles at that intersection. And so that provides reduced 25 delays as well as a safer intersection alignment.</p>

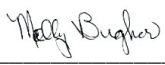
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<p style="text-align: right;">213</p> <p>1 MS. WEITZ: So when traffic backs up at the light 2 at Road A going east it would appear it would be incentive 3 for Academy of the Holy Cross parents to make a right turn 4 onto Road C, correct? 5 MS. WAGNER: No. The parents and the students and 6 the staff will be directed to not use Street C. 7 MS. WEITZ: Will there be signage saying residents 8 only during school hours? 9 MS. WAGNER: I am not aware of signage. I think 10 that this will be kind of -- that this will likely be a 11 condition of, you're allowed to drive to school, or things 12 like that and that you have to sign. That is typically what 13 schools do. 14 MS. WEITZ: Okay. And is there any mitigation 15 effort you can think of so that the intersections of Flanders 16 and Strathmore, Stillwater and Strathmore, Jolly Way and 17 Symphony Park Drive can safely exit onto Strathmore Avenue? 18 as right now the intersections are frequently blocked during 19 school pick up, drop off and peak hours of rush hour? 20 MS. WAGNER: As we've indicated, the mitigation 21 that is proposed is the westbound left turn lane and the 22 traffic signal, as well as shifting the school driveway 23 traffic to a different intersection. And so that will 24 significantly reduce the delays and improve conditions at 25 these Stillwater and Strathmore intersection, To be able to</p>	<p style="text-align: right;">215</p> <p>1 road. You could direct traffic in such a way that there is 2 no -- that you cannot cross the street to make a turn, right? 3 You could direct traffic that way during peak hours so that 4 one does not take a left turn across traffic, for example? 5 Did you make that analysis? 6 MS. WAGNER: We had multiple discussions with 7 staff, and again, if you don't connect to Cloister then you 8 put the access directly on the curvature and so then you have 9 three closely space driveways, you have a median, you're 10 going through wetlands, and those were a number of 11 considerations why that exercise was not -- or that site plan 12 was not developed further is that there was a number of 13 significant challenges but did not present that is a viable 14 option. 15 MR. RIBEIRO: Okay. And the last question I have 16 is when there is a peak traffic here on Strathmore Avenue, 17 and as a resident here on the corner of Stillwater and 18 Strathmore Avenue, sometimes I have to go east on Strathmore 19 Avenue during peak times period I have trouble getting on -- 20 there is no way. Like you are waiting for a long time. So 21 how does one exit this neighborhood during peak hours and go 22 east on Strathmore when there is peak traffic? 23 MS. WAGNER: Yeah. so the traffic signal will be 24 coordinated with the Rockville Pike and Strathmore 25 intersection so that will provide some again, we're moving</p>
<p style="text-align: right;">214</p> <p>1 enter and exit off of Stillwater. 2 MS. WEITZ: Okay. But not when people continually 3 block our entranceways, if you will, lock the box. 4 MS. GIRARD: Again, that's a comment, not a 5 question. 6 HEARING EXAMINER BAUMGARDNER: I would agree. 7 MS. GIRARD: Thank you. 8 MS. WEITZ: Okay. Thank you. 9 HEARING EXAMINER BAUMGARDNER: Thank you, ma'am. 10 Mr. Ribeiro, very briefly. 11 MR. RIBEIRO: Thank you, Mr. Baumgardner. I have 12 tried to be parsimonious with my questions so I appreciate 13 your allowing me to ask a question. 14 Ms. Wagner, you mentioned that you had done a -- 15 you hadn't really done the study, but you looked at the exit 16 onto Cloister Drive from the school and that you -- if I 17 remember what you said correctly, you said it was -- there 18 was not enough of a space and it's a private drive, and also 19 because of the curvature of the street that you couldn't 20 really -- it would not be a very safe exit; is that correct? 21 MS. WAGNER: Yes. 22 MR. RIBEIRO: But did you analyze the potential 23 foreign exit not onto Cloister, but directly onto Tuckerman 24 Lane? And in particular, given as you said, that there is 25 the curvature of the road, Tuckerman Lane is a four lane</p>	<p style="text-align: right;">216</p> <p>1 the school traffic from that intersection and then the signal 2 coordination will provide gaps in traffic to be able to exit 3 Stillwater and travel east. 4 MR. RIBEIRO: I hope you're right. I have no 5 further questions. 6 HEARING EXAMINER BAUMGARDNER: Thank you, Sir. 7 Councilwoman Bennett, Did you have any follow up questions 8 for Ms. Wagner? 9 MS. BENNETT: Yes, thank you. Some were answered 10 already, but I was still curious whether Ms. Wagner, you 11 considered the potential impact of delivery truck that would 12 be trying to turn left at the entrance that is before the 13 light, and how that might backup traffic behind it? And 14 whether consolidating could potentially reduce blockages 15 because those trucks could turn at the light? 16 MS. WAGNER: So the three driveways were provided 17 again, in discussions and planning meetings with staff, and 18 each provides a necessary means for why each driveway has 19 been suggested. Trucks will not be backing into that loading 20 access driveway, so there is not that concern. They will do 21 all their maneuvers on site. Again, if they are trying to 22 turn northbound left of the site there will be those gaps in 23 traffic because of the traffic signal, so it will be easier 24 for them to turn left out of that site. 25 And again, we also wanted to separate that back of</p>

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<p style="text-align: right;">217</p> <p>1 house loading, trash operations from the residential 2 community. And so that is why they are provided back of 3 house. 4 MS. BENNETT: So I think you misunderstood what I 5 meant when I said backing up behind the trucks; if the truck 6 is trying to move westbound and is turning left, but there is 7 no left lane for the trucks at that point, then any traffic 8 behind them is going to be stopped while they wait for a 9 break in traffic, right? 10 MS. WAGNER: Yes, but there will be very minimal 11 number of trucks that will be actually coming from that 12 direction. And if you look at 355, trucks are more likely to 13 be coming from 355 making a right into the site. In 14 addition, there will be gaps and traffic for a vehicle to 15 turn left it because of the adjacent new traffic signal. 16 MS. BENNETT: Okay. And then the last question I 17 had was will elementary age school children be taking the bus 18 to get to Garrett Park Elementary from the development, or 19 will they be walking? 20 MS. WAGNER: I do not know that, but my guess is 21 that they will be walking. 22 MS. BENNETT: Okay. And what is the safe pathway 23 for them to walk? 24 MS. WAGNER: There will be a sidewalk provided to 25 the edge of the site. There is a -- in addition to also, you</p>	<p style="text-align: right;">219</p> <p>1 be had as far as the preliminary plan approval process. We 2 are required to look at quite a distance away from our site 3 based on the number of trips that we are generating. But at 4 this time, the way that the facilities our plan is that they 5 can cross north at our traffic signal, walk along the service 6 road of Strathmore Avenue and then cross back down at 7 Flanders. 8 MS. BENNETT: Okay. I did not understand what you 9 meant by goat path, so I think that was the part that 10 confused me. I still don't know what a goat path is. 11 MS. WAGNER: It's like when you have a Pedestrian 12 path that is not paved or anything, it's just because so many 13 people have walked on it, that's why you call it a little 14 goat path. 15 MS. BENNETT: Okay. so the students would cross 16 from the South side to the north side, walk east, and then 17 cross a back over Strathmore? So they would have to cross 18 Strathmore twice? 19 MS. WAGNER: At this time, yes. But again, as I 20 said, we are still in discussion with park and planning staff 21 as far as the pedestrian facilities that will be needed to be 22 improved as part of the preliminary plan Approval process. 23 MS. BENNETT: Thank you. I appreciate the 24 clarification. 25 HEARING EXAMINER BAUMGARDNER: Thank you all very</p>
<p style="text-align: right;">218</p> <p>1 know the traffic signal provides a northbound -- a north 2 connection to Stillwater Avenue and the service road. And so 3 they will be able to walk along the service road sidewalks 4 and then use the crosswalk at Flanders, in addition to the -- 5 sorry my -- in addition to, like, the little goat path that 6 goes across the church driveway. 7 MR. RIBEIRO: I think you meant not at Stillwater, 8 I think you meant at the main entrance. 9 MS. WAGNER: Right. 10 HEARING EXAMINER BAUMGARDNER: There is no -- 11 MS. WAGNER: At the main entrance at the new 12 signal. Thank you very much, sorry. 13 MR. RIBEIRO: I'm sorry to interrupt. 14 MS. BENNETT: So you're suggesting they would stay 15 on the southbound side of Strathmore the whole time, even 16 thought there would not be a pathway or sidewalk between the 17 church and Kenilworth Avenue? 18 MS. WAGNER: No. What I said is they will -- at 19 the new site -- and again, we are still in discussions with 20 park and planning staff regarding sidewalk infrastructure 21 that will -- that we have to with our updated traffic study 22 we do have to look at pedestrian, bike, and transit 23 facilities in the area, and we are required to make 24 improvements where they are lacking. So further discussions 25 regarding pedestrian facilities along Strathmore are still to</p>	<p style="text-align: right;">220</p> <p>1 much For your questions. Ms. Girard, I'm assuming you have 2 redirect for Ms. Wagner, would you like to take that up now, 3 or would you like to take that up tomorrow morning? 4 MS. GIRARD: I really only have one question so I 5 think it makes to just do it now. 6 HEARING EXAMINER BAUMGARDNER: Absolutely. 7 MS. GIRARD: With regard to the right turn lane 8 into the site, you mentioned a Vision Zero pedestrian safety 9 concerns. Also, based on your analysis is that warranted? 10 Is that necessary in order to mitigate traffic impacts? 11 MS. WAGNER: I'm just double checking. No. We are 12 within the LATR Montgomery County guidelines without the 13 right turn lane. 14 MS. GIRARD: That's all I had. 15 HEARING EXAMINER BAUMGARDNER: Okay. Ms. Wagner, 16 thank you very much for your testimony. 17 I think we are at a good place to stop. I'm glad 18 we got through the transportation witness today. That was 19 very helpful. We will pick things back up tomorrow morning. 20 I appreciate everyone's testimony and questions period this 21 is actually going a lot more smoothly than I had anticipated. 22 So we are moving quicker and we are moving more efficiently 23 than I thought at the start. 24 So I am hopeful that we can get through everything 25 else tomorrow and we will not need Wednesday. But we will</p>

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<p style="text-align: right;">221</p> <p>1 pick things up tomorrow morning.</p> <p>2 Are there any questions or follow up that we need</p> <p>3 to address today before we close?</p> <p>4 MS. GIRARD: I just wanted to make a comment for</p> <p>5 your planning purposes. So tomorrow morning we will plan to</p> <p>6 call the architect, and he would be the last -- well, we</p> <p>7 anticipate he'd be our last case in chief witness.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Okay. Thank you</p> <p>9 very much.</p> <p>10 MR. SHAFFER: I'm going to check -- this is David</p> <p>11 Shaffer. As a technical matter, will you be using the same</p> <p>12 link as for today or will there be a new link?</p> <p>13 HEARING EXAMINER BAUMGARDNER: It will be the same</p> <p>14 link. So we will not change the page at all from today until</p> <p>15 tomorrow. It will be the same link. I typically log on</p> <p>16 about an hour early just to make sure everything is working</p> <p>17 correctly, links work, exhibits work, all that kind of stuff.</p> <p>18 But it will be the same page, same link.</p> <p>19 MR. SHAFFER: Thank you.</p> <p>20 HEARING EXAMINER BAUMGARDNER: Great.</p> <p>21 Mr. Burdin, anything?</p> <p>22 MR. BURDIN: No, I don't have anything, thank you.</p> <p>23 HEARING EXAMINER BAUMGARDNER: All right. Well,</p> <p>24 thank you all very much.</p> <p>25 Enjoy your afternoon and we'll see many of you or</p>	<p style="text-align: right;">223</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, Molly Bugher, do hereby certify that the</p> <p>3 foregoing transcript is a true and correct record of the</p> <p>4 recorded proceedings; that said proceedings were transcribed</p> <p>5 to the best of my ability from the audio recording as</p> <p>6 provided; and that I am neither counsel for, related to, nor</p> <p>7 employed by and 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, CDLT-161</p> <p>13 Date: February 9, 2022</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>
<p style="text-align: right;">222</p> <p>1 most of you back here tomorrow morning at 9:30.</p> <p>2 (The recording was concluded.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</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>	

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20 VANESSA LIDE	20
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<p style="text-align: right;">228</p> <p>1 PROCEEDINGS</p> <p>2 HEARING EXAMINER BAUMGARDNER: So we are</p> <p>3 officially on the record in LMA 143. We are on day two</p> <p>4 beginning with Ms. Girard's next witness. Ms. Girard, the</p> <p>5 floor is yours.</p> <p>6 MS. GIRARD: Okay, thank you. My next witness is</p> <p>7 Jack McLaurin.</p> <p>8 HEARING EXAMINER BAUMGARDNER: I see you there,</p> <p>9 sir. Please give us your full name for your business</p> <p>10 address, and an email address, please.</p> <p>11 MR. MCLAURIN: Okay. My full name is Jack, middle</p> <p>12 initial F, McLaurin. That's M-C-L-A-U-R-I-N. For</p> <p>13 clarification purposes, the legal name on my professional</p> <p>14 license, my architectural license, is John. But</p> <p>15 professionally I go by Jack. My company name is EYA, LLC.</p> <p>16 My business address is 4800 Hampden Lane; H-A-M-P-D-E-N Lane,</p> <p>17 Number 300, Bethesda, Maryland 20814.</p> <p>18 HEARING EXAMINER BAUMGARDNER: And a good email</p> <p>19 address for you, sir?</p> <p>20 MR. MCLAURIN: It's JMclaurin@EYA.com. So it's</p> <p>21 first initial J, McLaurin; M-C-L-A-U-R-I-N @EYA.com.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>23 And can you please raise your right hand?</p> <p>24 Do you swear or affirm under penalties of perjury</p> <p>25 that the testimony you are about to give is the truth, the</p>	<p style="text-align: right;">230</p> <p>1 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer or Mr.</p> <p>2 Burdin, any further voir dire of the -- of Mr. McLaurin's</p> <p>3 resume or background or experience?</p> <p>4 MR. SHAFFER: None, sir.</p> <p>5 MR. BURDIN: Doug Burdin here. I don't have any.</p> <p>6 HEARING EXAMINER BAUMGARDNER: All right. Having</p> <p>7 reviewed the resume and the voir dire thus far, I am</p> <p>8 admitting Mr. McLaurin as an expert for the purposes of this</p> <p>9 hearing in architecture.</p> <p>10 MS. GIRARD: Thank you. Mr. McLaurin, have you</p> <p>11 looked at the -- are you familiar with the property?</p> <p>12 MR. MCLAURIN: Yes, I am.</p> <p>13 MS. GIRARD: Of the local map amendment?</p> <p>14 MR. MCLAURIN: Yes, I am.</p> <p>15 MS. GIRARD: And were you present yesterday for</p> <p>16 the testimony of Mr. Sloan regarding compatibility with the</p> <p>17 surrounding area?</p> <p>18 MR. MCLAURIN: Yes, I was.</p> <p>19 MS. GIRARD: Have you had an opportunity to look</p> <p>20 at the plans in relation to the surrounding area? And can</p> <p>21 you opine as to the compatibility of the proposed massing of</p> <p>22 the structures compared to the surrounding community?</p> <p>23 MR. MCLAURIN: Sure. Sure. Yes, I have had a</p> <p>24 chance to look at it and I would love to talk about it</p> <p>25 because I think we have a pretty good story to tell when it</p>
<p style="text-align: right;">229</p> <p>1 while truth and nothing but the truth?</p> <p>2 MR. MCLAURIN: Yes, I do.</p> <p>3 HEARING EXAMINER BAUMGARDNER: All right. Ms.</p> <p>4 Girard, the witness is yours.</p> <p>5 MS. GIRARD: Great. Mr. McLaurin, what's your</p> <p>6 occupation?</p> <p>7 MR. MCLAURIN: I'm an architect.</p> <p>8 MS. GIRARD: And how long have you been engaged in</p> <p>9 this occupation?</p> <p>10 MR. MCLAURIN: I graduated in 1987 from Virginia</p> <p>11 Tech with a bachelor of architecture and have been practicing</p> <p>12 ever since. So about 35 years.</p> <p>13 MS. GIRARD: And I would just know that Mr.</p> <p>14 McLaurin's resume is in the record as Exhibit 49C. Mr.</p> <p>15 McLaurin, have you ever testified before any planning boards,</p> <p>16 OZAHs, any -- as an expert witness in architecture?</p> <p>17 MR. MCLAURIN: Yes. I have not been in front of</p> <p>18 the OZAH in Montgomery County, but I have just testified in</p> <p>19 essentially every other jurisdiction, board, mayor and</p> <p>20 council as appropriate. They all vary, but Montgomery</p> <p>21 County, Fairfax County, City of Fairfax, City of Rockville,</p> <p>22 City of Alexandria, as well as other jurisdictions up and</p> <p>23 down the East Coast.</p> <p>24 MS. GIRARD: Then I would like to move Mr.</p> <p>25 McLaurin's admission as an expert in architecture.</p>	<p style="text-align: right;">231</p> <p>1 comes to that. And I would just like to mention, Mr. Lester</p> <p>2 in his testimony kind of alluded to in and Mr. Sloan alluded</p> <p>3 to it as well too. But when we create infill communities</p> <p>4 like this which have surrounding context around our immediate</p> <p>5 site, it's important that we focus on compatibility.</p> <p>6 And one aspect of compatibility is height and</p> <p>7 scale. So I think we, after studying the property, we come</p> <p>8 up with a land plan that I believe addresses that. And if I</p> <p>9 could ask that we pull up Exhibit 62, I would like to start</p> <p>10 with -- and I'm on page -- PDF page 4 and figure 1, which is</p> <p>11 the vicinity/staff defined neighborhood map. And I would</p> <p>12 like to start by just talking about the surrounding community</p> <p>13 that's highlighted in blue.</p> <p>14 HEARING EXAMINER BAUMGARDNER: What page is that,</p> <p>15 sir?</p> <p>16 MR. MCLAURIN: I'm on Exhibit 62. It is PDF page</p> <p>17 4, which is page 3 of the exhibit. And it's figure -- there</p> <p>18 you go. It's that figure right there. So immediately I</p> <p>19 would just like to talk about the surrounding context. And</p> <p>20 you can see to the north side of Strathmore are single-family</p> <p>21 homes. Predominantly those homes are single-story as they</p> <p>22 front Strathmore, with a setback of approximately 33.</p> <p>23 And when I say setback, I want to qualify it from</p> <p>24 the building face to the curb. The legal zoning setback</p> <p>25 would be measured probably to the property line. But that's</p>

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<p style="text-align: right;">232</p> <p>1 an imaginary line that people cannot perceive in reality. So</p> <p>2 I like to, in discussions of height and scale, I like to talk</p> <p>3 about the distance from the building to the curb, so they do</p> <p>4 vary, but they are sort of in the range of about 30 feet. So</p> <p>5 single-story and about 30 feet along Strathmore.</p> <p>6 Then when you to the block towards its west</p> <p>7 between Stillwater Avenue and Orleans Way, they bump up to</p> <p>8 two stories and you see the sides there that kind of orient</p> <p>9 towards Strathmore and then the drop back down to the west of</p> <p>10 Orleans to single-story. The Symphony Park community is four</p> <p>11 stories in height. And I would note it's three stories with</p> <p>12 a roof, but that roof design is of a mansard form, which has</p> <p>13 a very vertical face to it. So it does increase the</p> <p>14 perceived height along Strathmore.</p> <p>15 It's not a two-story with what we would call a</p> <p>16 laid-back gable. It has front facing gables and then mansard</p> <p>17 roofs which really do truly give it more of a four-story</p> <p>18 façade there. And the setbacks along for that portion of</p> <p>19 Symphony Park along Strathmore range from about 40 to 50</p> <p>20 feet.</p> <p>21 And then if we go over towards the east, the St.</p> <p>22 Angela Hall is a single-story, but that is being demolished.</p> <p>23 And then further down towards the east is the Holy Cross</p> <p>24 church and school, which is single to multiple story, two-</p> <p>25 story, but even the single-story has volume. Being the</p>	<p style="text-align: right;">234</p> <p>1 setback, again, measuring to the proposed curb, not the</p> <p>2 existing curb, but what would be the proposed curb. And the</p> <p>3 heights there are two stories with roof above. The</p> <p>4 Brandywine building further to the east is a three-story</p> <p>5 structure with roof, but as it goes further to the east, Mr.</p> <p>6 Sloan testified the grade of the road steps up and continues</p> <p>7 up, but the building does not go up with it.</p> <p>8 So the building is actually cut into the grade</p> <p>9 there. And then there is a retaining wall between the</p> <p>10 building and Strathmore. So that delta in grade is about 12</p> <p>11 feet from the entrance of Brandywine up towards that</p> <p>12 northeast corner of the Brandywine building closest to</p> <p>13 Strathmore right there. That's right. It's about 12 feet.</p> <p>14 So you essentially lose a story in height as is perceived</p> <p>15 from Strathmore in the great goes up, but the building stays</p> <p>16 consistent.</p> <p>17 So what is generally a three-story building where</p> <p>18 the roof really kind of gives you a perceived height of about</p> <p>19 two stories plus roof along that road. So we feel like</p> <p>20 that's very compatible over there on that side. And that</p> <p>21 setback of the building is in excess of 50 feet. I think</p> <p>22 it's about 54 feet measured to the curb. There is a turret</p> <p>23 element on the northwest corner of that which projects into</p> <p>24 that setback a little bit. So maybe it's mid-40s. I don't</p> <p>25 know for sure.</p>
<p style="text-align: right;">233</p> <p>1 nature of a church it has a very large presence.</p> <p>2 And I would like to say I'm speaking in height in</p> <p>3 terms of stories because in feet I have not surveyed any of</p> <p>4 these existing properties. I am familiar with the Symphony</p> <p>5 Park community in that they have 10 foot ceilings. I was</p> <p>6 actually the architect of record before I came over to EYA,</p> <p>7 for Symphony Park. So I am familiar. They have taller</p> <p>8 ceiling heights. But without that information directly</p> <p>9 accessible to me, I like to speak in height in terms of</p> <p>10 stories, not in terms of feet. And then the -- and so the</p> <p>11 Holy Cross school has the church facilities which are multi-</p> <p>12 height.</p> <p>13 If we can go to the -- I think it's probably best</p> <p>14 to go to Exhibit 35, which is the grading and utility</p> <p>15 exhibit. I would just like to point out, pursuant to some of</p> <p>16 what Mr. Sloan testified towards -- I will wait for it to</p> <p>17 come up on the screen. The idea of this land plan is to</p> <p>18 adjust compatibility with the adjoining, surrounding</p> <p>19 community, which is why we largely located single-family</p> <p>20 detached homes along Strathmore. And those are two stories</p> <p>21 with roofs along Strathmore. And those setbacks for context</p> <p>22 purposes, range from about 40 to 50 feet.</p> <p>23 It's a little tighter on the west side and then it</p> <p>24 extends out as you go -- travel further east along</p> <p>25 Strathmore. So we are in the range of about 40 to 50 feet in</p>	<p style="text-align: right;">235</p> <p>1 I'm not the architect of record for that building,</p> <p>2 nor the designer, but we have coordinated with Brandywine's</p> <p>3 architect on that. As that footprint gets to be refined we</p> <p>4 can probably get more precise numbers later in the</p> <p>5 entitlement process. But generally speaking, the bulk of</p> <p>6 that building face is about 54 feet setback. I think that</p> <p>7 kind of addresses the compatibility.</p> <p>8 Our homes internal to the site are four stories,</p> <p>9 but there are three stories with a setback loft. So the</p> <p>10 street face is a three-story façade with a loft that setback</p> <p>11 anywhere from 10 to 12 feet from the front, but they do end</p> <p>12 up at a four-story over there. There is grade which will</p> <p>13 affect that where we might be burying some of those levels.</p> <p>14 So the perceived height is a little bit lower. But again,</p> <p>15 that's internal to the site and we start to measure the</p> <p>16 Brandywine building as compatible to our townhomes across the</p> <p>17 Street A there. But I think that's really what I want to get</p> <p>18 across. If you have any questions --</p> <p>19 MS. GIRARD: Mr. Lester -- or Mr. Lester. I'm</p> <p>20 sorry. Mr. McLaurin, could you please walk us through the</p> <p>21 renderings? They were on the screen yesterday.</p> <p>22 MR. MCLAURIN: Oh, yeah.</p> <p>23 MS. GIRARD: Exhibit 58B.</p> <p>24 MR. MCLAURIN: Thanks for bringing that up, Ms.</p> <p>25 Girard. So if I could ask you to pull up Exhibit 58B. And</p>

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<p style="text-align: right;">236</p> <p>1 these are conceptual renderings. We are still very early in 2 the process, but this is not only to begin the conversation 3 of architectural style, although it will continue to evolve 4 later on, but it is really to have this conversation of 5 height and scale. 6 And you can see this is a view -- you see on the 7 bottom right hand corner is a key plan legend which shows you 8 the view. So we are kind of across the northern side of 9 Strathmore looking to the south at our main entrance. And 10 you see the single-family homes on the right-hand side. 11 That's the two-story with roof form there. And then you see 12 the Brandywine which kind of gives you the idea of the two 13 stores on the left-hand side. I know it gets kind of cut off 14 a little bit there, but you will see the three stories as you 15 go down the street. 16 If you proceed to the two slides in advance you 17 will see a higher -- I think you might have gone too far. 18 I'm on page 3 now. There you go. 19 You will see a higher view of that. It was 20 important for us in these -- the development of these 21 renderings both to give as best as we can inaccurate 22 depiction of the road dimension, the Strathmore Road 23 dimension, as well as the green buffer and then the service 24 road. So we elevated a little bit in height to not only 25 continue to show the height and scale of our proposed</p>	<p style="text-align: right;">238</p> <p>1 can see in the key plan on the bottom right, as you would 2 leave the Academy of Holy Cross specifically and then what 3 the community might look like, what the street might feel 4 like, what the sidewalk system looks like. And then you 5 would see the nature trail as it terminates to the sidewalk, 6 directly in the foreground. You see our townhomes on the 7 background on the left-hand side, again, that three-story 8 façade directly adjacent to the street with a setback loft 9 level. And then you will see the three-story Brandywine 10 building on the right-hand side over there. 11 HEARING EXAMINER BAUMGARDNER: And then going to 12 the slide labeled image 5 and description of image 5. 13 MR. MCLAURIN: So this is a view as you would look 14 south east on the site, sort of if you were on one of our 15 roof terraces, on one of our front garage townhomes on the 16 left-hand side of the site. And you are overlooking the park 17 space and the height and massing of the townhomes, again 18 being a three-story façade with the loft setback. But the 19 idea is to kind of show scale of that park space. And then 20 the stream valley buffer on the right hand side with of the 21 townhomes in the background. 22 And I believe that's the last rendering. Again, 23 these are very conceptual. We are super early in the 24 process, but at least there is an idea of height and scale in 25 the renderings. Then we always try to make sure we across</p>
<p style="text-align: right;">237</p> <p>1 development, but also of the Strathmore road there. 2 And then there is some -- a couple about the 3 renderings internal to the site if you're interested. But 4 you know, they don't directly address this issue of 5 compatibility with the surrounding neighborhood. 6 MS. GIRARD: I think we can scroll through them, 7 just so they have an explanation in the record. I think that 8 would be helpful. 9 HEARING EXAMINER BAUMGARDNER: So we are scrolling 10 through. Let me just get the number. Exhibit 58B. We are 11 currently on page 3 going through -- which is labeled as 12 description of image 2, going to the description of image 3 13 next. 14 MR. MCLAURIN: Yeah. So what this is, as you exit 15 the community north towards Strathmore, this is a view of 16 what you might see there with the existing neighborhood 17 beyond the buffer. The Brandywine building would be to the 18 right and the single-family homes would be to the left. And 19 the purpose of this was to really give you an idea of scale 20 of the street exiting the community, possible signage, the 21 median, the landscaping, and then the sidewalk, streetscape 22 system on either side. 23 HEARING EXAMINER BAUMGARDNER: Scrolling through 24 to the page that says, description of image 4. 25 MR. MCLAURIN: Right. And so this is a view, you</p>	<p style="text-align: right;">239</p> <p>1 the idea of quality of materials and quality of design, even 2 though the design will continue to evolve, but it's important 3 to get that across as early as possible. 4 MS. GIRARD: Thank you. Mr. McLaurin, in your 5 expert opinion as an architect are the proposed use is 6 suitable for the site and compatible with the existing and 7 improved adjacent development? 8 MR. MCLAURIN: Yes, I believe they are. 9 MS. GIRARD: And in your expert opinion as an 10 architect, will the proposed development adversely affect the 11 character of the surrounding neighborhood? 12 MR. MCLAURIN: No, I really don't think they do. 13 Not only just from the site design standpoint, but also the 14 type of homes and buildings that we are providing. 15 MS. GIRARD: That's all I have for Mr. McLaurin. 16 HEARING EXAMINER BAUMGARDNER: Thank you, Ms. 17 Girard. Any cross-examination of this witness? We will 18 start with Mr. Shaffer. 19 MR. SHAFFER: I have no questions at this time. 20 HEARING EXAMINER BAUMGARDNER: Okay. Thank you, 21 sir. Mr. Burdin? 22 MR. BURDIN: Yeah, I just have two quick 23 questions. 24 HEARING EXAMINER BAUMGARDNER: And Mr. Burdin, one 25 second. For the benefit of the court reporter, this is Doug</p>

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<p style="text-align: right;">240</p> <p>1 Burdin; D-O-U-G, B-U-R-D-I-N. He is a party of record.</p> <p>2 MR. BURDIN: Okay.</p> <p>3 HEARING EXAMINER BAUMGARDNER: Go ahead Mr.</p> <p>4 Burdin.</p> <p>5 MR. BURDIN: Ms. McLaurin, did you prepare or</p> <p>6 approve the renderings we were just looking at?</p> <p>7 MR. MCLAURIN: I did not prepare them. I did</p> <p>8 approve them.</p> <p>9 MR. BURDIN: Okay. The sidewalk on the north side</p> <p>10 of Strathmore in the buffer zone that went from Strathmore to</p> <p>11 the access road, that does not currently exist, correct?</p> <p>12 MR. MCLAURIN: No, I don't think it does.</p> <p>13 MR. BURDIN: Okay. And it's not in the proposal;</p> <p>14 is that correct?</p> <p>15 MR. MCLAURIN: I will defer. I don't believe it</p> <p>16 is, but I will defer to one of the experts on the actual</p> <p>17 technical aspects of the site plan. I don't think we're</p> <p>18 showing a sidewalk. I think that's the -- that's the bus</p> <p>19 shelter. That's the paving associated with the bus shelter.</p> <p>20 MR. BURDIN: Well, if we just --</p> <p>21 MR. MCLAURIN: Is it possible to go back to the</p> <p>22 rendering exhibit?</p> <p>23 MR. BURDIN: Yeah. It's a sidewalk that goes</p> <p>24 north from Strathmore to the Strathmore access road making it</p> <p>25 seem like you can walk across the intersection and easily get</p>	<p style="text-align: right;">242</p> <p>1 sidewalk is existing today. That's right. That sidewalk is</p> <p>2 there today. I'm looking at it, the plan, Exhibit 35. If</p> <p>3 that's still up.</p> <p>4 MR. BURDIN: Okay. Well, I don't want to belabor</p> <p>5 this. Maybe somebody who lives on Strathmore access can</p> <p>6 confirm whether or not that south/north sidewalk is there.</p> <p>7 This is important for potential, later testimony. I'm not</p> <p>8 just belaboring this point for no reason.</p> <p>9 MR. MCLAURIN: Okay. I'm looking at an aerial and</p> <p>10 the sidewalk is showing up on the aerial as well too.</p> <p>11 MR. BURDIN: Okay. I wasn't, I wasn't sure. I</p> <p>12 just wanted to make sure. Thank you. That's all I have.</p> <p>13 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>14 Thank you, Mr. McLaurin. Ms. Girard, any redirect?</p> <p>15 MS. GIRARD: No, nothing.</p> <p>16 HEARING EXAMINER BAUMGARDNER: Okay. With that</p> <p>17 the witness for his testimony. Your next witness, if you</p> <p>18 have anymore, Ms. Girard.</p> <p>19 MS. GIRARD: Well I --</p> <p>20 MS. BENNETT: May I ask a question?</p> <p>21 HEARING EXAMINER BAUMGARDNER: I'm sorry</p> <p>22 Councilwoman Bennett. Yes, what was your question, ma'am?</p> <p>23 MS. BENNETT: I just want to ask Mr. McLaurin</p> <p>24 whether EYA considered options to place the care center on</p> <p>25 the western side and/or more inside of the housing</p>
<p style="text-align: right;">241</p> <p>1 to that access road.</p> <p>2 MR. MCLAURIN: Are you talking a sidewalk on the</p> <p>3 south side of Strathmore? Or on the north side of</p> <p>4 Strathmore?</p> <p>5 MR. BURDIN: North side.</p> <p>6 MR. MCLAURIN: Well --</p> <p>7 MR. BURDIN: To the right of the white car where</p> <p>8 there is a single person walking toward us.</p> <p>9 MR. MCLAURIN: That's paving associated with the</p> <p>10 bus shelter. You will see it does not continue east or west</p> <p>11 along that road. I believe that's just paving associated</p> <p>12 with the bus shelter. But I would let Mr. Sloan clarify that</p> <p>13 later on if there is an opportunity. But --</p> <p>14 MR. BURDIN: So you think that sidewalk that's</p> <p>15 running sidewalk south to north with the little person that's</p> <p>16 on -- is currently there?</p> <p>17 MR. MCLAURIN: Oh, south to north? I apologize.</p> <p>18 I thought you meant parallel to --</p> <p>19 MR. BURDIN: No.</p> <p>20 MR. MCLAURIN: I do not -- I do not know that. I</p> <p>21 can go and look at a plan. No, I don't --</p> <p>22 (Crosstalk)</p> <p>23 MR. BURDIN: -- that lives on Strathmore access</p> <p>24 can testify to that later.</p> <p>25 MR. MCLAURIN: Yeah. Well, it does seem that that</p>	<p style="text-align: right;">243</p> <p>1 development.</p> <p>2 MR. MCLAURIN: Yes, we did actually. We felt</p> <p>3 like, from the standpoint of impact on the western stream</p> <p>4 valley buffer and from the standpoint of impact on grade,</p> <p>5 that it was better suited on the location that we are showing</p> <p>6 it now. But we did create studies and analyze multiple</p> <p>7 locations for the care center on the site.</p> <p>8 MS. BENNETT: Thank you. I appreciate it.</p> <p>9 MR. MCLAURIN: You're welcome.</p> <p>10 HEARING EXAMINER BAUMGARDNER: Thank you, ma'am.</p> <p>11 Ms. Girard, I will turn it back over to you.</p> <p>12 MS. GIRARD: Yeah, I was just noting, as I did at</p> <p>13 the beginning, that we intend to recall Mr. Sloan. But I</p> <p>14 think -- I anticipate we will have to after the opposition</p> <p>15 has their witnesses anyway. So if it's okay with everyone, I</p> <p>16 would circulate those exhibits and we just do it all at once</p> <p>17 when we get our rebuttal.</p> <p>18 HEARING EXAMINER BAUMGARDNER: That's fine with</p> <p>19 me. So we will switch gears and move over to -- we will</p> <p>20 start with Mr. Shaffer. Mr. Shaffer, now is your opportunity</p> <p>21 to either give an opening statement if you would like. Or</p> <p>22 you can call your first witness, sir.</p> <p>23 MR. SHAFFER: I will give a very brief opening</p> <p>24 statement and then get straight to the witness. I don't</p> <p>25 think that the position of the Association or even most of</p>

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<p style="text-align: right;">244</p> <p>1 the citizens opposing this, is that we are opposed to this 2 development per se. I think our concerns are primarily with 3 traffic and environment. And we would like to see those 4 addressed differently and better, but the proposal that's 5 been presented here.</p> <p>6 But we do believe that if the application were 7 approved, it should be with some of the conditions that we 8 have asked for in our testimony and in our papers so far.</p> <p>9 So with all that having said, let's -- I will 10 start with the president of our Association, Kip Edwards.</p> <p>11 HEARING EXAMINER BAUMGARDNER: And Mr. Shaffer, 12 when you close, whenever that occurs, please make sure to 13 list what those conditions might be so that I have a very 14 clear understanding of what additional conditions are being 15 requested by the community.</p> <p>16 MR. SHAFFER: Okay. I will let Mr. Edwards 17 address that as well (inaudible). Thank you.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Mr. Edwards, there 19 you are. Sir, please give me your name, your address, and a 20 good email address for you, please.</p> <p>21 MR. EDWARDS: Good morning. My name is Kip 22 Edwards; K-I-P, E-D-W-A-R-D-S. And my address is 5312 Bangor 23 Drive, Kensington, Maryland, 20895.</p> <p>24 HEARING EXAMINER BAUMGARDNER: And please raise 25 your right hand.</p>	<p style="text-align: right;">246</p> <p>1 work for me to handle on my own, or the members of the 2 committee to handle on their own. And so I formed an ad hoc 3 committee to study the proposed applications and the plans 4 (inaudible) Holy Cross and the Applicant were putting forward 5 to the community.</p> <p>6 So we put out a call to our listserv to request 7 for volunteers and the amount of outreach that I got was, 8 quite frankly, very surprising. Dozens and dozens of people 9 reached out saying that they were interested in this and were 10 very concerned about it. And we ultimately had about 16 11 members of our community participate regularly in the group 12 that studied the development. So the purpose of the ad hoc 13 committee was to study various demands of subject matter that 14 we received were important to the neighborhood. And the 15 committee was to report findings to me so that I could 16 communicate a position of the neighborhood to the relevant 17 decision-makers.</p> <p>18 MR. SHAFFER: And can you describe the findings 19 that the members of your committee communicated to you?</p> <p>20 MR. EDWARDS: Sure. So something that became 21 clear during this process is the fact that, as was 22 communicated to me, the planning board staff based their 23 conclusions and recommendations on traffic reports which the 24 community felt were inherently flawed. So the first traffic 25 study, as we talked about yesterday, was based on data</p>
<p style="text-align: right;">245</p> <p>1 Do you swear or affirm under penalties of perjury 2 that the testimony you are about to give is the truth, the 3 while truth and nothing but the truth?</p> <p>4 MR. EDWARDS: I do.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, the 6 witness is yours.</p> <p>7 MR. SHAFFER: Thank you. Mr. Edwards, for who are 8 you testifying today?</p> <p>9 MR. EDWARDS: So I am the president of the Garrett 10 Park Estates, the White Flint Park Citizens' Association. 11 And that's who I am testifying for today.</p> <p>12 MR. SHAFFER: Can you describe what that 13 association is?</p> <p>14 MR. EDWARDS: Sure. The Association represents 15 about 650 homes in the Garrett Park Estates, White Flint Park 16 neighborhoods, which of the neighborhoods to the north of the 17 proposed development. We have our -- the area of the 18 neighborhood is a long Strathmore Avenue and sort of in the 19 corner between Strathmore and Rockville Pike going north.</p> <p>20 MR. SHAFFER: Okay. Has the Association and its 21 members undertaken efforts to analyze the anticipated impact 22 of this development on their community?</p> <p>23 MR. EDWARDS: Yes. So when we were first notified 24 about the proposed development last, I believe it was last 25 winter, I decided that it was probably going to be too much</p>	<p style="text-align: right;">247</p> <p>1 acquired during the pandemic, sort of at a peak time of the 2 pandemic when there wasn't much activity.</p> <p>3 And that was the prevailing document for many 4 months of the planning board process. The original LATR was 5 then updated in August as was described yesterday, to include 6 historic data, so pre-pandemic data, at -- I believe it was 7 DOT's request, just intuiting that this data didn't paint an 8 accurate picture.</p> <p>9 The historical counts available were really aged. 10 They were from five, eight years ago. And so everyone in the 11 county knows how much traffic has increased in this area 12 since those counts were taken. They were before Pike and 13 Rose and other developments in the area. So we know that the 14 data which formed the basis for both the original LATR and 15 the updated LATR were flawed because we did our own lay 16 count, which we can describe in a minute.</p> <p>17 Some of the other findings of the committee were 18 also important. One of the things that became apparent was 19 that the green buffer space along Strathmore Avenue between 20 Strathmore and Strathmore service road would be a potential 21 area for the Applicant to want to encroach upon to develop 22 whatever sort of mitigation strategies that they sought. And 23 that's something that was very important to the group. The 24 notion that the Applicant will relieve the burdens of traffic 25 that their development creates by encroaching upon that green</p>

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<p style="text-align: right;">248</p> <p>1 buffer space was very concerning for people.</p> <p>2 Now, other concerns that were brought up probably</p> <p>3 just aren't -- well, one of them probably isn't necessarily</p> <p>4 applicable, unfortunately, to this process which was the</p> <p>5 burden on schools. Garrett Park Elementary is already at</p> <p>6 capacity and may be operating overcapacity soon, I believe.</p> <p>7 And adding what could be -- I think based on the calculations</p> <p>8 we did was potentially 17 students to Garrett Park Elementary</p> <p>9 school was very concerning because the school is already</p> <p>10 stressed.</p> <p>11 And by the time this development comes online it</p> <p>12 was going to be probably thousands potentially of other</p> <p>13 residents coming online in the area, certainly hundreds. And</p> <p>14 so that burden on schools was a top priority and a top</p> <p>15 concern for people. Also there were -- people take point</p> <p>16 with the development plans as they are now in that they claim</p> <p>17 that it is sort of a recreation focused development and there</p> <p>18 is lots of open space when we just don't see that in the</p> <p>19 plans. There is I think 0.44 acres devoted to a walking path</p> <p>20 around the development.</p> <p>21 But I believe that still the plan is not for that</p> <p>22 to be lit. Correct me if I'm wrong. And so we're just going</p> <p>23 to have a dark path next to a stream that is on the rear of</p> <p>24 the development, which to us is concerning because it creates</p> <p>25 a potential safety hazard because we would have a dark area</p>	<p style="text-align: right;">250</p> <p>1 the morning.</p> <p>2 And our count was much higher than the numbers</p> <p>3 used in the August 2021 LATR supplemental report, which is</p> <p>4 what planning board staff ultimately relied on when they met</p> <p>5 their conclusions. The traffic counts we took were from</p> <p>6 December 13, 2021 at Stillwater Avenue and Strathmore Avenue.</p> <p>7 Our count, according to the Camlytics software, for what our</p> <p>8 neighborhood knows is the true a.m. peak period, which is</p> <p>9 when the school is in session, with at least 1,970 trips,</p> <p>10 which was 63 percent higher than what the Applicants'</p> <p>11 original -- the traffic site-based -- the Applicants' traffic</p> <p>12 consultant based in their original analysis and mitigation</p> <p>13 strategies on the intersection. I believe it was -- that</p> <p>14 intersection was I believe 1,205 trips.</p> <p>15 Now the Applicant later submitted updated traffic</p> <p>16 counts for this intersection which were higher than the</p> <p>17 original 1,205 trips, but certainly lower than our 1,970</p> <p>18 trips for the intersection. So the neighborhood's opinion is</p> <p>19 the reality is we just don't have an accurate picture of the</p> <p>20 traffic here. And frankly, people just find it hard to</p> <p>21 believe that this development will have no impact on traffic</p> <p>22 along Strathmore Avenue even with the mitigation strategies.</p> <p>23 We have thought long and hard about how the</p> <p>24 traffic consultant came to this conclusion. And without</p> <p>25 knowing anything about the software that they used to perform</p>
<p style="text-align: right;">249</p> <p>1 that is intended for people to walk that would be unlit and</p> <p>2 out of sight to people in the development. So that was a</p> <p>3 concern.</p> <p>4 There were also concerns raised about how ADA</p> <p>5 accessible that area was. And of course everyone went back</p> <p>6 to traffic, traffic, traffic. So speaking of which, we did</p> <p>7 our own lay count one morning in December because we believed</p> <p>8 that the data that was underlying the LATR and the</p> <p>9 supplemental LATR was flawed.</p> <p>10 MR. SHAFFER: So can you describe how you did that</p> <p>11 study and what means you used?</p> <p>12 MR. EDWARDS: Sure. So we are, I should note for</p> <p>13 the record, not traffic consultants. We are not experts in</p> <p>14 traffic studies. We have learned a lot over the last six</p> <p>15 months or so, but basically we bought a camera that was an</p> <p>16 IP-based camera that we set up on the porch of a committee</p> <p>17 members home at the corner of Stillwater and Strathmore right</p> <p>18 where the main entrance to the Holy Cross Academy is.</p> <p>19 We initially wanted to count vehicles ourselves,</p> <p>20 but realized there were too voluminous for us to manually</p> <p>21 count accurately. And so I purchased a traffic counting</p> <p>22 software service called Camlytics. That's;</p> <p>23 C-A-M-L-Y-T-I-C-S. And the software uses machine learning to</p> <p>24 count cars which enter and exit the frame. We did this for</p> <p>25 one hour period from 7:20 in the morning I believe to 8:20 in</p>	<p style="text-align: right;">251</p> <p>1 these analytics number which is probably very sophisticated,</p> <p>2 the only thing that we could think of is problems in the</p> <p>3 baseline data that they were using, the traffic counts. But</p> <p>4 not only with the existing traffic along Strathmore, but also</p> <p>5 their assumptions about how many trips this development will</p> <p>6 create during peak periods.</p> <p>7 And remember, the proposed development adds 125</p> <p>8 residences. So possibly 250 additional vehicles. In</p> <p>9 addition to that, I believe there is 150 resident assisted</p> <p>10 living facility, with daily visitors, and maybe 50 employees.</p> <p>11 I forget what exactly they said yesterday. You know, 24 hour</p> <p>12 staffing. Probably frequent emergency medical response,</p> <p>13 frequent deliveries. This is going to be a heavily used a</p> <p>14 commercial facility there.</p> <p>15 So with 250 vehicles in the residential areas</p> <p>16 potentially, assuming one or two per house, plus the staff</p> <p>17 that is going to work at the senior living facility, this</p> <p>18 could mean more than 300 additional vehicles making multiple</p> <p>19 trips a day. That's a significant added burden to an already</p> <p>20 overburdened road. We already have, frankly, school buses</p> <p>21 making illegal maneuvers to access the service road to avoid</p> <p>22 traffic during morning rush.</p> <p>23 And we know many of our residents are trapped in</p> <p>24 the neighborhood during morning and the evening rush with no</p> <p>25 ability to access Strathmore. We are often locked into our</p>

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<p style="text-align: right;">252</p> <p>1 neighborhood until a good Samaritan just decides to lead us 2 into line. And this isn't just our perception, by the way. 3 The Applicant's own data shows that Strathmore Avenue is 4 already overburdened. The traffic study submitted by the 5 Applicant's consultant appeared to acknowledge significant -- 6 I believe they said six times the Maryland SHA standard for 7 morning peak hour congestion. 8 But somehow adding hundreds of vehicles and a 9 senior living facility won't result in any additional 10 congestion. It just doesn't seem accurate to us. So that's 11 the perception for the neighborhood. And that was sort of 12 the -- those were some of the key findings that we made. 13 MR. SHAFFER: Can you describe any additional 14 concerns that the neighborhood has in addition to the traffic 15 issue and safety issue you just presented? 16 MR. EDWARDS: Sure. So there were environmental 17 concerns that were raised by the community. So this is a 18 dense development and it removes one of the areas few last 19 large green spaces next to wetlands and a stream. And if you 20 look at the 2018 Grosvenor minor master plan you will see 21 that this area was blocked out and green. It was designed to 22 be -- it was intended to be a -- I believe they called it a 23 school and civic use, surrounded by what would be residences 24 and new commercial, I believe CRA zoned property above 25 Grosvenor.</p>	<p style="text-align: right;">254</p> <p>1 submissions with relation to its proximity Metro and MARC 2 train. One of the prevailing things we kept hearing from 3 planning board staff and the Applicant was that this fits 4 within the county's push to have residences close to Metro. 5 And we think that's great. There should be residences close 6 to Metro. 7 Unfortunately, by not creating a path to access 8 Tuckerman or even preferably a road to access Tuckerman Lane 9 in the rear of the neighborhood, the actual walk times to the 10 Metro put it in reality much further away from the Metro than 11 it looks on the map. As the crow flies, this development is 12 incredibly close to the Metro and in line with all the plans 13 about smart growth. But without access on foot to Tuckerman 14 Lane, the walk times to the Metro will be much, much longer 15 than reported in the Applicant's submissions. 16 The Applicant has suggested that it only takes 10 17 minutes to walk from the development to Metro and to the 18 train station in Garrett Park. We've walked -- members of 19 the community have walked both starting from the Holy Cross 20 main entrance and walked both routes at a relatively fast 21 pace, they said. These were healthy adults. And the actual 22 walking time by an average walker is much closer to 15 23 minutes in the best of weather. 24 So for those residents in the back of the 25 development, the walk would be even longer to both stations,</p>
<p style="text-align: right;">253</p> <p>1 According to the EPA, I believe there is no 2 baseline water quality data for that wetland area, and nor is 3 there a baseline water quality data for the stream running 4 through the property which will undoubtedly catch sedimentary 5 runoff during construction and will absorb nearly all of the 6 runoff caused by the massive amount of new non-permeable 7 service area created by the proposed development. So we are 8 very concerned about potential environmental impacts of the 9 zoning change. 10 I think the neighborhood's downstream too of the 11 stream, which we are not, should be concerned as well for 12 storm water drainage. I know they -- I don't think they have 13 participated meaningfully in this process, but I think that's 14 something that should be considered. We have not seen, I 15 don't believe, any documents reflecting with precision the 16 amount of impermeable surface area that will replace the 17 green space. 18 And you know, this isn't just a convenient talking 19 point for us either. Garrett Park is a very environmentally 20 focused neighborhood. I believe one of the -- the town has a 21 head arborist. It's intended to be kind of like a living 22 Arboretum where people are signed by trees and green space. 23 So this is very important for people. 24 Another concern that people brought up related to 25 just what we perceived as inaccuracies in the Applicant's</p>	<p style="text-align: right;">255</p> <p>1 possibly more like 20 minutes. It's also a very steep 2 incline. So in the summer it's -- when it's humid and 100 3 degrees in the area, this is not going to be a very 4 attractive walk to the Metro. 5 The employees of the assisted living facility I 6 should note, would have an even longer walk to the Metro. 7 And MARC train is not really a feasible commuting option 8 every day for many of those employees just because of the 9 times that they -- that their shifts start. And so, yeah, 10 the -- if the Applicant had just planned to add a footpath or 11 a community entrance to Tuckerman Lane or an entrance to the 12 school on Tuckerman Lane, a lot of our community's concerns 13 would have been assuaged. But they didn't. 14 And so this has been the biggest -- probably the 15 biggest issue that has been raised over and over again. It's 16 why is there no access to Tuckerman Lane. And the answers we 17 keep getting all seem to sort of dance around the issue that 18 it would just be, quite frankly, expensive. It would be 19 expensive to put a walking path due to the terrain. And it 20 would be even more expensive to put a road. That dichotomy 21 of what we know the answer really is and the talking points 22 that we hear just has, quite frankly, rubbed some of the 23 members of the community the wrong way. 24 So this development in many people's opinion in 25 many members of the community, it is just too dense for</p>

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<p style="text-align: right;">256</p> <p>1 Strathmore to support, especially when you consider the 2 cumulative effect of all the other developments which are 3 coming online in the near future. 4 MR. SHAFFER: So as I indicated in my opening, 5 we're not necessarily opposed to this concept. What 6 conditions do you believe would make this project more 7 acceptable to the community you represent? 8 MR. EDWARDS: Yeah. So in our written testimony 9 we submitted, I believe six requested stipulations. So -- 10 and I can go through them 11 MR. SHAFFER: Yeah, please do. 12 MR. EDWARDS: Stipulation one was, if the hearing 13 examiner recommends approval of the LMA, we believe it should 14 only be done on condition that all documentation for any 15 future development materials be provided in an accessible 16 format for the visually impaired. This has been an issue for 17 us and is really hindered our ability to represent ourselves 18 we believe, in an effective manner. 19 Our second stipulation -- well, yeah. Our second 20 stipulation is if the hearing examiner recommends approval of 21 the LMA, it should only be done on condition that measures to 22 address cut through traffic in our neighborhood on Flanders 23 Avenue and Stillwater be built in the future development 24 plans. Such measures might include forbidding nonresidents 25 from entering our neighborhood during peak traffic times,</p>	<p style="text-align: right;">258</p> <p>1 already zip down. But we also want to make sure that the 2 proposed new turn lanes or any of the traffic abatement 3 measures that are part of these plans are not created by 4 carving into this green buffer zone. 5 We certainly don't want to see the loss of trees 6 or shrubs along this buffer, both of which -- if we were to 7 take those trees and shrubs out, it would bring a lot of 8 traffic noise and just car pollution significantly closer to 9 the homes there that face Strathmore Avenue. The fifth 10 requested circulation was that if they hearing examiner 11 recommends approval of the LMA, it should only be done on 12 condition that the new traffic lights -- or that new traffic 13 lights are installed as Stillwater and Strathmore as well as 14 Flanders and Rockville Pike to facilitate safe entry and exit 15 to and from our neighborhood. 16 There are approximately 650 homes in Garrett Park 17 Estates, White Flint Park, and a very modestly estimated 18 1,000 vehicles in the Garrett Park Estates, White Flint Park 19 neighborhood that are associated with these homes. These 20 vehicles leave the neighborhood either by Flanders Avenue or 21 Stillwater Avenue on either side (inaudible) and Rockville 22 Pike. So we are requesting the traffic lights located at 23 these intersections to facilitate safe vehicular and 24 pedestrian entry and exit from Garrett Park Estates, White 25 Flint Park.</p>
<p style="text-align: right;">257</p> <p>1 potentially the addition of speed bumps or speed cameras on 2 Stillwater to deter dangerous driving. 3 And a third request is stipulation was we think 4 this development needs an actual park. The proposed plans 5 reserve very little available green space and expects 6 families to leave their new neighborhood really to access our 7 neighborhood's already heavily used playgrounds nearby. So 8 we believe that approval should be contingent on the 9 Applicant incorporating an ADA compliant accessible park, 10 large and appropriate enough for this intergenerational 11 community. 12 I mean, right now we have a walking path which is 13 in -- faces the back of a lot of the townhome and terminates 14 into a lawn area with some seating. And I know it will 15 probably look nice, but it's not a park. And it's not large 16 enough for this development. The fourth requested 17 stipulation was if the hearing examiner recommends approval 18 of the LMA it should be done on a condition that the future 19 development preserves the existing green buffer along 20 Strathmore Avenue. 21 So the homes along Strathmore Avenue access road 22 on the north side of the street are separated from the 23 traffic and road noise by this green buffer zone with trees 24 and shrubs. Residents do not want to see spillover traffic 25 on this narrow access road. It's a one-way road which people</p>	<p style="text-align: right;">259</p> <p>1 Placing any traffic light at the new main entrance 2 to the proposed development without some sort of signalized 3 control at these intersections could result in the residence 4 of Garret Park, White Flint Park being unable to exit our 5 neighborhood because the red light is going to stop there at 6 the main entrance and backup traffic, which it already does. 7 It backs up bumper-to-bumper, standstill traffic. Nobody is 8 moving during peak traffic times. 9 I lied. There were seven requested stipulations. 10 This is requested stipulation six, approval of the LMA should 11 include a prohibition of commencement of construction if 12 projected overcrowding at any school which the development 13 would feed into exceeds 120 percent this is intended to sort 14 of reinstate in a very -- in a generous way, the freeze on 15 development that the county council had lifted previously 16 which prohibited development in the clusters where schools 17 were in excess of 120 percent capacity. How we can rightly 18 build a development that's going to add students into a 19 cluster of schools where there would be overcrowding in 20 excess of 120 percent, it's just not right. 21 Our last requested stipulation says that approval 22 of the element to be conditioned on the inclusion of a rear 23 entrance and exit either to the community or to the Holy 24 Cross Academy, and a footpath on to Tuckerman Lane. We think 25 this simple addition with significantly ease traffic burdens</p>

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<p style="text-align: right;">260</p> <p>1 on Strathmore Avenue and improve the neighborhood's access to</p> <p>2 transit and the future commercial space at Grosvenor Metro,</p> <p>3 Grosvenor/Strathmore Metro station. It's a win-win for</p> <p>4 policy and our future neighbor's quality of life.</p> <p>5 I should note that we sincerely appreciated all of</p> <p>6 the interactions that we've had with planning board staff</p> <p>7 OZAH and the staff. Everybody has been extremely</p> <p>8 professional and has kind of, I think, understood the fact</p> <p>9 that this is not our full-time jobs, we are not professional</p> <p>10 developers, we do not understand the county code and all of</p> <p>11 the factors that go into these decisions. So we appreciate</p> <p>12 getting the opportunity to communicate our observations and</p> <p>13 the ability to raise some of these facts so that the hearing</p> <p>14 examiner can make a decision with all the facts. That's all</p> <p>15 we want.</p> <p>16 MR. SHAFFER: Is there anything else that I have</p> <p>17 missed, Mr. Edwards?</p> <p>18 MR. EDWARDS: I don't think so. I think some of</p> <p>19 the other witnesses can testify to their observations about</p> <p>20 living in the neighborhood and some of the impacts that they</p> <p>21 perceive the development will have.</p> <p>22 MR. SHAFFER: Okay. I have no further questions</p> <p>23 at this time.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>25 much. Ms. Girard, any cross-examination of this witness?</p>	<p style="text-align: right;">262</p> <p>1 that in the right-of-way that separates the project from the</p> <p>2 access lane.</p> <p>3 MR. EDWARDS: Okay. And then can you repeat the</p> <p>4 question then?</p> <p>5 MS. GIRARD: My question is, if the State Highway</p> <p>6 Administration or someone came through and said if we do</p> <p>7 these improvements, this project aside, it will enhance -- it</p> <p>8 will greatly improve upon the congestion that you are</p> <p>9 experiencing today, would the impacts to the median then be</p> <p>10 acceptable to the community?</p> <p>11 MR. EDWARDS: I think that the -- based on the</p> <p>12 fury of response that I got when it became clear yesterday</p> <p>13 that some of the plans were going to impact even a couple</p> <p>14 feet of that buffer, I think the community would be quite</p> <p>15 upset if any of that buffer were to be touched.</p> <p>16 MS. GIRARD: So they would prefer to keep traffic</p> <p>17 levels as they are rather than add a lane (inaudible)?</p> <p>18 MR. EDWARDS: I shouldn't testify to what the --</p> <p>19 that question wasn't asked during the committee's</p> <p>20 deliberations. And so I shouldn't speak on behalf of the</p> <p>21 community as to that.</p> <p>22 MS. GIRARD: Okay. You mentioned the trails not</p> <p>23 being lit and being dark at night. Are you aware of how</p> <p>24 Montgomery County Parks handles their trails, natural trails?</p> <p>25 MR. EDWARDS: No.</p>
<p style="text-align: right;">261</p> <p>1 MR. EDWARDS: Erin, you are on mute.</p> <p>2 MS. GIRARD: Sorry. Yes, you would think I would</p> <p>3 know that by now. I apologize in advance if I jump all over</p> <p>4 the place. I take frantic notes. And so we may be jumping</p> <p>5 around your testimony. But you had mentioned in the median</p> <p>6 in Strathmore Avenue. Are you aware, is that within the</p> <p>7 right-of-way? Or is that publicly owned? Privately owned?</p> <p>8 MR. EDWARDS: I don't -- I don't know the answer</p> <p>9 to that question, but I believe some of the other -- the</p> <p>10 later witnesses may know the answer to that.</p> <p>11 MS. GIRARD: Okay. And are you aware of the</p> <p>12 testimony yesterday by the traffic consultant about how the</p> <p>13 installation of turn lanes and the correction of the</p> <p>14 alignment as Stillwater and the traffic signal would improve</p> <p>15 upon existing conditions even without the development?</p> <p>16 MR. EDWARDS: I'm aware that that's what the</p> <p>17 traffic consultant stated</p> <p>18 MS. GIRARD: So is it your position that even if</p> <p>19 these -- development aside, even if these improvements could</p> <p>20 fix the existing traffic issues, you would not want them done</p> <p>21 because they could impact that median?</p> <p>22 MR. EDWARDS: Are you talking about the median in</p> <p>23 between the lanes for people who cross the street on</p> <p>24 Strathmore Avenue?</p> <p>25 MS. GIRARD: The median that you were referring to</p>	<p style="text-align: right;">263</p> <p>1 MS. GIRARD: Are they lit?</p> <p>2 MR. EDWARDS: No, I don't know about Montgomery</p> <p>3 County Parks. I assume some are or some aren't. But across</p> <p>4 the stream on the Symphony Park trails, those are lit at</p> <p>5 night. And so we think that keeping the trails lit on the</p> <p>6 other side of the stream would be in line with the community.</p> <p>7 MS. GIRARD: Are you aware of whether those trails</p> <p>8 on the Symphony Park side and that lighting is within the</p> <p>9 stream valley buffer?</p> <p>10 MR. EDWARDS: I don't know.</p> <p>11 MS. GIRARD: And you mentioned that the trail will</p> <p>12 not be visible from the dwelling units. What are you basing</p> <p>13 that on?</p> <p>14 MR. EDWARDS: I was basing that off planning board</p> <p>15 staff commentary that I saw in some exchanges that appeared</p> <p>16 to go between planning board staff and the Applicant where</p> <p>17 they raised this concern about the trail being in the rear of</p> <p>18 the townhome sticks and there would be sort of -- I believe</p> <p>19 there was supposed to be some sort of wall or some sort of</p> <p>20 fencing that would in their eyes make the trail less visible</p> <p>21 to the people living there. And it would also just be in the</p> <p>22 rear and unlit. So that's what all that commentary comes</p> <p>23 from.</p> <p>24 MS. GIRARD: But you are -- are you saying that</p> <p>25 you are or are not aware of any responses that the Applicant</p>

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<p style="text-align: right;">264</p> <p>1 may have submitted to comments to staff made in that regard?</p> <p>2 MR. EDWARDS: I believe I saw some responses, but</p> <p>3 I don't believe I was super impressed. But if there are</p> <p>4 plans to make it more visible or make it more lit that I'm</p> <p>5 not aware of, I would be -- I would love to hear them.</p> <p>6 MS. GIRARD: On the traffic counts, did you</p> <p>7 actually count the cars in the video? Or did you just rely</p> <p>8 on the software?</p> <p>9 MR. EDWARDS: We did some -- I did some sampling</p> <p>10 to test if it seemed accurate. And in the sampling that I</p> <p>11 did it did seem quite accurate. I did not count all of the</p> <p>12 vehicles for the entire hour.</p> <p>13 MS. GIRARD: When you say sampling, can you be</p> <p>14 more specific?</p> <p>15 MR. EDWARDS: Yeah. So for like the first five</p> <p>16 minutes or so, just looking back on it, I would say the first</p> <p>17 five minutes or so of the video I sort of count of the cars</p> <p>18 and I looked at the timestamps on the software saying new</p> <p>19 objects were seen. And it seemed to line up quite</p> <p>20 accurately.</p> <p>21 MS. GIRARD: Did you hear Ms. Wagner's testimony</p> <p>22 yesterday that they also reviewed the first 10 minutes in</p> <p>23 slow-mo and found it to be greatly exaggerated?</p> <p>24 MR. EDWARDS: Yeah. I did hear that. I was</p> <p>25 curious to hear how exaggerated it was. I didn't hear any</p>	<p style="text-align: right;">266</p> <p>1 anticipated emergency responses based on their experience</p> <p>2 with other properties?</p> <p>3 MR. EDWARDS: I can't recall it or recite it, but</p> <p>4 I'm sure she has accurate data.</p> <p>5 MS. GIRARD: And --</p> <p>6 MR. EDWARDS: I have no reason to doubt whether</p> <p>7 her statement was inaccurate.</p> <p>8 MS. GIRARD: Correct. And as far as -- I guess my</p> <p>9 question is, in questioning the traffic, in addition to</p> <p>10 relying on your own calculations, you've made assumptions</p> <p>11 regarding the frequency of emergency responses, that all</p> <p>12 staff would drive, that every house would generate two trips</p> <p>13 during the peak hour. Is this just your own opinion? Or is</p> <p>14 this -- did you consult with a traffic engineer?</p> <p>15 MR. EDWARDS: No, we did not consult -- we</p> <p>16 considered consulting with a traffic engineer. Our budget</p> <p>17 right now, I think we have about \$3,400 in the bank. And we</p> <p>18 have -- and it's actually -- I need to submit an expense</p> <p>19 report for the camera. So it's really probably more like</p> <p>20 3,100. So no, we just were able to fund a traffic</p> <p>21 consultant. So all those assumptions aren't -- we weren't</p> <p>22 creating a new calculation to challenge the traffic studies</p> <p>23 just because we aren't in a position to do so.</p> <p>24 One of our concerns about the emergency response</p> <p>25 was just with the design of the entrance. We just worried</p>
<p style="text-align: right;">265</p> <p>1 actual hard numbers.</p> <p>2 MS. GIRARD: I would have to go back as to</p> <p>3 whether -- I thought she did give a percentage, but we can</p> <p>4 certainly have her address that. You also mentioned in your</p> <p>5 testimony --</p> <p>6 MR. EDWARDS: Can I say, by the way, I don't --</p> <p>7 I'm not a traffic person. I'm not a traffic expert. And I</p> <p>8 never used the software before. It was a tool that we</p> <p>9 thought would be beneficial and add some color.</p> <p>10 MS. GIRARD: Right. I guess (inaudible).</p> <p>11 MR. EDWARDS: It may be -- it may be over or</p> <p>12 under, but I'm not sort of swearing to the accuracy of</p> <p>13 Camlytics software. So if someone did count it, which maybe</p> <p>14 should be done to create a super accurate count, that should</p> <p>15 be done.</p> <p>16 HEARING EXAMINER BAUMGARDNER: It was acknowledged</p> <p>17 that it was a lay software program that was used to enhance</p> <p>18 the community's understanding of the traffic impact. So it's</p> <p>19 certainly -- it's part of the evidentiary process, but it's</p> <p>20 included as a lay estimate based upon the community's desire</p> <p>21 to understand better the traffic count.</p> <p>22 MS. GIRARD: Understood. You also mentioned that</p> <p>23 on top of what you perceived to be the existing traffic,</p> <p>24 there would probably be frequent emergency responses. Were</p> <p>25 you aware of the testimony of Ms. Bacon yesterday about the</p>	<p style="text-align: right;">267</p> <p>1 that the -- like big fire trucks, if they were to respond,</p> <p>2 weren't going to want to pull into the roundabout area and</p> <p>3 may just park on the main entrance and just further backup</p> <p>4 traffic on Strathmore Avenue. That's just one of our</p> <p>5 concerns. Now maybe planning board staff and your designers</p> <p>6 and Brandywine, they may think that that's not an issue, and</p> <p>7 it very well may not be. But that was something that people</p> <p>8 talked about.</p> <p>9 MS. GIRARD: So was the bulk of your -- you</p> <p>10 mentioned numerous times in your testimony, perception. So</p> <p>11 what efforts were made to try to marry people's perceptions</p> <p>12 with what may be the facts?</p> <p>13 MR. EDWARDS: Well frankly, people's perceptions I</p> <p>14 think are quite accurate here. We are -- we may not be</p> <p>15 traffic express, but we are experts in Strathmore Avenue. We</p> <p>16 go on that -- I've lived here for five years and I travel on</p> <p>17 it probably two or three times a day. And I've been on it</p> <p>18 probably 1,500 times. And so there was no real effort to</p> <p>19 marry people's perception to some sort of scientific</p> <p>20 assessment until someone had the bright idea of setting up a</p> <p>21 camera and counting the cars. That was the closest I think</p> <p>22 we can do actually marrying our perception to some sort of</p> <p>23 actual sort of hard number or hard science. Is that your</p> <p>24 question?</p> <p>25 MS. GIRARD: Generally, yes. You also mentioned</p>

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<p style="text-align: right;">268</p> <p>1 the downstream. When you were talking about the</p> <p>2 environmental you mentioned that downstream should be worried</p> <p>3 about drainage. If I -- is that an accurate --</p> <p>4 MR. EDWARDS: Yeah.</p> <p>5 MS. GIRARD: What is that based on? It's on just</p> <p>6 the fact that it is a -- this is going to create a lot of new</p> <p>7 impermeable surface area, which is almost all going to drain</p> <p>8 into that stream and float downhill. And one of the</p> <p>9 community members whose name I will leave off the record said</p> <p>10 that he spoke with some people who live down there and they</p> <p>11 say that the stream gets quite rapid during storms. And so</p> <p>12 adding to that impermeable surface area and adding to the</p> <p>13 load to that stream I think would be something that they</p> <p>14 should be concerned about if they live there. I would</p> <p>15 certainly be.</p> <p>16 MS. GIRARD: Based on your layperson opinion?</p> <p>17 MR. EDWARDS: Absolutely.</p> <p>18 MS. GIRARD: Was there any attempt to evaluate the</p> <p>19 storm water concept plan or talk to staff about storm water</p> <p>20 measures and how that may or may not affect drainage?</p> <p>21 MR. EDWARDS: The closest person we had to an</p> <p>22 expert on storm water management was actually David Shaffer.</p> <p>23 And he's been an environmental lawyer for years and is very</p> <p>24 familiar with storm water management plans and things that</p> <p>25 affect storm water drainage and stream valleys. And frankly,</p>	<p style="text-align: right;">270</p> <p>1 commercial zone. And that's why we're here.</p> <p>2 So I don't know if it specifically mandated board</p> <p>3 to be that way, but it certainly -- just looking at it, look</p> <p>4 at the maps, it does appear to have been drawn as sort of</p> <p>5 ingrained, outlined around the property, and denoted for</p> <p>6 civic and school use.</p> <p>7 MS. GIRARD: So your assumption is that the -- is</p> <p>8 that the reflection of it as a current green space</p> <p>9 demonstrated an intent that it should remain so in the</p> <p>10 future?</p> <p>11 MR. EDWARDS: Yes. Yeah. Otherwise, why would</p> <p>12 they have denoted it that way on the map?</p> <p>13 MS. GIRARD: You mentioned again -- and I don't</p> <p>14 want to belabor this point pursuant to the hearing examiner's</p> <p>15 comments this morning. But you had mentioned again the</p> <p>16 connection to Tuckerman Lane. And you also emphasized your</p> <p>17 testimony your concern about the environment. Did you hear</p> <p>18 the testimony of the civil engineer and the land planner</p> <p>19 yesterday regarding what such a connection would do to the</p> <p>20 environment?</p> <p>21 MR. EDWARDS: You know what? I may have missed</p> <p>22 that one.</p> <p>23 MS. GIRARD: It's (inaudible)</p> <p>24 MR. EDWARDS: I can't comment on their -- on the</p> <p>25 previous testimony, no.</p>
<p style="text-align: right;">269</p> <p>1 a lot of -- we were really relying on him to build to analyze</p> <p>2 things. And for the longest time it was very difficult for</p> <p>3 them to come up with an accurate analysis because some of the</p> <p>4 documents weren't accessible to him.</p> <p>5 And I believe -- I don't believe Mr. Shaffer is</p> <p>6 going to be making himself a witness and questioning himself,</p> <p>7 but the plan seemed to be more of -- so theoretical that it</p> <p>8 wasn't really -- didn't create an opportunity to make any</p> <p>9 sort of accurate analysis even if he could.</p> <p>10 MS. GIRARD: But again --</p> <p>11 MR. EDWARDS: Which as I understand it, it's -- at</p> <p>12 this stage is I guess all that is required.</p> <p>13 MS. GIRARD: But there is no documentation, expert</p> <p>14 opinions, anything to support your perception in that regard?</p> <p>15 MR. EDWARDS: No, ma'am.</p> <p>16 MS. GIRARD: And you mentioned the removal of the</p> <p>17 green space in the Grosvenor Master Plan. That master plan</p> <p>18 call for it to be maintained open space or recommended as for</p> <p>19 Outlook acquisition of parklands?</p> <p>20 MR. EDWARDS: I believe it was just -- it's not --</p> <p>21 in the mass for the plan, it's not necessarily called park</p> <p>22 area. I believe it's school and civic space. And it is the</p> <p>23 noted that way on the map and the drawings for that 2018</p> <p>24 master plan. I believe that's all reason why we're here</p> <p>25 because the master plan didn't change it to be some sort of</p>	<p style="text-align: right;">271</p> <p>1 MS. GIRARD: What is your understanding of what</p> <p>2 such a connection may or may not do to the environment?</p> <p>3 MR. EDWARDS: Well, you know, the only</p> <p>4 understanding that we have is based on the access road and</p> <p>5 the bridge that was for, I believe it's the Cloisters, the</p> <p>6 community that is directly behind Holy Cross Academy. And</p> <p>7 they were able to successfully build a road across the stream</p> <p>8 there.</p> <p>9 MS. GIRARD: Do you know when that was built?</p> <p>10 MR. EDWARDS: I don't know.</p> <p>11 MS. GIRARD: Do you know how many cars it can</p> <p>12 accommodate?</p> <p>13 MR. EDWARDS: I don't know. It's about -- I would</p> <p>14 say the driving lanes are about as wide I believe as</p> <p>15 Strathmore Avenue. I believe it's one lane in, one lane out.</p> <p>16 MS. GIRARD: And with regard to your comments</p> <p>17 about open space, are you aware that the various zones</p> <p>18 contained in the zoning ordinance dictate a minimum amount of</p> <p>19 open space?</p> <p>20 MR. EDWARDS: Yes, generally.</p> <p>21 MS. GIRARD: And so is it your opinion that that</p> <p>22 needs to be exceeded in this case?</p> <p>23 MR. EDWARDS: Yes, in order to be sort of in</p> <p>24 keeping with the neighborhood that we are -- that it's going</p> <p>25 to be developed in, yes. It would be different certainly</p>

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<p>272</p> <p>1 than we think the other -- than the neighborhoods in the</p> <p>2 area. Certainly Symphony Park, we think, has a lot more sort</p> <p>3 of usable space. It's just our perception.</p> <p>4 MS. GIRARD: Okay. With regard to the traffic</p> <p>5 signals, you had mentioned wanting -- was in two or three? I</p> <p>6 was not --</p> <p>7 MR. EDWARDS: Yeah. So it's -- on Strathmore</p> <p>8 it's -- and this is pending the expertise of the planners and</p> <p>9 the State Highway Administration and of course the Applicant.</p> <p>10 A traffic signal at Stillwater and Strathmore, which is where</p> <p>11 the current entrance to the school is, is one of our</p> <p>12 requests. And then also on Flanders Avenue and Rockville</p> <p>13 Pike because we believe that there's going to be more cut</p> <p>14 through traffic for our neighborhood as a result of this</p> <p>15 development.</p> <p>16 So we want a -- that's the road that people would</p> <p>17 access to cut through our neighborhood to avoid traffic on</p> <p>18 Strathmore and to avoid the left turn lane backups from</p> <p>19 Rockville Pike south onto Strathmore. So a signal there to</p> <p>20 facilitate safe entry and exit from our neighborhood on</p> <p>21 Flanders is one thing we are requesting.</p> <p>22 MS. GIRARD: And are you aware of how the State</p> <p>23 Highway Administration considers whether traffic signals are</p> <p>24 warranted on their roads?</p> <p>25 MR. EDWARDS: I'm not, unfortunately.</p>	<p>274</p> <p>1 capacity?</p> <p>2 MR. EDWARDS: New? How new? I'm aware that they</p> <p>3 lifted the 120 percent --</p> <p>4 MS. GIRARD: Last year.</p> <p>5 MR. EDWARDS: Yes. So the reason for us -- well,</p> <p>6 I can just answer the question or tell you the reason why we</p> <p>7 want that.</p> <p>8 MS. GIRARD: I guess my question is -- right. My</p> <p>9 question is, so you are asking for a stricter standard to be</p> <p>10 applied to this specific case than is applied everywhere else</p> <p>11 in the county under the new growth policy?</p> <p>12 MR. EDWARDS: Well, yes. Just because the county</p> <p>13 lifted the prohibition doesn't mean that it relieves the</p> <p>14 county of its -- of its responsibility to ensure that schools</p> <p>15 aren't so overcapacity that it affects the quality of</p> <p>16 education that the children get. So just because they lifted</p> <p>17 the moratorium doesn't mean we think that we can abandon our</p> <p>18 responsibilities during planning processes.</p> <p>19 MS. GIRARD: Are you aware of the adequate public</p> <p>20 facilities ordinance and how it's administered with regard to</p> <p>21 school capacity?</p> <p>22 MR. EDWARDS: I'm not, no.</p> <p>23 MS. GIRARD: Okay. And did you testified that</p> <p>24 county council regarding your concerns when they were going</p> <p>25 through the growth policy?</p>
<p>273</p> <p>1 MS. GIRARD: And is it your testimony that the new</p> <p>2 light where proposed will not create sufficient breaks to</p> <p>3 facilitate people getting in and out of the neighborhood as</p> <p>4 was testified to by Ms. Wagner?</p> <p>5 MR. EDWARDS: Already there is backups that block</p> <p>6 Stillwater Avenue. If you're going on Stillwater south to</p> <p>7 Strathmore and the needed to turn left, already backups occur</p> <p>8 so that people are locked in the neighborhood. And that goes</p> <p>9 all the way down to, I believe the next signal is Kenilworth.</p> <p>10 And so traffic will back up all the way from Kenilworth to</p> <p>11 there. So by putting a traffic light for the down closer to</p> <p>12 Stillwater at the main entrance of the community, we believe</p> <p>13 that that will only cause traffic to back up even more and</p> <p>14 lock in the neighbors on Stillwater and people living in</p> <p>15 Jolly and Symphony Park too.</p> <p>16 MS. GIRARD: In this again is your perception of</p> <p>17 what would be appropriate? You haven't done any studies to</p> <p>18 determine whether that would be appropriate --</p> <p>19 MR. EDWARDS: Yes, ma'am.</p> <p>20 MS. GIRARD: And create the solution?</p> <p>21 MR. EDWARDS: That's correct. That's my</p> <p>22 perception. We have not done any sort of official studies.</p> <p>23 MS. GIRARD: And you reference this, but it seems</p> <p>24 like you are aware of the county council recently passing the</p> <p>25 new growth and infrastructure policy that addresses school</p>	<p>275</p> <p>1 MR. EDWARDS: Not during the growth policy. I've</p> <p>2 testified and members of our community have testified and</p> <p>3 participated in various proceedings of the county council.</p> <p>4 MS. GIRARD: But you didn't specifically raise</p> <p>5 this when they were adopting the new growth policy?</p> <p>6 MR. EDWARDS: That's correct, no.</p> <p>7 MS. GIRARD: I believe that's all I have. Thank</p> <p>8 you.</p> <p>9 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>10 much. Mr. Burdin, any questions for Mr. Edwards?</p> <p>11 MR. BURDIN: Yeah, just one about your counting of</p> <p>12 the cars. The -- I believe the traffic consultant yesterday</p> <p>13 criticized your count because it was not in accordance with</p> <p>14 the guidelines. I believe that's because you did it on a</p> <p>15 Monday. Did you do your study on a Monday?</p> <p>16 MR. EDWARDS: We did do the study on a Monday.</p> <p>17 Afterwards we found out that I guess the standard say you</p> <p>18 don't -- if it's going to be like an official count, which</p> <p>19 this was never intended to be. I guess you do it on a</p> <p>20 Tuesday, Wednesday, or Thursday I believe. Yes, it was done</p> <p>21 on a Monday.</p> <p>22 MR. BURDIN: Okay.</p> <p>23 MR. EDWARDS: And I believe that was the nature of</p> <p>24 that critique, which is fair.</p> <p>25 MR. BURDIN: Okay. That's all. I just wanted to</p>

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<p style="text-align: right;">276</p> <p>1 clarify that. Thank you.</p> <p>2 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>3 Mr. Shaffer, any redirect on Mr. Edwards?</p> <p>4 MR. SHAFFER: No. No, Your Honor.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Okay, thank you.</p> <p>6 Any other questions for Mr. Edwards from anyone who has</p> <p>7 joined us as a party? Looking down our list, I don't see any</p> <p>8 raised virtual hands or anyone trying to wave me down. We</p> <p>9 thank Mr. Edwards for his testimony here today. We will turn</p> <p>10 it back over to Mr. Shaffer for your next witness, sir.</p> <p>11 MR. SHAFFER: Okay. If these present -- is Arthur</p> <p>12 Ribeiro on?</p> <p>13 MR. RIBEIRO: Good morning. Yes, Mr. Shaffer,</p> <p>14 this is Arthur Ribeiro. I'm here.</p> <p>15 MR. SHAFFER: Okay, great. Could you please</p> <p>16 identify yourself for the record?</p> <p>17 MR. RIBEIRO: Yes. My name is Arthur Ribeiro da</p> <p>18 Silva. I am a resident of 5101 Strathmore Avenue in</p> <p>19 Kensington, Maryland 20895. That's a house that sits on the</p> <p>20 corner of Strathmore and Stillwater Avenues.</p> <p>21 HEARING EXAMINER BAUMGARDNER: And sir, what is a</p> <p>22 good email address for you?</p> <p>23 MR. RIBEIRO: So my email address is</p> <p>24 ARDaSilva@Verizon.net. And as Mr. Edwards described earlier</p> <p>25 with the ad hoc committee that was created, I was sort of put</p>	<p style="text-align: right;">278</p> <p>1 traffic at that intersection?</p> <p>2 MR. RIBEIRO: Yeah. So I see a lot of problems,</p> <p>3 one of which is traffic. I witness every day, every weekday,</p> <p>4 backups in front of my house here in the mornings and in the</p> <p>5 afternoons. The morning ones are from around 7:30 in the</p> <p>6 morning until roughly 8:20 or so when all the girls are</p> <p>7 dropped off at school and the traffic is no longer there to</p> <p>8 direct the traffic.</p> <p>9 There is two different traffic cops. They</p> <p>10 alternate who takes over there. And one of them is very</p> <p>11 loud. And when he is very upset with one of the drivers I</p> <p>12 can hear him screaming from my living room. And you can</p> <p>13 actually see him on exhibit -- what is -- this is Exhibit 67</p> <p>14 in my testimony. A picture of him is on PDF page 4. You can</p> <p>15 see the intersection right there. This picture was taken on</p> <p>16 the day that we did the video. The video was done from the</p> <p>17 porch on my house. And you can see a picture of the traffic</p> <p>18 in the morning there.</p> <p>19 MR. SHAFFER: Okay.</p> <p>20 MR. RIBEIRO: So I have concerns. So I can</p> <p>21 testify to the traffic that I see every day here. This</p> <p>22 traffic that -- thank you for showing the picture. So there</p> <p>23 is a backup that goes -- and so this is a picture that was</p> <p>24 taken facing south on to the -- to where the development will</p> <p>25 be. So to the right would be going towards Rockville Pike</p>
<p style="text-align: right;">277</p> <p>1 in charge of managing and coordinating the work of that</p> <p>2 committee. But I'm also, like I said, a resident that</p> <p>3 affronts the property.</p> <p>4 HEARING EXAMINER BAUMGARDNER: And can you raise</p> <p>5 your right hand, sir?</p> <p>6 MR. RIBEIRO: Yes.</p> <p>7 Do you swear or affirm under penalties of perjury</p> <p>8 that the testimony you are about to give is the truth, the</p> <p>9 while truth and nothing but the truth?</p> <p>10 MR. RIBEIRO: Yes.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>12 much. Mr. Shaffer, the witness is yours.</p> <p>13 MR. SHAFFER: Good morning. How long have you</p> <p>14 lived at that location, sir?</p> <p>15 MR. RIBEIRO: Also I've lived here for 14 years,</p> <p>16 just over 14 years in this property. And I purchased the</p> <p>17 property, I tore down the house and built it from foundation,</p> <p>18 a new property on this very site. And that's why earlier</p> <p>19 when the architect was speaking, he mentioned that there is a</p> <p>20 house with two stories. There are two houses, and my house</p> <p>21 is one of those. And the window behind me is a view from the</p> <p>22 second floor of Strathmore Avenue.</p> <p>23 MR. SHAFFER: Okay. And based upon your personal</p> <p>24 observations at that location for 14 years, what problems do</p> <p>25 you see with the proposal submitted by the Applicant on the</p>	<p style="text-align: right;">279</p> <p>1 and that traffic there goes all the way to Rockville Pike.</p> <p>2 There is actually another picture on page 14 of</p> <p>3 this PDF that actually shows the traffic going all the way up</p> <p>4 the hill towards Rockville Pike, as you can see there. So</p> <p>5 this traffic is -- happens in the morning and it happens in</p> <p>6 the afternoon when -- and so both pickup and drop off of the</p> <p>7 school. But it also continues on. So Strathmore is one of</p> <p>8 the key connectors between Connecticut Avenue and Rockville</p> <p>9 Pike East/West corridors here and here in Montgomery County.</p> <p>10 And it's only a two lane road.</p> <p>11 And so going into the -- the peak hours that</p> <p>12 usually go into 5:00 to 6:00 p.m. as well. So for example</p> <p>13 after school when I'm taking one of my kids to practice and I</p> <p>14 need to go east on Strathmore Avenue, I will be, just like</p> <p>15 the car that's sitting there waiting to take a left turn, I</p> <p>16 will be that car waiting to take a left turn. And the backup</p> <p>17 from that light that's on Kenilworth Avenue comes all the way</p> <p>18 to hear and further towards Rockville Pike. And so I, like</p> <p>19 Mr. Edward said, have to wait for a good Samaritan to allow</p> <p>20 me to take that left turn to go east.</p> <p>21 MR. SHAFFER: Okay.</p> <p>22 MR. RIBEIRO: Because at that point there is no</p> <p>23 cop to direct traffic.</p> <p>24 MR. SHAFFER: Right. What has been your</p> <p>25 observation, if any, about people using Stillwater as a cut</p>

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<p style="text-align: right;">280</p> <p>1 through to Rockville Pike when it's backed up to the light at 2 Strathmore and Rockville? 3 MR. RIBEIRO: I have definitely seen that happen. 4 What they do is they will either take a right turn here on to 5 Stillwater Avenue to go to Flanders and connects North to 6 Rockville Pike. Or sometimes if the backup is even further 7 back towards Flanders or Kenilworth, they will take the 8 service road, which is in the front of this picture here, and 9 they will drive west on the service road and then take a 10 right on Stillwater and go towards Flanders. 11 And I've seen MCPS bus -- school buses do this. 12 And I worry about emergency vehicles wanting to do this 13 because I don't know that this road is -- this access road is 14 really wide enough to accommodate a fire truck. And in 15 addition, this road is sort of considered part of like the 16 bike path that the -- and so if my understanding is correct 17 of the master plan, that there is like a bike path that goes 18 here. And my daughter, for example, she goes to school 19 riding her bike up this service road. So I worry about this 20 cut through traffic that would come with cars going really 21 quickly down this road. 22 MR. SHAFFER: Okay. What other concerns do you 23 have about the proposal? What other concerns do you have, if 24 any, about the proposal to put the light at the new center 25 driveway entrance to the Academy?</p>	<p style="text-align: right;">282</p> <p>1 the south side of Strathmore. And there is another bus stop 2 directly across the street from it on the north side of 3 Strathmore which my sons use. And that is so that the kids 4 do not have to cross the street. And so yesterday when the 5 traffic engineer was saying that the residents, the 6 elementary school residents of this future development would 7 have to cross Symphony Park twice to get to Garrett Park was 8 very concerning. 9 So you asked about one of my other concerns. So 10 the pedestrian and bike safety is another key concern, like I 11 raised earlier. And I was also worried because -- so we had 12 meetings with the developer. We had meetings with -- that I 13 organized for our committee to meet with parks and planning. 14 And when we had that meeting with Ms. Graham and her 15 colleagues, I was really concerned to see that they were not 16 aware that this crosswalk that you are showing a picture 17 right there does not have a signalized crossing. 18 They were under the impression that there was. 19 And so my concern was, have you ever even been here to see 20 the property. So later at the planning board meeting they 21 claimed that they had and they said this. But it just made 22 me made me really concerned that some of these planning 23 department staff maybe had not even been here to see what 24 they were approving and what they were analyzing. 25 So I mentioned the traffic. I mentioned the</p>
<p style="text-align: right;">281</p> <p>1 MR. RIBEIRO: Yeah. So I was happy to hear 2 yesterday that I think it was a traffic consultant said that 3 the school is considering still keeping the traffic cops to 4 help direct traffic. I don't know how useful the cop will be 5 to direct traffic when there is a stoplight. I think that 6 that cop might be more useful at this intersection here at 7 Stillwater to not only those who are trying to leave our 8 neighborhood to get onto Strathmore, but also to help 9 pedestrians cross the traffic -- or cross the street. 10 So as you can see, that crosswalk that's right 11 there, you can see that there is a yellow pedestrian 12 crosswalk sign that has been run over several times. This is 13 a very unsafe crosswalk. And I think that the -- adding a 14 traffic light here would not only help ease the traffic and 15 ease the difficulty that our neighbors have in exiting our 16 community, but would also help improve the safety for the 17 pedestrians who cross the street. 18 This is a very dangerous street to cross. There 19 is a light there. You can sort of make it -- see it in the 20 picture, but it's not very bright. I've crossed in the dark. 21 I've almost gotten run over there crossing that crosswalk in 22 the dark. And during the day, it's very dangerous, so much 23 so that MCPS bus routes are done in such a way that the kids 24 are not supposed across Strathmore Avenue. 25 So there is an MCPS bus stop at Symphony Park on</p>	<p style="text-align: right;">283</p> <p>1 pedestrian bike safety that I can testify to. The other 2 thing that I can testify to is the effect on the schools. 3 Mr. Edwards mentioned it a bit. So I have three kids, one in 4 each of school basically. I have a fifth grader. My 5 daughter is that Garrett Park Elementary School. I have a 6 son who is an eighth grader at Tilden middle school. And I 7 have my older son who is a 10th grader at Walter Johnson High 8 School. My oldest son, the 10th grader, when he was a 9 kindergartner, so about 10 years ago, that is when Garrett 10 Park School was renovated and they moved from the old school 11 to this brand-new elementary school. 12 And within five years, so by the time that he was 13 a fifth grader and my son was a third grader, they arty had 14 portables on the blacktop in the back of the school because 15 they were so overcrowded within five years of renovating the 16 school. So I know that they just renovated and opened a 17 brand-new Tilden Middle school. I know there are plans for 18 another high school in this cluster, Walter Johnson. And 19 there will be another school at the site where Woodward high 20 school I think used to be. 21 But there hasn't really been something to address 22 the overcrowding in the elementary schools. And so I would 23 really think that the county council, to approve dense 24 developments like this and others in our area, this is not 25 the only one in our area, that they really should add another</p>

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<p style="text-align: right;">284</p> <p>1 elementary school to this cluster. That should be a 2 requirement.</p> <p>3 And then the final thing I can testify to and it 4 was mentioned a little bit, is in terms of the parks and the 5 playground area in our neighborhood. So there is a 6 playground at Jua Drive, which is in our neighborhood. And 7 there is also the White Flint Park playground. The Jua Drive 8 one is it -- there is a pretty small playground and is more 9 geared towards toddlers.</p> <p>10 The White Flint Park is much bigger and geared 11 more towards older kids. It also has basketball and tennis 12 courts. So is really geared towards older community. Maybe 13 the -- this development here will use our neighborhood 14 playgrounds. It would have to cross Strathmore Avenue to do 15 that at this very dangerous Stillwater intersection to do so. 16 But as we talked about, this is a green space that's really 17 quite used. It is private property of the school, but on 18 snow days like we saw last month, dozens of kids in this area 19 go and sled right there on this -- on these hills.</p> <p>20 And they go there because before the Symphony Park 21 townhouses were built, there were even better hills in that 22 undeveloped area. So this development will take away a green 23 space that is really quite used by the neighborhood. And 24 yeah, there may be a small green space with a bench or 25 something like that, but that, I don't think will really</p>	<p style="text-align: right;">286</p> <p>1 traffic engineer. I'm not an expert.</p> <p>2 MS. GIRARD: Okay. And you had mentioned staff -- 3 your concerns about staff having visited the site. But you 4 did acknowledge that they addressed that at the planning 5 board.</p> <p>6 MR. RIBEIRO: Yeah, they did. I wasn't -- yes, 7 they addressed it.</p> <p>8 MS. GIRARD: Okay. And that they had been to the 9 site?</p> <p>10 MR. RIBEIRO: That's what they said.</p> <p>11 MS. GIRARD: With regard to the perception of the 12 use as a green space, is the community, and are you, aware 13 that this is private property?</p> <p>14 MR. RIBEIRO: Yes.</p> <p>15 MS. GIRARD: And so you are there by the grace of 16 the school?</p> <p>17 MR. RIBEIRO: Yes.</p> <p>18 MS. GIRARD: That's all I have.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, any 20 questions for this witness?</p> <p>21 MR. BURDIN: No, I don't. Thank you.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Thank you for your 23 testimony Mr. Ribeiro. As a child I was a connoisseur of 24 sledding hills. So I can certainly appreciate your 25 testimony. There is not a hill in Carroll or Hartford County</p>
<p style="text-align: right;">285</p> <p>1 address the needs of that community, and intergenerational 2 community, for the kids.</p> <p>3 So just to summarize then, I think I've testified 4 to the concerns with the traffic, with the pedestrian and 5 bike safety, the schools, and to the parks and playground 6 areas in this neighborhood.</p> <p>7 MR. SHAFFER: Thank you, very much for your 8 testimony. I have no further questions at this time.</p> <p>9 HEARING EXAMINER BAUMGARDNER: Ms. Girard, any 10 cross-examination of this witness?</p> <p>11 MS. GIRARD: Only a couple of questions. Mr. -- 12 is it [Rib 'ero] or [Ribeiro]?</p> <p>13 MR. RIBEIRO: [Ribeo].</p> <p>14 MS. GIRARD: Ribeiro, sorry. I didn't mean to 15 pronounced it incorrectly before.</p> <p>16 MR. RIBEIRO: No, that's --</p> <p>17 MS. GIRARD: With regard to your testimony 18 regarding the traffic light at Stillwater and traffic in 19 general, a similar question that I had for Mr. Burdin. Is 20 this based on your perception or is based on some kind of 21 quantifiable information, documentation, consultation with 22 traffic engineers?</p> <p>23 MR. RIBEIRO: So it's just based on what I see 24 every day. It's based on these pictures I've taken, the 25 video that we took. That's all it's based on. I'm not a</p>	<p style="text-align: right;">287</p> <p>1 Maryland that I was not on at some point. So I do appreciate 2 that.</p> <p>3 Mr. Shaffer, any redirect of this witness?</p> <p>4 MR. SHAFFER: No, sir.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Okay. We thank him 6 for his testimony. Back to Mr. Shaffer for any other 7 witnesses.</p> <p>8 MR. SHAFFER: Do I have Vanessa Lido here?</p> <p>9 MS. LIDE: Lide, yes you do.</p> <p>10 MR. SHAFFER: Okay. I would like to go -- am I 11 pronouncing your last name correctly? [Lido]?</p> <p>12 MS. LIDE: It's Lide; L-I-D-E.</p> <p>13 MR. SHAFFER: Okay, thank you. Could you please 14 identify yourself for the record?</p> <p>15 MS. LIDE: Yes. My name is Vanessa, last name 16 Lide, and I live at 5013 Strathmore Avenue on the access 17 road.</p> <p>18 MR. SHAFFER: Could you give us kind of an 19 approximation of how far down that road you live towards the 20 east?</p> <p>21 MS. LIDE: I'm probably about --</p> <p>22 HEARING EXAMINER BAUMGARDNER: Ms. Lide?</p> <p>23 MS. LIDE: Yes.</p> <p>24 HEARING EXAMINER BAUMGARDNER: I'm sorry. Can you 25 raise your right hand, please?</p>

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<p style="text-align: right;">288</p> <p>1 MR. SHAFFER: Oh, I apologize.</p> <p>2 HEARING EXAMINER BAUMGARDNER: That's all right.</p> <p>3 Do you swear or affirm under penalties of perjury</p> <p>4 that the testimony you are about to give is the truth, the</p> <p>5 while truth and nothing but the truth?</p> <p>6 MS. LIDE: Yes, I do.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Thank you, very</p> <p>8 much.</p> <p>9 MS. LIDE: Let me add my email address for the</p> <p>10 record too.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Sure.</p> <p>12 MS. LIDE: It's V.Lide2345@gmail.com. And I'm</p> <p>13 going to state up front that I'm not a traffic engineer or a</p> <p>14 traffic expert.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Thank you. Thank</p> <p>16 you, ma'am. Mr. Shaffer, you may continue.</p> <p>17 MR. SHAFFER: Okay. Can you describe how far down</p> <p>18 you live on that access road towards the east?</p> <p>19 MS. LIDE: Yes. I'm probably about two thirds of</p> <p>20 the way down moving westwards. So I'm roughly, I think, in</p> <p>21 front of where the main -- the new access road A, the main</p> <p>22 access road is.</p> <p>23 MR. SHAFFER: Okay. That's what I was trying to</p> <p>24 get on the record.</p> <p>25 MS. LIDE: Yes. So I have a front row seat, yeah.</p>	<p style="text-align: right;">290</p> <p>1 kids home. The only way to do this is to cut through, cut</p> <p>2 off the main roadway and go up this access road, which is</p> <p>3 very narrow.</p> <p>4 But this access road is also used for people who</p> <p>5 are walking. People walk on the sidewalk. People walk in</p> <p>6 the road, on this access road. And people walk on this</p> <p>7 buffer zone. So we are a very popular walking path, whether</p> <p>8 it's people walking to the Metro, whether it's people walking</p> <p>9 for exercise, whether it's the scores of kids who walk up</p> <p>10 this road and our sidewalk to go to school every day or ride</p> <p>11 their bikes. We are a well-traveled, very narrow access</p> <p>12 road.</p> <p>13 MR. SHAFFER: And then when they go up this access</p> <p>14 road, where are they trying to get to? Stillwater?</p> <p>15 MS. LIDE: When they go up? I can't see that far.</p> <p>16 I assume -- there is no bus stop on this access road. There</p> <p>17 is no reason for those buses to be there. And I know most of</p> <p>18 the cars who live -- you know, people who live here. And I</p> <p>19 know -- I can tell when people are zipping up. It's -- you</p> <p>20 know, they are not -- they are just trying to cut through.</p> <p>21 Either they are trying to get the Stillwater and then cut</p> <p>22 over, turn left there and cut over to exit out onto Rockville</p> <p>23 Pike, so that's more cut through traffic that way, or they</p> <p>24 are trying to get back into the queue, think they are saving</p> <p>25 themselves some time. I don't know.</p>
<p style="text-align: right;">289</p> <p>1 MR. SHAFFER: Okay. Have you observed any safety</p> <p>2 concerns arising out of the backups on Stillwater and -- I'm</p> <p>3 sorry -- backups on Strathmore?</p> <p>4 MS. LIDE: Yes. The specific concerns, the things</p> <p>5 that I have noticed from my front doorway, is that when</p> <p>6 traffic backs up going either east or west, people try to</p> <p>7 jump the queue by zipping up our road or zipping down our</p> <p>8 road, whichever way the backup is. I do have some pictures</p> <p>9 of the traffic on Strathmore. I would like to get a chance</p> <p>10 to share those as well.</p> <p>11 But let me describe what happens. First off, we</p> <p>12 are a narrow -- I live on a narrow access road. There are</p> <p>13 only two houses with driveways. Everybody parks by -- has no</p> <p>14 choice. They park on the roadway in front of their homes.</p> <p>15 So that basically reduces this access road to a one lane,</p> <p>16 take your -- please go slowly, take your time to weave in and</p> <p>17 out. And there aren't that many places to pull in if</p> <p>18 everybody is parked on the front anyway.</p> <p>19 So two weeks ago on a Friday afternoon, I'm not</p> <p>20 sure why the traffic was particularly bad that day. One</p> <p>21 after another there were four MCPS school buses that</p> <p>22 obviously had -- no, MCPS's school bus drivers have been</p> <p>23 having a very hard time. I know they're trying to get</p> <p>24 everybody home safely, but these bus drivers clearly thought</p> <p>25 I am -- this is so backed up, these -- we have to get these</p>	<p style="text-align: right;">291</p> <p>1 MR. SHAFFER: Is this a frequent occurrence in</p> <p>2 your observation?</p> <p>3 MS. LIDE: When the traffic is backed up, yeah, it</p> <p>4 does happen.</p> <p>5 MR. SHAFFER: Okay. And have you reviewed the</p> <p>6 mitigation measures proposed by the Applicant?</p> <p>7 MS. LIDE: Yes, I have. To the extent that I as a</p> <p>8 layperson can -- I don't understand the traffic studies. I</p> <p>9 don't understand the calculations. One of the things that</p> <p>10 strikes me is in these traffic studies it says, well, there</p> <p>11 will be minimal impact, because actually right now there is</p> <p>12 zero cars coming in and out of that access, the current</p> <p>13 access road at St. Angela Hall. That's because there is</p> <p>14 nobody there. So -- so anyway.</p> <p>15 So the answer the answer to your question is, yes,</p> <p>16 I have reviewed them to the extent that I can try and</p> <p>17 understand them, but I don't understand them in full. But I</p> <p>18 also have to say that I feel like a lot of the questions</p> <p>19 we've asked, we've asked a rational, intelligent, and simple</p> <p>20 questions. We've had meetings with the developer. We've had</p> <p>21 meetings with Montgomery County Planning.</p> <p>22 And the answers we get are, oh, that will be</p> <p>23 addressed further down the line or oh, no, no, don't worry</p> <p>24 about stormwater because Montgomery County has the toughest</p> <p>25 regulations in the country. Or on traffic it's like, oh,</p>

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<p style="text-align: right;">292</p> <p>1 we've got it planned. We're going to put a traffic light in 2 at the central driveway and that's going to solve all the 3 backup. Now I would argue that, again, based on my 4 perception and based on what the traffic looks like, not all 5 of this traffic has to do with the school. There is a lot of 6 East-West traffic that goes on Strathmore Avenue. Maybe this 7 would be a good time if I could share some of the pictures. 8 MR. SHAFFER: Sure, please. Go ahead. 9 MS. LIDE: I'm going to attempt to do this. I 10 might need some help on this. Let's see. Okay. Is that 11 showing up? Is that showing up as sharing my screen or 12 the -- 13 HEARING EXAMINER BAUMGARDNER: It is not showing 14 up for me, ma'am. 15 MR. SHAFFER: No. 16 MS. LIDE: Well, I'm in the share tray, desktop. 17 HEARING EXAMINER BAUMGARDNER: There should be one 18 option that says window. If you click on it will bring a 19 drop-down box with a number of options for the different 20 windows that can be displayed. 21 MS. LIDE: This is really frustrating because I 22 asked to send this and -- let me try tab. Let's try that. 23 How about that? 24 HEARING EXAMINER BAUMGARDNER: Yes. 25 MR. SHAFFER: Yes.</p>	<p style="text-align: right;">294</p> <p>1 Strathmore right at that pedestrian crossway at Stillwater. 2 And -- 3 HEARING EXAMINER BAUMGARDNER: So by Monday 4 morning you mean yesterday? 5 MS. LIDE: Yes. 6 HEARING EXAMINER BAUMGARDNER: January 31st, okay. 7 MS. LIDE: Yes. So you are looking -- the 8 nearside lane you're looking at -- and this is the non- 9 signalized pedestrian crossing. The nearside lane you are 10 looking westward up the hill towards Rockville Pike. All of 11 these cars are not lined up to go into Holy Cross. Some of 12 them certainly are, but not all of them. And you also get a 13 sense of the traffic, that there is also congestion in the 14 westbound lane. 15 Okay. This is viewed from the other side of the 16 street. Again, this is where the bus stop is at this -- 17 right at this non-signalized pedestrian crossing. So you are 18 seeing traffic backed up as its headed towards Rockville 19 Pike. That's the right side, the nearside lane. The far 20 side lane is coming eastbound. And that's Symphony Park 21 behind it. So if you look here at the top, this is sort of 22 roughly where the entrance to Symphony Park is. And then 23 Jolly Way is directly across from that. 24 And so you can see just from this, this picture, 25 that anybody who is trying to go to work or take their kids</p>
<p style="text-align: right;">293</p> <p>1 HEARING EXAMINER BAUMGARDNER: It is appearing 2 now. Is an exhibit that says, Exhibit, traffic on Strathmore 3 Avenue. 4 MS. LIDE: Okay. 5 MR. SHAFFER: Could you identify this picture for 6 the record, please? 7 MS. LIDE: Okay. So what -- 8 MS. GIRARD: Are these new exhibits? I just want 9 to be clear. 10 HEARING EXAMINER BAUMGARDNER: Sure. 11 MS. LIDE: Yes, these are new exhibits. 12 HEARING EXAMINER BAUMGARDNER: One second. 13 Everyone, one second. So these are going to be proposed as 14 new exhibits. Ms. Girard can certainly object to them or ask 15 questions about them. We are going to identify the exhibit, 16 where it is, what it was taken, et cetera, first. And then 17 we can deal with any objection over the exhibit in a moment. 18 So Ms. Lide, can you tell us when this picture was taken and 19 who took the picture and the direction that we are looking? 20 MS. LIDE: Sure. So I took these pictures. I've 21 been sort of trying to go out and take pictures when the 22 traffic is backed up, but is not related to snow or ice or 23 anything like that. It's been a little bit challenging in 24 the past few weeks. So this is a picture taken Monday 25 morning. This is about 8:00. So we are on the south side of</p>	<p style="text-align: right;">295</p> <p>1 to school or get out of those neighborhoods really does have 2 a very, very difficult time in the morning. But the same 3 backups happen on the -- at the Stillwater intersection. But 4 for now we have the Montgomery County safety officer who does 5 help traffic get in and out. 6 So this is further up. This is sort of in front 7 of my house. So this is right down here at the bottom is the 8 very last little piece of concrete of the existing bus stop 9 that's there. So you can see, yes, traffic is backed up sort 10 of come in both directions. And so that's what it is on a 11 Monday morning. While we are on -- maybe it's helpful to 12 kind of -- I would also like to talk about the buffer zone. 13 And it's helpful I think to talk about this when this picture 14 is up. 15 To point out -- so here there is a little bit of 16 shoulder. And then here is the buffer zone that separates 17 the access road and the homes along the access road from the 18 traffic noise, from pollution, and gives us a little bit of a 19 buffer from this roadway. But -- and I will talk about this 20 further and hopefully have a chance to explain this, but we 21 have been -- we were reassured continuously by EYA, by the 22 Montgomery County planners, and also even Ms. Girard's 23 statement, opening statement yesterday, that there would be 24 no impact on the buffer zone. 25 But essentially you're talking about taking away</p>

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<p style="text-align: right;">296</p> <p>1 the space and another 2 or 3 feet here that really does 2 impact the buffer zone. But also takes away the shoulder. 3 And that is a pretty critical point on this two lane road. 4 Even if you make it a three lane road you still have to let 5 emergency vehicles from the Kensington Fire Department get 6 through here. And that I think will make it less safe for 7 them to do so and less safe for the cars on the road. 8 So you can say like, oh yeah, well that's just on 9 a Monday morning. But this was a picture I took on Friday 10 afternoon. It was about 3:00 p.m. There is no traffic cop 11 there. I think that means there is no -- this was not a time 12 when Holy Cross Academy was exiting. There's just one car 13 sitting there. 14 But this is pretty steady in the afternoons. And 15 remember, there are multiple schools trying to let students 16 out safely and get everybody home safely every day here. So 17 it's not just Holy Cross. Further up the road on the other 18 side of Holy Cross school is -- other side of Holy Cross 19 Church, which is right next to the proposed site, is Holy 20 Cross school. That's a K-8 school. They are letting -- they 21 have to get people out onto Strathmore Avenue. And then you 22 go a few hundred yards up to Kenilworth Avenue, you are in 23 the town of Garrett Park where there is a traffic light. 24 They have to get school buses and students in and out safely 25 as well. So those are my pictures. Let me see if I can</p>	<p style="text-align: right;">298</p> <p>1 side from the site itself, any additional right-of-way 2 needed. 3 And that is what we've been told and that -- by -- 4 when we talked with Tamika Graham in the planning department, 5 I have emails from Tamika Graham. I have emails from Brenda 6 Pardo explaining this. When we talked -- when we met with 7 EYA on October 4th when there was the earlier hearing on 8 December 16, Tamika Graham raised this. And I think that's 9 what Ms. Girard also said yesterday in her opening remarks, 10 that these are the concerns, these are the concerns and we've 11 addressed them. It's like it's not a problem. 12 So that raises a huge red flag for me now saying 13 that, can we -- what other half-truths are there here. It 14 feels like my concerns have been papered over four months and 15 months and months. Then we heard yesterday from Mr. Sloan 16 that's, no, no, we're widening the curb and making 17 improvements to the bus stop that cut into that buffer zone. 18 So that is, for me, a very real concern. 19 MR. SHAFFER: Okay. Thank you, very much for your 20 testimony. I have no further questions. 21 MS. LIDE: Thank you. 22 HEARING EXAMINER BAUMGARDNER: Ms. Girard, any 23 cross-examination of Ms. Lide? 24 MS. GIRARD: I just have one -- it may just be a 25 point of clarification. You had mentioned that not all</p>
<p style="text-align: right;">297</p> <p>1 figure out how to un-share them, or if anybody has questions. 2 HEARING EXAMINER BAUMGARDNER: Ms. Girard or Mr. 3 Burdin, any objection to these photos coming into evidence? 4 MS. GIRARD: None from me. 5 MR. BURDIN: None from me. 6 HEARING EXAMINER BAUMGARDNER: Okay. I don't have 7 exhibit numbers yet, but they will be admitted with the other 8 exhibits from the case and they will be added onto the end. 9 So I think we ended at Exhibit 80 as of right now. So these 10 will most likely be 81, 82 -- 81, 82, 83, 84, but we will add 11 that after conclusion of the hearing. 12 MS. LIDE: And so if I can go back and does not 13 talk about this buffer zone, this is where -- you know, 14 why -- you think like, why is this a concern, why does this 15 matter. It's just 2 or 3 feet, but there are just a number 16 of issues related to this. We count on that buffer zone as a 17 way of sort of insulating ourselves a little bit from the 18 road noise. 19 But most of all, I'm sort of really perturbed. 20 And I would like to be on the record and say I feel like 21 we've been -- I -- we've been raising this concern. I, in 22 particular, have been raising this concern on behalf of many 23 of my neighbors along this access road for many months now. 24 And at every point we've been reassured, no, it's not a 25 problem. It's -- the right-of-way has to come from the south</p>	<p style="text-align: right;">299</p> <p>1 traffic was related to the school. And I think you emphasize 2 that in the picture. Is that accurate? 3 MS. LIDE: That's my perception, yes. Not all 4 those cars are lined up to turn into Holy Cross. And then if 5 you look at the westbound traffic, not all of those cars have 6 clearly come out of Holy Cross. 7 MS. GIRARD: And are you aware of whether the 8 traffic analysis that was done by the Applicant's consultant 9 counted just the school trips or all trips on the roadways? 10 MS. LIDE: I'm assuming they counted all the 11 trips. I know that there -- from what I can understand, they 12 are looking at various points and things like that. But I 13 will tell you, as a layperson I find it very, very difficult 14 to understand the calculations involved, but I will also say 15 that I also find it very, very difficult to accept that if 16 you are putting that many people, that many staff into an 17 assisted living facility and that many new homes, that I 18 don't remember -- recall exactly what the number of the new 19 trips generated. It seemed very low to me. 20 And I would also point out that from my 21 perspective, from my vantage point, it seems to me that a lot 22 of the improvements are really designed to make it easier for 23 traffic to get in and out of this new community even if it's 24 at the expense of the existing residents, longtime residents 25 who would really like to be able to get out of their</p>

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<p style="text-align: right;">300</p> <p>1 community safely as well and would really like to be of the</p> <p>2 cross Strathmore safely as well. We are -- we like to walk.</p> <p>3 We are a walkable community and we would like to be able to</p> <p>4 continue doing that.</p> <p>5 MS. GIRARD: So it is your understanding that all</p> <p>6 of the traffic analysis includes school traffic and existing</p> <p>7 traffic on the roads unassociated with the school?</p> <p>8 MS. LIDE: I have to assume that because I am not</p> <p>9 a traffic expert.</p> <p>10 MS. GIRARD: And your perception that the</p> <p>11 improvements will only benefit the project are based on what?</p> <p>12 MS. LIDE: Well, the way I see it, if you put the</p> <p>13 sensor light at the main entrance way, that makes it easier</p> <p>14 for cars, emergency vehicles to get in and out of the new</p> <p>15 development. But because of the way traffic stacks up, it</p> <p>16 doesn't create enough of a gap for us to get out. And the</p> <p>17 proposal that, oh well, we will sort that out because we will</p> <p>18 synchronize it with the traffic light on Rockville Pike, but</p> <p>19 a lot of the traffic that comes onto Strathmore is coming</p> <p>20 north of Rockville Pike. They do not stop at a traffic</p> <p>21 light. They do not turn right at a traffic light. There is</p> <p>22 a right access lane that goes directly -- feeds directly with</p> <p>23 no stop onto Strathmore Avenue. So I don't know how you</p> <p>24 control that. You can't say that, oh, this traffic light</p> <p>25 creates gaps that are adequate.</p>	<p style="text-align: right;">302</p> <p>1 sidewalk is across the street from the current center</p> <p>2 entrance to the old convent; is that correct?</p> <p>3 MS. LIDE: Yeah. And it seemed -- I'm not even</p> <p>4 sure you can put a bus stop there. Honestly, it seems like</p> <p>5 it's almost in the middle -- would have buses stopped in the</p> <p>6 middle of the intersection. So I'm not really sure why that</p> <p>7 is that --</p> <p>8 MR. BURDIN: Okay. I'm just -- I'm just trying to</p> <p>9 orient myself for where -- because I was questioning the</p> <p>10 architect about the proposed center entrance and that</p> <p>11 sidewalk that they showed in the picture. If the -- if that</p> <p>12 intersection, that proposed center intersection was moved to</p> <p>13 the east, and I'm not sure if it's proposed to be or not, but</p> <p>14 if it was moved to the east it would no longer align with the</p> <p>15 existing sidewalk and bus stop on the north side of</p> <p>16 Strathmore; is that correct?</p> <p>17 MS. LIDE: Yeah, but that might actually make the</p> <p>18 bus stop usable.</p> <p>19 MR. BURDIN: I'm just -- okay. I was just trying</p> <p>20 to figure out about the alignment of the proposed new center</p> <p>21 entrance with that sidewalk and the buffer. I think I</p> <p>22 understand what --</p> <p>23 MS. LIDE: Yeah. I have a hard time understanding</p> <p>24 the overlay of the existing to the proposed --</p> <p>25 MR. BURDIN: Yes, so do I.</p>
<p style="text-align: right;">301</p> <p>1 MS. GIRARD: And this is your opinion?</p> <p>2 MS. LIDE: This is my opinion, yes.</p> <p>3 MS. GIRARD: That's all I have.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Mr. Burdin, any</p> <p>5 questions for Ms. Lide?</p> <p>6 MR. BURDIN: Yeah, just about the bus stop on the</p> <p>7 north side in the buffer I think right near your house.</p> <p>8 There is a sidewalk currently that goes from that bus stop to</p> <p>9 the Strathmore access road, correct?</p> <p>10 MS. LIDE: Oh, yeah. Yes. Yes. I meant to</p> <p>11 mention that. There is a narrow sidewalk that goes there.</p> <p>12 MR. BURDIN: Okay.</p> <p>13 MS. LIDE: However I -- no, I also didn't</p> <p>14 understand the logic that if you're trying to create a</p> <p>15 walkable community and get people to walk with their kids to</p> <p>16 school from this new development to come out to Strathmore,</p> <p>17 cross at a light and then the sidewalk -- the sidewalk to get</p> <p>18 to -- to get to the safe sidewalk that's on the far north</p> <p>19 side of the street in front of the homes you would have to</p> <p>20 cross that access road that people are zipping in and out and</p> <p>21 also trying to go to school and go to work themselves.</p> <p>22 MR. BURDIN: So there is no crosswalk where the</p> <p>23 buffer sidewalk hits the access road, right?</p> <p>24 MS. LIDE: No. No. No.</p> <p>25 MR. BURDIN: Okay. And the bus stop in the</p>	<p style="text-align: right;">303</p> <p>1 MS. LIDE: And I would like to state for the</p> <p>2 record, it's like, all right, great. Let's (inaudible) all</p> <p>3 of those, those -- that greenery on there.</p> <p>4 MR. BURDIN: Okay.</p> <p>5 MS. LIDE: And restore the green buffer, the</p> <p>6 vertical buffer as well as preserve the green buffer.</p> <p>7 MR. BURDIN: Okay. Thank you. That's all I have.</p> <p>8 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, any</p> <p>9 redirect of Ms. Lide?</p> <p>10 MR. SHAFFER: No, sir.</p> <p>11 HEARING EXAMINER BAUMGARDNER: Okay. Thank you,</p> <p>12 very much for your testimony, ma'am. Mr. Shaffer, your next</p> <p>13 witness, please.</p> <p>14 MR. SHAFFER: I have no further witnesses.</p> <p>15 HEARING EXAMINER BAUMGARDNER: Okay.</p> <p>16 MR. SHAFFER: I understand Mr. Burdin and his wife</p> <p>17 may want to testify, but they're not technically a part of</p> <p>18 our community. So I will let them go on their own.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Understood. So</p> <p>20 what will do is we will -- does anyone need a break, first of</p> <p>21 all. Do we need five minutes or do we want to push through</p> <p>22 until noon? All right.</p> <p>23 So we will open it up to members of the community</p> <p>24 who are not represented by counsel. If you want to give your</p> <p>25 testimony now, now would be a good time. You can raise your</p>

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<p style="text-align: right;">304</p> <p>1 virtual hand using the virtual hand feature on the top of 2 your screen towards the right. It's the third icon in. If 3 you put your cursor over that icon and click on the hand, it 4 will raise your virtual hand. Or otherwise indicate to me by 5 either waving your hand or unmuting yourself if anyone else 6 wants to give testimony right now.</p> <p>7 Looking down the list. All right. So let's do 8 Councilwoman Bennett. Mr. Burdin, since you are a party we 9 will wait for yours. So we will go with Councilwoman 10 Bennett. I don't see any other raised hands or anyone else 11 indicating to me that they would like to offer -- actually, 12 we have one more, Ms. Prebble. So let's do Councilwoman 13 Bennett. You can unmute yourself and we will get your name, 14 your address and email. We will swear you in and then you 15 can provide your testimony.</p> <p>16 MS. BENNETT: Okay. My name is Gerilee Bennett, 17 Council member of the town of Garrett Park. Email address is 18 CouncilGerilee@GarretParkMD.gov.</p> <p>19 HEARING EXAMINER BAUMGARDNER: Thank you, very 20 much, ma'am. Can you please raise your right hand? 21 Do you swear or affirm under penalties of perjury 22 that the testimony you are about to give is the truth, the 23 while truth and nothing but the truth? 24 MS. BENNETT: I do. 25 HEARING EXAMINER BAUMGARDNER: All right. You are</p>	<p style="text-align: right;">306</p> <p>1 congested stretch of Strathmore Avenue. With three school 2 complexes along this same stretch of Strathmore Avenue, we 3 are concerned that this development will add much more 4 congestion to this heavily traveled thoroughfare.</p> <p>5 We are concerned that the traffic analyses do not 6 adequately account for the ongoing pandemic reduction in 7 traffic, nor planned development in the areas of the former 8 White Flint Mall, Strathmore Square, Kensington and Pike and 9 Rose. Mr. Lester of EYA noted that EYA's tagline is, life 10 within walking distance. We believe the county must ensure 11 this project lives up to this transit oriented billing. We 12 agree with the planning staff that the projects initial 13 design too heavily emphasizes automobile travel.</p> <p>14 For example, we agreed that the wide and long 15 townhouse driveways will result in an auto dominated 16 streetscape. In addition, we suggest the following. First, 17 consolidate the entrances and exits on and off of Strathmore 18 Avenue consistent with 2.11 of the bicycle master plan, which 19 calls for driveways and curb cuts to be consolidated along 20 master planned bikeway facilities. Strathmore Avenue has a 21 master plan side path which is a type of bikeway facility. 22 The applicant has indicated that the existing three driveways 23 for the Academy and the much smaller St. Angela Hall justify 24 the construction of two full roadways and an additional 25 service truck Insurance. Three curb cuts for what is billed</p>
<p style="text-align: right;">305</p> <p>1 welcome to provide your testimony regarding this application. 2 MS. BENNETT: All right. Good morning Mr. 3 Baumgardner. I am Gerilee Bennett, town council member of 4 Garrett Park and I'm submitting this testimony on behalf of 5 the Town of Garrett Park. Thank you for the opportunity to 6 provide input for this local map amendment application 7 review. This development is of great interest to the Town of 8 Garrett Park and our residents. The town limits are less 9 than one-quarter mile away on Strathmore Avenue, and the town 10 owned community center which houses a preschool and 11 playground is within the staff defined neighborhood and is 12 adjacent to the Holy Cross school and church property as well 13 as Garrett Park Elementary School.</p> <p>14 It is our position that the county should not 15 approve the LMA for this development as currently proposed. 16 We would like to take this opportunity to summarize our 17 feedback and concerns as well as recommended conditions after 18 our review of the detailed application materials made 19 available for public review. We appreciate the care the 20 developers are taking to preserve green space and attract 21 multigenerational occupants.</p> <p>22 Our foremost concern is the Ottoman bill 23 orientation of the site plan despite the proximity to 24 Grosvenor Metro station and the subsequent impact of 25 additional traffic flowing in and out of the already highly</p>	<p style="text-align: right;">307</p> <p>1 as a comprehensive, multigenerational housing development. 2 However, this development will result in an off 3 street shared use bicycle pathway, well, shared use pathway 4 rather than the existing on road shared use for bicycles and 5 automobiles along this stretch of Strathmore Avenue. This 6 new shared use off street side path will be far less safe and 7 inconsistent with the bicycle master plan recommendations if 8 it has three roadway curb cuts cutting through in very short 9 succession.</p> <p>10 Given the developer's transportation study finding 11 of minimal anticipated vehicle trips resulting from the 12 project, three entrances are excessive and will further 13 encourage automobile trips. The comprehensive project 14 information indicates estimates that the development adds 15 minimal vehicle trips at peak hours. If this is truly the 16 case, one entrance to the development should be sufficient. 17 Two is the more appropriate maximum for the LMA conditions.</p> <p>18 We request an LMA condition that the additional -- 19 that additional study and serious consideration be given to 20 the most beneficial traffic design to improve the flow of 21 traffic along Strathmore Avenue during busy hours. We see 22 potential benefits if the light and lane, turn lane is placed 23 at Stillwater Avenue aligned with what is the most 24 appropriate main entrance of the development. A signal 25 located at Stillwater Avenue and Strathmore could potentially</p>

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<p style="text-align: right;">308</p> <p>1 benefit both the existing residents of Garrett Park Estates 2 and White Flint Park as well as the residents of the new 3 development. 4 EYA seems to be indicating that the surrounding 5 community must choose between the traffic flow improvements 6 that the additional turn lanes would provide and the green 7 median strip on the Strathmore frontage access road. The 8 developer could provide the additional right-of-way on the 9 south side of Strathmore to enable the additional turn lane. 10 The inclusion of three roadway entrances and exits may serve 11 to undermine the effectiveness of the signal and turn lane 12 measures at the main entrance. 13 The care facility could be moved to the western 14 side and more inside the housing development which would help 15 to better disguise the buildings height and massing at this 16 lower point of the property so that it would not stand out so 17 much and cause less alteration of the current streetscape 18 character. The site plan could be modified so that the care 19 facility as well as the school or accessed via the single 20 main entrance to the development at Strathmore -- Stillwater 21 Avenue. 22 We recommend an LMA condition that the parking 23 lots and loading docks supporting the residential care 24 building be tucked behind the building and accessed from a 25 road within the development rather than facing an access</p>	<p style="text-align: right;">310</p> <p>1 path directly from the property to Metro directly onto 2 Tuckerman Lane. We understand that topography and the stream 3 at the southwestern portion of the lot is a challenge, but we 4 urge that the LMA be conditioned upon incorporation of direct 5 transit oriented pedestrian ingress and egress if feasible. 6 Such a footbath will not only promote transit use 7 of Brandywine and residents of the new homes, but also allow 8 for access to new dining and retail that is already planned 9 at Strathmore Square adjacent to Grosvenor Metro station as 10 well as events at Strathmore Hall without automobiles. The 11 Applicant has indicated that it does not have ownership of 12 the Academy of the Holy Cross property that abuts Tuckerman 13 Lane. With all due respect, Exhibit 3 makes it clear that 14 the Academy is a partner of this development, thus securing 15 right-of-way for such a pedestrian path and bridge is within 16 the power of the development partnership. 17 This development feeds into the Garrett Park 18 Elementary School which has a history of overcrowding and 19 portable classrooms. New developments at Strathmore Square, 20 Harwood Flats and the White Flint area all feed into Garrett 21 Park Elementary School. It is unacceptable to approve an LMA 22 for this property to add denser housing without a clear 23 funded Montgomery County public school plan for another 24 elementary school in this cluster. 25 More importantly, the LMA should be conditioned on</p>
<p style="text-align: right;">309</p> <p>1 directly from Strathmore Avenue, which would be very visible 2 to the single-family homes across the way on the north side 3 of Strathmore Avenue. 4 As currently depicted, large delivery trucks may 5 be motivated to back into the loading area directly from 6 Strathmore Avenue creating further traffic disruption. Such 7 a fundamental shift from the current tree-lined character of 8 Strathmore Avenue is also just an unaccepted alteration 9 towards a more commercial streetscape in the neighborhood. 10 The development circulation plan can easily be modified to 11 support access to the rear via a signaled intersection at 12 Stillwater Avenue, which is the more appropriate entrance for 13 trucks. 14 To this point EYA has presented this application 15 as a comprehensive housing development and stressed that the 16 care facility is a residential building. As such, the care 17 facility's service entrance should be accessed from within 18 the comprehensive housing development and not directly from 19 Strathmore Avenue. We note the planning board has repeatedly 20 articulated a preference for Montgomery County public school 21 site plans to place parking lot to the rear and for the 22 street facing side to be more inviting to pedestrians and the 23 neighborhood. 24 This development should also follow these good 25 design principles. The plan should include a pedestrian bike</p>	<p style="text-align: right;">311</p> <p>1 a funded and planned safe pedestrian access to Garrett Park 2 elementary school and the two preschools that are located 3 within that school complex. It is unrealistic and unsafe to 4 rely on a plan that children will cross Strathmore Avenue 5 twice, once to get to the sidewalk on the north side and then 6 again to cross back over to the south side of Strathmore at 7 Kenilworth Avenue in order to reach the schools. The 8 completion of this pedestrian pathway ensuring a safe route 9 to the schools should be a condition of LMA approval. 10 A housing development of this size designed for 11 families of all ages should also provide adequate 12 recreational facilities for its residents. It is shocking 13 that the development includes only one small, not clearly 14 laid out play area on the outskirts of the town homes 15 adjacent to a roadway rather than centrally located within 16 the residential area. The locations of the closest existing 17 playgrounds in this area were strategically situated to 18 support their associated communities and the neighboring 19 elementaries and preschool -- elementary and preschools. 20 It is also shocking that the developers planning 21 documents cite the surrounding neighborhood playgrounds as 22 adequate facilities to support the new development. First, 23 the new development lacks a safe pedestrian access to the 24 playgrounds near the schools, as I just mentioned, and 25 families would need to cross the heavy traffic of Strathmore</p>

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<p style="text-align: right;">312</p> <p>1 Avenue to reach any other playgrounds in the area. Secondly, 2 the development itself should provide adequate play area to 3 avoid overcrowding at existing playgrounds. We request an 4 LMA condition that adequate playground facilities be provided 5 on site within the development. 6 In summary we recommend the following conditions 7 be added to the approval of the LMA. One, reduce the number 8 of entrances and exits directly onto Strathmore Avenue. Two 9 condition additional traffic study and consideration of the 10 traffic flow improvement measures to benefit the community as 11 a whole factoring in safety of pedestrians. 12 Three, place the service and the loading dock and 13 staff parking of the care center behind the building and not 14 directly against Strathmore Avenue. Four pursue direct 15 pedestrian pathway to Tuckerman Lane. Five, safe pedestrian 16 pathway to Garrett Park elementary school should be provided. 17 And six, provide an adequate playground facility on site. 18 Thank you, very much for your consideration of our 19 recommendations and concerns. 20 HEARING EXAMINER BAUMGARDNER: Thank you very 21 much, ma'am. Ms. Girard, any cross-examination of 22 Councilwoman Bennett? 23 MS. GIRARD: Yes, thank you. Sorry. I was still 24 writing feverishly. 25 HEARING EXAMINER BAUMGARDNER: That's all right.</p>	<p style="text-align: right;">314</p> <p>1 been considered, what the pros and cons of a signal or a 2 circle at Stillwater might have been. It just seems like 3 we've been presented with the one option and some minor pros 4 and cons to that without full disclosure of what other 5 options might be there that might provide better traffic flow 6 and safety, particularly pedestrian safety in the area. 7 MS. GIRARD: Was this ever -- did Garrett Park 8 ever ask staff, the Applicants, MCDOT, SHA what other options 9 were available? 10 MS. BENNETT: We are asking for that now. 11 MS. GIRARD: And do you know how long the traffic 12 study has been pending in front of the county for approval? 13 MS. BENNETT: No, I'm not sure. 14 MS. GIRARD: Do you recall Katie Wagner's 15 testimony that it was submitted last December? 16 MS. BENNETT: December 2021? 17 MS. GIRARD: December of 2020. 18 MS. BENNETT: I don't recall that, no. Thank you. 19 MS. GIRARD: So when you say that it was rushed, 20 that's just your perception? 21 MS. BENNETT: I guess you could say that. 22 MS. GIRARD: And are you aware that the traffic 23 study was reviewed and approved by the Montgomery County 24 Department of Transportation and the State Highway 25 Administration?</p>
<p style="text-align: right;">313</p> <p>1 MS. GIRARD: Just a couple of questions. And I 2 would just focus primarily on your recommendations. When you 3 speak to the reduction of the number of entrances, has the 4 town done any studies as to what that would do with regard to 5 circulation on the project, emergency access, et cetera? 6 MS. BENNETT: No. As I said, we encourage further 7 traffic study for safety and traffic flow. 8 MS. GIRARD: Can you explain that a little bit 9 further? That was number two, right? 10 MS. BENNETT: Yes. 11 MS. GIRARD: Can you explain what you mean by 12 that? 13 MS. BENNETT: Based on the community concerns 14 raised by Garrett Park Estates and White Flint Estate 15 neighbors as well as neighbors in our community who have 16 contacted the town, we believe that the traffic study for the 17 safety and flow as perhaps not -- has been done rather 18 quickly. We haven't been shown what other options were 19 considered and what the pros and cons of those options were. 20 MS. GIRARD: What do you mean with regard to 21 options? 22 MS. BENNETT: So far we've only been shown what 23 the developer chose to do or chose to provide, the one signal 24 light at, I think you are calling it street A with a left 25 hand turn lane. We don't know what other options might have</p>	<p style="text-align: right;">315</p> <p>1 MS. BENNETT: Yes, I'm aware that State Highway is 2 reviewing the traffic proposals and studies. 3 MS. GIRARD: With regard to the service dock 4 behind the building, when you say behind the building what do 5 you mean? Because it's currently the opposite of where the 6 front door is. 7 MS. BENNETT: Yes. When I say behind, I mean 8 behind the building so that it is not facing in Strathmore 9 Avenue. 10 MS. GIRARD: And your concern is the visibility? 11 MS. BENNETT: My concern is, as I said, several 12 things. One, it adds an additional entrance on and off of 13 Strathmore Avenue directly. And also, for the neighbors in 14 that area it's presenting the parking lot, dumpsters loading, 15 unloading activities for that large 145, 150 bed facility to 16 the neighborhood that already exists, rather than putting it 17 behind the facility where it's less visible to the 18 surrounding neighborhood. 19 MS. GIRARD: So visibility is a concern? 20 MS. BENNETT: That is one concern, yes. 21 MS. GIRARD: Have you asked for specifics or are 22 you aware of specifics regarding distance, visibility, 23 screening? 24 MS. BENNETT: At one of the meetings we 25 participated in with EYA we encouraged them to provide</p>

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<p style="text-align: right;">316</p> <p>1 natural screening and I do believe that EYA in the depictions 2 they are providing tree screening so we appreciate that. But 3 I think the safety concern of the additional curb cut and the 4 traffic going in and out of there combined with the 5 visibility of the parking lot and the dumpster area, the two 6 factors combined would argue that it would be better placed 7 inside of the development. 8 MS. GIRARD: But when you say visibility you are 9 not sure how visible it will actually be? 10 MS. BENNETT: How could we be? The renderings 11 don't actually show that side at all. They only show the 12 front side of the care facility. 13 MS. GIRARD: And when you say safety that's based 14 on what? 15 MS. BENNETT: As I said before, the pedestrian and 16 bicycle safety of having to cross another unsignaled curb 17 cut. 18 MS. GIRARD: Have you examined the safety 19 associated with bringing trucks in a different entrance where 20 they might be mingling with school traffic and residential 21 traffic? 22 MS. BENNETT: I'm sorry, say that again? 23 MS. GIRARD: So the focus is on pedestrian and 24 bicycle safety. But have you examined the safety concerns 25 that may or may not be associated with bringing the trucks in</p>	<p style="text-align: right;">318</p> <p>1 MS. GIRARD: Okay. The pedestrian connection to 2 Tuckerman, are you aware of whether there is sufficient area 3 within the existing right-of-way to put a new sidewalk? 4 MS. BENNETT: Our proposal is that this be 5 conditioned -- that it be considered if feasible. We're not 6 pretending to know whether it's feasible are to have done 7 technical studies. We're just proposing that it be looked at 8 more closely. 9 MS. GIRARD: Okay. So if it's in private 10 ownership you're acknowledging that that's not something the 11 Applicant can control? 12 MS. BENNETT: If the private ownership is a member 13 of the current partnership, it's our view that it is within 14 the power of the developer to work with their partner, 15 Academy of Holy Cross to make a walkway work. 16 MS. GIRARD: Maybe we're talking -- I'm talking 17 about the connection -- oh, to Tuckerman. I see what you're 18 saying. I also wanted to address the connection to Garrett 19 Park Elementary School. 20 MS. BENNETT: Oh, I'm sorry. I misunderstood your 21 question. 22 MS. GIRARD: I may have said Tuckerman. I 23 apologize. I may be the one confusing things. 24 MS. BENNETT: I'm not sure what the right of way 25 limits that there are. I know that there are ongoing</p>
<p style="text-align: right;">317</p> <p>1 Street A and having them mingle with school traffic and other 2 traffic associated with a residential neighborhood? 3 MS. BENNETT: If they enter any signaled Mike, 4 perhaps at Stillwater as a central entrance it's going to be 5 better protected because there would be pedestrian lighting, 6 you know, signal lighting as well. 7 I'd like to go back a moment. You asked me about 8 the traffic study approval in December of 2020. I'd like to 9 remind you that Garrett Park was only noticed of this 10 development in January of 2021, after that traffic safety 11 study. 12 MS. GIRARD: Correct. That was a year ago, 13 correct? 14 MS. BENNETT: Correct. My point being that there 15 was no effort to reach out to the community while the traffic 16 study was underway. 17 MS. GIRARD: The traffic study having been 18 submitted just the month before. 19 MS. BENNETT: Right. But I just wanted to clarify 20 that we were provided notice after it was completed. 21 MS. GIRARD: And were you provided notice before 22 the application was formally accepted? 23 MS. BENNETT: Our understanding is that the 24 application had already been submitted when the town was 25 notified. That's what we were told at the time.</p>	<p style="text-align: right;">319</p> <p>1 discussions. My view is, is that the County has the 2 responsibility of approving this local map amendment, and 3 they should do it only if adequate facility supported. And 4 right now, there is not an adequate pedestrian access 5 facility to support it. 6 MS. GIRARD: In your opinion? 7 MS. BENNETT: In my opinion, yes. 8 MS. GIRARD: And with regard to the adequacy of 9 the play areas, are you aware that there are certain 10 recreational standards and open space standards contained in 11 the zoning ordinance and associated regulations? 12 MS. BENNETT: Yes. 13 MS. GIRARD: So when you say -- and do you know, 14 based on the testimony you've heard, or your own independent 15 analysis, whether in the proposed application will meet with 16 those requirements? 17 MS. BENNETT: It's hard to say because the 18 renderings really don't show any details of what the 19 playground space would look like. 20 MS. GIRARD: But with regards to seeing -- 21 MS. BENNETT: Our primary concern is really not so 22 much whether it meets the minimal regulatory requirement, but 23 that it would actually be a useful, adequate play area for 24 the multi-generational community there. And also, 25 understanding that if the development is dependent on the</p>

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<p style="text-align: right;">320</p> <p>1 playgrounds in the surrounding area, they all require a 2 crossing of Strathmore Avenue to get to them safely. 3 MS. GIRARD: So when you say adequate, you mean 4 adequate in terms of the town's subjective opinion? 5 MS. BENNETT: We are providing our testimony based 6 on our opinion, yes. 7 MS. GIRARD: I just wanted clarification of that. 8 That's all I have. Thank you. 9 HEARING EXAMINER BAUMGARDNER: All right. The 10 time is 12:05 p.m. we are going to take our hour lunch break, 11 we will reconvene at 1:05. 12 Mr. Burdin, do you have any questions of 13 Councilwoman Bennett? 14 MR. BURDIN: Yeah, very quickly, not to interfere 15 with lunch. 16 HEARING EXAMINER BAUMGARDNER: Can we pick those 17 back up at 1:05? I just wanted to check with you. 18 MR. BURDIN: Oh. Sure. 19 HEARING EXAMINER BAUMGARDNER: Okay. You know, I 20 don't want to mess with your train of thought so you can even 21 write them down and -- 22 MR. BURDIN: No, that's fine. I got it. 23 HEARING EXAMINER BAUMGARDNER: Okay. Good. We 24 will take our hour recess now, we will reconvene at 1:05 p.m. 25 for a quick follow-up questions from Mr. Burdin of</p>	<p style="text-align: right;">322</p> <p>1 p.m.) 2 HEARING EXAMINER BAUMGARDNER: It is 1:07 p.m. 3 This is still February 1st and we are going to go back on the 4 record in OZHA case local map amendment 143, the R60 zone to 5 the CRNF zone for the property located at 4910-4920 6 Strathmore Avenue. Just making sure that we have all of our 7 folks back. 8 We have our court reporter. 9 Ms. Girard are you still with us? There you are. 10 MS. GIRARD: Yes, I'm here. 11 HEARING EXAMINER BAUMGARDNER: Great. And Mr. 12 Shaffer and Mr. Burdin, the other two parties. Before the 13 lunch break we were doing a cross-examination of Councilwoman 14 Bennett. I believe Mr. Burdin had a follow-up question or 15 two for Ms. amendment. Just as a reminder, ma'am, you are 16 still under oath. 17 Mr. Burdin, you are welcome to begin your 18 questions. 19 MR. BURDIN: Okay. Well, I thought about it over 20 lunch, and I think I can cover what I wanted to ask her about 21 in my testimony. So I don't have any questions at this time. 22 Thank you. 23 HEARING EXAMINER BAUMGARDNER: Understood. Thank 24 you. Ms. Bennett, thank you very much for your testimony. 25 MS. BENNETT: Thank you.</p>
<p style="text-align: right;">321</p> <p>1 Councilwoman Bennett. Then, we will -- it looks like we have 2 two other individuals who would like to testify from the 3 community, I believe. And we will pick up the end with Ms. 4 Girard's rebuttal witness of Mr. Sloan, I believe. 5 Ms. Girard, are you still there? 6 MS. GIRARD: I sure am. 7 HEARING EXAMINER BAUMGARDNER: There was one thing 8 I wanted to follow up with you either on rebuttal with Mr. 9 Sloan. It's probably the best place to do this. There's 10 been some reference to in adequate public -- adequate public 11 facilities finding that is certainly more thorough under 12 preliminary plan, but I do have to make a finding on that. 13 So if you can address that issue, even with Mr. Sloan, or in 14 your closing. In the development process that tends to be 15 overlooked at this stage. And our agency has to constantly 16 remind planning that we have to make our own independent 17 finding on that. So if you can just make sure to go through 18 that either with Mr. Sloan or in your closing it will be 19 helpful. 20 MS. GIRARD: Yeah, I actually had a note on that. 21 So Mr. Sloan will address that. 22 HEARING EXAMINER BAUMGARDNER: Great. Well, thank 23 you all very much. We will see you all back at 1:07 p.m. 24 today. 25 (Off the record at 12:07 p.m., resuming at 1:07,</p>	<p style="text-align: right;">323</p> <p>1 HEARING EXAMINER BAUMGARDNER: All right. We are 2 at the stage where we were accepting public comment and 3 testimony from other members of the community who are not 4 currently represented by counsel. There were two members, I 5 believe, from the community that had raised their virtual 6 hand. I hadn't seen anyone else indicate that they wanted to 7 testify. So in order of my drop-down box here, Katy Prebble. 8 MS. PREBBLE: Yes. 9 HEARING EXAMINER BAUMGARDNER: Hello. If you can 10 just give us your full name, your address, and a good email 11 address, please? 12 MS. PREBBLE: Okay. My name is Kathleen Prebble. 13 You want my home address, I'm sorry, or work? 14 HEARING EXAMINER BAUMGARDNER: Are you a member -- 15 MS. PREBBLE: I'm representing the Academy. 16 HEARING EXAMINER BAUMGARDNER: Your representing 17 who, ma'am, I'm sorry? 18 MS. PREBBLE: The Academy of the Holy Cross. 19 HEARING EXAMINER BAUMGARDNER: Okay. Did your 20 professional address and a professional email, please? 21 MS. PREBBLE: Thank you. 4920 Strathmore Ave., 22 Kensington 20895. My email is first initial, last name, 23 KPrebble@AcademyoftheHolyCross.org. 24 HEARING EXAMINER BAUMGARDNER: All right. And 25 ma'am, would you please raise your right hand?</p>

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<p style="text-align: right;">324</p> <p>1 Do you swear or affirm under the penalties of</p> <p>2 perjury that the testimony you're about to get is the truth,</p> <p>3 the whole truth, and nothing but the truth?</p> <p>4 MS. PREBBLE: Yes.</p> <p>5 HEARING EXAMINER BAUMGARDNER: Ma'am, you are</p> <p>6 welcome to testify regarding this LMA application.</p> <p>7 MS. PREBBLE: Thank you. And thank you for the</p> <p>8 opportunity to speak today.</p> <p>9 I've had the honor to serve as president of the</p> <p>10 Academy since 2013. And I've also been a homeowner in</p> <p>11 Montgomery County for the past 32 years. I currently reside</p> <p>12 in Silver Spring.</p> <p>13 When the Sisters first informed of their decision</p> <p>14 to sell the St. Angela Hall property, the Academy had just</p> <p>15 completed its first campus master plan. During this planning</p> <p>16 process it became abundantly clear to us that to continue to</p> <p>17 properly serve our students and attract students to our</p> <p>18 school we would need to enhance our current facilities,</p> <p>19 create additional parking on campus, and make our campus more</p> <p>20 welcoming and inclusive by making our 1956 building</p> <p>21 assessable, ADA accessible, which would also then included</p> <p>22 the campus itself with the creation of an ADA accessible ramp</p> <p>23 to our turf field.</p> <p>24 Our decision to build a new athletic and wellness</p> <p>25 center and create new parking and complete the long awaited</p>	<p style="text-align: right;">326</p> <p>1 With the new road and entrance to the campus we</p> <p>2 will continue to provide police officers during arrival and</p> <p>3 dismissal as we have done for many years. We will instruct</p> <p>4 our families and students drivers not to access the campus</p> <p>5 via the entrance to the townhomes that will be opposite</p> <p>6 Stillwater.</p> <p>7 We are also aware that Garrett Park Elementary</p> <p>8 currently provides bus service to their school at the</p> <p>9 Strathmore and Symphony Park entrance. I see those students,</p> <p>10 those young children waiting daily when I make my route to</p> <p>11 and from school. Several have suggested that our entry be</p> <p>12 relocated to the Tuckerman Lane. The student parking lot</p> <p>13 that is adjacent to the Stoneybrook townhome community has a</p> <p>14 path that our students and our faculty can access that takes</p> <p>15 them down to Cloister Drive and then over to Metro. Cloister</p> <p>16 Drive, as you know, is a private road owned by Stoneybrook.</p> <p>17 When the sisters originally purchased the land</p> <p>18 here in Kensington, they did on the land that the Stoneybrook</p> <p>19 townhouses exist on now. When the property was sold the</p> <p>20 school was given permission for pedestrian use only to use</p> <p>21 the private drive to access Metro. So that is used by our</p> <p>22 students and our faculty and staff. Parents are not even</p> <p>23 allowed to be on cloister Drive, as it is a private road.</p> <p>24 Many of you are also aware that the stream that</p> <p>25 prevents the development on the west side of our campus, the</p>
<p style="text-align: right;">325</p> <p>1 ADA work went from really a dream to a reality when we were</p> <p>2 approached by several developers with interest in buying our</p> <p>3 front acres, those adjacent to the St. Angela Hall property.</p> <p>4 With that, it would include a new entrance road to the</p> <p>5 school.</p> <p>6 We spent a great deal of time meeting several</p> <p>7 developers and hearing multiple plans. With great interest,</p> <p>8 we began to focus our attention on EYA and Brandywine who</p> <p>9 presented a concept of a multi-generational community, vastly</p> <p>10 different from any other developers. We were drawn to EYA</p> <p>11 and Brandywine for several reasons. First, the</p> <p>12 intergenerational community would create lesson density, and</p> <p>13 less traffic because of the concept of the senior living</p> <p>14 community, single-family homes, and townhomes. Knowing that</p> <p>15 few residents of Brandywine would actually be driving, and</p> <p>16 that Brandywine itself provides transportation for its</p> <p>17 residents.</p> <p>18 We were also pleased with the opportunity a senior</p> <p>19 living community would provide for our students to be</p> <p>20 actively engage with the residents of Brandywine through</p> <p>21 service, as well as the school providing opportunities for</p> <p>22 the residents of Brandywine to attend concerts and theater</p> <p>23 productions at the school, and even some possibilities of</p> <p>24 more active residents to actively mentor our students on our</p> <p>25 campus.</p>	<p style="text-align: right;">327</p> <p>1 land involved in the sale, that stream travels all the way up</p> <p>2 the side of the campus, wraps around the back, under Cloister</p> <p>3 Drive, and eventually makes its way to Rock Creek. The</p> <p>4 topography of that side of the campus is densely wooded and</p> <p>5 slopes significantly towards the stream valley. All of that</p> <p>6 is to say that it is not a favorable place for a road to be</p> <p>7 built that would access Tuckerman.</p> <p>8 Providing a walking path through our campus to</p> <p>9 access Tuckerman Lane and Metro would create a significant</p> <p>10 safety and security risk for our school that I believe no</p> <p>11 school would really be willing to accept. The safety of our</p> <p>12 students remains our highest priority in all that we do.</p> <p>13 We were, and continue to be impressed with the</p> <p>14 level of collaboration and cooperation in that EYA and</p> <p>15 Brandywine have exhibited throughout the whole process, from</p> <p>16 the design of the new entrance road, the level of landscaping</p> <p>17 and buffer zones created between the school and the</p> <p>18 townhomes, the walking path open to the larger community as</p> <p>19 well as to our students, and most importantly, the sincere</p> <p>20 interest in creating not only an attractive, but a safe</p> <p>21 community for those of us impacted by the sale of the land.</p> <p>22 As a school that has served the greater Washington</p> <p>23 community for over 150 years, it was important to us that we</p> <p>24 continue to be respectful of the community we live in. And</p> <p>25 selecting the right developers to purchase the land was</p>

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<p style="text-align: right;">328</p> <p>1 paramount in our decision, one that even superseded the</p> <p>2 ultimate dollar amount of the land sale.</p> <p>3 I would also like to note that although at the</p> <p>4 peak -- at its peak the school served 600 students, our</p> <p>5 campus improvements are not meant to substantially increase</p> <p>6 our current population of 400 students. A population of 600</p> <p>7 students is not anything that we seek in our future. We have</p> <p>8 grown to a point where somewhere between 4 and maybe 450 is</p> <p>9 probably the best size for the school, and that's how we have</p> <p>10 sized all of our operations here.</p> <p>11 What really is paramount to us is that we're able</p> <p>12 to continue the legacy of the Sisters of the Holy Cross by</p> <p>13 assisting young girls to grow into the empowered women of</p> <p>14 courage, compassion, and scholarship, a legacy begun in 1868</p> <p>15 when the Sisters opened their first school in Washington, DC,</p> <p>16 to the Kensington campus that became a reality in 1956.</p> <p>17 Our graduates have not only the local community</p> <p>18 here in Kensington, but the greater Washington, DC area, the</p> <p>19 country, and the world, in doing great works. The sale and</p> <p>20 development of our 8 acres will be a transformational moment</p> <p>21 for the future of the school, as it will allow us to continue</p> <p>22 to enhance and attract more students to be part of this</p> <p>23 legacy.</p> <p>24 Thank you.</p> <p>25 HEARING EXAMINER BAUMGARDNER: Thank you, Ms.</p>	<p style="text-align: right;">330</p> <p>1 MR. BURDIN: Okay. And you said that you are</p> <p>2 anticipating that the Brandywine residents will not drive</p> <p>3 much; is that right?</p> <p>4 MS. PREBBLE: Yes.</p> <p>5 MR. BURDIN: Okay. But you're not disputing that</p> <p>6 the Brandywine employees and visitors will use cars to get to</p> <p>7 and from the facility, right?</p> <p>8 MS. PREBBLE: Right.</p> <p>9 MR. BURDIN: Okay. And that the townhouses,</p> <p>10 single-family homes, will add traffic to Strathmore Avenue,</p> <p>11 right?</p> <p>12 MS. PREBBLE: Yes.</p> <p>13 MR. BURDIN: You're not disputing that. Okay.</p> <p>14 MS. PREBBLE: No.</p> <p>15 MR. BURDIN: I think that's all I have. Thank</p> <p>16 you.</p> <p>17 MS. PREBBLE: Thank you.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Thank you very</p> <p>19 much. I believe that's all the questions we have for Ms.</p> <p>20 Prebble at this time.</p> <p>21 MS. WEITZ: I -- excuse me, I have a question. I</p> <p>22 had my hand raised, maybe you don't see me. This is Mrs.</p> <p>23 Weitz, Cynthia Weitz.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Okay. Well,</p> <p>25 typically we don't have -- so we typically don't have one</p>
<p style="text-align: right;">329</p> <p>1 Prebble.</p> <p>2 Ms. Girard, do you have any questions?</p> <p>3 MS. GIRARD: Nothing from me. Thank you.</p> <p>4 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, any</p> <p>5 questions for Ms. Prebble?</p> <p>6 MR. SHAFFER: None.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, that</p> <p>8 was a faint none, I think I heard?</p> <p>9 MR. SHAFFER: (Inaudible).</p> <p>10 HEARING EXAMINER BAUMGARDNER: Okay. Yeah, it's a</p> <p>11 little bit low.</p> <p>12 MR. SHAFFER: Okay. I don't know how to switch</p> <p>13 (inaudible). But the answer was no. I know you can</p> <p>14 (inaudible).</p> <p>15 HEARING EXAMINER BAUMGARDNER: Yes. Mr. burden,</p> <p>16 any questions for Ms. Prebble?</p> <p>17 MR. BURDIN: Yeah, just a few. I think you said</p> <p>18 that you will continue to employ the police officer that</p> <p>19 directs traffic; are you committing to doing that for any</p> <p>20 length of time?</p> <p>21 MS. PREBBLE: We're committed to doing that into</p> <p>22 the indefinite future. Having a light is -- will provide</p> <p>23 some relief, but we know that the arrival and the dismissal</p> <p>24 of our students is the most intense time, so yes, that is a</p> <p>25 commitment we are making.</p>	<p style="text-align: right;">331</p> <p>1 community member asking another community member a question.</p> <p>2 MS. WEITZ: Okay. That's fine.</p> <p>3 HEARING EXAMINER BAUMGARDNER: So Ms. Weitz, what</p> <p>4 might your question be?</p> <p>5 MS. WEITZ: I just wanted clarity on that she said</p> <p>6 additional parking and I just wanted a bigger description on</p> <p>7 who was going to be using the parking?</p> <p>8 HEARING EXAMINER BAUMGARDNER: Well, so --</p> <p>9 MS. WEITZ: Whether that's generating additional</p> <p>10 trips if there's going to be more parking available.</p> <p>11 HEARING EXAMINER BAUMGARDNER: I don't think</p> <p>12 that's an appropriate question at this time since Ms. Prebble</p> <p>13 is a representative of the school which, while my</p> <p>14 understanding is a party to the contract purchase, isn't a</p> <p>15 part of the subject application. So I understand your</p> <p>16 question, but I don't think it's appropriate at this time.</p> <p>17 All right. Let's see here. So I think we are</p> <p>18 done with Ms. Prebble's testimony. Thank you very much,</p> <p>19 ma'am.</p> <p>20 MS. PREBBLE: Thank you.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Going down the list</p> <p>22 here, I have a Sister Ruth Marie Nikerson?</p> <p>23 SISTER NIKERSON: Yes, I'm here.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Hello, ma'am. Can</p> <p>25 you please give us your name, and your professional or</p>

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<p style="text-align: right;">332</p> <p>1 residential address and a good email address, please?</p> <p>2 SISTER NIKERSON: Yes. My name is Sister Ruth</p> <p>3 Marie Nikerson. I am a Sister of the Holy Cross. Our</p> <p>4 motherhouse is Notre Dame Indiana. I live in Kensington,</p> <p>5 Maryland on Denfeld Avenue. I am a graduate of the Academy</p> <p>6 of the Holy Cross.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Ma'am?</p> <p>8 SISTER NIKERSON: Yes?</p> <p>9 HEARING EXAMINER BAUMGARDNER: I'm sorry.</p> <p>10 SISTER NIKERSON: You need an --</p> <p>11 HEARING EXAMINER BAUMGARDNER: So -- well, that's</p> <p>12 okay. Do you live in the immediate vicinity?</p> <p>13 SISTER NIKERSON: I live on Denfeld Avenue which</p> <p>14 is close by but not in the immediate -- I don't live in</p> <p>15 Garrett Park. I live on the other side of Connecticut</p> <p>16 Avenue.</p> <p>17 HEARING EXAMINER BAUMGARDNER: I understand. I do</p> <p>18 need to swear you in, ma'am. Can you please raise your right</p> <p>19 hand?</p> <p>20 And do you swear or affirm under the penalties of</p> <p>21 perjury that the testimony you're about to give is the truth,</p> <p>22 the whole truth, and nothing but the truth?</p> <p>23 SISTER NIKERSON: I do.</p> <p>24 HEARING EXAMINER BAUMGARDNER: Thank you very</p> <p>25 much. What is your testimony?</p>	<p style="text-align: right;">334</p> <p>1 Cross that opened in 1956. That land was then also</p> <p>2 dedicated, given to the archdiocese for a parish that became</p> <p>3 Holy Cross Parish which is adjacent to St. Angela Hall today.</p> <p>4 Also on the premise was planned a hospital. The</p> <p>5 hospital was part of our ministries throughout the United</p> <p>6 States, and we thought it would be good to have a hospital on</p> <p>7 this land. But as we all know, it moved over to Silver</p> <p>8 Spring after negotiation and a request to move it over to</p> <p>9 Silver Spring, Maryland.</p> <p>10 The next was followed by St. Angela Hall, and it</p> <p>11 provided a beautiful home for our Sisters who were aging in</p> <p>12 place after all of these many ministries, there were a lot of</p> <p>13 aging Sisters, and it provided for the semi-retired, the</p> <p>14 retired. It also became a gathering place for all our</p> <p>15 sisters in the area. It has a very special place in the</p> <p>16 hearts of our Sisters.</p> <p>17 But as the building began to take on age, it had</p> <p>18 its effect on the building, and the significant high</p> <p>19 infrastructure costs to repair it, the question came is it</p> <p>20 appropriate use of our limited resources to rebuild it since</p> <p>21 we had a decreasing number of Sisters in the area.</p> <p>22 And after prayer and discernment, and also with</p> <p>23 the Mother House having availability to welcome our Sisters</p> <p>24 with a whole range of care from independent living to skilled</p> <p>25 nursing, the decision was made to sell the prime property of</p>
<p style="text-align: right;">333</p> <p>1 SISTER NIKERSON: I am a graduate of the Academy</p> <p>2 of the Holy Cross and I presently serve on the board of</p> <p>3 trustees of the Academy, and also as chair of the Academy at</p> <p>4 this time. But today, I'm not representing the Academy. I</p> <p>5 stand firmly behind Mrs. Prebble's -- I usually just call her</p> <p>6 Katy -- her presentation today, and it has the full support</p> <p>7 of the Board of Trustees. But I'm representing the Sisters</p> <p>8 of the Holy Cross, and affirming the decision that has</p> <p>9 brought us to this point today with Brandywine, and also with</p> <p>10 EYA.</p> <p>11 The last time I spoke to a group, I talked more</p> <p>12 about the Sisters of the Holy Cross and how we came to this</p> <p>13 area after the Civil War. And as Katy has said, Mrs. Prebble</p> <p>14 had said, that the Academy was opened in 1868 following the</p> <p>15 Civil War. So we came early on at that time, and since that</p> <p>16 time, we have engaged in ministries from colleges, high</p> <p>17 schools, parish schools, ministries to social outreach and to</p> <p>18 the various needs of our time, opening and closing ministries</p> <p>19 as appropriate. During World War II, we acquired, with the</p> <p>20 assistance of a very generous benefactor, the Corby estate</p> <p>21 which brings us to where we are today in the development.</p> <p>22 It became the headquarters for the Sisters of the</p> <p>23 Holy Cross. It became the Eastern Providence headquarters</p> <p>24 for the Sisters based out of Notre Dame, Indiana. The first</p> <p>25 development on that property was the Academy of the Holy</p>	<p style="text-align: right;">335</p> <p>1 St. Angela Hall to augment the work of our Sisters and</p> <p>2 ministries on for continents in the world today, in the</p> <p>3 global world today, where are Sisters care for the people</p> <p>4 with arising needs. So that was the decision that was made</p> <p>5 by the Sisters that really brought us to where we are today.</p> <p>6 In the years -- in the time after the decision was</p> <p>7 made the Sisters asked the various groups what they thought</p> <p>8 this next step should be for the development of the land, and</p> <p>9 they gathered information from many of the residents in the</p> <p>10 community and then putting that together developed a</p> <p>11 proposal, and sent out the proposal and asked for</p> <p>12 submissions. And those who submitted, the first was a</p> <p>13 Brandywine, as I understand it. And then the joint venture</p> <p>14 came, a potential joint venture with EYA if the Academy's</p> <p>15 land could be also used in the development.</p> <p>16 And for the Sisters this became a very important</p> <p>17 decision because not only was -- we were continuing care for</p> <p>18 seniors in our community now they weren't Sisters, but now we</p> <p>19 would be opening it up to the general public for the care of</p> <p>20 seniors. It also had intergenerational housing</p> <p>21 opportunities, and I think Katy spoke very much to the</p> <p>22 benefit that that would have for building community.</p> <p>23 The reason that the Sisters really looked to</p> <p>24 Brandywine and EYA was because of how they presented their</p> <p>25 professional work, what they have accomplished, and their</p>

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<p style="text-align: right;">336</p> <p>1 history in each of their fields, with their outstanding 2 reputations. But also, their interest and intent on building 3 community wherever they developed their programs. And so, 4 that really spoke to the Sisters and was part of the 5 decision, as well as looking at how we could enhance the 6 Academy, even though that was a separate decision of the 7 board of trustees of the Academy of the Holy Cross. But we 8 were delighted to see that the two could work together so 9 beautifully. 10 And I do want to develop -- when the plan was 11 developed, and before the plan was developed, there were 12 numerous sessions with the community and residents about 13 opportunities and possibilities of what this it also was that 14 we listened to the concerns of the residents of the area and 15 tried to adjust appropriately, or they tried to adjust 16 appropriately. They worked not only with the Academy in 17 partnering with how to develop and make the changes that were 18 necessary, the Academy really had some demands that they 19 asked the new partnership, and they were met. 20 As also the value of listening to the community 21 and trying to make the plans of the housing respond to the 22 community needs. And really, to build something that we 23 could all be proud of in the community. 24 So I want to go back on one thing, and it is set 25 in the design of the project, the development project on both</p>	<p style="text-align: right;">338</p> <p>1 looking forward into the years. The Sisters of the Holy 2 Cross and believe in this project and fully affirm our 3 support of Brandywine and EYA today. So thank you very much 4 for listening to me. 5 HEARING EXAMINER BAUMGARDNER: Thank you very much 6 Sister Nikerson. 7 Ms. Girard, do you have any follow-up questions 8 for this witness? 9 MS. GIRARD: No, nothing. Thank you. 10 HEARING EXAMINER BAUMGARDNER: Okay, Mr. Shaffer, 11 do you have any follow-up questions for this witness? 12 MR. SHAFFER: (Inaudible). 13 HEARING EXAMINER BAUMGARDNER: I believe I heard 14 you say no. Again, we're having trouble hearing you, Mr. 15 Shaffer. Can you try logging off and logging back on again? 16 MR. SHAFFER: Yes. 17 HEARING EXAMINER BAUMGARDNER: Okay, Mr. burden, 18 do you have any questions for this witness? 19 MR. BURDIN: I do not. 20 HEARING EXAMINER BAUMGARDNER: Thank you very 21 much, ma'am. 22 I believe that complaints of the public testimony 23 portion of our hearing, save for Mr. burden, who is a party. 24 There you are Mr. Shaffer, we see you back there. 25 So what we're going to do now, and this will be</p>
<p style="text-align: right;">337</p> <p>1 the senior living and the housing, it was the community was 2 listened to. We tried to respond to what the needs, or the 3 desires of the community, and really again, to say something 4 that we were trying to build a community all would be proud 5 of. 6 Yes, concerns were brought about -- were brought 7 up and attempted to be addressed. The developers, the design 8 of the project that wasn't done with considerable 9 professionalism, bringing in appropriate consultants as 10 necessary to respond to the various issues, and traffic was, 11 yes of course, one of the issues that was high on our list 12 that needed to be responded to and done. 13 I do want to say that both EYA and Brandywine 14 respectfully listen to the neighbors, and tried to make 15 appropriate additions or changes that were appropriate, 16 taking into consideration the various planning -- Montgomery 17 County planning requirements. So there was a lot of 18 listening and addressing the concerns. 19 I believe today that the plan that is it being 20 developed, and we know that it will continue to be revised 21 accordingly, will be appropriate as to traffic and to 22 approaching the -- both of the developments, the senior 23 living and Brandywine. 24 But I believe we will have a place that we can all 25 be proud of and that it will be a part of the community</p>	<p style="text-align: right;">339</p> <p>1 the game plan for the rest of the afternoon. Mr. burden had 2 requested the ability to testify himself as a party, which is 3 certainly appropriate. And then, also, to give a closing 4 argument, which is also appropriate. So I think what we're 5 going to do now is allowed Mr. burden to testify as a 6 community member. Then we will switching gears back to Ms. 7 Girard to put on, I believe Mr. Sloan, as a rebuttal witness. 8 So we will go through some questions regarding that rebuttal 9 testimony. And then, we will do closing arguments with Ms. 10 Girard going first and then Mr. Shaffer, and then Mr. burden 11 at the end. Is that acceptable for everyone? 12 MS. GIRARD: Yeah, just one point of 13 clarification. We're also going to call back Ms. Wagner. 14 HEARING EXAMINER BAUMGARDNER: Okay. And in the 15 world of rebuttals that would be appropriate. So you're 16 going to start with Mr. burden. Sir, you are -- I don't 17 think we've sworn you in yet. So we will do that, and then 18 you can provide your testimony, sir. 19 So again, can you just give us your full name, 20 your address, and a good email address, please? 21 MR. BURDIN: Yes, Douglas Scott burden, 5112 22 Strathmore Avenue, Rockville, Maryland 20852. 23 DBurdin@Verizon.net. 24 HEARING EXAMINER BAUMGARDNER: Thank you very 25 much, sir. And do you swear or affirm under the penalties of</p>

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<p style="text-align: right;">340</p> <p>1 perjury that the testimony you're about to give is the truth, 2 the whole truth, and nothing but the truth? 3 MR. BURDIN: I do. 4 HEARING EXAMINER BAUMGARDNER: Thank you very 5 much. You are welcome to provide your testimony here today. 6 MR. BURDIN: Okay. I gave you my address, just 7 for context, it's in the north east corner of Symphony Park, 8 so very close to the proposed development. I've lived there 9 for almost two years, but I did grow up in Garrett Park, in 10 Garrett Park Estates, and you know, I used to play football 11 on the Holy Cross field and walked across the grounds and the 12 field and the convent. 13 Are you getting background noise? 14 HEARING EXAMINER BAUMGARDNER: I am not. 15 MR. BURDIN: Okay. My wife is vacuuming upstairs 16 and I can hear her, but I just wanted to make sure you 17 couldn't hear it. 18 I want to testify about a couple of things about 19 the transit use. I walked to the Metro station from 20 approximate the center point of the development frontage on 21 Strathmore Avenue at a regular pace and under clear and 22 normal conditions, it took me about 13 minutes, 13 or 14 23 minutes, and I estimate, what Mr. Edwards did come earlier, 24 that walking from the back or south end of the proposed 25 development on Strathmore on the path up to the Metro would</p>	<p style="text-align: right;">342</p> <p>1 on Symphony Park, few people in the townhouse use the Metro. 2 I wanted to note my observations, as others have, 3 about the traffic at Strathmore in both the 7:30 to 8:30, to 4 9:00 timeframe and the 2:30 to 3:30 time frame, around the 5 time when the schools are in session. Anytime the schools 6 have been in session I think there has always been a traffic 7 officer present, but what I have observed even though the 8 traffic officer is helping the flow of traffic in and out of 9 that entrance, there is still backup, sometimes past Symphony 10 Park and up toward Garrett Park, you know, to or close to 11 Kenilworth Avenue. 12 So despite what I have observed, despite the 13 presence of the police officer that the traffic still backs 14 up and the delays are still significant. And I have also, 15 occasionally, been stuck trying to get out of my development, 16 either going east or west and had delays from traffic. And I 17 have been personally in that traffic occasionally that gets 18 backed up on Strathmore. 19 I want to address it Ms. Wagner's answer to a 20 question in cross-examination yesterday about walking from 21 the proposed site to Garrett Park Elementary School. I 22 thought her answer was kind of muddled and propose some 23 things that aren't really feasible. And this assumes that 24 the developer will not be able to extend the path past their 25 eastern border up to the Holy Cross driveway.</p>
<p style="text-align: right;">341</p> <p>1 add another 4 or 5 minutes. 2 I also did the same thing walking to the Garrett 3 Park MARC station, is an acronym, station from the same 4 starting point and it took, again, about 13 or 14 minutes, 5 and again, walking from the back of the proposed development 6 would add 4 or 5 minutes. I note that starting from the 7 Brandywine proposed facility would be closer to the Garrett 8 Park MARC station but further from the Metro station. So 9 those people would have to walk further to the Metro. 10 My anecdotal observations are that very few 11 residents of Symphony Park, which is a 115 unit townhouse 12 development closer to Metro than the proposed site, that very 13 few residents of Symphony Park use the Metro. I'm often 14 walking my dog around 8 to 9 in the morning, sometimes 15 earlier, on the path near and on Symphony Park to Metro and I 16 very rarely, if ever, have seen what I thought was somebody 17 that looked like they were heading towards the Metro. In 18 other words, somebody in a suit, or that didn't -- weren't 19 out just for a casual walk. 20 I would also say that I don't think -- well, I've 21 never received a questionnaire or inquiry from anybody about 22 my use of the Grosvenor Metro station while I lived at 23 Symphony Park. And I've never seen anybody observing you 24 know, somebody that might have been trying to ascertain the 25 use of Metro by Symphony Park. Basically, I'm saying based</p>	<p style="text-align: right;">343</p> <p>1 She basically -- residents leaving the proposed 2 site would have three possible ways to get to Garrett Park 3 Elementary School. One would be, which I think Ms. Wagner 4 was talking about would be to use the sidewalk to the edge of 5 the property, and then cross the Holy Cross property using 6 what she called a goat path, which I've been on, it's just a 7 little dirt path where people have trampled the grass. You 8 can use that to cross the grassy part of the Holy Cross 9 church property. 10 That would bring you to two driveways they have a 11 going in and out of the church itself. They are two lane 12 driveways in both directions. One lane for parking, and one 13 lane for traffic. You would have to cross those, you would 14 then come to another street that -- you know, property road 15 that goes from the big Holy Cross parking lot to the church 16 and school area. I think that's where they drop and pick up 17 kids that are using -- using cars to drop off kids there. 18 That would take you to the Holy Cross, but large 19 parking lot that they have there. And to get to Garrett Park 20 from there, you would have to cross that parking lot and then 21 there's a chain link fence with only one opening. It's a 22 very rough, and not very pedestrian friendly open to Garrett 23 Park. And that would take you to the Garrett Park traffic -- 24 parking lot. So there's a lot of detail, but the point is 25 it's not a way that any parent would take their kids to get</p>

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<p style="text-align: right;">344</p> <p>1 to Garrett Park. And again, I thought Ms. Wagner was 2 suggesting it was a feasible path. 3 The second way would be to walk to the edge of the 4 property on the new proposed sidewalk and then cross 5 Strathmore, but I don't think there's a crosswalk there. So 6 it would not be an acceptable ways to go either. 7 The third way, which is the most reasonable way 8 and would be to leave the property, cross Strathmore -- or 9 the most reasonable, cross Strathmore, get on the Strathmore 10 Avenue access road and the sidewalk there, walk north, and 11 then eventually you will come up with the sidewalk in Garrett 12 Park and cross Kenilworth -- I mean, cross Strathmore again 13 at Kenilworth and then proceed to the school. 14 So I just wanted to clarify the walk ability issue 15 a little bit. 16 The next thing I wanted to talk about some, not 17 surprisingly, is the traffic study and the issue that I was 18 crossing Ms. Wagner yesterday on, one of the issues. In the 19 original LATR traffic report as we look at it yesterday and 20 Table 7 there are massive delays in the existing and 21 background sections -- conditions for the school entrance at 22 Stillwater in the a.m. peak hours. And those were reduced to 23 about 10 seconds in the future condition with the additions 24 of the proposed -- you know in the future conditions includes 25 any cars added by the proposed project itself.</p>	<p style="text-align: right;">346</p> <p>1 identified as a problem with this existing intersection. 2 Now, the addition of the lane leaving the school 3 could help delays for those cars turning right because they 4 would presumably be less cars turning right stuck behind cars 5 that wanted to turn left but had to wait for traffic to 6 clear. That might help some for sure. But I don't think -- 7 again, it wouldn't do anything to help cars turning on 8 Strathmore, turning left into the Academy. So I don't think 9 that either of those changes explain the massive reductions, 10 especially because the future conditions are going to add 11 cars to the roads. 12 Now, turning to the addition of the light and the 13 left turn lane that has been proposed, but not approved in 14 any way. Again, that might help, but it doesn't seem like at 15 the worst hours that would help any more than the police 16 officer is. In fact, the school, as we just heard, is still 17 committed to putting the officer there, in seeming 18 recognition that the traffic light wouldn't be adequate. As 19 I mentioned before, we still have delays and backups there 20 when there is a traffic officer there. And I don't think 21 that the traffic consultant explained any of these 22 adequately. 23 Now, one thing I'm not sure about if Mr. 24 Baumgardner, if you will give me a little guidance. Fact 25 witnesses have been suggesting conditions. I can do that now</p>
<p style="text-align: right;">345</p> <p>1 The supplemental analysis, there are also large 2 delays, not as large as in the original LATR, in the existing 3 and background for the a.m. peak for the school entrance, 4 which equates to the Stillwater entrance in the background -- 5 I'm sorry, at the Stillwater school entrance intersection. 6 And again, those in the future conditions were reduced to a 7 level that was just above the congestion level. So they were 8 reduced and they started in the supplemental -- the delays 9 started at a lower number, around 225, and in the future were 10 reduced to 77.7, I think. 11 So the explanation for both reductions is two on 12 the ground proposed changes. The first proposal was to align 13 the proposed sites western entrance with Stillwater. And the 14 second proposed on the ground change would be to add a lane 15 coming out of the Academy entrance so there would be one lane 16 for cars turning right, going east, turning right into the 17 Academy, and two lanes leaving out. One to turn left onto 18 Strathmore out of the Academy, and one to turn right. 19 Now, looking at the first proposed change, the 20 realignment, I don't see how that would help very much at 21 all, or if at all, but very minimally at most. It would do 22 nothing to address the cars on Strathmore Avenue going west 23 and turning into the Academy, which is identified as one of 24 the big problems with this intersection. And it would not do 25 anything for cars turning left out of the Academy, also</p>	<p style="text-align: right;">347</p> <p>1 or in argument, I'm not sure which is appropriate. 2 HEARING EXAMINER BAUMGARDNER: I think either 3 would be appropriate. 4 MR. BURDIN: Okay. 5 HEARING EXAMINER BAUMGARDNER: To make it a little 6 easier in terms of the order, and particularly for my notes, 7 let's do it during your argument phase. That way we will 8 have the three parties to be able to address at that 9 particular issue in order. 10 MR. BURDIN: Okay. That's fine. I think that is 11 all I have. 12 HEARING EXAMINER BAUMGARDNER: All right. Thank 13 you very much, sir. 14 Ms. Girard, any questions for Mr. burden based 15 upon that testimony? 16 MS. GIRARD: I'm sorry. I may have just 17 misunderstood what happened. But Mr. burden said he was 18 going to propose conditions, but he is now suggesting he'll 19 do that in his closing argument? 20 HEARING EXAMINER BAUMGARDNER: That's correct. It 21 just to keep things flowing, I think if we have that at 22 closing as kind of a snapshot it would be a better way to -- 23 well, I suppose if you're going to comment on those. 24 MS. GIRARD: Right that was my -- based on the 25 order that you had for closing statements I'd like an</p>

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<p>348</p> <p>1 opportunity to address any conditions that he is proposing. 2 HEARING EXAMINER BAUMGARDNER: I think that's 3 reasonable. So I take back what I said, Mr. Burdin. Let's 4 hear those conditions if you are prepared to provide them and 5 now. I do think it's reasonable for counsel to be able to 6 respond to those conditions if they are feasible, if they are 7 possible. So we will take those down now, if that's okay 8 with you. 9 MR. BURDIN: Yes. Sure. And I only have two. 10 The first would relate to the traffic light and the westbound 11 left turn lane to make that a condition of the approval so 12 that any benefit, which I'm not convinced of, but any 13 potential benefit from those two items would be a condition 14 of the approval. 15 The second would be an obligation to study traffic 16 obligation on the developers, or the owners of the project 17 sites to study traffic after the project is complete, 18 assuming that it gets approved, is complete and to ascertain 19 the effectiveness of the light and any other mitigation 20 measures without -- you know, with and without the traffic 21 officer. I'm not sure how that would play out. You know, 22 the church has committed to keeping it but I don't know that 23 that's binding and they're not a party so you can't bind 24 them. 25 And if that subsequent traffic study shows that</p>	<p>350</p> <p>1 MS. GIRARD: And would you agree that Metro 2 ridership has been much lower than pre-pandemic? 3 MR. BURDIN: I have read that to be the case. 4 MS. GIRARD: Okay. And are you aware, we heard 5 testimony from Ms. Prebble that Symphony Park kids are picked 6 up on Strathmore to go to Garrett Park Elementary School? Do 7 you know if that's true? 8 MR. BURDIN: I have heard that and I believe I 9 have observed that once or twice. 10 MS. GIRARD: So they don't walk to school, to your 11 knowledge? 12 MR. BURDIN: I have not seen anybody from my 13 development of school age walk to Garrett Park. 14 MS. GIRARD: Okay. And with regard to your 15 critiques of the traffic study, again, are these based -- do 16 you have any traffic engineering background? Is this your 17 opinion? Have you consulted with any experts? 18 MR. BURDIN: I am not an expert. And I have not 19 consulted with any experts. 20 MS. GIRARD: Okay. So your critiques of the 21 traffic study are your own opinion? 22 MR. BURDIN: They are my analysis of what I could 23 understand in the traffic studies. And, I mean, they're -- 24 I'm trying to think if they're my opinion. They're my 25 factual ascertainment of what those documents mean.</p>
<p>349</p> <p>1 the projections by the traffic experts and that you're 2 relying on to the extent you do prove to be inaccurate that 3 there would be an obligation to further mitigate traffic 4 based on that subsequent study. 5 HEARING EXAMINER BAUMGARDNER: Understood. Thank 6 you Mr. Burdin. 7 Ms. Girard we'll turn it over to you for cross of 8 Mr. Burdin if you would like to ask any questions. 9 MS. GIRARD: Thank you. And I appreciate the 10 change of course to allow us to hear those conditions. 11 HEARING EXAMINER BAUMGARDNER: Sure. 12 MS. GIRARD: Mr. Burdin, you mentioned that you've 13 lived in Symphony Park for approximately two years. 14 Approximately when did you move in? 15 MR. BURDIN: March 2020. I've owned the property 16 since October 2019, rented it for about four months and then 17 moved in. 18 MS. GIRARD: And is it fair to say that your 19 observations of people walking to or from the Metro were -- 20 have mainly been when you have lived there? 21 MR. BURDIN: They have only been when I have lived 22 there. 23 MS. GIRARD: And is it fair to say that you've 24 lived there primarily during the pandemic? 25 MR. BURDIN: That is fair.</p>	<p>351</p> <p>1 MS. GIRARD: Okay. That's all I have. Thank you. 2 HEARING EXAMINER BAUMGARDNER: Thank, you. Mr. 3 Shaffer, any questions of Mr. Burdin? 4 MR. SHAFFER: No, thank you. 5 HEARING EXAMINER BAUMGARDNER: Okay. I did have 6 one follow-up question for Mr. Burdin. 7 So sir, you live in the Symphony Park community, 8 correct? 9 MR. BURDIN: Yes. 10 HEARING EXAMINER BAUMGARDNER: And if you know, 11 when was that community built? 12 MR. BURDIN: Around 2013, '14. 13 HEARING EXAMINER BAUMGARDNER: And when -- and 14 again, only if you know, was there community opposition to 15 the construction of that development? 16 MR. BURDIN: I do not know. 17 HEARING EXAMINER BAUMGARDNER: And that's fair. I 18 was just curious if that was known to you or not. Okay. 19 That's all I have. Thank you very much. 20 We are going to -- so that's the questions for Mr. 21 Burdin. We're going to turn it back over to Ms. Girard for 22 the calling of any rebuttal witnesses and I'll turn that back 23 over to you now. 24 UNIDENTIFIED SPEAKER: You are on mute, Erin. 25 MS. GIRARD: Sorry. I'm going to recall Katie</p>

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<p style="text-align: right;">352</p> <p>1 Wagner.</p> <p>2 HEARING EXAMINER BAUMGARDNER: I do see Ms.</p> <p>3 Wagner. Ma'am, just as a reminder, you are still under --</p> <p>4 actually, you are not still under oath because we're on a</p> <p>5 different day. Can you please raise your right hand?</p> <p>6 Do you swear or affirm under the penalties of</p> <p>7 perjury that the testimony you are about to give is the</p> <p>8 truth, the whole truth and nothing but the truth?</p> <p>9 MS. WAGNER: I do.</p> <p>10 HEARING EXAMINER BAUMGARDNER: All right. We have</p> <p>11 your information from yesterday so you do not need to repeat</p> <p>12 that. I turn the witness back over to Ms. Girard for</p> <p>13 questioning.</p> <p>14 MS. GIRARD: Thank you.</p> <p>15 Ms. Wagner, were you present today listening to</p> <p>16 the testimony of Mr. Edwards regarding his counting of cars?</p> <p>17 MS. WAGNER: Yes, I was.</p> <p>18 MS. GIRARD: And can you address -- I believe you</p> <p>19 had spoke about it in your direct testimony, but can you just</p> <p>20 address for us again, what you did with regard to those</p> <p>21 counts, and how they may have differed from your own?</p> <p>22 MS. WAGNER: Yes. So I reviewed the counts that</p> <p>23 were provided to the community. Again, they are -- I have</p> <p>24 not found them as an exhibit for others to review as part of</p> <p>25 this hearing, but was provided them both the video as well as</p>	<p style="text-align: right;">354</p> <p>1 intersections that both the proposed signals at Stillwater</p> <p>2 and Flanders as recommended today will not be warranted.</p> <p>3 That SHA requires an eight-hour traffic warrant to be met, or</p> <p>4 a four-hour traffic warrant to be met at locations that are</p> <p>5 not at schools. And so I do not believe that SHA would</p> <p>6 approve traffic signals at either of those two locations.</p> <p>7 MS. GIRARD: And we also heard testimony this</p> <p>8 afternoon, or this morning, regarding the consolidation of</p> <p>9 the entrances. And particularly putting the loading</p> <p>10 activities along the main drive. Can you address that</p> <p>11 recommendation?</p> <p>12 MS. WAGNER: Yes. We worked for months prior to</p> <p>13 developing this plan for the access scenarios with park and</p> <p>14 planning staff and determined that each access point was</p> <p>15 needed for a very specific reason. The Stillwater connection</p> <p>16 was adamantly proposed by staff that they wanted to have that</p> <p>17 as a secondary access point for residents, for emergency</p> <p>18 vehicles to connect to the community.</p> <p>19 The center driveway is needed for the school</p> <p>20 driveway to be able to have a signal at that intersection to</p> <p>21 provide a controlled crossing for pedestrians to get to and</p> <p>22 from the many bus stops along Stillwater Avenue. And then,</p> <p>23 the third driveway for the loading activity to really be able</p> <p>24 to separate the back of house operations from the rest of the</p> <p>25 site so that the trucks are not interacting with the</p>
<p style="text-align: right;">353</p> <p>1 the Excel spreadsheet that the software they used counted the</p> <p>2 cars. We did not have access to that software and just</p> <p>3 relied on manually counting the cars in slow motion video</p> <p>4 that we just watched the video slowly.</p> <p>5 And I watched the first 10 minutes of the video</p> <p>6 and in my estimation -- or in my counting there were 168 cars</p> <p>7 that traveled through the intersection during that first 10</p> <p>8 minute time period and the spreadsheet indicated there were</p> <p>9 325 vehicles that traveled through the intersection at that</p> <p>10 time. So we're estimating that the video count software used</p> <p>11 almost doubled the traffic counts that were actually in the</p> <p>12 video.</p> <p>13 MS. GIRARD: Thank you. And with regard to the</p> <p>14 request for traffic signals at both Stillwater and Flanders,</p> <p>15 can you address how those signals may or may not meet</p> <p>16 applicable warrants and how SHA would review those?</p> <p>17 MS. WAGNER: Yes. SHA is very stringent on where</p> <p>18 traffic signals are allowed to be placed. They have the</p> <p>19 Manual of Uniform Traffic Control Device that they rely on.</p> <p>20 And in that, there are traffic signal warrants that need to</p> <p>21 be examined for any location a traffic signal is proposed.</p> <p>22 They have very strict traffic -- the number of vehicles that</p> <p>23 have to be at that intersection.</p> <p>24 And in my estimations, looking at the numbers that</p> <p>25 we have projected just during the peak hours at those</p>	<p style="text-align: right;">355</p> <p>1 residents and the pedestrians traveling in and out of the</p> <p>2 community.</p> <p>3 I also heard references to trucks backing into</p> <p>4 that loading area. The design of the loading area off that</p> <p>5 loading access driveway will be done in a way that trucks</p> <p>6 will not be able to back -- they will not be inclined to back</p> <p>7 up, that there will be plenty of maneuvering space within the</p> <p>8 site for the trucks to pull into the loading area.</p> <p>9 MS. GIRARD: Thank you. And can you just review</p> <p>10 for us, you know, there was questions about the traffic study</p> <p>11 and how it -- what standards it adhered to, how it was</p> <p>12 reviewed. I know you touched on this in your direct</p> <p>13 testimony but if you can just walk us through it one more</p> <p>14 time with regard how it's prepared, how it's reviewed?</p> <p>15 MS. WAGNER: Yes. So we scoped our traffic study</p> <p>16 with park and planning staff, with SHA and MCDOT in the fall</p> <p>17 of 2020. The reason I don't give an exact date is because we</p> <p>18 have ongoing discussions with staff about all of the things</p> <p>19 that each agency would like to see in our traffic study. And</p> <p>20 coordinating background developments to be included. How to</p> <p>21 handle school not being fully in session and how to take that</p> <p>22 into consideration.</p> <p>23 We submitted the first round of the LATR traffic</p> <p>24 study on December 18th, 2020. We then received comments from</p> <p>25 MCDOT and SHA and performed, as I noted yesterday, performed</p>

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<p style="text-align: right;">356</p> <p>1 a supplemental analysis using the 2013 and 2016 traffic 2 counts. And that original supplemental analysis was 3 submitted to staff on April 30th of 2021. And then, as this 4 is very typical with traffic studies, that based on the 5 original findings that then Staff has comments and we work 6 together to resolve those comments and submit one final 7 study. 8 So we submitted the final LATR traffic study to 9 park and planning staff to fulfill their requirements that we 10 had to have counts done in a certain timeframe to meet their 11 standards and then we also submitted the additional 12 supplemental analysis on August 24th, 2021 to meet the 13 concerns of MCDOT and SHA staff. 14 I would also like to point out that we knew that 15 this was a concern about doing a traffic study during the 16 pandemic and so we collected additional traffic counts in 17 December of 2021. These were done on a typical weekday. 18 They were done during the a.m. and p.m. peak hours and we 19 found that the counts collected in December of 2021 were 20 lower than what we included in our supplemental analysis and 21 this is all detailed in Exhibit 58C. 22 I would also like to point out that I am a 23 licensed professional engineer in the State of Maryland as 24 well as a professional transportation operations engineer and 25 the traffic studies are reviewed thoroughly by experts at</p>	<p style="text-align: right;">358</p> <p>1 safety concerns. And so to kind of address what we were 2 talking about yesterday as far as why are we -- that we want 3 transit oriented development the new growth and 4 infrastructure policy does take that into consideration by 5 setting out goals for getting people out of cars and to 6 provide that infrastructure to allow people to do that and 7 not just focusing solely on mitigating traffic concerns. 8 MS. GIRARD: Thank you. And one last question. 9 In response to the testimony we recently heard from Mr. 10 Burdin, is it your understanding that during the pandemic 11 Metro ridership has decreased? 12 MS. WAGNER: Yes. That is -- not only has it 13 decreased as a result of the pandemic and individuals 14 teleworking there has also been significant construction on 15 the Red line for the last nine months that has also severely 16 impacted Metro ridership and there is even, just based on my 17 personal experience that I rode the Metro every single day 18 and have taken it a handful of times in the past two years. 19 MS. GIRARD: Thank you. That's all I had for Ms. 20 Wagner. 21 HEARING EXAMINER BAUMGARDNER: Thank you very 22 much, ma'am. Do we have any cross, or I guess surrebuttal 23 question, but limited to the testimony that Ms. Wagner just 24 offered, starting with Mr. Shaffer? 25 MR. SHAFFER: No, I don't.</p>
<p style="text-align: right;">357</p> <p>1 MNCPC, SHA, and MCDOT. 2 MS. GIRARD: Thank you, Ms. Wagner. And then, the 3 issue was raised, I guess during your cross and later about 4 Metro ridership and the assumptions that were taken in your 5 traffic study about Metro usage. You had mentioned in your 6 direct testimony that the property had moved from an orange 7 to a red policy area and would be subject to different 8 traffic study requirements when it goes -- if and when it 9 goes forward on different entitlements. Can you walk us 10 through what the Metro usage assumptions will be in the -- 11 now that it's in the red policy area? 12 MS. WAGNER: Yes. So as I discussed we will have 13 to do an additional traffic study for the preliminary plan 14 application. This study will have to follow the new LATR 15 guidelines that follow the growth and infrastructure policy 16 that has been -- that was adopted on January 1, 2021. As 17 part of this adoption and relying -- really trying to focus 18 on pedestrian, bike transit, infrastructure within the 19 county, there are published non-auto mode share goals within 20 this document. 21 And so specifically in our study, in our policy 22 area that the project is located the non-auto mode share goal 23 is 50 percent. So the new study will remove the focus from 24 being the vehicular capacity to really providing quality and 25 up to standard pedestrian bike transit and addressing any</p>	<p style="text-align: right;">359</p> <p>1 HEARING EXAMINER BAUMGARDNER: And Mr. Burdin? 2 MR. BURDIN: Yes, I do. Thank you. 3 Ms. Wagner, you testified, and correct me if I'm 4 mistaken, that the traffic light was not warranted at the 5 current Strathmore -- I mean the current Stillwater Academy 6 entrance intersection; did I get that right? 7 MS. WAGNER: No, that is not correct. I was 8 looking at future traffic volumes that are presented in the 9 LATR traffic study. 10 MR. BURDIN: Okay. All right. Then I think I was 11 mistaken. I don't have any further questions. Thank you. 12 HEARING EXAMINER BAUMGARDNER: Thank you, sir. 13 And thank you Ms. Wagner. I think that is the conclusion of 14 our questions for Ms. Wagner at this time. 15 Ms. Girard, did you have another rebuttal witness? 16 MS. GIRARD: I do. I would like to recall Josh 17 Sloan. 18 HEARING EXAMINER BAUMGARDNER: Mr. Sloan, there 19 you are, sir. It's a new day so we'll get you sworn in 20 again. 21 Do you swear or affirm under the penalties of 22 perjury that the testimony you're about to give is the truth, 23 the whole truth and nothing but the truth? 24 MR. SLOAN: Yes, sir, I do. 25 HEARING EXAMINER BAUMGARDNER: All right. We have</p>

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<p style="text-align: right;">360</p> <p>1 your name and contact information from yesterday. Ms. Girard</p> <p>2 the witness is yours.</p> <p>3 MS. GIRARD: Mr. Sloan, you've been present today</p> <p>4 at the hearing and heard the testimony from the community in</p> <p>5 opposition, correct?</p> <p>6 MR. SLOAN: Correct. And you've heard the</p> <p>7 suggestions that the LMA be approved conditionally and tied</p> <p>8 to school capacity. Can you please address, I know you</p> <p>9 touched on this in your direct, but if you can more fully</p> <p>10 explain the connection of the LMA to adequate public</p> <p>11 facilities and school capacity?</p> <p>12 MR. SLOAN: Sure. One part of this is certainly</p> <p>13 the traffic study which we've been discussing in detail. The</p> <p>14 other that we can go into a little more detail is the</p> <p>15 adequacy of the schools. And under the fiscal 2022 a school</p> <p>16 test, it was last published by park and planning, there are</p> <p>17 utilization rates that are projected for 2025 and 2026 for</p> <p>18 the schools that this -- that serve this proposed community.</p> <p>19 That's Walter Johnson High School, Tilden Middle School,</p> <p>20 Garrett Park Elementary School. Right now, those are all</p> <p>21 projected to have utilization rates of 93.2 percent for</p> <p>22 Walter Johnson, 83.6 for Tilden and 100.6 for Garrett Park</p> <p>23 Elementary. Under the new growth and infrastructure plan if</p> <p>24 a school goes over 105 percent capacity there is a</p> <p>25 utilization premium payment required. We're not there yet,</p>	<p style="text-align: right;">362</p> <p>1 redevelopment parcels, on page 73 for those who want to look</p> <p>2 it up. And then page 80 to 81 actually laid out a lot</p> <p>3 more -- not a lot more detail, a couple of paragraphs on</p> <p>4 recommendations to preserve green area, for environmental</p> <p>5 protection, wildlife sanctuary, recreation, visual relief</p> <p>6 they called it.</p> <p>7 And as staff noted, we are retaining the Academy</p> <p>8 which was recommended at that time. And we replacing the</p> <p>9 retirement home, which is now vacant with a residential care</p> <p>10 facility very similar in use. And the redevelopment of this</p> <p>11 property is actually allowing us to put about 5.7 acres of</p> <p>12 land, currently unprotected land into conservation easements,</p> <p>13 meeting the recommendations for environment protection,</p> <p>14 creation of habitat providing the trail through it for</p> <p>15 recreation. And of course, visual relief as they called it,</p> <p>16 just generally a green amenity for people to see.</p> <p>17 So as staff found, and I agree with them this does</p> <p>18 meet the master plan recommendations from 1992. I wanted to</p> <p>19 make sure that was clearly distinct from the Grosvenor</p> <p>20 Strathmore Metro area that put a green box around this, but</p> <p>21 it's not applicable to our findings.</p> <p>22 MS. GIRARD: Thank you. And you touched on this a</p> <p>23 little bit a minute ago. But there's been criticism about</p> <p>24 the provision of open space on the site, particularly with</p> <p>25 regard to a recreational area with perhaps a playground for</p>
<p style="text-align: right;">361</p> <p>1 but it may be. We'll do a further test at preliminary plan</p> <p>2 and depending on when approvals happen that test will be</p> <p>3 required. But we still will be meeting the adequate public</p> <p>4 facilities test to move forward with this development.</p> <p>5 MS. GIRARD: And is that true of all three levels</p> <p>6 of school?</p> <p>7 MR. SLOAN: Correct.</p> <p>8 MS. GIRARD: Okay. There was also mentioned</p> <p>9 earlier today, I guess this morning about the Grosvenor</p> <p>10 master plan and the identification of this property as green</p> <p>11 space. Can you address that?</p> <p>12 MR. SLOAN: Yeah. One thing to clarify and it's</p> <p>13 confusing because a minor master plan was adopted after, well</p> <p>14 after, the Grosvenor -- the North Bethesda Garret Park Master</p> <p>15 Plan which was approved in 1992.</p> <p>16 A minor master plan for a section that basically</p> <p>17 surrounds this -- the subject property to the west and the</p> <p>18 south went through and it did show pictures of this property</p> <p>19 in those maps, but those maps do not -- it does not -- that</p> <p>20 master plan does not apply to this property. This property</p> <p>21 is still under the 1992 North Bethesda Garrett Park Master</p> <p>22 Plan and no new recommendations were made under that minor</p> <p>23 master plan for this property.</p> <p>24 So we are still under the recommendations of the</p> <p>25 1992 master plan which put this site on its map as of the key</p>	<p style="text-align: right;">363</p> <p>1 future residents. Can you -- and also, there was criticism</p> <p>2 of the trial and it not being lit in previous testimony of</p> <p>3 it not being paved. Can you address all of those concerns?</p> <p>4 MR. SLOAN: Sure. So in a case where we did not</p> <p>5 have two stream tributaries and we, like some others have</p> <p>6 spoken on, are concerned about water quality, and</p> <p>7 environmental quality, and habitat protection and actually</p> <p>8 enhancement. If this was -- if we didn't have those things</p> <p>9 we would have a 5 acre central park or something with this</p> <p>10 same kind of density. But instead we focused our attention</p> <p>11 on turning those areas about -- over 30 percent of our</p> <p>12 property into green space for habitat protection rather than</p> <p>13 an active recreational facility.</p> <p>14 That said, and I understand we have not presented</p> <p>15 any detailed pictures of what this will look like yet. We</p> <p>16 are looking at ways to incorporate active recreational</p> <p>17 elements in and around those spaces and we have separate</p> <p>18 spaces, lawn areas, seating areas, garden spaces and things</p> <p>19 that we're trying to design now, that are going to be much</p> <p>20 more than just a couple of seating areas with benches that</p> <p>21 were described by others.</p> <p>22 So it's a unique situation but we think it's</p> <p>23 appropriate for the site and better serves the balancing of</p> <p>24 environmental protection with recreational amenities and the</p> <p>25 proposed uses. We also had entered, and it's in the record</p>

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<p style="text-align: right;">364</p> <p>1 as an exhibit, the map that shows the local parks that are 2 around and within .5 miles of the property. 3 There is, as noted earlier, Druid Drive 4 Neighborhood Park is about a half a mile from us. But also 5 Garrett Park, Waverly Park and Garrett Park playground. 6 They're both within .5 miles. The streets have sidewalks on 7 them. We would be able to access those streets and sidewalks 8 at the new intersection that will be signalized and then, 9 across the service drive, as folks have brought up. So those 10 other facilities are nearby. 11 With regard to the trail, because it is in a 12 protected area staff requires, thus far, that it not be paved 13 and that no lighting or structural elements be within that 14 open space, and so we designed it as such, and not put any 15 structures such as lighting or paving in there. We can 16 continue to look at that but we intend this trail to be open 17 during daylight hours, not used for -- at nighttime and not 18 encourage use at nighttime with lighting of the facility. 19 And importantly, staff has agreed to put this into 20 a category 2 easement, whereas we won't have structures in 21 there and impervious area, but we will be able to maintain 22 lower plantings and even some clipped lawn areas. And we'll 23 design our planting and layout of the grading and whatnot for 24 visibility under what are called CPTED principles, that's 25 crime prevention through environmental design. It's the way</p>	<p style="text-align: right;">366</p> <p>1 filtration media with the plantings in it and then it slowly 2 discharges over time. 3 We've also regraded the site so that about 1-1/2 4 acres of current runoff that goes straight to Strathmore 5 Avenue, no longer will go to Strathmore Avenue and that's 6 causing some of the flooding issues, and then runoff of water 7 from the street directly into the stream. We will be able to 8 capture that. All of that is important for filtering out 9 pollutants, for reducing sediment, which is a problem and 10 water quality quite often. 11 And also, reducing the heat of the water that 12 actually gets to the stream. All things are benefits for 13 water quality that are not there today. So impervious 14 increases are exactly our focus of stormwater retention 15 areas, and that is why you will see a few bioretention areas 16 at the low point of our site, which is in the swoop in Street 17 C in the southwest of that street. And then lots of other 18 little areas that will collect rooftops and street water, and 19 alley runoff before it gets to the stream. 20 So water quality should actually be improving and 21 that is our intent when we get to the stage 1, stage 2, and 22 then stage 3 permitting documents that we'll going through 23 over the next year or so. 24 MS. GIRARD: And so you addressed quality, 25 quantity as well? I mean, is the quantity of water going to</p>
<p style="text-align: right;">365</p> <p>1 you lay out plantings, sight lines, grading, so that you can 2 see large areas and we can have so called eyes on. Usually, 3 it's eyes on the street, but this is eyes on the trail from 4 back yards, from adjacent streets so that it will be safe 5 during those daylight hours, when it's being used. 6 MS. GIRARD: Thank you. And you touched a little 7 bit on the environment. There was concerns about the 8 increase in impervious area suggest -- or proposed in this 9 application creating detrimental drainage and run off to 10 properties downstream. Can you please address that as well? 11 MR. SLOAN: Sure. Yeah, that's also a concern of 12 ours and something that we have worked into the design. And 13 stormwater management is typical to get your head around when 14 people are mostly used to seeing large ponds that collect 15 water and things like that. Those aren't used anymore. We 16 use a lot of small, they're called micro bioretention 17 planters spread out throughout the site. 18 And we use other things like modular wetlands, 19 which collect water and feed the roots of wetland type 20 species. We spread those out throughout the site and the 21 goal of current state regulations is to treat the runoff that 22 leaves your site, well to treat the runoff before it leaves 23 your site so that that runoff would be qualitatively similar 24 to what are called woods in good condition. So we capture 25 this 1.8 plus inches of rainwater. It goes through a</p>	<p style="text-align: right;">367</p> <p>1 be downstream? 2 MR. SLOAN: So quantity is an odd thing that, not 3 being an engineer, I'm still trying to get my head around. 4 Because these facilities are meant more for quality control 5 and improving water, but they also do meet a certain quality 6 threshold that -- quantity threshold, that 1.8 inches is our 7 target and we're exceeding that in our model so far. 8 So a big piece of how these work is that they 9 actually capture and slow down runoff so that downstream 10 flooding is actually -- there's this delay of the water 11 getting to the stream as it goes through this filtration 12 system and slowly enters the streamflow. So you actually get 13 a decrease in your concentrated flow of water during rain 14 events. So quantity, we certainly will be capturing some 15 water that will never get to the stream now, but other water 16 that will get to the stream will get there after the peak 17 even of the rainstorm typically. 18 So we are addressing quantity as well, and will be 19 specifically focused on the quantity of water that's hitting 20 roads. That's our first goal, clean that water up and then 21 rooftops. That's our second, and then third, of course, 22 whatever sheet flow we get from landscaped areas and things 23 is our third priority area for capturing. 24 MS. GIRARD: Thank you. We also had discussion 25 both in your direct and then there was testimony today</p>

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<p>368</p> <p>1 regarding the -- what's referred to as the buffer area in 2 Strathmore Avenue. Can you -- and I submitted just before 3 lunchtime, I circulated to everyone (inaudible) participated 4 the exhibits which hopefully no one has had problems 5 accessing, but I think Mr. Sloan's going to be referring to 6 those in his testimony.</p> <p>7 HEARING EXAMINER BAUMGARDNER: So for Mr. Shaffer 8 and Mr. Burdin, have you had the opportunity to at least look 9 at that document, or those two documents?</p> <p>10 MR. SHAFFER: I've looked at the two PDFs and they 11 appear to be drawings.</p> <p>12 MR. BURDIN: Yes, I did.</p> <p>13 HEARING EXAMINER BAUMGARDNER: Understood. So Ms. 14 Girard, if you're going to be asking Mr. Sloan questions 15 about either one of them we'll just do a very detailed 16 description of what we're going to be looking at.</p> <p>17 MS. GIRARD: Okay. Go ahead, Josh. Are you going 18 to share your screen with them?</p> <p>19 MR. SLOAN: If that's acceptable, yes. I'll share 20 my screen.</p> <p>21 HEARING EXAMINER BAUMGARDNER: That's fine.</p> <p>22 MR. SLOAN: Okay. I want to keep Teams up so I 23 can see folks. Am I sharing?</p> <p>24 HEARING EXAMINER BAUMGARDNER: Yes.</p> <p>25 MR. SLOAN: You see it. So what I'm showing now</p>	<p>370</p> <p>1 paving, and a maximum depth of 3 feet.</p> <p>2 We've also been required to create a green space 3 between the curb and the shared use path that was required on 4 the southbound. So we have eight feet of green space. We 5 have the 10 foot shared use path and then we have our 6 property line and what's beyond that. So some of the 7 shoulder on the southbound will actually be -- will actually 8 revert to green space. The reason we've got this -- that we 9 can't move all of the lanes to the south is because we have 10 to keep the centerline and the flow movements of these two 11 through lanes as close to straight as we can across the 12 intersection so we don't have a dangerous swerve or, you 13 know, kind of zig zag.</p> <p>14 And so we've split the difference between the two 15 sides. We've got about a four foot offset on the south side 16 and a three foot offset on the north side to minimize the 17 impact to the north. So that kind of lays out the 18 configuration and provides an overview for those most 19 concerned with this median buffer area. And the bus stop 20 itself will shift two feet. So right now there's a sidewalk, 21 it will shift two feet to the north, which is about to where 22 the -- there's a utility pole there right now and it's a lawn 23 area. So no impact to the trees.</p> <p>24 I don't know exhibit number we're going to be 25 giving this. That's a description of that.</p>
<p>369</p> <p>1 is what I've titled conceptual right-of-way paving 2 modifications. And this was something that we put together 3 over the floating zone plan that in, hopefully, a more 4 descriptive format can show people what our initial design 5 working with MCDOT staff in particular for this left turn 6 lane, how it will impact -- the left turn lane for westbound 7 movement into Street -- into the site via Street A, where the 8 proposes signal is.</p> <p>9 So what we're doing is right now, there are two 10 lanes, one eastbound and one westbound. And we understand 11 that there's an undersized shoulder on the north side that's 12 kind of used as a third lane for when people are accessing 13 the school, and a police officer is directing traffic there. 14 And then, there is a regularly sized shoulder on the south 15 side of Strathmore Avenue which kind of bumps in and out, 16 strangely.</p> <p>17 And what we've been asked to do is -- for our 18 frontage create a closed section of road which means putting 19 curbs on it and turning those lanes east of Street A into a 20 through westbound movement, a left turn movement, and a 21 through eastbound movement. That requires a feathering of 22 the pavement on the north side from zero feet where it ties 23 into existing pavement to zero feet with a little bow that is 24 a maximum of three feet. That's over about a 235 foot 25 distance. It's about, you know, less than 500 square feet of</p>	<p>371</p> <p>1 HEARING EXAMINER BAUMGARDNER: Okay.</p> <p>2 MR. SLOAN: I don't know, Erin, if I missed 3 anything on that piece.</p> <p>4 MS. GIRARD: No, I think that was good.</p> <p>5 MR. SLOAN: The second exhibit that we produced is 6 a little bit closer view of the bus stop. With our plan just 7 simply overlay. Our plan line work is red, overlaid onto an 8 aerial view, much closer to the bus stop. And then, it has 9 two images, one looking east and one looking west down the 10 street with the approximate area of what would become paved 11 for this through lane.</p> <p>12 And what we wanted to point out is that especially 13 north of the -- well, not north. Sorry. East of the bus 14 stop that area is entirely in grass right now and it is an 15 area between utility poles and the existing shoulder. We'll 16 have to move some signs and coordinate some coordination with 17 SHA. But there are no trees significantly impacted by that 18 area. And then the view looking west shows the bus stop area 19 and where it will be pushing two feet back along that between 20 the utility pole and the existing curb now.</p> <p>21 There is a large Plane tree that we will minimize 22 root disturbance on around that area and maintain. And also, 23 the larger shrubs around there. It's been my understanding 24 from the beginning and the direction that the -- what I've 25 heard the Applicants say in public and giving us direction on</p>

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<p>372</p> <p>1 is that, it is our aim not to impact any of this significant 2 vegetation in any way and that was the promise to the 3 community. And that if SHA allows we'll even enhance that 4 planting in that area. 5 You know, that said, this is SHA right-of-way. 6 SHA right-of-way runs from our property line on the south all 7 the way to actually behind the sidewalk that's in front of 8 the units to the north of Strathmore Avenue. So that entire 9 service road and the trees and the sidewalk is, along with 10 the median, is all within SHA right-of-way and their access 11 permit will determine exactly how we make these improvements. 12 And whether or not we're allowed to enhance the buffer and 13 add plantings. 14 And I think the only last thing I want to say is 15 that we want to make sure people are cognizant of safety. 16 While the plantings are nice as a visual screen, and a 17 psychological screen, they don't reduce noise, technically, 18 although psychologically it appears that way. But we also 19 want to maintain visibility. There is a sidewalk there that 20 runs through to the service road and we don't want people -- 21 areas at a bus stop where people can hide or where people 22 can't be seen by traffic. So we want to keep that in mind 23 and just put that out there for when we're discussing the 24 details of the design and planting enhancements around the 25 bus stop in the future.</p>	<p>374</p> <p>1 MR. SLOAN: Sure. Our original plan had one 2 entrance, our primary entrance at Street A and all other 3 circulation was internal with the service drive being 4 separate and that remains where the existing access point is 5 for St. Angela right now. 6 Working with staff they required a second entrance 7 to disperse traffic and give different options for people to 8 access Strathmore Avenue, both pedestrians and drivers. So 9 we took that requirement and worked on maintaining the 10 primary entrance as our focal point for the community where 11 it will sort all three different uses, where it will serve 12 for fire and emergency access, and where it is the most safe, 13 effective, and efficient for our primary point to get into 14 and around the site. 15 The secondary access, we worked with staff to 16 align it with Stillwater and keep it at a size that would not 17 impact any environmental areas, but otherwise we were working 18 under a requirement of agency review for that. We think it 19 does provide some benefits. It does get us closer to the 20 Metro access at Strathmore Avenue that way and some other 21 elements. But I think from a land planning perspective it 22 was really driven by that dispersal of traffic required by 23 staff. 24 MS. GIRARD: Thank you. That's all I had for Mr. 25 Sloan.</p>
<p>373</p> <p>1 So I'm hoping that will allay some of the concerns 2 and make sure everyone understands our intent for this area. 3 MS. GIRARD: And just one point of clarification, 4 Mr. Sloan, and you may have already said this, but so the 5 entirety of the median area is actually within the right-of- 6 way for Strathmore Avenue? 7 MR. SLOAN: The entirety of the median area, the 8 service road to the north, the lawn panel and the sidewalk to 9 the north are all SHA right-of-way. 10 MS. GIRARD: Thank you. I guess with that I would 11 move the admission of these two exhibits into the record. 12 HEARING EXAMINER BAUMGARDNER: Is there any 13 objection to the admission of what will become most likely, 14 Exhibit 85 and Exhibit 86? They are the two diagrams that 15 Mr. Sloan has just testified about. 16 MR. BURDIN: No. 17 MR. SHAFFER: No, I don't have any. 18 HEARING EXAMINER BAUMGARDNER: Okay. Then once 19 they get a number they will come into the record at the 20 conclusion of the hearing. 21 Were you done examining the witness? 22 MS. GIRARD: Just one last point and Ms. Wagner 23 hit on this as well, Mr. Sloan, but just from a land planning 24 standpoint, if you could please address the comment about 25 consolidation of the entrances?</p>	<p>375</p> <p>1 HEARING EXAMINER BAUMGARDNER: Thank you. Mr. 2 Shaffer, any questions for Mr. Sloan, again, limiting those 3 questions to his testimony on rebuttal? 4 MR. SHAFFER: Just quickly. The bus stop you 5 referred to will be at the corner of Strathmore and the 6 entrance to the -- the main entrance to the Academy, true? 7 MR. SLOAN: I'm sorry, I only caught half of that. 8 HEARING EXAMINER BAUMGARDNER: Mr. Shaffer, can 9 you repeat your question? You're a little bit -- it's 10 starting to fade out. 11 MR. SHAFFER: Okay. You said that there would be 12 a new bus stop installed at the entrance to the Academy on 13 both sides of the road; is that correct? 14 MR. SLOAN: There are current bus stops on both 15 sides of the road near the entrance to the Academy. Whether 16 they shift a little east or west along Strathmore will be 17 determined when the intersection is designed. But they will 18 be around that area, yes. 19 MR. SHAFFER: As I understand from one of your 20 colleague's previous testimony those would be fully 21 (inaudible). 22 HEARING EXAMINER BAUMGARDNER: You had just asked 23 a question to Mr. Sloan regarding the relocation of the bus 24 stops on the north and the south sides of Strathmore Avenue 25 and Mr. Sloan was about to answer your question. So I will</p>

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<p>376</p> <p>1 let him complete his answer and we'll see if that does the</p> <p>2 trick.</p> <p>3 MR. SLOAN: I think that I heard before it cutting</p> <p>4 off, the second part of the question was whether or not those</p> <p>5 would be ADA accessible, and that is the intent that the</p> <p>6 redesign would meet ADA standards.</p> <p>7 MR. SHAFFER: And what's the width of the sidewalk</p> <p>8 leading up to the bus stop?</p> <p>9 MR. SLOAN: The current sidewalk, I didn't measure</p> <p>10 that, but we typically have them at a four foot minimum, but</p> <p>11 we tend to like them closer to five or six feet.</p> <p>12 MR. SHAFFER: Okay. But they will at least be a</p> <p>13 36 inch passage to the --</p> <p>14 MR. SLOAN: Oh, yes.</p> <p>15 MR. SHAFFER: -- entrance to the bus shelter?</p> <p>16 MR. SLOAN: Yes.</p> <p>17 MR. SHAFFER: Okay. I have no further questions.</p> <p>18 HEARING EXAMINER BAUMGARDNER: Thank you, sir.</p> <p>19 And Mr. Burdin, any questions for Mr. Sloan based upon his</p> <p>20 testimony?</p> <p>21 MR. BURDIN: Yes, I do.</p> <p>22 HEARING EXAMINER BAUMGARDNER: Sure.</p> <p>23 MR. BURDIN: Mr. Sloan, how long is the proposed</p> <p>24 left turn lane on your diagram?</p> <p>25 MR. SLOAN: Our conceptual layout is -- I don't</p>	<p>378</p> <p>1 MR. BURDIN: Yeah, sure.</p> <p>2 MR. SLOAN: -- but it's what someone like a</p> <p>3 computer -- a not very computer savvy person can use. So</p> <p>4 about three feet.</p> <p>5 MR. BURDIN: So there's a thin, what we'll call a</p> <p>6 thin shoulder, not a full-sized shoulder, but (inaudible).</p> <p>7 And that provides some safety protection from westbound cars</p> <p>8 on Strathmore for the people that are standing at that bus</p> <p>9 stop; is that fair to say?</p> <p>10 MR. SLOAN: Yes, except when they're doing the</p> <p>11 through traffic, but yes.</p> <p>12 MR. BURDIN: Right. And in the schematic for what</p> <p>13 you're proposing to do that thin shoulder doesn't exist at</p> <p>14 this point; is that correct?</p> <p>15 MR. SLOAN: After the light this through lane</p> <p>16 would transition and along this area we would be right up</p> <p>17 against the sidewalk there.</p> <p>18 MR. BURDIN: Okay. So if later the SHA or some</p> <p>19 other government entity decided that the bus stop platform</p> <p>20 had to be bigger, or further away from the road, is that a</p> <p>21 possibility in your experience?</p> <p>22 MR. SLOAN: It is. Is it okay if I bring up the</p> <p>23 street view?</p> <p>24 MR. BURDIN: Sure.</p> <p>25 MR. SLOAN: You can see in the bottom left</p>
<p>377</p> <p>1 remember. I do know that we're going to have to go through</p> <p>2 another -- well, a very detailed round of design and queuing</p> <p>3 analysis through SHA for the final design. Right now, we're</p> <p>4 at about 186 feet.</p> <p>5 MR. BURDIN: Is that -- so is that what is</p> <p>6 reflected on that exhibit?</p> <p>7 MR. SLOAN: That exhibit shows from the striped</p> <p>8 line on the east side and it becomes a solid line and stops</p> <p>9 before Street A; that length is about 186 feet.</p> <p>10 MR. BURDIN: Okay. Thank you. I asked because I</p> <p>11 thought at one point there was talk of a 50 foot lane. I</p> <p>12 just wanted to make sure if it was that or the longer one.</p> <p>13 Is it possible to put up that first exhibit?</p> <p>14 MR. SLOAN: I can bring it back up. You can see,</p> <p>15 I just measured the length there.</p> <p>16 MR. BURDIN: Okay. So currently, there is a</p> <p>17 shoulder between the road and the bus stop, what I'll call</p> <p>18 the platform, the cement part of the bus stop; is that right?</p> <p>19 MR. SLOAN: Right now, on the north side or the</p> <p>20 south side?</p> <p>21 MR. BURDIN: On the north side.</p> <p>22 MR. SLOAN: On the north side, not. The lane --</p> <p>23 well, there's about -- it looks like this is the edge of the</p> <p>24 current lane; about three feet and change roughly. You know,</p> <p>25 this is not a super accurate program --</p>	<p>379</p> <p>1 photograph this is a street view looking east, the area</p> <p>2 that's behind the bus stop now is entirely lawn area and</p> <p>3 there is this little kind of tag, this bump out where</p> <p>4 typically a bench or something would go. But we could do</p> <p>5 something in that area without impacting any existing</p> <p>6 vegetation and provide a little more space between the street</p> <p>7 and the actual bus stop location.</p> <p>8 MR. BURDIN: Okay. So you would -- but under that</p> <p>9 scenario you would be putting cement where there is currently</p> <p>10 grass; is that right?</p> <p>11 MR. SLOAN: Yep.</p> <p>12 MR. BURDIN: Okay. I just -- the people that live</p> <p>13 on that street want to know the full story so I appreciate</p> <p>14 that. Thank you.</p> <p>15 MR. SLOAN: Sure.</p> <p>16 MR. BURDIN: That's all I have.</p> <p>17 HEARING EXAMINER BAUMGARDNER: Thank you, sir. I</p> <p>18 see that Ms. Lide has her virtual hand raised. I can't tell</p> <p>19 if that's with a question or from before?</p> <p>20 MS. LIDE: No, it's with a question.</p> <p>21 HEARING EXAMINER BAUMGARDNER: Okay. We're kind</p> <p>22 of past that point. But what was your question, ma'am?</p> <p>23 MS. LIDE: My question is simply -- I really want</p> <p>24 to understand why we were told that there would be no</p> <p>25 encroachment, no carving into the green buffer zone.</p>

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<p style="text-align: right;">380</p> <p>1 HEARING EXAMINER BAUMGARDNER: And I have heard 2 that question before, so we're not -- I don't think it's 3 relevant for the rebuttal response at this time, if that 4 makes sense. Because I can't go back in time and know what 5 was said and what wasn't. We can only adjudicate what's in 6 front of us right now. 7 MS. LIDE: I understand that, but I'd like to go 8 on the record and say I feel we were misled and we were told 9 something other than what was materially presented yesterday. 10 HEARING EXAMINER BAUMGARDNER: Okay. I 11 understand. 12 All right. Ms. Girard, any other rebuttal at this 13 time? 14 MS. GIRARD: I would just note, Josh, I -- Mr. 15 Sloan, I thought that you addressed that question to some 16 extent as far as what your understanding was regarding 17 representations to the community? 18 MR. SLOAN: I tried to. It was certainly our 19 direction in everything that I heard in public was that we 20 did not want to remove any large vegetation, have any impacts 21 to trees and that buffering plantings. But not with respect 22 to lawn and sidewalks and things that are under State Highway 23 control. 24 MS. GIRARD: That's all I have for Mr. Sloan. 25 HEARING EXAMINER BAUMGARDNER: Thank you, Mr.</p>	<p style="text-align: right;">382</p> <p>1 understand that people have their own perceptions and we all 2 feel that way. 3 But there is a distinction between people's 4 perceptions as to how they will be impacted and how to 5 interpret information and a different reality that's based 6 more in facts and studies and standards. And that, quite 7 frankly, is why we have experts. I'm not going to pretend 8 that I understand every aspect of every traffic study that 9 I'm associated with in my cases. They are very complicated 10 and that's why people have to become experts in traffic 11 engineering and transportation planning. The same with 12 stormwater. The same with land use. I mean, these are very 13 specialized areas of expertise that go into a level of detail 14 that most lay people are not privy to or really can usually 15 understand. 16 So I would just note that while there has been a 17 great deal of testimony today regarding people's feelings 18 about what can happen, there really, in the evidence of 19 record is no substantial expert report analysis that 20 contravenes anything that the Applicant's experts have 21 presented. And it's not just the Applicants' experts who 22 have put forth these case -- the case materials and I believe 23 have demonstrated that we meet all the standards for 24 approval. 25 There is a very rigorous review that this needs to</p>
<p style="text-align: right;">381</p> <p>1 Sloan. Any other witnesses, Ms. Girard? 2 MS. GIRARD: No, that concludes our case. 3 HEARING EXAMINER BAUMGARDNER: All right. So what 4 we will do now is give the parties the opportunity to provide 5 a closing argument. You do not have to avail yourself of 6 this, but you're certainly welcome to. We'll try to keep it 7 as clear and concise as possible. (inaudible) for a long 8 time at this point but we certainly welcome a summary, a 9 summation of the arguments involved. And if the Applicant 10 can give particular attention to the conditions that were 11 offered, in addition to those that we already have in the 12 record from the planning board submittal. 13 So with that we'll open with Ms. Girard. 14 MS. GIRARD: Thank you. And I will try to hit all 15 the conditions as well, and I think they're more semantically 16 because I think the same ones came up again and again. 17 So I really think that this is -- it's not a 18 typical, in my -- I've been practicing for 21 years and it's 19 not a typical where people have a perception of their 20 neighborhood. I think that we all do, and a perception is to 21 what's the existing conditions are, what traffic in the 22 future will be, what kind of impact a new building will have 23 on us. And I think we respect that. And I don't want to, 24 you know, any of my cross-examination obviously I have to get 25 that on the record, but I don't mean to imply that I don't</p>	<p style="text-align: right;">383</p> <p>1 go through. It first goes through technical staff. As Ms. 2 Wagner mentioned there's staff devoted to traffic who 3 understand all of that. There's experts in stormwater at the 4 department of permitting services. There's experts -- 5 there's actually three levels of experts for traffic. There 6 is the State Highway Administration, the Montgomery County 7 Department of Transportation, and park and planning staff has 8 its own transportation people. 9 There's environment staff at park and planning, 10 there's environment staff at the department of permitting 11 services. So this has undergone an extensive review by all 12 of these experts and they concluded in their staff report 13 that the local map amendment as presented to you should be 14 approved. 15 I would note that many of the, as I did in my 16 opening statement, many of the issues that have been raised 17 during these proceedings were also raise in front of the 18 planning board who, as you have heard, planning board staff 19 met with many of the participants in this hearing, heard 20 their concerns, and addressed them in a good amount of detail 21 in section 5 of Exhibit 62, which is the staff report. 22 The same concerns have carried through to this 23 proceeding, the first of which is the traffic study. And I 24 do think that Ms. Wagner has laid out very methodically how 25 the analysis was performed, what the numbers mean to the best</p>

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<p style="text-align: right;">384</p> <p>1 that we can all understand them. Why the Metro ridership 2 numbers were what they were, what they will be in the future 3 with the movement to the red policy area. She's explained to 4 the traffic lights. I understand that people come from a 5 layperson's perspective may not think that the proposed 6 solutions will do everything that they say. But at that 7 point, I think there's no expert testimony to say that they 8 won't. There's three agencies and the transportation expert 9 for the Applicants that say that it will work. So I think 10 that the weight of the evidence certainly is there to approve 11 the traffic study as proposed and find that it complies with 12 the standards and is sufficient to allow for approval of the 13 local map amendment. 14 As far as pedestrian connections, which was 15 another big thing, a connection particularly along Strathmore 16 Avenue, which is within our control. And I understand the 17 frustration both on the stormwater side and on the pedestrian 18 connection side that we've explained that some of the -- and 19 open space, some of this will not be designed until further 20 in the process. And really, that's frankly there's cost and 21 time associated with certain levels of design. 22 So the process is just set up that you don't have 23 to go to full design of a playground that you may not ever be 24 approved to build. And that's just kind of the reality of 25 how the process is laid out. So while we understand the</p>	<p style="text-align: right;">386</p> <p>1 certainly our consultants and the planning board and planning 2 staff found that that was the appropriate place to focus 3 energies. 4 Getting back to -- I apologize for jumping around. 5 The pedestrian connections. We've talked a lot about 6 Tuckerman. You heard the testimony from Ms. Prebble. Even 7 if it were feasible from an environmental standpoint they 8 have a real concern and, I think, a valid concern about 9 directing pedestrians and traffic through the school. And I 10 think that although there's a perception that because they're 11 the seller they're part of this application, that is not 12 true. And they have made their opinion on that very clear. 13 As far as pedestrian connections down the street 14 to Garrett Park Elementary School, as was testified to people 15 are not sure what is and is not in the right-of-way. I 16 believe Mr. Lester and perhaps, Mr. Sloan both addressed the 17 efforts that the Applicants are undertaking to connect the 18 sidewalk at least to the east to the existing crosswalk and 19 bus stop to provide more connectivity. This will all be 20 looked at more at a preliminary plan level stage to see what 21 is possible and what is not. And under the growth policy, 22 certainly pedestrian connectivity is going to be a big issue 23 as noted by Ms. Wagner. 24 As far as adequate public facilities as Mr. Sloan 25 noted at -- well, one as he noted is traffic. A big part of</p>
<p style="text-align: right;">385</p> <p>1 frustrations that the open space -- you want to see exactly 2 what the equipment will look like. I think Mr. Sloan did 3 address that and the level of detail and care that will be 4 put into that if we move onto a future process. 5 As far as the size of the open space, some of the 6 conditions that were requested that the open space 7 playgrounds be large and appropriate. You know, these are 8 subjective words in that, as I noted with the council member 9 from Garrett Park there are standards in the zoning ordinance 10 that dictate how much open space should be provided. To say, 11 well, I don't like those, I think there should be more, 12 that's a completely subjective standard and I think it would 13 set a bad precedent to say, well, subjectively we think this 14 amount would be here and someplace else -- we understand that 15 the code says 10 percent, but we think 20 percent here and 30 16 percent there, it just creates an unmanageable situation. 17 And as Mr. Sloan identified one of the focus -- 18 areas of focus here was the environment. And so there is 5.7 19 acres that is being preserved. And I think everyone has a 20 tendency to discount that. It's around the ring of the 21 development, but it is part of that development and that's a 22 substantial chunk of land that is going to be devoted to 23 preservation of the environment, the natural surface trail 24 that will allow people to enjoy the environment and that does 25 shrink some of the internal spaces, but I think that</p>	<p style="text-align: right;">387</p> <p>1 that is traffic. I've already addressed that. The other is 2 schools. With the adoption of the growth policy last 3 November, by the Montgomery county council, they essentially 4 removed hard moratorium and put in their place these UPS, or 5 utilization payments that require when you get at certain 6 capacity thresholds it triggers that extra payment. 7 I understand that Mr. Edwards and others may not 8 like that that's the direction that the County took. They 9 think school overcrowding should be addressed differently, 10 but as I noted in my cross-examination, that was an issue 11 that needed to be taken up with the county council in regard 12 to the larger growth policy. And it is not appropriate to 13 apply different standards -- standards different than the 14 county council just adopted in November to this case. It 15 would be subjective and it would set a dangerous precedent. 16 As far as Mr. Burdin's two requests, the westbound 17 turn lane and signal being required, I think that you've 18 heard the Applicant loud and clear say they want to do that. 19 They understand that the SHA so far has said yes to it. We 20 cannot control a state agency. So I think we would be 21 amenable to a condition that we'll make every effort -- you 22 know, we'll make best efforts to get SHA to approve. 23 Certainly the Applicants will bear the cost of 24 constructing the turn lane and signal as approved by SHA. I 25 don't know exactly what that wording would be, but certainly</p>

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<p style="text-align: right;">388</p> <p>1 our commitment has never wavered that we would do it. But I 2 think there needs to be some kind of caveat there that 3 recognizes that SHA does get the final say and they often 4 don't give that final say until a future access permit -- I 5 don't know why they do it that way. Again, we can't control 6 it. 7 As far as the future obligation to study again, I 8 understand, and this request comes up in a number of cases. 9 I understand the desire to do that. There's a number of 10 complications with that kind of request. If you were to do 11 it at build out to really test the traffic, at that point in 12 time the homes will have been sold and turned over to an HOA. 13 And I don't -- you know, they -- I don't think that HOA would 14 be very happy to have to conduct a study and then to make any 15 improvements that would be required. 16 Although, I would note that as Ms. Wagner said 17 time and again, our assumptions are extremely conservative 18 and they're based on hard data that is dictated to us by the 19 county and the country as far as ITEA rates. I mean, this is 20 not something that the county takes lightly to project 21 traffic generation. 22 I can't tell you that I have at my fingertips data 23 supporting that they work, but certainly they sure do spend a 24 lot of time looking at it and I think that the county process 25 is set up such that they have set forth detailed guidelines</p>	<p style="text-align: right;">390</p> <p>1 findings for approval contained in 59.7.2.1.e of the zoning 2 ordinance have been met and that the local map amendment as 3 submitted with the -- or the recent version of it with the 4 conditions recommended by the planning board and as I said, 5 with maybe perhaps the additional condition of the westbound 6 turn lane and signal requirement, subject to SHA approval, is 7 warranted. Thank you. 8 HEARING EXAMINER BAUMGARDNER: Thank you, Ms. 9 Girard. 10 Mr. Shaffer, any closing arguments, sir? 11 MR. SHAFFER: (inaudible). Yes, I'll make a few 12 comments. 13 HEARING EXAMINER BAUMGARDNER: All right. 14 MR. SHAFFER: In contrast to Ms. Girard's 21 years 15 of practice, I'm almost up to 40 now. And in those years in 16 which I've done mostly class action litigation, I've rarely 17 had a case where there wasn't an expert witness opposed by an 18 equally qualified and equally of the opinion to the contrary 19 expert witness. So I take what the Applicant has given with 20 a grain of salt. 21 You know, as a community association we've done 22 our best as lay people, apparently fairly well-educated lay 23 people, to come up with our best analysis of how we feel 24 based upon our knowledge of the community this is going to 25 impact our operations.</p>
<p style="text-align: right;">389</p> <p>1 as to how traffic studies should be conducted. We have 2 followed that. We anticipate that the -- we have made it 3 extra conservative and we anticipate that that will result in 4 very accurate information at the end of the day. But I don't 5 think it's fair, again, I think that would set a dangerous 6 precedent to add an extra condition that says that at some 7 indefinite point in the future you need to go out and retest 8 and then put further improvements in place. 9 On that point, I would also note with the movement 10 to the new policy area with a red policy area I don't know 11 how that study would be conducted or what it would look like 12 because as Ms. Wagner noted in the red policy area when a 13 future traffic analysis the emphasis will be on pedestrians 14 and bicyclists and non-auto modes of travel. And that will 15 be done as part of the preliminary plan process. So I think 16 the assumption that it would -- you would count cars in the 17 future would be contrary to what the governing -- the 18 currently governing growth policy dictates for the property. 19 So in conclusion I think based on everything in 20 the record, the reviews by the county agencies, the staff 21 report in favor, the planning board recommendation in favor, 22 all of the expert testimony that we have presented yesterday 23 and today the weight of the evidence is definitely in support 24 of the application. 25 And we believe we've demonstrated that all</p>	<p style="text-align: right;">391</p> <p>1 But I ask that the Hearing Examiner take that fact 2 into account that experts often disagree and -- I would 3 almost always disagree. 4 I think the starting point here is whether this 5 application is wholly suited to the purpose of transit only 6 or development because even though some testimony has been 7 given about how conservative that number is for transit use, 8 instead they have put in writing that transit use is going to 9 be minimal. That doesn't seem to be the kind of joint 10 development project that Metro has been envisioning along the 11 Red line and down into PG County. 12 That we simply don't have a transit oriented 13 community here. It looks like from what the descriptions it 14 will be a nicely designed and pretty community. And for that 15 I think we congratulate them. But we do differ on some major 16 aspects. And the one aspect that I found most troubling 17 about the entire presentation was the lack of any 18 consideration of the future. 19 Although the traffic expert acknowledge that they 20 took into account all developments that were currently 21 approved in the area in their numbers, the stormwater 22 drainage analysis simply stated it did not consider climate 23 change at all. He was simply measuring the effect of the 24 stormwater drainage plan on what would happen today. This 25 project isn't even going to be built today. Two years from</p>

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<p style="text-align: right;">392</p> <p>1 now who knows how much water we'll be getting, 10 years from 2 now, 30, 40, 50.</p> <p>3 This is both international, national and state and 4 county policy to consider climate change in all agency 5 considerations. It's a Biden executive order and I notice 6 that Governor Hogan was one of the early ones to join with 7 the climate change movement. I don't feel that this study is 8 even appropriate to be introduced in the evidence except for 9 what it is, a measure of stormwater impact today. That 10 doesn't project the impacts of this project in the future on 11 the environment, the tributary that runs into Rock Creek 12 Park, their estimate effect on Rock Creek Park 40 years from 13 now or any of these considerations. And I think this is a 14 major substantive fault.</p> <p>15 Putting aside that, I think the -- assuming that 16 those considerations are taken into account in some way, 17 shape or form, or a condition that those conditions be taken 18 into account be added to this any findings that you might 19 make. The thing really is just one big old hill. And it's 20 all coming down towards us at the bottom.</p> <p>21 I would -- I won't go over again the 22 considerations that we asked for that Kip Edwards testified 23 to. They're in the record now and they've been rebutted by 24 Ms. Girard, so I won't go through those again.</p> <p>25 I think our bottom line is we accept this</p>	<p style="text-align: right;">394</p> <p>1 approved under R60, under some kind of zoning variance. And 2 so I recognize that the current zoning allows some 3 development, but the question is what kind of development. 4 And if the rezoning is denied I'm confident these Applicants 5 could do something -- do some redesigning and propose -- and 6 build something within the R60 zoning that currently exists.</p> <p>7 The transit issue, obviously, many times the point 8 has been made about the traffic study, asserting the use of 9 transit would be minimal. I understand they reached that 10 conclusion based on parameters and they were required to use. 11 But the report did not question this conclusion or present 12 evidence that the use would actually be more. You would 13 think if they had it, they would have presented it.</p> <p>14 And despite Ms. Girard's very good point that my 15 observations about Metro views from Symphony Park all 16 occurred during COVID, not something that had occurred to me, 17 my opinion still is that the Metro views from Symphony Park 18 even under normal circumstances would at least be relatively 19 minimal.</p> <p>20 Obviously, the big issue is the traffic and 21 increased traffic adding, I think 125 homes as proposed and a 22 large residential care facility will undisputedly add cars to 23 Strathmore Avenue. Yet somehow, even with this added traffic 24 the traffic consultant concludes that two adjustments to the 25 layout of the roads will virtually eliminate about 440</p>
<p style="text-align: right;">393</p> <p>1 development, it's a nice development, it looks like it's 2 multigenerational, it has a lot of good qualities to it for 3 the property on which it's situated. But has it been 4 designed appropriately and I don't think that questions been 5 answered yet by what we've seen before us.</p> <p>6 Thank you.</p> <p>7 HEARING EXAMINER BAUMGARDNER: Thank you, sir. 8 And having cut my teeth in insurance defense litigation I can 9 appreciate your note about expert witnesses at the beginning 10 of your closing argument.</p> <p>11 Mr. Burdin, any closing argument from you, sir?</p> <p>12 MR. BURDIN: Yes, thank you. First of all, I 13 would like to say that I appreciate the manner that you have 14 run this hearing. I think it's been smooth and fair and I do 15 appreciate that.</p> <p>16 HEARING EXAMINER BAUMGARDNER: Thank you.</p> <p>17 MR. BURDIN: Now, the residents of the surrounding 18 neighborhoods, including myself, are the ones that will 19 suffer the consequences of the zoning change and approval of 20 the project. It would construct more, and denser homes than 21 would be allowed under the current R60 zoning. The proposed 22 project also would include the Brandywine 150 bed residential 23 facility with up to 35 employees at the facility at the peak 24 time.</p> <p>25 My understanding is that that facility might be</p>	<p style="text-align: right;">395</p> <p>1 seconds of delay that currently exists under the existing 2 conditions.</p> <p>3 I think the consultant admitted that eliminating 4 the Stillwater offsets, which is one of the two on the ground 5 changes, would only offer minor reductions of the delay. And 6 that neither of the proposed on the ground changes addresses 7 delays caused by cars going westbound on Strathmore turning 8 into the Academy, which is a big source of the current delay. 9 She, in my view, was unable to explain in layman's terms how 10 these two changes would create a 40 times reduction in the 11 delay at that intersection. And I think that undermines all 12 conclusions -- related conclusions in the study on the issue.</p> <p>13 The same concern applies to the reduction in delay 14 reported in the supplemental analysis, which seems to be what 15 they want to rely on more now. Plus, we have what I think is 16 a very curious fact that the supplemental analysis starts 17 with an existing condition delay that is less than the LATR 18 delay for the a.m. peak at that intersection. But in the 19 future conditions, the supplemental analysis projected delay 20 is higher, the 77 seconds versus the 10.7 seconds in the 21 LATR.</p> <p>22 And I just -- I can't understand this. The 23 parameters were -- I know there were some differences, but 24 both relied on the 2013 historic counts as a starting point 25 and then there were adjustments. The LATR did also look to</p>

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<p>396</p> <p>1 counts from 2005, but it did note that those counts were 2 consistent with the 2013 counts. So I just can't figure out 3 how these different reductions come out. I guess it's a 4 somewhere in the modeling which I can't understand. The 5 technical attachments are incomprehensible to a layperson so 6 again, I think it undermines the conclusions about traffic. 7 Now, the developer chose not to just point to the 8 LATR to conclude that no mitigation was required as is the 9 conclusion that report. Which in that report was accepted by 10 the planning staff with little mention of the supplemental 11 analysis with the whole traffic light, left turn signal 12 issue. Instead, the developer has said they are committed to 13 funding a traffic light and left turn lane on Strathmore. 14 It's not certain that those will occur as they require 15 approval from the Maryland SHR. 16 And there is also uncertainty about whether even 17 with the two on the ground changes and even with the traffic 18 light and left turn signal that it will actually mitigate the 19 traffic problem, which one reason I suggested this study 20 afterwards when the proposed project is up and running to see 21 if all these projections have any basis in reality, or we 22 still have a huge problem made worse by this development. 23 But as we heard there is pushback from the Applicant about 24 even doing this. 25 And one of my concerns about the whole application</p>	<p>398</p> <p>1 affect to the traffic because I think the officer would be 2 more effective than the traffic light. 3 Finally, Mr. Sloan testified, I think several 4 times, that there is still a lot of planning left to do. And 5 the Maryland SHA did not want to testify because they said my 6 concerns, when I raised them to them before the planning 7 board hearing, could be addressed later. And frankly, the 8 whole thing about the 40 times reduction in the delay seemed 9 news to them. I don't know how they missed it. They seem to 10 think it was a good concern that they didn't want to address 11 it until later. 12 I'm trying to figure out where I am. 13 So try to sum it up, you are being asked to 14 recommend an action to the county council and they will be 15 asked whether to approve this zoning change in the face of 16 this uncertainty, and planning that has not yet occurred. I 17 suggest that anything that is not certain to occur should not 18 be considered, or at least, should be weighed with some kind 19 of skepticism. 20 If there is some way to ensure the traffic light 21 and left turn lane and continued use of the police officer 22 were certain to occur, it would help. I think my second 23 condition about the study would also help. Now, Ms. Girard 24 asserted that the planning staff and the MCDOT and the 25 Maryland HSA (sic) have reviewed and essentially signed off</p>
<p>397</p> <p>1 process and the approval but board and the ultimate approval 2 going forward is that there are a lot of uncertainties. You 3 know, in addition to the traffic and traffic light, the 4 extension of the proposed property path beyond its eastern 5 boundary depends on the granting of a property right to the 6 developer from the church across the church's property. And 7 without this extension is my view that this path is virtually 8 worthless. And it undermines the walkability argument for 9 this project. 10 The newly disclosed potential path from the 11 proposed development's western path across the creek to link 12 up with the Symphony Park path would require agreement from 13 Symphony Park homeowners, which is uncertain to occur, and 14 probably wouldn't. The developer's civic engineer was not 15 even aware of this idea. And the landscape consultant, to 16 his credit, agreed it would not be an easy thing to do even 17 with the approval from Symphony Park. 18 The statement yesterday and today that Holy Cross 19 Academy is committed to having a police officer at the school 20 entrance even if there is a traffic signal and left turn 21 lane, it was news to me. It's not anywhere in the record 22 that I'm aware of before her statement yesterday -- or her 23 statement today. But even if the Academy honors that 24 commitment initially there is uncertainty whether they would 25 continue to do it. So if they stop, obviously that would</p>	<p>399</p> <p>1 on this proposal. I want to note that none of them testified 2 at this hearing. And so none of them were subject to cross- 3 examination. So to the extent their actions and reports are 4 relied on, again, I think they should be weighed with 5 skepticism because they were not subject to cross- 6 examination. 7 And finally, just remember what I started with 8 that the negative impacts of this zoning change fall on the 9 neighbors, but the benefits of the expanded zoning will 10 benefit the developer. Thank you very much. 11 HEARING EXAMINER BAUMGARDNER: Thank you very 12 much, sir. 13 So that concludes the testimony and argument state 14 of this LMA hearing. Going forward the process is that I 15 have 45 days from the close of the record in this case to 16 issue my recommendation to the county council, sitting as the 17 district council. Any party who is not satisfied with that 18 recommendation can request oral argument in front of the 19 county council. 20 The exhibits that are currently up on our web 21 pages, which are Exhibits 1 through 80, unless there's any 22 objection to an individual exhibit, will be admitted into the 23 record. We also have three -- four to five additional 24 exhibits which have been introduced here today, which will 25 also be admitted into the record. They will be exhibited</p>

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<p style="text-align: right;">400</p> <p>1 and added to the record. As I mentioned before, I don't have 2 those exhibit numbers right now, but they will be Exhibits 81 3 through 85, I believe, or 86. They will also be admitted 4 into the record. 5 With that were there any final issues that needed 6 we needed to address before we close this hearing today? 7 MS. GIRARD: I don't have -- 8 MR. SHAFFER: One final thing. This Mr. Shaffer. 9 There was -- we were having trouble uploading Kip Edwards 10 video to introduce as evidence. Has that been now made part 11 of the record or are we still trying to find a way to get 12 that to you? 13 HEARING EXAMINER BAUMGARDNER: I don't believe we 14 have introduced that into the record. I remember seeing -- I 15 remember being copied on an email quite a while ago on that. 16 But I don't know what ever happened to that request. 17 What was that video of? 18 MR. SHAFFER: That was the traffic count. 19 HEARING EXAMINER BAUMGARDNER: Okay. 20 MR. EDWARDS: The email had -- this is Kip 21 Edwards. The email that I sent submitting it had a link to 22 the file. 23 HEARING EXAMINER BAUMGARDNER: Okay. 24 MR. EDWARDS: The video file online. It was too 25 large to send over email, obviously.</p>	<p style="text-align: right;">402</p> <p>1 we will submit the stormwater calculations. Whatever Mr. 2 Amateau agreed to provide, we will provide that in the next 3 couple of days. 4 HEARING EXAMINER BAUMGARDNER: Thank you. It was 5 volume impervious area -- 6 MS. GIRARD: Yes. 7 HEARING EXAMINER BAUMGARDNER: And there as one or 8 two other calculations that went into that. But yes, that 9 would be great and we'll include that as an exhibit. 10 All right. With that -- 11 MS. BENNET: Mr. Baumgardner, this is Gerrilee 12 Bennett from the town of Garrett Park. I just had a 13 logistical question about the public availability of the 14 exhibits after the hearing because your website indicates 15 they all get removed after the hearing so that you can 16 prepare for the next hearing. So it's unclear to me whether 17 by keeping the record open all of these exhibits will be 18 still publicly available on your website. I just want to 19 make sure we don't miss the opportunity to download all the 20 new materials. 21 HEARING EXAMINER BAUMGARDNER: Sure. So the 22 website is a bit of mirage. It's merely what we think is the 23 most updated versions of things. The actual record itself is 24 the paper file. So that's what's kept in perpetuity, for at 25 least for seven years. So for those future exhibits, you're</p>
<p style="text-align: right;">401</p> <p>1 HEARING EXAMINER BAUMGARDNER: Sure. Sure. So 2 what we're going to do, we're going to keep the record open 3 for 10 days after today's date anyway. That's to get a copy 4 of the transcript. So in those -- in that window of 10 days 5 Ms. Girard, is there any objection for at least viewing that 6 video to see its contents and then we can, at that point, 7 decide whether or not it comes in as a separate exhibit? 8 MS. GIRARD: No, we were aware of the video at the 9 planning board and Ms. Wagner already testified to it, so we 10 don't have an objection. 11 HEARING EXAMINER BAUMGARDNER: Okay. So I will 12 view it, just in camera and then if there's -- you know, I 13 don't -- based upon that testimony and the fact that it was 14 already in front of the planning board and we have a 15 voluminous exhibit from the planning board that is included 16 in the record, I don't think that will have a problem coming 17 in as a separate exhibit. 18 How we do that, I'll have to ask staff about how 19 we physically take that digital file and include that in the 20 record because to be honest, I don't know how we do that. 21 But I can let you all know how that will transpire after I 22 talk with staff about that. 23 Any other final issues or questions before I close 24 today's hearing? 25 MS. GIRARD: I just wanted to note that we do --</p>	<p style="text-align: right;">403</p> <p>1 welcome to email our staff and then we can send those to you 2 either in PDF or word format depending upon what format they 3 are in. 4 So that website will come down. We have a hearing 5 on Friday, so those exhibits will likely come down in the 6 very near future. But they will all remain available and 7 accessible. We may just have to email them to parties that 8 requested them. 9 All right. Any other questions? All right. We 10 thank everyone for your time. We think the court reporter as 11 well for his time, and we are going off the record in LMA 12 143. It is February 1, 2022, the time is approximately 3:27 13 p.m. 14 We thank everyone for your time and your 15 testimony, and have a good rest of your Tuesday afternoon. 16 (The recording was concluded.) 17 18 19 20 21 22 23 24 25</p>

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CERTIFICATE OF TRANSCRIBER

I, Molly Bugher, do hereby certify that the foregoing transcript is a true and correct record of the recorded proceedings; that said proceedings were transcribed to the best of my ability from the audio recording as provided; and that I am neither counsel for, related to, nor employed by and of the parties to this case and have no interest, financial or otherwise, in its outcome.



Molly Bugher, CDLT-161

Date: February 10, 2022

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