

OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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NATIONAL VIEW : Case No. A-10055
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A hearing in the above-entitled matter was held on
May 5, 2021, at the Prince George's County Office of Zoning,
County Administration Building, Room 2174, Upper Marlboro,
Maryland 20772 before:

Maurene McNeil
Hearing Examiner

	Page 2
A P P E A R A N C E S	
On Behalf of the Applicant:	
Traci Scudder, Esq.	
On Behalf of People's Zoning:	
Stan Brown	
* * * * *	
	Page
Testimony of Mark Ferguson	6
Testimony of Pamala Godard	99
Testimony of Janet Gingold	108
Testimony of Bonnie Bick	115
Testimony of Karen Egloff	123
Testimony of Ronald Weiss	144
* * * * *	
Exhibits	Marked
Exhibit No. 110	154

Page 4

1 MS. SCUDDER: Yes, I am. Well, in, I just wanted
2 to take up one preliminary matter, matter, Madam Examiner;
3 that is we did bring back a redacted copy of the Teracon
4 report and if, you know, we could submit that into the
5 record, I can send it over to you now.
6 MS. MCNEIL: And were you able to show it to Mr.
7 Brown?
8 MS. SCUDDER: No, I have not shown it to Mr. Brown
9 ahead of this meeting, but if you want, I can email it right
10 now and maybe he can take a look at the redacted version
11 and, at some point, and let us know if it's acceptable.
12 MS. MCNEIL: Okay. So, you do that, and then
13 we'll bring this up again. And I was trying to remember,
14 what exhibit number was that before? Well, in any event, in
15 this virtual world, it's difficult to substitute exhibits
16 since we've already had it out there. So, the prior exhibit
17 will be marked and not a part of the record, and you'll get
18 another exhibit number for this exhibit once Mr. Brown has
19 had a chance to look at it.
20 MS. SCUDDER: Okay. And to answer your question,
21 the prior exhibit was the Teracon report, the prior exhibit
22 was Exhibit 78.
23 MS. MCNEIL: That's what I thought.
24 MS. SCUDDER: Also, Madam Examiner, with regard to
25 Mr. Ferguson's resume, which was accepted into the record

Page 3

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

2 MS. MCNEIL: Good morning, everyone. Today is --

3 MS. POTEAT: Wait, wait, wait, wait, wait. Okay.

4 I'm sorry. It wouldn't go. It's ready. I'm sorry.

5 MS. MCNEIL: Good morning, everyone. It's May 5,
6 2021, Cinco de Mayo. We are here, we're here on A-10055,
7 Harborview, LLC. We're continued from two prior hearings
8 and it's a request to rezone their property from the RR, R-
9 55 zone to the MXT zone. Before we start, let's remember
10 that this matter is being recorded, so if you're not
11 speaking, you should probably try to keep yourself muted.
12 If you want to cross-examine a witness, it will be
13 great to put it in the chat and then we'll try to call you
14 in the order of the people who listed their request in the
15 chat; and when you're cross-examining, please make it a
16 question. We can't allow a lot of argument or testimony
17 during cross-examination.
18 So, if counsel would identify themselves for the
19 record?
20 MS. SCUDDER: Yes, Traci Scudder representing the
21 Applicant in this matter.
22 MR. BROWN: Good morning. Stan Brown, People's
23 Zoning Counsel.
24 MS. MCNEIL: Okay. Thank you both. Ms. Scudder,
25 are you ready to proceed with your next witness?

Page 5

1 last time, I don't have an updated exhibit list. Can you
2 tell me the number that Mr. Ferguson's resume is on the
3 exhibit list? It should be, you know --
4 MS. MCNEIL: Exhibit 106.
5 MS. SCUDDER: 106?
6 MS. MCNEIL: 106.
7 MS. SCUDDER: Thank you. Okay.
8 MS. MCNEIL: And when you get a chance, we'll
9 double-check about Teracon because my 78 says a letter from
10 Burkard (phonetic sp.). Is Burkard part of Teracon?
11 MS. SCUDDER: That is, it is.
12 MS. MCNEIL: Okay.
13 MS. SCUDDER: It is confusing on the exhibit list
14 the way it's labeled, but --
15 MS. MCNEIL: Okay.
16 MS. SCUDDER: -- that is the Teracon report, and I
17 just hit send with regard to the redacted version. So, Mr.
18 Brown has that now.
19 MS. MCNEIL: Okay.
20 MS. SCUDDER: And --
21 MS. MCNEIL: Any other procedural --
22 MS. SCUDDER: -- I -- I'm sorry.
23 MS. MCNEIL: I was just saying any other
24 procedural matters?
25 MS. SCUDDER: No, ma'am.

Page 6

1 MS. MCNEIL: Okay.
2 MS. POTEAT: Excuse me, Ms. Scudder. You should
3 have gotten an updated version of the exhibit list this
4 morning.
5 MS. SCUDDER: Okay. I might have gotten off my
6 computer by the time you sent it, Ms. Betty, so thank you
7 very much. If you're, if you're ready for us to proceed,
8 Madam Examiner, I'll go ahead and call my witness, my first
9 and only witness today, Mr. Mark Ferguson.
10 MS. MCNEIL: Okay. Mr. Ferguson --
11 MS. SCUDDER: Good morning, Mark.
12 MR. FERGUSON: Good morning, Madam Examiner.
13 MS. MCNEIL: Good morning. Do you swear or affirm
14 under the penalties of perjury that the testimony you shall
15 give will be the truth and nothing but the truth?
16 MR. FERGUSON: I do.
17 MS. SCUDDER: Mr. Ferguson, if you could please
18 state your full name and address for the record?
19 MR. FERGUSON: My name is Mark Ferguson. I'm a
20 land planner with RDA Site Design at 9500 Medical Center
21 Drive, Suite 480, in Largo, Maryland 20774.
22 MS. SCUDDER: Okay. Well, you already covered my
23 question number two.
24 Madam Examiner, I would like to offer Mr. Ferguson
25 as an expert land planner in this case. As you know, he has

Page 7

1 testified previously on number occasions before the Prince
2 George's County Zoning Hearing Examiner, and so we would ask
3 that he be accepted as an expert in this case without
4 qualification if that's okay with you?
5 MS. MCNEIL: Mr. Ferguson, you'll be accepted as
6 an expert in the area of land use planning.
7 MR. FERGUSON: Thank you, Madam Examiner.
8 MS. SCUDDER: Mr. Ferguson, are you familiar with
9 the subject property which is before the Zoning Hearing
10 Examiner today?
11 MR. FERGUSON: I am.
12 MS. SCUDDER: And are you familiar with the
13 Technical Staff Report?
14 MR. FERGUSON: I am.
15 MS. SCUDDER: Are you familiar with the various
16 county planning documents which are relevant to the subject
17 application and can you list those plans for the Examiner?
18 MR. FERGUSON: I can, I, I, I am and I can. So,
19 we have the 2014 Plan 25, Prince George's General Plan. We
20 have two Master Plans, or Master Plan and a Sector Plan.
21 So, we have the 2000 Master Plan for the heights and
22 vicinity; and we also have the, gosh, I can't remember the
23 date of the, the Eastover, the Eastover Sector Plan as well.
24 MS. SCUDDER: I think that one was 2014.
25 MR. FERGUSON: It is --

Page 8

1 MS. SCUDDER: I believe --
2 MR. FERGUSON: -- in fact, it is, in fact,
3 February of 2014. Thank you. And, of course, there are a
4 number of functional Master Plans, including the 2017 Green
5 Infrastructure Plan, the 2009 Master Plan of Transportation,
6 the Historic Sites and District Plan, and then of lesser
7 importance things like Public Facilities Master Plan, the
8 Water Resources Master Plan. The Parks Plan 2040 Master
9 Plan is another, or Formula 2040, is another functional
10 Master Plan that is relevant.
11 MS. SCUDDER: Okay. And did you prepare a report
12 and analysis as to the land planning matters relevant to the
13 approval of this application?
14 MR. FERGUSON: I did, and I believe that's Exhibit
15 60 in Binder No. 2.
16 MS. SCUDDER: Yes. And do you adopt the contents
17 of this report as part of your testimony?
18 MR. FERGUSON: Yes, I do.
19 MS. SCUDDER: Did you make a personal inspection
20 of the subject property and its surrounding neighborhood?
21 MR. FERGUSON: I did.
22 MS. SCUDDER: And what did the Technical Staff
23 define as the neighborhood of the subject property and do
24 you agree with the Staff's definition?
25 MR. FERGUSON: Madam Examiner may, may smile. I

Page 9

1 do, in fact, agree with the, with the Staff's definition. I
2 certainly don't always, but in this case I do. They defined
3 the neighborhood as on the north, the, the northern boundary
4 of Prince George's County alongside the District of
5 Columbia; on the east Maryland Route 210, Indianhead
6 Highway; on the south, I-495, the Capital Beltway; and on
7 the west, the western boundary of Prince George's County at
8 the Potomac River, and I do agree with that.
9 MS. SCUDDER: Could you describe the neighbor --
10 well, you just described the neighborhood of the subject
11 property. Did you prepare an exhibit illustrating the
12 neighborhood of the subject property?
13 MR. FERGUSON: I did, and that's Exhibit 67 in
14 Binder 2, and I think I would ask if Staff could bring that
15 up, it will be useful for the next little bit of testimony.
16 MS. SCUDDER: Okay. And that was Exhibit 67,
17 right?
18 MR. FERGUSON: 67 in Binder No. 2, that's correct.
19 MS. SCUDDER: Yes. And are you familiar with the
20 criteria of Section 27-213(a) for approval of the MXT zone?
21 MR. FERGUSON: I am.
22 MS. SCUDDER: Is the defined neighborhood relevant
23 to the first of those criteria?
24 MR. FERGUSON: It is and I'll refer back to Mr.
25 Lenhart's testimony a week ago and, you know, he described

1 that the, the term neighborhood is not defined in the zoning
 2 ordinance and so, therefore, one has to go to the
 3 dictionary. And when one does go into the, the dictionary,
 4 you find that the vicinity of, of, the definition of, excuse
 5 me, vicinity is not defined, so you go to the dictionary;
 6 and when you, when you go and look up the term vicinity, you
 7 know, one of the definitions is neighborhood. And so, in
 8 previous Zoning Map Amendment cases regarding the MXT zone,
 9 certainly one I recall immediately is, is A-10043 for St.
 10 Barnabas mixed use park. That, that definition was of, of
 11 vicinity was used and so, therefore, in that case it was
 12 found that if an interchange is within the limits of the
 13 defined neighborhood, that it is, in fact, in the vicinity
 14 of, of the, the property which is the center of that
 15 neighborhood. So, Exhibit 67, which is on the screen, now
 16 shows in a green line the limits of the defined neighborhood
 17 by Staff, which I agree with. The subject property is
 18 outlined in red and the limits of the interchange, which
 19 we'll discuss in a moment, actually two interchanges, are in
 20 blue.
 21 MS. SCUDDER: Okay. Were you present when Mike
 22 Lenhart defined interchange and the components of an
 23 interchange, and do you agree with the definition as it
 24 relates to zoning?
 25 MR. FERGUSON: Yes, I was present, and I do agree

1 with Mr. Lenhart's definition from a zoning perspective.
 2 MS. SCUDDER: Are the limits of the interchanges
 3 in the project neighborhood illustrated on Exhibit 67?
 4 MR. FERGUSON: They are and they're, they're
 5 outlined in blue, and really, the, the tentacles, if you
 6 will, that extend beyond the interchanges are the limits of
 7 those weaving lanes and ramps that, that, that Mr. Lenhart
 8 described in his testimony. The blue dots, by the way, are
 9 the center points of the crossing of the two major roads
 10 both of, on the right, Indianhead Highway, and the Capital
 11 Beltway on the left of Interstate 295 and the Capital
 12 Beltway.
 13 MS. SCUDDER: And, and did you capture the street
 14 view images of certain parts of the Beltway and Indianhead
 15 Highway interchange from Google Earth?
 16 MR. FERGUSON: I did. I did. And those are,
 17 those are, again, Exhibits 51 and 82 in Binder No. 2, and I,
 18 what those, what those really do is supplement Mr. Lenhart's
 19 testimony who really referred to the conditions at the
 20 interchange, particularly of Indianhead Highway and the
 21 Capital Beltway and how the, the terminus of the ramp from
 22 south or I like to call it westbound I-495 onto Indianhead
 23 Highway shows how traffic is directed down Bald Eagle Road
 24 to --
 25 MS. SCUDDER: Mr. Ferguson, should we, I'm sorry

1 to interrupt you, but should we ask that those exhibits be
 2 called up since you're describing them?
 3 MR. FERGUSON: I, I, I mean they're really,
 4 they're really more relevant to Mr. Lenhart's testimony, so
 5 --
 6 MS. SCUDDER: Okay.
 7 MR. FERGUSON: -- of the two, if you want to pull
 8 up 51, that's fine; and, and here, this is, this is taken, I
 9 used street view, by the way, instead of using the pictures
 10 which I tried to take from the windshield of my car driving
 11 through the interchange, that was really unsatisfactory from
 12 a composition perspective and I think we're all a little
 13 lucky that I'm able to testify here to you today in sound
 14 body; but the Google Earth images do accurately represent
 15 the conditions existing today and so I thought there were a
 16 better to use them; but you can see the sign. This is
 17 looking from the end of the ramp from westbound, or
 18 southbound I-495 onto Bald Eagle School Road, and you see
 19 the sign directing you to Tanger Boulevard, National Harbor,
 20 the Gaylord Convention Center and the MGM Resort.
 21 So, that, that was really just the, the essence of
 22 those; and Mr. Lenhart's testimony really described from the
 23 point-of-view of this sign how Bald Eagle School Road
 24 functions as a part of the interchange of 210 and I-495; but
 25 if we could go back to Exhibit 67? I'm sorry, Betty, or

1 whoever is controlling, could we go back to Exhibit 67
 2 please? Thank you.
 3 So, from Mr. Lenhart's testimony, the, the extent
 4 of the components of the interchange, which is to say the
 5 ramps, the weaving lanes, the merge lanes are shown as the
 6 tentacles extending out from the, from the crossing point of
 7 the interchange, if you will, and that's what has been
 8 defined in blue.
 9 MS. SCUDDER: Okay. Thank you, Mr. Ferguson. Can
 10 you please describe from a land use or land planning
 11 perspective the purpose of requiring property that is the
 12 subject of an MXT rezoning to be within the vicinity of an
 13 intersection or interchange of two roads that are classified
 14 as arterial or higher?
 15 MR. FERGUSON: I can and, and, again, I'm really
 16 echoing the testimony of Mr. Lenhart from last week; but in
 17 summary, the idea is really to take advantage of the nexus
 18 of activity which exists at the crossing of two high-
 19 traffic, volume routes; and that, that brings a lot of
 20 people together at a particular location; and that high
 21 level of transportation activity, most of it vehicular when
 22 we're talking about the intersection or interchange of two
 23 high classification roadways, then activates a property and
 24 makes it suitable for high-density, high-density
 25 development; and in the case of MXT, high-density, mixed use

Page 14

1 development.

2 MS. SCUDDER: What is the full name of the MXT

3 zone?

4 MR. FERGUSON: The full name is the mixed use

5 transportation-oriented zone.

6 MS. SCUDDER: In your expert opinion, what is

7 transportation orientation from a land use perspective, and

8 what is the relationship of the MXT zone to a transportation

9 element?

10 MR. FERGUSON: Well, to answer the second

11 component first, the relationship of the MXT zone to the

12 transportation element is really what I just described.

13 It's, it's really to bring together that nexus of activity

14 that's associated with high-volume transportation facilities

15 with high-intensity land use; and really transportation-

16 oriented uses; and that's more than just transit

17 orientation. Transit orientation is a component, but not

18 the sole component of transportation orientation; and, and

19 because transit trips even, even before the pandemic and the

20 decline in transit ridership, transit trips are only 12 to

21 at most, or were only 12 to 15 percent of total vehicle

22 trips. So, really, the vast, vast majority of

23 transportation activity is still, and in my opinion will

24 remain, vehicle-oriented.

25 So, what you, what you want to do with the MXT

Page 15

1 zone is orient intense uses to intense transportation

2 facilities; and that way they can draw their occupants,

3 their visitors, their patrons from that high transportation

4 facility nearby, not to spread high traffic through roads

5 and other facilities that aren't designed for them to leave

6 quieter areas for quieter development, and to focus loud and

7 busy areas around busy facilities.

8 MS. SCUDDER: With the purposes in mind for

9 criterion one of Section 27-213(a)(1), and based on your

10 expert opinion regarding transportation orientation, what is

11 preferred, what is the preferred nature of the relationship

12 between an MXT zoning classification of a piece of property

13 and the transportation network?

14 MR. FERGUSON: Well, so --

15 MS. SCUDDER: I think you may have touched on that

16 a little bit in your, your prior testimony.

17 MR. FERGUSON: Yes, okay, I did. There is a, the

18 consequential relationship between the proximity to high-

19 intensity transportation facilities and land use because

20 the, the idea of policy as you're trying to capitalize on

21 the vehicular traffic that, and, and some of that may be

22 transit, you know, bus vehicular; but supportive mix of uses

23 and higher densities, intensities which are supported by the

24 MXT zone.

25 MS. SCUDDER: Okay. And can you summarize Staff's

Page 16

1 analysis as it relates to criterion 1 and the subject

2 property's location to the interchange of I-495 and Maryland

3 210?

4 MR. FERGUSON: I mean I did. Staff's discussion

5 of that is on pages 17 and 18 of the Technical Staff Report;

6 and, again, Mr. Lenhart really addressed this in his

7 testimony as well, but in summary, you know, they said,

8 look, the, the idea is a half mile walking distance from the

9 crossing point of the interchange; and that's, that's how

10 they analyzed it.

11 MS. SCUDDER: Well, from that perspective, though,

12 is the Staff's measurement from the center point of the

13 interchange correct?

14 MR. FERGUSON: No and, again, as Mr. Lenhart

15 testified, and I certainly agree from a land use

16 perspective, you know, walking distance is important, but

17 you have to measure it from somewhere that you can walk from

18 and, you know, the center point of an interchange of two

19 high-classification roads like Indianhead Highway and, and

20 I-495 is about the most hostile environment to pedestrians

21 that there is. Really, when you, you look at Exhibit 67 and

22 you see just how far those elements of the interchange

23 extend from the center point, you'll see that it, it really

24 is about a mile to cross the interchange from one of its

25 ends to the other; and very often, even basic pedestrian

Page 17

1 needs, such as sidewalks, don't exist because from a

2 pedestrian standpoint, there's no there, there. There's

3 nowhere for you to go. There won't be any bus, you know,

4 there won't be any buildings; there won't be any bus stops,

5 you know? All you're doing is crossing from one end to the

6 other. So, pedestrian orientation to the crossing point of

7 an interchange is, it's nonsensical.

8 MS. SCUDDER: Okay. And I'm, I'm going to wrap

9 this sort of line of questioning up. I saw Mr. Brown turn

10 on his mike, so I'm not sure how much further he's going to

11 let me go, but I would just ask in your expert opinion, is

12 the subject property located within the vicinity of this

13 interchange in such a manner that it actually interacts with

14 the transportation orientation of the freeway interchange?

15 MR. FERGUSON: It, it is, and, again, I'll refer

16 back to Mr. Lenhart's testimony. This is the first property

17 that you can get to in the northwest quadrant of the

18 interchange, right? Everything else is denial of access;

19 and so, and, in fact, as you can see from Exhibit 67, you

20 know, the subject property actually fronts on the

21 interchange. So, it absolutely is within the vicinity.

22 MS. SCUDDER: And I think there was also a, an

23 Exhibit 76, you know, that we submitted into the record that

24 was like the plat.

25 MR. FERGUSON: There is. And, and I looked at

Page 18

1 Binder No. 2 this morning. It is still cut off. I can
2 share my screen. I have it queued up, or if I can share my
3 screen, I have the, the untruncated version queued up if
4 that's something that Madam Examiner wants me to do; but I
5 would need --
6 MS. MCNEIL: Only if you can, can you submit the
7 untruncated version in the record?
8 MR. FERGUSON: It was last week, Madam Examiner,
9 and I believe it's, it's the binder function that, that --
10 MS. MCNEIL: Oh. Yes, okay.
11 MR. FERGUSON: Okay. So --
12 MS. SCUDDER: Well, I think last time, Mark, I
13 think, I think Staff may have pulled up the one that was
14 already in the record instead of the new one that we
15 submitted. So, there it is. Okay. That's good.
16 MR. FERGUSON: There, there is, and the, the one
17 that's in the record is cut off at approximately my cursor.
18 MS. SCUDDER: Yeah, but we, we --
19 MR. FERGUSON: So, we can't really see the right
20 end, the right end of it; but this is the full, this is the
21 full exhibit.
22 MS. SCUDDER: And, Madam Examiner, we did submit
23 this last time and it's one of the later exhibits I'm, I'm
24 pretty sure.
25 MS. MCNEIL: (Indiscernible.)

Page 19

1 MS. SCUDDER: Okay.
2 MR. FERGUSON: And so, what, what this exhibit is,
3 Madam Examiner, is, is SHA Plat No. 17273, which was the
4 state right-of-way plat that illustrated the taking for the
5 interchange of the northwest quadrant of I-295, I'm sorry,
6 of Indianhead Highway, Maryland 210 and 495. The subject
7 property is outlined in red on it.
8 MS. SCUDDER: And, and, and does the entrance to
9 the subject property have frontage on and vehicular access
10 to the state property which encompasses the interchange?
11 MR. FERGUSON: It, it does; and, and you can see
12 where my cursor is, this right-of-way line of through
13 highway, which as Mr. Lenhart testified, is denied access
14 and that right-of-way line through highway ends where my
15 cursor is right now; and then it just becomes a label
16 delineating the start of just right-of-way lines running my
17 cursor over it; and this L-shaped area at the northern end
18 of the red is the frontage. The shaded area is, in fact,
19 the SHA right-of-way. This area that my cursor is over
20 right now is not shaded. That was actually the old Broad
21 Creek to Washington City main road, which is referred to in
22 the 1870s, 1873 deed to Mr. Henry Butler; and so that was
23 considered by the SHA as already being public right-of-way
24 when this plat was recorded, or was created in 1959, 1960.
25 MS. SCUDDER: Thank you, Mr. Ferguson. I would

Page 20

1 like to, I would like to turn your, I would like to turn
2 your attention to some different subject matter, that being,
3 you know, the General Plan, the Master Plan and the
4 functional plans that are applicable in this case. What is
5 the required finding of 27-213(a)(2)?
6 MR. FERGUSON: It is that the approval of the MXT
7 zone not substantially impair the integrity of improved
8 General Plan, Master Plan, or sectional Master Plan and is
9 in keeping with the purposes of the MXT zone.
10 MS. SCUDDER: And, and how do you as an expert
11 land planner judge whether the plan is substantially
12 impaired?
13 MR. FERGUSON: Well, that's, that's an important
14 question. So, an impairment would be anything that does not
15 conform with the plan. So, if the plan says do this, and
16 you do that, that is by definition an impairment; but
17 substantial impairment of the whole plan is one where you
18 have to look at the whole plan, not an individual, not any
19 individual requirement or recommendation of that plan in
20 isolation. So, therefore, it becomes a balancing test for
21 me where you look at the summary of the conformities and the
22 summary of the non-conformities, and weigh those together
23 and, you know, try to, try to evaluate the whole, you know,
24 the whole of the plan in the context of the, in the context
25 of the application.

Page 21

1 MS. MCNEIL: Mr. Ferguson, excuse me a moment.
2 Caller 2, could you mute yourself, and could you identify
3 yourself first? Caller 2?
4 MS. MANN: Cynthia Mann, resident of Forest
5 Heights. I'm sorry. I thought I pushed the mute button.
6 MS. MCNEIL: Thank you, Ms. Mann.
7 MS. SCUDDER: Are you familiar with the General
8 Plan for Prince George's County, Mr. Ferguson?
9 MR. FERGUSON: I am.
10 MS. SCUDDER: And what is the General Plan's
11 growth policy recommendation for the subject property?
12 MR. FERGUSON: It puts the subject property in the
13 established community's area.
14 MS. SCUDDER: Would the approval of this
15 application substantially impair the General Plan because of
16 that recommendation?
17 MR. FERGUSON: Well, as I just testified, first,
18 you can't look at just that recommendation; so, if you don't
19 conform to a particular recommendation or policy, that may
20 be an impairment; but that doesn't mean that if you impair
21 that recommendation that you're substantially impairing the
22 plan as a whole. You do need to be context-sensitive,
23 right? You need to look at the location of the application,
24 its size, other land uses, public facilities, environmental
25 constraints to form that holistic view on which you judge

Page 22

1 whether the impairment rises to the level of substantial;
2 but the other thing is in this particular case, you, you
3 have to look at specifically what does the established
4 community's growth area mean, and that is that it's most
5 appropriate for context-sensitive infill. And I would argue
6 the context of this subject property is really the most
7 important component of the entire application, namely, that
8 not only is it in the immediate vicinity of one major
9 interchange and is, in fact, by the neighborhood definition,
10 in the vicinity of a second major interchange; but it is
11 immediately adjacent to not one, but two General Planned
12 centers, one of which is a regional transit district.
13 So, with that context and the recommendation of
14 the existing communities, established communities' growth
15 policy area, I would contend that we're actually in
16 conformance with the recommendation of the growth policy for
17 context-sensitive development because of the particular
18 context of this property, it's immediate proximity to two
19 General Plan centers; and, of course, what's relevant
20 statutorily for, for criteria one, it's, it's immediate
21 proximity to a major interchange.
22 MS. SCUDDER: What is the General Plan's
23 description of the generalized future land use for the
24 subject property?
25 MR. FERGUSON: It is residential low for the

Page 23

1 Forest Heights lot's portion of the property, and open space
2 for the Butler tract.
3 MS. SCUDDER: Why would the General Plan have
4 described parks and open space future land use?
5 MR. FERGUSON: Well, the, the general, the General
6 Plans, generalized future land use recommendations are
7 specifically referenced in the General Plan as relying on
8 the approved Master Plans and, in fact, says this isn't a
9 recommendation; this land use recommendation is not a
10 recommendation of the General Plan for those land use
11 recommendations; go to the individual Master Plans and/or
12 Sector Plans. And so, when you do go back to the 2000
13 Master Plan for the Heights, you will see that that plan put
14 a recommendation for an MCPC park on the Butler tract.
15 Now since that time in, you know 20, past 20
16 years, the County and Park and Planning have approved and
17 adopted Formula 2040, which is the new Functional Master
18 Plan for Parks; and that, that Master Plan has a completely
19 different structure and, and, and, you know, intent for
20 acquiring new land because the, the focus of the parks has
21 really shifted from small, diverse, dispersed local
22 neighborhood parks to large, multi-generational facilities
23 and large regional parks; and so, when you look at parks
24 referral in this case, which is page 59 of 89 in the back-up
25 to the Technical Staff Report, they actually said we have no

Page 24

1 objection to this rezoning. They have no, the actual quote
2 is, "They have no issues with the Applicant's proposal to
3 rezone the property," and, presumably, that's because, you
4 know, they don't want it anymore. If they did, they would
5 have objected because if it were rezoned to a higher land
6 use classification, they would need to pay more for it when
7 they acquired it; but over the 20 years that the, or almost
8 20 years that the 2000 Heights Master Plan was the, was the
9 relevant parks, you know, intent for the property, they
10 never moved to acquire the property and so, you know, here
11 we are today.
12 MS. SCUDDER: Would the approval of this
13 application impair the General Plans future land use
14 recommendation?
15 MR. FERGUSON: Well, as I just said, you know,
16 the, the General Plans specifically and repeatedly states
17 that it doesn't make specific land use recommendations. It
18 specifies that the future land use recommendations are a
19 function of the Master Plans.
20 MS. SCUDDER: Okay. So, are there specific
21 policies in the General Plan which are relevant to this
22 application?
23 MR. FERGUSON: There are a few. So, the first
24 I'll bring up is Land Use Policy 1. It's the, the, the very
25 first; and that is direct majority of projected new, and

Page 25

1 residential, and employment growth to the regional transit
2 districts in accordance with the growth policy map and the
3 growth management goals set out on Table 17, which is on the
4 same page that's page 110 of the, of the General Plan; and
5 that plan, that, that, that table suggests that 50 percent
6 of the County's new dwelling units over the 25 years that
7 that the table, period that the table references to should
8 go to the regional transit districts; and as I mentioned, we
9 are right next to a regional transit district, namely,
10 National Harbor Center; but it does reserve 20 percent of
11 the growth to the, to the established communities where we,
12 where we are.
13 MS. SCUDDER: Okay. On page 19 of the Technical
14 Staff Report, Staff says that the rezoning of the subject
15 property, quote, "Contradicts the Plan 2035 County's growth
16 policies regarding recommendations to limit higher density,
17 mixed use land uses to the regional transit districts and
18 local centers." Do you agree with that statement?
19 MR. FERGUSON: Not, not really. So, what Staff is
20 referring to is Land Use Policy 7 on page 114 of the General
21 Plan which states, limit future mixed use land uses outside
22 of the regional transit districts and local centers. So,
23 notwithstanding that we are immediately adjacent to both a
24 regional transit district and a local center, the Oxon Hill
25 local center, that that policy doesn't say prohibit mixed

Page 26

1 use land uses, it just says limit; and in the context of the
2 location of this property, frankly, it's proximity to two
3 stations and, of course, you know, its, it's proximity to
4 the transportation, large transportation facilities, the
5 interchanges, you know, this, this, again, goes back to that
6 context-sensitive element of the established communities'
7 recommendations. So, if there is a place outside of the
8 regional transit districts that you do want to have mixed
9 use growth go, this would be it.

10 MS. SCUDDER: Are there any other land use
11 policies that are relevant to this application?

12 MR. FERGUSON: So, an interesting one is land use
13 policy 8.1, which is, I believe, on page 115. That's
14 coordinate land use planning with County municipalities.

15 MS. SCUDDER: Okay. Is the subject property
16 within a municipality?

17 MR. FERGUSON: At least a portion of it certainly
18 is, and I believe there's, there's negotiations to make all
19 of it within, and that would be the, the town of Forest
20 Heights.

21 MS. SCUDDER: Did the County refer this as
22 rezoning application to the town of Forest Heights for
23 comment?

24 MR. FERGUSON: They actually did not.

25 MS. SCUDDER: What about Land Use Policy 9?

Page 27

1 MR. FERGUSON: Land Use Policy 9 is one that the
2 Staff refers to in their, in their report, and I believe
3 that's page 116. That's limit the expansion --

4 MS. MCNEIL: Mr. Ferguson, Mr. Ferguson, I am so
5 sorry to do this to you all, but I'm, I'm writing as I'm
6 listening, so if you would back-up a minute? What did you
7 say about the town of Forest Heights in this -- not whether
8 it was referred to them, but just before that, what were you
9 referencing in the --

10 MR. FERGUSON: Well, I believe I said the
11 Applicant and the town had been negotiating to bring the
12 rest of the property, which is to say the Butler tract. So,
13 the Forest Heights lots are within the town of Forest
14 Heights right now. The Butler tract is not, but the
15 Applicant and the town have been in discussions about
16 extending the municipal boundaries to, to annex the Butler
17 tract.

18 MS. MCNEIL: And you know that how?

19 MR. FERGUSON: Seeing the correspondence, that's
20 all.

21 MS. MCNEIL: Okay. Thank you. I'm sorry.

22 MR. FERGUSON: Yeah, it has not been part of the
23 negotiations. I've just seen the correspondence.

24 MS. SCUDDER: Madam Examiner, he also cited to
25 Land Use Policy LU8.1, which was to coordinate land use

Page 28

1 planning with County municipalities. I didn't, I didn't
2 know if you got that.

3 MS. MCNEIL: Okay.

4 MR. FERGUSON: Thank you. So, I was, I was
5 talking about Land Use Policy 9, which Staff recommends.
6 That policy is to limit the expansion of new commercial
7 zoning outside of the regional transit districts. This is
8 actually not a relevant policy because the MXT zoning is not
9 commercial zoning as defined in, I believe, Section 27-109
10 of the Zoning Ordinance. I might be off by one, you know,
11 one number of that section. The relevant policy is, of
12 course, Land Use Policy 1, which talks about mixed use
13 zoning, I'm sorry, not, that's not 1, that's, that's 7. So,
14 commercial zoning --

15 MS. SCUDDER: Okay.

16 MR. FERGUSON: -- we're not asking for commercial
17 zoning, so, you know, it's not relevant.

18 MS. SCUDDER: Would approval of the subject
19 application impair any of the General Plans of the policies?

20 MR. FERGUSON: Well, I don't believe so. I mean
21 Staff references Housing and Neighborhoods Policy 1, which
22 is to concentrate medium to local density housing
23 development in regional transit districts, and local centers
24 with convenient access to jobs, schools, childcare,
25 shopping, recreation and other services to meet projected

Page 29

1 demand and changing consumer preferences. Now, again, that
2 policy says concentrate, not exclusively put it; but, of
3 course, the second thing is, again, look at the context of
4 this property because we abut two of those General Plan
5 centers, our high-medium to high-density housing development
6 which that, that policy does cover will, in fact, have
7 convenient access to jobs, schools, childcare, shopping
8 recreation and other services like the General Plan
9 recommends.

10 MS. SCUDDER: Okay. So, what about the
11 transportation policies of the General Plan?

12 MR. FERGUSON: Well, there are a couple there
13 that, that this plan will specifically implement. So, the
14 first, obviously, is, is 1.6, which is where feasible and
15 practical require physical connections such as trail
16 connections, bus only streets and roads within new and
17 between new and existing developments in our established
18 communities while making adequate provisions for mitigation
19 of privacy, noise and cut-through traffic concerns.

20 Now, clearly, the principle, and this has been
21 testified to, the principle access to this property will be
22 from the interchange of, of 295 and, and 495, I'm sorry, 495
23 and 210; but it is also proposed to extend a bicycle and
24 pedestrian connection, and likely an emergency vehicle
25 access down to the end of Seneca Drive at the northern end

1 of the subject property so that, in fact, it will complete
2 the trail network, number one; number two, if, if desired,
3 provide for emergency access and provide for the pedestrian
4 connections that have been talked about at length in
5 previous testimony as well.

6 The other transportation policy that's relevant is
7 TM2.2, and that is identifying new transit way corridors
8 that will support the Plan 2035 development priorities and
9 amend the Master Plan of Transportation transit element to
10 include the updated corridors, concentrate medium to high-
11 density residential development along priority transit way
12 corridors to provide the density necessary to sustain higher
13 levels of rail and bus service; and those new transit way
14 corridors include the extension of the Purple Line from its
15 funded terminus at New Carrollton all the way down to
16 National Harbor, in fact, ultimately across the Wilson
17 Bridge to Virginia; and Wilson Bridge was constructed to
18 accommodate a transit way at such time as it arise.

19 And if you look at the Master Plan of
20 Transportation, you'll see that the planned alignment of the
21 Purple Line actually runs immediately to the south, the
22 extended Purple Line runs immediately to the south of the
23 subject property, along Oxon Hill Road, to a potential stop
24 that was designated in the April 2006 Henson Creek, South
25 Potomac planning area on the vacant tract across from the

1 Royal Farms site, now which is right, right across from the
2 Oxon Hill park and ride. If you bring up Exhibit 67, I can
3 show you that as well.

4 So, the idea of, of Policy 2.2 isn't just put new
5 growth where transit is; it's, rather, create the ability
6 for transit to be extended by providing ridership because
7 WMATA --

8 MS. MCNEIL: Miss, I'm sorry, sorry, Mark. Ms.
9 Betty, could you or Ms. Fatima put up Exhibit 67 please?

10 MR. FERGUSON: So, the, the orange, Madam
11 Examiner, with the red dot is the Oxon Hill park and ride,
12 which is in the southwest quadrant of the interchange of I-
13 495 and Maryland 210. Caddy-corner, if you will, or
14 directly across Oxon Hill Road from that orange dot is the
15 Royal Farms; and then across the loop road that goes around
16 MGM, whose name I've, of course, forgotten is a vacant site;
17 and that's where the 2006 Henson Creek Master Plan suggests
18 that a transit stop will, in fact, go.

19 So, the approval of the MXT zone at this property
20 will actually help to support the extension of transit, not
21 just orient this property to the existing transportation
22 uses in the area in accordance with Policy TN2.2 of the
23 General Plan.

24 MS. SCUDDER: So, in your opinion, looking at the
25 General Plan comprehensively and applying a balancing test,

1 would the approval of this application substantially impair
2 the General Plan?

3 MR. FERGUSON: I do not believe that it will. I
4 mean, and I can't, let me say that stronger. I don't
5 actually believe it will impair the General Plan, let alone
6 substantially impair the General Plan.

7 MS. SCUDDER: Thank you, Mark. I would like to
8 move on to discussion about the actual Master Plans for this
9 area. Are you familiar with the Master Plan for this area,
10 and what Master Plan covers this area, and what does it
11 recommend for the subject property?

12 MR. FERGUSON: Okay. So, there are, there are two
13 Master Plans, for a Master Plan and a Sector Plan. So, the
14 Butler tract portion of the property is covered by the
15 November 2000 Master Plan for the Heights and vicinity, and
16 I'll discuss that first. So, the recommendation of that
17 Master Plan was for residential low land use, which
18 corresponded to the existing RR zone; and as I mentioned
19 earlier, ultimately, the acquisition of that property for a
20 park.

21 MS. SCUDDER: Okay. Given this, given this
22 recommendation, you know, would the approval of this
23 Application impair the Master Plans?

24 MR. FERGUSON: Well, so certainly, again, not
25 defined in the ordinance, but anything that isn't

1 residential low development, and the MXT zone would not be,
2 could be construed as an impairment; but the question is not
3 will it impair the Master Plan; the question is, will it
4 substantially impair the entire Master Plan taken as a
5 whole? And so, it's important to remember that the Master
6 Plan is more than just land use recommendations. There are
7 11 elements to this Heights Master Plan, including not just
8 land use, but recommendations for transportation, urban
9 design, public facilities, environment resources, parks,
10 trails, historic preservation and, and focused areas and
11 gateways.

12 MS. SCUDDER: Okay. And is, is, is this
13 application in conformance with the plan's recommendations
14 for transportation?

15 MR. FERGUSON: It is.

16 MS. SCUDDER: Urban design?

17 MR. FERGUSON: So, urban design is an interesting
18 one because there are a number of recommendations in the
19 urban design element of the Heights Master Plan. It would
20 become relevant if this application is approved; but zoning
21 isn't urban design. Zoning is just establishing what are
22 the land uses that are going to be permitted here and what
23 is the limit of the density or intensity that will permitted
24 here? And so, to get to issues that the Master Plan
25 contains regarding urban design, again, if this application

Page 34

1 is approved, you wait to the next stage of the development
 2 review which is, or would be a Conceptual Site Plan; and the
 3 Conceptual Site Plan will, will put a density cap on the
 4 property. People identify where various uses will go. It
 5 will identify what kinds of things need to be buffered and
 6 how much buffer, you know, should, should conceptually be
 7 required. It will contain what the road, what the road
 8 connections should be and it will really start to go into
 9 detail about the level of protection for environmental
 10 resources that may be on the site; but again, that's not
 11 zoning, that's a particular project review which would
 12 happen at a subsequent stage of, of, of, of the project's
 13 development were this application to be approved.
 14 MS. SCUDDER: What about public facilities? Is,
 15 is the application in conformance from a, you know, a public
 16 facilities standpoint with the plan's recommendation?
 17 MR. FERGUSON: Yeah, there would be no impairments
 18 to the plan's recommendations for public facilities.
 19 MS. SCUDDER: Trails?
 20 MR. FERGUSON: This would actually help to, help
 21 to implement them, so the Master Plan does contain
 22 recommendations for a trail to be extended from the end of,
 23 or the norther end of the Bald Eagle School bridge through
 24 the subject property actually along the old alignment of the
 25 Broad Creek to Washington City Road, that old historic road,

Page 35

1 which forms the western edge of the subject property. So,
 2 really, this, the approval and the development of this
 3 property would help to implement those recommendations.
 4 MS. SCUDDER: What about those other elements that
 5 you mentioned earlier?
 6 MR. FERGUSON: Well, I spoke earlier about the
 7 parks in the context of the General Plan. I spoke earlier
 8 about the park's recommendation, which is, seems to really
 9 have been obviated. I think the historic preservation
 10 element can best be reviewed through the HPC's action when
 11 the project was presented to them. This is really their
 12 function is to say what, what happens to a project with,
 13 when presented with a historic review; and the Historic
 14 Preservation Commission was unwilling to say we recommend
 15 denial of this application. Certainly, they will have
 16 multiple opportunities at future stages of the project
 17 review to evaluate the specific impact of a development
 18 proposal on the view shed from Mount Welby on the
 19 preservation of the remains of the, of the, the Butler
 20 House, or of, of memorializing, you know, the, the, the
 21 Butler family's ownership and stewardship of this property
 22 for most of the last 150 years.
 23 So, but at the zoning stage, HPC has already said,
 24 you know, we're not going to, we're not going to recommend
 25 opposing this, this application. The focus area is in

Page 36

1 Gateway's element of the plan on page 51 of the Heights'
 2 Plan. It talks about the Woodrow Wilson Bridge being a
 3 major entry point to the County, and it, it talks about that
 4 that entry point lacks an attractive, well-designed gateway
 5 feature that welcomes motorists to the County.
 6 Now it's not specific. The Master Plan may very
 7 well have been thinking about, you know, a conventional
 8 gateway sign; but just as has been discussed earlier, the,
 9 the development of the subject property could form a
 10 companion, you know, element or a complimentary element to
 11 the MGM so that you don't just have a sign welcoming you to
 12 Prince George's County; you actually have evidence that
 13 there's something good going on here.
 14 Now Staff extended like six pages of ink in the
 15 Technical Staff Report on the environmental recommendations
 16 of the Heights Plan, as well as the Eastover Plan; but to
 17 me, they didn't actually point convincingly to any single
 18 recommendation that would be, that would be impaired, let
 19 alone substantially impaired, that would be impaired by the
 20 approval of this requested rezoning.
 21 So, remember, like the urban design
 22 recommendations, environmental recommendations of the Plan
 23 will need to be addressed at the future development review
 24 of a specific project proposal if this zoning application is
 25 approved; and so, you'll have the Conceptual Site Plan;

Page 37

1 you'll have the Preliminary Plan of Subdivision; and the
 2 Preliminary Subdivision requires Master Plan conformance.
 3 Now people will say, oh well, what about the zoning, if the
 4 zoning would be approved, then that would be a subsequent
 5 action so that you get that, that component to a, a zoning
 6 recommendation would get tossed out, but the environmental
 7 recommendations don't. So, those will actually continue to
 8 shape and guide the physical development of the subject
 9 property is this application is approved.
 10 MS. SCUDDER: What was Staff's conclusion
 11 regarding whether the rezoning of the subject property would
 12 substantially impair the Heights Master Plan and do you
 13 agree, and do you agree with Staff's conclusion?
 14 MR. FERGUSON: Well, on page 20 they say that it
 15 would substantially impair the Heights Master plan. I don't
 16 for the, for the reasons that I, that I talked about. You
 17 know, we complied with everything, really except for the
 18 specific land use map recommendation; and so, on balance, I
 19 believe that the plan would not be substantially impaired by
 20 the approval of higher intensity development at this
 21 location.
 22 MS. SCUDDER: What about the Eastover, Forest
 23 Heights, Glass Manor Sector Plan?
 24 MR. FERGUSON: Yeah, I, I do go over that in, in
 25 pages 13 and 14, and pages 13 and 14 of my, of my Land Use

Page 38

1 Report. The interesting thing to me about the Eastover
2 Master Plan is that it actually doesn't even make a land use
3 recommendation for the subject property. On page 19 of the
4 Eastover Sector Plan, they have a, you know, a generalized
5 land use map and it recommends the land use for the portion
6 of the property which is within the limits of that Master
7 Plan, namely, the Forest Heights lots. The recommended land
8 use is Forest Heights.
9 Now that's not a land use with respect to the town
10 of Forest Heights. So, you know, the, the, the focus of the
11 Eastover Plan was on the commercial corridor of Indianhead
12 Highway immediately outside of the District, namely, you
13 know, the Eastover Shopping Center and the other commercial,
14 strip commercial development on either side of Indianhead
15 Highway for the first half or three-quarters of a mile
16 inside the District line.
17 Now, certainly, there were, there were areas that,
18 that the plan nominally covered, but really its
19 recommendations were focused towards that core commercial
20 area. So, as with, as with the Heights Plan, you know,
21 there are a number of recommendations which will be
22 applicable to the, to the definition of, or to the, to the
23 development review of the subject property if this zoning
24 application is, is, is approved. Even though the, the, the
25 Eastover Plan doesn't actually have elements, you know, it

Page 39

1 talks about urban design as well. It talks about public
2 health safety and welfare. It talks about (indiscernible)
3 and connectivity, and street infrastructure, and, and the
4 environment; and those recommendations will continue to be
5 applicable during the Conceptual Site Plan, the Preliminary
6 Plan and subdivision, the Detailed Site Plan; but as to the
7 zoning, they don't speak to, you know, they don't speak to
8 land use at all.
9 MS. SCUDDER: What was Staff's conclusion
10 regarding whether the rezoning of the subject property would
11 substantially impair the Eastover Sector Plan and do you
12 agree with Staff's conclusion?
13 MR. FERGUSON: So, similarly, they, they include,
14 they opined, of course, that it would impair it; and,
15 similarly, for the same reasons as the, as the Heights Plan,
16 but even more so because we don't even have a land use
17 recommendation for the portion of the subject property
18 within that plan, and that, no, I do not believe at all that
19 it would substantially impair the Eastover Sector Plan.
20 MS. SCUDDER: Which --
21 MS. MCNEIL: Excuse me, one, one second, Ms.
22 Scudder. Do you, do you have much more of this witness?
23 MS. SCUDDER: I just have several more questions,
24 Madam Examiner, and we can kind of go through those quickly.
25 MS. MCNEIL: Well, I'm not trying to rush you.

Page 40

1 I'm just trying to determine if it might be better, since
2 Rules of Evidence are relaxed, if it might be better to stop
3 now to hear some of the cross. This is based on what he
4 said thus far; or if that will throw you off, then I'll ask
5 everyone, I know that several of you want to cross-examine.
6 Just make sure you're writing down your questions.
7 MR. FERGUSON: Yes, Madam Examiner, we are near
8 the end. We are very near the end. I don't, I don't think
9 --
10 MS. MCNEIL: Oh, okay.
11 MR. FERGUSON: -- five minutes to go.
12 MS. MCNEIL: Okay. Go ahead then.
13 MS. SCUDDER: Okay. We're just going to get to
14 the, the end of this Master Plan line of questioning and
15 then we can stop, and then --
16 MR. FERGUSON: Well, let's, let's go through the,
17 let's go through it to the end. I really think it will be
18 quick.
19 MS. SCUDDER: Okay. Okay. Which of the County's
20 many functional Master Plans are relevant to this
21 application?
22 MR. FERGUSON: Well, particularly green
23 infrastructure, historic sites and districts, and, and
24 transportation.
25 MS. SCUDDER: And would the approval of this

Page 41

1 application substantially impair the Green Infrastructure
2 Plan?
3 MR. FERGUSON: In my opinion, no. I discuss that
4 on page 14 of my technical, my Land Use Report; and I would,
5 again, refer back to Ms. Lightsinger's testimony where, you
6 know, there's a contrast between what the Staff said in the
7 Staff Report and the reality of the conditions at the
8 subject site; whereas we actually don't have regulated,
9 natural features or their buffers on the subject property
10 based on actual field investigation. So, you know, to go
11 back and revisit that very briefly, with regard to streams,
12 the regulated streams are perennial streams where water is
13 always flowing; intermittent streams where water is flowing
14 some points of the year during the wet season. The third
15 criteria of stream which apparently exists on the subject
16 property is called an ephemeral stream. Ephemeral streams
17 are not regulated and, in fact, they're always dry except
18 when it's actually raining; and, and what that means is an
19 ephemeral stream is basically a storm drain discharge
20 channel, you know, or, or a drainage swale where water runs
21 when it's raining because that's downhill; but, otherwise,
22 it's dry; and that's all that we have here on this property.
23 So, given that, and given, again, that zoning
24 doesn't impair the environment, if Madam Examiner approves
25 or recommends approval to the District Council of this

Page 42

1 zoning, and they pass an order, the day after that order the
2 property will look exactly the same. It's not until
3 development occurs that you get an impairment and the form
4 of that development gets decided at subsequent phases of
5 development review.
6 MS. SCUDDER: Okay. And so, that sounds like you
7 already sort of addressed my next question which is, would
8 the approval of this application substantially impair the
9 historic sites and District Plan?
10 MR. FERGUSON: I did and, and my opinion is it
11 would not.
12 MS. SCUDDER: And what about the, what about a
13 substantial impairment of the County-wide Master Plan of
14 Transportation?
15 MR. FERGUSON: And, and, again, there, it would
16 not. There are no planned facilities that, that lie over
17 top of, you know, lie within the limits of the subject
18 property and, in fact, you know, because of the proximity of
19 future transit down Oxon Hill Road, development, intense
20 development of this site will support the creation of that
21 future transit system.
22 MS. SCUDDER: So, in summary, in your opinion with
23 reference to the required finding of Section 27-213(a)(2),
24 would the approval of this application substantially impair
25 the General Plan and Area Master Plan or Functional Master

Page 43

1 Plan?
2 MR. FERGUSON: It, it would not, in my opinion.
3 MS. SCUDDER: Okay. And, Madam Examiner, I
4 literally just have three more questions for Mr. Ferguson.
5 Mr. Ferguson, Section 27-213(a)(2) also requires
6 the location of a MXT zone property to be in keeping with
7 the purposes of the MXT zone; and Section 27-542(a) covers
8 the purposes of the MXT zone, is that correct?
9 MR. FERGUSON: It is.
10 MS. SCUDDER: And does this application comply
11 with the applicable purposes listed in Section 27-542(a)?
12 MR. FERGUSON: Well, and, and, again, you know,
13 there are 10 purposes of the MXT zone, but really only the
14 first four speak to locational issues, in other words, where
15 you should put the MXT zone. The remaining six really more
16 cover design issues. So, how do you meet the purposes of
17 design issues? Find that out once, you know, it's time to
18 actually design the, the project; but the first four, you
19 know, purposes 1 and 4, and Mr. Lenhart testified to these,
20 address the relationship of the MXT zone property to the
21 surrounding transportation network. Purpose 3 speaks to
22 maximizing the development potential of the large
23 investment, the large, public investment in these large-
24 scale transportation facilities; and, yes, putting, you
25 know, putting intense development next to large-scale

Page 44

1 transportation facilities is exactly what, what the MXT zone
2 is there for and its approval would, would be in keeping
3 with that purpose.
4 Now purpose number two is to implement
5 recommendations of the General Plan how by creating compact,
6 mixed-use walkable communities enhanced by, you know, a mix
7 of uses. What, what this approval will do is allow the
8 creation of the development that's consistent with the
9 purpose of creating a compact, mixed use, walkable
10 community. Now, you know, it says the purpose of the MXT
11 zone is to implement recommendations, but bear in mind that
12 the regulations for approval of the zone don't require
13 Master Plan conformance. They require that you not
14 substantially impair the Master Plan. So, you know,
15 complaint with a narrow, a narrow interpretation of
16 conformance to a purpose would really be standing, you know,
17 the, the approval criteria on their head. So, I believe
18 that we are in conformance with that purpose and I do
19 discuss all of the others in my, in my Land Use Report.
20 MS. SCUDDER: Okay, and so you, is it your
21 testimony that the application conforms to the purposes of
22 the Zoning Ordinance generally?
23 MR. FERGUSON: It is and, and I go through those
24 in my report. I don't think there's anything that needs to
25 be specifically highlighted here.

Page 45

1 MS. SCUDDER: Okay. My final question for you,
2 Mr. Ferguson, is in conclusion, from a land planning
3 perspective, does this application meet the approval
4 criteria of Sections 27-213(a)(1) and 27-213(a)(2)?
5 MR. FERGUSON: In, in my opinion, it does.
6 MS. SCUDDER: Madam Examiner, that concludes Mr.
7 Ferguson's testimony. I think you wanted to allow the
8 citizens to ask questions at this point?
9 MR. FERGUSON: Or Mr. Brown.
10 MS. MCNEIL: Thank you, but no, I'll ask Mr. Brown
11 first. Mr. Brown, do you have any questions?
12 MR. BROWN: I'll defer to the opposition since
13 they are --
14 MS. MCNEIL: Okay. Okay. And just, I saw Ms.
15 Gingold, are you ready?
16 MS. GINGOLD: Yes.
17 MS. MCNEIL: Okay.
18 MS. GINGOLD: I'm Janet Gingold. Given that the
19 I-495 and 210 interchange is, in your words, hostile to
20 pedestrians, do you anticipate that most of the comings and
21 goings from high mixed, high-density mixed use development
22 in this location would be automobile traffic?
23 MR. FERGUSON: I think much of it certainly will
24 be. I do think that there are really ample opportunities,
25 however, for a pedestrian and bicycle, particularly bicycle

1 activities to occur because of the shortcut. You know, the,
2 the end of Bald Eagle School Road, well, it's not really the
3 end, and, you know, where the subject property, you know,
4 intersects with Bald Eagle School Road is very close to the,
5 to the northern end of a bridge, and on Exhibit 67 it's that
6 little black line that, that crosses the, that crosses the
7 Beltway; and that bridge leads to, right down to the Oxon
8 Hill park and ride, so less than a half mile walk from the
9 entrance of the property to the Oxon Hill park and ride
10 where there are, in fact, four bus routes that have, you
11 know, eight, eight one-direction trips each hour. You know,
12 it's, it, it doesn't rise to the level of a transit stop in
13 the ordinance, but it's a lot of bus stops, a lot of bus
14 activity right there at the, at the opposite, the entrance
15 to the property; and, of course, National Harbor is right
16 along, right, is right beyond that.

17 Now one of the things that I believe Mr. Boric
18 (phonetic sp.) covered in his testimony a month ago was the
19 fact that there is a Federal bike trail which, which is, the
20 map is one of the exhibits, that, that runs right by the
21 entrance to the property and will be supplemented by a trail
22 network, a Master Plan trail network of a connection that
23 runs through the subject property. So, I do think there are
24 ample opportunities for both pedestrian and bike traffic
25 that don't have to interact with the interchange.

1 MS. GINGOLD: Okay. My second question has to do
2 with the summary of confirmations and non-confirmations, and
3 the impairment of the planning documents. One of the goals
4 of the General Plan is to address greenhouse gases and that
5 involves both transportation and carbon sequestration from
6 the available forests. Can you tell us a little bit about
7 your assessment of what this development would do to
8 greenhouse gas emissions and carbon sequestration given that
9 we would have increased automobile traffic and fewer trees?

10 MR. FERGUSON: Sure. So, I think the first thing
11 that you do have to think about is if this project is not
12 approved, it's not like the people that would live here
13 would all just keel over and die, you know? People are
14 still needing a place to live, growth still needs to be
15 accomplished to accommodate and, excuse me, somewhere. So,
16 the question then is, ultimately, what kind of development
17 is most friendly to regionally reducing greenhouse gas
18 emissions; regionally, you know, providing opportunities for
19 carbon sequestration, tree growth in your, in your, in the
20 frame of your question.

21 So, the best way to do that and, and, again, I'll
22 refer back to Mr. Lenhart's testimony about really
23 encouraging uses that reduce trips by improving the ability
24 to, to be proximate to, to centers; to be proximate to other
25 intense development, the way to do that is actually higher

1 density development. So, if this development didn't occur,
2 it would, instead that growth would be spread all over the
3 rest of the County at lower densities where you would have
4 greater amounts of greenhouse gases and greater amounts of
5 tree clearing because you clear more trees per person at
6 lower density.

7 MS. GINGOLD: Then that segues to my third
8 question that has to do with context-sensitive infill. One
9 of the ideas behind having these centers for, develop, or
10 sending development, concentrating development in the
11 transit centers has to do with protecting the places in
12 between those areas. So, can you tell us from your planning
13 perspective what is the purpose of the places in between the
14 transit centers? Why do we want to protect them? Why is
15 that important?

16 MR. FERGUSON: The General Plan, specifically, and
17 I talked at length about this, was context-sensitive
18 development. So, all interstitial spaces are not created
19 equal. You heard Mr. Mateo last week talk about, you know,
20 where broadly are you at the larger level of, of in the
21 County, and that's very nicely timed. Madam Examiner, are
22 we going to keep this transcript?

23 MS. MCNEIL: I'm sorry, did you say are we going
24 to keep the transcript?

25 MR. FERGUSON: Well, the, the screen on my thing

1 says Prince George's County --

2 MS. MCNEIL: Whoa.

3 MR. FERGUSON: (Indiscernible) progress.

4 MS. MCNEIL: Oh, my goodness. Let's hope so, and
5 if Ms. Rawlings could call our IT people for us, that will
6 be appreciated. Go ahead.

7 MR. FERGUSON: Okay.

8 MS. MCNEIL: I thought that was only my screen
9 because I, I was running out of battery power as well, but I
10 fixed it.

11 MR. FERGUSON: Yeah, as long as the battery power,
12 but if it's county-wide, you know, uh-oh. So, we'll cross
13 our fingers. So, I was talking about interstitial spaces
14 and I was talking about Mr. Mateo's testimony about the
15 county-wide, you know, the county-wide context, not just the
16 local context. So, this property is in what used to be
17 called under the old General Plan the developed tier; and,
18 really, that was the area where we really sought to focus
19 development. So, the interstitial spaces would have a
20 higher level of activity in the developed tier now called
21 Environmental Strategy Area 1 than they would in the rural
22 tier, Environmental Strategy Area 3, where the General
23 Plan, including the last General Plan, really sought to do
24 low-density development, to do higher amounts of land
25 preservation, higher amounts of forest conversation

Page 50

1 requiring higher percentages of forest conservation to
2 really meet the regional goals of, the regional goals of
3 environmental protection.
4 So, locally, you know, you, you are going to have
5 environmental impacts for any project that disturbs land,
6 which is any project, right? So, the question then is,
7 number one, what is the scale of that impact; and then
8 broadly, number two, in a larger context, where is it so you
9 can see whether or not that's appropriate.
10 Now I've heard in a lot of the cross-examination
11 from the opposition people referring to this property as a
12 small site, only 20 acres. If this is a small site, then
13 also the environmental impact is proportionately small. So,
14 you can't have it both ways. Either this is a small site
15 and the environmental impact will be much less
16 consequential, or it isn't.
17 MS. GINGOLD: Thank you, Mr. Ferguson. That's
18 all.
19 MR. FERGUSON: Thank you.
20 MS. MCNEIL: Okay. Ms. McDowell?
21 MS. MCDOWELL: Thank you. Mr. Ferguson, and
22 forgive me if I'm, didn't, if I'm misunderstanding some of
23 this because I'm not familiar with this stuff, but you were
24 talking about the P.G. County Growth Plan and you were
25 discussing impairment, and you said how important context

Page 51

1 was. You mentioned two major things, the major interchanges
2 and the fact that the property is adjacent to a regional
3 transportation district. And the importance of context, I
4 was surprised that you did not mention the neighborhood of
5 Forest Heights and the residents there who will be most
6 affected by this rezoning. So, last time Mr. Hanson
7 testified that the rezoning could allow for 15 to 20-story
8 buildings due to National Airport restrictions and I want to
9 know if you agree or disagree with the Staff Report from
10 December of 2020 that recommends against rezoning with this
11 statement, given those 15 to 20-story buildings that are
12 allowable apparently under this rezoning. The statement is
13 the --
14 MR. FERGUSON: Excuse me, Ms. McDowell, slow, slow
15 down if you would please? If you could first refer me to
16 the part of the Staff Report you're --
17 MS. MCDOWELL: Page 21.
18 MR. FERGUSON: 21? Bear with me one second.
19 Almost there. So, where are we in specific?
20 MS. MCDOWELL: I don't have that in front of me; I
21 just have my notes. I think it, it was midway or something.
22 I had it highlighted. Let me read it to you and then --
23 MS. MCNEIL: All right. One second, Ms. McDowell.
24 I'll help you. Do you see the first full paragraph starting
25 with the site is surrounded and it starts talking about how

Page 52

1 many dwelling units per acre, which is 13 times of the
2 existing residential?
3 MR. FERGUSON: Zoom in so I can see.
4 MS. MCDOWELL: Okay. This is the, this is the
5 statement that I'm referring to. It says the proposed
6 development will be commanding, dominating, and
7 overwhelming, and overshadowing the existing neighborhood to
8 the east that will create a stark visual contrast between
9 the low, tiny, single-family detached homes and the tall,
10 massive to mid to high-rise buildings; and so, I'm curious
11 as to why the context of the Forest Heights neighborhood was
12 lacking when we were talking about impairment, if you could
13 address those things and whether you agree with that
14 statement, please?
15 MR. FERGUSON: Okay. There's a lot of questions
16 in there, so let me, let me try and unpack that, and if I
17 miss something, direct me back to it.
18 MS. MCDOWELL: Thank you.
19 MR. FERGUSON: So, the, the, the first, the first
20 thing is the context of the existing Forest Heights
21 neighborhood is relevant, but it's also -- this would be
22 context that would get addressed during the subsequent
23 review of the project. So, for instance, when you bring in
24 a Conceptual Site Plan, then there will be the appropriate
25 questions of how much buffer do you need between the rear

Page 53

1 yards of the houses on Cree Road, and development on the
2 subject property? How much woodland should be preserved in
3 between those houses to give them some, to give them some
4 transition?
5 Now Mr. Hanson talked about the Arlington
6 experience in his testimony, I recall, last, last week. So,
7 certainly, if you look at one of the most successful urban
8 design areas in the region, and it's been very specifically
9 used as an inspiration for County growth policies in, in my
10 part of the County, in the northern part of the County.
11 It's just the Connecticut Avenue corridor where you have
12 nodes of activity of very, very high-intensity residential
13 density, very high buildings, high apartment buildings, and
14 interspersed commercial activity all along the Connecticut
15 Avenue corridor; and it's a wonderful, wonderful urban, you
16 know, urban environment.
17 If you go one block behind, or you don't even have
18 to go one block, you go immediately behind all of those
19 apartment buildings, you're down to single-family dwellings
20 at densities very, very comparable to those in the town of
21 Forest Heights. So, single-family dwellings and high-
22 intensity development aren't necessarily incompatible. It
23 may be reasonable to expect a different level of transition
24 in Forest Heights than one gets along for, one gets along
25 Connecticut Avenue; but that's precisely the kind of

Page 54

1 question that gets answered at the Conceptual Site Plan at
2 the Preliminary, at the Preliminary Plan phase of the
3 development review rather than the zoning. The zoning says,
4 ultimately, what's the total volume of development that we
5 can put a limit on here, and what are the land uses that are
6 permissible?
7 So, with regard to context of Forest Heights, it
8 is relevant. It will become more relevant at a subsequent
9 review of the project if this application is, is approved.
10 So, that, that's, that's really the, the first thing. It
11 occurs to me I'm missing one of your questions. Could you
12 remind me?
13 MS. MCDOWELL: It was whether you agreed with that
14 statement from the, the County Staff Report on page 21.
15 MR. FERGUSON: Okay. Thank you. You're, you're
16 recalling. So, I don't; and one of the things that has been
17 a continual back and forth this course in the review of or
18 in this, in this evidentiary hearing is these, you know, 20-
19 story buildings and this massive bulk, and this over-
20 shadowing. Now it's been, I know your particular
21 frustration watching your questions about where is this, you
22 know, where are these drawings that I've seen? Where are
23 these big buildings? And the fact is they're not in this
24 record because we are just at zoning.
25 Now, certainly, Mr. Boric and Mr. Salem had to do

Page 55

1 some level of conceptual ideation to be able to see how much
2 stuff could we possibly get here and they engage an
3 architect like Mr. Hanson who goes and says, well, you know,
4 you could do something like this, and that gets you a total
5 volume which you then give to Mr. Lenhart, who says, well,
6 yes, there is enough transportation facilities such that we
7 could, there could be an adequacy finding for that. But,
8 again, 20-story buildings don't yet exist, so whether or not
9 they can is up to the next phase of development, the
10 Conceptual Site Plan.
11 Let me, let me make one more point and I don't
12 want to impeach Mr. Hanson, and I have no doubt that he's
13 right that the FAA limit would be 200 and some feet,
14 whatever, whatever it would be; but the FAA's limit isn't
15 zoning. Now there is a provision in the regulations of the
16 MXT zone that limit multi-family buildings to 110 feet. Now
17 maybe 110 feet is too tall to you and maybe; I honestly
18 don't know, Staff might interpret a building with mixed uses
19 as not being a multi-family building and, therefore, not
20 subject to the height limit. I honestly don't know the
21 answer to that question, but the idea that 200-foot
22 buildings would be fait accompli were this zoning to be
23 approved is just not the fact.
24 So, given that, and given that a design is not in
25 the record, I don't know how Staff gets to the conclusion

Page 56

1 that they get to.
2 MS. MCDOWELL: So, I actually, I mean in Binder 1,
3 or it was when I downloaded Binder 1, there were tons of,
4 and I don't have it in front of me, of conceptual drawings
5 of, of 15 to 20-story buildings. That was a long time ago.
6 MS. MCNEIL: Ms. McDowell --
7 MS. MCDOWELL: So --
8 MS. MCNEIL: -- if I may? If I may?
9 MS. MCDOWELL: Yes.
10 MS. MCNEIL: You're correct. Exhibit 5, Mr.
11 Ferguson, somewhere around pages 309 to 332 show a lot of
12 slides for the property, including --
13 MR. FERGUSON: Let me open that, Madam Examiner.
14 MS. MCNEIL: -- some possible view sheds at
15 certain buildings were constructed.
16 MR. FERGUSON: Exhibit, Exhibit 5, Madam Examiner?
17 MS. MCNEIL: Ms. Bah, do you think you could open
18 Exhibit 5 and start around page 309?
19 MR. FERGUSON: So, I see the Staff Report, 309. I
20 see the site vicinity. This is the Staff's presentation to
21 the Planning Board?
22 MS. MCNEIL: It's a back-up --
23 MR. FERGUSON: Yeah, the back-up to the Technical
24 Staff Report and --
25 MS. MCNEIL: Yes, somewhere around 309, only in

Page 57

1 Exhibit 5.
2 MR. FERGUSON: I, I don't --
3 MS. MCNEIL: And I do want to apologize on this
4 record while you're looking; because we're virtual, we sort
5 of allow in everything that's sent to us, and Exhibit 5 --
6 MR. FERGUSON: Yeah.
7 MS. MCNEIL: -- became a hodgepodge of other
8 exhibits; however, this particular document only appears to
9 be in Exhibit 5.
10 MR. FERGUSON: Madam Examiner, I'm looking through
11 Exhibit 5 and, certainly, at 309; and in my copy --
12 MS. MCNEIL: (Indiscernible) the DB, the DBI
13 Fitzgerald and the slides.
14 MR. FERGUSON: I, I -- I don't see that.
15 MS. MCDOWELL: Is it possible to see that on
16 screen?
17 MS. MCNEIL: I asked Staff. I guess they're
18 looking for it.
19 MS. MCDOWELL: Okay. Thank you so much.
20 MS. MCNEIL: So, I didn't mean to stop you, I just
21 wanted you to know.
22 MR. FERGUSON: No, I think that's, so that would
23 be relevant if, in fact, it were there the only exhibits
24 which I see, which I have seen, I'm not saying that there
25 aren't any, but the only ones which I have seen that show

Page 58

1 development are the ones in Ms. Smith's letter that to me
2 looks more like abstract art. It doesn't look like -- I
3 can't really tell what those are. I see blue buildings, but
4 I don't know what the source of them are. There's some --
5 it says they were digitized, including structure heights,
6 based on a report by DBI Architects; but that looks like
7 something that was created by Ms. Smith, not by DBI, and I
8 don't, I have never been able to understand where that came
9 from.

10 MS. MCDOWELL: So, I know that, hopefully they can
11 find that it's in Binder 1 and, I'm sorry, I should have
12 written down the pages. I just don't recall, but --

13 MS. MCNEIL: I saw the pages. It's Exhibit 5.

14 MS. MCDOWELL: Oh, I'm sorry.

15 MS. MCNEIL: Somewhere around page 309.

16 MR. FERGUSON: So, so, Madam Examiner, I did
17 scroll to, to either side of 309 and did not, did not see --

18 MS. MCNEIL: Yeah, keep scrolling. I think the
19 numbers are different depending on who is going through it,
20 but --

21 MR. FERGUSON: Yeah, no, I'm sure that's true.

22 MS. MCNEIL: -- probably between 309 and 330 I saw
23 it.

24 MR. FERGUSON: So, Madam Examiner, I know that
25 those drawings have existed. I know Ms. McDowell isn't

Page 59

1 making them up, but I don't believe she has seen them in, in
2 --

3 MS. MCNEIL: Okay.

4 MR. FERGUSON: -- this record, at least I'm not
5 aware that they are, you know, because --

6 THE COURT: I, I copied them. I copied them and
7 the first page looks like this, view from the Beltway
8 looking west.

9 MR. FERGUSON: Yeah. Yeah.

10 MS. MCDOWELL: That's it.

11 MR. FERGUSON: So, and I've seen those, Madam
12 Examiner --

13 MS. MCNEIL: (Indiscernible.)

14 MR. FERGUSON: -- before, I was just not aware
15 that they were in the record, but --

16 MS. MCNEIL: And so, you, you can't testify; so,
17 you're saying you couldn't testify to that because you
18 haven't seen it --

19 MR. FERGUSON: I've seen --

20 MS. MCNEIL: -- is that correct?

21 MR. FERGUSON: -- them, not in the record.

22 MS. MCNEIL: Okay.

23 MS. MCDOWELL: I, I would, and I, and I was --

24 MS. MCNEIL: (Indiscernible) I just copied them.
25 She saw them, so --

Page 60

1 MS. MCDOWELL: Madam Examiner, I guess --

2 MR. FERGUSON: I never found them in the record is
3 all I'm, I'm trying to say. I do know that they exist
4 independent of the record, and maybe they exist in the
5 record. You know, Ms., Ms. McDowell isn't making up their
6 existence.

7 MS. MCNEIL: Right.

8 MR. FERGUSON: She's --

9 MS. MCNEIL: Go ahead, Ms. McDowell, I'm sorry.

10 MS. MCDOWELL: Okay. Thank you. I have nothing
11 more. I appreciate your answers.

12 MR. FERGUSON: Yeah.

13 MS. MCNEIL: Okay, Ms. Godard, or do you still
14 have questions, Ms. Godard?

15 MS. GODARD: No, I do not, but thank you very
16 much.

17 MS. MCNEIL: Okay. Thank you. Ms. Egloff?

18 MS. EGLOFF: Oh, I'm sorry.

19 MS. MCNEIL: Ms. Egloff, are you ready?

20 MS. EGLOFF: I wasn't turned on. Okay. So, I am
21 confused by this constant referral to things are about
22 zoning, they're not about what it's going to look like or
23 how tall it's going to be, or what the density. It seems
24 like crazy to me --

25 MR. FERGUSON: Let me, let me stop you, Madam,

Page 61

1 Madam, Ms. Egloff.

2 MS. EGLOFF: I -- yes.

3 MR. FERGUSON: You haven't characterized my
4 testimony correctly. What I have said is that --

5 MS. EGLOFF: Okay.

6 MR. FERGUSON: -- this proceeding is about the
7 zoning and --

8 MS. EGLOFF: Right.

9 MR. FERGUSON: -- density is a part of zoning, but
10 --

11 MS. EGLOFF: Okay.

12 MR. FERGUSON: -- the design is not.

13 MS. EGLOFF: Okay. So, density is part of it, but
14 you know --

15 MR. FERGUSON: It is.

16 MS. EGLOFF: -- I heard so many comments about,
17 well, these things get decided later and all this stuff but,
18 you know, for you as a land planner, you have 28 acres of
19 land to plan, okay; and you're, the zoning is intense, so on
20 20 acres of land I'm confused as to how you figure out how
21 to place things so that you don't impact the existing
22 residents on the one side, and then on the other side, you
23 have these very important historic resources that you're
24 trying to also protect from negative view sheds. So --

25 MR. FERGUSON: Correct.

Page 62

1 MS. EGLOFF: -- you're constrained, completely
2 constrained. So, then --
3 MR. FERGUSON: Well, you have constraints. You're
4 not completely constrained. So --
5 MS. EGLOFF: Okay, sir. Well, explain to me how
6 you're going to fix that because before Mr., I think it was
7 Mr. Hanson -- one of the people, Mateo or Hanson, said,
8 well, you know, in order to not impact those residences, you
9 do more low-rise, okay; but in the same instance I heard
10 somebody say, well, in order to protect the historic
11 resources and view shed, and to keep that sight line lower,
12 then we tuck them down into the lower elevation. So, there,
13 that is like double talk to me, you know? So, you as a land
14 planner, how would you think when you're presented with this
15 problem when you have the historic resources on one side and
16 you have the low-density residents on the other, how would
17 you deal with this?
18 MR. FERGUSON: Sure. So, the first thing I will,
19 I will say is I agree with the testimony of both Mr. Mateo
20 and Mr. Hanson, if it was both of them, or one of them, if
21 it was just one of them; but, again, the second thing I will
22 go back to is that everything that you have just described,
23 the relationship of building heights, to the Forest Heights
24 houses relationship, the building heights to a view shed,
25 are design issues not zoning issues. Now --

Page 63

1 MS. EGLOFF: Okay.
2 MR. FERGUSON: -- the, the point that I think it's
3 important to make is that a zoning approval doesn't
4 establish the density that will eventuate; but what it does
5 do is put a cap on the zoning that will eventuate, and that
6 cap is in the provisions of the Zoning Ordinance right now.
7 So, you know, you can look at the MXT zone and you can see
8 that it, it has, unfortunately, what's called a variable
9 FAR. Under standard development, it's 0.4, which would mean
10 20 acres in, in square feet, which is 807,000 square feet,
11 871,000 square feet times .4 would be, you know, I don't
12 know, 350,000 square feet would be the, would be the, the,
13 the, the density cap under the standard form of development;
14 and then the MXT zone gives you certain increments based on
15 if you provide a certain number of houses, you get extra
16 FAR. You design it in a certain way, you get extra FAR, so
17 on and so forth. So, those --
18 MS. EGLOFF: Okay.
19 MR. FERGUSON: -- those things get established
20 again at the design phase. Now how would I respond to the
21 constraints that this property does, in fact, have? I
22 actually can't answer that because we're not there yet. Now
23 Mr. --
24 MS. EGLOFF: Okay.
25 MR. FERGUSON: -- Hanson may very well have

Page 64

1 started to go there in the, in the context of trying to get
2 a reasonable, you know, volume of development for Mr.
3 Lenhart to be able to analyze for the necessary traffic
4 component; but for, for zoning, one looks at is this an
5 appropriate location for the type or the uses that are
6 permitted in the table, and for the intensity that is
7 ultimately allowed by the MXT zone; and, again, because of
8 this particular property's locational context, I believe
9 that it is.
10 Now the statement of justification said we want to
11 do 2,000 units, and the medical office building, and the
12 police station, and the hotel, and the traffic study, you
13 know, brought those numbers down a little bit and had
14 slightly different, but still large quantities. It may very
15 well be that after the approval of the Conceptual Site Plan,
16 those numbers go down some; and then after the approval of
17 the Preliminary Plan of Subdivision, they go down a little
18 bit more; and after the approval of a Detailed Site Plan,
19 they go down a little bit more, and I apologize to my
20 clients, Mr. Boric, for saying those things but, you know,
21 they're aware of them. That's the nature of the development
22 review process.
23 So, you know, you have two separate things, a
24 locational decision, which is what Madam Examiner is being
25 asked to recommend now; and then you have design decisions,

Page 65

1 and those will be before the Planning Board at a future
2 stage if this zoning request is approved.
3 MS. EGLOFF: Okay. So, in, as a person, lay
4 person that doesn't know any better, it, it really seems
5 like not wise to up-zone a property that has clearly been
6 marked for many, many, many years as low-density housing and
7 open space to make it an intense use just because it happens
8 to be next to the Beltway with a, a ramp, okay?
9 MR. FERGUSON: That didn't sound like a question,
10 Mrs. Egloff.
11 MS. EGLOFF: I, I'm trying to base it on the fact
12 that I'm, I'm just dumb here, okay? How, how does it not
13 matter when you're doing something like this to say, okay,
14 are you going to completely ignore the encroachment of high-
15 intensity onto an existing, long existing neighborhood on
16 the one side, and then very important historic resources and
17 parkland on the other? I'm not a planner, but to me it
18 would, I would think like you would want that, that more
19 rural and low-density housing to transition between the
20 housing development to the historic property; you wouldn't,
21 why would you low-density and then high-rise, and then park?
22 MR. BROWN: Ms. Egloff, you must ask a question.
23 MS. EGLOFF: Well, that's what I'm asking.
24 Typically, okay, I know he's been hired by the developer,
25 but when you're doing land planning, do you get that kind of

Page 66

1 like, we're talking about an architectural landscape here.
2 So, you have houses that are tucked under an urban canopy of
3 trees and then suddenly you're going to have this thing pop
4 up out of the ground that is actually more prominently
5 visible than even MGM; and then it's next to historic
6 resources. How do you deal with that?
7 MR. BROWN: Actually, I mean I don't understand, a
8 clue what she's talking about.
9 MS. EGLOFF: Okay. I'm talk -- he's a land, he's
10 an architect -- tell me again what you, you do land
11 planning, right? Okay. So, you're planning this piece of
12 property and you're, let's say you're on the Beltway and you
13 look over there, what, you know, does it make sense to have
14 this intense development, despite the transportation
15 situation, okay? We seem to be so focused on that.
16 MR. FERGUSON: Well, the reason, Ms. Egloff, that
17 we're focused on that is because this is a request for the
18 mixed use transportation-oriented zone.
19 MS. EGLOFF: Uh-huh.
20 MR. FERGUSON: (Indiscernible.)
21 MS. EGLOFF: Okay. You have only transportation?
22 MR. FERGUSON: No, we have transportation and we
23 have proximity to two General Plan centers, including a
24 regional transit district which is the highest intensity of,
25 of land use that the County recommends.

Page 67

1 MS. EGLOFF: All right. And you also mentioned
2 about, okay, you know, it's not, it's developed here and all
3 that; but when you're doing all this density, you know, do
4 you do it all in one area like so that roads are impassible?
5 I mean you, you --
6 MR. FERGUSON: Mr. Lenhart testified that roads
7 would not be impassible, that they would, in fact, be
8 adequate.
9 MS. EGLOFF: Okay. So, I want to refer to page 30
10 in some report. There's so many reports here. I'll just
11 read from it. "The intense character of MXT zone
12 development would be vastly different, inappropriate and
13 abrupt transition in density." That's what I'm talking
14 about, this abrupt transition in density. And if you're
15 doing land planning, that's where I have a problem. And
16 it's, it's as, and it's different from what was envisioned.
17 It says, "Consequently," going on, there's other things
18 there, but it says, "Consequently, Staff recommends
19 disapproval of Zoning Map Amendment for rezoning from RR-55
20 to the MXT zone. We seem to be forgetting that the Staff
21 throughout a lot of the paperwork that I read has pointed
22 out (indiscernible).
23 MS. SCUDDER: Objection. I don't, I don't hear a
24 question from Ms. Egloff.
25 MS. EGLOFF: I'm talking, when you all were

Page 68

1 wondering why am I talking about looking at the
2 architectural landscape of what it looks like, and, and what
3 you're proposing is to pop up a city next to a low-
4 residential neighborhood; and is that, in land planning,
5 would you normally do something like that just because it's
6 proximate to a roadway and this is a transition area between
7 the centers. So, you're proposing that there's no longer
8 any transition --
9 MS. MCNEIL: Okay. One, one second, Ms. Egloff.
10 Ms. Scudder, I was allowing a question, and I think she got
11 to a question, but you need to stop and let him answer a
12 question and not just --
13 MS. EGLOFF: All right.
14 MS. MCNEIL: -- keep testifying. (Indiscernible).
15 MS. SCUDDER: (Indiscernible.)
16 MS. MCNEIL: You referenced page 30 of the Staff
17 Report. Mr. Ferguson, why, why do you agree, or not agree,
18 with that statement?
19 MR. FERGUSON: Thank you, thank you, Madam
20 Examiner. So, I, I believe the, the, the totality of my
21 testimony is that I do not agree with the Staff's
22 recommendation. I would point out for the, for the audience
23 that the Staff has opposed every single application for
24 approval of the MXT zone that I am aware of, most of which
25 have been approved both on the recommendation of the Zoning

Page 69

1 Hearing Examiner and the District Council. So, you know --
2 MS. MCNEIL: Uh-huh.
3 MR. FERGUSON: -- I, I, in my experience, the
4 Staff's recommendations in Euclidean and MXT zoning matters
5 are, are tainted because they're always the same regardless
6 of the facts of the matter. That's personal opinion and may
7 be inappropriate; and if so, I apologize to the Staff, but -
8 -
9 MS. MCNEIL: Uh-huh.
10 MR. FERGUSON: -- the, the, the totality of my
11 testimony is that particularly because of the specific
12 context of this site, because of its relationship to major
13 transportation facilities, and the proximity to General Plan
14 centers, that it would, in fact, be appropriate and is what
15 the General Plan envisions as context-sensitive development
16 in the established communities. It is unusual for sites in
17 the established communities to be immediately adjacent to,
18 to one and in the neighborhood of two interchanges and
19 immediately adjacent to two General Plan centers. That's
20 unusual, but here we are; and so, my testimony is very, very
21 firmly to disagree with Staff's recommendation.
22 MS. EGLOFF: Okay. My next issue is pointing out
23 page 66 of 89. I guess this is also a Staff Report and it
24 specifically speaks to Staff, of course; recommending to
25 Planning Board that the R-55 and RR to MXT is incompatible

Page 70

1 with the rural historic --
2 MR. FERGUSON: I'm sorry, if you could wait just a
3 moment? Let me bring up that page.
4 MS. EGLOFF: Okay. Page --
5 MR. FERGUSON: That's 66, right?
6 MS. EGLOFF: Well, it's, it's from 66 and goes on
7 to 67 with concern --
8 MR. FERGUSON: This is the report, this is the
9 report of the Historic Preservation Staff, is that correct?
10 MS. EGLOFF: Most likely, yes.
11 MR. FERGUSON: Okay. All right.
12 MS. EGLOFF: Okay.
13 MR. FERGUSON: If you, I'm, I'm there. If you
14 could go ahead?
15 MS. EGLOFF: All right. So, some portions of it I
16 have underlined. I don't want to read it all, but on page
17 66, it's the last two paragraphs; then on page 67,
18 specifically, it states is incompatible with the rural
19 historic character of the adjacent historic site, Matt
20 Welby. Further, that the proposed rezoning would fully
21 destroy any remnants of the Butler, Hatman, Proctor
22 families' historic habitation of the subject property which
23 is a rare and significant historic property. So --
24 MR. FERGUSON: That's characteristic -- sorry, Ms.
25 Egloff, is that in the Staff Report that it's rare and --

Page 71

1 MS. EGLOFF: Yes.
2 MR. FERGUSON: -- where does that say that?
3 MS. EGLOFF: Well, there's so much work, so many
4 papers here, but it's here. I mean, first of all, the
5 habitation of a property for 150 years in the same family is
6 rare right there; but it's also, let me see if I can find
7 it.
8 MR. FERGUSON: I'm sorry, is that, is that in the
9 Staff Report as well?
10 MS. EGLOFF: Yes. Yes. It talks about that and -
11 -
12 MR. FERGUSON: That is habitation for 150 years is
13 rare? If you'd refer me to that, I just --
14 MS. EGLOFF: Well, I'm not certain that they were
15 talking about the fact that they were there for 150 years.
16 I'm saying, well, let me see if I can find it right, right
17 here. As a result, this is on page 66 --
18 MR. FERGUSON: Okay.
19 MS. EGLOFF: -- the second paragraph from the
20 bottom. It says, as a result, the Butler House property is
21 a rare and significant remnant of pre-Civil War Prince
22 George's County where any small population of free African
23 Americans owned their own property, farmed their own land,
24 and raised their families.
25 MR. FERGUSON: Right.

Page 72

1 MS. EGLOFF: This is partly, I believe, why --
2 MR. FERGUSON: The property, the property is the
3 rare and significant remnant is what it says.
4 MS. EGLOFF: Well, sure.
5 MR. FERGUSON: Not the house, it's the property.
6 MS. EGLOFF: The -- no, I'm not talking about the
7 house. The property --
8 MR. FERGUSON: Well, that's what you just read.
9 I'm just, I'm just, you said it was the house was
10 (indiscernible) --
11 MS. EGLOFF: I said --
12 MR. FERGUSON: -- and before, but the Staff Report
13 says the property.
14 MS. EGLOFF: I didn't --
15 MR. FERGUSON: I just --
16 MS. EGLOFF: Wait, please. I did not say the
17 house --
18 MR. FERGUSON: Then I'm responding to --
19 MS. EGLOFF: -- at all.
20 MR. FERGUSON: -- the Staff and not to your
21 opinion and characterization. That's all I'm trying to do.
22 MS. EGLOFF: All right. Well, I don't believe I
23 said the house. The property remained within the ownership
24 of a single family for more than 150 years and while the
25 history of the above-ground structures, until recently

Page 73

1 located, is described the part, the history of the use of
2 the property over time, potential resources below ground is
3 significant.
4 Okay. We're talking about the fact that it was a
5 farm, and a farmland, and it is connected immediately to
6 national parkland and that there's obviously was interest in
7 the Prince George's County having parkland there at, you
8 know, and still, in fact, is part of the Green
9 Infrastructure Plan. So, I don't know how, and this is my
10 concern that you, again, have the low-rise development; then
11 you have a significant historic property; and then you have
12 parkland. In your schooling, is that really how it works
13 that you sit there and plop a city in the midst of that in
14 your planning, in your lifetime?
15 MR. FERGUSON: Okay. So, there's a lot to compact
16 there, but is it, is it a reasonable act to put high-density
17 development in the proximity of low-intensity development
18 historic resources? Yes, it is.
19 MS. EGLOFF: In the midst, midst --
20 MR. FERGUSON: Middle with appropriate design
21 which would get reviewed at a subsequent stage if this
22 application were approved; but from a zoning perspective,
23 yes, it is appropriate.
24 MS. EGLOFF: Okay. Well, I would like to take
25 exception with what you said to, about the Staff, and their

1 comments, and whatnot, because I've been, been involved in
2 this kind of thing for a very long time and they haven't
3 always been against things, okay? So, in reading these
4 documents, which there were so many, and I got this general
5 feeling that they were very displeased with this; and I just
6 don't agree that they typically do that.

7 MR. FERGUSON: So, Mrs. Egloff, that's not a
8 question and --

9 MS. EGLOFF: Well, I'm taking exception with what
10 you said because I happen to live next to an MXT zone, okay,
11 and the same thing with the zoning business, they get a
12 zoning exception and everybody says, oh wait, we'll, we'll
13 design it later; we'll figure out the density later. We'll
14 figure all this stuff out later. You don't get to say once
15 they put mixed use development -- they can put whatever they
16 want there. They, you know, market changes, whatever.

17 MS. MCNEIL: Ms. Egloff --

18 MS. EGLOFF: So --

19 MS. MCNEIL: -- I need you to ask a question or
20 you'll have to be muted.

21 MS. EGLOFF: Okay. So, is that the case, Mr.
22 Ferguson? Have you seen that in the past?

23 MR. FERGUSON: I'm sorry, Ms. Egloff, you went a
24 whole lot of places. Have I seen what in --

25 MS. EGLOFF: Have you seen the fact that we're

1 switching it to a mixed use transit development in the midst
2 of a neighborhood?

3 MR. FERGUSON: (Indiscernible) zonings in the
4 past? Yes, I have seen many of them.

5 MS. EGLOFF: Okay. And it's always you just
6 rezone it and then you think about all the effects later?

7 MR. FERGUSON: That's the natural course of the
8 development review process. If this property were zoned by
9 the District Council from the beginning, you would think
10 about the individual impacts of development later, which is
11 to say at such time as you make a specific development
12 proposal. That's the case for every project regardless of
13 whether the zoning has been applied for through a Zoning Map
14 Amendment or as applied comprehensively. That's every
15 single development.

16 MS. EGLOFF: Uh-huh. Okay. Okay. So, but that's
17 the same in every County you're saying? It just works that
18 way?

19 MR. FERGUSON: The, everywhere, everywhere.

20 MS. EGLOFF: Everywhere?

21 MR. FERGUSON: Zoning decision is the first based
22 on general principles of locational appropriateness and then
23 you proceed to the specifics of the site design. Now if
24 this property were not next to two intersections, to two
25 interchanges, and it were not next to two General Plan

1 centers, then I would not be telling, standing here telling
2 you it would be appropriate. There I would say that the
3 effect of the, the proximity to single-family dwellings and
4 historic site would be the prevalent, would be the prevalent
5 conditions to consider; but with this property's particular
6 context, in my opinion, they're not.

7 MS. EGLOFF: And, you know, when folks purchase
8 properties and they look at the zoning around them, how do
9 you rationalize this really? I mean --

10 MR. FERGUSON: Well, so, so, look, zoning changes
11 like everything. In the, in the approval of the original
12 zoning, the entire County was zoned RR.

13 MS. EGLOFF: Right.

14 MR. FERGUSON: Every piece of property, well,
15 except, that is, you know, still zoned RR from the original
16 zoning has had its zone changed. That's what happens. I
17 think it's unreasonable to expect if you go and you buy a
18 house next to the Beltway, next to an interchange, and then
19 along comes National Harbor, for you to expect that nothing
20 will change in response to that. I believe that's
21 unreasonable.

22 MS. EGLOFF: Well, yes, it was RR, National
23 Harbor, much of it was RR. The other issue that I have
24 about with MXT, and I want your opinion on this, it seems
25 like this MXT zone has a way of pulling properties into it;

1 like if you about MXT, you can get that pulled right on into
2 the development; and that also happened at National Harbor,
3 okay, where extra properties were pulled in after the fact
4 and included in, in subsequent conceptual and design plans
5 and all that. So, then when you think you have a buffer,
6 you don't anymore. So --

7 MR. FERGUSON: But every, every --

8 MS. EGLOFF: -- how do you deal with that?

9 MR. FERGUSON: I'm going to put that in the form
10 of a question, you know, it's just --

11 MS. EGLOFF: Good.

12 MR. FERGUSON: -- your opinion that this has to
13 happen and the answer is, no, every zoning decision has to
14 be property-specific. So, are there cases where a property
15 next to National Harbor, before National Harbor existed, was
16 RR, and then along comes National Harbor and along comes the
17 improvement of the interchanges and you say, hey, we should
18 be MXT, too. That may very well be a rational response on
19 the part of the zoning body; but, you know, just because a
20 property, absent any other considerations, is zoned MXT,
21 just because an adjacent property is MXT, that doesn't mean
22 that it meets the criteria of 27-213 for the approval of the
23 MXT. That is what Madam Examiner is going to have to find
24 and make in her recommendation to the District Council, what
25 are those criteria, does it meet it; not whether it's next

1 to National Harbor, but it's those three criteria of 27-213
 2 that we've all addressed in our testimony.
 3 MS. EGLOFF: Okay. So, so in the, here's one last
 4 question. So, in this situation of you plopping this city
 5 behind low-rise buildings next to a parkland, what is the
 6 devaluation factor to that parkland? Do you see where that
 7 parkland then would become more at risk of being asked for
 8 to be brought into development, intense development because
 9 it's at the gateway of the County?
 10 MR. BROWN: I have --
 11 MR. FERGUSON: So, I can't -- yeah, go ahead, Mr.
 12 Brown.
 13 MR. BROWN: I have to object to that question,
 14 Madam Examiner. The economic value of adjacent property is
 15 not a relevant inquiry for zoning.
 16 MR. FERGUSON: Nor, nor do I have that --
 17 MS. MCNEIL: Sustained.
 18 MR. FERGUSON: -- in that case.
 19 MS. EGLOFF: So, it's, is it possible, though?
 20 MS. MCNEIL: The objection was sustained. That
 21 means he can't answer that question.
 22 MR. FERGUSON: I'm not an expert in valuation.
 23 MS. EGLOFF: Okay. And, lastly, Mr. Ferguson
 24 referred to Ms. Lightsinger's testimony and it was my
 25 understanding that Ms. Lightsinger's testimony was all

1 stricken from the record, but maybe I'm --
 2 MR. FERGUSON: You're mistaken. Mr. Showalter's.
 3 MS. EGLOFF: Yeah.
 4 MR. FERGUSON: Mr. Showalter's testimony was
 5 proficiently stricken depending on the outcome of the
 6 redacted report that was --
 7 MS. EGLOFF: Mr. Showalter, only Mr. Showalter?
 8 Okay. I thought, I thought Mr. Brown had a problem with Ms.
 9 Lightsinger's testimony.
 10 MR. FERGUSON: It's not my recollection.
 11 MS. MCNEIL: There was some discussion of her
 12 being an expert witness, but she was not admitted as an
 13 expert witness. She still testified.
 14 MS. EGLOFF: Okay. So, that's in the record?
 15 MR. FERGUSON: She testified as to facts.
 16 MS. EGLOFF: Okay. All right. Thank you.
 17 MS. MCNEIL: Thank you. Does any other person in
 18 opposition -- okay, Ms. Bick?
 19 MS. BICK: Yes. Hello? Yes.
 20 MR. FERGUSON: Good morning, Ms. Bick.
 21 MS. BICK: Good morning, Mr. Ferguson. First,
 22 what I would like to do is I would like you to address
 23 something that you said and that I really have a problem
 24 with this because it's one of my biggest objections to this
 25 whole MXT rezoning for this property. You said, you said

1 that if you buy a house near the Beltway, then you, you just
 2 have to expect to have, you know, I can't remember exactly
 3 the words you used, but you can't expect it to be low-
 4 density or something like that, but --
 5 MR. FERGUSON: Correct, yes, ma'am, that was my
 6 testimony.
 7 MS. BICK: Right. And I would like you to, after
 8 I state my statement, I would like you to respond, and that
 9 is that these people who live in Forest Heights did not buy
 10 a house near the Beltway. They have been there for over 50
 11 years, a lot over 50 years; and so, you are, essentially,
 12 what this proposal is is gentrification for that community.
 13 MS. SCUDDER: Objection. I believe Ms. Bick has
 14 previously testified --
 15 MS. BICK: I object, you object --
 16 MS. SCUDDER: -- and if she has a question, ask
 17 her question.
 18 MS. MCNEIL: Okay.
 19 MS. BICK: I am asking --
 20 MS. MCNEIL: Okay, Ms. Bick, you have to ask him a
 21 question.
 22 MS. BICK: I am asking a question. I'm asking the
 23 question. I'm asking him to reapproach that statement about
 24 when you bought, he said when you buy a next, a house next
 25 to the Beltway, you've got to expect this kind of change.

1 I'm, I'm asking Mr. Ferguson to go back and address the fact
 2 that Forest Heights, everyone in Forest Heights, the entire
 3 community has been, pre-dates the Beltway and pre-dates all
 4 of this, and I, I, I --
 5 MS. MCNEIL: Okay.
 6 MS. BICK: -- (indiscernible).
 7 MS. MCNEIL: Does that change your opinion, Mr.
 8 Ferguson? Ms. Bick --
 9 MR. FERGUSON: I, I, I can't, I can't answer that.
 10 So, the, the, the, several things. First of all, the
 11 construction of the Beltway itself certainly post-dated the
 12 construction of many homes in Forest Heights, but the
 13 planning for the Beltway, you know, goes, goes back a lot
 14 further than its actual construction. So, that's, that's
 15 thing number, thing number --
 16 MS. BICK: But it's (indiscernible).
 17 MR. FERGUSON: -- one. The second thing, however,
 18 is separate from, from my own personal opinion about, about
 19 expectations of land owners that what they buy shall be
 20 frozen in time forever, which I, I do personally find
 21 unreasonable, but that's a personal opinion. That's not an
 22 expert opinion. That's personal opinion. What it seems to
 23 me the issue really is is a balancing of the issues of the
 24 County as a whole and the issues of particular neighbors.
 25 So, certainly, there are going to have been residents,

1 whether they were on recorded Forest Heights lots or not,
2 who preceding the planning for the Beltway and they may not
3 have wanted the Beltway to come by their, you know, by their
4 quiet house and transform it from what was then at that
5 time, I'm certain, a rural neighborhood into a suburban
6 neighborhood which then progressively as things develop
7 become perhaps more and more urban; but, ultimately, the
8 decision there that's made is the interests of the larger
9 whole outweigh the interest of you in this, in this case;
10 and, you know, sometimes that works to people's advantage
11 and, unfortunately, sometimes it doesn't.

12 So, what we have is a, a long history of public
13 policy decisions directing massive, massive investment in
14 infrastructure and then private investment in, in private
15 development to, to repay the public investment in that, in
16 that infrastructure, and that's really what is being
17 proposed here is a continuation of that process. So, you
18 know, it isn't, in the view of, of you, it may be, hey, Mr.
19 Developer, what are you doing to us with your, with your
20 request, but ultimately this is just one more step in a
21 larger public policy that's been going on, you know, for 70-
22 plus years with public decisions for planning of public
23 infrastructure and then how do we take advantage of that?
24 And, and, certainly, there are going to be people that have
25 a more adverse impact from all of those decisions whether

1 they're the larger public decisions, or the private
2 investment decisions and private land use applications that
3 follow on from that. And so, you know, certainly I can
4 understand, you know, the private concern and that's why we
5 have elected bodies that ultimately are responsible for
6 making these decisions; but this request is of a piece, it's
7 not just in isolation, but it is part of a long, long
8 pattern of both public and private decisions that shaped the
9 character of this community for many, many years.

10 Now how do you mitigate that? As I testified in,
11 in two previous questions, in future design decisions so
12 that there is, you know, some ability to buffer and to maybe
13 modulate heights and other things which would be considered
14 at the Conceptual Site Plan, at the Preliminary Plan, at the
15 Detailed Site Plan in the future; but, you know, am I
16 expecting you to be happy about the, the, the decision, or
17 this request because of my testimony? I'm, I'm not. You
18 know, some people are going to be more adversely impacted
19 than others. We heard many people at the beginning say they
20 would really love to have this, this development come
21 because it will benefit them; and so, ultimately, every,
22 every land use decision is weighing of whose interests
23 trump, and pardon my use of that term, those words.

24 MS. BICK: I think it's appropriate.

25 MR. FERGUSON: Okay.

1 MS. BICK: Thank you, thank you, but I did ask
2 you, Mr. Ferguson, to, to address gentrification. Do you
3 know what gentrification is?

4 MR. FERGUSON: I do, I do, and I can't, I can't
5 really speak to that. That would require, you know --

6 MS. BICK: I'm asking for a definition.

7 MR. FERGUSON: Well, it would require more
8 knowledge than I have about the economic and cultural make-
9 up of, you know, the residents of Forest Heights; and to the
10 same token, who are the residents going to be in the, in the
11 future development. I, I can't speak to that.

12 MS. BICK: Are you, as, in your capacity as an
13 expert, you cannot give me the definition of gentrification?

14 MR. FERGUSON: Well, so it certainly isn't defined
15 in, in the Zoning Ordinance; and I think this is one of
16 those things like smart growth. What is smart growth, and
17 to a degree, it's, you know, whatever the person using that
18 term wants it to mean; but I would characterize
19 generalization broadly rather than a rigorous definition as
20 a change in the economic conditions of a neighborhood
21 whereby older, less affluent residents are displaced because
22 of rising rents. You know, if, if you own a house, nobody
23 forces you to sell it. Your taxes may go up because your,
24 your value may go up with gentrification; but I would, I
25 would characterize that as an economic situation, and then

1 speaking to it specifically in this project, I don't have
2 enough data about both the existing conditions in Forest
3 Heights and who would the new residents be to make a
4 judgment as to whether the approval of this zoning would
5 promote gentrification. I just don't know.

6 MS. BICK: Thank you. My, my question is in
7 regards to the gateway and the planning around the gateway.
8 I was extremely involved with National Harbor and it was,
9 you, you have to admit that when you said -- I was totally
10 shocked. It was good that my, my mike was muffled when you
11 said that this, this project, this MXT project would
12 complement MGM.

13 MR. FERGUSON: Well, I believe I said it could,
14 not would, but could.

15 MS. BICK: Okay.

16 MR. FERGUSON: (Indiscernible.)

17 MS. BICK: Well, I, I just would ask you, I mean
18 in regards to, you know, some, some areas of the, of
19 benefitting in some areas, not benefitting, the one side of
20 the Beltway has been completely changed from, from parkland
21 and, and historic sites into sort of a, well, I mean it's
22 the National Harbor privatization of that whole gateway, and
23 it's only happened on the, on the south side of the Beltway.

24 MR. FERGUSON: Uh-huh.

25 MS. BICK: And essentially what this MXT zoning

Page 86

1 is, it's, it's, it's the gentrification, in my word, as
2 jumping the Beltway and going to an area that will change
3 forever the --
4 MS. MCNEIL: Ms. Bick, do you have a question?
5 MS. BICK: I do. I do. I have a question. Thank
6 you. And it's that I, I wonder if the, if the state of
7 Maryland wouldn't benefit more from protecting the, the
8 northern side of the Beltway for its original goal of, of
9 protecting the area around the, the Nation's Capital from
10 inappropriate development, and I, I wonder --
11 MR. FERGUSON: Though when you --
12 MS. BICK: -- if you have an opinion about the
13 fact that it might actually benefit the state of Maryland to
14 have, to capitalize on the forward-thinking of the, of the
15 National Park Service for purchasing the Oxon Cove Park to
16 protect it from inappropriate sprawl development.
17 MR. FERGUSON: But with, with respect --
18 MS. BICK: Now -- excuse me one second. I'm
19 asking a question.
20 MR. FERGUSON: With respect --
21 MS. BICK: I'm asking a question.
22 MR. FERGUSON: Okay. I thought, you've asked some
23 already. I was trying to answer those.
24 MS. BICK: Okay. Well, I'm, I'm, I'm finishing
25 asking this question because the National Park Service had

Page 87

1 the foresight to protect this property because it did not
2 want sprawl development; and I wonder if the National Park
3 Service's foresight would have even been more dramatic had
4 it been threatened by this gentrification?
5 MR. FERGUSON: Well, let me, let me ask you a
6 question. Did the National Park Service actually purchase
7 the Oxon Cove Park?
8 MR. BROWN: Yeah, Mr. Ferguson --
9 MR. FERGUSON: Okay. Let me, I, I'm, I, I
10 apologize.
11 MS. MCNEIL: Sustained, Mr. Brown.
12 MR. FERGUSON: Thank you. I was being cheeky.
13 The National Park Service did not purchase Oxon Cove Park.
14 St. Elizabeth's Mental Hospital purchased it in 1894, long
15 before anybody knew that there was a word called sprawl; and
16 they purchased it so that the residents of St. Elizabeth's
17 Hospital could go and grown their own food as a form of
18 therapy.
19 MS. BICK: I'm familiar with it.
20 MR. FERGUSON: Your premise is, your premise is
21 not really valid there. The second thing I would point out
22 in your premise is that the state of Maryland has delegated
23 land use decisions to the County; that's why we're here and
24 not before a state body.
25 MS. BICK: I understand it, but you see, Maryland

Page 88

1 could benefit, and actually Prince George's County could
2 benefit greatly from using one part of their Beltway.
3 MS. MCNEIL: Ms. Bick, you'll have an opportunity
4 to testify.
5 MS. BICK: Because I'm asking why is this not a
6 consideration because, essentially, it should be. I want to
7 go back to the National Park Service.
8 MR. FERGUSON: Why is, why is not a consideration?
9 MS. BICK: Maryland National Park and Planning
10 came into being to protect the areas around Washington,
11 D.C., from inappropriate development.
12 MR. FERGUSON: Okay. So, so, the, the Park and
13 Planning --
14 THE COURT: Mr. Ferguson, I didn't hear her
15 question. What's the --
16 MS. BICK: The question, Ms. Mitchell, is wouldn't
17 the Prince George's County benefit greatly from opening
18 this, this, this side of the Beltway to a natural parkland
19 which is already in place and protection of the resources to
20 have a more bucolic entrance to Maryland on one side of the
21 Beltway?
22 MR. BROWN: I objection. The question --
23 MS. BICK: It was recommended for parkland by, by
24 Maryland National Capital Park and Planning.
25 MR. BROWN: Ms. Bick, that is irrelevant. The

Page 89

1 Applicant is a private property owner. They have property
2 rights, (indiscernible) rights. One of those rights is an
3 opportunity to apply for rezoning, which is what they are
4 doing here. There is no analysis with regard to how it's
5 going to benefit the state of Maryland.
6 MS. BICK: Well, excuse me for asking.
7 MS. MCNEIL: Sustained.
8 MS. BICK: Appropriate, the question. Then I
9 will, I will go, swing into it; but I would like to say that
10 I, I feel that the, that the --
11 MS. MCNEIL: Ms. Bick, I can call you as a witness
12 and you can tell me all of this. Right now, we're just
13 asking him questions.
14 MS. BICK: I understand and so he's, he's not
15 going -- but, but are you familiar, Mr. Ferguson, with the
16 fact that Prince George's County is, is, is discarding the
17 MXT zoning and do you know why they are doing that?
18 MR. BROWN: Objection.
19 MR. FERGUSON: So, so are, when you say they're
20 discarding the zoning, am I aware that the County is
21 considering a county-wide map amendment that would rezone
22 the County entirely? And there are many zones
23 (indiscernible), is that your question?
24 MS. BICK: Yes.
25 MR. BROWN: Our time here. It's not, it's not

Page 90

1 relevant to this application what the County --
2 MS. BICK: Okay. I withdraw that.
3 MS. MCNEIL: Okay. Sustained, Mr. Brown.
4 MS. BICK: I, I, but I would like to say that I
5 have participated in many MXT zoning reapplications and --
6 MS. MCNEIL: Ms. Bick --
7 MS. BICK: -- (indiscernible) Maryland National
8 Park --
9 MS. MCNEIL: Ms. Bick, Ms. Bick, are you, I
10 haven't sworn you as a witness. Would you like to testify?
11 If you'd just give us a little while, Mr. Ferguson will
12 finish and you'll be able to testify.
13 MS. BICK: Okay. Well, I, I do have a question
14 for Mr. Ferguson.
15 MS. MCNEIL: Okay. Last one, unless you have
16 questions about his testimony.
17 MS. BICK: Well, it's, I'm taking things from his
18 testimony to ask him questions about, and, and, and, and,
19 and I wondered why he disagrees with the, with the, with the
20 Heights Master Plan that said that this is, substantially
21 would have a negative influence on the community.
22 MS. MCNEIL: The Heights Master Plan? Okay. Did
23 you hear the question, Mr. Ferguson?
24 MR. FERGUSON: I, I did, I did. Thank you. So, I
25 don't disagree with the Heights Master Plan. It is what it

Page 91

1 is and I certainly recognize that the maps, land use
2 recommendation for the Butler tract portion of the property
3 is residential low with a park, park acquisition planned for
4 it. And what it stated is that because parks, by the
5 evidence of their own referral in this case, no longer seems
6 to want the property for a park and that the impairment of a
7 disconformance, to make up a word, I'm sorry, of the MXT
8 zone with the residential low land use recommendation has to
9 be viewed in the light of all of the other recommendations
10 of the Master Plan, of the recommendations of the General
11 Plan, and viewed in context as a balancing act. So, as a
12 whole, I do believe that the impairment of the different
13 land use does not rise to a substantial impairment of the
14 plan as a whole. That's my opinion.
15 MS. BICK: Thank you. I, I do, I do want to
16 address something that you misspoke about, I believe, and I
17 would just like to read one sentence and it's, it's saying
18 that the National Park Service, they, they had no, no
19 awareness of the, o sprawl development at the time. It says
20 on the, about Oxon Cove Park, National Park Service in 1959
21 to protect its natural and cultural resources from the
22 threat of increased urbanization development and to continue
23 to tell the story of the land and how it has changed over
24 time. So, essentially, what you said was --
25 MR. FERGUSON: I said (indiscernible).

Page 92

1 MS. BICK: -- when the park --
2 MR. FERGUSON: -- this website --
3 MS. BICK: It had no, no awareness of this and I
4 believe in 1959 it did.
5 MR. FERGUSON: Ms. Bick, in, in, what my testimony
6 was was that the property was acquired by the Federal
7 Government in 1894 for St. Elizabeth's residents to grow
8 property. In 1959, it was transferred from the jurisdiction
9 of St. Elizabeth's and the Department of the Interior, I
10 don't recall, I've read it, to the National Park Service
11 because St. Elizabeth's had no, no further need of it; but
12 you said Park Service bought it. They did not --
13 MS. BICK: I did not say that. I said National
14 Park Service, I purposefully did not use the word bought --
15 MR. FERGUSON: Okay. That's my strong
16 recollection and that was why I was --
17 MS. BICK: Well, perhaps if I did, I misspoke. I
18 didn't mean to use -- I knew it wasn't purchased, but --
19 MR. FERGUSON: I understand. Thank you.
20 MS. BICK: -- in 1959, it was, it was, it was, its
21 purpose was to protect the natural and cultural resources
22 and to, the natural and cultural resources from increased
23 urbanization, urban development, and to continue to tell the
24 story of the, of the land; and that's, that's, that's where
25 I hear the problem with what you said because in 1959, their

Page 93

1 mission was to protect that land from urban sprawl.
2 MR. FERGUSON: Well, so, the website today says
3 that. I, I, if that was their mission in 1959, I'd like to
4 see a document from 1959 that said that.
5 MS. MCNEIL: Any other questions, Ms. Bick?
6 MS. BICK: No, I mean I just wanted to correct
7 that one point because, and if I used the word bought, I
8 certainly knew it wasn't purchased. I knew it was a
9 transfer, but the reason it was transferred to National Park
10 was, was that was the reason, they wanted to protect this
11 land. Now I don't think that, that they had any idea of
12 what kind of, what was coming in 1959 and, and this is
13 certainly inappropriate.
14 MS. MCNEIL: Okay. Thank you, Ms. Bick. Mr.
15 Brown, do you have questions?
16 MR. BROWN: (No audible response.)
17 MS. MCNEIL: Okay.
18 MR. FERGUSON: Thank you, Madam Examiner, unless
19 you have some for me?
20 MS. MCNEIL: I actually do have a question or two
21 if you'd give me one second?
22 MR. FERGUSON: Yes, ma'am.
23 MS. MCNEIL: I'm going to see if you all are,
24 okay. You said at the very beginning that the neighborhood
25 alone, if you're in the neighborhood, you're in the

Page 94

1 vicinity; but you don't, I mean is that true, if the
2 neighborhood were large and you were miles away from the
3 interchange and you still believe everyone in the
4 neighborhood is in the vicinity?
5 MR. FERGUSON: So, Madam Examiner, that is the,
6 that is the issue that I have had with that particular line
7 of reasoning in the past; but I, I do present it because it
8 has been used in the past as, as criterion. Would I rest my
9 opinion solely on that? I would not. I mean but I do think
10 that the fact that the property's entrance is directly onto
11 the interchange is really the best evidence of its, you
12 know, of its vicinity.
13 MS. MCNEIL: And how far away is the furthest
14 point of the property from the measurement that you support,
15 so not the middle of the interchange, but the portion of the
16 interchange that you could walk to, how far away is the
17 furthest point of this property?
18 MR. FERGUSON: Sure. So, you're, you're asking me
19 essentially how deep is the property from, from north to
20 south and full disclosure, Madam Examiner, I have P.G. Atlas
21 open at the moment, and so I'm going to take my measurement
22 from that while I testify.
23 MS. MCNEIL: You read what the Staff said. Did
24 you disagree with theirs? I think, I think it was still a
25 little more than a quarter mile?

Page 95

1 MR. FERGUSON: Well, I don't --
2 MS. MCNEIL: If you can --
3 MR. FERGUSON: -- I don't know what the Staff has,
4 has measured, but what P.G. Atlas tells me is that from the
5 Staff's, excuse me, from the site's, the subject property's
6 point of entrance at the interchange to the northern tip of
7 the property is one half a mile.
8 MS. MCNEIL: Okay.
9 MR. FERGUSON: Almost, I mean --
10 MS. MCNEIL: And --
11 MR. FERGUSON: -- almost exactly.
12 MS. MCNEIL: And the Staff relied a lot on --
13 MR. FERGUSON: Which (indiscernible).
14 MS. MCNEIL: -- walkability --
15 MR. FERGUSON: Which would meet the Staff's
16 definition of walkability, and one that I do agree with.
17 The half mile is, is a good proxy for walkability. It is.
18 MS. MCNEIL: Okay. I think you addressed, oh,
19 one, I think you addressed all of my other questions.
20 MR. FERGUSON: Okay.
21 MS. MCNEIL: Oh --
22 MR. FERGUSON: Yes, ma'am?
23 MS. MCNEIL: The last one was you said the
24 impairment has to be substantial impairment to the entire
25 plan, but if the plan had said something specific about this

Page 96

1 property --
2 MR. FERGUSON: Yes.
3 MS. MCNEIL: -- that, that might have precluded
4 this application, you don't think it's the entire plan in
5 that sense, do you?
6 MR. FERGUSON: So, you know, Madam Examiner, I
7 wouldn't say that even a specific reference would preclude
8 the approval, but I do think that it would, it would bear
9 greater weight in that balancing test.
10 MS. MCNEIL: Okay.
11 MR. FERGUSON: So, you know, that, that, that
12 would be how I would, I would approach it. Now, obviously,
13 the General Plan doesn't make any specific references to the
14 subject property and really nor does the Eastover Plan.
15 The, the Heights Master Plan does talk about it in the
16 historic preservation recommendations which, as I mentioned
17 --
18 MS. MCNEIL: Uh-huh.
19 MR. FERGUSON: -- you know, I, I view, I view that
20 compatibility through the actions of the Historic
21 Preservation Commission; and then, secondly, they talk about
22 it through the Parks' recommendation, but I think that
23 recommendation really has been superseded by Formula 2040.
24 MS. MCNEIL: Okay. And then the last thing I
25 would ask, and I don't know if you can address this at all,

Page 97

1 but on page 69 of the back-up --
2 MR. FERGUSON: Yes, ma'am.
3 MS. MCNEIL: -- a special project section has
4 something to say about the adequacy of public safety
5 facilities, et cetera.
6 MR. FERGUSON: Uh-huh.
7 MS. MCNEIL: And I just wondered, did you have
8 any, any independent knowledge or had you researched the
9 adequacy because if you look at page 69, I don't think it's
10 saying anything.
11 MR. FERGUSON: Well, yeah. So, so, at a zoning
12 level, really adequacy of public facilities is almost never
13 a criterion. Now in the MXT zone, we have a limited
14 requirement for adequacy of transportation facilities. The
15 judgment for adequacy of water, and sewer, and schools, and
16 police, and fire really is just tested at the preliminary
17 plan of subdivision. At that time, you know, we'll find out
18 whether or not we meet the fire, you know, response time
19 and, and the rescue response time; and if not, then what
20 mitigation measures would be required; but, no, you're
21 right, they don't do that evaluation at this time. They do
22 cite what --
23 MS. MCNEIL: And it might --
24 MR. FERGUSON: -- what --
25 MS. MCNEIL: -- have been better to say that.

Page 98

1 Okay. Thank you. I don't have further questions of you.
2 Ms. Scudder, do you have any redirect?
3 MS. SCUDDER: I do not at this time.
4 MS. MCNEIL: Okay. Do you have further witnesses?
5 MS. SCUDDER: No, ma'am, I do not.
6 MS. MCNEIL: Okay. Could anyone out there that
7 may want to testify that has not testified already let me
8 know in the chat? What we'll do now is just take a short
9 break until 1 o'clock and then if any of you that have not
10 testified want to testify, we will allow that then. I think
11 the only person -- I know Ms. Bick hasn't testified and I
12 believe Ms. Egloff has not testified; but Ms. Gingold, let
13 me check. Well, just put in that you want to but, again, if
14 you've testified already, you don't get another shot at
15 testifying.
16 MS. GINGOLD: I have not yet testified.
17 MS. MCNEIL: You have not? Okay. Then Staff, if
18 it's okay for us to pause until 1 o'clock?
19 MS. SCUDDER: Yes, Madam Examiner, I'll pause now.
20 MS. MCNEIL: Okay. Thank you all.
21 (Recess.)
22 MS. MCNEIL: Okay. The Applicant has rested and
23 some other individuals who have not testified wish to do so.
24 Ms. Godard, you testified on your own behalf in the past, so
25 are you testifying now on behalf of your organization?

Page 99

1 MS. GODARD: Yes, Madam Examiner, on behalf of the
2 National Parks Conversation Association.
3 MS. MCNEIL: Okay. And you're still under oath,
4 so just state the name and business address, and tell us
5 what you'd like to tell us.
6 MS. GODARD: Thank you. My name is Pamala Godard.
7 I am a senior Mid-Atlantic Regional Program Director for the
8 National Parks Conversation Association at 777 Sixth Street,
9 N.W., Washington, D.C., 20001. I am speaking today on
10 behalf of the National Parks Conservation Association,
11 28,000 Maryland members and supporters, to urge you to deny
12 the request to rezone the land abutting Oxon Cove Park to
13 MXT for the National View development project. Not only is
14 the proposed rezoning at odds with Prince George's County
15 Master Plan, it would negatively impact Oxon Cove Park and
16 Oxon Hill Farm, important national park sites in the region.
17 The mission of the National Parks Conservation
18 Association is to protect and enhance America's National
19 Park system for present and future generations. We have
20 upheld this mission since MPCA was created in 1919 by the
21 very first National Park Service director, Steven Mather.
22 A key component of our mission is to bring
23 visitors into the park for recreation and for service, and
24 for the last 10 years, excluding, excuse me, we, excluding
25 between, between the last year because of COVID, but for the

Page 100

1 last 10 years we have hosted volunteer clean-ups at Oxon
2 Cove Park in support of our mission in the park.
3 Oxon Cove Park is a gem in the region sharing with
4 visitors its rich history and important outdoor spaces. The
5 land was farmed by the Piscataway Indians before 1600,
6 weathered the War of 1812, and hosted the hospital for the
7 mentally ill in the early 1900s. Today the 737-acre park
8 introduces guests to a working farm, provides a popular site
9 for boating and fishing, and hosts critical open space for
10 outdoor recreation like cycling and hiking.
11 Oxon Cove Park features 14 buildings, including
12 Mount Welby, built in 1805 by the Debutts family as their
13 family home. Mount Welby was designated a Prince George's
14 County historic site in 1981 and was listed in the National
15 Register of Historic Places in 2003. Visitors enter the
16 park on Bald Eagle Road, a road that historically connected
17 Oxon Hill to Washington, D.C., since 1850. The road's
18 design dates back to the time of the horse and buggy.
19 During the 1800s, the very plantation comprises
20 the southern part of the park. In 2005, Oxon Cove Park was
21 accepted as a member of the National Underground Railroad
22 Network to Freedom to share the story of Jacob Shaw, a man
23 enslaved at the very plantation who escaped to seek freedom
24 in Washington, D.C.
25 The adjacent property subject to development was

Page 101

1 formerly homes to several prominent, free, African-American
2 families, including the Butlers, the Hamptons and the
3 Proctors. Henry Alexander Butler, a free African-American,
4 moved his family to this site in 1853, and the property
5 remained in ownership of his family for more than 150 years.
6 These families own their own property and farm their own
7 land, highly unusual in their era. Although most of the
8 buildings are gone, historic resources could exist that
9 should be discovered through archeology and LiDAR. If the
10 property is developed, these historic resources could
11 disappear.
12 If the zoning is changed when the project is
13 built, Oxon Cove Park and the greater community could face
14 many negative impacts in addition to the loss of historic
15 resources. Building the National View complex at this site
16 will increase impervious surfaces resulting in polluted
17 stormwater run-off and sedimentation. There are currently
18 no impervious surfaces in the northern half of the proposed
19 site. Stormwater management to address flooding could
20 require an even bigger footprint for the project.
21 The plan entails clearing open space that will
22 diminish tree canopy and increase forest fragmentation.
23 Traffic will increase substantially, resulting in air and
24 noise pollution. Lights from the complex will disrupt the
25 night sky. The height and size of the complex itself will

1 create negative impacts to the historic view shed both
 2 within the National Park and the adjoining neighborhood.
 3 A substantial impact that has not been given due
 4 diligence in the Applicant's proposals how traffic will be
 5 addressed on Bald Eagle Road. Now we've heard some
 6 testimony, and I've asked some questions about how many
 7 vehicles would be going in and out of the complex, and if
 8 any widening would be proposed for National Park Service
 9 property; and I feel like I've gotten conflicting
 10 information and that's a really key component to how
 11 vehicles, how many vehicles will get there and how it will
 12 impact the entrance. As I've said, I've brought volunteers
 13 there for clean-ups for 10 years and it's a very difficult
 14 little driveway, and when the earlier man was testifying
 15 about how dangerous it could be to cross the road, I know
 16 first-hand because I kind of foolishly got out of my car to
 17 save a box turtle and as I was doing that, I was thinking,
 18 what, my husband is going to kill me if I get killed on the
 19 street saving a box turtle.
 20 Another considerable impact not considered is that
 21 there's no plan, no immediate plan for mass transit to be
 22 extended to this development. No agency presently has any
 23 plans to serve the site, the adjoining roadways are not
 24 programmed for improvement for the next six years, and the
 25 current Maryland Department of Transportation's programs.

1 So, a big concern is traffic and then associated air, water
 2 and noise pollution.
 3 National Parks Conservation Association believes
 4 the plan is incompatible with the historic and natural
 5 character of the area, and the current single-family housing
 6 in the adjacent neighborhoods will increase traffic and
 7 pollution, destroy critical green space and disrupt the view
 8 shed of this historic landscape, including Oxon Cove Park.
 9 So, that's why I came today to urge you to deny the
 10 Applicant's request to change the zoning. Thank you.
 11 MS. MCNEIL: Thank you. Mr., Ms. Scudder, do you
 12 have any questions? You're mute.
 13 MS. SCUDDER: Okay. I'm not sure what was
 14 happening there but, no, I do not have any questions for Ms.
 15 Godard. Thank you.
 16 MS. MCNEIL: Mr. Brown?
 17 MR. BROWN: Yes, just a couple of questions, Ms.
 18 Godard. Refresh my memory, you had submitted to me and the
 19 Examiner a letter authorizing you to speak on behalf of this
 20 organization, did you not?
 21 MS. GODARD: Yes, sir, I did.
 22 MR. BROWN: I thought so. All right. And where
 23 do you currently live? Did you hear my question?
 24 MS. GODARD: No, I'm sorry, sir. What was the
 25 question?

1 MR. BROWN: And where do you reside?
 2 MS. GODARD: I reside in Prince George's County
 3 at 12 Olivewood Court, Greenbelt, Maryland. Our offices are
 4 in Washington, D.C., and I'm the Mid-Atlantic Regional
 5 Senior Program Director.
 6 MR. BROWN: How many members are there of the Mid-
 7 Atlantic region for your organization?
 8 MS. GODARD: We have 1.6 million members and
 9 supporters across the country. We have 28,000 in Maryland.
 10 The Mid-Atlantic is six states and D.C. I can't tell you
 11 off the top of my head. I know we have 34,000 in Virginia,
 12 2,000 in D.C. I can't tell you the West Virginia numbers,
 13 but I could get those for you.
 14 MR. BROWN: No, I don't need that. What is the
 15 percentage of African-Americans in your membership?
 16 MS. GODARD: We do not, we ask people voluntarily
 17 to share what our membership is as far as their ethnicity,
 18 but I do not have that at my fingertips; and as I said, it's
 19 voluntary, so not everyone fills that out. I do know in
 20 D.C. and Prince George's County, we have a very robust
 21 membership and, in fact, Ms. Gingold is associate, she's a
 22 member, I'm sorry, she's not. She's not MPCA. At any rate,
 23 I do not know, sir. I do not know the exact numbers.
 24 MR. BROWN: How many residents of Prince George's
 25 County are members of your organization?

1 MS. GODARD: That I could not tell you off the
 2 top of my head. I can just tell you Maryland. I could get
 3 those for you.
 4 MR. BROWN: Yes, I would like to know the
 5 percentage of Maryland residents that are a member of the
 6 Mid-Atlantic region in your organization, the percentage of
 7 Prince George's County residents that are members of your
 8 organization; if you have it, the ethnic and racial
 9 breakdown of the members of your organization. And the
 10 reason it's relevant is you make the claim that your
 11 organization wants to preserve African-American history with
 12 regards to freed slaves or artifacts and resources related
 13 to the African-American community, so I'd like to know, you
 14 know, what's the basis for that claim if that is what you
 15 want to preserve whether it's a legitimate concern of your
 16 organization, or one that's just made up because this
 17 particular property happens to be in an African-American
 18 community surrounded by African-Americans who are both in
 19 support of this application and maybe not to an opposition I
 20 haven't seen in this record.
 21 MS. GODARD: So, what I can tell you, Mr. Brown,
 22 is that I have been at, at National Parks Conservation
 23 Association for 10 years and the two big projects I worked
 24 on was to get Fort Monroe National Monument in Hampton,
 25 Virginia, established as a National Park; and to get the

Page 106

1 Harriet Tubman Underground Railroad National Park
2 established. So, my organization, and along with my
3 colleague, Alan Spears, with our Cultural Resources
4 Division, we, our mission has been in the last 10 years that
5 we want to make our National Parks more representative of
6 the true stories of all Americans. Typically, National
7 Parks that were created in the early 1900s were
8 predominantly to honor either places of great beauty or
9 places of war or, frankly, white men leaders; and we as an
10 organization 15 years ago made the decision that that was
11 not representative of our country and we were going to work
12 to add more stories to the National Parks. So, I was very
13 proud to work on Fort Monroe because during the Civil War,
14 it was under Union control, and when three African-American
15 men escaped there, it became freedom's fortress and it was
16 where Africans could, Americans could escape and become
17 free.

18 I was also very proud to work with Harriet
19 Tubman's descendants in Cambridge, Maryland, to create that
20 National Park. We've also created a few other parks across
21 the country to tell other stories. One is the Alice Paul
22 National Museum for Women's History in D.C.; and the other
23 one was the Stonewall Inn National Monument to talk about
24 gay rights. So, in the 10 years that I've been at NPCA,
25 we've worked very diligently to create new parks that tell

Page 107

1 new stories; and when we worked at Fort Monroe in Hampton,
2 we worked with the Contraband Society, descendants of the
3 families who escaped. When we worked on the Harriet Tubman
4 Park, we worked with Harriet Tubman's descendants. So, I am
5 testifying that we very firmly represent those communities
6 and honor their legacy.

7 MR. BROWN: Right. I mean that's helpful. No
8 other questions. Thank you.

9 MS. MCNEIL: Ms. Godard, I apologize, that you all
10 had mentioned this is a voluminous file. The letter
11 authorizing you, do you know the exhibit number, or do you
12 think you could submit it again if for some reason I don't
13 seem to see it in this file?

14 MS. GODARD: Yes, yes, Madam Examiner, I will
15 send it to you as soon as we finish.

16 MS. MCNEIL: Okay. Thank you so much.

17 MS. GODARD: Thank you.

18 MS. MCNEIL: Okay. Next, we have, excuse me a
19 second, Ms. Gingold. Hello.

20 MS. GINGOLD: My name is -- should I go ahead?

21 MS. MCNEIL: I'm going to swear you in right after
22 you say my name is Janet Gingold.

23 MS. GINGOLD: My name is Janet Gingold.

24 MS. MCNEIL: Okay, Ms. Gingold, do you swear or
25 affirm under the penalties of perjury that the testimony you

Page 108

1 shall give will be the truth and nothing but the truth?
2 MS. GINGOLD: I do.

3 MS. MCNEIL: Okay. So, state your address and
4 tell me what you'd like to tell me about this application.

5 MS. GINGOLD: I live at 13107 Whitehall Drive in
6 Upper Marlboro. That's about 17 miles from the properties
7 involved in this case. I've lived in Prince George's County
8 since 1980. I'm speaking today on behalf of the Prince
9 George's Sierra Club. For clarity, I am also a member of
10 the Prince George's County Climate Action Commission, but I
11 am not speaking for the Commission today.

12 The Sierra Club is our nation's oldest grassroots
13 environmental organization. Through its long history, the
14 Sierra Club has evolved from a hiking club for the
15 privileged into an organization dedicated to environmental
16 protections for the well-being of people, and the
17 sustainable future for all people.

18 The Prince George's County Sierra Club is
19 interested in this matter because land use decisions in our
20 County are extremely important in our efforts to address our
21 most urgent environmental issues.

22 MS. SCUDDER: Can I interrupt, Madam Examiner?
23 But did Ms. Gingold say that she was testifying on her
24 behalf today, or on behalf of her organization?

25 MS. MCNEIL: She said the Sierra Club. I thought

Page 109

1 Mr. Brown was going to voir dire -- or do we have a letter
2 from your organization, Ms. Gingold?

3 MS. GINGOLD: I did submit a letter from our
4 organization that explains that I am speaking for the
5 organization, and when we voted on the position, and all of
6 that.

7 MS. MCNEIL: Okay. Okay. I will look for that
8 letter --

9 MS. GINGOLD: I believe it's --

10 MS. MCNEIL: -- (indiscernible).

11 MS. GINGOLD: I submitted that stuff on --

12 MR. BROWN: Oh, yes, I have it, Ms. Gingold. You
13 sent it to us.

14 MS. GINGOLD: I believe the letter is dated April
15 21st, or --

16 MS. MCNEIL: Okay. Okay. Go ahead.

17 MS. GINGOLD: Okay. So, where was I? Okay. The
18 Prince George's Sierra Club is interested in this matter
19 because land use decisions in our County are extremely
20 important in our efforts to address our most urgent
21 environmental issue, namely climate change. We are
22 concerned that too often the basic principles in our plan
23 and documents, and the recommendations of our County
24 planners are put aside to accommodate development which is
25 not always in the best interest of the people of the County.

Page 110

1 I am a volunteer and I have no financial interest in this
2 project.

3 The Prince George's Sierra Club urges you to deny
4 the request to rezone the properties formerly known as the
5 (indiscernible) and Butler properties from RR and RR-55 to
6 MXT. The Sierra Club recognizes the need for more
7 affordable housing and more housing for seniors in our
8 County. We support high-density and mixed use transit-
9 oriented development as specified in Plan 2035 in the
10 regional transit districts; however, the proposed National
11 View project is not truly transit-oriented. It is not
12 within easy access of any existing or planned public transit
13 routes. It would create development outside the existing
14 edge of developed land, encroaching upon the Potomac
15 shoreline special conservation district described in the
16 2017 Green Infrastructure Plan.

17 Experts from the County's Planning Board have
18 found that this rezoning would be contrary to the goals of
19 Prince George's Plan 2035, 2000 Heights and Vicinity Master
20 Plan; the 2014 Eastover Forest Heights at Glass Manor Sector
21 Plan; and the 2014 approved resources, approved, Resource
22 Conservation Plan. It is not in keeping with the purpose
23 for MXT zoning and it would promote a mixed use of
24 development that is out of context with the surrounding
25 neighborhood of Forest Heights and the wooded areas and

Page 111

1 adjacent national parkland.

2 Plan 2035 calls for concentrating new residential
3 and employment growth in the regional transit districts that
4 are designated as downtown and limiting future mixed use
5 land uses outside the regional transit districts and local
6 centers. The reason to designate regional transit districts
7 is to encourage development inside those districts rather
8 than outside or between those districts. The purpose, the
9 proposed development is within neither the National Harbor,
10 nor the Oxon Hill neighborhood center. It would be, it
11 would not be part of an urban fabric, but would be separate
12 and jointly out of context as it would create a wedge of
13 high-rise concrete between the adjacent parkland and a low-
14 density residential neighborhood.

15 This rezoning would open the way for dense, mixed
16 use development which would be in stark contrast to the
17 recommendations of Plan 2035 for the property, namely
18 residential low-land use for the norther properties and
19 parks and open space for the land use for the southern
20 properties.

21 The Applicant describes a plan for 1,500 to 1,700
22 housing units; 200,000 square feet of commercial space; a
23 medical facility; assisted living units; and a police
24 station. The Applicant also describes how the project would
25 provide expansive views across the Potomac to Virginia, and

Page 112

1 along with the National Harbor edifice, provide an
2 impressive gateway to Prince George's County for motorists
3 arriving from Virginia. The developer's concept art shows
4 how the National View structures would dominate the view
5 scape from all surrounding areas.

6 Currently, the properties in question are wooded
7 with oaks, beaches, tulip trees and others of varying size,
8 including scattered specimen trees providing a backdrop for
9 the historic Oxon Cove Park and the aptly named community of
10 Forest Heights. High-density, mixed use development here
11 would markedly change the character of the area. It would
12 replace a primarily natural view scape with a highly urban
13 one, and impact the experience of families, school groups,
14 and others who come to Oxon Cove Park to learn about local
15 history, connect with their rural heritage, or to enjoy a
16 brief escape from the urban environment.

17 The physical and mental health benefits of
18 walking, jogging or riding a bike in the park are important
19 for the well-being of local residents and visitors from
20 across Prince George's County and the District of Columbia.
21 Building a high-density mixed use development adjacent to
22 the park would add to the traffic congestion and noise,
23 impair the historic view shed, and diminish the experience
24 of being out in the fresh air.

25 As we look forward to a future with more excess

Page 113

1 heat days and more extreme precipitation, preservation of
2 our green infrastructure takes on greater importance for
3 decreasing heat (indiscernible 2:44:42.1) and absorbing
4 flood waters. Even small areas of mature forests become
5 more important not just for the sake of the wild things that
6 live there, but because of the ecosystem services they
7 provide for the human population. The proposed zoning
8 change would allow for loss of trees and other vegetation,
9 and the creation of more impervious surfaces. This is
10 contrary to the policies outlined in the 2017 Green
11 Infrastructure Plan, particularly to preserve, protect,
12 enhance or restore the green infrastructure network and its
13 ecological functions; and to preserve existing woodland
14 resources and replant woodland where possible while
15 supporting the desired development pattern of Plan 20-35.

16 As stated in the 2017 Resources Conservation Plan,
17 meeting tree conservation goals will require, quote, "A
18 concerted effort to implement the development patterns
19 proposed in Plan 20-35 and move away from the suburban
20 sprawl development on forests and undeveloped sites, and on
21 to more urban sites where the necessary infrastructure for
22 development already exists," unquote.

23 This proposed development exemplifies the
24 practices that the Resources Conservation Plan specifically
25 warns against. The geometry of the property would make it

Page 114

1 difficult to do significant mitigation of forest loss on
 2 this site. The potential for forest interior dwelling
 3 spaces would also be impacted.
 4 Both Staff from the Department of Permitting and
 5 Inspections and the National Park Service had pointed to
 6 potential safety issues related to single-point for
 7 increased ingress and egress on Bald Eagle Road. This could
 8 interfere with access for emergency vehicles needed to care
 9 for elderly residents, as well as activities at the proposed
 10 police station, in addition to impacting the experience for
 11 visitors to the park.
 12 We urge the Zoning Hearing Examiner to heed the
 13 reports from County Staff regarding the many ways the MXT
 14 zoning for the Butler (indiscernible) properties would
 15 substantially impair the integrity of Plan 20-35 and be
 16 contrary to the goals of the 2017 Resources Conservation
 17 Plan. Please uphold our County's planning goals and deny
 18 this request for rezoning. Thank you.
 19 MS. MCNEIL: Thank you, ma'am. Any questions, Ms.
 20 Scudder?
 21 MS. SCUDDER: No questions.
 22 MS. MCNEIL: Mr. Brown?
 23 MR. BROWN: No questions, thank you.
 24 MS. MCNEIL: Thank you, Ms. Gingold. We now have
 25 Ms. Bick.

Page 115

1 MS. BICK: Hello.
 2 MS. MCNEIL: Hi, Ms. Bick.
 3 MS. BICK: My, my name is Bonnie Bick.
 4 MS. MCNEIL: Okay. Do you swear or affirm under
 5 the penalties of perjury that the testimony you shall give
 6 will be the truth and nothing but the truth?
 7 MS. BICK: I do.
 8 THE COURT: Okay. State your address and what you
 9 want to tell me about this request.
 10 MS. BICK: 7601 Oxon Hill Road, Oxon Hill,
 11 Maryland. I would like to, first of all, say the obvious.
 12 This proposal is extremely incompatible with the existing
 13 neighborhood; and I'm, I'm, I'm very much aware that if this
 14 were approved, it would represent a massive change in
 15 character of, of the existing community, but also of the
 16 gateway to Maryland. You know, it's named National View;
 17 well, it, it would be viewed by the national as they enter
 18 Prince George's County via the, the Beltway across the
 19 Woodrow Wilson Bridge. So, we should think about that, as
 20 well as the fact that this, these, this 20-acre parcel, the
 21 owners of it have a desire to change that character that's
 22 in existence now; the character, and it's, and it's a
 23 character that is worth a lot to Prince George's County and
 24 to Maryland. And when I say incompatible with the
 25 neighborhood, it's already been said, but it will be like a

Page 116

1 barrier between the existing Forest Heights and, and a, a
 2 gentrification barrier that would be between the existing
 3 Forest Heights and the assets they now have of easy access
 4 to the Oxon Cove Park.
 5 And I'm concerned about the loss of the historic
 6 character and, and not only the historic sites, but the
 7 quality of life for the people that are there now. And so,
 8 I'm, I'm, I'm very interested in the fact that if
 9 inconsistent with the zoning rewrite, which is, which is the
 10 latest effort of Prince George's County to try to get
 11 themselves together, I was interested when you, when, I
 12 can't remember who it was, said that Arlington was used as a
 13 guide. Oh, if only it were because Arlington actually has
 14 transit-oriented development; and that is something that
 15 Prince George's County, they so often zone by who owns the
 16 land instead of where it's located. And the, this, this
 17 land, it's, you know, the fact that it was recommended for
 18 purchase for, as parkland tells us how important it is to
 19 that area; and, and, and, and having a lot of experience in
 20 this, in this National Harbor type development, I can tell
 21 you that if you give them permission to have 10-story
 22 buildings, they'll have 10-story buildings. If they say
 23 they're going to build a, you know, build something else,
 24 you know, an amenity, they may not because we have been
 25 promised all kinds of things by the National Harbor. Now I

Page 117

1 know this isn't National Harbor, but it's, it's so much like
 2 National Harbor that it possibly might have some
 3 relationship to it. So, it -- I mean other than location.
 4 I, I'm, I'm very concerned about the, the loss of
 5 historic land and, and, and, and the, the change in the
 6 nature of the Oxon Cove Park that would be inevitable if it
 7 were next to these high-rise buildings. So, there was a lot
 8 lost to the public with National Harbor because National
 9 Harbor is a private, for-profit organization; and it, it's
 10 been subsidized by over a billion dollars, and that, and I
 11 stopped counting when, before MGM. So, you know, this is --
 12 the park is at risk already because the County Executive was
 13 in support of turning it into a, excuse me, a, a, a stadium
 14 for the, for the football team; and, fortunately, that was,
 15 that was dropped, but it shows you how vulnerable this, this
 16 entire area is; and I suggest it has a lot to do with its
 17 close proximity to National Harbor, which is all about, you
 18 know, private profit at the public expense.
 19 And so, I'd like to also say that I was, you know,
 20 so much history has been lost. There needed to be two acts
 21 of Congress to allow National Harbor to go forward and I did
 22 spend years trying to save Salubria, which is, was eligible
 23 for the National Register for Historic Places because of the
 24 high resistance to slavery there; and now it's a, it's a, a,
 25 an outlet store mall. So, it, you know, there is, and we

Page 118

1 lost, we also lost the Addison Cemetery. Everything goes
2 when this gentrification comes in. I mean there, there is
3 hardly any restrictions when you have an MXT; and especially
4 in this high-value location where a lot of money can be
5 spread around to help it to, it, it go forward.
6 So, I'm just asking that you -- and, oh, and also
7 in regards to Maryland National Capital Park and Planning,
8 I'm delighted that they're following their mission and are
9 standing against this because I have seen them so often not
10 do that, I'm sorry to say; but this area should be protected
11 not -- it should not, the zoning should not be changed.
12 The, whoever purchased this property, they purchased it with
13 one zoning and that zoning should stay in place until the,
14 the zoning rewrite, the full County zoning rewrite goes
15 through; and at that time, I believe it, this, this property
16 should be, would be best used to, to have the people of
17 Maryland and Prince George's County benefit from this
18 fabulous view and turn it into a continued open space and to
19 support the National Park that is, is there, but is
20 threatened terribly by this proposal. Thank you. If you
21 have any questions, I'd be glad to answer.
22 MS. MCNEIL: Thank you, Ms. Bick. Ms. Scudder, do
23 you have any questions?
24 MS. SCUDDER: I do not have any questions for Ms.
25 Bick.

Page 119

1 MS. MCNEIL: Mr. Brown, do you have any questions?
2 MR. BROWN: Just one or two. How are you, Ms.
3 Bick?
4 MS. BICK: I'm good, thank you, Mr. Brown.
5 MR. BROWN: Glad to see you. This issue that you
6 have raised about gentrification with Mr. Ferguson and which
7 you just raised in your testimony; I just want to explore
8 for a moment. Gentrification in its purest sense, from a
9 pejorative standpoint, is the displacement of low-income
10 people in a particular neighborhood due to younger or
11 economically advantaged persons moving into a community and
12 actually taking over the homes of those persons who are
13 displaced. Gentrification could also include, I think what
14 you were trying to argue, but I just wanted to be clear with
15 you, you do understand this property is vacant, correct?
16 MS. BICK: I do. I know this property very well.
17 I've played in this whole area when I was growing up with
18 my, you know, I'm very, extremely familiar with this area.
19 MR. BROWN: So, the fact that this --
20 MS. BICK: And I have witnessed tremendous change,
21 obviously.
22 MR. BROWN: So, the fact that this property is
23 vacant, there is no gentrification taking place on the
24 property itself if this property would be, to be developed,
25 is that correct?

Page 120

1 MS. BICK: I'm sorry, I did, I don't have all the
2 documents, but I did see visions of what they were proposing
3 and it's just outrageous. I mean, you know, the people, I,
4 you know, and you're asking would people lose their houses?
5 I think Ms. Egloff mentioned how National Harbor just, it
6 was like a, a virus expanding, taking every property that
7 they could get; you know, driving out people; and so, you
8 know, it has the same potential. I mean, you know, it's not
9 when you change the zoning, you're not changing, you're not,
10 you're just opening the door for that behavior.
11 MR. BROWN: All right. All right.
12 MS. BICK: You're not actually creating it.
13 MR. BROWN: All right. And so --
14 MS. BICK: I understand that. I understand that.
15 MR. BROWN: All right. You agree with me then?
16 That would be pure speculation to say that the approval of
17 the rezoning for this property would create gentrification -
18 -
19 MS. BICK: No, not speculation. I, I see it in
20 there, in the, in, in the, in their, in the small amount of
21 views that I've seen of it. It has, it is so incompatible
22 with the neighborhood. You cannot imagine how it is to be
23 driven out of your property because of the change in
24 character, but I can.
25 MR. BROWN: And --

Page 121

1 MS. BICK: And I can tell you that, I can tell you
2 that the people who live in Forest Heights have no idea
3 what's coming. They couldn't possibly because it has to,
4 you know, you really have to experience it yourself to, to
5 to see that the massive change in, in your quality of life;
6 and as you've said, as somebody said, the taxes go up
7 because you're next to this, you know, massive high-rise;
8 and, you know, everything changes.
9 MR. BROWN: Thank you. No other questions.
10 MS. MCNEIL: Thank you, Ms. Bick. Next, we'll
11 have Ms. Egloff.
12 MS. EGLOFF: Hello.
13 MS. MCNEIL: Hello.
14 MS. EGLOFF: Yes, hi. Okay. So, how do you want
15 to start? I say my name?
16 MS. MCNEIL: Is it possible for, is it possible
17 for us to see you?
18 MS. EGLOFF: Maybe. Do you have to see me the
19 whole time because I don't really like being on camera?
20 MR. BROWN: Well, yes, if you want to testify,
21 you're required to be seen.
22 MS. EGLOFF: Okay. Wonderful. Okay. Let's see
23 how we're going to do this. Let me go out, let me go
24 outside where you can hear the background bulldozers, and
25 noises, and back-up beeps, and that's been going on for 20

Page 122

1 years. Anyway, here I am. Can you see me? Can, am I, can
2 you hear me?
3 MS. MCNEIL: I hear you, but I don't see you.
4 MS. EGLOFF: Oh, you don't see me? Huh. I pushed
5 the wrong button?
6 MS. MCNEIL: Can you see her, Mr. Brown?
7 MS. EGLOFF: I pushed the video camera button.
8 It's on my phone.
9 MR. BROWN: No, I don't see her.
10 MS. EGLOFF: What was that?
11 MR. BROWN: I cannot see you either.
12 MS. EGLOFF: Okay. So, is there -- it doesn't
13 seem to be changing. Are you speaking on a phone?
14 MS. EGLOFF: I'm on a cellphone, yes, and I hit
15 the video camera button. What's this other -- that's a
16 computer over there. Let me see. I'll try that one. No.
17 No. That said to share your screen.
18 MS. MCNEIL: Ms. Egloff --
19 MS. EGLOFF: I'm talking.
20 MS. MCNEIL: -- do you swear or affirm under the
21 penalties of perjury that the testimony you shall give will
22 be the truth and nothing but the truth?
23 MS. EGLOFF: Yes.
24 MS. MCNEIL: And what is your address?
25 MS. EGLOFF: 229 Panorama Drive, Oxon Hill,

Page 123

1 Maryland 20745.
2 MS. MCNEIL: Okay.
3 MS. EGLOFF: Do I have to push the button that
4 says share my webcam maybe?
5 MS. MCNEIL: I don't know.
6 MS. EGLOFF: I can try that. I'll push that. Now
7 can you see me now?
8 MS. MCNEIL: Good. Yes, we see you. Okay. What
9 would you like to tell me about this application?
10 MS. EGLOFF: Okay. So, absolutely I believe that
11 it should be denied. I believe that these Zoning Map
12 Amendment cases are extraordinarily unfair to the existing
13 residents and how they are impacted; and myself, I've been
14 impacted for many, many years. I've been very, very unhappy
15 about it and no matter how much I testified and talked about
16 things, it was, okay, no, we want the money. It was all
17 about the money. So, you know, I hope that's not what this
18 is about; but some concerns were raised when Mr. Brown asked
19 who, he said that they had to put in another document and
20 show who owned the property. Now I haven't seen the new
21 document. I looked at the old documents and I was just
22 wondering if, if you all could share that new document with
23 us that shows who the owners are because, you know, after
24 being impacted by National Harbor so bad, I noticed
25 immediately how the change of the project changed from

Page 124

1 Harbor View, LLC, to National View; and so many of the
2 properties that the National Harbor developer owns begin
3 with that word, National, including the Tantalian Country
4 Club. It turned into the National Golf Club. So, when I
5 see a project change names, and that's like, okay, is this
6 just another, you know, National Harbor part 2?
7 And I speak from experience being impacted by
8 that, this MXT development zone which allows anything as
9 long as it has those components, retail, commercial, it has
10 to have two out of three as I recall. So, it can be
11 anything. In fact, we were promised no casino. Well, we
12 got a casino. We were promised, let's see, on one of these
13 projects, we were promised, that was the one where Top Golf
14 is, we were promised a fire station. Well, that's not what
15 we get. So, you know, they just put these ideas, these
16 concepts out there like, for example, this senior living
17 concept. It may be nothing like that, okay? Are seniors
18 going to be able to afford million dollar apartments because
19 the ones that view the river, they're not going to be
20 affordable.
21 And I read a document from the Forest Heights town
22 meeting and it even stated in there that there may be
23 affordable housing. The word may does not mean it's going
24 to happen, okay? So, the latest developers have said, oh,
25 we're going to, we're going to build housing that's going to

Page 125

1 have, house seniors, and have a medical facility, and going
2 to have workforce development housing, and all the -- they
3 can say anything they want, but it's been said in the
4 testimony by other experts that it's not even about what is
5 going to be put there. It's only about density. It's about
6 density and, I guess, transportation and access, which
7 brings me to the Bald Eagle Road. That is an overpass. It
8 has been turned into one way in and one way out to try to
9 make it not impact Oxon Hill Road so bad; but, you know, how
10 are you going to have a big development like that with so
11 much density and you're going to have cars. You can't even
12 access it from Oxon Hill Road right now; and then people,
13 pedestrians are going to walk over an overpass that goes
14 over top of the Beltway? Oh, that's really pleasant.
15 You know, so the, the Bald Eagle Road is impacted
16 by how do you change an overpass? Who is paying for that?
17 The Federal Government? Prince George's County? Maryland?
18 Who is going to do that if you have to widen an overpass?
19 So, there's an impact of development that people don't
20 realize. That comes off of any benefits because your tax
21 money goes to that infrastructure.
22 I also saw in the document the town hall meeting
23 notes. It said, oh, Forest Heights might get \$3 million
24 from this project. Well, maybe they meant yearly for taxes,
25 I'm not sure; but, you know, at what cost do they get money?

Page 126

1 At what cost when people's quality of life is diminished
 2 and, as Ms. Bick was saying about the, the gentrification
 3 issue, who really wants to live next to it? It will, it
 4 will be the new age folks, okay? So, you will be displacing
 5 the older residents, absolutely; and taxes alone, they have
 6 skyrocketed; and, again, I speak from experience. When you
 7 have the values that are just right next door that have
 8 increased tremendously, and then how does that impact your,
 9 your tax structure because it all goes up. So, if you want
 10 to stay living in a place, how do you do that when the taxes
 11 are astronomical?
 12 Truthfully, I don't even know why I keep fighting
 13 because, you know what, nobody really cares. You don't care
 14 about the African-American history. You know, there was
 15 some mention about, well, we're not, African-Americans
 16 aren't here supporting not making this a development
 17 because, oh, we're going to get access to the Butler
 18 property. Well, imagine that. It's going to be a high-rise
 19 or a cemented plaza. How is that making someone experience
 20 what it might have been like all those years ago to be in
 21 that beautiful forested or agricultural area and really feel
 22 what it felt like then. They have, you all have just given
 23 up on all the history in that area. The Bell family, that
 24 became a Top Golf. So, you know, I forget his first name,
 25 but that was also owned by a free African-American. And

Page 127

1 there's, I don't think there's any markers over there
 2 telling about his family.
 3 Salubria, another one, completely covered up with
 4 cement and buildings. A little, tiny, I don't even know
 5 what size, small piece of land is allowed to tell the
 6 history; but in the case of this application, there will not
 7 be room for even probably a square foot of grass, okay?
 8 This is 20 acres of super-intense development. They can't
 9 afford to develop it any other way because it mentioned
 10 these constrictions that they have. So, every tree is
 11 coming down, specimen trees, every tree; and you are at the
 12 top of a hill where water runs downhill. You're going to
 13 take down every single tree and as much as you try to
 14 contain the water, you're not necessarily going to contain
 15 it all and it causes increased velocity of the water the
 16 higher up you go, the further it has to fall. You're going
 17 to have --
 18 MS. MCNEIL: Ms. Egloff --
 19 MS. EGLOFF: -- a waterfall and it's going to end
 20 up at the bottom of that.
 21 MS. MCNEIL: Ms. Egloff, I just wanted you to see
 22 the --
 23 MS. EGLOFF: (Indiscernible) yes.
 24 MS. MCNEIL: -- (indiscernible). You asked that
 25 earlier. So --

Page 128

1 MS. EGLOFF: Did you have a question? Yes.
 2 MS. MCNEIL: I was letting you know that what's up
 3 now are the owners with 5 percent or more --
 4 MS. EGLOFF: Okay. I can't see --
 5 MS. MCNEIL: -- interest in the property. You
 6 can't what? You can't hear me?
 7 MS. EGLOFF: Okay. I need to, I need to --
 8 MS. MCNEIL: So, anyway --
 9 MS. EGLOFF: I can, I can hear you. I want to see
 10 it. Okay.
 11 MS. MCNEIL: Oh, okay. You don't have a computer.
 12 Can someone make this larger? She can't see it on her
 13 phone.
 14 MS. EGLOFF: I don't know what that is. So, I'm
 15 seeing a document --
 16 MS. MCNEIL: These are just the, these are the
 17 disclosures --
 18 MS. EGLOFF: -- with only two signatures, correct?
 19 MS. MCNEIL: Right. These are the disclosures
 20 that have to be filed in the record. So, these are the
 21 owners with more than 5 percent interest; and the
 22 information Mr. Brown wanted was about the, whether or not
 23 the business entities that they have formed are in good
 24 standing to be operating in Maryland and they are.
 25 MS. EGLOFF: Okay, yes, I remember that question,

Page 129

1 but --
 2 MS. MCNEIL: Okay. So, so, this hasn't changed.
 3 These are the owners.
 4 MS. EGLOFF: This is the updated one, so it is
 5 still only --
 6 MS. MCNEIL: They still say the same thing.
 7 MS. EGLOFF: -- two owners?
 8 MS. MCNEIL: Yes.
 9 MS. EGLOFF: It --
 10 MS. MCNEIL: Ms. Scudder --
 11 MS. EGLOFF: -- it looks like what I had already -
 12 -
 13 MS. MCNEIL: -- (indiscernible). This is it.
 14 MS. EGLOFF: There's no additional owners. I
 15 just, I just noticed that, you know --
 16 MS. MCNEIL: I'm going to say there aren't any,
 17 but our law only requires 5 percent interest or more.
 18 MS. EGLOFF: And, yeah.
 19 MS. MCNEIL: And the --
 20 MS. EGLOFF: Well, we don't know where the money
 21 is coming from.
 22 MS. MCNEIL: -- Harbor View, LLC, but they're
 23 trading as National View for the project. That's what it
 24 might be called.
 25 MS. EGLOFF: Right. National View, LLC. And,

Page 130

1 again, like I said, it's concerning to me to hear a name
2 change like that because of the fact that everything
3 associated with National Harbor and their owners is always
4 named National. So, that's my concern is it's going to be
5 National Harbor View.
6 MR. BROWN: Ms. Egloff.
7 MS. EGLOFF: Yes?
8 MR. BROWN: I am sure the Applicant will stipulate
9 that no one associated with National Harbor has an interest
10 in this property. If Mr. Vercella (phonetic sp.) or Mr.
11 Salem, or the other gentleman, I can't think of his name,
12 wants to confirm that after we speak, that will be fine.
13 MS. EGLOFF: Okay. Would they like to?
14 MR. VERCELLA: I, I can speak to that. This is
15 Rob Vercella talking. I can unequivocally say --
16 MS. MCNEIL: Mr. Vercella, you're still under
17 oath. Go ahead.
18 MR. VERCELLA: Yes, ma'am. I can unequivocally
19 state that National, the, the Peterson Companies, everyone
20 associated with National Harbor has nothing to do with this
21 project and ownership --
22 MS. EGLOFF: Uh-huh.
23 MR. VERCELLA: -- of this property, not one thing.
24 MS. EGLOFF: Okay.
25 MR. VERCELLA: Period, okay? Thank you.

Page 131

1 MS. EGLOFF: Okay. I'm back on, right?
2 MS. MCNEIL: Yes.
3 MS. EGLOFF: Okay. So, you know, I mean I notice
4 one of my buddies on the call and that buddy is associated
5 with National Harbor; but maybe he's on there because he
6 just wants to see how this project would actually upstage
7 MGM because it would be on a higher hill, so it would stand
8 taller, and be more of a focal point, which is also part of
9 an issue that I cannot stand when you're right next to a
10 very important African-American historic site; when you're
11 next to Oxon Hill Farm, which is the, I couldn't think of
12 the whole name, but the lady previous to me, Ms. Godard,
13 mentioned it, how it's part of the Underground Railroad
14 project.
15 The stories that are there in Oxon Hill to be told
16 and are so incredibly rich African-American history, and yet
17 it's okay just to bulldoze it all; just, just take it away;
18 just turn the ground under, take down every tree, you know?
19 I just can't even imagine how Mr. Henry Alexander Butler
20 would feel about that now.
21 So, I think it would have been, and hoped it would
22 still be possible to really add the Butler property to the
23 existing parkland so that people could experience it the way
24 that the land is now and has been virtually untouched other
25 than a couple of residences here and there for all these

Page 132

1 many years; and to be able to sit there and really feel the
2 history because once you take history out of context, you
3 just, you're just robbing it. So, I don't really understand
4 the Historic Preservation Commission and how they operate
5 because they're supposed to preserve and protect, especially
6 National Register sites and County historical sites. They
7 don't typically do the greatest job of it.
8 I have just give up going to the meetings because
9 they were so upsetting because it was all about, well, you
10 can take it down. All you got to do is just put up this
11 little plaque, you know? You know, and yet, then they try
12 to protect something that seemed like, why are you
13 protecting that but you don't protect something like this?
14 You don't protect the Butler property? You don't make a
15 stand? And by the way, they, they didn't, they said they
16 were reserving their position; but, basically, yeah, I think
17 they failed here because they should have said, no, we don't
18 want this. We deny this.
19 So, there must be some kind of political backing
20 to say, oh yeah, we need this economic development. It's
21 got to be on this tall hill. People have to be able to see
22 a high-rise coming into Maryland. You know it's just
23 absolutely breathtaking to see all the trees and the
24 beautiful landscape; and, you know, it's my personal
25 opinion, but I find it, the other side of the street

Page 133

1 disgusting, okay? It, it's, it's for a casino, so I don't
2 believe in, in the, you know, the purpose of the building in
3 the first place; and then to have to look at it when I come
4 over the bridge every time, if I happen to go in Virginia
5 that is, it's just horrible.
6 And then to hear people testify on this project,
7 first of all, many of them were from further out. They were
8 from Fort Washington. Imagine if this was going to be put
9 in their backyard, you know, would they still be testifying
10 for it? And for them to say that National Harbor is not for
11 them, well, when they were, when people were testifying to
12 get National Harbor built, oh yeah, it was, it was going to
13 be for, for us, you know? We need good restaurants and
14 shopping, and we deserve the best and all this. So, now all
15 of a sudden, National Harbor is not for them? Is that
16 because it doesn't have free parking because we're not
17 assured that National View will have free parking; and I can
18 tell you with the constraints of the site, it probably will
19 not have free parking except to residents.
20 So, I just want to say that you just, with the
21 Zoning Map Amendment cases, I do not understand why all of
22 these important things that impact how the property is going
23 to be developed are not part of the original case because
24 once you give it an MXT zone, it's out of control, you know?
25 You can put some stipulations on it, but you're going to

Page 134

1 have the, the super density. You're going to have every
 2 tree taken down. You're going to have historic property
 3 bulldozed under and it's also so unfair to the existing
 4 residents. It is betrayal when people buy a home and love
 5 it and live there, and then feel like they're being pushed
 6 out. It just is, it is a betrayal to the people because the
 7 zoning ordinance are there to protect the land. So, when
 8 you buy something, you don't get something terrible behind
 9 you, you know?
 10 And I'm glad MXT zone is going off the charts. I
 11 hope what they're going to put back in there is not going to
 12 be as bad as this has been because once you but against the
 13 MXT zoning, then you get the argument, oh, well, we're
 14 adjacent to MXT. We can just add right in there. So, if we
 15 want to develop the parkland, all we got to do is talk, you
 16 know, National Park have their parkland and like Bonnie
 17 said, you can have a stadium, or golf course, or whatever
 18 you want, you know, because you have forever impacted that
 19 parkland by having the view shed destroyed.
 20 So, anyway, I have like 38 pages of notes and I
 21 could keep you on here all day long. It would be nice if I
 22 could send you a notation to put in the record, but I, are
 23 you closing the record out today?
 24 MS. MCNEIL: I can leave the record open for you
 25 to submit that, but also submit it to Ms. Scudder and Mr.

Page 135

1 Brown, okay? Or just -- or I can leave the record open for
 2 anyone to submit closing argument. Would you prefer it to
 3 be that?
 4 MS. EGLOFF: You're asking me?
 5 MS. MCNEIL: Uh-huh. You just want to submit your
 6 notes? You can submit your notes. That's good, too.
 7 MS. EGLOFF: Well, like my notes, yeah, they have
 8 to be, they have to be, what's it called, transcribed
 9 because --
 10 MS. MCNEIL: Okay.
 11 MS. EGLOFF: -- it's 38 pages of handwritten, and
 12 notating pages and all this kind of stuff. It's going to
 13 take me a little while, so --
 14 MS. MCNEIL: Can you do it by, can you do it by
 15 next Friday? If we finish today, can you do it by next
 16 Friday? Not this week, but the following week?
 17 MS. EGLOFF: I, yeah, I supposed I can do that.
 18 I, I don't have a real -- I have a borrowed --
 19 MS. MCNEIL: I'm trying to think what --
 20 MS. EGLOFF: -- laptop and I can't stand it. It
 21 just doesn't -- I can't --
 22 MS. MCNEIL: You can, you can write it out by hand
 23 if you want to. It can't be worse than my writing.
 24 MS. EGLOFF: It's pretty bad. Anyway, okay --
 25 MS. MCNEIL: So, I, we do need some other items in

Page 136

1 this record, so feel free to submit it by next Friday, which
 2 is, somebody help me. Today is the 14th.
 3 MS. EGLOFF: Uh-huh. Okay.
 4 MS. MCNEIL: Okay.
 5 MS. EGLOFF: Does anybody have any questions?
 6 MS. MCNEIL: Ms. Scudder, do you have any
 7 questions?
 8 MS. SCUDDER: I just had a few for, for Ms.
 9 Egloff. Ms. Egloff, you've, you've spent a lot of time
 10 testifying today about, you know, the Butler history and,
 11 you know, preserving, how important it is to you that that
 12 history be preserved. So, you know, the Butlers left that
 13 property 30 years ago in the 90s, and I was just wondering
 14 what steps have you taken to make sure that the Butler story
 15 is, is told over the last 30 years?
 16 MS. EGLOFF: Well, I did take steps, and stood up,
 17 and fought for history all during the National Harbor
 18 debacle and the Tanger Outlet debacle. You know, really,
 19 people get distracted --
 20 MS. SCUDDER: But I'm asking you about the Butler
 21 property, ma'am.
 22 MS. EGLOFF: Oh, my gosh --
 23 MS. SCUDDER: The Butler --
 24 MS. EGLOFF: -- I listed, I listed so many times.
 25 I talked about it in front of the Historic Preservation

Page 137

1 Commission. I went to school with one of the Butlers. You
 2 know what, I love my neighbors. I love the history that I
 3 have learned from being involved in community activism. I
 4 just, it's so hard to impart the passion that I feel for the
 5 rich history that is in this immediate vicinity. We like to
 6 talk about that word, vicinity, while we obliterate all the
 7 important history that's surrounding in the vicinity. I
 8 just mentioned the Bell family on the, what do you call it,
 9 caddy corner, and their rich history; and how they donated
 10 land to build a church.
 11 MS. SCUDDER: Ms. Egloff, I'm asking you about the
 12 Butler property, that's it, not the Historical Society.
 13 MS. EGLOFF: What do I know about it?
 14 MS. SCUDDER: (Indiscernible.)
 15 MS. EGLOFF: I, I testified --
 16 MS. SCUDDER: You've, you've had --
 17 MS. EGLOFF: I testified. I testified before HPC
 18 about these important historic resources during this
 19 timeframe of National Harbor, Tanger Outlet, during this,
 20 all this development time, I stood up and testified for that
 21 protection of that property. I don't have the money to buy
 22 it and preserve it, okay? Most likely, the Parks people
 23 didn't have the money either; but, you know, it doesn't mean
 24 that it shouldn't happen. Maybe there's some way, you know?
 25 MS. SCUDDER: Understood, Ms. Egloff. I have, and

Page 138

1 you also testified earlier about the National Harbor
 2 project. You, you were also in opposition to the National
 3 Harbor development, is that correct?
 4 MS. EGLOFF: Absolutely, still am.
 5 MS. SCUDDER: Yes. And, and you, and you filed a
 6 lawsuit against that developer, is that correct?
 7 MS. EGLOFF: One of them, yeah.
 8 MS. SCUDDER: And, and what was the outcome in
 9 that case?
 10 MS. EGLOFF: Well, the, the facts were very
 11 relevant. You want to know the whole story?
 12 MS. SCUDDER: No, I --
 13 MS. EGLOFF: Do I have time?
 14 MS. SCUDDER: You were, you were discredited in
 15 that case, were you not, because you --
 16 MS. EGLOFF: Yes, I was. I was, yeah.
 17 MS. SCUDDER: -- stated (indiscernible).
 18 MS. EGLOFF: Okay. Hold on. Okay. Hold on. I
 19 was discredited because I don't own this home. It's my
 20 family home. I was standing up for my family. Now let me
 21 explain to you that the other person in the lawsuit, another
 22 property owner actually owned his home and signed the
 23 lawsuit, and he was the person with standing and the
 24 developer bought him out. If he had not bought people out -
 25 -

Page 139

1 MS. SCUDDER: But you were found, you were not
 2 found not -- Miss, you were found not to have standing in
 3 that case and that's why (indiscernible).
 4 MS. EGLOFF: I wasn't supposed to have standing.
 5 MS. MCNEIL: Excuse me. Ms. Scudder, could you
 6 give me a proffer as to why we're talking about a lawsuit
 7 with this individual?
 8 MS. EGLOFF: Right, because she's trying to
 9 discredit me right now.
 10 MS. SCUDDER: (Indiscernible) I think it goes to
 11 Ms. Egloff's credibility, Ms. McNeil.
 12 MS. EGLOFF: Right.
 13 MS. SCUDDER: I know that when you hear from
 14 citizens, you assess their credibility; and so, I think that
 15 case is relevant based on her testimony today. She brought
 16 up the National Harbor, and so that is why I mentioned that
 17 --
 18 MS. EGLOFF: Okay. So --
 19 MS. SCUDDER: -- and the judge found her not to be
 20 --
 21 MS. EGLOFF: I'm glad you --
 22 MS. SCUDDER: -- credible.
 23 MS. EGLOFF: Because then it also speaks to the
 24 credibility of the National Harbor owner that he bought the
 25 other person out which then brought my standing into

Page 140

1 question, okay? My love for this area has nothing to do
 2 with whether I own property. I don't own any property,
 3 okay? That's just who I am, okay? I stand up for what I
 4 believe in and I have loved and been in this area for many
 5 years and stood up for black history, all history, history
 6 is history and it should be respected; but of all, I didn't
 7 even find out about some of this stuff until I was civically
 8 active; and I don't appreciate you bringing up that thing.
 9 The other part of that lawsuit was that the Sierra
 10 Club --
 11 MS. SCUDDER: Thank you, Ms. Egloff. You answered
 12 my question. Madam Examiner, I would like to enter that
 13 case into the record, the case that Ms. Egloff was involved
 14 in where the judge found her --
 15 MS. EGLOFF: (Indiscernible.)
 16 MR. BROWN: Madam Examiner --
 17 MS. EGLOFF: But also, I object.
 18 MS. MCNEIL: Wait, wait, wait, Ms. Egloff. Yes,
 19 Stan, Mr. Brown?
 20 MS. EGLOFF: It's about National Harbor. It has
 21 nothing to do --
 22 MS. MCNEIL: Ms. Egloff, please, one second. Mr.
 23 Brown?
 24 MR. BROWN: No, I object to all this testimony
 25 concerning the lawsuit Ms. Egloff was involved in. It's

Page 141

1 irrelevant to this particular case and I object to entering
 2 into the record the decision in that case. In that case,
 3 Ms. Scudder, you need to understand the issue was whether or
 4 not Ms. Egloff had standing; whether or not she was agreed
 5 to file a judicial appeal from the district court. She is
 6 not required to have a (indiscernible) to participate before
 7 the Zoning Hearing Examiner or the District Council. In
 8 terms of her credibility, it's really not relevant either
 9 for us to get into whether or not a case in the circuit
 10 court had any relevance to her credibility in this case; and
 11 so, I will move to strike everything that was said with
 12 regards to the Egloff lawsuit.
 13 MS. MCNEIL: Okay. I would sustain unless, and I
 14 don't know anything about the lawsuit; unless, I do think I
 15 have a right to weigh credibility; so, unless there's
 16 something in that case that says she perjured herself --
 17 it's not a case about perjury, correct?
 18 MR. BROWN: That's --
 19 MS. EGLOFF: No.
 20 MS. SCUDDER: There is, yes, there is a statement
 21 --
 22 MS. MCNEIL: Okay.
 23 MS. SCUDDER: -- in the case, Madam Examiner.
 24 Yes, there is a statement by the judge in the case that says
 25 that she --

Page 142

1 MR. BROWN: Ms. Scudder, we really don't have to
2 get into that. If we were to go down that slippery slope,
3 then every single witness, including all of your witnesses,
4 could be asked whether or not they (indiscernible) last
5 week. It's not relevant to this case.
6 MS. MCNEIL: Okay. Ms. Scudder, I, I think I'm
7 going to sustain, but you can state the name of the case on
8 the record to preserve any argument you want to have later
9 as to whether it should have been admitted; but I'm not
10 going to admit it, but we don't even, I don't even know what
11 case you're talking about. So --
12 MS. SCUDDER: Yes. It's the Karen Egloff, et al.
13 v. County Council with Prince George's County, Maryland
14 sitting as the District Council, et al., No. 6291. It's a
15 September 1998 case.
16 MS. MCNEIL: All right. Thank you, but I agree
17 with --
18 MS. EGLOFF: Can I, can I just say one more thing?
19 MS. MCNEIL: Wait one second, Ms. Egloff. I agree
20 with Mr. Brown, so we're not going to talk about that case.
21 It doesn't have anything to do with your testimony right
22 now, Ms. Egloff.
23 MS. EGLOFF: Well, she --
24 MS. MCNEIL: But you keep talking about, then
25 she'll keep talking about it. So --

Page 143

1 MS. EGLOFF: Well, you know, it's very hurtful. I
2 just want to add one thing and that is that, you know, I, I
3 was six weeks old when I was brought to this home in Oxon
4 Hill, Prince George's County, Maryland. I deeply love this
5 place. So, my passion is real. It is not put on. And I
6 find that case, rather than my mother, the homeowner,
7 because she was also very aggrieved by it; but because she
8 was older, I signed to represent the family. So --
9 MS. MCNEIL: Okay, Ms. Egloff, I need you to stop.
10 MS. EGLOFF: -- you know, I'm doing a noble thing.
11 MS. MCNEIL: I'll ruled, I'll ruled against, I
12 ruled against Ms. Scudder. Do you have any other testimony?
13 MS. EGLOFF: All right. That's fine. I -- I just
14 want to --
15 MS. MCNEIL: It's because it's irrelevant to this
16 case. Do you have any other testimony?
17 MS. EGLOFF: Well, you said I could, I could
18 submit my --
19 MS. MCNEIL: Yeah.
20 MS. EGLOFF: -- my redacted or fluffed up notes
21 because there's so many and I need to put it in sensible
22 order.
23 MS. MCNEIL: Okay. You'll do that by --
24 MS. EGLOFF: So --
25 MS. MCNEIL: -- April, May 14th? Close business

Page 144

1 May 14th.
2 MS. EGLOFF: May 14th. All right. Thank you.
3 MS. MCNEIL: Okay. Thank you. Mr. Weiss, do you
4 want to testify? Oh, Mr. Brown, I'm sorry, did you have
5 questions? One second, Mr. Weiss. Okay. No questions.
6 Okay, Mr. Weiss, would you state your name for the record?
7 MR. WEISS: I am Ronald F. Weiss.
8 MS. MCNEIL: Okay. Do you swear or affirm under
9 the penalties of perjury that the testimony you shall give
10 will be the truth and nothing but the truth?
11 MR. WEISS: I do.
12 MS. MCNEIL: Okay. Give me your address and what
13 you'd like to tell me about this application.
14 MR. WEISS: I live at 12511 Paxil Court, Fort
15 Washington, Maryland 20744. I, that address is about 5
16 miles from the, the property in discussion.
17 Madam Examiner, I'm Ronald Weiss. I am speaking
18 on behalf of the Indianhead Highway Area Action Council, the
19 IHAAC. I have succeeded Sarah Cabot as president since her
20 retirement from that position. I would like the IHAAC
21 letter of March 23, 2021, to be entered in the record.
22 IHAAC opposes the rezoning of the property from RR
23 and R-55 to MXT. We support the Technical Staff Report and
24 the position of the National Park Service. There are
25 significant issues with transportation, traffic, and

Page 145

1 adequate facilities and the environment. We request
2 disapproval of the Zoning Map Amendment. Thank you.
3 MS. MCNEIL: Okay, sir. I know I've seen that
4 letter. Ms. Scudder, do you have questions of Mr. Weiss?
5 Oh, it's Exhibit 83 and it is in the record, sir.
6 MR. WEISS: Thank you.
7 MS. SCUDDER: I do not, Madam Examiner. No
8 questions.
9 MS. MCNEIL: Okay.
10 MR. BROWN: No questions.
11 MS. MCNEIL: Thank you, Mr. Brown. Thank you, Mr.
12 Weiss.
13 MR. WEISS: Thank you.
14 MS. MCNEIL: So, I don't think anyone else
15 requested a chance to testify. Ms. Scudder, I have a
16 question before we close, and that is, and maybe I could
17 give Mr. Robinson -- I don't know if Mr. Robinson wants to
18 say anything, but is the town going to enter anything into
19 this record? We only have a letter from the mayor. Does
20 anyone know?
21 MS. SCUDDER: I, I would, I would --
22 MR. ROBINSON: I'm sorry, Madam Examiner, excuse
23 me.
24 MS. MCNEIL: So, Mr. Robinson?
25 MR. ROBINSON: The, at this point, the letter from

Page 146

1 the mayor is the only document that we have officially
2 submitted. Our town council is considering a resolution as
3 we speak to support this particular project, but it has not
4 been approved by the council at this, at this point.
5 MS. MCNEIL: And do you know when they might
6 approve it?
7 MR. ROBINSON: Well, it was actually on, been on
8 the agenda for the last couple of months for our town
9 council. It's been tabled pending a little bit more
10 information that our council members are asking for from
11 Staff. It, it, I think it would be a shot in the dark to
12 assume when it might be approved, but I, my guess would be
13 probably the first or so of June at the earliest.
14 MS. MCNEIL: Okay. You understand that if you
15 all, if they want to be, if they want their position to be a
16 part of the record, they need to submit it to me. The
17 Council is not going to take anything after this case is
18 sent to the Council.
19 MR. ROBINSON: Yes, ma'am, we are, we're well-
20 aware of that, and Staff has articulated that to our town
21 council.
22 MS. MCNEIL: Now I'm looking -- I think at one
23 time you had the attorney for your town on, but I don't see
24 him now.
25 MR. ROBINSON: Kevin Best is --

Page 147

1 MS. MCNEIL: Yes.
2 MR. ROBINSON: -- he is on these calls, yes,
3 ma'am.
4 MS. MCNEIL: Where is Kevin? I don't see his name
5 right now.
6 MS. SCUDDER: He was here earlier. He was here
7 most of the day, but I, I didn't see him leave, but I don't
8 see his name now either.
9 MR. BROWN: He left some time ago.
10 MS. MCNEIL: Okay.
11 MR. ROBINSON: Would you like me to see if I can
12 get him to, to jump on quickly, or --
13 MR. BROWN: No, because he can't make any
14 assurances about what the position --
15 MS. MCNEIL: No more than you just did.
16 MR. ROBINSON: Yes.
17 MS. MCNEIL: Okay. Well --
18 MR. ROBINSON: Yes. He and I discussed this, this
19 subject quite, quiet significantly, and I don't, of course,
20 I'm not an attorney, but I don't think there's a lot he can,
21 he can add to what I'm saying from a procedural --
22 MS. MCNEIL: Right.
23 MR. ROBINSON: -- or protocol standpoint.
24 MS. MCNEIL: So, you're saying even if it were the
25 first week of June, you're not guaranteeing anything?

Page 148

1 MR. ROBINSON: As a member of Staff, no, ma'am;
2 I've learned that I can't do that.
3 MS. MCNEIL: (Indiscernible.) I'm sorry. I've
4 been a member of Staff. I'm sorry I said that to you.
5 Okay. Well, I thank you.
6 MS. SCUDDER: (Indiscernible) Mr. Robinson a
7 question?
8 MR. BROWN: Yes, but --
9 MS. MCNEIL: Well, he's not, I haven't sworn him,
10 so it's sort of like a proffer. You have some kind of
11 proffer you want from him, not testimony?
12 MS. SCUDDER: It was just with regard to you
13 leaving the, the record open in this matter for, you know, a
14 little longer. He mentioned a possibility of, you know, the
15 first week in June, I think he said, and maybe if we could
16 leave the record open until maybe the end of that week to
17 just --
18 MS. MCNEIL: Yes.
19 MS. SCUDDER: -- you know, the way --
20 MS. MCNEIL: You must not have heard us. Yes, he
21 did say that, but he said he can't promise anything; but if
22 you have no objection, I have no objection to leaving it
23 open until the first week of June just to see if he can get
24 something from the town.
25 MS. SCUDDER: All right. Well, I would ask my

Page 149

1 client, who is here, Mr. Boric, or Mr. Vercella, if you all
2 have any objections right now to --
3 MS. MCNEIL: And you don't have to ask them on the
4 record like that. You, you let me know if they have an
5 objection.
6 MS. SCUDDER: Okay.
7 MS. MCNEIL: Just send an email.
8 MR. BROWN: Madam Examiner, let me, let me --
9 MS. MCNEIL: Yes, sir? I can't hear you. I can't
10 hear you, Mr. Brown.
11 MR. BROWN: Let me raise a point, though, because
12 it may be inappropriate to hold the record open just so the
13 town can put in what we think is going to be a
14 recommendation of approval. If we were to do that, then we
15 would have to hold this record open so the opposition can
16 put anything in addition that they want to put in as well.
17 MS. MCNEIL: That part is true. That is true.
18 MR. BROWN: Just for the Applicant's benefit, the
19 town has known that this application has been pending for
20 some time. Whatever political disagreements they're having
21 amongst themselves as to why they don't have a letter of
22 support or opposition, that's not our concern. So, if we --
23 MS. MCNEIL: That's true, but I was, if they ended
24 up with a letter not in support, then there's a, a voting
25 requirement for the Council. That's all I was concerned

Page 150

1 about, but --

2 MS. SCUDDER: Well, also, Mr. Brown, I would just

3 like to remind you that Park and Planning failed to send the

4 town a referral in this case, which is, you know; and, you

5 know, this project is within the limits of the municipality

6 and they did not have an opportunity to formally weigh-in

7 when this case was before Park and Planning. So, it would

8 seem to me that it would be appropriate to give them a

9 little more time to weigh in on this matter since it is

10 within their city limits, at least partially.

11 MR. BROWN: The town has been well-aware of this

12 case. They've had ample opportunity to publish their

13 official position.

14 MS. MCNEIL: I think I'm inclined to agree with

15 him, Ms. Scudder; but I'm already leaving it open until the

16 14th, so we'll see what we can, the town can submit

17 something by that time, that would be wonderful, okay?

18 MR. ROBINSON: Madam Examiner, I will convey that

19 to our town council and our mayor.

20 MS. MCNEIL: Thank you, Mr. Robinson. Okay. So,

21 I'm trying to think, do we need anything else from Ms.

22 Scudder; but I'll, I'll go through, I think we did leave it

23 open for, yeah, I have some, some, there are some documents

24 we need, but I'm going to send the email to you all to recap

25 because it's something to do with the State Highway

Page 151

1 Administration. I believe I asked that of Mr. Lenhart.

2 We're going to have Ms. Egloff's notes. We may get

3 something from the town. I did not see a letter of

4 authorization for Ms. Godard, so I'm hoping she's going to

5 send that. I did find the letter for Ms. Gingold and we're

6 going to make that a part of the record.

7 Mr. Brown got the information he wanted, I

8 believe. So, I thank you all for being here. Oh, I'm

9 sorry, Ms. Scudder.

10 MS. SCUDDER: Madam Examiner, before we go, one,

11 one thing is I, I had asked if we could enter that revised

12 Teracon document Mr. Brown --

13 MS. MCNEIL: Okay.

14 MS. SCUDDER: -- was going to take a look at it.

15 The original exhibit was Exhibit 78 and then we submitted

16 today a redacted version that redacted all opinions and

17 conclusions.

18 MS. MCNEIL: And, Mr. Brown, did you get a chance

19 to see it?

20 MR. BROWN: Yes. I mean I reviewed it. Ms.

21 Scudder, I would object to the document in its totality.

22 It's not relevant to the zoning issues in this case. And

23 just from a strategy point, you need to understand that even

24 though you may have spoken with persons prior to the filing

25 of this application related to issues of stormwater

Page 152

1 management, geology, soil conditioning, the environment and

2 what have you, by putting into a record all of those issues,

3 you have basically opened the door for persons to oppose

4 this application on issues that are irrelevant. Your case

5 will get lost by adding these types of documents and this

6 type of evidence into the record. To me, you really

7 shouldn't fight this fight at this particular point in time.

8 You should just fight the issues that are relevant to a

9 rezoning for the MXT. So, I will object, but if you really

10 want it in and the Examiner lets it in, that's fine; but

11 from a strategy point, I don't think it's something you

12 really want in the record.

13 MS. SCUDDER: If I could just respond, Mr. Brown,

14 because our entire team agrees with what you just said in

15 terms of, you know, this, this subject matter not being

16 really relevant to a Zoning Map Amendment application;

17 however, you know, Staff in their Technical Staff Report

18 spent six pages writing about all of these environmental

19 issues and they specifically referenced soils. I mean

20 there's two, two areas in the Technical Staff Report where

21 the Technical Staff brings up soils and they actually

22 comment that the site is highly erodible; and we disagree

23 with those comments and would like to, you know, have an

24 opportunity to refute because it's confusing as to whether

25 they're just providing this as information, or if they made

Page 153

1 some findings which, again, we agree are not really

2 relevant, but we don't want to just leave them unaddressed,

3 unresponded --

4 MS. MCNEIL: Okay. Wait. It's her case, Mr.

5 Brown, so, I'll let it in, the redacted version, and will

6 not allow Exhibit 78 to be part of the record, okay?

7 (Indiscernible.)

8 MS. SCUDDER: Thank you.

9 MS. MCNEIL: Okay. So, that comes in. Anything

10 else? Ms. Poteat, what number will that be, 110?

11 MS. POTEAT: I'm sorry. The redacted --

12 MS. MCNEIL: What's the next exhibit, the next

13 exhibit number?

14 MS. POTEAT: The next exhibit number is going to

15 be 110; however --

16 MS. MCNEIL: Okay.

17 MS. POTEAT: -- we did 108 and 109 as the two

18 documents, the letter to you and the letter from Sierra

19 Club.

20 MS. MCNEIL: Are you saying this redacted

21 information from Ms. Scudder is one of those numbers?

22 MS. POTEAT: It's going to be, that's going to be

23 110.

24 MS. MCNEIL: Okay. That's all I was asking you to

25 say.

1 MS. POTEAT: Yes. Yes.
 2 MS. MCNEIL: And you say we have 108 and 109?
 3 Okay. All right.
 4 (Hearing Exhibit No. 110 was
 5 marked for identification.)
 6 MS. SCUDDER: Madam Examiner --
 7 MS. MCNEIL: I thank you all for being here --
 8 MS. SCUDDER: -- the, the, we also need to submit,
 9 I just want to confirm that things are outstanding that we
 10 need to submit before the record in this case closes, and I
 11 think it was the resume of Mr. Al Hanson. You asked for a
 12 copy of the Maryland Sustainability Plan for Forest Heights
 13 and --
 14 MS. MCNEIL: I did.
 15 MS. SCUDDER: -- to submit, and you mentioned this
 16 already, Mr. Lenhart's exhibit. He was going to provide a
 17 concept that was approved in the, in the TSR. So, those
 18 items, those resume of Al Hanson, the Maryland
 19 Sustainability Plan and Mr. Lenhart's exhibits are the items
 20 that I believe you have requested that we submit.
 21 MS. MCNEIL: Yes, and the record will be closed on
 22 May 14th.
 23 MS. SCUDDER: Yes, ma'am. Thank you; and thank
 24 you, Mr. Brown; and thank you everyone that was here today.
 25 MS. MCNEIL: Now I'm going to take my hearing back

1 and I'm going to thank everyone for being here today, and
 2 for bearing with us with our virtual record; and thank you
 3 very much; and the hearing is now over. I will wait until
 4 my queue before I sign off. Thank you.
 5 (Discussion off the record.)
 6 (Whereupon, the hearing was concluded.)
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1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that the
 3 attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Prince George's County Office of the Zoning Hearing Examiner
 6 in the matter of:

7
 8 NATIONAL VIEW
 9 Case No. A-10055

10 By:

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 Tracy Hahn, Transcriber

	52:1	addressed (8) 16:6;36:23;42:7; 52:22;78:2;95:18,19; 102:5	66:10;73:10;98:13; 107:12;126:6;130:1; 153:1	almost (5) 24:7;51:19;95:9,11; 97:12
\$	acres (5) 50:12;61:18,20; 63:10;127:8	adequacy (6) 55:7;97:4,9,12,14,15	against (8) 51:10;74:3;113:25; 118:9;134:12;138:6; 143:11,12	alone (4) 32:5;36:19;93:25; 126:5
\$3 (1) 125:23	across (10) 30:16,25;31:1,14,15; 104:9;106:20;111:25; 112:20;115:18	adequate (3) 29:18;67:8;145:1	age (1) 126:4	along (12) 30:11,23;34:24; 46:16;53:14,24,24; 76:19;77:16,16;106:2; 112:1
A	act (2) 73:16;91:11	adjacent (14) 22:11;25:23;51:2; 69:17,19;70:19;77:21; 78:14;100:25;103:6; 111:1,13;112:21; 134:14	agency (1) 102:22	alongside (1) 9:4
A-10043 (1) 10:9	action (4) 35:10;37:5;108:10; 144:18	adjoining (2) 102:2,23	agenda (1) 146:8	Although (1) 101:7
A-10055 (1) 3:6	actions (1) 96:20	Administration (1) 151:1	aggrieved (1) 143:7	always (8) 9:2;41:13,17;69:5; 74:3;75:5;109:25; 130:3
ability (3) 31:5;47:23;83:12	active (1) 140:8	admit (2) 85:9;142:10	ago (7) 9:25;46:18;56:5; 106:10;126:20;136:13; 147:9	amend (1) 30:9
able (9) 4:6;12:13;55:1;58:8; 64:3;90:12;124:18; 132:1,21	activates (1) 13:23	admitted (2) 79:12;142:9	agree (24) 8:24;9:1,8;10:17,23, 25;16:15;25:18;37:13, 13;39:12;51:9;52:13; 62:19;68:17,17,21; 74:6;95:16;120:15; 142:16,19;150:14; 153:1	Amendment (8) 10:8;67:19;75:14; 89:21;123:12;133:21; 145:2;152:16
above-ground (1) 72:25	activism (1) 137:3	adopt (1) 8:16	agreed (2) 54:13;141:4	amenity (1) 116:24
abrupt (2) 67:13,14	activity (8) 13:18,21;14:13,23; 46:14;49:20;53:12,14	adopted (1) 23:17	agrees (1) 152:14	Americans (3) 71:23;106:6,16
absent (1) 77:20	acts (1) 117:20	advantage (3) 13:17;82:10,23	agricultural (1) 126:21	America's (1) 99:18
absolutely (5) 17:21;123:10;126:5; 132:23;138:4	actual (4) 24:1;32:8;41:10; 81:14	advantaged (1) 119:11	ahead (10) 4:9;6:8;40:12;49:6; 60:9;70:14;78:11; 107:20;109:16;130:17	amongst (1) 149:21
absorbing (1) 113:3	actually (37) 10:19;17:13,20; 19:20;22:15;23:25; 26:24;28:8;30:21; 31:20;32:5;34:20,24; 36:12,17;37:7;38:2,25; 41:8,18;43:18;47:25; 56:2;63:22;66:4,7; 86:13;87:6;88:1;93:20; 116:13;119:12;120:12; 131:6;138:22;146:7; 152:21	adverse (1) 82:25	air (3) 101:23;103:1;112:24	amount (1) 120:20
abstract (1) 58:2	add (6) 106:12;112:22; 131:22;134:14;143:2; 147:21	adversely (1) 83:18	Airport (1) 51:8	amounts (4) 48:4,4;49:24,25
abut (2) 29:4;77:1	adding (1) 152:5	affected (1) 51:6	al (4) 142:12,14;154:11,18	ample (3) 45:24;46:24;150:12
abutting (1) 99:12	Addison (1) 118:1	affirm (5) 6:13;107:25;115:4; 122:20;144:8	Alan (1) 106:3	analysis (3) 8:12;16:1;89:4
acceptable (1) 4:11	addition (3) 101:14;114:10; 149:16	affluent (1) 84:21	Alexander (2) 101:3;131:19	analyze (1) 64:3
accepted (4) 4:25;7:3,5;100:21	address (18) 6:18;43:20;47:4; 52:13;79:22;81:1;84:2; 91:16;96:25;99:4; 101:19;108:3,20; 109:20;115:8;122:24; 144:12,15	afford (2) 124:18;127:9	Alice (1) 106:21	analyzed (1) 16:10
access (14) 17:18;19:9,13;28:24; 29:7,21,25;30:3; 110:12;114:8;116:3; 125:6,12;126:17	addressed (8) 16:6;36:23;42:7; 52:22;78:2;95:18,19; 102:5	affordable (3) 110:7;124:20,23	alignment (2) 30:20;34:24	and/or (1) 23:11
accommodate (3) 30:18;47:15;109:24	adequacy (6) 55:7;97:4,9,12,14,15	African (1) 71:22	allow (9) 3:16;44:7;45:7;51:7; 57:5;98:10;113:8; 117:21;153:6	annex (1) 27:16
accompli (1) 55:22	adequate (3) 29:18;67:8;145:1	African-American (10) 101:1,3;105:11,13, 17;106:14;126:14,25; 131:10,16	allowable (1) 51:12	answered (2) 54:1;140:11
accomplished (1) 47:15	act (2) 73:16;91:11	African-Americans (3) 104:15;105:18; 126:15	allowed (2) 64:7;127:5	anticipate (1) 45:20
accordance (2) 25:2;31:22	action (4) 35:10;37:5;108:10; 144:18	Africans (1) 106:16	allows (1) 124:8	anymore (2) 24:4;77:6
accurately (1) 12:14	actions (1) 96:20	again (28) 4:13;11:17;13:15; 16:6,14;17:15;26:5; 29:1,3;32:24;33:25; 34:10;41:5,23;42:15; 43:12;47:21;55:8; 62:21;63:20;64:7;		apartment (2) 53:13,19
acquire (1) 24:10	activates (1) 13:23			apartments (1) 124:18
acquired (2) 24:7;92:6	active (1) 140:8			apologize (5) 57:3;64:19;69:7; 87:10;107:9
acquiring (1) 23:20	activism (1) 137:3			apparently (2)
acquisition (2) 32:19;91:3	activities (2) 46:1;114:9			
acre (1)	activity (8) 13:18,21;14:13,23; 46:14;49:20;53:12,14			

<p>41:15;51:12 appeal (1) 141:5 appears (1) 57:8 applicable (4) 20:4;38:22;39:5; 43:11 Applicant (8) 3:21;27:11,15;89:1; 98:22;111:21,24;130:8 Applicant's (4) 24:2;102:4;103:10; 149:18 application (44) 7:17;8:13;20:25; 21:15,23;22:7;24:13, 22;26:11,22;28:19; 32:1,23;33:13,20,25; 34:13,15;35:15,25; 36:24;37:9;38:24; 40:21;41:1,42:8,24; 43:10;44:21;45:3;54:9; 68:23;73:22;90:1;96:4; 105:19;108:4;123:9; 127:6;144:13;149:19; 151:25;152:4,16 applications (1) 83:2 applied (2) 75:13,14 apply (1) 89:3 applying (1) 31:25 appreciate (2) 60:11;140:8 appreciated (1) 49:6 approach (1) 96:12 appropriate (11) 22:5;50:9;52:24; 64:5;69:14;73:20,23; 76:2;83:24;89:8;150:8 appropriateness (1) 75:22 approval (32) 8:13;9:20;20:6; 21:14;24:12;28:18; 31:19;32:1,22;35:2; 36:20;37:20;40:25; 41:25;42:8,24;44:2,7, 12,17;45:3;63:3;64:15, 16,18;68:24;76:11; 77:22;85:4;96:8; 120:16;149:14 approve (1) 146:6 approved (21) 23:8,16;33:20;34:1, 13;36:25;37:4,9;38:24; 47:12;54:9;55:23;65:2;</p>	<p>68:25;73:22;110:21, 21;115:14;146:4,12; 154:17 approves (1) 41:24 approximately (1) 18:17 April (3) 30:24;109:14;143:25 aptly (1) 112:9 archeology (1) 101:9 architect (2) 55:3;66:10 Architects (1) 58:6 architectural (2) 66:1;68:2 area (34) 7:6;19:17,18,19; 21:13;22:4,15;30:25; 31:22;32:9,10;35:25; 38:20;42:25;49:18,21, 22;67:4;68:6;86:2,9; 103:5;112:11;116:19; 117:16;118:10;119:17, 18;126:21,23;140:1,4; 144:18 areas (13) 15:6,7;33:10;38:17; 48:12;53:8;85:18,19; 88:10;110:25;112:5; 113:4;152:20 argue (2) 22:5;119:14 argument (4) 3:16;134:13;135:2; 142:8 arise (1) 30:18 Arlington (3) 53:5;116:12,13 around (11) 15:7;31:15;56:11,18, 25;58:15;76:8;85:7; 86:9;88:10;118:5 arriving (1) 112:3 art (2) 58:2;112:3 arterial (1) 13:14 articulated (1) 146:20 artifacts (1) 105:12 aside (1) 109:24 assess (1) 139:14 assessment (1) 47:7</p>	<p>assets (1) 116:3 assisted (1) 111:23 associate (1) 104:21 associated (6) 14:14;103:1;130:3,9, 20;131:4 Association (6) 99:2,8,10,18;103:3; 105:23 assume (1) 146:12 assurances (1) 147:14 assured (1) 133:17 astronomical (1) 126:11 Atlantic (1) 104:7 Atlas (2) 94:20;95:4 attention (1) 20:2 attorney (2) 146:23;147:20 attractive (1) 36:4 audible (1) 93:16 audience (1) 68:22 authorization (1) 151:4 authorizing (2) 103:19;107:11 automobile (2) 45:22;47:9 available (1) 47:6 Avenue (3) 53:11,15,25 aware (7) 59:5,14;64:21;68:24; 89:20;115:13;146:20 awareness (2) 91:19;92:3 away (5) 94:2,13,16;113:19; 131:17</p>	<p>112:8 background (1) 121:24 backing (1) 132:19 back-up (6) 23:24;27:6;56:22,23; 97:1;121:25 backyard (1) 133:9 bad (4) 123:24;125:9; 134:12;135:24 Bah (1) 56:17 balance (1) 37:18 balancing (5) 20:20;31:25;81:23; 91:11;96:9 Bald (11) 11:23;12:18,23; 34:23;46:2,4;100:16; 102:5;114:7;125:7,15 Barnabas (1) 10:10 barrier (2) 116:1,2 base (1) 65:11 based (7) 15:9;40:3;41:10; 58:6;63:14;75:21; 139:15 basic (2) 16:25;109:22 basically (3) 41:19;132:16;152:3 basis (1) 105:14 battery (2) 49:9,11 beaches (1) 112:7 bear (3) 44:11;51:18;96:8 bearing (1) 155:2 beautiful (2) 126:21;132:24 beauty (1) 106:8 became (3) 57:7;106:15;126:24 become (6) 33:20;54:8;78:7; 82:7;106:16;113:4 becomes (2) 19:15;20:20 beeps (1) 121:25 begin (1) 124:2</p>	<p>beginning (3) 75:9;83:19;93:24 behalf (9) 98:24,25;99:1,10; 103:19;108:8,24,24; 144:18 behavior (1) 120:10 behind (5) 48:9;53:17,18;78:5; 134:8 believes (1) 103:3 Bell (2) 126:23;137:8 below (1) 73:2 Beltway (27) 9:6;11:11,12,14,21; 46:7;59:7;65:8;66:12; 76:18;80:1,10,25;81:3, 11,13;82:2,3;85:20,23; 86:2,8;88:2,18,21; 115:18;125:14 benefit (9) 83:21;86:7,13;88:1, 2,17;89:5;118:17; 149:18 benefits (2) 112:17;125:20 benefitting (2) 85:19,19 best (7) 35:10;47:21;94:11; 109:25;118:16;133:14; 146:25 betrayal (2) 134:4,6 better (5) 12:16;40:1,2;65:4; 97:25 Betty (3) 6:6;12:25;31:9 beyond (2) 11:6;46:16 Bick (79) 79:18,19,20,21;80:7, 13,15,19,20,22;81:6,8, 16;83:24;84:1,6,12; 85:6,15,17,25;86:4,5, 12,18,21,24;87:19,25; 88:3,5,9,16,23,25;89:6, 8,11,14,24;90:2,4,6,7,9, 9,13,17;91:15;92:1,3,5, 13,17,20;93:5,6,14; 98:11;114:25;115:1,2, 3,3,7,10;118:22,25; 119:3,4,16,20;120:1, 12,14,19;121:1,10; 126:2 bicycle (3) 29:23;45:25,25 big (4)</p>
			<p style="text-align: center;">B</p>	
		<p>back (20) 4:3;9:24;12:25;13:1; 17:16;23:12;26:5;41:5, 11;47:22;52:17;54:17; 62:22;81:1,13;88:7; 100:18;131:1;134:11; 154:25 backdrop (1)</p>		

54:23;103:1;105:23; 125:10 bigger (1) 101:20 biggest (1) 79:24 bike (3) 46:19,24;112:18 billion (1) 117:10 Binder (9) 8:15;9:14,18;11:17; 18:1,9;56:2,3;58:11 bit (7) 9:15;15:16;47:6; 64:13,18,19;146:9 black (2) 46:6;140:5 block (2) 53:17,18 blue (5) 10:20;11:5,8;13:8; 58:3 Board (4) 56:21;65:1;69:25; 110:17 boating (1) 100:9 bodies (1) 83:5 body (3) 12:14;77:19;87:24 Bonnie (2) 115:3;134:16 Boric (4) 46:17;54:25;64:20; 149:1 borrowed (1) 135:18 both (14) 3:24;11:10;25:23; 46:24;47:5;50:14; 62:19,20;68:25;83:8; 85:2;102:1;105:18; 114:4 bottom (2) 71:20;127:20 bought (7) 80:24;92:12,14;93:7; 138:24,24;139:24 Boulevard (1) 12:19 boundaries (1) 27:16 boundary (2) 9:3,7 box (2) 102:17,19 break (1) 98:9 breakdown (1) 105:9 brehtaking (1)	132:23 Bridge (8) 30:17,17;34:23;36:2; 46:5,7;115:19;133:4 brief (1) 112:16 briefly (1) 41:11 bring (10) 4:3,13;9:14;14:13; 24:24;27:11;31:2; 52:23;70:3;99:22 bringing (1) 140:8 brings (3) 13:19;125:7;152:21 Broad (2) 19:20;34:25 broadly (3) 48:20;50:8;84:19 brought (6) 64:13;78:8;102:12; 139:15,25;143:3 BROWN (86) 3:22,22;4:7,8,18; 5:18;17:9;45:9,10,11, 12;65:22;66:7;78:10, 12,13;79:8;87:8,11; 88:22,25;89:18,25; 90:3;93:15,16;103:16, 17,22;104:1,6,14,24; 105:4,21;107:7;109:1, 12;114:22,23;119:1,2, 4,5,19,22;120:11,13, 15,25;121:9,20;122:6, 9,11;123:18;128:22; 130:6,8;135:1;140:16, 19,23,24;141:18;142:1, 20;144:4;145:10,11; 147:9,13;148:8;149:8, 10,11,18;150:2,11; 151:7,12,18,20;152:13; 153:5;154:24 bucolic (1) 88:20 buddies (1) 131:4 buddy (1) 131:4 buffer (4) 34:6;52:25;77:5; 83:12 buffered (1) 34:5 buffers (1) 41:9 buggy (1) 100:18 build (4) 116:23,23;124:25; 137:10 building (8) 55:18,19;62:23,24;	64:11;101:15;112:21; 133:2 buildings (22) 17:4;51:8,11;52:10; 53:13,13,19;54:19,23; 55:8,16,22;56:5,15; 58:3;78:5;100:11; 101:8;116:22,22; 117:7;127:4 built (3) 100:12;101:13; 133:12 bulk (1) 54:19 bulldoze (1) 131:17 bulldozed (1) 134:3 bulldozers (1) 121:24 Burkard (2) 5:10,10 bus (8) 15:22;17:3,4;29:16; 30:13;46:10,13,13 business (4) 74:11;99:4;128:23; 143:25 busy (2) 15:7,7 Butler (24) 19:22;23:2,14;27:12, 14,16;32:14;35:19,21; 70:21;71:20;91:2; 101:3;110:5;114:14; 126:17;131:19,22; 132:14;136:10,14,20, 23;137:12 Butlers (3) 101:2;136:12;137:1 button (5) 21:5;122:5,7,15; 123:3 buy (8) 76:17;80:1,9,24; 81:19;134:4,8;137:21	21:2,3 calls (2) 111:2;147:2 Cambridge (1) 106:19 came (3) 58:8;88:10;103:9 camera (3) 121:19;122:7,15 can (90) 4:5,9,10;5:1;7:17,18, 18;12:16;13:9,15;15:2, 25;16:17;17:17,19; 18:1,2,6,6;19:11;31:2; 35:10;39:24;40:15; 47:6;48:12;50:9;52:3; 54:5;55:9;58:10;63:7, 7;71:6,16;74:15;77:1; 83:3;89:11,12;95:2; 96:25;105:2,21; 108:22;116:20;118:4; 120:24;121:1,1,24; 122:1,1,1,6;123:6,7; 124:10;125:3;128:9,9, 12;130:14,15,18; 132:10;133:17,25; 134:14,17,24;135:1,6, 14,14,15,17,22,22; 142:7,18,18;147:11,20, 21;148:23;149:13,15; 150:16,16 canopy (2) 66:2;101:22 cap (4) 34:3;63:5,6,13 capacity (1) 84:12 Capital (7) 9:6;11:10,11,21; 86:9;88:24;118:7 capitalize (2) 15:20;86:14 capture (1) 11:13 car (2) 12:10;102:16 carbon (3) 47:5,8,19 care (2) 114:8;126:13 cares (1) 126:13 Carrollton (1) 30:15 cars (1) 125:11 case (46) 6:25;7:3;9:2;10:11; 13:25;20:4;22:2,23;24; 74:21;75:12;78:18; 82:9;91:5;108:7;127:6; 133:23;138:9,15; 139:3,15;140:13,13;	141:1,2,2,9,10,16,17, 23,24;142:5,7,11,15, 20;143:6,16;146:17; 150:4,7,12;151:22; 152:4;153:4;154:10 cases (4) 10:8;77:14;123:12; 133:21 casino (3) 124:11,12;133:1 causes (1) 127:15 cellphone (1) 122:14 cement (1) 127:4 cemented (1) 126:19 Cemetery (1) 118:1 Center (12) 6:20;10:14;11:9; 12:20;16:12,18,23; 25:10,24,25;38:13; 111:10 centers (16) 22:12,19;25:18,22; 28:23;29:5;47:24;48:9, 11,14;66:23;68:7; 69:14,19;76:1;111:6 certain (7) 11:14;56:15;63:14, 15,16;71:14;82:5 certainly (19) 9:2;10:9;16:15; 26:17;32:24;35:15; 38:17;45:23;53:7; 54:25;57:11;81:11,25; 82:24;83:3;84:14;91:1; 93:8,13 cetera (1) 97:5 chance (4) 4:19;5:8;145:15; 151:18 change (20) 76:20;80:25;81:7; 84:20;86:2;103:10; 109:21;112:11;113:8; 115:14,21;117:5; 119:20;120:9,23; 121:5;123:25;124:5; 125:16;130:2 changed (7) 76:16;85:20;91:23; 101:12;118:11;123:25; 129:2 changes (3) 74:16;76:10;121:8 changing (3) 29:1;120:9;122:13 channel (1) 41:20
		C		
		Cabot (1) 144:19 caddy (1) 137:9 Caddy-corner (1) 31:13 call (7) 3:13;6:8;11:22;49:5; 89:11;131:4;137:8 called (8) 12:2;41:16;49:17,20; 63:8;87:15;129:24; 135:8 Caller (2)		

<p>character (11) 67:11;70:19;83:9; 103:5;112:11;115:15, 21,22,23;116:6;120:24</p> <p>characteristic (1) 70:24</p> <p>characterization (1) 72:21</p> <p>characterize (2) 84:18,25</p> <p>characterized (1) 61:3</p> <p>charts (1) 134:10</p> <p>chat (3) 3:13,15;98:8</p> <p>check (1) 98:13</p> <p>cheeky (1) 87:12</p> <p>childcare (2) 28:24;29:7</p> <p>church (1) 137:10</p> <p>Cinco (1) 3:6</p> <p>circuit (1) 141:9</p> <p>cite (1) 97:22</p> <p>cited (1) 27:24</p> <p>citizens (2) 45:8;139:14</p> <p>City (6) 19:21;34:25;68:3; 73:13;78:4;150:10</p> <p>civically (1) 140:7</p> <p>Civil (1) 106:13</p> <p>claim (2) 105:10,14</p> <p>clarity (1) 108:9</p> <p>classification (3) 13:23;15:12;24:6</p> <p>classified (1) 13:13</p> <p>clean-ups (2) 100:1;102:13</p> <p>clear (2) 48:5;119:14</p> <p>clearing (2) 48:5;101:21</p> <p>clearly (2) 29:20;65:5</p> <p>client (1) 149:1</p> <p>clients (1) 64:20</p> <p>Climate (2) 108:10;109:21</p>	<p>close (4) 46:4;117:17;143:25; 145:16</p> <p>closed (1) 154:21</p> <p>closes (1) 154:10</p> <p>closing (2) 134:23;135:2</p> <p>Club (13) 108:9,12,14,14,18, 25;109:18;110:3,6; 124:4,4;140:10;153:19</p> <p>clue (1) 66:8</p> <p>colleague (1) 106:3</p> <p>Columbia (2) 9:5;112:20</p> <p>coming (5) 93:12;121:3;127:11; 129:21;132:22</p> <p>comings (1) 45:20</p> <p>commanding (1) 52:6</p> <p>comment (2) 26:23;152:22</p> <p>comments (3) 61:16;74:1;152:23</p> <p>commercial (11) 28:6,9,14,16;38:11, 13,14,19;53:14; 111:22;124:9</p> <p>Commission (6) 35:14;96:21;108:10, 11;132:4;137:1</p> <p>communities (7) 22:14;25:11;29:18; 44:6;69:16,17;107:5</p> <p>communities' (2) 22:14;26:6</p> <p>community (12) 44:10;80:12;81:3; 83:9;90:21;101:13; 105:13,18;112:9; 115:15;119:11;137:3</p> <p>community's (2) 21:13;22:4</p> <p>compact (3) 44:5,9;73:15</p> <p>Companies (1) 130:19</p> <p>companion (1) 36:10</p> <p>comparable (1) 53:20</p> <p>compatibility (1) 96:20</p> <p>complaint (1) 44:15</p> <p>complement (1) 85:12</p>	<p>complete (1) 30:1</p> <p>completely (6) 23:18;62:1,4;65:14; 85:20;127:3</p> <p>complex (4) 101:15,24,25;102:7</p> <p>complied (1) 37:17</p> <p>complimentary (1) 36:10</p> <p>comply (1) 43:10</p> <p>component (8) 14:11,17,18;22:7; 37:5;64:4;99:22; 102:10</p> <p>components (3) 10:22;13:4;124:9</p> <p>composition (1) 12:12</p> <p>comprehensively (2) 31:25;75:14</p> <p>comprises (1) 100:19</p> <p>computer (3) 6:6;122:16;128:11</p> <p>concentrate (3) 28:22;29:2;30:10</p> <p>concentrating (2) 48:10;111:2</p> <p>concept (3) 112:3;124:17;154:17</p> <p>concepts (1) 124:16</p> <p>Conceptual (12) 34:2,3;36:25;39:5; 52:24;54:1;55:1,10; 56:4;64:15;77:4;83:14</p> <p>conceptually (1) 34:6</p> <p>concern (7) 70:7;73:10;83:4; 103:1;105:15;130:4; 149:22</p> <p>concerned (4) 109:22;116:5;117:4; 149:25</p> <p>concerning (2) 130:1;140:25</p> <p>concerns (2) 29:19;123:18</p> <p>concerted (1) 113:18</p> <p>concluded (1) 155:6</p> <p>concludes (1) 45:6</p> <p>conclusion (6) 37:10,13;39:9,12; 45:2;55:25</p> <p>conclusions (1) 151:17</p>	<p>concrete (1) 111:13</p> <p>conditioning (1) 152:1</p> <p>conditions (6) 11:19;12:15;41:7; 76:5;84:20;85:2</p> <p>confirm (2) 130:12;154:9</p> <p>confirmations (1) 47:2</p> <p>conflicting (1) 102:9</p> <p>conform (2) 20:15;21:19</p> <p>conformance (7) 22:16;33:13;34:15; 37:2;44:13,16,18</p> <p>conformities (1) 20:21</p> <p>conforms (1) 44:21</p> <p>confused (2) 60:21;61:20</p> <p>confusing (2) 5:13;152:24</p> <p>congestion (1) 112:22</p> <p>Congress (1) 117:21</p> <p>connect (1) 112:15</p> <p>connected (2) 73:5;100:16</p> <p>Connecticut (3) 53:11,14,25</p> <p>connection (2) 29:24;46:22</p> <p>connections (4) 29:15,16;30:4;34:8</p> <p>connectivity (1) 39:3</p> <p>consequential (2) 15:18;50:16</p> <p>Consequently (2) 67:17,18</p> <p>conservation (11) 50:1;99:10,17;103:3; 105:22;110:15,22; 113:16,17,24;114:16</p> <p>consider (1) 76:5</p> <p>considerable (1) 102:20</p> <p>consideration (2) 88:6,8</p> <p>considerations (1) 77:20</p> <p>considered (3) 19:23;83:13;102:20</p> <p>considering (2) 89:21;146:2</p> <p>consistent (1) 44:8</p>	<p>constant (1) 60:21</p> <p>constrained (3) 62:1,2,4</p> <p>constraints (4) 21:25;62:3;63:21; 133:18</p> <p>constrictions (1) 127:10</p> <p>constructed (2) 30:17;56:15</p> <p>construction (3) 81:11,12,14</p> <p>construed (1) 33:2</p> <p>consumer (1) 29:1</p> <p>contain (4) 34:7,21;127:14,14</p> <p>contains (1) 33:25</p> <p>contend (1) 22:15</p> <p>contents (1) 8:16</p> <p>context (25) 20:24,24;22:6,13,18; 26:1;29:3;35:7;49:15, 16;50:8,25;51:3;52:11, 20,22;54:7;64:1,8; 69:12;76:6;91:11; 110:24;111:12;132:2</p> <p>context-sensitive (7) 21:22;22:5,17;26:6; 48:8,17;69:15</p> <p>continual (1) 54:17</p> <p>continuation (1) 82:17</p> <p>continue (4) 37:7;39:4;91:22; 92:23</p> <p>continued (2) 3:7;118:18</p> <p>Contraband (1) 107:2</p> <p>Contradicts (1) 25:15</p> <p>contrary (3) 110:18;113:10; 114:16</p> <p>contrast (3) 41:6;52:8;111:16</p> <p>control (2) 106:14;133:24</p> <p>controlling (1) 13:1</p> <p>convenient (2) 28:24;29:7</p> <p>Convention (1) 12:20</p> <p>conventional (1)</p>
---	--	---	--	---

<p>36:7 conversation (3) 49:25;99:2,8 convey (1) 150:18 convincingly (1) 36:17 coordinate (2) 26:14;27:25 copied (3) 59:6,6,24 copy (3) 4:3;57:11;154:12 core (1) 38:19 corner (1) 137:9 correctly (1) 61:4 corresponded (1) 32:18 correspondence (2) 27:19,23 corridor (3) 38:11;53:11,15 corridors (4) 30:7,10,12,14 cost (2) 125:25;126:1 Council (17) 41:25;69:1;75:9; 77:24;141:7;142:13, 14;144:18;146:2,4,9, 10,17,18,21;149:25; 150:19 counsel (2) 3:18,23 counting (1) 117:11 country (4) 104:9;106:11,21; 124:3 County (63) 7:2,16;9:4,7;21:8; 23:16;26:14,21;28:1; 36:3,5,12;48:3,21; 49:1;50:24;53:9,10,10; 54:14;66:25;71:22; 73:7;75:17;76:12;78:9; 81:24;87:23;88:1,17; 89:16,20,22;90:1; 99:14;100:14;104:2, 20,25;105:7;108:7,10, 18,20;109:19,23,25; 110:8;112:2,20; 114:13;115:18,23; 116:10,15;117:12; 118:14,17;125:17; 132:6;142:13,13;143:4 County's (5) 25:6,15;40:19; 110:17;114:17 County-wide (5)</p>	<p>42:13;49:12,15,15; 89:21 couple (4) 29:12;103:17; 131:25;146:8 course (13) 8:3;22:19;26:3; 28:12;29:3;31:16; 39:14;46:15;54:17; 69:24;75:7;134:17; 147:19 COURT (7) 59:6;88:14;104:3; 115:8;141:5,10;144:14 Cove (16) 86:15;87:7,13;91:20; 99:12,15;100:2,3,11, 20;101:13;103:8; 112:9,14;116:4;117:6 cover (2) 29:6;43:16 covered (5) 6:22;32:14;38:18; 46:18;127:3 covers (2) 32:10;43:7 COVID (1) 99:25 crazy (1) 60:24 create (8) 31:5;52:8;102:1; 106:19,25;110:13; 111:12;120:17 created (6) 19:24;48:18;58:7; 99:20;106:7,20 creating (3) 44:5,9;120:12 creation (3) 42:20;44:8;113:9 credibility (6) 139:11,14,24;141:8, 10,15 credible (1) 139:22 Cree (1) 53:1 Creek (4) 19:21;30:24;31:17; 34:25 criteria (9) 9:20,23;22:20;41:15; 44:17;45:4;77:22,25; 78:1 criterion (4) 15:9;16:1;94:8; 97:13 critical (2) 100:9;103:7 cross (4) 16:24;40:3;49:12; 102:15</p>	<p>crosses (2) 46:6,6 cross-examination (2) 3:17;50:10 cross-examine (2) 3:12;40:5 cross-examining (1) 3:15 crossing (6) 11:9;13:6,18;16:9; 17:5,6 cultural (5) 84:8;91:21;92:21,22; 106:3 curious (1) 52:10 current (2) 102:25;103:5 currently (3) 101:17;103:23;112:6 cursor (5) 18:17;19:12,15,17, 19 cut (2) 18:1,17 cut-through (1) 29:19 cycling (1) 100:10 Cynthia (1) 21:4</p>	<p>136:18,18 Debotts (1) 100:12 December (1) 51:10 decided (2) 42:4;61:17 decision (8) 64:24;75:21;77:13; 82:8;83:16,22;106:10; 141:2 decisions (12) 64:25;82:13,22,25; 83:1,2,6,8,11;87:23; 108:19;109:19 decline (1) 14:20 decreasing (1) 113:3 dedicated (1) 108:15 deed (1) 19:22 deep (1) 94:19 deeply (1) 143:4 defer (1) 45:12 define (1) 8:23 defined (11) 9:2,22;10:1,5,13,16, 22;13:8;28:9;32:25; 84:14 definition (13) 8:24;9:1;10:4,10,23; 11:1;20:16;22:9;38:22; 84:6,13,19;95:16 definitions (1) 10:7 degree (1) 84:17 delegated (1) 87:22 delighted (1) 118:8 delineating (1) 19:16 demand (1) 29:1 denial (2) 17:18;35:15 denied (2) 19:13;123:11 dense (1) 111:15 densities (3) 15:23;48:3;53:20 density (24) 25:16;28:22;30:11, 12;33:23;34:3;48:1,6; 53:13;60:23;61:9,13;</p>	<p>63:4,13;67:3,13,14; 74:13;80:4;111:14; 125:5,6,11;134:1 deny (5) 99:11;103:9;110:3; 114:17;132:18 Department (3) 92:9;102:25;114:4 depending (2) 58:19;79:5 descendants (3) 106:19;107:2,4 describe (2) 9:9;13:10 described (9) 9:10,25;11:8;12:22; 14:12;23:4;62:22;73:1; 110:15 describes (2) 111:21,24 describing (1) 12:2 description (1) 22:23 deserve (1) 133:14 Design (25) 6:20;33:9,16,17,19, 21,25;36:21;39:1; 43:16,17,18;53:8; 55:24;61:12;62:25; 63:16,20;64:25;73:20; 74:13;75:23;77:4; 83:11;100:18 designate (1) 111:6 designated (3) 30:24;100:13;111:4 designed (1) 15:5 desire (1) 115:21 desired (2) 30:2;113:15 despite (1) 66:14 destroy (2) 70:21;103:7 destroyed (1) 134:19 detached (1) 52:9 detail (1) 34:9 Detailed (3) 39:6;64:18;83:15 determine (1) 40:1 devaluation (1) 78:6 develop (4) 48:9;82:6;127:9; 134:15</p>
		D		
		<p>dangerous (1) 102:15 dark (1) 146:11 data (1) 85:2 date (1) 7:23 dated (1) 109:14 dates (1) 100:18 day (3) 42:1;134:21;147:7 days (1) 113:1 DB (1) 57:12 DBI (3) 57:12;58:6,7 DC (9) 88:11;99:9;100:17, 24;104:4,10,12,20; 106:22 de (1) 3:6 deal (3) 62:17;66:6;77:8 debacle (2)</p>		

<p>developed (7) 49:17,20;67:2; 101:10;110:14;119:24; 133:23</p> <p>developer (5) 65:24;82:19;124:2; 138:6,24</p> <p>developers (1) 124:24</p> <p>developer's (1) 112:3</p> <p>development (103) 13:25;14:1;15:6; 22:17;28:23;29:5;30:8, 11;33:1;34:1,13;35:2, 17;36:9,23;37:8,20; 38:14,23;42:3,4,5,19, 20;43:22,25;44:8; 45:21;47:7,16,25;48:1, 1,10,10,18;49:19,24; 52:6;53:1,22;54:3,4; 55:9;58:1;63:9,13; 64:2,21;65:20;66:14; 67:12;69:15;73:10,17, 17;74:15;75:1,8,10,11, 15;77:2;78:8,8;82:15; 83:20;84:11;86:10,16; 87:2;88:11;91:19,22; 92:23;99:13;100:25; 102:22;109:24;110:9, 13,24;111:7,9,16; 112:10,21;113:15,18, 20,22,23;116:14,20; 124:8;125:2,10,19; 126:16;127:8;132:20; 137:20;138:3</p> <p>developments (1) 29:17</p> <p>dictionary (3) 10:3,3,5</p> <p>die (1) 47:13</p> <p>different (8) 20:2;23:19;53:23; 58:19;64:14;67:12,16; 91:12</p> <p>difficult (3) 4:15;102:13;114:1</p> <p>digitized (1) 58:5</p> <p>diligence (1) 102:4</p> <p>diligently (1) 106:25</p> <p>diminish (2) 101:22;112:23</p> <p>diminished (1) 126:1</p> <p>dire (1) 109:1</p> <p>direct (2) 24:25;52:17</p> <p>directed (1)</p>	<p>11:23</p> <p>directing (2) 12:19;82:13</p> <p>directly (2) 31:14;94:10</p> <p>Director (3) 99:7,21;104:5</p> <p>disagree (5) 51:9;69:21;90:25; 94:24;152:22</p> <p>disagreements (1) 149:20</p> <p>disagrees (1) 90:19</p> <p>disappear (1) 101:11</p> <p>disapproval (2) 67:19;145:2</p> <p>discarding (2) 89:16,20</p> <p>discharge (1) 41:19</p> <p>disclosure (1) 94:20</p> <p>disclosures (2) 128:17,19</p> <p>disconformance (1) 91:7</p> <p>discovered (1) 101:9</p> <p>discredit (1) 139:9</p> <p>discredited (2) 138:14,19</p> <p>discuss (4) 10:19;32:16;41:3; 44:19</p> <p>discussed (2) 36:8;147:18</p> <p>discussing (1) 50:25</p> <p>discussion (5) 16:4;32:8;79:11; 144:16;155:5</p> <p>discussions (1) 27:15</p> <p>disgusting (1) 133:1</p> <p>dispersed (1) 23:21</p> <p>displaced (2) 84:21;119:13</p> <p>displacement (1) 119:9</p> <p>displacing (1) 126:4</p> <p>displeased (1) 74:5</p> <p>disrupt (2) 101:24;103:7</p> <p>distance (2) 16:8,16</p> <p>distracted (1)</p>	<p>136:19</p> <p>District (19) 8:6;9:4;22:12;25:9, 24;38:12,16;41:25; 42:9;51:3;66:24;69:1; 75:9;77:24;110:15; 112:20;141:5,7;142:14</p> <p>districts (14) 25:2,8,17,22;26:8; 28:7,23;40:23;110:10; 111:3,5,6,7,8</p> <p>disturbs (1) 50:5</p> <p>diverse (1) 23:21</p> <p>Division (1) 106:4</p> <p>document (11) 57:8;93:4;123:19,21, 22;124:21;125:22; 128:15;146:1;151:12, 21</p> <p>documents (9) 7:16;47:3;74:4; 109:23;120:2;123:21; 150:23;152:5;153:18</p> <p>doesn't (1) 38:25</p> <p>dollar (1) 124:18</p> <p>dollars (1) 117:10</p> <p>dominate (1) 112:4</p> <p>dominating (1) 52:6</p> <p>don't (5) 17:1;44:12;132:7,14; 142:1</p> <p>donated (1) 137:9</p> <p>door (3) 120:10;126:7;152:3</p> <p>dot (2) 31:11,14</p> <p>dots (1) 11:8</p> <p>double (1) 62:13</p> <p>double-check (1) 5:9</p> <p>doubt (1) 55:12</p> <p>down (20) 11:23;29:25;30:15; 40:6;42:19;46:7;51:15; 53:19;58:12;62:12; 64:13,16,17,19;127:11, 13;131:18;132:10; 134:2;142:2</p> <p>downhill (2) 41:21;127:12</p> <p>downloaded (1)</p>	<p>56:3</p> <p>downtown (1) 111:4</p> <p>drain (1) 41:19</p> <p>drainage (1) 41:20</p> <p>dramatic (1) 87:3</p> <p>draw (1) 15:2</p> <p>drawings (3) 54:22;56:4;58:25</p> <p>Drive (4) 6:21;29:25;108:5; 122:25</p> <p>driven (1) 120:23</p> <p>driveway (1) 102:14</p> <p>driving (2) 12:10;120:7</p> <p>dropped (1) 117:15</p> <p>dry (2) 41:17,22</p> <p>due (3) 51:8;102:3;119:10</p> <p>dumb (1) 65:12</p> <p>during (9) 3:17;39:5;41:14; 52:22;100:19;106:13; 136:17;137:18,19</p> <p>dwelling (3) 25:6;52:1;114:2</p> <p>dwelling (3) 53:19,21;76:3</p>	<p>echoing (1) 13:16</p> <p>ecological (1) 113:13</p> <p>economic (5) 78:14;84:8,20,25; 132:20</p> <p>economically (1) 119:11</p> <p>ecosystem (1) 113:6</p> <p>edge (2) 35:1;110:14</p> <p>edifice (1) 112:1</p> <p>effect (1) 76:3</p> <p>effects (1) 75:6</p> <p>effort (2) 113:18;116:10</p> <p>efforts (2) 108:20;109:20</p> <p>Egloff (174) 60:17,18,19,20;61:1, 2,5,8,11,13,16;62:1,5; 63:1,18,24;65:3,10,11, 22,23;66:9,16,19,21; 67:1,9,24,25;68:9,13; 69:22;70:4,6,10,12,15, 25;71:1,3,10,14,19; 72:1,4,6,11,14,16,19, 22;73:19,24;74:7,9,17, 18,21,23,25;75:5,16, 20;76:7,13,22;77:8,11; 78:3,19,23;79:3,7,14, 16,98;12:120:5; 121:11,12,14,18,22; 122:4,7,10,12,14,18,19, 23,25;123:3,6,10; 127:18,19,21,23;128:1, 4,7,9,14,18,25;129:4,7, 9,11,14,18,20,25; 130:6,7,13,22,24; 131:1,3;135:4,7,11,17, 20,24;136:3,5,9,9,16, 22,24;137:11,13,15,17, 25;138:4,7,10,13,16, 18;139:4,8,12,18,21, 23;140:11,13,15,17,18, 20,22,25;141:4,12,19; 142:12,18,19,22,23; 143:1,9,10,13,17,20, 24;144:2</p> <p>Egloff's (2) 139:11;151:2</p> <p>egress (1) 114:7</p> <p>eight (2) 46:11,11</p> <p>either (8) 38:14;50:14;58:17; 106:8;122:11;137:23;</p>
E				
			<p>Eagle (11) 11:23;12:18,23; 34:23;46:2,4;100:16; 102:5;114:7;125:7,15</p> <p>earlier (9) 32:19;35:5,6,7;36:8; 102:14;127:25;138:1; 147:6</p> <p>earliest (1) 146:13</p> <p>early (2) 100:7;106:7</p> <p>Earth (2) 11:15;12:14</p> <p>east (2) 9:5;52:8</p> <p>Eastover (13) 7:23,23;36:16;37:22; 38:1,4,11,13,25;39:11, 19;96:14;110:20</p> <p>easy (2) 110:12;116:3</p>	

<p>141:8;147:8 elderly (1) 114:9 elected (1) 83:5 element (9) 14:9,12;26:6;30:9; 33:19;35:10;36:1,10, 10 elements (4) 16:22;33:7;35:4; 38:25 elevation (1) 62:12 eligible (1) 117:22 Elizabeth's (5) 87:14,16;92:7,9,11 else (5) 17:18;116:23; 145:14;150:21;153:10 email (3) 4:9;149:7;150:24 emergency (3) 29:24;30:3;114:8 emissions (2) 47:8,18 employment (2) 25:1;111:3 encompasses (1) 19:10 encourage (1) 111:7 encouraging (1) 47:23 encroaching (1) 110:14 encroachment (1) 65:14 end (18) 12:17;17:5;18:20,20; 19:17;29:25,25;34:22, 23;40:8,8,14,17;46:2,3, 5;127:19;148:16 ended (1) 149:23 ends (2) 16:25;19:14 engage (1) 55:2 enhance (2) 99:18;113:12 enhanced (1) 44:6 enjoy (1) 112:15 enough (2) 55:6;85:2 enslaved (1) 100:23 entails (1) 101:21 enter (5)</p>	<p>100:15;115:17; 140:12;145:18;151:11 entered (1) 144:21 entering (1) 141:1 entire (8) 22:7;33:4;76:12; 81:2;95:24;96:4; 117:16;152:14 entirely (1) 89:22 entities (1) 128:23 entrance (8) 19:8;46:9,14,21; 88:20;94:10;95:6; 102:12 entry (2) 36:3,4 environment (8) 16:20;33:9;39:4; 41:24;53:16;112:16; 145:1;152:1 environmental (16) 21:24;34:9;36:15,22; 37:6;49:21,22;50:3,5, 13,15;108:13,15,21; 109:21;152:18 envisioned (1) 67:16 envisions (1) 69:15 Ephemeral (3) 41:16,16,19 equal (1) 48:19 era (1) 101:7 erodible (1) 152:22 escape (2) 106:16;112:16 escaped (3) 100:23;106:15;107:3 especially (2) 118:3;132:5 essence (1) 12:21 essentially (5) 80:11;85:25;88:6; 91:24;94:19 establish (1) 63:4 established (11) 21:13;22:3,14;25:11; 26:6;29:17;63:19; 69:16,17;105:25;106:2 establishing (1) 33:21 et (3) 97:5;142:12,14 ethnic (1)</p>	<p>105:8 ethnicity (1) 104:17 Euclidean (1) 69:4 evaluate (2) 20:23;35:17 evaluation (1) 97:21 even (25) 14:19,19;16:25;38:2, 24;39:16,16;53:17; 66:5;87:3;96:7;101:20; 113:4;124:22;125:4, 11;126:12;127:4,7; 131:19;140:7;142:10, 10;147:24;151:23 event (1) 4:14 eventuate (2) 63:4,5 everybody (1) 74:12 everyone (9) 3:2,5;40:5;81:2; 94:3;104:19;130:19; 154:24;155:1 everywhere (3) 75:19,19,20 evidence (5) 36:12;40:2;91:5; 94:11;152:6 evidentiary (1) 54:18 evolved (1) 108:14 exact (1) 104:23 exactly (4) 42:2;44:1;80:2; 95:11 Examiner (56) 4:2,24;6:8,12,24;7:2, 7,10,17;8:25;18:4,8,22; 19:3;27:24;31:11; 39:24;40:7;41:24;43:3; 45:6;48:21;56:13,16; 57:10;58:16,24;59:12; 60:1;64:24;68:20;69:1; 77:23;78:14;93:18; 94:5,20;96:6;98:19; 99:1;103:19;107:14; 108:22;114:12;140:12, 16;141:7,23;144:17; 145:7,22;149:8; 150:18;151:10;152:10; 154:6 example (1) 124:16 except (4) 37:17;41:17;76:15; 133:19 exception (3)</p>	<p>73:25;74:9,12 excess (1) 112:25 excluding (2) 99:24,24 exclusively (1) 29:2 Excuse (14) 6:2;10:4;21:1;39:21; 47:15;51:14;86:18; 89:6;95:5;99:24; 107:18;117:13;139:5; 145:22 Executive (1) 117:12 exemplifies (1) 113:23 exhibit (47) 4:14,16,18,18,21,21, 22;5:1,3,4,13;6:3;8:14; 9:11,13,16;10:15;11:3; 12:25;13:1;16:21; 17:19,23;18:21;19:2; 31:2,9;46:5;56:10,16, 16,18;57:1,5,9,11; 58:13;107:11;145:5; 151:15,15;153:6,12,13, 14;154:4,16 exhibits (8) 4:15;11:17;12:1; 18:23;46:20;57:8,23; 154:19 exist (5) 17:1;55:8;60:3,4; 101:8 existed (2) 58:25;77:15 existence (2) 60:6;115:22 existing (22) 12:15;22:14;29:17; 31:21;32:18;52:2,7,20; 61:21;65:15,15;85:2; 110:12,13;113:13; 115:12,15;116:1,2; 123:12;131:23;134:3 exists (3) 13:18;41:15;113:22 expanding (1) 120:6 expansion (2) 27:3;28:6 expansive (1) 111:25 expect (6) 53:23;76:17,19;80:2, 3,25 expectations (1) 81:19 expecting (1) 83:16 expense (1) 117:18</p>	<p>experience (11) 53:6;69:3;112:13,23; 114:10;116:19;121:4; 124:7;126:6,19;131:23 expert (12) 6:25;7:3,6;14:6; 15:10;17:11;20:10; 78:22;79:12,13;81:22; 84:13 Experts (2) 110:17;125:4 explain (2) 62:5;138:21 explains (1) 109:4 explore (1) 119:7 extend (3) 11:6;16:23;29:23 extended (5) 30:22;31:6;34:22; 36:14;102:22 extending (2) 13:6;27:16 extension (2) 30:14;31:20 extent (1) 13:3 extra (3) 63:15,16;77:3 extraordinarily (1) 123:12 extreme (1) 113:1 extremely (5) 85:8;108:20;109:19; 115:12;119:18</p>
F				
				<p>FAA (1) 55:13 FAA's (1) 55:14 fabric (1) 111:11 fabulous (1) 118:18 face (1) 101:13 Facilities (22) 8:7;14:14;15:2,5,7, 19;21:24;23:22;26:4; 33:9;34:14,16,18; 42:16;43:24;44:1;55:6; 69:13;97:5,12,14; 145:1 facility (3) 15:4;111:23;125:1 fact (41) 8:2,2;9:1;10:13; 17:19;19:18;22:9;23:8; 29:6;30:1,16;31:18;</p>

<p>41:17;42:18;46:10,19; 51:2;54:23;55:23; 57:23;63:21;65:11; 67:7;69:14;71:15;73:4, 8;74:25;77:3;81:1; 86:13;89:16;94:10; 104:21;115:20;116:8, 17;119:19,22;124:11; 130:2</p> <p>factor (1) 78:6</p> <p>facts (3) 69:6;79:15;138:10</p> <p>failed (2) 132:17;150:3</p> <p>fait (1) 55:22</p> <p>fall (1) 127:16</p> <p>familiar (10) 7:8,12,15;9:19;21:7; 32:9;50:23;87:19; 89:15;119:18</p> <p>families (5) 71:24;101:2,6;107:3; 112:13</p> <p>families' (1) 70:22</p> <p>family (12) 71:5;72:24;100:12, 13;101:4,5;126:23; 127:2;137:8;138:20, 20;143:8</p> <p>family's (1) 35:21</p> <p>far (8) 16:22;40:4;63:9,16, 16;94:13,16;104:17</p> <p>farm (5) 73:5;99:16;100:8; 101:6;131:11</p> <p>farmed (2) 71:23;100:5</p> <p>farmland (1) 73:5</p> <p>Farms (2) 31:1,15</p> <p>Fatima (1) 31:9</p> <p>feasible (1) 29:14</p> <p>feature (1) 36:5</p> <p>features (2) 41:9;100:11</p> <p>February (1) 8:3</p> <p>Federal (3) 46:19;92:6;125:17</p> <p>feel (8) 89:10;102:9;126:21; 131:20;132:1;134:5; 136:1;137:4</p>	<p>feeling (1) 74:5</p> <p>feet (8) 55:13,16,17;63:10, 10,11,12;111:22</p> <p>felt (1) 126:22</p> <p>Ferguson (260) 6:9,10,12,16,17,19, 19,24;7:5,7,8,11,14,18, 25;8:2,14,18,21,25; 9:13,18,21,24;10:25; 11:4,16,25;12:3,7;13:9, 15;14:4,10;15:14,17; 16:4,14;17:15,25;18:8, 11,16,19;19:2,11,25; 20:6,13;21:1,8,9,12,17; 22:25;23:5;24:15,23; 25:19;26:12,17,24; 27:1,4,4,10,19,22;28:4, 16,20;29:12;31:10; 32:3,12,24;33:15,17; 34:17,20;35:6;37:14, 24;39:13;40:7,11,16, 22;41:3;42:10,15;43:2, 4,5,9,12;44:23;45:2,5, 9,23;47:10;48:16,25; 49:3,7,11;50:17,19,21; 51:14,18;52:3,15,19; 54:15;56:11,13,16,19, 23;57:2,6,10,14,22; 58:16,21,24;59:4,9,11, 14,19,21;60:2,8,12,25; 61:3,6,9,12,15,25;62:3, 18;63:2,19,25;65:9; 66:16,20,22;67:6; 68:17,19;69:3,10;70:2, 5,8,11,13,24;71:2,8,12, 18,25;72:2,5,8,12,15, 18,20;73:15,20;74:7, 22,23;75:3,7,19,21; 76:10,14;77:7,9,12; 78:11,16,18,22,23; 79:2,4,10,15,20,21; 80:5;81:1,8,9,17; 83:25;84:2,4,7,14; 85:13,16,24;86:11,17, 20,22;87:5,8,9,12,20; 88:8,12,14;89:15,19; 90:11,14,23,24;91:25; 92:2,5,15,19;93:2,18, 22;94:5,18;95:1,3,9,11, 13,15,20,22;96:2,6,11, 19;97:2,6,11,24;119:6</p> <p>Ferguson's (3) 4:25;5:2;45:7</p> <p>few (3) 24:23;106:20;136:8</p> <p>fewer (1) 47:9</p> <p>field (1) 41:10</p> <p>fight (3) 152:7,7,8</p>	<p>fighting (1) 126:12</p> <p>figure (3) 61:20;74:13,14</p> <p>file (3) 107:10,13;141:5</p> <p>filed (2) 128:20;138:5</p> <p>filing (1) 151:24</p> <p>fills (1) 104:19</p> <p>final (1) 45:1</p> <p>financial (1) 110:1</p> <p>find (12) 10:4;43:17;58:11; 71:6,16;77:23;81:20; 97:17;132:25;140:7; 143:6;151:5</p> <p>finding (3) 20:5;42:23;55:7</p> <p>findings (1) 153:1</p> <p>fine (4) 12:8;130:12;143:13; 152:10</p> <p>fingers (1) 49:13</p> <p>fingertips (1) 104:18</p> <p>finish (3) 90:12;107:15;135:15</p> <p>finishing (1) 86:24</p> <p>fire (3) 97:16,18;124:14</p> <p>firmly (2) 69:21;107:5</p> <p>first (35) 6:8;9:23;14:11; 17:16;21:3,17;24:23, 25;29:14;32:16;38:15; 43:14,18;45:11;47:10; 51:15,24;52:19,19; 54:10;59:7;62:18;71:4; 75:21;79:21;81:10; 99:21;115:11;126:24; 133:3,7;146:13; 147:25;148:15,23</p> <p>first-hand (1) 102:16</p> <p>fishing (1) 100:9</p> <p>Fitzgerald (1) 57:13</p> <p>five (1) 40:11</p> <p>fix (1) 62:6</p> <p>fixed (1) 49:10</p>	<p>flood (1) 113:4</p> <p>flooding (1) 101:19</p> <p>flowing (2) 41:13,13</p> <p>fluffed (1) 143:20</p> <p>focal (1) 131:8</p> <p>focus (5) 15:6;23:20;35:25; 38:10;49:18</p> <p>focused (4) 33:10;38:19;66:15, 17</p> <p>folks (2) 76:7;126:4</p> <p>follow (1) 83:3</p> <p>following (2) 118:8;135:16</p> <p>food (1) 87:17</p> <p>foolishly (1) 102:16</p> <p>foot (1) 127:7</p> <p>football (1) 117:14</p> <p>footprint (1) 101:20</p> <p>forces (1) 84:23</p> <p>foresight (2) 87:1,3</p> <p>Forest (39) 21:4;23:1;26:19,22; 27:7,13,13;37:22;38:7, 8,10;49:25;50:1;51:5; 52:11,20;53:21,24; 54:7;62:23;80:9;81:2, 2,12;82:1;84:9;85:2; 101:22;110:20,25; 112:10;114:1,2;116:1, 3;121:2;124:21; 125:23;154:12</p> <p>forested (1) 126:21</p> <p>forests (3) 47:6;113:4,20</p> <p>forever (3) 81:20;86:3;134:18</p> <p>forget (1) 126:24</p> <p>forgetting (1) 67:20</p> <p>forgive (1) 50:22</p> <p>forgotten (1) 31:16</p> <p>form (6) 21:25;36:9;42:3; 63:13;77:9;87:17</p>	<p>formally (1) 150:6</p> <p>formed (1) 128:23</p> <p>formerly (2) 101:1;110:4</p> <p>forms (1) 35:1</p> <p>Formula (3) 8:9;23:17;96:23</p> <p>for-profit (1) 117:9</p> <p>Fort (5) 105:24;106:13; 107:1;133:8;144:14</p> <p>forth (2) 54:17;63:17</p> <p>fortress (1) 106:15</p> <p>fortunately (1) 117:14</p> <p>forward (3) 112:25;117:21;118:5</p> <p>forward-thinking (1) 86:14</p> <p>fought (1) 136:17</p> <p>found (8) 10:12;60:2;110:18; 139:1,2,2,19;140:14</p> <p>four (3) 43:14,18;46:10</p> <p>fragmentation (1) 101:22</p> <p>frame (1) 47:20</p> <p>frankly (2) 26:2;106:9</p> <p>free (9) 71:22;101:1,3; 106:17;126:25;133:16, 17,19;136:1</p> <p>freed (1) 105:12</p> <p>Freedom (2) 100:22,23</p> <p>freedom's (1) 106:15</p> <p>freeway (1) 17:14</p> <p>fresh (1) 112:24</p> <p>Friday (3) 135:15,16;136:1</p> <p>friendly (1) 47:17</p> <p>front (3) 51:20;56:4;136:25</p> <p>frontage (2) 19:9,18</p> <p>fronts (1)</p>
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**Harbor View
A-10055**

<p>17:20 frozen (1) 81:20 frustration (1) 54:21 full (8) 6:18;14:2,4;18:20, 21;51:24;94:20;118:14 fully (1) 70:20 function (3) 18:9;24:19;35:12 functional (6) 8:4,9;20:4;23:17; 40:20;42:25 functions (2) 12:24;113:13 funded (1) 30:15 further (8) 17:10;70:20;81:14; 92:11;98:1,4;127:16; 133:7 furthest (2) 94:13,17 future (18) 22:23;23:4,6;24:13, 18;25:21;35:16;36:23; 42:19,21;65:1;83:11, 15;84:11;99:19; 108:17;111:4;112:25</p>	<p>84:19 generalized (3) 22:23;23:6;38:4 generally (1) 44:22 generations (1) 99:19 gentleman (1) 130:11 gentrification (16) 80:12;84:2,3,13,24; 85:5;86:1;87:4;116:2; 118:2;119:6,8,13,23; 120:17;126:2 geology (1) 152:1 geometry (1) 113:25 George's (35) 7:2,19;9:4,7;21:8; 36:12;49:1;71:22;73:7; 88:1,17;89:16;99:14; 100:13;104:2,20,24; 105:7;108:7,9,10,18; 109:18;110:3,19; 112:2,20;115:18,23; 116:10,15;118:17; 125:17;142:13;143:4 gets (6) 42:4;53:24,24;54:1; 55:4,25 Gingold (28) 45:15,16,18,18;47:1; 48:7;50:17;98:12,16; 104:21;107:19,20,22, 23,23,24;108:2,5,23; 109:2,3,9,11,12,14,17; 114:24;151:5 Given (11) 32:21,21;41:23,23; 45:18;47:8;51:11; 55:24,24;102:3;126:22 gives (1) 63:14 glad (4) 118:21;119:5; 134:10;139:21 Glass (2) 37:23;110:20 goal (1) 86:8 goals (8) 25:3;47:3;50:2,2; 110:18;113:17;114:16, 17 Godard (21) 60:13,14,15;98:24; 99:1,6,6;103:15,18,21, 24;104:2,8,16;105:1, 21;107:9,14,17; 131:12;151:4 goes (12) 26:5;31:15;55:3;</p>	<p>70:6;81:13,13;118:1, 14;125:13,21;126:9; 139:10 goings (1) 45:21 Golf (4) 124:4,13;126:24; 134:17 Good (18) 3:2,5,22;6:11,12,13; 18:15;36:13;77:11; 79:20,21;85:10;95:17; 119:4;123:8;128:23; 133:13;135:6 goodness (1) 49:4 Google (2) 11:15;12:14 gosh (2) 7:22;136:22 Government (2) 92:7;125:17 grass (1) 127:7 grassroots (1) 108:12 great (2) 3:13;106:8 greater (5) 48:4,4;96:9;101:13; 113:2 greatest (1) 132:7 greatly (2) 88:2,17 Green (10) 8:4;10:16;40:22; 41:1;73:8;103:7; 110:16;113:2,10,12 Greenbelt (1) 104:3 greenhouse (3) 47:4,8,17 greenhouses (1) 48:4 ground (3) 66:4;73:2;131:18 groups (1) 112:13 grow (1) 92:7 growing (1) 119:17 grown (1) 87:17 growth (19) 21:11;22:4,14,16; 25:1,2,3,11,15;26:9; 31:5;47:14,19;48:2; 50:24;53:9;84:16,16; 111:3 guaranteeing (1) 147:25</p>	<p>guess (5) 57:17;60:1;69:23; 125:6;146:12 guests (1) 100:8 guide (2) 37:8;116:13</p>	<p>44:17;104:11;105:2 health (2) 39:2;112:17 hear (16) 40:3;67:23;88:14; 90:23;92:25;103:23; 121:24;122:2,3;128:6, 9;130:1;133:6;139:13; 149:9,10 heard (7) 48:19;50:10;61:16; 62:9;83:19;102:5; 148:20 Hearing (10) 7:2,9;54:18;69:1; 114:12;141:7;154:4, 25;155:3,6 hearings (1) 3:7 heat (2) 113:1,3 heed (1) 114:12 height (2) 55:20;101:25 heights (54) 7:21;21:5;23:1,13; 24:8;26:20,22;27:7,13, 14;32:15;33:7,19; 36:16;37:12,15,23; 38:7,8,10,20;39:15; 51:5;52:11,20;53:21, 24;54:7;58:5;62:23,23, 24;80:9;81:2,2,12; 82:1;83:13;84:9;85:3; 90:20,22,25;96:15; 110:19,20,25;112:10; 116:1,3;121:2;124:21; 125:23;154:12 Heights' (1) 36:1 Hello (5) 79:19;107:19;115:1; 121:12,13 help (7) 31:20;34:20,20;35:3; 51:24;118:5;136:2 helpful (1) 107:7 Henry (3) 19:22;101:3;131:19 Henson (2) 30:24;31:17 here's (1) 78:3 heritage (1) 112:15 herself (1) 141:16 hey (2) 77:17;82:18 Hi (2) 115:2;121:14</p>
H				
<p>gas (2) 47:8,17 gases (2) 47:4;48:4 gateway (8) 36:4,8;78:9;85:7,7, 22;112:2;115:16 gateways (1) 33:11 Gateway's (1) 36:1 gay (1) 106:24 Gaylord (1) 12:20 gem (1) 100:3 General (45) 7:19;20:3,8;21:7,10, 15;22:11,19,22;23:3,5, 5,7,10;24:13,16,21; 25:4,20;28:19;29:4,8, 11;31:23,25;32:2,5,6; 35:7;42:25;44:5;47:4; 48:16;49:17,22,23; 66:23;69:13,15,19; 74:4;75:22,25;91:10; 96:13 generalization (1)</p>	<p>habitation (3) 70:22;71:5,12 half (6) 16:8;38:15;46:8; 95:7,17;101:18 hall (1) 125:22 Hampton (2) 105:24;107:1 Hamptons (1) 101:2 hand (1) 135:22 handwritten (1) 135:11 Hanson (10) 51:6;53:5;55:3,12; 62:7,7,20;63:25; 154:11,18 happen (6) 34:12;74:10;77:13; 124:24;133:4;137:24 happened (2) 77:2;85:23 happening (1) 103:14 happens (4) 35:12;65:7;76:16; 105:17 happy (1) 83:16 Harbor (44) 12:19;25:10;30:16; 46:15;76:19,23;77:2, 15,15,16;78:1;85:8,22; 111:9;112:1;116:20, 25;117:1,2,8,9,17,21; 120:5;123:24;124:1,2, 6;129:22;130:3,5,9,20; 131:5;133:10,12,15; 136:17;137:19;138:1, 3;139:16,24;140:20 Harborview (1) 3:7 hard (1) 137:4 hardly (1) 118:3 Harriet (4) 106:1,18;107:3,4 Hatman (1) 70:21 head (3)</p>			

<p>high (8) 13:20,23;15:3,4; 45:21;53:13,13;117:24</p> <p>high- (5) 13:18;15:18;30:10; 53:21;65:14</p> <p>high-classification (1) 16:19</p> <p>high-density (9) 13:24,24,25;29:5; 45:21;73:16;110:8; 112:10,21</p> <p>higher (13) 13:14;15:23;24:5; 25:16;30:12;37:20; 47:25;49:20,24,25; 50:1;127:16;131:7</p> <p>highest (1) 66:24</p> <p>high-intensity (2) 14:15;53:12</p> <p>highlighted (2) 44:25;51:22</p> <p>highly (3) 101:7;112:12;152:22</p> <p>high-medium (1) 29:5</p> <p>high-rise (7) 52:10;65:21;111:13; 117:7;121:7;126:18; 132:22</p> <p>high-value (1) 118:4</p> <p>high-volume (1) 14:14</p> <p>Highway (13) 9:6;11:10,15,20,23; 16:19;19:6,13,14; 38:12,15;144:18; 150:25</p> <p>hiking (2) 100:10;108:14</p> <p>Hill (22) 25:24;30:23;31:2,11, 14;42:19;46:8,9;99:16; 100:17;111:10;115:10, 10;122:25;125:9,12; 127:12;131:7,11,15; 132:21;143:4</p> <p>hired (1) 65:24</p> <p>Historic (45) 8:6;33:10;34:25; 35:9,13,13;40:23;42:9; 61:23;62:10,15;65:16, 20;66:5;70:1,9,19,19, 22,23;73:11,18;76:4; 85:21;96:16,20; 100:14,15;101:8,10,14; 102:1;103:4,8;112:9, 23;116:5,6;117:5,23; 131:10;132:4;134:2; 136:25;137:18</p>	<p>historical (2) 132:6;137:12</p> <p>historically (1) 100:16</p> <p>history (26) 72:25;73:1;82:12; 100:4;105:11;106:22; 108:13;112:15;117:20; 126:14,23;127:6; 131:16;132:2,2; 136:10,12,17;137:2,5, 7,9;140:5,5,5,6</p> <p>hit (2) 5:17;122:14</p> <p>hodgepodge (1) 57:7</p> <p>Hold (4) 138:18,18;149:12,15</p> <p>holistic (1) 21:25</p> <p>home (6) 100:13;134:4; 138:19,20,22;143:3</p> <p>homeowner (1) 143:6</p> <p>homes (4) 52:9;81:12;101:1; 119:12</p> <p>honestly (2) 55:17,20</p> <p>honor (2) 106:8;107:6</p> <p>hope (3) 49:4;123:17;134:11</p> <p>hoped (1) 131:21</p> <p>hopefully (1) 58:10</p> <p>hoping (1) 151:4</p> <p>horrible (1) 133:5</p> <p>horse (1) 100:18</p> <p>Hospital (3) 87:14,17;100:6</p> <p>hosted (2) 100:1,6</p> <p>hostile (2) 16:20;45:19</p> <p>hosts (1) 100:9</p> <p>hotel (1) 64:12</p> <p>hour (1) 46:11</p> <p>House (14) 35:20;71:20;72:5,7, 9,17,23;76:18;80:1,10, 24;82:4;84:22;125:1</p> <p>houses (6) 53:1,3;62:24;63:15; 66:2;120:4</p>	<p>Housing (13) 28:21,22;29:5;65:6, 19,20;103:5;110:7,7; 111:22;124:23,25; 125:2</p> <p>HPC (2) 35:23;137:17</p> <p>HPC's (1) 35:10</p> <p>Huh (1) 122:4</p> <p>human (1) 113:7</p> <p>hurtful (1) 143:1</p> <p>husband (1) 102:18</p>	<p>immediately (11) 10:9;22:11;25:23; 30:21,22;38:12;53:18; 69:17,19;73:5;123:25</p> <p>impact (16) 35:17;50:7,13,15; 61:21;62:8;82:25; 99:15;102:3,12,20; 112:13;125:9,19; 126:8;133:22</p> <p>impacted (8) 83:18;114:3;123:13, 14,24;124:7;125:15; 134:18</p> <p>impacting (1) 114:10</p> <p>impacts (4) 50:5;75:10;101:14; 102:1</p> <p>impair (23) 20:7;21:15,20;24:13; 28:19;32:1,5,6,23;33:3, 4;37:12,15;39:11,14, 19;41:1,24;42:8,24; 44:14;112:23;114:15</p> <p>impaired (5) 20:12;36:18,19,19; 37:19</p> <p>impairing (1) 21:21</p> <p>impairment (16) 20:14,16,17;21:20; 22:1;33:2;42:3,13; 47:3;50:25;52:12;91:6, 12,13;95:24,24</p> <p>impairments (1) 34:17</p> <p>impart (1) 137:4</p> <p>impassible (2) 67:4,7</p> <p>impeach (1) 55:12</p> <p>impervious (3) 101:16,18;113:9</p> <p>implement (6) 29:13;34:21;35:3; 44:4,11;113:18</p> <p>importance (3) 8:7;51:3;113:2</p> <p>important (21) 16:16;20:13;22:7; 33:5;48:15;50:25; 61:23;63:3;65:16; 99:16;100:4;108:20; 109:20;112:18;113:5; 116:18;131:10;133:22; 136:11;137:7,18</p> <p>impressive (1) 112:2</p> <p>improved (1) 20:7</p> <p>improvement (2)</p>	<p>77:17;102:24</p> <p>improving (1) 47:23</p> <p>inappropriate (7) 67:12;69:7;86:10,16; 88:11;93:13;149:12</p> <p>inclined (1) 150:14</p> <p>include (4) 30:10,14;39:13; 119:13</p> <p>included (1) 77:4</p> <p>including (12) 8:4;33:7;49:23; 56:12;58:5;66:23; 100:11;101:2;103:8; 112:8;124:3;142:3</p> <p>incompatible (7) 53:22;69:25;70:18; 103:4;115:12,24; 120:21</p> <p>inconsistent (1) 116:9</p> <p>increase (4) 101:16,22,23;103:6</p> <p>increased (6) 47:9;91:22;92:22; 114:7;126:8;127:15</p> <p>incredibly (1) 131:16</p> <p>increments (1) 63:14</p> <p>independent (2) 60:4;97:8</p> <p>Indianhead (10) 9:5;11:10,14,20,22; 16:19;19:6;38:11,14; 144:18</p> <p>Indians (1) 100:5</p> <p>Indiscernible (37) 18:25;39:2;49:3; 57:12;59:13,24;66:20; 67:22;68:14,15;72:10; 75:3;81:6,16;85:16; 89:2,23;90:7;91:25; 95:13;109:10;110:5; 113:3;114:14;127:23, 24;129:13;137:14; 138:17;139:3,10; 140:15;141:6;142:4; 148:3,6;153:7</p> <p>individual (5) 20:18,19;23:11; 75:10;139:7</p> <p>individuals (1) 98:23</p> <p>inevitable (1) 117:6</p> <p>infill (2) 22:5;48:8</p> <p>influence (1)</p>
		I		
		<p>I- (1) 31:12</p> <p>I'm (8) 58:11,14;60:3;70:13; 104:4;115:13;119:4; 151:8</p> <p>I-295 (1) 19:5</p> <p>I-495 (7) 9:6;11:22;12:18,24; 16:2,20;45:19</p> <p>idea (7) 13:17;15:20;16:8; 31:4;55:21;93:11; 121:2</p> <p>ideas (2) 48:9;124:15</p> <p>ideation (1) 55:1</p> <p>identification (1) 154:5</p> <p>identify (4) 3:18;21:2;34:4,5</p> <p>identifying (1) 30:7</p> <p>ignore (1) 65:14</p> <p>IHAAC (3) 144:19,20,22</p> <p>ill (1) 100:7</p> <p>illustrated (2) 11:3;19:4</p> <p>illustrating (1) 9:11</p> <p>images (2) 11:14;12:14</p> <p>imagine (4) 120:22;126:18; 131:19;133:8</p> <p>immediate (5) 22:8,18,20;102:21; 137:5</p>		

<p>90:21 information (6) 102:10;128:22; 146:10;151:7;152:25; 153:21 Infrastructure (14) 8:5;39:3;40:23;41:1; 73:9;82:14,16,23; 110:16;113:2,11,12,21; 125:21 ingress (1) 114:7 ink (1) 36:14 Inn (1) 106:23 inquiry (1) 78:15 inside (2) 38:16;111:7 inspection (1) 8:19 Inspections (1) 114:5 inspiration (1) 53:9 instance (2) 52:23;62:9 instead (4) 12:9;18:14;48:2; 116:16 integrity (2) 20:7;114:15 intense (10) 15:1,1;42:19;43:25; 47:25;61:19;65:7; 66:14;67:11;78:8 intensities (1) 15:23 intensity (7) 15:19;33:23;37:20; 53:22;64:6;65:15; 66:24 intent (2) 23:19;24:9 interact (1) 46:25 interacts (1) 17:13 interchange (38) 10:12,18,22,23; 11:15,20;12:11,24; 13:4,7,13,22;16:2,9,13, 18,22,24;17:7,13,14, 18,21;19:5,10;22:9,10, 21;29:22;31:12;45:19; 46:25;76:18;94:3,11, 15,16;95:6 interchanges (8) 10:19;11:2,6;26:5; 51:1;69:18;75:25; 77:17 interest (8)</p>	<p>73:6;82:9;109:25; 110:1;128:5,21; 129:17;130:9 interested (4) 108:19;109:18; 116:8,11 interesting (3) 26:12;33:17;38:1 interests (2) 82:8;83:22 interfere (1) 114:8 Interior (2) 92:9;114:2 intermittent (1) 41:13 interpret (1) 55:18 interpretation (1) 44:15 interrupt (2) 12:1;108:22 intersection (2) 13:13,22 intersections (1) 75:24 intersects (1) 46:4 interspersed (1) 53:14 Interstate (1) 11:11 interstitial (1) 48:18 interstitial (2) 49:13,19 into (29) 4:4,25;10:3;17:23; 34:8;62:12;76:25;77:1; 78:8;82:5;85:21;88:10; 89:9;99:23;108:15; 117:13;118:18;119:11; 124:4;125:8;132:22; 139:25;140:13;141:2, 9;142:2;145:18;152:2, 6 introduces (1) 100:8 investigation (1) 41:10 investment (6) 43:23,23;82:13,14, 15;83:2 involved (6) 74:1;85:8;108:7; 137:3;140:13,25 involves (1) 47:5 irrelevant (4) 88:25;141:1;143:15; 152:4 isolation (2) 20:20;83:7</p>	<p>issue (9) 69:22;76:23;81:23; 94:6;109:21;119:5; 126:3;131:9;141:3 issues (18) 24:2;33:24;43:14,16, 17;62:25,25;81:23,24; 108:21;114:6;144:25; 151:22,25;152:2,4,8,19 items (3) 135:25;154:18,19</p> <p style="text-align: center;">J</p> <p>Jacob (1) 100:22 Janet (3) 45:18;107:22,23 job (1) 132:7 jobs (2) 28:24;29:7 jogging (1) 112:18 jointly (1) 111:12 judge (5) 20:11;21:25;139:19; 140:14;141:24 judgment (2) 85:4;97:15 judicial (1) 141:5 jump (1) 147:12 jumping (1) 86:2 June (4) 146:13;147:25; 148:15,23 jurisdiction (1) 92:8 justification (1) 64:10</p> <p style="text-align: center;">K</p> <p>Karen (1) 142:12 keel (1) 47:13 keep (10) 3:11;48:22,24;58:18; 62:11;68:14;126:12; 134:21;142:24,25 keeping (4) 20:9;43:6;44:2; 110:22 Kevin (2) 146:25;147:4 key (2) 99:22;102:10 kill (1)</p>	<p>102:18 killed (1) 102:18 kind (11) 39:24;47:16;53:25; 65:25;74:2;80:25; 93:12;102:16;132:19; 135:12;148:10 kinds (2) 34:5;116:25 knew (4) 87:15;92:18;93:8,8 knowledge (2) 84:8;97:8 known (2) 110:4;149:19</p> <p style="text-align: center;">L</p> <p>label (1) 19:15 labeled (1) 5:14 lacking (1) 52:12 lacks (1) 36:4 lady (1) 131:12 land (92) 6:20,25;7:6;8:12; 13:10,10;14:7,15; 15:19;16:15;20:11; 21:24;22:23;23:4,6,9, 10,20;24:5,13,17,18, 24;25:17,20,21;26:1, 10,12,14,25;27:1,25, 25;28:5,12;32:17;33:6, 8,22;37:18,25;38:2,5,5, 7,9;39:8,16;41:4; 44:19;45:2;49:24;50:5; 54:5;61:18,19,20; 62:13;65:25;66:9,10, 25;67:15;68:4;71:23; 81:19;83:2,22;87:23; 91:1,8,13,23;92:24; 93:1,11;99:12;100:5; 101:7;108:19;109:19; 110:14;111:5,19; 116:16,17;117:5; 127:5;131:24;134:7; 137:10 landscape (4) 66:1;68:2;103:8; 132:24 lanes (3) 11:7;13:5,5 laptop (1) 135:20 large (7) 23:22,23;26:4;43:22, 23;64:14;94:2 large- (1)</p>	<p>43:23 larger (6) 48:20;50:8;82:8,21; 83:1;128:12 large-scale (1) 43:25 Largo (1) 6:21 last (23) 5:1;13:16;18:8,12, 23;35:22;48:19;49:23; 51:6;53:6,6;70:17; 78:3;90:15;95:23; 96:24;99:24,25;100:1; 106:4;136:15;142:4; 146:8 lastly (1) 78:23 later (8) 18:23;61:17;74:13, 13,14;75:6,10;142:8 latest (2) 116:10;124:24 law (1) 129:17 lawsuit (8) 138:6,21,23;139:6; 140:9,25;141:12,14 lay (1) 65:3 leaders (1) 106:9 leads (1) 46:7 learn (1) 112:14 learned (2) 137:3;148:2 least (3) 26:17;59:4;150:10 leave (7) 15:5;134:24;135:1; 147:7;148:16;150:22; 153:2 leaving (3) 148:13,22;150:15 left (3) 11:11;136:12;147:9 legacy (1) 107:6 legitimate (1) 105:15 length (2) 30:4;48:17 Lenhart (11) 10:22;11:7;13:16; 16:6,14;19:13;43:19; 55:5;64:3;67:6;151:1 Lenhart's (10) 9:25;11:1,18;12:4, 22;13:3;17:16;47:22; 154:16,19 less (3)</p>
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**Harbor View
A-10055**

<p>46:8;50:15;84:21 lesser (1) 8:6 lets (1) 152:10 letter (18) 5:9;58:1;103:19; 107:10;109:1,3,8,14; 144:21;145:4,19,25; 149:21,24;151:3,5; 153:18,18 letting (1) 128:2 level (9) 13:21;22:1;34:9; 46:12;48:20;49:20; 53:23;55:1;97:12 levels (1) 30:13 LiDAR (1) 101:9 lie (2) 42:16,17 life (3) 116:7;121:5;126:1 lifetime (1) 73:14 light (1) 91:9 Lights (1) 101:24 Lightsinger's (4) 41:5;78:24,25;79:9 likely (3) 29:24;70:10;137:22 limit (11) 25:16,21;26:1;27:3; 28:6;33:23;54:5;55:13, 14,16,20 limited (1) 97:13 limiting (1) 111:4 limits (9) 10:12,16,18;11:2,6; 38:6;42:17;150:5,10 line (12) 10:16;17:9;19:12,14; 30:14,21,22;38:16; 40:14;46:6;62:11;94:6 lines (1) 19:16 list (5) 5:1,3,13;6:3;7:17 listed (5) 3:14;43:11;100:14; 136:24,24 listening (1) 27:6 literally (1) 43:4 little (17) 9:15;12:12;15:16;</p>	<p>46:6;47:6;64:13,17,19; 90:11;94:25;102:14; 127:4;132:11;135:13; 146:9;148:14;150:9 live (11) 47:12,14;74:10;80:9; 103:23;108:5;113:6; 121:2;126:3;134:5; 144:14 lived (1) 108:7 living (3) 111:23;124:16; 126:10 LLC (4) 3:7;124:1;129:22,25 local (11) 23:21;25:18,22,24, 25;28:22,23;49:16; 111:5;112:14,19 locally (1) 50:4 located (3) 17:12;73:1;116:16 location (10) 13:20;16:2;21:23; 26:2;37:21;43:6;45:22; 64:5;117:3;118:4 locational (4) 43:14;64:8,24;75:22 long (11) 49:11;56:5;65:15; 74:2;82:12;83:7,7; 87:14;108:13;124:9; 134:21 longer (3) 68:7;91:5;148:14 look (26) 4:10,19;10:6;16:8, 21;20:18,21;21:18,23; 22:3;23:23;29:3;30:19; 42:2;53:7;58:2;60:22; 63:7;66:13;76:8,10; 97:9;109:7;112:25; 133:3;151:14 looked (2) 17:25;123:21 looking (8) 12:17;31:24;57:4,10, 18;59:8;68:1;146:22 looks (6) 58:2,6;59:7;64:4; 68:2;129:11 loop (1) 31:15 lose (1) 120:4 loss (5) 101:14;113:8;114:1; 116:5;117:4 lost (5) 117:8,20;118:1,1; 152:5</p>	<p>lot (20) 3:16;13:19;46:13,13; 50:10;52:15;56:11; 67:21;73:15;74:24; 80:11;81:13;95:12; 115:23;116:19;117:7, 16;118:4;136:9;147:20 lots (3) 27:13;38:7;82:1 lot's (1) 23:1 loud (1) 15:6 love (6) 83:20;134:4;137:2,2; 140:1;143:4 loved (1) 140:4 low (6) 22:25;32:17;33:1; 52:9;91:3,8 low- (3) 68:3;80:3;111:13 low-density (5) 49:24;62:16;65:6,19, 21 lower (4) 48:3,6;62:11,12 low-income (1) 119:9 low-intensity (1) 73:17 low-land (1) 111:18 low-rise (3) 62:9;73:10;78:5 L-shaped (1) 19:17 LU8.1 (1) 27:25 lucky (1) 12:13</p>	<p>144:17;145:7,22; 149:8;150:18;151:10; 154:6 main (1) 19:21 major (8) 11:9;22:8,10,21; 36:3;51:1,1;69:12 majority (2) 14:22;24:25 make- (1) 84:8 makes (1) 13:24 making (6) 29:18;59:1;60:5; 83:6;126:16,19 mall (1) 117:25 man (2) 100:22;102:14 management (3) 25:3;101:19;152:1 Mann (3) 21:4,4,6 manner (1) 17:13 Manor (2) 37:23;110:20 many (30) 40:20;52:1;61:16; 65:6,6,6;67:10;71:3; 74:4;75:4;81:12;83:9, 9,19;89:22;90:5; 101:14;102:6,11; 104:6,24;114:13; 123:14,14;124:1; 132:1;133:7;136:24; 140:4;143:21 Map (12) 10:8;25:2;37:18; 38:5;46:20;67:19; 75:13;89:21;123:11; 133:21;145:2;152:16 maps (1) 91:1 March (1) 144:21 Mark (6) 6:9,11,19;18:12; 31:8;32:7 marked (3) 4:17;65:6;154:5 markedly (1) 112:11 markers (1) 127:1 market (1) 74:16 Marlboro (1) 108:6 Maryland (35) 6:21;9:5;16:2;19:6;</p>	<p>31:13;86:7,13;87:22, 25;88:9,20,24;89:5; 90:7;99:11;102:25; 104:3,9;105:2,5; 106:19;115:11,16,24; 118:7,17;123:1; 125:17;128:24;132:22; 142:13;143:4;144:15; 154:12,18 mass (1) 102:21 massive (7) 52:10;54:19;82:13, 13;115:14;121:5,7 Master (58) 7:20,20,21;8:4,5,7,8, 8,10;20:3,8,8;23:8,11, 13,17,18;24:8,19;30:9, 19;31:17;32:8,9,10,13, 13,15,17,23;33:3,4,5,7, 19,24;34:21;36:6;37:2, 12,15;38:2,6;40:14,20; 42:13,25,25;44:13,14; 46:22;90:20,22,25; 91:10;96:15;99:15; 110:19 Mateo (3) 48:19;62:7,19 Mateo's (1) 49:14 Mather (1) 99:21 Matt (1) 70:19 matter (13) 3:10,21;4:2,2;20:2; 65:13;69:6;108:19; 109:18;123:15;148:13; 150:9;152:15 matters (3) 5:24;8:12;69:4 mature (1) 113:4 maximizing (1) 43:22 May (32) 3:5;8:25,25;15:15, 21;18:13;21:19;34:10; 36:6;53:23;56:8,8; 63:25;64:14;69:6; 77:18;82:2,18;84:23, 24;98:7;116:24; 124:17,22,23;143:25; 144:1,2;149:12;151:2, 24;154:22 maybe (15) 4:10;55:17,17;60:4; 79:1;83:12;105:19; 121:18;123:4;125:24; 131:5;137:24;145:16; 148:15,16 Mayo (1) 3:6</p>
		M		
		<p>ma'am (13) 5:25;80:5;93:22; 95:22;97:2;98:5; 114:19;130:18;136:21; 146:19;147:3;148:1; 154:23 Madam (50) 4:2,24;6:8,12,24;7:7; 8:25;18:4,8,22;19:3; 27:24;31:10;39:24; 40:7;41:24;43:3;45:6; 48:21;56:13,16;57:10; 58:16,24;59:11;60:1, 25;61:1;64:24;68:19; 77:23;78:14;93:18; 94:5,20;96:6;98:19; 99:1;107:14;108:22; 140:12,16;141:23;</p>		

<p>mayor (3) 145:19;146:1;150:19</p> <p>McDowell (24) 50:20,21;51:14,17, 20,23;52:4,18;54:13; 56:2,6,7,9;57:15,19; 58:10,14,25;59:10,23; 60:1,5,9,10</p> <p>MCNEIL (238) 3:2,5,24;4:6,12,23; 5:4,6,8,12,15,19,21,23; 6:1,10,13;7:5;18:6,10, 25;21:1,6;27:4,18,21; 28:3;31:8;39:21,25; 40:10,12;45:10,14,17; 48:23;49:2,4,8;50:20; 51:23;56:6,8,10,14,17, 22,25;57:3,7,12,17,20; 58:13,15,18,22;59:3, 13,16,20,22,24;60:7,9, 13,17,19;68:9,14,16; 69:2,9,74:17,19;78:17, 20;79:11,17;80:18,20; 81:5,7;86:4;87:11; 88:3;89:7,11;90:3,6,9, 15,22;93:5,14,17,20, 23;94:13,23;95:2,8,10, 12,14,18,21,23;96:3, 10,18,24;97:3,7,23,25; 98:4,6,17,20,22;99:3; 103:11,16;107:9,16,18, 21,24;108:3,25;109:7, 10,16;114:19,22,24; 115:2,4;118:22;119:1; 121:10,13,16;122:3,6, 18,20,24;123:2,5,8; 127:18,21,24;128:2,5, 8,11,16,19;129:2,6,8, 10,13,16,19,22;130:16; 131:2;134:24;135:5, 10,14,19,22,25;136:4, 6;139:5,11;140:18,22; 141:13,22;142:6,16,19, 24;143:9,11,15,19,23, 25;144:3,8,12;145:3,9, 11,14,24;146:5,14,22; 147:1,4,10,15,17,22, 24;148:3,9,18,20; 149:3,7,9,17,23; 150:14,20;151:13,18; 153:4,9,12,16,20,24; 154:2,7,14,21,25</p> <p>MCPC (1) 23:14</p> <p>mean (32) 12:3;16:4;21:20; 22:4;28:20;32:4;56:2; 57:20;63:9;66:7;67:5; 71:4;76:9;77:21;84:18; 85:17,21;92:18;93:6; 94:1,9;95:9;107:7; 117:3;118:2;120:3,8; 124:23;131:3;137:23;</p>	<p>151:20;152:19</p> <p>means (2) 41:18;78:21</p> <p>meant (1) 125:24</p> <p>measure (1) 16:17</p> <p>measured (1) 95:4</p> <p>measurement (3) 16:12;94:14,21</p> <p>measures (1) 97:20</p> <p>Medical (4) 6:20;64:11;111:23; 125:1</p> <p>medium (2) 28:22;30:10</p> <p>meet (7) 28:25;43:16;45:3; 50:2;77:25;95:15; 97:18</p> <p>meeting (4) 4:9;113:17;124:22; 125:22</p> <p>meetings (1) 132:8</p> <p>meets (1) 77:22</p> <p>member (6) 100:21;104:22; 105:5;108:9;148:1,4</p> <p>members (7) 99:11;104:6,8,25; 105:7,9;146:10</p> <p>membership (3) 104:15,17,21</p> <p>memorializing (1) 35:20</p> <p>memory (1) 103:18</p> <p>men (2) 106:9,15</p> <p>Mental (2) 87:14;112:17</p> <p>mentally (1) 100:7</p> <p>mention (2) 51:4;126:15</p> <p>mentioned (14) 25:8;32:18;35:5; 51:1;67:1;96:16; 107:10;120:5;127:9; 131:13;137:8;139:16; 148:14;154:15</p> <p>merge (1) 13:5</p> <p>MGM (7) 12:20;31:16;36:11; 66:5;85:12;117:11; 131:7</p> <p>mid (1) 52:10</p>	<p>Mid- (1) 104:6</p> <p>Mid-Atlantic (4) 99:7;104:4,10;105:6</p> <p>Middle (2) 73:20;94:15</p> <p>midst (4) 73:13,19,19;75:1</p> <p>midway (1) 51:21</p> <p>might (14) 6:5;28:10;40:1,2; 55:18;86:13;96:3; 97:23;117:2;125:23; 126:20;129:24;146:5, 12</p> <p>Mike (3) 10:21;17:10;85:10</p> <p>mile (7) 16:8,24;38:15;46:8; 94:25;95:7,17</p> <p>miles (3) 94:2;108:6;144:16</p> <p>million (3) 104:8;124:18;125:23</p> <p>mind (2) 15:8;44:11</p> <p>minute (1) 27:6</p> <p>minutes (1) 40:11</p> <p>Miss (3) 31:8;52:17;139:2</p> <p>missing (1) 54:11</p> <p>mission (8) 93:1,3;99:17,20,22; 100:2;106:4;118:8</p> <p>misspoke (2) 91:16;92:17</p> <p>mistaken (1) 79:2</p> <p>misunderstanding (1) 50:22</p> <p>Mitchell (1) 88:16</p> <p>mitigate (1) 83:10</p> <p>mitigation (3) 29:18;97:20;114:1</p> <p>mix (2) 15:22;44:6</p> <p>mixed (21) 10:10;13:25;14:4; 25:17,21,25;26:8; 28:12;44:9;45:21,21; 55:18;66:18;74:15; 75:1;110:8,23;111:4, 15;112:10,21</p> <p>mixed-use (1) 44:6</p> <p>modulate (1) 83:13</p>	<p>moment (5) 10:19;21:1;70:3; 94:21;119:8</p> <p>money (8) 118:4;123:16,17; 125:21,25;129:20; 137:21,23</p> <p>Monroe (3) 105:24;106:13;107:1</p> <p>month (1) 46:18</p> <p>months (1) 146:8</p> <p>Monument (2) 105:24;106:23</p> <p>more (49) 12:4;14:16;24:6; 33:6;39:16,22,23;43:4, 15;48:5;54:8;55:11; 58:2;60:11;62:9;64:18, 19;65:18;66:4;72:24; 78:7;82:7,7,20,25; 83:18;84:7;86:7;87:3; 88:20;94:25;101:5; 106:5,12;110:6,7; 112:25;113:1,5,9,21; 128:3,21;129:17; 131:8;142:18;146:9; 147:15;150:9</p> <p>morning (10) 3:2,5,22;6:4,11,12, 13;18:1;79:20,21</p> <p>most (17) 13:21;14:21;16:20; 22:4,6;35:22;45:20; 47:17;51:5;53:7;68:24; 70:10;101:7;108:21; 109:20;137:22;147:7</p> <p>mother (1) 143:6</p> <p>motorists (2) 36:5;112:2</p> <p>Mount (3) 35:18;100:12,13</p> <p>move (3) 32:8;113:19;141:11</p> <p>moved (2) 24:10;101:4</p> <p>moving (1) 119:11</p> <p>MPCA (2) 99:20;104:22</p> <p>Mrs (2) 65:10;74:7</p> <p>much (21) 6:7;17:10;34:6; 39:22;45:23;50:15; 52:25;53:2;55:1;57:19; 60:16;71:3;76:23; 107:16;115:13;117:1, 20;123:15;125:11; 127:13;155:3</p> <p>muffled (1) 85:10</p> <p>multi-family (2) 55:16,19</p> <p>multi-generational (1) 23:22</p> <p>multiple (1) 35:16</p> <p>municipal (1) 27:16</p> <p>municipalities (2) 26:14;28:1</p> <p>municipality (2) 26:16;150:5</p> <p>Museum (1) 106:22</p> <p>must (3) 65:22;132:19;148:20</p> <p>mute (3) 21:2,5;103:12</p> <p>muted (2) 3:11;74:20</p> <p>MXT (60) 3:9;9:20;10:8;13:12, 25;14:2,8,11,25;15:12, 24;20:6,9;28:8;31:19; 33:1;43:6,7,8,13,15,20; 44:1,10;55:16;63:7,14; 64:7;67:11,20;68:24; 69:4,25;74:10;76:24, 25;77:1,18,20,21,23; 79:25;85:11,25;89:17; 90:5;91:7;97:13;99:13; 110:6,23;114:13; 118:3;124:8;133:24; 134:10,13,14;144:23; 152:9</p> <p>myself (1) 123:13</p>
N			
<p>name (20) 6:18,19;14:2,4; 31:16;99:4,6;107:20, 22,23;115:3;121:15; 126:24;130:1,11; 131:12;142:7;144:6; 147:4,8</p> <p>named (3) 112:9;115:16;130:4</p> <p>namely (6) 22:7;25:9;38:7,12; 109:21;111:17</p> <p>names (1) 124:5</p> <p>narrow (2) 44:15,15</p> <p>National (102) 12:19;25:10;30:16; 46:15;51:8;73:6;76:19, 22;77:2,15,15,16;78:1; 85:8,22;86:15,25;87:2, 6,13;88:7,9,24,90:7;</p>			

<p>91:18,20;92:10,13; 93:9;99:2,8,10,13,16, 17,18,21;100:14,21; 101:15;102:2,8;103:3; 105:22,24,25;106:1,5, 6,12,20,22,23;110:10; 111:1,9;112:1,4;114:5; 115:16,17;116:20,25; 117:1,2,8,8,17,21,23; 118:7,19;120:5; 123:24;124:1,2,3,4,6; 129:23,25;130:3,4,5,9, 19,20;131:5;132:6; 133:10,12,15,17; 134:16;136:17;137:19; 138:1,2;139:16,24; 140:20;144:24</p> <p>Nation's (2) 86:9;108:12</p> <p>natural (8) 41:9;75:7;88:18; 91:21;92:21,22;103:4; 112:12</p> <p>nature (3) 15:11;64:21;117:6</p> <p>near (4) 40:7,8;80:1,10</p> <p>nearby (1) 15:4</p> <p>necessarily (2) 53:22;127:14</p> <p>necessary (3) 30:12;64:3;113:21</p> <p>need (26) 18:5;21:22,23;24:6; 34:5;36:23;52:25; 68:11;74:19;92:11; 104:14;110:6;128:7,7; 132:20;133:13;135:25; 141:3;143:9,21; 146:16;150:21,24; 151:23;154:8,10</p> <p>needed (2) 114:8;117:20</p> <p>needing (1) 47:14</p> <p>needs (3) 17:1;44:24;47:14</p> <p>negative (4) 61:24;90:21;101:14; 102:1</p> <p>negatively (1) 99:15</p> <p>negotiating (1) 27:11</p> <p>negotiations (2) 26:18;27:23</p> <p>neighbor (1) 9:9</p> <p>neighborhood (37) 8:20,23;9:3,10,12, 22;10:1,7,13,15,16; 11:3;22:9;23:22;51:4;</p>	<p>52:7,11,21;65:15;68:4; 69:18;75:2;82:5,6; 84:20;93:24,25;94:2,4; 102:2;110:25;111:10, 14;115:13,25;119:10; 120:22</p> <p>Neighborhoods (2) 28:21;103:6</p> <p>neighbors (2) 81:24;137:2</p> <p>neither (1) 111:9</p> <p>network (7) 15:13;30:2;43:21; 46:22,22;100:22; 113:12</p> <p>new (19) 18:14;23:17,20; 24:25;25:6;28:6;29:16, 17;30:7,13,15;31:4; 85:3;106:25;107:1; 111:2;123:20,22;126:4</p> <p>next (36) 3:25;9:15;25:9;34:1; 42:7;43:25;55:9;65:8; 66:5;68:3;69:22;74:10; 75:24,25;76:18,18; 77:15,25;78:5;80:24, 24;102:24;107:18; 117:7;121:7,10;126:3, 7;131:9,11;135:15,15; 136:1;153:12,12,14</p> <p>nexus (2) 13:17;14:13</p> <p>nice (1) 134:21</p> <p>nicely (1) 48:21</p> <p>night (1) 101:25</p> <p>noble (1) 143:10</p> <p>nobody (2) 84:22;126:13</p> <p>nodes (1) 53:12</p> <p>noise (4) 29:19;101:24;103:2; 112:22</p> <p>noises (1) 121:25</p> <p>nominally (1) 38:18</p> <p>non-confirmations (1) 47:2</p> <p>non-conformities (1) 20:22</p> <p>nonsensical (1) 17:7</p> <p>nor (4) 78:16,16;96:14; 111:10</p> <p>normally (1)</p>	<p>68:5</p> <p>north (2) 9:3;94:19</p> <p>norther (2) 34:23;111:18</p> <p>northern (8) 9:3;19:17;29:25; 46:5;53:10;86:8;95:6; 101:18</p> <p>northwest (2) 17:17;19:5</p> <p>notating (1) 135:12</p> <p>notation (1) 134:22</p> <p>notes (8) 51:21;125:23; 134:20;135:6,6,7; 143:20;151:2</p> <p>notice (1) 131:3</p> <p>noticed (2) 123:24;129:15</p> <p>notwithstanding (1) 25:23</p> <p>November (1) 32:15</p> <p>nowhere (1) 17:3</p> <p>NPCA (1) 106:24</p> <p>number (21) 4:14,18;5:2;6:23; 7:1;8:4;28:11;30:2,2; 33:18;38:21;44:4;50:7, 8;63:15;81:15,15; 107:11;153:10,13,14</p> <p>numbers (6) 58:19;64:13,16; 104:12,23;153:21</p> <p>NW (1) 99:9</p>	<p>O</p> <p>oaks (1) 112:7</p> <p>oath (2) 99:3;130:17</p> <p>object (8) 78:13;80:15,15; 140:17,24;141:1; 151:21;152:9</p> <p>objected (1) 24:5</p> <p>objection (9) 24:1;67:23;78:20; 80:13;88:22;89:18; 148:22,22;149:5</p> <p>objections (2) 79:24;149:2</p> <p>obliterate (1) 137:6</p>	<p>obviated (1) 35:9</p> <p>obvious (1) 115:11</p> <p>obviously (4) 29:14;73:6;96:12; 119:21</p> <p>occasions (1) 7:1</p> <p>occupants (1) 15:2</p> <p>occur (2) 46:1;48:1</p> <p>occurs (2) 42:3;54:11</p> <p>o'clock (2) 98:9,18</p> <p>odds (1) 99:14</p> <p>off (11) 6:5;18:1,17;28:10; 40:4;104:11;105:1; 125:20;134:10;155:4,5</p> <p>offer (1) 6:24</p> <p>office (1) 64:11</p> <p>offices (1) 104:3</p> <p>official (1) 150:13</p> <p>officially (1) 146:1</p> <p>often (4) 16:25;109:22; 116:15;118:9</p> <p>old (6) 19:20;34:24,25; 49:17;123:21;143:3</p> <p>older (3) 84:21;126:5;143:8</p> <p>oldest (1) 108:12</p> <p>Olivewood (1) 104:3</p> <p>once (6) 4:18;43:17;74:14; 132:2;133:24;134:12</p> <p>one (97) 4:2;7:24;10:2,3,7,9; 15:9;16:24;17:5;18:13, 14,16,23;20:17;22:8, 11,12,20;26:12;27:1; 28:10,11;30:2;33:18; 39:21,21;46:17,20; 47:3;48:8;50:7;51:18, 23;53:7,17,18,24,24; 54:11,16;55:11;61:22; 62:7,15,20,21;64:4; 65:16;67:4;68:9,9; 69:18;78:3;79:24; 81:17;82:20;84:15; 85:19;86:18;88:2,20;</p>	<p>89:2;90:15;91:17;93:7, 21;95:7,16,19,23; 105:16;106:21,23; 112:13;118:13;119:2; 122:16;124:12,13; 125:8,8;127:3;129:4; 130:9,23;131:4;137:1; 138:7;140:22;142:18, 19;143:2;144:5; 146:22;151:10,11; 153:21</p> <p>one-direction (1) 46:11</p> <p>ones (3) 57:25;58:1;124:19</p> <p>only (26) 6:9;14:20,21;18:6; 22:8;29:16;43:13;49:8; 50:12;56:25;57:8,23, 25;66:21;79:7;85:23; 98:11;99:13;116:6,13; 125:5;128:18;129:5, 17;145:19;146:1</p> <p>onto (4) 11:22;12:18;65:15; 94:10</p> <p>open (20) 23:1,4;56:13,17; 65:7;94:21;100:9; 101:21;111:15,19; 118:18;134:24;135:1; 148:13,16,23;149:12, 15;150:15,23</p> <p>opened (1) 152:3</p> <p>opening (2) 88:17;120:10</p> <p>operate (1) 132:4</p> <p>operating (1) 128:24</p> <p>opined (1) 39:14</p> <p>opinion (24) 14:6,23;15:10;17:11; 31:24;41:3;42:10,22; 43:2;45:5;69:6;72:21; 76:6,24;77:12;81:7,18, 21,22,22;86:12;91:14; 94:9;132:25</p> <p>opinions (1) 151:16</p> <p>opportunities (4) 35:16;45:24;46:24; 47:18</p> <p>opportunity (5) 88:3;89:3;150:6,12; 152:24</p> <p>oppose (1) 152:3</p> <p>opposed (1) 68:23</p> <p>opposes (1)</p>
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<p>144:22 opposing (1) 35:25 opposite (1) 46:14 opposition (7) 45:12;50:11;79:18; 105:19;138:2;149:15, 22 orange (2) 31:10,14 order (6) 3:14;42:1,1;62:8,10; 143:22 ordinance (8) 10:2;28:10;32:25; 44:22;46:13;63:6; 84:15;134:7 organization (18) 98:25;103:20;104:7, 25;105:6,8,9,11,16; 106:2,10;108:13,15,24; 109:2,4,5;117:9 orient (2) 15:1;31:21 orientation (7) 14:7,17,17,18;15:10; 17:6,14 oriented (2) 14:16;110:9 original (5) 76:11,15;86:8; 133:23;151:15 others (4) 44:19;83:19;112:7, 14 otherwise (1) 41:21 out (38) 4:16;13:6;25:3;37:6; 43:17;49:9;61:20;66:4; 67:22;68:22;69:22; 74:13,14;87:21;97:17; 98:6;102:7,16;104:19; 110:24;111:12;112:24; 120:7,23;121:23; 124:10,16;125:8; 132:2;133:7,24;134:6, 23;135:22;138:24,24; 139:25;140:7 outcome (2) 79:5;138:8 outdoor (2) 100:4,10 outlet (3) 117:25;136:18; 137:19 outlined (4) 10:18;11:5;19:7; 113:10 outrageous (1) 120:3 outside (8)</p>	<p>25:21;26:7;28:7; 38:12;110:13;111:5,8; 121:24 outstanding (1) 154:9 outweigh (1) 82:9 over (23) 4:5;19:17,19;24:7; 25:6;37:24;42:16; 47:13;48:2;66:13;73:2; 80:10,11;91:23; 117:10;119:12;122:16; 125:13,14;127:1; 133:4;136:15;155:3 over- (1) 54:19 overpass (4) 125:7,13,16,18 overshadowing (1) 52:7 overwhelming (1) 52:7 own (13) 71:23,23;81:18; 84:22;87:17;91:5; 98:24;101:6,6,6; 138:19;140:2,2 owned (4) 71:23;123:20; 126:25;138:22 owner (3) 89:1;138:22;139:24 owners (9) 81:19;115:21; 123:23;128:3,21; 129:3,7,14;130:3 ownership (4) 35:21;72:23;101:5; 130:21 owns (2) 116:15;124:2 Oxon (35) 25:24;30:23;31:2,11, 14;42:19;46:7,9;86:15; 87:7,13;91:20;99:12, 15,16;100:1,3,11,17, 20;101:13;103:8; 111:10;112:9,14; 115:10,10;116:4; 117:6;122:25;125:9, 12;131:11,15;143:3</p>	<p>16:5;36:14;37:25,25; 56:11;58:12,13; 134:20;135:11,12; 152:18 Pamala (1) 99:6 pandemic (1) 14:19 Panorama (1) 122:25 papers (1) 71:4 paperwork (1) 67:21 paragraph (2) 51:24;71:19 paragraphs (1) 70:17 parcel (1) 115:20 pardon (1) 83:23 park (70) 10:10;23:14,16;31:2, 11;32:20;46:8,9;65:21; 86:15,15,25;87:2,6,7, 13,13;88:7,9,12,24; 90:8;91:3,3,6,18,20,20; 92:1,10,12,14;93:9; 99:12,15,16,19,21,23; 100:2,2,3,7,11,16,20, 20;101:13;102:2,8; 103:8;105:25;106:1, 20;107:4;112:9,14,18, 22;114:5,11;116:4; 117:6,12;118:7,19; 134:16;144:24;150:3,7 parking (3) 133:16,17,19 parkland (17) 65:17;73:6,7,12; 78:5,6,7;85:20;88:18, 23;111:1,13;116:18; 131:23;134:15,16,19 Parks (24) 8:8;23:4,18,20,22,23, 23;24:9;33:9;35:7; 91:4;99:2,8,10,17; 103:3;105:22;106:5,7, 12,20,25;111:19; 137:22 Parks' (1) 96:22 park's (1) 35:8 part (26) 4:17;5:10;8:17; 12:24;27:22;51:16; 53:10,10;61:9,13;73:1, 8;77:19;83:7;88:2; 100:20;111:11;124:6; 131:8,13;133:23; 140:9;146:16;149:17;</p>	<p>151:6;153:6 partially (1) 150:10 participate (1) 141:6 participated (1) 90:5 particular (16) 13:20;21:19;22:2,17; 34:11;54:20;57:8;64:8; 76:5;81:24;94:6; 105:17;119:10;141:1; 146:3;152:7 particularly (5) 11:20;40:22;45:25; 69:11;113:11 partly (1) 72:1 parts (1) 11:14 pass (1) 42:1 passion (2) 137:4;143:5 past (6) 23:15;74:22;75:4; 94:7,8;98:24 patrons (1) 15:3 pattern (2) 83:8;113:15 patterns (1) 113:18 Paul (1) 106:21 pause (2) 98:18,19 Paxil (1) 144:14 pay (1) 24:6 paying (1) 125:16 pedestrian (7) 16:25;17:2,6;29:24; 30:3;45:25;46:24 pedestrians (3) 16:20;45:20;125:13 pejorative (1) 119:9 penalties (5) 6:14;107:25;115:5; 122:21;144:9 pending (2) 146:9;149:19 people (35) 3:14;13:20;34:4; 37:3;47:12,13;49:5; 50:11;62:7;80:9;82:24; 83:18,19;104:16; 108:16,17;109:25; 116:7;118:16;119:10; 120:3,4,7;121:2;</p>	<p>125:12,19;131:23; 132:21;133:6,11; 134:4,6;136:19; 137:22;138:24 People's (3) 3:22;82:10;126:1 per (2) 48:5;52:1 percent (6) 14:21;25:5,10;128:3, 21;129:17 percentage (3) 104:15;105:5,6 percentages (1) 50:1 perennial (1) 41:12 perhaps (2) 82:7;92:17 period (2) 25:7;130:25 perjured (1) 141:16 perjury (6) 6:14;107:25;115:5; 122:21;141:17;144:9 permissible (1) 54:6 permission (1) 116:21 permitted (3) 33:22,23;64:6 Permitting (1) 114:4 person (9) 48:5;65:3,4;79:17; 84:17;98:11;138:21, 23;139:25 personal (6) 8:19;69:6;81:18,21, 22;132:24 personally (1) 81:20 persons (4) 119:11,12;151:24; 152:3 perspective (9) 11:1;12:12;13:11; 14:7;16:11,16;45:3; 48:13;73:22 Peterson (1) 130:19 PG (3) 50:24;94:20;95:4 phase (3) 54:2;55:9;63:20 phases (1) 42:4 phone (3) 122:8,13;128:13 phonetic (3) 5:10;46:18;130:10 physical (3)</p>
	P			
	<p>page (26) 23:24;25:4,4,13,20; 26:13;27:3;36:1;37:14; 38:3;41:4;51:17;54:14; 56:18;58:15;59:7;67:9; 68:16;69:23;70:3,4,16, 17;71:17;97:1,9 pages (11)</p>			

**Harbor View
A-10055**

<p>29:15;37:8;112:17 pictures (1) 12:9 piece (5) 15:12;66:11;76:14; 83:6;127:5 Piscataway (1) 100:5 place (9) 26:7;47:14;61:21; 88:19;118:13;119:23; 126:10;133:3;143:5 places (7) 48:11,13;74:24; 100:15;106:8,9;117:23 Plan (170) 7:19,19,20,20,21,23; 8:5,5,6,7,8,8,9,10;20:3, 3,8,8,8,11,15,15,17,18, 19,24;21:8,15,22; 22:19;23:3,7,10,13,13, 18,18;24:8,21;25:4,5, 15,21;29:4,8,11,13; 30:8,9,19;31:17,23,25; 32:2,5,6,9,10,13,13,15, 17;33:3,4,6,7,19,24; 34:2,3,21;35:7;36:1,2, 6,16,16,22,25;37:1,2, 12,15,19,23;38:2,4,7, 11,18,20,25;39:5,6,6, 11,15,18,19;40:14; 41:2;42:9,13,25,25; 43:1;44:5,13,14;46:22; 47:4;48:16;49:17,23, 23;50:24;52:24;54:1,2; 55:10;61:19;64:15,17, 18;66:23;69:13,15,19; 73:9;75:25;83:14,14, 15;90:20,22,25;91:10, 11,14;95:25,25;96:4, 13,14,15;97:17;99:15; 101:21;102:21,21; 103:4;109:22;110:9, 16,19,20,21,22;111:2, 17,21;113:11,15,16,19, 24;114:15,17;154:12, 19 Planned (5) 22:11;30:20;42:16; 91:3;110:12 planner (6) 6:20,25;20:11;61:18; 62:14;65:17 planners (1) 109:24 planning (32) 7:6,16;8:12;13:10; 23:16;26:14;28:1; 30:25;45:2;47:3;48:12; 56:21;65:1,25;66:11, 11;67:15;68:4;69:25; 73:14;81:13;82:2,22; 85:7;88:9,13,24;</p>	<p>110:17;114:17;118:7; 150:3,7 plans (18) 7:17,20;8:4;20:4; 23:6,8,11,12;24:13,16, 19;28:19;32:8,13,23; 40:20;77:4;102:23 Plan's (5) 21:10;22:22;33:13; 34:16,18 plantation (2) 100:19,23 plaque (1) 132:11 plat (4) 17:24;19:3,4,24 played (1) 119:17 plaza (1) 126:19 pleasant (1) 125:14 please (10) 3:15;6:17;13:2,10; 31:9;51:15;52:14; 72:16;114:17;140:22 plop (2) 73:13;78:4 plus (1) 82:22 point (26) 4:11;13:6;16:9,12, 18,23;17:6;36:3,4,17; 45:8;55:11;63:2;68:22; 87:21;93:7;94:14,17; 95:6;131:8;145:25; 146:4;149:11;151:23; 152:7,11 pointed (2) 67:21;114:5 pointing (1) 69:22 point-of-view (1) 12:23 points (2) 11:9;41:14 police (4) 64:12;97:16;111:23; 114:10 policies (7) 24:21;25:16;26:11; 28:19;29:11;53:9; 113:10 policy (26) 15:20;21:11,19; 22:15,16;24:24;25:2, 20,25;26:13,25;27:1, 25;28:5,6,8,11,12,21; 29:2,6;30:6;31:4,22; 82:13,21 political (2) 132:19;149:20 polluted (1)</p>	<p>101:16 pollution (3) 101:24;103:2,7 pop (2) 66:3;68:3 popular (1) 100:8 population (2) 71:22;113:7 portion (7) 23:1;26:17;32:14; 38:5;39:17;91:2;94:15 portions (1) 70:15 position (7) 109:5;132:16; 144:20,24;146:15; 147:14;150:13 possibility (1) 148:14 possible (7) 56:14;57:15;78:19; 113:14;121:16,16; 131:22 possibly (3) 55:2;117:2;121:3 post-dated (1) 81:11 POTEAT (8) 3:3;6:2;153:10,11, 14,17,22;154:1 potential (6) 30:23;43:22;73:2; 114:2,6;120:8 Potomac (4) 9:8;30:25;110:14; 111:25 power (2) 49:9,11 practical (1) 29:15 practices (1) 113:24 preceding (1) 82:2 precipitation (1) 113:1 precisely (1) 53:25 pre-Civil (1) 71:21 preclude (1) 96:7 precluded (1) 96:3 pre-dates (2) 81:3,3 predominantly (1) 106:8 prefer (1) 135:2 preferences (1) 29:1</p>	<p>preferred (2) 15:11,11 preliminary (9) 4:2;37:1,2;39:5;54:2, 2;64:17;83:14;97:16 premise (3) 87:20,20,22 prepare (2) 8:11;9:11 present (4) 10:21,25;94:7;99:19 presentation (1) 56:20 presented (3) 35:11,13;62:14 presently (1) 102:22 preservation (11) 33:10;35:9,14,19; 49:25;70:9;96:16,21; 113:1;132:4;136:25 preserve (7) 105:11,15;113:11, 13;132:5;137:22;142:8 preserved (2) 53:2;136:12 preserving (1) 136:11 president (1) 144:19 presumably (1) 24:3 pretty (2) 18:24;135:24 prevalent (2) 76:4,4 previous (4) 10:8;30:5;83:11; 131:12 previously (2) 7:1;80:14 primarily (1) 112:12 Prince (35) 7:1,19;9:4,7;21:8; 36:12;49:1;71:21;73:7; 88:1,17;89:16;99:14; 100:13;104:2,20,24; 105:7;108:7,8,10,18; 109:18;110:3,19; 112:2,20;115:18,23; 116:10,15;118:17; 125:17;142:13;143:4 principle (2) 29:20,21 principles (2) 75:22;109:22 prior (6) 3:7;4:16,21,21; 15:16;151:24 priorities (1) 30:8 priority (1)</p>	<p>30:11 privacy (1) 29:19 private (9) 82:14,14;83:1,2,4,8; 89:1;117:9,18 privatization (1) 85:22 privileged (1) 108:15 probably (5) 3:11;58:22;127:7; 133:18;146:13 problem (5) 62:15;67:15;79:8,23; 92:25 procedural (3) 5:21,24;147:21 proceed (3) 3:25;6:7;75:23 proceeding (1) 61:6 process (3) 64:22;75:8;82:17 Proctor (1) 70:21 Proctors (1) 101:3 proffer (3) 139:6;148:10,11 proficiently (1) 79:5 profit (1) 117:18 Program (2) 99:7;104:5 programmed (1) 102:24 programs (1) 102:25 progress (1) 49:3 progressively (1) 82:6 prohibit (1) 25:25 project (34) 11:3;34:11;35:11,12, 16;36:24;43:18;47:11; 50:5,6;52:23;54:9; 75:12;85:1,11,11;97:3; 99:13;101:12,20; 110:2,11;111:24; 123:25;124:5;125:24; 129:23;130:21;131:6, 14;133:6;138:2;146:3; 150:5 projected (2) 24:25;28:25 projects (2) 105:23;124:13 project's (1) 34:12</p>
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<p>prominent (1) 101:1</p> <p>prominently (1) 66:4</p> <p>promise (1) 148:21</p> <p>promised (5) 116:25;124:11,12,13,14</p> <p>promote (2) 85:5;110:23</p> <p>properties (11) 76:8,25;77:3;108:6;110:4,5;111:18,20;112:6;114:14;124:2</p> <p>property (143) 3:8;7:9;8:20,23;9:11,12;10:14,17;13:11,23;15:12;17:12,16,20;19:7,9,10;21:11,12;22:6,18,24;23:1,24;3,9,10;25:15;26:2,15;27:12;29:4,21;30:1,23;31:19,21;32:11,14,19;34:4,24;35:1,3,21;36:9;37:9,11;38:3,6,23;39:10,17;41:9,16,22;42:2,18;43:6,20;46:3,9,15,21,23;49:16;50:11;51:2,5;52:5;56:12;63:21;65:5,20;66:12;70:22,23;71:5,20,23;72:2,2,5,7,13,23;73:2,11;75:8,24;76:14;77:14,20,21;78:14;79:25;87:1;89:1,1;91:2,6;92:6,8;94:14,17,19;95:7;96:1,14;100:25;101:4,6,10;102:9;105:17;111:17;113:25;118:12,15;119:15,16,22,24,24;120:6,17,23;123:20;126:18;128:5;130:10,23;131:22;132:14;133:22;134:2;136:13,21;137:12,21;138:22;140:2,2;144:16,22</p> <p>property's (5) 16:2;64:8;76:5;94:10;95:5</p> <p>property-specific (1) 77:14</p> <p>proportionately (1) 50:13</p> <p>proposal (7) 24:2;35:18;36:24;75:12;80:12;115:12;118:20</p> <p>proposals (1) 102:4</p> <p>proposed (13) 29:23;52:5;70:20;</p>	<p>82:17;99:14;101:18;102:8;110:10;111:9;113:7,19,23;114:9</p> <p>proposing (3) 68:3,7;120:2</p> <p>protect (17) 48:14;61:24;62:10;86:16;87:1;88:10;91:21;92:21;93:1,10;99:18;113:11;132:5,12,13,14;134:7</p> <p>protected (1) 118:10</p> <p>protecting (4) 48:11;86:7,9;132:13</p> <p>protection (4) 34:9;50:3;88:19;137:21</p> <p>protections (1) 108:16</p> <p>protocol (1) 147:23</p> <p>proud (2) 106:13,18</p> <p>provide (8) 30:3,3,12;63:15;111:25;112:1;113:7;154:16</p> <p>provides (1) 100:8</p> <p>providing (4) 31:6;47:18;112:8;152:25</p> <p>provision (1) 55:15</p> <p>provisions (2) 29:18;63:6</p> <p>proximate (3) 47:24,24;68:6</p> <p>proximity (11) 15:18;22:18,21;26:2,3;42:18;66:23;69:13;73:17;76:3;117:17</p> <p>proxy (1) 95:17</p> <p>Public (21) 8:7;19:23;21:24;33:9;34:14,15,18;39:1;43:23;82:12,15,21,22,22;83:1,8;97:4,12;110:12;117:8,18</p> <p>publish (1) 150:12</p> <p>pull (1) 12:7</p> <p>pulled (3) 18:13;77:1,3</p> <p>pulling (1) 76:25</p> <p>purchase (4) 76:7;87:6,13;116:18</p> <p>purchased (6) 87:14,16;92:18;93:8;</p>	<p>118:12,12</p> <p>purchasing (1) 86:15</p> <p>pure (1) 120:16</p> <p>purest (1) 119:8</p> <p>Purple (3) 30:14,21,22</p> <p>purpose (13) 13:11;43:21;44:3,4,9,10,16,18;48:13;92:21;110:22;111:8;133:2</p> <p>purposefully (1) 92:14</p> <p>purposes (9) 15:8;20:9;43:7,8,11,13,16,19;44:21</p> <p>push (2) 123:3,6</p> <p>pushed (4) 21:5;122:4,7;134:5</p> <p>put (28) 3:13;23:13;29:2;31:4,9;34:3;43:15;54:5;63:5;73:16;74:15,15;77:9;98:13;109:24;123:19;124:15;125:5;132:10;133:8,25;134:11,22;143:5,21;149:13,16,16</p> <p>puts (1) 21:12</p> <p>putting (3) 43:24,25;152:2</p>	<p>quote (3) 24:1;25:15;113:17</p> <p style="text-align: center;">R</p> <p>R- (1) 3:8</p> <p>R-55 (2) 69:25;144:23</p> <p>racial (1) 105:8</p> <p>rail (1) 30:13</p> <p>Railroad (3) 100:21;106:1;131:13</p> <p>raining (2) 41:18,21</p> <p>raise (1) 149:11</p> <p>raised (4) 71:24;119:6,7;123:18</p> <p>ramp (3) 11:21;12:17;65:8</p> <p>ramps (2) 11:7;13:5</p> <p>rare (6) 70:23,25;71:6,13,21;72:3</p> <p>rate (1) 104:22</p> <p>rather (5) 31:5;54:3;84:19;111:7;143:6</p> <p>rational (1) 77:18</p> <p>rationalize (1) 76:9</p> <p>Rawlings (1) 49:5</p> <p>RDA (1) 6:20</p> <p>read (9) 51:22;67:11,21;70:16;72:8;91:17;92:10;94:23;124:21</p> <p>reading (1) 74:3</p> <p>ready (5) 3:4,25;6:7;45:15;60:19</p> <p>real (2) 135:18;143:5</p> <p>reality (1) 41:7</p> <p>realize (1) 125:20</p> <p>really (72) 11:5,18,19;12:3,4,11,21,22;13:15,17;14:12,13,15,22;16:6,21,23;18:19;22:6;23:21;25:19;34:8;35:2,8,11;</p>	<p>37:17;38:18;40:17;43:13,15;44:16;45:24;46:2;47:22;49:18,18,23;50:2;54:10;58:3;65:4;73:12;76:9;79:23;81:23;82:16;83:20;84:5;87:21;94:11;96:14,23;97:12,16;102:10;121:4,19;125:14;126:3,13,21;131:22;132:1,3;136:18;141:8;142:1;152:6,9,12,16;153:1</p> <p>reapplications (1) 90:5</p> <p>reapproach (1) 80:23</p> <p>rear (1) 52:25</p> <p>reason (6) 66:16;93:9,10;105:10;107:12;111:6</p> <p>reasonable (3) 53:23;64:2;73:16</p> <p>reasoning (1) 94:7</p> <p>reasons (2) 37:16;39:15</p> <p>recall (5) 10:9;53:6;58:12;92:10;124:10</p> <p>recalling (1) 54:16</p> <p>recap (1) 150:24</p> <p>recently (1) 72:25</p> <p>Recess (1) 98:21</p> <p>recognize (1) 91:1</p> <p>recognizes (1) 110:6</p> <p>recollection (2) 79:10;92:16</p> <p>recommend (4) 32:11;35:14,24;64:25</p> <p>recommendation (31) 20:19;21:11,16,18,19,21;22:13,16;23:9,9,10,14;24:14;32:16,22;34:16;35:8;36:18;37:6,18;38:3;39:17;68:22,25;69:21;77:24;91:2,8;96:22,23;149:14</p> <p>recommendations (28) 23:6,11;24:17,18;25:16;26:7;33:6,8,13,18;34:18,22;35:3;36:15,22,22;37:7;38:19,21;39:4;44:5,11;69:4;91:9,10;96:16;</p>
		Q		
		<p>quadrant (3) 17:17;19:5;31:12</p> <p>qualification (1) 7:4</p> <p>quality (3) 116:7;121:5;126:1</p> <p>quantities (1) 64:14</p> <p>quarter (1) 94:25</p> <p>queue (1) 155:4</p> <p>queued (2) 18:2,3</p> <p>quick (1) 40:18</p> <p>quickly (2) 39:24;147:12</p> <p>quiet (2) 82:4;147:19</p> <p>quieter (2) 15:6,6</p> <p>quite (1) 147:19</p>		

<p>109:23;111:17 recommended (3) 38:7;88:23;116:17 recommending (1) 69:24 recommends (7) 28:5;29:9;38:5; 41:25;51:10;66:25; 67:18 record (49) 3:19;4:5,17,25;6:18; 17:23;18:7,14,17; 54:24;55:25;57:4;59:4, 15,21;60:2,4,5;79:1,14; 105:20;128:20;134:22, 23,24;135:1;136:1; 140:13;141:2;142:8; 144:6,21;145:5,19; 146:16;148:13,16; 149:4,12,15;151:6; 152:2,6,12;153:6; 154:10,21;155:2,5 recorded (3) 3:10;19:24;82:1 recreation (4) 28:25;29:8;99:23; 100:10 red (4) 10:18;19:7,18;31:11 redacted (10) 4:3,10;5:17;79:6; 143:20;151:16,16; 153:5,11,20 redirect (1) 98:2 reduce (1) 47:23 reducing (1) 47:17 refer (8) 9:24;17:15;26:21; 41:5;47:22;51:15;67:9; 71:13 reference (2) 42:23;96:7 referenced (3) 23:7;68:16;152:19 references (3) 25:7;28:21;96:13 referencing (1) 27:9 referral (4) 23:24;60:21;91:5; 150:4 referred (4) 11:19;19:21;27:8; 78:24 referring (3) 25:20;50:11;52:5 refers (1) 27:2 Refresh (1) 103:18</p>	<p>refute (1) 152:24 regard (6) 4:24;5:17;41:11; 54:7;89:4;148:12 regarding (7) 10:8;15:10;25:16; 33:25;37:11;39:10; 114:13 regardless (2) 69:5;75:12 regards (5) 85:7,18;105:12; 118:7;141:12 region (5) 53:8;99:16;100:3; 104:7;105:6 regional (21) 22:12;23:23;25:1,8, 9,17,22,24;26:8;28:7, 23;50:2,2;51:2;66:24; 99:7;104:4;110:10; 111:3,5,6 regionally (2) 47:17,18 Register (3) 100:15;117:23;132:6 regulated (3) 41:8,12,17 regulations (2) 44:12;55:15 related (3) 105:12;114:6;151:25 relates (2) 10:24;16:1 relationship (9) 14:8,11;15:11,18; 43:20;62:23,24;69:12; 117:3 relaxed (1) 40:2 relevance (1) 141:10 relevant (30) 7:16;8:10,12;9:22; 12:4;22:19;24:9,21; 26:11;28:8,11,17;30:6; 33:20;40:20;52:21; 54:8,8;57:23;78:15; 90:1;105:10;138:11; 139:15;141:8;142:5; 151:22;152:8,16;153:2 relied (1) 95:12 relying (1) 23:7 remain (1) 14:24 remained (2) 72:23;101:5 remaining (1) 43:15 remains (1)</p>	<p>35:19 remember (8) 3:9;4:13;7:22;33:5; 36:21;80:2;116:12; 128:25 remind (2) 54:12;150:3 remnant (2) 71:21;72:3 remnants (1) 70:21 rents (1) 84:22 repay (1) 82:15 repeatedly (1) 24:16 replace (1) 112:12 replant (1) 113:14 report (34) 4:4,21;5:16;7:13; 8:11,17;16:5;23:25; 25:14;27:2;36:15;38:1; 41:4,7;44:19,24;51:9, 16;54:14;56:19,24; 58:6;67:10;68:17; 69:23;70:8,9,25;71:9; 72:12;79:6;144:23; 152:17,20 reports (2) 67:10;114:13 represent (4) 12:14;107:5;115:14; 143:8 representative (2) 106:5,11 representing (1) 3:20 request (13) 3:8,14;65:2;66:17; 82:20;83:6,17;99:12; 103:10;110:4;114:18; 115:9;145:1 requested (3) 36:20;145:15;154:20 require (7) 29:15;44:12,13;84:5, 7;101:20;113:17 required (6) 20:5;34:7;42:23; 97:20;121:21;141:6 requirement (3) 20:19;97:14;149:25 requires (3) 37:2;43:5;129:17 requiring (2) 13:11;50:1 rescue (1) 97:19 researched (1) 97:8</p>	<p>reserve (1) 25:10 reserving (1) 132:16 reside (2) 104:1,2 residences (2) 62:8;131:25 resident (1) 21:4 residential (13) 22:25;25:1;30:11; 32:17;33:1;52:2;53:12; 68:4;91:3,8;111:2,14, 18 residents (19) 51:5;61:22;62:16; 81:25;84:9,10,21;85:3; 87:16;92:7;104:24; 105:5,7;112:19;114:9; 123:13;126:5;133:19; 134:4 resistance (1) 117:24 resolution (1) 146:2 Resort (1) 12:20 Resource (1) 110:21 Resources (25) 8:8;33:9;34:10; 61:23;62:11,15;65:16; 66:6;73:2,18;88:19; 91:21;92:21,22;101:8, 10,15;105:12;106:3; 110:21;113:14,16,24; 114:16;137:18 respect (3) 38:9;86:17,20 respected (1) 140:6 respond (3) 63:20;80:8;152:13 responding (1) 72:18 response (5) 76:20;77:18;93:16; 97:18,19 responsible (1) 83:5 rest (3) 27:12;48:3;94:8 restaurants (1) 133:13 rested (1) 98:22 restore (1) 113:12 restrictions (2) 51:8;118:3 result (2) 71:17,20</p>	<p>resulting (2) 101:16,23 resume (4) 4:25;5:2;154:11,18 retail (1) 124:9 retirement (1) 144:20 review (13) 34:2,11;35:13,17; 36:23;38:23;42:5; 52:23;54:3,9,17;64:22; 75:8 reviewed (3) 35:10;73:21;151:20 revised (1) 151:11 revisit (1) 41:11 rewrite (3) 116:9;118:14,14 rezone (6) 3:8;24:3;75:6;89:21; 99:12;110:4 rezoned (1) 24:5 rezoning (22) 13:12;24:1;25:14; 26:22;36:20;37:11; 39:10;51:6,7,10,12; 67:19;70:20;79:25; 89:3;99:14;110:18; 111:15;114:18;120:17; 144:22;152:9 rich (4) 100:4;131:16;137:5, 9 ride (4) 31:2,11;46:8,9 ridership (2) 14:20;31:6 riding (1) 112:18 right (69) 4:9;9:17;11:10; 17:18;18:19,20;19:15, 20;21:23;25:9;27:14; 31:1,1;46:7,14,15,16, 16,20;50:6;51:23; 55:13;60:7;61:8;63:6; 66:11;67:1;68:13;70:5, 11,15;71:6,16,16,25; 72:22;76:13;77:1; 79:16;80:7;89:12; 97:21;103:22;107:7, 21;120:11,11,13,15; 125:12;126:7;128:19; 129:25;131:1,9; 134:14;139:8,9,12; 141:15;142:16,21; 143:13;144:2;147:5, 22;148:25;149:2;154:3 right-of-way (6)</p>
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<p>19:4,12,14,16,19,23 rights (4) 89:2,2,2;106:24 rigorous (1) 84:19 rise (2) 46:12;91:13 rises (1) 22:1 rising (1) 84:22 risk (2) 78:7;117:12 River (2) 9:8;124:19 Road (25) 11:23;12:18,23; 19:21;30:23;31:14,15; 34:7,7,25,25;42:19; 46:2,4;53:1;100:16,16; 102:5,15;114:7; 115:10;125:7,9,12,15 roads (7) 11:9;13:13;15:4; 16:19;29:16;67:4,6 road's (1) 100:17 roadway (1) 68:6 roadways (2) 13:23;102:23 Rob (1) 130:15 robbing (1) 132:3 Robinson (17) 145:17,17,22,24,25; 146:7,19,25;147:2,11, 16,18,23;148:1,6; 150:18,20 robust (1) 104:2 Ronald (2) 144:7,17 room (1) 127:7 Route (1) 9:5 routes (3) 13:19;46:10;110:13 Royal (2) 31:1,15 RR (10) 3:8;32:18;69:25; 76:12,15,22,23;77:16; 110:5;144:22 RR-55 (2) 67:19;110:5 ruled (3) 143:11,11,12 Rules (1) 40:2 running (2)</p>	<p>19:16;49:9 run-off (1) 101:17 runs (6) 30:21,22;41:20; 46:20,23;127:12 rural (6) 49:21;65:19;70:1,18; 82:5;112:15 rush (1) 39:25</p> <p style="text-align: center;">S</p> <p>safety (3) 39:2;97:4;114:6 sake (1) 113:5 Salem (2) 54:25;130:11 Salubria (2) 117:22;127:3 same (11) 25:4;39:15;42:2; 62:9;69:5;71:5;74:11; 75:17;84:10;120:8; 129:6 Sarah (1) 144:19 save (2) 102:17;117:22 saving (1) 102:19 saw (6) 17:9;45:14;58:13,22; 59:25;125:22 saying (12) 5:23;57:24;59:17; 64:20;71:16;75:17; 91:17;97:10;126:2; 147:21,24;153:20 scale (2) 43:24;50:7 scape (2) 112:5,12 scattered (1) 112:8 School (7) 12:18,23;34:23;46:2, 4;112:13;137:1 schooling (1) 73:12 schools (3) 28:24;29:7;97:15 screen (7) 10:15;18:2,3;48:25; 49:8;57:16;122:17 scroll (1) 58:17 scrolling (1) 58:18 Scudder (164) 3:20,20,24;4:1,8,20,</p>	<p>24:5;5,7,11,13,16,20, 22,25;6:2,5,11,17,22; 7:8,12,15,24;8:1,11,16, 19,22;9:9,16,19,22; 10:21;11:2,13,25;12:6; 13:9;14:2,6;15:8,15, 25;16:11;17:8,22; 18:12,18,22;19:1,8,25; 20:10;21:7,10,14; 22:22;23:3;24:12,20; 25:13;26:10,15,21,25; 27:24;28:15,18;29:10; 31:24;32:7,21;33:12, 16;34:14,19;35:4; 37:10,22;39:9,20,22, 23;40:13,19,25;42:6, 12,22;43:3,10;44:20; 45:1,6;67:23;68:10,15; 80:13,16;98:2,3,5,19; 103:11,13;108:22; 114:20,21;118:22,24; 129:10;134:25;136:6, 8,20,23;137:11,14,16, 25;138:5,8,12,14,17; 139:1,5,10,13,19,22; 140:11;141:3,20,23; 142:1,6,12;143:12; 145:4,7,15,21;147:6; 148:6,12,19,25;149:6; 150:2,15,22;151:9,10, 14,21;152:13;153:8, 21;154:6,8,15,23 season (1) 41:14 second (18) 14:10;22:10;29:3; 39:21;47:1;51:18,23; 62:21;68:9;71:19; 81:17;86:18;87:21; 93:21;107:19;140:22; 142:19;144:5 secondly (1) 96:21 Section (9) 9:20;15:9;28:9,11; 42:23;43:5,7,11;97:3 sectional (1) 20:8 Sections (1) 45:4 Sector (9) 7:20,23;23:12;32:13; 37:23;38:4;39:11,19; 110:20 sedimentation (1) 101:17 Seeing (2) 27:19;128:15 seek (1) 100:23 seem (5) 66:15;67:20;107:13; 122:13;150:8</p>	<p>seeded (1) 132:12 seems (6) 35:8;60:23;65:4; 76:24;81:22;91:5 segues (1) 48:7 sell (1) 84:23 send (8) 4:5;5:17;107:15; 134:22;149:7;150:3, 24;151:5 sending (1) 48:10 Seneca (1) 29:25 senior (3) 99:7;104:5;124:16 seniors (3) 110:7;124:17;125:1 sense (3) 66:13;96:5;119:8 sensible (1) 143:21 sent (4) 6:6;57:5;109:13; 146:18 sentence (1) 91:17 separate (3) 64:23;81:18;111:11 September (1) 142:15 sequestration (3) 47:5,8,19 serve (1) 102:23 service (16) 30:13;86:15,25;87:6, 13;88:7;91:18,20; 92:10,12,14;99:21,23; 102:8;114:5;144:24 services (3) 28:25;29:8;113:6 Service's (1) 87:3 set (1) 25:3 several (4) 39:23;40:5;81:10; 101:1 sewer (1) 97:15 SHA (3) 19:3,19,23 shaded (2) 19:18,20 shadowing (1) 54:20 shall (6) 6:14;81:19;108:1; 115:5;122:21;144:9</p>	<p>shape (1) 37:8 shaped (1) 83:8 share (7) 18:2,2;100:22; 104:17;122:17;123:4, 22 sharing (1) 100:3 Shaw (1) 100:22 shed (7) 35:18;62:11,24; 102:1;103:8;112:23; 134:19 sheds (2) 56:14;61:24 shifted (1) 23:21 shocked (1) 85:10 shopping (4) 28:25;29:7;38:13; 133:14 shoreline (1) 110:15 short (1) 98:8 shortcut (1) 46:1 shot (2) 98:14;146:11 show (5) 4:6;31:3;56:11; 57:25;123:20 Showalter (2) 79:7,7 Showalter's (2) 79:2,4 shown (2) 4:8;13:5 shows (5) 10:16;11:23;112:3; 117:15;123:23 side (12) 38:14;58:17;61:22, 22;62:15;65:16;85:19, 23;86:8;88:18,20; 132:25 sidewalks (1) 17:1 Sierra (10) 108:9,12,14,18,25; 109:18;110:3,6;140:9; 153:18 sight (1) 62:11 sign (6) 12:16,19,23;36:8,11; 155:4 signatures (1) 128:18</p>
---	---	---	--	--

<p>signed (2) 138:22;143:8</p> <p>significant (7) 70:23;71:21;72:3; 73:3,11;114:1;144:25</p> <p>significantly (1) 147:19</p> <p>similarly (2) 39:13,15</p> <p>single (6) 36:17;68:23;72:24; 75:15;127:13;142:3</p> <p>single-family (5) 52:9;53:19,21;76:3; 103:5</p> <p>single-point (1) 114:6</p> <p>sit (2) 73:13;132:1</p> <p>Site (37) 6:20;31:1,16;34:2,3, 10;36:25;39:5,6;41:8; 42:20;50:12,12,14; 51:25;52:24;54:1; 55:10;56:20;64:15,18; 69:12;70:19;75:23; 76:4;83:14,15;100:8, 14;101:4,15,19; 102:23;114:2;131:10; 133:18;152:22</p> <p>Sites (11) 8:6;40:23;42:9; 69:16;85:21;99:16; 113:20,21;116:6; 132:6,6</p> <p>site's (1) 95:5</p> <p>sitting (1) 142:14</p> <p>situation (3) 66:15;78:4;84:25</p> <p>six (6) 36:14;43:15;102:24; 104:10;143:3;152:18</p> <p>Sixth (1) 99:8</p> <p>size (4) 21:24;101:25;112:7; 127:5</p> <p>sky (1) 101:25</p> <p>skyrocketed (1) 126:6</p> <p>slavery (1) 117:24</p> <p>slaves (1) 105:12</p> <p>slides (2) 56:12;57:13</p> <p>slightly (1) 64:14</p> <p>slippery (1) 142:2</p>	<p>slope (1) 142:2</p> <p>slow (2) 51:14,14</p> <p>small (9) 23:21;50:12,12,13, 14;71:22;113:4; 120:20;127:5</p> <p>smart (2) 84:16,16</p> <p>smile (1) 8:25</p> <p>Smith (1) 58:7</p> <p>Smith's (1) 58:1</p> <p>Society (2) 107:2;137:12</p> <p>soil (1) 152:1</p> <p>soils (2) 152:19,21</p> <p>sole (1) 14:18</p> <p>solely (1) 94:9</p> <p>somebody (3) 62:10;121:6;136:2</p> <p>someone (2) 126:19;128:12</p> <p>sometimes (2) 82:10,11</p> <p>somewhere (5) 16:17;47:15;56:11, 25;58:15</p> <p>soon (1) 107:15</p> <p>sorry (33) 3:4,4;5:22;11:25; 12:25;19:5;21:5;27:5, 21;28:13;29:22;31:8,8; 48:23;58:11,14;60:9, 18;70:2,24;71:8;74:23; 91:7;103:24;104:22; 118:10;120:1;144:4; 145:22;148:3,4;151:9; 153:11</p> <p>sort (5) 17:9;42:7;57:4; 85:21;148:10</p> <p>sought (2) 49:18,23</p> <p>sound (2) 12:13;65:9</p> <p>sounds (1) 42:6</p> <p>source (1) 58:4</p> <p>south (7) 9:6;11:22;30:21,22, 24;85:23;94:20</p> <p>southbound (1) 12:18</p>	<p>southern (2) 100:20;111:19</p> <p>southwest (1) 31:12</p> <p>sp (3) 5:10;46:18;130:10</p> <p>space (9) 23:1,4;65:7;100:9; 101:21;103:7;111:19, 22;118:18</p> <p>spaces (5) 48:18;49:13,19; 100:4;114:3</p> <p>speak (11) 39:7,7;43:14;84:5, 11;103:19;124:7; 126:6;130:12,14;146:3</p> <p>speaking (8) 3:11;85:1;99:9; 108:8,11;109:4; 122:13;144:17</p> <p>speaks (3) 43:21;69:24;139:23</p> <p>Spears (1) 106:3</p> <p>special (2) 97:3;110:15</p> <p>specific (12) 24:17,20;35:17;36:6, 24;37:18;51:19;69:11; 75:11;95:25;96:7,13</p> <p>specifically (12) 22:3;23:7;24:16; 29:13;44:25;48:16; 53:8;69:24;70:18;85:1; 113:24;152:19</p> <p>specifics (1) 75:23</p> <p>specified (1) 110:9</p> <p>specifics (1) 24:18</p> <p>specimen (2) 112:8;127:11</p> <p>speculation (2) 120:16,19</p> <p>spend (1) 117:22</p> <p>spent (2) 136:9;152:18</p> <p>spoke (2) 35:6,7</p> <p>spoken (1) 151:24</p> <p>sprawl (6) 86:16;87:2,15;91:19; 93:1;113:20</p> <p>spread (3) 15:4;48:2;118:5</p> <p>square (6) 63:10,10,11,12; 111:22;127:7</p> <p>St (6)</p>	<p>10:9;87:14,16;92:7, 9,11</p> <p>stadium (2) 117:13;134:17</p> <p>Staff (53) 7:13;8:22;9:14; 10:17;16:5;18:13; 23:25;25:14,14,19; 27:2;28:5,21;36:14,15; 41:6,7;51:9,16;54:14; 55:18,25;56:19,24; 57:17;67:18,20;68:16, 23;69:7,23,24;70:9,25; 71:9;72:12,20;73:25; 94:23;95:3,12;98:17; 114:4,13;144:23; 146:11,20;148:1,4; 152:17,17,20,21</p> <p>Staff's (15) 8:24;9:1;15:25;16:4, 12;37:10,13;39:9,12; 56:20;68:21;69:4,21; 95:5,15</p> <p>stage (5) 34:1,12;35:23;65:2; 73:21</p> <p>stages (1) 35:16</p> <p>Stan (2) 3:22;140:19</p> <p>stand (5) 131:7,9;132:15; 135:20;140:3</p> <p>standard (2) 63:9,13</p> <p>standing (10) 44:16;76:1;118:9; 128:24;138:20,23; 139:2,4,25;141:4</p> <p>standpoint (4) 17:2;34:16;119:9; 147:23</p> <p>stark (2) 52:8;111:16</p> <p>start (5) 3:9;19:16;34:8; 56:18;121:15</p> <p>started (1) 64:1</p> <p>starting (1) 51:24</p> <p>starts (1) 51:25</p> <p>state (16) 6:18;19:4,10;80:8; 86:6,13;87:22,24;89:5; 99:4;108:3;115:8; 130:19;142:7;144:6; 150:25</p> <p>stated (4) 91:4;113:16;124:22; 138:17</p> <p>statement (12)</p>	<p>25:18;51:11,12;52:5, 14;54:14;64:10;68:18; 80:8,23;141:20,24</p> <p>states (4) 24:16;25:21;70:18; 104:10</p> <p>station (4) 64:12;111:24; 114:10;124:14</p> <p>stations (1) 26:3</p> <p>statutorily (1) 22:20</p> <p>stay (2) 118:13;126:10</p> <p>step (1) 82:20</p> <p>steps (2) 136:14,16</p> <p>Steven (1) 99:21</p> <p>stewardship (1) 35:21</p> <p>still (18) 14:23;18:1;47:14,14; 60:13;64:14;73:8; 76:15;79:13;94:3,24; 99:3;129:5,6;130:16; 131:22;133:9;138:4</p> <p>stipulate (1) 130:8</p> <p>stipulations (1) 133:25</p> <p>Stonewall (1) 106:23</p> <p>stood (3) 136:16;137:20;140:5</p> <p>stop (9) 30:23;31:18;40:2,15; 46:12;57:20;60:25; 68:11;143:9</p> <p>stopped (1) 117:11</p> <p>stops (2) 17:4;46:13</p> <p>store (1) 117:25</p> <p>stories (5) 106:6,12,21;107:1; 131:15</p> <p>storm (1) 41:19</p> <p>stormwater (3) 101:17,19;151:25</p> <p>story (6) 54:19;91:23;92:24; 100:22;136:14;138:11</p> <p>Strategy (4) 49:21,22;151:23; 152:11</p> <p>stream (3) 41:15,16,19</p> <p>streams (5)</p>
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<p>41:11,12,12,13,16 street (6) 11:13;12:9;39:3; 99:8;102:19;132:25 streets (1) 29:16 stricken (2) 79:1,5 strike (1) 141:11 strip (1) 38:14 strong (1) 92:15 stronger (1) 32:4 structure (3) 23:19;58:5;126:9 structures (2) 72:25;112:4 study (1) 64:12 stuff (7) 50:23;55:2;61:17; 74:14;109:11;135:12; 140:7 Subdivision (5) 37:1,2;39:6;64:17; 97:17 subject (47) 7:9,16;8:20,23;9:10, 12;10:17;13:12;16:1; 17:12,20;19:6,9;20:2; 21:11,12;22:6,24; 25:14;26:15;28:18; 30:1,23;32:11;34:24; 35:1,36:9;37:8,11; 38:3,23;39:10,17;41:8, 9,15;42:17;46:3,23; 53:2;55:20;70:22;95:5; 96:14;100:25;147:19; 152:15 submit (18) 4:4;18:6,22;107:12; 109:3;134:25,25; 135:2,5,6;136:1; 143:18;146:16;150:16; 154:8,10,15,20 submitted (6) 17:23;18:15;103:18; 109:11;146:2;151:15 subsequent (7) 34:12;37:4;42:4; 52:22;54:8;73:21;77:4 subsidized (1) 117:10 substantial (6) 20:17;22:1;42:13; 91:13;95:24;102:3 substantially (20) 20:7,11;21:15,21; 32:1,6;33:4;36:19; 37:12,15,19;39:11,19;</p>	<p>41:1;42:8,24;44:14; 90:20;101:23;114:15 substitute (1) 4:15 suburban (2) 82:5;113:19 succeeded (1) 144:19 successful (1) 53:7 sudden (1) 133:15 suddenly (1) 66:3 suggest (1) 117:16 suggests (2) 25:5;31:17 suitable (1) 13:24 Suite (1) 6:21 summarize (1) 15:25 summary (6) 13:17;16:7;20:21,22; 42:22;47:2 super (1) 134:1 super-intense (1) 127:8 superseded (1) 96:23 supplement (1) 11:18 supplemented (1) 46:21 support (13) 30:8;31:20;42:20; 94:14;100:2;105:19; 110:8;117:13;118:19; 144:23;146:3;149:22, 24 supported (1) 15:23 supporters (2) 99:11;104:9 supporting (2) 113:15;126:16 supportive (1) 15:22 supposed (3) 132:5;135:17;139:4 sure (12) 17:10;18:24;40:6; 47:10;58:21;62:18; 72:4;94:18;103:13; 125:25;130:8;136:14 surfaces (3) 101:16,18;113:9 surprised (1) 51:4 surrounded (2)</p>	<p>51:25;105:18 surrounding (5) 8:20;43:21;110:24; 112:5;137:7 sustain (3) 30:12;141:13;142:7 Sustainability (2) 154:12,19 sustainable (1) 108:17 Sustained (5) 78:17,20;87:11;89:7; 90:3 swale (1) 41:20 swear (6) 6:13;107:21,24; 115:4;122:20;144:8 swing (1) 89:9 switching (1) 75:1 sworn (2) 90:10;148:9 system (2) 42:21;99:19</p>	<p>taxes (5) 84:23;121:6;125:24; 126:5,10 team (2) 117:14;152:14 Technical (12) 7:13;8:22;16:5; 23:25;25:13;36:15; 41:4;56:23;144:23; 152:17,20,21 telling (3) 76:1,1;127:2 tells (2) 95:4;116:18 tentacles (2) 11:5;13:6 Teracon (6) 4:3,21;5:9,10,16; 151:12 term (4) 10:1,6;83:23;84:18 terminus (2) 11:21;30:15 terms (2) 141:8;152:15 terrible (1) 134:8 terribly (1) 118:20 test (3) 20:20;31:25;96:9 tested (1) 97:16 testified (26) 7:1;16:15;19:13; 21:17;29:21;43:19; 51:7;67:6;79:13,15; 80:14;83:10;98:7,10, 11,12,14,16,23,24; 123:15;137:15,17,17, 20;138:1 testify (13) 12:13;59:16,17;88:4; 90:10,12;94:22;98:7, 10;121:20;133:6; 144:4;145:15 testifying (9) 68:14;98:15,25; 102:14;107:5;108:23; 133:9,11;136:10 testimony (50) 3:16;6:14;8:17;9:15, 25;11:8,19;12:4,22; 13:3,16;15:16;16:7; 17:16;30:5;41:5;44:21; 45:7;46:18;47:22; 49:14;53:6;61:4;62:19; 68:21;69:11,20;78:2, 24,25;79:4,9;80:6; 83:17;90:16,18;92:5; 102:6;107:25;115:5; 119:7;122:21;125:4; 139:15;140:24;142:21;</p>	<p>143:12,16;144:9; 148:11 theirs (1) 94:24 therapy (1) 87:18 therefore (4) 10:2,11;20:20;55:19 thinking (2) 36:7;102:17 third (2) 41:14;48:7 though (6) 16:11;38:24;78:19; 86:11;149:11;151:24 thought (9) 4:23;12:15;21:5; 49:8;79:8,8;86:22; 103:22;108:25 threat (1) 91:22 threatened (2) 87:4;118:20 three (4) 43:4;78:1;106:14; 124:10 three-quarters (1) 38:15 throughout (1) 67:21 throw (1) 40:4 thus (1) 40:4 tier (3) 49:17,20,22 timed (1) 48:21 timeframe (1) 137:19 times (3) 52:1;63:11;136:24 tiny (2) 52:9;127:4 tip (1) 95:6 TM2.2 (1) 30:7 TN2.2 (1) 31:22 Today (21) 3:2;6:9;7:10;12:13, 15;24:11;93:2;99:9; 100:7;103:9;108:8,11, 24;134:23;135:15; 136:2,10;139:15; 151:16;154:24;155:1 together (4) 13:20;14:13;20:22; 116:11 token (1) 84:10 told (2)</p>
		T		
		<p>Table (5) 25:3,5,7,7;64:6 tabled (1) 146:9 tainted (1) 69:5 talk (9) 48:19;62:13;66:9; 96:15,21;106:23; 134:15;137:6;142:20 talked (6) 30:4;37:16;48:17; 53:5;123:15;136:25 talking (21) 13:22;28:5;49:13,14; 50:24;51:25;52:12; 66:1,8;67:13,25;68:1; 71:15;72:6;73:4; 122:19;130:15;139:6; 142:11,24,25 talks (7) 28:12;36:2,3;39:1,1, 2;71:10 tall (4) 52:9;55:17;60:23; 132:21 taller (1) 131:8 Tanger (3) 12:19;136:18;137:19 Tantalian (1) 124:3 tax (2) 125:20;126:9</p>		

131:15;136:15 tons (1) 56:3 top (7) 42:17;104:11;105:2; 124:13;125:14;126:24; 127:12 tossed (1) 37:6 total (3) 14:21;54:4;55:4 totality (3) 68:20;69:10;151:21 totally (1) 85:9 touched (1) 15:15 towards (1) 38:19 town (23) 26:19,22;27:7,11,13, 15;38:9;53:20;124:21; 125:22;145:18;146:2, 8,20,23;148:24;149:13, 19;150:4,11,16,19; 151:3 Traci (1) 3:20 tract (8) 23:2,14;27:12,14,17; 30:25;32:14;91:2 trading (1) 129:23 traffic (16) 11:23;13:19;15:4,21; 29:19;45:22;46:24; 47:9;64:3,12;101:23; 102:4;103:1,6;112:22; 144:25 trail (6) 29:15;30:2;34:22; 46:19,21,22 trails (2) 33:10;34:19 transcribed (1) 135:8 transcript (2) 48:22,24 transfer (1) 93:9 transferred (2) 92:8;93:9 transform (1) 82:4 transit (38) 14:16,17,19,20,20; 15:22;22:12;25:1,8,9, 17,22,24;26:8;28:7,23; 30:7,9,11,13,18;31:5,6, 18,20;42:19,21;46:12; 48:11,14;66:24;75:1; 102:21;110:10,12; 111:3,5,6	transit- (1) 110:8 transition (7) 53:4,23;65:19;67:13, 14;68:6,8 transit-oriented (2) 110:11;116:14 Transportation (38) 8:5;13:21;14:7,8,12, 14,18,23;15:1,3,10,13, 19;17:14;26:4,4;29:11; 30:6,9,20;31:21;33:8, 14;40:24;42:14;43:21, 24;44:1;47:5;51:3; 55:6;66:14,21,22; 69:13;97:14;125:6; 144:25 transportation- (1) 14:15 transportation-oriented (2) 14:5;66:18 Transportation's (1) 102:25 tree (9) 47:19;48:5;101:22; 113:17;127:10,11,13; 131:18;134:2 trees (8) 47:9;48:5;66:3; 112:7,8;113:8;127:11; 132:23 tremendous (1) 119:20 tremendously (1) 126:8 tried (1) 12:10 trips (5) 14:19,20,22;46:11; 47:23 true (6) 58:21;94:1;106:6; 149:17,17,23 truly (1) 110:11 trump (1) 83:23 truth (10) 6:15,15;108:1,1; 115:6,6;122:22,22; 144:10,10 Truthfully (1) 126:12 try (11) 3:11,13;20:23,23; 52:16;116:10;122:16; 123:6;125:8;127:13; 132:11 trying (15) 4:13;15:20;39:25; 40:1;60:3;61:24;64:1; 65:11;72:21;86:23; 117:22;119:14;135:19;	139:8;150:21 TSR (1) 154:17 Tubman (2) 106:1;107:3 Tubman's (2) 106:19;107:4 tuck (1) 62:12 tucked (1) 66:2 tulip (1) 112:7 turn (5) 17:9;20:1,1;118:18; 131:18 turned (3) 60:20;124:4;125:8 turning (1) 117:13 turtle (2) 102:17,19 two (38) 3:7;6:23;7:20;10:19; 11:9;12:7;13:13,18,22; 16:18;22:11,18;26:2; 29:4;30:2;32:12;44:4; 50:8;51:1;64:23;66:23; 69:18,19;70:17;75:24, 24,25;83:11;93:20; 105:23;117:20;119:2; 124:10;128:18;129:7; 152:20,20;153:17 type (3) 64:5;116:20;152:6 types (1) 152:5 Typically (4) 65:24;74:6;106:6; 132:7	undeveloped (1) 113:20 unequivocally (2) 130:15,18 unfair (2) 123:12;134:3 unfortunately (2) 63:8;82:11 unhappy (1) 123:14 Union (1) 106:14 units (5) 25:6;52:1;64:11; 111:22,23 unless (5) 90:15;93:18;141:13, 14,15 unpack (1) 52:16 unquote (1) 113:22 unreasonable (3) 76:17,21;81:21 unresponded (1) 153:3 unsatisfactory (1) 12:11 untouched (1) 131:24 untruncated (2) 18:3,7 unusual (3) 69:16,20;101:7 unwilling (1) 35:14 up (44) 4:2,13;9:15;10:6; 12:2,8;17:9;18:2,3,13; 24:24;31:2,9;55:9; 59:1;60:5;66:4;68:3; 70:3;84:9,23,24;91:7; 105:16;119:17;121:6; 126:9,23;127:3,16,20; 128:2;132:8,10; 136:16;137:20;138:20; 139:16;140:3,5,8; 143:20;149:24;152:21 updated (4) 5:1;6:3;30:10;129:4 upheld (1) 99:20 uphold (1) 114:17 upon (1) 110:14 Upper (1) 108:6 upsetting (1) 132:9 upstage (1) 131:6 up-zone (1)	65:5 urban (19) 33:8,16,17,19,21,25; 36:21;39:1;53:7,15,16; 66:2;82:7;92:23;93:1; 111:11;112:12,16; 113:21 urbanization (2) 91:22;92:23 urge (3) 99:11;103:9;114:12 urgent (2) 108:21;109:20 urges (1) 110:3 use (76) 7:6;10:10;12:16; 13:10,25;14:4,7,15; 15:19;16:15;22:23; 23:4,6,9,10;24:6,13,17, 18,24;25:17,20,21; 26:1,9,10,12,14,25; 27:1,25,25;28:5,12,12; 32:17;33:6,8;37:18,25; 38:2,5,5,8,9;39:8,16; 41:4;44:9,19;45:21; 65:7;66:18,25;73:1; 74:15;75:1;83:2,22,23; 87:23;91:1,8,13;92:14, 18;108:19;109:19; 110:8,23;111:4,16,18, 19;112:10,21 used (9) 10:11;12:9;49:16; 53:9;80:3;93:7;94:8; 116:12;118:16 useful (1) 9:15 uses (16) 14:16;15:1,22;21:24; 25:17,21;26:1;31:22; 33:22;34:4;44:7;47:23; 54:5;55:18;64:5;111:5 using (3) 12:9;84:17;88:2
U				
V				
vacant (4) 30:25;31:16;119:15, 23 valid (1) 87:21 valuation (1) 78:22 value (2) 78:14;84:24 values (1) 126:7 variable (1) 63:8 various (2) 7:15;34:4				

<p>varying (1) 112:7</p> <p>vast (2) 14:22,22</p> <p>vastly (1) 67:12</p> <p>vegetation (1) 113:8</p> <p>vehicle (2) 14:21;29:24</p> <p>vehicle-oriented (1) 14:24</p> <p>vehicles (4) 102:7,11,11;114:8</p> <p>vehicular (4) 13:21;15:21,22;19:9</p> <p>velocity (1) 127:15</p> <p>Vercella (8) 130:10,14,15,16,18, 23,25;149:1</p> <p>version (7) 4:10;5:17;6:3;18:3, 7;151:16;153:5</p> <p>via (1) 115:18</p> <p>vicinity (20) 7:22;10:4,5,6,11,13; 13:12;17:12,21,22;8, 10;32:15;56:20;94:1,4, 12;110:19;137:5,6,7</p> <p>video (2) 122:7,15</p> <p>view (32) 11:14;12:9;21:25; 35:18;56:14;59:7; 61:24;62:11,24;82:18; 96:19,19;99:13; 101:15;102:1;103:7; 110:11;112:4,4,12,23; 115:16;118:18;124:1, 1,19;129:22,23,25; 130:5;133:17;134:19</p> <p>viewed (3) 91:9,11;115:17</p> <p>views (2) 111:25;120:21</p> <p>Virginia (7) 30:17;104:11,12; 105:25;111:25;112:3; 133:4</p> <p>virtual (3) 4:15;57:4;155:2</p> <p>virtually (1) 131:24</p> <p>virus (1) 120:6</p> <p>visible (1) 66:5</p> <p>visions (1) 120:2</p> <p>visitors (6) 15:3;99:23;100:4,15;</p>	<p>112:19;114:11</p> <p>visual (1) 52:8</p> <p>voir (1) 109:1</p> <p>volume (4) 13:19;54:4;55:5; 64:2</p> <p>voluminous (1) 107:10</p> <p>voluntarily (1) 104:16</p> <p>voluntary (1) 104:19</p> <p>volunteer (2) 100:1;110:1</p> <p>volunteers (1) 102:12</p> <p>voted (1) 109:5</p> <p>voting (1) 149:24</p> <p>vulnerable (1) 117:15</p>	<p>113:4</p> <p>way (22) 5:14;11:8;12:9;15:2; 30:7,11,13,15,18; 47:21,25;63:16;75:18; 76:25;111:15;125:8,8; 127:9;131:23;132:15; 137:24;148:19</p> <p>ways (2) 50:14;114:13</p> <p>weathered (1) 100:6</p> <p>weaving (2) 11:7;13:5</p> <p>webcam (1) 123:4</p> <p>website (2) 92:2;93:2</p> <p>wedge (1) 111:12</p> <p>week (12) 9:25;13:16;18:8; 48:19;53:6;135:16,16; 142:5;147:25;148:15, 16,23</p> <p>weeks (1) 143:3</p> <p>weigh (3) 20:22;141:15;150:9</p> <p>weigh-in (1) 150:6</p> <p>weighing (1) 83:22</p> <p>weight (1) 96:9</p> <p>Weiss (12) 144:3,5,6,7,7,11,14, 17;145:4,6,12,13</p> <p>Welby (4) 35:18;70:20;100:12, 13</p> <p>welcomes (1) 36:5</p> <p>welcoming (1) 36:11</p> <p>welfare (1) 39:2</p> <p>well- (1) 146:19</p> <p>well-aware (1) 150:11</p> <p>well-being (2) 108:16;112:19</p> <p>well-designed (1) 36:4</p> <p>west (3) 9:7;59:8;104:12</p> <p>westbound (2) 11:22;12:17</p> <p>western (2) 9:7;35:1</p> <p>wet (1) 41:14</p>	<p>whatnot (1) 74:1</p> <p>what's (10) 22:19;54:4;63:8; 88:15;105:14;121:3; 122:15;128:2;135:8; 153:12</p> <p>whereas (1) 41:8</p> <p>whereby (1) 84:21</p> <p>Whereupon (1) 155:6</p> <p>white (1) 106:9</p> <p>Whitehall (1) 108:5</p> <p>Whoa (1) 49:2</p> <p>whole (17) 20:17,18,23,24; 21:22;33:5;74:24; 79:25;81:24;82:9; 85:22;91:12,14; 119:17;121:19;131:12; 138:11</p> <p>whose (2) 31:16;83:22</p> <p>widen (1) 125:18</p> <p>widening (1) 102:8</p> <p>wild (1) 113:5</p> <p>Wilson (4) 30:16,17;36:2; 115:19</p> <p>windshield (1) 12:10</p> <p>wise (1) 65:5</p> <p>wish (1) 98:23</p> <p>withdraw (1) 90:2</p> <p>within (17) 10:12;13:12;17:12, 21;26:16,19;27:13; 29:16;38:6;39:18; 42:17;72:23;102:2; 110:12;111:9;150:5,10</p> <p>without (1) 7:3</p> <p>witness (10) 3:12,25;6:8,9;39:22; 79:12,13;89:11;90:10; 142:3</p> <p>witnessed (1) 119:20</p> <p>witnesses (2) 98:4;142:3</p> <p>WMATA (1) 31:7</p>	<p>Women's (1) 106:22</p> <p>wonder (3) 86:6,10;87:2</p> <p>wondered (2) 90:19;97:7</p> <p>wonderful (4) 53:15,15;121:22; 150:17</p> <p>wondering (3) 68:1;123:22;136:13</p> <p>wooded (2) 110:25;112:6</p> <p>woodland (3) 53:2;113:13,14</p> <p>Woodrow (2) 36:2;115:19</p> <p>word (8) 86:1;87:15;91:7; 92:14;93:7;124:3,23; 137:6</p> <p>words (4) 43:14;45:19;80:3; 83:23</p> <p>work (4) 71:3;106:11,13,18</p> <p>worked (6) 105:23;106:25; 107:1,2,3,4</p> <p>workforce (1) 125:2</p> <p>working (1) 100:8</p> <p>works (3) 73:12;75:17;82:10</p> <p>world (1) 4:15</p> <p>worse (1) 135:23</p> <p>worth (1) 115:23</p> <p>wrap (1) 17:8</p> <p>write (1) 135:22</p> <p>writing (4) 27:5;40:6;135:23; 152:18</p> <p>written (1) 58:12</p> <p>wrong (1) 122:5</p>
	W			
	<p>Wait (15) 3:3,3,3,3,3;34:1; 70:2;72:16;74:12; 140:18,18,18;142:19; 153:4;155:3</p> <p>walk (4) 16:17;46:8;94:16; 125:13</p> <p>walkability (3) 95:14,16,17</p> <p>walkable (2) 44:6,9</p> <p>walking (3) 16:8,16;112:18</p> <p>wants (7) 18:4;84:18;105:11; 126:3;130:12;131:6; 145:17</p> <p>War (4) 71:21;100:6;106:9, 13</p> <p>warns (1) 113:25</p> <p>Washington (9) 19:21;34:25;88:10; 99:9;100:17,24;104:4; 133:8;144:15</p> <p>watching (1) 54:21</p> <p>Water (9) 8:8;41:12,13,20; 97:15;103:1;127:12, 14,15</p> <p>waterfall (1) 127:19</p> <p>waters (1)</p>			
				Y
				<p>yards (1) 53:1</p> <p>year (2) 41:14;99:25</p> <p>yearly (1) 125:24</p> <p>years (31) 23:16;24:7,8;25:6;</p>

**Harbor View
A-10055**

35:22;65:6;71:5,12,15; 72:24;80:11,11;82:22; 83:9;99:24;100:1; 101:5;102:13,24; 105:23;106:4,10,24; 117:22;122:1;123:14; 126:20;132:1;136:13, 15;140:5 younger (1) 119:10	21;43;19;49;21;56;2,3; 58:11;98:9,18 1,500 (1) 111:21 1,700 (1) 111:21 1.6 (2) 29:14;104:8 10 (7) 43:13;99:24;100:1; 102:13;105:23;106:4, 24 106 (3) 5:4,5,6 108 (2) 153:17;154:2 109 (2) 153:17;154:2 10-story (2) 116:21,22 11 (1) 33:7 110 (7) 25:4;55:16,17; 153:10,15,23;154:4 114 (1) 25:20 115 (1) 26:13 116 (1) 27:3 12 (3) 14:20,21;104:3 12511 (1) 144:14 13 (3) 37:25,25;52:1 13107 (1) 108:5 14 (4) 37:25,25;41:4; 100:11 14th (6) 136:2;143:25;144:1, 2;150:16;154:22 15 (5) 14:21;51:7,11;56:5; 106:10 150 (6) 35:22;71:5,12,15; 72:24;101:5 1600 (1) 100:5 17 (3) 16:5;25:3;108:6 17273 (1) 19:3 18 (1) 16:5 1800s (1) 100:19 1805 (1) 100:12	1812 (1) 100:6 1850 (1) 100:17 1853 (1) 101:4 1870s (1) 19:22 1873 (1) 19:22 1894 (2) 87:14;92:7 19 (2) 25:13;38:3 1900s (2) 100:7;106:7 1919 (1) 99:20 1959 (9) 19:24;91:20;92:4,8, 20,25;93:3,4,12 1960 (1) 19:24 1980 (1) 108:8 1981 (1) 100:14 1998 (1) 142:15	2009 (1) 8:5 200-foot (1) 55:21 2014 (5) 7:19,24;8:3;110:20, 21 2017 (5) 8:4;110:16;113:10, 16;114:16 2020 (1) 51:10 2021 (2) 3:6;144:21 2035 (6) 25:15;30:8;110:9,19; 111:2,17 20-35 (3) 113:15,19;114:15 2040 (4) 8:8,9;23:17;96:23 20744 (1) 144:15 20745 (1) 123:1 20774 (1) 6:21 20-acre (1) 115:20 20-story (4) 51:7,11;55:8;56:5 21 (3) 51:17,18;54:14 210 (7) 9:5;12:24;16:3;19:6; 29:23;31:13;45:19 21st (1) 109:15 229 (1) 122:25 23 (1) 144:21 25 (2) 7:19;25:6 27-109 (1) 28:9 27-213 (2) 77:22;78:1 27-213a (1) 9:20 27-213a1 (2) 15:9;45:4 27-213a2 (4) 20:5;42:23;43:5; 45:4 27-542a (2) 43:7,11 28 (1) 61:18 28,000 (2) 99:11;104:9 295 (2) 11:11;29:22	3 3 (2) 43:21;49:22 30 (4) 67:9;68:16;136:13, 15 309 (8) 56:11,18,19,25; 57:11;58:15,17,22 330 (1) 58:22 332 (1) 56:11 34,000 (1) 104:11 350,000 (1) 63:12 38 (2) 134:20;135:11	4 4 (2) 43:19;63:11 480 (1) 6:21 495 (4) 19:6;29:22,22;31:13	5 5 (13) 3:5;56:10,16,18; 57:1,5,9,11;58:13; 128:3,21;129:17; 144:15 50 (3) 25:5;80:10,11 51 (3) 11:17;12:8;36:1 55 (1) 3:9 59 (1) 23:24	6 60 (1) 8:15 6291 (1) 142:14 66 (5) 69:23;70:5,6,17; 71:17 67 (14) 9:13,16,18;10:15; 11:3;12:25;13:1;16:21; 17:19;31:2,9;46:5; 70:7,17 69 (2) 97:1,9
Z							
zone (41) 3:9,9;9:20;10:8;14:3, 5,8,11;15:1,24;20:7,9; 31:19;32:18;33:1;43:6, 7,8,13,15,20;44:1,11, 12;55:16;63:7,14;64:7; 66:18;67:11,20;68:24; 74:10;76:16,25;91:8; 97:13;116:15;124:8; 133:24;134:10 zoned (4) 75:8;76:12,15;77:20 zones (1) 89:22 Zoning (87) 3:23;7:2,9;10:1,8,24; 11:1;15:12;28:7,8,9,10, 13,14,17;33:20,21; 34:11;35:23;36:24; 37:3,4,5;38:23;39:7; 41:23;42:1;44:22;54:3, 3,24;55:15,22;60:22; 61:7,9,19;62:25;63:3,5, 6;64:4;65:2;67:19; 68:25;69:4;73:22; 74:11,12;75:13,13,21; 76:8,10,12,16;77:13, 19;78:15;84:15;85:4, 25;89:17,20;90:5; 97:11;101:12;103:10; 110:23;113:7;114:12, 14;116:9;118:11,13,13, 14,14;120:9;123:11; 133:21;134:7,13; 141:7;145:2;151:22; 152:16 zonings (1) 75:3 Zoom (1) 52:3							
0							
0.4 (1) 63:9							
1							
1 (12) 16:1;24:24;28:12,13,							
		2					
		2 (8) 8:15;9:14,18;11:17; 18:1;21:2,3;124:6 2,000 (2) 64:11;104:12 2.2 (1) 31:4 2:44:42.1 (1) 113:3 20 (11) 23:15,15;24:7,8; 25:10;37:14;50:12; 61:20;63:10;121:25; 127:8 20- (1) 54:18 200 (1) 55:13 200,000 (1) 111:22 2000 (5) 7:21;23:12;24:8; 32:15;110:19 20001 (1) 99:9 2003 (1) 100:15 2005 (1) 100:20 2006 (2) 30:24;31:17					

**Harbor View
A-10055**

7				
7 (2) 25:20;28:13 70- (1) 82:21 737-acre (1) 100:7 76 (1) 17:23 7601 (1) 115:10 777 (1) 99:8 78 (4) 4:22;5:9;151:15; 153:6				
8				
8.1 (1) 26:13 807,000 (1) 63:10 82 (1) 11:17 83 (1) 145:5 871,000 (1) 63:11 89 (2) 23:24;69:23				
9				
9 (3) 26:25;27:1;28:5 90s (1) 136:13 9500 (1) 6:20				

OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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NATIONAL VIEW : Case No. A-10055
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A hearing in the above-entitled matter was held on April 28, 2021, at the Prince George's County Office of Zoning, County Administration Building, Room 2174, Upper Marlboro, Maryland 20772 before:

Maurene McNeil
Hearing Examiner

	Page 2
A P P E A R A N C E S	
On Behalf of the Applicant:	
Traci Scudder, Esq.	
On Behalf of People's Zoning:	
Stan Brown	
Testimony of Yanique Moore	17
Testimony of Rachel Lightsinger	37
Testimony of Max Showalter	57
Testimony of Al Hansen	70
Testimony of Tom Mataya	115
Testimony of Mike Lenhart	157

Page 4

1 household right here; so, if you need --

2 MS. MCNEIL: And she'll sign you a link. Okay.

3 With --

4 MS. EGLOFF: So --

5 MS. MCNEIL: -- can they get on the camera and

6 I'll just, and they can just state on the record that they'd

7 like to be a person of record, give us their address again.

8 MS. EGLOFF: I will do that. One second. Give me

9 a moment please.

10 MS. MCNEIL: And, Ms. Potit and Ms. Rawlings,

11 their information is in an email for you all to use later to

12 add to the list.

13 MS. POTIT: I have Ms. Egloff, but the other

14 individual's name please?

15 MS. MCNEIL: If it's, it's going to be in the

16 email, but if she's getting ready to come on and say it. I

17 think it's --

18 MS. POTIT: Okay.

19 MS. MCNEIL: -- Cassandra, but I could be saying

20 that incorrectly. So, I'll wait and let her tell us.

21 MS. POTIT: That's fine. Thank you.

22 MS. MCNEIL: While we're waiting, Ms. Scudder and

23 Mr. Brown, if you want to identify yourselves for the record

24 that you're both here?

25 MS. SCUDDER: Yes. Traci Scudder, attorney for

Page 3

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

2 MS. MCNEIL: Good morning, everyone. It's April

3 28, 2021. I'm Maurene McNeil, the Hearing Examiner today.

4 We're here again for the case of A-10055, Applicant Harbor

5 View, LLC, and their request to rezone property to the MXT

6 zone. Just before we begin, I want to remind everyone, of

7 course, this is a virtual hearing; it's being recorded. So,

8 if you're not speaking, please don't have your mikes on and

9 please don't have your computer and a phone on in your room.

10 And if for any reason you get disconnected, you are, you'll

11 be able to sign on with the same link. I think that's about

12 it for now.

13 Just before I have counsel identify themselves for

14 the record, Ms. Egloff, did I see you?

15 MS. EGLOFF: Yes.

16 MS. MCNEIL: Okay. I just got an email from you

17 and I don't know if you got a chance to respond, but if that

18 individual wanted a link to this hearing, they need to hurry

19 and send an email so that Ms. Rawlings can provide it. If

20 they only want to be a person of record, they also need to

21 just reply to my email so that I know. It's nice that you

22 requested that they become a person of record, but they have

23 to request for themselves as well. So, we're --

24 MS. EGLOFF: I'm going to, okay, well, kind of.

25 Hold on. I was requesting for a person who is within my

Page 5

1 the Applicant.

2 MR. BROWN: Good morning. Stan Brown, People's

3 Zoning Counsel.

4 MS. MCNEIL: Good morning. While we have other

5 preliminary issues, I guess. While we're waiting, Ms.

6 Scudder, Mr. Brown, do you all want to discuss the affidavit

7 that Ms. Gibson would like to file in this matter?

8 MS. SCUDDER: Sure. Would you like for me to go

9 first, Mr. Brown, or, or would you like to go first?

10 MR. BROWN: Sure, go ahead. It's your affidavit.

11 MS. SCUDDER: Okay. Well, Ms. Gibson had

12 originally sent in a letter of support, and as you all may

13 recall, Ms. Gibson is the great, great granddaughter of Mr.

14 Henry Alexander Butler; and she also provided an affidavit

15 just to, you know, give some additional support for the

16 letter that she sent in. I was really hoping she would be

17 able to make the hearing today, but I know that Ms. Gibson

18 has a very busy schedule during the day. She cares for a

19 couple of her elderly relatives and I've never even actually

20 talked to her during the day. I usually talk to her in the

21 evenings or weekends; but, you know, she told me from the

22 very beginning, Ms. McNeil, when we first started having

23 communications with her about two years ago. She said, Ms.

24 Scudder, you know, I support this project, but as far as any

25 hearings, I'm probably not going to be able to do any

Page 6

1 hearings; and she's been very consistent about that but, you
2 know, I don't know --
3 MS. MCNEIL: Well, let me ask you, if I may, let
4 me ask you, so, you're, you're proffering this information
5 just to note that she was related to the individual that
6 owned the property and that she's in support?
7 MS. SCUDDER: Yes. I mean this is a historical,
8 you know, a portion of this property is historical; and so,
9 you know, we, we think it's important to have this letter in
10 the record from Ms. Gibson who is the great, great-
11 granddaughter; but, you know, again, she, she hasn't been
12 able to make it and --
13 MS. MCNEIL: Wait, wait, one more second. And you
14 all have another witness to testify to what you're saying?
15 MS. SCUDDER: I do actually --
16 MS. MCNEIL: (Indiscernible) the attorney.
17 MS. SCUDDER: Yes, well, well, there's two people
18 here that are present that could testify as to what I'm
19 saying and that's Mr. Rob Varsilla (phonetic sp.) and Mr.
20 Eli Borque (phonetic sp.), who have both had, you know,
21 direct communications with Ms. Gibson and Mr. Varsilla, you
22 know, he's, he developed a relationship with Ms. Gibson, you
23 know, years ago and has worked, you know, and has remained
24 in constant communication with her; and that's actually how
25 I was connected to Ms. Gibson through Mr. Varsilla. So, he

Page 7

1 can testify.
2 MS. MCNEIL: Okay. Hold on a second. Mr. Brown?
3 MR. BROWN: Well, I mean, unfortunately, the
4 affidavit is not admissible; and while we're talking about
5 the letters of support, the voluminous letters that have
6 been submitted by Ms. Scudder, none of the letters of
7 support are admissible. In Maryland, we do not rezone by
8 plebiscite, meaning we do not rezone by popular vote; and
9 so, simply because someone is in support of an application
10 is irrelevant. They have not read the application and
11 offered a reason for their support, then putting in
12 voluminous letters of support are just not admissible in
13 this type of administrative proceeding.
14 In terms of the ancestry of this property
15 (indiscernible), it's not relevant to the rezoning. It just
16 is not and Mr. Vitello (phonetic sp.) and anybody else who
17 can come on and say they've met with her and she's a nice
18 lady, and she related to everyone who was ever on this
19 property, I appreciate that, but it's not relevant to this
20 case; and so, Ms. Scudder, I will have to object to any
21 letters of support that you proffer to this record as just
22 letters of support.
23 MS. MCNEIL: Okay. If I may, just on that point,
24 Mr. Brown, I don't disagree with you, but I would note that
25 that's, what it really is is the weight I give to the

Page 8

1 testimony. So, those letters are coming in because those
2 individuals were here and they testified to the same thing;
3 but you're correct, that I can't rule based on plebiscite.
4 MR. BROWN: Yeah, I'm not objecting to anyone who
5 has testified or will testify --
6 MS. MCNEIL: Right. Right.
7 MR. BROWN: -- (indiscernible) whatsoever; but
8 anyone who does not testify will, right, it's the weight you
9 can give it; but, of course, you can't give it any weight if
10 it's just (indiscernible).
11 MS. MCNEIL: Right. And because it's just that,
12 Ms. Scudder, I would let you call a witness to say that they
13 met her and that what you said is what they know, but that's
14 it because, again, unless they went to some prong of the
15 analysis that I must address, then -- but I know it's
16 important to you, so I don't mind a witness just saying that
17 they know the individual. I mean and you don't call them
18 now, just think about it; but Mr. Brown is correct, I didn't
19 let anyone put in any letters unless they were here to
20 testify, and I have to do the same thing for this witness.
21 I did tell you I was willing to let them come on by phone,
22 and if they can't come on by phone, then I've done all I can
23 do.
24 MS. SCUDDER: I understand, Ms. McNeil. I'll ask
25 Mr. Varsilla to come, to, you know, he'll be the, one of the

Page 9

1 first witnesses I call just to let him say a few words about
2 this if that's okay with you?
3 MS. MCNEIL: A few words, a few words.
4 MS. SCUDDER: Yes.
5 MS. MCNEIL: Okay. A few words. And, Ms. Egloff,
6 if you're listening, don't worry; it's whenever the time
7 comes that we will swear that witness to make them a person
8 of record. Okay.
9 MS. SCUDDER: I'm, I'm ready.
10 MS. MCNEIL: You are ready? Okay.
11 MS. SCUDDER: Yeah.
12 MS. MCNEIL: I can't see anybody.
13 MS. SCUDDER: Well, she's not planning to talk, so
14 she just wants to be person of record, right? You
15 understand that?
16 MS. MCNEIL: I, I do understand that, but I'm
17 saying that either she has to say it now on this record, or
18 have her send an email verifying your email. What I'm
19 saying --
20 MS. SCUDDER: Well --
21 MS. MCNEIL: -- is the person has to do it.
22 MS. SCUDDER: Okay. She, we use the same email,
23 so all right.
24 MS. MCNEIL: Ms. Egloff, I'm saying that
25 (indiscernible) say it, though.

Page 10

1 MS. SCUDDER: I'm putting her on. Thank you.
2 MS. MCNEIL: Okay.
3 MS. SCUDDER: Say I want to be a person of --
4 MS. EGLOFF: Hello?
5 MS. MCNEIL: What am I going to, okay. Ms. --
6 state your name for the record.
7 MS. SCUDDER: What's your name?
8 MS. SCUDDER: Oh, here.
9 MS. EGLOFF: Cassandra A. Egloff.
10 MS. SCUDDER: What's your address?
11 MS. EGLOFF: 229 Panorama Drive, Oxon Hill,
12 Maryland 20745.
13 MS. MCNEIL: And, Ms. Egloff, you would like to be
14 a person of record in this case?
15 MS. EGLOFF: I would like to be a person of
16 record.
17 MS. MCNEIL: Okay. You will be added as a person
18 of record. Thank you.
19 MS. EGLOFF: Thank you.
20 MS. MCNEIL: All right. Ms. Scudder, so that was
21 one preliminary matter. Any others?
22 MS. SCUDDER: Yes, I do. I have a couple. I just
23 have a few others. Ms. Yanique Olle Moore is present this
24 morning and she did send in a letter previously. It was a
25 part of our, I think, original, I think original drop box

Page 11

1 that we submitted. She's here and she, she wasn't able to
2 make it last time, so if you could allow her to testify
3 briefly this morning before we get started, I would, that
4 would be great.
5 MS. MCNEIL: Okay. And just before I do, are
6 there any other preliminary -- Mr. Brown, I did see in my
7 notes that there was a market study and you objected to it.
8 Do you all remember anything about that?
9 MR. BROWN: Yes. That was the market study
10 apparently prepared by the state of Maryland related to, if
11 I recall, elderly housing, but that, didn't Ms. Scudder
12 (indiscernible) proffer?
13 MS. SCUDDER: Yes.
14 MR. BROWN: Yeah, and I had objected. That is
15 irrelevant. Again, this is a rezoning. It is not a site
16 plan.
17 MS. MCNEIL: Okay. I'll, I can consider that at
18 another time. Okay. I hear you both on that.
19 MS. SCUDDER: Okay. Madam Examiner, the next item
20 is Exhibit 76, which is labeled as SHA aerial. A part of
21 that exhibit was cut off we just noticed recently, so I
22 would just like to send you a full image of that exhibit so
23 that that, that corner is not cut off.
24 MS. MCNEIL: Okay. And you'll be able to send it
25 to Mr. Brown and --

Page 12

1 MS. SCUDDER: Yes. May I send it --
2 MS. MCNEIL: You'd have to verify it --
3 MS. SCUDDER: -- (indiscernible).
4 MS. MCNEIL: Okay. If you do that, then we will
5 substitute, it will be complete 76 for the existing one.
6 Can you send it --
7 MS. SCUDDER: It's (indiscernible).
8 MS. MCNEIL: Okay.
9 MS. POTIT: Excuse me, Madame Examiner, but --
10 MS. MCNEIL: Yes, ma'am?
11 MS. POTIT: -- already.
12 MS. MCNEIL: Well, has Mr. Brown seen it?
13 MS. POTIT: I have no idea. I just exchange the
14 documents on the exhibit list and on the --
15 MS. MCNEIL: Okay. Then, Ms. Scudder, will you
16 please send that to Mr. Brown and understand if we don't
17 hear from you, then it's just a clearer exhibit.
18 MR. BROWN: Which document --
19 MS. SCUDDER: I just sent it. Mr. Brown, you
20 should have it right now.
21 MS. MCNEIL: While we, while we have it, so
22 everyone else is on the same page, isn't it possible to pull
23 up exhibits, the new exhibit 76?
24 MS. POTIT: Sure. I can do that. Hold on one
25 second, Madam Examiner.

Page 13

1 MS. MCNEIL: Thank you.
2 MR. BROWN: I don't have any objection to the
3 Highway Administration aerial view.
4 MS. MCNEIL: Okay. It's just that it's different
5 from what people might have seen earlier, so I just want to
6 pull it up quickly and just show it to everyone that's here.
7 MS. POTIT: And it's going to take a few seconds
8 if you all --
9 MS. MCNEIL: Okay. Ms. Scudder, any more
10 preliminary?
11 MS. SCUDDER: Yes. Mark Ferguson's resume and
12 Mike Lenhart's resume were a part of our original drop box,
13 but I didn't see them on the exhibit list; but I think Ms.
14 Betty has added Mr. Ferguson's resume now as Exhibit 106;
15 and so, I just need to send you Mr. Lenhart's resume if you
16 don't already have it. I mean, again, it was a part, I
17 think it was in the original drop box, it just didn't make
18 it onto the exhibit list.
19 MS. MCNEIL: Okay. You might do better sending it
20 again.
21 MS. SCUDDER: Okay. I'm going to do that right
22 now.
23 MS. MCNEIL: And that one will be Exhibit 107, Ms.
24 Potit?
25 MS. POTIT: Yes, I'm sorry. Yes.

Page 14

1 MS. MCNEIL: Lenhart's resume. Okay.
2 MS. SCUDDER: Okay. Let me just make a note of
3 that.
4 MS. MCNEIL: One other thing we make a note of, so
5 Exhibit 99 and 100, and Ms. Potit, you can double check that
6 for me. I think that's Ms. Gibson's letter and affidavit,
7 so they will not be a part of this record, if those are the
8 right numbers.
9 MS. POTIT: Correct.
10 MS. MCNEIL: Okay.
11 MS. SCUDDER: And the next item is with regards to
12 Exhibits 28 and 34. I believe there was a question about
13 whether those were duplicates. There was an original
14 statement of justification that was submitted with the
15 Applicant's ZMA application but, subsequently, Park and
16 Planning provided comments and asked that the statement of
17 justification be revised. The only difference between the
18 original statement of justification and the revised
19 statement of justification is that Staff requested in their
20 comments that we delete a statement from the SOJ that
21 indicated that a Metro station was coming. They said that
22 was a little over ambitious; however, I would disagree, and
23 Mark Ferguson will tell you why later; but we did go ahead
24 and, I did go ahead and delete that statement from the
25 (indiscernible). So, that's the only difference between the

Page 15

1 two versions.
2 MS. MCNEIL: But the latter one should be marked
3 as a revised statement of justification? Thank you.
4 MS. SCUDDER: Yes. Okay. And, finally, the only,
5 the only other request I have, Madam Examiner, is if at the
6 end of this hearing we could leave the, the record open
7 maybe for a day or two just so I can have a chance to review
8 the exhibit list one final time and just make sure that, you
9 know, everything -- you know, we did submit a lot of
10 documents at the beginning and I just want to make sure that
11 everything is, is on the exhibit list; but I can do, if we
12 can leave the record open for that.
13 MS. MCNEIL: Well, okay, I will consider that; but
14 you'd be, you would have to let us know if there's any
15 missing exhibit and we would have to share it to see if
16 there's any objection to it. So, that's something to think
17 about.
18 MS. SCUDDER: Okay.
19 MS. MCNEIL: Okay.
20 MS. SCUDDER: Understood.
21 MS. MCNEIL: Okay. And I think we're going to,
22 you're ready, oh, here it is. So, this is Exhibit, the
23 revised Exhibit 76 is what everyone is looking at.
24 MS. SCUDDER: Yes. Yes.
25 MS. MCNEIL: And --

Page 16

1 MS. SCUDDER: Thank you.
2 MS. MCNEIL: -- and is this something Mr. Lenhart
3 is going to testify to?
4 MS. SCUDDER: Either Mr. Lenhart or Mr. Ferguson.
5 MS. MCNEIL: Okay. So, we don't need to ask any
6 questions about it right now? Okay.
7 MS. SCUDDER: No, ma'am.
8 MS. MCNEIL: All right then. You ready with your
9 next witness?
10 MS. SCUDDER: Okay.
11 MS. MCNEIL: Ms. Yanique --
12 MS. SCUDDER: I would, yes.
13 MS. MCNEIL: Okay. We can remove Exhibit 76 now.
14 Thank you. And, Ms. Moore --
15 MS. MOORE: Good morning.
16 MS. MCNEIL: Good morning. If you could state
17 your name for the record?
18 MS. MOORE: Sure. I'm Yanique Olle Moore. I'm a
19 life-long resident of Fort Washington and Oxon Hill,
20 Maryland.
21 THE COURT: And I'll have to stop you right there
22 and say, do you swear or affirm under the penalties of
23 perjury that the testimony you shall give would be the truth
24 and nothing but the truth?
25 MS. MOORE: I swear.

Page 17

1 MS. MCNEIL: Okay. give us your address and then
2 you may proceed; and I, and you would like to be a person of
3 record in this case, which is why you're testifying,
4 correct?
5 MS. MOORE: Yes. I'm here to be a person of
6 record and a resident of 810 Jessica, J-E-S-S-I-C-A, Place,
7 and that's Fort Washington, Maryland 20744.
8 MS. MCNEIL: Okay. Go ahead.
9 MS. MOORE: As a lifelong resident, I intimately
10 know Oxon Hill Cove, Oxon Hill Park. I frequent Fort
11 Washington, Oxon Hill. I'm a graduate of Oxon Hill High
12 School. I'm a teacher at Potomac High School, so I know
13 Glass Manor, Eastover, the shopping centers that the entire
14 community frequent. I am a resident. I pass by Oxon Cove
15 daily. So, I know the neighborhood; I understand the
16 neighborhood; I love the neighborhood. So, any specifics?
17 This is my first time attending a hearing for rezoning.
18 MS. SCUDDER: Ms. Moore, I know you submitted a
19 letter, and I don't know if you have it in front of you, but
20 if you want to just read your letter, that would work just
21 fine.
22 MS. MOORE: Will do. So, in terms of my
23 relationship and commitment to the community, it's at a high
24 level. I know that when I've spoken with Ms. Scudder and
25 Mr. Borque about the goals with the development of the

Page 18

1 specific area, their goals are in alignment with what I see
2 the next generation of our neighborhood looking like, you
3 know, in terms of trying to have retail and livable spaces
4 that are cross-generational. They're very much committed to
5 that.
6 Preserving the historic nature and some key areas
7 that are very much important to me are human sustainability.
8 So, a lot of the, the various other residents that have had
9 something to say about rezoning, I'm concerned about do they
10 recognize what our area is going to look like in the next
11 decade; and so, when you talk about bringing more mixed use,
12 to me the purpose of their mixed use development is very
13 different than what is currently available to us. Good
14 grocery options without having to cross the bridge are
15 ideal. Areas that are mixed use that have free parking are
16 ideal.
17 I mentioned in my letter of having at home water
18 and community gardens. I love Oxon Cove Park and I hope
19 that there would be additional investment in the Forest
20 Heights community. I think that what they're looking to
21 bring will bring that. So, I'm also an adjunct professor at
22 Bowie State University. I am a member of the community, so
23 in terms of someone who is looking to make a tangible impact
24 that will actually affect the residents and not guess. You
25 know, many of the current mixed use, whether it's MGM or the

Page 19

1 National Harbor, they're for visitors. What I like about
2 this development is that it's for residents.
3 MS. SCUDDER: Thank you, Ms. Moore. I'm sorry, I
4 didn't mean to cut you off. Were you finished or did you
5 have, did you want to go further?
6 MS. MOORE: You know, I would like to state that
7 the developer understands the importance of respecting the
8 community. So, with respect to what was mentioned earlier
9 about the Butler House, as an artist in the area, I think
10 it's important that we consider place making, and I think
11 that that's under consideration in terms of actually
12 showcasing the true historic nature of the community. I
13 think that it will be beneficial for diversity and multi-
14 generational support, utilitarian green spaces, and overall,
15 I think National View has a view that is more in alignment
16 with Prince George's County residents than many of these
17 other propositions to date.
18 Also, many of the letters that I read that were
19 against National View were from residents that, not
20 residents. I looked at something from someone from
21 Chesapeake and Tidewater, and them having over a decade of
22 expertise with a similar community, but not our community.
23 So, when I looked at what Ms. Scudder is an advocate of, I'm
24 in alignment with the current development plans and as long
25 as those continue to be about cross-generational support and

Page 20

1 bolstering retail, and a new look for the harbor, one that
2 is inclusive of Prince George's County and not just
3 visitors, then I am in support and alignment.
4 MS. EGLOFF: I have a question for her.
5 THE COURT: One second. People's Zoning Counsel
6 would go first.
7 MS. EGLOFF: Okay.
8 MR. BROWN: No questions.
9 THE COURT: Are you finished, Ms. Moore?
10 MS. MOORE: I am. I'm happy to hear and listen.
11 MS. MCNEIL: Mr. Brown, do you have any questions
12 of Ms. Moore?
13 MR. BROWN: No questions. Thank you.
14 MS. MCNEIL: Okay. Whoever said I am, identify
15 yourself and ask your question.
16 MS. EGLOFF: Karen Egloff. It's interesting to
17 hear your testimony. I'm also an Oxon Hill graduate, and
18 great school. Anyway, how did you hear about the
19 development, Ms. Moore?
20 MS. MOORE: Just how did I hear?
21 MS. EGLOFF: Yes.
22 MS. MOORE: Well, I followed the community very
23 much through Arts in Prince George's, so I get all sorts of
24 mailings and that kind of think; so, through a network of
25 people that are interested in artists and place making in

Page 21

1 Prince George's County, I heard and was connected to hear
2 more about what the National View plans were.
3 MS. EGLOFF: Uh-huh.
4 MS. MOORE: How did you hear about it?
5 MS. EGLOFF: Well --
6 MS. MCNEIL: Now wait, Ms., I'm sorry, wait, Ms.
7 Moore.
8 MS. EGLOFF: Anyway, yeah, because the signs are
9 so tiny and they're very obscure; and there wasn't any
10 public, much public outreach, so I just was curious how you
11 found out about it. Anyway, but that's it. And I
12 appreciate your testimony. I'm also a resident, a long-time
13 resident, and live in the community, and I'm concerned about
14 the tremendous --
15 MS. MCNEIL: All right. Now it sounds like you're
16 testifying, Ms. Egloff.
17 MS. EGLOFF: Okay.
18 MS. MCNEIL: Do you have any other questions of
19 the witness?
20 MS. EGLOFF: It's so hard. Before the pandemic,
21 Ms. Moore, were you aware of how backed up Oxon Hill Road
22 gets mornings, afternoons? I mean, you know, there is a lot
23 of traffic here already and I'm just wondering if you have
24 been in some of those traffic jams, because I certainly
25 have.

1 MS. MOORE: Oh, Ms. Egloff, I, I understand the
 2 concern. So, when I say I really am Prince George's County,
 3 I jog on trails, including this morning, almost every
 4 morning I run. So, I know the neighborhood really, really
 5 well. I try to get a few miles in. So, I did see hearing
 6 signs. In fact, I had, I take screenshots of everything on
 7 my jogs. So, I've seen screen, I have them in my phone of
 8 the hearings; and, you know, where I'm located is Indian
 9 Queen. So, you see the signs in various places but, you
 10 know, when you're talking about trying to harness community
 11 support for something, there's always going to be those
 12 that, that maybe don't feel like they get heard; and I think
 13 that what I found with Ms. Scudder is that I was connected
 14 with them through people that are interested in place making
 15 the arts and growing the real estate in the neighborhood.
 16 So, when you talk about traffic and those concerns, I think
 17 that they're normal; but I'm excited because the potential
 18 growth at National View will do something like bring
 19 transportation, like serious public transportation, the kind
 20 that, you know, maybe people want stricken from the record;
 21 but things that we need so that we can get in and out of the
 22 city without the struggles on 210. So, yes, I'm aware of
 23 the traffic, but we've had traffic since, I don't know, I
 24 was at Oxon Hill High School. There's always been traffic.
 25 MS. EGLOFF: Okay. You said you saw signs. There

1 were only two signs and they were, you know, one was in the
 2 back of Forest Heights and one was at, I suppose it was at
 3 the entrance to --
 4 MR. BROWN: Ms. Egloff, Ms. Egloff --
 5 MS. EGLOFF: -- those two signs? I'm just asking
 6 her. She said she saw signs, so I'm just asking her where
 7 she saw these signs that she's talking about.
 8 MS. MOORE: So, you know, when you come into the
 9 neighborhood specifically, you're right there by Henry Soul
 10 Café. I think of them as the restaurant that, that has been
 11 there since I was literally in high school; and so, if
 12 there's a sign by Henry Soul Café, I think that that counts.
 13 MS. EGLOFF: Was it there?
 14 MS. MOORE: Am I incorrect? Is there not a sign
 15 there?
 16 MS. EGLOFF: That's not where I saw it.
 17 MR. BROWN: Ms. Egloff, the record speaks for
 18 itself in terms of where the Applicant was required to post
 19 the sign. There are affidavits in the file concerning the
 20 locations of those signs. If Ms. Moore said she saw the
 21 signs, then we have to take her at that statement. It's not
 22 the time now for you to argue with her, but to ask
 23 questions.
 24 MS. EGLOFF: Well, I'm not arguing; I'm just, you
 25 know, she said she saw signs and there was only two signs.

1 MR. BROWN: All right. Then you have to take that
 2 at face value if --
 3 MS. EGLOFF: Okay. Great.
 4 MS. MOORE: Well, well, what I do know and, and,
 5 you, Ms. Egloff, you seem to be -- I'm sorry, I wouldn't
 6 want to say that you're not correct. I'm saying that I'm
 7 abreast of what I see driving through the neighborhoods,
 8 okay? So, I pass these areas all the time and maybe you
 9 more intimately than I; but I will say in terms of
 10 awareness, getting information during COVID, I think that
 11 they've done a good job. I found out, you found out. We're
 12 both here.
 13 MS. MCDOWELL: May I ask a question of the
 14 witness?
 15 MS. MCNEIL: Ms. McDowell, go ahead.
 16 MS. MCDOWELL: Hi. Let's see. Hi there. I'm
 17 wondering if you read the report from the staff of P.G.
 18 County that recommends against this rezoning and what you
 19 thought about the various adverse impacts that it outlined
 20 there? Thank you.
 21 MS. MOORE: And which of, is most important to
 22 you? I've seen several lists of people's concerns. Which
 23 is most --
 24 MS. MCDOWELL: Well, all of them, the runoffs; the
 25 traffic, very much so; the fact that we will lose 20 acres

1 of beautiful environment that's part of an ecosystem that
 2 flows into Oxon Hill Farm Park and southeast; so, pretty
 3 much all of them. I thought that that Staff recommendation
 4 was very strong and I hope that people read that report and
 5 back up that Staff.
 6 MS. MOORE: Sure. I very much care about the
 7 community and, you know, I think about the deer; I think
 8 about the bird life; yes, very much important. I think that
 9 the vision that is the most important in terms of ecosystem
 10 is human ecosystem; and to not think about aging in place
 11 and what that looks like moving forward is really missing
 12 the mark here. So, when I speak to you, I'm speaking from a
 13 place of someone who is an adult child and a caregiver for a
 14 parent in their mid-seventies; and I look at what it takes
 15 to be a caregiver. And when I know what my parents who I
 16 lived at 81 Jessica Place in Fort Washington all my life,
 17 except when I went to undergrad and when I traveled for
 18 work, I know the challenges there. So, when they're looking
 19 to rezone with goals specifically to support aging
 20 populations, that, that tugs at my heart strings.
 21 So, I also as an avid runner cross the bridge when
 22 I feel really good, and I love what the other side of the
 23 river looks like. Now does that mean that I don't care
 24 about the wildlife? No. Doesn't that, that mean that
 25 conservation isn't important? No. But I do recognize the

Page 26

1 importance of communities where young people can support
2 older communities that are aging.
3 I mentioned in my letter how at least one pool, is
4 not more, could provide opportunities for breaking community
5 challenges with at-home water. So, whether you're talking
6 about children learning to swim or water aerobics for people
7 that are aging, I think that my concerns are different in
8 terms of sustainability.
9 MS. MCDOWELL: So, you basically are, it doesn't
10 matter to you that the professional staff is recommending
11 against the rezoning for those reasons you just stated, is
12 that correct?
13 MS. MOORE: That's not at all what I'm saying. I,
14 in looking at many of the, the letters that were testifying
15 against the rezoning, they did not look to me like residents
16 that I know of this particular community. I have a teacher
17 at Potomac High School, I'm intimately connected with the
18 students and their parents, and the community; and those
19 that I read letters of, they did not mimic what I see in the
20 classroom or in the community.
21 MS. MCDOWELL: There are a lot of residents here.
22 We'll just leave it there. Thank you so much.
23 MS. EGLOFF: I have one more question of Ms.
24 Moore. I'm not sure if I'm correct in saying this, but --
25 MS. MCNEIL: Hold on one second, Ms. Egloff. I

Page 27

1 will allow it, but just so we all know, there is direct,
2 cross-exam and redirect, and we don't just keep cross-
3 examining, so --
4 MS. EGLOFF: Okay.
5 MS. MCNEIL: -- let this be your last one.
6 MS. EGLOFF: Her, her comments made me, you know,
7 jog my memory about something. Okay. So, there's a lot of
8 talk about this generational living thing and everything;
9 but am I correct in saying that like when you're doing a
10 rezoning, you're just talking about changing the zone.
11 You're not deciding what the use is going to be. So,
12 there's so much discussion about what it's going to be and
13 what it's going to look like, and that's not necessarily the
14 case. Am I correct or incorrect? We're just talking about
15 a rezoning; we're not talking about what conceptually, what
16 is going to be on that property.
17 MS. MCNEIL: So, you're asking Ms. Moore is she
18 aware that we're just talking about the rezoning and not
19 what will be on the property?
20 MS. EGLOFF: I, I, it was important for me, for
21 her, if that's correct, for her to understand that because
22 I've had --
23 MS. MCNEIL: Right, right, wait, I'm helping you.
24 So, let her answer is she aware of that. Ms. Moore, right
25 now we're at the rezoning stage. If approved, it would be

Page 28

1 much later when we talk about what's actually going to be
2 constructed. Are you aware --
3 MS. MOORE: Right.
4 MS. MCNEIL: -- of that?
5 MS. MOORE: Thank you for sharing that again. I'm
6 sharing why I'm in alignment with the rezoning.
7 MS. EGLOFF: Okay. So, what I'm trying to say,
8 and I would like Madam Examiner to help me out here, is that
9 when you're doing a rezoning, you're just deciding like
10 density, you know, period. I mean if --
11 MS. SCUDDER: Objection, Your Honor. I mean
12 objection, Madam Examiner. I mean is she, does she have a
13 question for Ms. Moore --
14 MS. EGLOFF: Yes.
15 MS. SCUDDER: -- or is she explaining the process
16 to her?
17 MS. MCNEIL: It's sustained. Ms., Ms. Egloff, I
18 think she understands that. So, ask your follow-up question
19 if there is one.
20 MS. EGLOFF: Okay. So, there was so much
21 discussion about the generational living process and, you
22 know, how that's what it's going to be all about; and so,
23 I'm just saying that in the rezoning, you're only
24 authorizing density basically and talking about, you know,
25 things that matter regarding density. It could look very

Page 29

1 different is my, my concern is that Ms. Moore doesn't maybe
2 understand that; and so, I just was asking, do you realize
3 that like it's, it's very virtual concept, like it could
4 change drastically?
5 MS. SCUDDER: I would object again, Madam
6 Examiner. This, this, she's, I mean what's the question?
7 MS. EGLOFF: The question is does Ms. Moore
8 realize that this rezoning just gives the authority to do
9 density; it doesn't say, oh, you're absolutely going to
10 build generational living. Is, am I, I don't know, maybe
11 I'm wrong, but that, I just wanted to be sure if Ms. Moore
12 realized that? Do you understand that?
13 MS. MOORE: I'm very clear why I'm here today,
14 thank you.
15 MS. EGLOFF: Okay. Great.
16 MS. MOOSKIN: I have three super clear clarifying
17 questions. Could I ask them?
18 MS. MCNEIL: Ms. Mooskin, go ahead.
19 MS. MOOSKIN: Thanks. First, just to make sure I
20 understood your response to Ms. McDowell's question, were
21 you able to read the P.G. County Planner's Staff
22 recommendation against this project? Did you read that?
23 MS. SCUDDER: I would object, Madam Examiner. Ms.
24 Moore did not testify about a Staff Report or anything else.
25 So, they're asking about, they're asking her about things

Page 30

1 that she did not mention in her testimony.
2 MS. MOOSKIN: So, am I allowed to ask, because she
3 --
4 MS. MCNEIL: Wait, wait, wait, Ms. Mooskin. Ms.
5 Scudder, I normally will agree, and I won't let her go too
6 far, but I allowed the other witness to ask a question; but
7 not, okay, just that one. Did you read the Staff Report is
8 what she's asking? That's a couple of pages and they are
9 employees of the Maryland National Capital Park and Planning
10 Commission. So, whether it's statements from neighbors,
11 it's a separate document.
12 MS. SCUDDER: So, is that the document that Ms.
13 McDowell's name was on, or no?
14 MS. MCNEIL: No.
15 MS. SCUDDER: Okay.
16 MS. MCNEIL: It would say Park and Planning,
17 Maryland National Capital Park and Planning Commission.
18 MS. MOORE: I mean I'm just looking to confirm
19 that --
20 MS. MCNEIL: It's okay if you did or didn't;
21 they're just wondering if you did.
22 MS. MOORE: I'm looking and that may very well
23 have not. I have looked at several documents.
24 MS. MCNEIL: Okay.
25 MS. MOOSKIN: Okay. Thanks. And then also, would

Page 31

1 you be able to provide like those screen shots that you
2 mentioned about the signs, because I live on Crea Drive and
3 I'm just curious about like what I could have missed because
4 I --
5 MS. SCUDDER: Objection.
6 MS. MOORE: Okay.
7 MS. MCNEIL: And that's a mistake only because
8 the, right, it's what People's Zoning Counsel said, the
9 location of the signs are in this record.
10 MS. MOORE: Oh, no, I just meant like the ones
11 that she --
12 MS. MCNEIL: No, she, I mean the signs are where
13 they are.
14 MS. MOORE: Yes. Yes. Okay.
15 MS. MCNEIL: Why do you want to know if there's
16 one by Henry's Café, I don't think there was.
17 MS. MOOSKIN: No, no, that's not what I meant. I
18 meant like whatever she was referring to, like seeing it in
19 arts, newsletters that she had mentioned and, and things
20 like that; but because if there's something that I'm missing
21 to know more about what's going on, I'd love to, to be able
22 to check out those resources in the future but; and then,
23 also, could you, because you mentioned like how you became
24 involved in this, but not specifically on how Ms. Scudder
25 reached out to you; and I know that I received a letter from

Page 32

1 her in the mail over the summer like kind of a weekly
2 referring to something relating to this project, but like
3 was not able to get in touch with her. How did you come to
4 like know Ms. Scudder and become involved with her?
5 MS. MOORE: So, during the pandemic, I've been
6 doing heavy virtual networking. So, there been a lot of
7 place making activities by Prince George's County; and so,
8 people have put me in touch with lots of people that are in
9 development. So, that was how it happened. Honestly, I
10 think I've learned more virtually than in person. So, I
11 hope that answers.
12 MS. MOOSKIN: Thanks.
13 MS. MCNEIL: Okay. Thank you, Ms. Moore.
14 MS. MOORE: Thank you.
15 MS. MCNEIL: Ms. Scudder?
16 MS. SCUDDER: Madam Examiner, I have, well, I
17 don't have any questions for Ms. Moore.
18 MS. MCNEIL: Well, I mean continue with your case.
19 MS. SCUDDER: Oh, okay. I would like to quickly
20 call Mr. Varsilla.
21 MS. MCNEIL: Okay.
22 MR. VARSILLA: Okay. Can you hear me?
23 MS. SCUDDER: Yes, good morning, Mr. Varsilla.
24 How are you?
25 MS. MCNEIL: Am I able to see you?

Page 33

1 MR. VARSILLA: Yes. Last year --
2 MS. MCNEIL: People's Zoning Counsel was going to
3 ask, so I jumped the gun. Okay.
4 MR. BROWN: I'm not going to object to Mr.
5 Varsilla testifying right now; but, Ms. Scudder, I'd just
6 like to caution the opposition a moment ago that you can't
7 re-examine the witness two or three times. Mr. Varsilla has
8 already testified; but I'm not going to object since you
9 said he's going to be limited this time. Once you call him,
10 you know, that's it, okay?
11 MS. SCUDDER: Yes, sir. Mr. Varsilla, if you
12 could just please keep your testimony very narrow with
13 respect to Ms. Gwyn Gibson, and relay --
14 MS. MCNEIL: And you're still under oath, Mr.
15 Varsilla. Go ahead.
16 MR. VARSILLA: Yes, ma'am.
17 MS. SCUDDER: Mr. Varsilla, I just wanted to ask
18 you with respect to Mr., Ms. Gwyn Gibson, you, if you could
19 just sort of explain your relationship with Ms. Gibson and
20 when you first met her?
21 MR. VARSILLA: Sure. She was the representative
22 of the property owner, the prior property owner for the
23 majority of the property; and so, through the, through the
24 course of my dealings with her, she knew we were going to,
25 that my intent was to develop the property; and I always

Page 34

1 told her that we would include her in the proper tribute we
2 pay to her ancestor and we've worked with her since and
3 she's, she should be happy with what we're in the direction
4 we're going.
5 MS. SCUDDER: Madam Examiner, I, I don't have any
6 further questions for Mr. Varsilla on, on that particular
7 issue. So, we can move forward with, you know, the rest of
8 the witnesses if that's okay with you, unless Mr. Brown has
9 any questions of Mr. Varsilla.
10 MR. BROWN: Always good to see you, Mr. Varsilla.
11 MR. VARSILLA: I'm sorry?
12 MR. BROWN: Always good to see you. No questions.
13 MR. VARSILLA: Very good. Thank you.
14 MS. MCNEIL: Thank you, sir. Ms. Egloff, do you
15 have a question of Mr. Varsilla?
16 MS. EGLOFF: I'm not sure you're going to allow it
17 because it was very limited, what he could testify about;
18 but when we had our last hearing, Mr. Brown asked about
19 ownership of the property and how it had to be listed out
20 anyone that owned more than, whether it was 5 percent. Did
21 that issue, was that issue resolved and corrected in the
22 record? I noticed there was a name change to this property,
23 you know, those type of things. Is that at all cleared up?
24 MS. MCNEIL: Hold on a second. I can allow the
25 Applicant's attorney to make a proffer. Go ahead, Ms.

Page 35

1 Scudder.
2 MS. SCUDDER: I would just object because we did -
3 -
4 MS. MCNEIL: Okay.
5 MS. SCUDDER: -- (indiscernible) testimony limited
6 to Ms. Gibson's letter.
7 MS. MCNEIL: And that's why he's not answering.
8 She just wants to know were the other documents filed and
9 were filed, correct? The business entity affidavits showing
10 --
11 MS. SCUDDER: Yes.
12 MS. MCNEIL: -- ownership?
13 MS. SCUDDER: Yes. Those were submitted into the
14 record, yes.
15 MS. MCNEIL: They should be online, Ms. Egloff.
16 Probably --
17 MS. EGLOFF: Can, can you tell me what --
18 MS. MCNEIL: Sure.
19 MS. EGLOFF: I haven't had a chance to see it.
20 MS. MCNEIL: Well, any, I'm sort of pausing here
21 because I'm working without a printer or anything; so, I
22 don't have the exhibit list handy. Can Ms. Bah, Ms. Potit
23 find -- Ms. Scudder, you have to help them. The exhibit is
24 the, is this entity affidavit, I believe?
25 MS. SCUDDER: I'm not so sure I'm clear on what

Page 36

1 Ms. Egloff is asking for. She was asking about ownership of
2 the property. Now we did submit some updated, you know,
3 business entity affidavits and certificates of good standing
4 for all of the, in, in relation to Mr. Brown's comments
5 regarding, you know, Mr. Rashid Salem testified. So, we
6 just were really responding to Mr. Brown's --
7 MS. MCNEIL: Okay.
8 MS. SCUDDER: -- comments and we submitted those
9 into the record, so they are on LZIS and Ms. Egloff can take
10 a look at those on LZIS.
11 MR. BROWN: Well, yeah, Madam Examiner, we don't
12 need to examine all the affidavits right now. I reviewed
13 them in response to my question. I mean what she submitted
14 in the record is acceptable at this time and it's online, so
15 Ms. Egloff can review it at her leisure.
16 MS. MCNEIL: Okay. Thank you. Ms. Egloff, that's
17 where they are, in one of the binders, either two or three;
18 probably three.
19 Okay. So, Mr. Varsilla has gone. You're next,
20 Ms. Scudder?
21 MS. SCUDDER: I would like to call Rachel
22 Lightsinger.
23 MS. MCNEIL: Ms. Lightsinger --
24 MS. LIGHTSINGER: Good morning.
25 MS. MCNEIL: -- good morning.

Page 37

1 MS. LIGHTSINGER: Good morning.
2 MS. MCNEIL: Do you swear or affirm under the
3 penalties of perjury that the testimony you shall give will
4 be the truth and nothing but the truth?
5 MS. LIGHTSINGER: Yes.
6 MS. SCUDDER: Ms. Lightsinger, could you, could
7 you again please state your full name for the record?
8 MS. LIGHTSINGER: Rachel Ann Lightsinger.
9 MS. SCUDDER: And where are you employed and where
10 is your office located?
11 MS. LIGHTSINGER: Dewberry Engineers, Inc.,
12 located at 4601 Forbes Boulevard, Suite 300, Lanham,
13 Maryland 20706.
14 MS. SCUDDER: And is your firm the engineers of
15 record in this particular case?
16 MS. LIGHTSINGER: Yes.
17 MS. SCUDDER: Okay. And what do you do for a
18 living?
19 MS. LIGHTSINGER: I am a civil engineer.
20 MS. SCUDDER: And how long have you been working
21 in the field of civil engineering?
22 MS. LIGHTSINGER: Fifteen years, almost 16.
23 MS. SCUDDER: And could you please describe your
24 educational background?
25 MS. LIGHTSINGER: I have a bachelor's of science

Page 38

1 degree in civil engineering from Penn State University.
 2 MS. SCUDDER: And do you hold any professional
 3 licenses?
 4 MS. LIGHTSINGER: Yes, I am a licensed
 5 professional engineer in both D.C. and Maryland.
 6 MS. SCUDDER: Are you familiar with the property
 7 that is being reviewed by the Zoning Hearing Examiner today?
 8 MS. LIGHTSINGER: Yes.
 9 MS. SCUDDER: And have you made a personal
 10 inspection of the property?
 11 MS. LIGHTSINGER: Yes.
 12 MS. SCUDDER: Have you had an opportunity to
 13 review the Staff Report in this case?
 14 MS. LIGHTSINGER: Yes.
 15 MS. SCUDDER: Could you please describe the
 16 physical characteristics of the subject property?
 17 MS. LIGHTSINGER: Sure. So, the property is about
 18 20 acres in size and it's adjacent to single-family,
 19 detached lots within the town of Forest Heights to the
 20 northeast; the Capital Beltway to the south; and the
 21 National Park Service land to the northwest and southeast.
 22 The site is split into two zones. The northern portion of
 23 the site is zoned R-55, and was previously subdivided and
 24 plotted, so now it contains 48 existing recorded lots and
 25 associated public rights-of-way; and then the southern

Page 39

1 portion is zoned RR, and this is the portion that contains
 2 the historic Butler House and it's also bisected by a Peppo
 3 easement.
 4 The site contains about 14.7 acres of woods. It's
 5 rather irregular in shape, pretty narrow at points, ranging
 6 in width from approximately 60 feet to 560 feet. It has no,
 7 the site has no flood plain streams or wetlands. There is a
 8 small portion at the far north end of the site approximately
 9 2.1 acres that lies within the Chesapeake Bay critical area;
 10 and the site does contain steep slopes. There's an
 11 elevation differential of about 170 feet across the site and
 12 the majority of the site drains to the north to Oxon Creek.
 13 There's an existing 60-inch storm drain that is located on
 14 the property running along the northeast property line
 15 adjacent to the single-family homes, and that storm drain
 16 collects runoff both from the subject site and from the
 17 single-family homes, and outfalls into a concrete channel to
 18 the north on the Park Service property; and then that
 19 channel then flows down to Oxon Creek.
 20 MS. SCUDDER: Did your firm prepare a natural
 21 resource inventory plan for the subject property?
 22 MS. LIGHTSINGER: Yes, we prepared two NRIs
 23 actually, one for the Forest Heights, or the northern
 24 portion which was NRI-184-14; and then one for the Butler
 25 Property, or the southern portion, which was NRI-146-2019.

Page 40

1 MS. SCUDDER: And were they approved by MNCPPC?
 2 MS. LIGHTSINGER: Yes, they were.
 3 MS. SCUDDER: How much regulated 100-year flood
 4 plain is located on the subject property?
 5 MS. LIGHTSINGER: None, zero acres.
 6 MS. SCUDDER: And how much primary management area
 7 is located on the subject property?
 8 MS. LIGHTSINGER: None, zero acres again.
 9 MS. SCUDDER: Page 14 of the Technical Staff
 10 Report states that according to the 2017 County-wide green
 11 infrastructure plan, approximately 90 percent of the
 12 application area is located within the regulated area. Why
 13 does this differ from the approved NRI?
 14 MS. LIGHTSINGER: So, the 2017 County-wide green
 15 infrastructure plan is conceptual in nature and is based on
 16 JS information, not field located data. So, it states
 17 within the plan itself that all regulated features shown on
 18 the plan are considered conceptual; and so, the features and
 19 the buffers are mapped in greater detail on an approved NRI.
 20 So, when we did the NRIs, we, you know, did actual field
 21 surveys and took a more detailed look at the site and
 22 determined that no regulated environmental features actually
 23 existed on the site, and Park and Planning concurred.
 24 MS. SCUDDER: Did you prepare a letter regarding
 25 stormwater management requirements for the site?

Page 41

1 MS. LIGHTSINGER: Yes, I did.
 2 MS. SCUDDER: Why did you prepare this letter?
 3 MS. LIGHTSINGER: To address some early questions
 4 that arose regarding stormwater management and flooding.
 5 MS. SCUDDER: And with regard to the letter that
 6 you wrote, you, you wrote the comps and you signed the
 7 letter, correct?
 8 MS. LIGHTSINGER: Correct.
 9 MS. SCUDDER: Okay. And what did this letter
 10 state with regards to stormwater management?
 11 MS. LIGHTSINGER: Basically, just that, you know,
 12 as mandated by Prince George's County and the state of
 13 Maryland, stormwater management in the form of ESD, or
 14 environmental site design, to the maximum extent practicable
 15 will be provided for the site. We did some very preliminary
 16 computations to approximate the amount of storage volume
 17 that would be required for this site, and then just gave
 18 examples of how that storage volume would be met and types
 19 of facilities that would be proposed such as, you know,
 20 maybe green roofs, permeable pavement, microbio retention
 21 facilities and bio soils.
 22 MS. SCUDDER: Okay. And what about with regard to
 23 flood control, what did the letter state?
 24 MS. LIGHTSINGER: That, again, as mandated by
 25 Prince George's County, we would be required to provide 100-

Page 42

1 year floor control for the site. I explained in the letter
2 how the volume was calculated in that you analyzed the site
3 as woods in good condition to compute a predevelopment
4 discharge rate; and then you reduce your post-development
5 discharge rate to a rate that's equal to or less than that
6 of the woods in good condition pre-development rate. So,
7 thus, there, you know, there should be no increased flooding
8 due to the development because we would be discharging at a
9 rate equal to the pre-development rate.

10 MS. SCUDDER: Page 9 of the Technical Staff Report
11 states that stormwater management and flood prevention could
12 be best achieved with development consistent with the
13 current zoning. Please respond to this.

14 MS. LIGHTSINGER: Yes. So, in Prince George's
15 County, stormwater management is required for any site with
16 more than 5,000 square feet of disturbance no matter the
17 zone. So, if more impervious area is proposed with the MXT
18 zone, then, you know, in the existing zones, then just more
19 stormwater management facilities will be required and flood
20 control facilities. So, the end result is the same, you
21 know, the runoff gets captured and treated for quality
22 control, stored and then slowly released for flood control.
23 So, just because the proposed zoning may require more
24 stormwater management facilities, it doesn't mean that they
25 are less effective.

Page 43

1 MS. SCUDDER: And did your firm prepare a water
2 and sewer analysis?

3 MS. LIGHTSINGER: Yes, we did. We prepared what
4 is called a system planning forecast, or SPF, and submitted
5 it to WSSC.

6 MS. SCUDDER: And why did you prepare that plan?

7 MS. LIGHTSINGER: Again, to address some concerns
8 or questions that arose regarding downstream sewer capacity.

9 MS. SCUDDER: And my final question to you is
10 what, what were the results of that analysis?

11 MS. LIGHTSINGER: So, WSSC conceptually approved
12 the SPF and issued a letter of finding dated April 28, 2020.
13 The approval was contingent upon the construction of certain
14 downstream improvements. These improvements included the
15 replacement of approximately 140 linear feet of an existing
16 12-inch sanitary sewer that's located at the southern end of
17 Seneca Drive, as well as upgrading approximately 1,300
18 linear feet of an existing water line, upgrading it from the
19 8-inch line to a 12-inch line; and that would be the water
20 line that runs along Sachum (phonetic sp.) from the end of
21 Crea Drive up to Tecumseh Drive.

22 MS. SCUDDER: Thank you, Ms. Lightsinger. Madam
23 Examiner, I have no further questions for this witness.

24 MS. MCNEIL: Mr. Brown, do you have any questions?

25 MR. BROWN: Very briefly. Good morning, Ms.

Page 44

1 Lightsinger, how are you?

2 MS. LIGHTSINGER: I am good. How are you?

3 MR. BROWN: Good. You would agree that an NRI is
4 not required for rezoning, is that correct?

5 MS. LIGHTSINGER: Correct.

6 MR. BROWN: And you would agree that the Applicant
7 has not submitted a development plan, is that correct?

8 MS. LIGHTSINGER: Correct.

9 MR. BROWN: And you indicated that you have
10 reviewed the Technical Staff Report, specifically pages 7,
11 8, 9, 10, 11, 12, 13, 14, 15, are really not relevant to
12 this application because this is a rezoning case, we're not
13 attempting to obtain a stormwater management plan or
14 development plan at this time, is that correct?

15 MS. LIGHTSINGER: That is correct.

16 MS. GINGOLD: I have a question.

17 MS. MCNEIL: Okay. And everyone that's not going
18 to be speaking should turn off their mikes. I'm hearing a
19 little feedback. Go ahead, Ms. Gingold.

20 MS. GINGOLD: I'm interested in to what extent
21 does your analysis take into account the expected increase
22 in extreme precipitation events due to climate change?

23 MS. LIGHTSINGER: Well, we, we don't take that
24 into account. We use the standard rainfalls that are set by
25 the County.

Page 45

1 MS. GINGOLD: And I understand that it would be
2 difficult to, I believe your, your report mentions that it
3 will be difficult to have surface retention ponds and,
4 therefore, there would be underground storage for rainfall.
5 Can you just tell us what happens when an extreme
6 precipitation event causes such underground retention
7 facilities to become full? What happens to the rain that
8 keeps coming down?

9 MS. LIGHTSINGER: So, you know, the, the
10 underground facility decides to take the 100-year storm, and
11 so the full rainfall from the 100-year storm would go into
12 the facility. If there's a larger storm event, then the,
13 you know, runoff gets bypassed from the facility and
14 continues into the, the, you know, down to the outfall. The
15 storm drain system down to Oxon Creek.

16 MS. GINGOLD: And how would that affect the houses
17 in Forest Heights downhill from the development?

18 MS. LIGHTSINGER: I, I don't think it really
19 would. We would, it would be conveyed in our closed system.
20 So, it, it really shouldn't affect the houses.

21 MS. GINGOLD: Thank you.

22 MS. LIGHTSINGER: Uh-huh.

23 MS. MCNEIL: Thank you, Ms. Gingold. Okay.

24 MS. GOODARD: I had a question as well, if I may?
25 Pamela Goodard.

1 MS. MCNEIL: Okay, Ms. Goodard.
 2 MS. GOODARD: Thank you. Ms. Lightsinger, just a
 3 couple questions. Are you familiar with the, the guidelines
 4 of the Chesapeake Bay total maximum daily load requirements
 5 of the state of Maryland to meet pollution restrictions by
 6 2025?
 7 MS. LIGHTSINGER: Somewhat.
 8 MS. GOODARD: So, that's a national law that
 9 requires each of the states in the Chesapeake Bay region to
 10 meet runoff and pollution standards by 2025. So, my follow-
 11 up question was going to be, how are you going to ensure
 12 that the stormwater safety mechanisms you outlined would
 13 meet these? So, I'm not sure you're going to be able to
 14 answer that one if you don't know what the TMDL is.
 15 MS. LIGHTSINGER: Yeah, I mean all the facilities
 16 that we would propose would be, you know, the standard
 17 facilities that have been, types of facilities that have
 18 been approved by the state of Maryland and the County, and -
 19 -
 20 MS. GOODARD: So --
 21 MS. LIGHTSINGER: -- for the --
 22 MS. GOODARD: -- the analysis in looking at the
 23 goalposts that the state must meet for the Chesapeake Bay,
 24 total maximum daily load requirements, is that correct?
 25 MS. LIGHTSINGER: I'm sorry, say that again

1 please?
 2 MS. GOODARD: So, you did not specifically look at
 3 the legal requirements of the Chesapeake Bay total maximum
 4 daily load to ensure this project will meet them?
 5 MS. LIGHTSINGER: No, not at this point in the
 6 development process. We are at the zoning stage, so no, we
 7 will get into more detailed stormwater analysis, you know,
 8 as the project moves forward.
 9 MS. GOODARD: Thank you.
 10 MS. LIGHTSINGER: Uh-huh.
 11 MS. MCNEIL: Thank you. Ms. Egloff?
 12 MS. EGLOFF: Question? Could Ms. Lightsinger
 13 speak about, I was reading in the Staff Report about these
 14 very large storm water management ponds that were supposed
 15 to be planned and, and put in the area in order to relieve
 16 what has been some kind of catastrophic flooding downstream
 17 from in Fort Washington actually. So, those ponds have not
 18 been planned or installed and then we're now talking about
 19 taking away another 20 acres of forest land that serves as a
 20 filter and they, it's on a high hill. How does that affect,
 21 can you give me some information? Are you aware of that
 22 long-range plan of the five stormwater management ponds that
 23 were supposed to be built in this vicinity?
 24 MS. LIGHTSINGER: I don't believe any were --
 25 MS. EGLOFF: Did you, did you read --

1 MS. LIGHTSINGER: -- proposed on this site. I
 2 don't believe --
 3 MS. EGLOFF: But we are, but we're proposing to
 4 build yet again another high-density property without any,
 5 well, you said you're going to try to retain the rain water
 6 on the property, which is great. One portion of the
 7 property, CVCA applies and you have to, you have to retain
 8 more than it, what is now plus 10 percent; and so, you have
 9 even a higher standard for that particular acre or two of
 10 land.
 11 MS. LIGHTSINGER: Uh-huh.
 12 MS. EGLOFF: And you're going to take down every
 13 tree and you're not going to have above-ground --
 14 MS. SCUDDER: Objection, Madam Examiner. If she
 15 could ask her question --
 16 MS. EGLOFF: Okay. So, I --
 17 MS. SCUDDER: -- it sounds like she's testifying.
 18 MS. EGLOFF: I'm trying to ask if she's aware of
 19 the fact of the stormwater management ponds that were
 20 proposed and planned for the immediate area.
 21 MS. MCNEIL: Okay. Stop there. I think she said
 22 --
 23 MS. EGLOFF: Okay.
 24 MS. MCNEIL: -- she didn't know of any on that
 25 site, but go ahead, Ms. --

1 MS. EGLOFF: Right. Okay. Are you aware of that
 2 --
 3 MS. MCNEIL: (Indiscernible), Ms. Lightsinger?
 4 Ms. Egloff, let her answer.
 5 MS. EGLOFF: Okay.
 6 MS. MCNEIL: Are you aware of any other stormwater
 7 plans in that area?
 8 MS. LIGHTSINGER: No.
 9 MS. MCNEIL: Go ahead, Ms. Egloff.
 10 MS. EGLOFF: Okay. Now my next question, it was
 11 in the Staff Report, that's why, where I read it. You said
 12 there are no natural, what did you call them, natural
 13 features that are regulated, but in the Staff Report I read
 14 that there is an ephemeral stream. Is that no on your
 15 property, or is that just next to your property and you,
 16 your activity will affect that ephemeral stream? It also
 17 talked about highly erodible soils being on the steep slope
 18 adjacent to the ephemeral stream. Did you look at that?
 19 MS. LIGHTSINGER: So, I think the, there's no
 20 regulated stream channels on our site. There's a stream, I
 21 believe, on the adjacent National Park Service property.
 22 MS. EGLOFF: Does your land bump right up to the
 23 stream, like that's the indication I got from reading the
 24 report, that the highly erodible soils are on a steep slope
 25 immediately adjacent to this stream and, therefore, what,

Page 50

1 how would you handle that situation with intense
2 development?
3 MS. LIGHTSINGER: I don't believe we are right up
4 against the stream, so I, I don't think it should impact it
5 and, you know, we would be, as far as the soils --
6 MS. EGLOFF: Can we look at --
7 MS. LIGHTSINGER: Sorry.
8 MS. EGLOFF: Okay. Do you have, can you see it on
9 the map and see how close you are to that ephemeral stream,
10 the aerial view or whatever?
11 MS. MCNEIL: Do we have an exhibit of yours, Ms.
12 Lightsinger, that would show, Ms. Scudder?
13 MS. SCUDDER:
14 MS. LIGHTSINGER: I don't think so, but Ms.
15 Lightsinger may be able to identify something that could
16 show that that we could provide to Ms. Egloff.
17 MS. LIGHTSINGER: In, in the letter that I had
18 written in the like existing conditions exhibit, it shows
19 the ephemeral stream on the adjacent parts of this property.
20 So, the very tip of it goes right up against our property;
21 but the rest of it then turns away from our property down to
22 the existing storm drain system kind of at the bottom of the
23 hill from Crea Drive.
24 MS. MCNEIL: (Indiscernible.)
25 MS. EGLOFF: Could you (indiscernible) that on the

Page 51

1 map for us, or could you look for it and get back to us?
2 I'd just like to see where it's located and if you really
3 studied that and how taking down every single tree high
4 above a stream with highly erodible soils. I know we are
5 typically, think we can touch it all, but this is a natural
6 resource that drains and is in good condition, and has
7 forest to protect it; and so, I just want to know what that
8 plan would be for protecting the ephemeral stream. I'm
9 probably saying that wrong, I'm sorry, but anyway. Is
10 there, is there a map that you could --
11 MS. LIGHTSINGER: I can, my --
12 MS. EGLOFF: -- share with us?
13 MS. LIGHTSINGER: -- my screen is allowed. I
14 don't, I don't know.
15 MS. MCNEIL: It is allowed by this hearing.
16 MS. EGLOFF: Is there an exhibit we --
17 MS. MCNEIL: Excuse me one second, ma'am. Are you
18 sharing something that's in the record? I'm trying to look
19 through all the binders right now. If you could tell us
20 what exhibit number?
21 MS. LIGHTSINGER: Traci, do you know what exhibit
22 number it is? It's my letter from April 24, 2020, and it's
23 page 5 of that PDF. I don't know what exhibit number that
24 is.
25 MS. SCUDDER: Let me see if I can find it, Madam

Page 52

1 Examiner, but --
2 MS. MCNEIL: I can tell you it's not in binder
3 one.
4 THE CLERK: You said the letter was dated April
5 21?
6 MS. LIGHTSINGER: April 24, 2020.
7 THE CLERK: We have a letter to Anderson Walker
8 from Lightsinger, I'm sorry if I'm pronouncing your name
9 wrong, Newberry dated 41, Exhibit 43.
10 MS. LIGHTSINGER: Oh, yes, sorry.
11 MS. SCUDDER: Yes.
12 MS. LIGHTSINGER: Yep.
13 MS. SCUDDER: That is it.
14 MS. LIGHTSINGER: No, wait, sorry, that is not it.
15 There should be another one after that.
16 MS. EGLOFF: I believe there, is that Exhibit 62?
17 I believe it's, well, no, that's not it. Never mind.
18 That's in here. Exhibit 50, Ms. Lightsinger, which would be
19 the letter to Rashid Salem dated 7/31/20, Exhibit 50?
20 MS. LIGHTSINGER: No, it's, it's not that one
21 either. Maybe it didn't make it into the record.
22 MS. EGLOFF: Can you describe what it is, Ms.
23 Lightsinger?
24 MS. LIGHTSINGER: So, it's just a map of existing
25 conditions and it shows the ephemeral stream that is on the

Page 53

1 adjacent park property and how it comes up, and the very end
2 of it is near the, basically at the property line with our
3 property. Now that stream is just, I believe this
4 information is probably also, you know, GIS because it's not
5 on our property; so, the exact, you know, end point of that
6 stream, you know, is, or alignment of the stream is not set
7 in stone; it's just, you know, from GIS.
8 MS. EGLOFF: Would that be the beginning of the
9 stream, or the mouth of the stream, or the end?
10 MS. LIGHTSINGER: Yes.
11 MS. EGLOFF: Or it's the beginning of the stream?
12 MS. LIGHTSINGER: The beginning of the stream.
13 MS. EGLOFF: The beginning? Okay. Could, if it's
14 not in the record, I think that would be very relevant
15 information when you're talking about the mouth of the
16 stream; you know, the -- it has a huge impact.
17 MS. SCUDDER: Madam Examiner, if Ms. Egloff is
18 just looking for an exhibit that displays the existing
19 conditions, we're happy to provide that. We, if you
20 wouldn't mind leaving the record open, we could submit that;
21 or Ms., Ms. Lightsinger could maybe even email it to you
22 now.
23 MS. EGLOFF: I just would like it to be --
24 MS. MCNEIL: Actually, it would need to be --
25 MS. EGLOFF: -- in the record.

Page 54

1 MS. MCNEIL: -- a part of this record.
2 MS. EGLOFF: Stream is that, is there -- close.
3 MS. SCUDDER: The, actually, the, if the NRI is in
4 the record, that shows it as well.
5 MS. EGLOFF: Would there be any special, have to
6 do anything special to try to stabilize a steep slope like
7 that, technically? And this is an engineering question.
8 How would you stabilize a steep slope that is immediately
9 adjacent to a stream?
10 MR. BROWN: Madam Examiner --
11 MS. MCNEIL: Yes?
12 MR. BROWN: -- I need to clarify the record here.
13 Let me, Ms. Lightsinger, although an engineer, she has not
14 been qualified as an expert in anything; and so many, many
15 of these questions that are being asked of her are questions
16 to be directed to an expert. I understand Ms. Scudder is
17 merely offering her as a lay person to talk about what she
18 has seen at the site; to talk about any document she has
19 prepared. To get her to analyze documents and give an
20 opinion about flooding, and primary management areas, and
21 what have you, is really inappropriate (indiscernible) is
22 irrelevant with regards to a request for rezoning at this
23 time.
24 MS. MCNEIL: Ms. Scudder?
25 MS. SCUDDER: Okay. So, the only thing

Page 55

1 (indiscernible).
2 MS. EGLOFF: (Indiscernible.)
3 MS. MCNEIL: Ms. Egloff, I have to rule on his --
4 MS. EGLOFF: Okay. Sorry.
5 MS. MCNEIL: -- objections.
6 MS. EGLOFF: I don't know all these rules. I'm
7 sorry.
8 MR. BROWN: And so, I'm not objecting to the
9 witness, but I think she has gone the distance on what she
10 can testify to; and these cross-examination questions are
11 just not appropriate for her to answer.
12 MS. SCUDDER: I would agree, Madam Examiner. We
13 were very careful to avoid testimony where Ms. Lightsinger
14 would be rendering an opinion, and her purpose today --
15 MS. MCNEIL: Thank you.
16 MS. SCUDDER: -- was simply to describe the
17 characteristics of the property.
18 MS. MCNEIL: Okay. Then I would sustain the
19 objection. I wanted to hear what she had to say about the
20 expert portion. So, Ms. Egloff, that, do you have other
21 questions of the witness?
22 MS. EGLOFF: Okay. So, the only thing I can say
23 to that is that the rezoning, while it is the catalyst that
24 makes the density of the development happen. So, it is
25 hugely important to understand what making a lot of density

Page 56

1 on a very elevated property that is fully wooded and is
2 adjacent to a stream which drains then down into Oxon Creek.
3 It has lasting effects on people and property, and then --
4 MS. SCUDDER: Objection. Objection.
5 MS. EGLOFF: So, that's my concern.
6 MS. SCUDDER: (Indiscernible.)
7 MS. MCNEIL: Okay. Well, excuse me, everyone.
8 Ms. Egloff, this witness can't answer any of those types of
9 questions at the moment. There will be a land use planner
10 and other witnesses, and you may be able to get some
11 questions into them. It's, it's, it's not just density;
12 it's changing the zone and then would be allowing everything
13 that's allowed in the zone; so, not just a matter of
14 density. And if it's approved, I think the land use planner
15 can go through that as well. There are other steps where
16 many of these questions would be addressed. So, I hear you.
17 I'm not, and it's just this witness cannot continue in this
18 line of questioning.
19 MS. EGLOFF: Thank you.
20 MS. MCNEIL: Do you have other questions of her?
21 MS. EGLOFF: I can't think of any.
22 MS. MCNEIL: All right. Thank you, Ms.
23 Lightsinger.
24 MS. LIGHTSINGER: Thank you.
25 MS. MCNEIL: Ms. Scudder?

Page 57

1 MS. SCUDDER: I would like to call my next
2 witness, Max Showalter.
3 MR. SHOWALTER: Good morning.
4 MS. MCNEIL: Good morning. Hi, Mr. Showalter. Do
5 you swear or affirm under the penalties of perjury that the
6 testimony you will give will be the truth and nothing but
7 the truth?
8 MR. SHOWALTER: Yes, I do.
9 MS. MCNEIL: Okay.
10 MS. SCUDDER: Mr. Showalter, would you please
11 state your full name for the record and the name of your
12 company?
13 MR. SHOWALTER: Yes, my name is Max Latham
14 Showalter and I am a project geologist with Terracon
15 Consultants.
16 MS. SCUDDER: And what type of company is
17 Terracon?
18 MR. SHOWALTER: So, primarily, we're an
19 environmental and geotechnical engineering consulting firm.
20 We also do facilities, and materials inspections, and
21 testing.
22 MS. SCUDDER: And how long have you worked for
23 Terracon?
24 MR. SHOWALTER: For most of my professional
25 career, about six years this July.

Page 58

1 MS. SCUDDER: And what do you do there?
2 MR. SHOWALTER: As I stated earlier, I am a
3 project geologist and project manager.
4 MS. SCUDDER: And does, as far as your
5 professional background, you've spent most of your career at
6 Terracon, is that correct?
7 MR. SHOWALTER: Yes, that is correct.
8 MS. SCUDDER: Are you familiar with the
9 development proposal that is before the Zoning Hearing
10 Examiner today?
11 MR. SHOWALTER: Yes, I'm familiar with everything
12 that's before the Examiner today.
13 MS. SCUDDER: And have you had an opportunity to
14 review the Technical Staff Report in this case?
15 MR. SHOWALTER: I have, yes.
16 MS. SCUDDER: And when did you get involved with
17 this property and why?
18 MR. SHOWALTER: So, myself and Terracon have
19 become involved in this project early on in, at least early
20 on in the initial stages of feasibility. We were asked to
21 provide the Applicant with an understanding of the
22 subsurface conditions of the site; and, additionally,
23 provide some geotechnical information related to questions
24 that were raised and contained within the Technical Staff
25 Report.

Page 59

1 MS. SCUDDER: And was the Terracon report provided
2 to Park and Planning Staff?
3 MR. SHOWALTER: Yes.
4 MS. SCUDDER: Madam Examiner, that is, what he's
5 referring to, the Terracon report, is Exhibit 78.
6 MS. MCNEIL: Thank you.
7 MS. SCUDDER: And have you made a personal
8 inspection of the subject property?
9 MR. SHOWALTER: Yes, during our initial planning
10 of our subsurface investigation and our field investigation,
11 I've made multiple inspections of the subject site.
12 MS. SCUDDER: And, specifically, what did you
13 investigate with respect to the subject property?
14 MR. SHOWALTER: So, I'd like to refer to the
15 attachment 78. Basically, you know, I, again, I'm really
16 pleased to be here in front of Madam Examiner and Mr. Brown,
17 and everyone else on this call. So, you know, we can, we
18 can just discuss here -- I'll provide a, just a brief
19 description of the report. So, Section 1 basically just
20 explains what we're investigating; and Section 2, I've got
21 the report right in front of me here, Section 2 explains
22 basically how we investigated the subsurface conditions,
23 including conducting geotechnical test borings where we just
24 drill into the subsurface and take soil samples. And then,
25 you know, we detail some of the public available data on the

Page 60

1 soils and we, we try to confirm those public data. And,
2 additionally, we were conducting some infiltration testing
3 and we do that once we conduct our soil borings on the site.
4 So, I'm going, I guess, into, into some detail
5 here. Section 1.2 of our, of our report, it does detail our
6 groundwater observations, which were --
7 MS. MCNEIL: Okay. One second. Can anyone pull
8 up Exhibit 78? And perhaps they can give you control if you
9 want to highlight any section once it's up there. I don't
10 know which you prefer.
11 MR. SHOWALTER: It's, either way is fine. I can
12 open it here and share the screen.
13 MR. BROWN: And before he continues further, Ms.
14 Scudder, why is he relevant, with all due respect to him?
15 This is a rezoning case. Why is it necessary for us to get
16 into the geology of the soil with regards to this rezoning?
17 And you have not qualified him as an expert and he's talking
18 about our report. I'm assuming he prepared the report, but
19 he's not an expert; and so, why is this witness even
20 relevant?
21 MS. SCUDDER: You know, Mr. Brown, I would, I
22 would just say that, you know, there were some early
23 concerns raised about, you know, the constructability of
24 this site, the soils, the stormwater management, and so we
25 were just, you know, again, just trying to make sure that

Page 61

1 this report -- the purpose of Mr., Mr. Showalter's testimony
2 is really to just, since we submitted the Terracon report in
3 the record, and his company, and he is the one that prepared
4 the report, we just brought him here today to really
5 authenticate it. So, I, I can just ask him a few more
6 questions. We really are trying to avoid him rendering any
7 kind of opinion; but more so, just to making factual,
8 providing factual information to authenticate his report.
9 MR. BROWN: All right.
10 MS. MCNEIL: Wait a minute. I have a question.
11 Is there a reason why he can't be admitted as an expert? I
12 mean because this is definitely an area where you would need
13 expert testimony. It's not the average lay person
14 (indiscernible).
15 MS. SCUDDER: Well, I guess that would be Mr., you
16 know, if, if, again, I --
17 MS. MCNEIL: No, except you need to proffer him
18 and then Stan will voir dire, but you said you didn't want
19 to do it.
20 MS. SCUDDER: I was not planning to proffer him as
21 an expert today because, again, we were careful. You know,
22 Mr., Mr. Showalter, I don't believe, is rendering any
23 opinions today. He's just, he's just speaking factually.
24 So, as a fact witness. So, I don't believe he needs to be
25 qualified, but if Mr., if Mr. Brown feels I'm getting into

Page 62

1 an area where he's rendering opinion, you know, he can let
2 me know.
3 MS. MCNEIL: So, let me ask you this. He didn't
4 prepare this report?
5 MS. SCUDDER: Yes.
6 MS. MCNEIL: Yes (indiscernible) he did?
7 MS. SCUDDER: Yes.
8 MR. SHOWALTER: Yeah, I signed the report, along
9 with our professional engineer, who has been doing a lot of
10 work in Prince George's County for the last 30 years.
11 MS. MCNEIL: Okay. And you all submitted this
12 report because you thought you had to counter something in
13 the Staff Report?
14 MR. BROWN: No, I don't think they feel they were
15 trying to counter something in the Staff Report. I believe
16 they're trying to counter extrajudicial conversations they
17 had with persons outside of this hearing before they filed
18 the case; and those concerns may or may not be relevant.
19 They're not relevant for this case. I mean if she wants to
20 go ahead with the witness, I mean that's fine; but I think
21 most of what he's about to testify to is objectionable
22 because he is not an expert.
23 MS. SCUDDER: There are actually, I do have a
24 couple of questions about some statements that were made in
25 the Staff Report, though, Mr. Brown.

Page 63

1 MS. MCNEIL: So, why don't you limit his testimony
2 to that, the, the report is in the record.
3 MS. SCUDDER: Okay. Mr. Showalter, referencing
4 the Technical Staff Report, and based on the areas that you
5 investigated with respect to this site, are there comments
6 or recommendations that are part of the Staff Report that
7 fall under the categories you investigated?
8 MR. SHOWALTER: Yes, there are just a few sections
9 in response. So, I can just jump right in here. On page 9
10 of the Technical Staff Report, under the environmental
11 section, I believe it's the second and third paragraph.
12 MS. SCUDDER: I'm hearing -- who is this?
13 MS. MCNEIL: Someone needs to mute themselves.
14 MR. SHOWALTER: Am I muted? You guys can hear me?
15 MS. SCUDDER: I'm sorry. That was me.
16 MS. MCNEIL: No, you're fine, but someone is
17 talking about being in a hearing. They need to mute
18 themselves. Okay. Thank you.
19 MR. SHOWALTER: Oh. Yeah, I can, I can continue
20 here, hopefully, if folks can hear me. And there's just a
21 few small statements here. For example, on, on, under the
22 environmental section as I was saying, it's noted that
23 drainage from the subject site is, is not going to go and
24 cause flood impacts to Ralph Road and North Herring Drive,
25 which are to the north of the site. Additionally, basically

Page 64

1 there's a couple comments here that it's, it's basically
2 best achieved to develop a site consistent with the current
3 zoning which would result in less impervious area and more
4 natural infiltration; and really what we looked at for the
5 preparation of our, our report here was, was what was the
6 soil consisting of? Do those soils have the potential to
7 infiltrate water, whether they're fine-grained soils, or
8 whether they're coarse soils like granular, like sand,
9 compared to clay? And what we did find, where the soils are
10 coarse-grained, they're mostly sands in the, in the top 20
11 to 30 feet, and you can see those test scoring logs attached
12 at the end of our letter or, excuse me, our report; and we
13 did some groundwater studies. We observed the groundwater
14 over, over a period of time and we didn't find any elevated
15 groundwater, so that was kind of what I understand where a
16 few questions raised during the, at least our client, he
17 reached out to us to help understand how to respond to
18 those; and so, you know, we're, I'm here to submit this
19 data. We have drawn conclusions, but those were conclusions
20 that were reviewed by professional engineers in the
21 geotechnical engineering field.
22 And I, I believe there was one other section of
23 the report, or of the Technical Staff Report which I would
24 like to address. On page 12, the Technical Report mentions
25 that the Butler track is underlaying, or there are steep

Page 65

1 slopes and the sassafras and crude soils are highly
2 erodible. Our testing and study of the public data revealed
3 that -- it's a small percentage of the site and based on the
4 test data, the laboratory test data that we obtained, the
5 soils are, the erodibility factor is relatively low of those
6 soils.
7 MR. BROWN: Ms. Scudder, I'm not trying to be
8 difficult, but I really have to object to his report and his
9 testimony. I mean he's indicated in the last three or four
10 statements that, that report was primarily compiled by
11 others, by engineers, and it does draw conclusions based
12 upon data. He's not an expert. He cannot interpret that
13 data. This not only is irrelevant, but it's beyond the
14 scope of what a lay person can, person can testify.
15 MS. SCUDDER: Okay, Mr. Brown. Well, we were, we
16 were at the end of our testimony on, on this particular
17 subject matter; so, we can move on to the next witness.
18 Mr. Showalter, thank you very much.
19 MS. MCNEIL: One second. So, you object to
20 Exhibit 78?
21 MR. BROWN: At this time, I do.
22 MR. SHOWALTER: May I say one last closing
23 statement here?
24 MS. MCNEIL: No, wait one second.
25 MR. SHOWALTER: I'm, I'm submitting --

Page 66

1 MS. MCNEIL: Well, no, not yet.
2 MR. SHOWALTER: Okay.
3 MS. MCNEIL: Ms. Scudder, he's a geologist that's,
4 that sampled the soils and found X. I believe that can come
5 in, Mr. Brown, all right? It's his testimony.
6 MR. BROWN: How long is this report? How many
7 pages? How many pages, so how many pages is it?
8 MR. SHOWALTER: About eight pages, including the
9 site vicinity map.
10 MR. BROWN: All right. Well, I have an objection
11 to Ms. Scudder redacting all of the opinions and conclusions
12 in that 8-page report; and we could allow comments
13 (indiscernible) text directly related to him as a lay
14 geologist.
15 MS. SCUDDER: Okay. Thank you, Mr. Brown, I will
16 do that. I, I just had one final question, but I think I'm
17 not going to ask this question because I think I can almost
18 foresee that Mr. Brown may object to what I was going to ask
19 him. So, I will conclude here, Madam Examiner, and if you
20 or Mr. Brown have any further questions for this witness,
21 I'm, I don't have any.
22 MS. MCNEIL: Okay. So, can the two of you meet
23 offline whenever we have a break to see which parts of
24 Exhibit 78 you want to redact? I note that Mr., is he still
25 here? Mr. Showalter?

Page 67

1 MR. SHOWALTER: Yes, Madam --
2 MS. MCNEIL: Did you, did you, did you participate
3 in the field investigation?
4 MR. SHOWALTER: Yes, ma'am. The planning --
5 MS. MCNEIL: That's 1.1. And the geology
6 information and geology and map soils, do you have any role
7 in that?
8 MR. SHOWALTER: Yes, ma'am.
9 MS. MCNEIL: And the map soils themselves and
10 1.1.2?
11 MR. SHOWALTER: That's publicly available soils
12 data.
13 MS. MCNEIL: Okay. And then the groundwater
14 observations, you testified to that as well. Did you go out
15 and do, make these observations in 1.2?
16 MR. SHOWALTER: I've reviewed them. I wasn't
17 personally there for the observations, but I can inspect the
18 set-up and those, those data that are contained in the table
19 are directly collected on the site.
20 MS. MCNEIL: Table 3?
21 MR. SHOWALTER: Table 2.
22 MS. MCNEIL: Table 2? Okay. I'll leave it up to
23 you, Mr. Brown, and it looks like most of the report he's
24 testifying to, but --
25 MR. BROWN: He's testified to it, but we can

Page 68

1 redact it later. That's okay.
2 MS. MCNEIL: Okay. So, you two will do that and
3 submit -- so for now, everyone, Exhibit 78 is not part of
4 the record. It may be revised and put in in another forum.
5 Thank you, Mr. Showalter.
6 MR. SHOWALTER: Thank you for your --
7 MS. SCUDDER: Thank you, Mr. Showalter.
8 MS. MCNEIL: For the limited testimony, he was
9 able to provide, do I see, Ms. Egloff, do you have questions
10 of him? Do you understand it's limited now?
11 MS. EGLOFF: Yes, I do. He, when he testified, he
12 said that the area I was concerned about was near the stream
13 and the steep slopes, and it wasn't, it was, the erodibility
14 factor is relatively low. Could he tell me what is the
15 erodibility factor on that, or can he tell me the small
16 percentage of the site, what is that percentage? Do you
17 have any of that information?
18 MR. SHOWALTER: It's, it's available on the public
19 soils data. It's the USGS and USDA (indiscernible).
20 MS. EGLOFF: Well, my, my concern was specifically
21 the, the slopes by the mouth of the stream, did you all do
22 investigation at that area?
23 MR. SHOWALTER: We've conducted test borings at a
24 number of locations on the site. I wasn't able to see the
25 figures earlier or the exhibits that we were discussing in

Page 69

1 terms of where the exact location of that ephemeral stream
2 that you're concerned about; so, I cannot advise on that.
3 MS. EGLOFF: Thank you.
4 MS. MCNEIL: Thank you, sir. Okay, Ms. Scudder,
5 how many more witnesses do you have?
6 MS. SCUDDER: One, two, three, four, four.
7 MS. MCNEIL: Okay. Are you all good? You want to
8 do another before we take a break?
9 MS. SCUDDER: Yes, ma'am.
10 MS. MCNEIL: Okay.
11 MS. MOOSKIN: I had a question question. Could
12 you just clarify (indiscernible) your education as it
13 relates to this, this documentation? Like I saw that you
14 have an undergraduate degree in geology, but is there
15 anything specifically relating to soil geology or the, the
16 issues examined in the Staff Report?
17 MR. SHOWALTER: Yes, Ms. Mooskin, I believe?
18 MS. MOOSKIN: Yes.
19 MR. SHOWALTER: I do have an undergraduate degree
20 from James Madison University in geology. Additionally,
21 I've been practicing geotechnical engineering, as stated
22 earlier, for approximately six years; and you can review my
23 background, I believe, on my resume.
24 MS. MOOSKIN: Thank you.
25 MS. MCNEIL: Everybody good? Okay. Okay, thank

Page 70

1 you, sir. Ms. Scudder?
2 MS. SCUDDER: I would like to call Al Hansen.
3 MR. HANSEN: Good morning.
4 MS. MCNEIL: Good morning. Oh, there you are.
5 Mr. Hansen, do you swear or affirm under the penalties of
6 perjury that the testimony you shall give will be the truth
7 and nothing but the truth?
8 MR. HANSEN: I do.
9 MS. SCUDDER: Madam Examiner, may I proceed?
10 MS. MCNEIL: Yes, after I swear them, they're your
11 witnesses. Go ahead.
12 MS. SCUDDER: Okay. Okay. Mr. Hansen, could you
13 please state your name and occupation?
14 MR. HANSEN: Alan L. Hansen, architect.
15 MS. SCUDDER: And what is your company's name and
16 address?
17 MR. HANSEN: DBI Architects, 1984 Isaac Newton
18 Square, Suite 400, Reston, Virginia 20190.
19 MS. SCUDDER: And what is your title and please
20 describe your position at DBI.
21 MR. HANSEN: I'm a managing director of
22 architecture, which is a combination of business
23 development, conceptual design, mentoring and joint project
24 management.
25 MS. SCUDDER: Could you describe your background?

Page 71

1 MR. HANSEN: Yes. I was born and raised in
2 southern California, then attended the University of
3 Maryland, School of Architecture, in College Park. Been in
4 private practice since 1974. Project types have included
5 apartment buildings, office buildings, mixed use, schools,
6 retail centers, churches, historic buildings, custom homes,
7 and assisted living facilities. Ninety percent of the work
8 has been in the greater Washington area. I served as an
9 Arlington County Planning Commissioner during the
10 Rosslyn/Ballston corridor expansion of the 1980s. I was
11 awarded a fellowship with the American Institute of
12 Architects for establishing and leading the Loudon County
13 Design Cabinet for 16 years under the auspices of the Loudon
14 County Department of Economics Development.
15 MS. SCUDDER: Okay. And have you had an
16 opportunity to review the subject application, including the
17 Technical Staff Report, which is before the Zoning Hearing
18 Examiner today?
19 MR. HANSEN: Yes, I have.
20 MS. SCUDDER: And have you made a personal
21 inspection of the subject property?
22 MR. HANSEN: Yes.
23 MS. SCUDDER: And are you familiar with the area
24 surrounding the property and the property that is the
25 subject of this application?

Page 72

1 MR. HANSEN: Yes, I am.
2 MS. SCUDDER: Are you familiar with the
3 applicant's rezoning request under this application?
4 MR. HANSEN: Yes, I am.
5 MS. SCUDDER: And when did you start working on
6 National View?
7 MR. HANSEN: February 2019.
8 MS. SCUDDER: So, when you started working on this
9 project back in 2019, that was two years ago, and this is a
10 rezoning case. What were you working on back then?
11 MR. HANSEN: Well, we started the project the way
12 we started all planning projects. We reviewed and analyzed
13 the reference materials, that is the Site Plan; location
14 within the County, in the region; transportation;
15 topography; natural features; surrounding neighborhoods;
16 compass orientation; County zoning code; the approved
17 general plan; the sector plan, et cetera. With that
18 reference material, we pulled the entire team together, the
19 owner, legal, civil, geotechnical, traffic, planning,
20 architecture, and created a 3-dimensional envelope in which
21 the project that eventually be conceptualized through design
22 options.
23 MS. SCUDDER: Okay. And as the architect for the
24 project, how would you define your role this early in the
25 development process?

Page 73

1 MR. HANSEN: Initially, I served as team leader,
2 communicator with the client, team coordinator and member of
3 the research and envisioning team.
4 MS. SCUDDER: And how did you, how did you prepare
5 to take on such a significant piece of property in Prince
6 George's County?
7 MR. HANSEN: Well, not to minimize the opportunity
8 with National View, but the preparation was the same or very
9 similar to that detailed previously. We focused carefully
10 on the Prince George's County approved general plan, Plan
11 2035. Every project has a project description with goals
12 and objectives. Along with our client, we took our project
13 description from Plan 2035 so that the results would align
14 with the County's vision or blueprint for long-term growth.
15 The plan states that, quote, "Urban design is simply a
16 reflection of our values," end of quote. We could not agree
17 more. We want to simply reflect the County's values. After
18 all, this is one puzzle piece of the value matrix called
19 Prince George's County.
20 MS. SCUDDER: Are you aware of the fact that a
21 portion of this site is on the County and Federal Historic
22 Registry?
23 MR. HANSEN: Yes, I am.
24 MS. SCUDDER: Are you also aware that the subject
25 application was referred to the Historic Preservation

Page 74

1 Commission?
2 MR. HANSEN: Yes.
3 MS. SCUDDER: And, Mr. Hansen, were you involved
4 in that aspect of the process?
5 MR. HANSEN: Yes, I was.
6 MS. SCUDDER: On page 72 of the Technical Staff
7 Report, paragraph 3, Staff makes the following finding at
8 the end of the environmental section. The proposed high-
9 density could significantly impact the view shed of the Oxon
10 Hill Farm National Park and several historic structures. Do
11 you agree?
12 MR. HANSEN: No, I do not; because we believe the
13 impact will be minimal for the following reasons. First,
14 the National View buildings will be approximately 1,500 to
15 2,000 feet away from the historic structures; second, most
16 of the development on the site will be obscured by a thick
17 forest of mature trees; and then once designed, the heights
18 of the buildings will vary and step down in height as one
19 move northward from the Beltway towards the Forest Heights
20 neighborhood. This will cause National View to better
21 relate to the smaller scale residences. The change in
22 natural grade elevation alone drops 125 feet from the
23 Beltway, or south, to north. Finally, we also believe there
24 will be many areas of the park and farm where National View
25 will not be visible at all.

Page 75

1 MS. SCUDDER: You prepared a presentation to the
2 Historic Preservation Commission on this issue, did you not?
3 MR. HANSEN: Yes, we did. Please refer to Exhibit
4 42B as in boy.
5 MS. SCUDDER: Exhibit 42B, if I could ask Ms.
6 Betty or Ms. Fatima to pull up Exhibit 42B?
7 MS. POTIT: I'll share my screen.
8 MR. HANSEN: Thank you.
9 MS. SCUDDER: Mr. Hansen, can you testify about
10 the view shed and what was presented to the Historic
11 Preservation Commission?
12 MR. HANSEN: Sure, I can, yes. First, I want to
13 re-emphasize that this is a rezoning application, and I want
14 to stress that the National View buildings have not been
15 designed. That is what we have to date, or what we have to
16 date is a simple building envelope, length, width and
17 height, just an envelope, just like a letter. I have a few
18 slides to review with you that show the environmental
19 setting of the historic Oxon Cove Park and the Oxon Hill
20 Farm. They will describe the middle impact that National
21 View could have on the view sheds.
22 This first slide please? There is, there's a map
23 showing the vantage point of the first view shed exhibit.
24 It shows a 360-degree panoramic photo standing close to the
25 Mount Welby House looking towards the National View

Page 76

1 development. Mount Welby House is approximately 1,700,
2 1,700 feet from National View.
3 Next slide please.
4 MR. BROWN: Excuse me, sir. Excuse me one second.
5 MR. HANSEN: Sure.
6 MR. BROWN: Ms. Scudder, if, it seems like he's
7 about to, you know, get to opinions and these documents that
8 were prepared by either Petra or Petra, his company, he
9 would appear to be qualified as an expert in architecture as
10 an architect based upon his education and experience. Why
11 don't we qualify him and dispense with the issue of me
12 objecting?
13 MS. SCUDDER: Okay.
14 MR. BROWN: I mean if you want, I'll do it.
15 MS. SCUDDER: Okay.
16 MR. BROWN: Mr. Hansen, you indicated earlier that
17 you are a licensed architect, is that correct?
18 MR. HANSEN: I am.
19 MR. BROWN: And are you licensed in the state of
20 Maryland?
21 MR. HANSEN: I am.
22 MR. BROWN: And have you ever testified in an
23 administrative or judicial hearing as an expert in
24 architecture?
25 MR. HANSEN: Honestly, I've been at this 47 years

Page 77

1 and I don't recall. I've done, I've testified over the
2 years, but to that narrow degree, I can't answer that for
3 you.
4 MR. BROWN: All right. You've testified before
5 Planning Boards in the past, is that correct?
6 MR. HANSEN: I have. Yes, I have.
7 MR. BROWN: Which Planning Boards in the state of
8 Maryland have you testified before?
9 MR. HANSEN: Montgomery County. I mean you're
10 asking me to recall an awful lot of --
11 MR. BROWN: Just to be --
12 MR. HANSEN: -- information over time. The
13 District of Columbia, Virginia, yeah.
14 MR. BROWN: All right. Have you ever testified
15 before the Board of Zoning Appeals in any county in the
16 state of Maryland?
17 MR. HANSEN: It's not coming to mind.
18 MR. BROWN: Have you ever been denied
19 qualification as an expert architect?
20 MR. HANSEN: I have not.
21 MR. BROWN: And you indicated you've been
22 practicing architecture for 40 years?
23 MR. HANSEN: I was registered in Maryland in like
24 1980; so, yeah, 40 some odd years.
25 MR. BROWN: And you were previously a planning

1 commissioner in what was it, Loudon County?
 2 MR. HANSEN: Arlington.
 3 MR. BROWN: Arlington County?
 4 MR. HANSEN: For 8 1/2 or 8 years.
 5 MR. BROWN: All right. Madam Examiner, if this
 6 witness will submit into the record his resume related to
 7 his field of expertise, and we can accept it into the record
 8 later, I will reserve an objection. I don't think I would
 9 object to him being qualified as an expert in architecture
 10 (indiscernible) in terms of his work and experience, in
 11 terms of historic preservation, is that correct?
 12 MR. HANSEN: Yes, that's correct.
 13 MR. BROWN: All right. So, if he would submit that
 14 resume before the record closes, why don't we admit him as
 15 an expert in the field of architecture, at a minimum, and
 16 possibly historic preservation of both --
 17 MS. MCNEIL: I can't do possibly, but I'll accept
 18 him as an expert in the area of architecture.
 19 MR. BROWN: All right.
 20 MS. SCUDDER: Thank you, Mr. Brown.
 21 MS. MCNEIL: And I'll leave the record open for
 22 the resume. Thank you.
 23 MS. SCUDDER: Thank you, Madam Examiner. Mr.
 24 Hansen, do you want to pick up where you left off? I think
 25 you were going through the, the slide of the --

1 MR. HANSEN: Yes.
 2 MS. SCUDDER: -- overall --
 3 MR. HANSEN: I believe we're on the, yes, sorry.
 4 MS. MCNEIL: And just before you do, I probably
 5 missed this, but this is Exhibit 42B? You already said
 6 that?
 7 MS. SCUDDER: Yes.
 8 MS. MCNEIL: Okay.
 9 MR. HANSEN: All right. So, on this slide, which
 10 I believe is the second one, here we see the overall
 11 panoramic view starting on the left with the Mount Welby
 12 House and then rotating 360 degrees back to the Mount Welby
 13 House on the right. In the middle, you see a narrow sliver
 14 of the overall view where the tops of some of the National
 15 View buildings could be visible. You see those two little
 16 vertical lines there.
 17 The next slide please? There you go. Well, this,
 18 I guess, is what's coming as the third slide. Yeah, that's
 19 current conditions of the house. All right. No, that's
 20 actually further along. That's in the historic --
 21 MS. SCUDDER: Does she need to scroll up?
 22 MR. HANSEN: Yes, can you scroll up and go back to
 23 the view shed slides that we were just on please? You're
 24 close. You're only about four slides away. Yeah. All
 25 right. Keep going up. Up, up, a little more, a little

1 more, a little more view shed here. And I will, I will --
 2 keep going up a little further. I will say next slide, so
 3 that we'll stay coordinated here. Go up just a little bit
 4 more, about, I don't know, three or four more slides and
 5 we're good.
 6 MS. MCNEIL: Someone said hit the up and down
 7 arrows if that helps.
 8 MS. SCUDDER: Yeah, the, the arrow button.
 9 MS. MCNEIL: Actually, actually, it just makes a
 10 difference. He's in Exhibit 42B, so I don't understand why
 11 it would be above 42A.
 12 MR. HANSEN: Right.
 13 MS. MCNEIL: You got to click on 42B again.
 14 MR. HANSEN: This is 42B, boy.
 15 MS. SCUDDER: There you go. That's it.
 16 MR. HANSEN: Okay.
 17 MS. SCUDDER: Okay.
 18 MR. HANSEN: So, we hit, we looked at that slide.
 19 We looked at the panoramic view, which is the next slide.
 20 MS. SCUDDER: And whoever is doing the slides, if
 21 you go up to the top where the page numbers are, there's an
 22 up and down arrow and you can use that to go from slide to
 23 slide, yes, right there.
 24 MR. HANSEN: That's what you want to do. Okay.
 25 We want to go --

1 MS. SCUDDER: Yeah.
 2 MR. HANSEN: -- you had it on there. Let's see,
 3 that one, okay, next slide please. There you go. Perfect.
 4 Oh, no, back up one. No. Back up. There, right. Now
 5 we're too far down. Let's go back, back up. No, we're just
 6 a few slides ahead. I think you all have seen the slide
 7 show. Okay. Right, right, no. Up, up towards the
 8 beginning; up towards the beginning.
 9 MS. SCUDDER: One, go up further, one more.
 10 MR. HANSEN: Up, up, up, yeah, up about two
 11 slides. Okay. Right there. Okay. Okay. Now the, okay,
 12 so, I just read that one. Here's the panoramic view. So,
 13 next slide please. And where we have highlighted the middle
 14 portion -- perfect. Perfect. Here we've highlighted the
 15 middle portion of the photo where the National View
 16 buildings could occur.
 17 Okay. Next slide please? There is a close-up of
 18 the panoramic view where the tops of some of the National
 19 View buildings could be visible. Next slide, please. This
 20 slide represents a map of the vantage point to the second
 21 view shed exhibit. We took another 360-degree panoramic
 22 photo standing at the entrance to the park looking north,
 23 I'm sorry, looking towards the MGM hotel across the Beltway.
 24 The hotel is approximately 1,900 feet from where the photo
 25 was taken.

Page 82

1 Next slide, please. Here we see the overall
2 panoramic view starting on the left with the parking lot and
3 park entrance, and rotating 360 degrees around to the
4 parking lot and entrance on the right. In the middle, you
5 see a view of the MGM Hotel.

6 Next slide please. Here we have highlighted,
7 perfect, good job. Here we have highlighted the middle
8 portion of the photo where the MGM Hotel occurs.

9 Next slide, please. Perfect. This is a close-up
10 of the panoramic view showing the impact of the MGM Hotel on
11 the park's view shed and entrance experience, and I'll let
12 you study that for a few seconds so you get it.

13 And then the, the last slide for the, I believe
14 it's just the next slide, the last exhibit shows the current
15 view shed of the Oxon Hill Manor now that the MGM Hotel has
16 been built. As you can see, the addition of the hotel in
17 this case does dominate the view shed of the Manor House.

18 We expect the view shed impact of National View on historic
19 structures can be minimal as you've seen.

20 In conclusion, we believe that historic structures
21 and National View can co-exist visually very well. That's
22 the end of the view shed.

23 MS. SCUDDER: Thank you, Mr. Hansen.
24 MR. HANSEN: Yeah.
25 MS. SCUDDER: Thank you, Mr. Hansen. I would now

Page 83

1 like to turn your attention to the Technical Staff Report
2 where the environmental section begins. Have you had an
3 opportunity to review the environmental section of the Staff
4 Report and the recommendation that Staff identified as
5 relevant?

6 MR. HANSEN: Yes, I have.

7 MS. SCUDDER: And you testified earlier that you
8 were involved in the process when this application was
9 referred to the Historic Preservation Commission, is that
10 correct?

11 MR. HANSEN: Yes, I was.

12 MS. SCUDDER: What action did the Historic
13 Preservation Commission take regarding this application?

14 MR. HANSEN: Although the Historic Preservation
15 Staff recommended that the Historic Preservation Commission
16 relay to the Planning Board that the proposed rezoning was
17 incompatible, the Historic Preservation Commission voted not
18 to adopt this position. Page 1 of the November 18, 2020
19 Historic Preservation Section memorandum states, quote, "The
20 Historic Preservation Commission received a presentation
21 from Staff that included a PowerPoint presentation based on
22 the Staff memorandum dated November 10, 2020; as well as a
23 presentation from the Applicant that included a PowerPoint
24 presentation on the project. After discussion with Staff
25 and the Applicant, the Historic Preservation Commission

Page 84

1 voted on a Staff-generated draft recommendation to the
2 Planning Board. This recommend," I'm sorry, "Recommended
3 motion did not pass. After further discussion, the Historic
4 Preservation Commission determined that it would not comment
5 on the subject rezoning application," end of quote.

6 MS. SCUDDER: And what led to their decision to
7 take no position?

8 MR. HANSEN: We presented to the Historic
9 Preservation Commission the previous view shed analysis and
10 a proposal for various potential historic interpretation
11 projects.

12 MS. SCUDDER: Okay. Yes. And we just saw the
13 view shed analysis and --

14 MR. HANSEN: Yes.

15 MS. SCUDDER: -- and that was presented to the
16 HPC. Did you also prepare a similar slide for the potential
17 for the historic interpretation projects?

18 MR. HANSEN: Yes, we did.

19 MS. SCUDDER: And can you show the Examiner those
20 please?

21 MR. HANSEN: Yes.

22 MS. SCUDDER: And that would be Exhibit 42A.

23 MR. HANSEN: Yes, I will summarize those projects
24 for you now. Can I have the first slide and we, we've
25 actually, we've showed those briefly as we went through the

Page 85

1 slides. They should follow the view shed slide. There you
2 go. That's it. So, this next slide we'll just call this
3 the first slide, the one that's trying to come up on the
4 screen here. There you go. Great. The first slide, okay,
5 we got, okay, to preserve a ruin, we believe, tells the
6 wrong story. We want to tell a fascinating story of
7 American heritage. Our team proposes to go far beyond the
8 current display.

9 Next slide, please. We believe that to preserve
10 these artifacts in the current state falls way short of
11 anything satisfactory to tell future generations the story
12 of the area. The number of visitors to Oxon Hill Farm is
13 only a slight trickle presently. We recommend including
14 within the public area of National View a closet, or open
15 space feature, that tells the story of Mount Welby, the
16 Hatton, Proctor and the Butler families in dramatic and
17 effective ways that is not presently being told.

18 Next slide, please. You almost got it. Can you
19 bring up the, the outline house a little further? That's
20 good. Benjamin Franklin's outline, or some call it the
21 Ghost House, in Philadelphia, Pennsylvania by Robert Venturi
22 (phonetic sp.) is a case in point. Around or near the
23 outline of the Butler House might be the views from the
24 original house, so that not just the Butler House is
25 memorialized, but the environmental views or site also.

Page 86

1 This, we believe, is far better as a story teller than the
2 current condition the original Butler House would ever be.
3 So, the creation of a Butler Plaza or park as a place to
4 relax at lunch and learn, with an outlying house, or a ghost
5 house as a centerpiece, integrated in the National View is
6 one approach.
7 Ms. Scudder, do you have a question for me?
8 MS. SCUDDER: No, I do not.
9 MR. HANSEN: Okay. The next slide, we're on the
10 next slide. And --
11 MS. SCUDDER: Wait a minute, sorry. I do have a
12 question, Mr. Hansen.
13 MR. HANSEN: Thank you.
14 MS. SCUDDER: Do you believe that the history that
15 is a part of this area can, can connect the development to
16 the surrounding area?
17 MR. HANSEN: The answer is yes. An important
18 feature of the option above, and those that follow, is
19 signage and chronology. It can be part of an outlying
20 house, a memorial plaza, a commercially scaled series of
21 wall graphics; and, additionally, can be used to help
22 connect National View to the adjacent trail network and
23 residential neighborhood.
24 Next slide, please. I love this next one. There
25 we go. Another option is the creation of a public plaza

Page 87

1 such as Freedom Plaza at 14th and Pennsylvania Avenue in
2 Washington, D.C., which was renamed in honor of Martin
3 Luther King, Jr. It is here that he worked on his famous, I
4 had a dream speech, in a nearby Willard Hotel. During that
5 year, a time capsule containing a Bible, a robe and other
6 King relics was planted at this site. The plaza concepts
7 will allow the history of the area to be told in a Site Plan
8 platform concept upon which visitors can read and study;
9 where children can play make believe on a Site Plan surface.
10 A variation on a memorial plaza is a permanent outdoor
11 memorial which is the focus, in which the focus is on the
12 families of the immediate area rather than, or in addition
13 to, the houses of the area. The Pentagon Memorial, for
14 instance, honors the 184 persons who died as victims of our
15 September 11th tragedy. This memorial, likewise, can honor
16 dozens of family members that settled and successfully
17 worked the area.
18 Next slide, please. Actually, it's, it's half on.
19 I, there we go. Another important feature that can be part
20 of the others, or a standalone memorial, is the creation of
21 vintage wall murals with painted graphics that tell the
22 historic tale. The graphics might even be styled in the
23 form of the old Coca Cola graphics that grace the walls of
24 nearly every historic downtown in America a hundred years
25 ago. As we said previously, the murals might even be the

Page 88

1 views from the original Butler House so that the entire
2 visual environment, or the site, is captured.
3 MS. SCUDDER: Okay, Mr. Hansen, let me jump in
4 here and ask you if later in the process artifacts are found
5 on the property, have you thought about how they could be
6 used?
7 MR. HANSEN: Yes. The next slide, please, which
8 is all about artifacts; and while you're, there you are.
9 Archeology and artifacts also help to tell the story of an
10 area in an authentic, graphic way, with which no other
11 method can compete. We envision that these artifacts will
12 be part of any historical construct, memorial plaza, signage
13 and chronology system, or wall murals, graphics that is
14 ultimately created to tell the Mount Welby, Butler House
15 story both now and in the future.
16 MS. SCUDDER: Okay, Mr. Hansen, that, that really
17 concludes my questions. I just wanted to ask if you have
18 any final thoughts or comments that you would like to relay
19 to the, Ms. Madam Examiner?
20 MR. HANSEN: I'm happy to. You can go ahead and
21 pull up the last slide. I'll be at that in a second; but
22 here's some food for thought. Branding is always of
23 critical importance to the development of a place. We have
24 discussed internally that the National Park Service might
25 rename the Oxon Cove Park, Butler Park, in order to further

Page 89

1 honor a family that has lived and worked there for
2 generations; and we are on the last, well, we're halfway on
3 the last slide. You can show that. This is one of my
4 favorite TV shows here, which is Aerial America.
5 Finally, we all know that people gain much of
6 their knowledge from the Internet today. The National View
7 team proposes that it might contribute to the Smithsonian
8 channels, Aerial America series for a specific look at the
9 Mount Welby, Butler House area incorporated into the state
10 of Maryland's program. This, we believe will be far more
11 effective in the education of future generations than,
12 again, the current views of the dilapidated original. You
13 know, call it as it is. Thank you so much for your time.
14 MS. SCUDDER: Thank you, Mr. Hansen.
15 MS. MCNEIL: The last page of 42A is showing Mount
16 Welby?
17 MR. HANSEN: That's a very good question. That is
18 a shot from the Aerial America series and it does not show
19 that. The person who pulled the image, I actually asked
20 them the same question. So, that's just kind of a generic
21 shot. If you've ever seen the series, it's fantastic.
22 Maryland and Delaware are on the same show. So, we could
23 take Delaware out and they could have their own show, and we
24 could pump up Maryland, and this could be part of it.
25 MS. MCNEIL: But you showed, you provided this

1 shot to say what again, I'm sorry?
 2 MR. HANSEN: To simply say that what the National
 3 View team could do is contribute to the Smithsonian for
 4 their Aerial America series where they could do, you know, a
 5 clip, how they sort of plug the, they take the whole state
 6 and then they, they highlight certain areas; and you can
 7 highlight the Mount Welby, Butler House area, and plug it
 8 into the Maryland show. That was a thought.
 9 MS. MCNEIL: Okay. Thank you.
 10 MR. HANSEN: You're welcome.
 11 MS. MCNEIL: Mr. Brown, do you have any questions?
 12 MR. BROWN: No questions, thank you.
 13 MS. SCUDDER: Madam Examiner, Ms. McDowell and
 14 Mrs. Goodard have questions.
 15 MS. MCNEIL: Ms. Goodard?
 16 MS. GOODARD: Thank you. Mr. Hansen, thank you
 17 for your presentation. It was very helpful. I have some
 18 questions regarding the view shed study.
 19 MR. HANSEN: Yes.
 20 MS. GOODARD: Will, will the complex be lighted at
 21 night? What kind of lights will people be seeing in the
 22 evening and nighttime at the complex?
 23 MR. HANSEN: That's a good question. You know,
 24 the bottom of any mixed use project, and I've been in mixed
 25 use now -- that Arlington experience was a grand experience

1 of mixed use; but, anyway, what you'll see, I think at the
 2 top is just simply residences. I think that the lighting
 3 for commercial, you know, restaurants and shops, and
 4 whatever else finally occurs at the lower level, and there's
 5 a kind of a promenade sort of on the south side that
 6 connects the shops because it's a wonderful view out towards
 7 the river, there will be some lighting there. Of course,
 8 we're going to be very careful of it and there's County, and
 9 state, and national codes that talk about how much the, you
 10 know, lighting can, you know, be visible; but the answer to
 11 your question, the top of it, I think, is just mostly multi-
 12 family residences, so the kind of thing you'd see in a, you
 13 know, an apartment complex.
 14 MS. GOODARD: Thank you. And what would be the
 15 tallest building in this complex? How tall would that
 16 building be?
 17 MR. HANSEN: Well, that's another good question.
 18 Again, all we've made is an envelope; so, let me give you a
 19 few pieces of the puzzle. When we started this, there are,
 20 of course, there's County limitations and so on; but the
 21 real limitation on this site is driven by the flights in and
 22 out of Reagan National Airport; and that maximum height
 23 above mean sea level for the FAA is 420 feet; and mean sea
 24 level is 194 feet. So, if you subtract one from the other,
 25 that says that you're not going to have anything on this

1 site that's any taller than 226 feet. And, again, that's
 2 driven by, as is, you know, National Harbor on the other
 3 side, it's driven by the flight paths and in and out of the
 4 airport.
 5 MS. GOODARD: Thank you. I had a question. You
 6 said that current visitors to the park were only a trickle,
 7 and I wondered where you got that, that assessment?
 8 MR. HANSEN: Nobody said trickle, but somebody
 9 said a number; and so, I just kind of latched onto that.
 10 I'm sure you can confirm that, but it would seem like a very
 11 small number annually.
 12 MS. GOODARD: Actually, the parks, they count if
 13 they have entrances where fees are required. So, Oxon Cove
 14 is one of the parks where they haven't actually done a
 15 count. So, I just wonder where you got that, that --
 16 MR. HANSEN: You know, we've been working on this
 17 for two years. Somewhere in the process somebody mentioned
 18 kind of a modest, very modest number; and so, I used the
 19 word trickle. So, that's my artistic --
 20 MS. GOODARD: Thank you. So, was that assessment
 21 taken during COVID when most of the parks have been closed,
 22 and have you looked at pre-COVID visitation?
 23 MR. HANSEN: We actually started this, as we said,
 24 February 2019. So, we were into this for, what, 10 or 12
 25 months before COVID began.

1 MS. GOODARD: Thank you. Another front, you
 2 talked about this public plaza. If that, something like
 3 that were to be built, would it be on the 20 acres that this
 4 complex is on, is that your intent?
 5 MR. HANSEN: Oh, yeah. Yeah.
 6 MS. GOODARD: Thank you.
 7 MR. HANSEN: Oh, absolutely. No, it was just
 8 intended to just connect, you know, the shops and retail;
 9 and, well, first the great hope is that, as I said in the
 10 testimony, that it connects up with the, you know, the trail
 11 system and so on so that we, you know, we link it up and
 12 make it a stronger trail system.
 13 MS. GOODARD: Thank you. And then, finally, your
 14 ideas about preserving and sharing artifacts through, you
 15 know, historic exhibits, have you been in contact with the
 16 Maryland Historical Trust on, on those ideas? Have you
 17 gotten their input? They are the State Historic
 18 Preservation Office.
 19 MR. HANSEN: I have not, but as an architect, my
 20 heart beats really fast when we think about those ideas.
 21 So, we're excited to talk about them, but we haven't gotten
 22 that far.
 23 MS. GOODARD: I would just, you know, ask that you
 24 confer with them. There are often very strict rules for the
 25 state on when artifacts are found and how they're treated,

Page 94

1 et cetera.
2 MR. HANSEN: Fair enough.
3 MS. GOODARD: Thank you. Those are all my
4 questions. Thank you, Mr. Hansen.
5 MR. HANSEN: You're welcome.
6 MS. MCNEIL: Ms. Mooskin?
7 MS. MOOSKIN: Yes, thank you. So, in my
8 experience at the Oxon Cove Park, from the existing
9 commercial areas it's pretty, has pretty low visibility and
10 there's not very much ease of access from the roads around
11 Oxon Cove Park; and from personal experience, that seems to
12 be a contributing factor to its lower amounts of visitation
13 compared to parks like Rock Creek, which are very accessible
14 from many different parts of the city.
15 And since this property is located in, you know,
16 relatively the same area with also very, very little access
17 and visibility from existing commercial areas, how would you
18 address the connection transit-wise of this site to the rest
19 of --
20 MS. SCUDDER: I would like to object to this
21 question. It sounds like this is a transportation question
22 that she's asking of Mr. Hansen.
23 MS. MOOSKIN: No, it's a, it's a transit question.
24 I'm just curious about whether the architectural plans, or
25 anything that he has been involved in, how they've examined

Page 95

1 the connection of this site to the surrounding area because
2 it does not --
3 MS. MCNEIL: She has a, she has a transportation
4 expert that will be coming on shortly if you would like to
5 save that question for him.
6 MS. MOOSKIN: Yeah, that would be great.
7 MS. MCNEIL: Okay.
8 MR. HANSEN: Okay.
9 MS. MCNEIL: Do you have other questions of the
10 witness?
11 MS. MCDOWELL: I have a question. I don't know if
12 Alex is done yet.
13 MS. MCNEIL: That's what I was asking.
14 MS. MOOSKIN: No, sorry, sorry, I'm done.
15 MS. MCNEIL: Okay. Okay, is this Ms. McDowell?
16 MS. MCDOWELL: Thank you.
17 MS. MCNEIL: Okay.
18 MS. MCDOWELL: Mr. Hansen, did I miss a slide that
19 showed the view shed from the heights in Forest Heights? I
20 don't believe I saw them, but we did have a little bit of
21 glitches going through the slides. Did, because I'm in the
22 heights of Forest Heights, as are many, many people, several
23 hundred houses. Did I miss a slide on that?
24 MR. HANSEN: No, we had two viewpoints that we
25 showed and what you just got finished seeing. One was at

Page 96

1 Mount Welby and the other one was at actually the entrance
2 to the park. That's where those two views were taken from.
3 MS. MCDOWELL: So, I did not miss that and it
4 would be extremely helpful to know what the view shed looks
5 like because in binder one, the concept drawings, earlier
6 concept drawings for National View had 15 and 20-story
7 buildings, the whole complex dwarfed the MGM complex, and it
8 would be quite the eyesore from anybody here in the heights
9 of Forest Heights, instead of seeing a beautiful, forested
10 hill, it would be Manhattan. And I'm also curious, did
11 those early concepts reflect a 226-foot building, or how
12 does that translate into number of stories?
13 MR. HANSEN: They did. That was the 226, that's
14 the number that we used; and, you know, it really depends,
15 we got to design that to make that happen; but usually that
16 first story is 18 or 20 feet, you know, restaurants like
17 those kinds of heights; and then it's usually about 12 feet
18 or more, so I think that that would be in the range of, you
19 know, 15 to 17, 18 stories, which is actually very similar
20 to what's going on on the other side of the Beltway, MGM, et
21 cetera.
22 MS. MCDOWELL: Right, but it's a much higher
23 elevation, so it would dominate the MGM, which is much
24 lower, is that correct?
25 MR. HANSEN: I don't, I haven't analyzed a cross

Page 97

1 section across the Beltway there. I thought that, I guess
2 it does go down a little bit on the, what would that be, the
3 National Harbor side. So, we sit on higher ground and then,
4 like I say, it drops off 125 feet. So, the intention would
5 be that although technically we could stay up at that
6 height, we'd be dropping down like, like crazy trying to get
7 down, you know, into that arranged, underneath the trees as
8 we get near Forest Heights so that we're --
9 MS. MCDOWELL: I think it would be very valuable
10 for the citizens of Forest Heights to see a concept of what
11 on earth it would look like from Forest Heights.
12 MS. SCUDDER: I'm going to object. Mr. Brown, I'm
13 going to object to her line of questioning here because I
14 mean these types of questions are just too premature. There
15 are no buildings or structures under this application. The
16 Concept Plans that Ms. McDowell is referring to is not a
17 part of this application. They are not before the Examiner.
18 We have not done -- this team has not done any design work
19 related to what is going to be built on this site. So, I'm
20 going to object to any further questions along this line.
21 MR. HANSEN: Well, if I might just, Ms. McDowell,
22 if I might just say, we are collaborating, I've been
23 collaborating for decades, and the whole team collaborates -
24 -
25 MS. MCNEIL: Mr. Hansen, Mr. Hansen, one second.

Page 98

1 You have a right to talk to her offline, but there's a
2 pending objection.
3 MR. HANSEN: All right.
4 MS. MCNEIL: So, all I would note for the record
5 is I could sustain the objection; but, Ms. McDowell, you
6 have a right to raise any of this in any argument, you know?
7 They have a right to put on their case and do what they
8 believe meets the law; you can argue that it would have been
9 nice to see X and Y; and you can also speak to Ms. Scudder
10 and Mr. Hansen outside of this record.
11 MS. MCDOWELL: Okay. Thank you.
12 MR. HANSEN: Thank you.
13 MS. EGLOFF: Question.
14 MS. MCNEIL: Ms. Egloff? Okay. Go.
15 MS. EGLOFF: Okay. So, it's really hard to
16 understand what a zoning map amendment application should
17 look like and what should be included because I keep hearing
18 that we're not allowed to talk about these details, but if
19 you're going to add density to a property that's only 20
20 acres, how are you going to get that density on 20 acres
21 unless it goes sky-high, okay? And we've just heard how
22 high it can be, and like Ms. McDowell said, up to 18 stories
23 possibly, and it's going to dwarf the area.
24 MS. SCUDDER: Objection. Does Ms. Egloff have a
25 question for the witness?

Page 99

1 MS. EGLOFF: I do. (Indiscernible.)
2 MS. MCNEIL: Ms. Egloff, if you were to look at
3 the Staff Report, if you have a copy of it?
4 MS. EGLOFF: Yes.
5 MS. MCNEIL: The criteria, the criteria that would
6 have to be satisfied start on page 17 where they mention the
7 zoning requirements, and it goes all the way to page,
8 through to traffic, to their final recommendation.
9 MS. EGLOFF: I, I looked at it, okay, and what I'm
10 --
11 MS. MCNEIL: That's the law that they have to meet
12 at this time. If it gets approved --
13 MS. EGLOFF: Okay.
14 MS. MCNEIL: -- they have to go through other
15 things that, where they show what it is they're going to
16 build.
17 MS. EGLOFF: Okay. So --
18 MS. MCNEIL: But go ahead with your question. I
19 just wanted to clarify that part for you.
20 MS. EGLOFF: It's very concerning that I keep
21 hearing that things are irrelevant, they're irrelevant.
22 Well, Mr. Hansen just gave a sales pitch. That's
23 irrelevant, okay? History is history and doesn't get
24 changed because you want to put a building up, okay? There
25 is a rare opportunity -- this is rare history where a

Page 100

1 property has been in the same family for 150 years and it is
2 so significant; and Prince George's County keeps on like,
3 huh, huh, that's nice, let's just put up a little sign.
4 MS. SCUDDER: Madam Examiner, I'm going to have to
5 object. I mean Ms. Egloff --
6 MS. EGLOFF: Okay. Well, then object.
7 MS. SCUDDER: -- (indiscernible) testify already
8 and she's testifying again.
9 MS. EGLOFF: Okay. Why does Mr. Hansen get to do
10 a sales pitch for what he could do with this history? The
11 history is present there already.
12 MS. SCUDDER: Ms. Egloff, I can answer that
13 question.
14 MS. EGLOFF: So --
15 MS. SCUDDER: This application had a mandatory
16 referral to the Historic Preservation Commission. This --
17 MS. EGLOFF: Yes.
18 MS. SCUDDER: -- Applicant went before --
19 MS. EGLOFF: It did and --
20 MS. SCUDDER: -- the Historic Preservation
21 Commission and Mr. Hansen is only testifying about what was
22 put on in front of the Historic Preservation Commission.
23 MS. EGLOFF: Okay. So, also stated that they --
24 how did he put this about the, what, how they, they didn't -
25 - hold on one second. He said they voted not to make a

Page 101

1 referral or something, but they allowed their Staff Report
2 to be, to go forward to the Planning Board. So, they
3 withheld their opinion. That's all they did. They didn't -
4 - the way I read it anyway. So, I felt like it was
5 misstated when it said they voted not to adopt. That's not
6 -- they said --
7 MS. SCUDDER: Yes, Ms. Egloff, they --
8 MS. EGLOFF: -- it before.
9 MS. SCUDDER: -- they refused to go along with
10 Staff's recommendation.
11 MS. MCNEIL: Wait a minute. Wait.
12 MS. EGLOFF: That's what it says.
13 MS. MCNEIL: You have a right to ask, if you want
14 to refer to any part of that exhibit, which is Exhibit 56, I
15 think.
16 MS. EGLOFF: Well, I read it and --
17 MS. MCNEIL: Okay. And, but what, what the issue
18 is is right now you got to ask questions. I'm trying to
19 help you, so if there's something --
20 MS. EGLOFF: Well --
21 MS. MCNEIL: -- in the book that you want to ask
22 him about to, to make him give his opinion --
23 MS. EGLOFF: So, unless --
24 MS. MCNEIL: -- you can do that.
25 MS. EGLOFF: -- unless I'm missing something, and

1 I wasn't there, okay, and that's a problem when, if you're
2 not there to see it happen; but in the report it says, they
3 kind of like decided not to have an opinion. That doesn't
4 mean they're, they're against, for, or against, or anything.
5 They decided to table their comments or their opinion for a
6 later time, which many of the --

7 MS. MCNEIL: Okay. Stop. Stop one second. Isn't
8 that true, Mr. Hansen, in the report, isn't it true that the
9 Historic Preservation Commission made a motion that did not
10 carry, and no one did a substitute motion?

11 MR. HANSEN: That is a very -- would you like me
12 to read that section? I mean we've written it out, so that
13 we got it, we were accurate and on a timely basis. Would
14 you like me to read it? It's about three sentences. Want
15 me to read it?

16 MS. SCUDDER: Well, let's --

17 MS. EGLOFF: How does the report reflect what
18 happened is what I want to know?

19 MS. MCNEIL: I see.

20 MR. HANSEN: I'm not even sure this is an
21 architectural question.

22 MS. EGLOFF: Well, it's not really. It's about
23 historic preservation.

24 MR. BROWN: Ms. Egloff, Ms. Egloff, the decision
25 by the Historic Preservation Commission speaks for itself.

1 It is what it is. You can --

2 MS. EGLOFF: Well, it is what it is. So, what is
3 it?

4 MR. BROWN: It's (indiscernible). Mr. Hansen and
5 Ms. Scudder can interpret it their way; and as the Examiner
6 indicated, when you have an opportunity to testify, you can
7 interpret it your way; but --

8 MS. EGLOFF: Uh-huh.

9 MR. BROWN: -- it does us no good to make that
10 decision right now with this particular witness. And so,
11 Ms. Scudder, if we have another question of Mr. Hansen --

12 MS. EGLOFF: Okay. I had one more.

13 MR. BROWN: All right.

14 MS. EGLOFF: Because there's such discussion about
15 the historic relevance and how the view shed is, and how
16 there's, there's an environmental setting and all this
17 stuff, how do you get all that preservation and stuff on a
18 property that is less than 20 acres, or right around 20
19 acres, including all the stormwater management? How do you
20 do that exactly because it seems almost impossible that
21 you're going to be able to preserve any of it and, in fact,
22 the historical reports say that none of the remnants of the
23 Butler place, they would be all gone. So, I just, is there
24 something I'm missing?

25 MR. HANSEN: Well, I, I can respond this way. The

1 property is next to the historic park, so you actually have
2 the advantage of those other historical structures right
3 next to you, okay? So, you're saying, how do you get that
4 many historic sites on that 20-acre piece? Remember, this
5 was created in a time where we didn't have automobiles. The
6 20 acres, that's, that's a lot of walking back and forth,
7 and so on. This site just happens to be rich in history
8 and, you know, it's our, our oath and expectation that we
9 can tell the history in a variety of ways; and expand upon
10 even what's being done thus far; but obviously, we're not
11 going to just run off and do something. We got to talk to
12 the owners.

13 MS. EGLOFF: I guess I object to a sales pitch of
14 changing history, okay? That's my objection. So, I'm done.
15 Thank you.

16 MS. BICK: Hello? Bonnie Bick has a question.

17 MS. MCNEIL: Ms. Bick, do you have questions?

18 MS. BICK: Yes, I do.

19 MS. MCNEIL: Okay.

20 MS. BICK: Thank you, Mr. Hansen, for the
21 presentation. I do agree that it was very much of a
22 promotional one, but I do have a question for you.

23 MS. SCUDDER: Objection. Objection. Madam
24 Examiner, I just wanted to make sure that -- I don't
25 remember Ms. Bick being here for the first hearing, and I

1 don't think she's a party of record. Is she --

2 MS. BICK: I am a party of record.

3 MS. MCNEIL: You would never get, just so you
4 know, our hearings a little different from Planning Board,
5 or the Council. If you're here, you're a person of record.
6 That means we sent you the link and you asked to be a person
7 of record, except where your witnesses may be considered
8 persons of interest; but the other individuals, okay? Go
9 ahead, Ms. Bick.

10 MS. BICK: Thank you. Thank you. I'm, I'm
11 particularly -- I grew up in Oxon Hill and I, my address is
12 7601 Oxon Hill Road; and I have seen great change in the
13 area; and am extremely familiar with this property. I could
14 walk to it without crossing the Beltway before the Beltway
15 was there. So, so that just dates me a little.

16 And I've been very concerned about the community
17 that is existing in the Oxon Hill area. And my question is
18 that I heard you say that, and, and I didn't write it down,
19 but I believe you said something about compatibility with
20 the existing neighborhood? Is that, do you recall saying
21 that?

22 MR. HANSEN: Well, you have to clarify. Are you
23 talking about uses, or are you talking about colors, or are
24 you talking about --

25 MR. HANSEN: Well, you were making, excuse me,

Page 106

1 when you were making your presentation, you mentioned
2 compatibility with the existing neighborhood was one of the
3 key points for your concern.
4 MR. HANSEN: Well, I would say that generally
5 speaking, you know, the site is significantly higher next to
6 the Beltway, and drops off about 125 feet towards the north,
7 towards Forest Heights; and, again, the buildings, the site
8 hasn't been designed. We got to have some idea of what
9 might fit there, but that the intention is the structures
10 would drop down lower and lower to where by the time you get
11 on the north side of the site, they're significantly lower
12 down behind the trees so that when you are, you know, at
13 your Forest Heights home, you're looking out, you're seeing
14 trees; and anything that's nearby is down below those trees.
15 So, we're, the site stepping down, and the thought is, and
16 we get in and really design it with structures, that we get
17 down --
18 MS. BICK: No.
19 MR. HANSEN: -- very low, down behind those trees
20 because we want to, you know, we want to protect you as best
21 we can.
22 MS. BICK: I, I understand; but I would like to
23 say in response to that that I was part of the public that
24 was very concerned about the MGM impact on Oxon Hill Manor,
25 and it was assured that, you know, the tree, the trees,

Page 107

1 again, you know, so there, there, sometimes during the
2 planning process there's a, a generosity towards the
3 compatibility factor. Do you know the density of Forest
4 Heights, you know, how many housing units per acre?
5 MR. HANSEN: No. I mean if I had to give you a
6 response, I would say it looks like they're quarter acre
7 lots. Isn't that about right, like four per acre?
8 MS. BICK: And, and you're proposing how many
9 units per acre?
10 MS. SCUDDER: Objection. There's no proposal for
11 any units under this particular application and --
12 MS. BICK: Well, this, this is just a zoning to
13 increase density, but what would the maximum density be that
14 could be used with this change that you're asking?
15 MS. MCNEIL: Are these questions, I mean, excuse
16 me one second, Ms. Bick.
17 MS. BICK: Yes.
18 MS. MCNEIL: It's at issue as far as the
19 transportation analysis, and maybe the land use planner
20 might say a little of what is possible in the zone. Can you
21 --
22 MS. BICK: Yes.
23 MS. MCNEIL: -- so, you might want to defer right
24 now, Ms. Bick, and have those witnesses that are coming up
25 soon.

Page 108

1 MS. BICK: Well, the reason I asked the question
2 was because when I heard, one of my concerns is the, the,
3 the fact that this, what is being proposed here may have a,
4 a very strong influence on the, on the existing Forest
5 Heights area; and it has something to do with the ratio of,
6 you know, having extremely high density next to say four
7 units per acre. And so, I, I wanted to hear from the
8 architect's perspective the, the impact that might be felt
9 on the existing neighborhood, not just the view, but the,
10 the, the change in intensity. I'm against the, the
11 increased zoning on this site and I just wanted to hear from
12 the architect's perspective; and I, you, you gave a very
13 long and detailed presentation, that you must have run into
14 heavy, heavy call, high-impact that might occur when a, a
15 quiet neighborhood is, is, is, is, is adjoined by an extremely
16 dense commercial and, and, and, and, and high residential
17 density. Do you have any information about that, you know,
18 historically how, how it affects an existing neighborhood?
19 MR. HANSEN: I think the key word there is timing.
20 You, you used the word might several times, and I agree with
21 you. Things might do this and they might do that, and we're
22 just not that -- I, I would, if I could share more
23 information with you, we'd love to share more information;
24 but we're just not there. It just hasn't been designed.
25 So, you know, we try to put ourselves in the place of

Page 109

1 neighboring properties and so on, and try to do, you know,
2 what's appropriate, what's the best. We all want to do a
3 good job in our, the work that we do. So, we're just too
4 early to evaluate that because we don't have, you know, an
5 architectural design to show you. I'm happy to do that at
6 the proper time.
7 MS. BICK: Well, I mean the, I believe that this,
8 this entire situation today is about increased, you know, a
9 zoning change to increase the density; and my question is
10 the, what is, in your long, your history of dealing with
11 these kind of situations, when you place a very high density
12 --
13 MS. SCUDDER: Objection. I believe that Mr.
14 Hansen has already responded to that question.
15 MS. MCNEIL: I will sustain. He asked and
16 answered, Ms. Bick.
17 MS. BICK: He answered that he doesn't, that, that
18 he hoped everything would be well --
19 MS. MCNEIL: He answered.
20 MS. BICK: -- in the existing community. I mean
21 that's what I'm concerned about is the, the, the, the fact
22 that this will have a major impact on the existing residence
23 of Forest Heights; and I'm, you know, it's the, the --
24 MS. MCNEIL: And you will have an opportunity to
25 testify to that effect.

Page 110

1 MS. BICK: At what time? When?
2 MS. MCNEIL: I have to see when, when, do you want
3 to be taken out of order?
4 MS. BICK: No, no, no. I think I --
5 MS. MCNEIL: Okay.
6 MS. BICK: -- I didn't --
7 MS. MCNEIL: Well --
8 MS. BICK: -- I (indiscernible) the rules. Excuse
9 me. I just, excuse me. I didn't know the rules, but my,
10 it's not -- I was, I thought we had an expert here that
11 could talk about how in the past on projects he's worked on,
12 introducing high densities next to a, an existing, quiet
13 neighborhood impacts the --
14 MS. MCNEIL: Okay, wait.
15 MS. BICK: -- neighborhood --
16 MS. MCNEIL: One second.
17 MS. BICK: -- of the existing neighborhood.
18 That's --
19 MS. MCNEIL: Okay, Ms. Bick --
20 MS. BICK: -- sort of how he has seen it in the
21 past.
22 MS. MCNEIL: -- he sort of, your cross-examination
23 is, has to be related to her direct, but I will ask, get
24 this one question because Mr. Hansen did testify to this.
25 You said something about the buildings would be stepped

Page 111

1 back, the high-rise will be stepped back from the norther
2 properties, or am I mixing up witnesses?
3 MR. HANSEN: What I said, share again, this is,
4 you know, history. You got a little piece of the history
5 about my life in Arlington as a Planning Commissioner. If
6 you look, those buildings are, you, you agreed a little bit
7 about Arlington planning. They're just 20 years ahead of
8 you because they're closer to the White House; but the tall
9 buildings are out on Wilson Boulevard and Clarendon
10 Boulevard, and it all steps down into those little World War
11 II, one and two-story buildings. It's a very similar
12 situation and everybody has learned to live together. So,
13 there's an example of the whole thing working pretty well as
14 a model. So --
15 MS. MCNEIL: And why do you do that?
16 MR. HANSEN: But you're asking us to tell you what
17 exactly --
18 MS. MCNEIL: No, no, no, wait, I'm asking you a
19 question just based on that and something you said earlier,
20 and why do you do this stepping down?
21 MR. HANSEN: I'm sorry, I didn't, I didn't hear
22 the last, what --
23 MS. MCNEIL: Why do you, why do you try to design
24 it in a manner that steps down from the lower homes nearby?
25 MR. HANSEN: Because we want to get down, way down

Page 112

1 below the tree line so that there's basically very, very
2 little impact, particularly on the, away from the Beltway
3 when we're getting up close to Forest Heights. So, we, we
4 want to be very sensitive to that. That's the expectation,
5 but I don't --
6 MS. MCNEIL: Okay. So, Ms. --
7 MR. HANSEN: -- he hasn't designed it yet.
8 MS. MCNEIL: -- Ms., so, Ms. Bick --
9 MS. BICK: Thank you.
10 MS. MCNEIL: -- he can't really testify exactly
11 what will be built, but that is sort of in line with what he
12 testified in direct.
13 MS. BICK: I appreciate that. I mean I would, I
14 wanted to just discuss the density differences and the
15 impact possibly on the, on the existing community.
16 MS. MCNEIL: Okay.
17 MS. BICK: Thank you.
18 MS. MCNEIL: And you might be able to get that
19 question in again with some other witnesses.
20 MS. BICK: Okay. Thank you very much.
21 MS. EGLOFF: One more, one more point related to
22 what he just said, Mr. Hansen; and I'm Karen Egloff.
23 MS. MCNEIL: No, no, Ms. Egloff. Remember how
24 everybody gets one chance? So, you'll have to hold that.
25 Any new people have questions?

Page 113

1 MS. EGLOFF: Well, just --
2 MS. MCNEIL: Ms. Egloff, thanks. You have further
3 questions of this witness, Ms. Scudder?
4 MS. SCUDDER: I do not. Thank you.
5 MS. MCNEIL: Okay. Is, I need to give my staff a
6 break and you all probably need a break as well. So, it's
7 1:03. Can we come back at 1:33?
8 MS. SCUDDER: Yes, 1:33.
9 MS. MCNEIL: So, we're taking a break until 1:33.
10 Is there anything else I have to say to the people who are
11 recording this? Sometimes I don't say the right things.
12 MS. SCUDDER: No, that's fine. I'm going to stop
13 recording now.
14 MS. MCNEIL: Okay. Thank you all.
15 (Recess.)
16 MS. MCNEIL: Thank you. So, Ms. Scudder, who
17 would be your next witness? No, I'm going to give people a
18 second. I don't know if they're back.
19 MS. SCUDDER: Tom Mataya.
20 MS. MCNEIL: Mataya?
21 MS. SCUDDER: Yes.
22 MS. MCNEIL: While we're waiting, do you recall --
23 one second, Mr. Mataya. Do you recall back with Ms. -- I'll
24 clarify the record a little here -- back with Ms.
25 Lightsinger, we're not putting in any additional exhibits,

Page 114

1 right? She talked about an NRI. She talked about other
2 things, but then Stan had an objection because she was not
3 qualified as an expert; and I don't believe we were putting
4 in any more exhibits with her. And you were going to redact
5 --
6 MS. SCUDDER: Related to Exhibit 78, let me look
7 and see what --
8 MS. MCNEIL: That's not Ms. Lightsinger.
9 MS. SCUDDER: That was Mr., Max --
10 MS. MCNEIL: That was Mr. Showalter, but you don't
11 have any other exhibits for Ms. Lightsinger, correct?
12 MS. SCUDDER: I don't. I don't because I think,
13 like you said, Mr. Brown objected.
14 MS. MCNEIL: Okay. You will have a redacted 78
15 and you will have a resume for Mr. Hansen?
16 MS. SCUDDER: Yes.
17 MS. MCNEIL: Okay. Where is Mr. Brown? There he
18 is. Okay. You're going to call Mr. Mataya?
19 MS. SCUDDER: Yes, I am, Mr. Mataya.
20 MS. MCNEIL: It's so funny, because people switch
21 around. I had you over here to the left, and now you're to
22 the right. Mr. Mataya, do you swear --
23 MR. MATAYA: I didn't, I didn't move, I didn't
24 move.
25 MS. MCNEIL: I know you're not doing it, but it's

Page 115

1 craziness. Do you swear or affirm under the penalties of
2 perjury that the testimony you shall give will be the truth
3 and nothing but the truth?
4 MR. MATAYA: I do.
5 MS. SCUDDER: Thank you, Mr. Mataya. And, again,
6 could you please state your full name for the record?
7 MR. MATAYA: Thomas Mataya.
8 MS. SCUDDER: And the name of your company and
9 business address?
10 MR. MATAYA: Mataya Consulting, LLC. It's 6054
11 Red Clover Lane in Clarksville, Maryland.
12 MS. SCUDDER: Okay. Madam Examiner, I am going
13 to, you know, take Mr. Mataya through some qualifying
14 questions. I would like to tender him as an expert in land
15 development. You and Mr. Brown may be familiar with Mr.
16 Mataya and his long background in developing in Prince
17 George's County. He's probably come before the Planning
18 Commission and the counsel, and on a number of occasions;
19 but I, I can still go through the qualifying questions and
20 in; but in the interest of time, if you and Mr. Brown get to
21 a point where you're comfortable with him as an expert,
22 please feel free to, you know, cut me off and; but, but for,
23 I can't go as fast as Mr. Brown in qualifying someone, so
24 I'm going to, I'm going to start now.
25 Mr. Mataya, what do you do for a living?

Page 116

1 MR. MATAYA: I'm a professional consultant in the,
2 in the, I'm, first, I'm licensed landscape architect, but I
3 do professional consulting in all aspects regarding land
4 development; help people with entitlement zoning, land
5 planning, subdivisions and environmental restoration, and
6 other; and then, also, an adjunct professor at the
7 University of Maryland and I teach landscape architecture,
8 which is related to site analysis and all matters, living
9 and non-living, meaning like topography, forest, soils, all
10 the natural systems, and all the human-made systems such as
11 zoning and subdivision rules and regulations.
12 MS. SCUDDER: And could you please describe your
13 educational background and any professional licenses that
14 you hold? I know you just mentioned your architectural
15 license, but if you could mention the others?
16 MR. MATAYA: My education, so I got a degree, a
17 B.S. degree in landscape architecture from Penn State
18 University; and I've done some coursework at the University
19 of Maryland for urban studies without a degree yet. And
20 then I have a series of other certifications that I've
21 obtained over the years from the state of Maryland and from
22 the Federal Government regarding fundamentals of law,
23 environmental law. There's a lot of training in this from
24 the state for stormwater management. You know, the
25 environmental site design, when that came out, required a

Page 117

1 number of certifications to continue practicing in our area.
2 I have a green card, meaning that's, I am a
3 professional for sediment control in Maryland and Virginia;
4 and I've done a lot of certifications for forest
5 conservation professionals.
6 MS. SCUDDER: Okay.
7 MR. MATAYA: My license, my license is as a
8 landscape architect, but we do things related to the land.
9 MS. SCUDDER: Okay. And regarding your
10 professional background, I think we're all familiar with
11 your long-time, stellar background with Toll Brothers. How
12 long were you with Toll Brothers?
13 MR. MATAYA: A little over 18 years.
14 MS. SCUDDER: And what were you involved with
15 there?
16 MR. MATAYA: At Toll, land acquisition and due
17 diligence to provide a lot of quick feasibility studies as
18 we analyzed land for potential purchases. So, it required
19 me to understand master plans, sector plans as they relate
20 to new land opportunities. Then my job, once we found
21 properties that were interested in pursuing, my job was to
22 assemble the management team. I would hire the architects,
23 the landscape architects, the engineers, the geotechs; of
24 course, zoning attorneys, land use attorneys. I would hire
25 and manage a team and then put the plans together that were

1 required for the entitlements and then make the
2 presentations to the Planning Board and Subdivision Review
3 Committee. Responsible for site improvements that became,
4 came later. At Toll Brothers, we had a lot of training on
5 how to do site improvements the correct way. We wanted to
6 make sure our sites were the cleanest, the neatest, so we
7 had a lot of sediment control, a lot of extra training in
8 OSHA and safety precautionary measures. Toll liked to think
9 that we were the, they would call it the green berets of
10 site development. They wanted us to be the best. We had a
11 lot of training in Toll to do the site work in the correct
12 way.

13 MS. SCUDDER: Focusing on real estate development,
14 can you describe some of your specific experience in this
15 area?

16 MR. MATAYA: Sure. Toll, and, and I can
17 especially related to Prince George's County because Toll
18 first hired me for my experience in Prince George's County
19 to come in and help them develop Marlboro Ridge; and then to
20 focus on land acquisition and entitlements, finding other
21 properties that are appropriate to build new communities and
22 new homes. Of course, Marlboro Ridge was the first
23 equestrian community that was built in the County using the
24 RCD code. The other one was, was using RCD was done as a
25 golf course. We did the first as an equestrian community

1 and we took, we were looking at the RR zone, Claggett Farm.
2 It allowed the, by right, 525 lots; and we, using the RCD
3 code, we could not only increase the density to over 1,000
4 units; we were allowed to introduce attached housing in a
5 variety of lot sizes. So, it made a much more -- we kept
6 half the community as open space, so it made for a much
7 nicer presentation of the overall community.

8 And then the two other properties I was involved
9 with the purchases were dependent on rezonings, were Locust
10 Hill and Willowbrook. Those also were changed from RA and
11 RE type zones to an RL and an RS to obtain more density,
12 which made the -- the density was required to support the
13 type of development we wanted to do at those properties.
14 You know, of course, before Toll, I worked as a vice
15 president in development for Waterford Development in
16 Virginia, and I did a lot of consulting on, for Dewberry as
17 in many counties in Maryland.

18 MS. SCUDDER: And how many of these projects
19 involved rezonings?

20 MR. MATAYA: In Prince George's, Willowbrook was a
21 rezoning. It was a comprehensive design zone; included the
22 residential development, as well as a park and a master plan
23 road. Locust Hill was another CDP. Marlboro Ridge,
24 technically, wasn't a rezoning; but it did have the use of
25 the 27444, the code that I will never forget the number of

1 because it's, it's essentially like a rezoning, but it was
2 a, a, it was a code -- we didn't change the zoning, but we
3 used the RCD code. That involved a number of text
4 amendments also.

5 MS. SCUDDER: And have you also been involved with
6 mixed use projects, Mr. Mataya?

7 MR. MATAYA: Sure. In Prince George's, as a
8 consultant, I did the plan for the Capital Centre on the
9 Boulevard. That includes 175 acres of mixed use, which I'm
10 sure everyone is familiar with. For Toll Brothers, I
11 developed Terrapin Road, University of Maryland, which was
12 student housing with retail at the base. Marlboro Ridge is
13 technically an RR with an RCD code, but it did allow
14 commercial development for the indoor riding ring, as well
15 as tack shop, and we had a couple restaurants planned, but
16 those have not materialized yet. And, of course, at Oak
17 Creek Club, we reconstructed the abandoned golf course and
18 built, added a new restaurant to Oak Creek called the Grove.
19 Those are the ones in Prince George's.

20 Of course, then I have a list of things that are
21 shown in my resume and as a consultant in Howard County, I
22 did a number of Clark and mixed use that were Ellicott Ridge
23 Professional Park that were a site plan for 47 office
24 condos. I did the plans for two Columbia Association
25 Village Centers. Those would be mixed use of grocery

1 stores, retail shops and a number of eating establishments;
2 and some industrial parks and commercial retail
3 developments; and then I did the, a lot of work on Maple
4 Lawn in Howard County for the Greenbaum Rose Company, and
5 that's a very large mixed use residential, as well as
6 commercial retail and office.

7 MS. MCNEIL: Ms. Scudder, if I may? Mr. Mataya,
8 in all of these cases, you've been accepted as an expert in
9 land development?

10 MR. MATAYA: Yes.

11 MS. MCNEIL: Or what area?

12 MR. MATAYA: Yes, well I --

13 MS. MCNEIL: Land development?

14 MR. MATAYA: In land development. At Toll, you
15 know, like I said, I'm a licensed landscape architect; and
16 at Toll, they would, they hired me, they called me a land
17 manager; and then as I was promoted, I was, I was a director
18 of land development.

19 MS. MCNEIL: No, but what I'm asking is, have you
20 been accepted as an expert before some administrative body
21 or court in the past?

22 MR. MATAYA: Not, nothing that I, comes to mind,
23 other than a long time ago for some variances and small, you
24 know, variances and special exceptions.

25 MS. MCNEIL: I just have never accepted anyone as

Page 122

1 an expert in land development, and you need that --
2 MR. MATAYA: What?
3 MS. MCNEIL: -- landscape architecture wouldn't
4 do; you need land development --
5 MR. MATAYA: I like landscape architect.
6 MS. MCNEIL: Me, too.
7 MR. MATAYA: But I, but I didn't, wasn't sure that
8 was the category that was acceptable. I have --
9 MS. MCNEIL: Oh, yes, I've done that one. Mr.
10 Brown, do you have any voir dire or questions?
11 MR. MATAYA: Okay.
12 MR. BROWN: Yeah, I mean being very familiar with
13 Mr. Mataya, I don't think we ought to qualify him as a real
14 estate developer. It's not really a term of art in terms of
15 practicing the law in qualifying someone, even though land
16 developers are persons who acquire property and oversee
17 construction on those properties; but I think he is a
18 landscape architect who is qualified. I don't have any
19 objection to that; and I would, that qualification should do
20 for Ms. Scudder in terms of what she plans to ask him.
21 MS. MCNEIL: Okay.
22 MS. SCUDDER: I'm okay --
23 MS. MCNEIL: So, you will be accepted as an expert
24 in the area of landscape architecture. Go ahead, Ms.
25 Scudder.

Page 123

1 MS. SCUDDER: Okay.
2 MR. MATAYA: Traci, I think that should work fine
3 for what we talked about, so let's proceed.
4 MS. SCUDDER: Okay. Well, I'm going to jump right
5 in, Mr. Mataya. Are you familiar with, well, actually,
6 Madam Examiner, did you just accept him as an expert in, did
7 you say landscape architecture?
8 MS. MCNEIL: Yes.
9 MS. SCUDDER: Okay. Mr. Mataya, you're familiar
10 with the property that's the subject of this application?
11 MR. MATAYA: Yes, I am, approximately 20 acres RR
12 and R-55.
13 MS. SCUDDER: And have you been to the property
14 physically?
15 MR. MATAYA: Yes, I have, several times.
16 MS. SCUDDER: And have you read the statement of
17 justification?
18 MR. MATAYA: Yes.
19 MS. SCUDDER: And have you reviewed the Staff
20 Report?
21 MR. MATAYA: Yes, I have.
22 MS. SCUDDER: And did you ever have an occasion to
23 analyze the subject property and make a determination as to
24 whether to develop it or not?
25 MR. MATAYA: Yes, I have. While Toll was

Page 124

1 developing Marlboro Ridge, as, as they're programmed,
2 they're always anticipating increased land values when they
3 come into a new area. Watching the ripple effect, Toll
4 monitored the surrounding land for opportunities and within
5 that, National Harbor coming around, and Westphalia sector
6 was, was, was rising in interest, Toll looked for lots and
7 all opportunities in and around the Forest Heights area, as
8 well as around National Harbor; and it became a, you know,
9 as we looked at this quickly, though, there were some,
10 already planted lots and there was the empty RR zone. We
11 looked, and the steep slopes were prohibitively expensive to
12 develop for the retaining walls and do sediment control, and
13 to do site work, so we ran our models and the costs to
14 required to develop single family detached homes didn't make
15 any sense to us; so, we decided to watch the property. We
16 know there were some planning efforts going on. We knew
17 there were major changes coming with road improvements and
18 the like as a result of National Harbor and other projects;
19 and we decided to put it on our watch list and we, we did
20 not pursue it at that time.
21 MS. SCUDDER: And did you look at this property
22 from a feasibility study perspective, again, with Toll later
23 on?
24 MR. MATAYA: Yes, we did. As I mentioned,
25 National Harbor was in the 2006, 2008 range. MGM came

Page 125

1 around 2015. It was coming to be, getting the approvals;
2 and as I said, you know, with Marlboro Ridge, we, we saw
3 this whole area. It was really this area supported the same
4 ideas we had our selling points for Marlboro Ridge, great
5 access to the major metropolitan area, lots of jobs,
6 entertainment, easy access to National Airport; all this
7 area, the land had the same positive attributes, so we did
8 look at this; and there were more roads and intersections
9 either built or planned at that time; and so, we did, we
10 drilled down deeper into this property. We, we checked the
11 water and sewer category, and I think you heard some of the
12 testimony earlier, is it the right category, but there were
13 going to be some offsite improvements; a cost, but it was
14 not, it was an added cost of development, but not an idea
15 that would tell us to stop.
16 Access, we knew there could be a way to achieve
17 the proper access; again, maybe a little more costly, but we
18 knew we could accomplish it. Then we go back to the slopes,
19 and with the existing lots in the RR and R-55 zone, the
20 slopes were still prohibitively expensive to overcome. The
21 individual buildings would have expensive retaining walls
22 used as, you know, basements. There would be a tuck-under
23 type product that would be expensive to build and not very
24 attractive to the current market.
25 We looked at building community retaining walls,

Page 126

1 large walls; we could flatten out larger blocks of lots
2 possibly; but even, even looking at that, it all came back
3 to this zoning just didn't work for us; and so, we, we,
4 again, put it on the watch list and the slopes, there a
5 number of lots, the density, it just didn't work for us, so
6 we, we, we put it on the watch list and walked away.
7 MS. SCUDDER: Did you tell other developers about
8 this opportunity after you decided not to pursue it, and did
9 they have the same reactions?
10 MR. MATAYA: Yes, we did. You know, it's really
11 common practice in our, in our industry. Toll worked with a
12 number of other builders and we have projects where they
13 would bring us in and sell us lots; and we'd bring them in
14 and sell them lots; and just, you know, to share leads was a
15 common practice. So, we told some other builders we knew
16 that might have a smaller niche kind of a product, that they
17 could, they could build on these types of lots; and they
18 looked at it and they, they came back to us and told us
19 similar reaction was that the lots would be extraordinarily
20 expensive to develop because your sediment control systems
21 would be redundant and expensive to develop these types of,
22 this type of ground with the slopes; and retaining walls
23 would be expensive; and the density limit, limited to 48
24 lots, single-family detached, and whatever could be
25 developed by the RR just didn't make sense. So, so, our

Page 127

1 knowledge, no one else showed any interest in purchasing
2 that.
3 MS. SCUDDER: Why is the existing zoning
4 inappropriate from a development perspective?
5 MR. MATAYA: Well, as you heard, the RR and R-55
6 zone, those lots are set. The dimensions are set. The
7 setbacks are set. There's, it's very rigid and it lacks
8 flexibility; and it doesn't include any commercial uses, so
9 you'd be limited to the residential-type development; and
10 you would be limited in the density you could build. So,
11 these challenges that we are listing, that we know to be
12 slightly more expensive, or, or more, you need enough
13 density to support a development. So, these zonings did not
14 provide enough density critical, for critical mass; and the
15 two ridges in their, in their conditions and what they --
16 it's a very specific, these are very specific zones of the,
17 the size of the lots, the dimensions of the lots. They're
18 how the house will sit on the lot, so they didn't allow the
19 flexibility to change anything.
20 MS. SCUDDER: What should the zoning for this
21 property be from a development perspective given its
22 location and what should be built on it?
23 MR. MATAYA: Well, as you know, the County has
24 used many different zoning tools to try to build in some
25 flexibility for an effective mixed use, or mixed use

Page 128

1 residential, or mixed use with commercial. The current zone
2 that's most flexible is the MXT zone. It provides the, it
3 gives you the opportunity for sufficient density and
4 flexibility and design to justify and support the
5 development that you want to place on the property. And it
6 also allows you to introduce commercial opportunities with
7 one of the goals enforced, you know, it takes me back, one
8 of the goals in Forest Heights' sustainability plan is, is
9 to introduce more commercial opportunities; but the MXT zone
10 is the one that looked most interesting because it provided
11 that flexibility; you could introduce the latest residential
12 products without having to worry about the lot size, or the
13 setbacks.
14 You could do a higher density. If you can't
15 develop horizontally, you can develop vertically. You know,
16 it allows, you know, it allows some creativity rather than
17 dealing with the odd lots that are on the plat today. Even
18 parking, there's some, there's some, some out-of-date
19 regulations that are applied to the old zones that the MXT
20 allows you to, you know, to negotiate something new.
21 Minimum parking versus maximum parking, it allows for modern
22 amenities, and sometimes you can provide some modern
23 amenities, and you can even integrate those into some of the
24 stormwater management facilities by harvesting rainwater;
25 and so, MXT allows creativity and flexibility that is most

Page 129

1 appropriate and it's available today, and looked on with
2 this type of positive review from the Staff's perspective.
3 MS. SCUDDER: Is MXT zoning on a site inherently
4 more impactful to the environment than single-family
5 development?
6 MR. MATAYA: Well, you think about the, in a
7 higher density zone, like an MXT zone, compared to
8 traditional RR and R-55, actually, the high-density zone
9 have been found to respond to the land better than a
10 suburban, typical suburban sprawl zoning. The flexible
11 regulations allows a plan to respond to the land, to the
12 specific site, to the topography, to the drainage, the
13 vegetation. It can respect the constraints and still
14 provide a development that's needed to support a project.
15 The MXT is a development, it's not tied to one lot size or
16 lot use. It allows a variety of commercial uses and the
17 density is not related to how much land, but how much
18 developable land. So, then, then I think about the R-55 and
19 RR development in regard to other aspects, but do you have
20 other questions about that?
21 MS. SCUDDER: Well, in thinking about the current
22 zoning, which is geared toward single-family, detached
23 development, can you talk about some of the key differences
24 and approaches to how you develop a single-family detached
25 development versus mixed use development, and how developing

Page 130

1 an MXT zoned property will be beneficial?
2 MR. MATAYA: One of the big things we're finding
3 in, you know, and, again, I've done a lot of suburban sprawl
4 development working with Toll Brothers because that was,
5 that's the niche of the market; but zonings RR and R-55,
6 single-family, detached lots employs your new techniques,
7 ESD, environmental site design stormwater solutions, but
8 those are in the form of on-lot, bioretention facilities;
9 rain gardens; drywells; and then, you know, your roadside
10 swells. I know at Toll Brothers, we're often introducing
11 five and six, sometimes more, sometimes as many as seven or
12 eight different devices per lot to manage the stormwater.
13 These require routine maintenance and when this is not
14 performed by either the homeowners, or the HOA, or even the
15 County in some cases, the entire system can fail and provide
16 no stormwater management.
17 The, the, the difficult part is, is the biggest
18 drawback is there's, there's no, there's no effective way to
19 really monitor the performance of this ESD type facilities
20 that are spread throughout lots and throughout communities.
21 There's visual inspections, but there is not a good way of
22 knowing -- it's all happening underground and is it truly
23 infiltrating and treating correctly, or not? You compare
24 that to high density and mixed use developments, all these
25 stormwater facilities are going to be commonly owned;

Page 131

1 they're going to be using the latest technology, updated
2 routinely, every year there's a new tweak, a new, and
3 something new they can do to stormwater facilities that make
4 them perform better. The biggest thing is the facilities
5 will be professionally managed; they'll be maintained
6 centrally, allowing the appropriate performance and
7 appropriate monitoring. They'll introduce a lot of
8 techniques that minimize impervious cover, promoting
9 infiltration, and then ponding and harvesting of rainwater.
10 So, there's approaches that can be integrated into
11 recreation and it really improves the stormwater management
12 for quantity, quality, pollutant removal and can be managed
13 at a higher density; and a higher density in an easier way
14 than spread out throughout a community.
15 MS. SCUDDER: Are you aware that Forest Heights is
16 one of Maryland's designated, sustainable communities; and
17 how could National View further sustainability principles?
18 MR. MATAYA: Yes, this is a good question. This
19 is, I've, I've, I'm familiar with that; I've reviewed their
20 plan. Let's start just briefly by understanding the
21 definition of sustainability because there's a very common
22 misperception that I come across in my class when I, because
23 I teach sustainability, as well as other aspects of
24 landscape architecture; and one common misperception is
25 sustainability means protecting, protecting the environment

Page 132

1 and stop development. Well, that's not, that's not the
2 general, accepted definition. The U.N. has debated
3 sustainability and there's a lot of expertise and a lot of
4 new cutting edge ideas about sustainability and what it
5 really means.
6 The current accepted definition is that
7 sustainability means the ability of current generations to
8 meet their needs while not compromising the ability of
9 future generations to meet their own needs. So, we have to
10 live within our environmental limits; but it's only of the
11 three pillars of sustainability. The three pillars are
12 environmental, economic and equality. So, the economic
13 sustainability is about ensuring we have strong, healthy and
14 just society. It means creating jobs and places to live.
15 So, these communities that are there like Forest Heights can
16 thrive today and thrive into tomorrow. Meeting the diverse
17 needs of all people in the existing and future communities
18 means creating some equal opportunity. So, collectively,
19 these three pillars are about sustainability and making sure
20 communities can continue into the future with equal access;
21 and so, considering single-family, detached homes and
22 through the higher density mixed use, higher density, is
23 ideal for striking a balance between efficiency and the
24 quality of life; creates economic, economies of scale. So,
25 there's increases of efficiency, which means a municipal

Page 133

1 services that needed to support a community, water, sewer,
2 buses, it's easier to provide to a higher density area than
3 spread out in a suburban-type development.
4 I know that Forest Heights, their, their
5 sustainable plan, and I haven't looked at it recently, but
6 I, I've gone through it a number of times and they have
7 recommendations to annex a portion of this property, that is
8 the property included in this rezoning application.
9 Annexation was recommended; also, to provide more
10 opportunities for commercial development; to improve their
11 storm drainage and stormwater management; and to improve
12 their trails, and walkways, and lighting, and improve their
13 connections to trails. As I see it, those, those goals of
14 their sustainable, their sustainability plan for Forest
15 Heights can only be achieved with a higher density mixed use
16 development tier.
17 MS. SCUDDER: Thank You, Mr. Mataya. I have no
18 further questions.
19 MS. MCNEIL: Before we ask a question right there,
20 we have Exhibit 53 in the record, which appears to be Forest
21 Heights, State sustainability application for designation
22 renewal. So, to your knowledge, Mr. Mataya, they were
23 granted?
24 MR. MATAYA: I --
25 MS. MCNEIL: Sustainable community?

Page 134

1 MR. MATAYA: I see -- I know they're on the list.
2 I don't, I don't know that they were, this, this renewal was
3 approved, but I know they were on previous lists.
4 MS. MCNEIL: Ms., Ms. Scudder, did you put this in
5 the record, Exhibit 53?
6 MS. SCUDDER: And I can tell you that I did check
7 the state of Maryland's website and Forest Heights is, in
8 fact, listed as a sustainable community. So, they, their
9 plan did get approved.
10 MS. MCNEIL: is there any way to put that in the
11 record, I mean since all I have is the application?
12 MS. SCUDDER: Yes, ma'am. I can do that. I'm
13 making, I'm adding it to my list.
14 MS. MCNEIL: Okay.
15 MR. MATAYA: We could do that, Traci. They,
16 they've been approved and renewed a number of years.
17 MS. SCUDDER: Yes.
18 MR. MATAYA: Yeah.
19 MS. MCNEIL: And I actually have another question
20 for Mr. Mataya; but, Mr. Brown?
21 MR. BROWN: I have no questions.
22 MS. GINGOLD: I have a question.
23 MS. MCNEIL: Ms. Gingold?
24 MS. GINGOLD: Hi. I'm interested in having you
25 use your landscape developing expertise and Zoom out a

Page 135

1 little bit and think about the effect on vegetation and
2 photosynthesis, and what happens when over a long period of
3 time we cut down more trees than are able to regrow; and
4 this, I'm not talking about choosing trees over people; but
5 I'm talking about choosing to save trees where we have big,
6 mature, big, mature trees because they're becoming
7 increasingly rare. And I would hope that you could say a
8 few things about transit-oriented development and why we
9 should, why County plan directs development into transit-
10 oriented places to spare the green spaces that are in
11 between those places.
12 MR. MATAYA: Well, that's a lot, that's several
13 questions. The, of course, the state and in the County,
14 they look at the, the big picture; and develop, areas like
15 this, you know, these are, this is located in a metropolitan
16 area where, you know, directing development here to spare
17 development in the rural tier and other areas is part of the
18 answer to your question. The County also has the guidelines
19 to own, to recommend the, this type of higher density, mixed
20 use zoning in areas that are within a certain -- I forget
21 the, the dimension, but a certain area, a certain distance
22 from major intersections and major road connections; so,
23 they do think of the transportation supporting areas like,
24 like this would be under a MXT zone.
25 Again, if you're looking, you have to Zoom out,

Page 136

1 you do have to Zoom out and look at he bigger picture; and,
2 you know, some areas in the, in Prince George's County,
3 Montgomery County, and in the metropolitan area are going to
4 be developed areas; and as you Zoom out further, that's
5 where the large areas are going to be saved, so you don't
6 put your density out; and then have to support it within
7 infrastructure that's not there; and then stretch out your
8 infrastructure.
9 The infrastructure here is, is here for the most
10 part for the water, the sewer, the roads, the schools, the,
11 everything you look at that you need to support density is
12 here in, in an abundant fashion.
13 MS. MCNEIL: There's a pause. Ms. Scudder, can
14 you make sure we also get a copy of Mr. Mataya's resume
15 since he was accepted as an expert?
16 I'm sorry, Ms. Gingold, do you have more
17 questions?
18 MS. GINGOLD: I think that's it. Thank you.
19 MS. SCUDDER: Madam Examiner, Mr. --
20 MS. MCNEIL: Before, one other thing before we
21 move forward, and that is someone is on as caller one.
22 Could you identify yourself for the record?
23 (No affirmative response.)
24 MS. MCNEIL: Okay.
25 MS. SCUDDER: Madam Examiner, Thomas Mataya's

Page 137

1 email, I mean, sorry, resume, is Exhibit 47.
2 MS. MCNEIL: Thank you. One second, Ms. Egloff.
3 Do you have questions? Caller one, are you going to
4 identify yourself for the record?
5 MR. ESCAVIDO: I think that might be my phone
6 showing up as caller one. My name is David Escavido from
7 Forest Heights.
8 MS. MCNEIL: Okay. Go ahead. Anyone else have
9 questions?
10 MS. EGLOFF: Yes.
11 MS. GOODARD: I have a question as well, Pam
12 Goodard, but whoever is ahead of me, go right ahead.
13 MS. MCNEIL: Ms. Egloff?
14 MS. EGLOFF: Pam can go first.
15 MS. GOODARD: Thank you. Mr. Mataya, you talked
16 about how high density allows economies of scale and using
17 more efficient methods to deal with stormwater and other
18 issues. Wouldn't the more dense a building or complex is,
19 wouldn't that increase stormwater overall rather than not
20 having a project at all?
21 MR. MATAYA: Well, of course, developing versus
22 not developing is quite a, quite a difference; but as was
23 stated earlier by the engineer, you know, higher density is
24 going to create more runoff than a single-family, detached
25 subdivision which has a lot of green space; but the end, the

Page 138

1 end result is going to be the same, meaning the amount of
2 runoff has to be managed and it's my strong opinion, since
3 I've designed and been involved with developing both
4 methods, you know, the, the ESD for higher density when it's
5 professionally managed in commonly owned areas, it's going
6 to be managed and it's going to be, it's going to be
7 monitored; it's going to be watched; it's going to be
8 measured; and you can actually gauge the success of high
9 density applications; whereas a single-family detached, and
10 so I've, I've developed a suburban development in Prince
11 George's County, and I've gone through there years after
12 development, and half of the facilities were removed by the
13 homeowners. So, they have no stormwater management. So, I
14 do think the higher density professionally, commonly owned
15 facilities are a much better approach.

16 MS. GOODARD: Thank you.

17 MS. MCNEIL: Ms. Egloff.

18 MS. EGLOFF: So, he was qualified as a landscape
19 architect, so, you know, I have expressed concern about the
20 impact of the ephemeral stream that is on the, apparently on
21 the adjacent property abuts, and can be impacted. It's the
22 mouth of the stream that dumps into Oxon Creek. How do you
23 deal with something like that when there's also steep slopes
24 adjacent to the creek's mouth? It also mentioned in the
25 Staff Report there were, were highly erodible soils. So,

Page 139

1 since you're a landscape architect, maybe you can address
2 that? How are you going to protect the creek when you have
3 high elevations, when every tree is taken off, how do you
4 protect it?

5 MR. MATAYA: Some of these, some of the answers
6 were, you know, to be determined as we go forward because
7 this is, we're not, we don't have site plans per se that
8 have been developed in order to respond more completely;
9 however, I've looked at the site a lot and the good thing
10 about this and makes this site easier to, to deal with from
11 that perspective is it's at the top of the watersheds;
12 meaning it's, it's a very top, it's where the streams start,
13 and the term is ephemeral, as you were saying. The
14 ephemeral streams are, they're the most vague streams
15 category of all to define. Where does, where does a stream
16 really begin? And I've seen those move 50 and 100 feet
17 sometimes because there's a lot of different variables on
18 the slope, the soil types, the slope, the vegetation
19 involved. So, the, where does an ephemeral stream start,
20 because it's, it, it starts and it begins before the
21 intermittent streams, which are there part-time; and then
22 you have your full-time streams. So, ephemeral has, and it
23 hasn't always been regulated. I think it's been regulated
24 about 15 years or so because it is a vague category.

25 So, you have to first look at where is the

Page 140

1 ephemeral stream? Where does it really start? And then you
2 have to plan for it in such a way that you don't disturb
3 steep slopes, especially if they have erodible soils; so,
4 you can do that as, through, through the Site Plan; but, you
5 know, it's, it's great that it's at the top of the
6 watershed. You don't have to worry about dealing with
7 pasture water. I can be very challenging.

8 MS. EGLOFF: I see. Okay. So, when you, when
9 you're in the development process, before all those
10 safeguards are in place and you strip the land of every
11 tree, how do you protect the stream during the building
12 process so that it doesn't dump all these pollutants while
13 developing?

14 MR. MATAYA: Well, first of all, you'd have to do
15 it in the right order. You can't strip the site without
16 those safeguards being in place. As you do site
17 development, the first thing you do, it's interesting
18 because sometimes I drove my boss and my owners crazy to
19 tell them we have a permit to start the site work, and it
20 would be 45 days later before we truly started because the
21 first thing we do is walk the site with the inspectors; we
22 tell them where we're going to put sediment control devices
23 such as super silt fence or berms; sediment, temporary
24 sediment basins; permanent sediment basins. We stake that
25 out. We take a look and we walk that before we do any of

Page 141

1 that. Then we actually do root pruning and, and tell them
2 where the edge of the forest will be so that the trees be on
3 the development area, they will truly survive; that, that
4 forest edge needs to survive. You need to protect it.

5 So, all those safeguards are then installed,
6 including the safeguard super silt fence and the like, berms
7 to collect the sediment, lane, laid water, and put it into
8 these stilling basins. Those are installed, and again, and
9 walked with the inspector; and then he said, okay, you're
10 safe to go; you can now, you know, now I'll issue a permit
11 to start clearing the site.

12 So, all those measures are well in place before;
13 and the last thing you want to do is have a violation that
14 shuts your site down. So, as I said, you know, we were, we,
15 you do a lot of extra work to make sure you don't ever
16 contribute to, to sediment leaving the site. That's an,
17 that's an absolute no-no.

18 MS. EGLOFF: So, in regards to this and build-out
19 and whatnot, there's very limited land mass here. So, do
20 you think they would go right up to the edge of a cliff
21 above the stream, or do they have to back up from it?

22 MR. MATAYA: There are buffers that are required,
23 and then there are buffers designed for your sediment
24 devices, depending on the situation. I haven't, we haven't
25 gotten that far along to really answer. That's a site plan

Page 142

1 question I could answer, and it's a sediment control plan.
2 There's a series of plan sets that need to be developed that
3 we'll address those questions. Those are good, good
4 questions, but I don't have enough to answer those --
5 MS. EGLOFF: Right.
6 MR. MATAYA: -- yet, but it's just a little bit
7 into the future.
8 MS. EGLOFF: Okay. Have you ever developed
9 properties that have a national register site on site? This
10 is an onsite national registered property. Have you ever
11 had any experience with that?
12 MR. MATAYA: Yes, we have, a number of them. I
13 can think of the, in Virginia, we did the Dean House; and in
14 Marlboro Ridge, they weren't on the national register, but
15 they, there was historic structures. There are rules and
16 regulations to go by. I'm sure there are. I could, I could
17 come up with another, another list. It's not uncommon to
18 run into structures or sites that are on either the national
19 register or locally protected by Prince George's County.
20 I'd have to go back and review my list to provide more.
21 MS. EGLOFF: Well, the man before you, I can't
22 think of his name, he was showing a view shed issue; and
23 when I, I was looking at the United States Department of the
24 Interior letter, and their view shed picture, which is in
25 the record, is definitely different than what was shown by

Page 143

1 the previous fellow. Since you're the expert and you're the
2 landscape architect, could I direct you to look at the
3 United States Department of Interior letter, Exhibit 131, it
4 looks like?
5 MS. SCUDDER: Madam Examiner, I think I would
6 object to this line of questioning. Ms. Egloff had her
7 opportunity to --
8 MS. EGLOFF: Yeah, I just, and I was cut off
9 (indiscernible).
10 MS. SCUDDER: These are --
11 MS. MCNEIL: You did cut her off. I'm going to
12 overrule and allow it to go a little further. Can somebody
13 put up Exhibit 131?
14 MS. EGLOFF: I wanted to specifically look at the,
15 the view shed pictures because U.S. Department of Interior
16 is completely objecting to this development. They also cite
17 lack of notification. So, I think their letter is very
18 important here.
19 MS. BAH: I don't see 131 in the --
20 MS. MCNEIL: Yeah, do we go that high? I don't
21 think it's 131. I --
22 MS. BAH: Yeah, I don't think it's 131.
23 MS. EGLOFF: Well, there was letters.
24 MS. SCUDDER: I think (indiscernible).
25 MS. EGLOFF: There's two -- one, they're both

Page 144

1 dated September 15, 2020, and I found them in different
2 places in, in this paperwork; but I see a pencil mark, it's
3 very faintly written on there; oh, maybe it's page 131, I'm
4 sorry; page 131. My mistake. But it has like, for example,
5 Mr. Mataya, it says impacts to historic resources. It has
6 been documented by County Historic Preservation Office as
7 one of the most important existing black history sites in
8 Prince George's County. The proposed rezoning and
9 development plans for National View will remove from the
10 landscape this important historic resource. So, that's, you
11 know, the background of it is that it is planned for it to
12 be completely removed, and yet it's called, you know, it's
13 rare. It's the only surviving antebellum free black
14 homestead in Prince George's County, and it was recognized
15 by --
16 MS. SCUDDER: Ms. Egloff, what is your question?
17 MS. EGLOFF: Well, I'm pointing out that --
18 MS. SCUDDER: What is your question?
19 MS. EGLOFF: -- that, I'm asking Mr. Mataya, maybe
20 he's dealt with a few historic resources that when something
21 is National Register, it's on the National Register, it's
22 considered the only remaining, and most important black
23 history site in the County, Prince George's County. I think
24 that raises it to another level myself; and the picture they
25 depict here, if we can find it --

Page 145

1 MS. SCUDDER: Ms. Egloff --
2 MS. EGLOFF: -- is showing how the buildings will
3 protrude above the tree line and will impact the view shed
4 of the core of the park and of the Butler property, of
5 course, because they're going to just get rid of it. So,
6 I'm just saying how would you deal with that, you know, with
7 that objection from the United States Department of the
8 Interior?
9 MR. BROWN: I'd, I'd have to look at the material
10 you're referring to. I have, and I do have experience
11 working with the properties that are adjacent to historic
12 structures, of National Registers, as well as others. I've,
13 I as a staff member years ago, I helped the Planning
14 Commission determine sites and determine some historic
15 sites, as well as their environmental settings within Prince
16 George's County; and I spent six years in Ellicott City on
17 the Historic District Commission. So, we ran into all
18 different types of situations, but I'm at a disadvantage
19 without having the opportunity to review the material to
20 respond to that correctly.
21 MS. EGLOFF: It was in, it's in the background
22 documents; back-up 86 of 89 is what it says, the back-up
23 document.
24 MS. MCNEIL: But it's attached to a Technical
25 Staff Report back-up.

Page 146

1 MS. EGLOFF: Yes.
2 MR. MATAYA: Okay.
3 MS. EGLOFF: Uh-huh. But, you know, it, it
4 definitely shows a different view shed impact than what was
5 shown by the previous speaker.
6 MR. MATAYA: Yeah, well, I can't defend the
7 different views --
8 MS. EGLOFF: No, no, I'm not --
9 MR. MATAYA: -- because I'm not the architect.
10 MS. EGLOFF: I'm not asking, I'm not asking you
11 to. What I'm asking you is as an, as an expert landscape
12 architect, how would, how do you deal with that when you
13 have such a small property, 20 acres? You have this
14 important historic resource, resource on the property, and
15 the developer intends to strike it off the map; so, and not
16 even have an environmental study. So --
17 MR. MATAYA: We would, we would work, I would
18 suggest that we would work with the Historic Preservation
19 Commission of Prince George's County; we'd take them this
20 material --
21 MS. EGLOFF: Yeah.
22 MR. MATAYA: -- or at times we've taken the
23 material and they say document it very thoroughly, and go
24 ahead and remove it.
25 MS. EGLOFF: Uh-huh.

Page 147

1 MR. MATAYA: And some, and then also there are
2 times when they say move it, save the material, the material
3 of the structure, move it to another site so you can then
4 reconstruct it if it's, if it's possible. There are
5 different approaches and in this case here, I thought that,
6 I'd have to look again, but I think that the structure
7 itself is not of a, of a quality that it could be salvaged
8 and moved, or salvaged in place, but I'd have to look at
9 that again.
10 MS. EGLOFF: Well, it's the significance of the
11 property in the Prince George's County history that is not
12 necessarily a structure, but a place, and the significance;
13 but the big thing that I have a problem with is the
14 difference in the pictures depicted by the previous expert.
15 MR. MATAYA: And I can't speak to that.
16 MS. EGLOFF: This is a --
17 MS. SCUDDER: Ms. Egloff is being repetitive and I
18 think Mr. Mataya has already explained to her that he has
19 not had an opportunity to review exactly what she is
20 speaking of right now. These are questions that she should
21 have posed, I believe, to Mr. Hansen when he was here.
22 MR. MATAYA: Right. Yes.
23 MS. SCUDDER: I mean Mr. Mataya has expressed that
24 he cannot answer this question.
25 MR. MATAYA: These are Mr. Hansen's view sheds,

Page 148

1 not mine.
2 MS. EGLOFF: Uh-huh. Okay.
3 MS. MCNEIL: I think she's asking that if we could
4 pull up the back-up to the Staff Report to look at one
5 picture?
6 MS. EGLOFF: Yes. Exactly.
7 MS. MCNEIL: You're asking him as a landscape
8 architect --
9 MR. MATAYA: Sure.
10 MS. MCNEIL: -- what would he do, but I, we're
11 having a little difficulty pulling up the Staff Report.
12 MS. EGLOFF: Well, I can take a picture on my
13 phone, but I don't know how I'd get it over to you. Or
14 maybe I could put it on video? Let's see if that would
15 work. It's looking at me, not them. Let me see if I can
16 get it. No, it's not working very well. Oh, there it is.
17 There it is. Okay. I just wanted to adjust it. I tried to
18 look at it when they're -- why is it so hard to find if it's
19 in there? This is not ideal but, basically, you know, it,
20 it does extend way above the -- it extends way above the,
21 the view shed of (indiscernible) that is National Register
22 and, of course, since the Butler Farm would be obliterated,
23 I guess it doesn't really matter; but, specifically, the
24 National Register park, which is very important, that one
25 has been around since, you know, Civil War days. They used

Page 149

1 to watch the Battles of Bladensburg from, not, well, these
2 farmhouse, which is directly next door. So, it's also part
3 of the Underground Railroad and (indiscernible). It's page
4 86 of 89.
5 MS. SCUDDER: I think it's 42B, 42B, is that the
6 exhibit that Ms. Egloff is referring to, Exhibit 42B, which
7 was the view shed?
8 MS. EGLOFF: No.
9 MS. SCUDDER: No?
10 MS. MCNEIL: I'm not sure, but she wants that
11 back-up page -- what number did you just say, 36?
12 MS. EGLOFF: It's page, no, it's page 88, I'm
13 sorry. Page 88 of 89, and it is the United States
14 Department of Interior. It's a comment, it commented,
15 response points to zoning application from United States
16 Department of Interior. You just passed it --
17 MS. MCNEIL: Second to last --
18 MS. EGLOFF: -- you just passed it.
19 MS. MCNEIL: Let me make this big enough for me to
20 see it.
21 MS. EGLOFF: There, you're, you're right there.
22 Back-up. It looks like --
23 MS. MCNEIL: You say it's a picture attached to
24 that?
25 MS. EGLOFF: There it is, right there; that one

Page 150

1 with the green. Take a look at that view shed there. The
2 lower picture. That one. So, as a landscape architect, and
3 you're presented with this, that a National Register
4 property is going to have that as a view shed, what would
5 you do to help that?
6 MS. SCUDDER: Objection, Madam Examiner. I mean
7 we don't even know what we're looking at here. This is not
8 one of the Applicant's exhibits. This is an exhibit from, I
9 believe Ms. Christine Smith. I, I, I, I can't even make out
10 what it is.
11 MS. EGLOFF: Okay. So, here's my issue with what
12 is going on with this hearing. Anything you all put in is
13 okay, and then when we bring something up, it's not. You
14 know what, there is a conceptual drawing of your development
15 which towers over the single-family residences. It towers
16 over the park. It towers over everything and it's
17 commanding the entire landscape; and for sure, money-wise,
18 you're going to want it to tower because you're going to
19 want the water view for your apartment dwellers. So, let's
20 be real and realistic in realizing that you're going to
21 build a tall, very tall building on an already very tall
22 hill, and it's going to tower over and be adjacent to
23 historic National Register property. So, it's very relevant
24 to a zoning change because you heard Mr. Mataya say that the
25 only way they can build this property is to make it highly

Page 151

1 dense. The only way you're going to make it highly dense is
2 to do vertical development.
3 So, this is extremely relevant to changing the
4 zoning of a property.
5 MR. MATAYA: Where, where is this, where is this
6 perspective, this sketch, sketch, view --
7 MS. EGLOFF: Well, the --
8 MR. MATAYA: -- whatever, what, that
9 (indiscernible). It's a graphic, not a photograph, correct?
10 MS. EGLOFF: It's existing buildings, I'm reading
11 off the paper, existing buildings, including the National
12 Park Service buildings, which are shown in orange. Those
13 are the National Park Service buildings. The proposed
14 development structures were digitized --
15 MS. SCUDDER: Mr. Brown, I'm just going to have to
16 object to this.
17 MS. MCNEIL: Okay.
18 MS. SCUDDER: I mean this--
19 MS. EGLOFF: Forest Heights, based on a September
20 --
21 MS. MCNEIL: No, Ms. Egloff --
22 MS. EGLOFF: Hey, it's based on proposed DBI
23 architect's report.
24 MS. MCNEIL: One second, please. Thank you. This
25 is part of the record, the back-up attached to the Staff

Page 152

1 Report?
2 MS. EGLOFF: Yes.
3 MS. MCNEIL: If there's a question for the
4 witness, they can answer it; but you, this is just argument.
5 This is good argument for you to discuss in saying that
6 those orange -- this is the view shed from those historic
7 sites.
8 MS. EGLOFF: Okay.
9 MS. MCNEIL: Now if you can explain -- wait a
10 minute.
11 MS. EGLOFF: All right.
12 MS. MCNEIL: So, we --
13 MS. EGLOFF: DBI Architect, Incorporated. They
14 digitized, including structure heights based on a September
15 29th report by DBI Architects, that is the architects for
16 the developer, and the National Park Service has just shown
17 how their buildings are going to be affected by those
18 heights, okay?
19 MR. BROWN: All right. Ms. Egloff --
20 MS. MCNEIL: We don't -- who is that?
21 MR. BROWN: We have determined that, everybody
22 understands that the buildings that they're going to
23 building, they're going to be higher than the current grades
24 out there on the adjacent property. Mr. Mataya has
25 indicated he's not familiar with the view shed that you

Page 153

1 referenced concerning the architect, Mr. Hansen; and the
2 exhibit you just looked at. You need to ask another
3 question. We have beaten --
4 MS. EGLOFF: Okay. All right. Well, I mean I was
5 asking about his expertise as far as being a landscape
6 architect as to how in the world are you going to minimize
7 that impact on a National Register property?
8 MR. BROWN: That has been asked --
9 MS. EGLOFF: So, the ideas of how he would do
10 that.
11 MR. BROWN: You need to ask another question.
12 MS. EGLOFF: Okay. Well, let me see if I have
13 anything else. What about the urban tree canopy impact? I
14 mean what's being suggested in these rezoning things is that
15 if you happen to be near an arterial road or a highway, or
16 whatever, and you don't like your zoning, you can just come
17 in and say, hey, you know, we can't do this; we need to
18 change our zoning because it's not economically feasible and
19 we're right near this roadway and this intersection, and we
20 can just take down all these trees and we can do all this in
21 a --
22 MS. SCUDDER: Ms. Egloff, if I can interrupt you
23 for a second, objection.
24 MS. EGLOFF: -- a more developed area, but --
25 MS. SCUDDER: Do you have a question, Ms. Egloff?

Page 154

1 MS. EGLOFF: -- yet, people that are in developed
2 areas also need clean air, clean water. There's noise
3 pollution.
4 MS. MCNEIL: Sustained.
5 MS. EGLOFF: There's light pollution. And I speak
6 from experience --
7 MS. SCUDDER: Objection.
8 MS. EGLOFF: -- because I back up to National
9 Harbor.
10 MS. MCNEIL: If you have a question, Ms. Egloff --
11 MS. EGLOFF: And I can tell you for sure --
12 MS. MCNEIL: Okay.
13 MS. EGLOFF: -- that our quality of life was
14 diminished greatly while building it, while it's built --
15 MS. MCNEIL: Ms. -- thank you.
16 MS. EGLOFF: -- hanging over our properties. It
17 is horrible.
18 MS. MCNEIL: Do you have a question of the
19 witness?
20 MS. EGLOFF: It is horrific and it should --
21 MS. MCNEIL: Okay, Ms. Rawling.
22 MS. EGLOFF: Property, you know, like, okay, I'm
23 preaching and I'm sorry. Mr. Mataya, you have a community
24 and they're low density; less, you know, more acreage,
25 whatever; and then you back it up, a city, you're going to

Page 155

1 back it up to a city and (indiscernible)? Yeah, that's my
2 question. You know, I mean how, why is it (indiscernible) -
3 -
4 MR. MATAYA: I didn't hear the question. I'm
5 sorry, she blanked out. I didn't hear, I didn't hear what
6 her complete statement or question was. I couldn't, I
7 couldn't hear it.
8 MS. EGLOFF: The question is --
9 MS. MCNEIL: I couldn't hear it. Ms. Scudder, you
10 might have to turn off until you're ready to object if you
11 have to.
12 MS. EGLOFF: How do you --
13 MR. BROWN: Ms. Egloff, I think you need to closer
14 to the microphone. No one can hear you.
15 MS. EGLOFF: How do you expect the residents, you
16 talked about having lesser density closer to the houses, but
17 you only have 20 acres. How does this deal with it? This
18 is, this is a very strange property and it has, it's very
19 narrow in a certain place. I'm just suggesting that the
20 structural buildout of this proposed development --
21 MR. BROWN: Madam Examiner --
22 MS. EGLOFF: -- is illogical and I would like --
23 MR. BROWN: -- I would suggest --
24 MS. EGLOFF: -- to hear how Mr. Mataya views my
25 comment on that.

Page 156

1 MR. MATAYA: I couldn't hear. I didn't, didn't
2 get it.
3 MS. EGLOFF: With all the extra costs involved,
4 the stormwater management --
5 MS. MCNEIL: Okay. Thank you, Ms. Egloff.
6 MS. EGLOFF: -- the historic properties --
7 MS. MCNEIL: Mr. Brown --
8 MS. EGLOFF: -- and you've got this --
9 MS. MCNEIL: Did you have something you were going
10 to say?
11 MR. BROWN: Yes. I would suggest if there's
12 another person who has questions, we go to the next person
13 until Ms. Egloff can resolve her audio issues.
14 MS. MCNEIL: Does anyone else have questions of
15 this witness?
16 (No affirmative response.)
17 MS. MCNEIL: Okay. One more time, Ms. Egloff.
18 Try with your last question.
19 MS. EGLOFF: (No audible response.)
20 MS. SCUDDER: Hearing as there, though there is
21 none, I would like to call my next witness if I may?
22 MS. MCNEIL: Mr. Mataya, you'll still be around
23 just in case we need you?
24 MR. MATAYA: I will stay around, yes.
25 MS. MCNEIL: All right. Who is your next witness?

Page 157

1 MR. MATAYA: Thank you.
2 MS. MCNEIL: Thank you. We can't hear you, Ms.
3 Scudder.
4 MS. SCUDDER: Sorry about that. I would like to
5 call Mike Lenhart. Mr. Lenhart?
6 MS. MCNEIL: Mr. Lenhart?
7 MR. LENHART: Good afternoon.
8 MS. MCNEIL: Do you swear or affirm under the
9 penalties of perjury that the testimony you shall give will
10 be the truth and nothing but the truth?
11 MR. LENHART: I do.
12 MS. SCUDDER: Mr. Lenhart, would you please state
13 your full name for the record and your occupation?
14 MR. LENHART: Yes. Michael Lenhart with Lenhart
15 Traffic Consulting. I'm a transportation planner and
16 traffic engineer.
17 MS. SCUDDER: And what's the name of your company
18 and, oh, you just said your title, but your, your name of
19 your company again?
20 MR. LENHART: Yes, Lenhart Traffic Consulting. We
21 are at 645 Baltimore Annapolis Boulevard, Suite 214, Severna
22 Park, Maryland 21146.
23 MS. SCUDDER: And how long have you been a
24 professional in the area of transportation?
25 MR. LENHART: 31 years.

Page 158

1 MS. SCUDDER: Madam Examiner, Mr. Lenhart has
2 qualified before the Zoning Hearing Examiner on numerous
3 occasions over the year, and so I would tender him as an
4 expert witness in this case.
5 MS. MCNEIL: Everything still the same since last
6 time, Mr. Lenhart? Still got all your --
7 MR. LENHART: Yes.
8 MS. MCNEIL: -- qualifications?
9 MR. LENHART: Yes, I do.
10 MS. MCNEIL: Okay. You'll be accepted as an
11 expert in transportation planning.
12 MR. LENHART: Thank you.
13 MS. SCUDDER: Thank you, Madam Examiner. Mr.
14 Lenhart, have you made a personal inspection of the subject
15 property?
16 MR. LENHART: Yes, I have.
17 MS. SCUDDER: And when?
18 MR. LENHART: On numerous occasions, most recently
19 in late March.
20 MS. SCUDDER: And are you familiar with the area
21 surrounding the subject property, including the roads and,
22 and, and roadway network?
23 MR. LENHART: Yes, I am.
24 MS. SCUDDER: And are you familiar with the
25 Applicant's proposed development for which approval is

Page 159

1 requested herein?
2 MR. LENHART: Yes, I am.
3 MS. SCUDDER: And have you examined the
4 Applicant's site and development plans?
5 MR. LENHART: Yes.
6 MS. SCUDDER: Mr. Lenhart, did you make an
7 investigation of the traffic conditions and levels of
8 service in the area surrounding the subject property and
9 prepare a report?
10 MR. LENHART: Yes, I did.
11 MS. SCUDDER: Is that Exhibit 25 that's currently
12 in the record?
13 MR. LENHART: That's correct.
14 MS. SCUDDER: Has your report already been
15 submitted? Yes, it has. Okay. And would you please
16 summarize the findings and conclusions in your report?
17 MR. LENHART: Certainly. The, the site is located
18 inside the Capital Beltway and the, the guidelines and the
19 Zoning Ordinance allows for up to a level of service E and
20 including a level of service E is acceptable inside the
21 Capital Beltway. There's a grading scale for levels of
22 service A through F, A being very good levels of service; F
23 being failing; E being the highest capacity carrying
24 situation; however, it does, it does provide for some delays
25 and congestion; and that is allowed and encouraged inside

Page 160

1 the Capital Beltway to take advantage of the infrastructure
2 that's in place inside the Beltway in the gross plans.
3 The study included five intersections, Maryland
4 210 at the southbound I-95 ramps; and the Bald Eagle Road
5 intersection was projected to operate at a level of service
6 F with no improvements. We did identify an improvement that
7 was to widen Bald Eagle Road approaching Maryland 210 to
8 provide a separate right turn lane, and that mitigates our
9 impact and gets the intersection back to a level of service
10 E, which is acceptable.
11 Bald Eagle Road at the park driveway and site
12 driveway was projected to operate at inadequate delays as a
13 normal stop-controlled intersection with no improvements.
14 It's standard practice in the guidelines that if an
15 unsignalized intersection is projected to operate with
16 delays in excess of 50 seconds per vehicle, that there would
17 be a condition that requires a signal warrant analysis and
18 install a signal if required; or evaluate other options to
19 address the delays.
20 And we, we looked at several options where we
21 reconstructed the, the existing driveway park entrance on
22 Bald Eagle Drive into a T intersection, and we also looked
23 at the possibility of a roundabout at that location. The,
24 and based upon our study, we recommend a roundabout. State,
25 and I'll get into this later, State Highway also supported

Page 161

1 that option and our study found that all other intersections
2 were determined to operate within acceptable parameters.
3 MS. SCUDDER: And did the Park and Planning
4 Technical Staff review your TSR?
5 MR. LENHART: Yes, they did. They reviewed the
6 study and referred it out to State Highway. It should be
7 noted that the Technical Staff, Transportation Planning
8 Staff, concurred with the findings of our study and agreed
9 with our findings that transportation facilities would be
10 adequate.
11 MS. SCUDDER: Okay. And under your, your latest
12 concept for Bald Eagle, has State Highway looked at it?
13 MR. LENHART: They have, yes; and we are, we've
14 made another submittal to the State. They had few comments.
15 Actually, we're on our third submittal to the State to work
16 through their comments. During the first submittal, they
17 had concerns about the, the two T intersection options that
18 we proposed, so we went back with a roundabout option. They
19 have reviewed that option. They have indicated that, or
20 they have stated that they support the roundabout option at
21 the Bald Eagle and the driveway access, and they believe
22 that that will work adequately; and they had few other
23 comments still with offsite issues and queueing issues out
24 on Oxon Hill Road for left turn queueing. Our latest
25 submitted addressed those issues and we expect a, an

Page 162

1 approval ultimately from the State.
2 MS. SCUDDER: Okay. And, Mr. Lenhart, are you
3 familiar with the Technical Staff Report in this case and
4 have you had a chance to review it?
5 MR. LENHART: Yes.
6 MS. SCUDDER: Okay. I would like to draw your
7 attention to Staff's comment on page 29 of the TSR, which
8 states that there is not viable access to the site and that
9 it requires usage of a National Park Service roadway. Is
10 this true? And Staff also opines that there is not a viable
11 access point to handle the traffic without generating
12 negative impact on the abutting single-family neighborhood.
13 Do you agree?
14 MR. LENHART: So, first of all, Bald Eagle Road is
15 a state roadway. It is Maryland 210V in the state
16 inventory; and the entrance to the park driveway is located
17 in the state right-of-way that is the Bald Eagle Road
18 alignment. There is an SHA plat that I believe is Exhibit
19 76 in the record. If you are able to pull that up?
20 MS. SCUDDER: Madam Examiner, if Staff could pull
21 up Exhibit 76, the SHA --
22 MS. MCNEIL: Exhibit 76 please. While they're
23 doing that, do you all have in your background that we have
24 several of these transportation analyses? I believe there's
25 one in here, Exhibit 81, and you said 25. I had 22. Are

Page 163

1 they all the same thing? They appear to be.
2 MR. LENHART: The Traffic Impact Studies?
3 MS. MCNEIL: Uh-huh.
4 MR. LENHART: Yeah, there were two studies on
5 record, I believe. One of them --
6 MS. MCNEIL: Okay, 25 is not it. You all said 25
7 and it should be 22 and 81, is that right?
8 MS. SCUDDER: 22 --
9 MS. MCNEIL: When you get a chance --
10 MS. SCUDDER: We'll take a look at that because
11 my, I mean, Mr. Lenhart, Exhibit 22 is Traffic Impact
12 Analysis; and Exhibit 81 is a Traffic Impact Analysis dated
13 October 31, 2020?
14 MR. LENHART: Yes. Yes, so the, the Exhibit 22
15 then would have been --
16 MS. MCNEIL: Oh, July 16th, I think, was the last
17 --
18 MR. LENHART: Yeah, so that was the original study
19 that we conducted. By the time the application was actually
20 submitted for acceptance, the traffic counts were over a
21 year old. So, we had to update the traffic counts.
22 MS. MCNEIL: Okay. So --
23 MR. LENHART: And --
24 MS. MCNEIL: So, in our record, we'll call the one
25 that's Exhibit 81, the revised one.

Page 164

1 MR. LENHART: Yeah, and that's the July 16, 2020
2 traffic out.
3 MS. MCNEIL: Okay.
4 MR. LENHART: Or traffic study. And, and --
5 MS. MCNEIL: Okay. Is this your exhibit you
6 wanted?
7 MR. LENHART: Yes.
8 MS. MCNEIL: Okay.
9 MS. SCUDDER: Madam Examiner, this is the exhibit
10 that I submitted earlier because you can see here that this
11 is cut off, so I submitted the, the good exhibit earlier;
12 but I understand that this is the one that's in the current
13 binder, so that's why they're showing this one.
14 MS. MCNEIL: Oh, okay. Well, we might be able to
15 show the other.
16 THE CLERK: I didn't put it in. Unfortunately, I
17 don't know what's happened to, what's happened to it.
18 MR. LENHART: Actually, actually, I think if you
19 show Exhibit 80, that might, that might actually be a better
20 representation for this issue. Yeah. And if you're able to
21 zoom in on the park entrance, if you can go in even further,
22 please? And maybe even a little further? This, this is
23 good, but if you can get in further, we'll be able to see a
24 little better. And then go down to the park entrance if
25 you're able to? Scroll down a little and to the left. Back

Page 165

1 to the right a little. And down a little more. There, and,
2 and maybe just a hair to the right. That's, that's perfect.
3 So, you can see this property is shown in blue
4 with, and it's outlined; and then the yellow hash lines
5 represent the entrance into the site. You can see where the
6 bridge is over the Capital Beltway. That is Bald Eagle
7 Road. And the driveway off of Bald Eagle Road that goes
8 into the park entrance is located in State Highway right-of-
9 way. The black line, the black, solid line that you see
10 denotes State Highway right-of-way. Everything, Bald Eagle
11 Road is entirely within State right-of-way. The park
12 entrance is entirely within the State right-of-way. Even
13 all the way back, almost to the parking lot for the park
14 entrance, that is all State Highway right-of-way.
15 And so, to follow-up on your question, Ms.
16 Scudder, I think you asked if Staff opines that this is not
17 a viable access point?
18 MS. SCUDDER: Yes.
19 MR. LENHART: And in the Technical Staff Report,
20 they made a comment that it's not a viable access point to
21 handle the traffic without generating negative impact on
22 abutting single-family neighborhood; and I do not agree with
23 that comment. Bald Eagle Road has zero driveways or
24 entrance points to any other residential neighborhoods; in
25 fact, the residential neighborhood to the north of this

Page 166

1 property, the access to that neighborhood is off of Route
2 210, about half a mile north of the traffic signal at this,
3 the southbound 95 offramps and the Bald Eagle intersection.
4 So, this entrance will in no way impact any existing
5 neighborhoods.
6 At the roundabout, we have prepared a Concept Plan
7 that has been reviewed and approved by State Highway; and we
8 will need a State Highway access permit to build that; but
9 all of the work will be within the State right-of-way, not
10 National Park Service road.
11 MS. SCUDDER: Okay. So, does the Applicant need
12 permission from the MPS regarding access to this site?
13 MR. LENHART: I do not believe that they do. The
14 driveway, again, is completely within State Highway right-
15 of-way; and the Bald Eagle Drive, if you look on the record
16 plat and the deeds, there was a 30-foot prescriptive right-
17 of-way and that runs up through the property. They kind of
18 denotes the western edge of the property going, well, from
19 north to south from that park entrance.
20 MS. SCUDDER: Okay. Mr. Lenhart, are you familiar
21 with the mixed use transportation zone that the Applicant is
22 requesting under the subject application?
23 MR. LENHART: Yes.
24 MS. SCUDDER: Are you also familiar with the
25 requirements for approval of the MXT zone?

Page 167

1 MR. LENHART: Yes.
2 MS. SCUDDER: What is the first criterion for
3 approval of the MXT zone?
4 MR. LENHART: 27-213(a)(1)(A) provides criterion
5 one, which requires that one of two criteria must be met;
6 and it states that the entire tract area is located within
7 the vicinity of either a major intersection or interchange.
8 It could be an intersection or interchange with at least two
9 of the streets forming intersection or interchange where
10 those streets are classified as an arterial or higher. And
11 the second criteria is that it would be located within the
12 vicinity of a major transit stop or station.
13 MS. SCUDDER: I'm sorry.
14 MR. LENHART: I'm sorry. Go ahead.
15 MS. SCUDDER: Is the term interchange defined in
16 the Zoning Ordinance?
17 MR. LENHART: It is not.
18 MS. SCUDDER: Is the term interchange defined in
19 any other professional manual?
20 MR. LENHART: Yes, it is. AASHTO, which is
21 American Association State Highway Transportation Officials,
22 it's, it's a national organization that has many
23 publications on design and planning; and they define an
24 interchange as a system of interconnecting roadways in
25 conjunction with one or more grade separations that provides

Page 168

1 the movement of traffic between two or more roadways or
2 highways of different levels.
3 MS. SCUDDER: If you could briefly describe in
4 your expert opinion, what are the components that make up an
5 interchange?
6 MR. LENHART: Sure. So, interchange includes a
7 series of grade separated bridges and overpasses, and ramps
8 connecting two roadways. This would include any merge
9 lanes, the verge weave areas, or, and terminus points and
10 other connecting roads; and while Bald Eagle Road itself is
11 not an onramp, onramp or off-ramp, there is connectivity at
12 the interchange, and existing guide signage. If you are on
13 southbound 95 and you take the offramp to Route 210, there's
14 guide signs immediately on the west side of Route 210 for
15 people getting off of, or off of 95 guiding motorists to use
16 Bald Eagle Road to get to National Harbor, Gaylord
17 Convention Center, MGM, and the Tanger Outlet shops; and
18 it's clear that the Bald Eagle Road is intended as a
19 connection for, for the overall interchange; and also, the,
20 it is identified as an interchange in the right-of-way via
21 P. G. Atlas, that P. G. Atlas is the County's GIS system and
22 there's a transportation layer on that, that system, on the
23 GIS system; and if you turn that transportation layer on, it
24 includes Bald Eagle Road as part of the overall interchange.
25 MS. SCUDDER: And, and what is the significance,

Page 169

1 in your opinion, of these interchange components from a land
2 use perspective and in measuring vicinity?
3 MR. LENHART: Sure. So, typically with
4 interchanges, there, there's denial of access that State
5 Highway places on ramps and on, typically on the, the
6 freeway and areas of 210; and the location of that denial of
7 access, along with weeds and the ramps, creates an absolute
8 inability to generate any meaningful land use activity.
9 Those people can't interact with the surrounding land.
10 There, in the case of Bald Eagle Road, there was a
11 denial of access that was placed upon the, it's a United
12 States of America property that's immediately east of the
13 National View property, between National View and Bald Eagle
14 Road; and State Highway Administration, when they acquired
15 the right-of-way, they placed a denial of access along the
16 entire frontage of that USA property; and so, if, if you are
17 getting off of the I-95 interchange and you come across from
18 Bald Eagle Road, the entrance to our property is the first
19 potential point of access where you can actually interact
20 with traffic to and from the interchange.
21 MS. SCUDDER: Did the Technical Staff in its
22 analysis address, provide or explain the components of an
23 interchange?
24 MR. LENHART: No, they did not. They simply made
25 a statement that the traffic is not located within one-half

Page 170

1 mile of where the Beltway and Maryland 210 cross; and they
2 referred to the center point of the interchange; and then
3 they discussed the walkability to and from the site in
4 relation to the center point of the interchange, which his
5 not practical because you, you cannot walk to the center
6 point of the interchanges. It's not a, it's not a valid
7 point of reference in my opinion.

8 MS. SCUDDER: Yeah. In your opinion, does this
9 application meet the vicinity criterion?

10 MR. LENHART: Yes, it does, for the following
11 reasons. So, again, the access is located less than a third
12 of a mile from the intersection of 210 at the on and off
13 ramps of I-95. It's the first allowable point of access
14 along Bald Eagle Road from the offramp. The signalized
15 intersection of 210 at the on and offramps from southbound
16 95 is an arterial or higher intersection. Maryland 210 is
17 an arterial, and the offramp from the Beltway is a freeway
18 ramp. So, that does qualify as the arterials, arterial
19 criterion.

20 Again, the P. G. Atlas GIS lawyer for
21 transportation, if you look at that, it identifies the
22 entire interchange as inclusive of Bald Eagle Road. Also,
23 page 17 of the Staff Report acknowledges the vicinity is not
24 well-defined and it discusses vicinity in terms of
25 walkability. Again, walkability to and from the center

Page 171

1 point of the interchange is an unreasonable and unrealistic
2 comparison.

3 A precedent has been set in prior CMA cases using
4 the definition of neighborhood. Vicinity is not defined in
5 the Zoning Ordinance and, previously, it's been agreed that
6 he, since the lack of that definition allows us to go to
7 other sources, and Webster's Dictionary defines vicinity as
8 neighborhood. So, Mark Ferguson will discuss that in
9 further details, but -- and following the, finally, the
10 State Highway right-of-way plat along Bald Eagle Road has
11 denied access along the entirety; and, again, that, our
12 access is the first potential access point to be able to
13 interact with the interchange.

14 MS. SCUDDER: In your opinion then, is the Staff
15 incorrect when they indicate the subject property does not
16 meet the first criterion?

17 MR. LENHART: I believe that, I do not concur with
18 their opinion. Again, they arbitrarily used the half mile
19 from a center of an interchange. Nowhere in the Zoning
20 Ordinance do they say it has to be a half mile, or does it
21 talk about the center of an interchange. It simply says
22 vicinity, and if you look at the P. G. Atlas transportation
23 layer, considering that Bald Eagle Road is part of the
24 interchange, this entire tract is located within a half mile
25 of the interchange boundary; and, again, I, the Zoning

Page 172

1 Ordinance doesn't use a half mile, but Staff seem to use
2 that as a reference in their, their discussion; and if you
3 look at the interchange, inclusive of Bald Eagle Road, it is
4 within a half mile; but I think vicinity is really the more
5 important term here and, again, it is in the neighborhood,
6 the same neighborhood as this interchange. Okay.

7 MS. SCUDDER: Okay. Thank you. Can you discuss
8 the purposes in the MXT zone that are transportation
9 related? I think it was maybe Purpose 1 and Purpose 4.

10 MR. LENHART: Certainly. So, Purpose 1 is to
11 promote the order of the development and redevelopment of
12 land in the vicinity of major interchanges, major
13 intersections, major transit stops and designated general
14 plan centers so that these areas will enhance the economic
15 status of the County and provide an expanding source of
16 desirable employment and living opportunities for its
17 citizens. And, again, that's Purpose 1.

18 Page 21 of the Staff Report noted that the Staff
19 does not believe the property is within the vicinity of
20 major interchange, again, based on their discussion of
21 walkability and half a mile walk to the center of the
22 interchange. I don't believe, again, I believe Staff is
23 incorrect in their, their opinion on this and how they
24 viewed the vicinity criteria and the reasons I've testified,
25 I believe that this does satisfy Purpose 1.

Page 173

1 Purpose 4 is to promote the effective and optimum
2 use of transit and to reduce automobile use by locating a
3 mix of residential and non-residential uses in proximity to
4 one another, and the transit facilities to facilitate
5 walking, biking, and transit use. Again, that was Purpose
6 4.

7 And so, the granting of MXT would in and of itself
8 create a zone which allows a mix of residential and non-
9 residential uses in proximity to one another. That's what
10 MXT zone is, a mix of uses. It reduces traffic by creating
11 that mix of uses and it allows interaction between those
12 uses. The Institute for Transportation Engineers has a trip
13 generation manual that provides studies that show that mixed
14 use developments can significantly reduce traffic due the
15 internal relationship between those uses. With regards to
16 the proximity to transit, walking, biking, et cetera, P. G.
17 Atlas shows that the Oxon Hill Farm trail, which is a shared
18 roadway trail, runs past the driveway to the site to Bald
19 Eagle Road, to Oxon Hill Road. P. G. Atlas also shows Oxon
20 Hill Road as a master planned bike lane; as having a master
21 plan bike lane; and if you go out and look at Oxon Hill
22 Road, it's actually striped with exclusive bike lanes along
23 both sides of Oxon Hill Road that run all the way down to
24 Harborview Avenue, which is the, the one-way pair of
25 roadways that run around the MGM Casino.

Page 174

1 There's existing sidewalk connectivity along this
 2 entire site, along Bald Eagle Road all the way from Oxon
 3 Hill Road up to Route 210; and so, there is existing
 4 sidewalk, and bike, and connectivity. There's the Oxon Hill
 5 Park and Ride lot which is roughly a half a mile from the
 6 site access; and also, the site access on Bald Eagle Road is
 7 roughly a half a mile walk to the bus stops along southbound
 8 210 at (indiscernible) Drive, which consists of six bus
 9 routes that currently use this stop; and that's on Route 210
 10 just north of the southbound 95 offramp traffic signal.
 11 MS. SCUDDER: So, with regard to the purpose to
 12 promote the effective and optimum use of transit, do you
 13 believe that development of this site fulfills this purpose?
 14 MR. LENHART: Yes, I do, for the reasons
 15 testified.
 16 MS. SCUDDER: On page 23 of the Staff Report,
 17 Purpose 8, do you agree with Staff's opinion about burdening
 18 systems which are already insufficient? What systems are
 19 they referring to and are they insufficient?
 20 MR. LENHART: No, they are not. If this, so if
 21 this zoning request is approved, this project will require a
 22 preliminary plan of subdivision, which is when the property
 23 is formally testified for adequate public facilities.
 24 However, at this time, for the zoning request to MXT, it is
 25 standard practice and requirement that a traffic impact

Page 175

1 study is prepared; that traffic impact study is consistent
 2 with what will be required, again, at the time of
 3 preliminary plan; and the reason it's required for the
 4 zoning request is to ensure that when the property does
 5 develop, at times preliminary plan, that it can satisfy the,
 6 the Section 24-124, adequate public facilities requirements;
 7 and it does not overburden the transportation network. And,
 8 and Technical Staff, Transportation Planning Staff, has
 9 reviewed our traffic study and they have agreed that
 10 adequate transportation facilities will exist to accommodate
 11 this site.
 12 MS. SCUDDER: Thank you, Mr. Lenhart. I just have
 13 a couple of more questions for you. Based on the requested
 14 zoning, rezoning, are there transportation facilities that
 15 exist, under construction, are planned for construction, or
 16 will be provided that adequately carry the anticipated
 17 traffic for the development as conceptually proposed?
 18 MR. LENHART: Yeah, yes, and that is, was the
 19 findings of our Traffic Impact Study, that adequate
 20 facilities would exist with our proposed recommendations for
 21 site access and some offsite improvements. Staff reviewed
 22 and concurred with our findings.
 23 MS. SCUDDER: Although transportation adequacy is
 24 being tested in conjunction with this rezoning application,
 25 do you know whether this will be the only time that the

Page 176

1 project will go under such testing since the time of the
 2 Preliminary Plan?
 3 MR. LENHART: Right. As I said, this will be
 4 tested again at the time of Preliminary Plan, yes.
 5 MS. SCUDDER: Okay. And one final question.
 6 Based on your expert opinion, and in your experience, would
 7 you agree that the Technical Staff's conclusions regarding
 8 vicinity to an interchange, and in your expert opinion, and
 9 given your testimony today, is the subject property within
 10 the vicinity of an interchange?
 11 MR. LENHART: Yeah, I do not concur with their
 12 findings on the vicinity criterion. Again, based on my
 13 testimony, I believe that the entire tract is within the
 14 vicinity of an interchange and satisfies their criterion in
 15 27-213(a)(1)(A).
 16 MS. SCUDDER: Thank you, Mr. Lenhart. I have no
 17 further questions, Madam Examiner.
 18 MS. MCNEIL: Mr. Lenhart, can I ask just three
 19 brief questions? First, you said that there's a Concept
 20 Plan approved by SHA. Do we have a copy for our record, or
 21 can we get a copy? Or may get one? I know you went back
 22 and forth to --
 23 MR. LENHART: Well, I'm looking -- I'm looking to
 24 see if it's in that --
 25 MS. MCNEIL: Well, don't take up --

Page 177

1 MR. LENHART: -- traffic study.
 2 MS. MCNEIL: Pardon me?
 3 MR. LENHART: I'm looking to see if it's in that
 4 latest traffic study.
 5 MS. MCNEIL: There's some emails in there. Well,
 6 don't worry. Ms. Scudder, will you just make a note of
 7 that, if it's not, that you all will send it to me? And
 8 then could you briefly, it's in your study, but I think it
 9 might help everybody, if you could just briefly state which
 10 rights-of-way you looked at and which uses you used to
 11 determine adequacy?
 12 MR. LENHART: Well, we looked at the intersections
 13 of 210 at Bald Eagle Road, and the I-95 ramps; 210 at, I'm
 14 sorry, Bald Eagle Road at the driveway into this site and
 15 the park entrance; we looked at the intersection that would
 16 create the new intersection into our site at the park
 17 entrance; we looked Oxon Hill Road at Bald Eagle Road; and
 18 we looked at Oxon Hill Road at the northbound I-95 onramps;
 19 and we used Park and Planning requirements for signalized
 20 intersections; we used a critical lane volume methodology;
 21 and that requires a level of service E or better, which is
 22 an equivalent to a critical lane volume of 1600 or better.
 23 If it's over 1600, that's considered an F. And for
 24 unsignalized intersections, we used the highway capacity
 25 software and it's actually a 3-step test. Step one is using

Page 178

1 the highway capacity software, and if you have a delay of
2 greater than 50 seconds per vehicle, then you go to step
3 two.
4 Step two looks at the stop control, the approach,
5 and if you have more than a hundred vehicles, then you go to
6 step three.
7 Step three looks at the critical lane volume and
8 if that is better than 1150, then it's considered adequate.
9 If it's greater than 1150, then you do signal warrant
10 studies or others, other evaluations. And that's the
11 standard traffic impact study analyses.
12 MS. SCUDDER: Madam Examiner, number, Exhibit 2 is
13 Bald Eagle Concept Improvements, and I believe that's the
14 exhibit.
15 MS. MCNEIL: That's the fine one? Okay. I just
16 thought from his testimony there was one after that. So,
17 that is it?
18 MR. LENHART: If you, if you can pull it up, I'll
19 tell you for certain if that's it.
20 MS. SCUDDER: Exhibit 2.
21 MR. LENHART: And if not, we'll make sure to get
22 you, we'll get you the latest, but --
23 MS. MCNEIL: All right. Can someone pull up
24 Exhibit 2?
25 MS. BAH: I don't see an Exhibit 2. I see 1, 3, 4

Page 179

1 and 5.
2 MS. SCUDDER: My, Mr. Lenhart, there's also
3 Exhibit 65, which is labeled National View access, Option 3,
4 roundabout.
5 MR. LENHART: That's it.
6 MS. MCNEIL: Okay.
7 MS. SCUDDER: Yes.
8 MS. MCNEIL: Thank you. And then you were going
9 to say the uses that you considered?
10 MR. LENHART: The uses in the Traffic Study?
11 MS. MCNEIL: Uh-huh.
12 MR. LENHART: Yes. And so, we, we assumed 500
13 multi-family housing units, mid-rise units; we assumed a
14 thousand high-rise, multi-family units; and 100,000 square
15 feet of retail, and that's -- in our study, we used shopping
16 center trip generation rates for the retail, which is really
17 not appropriate. It's an overly conservative usage of the
18 trip generation. Shopping center is a standalone integrated
19 shopping center that, that, you know, was a mix of uses
20 that's owned and operated by the same thing, and the same
21 entity.
22 In this case, if we have up to 100,000 square feet
23 of retail or commercial, it's going to be first floor retail
24 or commercial located within a residential building. That's
25 going to have, as I testified earlier, the multi-use, or the

Page 180

1 mixed use trip reductions. There's going to be internal
2 capture where people live on site. They're going to walk
3 down to the first floor, or to one of the adjacent
4 buildings. They can go, you know, whatever the shops might
5 be, you get some dinner or groceries, or whatever the uses
6 are. And ITE does have relatively new land use components
7 for, for residential housing, or its first floor commercial.
8 There's not a lot of the, those study sites in the trip
9 generation manual; and so, Transportation Planning Staff
10 asked us to use shopping center land use code to be
11 conservative, which is what we did. So --
12 MS. MCNEIL: Okay. Thank you. Ms. Gingold, I'm
13 sorry, I'm sorry, Mr. Brown, do you have any questions?
14 MR. BROWN: Since we are getting close to the 4
15 o'clock hour, I'll let the opposition ask the same questions
16 they identified in the chat.
17 MS. MCNEIL: Okay. Ms. Gingold?
18 MS. GINGOLD: I, I have two questions. One is
19 about the fact that the, there will be a single point
20 ingress and egress from this high-density development; and
21 that, do you think that can create safety issues, especially
22 for emergency vehicles for elderly residents and the
23 proposed police?
24 MR. LENHART: No, I don't think that's an issue.
25 There are, there are other much more dense mixed use

Page 181

1 developments that have one point of access. For example,
2 the National Harbor has one point of ingress/egress. Now
3 there, it's multi-lane, so there's probably more ways to get
4 around; Melford really has one point in and out; and many
5 developments have just one point of ingress/egress. I don't
6 see that as a point of concern.
7 MS. GINGOLD: Okay. So, my second question is, is
8 there anything in the requirements about MXT zoning that
9 would require that there be, for instance, a grocery store
10 on the same, in the same building at, as the high, or as the
11 high-density housing structure; or is what you were
12 describing about these commercial places being accessible
13 without use of automobiles? I, I'm, I'm really wondering
14 about whether this is truly a plan that would decrease the
15 use of automobiles because it's, it's transit-oriented or
16 not? It doesn't seem like it's --
17 MR. LENHART: Well --
18 MS. GINGOLD: -- transit-oriented to me.
19 MR. LENHART: So, mixed use transportation, it
20 requires a mix of uses. It doesn't necessarily require a
21 specific use.
22 MS. GINGOLD: Right.
23 MR. LENHART: And you asked if it would require a
24 grocery store or something. Part of it is market driven
25 and, but it does require a mix of uses.

1 MS. GINGOLD: So, it could end up being a mix of
2 uses that does not include convenient access to the grocery
3 store? It could be something else of a mix of uses, is that
4 correct?

5 MR. LENHART: Well, it could be, it could be
6 anything. It could be shops that support residential; it
7 could be restaurants; it could be a small grocery store; you
8 know, and it could be offices, commercial, you know, a place
9 with, with office space or there's remote work space now
10 that's, that's becoming popular with COVID; and, you know,
11 we're, we're coming out of new times now where, I think,
12 businesses and companies are looking at promoting virtual
13 and remote working, and so it could be, you know, some
14 component of that as well.

15 MS. GINGOLD: Thanks.

16 MS. GOODARD: Hello. I'm Pam Goodard and I have a
17 few questions for you, sir. When did your traffic studies,
18 can you tell us your estimations for daily passenger
19 vehicle, daily trips in and out of the entranceway at peak
20 hours?

21 MR. LENHART: We did not do daily traffic counts.
22 The traffic impact studies are required to be looked at in
23 the morning peak hour and evening peak hour.

24 MS. GOODARD: Uh-huh.

25 MR. LENHART: So, we do traffic counts from 6:30

1 to 9:30 a.m., and 4:00 to 7:00 p.m.; and for those three
2 hours in the morning, and three hours in the evening, we
3 determine the peak 60-minute period for each of those.

4 MS. GOODARD: Uh-huh.

5 MR. LENHART: And then we add the traffic that
6 would be generated by the site during the peak periods; and
7 we, we evaluate the levels of service during those periods.
8 Those are really what's required and that's what tells you
9 whether you're going to have any congestion issues or, or
10 not during those peak periods.

11 MS. GOODARD: And what would the number of
12 vehicles that would be at each of those peak periods?

13 MR. LENHART: Based on our study, it was in the
14 morning, 137 in, 389 out; and in the evening, it was 442 in
15 and 296 out.

16 MS. GOODARD: Thank you. Now did you have any
17 direct consultation or discussions with the National Park
18 Services or the Department of Interior on the impacts of
19 traffic or road changes to their property?

20 MR. LENHART: We did not.

21 MS. GOODARD: And you had said when you were
22 talking about right-of-ways that there was an intersection
23 into the site of your property at the National Park Service
24 entrance. Would that impact National Park Service property
25 or not?

1 MR. LENHART: Again, there would be no, no
2 physical improvements or construction on Park Service
3 property. It would be completely within State Highway
4 right-of-way.

5 MS. GOODARD: And so, when you talked about the
6 roundabouts or the T intersections, any of those
7 improvements that you would be looking to make, none of that
8 would, would incur on National Park Service property, is
9 that correct?

10 MR. LENHART: That's correct.

11 MS. GOODARD: Okay. Thank you. Those were all my
12 questions. I appreciate it.

13 MR. LENHART: Sure.

14 MS. MCNEIL: Okay, Ms. McDowell?

15 MS. MCDOWELL: Thank you. I have a couple of
16 questions. It has to do with the reducing the number of
17 trips. On page 25 of the Staff Report in their table, they
18 have a current daily count occurred at the time, because it
19 was December 2020, of 558 daily trips; and under the mixed
20 use, they say it would increase to 13,429, which is about 24
21 times more cars. It sounds like you don't agree with that
22 number. Could you elaborate?

23 MR. LENHART: I'm going to that page of the Staff
24 Report. What page did you say, 23?

25 MS. MCDOWELL: 25.

1 MR. LENHART: 25? Bear with me for a second
2 please.

3 MS. MCDOWELL: Sure.

4 MR. LENHART: So, that is simply, those numbers
5 are the daily traffic volumes. Again, that's not the peak
6 hour traffic. The peak hour traffic is what we look at.

7 When we look at the Zoning Ordinance and the requirement --

8 MS. MCDOWELL: Well, just so --

9 MR. LENHART: -- at --

10 MS. MCDOWELL: -- I'm sorry, but just so that I
11 can understand, can, and compare apples to apples, would
12 you, is it possible for you to put it in these, in these
13 terms, the total daily trips, rather than just peak hours?
14 Or is that, you did not do that?

15 MR. LENHART: Our study did not look at the 24-
16 hour traffic volumes in and out because Zoning Ordinance
17 requires use of peak hour analysis, morning and evening peak
18 hour to, for us to make our finding on whether there will be
19 adequate transportation facilities. The 24-hour daily
20 traffic does not, it's not a meaningful number when you're
21 looking at doing levels of service analysis or whether
22 adequate transportation facilities would exist.

23 MS. MCDOWELL: I guess I would imagine that the
24 peak hours would be, according to their numbers, would be
25 significantly greater because you don't have a lot of

1 traffic at 3:00 a.m., you know, the peak hours. Let me ask
 2 you this. Did you look at, obviously, you said, you know,
 3 this is sort of a contained site; it's going to have
 4 residential, shopping, we think, possibly. What, beyond,
 5 you've just sort of looked at the very local area of traffic
 6 and, as we all know, live around here, the capillaries of
 7 these little roads are all congested pre-pandemic. We're
 8 all congested, particularly during rush hour peak hours.
 9 Did you look beyond these ways to see how like how down Oxon
 10 Hill Road and down 210, you know, farther toward Accokeek
 11 and stuff like that if there was any effect there?
 12 MR. LENHART: So, we, part of the process is to
 13 conduct a scoping agreement and submit that to
 14 Transportation Planning Staff for their review and approval.
 15 They look at the scope. They either agree with it or they
 16 modify it, accordingly; and then that's the basis of our
 17 traffic impact study. We, we build a study off of that
 18 approved scope.
 19 MS. MCDOWELL: Okay. Sorry.
 20 MR. LENHART: That's all right. And so, we did,
 21 you know, we don't just look at our driveway here. Like
 22 you, you can see the exhibit on the screen. That's the
 23 roundabout concept plan that we had talked about. That has
 24 been reviewed by the State and conceptually approved.
 25 There's not been, not been any design other than conceptual

1 that you see here.
 2 MS. MCDOWELL: Okay. And then --
 3 MR. LENHART: But --
 4 MS. MCDOWELL: -- my final question is, and I may
 5 have misheard this, when did, you did a traffic -- did I get
 6 this right, you did your traffic counting in July of 2020,
 7 and is that what you're basing these numbers on?
 8 MR. LENHART: No, that's, the study itself was
 9 dated July of 2020, but the traffic counts were conducted --
 10 bear with me -- the traffic counts are conducted, they're
 11 required to be conducted on a Tuesday, Wednesday or Thursday
 12 when schools are in session. So, the counts were not
 13 conducted in July.
 14 MS. MCDOWELL: But I guess my question is, is I'm
 15 trying to figure out if they're pre-pandemic when,
 16 obviously, there was an enormous drop-off in traffic; or if
 17 they were, you know what I mean, post-pandemic; drop-off in
 18 traffic versus pre-pandemic. That's where I'm going with
 19 that one.
 20 MR. LENHART: They were, bear with me, there we
 21 go. They were pre-pandemic and they were May 22, 2019.
 22 MS. MCDOWELL: Okay. Great. Thank you very much.
 23 That's it.
 24 MR. LENHART: Yes.
 25 MS. MCNEIL: Anybody else? Ms. Egloff, did you

1 have a question?
 2 MS. EGLOFF: One of them was when, with the count
 3 taken, and he just did that. That count was not accurate
 4 because of it being too long ago; and then, so what, how do
 5 you basically change the traffic count, counts when you
 6 can't have an actual one because of the pandemic? It's just
 7 concerning to note the original traffic count wasn't
 8 counted. I also noted that one of the traffic reports
 9 completely left out the rest of the build-out of National
 10 Harbor. So, the latest report that you have, you're
 11 including all of the build-out that has been approved for
 12 National Harbor, Tanger Outlet, the hotel at Tanger Outlet,
 13 the hotel at Tanger Outlet, all of that? All of that is
 14 included in the current traffic report, is that correct? Do
 15 you hear me?
 16 MR. LENHART: Yeah, I hear you. Bear with me
 17 please. We had seven background developments, including a
 18 number of the parcels and developments surrounding MGM that
 19 was, or yet to be developed; and so, those were included in
 20 the background.
 21 MS. EGLOFF: Was the hotel that was approved for
 22 Tanger outlet property included that was a property that got
 23 zoned MXT because it was near the highways and, you know, it
 24 was going to be mixed use, but so far, it's just a shopping
 25 center; but they included a hotel on a small piece of

1 property there so they could get their MXT zone; and so,
 2 have you included that hotel that is proposed to be built at
 3 Tanger Outlet?
 4 MR. LENHART: We did include a 150-room hotel in
 5 the background development.
 6 MS. EGLOFF: Uh-huh.
 7 MR. LENHART: I'm not sure if that's the one
 8 you're speaking of or not.
 9 MS. EGLOFF: So, you've included all build-out for
 10 National Harbor?
 11 MR. LENHART: We included what was required in the
 12 scoping agreement with Park and Planning. You know, it was
 13 reviewed and approved by them. They confirmed what the
 14 background developments were to be and, and that was
 15 included in the study.
 16 MS. EGLOFF: Will there be an upgraded traffic
 17 report?
 18 MR. LENHART: There will be a brand new Traffic
 19 Impact Study when, when this goes to the Preliminary Plan of
 20 subdivision, it requires a brand new study. It will be re-
 21 scoped and any, any findings that are made at that time
 22 will, will stand. There's a section in the Zoning Ordinance
 23 that says any findings that are made at that time will over,
 24 overrule any findings that are made at the time of zoning.
 25 So, even if now we're saying that, that we need a turn lane

Page 190

1 at Bald Eagle Road at Route 210, and we need a roundabout at
2 our site access. If the new traffic study comes in for the
3 Preliminary Plan and it says that there's yet another
4 improvement that is required, or two other improvements,
5 those would have to be provided based upon the findings at
6 that time.
7 MS. EGLOFF: But that would be after the Zoning
8 Map Amendment is approved, I assume, I assume. Is that the
9 way it operates, like you would first get your approval for
10 the, for the upgrade, and then you would move to the next
11 stage?
12 MR. LENHART: Yes, the, if this zoning is
13 approved, then a Conceptual Site Plan would be required; and
14 then once that's approved, a Preliminary Plan of
15 subdivision.
16 MS. EGLOFF: Okay. That's all I have.
17 MS. MCNEIL: Okay. So, there don't appear to be
18 any more questions. Do you have any redirect, Ms. Scudder?
19 MS. MOOSKIN: I do, I have a question, sorry. I
20 put it in the chat, but I don't know is, is it okay to ask?
21 MS. MCNEIL: Oh, I'm sorry, sorry. Ms. Mooskin,
22 okay.
23 MS. MOOSKIN: Yeah, I have several questions. The
24 first, Mr. Lenhart, you referred to one of the roads as
25 being brought back up to an E level with improvements, that

Page 191

1 you mentioned that the widening of the roadway and the
2 inclusion of the turn lane.
3 MR. LENHART: Yes.
4 MS. MOOSKIN: Is that (indiscernible) vehicles
5 like that would come as a result of the development; or it
6 would still receive an E grade with the improvements and the
7 additional daily trips; or is that E grade only with the
8 improvements, but without counting the additional trips?
9 MR. LENHART: The E is with our traffic, with the
10 full build-out of this site, and with the improvement.
11 MS. MOOSKIN: Okay. And then so you discussed a
12 lot of the contributing factors to the walkability of the
13 site; and that is like really what makes it seem to me like
14 this area is not good for MXT because it is so separated
15 from the rest of the commercial development pockets. And
16 so, in terms, specifically of walkability, the majority of
17 Forest Heights does not have sidewalks and I know that
18 there's been a lot of discussion of how this development
19 will also benefit residents of the town; but since the town
20 does not have sidewalks and walkability is very difficult
21 for residents of the town, are there any plans for the
22 development to address walkability and transit not just
23 within the site, but access from the town itself?
24 MR. LENHART: We haven't had any discussion to
25 that at this point.

Page 192

1 MS. MOOSKIN: Okay. Are there any concerns that
2 the lack of sidewalks in Forest Heights would reduce a lot
3 of the transit in the area to the site?
4 MR. LENHART: I don't believe so. Again, Bald
5 Eagle Road has sidewalks along its entirety, and you can
6 walk from that site out to the transit stop on southbound
7 210. You can walk from the site to the Oxon Hill Park and
8 Ride lot. There are sidewalks fully connected with
9 (indiscernible) signal crosswalks, and push buttons, and
10 protected signals to get to the Park and Ride lot, and the
11 transit buses. So, is it immediately adjacent to those?
12 No, it's not; but it's still, it's still walkable.
13 MS. MOOSKIN: Okay. I guess my concern really
14 stems from, and like I, I'm hoping you can clarify this
15 further, there's been a lot of discussion about how, and
16 someone mentioned earlier MGM and National Harbor developed
17 for visitors; but you guys view this development as being
18 for people living in the area; and so, I understand that
19 there's the access point to the bus stop on 210 and access
20 over the Beltway to, like get to the National Harbor area;
21 but is it, are there any plans or discussion of making
22 transit available for people who actually live in the areas
23 just because that seems to be the most important part, if
24 it's actually improving transit for MXT zoning, like to get
25 people in the area living there to have walkability to the

Page 193

1 site?
2 MR. LENHART: Are you talking about getting
3 transit actually onto the site?
4 MS. MOOSKIN: No, I just mean like, because you
5 mentioned that there's walkability from the site to a bus
6 stop, or walkability from the site to the Beltway, but it
7 doesn't seem like there's walkability from the site to the
8 residential areas surrounding it outside of that sidewalk on
9 Bald Eagle and the trail that goes into D.C. So, how will
10 you improve walkability from the site itself to people
11 living in the immediate area, not just people traveling from
12 outside of the area by bus or car?
13 MR. LENHART: Walkability to like the existing
14 residential neighborhood off of Crea Drive and up in that
15 area?
16 MS. MOOSKIN: Yeah, that, for example, or for
17 people living in the greater Oxon Hill area that might be
18 feeling like it's close enough to walk?
19 MR. LENHART: I mean other than that there is
20 sidewalks on Oxon Hill Road, and so, you know, at our front
21 door there is connectivity and walkability. It connects
22 also to the trail system at that location. I don't, yeah.
23 MS. MOOSKIN: Okay. Okay. I just have two more
24 questions, one of those because of time. So, I guess this
25 actually kind of stems from it, but I guess I'm wondering,

1 because I saw in the Staff Report that they mentioned that
 2 the, there would be a lot of transit and walkability within
 3 the site, but not really external to the site; and so, and I
 4 know you mentioned earlier that MXT zoning can be shown to
 5 reduce traffic overall because people are like living and
 6 shopping in the same area; but how, like what, I guess what
 7 gives you guys confidence in MXT zoning being able to
 8 contribute to a traffic reduction here, just because the
 9 area is so small. Like do you think there's, like, like,
 10 like a strong possibility that people actually could live,
 11 and work, and shop in the area that's as small as that; and
 12 then also, because it mentioned, you mentioned that there's
 13 not anything guaranteeing exactly what type of development
 14 will happen there, so it might not be grocery stores that
 15 people may easily, some might have to go offsite. So, I
 16 guess I'm just wondering, what gives you confidence that the
 17 MXT zoning will actually reduce traffic; and also, not, will
 18 having, people have to go offsite to meet basic needs?
 19 MR. LENHART: Sure. Well, again, like you just
 20 said, we, I can't say exactly what the uses are going to be
 21 right at this time; however, the trip generation manual
 22 that's prepared by ITE, it does have empirical data on mixed
 23 use developments; and it shows that there can be a
 24 substantial reduction based upon the studies that they've
 25 done. They've done numerous studies and it could be 20, to

1 40, or 50 percent reduction depending on the development,
 2 the uses, the mix of things; and, and, you know, again,
 3 since we don't know exactly what, what might go here in
 4 terms of the commercial uses, it's hard to say at this
 5 point; but any commercial uses, I would say, when you mix
 6 them with residential and the other types of things that are
 7 proposed here, there will be interaction between those uses.
 8 There will be internal capture as the case. It's just a
 9 matter of what the level is going to be.
 10 MS. MOOSKIN: Okay. Did your trip generation
 11 calculations, like were they impacted by the types of
 12 development in there? Like would those be affected by the
 13 types of development there, the numbers you came up with?
 14 MR. LENHART: Well, again, we just, we assumed, we
 15 used a shopping center as the commercial component, which is
 16 really not appropriate; but with that, there is an
 17 assumption of some internal trip capture that was applied.
 18 So, yeah, we did take it into account in our study. I think
 19 the Staff Report also had some internals that capture in
 20 theirs, what they did; but, again, if, you know, it depends
 21 on what the uses are. It can be much higher than what was
 22 assumed in the reports. This is a pretty modest,
 23 conservative assumption, I think, on page 25 of the Staff
 24 Report on what the internal trip reductions would be.
 25 MS. MOOSKIN: Okay. And (indiscernible) trip

1 summary, or for the a.m. and p.m. peak hours was different
 2 than the ones that they had in their manual, and theirs were
 3 higher for the a.m. and p.m. peak hours. Can you talk about
 4 why?
 5 MR. LENHART: I'm sorry. Could you repeat that
 6 please? I didn't quite get it.
 7 MS. MOOSKIN: Yeah. The, on page 25 in their trip
 8 generation table, their a.m. and p.m. peak total trips
 9 numbers --
 10 MR. LENHART: Yes?
 11 MS. MOOSKIN: -- were higher than yours.
 12 MR. LENHART: Yes. So, when we initially prepared
 13 this study, it was based on a certain assumption of land
 14 uses. Apparently, that's morphed over time somewhat and the
 15 Staff Report on page 29 is based upon the, the new, you know
 16 the new proposal of land uses. Ours was based on the
 17 original proposal, and so I think that's the reason why.
 18 MS. MOOSKIN: Okay. And then how do you see the
 19 medical center that was proposed as being part of this?
 20 Just, I know someone else already asked about their being
 21 the one main way in and out, and I know that that's the way
 22 it is with National Harbor, although larger; but I don't
 23 think National Harbor has the police, like a police
 24 substation or medical center. So, would the medical center
 25 and the police substation especially, like how would those

1 impact traffic with there being fewer ways in and out of
 2 this site?
 3 MR. LENHART: I'm sorry, could you repeat that one
 4 more time?
 5 MS. MOOSKIN: Yeah. So, I know that you mentioned
 6 National Harbor also has one main way in and out of the
 7 site, although it is, seems like it's larger at National
 8 Harbor; but I don't the National Harbor has the, the police
 9 substation or the medical center that's been listed as one
 10 of the parts of this site proposal. So, how, like do you
 11 see the medical center and the police substation as
 12 impacting the traffic at that entrance because it would be
 13 smaller and that just seems like a lot of, you know, like
 14 police cars and needing to travel in and out, and people
 15 visiting the medical center.
 16 MR. LENHART: Well, the traffic study, and
 17 actually I'm looking at our updated traffic study, does have
 18 a trip generation based on the, the updated numbers that's
 19 in, I'm on page 25 of the Staff Report. They're showing 600
 20 -- and please forgive me, I've got allergies. They're
 21 killing my throat, so I'm a little scratchy --
 22 MS. MOOSKIN: That's fine.
 23 MR. LENHART: -- here, but the page 25 of the
 24 Staff Report had 686 total morning peak hour trips. In our
 25 study, we had 689; and then page 25 of the Staff Report had

Page 198

1 962 total evening peak hour trips; while our traffic study
2 had 975. So, they're, they're very comparable, within a
3 percent or two; and ours are actually slightly higher, what
4 we used in our study.
5 MS. MOOSKIN: Okay, cool. So, does that, did your
6 numbers then -- oh, sorry, Ms. McNeil, you're muted.
7 MS. MCNEIL: I'm sorry. What a day. Mr. Lenhart,
8 are you looking at Exhibit 6 in your study?
9 MR. LENHART: Exhibit 6.
10 MS. MCNEIL: Page 17 or 117? If you're not, it's
11 saying the same thing on that page. I just wanted to make
12 sure.
13 MR. LENHART: I'm looking at the July 16, 2020
14 Traffic Study.
15 MS. MCNEIL: What page?
16 MR. LENHART: 17, which is 689, a.m., and 975,
17 p.m.
18 MS. MCNEIL: Okay. I'm sorry, Ms. Mooskin. Go
19 ahead.
20 MS. MOOSKIN: No, that's fine. So, do those
21 numbers like take into account the medical center and the
22 police substation, and also, I guess just those two things
23 being a little more non-traditional than like people coming
24 and going for work in the mornings and evenings, like even
25 if it's besides the traffic numbers, like how do you guys

Page 199

1 view the medical center and the police substation impacting
2 the area overall? I'm especially thinking of like Bald
3 Eagle Drive, how there would be that turn coming out of it,
4 and then with the traffic of people coming in and going,
5 like how do you guys see that working?
6 MR. LENHART: I don't see it impacting the results
7 of our study. The, our study shows that that, the driveway
8 in and out of our site actually, it, it, it passes the three
9 level test that is required by Park and Planning for
10 unsignalized intersections. It's a 3-level test. If you
11 pass any one of those three steps, the intersection is
12 adequate; and in this case, that intersection passes all
13 three of those. So, I, I don't foresee any issues or
14 problems with that; and would expect it to operate
15 adequately.
16 MS. MCNEIL: But if I may, where are those uses
17 captured in your study? I think that's what she's getting
18 to. Is it under retail or maybe not considered?
19 MS. MOOSKIN: No, there, I don't know, I don't
20 know if they had the, that put into 120,000 square feet, I
21 think that's part of the overall commercial; because,
22 originally, we had 100,000 square feet and then it got
23 increased, so I think that extra square footage accounts for
24 those uses.
25 MS. MCNEIL: Thank you.

Page 200

1 MS. MOOSKIN: Okay.
2 MS. MCNEIL: Go ahead. Any more, Ms. Mooskin?
3 MS. MOOSKIN: Yeah, just one more. So, for the,
4 the right-of-way into the highway right-of-way that you
5 mentioned, could you point me in the direction of where to,
6 to read like more about that, and like is it a surveyed
7 right-of-way? Like where did the documentation for that
8 space come from?
9 MR. LENHART: The, the right-of-way, you're
10 talking about the State Highway owned right-of-way?
11 MS. MOOSKIN: The State Highway right-of-way onto
12 the park, the park's parking lot or road, or whatever it is,
13 is that a surveyed right-of-way?
14 MR. LENHART: It's, it's on a State Highway plat,
15 right-of-way plat, and it's actually, I think it's part of
16 this record.
17 MS. MOOSKIN: Okay. And is it a surveyed right-
18 of-way, like a, like with a high degree of accuracy; or is
19 it more of like --
20 MR. LENHART: Yes. Yes, it's a, it's a surveyed
21 right-of-way. It should be a land, you know, a certified
22 land surveyor that prepared those and scans them. They're
23 highly accurate documents.
24 MS. MOOSKIN: All right. I was looking for it in
25 P.G. Atlas, but couldn't find it. Thank you. That's all

Page 201

1 the questions I have.
2 MR. LENHART: Sure.
3 MS. MCNEIL: Thank you. Okay. It's 4 o'clock.
4 The Board of Appeals has to meet tonight, so we can't keep
5 going, unfortunately, because they have to set up for their
6 virtual hearing. So, how many more witnesses do you have,
7 Ms. Scudder?
8 MS. SCUDDER: I just have one more. I just have
9 one more.
10 MS. MCNEIL: One more? Okay. And then there
11 might be, I'm not sure how many citizens at this moment
12 didn't testify already; but I know Ms. Bick didn't, and
13 there might be a few more.
14 MS. GOODARD: Yeah, I haven't either.
15 MS. MCNEIL: Who is that?
16 MR. FERGUSON: Madam Examiner, Mark Ferguson, for
17 the record. I would expect my direct is probably about 45
18 minutes.
19 MS. MCNEIL: Okay. Thank you. That's Ms.
20 Goodard, so there. Okay. So, we're going to have to
21 continue one more time, and we have a date available May
22 5th, starting at 10:00 a.m. Is that working for you all?
23 Ms. Scudder, Mr. Ferguson, and the Citizens' --
24 MR. FERGUSON: Yes, ma'am. I am at your disposal
25 every Wednesday.

1 MS. MCNEIL: And I'm at you all's. Okay. And,
 2 Mr. Brown?
 3 MR. BROWN: (No audible response.)
 4 MS. MCNEIL: Okay. So, then this matter will be
 5 continued until May 5th at 10:00 a.m. We will also change
 6 the notice and agenda online, so that will be the other
 7 notification; but there won't be any notices mailed to
 8 anyone. And if you are a person of record, which you all
 9 are, then we will be sending you the link for the next
 10 hearing. Thank you all for being here today. This matter
 11 is ended until next week and I was saying all of that to
 12 make sure I'm making it clear that the hearing is over.
 13 MS. GOODARD: Thank you very much.
 14 MS. MOOSKIN: Thank you.
 15 MS. MCNEIL: You're welcome.
 16 MS. SCUDDER: Thank you, Madam Examiner.
 17 MS. EGLOFF: Thank you very much. Thank you.
 18 MS. GINGOLD: Thank you.
 19 MS. MCDOWELL: Thank you.
 20 MS. MCNEIL: Thank you all. But does Staff know
 21 the hearing is over?
 22 (Whereupon, the hearing was concluded.)
 23
 24
 25

1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that the
 3 attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Prince George's County Office of the Zoning Hearing Examiner
 6 in the matter of:
 7 NATIONAL VIEW
 8 Case No. A-10055
 9
 10 By:
 11
 12
 13
 14
 15
 16 _____
 17 Tracy Hahn, Transcriber
 18
 19
 20
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A				
	accomplish (1) 125:18	200:15	advise (1) 69:2	108:20;162:13;165:22; 174:17;176:7;184:21; 186:15
	according (2) 40:10;185:24	add (3) 4:12;98:19;183:5	advocate (1) 19:23	agreed (4) 111:6;161:8;171:5; 175:9
A-10055 (1) 3:4	accordingly (1) 186:16	added (4) 10:17;13:14;120:18; 125:14	aerial (7) 11:20;13:3;50:10; 89:4,8,18;90:4	agreement (2) 186:13;189:12
AASHTO (1) 167:20	account (4) 44:21,24;195:18; 198:21	adding (1) 134:13	aerobics (1) 26:6	ahead (26) 5:10;14:23,24;17:8; 24:15;29:18;33:15; 34:25;44:19;48:25; 49:9;62:20;70:11;81:6; 88:20;99:18;105:9; 111:7;122:24;137:8, 12,12;146:24;167:14; 198:19;200:2
abandoned (1) 120:17	accounts (1) 199:23	addition (2) 82:16;87:12	affect (5) 18:24;45:16,20; 47:20;49:16	air (1) 154:2
ability (2) 132:7,8	accuracy (1) 200:18	additional (5) 5:15;18:19;113:25; 191:7,8	affected (2) 152:17;195:12	Airport (3) 91:22;92:4;125:6
able (26) 3:11;5:17,25;6:12; 11:1,24;29:21;31:1,21; 32:3,25;46:13;50:15; 56:10;68:9,24;103:21; 112:18;135:3;162:19; 164:14,20,23,25; 171:12;194:7	accurate (3) 102:13;188:3;200:23	address (16) 4:7;8:15;10:10;17:1; 41:3;43:7;64:24;70:16; 94:18;105:11;115:9; 139:1;142:3;160:19; 169:22;191:22	affects (1) 108:18	AI (1) 70:2
above (8) 51:4;80:11;86:18; 91:23;141:21;145:3; 148:20,20	achieve (1) 125:16	addressed (2) 56:16;161:25	affidavit (6) 5:6,10,14;7:4;14:6; 35:24	Alan (1) 70:14
above-ground (1) 48:13	achieved (3) 42:12;64:2;133:15	adequacy (2) 175:23;177:11	affidavits (4) 23:19;35:9;36:3,12	Alex (1) 95:12
abreast (1) 24:7	acknowledges (1) 170:23	adequate (9) 161:10;174:23; 175:6,10,19;178:8; 185:19,22;199:12	affirm (6) 16:22;37:2;57:5; 70:5;115:1;157:8	Alexander (1) 5:14
absolute (2) 141:17;169:7	acquire (1) 122:16	adequately (3) 161:22;175:16; 199:15	affirmative (2) 136:23;156:16	align (1) 73:13
absolutely (2) 29:9;93:7	acquired (1) 169:14	adjoining (1) 108:15	afternoon (1) 157:7	alignment (7) 18:1;19:15,24;20:3; 28:6;53:6;162:18
abundant (1) 136:12	acquisition (2) 117:16;118:20	adjacent (17) 38:18;39:15;49:18, 21,25;50:19;53:1;54:9; 56:2;86:22;138:21,24; 145:11;150:22;152:24; 180:3;192:11	afternoons (1) 21:22	allergies (1) 197:20
abuts (1) 138:21	acre (6) 48:9;107:4,6,7,9; 108:7	adjoined (1) 108:15	again (61) 3:4;4:7;6:11;8:14; 11:15;13:16,20;28:5; 29:5;37:7;40:8;41:24; 43:7;46:25;48:4;59:15; 60:25;61:16,21;80:13; 89:12;90:1;91:18;92:1; 100:8;106:7;107:1; 111:3;112:19;115:5; 124:22;125:17;126:4; 130:3;135:25;141:8; 147:6,9;157:19; 166:14;170:11,20,25; 171:11,18,25;172:5,17, 20,22;173:5;175:2; 176:4,12;184:1;185:5; 192:4;194:19;195:2, 14,20	allow (9) 11:2;27:1;34:16,24; 66:12;87:7;120:13; 127:18;143:12
abutting (2) 162:12;165:22	acreate (1) 154:24	adjoin (2) 18:21;116:6	against (10) 19:19;24:18;26:11, 15;29:22;50:4,20; 102:4,4;108:10	allowable (1) 170:13
accept (3) 78:7,17;123:6	acres (17) 24:25;38:18;39:4,9; 40:5,8;47:19;93:3; 98:20,20;103:18,19; 104:6;120:9;123:11; 146:13;155:17	adjust (1) 148:17	aging (4) 25:10,19;26:2,7	allowed (10) 30:2,6;51:13,15; 56:13;98:18;101:1; 119:2,4;159:25
acceptable (5) 36:14;122:8;159:20; 160:10;161:2	across (5) 39:11;81:23;97:1; 131:22;169:17	Administration (2) 13:3;169:14	ago (8) 5:23;6:23;33:6;72:9; 87:25;121:23;145:13; 188:4	allowing (2) 56:12;131:6
acceptance (1) 163:20	action (1) 83:12	administrative (3) 7:13;76:23;121:20	agree (14) 30:5;44:3,6;55:12; 73:16;74:11;104:21;	allows (13) 128:6,16,16,20,21, 25;129:11,16;137:16; 159:19;171:6;173:8,11
accepted (8) 121:8,20,25;122:23; 132:2,6;136:15;158:10	activities (1) 32:7	admissible (3) 7:4,7,12	agenda (1) 202:6	all's (1) 202:1
access (35) 94:10,16;125:5,6,16, 17;132:20;161:21; 162:8,11;165:17,20; 166:1,8,12;169:4,7,11, 15,19;170:11,13; 171:11,12,12;174:6,6; 175:21;179:3;181:1; 182:2;190:2;191:23; 192:19,19	activity (2) 49:16;169:8	admit (1) 78:14	aging (4) 25:10,19;26:2,7	almost (6) 22:3;37:22;66:17; 85:18;103:20;165:13
accessible (2) 94:13;181:12	actual (2) 40:20;188:6	admitted (1) 61:11	ago (8) 5:23;6:23;33:6;72:9; 87:25;121:23;145:13; 188:4	alone (1) 74:22
Accokeek (1) 186:10	actually (47) 5:19;6:15,24;18:24; 19:11;28:1;39:23; 40:22;47:17;53:24; 54:3;62:23;79:20;80:9, 9;84:25;87:18;89:19; 92:12,14,23;96:1,19; 104:1;123:5;129:8; 134:19;138:8;141:1; 161:15;163:19;164:18, 18,19;169:19;173:22; 177:25;192:22,24; 193:3,25;194:10,17; 197:17;198:3;199:8;	adopt (2) 83:18;101:5	agree (14) 30:5;44:3,6;55:12; 73:16;74:11;104:21;	along (18) 39:14;43:20;62:8; 73:12;79:20;97:20; 101:9;141:25;169:7,
accommodate (1) 175:10		adult (1) 25:13		
		advantage (2) 104:2;160:1		
		adverse (1) 24:19		

<p>15;170:14;171:10,11; 173:22;174:1,2,7; 192:5 although (6) 54:13;83:14;97:5; 175:23;196:22;197:7 always (8) 22:11,24;33:25; 34:10,12;88:22;124:2; 139:23 ambitious (1) 14:22 amendment (2) 98:16;190:8 amendments (1) 120:4 amenities (2) 128:22,23 America (6) 87:24;89:4,8,18; 90:4;169:12 American (3) 71:11;85:7;167:21 amount (2) 41:16;138:1 amounts (1) 94:12 analyses (2) 162:24;178:11 analysis (16) 8:15;43:2,10;44:21; 46:22;47:7;84:9,13; 107:19;116:8;160:17; 163:12,12;169:22; 185:17,21 analyze (2) 54:19;123:23 analyzed (4) 42:2;72:12;96:25; 117:18 ancestor (1) 34:2 ancestry (1) 7:14 Anderson (1) 52:7 Ann (1) 37:8 Annapolis (1) 157:21 annex (1) 133:7 Annexation (1) 133:9 annually (1) 92:11 answered (3) 109:16,17,19 antebellum (1) 144:13 anticipated (1) 175:16 anticipating (1)</p>	<p>124:2 apartment (3) 71:5;91:13;150:19 apparently (3) 11:10;138:20;196:14 Appeals (2) 77:15;201:4 appear (3) 76:9;163:1;190:17 appears (1) 133:20 apples (2) 185:11,11 Applicant (10) 3:4;5:1;23:18;44:6; 58:21;83:23,25; 100:18;166:11,21 Applicant's (6) 14:15;34:25;72:3; 150:8;158:25;159:4 application (27) 7:9,10;14:15;40:12; 44:12;71:16,25;72:3; 73:25;75:13;83:8,13; 84:5;97:15,17;98:16; 100:15;107:11;123:10; 133:8,21;134:11; 149:15;163:19;166:22; 170:9;175:24 applications (1) 138:9 applied (2) 128:19;195:17 applies (1) 48:7 appreciate (4) 7:19;21:12;112:13; 184:12 approach (3) 86:6;138:15;178:4 approaches (3) 129:24;131:10;147:5 approaching (1) 160:7 appropriate (8) 55:11;109:2;118:21; 129:1;131:6,7;179:17; 195:16 approval (7) 43:13;158:25;162:1; 166:25;167:3;186:14; 190:9 approvals (1) 125:1 approved (24) 27:25;40:1,13,19; 43:11;46:18;56:14; 72:16;73:10;99:12; 134:3,9,16;166:7; 174:21;176:20;186:18, 24;188:11,21;189:13; 190:8,13,14 approximate (1)</p>	<p>41:16 approximately (10) 39:6,8;40:11;43:15, 17;69:22;74:14;76:1; 81:24;123:11 April (5) 3:2;43:12;51:22; 52:4,6 arbitrarily (1) 171:18 Archeology (1) 88:9 architect (21) 70:14;72:23;76:10, 17;77:19;93:19;116:2; 117:8;121:15;122:5, 18;138:19;139:1; 143:2;146:9,12;148:8; 150:2;152:13;153:1,6 Architects (6) 70:17;71:12;117:22, 23;152:15,15 architect's (3) 108:8,12;151:23 architectural (4) 94:24;102:21;109:5; 116:14 architecture (15) 70:22;71:3;72:20; 76:9,24;77:22;78:9,15, 18;116:7,17;122:3,24; 123:7;131:24 area (70) 18:1,10;19:9;39:9; 40:6,12,12;42:17; 47:15;48:20;49:7; 61:12;62:1;64:3;68:12, 22;71:8,23;78:18; 85:12,14;86:15,16; 87:7,12,13,17;88:10; 89:9;90:7;94:16;95:1; 98:23;105:13,17; 108:5;117:1;118:15; 121:11;122:24;124:3, 7;125:3,3,5,7;133:2; 135:16,21;136:3; 141:3;153:24;157:24; 158:20;159:8;167:6; 186:5;191:14;192:3, 18,20,25;193:11,12,15, 17;194:6,9,11;199:2 areas (23) 18:6,15;24:8;54:20; 63:4;74:24;90:6;94:9, 17;135:14,17,20,23; 136:2,4,5;138:5;154:2; 168:9;169:6;172:14; 192:22;193:8 argue (2) 23:22;98:8 arguing (1) 23:24 argument (3)</p>	<p>98:6;152:4,5 Arlington (6) 71:9;78:2,3;90:25; 111:5,7 arose (2) 41:4;43:8 around (15) 82:3;85:22;94:10; 103:18;114:21;124:5, 7,8;125:1;148:25; 156:22,24;173:25; 181:4;186:6 arranged (1) 97:7 arrow (2) 80:8,22 arrows (1) 80:7 art (1) 122:14 arterial (5) 153:15;167:10; 170:16,17,18 arterials (1) 170:18 artifacts (7) 85:10;88:4,8,9,11; 93:14,25 artist (1) 19:9 artistic (1) 92:19 artists (1) 20:25 Arts (3) 20:23;22:15;31:19 aspect (1) 74:4 aspects (3) 116:3;129:19;131:23 assemble (1) 117:22 assessment (2) 92:7,20 assisted (1) 71:7 associated (1) 38:25 Association (2) 120:24;167:21 assume (2) 190:8,8 assumed (4) 179:12,13;195:14,22 assuming (1) 60:18 assumption (3) 195:17,23;196:13 assured (1) 106:25 at-home (1) 26:5 Atlas (7)</p>	<p>168:21,21;170:20; 171:22;173:17,19; 200:25 attached (5) 64:11;119:4;145:24; 149:23;151:25 attachment (1) 59:15 attempting (1) 44:13 attended (1) 71:2 attending (1) 17:17 attention (2) 83:1;162:7 attorney (3) 4:25;6:16;34:25 attorneys (2) 117:24,24 attractive (1) 125:24 attributes (1) 125:7 audible (2) 156:19;202:3 audio (1) 156:13 auspices (1) 71:13 authentic (1) 88:10 authenticate (2) 61:5,8 authority (1) 29:8 authorizing (1) 28:24 automobile (1) 173:2 automobiles (3) 104:5;181:13,15 available (7) 18:13;59:25;67:11; 68:18;129:1;192:22; 201:21 Avenue (2) 87:1;173:24 average (1) 61:13 avid (1) 25:21 avoid (2) 55:13;61:6 awarded (1) 71:11 aware (12) 21:21;22:22;27:18, 24;28:2;47:21;48:18; 49:1,6;73:20,24; 131:15 awareness (1) 24:10</p>
---	---	--	--	---

<p>away (6) 47:19;50:21;74:15; 79:24;112:2;126:6</p> <p>awful (1) 77:10</p>	<p>basically (12) 26:9;28:24;41:11; 53:2;59:15,19,22; 63:25;64:1;112:1; 148:19;188:5</p> <p>basing (1) 187:7</p> <p>basins (3) 140:24,24;141:8</p> <p>basis (2) 102:13;186:16</p> <p>Battles (1) 149:1</p> <p>Bay (5) 39:9;46:4,9,23;47:3</p> <p>Bear (4) 185:1;187:10,20; 188:16</p> <p>beaten (1) 153:3</p> <p>beats (1) 93:20</p> <p>beautiful (2) 25:1;96:9</p> <p>became (3) 31:23;118:3;124:8</p> <p>become (4) 3:22;32:4;45:7; 58:19</p> <p>becoming (2) 135:6;182:10</p> <p>begin (1) 92:25</p> <p>begin (2) 3:6;139:16</p> <p>beginning (8) 5:22;15:10;53:8,11, 12,13;81:8,8</p> <p>begins (2) 83:2;139:20</p> <p>behind (2) 106:12,19</p> <p>below (2) 106:14;112:1</p> <p>Beltway (19) 38:20;74:19,23; 81:23;96:20;97:1; 105:14,14;106:6; 112:2;159:18,21; 160:1,2;165:6;170:1, 17;192:20;193:6</p> <p>beneficial (2) 19:13;130:1</p> <p>benefit (1) 191:19</p> <p>Benjamin (1) 85:20</p> <p>berets (1) 118:9</p> <p>berms (2) 140:23;141:6</p> <p>besides (1) 198:25</p>	<p>best (5) 42:12;64:2;106:20; 109:2;118:10</p> <p>better (11) 13:19;74:20;86:1; 129:9;131:4;138:15; 164:19,24;177:21,22; 178:8</p> <p>Betty (2) 13:14;75:6</p> <p>beyond (4) 65:13;85:7;186:4,9</p> <p>Bible (1) 87:5</p> <p>BICK (36) 104:16,16,17,18,20, 25;105:2,9,10;106:18, 22;107:8,12,16,17,22, 24;108:1;109:7,16,17, 20;110:1,4,6,8,15,17, 19,20;112:8,9,13,17, 20;201:12</p> <p>big (6) 130:2;135:5,6,14; 147:13;149:19</p> <p>bigger (1) 136:1</p> <p>biggest (2) 130:17;131:4</p> <p>bike (4) 173:20,21,22;174:4</p> <p>biking (2) 173:5,16</p> <p>binder (3) 52:2;96:5;164:13</p> <p>binders (2) 36:17;51:19</p> <p>bio (1) 41:21</p> <p>bioretention (1) 130:8</p> <p>bird (1) 25:8</p> <p>bisected (1) 39:2</p> <p>bit (6) 80:3;95:20;97:2; 111:6;135:1;142:6</p> <p>black (5) 144:7,13,22;165:9,9</p> <p>Bladensburg (1) 149:1</p> <p>blanked (1) 155:5</p> <p>blocks (1) 126:1</p> <p>blue (1) 165:3</p> <p>blueprint (1) 73:14</p> <p>Board (7) 77:15;83:16;84:2; 101:2;105:4;118:2;</p>	<p>201:4</p> <p>Boards (2) 77:5,7</p> <p>body (1) 121:20</p> <p>bolstering (1) 20:1</p> <p>Bonnie (1) 104:16</p> <p>book (1) 101:21</p> <p>borings (3) 59:23;60:3;68:23</p> <p>born (1) 71:1</p> <p>Borque (2) 6:20;17:25</p> <p>boss (1) 140:18</p> <p>both (11) 4:24;6:20;11:18; 24:12;38:5;39:16; 78:16;88:15;138:3; 143:25;173:23</p> <p>bottom (2) 50:22;90:24</p> <p>Boulevard (5) 37:12;111:9,10; 120:9;157:21</p> <p>boundary (1) 171:25</p> <p>Bowie (1) 18:22</p> <p>box (3) 10:25;13:12,17</p> <p>boy (2) 75:4;80:14</p> <p>brand (2) 189:18,20</p> <p>Branding (1) 88:22</p> <p>break (5) 66:23;69:8;113:6,6,9</p> <p>breaking (1) 26:4</p> <p>bridge (3) 18:14;25:21;165:6</p> <p>bridges (1) 168:7</p> <p>brief (2) 59:18;176:19</p> <p>briefly (7) 11:3;43:25;84:25; 131:20;168:3;177:8,9</p> <p>bring (7) 18:21,21;22:18; 85:19;126:13,13; 150:13</p> <p>bringing (1) 18:11</p> <p>Brothers (6) 117:11,12;118:4; 120:10;130:4,10</p>	<p>brought (2) 61:4;190:25</p> <p>Brown (108) 4:23;5:2,2,6,9,10; 7:2,3,24;8:4,7,18;11:6, 9,14,25;12:12,16,18, 19;13:2;20:8,11,13; 23:4,17;24:1,33:4; 34:8,10,12,18;36:11; 43:24,25;44:3,6,9; 54:10,12;55:8;59:16; 60:13,21;61:9,25; 62:14,25;65:7,15,21; 66:5,6,10,15,18,20; 67:23,25;76:4,6,14,16, 19,22;77:4,7,11,14,18, 21,25;78:3,5,13,19,20; 90:11,12;97:12; 102:24;103:4,9,13; 114:13,17;115:15,20, 23;122:10,12;134:20, 21;145:9;151:15; 152:19,21;153:8,11; 155:13,21,23;156:7,11; 180:13,14;202:2,3</p> <p>Brown's (2) 36:4,6</p> <p>BS (1) 116:17</p> <p>buffers (3) 40:19;141:22,23</p> <p>build (12) 29:10;48:4;99:16; 118:21;125:23;126:17; 127:10,24;150:21,25; 166:8;186:17</p> <p>builders (2) 126:12,15</p> <p>building (13) 75:16;91:15,16; 96:11;99:24;125:25; 137:18;140:11;150:21; 152:23;154:14;179:24; 181:10</p> <p>buildings (25) 71:5,5,6;74:14,18; 75:14;79:15;81:16,19; 96:7;97:15;106:7; 110:25;111:6,9,11; 125:21;145:2;151:10, 11,12,13;152:17,22; 180:4</p> <p>buildout (1) 155:20</p> <p>build-out (5) 141:18;188:9,11; 189:9;191:10</p> <p>built (11) 47:23;82:16;93:3; 97:19;112:11;118:23; 120:18;125:9;127:22; 154:14;189:2</p> <p>bump (1)</p>
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<p>49:22 burdening (1) 174:17 bus (5) 174:7,8;192:19; 193:5,12 buses (2) 133:2;192:11 business (4) 35:9;36:3;70:22; 115:9 businesses (1) 182:12 busy (1) 5:18 Butler (18) 5:14;19:9;39:2,24; 64:25;85:16,23,24; 86:2,3;88:1,14,25; 89:9;90:7;103:23; 145:4;148:22 button (1) 80:8 buttons (1) 192:9 bypassed (1) 45:13</p>	<p>24;35:17,17,22;36:9; 15;45:5;47:21;50:6,8; 51:5,11,25;52:2,22; 55:10,22;56:15;59:17, 18;60:7,8,11;61:5; 62:1;63:9,14,19,19,20; 64:11;65:14,14,17; 66:4,17,22;67:17,25; 68:15;69:22;75:9,12; 78:7;79:22;80:22; 82:16,19,21;84:19,24; 85:18;86:15,15,19,21; 87:8,9,15,19;88:11,20; 89:3;90:6;91:10;92:10; 98:8,9,22;100:12; 101:24;103:1,5,6,25; 104:9;106:21;107:20; 113:7;115:19;118:14, 16;128:15,22,23; 129:13,23;130:15; 131:3,10,12;132:15,20; 133:15;134:6,12; 136:13;137:14;138:8, 21;139:1;140:4,7; 141:10;142:13;143:12; 144:25;147:3;148:12, 15;150:25;152:4,9; 153:16,20,20,22; 154:11;155:14;156:13; 164:10,21,23;165:3,5; 169:19;172:7;173:14; 175:5;176:18,21; 178:18,23;180:4,21; 182:18;185:11,11; 186:22;192:5,7,14; 194:4,23;195:21;196:3 canopy (1) 153:13 capacity (4) 43:8;159:23;177:24; 178:1 capillaries (1) 186:6 Capital (8) 30:9,17;38:20;120:8; 159:18,21;160:1;165:6 capsule (1) 87:5 capture (4) 180:2;195:8,17,19 captured (3) 42:21;88:2;199:17 car (1) 193:12 card (1) 117:2 care (2) 25:6,23 career (2) 57:25;58:5 careful (3) 55:13;61:21;91:8 carefully (1)</p>	<p>73:9 caregiver (2) 25:13,15 cares (1) 5:18 carry (2) 102:10;175:16 carrying (1) 159:23 cars (2) 184:21;197:14 case (25) 3:4;7:20;10:14;17:3; 27:14;32:18;37:15; 38:13;44:12;58:14; 60:15;62:18,19;72:10; 82:17;85:22;98:7; 147:5;156:23;158:4; 162:3;169:10;179:22; 195:8;199:12 cases (3) 121:8;130:15;171:3 Casino (1) 173:25 Cassandra (2) 4:19;10:9 catalyst (1) 55:23 catastrophic (1) 47:16 categories (1) 63:7 category (5) 122:8;125:11,12; 139:15,24 cause (2) 63:24;74:20 causes (1) 45:6 caution (1) 33:6 CDP (1) 119:23 Center (22) 168:17;170:2,4,5,25; 171:19,21;172:21; 179:16,18,19;180:10; 188:25;195:15;196:19, 24,24;197:9,11,15; 198:21;199:1 centerpiece (1) 86:5 centers (4) 17:13;71:6;120:25; 172:14 centrally (1) 131:6 Centre (1) 120:8 certain (8) 43:13;90:6;135:20, 21,21;155:19;178:19; 196:13</p>	<p>certainly (3) 21:24;159:17;172:10 certificates (1) 36:3 certifications (3) 116:20;117:1,4 certified (1) 200:21 cetera (4) 72:17;94:1;96:21; 173:16 challenges (3) 25:18;26:5;127:11 challenging (1) 140:7 chance (6) 3:17;15:7;35:19; 112:24;162:4;163:9 change (14) 29:4;34:22;44:22; 74:21;105:12;107:14; 108:10;109:9;120:2; 127:19;150:24;153:18; 188:5;202:5 changed (2) 99:24;119:10 changes (2) 124:17;183:19 changing (4) 27:10;56:12;104:14; 151:3 channel (2) 39:17,19 channels (2) 49:20;89:8 characteristics (2) 38:16;55:17 chat (2) 180:16;190:20 check (3) 14:5;31:22;134:6 checked (1) 125:10 Chesapeake (6) 19:21;39:9;46:4,9, 23;47:3 child (1) 25:13 children (2) 26:6;87:9 choosing (2) 135:4,5 Christine (1) 150:9 chronology (2) 86:19;88:13 churches (1) 71:6 cite (1) 143:16 citizens (3) 97:10;172:17;201:11 Citizens' (1)</p>	<p>201:23 city (5) 22:22;94:14;145:16; 154:25;155:1 civil (5) 37:19,21;38:1;72:19; 148:25 Claggett (1) 119:1 Clarendon (1) 111:9 clarify (6) 54:12;69:12;99:19; 105:22;113:24;192:14 clarifying (1) 29:16 Clark (1) 120:22 Clarksville (1) 115:11 class (1) 131:22 classified (1) 167:10 classroom (1) 26:20 clay (1) 64:9 clean (2) 154:2,2 cleanest (1) 118:6 clear (5) 29:13,16;35:25; 168:18;202:12 cleared (1) 34:23 clearer (1) 12:17 clearing (1) 141:11 CLERK (3) 52:4,7;164:16 click (1) 80:13 client (3) 64:16;73:2,12 cliff (1) 141:20 climate (1) 44:22 clip (1) 90:5 close (7) 50:9;54:2;75:24; 79:24;112:3;180:14; 193:18 closed (2) 45:19;92:21 closer (3) 111:8;155:13,16 closes (1) 78:14</p>
C				
<p>Cabinet (1) 71:13 Café (3) 23:10,12;31:16 calculated (1) 42:2 calculations (1) 195:11 California (1) 71:2 call (19) 8:12,17,9:1;32:20; 33:9;36:21;49:12;57:1; 59:17;70:2;85:2,20; 89:13;108:14;114:18; 118:9;156:21;157:5; 163:24 called (5) 43:4;73:18;120:18; 121:16;144:12 caller (3) 136:21;137:3,6 came (6) 116:25;118:4; 124:25;126:2,18; 195:13 camera (1) 4:5 can (165) 3:19;4:5,6;7:1,17; 8:9,22;11:17;12:6,24; 14:5;15:7,11,12;16:13; 22:21;26:1,32;22;34:7,</p>				

<p>closet (1) 85:14</p> <p>close-up (2) 81:17;82:9</p> <p>closing (1) 65:22</p> <p>Clover (1) 115:11</p> <p>Club (1) 120:17</p> <p>CMA (1) 171:3</p> <p>coarse (1) 64:8</p> <p>coarse-grained (1) 64:10</p> <p>Coca (1) 87:23</p> <p>code (8) 72:16;118:24;119:3, 25;120:2,3,13;180:10</p> <p>codes (1) 91:9</p> <p>co-exist (1) 82:21</p> <p>Cola (1) 87:23</p> <p>collaborates (1) 97:23</p> <p>collaborating (2) 97:22,23</p> <p>collect (1) 141:7</p> <p>collected (1) 67:19</p> <p>collectively (1) 132:18</p> <p>collects (1) 39:16</p> <p>College (1) 71:3</p> <p>colors (1) 105:23</p> <p>Columbia (2) 77:13;120:24</p> <p>combination (1) 70:22</p> <p>comfortable (1) 115:21</p> <p>coming (14) 8:1;14:21;45:8; 77:17;79:18;95:4; 107:24;124:5,17; 125:1;182:11;198:23; 199:3,4</p> <p>commanding (1) 150:17</p> <p>comment (6) 84:4;149:14;155:25; 162:7;165:20,23</p> <p>commented (1) 149:14</p> <p>comments (13)</p>	<p>14:16,20;27:6;36:4, 8;63:5;64:1;66:12; 88:18;102:5;161:14, 16,23</p> <p>commercial (23) 91:3;94:9,17;108:16; 120:14;121:2,6;127:8; 128:1,6,9;129:16; 133:10;179:23,24; 180:7;181:12;182:8; 191:15;195:4,5,15; 199:21</p> <p>commercially (1) 86:20</p> <p>Commission (22) 30:10,17;74:1;75:2, 11;83:9,13,15,17,20, 25;84:4,9;100:16,21, 22;102:9,25;115:18; 145:14,17;146:19</p> <p>Commissioner (3) 71:9;78:1;111:5</p> <p>commitment (1) 17:23</p> <p>committed (1) 18:4</p> <p>Committee (1) 118:3</p> <p>common (4) 126:11,15;131:21,24</p> <p>commonly (3) 130:25;138:5,14</p> <p>communication (1) 6:24</p> <p>communications (2) 5:23;6:21</p> <p>communicator (1) 73:2</p> <p>communities (8) 26:1,2;118:21; 130:20;131:16;132:15, 17,20</p> <p>community (30) 17:14,23;18:18,20, 22;19:8,12,22,22; 20:22;21:13;22:10; 25:7;26:4,16,18,20; 105:16;109:20;112:15; 118:23,25;119:6,7; 125:25;131:14;133:1, 25;134:8;154:23</p> <p>companies (1) 182:12</p> <p>company (8) 57:12,16;61:3;76:8; 115:8;121:4;157:17,19</p> <p>company's (1) 70:15</p> <p>comparable (1) 198:2</p> <p>compare (2) 130:23;185:11</p> <p>compared (3)</p>	<p>64:9;94:13;129:7</p> <p>comparison (1) 171:2</p> <p>compass (1) 72:16</p> <p>compatibility (3) 105:19;106:2;107:3</p> <p>compete (1) 88:11</p> <p>compiled (1) 65:10</p> <p>complete (2) 12:5;155:6</p> <p>completely (6) 139:8;143:16; 144:12;166:14;184:3; 188:9</p> <p>complex (8) 90:20,22;91:13,15; 93:4;96:7,7;137:18</p> <p>component (2) 182:14;195:15</p> <p>components (4) 168:4;169:1,22; 180:6</p> <p>comprehensive (1) 119:21</p> <p>compromising (1) 132:8</p> <p>comps (1) 41:6</p> <p>computations (1) 41:16</p> <p>compute (1) 42:3</p> <p>computer (1) 3:9</p> <p>concept (11) 29:3;87:8;96:5,6; 97:10,16;161:12; 166:6;176:19;178:13; 186:23</p> <p>concepts (2) 87:6;96:11</p> <p>conceptual (6) 40:15,18;70:23; 150:14;186:25;190:13</p> <p>conceptualized (1) 72:21</p> <p>conceptually (4) 27:15;43:11;175:17; 186:24</p> <p>concern (8) 22:2;29:1;56:5; 68:20;106:3;138:19; 181:6;192:13</p> <p>concerned (7) 18:9;21:13;68:12; 69:2;105:16;106:24; 109:21</p> <p>concerning (4) 23:19;99:20;153:1; 188:7</p>	<p>concerns (9) 22:16;24:22;26:7; 43:7;60:23;62:18; 108:2;161:17;192:1</p> <p>conclude (1) 66:19</p> <p>concluded (1) 202:22</p> <p>concludes (1) 88:17</p> <p>conclusion (1) 82:20</p> <p>conclusions (6) 64:19,19;65:11; 66:11;159:16;176:7</p> <p>concrete (1) 39:17</p> <p>concur (2) 171:17;176:11</p> <p>concurrred (3) 40:23;161:8;175:22</p> <p>condition (5) 42:3,6;51:6;86:2; 160:17</p> <p>conditions (8) 50:18;52:25;53:19; 58:22;59:22;79:19; 127:15;159:7</p> <p>condos (1) 120:24</p> <p>conduct (2) 60:3;186:13</p> <p>conducted (6) 68:23;163:19;187:9, 10,11,13</p> <p>conducting (2) 59:23;60:2</p> <p>confer (1) 93:24</p> <p>confidence (2) 194:7,16</p> <p>confirm (3) 30:18;60:1;92:10</p> <p>confirmed (1) 189:13</p> <p>congested (2) 186:7,8</p> <p>congestion (2) 159:25;183:9</p> <p>conjunction (2) 167:25;175:24</p> <p>connect (3) 86:15,22;93:8</p> <p>connected (5) 6:25;21:1;22:13; 26:17;192:8</p> <p>connecting (2) 168:8,10</p> <p>connection (3) 94:18;95:1;168:19</p> <p>connections (2) 133:13;135:22</p> <p>connectivity (4)</p>	<p>168:11;174:1,4; 193:21</p> <p>connects (3) 91:6;93:10;193:21</p> <p>conservation (2) 25:25;117:5</p> <p>conservative (3) 179:17;180:11; 195:23</p> <p>consider (3) 11:17;15:13;19:10</p> <p>consideration (1) 19:11</p> <p>considered (7) 40:18;105:7;144:22; 177:23;178:8;179:9; 199:18</p> <p>considering (2) 132:21;171:23</p> <p>consistent (4) 6:1;42:12;64:2; 175:1</p> <p>consisting (1) 64:6</p> <p>consists (1) 174:8</p> <p>constant (1) 6:24</p> <p>constraints (1) 129:13</p> <p>construct (1) 88:12</p> <p>constructability (1) 60:23</p> <p>constructed (1) 28:2</p> <p>construction (5) 43:13;122:17; 175:15,15;184:2</p> <p>consultant (3) 116:1;120:8,21</p> <p>Consultants (1) 57:15</p> <p>consultation (1) 183:17</p> <p>consulting (6) 57:19;115:10;116:3; 119:16;157:15,20</p> <p>contact (1) 93:15</p> <p>contain (1) 39:10</p> <p>contained (3) 58:24;67:18;186:3</p> <p>containing (1) 87:5</p> <p>contains (3) 38:24;39:1,4</p> <p>contingent (1) 43:13</p> <p>continue (7) 19:25;32:18;56:17; 63:19;117:1;132:20;</p>
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201:21 continued (1) 202:5 continues (2) 45:14;60:13 contribute (4) 89:7;90:3;141:16; 194:8 contributing (2) 94:12;191:12 control (13) 41:23;42:1,20,22,22; 60:8;117:3;118:7; 124:12;126:20;140:22; 142:1;178:4 convenient (1) 182:2 Convention (1) 168:17 conversations (1) 62:16 conveyed (1) 45:19 cool (1) 198:5 coordinated (1) 80:3 coordinator (1) 73:2 copy (4) 99:3;136:14;176:20, 21 core (1) 145:4 corner (1) 11:23 corrected (1) 34:21 correctly (2) 130:23;145:20 corridor (1) 71:10 cost (2) 125:13,14 costly (1) 125:17 costs (2) 124:13;156:3 Council (1) 105:5 counsel (6) 3:13;5:3;20:5;31:8; 33:2;115:18 count (7) 92:12,15;184:18; 188:2,3,5,7 counted (1) 188:8 counter (3) 62:12,15,16 counties (1) 119:17 counting (2)	187:6;191:8 counts (9) 23:12;163:20,21; 182:21,25;187:9,10,12; 188:5 County (53) 19:16;20:2;21:1; 22:2;24:18;29:21;32:7; 41:12,25;42:15;44:25; 46:18;62:10;71:9,12, 14;72:14,16;73:6,10, 19,21;77:9,15;78:1,3; 91:8,20;100:2;115:17; 118:17,18,23;120:21; 121:4;127:23;130:15; 135:9,13,18;136:2,3; 138:11;142:19;144:6, 8,14,23,23;145:16; 146:19;147:11;172:15 County's (3) 73:14,17;168:21 County-wide (2) 40:10,14 couple (9) 5:19;10:22;30:8; 46:3;62:24;64:1; 120:15;175:13;184:15 course (16) 3:7;8:9;33:24;91:7, 20;117:24;118:22,25; 119:14;120:16,17,20; 135:13;137:21;145:5; 148:22 coursework (1) 116:18 COURT (4) 16:21;20:5,9;121:21 Cove (8) 17:10,14;18:18; 75:19;88:25;92:13; 94:8,11 cover (1) 131:8 COVID (4) 24:10;92:21,25; 182:10 craziness (1) 115:1 crazy (2) 97:6;140:18 Crea (4) 31:2;43:21;50:23; 193:14 create (4) 137:24;173:8; 177:16;180:21 created (3) 72:20;88:14;104:5 creates (2) 132:24;169:7 creating (3) 132:14,18;173:10 creation (3)	86:3,25;87:20 creativity (2) 128:16,25 Creek (9) 39:12,19;45:15;56:2; 94:13;120:17,18; 138:22;139:2 creek's (1) 138:24 criteria (5) 99:5,5;167:5,11; 172:24 criterion (7) 167:2,4;170:9,19; 171:16;176:12,14 critical (7) 39:9;88:23;127:14, 14;177:20,22;178:7 cross (4) 18:14;25:21;96:25; 170:1 cross- (1) 27:2 cross-exam (1) 27:2 cross-examination (2) 55:10;110:22 cross-generational (2) 18:4;19:25 crossing (1) 105:14 crosswalks (1) 192:9 crude (1) 65:1 curious (4) 21:10;31:3;94:24; 96:10 current (20) 18:25;19:24;42:13; 64:2;79:19;82:14;85:8, 10;86:2;89:12;92:6; 125:24;128:1;129:21; 132:6,7;152:23; 164:12;184:18;188:14 currently (3) 18:13;159:11;174:9 custom (1) 71:6 cut (8) 11:21,23;19:4; 115:22;135:3;143:8, 11;164:11 cutting (1) 132:4 CVCA (1) 48:7	19;185:5,13,19;191:7 data (13) 40:16;59:25;60:1; 64:19;65:2,4,4,12,13; 67:12,18;68:19;194:22 date (4) 19:17;75:15,16; 201:21 dated (8) 43:12;52:4,9,19; 83:22;144:1;163:12; 187:9 dates (1) 105:15 David (1) 137:6 day (4) 5:18,20;15:7;198:7 days (2) 140:20;148:25 DBI (5) 70:17,20;151:22; 152:13,15 DC (3) 38:5;87:2;193:9 deal (6) 137:17;138:23; 139:10;145:6;146:12; 155:17 dealing (3) 109:10;128:17;140:6 dealings (1) 33:24 dealt (1) 144:20 Dean (1) 142:13 debated (1) 132:2 decade (2) 18:11;19:21 decades (1) 97:23 December (1) 184:19 decided (5) 102:3,5;124:15,19; 126:8 decides (1) 45:10 deciding (2) 27:11;28:9 decision (3) 84:6;102:24;103:10 decrease (1) 181:14 deeds (1) 166:16 deeper (1) 125:10 deer (1) 25:7 defend (1)	146:6 defer (1) 107:23 define (3) 72:24;139:15;167:23 defined (3) 167:15,18;171:4 defines (1) 171:7 definitely (3) 61:12;142:25;146:4 definition (5) 131:21;132:2,6; 171:4,6 degree (8) 38:1;69:14,19;77:2; 116:16,17,19;200:18 degrees (2) 79:12;82:3 Delaware (2) 89:22,23 delay (1) 178:1 delays (4) 159:24;160:12,16,19 delete (2) 14:20,24 denial (4) 169:4,6,11,15 denied (2) 77:18;171:11 denotes (2) 165:10;166:18 dense (5) 108:16;137:18; 151:1,1;180:25 densities (1) 110:12 density (48) 28:10,24,25;29:9; 55:24,25;56:11,14; 74:9;98:19,20;107:3, 13,13;108:6,17;109:9, 11;112:14;119:3,11, 12;126:5,23;127:10,13, 14;128:3,14;129:7,17; 130:24;131:13,13; 132:22,22;133:2,15; 135:19;136:6,11; 137:16,23;138:4,9,14; 154:24;155:16 Department (8) 71:14;142:23;143:3, 15;145:7;149:14,16; 183:18 dependent (1) 119:9 depending (2) 141:24;195:1 depends (2) 96:14;195:20 depict (1) 144:25
			D	
		daily (13) 17:15;46:4,24;47:4; 182:18,19,21;184:18,		

<p>depicted (1) 147:14</p> <p>describe (10) 37:23;38:15;52:22; 55:16;70:20,25;75:20; 116:12;118:14;168:3</p> <p>describing (1) 181:12</p> <p>description (3) 59:19;73:11,13</p> <p>design (16) 41:14;70:23;71:13; 72:21;73:15;96:15; 97:18;106:16;109:5; 111:23;116:25;119:21; 128:4;130:7;167:23; 186:25</p> <p>designated (2) 131:16;172:13</p> <p>designation (1) 133:21</p> <p>designed (7) 74:17;75:15;106:8; 108:24;112:7;138:3; 141:23</p> <p>desirable (1) 172:16</p> <p>detached (9) 38:19;124:14; 126:24;129:22,24; 130:6;132:21;137:24; 138:9</p> <p>detail (4) 40:19;59:25;60:4,5</p> <p>detailed (4) 40:21;47:7;73:9; 108:13</p> <p>details (2) 98:18;171:9</p> <p>determination (1) 123:23</p> <p>determine (4) 145:14,14;177:11; 183:3</p> <p>determined (5) 40:22;84:4;139:6; 152:21;161:2</p> <p>develop (13) 33:25;64:2;118:19; 123:24;124:12,14; 126:20,21;128:15,15; 129:24;135:14;175:5</p> <p>developable (1) 129:18</p> <p>developed (12) 6:22;120:11;126:25; 136:4;138:10;139:8; 142:2,8;153:24;154:1; 188:19;192:16</p> <p>developer (4) 19:7;122:14;146:15; 152:16</p> <p>developers (2)</p>	<p>122:16;126:7</p> <p>developing (8) 115:16;124:1; 129:25;134:25;137:21, 22;138:3;140:13</p> <p>development (86) 17:25;18:12;19:2,24; 20:19;32:9;42:8,12; 44:7,14;45:17;47:6; 50:2;55:24;58:9;70:23; 71:14;72:25;74:16; 76:1;86:15;88:23; 115:15;116:4;118:10, 13;119:13,15,15,22; 120:14;121:9,13,14,18; 122:1,4;125:14;127:4, 9,13,21;128:5;129:5, 14,15,19,23,25,25; 130:4;132:1;133:3,10, 16;135:8,9,16,17; 138:10,12;140:9,17; 141:3;143:16;144:9; 150:14;151:2,14; 155:20;158:25;159:4; 172:11;174:13;175:17; 180:20;189:5;191:5, 15,18,22;192:17; 194:13;195:1,12,13</p> <p>developments (9) 121:3;130:24; 173:14;181:1,5; 188:17,18;189:14; 194:23</p> <p>devices (3) 130:12;140:22; 141:24</p> <p>Dewberry (2) 37:11;119:16</p> <p>Dictionary (1) 171:7</p> <p>didn't (3) 122:7;126:5;155:4</p> <p>died (1) 87:14</p> <p>differ (1) 40:13</p> <p>difference (5) 14:17,25;80:10; 137:22;147:14</p> <p>differences (2) 112:14;129:23</p> <p>different (17) 13:4;18:13;26:7; 29:1;94:14;105:4; 127:24;130:12;139:17; 142:25;144:1;145:18; 146:4,7;147:5;168:2; 196:1</p> <p>differential (1) 39:11</p> <p>difficult (5) 45:2,3;65:8;130:17; 191:20</p>	<p>difficulty (1) 148:11</p> <p>digitized (2) 151:14;152:14</p> <p>dilapidated (1) 89:12</p> <p>diligence (1) 117:17</p> <p>dimension (1) 135:21</p> <p>dimensions (2) 127:6,17</p> <p>diminished (1) 154:14</p> <p>dinner (1) 180:5</p> <p>dire (2) 61:18;122:10</p> <p>direct (7) 6:21;27:1;110:23; 112:12;143:2;183:17; 201:17</p> <p>directed (1) 54:16</p> <p>directing (1) 135:16</p> <p>direction (2) 34:3;200:5</p> <p>directly (3) 66:13;67:19;149:2</p> <p>director (2) 70:21;121:17</p> <p>directs (1) 135:9</p> <p>disadvantage (1) 145:18</p> <p>disagree (2) 7:24;14:22</p> <p>discharge (2) 42:4,5</p> <p>discharging (1) 42:8</p> <p>disconnected (1) 3:10</p> <p>discuss (6) 5:6;59:18;112:14; 152:5;171:8;172:7</p> <p>discussed (3) 88:24;170:3;191:11</p> <p>discusses (1) 170:24</p> <p>discussing (1) 68:25</p> <p>discussion (11) 27:12;28:21;83:24; 84:3;103:14;172:2,20; 191:18,24;192:15,21</p> <p>discussions (1) 183:17</p> <p>dispense (1) 76:11</p> <p>display (1) 85:8</p>	<p>displays (1) 53:18</p> <p>disposal (1) 201:24</p> <p>distance (2) 55:9;135:21</p> <p>District (2) 77:13;145:17</p> <p>disturb (1) 140:2</p> <p>disturbance (1) 42:16</p> <p>diverse (1) 132:16</p> <p>diversity (1) 19:13</p> <p>document (6) 12:18;30:11,12; 54:18;145:23;146:23</p> <p>documentation (2) 69:13;200:7</p> <p>documented (1) 144:6</p> <p>documents (8) 12:14;15:10;30:23; 35:8;54:19;76:7; 145:22;200:23</p> <p>doesn't (1) 172:1</p> <p>dominate (2) 82:17;96:23</p> <p>don't (6) 7:24;22:23;104:24; 122:13;143:22;153:16</p> <p>done (17) 8:22;24:11;77:1; 92:14;95:12,14;97:18, 18;104:10,14;116:18; 117:4;118:24;122:9; 130:3;194:25,25</p> <p>door (2) 149:2;193:21</p> <p>double (1) 14:5</p> <p>down (38) 39:19;45:8,14,15; 48:12;50:21;51:3;56:2; 74:18;80:6,22;81:5; 97:2,6,7;105:18; 106:10,12,14,15,17,19; 111:10,20,24,25,25; 125:10;135:3;141:14; 153:20;164:24,25; 165:1;173:23;180:3; 186:9,10</p> <p>downhill (1) 45:17</p> <p>downstream (3) 43:8,14;47:16</p> <p>downtown (1) 87:24</p> <p>dozens (1) 87:16</p>	<p>draft (1) 84:1</p> <p>drain (4) 39:13,15;45:15; 50:22</p> <p>drainage (3) 63:23;129:12;133:11</p> <p>drains (3) 39:12;51:6;56:2</p> <p>dramatic (1) 85:16</p> <p>drastically (1) 29:4</p> <p>draw (2) 65:11;162:6</p> <p>drawback (1) 130:18</p> <p>drawing (1) 150:14</p> <p>drawings (2) 96:5,6</p> <p>drawn (1) 64:19</p> <p>dream (1) 87:4</p> <p>drill (1) 59:24</p> <p>drilled (1) 125:10</p> <p>Drive (12) 10:11;31:2;43:17,21, 21;50:23;63:24; 160:22;166:15;174:8; 193:14;199:3</p> <p>driven (4) 91:21;92:2,3;181:24</p> <p>driveway (11) 160:11,12,21; 161:21;162:16;165:7; 166:14;173:18;177:14; 186:21;199:7</p> <p>driveways (1) 165:23</p> <p>driving (1) 24:7</p> <p>drop (4) 10:25;13:12,17; 106:10</p> <p>drop-off (2) 187:16,17</p> <p>dropping (1) 97:6</p> <p>drops (3) 74:22;97:4;106:6</p> <p>drove (1) 140:18</p> <p>drywells (1) 130:9</p> <p>due (5) 42:8;44:22;60:14; 117:16;173:14</p> <p>dump (1) 140:12</p>
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<p>dumps (1) 138:22</p> <p>duplicates (1) 14:13</p> <p>during (16) 5:18,20;24:10;32:5; 59:9;64:16;71:9;87:4; 92:21;107:1;140:11; 161:16;183:6,7,10; 186:8</p> <p>dwarf (1) 98:23</p> <p>dwarfed (1) 96:7</p> <p>dwellers (1) 150:19</p>	<p>71:14</p> <p>economies (2) 132:24;137:16</p> <p>ecosystem (3) 25:1,9,10</p> <p>edge (5) 132:4;141:2,4,20; 166:18</p> <p>education (4) 69:12;76:10;89:11; 116:16</p> <p>educational (2) 37:24;116:13</p> <p>effect (4) 109:25;124:3;135:1; 186:11</p> <p>effective (7) 42:25;85:17;89:11; 127:25;130:18;173:1; 174:12</p> <p>effects (1) 56:3</p> <p>efficiency (2) 132:23,25</p> <p>efficient (1) 137:17</p> <p>efforts (1) 124:16</p> <p>Egloff (229) 3:14,15,24;4:4,8,13; 9:5,24;10:4,9,9,11,13, 15,19;20:4,7,16,16,21; 21:3,5,8,16,17,20;22:1, 25;23:4,4,5,13,16,17, 24;24:3,5;26:23,25; 27:4,6,20;28:7,14,17, 20;29:7,15;34:14,16; 35:15,17,19;36:1,9,15, 16;47:11,12,25;48:3, 12,16,18,23;49:1,4,5,9, 10,22;50:6,8,16,25; 51:12,16;52:16,22; 53:8,11,13,17,23,25; 54:2,5;55:2,3,4,6,20, 22;56:5,8,19,21;68:9, 11,20;69:3;98:13,14, 15,24;99:1,2,4,9,13,17, 20;100:5,6,9,12,14,17, 19,23;101:7,8,12,16, 20,23,25;102:17,22,24, 24;103:2,8,12,14; 104:13;112:21,22,23; 113:1,2;137:2,10,13, 14;138:17,18;140:8; 141:18;142:5,8,21; 143:6,8,14,23,25; 144:16,17,19;145:1,2, 21;146:1,3,8,10,21,25; 147:10,16,17;148:2,6, 12;149:6,8,12,18,21, 25;150:11;151:7,10,19, 21,22;152:2,8,11,13, 19;153:4,9,12,22,24,</p>	<p>25;154:1,5,8,10,11,13, 16,20,22;155:8,12,13, 15,22,24;156:3,5,6,8, 13,17,19;187:25;188:2, 21;189:6,9,16;190:7, 16;202:17</p> <p>egress (1) 180:20</p> <p>eight (2) 66:8;130:12</p> <p>either (12) 9:17;16:4;36:17; 52:21;60:11;76:8; 125:9;130:14;142:18; 167:7;186:15;201:14</p> <p>elaborate (1) 184:22</p> <p>elderly (3) 5:19;11:11;180:22</p> <p>elevated (2) 56:1;64:14</p> <p>elevation (3) 39:11;74:22;96:23</p> <p>elevations (1) 139:3</p> <p>Eli (1) 6:20</p> <p>Ellicott (2) 120:22;145:16</p> <p>else (13) 7:16;12:22;29:24; 59:17;91:4;113:10; 127:1;137:8;153:13; 156:14;182:3;187:25; 196:20</p> <p>email (10) 3:16,19,21;4:11,16; 9:18,18,22;53:21; 137:1</p> <p>emails (1) 177:5</p> <p>emergency (1) 180:22</p> <p>empirical (1) 194:22</p> <p>employed (1) 37:9</p> <p>employees (1) 30:9</p> <p>employment (1) 172:16</p> <p>employs (1) 130:6</p> <p>empty (1) 124:10</p> <p>encouraged (1) 159:25</p> <p>end (17) 15:6;39:8;42:20; 43:16,20;53:1,5,9; 64:12;65:16;73:16; 74:8;82:22;84:5; 137:25;138:1;182:1</p>	<p>ended (1) 202:11</p> <p>enforced (1) 128:7</p> <p>engineer (6) 37:19;38:5;54:13; 62:9;137:23;157:16</p> <p>engineering (6) 37:21;38:1;54:7; 57:19;64:21;69:21</p> <p>Engineers (6) 37:11,14;64:20; 65:11;117:23;173:12</p> <p>enhance (1) 172:14</p> <p>enormous (1) 187:16</p> <p>enough (6) 94:2;127:12,14; 142:4;149:19;193:18</p> <p>ensure (3) 46:11;47:4;175:4</p> <p>ensuring (1) 132:13</p> <p>entertainment (1) 125:6</p> <p>entire (12) 17:13;72:18;88:1; 109:8;130:15;150:17; 167:6;169:16;170:22; 171:24;174:2;176:13</p> <p>entirely (2) 165:11,12</p> <p>entirety (2) 171:11;192:5</p> <p>entitlement (1) 116:4</p> <p>entitlements (2) 118:1,20</p> <p>entity (4) 35:9,24;36:3;179:21</p> <p>entrance (22) 23:3;81:22;82:3,4, 11;96:1;160:21; 162:16;164:21,24; 165:5,8,12,14,24; 166:4,19;169:18; 177:15,17;183:24; 197:12</p> <p>entrances (1) 92:13</p> <p>entranceway (1) 182:19</p> <p>envelope (4) 72:20;75:16,17; 91:18</p> <p>environment (4) 25:1;88:2;129:4; 131:25</p> <p>environmental (19) 40:22;41:14;57:19; 63:10,22;74:8;75:18; 83:2,3;85:25;103:16;</p>	<p>116:5,23,25;130:7; 132:10,12;145:15; 146:16</p> <p>envision (1) 88:11</p> <p>envisioning (1) 73:3</p> <p>ephemeral (14) 49:14,16,18;50:9,19; 51:8;52:25;69:1; 138:20;139:13,14,19, 22;140:1</p> <p>equal (4) 42:5,9;132:18,20</p> <p>equality (1) 132:12</p> <p>equestrian (2) 118:23,25</p> <p>equivalent (1) 177:22</p> <p>erodibility (3) 65:5;68:13,15</p> <p>erodible (6) 49:17,24;51:4;65:2; 138:25;140:3</p> <p>ESCAVIDO (2) 137:5,6</p> <p>ESD (4) 41:13;130:7,19; 138:4</p> <p>especially (5) 118:17;140:3; 180:21;196:25;199:2</p> <p>essentially (1) 120:1</p> <p>establishing (1) 71:12</p> <p>establishments (1) 121:1</p> <p>estate (3) 22:15;118:13;122:14</p> <p>estimations (1) 182:18</p> <p>et (4) 72:17;94:1;96:20; 173:16</p> <p>evaluate (3) 109:4;160:18;183:7</p> <p>evaluations (1) 178:10</p> <p>even (22) 5:19;48:9;53:21; 60:19;87:22,25; 102:20;104:10;122:15; 126:2,2;128:17,23; 130:14;146:16;150:7, 9;164:21,22;165:12; 189:25;198:24</p> <p>evening (6) 90:22;182:23;183:2, 14;185:17;198:1</p> <p>evenings (2) 5:21;198:24</p>
E				
<p>Eagle (37) 160:4,7,11,22; 161:12,21;162:14,17; 165:6,7,10,23;166:3, 15;168:10,16,18,24; 169:10,13,18;170:14, 22;171:10,23;172:3; 173:19;174:2,6; 177:13,14,17;178:13; 190:1;192:5;193:9; 199:3</p> <p>earlier (16) 13:5;19:8;58:2; 68:25;69:22;76:16; 83:7;96:5;111:19; 125:12;137:23;164:10, 11;179:25;192:16; 194:4</p> <p>early (7) 41:3;58:19,19;60:22; 72:24;96:11;109:4</p> <p>earth (1) 97:11</p> <p>ease (1) 94:10</p> <p>easement (1) 39:3</p> <p>easier (3) 131:13;133:2;139:10</p> <p>easily (1) 194:15</p> <p>east (1) 169:12</p> <p>Eastover (1) 17:13</p> <p>easy (1) 125:6</p> <p>eating (1) 121:1</p> <p>economic (4) 132:12,12,24;172:14</p> <p>economically (1) 153:18</p> <p>Economics (1)</p>				

<p>event (2) 45:6,12</p> <p>events (1) 44:22</p> <p>eventually (1) 72:21</p> <p>Everybody (5) 69:25;111:12; 112:24;152:21;177:9</p> <p>everyone (11) 3:2,6;7:18;12:22; 13:6;15:23;44:17;56:7; 59:17;68:3;120:10</p> <p>exact (2) 53:5;69:1</p> <p>exactly (8) 103:20;111:17; 112:10;147:19;148:6; 194:13,20;195:3</p> <p>examine (1) 36:12</p> <p>examined (3) 69:16;94:25;159:3</p> <p>Examiner (51) 3:3;11:19;12:9,25; 15:5;28:8,12;29:6,23; 32:16;34:5;36:11;38:7; 43:23;48:14;52:1; 53:17;54:10;55:12; 58:10,12;59:4,16; 66:19;70:9;71:18;78:5; 23;84:19;88:19;90:13; 97:17;100:4;103:5; 104:24;115:12;123:6; 136:19,25;143:5; 150:6;155:21;158:1,2, 13;162:20;164:9; 176:17;178:12;201:16; 202:16</p> <p>examining (1) 27:3</p> <p>example (5) 63:21;111:13;144:4; 181:1;193:16</p> <p>examples (1) 41:18</p> <p>except (3) 25:17;61:17;105:7</p> <p>exceptions (1) 121:24</p> <p>excess (1) 160:16</p> <p>exchange (1) 12:13</p> <p>excited (2) 22:17;93:21</p> <p>exclusive (1) 173:22</p> <p>Excuse (10) 12:9;51:17;56:7; 64:12;76:4,4;105:25; 107:15;110:8,9</p> <p>Exhibit (78)</p>	<p>11:20,21,22;12:14, 17,23;13:13,14,18,23; 14:5;15:8,11,15,22,23; 16:13;35:22,23;50:11, 18;51:16,20,21,23; 52:9,16,18,19;53:18; 59:5;60:8;65:20;66:24; 68:3;75:3,5,6,23;79:5; 80:10;81:21;82:14; 84:22;101:14,14; 114:6;133:20;134:5; 137:1;143:3,13;149:6, 6;150:8;153:2;159:11; 162:18,21,22,25; 163:11,12,14,25;164:5, 9,11,19;178:12,14,20, 24,25;179:3;186:22; 198:8,9</p> <p>exhibits (8) 12:23;14:12;68:25; 93:15;113:25;114:4, 11;150:8</p> <p>exist (4) 175:10,15,20;185:22</p> <p>existed (1) 40:23</p> <p>existing (35) 12:5;38:24;39:13; 42:18;43:15,18;50:18, 22;52:24;53:18;94:8, 17;105:17,20;106:2; 108:4,9,18;109:20,22; 110:12,17;112:15; 125:19;127:3;132:17; 144:7;151:10,11; 160:21;166:4;168:12; 174:1,3;193:13</p> <p>expand (1) 104:9</p> <p>expanding (1) 172:15</p> <p>expansion (1) 71:10</p> <p>expect (6) 60:19;82:18;155:15; 161:25;199:14;201:17</p> <p>expectation (2) 104:8;112:4</p> <p>expected (1) 44:21</p> <p>expensive (8) 124:11;125:20,21, 23;126:20,21,23; 127:12</p> <p>experience (13) 76:10;78:10;82:11; 90:25,25;94:8,11; 118:14,18;142:11; 145:10;154:6;176:6</p> <p>expert (34) 54:14,16;55:20; 60:17;61:11,13,21; 62:22;65:12;76:9,23;</p>	<p>77:19;78:9,15,18;95:4; 110:10;114:3;115:14, 21;121:8,20;122:1,2,3; 123:6;136:15;143:1; 146:11;147:14;158:4, 11;168:4;176:6,8</p> <p>expertise (5) 19:22;78:7;132:3; 134:25;153:5</p> <p>explain (3) 33:19;152:9;169:22</p> <p>explained (2) 42:1;147:18</p> <p>explaining (1) 28:15</p> <p>explains (2) 59:20,21</p> <p>expressed (2) 138:19;147:23</p> <p>extend (1) 148:20</p> <p>extends (1) 148:20</p> <p>extent (2) 41:14;44:20</p> <p>external (1) 194:3</p> <p>extra (4) 118:7;141:15;156:3; 199:23</p> <p>extrajudicial (1) 62:16</p> <p>extraordinarily (1) 126:19</p> <p>extreme (2) 44:22;45:5</p> <p>extremely (5) 96:4;105:13;108:6, 15;151:3</p> <p>eyesore (1) 96:8</p>	<p>108:3;109:21;134:8; 165:25;180:19</p> <p>factor (5) 65:5;68:14,15;94:12; 107:3</p> <p>factors (1) 191:12</p> <p>factual (2) 61:7,8</p> <p>factually (1) 61:23</p> <p>fail (1) 130:15</p> <p>failing (1) 159:23</p> <p>faintly (1) 144:3</p> <p>Fair (1) 94:2</p> <p>fall (1) 63:7</p> <p>falls (1) 85:10</p> <p>familiar (20) 38:6;46:3;58:8,11; 71:23;72:2;105:13; 115:15;117:10;120:10; 122:12;123:5,9; 131:19;152:25;158:20, 24;162:3;166:20,24</p> <p>families (2) 85:16;87:12</p> <p>family (5) 87:16;89:1;91:12; 100:1;124:14</p> <p>famous (1) 87:3</p> <p>fantastic (1) 89:21</p> <p>far (15) 5:24;30:6;39:8;50:5; 58:4;81:5;85:7;86:1; 89:10;93:22;104:10; 107:18;141:25;153:5; 188:24</p> <p>Farm (8) 25:2;74:10,24;75:20; 85:12;119:1;148:22; 173:17</p> <p>farmhouse (1) 149:2</p> <p>farther (1) 186:10</p> <p>fascinating (1) 85:6</p> <p>fashion (1) 136:12</p> <p>fast (2) 93:20;115:23</p> <p>Fatima (1) 75:6</p> <p>favorite (1) 89:4</p>	<p>feasibility (3) 58:20;117:17;124:22</p> <p>feasible (1) 153:18</p> <p>feature (3) 85:15;86:18;87:19</p> <p>features (5) 40:17,18,22;49:13; 72:15</p> <p>February (2) 72:7;92:24</p> <p>Federal (2) 73:21;116:22</p> <p>feedback (1) 44:19</p> <p>feel (4) 22:12;25:22;62:14; 115:22</p> <p>feeling (1) 193:18</p> <p>feels (1) 61:25</p> <p>fees (1) 92:13</p> <p>feet (23) 39:6,6,11;42:16; 43:15,18;64:11;74:15, 22;76:2;81:24;91:23, 24;92:1;96:16,17;97:4; 106:6;139:16;179:15, 22;199:20,22</p> <p>fellow (1) 143:1</p> <p>fellowship (1) 71:11</p> <p>felt (2) 101:4;108:8</p> <p>fence (2) 140:23;141:6</p> <p>Ferguson (7) 14:23;16:4;171:8; 201:16,16,23,24</p> <p>Ferguson's (2) 13:11,14</p> <p>few (21) 9:1,3,3,5;10:23;13:7; 22:5;61:5;63:8,21; 64:16;75:17;81:6; 82:12;91:19;135:8; 144:20;161:14,22; 182:17;201:13</p> <p>fewer (1) 197:1</p> <p>field (8) 37:21;40:16,20; 59:10;64:21;67:3;78:7, 15</p> <p>Fifteen (1) 37:22</p> <p>figure (1) 187:15</p> <p>figures (1) 68:25</p>
		F		
		<p>FAA (1) 91:23</p> <p>face (1) 24:2</p> <p>facilitate (1) 173:4</p> <p>facilities (28) 41:19,21;42:19,20, 24;45:7;46:15,17,17; 57:20;71:7;128:24; 130:8,19,25;131:3,4; 138:12,15;161:9; 173:4;174:23;175:6, 10,14,20;185:19,22</p> <p>facility (3) 45:10,12,13</p> <p>fact (11) 22:6;24:25;48:19; 61:24;73:20;103:21;</p>		

file (2) 5:7;23:19	39:7;40:3;41:23; 42:11,19,22;63:24	16:19;17:7,10;25:16; 47:17	gardens (2) 18:18;130:9	Gibson's (2) 14:6;35:6
filed (3) 35:8,9;62:17	flooding (4) 41:4;42:7;47:16; 54:20	forth (2) 104:6;176:22	gauge (1) 138:8	GINGOLD (21) 44:16,19,20;45:1,16, 21,23;134:22,23,24; 136:16,18;180:12,17, 18;181:7,18,22;182:1, 15;202:18
filter (1) 47:20	floor (4) 42:1;179:23;180:3,7	forum (1) 68:4	gave (3) 41:17;99:22;108:12	GIS (5) 53:4,7;168:21,23; 170:20
final (7) 15:8;43:9;66:16; 88:18;99:8;176:5; 187:4	flows (2) 25:2;39:19	forward (6) 25:11;34:7;47:8; 101:2;136:21;139:6	Gaylord (1) 168:16	given (2) 127:21;176:9
finally (6) 15:4;74:23;89:5; 91:4;93:13;171:9	focus (3) 87:11,11;118:20	found (11) 21:11;22:13;24:11, 11;66:4;88:4;93:25; 117:20;129:9;144:1; 161:1	geared (1) 129:22	gives (4) 29:8;128:3;194:7,16
find (7) 35:23;51:25;64:9,14; 144:25;148:18;200:25	focused (1) 73:9	four (7) 65:9;69:6,6;79:24; 80:4;107:7;108:6	general (4) 72:17;73:10;132:2; 172:13	Glass (1) 17:13
finding (5) 43:12;74:7;118:20; 130:2;185:18	Focusing (1) 118:13	Franklin's (1) 85:20	generally (1) 106:4	glitches (1) 95:21
findings (10) 159:16;161:8,9; 175:19,22;176:12; 189:21,23,24;190:5	folks (1) 63:20	free (3) 18:15;115:22;144:13	generate (1) 169:8	goalposts (1) 46:23
fine (10) 4:21;17:21;60:11; 62:20;63:16;113:12; 123:2;178:15;197:22; 198:20	follow (2) 85:1;86:18	Freedom (1) 87:1	generated (1) 183:6	goals (7) 17:25;18:1;25:19; 73:11;128:7,8;133:13
fine-grained (1) 64:7	follow- (1) 46:10	freeway (2) 169:6;170:17	generating (2) 162:11;165:21	goes (6) 50:20;98:21;99:7; 165:7;189:19;193:9
finished (3) 19:4;20:9;95:25	followed (1) 20:22	frequent (2) 17:10,14	generation (9) 18:2;173:13;179:16, 18;180:9;194:21; 195:10;196:8;197:18	golf (2) 118:25;120:17
firm (4) 37:14;39:20;43:1; 57:19	following (4) 74:7,13;170:10; 171:9	front (6) 17:19;59:16,21;93:1; 100:22;193:20	generational (4) 19:14;27:8;28:21; 29:10	Good (47) 3:2;5:2,4;16:15,16; 18:13;24:11;25:22; 32:23;34:10,12,13; 36:3,24,25;37:1;42:3, 6;43:25;44:2,3;51:6; 57:3,4;69:7,25;70:3,4; 80:5;82:7;85:20;89:17; 90:23;91:17;103:9; 109:3;130:21;131:18; 139:9;142:3,3;152:5; 157:7;159:22;164:11, 23;191:14
first (40) 5:9,9,22;9:1;17:17; 20:6;29:19;33:20; 74:13;75:12,22,23; 84:24;85:3,4;93:9; 96:16;104:25;116:2; 118:18,22,25;137:14; 139:25;140:14,17,21; 161:16;162:14;167:2; 169:18;170:13;171:12, 16;176:19;179:23; 180:3,7;190:9,24	follow-up (2) 28:18;165:15	frontage (1) 169:16	generations (5) 85:11;89:2,11;132:7, 9	GOODARD (38) 45:24,25;46:1,2,8,20, 22;47:2,9;90:14,15,16, 20;91:14;92:5,12,20; 93:1,6,13,23;94:3; 137:11,12,15;138:16; 182:16,16,24;183:4,11, 16,21;184:5,11;201:14, 20;202:13
fit (1) 106:9	food (1) 88:22	fulfills (1) 174:13	generic (1) 89:20	Government (1) 116:22
five (3) 47:22;130:11;160:3	footage (1) 199:23	full (8) 11:22;37:7;45:7,11; 57:11;115:6;157:13; 191:10	generosity (1) 107:2	grace (1) 87:23
flatten (1) 126:1	Forbes (1) 37:12	full-time (1) 139:22	geologist (4) 57:14;58:3;66:3,14	grade (5) 74:22;167:25;168:7; 191:6,7
flexibility (6) 127:8,19,25;128:4, 11,25	forecast (1) 43:4	fully (2) 56:1;192:8	geology (6) 60:16;67:5,6;69:14, 15,20	grades (1) 152:23
flexible (2) 128:2;129:10	foresee (2) 66:18;199:13	fundamentals (1) 116:22	George's (29) 19:16;20:2,23;21:1; 22:2;32:7;41:12,25; 42:14;62:10;73:6,10, 19;100:2;115:17; 118:17,18;119:20; 120:7,19;136:2; 138:11;142:19;144:8, 14,23;145:16;146:19; 147:11	grading (1) 159:21
flight (1) 92:3	Forest (37) 18:19;23:2;38:19; 39:23;45:17;47:19; 51:7;74:17,19;95:19, 22;96:9;97:8,10,11; 106:7,13;107:3;108:4; 109:23;112:3;116:9; 117:4;124:7;128:8; 131:15;132:15;133:4, 14,20;134:7;137:7; 141:2,4;151:19; 191:17;192:2	funny (1) 114:20	geotechnical (6) 57:19;58:23;59:23; 64:21;69:21;72:19	graduate (2)
flights (1) 91:21	forested (1) 96:9	further (23) 19:5;34:6;43:23; 60:13;66:20;79:20; 80:2;81:9;84:3;85:19; 88:25;97:20;113:2; 131:17;133:18;136:4; 143:12;164:21,22,23; 171:9;176:17;192:15	geotechs (1) 117:23	
flood (7)	forget (2) 119:25;135:20	future (8) 31:22;85:11;88:15; 89:11;132:9,17,20; 142:7	gets (6) 21:22;42:21;45:13; 99:12;112:24;160:9	
	forgive (1) 197:20		Ghost (2) 85:21;86:4	
	form (3) 41:13;87:23;130:8		Gibson (11) 5:7,11,13,17;6:10,21, 22,25;33:13,18,19	
	formally (1) 174:23	G		
	forming (1) 167:9	gain (1) 89:5		
	Fort (5)			

<p>17:11;20:17 grand (1) 90:25 granddaughter (2) 5:13;6:11 granted (1) 133:23 granting (1) 173:7 granular (1) 64:8 graphic (2) 88:10;151:9 graphics (5) 86:21;87:21,22,23; 88:13 great (15) 5:13,13;6:10;11:4; 20:18;24:3;29:15;48:6; 85:4;93:9;95:6;105:12; 125:4;140:5;187:22 great- (1) 6:10 greater (6) 40:19;71:8;178:2,9; 185:25;193:17 greatly (1) 154:14 green (9) 19:14;40:10,14; 41:20;117:2;118:9; 135:10;137:25;150:1 Greenbaum (1) 121:4 grew (1) 105:11 groceries (1) 180:5 grocery (7) 18:14;120:25;181:9, 24;182:2,7;194:14 gross (1) 160:2 ground (2) 97:3;126:22 groundwater (5) 60:6;64:13,13,15; 67:13 Grove (1) 120:18 growing (1) 22:15 growth (2) 22:18;73:14 guaranteeing (1) 194:13 guess (16) 5:5;18:24;60:4; 61:15;79:18;97:1; 104:13;148:23;185:23; 187:14;192:13;193:24, 25;194:6,16;198:22 guide (2)</p>	<p>168:12,14 guidelines (4) 46:3;135:18;159:18; 160:14 guiding (1) 168:15 gun (1) 33:3 guys (5) 63:14;192:17;194:7; 198:25;199:5 Gwyn (2) 33:13,18</p> <p style="text-align: center;">H</p> <p>hair (1) 165:2 half (12) 87:18;119:6;138:12; 166:2;171:18,20,24; 172:1,4,21;174:5,7 halfway (1) 89:2 handle (3) 50:1;162:11;165:21 handy (1) 35:22 hanging (1) 154:16 Hansen (128) 70:2,3,5,8,12,14,14, 17,21;71:1,19,22;72:1, 4,7,11;73:1,7,23;74:2, 3,5,12;75:3,8,9,12; 76:5,16,18,21,25;77:6, 9,12,17,20,23;78:2,4, 12,24;79:1,3,9,22; 80:12,14,16,18,24; 81:2,10;82:23,24,25; 83:6,11,14;84:8,14,18, 21,23;86:9,12,13,17; 88:3,7,16,20;89:14,17; 90:2,10,16,19,23; 91:17;92:8,16,23;93:5, 7,19;94:2,4,5,22;95:8, 18,24;96:13,25;97:21, 25,25;98:3,10,12; 99:22;100:9,21;102:8, 11,20;103:4,11,25; 104:20;105:22,25; 106:4,19;107:5; 108:19;109:14;110:24; 111:3,16,21,25;112:7, 22;114:15;147:21; 153:1 Hansen's (1) 147:25 happen (5) 55:24;96:15;102:2; 153:15;194:14 happened (4) 32:9;102:18;164:17,</p>	<p>17 happening (1) 130:22 happens (4) 45:5,7;104:7;135:2 happy (5) 20:10;34:3;53:19; 88:20;109:5 Harbor (22) 3:4;19:1;20:1;92:2; 97:3;124:5,8,18,25; 154:9;168:16;181:2; 188:10,12;189:10; 192:16,20;196:22,23; 197:6,8,8 Harborview (1) 173:24 hard (4) 21:20;98:15;148:18; 195:4 harness (1) 22:10 harvesting (2) 128:24;131:9 hash (1) 165:4 Hatton (1) 85:16 healthy (1) 132:13 hear (27) 11:18;12:17;20:10, 17,18,20;21:1,4;32:22; 55:19;56:16;63:14,20; 108:7,11;111:21; 155:4,5,5,7,9,14,24; 156:1;157:2;188:15,16 heard (8) 21:1;22:12;98:21; 105:18;108:2;125:11; 127:5;150:24 Hearing (28) 3:3,7,18;5:17;15:6; 17:17;22:5;34:18;38:7; 44:18;51:15;58:9; 62:17;63:12,17;71:17; 76:23;98:17;99:21; 104:25;150:12;156:20; 158:2;201:6;202:10, 12,21,22 hearings (4) 5:25;6:1;22:8;105:4 heart (2) 25:20;93:20 heavy (3) 32:6;108:14,14 height (4) 74:18;75:17;91:22; 97:6 Heights (36) 18:20;23:2;38:19; 39:23;45:17;74:17,19; 95:19,19,22,22;96:8,9,</p>	<p>17;97:8,10,11;106:7, 13;107:4;108:5; 109:23;112:3;124:7; 131:15;132:15;133:4, 15,21;134:7;137:7; 151:19;152:14,18; 191:17;192:2 Heights' (1) 128:8 Hello (3) 10:4;104:16;182:16 help (10) 28:8;35:23;64:17; 86:21;88:9;101:19; 116:4;118:19;150:5; 177:9 helped (1) 145:13 helpful (2) 90:17;96:4 helping (1) 27:23 helps (1) 80:7 Henry (3) 5:14;23:9,12 Henry's (1) 31:16 herein (1) 159:1 Here's (3) 81:12;88:22;150:11 heritage (1) 85:7 Herring (1) 63:24 Hey (2) 151:22;153:17 Hi (4) 24:16,16;57:4; 134:24 High (20) 17:11,12,23;22:24; 23:11;26:17;47:20; 51:3;98:22;108:6,16; 109:11;110:12;130:24; 137:16;138:8;139:3; 143:20;181:10;200:18 high- (1) 74:8 high-density (4) 48:4;129:8;180:20; 181:11 higher (23) 48:9;96:22;97:3; 106:5;128:14;129:7; 131:13,13;132:22,22; 133:2,15;135:19; 137:23;138:4,14; 152:23;167:10;170:16; 195:21;196:3,11;198:3 highest (1) 159:23</p>	<p>high-impact (1) 108:14 highlight (3) 60:9;90:6,7 highlighted (4) 81:13,14;82:6,7 highly (8) 49:17,24;51:4;65:1; 138:25;150:25;151:1; 200:23 high-rise (2) 111:1;179:14 Highway (22) 13:3;153:15;160:25; 161:6,12;165:8,10,14; 166:7,8,14;167:21; 169:5,14;171:10; 177:24;178:1;184:3; 200:4,10,11,14 highways (2) 168:2;188:23 Hill (38) 10:11;16:19;17:10, 10,11,11;20:17;21:21; 22:24;25:2;47:20; 50:23;74:10;75:19; 82:15;85:12;96:10; 105:11,12,17;106:24; 119:10,23;150:22; 161:24;173:17,19,20, 21,23;174:3,4;177:17, 18;186:10;192:7; 193:17,20 hire (2) 117:22,24 hired (2) 118:18;121:16 historic (54) 18:6;19:12;39:2; 71:6;73:21,25;74:10, 15;75:2,10,19;78:11, 16;79:20;82:18,20; 83:9,12,14,15,17,19,20, 25;84:3,8,10,17;87:22, 24;93:15,17;100:16,20, 22;102:9,23,25; 103:15;104:1,4; 142:15;144:5,6,10,20; 145:11,14,17;146:14, 18;150:23;152:6;156:6 historical (6) 6:7,8;88:12;93:16; 103:22;104:2 historically (1) 108:18 history (16) 86:14;87:7;99:23,23, 25;100:10,11;104:7,9, 14;109:10;111:4,4; 144:7,23;147:11 hit (2) 80:6,18 HOA (1)</p>
---	---	--	---	---

<p>130:14 Hold (9) 3:25;7:2;12:24; 26:25;34:24;38:2; 100:25;112:24;116:14 home (2) 18:17;106:13 homeowners (2) 130:14;138:13 homes (7) 39:15;17;71:6; 111:24;118:22;124:14; 132:21 homestead (1) 144:14 Honestly (2) 32:9;76:25 Honor (4) 28:11;87:2,15;89:1 honors (1) 87:14 hope (5) 18:18;25:4;32:11; 93:9;135:7 hoped (1) 109:18 hopefully (1) 63:20 hoping (2) 5:16;192:14 horizontally (1) 128:15 horrible (1) 154:17 horrific (1) 154:20 hotel (14) 81:23,24;82:5,8,10, 15,16;87:4;188:12,13, 21,25;189:2,4 hour (11) 180:15;182:23,23; 185:6,6,16,17,18; 186:8;197:24;198:1 hours (9) 182:20;183:2,2; 185:13,24;186:1,8; 196:1,3 House (24) 19:9;39:2;75:25; 76:1;79:12,13,19; 82:17;85:19,21,23,24, 24;86:2,4,5,20;88:1,14; 89:9;90:7;111:8; 127:18;142:13 household (1) 4:1 houses (5) 45:16,20;87:13; 95:23;155:16 housing (7) 11:11;107:4;119:4; 120:12;179:13;180:7;</p>	<p>181:11 Howard (2) 120:21;121:4 HPC (1) 84:16 huge (1) 53:16 hugely (1) 55:25 huh (2) 100:3,3 human (2) 18:7;25:10 human-made (1) 116:10 hundred (3) 87:24;95:23;178:5 hurry (1) 3:18</p>	<p>162:12;163:2,11,12; 165:21;166:4;174:25; 175:1,19;178:11; 182:22;183:24;186:17; 189:19;197:1 impacted (2) 138:21;195:11 impactful (1) 129:4 impacting (3) 197:12;199:1,6 impacts (5) 24:19;63:24;110:13; 144:5;183:18 impervious (3) 42:17;64:3;131:8 importance (3) 19:7;26:1;88:23 important (20) 6:9;8:16;18:7;19:10; 24:21;25:8,9,25;27:20; 55:25;86:17;87:19; 143:18;144:7,10,22; 146:14;148:24;172:5; 192:23 impossible (1) 103:20 improve (4) 133:10,11,12;193:10 improvement (3) 160:6;190:4;191:10 improvements (16) 43:14,14;118:3,5; 124:17;125:13;160:6, 13;175:21;178:13; 184:2,7;190:4,25; 191:6,8 improves (1) 131:11 improving (1) 192:24 inability (1) 169:8 inadequate (1) 160:12 inappropriate (2) 54:21;127:4 Inc (1) 37:11 include (5) 34:1;127:8;168:8; 182:2;189:4 included (16) 43:14;71:4;83:21,23; 98:17;119:21;133:8; 160:3;188:14,19,22,25; 189:2,9,11,15 includes (3) 120:9;168:6,24 including (13) 22:3;59:23;66:8; 71:16;85:13;103:19; 141:6;151:11;152:14;</p>	<p>158:21;159:20;188:11, 17 inclusion (1) 191:2 inclusive (3) 20:2;170:22;172:3 incompatible (1) 83:17 incorporated (2) 89:9;152:13 incorrect (4) 23:14;27:14;171:15; 172:23 incorrectly (1) 4:20 increase (6) 44:21;107:13;109:9; 119:3;137:19;184:20 increased (5) 42:7;108:11;109:8; 124:2;199:23 increases (1) 132:25 increasingly (1) 135:7 incur (1) 184:8 Indian (1) 22:8 indicate (1) 171:15 indicated (8) 14:21;44:9;65:9; 76:16;77:21;103:6; 152:25;161:19 indication (1) 49:23 Indiscernible (38) 6:16;7:15;8:7,10; 9:25;11:12;12:3,7; 14:25;35:5;49:3;50:24, 25;54:21;55:1,2;56:6; 61:14;62:6;66:13; 68:19;69:12;78:10; 99:1;100:7;103:4; 110:8;143:9,24; 148:21;149:3;151:9; 155:1,2;174:8;191:4; 192:9;195:25 individual (4) 3:18;6:5;8:17; 125:21 individuals (2) 8:2;105:8 individual's (1) 4:14 indoor (1) 120:14 industrial (1) 121:2 industry (1) 126:11 infiltrate (1)</p>	<p>64:7 infiltrating (1) 130:23 infiltration (3) 60:2;64:4;131:9 influence (1) 108:4 information (15) 4:11;6:4;24:10; 40:16;47:21;53:4,15; 58:23;61:8;67:6;68:17; 77:12;108:17,23,23 infrastructure (6) 40:11,15;136:7,8,9; 160:1 ingress (1) 180:20 ingress/egress (2) 181:2,5 inherently (1) 129:3 initial (2) 58:20;59:9 Initially (2) 73:1;196:12 input (1) 93:17 inside (4) 159:18,20,25;160:2 inspect (1) 67:17 inspection (4) 38:10;59:8;71:21; 158:14 inspections (3) 57:20;59:11;130:21 inspector (1) 141:9 inspectors (1) 140:21 install (1) 160:18 installed (3) 47:18;141:5,8 instance (2) 87:14;181:9 instead (1) 96:9 Institute (2) 71:11;173:12 insufficient (2) 174:18,19 integrate (1) 128:23 integrated (3) 86:5;131:10;179:18 intended (2) 93:8;168:18 intends (1) 146:15 intense (1) 50:1 intensity (1)</p>
	I			
	<p>I'm (3) 113:17;145:6;190:21 I-95 (5) 160:4;169:17; 170:13;177:13,18 idea (3) 12:13;106:8;125:14 ideal (4) 18:15,16;132:23; 148:19 ideas (6) 93:14,16,20;125:4; 132:4;153:9 identified (3) 83:4;168:20;180:16 identifies (1) 170:21 identify (7) 3:13;4:23;20:14; 50:15;136:22;137:4; 160:6 II (1) 111:11 illogical (1) 155:22 image (2) 11:22;89:19 imagine (1) 185:23 immediate (3) 48:20;87:12;193:11 immediately (5) 49:25;54:8;168:14; 169:12;192:11 impact (34) 18:23;50:4;53:16; 74:9,13;75:20;82:10, 18;106:24;108:8; 109:22;112:2,15; 138:20;145:3;146:4; 153:7,13;160:9;</p>			

<p>75:16 Lenhart (132) 16:2,4;157:5,5,6,7, 11,12,14,14,14,20,20, 25;158:1,6,7,9,12,14, 16,18,23;159:2,5,6,10, 13,17;161:5,13;162:2, 5,14;163:2,4,11,14,18, 23;164:1,4,7,18; 165:19;166:13,20,23; 167:1,4,14,17,20; 168:6;169:3,24; 170:10;171:17;172:10; 174:14,20;175:12,18; 176:3,11,16,18,23; 177:1,3,12;178:18,21; 179:2,5,10,12;180:24; 181:17,19,23;182:5,21, 25;183:5,13,20;184:1, 10,13,23;185:1,4,9,15; 186:12,20;187:3,8,20, 24;188:16;189:4,7,11, 18;190:12,24;191:3,9, 24;192:4;193:2,13,19; 194:19;195:14;196:5, 10,12;197:3,16,23; 198:7,9,13,16;199:6; 200:9,14,20;201:2 Lenhart's (3) 13:12,15;14:1 less (6) 42:5,25;64:3;103:18; 154:24;170:11 lesser (1) 155:16 letter (29) 5:12,16,6,9;10:24; 14:6;17:19,20;18:17; 26:3;31:25;35:6;40:24; 41:2,5,7,9,23;42:1; 43:12;50:17;51:22; 52:4,7,19;64:12;75:17; 142:24;143:3,17 letters (12) 7:5,5,6,12,21,22;8:1, 19;19:18;26:14,19; 143:23 level (13) 17:24;91:4,23,24; 144:24;159:19,20; 160:5,9;177:21; 190:25;195:9;199:9 levels (6) 159:7,21,22;168:2; 183:7;185:21 license (3) 116:15;117:7,7 licensed (5) 38:4;76:17,19;116:2; 121:15 licenses (2) 38:3;116:13 lies (1)</p>	<p>39:9 life (5) 25:8,16;111:5; 132:24;154:13 lifelong (1) 17:9 life-long (1) 16:19 light (1) 154:5 lighted (1) 90:20 lighting (4) 91:2,7,10;133:12 lights (1) 90:21 Lightsinger (84) 36:22,23,24;37:1,5,6, 8,8,11,16,19,22,25; 38:4,8,11,14,17;39:22; 40:2,5,8,14;41:1,3,8, 11,24;42:14;43:3,7,11, 22;44:1,2,5,8,15,23; 45:9,18,22;46:2,7,15, 21,25;47:5,10,12,24; 48:1,11;49:3,8,19;50:3, 7,12,14,15,17;51:11, 13,21;52:6,8,10,12,14, 18,20,23,24;53:10,12, 21;54:13;55:13;56:23, 24;113:25;114:8,11 liked (1) 118:8 likewise (1) 87:15 limit (2) 63:1;126:23 limitation (1) 91:21 limitations (1) 91:20 limited (9) 33:9;34:17;35:5; 68:8,10;126:23;127:9, 10;141:19 limits (1) 132:10 line (15) 39:14;43:18,19,19, 20;53:2;56:18;97:13, 20;112:1,11;143:6; 145:3;165:9,9 linear (2) 43:15,18 lines (2) 79:16;165:4 link (6) 3:11,18;4:2;93:11; 105:6;202:9 list (15) 4:12;12:14;13:13,18; 15:8,11;35:22;120:20; 124:19;126:4,6;134:1,</p>	<p>13;142:17,20 listed (3) 34:19;134:8;197:9 listen (1) 20:10 listening (1) 9:6 listing (1) 127:11 lists (2) 24:22;134:3 literally (1) 23:11 little (35) 14:22;44:19;79:15, 25,25;80:1,2,3;85:19; 94:16;95:20;97:2; 100:3;105:4,15; 107:20;111:4,6,10; 112:2;113:24;117:13; 125:17;135:1;142:6; 143:12;148:11;164:22, 24,25;165:1,1;186:7; 197:21;198:23 livable (1) 18:3 live (9) 21:13;31:2;111:12; 132:10,14;180:2; 186:6;192:22;194:10 lived (2) 25:16;89:1 living (13) 27:8;28:21;29:10; 37:18;71:7;115:25; 116:8;172:16;192:18, 25;193:11,17;194:5 LLC (2) 3:5;115:10 load (3) 46:4,24;47:4 local (1) 186:5 locally (1) 142:19 located (21) 22:8;37:10,12;39:13; 40:4,7,12,16;43:16; 51:2;94:15;135:15; 159:17;162:16;165:8; 167:6,11;169:25; 170:11;171:24;179:24 locating (1) 173:2 location (7) 31:9;69:1;72:13; 127:22;160:23;169:6; 193:22 locations (2) 23:20;68:24 Locust (2) 119:9,23 logs (1)</p>	<p>64:11 long (12) 19:24;37:20;57:22; 66:6;108:13;109:10; 115:16;117:12;121:23; 135:2;157:23;188:4 long-range (1) 47:22 long-term (1) 73:14 long-time (2) 21:12;117:11 look (47) 18:10;20:1;25:14; 26:15;27:13;28:25; 36:10;40:21;47:2; 49:18;50:6;51:1,18; 89:8;97:11;98:17;99:2; 111:6;114:6;124:21; 125:8;135:14;136:1, 11;139:25;140:25; 143:2,14;145:9;147:6, 8;148:4,18;150:1; 163:10;166:15;170:21; 171:22;172:3;173:21; 185:6,7,15;186:2,9,15, 21 looked (28) 19:20,23;30:23;64:4; 80:18,19;92:22;99:9; 124:6,9,11;125:25; 126:18;128:10;129:1; 133:5;139:9;153:2; 160:20,22;161:12; 177:10,12,15,17,18; 182:22;186:5 looking (30) 15:23;18:2,20,23; 25:18;26:14;30:18,22; 46:22;53:18;75:25; 81:22,23;106:13; 119:1;126:2;135:25; 142:23;148:15;150:7; 176:23,23;177:3; 182:12;184:7;185:21; 197:17;198:8,13; 200:24 looks (9) 25:11,23;67:23;96:4; 107:6;143:4;149:22; 178:4,7 lose (1) 24:25 lot (49) 15:9;18:8;21:22; 26:21;27:7;32:6;55:25; 62:9;77:10;82:2,4; 104:6;116:23;117:4, 17;118:4,7,7,11;119:5, 16;121:3;127:18; 128:12;129:15,16; 130:3,12;131:7;132:3, 3;135:12;137:25;</p>	<p>139:9,17;141:15; 165:13;174:5;180:8; 185:25;191:12,18; 192:2,8,10,15;194:2; 197:13;200:12 lots (22) 32:8;38:19,24;107:7; 119:2;124:6,10;125:5, 19;126:1,5,13,14,17, 19,24;127:6,17,17; 128:17;130:6,20 Loudon (3) 71:12,13;78:1 love (6) 17:16;18:18;25:22; 31:21;86:24;108:23 low (5) 65:5;68:14;94:9; 106:19;154:24 lower (8) 91:4;94:12;96:24; 106:10,10,11;111:24; 150:2 lunch (1) 86:4 Luther (1) 87:3 LZIS (2) 36:9,10</p>
M				
				<p>ma'am (9) 12:10;16:7;33:16; 51:17;67:4,8;69:9; 134:12;201:24 Madam (42) 11:19;12:25;15:5; 28:8,12;29:5,23;32:16; 34:5;36:11;43:22; 48:14;51:25;53:17; 54:10;55:12;59:4,16; 66:19;67:1;70:9;78:5, 23;88:19;90:13;100:4; 104:23;115:12;123:6; 136:19,25;143:5; 150:6;155:21;158:1, 13;162:20;164:9; 176:17;178:12;201:16; 202:16 Madame (1) 12:9 Madison (1) 69:20 mail (1) 32:1 mailed (1) 202:7 mailings (1) 20:24 main (2) 196:21;197:6 maintained (1)</p>

<p>131:5 maintenance (1) 130:13 major (11) 109:22;124:17; 125:5;135:22,22; 167:7,12;172:12,12,13, 20 majority (3) 33:23;39:12;191:16 makes (5) 55:24;74:7;80:9; 139:10;191:13 making (12) 19:10;20:25;22:14; 32:7;55:25;61:7; 105:25;106:1;132:19; 134:13;192:21;202:12 man (1) 142:21 manage (2) 117:25;130:12 managed (5) 131:5,12;138:2,5,6 management (25) 40:6,25;41:4,10,13; 42:11,15,19,24;44:13; 47:14,22;48:19;54:20; 60:24;70:24;103:19; 116:24;117:22;128:24; 130:16;131:11;133:11; 138:13;156:4 manager (2) 58:3;121:17 managing (1) 70:21 mandated (2) 41:12,24 mandatory (1) 100:15 Manhattan (1) 96:10 manner (1) 111:24 Manor (4) 17:13;82:15,17; 106:24 manual (5) 167:19;173:13; 180:9;194:21;196:2 many (27) 18:25;19:16,18; 26:14;54:14,14;56:16; 66:6,7,7;69:5;74:24; 94:14;95:22,22;102:6; 104:4;107:4,8;119:17, 18;127:24;130:11; 167:22;181:4;201:6,11 map (12) 50:9;51:1,10;52:24; 66:9;67:6,9;75:22; 81:20;98:16;146:15; 190:8</p>	<p>Maple (1) 121:3 mapped (1) 40:19 March (1) 158:19 Mark (6) 13:11;14:23;25:12; 144:2;171:8;201:16 marked (1) 15:2 market (5) 11:7,9;125:24;130:5; 181:24 Marlboro (8) 118:19,22;119:23; 120:12;124:1;125:2,4; 142:14 Martin (1) 87:2 Maryland (34) 7:7;10:12;11:10; 16:20;17:7;30:9,17; 37:13;38:5;41:13;46:5, 18;71:3;76:20;77:8,16, 23;89:22,24;90:8; 93:16;115:11;116:7, 19,21;117:3;119:17; 120:11;157:22;160:3, 7;162:15;170:1,16 Maryland's (3) 89:10;131:16;134:7 mass (2) 127:14;141:19 master (4) 117:19;119:22; 173:20,20 Mataya (90) 113:19,20,23; 114:18,19,22,23;115:4, 5,7,7,10,10,13,16,25; 116:1,16;117:7,13,16; 118:16;119:20;120:6, 7;121:7,10,12,14,22; 122:2,5,7,11,13;123:2, 5,9,11,15,18,21,25; 124:24;126:10;127:5, 23;129:6;130:2; 131:18;133:17,22,24; 134:1,15,18,20;135:12; 137:15,21;139:5; 140:14;141:22;142:6, 12;144:5,19;146:2,6,9, 17,22;147:1,15,18,22, 23,25;148:9;150:24; 151:5,8;152:24; 154:23;155:4,24; 156:1,22,24;157:1 Mataya's (2) 136:14,25 material (7) 72:18;145:9,19; 146:20,23;147:2,2</p>	<p>materialized (1) 120:16 materials (2) 57:20;72:13 matrix (1) 73:18 matter (11) 5:7;10:21;26:10; 28:25;42:16;56:13; 65:17;148:23;195:9; 202:4,10 matters (1) 116:8 mature (3) 74:17;135:6,6 Maurene (1) 3:3 Max (3) 57:2,13;114:9 maximum (7) 41:14;46:4,24;47:3; 91:22;107:13;128:21 may (29) 5:12;6:3;7:23;12:1; 17:2;24:13;30:22; 42:23;45:24;50:15; 56:10;62:18,18;65:22; 66:18;68:4;70:9;105:7; 108:3;115:15;121:7; 156:21;176:21;187:4, 21;194:15;199:16; 201:21;202:5 maybe (19) 15:7;22:12,20;24:8; 29:1,10;41:20;52:21; 53:21;107:19;125:17; 139:1;144:3,19; 148:14;164:22;165:2; 172:9;199:18 McDOWELL (32) 24:13,15,16,24;26:9, 21;90:13;95:11,15,16, 18;96:3,22;97:9,16,21; 98:5,11,22;184:14,15, 25;185:3,8,10,23; 186:19;187:2,4,14,22; 202:19 McDowell's (2) 29:20;30:13 MCNEIL (337) 3:2,3,16;4:2,5,10,15, 19,22;5:4,22;6:3,13,16; 7:2,23;8:6,11,24;9:3,5, 10,12,16,21,24;10:2,5, 13,17,20;11:5,17,24; 12:2,4,8,10,12,15,21; 13:1,4,9,19,23;14:1,4, 10;15:2,13,19,21,25; 16:2,5,8,11,13,16;17:1, 8;20:11,14;21:6,15,18; 24:15;26:25;27:5,17, 23;28:4,17;29:18;30:4, 14,16,20,24;31:7,12,</p>	<p>15;32:13,15,18,21,25; 33:2,14;34:14,24;35:4, 7,12,15,18,20;36:7,16, 23,25;37:2;43:24; 44:17;45:23;46:1; 47:11;48:21,24;49:3,6, 9;50:11,24;51:15,17; 52:2;53:24;54:1,11,24; 55:3,5,15,18;56:7,20, 22,25;57:4,9;59:6; 60:7;61:10,17;62:3,6, 11;63:1,13,16;65:19, 24;66:1,3,22;67:2,5,9, 13,20,22;68:2,8;69:4,7, 10,25;70:4,10;78:17, 21;79:4,8;80:6,9,13; 89:15,25;90:9,11,15; 94:6;95:3,7,9,13,15,17; 97:25;98:4,14;99:2,5, 11,14,18;101:11,13,17, 21,24;102:7,19;104:17, 19;105:3;107:15,18, 23;109:15,19,24;110:2, 5,7,14,16,19,22; 111:15,18,23;112:6,8, 10,16,18,23;113:2,5,9, 14,16,20,22;114:8,10, 14,17,20,25;121:7,11, 13,19,25;122:3,6,9,21, 23;123:8;133:19,25; 134:4,10,14,19,23; 136:13,20,24;137:2,8, 13;138:17;143:11,20; 145:24;148:3,7,10; 149:10,17,19,23; 151:17,21,24;152:3,9, 12,20;154:4,10,12,15, 18,21;155:9;156:5,7,9, 14,17,22,25;157:2,6,8; 158:5,8,10;162:22; 163:3,6,9,16,22,24; 164:3,5,8,14;176:18, 25;177:2,5;178:15,23; 179:6,8,11;180:12,17; 184:14;187:25;190:17, 21;198:6,7,10,15,18; 199:16,25;200:2; 201:3,10,15,19;202:1, 4,15,20 mean (48) 6:7;7:3;8:17;13:16; 19:4;21:22;25:23,24; 28:10,11,12;29:6; 30:18;31:12;32:18; 36:13;42:24;46:15; 61:12;62:19,20;65:9; 76:14;77:9;91:23,23; 97:14;100:5;102:4,12; 107:5,15;109:7,20; 112:13;122:12;134:11; 137:1;147:23;150:6; 151:18;153:4,14; 155:2;163:11;187:17;</p>	<p>193:4,19 meaning (5) 7:8;116:9;117:2; 138:1;139:12 meaningful (2) 169:8;185:20 means (7) 105:6;131:25;132:5, 7,14,18,25 meant (3) 31:10,17,18 measured (1) 138:8 measures (2) 118:8;141:12 measuring (1) 169:2 mechanisms (1) 46:12 medical (8) 196:19,24,24;197:9, 11,15;198:21;199:1 meet (13) 46:5,10,13,23;47:4; 66:22;99:11;132:8,9; 170:9;171:16;194:18; 201:4 Meeting (1) 132:16 meets (1) 98:8 Melford (1) 181:4 member (3) 18:22;73:2;145:13 members (1) 87:16 memorandum (2) 83:19,22 memorial (7) 86:20;87:10,11,13, 15,20;88:12 memorialized (1) 85:25 memory (1) 27:7 mention (3) 30:1;99:6;116:15 mentioned (20) 18:17;19:8;26:3; 31:2,19,23;92:17; 106:1;116:14;124:24; 138:24;191:1;192:16; 193:5;194:1,4,12,12; 197:5;200:5 mentions (2) 45:2;64:24 mentoring (1) 70:23 merely (1) 54:17 merge (1) 168:8</p>
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<p>met (5) 7:17;8:13;33:20; 41:18;167:5</p> <p>method (1) 88:11</p> <p>methodology (1) 177:20</p> <p>methods (2) 137:17;138:4</p> <p>Metro (1) 14:21</p> <p>metropolitan (3) 125:5;135:15;136:3</p> <p>MGM (15) 18:25;81:23;82:5,8, 10,15;96:7,20,23; 106:24;124:25;168:17; 173:25;188:18;192:16</p> <p>Michael (1) 157:14</p> <p>microbio (1) 41:20</p> <p>microphone (1) 155:14</p> <p>middle (6) 75:20;79:13;81:13, 15;82:4,7</p> <p>mid-rise (1) 179:13</p> <p>mid-seventies (1) 25:14</p> <p>might (32) 13:5,19;85:23;87:22, 25;88:24;89:7;97:21, 22;106:9;107:20,23; 108:8,14,20,21,21; 112:18;126:16;137:5; 155:10;164:14,19,19; 177:9;180:4;193:17; 194:14,15;195:3; 201:11,13</p> <p>Mike (2) 13:12;157:5</p> <p>mikes (2) 3:8;44:18</p> <p>mile (11) 166:2;170:1,12; 171:18,20,24;172:1,4, 21;174:5,7</p> <p>miles (1) 22:5</p> <p>mimic (1) 26:19</p> <p>mind (5) 8:16;52:17;53:20; 77:17;121:22</p> <p>mine (1) 148:1</p> <p>minimal (2) 74:13;82:19</p> <p>minimize (3) 73:7;131:8;153:6</p> <p>minimum (2)</p>	<p>78:15;128:21</p> <p>minute (4) 61:10;86:11;101:11; 152:10</p> <p>minutes (1) 201:18</p> <p>misheard (1) 187:5</p> <p>misperception (2) 131:22,24</p> <p>miss (3) 95:18,23;96:3</p> <p>missed (2) 31:3;79:5</p> <p>missing (5) 15:15;25:11;31:20; 101:25;103:24</p> <p>misstated (1) 101:5</p> <p>mistake (2) 31:7;144:4</p> <p>mitigates (1) 160:8</p> <p>mix (11) 173:3,8,10,11; 179:19;181:20,25; 182:1,3;195:2,5</p> <p>mixed (29) 18:11,12,15,25;71:5; 90:24,24;91:1;120:6,9, 22,25;121:5;127:25, 25;128:1;129:25; 130:24;132:22;133:15; 135:19;166:21;173:13; 180:1,25;181:19; 184:19;188:24;194:22</p> <p>mixing (1) 111:2</p> <p>MNCPPC (1) 40:1</p> <p>MO (1) 29:16</p> <p>model (1) 111:14</p> <p>models (1) 124:13</p> <p>modern (2) 128:21,22</p> <p>modest (3) 92:18,18;195:22</p> <p>modify (1) 186:16</p> <p>moment (4) 4:9;33:6;56:9; 201:11</p> <p>money-wise (1) 150:17</p> <p>monitor (1) 130:19</p> <p>monitored (2) 124:4;138:7</p> <p>monitoring (1) 131:7</p>	<p>Montgomery (2) 77:9;136:3</p> <p>months (1) 92:25</p> <p>Moore (49) 10:23;16:14,15,18, 18,25;17:5,9,18,22; 19:3,6;20:9,10,12,19, 20,22;21:4,7,21;22:1; 23:8,14,20;24:4,21; 25:6;26:13,24;27:17, 24;28:3,5,13;29:1,7,11, 13,24;30:18,22;31:6, 10,14;32:5,13,14,17</p> <p>Mooskin (44) 29:18,19;30:2,4,25; 31:17;32:12;69:11,17, 18,24;94:6,7,23;95:6, 14;190:19,21,23;191:4, 11;192:1,13;193:4,16, 23;195:10,25;196:7,11, 18;197:5,22;198:5,18, 20;199:19;200:1,2,3, 11,17,24;202:14</p> <p>more (80) 6:13;13:9;18:11; 19:15;21:2;24:9;26:4, 23;31:21;32:10;34:20; 40:21;42:16,17,18,23; 47:7;48:8;61:5,7;64:3; 69:5;73:17;79:25;80:1, 1,4,4;81:9;89:10; 96:18;103:12;108:22, 23;112:21,21;114:4; 119:5,11;125:8,17; 127:12,12;128:9; 129:4;130:11;133:9; 135:3;136:16;137:17, 18,24;139:8;142:20; 153:24;154:24;156:17; 165:1;167:25;168:1; 172:4;175:13;178:5; 180:25;181:3;184:21; 190:18;193:23;197:4; 198:23;200:2,3,6,19; 201:6,8,9,10,13,21</p> <p>morning (23) 3:2;5:2,4;10:24; 11:3;16:15,16;22:3,4; 32:23;36:24,25;37:1; 43:25;57:3,4;70:3,4; 182:23;183:2,14; 185:17;197:24</p> <p>mornings (2) 21:22;198:24</p> <p>morphed (1) 196:14</p> <p>most (18) 24:21,23;25:9;57:24; 58:5;62:21;67:23; 74:15;92:21;128:2,10, 25;136:9;139:14; 144:7,22;158:18;</p>	<p>192:23</p> <p>mostly (2) 64:10;91:11</p> <p>motion (3) 84:3;102:9,10</p> <p>motorists (1) 168:15</p> <p>Mount (10) 75:25;76:1;79:11,12; 85:15;88:14;89:9,15; 90:7;96:1</p> <p>mouth (5) 53:9,15;68:21; 138:22,24</p> <p>move (10) 34:7;65:17;74:19; 114:23,24;136:21; 139:16;147:2,3;190:10</p> <p>moved (1) 147:8</p> <p>movement (1) 168:1</p> <p>moves (1) 47:8</p> <p>moving (1) 25:11</p> <p>MPS (1) 166:12</p> <p>Mrs (1) 90:14</p> <p>much (33) 18:4,7;20:23;21:10; 24:25;25:3,6,8;26:22; 27:12;28:1,20;40:3,6; 65:18;89:5,13;91:9; 94:10;96:22,23; 104:21;112:20;119:5, 6;129:17,17;138:15; 180:25;187:22;195:21; 202:13,17</p> <p>multi- (2) 19:13;91:11</p> <p>multi-family (2) 179:13,14</p> <p>multi-lane (1) 181:3</p> <p>multiple (1) 59:11</p> <p>multi-use (1) 179:25</p> <p>municipal (1) 132:25</p> <p>murals (3) 87:21,25;88:13</p> <p>must (4) 8:15;46:23;108:13; 167:5</p> <p>mute (2) 63:13,17</p> <p>muted (2) 63:14;198:6</p> <p>MXT (25) 3:5;42:17;128:2,9,</p>	<p>19,25;129:3,7,15; 130:1;135:24;166:25; 167:3;172:8;173:7,10; 174:24;181:8;188:23; 189:1;191:14;192:24; 194:4,7,17</p> <p>myself (2) 58:18;144:24</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>name (20) 4:14;10:6,7;16:17; 30:13;34:22;37:7;52:8; 57:11,11,13;70:13,15; 115:6,8;137:6;142:22; 157:13,17,18</p> <p>narrow (5) 33:12;39:5;77:2; 79:13;155:19</p> <p>National (81) 19:1,15,19;21:2; 22:18;30:9,17;38:21; 46:8;49:21;72:6;73:8; 74:10,14,20,24;75:14, 20,25;76:2;79:14; 81:15,18;82:18,21; 85:14;86:5,22;88:24; 89:6;90:2;91:9,22; 92:2;96:6;97:3;124:5, 8,18,25;125:6;131:17; 142:9,10,14,18;144:9, 21,21;145:12;148:21, 24;150:3,23;151:11, 13;152:16;153:7; 154:8;162:9;166:10; 167:22;168:16;169:13, 13;179:3;181:2; 183:17,23,24;184:8; 188:9,12;189:10; 192:16,20;196:22,23; 197:6,7,8</p> <p>natural (8) 39:20;49:12,12;51:5; 64:4;72:15;74:22; 116:10</p> <p>nature (3) 18:6;19:12;40:15</p> <p>near (7) 53:2;68:12;85:22; 97:8;153:15,19;188:23</p> <p>nearby (3) 87:4;106:14;111:24</p> <p>nearly (1) 87:24</p> <p>neatest (1) 118:6</p> <p>necessarily (3) 27:13;147:12;181:20</p> <p>necessary (1) 60:15</p> <p>need (31) 3:18,20;4:1;13:15;</p>
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<p>16:5;22:21;36:12; 53:24;54:12;61:12,17; 63:17;79:21;113:5,6; 122:1,4;127:12; 136:11;141:4;142:2; 153:2,11,17;154:2; 155:13;156:23;166:8, 11;189:25;190:1</p> <p>needed (2) 129:14;133:1</p> <p>needing (1) 197:14</p> <p>needs (7) 61:24;63:13;132:8,9, 17;141:4;194:18</p> <p>negative (2) 162:12;165:21</p> <p>negotiate (1) 128:20</p> <p>neighborhood (26) 17:15,16,16;18:2; 22:4,15;23:9;74:20; 86:23;105:20;106:2; 108:9,15,18;110:13,15, 17;162:12;165:22,25; 166:1;171:4,8;172:5,6; 193:14</p> <p>neighborhoods (4) 24:7;72:15;165:24; 166:5</p> <p>neighboring (1) 109:1</p> <p>neighbors (1) 30:10</p> <p>network (4) 20:24;86:22;158:22; 175:7</p> <p>networking (1) 32:6</p> <p>new (22) 12:23;20:1;112:25; 117:20;118:21,22; 120:18;124:3;128:20; 130:6;131:2,2,3;132:4; 177:16;180:6;182:11; 189:18,20;190:2; 196:15,16</p> <p>Newberry (1) 52:9</p> <p>newsletters (1) 31:19</p> <p>Newton (1) 70:17</p> <p>next (44) 11:19;14:11;16:9; 18:2,10;36:19;49:10, 15;57:1,65:17;76:3; 79:17;80:2,19;81:3,13, 17,19;82:1,6,9,14;85:2, 9,18;86:9,10,24,24; 87:18;88:7;104:1,3; 106:5;108:6;110:12; 113:17;149:2;156:12,</p>	<p>21,25;190:10;202:9,11</p> <p>nice (4) 3:21;7:17;98:9; 100:3</p> <p>nicer (1) 119:7</p> <p>niche (2) 126:16;130:5</p> <p>night (1) 90:21</p> <p>nighttime (1) 90:22</p> <p>Ninety (1) 71:7</p> <p>Nobody (1) 92:8</p> <p>noise (1) 154:2</p> <p>non- (1) 173:8</p> <p>none (6) 7:6;40:5,8;103:22; 156:21;184:7</p> <p>non-living (1) 116:9</p> <p>no-no (1) 141:17</p> <p>non-residential (1) 173:3</p> <p>non-traditional (1) 198:23</p> <p>normal (2) 22:17;160:13</p> <p>normally (1) 30:5</p> <p>north (13) 39:8,12,18;63:24,25; 74:23;81:22;106:6,11; 165:25;166:2,19; 174:10</p> <p>northbound (1) 177:18</p> <p>northeast (2) 38:20;39:14</p> <p>norther (1) 111:1</p> <p>northern (2) 38:22;39:23</p> <p>northward (1) 74:19</p> <p>northwest (1) 38:21</p> <p>note (8) 6:5;7:24;14:2,4; 66:24;98:4;177:6; 188:7</p> <p>noted (4) 63:22;161:7;172:18; 188:8</p> <p>notes (1) 11:7</p> <p>notice (1) 202:6</p>	<p>noticed (2) 11:21;34:22</p> <p>notices (1) 202:7</p> <p>notification (2) 143:17;202:7</p> <p>November (2) 83:18,22</p> <p>Nowhere (1) 171:19</p> <p>NRI (5) 40:13,19;44:3;54:3; 114:1</p> <p>NRI-146-2019 (1) 39:25</p> <p>NRI-184-14 (1) 39:24</p> <p>NRIs (2) 39:22;40:20</p> <p>number (28) 51:20,22,23;68:24; 85:12;92:9,11,18; 96:12,14;115:18; 117:1;119:25;120:3, 22;121:1;126:5,12; 133:6;134:16;142:12; 149:11;178:12;183:11; 184:16,22;185:20; 188:18</p> <p>numbers (11) 14:8;80:21;185:4,24; 187:7;195:13;196:9; 197:18;198:6,21,25</p> <p>numerous (3) 158:2,18;194:25</p>	<p>objections (1) 55:5</p> <p>objectives (1) 73:12</p> <p>obliterated (1) 148:22</p> <p>obscure (1) 21:9</p> <p>obscured (1) 74:16</p> <p>observations (4) 60:6;67:14,15,17</p> <p>observed (1) 64:13</p> <p>obtain (2) 44:13;119:11</p> <p>obtained (2) 65:4;116:21</p> <p>obviously (3) 104:10;186:2;187:16</p> <p>occasion (1) 123:22</p> <p>occasions (3) 115:18;158:3,18</p> <p>occupation (2) 70:13;157:13</p> <p>occur (2) 81:16;108:14</p> <p>occurred (1) 184:18</p> <p>occurs (2) 82:8;91:4</p> <p>o'clock (2) 180:15;201:3</p> <p>October (1) 163:13</p> <p>odd (2) 77:24;128:17</p> <p>off (24) 11:21,23;19:4;44:18; 78:24;97:4;104:11; 106:6;115:22;139:3; 143:8,11;146:15; 151:11;155:10;164:11; 165:7;166:1;168:15, 15;169:17;170:12; 186:17;193:14</p> <p>offered (1) 7:11</p> <p>offering (1) 54:17</p> <p>office (7) 37:10;71:5;93:18; 120:23;121:6;144:6; 182:9</p> <p>offices (1) 182:8</p> <p>Officials (1) 167:21</p> <p>offline (2) 66:23;98:1</p> <p>offramp (4) 168:13;170:14,17;</p>	<p>174:10</p> <p>off-ramp (1) 168:11</p> <p>offramps (2) 166:3;170:15</p> <p>offsite (5) 125:13;161:23; 175:21;194:15,18</p> <p>often (2) 93:24;130:10</p> <p>of-way (3) 166:15,17;200:18</p> <p>old (3) 87:23;128:19;163:21</p> <p>older (1) 26:2</p> <p>Olle (2) 10:23;16:18</p> <p>Once (6) 33:9;60:3,9;74:17; 117:20;190:14</p> <p>One (136) 4:8;6:13;8:25;10:21; 12:5,24;13:23;14:4; 15:2,8;20:1,5;23:1,2; 26:3,23,25;27:5;28:19; 30:7;31:16;36:17; 39:23,24;46:14;48:6; 51:17;52:3,15,20;60:7; 61:3;64:22;65:19,22, 24;66:16;69:6;73:18; 74:18;76:4;79:10;81:3, 4,9,9,12;85:3;86:6,24; 89:3;91:24;92:14; 95:25;96:1,5;97:25; 100:25;102:7,10; 103:12;104:22;106:2; 107:16;108:2;110:16, 24;111:11;112:21,21, 24;113:23;118:24; 122:9;127:1;128:7,7, 10;129:15;130:2; 131:16,24;136:20,21; 137:2,3,6;143:25; 144:7;148:4,24; 149:25;150:2,8; 151:24;155:14;156:17; 162:25;163:5,24,25; 164:12,13;167:5,5,25; 173:4,9;176:5,21; 177:25;178:15,16; 180:3,18;181:1,2,4,5; 187:19;188:2,6,8; 189:7;190:24;193:24; 196:21;197:3,6,9; 199:11;200:3;201:8,9, 10,21</p> <p>one-half (1) 169:25</p> <p>ones (3) 31:10;120:19;196:2</p> <p>one-way (1) 173:24</p>
		O		
		<p>Oak (2) 120:16,18</p> <p>oath (2) 33:14;104:8</p> <p>object (20) 7:20;29:5,23;33:4,8; 35:2;65:8,19;66:18; 78:9;94:20;97:12,13, 20;100:5,6;104:13; 143:6;151:16;155:10</p> <p>objected (3) 11:7,14;114:13</p> <p>objecting (4) 8:4;55:8;76:12; 143:16</p> <p>objection (25) 13:2;15:16;28:11,12; 31:5;48:14;55:19;56:4, 4;66:10;78:8;98:2,5, 24;104:14,23,23; 107:10;109:13;114:2; 122:19;145:7;150:6; 153:23;154:7</p> <p>objectionable (1) 62:21</p>		

<p>online (3) 35:15;36:14;202:6</p> <p>on-lot (1) 130:8</p> <p>only (27) 3:20;14:17,25;15:4, 5:23;1:25;28:23;31:7; 54:25;55:22;65:13; 79:24;85:13;92:6; 98:19;100:21;119:3; 132:10;133:15;144:13, 22;150:25;151:1; 155:17;175:25;191:7</p> <p>onramp (2) 168:11,11</p> <p>onramps (1) 177:18</p> <p>onsite (1) 142:10</p> <p>onto (4) 13:18;92:9;193:3; 200:11</p> <p>open (7) 15:6,12;53:20;60:12; 78:21;85:14;119:6</p> <p>operate (5) 160:5,12,15;161:2; 199:14</p> <p>operated (1) 179:20</p> <p>operates (1) 190:9</p> <p>opines (2) 162:10;165:16</p> <p>opinion (19) 54:20;55:14;61:7; 62:1;101:3,22;102:3,5; 138:2;168:4;169:1; 170:7,8;171:14,18; 172:23;174:17;176:6,8</p> <p>opinions (3) 61:23;66:11;76:7</p> <p>opportunities (8) 26:4;117:20;124:4,7; 128:6,9;133:10;172:16</p> <p>opportunity (14) 38:12;58:13;71:16; 73:7;83:3;99:25;103:6; 109:24;126:8;128:3; 132:18;143:7;145:19; 147:19</p> <p>opposition (2) 33:6;180:15</p> <p>optimum (2) 173:1;174:12</p> <p>option (7) 86:18,25;161:1,18, 19,20;179:3</p> <p>options (5) 18:14;72:22;160:18, 20;161:17</p> <p>orange (2) 151:12;152:6</p>	<p>order (6) 47:15;88:25;110:3; 139:8;140:15;172:11</p> <p>Ordinance (8) 159:19;167:16; 171:5,20;172:1;185:7, 16;189:22</p> <p>organization (1) 167:22</p> <p>orientation (1) 72:16</p> <p>oriented (1) 135:10</p> <p>original (13) 10:25,25;13:12,17; 14:13,18;85:24;86:2; 88:1;89:12;163:18; 188:7;196:17</p> <p>originally (2) 5:12;199:22</p> <p>OSHA (1) 118:8</p> <p>OSKIN (1) 29:16</p> <p>others (7) 10:21,23;65:11; 87:20;116:15;145:12; 178:10</p> <p>ought (1) 122:13</p> <p>Ours (2) 196:16;198:3</p> <p>ourselves (1) 108:25</p> <p>out (52) 21:11;22:21;24:11, 11;28:8;31:22,25; 34:19;64:17;67:14; 89:23;91:6,22;92:3; 102:12;106:13;110:3; 111:9;116:25;126:1; 131:14;133:3;134:25; 135:25;136:1,4,6,7; 140:25;144:17;150:9; 152:24;155:5;161:6, 23;164:2;173:21; 181:4;182:11,19; 183:14,15;185:16; 187:15;188:9;192:6; 196:21;197:1,6,14; 199:3,8</p> <p>outdoor (1) 87:10</p> <p>outfall (1) 45:14</p> <p>outfalls (1) 39:17</p> <p>Outlet (6) 168:17;188:12,12, 13,22;189:3</p> <p>outline (3) 85:19,20,23</p> <p>outlined (3)</p>	<p>24:19;46:12;165:4</p> <p>outlying (2) 86:4,19</p> <p>out-of-date (1) 128:18</p> <p>outreach (1) 21:10</p> <p>outside (4) 62:17;98:10;193:8, 12</p> <p>over (28) 14:22;19:21;32:1; 64:14,14;77:1,12; 114:21;116:21;117:13; 119:3;135:2,4;148:13; 150:15,16,16,22; 154:16;158:3;163:20; 165:6;177:23;189:23; 192:20;196:14;202:12, 21</p> <p>overall (12) 19:14;79:2,10,14; 82:1;119:7;137:19; 168:19,24;194:5; 199:2,21</p> <p>overburden (1) 175:7</p> <p>overcome (1) 125:20</p> <p>overly (1) 179:17</p> <p>overpasses (1) 168:7</p> <p>overrule (2) 143:12;189:24</p> <p>oversee (1) 122:16</p> <p>own (3) 89:23;132:9;135:19</p> <p>owned (7) 6:6;34:20;130:25; 138:5,14;179:20; 200:10</p> <p>owner (3) 33:22,22;72:19</p> <p>owners (2) 104:12;140:18</p> <p>ownership (3) 34:19;35:12;36:1</p> <p>Oxon (44) 10:11;16:19;17:10, 10,11,11,14;18:18; 20:17;21:21;22:24; 25:2;39:12,19;45:15; 56:2;74:9;75:19,19; 82:15;85:12;88:25; 92:13;94:8,11;105:11, 12,17;106:24;138:22; 161:24;173:17,19,19, 21,23;174:2,4;177:17, 18;186:9;192:7; 193:17,20</p>	<p style="text-align: center;">P</p> <p>page (35) 12:22;40:9;42:10; 51:23;63:9;64:24;74:6; 80:21;83:18;89:15; 99:6,7;144:3,4;149:3, 11,12,12,13;162:7; 170:23;172:18;174:16; 184:17,23,24;195:23; 196:7,15;197:19,23,25; 198:10,11,15</p> <p>pages (6) 30:8;44:10;66:7,7,7, 8</p> <p>painted (1) 87:21</p> <p>pair (1) 173:24</p> <p>Pam (3) 137:11,14;182:16</p> <p>Pamela (1) 45:25</p> <p>pandemic (3) 21:20;32:5;188:6</p> <p>Panorama (1) 10:11</p> <p>panoramic (8) 75:24;79:11;80:19; 81:12,18,21;82:2,10</p> <p>paper (1) 151:11</p> <p>paperwork (1) 144:2</p> <p>paragraph (2) 63:11;74:7</p> <p>parameters (1) 161:2</p> <p>parcels (1) 188:18</p> <p>Pardon (1) 177:2</p> <p>parent (1) 25:14</p> <p>parents (2) 25:15;26:18</p> <p>Park (63) 14:15;17:10;18:18; 25:2;30:9,16,17;38:21; 39:18;40:23;49:21; 53:1;59:2;71:3;74:10, 24;75:19;81:22;82:3; 86:3;88:24,25,25;92:6; 94:8,11;96:2;104:1; 119:22;120:23;145:4; 148:24;150:16;151:12, 13;152:16;157:22; 160:11,21;161:3; 162:9,16;164:21,24; 165:8,11,13;166:10,19; 174:5;177:15,16,19; 183:17,23,24;184:2,8;</p>	<p>189:12;192:7,10; 199:9;200:12</p> <p>parking (8) 18:15;82:2,4;128:18, 21,21;165:13;200:12</p> <p>parks (5) 92:12,14,21;94:13; 121:2</p> <p>park's (2) 82:11;200:12</p> <p>part (31) 10:25;11:20;13:12, 16;14:7;25:1,54:1; 63:6;68:3;86:15,19; 87:19;88:12;89:24; 97:17;99:19;101:14; 106:23;130:17;135:17; 136:10;149:2;151:25; 168:24;171:23;181:24; 186:12;192:23;196:19; 199:21;200:15</p> <p>participate (1) 67:2</p> <p>particular (7) 26:16;34:6;37:15; 48:9;65:16;103:10; 107:11</p> <p>particularly (3) 105:11;112:2;186:8</p> <p>parts (4) 50:19;66:23;94:14; 197:10</p> <p>part-time (1) 139:21</p> <p>party (2) 105:1,2</p> <p>pass (4) 17:14;24:8;84:3; 199:11</p> <p>passed (2) 149:16,18</p> <p>passenger (1) 182:18</p> <p>passes (2) 199:8,12</p> <p>past (5) 77:5;110:11,21; 121:21;173:18</p> <p>pasture (1) 140:7</p> <p>paths (1) 92:3</p> <p>pause (1) 136:13</p> <p>pausing (1) 35:20</p> <p>pavement (1) 41:20</p> <p>pay (1) 34:2</p> <p>PDF (1) 51:23</p> <p>peak (20)</p>
---	--	--	--	---

<p>182:19,23,23;183:3, 6,10,12;185:5,6,13,17, 17,24;186:1,8;196:1,3, 8;197:24;198:1</p> <p>penalties (6) 16:22;37:3;57:5; 70:5;115:1;157:9</p> <p>pencil (1) 144:2</p> <p>pending (1) 98:2</p> <p>Penn (2) 38:1;116:17</p> <p>Pennsylvania (2) 85:21;87:1</p> <p>Pentagon (1) 87:13</p> <p>people (38) 6:17;13:5;20:25; 22:14,20;25:4;26:1,6; 32:8,8;56:3;89:5; 90:21;95:22;112:25; 113:10,17;114:20; 116:4;132:17;135:4; 154:1;168:15;169:9; 180:2;192:18,22,25; 193:10,11,17;194:5,10, 15,18;197:14;198:23; 199:4</p> <p>People's (5) 5:2;20:5;24:22;31:8; 33:2</p> <p>Pepco (1) 39:2</p> <p>per (8) 107:4,7,9;108:7; 130:12;139:7;160:16; 178:2</p> <p>percent (6) 34:20;40:11;48:8; 71:7;195:1;198:3</p> <p>percentage (3) 65:3;68:16,16</p> <p>Perfect (6) 81:3,14,14;82:7,9; 165:2</p> <p>perform (1) 131:4</p> <p>performance (2) 130:19;131:6</p> <p>performed (1) 130:14</p> <p>perhaps (1) 60:8</p> <p>period (4) 28:10;64:14;135:2; 183:3</p> <p>periods (4) 183:6,7,10,12</p> <p>perjury (6) 16:23;37:3;57:5; 70:6;115:2;157:9</p> <p>permanent (2)</p>	<p>87:10;140:24</p> <p>permeable (1) 41:20</p> <p>permission (1) 166:12</p> <p>permit (3) 140:19;141:10;166:8</p> <p>person (24) 3:20,22,25;4:7;9:7, 14,21;10:3,14,15,17; 17:2,5;32:10;54:17; 61:13;65:14,14;89:19; 105:5,6;156:12,12; 202:8</p> <p>personal (5) 38:9;59:7;71:20; 94:11;158:14</p> <p>personally (1) 67:17</p> <p>persons (4) 62:17;87:14;105:8; 122:16</p> <p>perspective (9) 108:8,12;124:22; 127:4,21;129:2; 139:11;151:6;169:2</p> <p>Petra (2) 76:8,8</p> <p>PG (3) 24:17;29:21;200:25</p> <p>Philadelphia (1) 85:21</p> <p>phone (6) 3:9;8:21,22;22:7; 137:5;148:13</p> <p>phonetic (5) 6:19,20;7:16;43:20; 85:22</p> <p>photo (5) 75:24;81:15,22,24; 82:8</p> <p>photograph (1) 151:9</p> <p>photosynthesis (1) 135:2</p> <p>physical (2) 38:16;184:2</p> <p>physically (1) 123:14</p> <p>pick (1) 78:24</p> <p>picture (8) 135:14;136:1; 142:24;144:24;148:5, 12;149:23;150:2</p> <p>pictures (2) 143:15;147:14</p> <p>piece (5) 73:5,18;104:4;111:4; 188:25</p> <p>pieces (1) 91:19</p> <p>pillars (3)</p>	<p>132:11,11,19</p> <p>pitch (3) 99:22;100:10;104:13</p> <p>Place (22) 17:6;19:10;20:25; 22:14;25:10,13,16; 32:7;86:3;88:23; 103:23;108:25;109:11; 128:5;140:10,16; 141:12;147:8,12; 155:19;160:2;182:8</p> <p>placed (2) 169:11,15</p> <p>places (7) 22:9;132:14;135:10, 11;144:2;169:5;181:12</p> <p>plain (2) 39:7;40:4</p> <p>plan (51) 11:16;39:21;40:11, 15,17,18;43:6;44:7,13, 14;47:22;51:8;72:13, 17,17;73:10,10,13,15; 87:7,9;119:22;120:8, 23;128:8;129:11; 131:20;133:5,14; 134:9;135:9;140:2,4; 141:25;142:1,2;166:6; 172:14;173:21;174:22; 175:3,5;176:2,4,20; 181:14;186:23;189:19; 190:3,13,14</p> <p>planned (8) 47:15,18;48:20; 120:15;125:9;144:11; 173:20;175:15</p> <p>planner (4) 56:9,14;107:19; 157:15</p> <p>Planner's (1) 29:21</p> <p>planning (39) 9:13;14:16;30:9,16, 17;40:23;43:4;59:2,9; 61:20;67:4;71:9;72:12, 19;77:5,7,25;83:16; 84:2;101:2;105:4; 107:2;111:5,7;115:17; 116:5;118:2;124:16; 145:13;158:11;161:3, 7;167:23;175:8; 177:19;180:9;186:14; 189:12;199:9</p> <p>plans (16) 19:24;21:2;49:7; 94:24;97:16;117:19, 19,25;120:24;122:20; 139:7;144:9;159:4; 160:2;191:21;192:21</p> <p>planted (2) 87:6;124:10</p> <p>plat (6) 128:17;162:18;</p>	<p>166:16;171:10;200:14, 15</p> <p>platform (1) 87:8</p> <p>play (1) 87:9</p> <p>Plaza (8) 86:3,20,25;87:1,6, 10;88:12;93:2</p> <p>please (44) 3:8,9;4:9,14;12:16; 33:12;37:7,23;38:15; 42:13;47:1;57:10; 70:13,19;75:3,22;76:3; 79:17,23;81:3,13,17, 19;82:1,6,9;84:20; 85:9,18;86:24;87:18; 88:7;115:6,22;116:12; 151:24;157:12;159:15; 162:22;164:22;185:2; 188:17;196:6;197:20</p> <p>pleased (1) 59:16</p> <p>plebiscite (2) 7:8;8:3</p> <p>plotted (1) 38:24</p> <p>plug (2) 90:5,7</p> <p>plus (1) 48:8</p> <p>pm (5) 183:1;196:1,3,8; 198:17</p> <p>pockets (1) 191:15</p> <p>point (29) 7:23;47:5;53:5; 75:23;81:20;85:22; 112:21;115:21;162:11; 165:17,20;169:19; 170:2,4,6,7,13;171:1, 12;180:19;181:1,2,4,5, 6;191:25;192:19; 195:5;200:5</p> <p>pointing (1) 144:17</p> <p>points (6) 39:5;106:3;125:4; 149:15;165:24;168:9</p> <p>police (9) 180:23;196:23,23, 25;197:8,11,14; 198:22;199:1</p> <p>pollutant (1) 131:12</p> <p>pollutants (1) 140:12</p> <p>pollution (4) 46:5,10;154:3,5</p> <p>ponding (1) 131:9</p> <p>ponds (5)</p>	<p>45:3;47:14,17,22; 48:19</p> <p>pool (1) 26:3</p> <p>popular (2) 7:8;182:10</p> <p>populations (1) 25:20</p> <p>portion (14) 6:8;38:22;39:1,1,8, 24,25;48:6;55:20; 73:21;81:14,15;82:8; 133:7</p> <p>posed (1) 147:21</p> <p>position (3) 70:20;83:18;84:7</p> <p>positive (2) 125:7;129:2</p> <p>possibility (2) 160:23;194:10</p> <p>possible (4) 12:22;107:20;147:4; 185:12</p> <p>possibly (6) 78:16,17;98:23; 112:15;126:2;186:4</p> <p>post (1) 23:18</p> <p>post-development (1) 42:4</p> <p>post-pandemic (1) 187:17</p> <p>potential (7) 22:17;64:6;84:10,16; 117:18;169:19;171:12</p> <p>Potit (15) 4:10,13,18,21;12:9, 11,13,24;13:7,24,25; 14:5,9;35:22;75:7</p> <p>Potomac (2) 17:12;26:17</p> <p>PowerPoint (2) 83:21,23</p> <p>practicable (1) 41:14</p> <p>practical (1) 170:5</p> <p>practice (5) 71:4;126:11,15; 160:14;174:25</p> <p>practicing (4) 69:21;77:22;117:1; 122:15</p> <p>preaching (1) 154:23</p> <p>precautionary (1) 118:8</p> <p>precedent (1) 171:3</p> <p>precipitation (2) 44:22;45:6</p> <p>pre-COVID (1)</p>
--	---	--	---	---

<p>92:22 predevelopment (1) 42:3 pre-development (2) 42:6,9 prefer (1) 60:10 preliminary (13) 5:5;10:21;11:6; 13:10;41:15;174:22; 175:3,5;176:2,4; 189:19;190:3,14 premature (1) 97:14 pre-pandemic (4) 186:7;187:15,18,21 preparation (2) 64:5;73:8 prepare (9) 39:20;40:24;41:2; 43:1,6;62:4;73:4; 84:16;159:9 prepared (13) 11:10;39:22;43:3; 54:19;60:18;61:3;75:1; 76:8;166:6;175:1; 194:22;196:12;200:22 prescriptive (1) 166:16 present (3) 6:18;10:23;100:11 presentation (10) 75:1;83:20,21,23,24; 90:17;104:21;106:1; 108:13;119:7 presentations (1) 118:2 presented (4) 75:10;84:8,15;150:3 presently (2) 85:13,17 Preservation (25) 73:25;75:2,11;78:11, 16;83:9,13,14,15,17, 19,20,25;84:4,9;93:18; 100:16,20,22;102:9,23, 25;103:17;144:6; 146:18 preserve (3) 85:5,9;103:21 Preserving (2) 18:6;93:14 president (1) 119:15 pretty (6) 25:2;39:5;94:9,9; 111:13;195:22 prevention (1) 42:11 previous (5) 84:9;134:3;143:1; 146:5;147:14 previously (6)</p>	<p>10:24;38:23;73:9; 77:25;87:25;171:5 primarily (2) 57:18;65:10 primary (2) 40:6;54:20 Prince (29) 19:16;20:2,23;21:1; 22:2;32:7;41:12,25; 42:14;62:10;73:5,10, 19;100:2;115:16; 118:17,18;119:20; 120:7,19;136:2; 138:10;142:19;144:8, 14,23;145:15;146:19; 147:11 principles (1) 131:17 printer (1) 35:21 prior (2) 33:22;171:3 private (1) 71:4 probably (10) 5:25;35:16;36:18; 51:9;53:4;79:4;113:6; 115:17;181:3;201:17 problem (2) 102:1;147:13 problems (1) 199:14 proceed (3) 17:2;70:9;123:3 proceeding (1) 7:13 process (12) 28:15,21;47:6;72:25; 74:4;83:8;88:4;92:17; 107:2;140:9,12;186:12 Proctor (1) 85:16 product (2) 125:23;126:16 products (1) 128:12 professional (15) 26:10;38:2,5;57:24; 58:5;62:9;64:20;116:1, 3,13;117:3,10;120:23; 157:24;167:19 professionally (3) 131:5;138:5,14 professionals (1) 117:5 professor (2) 18:21;116:6 proffer (5) 7:21;11:12;34:25; 61:17,20 proffering (1) 6:4 program (1)</p>	<p>89:10 programmed (1) 124:1 prohibitively (2) 124:11;125:20 project (24) 5:24;29:22;32:2; 47:4,8;57:14;58:3,3, 19;70:23;71:4;72:9,11, 21,24;73:11,11,12; 83:24;90:24;129:14; 137:20;174:21;176:1 projected (3) 160:5,12,15 projects (9) 72:12;84:11,17,23; 110:11;119:18;120:6; 124:18;126:12 promenade (1) 91:5 promote (3) 172:11;173:1;174:12 promoted (1) 121:17 promoting (2) 131:8;182:12 promotional (1) 104:22 prong (1) 8:14 pronouncing (1) 52:8 proper (3) 34:1;109:6;125:17 properties (11) 109:1;111:2;117:21; 118:21;119:8,13; 122:17;142:9;145:11; 154:16;156:6 property (105) 3:5;6:6,8;7:14,19; 27:16,19;33:22,22,23, 25;34:19,22;36:2;38:6, 10,16,17;39:14,14,18, 21,25;40:4,7;48:4,6,7; 49:15,15,21;50:19,20, 21;53:1,2,3,5;55:17; 56:1,3;58:17;59:8,13; 71:21,24,24;73:5;88:5; 94:15;98:19;100:1; 103:18;104:1;105:13; 122:16;123:10,13,23; 124:15,21;125:10; 127:21;128:5;130:1; 133:7,8;138:21; 142:10;145:4;146:13, 14;147:11;150:4,23, 25;151:4;152:24; 153:7;154:22;155:18; 158:15,21;159:8; 165:3;166:1,17,18; 169:12,13,16,18; 171:15;172:19;174:22;</p>	<p>175:4;176:9;183:19, 23,24;184:3,8;188:22, 22;189:1 proposal (6) 58:9;84:10;107:10; 196:16,17;197:10 propose (1) 46:16 proposed (20) 41:19;42:17,23;48:1, 20;74:8;83:16;108:3; 144:8;151:13,22; 155:20;158:25;161:18; 175:17,20;180:23; 189:2;195:7;196:19 proposes (2) 85:7;89:7 proposing (2) 48:3;107:8 propositions (1) 19:17 protect (6) 51:7;106:20;139:2,4; 140:11;141:4 protected (2) 142:19;192:10 protecting (3) 51:8;131:25,25 protrude (1) 145:3 provide (22) 3:19;26:4;31:1; 41:25;50:16;53:19; 58:21,23;59:18;68:9; 117:17;127:14;128:22; 129:14;130:15;133:2, 9;142:20;159:24; 160:8;169:22;172:15 provided (8) 5:14;14:16;41:15; 59:1;89:25;128:10; 175:16;190:5 provides (4) 128:2;167:4,25; 173:13 providing (1) 61:8 proximity (3) 173:3,9,16 pruning (1) 141:1 public (14) 21:10,10;22:19; 38:25;59:25;60:1;65:2; 68:18;85:14;86:25; 93:2;106:23;174:23; 175:6 publications (1) 167:23 publicly (1) 67:11 pull (10) 12:22;13:6;60:7;</p>	<p>75:6;88:21;148:4; 162:19,20;178:18,23 pulled (2) 72:18;89:19 pulling (1) 148:11 pump (1) 89:24 purchases (2) 117:18;119:9 purchasing (1) 127:1 purpose (13) 18:12;55:14;61:1; 172:9,9,10,17,25; 173:1,5;174:11,13,17 purposes (1) 172:8 pursue (2) 124:20;126:8 pursuing (1) 117:21 push (1) 192:9 put (26) 8:19;32:8;47:15; 68:4;98:7;99:24;100:3, 22,24;108:25;117:25; 124:19;126:4,6;134:4, 10;136:6;140:22; 141:7;143:13;148:14; 150:12;164:16;185:12; 190:20;199:20 putting (4) 7:11;10:1;113:25; 114:3 puzzle (2) 73:18;91:19</p>
Q				
				<p>qualification (2) 77:19;122:19 qualifications (1) 158:8 qualified (9) 54:14;60:17;61:25; 76:9;78:9;114:3; 122:18;138:18;158:2 qualify (3) 76:11;122:13;170:18 qualifying (4) 115:13,19,23;122:15 quality (5) 42:21;131:12; 132:24;147:7;154:13 quantity (1) 131:12 quarter (1) 107:6 Queen (1) 22:9 queueing (2)</p>

<p>161:23,24 quick (1) 117:17 quickly (3) 13:6;32:19;124:9 quiet (2) 108:15;110:12 quite (4) 96:8;137:22,22; 196:6 quote (4) 73:15,16;83:19;84:5</p>	<p>39:5;87:12;128:16; 137:19;185:13 ratio (1) 108:5 Rawling (1) 154:21 Rawlings (2) 3:19;4:10 RCD (5) 118:24,24;119:2; 120:3,13 RE (1) 119:11 re- (1) 189:20 reached (2) 31:25;64:17 reaction (1) 126:19 reactions (1) 126:9 read (21) 7:10;17:20;19:18; 24:17;25:4;26:19; 29:21,22;30:7;47:25; 49:11,13;81:12;87:8; 101:4,16;102:12,14,15; 123:16;200:6 reading (3) 47:13;49:23;151:10 ready (6) 4:16;9:9,10;15:22; 16:8;155:10 Reagan (1) 91:22 real (5) 22:15;91:21;118:13; 122:13;150:20 realistic (1) 150:20 realize (2) 29:2,8 realized (1) 29:12 realizing (1) 150:20 really (45) 5:16;7:25;22:2,4,4; 25:11,22;36:6;44:11; 45:18,20;51:2;54:21; 59:15;61:2,4,6;64:4; 65:8;88:16;93:20; 96:14;98:15;102:22; 106:16;112:10;122:14; 125:3;126:10;130:19; 131:11;132:5;139:16; 140:1;141:25;148:23; 172:4;179:16;181:4, 13;183:8;191:13; 192:13;194:3;195:16 reason (6) 3:10;7:11;61:11; 108:1;175:3;196:17</p>	<p>reasons (5) 26:11;74:13;170:11; 172:24;174:14 recall (7) 5:13;11:11;77:1,10; 105:20;113:22,23 receive (1) 191:6 received (2) 31:25;83:20 recently (3) 11:21;133:5;158:18 Recess (1) 113:15 recognize (2) 18:10;25:25 recognized (1) 144:14 recommend (4) 84:2;85:13;135:19; 160:24 recommendation (6) 25:3;29:22;83:4; 84:1;99:8;101:10 recommendations (3) 63:6;133:7;175:20 recommended (3) 83:15;84:2;133:9 recommending (1) 26:10 recommends (1) 24:18 reconstruct (1) 147:4 reconstructed (2) 120:17;160:21 record (71) 3:14,20,22;4:6,7,23; 6:10;7:21;9:8,14,17; 10:6,14,16,18;14:7; 15:6,12;16:17;17:3,6; 22:20;23:17;31:9; 34:22;35:14;36:9,14; 37:7,15;51:18;52:21; 53:14,20,25;54:1,4,12; 57:11;61:3;63:2;68:4; 78:6,7,14,21;98:4,10; 105:1,2,5,7;113:24; 115:6;133:20;134:5, 11;136:22;137:4; 142:25;151:25;157:13; 159:12;162:19;163:5, 24;166:15;176:20; 200:16;201:17;202:8 recorded (2) 3:7;38:24 recording (2) 113:11,13 recreation (1) 131:11 Red (1) 115:11 redact (3)</p>	<p>66:24;68:1;114:4 redacted (1) 114:14 redacting (1) 66:11 redevelopment (1) 172:11 redirect (2) 27:2;190:18 reduce (6) 42:4;173:2,14;192:2; 194:5,17 reduces (1) 173:10 reducing (1) 184:16 reduction (3) 194:8,24;195:1 reductions (2) 180:1;195:24 redundant (1) 126:21 re-emphasize (1) 75:13 re-examine (1) 33:7 refer (3) 59:14;75:3;101:14 reference (4) 72:13,18;170:7; 172:2 referenced (1) 153:1 referencing (1) 63:3 referral (2) 100:16;101:1 referred (5) 73:25;83:9;161:6; 170:2;190:24 referring (7) 31:18;32:2;59:5; 97:16;145:10;149:6; 174:19 reflect (3) 73:17;96:11;102:17 reflection (1) 73:16 refused (1) 101:9 regard (4) 41:5,22;129:19; 174:11 regarding (12) 28:25;36:5;40:24; 41:4;43:8;83:13;90:18; 116:3,22;117:9; 166:12;176:7 regards (6) 14:11;41:10;54:22; 60:16;141:18;173:15 region (2) 46:9;72:14</p>	<p>register (10) 142:9,14,19;144:21, 21;148:21,24;150:3, 23;153:7 registered (2) 77:23;142:10 Registers (1) 145:12 Registry (1) 73:22 regow (1) 135:3 regulated (8) 40:3,12,17,22;49:13, 20;139:23,23 regulations (4) 116:11;128:19; 129:11;142:16 relate (2) 74:21;117:19 related (15) 6:5;7:18;11:10; 58:23;66:13;78:6; 97:19;110:23;112:21; 114:6;116:8;117:8; 118:17;129:17;172:9 relates (1) 69:13 relating (2) 32:2;69:15 relation (2) 36:4;170:4 relationship (4) 6:22;17:23;33:19; 173:15 relatively (4) 65:5;68:14;94:16; 180:6 relatives (1) 5:19 relax (1) 86:4 relay (3) 33:13;83:16;88:18 released (1) 42:22 relevance (1) 103:15 relevant (11) 7:15,19;44:11;53:14; 60:14,20;62:18,19; 83:5;150:23;151:3 relics (1) 87:6 relieve (1) 47:15 remained (1) 6:23 remaining (1) 144:22 remember (4) 11:8;104:4,25; 112:23</p>
R				
<p>R-55 (7) 38:23;123:12; 125:19;127:5;129:8, 18;130:5 RA (1) 119:10 Rachel (2) 36:21;37:8 Railroad (1) 149:3 rain (3) 45:7;48:5;130:9 rainfall (2) 45:4,11 rainfalls (1) 44:24 rainwater (2) 128:24;131:9 raise (1) 98:6 raised (4) 58:24;60:23;64:16; 71:1 raises (1) 144:24 Ralph (1) 63:24 ramp (1) 170:18 ramps (6) 160:4;168:7;169:5,7; 170:13;177:13 ran (2) 124:13;145:17 range (2) 96:18;124:25 ranging (1) 39:5 rare (4) 99:25,25;135:7; 144:13 Rashid (2) 36:5;52:19 rate (6) 42:4,5,5,6,9,9 rates (1) 179:16 rather (5)</p>				

<p>remind (1) 3:6</p> <p>remnants (1) 103:22</p> <p>remote (2) 182:9,13</p> <p>removal (1) 131:12</p> <p>remove (3) 16:13;144:9;146:24</p> <p>removed (2) 138:12;144:12</p> <p>rename (1) 88:25</p> <p>renamed (1) 87:2</p> <p>rendering (4) 55:14;61:6,22;62:1</p> <p>renewal (2) 133:22;134:2</p> <p>renewed (1) 134:16</p> <p>repeat (2) 196:5;197:3</p> <p>repetitive (1) 147:17</p> <p>replacement (1) 43:15</p> <p>reply (1) 3:21</p> <p>report (84) 24:17;25:4;29:24; 30:7;38:13;40:10; 42:10;44:10;45:2; 47:13;49:11,13,24; 58:14,25;59:1,5,19,21; 60:5,18,18;61:1,2,4,8; 62:4,8,12,13,15,25; 63:2,4,6,10;64:5,12,23, 23,24;65:8,10;66:6,12; 67:23;69:16;71:17; 74:7;83:1,4;99:3; 101:1;102:2,8,17; 123:20;138:25;145:25; 148:4,11;151:23; 152:1,15;159:9,14,16; 162:3;165:19;170:23; 172:18;174:16;184:17, 24;188:10,14;189:17; 194:1;195:19,24; 196:15;197:19,24,25</p> <p>reports (3) 103:22;188:8;195:22</p> <p>represent (1) 165:5</p> <p>representation (1) 164:20</p> <p>representative (1) 33:21</p> <p>represents (1) 81:20</p> <p>request (8) 3:5,23;15:5;54:22;</p>	<p>72:3;174:21,24;175:4</p> <p>requested (4) 3:22;14:19;159:1; 175:13</p> <p>requesting (2) 3:25;166:22</p> <p>require (7) 42:23;130:13; 174:21;181:9,20,23,25</p> <p>required (23) 23:18;41:17,25; 42:15,19;44:4;92:13; 116:25;117:18;118:1; 119:12;124:14;141:22; 160:18;175:2,3; 182:22;183:8;187:11; 189:11;190:4,13;199:9</p> <p>requirement (2) 174:25;185:7</p> <p>requirements (9) 40:25;46:4,24;47:3; 99:7;166:25;175:6; 177:19;181:8</p> <p>requires (8) 46:9;160:17;162:9; 167:5;177:21;181:20; 185:17;189:20</p> <p>research (1) 73:3</p> <p>reserve (1) 78:8</p> <p>residence (1) 109:22</p> <p>residences (4) 74:21;91:2,12; 150:15</p> <p>resident (6) 16:19;17:6,9,14; 21:12,13</p> <p>residential (18) 86:23;108:16; 119:22;121:5;128:1, 11;165:24,25;173:3,8, 9;179:24;180:7;182:6; 186:4;193:8,14;195:6</p> <p>residential-type (1) 127:9</p> <p>residents (12) 18:8,24;19:2,16,19, 20;26:15,21;155:15; 180:22;191:19,21</p> <p>resolve (1) 156:13</p> <p>resolved (1) 34:21</p> <p>resource (5) 39:21;51:6;144:10; 146:14,14</p> <p>resources (3) 31:22;144:5,20</p> <p>respect (7) 19:8;33:13,18;59:13; 60:14;63:5;129:13</p>	<p>respecting (1) 19:7</p> <p>respond (8) 3:17;42:13;64:17; 103:25;129:9,11; 139:8;145:20</p> <p>responded (1) 109:14</p> <p>responding (1) 36:6</p> <p>response (10) 29:20;36:13;63:9; 106:23;107:6;136:23; 149:15;156:16,19; 202:3</p> <p>Responsible (1) 118:3</p> <p>rest (5) 34:7;50:21;94:18; 188:9;191:15</p> <p>restaurant (2) 23:10;120:18</p> <p>restaurants (4) 91:3;96:16;120:15; 182:7</p> <p>Reston (1) 70:18</p> <p>restoration (1) 116:5</p> <p>restrictions (1) 46:5</p> <p>result (5) 42:20;64:3;124:18; 138:1;191:5</p> <p>results (3) 43:10;73:13;199:6</p> <p>resume (13) 13:11,12,14,15;14:1; 69:23;78:6,14,22; 114:15;120:21;136:14; 137:1</p> <p>retail (13) 18:3;20:1;71:6;93:8; 120:12;121:1,2,6; 179:15,16,23,23; 199:18</p> <p>retain (2) 48:5,7</p> <p>retaining (4) 124:12;125:21,25; 126:22</p> <p>retention (3) 41:20;45:3,6</p> <p>revealed (1) 65:2</p> <p>review (16) 15:7;36:15;38:13; 58:14;69:22;71:16; 75:18;83:3;118:2; 129:2;142:20;145:19; 147:19;161:4;162:4; 186:14</p> <p>reviewed (15)</p>	<p>36:12;38:7;44:10; 64:20;67:16;72:12; 123:19;131:19;161:5, 19;166:7;175:9,21; 186:24;189:13</p> <p>revised (6) 14:17,18;15:3,23; 68:4;163:25</p> <p>rezone (4) 3:5;7:7,8;25:19</p> <p>rezoning (34) 7:15;11:15;17:17; 18:9;24:18;26:11,15; 27:10,15,18,25;28:6,9, 23;29:8;44:4,12;54:22; 55:23;60:15,16;72:3, 10;75:13;83:16;84:5; 119:21,24;120:1; 133:8;144:8;153:14; 175:14,24</p> <p>rezonings (2) 119:9,19</p> <p>rich (1) 104:7</p> <p>rid (1) 145:5</p> <p>Ride (3) 174:5;192:8,10</p> <p>Ridge (9) 118:19,22;119:23; 120:12,22;124:1; 125:2,4;142:14</p> <p>ridges (1) 127:15</p> <p>riding (1) 120:14</p> <p>right (95) 4:1;8:6,6,8,11;9:14, 23;10:20;12:20;13:21; 14:8;16:6,8,21;21:15; 23:9;24:1;27:23,23,24; 28:3;31:8;33:5;36:12; 49:1,22;50:3,20;51:19; 56:22;59:21;61:9;63:9; 66:5,10;77:4,14;78:5, 13,19;79:9,13,19,25; 80:12,23;81:4,7,7,11; 82:4;96:22;98:1,3,6,7; 101:13,18;103:10,13, 18;104:2;107:7,23; 113:11;114:1,22; 119:2;123:4;125:12; 133:19;137:12;140:15; 141:20;142:5;147:20, 22;149:21,25;152:11, 19;153:4,19;156:25; 160:8;163:7;165:1,2; 176:3;178:23;181:22; 186:20;187:6;194:21; 200:24</p> <p>right- (3) 166:14,16;200:17</p> <p>right-of- (1)</p>	<p>165:8</p> <p>right-of-way (19) 162:17;165:10,11, 12,14;166:9;168:20; 169:15;171:10;184:4; 200:4,4,7,9,10,11,13, 15,21</p> <p>right-of-ways (1) 183:22</p> <p>rights-of-way (2) 38:25;177:10</p> <p>rigid (1) 127:7</p> <p>ring (1) 120:14</p> <p>ripple (1) 124:3</p> <p>rising (1) 124:6</p> <p>river (2) 25:23;91:7</p> <p>RL (1) 119:11</p> <p>Road (50) 21:21;63:24;105:12; 119:23;120:11;124:17; 135:22;153:15;160:4, 7,11;161:24;162:14, 17;165:7,7,11,23; 166:10;168:10,16,18, 24;169:10,14,18; 170:14,22;171:10,23; 172:3;173:19,19,20,22, 23;174:2,3,6;177:13, 14,17,17,18;183:19; 186:10;190:1;192:5; 193:20;200:12</p> <p>roads (7) 94:10;125:8;136:10; 158:21;168:10;186:7; 190:24</p> <p>roadside (1) 130:9</p> <p>roadway (6) 153:19;158:22; 162:9,15;173:18;191:1</p> <p>roadways (4) 167:24;168:1,8; 173:25</p> <p>Rob (1) 6:19</p> <p>robe (1) 87:5</p> <p>Robert (1) 85:21</p> <p>Rock (1) 94:13</p> <p>role (2) 67:6;72:24</p> <p>roofs (1) 41:20</p> <p>room (1) 3:9</p>
--	--	--	--	--

root (1) 141:1	141:10	200:22	83:7,12;84:6,12,15,19, 22;86:7,8,11,14;88:3, 16;89:14;90:13;94:20; 97:12;98:9,24;100:4,7, 12,15,18,20;101:7,9; 102:16;103:5,11; 104:23;107:10;109:13; 113:3,4,8,12,16,19,21; 114:6,9,12,16,19; 115:5,8,12;116:12; 117:6,9,14;118:13; 119:18;120:5;121:7; 122:20,22,25;123:1,4, 9,13,16,19,22;124:21; 126:7;127:3,20;129:3, 21;131:15;133:17; 134:4,6,12,17;136:13, 19,25;143:5,10,24; 144:16,18;145:1; 147:17,23;149:5,9; 150:6;151:15,18; 153:22,25;154:7; 155:9;156:20;157:3,4, 12,17,23;158:1,13,17, 20,24;159:3,6,11,14; 161:3,11;162:2,6,20; 163:8,10;164:9; 165:16,18;166:11,20, 24;167:2,13,15,18; 168:3,25;169:21; 170:8;171:14;172:7; 174:11,16;175:12,23; 176:5,16;177:6; 178:12,20;179:2,7; 190:18;201:7,8,23; 202:16	sediment (12) 117:3;118:7;124:12; 126:20;140:22,23,24, 24;141:7,16,23;142:1
Rose (1) 121:4	safeguard (1) 141:6	schedule (1) 5:18	seeing (5) 31:18;90:21;95:25; 96:9;106:13	
Rosslyn/Ballston (1) 71:10	safeguards (3) 140:10,16;141:5	School (7) 17:12,12;20:18; 22:24;23:11;26:17; 71:3	seem (6) 24:5;92:10;172:1; 181:16;191:13;193:7	
rotating (2) 79:12;82:3	safety (3) 46:12;118:8;180:21	schools (3) 71:5;136:10;187:12	seems (6) 76:6;94:11;103:20; 192:23;197:7,13	
roughly (2) 174:5,7	Salem (2) 36:5;52:19	science (1) 37:25	sell (2) 126:13,14	
roundabout (8) 160:23,24;161:18, 20;166:6;179:4; 186:23;190:1	sales (3) 99:22;100:10;104:13	scope (3) 65:14;186:15,18	selling (1) 125:4	
roundabouts (1) 184:6	salvaged (2) 147:7,8	scoped (1) 189:21	send (10) 3:19;9:18;10:24; 11:22,24;12:1,6,16; 13:15;177:7	
Route (6) 166:1;168:13,14; 174:3,9;190:1	same (25) 3:11;8:2,20;9:22; 12:22;42:20;73:8; 89:20,22;94:16;100:1; 125:3,7;126:9;138:1; 158:5;163:1;172:6; 179:20,20;180:15; 181:10,10;194:6; 198:11	scoping (2) 186:13;189:12	sending (2) 13:19;202:9	
routes (1) 174:9	sampled (1) 66:4	scoring (1) 64:11	Seneca (1) 43:17	
routine (1) 130:13	samples (1) 59:24	scratchy (1) 197:21	sense (2) 124:15;126:25	
routinely (1) 131:2	sand (1) 64:8	screen (7) 22:7;31:1;51:13; 60:12;75:7;85:4; 186:22	sensitive (1) 112:4	
RR (11) 39:1;119:1;120:13; 123:11;124:10;125:19; 126:25;127:5;129:8, 19;130:5	sands (1) 64:10	screenshots (1) 22:6	sent (4) 5:12,16;12:19;105:6	
RS (1) 119:11	sanitary (1) 43:16	scroll (3) 79:21,22;164:25	sentences (1) 102:14	
ruin (1) 85:5	sassafras (1) 65:1	Scudder (347) 4:22,25,25;5:6,8,11, 24;6:7,15,17;7:6,20; 8:12,24;9:4,9,11,13,20, 22;10:1,3,7,8,10,20,22; 11:11,13,19;12:1,3,7, 15,19;13:9,11,21;14:2, 11;15:4,18,20,24;16:1, 4,7,10,12;17:18,24; 19:3,23;22:13;28:11, 15;29:5,23;30:5,12,15; 31:5,24;32:4,15,16,19, 23;33:5,11,17;34:5; 35:1,2,5,11,13,23,25; 36:8,20,21;37:6,9,14, 17,20,23;38:2,6,9,12, 15;39:20;40:1,3,6,9,24; 41:2,5,9,22;42:10;43:1, 6,9,22;48:14,17;50:12, 13;51:25;52:11,13; 53:17;54:3,16,24,25; 55:12,16;56:4,6,25; 57:1,10,16,22;58:1,4,8, 13,16;59:1,4,7,12; 60:14,21;61:15,20; 62:5,7,23;63:3,12,15; 65:7,15;66:3,11,15; 68:7;69:4,6,9;70:1,2,9, 12,15,19,25;71:15,20, 23;72:2,5,8,23;73:4,20, 24;74:3,6;75:1,5,9; 76:6,13,15;78:20,23; 79:2,7,21;80:8,15,17, 20;81:1,9;82:23,25;	se (1) 139:7	
rule (2) 8:3;55:3	satisfactory (1) 85:11		sea (2) 91:23,23	
rules (6) 55:6;93:24;110:8,9; 116:11;142:15	satisfied (1) 99:6		second (31) 4:8;6:13;7:2;12:25; 20:5;26:25;34:24; 51:17;60:7;63:11; 65:19,24;74:15;76:4; 79:10;81:20;88:21; 97:25;100:25;102:7; 107:16;110:16;113:18, 23;137:2;149:17; 151:24;153:23;167:11; 181:7;185:1	
run (6) 22:4;104:11;108:13; 142:18;173:23,25	satisfies (1) 176:14		se (1) 139:7	
runner (1) 25:21	satisfy (2) 172:25;175:5		se (1) 139:7	
running (1) 39:14	save (3) 95:5;135:5;147:2		se (1) 139:7	
runoff (6) 39:16;42:21;45:13; 46:10;137:24;138:2	saved (1) 136:5		se (1) 139:7	
runoffs (1) 24:24	saw (11) 22:25;23:6,7,16,20, 25;69:13;84:12;95:20; 125:2;194:1		se (1) 139:7	
runs (3) 43:20;166:17;173:18	saying (22) 4:19;6:14,19;8:16; 9:17,19,24;24:6;26:13, 24;27:9;28:23;51:9; 63:22;104:3;105:20; 139:13;145:6;152:5; 189:25;198:11;202:11		se (1) 139:7	
rural (1) 135:17	scale (4) 74:21;132:24; 137:16;159:21		se (1) 139:7	
rush (1) 186:8	scaled (1) 86:20		se (1) 139:7	
	scans (1)		se (1) 139:7	
S			se (1) 139:7	
Sachum (1) 43:20			se (1) 139:7	
safe (1)			se (1) 139:7	

<p>set (7) 44:24;53:6;127:6,6, 7;171:3;201:5</p> <p>setbacks (2) 127:7;128:13</p> <p>sets (1) 142:2</p> <p>setting (2) 75:19;103:16</p> <p>settings (1) 145:15</p> <p>settled (1) 87:16</p> <p>set-up (1) 67:18</p> <p>seven (2) 130:11;188:17</p> <p>several (10) 24:22;30:23;74:10; 95:22;108:20;123:15; 135:12;160:20;162:24; 190:23</p> <p>Severna (1) 157:21</p> <p>sewer (6) 43:2,8,16;125:11; 133:1;136:10</p> <p>SHA (4) 11:20;162:18,21; 176:20</p> <p>shall (5) 16:23;37:3;70:6; 115:2;157:9</p> <p>shape (1) 39:5</p> <p>share (8) 15:15;51:12;60:12; 75:7;108:22,23;111:3; 126:14</p> <p>shared (1) 173:17</p> <p>sharing (4) 28:5,6;51:18;93:14</p> <p>shed (29) 74:9;75:10,23;79:23; 80:1;81:21;82:11,15, 17,18,22;84:9,13;85:1; 90:18;95:19;96:4; 103:15;142:22,24; 143:15;145:3;146:4; 148:21;149:7;150:1,4; 152:6,25</p> <p>sheds (2) 75:21;147:25</p> <p>shop (2) 120:15;194:11</p> <p>shopping (9) 17:13;179:15,18,19; 180:10;186:4;188:24; 194:6;195:15</p> <p>shops (7) 91:3,6;93:8;121:1; 168:17;180:4;182:6</p>	<p>short (1) 85:10</p> <p>shortly (1) 95:4</p> <p>shot (3) 89:18,21;90:1</p> <p>shots (1) 31:1</p> <p>show (16) 13:6;50:12,16;75:18; 81:7;84:19;89:3,18,22, 23;90:8;99:15;109:5; 164:15,19;173:13</p> <p>Showalter (44) 57:2,3,4,8,10,13,14, 18,24;58:2,7,11,15,18; 59:3,9,14;60:11;61:22; 62:8;63:3,8,14,19; 65:18,22,25;66:2,8,25; 67:1,4,8,11,16,21;68:5, 6,7,18,23;69:17,19; 114:10</p> <p>Showalter's (1) 61:1</p> <p>showcasing (1) 19:12</p> <p>showed (5) 84:25;89:25;95:19, 25;127:1</p> <p>showing (9) 35:9;75:23;82:10; 89:15;137:6;142:22; 145:2;164:13;197:19</p> <p>shown (8) 40:17;120:21; 142:25;146:5;151:12; 152:16;165:3;194:4</p> <p>shows (11) 50:18;52:25;54:4; 75:24;82:14;89:4; 146:4;173:17,19; 194:23;199:7</p> <p>shuts (1) 141:14</p> <p>side (7) 25:22;91:5;92:3; 96:20;97:3;106:11; 168:14</p> <p>sides (1) 173:23</p> <p>sidewalk (3) 174:1,4;193:8</p> <p>sidewalks (6) 191:17,20;192:2,5,8; 193:20</p> <p>sign (6) 3:11;4:2;23:12,14, 19;100:3</p> <p>signage (3) 86:19;88:12;168:12</p> <p>signal (6) 160:17,18;166:2; 174:10;178:9;192:9</p>	<p>signalized (2) 170:14;177:19</p> <p>signals (1) 192:10</p> <p>signed (2) 41:6;62:8</p> <p>significance (3) 147:10,12;168:25</p> <p>significant (2) 73:5;100:2</p> <p>significantly (5) 74:9;106:5,11; 173:14;185:25</p> <p>signs (16) 21:8;22:6,9,25;23:1, 5,6,7,20,21,25,25;31:2, 9,12;168:14</p> <p>silt (2) 140:23;141:6</p> <p>similar (6) 19:22;73:9;84:16; 96:19;111:11;126:19</p> <p>simple (1) 75:16</p> <p>simply (9) 7:9;55:16;73:15,17; 90:2;91:2;169:24; 171:21;185:4</p> <p>single (3) 51:3;124:14;180:19</p> <p>single-family (14) 38:18;39:15,17; 126:24;129:4,22,24; 130:6;132:21;137:24; 138:9;150:15;162:12; 165:22</p> <p>sit (2) 97:3;127:18</p> <p>site (122) 11:15;38:22,23;39:4, 7,8,10,11,12,16;40:21, 23,25;41:14,15,17; 42:1,2,15;48:1,25; 49:20;54:18;58:22; 59:11;60:3,24;63:5,23, 25;64:2;65:3;66:9; 67:19;68:16,24;72:13; 73:21;74:16;85:25; 87:6,7,9;88:2;91:21; 92:1;94:18;95:1;97:19; 104:7;106:5,7,11,15; 108:11;116:8,25; 118:3,5,10,11;120:23; 124:13;129:3,12; 130:7;139:7,9,10; 140:4,15,16,19,21; 141:11,14,16,25;142:9, 9;144:23;147:3;159:4, 17;160:11;162:8; 165:5;166:12;170:3; 173:18;174:2,6,6,13; 175:11,21;177:14,16; 180:2;183:6,23;186:3;</p>	<p>190:2,13;191:10,13,23; 192:3,6,7;193:1,3,5,6, 7,10;194:3,3;197:2,7, 10;199:8</p> <p>sites (8) 104:4;118:6;142:18; 144:7;145:14,15; 152:7;180:8</p> <p>situation (5) 50:1;109:8;111:12; 141:24;159:24</p> <p>situations (2) 109:11;145:18</p> <p>six (5) 57:25;69:22;130:11; 145:16;174:8</p> <p>size (4) 38:18;127:17; 128:12;129:15</p> <p>sizes (1) 119:5</p> <p>sketch (2) 151:6,6</p> <p>sky-high (1) 98:21</p> <p>slide (39) 75:22;76:3;78:25; 79:9,17,18;80:2,18,19, 22,23;81:3,6,13,17,19, 20;82:1,6,9,13,14; 84:16,24;85:1,2,3,4,9, 18;86:9,10,24;87:18; 88:7,21;89:3;95:18,23</p> <p>slides (9) 75:18;79:23,24;80:4, 20;81:6,11;85:1;95:21</p> <p>slight (1) 85:13</p> <p>slightly (2) 127:12;198:3</p> <p>sliver (1) 79:13</p> <p>slope (6) 49:17,24;54:6,8; 139:18,18</p> <p>slopes (11) 39:10;65:1;68:13,21; 124:11;125:18,20; 126:4,22;138:23;140:3</p> <p>slowly (1) 42:22</p> <p>small (11) 39:8;63:21;65:3; 68:15;92:11;121:23; 146:13;182:7;188:25; 194:9,11</p> <p>smaller (3) 74:21;126:16;197:13</p> <p>Smith (1) 150:9</p> <p>Smithsonian (2) 89:7;90:3</p> <p>society (1) 132:14</p>	<p>software (2) 177:25;178:1</p> <p>soil (6) 59:24;60:3,16;64:6; 69:15;139:18</p> <p>soils (22) 41:21;49:17,24;50:5; 51:4;60:1,24;64:6,7,8, 9;65:1,5,6;66:4;67:6,9, 11;68:19;116:9; 138:25;140:3</p> <p>SOJ (1) 14:20</p> <p>solid (1) 165:9</p> <p>solutions (1) 130:7</p> <p>somebody (3) 92:8,17;143:12</p> <p>someone (13) 7:9;18:23;19:20; 25:13;63:13,16;80:6; 115:23;122:15;136:21; 178:23;192:16;196:20</p> <p>sometimes (7) 107:1;113:11; 128:22;130:11,11; 139:17;140:18</p> <p>Somewhat (2) 46:7;196:14</p> <p>Somewhere (1) 92:17</p> <p>soon (1) 107:25</p> <p>sorry (44) 13:25;19:3;21:6; 24:5;34:11;46:25;50:7; 51:9;52:8,10,14;55:4, 7;63:15;79:3;81:23; 84:2;86:11;90:1;95:14, 14;111:21;136:16; 137:1;144:4;149:13; 154:23;155:5;157:4; 167:13,14;177:14; 180:13,13;185:10; 186:19;190:19,21,21; 196:5;197:3;198:6,7, 18</p> <p>sort (9) 33:19;35:20;90:5; 91:5;110:20,22; 112:11;186:3,5</p> <p>sorts (1) 20:23</p> <p>Soul (2) 23:9,12</p> <p>sounds (4) 21:15;48:17;94:21; 184:21</p> <p>source (1) 172:15</p> <p>sources (1)</p>
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<p>171:7 south (4) 38:20;74:23;91:5; 166:19 southbound (7) 160:4;166:3;168:13; 170:15;174:7,10;192:6 southeast (2) 25:2;38:21 southern (4) 38:25;39:25;43:16; 71:2 sp (5) 6:19,20;7:16;43:20; 85:22 space (6) 85:15;119:6;137:25; 182:9,9;200:8 spaces (3) 18:3;19:14;135:10 spare (2) 135:10,16 speak (5) 25:12;47:13;98:9; 147:15;154:5 speaker (1) 146:5 speaking (7) 3:8;25:12;44:18; 61:23;106:5;147:20; 189:8 speaks (2) 23:17;102:25 special (3) 54:5,6;121:24 specific (7) 18:1;89:8;118:14; 127:16,16;129:12; 181:21 specifically (11) 23:9;25:19;31:24; 44:10;47:2;59:12; 68:20;69:15;143:14; 148:23;191:16 specifics (1) 17:16 speech (1) 87:4 spent (2) 58:5;145:16 SPF (2) 43:4,12 split (1) 38:22 spoken (1) 17:24 sprawl (2) 129:10;130:3 spread (3) 130:20;131:14;133:3 square (7) 42:16;70:18;179:14, 22;199:20,22,23</p>	<p>stabilize (2) 54:6,8 Staff (77) 14:19;24:17;25:3,5; 26:10;29:21,24;30:7; 38:13;40:9;42:10; 44:10;47:13;49:11,13; 58:14,24;59:2;62:13; 15,25;63:4,6,10;64:23; 69:16;71:17;74:6,7; 83:1,3,4,15,21,22,24; 99:3;101:1;113:5; 123:19;138:25;145:13, 25;148:4,11;151:25; 161:4,7,8;162:3,10,20; 165:16,19;169:21; 170:23;171:14;172:1, 18,18,22;174:16;175:8, 8,21;180:9;184:17,23; 186:14;194:1;195:19, 23;196:15;197:19,24, 25;202:20 Staff-generated (1) 84:1 Staff's (5) 101:10;129:2;162:7; 174:17;176:7 stage (3) 27:25;47:6;190:11 stages (1) 58:20 stake (1) 140:24 Stan (3) 5:2;61:18;114:2 stand (1) 189:22 standalone (2) 87:20;179:18 standard (6) 44:24;46:16;48:9; 160:14;174:25;178:11 standards (1) 46:10 standing (3) 36:3;75:24;81:22 start (9) 72:5;99:6;115:24; 131:20;139:12,19; 140:1,19;141:11 started (8) 5:22;11:3;72:8,11, 12;91:19;92:23;140:20 starting (3) 79:11;82:2;201:22 starts (1) 139:20 state (62) 4:6;10:6;11:10; 16:16;18:22;19:6;37:7; 38:1;41:10,12,23;46:5, 18,23;57:11;70:13; 76:19;77:7,16;85:10;</p>	<p>89:9;90:5;91:9;93:17, 25;115:6;116:17,21, 24;133:21;134:7; 135:13;157:12;160:24, 25;161:6,12,14,15; 162:1,15,15,17;165:8, 10,11,12,14;166:7,8,9, 14;167:21;169:4,14; 171:10;177:9;184:3; 186:24;200:10,11,14 stated (6) 26:11;58:2;69:21; 100:23;137:23;161:20 statement (12) 14:14,16,18,19,20, 24;15:3;23:21;65:23; 123:16;155:6;169:25 statements (4) 30:10;62:24;63:21; 65:10 states (14) 40:10,16;42:11;46:9; 73:15;83:19;142:23; 143:3;145:7;149:13, 15;162:8;167:6;169:12 station (2) 14:21;167:12 status (1) 172:15 stay (3) 80:3;97:5;156:24 steep (10) 39:10;49:17,24;54:6, 8;64:25;68:13;124:11; 138:23;140:3 stellar (1) 117:11 stems (2) 192:14;193:25 step (6) 74:18;177:25;178:2, 4,6,7 stepped (2) 110:25;111:1 stepping (2) 106:15;111:20 steps (4) 56:15;111:10,24; 199:11 still (12) 33:14;66:24;115:19; 125:20;129:13;156:22; 158:5,6;161:23;191:6; 192:12,12 stilling (1) 141:8 stone (1) 53:7 stop (13) 16:21;48:21;102:7,7; 113:12;125:15;132:1; 167:12;174:9;178:4; 192:6,19;193:6</p>	<p>stop-controlled (1) 160:13 stops (2) 172:13;174:7 storage (3) 41:16,18;45:4 store (4) 181:9,24;182:3,7 stored (1) 42:22 stores (2) 121:1;194:14 stories (3) 96:12,19;98:22 storm (9) 39:13,15;45:10,11, 12,15;47:14;50:22; 133:11 stormwater (29) 40:25;41:4,10,13; 42:11,15,19,24;44:13; 46:12;47:7,22;48:19; 49:6;60:24;103:19; 116:24;128:24;130:7, 12,16,25;131:3,11; 133:11;137:17,19; 138:13;156:4 story (8) 85:6,6,11,15;86:1; 88:9,15;96:16 strange (1) 155:18 stream (34) 49:14,16,18,20,20, 23,25;50:4,9,19;51:4,8; 52:25;53:3,6,6,9,9,11, 12,16;54:2,9;56:2; 68:12,21;69:1;138:20, 22;139:15,19;140:1, 11;141:21 streams (6) 39:7;139:12,14,14, 21,22 streets (2) 167:9,10 stress (1) 75:14 stretch (1) 136:7 stricken (1) 22:20 strict (1) 93:24 strike (1) 146:15 striking (1) 132:23 strings (1) 25:20 strip (2) 140:10,15 striped (1) 173:22</p>	<p>strong (5) 25:4;108:4;132:13; 138:2;194:10 stronger (1) 93:12 structural (1) 155:20 structure (5) 147:3,6,12;152:14; 181:11 structures (12) 74:10,15;82:19,20; 97:15;104:2;106:9,16; 142:15,18;145:12; 151:14 struggles (1) 22:22 student (1) 120:12 students (1) 26:18 studied (1) 51:3 studies (11) 64:13;116:19; 117:17;163:2,4; 173:13;178:10;182:17, 22;194:24,25 study (47) 11:7,9;65:2;82:12; 87:8;90:18;124:22; 146:16;160:3,24; 161:1,6,8;163:18; 164:4;175:1,1,9,19; 177:1,4,8;178:11; 179:10,15;180:8; 183:13;185:15;186:17, 17;187:8;189:15,19, 20;190:2;195:18; 196:13;197:16,17,25; 198:1,4,8,14;199:7,7, 17 stuff (3) 103:17,17;186:11 styled (1) 87:22 subdivided (1) 38:23 subdivision (6) 116:11;118:2; 137:25;174:22;189:20; 190:15 subdivisions (1) 116:5 subject (23) 38:16;39:16,21;40:4, 7;59:8,11,13;63:23; 65:17;71:16,21,25; 73:24;84:5;123:10,23; 158:14,21;159:8; 166:22;171:15;176:9 submit (8) 15:9;36:2;53:20;</p>
--	---	---	---	--

64:18;68:3;78:6,13; 186:13 submittal (3) 161:14,15,16 submitted (16) 7:6;11:1;14:14; 17:18;35:13;36:8,13; 43:4;44:7;61:2;62:11; 159:15;161:25;163:20; 164:10,11 submitting (1) 65:25 subsequently (1) 14:15 substantial (1) 194:24 substation (6) 196:24,25;197:9,11; 198:22;199:1 substitute (2) 12:5;102:10 subsurface (4) 58:22;59:10,22,24 subtract (1) 91:24 suburban (4) 129:10,10;130:3; 138:10 suburban-type (1) 133:3 success (1) 138:8 successfully (1) 87:16 sufficient (1) 128:3 suggest (3) 146:18;155:23; 156:11 suggested (1) 153:14 suggesting (1) 155:19 Suite (3) 37:12;70:18;157:21 summarize (2) 84:23;159:16 summary (1) 196:1 summer (1) 32:1 super (3) 29:16;140:23;141:6 support (26) 5:12,15,24;6:6;7:5,7, 9,11,12,21,22;19:14, 25;20:3,22;11:25;19; 26:1;119:12;127:13; 128:4;129:14;133:1; 136:6,11;161:20;182:6 supported (2) 125:3;160:25 supporting (1)	135:23 suppose (1) 23:2 supposed (2) 47:14,23 Sure (46) 5:8,10;12:24;15:8, 10;16:18;25:6;26:24; 29:11,19;33:21;34:16; 35:18,25;38:17;46:13; 60:25;75:12;76:5; 92:10;102:20;104:24; 118:6,16;120:7,10; 122:7;132:19;136:14; 141:15;142:16;148:9; 149:10;150:17;154:11; 168:6;169:3;178:21; 184:13;185:3;189:7; 194:19;198:12;201:2, 11;202:12 surface (2) 45:3;87:9 surrounding (10) 71:24;72:15;86:16; 95:1;124:4;158:21; 159:8;169:9;188:18; 193:8 surveyed (4) 200:6,13,17,20 surveyor (1) 200:22 surveys (1) 40:21 survive (2) 141:3,4 surviving (1) 144:13 sustain (3) 55:18;98:5;109:15 sustainability (15) 18:7;26:8;128:8; 131:17,21,23,25;132:3, 4,7,11,13,19;133:14,21 sustainable (5) 131:16;133:5,14,25; 134:8 sustained (2) 28:17;154:4 swear (10) 9:7;16:22,25;37:2; 57:5;70:5,10;114:22; 115:1;157:8 swells (1) 130:10 swim (1) 26:6 switch (1) 114:20 system (13) 43:4;45:15,19;50:22; 88:13;93:11,12; 130:15;167:24;168:21, 22,23;193:22	systems (5) 116:10,10;126:20; 174:18,18 T table (7) 67:18,20,21,22; 102:5;184:17;196:8 tack (1) 120:15 tale (1) 87:22 talk (17) 5:20;9:13;18:11; 22:16;27:8;28:1;54:17, 18;91:9;93:21;98:1,18; 104:11;110:11;129:23; 171:21;196:3 talked (10) 5:20;49:17;93:2; 114:1,1;123:3;137:15; 155:16;184:5;186:23 talking (21) 7:4;22:10;23:7;26:5; 27:10,14,15,18;28:24; 47:18;53:15;60:17; 63:17;105:23,23,24; 135:4,5;183:22;193:2; 200:10 tall (5) 91:15;111:8;150:21, 21,21 taller (1) 92:1 tallest (1) 91:15 Tanger (6) 168:17;188:12,12, 13,22;189:3 tangible (1) 18:23 teach (2) 116:7;131:23 teacher (2) 17:12;26:16 team (11) 72:18;73:1,2,3;85:7; 89:7;90:3;97:18,23; 117:22,25 Technical (20) 40:9;42:10;44:10; 58:14,24;63:4,10; 64:23,24;71:17;74:6; 83:1;145:24;161:4,7; 162:3;165:19;169:21; 175:8;176:7 technically (4) 54:7;97:5;119:24; 120:13 techniques (2) 130:6;131:8 technology (1)	131:1 Tecumseh (1) 43:21 teller (1) 86:1 tells (3) 85:5,15;183:8 temporary (1) 140:23 tender (2) 115:14;158:3 term (5) 122:14;139:13; 167:15,18;172:5 terminus (1) 168:9 terms (18) 7:14;17:22;18:3,23; 19:11;23:18;24:9;25:9; 26:8;69:1;78:10,11; 122:14,20;170:24; 185:13;191:16;195:4 Terracon (8) 57:14,17,23;58:6,18; 59:1,5;61:2 Terrapin (1) 120:11 test (8) 59:23;64:11;65:4,4; 68:23;177:25;199:9,10 tested (2) 175:24;176:4 testified (18) 8:2,5;33:8;36:5; 67:14,25;68:11;76:22; 77:1,4,8,14;83:7; 112:12;172:24;174:15, 23;179:25 testify (20) 6:14,18;7:1,8;5,8,20; 11:2;16:3;29:24;34:17; 55:10;62:21;65:14; 75:9;100:7;103:6; 109:25;110:24;112:10; 201:12 testifying (8) 17:3;21:16;26:14; 33:5;48:17;67:24; 100:8,21 testimony (25) 8:1;16:23;20:17; 21:12;30:1;33:12;35:5; 37:3;55:13;57:6;61:1, 13;63:1;65:9,16;66:5; 68:8;70:6;93:10;115:2; 125:12;157:9;176:9, 13;178:16 testing (4) 57:21;60:2;65:2; 176:1 Thanks (5) 29:19;30:25;32:12; 113:2;182:15	theirs (2) 195:20;196:2 therefore (2) 45:4;49:25 thick (1) 74:16 thinking (2) 129:21;199:2 third (4) 63:11;79:18;161:15; 170:11 this- (1) 151:18 Thomas (2) 115:7;136:25 thoroughly (1) 146:23 though (5) 9:25;62:25;122:15; 124:9;156:20 thought (11) 24:19;25:3;62:12; 88:5,22;90:8;97:1; 106:15;110:10;147:5; 178:16 thoughts (1) 88:18 thousand (1) 179:14 three (19) 29:16;33:7;36:17,18; 65:9;69:6;80:4;102:14; 132:11,11,19;176:18; 178:6,7;183:1,2;199:8, 11,13 thrive (2) 132:16,16 throat (1) 197:21 throughout (3) 130:20,20;131:14 Thursday (1) 187:11 thus (2) 42:7;104:10 Tidewater (1) 19:21 tied (1) 129:15 tier (2) 133:16;135:17 timely (1) 102:13 times (9) 33:7;108:20;123:15; 133:6;146:22;147:2; 175:5;182:11;184:21 timing (1) 108:19 tiny (1) 21:9 tip (1) 50:20
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<p>title (2) 70:19;157:18</p> <p>TMDL (1) 46:14</p> <p>today (18) 3:3;5:17;29:13;38:7; 55:14;58:10,12;61:4, 21,23;71:18;89:6; 109:8;128:17;129:1; 132:16;176:9;202:10</p> <p>together (3) 72:18;111:12;117:25</p> <p>told (6) 5:21;34:1;85:17; 87:7;126:15,18</p> <p>Toll (19) 117:11,12,16;118:4, 8,11,16,17;119:14; 120:10;121:14,16; 123:25;124:3,6,22; 126:11;130:4,10</p> <p>Tom (1) 113:19</p> <p>tomorrow (1) 132:16</p> <p>tonight (1) 201:4</p> <p>took (4) 40:21;73:12;81:21; 119:1</p> <p>tools (1) 127:24</p> <p>top (7) 64:10;80:21;91:2,11; 139:11,12;140:5</p> <p>topography (3) 72:15;116:9;129:12</p> <p>tops (2) 79:14;81:18</p> <p>total (7) 46:4,24;47:3;185:13; 196:8;197:24;198:1</p> <p>touch (3) 32:3,8;51:5</p> <p>toward (2) 129:22;186:10</p> <p>towards (9) 74:19;75:25;81:7,8, 23;91:6;106:6,7;107:2</p> <p>tower (2) 150:18,22</p> <p>towers (3) 150:15,15,16</p> <p>town (5) 38:19;191:19,19,21, 23</p> <p>Traci (4) 4:25;51:21;123:2; 134:15</p> <p>track (1) 64:25</p> <p>tract (3) 167:6;171:24;176:13</p>	<p>traditional (1) 129:8</p> <p>traffic (77) 21:23,24;22:16,23, 23,24;24:25;72:19; 99:8;157:15,16,20; 159:7;162:11;163:2, 11,12,20,21;164:2,4; 165:21;166:2;168:1; 169:20,25;173:10,14, 174:10,25;175:1,9,17, 19;177:1,4;178:11; 179:10;182:17,21,22, 25;183:5,19;185:5,6,6, 16,20;186:1,5,17; 187:5,6,9,10,16,18; 188:5,7,8,14;189:16, 18;190:2;191:9;194:5, 8,17;197:1,12,16,17; 198:1,14,25;199:4</p> <p>tragedy (1) 87:15</p> <p>trail (7) 86:22;93:10,12; 173:17,18;193:9,22</p> <p>trails (3) 22:3;133:12,13</p> <p>training (4) 116:23;118:4,7,11</p> <p>transit (16) 94:23;167:12; 172:13;173:2,4,5,16; 174:12;191:22;192:3, 6,11,22,24;193:3;194:2</p> <p>transit- (1) 135:9</p> <p>transit-oriented (3) 135:8;181:15,18</p> <p>transit-wise (1) 94:18</p> <p>translate (1) 96:12</p> <p>transportation (31) 22:19,19;72:14; 94:21;95:3;107:19; 135:23;157:15,24; 158:11;161:7,9; 162:24;166:21;167:21; 168:22,23;170:21; 171:22;172:8;173:12; 175:7,8,10,14,23; 180:9;181:19;185:19, 22;186:14</p> <p>travel (1) 197:14</p> <p>traveled (1) 25:17</p> <p>traveling (1) 193:11</p> <p>treated (2) 42:21;93:25</p> <p>treating (1) 130:23</p>	<p>tree (8) 48:13;51:3;106:25; 112:1;139:3;140:11; 145:3;153:13</p> <p>trees (13) 74:17;97:7;106:12, 14,14,19,25;135:3,4,5, 6;141:2;153:20</p> <p>tremendous (1) 21:14</p> <p>tribute (1) 34:1</p> <p>trickle (4) 85:13;92:6,8,19</p> <p>tried (1) 148:17</p> <p>trip (12) 173:12;179:16,18; 180:1,8;194:21; 195:10,17,24,25;196:7; 197:18</p> <p>trips (9) 182:19;184:17,19; 185:13;191:7,8;196:8; 197:24;198:1</p> <p>true (4) 19:12;102:8,8; 162:10</p> <p>truly (4) 130:22;140:20; 141:3;181:14</p> <p>Trust (1) 93:16</p> <p>truth (12) 16:23,24;37:4,4; 57:6,7;70:6,7;115:2,3; 157:10,10</p> <p>try (9) 22:5;48:5;54:6;60:1; 108:25;109:1;111:23; 127:24;156:18</p> <p>trying (14) 18:3;22:10;28:7; 48:18;51:18;60:25; 61:6;62:15,16;65:7; 85:3;97:6;101:18; 187:15</p> <p>TSR (2) 161:4;162:7</p> <p>tuck-under (1) 125:22</p> <p>Tuesday (1) 187:11</p> <p>tugs (1) 25:20</p> <p>turn (9) 44:18;83:1;155:10; 160:8;161:24;168:23; 189:25;191:2;199:3</p> <p>turns (1) 50:21</p> <p>TV (1) 89:4</p>	<p>tweak (1) 131:2</p> <p>two (38) 5:23;6:17;15:1,7; 23:1,5,25;33:7;36:17; 38:22;39:22;48:9; 66:22;68:2;69:6;72:9; 79:15;81:10;92:17; 95:24;96:2;119:8; 120:24;127:15;143:25; 161:17;163:4;167:5,8; 168:1,8;178:3,4; 180:18;190:4;193:23; 198:3,22</p> <p>two-story (1) 111:11</p> <p>type (11) 7:13;34:23;57:16; 119:11,13;125:23; 126:22;129:2;130:19; 135:19;194:13</p> <p>types (12) 41:18;46:17;56:8; 71:4;97:14;126:17,21; 139:18;145:18;195:6, 11,13</p> <p>typical (1) 129:10</p> <p>typically (3) 51:5;169:3,5</p>	<p>7:3;164:16;201:5</p> <p>United (6) 142:23;143:3;145:7; 149:13,15;169:11</p> <p>units (8) 107:4,9,11;108:7; 119:4;179:13,13,14</p> <p>University (8) 18:22;38:1;69:20; 71:2;116:7,18,18; 120:11</p> <p>unless (6) 8:14,19;34:8;98:21; 101:23,25</p> <p>unrealistic (1) 171:1</p> <p>unreasonable (1) 171:1</p> <p>unsignalized (3) 160:15;177:24; 199:10</p> <p>up (77) 12:23;13:6;21:21; 25:5;34:23;43:21; 46:11;49:22;50:3,20; 53:1;60:8,9;67:22; 75:6;78:24;79:21,22, 25,25,25;80:2,3,6,21, 22;81:4,4,5,7,7,8,9,10, 10,10,10;85:3,19; 88:21;89:24;93:10,11; 97:5;98:22;99:24; 100:3;105:11;107:24; 111:2;112:3;137:6; 141:20,21;142:17; 143:13;148:4,11; 150:13;154:8,25; 155:1;159:19;162:19, 21;166:17;168:4; 174:3;176:25;178:18, 23;179:22;182:1; 190:25;193:14;195:13; 201:5</p> <p>update (1) 163:21</p> <p>updated (4) 36:2;131:1;197:17, 18</p> <p>upgrade (1) 190:10</p> <p>upgraded (1) 189:16</p> <p>upgrading (2) 43:17,18</p> <p>upon (10) 43:13;65:12;76:10; 87:8;104:9;160:24; 169:11;190:5;194:24; 196:15</p> <p>Urban (3) 73:15;116:19;153:13</p> <p>USA (1) 169:16</p>
U				
			<p>ultimately (2) 88:14;162:1</p> <p>UN (1) 132:2</p> <p>uncommon (1) 142:17</p> <p>under (22) 16:22;19:11;33:14; 37:2;57:5;63:7,10,21; 70:5;71:13;72:3;97:15; 107:11;115:1;135:24; 157:8;161:11;166:22; 175:15;176:1;184:19; 199:18</p> <p>undergrad (1) 25:17</p> <p>undergraduate (2) 69:14,19</p> <p>underground (5) 45:4,6,10;130:22; 149:3</p> <p>underlying (1) 64:25</p> <p>underneath (1) 97:7</p> <p>understands (3) 19:7;28:18;152:22</p> <p>Understood (2) 15:20;29:20</p> <p>unfortunately (3)</p>	

<p>usage (2) 162:9;179:17</p> <p>USDA (1) 68:19</p> <p>use (58) 4:11;9:22;18:11,12, 15,25;27:11;44:24; 56:9,14;71:5;80:22; 90:24,25;91:1;107:19; 117:24;119:24;120:6, 9,22,25;121:5;127:25, 25;128:1;129:16,25; 130:24;132:22;133:15; 134:25;135:20;166:21; 168:15;169:2,8;172:1, 1;173:2,2,5,14;174:9, 12;180:1,6,10,10,25; 181:13,15,19,21; 184:20;185:17;188:24; 194:23</p> <p>used (18) 86:21;88:6;92:18; 96:14;107:14;108:20; 120:3;125:22;127:24; 148:25;171:18;177:10, 19,20,24;179:15; 195:15;198:4</p> <p>uses (28) 105:23;127:8; 129:16;173:3,9,10,11, 12,15;177:10;179:9,10, 19;180:5;181:20,25; 182:2,3;194:20;195:2, 4,5,7,21;196:14,16; 199:16,24</p> <p>USGS (1) 68:19</p> <p>using (7) 118:23,24;119:2; 131:1;137:16;171:3; 177:25</p> <p>usually (3) 5:20;96:15,17</p> <p>utilitarian (1) 19:14</p>	<p>121:23,24</p> <p>variation (1) 87:10</p> <p>variety (3) 104:9;119:5;129:16</p> <p>various (4) 18:8;22:9;24:19; 84:10</p> <p>Varsilla (22) 6:19,21,25;8:25; 32:20,22,23;33:1,5,7, 11,15,16,17,21;34:6,9, 10,11,13,15;36:19</p> <p>vary (1) 74:18</p> <p>vegetation (3) 129:13;135:1;139:18</p> <p>vehicle (3) 160:16;178:2;182:19</p> <p>vehicles (4) 178:5;180:22; 183:12;191:4</p> <p>Venturi (1) 85:21</p> <p>verge (1) 168:9</p> <p>verify (1) 12:2</p> <p>verifying (1) 9:18</p> <p>versions (1) 15:1</p> <p>versus (4) 128:21;129:25; 137:21;187:18</p> <p>vertical (2) 79:16;151:2</p> <p>vertically (1) 128:15</p> <p>via (1) 168:20</p> <p>viable (4) 162:8,10;165:17,20</p> <p>vice (1) 119:14</p> <p>vicinity (19) 47:23;66:9;167:7,12; 169:2;170:9,23,24; 171:4,7,22;172:4,12, 19,24;176:8,10,12,14</p> <p>victims (1) 87:14</p> <p>video (1) 148:14</p> <p>View (78) 3:5;13:3;19:15,15, 19;21:2;22:18;50:10; 72:6;73:8;74:9,14,20, 24;75:10,14,21,21,23, 25;76:2;79:11,14,15, 23;80:1,19;81:12,15, 18,19,21;82:2,5,10,11, 15,17,18,18,21,22;</p>	<p>84:9,13;85:1,14;86:5, 22;89:6;90:3,18;91:6; 95:19;96:4,6;103:15; 108:9;131:17;142:22, 24;143:15;144:9; 145:3;146:4;147:25; 148:21;149:7;150:1,4, 19;151:6;152:6,25; 169:13,13;179:3; 192:17;199:1</p> <p>viewed (1) 172:24</p> <p>viewpoints (1) 95:24</p> <p>views (7) 85:23,25;88:1;89:12; 96:2;146:7;155:24</p> <p>Village (1) 120:25</p> <p>vintage (1) 87:21</p> <p>violation (1) 141:13</p> <p>Virginia (5) 70:18;77:13;117:3; 119:16;142:13</p> <p>virtual (5) 3:7;29:3;32:6; 182:12;201:6</p> <p>virtually (1) 32:10</p> <p>visibility (2) 94:9,17</p> <p>visible (4) 74:25;79:15;81:19; 91:10</p> <p>vision (2) 25:9;73:14</p> <p>visitation (2) 92:22;94:12</p> <p>visiting (1) 197:15</p> <p>visitors (6) 19:1;20:3;85:12; 87:8;92:6;192:17</p> <p>visual (2) 88:2;130:21</p> <p>visually (1) 82:21</p> <p>Vitello (1) 7:16</p> <p>voir (2) 61:18;122:10</p> <p>volume (6) 41:16,18;42:2; 177:20,22;178:7</p> <p>volumes (2) 185:5,16</p> <p>voluminous (2) 7:5,12</p> <p>vote (1) 7:8</p> <p>voted (4)</p>	<p>83:17;84:1;100:25; 101:5</p> <p style="text-align: center;">W</p> <p>wait (18) 4:20;6:13,13;21:6,6; 27:23;30:4,4,4;52:14; 61:10;65:24;86:11; 101:11,11;110:14; 111:18;152:9</p> <p>waiting (3) 4:22;5:5;113:22</p> <p>walk (10) 105:14;140:21,25; 170:5;172:21;174:7; 180:2;192:6,7;193:18</p> <p>walkability (16) 170:3,25,25;172:21; 191:12,16,20,22; 192:25;193:5,6,7,10, 13,21;194:2</p> <p>walkable (1) 192:12</p> <p>walked (2) 126:6;141:9</p> <p>Walker (1) 52:7</p> <p>walking (3) 104:6;173:5,16</p> <p>walkways (1) 133:12</p> <p>wall (3) 86:21;87:21;88:13</p> <p>walls (6) 87:23;124:12; 125:21,25;126:1,22</p> <p>wants (4) 9:14;35:8;62:19; 149:10</p> <p>War (2) 111:10;148:25</p> <p>warrant (2) 160:17;178:9</p> <p>Washington (7) 16:19;17:7,11;25:16; 47:17;71:8;87:2</p> <p>watch (5) 124:15,19;126:4,6; 149:1</p> <p>watched (1) 138:7</p> <p>Watching (1) 124:3</p> <p>water (16) 18:17;26:5,6;43:1, 18,19;47:14;48:5;64:7; 125:11;133:1;136:10; 140:7;141:7;150:19; 154:2</p> <p>Waterford (1) 119:15</p> <p>watershed (1)</p>	<p>140:6</p> <p>watersheds (1) 139:11</p> <p>way (31) 60:11;72:11;85:10; 88:10;99:7;101:4; 103:5,7,25;111:25; 118:5,12;125:16; 130:18,21;131:13; 134:10;140:2;148:20, 20;150:25;151:1; 165:9,13;166:4; 173:23;174:2;190:9; 196:21,21;197:6</p> <p>ways (5) 85:17;104:9;181:3; 186:9;197:1</p> <p>weave (1) 168:9</p> <p>website (1) 134:7</p> <p>Webster's (1) 171:7</p> <p>Wednesday (2) 187:11;201:25</p> <p>weeds (1) 169:7</p> <p>week (1) 202:11</p> <p>weekends (1) 5:21</p> <p>weekly (1) 32:1</p> <p>weight (3) 7:25;8:8,9</p> <p>Welby (10) 75:25;76:1;79:11,12; 85:15;88:14;89:9,16; 90:7;96:1</p> <p>welcome (3) 90:10;94:5;202:15</p> <p>well-defined (1) 170:24</p> <p>weren't (1) 142:14</p> <p>west (1) 168:14</p> <p>western (1) 166:18</p> <p>Westphalia (1) 124:5</p> <p>wetlands (1) 39:7</p> <p>whatnot (1) 141:19</p> <p>What's (15) 10:7,10;28:1;29:6; 31:21;79:18;96:20; 104:10;109:2,2; 153:14;157:17;164:17, 17;183:8</p> <p>whatsoever (1) 8:7</p>
V				
<p>vague (2) 139:14,24</p> <p>valid (1) 170:6</p> <p>valuable (1) 97:9</p> <p>value (2) 24:2;73:18</p> <p>values (3) 73:16,17;124:2</p> <p>vantage (2) 75:23;81:20</p> <p>variables (1) 139:17</p> <p>variances (2)</p>				

<p>whenever (2) 9:6;66:23</p> <p>whereas (1) 138:9</p> <p>Whereupon (1) 202:22</p> <p>White (1) 111:8</p> <p>whole (5) 90:5;96:7;97:23; 111:13;125:3</p> <p>widen (1) 160:7</p> <p>widening (1) 191:1</p> <p>width (2) 39:6;75:16</p> <p>wildlife (1) 25:24</p> <p>Willard (1) 87:4</p> <p>willing (1) 8:21</p> <p>Willowbrook (2) 119:10,20</p> <p>Wilson (1) 111:9</p> <p>withheld (1) 101:3</p> <p>within (31) 3:25;38:19;39:9; 40:12,17;58:24;72:14; 85:14;124:4;132:10; 135:20;136:6;145:15; 161:2;165:11,12; 166:9,14;167:6,11; 169:25;171:24;172:4, 19;176:9,13;179:24; 184:3;191:23;194:2; 198:2</p> <p>without (13) 18:14;22:22;35:21; 48:4;105:14;116:19; 128:12;140:15;145:19; 162:11;165:21;181:13; 191:8</p> <p>witness (33) 6:14;8:12,16,20;9:7; 16:9;21:19;24:14;30:6; 33:7;43:23;55:9,21; 56:8,17;57:2;60:19; 61:24;62:20;65:17; 66:20;78:6;95:10; 98:25;103:10;113:3, 17;152:4;154:19; 156:15,21,25;158:4</p> <p>witnesses (10) 9:1;34:8;56:10;69:5; 70:11;105:7;107:24; 111:2;112:19;201:6</p> <p>wonder (1) 92:15</p> <p>wondered (1)</p>	<p>92:7</p> <p>wonderful (1) 91:6</p> <p>wondering (6) 21:23;24:17;30:21; 181:13;193:25;194:16</p> <p>wooded (1) 56:1</p> <p>woods (3) 39:4;42:3,6</p> <p>word (3) 92:19;108:19,20</p> <p>words (4) 9:1,3,3,5</p> <p>work (24) 17:20;25:18;62:10; 71:7;78:10;97:18; 109:3;118:11;121:3; 123:2;124:13;126:3,5; 140:19;141:15;146:17, 18;148:15;161:15,22; 166:9;182:9;194:11; 198:24</p> <p>worked (9) 6:23;34:2;57:22; 87:3,17;89:1;110:11; 119:14;126:11</p> <p>working (13) 35:21;37:20;72:5,8, 10;92:16;111:13; 130:4;145:11;148:16; 182:13;199:5;201:22</p> <p>World (2) 111:10;153:6</p> <p>worry (4) 9:6;128:12;140:6; 177:6</p> <p>write (1) 105:18</p> <p>written (3) 50:18;102:12;144:3</p> <p>wrong (4) 29:11;51:9;52:9; 85:6</p> <p>wrote (2) 41:6,6</p> <p>WSSC (2) 43:5,11</p>	<p>138:11;139:24;145:13, 16;157:25</p> <p>yellow (1) 165:4</p> <p>Yep (1) 52:12</p> <p>young (1) 26:1</p>	<p>76:1,2</p> <p>1,900 (1) 81:24</p> <p>1.1 (1) 67:5</p> <p>1.1.2 (1) 67:10</p> <p>1.2 (2) 60:5;67:15</p> <p>1/2 (1) 78:4</p> <p>1:03 (1) 113:7</p> <p>1:33 (3) 113:7,8,9</p> <p>10 (4) 44:11;48:8;83:22; 92:24</p> <p>10:00 (2) 201:22;202:5</p> <p>100 (2) 14:5;139:16</p> <p>100- (1) 41:25</p> <p>100,000 (3) 179:14,22;199:22</p> <p>100-year (3) 40:3;45:10,11</p> <p>106 (1) 13:14</p> <p>107 (1) 13:23</p> <p>11 (1) 44:11</p> <p>1150 (2) 178:8,9</p> <p>117 (1) 198:10</p> <p>11th (1) 87:15</p> <p>12 (4) 44:11;64:24;92:24; 96:17</p> <p>120,000 (1) 199:20</p> <p>125 (3) 74:22;97:4;106:6</p> <p>12-inch (2) 43:16,19</p> <p>13 (1) 44:11</p> <p>13,429 (1) 184:20</p> <p>131 (7) 143:3,13,19,21,22; 144:3,4</p> <p>137 (1) 183:14</p> <p>14 (2) 40:9;44:11</p> <p>14.7 (1) 39:4</p> <p>140 (1)</p>	<p>43:15</p> <p>14th (1) 87:1</p> <p>15 (5) 44:11;96:6,19; 139:24;144:1</p> <p>150 (1) 100:1</p> <p>150-room (1) 189:4</p> <p>16 (4) 37:22;71:13;164:1; 198:13</p> <p>1600 (2) 177:22,23</p> <p>16th (1) 163:16</p> <p>17 (5) 96:19;99:6;170:23; 198:10,16</p> <p>170 (1) 39:11</p> <p>175 (1) 120:9</p> <p>18 (5) 83:18;96:16,19; 98:22;117:13</p> <p>184 (1) 87:14</p> <p>194 (1) 91:24</p> <p>1974 (1) 71:4</p> <p>1980 (1) 77:24</p> <p>1980s (1) 71:10</p> <p>1984 (1) 70:17</p>
	<p>Y</p> <p>Yanique (3) 10:23;16:11,18</p> <p>year (6) 33:1;42:1;87:5; 131:2;158:3;163:21</p> <p>years (25) 5:23;6:23;37:22; 57:25;62:10;69:22; 71:13;72:9;76:25;77:2, 22,24;78:4;87:24; 92:17;100:1;111:7; 116:21;117:13;134:16;</p>	<p>Z</p> <p>zero (3) 40:5,8;165:23</p> <p>ZMA (1) 14:15</p> <p>zone (26) 3:6;27:10;42:17,18; 56:12,13;107:20; 119:1,21;124:10; 125:19;127:6;128:1,2, 9;129:7,7,8;135:24; 166:21,25;167:3; 172:8;173:8,10;189:1</p> <p>zoned (4) 38:23;39:1;130:1; 188:23</p> <p>zones (5) 38:22;42:18;119:11; 127:16;128:19</p> <p>Zoning (56) 5:3;20:5;31:8;33:2; 38:7;42:13,23;47:6; 58:9;64:3;71:17;72:16; 77:15;98:16;99:7; 107:12;108:11;109:9; 116:4,11;117:24; 120:2;126:3;127:3,20, 24;129:3,10,22; 135:20;149:15;150:24; 151:4;153:16,18; 158:2;159:19;167:16; 171:5,19,25;174:21,24; 175:4,14;181:8;185:7, 16;189:22,24;190:7, 12;192:24;194:4,7,17</p> <p>zonings (2) 127:13;130:5</p> <p>Zoom (5) 134:25;135:25; 136:1,4;164:21</p>	<p>1</p> <p>1 (7) 59:19;83:18;172:9, 10,17,25;178:25</p> <p>1,000 (1) 119:3</p> <p>1,300 (1) 43:17</p> <p>1,500 (1) 74:14</p> <p>1,700 (2)</p>	<p>2</p> <p>2 (8) 59:20,21;67:21,22; 178:12,20,24,25</p> <p>2,000 (1) 74:15</p> <p>2.1 (1) 39:9</p> <p>20 (16) 24:25;38:18;47:19; 64:10;93:3;96:16; 98:19,20;103:18,18; 104:6;111:7;123:11; 146:13;155:17;194:25</p> <p>2006 (1) 124:25</p> <p>2008 (1) 124:25</p> <p>2015 (1) 125:1</p> <p>2017 (2) 40:10,14</p>

<p>2019 (4) 72:7,9;92:24;187:21 20190 (1) 70:18 2020 (12) 43:12;51:22;52:6; 83:18,22;144:1; 163:13;164:1;184:19; 187:6,9;198:13 2021 (1) 3:3 2025 (2) 46:6,10 2035 (2) 73:11,13 20706 (1) 37:13 20744 (1) 17:7 20745 (1) 10:12 20-acre (1) 104:4 20-story (1) 96:6 21 (2) 52:5;172:18 210 (20) 22:22;160:4,7;166:2; 168:13,14;169:6; 170:1,12,15,16;174:3, 8,9;177:13,13;186:10; 190:1;192:7,19 210V (1) 162:15 21146 (1) 157:22 214 (1) 157:21 22 (6) 162:25;163:7,8,11, 14;187:21 226 (2) 92:1;96:13 226-foot (1) 96:11 229 (1) 10:11 23 (2) 174:16;184:24 24 (3) 51:22;52:6;184:20 24- (1) 185:15 24-124 (1) 175:6 24-hour (1) 185:19 25 (12) 159:11;162:25; 163:6,6;184:17,25; 185:1;195:23;196:7; 197:19,23,25</p>	<p>27-213a1A (2) 167:4;176:15 27444 (1) 119:25 28 (3) 3:3;14:12;43:12 29 (2) 162:7;196:15 296 (1) 183:15 29th (1) 152:15 3 3 (4) 67:20;74:7;178:25; 179:3 3:00 (1) 186:1 30 (2) 62:10;64:11 300 (1) 37:12 30-foot (1) 166:16 31 (2) 157:25;163:13 34 (1) 14:12 36 (1) 149:11 360 (2) 79:12;82:3 360-degree (2) 75:24;81:21 389 (1) 183:14 3-dimensional (1) 72:20 3-level (1) 199:10 3-step (1) 177:25 4 4 (6) 172:9;173:1,6; 178:25;180:14;201:3 4:00 (1) 183:1 40 (3) 77:22,24;195:1 400 (1) 70:18 41 (1) 52:9 420 (1) 91:23 42A (3) 80:11;84:22;89:15 42B (10)</p>	<p>75:4,5,6;79:5;80:10, 13,14;149:5,5,6 43 (1) 52:9 442 (1) 183:14 45 (2) 140:20;201:17 4601 (1) 37:12 47 (3) 76:25;120:23;137:1 48 (2) 38:24;126:23 5 5 (3) 34:20;51:23;179:1 5,000 (1) 42:16 50 (2) 52:18,19;139:16; 160:16;178:2;195:1 500 (1) 179:12 525 (1) 119:2 53 (2) 133:20;134:5 558 (1) 184:19 56 (1) 101:14 560 (1) 39:6 5th (2) 201:22;202:5 6 6 (2) 198:8,9 6:30 (1) 182:25 60 (1) 39:6 600 (1) 197:19 6054 (1) 115:10 60-inch (1) 39:13 60-minute (1) 183:3 62 (1) 52:16 645 (1) 157:21 65 (1) 179:3 686 (1) 197:24</p>	<p>689 (2) 197:25;198:16 7 7 (1) 44:10 7/31/20 (1) 52:19 7:00 (1) 183:1 72 (1) 74:6 76 (8) 11:20;12:5,23;15:23; 16:13;162:19,21,22 7601 (1) 105:12 78 (8) 59:5,15;60:8;65:20; 66:24;68:3;114:6,14 8 8 (4) 44:11;78:4,4;174:17 80 (1) 164:19 81 (5) 25:16;162:25;163:7, 12,25 810 (1) 17:6 86 (2) 145:22;149:4 88 (2) 149:12,13 89 (3) 145:22;149:4,13 8-inch (1) 43:19 8-page (1) 66:12 9 9 (3) 42:10;44:11;63:9 9:30 (1) 183:1 90 (1) 40:11 95 (5) 166:3;168:13,15; 170:16;174:10 962 (1) 198:1 975 (2) 198:2,16 99 (1) 14:5</p>
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OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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NATIONAL VIEW : Case No. A-10055
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A hearing in the above-entitled matter was held on
March 24, 2021, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Maurene McNeil
Hearing Examiner

Page 6

1 MADAM EXAMINER: There's Ms. Scudder. Okay, Ms.
2 Scudder, if you could identify yourself for the record?
3 You're not on now.
4 MS. SCUDDER: I'm sorry, I'm having -- can you
5 hear me, Madam Examiner?
6 MADAM EXAMINER: Yes. Yes.
7 MS. SCUDDER: Yes? I'm having --
8 MADAM EXAMINER: Yes.
9 MS. SCUDDER: I'm having sound issues on my end.
10 I can't hear, so I'm trying to get that straightened out;
11 but, for the record, my name is Traci Scudder, attorney for
12 the applicant.
13 MADAM EXAMINER: Okay, Ms. Scudder, before I turn
14 it over to you, I do want to note for the record that, and I
15 apologize if I have the wrong name. I believe it was Ms.
16 Egloff that requested a continuance in this matter, but I
17 can just state that one individual in opposition and a
18 resident in the area requested a continuance, but I advised
19 that this matter had been filed as early as 2019 and had
20 already been continued once, so we will start today. But
21 everyone that might be opposed to the request should be
22 aware that I am allowing a second hearing for any in
23 opposition to put on their own witnesses, and I'm not even
24 sure if we're going to get through all of the Applicant's
25 witnesses today, but we are going to try. So, Ms. Scudder,

Page 7

1 you may begin.
2 Okay. And while we're waiting for Ms. Scudder,
3 thank you, Ms. Mouw, and I'm probably not saying that
4 correctly. If you are here, you have, I will also allow you
5 to present any written testimony as part of the record. The
6 main thing is we don't allow statements if no one is
7 available to cross-examine the statement and ensure the
8 authenticity. So, if you're hearing you had also prepared a
9 written statement or written testimony, that will come into
10 the record after you are cross-examined by Applicant's
11 counsel, or People's Only Counsel. Thank you, Ms. Mouw.
12 Okay. Ms. Scudder?
13 MS. SCUDDER: Yes. Sorry about that, Madam
14 Examiner. I was having a little bit of technical difficulty
15 on my end and I didn't hear anything up until maybe about a
16 minute ago, so I don't know if you said anything earlier
17 that I really needed to hear or not, or if your
18 announcements were mostly for everyone else.
19 MADAM EXAMINER: I was explaining our procedural
20 process.
21 MS. SCUDDER: Okay.
22 MADAM EXAMINER: So, you may continue.
23 MS. SCUDDER: Okay. So, Madam Examiner, I would
24 like to just begin with bringing up a few preliminary
25 matters. Senator Obie Patterson is going to be joining us

Page 8

1 this morning at 9:45. He has a very short window that he
2 can testify in this case and he has to depart for a vote on
3 the House floor that he can't be late for. So, he has given
4 me a range of 9:45 to 10:00 a.m. to be able to participate
5 in this hearing this morning; and it's 9:37 at this time, so
6 I just wanted to ask if that would be okay if when Mr.
7 Patterson, Senator Patterson logs in, if we can allow him to
8 testify at that time?
9 MADAM EXAMINER: That is fine, but you'll have to
10 be keeping an eye on that. So, when you see him, in case I
11 miss it, you would have to pause your witness to allow him.
12 Okay.
13 MS. SCUDDER: Yes, understood. Also, Madam
14 Examiner, we have Mayor Habeeb-Ullah Muhammad here this
15 morning to testify, and I see that she is present; and I
16 would ask that she be allowed to testify right after Senator
17 Patterson if that's okay?
18 MADAM EXAMINER: Ms. Scudder, I believe anyone
19 that's not in opposition is primarily coming in on your
20 case-in-chief, so you control that order.
21 MS. SCUDDER: Wonderful. Wonderful. Well, with
22 that being said, then I am also going to ask all of our
23 supporters who are here this morning to follow behind Mayor
24 Muhammad in their testimony. That way if you need to leave
25 after your testimony, you can feel free to log off, or if

Page 9

1 you would like to stay and watch the entire hearing, then
2 you are welcome to stay with us.
3 The next item that I would like to, to mention,
4 Madam Examiner, is the letter of support. We have a letter
5 of support from Ms. Gwen Gibson. Ms. Gwen Gibson is the
6 great, great-granddaughter of Henry Alexander Butler who, as
7 you know, was one of the owners of the property; and she has
8 provided an affidavit because she's not able to make it to
9 the hearing today. Ms. Gibson lost her 97-year-old mother
10 recently and she just wasn't in shape to come and testify
11 today, but she did send in a letter and she also provided an
12 affidavit today to help support her letter being entered
13 into the record.
14 MADAM EXAMINER: Mr. Brown?
15 MR. BROWN: Well, I have not seen this letter nor
16 this affidavit, and I would presume that most of the persons
17 in opposition have not read it either. Therefore, I will
18 reserve my objection to the letter and the affidavit until
19 after I've had an opportunity to read it. Since she is not
20 here, it may be objectionable.
21 MADAM EXAMINER: And, Ms. Scudder, may I, may I
22 add, does it make a difference knowing that this matter will
23 be continued and should be available in the future time, and
24 you can still show the information to Mr. Brown now, you
25 could email it to him, but it should be available at the

Page 10

1 next hearing date, or might, should be in the week; and if
2 not, we could address it then?
3 MS. SCUDDER: Okay. I don't know for sure. I
4 would have to speak with her. I know that she has been
5 inundated lately with just family issues. She cares for a
6 number of her older family members and it just keeps her
7 very busy, so I'll have to speak with her; but in the
8 meantime, do you want me, Mr. Brown, would you prefer that I
9 send Ms. Gibson's letter to you and the affidavit to you
10 now, or --
11 MR. BROWN: Yes. Yes.
12 MS. SCUDDER: -- send it to the --
13 MR. BROWN: Send them both to me. I'll read it
14 and we'll resolve it at the continued hearing.
15 MADAM EXAMINER: Okay. And I'll read their, your
16 motion in the event that she can't be at the next hearing,
17 but you can send it to Mr. Brown now, or as soon as you can.
18 MS. SCUDDER: Okay. We'll send it to Mr. Brown
19 now. The final thing is that, Madam Examiner, there were a
20 few, just a few exhibits. We, we, we submitted quite a few
21 documents into the record prior to the hearing and I think
22 are a few maybe technical issues with a couple of the
23 documents where on staff side they were coming in blank.
24 So, just --
25 MADAM EXAMINER: And if I may, Ms. Scudder, I want

Page 11

1 complete disclosure. Staff had nothing to do with that. I
2 was attempting to transfer those documents and I know
3 nothing about technology. I hope I can stay with you all
4 today during this hearing. I'm trying my best. So, Staff
5 would have done it wonderfully, but the Examiner stepped in;
6 so, I apologize for any omissions.
7 MS. SCUDDER: I'm in the same boat, Madam
8 Examiner. Technology scares me, so I'm glad that I have Mr.
9 Eli Borek here with me today in the conference room to solve
10 any technical issues I have. So, yes, and we will, I will
11 make note of any exhibits that come up during the testimony
12 today that we would like to enter into the record and it's
13 particularly, particularly those items that had technical
14 issues.
15 MADAM EXAMINER: Okay. And I note, fortuitously,
16 that Senator Patterson is here. So, if you would like --
17 Senator Patterson?
18 SENATOR PATTERSON: Hello, everyone. Good
19 morning.
20 MADAM EXAMINER: Good morning. I understand you
21 have a few seconds to give some testimony in this matter, so
22 I would like to swear you right now and say, do you swear or
23 affirm under the penalties of perjury that the testimony you
24 shall give will be the truth and nothing but the truth?
25 SENATOR PATTERSON: I do.

Page 12

1 MADAM EXAMINER: Okay. And so, just state your
2 name, business address and tell us what you want to about
3 this application.
4 SENATOR PATTERSON: Okay. My name, again, is, is
5 Obie Patterson. My address is 11 Main Street, Annapolis,
6 Maryland, and I am a state senator representing District 26
7 in Prince George's County, and I am delighted to be on this
8 conference call this morning to talk about this wonderful,
9 wonderful project that we feel very optimistic about that's
10 coming to Prince George's County and, more specifically,
11 going to Forest Height area that really needs a facelift, if
12 you will, to provide some incentives, to provide some tax
13 base, just a place where people in that area can feel good
14 about the growth and development that's taken place in the
15 County. We see this as a, as a win-win for all.
16 The location of this proposed site is, is
17 excellent. It's a good location and, of course, we, we know
18 from years back that we're always in our need of quality
19 housing, especially proceeding in Prince George's County.
20 So, I've had a chance to meet and talk with the
21 representatives of the company. I believe they're very
22 competent. I believe that they are coming with high-level
23 integrity to do a very good job for our Forest Heights
24 residents and the rest of us who, who live and, and pay
25 taxes in this great County. So, if there's additional

Page 13

1 things that you would like to ask me (indiscernible), I'll
2 be happy to entertain any question that you or any of your
3 other co-partners might have.
4 MADAM EXAMINER: I don't have any at this time,
5 but, Mr. Brown, do you have any questions?
6 SENATOR PATTERSON: I can't respond to him. No, I
7 --
8 MR. BROWN: I'm surprised, Senator, that you even
9 came on, man. You should have known I was going to get
10 here.
11 SENATOR PATTERSON: Well, (indiscernible) killing
12 me up here, man, I'm telling you. It's so, it's
13 (indiscernible).
14 MR. BROWN: I have no questions. Thank you so
15 much.
16 SENATOR PATTERSON: All right. Thank you.
17 MADAM EXAMINER: Okay. Then let me just double-
18 check. Uh-huh.
19 SENATOR PATTERSON: One other thing I might say,
20 Madam, Madam Examiner, is that the developer here has taken
21 into consideration the concept of making sure that the
22 structure that's going to be built is going to be very
23 friendly to the environment in terms of green techniques,
24 green roofs, and community gardens, of which I like. I
25 always have a garden in my backyard, so hopefully I could

Page 14

1 share some vegetables with this group and they, no, they
2 can't share with me. But we, we are excited about the
3 approach they are taking and we just cannot wait to see this
4 very fine structure going up that really will be a, a
5 tremendous, I almost want to classify it as a spiritual
6 uplift in terms of bringing good quality development to this
7 part of the County.
8 MADAM EXAMINER: Okay. I do know one person is in
9 opposition. Ms. Mouw, do you have any questions of the
10 senator?
11 MS. MOUW: No, thank you.
12 MADAM EXAMINER: Okay. Thank you so much, Senator
13 Patterson.
14 SENATOR PATTERSON: All right. Thank you, Madam,
15 and we got the big, big budget ahead of us today, so keep us
16 lifted up, all right?
17 MADAM EXAMINER: We will.
18 SENATOR PATTERSON: All right. Take care.
19 MADAM EXAMINER: Take care.
20 MS. SCUDDER: Thank you, Senator Patterson.
21 MADAM EXAMINER: Ms. Scudder, your next, or we had
22 cut you off. Were you finished with your opening remark?
23 MS. SCUDDER: I would just like to say with regard
24 to Senator Patterson's testimony, we do have a letter of
25 support from Senator Patterson that I would like to enter

Page 15

1 into the record at this time.
2 MADAM EXAMINER: Okay. Let me double-check. Ms.
3 Poteat, do you know if that one had already been marked, a
4 letter in support from Senator Obie Patterson?
5 MS. POTEAT: Yes, it has.
6 MADAM EXAMINER: What number is it?
7 MS. POTEAT: 61.
8 MADAM EXAMINER: I'm sorry, what number?
9 MS. POTEAT: Exhibit 61.
10 MADAM EXAMINER: 61? Okay. So, that is in the
11 record now, Exhibit 61?
12 MS. SCUDDER: Okay. Thank you.
13 MADAM EXAMINER: Mr. Brown, are you -- you have no
14 --
15 MR. BROWN: I don't have an objection, but next
16 time Ms. Scudder ask the witness when he's testifying that
17 we have a document to submit so he can authenticate it; but
18 other than that, I have no objection.
19 MS. SCUDDER: Okay. Yes, sir. Thank you.
20 MADAM EXAMINER: Okay. Are you ready for your
21 first witness?
22 MS. SCUDDER: Actually --
23 MADAM EXAMINER: Next --
24 MS. SCUDDER: -- Madam Examiner, Mayor Muhammad is
25 here and I would like to allow her to speak at this time.

Page 16

1 MADAM EXAMINER: Okay. Mayor Muhammad?
2 MAYOR MUHAMMAD: Good morning. I am Habeeb-Ullah
3 Muhammad, mayor of the town of Forest Heights. I'd like to
4 briefly say --
5 MADAM EXAMINER: Mayor, Mayor, if I could stop you
6 one second? Are you a caller, or are you online? Did you
7 call in? I'm just trying to find you on my screen.
8 MR. BROWN: I think she's with Mr. Linwood
9 Robinson, Madam Examiner.
10 MADAM EXAMINER: Oh, okay. There you are. Mayor
11 Muhammad, do you swear or affirm under the penalties of
12 perjury that the testimony you shall give will be the truth
13 and nothing but the truth?
14 MAYOR MUHAMMAD: I do.
15 MADAM EXAMINER: Okay. We can continue.
16 MAYOR MUHAMMAD: Okay. I do have a letter of
17 support on file and submitted into the record for the
18 National View project rezoning. Okay. I believe this
19 project would greatly enhance the lives of our citizens in
20 the town, providing much retail option and service for the
21 Forest Heights community. I feel that the developers share
22 the town's vision of creating true, substantial community on
23 this site. And I also appreciate the developer plan to
24 create a walkable community where our citizens can live,
25 work and play.

Page 17

1 I am in support of this rezoning, but want to go
2 on record as stating the project should be planned and
3 developed with the involvement and of the surrounding
4 community, and without adverse effect on surrounding
5 property of the community of the citizens in the town.
6 A number of our town council has shown an interest
7 in supporting the National View project as well. In ending,
8 a resolution of support for the project is on the agenda for
9 consideration by the Council at our April Town Council
10 meeting. That way all the Council will be able to express
11 their support or objection to his project. Thank you for
12 this opportunity to speak before you today.
13 MADAM EXAMINER: Thank you, Mayor. Ms. Poteat or
14 Ms. Scudder, do we have the Mayor's letter already as an
15 exhibit number?
16 MS. SCUDDER: Yes, we do. It's Exhibit 23 and 33,
17 because the exhibit, the letterhead and attachment, which is
18 Exhibit 33.
19 MADAM EXAMINER: And, Mayor, I, we will probably
20 most likely be, having an additional hearing, so you will be
21 able to submit the Town's resolution as soon as you can in
22 April.
23 MAYOR MUHAMMAD: Yes.
24 MADAM EXAMINER: Okay.
25 MAYOR MUHAMMAD: Immediately.

1 MADAM EXAMINER: Okay. Mr. Brown, do you have
2 questions of the Mayor?

3 MR. BROWN: Yes. Mayor, I just want to clarify
4 the record. Today you are testifying on your personal,
5 individual behalf; you are not testifying on behalf of the
6 Town of Forest Heights, because they have not adopted a
7 resolution in support or opposition, is that correct?

8 MAYOR MUHAMMAD: That's correct.

9 MR. BROWN: All right. Thank you.

10 MS. SCUDDER: Mayor Muhammad, I just have one.
11 You already testified that you have a record on file, have a
12 letter on file, and so I would just ask that that letter be
13 entered into the record and I believe it is already in the
14 record, Exhibit 23 and 33; but I just have one question for
15 you, Mayor Muhammad, before you leave. Did the town of
16 Forest Heights receive a referral in this case from Park and
17 Planning?

18 MAYOR MUHAMMAD: No.

19 MS. SCUDDER: Okay. Thank you, Mayor Muhammad.
20 Thank you for coming. We really appreciate you being here
21 today. It's good to see you.

22 MAYOR MUHAMMAD: Thank you for listening to me.

23 MADAM EXAMINER: And just before you go, I'm
24 checking to see if anyone else had questions of you, Mayor.
25 Ms. Moose, do you have questions of the Mayor?

1 MS. MOOSE: I would like to know more about the
2 process of getting the town's approval for this because a
3 letter was written as though the town had already voiced its
4 approval for it, and as far as I know, there's not been any
5 public information about continuing that process; and so, if
6 there's any more information, I'd like to know that now.

7 MADAM EXAMINER: Madam Mayor, can you answer the
8 question?

9 MAYOR MUHAMMAD: No, I have not. What would take
10 for the town to (indiscernible) support it?

11 MADAM EXAMINER: She's trying to find out what
12 notice the neighbors will have of your all's actions in
13 April? Are you going to have a meeting that's publicized,
14 et cetera, because they may want to comment, you know, talk
15 to the town?

16 MAYOR MUHAMMAD: Yes, it will be a Council
17 meeting.

18 MADAM EXAMINER: Do you know the date yet or --

19 MAYOR MUHAMMAD: Yes. Yes.

20 MS. MOOSE: Will, will town residents be able to
21 comment on the Council meeting, or have our opinions be
22 included as part of whatever resolution comes from that
23 meeting?

24 MAYOR MUHAMMAD: Yes. It will be a work session.

25 MADAM EXAMINER: But how will the town, how will

1 the residents be informed of your work session, Madam Mayor?

2 MR. BROWN: Madam Examiner --

3 MADAM EXAMINER: Yes, sir?

4 MR. BROWN: These questions really are not
5 appropriate. I mean that concerns the administrative
6 process of the town of Forest Heights and not the
7 administrative process of Prince George's County; and so
8 that question, if she wants to ask the Mayor and their town
9 officials of how they're going to publicize and conduct
10 their hearing, they need to do that outside of this
11 proceeding.

12 MS. MOOSE: I guess what I'm really wondering is
13 just I want to confirm that whatever resolution comes from
14 that meeting and comes to the rezoning office, like I want
15 to make sure that it will have, be the collective opinion of
16 the town behind it and not just a Council. Can that be
17 clarified?

18 MR. BROWN: Again, when --

19 MADAM EXAMINER: I think I agree with Mr. Brown's
20 objection at this point. You may, you have a right to
21 contact People's Zoning Council outside of this record and
22 the town outside of this record; and you will be informed of
23 our next hearing. So, if you feel for any reason your
24 voices weren't heard, you could just note that in testimony
25 at the next hearing as well. I don't think I agree, we

1 don't have to prolong this hearing on the docket; but if you
2 --

3 MS. MOOSE: Right.

4 MADAM EXAMINER: -- need further information, you
5 can definitely reach out to the town. I'm sure Ms. Scudder
6 would talk to you and Mr. Brown. They will provide their
7 knowledge.

8 MS. MOOSE: Great. Thank you.

9 MADAM EXAMINER: Okay. Okay. Thank you, Mayor.

10 MS. RAWLINGS: Madam Examiner, Ms. Gingold has a
11 question for the Mayor.

12 MADAM EXAMINER: Oh, great. Thank you, Ms.
13 Rawlings. Ms. Gingold, what is your question of the Mayor?

14 MS. GINGOLD: Hi, Mayor Muhammad. I'm Janet
15 Gingold from the Sierra Club. I was interested to read your
16 letter of March 25, 2020, that was in support of this
17 project, and I think that's the letter that was referred to
18 that is your, your testimony. And I just wanted to know,
19 since there seemed at, at the recent community meeting at
20 Forest Heights, there seemed to be some confusion about
21 where that letter came from. I would appreciate a statement
22 about whether you had help with writing that letter, or
23 whether, who else from the city was involved in creating
24 that letter; and did anybody else help you with that letter?

25 MR. BROWN: Madam Examiner --

Page 22

1 MADAM EXAMINER: Yes?

2 MR. BROWN: Just so that we understand the

3 process, Mr. Robinson, Linwood Robinson, I seen he is the

4 Town Administrator for the Town of Forest Heights. I

5 understand you're attempting to assist the Mayor with the

6 technology or whatever.

7 MR. ROBINSON: That's right.

8 MR. BROWN: The administrative process requires

9 that a witness may not talk with someone else when they are

10 testifying. She, the Mayor cannot consult with you before

11 she answers the question. If you're going to be there and

12 help her with the computer, you cannot discuss her answers,

13 okay? She was asked a question. She must answer it. If

14 she doesn't know the answer, she must say she does not know.

15 That having been said, Ms. Gingold, the letter that had been

16 submitted by the Mayor concerning March 25, 2020, it's in

17 the record, but we are now aware that the Board or the town

18 has an additional meeting where there will be an official

19 policy of the town regarding whether they oppose or support;

20 and so, we really don't need to prolong the specifics of

21 this March 25, 2020 letter. It is not a final position of

22 the town of Forest Heights.

23 MADAM EXAMINER: I would agree. Ms. Gingold, are

24 you okay now with the answer? So, the letter came from the

25 Mayor. The town will have an opportunity to submit its own.

Page 23

1 Do you have another question of her?

2 MS. GINGOLD: I'm still interested in who wrote

3 the letter, but maybe I don't have an answer to that

4 question.

5 MADAM EXAMINER: Mayor, I am so sorry, Mayor,

6 because your last name is not showing up. I'm sorry. But,

7 Mayor, do you swear -- you are under oath, so that letter

8 reflects your position on this application?

9 MAYOR MUHAMMAD: Yes, it does.

10 MADAM EXAMINER: And you might have had some

11 assistance in drafting it?

12 MAYOR MUHAMMAD: Yes, I have.

13 MADAM EXAMINER: Okay. How is that, Ms. Gingold?

14 MS. GINGOLD: Okay.

15 MADAM EXAMINER: Thank you. So, if no one else

16 has questions of the Mayor, we are ready for the next

17 witness.

18 MS. SCUDDER: I would like to ask Mr. J. L. Marks

19 if he is present? He's one of the citizens in support of

20 this project and he, I believe he would like to speak today.

21 MADAM EXAMINER: J. L. Marks? Mr. Marks?

22 (No affirmative response.)

23 MS. SCUDDER: You don't see J. L. Marks?

24 MADAM EXAMINER: I do not.

25 MS. SCUDDER: Okay. Madam Examiner, we'll see if

Page 24

1 he joins us a little later, but next I would like to call

2 Mark Cruse.

3 MADAM EXAMINER: Mr. Cruse, good morning. Do you

4 swear or affirm under the penalties of perjury that the

5 testimony you shall give will be the truth and nothing but

6 the truth? And you have to unmute.

7 MR. CRUSE: Okay. Can you hear me?

8 MS. SCUDDER: Yes.

9 MADAM EXAMINER: Can you hear me? Okay.

10 MR. CRUSE: Yes, I heard you.

11 MADAM EXAMINER: Okay.

12 MR. CRUSE: Okay. My name is Mark Cruse. I'm in

13 the community of Forest, Fort Washington. I'm very familiar

14 with the project that the developers presented a

15 presentation to me and I do have a letter that was entered

16 into the record I'd like to go through.

17 MADAM EXAMINER: Okay. And, Mr. Cruse, one

18 second. You, you would have to give us a mailing address.

19 And, Ms. Poteat, do we have it already marked, a letter from

20 Mr. Mark Cruse?

21 MS. POTEAT: Give me a moment to go through my

22 list.

23 MADAM EXAMINER: Sure. Mr. Cruse, if you could

24 give us your mailing address?

25 MR. CRUSE: My mailing address is 12700 Hall Wood

Page 25

1 Place, Fort Washington, Maryland 20744.

2 MADAM EXAMINER: Okay. Well, you have a right to

3 testify reading your letter until we find the exhibit

4 number, so you can go ahead and begin.

5 MR. CRUSE: Okay. I would just like to read and

6 then I guess at the end add some commentary. I mean the

7 letter pretty much sums up what I'm saying, but I'd just

8 like to read it and then expound upon it if that's okay at

9 the end?

10 MADAM EXAMINER: Sure, go ahead.

11 MR. CRUSE: Okay. I'm a long-time resident of

12 Prince George's County and I recently learned about the

13 National View, about National View. Over the years, I have

14 spent a lot of time in Forest Heights and the surrounding

15 areas. I currently reside in Fort Washington, Maryland. I

16 am familiar with the land the developer discussed with me

17 recently and believe this venture is long overdue. This

18 particular area of the County needs attention and I support

19 the plans the developer shared with me. They are offering

20 the kind of housing that would respond to the needs of the

21 residents of this County.

22 We all know not everyone can afford to live in

23 National Harbor. I like the developer's plans to create a

24 mixed income community that has affordable housing mixed in

25 with market condos and rentals. This makes sense when you

Page 30

1 MS. EGLOFF: Good morning. I'm, hold on one
2 second. I want to make sure I have good reception. I was
3 wondering how Mr. Cruse interacted with the developer, like
4 was it a community meeting; is he a personal friend; just
5 happenstance?
6 MR. CRUSE: I'm part of a, a social media group
7 that discusses Prince George's County development and many
8 of them are on that same forum, and they saw, I think they
9 believed, I believe they saw me discussing many relative
10 projects in Prince George's County and they know that I'm a
11 very passionate resident and I have ties to Forest Heights
12 and been in the area for a very long time, and I'm familiar
13 with the area. I believe they thought that I would be a
14 good voice because I'm so involved with a lot of things, and
15 I'm aware of a lot of things that go on in the County, and
16 I'm very much tied into development.
17 MADAM EXAMINER: Mr. Cruse, are you --
18 MS. EGLOFF: Okay.
19 MADAM EXAMINER: -- saying that because of your
20 background, the developers' agents approached you and told
21 you what they intend to build, and then the rest of the
22 comments are your own on what you understand will be built?
23 MR. CRUSE: Yeah, all these are my comments. I
24 was pretty much expressing these comments before I talked to
25 them and I, and that might be what sparked their interest.

Page 31

1 It was just communicating with some of the people involved
2 when I was in the forum, and then we set up a phone call to
3 expound more on what the project involved; and that's how I,
4 you know, I got the full scope of everything. I had just
5 heard bits and pieces before. I was already in awe of it.
6 I thought it was well-deserved. That's what I was leaning
7 towards anyway. I mean I was a proponent of the Tanger and
8 everything else; yeah, so I'm very pro-development. So, I
9 knew about this project and just the bits and pieces that
10 was there. I already was for it; but then I guess they saw
11 from the things that I was saying and different discussions
12 on it, then they just, they contacted me and we set up a
13 meeting, and then I saw a slide show; but everything that
14 was involved, it even pushed me further towards being in
15 high approval of the project.
16 MS. EGLOFF: Okay. A second question on that.
17 So, you said you set up a meeting and you saw a slideshow?
18 Was the --
19 MR. CRUSE: Yes.
20 MS. EGLOFF: -- was there any other participants
21 at that meeting other than the developers and yourself, or
22 were there any other people there?
23 MR. CRUSE: Oh, the, the attorney, Ms. Scudder,
24 was there.
25 MS. EGLOFF: So, just representatives of the

Page 32

1 developer and yourself?
2 MR. CRUSE: Yes.
3 MS. EGLOFF: Okay. That's all.
4 MS. MCDOWELL: I have a question --
5 MR. CRUSE: Thank you.
6 MS. MCDOWELL: -- if I may?
7 MR. CRUSE: Yes, ma'am?
8 MS. MCDOWELL: Hi. This is Tina McDowell. I have
9 a question for Mr. Cruse. The slideshow you mentioned, did
10 it show concept art that showed 15 to 20-story buildings and
11 the massive complex that dwarfs MGM, or did it just show the
12 lovely community gardens with solar panels and whatnot?
13 MR. CRUSE: It showed everything that was
14 involved. I don't know --
15 MS. SCUDDER: Mr. Brown, I would, Madam Examiner,
16 I would object to that question. This is a Zoning Map
17 Amendment application. There are no buildings. There's no
18 Site Plan. There, Ms., I don't know what Ms. McDowell is
19 talking about.
20 MS. MCDOWELL: Do I get to clarify? It's in
21 Binder 1 on the, on the page. There's lots of concept art
22 that shows in Binder 1 on the Zoning Hearing Examiner's
23 Office for clarification. But thank you.
24 MR. BROWN: I cannot hear you, Madam Examiner.
25 MS. MCDOWELL: Pardon me?

Page 33

1 MR. BROWN: Madam Examiner, we cannot hear you.
2 You are mute. You're still muted.
3 MADAM EXAMINER: I apologize. I appreciate
4 everyone, if you have questions, if you want to cross-
5 examine, please still put it in the chat and then we will
6 call on you in order; and then, Ms. Egloff, do you happen to
7 see an exhibit number in that binder because, unfortunately,
8 the binders are huge. But you're just saying there's
9 something in there showing a concept of the property where
10 there's a really talk building? And, Ms. Scudder, you are
11 saying there's no such thing?
12 MS. SCUDDER: Not under this application, Madam
13 Examiner.
14 MR. BROWN: Well, however, even though is a
15 rezoning, Mr. Cruse opened the door by talking about a
16 project and comparing a project to across the river; and so,
17 I mean the question is appropriate.
18 MADAM EXAMINER: Mr. Cruse, do you remember the
19 question?
20 MR. CRUSE: Yeah, I remember the question. I
21 don't, I, I think I remember a concept of what was going to
22 be there. I don't remember any massive 20, 30-story
23 buildings, or it wasn't even discussed about how, how the,
24 how tall the buildings are; but I saw a concept of what was
25 going to be there and I did see some mixed use buildings,

Page 34

1 and bike trails, and it addressed things like the ecosystems
2 and a few other things.
3 MADAM EXAMINER: Ms. Egloff, do you have other
4 questions?
5 MS. EGLOFF: That's Ms. McDowell, Ms. McDowell.
6 MADAM EXAMINER: I'm sorry, Ms. McDowell, do you
7 have other questions?
8 MS. MCDOWELL: Sorry about that. No, I just want
9 to point out it's on, it starts around page 785 of the
10 1,000-plus page document in Binder 1 if you want reference
11 material for that. Thank you. That's it.
12 MADAM EXAMINER: Thank you. And, Mr., excuse me
13 one second. That is so much fun. Mr. Edwards, do you have
14 any questions of Mr. Cruse?
15 MR. EDWARDS: No, I have no questions. I just
16 found it very interesting, that's all.
17 MADAM EXAMINER: Okay. Yes, well, you know the --
18 I would appreciate if we keep testimony out of the chat and
19 because it really isn't part of the record. So, that's why
20 I gave you the opportunity if you wanted to ask him
21 anything.
22 MS. SCUDDER: Ms. Gingold, Ms. Gingold has a
23 question of Mr. Cruse.
24 MADAM EXAMINER: Okay. Ms. Gingold?
25 MS. GINGOLD: Hi, Mr. Cruse. I heard you say that

Page 35

1 the area was all wood and rattlesnakes, and I'm interested
2 to find out if you've ever seen a rattlesnake in that
3 territory because in my walks at Oxon Hill Park, which is
4 right adjacent to there, the habitat really is not all mud
5 and rattlesnakes, and I think it would be very unusual to
6 see a rattlesnake there. So, I'm, I'm just interested in,
7 in why you chose that particular way of describing that
8 lovely woods?
9 MR. CRUSE: Well, I mean I, I, I talk about this
10 often and it could be, I, I rode my bike there before. To
11 be honest, I don't know exactly what a rattlesnake looks
12 like, but I have seen snakes, I have seen possums, and
13 racoons, and things of that nature. I mean it's obviously
14 intelligent to assume that all those things are, are in the
15 forest, just like any other forest. I was just putting
16 emphasis on it to express that it just seems like when it
17 comes to our county, you know, it's all these things that
18 come up and say, you know, it has to stay this. There's
19 always opposition and I was just saying why doesn't anyone
20 say that about the other side? You can have bars, you can
21 have walkable restaurants, you can have bike paths, you can
22 have waterfronts. Why do we have to have a forest with
23 beavers and whatever. You could say whatever. I mean it
24 wasn't really centered on rattlesnakes. I can say, I can
25 say raccoons. There's plenty of those, and deer, whatever.

Page 36

1 It wasn't really centered on just saying rattlesnakes. It
2 was just for emphasis to express why with our county this is
3 what they always say we deserve, and no one uses these
4 restrictions or, you know, these comments don't seem to be
5 made to anyone else. Everyone else seems to get everything
6 else with eats. The only thing it seems like we get leaves,
7 just like I said, liquor stores, dollar stores and places to
8 buy chicken. No one fights that. But I'm just saying we
9 shouldn't be fighting this, and I'm just for the rezoning.
10 I know this is the beginning phase, but I have a sense, like
11 it always is, it's going to be a bunch of outsiders, people
12 who don't live here, arguing that we shouldn't have this, or
13 we shouldn't have this, or this, like the deers deserve this
14 and I'm just saying there's plenty of woods. I can take
15 you. I ride all over the place. I walk all over the place.
16 I am very familiar with the area.
17 MADAM EXAMINER: Any other question, Ms. Gingold?
18 MS. GINGOLD: No, that's good. Thanks.
19 MADAM EXAMINER: Okay. Thank you, Mr. Cruse.
20 Your next witness?
21 MS. SCUDDER: Thank you, Mr. Cruse. Yes, my next
22 witness is Herbert --
23 MR. CRUSE: Thank you.
24 MS. SCUDDER: -- Jones. Is Herbert Jones present?
25 (No affirmative response.)

Page 37

1 MS. SCUDDER: I'm going to go on to the next
2 witness, Leslie Echols. Is Leslie Echols present?
3 MS. ECHOLS: Yes, hi.
4 MS. SCUDDER: Hi, Ms. Echols. Good morning.
5 MS. ECHOLS: Good morning. How are you?
6 MS. SCUDDER: Wonderful. Thank you. Thank you
7 for being here.
8 MADAM EXAMINER: Ms. Echols, do you swear or
9 affirm under the penalties of perjury that the testimony you
10 shall give will be the truth and nothing but the truth?
11 MS. ECHOLS: Yes, I do. Yeah, so it's really
12 interesting, Mr. Cruse and I almost share the exact same
13 sentiment. He and I are right in sync. I call Fort
14 Washington, Oxon Hill area Jurassic Park. You know, anytime
15 you leave your home, you can run into any type of animal
16 riding a bike or walking. If you know this area, you know
17 that it's very populated with wildlife; and my comments, I
18 live at the National Harbor; I lived in Fort Washington
19 before; but my comments are based on, you know, just the
20 fact that I've spent most of my time in Virginia. I spend
21 my time in Virginia working. I spend my time in Virginia,
22 right over the bridge, shopping; going to restaurants. I
23 sent my son to school in Virginia because of the lack of
24 shopping centers, grocery stores, healthy places to eat,
25 literally right across the bridge; and the majority of this

Page 38

1 area spends their time on the other side of the bridge doing
2 everything we should be doing in Prince George's County.
3 So, I have a very brief letter based on what I
4 just said. Would you like me to read it?
5 MADAM EXAMINER: You can either read it --
6 MS. ECHOLS: I --
7 MADAM EXAMINER: Or you could summarize and then
8 give it to Ms. Scudder and she'll get it entered into the
9 record; but you can read it if you'd like.
10 MS. ECHOLS: Okay.
11 MS. SCUDDER: Yes, Ms. Echols, please read it. I
12 remember your letter was pretty brief, so you can read it if
13 you want.
14 MS. ECHOLS: Yes. So, basically what I just said,
15 that this area is in desperate need of development of
16 greenspace, grocery stores that provide an array of products
17 for healthier lifestyles, and a better school system.
18 Prince George's County is one of the wealthiest black
19 communities in the country, but most of the residents drive
20 two to three miles across the bridge to Northern Virginia,
21 Old Town and Alexandria, and Arlington to go to restaurants,
22 grocery stores, and to send their kids to other schools or
23 private school. Their lack of a good public school is based
24 on the fact that people spend lots of money on homes in this
25 area, but really still don't have a school system that they

Page 39

1 can send their kids to public schools. And why do they
2 cross the bridge to go to Virginia? Sometimes, again, for
3 better education, access to grocery stores, restaurants and
4 walkable community.
5 Based on the comments made by Mr. Cruse, why are
6 there always excuses from Prince George's County, especially
7 in this part of Prince George's County, for, you know, just
8 making sure that they say certain parts of Prince George's
9 County for, you know, we can't, we can't make it, we can't
10 have walkable communities. There's one walkable community
11 and that's across the bridge on concrete from the National
12 Harbor to Virginia. And the moving question in this, why
13 can't we spend out dollars in Maryland? Why don't we invest
14 in communities around, surrounding the National Harbor and
15 other communities in Fort Washington? We have the means,
16 the money, but we're forced to spend our money in a state,
17 another state less than two miles away. So, I'm in support
18 of the rezoning with the hope that this will bring some of
19 the things that we're missing and as part of Maryland to
20 Prince George's County. And that's it.
21 MADAM EXAMINER: Thank you, ma'am. Before we
22 cross-examine you, is Mr. Cruse still here?
23 MR. CRUSE: Yes, I'm right here.
24 MADAM EXAMINER: Okay. And, Ms. Moose, do you
25 have a question of Mr. Cruse, or of Ms. Echols?

Page 40

1 MR. MOOSE: I had a question of Mr. Cruse, or more
2 about --
3 MADAM EXAMINER: Ms. Moose, I apologize. Okay.
4 MS. MOOSE: That's okay. Really just wanted to
5 get his thoughts on the fact that like I completely agree
6 that quality development is very, very much needed, and
7 there is no development on that side of 210 in P.G. County
8 at all; but I'm like looking for his opinion on like
9 choosing between quality development and, and the
10 maintenance of the existing natural spaces, especially
11 because the existing plan, the existing section plans
12 recommend concentrating development efforts to improve the
13 character and safety of streets and public spaces. That's
14 in the Eastover Section Plan. And adding another mixed use
15 development that's essentially isolated in nature by being
16 boxed in by highways 210 and then the Beltway does not --
17 MS. BROWN: Ms., Ms. Moose, time to ask a
18 question. It's not to testify. So, you need to ask Mr.
19 Cruse --
20 MS. MOOSE: I, I just --
21 MR. BROWN: -- a question.
22 MS. MOOSE: I was just asking for him to speak
23 more on that because he mentioned like the need for
24 development, but not, he did not explain his thoughts on
25 development as it pertains to the development that's already

Page 41

1 existing in the area, and the inter-connectiveness of those
2 different development efforts.
3 MADAM EXAMINER: Mr. Cruse, can you answer that
4 question briefly?
5 MR. CRUSE: I don't, I don't think I totally
6 understand the questions.
7 MS. MOOSE: I guess I'm wondering --
8 MADAM EXAMINER: If you can --
9 MS. MOOSE: I'm sorry, go ahead.
10 MADAM EXAMINER: I was going to try to, and you
11 let me know if this is incorrect, Ms. Moose, but did you
12 consider the existing development, as well as the various
13 plans in the area that recommend increased woodland, et
14 cetera, in the area for that site? Did you, did any of that
15 weigh into your viewpoint on this application?
16 MR. CRUSE: No, it never did, to tell you the
17 truth. I haven't really thought on that that much.
18 MADAM EXAMINER: Did that help Ms. Moose?
19 MS. MOOSE: Yes.
20 MADAM EXAMINER: Okay. Thank you. Anyone have
21 questions of Ms. Echols? I mean, Mr. Brown, do you have
22 questions of Ms. Echols?
23 MR. BROWN: Yes. Ms. Echols, did you give us your
24 residential address?
25 MS. ECHOLS: It's 700 Irwin's Way, Oxon Hill,

Page 42

1 Maryland 20745.
2 MR. BROWN: And approximately how far do you live
3 from the subject property?
4 MS. ECHOLS: Approximately a mile.
5 MR. BROWN: All right. Thank you. No other
6 questions.
7 : Madam Examiner, I would like --
8 MADAM EXAMINER: All right. Someone is speaking.
9 I don't see anyone in chat that had other questions, but --
10 MS. EGLOFF: I don't know how to get into the
11 chat. I had a question.
12 MADAM EXAMINER: Okay.
13 MS. EGLOFF: I'm Karen Egloff.
14 MADAM EXAMINER: Okay, Ms. Egloff.
15 MS. EGLOFF: I don't -- I'm on the telephone.
16 MADAM EXAMINER: Okay.
17 MS. EGLOFF: I didn't catch her address. Could
18 she say that again?
19 MS. ECHOLS: 700 Fairwinds Way, Oxon Hill,
20 Maryland 20745.
21 MS. EGLOFF: Okay. Yeah. So, you mentioned, you
22 say most residents go over the bridge. What do you base
23 that on?
24 MS. ECHOLS: The fact that I've lived in this area
25 for about 14 years and my neighbors, all the people that I

Page 43

1 know, you can't find everything you need in Prince George's
2 County. So, most people, because it's so close, they cross
3 the bridge to go to, have an array of grocery stores
4 available for healthier foods and also restaurants, and also
5 to ride their bike, and to walk, and to be able to shop.
6 So, it's based on neighbors; when my son was in school, his
7 friends, their parents; all in this community around 210,
8 and Oxon Hill, and Fort Washington. And you see them, and
9 you see them -- I'm sorry.
10 MS. SCUDDER: Madam Examiner, I'm sorry to
11 interrupt, but these, the, the persons that are cross-
12 examining the witnesses, shouldn't they have on their
13 cameras?
14 MADAM EXAMINER: They have a right to call in by
15 phone and Ms. Egloff said she called in by phone. Is that
16 true, Ms. Egloff? Where are you? Ms. Egloff, are you
17 calling in by phone?
18 (No affirmative response.)
19 MS. ECHOLS: And one more thing is, all you have
20 to do is look at the, the tags on the cars on Saturday --
21 MADAM EXAMINER: Okay, Ms. Echols, don't worry,
22 you have to wait for a pending question. That was -- so,
23 everyone that is on a computer, when it comes time for you
24 to testify or cross-examine, if you have access to a camera,
25 please turn the camera on. Ms. Scudder, you good?

Page 44

1 MS. SCUDDER: Yes, sorry, I didn't mean, I didn't
2 mean to interrupt Ms. Echols. I, I wanted to know if, if
3 she's finished saying what she wanted to say.
4 MADAM EXAMINER: Okay. And then one other thing
5 for the record before we start, Mr. David, again, anything
6 that you put in the chat won't be part of the record, so
7 you're going to have to testify to what you're saying, or
8 ask questions of the witnesses because this is going to be
9 transcribed and then sent to the counsel. Thank you.
10 MS. SCUDDER: Madam Examiner, I would like to call
11 my next witnesses. Rick Walsh.
12 MADAM EXAMINER: Okay. And before I swear Mr.
13 Walsh, Ms. Echols, you might want to stay a little while
14 because it takes a while for people that were put in the
15 chat that they have questions. Mr. Walsh, do you swear or
16 affirm under the penalties of perjury that the testimony you
17 shall give will be the truth and nothing but the truth?
18 MR. WALSH: I do.
19 MS. SCUDDER: Okay, Mr. Walsh, you can go ahead
20 with your testimony.
21 MR. WALSH: Okay. I've lived in Prince George's
22 County, Fort Washington area --
23 MADAM EXAMINER: Mr. Walsh, I'm sorry, you do have
24 to give an address for the record.
25 MR. WALSH: My name is Richard A. Walsh, Sr. I

Page 45

1 live at 10915 Old Fort Road, Fort Washington, Maryland
2 20744. What did you need?
3 MADAM EXAMINER: That was it. You can continue
4 with your testimony.
5 MR. WALSH: I've lived in Fort Washington, Forest
6 Heights area of Prince George's County all of my life. I
7 grew up in, I grew up in Southeast Washington on Livingston
8 Road, which is right across the D.C. border from the
9 Eastover, Forest Heights area. Growing up as a young kid, I
10 did a lot of exploring of the woods in the neighboring area
11 out in the Forest Heights area as a kid driving my, riding
12 my bike, going out with my friends, camping while they were
13 making the Beltway, opening the Wilson Bridge. In my
14 further life, I've lived out in the Fort Washington area for
15 roughly 55 years. I'm well-aware of the site where Petra
16 Development is proposing their National View. Go ahead.
17 I think the proposed development going on in
18 Forest Heights would be a capping kind of a crown jewel for
19 the area of Forest Heights and National Harbor, and the
20 Wilson Bridge area because it's kind of like an entryway
21 into Prince George's County. It's an area that could be
22 developed that would be beneficial to the town of Forest
23 Heights, its neighbors and everything. I think the
24 development would be great.
25 MADAM EXAMINER: Mr. Walsh, one second. Mr.

Page 46

1 Cruse, if you could please mute yourself?
2 MS. SCUDDER: Mr. Walsh, did you submit a letter
3 of support?
4 MADAM EXAMINER: Unmute, Mr. Walsh.
5 MS. SCUDDER: Mr. Walsh, did you submit a letter
6 of support?
7 MR. WALSH: Yes, ma'am, I did.
8 MS. SCUDDER: Okay. Thank you very much. Madam
9 Examiner, we would like to enter Mr. Walsh's letter of
10 support into the record. And I would like to call J. L.
11 Marks.
12 MADAM EXAMINER: One second, Ms. Scudder, one
13 second. Ms. Poteat, what number will Mr. Walsh's letter be?
14 MS. POTEAT: 85.
15 MADAM EXAMINER: Thank you. Okay, Ms. Scudder.
16 MR. BROWN: Mr. Walsh --
17 MR. WALSH: Yes, sir?
18 MR. BROWN: -- for the record, how far do you live
19 from the property?
20 MR. WALSH: What was the question?
21 MR. BROWN: How far do you live from the subject
22 property?
23 MR. WALSH: Probably six miles.
24 MR. BROWN: All right. Thank you. No other
25 questions.

Page 47

1 MS. SCUDDER: Okay. Thank you, Mr. Walsh. We
2 appreciate --
3 MR. WALSH: Thank you.
4 MS. SCUDDER: -- you being here today. Thank you
5 for your time.
6 MADAM EXAMINER: And one second, Ms. Scudder, to
7 see if anyone has questions for Mr. Walsh.
8 MS. SCUDDER: He's saying give him a second.
9 MADAM EXAMINER: I don't see anyone, but I do want
10 to note for the record that there are individuals that may
11 be opposed to this request, Ms. Scudder, and I would like to
12 give them the same opportunity to put on, if they want to,
13 just put on their opposition if they have a brief
14 opposition, to put it on after your witnesses in support so
15 that they don't have to stay either if they don't want to
16 stay. I usually do that in cases because citizens may not
17 have all day with us, even though I can't imagine anywhere
18 they'd rather be. So, I'm going to give them that
19 opportunity when you say you're finished with your citizen
20 witnesses, okay?
21 MS. SCUDDER: Okay.
22 MADAM EXAMINER: So, it doesn't look like there
23 are any questions for Mr. Walsh.
24 MR. WALSH: Thank you very much.
25 MADAM EXAMINER: Thank you, sir.

Page 48

1 MS. SCUDDER: I was going to call J. L. Marks, but
2 I would like to, instead, ask is Mr. Herbert Jones here?
3 (No affirmative response.)
4 MS. SCUDDER: No? Okay. I would like to go to
5 Gina Lewis. Ms. Lewis, are you present?
6 MS. LEWIS: Yes, I am. Good morning.
7 MS. SCUDDER: Good morning. Good to see you.
8 MS. LEWIS: You, too.
9 MADAM EXAMINER: Good morning, Ms. Lewis. Do you
10 swear or affirm under the penalties of perjury that the
11 testimony you shall give will be the truth and nothing but
12 the truth?
13 MS. LEWIS: I do.
14 MADAM EXAMINER: And please state your --
15 MS. LEWIS: My name is Gina Lewis and I live at
16 3700 Shady Rest Road, Fort Washington, Maryland, and
17 according to Map Quest, I am .5 miles from the town of
18 Forest Heights.
19 I met with Traci Scudder and with a representative
20 from Petra Development at the recommendation of a friend who
21 is also a resident. I'm not sure whether she's actually in
22 Forest Heights or in Fort Washington. I believe she
23 actually is in Forest Heights and she was telling me about
24 the development and telling me about the hearing, and I
25 agreed to, to listen to the presentation, the same

Page 49

1 presentation that Mr. Cruse is referencing, I assume.
2 And I'll say, I'll read from my letter, but before
3 that, I'll say that, you know, I'm someone who, I guess, in
4 my life in Prince George's County, you know, I interact with
5 the Maryland National Capital Parks and Planning. Caller 4
6 needs to mute themselves. Okay. So, I --
7 MS. SCUDDER: Mr. Walsh, Mr. Walsh, can you mute
8 your phone please? Mute your computer.
9 MS. LEWIS: Okay. So, I, you know, I interact
10 with Maryland National Capital Parks and Planning in several
11 ways just personally and professionally. I interact with
12 National Park Service in several ways personally and
13 professionally. So, I do share concerns, you know, always
14 with my, you know, my environment; you know, the natural
15 environment where I am. Where I live is, you know, a very
16 beautiful, wooded area. So, I want to say that before I, I
17 read because, you know, I listened to the presentation and
18 the intentions; and, and I have confidence that the
19 developer is concerned with the natural environment; and so,
20 I'll read.
21 I've been a resident of Fort Washington, Maryland,
22 a neighboring community of the town of Forest Heights, since
23 2001. Over the years, I have learned to appreciate the rich
24 and natural cultural beauty of this area. It has been a
25 pleasure to rear my children here from the time they were in

Page 50

1 elementary school through high school, and to have them
2 return home to Prince George's County.
3 I have been closely following National View for
4 some time and have met with the developer and his attorney,
5 Ms. Traci Scudder. I am very pleased with the development
6 of their concept for National View, and believe that it will
7 add a much-needed, new dimension to our community. In my
8 most recent meeting with the developer and his attorney, I
9 was intrigued to learn more about the many ways that this
10 project will bring cultural resources, community engagement,
11 inter-generational living, educational and recreational
12 amenities to the neighborhoods in the area. Although the
13 National Harbor, MGM Casino and Tanger Outlets have provided
14 an economic infusion to the neighborhood, it has been clear
15 that they cater to the many welcomed tourists who come to
16 the Oxon, who come to Oxon Hill each year.
17 What strikes me about the National View project is
18 the intentional addition of homes and businesses that will
19 cater to the long-neglected needs of our community.
20 Further, Petra Development has expressed an interest in
21 recognizing and remembering the rich African-American
22 cultural legacy represented by the Henry Alexander Butler
23 home, and I believe their plan demonstrates an interest in
24 documenting this site and presenting its story to the public
25 in ways that are in keeping with best practices in public

Page 51

1 history and public art.
2 Ideas like a walking trail that connect to
3 existing heritage trails, a community garden and landscaping
4 that include such environmentally friendly ideas as green
5 roofs and non-invasive native plants lets me know that it is
6 their intention to act in keeping with the Forest Heights
7 vision of sustainable living. Based on my knowledge of the
8 planned development, I am in support of A-10055 to rezone
9 the subject property.
10 I look forward to watching this important and
11 significant development project become a reality for the
12 town of Forest Height. And I wanted to echo what Mr. Cruse
13 was saying about the need for development that benefits the
14 low to mid-range income residents in this area, and kind of
15 repeat that it's not that we don't get any development, but
16 the development that has happened in recent years has been
17 development that, that is intended for other people who come
18 to Prince George's County to spend money, but it's not for
19 the residents. You take a walk through National Harbor and
20 it's clear that National Harbor was not built for the
21 residents. You take a walk through Tanger Outlets and it's
22 clear that that was not built for us; and MGM was not built
23 for us; and in reading some of the opposition materials, you
24 know, I see that there is concern with the watershed and
25 concern with the view.

Page 52

1 I was heartbroken when my view of the waterfront
2 as I rode across the Wilson Bridge was blighted by the, the
3 MGM, which, which, you know, so I, I kind of agree with Mr.
4 Cruse about the fact that sometimes certain development is
5 allowed, and certain other development is not allowed. And
6 it seems that the development that is for the low to mid-
7 range income for the benefit of low to mid-range income
8 residents is always harder, it's always more of a challenge
9 to get approval for. I'll stop there. Thank you.
10 MADAM EXAMINER: Thank you. Mr. Brown, any
11 questions?
12 MR. BROWN: No questions. Thank you very much.
13 MS. LEWIS: You're welcome.
14 MS. SCUDDER: I, just one question, Ms. Lewis.
15 You did provide a letter of support and you read from that
16 letter today, is that correct?
17 MS. LEWIS: That is correct.
18 MS. SCUDDER: Madam Examiner, I would like to
19 enter Ms. Lewis' letter into the record.
20 MADAM EXAMINER: And, Ms. Poteat, what will be our
21 next exhibit number?
22 MS. POTEAT: 86.
23 MADAM EXAMINER: Thank you. Okay. I don't see
24 anyone asking any questions of Ms. Lewis, but thank you, Ms.
25 Lewis. And someone -- I was going to look for caller number

Page 53

1 four, but I guess they left.
2 Callers will have to identify yourselves for the
3 record if you want to participate in this hearing. Okay,
4 Ms. Scudder, do you have any more citizen witnesses?
5 MS. SCUDDER: I, I do. I would like to call J. L.
6 Marks, IV.
7 MADAM EXAMINER: J. L. Marks?
8 MR. MARKS: Yes. Hello. Can you hear me?
9 MADAM EXAMINER: Hi, Mr. Marks. Oh, you're on the
10 phone, okay. No, no --
11 MR. MARKS: No, no, here you go.
12 MADAM EXAMINER: Mr. Marks, do you swear or affirm
13 under penalties of perjury that the testimony you shall give
14 will be the truth and nothing but the truth?
15 MR. MARKS: Yes.
16 MADAM EXAMINER: And could you state your name and
17 address for the record, and then tell us what you would like
18 to about this request.
19 MR. MARKS: My name is Jesse Marks. My address is
20 4601 Jean Marie Drive. That's in Fort Washington, Maryland.
21 MADAM EXAMINER: What would you like me to know
22 about this request, your position on it?
23 MR. MARKS: My position on this is, well, first of
24 all, I'm a third generation Prince George's County native.
25 I've been in Fort Washington for almost three quarters of my

Page 54

1 life, as well as my son; and my father; and I also went to
2 Crossland High School. So, I had a lot of friends that were
3 from the Forest Heights area, so I was there a lot and I see
4 the good and the bads of that area; and, you know, I did
5 write a letter, so I'm going to go ahead and read that.
6 Recently, I had the pleasure to listen to Ms.
7 Scudder speak passionately about the National View vision.
8 I am a third-generation Prince George's County native from
9 Seat Pleasant and Fort Washington, so I have seen the good
10 and the bad times of the County. I didn't personally live
11 in the Forest Heights neighborhood, but I did attend
12 Crossland, so I had many friends from the area. So, being
13 familiar with the area where Petra Development is proposing
14 their project, then hearing more information directly from
15 Mr. Borek, it was amazing to see how much thought was put
16 towards the actual community and not just the development.
17 Prince George's County needs to do more, needs to
18 do more of this throughout the County, but starting here is
19 the perfect platform to show a true transformation in a city
20 that needs more change; and preserving the history is so
21 important because many residents don't know who or what the
22 Butler House is and what it represents to the Forest Height
23 community. To conclude this letter, I am in support of, I
24 am in support of the rezone and I look forward to seeing
25 this vision come to reality sooner than later.

Page 55

1 Now I also have, I'm a business owner and I'm a
2 real estate investor, so I have done lots of houses, retail
3 and rehabbing in the Forest Heights area, and to see a lot
4 of the homeowners being pushed out of that area because they
5 can no longer afford it, or not having a place to go to, for
6 schools, for food, it just, it kind of hurts to see those
7 things happening in a, in a neighborhood like this,
8 especially with the history behind the neighborhood, which a
9 lot of our kids don't know about. I was lucky because my
10 father is very, very in tune with history, so I learned
11 about the Butler, Butler family and who they are, and what
12 they did, and all of that, all of that that necessitated the
13 needs behind keeping that history here for not just our
14 kids, but for their kids and, you know, the generations
15 after that.
16 And I think, as I stated in my letter, speaking to
17 Mr. Borek and Ms. Scudder, that this is not just a
18 development that you hear in Prince George's County because
19 90 percent of the times, a lot of developments are for
20 people that don't even live here. They're coming here from
21 out-of-state, they're already making high incomes on their
22 jobs and they're transferring here, and it's not for the
23 current residents that have been here for generations; and I
24 think this development would kind of solidify helping our
25 residents that are currently here and keeping them here

Page 56

1 because, honestly, when I first, when I first got married,
2 me and my wife, and our children, we moved out of the County
3 because it was, we weren't able to get the house that we
4 wanted to at the price that we wanted to; and that's what I
5 see continuing. And more people are moving to Charles
6 County or, you know, further out that they don't need to.
7 They shouldn't have to do that coming from one of the
8 richest black counties in the country. It's just
9 ridiculous; but I'm going to conclude there and thank you
10 for hearing my speech.
11 MADAM EXAMINER: Thank you, sir. Ms. Poteat, what
12 exhibit number would his letter in support be?
13 MS. POTEAT: I'm sorry, 87.
14 MADAM EXAMINER: Thank you. Anyone, Mr. Brown, do
15 you have questions of Mr. Marks?
16 MR. BROWN: How far do you currently live from the
17 subject property?
18 MR. MARKS: I believe it's probably about five or
19 six miles. I didn't do a, I didn't Map Quest it, but it's
20 about five, six miles.
21 MR. BROWN: That's fine. Thank you. No other
22 questions.
23 MADAM EXAMINER: Thank you, sir. Your next
24 witness, Ms. Scudder?
25 MS. SCUDDER: Herbert Jones, I would like to call

Page 57

1 Herbert Jones.
2 MADAM EXAMINER: Mr. Jones? You have to unmute
3 yourself, Mr. Jones.
4 MR. JONES: Yes, I think I've done that. Good
5 morning. Can you hear me now?
6 MADAM EXAMINER: I can hear you, but do you have a
7 camera?
8 MR. JONES: Yes. Yes, I do. Let's see here.
9 Let's see, go over setting, yes, I do have a camera. Let's
10 see. I'm doing this from my iPhone, so bear with me. I'm
11 sorry, I'm -- okay. So, you still cannot see me, right?
12 MADAM EXAMINER: Right, but, Mr. Jones --
13 MR. JONES: Yes?
14 MADAM EXAMINER: -- we'll continue for now. Could
15 you, do you swear or affirm under penalties of perjury that
16 the testimony you shall give will be the truth and nothing
17 but the truth?
18 MR. JONES: I do.
19 MADAM EXAMINER: Then we need you to state your
20 name --
21 MR. JONES: Sure.
22 MADAM EXAMINER: -- and your address on the
23 record, and I'm assuming -- have you already signed up as a
24 person of record in this case? Do we already have that from
25 you?

Page 58

1 MR. JONES: I believe so. I submitted my comments
2 several days ago. Yeah. Yes.
3 MADAM EXAMINER: In the record and then --
4 MR. JONES: Sure.
5 MADAM EXAMINER: -- give your testimony.
6 MR. JONES: Absolutely. My name is Herbert H.
7 Jones, III. I live at 11905 Autumnwood Lane, Fort
8 Washington, Maryland 20744, and I'm giving this testimony as
9 an individual resident. I'm very happy to talk to you this
10 morning in support of the rezoning application of Petro
11 Development. I've had opportunity to meet with the team and
12 the attorney, and I was very impressed with the presentation
13 and what they attempted to do in that particular area,
14 specifically as it relates to housing, affordable housing in
15 the two senior citizen facilities.
16 With respect to the green space and the ability to
17 have individuals exercise, walk through the community, the
18 scenic terrain that they're proposing, very excited about.
19 I'm not sure about what that area had been proposed for in
20 the past. I know there was some talk, and I'm know to be
21 new to the community; let me make that very clear. I've
22 been here for three years coming out of Alexandria,
23 Virginia; native Washingtonian; however, I'm very familiar
24 with this area because my, my late father was, who was a
25 Tuskegee Airman, had a flight school down here in Fort

Page 59

1 Washington, Maryland. So, I've, I've been over here
2 numerous times over the last 10, 15 years. So, I'm somewhat
3 familiar with the area and that particular site, and excited
4 about the possible development and what that would mean as
5 some of the other speakers have said to Prince George's
6 County residents with respect to affordability and
7 additional housing units that people can take a part of that
8 live in the County and looking for affordable housing; and
9 with regard to the need for our senior community as well. I
10 believe there are two senior community housing units that
11 are going up that I'm very, very excited about, and I
12 support this application.
13 MADAM EXAMINER: Thank you, sir. You, you
14 submitted a letter in support and --
15 MR. JONES: Yes, I did.
16 MADAM EXAMINER: -- I think I've caught up, Ms.
17 Poteat. Is this going to be Exhibit 88?
18 MS. POTEAT: Yes.
19 MADAM EXAMINER: Okay. Thank you. Mr. Brown, do
20 you have questions?
21 MR. BROWN: Yes. Mr. Jones, approximately how far
22 do you live from the subject property?
23 MR. JONES: Well, I can't tell you in miles, but
24 where I live, I, I can get to the MGM in about three
25 minutes. So, I'm probably, I'm probably maybe two or three

Page 60

1 miles.
2 MR. BROWN: All right. That's, that's fine.
3 MR. JONES: Yeah.
4 MR. BROWN: Thank you. No other questions.
5 MR. JONES: Yeah.
6 MS. SCUDDER: Madam Examiner, I would like to call
7 (indiscernible).
8 MADAM EXAMINER: Checking, one second, I'm just
9 checking the chat. I don't see anyone, but thank you, sir.
10 And who is your next witness?
11 MS. SCUDDER: I'm sorry, Dave Owen. David,
12 actually, oh, I'm sorry. Someone has a question.
13 MADAM EXAMINER: Oh, okay. Ms. Egloff, what's
14 your question?
15 MS. EGLOFF: Mr. Jones, Mr. Jones mentioned a
16 meeting with the developer and seeing the presentation. You
17 know, that's what I'm hearing from a lot of these people of
18 support. How did Mr. Jones come to meet with the developer?
19 How did he become, to be aware that the developer was having
20 meetings like this?
21 MADAM EXAMINER: Mr. Jones, are you still here?
22 Uh-oh.
23 (No affirmative response.)
24 MADAM EXAMINER: It appears that Mr. Jones --
25 MS. EGLOFF: And I, I --

Page 61

1 MADAM EXAMINER: -- has left, Ms. Egloff.
2 MS. EGLOFF: Okay. So, just for the record, that
3 is a question that I'm wondering because I'm hearing from
4 each of these supporters that they had private meetings with
5 the developer and got to see slideshows and all of this. I,
6 I accidentally got disconnected when, when the, I think her
7 name was Ms. Echols; I was trying to ask her some questions
8 as well. Is Ms. Echols still on the call? But I was going
9 to ask the same thing of her, or perhaps of Mr. Walsh. I
10 see Mr. Walsh is still there. You know, I, I'm just
11 wondering --
12 MADAM EXAMINER: Wait one second. Ms. Egloff, Ms.
13 Egloff, right now we're questioning witnesses and you'll
14 have an opportunity to give testimony when I swear you in as
15 a witness. I do understand your question and unless Mr.
16 Walsh is here -- Mr. Walsh?
17 MR. WALSH: Yes?
18 MADAM EXAMINER: Okay. You may ask Mr. Walsh the
19 question.
20 MS. EGLOFF: Mr. Walsh, how did you come in
21 contact with the developer and did you have a private
22 meeting and see a slideshow and all that jazz with
23 everybody?
24 MR. WALSH: I -- my group, neighbors from Fort
25 Washington Commercial Development, I believe, Petra and/or

Page 62

1 the lawyer may have contacted one of our group leaders about
2 having a presentation. That's how I, that's how I heard
3 about the presentation.
4 MS. EGLOFF: What's the name of your group again?
5 MR. WALSH: Neighbors for Fort Washington
6 Commercial Development. It's a, it's a, it's a hodge podge
7 group of neighbors in the Fort Washington area that are
8 working to get commercial development brought into the
9 neighborhood, reference food stores, retail, things like
10 that.
11 MS. EGLOFF: So, so you think that that's how you
12 became aware of it and did they reach out to you to give you
13 a private presentation, or --
14 MR. WALSH: I've never heard from anybody from
15 either of the developers and/or the lawyer's office as far
16 as a private presentation. I've traded a couple emails in
17 reference to hearing about the hearing that we're involved
18 in today and asking for my participation if I was available.
19 MS. EGLOFF: Okay. So, you had an email chain
20 kind of, right? Okay.
21 MR. WALSH: Yeah.
22 MS. EGLOFF: All right. I'm just trying to
23 understand how in the pandemic how people have become aware
24 and gotten educated and informed on this very important
25 project --

Page 63

1 MR. WALSH: I think, I think --
2 MS. EGLOFF: Typically, it would be community
3 meetings, though. This is very interesting. Okay. Thank
4 you very much.
5 MR. WALSH: Thank you.
6 MADAM EXAMINER: Thank you both. Your next --
7 thank you both.
8 MS. SCUDDER: Yes.
9 MADAM EXAMINER: Your next witness?
10 MS. SCUDDER: My next, yes, is David Owens.
11 MADAM EXAMINER: Good morning, Mr. Owens. Do you
12 swear or affirm under the penalties of perjury that the
13 testimony you shall give will be the truth and nothing but
14 the truth?
15 MR. OWENS: I do.
16 MADAM EXAMINER: Okay. Please state your name and
17 address for the record, and then provide your testimony.
18 MR. OWENS: Yeah. Dave Owens. My address is
19 13312 Diggs Terrace, Fort Washington, Maryland 20744, and I
20 believe you have a letter from us as well that is in the
21 record.
22 MS. SCUDDER: Okay, Mr. --
23 MADAM EXAMINER: Did you want to say anything
24 further, or you just want to submit your letter?
25 MR. OWENS: Oh, no, I was waiting on you. Sorry

Page 64

1 about that. Yes, so I'm representing the nearly 800 members
2 of the neighbors for Fort Washington Commercial Development.
3 You were just hearing from one of the gentlemen there, Mr.
4 Walsh. I believe a question was being asked of him. So,
5 I'm representing the nearly 800 members that we have here in
6 the group.
7 There's a couple of reasons we're supporting the -
8 -
9 MADAM EXAMINER: Mr. Owens, I hate to interrupt
10 you, but I'm pretty sure Mr. Brown has a question of you.
11 Mr. Brown?
12 MR. BROWN: Already, you may only testify today on
13 behalf of yourself as an individual.
14 MR. OWENS: Okay.
15 MR. BROWN: You may not testify on behalf, on
16 behalf of this organization. What was the organization just
17 identified?
18 MR. OWENS: So, I just identified the neighbors
19 for Fort Washington Commercial Development, but understood.
20 I'm, I'm representing myself then.
21 MR. BROWN: All right.
22 MR. OWENS: So --
23 MR. BROWN: Go ahead.
24 MR. OWENS: I think there's a few reasons that,
25 that we're supporting this development, I'm supporting this

Page 65

1 development, rezoning, that is. One, that there's, there's
2 nothing there now; and one of the frustrations that you can
3 hear about from the residents, that we hear about from the
4 residents who live along 210, and this is nothing new,
5 surround some of the, the vacant parcels that are already
6 along 210 and we get it; I mean that's not all bad. Green
7 space is good, but we think, I think the National View
8 project is a great chance to build something that is
9 visually appealing and would give drivers a really good
10 aesthetic view of Prince George's County as they come
11 through a key rendezvous point in this area; and by that, I
12 mean where D.C., Maryland and Virginia all come together.
13 So, I think the other thing that, that, that we
14 might, that I like is the plan is holistic, and you've heard
15 other people talk about this. The involvement of senior
16 living space amongst non-senior residents, which is
17 healthier, you know? Seniors don't get isolated that way.
18 I think that's a great thing and pretty innovative, so I
19 really like that; we like that.
20 Expanding the trail network, Forest Heights
21 residents in the planning process, I think all those things
22 are great. Shall I say aesthetic reasons that we support
23 it? But I think there's also economic reasons as well.
24 The 210 corridor from Forest Heights all the way
25 down to Indian Head Naval Base needs an infusion of smart

Page 66

1 development, smart commercial development. That's what we
2 think; not over-development, but smart development; and, and
3 we think National View can be a catalyst for that.
4 So, and, lastly, you know, we understand, and
5 you're hearing some of this as well in other callers, other
6 testifiers, we understand there's always a concern about
7 environmental conservancy, and stormwater management, and
8 traffic, and site lines, and I think rightfully so, that's
9 a, that's a legitimate concern; but those things aren't
10 unique to Prince George's County and we need to remember
11 that in our opinion. All over the United States of America,
12 people develop while keeping those things in mind. Those
13 things can co-exist with smart development, conservancy,
14 stormwater management, traffic site lines, and we think
15 National View is an opportunity for Prince George's County
16 to demonstrate to residents and to developers that we can do
17 that. So, for all those reasons, we support the rezoning of
18 this area to mixed use and the development of National View.
19 And I'll close with, I think earlier one of the,
20 the planners, commissioner's excuse me, asked about, asked
21 one of the callers about how do you know that people go to
22 Alexandria to do things or whatever. I don't think that's a
23 surprise; but we did a survey over here in our group and we
24 had about 600 respondents. Many of them did say that they
25 shop in Alexandria and other places. So, that's not a

Page 67

1 surprise, but just for the people who are wondering that, we
2 actually did a survey. We have the data, and so that would
3 be one of the reasons that we're, we're supporting this,
4 this, this rezoning. So, thank you very much.
5 MADAM EXAMINER: Thank you. Before I see if
6 anyone wants to cross-examine, Ms. Poteat, did we already
7 have Mr. Owens' letter in the record, or do we have to mark
8 it now?
9 MS. POTEAT: Mark it, 89.
10 MADAM EXAMINER: Thank you. Mr. Brown?
11 MR. BROWN: Mr. Owens, I'm looking at the letter
12 that you submitted and, dated March 16, 2021. This
13 organization, Neighbors for Fort Washington Commercial
14 Development, is that a formal homeowner's association?
15 MR. OWENS: Not a homeowner's association. It's a
16 neighborhood, it's a neighborhood community group.
17 MR. BROWN: All right. I'm going to have to
18 object to your letter. What you're going to have to do is
19 resubmit your letter because this letter is from that
20 organization and it's signed by both yourself and Abigail
21 Pari, it looks like, or Pari.
22 MR. OWENS: Uh-huh.
23 MR. BROWN: The founder and, again, because you
24 are not an attorney, you may not submit a letter on behalf
25 of others; and if you are not a formally incorporated

Page 68

1 entity, you may not testify with others. And just so other
2 people who testify after you understand, if it's a formal
3 homeowner's association, then an officer may testify on
4 behalf of that organization if they have a letter that
5 indicates the association met, they took a vote to approve
6 or to disapprove a particular application. So, here, your
7 organization is not a formal organization under Maryland
8 law, and so I'm going to object to the letter; but, again,
9 you have an opportunity to rewrite it, making the letter
10 just from yourself, okay?
11 MR. OWENS: Yeah, I will do that and, also, I'll,
12 I'll take a look at, I mean I understand what you're saying
13 in terms of the, the formal rules and regulations, and I'll,
14 I'll, I'll check on that and make sure we get the proper,
15 the proper letter back into you all.
16 MR. BROWN: All right. Thank you very much.
17 MS. SCUDDER: Thank you, Mr. Owens.
18 MADAM EXAMINER: Okay. So, civic associations may
19 also testify, but you're still gave the proper advice, Mr.
20 Brown. He needs further clarification. So, due to your
21 objection, we're going to withhold on Exhibit 89 at this
22 time. Anyone else have a question of Mr. Owens?
23 (No affirmative response.)
24 MADAM EXAMINER: Okay. Ms. Scudder, I'm going to,
25 let's set you and change, change the witness order only

Page 69

1 because I have at least two people who tell me they have to
2 leave right away. If you don't mind, I would like to call
3 Ms. Merrill at this time. Ms. Merrill still here? I see
4 her name, but okay.
5 MS. MERRILL: I'm sorry, does Mr. Dennard need to
6 go first? It looks like his plane is about to take off.
7 MADAM EXAMINER: Okay. Mr. Dennard? Thank you,
8 Ms. Merrill. Ask, Mr. -- okay. All right. We'll go with
9 Mr. Brian Dennard. I you would state your name and address
10 for the -- wait a minute, Mr. Dennard, do you swear or
11 affirm under the penalties of perjury that the testimony you
12 shall give will be the truth and nothing but the truth?
13 MR. DENNARD: Yes, I do.
14 MADAM EXAMINER: Okay. So, state your name and
15 address for the record and tell me what you would like to
16 about this application.
17 MR. DENNARD: Yeah, my name is Brian Dennard and I
18 am on a flight that is about depart, you know, in a few
19 minutes. I live at 3 Tree Drive at the top of the hill on
20 Tree Drive, and I am definitely, vehemently opposed to this
21 development. I'm very concerned about the environmental
22 impact which, you know, the previous speakers, this kind of
23 opened up like the environment doesn't, doesn't exist, okay?
24 But I'm very, very much concerned about the environmental
25 impact of the forest over there; I've been very concerned

1 about the impact, the full impact it would have on the
2 neighborhood. You know, right now Forest Heights is, is
3 very unique area in Prince George's County because of the
4 Woodlands, because of the -- I think that if you really
5 wanted to do something about that area, you know, and do
6 something with that house over there, the Butler House,
7 maybe you could develop the Butler House, you know, and, and
8 it kind of clean up that area over there, you know what I
9 mean? It actually really doesn't need to be that cleaned
10 up, you know, because it is a forest. You know, but once
11 you start tearing and breaking down, and cutting into them
12 woods, and cutting down the little hills and mounds over
13 there, it's going to be, it's going to be disastrous. It's
14 going to be disastrous. It's going to be a mess over there,
15 you know what I mean?

16 And I've been living in Forest Heights now for the
17 past 15 years, and I, to be honest with you, this is my own
18 personal concern, but I enjoy the, the quietness. I enjoy
19 the, I mean the tranquility of that area, okay? I mean and
20 as far as people being able to shop and commercialize,
21 there's a lot of other areas in that neighborhood that could
22 be done. I mean why don't you develop, you know, down at
23 the bottom of the Eastover Shopping Center, places like, you
24 know, in that area; or Livingston Road? I'm sure there's,
25 there's a lot of other places you could develop; and as far

1 as the senior citizens are concerned, there's a senior
2 citizen development now on South Capitol Street. There's
3 senior citizen developments in the area, so I mean that
4 place does not have to be a senior citizen area. So, yeah,
5 I'd like to, this flight is about to depart right now; but I
6 just definitely want to, you know, voice my concern about
7 the opposition to this. And, furthermore, is just, this is
8 something that's been thrown on the residents of
9 (indiscernible). I just now heard about this, I mean, and
10 that's, that's one of the concerns I have that has been done
11 in a, in an underhanded manner, you know, so that the people
12 can't really even prepare and get, you know, prepare for the
13 meeting and all that kind of stuff. So, okay, but that's
14 basically my concern.

15 MADAM EXAMINER: Any cross of Mr. Dennard?

16 MR. BROWN: Mr. Dennard, I understand you're on an
17 airplane, so I'm not going to ask you any questions; but for
18 yourself and for others who plan to testify, this is a
19 formal (indiscernible) and (indiscernible) do that?

20 MADAM EXAMINER: I think he's taking off.

21 MR. BROWN: (Indiscernible) area, we can cross-
22 examine him at that time.

23 UNIDENTIFIED FEMALE SPEAKER: We can't --

24 MR. DENNARD: I'm sorry, sir, I can barely hear
25 you right now.

1 MR. BROWN: I don't have any questions, sir.

2 MR. DENNARD: Okay. Thank you.

3 MADAM EXAMINER: Ms. Scudder, do you want to wait
4 until another hearing, or you think you have a quick
5 question?

6 MS. SCUDDER: I couldn't hear what Mr. Brown was
7 trying to say because of all the interference, so I would
8 just ask Mr. Brown --

9 MADAM EXAMINER: He was saying he would wait
10 because of the flight is getting ready to take off. So, Mr.
11 Dennard, there will be another hearing. You will be asked
12 to come back so that we can cross-examine you, okay?

13 MR. DENNARD: Thank you. Thank you.

14 MADAM EXAMINER: All right. Thank you. Have a
15 safe flight.

16 Ms. Merrill?

17 MS. MERRILL: Hi. Thank you so much and, Ms.
18 Scudder, thank you for letting me jump in. I've got five
19 kids at home and school, and they're almost done with
20 school, and my house is about to blow up. So, thank you for
21 squeezing in.

22 MADAM EXAMINER: Do you swear or affirm under the
23 penalties of perjury that the testimony you shall give will
24 be the truth and nothing but the truth?

25 MS. MERRILL: Yes.

1 MADAM EXAMINER: Okay. State, state your address
2 for the record and then provide testimony.

3 MS. MERRILL: I'm Christine Merrill. I live at
4 1826 Jarvis Avenue in Oxon Hill, which is two miles from the
5 site, which is closer than, anyway, from Mr. Dennard so far.
6 So, just as I look on the map. I think that the key
7 question that we have here is good development for our
8 County. We all really want good quality development, and,
9 and we all feel it. You know, we all, we all feel the
10 frustration of having to go a long ways to find the things
11 that we want to buy; we feel the frustration of, of looking
12 around and wondering why we can't have nice things; and that
13 we really need development that is for the people.

14 And, you know, as we look at National Harbor, that
15 is not a development that is for the people here. That is a
16 development that it appears to me really took great steps to
17 keep the local people out. It's very difficult to access
18 locally, but it's very easy to access from the freeway.
19 They do a lot of things that really sort of keep the locals
20 out.

21 And the location of this and the access from Bald
22 Eagle Drive really says to me that this isn't really a
23 development for the people. It's a very isolated spot. And
24 the other reason I don't think this is a development that is
25 for the people who already live here is because in this

1 community of spaced out, single-family homes of, of people
2 who have lived there, I mean we've lived here for 12 years;
3 or neighbors have lived here for 50 or 60 years. It's a
4 very, community people who have lived here for a long time
5 and it's a strong community; but this does not match with
6 that at all. That doesn't, it doesn't benefit the people
7 who live there; and it puts a lot of burden on them because,
8 as we all know, traffic is a huge thing.

9 But this is crazy, and I know we're talking about
10 zoning and not the specific proposal, but we have seen the
11 images of the proposed thing and that looks like maybe 800
12 new cars on Bald Eagle Drive, which is 2-lane road. The
13 County recently redeveloped it. When they repaved it, part
14 of the road fell off because the ground was not stable
15 there. I don't know how they can put 800 new cars on there.
16 I do not think that it's a good match for that area.

17 The, so, so the inability to find a traffic
18 solution which will benefit the neighborhood instead of
19 hurting the neighborhood concerns me. And like many other
20 oppositions, I'm concerned about the green space. It is
21 right next to Oxon Hill Farm, which is literally the only
22 green area in our neighborhood. That's the only place that
23 I can take my children and they can run free; it's the only
24 place where we can go hike; where we can go walk and, and
25 see wildlife, and pick blackberries. And when the pandemic

1 hit last year, that was the place we were going to get some
2 freedom; and putting large numbers of houses and people
3 right there will really negatively affect that area, and it
4 will make it so that, so that it's quite inaccessible to the
5 neighborhood which relies on that area as our only, our only
6 natural recreation area in the, in the vicinity.

7 And the recreation areas in this area have been
8 very under-funded and very undertaken care of; and so, you
9 know, I want grocery stores, I want these things, but this
10 is my only recreation area that I have. And, yes, I
11 understand this doesn't affect the farm, but the nature of
12 a, of a high, high-density, mixed use development right next
13 to the farm would affect the farm because of the visuals,
14 because of the impact on wildlife. It doesn't know the
15 difference between the boundary of the farm and the boundary
16 of the apartment complex; and the traffic that would make it
17 difficult to, you know, we've biked to the farm when we go
18 there. I don't think I could send my kids biking down Bald
19 Eagle Road if there are hundreds and hundreds and hundreds
20 of cars there, you know? So, these things that are, are
21 really impacts on our quality of life.

22 So, I agree with the question everyone's been
23 asking, why can't we have nice things; but I don't think
24 this is the nice thing we want. I think that from the tax
25 perspective, from the (indiscernible) perspective, it's a

1 great thing; but it's not fair to the people who live here
2 and work here, and the impact that it will have on us.

3 The zoning, the, the, the Prince George's County
4 Staff recommended against rezoning this and their reasons
5 exactly match my opinions; you know, that the traffic would
6 be dramatically increased, not marginally increased, but
7 dramatically increased; that putting high-density, high
8 mixed use zoning right next to a lot of the current single-
9 family homes would be an inappropriate situation with lack
10 of (indiscernible) between the high-density and the people
11 who already live there. That it would have a negative
12 effect on woodland preservation; and, again, I'm not opposed
13 to developing woodland areas in general, but because this is
14 adjacent to the national park, it's, it's an important
15 woodland for our community; and just all of these reasons
16 are reasons that, well, I want to be in favor of this
17 project. What they're proposing, I do not think, is
18 appropriate for this site and I, I guess I ask the
19 developers to go back to the drawing board and try again.

20 MADAM EXAMINER: Thank you, ma'am. Ms. Scudder,
21 or Mr. Brown, do you have questions?

22 MR. BROWN: No questions. Thank you.

23 MS. SCUDDER: I just have one question. I just
24 wanted to ask Ms. Merrill, she mentioned earlier that this
25 was not, this was going to be an exclusive neighborhood, and

1 I was just wondering if she was aware that National View,
2 the proposal is to directly connect to the town of Forest
3 Heights through a bike and pedestrian path?

4 MS. MERRILL: Yeah, I, I guess I did not view that
5 as, as a good, strong connection. I'm connected to National
6 Harbor through a bike and pedestrian path to, and I still
7 feel like access to it is hard for me.

8 MS. SCUDDER: Thank you.

9 MADAM EXAMINER: Ms. Merrill --

10 MS. SCUDDER: No further questions.

11 MADAM EXAMINER: -- please, please forgive me for
12 not recalling, but did you submit something in writing
13 earlier that we need to make sure is part of the record?

14 MS. MERRILL: I emailed the email address and was
15 told to come and give oral testimony. I don't know if that
16 email counts as an exhibit letter or not.

17 MADAM EXAMINER: Do you have information in it,
18 like --

19 MS. MERRILL: (Indiscernible), no, it was --

20 MADAM EXAMINER: Oh, okay. You don't have to
21 submit anything. I was just double-checking. So, thank
22 you. Our next witness out of order is, I apologize, is it
23 Ms. Moose?

24 MS. SCUDDER: Yes, yes, Ms. Moose.

25 MADAM EXAMINER: And, Ms. Moose, I do want you to

1 know, and everyone to know that generally these hearings,
2 they're being recorded now live for people to watch online.
3 There's been a problem with archiving it, so perhaps you'll
4 be able to review the rest later. In any event, it is going
5 to be transcribed, so a transcript will be available later.
6 I'm hoping it's going to be archived. So, if you would now
7 just state your name and address, well, wait a minute. Do
8 you swear or affirm under the penalties of perjury that the
9 testimony you shall give will be the truth and nothing but
10 the truth?

11 MS. MOOSE: Yes.

12 MADAM EXAMINER: And is it possible to turn a
13 camera on?

14 MS. MOOSE: I'm on here, but it says that I need
15 to quit the meeting to turn my camera on.

16 MADAM EXAMINER: Okay.

17 MS. MOOSE: So, I can do that if you want me to,
18 and then come right back after quitting it; or I can just
19 proceed.

20 MADAM EXAMINER: I think you should proceed.
21 Okay. State your name and address for the record.

22 MS. MOOSE: So, my name is Alex Mouskin (phonetic
23 sp.) and I live at 140 Crea (phonetic sp.) Drive in Forest
24 Heights, and the proposed development would be partially,
25 directly behind my home adjacent to my backyard, and all

1 along that street of Crea Drive.

2 So, I, I really want to echo what Ms. Merrill
3 said. I agree with so many of the points that she proposed,
4 and I have a small thing prepared to say, but like Ms.
5 Merrill, I, in the email it said that, that I would be able
6 to oral comments, so I don't have anything written, prepared
7 to submit for testimony.

8 So, quality development is important and very,
9 very much deserved in this area. I would like nothing more
10 than to be able to walk to a grocery store. I grew up in
11 Southeast, D.C., and I really enjoyed, and appreciated, and
12 relied upon, especially growing up as a kid, being able to
13 walk to things and not have to rely on a car; but the
14 existing sector plans recommend concentrating development
15 efforts to improve the character and overall safety of
16 streets and public spaces, and adding another, like yet
17 another mixed use development to the others that are already
18 there, potentially isolated and by nature of being boxed in
19 by highways does not feel like it's in keeping with that
20 recommendation.

21 I'd like to know how we can make this development
22 part of a walkable community because, also like Ms. Merrill
23 said, and like Mr. Dennard said earlier, even being directly
24 adjacent to Forest Heights, it does not make it really
25 accessible to residents of Forest Heights, or to residents

1 of Fort Washington, or anything, even with a walking trail
2 or a pedestrian bridge. Like those types of, of things
3 don't make things truly accessible to, to residents in the
4 area.

5 The transportation that's there currently needs
6 like much more of an overhaul to really help this proposed
7 development be connected and be part of a cohesive like
8 commercial space within the greater area. And like Mr.
9 Dennard said earlier, there are already so many areas that
10 have been neglected and, and, and need to, need attention,
11 like the Eastover Shopping Center; and so, I am not really
12 understanding how this proposed development would, would add
13 to the area when there's already so much commercial space
14 that's been so deeply, deeply neglected.

15 And to echo Ms. Merrill, this does not feel like a
16 development for the community. It's closed off, bordered by
17 210 and the Beltway, and it feels like it will just be
18 another commercial area disconnected from all the others.
19 And I do wonder a great deal about the proposed massing of
20 development and all the images provided thus far, the
21 concept art that was shown would absolutely dwarf the
22 existing development in the area of the single-family homes;
23 but also looks like it would dwarf National Harbor; and
24 there's been very little retail-related to how the
25 development will be designed in a human scale and mitigate

1 the impacts for the change of use and greater density.
2 Like, for example, the portion of land that directly borders
3 Forest Heights and Crea Drive, is not deep enough to support
4 the buffer zone and the walking trail that have both been
5 mentioned, and also have enough space to have the buildings
6 that they, that they said would be built there in the
7 meeting with Forest Heights.

8 And even with parking being provided within the
9 development, there's going to be such a huge increased
10 burden of traffic and parking based upon residents of the
11 town, especially the part of the town that most directly
12 borders the proposed development. I mean we all know, like
13 even in National Harbor, there's tons of parking spaces; but
14 there's also plenty of people that park in areas that are
15 adjacent to National Harbor and just walk in when it's
16 easier; and I can only assume that that would be the case
17 here as well; and that we would have to fight for our
18 parking as residents of Forest Heights.

19 From the maps of the space in question, it is
20 really, doesn't seem possible to provide all that they're
21 saying in terms of scaling that would like protect the town
22 of Forest Heights and its current feel; and while also
23 providing what we desperately, desperately need, which is a
24 better quality design than what we've been seeing and better
25 pedestrian and multi-mobile connections to the surrounding

Page 86

1 MADAM EXAMINER: Ms. Waller, or Mr. Waller?
2 MS. SCUDDER: Ms. Waller.
3 MADAM EXAMINER: Okay. Oh, there she is.
4 MS. SCUDDER: There she is.
5 MADAM EXAMINER: Hi, Ms. Waller.
6 MS. WALLER: Hi. Are we back already?
7 MADAM EXAMINER: Give you a chance to get back. Do
8 you swear or affirm under the penalties of perjury that the
9 testimony you shall give will be the truth and nothing but
10 the truth?
11 MS. WALLER: I do.
12 MADAM EXAMINER: Okay. State your name and
13 address for the record and then tell me what you would like
14 to about this request.
15 MS. WALLER: Certainly. My name is Robin, R-O-B-
16 I-N, Waller, W-A-L-L-E-R. I reside at 525 Broad Creek, B-R-
17 O-A-D, second word Creek Drive, Fort Washington, Maryland
18 20744.
19 MADAM EXAMINER: Okay. So, what would you like to
20 say about this application?
21 MS. WALLER: Sure. Thank you for having me today.
22 Let's see. I can read my letter, but I'd first like to say
23 there have been some questions that I've noticed and I
24 respect all the opinions here. We, I actually invited a few
25 residents to have a meeting with the developers. I think

Page 87

1 you had asked Rick and actually we share some of the same
2 interests, Rick Walsh and I, and so I had the meeting and
3 several people who let me know personally that they're
4 interested in this sort of thing. Some were concerned
5 neighbors. Others were leaders of different organizations
6 who let me know they were interested. And so, we actually
7 had a virtual meeting with the developer. And I just
8 attribute all of that to good citizenry, people who are
9 concerned neighbors, and I think someone mentioned earlier
10 on the call that why do so many, why are there so many Fort
11 Washington people on this call? And I have to attribute
12 that to just people seeking out the information and wanting
13 to be available to be, to participate and to be of help some
14 way.
15 So, I just want to say for the record that, you
16 know, my intentions were to, was to bring unity among what
17 we have, we have a number of civic groups in the area. Some
18 have been here a very, a very long time and are very well-
19 respected, and I personally respect their opinion quite a
20 bit. Some people who attended this meeting may be for or
21 against this project, but everyone, especially the long, the
22 organizations that have been here a long time have been
23 really good and supportive of the area. And so, I think in
24 the future we are going to be a force to be reckoned with
25 because there's just so many of us who are interested in

Page 88

1 seeing good things happen.
2 With that said, I wanted to just read my letter if
3 I could. I was very impressed by the development team. As
4 a resident of Fort Washington, I would be a close neighbor
5 of the National View project by Petra Development and I
6 support the zoning change. In my community, one of the top
7 concerns is protecting residential homes and historic
8 properties located along the Potomac River tributaries.
9 Harmony Hall and St. Johns are two historic properties that
10 we have and we want to protect those from flooding. Petra's
11 answers to my questions regarding stormwater management were
12 impressive. Their development team appears to have done a
13 good share of diligence in this area. The team described
14 consultations with experts to reduce stormwater drainage to
15 below accepted standards. Reports indicating the project
16 will not add to the already overburdened Broad Creek WSSC
17 station, which we've had a lot of problems with, and our
18 councilwoman speaks to that very often. And when asked, a
19 willingness to work with the river keepers, who are good
20 stewards of the Potomac River, I and many residents I spoke
21 to would like to see the County's direct involvement in
22 implementing sustainable drainage systems, ideas with Petra
23 Development for this National, National View project.
24 The Fort Washington residents I know are
25 empathetic to our Forest Heights' neighbors' desires for

Page 89

1 retain, quality retail and increased walkability the
2 National View project offers. After reviewing Petra
3 Development's presentation and speaking with a few residents
4 in both Fort Washington and Forest Heights, I believe
5 changing the RR zone to mixed use is an example of smart
6 development that would complement the area.
7 As a Fort Washington resident, as I talk to
8 residents, what we're looking for are community partners and
9 based on our, our interaction with the development group,
10 because, you know, these places are huge. Some of them just
11 don't care and once they get approval, they do whatever they
12 want to do. I felt like this group really was interested in
13 talking to the community and getting to know what the
14 community wanted and I, I think that they did propose things
15 like you've heard, like the gardens and the biking trails,
16 and those are examples of how the community can participate
17 in the project.
18 What I personally am looking for, because I'm only
19 speaking on my behalf, is balance. We don't have, even our
20 shopping areas in Fort Washington are, are just not up to
21 standard. We've tried to work and talk to developers before
22 who have a really hard time trying to get something quality
23 here because we're looking for just quality even food. We
24 can't even get, even after the pandemic, there's so many
25 hoops to jump through just to get drive throughs, which is

Page 90

1 something that's going to be essential to most areas. So,
2 we want to be supportive of a developer that's going to be
3 supportive of us, and that is my testimony today.
4 MS. SCUDDER: Thank you, Ms. Waller.
5 MADAM EXAMINER: Thank you. Mr. Brown, do you
6 have any questions?
7 MR. BROWN: Ms. Waller, how far do you live from
8 the subject property?
9 MS. WALLER: I live about, I was trying to look
10 that up. I live down 210. So, I live about four to five
11 miles, but I'm also on one of the tributaries. I'm on the
12 creek. So, I don't know if that makes me a little bit
13 closer, but I was more concerned about the impact of any
14 development that goes up because I, I moved out here for
15 nature, but I also want amenities and quality. So, I think
16 I might be a little bit closer via the water. I don't know.
17 MR. BROWN: All right. Thank you. No other
18 questions.
19 MS. WALLER: Thank you.
20 MS. SCUDDER: Madam Examiner, I believe we have a
21 letter from Ms. Waller that has been submitted, and I would
22 just ask that that letter be entered into the record.
23 MADAM EXAMINER: Ms. Poteat, what's our next
24 exhibit number?
25 MS. POTEAT: The next exhibit number is going to

Page 91

1 be 89 due to the fact that Mr. Owens' was not admitted at
2 this time.
3 MADAM EXAMINER: Okay. Thank you.
4 MS. POTEAT: So, it's 89.
5 MADAM EXAMINER: Exhibit 89 will be Ms. Robin
6 Waller's letter. And I'm assuming we got it?
7 MS. WALLER: Yeah.
8 MADAM EXAMINER: Okay. Thank you. Any other
9 questions of Ms. Waller? I don't see anyone in the chat.
10 Okay. Thank you, ma'am.
11 MS. WALLER: Okay. Thank you. Have a nice day.
12 MADAM EXAMINER: You, too.
13 MS. SCUDDER: Thank you, Ms. Waller.
14 MADAM EXAMINER: Next witness?
15 MS. SCUDDER: Yes. I would like to call Brian
16 Woolfolk.
17 MR. WOOLFOLK: Hello. I'm here.
18 MADAM EXAMINER: All right, Mr. Woolfolk.
19 MS. SCUDDER: Hi, Mr. Woolfolk. Good morning.
20 MR. WOOLFOLK: Good morning. Do I need to be
21 sworn in?
22 MADAM EXAMINER: You need to be, where are you?
23 MR. WOOLFOLK: Can you see me? Let me see. Oh,
24 I'm sorry. I was starting at my webcam and I was just
25 staring at it.

Page 92

1 MADAM EXAMINER: There you are. Mr. Woolfolk, do
2 you swear or affirm under the penalties of perjury that the
3 testimony you shall give will be the truth and nothing but
4 the truth?
5 MR. WOOLFOLK: Yes, I do. Well, thank you for
6 having me today. My name is Brian Patrick Woolfolk. I'm a
7 resident of 616 Swine Creek Road in Fort Washington,
8 Maryland, which puts me about 4 1/2 miles away from the
9 development. Before I begin, I'd like to just say, you
10 know, as someone from Fort Washington, someone who has
11 observed development issues for some time in this County, I
12 think the challenge that we have in the County and new
13 property development, and I appreciate the, you know,
14 hearing that we're having today; but one of the challenges
15 that we have is that we don't always think about these
16 development projects regionally and in context. A lot of
17 times we think about things with regard to the immediacy of
18 the blocks in which these developments are taking place, and
19 we sometimes neglect the, the, the fact that we mostly live
20 in a very regional development environment.
21 People from Fort Washington drive to Forest
22 Heights to shop. They drive to Oxon Hill to shop, to engage
23 in activities. We, we participate in activities in National
24 Harbor. So, if you look at the, even the, the local
25 environment that we, that we engage on a regular basis, it

Page 93

1 requires that in this five mile cycle and really talking
2 about the five miles, and I've heard people who talked about
3 how they go across the water to Virginia to shop, how they
4 go to Waldorf to shop, or Central County to, to engage in
5 medical care. So, we, we really are a regional and each of
6 these parts is sensitive to the other. So, you know, I
7 would, you know, urge those, you know, those speaking, you
8 know -- obviously, you know, if you're in the shadow of
9 development, or even agree, if you agree, qualify
10 instituting, you know, that same, you know, very sensitive
11 place and I respect that; but I would also ask that respect
12 be given to those of us in a region that we all work
13 together, we all live together, and we all engage together;
14 and these things are important to all of us.
15 I stand in enthusiastic support of this zoning
16 change to multi-use. One of the challenges that we've also
17 had in this part of the County is that large residential use
18 tracks end up becoming, you know, tracks of additional
19 single-family houses that are spread out from an
20 environmentalist perspective. You know, I'm much more
21 supportive of more concentrated development and smaller
22 plots with high density like what's being proposed by this,
23 this project as opposed to, you know, just another track
24 spread of single-family houses.
25 I think we've got to be a lot more thoughtful and

Page 94

1 a lot more creative and transformational in these tracks
2 coming in the shadows of National Harbor. National Harbor
3 was a development where a lot of these same objections were
4 made to that development. It was a beautiful, you know,
5 hundred and some acre spread of green space that's been
6 transformed and I think has done well for this community,
7 and I think it's done well for, for, for the economy of
8 Prince George's County; and I would encourage advances in
9 that way, not just in this plot, but in other plots because
10 the choices to me is really not just whether we chop down a
11 bunch of trees and, and build a development, you know, as
12 opposed to doing nothing. I mean someone owns this land.
13 There are certain rights to development on this land. I
14 think the difference is, you know, do we have, you know,
15 another track of houses, of single-family houses, or do we
16 have a development which kind of provides singular housing
17 and mixed income housing and retail in a way, in a smaller
18 plot of land.
19 You know, I've heard, you know, issues read, you
20 know, letters from the, you know, and, you know, and
21 sensitive to the concerns regarding the Park Service land
22 that's adjacent. You know, I think the Park Service, you
23 know, it's probably had the opportunity for, for years to
24 buy the same plot of land and develop it or preserve it, and
25 they've chosen not to do so. But, you know, most

Page 95

1 importantly for me is the opportunity we have to do a
2 transformational development that is sensitive to green
3 spaces, that's sensitive to environmental and sustainable
4 building that connects bike paths; that has the, the
5 regional implications that I, that I think a number of us
6 have said that are so, so, so important, not just for the
7 County, but for the region; that has implications with
8 regard to density that will help us make our case stronger
9 for building, you know, for extending mass transit across
10 the Wilson Bridge into this area. You know, I think that
11 those, those are all key elements, you know, in, in, in my
12 perspective of, you know, what's important with regard to
13 the benefits of a possible development; but also, I think,
14 you know, you know, we have to be sensitive to what, to what
15 the residents need. I think at other parts in this process
16 we'll have that opportunity when we deal with site plans,
17 when we deal with transportation plans, when we deal with,
18 you know, how to, how to properly integrate the neighborhood
19 with the project.
20 You know, I, you know, enjoy having conversations
21 with, you know, some of the developers' representatives.
22 They, they, they are more engaged than we have seen with
23 other developers, and I think that's a great thing, and I
24 think that, you know, I, I believe that that will continue
25 as we get to the real teeth of what I think a lot of people

Page 96

1 are talking about, which are, you know, involved in site
2 plan and some of the other future applications. And I would
3 also, you know, in final thought, I would encourage all
4 these processes to be sensitive to timing. You know, I, it
5 really scares me sometimes to see how long these things take
6 to, to get from concept to approval; and the way, you know,
7 the way some of these commercial markets work and finance
8 markets work, I'm always very nervous when I see something
9 that I like that it will wither on the vine if it's, you
10 know, discussed for, for years and years, and we are
11 supportive and sensitive of the fact that time is money.
12 So, I conclude my comments. I have some written
13 comments, or a written letter that I've submitted for the
14 record, and thank you for your opportunity.
15 MADAM EXAMINER: Okay. Thank you. I think your
16 letter will be Exhibit 90. Is that correct, Ms. Poteat?
17 MS. POTEAT: Yes.
18 MADAM EXAMINER: Okay. And, Mr. Brown, do you
19 have questions?
20 MR. BROWN: No questions. Thank you.
21 MS. SCUDDER: Thank you, Mr. Woolfolk. Thank you
22 for being here today.
23 MADAM EXAMINER: Thank you. Ms. Scudder, I'm
24 going to take one more person out of order, sorry, Mr.
25 Comiso (phonetic sp.).

Page 97

1 MR. COMISO: Good morning, everybody.
2 MADAM EXAMINER: Good morning.
3 MR. COMISO: Yeah, yeah, Mike Comiso. Thank you.
4 MADAM EXAMINER: Do you swear or affirm under the
5 penalties of perjury that the testimony you shall give will
6 be the truth and nothing but the truth?
7 MR. COMISO: I do.
8 MADAM EXAMINER: Okay. State your name and
9 address, and are you in, I can't remember now, are you
10 opposed to this request?
11 MR. COMISO: Yes. Yeah.
12 MADAM EXAMINER: Okay. Go ahead, Mr. Comiso.
13 MR. COMISO: A concerned citizen. Good morning,
14 everybody. I'm Mike Comiso. I'm the acting superintendent
15 of Piscataway Park, which includes Oxon Hill Farm and Oxon
16 Cove Park. Again, I appreciate the opportunity today to
17 comment on this zoning application which is bounded by two
18 of the three sides by the National Park Service lands known
19 as Oxon Hill Farm and Oxon Hill Park.
20 Oxon Hill Farm, and a lot of you mentioned this
21 today, Oxon Hill Farm and Oxon Cove Park was established for
22 the scenic and recreational values as part of our corridor
23 trails, parkways, forests and wetlands, and comprehensive --
24 MR. BROWN: Mr. Comiso --
25 MR. COMISO: Yes?

Page 98

1 MR. BROWN: -- at the last hearing, I had asked
2 you to submit a document which authorizes you to speak on
3 the National Park Service. Did you submit that?
4 MR. COMISO: I submitted my testimony and I did,
5 this, this written testimony here has been vetted by our
6 U.S. Solicitor's Office in accordance with 43 C.F.R. 2.288.
7 So, I can share that, that testimony has been shared or
8 with, with your office, with the zoning. I sent that email
9 today.
10 MR. BROWN: I had asked for a copy. I did not see
11 that. I don't know, Ms. Poteat, is that document in the
12 record?
13 MS. POTEAT: As of yet, no.
14 MR. BROWN: When did you send it, Mr. Comiso?
15 MR. COMISO: I, I sent it this morning.
16 MR. BROWN: Well, that's why. Can you email it to
17 me now?
18 MR. COMISO: Sure. Do you want me to hold off on
19 providing this testimony until --
20 MR. BROWN: Yeah, I --
21 MR. COMISO: -- you read it?
22 MR. BROWN: Well, the problem is this. You may
23 testify now as an individual, or you may testify on behalf
24 of National Park Service, but I have to have the
25 documentation that that organization, that governmental

Page 99

1 entity has authorized you to speak on their behalf.
2 MR. COMISO: I can do that. So, let's, let's hold
3 off. I do have to step off at 12:15, but I'll send you the
4 email and then once you have read that, I will jump back on.
5 MR. BROWN: I'm sorry, Madam --
6 MADAM EXAMINER: Mr. Comiso, I may have found
7 something, so continue to talk and I'll try to send it and
8 then we'll see if Mr. Brown has other questions. Go ahead
9 with your testimony.
10 MR. COMISO: Absolutely, and I can forward any
11 kind of documentation needed from my solicitors. So, just
12 to reiterate, this remarkable refuse within this urban
13 development provides access for people to walk, cycle, go
14 fishing, see wildlife such as bald eagles, flocks of
15 turkeys, deer and foxes. Within this developed area within
16 D.C., the park provides also hands-on opportunities for
17 folks to milk a cow, collect fresh eggs from chickens and
18 explore the long history of farming at the site, or its
19 connection to early plantation farming by enslaved people,
20 to farming as a therapeutic treatment for the mentally ill.
21 At the park, we are concerned with the proposed
22 rezoning because of its potential negative impacts to park
23 land and to the people's experiences, visitor experience at
24 the park. If this change is approved, we believe that the
25 resulting project will have some significant detrimental

Page 100

1 impacts on traffic, safety at the park's entrance, the
2 park's view sheds, and historic resources, in particular,
3 the park entrance.
4 The proposed development, again, is bounded on
5 three sides by the park land. There is no opportunity for
6 another access point and without that additional property
7 acquisition, without additional property acquisition, we
8 believe allowing such substantial development that relies on
9 its constrained access point will damage the park's entrance
10 and cause safety concerns.
11 The existing zoning for the property also allows
12 moderate residential development which is in keeping with
13 adjacent suburban Forest Heights neighborhood. The
14 introduction of any higher density will have negative
15 impacts on the historic setting, the historic vernacular
16 setting of the park and the rural experience visitors enjoy
17 today. Specially, proposed changes in zoning will greatly
18 impact the park view shed with the introduction of higher
19 rise structures that will be seen from the park's historic
20 corridor.
21 And then, finally, a significant portion of the
22 area is proposed for rezoning in a parcel known as the
23 Butler property, which is on the National Register of
24 Historic Places. This is the only surviving Antebellum free
25 black homestead in Prince George's County. It's been

Page 101

1 documented by the County Historic Preservation office as one
2 of the most important existing black history sites in Prince
3 George's County. The proposed rezoning and development
4 plans for National View will remove this important piece of
5 American history from the landscape.
6 For these reasons, the park is concerned with this
7 proposal and this proposed rezoning. Again, thank you for
8 your attention in preserving Oxon Hill Farm and Oxon Hill
9 Park.
10 MADAM EXAMINER: Okay. Mr. Brown, I would accept
11 that letter as solely Mr. Comiso's testimony. Would that
12 work? Mr. Comiso, we don't have anything in the record that
13 gives you the right to testify on behalf of your agency.
14 MR. COMISO: So, this will not be on behalf of
15 myself. What I can do is I can provide supporting
16 documentation that will support this as a National Park
17 Service testimony.
18 MADAM EXAMINER: Okay. And about how long would
19 that take?
20 MR. COMISO: Twenty minutes. I have email.
21 MADAM EXAMINER: I wasn't even going to rush you
22 to that degree. Okay. As long as you do it shortly, we
23 will mark it as Exhibit No. --
24 MS. POTEAT: 91.
25 MADAM EXAMINER: -- 91 in that part of the record

Page 102

1 as pending, giving the authorization; but Mr. Brown or Ms.
2 Scudder, do you have any questions?
3 MR. BROWN: Well --
4 MADAM EXAMINER: His testimony is basically what
5 the letter said and I did just --
6 MR. COMISO: Yes.
7 MADAM EXAMINER: -- forward it to both of you.
8 MR. BROWN: Right. The letter, the authorization
9 from the National Park Service must be on their letterhead,
10 all right?
11 MR. COMISO: Okay.
12 MR. BROWN: And it must be signed by a person in
13 authority at the National Park Service that they have given
14 you authority to give this position on their behalf, all
15 right?
16 MR. COMISO: Yeah. I can do that.
17 MR. BROWN: No need to do it in -- but we need to
18 have that before this record closes.
19 MR. COMISO: I will do that. Thank you.
20 Appreciate it.
21 MR. BROWN: All right. Thank you.
22 MADAM EXAMINER: And, Ms. Scudder, do you have any
23 questions of him?
24 MS. SCUDDER: Yes, I do. Hi, Mr. Comiso.
25 MR. COMISO: Hi, how are you?

Page 103

1 MS. SCUDDER: I just have a few questions. I'm
2 wonderful. Thank you for asking. Just have a few questions
3 for you. First, do you have any data on how many yearly
4 visitors there were at the town, I mean at the Oxon Cove
5 Farm?
6 MR. COMISO: I can provide, I can get that for
7 you. I don't have it readily available, but I can, I can
8 send that to whomever needs that information.
9 MS. SCUDDER: Yes, I would like to have --
10 MR. COMISO: It's public, public knowledge. I can
11 send you the link. We do have, we do document that, yes.
12 MS. SCUDDER: Do you have any idea how many yearly
13 visitors you get at Oxon Cove Farm.
14 MR. COMISO: I don't. I've been, I don't. I've
15 been the acting superintendent for this park for
16 approximately four months, so some of those, some of that
17 data is not readily available to me anyways.
18 MS. SCUDDER: Okay. Are you aware that there are
19 no changes that are being proposed to the National Park
20 Service property?
21 MR. COMISO: I am aware, but I mean it depends on
22 what, what you're referring to as impacts to the Park
23 Service property. The view shed is an important attribute
24 to the park. The rural setting is an important attribute to
25 the park. So, yes, it's still an impact; and also, the

Page 104

1 entryway to your development will have an impact on visitor
2 experience and it will have an impact on the park as well.
3 MS. SCUDDER: Okay. Did you know that the
4 entrance to this property is owned by state highways?
5 MR. COMISO: A portion of the entrance is still
6 also under National Park Service property, too. I believe
7 there is a portion that's still will go through Park Service
8 property to get to the VDOT, to get to the MDOT area.
9 MS. SCUDDER: That is incorrect, Mr. Comiso. Did
10 you know that the SHA has required and accepted a revised
11 entry plan?
12 MR. COMISO: I'm not aware of that, no.
13 MS. SCUDDER: Okay. And did you, has the National
14 Park Service ever contacted the Butler family?
15 MR. COMISO: I would have to talk to my previous
16 superintendent.
17 MS. SCUDDER: Okay. And has NPS ever offered to
18 purchase the subject property?
19 MR. COMISO: The, the Park Service has been
20 interested in purchasing the property throughout, for a
21 number of years. The status of that --
22 MS. SCUDDER: I asked if you --
23 MR. COMISO: -- I unaware of.
24 MS. SCUDDER: -- I asked if you had, if they had
25 offered, not if they were interested, if they had offered.

Page 105

1 MR. COMISO: I am unaware of that.
2 MS. SCUDDER: Okay. Thank you, Mr. Comiso. No
3 further questions.
4 MR. COMISO: Yeah.
5 MADAM EXAMINER: Thank you, sir.
6 MR. COMISO: Yes.
7 MADAM EXAMINER: We'll leave the record open for
8 your additional document. Thank you very much.
9 MR. COMISO: Thank you. Have a good one.
10 MADAM EXAMINER: You, too. All right, Ms.
11 Scudder, your next witness.
12 MS. SCUDDER: Yes. I believe I would like to call
13 Keith Gray.
14 MR. GRAY: All right. Here I am. How are you
15 doing? Yes, ma'am. Good morning.
16 MADAM EXAMINER: We're all crazy. Okay. I don't
17 see you. Mr. Gray, can you put on a camera?
18 MR. GRAY: Yeah, it's, it pulled me up in the --
19 there we go. All right. See if it works here. And we're
20 going to share. It's a little bit different than Zoom, this
21 platform. All right. Here we go.
22 MADAM EXAMINER: Good morning. Do you swear or
23 affirm --
24 MR. GRAY: Good morning, folks.
25 MADAM EXAMINER: -- under penalty -- good morning.

Page 106

1 Do you swear or affirm under the penalty of perjury that the
2 testimony you shall give will be the truth and nothing but
3 the truth?
4 MR. GRAY: Yes, Your Honor. Yes, ma'am, sorry.
5 MADAM EXAMINER: State your name and address for
6 the record.
7 MR. GRAY: Hi. My name is Keith Gray, 3402
8 Stonesborough Road, Fort Washington, Maryland 20744.
9 MADAM EXAMINER: And what would you like to say
10 about this application?
11 MR. GRAY: All right. Just starting off to
12 address the concerns from the, Mr., Mr. Commissioner just
13 got off representing the Park Service, just starting from
14 that as a, as a rebuttal, I'm for this project. I've been a
15 long-time resident here over the past, I wouldn't say a long
16 time in comparison to the Forest Heights folks, definitely
17 I'm a baby in comparison. I've been here almost 10 years,
18 here in the area, and the main thing that I'm seeing is a
19 lack of impactful development here in the area.
20 My property is historical properties and we're
21 probably about barely four miles from the, from the subject
22 property. So, in the impact area, definitely as far as an
23 impact area, this project would definitely impact my area of
24 my neighborhood south of 210, all of my neighbors as well,
25 as well as affecting our property values, increasing it.

Page 107

1 So, just to start off to address what the superintendent was
2 speaking of, that property in question, I'm very, very
3 familiar with the property that started out 2007, 2008 with
4 the Metropolitan Police Department. So, as an officer, that
5 was our training; literally our training, our training area,
6 the subject property. We would start there. We'd run
7 around the park. Would I tell you every day jogging around
8 this property for a number of years? Since then, I can tell
9 you just as far as the traffic is concerned, there are very
10 -- there are local people coming there. There's, there's
11 enough traffic just, just to, what's the word I'm looking
12 for, since, since Oxon Cove Park is not being bothered,
13 having a rebuttal against this project really doesn't,
14 really doesn't hold, hold a can of worms to me, or any of,
15 some of these other rebuttals.
16 They've addressed that they have a, a speech, I'm
17 sorry, they had had a talk with, with Petra. They answered
18 my questions. So, our initial conversation was with a group
19 of other Fort Washington citizens and they addressed some of
20 my questions after in which I was able to have another
21 conversation with the representatives of Petra.
22 So, just from a standpoint of knowing and
23 understanding the subject property, the subject property
24 will automatically bring economic impact to the Fort
25 Washington community. I was very, I've been very well-aware

Page 108

1 of the community having known the prior mayor, Ms. Key, and
2 the residents. I ran for office and have been a
3 businessman. I've been an entrepreneur here in the area for
4 roughly six years having run my business, which is a
5 security consulting business, out of, out of National
6 Harbor. And in doing so, I've, I have contracts in
7 Southwest Washington and Southwest, Northeast, and a couple
8 contracts in Alexandria, Virginia. This is prior to COVID
9 and we ended up shutting down operations probably about six
10 months prior to COVID in which I went solely to security
11 consultation. So, having an aware, an awareness of the
12 projects going on in the area; and, again, as Mr. Woolfolk
13 was speaking about earlier, the bigger economic impact,
14 because this is a regional area, we shop; I have two kids,
15 two young kids, I probably told you, but I have two young
16 ones who are at school, six and three; so, my 6-year-old,
17 you know, they're downstairs. I have them during the day.
18 But as a part of their enrichment, we do utilize the parks
19 around here, Oxon Cove Park. That community is not the only
20 park. The one thing I can definitely say about Prince
21 George's County, some of the areas I've been in, it's second
22 to none as far as park development. Bach Road is one of our
23 recent developments, recreation center, trails, Tucker Road,
24 a golf course back there, a new ice skating rink. You have
25 these massive, massive areas for recreation, enjoying trees,

Page 109

1 unprotected, all right? There is no, no bigger outdoorsman
2 than me, all right? But I'm a unique person in that I
3 don't, I'm not a hunter unless for necessity. I was taught
4 you only kill it if you needed it. And being a hunter from
5 Texas, and having the understanding about environment, I can
6 spend days out in the, in the bush and be all right. That's
7 how comfortable I am.
8 So, coming from a non-environmental perspective, I
9 would be the first one to, to oppose a project if it was
10 going to have a significant detrimental impact on an area.
11 And speaking on historical context as well while I'm on
12 that, I was also a secretary for the Prince George's
13 Historical Society for about, for a couple of years. So,
14 I'm very well aware of the historical context. I'm a
15 historic homeowner. My home I'm sitting in right now is on
16 the historic registry, about a 120-plus year old home. So,
17 all of these things that are being taken in consideration
18 with the family, and I'm glad Ms. Scudder asking that
19 question, had the National Park Service even reached out to
20 the family and the answer, of course, was no; did they want
21 to purchase the land? These are things that have not been
22 thought about by anyone and now we have an opportunity for a
23 project that can impact our area south of 210 from National
24 Harbor because as other folks have got on and they've
25 stated, the project is not for Prince George's citizens.

Page 110

1 Some of these, these same, these same charges that were
2 levied against MGM, which is true. In this case, this
3 project being where it is positioned in Oxon, next door,
4 adjacent to Oxon Hill Park, is the most ideal location.
5 Number one, because it is in a high-density area, we don't
6 want things spread out all over the place, and that's my
7 problem with a lot of developers out of, out of here. I'm
8 out here in my mid-twenties. I work for a developer for
9 about two years. So, I have a very, very thorough, another
10 state, but we have multiple states, a very thorough
11 understanding of development from a personal standpoint.
12 So, looking at what they presented, what's on the
13 table, the developments around here, the strategic location
14 of this property and, number one, just from a safety
15 standpoint, let me just start there. This project is
16 subject property having been an officer, and detective, and
17 law enforcement here over 10 years, I can tell you, if you
18 want to move a project down to Eastover Shopping Center and
19 make it a viable project that you're actually going to make
20 money on; and, number one, that your residents feel safe,
21 safe living in, that's not the place to be, all right? So,
22 the subject property being isolated, let's say isolated
23 closer to MGM, closer to 210 where you don't have as much
24 pedestrian traffic, and if you do have pedestrian traffic,
25 it's coming from the neighborhood and not from Eastover or

Page 111

1 Southeast D.C.
2 If developers want to develop something over there
3 in that area, they have to first submit some type of
4 security plan because nothing is really viable over in that
5 area as far as mixed use project at this moment; and with
6 the numbers going up, you know, robberies on this side,
7 things of this nature, that are probably two clicks north of
8 this development. So, I have, having a thorough
9 understanding of all of these factors and where they
10 position the project, the project as a whole, what they've
11 addressed with the historical context, with the
12 environmental context and economic impact that this project
13 is going to have in comparison to all of the other
14 developers that I've seen here over the years who have
15 brought nothing but residential projects, let's just start,
16 yeah, let's just start -- this is the second thing that is
17 very important.
18 Forest Heights has no singular housing, none,
19 none. So, I, I think right off the bat they're providing
20 something to a community that has, I think there is
21 something (indiscernible). I'm talking about something
22 substantial to be able to accommodate, you know, more than
23 five or 10 people at a time. So, this project is
24 automatically bringing something to this community that it
25 needs in addition to the residential mixed use component

Page 112

1 which will also bring a huge tax advantage to, to, lift a
2 huge tax burden from Forest Heights, when Forest Heights
3 residents and residents as a whole in this area. So, this
4 project, in summation, will be a necessary gateway that I
5 see for development along 210. Mr. Owens, in his prior
6 testimony, indicated that as well. I'm a member of that
7 same group that he mentioned, but I'm speaking for myself.
8 We all have the same sentiment in regards to development in
9 this area, even though the, we're not in the immediate
10 impact zone, so to speak, we are, this is our neighborhood.
11 And Forest Heights's neighbors, we travel to each other's
12 neighborhoods to utilize resources and if we can now figure
13 out a way to, to have a high mixed area which encompasses a
14 lot of these things that we do need, we don't have to go
15 south, you know, we don't have to go to Charles County; we
16 don't have to go to Alexandria. We don't have to go to all
17 these areas that I was told when I moved over here, number
18 one, you don't, you don't put your kids in school here;
19 number two, you don't, you can't shop here. I'm like, well,
20 you know, I bought a house here, so we got to start figuring
21 these things out.
22 So, here I am, 10 years later, almost 10 years
23 later in the same exact problems, but now I have two young
24 kids. So, with the advent of COVID, everything that is
25 changing, this area needs an economic shot in the arm. A

Page 113

1 project like this would most certainly be that economic
2 shot; and the simple fact, I never, I never, I never had the
3 opportunity, not the opportunity, I never wanted to, to
4 testify for any developers that I, that I've come across
5 here in the area; but having a time to talk to them, talk to
6 Petra, see how dedicated they are to the project and how
7 they're, how they're going about getting community input.
8 That speaks volumes to me and the fact that they're taking
9 these things into consideration, again, they contacted the
10 Butler family, included them on, in on this project for the,
11 to, yeah, for them to shore up the historical context. How
12 can we preserve this, preserve your family's history? I
13 mean it doesn't get any more hands-on than that, so they've
14 done a great job in connecting with the community and just
15 having a real understanding of, of things that have been
16 here.
17 The subject property is -- I'm 41. It's older
18 than I am. It's been half a century and nothing has been
19 done to it; and if it's not going to affect the green space
20 right around it, Oxon Cove Park, which I love, I take the
21 kids over there all the time, if it's not going to affect,
22 you know, the property immediately around, we have to have
23 something like this in this area. So, the groups that are
24 not from around here, the people that don't live around
25 here, I don't want to go spend my money in Virginia. I

Page 114

1 don't want to go spend my money in south, in Charles County,
2 and I want to, I want to spend everything here. I want to
3 spend it, be able to, my neighbors to be able to do the
4 same. So, a project like this would lead and spur more
5 development along 210 and be, again, being a gateway project
6 for us that we see very, very beneficial to the greater Fort
7 Washington community, as well, of course, as the major, the
8 significant, I'm sorry, the initial impact of the community
9 of Forest Heights.

10 MADAM EXAMINER: Thank you, Mr. Gray. Mr. Brown,
11 any questions?

12 MR. BROWN: No questions. Thank you.

13 MADAM EXAMINER: Ms. Scudder?

14 MS. SCUDDER: Yes. Madam Examiner, I would like
15 to call Troy Lilly.

16 MADAM EXAMINER: Okay. Thank you, Mr. Gray, so
17 much. Mr. Lilly?

18 MS. SCUDDER: Thank you, Mr. Gray. I appreciate
19 you being here. Thank you so much for your time today.

20 MADAM EXAMINER: Mr. Lilly?

21 MR. LILLY: Hi. Can you hear me?

22 MADAM EXAMINER: I can hear you.

23 MR. LILLY: I'm trying to turn the camera on, but
24 I don't know if it is, if you're able to see me at this
25 time. But if you're not, I will just go ahead with the

Page 115

1 comments that I prepared if that's okay?

2 MADAM EXAMINER: Okay. Well, first, do you swear
3 or affirm under the penalties of perjury that the testimony
4 you shall give will be the truth and nothing but the truth?

5 MR. LILLY: Yes, I do.

6 MADAM EXAMINER: And if you'll state your name
7 and address for the record, and then you may testify.

8 MR. LILLY: Okay. Great. My name is Troy Lilly
9 and my address is 5800 Arapahoe Drive in Forest Heights,
10 Maryland.

11 MADAM EXAMINER: Okay. And what would you like to
12 tell me about this request, Mr. Lilly?

13 MR. LILLY: Oh, well, good afternoon. I just
14 wanted to state that I am a resident of the town of Forest
15 Heights and I am a concerned citizen. I wanted to thank the
16 Zoning Board, my Forest Heights neighbors, and also the
17 developers for being here today to talk about this potential
18 zoning impact on our community and on our county.

19 I am speaking today in support of the rezoning
20 within Forest Heights, and I am doing so because of past
21 planning and collaboration between residents and planners
22 for our area. Specifically, I'm referencing the 2014 sector
23 plan for the Forest Heights and Glass Manor sector. This
24 plan was a collaboration between the residents and planners
25 outlining the kind of projects that will help to carry our

Page 116

1 town and neighborhood into the future. And for clarify, I
2 would like to add that I have not spoken to anyone at Petra
3 Development that's involved with this proposed project. All
4 of my comments are based on my personal observations living
5 here, talking with neighbors in my town, and from my
6 experience as a designer and some of the knowledge I have
7 with planning projects and environmental impacts in
8 sustainable neighborhoods.

9 I support the approval of the zoning request for
10 the land located on this site to allow for MXT or mixed use
11 transit, or exit zoning, because over the years we've been
12 looking at long-term viability for neighborhoods like Forest
13 Heights and Oxon Hill and Glass Manor. Some of the goals
14 that I think are cheaply outlined as things that we want to
15 achieve with new development is creating active walkable
16 communities where people can live, shop and have recreation
17 in one place; and although I know that I have many neighbors
18 who are not excited about increased density, this is one of
19 the main pillars of the sector plan recommendations; and we
20 live in an area that is car-dependent, and this is really
21 one of the first zoning requests for new development in this
22 area that proposes an opportunity to create housing, retail,
23 and recreational green space in one location.

24 Since the design of the plan, the scale and size
25 of the project are not being presented or ruled on today.

Page 117

1 I'm voicing my support for the rezoning because it will
2 begin a trend of smart development where Prince George's
3 County residents and Forest Heights residents can live in a
4 place and begin to see what it's like to live in a place
5 without a vehicle. I look forward to future rounds of
6 shaping the project so that it is beneficial to our town,
7 and so that we are able to work with a partner to create
8 something that does not just detract from our neighborhood,
9 and does not just bring in residents or people from outside,
10 or that is not only focused on economic impact, but that is
11 focused on creating a space that fits in with what is here
12 and it also helps to propel us into the future.

13 A lot of people have spoken today about the fact
14 that in order to shop, they have to leave the County, or
15 they have to leave the state. I definitely hear those
16 concerns, but I just also wanted to state that everyone that
17 lives in Forest Heights doesn't feel like we have to leave
18 to do things. We don't have only negative feelings about
19 living here. There is a lot of beauty that is in the town
20 and although I don't like to see trees cut down on most
21 occasions, I feel like in this particular environment, we
22 have definitely seen in other areas where there is nation
23 parkland, or there are parks that the County or the town
24 owns where the development is next to it, where people are
25 able to enjoy both a lived environment that has been

Page 118

1 developed and then also green space in tandem, and because
2 of some of the trails and access areas that are incomplete
3 that have been neglected and abandoned that are currently
4 available to residents, this is one of the reasons why I do
5 support the project. You know, although the park has been
6 there, although this parkland is here, the connections and
7 trails to these areas have been neglected and have not been
8 cared for many, many years. And I think that this project,
9 and this zoning in particular, is an opportunity to meet
10 both the goals of the residents and the goals of a private
11 developer in a way that will benefit Forest Heights, that
12 will benefit Oxon Hill and that will benefit Prince George's
13 County as a model of ways to bring together our collective
14 interests to do something and build something, and create
15 something that works for all of us on some level. And so
16 with that, I would like to submit my support for rezoning
17 this property and I look forward, as I said before, to
18 helping shape this project in the future so that it meets
19 the needs of people who live in Forest Heights and the
20 surrounding area. Thank you.

21 MADAM EXAMINER: Thank you, Mr. Lilly. Mr. Brown,
22 do you have questions?

23 MR. BROWN: No questions. Thank you.

24 MS. EGLOFF: Question.

25 MADAM EXAMINER: Okay. Ms. Egloff?

Page 119

1 MS. EGLOFF: I might have missed the beginning of
2 Mr. Lilly's testimony. He does live in the neighborhood. I
3 was just wondering how long he has resided there, is he a
4 new resident?

5 MR. LILLY: I've lived in the neighborhood for 4
6 1/2 years.

7 MS. EGLOFF: Okay. And did you come from a city
8 area or were you moving out to be in a more rural location?
9 What was your, what was your reasoning for coming to Forest
10 Heights?

11 MR. LILLY: Well, I moved to Forest Heights
12 because I grew up in a suburban area outside of Fort Meade,
13 so if you're familiar with Fort Meade, Columbia and
14 Gambrills area, that is where I grew up. So, I did not grow
15 up or live in a city, and prior to being here, I lived in
16 Maryland since 1991. So, I'm a long-term Maryland resident.
17 I love the combination of being close to things and also
18 having green space, and having access to water, and access
19 to the city when I need it; but I do, you know, enjoy living
20 here for the combination of having space, but then also
21 having access.

22 MS. EGLOFF: Uh-huh. So, so what specifically
23 brought you to Forest Heights, just curious? What was the,
24 you know, main reason that you came to that neighborhood?

25 MR. LILLY: Oh, well, I came to Forest Heights

Page 120

1 because it is convenient to where I work, and then I also
2 came because the house that I bought, I was able to track
3 back the ownership history back to the original deed. I was
4 able to get in contact with the people who built the home
5 and their children who are still alive, and I was able to
6 just basically find the story of Forest Heights and how
7 people actually came here in the 1940s and established the
8 neighborhood where they have a town council, and we have a
9 mayor, and we have a police, we have a police department.
10 So, I came here because of the people and I came here
11 because of this home, and convenience, and also because it's
12 provided a lot of area for, potential for recreation and
13 green space, but it also provides access and convenience as
14 well.

15 MS. EGLOFF: So, it's called Forest Heights. Was
16 the green, you know, the greenness of the community and the,
17 you know, mature landscape and trees any part of your
18 decision to come there, it's just --

19 MR. LILLY: Yes, I actually have two 60-year-old
20 maple trees in my front yard, and I have several in my
21 backyard. I love them and, as I said, I am a proponent of
22 keeping trees and planting them. However, the reason why
23 I'm supporting this zoning request is because it is
24 combining, in my opinion, it is combining development; but
25 even though there are trees that will be torn down as part

Page 121

1 of this process, it is located next to a large park area
2 which will be preserved.

3 MS. EGLOFF: Okay. That's all.

4 MADAM EXAMINER: Thank you, Ms. Egloff. Thank
5 you, Mr. Lilly.

6 MS. SCUDDER: Thank you, Mr. Lilly.

7 MADAM EXAMINER: Ms. Scudder, Ms. Scudder --

8 MS. SCUDDER: Yes --

9 MADAM EXAMINER: -- how many more citizen
10 witnesses do you have?

11 MS. SCUDDER: That was it. And I just wanted to
12 ask Mr. Lilly if he had a letter that he wished to submit?

13 MR. LILLY: The comments that I gave, yes, I have
14 them in letter form; so, I can submit a letter of support
15 formally.

16 MS. SCUDDER: Okay. Great. Thank you. Ms. --

17 MR. LILLY: If the Hearing Examiner --

18 MADAM EXAMINER: Excuse me a second, Ms. Scudder.
19 Mr. Lilly, when are you going to email that letter?

20 MR. LILLY: I can email it today. I was just
21 going to ask where is the proper place to send the letter?

22 MADAM EXAMINER: Why is my mind blank? Well, Ms.,
23 any staff could give the email address for us? I think it's
24 vhe@po.pg.md.us. So, Zoning Hearing Examiner, capital Z,
25 capital H, capital E -- you know what, we'll put it in a

Page 122

1 chat. Hey, yeah, we forgot about the chat. We'll have it
2 in the, can you look at the chat? Hang on and just check
3 the chat and we'll put the address over there, okay?
4 MR. LILLY: Thank you.
5 MADAM EXAMINER: It's already there. Mr. Lilly?
6 MR. LILLY: Yes, ma'am. Thank you. I see it.
7 Thank you.
8 MADAM EXAMINER: Okay. So, thank you. And so,
9 Mr. Lilly's letter will be Exhibit number?
10 MS. POTEAT: 92.
11 MADAM EXAMINER: Thank you. Ms. Scudder, I have
12 to feed my staff, so I --
13 MS. SCUDDER: Yes, ma'am.
14 MADAM EXAMINER: -- was suggesting that we take a
15 break. It's 12:30 now. Can we all just take a break until
16 1 o'clock?
17 MS. SCUDDER: Absolutely.
18 MADAM EXAMINER: I believe all you have to do is
19 turn off your mike. Don't, don't, you don't have to leave
20 the link. Just, so I'll see you all at 1 o'clock?
21 MS. SCUDDER: Okay, 1 o'clock. We'll see you
22 back. Thank you.
23 MADAM EXAMINER: Thank you all.
24 (Recess.)
25 MADAM EXAMINER: Yes. Thank you all. Ms.

Page 123

1 Scudder? Ms., Ms. Cavitt has a timing issue as well and
2 would like to speak. If you don't mind, I'll, I'll take one
3 more person out of order. That look is -- did you hear me
4 or are you frozen? I think you're frozen, Ms. Scudder.
5 Okay. Yeah, frozen.
6 MS. SCUDDER: Okay. That's fine. That's fine
7 with us. I know Ms. Cavitt. She's welcome to go.
8 MADAM EXAMINER: Okay. And I guess, is Mr. Brown
9 back? Oh, well, it's 1 o'clock. There he is. Ms. Cavitt?
10 MS. CAVITT: Good afternoon, Madam, yes. This is
11 Sarah Cavitt.
12 MADAM EXAMINER: Good afternoon. Do you swear or
13 affirm under the penalties of perjury that your testimony
14 shall be the truth and nothing but the truth?
15 MS. CAVITT: I do.
16 MADAM EXAMINER: State your name and address, and
17 tell me what you want to tell me.
18 MS. CAVITT: Okay. My name is Sarah Cavitt. I am
19 here representing the Indian Head Highway Area Action
20 Council. Do you wish the organization's address or mine?
21 I'm glad to give either one.
22 MADAM EXAMINER: Whatever you prefer. Whichever
23 you prefer.
24 MS. CAVITT: Yeah, I can give either one. My
25 address is 415 Riverwood Drive, Fort Washington, Maryland;

Page 124

1 and, Mr. Brown, I believe you have a copy, came in the mail,
2 or an email, that says that at a duly constituted meeting of
3 the Board of Directors of the Indian Head Highway Area
4 Action Council held on Monday, March 22, 2021, and with a
5 quorum present and voting, the following action was taken.
6 Do you want me to go on then instead, or --
7 MR. BROWN: I haven't received that document. If
8 you could just submit it to the Examiner so we have it in
9 the file?
10 MS. CAVITT: Okay. I, I did email it yesterday, I
11 believe, and I believe the chairwoman said that it would be
12 held as an exhibit until I testified today.
13 MR. BROWN: All right. That's fine.
14 MS. CAVITT: Thank you very much. Thank you and
15 thank you, Ms. Scudder, for letting me go ahead. At that
16 duly constituted meeting, we voted to oppose the rezoning of
17 the property from the RR and R-55 zones to the MXT zone. We
18 support the Technical Staff Report, which recommends
19 disapproval. There are significant issues with
20 transportation, traffic, adequate public facilities, the
21 environment and the historic sites. The vote was unanimous.
22 We authorize Sarah Cavitt, or her designee, to
23 present the testimony. And so, if anyone wants to know, I
24 did attend these SDRC meeting on September 18, 2020, to
25 listen to the project's presentation and the staff. I also

Page 125

1 attended three other meetings February 12th, February 24th
2 and March 11th to listen to the presentations. We also have
3 shared the Staff Report and the back-up materials with all
4 of the Board members, and I thank you very much.
5 MADAM EXAMINER: One second. Ms. Poteat, I'm
6 assuming this hasn't been pre-marked, so what exhibit would
7 it be, the letter from Ms. Cavitt's testimony?
8 MS. POTEAT: 93.
9 MADAM EXAMINER: And I just sent it again to Mr.
10 Brown and Ms. Scudder. You all should see it.
11 MR. BROWN: Yes, I have it. No --
12 MADAM EXAMINER: Well, no questions? Okay. How
13 about you, Ms. Scudder?
14 MS. SCUDDER: Just, just a couple of questions.
15 Ms. Cavitt, I just wanted to ask, you follow development
16 around the entire County, is that correct?
17 MS. CAVITT: We follow development mainly in the
18 Indian Head Highway corridor in County Districts 8 and 9
19 but, yes, we do keep an eye others, but mainly that's our
20 area of concentration.
21 MS. SCUDDER: Okay. I, I just noticed that
22 whenever I send out an informational mailing letter, no
23 matter where the project is located in the County, you're
24 always on the list. And one thing I -- I'm sorry, one thing
25 I just wanted to mention to you, that whenever I mail to

1 you, it always comes, I always get a return mail envelope
 2 back; and so, could you repeat your address again? You said
 3 415 Riverwood Drive?
 4 MS. CAVITT: Fort Washington, that's correct.
 5 MS. SCUDDER: You might want to get in touch with
 6 Park and Planning.
 7 MS. CAVITT: The most of the, well, no, most of
 8 the mail comes to the Indian Head Highway Area Action
 9 Council, which has a post office box 44013, because that's
 10 who is registered with Park and Planning. Sometimes I
 11 personally send in a party of record because I'm curious
 12 about the project.
 13 MS. SCUDDER: Yes, ma'am. I just wanted you to
 14 know that every time I mail to whatever address is on file
 15 with Park and Planning, it always comes back. So, you might
 16 just want to check with them to see what address they have
 17 on file for you so the mail can stop being returned because
 18 I --
 19 MS. CAVITT: Okay.
 20 MS. SCUDDER: -- a lot of my letters that I sent
 21 to you, you don't get them because they come back to me.
 22 MS. CAVITT: Okay. I did get them --
 23 MS. SCUDDER: Yeah.
 24 MS. CAVITT: -- I did get the last two and I thank
 25 you very much. I will check.

1 MS. SCUDDER: Okay. That's all I have. Thank
 2 you, Ms. Cavitt.
 3 MADAM EXAMINER: Thank you, Ms. Cavitt.
 4 MS. CAVITT: Thank you all very much and everybody
 5 please stay healthy.
 6 MS. SCUDDER: You as well.
 7 MADAM EXAMINER: All right, Ms. Scudder, your next
 8 witness? You're on mute. You're muted.
 9 MS. SCUDDER: Madam Examiner, we called our last
 10 witness with Troy Lilly, and so I believe you had indicated
 11 that you wanted to allow the other parties to go ahead and
 12 get their testimony in before we proceed?
 13 MADAM EXAMINER: I was only doing the ones that
 14 requested that, but is there anyone in opposition to this
 15 request that would like to give their testimony now, and if
 16 so, could you put your information in the chat? Ms. Mouw
 17 can wait. Okay. Mr. Aspavido (phonetic sp.)?
 18 MR. ASPAVIDO: Hello.
 19 MADAM EXAMINER: Hi. Good afternoon.
 20 MR. ASPAVIDO: Can you hear me?
 21 MADAM EXAMINER: Yes.
 22 MR. ASPAVIDO: Hi, my name is --
 23 MADAM EXAMINER: Mr. Aspavido, do you swear or
 24 affirm under the penalties of perjury that the testimony you
 25 shall give will be the truth and nothing but the truth?

1 MR. ASPAVIDO: Yes, ma'am.
 2 MADAM EXAMINER: Okay. State your name and
 3 address for the record.
 4 MR. ASPAVIDO: My name is David Aspavido. I am a
 5 resident of Forest Heights. My address is 5 Crea Drive,
 6 Forest Heights, Maryland 20745, and as someone who is going
 7 to be very, pretty close to where this development is, I
 8 have to say, unfortunately, I have to oppose it due to the
 9 fact that I can see the impact that it will have on the
 10 environment and the wildlife. As a matter of fact, probably
 11 one of the more impacted would be me because a lot of that
 12 wildlife likes to come into my yard. They come, they eat,
 13 they leave. I have all kinds of wild birds; all kinds of
 14 deer, foxes, racoons, all kinds, wild turkeys. They come
 15 and then they go back to their natural habitat.
 16 So, I personally will have to say based on those,
 17 on those two points, I, unfortunately, will have to
 18 disapprove of this and not be for it; not only that, but
 19 also a couple of other things that I've heard that have been
 20 a little disturbing along the way. As my next door neighbor
 21 Brian stated earlier, we didn't really hear about this until
 22 very recently, okay, which kind of, is kind of worrisome
 23 because I keep hearing a lot of people from other areas who
 24 are really negatively impacted by this, voice their opinion.
 25 I'm the type of person who believes that it's very, it's

1 very easy to be generous with someone else's money, time and
 2 land, especially if you're not the one who is going to be
 3 impacted. So, I invite my neighbors of Fort Washington and
 4 all these other areas to feel free to put up some of the
 5 land in their area, you know, volunteer some of their land;
 6 that way, you know, they can see what we will probably be
 7 going into.
 8 As for, you know, what Brian said regarding
 9 (indiscernible), there is that area and you want to put
 10 stores, you want to put anything like that, it's there. I
 11 mean tear it down, redevelop it, do what you want to do.
 12 It's already zoned for that, okay? Just because you think
 13 it's going to take extra security or it's going to take
 14 extra policing, that's not our problem. That's the
 15 developer's problem, okay?
 16 And, number two, number three, whatever point you
 17 want to make at this point is we recently had a Zoom meeting
 18 which Ms. Scudder was there; a lot of the residents who were
 19 going to be affected on Crea Drive were there. We all
 20 voiced our disapproval and we come to find out there was a
 21 letter sent that not even our council members knew about
 22 that was supposedly endorsing this project; and I'm
 23 thinking, if our council members don't even know about it,
 24 how all of a sudden everybody else around us knows about it?
 25 I mean that right there, you know, already makes me think

Page 130

1 about it. As for the person who said that Forest Heights
2 needs senior living, we don't even know what the price of
3 these units is going to be. We don't even know if the
4 actual senior citizens of Forest Heights will be able to
5 afford these units. So, in reality, I see a lot of this
6 being good for other people, but not for us; definitely not
7 for the people on Crea Drive who are the ones who are going
8 to be mostly affected by it, or directly impacted and
9 affected by it.

10 So, again, it's very easy to be generous with
11 other people's time, money and land. I invite my
12 neighboring communities, feel free to give up some of your
13 land as options, you know? That's all I've got to say.
14 Thank you. Thank you for the time.

15 MADAM EXAMINER: Thank you. So, Mr. Brown -- go
16 ahead.

17 MR. ASPAVIDO: By the way, I have been a resident
18 of Forest Heights since 2003.

19 MADAM EXAMINER: Mr. Brown, do you have any
20 questions?

21 MR. BROWN: No questions. Thank you.

22 MADAM EXAMINER: Ms. Scudder?

23 MS. SCUDDER: Just a couple. I just wanted to ask
24 you, sir, did you attend the public meeting at the town of
25 Forest Heights when the developer presented this project in

Page 131

1 a public meeting --

2 MR. ASPAVIDO: That was not advertised --

3 MS. SCUDDER: -- that was on --

4 MR. ASPAVIDO: -- widely enough for us to know.

5 MS. SCUDDER: -- December 19, 2019?

6 MR. ASPAVIDO: That is, again, because most --

7 MS. SCUDDER: That was on December 19th.

8 MR. ASPAVIDO: Again, as most of the people before
9 me have said, that wasn't widely advertised enough for us to
10 know. I read the newsletter religiously every month because
11 my wife likes to make sure we are up-to-date with
12 everything; so, I can guarantee you that if it was
13 mentioned, it was probably a footnote. The only, the only -
14 -

15 MS. SCUDDER: Well, what about the second --

16 MR. ASPAVIDO: The only meeting that I have
17 attended that we kind of knew about all, about this, is that
18 Zoom meeting where it came out that the letter was written
19 on behalf of the town without council members even knowing
20 about it, and you were there --

21 MS. SCUDDER: Okay.

22 MR. ASPAVIDO: -- you remember that.

23 MS. SCUDDER: Well, I'm sorry that you did not
24 know about the meetings. I mean there have been three
25 meetings, three public meetings at the town of Forest

Page 132

1 Heights that were open --

2 MR. ASPAVIDO: I'm sure, I'm sure, I'm sure they
3 have, but if you guys made an actual effort to contact
4 people the way you made an effort to contact Fort Washington
5 people, remains to be seen, because as you heard --

6 MS. SCUDDER: Who is your council member? Who is
7 your council --

8 MR. ASPAVIDO: I believe Mr., I believe Mr.
9 Kennedy is one of them right now, and Mr. Atkins.

10 MS. SCUDDER: Okay. Well, they were there when we
11 presented to the town.

12 MR. BROWN: Ms. Scudder --

13 MR. ASPAVIDO: Ma'am, the fact that they were
14 there makes no difference to me. That doesn't mean I know
15 about it.

16 MR. BROWN: Mr. Aspavido --

17 MR. ASPAVIDO: Yes?

18 MR. BROWN: -- just for the record, none of these
19 citizens are required to go to the Forest Heights meeting,
20 okay? So, that line of questioning, you know, I think you
21 need to end.

22 MR. ASPAVIDO: That's fine with me. Like I said,
23 just because the council members were present --

24 MADAM EXAMINER: One second, Mr. Aspavido. I have
25 to rule.

Page 133

1 MR. ASPAVIDO: Yes.

2 MADAM EXAMINER: I would only overrule in the
3 sense that Mr. Aspavido said he had no knowledge, but I was
4 going to stop the part about your council member was there
5 because that became testimony and the attorney can't
6 testify. Okay. So, we've had enough. I agree we've had
7 enough along this line. I think she was just responding to
8 Mr. Aspavido.

9 MR. ASPAVIDO: Well, my, my biggest --

10 MADAM EXAMINER: Do you have any other questions?

11 MR. ASPAVIDO: My, my biggest concern is when my
12 council members at that Zoom meeting say they didn't know
13 anything about it, I mean how are we supposed to know at
14 that point? And, Ms. Scudder, you were there, so you heard
15 about it. And once that line came out, that Zoom meeting
16 went so quiet you could hear a pin drop. So, but again, I'm
17 just voicing my opposition. That's all I'm here for.

18 MADAM EXAMINER: Thank you, sir. Any -- no
19 other? Okay. Thank you so much, Mr. Aspavido.

20 MR. ASPAVIDO: Thank you for your time.

21 MADAM EXAMINER: Next we will call Pamela Goddard.
22 Maybe.

23 MS. GODDARD: My apologies. I was trying to get
24 my camera to cooperate. So, my name is Pamela Goddard. I
25 live at 12 Olivewood Court in Greenbelt, Maryland. I've

Page 134

1 been a Prince George's County resident for 32 years.
2 MADAM EXAMINER: Okay. Ms. Goddard, do you swear
3 or affirm under the penalties of perjury that the testimony
4 you shall give will be the truth and nothing but the truth?
5 MS. GODDARD: I do. And I do --
6 MADAM EXAMINER: Ms. Goddard --
7 MS. GODDARD: Yes?
8 MADAM EXAMINER: -- if I may before you start, you
9 submitted a letter on March 16, 2021, on National Parks
10 Conservation Association letterhead?
11 MS. GODDARD: Yes, ma'am, and I was going to ask
12 Mr. Brown, listening to the previous comments you've made to
13 other organizations exactly what do you need for me to
14 assure you that these are official, I have the authority to
15 speak on behalf of NPCA? Do you need a letter --
16 MADAM EXAMINER: Before he answers, let me finish
17 my thing, and that's number, that's Exhibit 38 in the
18 record. Okay. Go ahead, Mr. Brown.
19 MR. BROWN: What is the name of your organization?
20 MS. GODDARD: The National Parks Conversation
21 Association. We're a non-profit in Washington, D.C., that
22 works throughout the United States.
23 MR. BROWN: Yes, I would have to have, and every
24 organization that speaks is required to submit this
25 document; a document that indicates that organization met on

Page 135

1 a particulate date and time, took a vote, or whoever is
2 authorized to allow the position to be articulated in this
3 hearing; and that you are authorized to speak on their
4 behalf.
5 MS. GODDARD: All right, sir. I will go ahead and
6 get that to you. When does the record close that you would
7 need that authorization?
8 MADAM EXAMINER: Ms. Goddard, we are definitely
9 having another hearing in this matter, so if you want, I
10 mean you can testify today, but you can't testify again.
11 So, if you want to wait until the following hearing and be
12 able to submit that information in the meantime, whichever
13 you prefer.
14 MS. GODDARD: Well, can I proceed as a resident of
15 Prince George's County and then I will get an official
16 National Parks Conversation Association, if they, we can
17 submit official testimony then.
18 MADAM EXAMINER: Okay. That's all right. You're
19 testifying on your own behalf right now, and then a letter,
20 Exhibit 38, it can still stay as an exhibit, Ms. Poteat. It
21 won't be officially part of the record unless and until we
22 get the authorization letter that People's Zoning Council
23 requested. So, what would you like to say on your own
24 behalf, Ms. Goddard?
25 MS. GODDARD: So, I'd like to say that I am a 32-

Page 136

1 year resident of Prince George's County. I have worked on
2 conservation for 34 years, and for the last, since 2011,
3 with the exception of this past year with the pandemic, I
4 have brought hundreds of citizens to Oxon Hill Park to
5 perform community service, mainly cleaning up the cove and
6 other work to help the National Park. And so, as a
7 resident, I do want to speak out against this project.
8 I also visit the park regularly with my family
9 pre-pandemic. I have not been to the park in the last year
10 as I'm not traveling. I am concerned about the impacts to
11 historic structures. I'm concerned about the stormwater
12 run-off, air, noise and light pollution; and I'm concerned
13 about the impacts to the view shed.
14 As a Prince George's County resident, I share what
15 many citizens have already testified, is that we do not have
16 the access to amenities that we would like, and often
17 development is built through our County that we do not, we
18 cannot access, and we do not have the benefit of; but this
19 project is built, being proposed in the wrong place. It
20 will have negative impacts to the national park that I care
21 deeply about; it will have negative impacts to water
22 quality, air quality, light pollution and noise; and a huge
23 concern that I have as a resident is that there's no public
24 transportation to this site. As has been said by the Park
25 Service and others, there is an entrance road, Bald Eagle

Page 137

1 Road, and there's a park entrance road; and I have driven,
2 you know, many times with volunteers into that area. It's,
3 it's very tightly built and I don't understand how it can be
4 accommodated by hundreds, if not thousands, of vehicles
5 every day.
6 I look at the Maryland DOT plans. I see no plan
7 for widening that road, Bald Eagle Road, and it cannot be
8 widened on three, on two sides because the Park Service owns
9 that property; and so, they would have to sign off on that,
10 and they've said in their statement they will not sign off.
11 So, my big concern is impacts to the National
12 Park, the impacts to the environment, and a huge hole that I
13 see is if the zoning is changed, how is the County going to
14 deal with that kind of transportation situation with no
15 public transportation options. Thank you for allowing me to
16 present my views. I appreciate it.
17 MADAM EXAMINER: Thank you. Mr. Brown?
18 MR. BROWN: Yes. Ms. Goddard, are you on a
19 computer?
20 MS. GODDARD: I am, sir.
21 MR. BROWN: Would you please turn on your video?
22 MS. GODDARD: I'm trying. I guess I would have to
23 quit and sign in again.
24 MR. BROWN: All right. Okay. Don't quit. All
25 right.

Page 138

1 MS. GODDARD: I --
2 MR. BROWN: Will all of the witnesses, even though
3 this is new to everyone, you're required when you testify to
4 turn on your video so we can assess the credibility of your
5 testimony. And so, unless you do not have the technology
6 available and you're on a telephone --
7 MS. GODDARD: Here I am, sir. I figured it out.
8 MR. BROWN: All right. That's great. Now I guess
9 my only question was, you indicated you are a Prince
10 George's County resident, correct?
11 MS. GODDARD: Yes, sir, 34, 32 years.
12 MR. BROWN: And you gave us your address earlier.
13 How far -- or did you give your address? I thought you did.
14 MS. GODDARD: I did. I'm in Greenbelt, Maryland,
15 and I'm approximately 20 miles from the park and from the
16 site.
17 MR. BROWN: All right. Thank you. No other
18 questions. Thank you.
19 MS. GODDARD: Thank you, sir.
20 MADAM EXAMINER: Ms. Scudder?
21 MS. SCUDDER: Yes. I would, I would, ma'am, I
22 would just like to ask you if you are aware that the entry
23 is entirely on State Highway's property?
24 MS. GODDARD: The current entryway is, ma'am, but
25 to accommodate that type of traffic, I cannot imagine how

Page 139

1 that small, winding road, which is a historic road, the
2 design dates back to the 1850s, how it can accommodate the
3 amount of traffic. And I know in some of the things I read
4 online from the developer's perspective was that there was
5 a, a desire to widen that road. I know from personal
6 experience driving in there how difficult it is, how it's
7 hard to -- any small amount of traffic can cause a back-up;
8 and a huge public safety concern I have is suppose there is
9 a large fire or a medical emergency, if this development
10 would be built, that's the only entrance and exit way. I
11 imagine there's going to be all kinds of public safety
12 issues. Are you suggesting that you're not proposing
13 expanding the road or the driveway, Ms. Scudder?
14 MS. SCUDDER: No, I did not suggest that, but you
15 should, you're welcome to stay with us today and you'll see
16 and hear more detail about what the proposal is for the
17 roadway network there.
18 MS. GODDARD: Thank you.
19 MS. SCUDDER: One more, I don't have any more
20 questions for you.
21 Madam Examiner, I would just like to ask will we
22 be, will we have an opportunity to cross-examine when she
23 comes back with the letter from her organization?
24 MADAM EXAMINER: Yes. And I have one more
25 witness. Thank you, Ms. Goddard.

Page 140

1 MS. GODDARD: Thank you.
2 MADAM EXAMINER: Ms. McDowell?
3 Ms. MCDOWELL: Okay. Hi, there. Let me get my
4 notes up.
5 MADAM EXAMINER: And I would note before I swear
6 Ms. McDowell, that she has an exhibit in the record as well
7 as Exhibit 40.
8 Ms. MCDOWELL: Thank you.
9 MADAM EXAMINER: And can testify as to it. Ms.
10 McDowell, do you swear or affirm under the penalties of
11 perjury that the testimony you shall give will be the truth
12 and nothing but the truth?
13 Ms. MCDOWELL: I do.
14 MADAM EXAMINER: Okay. State your name and
15 address for the record, and then you may proceed.
16 Ms. MCDOWELL: Tina McDowell, 5909 Blackhawk
17 Drive, Forest Heights, Maryland. I was struck by the all
18 but one, I believe all but one of the witnesses, citizen
19 witnesses for support were from Fort Washington or Oxon
20 Hill. Troy Lilly is from Forest Heights on Arapahoe, which
21 is on the other side of 210 and is not as directly affected
22 by this project.
23 Interestingly, the person who just talked on Crea
24 Road in opposition of the, of the project had said that, you
25 know, they are most directly affected. That is true because

Page 141

1 they're also in a valley, but Forest Heights means there are
2 heights here, and I happen to be on the heights. I'm above
3 Crea Drive; and since my testimony that I submitted has
4 visuals in it, which I can't do here except with here's,
5 here's the beautiful hill that I overlook, it's like in a
6 Smoky Mountains, Crea Drive is below, which adjoins that
7 property, and I'm up on a bluff that overlooks all of that
8 lovely wooded property, as are countless other houses,
9 hundreds I would say, at least 200, I passed out pamphlets
10 about this meeting and the town meeting, who have this view,
11 plus more, and that is what will be affected. And it will
12 be affected by a large, high-rise to mid-rise development,
13 otherwise you wouldn't be needing to change the zoning from
14 rural and single-family to high-density.
15 Multiple agencies are against the rezoning and
16 development. The P.G. County Planning Department, the
17 Development Review Division, recommends disapproval for the
18 rezoning and I would like to quote from that report. "The
19 proposed development will be commanding, dominating and
20 overwhelming, and overshadowing the existing neighborhood to
21 the east that will create a stark visual contrast between
22 the low, tiny, single-family detached home, and the tall,
23 massive, mid to high-rise buildings." That's page 21. I
24 put an appendix in my testimony with page screen saves from
25 each of these documents.

Page 142

1 MADAM EXAMINER: Ms. McDowell, if I may --
2 Ms. MCDOWELL: I do know --
3 MADAM EXAMINER: -- Ms. McDowell, would you like
4 us to pull up Exhibit 40?
5 Ms. MCDOWELL: Oh, if you, that, that would be
6 terrific. I would love that.
7 MADAM EXAMINER: I was just trying to break in.
8 Ms. MCDOWELL: I'm so sorry. I was focused on my
9 notes. Yes, thank you so much.
10 MADAM EXAMINER: If we can, Ms. Bah, do you think
11 you could pull up Exhibit 40? I believe it's in Binder 2.
12 Ms. MCDOWELL: Yes, Binder 2 starts on page 7.
13 There we go. Now do I, do I --
14 MADAM EXAMINER: Ms. McDowell, are you, would you
15 like her to give you the ability to scroll through this or
16 are you not really --
17 Ms. MCDOWELL: That would be great. That would be
18 terrific. I had no idea this was going to be allowed. This
19 is wonderful. I appreciate this very much.
20 MS. BAH: Okay. You now have access.
21 Ms. MCDOWELL: So, what do I, okay, I can control
22 just -- yeah, here we go, I guess. It's slow. Okay.
23 Here's the orientation of the site. It's kind of slow,
24 sorry, folks. Why is this so slow? I'm trying to figure it
25 out. Page down doesn't want to work. It was scrolling.

Page 143

1 Okay. So, this is, I don't know if you can see my cursor or
2 what you see, but this is part of the hill. This is to the
3 right and up the hill here, we're just going to go up the
4 hill to the right and we're going to go to the heights of
5 Forest Heights; and this are the view, this lovely forested
6 hill there is viewable to countless houses around Forest
7 Heights, and this is the joy of living here. I've been here
8 for 24 years, and to be honest, I always thought that was
9 parkland that I was looking at and it would never go away
10 until seeing that sign in January, January 10th to be
11 precise.
12 So, this is the concept drawing that was put in,
13 it's in the, it's, it starts on page 781 of Binder 1 of the
14 1,433 page document. You can see multiple views of this
15 huge development. That's MGM, Alexandria is over here, tiny
16 little Forest Heights is over here. So, I just want to sort
17 of give you -- my house is like right there and it's going
18 to look into that. I won't even get to see the sun, and I
19 have a pass of solar all winter, or will, except if this
20 shows up.
21 All right. I read this thing from the P.G. County
22 Planning Department. The National Park Service is also
23 opposed, but I'm going to in a moment read a quote from the
24 former superintendent of that. She submitted a letter and
25 this is part of the appendix.

Page 144

1 As also was mentioned before, the Historic
2 Preservation Section of P.G. County says the rezoning is,
3 quote, "Incompatible with the surrounding area." The
4 negative impacts from the zoning change and development, the
5 mature forest in Forest Heights is an ecosystem that extends
6 to the Oxon Hill Farm Park, obviously a national park, into
7 Southeast D.C. and, of course, includes Forest Heights. As
8 David, my neighbor on Crea said, the forest is territory to
9 wild turkey, pileated woodpeckers, bald eagle, our national
10 bird, fox, deer and countless other flora and fauna, and
11 this ecosystem would be gutted by no matter what development
12 is there if it's high-rise, mid-rise, or less.
13 The high-density high-rise development would
14 significantly increase noise; traffic; pedestrian; bicycles
15 and autos; air pollution; light pollution; heat generation,
16 which is important; run-off and more. This is significant.
17 From the report on page 25, the significant increase in
18 traffic would change from daily trips under the existing
19 zoning of 558 to total daily trips under the proposed
20 rezoning of 13,429. That is a lot. The P.G. County Zoning
21 Staff also notes that the sites contain steep slopes in
22 several locations and these areas are underlaying with
23 sassafras and soils which are highly erodible. We know what
24 that means, more run-off for the folks down there in the
25 lower parts of Forest Heights.

Page 145

1 This I find important. Christine Smith was the
2 superintendent of the Park Service and said, quote, "The
3 introduction of any higher density use than currently zoned
4 for will have profound impacts on the historic setting of
5 the park and the world experience park visitors. The
6 proposed changes in zoning will greatly impact the park's
7 view shed with the introduction of high-rise structures that
8 will be seen from all areas of the park's farm historic
9 core. The proposal mentions the value of the view that will
10 be enjoyed from the proposed high-rise construction, but
11 does not consider the impacts to the view shed that this
12 project will create for existing neighborhood residents,
13 that's all of us, that oppose this here in Forest Heights or
14 the park. That is also in the appendix. Other folks have
15 talked about the Butler House and Historic Preservation
16 Commission recommends that the proposed rezoning is
17 incompatible with rural historic character of the historic
18 site.
19 Now the benefits of the existing zoning and land
20 use are pretty clear. Mature forests, such as this one,
21 absorb carbon dioxide, a major driver that is heating the
22 planet. The forest provides natural filtering and cooling
23 that helps combat heating, the heating planet.
24 Jurisdictions all over the world are planting more trees for
25 these reasons and we already have them. The P.G. Zoning

Page 146

1 rewrite document outlines the goal of Plan 2035 Land Use.
2 Among them, it emphasizes the natural environment to
3 preserve, enhance and restore our natural and built
4 ecosystems to improve human health, strengthen our
5 resilience to changing climate conditions, and facilitate
6 sustainable economic development.
7 We have plenty of built-up commercial property in
8 this area, National Harbor, the outlet mall, Top Golf, and
9 MGM, to name a few, with their many, many, and increasing
10 traffic noise and pollution problems. We don't need any
11 more development. Preserving this 20-acres existing zoning
12 would help fulfill the P.G. County sustainability goals as
13 outlined and planned, 2035; goal number four, keep the
14 forest in Forest Heights. Thank you. And if you want to
15 see where this information came from, here's all the traffic
16 data and whatnot. You can go there.
17 I'm finished with the exhibit. I do appreciate
18 you allowing me to show it. You can take away. Do I have
19 to take it always, or you take it away?
20 MADAM EXAMINER: Ms. Bah will take it always.
21 Ms. MCDOWELL: Okay. Take it away. Thank you
22 very much. I did not expect that.
23 MADAM EXAMINER: Okay. Mr. Brown, do you have
24 questions?
25 MR. BROWN: No questions, thank you.

Page 147

1 MADAM EXAMINER: Ms. Scudder?
2 MS. SCUDDER: Yes, I just have a couple of
3 questions for Ms. McDowell related to her testimony
4 concerning the Historic Preservation Commission. Ms.
5 McDowell, you, you stated that the Historic Preservation
6 Commission recommended that the proposed rezoning is
7 incompatible with the rural historic character of the
8 adjacent historic site. Are you referring to Park and
9 Planning Technical Staff with respect to that
10 recommendation, or are you referring to the Historic
11 Preservation Commission?
12 Ms. MCDOWELL: I, well, it's in the appendix
13 there. So, let me just bring this up here and I can get you
14 the exact thing. I don't want to be wrong. Okay. So, this
15 is from, that quote is from the, it's dated November 10,
16 2020, the Maryland National Capital Park and Planning
17 Commission County-wide Planning Division, Historic
18 Preservation Section, and it's page 9 of my testimony; and
19 it's under the recommendation, page 2 of that.
20 MS. SCUDDER: Yes, ma'am, I'm aware of what you're
21 referring to. That's the Park and Planning Technical Staff
22 that recommended that.
23 Ms. MCDOWELL: Okay.
24 MS. SCUDDER: And I just wanted to ask you, are
25 you aware that this case went before the Historic

Page 148

1 Preservation Commission?
2 Ms. MCDOWELL: Well, perhaps I thought that that
3 was what this is.
4 MS. SCUDDER: No, so the, what you're referring to
5 is the Technical Staff's recommendation.
6 Ms. MCDOWELL: Okay.
7 MS. SCUDDER: So, you're not aware -- okay. So,
8 you're not aware that the case went before the Historic
9 Preservation Commission then is what you're saying?
10 Ms. MCDOWELL: Well, I just told you, I thought
11 that's what this was, so I mean, obviously, I don't know the
12 A, B, C's of the County stuff and I apologize for that.
13 MS. SCUDDER: Okay. Okay. Are you aware that the
14 Historic Preservation Commission, after receiving a
15 presentation from the applicant, actually voted not to adopt
16 the recommendation of Staff?
17 Ms. MCDOWELL: No, I did not know that.
18 MS. SCUDDER: Yes, ma'am, they actually took a no
19 vote.
20 MADAM EXAMINER: Ms. Scudder, do you happen to
21 know the exhibit numbers so that the witness can look at it
22 later?
23 Ms. MCDOWELL: Yeah, that would be great. Thank
24 you.
25 MS. SCUDDER: One moment.

Page 149

1 MADAM EXAMINER: And while she's looking, I do
2 want to note that my printer died on me, so I can't, I
3 didn't print all the documents; and if I leave this screen,
4 I'm going to lose all of you. So, that's the only reason
5 I'm not jumping in with the exhibit number.
6 Ms. Poteat, do you see the exhibit number for
7 that, you got it, Ms. Scudder? Okay.
8 MS. SCUDDER: One exhibit number is 56. Now 56 is
9 --
10 MADAM EXAMINER: Okay.
11 MS. SCUDDER: -- is the summary of the actions
12 that were taken on November 17, 2020, which was the action
13 taken by, was prepared after the applicant presented to the
14 Historic Preservation Commission. So, Exhibit 56 is the --
15 MADAM EXAMINER: So --
16 MS. SCUDDER: -- the Prince George's County
17 Historic Preservation Commission summary of actions dated
18 11/17, 2020.
19 Ms. MCDOWELL: So, is, because I downloaded the
20 Binders 1 and Binders 2, and it doesn't, well, if it does, I
21 didn't see where they give exhibit numbers. Do you have a
22 page number for that where I can look at it later? We don't
23 need to do this and waste everybody's time, but I would like
24 to look at it.
25 MS. SCUDDER: I do not have a page for you --

Page 150

1 MADAM EXAMINER: Miss, oh, you do?
2 Ms. MCDOWELL: Okay.
3 MS. SCUDDER: No, I don't. I don't have a page
4 number, but I can get that for Ms. McDowell.
5 MADAM EXAMINER: Ms. Bah, could you pull up
6 Binder 2, Exhibit 56, and then at the top we would see what
7 page number, I think.
8 MS. SCUDDER: I have Binder 2.
9 MADAM EXAMINER: You do have it? Okay. So, if
10 you, it looks like it starts on page 164.
11 MS. MCDOWELL: Okay. I'll take a look at it.
12 Thank you.
13 MADAM EXAMINER: Thank you, Ms. Bah.
14 MS. BAH: No problem.
15 MS. SCUDDER: Madam Examiner, will Ms. McDowell be
16 allowed to testify again at the second hearing, or is this -
17 -
18 MADAM EXAMINER: I don't think so. Ms. McDowell,
19 you were just testifying on your own behalf, correct?
20 Ms. MCDOWELL: Yeah, I'm just me. I'm just a
21 member of the public, a resident, that's all I am.
22 MADAM EXAMINER: That's important. Don't say it
23 like that.
24 Ms. MCDOWELL: Thank you.
25 MADAM EXAMINER: So, do you have any further

Page 151

1 questions of her? We can't hear you.
2 MS. SCUDDER: Her, her only opportunity to testify
3 before the Zoning Hearing Examiner?
4 MADAM EXAMINER: Pardon me?
5 MS. SCUDDER: Sure, if she --
6 MADAM EXAMINER: You're going in and --
7 MS. SCUDDER: -- is going to be allowed to --
8 MADAM EXAMINER: I'm not even sure who is talking
9 right now. Is it you, Ms. Scudder --
10 MS. SCUDDER: Because we would like to cross-
11 examine her in the --
12 MADAM EXAMINER: Like to cross-examine her in the
13 future?
14 MR. BROWN: Now that's, that's not possible --
15 MS. SCUDDER: Testify again?
16 MR. BROWN: The only opportunity to cross-examine
17 Ms. McDowell would be now.
18 Ms. MCDOWELL: Everything is frozen up. Is
19 everybody else frozen.
20 MADAM EXAMINER: Right. I'm noticing that as
21 well, Ms. McDowell. Check, Ms. Scudder, you're, you're
22 frozen.
23 MS. MCDOWELL: She -- she's mute, but I think she
24 momentarily unfroze. She can't, she --
25 MADAM EXAMINER: Okay.

Page 152

1 Ms. MCDOWELL: I'm not sure what to do.
2 MADAM EXAMINER: Well, you wait a second, Ms.
3 McDowell.
4 Ms. MCDOWELL: Okay.
5 MADAM EXAMINER: We can't hear you, Ms. Scudder.
6 Okay.
7 MS. GODDARD: Madam Examiner, may I ask a question
8 of Mr. Brown again? This is Pamela Goddard. While we're --
9 MADAM EXAMINER: Sure.
10 MS. GODDARD: Sir, just, I just wanted to clarify
11 because I want to get you what you need --
12 MS. SCUDDER: I have a little freezing happening
13 here.
14 (Discussion off the record.
15 MADAM EXAMINER: Mr. Brown?
16 MS. SCUDDER: Ms. McDowell can't hear either.
17 MR. BROWN: Yes?
18 MADAM EXAMINER: Are you able to access chat?
19 MR. BROWN: Yes.
20 MADAM EXAMINER: Can you write in there what you
21 want Ms. Goddard to supply?
22 MR. BROWN: Sure.
23 MS. GODDARD: I'll submit, I'll submit a chat to
24 Mr. Brown because my organization doesn't vote the way you
25 outlined, so I'll send -- and, or perhaps I can send you may

Page 153

1 email and ask you to, and ask for yours so I can get
2 clarify. I just want to make sure I get what you need.
3 MR. BROWN: That will be fine. Thank you.
4 MS. GODDARD: Thank you, sir.
5 MR. BROWN: Ms. Scudder, if you can hear us at
6 all, maybe you need to log out and log back in?
7 MS. SCUDDER: I can hear you now. I'm back.
8 MR. BROWN: All right.
9 MADAM EXAMINER: Okay. He was objecting to you
10 calling Ms. McDowell later. This is her testimony. This is
11 the time to cross-examine, and unless you have some good
12 cause as to why you can't cross-examine her right now. And
13 now you're frozen. Oh, my goodness.
14 MR. BROWN: Ms. McDowell, is there anyone else in
15 your room with that background noise? No?
16 Ms. MCDOWELL: Oh, mine? Yeah. Let me shut the
17 door. Is that it?
18 MR. BROWN: Yes, thank you.
19 UNIDENTIFIED FEMALE SPEAKER: I agree with Stan.
20 Maybe Traci could log out and log back in?
21 MS. SCUDDER: Can, can you hear me now okay, or am
22 I breaking up, because I'll do that if you all can't hear me
23 now. Okay.
24 MADAM EXAMINER: One second. Ms. Goddard, I'm
25 just going to email to you and Mr. Brown where you should

Page 154

1 see each other's email. Okay. Go ahead, Ms. Scudder. Now
2 we don't see her.
3 Ms. MCDOWELL: Did she disappear or did I --
4 MADAM EXAMINER: Okay. We are going to --
5 UNIDENTIFIED FEMALE SPEAKER: Going to have to log
6 out and log back in, Maurene.
7 MR. BROWN: Madam Examiner, while we're waiting
8 for her, several people have asked me how long we're going
9 to go today, so I may want to, you know, notify them of
10 that?
11 MADAM EXAMINER: We may be ending very soon. I
12 can't go any longer than 4 o'clock, in any event.
13 MR. BROWN: That's what I was telling them. Okay.
14 Thank you.
15 MADAM EXAMINER: And, Ms. Rawlings, when would our
16 next date be?
17 MS. RAWLINGS: Our next date would be April 28th.
18 MADAM EXAMINER: So, Ms. --
19 MS. EGLOFF: Karen Egloff here.
20 MADAM EXAMINER: I was getting ready to call on
21 you, so get that?
22 MS. EGLOFF: Yeah, I did. I'd like a further out
23 date because there's so many people that are, it's obvious
24 from this hearing, so many people that have not been, had
25 any knowledge of these proceedings. There's so much to get

Page 155

1 caught up on, to try to have other communities that are
2 nearby understand the magnitude due to their community. I'm
3 thinking of the South Lawn community that has possible view
4 shed of this monstrosity; so, you know, it's just so much to
5 digest and to understand. I don't even remember the rules.
6 I remember participating --
7 MR. BROWN: Now, now if you could wait for a
8 moment until the attorney for the applicant comes --
9 MADAM EXAMINER: Right. Thank you.
10 MS. EGLOFF: Okay.
11 MADAM EXAMINER: Yeah.
12 MS. EGLOFF: Okay. Well, this is a question for,
13 this is a Zoning Hearing Examiner question.
14 MR. BROWN: But --
15 MADAM EXAMINER: But everyone has the right to
16 hear my response to it.
17 MS. EGLOFF: Oh, okay. Okay. All right.
18 MR. FERGUSON: Madam Examiner, Mark Ferguson for
19 the record. I just spoke with Traci's office. She's having
20 some Internet issues and I advised her she might want to try
21 calling in, but she's working on it.
22 MADAM EXAMINER: Okay. Thank you, Mr. Ferguson.
23 And, Mr. Ferguson, oh, there she is.
24 MR. FERGUSON: Yes, yes, ma'am. Okay.
25 MADAM EXAMINER: She came back. Okay. So, you

Page 156

1 can hear us?
2 MS. SCUDDER: Yes, ma'am, I can hear you now.
3 Sorry about that.
4 MADAM EXAMINER: Ms. Scudder, I can't go today any
5 longer than 4 o'clock. The next date available for a
6 hearing is April 28th, and Ms. Egloff is now explaining why
7 that hearing date is not a good time for her. So, go ahead,
8 Ms. Egloff.
9 MS. EGLOFF: Not necessarily for me. I'm, I'm, my
10 concern is after hearing the testimonies today, of how
11 little interaction and outreach with the nearby communities
12 has actually happened. It is, it is truly appalling to have
13 the mayor have sent a letter without support of her council
14 people; it is appalling that the people of Forest Heights --
15 MR. BROWN: One second.
16 MS. EGLOFF: -- know --
17 MR. BROWN: Madam, Madam Examiner, if I can
18 interrupt please?
19 Ms. MCDOWELL: Okay.
20 MR. BROWN: Ms. Egloff has testified and --
21 MS. EGLOFF: Well, no --
22 MADAM EXAMINER: Yeah.
23 MS. EGLOFF: -- not --
24 MR. BROWN: (Indiscernible) procedure with regards
25 to scheduling the next hearing, you know, then we can talk

Page 157

1 about procedure, but we get into characterizing the
2 testimony, Ms. Egloff.
3 MS. EGLOFF: Okay. I'm sorry. I'm sorry. Let me
4 curtail it. I can --
5 MADAM EXAMINER: Then thank you.
6 MS. EGLOFF: I tend to be worried, but I'm asking
7 for more time because of how it became, you know, people
8 seem to be so unaware, the people who are impacted, and
9 myself included. So, I wanted the whole hearing to be
10 continued because the developer had asked for a continuance
11 from the hearing in February, and so I, I actually thought
12 it was kind of a rule that it, if the other side asked for a
13 continuance, that it was automatically granted. Maybe I'm
14 just, you know, not correct in that, but --
15 MR. BROWN: (Indiscernible).
16 MS. EGLOFF: -- the fact is, is that uninformed.
17 MR. BROWN: Normally, you deal with the procedure
18 of scheduling the next hearing at the end of this hearing,
19 and since we're going to stop at 4 o'clock, don't you think
20 it would be wise to continue with the witnesses that are
21 here and available, and we'll deal with this scheduling
22 issue later?
23 MADAM EXAMINER: Sure, but I was wondering if Ms.
24 Scudder just wanted to wait for any more of her major
25 witnesses because I now have another citizen that would like

Page 158

1 to testify today and not come back. So, Ms. Egloff, we'll
2 get right back to you; but I do want you to, if you have a
3 copy of Exhibit 1, it does tell you on the front that there
4 was an informational mailing on this request in February of
5 2019, and it was accepted in August of 2020, and then the
6 Staff Report came out in November, and then there was a
7 continuance. So, there's been a long time with this case
8 and that's why I thought we should start today because that
9 also would have given any citizens an opportunity to see
10 what it is, truly see what it is that's being proposed.
11 However, we haven't gotten too many of those witnesses yet,
12 so I mean I really believe that if we don't get too many
13 today, that it may be beyond the 28th. We have one more
14 date in May. So, that's the usual, even more than the usual
15 amount of time given for these zoning hearings; but we'll
16 get back to that and we'll take Ms. Mau's testimony now.
17 Are you ready, Ms. Mau?
18 MS. MAU: Sure.
19 MS. SCUDDER: Madam Examiner, was that Ms.
20 Egloff's opportunity to testify today? I'm sorry. There
21 was a bad connection and I --
22 MADAM EXAMINER: She, she didn't know, no, it
23 wasn't Ms. Egloff. I had already told her we would probably
24 have the next date, but she doesn't like that date either.
25 So, I want to stop that part of this discussion and just

Page 159

1 finish with Ms. Mau because she is a citizen that's waited
2 and is prepared to testify now.
3 MS. SCUDDER: Yes, ma'am.
4 MADAM EXAMINER: Okay.
5 MS. SCUDDER: Thank you.
6 MADAM EXAMINER: And tell me that I haven't killed
7 your name this whole time. Is it Mau?
8 MS. MAU: It is. You did a great job. Thank you.
9 MADAM EXAMINER: Okay. Do you swear or affirm
10 under the penalties of perjury that the testimony you shall
11 give will be the truth and nothing but the truth?
12 MS. MOUW: Yes, ma'am.
13 MADAM EXAMINER: Okay. So, just state your name
14 and address, and then let me know what you want to about
15 this application. Thank you.
16 MS. MOUW: Thank you. My name is Traci Mouw and I
17 live at 5807 Blackhawk Drive in Forest Heights 20745. So,
18 I'm very close to where this development may take place and
19 it's also within my view shed. So, I did submit a letter.
20 I'm wondering did it make it to the exhibits?
21 MADAM EXAMINER: It did. I had it just a second
22 ago. I apologize.
23 MS. MOUW: Well, I planned to read a little bit
24 from that, if that's all right?
25 MADAM EXAMINER: Okay. And I'll find it in a

Page 160

1 second.
2 MS. MOUW: Okay. So, I'm a new resident of Forest
3 Heights, but the reason that I chose to live here is, you
4 know, the name, as well as the beautiful trees that are
5 here. I've been working in nutrition and agriculture for
6 the last two decades and I really value being able to garden
7 and grow my own food, as well as having a place for
8 pollinators and having an ecologically continuous area where
9 the birds and all of the animals that were mentioned before.
10 I do value them. I, I like animals, so the next time you
11 refer to, our neighborhood is like rattlesnakes and mud, but
12 that is not how I view it. It is some, those are things
13 that I value.
14 MADAM EXAMINER: Ms. Mouw --
15 MS. MOUW: Yes?
16 MADAM EXAMINER: -- Ms. Mouw, one second, I found
17 it. It's Exhibit 41 if anyone wants to follow along. Go
18 ahead, ma'am.
19 MS. MOUW: Okay. Okay. Thanks. So, as I
20 mentioned, I'm new. So, before buying my home with this
21 gorgeous garden space that I love, I did do my due diligence
22 and I read the P.G. County's reports, as well as the support
23 of P.G. County and the environment; and I also looked up,
24 you know, what the zoning was between me and the park, and I
25 did see that I was residential.

Page 161

1 So, then I looked at the Sector Plan that I think
2 other people have mentioned and, you know, none of this is
3 mentioned on either of those short-term, long-term or even
4 the medium term; and I note this was owned by someone else,
5 but it, you know, definitely set the expectation as a, you
6 know, when I'm purchasing the home that the, we would use,
7 P.G. County would follow its plan, especially with respect
8 to zoning.
9 I do support the plans of Eastover. I think that
10 building equitably is incredibly important. This plan does
11 not incorporate the folks on East Forest Heights or the
12 folks from Eastover, and I do want to really say that I do
13 support those plans.
14 So, I mentioned, from what I researched, that the,
15 you know, the transition between the National Park to our,
16 you know, spread-out, single-family homes is not very
17 extreme, but I feel like from the, at least some of the
18 plans that I know that this isn't a Site Plan discussion;
19 but it seems that there's a lot of, that that transition
20 would be really disruptive to both the ecosystem, the
21 stormwater, the traffic, and especially the people who live
22 here. And I know people mentioned, you know, going over to
23 Alexandria. You know, Alexandria is a very, you know, long-
24 term, established city. I mean, and if I had wanted to live
25 in Alexandria, I would have moved there. I really like it

Page 162

1 here and I like the way that it is here. I feel like we
2 have, you know, Giant very close to here, so I do want to,
3 unfortunately, voice my opposition to the plan. I'll wait
4 for cross.
5 MADAM EXAMINER: Mr. Brown?
6 MR. BROWN: No questions. Thank you.
7 MADAM EXAMINER: Ms. Scudder?
8 MS. SCUDDER: No questions. Thank you.
9 MADAM EXAMINER: Thank you very much, Ms. Mouw.
10 MS. MOUW: Thank you.
11 MADAM EXAMINER: Okay. So, we're back to Ms., Ms.
12 Scudder, do you have a witness or two that you think you can
13 finish by 4:00?
14 MS. SCUDDER: Yes, I do. I would like to try to
15 actually get through three more if we could. My first two
16 will be pretty short, so I would like to get through three
17 of my witnesses if we could try to do that.
18 MADAM EXAMINER: All right. Who is your first
19 witness?
20 MS. SCUDDER: My first witness is Mr. Rashid
21 Salem.
22 MADAM EXAMINER: Mr. Salem, do you swear or affirm
23 under the penalties of perjury that the testimony you shall
24 give will be the truth and nothing but the truth?
25 MR. SALEM: Yes, ma'am, I do.

Page 163

1 MADAM EXAMINER: Okay.
2 MS. SCUDDER: Good morning, Mr. Salem. I'm trying
3 to get my computer situated here where I can see you.
4 MR. SALEM: Can everyone see me besides Traci?
5 MADAM EXAMINER: I can and that's who is
6 important. No, I'm kidding. Go ahead.
7 MS. SCUDDER: Mr. Salem, please state -- I know
8 you just stated your name, but if you could please state
9 your name again for the record, and the name of your
10 company?
11 MR. SALEM: Sure. My name is Rashid Salem and my
12 company is Petra Development.
13 MS. SCUDDER: And what is the address of your
14 company?
15 MR. SALEM: It is 1875 K Street, N.W. We are on
16 the fourth floor, suite 436 and 438.
17 MS. SCUDDER: And what is your title at Petra
18 Development?
19 MR. SALEM: I'm the principle and owner of Petra
20 Development.
21 MS. SCUDDER: And what is your role, or what are
22 your responsibilities at Petra?
23 MR. SALEM: So, my role and responsibilities
24 really are the vision and growth track of the company. I,
25 of course, deal with deal formation, team coordination. We

Page 164

1 have several different sectors and aspects of the company.
2 We do a lot of our work in-house with architecture and
3 property management construction. I oversee those
4 responsibilities and really just push the, the growth track,
5 the pipeline and vision of, of the company locally in D.C.,
6 Maryland, Virginia, and now nationwide.
7 MS. SCUDDER: If I may ask you about your
8 educational background?
9 MR. SALEM: Sure, yeah. I went to, I studied
10 finance and economics at Charleston Southern University. I
11 played golf. That's what drew me to Charleston in the first
12 place. Didn't know much about real estate from that, but
13 certainly through trial by fire, here we are. So, I
14 learned, I learned a lot since school, let's just say that.
15 MS. SCUDDER: Okay. With Petra being located in
16 D.C., have you mostly been developing in D.C.?
17 MR. SALEM: Yes. So, we started in 2011 in D.C.
18 Our first project was in Columbia Heights right next to the
19 Metro. Went through that process really experiencing a lot
20 of what the city changes were, what the city needs were
21 through 2017. We did projects from Columbia Heights to
22 several places in Northwest, Capitol Hill, and so on and so
23 forth. We, we ended up pivoting to a multi-family model,
24 responding to a lot of what the mayor and what the needs of
25 the city were at the time, which we can certainly talk

Page 165

1 about; but we started there and ended up in Maryland. I'm a
2 native Maryland, I'm from Maryland, so our first project
3 actually is National View in Maryland itself.
4 MS. SCUDDER: What types of projects do you like
5 to do?
6 MR. SALEM: So, we've, over the last four years,
7 we've really specialized in, again, responding to the needs.
8 I mean we, we pay attention to what's going on socially and
9 economically in the country. We felt like what we had seen
10 in D.C. was so many residents were being pushed out of
11 Northwest, and that's where we were developing at the time.
12 And the mayor had a, has an initiative currently of
13 obviously preserving and keeping affordable housing; and the
14 question is how to do that efficiently, efficiently and
15 effectively really to create equitable opportunities in
16 areas where there's a, I would call a high, a high barrier,
17 or high threshold of entry, meaning it's very difficult to
18 sustain affordable housing with, without large government
19 subsidy in what would be considered a prime location or
20 prime area. So, we have tended to focus on urban infill, or
21 transit-oriented developments by preserving really middle
22 housing, affordable housing, senior housing, mixed income
23 housing that otherwise would be pushed either outside the
24 Beltway or to an area that, I guess, you ended up having a
25 lot of, a lot of certain housing pushed to, you know,

1 certain parts of town that, you know, government agencies
2 and cities want to see a more equitable distribution, so
3 that's what we've really responded to and that's what we
4 really enjoy.

5 MS. SCUDDER: So, with regard to the project that
6 is the subject of the application that is before the Zoning
7 Hearing Examiner today, are you the owner of the subject
8 property?

9 MR. SALEM: I am. So, I am 80 percent owner of
10 Harborview Development, LLC. We do have a partner.

11 MS. SCUDDER: Okay. I was just about to ask you,
12 are there any other members of this LLC?

13 MR. SALEM: Yes. Just Robert Vricella.

14 MS. SCUDDER: Okay. And when did you purchase the
15 subject property?

16 MR. SALEM: In January 2019.

17 MS. SCUDDER: And what is your familiarity, or
18 what affiliation do you have with Prince George's County?

19 MR. SALEM: Well, so, I grew up in Anne Arundel
20 County. I actually grew up in Glen Burnie right across from
21 Glen Burnie High School. I went to college in Charleston,
22 moved back to actually the County, Prince George's County in
23 Upper Marlboro. I lived in Upper Marlboro for five years.
24 Several years later, I would say, about seven years ago, I
25 met my wife. My wife lived, was really born and raised in

1 Brentwood, so she's a native Prince Georgian, a native of
2 Prince George's County. And then we, we eventually were
3 married at a Christian Life Center there in Riverdale. So,
4 we have a lot of ties to the County, spent lots of time
5 there, you know, have a lot of friends back in the County.
6 She still has family there, so we're very familiar with the
7 County, have seen a lot of development, and, and the
8 ambitions of the County started to come to fruition over the
9 last several years, so we're excited about it.

10 MS. SCUDDER: And how did you come to acquire the
11 property that is the subject of this application?

12 MR. SALEM: So, I'd say mid-2018, a mutual friend
13 between myself and, and Rob had reached out to me and, and
14 connected us. He was a developer as well. He didn't quite
15 know what to do with the property, and Rob had spent several
16 years, a decade even working with the Butler family,
17 working, working with the town there in Forest Heights on
18 this specific property, and it just happened to be that we
19 had the vision, and the leadership, and the wherewithal to
20 put a plan together and execute a plan. So, we've been
21 working on it for almost three years now.

22 MS. SCUDDER: What did you find most interesting
23 about the property?

24 MR. SALEM: Well, it's a property that I think
25 even Park and Planning probably didn't realize wasn't

1 parkland just given kind of how it's been lumped in between
2 two park, parkland properties. We just found that it's,
3 it's a, it's a site that obviously is supremely located with
4 everything that's going on from Alexandria to Amazon, or
5 that entertainment district in the south part of the County.
6 For us, it's a, it's a, it's a gateway project. I mean
7 it's, it's the other side of the goalpost to National
8 Harbor. It's the first impression that people coming, you
9 know, from I-95 south get of Maryland and get of Prince
10 George's County.

11 We thought that was a tremendous opportunity with
12 plans eventually for the Metro to, to, to come across that
13 part of, of Woodrow Wilson. It's a, it's kind of a, it's a
14 site that will eventually be developed one way or the other
15 just given everything that the growth catalyst, the
16 location, proximity to the city. Obviously, the views are
17 tremendous, it being 200 foot above sea level. And, of
18 course, we believe in parkland; we believe in, you know,
19 green space and having park, we, we looked at it as a very
20 positive thing being next to the parkland.

21 MS. SCUDDER: What would you like to achieve under
22 the concept of National View?

23 MR. SALEM: Well, I think that goes back to its,
24 it's first impression. It's the doorstep of, of the state
25 and the County, and it has a chance, National View has a

1 chance to be a representation of what Maryland is and what
2 Maryland is all about, and just the equitable nature.
3 You're going to have ages of, of, of across the board, you
4 can age in place in the way that we have this set up;
5 incomes of across the board from what we would consider 30
6 percent of adjusted and median income all the way to 120
7 percent of adjusted median income. Everyone is going to be
8 able to afford a place here. Everyone will live together
9 and co-exist and cohabitate together, and eat together, and
10 work out together, and walk together, and drink coffee
11 together. For us, that's very important. We believe that's
12 the future of development and we believe we have a chance to
13 really set the standard for what we would consider a new way
14 of developing and really responding to Plan 2035 and really
15 try to bring a lot of the money that leaves the County back
16 to the County. I think it's important for the residents of
17 Forest Heights; it's important, I mean, you don't have to go
18 very far to see what the EDC puts together in terms of their
19 slideshow, in terms of how much money is lost by residents
20 leaving the County because of lack of options. So, in a
21 small way, we plan to be an answer to that as several other
22 developers have other proposed answers to that as well, and
23 it's good for the County, we believe.

24 MS. SCUDDER: Do you believe National View will be
25 successful at this location?

1 MR. SALEM: We do, absolutely. I mean it's,
 2 National Harbor is there. It's paved the way. We want to
 3 build on the back of National Harbor. We also want to be
 4 different than National Harbor as, as we discussed, from the
 5 mixed income, mixed ages. You know, we're not going to be
 6 as much of a tourist destination, I guess you would say,
 7 with hotels and, you know, MGM and so on, and so forth. We
 8 do plan to connect through public transit with our own
 9 shuttle system so that, that, that's a solution until public
 10 transit gets to this location, which we do believe it will.
 11 There's no reason why it won't be successful.

12 MS. SCUDDER: Okay. Well, that was my final
 13 question for you, Mr. Salem, but before you go, what does
 14 Petra mean?

15 MR. SALEM: Petra is a, is rock in Greek, and we
 16 as a, as a family, and as a team, and as a company, we, we
 17 were founded on the principle of, you know, the waves in the
 18 wind and the storms in life come to the wise and the
 19 foolish, and for us, we're going to build our, our life, our
 20 business really on the rock; and, and that's integrity,
 21 that's character, that's transparency. I think you'll,
 22 you'll find when Eli come on, the amount of outreach, the
 23 discussions. We're very engaged in, and we care about
 24 people. So, Petra is a representation of that for us
 25 without getting, without starting to preach. So, Petra is

1 who we are.

2 MS. SCUDDER: Thank you, Mr. Salem. Madam
 3 Examiner, I have no further questions for this witness. Do
 4 you or Mr. Brown have any questions for Mr. Salem?

5 MADAM EXAMINER: I'll ask him that, Ms. Scudder.
 6 Mr. Brown, do you have any questions?

7 MR. BROWN: Yes. Good afternoon, Mr. Salem, how
 8 are you?

9 MR. SALEM: I'm great. Thank you. How are you?

10 MR. BROWN: I'm well. You indicated that you are
 11 the owner of Petra Development. Is that a limited liability
 12 company, or is that a corporation?

13 MR. SALEM: Yes, sir, it's an LLC.

14 MR. BROWN: And the LLC is organized where, in
 15 D.C. or Maryland?

16 MR. SALEM: D.C., we're, we're licensed in D.C.
 17 specifically, that LLC. So, the actual entity that owns the
 18 LLC is, so the way the ownership structure works with the
 19 LLC is the 80 percent that I own is actually a subsidiary,
 20 it's a sole purpose LLC that is registered in Maryland. So,
 21 it's actually a Maryland-based LLC.

22 MR. BROWN: Petra Development is a Maryland-based
 23 LLC?

24 MR. SALEM: No, no, Petra Development is,
 25 essentially, it's a, it's a shell brand LLC. It's not, it

1 doesn't necessarily own in terms of the ownership structure,
 2 and I don't want to get too complicated and complex in terms
 3 of the accounting purposes of why; but each entity is owned
 4 by a single-purpose, sole, sole-purpose LLC. That LLC is
 5 then broken into where Rob has his LLC and then I have my
 6 LLC. My LLC is a Maryland LLC, so that essentially owns 80
 7 percent. So, I don't know if that makes sense to you, but -
 8 -

9 MR. BROWN: I, I understand totally what you're
 10 saying, but the reason I ask these questions is we have to
 11 have in the record ethics affidavits by individuals or
 12 entities that own 5 percent or more of the ownership of the
 13 land. When I looked up Petra Development, it does not exist
 14 in Maryland as a limited liability company or corporation,
 15 and your explanation is why. In addition, on the
 16 application for the Staff Report, the applicant is listed as
 17 Harbor View, LLC, although Ms. Scudder, that entity is not
 18 in good standing with the state of Maryland, you need to
 19 submit, because I did not see it in this file, a certificate
 20 of standing for Harbor View, LLC.

21 So, Mr. Salem, that's why these questions are
 22 being asked, not to challenge you --

23 MR. SALEM: Yes, sir.

24 MR. BROWN: -- but it must be in the record.

25 MR. SALEM: Understood.

1 MR. BROWN: So, with regards to Mr. Vricella, he
 2 is a part owner of the land, and I understand that; but what
 3 we need to have, and you don't need to give it to me right
 4 now, but before this record closes, we need to have in this
 5 file what entity is the owner of the grounds for National
 6 View. If it's a limited liability company, we also need to
 7 know the name of the member. If the members are limited
 8 liability company, we need to know the names of those LLC
 9 members, all right? If Petra Development has an ownership
 10 interest in the grounds, we need to have an ethics affidavit
 11 from Petra Development. Do you understand that, Ms.
 12 Scudder?

13 MS. SCUDDER: I do. I believe there is an ethics
 14 affidavit in the record for Petra Development.

15 MR. BROWN: All right. There may be. I didn't
 16 see it. Again, it's 4,000 pages of documents.

17 MS. SCUDDER: Yes.

18 MR. BROWN: So, it may be in there.

19 MS. SCUDDER: But, I, I will make sure of that,
 20 Mr. Brown. Thank you.

21 MR. BROWN: All right. And just for the sake of
 22 clarity of the record, Mr. Salem, because we have asked all
 23 the other persons who have testified today where their
 24 residence is, could you tell us please what county or state
 25 your residence is?

Page 174

1 MR. SALEM: I am, I am a resident of Tarrant
2 County in Westlake, Texas. So, it's about 1,500 miles from
3 the subject property.
4 MR. BROWN: All right. But Petra Development's
5 business address is in Washington, D.C., on Connecticut
6 Avenue, correct?
7 MR. SALEM: It's actually on K Street. They shut
8 down the we work office and we moved to K Street from
9 Connecticut Avenue.
10 MR. BROWN: All right.
11 MR. SALEM: 1875 K Street.
12 MR. BROWN: 1875 K Street?
13 MR. SALEM: Yes, sir, Northwest.
14 MR. BROWN: All right. Because, again, the
15 application says 1875 Connecticut Avenue, but you're telling
16 me you moved from 1875 Connecticut Avenue to 1875 K Street?
17 MR. SALEM: That's correct. Last month we worked,
18 closed the Connecticut Avenue location and moved us to the K
19 Street location.
20 MR. BROWN: All right. That's fine. No other
21 questions. Thank you.
22 MADAM EXAMINER: Mr. Brown, when you get a chance,
23 look at Exhibit 17 in Binder 1, and it's still has the
24 Connecticut Avenue address. I don't know. I guess you
25 might have to change that whole affidavit.

Page 175

1 MR. BROWN: Yeah, it --
2 MADAM EXAMINER: But it's only yours, Mr. Salem,
3 so that's the one I see and I see yours, Ms. Scudder, as an
4 agent.
5 MS. SCUDDER: Okay. Well, I'll make sure that,
6 I'll make sure that I get these documents updated and back
7 into you all as soon as possible.
8 MADAM EXAMINER: I don't see anyone asking to
9 cross-examine you, sir, so thank you very much.
10 MR. SALEM: Thank you very much.
11 MADAM EXAMINER: Your next witness?
12 MS. SCUDDER: Yes, I would like to call Mr. Robert
13 Vricella.
14 MR. VRICELLA: Here.
15 MADAM EXAMINER: Ms. Vricella, do you swear or
16 affirm under the penalties of perjury that the testimony you
17 shall give will be the truth and nothing but the truth?
18 MR. VRICELLA: I do.
19 MS. SCUDDER: Okay. Mr. Vricella, again, could
20 you please state your name and address for the record?
21 MR. VRICELLA: Sure. My name is Robert Vricella.
22 I live at 7404 Windale Lane, Chevy Chase, Maryland.
23 MS. SCUDDER: Are you also with Petra Development?
24 MR. VRICELLA: I am not. I am a partner with them
25 in this development.

Page 176

1 MS. SCUDDER: Okay. And are you a member of the
2 Harbor View Development, LLC, that Mr. Rashid Salem was just
3 testifying about?
4 MR. VRICELLA: I am. Yes, I am.
5 MS. SCUDDER: Okay. Mr. Vricella, what do you do
6 for a living?
7 MR. VRICELLA: I do real estate investment,
8 trained as a zoning attorney many years ago, but I've been
9 doing real estate development and investments for the past
10 many years.
11 MS. SCUDDER: And what is your professional
12 background?
13 MR. VRICELLA: Well, you know, a member of the
14 Maryland Bar, you know, attorney; briefly did zoning and
15 then have done real estate development for many years, real
16 estate acquisitions, real estate investments.
17 MS. SCUDDER: And what is your affiliation with
18 Prince George's County?
19 MR. VRICELLA: I grew up in the County. I grew up
20 about just a couple miles from here. Right, actually right
21 behind National Harbor. Went to Oxon Hill Junior High, Oxon
22 Hill High School, Senior High. I'm a graduate of Oxon Hill
23 Senior High and University of Maryland, and I went to
24 Catholic University Law School. So, I'm very familiar with
25 the area. A lot of friends that grew up, you know, when I

Page 177

1 was in high school, but lived in Forest Heights.
2 MS. SCUDDER: That was going to be my next
3 question, Mr. Vricella. I was going to ask you having grown
4 up in the area, how familiar are you with the specific site
5 and surrounding neighborhood?
6 MR. VRICELLA: Very familiar. Like I say, a lot
7 of friends of mine grew up in Forest Heights. My brother's
8 old girlfriend actually lived on Crea Drive. My brother's
9 saxophone teacher lived in Forest Heights. So, I have, you
10 know, a lot of, a lot of connections, and I've been dealing
11 with it, the town of Forest Heights now for, well, since
12 2014 on this property.
13 MS. SCUDDER: What can you tell us about the
14 surrounding neighborhood?
15 MR. VRICELLA: Well, I can tell you, you know, in
16 terms of what location, just in terms of, you know,
17 community. I mean I think it's a great location for
18 development. It has all the infrastructure there and that's
19 what's so great about this property. I mean you hear people
20 talking about environmental issues. This is what smart
21 growth is all about. It's about building right next to
22 already existing infrastructure, which, you know, is right
23 there. We're right there. You don't have to, you know,
24 extend a lot of infrastructure, a lot of headache because
25 we're, we're right there. So --

1 MS. SCUDDER: And you were just sort of speaking
2 to the County's, I guess, investment in the, in the
3 transportation network there. Do you want to expound --

4 MR. VRICELLA: Oh.

5 MS. SCUDDER: -- a little more on that?

6 MR. VRICELLA: Sure. In the greater neighborhood,
7 you know, if you look at the greater neighborhood, the
8 County, and the state, and the Federal Government have
9 invested literally billions of dollars; the County I know
10 tens of millions of dollars into National Harbor, and the
11 County needs a return on that investment. And this project,
12 in a sense, redeems the promise, the investment that the
13 County has placed in National Harbor. And, and, frankly,
14 you know, the National Harbor, the restaurants, they need
15 people to patronize them. They need rooftops near them and
16 I think that we'll be a great asset to National Harbor.
17 That's the economic crown jewel of the County and I think we
18 have to make sure that that is, is successful into the
19 future, and I think our project helps that.

20 MS. SCUDDER: When did you initially get involved
21 with the property?

22 MR. VRICELLA: Well, I, I have known about the
23 property for a long time having grown up here and just being
24 an observer, you know, observer of real estate development.
25 I reached out to the Habib family that had owned the

1 property since the early 1960s and their father was a
2 financier who had financed a developer who went broke in the
3 late '50s on this property, I believe; and he foreclosed.
4 He owned it, and then he didn't know what, really what to do
5 with it until I contacted them, and so that was in 2014 that
6 I put the Habib property under contract. That's how I
7 started this thing.

8 MS. SCUDDER: So, I was going to ask you, how did
9 you come to acquire the property, but I think you just sort
10 of answered that question.

11 MR. VRICELLA: Uh-huh.

12 MS. SCUDDER: When you initially became acquainted
13 with this property, were your plans to develop mixed use?

14 MR. VRICELLA: Uh-huh. No, actually it was to
15 develop it as it was currently subdivided. It was
16 subdivided into 48 single-family lots; but I contacted
17 several area builders -- I used to work for Toll Brothers.
18 I used to do acquisitions for them. I contacted them and
19 contacted MBR. Couldn't get them interested in the property
20 the way it was configured because you had to go through an
21 older subdivision, and they all told me it would be much
22 more viable if I could go out, you know, the southern part
23 of the property, which is the Butler property. And, but
24 then it became uneconomical to develop it as single-family
25 homes; and then right about that time, I started dealing

1 with the town, you know, in terms of, you know, whether I
2 was going to develop this property; and the town
3 administration at the time approached me and said, you know,
4 we want you to build two, 20-story towers on the property.
5 And I said, wow, and it got me thinking; and then some of
6 the planners that the, at the Park and Planning, they had
7 also suggested the same thing initially. They wanted to see
8 density here because of the unique location of the property,
9 the transportation network, and the proximity to the
10 Beltway, and to National Harbor, and so that's what got this
11 whole ball rolling.

12 MS. SCUDDER: So, I think you've sort of touched
13 on this. My next question was going to be, you know, what
14 do you think about, you know, the property's location?

15 MR. VRICELLA: Uh-huh. Yeah, I mean it's
16 phenomenal. You know, working for a national home builder
17 like Toll Brothers, you know, that's one of the things that
18 you, you know, it's a top thing. You look for residential
19 development properties, the location; and we are 10 minutes
20 to National Airport, 10 minutes to downtown D.C. It's
21 inside the Beltway. It's in an opportunity zone, which
22 means it's an economically depressed area, and so, you know,
23 we're bringing investment here; and I mean it's just a great
24 thing. I think it's a great thing that --

25 MS. SCUDDER: Why do you believe the location is

1 suitable for mixed use development, though?

2 MR. VRICELLA: Well, because of the transportation
3 network that's here, and the proximity to D.C., proximity to
4 National Harbor. It has all of the groundwork in place to
5 build from. I think it's going to be hugely successful, a
6 thing that the community needs.

7 MS. SCUDDER: Uh-huh. You, you mentioned working
8 with the town of Forest Heights previously, and, and also
9 that you, I was going to ask if you had, if the town was
10 supportive of the development of the property at that time,
11 and I think you've already answered that question. Let me
12 ask, what convinces you that this property can be
13 successfully developed today as, as mixed use? And that's
14 kind of similar to what I just asked, but --

15 MR. VRICELLA: Well, again, I think the demand is
16 there, Traci; but, but it's also, you know, it's kind of,
17 you were talking about, you know, how long I had been
18 dealing with the town of Forest Heights, and the town has
19 been wonderful to deal with, and I'm surprised that I've
20 been hearing from people that they haven't heard about this
21 and they want more time and all these things. I have been,
22 I have been available -- when I started this project, you
23 know, in 2014, and I talked to, I think I talked to
24 virtually everyone that lived on Crea Drive, and at the time
25 it was developed as it is currently planned, then the site

Page 182

1 would be denoted with trees anyway. I mean the trees would
2 be, right now they can be taken down. So, I mean that, and
3 that's not the point here. That's not the purpose of -- but
4 to say that, you know, that I was, that, that these people,
5 that no one was notified, I don't, I just don't find that
6 very accurate because I was available. I talked to people.
7 I knocked on doors. I mean I was very available all
8 throughout this time, and I know that since Petra has taken
9 over, you know, that you guys have picked up that
10 (indiscernible), so --
11 MS. SCUDDER: Thank you, Mr. Vricella. That, that
12 completes my questions. I have no further questions from
13 this witness, Madam Examiner.
14 MADAM EXAMINER: Mr. Brown, do you have any
15 questions?
16 MR. BROWN: I have no questions. Thank you.
17 MADAM EXAMINER: Okay. Mr., I know I'm going to
18 say this wrong, is it Salem, the prior witness?
19 MR. SALEM: Yes, ma'am.
20 MADAM EXAMINER: Okay. This will be a tag team.
21 Both you and Mr. Vricella have been sworn, but we have two
22 citizens that did have some questions. So, we'll start with
23 Mr. Aspavido. Would you like to ask questions?
24 MR. ASPAVIDO: Yes, ma'am. Thank you. Thank you
25 for the opportunity. So, Mr. Salem, I have a couple of

Page 183

1 questions for you. Number one, I hear what you're saying
2 about bringing in affordability and we're all going to live
3 together, we're all going to, you know, co-habitat in this
4 wonderful town here, and the development. So, how, my
5 question, some of my questions to you are how many
6 properties do you actually have or manage, and are they
7 residential or commercial?
8 MR. SALEM: So, everything that we do to date is
9 residential, multi-family. We have, I own retail
10 businesses. I own a green manufacturing company that
11 manufactures housing panels. So, we build multi-family
12 housing to a net zero carbon standard. So, we're very
13 involved in green building. So, we were, we're in the
14 retail manufacturing side. We also own, we have about 1,100
15 units under control in D.C. We have this site. We have a
16 site at the Southern Ave Metro. We have a 240-unit project
17 in Dallas, downtown Dallas, and we're, we're continuing to
18 look to expand. So, I'm not sure if that answers your
19 question.
20 MR. ASPAVIDO: No, that's perfect, perfect. And
21 it leads to my other question, which is out of all these
22 residential units that you have, before the pandemic and all
23 the coverages came on, what was the, I don't want to say
24 eviction rate, but the turnover rate of this residential
25 units you're having, because one of my concerns is, as you

Page 184

1 heard earlier, you know, you guys are saying all residential
2 this, that, senior homes, this and that, but my question
3 was, are the senior citizens of Forest Heights are going to
4 be able to afford any of these units? So, I want to see
5 your track record with some of your other properties as to
6 what the turnover is, people having to leave because they
7 can't afford to live in them, to kind of gauge an idea of
8 what might happen here?
9 MR. BROWN: Well, Mr. Aspavido, that question is
10 irrelevant. I'm going to have to object to it.
11 MR. ASPAVIDO: Okay. That's fine. That's pretty
12 much all I needed to know, to see how, you know, we're
13 supposed to all live together in affordable placing if we
14 are able to afford it. Otherwise, I just want to introduce
15 myself to Mr. Vricella. I'm sorry if I'm saying it wrong.
16 I've been here since 2003. To be honest with you, sir, I
17 don't want to call you a liar, but I never saw you at my
18 door and I'm very easily at 5 Crea Drive, right as you come
19 around the turn from our section. Nice meeting you. Thank
20 you guys for your time.
21 MR. VRICELLA: Thank you.
22 MADAM EXAMINER: You're sustained, Mr. Brown, by
23 the way. Thank you, Mr. Aspavido. Next, we will have, I
24 apologize, Ms. McDowell's cross.
25 MS. MCDOWELL: Hi there. Am I on yet? Hi. This

Page 185

1 is for Mr. Salem. I wanted to know in your mind what, how
2 much does an affordable dwelling, an affordable senior
3 dwelling cost in your mind, and what percent of the total
4 housing units are you envisioning to be affordable/senior
5 housing?
6 MR. SALEM: So, those numbers are actually
7 mandated by HUD and --
8 MS. MCDOWELL: Okay.
9 MR. SALEM: -- we, Eli has a lot of the data that
10 will come later in terms of our studies on the need for
11 affordable senior housing and senior housing as a whole in
12 the area. It's, it's exorbitant and substantial. All that
13 to say that the second part of your, how many units? At
14 least --
15 MS. MCDOWELL: Yeah, well, I'm distinguishing
16 between affordable housing and then affordable senior
17 housing. Am I correct in doing that?
18 MR. SALEM: So, a lot of that comes down to also
19 what the Housing Authority says the need is in each cycle,
20 right? So, there's going to be workforce housing; there's
21 going to be senior housing as well. So, the percentage
22 would probably be, you know, in terms of affordable,
23 affordable senior, in the 40, 50 percent range of the, of
24 the total development.
25 MS. MCDOWELL: And where does one go, I guess, to

1 the HUD site to find out what, what a cost is? I'm just,
2 you know, sometimes what people say is affordable is really
3 not affordable. I'm just, I don't know of anything about
4 it. So --

5 MR. SALEM: I mean off the top of my head, I mean
6 we could provide data in the links in terms of what is set
7 for the FMR for the area.

8 MS. MCDOWELL: Yeah, that would be helpful. I had
9 another question. My understanding, and I could have been
10 reading this incorrectly, from the P.G. County Planning
11 people who decided that this was not a good idea, that
12 there's currently no plan for actual Metro. I know we've
13 got bus, you know, availability here, but not actual Metro
14 station, and that's apparently not in anybody's plan in the
15 foreseeable future, is that true, or did I get that wrong?

16 MR. SALEM: So, the transportation folks, if, I
17 doubt that we get to them today, will elaborate specifically
18 on that.

19 MS. MCDOWELL: Okay.

20 MR. SALEM: Yeah.

21 MS. MCDOWELL: Okay. I can wait. Thank you. I'm
22 done.

23 MR. SALEM: Yes, ma'am.

24 MADAM EXAMINER: Now we will hear from Ms.
25 Goddard.

1 MS. GODDARD: Thank you. And this is addressed to
2 both Mr. Salem and Mr. Vricella, whoever feels most
3 appropriate to answer. Mr. Salem, you talked a lot about
4 some projects you did with Infill, where you would go to,
5 you know, previously developed places and, and rebuild. Why
6 could you not find an Infill site for this project rather
7 than breaking undeveloped property?

8 MR. VRICELLA: I would view this as an Infill
9 site.

10 MR. SALEM: Right. Not only that, I mean we don't
11 control the market in terms of what comes available, right?
12 I mean we, we don't know. It's -- I've heard some people
13 say go to this place or have this part of the County give
14 land and whatnot. I mean opportunities come up as they come
15 up. Rob can tell you in his eight years working on the, on
16 the property that it took a lot of time to compile and put
17 together the site. So, it's not as easy as, you know, go
18 down to the corner and buy and build something. So, you
19 know, opportunities come; there's timing; there's financing;
20 there's a lot of things that go into finding the right
21 project at the right time and, of course, with the catalysts
22 and the development inside the Beltway, the affordable
23 issues, everything else that's gone on in that part of the
24 County, the timing has come together for this to be feasible
25 at this point.

1 MS. GODDARD: Thank you. And then, Mr. Vricella,
2 you've said several times when you were talking about what a
3 great transportation network existed here; and as you've
4 heard, I mean there are busses. You all have said you will
5 provide a shuttle. I'd love to hear more about that, but
6 this is not an area that people can get to easily without
7 driving; and I am very concerned about the huge amount of
8 traffic that will increase the very small Bald Eagle Drive,
9 the thought to use the National Park Service's private
10 entranceway road. So, can you share what transportation
11 networks you were discussing, what options there are to move
12 this huge group of people around?

13 MR. VRICELLA: I think that our transportation
14 people can, you know, when they get to that part of the
15 presentation, can speak to that better than I can; but I
16 will just say that the proximity to the Beltway, having a
17 lot of different senior trips, you know, different staggered
18 peak times with the different types of uses; and also, we're
19 near a huge park and ride right across the street. We're
20 right across the other side of Bald Eagle, the bridge. It's
21 a big park and ride and that feeds people to the Metro; and
22 so, I think, you know, I was referring to those; but our
23 transportation people can discuss our plan much, much
24 better, with more detail than I can.

25 MS. GODDARD: Thank you very much. That was all

1 my questions.

2 MADAM EXAMINER: Thank you all. Any direct, Ms.
3 Scudder?

4 MS. SCUDDER: No, ma'am.

5 MADAM EXAMINER: Okay. Thank you, gentlemen.

6 MR. SALEM: Thank you.

7 MR. VRICELLA: Thank you.

8 MADAM EXAMINER: And your next witness?

9 MS. SCUDDER: My next witness is Eli Borek.

10 MADAM EXAMINER: Good afternoon, Mr. Borek. Do
11 you swear or affirm under the penalties of perjury that the
12 testimony you shall give will be the truth and nothing but
13 the truth?

14 MR. BOREK: Yes, ma'am, I do.

15 MS. SCUDDER: Okay. Good afternoon, Mr. Borek.
16 If you could, again, just state your name for the record?

17 MR. BOREK: Eli Borek.

18 MS. SCUDDER: And what is the name of your company
19 and company address?

20 MR. BOREK: So, I work for Petra Development, same
21 address as Rashid gave, 1875 K Street, N.W., Washington,
22 D.C.

23 MS. SCUDDER: And what is your title and what do
24 you do for Petra?

25 MR. BOREK: So, I am the director of development.

Page 190

1 So, I manage and oversee all real estate development
2 projects for, for the company.
3 MS. SCUDDER: And how long have you worked for
4 Petra?
5 MR. BOREK: A little over four years now.
6 MS. SCUDDER: Can you please describe your
7 background?
8 MR. BOREK: So, I was born and raised in
9 Washington, D.C. I studied architecture in college. I've
10 been working in architecture and development fields over the
11 last decade. I have experience working on adaptive reuse
12 projects, as well as group-up development and I've
13 participated in the redevelopment of historic and neglected
14 properties in and around Washington, D.C.
15 MS. SCUDDER: And what role do you have in this
16 project?
17 MR. BOREK: I have been, and will be managing, the
18 development process through its life cycle.
19 MS. SCUDDER: And when did you first get involved
20 with the project?
21 MR. BOREK: So, I've been involved from the
22 very beginning of the due diligence phase in mid-2018.
23 MS. SCUDDER: And are you familiar with the
24 application that is before the Zoning Hearing Examiner this
25 afternoon?

Page 191

1 MR. BOREK: Yes, I am.
2 MS. SCUDDER: Have you had the chance to
3 personally inspect the property and surrounding area?
4 MR. BOREK: I have on many occasions.
5 MS. SCUDDER: And what were the initial steps
6 taken by Petra when you decided to pursue this project?
7 MR. BOREK: So, we started our outreach to the
8 various council members, the Economic Development
9 Corporation, the Office of the County Executive, et cetera,
10 to better understand really the needs of the County and if
11 this project could serve to satisfy those needs.
12 MS. SCUDDER: Have you been in touch with the
13 family of the original historic homestead? Actually, I'm
14 sorry, let me go back. Did you meet with any of the members
15 of the Prince George's County Council? Sorry about that,
16 Eli.
17 MR. BOREK: Well, yes. So, we did meet with
18 several of the council members, including the council member
19 for this District.
20 MR. BROWN: Ms. Scudder, I'm going to have to
21 object. Although your clients may have met with council
22 members prior to the filing of this application, it's
23 irrelevant. So, (indiscernible).
24 MS. SCUDDER: Yes, sir. I will move on to another
25 question.

Page 192

1 Can you describe your community outreach on this
2 project, aside from the meeting that you mentioned with the
3 council members?
4 MR. BOREK: Sure, yeah. So, you know, we started
5 community outreach early, kind of picking up where we all
6 left off. We met with community members, community
7 organizations as you've heard, and the town of Forest
8 Heights, who we met with on multiple occasions at public
9 meetings between, I think it was toward the end of 2019 and
10 February of this year; and we've been in regular contact
11 with the town administration as well.
12 MS. SCUDDER: Okay. And half of this site is
13 within the boundaries of the town, is that correct?
14 MR. BOREK: Yes, that is correct.
15 MS. SCUDDER: How would you describe your
16 relationship with the town?
17 MR. BOREK: We see the town as really our partner
18 in this process and, and in the development. We work with
19 the town throughout the process from when we came on and I
20 know Rob had worked with them before; and we are committed
21 to continue working with them moving forward. We'll be
22 working closely with them to receive and to respond to and
23 incorporate input, and ensure that, you know, everyone's
24 voice can be heard.
25 MS. SCUDDER: Can you talk a little bit about how

Page 193

1 your team prepared to submit the rezoning application, aside
2 from the meetings with the town?
3 MR. BOREK: Sure. We, I guess we proactively
4 communicated with various Park and Planning staff and
5 leadership in regard to introducing the project and the
6 property, and solicit their feedback. We met with them on
7 at least three occasions prior to submitting our
8 application.
9 MS. SCUDDER: And what was that process like
10 before and after submitting the application?
11 MR. BOREK: So, although we spent, you know, more
12 than a year on outreach with community members, town, County
13 officials, Park and Planning, after submitting our
14 application and receiving the initial comments, which we
15 responded to, we had no, really no further meaningful
16 communication from, from Park and Planning staff; and I
17 guess shortly, really, I guess, it was shortly after
18 submitting our responses to the staff comments, we were, we
19 were scheduled for a Planning Board hearing.
20 MS. SCUDDER: Okay. So, after you, after you
21 responded to staff's comments, and I assume that you're
22 speaking of the comments you received from SDRC, which was
23 the meeting that Ms. Sarah Cavitt testified earlier that she
24 attended, you're saying after you responded to Staff's
25 comments, there were no further interactions with Staff or

Page 194

1 meetings?

2 MR. BOREK: No, not that I'm aware of, other than,

3 I guess there probably were some small administrative

4 communications, but nothing related to those comments or our

5 responses.

6 MS. SCUDDER: Why are you seeking the MXT zone?

7 MR. BOREK: So, the MXT zone really seems to offer

8 the most appropriate opportunity for sufficient density to

9 justify developing the property, while also providing the

10 flexibility needed to create a truly cohesive mixed use

11 community here. The location of the site, as, you know,

12 others have testified before, is really exceptional from an

13 accessibility standpoint; we're in 10 to, we're, you know,

14 within 10 to 15 minutes of Arlington, Amazon Headquarters,

15 Alexandria, of course, National Airport, Washington, D.C.,

16 National Harbor. I mean it's, it's just a fantastic

17 location from an accessibility and transportation

18 standpoint. We, we really view the National View site as a

19 natural extension of the National Harbor, kind of growth

20 area.

21 MS. SCUDDER: And did you consider the current

22 zoning and building within the parameters of that zone, or

23 those zones?

24 MR. BOREK: Yes, we did, during our first review

25 of the property when we first became aware of it.

Page 195

1 MS. SCUDDER: And why does it not work for you as

2 a developer?

3 MR. BOREK: So, financially, developing single,

4 you know, detached single-family housing here is not

5 feasible for a variety of reasons, and I think there will be

6 more expert testimony that, that speaks on that; but that's,

7 that's really the base.

8 MS. SCUDDER: And have you had many occasions to

9 personally inspect -- you've had many occasions to

10 personally inspect the property, correct?

11 MR. BOREK: Yes, I have.

12 MS. SCUDDER: And are you familiar, I'm sorry, are

13 you familiar with the fact that a portion of this site is a

14 County historic site and a National Historic Register site?

15 MR. BOREK: Yes, I am.

16 MS. SCUDDER: And have you been in touch with the

17 family of the original historic homestead owner?

18 MR. BOREK: Yes, on multiple occasions we reached

19 out to the direct descendants of Henry Alexander Butler and

20 we were able to gain some valuable knowledge about the

21 history of the property and their family's stewardship of

22 it. And we spoke to people who actually have lived on and

23 spent time at the property when it was still being used as a

24 farm; and they, the, the family members that we spoke with

25 possess both knowledge and materials actually that they

Page 196

1 expressed they would like to see included in the historic

2 storytelling that we're, would be proposing on the site.

3 MS. SCUDDER: Okay. Mr. Borek, I would, I would

4 like to have you describe the concepts that you have

5 developed for National View. Have you prepared a

6 presentation?

7 MR. BOREK: Yes, I have.

8 MS. SCUDDER: Madam Examiner -- Madam Examiner, I

9 believe the presentation is Exhibit 66, and it's in the, I

10 believe it's in the record.

11 MADAM EXAMINER: Ms. Bah, can we pull up Exhibit

12 66 please? And then, and then, Ms. Scudder, do you want

13 control, or --

14 MS. SCUDDER: Can, can Mr. Borek have control?

15 MADAM EXAMINER: No. Do you think you can have

16 control, sir? Yes, he can have control, I guess.

17 MS. BAH: Okay. I have given you control.

18 MR. BOREK: Okay. And just so that I don't screw

19 everything up here, do I just scroll, or do I --

20 MADAM EXAMINER: Yeah.

21 MS. SCUDDER: Mr. Borek, are you now going to

22 acclimate us to the site, and the location, and the access,

23 et cetera?

24 MR. BOREK: Yes. I'm just trying to make sure I

25 put my mouse in the right place here. So, yes, here. You

Page 197

1 know, we're looking at the map overview of the property,

2 which I'm sure most people are already familiar with, but we

3 really sit, the property sits, and the, particularly the

4 entrance to the property sits at this nexus of Forest

5 Heights, the Oxon Cove Park, the National Harbor, and the

6 Oxon Hill commercial area. We sit right at that juncture of

7 210 and 495, and we're proposing that the vehicular access

8 to this site would open almost directly onto the bridge

9 leading across the Beltway to National Harbor on Bald Eagle.

10 And so, while cars would access by way of Bald Eagle Road to

11 this entry point that I just mentioned, we envision the

12 second point of access from the town at the northern corner,

13 in the norther point of the site. This access, however,

14 will be a dedicated bike, bicycle and pedestrian paved

15 access trail, meaning that it would be --

16 MS. SCUDDER: Can you point to what your, can you

17 point to what you're referring to, Mr. Borek, with your

18 cursor? Yes.

19 MR. BOREK: My cursor is right there.

20 MS. SCUDDER: Okay.

21 MR. BOREK: So, as I was saying, you know, this,

22 this dedicated pedestrian aid access trail would be at this

23 northernmost point, but we would, we'd really be connecting

24 the property to the existing residence of Forest Heights,

25 and right now it's, it's not connected. There is no trail

Page 198

1 there, but we wouldn't be adding any additional vehicular
2 traffic routed onto the existing residential streets in the
3 established neighborhood.
4 Okay. And then let me --
5 MS. SCUDDER: What, okay, what are -- what exactly
6 are you proposing at National View?
7 MR. BOREK: So, we've kind of put together a
8 number of project goals, let's say, and what we've really, I
9 have tried to shape here is a vibrant, mixed use community
10 that provides services and necessities within walking
11 distance of current and future residents in the area.
12 MS. SCUDDER: And what type of community do you
13 envision here?
14 MR. BOREK: So, I know there's been discussion
15 about kind of exclusivity and, and, you know, what we're
16 proposing here is not a gated community in any sense. It's
17 really, rather, rather the opposite of that. We are
18 proposing, you know, to directly connect what we, we would
19 be including it at the National View property with the
20 existing residence, so that those services are accessible by
21 foot, by bicycle, so that people would not have to drive to
22 them. Now if they want to drive to them, that's, of course,
23 absolutely fine. The vehicular access is in no way, you
24 know, exclusive either; so, people from Fort Washington or
25 Oxon Hill who may be a little bit further away could still

Page 199

1 come and enjoy the property, and enjoy the services and the
2 things that we're proposing to provide that I will get into
3 a little bit I'm sure, no matter if you're, if you're
4 walking, biking, taking the bus, or driving your car.
5 MS. SCUDDER: Okay. And so, how can this project
6 fulfil the goals and needs of the town of Forest Heights and
7 the surrounding area?
8 MR. BOREK: So, I mean I touched on this a little
9 bit already in terms of having this, you know, walkable,
10 bikeable community. We're envisioning a network of
11 connected streets and trails which, you know, really tying
12 into the existing streets and trails that are, that are
13 around us. Of course, working towards, as some others have
14 mentioned, the critical mass to attract a future Metro
15 nearby on the site hopefully of the existing park and ride.
16 We're proposing building a new police station specifically
17 for the town of Forest Heights' police force. They have
18 their own police force. Right now, they do not have a
19 police station. And then including, you know, a variety of
20 community services really, things like daycare, childcare,
21 healthy food options, public transit shuttle, and we
22 envision a quality grocer so that residents of the area
23 don't have to leave the state to have access to many of
24 these services. As I think Rob, or somebody mentioned
25 before, you know, a development like this would relieve the

Page 200

1 burden of potentially increasing town, the town's property
2 taxes specifically on existing residents; and then
3 incorporating senior housing brings a lot of opportunity for
4 aging in place. We're really focused on developing with
5 accessibility in mind.
6 We envision this project supporting the town's
7 sustainability goals and combatting the tendency towards
8 urban sprawl and the need to drive to everybody's services.
9 So, those services would theoretically be within walking or
10 biking distance, or by public transit, accessible by public
11 transit that is.
12 You know, promoting a strong sense of community
13 with healthy, engaged residents through the use of things
14 like community gardens; trails, as I mentioned before; and
15 environmentally sensitive design; and, last, but not least,
16 developing the inspiration for the project through
17 appreciation of its context and its heritage.
18 MS. SCUDDER: What housing types will be included
19 at National View?
20 MR. BOREK: So, as Rashid mentioned before, you
21 know, our goal for this project is to have a mix of incomes,
22 age ranges, and a variety of different housing types. Like
23 I said before, we're really striving for a truly vibrant mix
24 of uses and residential housing types. So, this, you know,
25 (indiscernible) there's really an accessible and, and open

Page 201

1 community in a lot of different ways.
2 MS. SCUDDER: And have you commissioned any market
3 studies of the subject property, and if so, what do those
4 studies show?
5 MR. BOREK: So, yes, we have. We've commissioned
6 market studies examining specifically the senior housing
7 needs in the area; and those studies show really extreme
8 demand in relation to very limited supply over all senior
9 housing types, whether it's just age-restricted, independent
10 living, assisted living, nursing care, et cetera. So, this
11 gap, and the market studies indicate this as well, this gap
12 between the supply and demand that currently exists is only
13 set to grow, you know, larger over the coming years.
14 MR. BROWN: Ms. Scudder --
15 MS. SCUDDER: Can you just --
16 MR. BROWN: -- I'm --
17 MS. SCUDDER: Yes, sir?
18 MR. BROWN: -- I've given you a lot of leeway with
19 Mr. Borek since he is the Applicant owner, if you will, and
20 he can talk about from a lay standpoint his knowledge of the
21 project; however, you have not qualified him as an expert in
22 land planning, in economics, in transportation, or other
23 issues, and so you really need to ask him questions that are
24 limited to his knowledge as a lay person, as the owner, and
25 not with regards to these expert issues.

Page 202

1 MS. SCUDDER: Okay. Understood.
2 MADAM EXAMINER: I'll sustain it. I was wondering,
3 do you have the market study in this record? I know we have
4 a housing study, but that's not the one -- you all didn't do
5 that, right, the housing --
6 MR. BOREK: No, but we can --
7 MADAM EXAMINER: -- the housing needs?
8 MR. BOREK: -- certainly submit it.
9 MADAM EXAMINER: Pardon? I didn't hear you.
10 MR. BOREK: I'm not sure it's in the record
11 currently, but if it's not, we can certainly submit that.
12 MADAM EXAMINER: I would like to see it since you
13 discussed it from a layman's perspective. So, can we leave
14 that record open for that please? Thank you.
15 MS. SCUDDER: Mr. Eli, just based on the
16 instruction I was just given by Mr. Brown, I'm going to, I'm
17 not going to ask my next question which had to do with that
18 state Maryland, you know, DHCD study. So, I'm going to, I'm
19 going to move on to my next question from there. So, I'm
20 going to go to my question, did you, did you consider, you
21 know, did you consider -- first of all, are you, are you
22 familiar with the general plan for Prince George's County,
23 Plan 2035?
24 MR. BOREK: I am.
25 MS. SCUDDER: Did you consider Plan 2035 when you

Page 203

1 were developing these concepts?
2 MR. BOREK: Yes, absolutely. So, pedestrian, you
3 know, incorporating things like pedestrian centric design
4 with open and green spaces integrated really into all
5 aspects of the development comes, you know, directly from a
6 reading of Plan 2035's goals. We, we're proposing to
7 incorporate things like parks, play spaces and actually
8 forested areas, keeping naturally forested areas, and just
9 to draw your attention on this slide, that upper right-hand
10 and lower left-hand corner image are kind of some
11 inspiration images of that pedestrian bicycle paved trail
12 providing access to the town that I was just speaking about
13 earlier.
14 And then, you know, another component of Plan
15 2035, which, you know, we consider to be a really critical
16 component states that nearly 3/4 of the adult population is
17 considered overweight or obese in the County and, you know,
18 reading that, we feel like it's really, you know, one of the
19 strongest goals here to create healthy places in the County,
20 and healthy places to live, and eat, and work, and exercise.
21 MS. SCUDDER: How does your vision for the project
22 further respond to sustainability goals?
23
24 MR. BOREK: So --
25 MR. BROWN: Again, for, as a lay person who has

Page 204

1 not been qualified as an expert in any particular field.
2 Now you may be qualified, Mr. Borek, based upon your
3 education and background, I have no idea; but you haven't
4 been qualified as such, so you need to limit your testimony
5 as a lay person.
6 MR. BOREK: Sure, absolutely, and I'm sure, I'm
7 sure you'll, you know, jump in if I'm getting out of line,
8 but please let me know. I mean, let me see if I can
9 remember the question. Okay. So --
10 MS. SCUDDER: I was asking about sustainability
11 goals.
12 MR. BOREK: Right. So, you know, our, we are
13 proposing, including not only things like green spaces and
14 pedestrian-centric design, but other sustainable elements,
15 excuse me, such as the, the images you see here, like
16 extensive green roofs, integrated solar panels who are very
17 accustomed to utilizing these types of solutions and, you
18 know, sustainable billing methods in our other projects in
19 D.C. in particular. And as Rashid said, you know, we do
20 have experience with green building manufacturing process as
21 well.
22 You know, the town of Forest Heights in its, in
23 its community plan, and in the County's plan for 2035, they
24 both put a large emphasis on sustainability and, you know,
25 if we, we think that the, the elements that we're proposing

Page 205

1 to include in this project will really be focused on
2 advancing those goals.
3 MS. SCUDDER: And so, and I know you've touched on
4 this a little bit, but what, in what specific ways are you
5 striving to create healthy communities?
6 MR. BOREK: So, you know, one thing that we've,
7 we, one idea that we came up with very early on that we've
8 gotten very positive reactions to has been incorporating,
9 you know, a significant amount of space to be used as
10 community gardens, including potentially roof space as well;
11 which, you know, these gardens really would serve to engage
12 the current and future residents of the development in the
13 area and promote healthy lifestyles. They would be
14 accessible to current residents of the town and they would
15 serve really as community-building features where, you know,
16 there are places to learn, places for restoring and building
17 health, and tying back into the, you know, the wide variety
18 of ages, there are places for all ages to interact with each
19 other and they, of course, provide opportunity to grow fresh
20 foods. And this, this idea behind community gardens also
21 ties into the agricultural history of the Butler Farm and
22 the surrounding area.
23 MS. SCUDDER: Okay. Sorry.
24 MR. BOREK: I --
25 MS. SCUDDER: Keep going.

1 MR. BOREK: I think this relates as well to your
 2 question, the Potomac Valley, rather, the Potomac Heritage
 3 Trail Network is a National Park Service and a designated
 4 trail network. You know, there's, there's no mention of the
 5 Butler site on this, this network, and we have existing
 6 trails to the north and south that would directly tie into
 7 that you'll see here in green, our site is marked in red,
 8 obviously; and we literally want to put the site on the map,
 9 put our site on the map, put the Butler historic site on the
 10 map by connecting those two points that we connect to with a
 11 trail running the full length of the property. And I'd like
 12 to note that the trails would directly tie into on this
 13 National Park Service map are marked in solid green to
 14 denote on-road, on-road bicycling routes, which is the
 15 highest level of trail on this map. So, I think this, this
 16 kind of ties into directly to the idea of creating healthy
 17 communities with immediate access to this massive trail
 18 network that extends all the way up into Pennsylvania, and
 19 all the way down through Virginia.

20 And then, finally, you know, similar to the ground
 21 that you would see at the National Museum of the American
 22 Indian, we would like to propose incorporating native
 23 planting gardens into our site plans in order to take
 24 advantage of the benefits of this type of native plant
 25 community which obviously include things like, you know,

1 creating healthy places; helping the climate; conserving
 2 water; increasing wildlife diversity, et cetera; but this,
 3 again, ties into honoring the history of the previous
 4 inhabitants of the property as well.

5 MS. SCUDDER: Is there anything else related to
 6 the historic significance of the property that has helped
 7 shape your vision for this project?

8 MR. BOREK: So, I think historic significance here
 9 is, is extremely important to us; and potentially in a
 10 different way than other developers might look at a historic
 11 asset on a site. You know, we see a distinct lack of
 12 storytelling related to both African-American and Native
 13 American history of the, of the surrounding area; and we see
 14 this as a real opportunity to bring that history kind of to
 15 life, and bring it to, you know, a large group of people,
 16 both people who live there and people who want to come there
 17 to learn about that history; but we, again, we see this as a
 18 really valuable opportunity to think past through that
 19 traditional means of historic preservation that we've all
 20 seen, I'm sure, where, you know, a developer, or a
 21 development will set aside this historic segregated marker
 22 in front of whatever their asset is, maybe an old farmhouse
 23 that won't be recognized by anyone, won't be visited by
 24 anyone, and it's basically forgotten. And our goal here
 25 really is to create a destination site because of the

1 history that we have on the property and in the area, not
 2 relegating a history to an afterthought.

3 MS. SCUDDER: Do you have any ideas as to how
 4 National View could serve as a compliment to everything that
 5 already exists in the surrounding area?

6 MR. BOREK: Yeah. So, I mean from a, you know,
 7 from a development perspective, we're afraid that we've used
 8 since the very beginning of this is really compatibility and
 9 not conflict and thinking about that term in terms of being
 10 compatible with the goals of the County and the state, and
 11 the town that we are in; being compatible with the needs of
 12 the surrounding residents and citizens in the area; being
 13 compatible with the infrastructure that exists in the area;
 14 and, you know, really creating something that will
 15 complement existing services and amenities without competing
 16 with them.

17 MS. SCUDDER: And I just have one final question
 18 for you, Mr. Borek. As a developer, do you have a
 19 philosophy or a certain development style, if you will?

20 MR. BOREK: So, I think, you know, obviously
 21 related to this project, but in general for all of our
 22 projects, you know, being sensitive to the citizens of the
 23 area that we're, we're planning on building within; any
 24 existing uses; really being attentive, as I was saying
 25 before, to what the community wants and needs; and I, you

1 know, we really see it imperative to work with the community
 2 and incorporate as many of their ideas into the project as
 3 possible. I think it's important to recognize that our
 4 vision for his project has naturally evolved since we first,
 5 I mean, as I said before, you know, our first look at it was
 6 as a single family home development, and that rapidly
 7 evolved into, you know, several other kind of thought
 8 processes, and so, you know, our vision really has naturally
 9 evolved over the past two years and will continue to evolve
 10 moving forward based on all of the information we have
 11 gathered and will gather, and all of the input we have
 12 received as a result of this, you know, ongoing operation
 13 and collaboration. And I think working together with or
 14 neighbors, the town of Forest Heights, and the citizens and
 15 community groups, and Historic Preservation, we think that
 16 we can create something truly forward-thinking here in terms
 17 of how a future development on this site can be inspired by
 18 history; how it can work to enhance sustainable goals; and
 19 how it can create opportunity for new and existing residents
 20 in the area.

21 MS. SCUDDER: Thank you, Mr. Borek. Madam
 22 Examiner, that completes my questioning of Mr. Borek.

23 MADAM EXAMINER: Ms. McDowell, would you like to
 24 cross-examine?

25 MS. MCDOWELL: Yes. Let me see now, is this on or

Page 214

1 mayor's letter in support of this request?
2 MR. BOREK: So, yes, I, I was at that meeting. I
3 am not aware of the council members not being aware of that
4 letter.
5 MADAM EXAMINER: Okay.
6 MR. ASPAVIDO: And, and, and, of course, of
7 course, going to my original question, the only question I
8 have is I keep hearing Forest Heights needs, Forest Heights
9 wants. Where did that determination came, come from?
10 That's, that's my question basically.
11 MR. BROWN: Mr. Aspavido --
12 MR. ASPAVIDO: Because I'm a resident here.
13 MR. BROWN: Mr. Aspavido, the question has been
14 asked several times. He really doesn't need to answer it
15 for the third time. In addition --
16 MR. ASPAVIDO: Well, his answer was outreach and I
17 haven't been reached out to.
18 MR. BROWN: All right, but, all right --
19 MR. ASPAVIDO: If I, if I'm getting it correctly,
20 his answer was his outreach, and I haven't been outreached
21 to correctly.
22 MR. BROWN: Hold on a second.
23 MADAM EXAMINER: And that's clear, Mr. Aspavido.
24 I've heard your side of it and theirs, and I will consider
25 all of that in any decision. You had, you --

Page 215

1 MR. ASPAVIDO: Okay.
2 MADAM EXAMINER: -- you, you and some of your
3 neighbors that have spoken to you have said they never, you
4 know, that all the outreach that we've heard about. I heard
5 you.
6 MR. ASPAVIDO: Thank you so much.
7 MADAM EXAMINER: You're welcome.
8 MR. BROWN: Mr. Vricella and Mr. Salem, before
9 this hearing concludes today, if you would put in the chat
10 an appropriate contact information for the person that these
11 community members can reach out to between now and the next
12 hearing to discuss some of the issues concerning this case?
13 MR. SALEM: Yes, sir.
14 MADAM EXAMINER: Okay. Ms. Gingold?
15 MS. GINGOLD: Hi. Yes, I was at that recent
16 Forest Heights community meeting and, Mr. Borek, at that
17 meeting you were directly asked how many residential units
18 would this development entail; and even though the
19 application states pretty clearly that, you know, I don't
20 remember exactly, the 1,500, 1,700, or just numbers in
21 there, you declined to answer that direct question. And
22 there was a second direct question about whether the
23 assisted living facilities would be affordable for the
24 residents of Forest Heights, and you specifically declined
25 to answer that question; and also, when discussing today's

Page 216

1 hearing, you said what, this is the way I heard it anyway,
2 that today was just a zoning hearing and it wasn't really
3 going to determine what the development would look like, as
4 if changing the zoning from RR and R-55 to MXT was sort of a
5 minor thing. And I, I just, that sat wrong with me at that
6 meeting, and I, I hope that you can give us some idea about
7 why, why there is this lack of transparency in the process
8 as the people of Forest Heights are trying to figure it out?
9 MR. BOREK: So, I think I heard three different
10 questions there. First on the unit counts, I, as I was
11 saying before, this project right now is a rezoning request
12 for a piece of property, and it would certainly be premature
13 for me to give you a unit count based on a plan that we
14 haven't put together yet. The unit counts that are included
15 in the application are based on the necessity for a traffic
16 impact analysis, analyzing what, you know, a conservative
17 projection of what the site could hold would be, but that is
18 not what we are applying for here today.
19 I think you also mentioned my declining to answer
20 a question about how senior housing will be affordable to
21 existing residents. I do not believe I declined to answer
22 that. I think my answer to that was similar to the point
23 that Rashid made earlier that the senior housing would be a
24 mix of different senior housing types split up over uses
25 like independent living and assisted living, and all of

Page 217

1 those uses would have both affordable and market rate
2 components. I believe that was my answer, which is my
3 answer now.
4 And to your last point, the fact this is a
5 rezoning hearing, I don't see that that is disingenuous in
6 any way to say that basically what I just said in answer to
7 your first question about the unit counts. Right now, we're
8 here to discuss a rezoning and I think it would be, you
9 know, not necessarily in keeping with the requirements of
10 the MXT zoning, rezoning request to lay out exactly what
11 this project will look like because we don't exactly know
12 what this project will look like yet. So, I, you know, I
13 would answer that question the same way. Right now, this is
14 just a rezoning hearing and we are in basically what is the
15 first step, which I think I said in that meeting as well, of
16 what is a five or 6-step process before anything would, you
17 know, start to be built. So, that answers all three of
18 those points for you.
19 MS. GINGOLD: Thank you.
20 MADAM EXAMINER: Thank you, sir. Can callers 10
21 and 11 identify themselves for the record?
22 (No affirmative response.)
23 MADAM EXAMINER: Okay. You're supposed to just
24 have members, persons of record in a hearing, and if you all
25 don't want to identify yourselves, you do have the right to

Page 218

1 hang up. Caller 10 and Caller 11? Okay. Thank you.
2 UNIDENTIFIED FEMALE SPEAKER: Okay. Who are
3 showing as Caller 10 and Caller 11?
4 MADAM EXAMINER: That's the, we don't see
5 anything. I only see -- so, (indiscernible).
6 UNIDENTIFIED FEMALE SPEAKER: No, hold on a
7 second.
8 COUNCILMAN BARNES: Okay. Who is Caller 10 and
9 who is 11?
10 MADAM EXAMINER: That's my question.
11 COUNCILMAN BARNES: Okay. Well, this is
12 Councilman Barnes. I'm with Forest Heights --
13 MADAM EXAMINER: I see you. Yeah, Robert Barnes,
14 you're showing up, yeah. Okay.
15 COUNCILMAN BARNES: Say that again?
16 MADAM EXAMINER: You are showing up on my screen
17 with your name. I don't see your face, but I see your name;
18 but then the other people -- can you see the screen? Are
19 you calling in as well, or are you on your computer?
20 COUNCILMAN BARNES: I'm on the computer.
21 MADAM EXAMINER: Okay.
22 COUNCILMAN BARNES: I can see you. You can't see
23 me.
24 MADAM EXAMINER: I can see your name, though. I'm
25 just wondering who Caller 10 and 11 are, but I don't hold us

Page 219

1 up for that. Ms. Scudder, do you have your next witness?
2 MS. SCUDDER: So --
3 MADAM EXAMINER: And is there somebody, if there's
4 somebody that you think we can finish before 4:00?
5 MS. SCUDDER: I'm not --
6 MADAM EXAMINER: (Indiscernible.)
7 MS. SCUDDER: I'm not sure. I mean you said you
8 wanted to stop today at 4 o'clock, right?
9 MADAM EXAMINER: Actually, we need to go ahead and
10 set that next date and let Ms. Egloff state again her full
11 objection to it. So, if you don't mind stopping now --
12 MS. SCUDDER: I don't mind.
13 MADAM EXAMINER: -- we'll be in good -- so, I
14 thank you all for being here and please stay because we'll
15 be doing the next date. But, Ms. Egloff, is there any more
16 you wanted to say, if you're still here?
17 (No affirmative response.)
18 MADAM EXAMINER: Okay. Mr. Brown and Ms. Scudder,
19 are you all available on April -- Ms. Rawlings, I think it
20 was April 28th?
21 MS. RAWLINGS: 28th.
22 MS. SCUDDER: Madam Examiner, is that the earliest
23 date that is available from this point?
24 MADAM EXAMINER: Yes, now that we're virtual,
25 everyone is virtual, so we basically only have Wednesdays

Page 220

1 cut out for the ZHE because the council and other groups
2 have all the other days, and in the background, somebody is
3 streaming this, and they have to work all hearings. So, we
4 only have Wednesdays and all of our other Wednesdays are
5 taken at the moment.
6 MS. SCUDDER: Okay. So, you said April 28th, and
7 would that begin at 9:30? I would just ask if any of the
8 National View team members have a conflict with that date,
9 to please speak up now, April 28th at 9:30.
10 (No affirmative response.)
11 MADAM EXAMINER: While they're looking, how many
12 more witnesses do you anticipate?
13 MS. SCUDDER: We have several more. We have seven
14 more.
15 MADAM EXAMINER: Seven more?
16 MS. SCUDDER: Let me just double-check that. Hold
17 on.
18 (Discussion off the record.)
19 MS. SCUDDER: Yes, Madam Examiner, it would be
20 seven.
21 MADAM EXAMINER: So, I'm just wondering, and we
22 can wait until then, but we've also saved the following
23 Wednesday for you if all sides aren't finished. So --
24 MS. SCUDDER: We would love to have the following
25 Wednesday. Oh, do you mean after the 28th, or --

Page 221

1 MADAM EXAMINER: Yes, after the 28th if, if it's
2 needed for --
3 MS. SCUDDER: Okay. I thought you were offering
4 March 31st and we would --
5 MADAM EXAMINER: No, ma'am.
6 MS. SCUDDER: -- love to have that. Okay. Okay.
7 MADAM EXAMINER: No. So, I thank you all for
8 being here. I don't know if you're checking the chat, but
9 your witnesses are telling you if they're available. I
10 don't know if that's all seven of them.
11 MS. SCUDDER: Yes, it looks like everyone is good
12 with that date.
13 MR. BROWN: So, are we saying April 28th and May
14 5th, if necessary?
15 MADAM EXAMINER: Yes.
16 MR. BROWN: All right. I just have --
17 MADAM EXAMINER: We may finish.
18 MR. BROWN: Right.
19 MS. SCUDDER: Yes, so we're saying April 28th, and
20 if we end up going into a third hearing, that date would be
21 May 5th?
22 MADAM EXAMINER: Yes.
23 MR. BROWN: Exactly.
24 MS. SCUDDER: Okay.
25 MADAM EXAMINER: I anticipate we should finish by

1 then for sure.
 2 MS. SCUDDER: I will certainly --
 3 MADAM EXAMINER: Okay. So, I thank you all for --
 4 MS. SCUDDER: -- to my best to get there.
 5 MADAM EXAMINER: Okay. I thank you all for being
 6 here today. I know it's been a long day and I appreciate
 7 your patience with everything, and I will see you hopefully
 8 on April 28th. Thank you very much.
 9 MS. SCUDDER: Okay. Thank you, Madam Chair.
 10 Thank you, Mr. Brown.
 11 MR. BROWN: Thank you.
 12 UNIDENTIFIED FEMALE SPEAKER: Thank you so much.
 13 MADAM EXAMINER: Thank you.
 14 COUNCILMAN BARNES: Thank you.
 15 (Whereupon, the hearing was concluded.)

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1 C E R T I F I C A T E
 2 DEPOSITION SERVICES, INC., hereby certifies that the
 3 attached pages represent an accurate transcript of the
 4 electronic sound recording of the proceedings before the
 5 Prince George's County Office of the Zoning Hearing Examiner
 6 in the matter of:

7 NATIONAL VIEW
 8 Case No. A-10055

9
10 By:

11
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16 _____
17 Tracy Hahn, Transcriber
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<p style="text-align: center;">A</p> <p>A-10055 (2) 4:5;51:8</p> <p>abandoned (1) 118:3</p> <p>Abigail (1) 67:20</p> <p>ability (2) 58:16;142:15</p> <p>able (32) 4:22;8:4;9:8;17:10, 21;19:20;43:5;56:3; 70:20;78:4;79:5,10,12; 82:25;107:20;111:22; 114:3,3,24;117:7,25; 120:2,4,5;130:4; 135:12;152:18;160:6; 169:8;184:4,14;195:20</p> <p>above (2) 141:2;168:17</p> <p>Absolutely (8) 58:6;80:21;99:10; 122:17;170:1;198:23; 203:2;204:6</p> <p>absorb (1) 145:21</p> <p>accept (1) 101:10</p> <p>accepted (3) 88:15;104:10;158:5</p> <p>access (31) 39:3;43:24;73:17,18, 21;77:7;82:14,15; 99:13;100:6,9;118:2; 119:18,18,21;120:13; 136:16,18;142:20; 152:18;196:22;197:7, 10,12,13,15,22;198:23; 199:23;203:12;206:17</p> <p>accessibility (3) 194:13,17;200:5</p> <p>accessible (6) 79:25;80:3;198:20; 200:10,25;205:14</p> <p>accidentally (1) 61:6</p> <p>acclimate (1) 196:22</p> <p>accommodate (3) 111:22;138:25;139:2</p> <p>accommodated (1) 137:4</p> <p>accomplish (1) 82:3</p> <p>accordance (1) 98:6</p> <p>according (1) 48:17</p> <p>accounting (1) 172:3</p> <p>accurate (1)</p>	<p>182:6</p> <p>accustomed (1) 204:17</p> <p>achieve (2) 116:15;168:21</p> <p>acquainted (1) 179:12</p> <p>acquire (2) 167:10;179:9</p> <p>acquisition (2) 100:7,7</p> <p>acquisitions (2) 176:16;179:18</p> <p>acre (1) 94:5</p> <p>acres (2) 4:9;29:15</p> <p>across (17) 27:12;33:16;37:25; 38:20;39:11;45:8;52:2; 93:3;95:9;113:4; 166:20;168:12;169:3, 5;188:19,20;197:9</p> <p>act (1) 51:6</p> <p>acting (2) 97:14;103:15</p> <p>Action (5) 123:19;124:4,5; 126:8;149:12</p> <p>actions (3) 19:12;149:11,17</p> <p>active (1) 116:15</p> <p>activities (2) 92:23,23</p> <p>actual (6) 54:16;130:4;132:3; 171:17;186:12,13</p> <p>Actually (34) 15:22;48:21,23; 60:12;67:2;70:9;86:24; 87:1,6;110:19;120:7, 19;148:15,18;156:12; 157:11;162:15;165:3; 166:20,22;171:19,21; 174:7;176:20;177:8; 179:14;183:6;185:6; 191:13;195:22,25; 203:7;210:19;219:9</p> <p>adaptive (1) 190:11</p> <p>add (7) 9:22;25:6;27:1;50:7; 80:12;88:16;116:2</p> <p>adding (3) 40:14;79:16;198:1</p> <p>addition (5) 26:13;50:18;111:25; 172:15;214:15</p> <p>additional (9) 12:25;17:20;22:18; 59:7;93:18;100:6,7;</p>	<p>105:8;198:1</p> <p>address (48) 4:16;10:2;12:2,5; 24:18,24,25;41:24; 42:17;44:24;53:17,19; 57:22;63:17,18;69:9; 15:73:1;77:14;78:7,21; 86:13;97:9;106:5,12; 107:1;115:7,9;121:23; 122:3;123:16,20,25; 126:2,14,16;128:3,5; 138:12,13;140:15; 159:14;163:13;174:5, 24;175:20;189:19,21</p> <p>addressed (5) 34:1;107:16,19; 111:11;187:1</p> <p>adequate (1) 124:20</p> <p>adjacent (9) 35:4;76:14;78:25; 79:24;81:15;94:22; 100:13;110:4;147:8</p> <p>adjoins (1) 141:6</p> <p>adjusted (2) 169:6,7</p> <p>administration (2) 180:3;192:11</p> <p>administrative (4) 20:5,7;22:8;194:3</p> <p>Administrator (1) 22:4</p> <p>admitted (1) 91:1</p> <p>adopt (1) 148:15</p> <p>adopted (1) 18:6</p> <p>adult (1) 203:16</p> <p>advances (1) 94:8</p> <p>advancing (1) 205:2</p> <p>advantage (2) 112:1;206:24</p> <p>advent (1) 112:24</p> <p>adverse (1) 17:4</p> <p>advertised (2) 131:2,9</p> <p>advice (1) 68:19</p> <p>advised (2) 6:18;155:20</p> <p>aesthetic (2) 65:10,22</p> <p>affect (5) 75:3,11,13;113:19, 21</p> <p>affected (7)</p>	<p>129:19;130:8,9; 140:21,25;141:11,12</p> <p>affecting (1) 106:25</p> <p>affidavit (8) 9:8,12,16,18;10:9; 173:10,14;174:25</p> <p>affidavits (1) 172:11</p> <p>affiliation (2) 166:18;176:17</p> <p>affirm (26) 11:23;16:11;24:4; 37:9;44:16;48:10; 53:12;57:15;63:12; 69:11;72:22;78:8;86:8; 92:2;97:4;105:23; 106:1;115:3;123:13; 127:24;134:3;140:10; 159:9;162:22;175:16; 189:11</p> <p>affirmative (9) 23:22;36:25;43:18; 48:3;60:23;68:23; 217:22;219:17;220:10</p> <p>afford (7) 25:22;55:5;130:5; 169:8;184:4,7,14</p> <p>affordability (2) 59:6;183:2</p> <p>affordable (20) 25:24;58:14;59:8; 165:13,18,22;184:13; 185:2,2,11,16,16,22, 23;186:2,3;187:22; 215:23;216:20;217:1</p> <p>affordable/senior (1) 185:4</p> <p>afforded (1) 28:7</p> <p>afraid (1) 208:7</p> <p>African-American (2) 50:21;207:12</p> <p>afternoon (8) 115:13;123:10,12; 127:19;171:7;189:10, 15;190:25</p> <p>afterthought (1) 208:2</p> <p>again (42) 12:4;20:18;39:2; 42:18;44:5;62:4;67:23; 68:8;76:12,19;97:16; 100:4;101:7;108:12; 113:9;114:5;125:9; 126:2;130:10;131:6,8; 133:16;135:10;137:23; 150:16;151:15;152:8; 163:9;165:7;173:16; 174:14;175:19;181:15; 189:16;203:25;207:3, 17;211:4,23;212:21;</p>	<p>218:15;219:10</p> <p>against (6) 76:4;87:21;107:13; 110:2;136:7;141:15</p> <p>age (2) 169:4;200:22</p> <p>agencies (2) 141:15;166:1</p> <p>agency (1) 101:13</p> <p>agenda (1) 17:8</p> <p>agent (1) 175:4</p> <p>agents (1) 30:20</p> <p>age-restricted (1) 201:9</p> <p>ages (4) 169:3;170:5;205:18, 18</p> <p>aging (1) 200:4</p> <p>ago (7) 7:16;58:2;83:18; 159:22;166:24;176:8; 210:7</p> <p>agree (12) 20:19,25;22:23;40:5; 52:3;75:22;79:3;82:9; 93:9,9;133:6;153:19</p> <p>agreed (2) 29:9;48:25</p> <p>agricultural (1) 205:21</p> <p>agriculture (1) 160:5</p> <p>ahead (22) 14:15;25:4,10;41:9; 44:19;45:16;54:5; 64:23;85:14;97:12; 99:8;114:25;124:15; 127:11;130:16;134:18; 135:5;154:1;156:7; 160:18;163:6;219:9</p> <p>aid (1) 197:22</p> <p>air (3) 136:12,22;144:15</p> <p>Airman (1) 58:25</p> <p>airplane (1) 71:17</p> <p>Airport (2) 180:20;194:15</p> <p>alerted (1) 84:21</p> <p>Alex (1) 78:22</p> <p>Alexander (3) 9:6;50:22;195:19</p> <p>Alexandria (14) 26:7;38:21;58:22;</p>
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<p>authenticity (1) 7:8</p> <p>authority (4) 102:13,14;134:14; 185:19</p> <p>authorization (4) 102:1,8;135:7,22</p> <p>authorize (1) 124:22</p> <p>authorized (3) 99:1;135:2,3</p> <p>authorizes (1) 98:2</p> <p>automatically (3) 107:24;111:24; 157:13</p> <p>autos (1) 144:15</p> <p>Autumnwood (1) 58:7</p> <p>availability (1) 186:13</p> <p>available (21) 7:7,9;23,25;43:4; 62:18;78:5;84:11; 87:13;103:7,17;118:4; 138:6;156:5;157:21; 181:22;182:6,7; 187:11;219:19,23; 221:9</p> <p>Ave (1) 183:16</p> <p>Avenue (7) 73:4;174:6,9,15,16, 18,24</p> <p>awarded (1) 26:17</p> <p>aware (28) 6:22;22:17;30:15; 60:19;62:12,23;77:1; 84:4,8,25;103:18,21; 104:12;108:11;109:14; 138:22;147:20,25; 148:7,8,13;194:2,25; 213:6,14,25;214:3,3</p> <p>awareness (1) 108:11</p> <p>away (8) 39:17;69:2;92:8; 143:9;146:18,19,21; 198:25</p> <p>awe (1) 31:5</p>	<p>85:22;86:6,7;99:4; 108:24;120:3,3; 122:22;123:9;126:2, 15,21;128:15;139:2, 23;153:6,7,20;154:6; 155:25;158:1,2,16; 162:11;166:22;167:5; 168:23;169:15;170:3; 175:6;191:14;205:17</p> <p>background (7) 30:20;153:15;164:8; 176:12;190:7;204:3; 220:2</p> <p>back-up (2) 125:3;139:7</p> <p>backyard (3) 13:25;78:25;120:21</p> <p>bad (3) 54:10;65:6;158:21</p> <p>bads (1) 54:4</p> <p>Bah (8) 142:10,20;146:20; 150:5,13,14;196:11,17</p> <p>balance (1) 89:19</p> <p>balanced (1) 83:2</p> <p>Bald (11) 73:21;74:12;75:18; 99:14;136:25;137:7; 144:9;188:8,20;197:9, 10</p> <p>ball (1) 180:11</p> <p>Bar (1) 176:14</p> <p>barely (2) 71:24;106:21</p> <p>BARNES (8) 218:8,11,12,13,15, 20,22;222:14</p> <p>barrier (1) 165:16</p> <p>bars (2) 27:13;35:20</p> <p>base (5) 12:13;26:14;42:22; 65:25;195:7</p> <p>based (17) 37:19;38:3,23;39:5; 43:6,51:7;81:10;89:9; 116:4;128:16;202:15; 204:2;209:10;210:10, 20;216:13,15</p> <p>basically (9) 38:14;71:14;102:4; 120:6;207:24;214:10; 217:6,14;219:25</p> <p>basis (2) 29:11;92:25</p> <p>bat (1) 111:19</p>	<p>bear (1) 57:10</p> <p>beautiful (4) 49:16;94:4;141:5; 160:4</p> <p>beauty (2) 49:24;117:19</p> <p>beavers (1) 35:23</p> <p>became (6) 62:12;133:5;157:7; 179:12,24;194:25</p> <p>become (4) 5:7;51:11;60:19; 62:23</p> <p>becoming (1) 93:18</p> <p>Beforehand (1) 84:22</p> <p>begin (7) 7:1,24;25:4;92:9; 117:2,4;220:7</p> <p>beginning (4) 36:10;119:1;190:22; 208:8</p> <p>behalf (19) 18:5,5;64:13,15,16; 67:24;68:4;89:19; 98:23;99:1;101:13,14; 102:14;131:19;134:15; 135:4,19,24;150:19</p> <p>behind (7) 8:23;20:16;55:8,13; 78:25;176:21;205:20</p> <p>believes (1) 128:25</p> <p>below (2) 88:15;141:6</p> <p>Beltway (10) 4:10;40:16;45:13; 80:17;165:24;180:10, 21;187:22;188:16; 197:9</p> <p>beneficial (3) 45:22;114:6;117:6</p> <p>benefit (9) 26:5;27:17;52:7; 74:6,18;118:11,12,12; 136:18</p> <p>benefits (4) 51:13;95:13;145:19; 206:24</p> <p>besides (1) 163:4</p> <p>best (4) 11:4;26:2;50:25; 222:4</p> <p>better (7) 38:17;39:3;81:24,24; 188:15,24;191:10</p> <p>beyond (1) 158:13</p> <p>bicycle (3) 197:14;198:21; 203:11</p>	<p>124:3;125:4;169:3,5; 193:19</p> <p>bicycles (1) 144:14</p> <p>bicycling (1) 206:14</p> <p>big (4) 14:15,15;137:11; 188:21</p> <p>bigger (2) 108:13;109:1</p> <p>biggest (2) 133:9,11</p> <p>bike (10) 34:1;35:10,21;37:16; 43:5;45:12;77:3,6; 95:4;197:14</p> <p>bikeable (1) 199:10</p> <p>biked (1) 75:17</p> <p>biking (4) 75:18;89:15;199:4; 200:10</p> <p>billing (1) 204:18</p> <p>billions (1) 178:9</p> <p>Binder (10) 32:21,22;33:7;34:10; 142:11,12;143:13; 150:6,8;174:23</p> <p>binders (3) 33:8;149:20,20</p> <p>bird (1) 144:10</p> <p>birds (2) 128:13;160:9</p> <p>bit (11) 7:14;87:20;90:12,16; 105:20;159:23;192:25; 198:25;199:3,9;205:4</p> <p>bits (2) 31:5,9</p> <p>black (4) 38:18;56:8;100:25; 101:2</p> <p>blackberries (1) 74:25</p> <p>Blackhawk (2) 140:16;159:17</p> <p>blank (2) 10:23;121:22</p> <p>blighted (1) 52:2</p> <p>blocks (1) 92:18</p> <p>blow (1) 72:20</p> <p>bluff (1) 141:7</p> <p>Board (8) 22:17;76:19;115:16;</p>	<p>81:2,12</p> <p>Borek (78) 11:9;54:15;55:17; 189:9,10,14,15,17,17, 20,25;190:5,8,17,21; 191:1,4,7,17;192:4,14, 17;193:3,11;194:2,7, 24;195:3,11,15,18; 196:3,7,14,18,21,24; 197:17,19,21;198:7,14; 199:8;200:20;201:5, 19;202:6,8,10,24; 203:2,24;204:2,6,12; 205:6,24;206:1;207:8; 208:6,18,20;209:21,22; 210:8,24;211:1,15,21; 212:8,16,19;213:12,16, 22;214:2;215:16;216:9</p> <p>born (2) 166:25;190:8</p> <p>both (17) 10:13;63:6,7;67:20; 81:4;89:4;102:7; 117:25;118:10;161:20; 182:21;187:2;195:25; 204:24;207:12,16; 217:1</p> <p>bothered (1) 107:12</p> <p>bottom (1) 70:23</p> <p>bought (2) 112:20;120:2</p> <p>boundaries (1) 192:13</p> <p>boundary (2) 75:15,15</p> <p>bounded (2) 97:17;100:4</p> <p>box (1) 126:9</p> <p>boxed (2) 40:16;79:18</p> <p>B-R- (1) 86:16</p> <p>brand (1) 171:25</p> <p>break (4) 85:20;122:15,15; 142:7</p> <p>breaking (3) 70:11;153:22;187:7</p> <p>Brentwood (1) 167:1</p>
B				
<p>baby (1) 106:17</p> <p>Bach (1) 108:22</p> <p>back (38) 12:18;27:20;68:15; 72:12;76:19;78:18;</p>	<p>basically (9) 38:14;71:14;102:4; 120:6;207:24;214:10; 217:6,14;219:25</p> <p>basis (2) 29:11;92:25</p> <p>bat (1) 111:19</p>	<p>best (4) 11:4;26:2;50:25; 222:4</p> <p>better (7) 38:17;39:3;81:24,24; 188:15,24;191:10</p> <p>beyond (1) 158:13</p> <p>bicycle (3) 197:14;198:21; 203:11</p>	<p>124:3;125:4;169:3,5; 193:19</p> <p>boat (1) 11:7</p> <p>border (1) 45:8</p> <p>bordered (1) 80:16</p> <p>borders (2) 81:2,12</p> <p>Borek (78) 11:9;54:15;55:17; 189:9,10,14,15,17,17, 20,25;190:5,8,17,21; 191:1,4,7,17;192:4,14, 17;193:3,11;194:2,7, 24;195:3,11,15,18; 196:3,7,14,18,21,24; 197:17,19,21;198:7,14; 199:8;200:20;201:5, 19;202:6,8,10,24; 203:2,24;204:2,6,12; 205:6,24;206:1;207:8; 208:6,18,20;209:21,22; 210:8,24;211:1,15,21; 212:8,16,19;213:12,16, 22;214:2;215:16;216:9</p> <p>born (2) 166:25;190:8</p> <p>both (17) 10:13;63:6,7;67:20; 81:4;89:4;102:7; 117:25;118:10;161:20; 182:21;187:2;195:25; 204:24;207:12,16; 217:1</p> <p>bothered (1) 107:12</p> <p>bottom (1) 70:23</p> <p>bought (2) 112:20;120:2</p> <p>boundaries (1) 192:13</p> <p>boundary (2) 75:15,15</p> <p>bounded (2) 97:17;100:4</p> <p>box (1) 126:9</p> <p>boxed (2) 40:16;79:18</p> <p>B-R- (1) 86:16</p> <p>brand (1) 171:25</p> <p>break (4) 85:20;122:15,15; 142:7</p> <p>breaking (3) 70:11;153:22;187:7</p> <p>Brentwood (1) 167:1</p>	

<p>Brian (6) 69:9,17;91:15;92:6; 128:21;129:8</p> <p>Bridge (16) 26:6;37:22,25;38:1, 20;39:2,11;42:22;43:3; 45:13,20;52:2;80:2; 95:10;188:20;197:8</p> <p>brief (3) 38:3,12;47:13</p> <p>briefly (3) 16:4;41:4;176:14</p> <p>bring (12) 26:16;39:18;50:10; 87:16;107:24;112:1; 117:9;118:13;147:13; 169:15;207:14,15</p> <p>bringing (5) 7:24;14:6;111:24; 180:23;183:2</p> <p>brings (1) 200:3</p> <p>Broad (2) 86:16;88:16</p> <p>broke (1) 179:2</p> <p>broken (1) 172:5</p> <p>Brothers (2) 179:17;180:17</p> <p>brother's (2) 177:7,8</p> <p>brought (5) 62:8;83:10;111:15; 119:23;136:4</p> <p>Brown (196) 5:13,13,15;9:14,15, 24;10:8,11,13,17,18; 13:5,8,14;15:13,15; 16:8;18:1,3,9;20:2,4, 18;21:6,25;22:2,8; 28:16,22,24;29:4,14, 20;32:15,24;33:1,14, 40;17,21;41:21,23; 42:2,5;46:16,18,21,24; 52:10,12;56:14,16,21; 59:19,21;60:2,4;64:10, 11,12,15,21,23;67:10, 11,17,23;68:16,20; 71:16,21;72:1,6,8; 76:21,22;83:24;84:1; 90:5,7,17;96:18,20; 97:24;98:1,10,14,16, 20,22;99:5,8;101:10; 102:1,3,8,12,17,21; 114:10,12;118:21,23; 123:8;124:1,7,13; 125:10,11;130:15,19, 21;132:12,16,18; 134:12,18,19,23; 137:17,18,21,24;138:2, 8,12,17;146:23,25; 151:14,16;152:8,15,17,</p>	<p>19,22,24;153:3,5,8,14, 18,25;154:7,13;155:7, 14;156:15,17,20,24; 157:15,17;162:5,6; 171:4,6,7,10,14,22; 172:9,24;173:1,15,18, 20,21;174:4,10,12,14, 20,22;175:1;182:14, 16;184:9,22;191:20; 201:14,16,18;202:16; 203:25;214:11,13,18, 22;215:8;219:18; 221:13,16,18,23; 222:10,11</p> <p>Brown's (1) 20:19</p> <p>budget (1) 14:15</p> <p>buffer (1) 81:4</p> <p>build (10) 30:21;65:8;94:11; 118:14;170:3,19; 180:4;181:5;183:11; 187:18</p> <p>builder (1) 180:16</p> <p>builders (1) 179:17</p> <p>building (13) 29:17;33:10;95:4,9; 161:10;177:21;183:13; 194:22;199:16;204:20; 205:16;208:23;210:14</p> <p>buildings (7) 32:10,17;33:23,24, 25;81:5;141:23</p> <p>built (16) 13:22;30:22;51:20, 22,22;81:6;82:11,12, 13;120:4;136:17,19; 137:3;139:10;146:3; 217:17</p> <p>built-up (1) 146:7</p> <p>bunch (2) 36:11;94:11</p> <p>burden (4) 74:7;81:10;112:2; 200:1</p> <p>Burnie (2) 166:20,21</p> <p>bus (2) 186:13;199:4</p> <p>bush (1) 109:6</p> <p>business (6) 12:2;55:1;108:4,5; 170:20;174:5</p> <p>businesses (4) 26:18;27:23;50:18; 183:10</p> <p>businessman (1)</p>	<p>108:3</p> <p>busses (1) 188:4</p> <p>bustling (1) 26:7</p> <p>busy (1) 10:7</p> <p>Butler (17) 9:6;50:22;54:22; 55:11,11;70:6,7; 100:23;104:14;113:10; 145:15;167:16;179:23; 195:19;205:21;206:5,9</p> <p>buy (5) 27:19;36:8;73:11; 94:24;187:18</p> <p>buying (1) 160:20</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>call (26) 4:22;12:8;16:7;24:1; 31:2;33:6;37:13;43:14; 44:10;46:10;48:1;53:5; 56:25;60:6;61:8;69:2; 87:10,11;91:15; 105:12;114:15;133:21; 154:20;165:16;175:12; 184:17</p> <p>called (4) 43:15;82:20;120:15; 127:9</p> <p>caller (9) 16:6;49:5;52:25; 218:1,1,3,3,8,25</p> <p>Callers (4) 53:2;66:5,21;217:20</p> <p>calling (5) 5:1;43:17;153:10; 155:21;218:19</p> <p>came (20) 13:9;21:21;22:24; 119:24,25;120:2,7,10, 10;124:1;131:18; 133:15;146:15;155:25; 158:6;183:23;192:19; 205:7;211:7;214:9</p> <p>camera (9) 43:24,25;57:7,9; 78:13,15;105:17; 114:23;133:24</p> <p>cameras (1) 43:13</p> <p>camping (1) 45:12</p> <p>can (188) 4:25;5:7;6:4,17;8:2, 7,25;9:24;10:17,17; 11:3;12:13;15:17; 16:15,24;17:21;19:7; 20:16;21:5;24:7,9; 25:4,22;27:14;28:3;</p>	<p>35:20,20,21,21,24,24; 36:14;37:15;38:5,9,12; 39:1;41:3,8;44:19; 45:3;49:7;53:8;55:5; 57:5,6;59:7,24;65:2; 66:3,13,16;71:21,24; 72:12;74:15,23,23,24, 24;78:17,18;79:21; 81:16;86:22;89:16; 91:23;98:7,16;99:2,10; 101:15,15;102:16; 103:6,6,7,7,10;105:17; 107:8,14;108:20; 109:5,23;110:17; 112:12;113:12;114:21, 22;116:16;117:3; 121:14,20;122:2,15; 123:24;126:17;127:17, 20;128:9;129:6; 131:12;135:10,14,16, 20;137:3;138:4;139:2, 7;140:9;142:10,21; 143:1,14;146:16,18; 147:13;148:21;149:22; 150:4;152:20,25; 153:1,5,7,21,21;156:1, 2,17,25;157:4;162:12; 163:3,4,5;164:25; 169:4;177:13,15; 181:12;182:2;186:21; 187:15;188:6,10,14,15, 15,23,24;190:6;192:1, 24,25;196:11,14,14,15, 16;197:16,16;199:5; 201:15,20;202:6,11,13; 204:8;209:16,17,18,19; 210:2,20,21;211:9; 212:2;215:11;216:6; 217:20;218:18,22,24; 219:4;220:22</p> <p>Capital (7) 4:10;49:5,10;121:24, 25,25;147:16</p> <p>Capitol (2) 71:2;164:22</p> <p>capping (1) 45:18</p> <p>car (3) 29:2;79:13;199:4</p> <p>carbon (2) 145:21;183:12</p> <p>car-dependent (1) 116:20</p> <p>care (8) 14:18,19;75:8;89:11; 93:5;136:20;170:23; 201:10</p> <p>cared (1) 118:8</p> <p>cares (1) 10:5</p> <p>carry (1) 115:25</p>	<p>cars (6) 43:20;74:12,15; 75:20;82:7;197:10</p> <p>case (13) 4:5,25;8:2,10;18:16; 57:24;81:16;95:8; 110:2;147:25;148:8; 158:7;215:12</p> <p>case-in-chief (1) 8:20</p> <p>cases (1) 47:16</p> <p>Casino (1) 50:13</p> <p>catalyst (2) 66:3;168:15</p> <p>catalysts (1) 187:21</p> <p>catch (1) 42:17</p> <p>cater (2) 50:15,19</p> <p>Catholic (1) 176:24</p> <p>caught (2) 59:16;155:1</p> <p>cause (3) 100:10;139:7;153:12</p> <p>Cavitt (23) 123:1,7,9,10,11,15, 18,18,24;124:10,14,22; 125:15,17;126:4,7,19, 22,24;127:2,3,4;193:23</p> <p>Cavitt's (1) 125:7</p> <p>Center (6) 70:23;80:11;82:6; 108:23;110:18;167:3</p> <p>centered (2) 35:24;36:1</p> <p>centers (1) 37:24</p> <p>Central (1) 93:4</p> <p>centric (1) 203:3</p> <p>century (1) 113:18</p> <p>certain (8) 26:2;39:8;52:4,5; 94:13;165:25;166:1; 208:19</p> <p>Certainly (8) 86:15;113:1;164:13, 25;202:8,11;216:12; 222:2</p> <p>certificate (1) 172:19</p> <p>cetera (6) 19:14;41:14;191:9; 196:23;201:10;207:2</p> <p>CFR (1) 98:6</p>
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<p>chain (1) 62:19</p> <p>Chair (3) 5:24,25;222:9</p> <p>chairwoman (1) 124:11</p> <p>challenge (3) 52:8;92:12;172:22</p> <p>challenges (2) 92:14;93:16</p> <p>chance (8) 12:20;65:8;86:7; 168:25;169:1,12; 174:22;191:2</p> <p>change (11) 54:20;68:25,25;81:1; 88:6;93:16;99:24; 141:13;144:4,18; 174:25</p> <p>changed (1) 137:13</p> <p>changes (4) 100:17;103:19; 145:6;164:20</p> <p>changing (4) 89:5;112:25;146:5; 216:4</p> <p>character (5) 40:13;79:15;145:17; 147:7;170:21</p> <p>characterizing (1) 157:1</p> <p>charges (1) 110:1</p> <p>Charles (3) 56:5;112:15;114:1</p> <p>Charleston (3) 164:10,11;166:21</p> <p>Chase (1) 175:22</p> <p>chat (22) 4:15,20,22,24;33:5; 34:18;42:9,11;44:6,15; 60:9;85:11;91:9;122:1, 1,2,3;127:16;152:18, 23;215:9;221:8</p> <p>cheaply (1) 116:14</p> <p>check (6) 13:18;68:14;122:2; 126:16,25;151:21</p> <p>checking (4) 18:24;60:8,9;221:8</p> <p>Chevy (1) 175:22</p> <p>chicken (2) 27:19;36:8</p> <p>chickens (1) 99:17</p> <p>childcare (1) 199:20</p> <p>children (4) 49:25;56:2;74:23;</p>	<p>120:5</p> <p>choices (1) 94:10</p> <p>choosing (1) 40:9</p> <p>chop (1) 94:10</p> <p>chose (2) 35:7;160:3</p> <p>chosen (1) 94:25</p> <p>Christian (1) 167:3</p> <p>Christine (2) 73:3;145:1</p> <p>cities (1) 166:2</p> <p>citizen (12) 47:19;53:4;58:15; 71:2,3,4;97:13;115:15; 121:9;140:18;157:25; 159:1</p> <p>citizenry (1) 87:8</p> <p>citizens (19) 16:19,24;17:5;23:19; 47:16;71:1;107:19; 109:25;130:4;132:19; 136:4,15;158:9; 182:22;184:3;208:12, 22;209:14;212:9</p> <p>city (10) 21:23;54:19;119:7, 15,19;161:24;164:20, 20,25;168:16</p> <p>civic (2) 68:18;87:17</p> <p>clarification (2) 32:23;68:20</p> <p>clarified (1) 20:17</p> <p>clarify (5) 18:3;32:20;116:1; 152:10;153:2</p> <p>clarity (1) 173:22</p> <p>classify (1) 14:5</p> <p>clean (1) 70:8</p> <p>cleaned (1) 70:9</p> <p>cleaning (1) 136:5</p> <p>clear (8) 50:14;51:20,22; 58:21;82:2,16;145:20; 214:23</p> <p>clearly (1) 215:19</p> <p>clicks (1) 111:7</p> <p>clients (1)</p>	<p>191:21</p> <p>climate (2) 146:5;207:1</p> <p>close (9) 27:4;43:2;66:19; 88:4;119:17;128:7; 135:6;159:18;162:2</p> <p>closed (2) 80:16;174:18</p> <p>closely (2) 50:3;192:22</p> <p>closer (5) 73:5;90:13,16; 110:23,23</p> <p>closes (2) 102:18;173:4</p> <p>Club (1) 21:15</p> <p>code (1) 210:11</p> <p>co-exist (2) 66:13;169:9</p> <p>coffee (1) 169:10</p> <p>co-habitat (1) 183:3</p> <p>cohabitate (1) 169:9</p> <p>cohesive (2) 80:7;194:10</p> <p>collaboration (3) 115:21,24;209:13</p> <p>collect (1) 99:17</p> <p>collective (2) 20:15;118:13</p> <p>college (2) 166:21;190:9</p> <p>Columbia (3) 119:13;164:18,21</p> <p>combat (1) 145:23</p> <p>combatting (1) 200:7</p> <p>combination (2) 119:17,20</p> <p>combining (2) 120:24,24</p> <p>comfortable (1) 109:7</p> <p>coming (15) 8:19;10:23;12:10,22; 18:20;55:20;56:7; 58:22;94:2;107:10; 109:8;110:25;119:9; 168:8;201:13</p> <p>Comiso (43) 96:25;97:1,3,3,7,11, 12,13,14,24,25;98:4, 14,15,18,21;99:2,6,10; 101:12,14,20;102:6,11, 16,19,24,25;103:6,10, 14,21;104:5,9,12,15,</p>	<p>19,23;105:1,2,4,6,9</p> <p>Comiso's (1) 101:11</p> <p>commanding (1) 141:19</p> <p>comment (3) 19:14,21;97:17</p> <p>commentary (1) 25:6</p> <p>comments (21) 30:22,23,24;36:4; 37:17,19;39:5;58:1; 79:6;96:12,13;115:1; 116:4;121:13;134:12; 193:14,18,21,22,25; 194:4</p> <p>Commercial (15) 61:25;62:6,8;64:2, 19;66:1;67:13;80:8,13, 18;82:5;96:7;146:7; 183:7;197:6</p> <p>commercialize (1) 70:20</p> <p>Commission (10) 145:16;147:4,6,11, 17;148:1,9,14;149:14, 17</p> <p>commissioned (2) 201:2,5</p> <p>Commissioner (1) 106:12</p> <p>commissioner's (1) 66:20</p> <p>committed (2) 26:21;192:20</p> <p>communicate (3) 83:7,14,22</p> <p>communicated (1) 193:4</p> <p>communicating (1) 31:1</p> <p>communication (1) 193:16</p> <p>communications (2) 194:4;212:25</p> <p>communities (10) 38:19;39:10,14,15; 116:16;130:12;155:1; 156:11;205:5;206:17</p> <p>community (85) 13:24;16:21,22,24; 17:4,5;21:19;24:13; 25:24;26:5,17,21; 27:17,22;28:3;30:4; 32:12;39:4,10;43:7; 49:22;50:7,10,19;51:3; 54:16,23;58:17,21; 59:9,10;63:2;67:16; 74:1,4,5;76:15;79:22; 80:16;83:8;88:6;89:8, 13,14,16;94:6;107:25; 108:1,19;111:20,24; 113:7,14;114:7,8;</p>	<p>115:18;120:16;136:5; 155:2,3;177:17;181:6; 192:1,5,6,6;193:12; 194:11;198:9,12,16; 199:10,20;200:12,14; 201:1;204:23;205:10, 20;206:25;208:25; 209:1,15;215:11,16</p> <p>community-building (1) 205:15</p> <p>company (16) 12:21;163:10,12,14, 24;164:1,5;170:16; 171:12;172:14;173:6, 8;183:10;189:18,19; 190:2</p> <p>comparing (1) 33:16</p> <p>comparison (3) 106:16,17;111:13</p> <p>compatibility (1) 208:8</p> <p>compatible (3) 208:10,11,13</p> <p>competent (1) 12:22</p> <p>competing (1) 208:15</p> <p>compile (1) 187:16</p> <p>complement (2) 89:6;208:15</p> <p>complete (1) 11:1</p> <p>completely (1) 40:5</p> <p>completes (2) 182:12;209:22</p> <p>complex (3) 32:11;75:16;172:2</p> <p>complicated (1) 172:2</p> <p>compliment (1) 208:4</p> <p>component (3) 111:25;203:14,16</p> <p>components (1) 217:2</p> <p>comprehensive (1) 97:23</p> <p>computer (7) 22:12;43:23;49:8; 137:19;163:3;218:19, 20</p> <p>concentrated (1) 93:21</p> <p>concentrating (2) 40:12;79:14</p> <p>concentration (1) 125:20</p> <p>concept (13) 13:21;32:10,21;33:9, 21,24;50:6;80:21;96:6;</p>
---	--	--	---	---

<p>143:12;168:22;210:4,6 concepts (2) 196:4;203:1 conceptual (2) 210:16,17 concern (13) 51:24,25;66:6,9; 70:18;71:6,14;85:2; 133:11;136:23;137:11; 139:8;156:10 concerned (18) 49:19;69:21,24,25; 71:1;74:20;87:4,9; 90:13;97:13;99:21; 101:6;107:9;115:15; 136:10,11,12;188:7 concerning (4) 22:16;83:6;147:4; 215:12 concerns (11) 20:5;49:13;71:10; 74:19;83:2,88:7;94:21; 100:10;106:12;117:16; 183:25 conclude (3) 54:23;56:9;96:12 concluded (1) 222:15 concludes (1) 215:9 concrete (1) 39:11 conditions (1) 146:5 condos (1) 25:25 conduct (1) 20:9 conference (2) 11:9;12:8 confidence (2) 28:1;49:18 configured (1) 179:20 confirm (1) 20:13 conflict (2) 208:9;220:8 confusion (1) 21:20 connect (5) 51:2;77:2;170:8; 198:18;206:10 connected (5) 77:5;80:7;167:14; 197:25;199:11 Connecticut (6) 174:5,9,15,16,18,24 connecting (3) 113:14;197:23; 206:10 connection (3) 77:5;99:19;158:21</p>	<p>connections (3) 81:25;118:6;177:10 connects (1) 95:4 conservancy (2) 66:7,13 Conservation (2) 134:10;136:2 conservative (1) 216:16 conserving (1) 207:1 consider (10) 41:12;145:11;169:5, 13;194:21;202:20,21, 25;203:15;214:24 consideration (4) 13:21;17:9;109:17; 113:9 considered (2) 165:19;203:17 constituted (2) 124:2,16 constrained (1) 100:9 construction (2) 145:10;164:3 consult (1) 22:10 consultation (1) 108:11 consultations (1) 88:14 consulting (1) 108:5 contact (7) 20:21;61:21;120:4; 132:3,4;192:10;215:10 contacted (8) 31:12;62:1;104:14; 113:9;179:5,16,18,19 contain (1) 144:21 context (7) 92:16;109:11,14; 111:11,12;113:11; 200:17 continuance (5) 6:16,18;157:10,13; 158:7 continue (9) 7:22;16:15;45:3; 57:14;95:24;99:7; 157:20;192:21;209:9 continued (5) 5:9;6:20;9:23;10:14; 157:10 continuing (3) 19:5;56:5;183:17 continuous (1) 160:8 contract (1) 179:6</p>	<p>contracts (3) 26:17;108:6,8 contrast (1) 141:21 control (9) 8:20;142:21;183:15; 187:11;196:13,14,16, 16,17 convenience (2) 120:11,13 convenient (1) 120:1 conversation (4) 107:18,21;134:20; 135:16 conversations (1) 95:20 convinces (1) 181:12 cooling (1) 145:22 cooperate (1) 133:24 coordination (1) 163:25 co-partners (1) 13:3 copy (3) 98:10;124:1;158:3 core (1) 145:9 corner (4) 187:18;197:12; 203:10;211:25 corporation (3) 171:12;172:14;191:9 correctly (3) 7:4;214:19,21 corridor (4) 65:24;97:22;100:20; 125:18 cost (2) 185:3;186:1 council (38) 17:6,9,9,10;19:16, 21;20:16,21;84:5,19, 23;120:8;123:20; 124:4;126:9;129:21, 23;131:19;132:6,7,23; 133:4,12;135:22; 156:13;191:8,15,18,18, 21;192:3;212:12,17, 18;213:13,25;214:3; 220:1 COUNCILMAN (7) 218:8,11,12,15,20, 22;222:14 councilwoman (1) 88:18 counsel (5) 5:10,14;7:11,11;44:9 count (1) 216:13</p>	<p>counties (2) 27:11;56:8 countless (3) 141:8;143:6;144:10 country (3) 38:19;56:8;165:9 counts (4) 77:16;216:10,14; 217:7 County (126) 12:7,10,15,19,25; 14:7;20:7;25:12,18,21; 26:6,12;27:5,8,18;30:7, 10,15;35:17;36:2;38:2, 18;39:6,7,9,20;40:7; 43:2;44:22;45:6,21; 49:4;50:2;51:18;53:24; 54:8,10,17,18;55:18; 56:2,6;59:6,8;65:10; 66:10,15;70:3;73:8; 74:13;76:3;92:11,12; 93:4,17;94:8;95:7; 100:25;101:1,3; 108:21;112:15;114:1; 115:18;117:3,14,23; 118:13;125:16,18,23; 134:1;135:15;136:1, 14,17;137:13;138:10; 141:16;143:21;144:2, 20;146:12;148:12; 149:16;160:23;161:7; 166:18,20,22,22;167:2, 4,5,7,8;168:5,10,25; 169:15,16,20,23; 173:24;174:2;176:18, 19;178:8,9,11,13,17; 186:10;187:13,24; 191:9,10,15;193:12; 195:14;202:22;203:17, 19;208:10;212:12,14 County's (4) 88:21;160:22;178:2; 204:23 County-wide (1) 147:17 couple (12) 10:22;62:16;64:7; 84:3;108:7;109:13; 125:14;128:19;130:23; 147:2;176:20;182:25 course (14) 12:17;108:24; 109:20;114:7;144:7; 163:25;168:18;187:21; 194:15;198:22;199:13; 205:19;214:6,7 Court (1) 133:25 Cove (9) 97:16,21;103:4,13; 107:12;108:19;113:20; 136:5;197:5 coverages (1)</p>	<p>183:23 COVID (3) 108:8,10;112:24 cow (1) 99:17 crazy (2) 74:9;105:16 Crea (18) 78:23;79:1;81:3; 83:17;85:5;128:5; 129:19;130:7;140:23; 141:3,6;144:8;177:8; 181:24;184:18;211:10, 12,12 create (15) 16:24;25:23;82:4; 116:22;117:7;118:14; 141:21;145:12;165:15; 194:10;203:19;205:5; 207:25;209:16,19 creating (7) 16:22;21:23;116:15; 117:11;206:16;207:1; 208:14 creative (1) 94:1 credibility (1) 138:4 Creek (5) 86:16,17;88:16; 90:12;92:7 criteria (1) 210:10 critical (2) 199:14;203:15 cross (6) 39:2;43:2;71:15; 83:25;162:4;184:24 cross- (4) 33:4;43:11;71:21; 151:10 cross-examine (14) 4:19,21;7:7;39:22; 43:24;67:6;72:12; 139:22;151:12,16; 153:11,12;175:9; 209:24 cross-examined (1) 7:10 crossing (1) 26:6 Crossland (2) 54:2,12 crown (2) 45:18;178:17 Cruse (54) 24:2,3,7,10,12,12,17, 20,23,25;25:5,11; 28:13,23,24;29:2,13, 19,25;30:3,6,17,23; 31:19,23;32:2,5,7,9,13; 33:15,18,20;34:14,23, 25;35:9;36:19,21,23;</p>
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<p>37:12;39:5,22,23,25; 40:1,19;41:3,5,16; 46:1;49:1;51:12;52:4</p> <p>Cruse's (1) 28:15</p> <p>C's (1) 148:12</p> <p>cue (1) 4:3</p> <p>cultural (3) 49:24;50:10,22</p> <p>curious (3) 119:23;126:11;212:5</p> <p>current (8) 55:23;76:8;81:22; 138:24;194:21;198:11; 205:12,14</p> <p>currently (13) 25:15;27:2;55:25; 56:16;80:5;118:3; 145:3;165:12;179:15; 181:25;186:12;201:12; 202:11</p> <p>cursor (3) 143:1;197:18,19</p> <p>curtail (1) 157:4</p> <p>cut (3) 14:22;117:20;220:1</p> <p>cutting (2) 70:11,12</p> <p>cycle (4) 93:1;99:13;185:19; 190:18</p>	<p>108:17;137:5;222:6</p> <p>daycare (1) 199:20</p> <p>days (4) 4:14;58:2;109:6; 220:2</p> <p>DC (24) 45:8;65:12;79:11; 99:16;111:1;134:21; 144:7;164:5,16,16,17; 165:10;171:15,16,16; 174:5;180:20;181:3; 183:15;189:22;190:9, 14;194:15;204:19</p> <p>deal (10) 80:19;95:16,17,17; 137:14;157:17,21; 163:25,25;181:19</p> <p>dealing (3) 177:10;179:25; 181:18</p> <p>decade (2) 167:16;190:11</p> <p>decades (1) 160:6</p> <p>December (3) 84:5;131:5,7</p> <p>decent (1) 26:11</p> <p>decided (2) 186:11;191:6</p> <p>decision (2) 120:18;214:25</p> <p>declined (3) 215:21,24;216:21</p> <p>declining (1) 216:19</p> <p>dedicated (3) 113:6;197:14,22</p> <p>deed (1) 120:3</p> <p>deemed (1) 29:9</p> <p>deep (1) 81:3</p> <p>deeply (3) 80:14,14;136:21</p> <p>deer (4) 35:25;99:15;128:14; 144:10</p> <p>deers (1) 36:13</p> <p>definitely (12) 21:5;69:20;71:6; 106:16,22,23;108:20; 117:15,22;130:6; 135:8;161:5</p> <p>degree (1) 101:22</p> <p>delighted (1) 12:7</p> <p>demand (3) 181:15;201:8,12</p>	<p>demonstrate (1) 66:16</p> <p>demonstrates (1) 50:23</p> <p>demonstration (1) 210:20</p> <p>Dennard (16) 69:5,7,9,10,13,17,17; 71:15,16,24;72:2,11, 13;73:5;79:23;80:9</p> <p>denote (1) 206:14</p> <p>denoted (1) 182:1</p> <p>density (8) 81:1;93:22;95:8; 100:14;116:18;145:3; 180:8;194:8</p> <p>depart (3) 8:2;69:18;71:5</p> <p>Depart (4) 107:4;120:9;141:16; 143:22</p> <p>depends (1) 103:21</p> <p>depressed (1) 180:22</p> <p>descendants (1) 195:19</p> <p>describe (4) 190:6;192:1,15; 196:4</p> <p>described (1) 88:13</p> <p>describing (1) 35:7</p> <p>deserve (3) 26:11;36:3,13</p> <p>deserved (1) 79:9</p> <p>design (7) 81:24;82:18;116:24; 139:2;200:15;203:3; 204:14</p> <p>designated (1) 206:3</p> <p>designed (1) 80:25</p> <p>designee (1) 124:22</p> <p>designer (1) 116:6</p> <p>desire (2) 82:24;139:5</p> <p>desires (2) 83:2;88:25</p> <p>desperate (1) 38:15</p> <p>desperately (2) 81:23,23</p> <p>destination (2) 170:6;207:25</p> <p>detached (2) 141:22;195:4</p>	<p>detail (2) 139:16;188:24</p> <p>detective (1) 110:16</p> <p>determination (3) 211:8;212:6;214:9</p> <p>determine (2) 210:21;216:3</p> <p>determined (1) 211:8</p> <p>detract (1) 117:8</p> <p>detrimental (2) 99:25;109:10</p> <p>develop (10) 66:12;70:7,22,25; 94:24;111:2;179:13, 15,24;180:2</p> <p>developed (9) 17:3;45:22;99:15; 118:1;168:14;181:13, 25;187:5;196:5</p> <p>developer (28) 13:20;16:23;25:16, 19;26:20;30:3;32:1; 49:19;50:4,8;60:16,18, 19;61:5,21;83:17;85:1; 87:7;90:2;110:8; 118:11;130:25;157:10; 167:14;179:2;195:2; 207:20;208:18</p> <p>developers (17) 16:21;24:14;28:1; 31:21;62:15;66:16; 76:19;86:25;89:21; 95:23;110:7;111:2,14; 113:4;115:17;169:22; 207:10</p> <p>developers' (2) 30:20;95:21</p> <p>developer's (3) 25:23;129:15;139:4</p> <p>developing (9) 76:13;164:16; 165:11;169:14;194:9; 195:3;200:4,16;203:1</p> <p>Development (185) 4:8;12:14;14:6; 26:11,17;27:7;30:7,16; 38:15;40:6,7,9,12,15, 24,25,25;41:2,12; 45:16,17,24;48:20,24; 50:5,20;51:8,11,13,15, 16,17;52:4,5,6;54:13, 16;55:18,24;58:11; 59:4;61:25;62:6,8; 64:2,19,25;65:1;66:1,1, 2,13,18;67:14;69:21; 71:2;73:7,8,13,15,16, 23,24;75:12;78:24; 79:8,14,17,21;80:7,12, 16,20,22,25;81:9,12;</p>	<p>82:10,17,22,24;83:1; 84:22;88:3,5,12,23; 89:6,9;90:14;92:9,11, 13,16,20;93:9,21;94:3, 4,11,13,16;95:2,13; 99:13;100:4,8,12; 101:3;104:1;106:19; 108:22;110:11;111:8; 112:5,8;114:5;116:3, 15,21;117:2,24; 120:24;125:15,17; 128:7;136:17;139:9; 141:12,16,17,19; 143:15;144:4,11,13; 146:6,11;159:18; 163:12,18,20;166:10; 167:7;169:12;171:11, 22,24;172:13;173:9,11, 14;175:23,25;176:2,9, 15;177:18;178:24; 180:19;181:1,10; 183:4;185:24;187:22; 189:20,25;190:1,10,12, 18;191:8;192:18; 199:25;203:5;205:12; 207:21;208:7,19; 209:6,17;210:5; 213:14;215:18;216:3</p> <p>developments (6) 55:19;71:3;92:18; 108:23;110:13;165:21</p> <p>Development's (2) 89:3;174:4</p> <p>DHCD (1) 202:18</p> <p>didn't (1) 56:19</p> <p>died (1) 149:2</p> <p>difference (4) 9:22;75:15;94:14; 132:14</p> <p>different (15) 5:10;31:11;41:2; 87:5;105:20;164:1; 170:4;188:17,17,18; 200:22;201:1;207:10; 216:9,24</p> <p>difficult (4) 73:17;75:17;139:6; 165:17</p> <p>difficulty (1) 7:14</p> <p>digest (1) 155:5</p> <p>Diggs (1) 63:19</p> <p>diligence (3) 88:13;160:21;190:22</p> <p>dimension (1) 50:7</p> <p>dioxide (1) 145:21</p>
D				
<p>daily (2) 144:18,19</p> <p>Dallas (2) 183:17,17</p> <p>damage (1) 100:9</p> <p>data (6) 67:2;103:3,17; 146:16;185:9;186:6</p> <p>date (18) 10:1;19:18;135:1; 154:16,17,23;156:5,7; 158:14,24,24;183:8; 219:10,15,23;220:8; 221:12,20</p> <p>dated (3) 67:12;147:15;149:17</p> <p>dates (1) 139:2</p> <p>Dave (2) 60:11;63:18</p> <p>David (5) 44:5;60:11;63:10; 128:4;144:8</p> <p>day (6) 47:17;91:11;107:7;</p>	<p>181:15;201:8,12</p>	<p>demonstrate (1) 66:16</p> <p>demonstrates (1) 50:23</p> <p>demonstration (1) 210:20</p> <p>Dennard (16) 69:5,7,9,10,13,17,17; 71:15,16,24;72:2,11, 13;73:5;79:23;80:9</p> <p>denote (1) 206:14</p> <p>denoted (1) 182:1</p> <p>density (8) 81:1;93:22;95:8; 100:14;116:18;145:3; 180:8;194:8</p> <p>depart (3) 8:2;69:18;71:5</p> <p>Depart (4) 107:4;120:9;141:16; 143:22</p> <p>depends (1) 103:21</p> <p>depressed (1) 180:22</p> <p>descendants (1) 195:19</p> <p>describe (4) 190:6;192:1,15; 196:4</p> <p>described (1) 88:13</p> <p>describing (1) 35:7</p> <p>deserve (3) 26:11;36:3,13</p> <p>deserved (1) 79:9</p> <p>design (7) 81:24;82:18;116:24; 139:2;200:15;203:3; 204:14</p> <p>designated (1) 206:3</p> <p>designed (1) 80:25</p> <p>designee (1) 124:22</p> <p>designer (1) 116:6</p> <p>desire (2) 82:24;139:5</p> <p>desires (2) 83:2;88:25</p> <p>desperate (1) 38:15</p> <p>desperately (2) 81:23,23</p> <p>destination (2) 170:6;207:25</p> <p>detached (2) 141:22;195:4</p>	<p>detail (2) 139:16;188:24</p> <p>detective (1) 110:16</p> <p>determination (3) 211:8;212:6;214:9</p> <p>determine (2) 210:21;216:3</p> <p>determined (1) 211:8</p> <p>detract (1) 117:8</p> <p>detrimental (2) 99:25;109:10</p> <p>develop (10) 66:12;70:7,22,25; 94:24;111:2;179:13, 15,24;180:2</p> <p>developed (9) 17:3;45:22;99:15; 118:1;168:14;181:13, 25;187:5;196:5</p> <p>developer (28) 13:20;16:23;25:16, 19;26:20;30:3;32:1; 49:19;50:4,8;60:16,18, 19;61:5,21;83:17;85:1; 87:7;90:2;110:8; 118:11;130:25;157:10; 167:14;179:2;195:2; 207:20;208:18</p> <p>developers (17) 16:21;24:14;28:1; 31:21;62:15;66:16; 76:19;86:25;89:21; 95:23;110:7;111:2,14; 113:4;115:17;169:22; 207:10</p> <p>developers' (2) 30:20;95:21</p> <p>developer's (3) 25:23;129:15;139:4</p> <p>developing (9) 76:13;164:16; 165:11;169:14;194:9; 195:3;200:4,16;203:1</p> <p>Development (185) 4:8;12:14;14:6; 26:11,17;27:7;30:7,16; 38:15;40:6,7,9,12,15, 24,25,25;41:2,12; 45:16,17,24;48:20,24; 50:5,20;51:8,11,13,15, 16,17;52:4,5,6;54:13, 16;55:18,24;58:11; 59:4;61:25;62:6,8; 64:2,19,25;65:1;66:1,1, 2,13,18;67:14;69:21; 71:2;73:7,8,13,15,16, 23,24;75:12;78:24; 79:8,14,17,21;80:7,12, 16,20,22,25;81:9,12;</p>	<p>82:10,17,22,24;83:1; 84:22;88:3,5,12,23; 89:6,9;90:14;92:9,11, 13,16,20;93:9,21;94:3, 4,11,13,16;95:2,13; 99:13;100:4,8,12; 101:3;104:1;106:19; 108:22;110:11;111:8; 112:5,8;114:5;116:3, 15,21;117:2,24; 120:24;125:15,17; 128:7;136:17;139:9; 141:12,16,17,19; 143:15;144:4,11,13; 146:6,11;159:18; 163:12,18,20;166:10; 167:7;169:12;171:11, 22,24;172:13;173:9,11, 14;175:23,25;176:2,9, 15;177:18;178:24; 180:19;181:1,10; 183:4;185:24;187:22; 189:20,25;190:1,10,12, 18;191:8;192:18; 199:25;203:5;205:12; 207:21;208:7,19; 209:6,17;210:5; 213:14;215:18;216:3</p> <p>developments (6) 55:19;71:3;92:18; 108:23;110:13;165:21</p> <p>Development's (2) 89:3;174:4</p> <p>DHCD (1) 202:18</p> <p>didn't (1) 56:19</p> <p>died (1) 149:2</p> <p>difference (4) 9:22;75:15;94:14; 132:14</p> <p>different (15) 5:10;31:11;41:2; 87:5;105:20;164:1; 170:4;188:17,17,18; 200:22;201:1;207:10; 216:9,24</p> <p>difficult (4) 73:17;75:17;139:6; 165:17</p> <p>difficulty (1) 7:14</p> <p>digest (1) 155:5</p> <p>Diggs (1) 63:19</p> <p>diligence (3) 88:13;160:21;190:22</p> <p>dimension (1) 50:7</p> <p>dioxide (1) 145:21</p>

<p>direct (5) 88:21;189:2;195:19; 215:21,22</p> <p>directly (19) 26:5,23;54:14;77:2; 78:25;79:23;81:2,11; 130:8;140:21,25; 197:8;198:18;203:5; 206:6,12,16;211:11; 215:17</p> <p>director (1) 189:25</p> <p>Directors (1) 124:3</p> <p>disappear (1) 154:3</p> <p>disapproval (3) 124:19;129:20; 141:17</p> <p>disapprove (2) 68:6;128:18</p> <p>disastrous (2) 70:13,14</p> <p>disclosure (1) 11:1</p> <p>disconnected (3) 5:7;61:6;80:18</p> <p>discuss (4) 22:12;188:23; 215:12;217:8</p> <p>discussed (5) 25:16;33:23;96:10; 170:4;202:13</p> <p>discusses (1) 30:7</p> <p>discussing (3) 30:9;188:11;215:25</p> <p>Discussion (5) 152:14;158:25; 161:18;198:14;220:18</p> <p>discussions (6) 31:11;170:23; 210:18;212:12,13,13</p> <p>disingenuous (1) 217:5</p> <p>disruptive (1) 161:20</p> <p>distance (2) 198:11;200:10</p> <p>distinct (1) 207:11</p> <p>distinguishing (1) 185:15</p> <p>distribution (1) 166:2</p> <p>District (3) 12:6;168:5;191:19</p> <p>Districts (1) 125:18</p> <p>disturbing (1) 128:20</p> <p>diversity (1) 207:2</p>	<p>Division (2) 141:17;147:17</p> <p>docket (1) 21:1</p> <p>document (11) 15:17;34:10;98:2,11; 103:11;105:8;124:7; 134:25,25;143:14; 146:1</p> <p>documentation (3) 98:25;99:11;101:16</p> <p>documented (1) 101:1</p> <p>documenting (1) 50:24</p> <p>documents (8) 4:25;10:21,23;11:2; 141:25;149:3;173:16; 175:6</p> <p>dollar (1) 36:7</p> <p>dollars (3) 39:13;178:9,10</p> <p>dominating (1) 141:19</p> <p>don't (11) 5:15;10:3;23:23; 55:9;103:14;105:16; 147:14;169:17;172:7; 187:12;221:10</p> <p>done (14) 4:14;11:5;55:2;57:4; 70:22;71:10;72:19; 88:12;94:6,7;113:14, 19;176:15;186:22</p> <p>door (6) 33:15;110:3;128:20; 153:17;184:18;212:3</p> <p>doors (3) 182:7;211:23,24</p> <p>doorstep (1) 168:24</p> <p>DOT (1) 137:6</p> <p>double- (1) 13:17</p> <p>double-check (2) 15:2;220:16</p> <p>double-checking (1) 77:21</p> <p>doubt (1) 186:17</p> <p>down (21) 58:25;65:25;70:11, 12,22;75:18;90:10; 94:10;108:9;110:18; 117:20;120:25;129:11; 142:25;144:24;174:8; 182:2;185:18;187:18; 206:19;210:6</p> <p>downloaded (1) 149:19</p> <p>downstairs (1)</p>	<p>108:17</p> <p>downtown (3) 26:7;180:20;183:17</p> <p>drafting (1) 23:11</p> <p>drainage (2) 88:14,22</p> <p>dramatically (2) 76:6,7</p> <p>draw (1) 203:9</p> <p>drawing (2) 76:19;143:12</p> <p>drew (1) 164:11</p> <p>drink (1) 169:10</p> <p>drive (36) 38:19;53:20;69:19, 20;73:22;74:12;78:23; 79:1;81:3;82:7;83:17; 85:5;86:17;89:25; 92:21,22;115:9; 123:25;126:3;128:5; 129:19;130:7;140:17; 141:3,6;159:17;177:8; 181:24;184:18;188:8; 198:21,22;200:8; 211:10,12,12</p> <p>driven (1) 137:1</p> <p>driver (1) 145:21</p> <p>drivers (1) 65:9</p> <p>driveway (1) 139:13</p> <p>driving (4) 45:11;139:6;188:7; 199:4</p> <p>drop (1) 133:16</p> <p>due (7) 68:20;82:19;91:1; 128:8;155:2;160:21; 190:22</p> <p>duly (2) 124:2,16</p> <p>during (4) 11:4,11;108:17; 194:24</p> <p>dwarf (2) 80:21,23</p> <p>dwarfs (1) 32:11</p> <p>dwelling (2) 185:2,3</p>	<p>188:8,20;197:9,10</p> <p>eagles (1) 99:14</p> <p>earlier (15) 7:16;66:19;76:24; 77:13;79:23;80:9;82:9; 87:9;108:13;128:21; 138:12;184:1;193:23; 203:13;216:23</p> <p>earliest (1) 219:22</p> <p>early (5) 6:19;99:19;179:1; 192:5;205:7</p> <p>easier (1) 81:16</p> <p>easily (2) 184:18;188:6</p> <p>east (2) 141:21;161:11</p> <p>Eastover (8) 40:14;45:9;70:23; 80:11;110:18,25; 161:9,12</p> <p>easy (4) 73:18;129:1;130:10; 187:17</p> <p>eat (4) 37:24;128:12;169:9; 203:20</p> <p>eats (1) 36:6</p> <p>echo (4) 51:12;79:2;80:15; 83:5</p> <p>Echols (25) 37:2,2,3,4,5,8,11; 38:6,10,11,14;39:25; 41:21,22,23,25;42:4, 19,24;43:19,21;44:2, 13;61:7,8</p> <p>ecologically (1) 160:8</p> <p>economic (11) 50:14;65:23;107:24; 108:13;111:12;112:25; 113:1;117:10;146:6; 178:17;191:8</p> <p>economically (2) 165:9;180:22</p> <p>economics (2) 164:10;201:22</p> <p>economy (1) 94:7</p> <p>ecosystem (5) 26:11;27:9;144:5,11; 161:20</p> <p>ecosystems (2) 34:1;146:4</p> <p>EDC (1) 169:18</p> <p>educated (1) 62:24</p>	<p>education (2) 39:3;204:3</p> <p>educational (2) 50:11;164:8</p> <p>Edwards (2) 34:13,15</p> <p>effect (2) 17:4;76:12</p> <p>effectively (1) 165:15</p> <p>efficiently (2) 165:14,14</p> <p>effort (2) 132:3,4</p> <p>efforts (6) 40:12;41:2;79:15; 83:7,14,21</p> <p>eggs (1) 99:17</p> <p>Egloff (66) 6:16;29:21,23,23; 30:1,18;31:16,20,25; 32:3;33:6;34:3,5; 42:10,13,13,14,15,17, 21;43:15,16,16;60:13, 15,25;61:1,2,12,13,20; 62:4,11,19,22;63:2; 83:6;118:24,25;119:1, 7,22;120:15;121:3,4; 154:19,19,22;155:10, 12,17;156:6,8,9,16,20, 21,23;157:2,3,6,16; 158:1,23;219:10,15</p> <p>Egloff's (1) 158:20</p> <p>eight (1) 187:15</p> <p>either (13) 9:17;38:5;47:15; 62:15;123:21,24; 152:16;158:24;161:3; 165:23;198:24;210:15; 212:4</p> <p>elaborate (1) 186:17</p> <p>elementary (1) 50:1</p> <p>elements (3) 95:11;204:14,25</p> <p>Eli (7) 11:9;170:22;185:9; 189:9,17;191:16; 202:15</p> <p>else (18) 7:18;18:24;21:23,24; 22:9;23:15;28:8;31:8; 36:5,5,6;68:22;129:24; 151:19;153:14;161:4; 187:23;207:5</p> <p>else's (1) 129:1</p> <p>email (18) 4:16;9:25;62:19;</p>
		E		
		Eagle (10) 73:22;74:12;75:19; 136:25;137:7;144:9;		

77:14,16;79:5;98:8,16; 99:4;101:20;121:19, 20,23;124:2,10;153:1, 25;154:1 emailed (1) 77:14 emails (1) 62:16 emergency (1) 139:9 empathetic (1) 88:25 emphasis (3) 35:16;36:2;204:24 emphasizes (1) 146:2 employ (1) 27:23 encompasses (1) 112:13 encourage (2) 94:8;96:3 end (11) 6:9;7:15;25:6,9; 83:16;85:5;93:18; 132:21;157:18;192:9; 221:20 ended (4) 108:9;164:23;165:1, 24 ending (2) 17:7;154:11 endorsing (1) 129:22 energy (1) 26:8 enforcement (1) 110:17 engage (5) 92:22,25;93:4,13; 205:11 engaged (3) 95:22;170:23;200:13 engagement (1) 50:10 enhance (3) 16:19;146:3;209:18 enjoy (10) 26:12;70:18,18; 95:20;100:16;117:25; 119:19;166:4;199:1,1 enjoyed (2) 79:11;145:10 enjoying (1) 108:25 enough (8) 81:3,5;83:19;107:11; 131:4,9;133:6,7 enrichment (1) 108:18 enslaved (1) 99:19 ensure (2)	7:7;192:23 entail (1) 215:18 enter (5) 11:12;14:25;28:5; 46:9;52:19 entered (6) 9:12;18:13;24:15; 28:15;38:8;90:22 entertain (1) 13:2 entertainment (1) 168:5 enthusiastic (1) 93:15 entire (2) 9:1;125:16 entirely (1) 138:23 entities (1) 172:12 entity (6) 68:1;99:1;171:17; 172:3,17;173:5 entrance (9) 100:1,3,9;104:4,5; 136:25;137:1;139:10; 197:4 entranceway (1) 188:10 entrepreneur (1) 108:3 entry (4) 104:11;138:22; 165:17;197:11 entryway (3) 45:20;104:1;138:24 envelope (1) 126:1 environment (16) 13:23;27:9;49:14,15, 19;69:23;92:20,25; 109:5;117:21,25; 124:21;128:10;137:12; 146:2;160:23 environmental (7) 66:7;69:21,24;95:3; 111:12;116:7;177:20 environmentalist (1) 93:20 environmentally (2) 51:4;200:15 envision (4) 197:11;198:13; 199:22;200:6 envisioning (2) 185:4;199:10 equitable (3) 165:15;166:2;169:2 equitably (1) 161:10 erodible (1) 144:23	erosion (1) 83:3 especially (10) 12:19;39:6;40:10; 55:8;79:12;81:11; 87:21;129:2;161:7,21 essential (1) 90:1 essentially (3) 40:15;171:25;172:6 established (4) 97:21;120:7;161:24; 198:3 estate (9) 55:2;164:12;176:7,9, 15,16,16;178:24;190:1 et (6) 19:14;41:13;191:9; 196:23;201:10;207:2 ethics (3) 172:11;173:10,13 even (41) 5:16;6:23;13:8;26:9; 27:2;31:14;33:14,23; 47:17;55:20;71:12; 79:23;80:1;81:8,13; 89:19,23,24,24;92:24; 93:9;101:21;109:19; 112:9;120:25;129:21, 23;130:2,3;131:19; 138:2;143:18;151:8; 155:5;158:14;161:3; 167:16,25;210:16; 212:7;215:18 event (3) 10:16;78:4;154:12 eventually (3) 167:2;168:12,14 everybody (7) 28:7;61:23;97:1,14; 127:4;129:24;151:19 everybody's (2) 149:23;200:8 everyone (24) 4:2,13;5:4;6:21; 7:18;11:18;25:22;33:4; 36:5;43:23;78:1;85:21; 87:21;117:16;138:3; 155:15;163:4;169:7,8; 181:24;211:11,17; 219:25;221:11 everyone's (2) 75:22;192:23 eviction (1) 183:24 evolve (1) 209:9 evolved (4) 209:4,7,9;210:13 exact (3) 37:12;112:23;147:14 exactly (8) 35:11;76:5;134:13;	198:5;215:20;217:10, 11;221:23 examine (3) 33:5;71:22;151:11 EXAMINER (456) 4:2,4;5:15,19,21,23; 6:1,5,6,8,13;7:14,19, 22,23;8:9,14,18;9:4,14, 21;10:15,19,25;11:5,8, 15,20;12:1;13:4,17,20; 14:8,12,17,19,21;15:2, 6,8,10,13,20,23,24; 16:1,5,9,10,15;17:13, 19,24;18:1,23;19:7,11, 18,25;20:2,3,19;21:4,9, 10,12,25;22:1,23;23:5, 10,13,15,21,24,25; 24:3,9,11,17,23;25:2, 10;28:12,14,16,18,21; 29:22,24;30:17,19; 32:15,24;33:1,3,13,18; 34:3,6,12,17,24;36:17, 19;37:8;38:5,7;39:21, 24;40:3;41:3,8,10,18, 20;42:7,8,12,14,16; 43:10,14,21;44:4,10, 12,23;45:3,25;46:4,9, 12,15;47:6,9,22,25; 48:9,14;52:10,18,20, 23;53:7,9,12,16,21; 56:11,14,23;57:2,6,12, 14,19,22;58:3,5;59:13, 16,19;60:6,8,13,21,24; 61:1,12,18;63:6,9,11, 16,23;64:9;67:5,10; 68:18,24;69:7,14; 71:15,20;72:3,9,14,22; 73:1;76:20;77:9,11,17, 20,25;78:12,16,20; 83:24;84:2;85:8,9,12, 15,17,20;86:1,3,5,7,12, 19;90:5,20,23;91:3,5,8, 12,14,18,22;92:1; 96:15,18,23;97:2,4,8, 12;99:6;101:10,18,21, 25;102:4,7,22;105:5,7, 10,16,22,25;106:5,9; 114:10,13,14,16,20,22; 115:2,6,11;118:21,25; 121:4,7,9,17,18,22,24; 122:5,8,11,14,18,23, 25;123:8,12,16,22; 124:8;125:5,9,12; 127:3,7,9,13,19,21,23; 128:2;130:15,19,22; 132:24;133:2,10,18,21; 134:2,6,8,16;135:8,18; 137:17;138:20;139:21, 24;140:2,5,9,14;142:1, 3,7,10,14;146:20,23; 147:1;148:20;149:1, 10,15;150:1,5,9,13,15, 18,22,25;151:3,4,6,8,	12,20,25;152:2,5,7,9, 15,18,20;153:9,24; 154:4,7,11,15,18,20; 155:9,11,13,15,18,22, 25;156:4,17,22;157:5, 23;158:19,22;159:4,6, 9,13,21,25;160:14,16; 162:5,7,9,11,18,22; 163:1,5;166:7;171:3,5; 174:22;175:2,8,11,15; 182:13,14,17,20; 184:22;186:24;189:2, 5,8,10;190:24;196:8,8, 11,15,20;202:2,7,9,12; 209:22,23;210:2,10,23; 213:2,6,9,12,19,21,24; 214:5,23;215:2,7,14; 217:20,23;218:4,10,13, 16,21,24;219:3,6,9,13, 18,22,24;220:11,15,19, 21;221:1,5,7,15,17,22, 25;222:3,5,13 Examiner's (1) 32:22 examining (2) 43:12;201:6 example (2) 81:2;89:5 examples (1) 89:16 excellent (1) 12:17 except (2) 141:4;143:19 exception (1) 136:3 exceptional (1) 194:12 excited (6) 14:2;58:18;59:3,11; 116:18;167:9 exclusive (2) 76:25;198:24 exclusivity (1) 198:15 excuse (4) 34:12;66:20;121:18; 204:15 excuses (1) 39:6 execute (1) 167:20 Executive (1) 191:9 Executive's (1) 212:14 exercise (2) 58:17;203:20 Exhibit (45) 15:9,11;17:15,16,17, 18;18:14;25:3;28:13, 18,22;33:7;52:21; 56:12;59:17;68:21;
---	--	---	---	--

<p>77:16;90:24,25;91:5; 96:16;101:23;122:9; 124:12;125:6;134:17; 135:20,20;140:6,7; 142:4,11;146:17; 148:21;149:5,6,8,14, 21;150:6;158:3; 160:17;174:23;196:9, 11 exhibits (3) 10:20;11:11;159:20 exist (4) 69:23;82:14,15; 172:13 existed (1) 188:3 existing (29) 40:10,11,11;41:1,12; 51:3;79:14;80:22;82:4, 17;100:11;101:2; 141:20;144:18;145:12, 19;146:11;177:22; 197:24;198:2,20; 199:12,15;200:2; 206:5;208:15,24; 209:19;216:21 exists (3) 201:12;208:5,13 exit (2) 116:11;139:10 exorbitant (1) 185:12 expand (1) 183:18 Expanding (2) 65:20;139:13 expect (1) 146:22 expectation (1) 161:5 experience (8) 99:23;100:16;104:2; 116:6;139:6;145:5; 190:11;204:20 experiences (1) 99:23 experiencing (1) 164:19 expert (4) 195:6;201:21,25; 204:1 experts (1) 88:14 explain (1) 40:24 explaining (2) 7:19;156:6 explanation (1) 172:15 explore (1) 99:18 exploring (1) 45:10</p>	<p>expound (3) 25:8;31:3;178:3 express (3) 17:10;35:16;36:2 expressed (2) 50:20;196:1 expressing (1) 30:24 extend (1) 177:24 extending (1) 95:9 extends (4) 144:5;206:18; 211:16;212:9 extension (1) 194:19 extensive (1) 204:16 extra (2) 129:13,14 extreme (2) 161:17;201:7 extremely (1) 207:9 eye (2) 8:10;125:19</p> <p style="text-align: center;">F</p> <p>face (1) 218:17 facelift (1) 12:11 facilitate (1) 146:5 facilities (3) 58:15;124:20;215:23 fact (17) 37:20;38:24;40:5; 42:24;52:4;91:1;92:19; 96:11;113:2,8;117:13; 128:9,10;132:13; 157:16;195:13;217:4 factors (1) 111:9 fair (1) 76:1 Fairwinds (1) 42:19 familiar (18) 24:13;25:16;30:12; 36:16;54:13;58:23; 59:3;107:3;119:13; 167:6;176:24;177:4,6; 190:23;195:12,13; 197:2;202:22 familiarity (1) 166:17 family (17) 10:5,6;55:11;76:9; 104:14;109:18,20; 113:10;136:8;167:6,</p>	<p>16;170:16;178:25; 191:13;195:17,24; 209:6 family's (2) 113:12;195:21 fantastic (1) 194:16 far (20) 19:4;28:25;42:2; 46:18,21;56:16;59:21; 62:15;70:20,25;73:5; 80:20;82:16;90:7; 106:22;107:9;108:22; 111:5;138:13;169:18 Farm (17) 74:21;75:11,13,13, 15,17;97:15,19,20,21; 101:8;103:5,13;144:6; 145:8;195:24;205:21 farmhouse (1) 207:22 farming (3) 99:18,19,20 father (4) 54:1;55:10;58:24; 179:1 fauna (1) 144:10 favor (1) 76:16 feasible (2) 187:24;195:5 feature (1) 4:24 features (1) 205:15 February (7) 84:14,15;125:1,1; 157:11;158:4;192:10 Federal (1) 178:8 feed (1) 122:12 feedback (2) 5:5;193:6 feeds (1) 188:21 feel (20) 8:25;12:9,13;16:21; 20:23;73:9,9,11;77:7; 79:19;80:15;81:22; 110:20;117:17,21; 129:4;130:12,161:17; 162:1;203:18 feelings (1) 117:18 feels (4) 80:17;82:5;83:18; 187:2 feet (1) 4:10 fell (1) 74:14</p>	<p>felt (2) 89:12;165:9 FEMALE (7) 5:17;71:23;153:19; 154:5;218:2,6;222:12 FERGUSON (9) 5:20,22,24,25; 155:18,18,22,23,24 few (15) 7:24;10:20,20,20,22; 11:21;34:2;64:24; 69:18;83:18;86:24; 89:3;103:1,2;146:9 field (1) 204:1 fields (1) 190:10 fight (1) 81:17 fighting (1) 36:9 fight (1) 36:8 figure (3) 112:12;142:24;216:8 figured (1) 138:7 figuring (1) 112:20 file (8) 16:17;18:11,12; 124:9;126:14,17; 172:19;173:5 filed (1) 6:19 filing (1) 191:22 filtering (1) 145:22 final (5) 10:19;22:21;96:3; 170:12;208:17 finally (2) 100:21;206:20 finance (2) 96:7;164:10 financed (1) 179:2 financially (1) 195:3 financier (1) 179:2 financing (1) 187:19 find (16) 16:7;19:11;25:3; 35:2;43:1;73:10;74:17; 120:6;129:20;145:1; 159:25;167:22;170:22; 182:5;186:1;187:6 finding (2) 187:20;213:13 fine (12)</p>	<p>8:9;14:4;56:21;60:2; 123:6,6;124:13; 132:22;153:3;174:20; 184:11;198:23 finish (6) 134:16;159:1; 162:13;219:4;221:17, 25 finished (5) 14:22;44:3;47:19; 146:17;220:23 fire (2) 139:9;164:13 first (30) 15:21;53:23;56:1,1; 69:6;84:19;85:3;86:22; 103:3;109:9;111:3; 115:2;116:21;162:15, 18,20;164:11,18; 165:2;168:8,24; 190:19;194:24,25; 202:21;209:4,5; 216:10;217:7,15 fishing (1) 99:14 fit (1) 82:17 fits (1) 117:11 five (12) 29:2;56:18,20;72:18; 83:12;85:22;90:10; 93:1,2;111:23;166:23; 217:16 flexibility (1) 194:10 flight (5) 58:25;69:18;71:5; 72:10,15 flocks (1) 99:14 flooding (1) 88:10 floodwater (1) 83:3 floor (2) 8:3;163:16 flora (1) 144:10 FMR (1) 186:7 focus (1) 165:20 focused (5) 117:10,11;142:8; 200:4;205:1 folks (10) 99:17;105:24; 106:16;109:24;142:24; 144:24;145:14;161:11, 12;186:16 follow (6) 8:23;26:18;125:15,</p>
---	---	--	--	--

<p>17;160:17;161:7 following (6) 50:3;124:5;135:11; 211:2;220:22,24 food (5) 55:6;62:9;89:23; 160:7;199:21 foods (2) 43:4;205:20 foolish (1) 170:19 foot (2) 168:17;198:21 footnote (1) 131:13 force (3) 87:24;199:17,18 forced (1) 39:16 foreclosed (1) 179:3 foreseeable (1) 186:15 Forest (139) 12:11,23;16:3,21; 18:6,16;20:6;21:20; 22:4,22;24:13;25:14; 26:8,10,13;27:2,3,10; 30:11;35:15,15,22; 45:5,9,11,18,19,22; 48:18,22,23;49:22; 51:6,12;54:3,11,22; 55:3;65:20,24;69:25; 70:2,10,16;77:2;78:23; 79:24,25;81:3,7,18,22; 83:8,12,15;88:25;89:4; 92:21;100:13;106:16; 111:18;112:2,2,11; 114:9;115:9,14,16,20, 23;116:12;117:3,17; 118:11,19;119:9,11,23, 25;120:6,15;128:5,6; 130:1,4,18,25;131:25; 132:19;140:17,20; 141:1;143:5,6,16; 144:5,5,7,8,25;145:13, 22;146:14,14;156:14; 159:17;160:2;161:11; 167:17;169:17;177:1, 7,9,11;181:8,18;184:3; 192:7;197:4,24;199:6, 17;204:22;209:14; 211:5,6,7,8,9;212:6,10, 18;213:15;214:8,8; 215:16,24;216:8; 218:12 forested (3) 143:5;203:8,8 forests (2) 97:23;145:20 forgive (1) 77:11 forgot (1)</p>	<p>122:1 forgotten (1) 207:24 form (1) 121:14 formal (5) 67:14;68:2,7,13; 71:19 formally (2) 67:25;121:15 formation (1) 163:25 former (1) 143:24 Fort (53) 24:13;25:1,15;37:13, 18;39:15;43:8;44:22; 45:1,1,5,14;48:16,22; 49:21;53:20,25;54:9; 58:7,25;61:24;62:5,7; 63:19;64:2,19;67:13; 80:1;82:21;83:11,15; 86:17;87:10;88:4,24; 89:4,7,20;92:7,10,21; 106:8;107:19,24; 114:6;119:12,13; 123:25;126:4;129:3; 132:4;140:19;198:24 forth (2) 164:23;170:7 fortuitously (1) 11:15 forum (2) 30:8;31:2 forward (8) 51:10;54:24;99:10; 102:7;117:5;118:17; 192:21;209:10 forward-thinking (1) 209:16 found (4) 34:16;99:6;160:16; 168:2 founded (1) 170:17 founder (1) 67:23 four (7) 53:1;90:10;103:16; 106:21;146:13;165:6; 190:5 fourth (1) 163:16 fox (1) 144:10 foxes (2) 99:15;128:14 frankly (1) 178:13 free (5) 8:25;74:23;100:24; 129:4;130:12 freedom (1)</p>	<p>75:2 freeway (1) 73:18 freezing (1) 152:12 fresh (2) 99:17;205:19 friend (3) 30:4;48:20;167:12 friendly (2) 13:23;51:4 friends (7) 43:7;45:12;54:2,12; 167:5;176:25;177:7 front (3) 120:20;158:3;207:22 frozen (7) 123:4,4,5;151:18,19, 22;153:13 fruition (1) 167:8 frustration (2) 73:10,11 frustrations (1) 65:2 fulfil (1) 199:6 fulfill (1) 146:12 full (6) 26:9;31:4;70:1;84:4; 206:11;219:10 fun (1) 34:13 further (18) 21:4;31:14;45:14; 50:20;56:6;63:24; 68:20;77:10;85:8; 105:3;150:25;154:22; 171:3;182:12;193:15, 25;198:25;203:22 furthermore (1) 71:7 future (15) 9:23;87:24;96:2; 116:1;117:5,12; 118:18;151:13;169:12; 178:19;186:15;198:11; 199:14;205:12;209:17</p>	<p>206:23 gas (1) 27:20 gated (1) 198:16 gateway (3) 112:4;114:5;168:6 gather (1) 209:11 gathered (1) 209:11 gauge (1) 184:7 gave (5) 34:20;68:19;121:13; 138:12;189:21 general (3) 76:13;202:22;208:21 generally (1) 78:1 generation (2) 53:24;144:15 generations (2) 55:14,23 generous (2) 129:1;130:10 gentlemen (2) 64:3;189:5 George's (52) 12:7,10,19;20:7; 25:12;26:6;30:7,10; 38:2,18;39:6,7,8,20; 43:1;44:21;45:6,21; 49:4;50:2;51:18;53:24; 54:8,17;55:18;59:5; 65:10;66:10,15;70:3; 76:3;94:8;100:25; 101:3;108:21;109:12, 25;117:2;118:12; 134:1;135:15;136:1, 14;138:10;149:16; 166:18,22;167:2; 168:10;176:18;191:15; 202:22 Georgian (1) 167:1 gets (1) 170:10 Giant (1) 162:2 Gibson (3) 9:5,5,9 Gibson's (1) 10:9 Gina (2) 48:5,15 Gingold (18) 21:10,13,14,15; 22:15,23;23:2,13,14; 34:22,22,24,25;36:17, 18;215:14,15;217:19 girlfriend (1) 177:8</p>	<p>given (10) 8:3;93:12;102:13; 158:9,15;168:1,15; 196:17;201:18;202:16 gives (1) 101:13 giving (2) 58:8;102:1 glad (3) 11:8;109:18;123:21 Glass (2) 115:23;116:13 Glen (2) 166:20,21 goal (4) 146:1,13;200:21; 207:24 goalpost (1) 168:7 goals (14) 116:13;118:10,10; 146:12;198:8;199:6; 200:7;203:6,19,22; 204:11;205:2;208:10; 209:18 Goddard (37) 133:21,23,24;134:2, 5,6,7,11,20;135:5,8,14, 24,25;137:18,20,22; 138:1,7,11,14,19,24; 139:18,25;140:1; 152:7,8,10,21,23; 153:4,24;186:25; 187:1;188:1,25 goes (2) 90:14;168:23 golf (3) 108:24;146:8;164:11 Good (66) 4:2;5:13,15;11:18, 20;12:13,17,23;14:6; 16:2;18:21;24:3;29:25; 30:1,2,14;36:18;37:4, 5;38:23;43:25;48:6,7, 7,9;54:4,9;57:4;63:11; 65:7,9;73:7,8;74:16; 77:5;87:8,23;88:1,13, 19;91:19,20;97:1,2,13; 105:9,15,22,24,25; 115:13;123:10,12; 127:19;130:6;153:11; 156:7;163:2;169:23; 171:7;172:18;186:11; 189:10,15;219:13; 221:11 goodness (1) 153:13 gorgeous (1) 160:21 government (3) 165:18;166:1;178:8 governmental (1) 98:25</p>
		G		
		<p>gain (1) 195:20 Gambrills (1) 119:14 gap (2) 201:11,11 garden (4) 13:25;51:3;160:6,21 gardens (8) 13:24;32:12;89:15; 200:14;205:10,11,20;</p>		

<p>graduate (1) 176:22</p> <p>granted (1) 157:13</p> <p>Gray (12) 105:13,14,17,18,24; 106:4,7,7,11;114:10, 16,18</p> <p>great (27) 5:4,9:6;12:25;21:8, 12;45:24;65:8,18,22; 73:16;76:1;80:19; 95:23;113:14;115:8; 121:16;138:8;142:17; 148:23;159:8;171:9; 177:17,19;178:16; 180:23,24;188:3</p> <p>greater (7) 80:8;81:1;82:3,15; 114:6;178:6,7</p> <p>great-granddaughter (1) 9:6</p> <p>greatly (3) 16:19;100:17;145:6</p> <p>Greek (1) 170:15</p> <p>green (24) 13:23,24;51:4;58:16; 65:6;74:20,22;94:5; 95:2;113:19;116:23; 118:1;119:18;120:13, 16;168:19;183:10,13; 203:4;204:13,16,20; 206:7,13</p> <p>Greenbelt (2) 133:25;138:14</p> <p>greenness (1) 120:16</p> <p>greenspace (1) 38:16</p> <p>grew (11) 45:7,7;79:10;119:12, 14;166:19,20;176:19, 19,25;177:7</p> <p>grocer (1) 199:22</p> <p>grocery (8) 37:24;38:16,22;39:3; 43:3;75:9;79:10;82:25</p> <p>ground (2) 74:14;206:20</p> <p>grounds (2) 173:5,10</p> <p>groundwork (1) 181:4</p> <p>group (15) 14:1;30:6;61:24; 62:1,4,7;64:6;66:23; 67:16;89:9,12;107:18; 112:7;188:12;207:15</p> <p>groups (4) 87:17;113:23; 209:15;220:1</p>	<p>group-up (1) 190:12</p> <p>grow (4) 119:14;160:7; 201:13;205:19</p> <p>Growing (2) 45:9;79:12</p> <p>grown (2) 177:3;178:23</p> <p>growth (6) 12:14;163:24;164:4; 168:15;177:21;194:19</p> <p>guarantee (2) 131:12;212:3</p> <p>guess (23) 20:12;25:6;27:6; 31:10;41:7;49:3;53:1; 76:18;77:4;123:8; 137:22;138:8;142:22; 165:24;170:6;174:24; 178:2;185:25;193:3, 17,17;194:3;196:16</p> <p>guidelines (1) 4:12</p> <p>gutted (1) 144:11</p> <p>guys (10) 132:3;182:9;184:1, 20;211:18,22,23;212:4, 24,24</p> <p>Gwen (2) 9:5,5</p>	<p>39:12,14;45:19;50:13; 51:19,20;73:14;77:6; 80:23;81:13,15;82:8; 92:24;94:2,2;108:6; 109:24;146:8;168:8; 170:2,3,4;172:17,20; 176:2,21;178:10,13,14, 16;180:10;181:4; 194:16,19;197:5,9</p> <p>Harborview (1) 166:10</p> <p>hard (3) 77:7;89:22;139:7</p> <p>harder (1) 52:8</p> <p>Harmony (1) 88:9</p> <p>hate (1) 64:9</p> <p>Head (7) 4:11;65:25;123:19; 124:3;125:18;126:8; 186:5</p> <p>headache (1) 177:24</p> <p>Headquarters (1) 194:14</p> <p>health (2) 146:4;205:17</p> <p>healthier (3) 38:17;43:4;65:17</p> <p>healthy (10) 37:24;127:5;199:21; 200:13;203:19,20; 205:5,13;206:16;207:1</p> <p>hear (42) 6:5,10;7:15,17;24:7, 9;28:17;32:24;33:1; 53:8;55:18;57:5,6; 65:3,3;71:24;72:6; 83:13;114:21,22; 117:15;123:3;127:20; 128:21;133:16;139:16; 151:1;152:5,16;153:5, 7,21,22;155:16;156:1, 2;177:19;183:1; 186:24;188:5;202:9; 210:2</p> <p>heard (30) 20:24;24:10;31:5; 34:25;62:2,14;65:14; 71:9;83:9;85:4;89:15; 93:2;94:19;128:19; 132:5;133:14;181:20; 184:1;187:12;188:4; 192:7,24;211:22,23; 212:4;214:24;215:4,4; 216:1,9</p> <p>Hearing (72) 4:3,6,7,14;5:9;6:22; 7:8;8:5;9:1,9;10:1,14, 16,21;11:4;17:20; 20:10,23,25;21:1;</p>	<p>32:22;48:24;53:3; 54:14;56:10;60:17; 61:3;62:17,17;64:3; 66:5;72:4,11;92:14; 98:1;121:17,24; 128:23;135:3,9,11; 150:16;151:3;154:24; 155:13;156:6,7,10,25; 157:9,11,18,18;166:7; 181:20;190:24;193:19; 210:10;211:3,3,6; 212:24;214:8;215:9, 12;216:1,2;217:5,14, 24;221:20;222:15</p> <p>hearings (4) 4:12;78:1;158:15; 220:3</p> <p>heartbroken (1) 52:1</p> <p>heat (1) 144:15</p> <p>heating (3) 145:21,23,23</p> <p>Height (3) 12:11;51:12;54:22</p> <p>Heights (126) 12:23;16:3,21;18:6, 16;20:6;21:20;22:4,22; 25:14;26:8,13;27:3,4; 30:11;45:6,9,11,18,19, 23;48:18,22,23;49:22; 51:6;54:3,11;55:3; 65:20,24;70:2,16;77:3; 78:24;79:24,25;81:3,7, 18,22;83:8,12,15;89:4; 92:22;100:13;106:16; 111:18;112:2,2;114:9; 115:9,15,16,20,23; 116:13;117:3,17; 118:11,19;119:10,11, 23,25;120:6,15;128:5, 6;130:1,4,18,25;132:1, 19;140:17,20;141:1,2, 2;143:4,5,7,16;144:5,7, 25;145:13;146:14; 156:14;159:17;160:3; 161:11;164:18,21; 167:17;169:17;177:1, 7,9,11;181:8,18;184:3; 192:8;197:5,24;199:6; 204:22;209:14;211:5, 7,7,9,9;212:6,10,18; 213:15;214:8,8; 215:16,24;216:8; 218:12</p> <p>Heights' (2) 88:25;199:17</p> <p>Heights's (1) 112:11</p> <p>held (3) 84:14;124:4,12</p> <p>Hello (4) 11:18;53:8;91:17;</p>	<p>127:18</p> <p>help (11) 9:12;21:22,24;22:12; 41:18;80:6;87:13;95:8; 115:25;136:6;146:12</p> <p>helped (1) 207:6</p> <p>helpful (1) 186:8</p> <p>helping (3) 55:24;118:18;207:1</p> <p>helps (3) 117:12;145:23; 178:19</p> <p>Henry (3) 9:6;50:22;195:19</p> <p>Herbert (6) 36:22,24;48:2;56:25; 57:1;58:6</p> <p>here's (4) 141:4,5;142:23; 146:15</p> <p>heritage (3) 51:3;200:17;206:2</p> <p>Hey (1) 122:1</p> <p>Hi (21) 21:14;32:8;34:25; 37:3,4;53:9;72:17; 86:5,6;91:19;102:24, 25;106:7;114:21; 127:19,22;140:3; 184:25,25;210:3; 215:15</p> <p>high (17) 31:15;50:1;54:2; 55:21;75:12;76:7; 93:22;112:13;165:16, 16,17;166:21;176:21, 22,22,23;177:1</p> <p>high-density (6) 75:12;76:7,10;110:5; 141:14;144:13</p> <p>higher (3) 100:14,18;145:3</p> <p>highest (1) 206:15</p> <p>high-level (1) 12:22</p> <p>highly (1) 144:23</p> <p>high-quality (1) 83:1</p> <p>high-rise (6) 141:12,23;144:12, 13;145:7,10</p> <p>high-rises (1) 210:5</p> <p>Highway (5) 4:11;123:19;124:3; 125:18;126:8</p> <p>highways (3) 40:16;79:19;104:4</p>
H				
	<p>Habeeb-Ullah (2) 8:14;16:2</p> <p>Habib (2) 178:25;179:6</p> <p>habitat (2) 35:4;128:15</p> <p>half (2) 113:18;192:12</p> <p>Hall (2) 24:25;88:9</p> <p>hands-on (2) 99:16;113:13</p> <p>hang (3) 85:21;122:2;218:1</p> <p>happen (7) 27:24;33:6;88:1; 141:2;148:20;184:8; 210:18</p> <p>happened (3) 51:16;156:12;167:18</p> <p>happening (2) 55:7;152:12</p> <p>happenstance (1) 30:5</p> <p>happy (2) 13:2;58:9</p> <p>Harbor (39) 4:8;25:23;37:18;</p>			

<p>Highway's (1) 138:23</p> <p>hike (1) 74:24</p> <p>Hill (35) 4:11;35:3;37:14; 41:25;42:19;43:8; 50:16;69:19;73:4; 74:21;92:22;97:15,19, 19,20,21;101:8,8; 110:4;116:13;118:12; 136:4;140:20;141:5; 143:2,3,4,6;144:6; 164:22;176:21,22,22; 197:6;198:25</p> <p>hills (1) 70:12</p> <p>historic (43) 88:7,9;100:2,15,15, 19,24;101:1;109:15, 16;124:21;136:11; 139:1;144:1;145:4,8, 15,17,17;147:4,5,7,8, 10,17,25;148:8,14; 149:14,17;190:13; 191:13;195:14,14,17; 196:1;206:9;207:6,8, 10,19,21;209:15</p> <p>historical (6) 106:20;109:11,13, 14;111:11;113:11</p> <p>history (19) 51:1;54:20;55:8,10, 13;99:18;101:2,5; 113:12;120:3;195:21; 205:21;207:3,13,14,17; 208:1,2;209:18</p> <p>hit (1) 75:1</p> <p>hodge (1) 62:6</p> <p>hold (11) 5:3;30:1;98:18;99:2; 107:14,14;214:22; 216:17;218:6,25; 220:16</p> <p>holding (1) 4:7</p> <p>hole (1) 137:12</p> <p>holistic (1) 65:14</p> <p>home (14) 37:15;50:2,23;72:19; 78:25;109:15,16; 120:4,11;141:22; 160:20;161:6;180:16; 209:6</p> <p>homeowner (1) 109:15</p> <p>homeowners (1) 55:4</p> <p>homeowner's (3)</p>	<p>67:14,15;68:3</p> <p>homes (10) 38:24;50:18;74:1; 76:9;80:22;88:7; 161:16;179:25;184:2; 210:14</p> <p>homestead (3) 100:25;191:13; 195:17</p> <p>honest (4) 35:11;70:17;143:8; 184:16</p> <p>honestly (1) 56:1</p> <p>Honor (1) 106:4</p> <p>honoring (1) 207:3</p> <p>hoops (1) 89:25</p> <p>hope (3) 11:3;39:18;216:6</p> <p>hopefully (3) 13:25;199:15;222:7</p> <p>hoping (1) 78:6</p> <p>hotels (1) 170:7</p> <p>House (12) 8:3;54:22;56:3;70:6, 6,7;72:20;112:20; 120:2;143:17;145:15; 211:24</p> <p>houses (9) 55:2;75:2;93:19,24; 94:15,15;141:8;143:6; 212:3</p> <p>housing (43) 12:19;25:20,24; 58:14,14;59:7,8,10; 94:16,17;111:18; 116:22;165:13,18,22, 22,22,23,25;183:11,12; 185:4,5,11,11,16,17,19, 20,21;195:4;200:3,18, 22,24;201:6,9;202:4,5, 7;216:20,23,24</p> <p>HUD (2) 185:7;186:1</p> <p>huge (14) 33:8;74:8;81:9; 89:10;112:1,2;136:22; 137:12;139:8;143:15; 188:7,12,19;210:5</p> <p>hugely (1) 181:5</p> <p>human (2) 80:25;146:4</p> <p>hundred (1) 94:5</p> <p>hundreds (6) 75:19,19,19;136:4; 137:4;141:9</p>	<p>hunter (2) 109:3,4</p> <p>hurting (1) 74:19</p> <p>hurts (1) 55:6</p> <p style="text-align: center;">I</p> <p>I'm (3) 59:25;207:20;212:4</p> <p>I-95 (1) 168:9</p> <p>ice (1) 108:24</p> <p>idea (9) 103:12;142:18; 184:7;186:11;204:3; 205:7,20;206:16;216:6</p> <p>ideal (1) 110:4</p> <p>Ideas (5) 51:2,4;88:22;208:3; 209:2</p> <p>identified (2) 64:17,18</p> <p>identify (5) 5:11;6:2;53:2; 217:21,25</p> <p>III (1) 58:7</p> <p>ill (1) 99:20</p> <p>image (1) 203:10</p> <p>images (4) 74:11;80:20;203:11; 204:15</p> <p>imagine (3) 47:17;138:25;139:11</p> <p>immediacy (1) 92:17</p> <p>immediate (5) 82:20;23;83:22; 112:9;206:17</p> <p>Immediately (2) 17:25;113:22</p> <p>impact (27) 69:22,25;70:1,1; 75:14;76:2;83:22; 90:13;100:18;103:25; 104:1,2;106:22,23,23; 107:24;108:13;109:10, 23;111:12;112:10; 114:8;115:18;117:10; 128:9;145:6;216:16</p> <p>impacted (9) 26:23;29:10;82:22; 128:11,24;129:3; 130:8;157:8;211:11</p> <p>impactful (1) 106:19</p> <p>impacts (16)</p>	<p>75:21;81:1;99:22; 100:1,15;103:22; 116:7;136:10,13,20,21; 137:11,12;144:4; 145:4,11</p> <p>imperative (2) 26:22;209:1</p> <p>implementation (1) 26:10</p> <p>implementing (1) 88:22</p> <p>implications (2) 95:5,7</p> <p>important (23) 51:10;54:21;62:24; 76:14;79:8;93:14;95:6, 12;101:2,4;103:23,24; 111:17;144:16;145:1; 150:22;161:10;163:6; 169:11,16,17;207:9; 209:3</p> <p>importantly (2) 4:19;95:1</p> <p>impressed (2) 58:12;88:3</p> <p>impression (2) 168:8,24</p> <p>impressive (1) 88:12</p> <p>improve (3) 40:12;79:15;146:4</p> <p>I-N (1) 86:16</p> <p>inability (1) 74:17</p> <p>inaccessible (1) 75:4</p> <p>inappropriate (1) 76:9</p> <p>incentives (2) 12:12;26:14</p> <p>include (3) 51:4;205:1;206:25</p> <p>included (6) 19:22;113:10;157:9; 196:1;200:18;216:14</p> <p>includes (2) 97:15;144:7</p> <p>including (5) 191:18;198:19; 199:19;204:13;205:10</p> <p>income (9) 25:24;51:14;52:7,7; 94:17;165:22;169:6,7; 170:5</p> <p>incomes (3) 55:21;169:5;200:21</p> <p>Incompatible (3) 144:3;145:17;147:7</p> <p>incomplete (1) 118:2</p> <p>incorporate (5) 161:11;192:23;</p>	<p>203:7;209:2;210:21</p> <p>incorporated (1) 67:25</p> <p>incorporating (4) 200:3;203:3;205:8; 206:22</p> <p>incorrect (2) 41:11;104:9</p> <p>incorrectly (1) 186:10</p> <p>increase (3) 144:14,17;188:8</p> <p>increased (9) 26:14;41:13;76:6,6, 7;81:9;83:3;89:1; 116:18</p> <p>increasing (4) 106:25;146:9;200:1; 207:2</p> <p>incredibly (1) 161:10</p> <p>independent (2) 201:9;216:25</p> <p>Indian (7) 4:11;65:25;123:19; 124:3;125:18;126:8; 206:22</p> <p>indicate (2) 29:7;201:11</p> <p>indicated (4) 112:6;127:10;138:9; 171:10</p> <p>indicates (2) 68:5;134:25</p> <p>indicating (1) 88:15</p> <p>indiscernible (23) 13:1,11,13;19:10; 60:7;71:9,19,19,21; 75:25;76:10;77:19; 111:21;129:9;156:24; 157:15;182:10;191:23; 200:25;213:6,17; 218:5;219:6</p> <p>individual (5) 6:17;18:5;58:9; 64:13;98:23</p> <p>individuals (7) 47:10;58:17;83:8,9, 22;85:18;172:11</p> <p>infill (4) 165:20;187:4,6,8</p> <p>information (14) 4:24;9:24;19:5,6; 21:4;54:14;77:17; 87:12;103:8;127:16; 135:12;146:15;209:10; 215:10</p> <p>informational (2) 125:22;158:4</p> <p>informed (4) 20:1,22;26:21;62:24</p> <p>infrastructure (4)</p>
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<p>177:18,22,24;208:13 infusion (2) 50:14;65:25 inhabitants (1) 207:4 in-house (1) 164:2 initial (4) 107:18;114:8;191:5; 193:14 initially (4) 84:21;178:20; 179:12;180:7 initiative (2) 26:16;165:12 innovative (1) 65:18 input (5) 28:3;113:7;192:23; 209:11;210:21 inside (2) 180:21;187:22 inspect (3) 191:3;195:9,10 inspiration (2) 200:16;203:11 inspired (1) 209:17 instead (3) 48:2;74:18;124:6 instituting (1) 93:10 instruction (1) 202:16 integrate (1) 95:18 integrated (2) 203:4;204:16 integrity (2) 12:23;170:20 intelligent (1) 35:14 intend (3) 4:19,21;30:21 intended (1) 51:17 intention (1) 51:6 intentional (1) 50:18 intentions (2) 49:18;87:16 interact (4) 49:4,9,11;205:18 interacted (1) 30:3 interaction (2) 89:9;156:11 interactions (1) 193:25 interchange (1) 4:11 inter-connectiveness (2)</p>	<p>41:1;82:3 interest (5) 17:6;30:25;50:20,23; 173:10 interested (11) 21:15;23:2;35:1,6; 87:4,6,25;89:12; 104:20,25;179:19 interesting (4) 34:16;37:12;63:3; 167:22 Interestingly (1) 140:23 interests (2) 87:2;118:14 interference (1) 72:7 inter-generational (1) 50:11 Internet (1) 155:20 interrupt (4) 43:11;44:2;64:9; 156:18 into (56) 7:9;9:13;10:21; 11:12;13:21;15:1; 16:17;18:13;24:16; 26:1,4,6;28:5;30:16; 37:15;38:8;41:15; 42:10;45:21;46:10; 52:19;62:8;68:15; 70:11;82:7;90:22; 95:10;113:9;116:1; 117:12;128:12;129:7; 137:2;143:18;144:6; 157:1;172:5;175:7; 178:10,18;179:16; 187:20;199:2,12; 203:4;205:17,21; 206:6,12,16,18,23; 207:3;209:2,7;221:20 intrigued (1) 50:9 introduce (1) 184:14 introducing (1) 193:5 introduction (4) 100:14,18;145:3,7 inundated (1) 10:5 invest (1) 39:13 invested (1) 178:9 investment (5) 176:7;178:2,11,12; 180:23 investments (2) 176:9,16 investor (1) 55:2</p>	<p>invite (2) 129:3;130:11 invited (1) 86:24 involved (13) 21:23;30:14;31:1,3, 14;32:14;62:17;96:1; 116:3;178:20;183:13; 190:19,21 involvement (3) 17:3;65:15;88:21 iPhone (1) 57:10 irrelevant (2) 184:10;191:23 Irwin's (1) 41:25 I's (1) 103:10 isolated (6) 40:15;65:17;73:23; 79:18;110:22,22 issue (2) 123:1;157:22 issues (15) 6:9;10:5,22;11:10, 14;92:11;94:19; 124:19;139:12;155:20; 177:20;187:23;201:23, 25;215:12 item (1) 9:3 items (1) 11:13 IV (1) 53:6</p>	<p>joins (1) 24:1 Jones (27) 36:24,24;48:2;56:25; 57:1,2,3,4,8,12,13,18, 21;58:1,4,6,7;59:15,21, 23;60:3,5,15,15,18,21, 24 joy (1) 143:7 jump (5) 72:18;85:14;89:25; 99:4;204:7 jumping (1) 149:5 junction (1) 197:6 Junior (1) 176:21 Jurassic (1) 37:14 Jurisdictions (1) 145:24 justify (1) 194:9</p>	<p>159:6 killing (1) 13:11 kind (37) 25:20;27:4,22;45:18, 20;51:14;52:3;55:6,24; 62:20;69:22;70:8; 71:13;83:19;94:16; 99:11;115:25;128:22, 22;131:17;137:14; 142:23;157:12;168:1, 13;181:14,16;184:7; 192:5;194:19;198:7, 15;203:10;206:16; 207:14;209:7;210:18 kinds (4) 128:13,13,14;139:11 knew (4) 31:9;129:21;131:17; 212:23 knocked (3) 182:7;211:22,23 knowing (3) 9:22;107:22;131:19 knowledge (10) 21:7;51:7;103:10; 116:6;133:3;154:25; 195:20,25;201:20,24 known (5) 13:9;97:18;100:22; 108:1;178:22 knows (1) 129:24</p>
			K	
			<p>Karen (3) 29:23;42:13;154:19 keep (11) 14:15;27:13;34:18; 73:17,19;125:19; 128:23;146:13;205:25; 211:6;214:8 keepers (1) 88:19 keeping (13) 8:10;26:21;50:25; 51:6;55:13,25;66:12; 79:19;100:12;120:22; 165:13;203:8;217:9 keeps (1) 10:6 Keith (2) 105:13;106:7 Kennedy (1) 132:9 key (4) 65:11;73:6;95:11; 108:1 kid (3) 45:9,11;79:12 kidding (1) 163:6 kids (12) 38:22;39:1;55:9,14, 14;72:19;75:18; 108:14,15;112:18,24; 113:21 kill (1) 109:4 killed (1)</p>	
		J		L
		<p>Janet (1) 21:14 January (3) 143:10,10;166:16 Jarvis (1) 73:4 jazz (1) 61:22 Jean (1) 53:20 Jesse (1) 53:19 jewel (2) 45:18;178:17 job (3) 12:23;113:14;159:8 jobs (3) 26:16;27:21;55:22 jogging (1) 107:7 Johns (1) 88:9 joining (1) 7:25</p>		<p>lack (7) 37:23;38:23;76:9; 106:19;169:20;207:11; 216:7 laid (1) 211:16 land (25) 4:9;25:16;26:4; 27:10;81:2;94:12,13, 18,21,24;99:23;100:5; 109:21;116:10;129:2, 5,5;130:11,13;145:19; 146:1;172:13;173:2; 187:14;201:22 lands (1) 97:18 landscape (2) 101:5;120:17 landscaping (1) 51:3 Lane (2) 58:7;175:22 large (8) 75:2;93:17;121:1; 139:9;141:12;165:18; 204:24;207:15 larger (1)</p>

<p>201:13 last (16) 23:6;59:2;75:1;83:5; 98:1;126:24;127:9; 136:2,9;160:6;165:6; 167:9;174:17;190:11; 200:15;217:4 lastly (1) 66:4 late (3) 8:3;58:24;179:3 lately (1) 10:5 later (14) 4:13;5:6;24:1;54:25; 78:4,5;112:22,23; 148:22;149:22;153:10; 157:22;166:24;185:10 law (3) 68:8;110:17;176:24 Lawn (1) 155:3 lawyer (1) 62:1 lawyer's (1) 62:15 lay (5) 201:20,24;203:25; 204:5;217:10 layman's (1) 202:13 lays (1) 210:11 lead (1) 114:4 leaders (2) 62:1;87:5 leadership (2) 167:19;193:5 leading (1) 197:9 leads (1) 183:21 leaning (1) 31:6 learn (3) 50:9;205:16;207:17 learned (5) 25:12;49:23;55:10; 164:14,14 least (7) 28:3;69:1;141:9; 161:17;185:14;193:7; 200:15 leave (14) 8:24;18:15;37:15; 69:2;105:7;117:14,15, 17;122:19;128:13; 149:3;184:6;199:23; 202:13 leaves (2) 36:6;169:15 leaving (1)</p>	<p>169:20 leeway (1) 201:18 left (3) 53:1;61:1;192:6 left-hand (1) 203:10 legacy (1) 50:22 legal (1) 29:9 legitimate (1) 66:9 length (1) 206:11 Leslie (2) 37:2,2 less (3) 4:9;39:17;144:12 lets (1) 51:5 letter (94) 9:4,4,11,12,15,18; 10:9;14:24;15:4;16:16; 17:14;18:12,12;19:3; 21:16,17,21,22,24,24; 22:15,21,24;23:3,7; 24:15,19;25:3,7;27:1; 28:12,15;38:3,12;46:2, 5,9,13;49:2;52:15,16, 19;54:5,23;55:16; 56:12;59:14;63:20,24; 67:7,11,18,19,19,24; 68:4,8,9,15;77:16; 86:22;88:2;90:21,22; 91:6;96:13,16;101:11; 102:5,8;121:12,14,14, 19,21;122:9;125:7,22; 129:21;131:18;134:9, 15;135:19,22;139:23; 143:24;156:13;159:19; 212:23;213:18,18,19; 214:1,4 letterhead (3) 17:17;102:9;134:10 letters (2) 94:20;126:20 letting (2) 72:18;124:15 level (4) 28:4;118:15;168:17; 206:15 levied (1) 110:2 Lewis (15) 48:5,5,6,8,9,13,15, 15;49:9;52:13,14,17, 24,25;82:9 Lewis' (1) 52:19 liability (4) 171:11;172:14; 173:6,8</p>	<p>liar (1) 184:17 licensed (1) 171:16 life (10) 45:6,14;49:4;54:1; 75:21;167:3;170:18, 19;190:18;207:15 lifestyles (2) 38:17;205:13 lift (1) 112:1 lifted (1) 14:16 light (3) 136:12,22;144:15 likely (1) 17:20 likes (2) 128:12;131:11 Lilly (27) 114:15,17,20,21,23; 115:5,8,8,12,13; 118:21;119:5,11,25; 120:19;121:5,6,12,13, 17,19,20;122:4,5,6; 127:10;140:20 Lilly's (2) 119:2;122:9 limit (1) 204:4 limited (6) 171:11;172:14; 173:6,7;201:8,24 line (4) 132:20;133:7,15; 204:7 lines (2) 66:8,14 link (4) 5:8,10;103:11; 122:20 links (1) 186:6 Linwood (2) 16:8;22:3 liquor (2) 27:19;36:7 list (3) 24:22;28:13;125:24 listed (1) 172:16 listen (4) 48:25;54:6;124:25; 125:2 listened (2) 27:25;49:17 listening (2) 18:22;134:12 literally (5) 37:25;74:21;107:5; 178:9;206:8 little (23)</p>	<p>4:6,9;7:14;24:1; 44:13;70:12;80:24; 90:12,16;105:20; 128:20;143:16;152:12; 156:11;159:23;178:5; 190:5;192:25;198:25; 199:3,8;205:4;213:1 live (60) 12:24;16:24;25:22; 27:2,4;28:25;29:7,8; 36:12;37:18;42:2;45:1; 46:18,21;48:15;49:15; 54:10;55:20;56:16; 58:7;59:8,22,24;65:4; 69:19;73:3,25;74:7; 76:1,11;78:2,23;82:20; 83:11;90:7,9,10,10; 92:19;93:13;113:24; 116:16,20;117:3,4; 118:19;119:2,15; 133:25;159:17;160:3; 161:21,24;169:8; 175:22;183:2;184:7, 13;203:20;207:16 lived (21) 27:3,3;37:18;42:24; 44:21;45:5,14;74:2,2,3, 4;117:25;119:5,15; 166:23,25;177:1,8,9; 181:24;195:22 lives (2) 16:19;117:17 living (17) 50:11;51:7;65:16; 70:16;82:13;110:21; 116:4;117:19;119:19; 130:2;143:7;176:6; 201:10,10;215:23; 216:25,25 Livingston (2) 45:7;70:24 LLC (21) 166:10,12;171:13, 14,17,18,19,20,21,23, 25;172:4,4,5,6,6,6,17, 20;173:8;176:2 LLC's (1) 4:8 local (5) 26:17;27:23;73:17; 92:24;107:10 locally (2) 73:18;164:5 locals (1) 73:19 located (7) 4:9;88:8;116:10; 121:1;125:23;164:15; 168:3 location (22) 12:16,17;73:21; 110:4,13;116:23; 119:8;165:19;168:16;</p>	<p>169:25;170:10;174:18, 19;177:16,17;180:8,14, 19,25;194:11,17; 196:22 locations (1) 144:22 log (7) 8:25;153:6,6,20,20; 154:5,6 logs (1) 8:7 long (19) 25:17;30:12;73:10; 74:4;87:18,21,22;96:5; 99:18;101:18,22; 106:15;119:3;154:8; 158:7;178:23;181:17; 190:3;222:6 long- (1) 161:23 longer (3) 55:5;154:12;156:5 long-neglected (1) 50:19 long-term (3) 116:12;119:16;161:3 long-time (2) 25:11;106:15 look (31) 27:12;43:20;47:22; 51:10;52:25;54:24; 68:12;73:6,14;90:9; 92:24;117:5;118:17; 122:2;123:3;137:6; 143:18;148:21;149:22, 24;150:11;174:23; 178:7;180:18;183:18; 207:10;209:5;210:19; 216:3;217:11,12 looked (4) 160:23;161:1; 168:19;172:13 looking (14) 40:8;59:8;67:11; 73:11;89:8,18,23; 107:11;110:12;116:12; 143:9;149:1;197:1; 220:11 looks (7) 35:11;67:21;69:6; 74:11;80:23;150:10; 221:11 lose (1) 149:4 lost (2) 9:9;169:19 lot (61) 25:14;30:14,15; 45:10;54:2,3;55:3,9, 19;60:17;70:21,25; 73:19;74:7;76:8;83:20; 88:17;92:16;93:25; 94:1,3;95:25;97:20;</p>
---	---	--	---	--

<p>110:7;112:14;117:13, 19;120:12;126:20; 128:11,23;129:18; 130:5;144:20;161:19; 164:2,14,19,24;165:25, 25;167:4,5,7;169:15; 176:25;177:6,10,10,24, 24;185:9,18;187:3,16, 20;188:17;200:3; 201:1,18;211:3</p> <p>lots (5) 32:21;38:24;55:2; 167:4;179:16</p> <p>love (9) 82:24;113:20; 119:17;120:21;142:6; 160:21;188:5;220:24; 221:6</p> <p>lovely (4) 32:12;35:8;141:8; 143:5</p> <p>low (4) 51:14;52:6,7;141:22</p> <p>lower (2) 144:25;203:10</p> <p>low-income (1) 26:1</p> <p>lucky (1) 55:9</p> <p>lumped (1) 168:1</p>	<p>34:3,6,12,17,24;36:17, 19;37:8;38:5,7;39:21, 24;40:3;41:3,8,10,18, 20;42:7,8,12,14,16; 43:10,14,21;44:4,10, 12,23;45:3,25;46:4,8, 12,15;47:6,9,22,25; 48:9,14;52:10,18,20, 23;53:7,9,12,16,21; 56:11,14,23;57:2,6,12, 14,19,22;58:3,5;59:13, 16,19;60:6,8,13,21,24; 61:1,12,18;63:6,9,11, 16,23;64:9;67:5,10; 68:18,24;69:7,14; 71:15,20;72:3,9,14,22; 73:1;76:20;77:9,11,17, 20,25;78:12,16,20; 83:24;84:2;85:8,9,12, 15,17,20;86:1,3,5,7,12, 19;90:5,20,23;91:3,5,8, 12,14,18,22;92:1; 96:15,18,23;97:2,4,8, 12;99:5,6;101:10,18, 21,25;102:4,7,22; 105:5,7,10,16,22,25; 106:5,9;114:10,13,14, 16,20,22;115:2,6,11; 118:21,25;121:4,7,9, 18,22;122:5,8,11,14, 18,23,25;123:8,10,12, 16,22;125:5,9,12; 127:3,7,9,13,19,21,23; 128:2;130:15,19,22; 132:24;133:2,10,18,21; 134:2,6,8,16;135:8,18; 137:17;138:20;139:21, 24;140:2,5,9,14;142:1, 3,7,10,14;146:20,23; 147:1;148:20;149:1, 10,15;150:1,5,9,13,15, 18,22,25;151:4,6,8,12, 20,25;152:2,5,7,9,15, 18,20;153:9,24;154:4, 7,11,15,18,20;155:9, 11,15,18,22,25;156:4, 17,17,22;157:5,23; 158:19,22;159:4,6,9, 13,21,25;160:14,16; 162:5,7,9,11,18,22; 163:1,5;171:2,5; 174:22;175:2,8,11,15; 182:13,14,17,20; 184:22;186:24;189:2, 5,8,10;196:8,8,11,15, 20;202:2,7,9,12; 209:21,23;210:2,23; 213:2,6,9,12,19,21,24; 214:5,23;215:2,7,14; 217:20,23;218:4,10,13, 16,21,24;219:3,6,9,13, 18,22,24;220:11,15,19, 21;221:1,5,7,15,17,22,</p>	<p>25;222:3,5,9,13</p> <p>magnitude (1) 155:2</p> <p>mail (6) 124:1;125:25;126:1, 8,14,17</p> <p>mailing (6) 4:16;24:18,24,25; 125:22;158:4</p> <p>main (5) 7:6;12:5;106:18; 116:19;119:24</p> <p>mainly (3) 125:17,19;136:5</p> <p>maintain (2) 26:11;27:14</p> <p>maintenance (1) 40:10</p> <p>major (4) 27:25;114:7;145:21; 157:24</p> <p>majority (2) 37:25;82:19</p> <p>makes (5) 25:25;90:12;129:25; 132:14;172:7</p> <p>making (5) 13:21;39:8;45:13; 55:21;68:9</p> <p>mall (1) 146:8</p> <p>mammoth (1) 210:5</p> <p>man (2) 13:9,12</p> <p>manage (2) 183:6;190:1</p> <p>management (5) 66:7,14;83:3;88:11; 164:3</p> <p>managing (1) 190:17</p> <p>mandated (1) 185:7</p> <p>manner (1) 71:11</p> <p>Manor (2) 115:23;116:13</p> <p>manufactures (1) 183:11</p> <p>manufacturing (3) 183:10,14;204:20</p> <p>many (46) 30:7,9;50:9,15; 54:12,21;66:24;74:19; 79:3;80:9;83:9;85:1,2, 2;87:10,10,25;88:20; 89:24;103:3,12; 116:17;118:8,8;121:9; 136:15;137:2;146:9,9; 154:23,24;158:11,12; 165:10;176:8,10,15; 183:5;185:13;191:4;</p>	<p>195:8,9;199:23;209:2; 215:17;220:11</p> <p>Map (10) 32:16;48:17;56:19; 73:6;197:1;206:8,9,10, 13,15</p> <p>maple (1) 120:20</p> <p>maps (1) 81:19</p> <p>March (9) 4:4;21:16;22:16,21; 67:12;124:4;125:2; 134:9;221:4</p> <p>margin (1) 26:25</p> <p>marginally (1) 76:6</p> <p>Marie (1) 53:20</p> <p>Mark (10) 5:24;24:2,12,20; 28:11,22;67:7,9; 101:23;155:18</p> <p>marked (4) 15:3;24:19;206:7,13</p> <p>marker (1) 207:21</p> <p>market (7) 25:25;187:11;201:2, 6,11;202:3;217:1</p> <p>markets (2) 96:7,8</p> <p>Marks (18) 23:18,21,21,23; 46:11;48:1;53:6,7,8,9, 11,12,15,19,19,23; 56:15,18</p> <p>Marlboro (2) 166:23,23</p> <p>married (2) 56:1;167:3</p> <p>Maryland (49) 4:11;12:6;25:1,15; 39:13,19;42:1,20;45:1; 48:16;49:5,10,21; 53:20;58:8;59:1;63:19; 65:12;68:7;86:17;92:8; 106:8;115:10;119:16, 16;123:25;128:6; 133:25;137:6;138:14; 140:17;147:16;164:6; 165:1,2,2,3;168:9; 169:1,2;171:15,20; 172:6,14,18;175:22; 176:14,23;202:18</p> <p>Maryland-based (2) 171:21,22</p> <p>mass (2) 95:9;199:14</p> <p>massing (1) 80:19</p> <p>massive (6)</p>	<p>32:11;33:22;108:25, 25;141:23;206:17</p> <p>match (3) 74:5,16;76:5</p> <p>material (1) 34:11</p> <p>materials (4) 51:23;125:3;195:25; 210:20</p> <p>matter (10) 5:6;6:16,19;9:22; 11:21;125:23;128:10; 135:9;144:11;199:3</p> <p>matters (1) 7:25</p> <p>mature (3) 120:17;144:5;145:20</p> <p>Mau (5) 158:17,18;159:1,7,8</p> <p>Maurene (3) 4:3;5:18;154:6</p> <p>Mau's (1) 158:16</p> <p>may (44) 7:1,22;9:20,21,21; 10:25;19:14;20:20; 22:9;32:6;47:10,16; 61:18;62:1;64:12,15; 67:24;68:1,3,18;87:20; 98:22,23;99:6;115:7; 134:8;140:15;142:1; 152:7,25;154:9,11; 158:13,14;159:18; 164:7;173:15,18; 191:21;198:25;204:2; 221:13,17,21</p> <p>maybe (13) 7:15;10:22;23:3; 29:2;59:25;70:7;74:11; 133:22;153:6,20; 157:13;207:22;213:1</p> <p>Mayor (51) 8:14,23;15:24;16:1, 2,3,5,5,10,14,16;17:13, 19,23,25;18:2,3,8,10, 15,18,19,22,24,25; 19:7,9,16,19,24;20:1,8; 21:9,11,13,14;22:5,10, 16,25;23:5,5,7,9,12,16; 108:1;120:9;156:13; 164:24;165:12</p> <p>Mayor's (3) 17:14;213:19;214:1</p> <p>MBR (1) 179:19</p> <p>MCDOWELL (70) 32:4,6,8,8,18,20,25; 34:5,5,6,8;140:2,3,6,8, 10,13,16,16;142:1,2,3, 5,8,12,14,17,21; 146:21;147:3,5,12,23; 148:2,6,10,17,23; 149:19;150:2,4,11,15,</p>
---	--	--	--	--

<p>18,20,24;151:17,18,21, 23;152:1,3,4,16; 153:10,14,16;154:3; 156:19;184:25;185:8, 15,25;186:8,19,21; 209:23,25;210:3,22</p> <p>McDowell's (1) 184:24</p> <p>McNeil (1) 4:3</p> <p>MDOT (1) 104:8</p> <p>Meade (2) 119:12,13</p> <p>mean (68) 20:5;25:6;27:9,12, 18;28:2,4;31:7;33:17; 35:9,13,23;41:21;44:1, 2;59:4;65:6,12;68:12; 70:9,15,19,19,22;71:3, 9;74:2;81:12;94:12; 103:4,21;113:13; 129:11,25;131:24; 132:14;133:13;135:10; 148:11;158:12;161:24; 165:8;168:6;169:17; 170:1,14;177:17,19; 180:15,23;182:1,2,7; 186:5,5;187:10,12,14; 188:4;194:16;199:8; 204:8;208:6;209:5; 212:25;213:19;219:7; 220:25</p> <p>meaning (2) 165:17;197:15</p> <p>meaningful (1) 193:15</p> <p>means (6) 29:9;39:15;141:1; 144:24;180:22;207:19</p> <p>meantime (2) 10:8;135:12</p> <p>media (1) 30:6</p> <p>median (2) 169:6,7</p> <p>medical (2) 93:5;139:9</p> <p>medium (1) 161:4</p> <p>meet (7) 12:20;58:11;60:18; 83:14;118:9;191:14,17</p> <p>meeting (57) 5:8;17:10;19:13,17, 21,23;20:14;21:19; 22:18;30:4;31:13,17, 21;50:8;60:16;61:22; 71:13;78:15;81:7; 83:17;84:4,6,13,19,25; 86:25;87:2,7,20;124:2, 16,24;129:17;130:24; 131:1,16,18;132:19;</p>	<p>133:12,15;141:10,10; 184:19;192:2;193:23; 211:19;212:22;213:7, 8,13,16,25;214:2; 215:16,17;216:6; 217:15</p> <p>meetings (15) 60:20;61:4;63:3; 84:23;85:3;125:1; 131:24,25,25;192:9; 193:2;194:1;212:11, 19,20</p> <p>meets (1) 118:18</p> <p>member (9) 112:6;132:6;133:4; 150:21;173:7;176:1, 13;191:18;213:14</p> <p>members (28) 10:6;64:1,5;125:4; 129:21,23;131:19; 132:23;133:12;166:12; 173:7,9;191:8,14,18, 22;192:3,6;193:12; 195:24;212:12,17,18; 213:25;214:3;215:11; 217:24;220:8</p> <p>mentally (1) 99:20</p> <p>mention (3) 9:3;125:25;206:4</p> <p>mentioned (27) 32:9;40:23;42:21; 60:15;76:24;81:5;83:6; 84:9;87:9;97:20;112:7; 131:13;144:1;160:9, 20;161:2,3,14,22; 181:7;192:2;197:11; 199:14,24;200:14,20; 216:19</p> <p>mentions (1) 145:9</p> <p>merely (1) 29:15</p> <p>Merrill (18) 69:3,3,5,8;72:16,17, 25;73:3,3;76:24;77:4, 9,14,19;79:2,5,22; 80:15</p> <p>mess (1) 70:14</p> <p>message (1) 5:20</p> <p>met (11) 48:19;50:4;68:5; 134:25;166:25;191:21; 192:6,8;193:6;211:19, 25</p> <p>methods (1) 204:18</p> <p>Metro (7) 164:19;168:12; 183:16;186:12,13;</p>	<p>188:21;199:14</p> <p>Metropolitan (1) 107:4</p> <p>MGM (10) 32:11;50:13;51:22; 52:3;59:24;110:2,23; 143:15;146:9;170:7</p> <p>mid (1) 141:23</p> <p>mid- (1) 52:6</p> <p>mid-2018 (2) 167:12;190:22</p> <p>middle (1) 165:21</p> <p>mid-range (2) 51:14;52:7</p> <p>mid-rise (2) 141:12;144:12</p> <p>mid-twenties (1) 110:8</p> <p>might (16) 6:21;10:1;13:3,19; 23:10;30:25;44:13; 65:14;90:16;119:1; 126:5,15;155:20; 174:25;184:8;207:10</p> <p>Mike (3) 97:3,14;122:19</p> <p>mile (4) 29:7,8;42:4;93:1</p> <p>miles (18) 29:1,2;38:20;39:17; 46:23;48:17;56:19,20; 59:23;60:1;73:4;90:11; 92:8;93:2;106:21; 138:15;174:2;176:20</p> <p>milk (1) 99:17</p> <p>millions (1) 178:10</p> <p>mind (9) 66:12;69:2;121:22; 123:2;185:1,3;200:5; 219:11,12</p> <p>mine (3) 123:20;153:16;177:7</p> <p>minor (1) 216:5</p> <p>minority (2) 26:18;27:23</p> <p>minus (1) 29:15</p> <p>minute (5) 7:16;69:10;78:7; 85:10;213:2</p> <p>minutes (8) 29:3;59:25;69:19; 85:22;101:20;180:19, 20;194:14</p> <p>miss (2) 8:11;150:1</p> <p>missed (1)</p>	<p>119:1</p> <p>missing (1) 39:19</p> <p>mitigate (1) 80:25</p> <p>mix (3) 200:21,23;216:24</p> <p>mixed (22) 25:24,24;33:25; 40:14;66:18;75:12; 76:8;79:17;89:5;94:17; 111:5,25;112:13; 116:10;165:22;170:5, 5;179:13;181:1,13; 194:10;198:9</p> <p>model (2) 118:13;164:23</p> <p>moderate (1) 100:12</p> <p>moment (6) 24:21;111:5;143:23; 148:25;155:8;220:5</p> <p>momentarily (1) 151:24</p> <p>Monday (1) 124:4</p> <p>money (12) 38:24;39:16,16; 51:18;96:11;110:20; 113:25;114:1;129:1; 130:11;169:15,19</p> <p>monstrosity (1) 155:4</p> <p>month (2) 131:10;174:17</p> <p>months (2) 103:16;108:10</p> <p>Moose (29) 18:25;19:1,20;20:12; 21:3,8;39:24;40:1,3,4, 17,20,22;41:7,9,11,18, 19;77:23,24,25;78:11, 14,17,22;84:8,15,17,19</p> <p>more (62) 12:10;19:1,6;27:9,9, 10;31:3;40:1,23;43:19; 50:9;52:8;53:4;54:14, 17,18,20;56:5;79:9; 80:6;90:13;93:20,21, 25;94:1;95:22;96:24; 111:22;113:13;114:4; 119:8;121:9;123:3; 128:11;139:16,19,19, 24;141:11;144:16,24; 145:24;146:11;157:7, 24;158:13,14;162:15; 166:2;172:12;178:5; 179:22;181:21;188:5, 24;193:11;195:6; 219:15;220:12,13,14, 15</p> <p>morning (33) 4:2;5:13,15;8:1,5,15,</p>	<p>23;11:19,20;12:8;16:2; 24:3;29:25;30:1;37:4, 5;48:6,7,9;57:5;58:10; 63:11;91:19,20;97:1,2, 13;98:15;105:15,22,24, 25;163:2</p> <p>most (28) 4:18;9:16;17:20; 37:20;38:19;42:22; 43:2;50:8;81:11;83:10; 84:25;85:4,5;90:1; 94:25;101:2;110:4; 113:1;117:20;126:7,7; 131:6,8;140:25; 167:22;187:2;194:8; 197:2</p> <p>mostly (4) 7:18;92:19;130:8; 164:16</p> <p>mother (1) 9:9</p> <p>motion (1) 10:16</p> <p>motivation (1) 26:24</p> <p>mounds (1) 70:12</p> <p>Mountains (1) 141:6</p> <p>mouse (1) 196:25</p> <p>Mouskin (3) 78:22;85:7,8</p> <p>Mouw (16) 7:3,11;14:9,11; 127:16;159:12,16,16, 23;160:2,14,15,16,19; 162:9,10</p> <p>move (4) 110:18;188:11; 191:24;202:19</p> <p>moved (9) 56:2;90:14;112:17; 119:11;161:25;166:22; 174:8,16,18</p> <p>moving (5) 39:12;56:5;119:8; 192:21;209:10</p> <p>much (55) 13:15;14:12;16:20; 25:7;27:1,17;30:16,24; 34:13;40:6;41:17;46:8; 47:24;52:12;54:15; 63:4;67:4;68:16;69:24; 72:17;79:9;80:6,13; 82:23;93:20;105:8; 110:23;114:17,19; 124:14;125:4;126:25; 127:4;133:19;142:9, 19;146:22;154:25; 155:4;162:9;164:12; 169:19;170:6;175:9, 10;179:21;184:12;</p>
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<p>185:2;188:23,23,25; 211:13;215:6;222:8,12</p> <p>much-needed (1) 50:7</p> <p>mud (3) 26:9;35:4;160:11</p> <p>Muhammad (24) 8:14,24;15:24;16:1, 2,3,11,14,16;17:23,25; 18:8,10,15,18,19,22; 19:9,16,19,24;21:14; 23:9,12</p> <p>multi-family (3) 164:23;183:9,11</p> <p>multi-mobile (1) 81:25</p> <p>multiple (5) 110:10;141:15; 143:14;192:8;195:18</p> <p>multi-use (1) 93:16</p> <p>Museum (1) 206:21</p> <p>must (7) 4:13;22:13,14;29:6; 102:9,12;172:24</p> <p>mute (9) 5:2,4;33:2;46:1;49:6, 7,8;127:8;151:23</p> <p>muted (3) 28:16;33:2;127:8</p> <p>mutual (1) 167:12</p> <p>MXT (8) 29:16;116:10; 124:17;194:6,7; 210:12;216:4;217:10</p> <p>myself (6) 64:20;101:15;112:7; 157:9;167:13;184:15</p>	<p>16:18;17:7;25:13,13, 23;37:18;39:11,14; 45:16,19;49:5,10,12; 50:3,6,13,17;51:19,20; 54:7;65:7;66:3,15,18; 73:14;76:14;77:1,5; 80:23;81:13,15;82:8; 88:5,23,23;89:2;92:23; 94:2,2;97:18;98:3,24; 100:23;101:4,16; 102:9,13;103:19; 104:6,13;108:5; 109:19,23;134:9,20; 135:16;136:6,20; 137:11;143:22;144:6, 9;146:8;147:16; 161:15;165:3;168:7, 22,25;169:24;170:2,3, 4;173:5;176:21; 178:10,13,14,16; 180:10,16,20;181:4; 188:9;194:15,16,18,19; 195:14;196:5;197:5,9; 198:6,19;200:19; 206:3,13,21;208:4; 220:8</p> <p>nationwide (1) 164:6</p> <p>native (10) 51:5;53:24;54:8; 58:23;165:2;167:1,1; 206:22,24;207:12</p> <p>natural (10) 40:10;49:14,19,24; 75:6;128:15;145:22; 146:2,3;194:19</p> <p>naturally (3) 203:8;209:4,8</p> <p>nature (7) 35:13;40:15;75:11; 79:18;90:15;111:7; 169:2</p> <p>Naval (1) 65:25</p> <p>near (2) 178:15;188:19</p> <p>nearby (3) 155:2;156:11;199:15</p> <p>nearly (3) 64:1,5;203:16</p> <p>necessarily (3) 156:9;172:1;217:9</p> <p>necessary (2) 112:4;221:14</p> <p>necessitated (1) 55:12</p> <p>necessities (1) 198:10</p> <p>necessity (2) 109:3;216:15</p> <p>need (55) 8:24;12:18;20:10; 21:4;22:20;38:15;</p>	<p>40:18,23;43:1;45:2; 51:13;56:6;57:19;59:9; 66:10;69:5;70:9;73:13; 77:13;78:14;80:10,10; 81:23;91:20,22;95:15; 102:17,17;112:14; 119:19;132:21;134:13, 15;135:7;146:10; 149:23;152:11;153:2, 6;172:18;173:3,3,4,6,8, 10;178:14,15;185:10, 19;200:8;201:23; 204:4;214:14;219:9</p> <p>needed (9) 7:17;26:15;40:6; 84:24;99:11;109:4; 184:12;194:10;221:2</p> <p>needing (1) 141:13</p> <p>needs (36) 12:11;25:18,20;49:6; 50:19;54:17,17,20; 55:13;65:25;68:20; 80:5;82:12,14;85:20; 103:8;111:25;112:25; 118:19;130:2;164:20, 24;165:7;178:11; 181:6;191:10,11; 199:6;201:7;202:7; 208:11,25;211:7,9; 212:6;214:8</p> <p>negative (7) 76:11;99:22;100:14; 117:18;136:20,21; 144:4</p> <p>negatively (2) 75:3;128:24</p> <p>neglect (1) 92:19</p> <p>neglected (6) 26:4;80:10,14;118:3, 7;190:13</p> <p>neighbor (4) 88:4;128:20;144:8; 212:3</p> <p>neighborhood (34) 50:14;54:11;55:7,8; 62:9;67:16,16;70:2,21; 74:18,19,22;75:5; 76:25;84:21;95:18; 100:13;106:24;110:25; 112:10;116:1;117:8; 119:2,5,24;120:8; 141:20;145:12;160:11; 177:5,14;178:6,7; 198:3</p> <p>neighborhoods (4) 50:12;112:12;116:8, 12</p> <p>neighboring (3) 45:10;49:22;130:12</p> <p>neighbors (23) 19:12;42:25;43:6;</p>	<p>45:23;61:24;62:5,7; 64:2,18;67:13;74:3; 87:5,9;106:24;112:11; 114:3;115:16;116:5, 17;129:3;209:14; 211:10;215:3</p> <p>neighbors' (1) 88:25</p> <p>nervous (1) 96:8</p> <p>net (1) 183:12</p> <p>network (11) 65:20;139:17;178:3; 180:9;181:3;188:3; 199:10;206:3,4,5,18</p> <p>networks (1) 188:11</p> <p>new (16) 50:7;58:21;65:4; 74:12,15;92:12; 108:24;116:15,21; 119:4;138:3;160:2,20; 169:13;199:16;209:19</p> <p>newsletter (3) 84:9;85:6;131:10</p> <p>newsletters (1) 84:10</p> <p>next (58) 9:3;10:1,16;14:21; 15:15,23;20:23,25; 23:16;24:1;28:18; 36:20,21;37:1;44:11; 52:21;56:23;60:10; 63:6,9,10;74:21;75:12; 76:8;77:22;90:23,25; 91:14;105:11;110:3; 117:24;121:1;127:7; 128:20;133:21;154:16, 17;156:5,25;157:18; 158:24;160:10;164:18; 168:20;175:11;177:2, 21;180:13;184:23; 189:8,9;202:17,19; 212:3;215:11;219:1, 10,15</p> <p>nexus (1) 197:4</p> <p>nice (6) 27:21;73:12;75:23, 24;91:11;184:19</p> <p>noise (5) 136:12,22;144:14; 146:10;153:15</p> <p>none (6) 108:22;111:18,19; 132:18;161:2;212:23</p> <p>non-environmental (1) 109:8</p> <p>non-invasive (1) 51:5</p> <p>non-profit (1) 134:21</p>	<p>non-senior (1) 65:16</p> <p>nor (2) 9:15;84:11</p> <p>Normally (1) 157:17</p> <p>north (2) 111:7;206:6</p> <p>Northeast (1) 108:7</p> <p>norther (1) 197:13</p> <p>Northern (2) 38:20;197:12</p> <p>northernmost (1) 197:23</p> <p>northwest (4) 4:10;164:22;165:11; 174:13</p> <p>note (9) 6:14;11:11,15;20:24; 47:10;140:5;149:2; 161:4;206:12</p> <p>notes (3) 140:4;142:9;144:21</p> <p>notice (2) 19:12;85:5</p> <p>noticed (2) 86:23;125:21</p> <p>notices (1) 84:11</p> <p>noticing (1) 151:20</p> <p>notifications (1) 84:23</p> <p>notified (2) 83:16;182:5</p> <p>notify (1) 154:9</p> <p>November (3) 147:15;149:12;158:6</p> <p>NPCA (1) 134:15</p> <p>NPS (1) 104:17</p> <p>number (38) 4:5;5:8;10:6;15:6,8; 17:6,15;25:4;28:18; 33:7;46:13;52:21,25; 56:12;87:17;90:24,25; 95:5;104:21;107:8; 110:5,14,20;112:17,19; 122:9;129:16,16; 134:17;146:13;149:5, 6,8,22;150:4,7;183:1; 198:8</p> <p>numbers (6) 75:2;111:6;148:21; 149:21;185:6;215:20</p> <p>numerous (1) 59:2</p> <p>nursing (1) 201:10</p>
N				
<p>name (55) 6:11,15;12:2,4;23:6; 24:12;44:25;48:15; 53:16,19;57:20;58:6; 61:7;62:4;63:16;69:4, 9,14,17;78:7,21,22; 86:12,15;92:6;97:8; 106:5,7;115:6,8; 123:16,18;127:22; 128:2,4;133:24; 134:19;140:14;146:9; 159:7,13,16;160:4; 163:8,9,9,11;173:7; 175:20,21;189:16,18; 218:17,17,24</p> <p>names (1) 173:8</p> <p>nation (1) 117:22</p> <p>National (100)</p>				

<p>nutrition (1) 160:5 NW (2) 163:15;189:21</p>	<p>offers (1) 89:2 office (12) 20:14;32:23;62:15; 98:6,8;101:1;108:2; 126:9;155:19;174:8; 191:9;212:14</p>	<p>209:12 online (4) 4:25;16:6;78:2; 139:4 Only (38) 5:14;7:11;36:6; 64:12;68:25;74:21,22, 23;75:5,5,10;81:16; 83:15;89:18;100:24; 108:19;109:4;117:10, 18;127:13;128:18; 131:13,13,16;133:2; 138:9;139:10;149:4; 151:2,16;175:2; 187:10;201:12;204:13; 214:7;218:5;219:25; 220:4</p>	<p>198:17 opposition (16) 6:17,23;8:19;9:17; 14:9;18:7;35:19;47:13, 14;51:23;71:7;85:13; 127:14;133:17;140:24; 162:3</p>	<p>165:10;167:13;169:10; 178:25;179:22;183:21; 186:1;195:19;204:7; 210:11;211:16;213:13; 214:17;215:11;216:8; 217:10;220:1</p>
<p>O</p>	<p>officer (3) 68:3;107:4;110:16 official (4) 22:18;134:14; 135:15,17 officially (1) 135:21 officials (2) 20:9;193:13 often (5) 26:1,5;35:10;88:18; 136:16 Old (6) 26:7;38:21;45:1; 109:16;177:8;207:22 older (3) 10:6;113:17;179:21 Olivewood (1) 133:25 omissions (1) 11:6 once (5) 6:20;70:10;89:11; 99:4;133:15 one (98) 4:7;6:17;7:6;9:7; 13:19;14:8;15:3;16:6; 18:10,14;23:15,19; 24:17;27:12,14,20; 28:24;30:1,34;13:36;3, 8;38:18;39:10;43:19; 44:4;45:25;46:12,12; 47:6;52:14;56:7;60:8; 61:12;62:1;64:3;65:1, 2;66:19,21;67:3;71:10; 76:23;83:16;88:6; 90:11;92:14;93:16; 96:24;101:1;105:9; 108:20,22;109:9; 110:5,14,20;112:18; 116:17,18,21,23;118:4; 123:2,21,24;125:5,24, 24;128:11;129:2; 132:9,24;139:19,24; 140:18,18;145:20; 148:25;149:8;153:24; 156:15;158:13;160:16; 168:14;175:3;180:17; 182:5;183:1,25; 185:25;202:4;203:18; 205:6,7;208:17;211:5, 20,25 ones (4) 108:16;127:13; 130:7;211:10 ongoing (1)</p>	<p>on-road (2) 206:14,14 onto (2) 197:8;198:2 open (6) 105:7;132:1;197:8; 200:25;202:14;203:4 opened (2) 33:15;69:23 opening (2) 14:22;45:13 operation (1) 209:12 operations (1) 108:9 opinion (7) 20:15;26:20;40:8; 66:11;87:19;120:24; 128:24 opinions (4) 19:21;26:22;76:5; 86:24 opportunities (4) 99:16;165:15; 187:14,19 opportunity (36) 9:19;17:12;22:25; 26:20;34:20;47:12,19; 58:11;61:14;66:15; 68:9;94:23;95:1,16; 96:14;97:16;100:5; 109:22;113:3,3; 116:22;118:9;139:22; 151:2,16;158:9,20; 168:11;180:21;182:25; 194:8;200:3;205:19; 207:14,18;209:19 oppose (6) 22:19;29:6;109:9; 124:16;128:8;145:13 opposed (11) 4:17,18;6:21;26:24; 47:11;69:20;76:12; 93:23;94:12;97:10; 143:23 opposite (1)</p>	<p>oppositions (1) 74:20 optimistic (1) 12:9 option (1) 16:20 options (5) 130:13;137:15; 169:20;188:11;199:21 oral (2) 77:15;79:6 order (9) 8:20;29:6;33:6; 68:25;77:22;96:24; 117:14;123:3;206:23 organization (13) 64:16,16;67:13,20; 68:4,7,7;98:25;134:19, 24,25;139:23;152:24 organizations (4) 87:5,22;134:13; 192:7 organization's (1) 123:20 organized (1) 171:14 orientation (1) 142:23 original (4) 120:3;191:13; 195:17;214:7 others (11) 67:25;68:1;71:18; 79:17;80:18;83:5;87:5; 125:19;136:25;194:12; 199:13 other's (2) 112:11;154:1 otherwise (3) 141:13;165:23; 184:14 out (68) 6:10;19:11;21:5; 34:9,18;35:2;39:13; 45:11,12,14;55:4;56:2, 6;58:22;62:12;73:17, 20;74:1;77:22;83:7; 85:10;87:12;90:14; 93:19;96:24;107:3; 108:5,5;109:6,19; 110:6,7,7,8;112:13,21; 119:8;123:3;125:22; 129:20;131:18;133:15; 136:7;138:7;141:9; 142:25;153:6,20; 154:6,22;158:6;</p>	<p>outdoorsman (1) 109:1 outlet (1) 146:8 Outlets (3) 50:13;51:21;82:8 outlined (3) 116:14;146:13; 152:25 outlines (1) 146:1 outlining (1) 115:25 out-of-state (1) 55:21 outreach (12) 156:11;170:22; 191:7;192:1,5;193:12; 211:16,18;212:9; 214:16,20;215:4 outreached (1) 214:20 outside (8) 20:10,21,22;83:8,22; 117:9;119:12;165:23 outsider (1) 26:24 outsiders (1) 36:11 over (40) 6:14;25:13;36:15,15; 37:22;42:22;49:23; 57:9;59:1,2;66:11,23; 69:25;70:6,8,12,14; 106:15;110:6,17; 111:2,4,14;112:17; 113:21;116:11;122:3; 143:15,16;145:24; 161:22;165:6;167:8; 182:9;190:5,10;201:8, 13;209:9;216:24 overall (1) 79:15 overburdened (1) 88:16 over-development (1) 66:2 overdue (1) 25:17 overhaul (1) 80:6 overlook (1) 141:5 overlooks (1) 141:7 overrule (1) 133:2</p>

<p>oversee (2) 164:3;190:1</p> <p>overshadowing (1) 141:20</p> <p>overview (1) 197:1</p> <p>overweight (1) 203:17</p> <p>overwhelming (1) 141:20</p> <p>Owen (1) 60:11</p> <p>Owens (18) 63:10,11,15,18,18, 25;64:9,14,18,22,24; 67:11,15,22;68:11,17, 22;112:5</p> <p>Owens' (2) 67:7;91:1</p> <p>own (16) 6:23;22:25;30:22; 70:17;135:19,23; 150:19;160:7;170:8; 171:19;172:1,12; 183:9,10,14;199:18</p> <p>owned (6) 26:18;104:4;161:4; 172:3;178:25;179:4</p> <p>owner (10) 55:1;163:19;166:7,9; 171:11;173:2,5; 195:17;201:19,24</p> <p>owners (1) 9:7</p> <p>ownership (5) 120:3;171:18;172:1, 12;173:9</p> <p>owns (5) 94:12;117:24;137:8; 171:17;172:6</p> <p>Oxon (38) 4:11;35:3;37:14; 41:25;42:19;43:8; 50:16,16;73:4;74:21; 92:22;97:15,15,19,19, 20,21,21;101:8,8; 103:4,13;107:12; 108:19;110:3,4; 113:20;116:13;118:12; 136:4;140:19;144:6; 176:21,21,22;197:5,6; 198:25</p>	<p>Pamela (3) 133:21,24;152:8</p> <p>pamphlets (1) 141:9</p> <p>pandemic (5) 62:23;74:25;89:24; 136:3;183:22</p> <p>panels (3) 32:12;183:11;204:16</p> <p>parameters (1) 194:22</p> <p>parcel (1) 100:22</p> <p>parcels (1) 65:5</p> <p>Pardon (3) 32:25;151:4;202:9</p> <p>parents (1) 43:7</p> <p>Pari (2) 67:21,21</p> <p>Park (88) 18:16;35:3;37:14; 49:12;76:14;81:14; 94:21,22;97:15,16,18, 19,21;98:3,24;99:16, 21,22,24;100:3,5,16, 18;101:6,9,16;102:9, 13;103:15,19,22,24,25; 104:2,6,7,14,19; 106:13;107:7,12; 108:19,20,22;109:19; 110:4;113:20;118:5; 121:1;126:6,10,15; 136:4,6,8,9,20,24; 137:1,8,12;138:15; 143:22;144:6,6;145:2, 5,5,14;147:8,16,21; 160:24;161:15;167:25; 168:2,19;180:6;188:9, 19,21;193:4,13,16; 197:5;199:15;206:3,13</p> <p>parking (4) 81:8,10,13,18</p> <p>parkland (7) 117:23;118:6;143:9; 168:1,2,18,20</p> <p>Parks (8) 49:5,10;108:18; 117:23;134:9,20; 135:16;203:7</p> <p>park's (6) 100:1,2,9,19;145:6,8</p> <p>parkways (1) 97:23</p> <p>part (33) 7:5;14:7;19:22;30:6; 34:19;39:7,19;44:6; 59:7;74:13;77:13; 79:22;80:7;81:11; 93:17;97:22;101:25; 108:18;120:17,25; 133:4;135:21;143:2,</p>	<p>25;158:25;168:5,13; 173:2;179:22;185:13; 187:13,23;188:14</p> <p>partially (1) 78:24</p> <p>participants (1) 31:20</p> <p>participate (6) 8:4;53:3;84:6;87:13; 89:16;92:23</p> <p>participated (1) 190:13</p> <p>participating (1) 155:6</p> <p>participation (1) 62:18</p> <p>particular (10) 25:18;35:7;58:13; 59:3;68:6;100:2; 117:21;118:9;204:1,19</p> <p>particularly (3) 11:13,13;197:3</p> <p>particulate (1) 135:1</p> <p>parties (1) 127:11</p> <p>partner (4) 117:7;166:10; 175:24;192:17</p> <p>partners (2) 89:8;211:6</p> <p>parts (5) 39:8;93:6;95:15; 144:25;166:1</p> <p>party (1) 126:11</p> <p>pass (1) 143:19</p> <p>passed (1) 141:9</p> <p>passing (1) 210:20</p> <p>passionate (1) 30:11</p> <p>passionately (1) 54:7</p> <p>past (10) 58:20;70:17;83:12; 84:15;106:15;115:20; 136:3;176:9;207:18; 209:9</p> <p>path (2) 77:3,6</p> <p>paths (2) 35:21;95:4</p> <p>patience (1) 222:7</p> <p>Patrick (1) 92:6</p> <p>patronize (1) 178:15</p> <p>Patterson (20) 7:25;8:7,7,17;11:16,</p>	<p>17,18,25;12:4,5;13:6, 11,16,19;14:13,14,18, 20,25;15:4</p> <p>Patterson's (1) 14:24</p> <p>pause (1) 8:11</p> <p>paved (3) 170:2;197:14;203:11</p> <p>pay (2) 12:24;165:8</p> <p>peak (1) 188:18</p> <p>pedestrian (12) 77:3,6;80:2;81:25; 110:24,24;144:14; 197:14,22;203:2,3,11</p> <p>pedestrian-centric (1) 204:14</p> <p>penalties (24) 11:23;16:11;24:4; 37:9;44:16;48:10; 53:13;57:15;63:12; 69:11;72:23;78:8;86:8; 92:2;97:5;115:3; 123:13;127:24;134:3; 140:10;159:10;162:23; 175:16;189:11</p> <p>penalty (2) 105:25;106:1</p> <p>pending (2) 43:22;102:1</p> <p>Pennsylvania (1) 206:18</p> <p>people (104) 5:1;12:13;31:1,22; 36:11;38:24;42:25; 43:2;44:14;51:17; 55:20;56:5;59:7;60:17; 62:23;65:15;66:12,21; 67:1;68:2;69:1;70:20; 71:11;73:13,15,17,23, 25;74:1,4,6;75:2;76:1, 10;78:2;81:14;82:6,13; 85:4,13;87:3,8,11,12, 20;92:21;93:2;95:25; 99:13,19;107:10; 111:23;113:24;116:16; 117:9,13,24;118:19; 120:4,7,10;128:23; 130:6,7;131:8;132:4,5; 154:8,23,24;156:14,14; 157:7,8;161:2,21,22; 168:8;170:24;177:19; 178:15;181:20;182:4, 6;184:6;186:2,11; 187:12;188:6,12,14,21, 23;195:22;197:2; 198:21,24;207:15,16, 16;211:3;212:12; 216:8;218:18</p> <p>People's (6) 5:13;7:11;20:21;</p>	<p>99:23;130:11;135:22</p> <p>percent (9) 55:19;166:9;169:6,7; 171:19;172:7,12; 185:3,23</p> <p>percentage (1) 185:21</p> <p>perfect (3) 54:19;183:20,20</p> <p>perform (1) 136:5</p> <p>perhaps (4) 61:9;78:3;148:2; 152:25</p> <p>perjury (25) 11:23;16:12;24:4; 37:9;44:16;48:10; 53:13;57:15;63:12; 69:11;72:23;78:8;86:8; 92:2;97:5;106:1;115:3; 123:13;127:24;134:3; 140:11;159:10;162:23; 175:16;189:11</p> <p>person (15) 4:13,15;14:8;57:24; 96:24;102:12;109:2; 123:3;128:25;130:1; 140:23;201:24;203:25; 204:5;215:10</p> <p>personal (6) 18:4;30:4;70:18; 110:11;116:4;139:5</p> <p>personally (12) 49:11,12;54:10;87:3, 19;89:18;126:11; 128:16;191:3;195:9, 10;211:19</p> <p>persons (4) 9:16;43:11;173:23; 217:24</p> <p>perspective (9) 27:5;75:25,25;93:20; 95:12;109:8;139:4; 202:13;208:7</p> <p>pertains (1) 40:25</p> <p>Petra (36) 45:15;48:20;50:20; 54:13;61:25;88:5,22; 89:2;107:17,21;113:6; 116:2;163:12,17,19,22; 164:15;170:14,15,24, 25;171:11,22,24; 172:13;173:9,11,14; 174:4;175:23;182:8; 189:20,24;190:4; 191:6;210:6</p> <p>Petra's (1) 88:10</p> <p>Petro (1) 58:10</p> <p>PG (11) 40:7;141:16;143:21;</p>
<p style="text-align: center;">P</p> <p>page (17) 32:21;34:9,10; 141:23,24;142:12,25; 143:13,14;144:17; 147:18,19;149:22,25; 150:3,7,10</p> <p>pages (1) 173:16</p>				

<p>144:2,20;145:25; 146:12;160:22,23; 161:7;186:10 phase (3) 36:10;190:22;210:17 phenomenal (1) 180:16 philosophy (1) 208:19 phone (8) 5:2,8;31:2;43:15,15, 17;49:8;53:10 phones (1) 5:2 phonetic (4) 78:22,23;96:25; 127:17 pick (1) 74:25 picked (1) 182:9 picking (1) 192:5 piece (2) 101:4;216:12 pieces (2) 31:5,9 piledated (1) 144:9 pillars (1) 116:19 pin (1) 133:16 pipeline (1) 164:5 Piscataway (1) 97:15 pivoting (1) 164:23 place (28) 12:13,14;25:1;36:15, 15;55:5;71:4;74:22,24; 75:1;92:18;93:11; 110:6,21;116:17; 117:4,4;121:21; 136:19;159:18;160:7; 164:12;169:4,8;181:4; 187:13;196:25;200:4 placed (2) 84:20;178:13 places (16) 27:19;36:7;37:24; 66:25;70:23,25;89:10; 100:24;164:22;187:5; 203:19,20;205:16,16, 18;207:1 placing (1) 184:13 plan (40) 16:23;26:18;29:17; 32:18;40:11,14;50:23; 65:14;71:18;96:2; 104:11;111:4;115:23,</p>	<p>24;116:19,24;137:6; 146:1;161:1,7,10,18; 162:3;167:20,20; 169:14,21;170:8; 186:12,14;188:23; 202:22,23,25;203:6,14; 204:23,23;210:17; 216:13 plane (1) 69:6 planet (2) 145:22,23 planned (5) 17:2;51:8;146:13; 159:23;181:25 planners (4) 66:20;115:21,24; 180:6 Planning (24) 18:17;49:5,10;65:21; 115:21;116:7;126:6, 10,15;141:16;143:22; 147:9,16,17,21;167:25; 180:6;186:10;193:4, 13,16,19;201:22; 208:23 plans (16) 25:19,23;40:11; 41:13;79:14;82:2; 95:16,17;101:4;137:6; 161:9,13,18;168:12; 179:13;206:23 plant (1) 206:24 plantation (1) 99:19 planting (3) 120:22;145:24; 206:23 plants (1) 51:5 platform (2) 54:19;105:21 play (2) 16:25;203:7 played (1) 164:11 Pleasant (1) 54:9 please (24) 4:15;28:21;33:5; 38:11;43:25;46:1; 48:14;49:8;63:16; 77:11,11;127:5; 137:21;156:18;163:7, 8;173:24;175:20; 190:6;196:12;202:14; 204:8;219:14;220:9 pleased (1) 50:5 pleasure (2) 49:25;54:6 plenty (4)</p>	<p>35:25;36:14;81:14; 146:7 plot (3) 94:9,18,24 plots (2) 93:22;94:9 plus (2) 29:15;141:11 podge (1) 62:6 point (20) 20:20;34:9;65:11; 100:6,9;129:16,17; 133:14;182:3;187:25; 197:11,12,13,16,17,23; 210:15;216:22;217:4; 219:23 points (4) 79:3;128:17;206:10; 217:18 Police (7) 107:4;120:9,9; 199:16,17,18,19 policing (1) 129:14 policy (1) 22:19 pollinators (1) 160:8 pollution (5) 136:12,22;144:15, 15;146:10 populated (1) 37:17 population (1) 203:16 portion (5) 81:2;100:21;104:5,7; 195:13 position (7) 22:21;23:8;53:22,23; 102:14;111:10;135:2 positioned (1) 110:3 positive (2) 168:20;205:8 possess (1) 195:25 possible (8) 59:4;78:12;81:20; 95:13;151:14;155:3; 175:7;209:3 possums (1) 35:12 post (1) 126:9 Poteat (33) 15:3,5,7,9;17:13; 24:19,21;28:12,19,20; 46:13,14;52:20,22; 56:11,13;59:17,18; 67:6,9;90:23,25;91:4; 96:16,17;98:11,13;</p>	<p>101:24;122:10;125:5, 8;135:20;149:6 potential (3) 99:22;115:17;120:12 potentially (4) 79:18;200:1;205:10; 207:9 Potomac (4) 88:8,20;206:2,2 practices (1) 50:25 preach (1) 170:25 precise (1) 143:11 prefer (4) 10:8;123:22,23; 135:13 preliminary (1) 7:24 pre-marked (1) 125:6 premature (1) 216:12 pre-pandemic (1) 136:9 prepare (3) 71:12,12;83:19 prepared (8) 7:8;79:4,6;115:1; 149:13;159:2;193:1; 196:5 present (10) 7:5;8:15;23:19; 36:24;37:2;48:5;124:5, 23;132:23;137:16 presentation (16) 24:15;48:25;49:1,17; 58:12;60:16;62:2,3,13, 16;89:3;124:25; 148:15;188:15;196:6,9 presentations (1) 125:2 presented (7) 24:14;84:7;110:12; 116:25;130:25;132:11; 149:13 presenting (1) 50:24 preservation (15) 76:12;101:1;144:2; 145:15;147:4,5,11,18; 148:1,9,14;149:14,17; 207:19;209:15 preserve (4) 94:24;113:12,12; 146:3 preserved (1) 121:2 preserving (5) 54:20;101:8;146:11; 165:13,21 presume (1)</p>	<p>9:16 pretty (11) 25:7;27:1;30:24; 38:12;64:10;65:18; 128:7;145:20;162:16; 184:11;215:19 previous (4) 69:22;104:15; 134:12;207:3 previously (2) 181:8;187:5 price (2) 56:4;130:2 primarily (1) 8:19 primary (1) 26:24 prime (2) 165:19,20 Prince (53) 12:7,10,19;20:7; 25:12;26:6;30:7,10; 38:2,18;39:6,7,8,20; 43:1;44:21;45:6,21; 49:4;50:2;51:18;53:24; 54:8,17;55:18;59:5; 65:10;66:10,15;70:3; 76:3;94:8;100:25; 101:2;108:20;109:12, 25;117:2;118:12; 134:1;135:15;136:1, 14;138:9;149:16; 166:18,22;167:1,2; 168:9;176:18;191:15; 202:22 principle (2) 163:19;170:17 print (1) 149:3 printer (1) 149:2 prior (9) 10:21;108:1,8,10; 112:5;119:15;182:18; 191:22;193:7 private (7) 38:23;61:4,21;62:13, 16;118:10;188:9 proactively (1) 193:3 probably (18) 7:3;17:19;46:23; 56:18;59:25,25;94:23; 106:21;108:9,15; 111:7;128:10;129:6; 131:13;158:23;167:25; 185:22;194:3 problem (6) 78:3;98:22;110:7; 129:14,15;150:14 problems (3) 88:17;112:23;146:10 procedural (1)</p>
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<p>7:19 procedure (3) 156:24;157:1,17 proceed (6) 78:19,20;85:19; 127:12;135:14;140:15 proceeding (2) 12:19;20:11 proceedings (1) 154:25 process (18) 7:20;19:2,5;20:6,7; 22:3,8;65:21;95:15; 121:1;164:19;190:18; 192:18,19;193:9; 204:20;216:7;217:16 processes (2) 96:4;209:8 pro-development (1) 31:8 products (1) 38:16 professional (1) 176:11 professionally (2) 49:11,13 profit (1) 26:25 profound (1) 145:4 project (114) 12:9;16:18,19;17:2, 7,8,11;21:17;23:20; 24:14;26:10,18;27:25; 28:6,29:6,8,10;31:3,9, 15;33:16,16;50:10,17; 51:11;54:14;62:25; 65:8;76:17;82:3,4; 83:10,16;84:6;87:21; 88:5,15,23;89:2,17; 93:23;95:19;99:25; 106:14,23;107:13; 109:9,23,25;110:3,15, 18,19;111:5,10,10,12, 23;112:4;113:1,6,10; 114:4,5;116:3,25; 117:6;118:5,8,18; 125:23;126:12;129:22; 130:25;136:7,19; 140:22,24;145:12; 164:18;165:2;166:5; 168:6;178:11,19; 181:22;183:16;187:6, 21;190:16,20;191:6, 11;192:2;193:5;198:8; 199:5;200:6,16,21; 201:21;203:21;205:1; 207:7;208:21;209:2,4; 210:13,19;211:4; 212:2;216:11;217:11, 12 projection (1) 216:17</p>	<p>projects (13) 30:10;92:16;108:12; 111:15;115:25;116:7; 164:21;165:4;187:4; 190:2,12;204:18; 208:22 project's (1) 124:25 prolong (2) 21:1;22:20 promise (1) 178:12 promote (1) 205:13 promoting (1) 200:12 propel (1) 117:12 proper (5) 4:23;68:14,15,19; 121:21 properly (1) 95:18 properties (8) 88:8,9;106:20;168:2; 180:19;183:6;184:5; 190:14 property (93) 9:7;17:5;26:19; 28:25;33:9;42:3;46:19, 22;51:9;56:17;59:22; 90:8;92:13;100:6,7,11, 23;103:20,23;104:4,6, 8,18,20;106:20,22,25; 107:2,3,6,8,23,23; 110:14,16,22;113:17, 22;118:17;124:17; 137:9;138:23;141:7,8; 146:7;164:3;166:8,15; 167:11,15,18,23,24; 174:3;177:12,19; 178:21,23;179:1,3,6,9, 13,19,23,23;180:2,4,8; 181:10,12;187:7,16; 191:3;193:6;194:9,25; 195:10,21,23;197:1,3, 4,24;198:19;199:1; 200:1;201:3;206:11; 207:4,6;208:1;216:12 property's (1) 180:14 proponent (2) 31:7;120:21 proposal (7) 26:3;74:10;77:2; 82:16;101:7;139:16; 145:9 propose (2) 89:14;206:22 proposed (30) 12:16;45:17;58:19; 74:11;78:24;79:3;80:6, 12,19;81:12;82:4;</p>	<p>84:22;93:22;99:21; 100:4,17,22;101:3,7; 103:19;116:3;136:19; 141:19;144:19;145:6, 10,16;147:6;158:10; 169:22 proposes (1) 116:22 proposing (15) 45:16;54:13;58:18; 76:17;139:12;196:2; 197:7;198:6,16,18; 199:2,16;203:6; 204:13,25 protect (2) 81:21;88:10 protecting (1) 88:7 provide (16) 4:16;12:12,12;21:6; 27:21;38:16;52:15; 63:17;73:2;81:20; 101:15;103:6;186:6; 188:5;199:2;205:19 provided (8) 5:9;9:8,11;50:13; 80:20;81:8;82:15; 120:12 provides (7) 26:13;94:16;99:13, 16;120:13;145:22; 198:10 providing (7) 16:20;81:23;82:13; 98:19;111:19;194:9; 203:12 proximity (6) 27:4;168:16;180:9; 181:3,3;188:16 public (28) 19:5;38:23;39:1; 40:13;50:24,25;51:1; 79:16;84:4;103:10,10, 124:20;130:24;131:1, 25;136:23;137:15; 139:8,11;150:21; 170:8,9;192:8;199:21; 200:10,10;212:11,20 publicize (1) 20:9 publicized (1) 19:13 pull (4) 142:4,11;150:5; 196:11 pulled (1) 105:18 purchase (3) 104:18;109:21; 166:14 purchasing (2) 104:20;161:6 purpose (2)</p>	<p>171:20;182:3 purposes (1) 172:3 pursue (1) 191:6 push (1) 164:4 pushback (3) 27:8,17;28:9 pushed (6) 26:1;31:14;55:4; 165:10,23,25 pushes (1) 27:20 put (32) 5:3;6:23;33:5;44:6, 14;47:12,13,14;54:15; 74:15;84:11;105:17; 112:18;121:25;122:3; 127:16;129:4,9,10; 141:24;143:12;167:20; 179:6;187:16;196:25; 198:7;204:24;206:8,9, 9;215:9;216:14 puts (3) 74:7;92:8;169:18 putting (3) 35:15;75:2;76:7</p>	<p style="text-align: center;">R</p> <p>R55 (1) 29:16 R-55 (2) 124:17;216:4 raccoons (1) 35:25 raccoons (2) 35:13;128:14 raised (2) 166:25;190:8 ran (1) 108:2 range (3) 8:4;52:7;185:23 ranges (1) 200:22 rapidly (1) 209:6 rare (1) 28:2 Rashid (7) 162:20;163:11; 176:2;189:21;200:20; 204:19;216:23 rate (3) 183:24,24;217:1 rather (5) 47:18;187:6;198:17, 17;206:2 rattlesnake (3) 35:2,6,11 rattlesnakes (6) 26:9;35:1,5,24;36:1; 160:11 RAWLINGS (6) 21:10,13;154:15,17; 219:19,21 reach (4) 21:5;62:12;83:7; 215:11 reached (6) 109:19;167:13; 178:25;195:18;210:16; 214:17 reactions (1) 205:8 read (29) 9:17,19;10:13,15; 21:15;25:5,8;38:4,5,9, 11,12;49:2,17,20; 52:15;54:5;84:10; 86:22;88:2;94:19; 98:21;99:4;131:10; 139:3;143:21,23; 159:23;160:22 readily (2) 103:7,17 reading (5) 25:3;51:23;186:10; 203:6,18</p>
		Q	<p>qualified (4) 201:21;204:1,2,4 qualify (1) 93:9 quality (17) 12:18;14:6;27:7,16; 40:6,9;73:8;75:21; 79:8;81:24;89:1,22,23; 90:15;136:22,22; 199:22 quarters (1) 53:25 Quest (2) 48:17;56:19 quick (2) 72:4;210:24 quiet (1) 133:16 quietness (1) 70:18 quit (3) 78:15;137:23,24 quite (4) 10:20;75:4;87:19; 167:14 quitting (1) 78:18 quorum (1) 124:5 quote (5) 141:18;143:23; 144:3;145:2;147:15</p>	

<p>ready (5) 15:20;23:16;72:10; 154:20;158:17</p> <p>real (13) 55:2;83:2;95:25; 113:15;164:12;176:7; 9,15,15,16;178:24; 190:1;207:14</p> <p>reality (3) 51:11;54:25;130:5</p> <p>realize (1) 167:25</p> <p>really (114) 7:17;12:11;14:4; 18:20;20:4,12;22:20; 26:3;33:10;34:19;35:4, 24;36:1;37:11;38:25; 40:4;41:17;65:9,19; 70:4,9;71:12;73:8,13, 16,19,22,22;75:3,21; 79:2,11,24;80:6,11; 81:20;82:2,25,25;83:1, 2,20;85:18;87:23; 89:12,22;93:1,5;94:10; 96:5;107:13,14;111:4; 116:20;128:21,24; 142:16;158:12;160:6; 161:12,20,25;163:24; 164:4,19;165:7,15,21; 166:3,4,25;169:13,14, 14;170:20;179:4; 186:2;191:10;192:17; 193:15,17;194:7,12,18; 195:7;197:3,23;198:8, 17;199:11,20;200:4,23, 25;201:7,23;203:4,15, 18;205:1,11,15;207:18, 25;208:8,14,24;209:1, 8;210:15;211:5,13; 214:14;216:2</p> <p>rear (1) 49:25</p> <p>reason (9) 20:23;29:4;73:24; 119:24;120:22;149:4; 160:3;170:11;172:10</p> <p>reasoning (1) 119:9</p> <p>reasons (13) 64:7,24;65:22,23; 66:17;67:3;76:4,15,16; 101:6;118:4;145:25; 195:5</p> <p>rebuild (1) 187:5</p> <p>rebuttal (2) 106:14;107:13</p> <p>rebuttals (1) 107:15</p> <p>recalling (1) 77:12</p> <p>receive (3) 5:9;18:16;192:22</p>	<p>received (3) 124:7;193:22;209:12</p> <p>receiving (2) 148:14;193:14</p> <p>recent (7) 21:19;50:8;51:16; 84:25;85:5;108:23; 215:15</p> <p>reality (7) 9:10;25:12,17;54:6; 74:13;128:22;129:17</p> <p>reception (1) 30:2</p> <p>Recess (2) 85:25;122:24</p> <p>reckoned (1) 87:24</p> <p>recognize (1) 209:3</p> <p>recognized (1) 207:23</p> <p>recognizing (1) 50:21</p> <p>recommend (3) 40:12;41:13;79:14</p> <p>recommendation (6) 48:20;79:20;147:10, 19;148:5,16</p> <p>recommendations (1) 116:19</p> <p>recommended (3) 76:4;147:6,22</p> <p>recommends (3) 124:18;141:17; 145:16</p> <p>record (85) 4:13,16,5:11,23;6:2, 11,14;7:5,10;9:13; 10:21;11:12;15:1,11; 16:17;17:2;18:4,11,13, 14;20:21,22,22:17; 24:16;28:6,15;34:19; 38:9;44:5,6,24;46:10, 18;47:10;52:19;53:3, 17;57:23,24;58:3;61:2; 63:17,21;67:7;69:15; 73:2;77:13;78:21; 86:13;87:15;90:22; 96:14;98:12;101:12, 25;102:18;105:7; 106:6;115:7;126:11; 128:3;132:18;134:18; 135:6,21;140:6,15; 152:14;155:19;163:9; 172:11,24;173:4,14,22; 175:20;184:5;189:16; 196:10;202:3,10,14; 217:21,24;220:18</p> <p>recorded (2) 5:6;78:2</p> <p>recreation (7) 75:6,7,10;108:23,25; 116:16;120:12</p>	<p>recreational (3) 50:11;97:22;116:23</p> <p>red (1) 206:7</p> <p>redeems (1) 178:12</p> <p>redevelop (1) 129:11</p> <p>redeveloped (1) 74:13</p> <p>redevelopment (1) 190:13</p> <p>reduce (1) 88:14</p> <p>refer (1) 160:11</p> <p>reference (3) 34:10;62:9,17</p> <p>referencing (2) 49:1;115:22</p> <p>referral (1) 18:16</p> <p>referred (2) 21:17;212:22</p> <p>referring (8) 103:22;147:8,10,21; 148:4;188:22;197:17; 212:18</p> <p>reflects (1) 23:8</p> <p>refuse (1) 99:12</p> <p>regard (7) 14:23;59:9;92:17; 95:8,12;166:5;193:5</p> <p>regarding (4) 22:19;88:11;94:21; 129:8</p> <p>regards (4) 112:8;156:24;173:1; 201:25</p> <p>region (2) 93:12;95:7</p> <p>regional (4) 92:20;93:5;95:5; 108:14</p> <p>regionally (1) 92:16</p> <p>Register (2) 100:23;195:14</p> <p>registered (2) 126:10;171:20</p> <p>registry (1) 109:16</p> <p>regular (2) 92:25;192:10</p> <p>regularly (1) 136:8</p> <p>regulations (1) 68:13</p> <p>rehabbing (1) 55:3</p> <p>reiterate (1)</p>	<p>99:12</p> <p>related (6) 83:3;147:3;194:4; 207:5,12;208:21</p> <p>relates (2) 58:14;206:1</p> <p>relation (1) 201:8</p> <p>relationship (1) 192:16</p> <p>relative (1) 30:9</p> <p>relegating (1) 208:2</p> <p>relied (1) 79:12</p> <p>relies (2) 75:5;100:8</p> <p>relieve (1) 199:25</p> <p>religiously (1) 131:10</p> <p>rely (1) 79:13</p> <p>remains (2) 26:10;132:5</p> <p>remark (1) 14:22</p> <p>remarkable (1) 99:12</p> <p>remember (13) 33:18,20,21,22; 38:12;66:10;97:9; 131:22;155:5,6;204:9; 213:12;215:20</p> <p>remembering (1) 50:21</p> <p>remove (1) 101:4</p> <p>rendezvous (1) 65:11</p> <p>rentals (1) 25:25</p> <p>repaved (1) 74:13</p> <p>repeat (2) 51:15;126:2</p> <p>Report (6) 124:18;125:3; 141:18;144:17;158:6; 172:16</p> <p>Reports (2) 88:15;160:22</p> <p>representation (2) 169:1;170:24</p> <p>representative (1) 48:19</p> <p>representatives (4) 12:21;31:25;95:21; 107:21</p> <p>represented (1) 50:22</p> <p>representing (6)</p>	<p>12:6;64:1,5,20; 106:13;123:19</p> <p>represents (1) 54:22</p> <p>request (17) 4:8,15,17;6:21; 47:11;53:18,22;86:14; 97:10;115:12;116:9; 120:23;127:15;158:4; 214:1;216:11;217:10</p> <p>requested (4) 6:16,18;127:14; 135:23</p> <p>requests (1) 116:21</p> <p>required (4) 104:10;132:19; 134:24;138:3</p> <p>requirements (2) 210:12;217:9</p> <p>requires (2) 22:8;93:1</p> <p>researched (1) 161:14</p> <p>reserve (1) 9:18</p> <p>reside (2) 25:15;86:16</p> <p>resided (1) 119:3</p> <p>residence (4) 173:24,25;197:24; 198:20</p> <p>resident (28) 6:18;25:11;27:5; 30:11;48:21;49:21; 58:9;83:12;88:4;89:7; 92:7;106:15;115:14; 119:4,16;128:5; 130:17;134:1;135:14; 136:1,7,14,23;138:10; 150:21;160:2;174:1; 214:12</p> <p>residential (18) 29:16,16;41:24;88:7; 93:17;100:12;111:15, 25;160:25;180:18; 183:7,9,22,24;184:1; 198:2;200:24;215:17</p> <p>residents (70) 12:24;19:20;20:1; 25:21;26:1,23;29:6; 38:19;42:22;51:14,19, 21;52:8;54:21;55:23, 25;59:6;65:3,4,16,21; 66:16;71:8;79:25,25; 80:3;81:10,18;82:11, 21,23;83:14,15;84:12, 24;85:2;86:25;88:20, 24;89:3,8;95:15;108:2; 110:20;112:3,3; 115:21,24;117:3,3,9; 118:4,10;129:18;</p>
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145:12;165:10;169:16; 19:198:11;199:22; 200:2,13;205:12,14; 208:12;209:19;211:5; 212:7;215:24;216:21	retail-related (1) 80:24	21;106:11;109:1,2,6, 15;110:21;111:19; 113:20;124:13;127:7; 129:25;132:9;135:5, 18,19;137:24,25;138:8, 17;143:3,4,17,21; 151:9,20;153:8,12; 155:9,15,17;158:2; 159:24;162:18;164:18; 166:20;173:3,9,15,21; 174:4,10,14,20;176:20, 20;177:21,22,23,25; 179:25;182:2;184:18; 185:20;187:10,11,20, 21;188:19,20;196:25; 197:6,19,25;199:18; 202:5;204:12;213:2; 214:18,18;216:11; 217:7,13,25;219:8; 221:16,18	35:10;52:2	174:1,7,11,13,17; 175:2,10;176:2; 182:18,19,25;183:8; 185:1,6,9,18;186:5,16, 20,23;187:2,3,10; 189:6;215:8,13
resilience (1) 146:5	retain (1) 89:1	returned (1) 126:17	role (3) 163:21,23;190:15	same (24) 5:8;11:7;28:7;30:8; 37:12;47:12;48:25; 61:9;82:7,8,22;87:1; 93:10;94:3,24;110:1,1; 112:7,8,23;114:4; 180:7;189:20;217:13
resolution (5) 17:8,21;18:7;19:22; 20:13	return (4) 5:8;50:2;126:1; 178:11	reused (1) 190:11	roof (1) 205:10	Sarah (4) 123:11,18;124:22; 193:23
resolve (1) 10:14	returned (1) 126:17	review (3) 78:4;141:17;194:24	roofs (3) 13:24;51:5;204:16	sassafras (1) 144:23
resources (3) 50:10;100:2;112:12	reuse (1) 190:11	reviewing (1) 89:2	rooftops (1) 178:15	sat (1) 216:5
respect (10) 26:22;58:16;59:6; 82:19;86:24;87:19; 93:11,11;147:9;161:7	rezone (5) 4:8;29:15;51:8; 54:24;210:12	revised (1) 104:10	room (2) 11:9;153:15	satisfy (1) 191:11
respected (1) 87:19	rewrite (2) 68:9;146:1	roughly (2) 45:15;108:4	rounds (1) 117:5	Saturday (1) 43:20
respond (4) 13:6;25:20;192:22; 203:22	rezoning (33) 16:18;17:1;20:14; 26:19;33:15;36:9; 39:18;58:10;65:1; 66:17;67:4;76:4;99:22; 100:22;101:3,7; 115:19;117:1;118:16; 124:16;141:15,18; 144:2,20;145:16; 147:6;193:1;210:9; 216:11;217:5,8,10,14	routed (1) 198:2	route (1) 206:14	saved (1) 220:22
responded (4) 166:3;193:15,21,24	rich (2) 49:23;50:21	right-hand (1) 203:9	Royal (1) 27:20	saves (1) 141:24
respondents (1) 66:24	Richard (1) 44:25	rights (1) 94:13	RR (4) 29:16;89:5;124:17; 216:4	saw (8) 30:8,9;31:10,13,17; 33:24;85:4;184:17
responding (4) 133:7;164:24;165:7; 169:14	richest (1) 56:8	rink (1) 108:24	rule (2) 132:25;157:12	saxophone (1) 177:9
response (11) 23:22;36:25;43:18; 48:3;60:23;68:23; 155:16;211:13;217:22; 219:17;220:10	Rick (3) 44:11;87:1,2	rise (1) 100:19	ruled (1) 116:25	saying (33) 7:3;25:7;28:1;30:19; 31:11;33:8,11;35:19; 36:1,8,14;44:3,7;47:8; 51:13;68:12;72:9; 81:21;148:9;172:10; 183:1;184:1,15; 193:24;197:21;208:24; 210:12;211:21;212:8; 213:18;216:11;221:13, 19
responses (2) 193:18;194:5	ride (5) 36:15;43:5;188:19, 21;199:15	river (5) 27:12;33:16;88:8,19, 20	rules (2) 68:13;155:5	scale (2) 80:25;116:24
responsibilities (3) 163:22,23;164:4	ridiculous (1) 56:9	Riverdale (1) 167:3	run (4) 37:15;74:23;107:6; 108:4	scaling (1) 81:21
rest (4) 12:24;30:21;48:16; 78:4	riding (2) 37:16;45:11	Riverwood (2) 123:25;126:3	running (1) 206:11	scares (2) 11:8;96:5
restaurants (6) 35:21;37:22;38:21; 39:3;43:4;178:14	right (133) 4:18;8:16;11:22; 13:16;14:14,16,18; 18:9;20:20;21:3;22:7; 25:2;27:12;29:4;35:4; 37:13,22,25;39:23; 42:5,8;43:14;45:8; 46:24;57:11,12;60:2; 61:13;62:20,22;64:21; 67:17;68:16;69:2,8; 70:2;71:5,25;72:14; 74:21;75:3,12;76:8; 78:18;85:17,22;90:17; 91:18;101:13;102:8, 10,15,21;105:10,14,19,	Road (23) 45:1,8;48:16;70:24; 74:12,14;75:19;92:7; 106:8;108:22,23; 136:25;137:1,1,7,7; 139:1,1,5,13;140:24; 188:10;197:10	run-off (3) 136:12;144:16,24	scenic (2) 58:18;97:22
restore (1) 146:3	Richard (1) 44:25	roadway (1) 139:17	rural (6) 100:16;103:24; 119:8;141:14;145:17; 147:7	scheduled (1) 193:19
restoring (1) 205:16	richest (1) 56:8	Rob (6) 167:13,15;172:5; 187:15;192:20;199:24	rush (1) 101:21	scheduling (3) 156:25;157:18,21
restrictions (1) 36:4	Rick (3) 44:11;87:1,2	Rob (6) 167:13,15;172:5; 187:15;192:20;199:24	safe (3) 72:15;110:20,21	school (19) 37:23;38:17,23,23, 25;43:6;50:1,1,54:2; 58:25;72:19,20; 108:16;112:18;164:14; 166:21;176:22,24; 177:1
rests (1) 26:25	ride (5) 36:15;43:5;188:19, 21;199:15	R-O-B- (1) 86:15	safety (7) 40:13;79:15;100:1, 10;110:14;139:8,11	
resubmit (1) 67:19	ridiculous (1) 56:9	robberies (1) 111:6	sake (1) 173:21	
result (1) 209:12	riding (2) 37:16;45:11	Robert (4) 166:13;175:12,21; 218:13	Salem (61) 162:21,22,25;163:2, 4,7,11,11,15,19,23; 164:9,17;165:6;166:9, 13,16,19;167:12,24; 168:23;170:1,13,15; 171:2,4,7,9,13,16,24; 172:21,23,25;173:22;	
resulting (1) 99:25	right (133) 4:18;8:16;11:22; 13:16;14:14,16,18; 18:9;20:20;21:3;22:7; 25:2;27:12;29:4;35:4; 37:13,22,25;39:23; 42:5,8;43:14;45:8; 46:24;57:11,12;60:2; 61:13;62:20,22;64:21; 67:17;68:16;69:2,8; 70:2;71:5,25;72:14; 74:21;75:3,12;76:8; 78:18;85:17,22;90:17; 91:18;101:13;102:8, 10,15,21;105:10,14,19,	Robin (2) 86:15;91:5		
retail (8) 16:20;55:2;62:9; 89:1;94:17;116:22; 183:9,14	rich (2) 49:23;50:21	Robinson (4) 16:9;22:3,3,7		
	Richard (1) 44:25	rock (2) 170:15,20		
	richest (1) 56:8	rode (2)		
	Rick (3) 44:11;87:1,2			
	ride (5) 36:15;43:5;188:19, 21;199:15			
	ridiculous (1) 56:9			
	riding (2) 37:16;45:11			
	right (133) 4:18;8:16;11:22; 13:16;14:14,16,18; 18:9;20:20;21:3;22:7; 25:2;27:12;29:4;35:4; 37:13,22,25;39:23; 42:5,8;43:14;45:8; 46:24;57:11,12;60:2; 61:13;62:20,22;64:21; 67:17;68:16;69:2,8; 70:2;71:5,25;72:14; 74:21;75:3,12;76:8; 78:18;85:17,22;90:17; 91:18;101:13;102:8, 10,15,21;105:10,14,19,			

<p>schools (3) 38:22;39:1;55:6</p> <p>scope (1) 31:4</p> <p>screen (5) 16:7;141:24;149:3; 218:16,18</p> <p>screw (1) 196:18</p> <p>scroll (2) 142:15;196:19</p> <p>scrolling (1) 142:25</p> <p>Scudder (347) 5:16;6:1,2,4,7,9,11, 13,25;7:2,12,13,21,23; 8:13,18,21;9:21;10:3, 12,18,25;11:7;14:20, 21,23;15:12,16,19,22, 24;17:14,16;18:10,19; 21:5;23:18,23,25;24:8; 28:11,14,21;31:23; 32:15;33:10,12;34:22; 36:21,24;37:1,4,6;38:8, 11;43:10,25;44:1,10, 19;46:2,5,8,12,15;47:1, 4,6,8,11,21;48:1,4,7, 19;49:7;50:5;52:14,18; 53:4,5;54:7;55:17; 56:24,25;60:6,11;63:8, 10,22;68:17,24;72:3,6, 18;76:20,23;77:8,10, 24;82:20;83:10,18; 84:2,3,13,16,18;85:7, 12,16,24;86:2,4;90:4, 20;91:13,15,19;96:21, 23;102:2,22,24;103:1, 9,12,18;104:3,9,13,17, 22,24;105:2,11,12; 109:18;114:13,14,18; 121:6,7,7,8,11,16,18; 122:11,13,17,21;123:1, 4,6;124:15;125:10,13, 14,21;126:5,13,20,23; 127:1,6,7,9;129:18; 130:22,23;131:3,5,7, 15,21,23;132:6,10,12; 133:14;138:20,21; 139:13,14,19;147:1,2, 20,24;148:4,7,13,18, 20,25;149:7,8,11,16, 25;150:3,8,15;151:2,5, 7,9,10,15,21;152:5,12, 16;153:5,7,21;154:1; 156:2,4;157:24; 158:19;159:3,5;162:7, 8,12,14,20;163:2,7,13, 17,21;164:7,15;165:4; 166:5,11,14,17;167:10, 22;168:21;169:24; 170:12;171:2,5; 172:17;173:12,13,17, 19;175:3,5,12,19,23;</p>	<p>176:1,5,11,17;177:2, 13;178:1,5,20;179:8, 12;180:12,25;181:7; 182:11;189:3,4,9,15, 18,23;190:3,6,15,19, 23;191:2,5,12,20,24; 192:12,15,25;193:9,20; 194:6,21;195:1,8,12, 16;196:3,8,12,14,21; 197:16,20;198:5,12; 199:5;200:18;201:2, 14,15,17;202:1,15,25; 203:21;204:10;205:3, 23,25;207:5;208:3,17; 209:21;219:1,2,5,7,12, 18,22;220:6,13,16,19, 24;221:3,6,11,19,24; 222:2,4,9</p> <p>SDRC (2) 124:24;193:22</p> <p>sea (1) 168:17</p> <p>Seat (1) 54:9</p> <p>second (36) 4:7;6:22;16:6;24:18; 29:12;30:2;31:16; 34:13;45:25;46:12,13; 47:6,8;60:8;61:12; 84:13;86:17;108:21; 111:16;121:18;125:5; 131:15;132:24;150:16; 152:2;153:24;156:15; 159:21;160:1,16; 185:13;197:12;211:24; 214:22;215:22;218:7</p> <p>seconds (1) 11:21</p> <p>secretary (1) 109:12</p> <p>section (5) 40:11,14;144:2; 147:18;184:19</p> <p>sector (5) 79:14;115:22,23; 116:19;161:1</p> <p>sectors (1) 164:1</p> <p>security (4) 108:5,10;111:4; 129:13</p> <p>seeing (6) 54:24;60:16;81:24; 88:1;106:18;143:10</p> <p>seeking (2) 87:12;194:6</p> <p>seem (6) 27:11;28:8;36:4; 81:20;82:16;157:8</p> <p>seemed (2) 21:19,20</p> <p>seems (12) 26:12;27:24;35:16;</p>	<p>36:5,6;52:6;83:11,21; 85:12,13;161:19;194:7</p> <p>segregated (1) 207:21</p> <p>Senator (22) 7:25;8:7,16;11:16, 17,18,25;12:4,6;13:6,8, 11,16,19;14:10,12,14, 18,20,24,25;15:4</p> <p>send (21) 4:15;9:11;10:9,12, 13,17,18;28:21;38:22; 39:1;75:18;98:14;99:3, 7;103:8,11;121:21; 125:22;126:11;152:25, 25</p> <p>senior (28) 58:15;59:9,10;65:15; 71:1,1,3,4;130:2,4; 165:22;176:22,23; 184:2,3;185:2,11,11, 16,21,23;188:17; 200:3;201:6,8;216:20, 23,24</p> <p>Seniors (1) 65:17</p> <p>sense (7) 25:25;36:10;133:3; 172:7;178:12;198:16; 200:12</p> <p>sensitive (10) 93:6,10;94:21;95:2, 3,14;96:4,11;200:15; 208:22</p> <p>sent (13) 5:20;37:23;44:9; 84:11,23;98:8,15; 125:9;126:20;129:21; 156:13;212:24;213:18</p> <p>sentiment (2) 37:13;112:8</p> <p>September (1) 124:24</p> <p>serve (5) 27:22;191:11; 205:11,15;208:4</p> <p>service (25) 16:20;49:12;94:21, 22;97:18;98:3,24; 101:17;102:9,13; 103:20,23;104:6,7,14, 19;106:13;109:19; 136:5,25;137:8; 143:22;145:2;206:3,13</p> <p>services (8) 198:10,20;199:1,20, 24;200:8,9;208:15</p> <p>Service's (1) 188:9</p> <p>session (2) 19:24;20:1</p> <p>set (11) 31:2,12,17;68:25;</p>	<p>161:5;169:4,13;186:6; 201:13;207:21;219:10</p> <p>setting (5) 57:9;100:15,16; 103:24;145:4</p> <p>seven (5) 166:24;220:13,15, 20;221:10</p> <p>several (20) 49:10,12;58:2;87:3; 120:20;144:22;154:8; 164:1,22;166:24; 167:9,15;169:21; 179:17;188:2;191:18; 209:7;212:11;214:14; 220:13</p> <p>SHA (1) 104:10</p> <p>shadow (1) 93:8</p> <p>shadows (1) 94:2</p> <p>Shady (1) 48:16</p> <p>shall (26) 11:24;16:12;24:5; 37:10;44:17;48:11; 53:13;57:16;63:13; 65:22;69:12;72:23; 78:9;86:9;92:3;97:5; 106:2;115:4;123:14; 127:25;134:4;140:11; 159:10;162:23;175:17; 189:12</p> <p>shape (4) 9:10;118:18;198:9; 207:7</p> <p>shaping (1) 117:6</p> <p>share (11) 14:1,2;16:21;37:12; 49:13;87:1;88:13;98:7; 105:20;136:14;188:10</p> <p>shared (3) 25:19;98:7;125:3</p> <p>shed (7) 100:18;103:23; 136:13;145:7,11; 155:4;159:19</p> <p>sheds (1) 100:2</p> <p>shell (1) 171:25</p> <p>shocked (1) 83:13</p> <p>shop (11) 43:5;66:25;70:20; 92:22,22;93:3,4; 108:14;112:19;116:16; 117:14</p> <p>shopping (7) 37:22,24;70:23; 80:11;82:6;89:20;</p>	<p>110:18</p> <p>shore (1) 113:11</p> <p>short (2) 8:1;162:16</p> <p>shortly (3) 101:22;193:17,17</p> <p>short-term (1) 161:3</p> <p>shot (2) 112:25;113:2</p> <p>show (8) 9:24;31:13;32:10,11; 54:19;146:18;201:4,7</p> <p>showed (2) 32:10,13</p> <p>showing (7) 23:6;33:9;210:4,14; 218:3,14,16</p> <p>shown (2) 17:6;80:21</p> <p>shows (3) 32:22;143:20;210:4</p> <p>shut (2) 153:16;174:7</p> <p>shutting (1) 108:9</p> <p>shuttle (3) 170:9;188:5;199:21</p> <p>side (13) 10:23;26:7,8;35:20; 38:1;40:7;111:6; 140:21;157:12;168:7; 183:14;188:20;214:24</p> <p>sides (4) 97:18;100:5;137:8; 220:23</p> <p>Sierra (1) 21:15</p> <p>sigh (1) 26:5</p> <p>sign (6) 83:16;85:4;137:9,10, 23;143:10</p> <p>signage (2) 84:10,20</p> <p>signed (4) 4:13;57:23;67:20; 102:12</p> <p>significance (2) 207:6,8</p> <p>significant (11) 51:11;83:7,21;99:25; 100:21;109:10;114:8; 124:19;144:16,17; 205:9</p> <p>significantly (1) 144:14</p> <p>similar (3) 181:14;206:20; 216:22</p> <p>Similarly (1) 5:3</p>
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simple (1) 113:2	79:4;83:16;139:1,7; 169:21;188:8;194:3	10:17;17:21;154:11; 175:7	speaking (16) 5:3,5;27:5;42:8; 55:16;89:3,19;93:7; 107:2;108:13;109:11; 112:7;115:19;178:1; 193:22;203:12	74:14
single (5) 83:17;195:3;209:6; 211:20,25	smaller (2) 93:21;94:17	sooner (1) 54:25	107:2;108:13;109:11; 112:7;115:19;178:1; 193:22;203:12	staff (19) 10:23;11:1,4;76:4; 121:23;122:12;124:18, 25;125:3;144:21; 147:9,21;148:16; 158:6;172:16;193:4, 16,18,25
single- (1) 76:8	65:25;66:1,2,13; 89:5;117:2;177:20	sorry (40) 6:4;7:13;15:8;23:5, 6;34:6,8;41:9;43:9,10; 44:1,23;56:13;57:11; 60:11,12;63:25;69:5; 71:24;85:23;91:24; 96:24;99:5;106:4; 107:17;114:8;125:24; 131:23;142:8,24; 156:3;157:3,3;158:20; 184:15;191:14,15; 195:12;205:23;213:22	speaks (4) 88:18;113:8;134:24; 195:6	Staff's (3) 148:5;193:21,24
single-family (12) 74:1;80:22;93:19,24; 94:15;141:14,22; 161:16;179:16,24; 195:4;210:14	Smith (1) 145:1	sort (7) 73:19;87:4;143:16; 178:1;179:9;180:12; 216:4	specialized (1) 165:7	stage (1) 210:16
single-purpose (1) 172:4	Smoky (1) 141:6	sound (1) 6:9	Specially (1) 100:17	staggered (1) 188:17
singular (2) 94:16;111:18	snakes (1) 35:12	South (11) 27:5,18;71:2;106:24; 109:23;112:15;114:1; 155:3;168:5,9;206:6	specific (5) 29:17;74:10;167:18; 177:4;205:4	Stan (2) 5:13;153:19
sit (2) 197:3,6	social (2) 26:8;30:6	Southeast (4) 45:7;79:11;111:1; 144:7	specifically (11) 12:10;27:18;58:14; 115:22;119:22;171:17; 186:17;199:16;200:2; 201:6;215:24	stand (2) 82:22;93:15
site (55) 12:16;16:23;29:17, 18;32:18;41:14,45;15; 50:24;59:3;66:8,14; 73:5;76:18;95:16;96:1; 99:18;116:10;136:24; 138:16;142:23;145:18; 147:8;161:18;168:3, 14;177:4;181:25; 183:15,16;186:1; 187:6,9,17;192:12; 194:11,18;195:13,14, 14;196:2,22;197:8,13; 199:15;206:5,7,8,9,9, 23;207:11,25;209:17; 210:17;216:17	socially (1) 165:8	Southern (3) 164:10;179:22; 183:16	specifics (1) 22:20	standards (1) 88:15
sites (3) 101:2;124:21;144:21	Society (1) 109:13	Southwest (2) 108:7,7	speech (2) 56:10;107:16	standing (2) 172:18,20
sits (2) 197:3,4	soils (1) 144:23	sp (4) 78:23,23;96:25; 127:17	spend (11) 37:20,21;38:24; 39:13,16;51:18;109:6; 113:25;114:1,2,3	standpoint (6) 107:22;110:11,15; 194:13,18;201:20
sitting (1) 109:15	solar (3) 32:12;143:19;204:16	space (20) 58:16;65:7,16;74:20; 80:8,13;81:5,19;94:5; 113:19;116:23;117:11; 118:1;119:18,20; 120:13;160:21;168:19; 205:9,10	spends (1) 38:1	staring (1) 91:25
situated (1) 163:3	sole (2) 171:20;172:4	spaced (1) 74:1	spent (6) 25:14;37:20;167:4, 15;193:11;195:23	stark (1) 141:21
situation (2) 76:9;137:14	solely (2) 101:11;108:10	spaces (10) 27:22;40:10,13; 79:16;81:13;82:5;95:3; 203:4,7;204:13	spiel (1) 4:6	start (13) 6:20;44:5;70:11; 107:1,6;110:15; 111:15,16;112:20; 134:8;158:8;182:22; 217:17
six (7) 46:23;56:19,20; 83:12;108:4,9,16	sole-purpose (1) 172:4	spark (1) 30:25	spiritual (1) 14:5	started (9) 107:3;164:17;165:1; 167:8;179:7,25; 181:22;191:7;192:4
size (1) 116:24	solicit (1) 193:6	speak (16) 10:4,7;15:25;17:12; 23:20;40:22;54:7;98:2; 99:1;112:10;123:2; 134:15;135:3;136:7; 188:15;220:9	split (1) 216:24	starting (5) 54:18;91:24;106:11, 13;170:25
skating (1) 108:24	solicitors (1) 99:11	sparked (1) 30:25	spoke (4) 88:20;155:19; 195:22,24	starts (4) 34:9;142:12;143:13; 150:10
slide (2) 31:13;203:9	Solicitor's (1) 98:6	spaces (10) 27:22;40:10,13; 79:16;81:13;82:5;95:3; 203:4,7;204:13	spoken (4) 116:2;117:13; 211:11;215:3	state (42) 4:17;6:17;12:1,6; 39:16,17;48:14;53:16; 57:19;63:16;69:9,14; 73:1,1;78:7,21;86:12; 97:8;104:4;106:5; 110:10;115:6,14; 117:15,16;123:16; 128:2;138:23;140:14; 159:13;163:7,8; 168:24;172:18;173:24; 175:20;178:8;189:16; 199:23;202:18;208:10; 219:10
slideshow (4) 31:17;32:9;61:22; 169:19	solid (1) 206:13	speakers (2) 59:5;69:22	spot (1) 73:23	stated (5) 55:16;109:25;
slideshows (1) 61:5	solidify (1) 55:24	SPEAKER (7) 5:17;71:23;153:19; 154:5;218:2,6;222:12	sprawl (1) 200:8	
slopes (1) 144:21	solution (2) 74:18;170:9	sr (1) 44:25	sread (4) 93:19,24;94:5;110:6	
slow (4) 142:22,23,24;213:1	solutions (1) 204:17	St (1) 88:9	spread-out (1) 161:16	
small (7)	solve (1) 11:9	stable (1)	spur (1) 114:4	
	somebody (5) 27:24;199:24;219:3, 4;220:2		squeezing (1) 72:21	
	someone (13) 22:9;42:8;49:3; 52:25;60:12;85:11; 87:9,92:10,10;94:12; 128:6;129:1;161:4		Sr (1) 44:25	
	sometime (1) 27:15		Staff's (3) 148:5;193:21,24	
	Sometimes (6) 39:2;52:4;92:19; 96:5;126:10;186:2		stage (1) 210:16	
	somewhat (1) 59:2		staggered (1) 188:17	
	son (3) 37:23;43:6;54:1		stand (2) 82:22;93:15	
	soon (4)		standard (3) 89:21;169:13;183:12	
			standards (1) 88:15	
			standing (2) 172:18,20	
			standpoint (6) 107:22;110:11,15; 194:13,18;201:20	
			staring (1) 91:25	
			stark (1) 141:21	
			start (13) 6:20;44:5;70:11; 107:1,6;110:15; 111:15,16;112:20; 134:8;158:8;182:22; 217:17	
			started (9) 107:3;164:17;165:1; 167:8;179:7,25; 181:22;191:7;192:4	
			starting (5) 54:18;91:24;106:11, 13;170:25	
			starts (4) 34:9;142:12;143:13; 150:10	
			state (42) 4:17;6:17;12:1,6; 39:16,17;48:14;53:16; 57:19;63:16;69:9,14; 73:1,1;78:7,21;86:12; 97:8;104:4;106:5; 110:10;115:6,14; 117:15,16;123:16; 128:2;138:23;140:14; 159:13;163:7,8; 168:24;172:18;173:24; 175:20;178:8;189:16; 199:23;202:18;208:10; 219:10	
			stated (5) 55:16;109:25;	

<p>128:21;147:5;163:8 statement (4) 7:7,9;21:21;137:10 statements (2) 7:6;83:20 States (5) 66:11;110:10; 134:22;203:16;215:19 stating (1) 17:2 station (4) 88:17;186:14; 199:16,19 stations (1) 27:20 status (1) 104:21 stay (11) 9:1,2;11:3;35:18; 44:13;47:15,16;127:5; 135:20;139:15;219:14 steep (1) 144:21 step (2) 99:3;217:15 stepped (1) 11:5 steps (2) 73:16;191:5 stewards (1) 88:20 stewardship (1) 195:21 still (23) 9:24;23:2;33:2,5; 38:25;39:22;57:11; 60:21;61:8,10;68:19; 69:3;77:6;103:25; 104:5,7;120:5;135:20; 167:6;174:23;195:23; 198:25;219:16 Stonesborough (1) 106:8 stop (8) 16:5;52:9;85:17; 126:17;133:4;157:19; 158:25;219:8 stopping (1) 219:11 store (2) 79:10;82:25 stores (12) 27:19,19;36:7,7; 37:24;38:16,22;39:3; 43:3;62:9;75:9;129:10 storms (1) 170:18 stormwater (6) 66:7,14;88:11,14; 136:11;161:21 story (2) 50:24;120:6 storytelling (2)</p>	<p>196:2;207:12 straightened (1) 6:10 strategic (1) 110:13 streaming (1) 220:3 Street (12) 12:5;71:2;79:1; 163:15;174:7,8,11,12, 16,19;188:19;189:21 streets (5) 40:13;79:16;198:2; 199:11,12 strengthen (1) 146:4 strikes (1) 50:17 striving (2) 200:23;205:5 strong (3) 74:5;77:5;200:12 stronger (1) 95:8 strongest (1) 203:19 struck (1) 140:17 structure (4) 13:22;14:4;171:18; 172:1 structures (3) 100:19;136:11;145:7 struggle (1) 27:7 studied (2) 164:9;190:9 studies (6) 185:10;201:3,4,6,7, 11 study (3) 202:3,4,18 stuff (2) 71:13;148:12 style (1) 208:19 subdivided (2) 179:15,16 subdivision (1) 179:21 subject (21) 28:25;42:3;46:21; 51:9;56:17;59:22;90:8; 104:18;106:21;107:6, 23,23;110:16,22; 113:17;166:6,7,15; 167:11;174:3;201:3 submit (28) 15:17;17:21;22:25; 28:14;46:2,5;63:24; 67:24;77:12,21;79:7; 98:2,3;111:3;118:16; 121:12,14;124:8;</p>	<p>134:24;135:12,17; 152:23,23;159:19; 172:19;193:1;202:8,11 submitted (12) 10:20;16:17;22:16; 58:1;59:14;67:12; 90:21;96:13;98:4; 134:9;141:3;143:24 submitting (4) 193:7,10,13,18 subsidiary (1) 171:19 subsidy (1) 165:19 substantial (5) 16:22;26:14;100:8; 111:22;185:12 suburban (2) 100:13;119:12 successful (4) 169:25;170:11; 178:18;181:5 successfully (1) 181:13 sudden (1) 129:24 sufficient (1) 194:8 suggest (1) 139:14 suggested (1) 180:7 suggesting (2) 122:14;139:12 suitable (1) 181:1 suite (1) 163:16 summarize (1) 38:7 summary (2) 149:11,17 summation (1) 112:4 sums (1) 25:7 sun (1) 143:18 superintendent (6) 97:14;103:15; 104:16;107:1;143:24; 145:2 supply (3) 152:21;201:8,12 support (53) 9:4,5,12;14:25;15:4; 16:17;17:1,8,11;18:7; 19:10;21:16;22:19; 23:19;25:18;26:19; 27:25;28:6,15;39:17; 46:3,6,10;47:14;51:8; 52:15;54:23,24;56:12; 58:10;59:12,14;60:18;</p>	<p>65:22;66:17;81:3;83:9; 88:6;93:15;101:16; 115:19;116:9;117:1; 118:5,16;121:14; 124:18;140:19;156:13; 160:22;161:9,13;214:1 supporters (2) 8:23;61:4 supporting (9) 17:7;64:7,25,25; 67:3;101:15;120:23; 200:6;212:23 supportive (6) 87:23;90:2,3;93:21; 96:11;181:10 suppose (2) 84:22;139:8 supposed (3) 133:13;184:13; 217:23 supposedly (1) 129:22 supremely (1) 168:3 sure (54) 5:2,5;6:24;10:3; 13:21;20:15;21:5; 24:23;25:10;30:2;39:8; 48:21;57:21;58:4,19; 64:10;68:14;70:24; 77:13;86:21;98:18; 131:11;132:2,2,2; 151:5,8;152:1,9,22; 153:2;157:23;158:18; 163:11;164:9;173:19; 175:5,6,21;178:6,18; 183:18;192:4;193:3; 196:24;197:2;199:3; 202:10;204:6,6,7; 207:20;219:7;222:1 surprise (2) 66:23;67:1 surprised (2) 13:8;181:19 surround (1) 65:5 surrounding (17) 17:3,4;25:14;26:12; 27:11;39:14;81:25; 118:20;144:3;177:5, 14;191:3;199:7; 205:22;207:13;208:5, 12 survey (2) 66:23;67:2 surviving (1) 100:24 sustain (2) 165:18;202:2 sustainability (5) 146:12;200:7; 203:22;204:10,24 sustainable (8)</p>	<p>51:7;88:22;95:3; 116:8;146:6;204:14, 18;209:18 sustained (1) 184:22 swamp (1) 26:4 swear (31) 11:22,22;16:11;23:7; 24:4;37:8;44:12,15; 48:10;53:12;57:15; 61:14;63:12;69:10; 72:22;78:8;86:8;92:2; 97:4;105:22;106:1; 115:2;123:12;127:23; 134:2;140:5,10;159:9; 162:22;175:15;189:11 Swine (1) 92:7 sworn (2) 91:21;182:21 sync (1) 37:13 system (3) 38:17,25;170:9 systems (1) 88:22</p>
T				
				<p>table (1) 110:13 tag (1) 182:20 tags (1) 43:20 take-in (1) 27:19 talk (23) 12:8,20;19:14;21:6; 22:9;27:10;33:10;35:9; 58:9,20;65:15;89:7,21; 99:7;104:15;107:17; 113:5,5;115:17; 156:25;164:25;192:25; 201:20 talked (8) 30:24;93:2;140:23; 145:15;181:23,23; 182:6;187:3 talking (13) 32:19;33:15;74:9; 89:13;93:1;96:1; 111:21;116:5;151:8; 177:20;181:17;188:2; 213:17 tall (2) 33:24;141:22 tandem (1) 118:1 Tanger (4) 31:7;50:13;51:21; 82:7</p>

<p>Tarrant (1) 174:1</p> <p>taught (1) 109:3</p> <p>tax (5) 12:12;26:14;75:24; 112:1,2</p> <p>taxes (2) 12:25;200:2</p> <p>teacher (1) 177:9</p> <p>team (9) 58:11;88:3,12,13; 163:25;170:16;182:20; 193:1;220:8</p> <p>tear (1) 129:11</p> <p>tearing (1) 70:11</p> <p>technical (8) 7:14;10:22;11:10,13; 124:18;147:9,21;148:5</p> <p>techniques (1) 13:23</p> <p>technology (4) 11:3,8;22:6;138:5</p> <p>teeth (1) 95:25</p> <p>telephone (2) 42:15;138:6</p> <p>telling (8) 5:22;13:12;27:13; 48:23,24;154:13; 174:15;221:9</p> <p>tend (2) 26:2;157:6</p> <p>tended (1) 165:20</p> <p>tendency (1) 200:7</p> <p>tens (1) 178:10</p> <p>term (4) 29:9;161:4,24;208:9</p> <p>terms (21) 13:23;14:6;29:1; 68:13;81:21;169:18, 19;172:1,2;177:16,16; 180:1;185:10,22; 186:6;187:11;199:9; 208:9;209:16;210:18, 19</p> <p>Terrace (1) 63:19</p> <p>terrain (1) 58:18</p> <p>terrific (2) 142:6,18</p> <p>territory (2) 35:3;144:8</p> <p>testified (7) 18:11;124:12; 136:15;156:20;173:23;</p>	<p>193:23;194:12</p> <p>testifiers (1) 66:6</p> <p>testify (35) 4:18,20;8:2,8,15,16; 9:10;25:3;40:18;43:24; 44:7;64:12,15;68:1,2,3, 19;71:18;98:23,23; 101:13;113:4;115:7; 133:6;135:10,10; 138:3;140:9;150:16; 151:2,15;158:1,20; 159:2;213:9</p> <p>testifying (8) 4:21;15:16;18:4,5; 22:10;135:19;150:19; 176:3</p> <p>testimonies (1) 156:10</p> <p>testimony (71) 7:5,9;8:24,25;11:11, 21,23;14:24;16:12; 20:24;21:18;24:5; 34:18;37:9;44:16,20; 45:4;48:11;53:13; 57:16;58:5,8;61:14; 63:13,17;69:11;72:23; 73:2;77:15;78:9;79:7; 86:9;90:3;92:3;97:5; 98:4,5,7,19;99:9; 101:11,17;102:4; 106:2;112:6;115:3; 119:2;123:13;124:23; 125:7;127:12,15,24; 133:5;134:3;135:17; 138:5;140:11;141:3, 24;147:3,18;153:10; 157:2;158:16;159:10; 162:23;175:16;189:12; 195:6;204:4</p> <p>Texas (2) 109:5;174:2</p> <p>Thanks (3) 36:18;160:19;210:7</p> <p>theirs (1) 214:24</p> <p>theoretically (1) 200:9</p> <p>therapeutic (1) 99:20</p> <p>Therefore (2) 9:17;29:10</p> <p>thinking (4) 129:23;155:3;180:5; 208:9</p> <p>third (5) 53:24;211:24,24; 214:15;221:20</p> <p>third-generation (1) 54:8</p> <p>thorough (3) 110:9,10;111:8</p> <p>though (12)</p>	<p>19:3;27:2;33:14; 47:17;63:3;112:9; 120:25;138:2;181:1; 212:7;215:18;218:24</p> <p>thought (16) 30:13;31:6;41:17; 54:15;96:3;109:22; 138:13;143:8;148:2, 10;157:11;158:8; 168:11;188:9;209:7; 221:3</p> <p>thoughtful (1) 93:25</p> <p>thoughts (3) 40:5,24;83:19</p> <p>thousands (2) 26:16;137:4</p> <p>three (20) 38:20;53:25;58:22; 59:24,25;97:18;100:5; 108:16;125:1;129:16; 131:24,25;137:8; 162:15,16;167:21; 193:7;210:7;216:9; 217:17</p> <p>threshold (1) 165:17</p> <p>throughout (5) 54:18;104:20; 134:22;182:8;192:19</p> <p>throughs (1) 89:25</p> <p>thrown (1) 71:8</p> <p>thus (1) 80:20</p> <p>tie (2) 206:6,12</p> <p>tied (1) 30:16</p> <p>ties (5) 30:11;167:4;205:21; 206:16;207:3</p> <p>tightly (1) 137:3</p> <p>times (8) 54:10;55:19;59:2; 92:17;137:2;188:2,18; 214:14</p> <p>timing (4) 96:4;123:1;187:19, 24</p> <p>Tina (2) 32:8;140:16</p> <p>tiny (2) 141:22;143:15</p> <p>title (2) 163:17;189:23</p> <p>today (52) 4:4;6:20,25;9:9,11, 12;11:4,9,12;14:15; 17:12;18:4,21;23:20; 47:4;52:16;62:18;</p>	<p>64:12;86:21;90:3;92:6, 14;96:22;97:16,21; 98:9;100:17;114:19; 115:17,19;116:25; 117:13;121:20;124:12; 135:10;139:15;154:9; 156:4,10;158:1,8,13, 20;166:7;173:23; 181:13;186:17;215:9; 216:2,18;219:8;222:6</p> <p>today's (1) 215:25</p> <p>together (20) 65:12;93:13,13,13; 118:13;167:20;169:8, 9,9,10,10,11,18;183:3; 184:13;187:17,24; 198:7;209:13;216:14</p> <p>told (7) 30:20;77:15;108:15; 112:17;148:10;158:23; 179:21</p> <p>Toll (2) 179:17;180:17</p> <p>tons (3) 26:10;27:18;81:13</p> <p>took (5) 68:5;73:16;135:1; 148:18;187:16</p> <p>top (6) 69:19;88:6;146:8; 150:6;180:18;186:5</p> <p>torn (1) 120:25</p> <p>total (3) 144:19;185:3,24</p> <p>totally (2) 41:5;172:9</p> <p>touch (3) 126:5;191:12;195:16</p> <p>touched (3) 180:12;199:8;205:3</p> <p>tourist (1) 170:6</p> <p>tourists (1) 50:15</p> <p>toward (1) 192:9</p> <p>towards (5) 31:7,14;54:16; 199:13;200:7</p> <p>towers (1) 180:4</p> <p>town (79) 16:3,20;17:5,6,9; 18:6,15;19:3,10,15,20, 25;20:6,8,16,22;21:5; 22:4,4,17,19,22,25; 26:7;38:21;45:22; 48:17;49:22;51:12; 77:2;81:11,11,21;84:5, 13;85:1;103:4;115:14; 116:1,5;117:6,19,23;</p>	<p>120:8;130:24;131:19, 25;132:11;141:10; 166:1;167:17;177:11; 180:1,2;181:8,9,18,18; 183:4;192:7,11,13,16, 17,19;193:2,12; 197:12;199:6,17; 200:1;203:12;204:22; 205:14;208:11;209:14; 212:10,24;213:14</p> <p>town's (5) 16:22;17:21;19:2; 200:1,6</p> <p>Traci (7) 6:11;48:19;50:5; 153:20;159:16;163:4; 181:16</p> <p>Traci's (1) 155:19</p> <p>track (6) 93:23;94:15;120:2; 163:24;164:4;184:5</p> <p>tracks (3) 93:18,18;94:1</p> <p>traded (1) 62:16</p> <p>traditional (1) 207:19</p> <p>traffic (25) 66:8,14;74:8,17; 75:16;76:5;81:10;83:4; 100:1;107:9,11; 110:24,24;124:20; 138:25;139:3,7; 144:14,18;146:10,15; 161:21;188:8;198:2; 216:15</p> <p>trail (13) 51:2;65:20;80:1; 81:4;197:15,22,25; 203:11;206:3,4,11,15, 17</p> <p>trails (12) 34:1;51:3;89:15; 97:23;108:23;118:2,7; 199:11,12;200:14; 206:6,12</p> <p>trained (1) 176:8</p> <p>training (3) 107:5,5,5</p> <p>tranquility (1) 70:19</p> <p>transcribed (2) 44:9;78:5</p> <p>transcript (2) 5:6;78:5</p> <p>transfer (1) 11:2</p> <p>transferring (1) 55:22</p> <p>transformation (1) 54:19</p>
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<p>transformational (2) 94:1;95:2</p> <p>transformed (2) 26:4;94:6</p> <p>transit (7) 95:9;116:11;170:8, 10;199:21;200:10,11</p> <p>transition (2) 161:15,19</p> <p>transit-oriented (1) 165:21</p> <p>transparency (2) 170:21;216:7</p> <p>transport (1) 82:4</p> <p>transportation (17) 80:5;82:17;95:17; 124:20;136:24;137:14, 15;178:3;180:9;181:2; 186:16;188:3,10,13,23; 194:17;201:22</p> <p>travel (1) 112:11</p> <p>traveling (1) 136:10</p> <p>treatment (1) 99:20</p> <p>Tree (2) 69:19,20</p> <p>trees (11) 94:11;108:25; 117:20;120:17,20,22, 25;145:24;160:4; 182:1,1</p> <p>tremendous (3) 14:5;168:11,17</p> <p>trend (1) 117:2</p> <p>trial (1) 164:13</p> <p>tributaries (2) 88:8;90:11</p> <p>tried (2) 89:21;198:9</p> <p>trips (3) 144:18,19;188:17</p> <p>Troy (4) 114:15;115:8; 127:10;140:20</p> <p>true (6) 16:22;43:16;54:19; 110:2;140:25;186:15</p> <p>truly (6) 80:3;156:12;158:10; 194:10;200:23;209:16</p> <p>truth (51) 11:24,24;16:12,13; 24:5,6;37:10,10;41:17; 44:17,17;48:11,12; 53:14,14;57:16,17; 63:13,14;69:12,12; 72:24,24;78:9,10;86:9, 10;92:3,4;97:6,6;</p>	<p>106:2,3;115:4,4; 123:14,14;127:25,25; 134:4,4;140:11,12; 159:11,11;162:24,24; 175:17,17;189:12,13</p> <p>try (9) 6:25;41:10;76:19; 99:7;155:1,20;162:14, 17;169:15</p> <p>trying (18) 6:10;11:4;16:7; 19:11;61:7;62:22;72:7; 85:14;89:22;90:9; 114:23;133:23;137:22; 142:7,24;163:2; 196:24;216:8</p> <p>Tucker (1) 108:23</p> <p>tune (1) 55:10</p> <p>turkey (1) 144:9</p> <p>turkeys (2) 99:15;128:14</p> <p>turn (11) 6:13;43:25;78:12,15; 114:23;122:19;137:21; 138:4;184:19;211:25; 212:4</p> <p>turnover (2) 183:24;184:6</p> <p>Tuskegee (1) 58:25</p> <p>Twenty (1) 101:20</p> <p>two (35) 4:14;28:24;29:7,8; 38:20;39:17;58:15; 59:10,25;69:1;73:4; 88:9;97:17;108:14,15, 15;110:9;111:7; 112:19,23;120:19; 126:24;128:17;129:16; 137:8;160:6;162:12, 15;168:2;180:4; 182:21;206:10;209:9; 210:7;212:3</p> <p>tying (2) 199:11;205:17</p> <p>type (9) 26:7;27:7;28:3; 37:15;111:3;128:25; 138:25;198:12;206:24</p> <p>types (10) 28:8;80:2;165:4; 188:18;200:18,22,24; 201:9;204:17;216:24</p> <p>typical (1) 26:24</p> <p>Typically (1) 63:2</p>	<p style="text-align: center;">U</p> <p>Uh-oh (1) 60:22</p> <p>unanimous (1) 124:21</p> <p>unaware (3) 104:23;105:1;157:8</p> <p>under (37) 11:23;16:11;23:7; 24:4;29:3;33:12;37:9; 44:16;48:10;53:13; 57:15;63:12;68:7; 69:11;72:22;78:8;86:8; 92:2;97:4;104:6; 105:25;106:1;115:3; 123:13;127:24;134:3; 140:10;144:18,19; 147:19;159:10;162:23; 168:21;175:16;179:6; 183:15;189:11</p> <p>under-funded (1) 75:8</p> <p>underhanded (1) 71:11</p> <p>underlaying (1) 144:22</p> <p>understood (4) 8:13;64:19;172:25; 202:1</p> <p>undertaken (1) 75:8</p> <p>undeveloped (1) 187:7</p> <p>uneconomical (1) 179:24</p> <p>unfortunately (4) 33:7;128:8,17;162:3</p> <p>unfroze (1) 151:24</p> <p>UNIDENTIFIED (7) 5:17;71:23;153:19; 154:5;218:2,6;222:12</p> <p>uninformed (1) 157:16</p> <p>unique (4) 66:10;70:3;109:2; 180:8</p> <p>unit (4) 216:10,13,14;217:7</p> <p>United (2) 66:11;134:22</p> <p>units (11) 59:7,10;130:3,5; 183:15,22,25;184:4; 185:4,13;215:17</p> <p>unity (1) 87:16</p> <p>University (3) 164:10;176:23,24</p> <p>unless (6) 28:9;61:15;109:3;</p>	<p>135:21;138:5;153:11</p> <p>unmute (4) 5:11;24:6;46:4;57:2</p> <p>unprotected (1) 109:1</p> <p>unusual (1) 35:5</p> <p>up (85) 4:13,22;7:15,24; 11:11;13:12;14:4,16; 23:6;25:7;29:5;31:2, 12,17;35:18;45:7,7,9; 57:23;59:11,16;69:23; 70:8,10;72:20;79:10, 12;84:11;85:21;89:20; 90:10,14;93:18; 105:18;108:9;111:6; 113:11;119:12,14,15; 129:4;130:12;136:5; 140:4;141:7;142:4,11; 143:3,3,20;147:13; 150:5;151:18;153:22; 155:1;160:23;164:23; 165:1,24;166:19,20; 169:4;172:13;176:19, 19,25;177:4,7;178:23; 182:9;187:14,15; 192:5;196:11,19; 205:7;206:18;212:13; 216:24;218:1,14,16; 219:1;220:9;221:20</p> <p>updated (1) 175:6</p> <p>uplift (1) 14:6</p> <p>upon (4) 25:8;79:12;81:10; 204:2</p> <p>Upper (3) 166:23,23;203:9</p> <p>up-to-date (1) 131:11</p> <p>urban (3) 99:12;165:20;200:8</p> <p>urge (1) 93:7</p> <p>use (23) 33:25;40:14;66:18; 75:12;76:8;79:17;81:1; 89:5;93:17;111:5,25; 116:10;145:3,20; 146:1;161:6;179:13; 181:1,13;188:9; 194:10;198:9;200:13</p> <p>used (5) 179:17,18;195:23; 205:9;208:7</p> <p>uses (6) 36:3;188:18;200:24; 208:24;216:24;217:1</p> <p>using (1) 5:8</p> <p>usual (2)</p>	<p>158:14,14</p> <p>usually (1) 47:16</p> <p>utilize (2) 108:18;112:12</p> <p>utilizing (1) 204:17</p> <hr/> <p style="text-align: center;">V</p> <p>vacant (1) 65:5</p> <p>valley (2) 141:1;206:2</p> <p>valuable (2) 195:20;207:18</p> <p>value (4) 145:9;160:6,10,13</p> <p>values (2) 97:22;106:25</p> <p>variety (4) 195:5;199:19; 200:22;205:17</p> <p>various (3) 41:12;191:8;193:4</p> <p>vast (1) 26:13</p> <p>VDOT (1) 104:8</p> <p>vegetables (1) 14:1</p> <p>vehemently (1) 69:20</p> <p>vehicle (2) 83:4;117:5</p> <p>vehicles (1) 137:4</p> <p>vehicular (3) 197:7;198:1,23</p> <p>venture (1) 25:17</p> <p>vernacular (1) 100:15</p> <p>vetted (1) 98:5</p> <p>vhe@popgmdus (1) 121:24</p> <p>via (2) 5:1;90:16</p> <p>viability (1) 116:12</p> <p>viable (3) 110:19;111:4;179:22</p> <p>vibrant (2) 198:9;200:23</p> <p>vicinity (1) 75:6</p> <p>video (2) 137:21;138:4</p> <p>View (52) 4:8;16:18;17:7; 25:13,13;45:16;50:3,6, 17;51:25;52:1;54:7;</p>
--	--	--	--	--

<p>65:7,10;66:3,15,18; 77:1,4;88:5,23;89:2; 100:2,18;101:4; 103:23;136:13;141:10; 143:5;145:7,9,11; 155:3;159:19;160:12; 165:3;168:22,25; 169:24;172:17,20; 173:6;176:2;187:8; 194:18,18;196:5; 198:6,19;200:19; 208:4;220:8</p> <p>viewable (1) 143:6</p> <p>viewpoint (1) 41:15</p> <p>views (3) 137:16;143:14; 168:16</p> <p>vine (1) 96:9</p> <p>Virginia (14) 37:20,21,21,23; 38:20;39:2,12;58:23; 65:12;93:3;108:8; 113:25;164:6;206:19</p> <p>virtual (6) 4:5,7,12;87:7; 219:24,25</p> <p>virtually (1) 181:24</p> <p>vision (11) 16:22;51:7;54:7,25; 163:24;164:5;167:19; 203:21;207:7;209:4,8</p> <p>visit (1) 136:8</p> <p>visited (1) 207:23</p> <p>visitor (2) 99:23;104:1</p> <p>visitors (5) 82:12;100:16;103:4, 13;145:5</p> <p>visual (1) 141:21</p> <p>visually (1) 65:9</p> <p>visuals (2) 75:13;141:4</p> <p>voice (6) 30:14;71:6;83:9; 128:24;162:3;192:24</p> <p>voiced (3) 19:3;85:2;129:20</p> <p>voices (1) 20:24</p> <p>voicing (2) 117:1;133:17</p> <p>volumes (1) 113:8</p> <p>volunteer (1) 129:5</p>	<p>volunteers (1) 137:2</p> <p>vote (6) 8:2;68:5;124:21; 135:1;148:19;152:24</p> <p>voted (2) 124:16;148:15</p> <p>voting (1) 124:5</p> <p>Vricella (36) 166:13;173:1; 175:13,14,15,18,19,21, 21,24;176:4,5,7,13,19; 177:3,6,15;178:4,6,22; 179:11,14;180:15; 181:2,15;182:11,21; 184:15,21;187:2,8; 188:1,13;189:7;215:8</p>	<p>61:9,10,16,16,17,18,20, 24;62:5,14,21;63:1,5; 64:4;87:2</p> <p>Walsh's (2) 46:9,13</p> <p>wants (9) 20:8;67:6;124:23; 160:17;208:25;211:7, 9;212:6;214:9</p> <p>Washington (58) 24:13;25:1,15;37:14, 18;39:15;43:8;44:22; 45:1,5,7,14;48:16,22; 49:21;53:20,25;54:9; 58:8;59:1;61:25;62:5, 7;63:19;64:2,19;67:13; 80:1;82:21;83:11,15; 86:17;87:11;88:4,24; 89:4,7,20;92:7,10,21; 106:8;107:19,25; 108:7;114:7;123:25; 126:4;129:3;132:4; 134:21;140:19;174:5; 189:21;190:9,14; 194:15;198:24</p> <p>Washingtonian (1) 58:23</p> <p>waste (1) 149:23</p> <p>watch (2) 9:1;78:2</p> <p>watching (1) 51:10</p> <p>water (5) 90:16;93:3;119:18; 136:21;207:2</p> <p>waterfront (1) 52:1</p> <p>waterfronts (1) 35:22</p> <p>watershed (1) 51:24</p> <p>waves (1) 170:17</p> <p>way (41) 8:24;17:10;35:7; 41:25;42:19;65:17,24; 82:22;87:14;94:9,17; 96:6,7;112:13;118:11; 128:20;129:6;130:17; 132:4;139:10;152:24; 162:1;168:14;169:4,6, 13,21;170:2;171:18; 179:20;184:23;197:10; 198:23;206:18,19; 207:10;211:12;212:13; 216:1;217:6,13</p> <p>ways (8) 49:11,12;50:9,25; 73:10;118:13;201:1; 205:4</p> <p>wealthiest (1) 38:18</p>	<p>webcam (1) 91:24</p> <p>website (1) 210:6</p> <p>Wednesday (2) 220:23,25</p> <p>Wednesdays (3) 219:25;220:4,4</p> <p>week (2) 10:1;84:10</p> <p>weeks (2) 83:18;210:7</p> <p>weigh (1) 41:15</p> <p>welcome (5) 9:2;52:13;123:7; 139:15;215:7</p> <p>welcomed (1) 50:15</p> <p>well- (1) 87:18</p> <p>well-aware (2) 45:15;107:25</p> <p>well-deserved (1) 31:6</p> <p>well-hidden (1) 84:9</p> <p>well-publicized (2) 84:24;85:3</p> <p>weren't (2) 20:24;56:3</p> <p>Westlake (1) 174:2</p> <p>wetlands (1) 97:23</p> <p>whatnot (3) 32:12;146:16;187:14</p> <p>What's (10) 28:18;60:13;62:4; 90:23;93:22;95:12; 107:11;110:12;165:8; 177:19</p> <p>whenever (3) 4:20;125:22,25</p> <p>Whereupon (1) 222:15</p> <p>wherewithal (1) 167:19</p> <p>Whichever (2) 123:22;135:12</p> <p>whole (7) 111:10;112:3;157:9; 159:7;174:25;180:11; 185:11</p> <p>whomever (1) 103:8</p> <p>whose (1) 26:24</p> <p>wide (1) 205:17</p> <p>widely (2) 131:4,9</p> <p>widen (1) 139:5</p>	<p>widened (1) 137:8</p> <p>widening (1) 137:7</p> <p>wife (4) 56:2;131:11;166:25, 25</p> <p>wild (3) 128:13,14;144:9</p> <p>wildlife (7) 37:17;74:25;75:14; 99:14;128:10,12;207:2</p> <p>willingness (1) 88:19</p> <p>Wilson (6) 26:6;45:13,20;52:2; 95:10;168:13</p> <p>wind (1) 170:18</p> <p>Windale (1) 175:22</p> <p>winding (1) 139:1</p> <p>window (1) 8:1</p> <p>winter (1) 143:19</p> <p>win-win (1) 12:15</p> <p>wise (2) 157:20;170:18</p> <p>wish (1) 123:20</p> <p>wished (1) 121:12</p> <p>wither (1) 96:9</p> <p>withhold (1) 68:21</p> <p>within (15) 29:7,8;80:8;81:8; 99:12,15,15;115:20; 159:19;192:13;194:14, 22;198:10;200:9; 208:23</p> <p>without (12) 17:4;82:2;100:6,7; 117:5;131:19;156:13; 165:18;170:25,25; 188:6;208:15</p> <p>witness (33) 4:19,20;8:11;15:16, 21;22:9;23:17;29:5; 36:20,22;37:2;56:24; 60:10;61:15;63:9; 68:25;77:22;91:14; 105:11;127:8,10; 139:25;148:21;162:12, 19,20;171:3;175:11; 182:13,18;189:8,9; 219:1</p> <p>witnesses (20)</p>
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**National View
A-10055**

6:23,25;43:12;44:8; 11:47;14,20;53:4; 61:13;82:20;121:10; 138:2;140:18,19; 157:20,25;158:11; 162:17;220:12;221:9 wonder (1) 80:19 Wonderful (9) 8:21,21;12:8,9;37:6; 103:2;142:19;181:19; 183:4 wonderfully (1) 11:5 wondering (15) 20:12;30:3;41:7; 61:3,11;67:1;73:12; 77:1;119:3;157:23; 159:20;202:2;213:24; 218:25;220:21 Wood (2) 24:25;35:1 wooded (2) 49:16;141:8 woodland (4) 41:13;76:12,13,15 Woodlands (1) 70:4 woodpeckers (1) 144:9 Woodrow (1) 168:13 woods (4) 35:8;36:14;45:10; 70:12 Woolfolk (11) 91:16,17,18,19,20, 23;92:1,5,6;96:21; 108:12 word (2) 86:17;107:11 work (26) 16:25;19:24;20:1; 76:2;88:19;89:21; 93:12;96:7,8;101:12; 110:8;117:7;120:1; 136:6;142:25;164:2; 169:10;174:8;179:17; 189:20;192:18;195:1; 203:20;209:1,18;220:3 worked (4) 136:1;174:17;190:3; 192:20 workforce (1) 185:20 working (17) 37:21;62:8;155:21; 160:5;167:16,17,21; 180:16;181:7;187:15; 190:10,11;192:21,22; 199:13;209:13 works (5) 105:19;118:15;	134:22;171:18;212:2 world (2) 145:5,24 worms (1) 107:14 worried (1) 157:6 worrisome (1) 128:22 worry (1) 43:21 wow (1) 180:5 write (2) 54:5;152:20 writing (2) 21:22;77:12 written (9) 7:5,9,9;19:3;79:6; 96:12,13;98:5;131:18 wrong (7) 6:15;136:19;147:14; 182:18;184:15;186:15; 216:5 wrote (1) 23:2 WSSC (1) 88:16	183:12 ZHE (1) 220:1 zone (10) 29:16;81:4;83:23; 89:5;112:10;124:17; 180:21;194:6,7,22 zoned (2) 129:12;145:3 zones (2) 124:17;194:23 Zoning (45) 20:21;32:16,22; 74:10;76:3,8;88:6; 93:15;97:17;98:8; 100:11,17;115:16,18; 116:9,11,21;118:9; 120:23;121:24;135:22; 137:13;141:13;144:4, 19,20;145:6,19,25; 146:11;151:3;155:13; 158:15;160:24;161:8; 166:6;176:8,14; 190:24;194:22;210:9, 11;216:2,4;217:10 Zoom (10) 83:17;105:20; 129:17;131:18;133:12, 15;212:22;213:7,8,13	11 (6) 12:5;217:21;218:1,3, 9,25 11/17 (1) 149:18 11:33 (1) 85:22 11905 (1) 58:7 11th (1) 125:2 12 (2) 74:2;133:25 12:15 (1) 99:3 12:30 (1) 122:15 120 (1) 169:6 120-plus (1) 109:16 12700 (1) 24:25 12th (1) 125:1 13,429 (1) 144:20 13312 (1) 63:19 14 (1) 42:25 140 (1) 78:23 143 (1) 211:12 15 (4) 32:10;59:2;70:17; 194:14 157 (1) 211:12 16 (2) 67:12;134:9 164 (1) 150:10 17 (2) 149:12;174:23 18 (1) 124:24 1826 (1) 73:4 1850s (1) 139:2 1875 (7) 163:15;174:11,12, 15,16,16;189:21 19 (1) 131:5 1940s (1) 120:7 1960s (1) 179:1 1991 (1) 119:16	19th (3) 84:5,14;131:7 <hr/> 2 <hr/> 2 (6) 142:11,12;147:19; 149:20;150:6,8 2.288 (1) 98:6 20 (4) 4:9;29:15;33:22; 138:15 200 (2) 141:9;168:17 2001 (1) 49:23 2003 (3) 130:18;184:16;212:1 2007 (1) 107:3 2008 (1) 107:3 2011 (2) 136:2;164:17 2014 (4) 115:22;177:12; 179:5;181:23 2017 (1) 164:21 2019 (6) 6:19;84:5;131:5; 158:5;166:16;192:9 2020 (10) 21:16;22:16,21; 84:16,18;124:24; 147:16;149:12,18; 158:5 2021 (4) 4:4;67:12;124:4; 134:9 2035 (7) 146:1,13;169:14; 202:23,25;203:15; 204:23 2035's (1) 203:6 20744 (6) 25:1;45:2;58:8; 63:19;86:18;106:8 20745 (4) 42:1,20;128:6; 159:17 20-acres (1) 146:11 20-story (2) 32:10;180:4 21 (1) 141:23 210 (15) 40:7,16;43:7;65:4,6, 24;80:17;90:10; 106:24;109:23;110:23;	
	Y	1			
	yard (2) 120:20;128:12 year (8) 50:16;75:1;109:16; 136:1,3,9;192:10; 193:12 yearly (2) 103:3,12 years (47) 12:18;25:13;42:25; 45:15;49:23;51:16; 58:22;59:2;70:17;74:2, 3;83:13;94:23;96:10, 10;104:21;106:17; 107:8;108:4;109:13; 110:9,17;111:14; 112:22,22;116:11; 118:8;119:6;134:1; 136:2;138:11;143:8; 165:6;166:23,24,24; 167:9,16,21;176:8,10, 15;187:15;190:5; 201:13;209:9;212:2 yesterday (1) 124:10 young (4) 45:9;108:15,15; 112:23	1 (12) 32:21,22;34:10; 122:16,20,21;123:9; 143:13;149:20;158:3; 174:23;211:12 1,000-plus (1) 34:10 1,100 (1) 183:14 1,200 (1) 4:10 1,433 (1) 143:14 1,500 (2) 174:2;215:20 1,700 (1) 215:20 1/2 (2) 92:8;119:6 10 (16) 59:2;106:17;110:17; 111:23;112:22,22; 147:15;180:19,20; 194:13,14;217:20; 218:1,3,8,25 10:00 (1) 8:4 10915 (1) 45:1 10th (1) 143:10			
	Z				
	zero (1)				

**National View
A-10055**

112:5;114:5;140:21; 197:7 22 (1) 124:4 23 (2) 17:16;18:14 24 (2) 4:4;143:8 240-unit (1) 183:16 24th (1) 125:1 25 (4) 21:16;22:16,21; 144:17 26 (1) 12:6 28th (12) 154:17;156:6; 158:13;219:20,21; 220:6,9,25;221:1,13, 19;222:8 2-lane (1) 74:12	140:7;142:4,11; 185:23 41 (2) 113:17;160:17 415 (2) 123:25;126:3 43 (1) 98:6 436 (1) 163:16 438 (1) 163:16 44013 (1) 126:9 4601 (1) 53:20 48 (1) 179:16 495 (1) 197:7	6-step (1) 217:16 6-year-old (1) 108:16		
3	5	7		
3 (1) 69:19 3/4 (1) 203:16 30 (1) 169:5 30-story (1) 33:22 31st (1) 221:4 32 (2) 134:1;138:11 32- (1) 135:25 33 (3) 17:16,18;18:14 34 (2) 136:2;138:11 3402 (1) 106:7 3700 (1) 48:16 38 (2) 134:17;135:20	5 (5) 29:3;48:17;128:5; 172:12;184:18 50 (2) 74:3;185:23 50s (1) 179:3 525 (1) 86:16 55 (1) 45:15 558 (1) 144:19 56 (4) 149:8,8,14;150:6 5800 (1) 115:9 5807 (1) 159:17 5909 (1) 140:16 5-minute (1) 85:20 5th (2) 221:14,21	7 (1) 142:12 700 (2) 41:25;42:19 7404 (1) 175:22 781 (1) 143:13 785 (1) 34:9		
4	6	8		
4 (7) 49:5;92:8;119:5; 154:12;156:5;157:19; 219:8 4,000 (1) 173:16 4:00 (2) 162:13;219:4 40 (4)	60 (1) 74:3 600 (1) 66:24 60-year-old (1) 120:19 61 (4) 15:7,9,10,11 616 (1) 92:7 66 (2) 196:9,12	8 (1) 125:18 80 (3) 166:9;171:19;172:6 800 (4) 64:1,5;74:11,15 84 (2) 28:20,22 85 (1) 46:14 86 (1) 52:22 87 (1) 56:13 88 (1) 59:17 89 (5) 67:9;68:21;91:1,4,5		
		9		
		9 (2) 125:18;147:18 9:30 (2) 220:7,9 9:37 (1) 8:5 9:45 (2) 8:1,4 90 (2) 55:19;96:16 91 (2) 101:24,25 92 (1) 122:10 93 (1) 125:8 97-year-old (1) 9:9		

OFFICE OF THE ZONING HEARING EXAMINER
FOR PRINCE GEORGE'S COUNTY

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NATIONAL VIEW : Case No. A-10055
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A hearing in the above-entitled matter was held on
February 10, 2021, at the Prince George's County Office of
Zoning, County Administration Building, Room 2174, Upper
Marlboro, Maryland 20772 before:

Maurene McNeil
Hearing Examiner

Page 2

A P P E A R A N C E S

On Behalf of the Applicant:

Traci Scudder, Esq.

On Behalf of People's Zoning:

Stan Brown

Page 4

1 397-3625. Again, I'll just repeat my phone number, 240-397-
 2 3625. Okay.
 3 MS. MCNEIL: Thank you, Ms. Scudder. And for
 4 everyone else, all of you are persons of record because you
 5 received a link to this hearing; but if anybody is watching
 6 on the livestream and they're interested in becoming persons
 7 of record, you need to write via email preferably to ZHE to
 8 advise in writing that you would like to be a person of
 9 record, provide your email and your address, and we will
 10 make sure you're added to the list.
 11 And since we're continuing the matter, there's
 12 really nothing else today; although, Ms. Scudder, will you
 13 be able to either get with Ms. Bah, or change the date on
 14 your signs sometime in the near future to March 24?
 15 MS. SCUDDER: Yes, either. Do you have a
 16 preference? I --
 17 MS. MCNEIL: I probably, you probably should get
 18 with Ms. Bah.
 19 MS. SCUDDER: Okay.
 20 MS. MCNEIL: Okay? Okay. Then thank you all for
 21 being here. It's good to meet you. We'll have more detail
 22 -- Ms. McDowell?
 23 MS. MCDOWELL: Can I ask, can I ask a question?
 24 MS. MCNEIL: Yes.
 25 MS. MCDOWELL: Is it possible to be rescheduled,

Page 3

1 P R O C E E D I N G S
 2 MS. MCNEIL: Good morning, everyone. I'm Maurene
 3 McNeil and I will be your Hearing Examiner today, and I
 4 better state for the record, today is February 10, 2021.
 5 We're here on a request by, excuse me one second, Harbor
 6 View Development, LLC, and the case number is A-10055; and
 7 we rescheduled to hold a hearing today, but the applicant
 8 has now requested a continuance and the matter will be
 9 continued until March 24, 2021, at 9:30.
 10 But since some of you are new, I would just like
 11 the applicant to identify themselves for the record, and
 12 people Zooming, counsel, so you know who they are since I've
 13 been telling you, you can email both of them for further
 14 detail. Mr. Brown?
 15 MR. BROWN: Yes, good morning. Stan Brown,
 16 People's Zoning Council.
 17 MS. MCNEIL: Thank you. And Ms. Scudder?
 18 MS. SCUDDER: Good morning, everyone. My name is
 19 Traci Scudder. I'm the zoning attorney for this
 20 application. I represent Petra Development and Harbor View
 21 Development, LLC, which is the owner of the subject
 22 property.
 23 My email address is Traci, with an I, @scudder, S-
 24 C-U-D-D-E-R, Scudderlegal.com if anyone would like to email
 25 me; and if you need to reach me by phone, my number is 240-

Page 5

1 or continued I should say, to alter any recent testimony, or
 2 do we have to stick with what we've already submitted?
 3 MS. MCNEIL: Oh, no, no, you'll be able to add
 4 more testimony at that time; and anyone --
 5 MS. MCDOWELL: Okay.
 6 MS. MCNEIL: -- It might have been you, Ms.
 7 McDowell, but make sure, what happens is the applicant --
 8 someone has feedback -- the applicant and People's Zoning
 9 Council will probably do what we call a voir dire if you
 10 present any evidence, and that's just to make sure, you
 11 know, when it was taken; that it accurately depicts
 12 whatever. So, the fact that you send something in advance
 13 does not mean it's going to be accepted in the case until we
 14 have the actual hearing on March 24th. You got me? Okay.
 15 Okay.
 16 Good to see all of you, Ms. Noble, Mr. Comiso,
 17 Comiso, did I say it right? Okay. Thank you.
 18 MS. SCUDDER: Ms. McNeil --
 19 MS. MCNEIL: Yes?
 20 MS. SCUDDER: -- I was just wondering is it
 21 possible to have everyone that's here today identify
 22 themselves, or state their name for the record?
 23 MS. MCNEIL: Since we're all here, let's -- Ms.
 24 McDowell?
 25 MS. MCDOWELL: Yeah, I'm Tina McDowell. I'm a

Page 6

1 resident of First Heights, and I look at the beautiful hill
2 being affected.
3 MS. MCNEIL: Ms. Noble?
4 MS. NOBLE: I'm Paula Noble, resident of Forest
5 Heights for more than 40-plus years, as well as the council
6 member for Ward 3, the ward where the sign has been placed
7 for the notice, the hearing notice.
8 MS. MCNEIL: Mr. Comiso?
9 MR. COMISO: Good morning, everybody. I'm Mike
10 Comiso. I'm the acting superintendent for Oxon Hill, Oxon
11 Cove Park, Piscataway Parks in Fort Washington, National
12 Park Service. Nice to meet you all.
13 MS. MCNEIL: Good morning. Ms. Gingold?
14 MS. GINGOLD: I'm Janet Gingold, chair of the
15 Prince George's Sierra Club.
16 MS. MCNEIL: Ms., don't, don't get upset with me,
17 ma'am, Ms. Mow?
18 MS. MOW: Hi, yes, my name is Tracey Mow. You got
19 it right, and I am a new resident here; and I just found out
20 that Ms. Noble is my representative in Ward 3, so hello.
21 MS. NOBLE: Hello.
22 MS. MOW: And I definitely care about that
23 beautiful hill. That's why I moved here. Thank you.
24 MS. MCNEIL: Okay. Everyone else is an employee
25 with the County. Okay. So, I thank you all for being here.

Page 7

1 Oh, Mr. Brown?
2 MR. BROWN: I'm going to say to everyone, since
3 several people indicated they were representing the
4 organization, a municipality, or an agency of the state
5 government, when you come back on the 24th, you will need a
6 letter that indicates your organization that's authorized
7 you to speak on its behalf. So, Ms. Noble, if you are going
8 to speak not just for yourself individually, but on behalf
9 of the town, you need a letter that indicates they have
10 authorized you to do that. Ms. McDowell, if you're speaking
11 for anyone other than yourself, you need the letter as well.
12 Mr. Comiso, is that how you pronounce it, or Comiso?
13 MS. MCDOWELL: Excuse me, I don't think I
14 understand. I'm just, I'm just, my testimony is just for me
15 as somebody who lives here.
16 MR. BROWN: If it's just for you, then my
17 instructions don't apply to you.
18 Mr. Comiso, is that how you pronounce it?
19 MR. COMISO: Comiso, yes. Yes.
20 MR. BROWN: If you are going to be testifying on
21 behalf of the Department of Parks for the Federal
22 Government, you need a document that indicates they have
23 authorized you to come here and state a position with
24 regards to the Parks Department.
25 MR. COMISO: Okay.

Page 8

1 MR. BROWN: All right?
2 MR. COMISO: I believe I have that, but yeah,
3 thank you.
4 MR. BROWN: Thanks.
5 MS. MCNEIL: Okay. I thank everyone. We'll see
6 you on March 24th. Thank you.
7 MS. SCUDDER Thank you.
8 MS. MCNEIL: All right.
9 MS. MCDOWELL: Thank you.
10 (Whereupon, the hearing was concluded.)
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Page 9

C E R T I F I C A T E
DEPOSITION SERVICES, INC., hereby certifies that the
attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Prince George's County Office of the Zoning Hearing Examiner
in the matter of:

NATIONAL VIEW
Case No. A-10055

By:

Tracy Hahn, Transcriber

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15
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18
19
20
21
22
23
24
25

	better (1) 3:4	5:9		3:9;4:14;5:14;8:6
@	both (1) 3:13	document (1) 7:22	H	matter (2) 3:8;4:11
@scudder (1) 3:23	Brown (9) 3:14,15,15;7:1,2,16, 20;8:1,4	don't (1) 6:16	happens (1) 5:7	Maurene (1) 3:2
A		E	Harbor (2) 3:5,20	McDowell (11) 4:22,23,25;5:5,7,24, 25,25;7:10,13;8:9
A-10055 (1) 3:6	C	either (2) 4:13,15	Hearing (6) 3:3,7;4:5;5:14;6:7; 8:10	MCNEIL (19) 3:2,3,17;4:3,17,20, 24;5:3,6,18,19,23;6:3, 8,13,16,24;8:5,8
able (2) 4:13;5:3	call (1) 5:9	else (3) 4:4,12;6:24	Heights (2) 6:1,5	mean (1) 5:13
accepted (1) 5:13	can (3) 3:13;4:23,23	email (5) 3:13,23,24;4:7,9	hello (2) 6:20,21	meet (2) 4:21;6:12
accurately (1) 5:11	care (1) 6:22	employee (1) 6:24	Hi (1) 6:18	member (1) 6:6
acting (1) 6:10	case (2) 3:6;5:13	everybody (1) 6:9	hill (3) 6:1,10,23	might (1) 5:6
actual (1) 5:14	chair (1) 6:14	everyone (7) 3:2,18;4:4;5:21; 6:24;7:2;8:5	hold (1) 3:7	Mike (1) 6:9
add (1) 5:3	change (1) 4:13	evidence (1) 5:10	I	more (3) 4:21;5:4;6:5
added (1) 4:10	Club (1) 6:15	Examiner (1) 3:3	identify (2) 3:11;5:21	morning (5) 3:2,15,18;6:9,13
address (2) 3:23;4:9	Comisio (1) 5:16	excuse (2) 3:5;7:13	indicated (1) 7:3	moved (1) 6:23
advance (1) 5:12	Comiso (11) 5:17;6:8,9,10;7:12, 12,18,19,19,25;8:2	F	indicates (3) 7:6,9,22	Mow (4) 6:17,18,18,22
advise (1) 4:8	concluded (1) 8:10	fact (1) 5:12	individually (1) 7:8	municipality (1) 7:4
affected (1) 6:2	continuance (1) 3:8	February (1) 3:4	instructions (1) 7:17	N
Again (1) 4:1	continued (2) 3:9;5:1	Federal (1) 7:21	interested (1) 4:6	
agency (1) 7:4	continuing (1) 4:11	feedback (1) 5:8	J	name (3) 3:18;5:22;6:18
alter (1) 5:1	Council (3) 3:16;5:9;6:5	First (1) 6:1	Janet (1) 6:14	National (1) 6:11
although (1) 4:12	counsel (1) 3:12	Forest (1) 6:4	L	near (1) 4:14
applicant (4) 3:7,11;5:7,8	County (1) 6:25	Fort (1) 6:11	letter (3) 7:6,9,11	need (6) 3:25;4:7;7:5,9,11,22
application (1) 3:20	Cove (1) 6:11	found (1) 6:19	link (1) 4:5	new (2) 3:10;6:19
apply (1) 7:17	C-U-D-D-E-R (1) 3:24	further (1) 3:13	list (1) 4:10	Nice (1) 6:12
attorney (1) 3:19	D	future (1) 4:14	lives (1) 7:15	Noble (7) 5:16;6:3,4,4,20,21; 7:7
authorized (3) 7:6,10,23	date (1) 4:13	G	livestream (1) 4:6	notice (2) 6:7,7
B	definitely (1) 6:22	George's (1) 6:15	LLC (2) 3:6,21	number (3) 3:6,25;4:1
back (1) 7:5	Department (2) 7:21,24	Gingold (3) 6:13,14,14	look (1) 6:1	O
Bah (2) 4:13,18	depicts (1) 5:11	Good (7) 3:2,15,18;4:21;5:16; 6:9,13	M	one (1) 3:5
beautiful (2) 6:1,23	detail (2) 3:14;4:21	government (2) 7:5,22	ma'am (1) 6:17	organization (2) 7:4,6
becoming (1) 4:6	Development (3) 3:6,20,21		March (4)	out (1) 6:19
behalf (3) 7:7,8,21	dire (1)			

**National View
Revised**

owner (1) 3:21	7:24	superintendent (1) 6:10	
Oxon (2) 6:10,10	repeat (1) 4:1	sure (3) 4:10;5:7,10	Z
P	represent (1) 3:20	T	ZHE (1) 4:7
Park (2) 6:11,12	representative (1) 6:20	telling (1) 3:13	Zoning (3) 3:16,19;5:8
Parks (3) 6:11;7:21,24	representing (1) 7:3	testifying (1) 7:20	Zooming (1) 3:12
Paula (1) 6:4	request (1) 3:5	testimony (3) 5:1,4;7:14	1
people (2) 3:12;7:3	requested (1) 3:8	Thanks (1) 8:4	10 (1) 3:4
People's (2) 3:16;5:8	rescheduled (2) 3:7;4:25	Tina (1) 5:25	2
person (1) 4:8	resident (3) 6:1,4,19	today (5) 3:3,4,7;4:12;5:21	2021 (2) 3:4,9
persons (2) 4:4,6	right (4) 5:17;6:19;8:1,8	town (1) 7:9	24 (2) 3:9;4:14
Petra (1) 3:20	S	Tracey (1) 6:18	240- (1) 3:25
phone (2) 3:25;4:1	S- (1) 3:23	Traci (2) 3:19,23	240-397- (1) 4:1
Piscataway (1) 6:11	Scudder (10) 3:17,18,19;4:3,12,15, 19;5:18,20;8:7	U	24th (3) 5:14;7:5;8:6
placed (1) 6:6	Scudderlegalcom (1) 3:24	upset (1) 6:16	3
position (1) 7:23	second (1) 3:5	V	3 (2) 6:6,20
possible (2) 4:25;5:21	send (1) 5:12	via (1) 4:7	3625 (1) 4:2
preferably (1) 4:7	Service (1) 6:12	View (2) 3:6,20	397-3625 (1) 4:1
preference (1) 4:16	several (1) 7:3	voir (1) 5:9	4
present (1) 5:10	Sierra (1) 6:15	W	40-plus (1) 6:5
Prince (1) 6:15	sign (1) 6:6	ward (3) 6:6,6,20	9
probably (3) 4:17,17;5:9	signs (1) 4:14	Washington (1) 6:11	9:30 (1) 3:9
pronounce (2) 7:12,18	somebody (1) 7:15	watching (1) 4:5	
property (1) 3:22	someone (1) 5:8	Whereupon (1) 8:10	
provide (1) 4:9	sometime (1) 4:14	wondering (1) 5:20	
R	speak (2) 7:7,8	write (1) 4:7	
reach (1) 3:25	speaking (1) 7:10	writing (1) 4:8	
really (1) 4:12	Stan (1) 3:15	Y	
received (1) 4:5	state (4) 3:4;5:22;7:4,23	years (1) 6:5	
recent (1) 5:1	stick (1) 5:2		
record (6) 3:4,11;4:4,7,9;5:22	subject (1) 3:21		
regards (1)	submitted (1) 5:2		