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# Transcript of Hearing - Day 2

**Date:** December 2, 2025

**Case:** Notley Road

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M A R Y L A N D:

IN THE MONTGOMERY COUNTY OFFICE OF ZONING AND  
ADMINISTRATIVE HEARINGS

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In re NOTLEY ROAD :  
: Case No.: H-159  
:  
:  
:

-----X

HEARING DAY 2  
BEFORE THE HEARING EXAMINER KHANDIKILE SOKONI  
Rockville, Maryland  
Tuesday, December 2, 2025  
11:36 a.m.

Job No: 610913  
Pages: 336 - 572  
Recorded by: Jamie Ogihara, CER  
Transcribed by: Deborah S. Anderson, CET-998

1     Hearing, held mixed-remote:

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6     Montgomery County Office of Zoning and  
7     Administrative Hearings

8     County Office Building

9     100 Maryland Ave, Room 200

10    Rockville, MD 20850

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15    Pursuant to agreement, before Jamie Ogihara,  
16    Notary Public in and for the State of Maryland.

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A P P E A R A N C E S

ON BEHALF OF APPLICANT:

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HEARING EXAMINER:

KHANDIKILE SOKONI

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A P P E A R A N C E S (Cont'd)

ALSO APPEARING:

Candace Anderson, Community Member, via Zoom  
Larry Checcos, Community Member, via Zoom  
Pat Corey, Community Member  
Toni Debarock, Community Member, via Zoom  
Christina Eaglin, Community Member, via Zoom  
Bob Eller, Community Member, via Zoom  
Ayana Machen, Community Member, via Zoom  
Rafael Mattera, Community Member, via Zoom  
Wayne Nelson, Community Member, via Zoom  
Clay Nuquist, Community Member, via Zoom  
Dung Phan, Community Member, via Zoom

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1 P R O C E E D I N G S

2 HEARING EXAMINER SOKONI: Good morning,  
3 everybody. Thank you so much for your patience  
4 and, you know, just flexibility. There's a lot  
5 going on, a lot of moving parts, the least of  
6 which is under our control, which is the weather.

7 I'm from upstate New York. I'm told  
8 that what happened this morning was inclement  
9 weather.

10 But on a much more serious note, we do  
11 want everyone to be safe. And OZAH does follow  
12 the MCPS weather policy, so thank you so much for  
13 your flexibility.

14 I know that as a result, people would  
15 have been inconvenienced somewhat, so we'll try  
16 and give each other some grace and see how much we  
17 can work through and accommodate. We -- this is a  
18 hybrid hearing, so, obviously, we have people on  
19 Zoom as well.

20 Do I have confirmation that the Zoom is  
21 functioning fine?

22 THE ZOOM OPERATOR: Yeah. (Inaudible.)

23 HEARING EXAMINER SOKONI: We have a  
24 signal from people on Zoom. Even just one person,  
25 just a show of hands that you can hear us and see



1 us?

2 Okay. I see a thumbs-up.

3 All right. We're gathered here for  
4 application -- it's an application for a local map  
5 amendment, case number H-159. The Applicant is  
6 Notley Assemblage, LLC.

7 This is a continuation of the public  
8 hearing on the application as amended for H-159,  
9 submitted by Notley Assemblage, LLC. The first  
10 OZAH hearing -- public hearing on this matter was  
11 held on November 6th, 2025.

12 The LMA -- abbreviation for local map  
13 amendment -- proposes to change the zoning of the  
14 subject property from the present classification  
15 of R-200 to CRNF-1.0, C-0.0, R-1.0 with a height  
16 of 50 feet. The property that is the subject of  
17 this application is part of Lot 1, part of Lot 2,  
18 and Lots 3 to 5 in the Price Subdivision, as  
19 recorded among the Montgomery County records at  
20 Plot 1767; and two unrecorded parcels, P-500 and  
21 P-525 in Beall's Manor, located at 13707, 13711,  
22 13715, 13719, 13727, and 13733 Notley Road and  
23 13704 New Hampshire Avenue, Silver Spring, 20904.  
24 The Applicant has presented a Floating Zone Plan  
25 issued on April 17th, 2025, bearing the

1 professional seal number 3716 of Joshua C. Sloan.

2 By way of introduction, my name is  
3 Khandikile Sokoni. I sit as Hearing Examiner in  
4 this case, which means that I will hear the  
5 testimony. I will review the evidence and render  
6 a report and recommendation for submission to the  
7 district council, which is the Montgomery County  
8 Council sitting as district council, on the  
9 criteria set forth for local map amendments in  
10 Article 59, Section 7.2.1 of the Montgomery County  
11 Zoning Ordinance.

12 My report and recommendation is due to  
13 be issued within 45 days of the closing of the  
14 record. Any party of record or aggrieved party  
15 may, within ten days of the Hearing Examiner's  
16 report and recommendation, file a written request  
17 to the district council to present oral argument.  
18 Any party who submits a request for oral argument  
19 must send a copy of the request to all the parties  
20 of record.

21 Given the amount of time that was  
22 estimated by the parties for presentation of the  
23 case in chief and in opposition, clearly, in this  
24 case, we determined that there was a need for more  
25 than one day of hearings. And explaining the

1 obvious, we reconvened to this room only because I  
2 was anticipating high participation from  
3 interested parties. And we had some concerns  
4 about the capacity of the room on the second  
5 floor.

6 I just want to assure everyone we have  
7 placed notices everywhere, in the elevator, at the  
8 hearing room. Staff is monitoring the hearing  
9 room on the second floor so that anyone who did  
10 not get notice that this has been reconvened will  
11 be redirected here.

12 I just want to identify the parties  
13 present. And, Ms. Rosenfeld, I presume you made  
14 it to your -- did the planning meeting still  
15 happen?

16 MS. ROSENFELD: They did. It was a  
17 largely virtual meeting, so it started this  
18 morning at 9:30. I very much appreciate the  
19 accommodation that you offered, but happy to say  
20 that I'm here for the entire meeting.

21 HEARING EXAMINER SOKONI: Sure. You're  
22 welcome.

23 Just want to ID parties for the  
24 Applicant. And I should warn you this is a  
25 hearing room which -- it operates on opposite

1       there. I believe, when it's red, it's go, you're  
2       on. And then when it's off, there's just no  
3       light.

4               MS. ROGERS: Great. Good morning.  
5       Elizabeth Rogers with Lerch, Early, & Brewer on  
6       behalf of the Applicant.

7               MS. GIRARD: Erin Girard, also with  
8       Lerch, Early & Brewer and also on behalf of the  
9       Applicant.

10              HEARING EXAMINER SOKONI: Thank you.  
11       And then?

12              MS. ROSENFELD: Michele Rosenfeld here  
13       on behalf of Greater Colesville Citizens  
14       Association and abutting property owner Kyle  
15       Smiddie.

16              HEARING EXAMINER SOKONI: Thank you.  
17       Any other parties of record in --  
18       present, Mr. Nusbaum?

19              MR. NUSBAUM: Yes. Keith Nusbaum is  
20       present.

21              HEARING EXAMINER SOKONI: Uh-huh. Some  
22       tech details. This is a hybrid hearing, so we  
23       have participation by people on Zoom. Please note  
24       that Zoom interacts best with Microsoft Edge or  
25       Chrome. It may not perform well with Safari. If

1 you're on Safari or any other platform, you may  
2 wish to switch browsers now.

3 For the hybrid hearings, we ask that you  
4 try to not interrupt while someone else is  
5 speaking unless you're raising a legal objection.  
6 We do have a court reporter taking a verbatim  
7 recording. And whenever you have people  
8 cross-talking on Zoom, it's very difficult to  
9 track who is speaking.

10 Okay. I also want to urge everyone on  
11 Zoom to remain on mute with your camera off if  
12 you're not speaking. However, if you wish to  
13 testify, at the right time, you may unmute  
14 yourself, and you must switch your camera on. You  
15 cannot give testimony with your camera off.

16 The Zoom is not being recorded, and the  
17 chat function is disabled. So the court  
18 reporter's transcript will be the only official  
19 record of the proceeding.

20 Anyone participating virtually will not  
21 be able to share their screen during this process.  
22 If a party wishes to refer to an exhibit in the  
23 evidence, please just alert me to what it is. And  
24 we have a Zoom operator who will pull it up for  
25 us.

1           There's some details here about not  
2   being able to rename yourself on Zoom once you've  
3   logged in. I think, if you need to change the  
4   name that appears on your Zoom, you may have to  
5   disconnect and rejoin, having already changed the  
6   name that you want to identify as.

7           Nature of the proceeding -- this is an  
8   administrative proceeding. Administrative  
9   proceedings, by their very nature, are somewhat  
10   informal but -- somewhat more informal than, say,  
11   a traditional trial, but they're still governed by  
12   certain formalities.

13          My apologies. That was my cue to let  
14   everyone know, make sure your phone is silenced.

15          So administrative proceedings are  
16   generally informal, more informal than traditional  
17   trials. Although, they are governed by certain  
18   formalities and rules of procedure.

19          Everything said here by parties or, you  
20   know, persons of interest, testimony is taken  
21   under oath and is subject to cross-examination.  
22   The proceeding will follow this order.

23          So today, we're actually continuing the  
24   Applicant's case in chief. But the general --  
25   just to recap the general order of things, you

1 have opening statements by both parties, if  
2 desired.

3 The Applicant goes first. The Applicant  
4 did start the case in chief on November 6th and  
5 will continue today.

6 The opposing parties will proceed with  
7 their case in chief after completion of the  
8 Applicant's case in chief. And you have the same  
9 drill. Even the Opposition witnesses are subject  
10 to cross-examination.

11 Any other interested persons may then  
12 present a factual case with an opportunity for  
13 cross-examination, and then the Applicant has the  
14 opportunity for rebuttal. In other words, the  
15 Applicant gets the last word, so they -- you come  
16 back to the Applicant for rebuttal.

17 I wish to turn to preliminary matters  
18 here, and we have a few. So there were some  
19 objections that were submitted.

20 We had some objections addressed at the  
21 November 6th hearing. I reserved ruling on some,  
22 including -- there was an objection that the  
23 Applicant had raised in connection with the  
24 qualification as an expert for one of the  
25 witnesses that Ms. Attorney Rosenfeld had

1 identified in her pre-hearing statement.

2 So, Ms. Rosenfeld, you had asked for an  
3 opportunity to ensure that your proposed expert  
4 witness will be able to give testimony about the  
5 qualifications, and that still stands. As far as  
6 the ruling itself, I was going to reserve. But  
7 you will definitely have an opportunity to have  
8 your proposed expert witness testify.

9 There have since been more objections  
10 raised, and this arose as a result of -- on  
11 Wednesday, November 26th, 2025, Attorney Rogers  
12 submitted supplemental materials that the  
13 Applicant requested to introduce at the December  
14 2nd hearing, at today's hearing. These are online  
15 and have been marked merely for convenience as  
16 Exhibits 79 to 82, but they're not yet admitted  
17 into evidence.

18 I put them -- we've put them up just for  
19 ease of reference. We'll get to whether they get  
20 admitted or not.

21 Once Ms. Rogers submitted those proposed  
22 supplemental materials on November -- Wednesday,  
23 November 26, and requested that these be  
24 introducing to -- proposing to introduce these at  
25 today's hearing -- and once that happened,



1 Mr. Nusbaum presented some objections.

2 Ms. Rosenfeld, my apologies.

3 Ms. Rosenfeld, you sent an email yesterday,  
4 December 1st, stating that you'll not object to  
5 the updated traffic counts and new aerial image,  
6 provided that you're given the opportunity to  
7 cross-examine the Applicant's traffic expert on  
8 those materials at a hearing, which will be Day 3,  
9 to allow you an ample opportunity to -- and time  
10 to prepare your cross-examination in connection  
11 with those materials.

12 And then, Ms. Rosenfeld, you also asked  
13 that the Applicant confirm that the recently filed  
14 and signed land use report is otherwise unchanged  
15 from the unsigned report that was already in the  
16 record. So maybe let's dispose of -- let's start  
17 with the easy one.

18 MS. ROGERS: Yes. We can confirm it's  
19 exactly the same. The only thing added was the  
20 letterhead on Page 1 and the signature page at the  
21 end. Everything else -- nothing was changed.

22 HEARING EXAMINER SOKONI: Thank you very  
23 much.

24 MS. ROGERS: Thank you.

25 HEARING EXAMINER SOKONI: In that case,

1 I'll turn it over -- Mr. Nusbaum, in the interest  
2 of time and efficiency, I thought your objections  
3 were very clear and, you know, outlined them in a  
4 lot of detail in your email, which I asked staff  
5 to include. If we could -- I just want to  
6 mention, we have the exhibit list.

7 Those online -- access to the internet,  
8 you can go to the hearing page and pull up the  
9 exhibit list. All the exhibits are there.

10 For those who are in the room, we have  
11 printouts of the exhibit list, I believe, probably  
12 at the entrance and on the counsel desk. Please  
13 feel free to grab a copy so you can follow what we  
14 are talking about.

15 So these additional Exhibits 79 through  
16 82 have been added, not yet admitted into  
17 evidence. So unless you -- you're welcome to  
18 summarize your objections. But I thought they  
19 were clear and -- but did you want an opportunity  
20 to talk about what your objections were?

21 MR. NUSBAUM: Sure. I'd just like to  
22 clarify a little bit on the first objection  
23 regarding the traffic study, as it is an expert  
24 report that is required to be included with the  
25 pre-hearing statement. And we've missed that

1 procedural deadline and that procedural  
2 requirement. I think it's important that we look  
3 to the case law that exists that we have, which  
4 the Maryland Supreme Court has been pretty clear  
5 in their case of Taliaferro vs. State of the  
6 factors that the Hearing Officer should look to to  
7 determine if --

8 HEARING EXAMINER SOKONI: Could you  
9 kindly repeat the citation?

10 MR. NUSBAUM: Yeah. It's Taliaferro vs.  
11 State, T-A-L-I-A-F-E-R-R-O, and that's 295 Md.  
12 376. And I'll just go through the factors so that  
13 we are all aware of them.

14 So the first one is whether the  
15 disclosure was a violation, was technical, or if  
16 it was substantial; whether the timing of the --  
17 what was the timing of the ultimate disclosure;  
18 what was the reason, if any, for the violation;  
19 and the degree of prejudice to the parties  
20 respectively offering and opposing the evidence.

21 I would say here, the violation is  
22 substantial. This is a material piece of evidence  
23 that is part of their analysis and should have  
24 been disclosed in the prehearing statement.

25 The disclosure is weeks after the

1 deadline and on the eve of this hearing. The fact  
2 that they weren't able to perform this traffic  
3 analysis during the 43 days of government  
4 shutdown, nothing prevented them from performing  
5 this analysis in September before the government  
6 shutdown, or doing it when they performed their  
7 comprehensive traffic analysis in the spring of  
8 2025.

9 The delay was simply the result of the  
10 Applicant failing to perform it in a timely  
11 fashion. And to allow multiple changes -- and I  
12 would point out that this is the third document  
13 that has been submitted on the traffic analysis  
14 after the deadline.

15 I did not object to the first two. I  
16 didn't believe that they were relevant. I find  
17 this one to be relevant, and that's why I'm  
18 objecting to this one.

19 But to have this continuous,  
20 ever-changing target upon which the Opposition has  
21 to bring their case is unduly prejudicial to the  
22 Opposition. And the fact that it wasn't filed  
23 timely is solely at the behest of the Applicant.  
24 So that's my position with that one.

25 I would also just like to note, with the

1 photographs, if the Hearing Officer does allow  
2 those in, I would request that Opposition be  
3 provided the opportunity to file additional  
4 exhibits before our testimony that they're dead.  
5 Thank you.

6 HEARING EXAMINER SOKONI: Can I just ask  
7 a question? So your grievance is that their --  
8 you know, the traffic study is late, is -- you are  
9 conceding it's relevant, but it's late. As far  
10 as -- could you just -- I'm trying to get to the  
11 issue of prejudice, you know.

12 MR. NUSBAUM: Sure.

13 HEARING EXAMINER SOKONI: The extent, of  
14 course, you know, this timeliness, what would help  
15 you -- to the extent you feel disadvantaged, what  
16 would help?

17 MR. NUSBAUM: I feel like we're -- not  
18 admitting the evidence is what I'm looking for. I  
19 feel like we are -- we're chasing a different  
20 target.

21 What was filed a week before at the last  
22 hearing was a similar traffic analysis about the  
23 exact same intersection. And now we have this  
24 hearing, and now there's another traffic analysis.  
25 And what are we going to find at the third

1 hearing?

2 I think we have to say there's a  
3 deadline. There's a rule, and the parties need to  
4 abide by that.

5 If they want to introduce this in  
6 rebuttal, in true rebuttal fashion, if this  
7 evidence is actually brought up by anyone in the  
8 Opposition, then they would have the right to do  
9 that. I don't expect that anybody in the  
10 Opposition is going to bring up these traffic  
11 studies in their case in chief, so they missed  
12 their chance.

13 And I think that that's -- you know,  
14 again, that's not the fault of anyone in the  
15 Opposition. It's not the fault of the rules. The  
16 Applicant just didn't file their expert  
17 information on time.

18 And I think, if we are going to allow it  
19 on rebuttal, we can have objections then. And we  
20 can discuss that of whether or not there was or  
21 was not information provided by us in our case in  
22 chief that would allow rebuttal testimony. But I  
23 think that's for a different hearing at a  
24 different time.

25 HEARING EXAMINER SOKONI: Okay. And I

1 have it on record, Ms. Rosenfeld, you're not  
2 objecting to the introduction of the traffic  
3 study?

4 MS. ROSENFELD: We are not, provided we  
5 have an opportunity to cross-examine the traffic  
6 expert at the next hearing.

7 HEARING EXAMINER SOKONI: Okay. I'll  
8 turn it over to the Applicant's team to address  
9 the objections.

10 MS. ROGERS: Thank you. Just -- I would  
11 note, in terms of Ms. Rosenfeld's request, to be  
12 able to cross-examine on the third day. The  
13 Applicant does not object to that. We would be  
14 happy to accommodate that.

15 Regarding Mr. Nusbaum's objections to --  
16 I'll take each in turn -- the supplemental traffic  
17 analysis, we would note that -- and the Applicant  
18 obviously has the burden of proof here -- this  
19 additional analysis regarding traffic volumes is  
20 limited to the intersection of New Hampshire and  
21 Midland Road, and it's being submitted to  
22 supplement the record.

23 As Mr. Nusbaum noted, these couldn't be  
24 prepared ahead of the previous hearing due to the  
25 government shutdown, which prevented new counts

1 from being taken. We performed new counts in a  
2 timely fashion, as soon as the government shutdown  
3 ended, and quickly submitted this report ahead of  
4 the hearing by last Wednesday.

5 This information is supplemental, as I  
6 mentioned, to the information that's already in  
7 the record. That was not objected to in Exhibit  
8 66.

9 We had submitted that supplemental memo  
10 prior to the last hearing. That analysis  
11 specifically noted that due to the government  
12 shutdown, we couldn't take new counts. But we  
13 were instead performing analysis based on counts  
14 we had taken, and information from SHA regarding  
15 turning movements and extrapolating that data to  
16 show that the intersection was operating below the  
17 critical lane volumes.

18 Now that the government shutdown is  
19 concluded, we are supplementing that information  
20 with new counts taken. This is in direct response  
21 to questioning that has been raised by Opposition  
22 regarding the prerequisites that are applicable or  
23 met by this Applicant, and we feel that it is  
24 germane to the application and to responding to  
25 those objections that have been received.



1           And Ms. Wagner certainly can testify to  
2     this in detail when she, you know, puts on during  
3     our case in chief. Today, we felt that it was  
4     actually being more fair to submit it ahead of  
5     time to give parties an -- all parties an  
6     opportunity to review that information. And  
7     she -- as the Hearing Examiner has noted, we can  
8     also introduce this during rebuttal testimony, as  
9     it gets to the issue of prerequisites, which has  
10    already been raised by Opposition in this case.

11           Regarding the photographs, I would note  
12    that the OZAH Rules of Procedure don't speak to  
13    deadlines for hearing materials to be submitted.  
14    This is historically -- you know, before COVID, we  
15    introduced materials on the fly during a hearing.  
16    I understand that OZAH has a new policy that those  
17    materials be submitted the Wednesday at noon  
18    before hearing, which we complied with so that  
19    they would be available for all parties to review  
20    ahead of today's hearing.

21           These photos are to further clarify  
22    testimony that was raised during the previous  
23    hearing on November 6th. And again, Mr. Sloan  
24    certainly could testify to these on rebuttal. We  
25    felt that it was helpful to introduce them in

1 advance.

2 And then, lastly, regarding the massing  
3 exhibit, this exhibit is intended to compare the  
4 massing directly between a hundred-foot massing  
5 and -- which is allowed by the binding elements,  
6 and the 80-foot massing that was shown on the  
7 previous Floating Zone Plan. With all due  
8 respect, we believe that the characterization of  
9 the Hearing Examiner's request in Mr. Nusbaum's  
10 objections isn't accurate. It was not our  
11 understanding the Hearing Examiner asked for an  
12 exhibit.

13 The Hearing Examiner raised a question  
14 about what the difference would be if we had a  
15 hundred-foot massing versus 80-foot massing. And  
16 Mr. Sloan testified to that orally in his  
17 testimony, but we thought that this exhibit  
18 directly comparing the two would help visually  
19 depict that testimony. It's something we planned  
20 to introduce during Mr. Sloan's rebuttal, but  
21 submit it in advance so that the parties had an  
22 opportunity again to review it well ahead of time.

23 HEARING EXAMINER SOKONI: Thank you.

24 MS. GIRARD: I would just add, too, I  
25 actually had a case where this type of objection

1       came up. It actually is a reported opinion.

2               Brandywine Senior Living at Potomac, LLC  
3       vs. Paul. That's 237 Md. App. 195. The Court  
4       ruled that as long as opposing parties are given a  
5       time to review the evidence and cross-examine, as  
6       Ms. Rosenfeld noted, that it is admissible.

7               HEARING EXAMINER SOKONI: Thank you.

8               Ms. Rosenfeld, could you kindly address  
9       your -- you were joining Mr. Nusbaum in the  
10      objection to the massing exhibit. Could you  
11      please address it?

12              MS. ROSENFELD: I, again, do think that  
13      the impression that I had at the last hearing was  
14      that any supplemental massing exhibit would  
15      compare perhaps the hundred feet with the existing  
16      homes. This is going from memory and notes. It  
17      may not be accurate. If the current massing  
18      exhibit is the one the Applicant chooses to rely  
19      on in furthering their burden of proof, I would  
20      withdraw my objection, provided, again, that we  
21      have the opportunity to question the land use  
22      expert on it, cross-examine at the next hearing.

23              HEARING EXAMINER SOKONI: Sure. And I  
24      just want to be clear, I wasn't requiring the  
25      Applicant to provide any particular massing

1 exhibit. Mine was simply a question, so that was  
2 a helpful clarification.

3 On the exhibits, especially given the  
4 flexibility -- and now I should step back a little  
5 bit. When we set that, you know, deadline of the  
6 Wednesday before, it's actually more -- it has  
7 more to do with -- if anything came after that,  
8 we're not going to -- we will not get it up on the  
9 website in time for the hearing.

10 But in a proceeding like this, it is  
11 typical that, you know, even members of the public  
12 usually can introduce evidence at the hearing.  
13 And, you know, we can have a discussion about  
14 whether it's relevant and whether it's admissible.

15 Under these circumstances, I've  
16 weighed -- I know there are some objections I'm  
17 still going to reserve ruling on like the expert.  
18 But with regard to these exhibits, I'm inclined  
19 to -- I will admit them on condition that -- I'm  
20 granting Ms. Rosenfeld's request that she get  
21 ample opportunity to cross-examine and -- at Day  
22 3, whenever Day 3 will be. And we'll get to that,  
23 and then we'll have to talk about what -- you  
24 know, when we're scheduling the Day 3.

25 But I think -- with that, I think I do

1 get the -- I feel like the -- sort of the scales  
2 of equity and justice are addressed by giving  
3 everyone the opportunity -- reasonable opportunity  
4 to convene. The objections are not lost on me. I  
5 understand the concern about timeliness, and, you  
6 know, you are preparing your case based on  
7 information you have.

8 But I think the explanation presented is  
9 perfectly understandable, and I think I'm granting  
10 the request to have these admitted into evidence.  
11 These will therefore be entered into evidence as  
12 Exhibits 79, 80, 81, and 82.

13 (Applicant Exhibits 79 through 82, were  
14 admitted into evidence and retained by the Hearing  
15 Examiner.)

16 HEARING EXAMINER SOKONI: Could you  
17 kindly pull up -- let's go -- if you could kindly  
18 scroll down the exhibit list to -- starting at 79?  
19 Okay. So Exhibit 79 is entered into evidence.  
20 It's the supplemental analysis -- it's a  
21 supplemental traffic analysis at the intersection  
22 of New Hampshire Avenue and Midland Road.

23 All right. If we could go back to the  
24 exhibit list, Exhibit 80? We enter into evidence  
25 Exhibit 80, arial photographs of New Hampshire

1 Avenue and street view.

2 And I'll expect Applicant, who have --  
3 you know, Applicant's experts should testify to  
4 this. And the other parties will have every  
5 opportunity to cross-examine.

6 MS. ROSENFELD: Thank you.

7 HEARING EXAMINER SOKONI: Thank you.  
8 We'll turn to Exhibit 81, the -- I'm presuming  
9 this is no longer a draft, right? This is the --  
10 it's the updated land use report, the only  
11 difference being it's now signed.

12 So if we can go back to the exhibit  
13 list, please. I know we entered it as draft land  
14 use report, so we will --

15 MS. ROSENFELD: That's it right here.

16 HEARING EXAMINER SOKONI: Let's correct  
17 that. I will -- may the record reflect that's a  
18 final land use report signed, and we have  
19 confirmation that that's -- and I don't believe --  
20 it wasn't labeled draft. I think staff -- OZAH --  
21 we inadvertently labeled it a draft. It's a  
22 final.

23 Exhibit 82 is entered into evidence.  
24 That's the Applicant's massing exhibit. Thank  
25 you.

1                   And we can go back to the list. I also  
2                   enter -- I will enter into the evidence Exhibit  
3                   83, which is the email exchange, the email -- just  
4                   the email exchanges between Counsel for the --  
5                   Ms. Rosenfeld and the Hearing Examiner.

6                   If we could go back to the exhibit list  
7                   one more time? I requested that Mr. Nusbaum's  
8                   objection -- so let me rephrase this.  
9                   Exhibit 83 -- this may not have been updated yet.  
10                  What will be entered as Exhibit 83 will be  
11                  Mr. Nusbaum's objections.

12                  MR. NUSBAUM: Okay.

13                  (Opposition Exhibit 83 was marked for  
14                  identification, admitted into evidence, and  
15                  retained by the Hearing Examiner.)

16                  HEARING EXAMINER SOKONI: And what is  
17                  showing up right now as Exhibit 83 will, in fact,  
18                  become Exhibit 84 because that's Ms. Rosenfeld's  
19                  response to that. So anyone with a physical  
20                  exhibit list, you can just write in that  
21                  correction. There's an additional Exhibit 84.

22                  (Opposition Exhibit 84 was marked for  
23                  identification, admitted into evidence, and  
24                  retained by the Hearing Examiner.)

25                  MS. ROGERS: It's actually correct, Your

1 Honor.

2 MS. GIRARD: It's correct, yeah.

3 HEARING EXAMINER SOKONI: Oh, there's --

4 MS. ROGERS: On the printed copy.

5 HEARING EXAMINER SOKONI: Okay. So  
6 there probably is a lag in getting it corrected  
7 online. I had asked that it be corrected.  
8 Perfect.

9 All right. With that, do we have any  
10 other preliminary issue?

11 Yes, Ms. Rosenfeld?

12 MS. ROSENFELD: I would like to mention  
13 that at the last hearing, I think that you had  
14 established that the community could offer their  
15 testimony at the close of the Applicant's case.  
16 And unsure of whether or not that would happen  
17 today.

18 But when you were outlining the order of  
19 proceedings, I would ask that we continue to  
20 maintain that order. There are a lot of people  
21 that have sat through quite a bit with shifting  
22 schedules. And I just wanted clarification, for  
23 the people who are present on Zoom and in the  
24 hearing room, who would like to testify as to how  
25 that will be managed.



1 HEARING EXAMINER SOKONI: Thank you so  
2 much for raising that. That -- it's extremely  
3 important.

4 So we had -- you remember, first, we had  
5 said, you know, members of the public would have  
6 an opportunity to speak in the morning. It was  
7 clear that the Applicant wouldn't be -- wasn't  
8 done with their case in chief, so we said, Let's  
9 move that to members of the public testifying.  
10 We're anticipating maybe around 12:30, thinking  
11 you would have had all morning to present your  
12 case.

13 So what's your estimate on how much time  
14 you need to complete your case in chief today?  
15 And I won't hold you to it. I know it's -- those  
16 are estimates.

17 MS. ROGERS: It's a little hard to  
18 estimate. I mean, I would anticipate that we  
19 probably have at least four hours of testimony,  
20 maybe would take the better part of the day. We  
21 would still like to get through our case in chief  
22 so that there's -- you know, we can clarify a  
23 number of things for the record before a number of  
24 members of, you know, the public testify.

25 HEARING EXAMINER SOKONI: Uh-huh.

1 That's noted. I am concerned about, you know,  
2 people taking time off from work. And, you know,  
3 it's -- this is Day 2 of hearing, so I really  
4 would not like to see people who wanted to speak  
5 not be heard.

6 Can I have -- I am inclined to -- I know  
7 this throws things out of order somewhat, and I  
8 know that you are very interested in completing  
9 your case in chief. But this is right around the  
10 time when people were going to testify.

11 Can -- I think I would like to hear from  
12 one or two -- I know we have a large group out  
13 there. But I would like to hear from one or two  
14 people about, you know, what hardship, if any, is  
15 there.

16 Yes, sir. Would like to come to the  
17 podium, identify yourself, and --

18 MR. TEWEY: Yes, ma'am. My name's Jim  
19 Tewey. I'm a member of the public. I'm a citizen  
20 of Colesville.

21 THE COURT REPORTER: Sir, can you please  
22 turn on your microphone?

23 HEARING EXAMINER SOKONI: Thank you.

24 MR. TEWEY: Thank you. My name's Jim  
25 Tewey. I'm a member of the public.

1 I'm a resident of Colesville. I live  
2 within about a quarter-mile of the proposed -- the  
3 parcels that the Applicant proposes to rezone.

4 And I'm a retiree. So any concern about  
5 me taking off work -- they show up on Day 3 -- is  
6 not a consideration. I actually have prepared a  
7 little packet of material that I want to use when  
8 I testify, which I haven't been able to email  
9 because the packet's too big. And so it wouldn't  
10 go through.

11 But I have hard copies that I can make  
12 available to you and to the staff and -- or to  
13 your personnel and also the other attorneys.  
14 And -- but coming back on Day 3 is fine by me.

15 And, you know, I don't want there to be  
16 any objection that I haven't been able to, you  
17 know, distribute the materials that I've prepared.  
18 And by the way, I have not consulted with any  
19 other attorneys, you know --

20 HEARING EXAMINER SOKONI: So you're  
21 speak --

22 MR. TEWEY: -- Ms. Rosenfeld.

23 HEARING EXAMINER SOKONI: You're  
24 speaking --

25 MR. TEWEY: This is me.

1 HEARING EXAMINER SOKONI: -- on your --

2 MR. TEWEY: I put this together.

3 HEARING EXAMINER SOKONI: On your own  
4 behalf.

5 MR. TEWEY: So --

6 HEARING EXAMINER SOKONI: Unless there  
7 are objections, I would take that packet and  
8 identify it, and so we can have it up on the  
9 record. Any --

10 MR. TEWEY: I have the --

11 HEARING EXAMINER SOKONI: Any  
12 objections?

13 MS. ROSENFELD: No objections from me.

14 HEARING EXAMINER SOKONI: Any  
15 objections?

16 MS. ROGERS: Does he have it ready now?

17 HEARING EXAMINER SOKONI: Yes.

18 MR. TEWEY: Yes, ma'am.

19 MS. ROGERS: Yeah.

20 HEARING EXAMINER SOKONI: He says he has  
21 a hard copy.

22 MS. GIRARD: I think, as long as we can  
23 have a chance to see it.

24 MR. TEWEY: Can I go --

25 HEARING EXAMINER SOKONI: Sure.

1 MR. TEWEY: -- grab it? And I'll bring  
2 it.

3 HEARING EXAMINER SOKONI: Yes, please.  
4 Before we admit it, I think it should be  
5 circle -- it should be passed on to -- if you  
6 could just glance at it, I'll make a ruling on it  
7 later on. But --

8 MR. TEWEY: I also brought a thumb drive  
9 with me that has a electronic copy of it. But the  
10 file was too large to --

11 HEARING EXAMINER SOKONI: Okay. So the  
12 thumb drive is a concern. I know IT doesn't let  
13 us take external thumb drives, I believe. It  
14 has --

15 UNIDENTIFIED SPEAKER: And if people on  
16 Zoom see what's happening, we just have a  
17 screen-share up.

18 HEARING EXAMINER SOKONI: Could we pull  
19 down the -- could we kindly pull down the -- they  
20 would like a view of the room. And I believe  
21 their instructions about how to view the room --  
22 is that your pin? What are the instructions?

23 Yes. There we go. Thank you very much.

24 What has just been circulated by  
25 Mr. Tewey is a written statement, a submission

1 sub -- quite a few pages long with a combination  
2 of written material as well as some drawings.

3 MR. TEWEY: There's five --

4 HEARING EXAMINER SOKONI: And  
5 photographs.

6 MR. TEWEY: Five pages -- I'm sorry to  
7 interrupt, Your Honor. There's five pages of my  
8 written statement, and then Tabs A through V, as  
9 in Victor. And it involves, you know, various  
10 materials that I've compiled, pictures that I've  
11 taken that I want to refer to --

12 HEARING EXAMINER SOKONI: Uh-huh.

13 MR. TEWEY: -- in my testimony.

14 HEARING EXAMINER SOKONI: Thank you.

15 I would like to give the Applicant an  
16 opportunity to take a look, and let me know if  
17 there are any objections. It will be -- it -- the  
18 proposal would be that this be entered into  
19 evidence as Exhibit 85, not entered yet until I  
20 hear from the Applicant. And then we will --  
21 we'll cross that bridge where we get to it, as far  
22 as the electronic piece, if this gets admitted.

23 MR. TEWEY: And Ms. Rosenfeld, who I've  
24 not consulted with before on this, just mentioned  
25 that she would scan it and email it to the --

1 HEARING EXAMINER SOKONI: If you're  
2 going to --

3 MS. ROSENFELD: If we're going to put it  
4 into the record. And I want to confirm that until  
5 this moment, I've not spoken with Mr. Tewey. But  
6 I can scan this and email it in to the -- for the  
7 record.

8 HEARING EXAMINER SOKONI: Thank you,  
9 thank you.

10 MR. TEWEY: I will -- yeah. She  
11 represents the GCCA, and I'm a member. You know,  
12 I paid dues to the GCAA, but I'm not sure -- I  
13 don't think she's representing me. She's  
14 representing the GCCA.

15 HEARING EXAMINER SOKONI: Yes.

16 MR. TEWEY: And so I've never talked to  
17 her, and she's never, -- you know, never -- so --

18 HEARING EXAMINER SOKONI: Okay. Yeah.

19 MR. TEWEY: And I'll stay through the --  
20 out the remainder of today's hearing, and I'll be  
21 at the next one.

22 HEARING EXAMINER SOKONI: Sure.

23 MR. TEWEY: I'll be at all the remaining  
24 hearings --

25 HEARING EXAMINER SOKONI: So --

1 MR. TEWEY: -- basically.

2 HEARING EXAMINER SOKONI: -- what I'll  
3 do is, I'll rephrase the question. Is there  
4 anyone in the room or online who feels they would  
5 be disadvantaged if they could not testify until  
6 the end of the Applicant's testimony today, which  
7 could be another three, four hours?

8 MS. EAGLIN: Your Honor, just ask --  
9 Christina Eaglin. I am a 30-plus-year resident of  
10 Colesville. I shifted my work schedule today, and  
11 I would not be available after. But I'm happy to  
12 accommodate a third day.

13 MS. ANDERSON: If I may make a  
14 suggestion for those on Zoom, should the  
15 hearing -- those running the hearing agree, if we  
16 could just do a show of hands, one way or the  
17 other? For example, a show of hands for those  
18 that are okay with shifting to another day. That  
19 could make this faster and maybe a little less  
20 cumbersome for a bunch of people coming off mute.

21 HEARING EXAMINER SOKONI: That's a  
22 reasonable suggestion. Can we have a show of  
23 hands -- well, you -- first, you should hear what  
24 you're showing your hands for. Can we have a show  
25 of hands for anyone who would find it to be a



1 hardship if you did not testify to -- is today the  
2 only -- can you -- is it today or never? If  
3 you're in the category of, I have to speak today.  
4 I have to speak now or never. Otherwise, it's a  
5 hardship, please raise your hand.

6 I scared everyone off now. There are no  
7 hands showing.

8 MR. NUSBAUM: That's good. That means  
9 you could do it third day.

10 HEARING EXAMINER SOKONI: A show of  
11 hands for people who could testify at a later  
12 date. We don't know what that later date is but  
13 could make arrangements to testify at a different  
14 date.

15 Okay. Six-plus. And we have one in the  
16 room could testify at the -- yeah. Okay. So it  
17 sounds like we stick with the proposal. Okay.  
18 Based on the show of hands, I believe we will  
19 stick with the proposed -- we'll proceed with  
20 Applicant completing their case in chief.

21 To those who had planned to testify  
22 today and have taken time from work, you know,  
23 really apologize for any inconvenience. We'll try  
24 and work with you. But I think for now, let's  
25 proceed -- I'm getting an echo.

1 MS. ROGERS: My apologies.

2 HEARING EXAMINER SOKONI: That's okay.

3 Okay. So let's get going. I think  
4 let's turn it over to the -- now, I do have a  
5 raised hand by Debra Gonski. All right. If -- is  
6 that a question?

7 You may unmute yourself, turn on your  
8 camera. And if you have a question, you're  
9 welcome to speak.

10 MS. GONSKI: If -- no, I'm fine. I can  
11 definitely make -- I can do testimony another day.  
12 I'm actually remote today. I have been in the  
13 hearing before, so sorry.

14 HEARING EXAMINER SOKONI: Okay. You--

15 MS. GONSKI: Talking at once. I'm  
16 sorry.

17 HEARING EXAMINER SOKONI: No worries.  
18 Thank you very much.

19 So it sounds like that's out of the way.  
20 Let's get going. I think the Applicant can  
21 proceed with their case in chief.

22 Do you -- any reaction yet? Do you need  
23 more time on reacting to Mr. Tewey's submission?

24 MS. GIRARD: I think we're fine, since  
25 we'll have a chance to cross-examination -- or

1 cross-examine him when he talks.

2 HEARING EXAMINER SOKONI: Yes.

3 MR. TEWEY: Thank you, Your Honor.

4 HEARING EXAMINER SOKONI: In that case,  
5 that is entered as Exhibit 85.

6 (Applicant Exhibit 85 was marked for  
7 identification, admitted into evidence, and  
8 retained by the Hearing Examiner.)

9 MS. GIRARD: And I just wanted to note,  
10 when we set this hearing date, I already had a  
11 conflict at one o'clock. So I'm going to be  
12 leave -- not that I don't want to hear what Katie  
13 says. But I'm going to be ducking out briefly,  
14 and I'll be coming back. I just wanted --

15 HEARING EXAMINER SOKONI: No problem.

16 MS. GIRARD: -- everyone to know.

17 HEARING EXAMINER SOKONI: Yeah.

18 You may proceed.

19 MS. ROGERS: Great. Thank you very  
20 much. Our first witness for today will be  
21 Ms. Katie Wagner with Grove Slade.

22 (Witness summoned.)

23 HEARING EXAMINER SOKONI: I will  
24 administer the oath. Ms. Wagner, if you could  
25 kindly raise your right hand for me?

1 (The oath was administered.)

2 MS. WAGNER: I do.

3 Whereupon,

4 KATHERINE WAGNER,

5 called as a witness for the Applicant,

6 having been duly sworn, testified as follows:

7 HEARING EXAMINER SOKONI: Thank you.

8 And could you kindly state -- spell your name for  
9 the record?

10 THE WITNESS: Yes. Katherine Wagner,  
11 K-A-T-H-E-R-I-N-E, Wagner, W-A-G-N-E-R.

12 HEARING EXAMINER SOKONI: Thank you.

13 MS. ROGERS: Thank you. Madam Hearing  
14 Examiner, Ms. Wagner has been previously qualified  
15 before this body as an expert in transportation  
16 engineering. We're prepared to proceed with a  
17 series of questions. Or if the Hearing Examiner  
18 would like to requalify her as an expert, we can  
19 skip those questioning.

20 HEARING EXAMINER SOKONI: I will  
21 requalify. Any objections?

22 MS. ROSENFELD: We'll stipulate to her  
23 expertise.

24 HEARING EXAMINER SOKONI: Thank you.

25 MS. ROGERS: Thank you.

1 HEARING EXAMINER SOKONI: She's  
2 recognized.

3 DIRECT EXAMINATION

4 BY MS. ROGERS:

5 Q Ms. Wagner, have you prepared traffic  
6 reports and provided -- sorry. It's not this  
7 case. Those were my other questions. Thank you.

8 Are you familiar with the local map  
9 amendment applications before the Hearing Examiner  
10 today as H-159?

11 A Yes, I am.

12 Q Great. And before we get into the  
13 specifics of this application, can you please  
14 explain for the record some of the sources that  
15 you use and, kind of setting the stage for your  
16 testimony, why traffic engineers and county uses  
17 objective data when evaluating transportation  
18 impacts, and how some of that data may sometimes  
19 conflict with other perceptions?

20 A Yes. So traffic engineers,  
21 transportation engineers, as well as the county  
22 and state -- we evaluate transportation and  
23 traffic using objective, data-driven methods  
24 rather than anecdotal experiences, perceived  
25 experiences. When we assess potential traffic

1 impacts with a proposed development, we rely on  
2 that data and standardized methodologies, such as  
3 regional travel behavior surveys; trip generation  
4 rates from the Institute of Transportation  
5 Engineers, ITE; the Urban Land Institute, ULI; and  
6 observed traffic counts. So we have cameras that  
7 we set up out in the field that specifically count  
8 how many cars are at an intersection driving on  
9 different roads.

10           These data sets are based on thousands  
11 of real-world observations from similar land uses  
12 and provide a reliable foundation for forecasting  
13 how much traffic a new development is likely going  
14 to generate. It's important to emphasize that  
15 this objective data offers -- often differs from  
16 the public's perception. People's day-to-day  
17 experiences with traffic, especially during the  
18 peak rush hour, commuting time periods, can  
19 understandably feel more severe than the data  
20 suggests.

21           The public's perception is so often  
22 shaped by the most congested moments they  
23 experience, again, traveling to and from work,  
24 between dropping their kids off at school. In  
25 contrast, engineering analysis evaluates average

1 conditions across multiple time periods,  
2 accounting for real distributions of trips  
3 throughout the day and across different routes.

4 For example, while it may seem  
5 reasonable to assume that every household  
6 generates three- or four-vehicle trips during --  
7 at the same time during the morning and afternoon  
8 commuting time periods, data consistently shows  
9 otherwise. Actual trip generation and traffic  
10 counts are much more varied.

11 Many residents leave outside the peak  
12 hours, carpool, work remotely, or make non-work  
13 trips throughout the day. The result is that  
14 peak-hour impact per home is significantly lower  
15 than what is often assumed in public's perception.  
16 By grounding our analysis and measure data and  
17 established methods, we ensure that the decisions  
18 about transportation impacts are accurate,  
19 consistent, and defensible, being derived from  
20 data.

21 Q Thank you. We'll now get into some of  
22 the specifics of your traffic analysis as it  
23 relates to this property and the proposed use.  
24 Have you made a personal inspection of the site?  
25 And are you familiar with the area surrounding

1 this property?

2 A Yes. I visited the site on numerous  
3 occasions and are familiar with the surrounding  
4 area.

5 Q Thank you. And can you describe your  
6 responsibilities with respect to this local map  
7 amendment application?

8 A Yes. So we were responsible for  
9 evaluating the transportation for the LMA  
10 application. So that primarily consisted of  
11 preparing an LATR, local area transportation  
12 review. This is Montgomery County's traffic  
13 impact analysis.

14 And so what we needed to do is, we  
15 needed to follow the county's and state's  
16 requirements for the LMA, which included  
17 conducting that LATR. We started this process by  
18 coordinating with MNCPPC, Montgomery County's Park  
19 and Planning Department, on the scope of the  
20 traffic study. We also consulted with SHA, the  
21 State Highway Administration, as well as  
22 Montgomery County Department of Transportation,  
23 MCDOT, on the trip generation associated with the  
24 proposed project, and the requirements for what  
25 they would like to see in that traffic impact



1 study.

2 We use the LATR guidelines to figure out  
3 what the scope of the study would need to be. As  
4 part of that study, we reviewed -- I reviewed the  
5 proposed plans, the vehicular access and  
6 circulation with that -- with the proposed plans.  
7 And then, based on the access and vehicle trip  
8 generation for the development, we, again, in  
9 consultation with MNCPPC, MCDOT, and LA -- and  
10 ASHA, we agreed upon the scope of the traffic  
11 study.

12 The scope of the traffic study was  
13 signed by all of those agencies, agreeing on what  
14 would need to be reviewed as part of that study.  
15 That study outlines what needs to be prepared and  
16 documented in the traffic study, and we then  
17 conducted the LATR traffic study in accordance  
18 with what was agreed to on this scope.

19 I also contributed to the preparation of  
20 the land use report and the transportation-related  
21 elements of that. And then, finally, we, as --  
22 after the traffic study was submitted and reviewed  
23 by the different jurisdictions, we addressed all  
24 of their concerns and comments related to the  
25 transportation and the LATR traffic study.

1 MS. ROGERS: Thank you.

2 If we can, we have some of the exhibits  
3 that were in the PowerPoint we were using last  
4 time. If we could pull up Exhibit 68? If we can  
5 go, I think, to Page 68?

6 THE ZOOM OPERATOR: Page --

7 MS. ROGERS: 68.

8 (Pause in proceedings.)

9 HEARING EXAMINER SOKONI: So for anyone  
10 following, the Exhibit 68 was a PowerPoint  
11 presentation that the Applicant had pulled  
12 together.

13 But it pulls from other exhibits in your  
14 packet, right? Are we at the right --

15 MS. ROGERS: If you want to go up? If  
16 I'm reading that right, 54?

17 THE ZOOM OPERATOR: That's 54. Go  
18 ahead.

19 MS. ROGERS: 55.

20 MS. GIRARD: 56.

21 THE ZOOM OPERATOR: There we go.

22 MS. ROGERS: There we go. Thank you.

23 Q Ms. Wagner, can you please describe how  
24 vehicles currently and -- enter and exit the  
25 subject property, and then also the proposed

1 access -- the proposed project?

2 A Yeah. So as this exhibit shows, there  
3 are multiple access points along both Notley --  
4 along Notley Road as well as New Hampshire, so  
5 each of those different single-family houses are  
6 accessed by a different driveway. And I would  
7 like to note that it has been well documented in  
8 transportation engineering studies that the more  
9 access points there are, it creates more conflict  
10 points between vehicles.

11 And so the more access points, the more  
12 chance for a potential crash, both -- while there  
13 are no sidewalks today on Notley Road, that also  
14 introduces the conflicts with not just  
15 pedestrians, but also -- or not just vehicles, but  
16 also pedestrians and bikes that may be walking or  
17 biking down the side of Notley and New Hampshire  
18 Road as well. And so then, in the future, these  
19 access points will be combined into two -- only  
20 two access points on Notley Road.

21 THE WITNESS: The -- oh, sorry. Next  
22 slide. Thank you. Next slide shows where the --  
23 oh, that's --

24 THE ZOOM OPERATOR: Sorry.

25 MS. ROGERS: That one's good.

1           A       This slide shows where the two access  
2 points will be. The easternmost access point will  
3 be aligned with Petwyn Court. That was  
4 specifically aligned as -- by -- with staff's  
5 recommendation as well as Mr. Sloan. And I also  
6 agreed that this is the best access point from a  
7 transportation engineering perspective, again,  
8 aligning the two access points for safety so that  
9 when vehicles are approaching, the stop bar to --  
10 at Notley Road, they're able to see the other  
11 vehicles on the opposite side of Notley Road.

12                   HEARING EXAMINER SOKONI: And just  
13 because it's very difficult -- it's not the  
14 clearest, you know, for anyone observing -- do you  
15 mind just pointing out where those access points  
16 are?

17                   THE WITNESS: Can we get up?

18                   HEARING EXAMINER SOKONI: Or -- yes,  
19 please.

20                   THE WITNESS: So the -- this is the  
21 easternmost driveway, and it is aligned with  
22 Petwyn Court that exists today. And then this is  
23 the westernmost driveway, and the Petwyn Court is  
24 over 400 feet away from New Hampshire.

25                   HEARING EXAMINER SOKONI: Thank you.

1 MS. ROGERS: And next slide, please.

2 Thank you.

3 Q Ms. Wagner, what is the roadway  
4 classification of New Hampshire Avenue?

5 A New Hampshire is classified as a town  
6 center boulevard.

7 Q And can you describe for the record for  
8 those listening what we're looking at on the  
9 screen?

10 A So what we're looking on this screen is  
11 the Notley classification and Complete Streets  
12 definitions. So on the left of the screen is a  
13 screenshot of the Master Plans of Highways. That  
14 is a county document that classifies all of the  
15 different roads -- or most of the roads within the  
16 county and what their purpose or classification  
17 is.

18 And then on the right is the definition  
19 of New Hampshire as a boulevard, and that  
20 screenshot is from the complete street. So it  
21 provides specific more details than I will provide  
22 today about kind of the functionality of a  
23 boulevard.

24 Q Thank you. And what is the roadway  
25 classification of Notley Road?

1           A     So Notley Road -- and there has been a  
2     little bit of confusion about Notley Road. So  
3     Notley Road has recently been updated. Again,  
4     it's called the MPOHT, the Master Plans of  
5     Highways and Transitways.

6                     So that was recently updated by county  
7     council in 2025, and not all of the online  
8     materials were updated to reflect the county's  
9     change -- the council's change in the  
10    classification.

11                    So the council approved the 2025  
12    technical update reflected in Resolution 20-890,  
13    and then Page 72 of the planning board draft  
14    recommended reclassifying Notley Road between New  
15    Hampshire to the ICC right of way from a  
16    neighborhood connector to an area connector. The  
17    council's resolution, which approved the planning  
18    board draft, with only select modifications, did  
19    not change this recommendation. The approved --  
20    this approved reclassification is reflected in the  
21    GIS map.

22                    And then -- but Notley is classified as  
23    an area connector, and area connectors are  
24    primarily residential through streets that tend to  
25    serve a moderate amount of traffic volume. These

1 streets may have longer comparable blocks -- block  
2 lengths and often serve longer-distance travel  
3 compared to a neighborhood connector, which it was  
4 previously classified. The area connectors are  
5 important connections for motor vehicles but also  
6 have a strong need to accommodate other modes of  
7 transportation.

8 MS. ROGERS: Thank you.

9 And we'd like to note for the record, as  
10 we were preparing for today's hearing,  
11 unfortunately, immediately before the hearing, we  
12 discovered, as Ms. Wagner was testifying to, that  
13 not all the materials online were correct with  
14 reflecting -- this most recent 2025 technical  
15 update was just passed by the council earlier this  
16 year. And so if we go one slide up, you'll notice  
17 in our PowerPoint that we had submitted, it  
18 incorrectly lists Notley Road as a neighborhood  
19 connector.

20 And, as Ms. Wagner just testified to, it  
21 was recently changed by the county council to an  
22 area connector. And so we would just request --  
23 and we can submit a hard copy afterwards that we  
24 had prepared. We brought copy of the updated map  
25 as well as the council resolution and -- that

1 adopts the planning board resolution showing that  
2 change. If we could submit that into the record?

3 HEARING EXAMINER SOKONI: Any  
4 objections?

5 MS. ROSENFELD: I would like to see the  
6 documents.

7 HEARING EXAMINER SOKONI: Ms. Rogers,  
8 what's the pertinent exhibit that that's  
9 replacing?

10 MS. ROGERS: It would be replacing  
11 Page 71 of Exhibit 68. And they're -- just to  
12 clarify for it, it's all matter of public record  
13 in terms of the map from the county's GIS system,  
14 the definition from Complete Streets, and then the  
15 council resolution, and an excerpt from the  
16 planning board draft, just showing for the record  
17 that change that was approved.

18 MS. ROSENFELD: We don't object to  
19 admission of this packet.

20 HEARING EXAMINER SOKONI: Mr. Nusbaum,  
21 any objection?

22 MR. NUSBAUM: No objection.

23 HEARING EXAMINER SOKONI: That will be  
24 entered into evidence. I would like to enter that  
25 as -- thank you very much. I'd like to enter that



1 as Exhibit 68-A because it's supplementing  
2 Exhibit 68.

3 We'll just drop a sub-phrase there,  
4 updated pages to Exhibit 69 reflecting  
5 reclassification of Notley Road. So that's  
6 entered into the record without objection.

7 MS. ROGERS: Thank you.

8 (Applicant's Exhibit 68-A was marked for  
9 identification, admitted into evidence, and  
10 retained by the Hearing Examiner.)

11 Q And, Ms. Wagner, can you please explain  
12 kind of how this information is used by the county  
13 for determining what's the appropriate  
14 infrastructure and street sections?

15 A Yeah. So as this exhibit shows on the  
16 screen, this is again -- this is for a  
17 neighborhood connector, but it's an example of  
18 what would be shown in the Complete Streets guide  
19 that the county has. And so this graphic  
20 illustrates on the right what infrastructure would  
21 be needed for different types of roads, so replace  
22 this with an area connector.

23 And so it would show the widths of the  
24 sidewalks needed, the travel lanes, things like  
25 that. And so that guides, when a project like

1     this comes forward to the county, what the  
2     recommendations are going to be for the frontage  
3     improvements associated with that project. So it  
4     gives definitions for what the expected buffers  
5     with -- buffer with the street trees, the sidewalk  
6     widths, if there's bike lanes needed, or things  
7     like that.

8             And I'd also really like to emphasize  
9     that the county really relies on projects like  
10    this to build a lot of the pedestrian and bike  
11    infrastructure that we -- they've spent a lot of  
12    years focused on vehicular capacity. And so roads  
13    got built but the -- are lacking sidewalk and  
14    pedestrian infrastructure. And so, again, the  
15    county is very dependent on projects like this to  
16    address frontage improvements as well as offsite  
17    improvements.

18            MS. ROGERS: Thank you.

19            Next slide.

20            Q     And can you just clarify for the record  
21    how SHA classifies Notley Road? I believe that's  
22    what we're seeing here?

23            A     Yes. They are -- SHA also has another  
24    classification map that SHA is not always in --  
25    because they manage roads for the entire state,

1     they don't have the same classifications as the  
2     county. And so SHA is classifying this as a  
3     county -- as a major collector, again, that Notley  
4     road is collecting traffic from neighborhood  
5     streets. And that is the definition that SHA uses  
6     for Notley.

7           Q     Thank you. You touched on this, but  
8     just for the record, can you reiterate the  
9     exhibits regarding the written reports that you  
10    prepared in connection with this local map  
11    amendment and your local area transportation  
12    review?

13          A     Yes. So the LATR is going to be Exhibit  
14    52-A, and the land use report is going to be  
15    Exhibit -- oh, sorry, is now Exhibit 81.

16          Q     Thank you. And you are -- are you  
17    familiar with Montgomery County's local area  
18    transportation review guidelines?

19          A     Yes, I am.

20          Q     And is this project subject to local  
21    area transportation review?

22          A     Yes. The project is subject to LATR  
23    transportation review because it generates more  
24    than 30 peak-hour trips during both the a.m. and  
25    the p.m. peak hour.

1           Q     And were your traffic counts taken in  
2     accordance with those LATR guidelines?

3           A     Yes, they were. The traffic counts were  
4     conducted in February -- on February 25th, 2025,  
5     which is in compliance with the LATR guidelines.

6           MS. ROGERS: Next slide, please.

7           Q     This is an excerpt from your local area  
8     transportation review report, which, as you  
9     identified, was Exhibit 52-A in the record. Can  
10    you please explain how the trip generation for the  
11    project was calculated?

12          A     Yes. So the trip generation for the  
13    project was --

14                HEARING EXAMINER SOKONI: So -- I'm so  
15    sorry to interrupt. I have two raised hands. I  
16    just want to check if those are legal objections.  
17    Rafael Mattera and two others have raised hands.

18                Are you raising a legal objection to  
19    anything?

20                MR. MATTERA: I'm -- this is Rafael  
21    Mattera, and I'm not raising a legal objection. I  
22    just have a question regarding the  
23    reclassification from neighborhood connector to  
24    area connector.

25                Did someone specifically request this

1 reclassification? Because it sounds like it's  
2 very timely for the developer. So did someone  
3 request this reclassification?

4 HEARING EXAMINER SOKONI: Do you want to  
5 address that now? Or can we hold that for  
6 cross-examination?

7 MS. ROSENFELD: I think we can hold.

8 HEARING EXAMINER SOKONI: Okay. If you  
9 -- I just want to advise, at this point, we have a  
10 presentation of a case in chief. So if you have  
11 questions, or you want to cross-examine the  
12 witness, if you could just make a note of those,  
13 you have an opportunity when they complete their  
14 presentation of their case in chief.

15 MR. MATTERA: Thank you.

16 HEARING EXAMINER SOKONI: Uh-huh.

17 MS. WATSON: May I please -- I just want  
18 to clarify something that I heard verbally.

19 Notley Road is a dogleg road. There is another  
20 section of Notley that is north of Bonifant Road,  
21 and I want to make sure that Notley applies -- as  
22 I understand it, reclassification applies to that  
23 section of Notley Road because it's not, say,  
24 Notley Road, but a section of Notley Road.

25 HEARING EXAMINER SOKONI: Okay.

1 MS. WATSON: Thank you.

2 HEARING EXAMINER SOKONI: I'll repeat  
3 the -- I'll repeat what I just said previously.  
4 If you could hold your questions and can raise  
5 them during cross-examination? If you hear  
6 something that sounds inconsistent, or something  
7 you have a question with -- about, please hold  
8 onto your questions, and you can raise those.

9 Unless -- you can interrupt if it's a  
10 legal objection. If you're saying, I object.  
11 That's incorrect, or, That should not be admitted,  
12 that's a legal objection. Other than that, if  
13 it's questions, you have to hold them until the  
14 end. Thank you.

15 MS. ROGERS: Thank you.

16 HEARING EXAMINER SOKONI: You may  
17 proceed.

18 Q Ms. Wagner --

19 MS. ROGERS: So just for the record, the  
20 image up on the screen is an excerpt from Exhibit  
21 52-A, which is in the record.

22 Q Ms. Wagner, can you please explain how  
23 the trip generation for this project was  
24 calculated?

25 A Yes. So trip generation for this

1 project was, again, conducted per the LATR  
2 guidelines, and the LATR guidelines require us to  
3 use what's called the Institute of Transportation  
4 Engineers Trip Generation Manual. And that trip  
5 generation manual has different rates for  
6 different land uses. In this case, we used the  
7 existing land use, which is six -- or is five  
8 single-family detached housing units and a  
9 proposed -- we -- 135 single-family attached  
10 housing units.

11 I want to note that we over -- we want  
12 to be conservative in our traffic analysis, that  
13 we want to make sure that we've assume the most  
14 housing units that could be built -- well, as we  
15 move through the LMA, as we move through  
16 preliminary plan and site plan that follow, this  
17 number can be reduced. But we want to make sure  
18 that we've analyzed the total possible amount of  
19 traffic, as we don't underestimate the number --  
20 the amount of traffic that could be generated by  
21 the proposed development. So that's why we do  
22 have 135 units when that's not currently reflected  
23 on the plan.

24 But -- so we use ITE Trip Generation for  
25 those different land uses, and then Montgomery

1 County has specific rates for different adjustment  
2 factors. They understand that ITE is a manual  
3 used for all different land uses throughout the  
4 country and that Montgomery County has specific  
5 characteristics with being a very bikeable,  
6 walkable, transit-friendly county that is  
7 different in different policy areas.

8 And so the county is divided up into  
9 multiple, different policy areas and has  
10 adjustment factors to take into consideration the  
11 different land uses in the different policy areas.  
12 And so we apply those policy adjustment factors  
13 for the Colesville policy area, and that is how we  
14 come up with the trip generation for each of those  
15 different land uses shown on the screen. So the  
16 proposed project will generate 48 more vehicle  
17 trips in the a.m. peak hour, 57 vehicle trips in  
18 the p.m. peak hour, and then, on a daily basis,  
19 generate 731 more vehicle trips on -- again, on a  
20 daily basis.

21 Q And those IT trip generation rates, just  
22 to clarify in terms of -- you were describing that  
23 they're conservatives. Do they include all  
24 vehicles coming and going, including residents and  
25 visitors and the like?



1           A     Yes, yes. They include all assumed  
2     vehicle travel to and from the site.

3           Q     And the trip generation rate you used  
4     was for single-family attached. There is a  
5     binding element in this case that would allow for  
6     triplexes, townhouses, or duplex units.

7                     Does this classification -- use  
8     classification also include those different  
9     building typologies?

10          A     Yes. They include all  
11     single-family-type housing units that share walls.  
12     So that was taken into consideration.

13          Q     Thank you. Can you please describe your  
14     transportation analysis as it relates to motor  
15     vehicle adequacy? And I think, for this one,  
16     we'll go to the next slide?

17          A     Thanks. So what this picture is  
18     depicting is the study intersections that --  
19     again, we worked with MCDOT, Montgomery County  
20     Park and Planning, and the Maryland State Highway  
21     Administration to determine what intersections  
22     would be most impacted by this project. And per  
23     the LATR guidelines, we agreed to this scope of  
24     reviewing study intersections.

25                     And so the intersections include New

1 Hampshire Avenue and the ICC interchange. So  
2 that's going to be your northernmost intersection.

3 We looked at New Hampshire and Notley;  
4 we looked at New Hampshire and Randolph Road,  
5 Notley Road and the two site driveways, as well as  
6 Notley Road and Sherwood Forest Road. And I will  
7 continue on describing kind of what goes into our  
8 traffic study. It is pretty technical.

9 So the next part of our study is, we  
10 look at if we want to evaluate the impacts of this  
11 project on the roadway network. And we also want  
12 to take into consideration that it takes a couple  
13 of years for this project to be built.

14 There are other projects that may  
15 already have approvals to be built, and so we need  
16 to look at what's -- if there's any background  
17 development projects in the area. And so that's  
18 if there's any other approved development projects  
19 that have approvals in the nearby area that may be  
20 traveling through these intersections. And we  
21 worked with the local jurisdictions to determine  
22 that there were no other developments approved in  
23 the vicinity of the study.

24 THE WITNESS: And so then if you can go  
25 to the next slide?

1           A       What we needed to do is, we needed to  
2       review the critical lane volumes for each of the  
3       different study area intersections that we  
4       described -- that I just described. And so,  
5       again, as I said, we describe -- we reviewed how  
6       they're operating today, and so that's the  
7       existing conditions. And then we also looked at  
8       in the future in 2030.

9                   And so -- sorry. So we looked at those  
10      intersection results. Sorry. I'm just trying to  
11      understand the different -- and as you can see  
12      that all of these intersections are within the CLV  
13      requirement for this -- for the Colesville policy  
14      study area, the LATR was reviewed by MCDOT, SHA,  
15      and Park and Planning. And all three agencies  
16      agreed that no mitigation is required to pass the  
17      motor vehicle adequacy test by this application.

18                  And then the approvals for -- from all  
19      three agencies can be found in the Park and  
20      Planning staff report on Page 33. The MCDOT  
21      later -- letter is dated October 30th, and the SHA  
22      letter is dated September 30th. And those are in  
23      the record as Exhibits 56-I-I.

24           Q       I'm sorry. I might have misheard you,  
25      but the MCDOT letter -- you said SHA was dated

1 September 30th. The MCDOT letter is dated --

2 A Oh, it was dated October 20th. I  
3 might -- I said that wrong. Thank you.

4 Q Thank you. And just to clarify, for  
5 what we're looking at with this CLV table, this is  
6 showing the kind of future CLV projected at that  
7 intersection, taking into account, as you  
8 described in your testimony, both kind of existing  
9 background and then factoring in the proposed  
10 future. What is the CLV threshold for the  
11 Colesville policy area that's applicable to this  
12 project?

13 A 1350.

14 MS. ROGERS: Thank you.

15 And just, I guess, to clarify for the  
16 record, for those who have to look online, the CLV  
17 table we're looking at here is Table 6 from Page  
18 21 of the LATR that's in the record as Exhibit  
19 52-A.

20 Q And did you also prepare a traffic  
21 signal warrant analysis for the intersection of  
22 Notley and New Hampshire Avenue?

23 A Yes, we did.

24 Q And was that requested by SHA?

25 A Yes. So we prepared -- it was requested

1 by SHA and MC -- Montgomery County Department of  
2 Transportation to review a traffic signal warrant  
3 at the intersection of Notley and New Hampshire.  
4 And what that does is, while we may want traffic  
5 signals to get in and out of our neighborhood,  
6 they need to be fully examined to see if there's  
7 enough traffic volumes, if there is a specific  
8 safety reason, if there's a large number of  
9 pedestrians at an intersection to determine  
10 exactly where it is safe to put traffic signals.

11 And I'd also like to note traffic  
12 signals are expensive, and so the county does  
13 not -- the county and state do not have -- does  
14 not have the budgets to put in traffic signals  
15 wherever we want them to go for both safety and  
16 cost reasons. And so we -- they did ask us to  
17 look at a traffic signal warrant for this to  
18 determine if a traffic signal is needed at this  
19 intersection.

20 When we scoped our traffic study, SHA  
21 was not fully aware that they had already done a  
22 study at this intersection on the request of the  
23 community. And so they asked us to look at the  
24 traffic signal. We determined a traffic signal  
25 was warranted with the existing traffic volumes.

1           And when we were interacting with the  
2     community, we found out they had already had the  
3     study done by SHA. And again, our contact at SHA  
4     didn't know the study was being done.

5           And so the study indicated a traffic  
6     signal is needed at the intersection, and it is  
7     warranted. So we did our preliminary analysis and  
8     then found out that SHA had already done the  
9     study, so we didn't do any more analysis because  
10    SHA had already determined that a traffic signal  
11    was needed at that intersection.

12          Q     And just for the record, which warrants  
13    did your study show were met?

14          A     So we looked at the four -- the Warrant  
15    2, which is a four-hour-vehicular-volume warrant,  
16    so we look at four hours of vehicular traffic.  
17    And then we also looked at the peak-hour warrant,  
18    which is Warrant 3.

19          Q     And have you had further correspondence  
20    with SHA? I know you just indicated that they had  
21    previously, you know, come to the conclusion that  
22    a signal was warranted to this intersection. But  
23    regarding SHA's plans for constructing that  
24    intersection -- or have they done any design work?

25          A     Yes. Once we found out that the -- that

1     they had already said a traffic signal could go  
2     there, we reached out to SHA to coordinate with  
3     them to kind of understand the status of that  
4     project, to understand the status of their study.  
5     And so what that -- what our conversation  
6     indicated is that it is warranted. It is on  
7     what's called the O-O-T-S, OOTS, and TEDD  
8     single-advertisement projects for signalization.

9             What that means is, again, that it's a  
10    place where they know that a signal is warranted.  
11    When they have the approved -- when they have the  
12    budget, and that signal gets to the list of  
13    prioritization, they will design the signal and  
14    construct the signal.

15            Understanding that the entitlement  
16    process takes a while, the budget process for the  
17    state takes a while, we agreed to stay in  
18    coordination. The Applicant team will stay in  
19    coordination with SHA to kind of -- whoever gets  
20    there first.

21            And that way, we can all work together  
22    to make sure a signal does get built with this  
23    project, whether it's by SHA, that they get to it  
24    first. We don't want to hold them up because it  
25    is something that is needed for the community.

1 But then if it -- if they designed it, and we need  
2 to build it, we'll continue to stay in  
3 coordination with them to make sure that the  
4 signal gets built with the project.

5 Q But to date, just for the record, SHA  
6 has not actually allocated any funding to the  
7 design or construction --

8 A Not --

9 Q -- to your knowledge?

10 A -- to my knowledge, no, when we had our  
11 conversation, I believe, in September.

12 Q And in your professional opinion, will  
13 the proposed traffic signal improve both vehicular  
14 circulation for the surrounding neighborhood?

15 A Yes.

16 THE WITNESS: If you could go to the  
17 next slide?

18 So this exhibit shows -- and do you want  
19 me to stand up?

20 HEARING EXAMINER SOKONI: Yes, please.

21 A It's a little blurry over here. So the  
22 site is the white shaded area that, again, is off  
23 Notley Road, which is the yellow line; New  
24 Hampshire is the pink line; and the blue line is  
25 Randolph Road. It's hard to tell, again, on here,



1 but there's traffic -- there's -- we would like  
2 to -- there's a traffic signal that we -- will be  
3 built with this project, a traffic signal here.

4 And so what is really happening today is  
5 that because New Hampshire is such a  
6 heavily-traveled, high-speed road, that it is very  
7 difficult for anybody traveling on Notley to make  
8 a left, let alone make a right. And so what we  
9 are -- have heard from the community, what we  
10 believe is happening, based on kind of driving  
11 around the site, things like that, is that a lot  
12 of the neighborhood streets are feeding onto  
13 Notley.

14 And because they're not able to get onto  
15 New Hampshire, they are using Sherwood Forest  
16 Road, which is a lower-classification residential  
17 street. But it does connect Notley to Randolph  
18 Road.

19 They're using that as a cut-through  
20 street. Instead of traveling on the major roads,  
21 they're using that route. And so with a traffic  
22 signal at Notley, it will be easier for vehicles  
23 to be able to turn left and right, that they will  
24 have a specific, dedicated green time that they  
25 are able to cross and to travel onto New

1 Hampshire.

2 Q And in terms of pedestrian circulation  
3 as well, can you just touch on how that will also  
4 improve at this specific location?

5 A Yes. That -- there is also really no --  
6 there is a crossing up here, but there really are  
7 no crossings for pedestrians to be able to cross.  
8 There's no protected crossings, so pedestrians  
9 really have no way to kind circulate throughout  
10 their neighborhood to get from one side to the  
11 other that there -- everybody is forced to drive  
12 if there's really no safe crossing. So the signal  
13 would also provide protected pedestrian crossings  
14 where vehicles have to stop in -- for them.

15 Q Thank you. And can you please describe  
16 the -- regarding your transportation LATR report  
17 and your analysis, the factors that went into both  
18 pedestrian and transit and bicycle tests as well?

19 A Yes. So the county is focused on not  
20 just providing vehicular capacity for roads, that  
21 they have really emphasized that our -- it needs  
22 to be a local area transportation review, and not  
23 everyone solely relies on cars. And so we --  
24 there is a requirement to look at transit  
25 adequacy, pedestrian adequacy, and bicycle

1 advocacy -- adequacy as part of our transportation  
2 studies. And so there are specific tests that we  
3 need to evaluate for each of those.

4 So the first test that we -- that I will  
5 talk about was the transit test. And so what we  
6 have to look at is inventorying the transit access  
7 within 500 feet of the property.

8 We do have the -- it is -- we don't  
9 choose 500 feet. 500 feet is -- there are tiers  
10 of study size based on the number of trips  
11 generated by the project. And so that's -- that  
12 is the 500 feet and why we -- why the  
13 transportation study looked at that. There are  
14 currently no bus stops within a quarter-mile of  
15 the project.

16 Bus service -- there was bus service  
17 along the site frontage when we did initially  
18 prepare a traffic study. And then the county did  
19 a Ride on Reimagined countywide adjusting the bus  
20 routes during the 2025 summer. And so the bus  
21 route along the New Hampshire frontage was taken  
22 away.

23 In conversations with MCDOT, the reason  
24 why that this bus stop was taken away was that  
25 there was low ridership, and I think that that

1 really could be attributed to the fact that there  
2 was a lack of pedestrian and bike infrastructure  
3 to allow people from the neighborhood to safely  
4 walk to the bus stop, that that is one of the  
5 things that really makes transit work is, being  
6 able to get to and from bus stops. And if you  
7 don't have sidewalks to walk there safely,  
8 residents are going to be less likely to use the  
9 bus.

10 I will also, though, note that there is  
11 a planned BRT route along New Hampshire, and they  
12 do plan to have the end of the line be at the  
13 Colesville Park & Ride, which is within a  
14 quarter-mile of the property. And there are bus  
15 stops along -- currently, there's bus stops along  
16 Randolph Road within a half-mile of the property.

17 Q And is it true that there's some  
18 conflicting information on -- that you've seen  
19 online regarding where the BRT will end, whether  
20 it's at Randolph, or it's at the Park & Ride? And  
21 could you just clarify your testimony about where  
22 it's planned to end? Was that based on a  
23 conversation with DOT recently?

24 A Yes. Yeah. There are -- there is a  
25 website dedicated to the New Hampshire BRT route,

1 and it does -- the graphics make it look like the  
2 BRT route is ending at the intersection of New  
3 Hampshire and Randolph Road. We reached out to  
4 MCDOT in preparation for this -- for the planning  
5 board hearing as well as this hearing to kind of  
6 understand where it actually -- it makes sense to  
7 have it end at the Park & Ride since there is a  
8 dedicated facility up there. And so they did  
9 indicate that it was going to be -- that end of  
10 the route would be at the Park & Ride along New  
11 Hampshire.

12 HEARING EXAMINER SOKONI: There's a  
13 raised hand. Is that a legal objection? Or a  
14 question?

15 UNIDENTIFIED SPEAKER: Yes. I had a  
16 question while that slide was up.

17 HEARING EXAMINER SOKONI: Can we hold  
18 the question? If -- just note the question. You  
19 will have an opportunity for --

20 UNIDENTIFIED SPEAKER: Sure.

21 HEARING EXAMINER SOKONI: --  
22 cross-examination.

23 Q Thank you. Did -- can you describe  
24 pedestrian analysis?

25 A Yes. So, again, per the LATR

1 guidelines, we needed to look within around 250  
2 feet of the property to understand what's called  
3 the pedestrian level of comfort, PLOC. That  
4 really is to figure out how comfortable it is for  
5 pedestrians to walk somewhere.

6 It's not just, is there a presence of a  
7 sidewalk, because you may have a sidewalk, but  
8 it's four feet wide and next to a 60-mile-per-hour  
9 road. That is not a very inviting pedestrian  
10 environment.

11 And so there are different requirements  
12 for different types of roads to indicate how  
13 comfortable it is for a pedestrian, that that may  
14 be a much nicer -- much more comfortable sidewalk  
15 situation on a low-volume residential street  
16 versus a road like New Hampshire. And so there  
17 are different requirements for the PLOC based on  
18 the types of road that the sidewalk is next to.  
19 And so the PL -- the pedestrian study indicated  
20 that there are several segments in the study area  
21 that do not meet the PLOC standards, in large part  
22 because there's gaps with missing -- there's gaps  
23 in the form of missing sidewalks and insufficient  
24 sidewalks, like the sidewalk along New Hampshire.

25 As part of that study, we also had to

1 look at the ADA analysis, so the understanding  
2 how -- really looking at curb ramps to understand  
3 if someone in a wheelchair, if a stroller can  
4 traverse a curb ramp, and if it meets the  
5 standards for that in the terms of slope. And we  
6 did find that there are deficiencies for the ADA  
7 evaluation, too.

8 And then I'll just continue on with  
9 the bicycle infrastructure. We do have -- we  
10 looked at the bicycle infrastructure within 400  
11 feet of the property, is, again, what is required  
12 per the traffic study guidelines, and that there  
13 are several deficiencies noted in this study area  
14 with regards to the bike standards. And again,  
15 it's -- bike level of traffic stress is what it's  
16 called, so really how stressful it is for a biker  
17 to ride in a bike facility. And so, again,  
18 there's different standards for -- to -- for  
19 evaluating the level of traffic stress.

20 And then, finally, our study takes  
21 into account all of these deficiencies, and we  
22 evaluate where those deficiencies are. And then  
23 at future stages of the development review  
24 process, the Applicant will be responsible for  
25 mitigating a certain dollar amount of deficiencies

1 related to vehicular -- vehicles, pedestrians,  
2 bikes, and transit. And so we will work with  
3 MCDOT, SHA, and Park and Planning, understanding  
4 community concerns of where that money will be  
5 spent to make sure that the project is addressing  
6 their fair share of deficiencies in the  
7 transportation network surrounding the property.

8 Q And just to clarify, the -- that pool of  
9 money that you're talking about that goes towards  
10 addressing deficiencies -- does that go only to  
11 offsite deficiencies that are not along the  
12 property's frontage?

13 A Yes, yes. It's what's called the  
14 proportionality guide, and it is specifically for  
15 all offsite deficient -- or to address offsite  
16 deficiencies that the Applicant is responsible for  
17 all their site improve -- site frontage  
18 improvements that's outside of this offsite.

19 Q And did you also prepare a Vision Zero  
20 statement?

21 A Yes, we did.

22 MS. ROGERS: You can go to the next  
23 slide.

24 Q As part of the Vision Zero statement,  
25 did your study provide the required information



1 about accident history and speed data?

2 THE WITNESS: Yes.

3 Sorry. Can you go to the -- one more --

4 MS. ROGERS: Actually, one more.

5 THE WITNESS: -- slide down?

6 MS. ROGERS: Yeah. Thank you.

7 THE WITNESS: Thank you.

8 A Yes. So we did have to do the -- it's a  
9 Vision Zero test, and that requires the collection  
10 of accident and crash data as well as speed data  
11 surrounding the property. And so the study area  
12 requirement is 250 feet, which is what this  
13 graphic shows here. This graphic shows that there  
14 are -- were a number of crashes observed at the  
15 Notley and New Hampshire intersection.

16 We looked at the crash history from the  
17 last five years. We evaluate if the crashes are  
18 severe, fatal, and document the type of crash and  
19 the mode of crashes that happened. There were 22  
20 crashes between 2020 and 2025, and all of the  
21 crashes were reported as injury classes.

22 This is a to-be-expected result. It is  
23 difficult for vehicles -- as I previously have  
24 described, for them to exit -- or travel along  
25 Notley and to enter or exit onto New Hampshire,

1       that it is a high-speed, six-lane road.

2               Again, the signal will really be able to  
3       help address this, where the signal will provide  
4       green time for side-street movements on and off  
5       Notley Road. And that will really help the safety  
6       and address some of these crashes that have been  
7       observed.

8               We also did speed a speed study. We  
9       were required to collect 48 hours of speed data as  
10      part of the Vision Zero statement. And so what we  
11      did is, we collected the -- we collected speed  
12      studies along New Hampshire Avenue between Notley  
13      and Orchard Way, and then we also collected speed  
14      studies on Notley between Petwyn Court and Shannon  
15      Drive. The speed data is presented in the LATR.

16              And what we found is that both speed  
17      studies have vehicles -- we classify it into the  
18      50th and 85th percentile speeds and to really  
19      understand what's -- how fast cars are going in --  
20      50 percent of them or 85 percent of them are  
21      going. And we found that both roads had vehicles  
22      exceeding the posted speed limit.

23              The posted speed limit for Notley is  
24      30 miles per hour; the posted speed limit for New  
25      Hampshire is 45 miles per hour. And we really

1 found that the 85th percentile speed for Notley  
2 Road is closer to 39 miles per hour, and the 85th  
3 percentile speed for New Hampshire is closer to 49  
4 miles per hour. And so, again, as part of our  
5 future process at the preliminary plan stage, we'd  
6 work with MCDOT and SHA to determine if some of  
7 the transportation improvements could go towards  
8 addressing speed to help, again, with the safety  
9 of pedestrians and vehicles in the study area.

10 MS. ROGERS: And I just wanted to note,  
11 the crash data exhibit that we are looking at that  
12 Ms. Wagner was just testifying to is Figure 4 from  
13 that LATR report. So it's already in the record,  
14 but that's what was up on the screen.

15 THE WITNESS: Can you go to the next  
16 slide? Thank you.

17 A And so, again, kind of to address safety  
18 and Vision Zero concerns, we heard from the  
19 community. This graphic here is illustrating the  
20 picture of the Notley and Sherwood Forest Road  
21 intersection. As you can see from this image, the  
22 stop bar lines are faded. We've heard that people  
23 really don't obey the traffic -- the stop sign,  
24 the traffic control.

25 I also just talked about how vehicles

1 are traveling fast along Notley Road. And again,  
2 we've heard that from the community as far as  
3 concerns. And so we could work with MCDOT to  
4 figure out some ways to address kind the stop  
5 concerns that people are not obeying the stop sign  
6 as well as -- the graphic on the right is an  
7 example of some -- a speed control measure --  
8 they're called optical speed bars -- and that  
9 figure is from the Complete -- the Montgomery  
10 County Complete Streets design guidelines, again,  
11 to address speeding concerns.

12 Q And so these type of improvements that  
13 you're describing now -- I mean, those are some of  
14 the things that will be considered by MCDOT and  
15 Park and Planning at the time of preliminary plan,  
16 when looking at kind of where to spend the offsite  
17 funds that the Applicant will be required to  
18 provide?

19 A Yes, yes. We will work with MCDOT and  
20 SHA and Park and Planning at the preliminary plan  
21 stage to figure out what deficiencies these --  
22 this project needs to address.

23 Q In your professional opinion, will the  
24 proposed development improve pedestrian safety and  
25 circulation?

1           A     Yes, it will. We -- I believe, with the  
2     consolidation of the curb cuts as well as the  
3     proposed frontage improvements related to both --  
4     for both pedestrians and bikes, will significantly  
5     improve pedestrian safety and circulation,  
6     specifically the Notley road sidewalks that --  
7     currently, there is a park next -- to the west of  
8     the project. And there are no sidewalks to get to  
9     that park, and the -- this project specifically is  
10    extending the open space into the park, and so it  
11    will connect a sidewalk to the park.

12               The traffic signal will also help with  
13    the circulation of providing pedestrians of  
14    protected crossing across New Hampshire, where  
15    there currently is not one. And then, again, as  
16    we've talked about at the time of preliminary  
17    plan, we'll work with staff to address even more  
18    places to improve deficiencies in the pedestrian  
19    environment. So there are still more  
20    opportunities for projects to be identified.

21           Q     And in your professional opinion, will  
22    vehicular access be safe, adequate, and efficient?

23           A     Yes. The site access, circulation  
24    pattern, frontage improvements, and all the  
25    internal streets will be constructed to provide

1 safe and efficient access for all users. The  
2 Mr. -- or the future people that are testifying  
3 will talk about that we did a preliminary site  
4 distance evaluation for the two driveways and that  
5 both driveways are going to be able to meet the  
6 county standards for with -- even with the  
7 observed speeds on Notley Road, that they will be  
8 able to meet the site distance requirements for  
9 the driveways.

10 The project will be required, again, to  
11 provide frontage improvements for pedestrian,  
12 bikes, and motor vehicles that we've worked with  
13 staff to identify the correct location for site  
14 driveways on Notley Road, that we're going to be  
15 aligned with Petwyn Court so that vehicles can see  
16 each other, and that we also have worked with the  
17 county and SHA to determine that Notley Road is  
18 the most appropriate location for the driveways to  
19 access the site, that SHA does have a intersection  
20 SPAC requirement of 750 feet. This site has a  
21 limited frontage along New Hampshire.

22 And so Notley Road is the lower  
23 classification of street, the lower volume of  
24 traffic, which, again, is in -- aligned with  
25 county policies as well as state policies of

1 intersection spacing. And so Notley Road is the  
2 appropriate location for the site driveways.

3 Q And just -- I think you touched on this,  
4 and I'm sorry. But just to clarify, both in terms  
5 of the county policy, you talked about in terms of  
6 access off of the lower-classification street.

7 Would there also be challenges to access  
8 off New Hampshire Avenue with the required  
9 intersection's facing --

10 A Yes.

11 Q -- requirements?

12 A Yes, that the site frontage is not --  
13 there is not 750 feet to place a driveway away  
14 from the intersection of New Hampshire and Notley  
15 Road.

16 Q And did Park and Planning staff review  
17 your LATR study and agree with the conclusions in  
18 your LATR report?

19 A Yes. Pages 33 to 35 of the staff report  
20 discuss staff's findings. Staff confirmed the  
21 Floating Zone Plan does not exceed the CLV,  
22 critical lane volume, standard for the study  
23 intersections, as applicable under the planning  
24 board's LATR traffic study guidelines.

25 In addition, the motor vehicle adequacy

1 was tested as part of this application. The  
2 non-motorized adequacy -- that's the pedestrian  
3 bike and transit -- tests were also conducted and  
4 consistent with the LATR guidelines, and the  
5 deficiencies were noted. And then mitigation will  
6 be determined at the time of preliminary plan in  
7 consultation with staff.

8 Q And then MCDOT and SHA -- have they also  
9 reviewed your traffic study and agreed with your  
10 conclusions?

11 A Yes. SHA concurs with the responses and  
12 the report's findings for this project as  
13 currently proposed and will not require the  
14 submission of any additional traffic analysis.  
15 MCDOT concluded -- they also approved the traffic  
16 study. MCDOT concluded that extending the  
17 northbound left-turn lane may be required on New  
18 Hampshire Avenue at Notley Road.

19 However, SHA has the final  
20 determination, as SHA owns New -- or is in control  
21 of New Hampshire. In addition, the Applicant  
22 would need to consider a right-turn lane on Notley  
23 Road into the site.

24 And while the Applicant team does not  
25 believe that this is necessary, given that it is



1 400 feet of separate -- there's 400 feet of  
2 separation between the easternmost driveway and  
3 New Hampshire. But we will work with MCDOT, at  
4 the time of preliminary and site plan, and  
5 determine if that right-turn lane into the site is  
6 actually necessary.

7 Q And if that right-turn lane is  
8 determined at preliminary plan to be necessary,  
9 will it have any meaningful impact on, you know,  
10 the Applicant's ability to proceed with the  
11 project?

12 A No. The -- we have figured out -- we  
13 have drafted that and have confirmed that the --  
14 there is ample space --

15 Q Okay.

16 A -- to accommodate the turn lane, if it  
17 is necessary.

18 MS. ROGERS: Thank you.

19 If we can go to the next slide? Thank  
20 you.

21 Q Can you please explain how this project  
22 meets the transportation-related prerequisites  
23 under Section 5(1)(3)(d)?

24 A Yes. We meet the transit and  
25 infrastructure category prerequisites that

1 requires all signalized intersections within a  
2 quarter-mile of the site boundary are operating  
3 below the applicable congestion standard. And so  
4 what this table is showing is showing that, again,  
5 we're below the congestion standard for all the  
6 intersections that were required to be studied in  
7 the LATR study.

8           Again, that -- the LATR study was  
9 prepared in accordance with what Montgomery  
10 County, Department of Transportation, SHA would  
11 like us to look at. When we prepared this study,  
12 it was not determined that the intersection of  
13 Midland Road and New Hampshire needed to be  
14 included in the LATR study, that that intersection  
15 is primarily serving the Colesville Shopping  
16 Center and the neighbor -- and a neighborhood  
17 street that, really, all of the traffic -- most of  
18 the traffic with our -- with -- associated with  
19 this project is going to be traveling through that  
20 intersection. And so SHA and MCDOT and Park and  
21 Planning did not determine that that intersection  
22 needed to be studied, which is why it was not  
23 originally included, and why we have conducted a  
24 few -- the supplemental memos.

25           And so what we have -- what we did in

1 preparation for the previous hearing is, we  
2 prepared a analysis at that intersection because  
3 the federal government was shut down for quite a  
4 bit of time before the last hearing. So we used  
5 old counts, and that was a supplemental analysis  
6 we submitted before the previous hearing.

7 Since then, the federal government  
8 reopened, and we were able to actually collect  
9 traffic counts before the Thanksgiving holiday and  
10 in preparation for this hearing. And so we were  
11 able to do -- and this is Exhibit 79. We were  
12 able to do the CLV analysis for the Midland  
13 intersection and, again, are able to show that  
14 that intersection operates within the acceptable  
15 congestion standard.

16 Q Thank you. And so, in your professional  
17 opinion, the prerequisite that requires all  
18 signalized intersections within a quarter-mile of  
19 the site boundary, the operating below the  
20 applicable congestion standard, based on your  
21 updated analysis with accounts that were taken  
22 that are entered into the record as Exhibit 79 has  
23 been met?

24 A Yes.

25 MS. ROGERS: And can you please

1 explain -- and for this, if we can please pull up  
2 Exhibit 80? Wait a sec.

3 THE ZOOM OPERATOR: Which page?

4 HEARING EXAMINER SOKONI: We'll start at  
5 the first page. Thank you. Perfect. Thank you.

6 Q Can you please explain how the project  
7 also meets the vicinity and facilities  
8 prerequisite, which requires the site be adjacent  
9 to a bicycle route that provides access to the  
10 commercial services within three miles?

11 A Yes. As Josh Sloan testified to, there  
12 is an existing signed-and-striped bike lane on New  
13 Hampshire Avenue that provides access between the  
14 property and the commercial shopping center  
15 located at the intersection of New Hampshire and  
16 Randolph Road.

17 During Josh Sloan's testimony,  
18 Mr. Nusbaum pointed out that there is an old sign  
19 that indicates that the bike lane ends at the  
20 intersection of New Hampshire Avenue and Midland  
21 Road.

22 First, we would like to note that even  
23 if this were the case, this is one of the main  
24 entrances to the commercial shopping center, so  
25 this prerequisite would have been met. But,

1     importantly, this bike lane does not end at  
2     Midland Road.  Rather, SHA embarked on a project  
3     in 2024 to undertake improvements to the New  
4     Hampshire Avenue striping among other things.

5             And then, as demonstrated -- and I guess  
6     I can come up and point to it -- so what we're  
7     showing here is a 2019 aerial of -- this is the  
8     shopping center here, and this is New Hampshire,  
9     North and South.  As you can see from this 2019 --  
10    kind of see from this blurry image from the 2019  
11    exhibit that there is no bike lane visible.

12            THE WITNESS:  And so then if you can  
13    scroll down?

14            A     And again, this is just from Google  
15    Street View.  We're again right in front of the  
16    shopping center.  This was -- is about the red  
17    arrow is pointing to, is where this image is taken  
18    from.

19            Q     And you can't see it, but it's dated  
20    August 2019?

21            A     So it's August 2019.  There, again, is  
22    no bike lane visible from Google Street View.

23            THE WITNESS:  If you can go to the next  
24    slide?

25            A     So here, this is the 2024 aerial image.

1 You can see now that there is a bike lane that has  
2 been striped. I think it's easiest to see these  
3 dotted little green stripes right there.

4 THE WITNESS: If you scroll down one  
5 more?

6 A You can see again here, this is the bike  
7 lane that is approaching the intersection. And  
8 what -- while it's a little bit hard to tell that  
9 this is an actual bike lane, these dashed lines  
10 indicate for both vehicles and bicyclists that are  
11 using the bike lane that vehicles will be  
12 maneuvering across the bike lane to get into the  
13 southbound right turn lane, and so that -- there  
14 is a bike lane present there.

15 Q And when you said this bike lane is  
16 approaching the intersection, this is in the photo  
17 approaching the intersection of New Hampshire and  
18 Randolph Road, correct?

19 A Yes, it is. Yeah.

20 Q Thank you. So the striping of the bike  
21 lane, in your professional opinion, goes all the  
22 way from the property to the intersection of New  
23 Hampshire and Randolph Road?

24 A Yes, and -- yes, it does. And the sign  
25 that Mr. Nusbaum pointed out is likely just an old

1 sign that was failed to be removed with this bike  
2 lane --

3 MR. NUSBAUM: Objection.

4 A -- project.

5 HEARING EXAMINER SOKONI: Please.

6 MR. NUSBAUM: I don't know how she knows  
7 it's likely that it's an old sign. It's  
8 speculative.

9 HEARING EXAMINER SOKONI: It's offered  
10 as an opinion. It's a professional opinion.  
11 Overruled.

12 MS. ROGERS: Thank you.

13 Q So in your professional opinion, does  
14 this project meet the prerequisite that the  
15 vicinity facilities requires a bike route be  
16 provided to provide access to a commercial service  
17 within three miles of the property?

18 A Yes, it does.

19 Q Is this site served by public  
20 transportation? And if so, can you just reiterate  
21 the transportation services provided?

22 A So, currently, there are no bus stops  
23 within a quarter-mile of the site, as I previously  
24 testified, that has recently -- service along the  
25 site frontage has recently been removed. However,

1       there are four bus stops within walking distance  
2       of the property within a half-mile of the site.  
3       These bus stops are served by two WMATA bus  
4       routes, the M42 and M44.

5                 42 provides a connection between College  
6       Park and North Bethesda Station while M -- Route  
7       M44 provides connections between the Hyattsville  
8       Crossing Station and North Bethesda Station with  
9       frequencies about every 30 minutes. And also, as  
10      we discussed, there is a new bus rapid transit  
11      stop to be located at the Colesville Park & Ride  
12      within a quarter-mile of the site.

13            Q       And based on your professional opinion,  
14      will adequate parking be provided onsite to avoid  
15      any adverse impacts to the surrounding community?

16            A       Yes. The parking will exceed the  
17      Montgomery County zoning requirements for parking.  
18      There will be over a hundred and -- there will be  
19      423 parking spaces that are -- will be provided.  
20      Only 243 are required per zoning, and so that's  
21      180 parking spaces over.

22                 We also looked at -- ITE also publishes  
23      a parking manual. And so that really is another  
24      manual that provides information based on data  
25      collected at similar sites. They provide a



1 average demand for single -- they provide a demand  
2 model rate for different types of uses.

3 So we looked at ITE to determine how  
4 many parking spaces would be needed for an  
5 attached single-family housing project with 130  
6 units. And that came out to 183 parking spaces on  
7 average and then a 85th percentile. So, again, 85  
8 percent of the time, in the most heavily-used time  
9 periods, that would be 295 parking spaces. So,  
10 again, ITE indicates that we would have enough  
11 parking spaces.

12 We also looked at ULI Shared Parking  
13 Manual, so that's the Urban Land Institute.  
14 Again, they provide recommendations on how many  
15 parking spaces are needed.

16 And so for a project like this, they  
17 indicated it would be 355 parking spaces. And  
18 that includes also parking spaces for visitors in  
19 that 355 number. So we believe that -- I believe  
20 that the parking will be sufficient for this  
21 project.

22 MS. ROGERS: And there was some  
23 testimony submitted in the record, written  
24 testimony raising concerns regarding overflow  
25 parking on either Notley Road or Greenspring

1 Drive. In your professional opinion, is there  
2 likely to be overflow parking that would adversely  
3 affect the neighborhood?

4 And if we could, I guess, go back to  
5 Exhibit 68, the very last page? There's an  
6 aerial.

7 THE ZOOM OPERATOR: Okay.

8 A So there was testimony about park --  
9 overflow parking being accommodated in the  
10 neighborhood. And specifically calling out  
11 Greenspring Lane, which is north of the property,  
12 and that residence with the -- in the proposed  
13 development will likely park on Greenspring Lane.

14 One, I believe that there will be plenty  
15 of parking provided onsite, given what we just  
16 talked about. But then also, there are no  
17 pedestrian connections through the site for people  
18 to be able to park on Greenspring Lane and then  
19 access the subject property. And so I don't  
20 believe that there will be overflow parking in the  
21 neighborhood.

22 Q And can you also touch on Notley?

23 A Yes. Notley Road is also a two-lane  
24 road with no shoulder, and so there really is no  
25 place for vehicles to be able to park on Notley

1 Road.

2 Q And in terms of also the -- can you  
3 touch on how the Project Streetscape improvements  
4 are going to further make that the case that it'll  
5 prevent parking along Notley Road?

6 A Yes. They'll now have a curb and a  
7 sidewalk on Notley Road. So in addition to that,  
8 we can also work with MCDOT to put up no-parking  
9 signs along the site frontage on both sides of  
10 Notley Road to prevent -- to further prevent  
11 potential parking.

12 Q And just to -- I guess, to sum up all  
13 your testimony, you don't -- in your professional  
14 opinion, you don't feel like that -- you don't  
15 believe that is likely to happen because there is  
16 adequate parking being provided --

17 A Yes.

18 Q -- onsite?

19 A Yes. I believe there's adequate parking  
20 onsite and do not believe there will be overflow  
21 parking in the neighborhood.

22 Q Moving to some of the necessary  
23 findings, Section 721(E)(2)(e) requires a finding  
24 that the Floating Zone Plan will generate traffic  
25 that does not exceed the critical lane volume or

1 volume capacity ratio standards, as applicable  
2 under the planning board's LATR guidelines; or, if  
3 the traffic exceeds the applicable standards, the  
4 Applicant demonstrates an ability to mitigate such  
5 adverse impacts.

6 In your professional opinion, will the  
7 project satisfy this requirement?

8 A Yes. All studied intersections will  
9 operate below the maximum congestion standard of  
10 the yellow policy area, which is 1350 CLV. I also  
11 want to note that because a preliminary plan is  
12 subsequently required, the planning board is  
13 charged with approving adequate public facilities  
14 at that time as well. The Applicant will continue  
15 to work with planning staff to mitigate  
16 deficiencies, any ped bike and transit network  
17 identified in the LATR, as well as work with SHA  
18 to ensure that a signal is constructed at the  
19 Notley and New Hampshire Road intersection.

20 Q And do you believe, from a traffic  
21 standpoint, that the proposed project and the  
22 proposed use is compatible with the surrounding  
23 area?

24 A Yes. It's compatible from a  
25 transportation perspective because we meet all the

1 LATR standards and per my previous testimony,  
2 which is the intent of the growth and  
3 infrastructure policy and the APF legislation.  
4 Proposed housing density will also help support  
5 additional transit options within the surrounding  
6 area by providing necessary users to justify  
7 additional services.

8 Q There was some written testimony in the  
9 record regarding concerns that the project would  
10 result in excessive cut-through traffic on  
11 Sherwood Forest Drive. In your professional  
12 opinion -- I know you touched on this, but can you  
13 kind of elaborate on whether you think the project  
14 will increase or decrease traffic on Sherwood  
15 Forest Drive?

16 A In my professional opinion, I believe  
17 that traffic -- the project with the associated  
18 traffic signal will actually decrease traffic on  
19 Sherwood Forest Road, that it will allow residents  
20 to be able to use the signal at Notley and New  
21 Hampshire to be able to travel north and south on  
22 New Hampshire.

23 Q And once the traffic signal is installed  
24 at the intersection of Notley and New Hampshire  
25 Avenue, creating kind of controlled traffic

1 movements, will that provide more convenient  
2 access to where some of the trips are anticipated  
3 to be dispersed from the site, as compared to  
4 Randolph and Sherwood Road intersection --

5 A Yes.

6 Q -- or Forest?

7 A The Sherwood Forest and Randolph Road  
8 intersection is unsignalized. As part of the LATR  
9 traffic study, we work with staff to determine  
10 kind of the distribution of traffic, where  
11 vehicles will be coming and going from the site.  
12 And the trip generation -- trip distribution in  
13 the LATR only has ten percent of the  
14 site-generated traffic traveling eastbound on  
15 Randolph Road and 30 percent of the traveling  
16 southbound on New Hampshire Avenue. As such, it's  
17 highly unlikely that these vehicles would use  
18 Sherwood Forest Road, where they would need to  
19 cross three lanes of traffic at an unsignalized  
20 intersection to access eastbound Randolph Road,  
21 which would take them back to New Hampshire Avenue  
22 to travel southbound instead.

23 With the new traffic signal at Notley  
24 Road, cars anticipated to choose to use the  
25 signalized intersection at New Hampshire Avenue,

1     which provides two dedicated southbound left-turn  
2     lanes and three southbound through lanes. As  
3     such, the project would likely result in, again,  
4     the reduction in vehicles traveling on Sherwood  
5     Forest Road.

6           Q     And does the intersection of Sherwood  
7     Forest and Notley Road operate within applicable  
8     and appropriate standards?

9           A     Yes. The intersection of Sherwood and  
10    Notley was included in our LATR study, and we  
11    found that it operated well below the congestion  
12    standard it operated at an LOSA.

13          Q     And in your professional opinion, will  
14    the proposed development create any adverse  
15    impacts for residents entering or exiting on  
16    Petwyn Court?

17          A     No. Based on community feedback  
18    highlighting concerns of eastbound cues at New  
19    Hampshire and Notley intersection, a gap analysis  
20    was conducted. And so what that is is, it's  
21    looking at cars traveling on Notley Road, and the  
22    gaps in traffic for cars to be able to turn left  
23    or right out of Petwyn Court or onto Petwyn Court.  
24    And our gap analysis indicated that there were  
25    plenty of gaps to accommodate both the existing

1 traffic on Petwyn Court as well as the future  
2 proposed traffic with this development and so that  
3 there will be plenty of gaps to be able to enter  
4 and exit Petwyn Court as well as our -- the  
5 proposed project.

6 Q And in your -- so in your professional  
7 opinion, is the Montgomery County Council, sitting  
8 as the district council, able to make the  
9 necessary findings, as they relate to  
10 transportation, to approve the Floating Zone  
11 Planning section with this local map amendment?

12 A Yes.

13 Q And did the planning board and planning  
14 department staff agree with that?

15 A Yes, they did. They agreed with that.

16 MS. ROGERS: We don't have any further  
17 questions for Ms. Wagner at this time.

18 HEARING EXAMINER SOKONI: Uh-huh. Turn  
19 it over to cross-examination, and I propose that I  
20 start with Ms. Rosenfeld. My -- I would just like  
21 to urge no one's -- you know, everyone has the  
22 option -- well, you know, those present have the  
23 option to cross-examine.

24 But if you feel -- you know, if --  
25 there's no point in repetition. So, you know, if



1 the questions you have have been addressed, it's  
2 okay to pass.

3 But, you know, why don't you go first,  
4 Ms. Rosenfeld? And then I'll turn it over to  
5 Mr. Nusbaum.

6 MS. ROSENFELD: Certainly. Thank you  
7 very much.

8 CROSS-EXAMINATION

9 BY MS. ROSENFELD:

10 Q You had offered some analysis about the  
11 adequacy of parking, and you had mentioned that  
12 you had also looked at parking requirements -- or  
13 parking standards under, I believe, ULI and the  
14 ITE. Can you just point me to where in your  
15 report that analysis is shown?

16 A We looked at --

17 Q Which exhibit?

18 A -- that to prepare for this hearing as  
19 well as in the -- one moment.

20 (Counsels confer.)

21 A So we also provided that information in  
22 the Exhibit 56-J, the Applicant's response to  
23 community comments.

24 Q Okay. And that's where that analysis  
25 of -- under the ULI and the IGE --

1           A     Yes.

2           Q     -- as well?

3           A     Yeah.

4           Q     Okay. Thank you. In terms of parking,  
5 what is your testimony with respect to the  
6 potential for overflow parking on Petwyn Court? I  
7 think you talked about Motley. And is it  
8 Greenspring but not Petwyn?

9           A     Yes. So I believe that there will be  
10 plenty of parking onsite. Again, we're -- we have  
11 over 80 -- over 180 parking spaces required per  
12 zoning. Again, per ITE and ULI, there also is  
13 more than enough parking, so don't believe Petwyn  
14 Court will also have overflow parking.

15          Q     If there were to be offsite parking,  
16 would Petwyn Court be the closest, most convenient  
17 offsite parking to this property --

18          A     No.

19          Q     -- to the site?

20          A     No. The park would actually probably be  
21 the most convenient in the fact that there is a  
22 sidewalk.

23          Q     And how many parking spaces are there at  
24 the park?

25          A     I do not know that.

1           Q     Okay. And that's your response, even  
2     for the housing units that would be directly  
3     across from the Petwyn Court site --

4           A     Yes. There is --

5           Q     -- or the court entrance?

6           A     The Petwyn Court would require -- if  
7     residents were to park on Petwyn Court, they would  
8     need to walk across a road that has vehicles  
9     traveling on it; whereas if they're able to park  
10    at the park, they're parking in a parking lot and  
11    have a very comfortable sidewalk to be able to  
12    walk to the development.

13          Q     In your experience, do people tend to  
14    park closer to their destination if they're trying  
15    to park at a location convenient to where they're  
16    actually going?

17          A     Yes. But I think they also take into  
18    consideration vehicles, that they may be  
19    traversing across and the safety of if they're  
20    traveling with small children, elderly. Safety is  
21    also something that people take into consideration  
22    when finding parking.

23          Q     Okay. And if somebody were to go from  
24    Petwyn Court to the subject property, are there  
25    sidewalks on either side of the entrance leading

1 into the development on the entrance road?

2 A Yes, there are.

3 Q Okay. And do you know the distance  
4 between the parking lot at the park and the  
5 entrance --

6 A I do not know.

7 Q -- at the Petwyn -- okay. I also have  
8 some questions about the size of the parking  
9 spaces associated with the units themselves, both  
10 the driveway and the parking spaces within the  
11 units. Are you the right witness for those  
12 questions? Or would that be --

13 A I don't --

14 Q -- the civil engineer?

15 A I don't believe I'm the right --

16 Q Okay.

17 A -- witness for that.

18 MS. ROSENFELD: Ms. Rogers, would that  
19 be the civil engineer --

20 MS. ROGERS: Yeah. I think Mr. Sloan --

21 MS. ROSENFELD: -- for those dimensions?

22 MS. ROGERS: -- who testified -- well, I  
23 think Mr. Sloan had testified to the parking in  
24 his previous testimony.

25 MS. ROSENFELD: Okay. I'm not sure he

1 answered questions about dimensions, though. I  
2 think he deferred to the civil engineer on that as  
3 well.

4 MS. ROGERS: I don't believe so. We had  
5 covered all of our parking questions with  
6 Mr. Sloan.

7 MS. ROSENFELD: Okay. But your civil  
8 engineer would know the dimensions of the plan,  
9 correct?

10 MS. ROGERS: I mean, the -- yes. The  
11 civil engineer can read dimensions of the plan,  
12 although the -- kind of the layout of the units  
13 and all of that was something that Mr. test --  
14 Mr. Sloan had testified to in terms of the depth  
15 of the driveways and the garage parking spaces.

16 Q Okay. In Exhibit 81, which is the  
17 current signed land use report, could you identify  
18 for me what pages of that report you are  
19 responsible for drafting --

20 A Yes. I believe --

21 Q -- or sections?

22 A If you go to the last page --

23 Q Uh-huh.

24 A -- we have attached our signatures as  
25 well as a description of all of the different

1 parts that were --

2 Q Excellent.

3 A So you can find that there.

4 Q Okay.

5 A And it's --

6 Q Great.

7 A -- based on sections, not exact page  
8 numbers.

9 Q Okay. That works. Thank you. When you  
10 testified about the BRT on New Hampshire, has that  
11 project yet entered the design phase?

12 A I do not believe so.

13 Q And do you know if it has any funding?

14 A I do not know.

15 Q Do you know the timing of when that --  
16 the BRT is planned to be constructed?

17 A I do not know that.

18 Q Okay. I believe you testified that with  
19 respect to where the BRT would end, there's some  
20 conflict in the information available as to  
21 whether that would end at the Park & Ride or end  
22 at Colesville. And these are from my notes; is  
23 that correct?

24 A I would just clarify that we had -- we  
25 noted that it was odd that a BRT line would end

1 before -- end where there was -- in proximity to a  
2 Park & Ride, based on the graphics that were  
3 provided online. And so we wanted to reach out to  
4 MCDOT to understand if it was going to be at the  
5 Park & Ride, or if it was actually at -- as the  
6 graphics had indicated, at New Hampshire and  
7 Randolph Road. And staff identified that it was  
8 at the Colesville Park & Ride.

9 Q Okay. And who did you speak with at  
10 State Highway on that?

11 A We spoke with MCDOT, Jamie Henson.

12 Q Okay. And do you know if he has any  
13 written documentation or any SHA-approved, you  
14 know, documentation that confirms that this would  
15 be the location of determination?

16 A I do not know. There is a New Hampshire  
17 BRT website, and I'm not sure of all the materials  
18 that are on that website or have been on that  
19 website.

20 MS. ROSENFELD: Okay. I have no further  
21 questions.

22 HEARING EXAMINER SOKONI: Thank you.

23 Mr. Nusbaum, you ready for  
24 cross-examination?

25 MR. NUSBAUM: Yes, thank you.

1 CROSS-EXAMINATION

2 BY MR. NUSBAUM:

3 Q Good afternoon, Ms. Wagner. If we could  
4 turn to Exhibit 52-A, which is your LATR, and  
5 specifically Page 26 of that report?

6 HEARING EXAMINER SOKONI: Could you  
7 please pull it up?

8 THE ZOOM OPERATOR: Oh, one second. 16?

9 MR. NUSBAUM: 26.

10 THE ZOOM OPERATOR: Oh.

11 MR. NUSBAUM: That's perfect.

12 Q If you will look at the box -- I just  
13 have to see here -- that is labeled 2, I believe,  
14 for the intersection of New Hampshire and Notley  
15 Road; is that correct?

16 A Yes.

17 Q Okay. You indicated in this that there  
18 was a peak a.m. volume for eastbound traffic of  
19 218 vehicles; is that correct?

20 A Of eastbound vehicles?

21 Q Correct.

22 A I see -- oh, yes, yes. I see that, in  
23 the a.m. peak hour.

24 Q Correct. 213 turning right and five  
25 turning left; is that correct?



1           A     Yes.  Yeah.

2           Q     Okay.  So this is the peak traffic  
3 volume on Notley in the a.m.?

4           A     Yes.

5           Q     Okay.  Can we turn to your technical  
6 attachments?  I believe they're 52-A-I, and  
7 specifically Page 21?

8                   THE ZOOM OPERATOR:  Here?

9                   MR. NUSBAUM:  Sure.  I can't tell from  
10 here.  I'm sorry.

11                  THE ZOOM OPERATOR:  Okay.  It's all  
12 right.

13                  MR. NUSBAUM:  It is very small.

14           Q     On the paper version, if you're able to  
15 look at that, you'll see that on the righthand  
16 side, it indicates a peak volume of 218,  
17 corresponding to what you had in your LATR; is  
18 that correct?

19           A     Yes.

20           Q     Okay.  Is -- the 218 is actually the  
21 lowest hourly morning volume for eastbound traffic  
22 on Notley Road, isn't it?

23           A     I think I would need to do math, and  
24 that could take a second.

25           Q     Okay.  If you'd like to, that's fine.

1 I'm --

2 A And if you want to continue on, I can --

3 Q The next question is really to whether  
4 or not it is actually the lowest and not the  
5 highest volume for the morning rush hour?

6 A I need to pull out -- I would need to --  
7 it will take a minute.

8 Q Well, let's just look at -- we can  
9 start -- the 6:30 to 7:30 block -- is that greater  
10 than or less than 218?

11 A Yes, it is greater.

12 Q Okay. How about the 6:45 to 7:45 block?

13 A Let's see. 6:45. It's greater.

14 Q Okay. I can keep doing this, but I'll  
15 posit, you know, that every single one is greater  
16 than the 218. Let's look specifically at the 8:15  
17 to 9:15, if you don't mind.

18 Can you tell me what the peak hourly  
19 volume is from 8:15 to 9:15 a.m.?

20 A Over 261.

21 Q Okay. So that's more than 20 percent  
22 higher than the 218 percent that you put into the  
23 LATR, correct?

24 A Correct.

25 MR. NUSBAUM: Okay. Can we look at

1 Exhibit 55, Attachment A, please? Attachment A.

2 Sorry.

3 THE ZOOM OPERATOR: That was, I think,  
4 Attachment K.

5 MR. NUSBAUM: Oh, I'm sorry. It might  
6 be the wrong -- can you go back to the --

7 THE WITNESS: It's just if you scroll  
8 down.

9 MR. NUSBAUM: Oh, it's -- okay. It's --

10 THE WITNESS: It's in there, if you  
11 could scroll to Page 7.

12 THE ZOOM OPERATOR: Oh, I see. Okay.

13 Q This is a traffic study performed at the  
14 end of --

15 A These are just traffic counts.

16 Q Correct. These are traffic counts  
17 performed by MDOT or SHA at Notley Road and New  
18 Hampshire Avenue on October 25th, 2023; is that  
19 correct?

20 A Yes.

21 Q Okay. And that study shows a peak  
22 morning hourly volume on eastbound Notley of 269  
23 vehicles; is that correct?

24 A Between 7 and 8 a.m., yes.

25 Q Okay. So, again, that's 20 -- more than

1 20 percent higher than the 218 that you put into  
2 your LATR; is that correct?

3 A Yes.

4 Q Okay. I'd now just like to draw your  
5 attention to the letter that you submitted on  
6 November 3rd entered as Exhibit 66. In that  
7 letter, you acknowledged that you were not at that  
8 time able to perform a traffic count at the corner  
9 of Midland in New Hampshire; is that correct?

10 A Yes.

11 Q And that was because of the government  
12 shutdown that we discussed earlier?

13 A Yes.

14 Q Okay. But you did perform traffic  
15 counts at other intersections on February 2025?

16 A Yes.

17 Q Nothing prevented you at -- in February  
18 of 2025 from performing a traffic count at this  
19 intersection, correct?

20 A No, that is incorrect. We do a traffic  
21 study in accordance with Montgomery County LATR  
22 guidelines, and so we work with SHA, MCDOT, and  
23 Park and Planning to determine what the  
24 appropriate study intersections are.

25 And as, in my testimony, I indicated,

1 the Midland and -- the Midland Road intersection  
2 was not determined to be a significant  
3 intersection that Park and Planning, SHA, and  
4 MCDOT thought that this project would be  
5 impacting. And so they did not require that to be  
6 reviewed as part of the traffic study.

7 And so we prepared this supplemental  
8 analysis, really, in response to correspondence  
9 that we received from the community. So, really,  
10 again, to be preparing for this hearing, we  
11 determined that we would go above and beyond what  
12 the local jurisdictions required to be included as  
13 part of the traffic study. So there was no reason  
14 to collect the counts prior to the -- preparing  
15 for this hearing.

16 Q Okay. I'll go back to my actual  
17 question, which was, nothing prevented you from  
18 doing a traffic study in February 2025, correct?

19 A Nothing prevented us to. We don't do  
20 traffic studies just to do traffic studies. We do  
21 them to meet the requirements of review for the  
22 local jurisdictions.

23 Q So you did this now because you wanted  
24 to meet the requirement for the prerequisite,  
25 which is part of this LMA process, correct?

1           A     No, we did -- yes. And we did this in  
2     response to community comments that we received.

3           Q     Did someone in the community ask you to  
4     do a traffic study at Midland and New Hampshire?

5           A     We were responding to comments regarding  
6     this intersection.

7           Q     Did someone ask you to do a traffic  
8     study?

9                     MS. ROGERS: She -- I think Ms. Wagner  
10    just responded that she was respond -- that they  
11    took these counts in response to the prerequisite  
12    and in response to correspondence that had been  
13    received.

14                  MR. NUSBAUM: And I asked if anyone  
15    at -- in the community asked her to do a traffic  
16    count.

17          A     No. They did not ask to do a traffic  
18    count.

19                  MR. NUSBAUM: Okay. Can we turn to the  
20    newly-admitted Exhibit 79 -- actually, I'm sorry.  
21    Before we do that, can we go back to 66? I'm  
22    sorry.

23          Q     In the conclusion of 66, if you scroll  
24    down, you state that All intersections are  
25    expected to operate below the established CLV; is

1       that correct?

2             A       Yes.

3             Q       Okay. And if we go to the beginning of  
4       this letter, you state that you anticipate to be  
5       able to operate within the acceptable thresholds  
6       in the introduction paragraph; is that correct?

7             A       Yes.

8             MR. NUSBAUM: Okay. Let's go back.  
9       Let's go to Exhibit 79, please.

10            Q       Exhibit 79 is the newly-performed  
11       traffic count and analysis that you did at New  
12       Hampshire Avenue and Midland Road intersection; is  
13       that correct?

14            A       Yes.

15            Q       Like Exhibit 66, in the introduction  
16       paragraph, you stated that you anticipate that the  
17       traffic will be within the acceptable thresholds;  
18       is that correct?

19            A       Yes.

20            Q       And similarly in the conclusion that you  
21       expect the traffic to operate below the  
22       established standard; is that correct?

23            A       Yes.

24            MR. NUSBAUM: Can we turn to the trip  
25       generation section on Page 2 of this report? I

1 just want to make sure that I understand this.

2 Q It appears that you are stating that  
3 there will be no trip generations of anyone  
4 leaving the shopping center to return to the 130  
5 new townhomes being built in either the morning or  
6 evening hour; is that correct?

7 A That is correct.

8 Q Okay. Likewise, the traffic generation  
9 report states that there will be no trip  
10 generations for anyone leaving the giant gas  
11 station or the shopping center to the east on  
12 Midland to go back to the 130 new townhomes being  
13 built, either morning or evening; is that correct?

14 A Correct.

15 Q So your conclusion is that building 130  
16 townhouses a quarter-mile from two shopping  
17 complexes, one with a grocery store and one with a  
18 gas station, will result in no new traffic turning  
19 from those locations back to the new townhomes?

20 A No, that's not correct. So when we do a  
21 traffic study, we look at trip distributions. For  
22 a residential project, we have what's called  
23 primary trips, and so that is traffic that is on  
24 its full destination.

25 When you do a traffic study for a use



1     like a gas station or a grocery store, what you  
2     also take into consideration is a pass-by trip.  
3     And so when the traffic studies for those uses  
4     were prepared, they likely assumed what is called  
5     a pass-by trip. And so what that does is, it  
6     knows that we have residential development nearby,  
7     not just this project, but all of the existing  
8     homes in the area.

9             And so when that traffic study was done,  
10    what it did was, it considered pass-by trips. And  
11    so it would -- I'm going to get pretty technical.  
12    It would have negative traffic on the southbound  
13    through movement; and it would add a right-turning  
14    vehicle into the site; and then it would have a  
15    right-turning vehicle out of the gas station and  
16    to basically balance the traffic volume.

17            So while our traffic study did not  
18    assume that, that has already been baked into the  
19    traffic models that the county has, the state has  
20    for their different roadways. So while it's not  
21    specifically in this project, it would have been  
22    done in the traffic studies for the gas station  
23    and the grocery store.

24            Q     Okay. You said it was likely assumed to  
25    have been done, if --

1           A     I have not specifically reviewed the  
2     traffic study, but I have done traffic studies for  
3     gas stations and grocery stores. And that is what  
4     we are required to do for the LATR guidelines and  
5     traffic studies in the county.

6           Q     But you did this traffic count, correct?

7           A     I did this traffic count, but I also  
8     understand what goes into a traffic study for  
9     different land uses in the county.

10          Q     Okay. Notley Road is a non-residential  
11     street, correct?

12          A     Notley Road is classified as a  
13     neighborhood connector and so that -- and area  
14     connectors, excuse me. And so that is a street  
15     that is going to be gathering -- understanding  
16     that it's likely through a residential area,  
17     gathering residential traffic to be able to  
18     connect to a larger area.

19          Q     Okay. I'll rephrase. Is Notley Road a  
20     residential street? Or a non-residential street?

21          A     I don't know if we specifically classify  
22     them as residential versus non-residential.

23          Q     Are you aware that the prerequisites  
24     classify streets as residential and  
25     non-residential?

1 MS. ROGERS: Ms. Wagner didn't testify  
2 to that prerequisite in her testimony. Mr. Sloan  
3 testified to that in his testimony.

4 MR. NUSBAUM: She's a traffic expert.

5 MS. ROGERS: She just -- she didn't  
6 testify to that prerequisite.

7 MR. NUSBAUM: That's fine, but she's an  
8 expert on roads and traffic. I would think that  
9 she could tell me if a road is residential or not  
10 residential.

11 MS. ROGERS: Your cross is related to  
12 the testimony that she just provided.

13 MR. NUSBAUM: If she's objecting, then I  
14 defer to you. I don't know if she's objecting or  
15 not.

16 HEARING EXAMINER SOKONI: The cross is -  
17 - she's correct that the cross is restricted to  
18 the testimony. It doesn't negate your  
19 frustration.

20 MR. NUSBAUM: Okay.

21 HEARING EXAMINER SOKONI: But the cross  
22 is related to the testimony.

23 Q Okay. You testified, based on Page 76  
24 of -- sorry. I have to go back to your exhibit  
25 list. Of Exhibit 50 -- I'm sorry. It was the

1 present -- it was your presentation, which I  
2 believe is Exhibit 68, excuse me. Page 76 of  
3 Exhibit 68?

4 A Sorry. What page?

5 Q 76. You testified that there was a  
6 pedestrian crossing across New Hampshire Avenue at  
7 I-200 at the top of that picture; is that correct?

8 A I thought there was. I thought there  
9 was near the trail crossing. I may be remembering  
10 incorrectly.

11 Q Okay. So you don't know if there is or  
12 not?

13 A I thought there was, but -- I am  
14 picturing in my mind, but I don't remember for  
15 sure.

16 Q Okay. I just want to highlight -- or  
17 touch on a couple of things on the BRT different  
18 than what Ms. Rosenfeld tossed -- talked about.  
19 Do you know when the BRT master plan was developed  
20 for this route?

21 A I don't know.

22 Q And the planned BRT stations, even if at  
23 the Colesville Park & Ride -- that's outside of  
24 the 500-foot transportation radius that you  
25 studied, correct?

1           A     Correct.

2           Q     Regarding the bike lanes and the photos  
3     that you just showed on Exhibit 78 -- or, excuse  
4     me, 80, if we can -- that's perfect. Are there  
5     any bike lane signs along New Hampshire Avenue  
6     indicating that a bike lane exists at this  
7     location?

8           A     I do not know for sure.

9           Q     Okay. Do you see any in the picture?

10          A     No.

11          Q     Are there any roadway markings, bike  
12     symbols that are typical on bike lanes that are on  
13     this picture?

14          A     No.

15          Q     Are there -- are you aware if there are  
16     or are not any on this section of the road?

17          A     I do not know if there is a bike symbol  
18     on New Hampshire Avenue.

19               MR. NUSBAUM: Okay. Give me one moment.  
20     I just need to pull up another -- if we can go  
21     back to Exhibit 68? Indulgence for one moment  
22     while I grab the page.

23               (Pause in proceedings.)

24               MR. NUSBAUM: It's going to be Page 48.

25          Q     On the top right picture here, which is

1 north of the site, you see that there are -- there  
2 is a bike lane sign identifying that bike lane at  
3 that point, correct?

4 A Yes.

5 Q And the picture below that, you see the  
6 sign at the bike lane, where it indicates that the  
7 bike lane ends at the Colesville Park & Ride?

8 A Yes.

9 MR. NUSBAUM: Okay. I have nothing  
10 further. Thank you.

11 HEARING EXAMINER SOKONI: I will open it  
12 up to anyone else who wants to cross-examine. But  
13 before we do that, could -- I just want to get a  
14 clarification.

15 EXAMINATION BY THE HEARING EXAMINER

16 HEARING EXAMINER SOKONI: And just -- I  
17 wish I had -- so there's the picture you testified  
18 to earlier, with the -- you know, the pink line  
19 and the yellow line. And the explanation about  
20 the neighborhood gets a lot of cut-through traffic  
21 right now. I think you were explaining to us that  
22 the neighborhood gets a lot of cut-through traffic  
23 because there are no traffic signals and that this  
24 will be -- the installation of these traffic  
25 signals will mitigate that.

1                   But -- so for in -- what I'm trying to  
2 understand is, if you put the traffic signals now,  
3 certainly, it will mitigate the pass-through  
4 traffic throughout the neighborhood, right? But  
5 if the traffic signals go in, but you also have  
6 much more traffic because there's 130 townhouses,  
7 how does someone struggling with that -- are we  
8 back to square one? You put the traffic lights,  
9 but then we've also increased the vehicles.

10                  So now we're back to square one as far  
11 as cut-through traffic through the neighborhood?  
12 Or is that a misplaced concern?

13                  THE WITNESS: That is a misplaced  
14 concern. Our traffic study looks at that  
15 intersection with a traffic signal. And even with  
16 the additional development, a traffic signal is  
17 meant to handle increased volumes on side streets  
18 to really be able to get cars out of -- off those  
19 side streets onto a larger street like New  
20 Hampshire.

21                  And so our traffic study looks at the  
22 traffic volume with and without the new  
23 development, and we also looked at for -- per  
24 SHA's request, we looked at queuing. And both the  
25 queuing as well as the operations work

1 considerably better with the project, with the  
2 traffic signal than they do in existing  
3 conditions. So -- and so it will operate better  
4 with the -- even with the new project.

5 And like I testified, we really are not  
6 adding that much traffic with the project, that we  
7 have about 60 peak hour trips in each of the  
8 morning and afternoon peak hours, which is about  
9 one trip every minute. So it's really not a large  
10 volume of traffic that's being added to that  
11 intersection.

12 HEARING EXAMINER SOKONI: I'll open it  
13 up to cross-examination. How many more you --

14 MS. ROGERS: We'll do a little --

15 HEARING EXAMINER SOKONI: You are going  
16 to want --

17 MS. ROGERS: -- bit of redirect.

18 HEARING EXAMINER SOKONI: -- to  
19 redirect, right?

20 MS. ROGERS: And then we have Mr. Kelso,  
21 our civil engineer, will be providing testimony.

22 HEARING EXAMINER SOKONI: Okay. And  
23 after cross-examination, I'm assuming you want to  
24 redirect?

25 MS. ROGERS: Yes.



1 HEARING EXAMINER SOKONI: Okay. Do --  
2 does anyone else want to cross-examine? Let's  
3 start with the room.

4 Yes, sir. Would you like to step  
5 forward?

6 MR. CORY: I think you can hear me from  
7 here.

8 THE ZOOM OPERATOR: You have to unmute.)

9 HEARING EXAMINER SOKONI: It's the --

10 MS. ROGERS: (Inaudible) the mike.

11 HEARING EXAMINER SOKONI: You do need to  
12 use the mike. We have people on Zoom.

13 MR. CORY: That was the slide I was  
14 going to use. Thank you.

15 HEARING EXAMINER SOKONI: If you would  
16 please kindly identify yourself?

17 MR. CORY: Oh, Pat -- my name is Pat  
18 Cory. I live on 41 Shaw on -- in the --  
19 Colesville.

20 HEARING EXAMINER SOKONI: Thank you.

21 CROSS-EXAMINATION

22 BY MR. CORY:

23 Q You testified, I think, in the -- in  
24 your study that you looked at the left-turn lane  
25 during rush hour in the evening. That backs up

1 now.

2 And you're saying that you may have to  
3 extend that left-turn lane?

4 A That is one of the things that we will  
5 work with SHA at the time of preliminary plan,  
6 when we do look at the design and installation of  
7 the traffic signal. And so, again, the traffic  
8 signal will give green time to the northbound,  
9 left-turning movement. So, again, the traffic  
10 signal will also help with that movement and  
11 addressing the existing concerns that you're  
12 raising, too.

13 Q And you're saying that -- and you're  
14 also stating that people will be able to exit  
15 during rush hour and not have to turn right and go  
16 down Sherwood because they'll able to exit  
17 properly?

18 A Yes.

19 MR. CORY: We just find that very hard  
20 to believe.

21 HEARING EXAMINER SOKONI: Anyone else in  
22 the room wishing to cross-examine Ms. Wagner?

23 Hearing none in the room, I'll turn to  
24 Zoom. Is there anyone on Zoom who wishes to  
25 cross-examine Ms. Wagner?

1 MS. EAGLIN: Yes.

2 HEARING EXAMINER SOKONI: Kindly turn --

3 MS. EAGLIN: Oh.

4 HEARING EXAMINER SOKONI: -- on your  
5 camera.

6 MS. EAGLIN: Okay. Hold on. Okay. Can  
7 you see me?

8 THE ZOOM OPERATOR: I can see her.

9 HEARING EXAMINER SOKONI: You can?

10 MS. EAGLIN: Can you see me?

11 MR. NUSBAUM: No -- well, yes.

12 CROSS-EXAMINATION

13 BY MS. EAGLIN:

14 Q Okay. My question is, in taking account  
15 into all your traffic studies --

16 HEARING EXAMINER SOKONI: Just one --  
17 one sec --

18 MS. EAGLIN: -- are you aware of --

19 HEARING EXAMINER SOKONI: Sorry. One  
20 second. One second, sorry. The view we have  
21 here, --

22 MS. EAGLIN: Uh-huh.

23 HEARING EXAMINER SOKONI: -- we cannot  
24 see.

25 THE ZOOM OPERATOR: Okay.

1 MS. EAGLIN: You can't see me?

2 HEARING EXAMINER SOKONI: We -- it might

3 be the setting on the Zoom screen.

4 MS. EAGLIN: Can you see me now?

5 UNIDENTIFIED SPEAKER: (Inaudible.)

6 HEARING EXAMINER SOKONI: Okay.

7 MS. EAGLIN: Hello?

8 HEARING EXAMINER SOKONI: We'll go

9 ahead. Folks in the room, we cannot see you but

10 we -- I believe -- we believe you're there.

11 MS. EAGLIN: I'm here. Okay.

12 HEARING EXAMINER SOKONI: Please go

13 ahead.

14 MS. EAGLIN: My name's Christina Eaglin.

15 I've been a cultural resident over 30 years.

16 Q My question is, are you aware of the

17 religious festivals that happened in the area?

18 And what is your -- sorry. My dog is testifying

19 at the same time.

20 And what is your opinion on how many

21 households during the holidays may have guests

22 overnight and/or for dinners, birthday

23 celebrations, anniversary celebrations? And

24 wouldn't that exceed the capacity for parking?

25 A I will start with the religious

1 institutions in the vicinity. I am aware that  
2 these are there. I'm aware that the neighbors  
3 have concerns regarding them. We do --

4 Q Do you know where they park now?

5 A I do not know where they park now.

6 Q They park all along Notley Road in the  
7 shoulder?

8 MS. ROGERS: Just --

9 Q It's very dangerous?

10 MS. ROGERS: Just to be clear, she's not  
11 supposed to provide testimony. She's asking  
12 questions.

13 MS. EAGLIN: I'm not an attorney, so I  
14 don't know. Sorry. I was just trying to let her  
15 know.

16 HEARING EXAMINER SOKONI: Just a  
17 reminder, your cross-examination of Ms. Wagner has  
18 to do with the testimony that Ms. Wagner gave.

19 MS. EAGLIN: Correct. So my test -- my  
20 cross-examination is questioning her about, did  
21 she take into account that, you know, 20  
22 Thanksgiving dinners out of 130 homes would have  
23 an excess of X amount of cars. I'm not the  
24 traffic expert. She is.

25 HEARING EXAMINER SOKONI: So -- I mean,

1       that's a fair question. She is --

2               THE WITNESS: Uh-huh. I can answer  
3       that.

4               HEARING EXAMINER SOKONI: You've  
5       testified to the parking adequacy.

6               THE WITNESS: Uh-huh.

7               HEARING EXAMINER SOKONI: She's asking,  
8       did you consider these factors?

9               A       Yes. We look at the parking demand of  
10       what -- again, I testified to ITE, ULI, 85th  
11       percentile parking demand for both of those over  
12       the county requirements. And so it's -- again, we  
13       don't design to the -- when we're designing roads  
14       and parking lots, we don't design to the 120  
15       percent of capacity. Otherwise, we would have too  
16       many roads, too many parking spaces.

17               And so we design to provide enough  
18       parking for the likely amount of visitors, the  
19       likely amount of excess capacity. And so that's  
20       where, working with the Applicant team, we thought  
21       that the amount of parking that we are providing  
22       would be able to handle large gatherings.

23               They're not going to be able to  
24       accommodate 20 people coming to every single  
25       townhouse per -- townhouse in this development.

1 But the excess parking that we are providing, we  
2 believe, will be enough, and that is confirmed by  
3 both ULI and ITE, so using our resources, that we  
4 are avail -- that are available to us based on,  
5 again, data at similar locations. And so we do  
6 believe that that is enough parking that will be  
7 provided.

8 Q What is the data on an average holiday,  
9 let's say Christmas? And how many people might  
10 come to one person's home?

11 A Again, we don't design to those  
12 once-in -- once-a-year occasions.

13 Q So --

14 A Again, these are designed to 85th  
15 percentile of the time period that it's going to  
16 be able to accommodate and at different site  
17 locations.

18 Q So there's no data on the average home  
19 gathering or holidays, like ten extra cars, maybe?

20 A No. There is no data like that  
21 available that I'm aware of.

22 MS. EAGLIN: Well, that's a shame, yeah,  
23 because the parking has less than eight parking  
24 spaces. So I don't see that as being a viable  
25 option, as you had mentioned either?

1 MS. ROGERS: Just --

2 MS. EAGLIN: I'm done.

3 MS. ROGERS: And just to --

4 MS. EAGLIN: Thank you, Your Honor.

5 MS. ROGERS: -- clarify, my objection to  
6 the record is that I was -- I understand  
7 Ms. Eaglin isn't an attorney, but the extra  
8 testimony she was providing wasn't questions about  
9 where people park for the religious institutions.  
10 And I just want to make that clear for the record  
11 that that was not part of the cross.

12 HEARING EXAMINER SOKONI: Okay. Thank  
13 you.

14 Did you have any further  
15 cross-examination?

16 MS. EAGLIN: No. I'm trying to figure  
17 out how to mute myself right now. I'm good, thank  
18 you.

19 HEARING EXAMINER SOKONI: Okay. Thank  
20 you.

21 We have a hand raised by Rafael Mattera.

22 MR. MATTERA: Yes, good afternoon.

23 HEARING EXAMINER SOKONI: Good  
24 afternoon. If you could -- if you haven't  
25 already, please turn on your camera. And you can



1 cross-examine Ms. Wagner.

2 I just want to remind everyone that your  
3 cross-exam -- in cross-examination, you will have  
4 your own -- people will have their opportunity to  
5 present their information or present their  
6 concerns. For cross-examination, you're asking  
7 questions about specific testimony that Ms. Wagner  
8 provided.

9 You may proceed.

10 MR. MATTERA: Yes. My name is Rafael  
11 Mattera, and I live on 14307 Notley Road.

12 CROSS-EXAMINATION

13 BY MR. MATTERA:

14 Q The question I have is regarding the  
15 study on the additional trip generation by this  
16 project. I remember you mentioned an estimate for  
17 a.m. and p.m.

18 Could you please repeat that number?

19 THE WITNESS: I'd actually like to just  
20 clarify for everyone, if you could go to  
21 Exhibit 68, Page 73? That has the trip generation  
22 for the proposed townhouses.

23 Q Okay. So you have an estimate per hour  
24 of 48 in the a.m. and also 50 7 p.m. So you are  
25 talking about an estimated calculation 730

1 vehicles trips per day?

2 A Yes.

3 Q Right, right, because the number of cars  
4 that would probably be parked at this facility  
5 is -- you know, 130 townhouses times 1.5 vehicle  
6 per family is probably 200 cars that would be  
7 present at the development. And you're estimating  
8 that those 200 cars would result in 700 additional  
9 trips; am I correct? I am understanding your  
10 number well?

11 A So I don't have information provided on  
12 the number of cars per household. This is based  
13 on ITE and Montgomery County's land use adjustment  
14 factors for trip generation per day. So yes, 730  
15 more car -- more trips to and from the project on  
16 a daily basis.

17 MR. MATTERA: Yeah. But probably 200  
18 cars is a reasonable estimate without considering  
19 people visiting the facility. All right. Thank  
20 you for your help.

21 HEARING EXAMINER SOKONINext in the queue  
22 for cross-examination on Ms. Wagner's testimony?  
23 It says four others. Do we have --

24 MS. OTTAVIANI: Can I just ask a quick  
25 question? I'm here for testimony also.

1 But the way things got shifted around  
2 today because of the late start, et cetera, will  
3 we be getting to testimony today? Or will that  
4 probably be the next day, the final day?

5 HEARING EXAMINER SOKONI: We don't know  
6 yet. It's -- we took a poll at the start to see  
7 who was okay with test -- with giving their public  
8 testimony next time, and the majority said they  
9 could do it next time. So we don't know yet.

10 We're going -- we're trying to cover as  
11 much ground as possible. The answer, is we don't  
12 know yet.

13 MS. OTTAVIANI: Okay.

14 HEARING EXAMINER SOKONI: Thank you. So  
15 --

16 MS. OTTAVIANI: And -- sure. And how  
17 late will we go today? Until four? Or after?

18 HEARING EXAMINER SOKONI: We're hoping  
19 to go through five, if we can.

20 MS. OTTAVIANI: Oh, okay. Thank you.

21 HEARING EXAMINER SOKONI: Next in line  
22 for cross-examination?

23 So, Candace Anderson, you can drop  
24 your -- that was the question that just got  
25 answered. You can drop your hand next in line for

1 cross-examination.

2 MS. ANDERSON: No. This is Candace  
3 Anderson.

4 HEARING EXAMINER SOKONI: Oh, sorry,  
5 sorry. Please go ahead.

6 MS. ANDERSON: Uh-huh. I can jump in.

7 CROSS-EXAMINATION

8 BY MS. ANDERSON:

9 Q I guess I have a clarifying question to  
10 start, which is, I believe I heard, in regards to  
11 the cut-through traffic in the testimony about the  
12 cut-through traffic, specifically on Sherwood  
13 Forest Drive, that the -- you looked at ten  
14 percent of the global trip distribution that goes  
15 eastbound traffic on Randolph Road -- sorry, not  
16 eastbound, but from-to the southeast. And that  
17 would be towards Route 29. And I heard the second  
18 part of this was that the signal at Notley and New  
19 Hampshire would help with this, specifically that  
20 such a light helps with accessing New Hampshire  
21 North and South.

22 Did I get that all correct? Or did I  
23 miss any of those details?

24 A I think you got it correct. Wait for  
25 your question, and then I'll see if I can --

1           Q     Sure. So when I was listening to this  
2 discussion about cut-through traffic, it was --  
3 specifically sounded like only talking about that  
4 from and towards the southeast, that ten percent  
5 number for Randolph Road. However, I didn't hear  
6 any mention on the from and to the southwest part  
7 of the global trip distribution. That's the one  
8 that's classified as 20 percent, noting that's the  
9 second-highest number on the global trip  
10 distribution.

11                   I'm looking at the LATR?

12           A     Yeah, Page 27.

13           Q     Page 18 for that. And just that -- I'm  
14 curious what the comments or analysis are for  
15 that, for accessing Randolph going from and to the  
16 southwest, that 20 percent number?

17           A     It's a similar response in that vehicles  
18 will be -- it will be much easier to get out onto  
19 New Hampshire. Sherwood -- I drove through -- on  
20 Sherwood Forest. It is not a road that vehicles  
21 want to be traveling on, that not -- that exiting  
22 out onto New Hampshire is a much more  
23 accommodating road for vehicles to be moving, that  
24 it's a wide road with higher speeds.

25                   And so we believe that the traffic

1 signal at Notley and New Hampshire will also  
2 address any vehicles, really, wanting to travel  
3 south, that it will require vehicles to go out of  
4 their way to travel onto Sherwood Forest Road and  
5 it -- a circuitous route to be able to travel  
6 south on New Hampshire and to the east and west on  
7 Randolph Road. So, again, the inter -- the signal  
8 will accommodate that traffic.

9 Q Okay. But what -- that doesn't seem to  
10 factor in, going towards Rockville on Randolph  
11 would require going through four traffic lights.  
12 And Sherwood Forest has, you know, a right-hand  
13 turn, meaning it's not -- it doesn't follow the  
14 previous testimony, right, that talks about  
15 cutting across all the Randolph traffic or a  
16 left-hand-turn lane, right-hand turns being a lot  
17 easier from Sherwood onto Randolph?

18 A Similarly, you would have right turns  
19 from Notley onto New Hampshire and Randolph --  
20 from New Hampshire to Randolph that you would be  
21 having -- you would be going through right turns  
22 as well there.

23 Q But waiting for traffic lights, right?  
24 Because I guess the -- I'm curious about what kind  
25 of, like, traffic study analysis occurs to take

1     into account the natural avoidance of congestion  
2     at traffic lights?

3           A     Again, we follow -- we work with the  
4     county to determine these distributions, to  
5     determine the appropriate roadways for vehicles to  
6     be traveling. It is circuitous to travel over to  
7     Sherwood Forest Road there -- Sherwood Forest  
8     Drive and that using Randolph and New Hampshire  
9     are roads designed to accommodate primary trip  
10    distribution. And so we -- I believe that  
11    vehicles will be using those roads and not be  
12    using Sherwood Forest as a cut-through route.

13           MS. ANDERSON: Okay. Thank you.

14           MR. ELLER: Hello?

15           HEARING EXAMINER SOKONI: Yes. Next?

16           MR. ELLER: Yes. My name is Bob Eller.  
17    I've lived on Sherwood Forest Drive for over  
18    30 years.

19           It is Sherwood Forest Drive. Not sure  
20    where Forest Road, by the way. And in the  
21    mornings, traffic at the light from all New  
22    Hampshire Avenue to the light at Randolph Road is  
23    often backed up to Notley Road in the mornings,  
24    which makes it difficult for the current number of  
25    cars to turn right onto New Hampshire Avenue from

1 Notley.

2 And 20 years ago, my neighbor across the  
3 street finally got a petition through to put the  
4 four speed bumps on New Hampshire on -- excuse me,  
5 on Sherwood Forest Drive, which has slowed down  
6 traffic somewhat. But if your study did not take  
7 into account cars that turned from Randolph and  
8 make a left-hand turn onto Sherwood Forest Drive,  
9 to get to Notley Road is a pretty large number --  
10 I can tell you from experience -- and the same  
11 from any car on Notley, again wanting to avoid the  
12 congestion on New Hampshire Avenue in the mornings  
13 and afternoons, that Sherwood Forest is the  
14 easiest, simplest cutthroat for so many cars and  
15 the pedestrians, the bike riders, people walking  
16 dogs again.

17 A few months ago, I did see a young man,  
18 high-school age, in a wheelchair -- electric  
19 wheelchair, paraplegic. Sherwood Forest cannot  
20 handle that volume traffic.

21 MS. ROGERS: Sorry, Hearing Examiner.  
22 Can you just clarify again that these are supposed  
23 to be questions, and he'll have an opportunity to  
24 testify later.

25 ///



1 CROSS-EXAMINATION

2 BY MR. ELLER:

3 Q Okay. My question is, your study that  
4 you took on the current volume was in February,  
5 and that was before cars were -- or, excuse me,  
6 government workers and so many others were  
7 required to come back to the office; is that  
8 correct?

9 A No, that is not correct. So there was  
10 an executive order mandating federal departments  
11 in remote-work arrangements, and that was given on  
12 January 20th, 2025. The U.S. Office of Management  
13 and Budget issued guidance and memorandum dated  
14 January 22nd, 2025, that set a target date of  
15 approximately 30 days of full compliance. So that  
16 would have been February 19th, 2025.

17 So many federal employees were required  
18 to return to the office on or before February 19th  
19 of 2025, and we collected our traffic counts  
20 February 25th of 2025. So we collected our  
21 traffic counts in accordance with the LATR  
22 guidelines, and many federal workers had already  
23 returned to the office by the time that we had  
24 collected our traffic counts.

25 Q So five days after that, do you

1 honestly -- well, in your opinion, do you think  
2 that that number would be similar today as it was  
3 five days after the mandate for return to work  
4 would be?

5 A Yes. I think we -- Montgomery County  
6 policy was issued in 2022, I believe, and has  
7 accepted traffic counts since then, that we have  
8 returned to the new normal in their policy, and  
9 that traffic counts are consistently changing --  
10 that employers and residents within the county are  
11 constantly changing their travel patterns and  
12 using different modes of transportation than they  
13 maybe used previously. So traffic counts are now  
14 at our new normal. So, yes, I do --

15 Q Any --

16 A -- believe the traffic counts --

17 Q Any --

18 A -- we used are accurate.

19 Q Any chance that another study would be  
20 to hopefully capture that same number?

21 MS. ROGERS: I think Ms. Wagner was  
22 testifying to what's -- what we're limited to  
23 question today is what's in the record today.

24 MR. ELLER: Okay. Understood, ma'am.

25 All right. I am finished. Thank you.

1 HEARING EXAMINER SOKONI: Do we have one  
2 more -- we have another -- one more raised hand  
3 for cross-examination. A reminder that the  
4 cross-examination is limited to the testimony that  
5 Ms. Wagner gave today.

6 Yes. Unfortunately, I cannot see the  
7 display we -- for now, there are three. So if you  
8 could turn on your camera and unmute yourself?  
9 And you may proceed with cross-examination.  
10 Please provide your name.

11 MR. NELSON: Yes, hi. I'm Wayne Nelson.  
12 I live on 14901 Notley Road.

13 CROSS-EXAMINATION

14 BY MR. NELSON:

15 Q And just for clarification today, from  
16 the testimony, I wonder -- we're referring to  
17 Notley Road for this project. Are we referring to  
18 the -- we're not referring to the Notley Road that  
19 extends northward from Bonifant over to Bonifant  
20 and north, correct? We're just referring to the  
21 road that goes south of Bonifant over to New  
22 Hampshire; is that correct?

23 HEARING EXAMINER SOKONI: And --

24 A Yes.

25 HEARING EXAMINER SOKONI: One second.

1 MR. NELSON: Okay.

2 HEARING EXAMINER SOKONI: Sorry. One  
3 second. What I see on the screen says, talking.  
4 Well, previously, it --

5 MR. NELSON: It says --

6 HEARING EXAMINER SOKONI: It says, Zoom  
7 --

8 MR. NELSON: -- user.

9 HEARING EXAMINER SOKONI: it says, Zoom  
10 user. Do we have a name?

11 MR. NELSON: Yes, yes. William Nelson.  
12 I stated my name and where I live.

13 HEARING EXAMINER SOKONI: Sorry -- I'm  
14 sorry, sir. My question is directly to the Zoom  
15 operator in the room.

16 THE ZOOM OPERATOR: It says, Zoom user.

17 HEARING EXAMINER SOKONI: You -- so Zoom  
18 -- do we have -- we have the name, right? I just  
19 want to make sure.

20 THE ZOOM OPERATOR: He said his name,  
21 yes.

22 HEARING EXAMINER SOKONI: Yes. I want  
23 to make sure the court reporter -- we have the  
24 name. Okay. Thank you. Sorry, sir. Go ahead.

25 MR. NELSON: That's my question. Thank

1       you.

2                   HEARING EXAMINER SOKONI:   You --

3                   MS. ROGERS:   That was his question.

4                   THE WITNESS:   Yes.

5                   MS. ROGERS:   Is that the last online?

6                   HEARING EXAMINER SOKONI:   Okay.   Yes.  
7                   Next?

8                   MR. PHAN:   Can you hear me?

9                   HEARING EXAMINER SOKONI:   Yes.

10                  MR. PHAN:   Okay.   If you can refer --  
11       like, if the staff can look -- can go back to the  
12       Exhibit 68?

13                  HEARING EXAMINER SOKONI:   Okay.   And  
14       could you please provide your name, sir?   I think  
15       I see.

16                  MR. PHAN:   Oh, I'm sorry.   Yeah.

17                  HEARING EXAMINER SOKONI:   That's all  
18       right.   I can see it on -- I can see your name on  
19       the screen, but please say it for the record.

20                  MR. PHAN:   Okay.   Yes.   My name is Dung  
21       Phan.   I live at 13734 Notley Road, across from  
22       the proposed development.

23                  HEARING EXAMINER SOKONI:   Thank you.  
24       You have a question in cross-examination for  
25       Ms. Wagner on the testimony she provided today?

1 MR. PHAN: Yes. If the staff can go to  
2 the Exhibit 68, Page -- oh, is it the page --  
3 maybe, yeah, the existing -- the title of the  
4 slide, Existing Access, you know, where she  
5 described, like, existing access driveway and then  
6 combine them into two. So --

7 MS. ROGERS: So Page 68.

8 MR. PHAN: So if you go to Slide 62? I  
9 see the number now, yeah. This one's good enough,  
10 yeah, which is the same thing as 62.

11 CROSS-EXAMINATION

12 BY MR. PHAN:

13 Q So this is your current, right? This is  
14 the current driveway, and then the development  
15 proposed to combine into two driveways.

16 So if you can go to the next one, they  
17 called Floating Zone Plan. So these two driveway,  
18 the east one on the right and the west one on the  
19 left, right? And if you look at that, like, very  
20 gray -- the gray out but across from the west  
21 access driveway -- the proposed west access right  
22 driveway is my house, and that's the driveway  
23 right there, directly aligned with my driveway.

24 So I don't understand that -- like,  
25 what's the reason that the west driveway aligned

1 with my driveway, this residential driveway? You  
2 pumping 130 new townhome traffic into my driveway,  
3 and that doesn't -- I mean, according to the  
4 county zoning Section 6.1.3, any development must  
5 ensure safe entry exit for vehicle, pedestrian,  
6 cyclist to and from development and the backing  
7 sign.

8 And so what's the reason that, like,  
9 this development aligned with my driveway?

10 MS. ROGERS: With all due respect,  
11 that -- the site layout was something that  
12 Mr. Sloan testified that he prepared the site  
13 layout in terms of kind of locating the blocks and  
14 the streets. I don't really feel like that's --  
15 Ms. Wagner didn't prepare the plan.

16 She testified to -- briefly on site  
17 access and safe site distance, which Mr. Kelso  
18 will also testify to. But she didn't prepare this  
19 plan to have influenced why that was located  
20 there.

21 HEARING EXAMINER SOKONI: She testified  
22 to site access, and she pointed to this.

23 MS. ROGERS: She testified to the  
24 consolidation of access points from the eight into  
25 two, and in terms of how that would improve

1 pedestrian and vehicular safety.

2 HEARING EXAMINER SOKONI: Uh-huh.

3 MS. ROGERS: But she hasn't testified to  
4 the site layout. She's just -- she candidly is  
5 not the right expert to testify to why a drive was  
6 located where it was because Mr. Sloan was the one  
7 who prepared the site layout.

8 HEARING EXAMINER SOKONI: Okay. And is  
9 that a question we can have addressed at some  
10 point by the appropriate person?

11 MS. ROGERS: Yeah. I'm happy to have --

12 HEARING EXAMINER SOKONI: Okay.

13 MS. ROGERS: -- Mr. Sloan testify to  
14 that.

15 HEARING EXAMINER SOKONI: Thank you.  
16 Let's keep track of that question. We'll --

17 MR. PHAN: I definitely will.

18 HEARING EXAMINER SOKONI: We'll reserve  
19 that question for now because Ms. Wagner is not  
20 best suited to address it.

21 MR. PHAN: Okay. Thank you. That's all  
22 I have.

23 HEARING EXAMINER SOKONI: Thank you. We  
24 have one other raised hand?

25 THE ZOOM OPERATOR: Yeah. Go ahead,



1 yes.

2 MS. MACHEN: Yes. My name is Ayana  
3 Machen. I live on Petwyn Court, directly across  
4 from the proposed site. I had two questions.

5 CROSS-EXAMINATION

6 BY MS. MACHEN:

7 Q My first question was, there was  
8 testimony about traffic being that the  
9 preferred -- the preferred road would be for the  
10 traffic to go from Notley to New Hampshire, as  
11 opposed to Sherwood, and that this light would  
12 funnel traffic that way through Notley Road and  
13 onto New Hampshire. My question is, as it  
14 currently stands without the traffic light, during  
15 rush hour, traffic backs up and blocks the Petwyn  
16 Court.

17 And so when there is a traffic light so  
18 that people are forced to stop even longer,  
19 presumably, how will Petwyn Court residents then  
20 be able to get in and out?

21 A So as part of our traffic study, we  
22 prepared what's called a queuing analysis in  
23 addition to the critical lane volume, where we  
24 look at how the intersection will operate. The  
25 queuing analysis looks at how long cars will be

1 stacked up at a particular leg of an intersection,  
2 a turn movement. And there, in the traffic study,  
3 we do include that queuing analysis and do show  
4 that the queues are significantly reduced with the  
5 presence of the traffic signal and their proposed  
6 development.

7 So that concern would be alleviated with  
8 the traffic signal because cars actually have a  
9 chance to get out onto New Hampshire, where right  
10 now there's a steady stream of traffic, and  
11 they're not able to exit out. And so that is why  
12 the queue is occurring.

13 Q Well, can you just clarify? Because  
14 right now, there's a stop sign, so people stop  
15 briefly in turns -- or there actually is a  
16 continuous movement to the right at least.  
17 Whereas with the traffic light, I assume that will  
18 not be the case any longer?

19 A Our traffic analysis, we use Synchro and  
20 SimTraffic software to simulate what will happen  
21 with the traffic volumes. We model it after  
22 real-world conditions, and the traffic signal  
23 will -- is indicating that it will improve  
24 conditions compared to how it exists today.

25 Q And if that is not the case in the real

1 world, then what is the remedy from a traffic  
2 standpoint?

3 A These are the standard procedures and  
4 traffic control devices that the county and the  
5 state used to relieve congestion concerns like  
6 you -- the one you bring up today, that it will  
7 allow cars -- more cars to get out on a single  
8 green time, as opposed to today, where it's --  
9 every single car has to stop. Traffic engineering  
10 studies continually show that traffic signals help  
11 alleviate and process more traffic than a stop  
12 sign. So this is again proven by traffic  
13 engineering studies that the traffic signal will  
14 alleviate the concern that is existing today.

15 Q And does that take into account the  
16 200-plus additional cars that are going to be  
17 turning left onto Notley, right at Petwyn Court?

18 A I'm not sure where the 200 cars come  
19 from, but the traffic study and traffic signal  
20 analysis take into account the proposed  
21 development and the trip generation associated  
22 with the proposed trip -- with the proposed  
23 development with -- the analysis takes into  
24 consideration all the study intersections I listed  
25 above previously, the site driveways as well as

1 the Notley and New Hampshire traffic --  
2 intersection.

3 Q I'm -- yes. The 200 came from your  
4 testimony where you said that you wanted people to  
5 go toward New Hampshire, as opposed to towards  
6 Sherwood Forest. And that's where I was getting  
7 that from.

8 My second question was about your  
9 testimony about the overflow parking not affecting  
10 Petwyn Court. Given that you testified that you  
11 thought any overflow parking would go to the park,  
12 and there are, I think, seven spots that are not  
13 handicapped in the park for these 130  
14 townhouses -- and that park is about a  
15 quarter-mile away from the main entrance, where  
16 Petwyn Court is directly across the street -- what  
17 would your remedy be if people -- if that park is  
18 not adequate overflow parking, and then people use  
19 Petwyn Court instead?

20 A I believe I said that the park would be  
21 more logical for safety reasons to park there.  
22 Again, I'll reiterate that I do not believe that  
23 there will be overflow parking, that we have 180  
24 park -- more parking spaces than are required by  
25 zoning. And so I do not believe overflow parking

1 will be required for this project.

2 Q Is it possible that the residents of  
3 this townhouse might have parents with cars,  
4 teenagers with cars? And so your analysis may be  
5 underestimating the number of cars per townhouse?

6 A I'll again reiterate we use both ITE and  
7 ULI that are founded in real-world data that's  
8 been collected for similar uses. And, yes,  
9 there -- some residents may have more cars; some  
10 residents may only have one car. So, again, our  
11 data -- our analysis is founded in real-world data  
12 from IT, ULI, the County Zoning Code and so  
13 believe that there is more than enough parking  
14 that's been provided for this project.

15 Q Okay. But utilizing common sense that  
16 maybe the people that happen to buy in this  
17 development are multi-generational families more  
18 so than you estimate, what would be the remedy for  
19 Petwyn Court residents that are not able to park  
20 in front of their own houses or have their  
21 visitors park in front of their houses? What  
22 would the -- be the traffic remedy for that?

23 A Again, I'll -- I will restate, I believe  
24 we have enough parking provided for this site. I  
25 think that it's just as likely that the Petwyn

1 Court or residents in the neighborhood would also  
2 need to park within this proposed development.

3 I think on-street parking is provided  
4 for all county residents for these overflow events  
5 that multiple people have brought up. So it's  
6 likely that the existing residents could also use  
7 the overflow parking that has been provided by  
8 this development.

9 These are county roads. They are not  
10 privately-owned roads, and so we have these  
11 on-street parking spaces to accommodate guests for  
12 all overflow events.

13 Q I wasn't speaking about overflow events.  
14 I was speaking about just a regular day because  
15 many of these townhome residents may have  
16 multi-generational families. So that's -- that  
17 was what I was asking about, as opposed to  
18 overflow events?

19 A I'm sorry. I don't know what else I can  
20 say. We believe we have enough parking.

21 There are 180 extra spaces more than  
22 required by zoning. That should be sufficient for  
23 these everyday, multi-generational housing that  
24 some of the -- a significant portion of the units  
25 will have four parking spaces per unit, and that

1       should accommodate that type of family that's  
2       being described.

3               MS. MACHEN:   Thank you.   No further  
4       questions.

5               HEARING EXAMINER SOKONI:   I see no more  
6       hands on Zoom.   I see a hand in the room.

7               Sir, would you like to come to the  
8       podium?

9               MR. CHECCO:   A relatively quick and easy  
10       question.

11              HEARING EXAMINER SOKONI:   If You could  
12       please switch on the mike and --

13              MR. CHECCO:   Oh.

14              HEARING EXAMINER SOKONI:   -- identify  
15       yourself, please?

16              MR. CHECCO:   Yes.   Larry Checcos,  
17       C-H-E-C-C-O, 508 Scott Drive, Silver Spring.

18              HEARING EXAMINER SOKONI:   Thank you.

19                              CROSS-EXAMINATION

20       BY MR. CHECCO:

21              Q       I'm just wondering how much  
22       consideration has been given to the fact that  
23       these roads we're talking about have virtually no  
24       shoulder.   My -- I drive that road not only about  
25       three or four times a day.

1           It's dangerous now because there's no  
2   room for error. It -- there's -- those roads are  
3   already very, very narrow, and it's impossible for  
4   me to believe that putting more cars on those  
5   roads is going to make them any safer. That's my  
6   question?

7           A     Yeah. So we are correcting a lot of the  
8   wrongs of the past right now with traffic  
9   engineering in general, that by providing a  
10   shoulder, it actually makes you feel more  
11   comfortable to drive faster speeds. And the  
12   faster cars are driving, the more severe a  
13   crash -- if a crash was to occur, the more severe  
14   the incident that would happen.

15               And so one of the things that we are  
16   really doing as traffic engineers as a whole in  
17   the county is addressing safety issues. And so  
18   while it may feel more uncomfortable to you to  
19   drive, that's going to force you to drive slower,  
20   which, at the end of the day, is more safe.

21               And so this is in -- aligned with county  
22   policies on how we design roads that no shoulder  
23   is proposed or required for Notley Road. And so,  
24   again, that narrow street, we want to find ways to  
25   slow cars down, that speeding is something that we



1 observed in our studies. And we would like to  
2 continue to work with the county to make our roads  
3 more safe.

4 Q But all due respect, it sounds a little  
5 counterintuitive, though. You're going to make  
6 the roads more dangerous so that we slow down, and  
7 that doesn't make any sense to me.

8 I mean, you're going to now -- you --  
9 not that you're intentionally narrowing the roads,  
10 but they're narrow now. And you're saying that  
11 That's okay. And we're going to even make them  
12 more narrow so that people slow up. It just  
13 doesn't make sense --

14 A I don't believe I said --

15 Q -- from a practical point of view.  
16 Because --

17 A Yeah.

18 Q -- as I said, I drive those roads all  
19 the time, and it's dangerous. In the daytime,  
20 they're dangerous. At nighttime --

21 MS. ROGERS: It has to be a question.

22 A -- it's worse.

23 MS. ROGERS: It has to be a question at  
24 this time.

25 MR. CHECCO: Sorry.

1 MS. ROGERS: Yeah. I just wanted to  
2 remind you, this has to be questions --

3 MR. CHECCO: Okay.

4 MS. ROGERS: -- of her and not --

5 MR. CHECCO: All right.

6 MS. ROGERS: -- your testimony.

7 MR. CHECCO: Well, the question -- I  
8 already gave my question.

9 Q You know, have you given enough  
10 consideration to that, the shoulder? That's  
11 the --

12 MS. ROGERS: And I think, Katie, you  
13 were going to clarify.

14 THE WITNESS: Oh, yes.

15 MS. ROGERS: You didn't say.

16 A Yes, we did. And the county does not  
17 require us -- they don't want a shoulder for  
18 Notley Road, and so we are designing our frontage  
19 improvements in align with what the county would  
20 like for the road. And we are -- we will continue  
21 to work with the county. As I discussed in my  
22 testimony, we're looking to address the speeding  
23 that is occurring by things like optical speed  
24 bars, other measures that we can work with the  
25 county at the time a preliminary plan to address

1 the speeding that is occurring today to make the  
2 road more safe.

3 MR. CORY: Thank you.

4 HEARING EXAMINER SOKONI: Any more  
5 cross-examination for Ms. Wagner in the room?

6 I think that's it for now, and I propose  
7 we take a break.

8 MS. ROGERS: And then we'll be able to  
9 redirect when we come back from the break or --

10 HEARING EXAMINER SOKONI: Yes.

11 MS. ROGERS: Okay. Great.

12 HEARING EXAMINER SOKONI: Yes. Did you  
13 -- oh, did you --

14 MS. ROGERS: That's okay, yeah.

15 HEARING EXAMINER SOKONI: That's okay?

16 MS. ROGERS: That's fine.

17 HEARING EXAMINER SOKONI: Okay. All  
18 right. We will -- a half-hour, 30 minutes. Yes,  
19 please.

20 (Whereupon, a recess was taken at  
21 2:46:17 p.m.)

22 MR. TEWEY: If you were in federal  
23 court, you couldn't talk to the witness.

24 MS. ROGERS: We're not in federal court.  
25 This isn't federal court.

1 MR. TEWEY: Just asking.

2 MS. ROGERS: I plan to talk to my whole  
3 team during the break. That's the purpose of the  
4 break, for us to also talk to Mr. Kelso ahead of  
5 his testimony. I'm not sure I understand the  
6 objection or the question.

7 HEARING EXAMINER SOKONI: Sorry, could  
8 you please clarify your -- are you objecting to us  
9 taking the break -- we --

10 MR. TEWEY: I'm not objecting to the  
11 break.

12 HEARING EXAMINER SOKONI: Okay.

13 MR. GIRARD: He's objecting to coaching  
14 the witness during the break.

15 MR. TEWEY: Yes, coaching the witness  
16 during the break. The witness is on the stand.

17 MR. GIRARD: Under oath.

18 MR. TEWEY: Under oath.

19 MS. ROGERS: We're taking a break, and  
20 we're going to come back on record.

21 MR. TEWEY: I've stated my objection.

22 HEARING EXAMINER SOKONI: Thank you.

23 MR. GIRARD: Asking for a ruling from --

24 MS. ROGERS: I would point out, we'll  
25 get to recall Katie at the end of our case, and,

1     like, this coordination is part of how this works.  
2     Obviously, she has ethical obligations to not let  
3     us put --

4                 HEARING EXAMINER SOKONI: I would say  
5     the same. I mean, I'd like -- you know, Counsel  
6     is aware of the rules of evidence and is governed  
7     by ethics, so I don't want to impute anyone's -- I  
8     think we -- we'll take a break for half an hour,  
9     and we'll resume.

10                MS. ROGERS: Thank you.

11                (Pause in proceedings.)

12                HEARING EXAMINER SOKONI: Proceed with  
13     redirect, and then we'll move along.

14                And, Ms. Wagoner, I just remind you,  
15     you're still under oath from pre-recess.

16                MS. ROGERS: Sorry, I was just trying to  
17     get our exhibits to reload.

18                REDIRECT EXAMINATION

19     BY MS. ROGERS:

20                Q     Ms. Wagoner, can you, for the record,  
21     please clarify the BRT project that you testified  
22     to? That's not an SHA project, correct?

23                A     Correct. The BRT project is an MCDOT,  
24     Montgomery County Department of Transportation  
25     project.

1           Q     Okay. And so that's why, when you were  
2     inquiring about where the stop would end, you  
3     inquired with MCDOT?

4           A     Yes, that's correct.

5           Q     I also wanted to clarify, someone on  
6     cross had -- when asking a question, made the  
7     statement that your testimony was indicating that  
8     we were making Notley more unsafe, to then kind of  
9     improve, you know, safety by slowing [sic]  
10    speeds. Was that an accurate classification of  
11    what you had said?

12          A     No, I made no indication that we were  
13    making Notley more unsafe.

14          Q     Right, and you were just, for the  
15    record, clarifying that -- well, can you just  
16    explain for the record what you were clarifying?

17          A     I was just clarifying for the record  
18    that we had taken a speed study, that we  
19    understand how Notley currently exists, how the  
20    County has it proposed to be designed in the  
21    Complete Streets Design Guidelines, and that the  
22    project will continue to work with Staff to  
23    identify improvements to be able to improve  
24    existing conditions of Notley.

25          Q     Thank you. Also, I just wanted to

1 clarify regarding your testimony on the bike lane.  
2 In your professional opinion, those the on-street  
3 striping that we were looking at in Exhibit 80,  
4 are consistent with a bike lane and how that is  
5 striped on the roadway, correct?

6 A Yes, the bike lanes that are striped on  
7 New Hampshire Avenue are consistent with bike lane  
8 stripes throughout the County and along SHA  
9 routes.

10 Q And so that striping is clear regardless  
11 of signage?

12 A Yes.

13 Q Thank you. Can you please elaborate  
14 on -- there was some question at the end, and I  
15 just wanted to make sure it was clear for the  
16 record -- regarding how the signal is going to  
17 reduce the queuing problem that some in the  
18 community have indicated exists along Notley  
19 leading up to New Hampshire?

20 A Yes, currently there is a stop sign  
21 there. That means that every car that approaches  
22 the -- that is on Notley that approaches New  
23 Hampshire has to pull up, stop, and then proceed.  
24 When you have a traffic signal, you will have a  
25 flow of cars that are able to go at one time, that

1     they don't have to each individually stop. And so  
2     when there is green time, there is time for --  
3     green time on the Notley approach, that there is  
4     time for all of those cars to clear the queue with  
5     the green time. So that is proposed to make the  
6     intersection operate better.

7           Q     Thank you. Can you please also explain  
8     how LATR guidelines dictate what volumes you study  
9     in your LATR analysis?

10          A     Yes. In our LATR analysis, again,  
11     follows the LATR guidelines. We are required to  
12     follow those guidelines. As part of those  
13     guidelines, we look at different time periods.  
14     And the LATR guidelines dictate what time periods  
15     we look at and how we look at those traffic  
16     volumes.

17                   We collect traffic volumes in the a.m.  
18     and p.m. peak hours, so between 6:30 and 9:30 a.m.  
19     and 4:00 to 7:00 p.m. And what we do -- what we  
20     look at in our traffic study is we look at what's  
21     called the system peak hour. We don't pick and  
22     choose different approaches, having different  
23     volumes, that we don't look at Notley having more  
24     traffic volumes from 6:00 to 7:00 a.m. and then  
25     another approach at 8:00 to 9:00 a.m.



1           We look at the system peak as a whole to  
2 understand, looking at our different study area  
3 intersections, what time period has the most  
4 traffic traveling on all of the roadways in our  
5 study area at the same time. And so that is  
6 where -- that is how the LATR guidelines dictate  
7 how we perform our traffic study. And so that is  
8 how the traffic study was done.

9           Q     And so the line of questioning earlier  
10 about certain hours having a higher number of  
11 trips is irrelevant to then how you look at the  
12 system peak?

13          A     Yes, because we understand that there  
14 may be different time periods, that some  
15 approaches have more volumes than others. That  
16 happens when you have a school nearby, that you  
17 may have a large volume of traffic happening at --  
18 in a 30-minute interval, but then another  
19 30-minute interval doesn't have anything  
20 happening. And so that's why we look at the  
21 system as a whole to understand -- to understand  
22 how the project will affect the entire roadway  
23 network, not just a single -- a single segment of  
24 road.

25          Q     Thank you. There were some questions

1     regarding kind of the total number of daily trips  
2     that are shown in your LATR report. Does that  
3     daily trip number include cars coming and going?

4           A     Yes, as shown in the Trip Generation  
5     Table in Exhibit 68, I believe is the number of  
6     it. We don't have to look at it. It does have  
7     the a.m. and p.m. peak hour for in and out traffic  
8     volumes during the peak hours, and then the total  
9     daily traffic, and that includes in and out -- in  
10    and out traffic volumes.

11          Q     Can you clarify -- there were some  
12    questions regarding the distribution that was used  
13    in your supplemental analysis at the Midland and  
14    New Hampshire intersection. What is that  
15    distribution based on?

16          A     So that distribution, again, is based  
17    off of the LATR guidelines. There's tables in  
18    these guidelines that are based off of travel  
19    demand modeling for the entire county and where  
20    different land uses are going to send different  
21    trips.

22                And so the trip generation assumed in  
23    the LATR, as well as in that Midland analysis, is  
24    done in accordance with the LATR guidelines, as  
25    well as trip distribution approved by Montgomery

1 County Park and Planning, MCDOT, and SHA, of where  
2 traffic would be distributed during the peak  
3 hours.

4 Q Thank you. There was also a concern  
5 raised on cross regarding the timing of your  
6 counts, and you've addressed that. I just wanted  
7 to reiterate for the record, were your counts done  
8 in accordance with LATR guidelines and approved by  
9 all three reviewing agencies in terms of Park and  
10 Planning, SHA, and MCDOT?

11 A Yes, all of the reviewing agencies  
12 approved the time in which the traffic counts were  
13 collected.

14 Q And did you also look into historical  
15 counts from SHA to verify that you felt those  
16 counts were accurately representing the existing  
17 conditions?

18 A Yes, and those can be found -- our  
19 comparison can be found in Exhibit 65 in the  
20 attachments. We provided an analysis of  
21 historical counts collected by SHA in 2012, 2018,  
22 2023, and then our traffic counts that were  
23 collected in February of 2025.

24 And the 2025 traffic volumes,  
25 specifically, we were reviewing the Notley and New

1 Hampshire intersection. The volumes in 2025 were  
2 the highest of all of the time periods that we  
3 reviewed them, comparing them to.

4 MS. ROGERS: Thank you. That concludes  
5 my additional questions.

6 HEARING EXAMINER SOKONI: Thank you.  
7 Are you proceeding with your case in chief? You  
8 have more witnesses?

9 MS. ROGERS: We do. Ms. Rosenfeld and  
10 us had communicated during the break and wanted to  
11 see if the Hearing Examiner felt like this was an  
12 appropriate time to talk about scheduling the next  
13 hearing date --

14 HEARING EXAMINER SOKONI: Sure.

15 MS. ROGERS: -- and potentially  
16 scheduling two just to be conservative before we  
17 proceed with Mr. Kelso just given the time of the  
18 afternoon.

19 HEARING EXAMINER SOKONI: Yes, we can do  
20 that. So are you likely to finish your case in  
21 chief today, if we went through 5:00 p.m.?

22 Thank you very much.

23 If we went through 5:00 p.m.?

24 MS. ROGERS: I would say it depends on  
25 the number of cross.

1 HEARING EXAMINER SOKONI: I see. And  
2 how many witnesses do you have?

3 MS. ROGERS: We just have one witness  
4 left.

5 HEARING EXAMINER SOKONI: Just one  
6 witness left. Okay.

7 And I know you had -- Ms. Rosenfeld, you  
8 adjusted your estimate last time. You said  
9 you're -- because initially you had estimated  
10 needing a day and a half, and you adjusted that  
11 down.

12 MS. ROSENFELD: I think it's fair to say  
13 a day.

14 HEARING EXAMINER SOKONI: A day.

15 MS. ROSENFELD: And then there's -- I  
16 don't know how much public testimony we'll have,  
17 but, you know, you've had a number of --

18 HEARING EXAMINER SOKONI: Yeah. So it  
19 looks like we need two more days at least. Yeah,  
20 two more -- let's plan for two more days.

21 Schedule-wise, let me actually pull up  
22 the -- are you able to just -- can we go to the  
23 OZAH? I can put it up on my laptop, but the -- if  
24 you moved out one to just the hearing page, just  
25 want to see our calendar.

1 I certainly understand the applicant  
2 probably wants to go -- you know, wants us to wrap  
3 up ASAP, but we have the combination of other  
4 cases and some time away, and lots of adjustments  
5 going on in OZAH. So let's see. December 9 --  
6 yeah. Fitting a date in December is going to be  
7 very, very difficult because I can't have anything  
8 land on my calendar after the 15th.

9 Let's see, today -- and we ruled out  
10 tomorrow is not an option? The third is not an  
11 option. I think we're looking at January at least  
12 because this is the hearing schedule, and then  
13 there's other things like decisions being written  
14 for cases already heard.

15 MS. ROGERS: Sure.

16 HEARING EXAMINER SOKONI: So I  
17 certainly -- I had blocked off tomorrow just in  
18 case. So I think we need to look at dates in  
19 January.

20 MS. ROSENFELD: I have two hearings  
21 tomorrow. I can't.

22 HEARING EXAMINER SOKONI: Yeah, you  
23 know, understood. Understood. That's why I'm  
24 saying, I think realistically we're looking at  
25 January. So let's see. Let me pull up my

1 January.

2 What's mid-January looking like for  
3 people?

4 (Counsel confer.)

5 HEARING EXAMINER SOKONI: And I do need  
6 to mention, I have an e-mail from -- I have an  
7 email from a Terry Sitz. Not sent to the -- you  
8 know, I've said, please email everybody. So this  
9 email is sent directly to me. Terry Sitz,  
10 S-I-T-Z, 13602 Montvale Drive, Colesville,  
11 Maryland 20904, wanting to testify today.

12 Yeah, that doesn't. So, yeah. Okay.  
13 I'm going to put that aside for a moment.

14 THE COURT REPORTER: Someone has their  
15 hand raised on Zoom.

16 HEARING EXAMINER SOKONI: Sorry?

17 THE COURT REPORTER: Somebody has their  
18 hand raised on Zoom.

19 MR. TEWEY: That's her.

20 HEARING EXAMINER SOKONI: Oh. Terry  
21 Sitz?

22 MS. SITZ: I couldn't hear you. Were  
23 you thinking that I wanted to testify today?

24 HEARING EXAMINER SOKONI: Yes, because I  
25 have an email from you saying you want to testify

1 today.

2 MS. SITZ: I'm sorry. I'm having  
3 trouble with the audio.

4 THE COURT REPORTER: Did you turn your  
5 mic -- is your microphone on?

6 HEARING EXAMINER SOKONI: Oh, I'm sorry.

7 MS. SITZ: And I'm fine with testifying  
8 on day three.

9 HEARING EXAMINER SOKONI: Okay.  
10 Perfect. Did you just send me an email saying you  
11 needed to testify today?

12 MS. SITZ: No, no, no. I sent an email  
13 earlier this morning because I couldn't raise my  
14 hand on the first day, and I wanted to make sure I  
15 was included, but I'm perfectly fine testifying on  
16 the third day.

17 HEARING EXAMINER SOKONI: Okay. And  
18 just when I went to -- so when I went to lunch  
19 break, I saw your email from this morning.

20 MS. SITZ: Yes.

21 HEARING EXAMINER SOKONI: Saying you  
22 wanted to testify today.

23 MS. SITZ: Well, I assumed that's when  
24 we were going to be testifying until I found out  
25 there was a third day. So I'm fine with the third



1 day.

2 HEARING EXAMINER SOKONI: Okay. So in  
3 that case, let's look at dates in -- let's look at  
4 January. Let me throw out a few dates.

5 So how is the week of the -- I believe  
6 there's a holiday on the 19th. How's the week of  
7 the 12th? The latter half of the week is better  
8 for me. So, you know, 13th, 14th, 15th of  
9 January. Are those options?

10 MR. TEWEY: 15th, 16th are good for me.

11 MS. ROGERS: 13th, 14th, 15th --

12 HEARING EXAMINER SOKONI: Oh, sorry, we  
13 cannot do a 14th because the Board of Appeals --  
14 well, hang on a second.

15 MR. TEWEY: I have a problem with the  
16 14th anyway.

17 HEARING EXAMINER SOKONI: You have a  
18 problem with the 14th anyway?

19 MS. ROSENFELD: The 15th works here.

20 HEARING EXAMINER SOKONI: The 15th  
21 works. Okay.

22 MS. ROSENFELD: The 15th work for --  
23 yes.

24 HEARING EXAMINER SOKONI: Mr. Nusbaum,  
25 15th, January 15th?

1 MR. NUSBAUM: January -- just need to  
2 look at my phone. Yes, 15th is fine.

3 HEARING EXAMINER SOKONI: I just want to  
4 make sure I don't get in trouble by double-booking  
5 here.

6 HEARING EXAMINER SOKONI: So I think  
7 January 15th. Let's plan for January 15th.

8 MR. TEWEY: I got a meeting here, but I  
9 can skip that.

10 HEARING EXAMINER SOKONI: And it would  
11 be nice if we could do --

12 MR. TEWEY: That's probably a holiday  
13 for them.

14 HEARING EXAMINER SOKONI: Can we --  
15 well, that's a little -- okay. Could we do day  
16 three on the 15th? And day -- would people be  
17 able to -- if we just did it two days in a row,  
18 does that work? I know it's a holiday weekend,  
19 and I don't know what the school schedules are,  
20 but 15th, 16th, which is, you know, Thursday,  
21 Friday, two days in a row?

22 MS. ROSENFELD: I'm sorry, 16th doesn't  
23 work here.

24 HEARING EXAMINER SOKONI: 16th doesn't  
25 work. I wondered about that. It's just up

1 against the holiday on the 19th.

2 Okay. So 15th works for all. The  
3 following week, I have a hearing, so on the 23rd.  
4 Yeah, I have a January 23rd. So after the 15th of  
5 January, the next availability for me would be  
6 that final week of January, 26th, 27th, and  
7 possibly 29. So 26th, 27th, or 29th of January.  
8 Any of those work?

9 MR. TEWEY: Whole week's good for me.

10 HEARING EXAMINER SOKONI: We just need  
11 to pick one more day apart from the 15th. And for  
12 me, that could be 26, 27, or 29.

13 MR. NUSBAUM: 26th is tough. There's no  
14 school that day, so that's tough for me. But so  
15 the 27th -- you said 27th or 29th?

16 HEARING EXAMINER SOKONI: Correct.

17 MR. NUSBAUM: Those would be better.

18 HEARING EXAMINER SOKONI: 27th, 29th?

19 MS. ROGERS: 27th. 27th works for us.

20 HEARING EXAMINER SOKONI: 27th. Sorry,  
21 sorry, sorry. Did you say --

22 MS. ROGERS: 27th.

23 HEARING EXAMINER SOKONI: 27th works for  
24 you? Does 29th work?

25 MS. ROGERS: It might. It just makes me

1 nervous because Thursday's a Planning Board date.  
2 I don't know.

3 Michelle, do you have risk of things  
4 coming up, but --

5 MS. ROSENFELD: Yes, the 27th is  
6 available for all three here, and so I would  
7 prefer that over the 29th.

8 HEARING EXAMINER SOKONI: How about we  
9 go with the 27th, and, Mr. Nusbaum, we do have it  
10 virtual --

11 MR. NUSBAUM: No, the 26th was the  
12 issue. 27th is no problem.

13 HEARING EXAMINER SOKONI: Oh, 26th was  
14 an issue. You're fine with 27th?

15 MR. NUSBAUM: Yes.

16 HEARING EXAMINER SOKONI: I'm solving a  
17 problem that doesn't exist, then let's do the  
18 27th.

19 MR. TEWEY: It should be easy.

20 HEARING EXAMINER SOKONI: Okay. So  
21 we're going to go with -- the next two dates will  
22 be January 15th and January 27th. Let's see how  
23 far you can go today. We're tentatively -- should  
24 we -- for the 15th, I propose we start with the  
25 community testimony.

1                   And does anyone have a sense of whether  
2                   it's easier for people if we went with community  
3                   testimony at the start of the day or midday,  
4                   midway through the day?

5                   (Counsel confer.)

6                   MS. ROSENFELD: All right. The  
7                   consensus here is start of the day.

8                   HEARING EXAMINER SOKONI: Start of the  
9                   day? Okay.

10                  Anyone in the room, start of the day  
11                  versus midway through the day?

12                  MR. TEWEY: Either is fine.

13                  HEARING EXAMINER SOKONI: Okay. Thank  
14                  you.

15                  All right. So the next two hearings  
16                  will be scheduled for January 15th and January  
17                  27th. And if I could just have a minute to -- I  
18                  would like to announce the location before the  
19                  conclusion of this hearing to avoid having to send  
20                  out a notice of hearing. I don't know about the  
21                  availability -- but once we hit January, that's  
22                  not yet budget time, no? So I just need to check  
23                  on the availability of this room.

24                  But let us tentatively -- let's say 7th  
25                  floor hearing room. If that changes, we'll do the

1 reverse. We'll put the notes -- we'll put the  
2 stickers on this door saying, go back to where it  
3 all happens. 15th and 27th here in the 7th floor  
4 hearing room. And we plan to start with community  
5 testimony on the 15th.

6 Okay. Okay. Thank you for raising  
7 that. A big relief to have that out of the way.  
8 And let's continue with case in chief.

9 MS. ROGERS: Thank you. Our last  
10 witness will be Mr. Kelso.

11 HEARING EXAMINER SOKONI: And if you  
12 just give me two minutes while you get settled,  
13 I'm going to send the notes so Staff can start  
14 looking at availability for this room on the 7th.

15 MS. ROGERS: Of course.

16 (Pause in proceedings.)

17 HEARING EXAMINER SOKONI: Are you ready  
18 to proceed?

19 MS. ROGERS: Yes.

20 HEARING EXAMINER SOKONI: Thank you.  
21 I'll administer the oath.

22 First of all, can you identify yourself,  
23 full names.

24 MR. KELSO: For the record, Logan Kelso.  
25 L-O-G-A-N, K-E-L-S-O.

1 HEARING EXAMINER SOKONI: Thank you,  
2 Mr. Kelso.

3 MR. KELSO: Yes.

4 HEARING EXAMINER SOKONI: If you could  
5 raise your right hand.

6 Whereupon,

7 LOGAN KELSO,  
8 called as a witness for the Applicant,  
9 having been duly sworn, testified as follows:

10 HEARING EXAMINER SOKONI: Okay. Thank  
11 you.

12 MS. ROGERS: Similarly, Mr. Kelso has  
13 previously been qualified before this body as an  
14 expert in civil engineering. For the hearing,  
15 would you like to re-qualify him or for us to  
16 proceed with our questioning?

17 HEARING EXAMINER SOKONI: No need to,  
18 but do you have a case number or case numbers  
19 before OZAH?

20 MS. ROGERS: Yes. Give me one second.

21 HEARING EXAMINER SOKONI: Sure.

22 MS. ROGERS: I think I have it written  
23 down. It was the Spectrum Retirement Conditional  
24 Use on River Road.

25 HEARING EXAMINER SOKONI: And you said

1 he was previously qualified in the area of civil  
2 engineering?

3 MS. ROGERS: Uh-huh.

4 THE WITNESS: Correct.

5 HEARING EXAMINER SOKONI: Yeah. That's  
6 fine. If you don't have the case number at your  
7 fingertips, that's okay. And on the basis of  
8 that, we will acknowledge, and you're qualified  
9 here again.

10 MS. ROGERS: Thank you.

11 THE WITNESS: Thank you.

12 DIRECT EXAMINATION

13 BY MS. ROGERS:

14 Q Mr. Kelso, are you familiar with the  
15 local map amendment application which is before  
16 the hearing today as H-159?

17 A Yes. I assisted with the preparation of  
18 the local map amendment application in the  
19 Floating Zone Plan for the proposed rezoning of  
20 the property in the northwest quadrant of the  
21 intersection of New Hampshire and Notley Road to  
22 accommodate the redevelopment of the property with  
23 up to 130 units.

24 Q And can you please describe your  
25 responsibilities with regard to the local map



1 amendment application?

2 A Yes. The analysis of existing site  
3 conditions, the suitability of the site for the  
4 proposed redevelopment, the analysis of existing  
5 and surrounding infrastructure and public  
6 facilities serving the property, preparation with  
7 site layout plans, including the Floating Zone  
8 Plan, the water and sewer layout, storm drain  
9 outflow analysis, and stormwater strategies and  
10 concept layout. I also assisted with the  
11 preparation of the civil engineering items in the  
12 Land Use Report.

13 Q And just for the record, that's now  
14 Exhibit 81. Thank you.

15 Have you or other members of your firm  
16 made a personal inspection of the subject  
17 property?

18 A I have. In addition to my colleagues,  
19 I've personally been out to the site on various  
20 occasions. Standard civil engineering practice  
21 to, you know, check out the edge conditions, also,  
22 understanding that site distance would be a  
23 consideration here, I personally put eyes on it

24 Q Can you please -- well, actually, sorry.  
25 If we could pull back up Exhibit 68 and go to

1 Page 62. Thank you.

2 Can you please describe the vehicular  
3 access and circulation of the project?

4 A Yes. As Katie previously testified,  
5 there's currently eight separate vehicular  
6 driveways to be consolidated into two access  
7 points on Notley. Also, the, you know,  
8 easternmost access point on Petwyn Court is lined  
9 up with the consideration and direction from  
10 Staff, Agency Staff.

11 And the final locations of these access  
12 points will be determined at the preliminary plan.  
13 And at that time, DOT will approve our site  
14 distance evaluation forms.

15 Q And if we can go two slides down,  
16 please. Thank you.

17 In your professional opinion, will  
18 vehicular access be safe and adequate from a site  
19 distance perspective?

20 A Yes. Vehicular access will be safe and  
21 adequate. The site distance evaluation for the  
22 proposed entrances all exceeded the requirements  
23 based on the roadway parameters, and often, you  
24 know, exceeded significantly. Not only was the  
25 design analyzed for the posted speed, but also

1 based on Grove Slade's 85th percentile speed study  
2 in the LATR.

3 Again, the access points will be  
4 analyzed through the preliminary plan process and  
5 approved by MCDOT at that time, officially. And  
6 it is --

7 Q In terms of what we're looking at on the  
8 screen, both on this slide and the next slide, can  
9 you just describe, are these site distance  
10 evaluations, and what we're looking at just for  
11 the record in the transcript?

12 A Yes, for the record. Exhibit -- I'm not  
13 sure what's on the screen.

14 Q Slide 64 of Exhibit 68.

15 A It is a site distance, including the  
16 site distance MCDOT form, that will be officially  
17 approved at the preliminary plan stage.

18 Q And Slide 64 is for?

19 A Site distance plan for what we call  
20 Entrance 1, which is the westernmost entrance,  
21 closer to the park.

22 Q And then Slide 65, if we go down one  
23 page for the transcript.

24 A Yes, for the record, this slide is the  
25 site distance, what we call Entrance 2, which is

1 the easternmost entrance closest to Notley, which  
2 is lined up with Petwyn Court.

3 Q And just so that it's clear for the  
4 record, these site distance evaluations that you  
5 prepared were not just looking at what was the  
6 posted speed limit, but you took into account the  
7 85th percentile speed of the study that Katie  
8 Wagoner had testified to in terms of the observed  
9 speeds to ensure that there would be safe and  
10 adequate site distance based on that speed,  
11 correct?

12 A That is correct.

13 HEARING EXAMINER SOKONI: So just a  
14 quick question. For the layperson who has no  
15 engineering background, what is this meant to  
16 capture? Site distance sounds really nice and  
17 fancy. What does that mean? What are you  
18 capturing?

19 THE WITNESS: Sure. Site distance is a  
20 safety check in the engineering world that's  
21 established by AASHTO Green Book standards and  
22 furthermore detailed with Montgomery County  
23 Department of Transportation.

24 It gives a factor of safety when  
25 considering if you're sitting at an entrance and

1     you're going to make a left turn, the traffic  
2     coming at you as well as the stopping site  
3     distance of a car coming into the lane that you're  
4     pulling into. Yes.

5             HEARING EXAMINER SOKONI: Okay, and  
6     thank you.

7             Q     And does, based on that 85th percentile  
8     speed, does what we're looking at show kind of how  
9     far in terms of a metric you need to be able to  
10    see in either direction to provide for that safe  
11    access? And when you're testifying that we have  
12    adequate site distance, are you testifying that we  
13    meet or exceed that required distance of vehicles?

14            A     Yes. Yes. We meet and exceed -- well,  
15    we meet and exceed the site distances as set by  
16    AASHTO Green Book as well as MCDOT.

17            Q     And, sorry, I just wanted to -- I know  
18    you said this, but just for the record, to wrap it  
19    all up, so you've confirmed that with the site  
20    distance analysis that's been submitted into the  
21    record for both of the access points?

22            A     That's correct.

23            Q     And MCDOT will further analyze this and  
24    finally approve it when those access points are  
25    approved at time of preliminary plan?

1           A     That's correct.

2           Q     And have you evaluated the availability  
3 of water, sewer, gas, and other utilities at this  
4 location, and are there -- is there adequate  
5 capacity to accommodate the proposed development?

6           A     Yes. There is currently -- utilities  
7 are serving the property, gas, electric, water,  
8 and sewer. The property in regards to water and  
9 sewer it's within WSSC jurisdiction. It is  
10 categorized as a W-1 and S-1, and by definition,  
11 W-1 and S-1 are areas served by existing public  
12 facilities or undergoing construction.

13                   Classification confirms that the  
14 property is eligible to receive public water and  
15 sewer service and is expected to connect to those  
16 systems.

17                   Here, the existing properties are served  
18 by water and sewer. What is on the screen, I'm  
19 not sure what slide it is, but this is WSSC  
20 200-foot sheets. It's a grid system in Montgomery  
21 County and Prince George's County, which  
22 essentially map the GIS systems of the existing  
23 utilities.

24                   As you can see, our site is both  
25 surrounded by an existing water system as well as

1 an existing sewer outfall. The water and sewer  
2 needs are expected to be met by WSSC through the  
3 connections in the existing water and sewer  
4 located in Notley, specifically the water  
5 service --

6 HEARING EXAMINER SOKONI: Sorry, the  
7 slide you're describing is slide --

8 MS. ROGERS: 66.

9 HEARING EXAMINER SOKONI: 66, thank you.

10 A The water service connections are  
11 proposed to be established connecting to the  
12 existing ten-inch line in Notley, and the sewer  
13 service is also proposed to be connected to the  
14 existing eight-inch sewer manhole in Notley. And  
15 we also have another opportunity in New Hampshire.  
16 However, I believe the current design connects to  
17 Notley.

18 Q I'm sorry to jump back, but on site  
19 distance, I just wanted to ask one more question,  
20 which was, you mentioned in your testimony that  
21 the private road is aligned with Petwyn Court,  
22 which Ms. Wagoner had also testified to in terms  
23 of the reasoning for that. Is that also located  
24 at the highest point of the road, and what does  
25 that mean for a site distance perspective?

1           A     Yes, it is located at the highest point  
2     in the road, and also, just to add on, that it is  
3     on a constant-sloped road. Usually when there's  
4     undulations, site distance can be more difficult  
5     and, you know, sometimes not work because of that  
6     road design.

7                     However, this is located at the top of  
8     the high point of the road section in the  
9     frontage, which you can look down both sides of  
10    the slopes, which are both continuous slopes. So  
11    generally, it's a safer location for an entrance.

12          Q     Thank you. Sorry for that. To jump  
13    back to infrastructure, in your professional  
14    opinion, does the project meet the  
15    infrastructure-related prerequisite under Section  
16    513(d)?

17          A     Yes. Based on industry standards and  
18    accepted engineering practices, such as the size  
19    of the infrastructure required for specific  
20    product type and densities, as well as the age of  
21    the existing infrastructure, such as pipe  
22    materials, pipe slopes, of the existing  
23    infrastructure, in my professional opinion, the  
24    existing water and sewer lines are sufficient to  
25    support the proposed development.



1                   With the adjacent infrastructure, it  
2                   will likely not require an upgrade or a pump  
3                   station. I will note that the sewer system,  
4                   because it is at a high point, we mentioned that  
5                   at the site distance. Also, gravity systems such  
6                   as sewer will be located at the top of the system,  
7                   so generally there's not capacity issues with  
8                   those terminal lines.

9                   As such, the project meets the  
10                  prerequisite. The site is served by existing  
11                  water and sewer infrastructure that would not  
12                  require an upgrade to the service line or  
13                  installation of a pump station due to the proposed  
14                  development.

15                Q     Is a stormwater management concept plan  
16                    required for this project?

17                A     It is required. However, the formal  
18                    stormwater concept plan is not required as part of  
19                    the LMA application. As required, the stormwater  
20                    management strategy narrative has been submitted,  
21                    describing how the stormwater management is  
22                    intended to be addressed for the project.

23                Q     If we can go one more slide down, which  
24                    is Slide 67.

25                    So the stormwater concept plan will be

1 finalized with the subsequent preliminary site  
2 plan applications; is that correct?

3 A That is correct. We do fully anticipate  
4 that the proposed stormwater concept plan  
5 submitted at the next appropriate step of  
6 entitlement process will be approvable.

7 Also to note that Montgomery County  
8 Department of Permitting Services, or MCDPS,  
9 approval of the stormwater concept is the first  
10 step in the approval process with two more steps  
11 to be completed prior to the application for the  
12 sediment control and stormwater management permit.

13 MCDPS approval of the sediment control  
14 and stormwater management plan is required to  
15 beginning the construction of the proposed  
16 improvements. So it is guaranteed that the  
17 project will comply with all stormwater management  
18 regulations.

19 Q Can you please briefly describe what the  
20 stormwater approach will be for the proposed  
21 project?

22 A Yeah. So the site does not currently  
23 present any modern stormwater management  
24 facilities. No quality or quantity control, based  
25 on our research, is existing. The proposed

1 development provides an important opportunity to  
2 improve that existing condition.

3 In accordance with the 2010 MDE  
4 stormwater management regulations, the project  
5 will implement environmental site design, or ESD,  
6 as we call it short, practices to the maximum  
7 extent practicable. In order to manage the  
8 required stormwater volume, the Petitioner  
9 proposes to utilize a mix of stormwater management  
10 practices, which include ESD facilities such as  
11 graded out and for planter-style microbio  
12 facilities.

13 We do believe that non-ESD structural  
14 underground vaults will be required for this  
15 project as well to meet the stormwater management  
16 attenuation requirements. It is expected that the  
17 proposed layout of the project will fully  
18 accommodate stormwater management facilities that  
19 meet and/or exceed applicable state and county law  
20 or requirements.

21 Q And in your professional opinion, will  
22 the project negatively impact offsite drainage  
23 from this property?

24 A The project design will meet the  
25 jurisdictional requirements for off-site and

1 on-site drainage requirements. The project will  
2 result in either net neutral or better conditions  
3 as compared to today.

4 There will be a significant decrease in  
5 the amount of water runoff to the north and west  
6 properties through the adjustment, a slight  
7 adjustment, to the drainage divides using  
8 stormwater management facilities and use of onsite  
9 attenuation, which we, you know, use underground  
10 storage vaults with a weir and/or orifice to  
11 slowly release the additional runoff based on the  
12 new impervious area. And it will be designed to  
13 be released at the existing condition or less than  
14 that of the existing condition of the flow.

15 So just to hit on the water attenuation  
16 again, anytime you introduce new impervious area,  
17 chances of increasing the stormwater runoff from  
18 the site increases. We acknowledge that and  
19 acknowledge that by law you cannot send stormwater  
20 onto other people's property adjacent. So with  
21 this amount of water, we do anticipate requiring  
22 to attenuate it before sending it into the  
23 existing system with the weir and/or orifice  
24 structure, as I just briefly described.

25 No water from the developable property

1 will be directed towards the surrounding  
2 single-family homes. Rather, the water will be  
3 treated for quality and quantity on site and  
4 ultimately directed into the closed storm drain  
5 system and existing infrastructure. It's  
6 consistent with current MCDPS policies. Direct  
7 and concentrated water off-site isn't permissible.  
8 In this application, we will utilize current MDE  
9 best management practices to treat the required  
10 stormwater within our project site.

11 This project will actually improve the  
12 existing conditions. As mentioned, there's no  
13 existing stormwater on site with the developed  
14 houses, sheds, and driveways. So we will be  
15 bringing in modern stormwater management. So as  
16 any current offsite drainage is going to be  
17 minimized and controlled through the redevelopment  
18 process, consistent with Maryland and county law.  
19 Again, it's -- I think --

20 Q Well, I'm just going to clarify for kind  
21 of more of the layman in terms of that orifice and  
22 weir and all that. Just to clarify, the water  
23 that's currently leaving the site and going  
24 towards the north and the west, will that be  
25 decreased with the proposed development?

1           A     It will be decreased.

2           Q     And with the redevelopment, are you  
3 taking more of the existing water on the site,  
4 including any increased water from any, you know,  
5 the proposed development, and taking it towards  
6 the New Hampshire Avenue controlled storm drain  
7 system?

8           A     That's correct.

9           Q     And in terms of the water attenuation  
10 you were talking about with the orifice and the  
11 weirs and the underground vaults, what that means  
12 in a layman's perspective, are you basically  
13 holding that water on site so that you can slowly  
14 release it so that there's no net increase in the  
15 water flow leaving the site into the New  
16 Hampshire --

17               MR. NUSBAUM:  Objection.

18               MS. ROSENFELD:  Objection.

19               MR. NUSBAUM:  Leading.

20               MS. ROSENFELD:  Leading.

21               HEARING EXAMINER SOKONI:  Sustained.

22           Q     Okay.  Well, can you just -- what I  
23 wanted to get at was that when you said orifice  
24 and weir, can you just please explain again what  
25 that does to the water leaving the site towards

1 New Hampshire?

2 A Sure. So there's stormwater management  
3 that's quality. And whenever we think about  
4 quantity, that's whenever we think about the  
5 attenuation. Stormwater management, in technical  
6 terms, treats the runoff. Attenuation limits the  
7 runoff. So there's both treatment and  
8 attenuation.

9 How we generally attenuate is if you  
10 think of a bathtub, the weir would be overflowing  
11 outside of the bathtub. Obviously, we're not  
12 going to overflow our vault, but just that's the  
13 definition of a weir.

14 Orifice is like a drain. We design it  
15 so the more water that backs up, we will size that  
16 underground vault for the impervious area increase  
17 from our development to have an orifice and/or  
18 weir system that lets out the water from our site  
19 at an existing runoff condition or better.

20 Q Thank you. And is this property located  
21 in a special protection area?

22 A It is not.

23 Q And in your professional opinion, as it  
24 relates to civil engineering elements, does the  
25 proposed Floating Zone Plan satisfy all applicable

1 zoning requirements for approval of a local map  
2 amendment?

3 A Yes.

4 Q And to reiterate your testimony, the  
5 stormwater management concept plan, will that be  
6 absolutely required before the Planning Board can  
7 approve a preliminary plan for the proposed  
8 development?

9 A That is correct.

10 Q And will a subsequent stormwater  
11 management approval be required before building  
12 permits can be issued?

13 A That's correct.

14 Q And do you agree with the findings made  
15 by Park and Planning Staff in their Staff Report  
16 with respect to these very civil engineering  
17 testimony, pieces you testified on?

18 A Yes.

19 Q And do they agree that the project in  
20 the proposed Floating Zone Plan can satisfy these  
21 civil engineering elements that are required for  
22 approval of a local map amendment?

23 A Yes.

24 Q Is there anything else you would like to  
25 add?



1           A     No, thank you.

2           MS. ROGERS:   That concludes our  
3     questioning for Mr. Kelso.

4           HEARING EXAMINER SOKONI:   Thank you.  
5     Cross-examination?

6           MS. ROSENFELD:   Yes.   Yes, thank you.

7                       CROSS-EXAMINATION

8     BY MS. ROSENFELD:

9           Q     I'd like to start on Exhibit 81, Page 9,  
10    which is your stormwater management concept plan.  
11    It's that section of the Land Use Report.  And in  
12    the last paragraph of that section, you talk  
13    about, (reading):

14                   The majority of the site conveys to New  
15                   Hampshire in a closed system (underground  
16                   structures and pipes).

17                   Would that be the piping and the weir  
18                   system that you were just describing?  And I'm  
19                   reading from Page 9 of that report, of Exhibit 81.

20           MS. ROGERS:   Sorry, I'm just trying to  
21    get there.

22           MS. ROSENFELD:   Sure.

23           MS. ROGERS:   I don't know if Mr. Kelso  
24    was clear.  Can you restate where you're reading  
25    from for his question for him?

1           Q     Sure. On Page 9, it's the second full  
2 paragraph. And in the middle of that, the second  
3 sentence talks generally about what you're going  
4 to do with respect to regrading. And then in  
5 that, you talk about, (reading):

6                     The majority of the site conveys to New  
7 Hampshire Avenue in a closed system  
8 (underground structures and pipes).

9                     Do you see --

10          A     Yes.

11          Q     Is that the system you were just talking  
12 about, the underground weirs and the underground  
13 collection?

14          A     No. The underground attenuation vault  
15 will be proposed with our design of the  
16 development.

17          Q     Okay. So what is this talking about,  
18 this closed system, underground structures, and  
19 pipes?

20          A     Closed system just means a storm drain  
21 system versus, you know, a stream or a ditch or a  
22 swale.

23          Q     Okay.

24          A     That's an open system.

25          Q     Okay. And so is this an existing storm

1 drain system in New Hampshire Avenue?

2 A Correct.

3 Q Okay. And is that something separate  
4 and apart from the sewer system?

5 A Yes.

6 Q It doesn't go into the sewer, it goes  
7 into something different --

8 A Correct.

9 Q -- like the stormwater runoff.

10 A Storm drain, correct.

11 Q Okay. Okay. Thank you.

12 A Yeah.

13 Q I'd like to go back to -- on Exhibit 68,  
14 it's Slide 64, which is where you are talking  
15 about the site distances.

16 And I'm having a really hard time  
17 reading these numbers online and in my hard copy.  
18 If we could start on Page 64, and I think this is  
19 the westernmost, is this the westernmost ingress,  
20 egress?

21 HEARING EXAMINER SOKONI: And on that  
22 point, I was struggling until I pulled out my hard  
23 copy. So question, I know that these are inserts  
24 in your PowerPoint. Are they easier to expand if  
25 we go to the source document?

1                   So for instance, you've inserted this  
2                   exhibit into your PowerPoint, but is it any --  
3                   let's say if it was Exhibit 45, I'm not sure  
4                   that's what it is, but is it any easier to expand  
5                   if you pulled the source one?

6                   MS. ROSENFELD: I don't think this one  
7                   had a source, but can I -- if we email, are you  
8                   able to pull up the original source?

9                   HEARING EXAMINER SOKONI: Oh, no. No,  
10                  I'm actually okay. I'm concerned about people in  
11                  the room because that's why --

12                  MS. ROSENFELD: Or did -- correct.

13                  HEARING EXAMINER SOKONI: -- I'm pulling  
14                  it up on my screen so I can zoom in and out, but  
15                  I'm worried about people observing who cannot make  
16                  out what's on the screen. But that's okay. I'm  
17                  following, so we can proceed.

18                  MS. ROSENFELD: Okay.

19                  Q       So Page 64, could you remind me which  
20                  entrance, ingress, egress this is? Is this the  
21                  one closer to New Hampshire? Or more distant?

22                  A       This is 64?

23                  MS. ROGERS: Sorry, no, I pulled up 64.

24                  THE WITNESS: This is 64?

25                  MS. ROGERS: Yeah.

1           A     64, which is shown on the screen, is the  
2 westernmost entrance, further away from --

3           Q     Closest to the park?

4           A     Correct.

5           Q     Okay. And then here's where I'm having  
6 trouble. In the chart on the left-hand side that  
7 says, sight distance evaluation, I see columns. I  
8 see on the far right column, there's four rows,  
9 and on the far right of each of those rows, it  
10 says, Yes. What does that yes mean?

11          A     That the sight distance is okay.

12          Q     Okay. And then so in the first row, it  
13 looks like 445 and 446. I'm not sure. What is  
14 each of those numbers, and what does each one  
15 stand for?

16          A     Each of those numbers is the target  
17 and -- well, the first column is the target  
18 distance, and the second column is the measured  
19 distance of the calculated design distance for the  
20 sight distance.

21          Q     Okay.

22          A     Measured along the center line of the  
23 Notley Road.

24          Q     So, in layperson terms, what does that  
25 mean?

1           A     It's a calculated number based on AASHTO  
2     Green Book standards based on a posted speed  
3     limit. As mentioned, we did both posted speed as  
4     well as the 85th percentile speed, which is  
5     greater than the posted speed.

6           Q     Okay. So does this mean that by your  
7     calculation, you are one foot over the target  
8     distance?

9           A     At this point, we were, you know,  
10    measuring to make sure the minimums worked. We  
11    know that it will exceed.

12          Q     Is the 446 the measured distance?

13          A     I'm sorry. The 445?

14          Q     445 is the target distance, right?

15          A     Correct.

16          Q     And so 446, is that the measured  
17    distance?

18               MS. ROGERS: I think it's the --  
19    sorry --

20               MS. ROSENFELD: Right here.

21               MS. ROGERS: -- copy that the --

22          A     It's 445, which, again, we made sure  
23    that the distances worked.

24          Q     Okay. I'm sorry. I'm really not trying  
25    to be difficult here, and it may just be I'm not

1 reading it correctly.

2 A Uh-huh.

3 Q The first upper left row is 445, and  
4 then the number next to it is what?

5 A 445.

6 Q Oh, 445, not 446?

7 A Yeah. Yeah.

8 Q Okay. And is 445 the measured distance?  
9 Is that the precise distance between where you're  
10 supposed to measure the entrance and your target,  
11 or is it greater than that?

12 HEARING EXAMINER SOKONI: And may I  
13 suggest that if it's helpful to walk up to the  
14 screen and point things out to us, that would be  
15 helpful.

16 A So, again, I'll just reiterate that, you  
17 know, this was a preliminary analysis that we  
18 prepared in anticipation of, you know, submitting  
19 this to MCDOT to provide, you know, that the site  
20 distances work.

21 Generally, DOT may have us go to the  
22 furthest point we've received, but we wanted to,  
23 you know, do our due diligence at this stage and  
24 ensure that I can provide expert testimony.

25 HEARING EXAMINER SOKONI: Okay.

1           Q     Is this based on modeling, or is this  
2     based on actual measurements on the ground?

3           A     This particular exhibit is based on, you  
4     know, the GIS and known profiling, as you can see.  
5     It's very rainy up here, but we do it two ways.  
6     You know, number one, like I mentioned, we put  
7     eyes on it. I remember, you know, parking at the  
8     park and walking to the entrance and seeing up to  
9     Petwyn Court, so I was very confident that these  
10    site distances were going to be okay.

11                So -- I'm sorry, I kind of went off  
12    track there. Could you repeat what your question  
13    is?

14           Q     My question was, was this based on  
15    modeling, or was this based on actual  
16    measurements?

17           A     So this was based on -- specifically,  
18    this is graphed based on GIS and infield survey  
19    data.

20           Q     And looking at the site distance for  
21    Page 65, I would have the same question. Was this  
22    based on actual measurements, or is this based on  
23    modeling?

24           A     Again, this particular exhibit is GIS  
25    and infield survey data.



1           Q     So is it possible that once your design  
2 gets more refined, that that entrance directly  
3 across from Petwyn Court might need to shift  
4 somewhat based on site distance?

5           A     I'm not sure it would need to, based on  
6 site distance.

7           Q     But you won't know for certain until  
8 it's actually been designed; is that correct?

9           A     Based on our due diligence of the design  
10 check that we've done, my expert opinion is that  
11 the site distance will work.

12          Q     Also in Exhibit 81, I'm going to  
13 Page 11.

14                   UNIDENTIFIED SPEAKER: Which exhibit?

15                   MS. ROSENFELD: Exhibit 81.

16          Q     This is Page 11, and on Page 11, it  
17 talks about other services. The last sentence of  
18 that first paragraph says, (reading):

19                   WSSC will evaluate the water and sewer  
20 capacity through a hydraulic planning  
21 analysis.

22                   Can you tell me what that means? What  
23 is a hydraulic planning analysis?

24          A     Similar to, you know, the stormwater  
25 management process with MCDPS, there's stages in

1 the design and ultimately permitting process. So  
2 in WSSC world, in water and sewer world, a  
3 hydraulic planning analysis, or an HPA, is the  
4 first step in that process for the redevelopment,  
5 similar to what MCDPS does for a stormwater  
6 management concept.

7 WSSC has -- the hydraulic planning  
8 analysis checks for, you know, sewer capacity, the  
9 water pressure capacities based on their  
10 proprietary GIS system, and that is also a  
11 prerequisite to the approval in ultimate Planning  
12 Board and preliminary plan.

13 Q So when you say it checks for sewer  
14 capacity, does that mean they're looking to make  
15 sure that the size of the existing sewer mains can  
16 handle the additional load of the new development?

17 A That's correct.

18 Q And when you say that it checks for  
19 water pressure capacity, is that an analysis to  
20 determine if there's enough water pressure to  
21 serve the water demands of the new development?

22 A That's correct.

23 Q Okay. I'm looking at the Staff Report,  
24 the Park and Planning Staff Report, which is  
25 Exhibit 56. And I'm looking at Page 29 of

1 Exhibit 56 under the heading of Water and Sewer,  
2 the last paragraph says, (reading):

3 WSSC will evaluate capacity through a  
4 hydraulic planning analysis and determine if  
5 upgrades or extensions are needed at the time  
6 of preliminary plan.

7 Do you see that?

8 A Yes.

9 Q Would that be the same hydraulic  
10 planning analysis that you referenced in the Land  
11 Use Report?

12 A That's correct.

13 Q Okay. Until WSSC does that hydraulic  
14 analysis, is it possible to say with 100 percent  
15 certainty that there will not be any requirement  
16 for an upgrade to the water or service lines for  
17 this project?

18 A I would say, based on my engineering  
19 experience and expertise in the county and WSSC  
20 jurisdiction, that the adjacent infrastructure  
21 will have capacity for the additional density.

22 Q Well, I can appreciate that that's your  
23 opinion. It seems to me if that opinion were  
24 sufficient, there would be no need for a hydraulic  
25 planning analysis.

1                   So I'll ask my question again. Until  
2 WSSC concludes that hydraulic planning analysis,  
3 can you say with 100 percent certainty that there  
4 will not be a requirement for an upgrade to the  
5 water or sewer utilities, mains, lines -- excuse  
6 me -- lines serving this property?

7           A       Not with 100 percent certainty.

8                   MS. ROSENFELD: Thank you.

9                   I have no further questions.

10                  HEARING EXAMINER SOKONI: Thank you.

11                  Mr. Nusbaum?

12                               CROSS-EXAMINATION

13 BY MR. NUSBAUM:

14           Q       Good afternoon, Mr. Kelso.

15           A       Good afternoon.

16           Q       We can actually stay right where we  
17 were. Exhibit 81, Page 21 for me.

18                   THE COURT REPORTER: Page 21?

19                   MR. NUSBAUM: Yes, please.

20                   HEARING EXAMINER SOKONI: That's the  
21 Land Use Plan?

22                   MR. NUSBAUM: Right. There we go.  
23 Perfect.

24           Q       This section of the report, if you  
25 scroll up a little bit higher, please. That's

1 part 40b(5)(ii), little two there. That section  
2 is attributed to you, correct?

3 A 6b(5)(ii)?

4 Q Yes.

5 A Correct.

6 Q Okay. So in that section, you state  
7 that this site will not require either an upgrade  
8 to the service line or installation of a pump  
9 station, correct?

10 A Correct.

11 Q Okay. You then highlight that the  
12 property is currently served by a ten-inch water  
13 line on Notley Road for water access and an eight-  
14 inch sewer line on Notley Road for sewer access;  
15 is that correct?

16 A That's correct.

17 Q Okay. What's the current number of  
18 houses and businesses that obtain their water from  
19 this ten-inch water line?

20 A I mean, I could look at the GIS 200-foot  
21 sheet and get you a count. The --

22 MS. ROSENFELD: Excuse me?

23 THE WITNESS: Yes.

24 MS. ROSENFELD: Could you just tell me  
25 what exhibit you're referencing here?

1 THE WITNESS: This is going back to the  
2 200-foot sheet.

3 MS. ROGERS: It's 68-page -- Slide 66.

4 MS. ROSENFELD: Page what?

5 MS. ROGERS: 66.

6 MS. ROSENFELD: Thank you.

7 A Between looping connection points of the  
8 ten-inch, a handful of single families, I'd have  
9 to get a larger vicinity map to give you an exact  
10 number.

11 Q Okay. Do you know what the current  
12 usage percentage is for that line?

13 A I'm sorry?

14 Q Do you know what the current usage  
15 percentage would be for that line?

16 A Usage percentage?

17 Q Yeah, you had talked about in the  
18 hydraulic planning analysis that they would  
19 determine if there was sufficient capacity. So I  
20 guess I'll rephrase that.

21 Do you know what the current capacity  
22 percentage is, or how much available capacity  
23 there is in that line?

24 A For the water pressure?

25 Q Yes.

1           A     Not off the top of my head, no.

2           Q     Okay. Do you know what it would be  
3 after construction of the project?

4           A     It's generally -- not off the top of my  
5 head, no.

6           Q     What pump station serves this ten-inch  
7 line?

8           A     The exact pump station I would have to  
9 get you, but the pressure zone -- again, I don't  
10 have it at the tip of my fingers right now.

11          Q     Okay. Let's go to the sewer line then.  
12 Do you know what the current usage or capacity  
13 rate is for that eight-inch sewer line?

14          A     Not at the top of my head, no.

15          Q     Okay. And so you don't know what it  
16 will be after the development either?

17          A     Not at the top of my head.

18          Q     You testified earlier that a hydraulic  
19 planning analysis is the first step in the process  
20 to check for capacity of water and sewer. That  
21 hasn't been performed though, correct?

22          A     We have submitted a first stage of the  
23 HPA.

24          Q     But the HPA has not been completed yet,  
25 correct?

1           A     The HPA has not been formally approved  
2     by WSCC.

3           Q     Okay. Let's turn to Exhibit 21, please.  
4     Oh, that got it replaced, I'm sorry. Exhibit 45.

5                     I know it's tough to see on there. I  
6     think there's a larger copy someplace, but I was  
7     just looking for some clarification. The areas  
8     that are labeled MBF and RD, can you explain what  
9     those are?

10          A     It's a description for a microbio filter  
11     and a roadside microbio filter.

12          Q     Okay. And what are microbio filters?

13          A     It's an environmental site design  
14     practice that catches point source polluted water  
15     through a filtration process via mulch, a layer of  
16     planting media, a layer of sand, and a layer of  
17     gravel.

18          Q     Okay. So in layman's terms, it's kind  
19     of like a collection area for stormwater?

20          A     It's a stormwater quality best  
21     management practice.

22          Q     Okay. And there are lines that come off  
23     of each one of the MBFs and the RDs, correct?

24          A     That's correct.

25          Q     And are those stormwater pipes to move



1       that water after it goes through the filtration  
2       process?

3           A       Yes. Once the water filters through the  
4       stormwater management facility, it will feed into  
5       the proposed storm drain system.

6           Q       Okay. And the streets also appear to  
7       show multiple drains connected to those stormwater  
8       pipes?

9           A       Correct.

10          Q       And then all of those stormwater pipes  
11       eventually collect to a single pipe on the east  
12       side of the property at New Hampshire Avenue; is  
13       that correct?

14          A       Correct.

15          Q       And all of the water from New Hampshire  
16       Avenue and from this site, where does that lead  
17       from that storm drain?

18          A       It connects into an existing closed  
19       system, which eventually goes to a state highway  
20       pond.

21          Q       Okay. And where does that state highway  
22       pond eventually lead?

23          A       Downstream.

24          Q       Okay. So the state of Maryland owns  
25       that pond?

1           A     State of Maryland maintains that pond.

2           Q     Do you know who owns that land?

3           A     I would have to look it up.

4           Q     Okay. What conversations have you had  
5 with the state of Maryland regarding the  
6 stormwater management plan and moving the  
7 stormwater from your facility to their detention  
8 pond?

9           A     Connecting to an existing infrastructure  
10 in the state highway right-of-way?

11          Q     Correct. You're moving all of the  
12 stormwater from your property onto the state  
13 system and then into the state's collection pond,  
14 correct?

15          A     Standard development practices, you  
16 know, we coordinate with the SHA at the  
17 appropriate time, which would be the preliminary  
18 site plan and permitting process.

19          Q     Right. At this point, it's just to come  
20 up with a strategy, correct?

21          A     Correct.

22          Q     Okay. And so the strategy right now is  
23 to take all the water from your property, pipe it  
24 over to the state, and put it into their pond,  
25 correct?

1           A     As an engineer, we cannot adversely  
2     impact the downstream system.

3           Q     Okay. But what other strategy do you  
4     have other than just piping it into the state  
5     pond?

6           A     As described in my expert testimony, the  
7     attenuation vault is the main strategy for the  
8     storm drain attenuation to not adversely impact  
9     the downstream system.

10          Q     Okay. At present, are there storm  
11     drainpipes on the property that drain across New  
12     Hampshire into the state pond?

13          A     I'm sorry. Could you --

14          Q     Yep. Are there storm drains on the  
15     property that currently drain to the state pond  
16     where you're looking to put the water?

17          A     The existing contract drawings from SHA  
18     when designing the state pond included the greater  
19     majority of the whole property.

20          Q     My question is, at present, is  
21     stormwater piped through stormwater drains from  
22     this property to the state-controlled pond?

23          A     The runoff from the property collects  
24     into existing storm drainpipes that go to the SHA  
25     storm drain pond.

1 Q For the entire property?

2 A For the greater majority.

3 Q Okay. Mr. Sloan testified that there  
4 was a divide through the middle of this property  
5 that split the stormwater to two different  
6 locations. Do you recall that?

7 A Yes.

8 Q Okay. Do you recall where that divide  
9 is?

10 A Yeah, at the high point.

11 Q Do you recall where the high point is on  
12 the property?

13 A It's about midway.

14 Q Okay. So half of it doesn't drain over  
15 to that pond --

16 A But the --

17 Q -- at least half of it?

18 A The existing topographic would suggest  
19 that the greater majority does not currently drain  
20 to the MSHA pond.

21 MR. NUSBAUM: Okay. Thank you. Those  
22 were my questions.

23 HEARING EXAMINER SOKONI: Anyone else in  
24 the room would like to cross-examine?

25 Yes, sir. Turn on the microphone and

1 identify yourself again.

2 MR. COREY: Hi, I'm Pat Corey.

3 CROSS-EXAMINATION

4 Q I have two questions. The first one is,  
5 you talk a lot about the sidewalks and the  
6 improvement of the sidewalks on New Hampshire  
7 Avenue and Notley. Are there any sidewalks in the  
8 development to get you to those sidewalks? Or are  
9 they going to walk along the egress and ingress  
10 driveways and along the alleyways? How would they  
11 get to those sidewalks that you guys tout? From  
12 inside the development, how do they get to the  
13 sidewalks?

14 MS. ROGERS: Mr. Kelso doesn't know  
15 about sidewalks.

16 Q Is there a sidewalk to them? Is there a  
17 sidewalk to them?

18 MS. ROGERS: I'm not sure I'm  
19 understanding your question. Mr. Kelso wasn't  
20 testifying to the internal sidewalks in his  
21 testimony.

22 MR. COREY: I thought he was a civil  
23 engineer and was testifying to the property and  
24 the development.

25 MS. ROGERS: He didn't provide any

1 testimony about sidewalks right now.

2 MR. COREY: Okay. So he doesn't know  
3 anything about the sidewalks?

4 MS. ROGERS: He didn't provide any  
5 testimony about sidewalks. Mr. Sloan did.

6 Q Okay. The stormwater collection area,  
7 is that also counted as green space? Not that it  
8 could be actually used as green space, but is it  
9 counted as green space?

10 A I think --

11 MS. ROGERS: Again, he didn't testify to  
12 our green cover.

13 MR. COREY: All right. Never mind.  
14 Thank you.

15 MS. ROGERS: Thank you.

16 HEARING EXAMINER SOKONI: I just want to  
17 mention that I have a full-size of the stormwater  
18 management, the Exhibit 45. A lot of time was  
19 spent on that, so if anyone was struggling to see  
20 the one on the screen, there is a full-size.  
21 You're welcome to take a look.

22 One more -- yes, please.

23 MR. TEWEY: We did a higher resolution  
24 electronic copy of that stormwater management  
25 strategy plan.

1 MS. ROGERS: We had submitted a higher  
2 resolution. I think that what -- it was a Staff  
3 that asked for a lower resolution so that it was  
4 loading easily because people were complaining  
5 that it was taking a while to load. So I'm happy  
6 to resend it, but you do have a higher resolution  
7 one that we could try reloading.

8 HEARING EXAMINER SOKONI: Okay.

9 MS. ROGERS: But there was an IT issue  
10 with it.

11 HEARING EXAMINER SOKONI: Yes, and I do  
12 recall that issue. I think when we -- the higher  
13 resolution one that was provided, people thought  
14 it was a blank document because it took a while to  
15 load.

16 MS. ROGERS: Sure.

17 HEARING EXAMINER SOKONI: So much data,  
18 but is there any way to -- is this the compressed  
19 -- the one that we have is the compressed version.

20 MS. ROGERS: We can find another middle  
21 ground and see if that works better. We're happy  
22 to.

23 HEARING EXAMINER SOKONI: Okay.

24 MS. ROGERS: But that was the problem.

25 HEARING EXAMINER SOKONI: That would be

1 helpful.

2 And in the meantime, I just want people  
3 to know that the full-size print is available.  
4 You can stop by at OZAH and take a look at the --  
5 because our electronic file matches the hard copy.

6 Do we have -- yes, I do have a hand on  
7 Zoom.

8 THE COURT REPORTER: Two hands.

9 HEARING EXAMINER SOKONI: Oh, two.  
10 Okay.

11 Mr. Phan, you want to go first? If you  
12 could unmute yourself and turn on your camera,  
13 please. Thank you.

14 MR. PHAN: Yeah, I just want to add to  
15 that. Like, can we also have a higher resolution  
16 copy of the sight distance line that we couldn't  
17 read it blurry? Remember the number was blurry?  
18 So can we have a copy of a higher resolution of  
19 that slide also?

20 MS. ROGERS: That's not currently a  
21 separate exhibit. We'd be happy to provide it and  
22 make it a separate exhibit so that people can read  
23 it more legibly.

24 MR. PHAN: Okay. Thank you.

25 MS. ROGERS: Do you -- Madam Examiner,



1 would you like to --

2 HEARING EXAMINER SOKONI: Did you have  
3 any cross -- did you have any questions for  
4 cross-examination?

5 Okay. Maybe not.

6 Next in line. Yes. It's showing up on  
7 my end as Nuquist, N-U-Q-U --

8 THE COURT REPORTER: There's somebody  
9 else there.

10 HEARING EXAMINER SOKONI: Is there  
11 somebody else? So why don't you --

12 MR. NUQUIST: Yes, Clay Nuquist.

13 HEARING EXAMINER SOKONI: Yes.

14 CROSS-EXAMINATION

15 BY MR. NUQUIST:

16 Q I'm a Colesville resident. I currently  
17 live in the Morningside community on Bregman Road,  
18 and I've lived here for 32 years. I have a  
19 question about the stormwater management plan.

20 Does this storm management plan take  
21 into effect any snow accumulation, plowing, and  
22 melting, and what that would have an effect on the  
23 storm management plan? Does the storm management  
24 plan take that into account as to the amount of  
25 snow, the plowing, the removing, and the melting

1 of the snow, and how that will affect the storm  
2 management plan?

3 And did your plan address to the HOA as  
4 to how they are -- when this development is going  
5 to be developed, how is the HOA going to manage  
6 the snow plowing, removing, storage, and  
7 accumulation of the snow as part of this storm  
8 management plan? Thank you.

9 HEARING EXAMINER SOKONI: Yes.

10 MS. ROGERS: I would object to the  
11 question about the HOA piece just because  
12 Mr. Kelso hasn't testified to that, nor is that in  
13 his purview.

14 HEARING EXAMINER SOKONI: That's fair.  
15 So at least answer the question with regard to the  
16 stormwater management plan.

17 A Yes. It is an interesting question,  
18 but, you know, when we design our storm drain  
19 systems, we design to a ten-year storm and a  
20 100-year storm for flooding, which is generally a  
21 lot more intense than, you know, the melting of  
22 snow.

23 So I would say that the storm drain  
24 closed system does account for, you know, the  
25 quantity of water that will be introduced by the

1     impervious area, and to address the snow plowing,  
2     the salt accumulation, the dirt, the mud that may  
3     accumulate into the snow plows, that's exactly  
4     what the stormwater management facilities do.

5             They take out the suspended solids, the  
6     dirt, the grime from, you know, whether it's  
7     rainwater or snow, and it filters through these  
8     stormwater management facilities, microbio  
9     facilities, to provide the quality treatment.

10            Q     Okay. Just to follow up on that, I  
11     mean, currently now we have, you know, this is  
12     five residential areas with single-family homes,  
13     and so they're not actually plowing that snow out  
14     anywhere or anything like that.

15            Most of the snow accumulation is  
16     basically just melting on each of their  
17     properties, but the driveways, I mean, we're  
18     talking about six or seven driveways, and whatever  
19     they do with their snow, that's what they're doing

20            But what we're talking about now is  
21     putting this 130-townhouse community in here, and  
22     it's a very tight place, and what they're going to  
23     do? How they're going to plow that snow, where  
24     are they going to put that snow? You're only  
25     talking about ten percent green space in order to

1 put that snow at.

2 I mean, in my Morningside community, we  
3 have four townhouse communities with four separate  
4 roads, and basically, there for storm management.  
5 They have to plow out each of those areas and just  
6 pile it up onto Bregman Road and allow Bregman  
7 Road to tolerate that extra snow from melting and  
8 things of that nature.

9 But now that you're talking about  
10 putting this small community in here with all  
11 these townhouses, you know, if we get a drastic  
12 snowstorm of 12, 15, 20, 25 inches of snow, which  
13 will happen, where is that going to do and, you  
14 know, how is that going to do that?

15 Has that been a part of this storm  
16 management plan in planning for a 10-inch,  
17 20-inch, 30-inch snowstorm, because they do come?

18 MS. ROGERS: Madam Hearing Examiner, I  
19 would object to the questions regarding plowing.  
20 Mr. Kelso hasn't testified regarding plowing. He  
21 did attempt to answer what would happen -- how the  
22 stormwater facilities would handle the snow and  
23 kind of filtering the sediment, but it sounds  
24 like, you know, Mr. Nuquist is asking questions  
25 about how the plows are going to run on these

1 roads, and that's not something that --

2 HEARING EXAMINER SOKONI: But aside from  
3 how the plows will run, I think he ends by saying  
4 if you have this accumulation of, you know -- like  
5 this huge accumulation of snow, eventually that  
6 snow melts, right? Does that also still go into  
7 the stormwater?

8 A Yeah, a lot slower than what, you know,  
9 a ten-year rainfall event would do.

10 HEARING EXAMINER SOKONI: Okay. So  
11 that's the answer.

12 A Yeah.

13 MR. NUQUIST: Thank you.

14 HEARING EXAMINER SOKONI: Do we have one  
15 more person on --

16 THE COURT REPORTER: One more.

17 HEARING EXAMINER SOKONI: One more on  
18 Zoom.

19 Toni? Yes.

20 CROSS-EXAMINATION

21 BY MR. DEBEROCK:

22 Q Good afternoon, Mr. Logan. I am trying  
23 to understand the stormwater management system, so  
24 I have a couple of questions there. The first  
25 question is, you said that the stormwater

1 management system is size-based, and I believe  
2 it's in the exhibit as well, is size-based on a  
3 ten-year storm; is that correct?

4 A The storm drain system, correct.

5 Q And what volume of water are we talking  
6 about when we say a ten-year storm?

7 A It's, I mean -- the exact volume, you  
8 know --

9 Q Just like how much rainfall in an hour  
10 would that be equivalent to?

11 A Ten-year, 7.07 inches per hour.

12 Q Okay. And when you're designing this,  
13 what source are you using for assessing what  
14 actual rainfall the site has been experiencing?

15 A It's the Montgomery County drainage  
16 design criteria.

17 Q Okay. So there's no statistics on what  
18 actual rainfall has been? It's, like, historical?

19 A It's based on empirical data.

20 Q Okay. The microbio retention  
21 facilities, as I understand them, they're  
22 basically rain gardens; is that correct?

23 A Very similar.

24 Q Very similar. Okay. And what volume of  
25 water can those facilities accommodate?

1           A     So the stormwater management facilities,  
2     such as the microbio facilities, are not, you  
3     know, capturing volume.

4           Q     Okay.

5           A     Those are made for stormwater management  
6     treatment.

7           Q     Right.

8           A     Every microbio facility requires an  
9     under-drain system with perforated PVC to slowly  
10    drain out the water that's filtering through, as  
11    well as a riser system, which captures the  
12    ten-year storm and larger.

13          Q     Okay. So is that riser system -- so if  
14    you get a ten-year storm, if you get something  
15    that's, you know, as you said, seven inches per  
16    hour of rain, and those bio-retention facilities  
17    overflow, where does the water go? I assume that  
18    that water would not be treated, correct?

19          A     Maryland state law does not require the  
20    treatment of a ten-year storm.

21               MR. DEBEROCK: Okay. That's all my  
22    questions. Thank you.

23               HEARING EXAMINER SOKONI: I think we  
24    have no one else on Zoom for cross-examination.

25               Oh, yes.

1 MS. ROSENFELD: Can I ask just one  
2 follow-up question?

3 RECROSS-EXAMINATION

4 BY MS. ROSENFELD:

5 Q I think I understood you to say that a  
6 ten-year storm is 7.07 inches per hour. Is it  
7 possible you misspoke?

8 A With the time and concentration of five  
9 minutes, the ten-year intensity duration frequency  
10 is 7.07 inches per hour.

11 MS. ROSENFELD: Okay. Thank you.

12 THE WITNESS: You're welcome.

13 HEARING EXAMINER SOKONI: And the source  
14 you're --

15 THE WITNESS: Montgomery County drainage  
16 design criteria, Department of Transportation,  
17 final November 7, 2013. I believe it's '14,  
18 actually. Yes, revised final June 10, 2014.

19 HEARING EXAMINER SOKONI: We've got a --

20 MS. ROGERS: Just a few.

21 REDIRECT EXAMINATION

22 BY MS. ROGERS:

23 Q I guess I'll stick with stormwater since  
24 that's where we left off. Mr. Kelso, you've  
25 obviously -- well, is a stormwater management



1 concept plan, I would like to reiterate, required  
2 at this LMA stage?

3 A No.

4 Q Have you begun to evaluate the  
5 stormwater design for the site in detail in  
6 anticipation of a preliminary plan?

7 A Great detail.

8 Q And so in some of the details you're  
9 providing now, are they in anticipation of that  
10 next step, the stormwater concept?

11 A That's correct.

12 Q So they're beyond the stage of the  
13 stormwater strategy?

14 A That's correct.

15 Q And in your professional opinion --  
16 well, I'm sorry, let me ask another question  
17 first, which is in approving a stormwater  
18 management concept plan at the time of preliminary  
19 plan, is there a very specific state and county  
20 standard that must be met to get a stormwater  
21 concept plan approved?

22 A Yes.

23 Q And in your professional opinion, based  
24 on the analysis you've done to date, will this  
25 project be able to provide stormwater management

1 in accordance with county and state requirements  
2 to get an approved stormwater concept plan?

3 A Yes.

4 Q Regarding the HPA, is it typical to have  
5 an approved HPA at the time of local map  
6 amendment?

7 A Not that I'm aware.

8 Q And the HPA, what's the appropriate time  
9 in your experience for the approval of an HPA?

10 A Preliminary plan.

11 Q Regardless, as you testified to, have  
12 you submitted an HPA plan and begun that process?

13 A Yes.

14 Q And have you received comments from WSSC  
15 on the HPA plan?

16 A Yes.

17 Q And did WSSC in those comments raise any  
18 concerns with the adequacy of the adjacent  
19 infrastructure? And were any comments indicating  
20 that there would need to be any infrastructure  
21 upgrades to accommodate the water, sewer from this  
22 site?

23 A There was no comments in regards to  
24 capacity issues.

25 Q And will an HPA need to be approved

1 before the subsequent entitlements, and then  
2 ultimately building permits?

3 A Yes.

4 Q And going back to stormwater and storm  
5 drain, in your professional opinion, is it typical  
6 to direct water to a public closed drain system  
7 versus sheet flowing off the site?

8 A Yes.

9 MS. ROGERS: I think those are all of  
10 our questions.

11 HEARING EXAMINER SOKONI: Thank you.

12 Okay. I think the Applicant is done  
13 with case in chief, right?

14 I'm sorry to take us back to scheduling  
15 because I thought we had concluded that, but I got  
16 a response on the room. Of course, this is the  
17 council room, and we always have to check with  
18 their schedule before we can borrow this room. So  
19 I'm told 27th, I think, was one of our dates.  
20 27th, apparently, it's highly likely that we can  
21 have access to the room. The 15th is a maybe.

22 And I received word that it's much  
23 easier to secure this room on a Tuesday. So I  
24 just was curious, because the 15th is a Thursday,  
25 sorry to take us back, but does that Tuesday, the

1 13th, work? Just to increase the chances that --  
2 it doesn't.

3 Okay. You know what? Let's keep it.  
4 We'll keep the dates 15th and 27th, and hopefully  
5 we get the room. If we don't, we'll figure it  
6 out.

7 So the hearing is adjourned until  
8 January 15th, same location, different year, 2026.

9 (Off the record at 5:01:09 p.m.)

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CERTIFICATE OF COURT REPORTER - NOTARY PUBLIC

I, Brendan Cuenca, the officer  
before whom the foregoing deposition was taken, do  
hereby certify that said proceedings were  
electronically recorded by me; that the foregoing  
transcript, to the best of my ability, knowledge  
and belief, is a true and accurate record of the  
proceedings; and that I am neither counsel for,  
related to, nor employed by any of the parties to  
this case and have no interest, financial or  
otherwise, in its outcome.

*Brendan Cuenca*

---

Brendan Cuenca, Notary Public  
for the State of Maryland

CERTIFICATE OF TRANSCRIBER

I, Deborah S. Anderson, do hereby certify  
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annotations of the proceeding take on December 2,  
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neither counsel for, related to, nor employed by  
any of the parties to this case and have no  
interest, financial or otherwise, in its outcome.

*Deborah Anderson*

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Deborah S. Anderson, CET-998

December 10, 2025

Transcript of Hearing - Day 2  
 Conducted on December 2, 2025

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