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# Transcript of Hearing

**Date:** December 13, 2023

**Case:** RE: SE-22002 - AC-23008 ESC 8215 Springfield, L.C.

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M A R Y L A N D

IN THE DISTRICT COURT FOR PRINCE GEORGE'S COUNTY

TRANSCRIPT OF AUDIO-RECORDED

HEARING OF THE

ZONING HEARING EXAMINERS OF PRINCE GEORGE'S COUNTY

DECEMBER 13, 2023

NOS. SE-22002 - AC-23008

ESC 8215 SPRINGFIELD, L.C.

Job No.: 519340

Pages: 1 - 281

Transcribed by: Christian Naaden

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

2 MS. MCNEIL: Okay. Good morning, everyone. I'm  
3 Maurene McNeil. I'll be the hearing examiner today.  
4 It's December 13, 2023.

5 We're here on Special Exception 22002, a  
6 request to permit a planned retirement community with  
7 57 age-restricted single-family attached dwelling units  
8 and AC-23008, a request for alternative compliance from  
9 2 sections of the landscape manual, Section 4.6 and  
10 4.10. If counsel would identify themselves for the  
11 record.

12 MR. HATCHER: Chris Hatcher, counsel for the  
13 applicant.

14 MS. MCNEIL: I understand that People's zoning  
15 counsel had to be in court for a little while this  
16 morning, you all, but he'll be coming in, Stan Brown.  
17 And Mr. Suhar.

18 MR. SUHAR: Yes. Good morning, Madame Hearing  
19 Examiner. My name is Sean Suhar. I'm the attorney for  
20 the Wingate Homeowner's Association.

21 MS. MCNEIL: Okay. So before we begin, for  
22 everyone else, this is being recorded hopefully and it

1 is going to be streamed online. That -- that may be at  
2 issue. If it's not streamed online, however, it'll be  
3 uploaded as soon as we can after the hearing, but  
4 because it's being recorded, everyone needs to stay  
5 mute and off camera until -- not the attorneys, until  
6 it's your turn to testify or ask a question.

7 And there -- there may be at least two people  
8 on that provided their email but did not provide their  
9 home or business address and you must do so to be  
10 recognized as a person of record. I can't see if  
11 they're on, but it was Mr. Raymond [ph], Dan Trossee  
12 [ph] and Ms. Mimi [ph]. And Ms. Mimi, if you're on,  
13 you'll have to state your name for me, I apologize.

14 So if you two appear to -- and speak, I'll  
15 have to get your address. So Counsel, if you all are  
16 ready, you may begin. Mr. Hather, you're mute. Okay.

17 MR. HATCHER: Good morning, Madame Examiner.  
18 For the record, my name is Chris Hatcher with CL  
19 Hatcher with offices in Laurel and I'm pleased to  
20 represent the applicant, ESC 8215 Springfield, L.C. for  
21 this special exception application.

22 Madame Examiner, testimony will show that the

1 subject application proposes a planned retirement  
2 community with 57 age-restricted single-family attached  
3 dwellings complies with the necessary regulations and  
4 standards for approval in the special exception.  
5 Specifically, the proposed development is for parcel  
6 131 located on the east side of Springfield Lane  
7 approximately 390 feet southeast of its intersection  
8 with Lake Glen Drive in Glenn Dale, Maryland.

9 The property is approximately 12 acres and was  
10 previously zoned RR pursuant to the county's zoning  
11 ordinance in effect prior to April 1, 2022, which I  
12 will refer to today as the prior zoning ordinance. The  
13 property is currently zoned RR pursuant to the county's  
14 current zoning ordinance.

15 This special exception application is proposed  
16 under the prior RR zone pursuant to Section 27-1904 of  
17 the current zoning ordinance. As an application for a  
18 planned requirement community with 57 age-restricted  
19 single-family attached dwellings in the prior RR zone,  
20 the subject application requires special exception  
21 approval.

22 More details will be provided through the

1 testimony of the five witnesses I plan on calling  
2 today. Before I produce the app- -- before I introduce  
3 the applicants' witnesses, I would like to take a  
4 moment to discuss planning staff and the planning  
5 board's actions on SE-22002 specifically as it relates  
6 to the transm- -- transmitted special exception case  
7 file.

8 At its October 5th hearing, the planning board  
9 transmitted the full special exception case file  
10 together with the case file of its companion matter AC-  
11 23008 to the zoning hearing examiner. Notably,  
12 the case file includes applicant's full special  
13 exception application, planning staff's September 20th  
14 technical staff report which recommended approval of  
15 the special exception subject to conditions and an  
16 October 4th memorandum from Maryland Capital Park and  
17 Planning Commission -- Maryland National Capital Park  
18 and Planning Commission Development review staff to the  
19 planning board.

20 Notably, the development review staff's  
21 October 4th memorandum, which is identified as Exhibit  
22 3, recommended clarifications and revisions to the

1 findings and conclusions contained in the September  
2 20th technical staff report.

3 Specifically, development review staff's  
4 October 4th memorandum recommends revisions to the  
5 technical staff report to, among other reasons, clarify  
6 that the bicycle lane and sidewalk requirements  
7 adjacent to and within the proposed development and the  
8 community gathering area requirements and several in- -  
9 - of the conditions of approval.

10 As outlined in development review's October  
11 4th memo, planning staff largely supports the  
12 applicant's proposed revisions to applicable findings  
13 and conditions contained in the September 20th  
14 technical staff report.

15 Accordingly, the applicant's references to  
16 development review's staff's proposed technical staff  
17 report today will be distinguished as a technical staff  
18 report as amended by development review's staff's  
19 October 4th clarifying memo.

20 In order to refer to the technical staff  
21 report that accurately reflects staff's recommenda- --  
22 recommended finding and con- -- and conditions of

1 approval, one additional clarification just based on  
2 the applicant's experience, it -- it -- it is  
3 particularly of note to distinguish a special exception  
4 from a rezoning case.

5 This is not a rezoning matter, this is -- the  
6 planned retirement community is a permitted use subject  
7 to the approval of a special exception before the  
8 hearing -- zoning hearing examiner. Although both  
9 applications have similar review processes, it's  
10 important to distinguish a rezoning from a special  
11 exception matter.

12 No rezoning is occurring here. With that  
13 clarification, I would like to introduce the  
14 applicant's witness in attendance here today. The  
15 witness here this morning include Mr. David Stewart,  
16 attorney in fact for the current property owner, Joanne  
17 Stewart [ph]. Mr. Stewart will testify to the proposed  
18 planned retirement community use.

19 The next witness will be Mr. Jude Burke, the  
20 applicant's authorized representative who will testify  
21 as the applicant's -- to the applicant's proposal. The  
22 third witness will be Ms. Amy Sommer, the division



1 manager of the planning department at Charles P.  
2 Johnson & Associates. For convenience purposes, going  
3 forward I'll refer to Charles P. Johnson & Associates  
4 as CPJ.

5 As Amy Sommer -- Ms. Jamie [sic] Sommer will  
6 testify as to the plans and related documents prepared  
7 by CPJ in connection with the proposed development, the  
8 special exception application and a -- and a co- -- and  
9 a company alternative compliance application. Fourth  
10 witness today will be Mr. David Nelson, a  
11 transportation engineer with street traffic studies.

12 Mr. Nelson will testify as to the traffic and  
13 transportation planning issues in accordance with the  
14 transportation statement prepared in support of the  
15 special exception application. The fifth and final  
16 witness today is Mr. Mark Ferguson, a land planner,  
17 architect and environmental design engineer with RDA  
18 site design.

19 Mr. Ferguson will testify to a description of  
20 the site plan, physical characteristics of the  
21 property, planning and design elements and proposed  
22 planned use retirement use and various other required

1 findings -- the various other required findings  
2 associated with the planned retirement community.

3 I also have a few other people from CPJ and  
4 from my office that may speak from time to time, but  
5 they are not signed up as witnesses, they will not  
6 testify in support of the application. With that,  
7 Madame Examiner, we would like to call our first  
8 witness, Mr. David Stewart.

9 MS. MCNEIL: Before you do that, let me  
10 clarify, anybody speaking is a witness and will be  
11 sworn as subject to cross-examination, that's number  
12 one. Number two, I'm glad you went through that short  
13 explanation and that is something I meant to tell  
14 everybody.

15 And so because this request went to several  
16 agencies and then back and revisions were made, some of  
17 the documents appear to be duplicates, but I always err  
18 on the side of making sure everything's in that you all  
19 may need and then at the end when I'm writing a  
20 decision, I'll explain that it's exactly like Exhibit 3  
21 or Exhibit 7.

22 If any of you know for a fact that those

1 exhibits are void, that would be helpful if you would  
2 tell me as we're -- you know, as the hearing proceeds.  
3 Mr. Suhar, you don't have to say anything at this time,  
4 but if you want to say some type of opening, you may.

5 MR. SUHAR: Thank you very much, Your --  
6 Madame Hearing Examiner. I -- I just have argument, I  
7 don't have witnesses with me today. And so, you know,  
8 if you would like me to make argument at this time, I  
9 can do that or if you wanted to re- -- you know, wait  
10 until attorney --

11 MS. MCNEIL: You'll be sticking around; right?

12 MR. SUHAR: I'm sticking arou- --

13 MS. MCNEIL: You're not leaving, are you?

14 MR. SUHAR: Yeah. I'll be here.

15 MS. MCNEIL: So I'll let you make arguments  
16 after the case. That's [inaudible].

17 MR. SUHAR: Wonderful. Thank you. I appreciate  
18 that. I do have -- I do have to -- to go about 11:00,  
19 but, you know, hopefully we'll be done by then.

20 MS. MCNEIL: And if you let us know at that  
21 time, you could make your argument then. But tell me --

22 MR. SUHAR: Okay. Thank you.

1 MS. MCNEIL: -- I did get your exhibit, but  
2 did you explain in there how Wingate dec- -- determined  
3 that they were opposed --

4 MR. SUHAR: Yes.

5 MS. MCNEIL: -- to the request?

6 MR. SUHAR: -- we have -- we have met. I met  
7 with the -- with the applicant -- we did. We have a  
8 planning and zoning committee of the board of directors  
9 for Wingate Homeowner's Association. We met -- and then  
10 we met after our meeting to discuss our concerns and  
11 opposition. We're going to be meeting again in response  
12 to the request that you sent this week to confirm their  
13 position on this matter and then we'll be sending  
14 something to you.

15 MS. MCNEIL: Okay. So --

16 MR. SUHAR: Yeah.

17 MS. MCNEIL: -- I'll allow subject to getting  
18 that information; okay? And what it is is just -- I  
19 mean, even if the planning and zoning committee is  
20 authorized to speak on behalf of the entire  
21 association, make it say that or if they're just  
22 speaking on their own, make sure it says that and --

1 and where they met [inaudible] --

2 MR. SUHAR: Okay.

3 MS. MCNEIL: -- you know; okay?

4 MR. SUHAR: Sure. Right. Yeah.

5 MS. MCNEIL: All right.

6 MR. SUHAR: I understand.

7 MS. MCNEIL: Okay.

8 MR. SUHAR: Thank you so much. You're --

9 MS. MCNEIL: Okay. All right.

10 MR. SUHAR: -- I rea- -- I appreciate that  
11 [inaudible].

12 MR. HATCHER: Madame Examiner --

13 MS. MCNEIL: Yes, sir.

14 MR. HATCHER: -- for clarification purposes,  
15 does that mean Mr. Suhar has the Wingate Civic  
16 Association actually taking a vote on whether they  
17 support or not support this?

18 MS. MCNEIL: He'll take your proffer now  
19 knowing you'll follow it up. Yeah. He -- he's right to  
20 ask that. If you could answer, Mr. Suhar.

21 MR. SUHAR: Sure. Yeah. The Wingate  
22 Homeowner's Ass- -- all members are -- it's not

1 required for all members of the Wingate Homeowner's  
2 Association to take a vote on every issue. I could --  
3 I could equally ask the question of Mr. Hatcher's  
4 client, which is a corporation, if they made a -- you  
5 know, if they -- they rendered a vote too on this  
6 issue, I -- I think to -- you know, for fairness and --  
7 and equity in -- in -- in this -- in this matter as  
8 well as any other matter that comes before you, Madame  
9 Hearing Examiner, you know, it would -- it would -- it  
10 would be --

11 You know, look, I -- I think to try and impose  
12 a -- a -- you know, require a vote of 256 lot owners is  
13 --

14 MS. MCNEIL: Okay. Then let me tell you --

15 MR. SUHAR: -- it -- it -- it's -- it's just  
16 too much.

17 MS. MCNEIL: -- thi- -- this has been --

18 MR. SUHAR: We have a representative body --  
19 there's a governing body that was elected by the  
20 membership to make decisions and --

21 MS. MCNEIL: Okay. Mr. Suhar --

22 MR. SUHAR: Yeah.

1 MS. MCNEIL: -- maybe we're not making clear.  
2 The issue is to let us know who -- whomever has the  
3 right to comment on a zoning case. If it's the  
4 committee, then that's what it'll say and that's who it  
5 will say took this position --

6 MR. SUHAR: Right.

7 MS. MCNEIL: -- but we ask this and the board  
8 of appeals does as well and probably the planning board  
9 as well --

10 MR. SUHAR: Okay.

11 MS. MCNEIL: -- because we -- we don't want  
12 someone to come in, make that statement and then 400  
13 other people write us and say, that was never our  
14 position, that's all; okay?

15 MR. SUHAR: Yeah. Well, I -- I appreciate  
16 that. I -- I -- I don't know where the -- this  
17 requirement is in the rules, but I -- I do know that --  
18 my feeling is is that this has come from the People's  
19 counsel, Mr. Stan Brown, originally. And so -- but  
20 that's just [inaudible].

21 MS. MCNEIL: Look, you talked him up, here he  
22 is.

1 MR. SUHAR: Yeah.

2 MS. MCNEIL: Yeah. It's -- it's not just him,  
3 I can tell you it's been in -- in practice.

4 MR. SUHAR: It is not. Okay. All right.

5 MR. HATCHER: I just think for coordination  
6 purposes, since the applicant does continue to do its  
7 community outreach, it's -- in the spirit of fairness,  
8 it might be helpful to know if they need to be  
9 coordinating with the board of directors of the Wingate  
10 Civic Association or this committee or was it just the  
11 president that told --

12 We -- we -- I mean, independent of any legal  
13 obligation, which I -- I'm not entirely sure there  
14 isn't, just for coordination and community outreach  
15 purposes, we -- if -- if -- if Mr. Suhar does not  
16 indicate that somebody with some authority has in- --  
17 has told him that this is the position of the civic  
18 association, we're just not entirely sure who he's  
19 speaking on behalf of.

20 MS. MCNEIL: Right. And if we don't get that  
21 information, then I would give the testimony or  
22 document the proper weight and it probably would be



1 just Mr. Suhar's opinion. So I think he will get it for  
2 me.

3 MR. SUHAR: Yes.

4 MS. MCNEIL: Mr. Brown, do you have -- you  
5 heard enough to -- do you want to weigh in or --

6 MR. BROWN: Well, I mean, I know what the  
7 issue is. Mr. Suhar, I tried to explain it to you in  
8 the case you did a couple of weeks ago.

9 The reason for the request is, as I'm sure  
10 you've already been told, is there are many people in  
11 HOAs and civic associations and other nonprofits who  
12 come forward and take a position, but they do not  
13 necessarily voice the position -- the official position  
14 of the organization and that is why we require that an  
15 officer of the organization put forth a letter signed  
16 on behalf of the organization indicating that a meeting  
17 was held, a certain number of participants participated  
18 and a vote was taken and then that's the official  
19 position of your organization.

20 Nobody is disputing that you represent them,  
21 but the issue becomes whether or not if you've got 100  
22 people in an organization and only 2 of them are active

1 and 2 of them oppose an application, that's not the  
2 official position of the HOA. And so that's the only  
3 reason that this is requested and it will be requested  
4 of the applicant.

5 If the applicant comes in here and say they  
6 have an organization with 300 people and they're in  
7 support of their application but only 2 people show up,  
8 they've got to prove to this body that it is the  
9 official position of the HOA. It's a very simple  
10 requirement.

11 MS. MCNEIL: And -- and I --

12 MR. SUHAR: [inaudible]

13 MS. MCNEIL: -- I would only amend that to say  
14 it could be the HOA or it could be that land use  
15 committee if the HOA authorized the land use committee  
16 to just render its position, but you understand we'll  
17 need something --

18 MR. SUHAR: I understand.

19 MS. MCNEIL: -- explaining.

20 MR. SUHAR: I understand what your position  
21 is. Thank you so much. You're --

22 MS. MCNEIL: Okay.

1 MR. SUHAR: -- I will -- I will -- I will  
2 respond.

3 MS. MCNEIL: And -- go ahead. Go ahead.

4 MR. SUHAR: Thank you.

5 MS. MCNEIL: No. Go ahead. Were you finished?

6 MR. SUHAR: Oh, yeah. I was finished. Yeah.  
7 I'm sorry if I interrupted you.

8 MS. MCNEIL: Okay. And you all, I'll bring up  
9 one last thing before we start just for any laypeople  
10 that may not have been to one of these hearings. It's  
11 important to note that even though we're getting  
12 People's position, the zoning decision is not based on  
13 the number of people in favor or the number of people  
14 opposed.

15 That's zoning plebiscite they call that. So  
16 don't worry, it's not based on that at all, it's based  
17 on the law and whether or not applicant meets the  
18 burden of all the criteria in the law. So I thought I  
19 would put that out there. And Mr. Hatcher, I think now  
20 you can call your first witness.

21 MR. HATCHER: I'd like to call Mr. David  
22 Stewart, the attorney in fact, property owner.

1 MR. STEWART: Good morning, everybody.

2 MS. MCNEIL: Good morning, Mr. Stewart. Do you  
3 swear or affirm under the penalties of perjury that the  
4 testimony you shall give will be the truth and nothing  
5 but the truth?

6 MR. STEWART: Yes. I do.

7 MR. HATCHER: All right. Can you please state  
8 your full name and current address for the record?

9 MR. STEWART: My name is David Morris Stewart  
10 [ph] and I currently reside at 6101 Atlantic Avenue,  
11 Ocean City, Maryland, zip code 21842.

12 MR. HATCHER: Are you familiar with the  
13 property which is the subject of the application?

14 MR. STEWART: Oh, most definitely.

15 MR. HATCHER: When is -- when did Mrs. Stewart  
16 appoint you as her attorney in fact?

17 MR. STEWART: She appointed me on April 25,  
18 2021.

19 MR. HATCHER: Was this appointment made in  
20 writing?

21 MR. STEWART: Yes. It was.

22 MR. HATCHER: Madame Examiner, the applicant

1 requests that Exhibit 95 be brought up on the monitor.

2 MS. BAH: I'm sorry, which exhibit?

3 MR. HATCHER: Ninety-five.

4 MS. BAH: Okay. Hold on one second.

5 MR. HATCHER: For -- Madame Examiner and  
6 People's zoning counsel, for logistics purposes, I'll  
7 be requesting many of the exhibits be brought up just  
8 for our -- for the witnesses just to review. I don't  
9 necessarily need to do that unless you guys would  
10 prefer that I do that. I have all of the exhibits that  
11 each one will be speaking to and their exhibit number  
12 as offered with -- as the exhibit list is offered  
13 yesterday.

14 MS. MCNEIL: I'd like -- it would help me --  
15 it would help me if it's any witness with a plan. Those  
16 plans are very small and -- and it might help the folks  
17 -- this is 95?

18 MS. BAH: Yes. This is Exhibit 95.

19 MR. HATCHER: It's actually supposed to be 92.  
20 Can you -- can you check all the exhibits [inaudible]?  
21 Can you all see the -- the image that's on the screen?

22 MS. MCNEIL: Yes.

1 MR. STEWART: Yeah. So that is indeed Exhibit  
2 --

3 MR. HATCHER: I apologize, is this -- is this  
4 -- is this from the exhibit list that was circulated  
5 yesterday or is this from the binders? My exhibit  
6 references --

7 MS. MCNEIL: [inaudible]

8 MR. HATCHER: Yeah. My exhibit references from  
9 the exhibit lists that were circulated yesterday. I can  
10 cer- -- I certainly can reference the exhibits in the  
11 binders, but that's something I would --

12 MS. BAH: This is the exhibit that I have in  
13 binder two. Should I be looking somewhere else?

14 MR. HATCHER: No. That's the -- that's the  
15 accurate documents.

16 MS. MCNEIL: Let me see.

17 MS. BAH: Of what I have here of 92, a  
18 certificate of good standing dated 12/5/23, but here,  
19 this says Exhibit 92. So -- okay. Let me see  
20 [inaudible].

21 MS. MCNEIL: Wait. I'm sorry, am I -- okay.  
22 [inaudible]. Okay. That ne- -- there's another issue

1 that had been going on with the exhibit list, but the  
2 binder exhibits are really the ones everyone saw. So  
3 we're going to use the binder exhibits and fix the  
4 exhibit lists later if you don't mind. I'm sorry for  
5 the inconvenience. So it is 92 in the binder?

6 MR. HATCHER: Yes, ma'am.

7 MS. MCNEIL: Okay. Because that's what  
8 everyone saw if they went online to look at this.

9 MS. BAH: Okay. Give me one second, I'm sorry.

10 MS. MCNEIL: Sure. I'm sorry.

11 MS. BAH: Mm-hmm. No. You're fine.

12 MS. MCNEIL: And while she's doing that, Mr.  
13 Hatcher, the issue probably will pop up more in binder  
14 two. All of one is probably the same as the list you  
15 have.

16 MR. HATCHER: I understand. Should we --

17 MS. MCNEIL: Well, you should, because you all  
18 are the ones that kept sending things late. No, I'm  
19 just doing a little brevity here, I apologize for the -  
20 - for the issue.

21 MR. HATCHER: -- should we -- how would -- how  
22 would you like us to proceed right now?

1 MS. MCNEIL: I mean, for this witness, there's  
2 an exhibit, probably Exhibit 92, that states that Ms.  
3 Stewart provided power of attorney to Mr. David Stewart  
4 and you can just talk about it.

5 MR. HATCHER: Right. Okay. Was it made in  
6 writing? So according to the exhibit list that was  
7 circulated yesterday and I believe the document that  
8 was just on the -- on the monitor, which is listed as  
9 Exhibit 92, it's supposed to be power of attorney,  
10 which is not what's on the monitor right now.

11 MS. MCNEIL: Well, Mr. Hatcher, the -- the  
12 document -- unless someone has a question and we'll get  
13 it out shortly --

14 MR. HATCHER: Right.

15 MS. MCNEIL: -- the document is in the record  
16 as Exhibit 92 on the binders.

17 MR. HATCHER: Okay.

18 MS. MCNEIL: You can just question your  
19 witness.

20 MR. HATCHER: Okay. Is that exhibit a true and  
21 accurate copy of the power of attorney that contains  
22 your appointment to act on Mrs. Stewart's behalf?



1 MR. STEWART: Yes. I was given the power shown  
2 on Page 2 of Exhibit 95, which now we're in question we  
3 think is 92. So what do I say?

4 MR. HATCHER: You know, what -- what is your  
5 vision for the future use of the subject property?

6 MR. STEWART: Well, in keeping with my  
7 mother's wishes, she wished the property to be used to  
8 provide high-quality housing opportunities for the  
9 seniors in the Glenn Dale community and -- go ahead.

10 MR. BROWN: Madame Examiner, I don't  
11 understand what the purpose of this power of attorney  
12 is. The document that was placed in the record is a  
13 power of attorney for financial matters given to Mr.  
14 Stewart on behalf of his mother. It has absolutely  
15 nothing to do with this case.

16 If he wants to testify as an individual on his  
17 own behalf, then he should do that, but having power of  
18 attorney to decide financial matters is not the same as  
19 having general power of attorney to act for an  
20 individual. And also, Mr. Hatcher, is there a reason  
21 that -- I'm sorry, Mr. Stewart, what is your mother's  
22 name again?

1 MR. STEWART: My mom's sitting right here, her  
2 name is Joan Marie Stewart [ph].

3 MR. BROWN: Why can't she speak for herself?

4 MR. STEWART: Well, she can, but she's  
5 requested that I speak for her. She's of age and she's  
6 -- she's nervous, you can understand that, and -- but  
7 she is sitting here.

8 MR. BROWN: She's here and she's present. I  
9 mean, she should speak for herself. If you want to  
10 testify as an individual, you can do that on behalf of  
11 your- -- yourself.

12 MR. STEWART: I understand. I understand.

13 MS. MCNEIL: If I may, I would overrule as to  
14 just one part, if you could get your mother to state  
15 her name and that she would like you to testify because  
16 she doesn't want to talk to me, one of the nicest  
17 people in the world, that's fine and then you'll say;  
18 okay?

19 MR. STEWART: Go ahead, mom, state your name.

20 MS. STEWART: Joan Marie Stewart.

21 MR. STEWART: And --

22 MS. MCNEIL: And Ms. Stewart, do you swear or

1 affirm that everything you're about to tell me is the  
2 truth and nothing but the truth?

3 MS. STEWART: Yes, ma'am.

4 MS. MCNEIL: Okay. Mr. Hatcher, you want to --

5 MR. HATCHER: Ms. Stewart, does -- does your  
6 son have the authority to speak on your behalf of real  
7 estate matters, particularly as it relates to the  
8 Stewart property?

9 MS. STEWART: Yes. He does. He has my full  
10 support on this.

11 MR. HATCHER: Okay. Now you may question Mr.  
12 Stewart.

13 MR. HATCHER: So yeah, Mr. Stewart, is there a  
14 particular reason you want the subject property  
15 developed with the proposed senior housing use?

16 MR. STEWART: Well, yeah, I do and I'm  
17 speaking for my mother as well, but we have talked  
18 about it and she -- she would like the property to be  
19 used for high-quality housing opportunities for the  
20 seniors in the surrounding Glenn Dale area. This --  
21 this housing project would, you know, allow for seniors  
22 to age in their community.

1           It will also give the county residents the  
2 option to live close to their families and friends,  
3 work, shopping but without the activities of an all-  
4 ages community.

5           MR. HATCHER: Madame Examiner, I have no  
6 further questions for Mr. or Mrs. Stewart.

7           MS. MCNEIL: Mr. Suhar, do you have any  
8 questions?

9           MR. SUHAR: No -- no questions. Thank you very  
10 much.

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

13          MR. BROWN: No questions.

14          MS. MCNEIL: Okay. Thank you both so much.

15          MR. STEWART: All right. Thank you.

16          MR. HATCHER: The applicant would now like to  
17 call Jude Burke.

18          MS. MCNEIL: Mr. Burke.

19          MR. BURKE: I'm online, hopefully you can hear  
20 me. I'm trying to get my camera working here, I  
21 apologize.

22          MS. MCNEIL: Okay. Mr. Hatcher, you -- oh,

1 there he is. Great.

2 MR. BURKE: Thank you.

3 MS. MCNEIL: Mr. Burke, do you swear or affirm  
4 under the penalties of perjury that the testimony you  
5 shall give will be the truth and nothing but the truth?

6 MR. BURKE: Yes. I do.

7 MS. MCNEIL: Okay.

8 MR. HATCHER: Mr. Burke, can you please state  
9 your full name and business address for the record?

10 MR. BURKE: Jude Burke, 1355 Beverly Road,  
11 Suite 240, McLean, Virginia 22101.

12 MR. HATCHER: Where are you currently  
13 employed?

14 MR. BURKE: Elm Street Development.

15 MR. HATCHER: What is your current position  
16 with Elm Street Development?

17 MR. BURKE: I'm the vice president.

18 MR. HATCHER: Can you briefly summarize Elm  
19 Street Development's previous work in Prince George's  
20 County?

21 MR. BURKE: I've been working on projects in  
22 Prince George's County for Elm Street for 20 years. Our

1 projects in that time include Glenn Dale Forest, the  
2 Ridings at Upper Marlboro and Stonegate Estates, which  
3 are all single-family detached houses. The Park at  
4 Addison Metro and the Crescent at Cherry Lane in Laurel  
5 are both a mix of single-family detached and attached  
6 houses.

7 MR. HATCHER: Okay. Are you authorized to  
8 testify on behalf of ESC 20- -- I mean, 3- -- 8215  
9 Springfield, L.C.?

10 MR. BURKE: Yes. I'm authorized to testify on  
11 behalf of ESC 8215 Springfield, L.C.

12 MR. SUHAR: I'm just go- -- at this point, I  
13 just want to note an objection for the record.

14 MS. MCNEIL: And that is?

15 MR. SUHAR: As to a decision that was made by  
16 the corporation. He's here in a representative  
17 capacity, but he -- the -- the -- there's -- there's --  
18 there's no evidence that -- that there was a vote taken  
19 by the corporation to authorize him to be here --

20 MS. MCNEIL: Okay. I was going to say --

21 MR. SUHAR: -- because that's the standard. Go  
22 ahead.

1 MS. MCNEIL: Okay. I'll rule on it in one  
2 second and allow Mr. Hatcher to ask further questions.  
3 I didn't hear enough about the tie between those two  
4 corporations either. So --

5 MR. HATCHER: All right.

6 MS. MCNEIL: -- go ahead.

7 MR. HATCHER: How -- how is -- how is Elm  
8 Street Development affiliated with ESC 8215  
9 Springfield, L.C.?

10 MR. BURKE: ESC 8215 Springfield, L.C. is a  
11 single-purpose limited liability company that we set up  
12 for this specific project. Elm Street is the entire  
13 owner of ESC 8215 Springfield, L.C. As a vice president  
14 of Elm Street, I'm authorized to sign for the  
15 corporation and commit us to anything that any acts of  
16 corporation can take.

17 As the limited liability company, I am the  
18 manager of the limited liability company, ESC 8215  
19 Springfield, L.C. So again, au- -- authorized to -- to  
20 -- to speak for the LLC as well as Elm Street  
21 Development.

22 MR. HATCHER: Madame Examiner, I think -- do -

1 - do you need further information? You said you were  
2 going to rule after you [inaudible].

3 MS. MCNEIL: Right. So Mr. Suhar, having heard  
4 that, I would overrule your objection.

5 MR. SUHAR: Okay. Thank you.

6 MR. HATCHER: Mr. Burke, is ESC 8215  
7 Springfield, L.C. authorized to do business in the  
8 state of Maryland?

9 MR. BURKE: Yes. It's registered as a limited  
10 liability company in the state of Maryland and is in  
11 good standing.

12 MR. HATCHER: For reference purposes, Mr.  
13 Brown and Mrs. -- got you. For ref- -- Madame Hearing  
14 Examiner, Ex- -- Exhibit 82, which is a certificate of  
15 good standing, which is in the record -- 92, excuse me.  
16 Is the app- --

17 MS. MCNEIL: That's the correct number. Good.  
18 Go ahead.

19 MR. HATCHER: Were you involved in the  
20 decisionma- -- the decision to develop the proposed  
21 planned retirement community for the location?

22 MR. BURKE: Yes. I lead the development effor-



1 -- efforts for the proposed planned retirement  
2 community.

3 MR. HATCHER: Please briefly summarize the  
4 decision process to develop the proposed planned  
5 retirement community use at the subject property.

6 MR. BURKE: We considered different types of  
7 residential development for the property since the  
8 planned retirement community is allowed in the RR zone  
9 under both the old and new zoning codes and there's a  
10 need for more senior housing in Prince George's County  
11 to those -- housing of all types, we decided that the  
12 PRC use would be the most appropriate.

13 An age-restricted community with fee-simple  
14 ownership of each house fits in with the residential  
15 character of the existing community and it fills the  
16 need for more senior housing in Prince George's County  
17 as the population ages. It leverages a convenient  
18 location and the existing in- -- infrastructure while  
19 having a lower impact on traffic and schools in the  
20 area than the by right single-family large lots would  
21 have.

22 Senior housing of this type on the subject

1 property would be a viable option for neighbors to  
2 remain in the Glenn Dale community as they age.

3 MR. HATCHER: How many units of senior housing  
4 are proposed with this special exception application?

5 MR. BURKE: Fifty-seven houses of fee-simple  
6 senior housing are proposed.

7 MR. HATCHER: Approximately how many dwellings  
8 proposed per acre?

9 MR. BURKE: It's about 4.75 dwelling units  
10 proposed per acre.

11 MR. HATCHER: Okay. At -- at this -- at this  
12 point, Madame Examiner, Jude's going to be -- Mr.  
13 Burke's going to be referencing Exhibits 21 and 22 as  
14 he describes the type of units that Elm Street is  
15 proposing here. I'm going to continue with my  
16 questions, but for purposes of the -- of the record, I  
17 just wanted to have that as a reference point. What  
18 type of single-family attached units are proposed?

19 MR. BURKE: They are villas. They're a type of  
20 single-family attached house designed for seniors with  
21 all of the necessary living spaces, such as owner's  
22 suite, kitchen, dining and laundry on the first floor.

1 There's a smaller upstairs level less -- less than half  
2 the footprint of the house with a bathroom and a couple  
3 of rooms that can be used as guest bedrooms or study or  
4 a reading room, sewing room, that type of thing.

5 The -- there -- there may be a partial  
6 basement if the lot they're on has a grade decline  
7 towards the rear of the house.

8 MR. HATCHER: Okay. Can you elaborate on the  
9 pro- -- the proposed design associated with the villas?

10 MR. BURKE: We're proposing a 28-foot wide  
11 house on every lot, each house will have a 2-car  
12 garage. Every house will have a minimum of 60 percent  
13 masonry on the front of the house, including the entire  
14 first floor.

15 Houses with highly visible end walls will have  
16 masonry on the first floor along with extra -- four  
17 points of architecture on the first floor, three points  
18 of architectural fenestration on the second floor and  
19 enhanced roofline detail and shutters on all windows on  
20 those sides.

21 MR. HATCHER: At this point, we can remove the  
22 exhibits from -- from the view. Are any onsite

1 recreational facilities proposed with this application?

2 MR. BURKE: Yes. We're going to have several  
3 onsite recreational amenities.

4 MR. HATCHER: Can you testify to the types of  
5 recreational facilities proposed?

6 MR. BURKE: The proposed development will have  
7 multiple community amenities to provide opportunities  
8 for residents to spend time together outdoors. The  
9 amenities include a gathering area with a lighted  
10 pavilion and additional seating spaces on a plaza  
11 around that pavilion, including a game table and also  
12 community gardens. There'll also be three outdoor  
13 fitness machines and walking trails in the community.

14 MR. HATCHER: How -- how will age restrictions  
15 be enforced for the proposed senior community?

16 MR. BURKE: Age restrictions will be enforced  
17 through covenants approved by the Prince George's  
18 County Council and recorded in the county land records  
19 and a draft of the proposed age-restriction covenant  
20 was submitted as part of the special exception  
21 application.

22 MR. HATCHER: For reference purposes, Madame

1 Examiner and People's zoning counsel, Exhibit 10, I  
2 believe, is the age restriction covenants that were  
3 submitted with this application.

4 MS. MCNEIL: The -- if I could ask a quick  
5 question about those. So the -- the law seems to state  
6 that the district council will approve these, but  
7 usually, the actual items should be in this record. So  
8 this one's a draft. Are you proposing to submit what  
9 you consider to be the final draft after the case in  
10 the event that you're recommended for approval? Is that  
11 what's going on? Because this is clearly just the  
12 draft; right?

13 MR. HATCHER: Yes.

14 MS. MCNEIL: Exhibit A is totally blank.

15 MR. HATCHER: Yes.

16 MS. MCNEIL: Okay. Okay. Did somebody else  
17 have a question based on that? I thought I heard  
18 something.

19 MR. BURKE: I will let my attorney speak for  
20 me. Thanks.

21 MS. MCNEIL: Okay. Go ahead, Mr. Hatcher.  
22 Thanks for that.

1 MR. HATCHER: In your experience, will the --  
2 will the -- will the needs be met for the retirement  
3 community with the villas and the recreational  
4 facilities you're proposing?

5 MR. BURKE: Yes. The -- as I said, the -- the  
6 villa style house has all the living spaces on the  
7 first floor. It has room for guests upstairs, compact  
8 yards, we'll have maintenance provided by the  
9 homeowner's association. The -- and of course, all the  
10 common areas will be maintained by the homeowner's  
11 association and the -- the age-restricted community  
12 just provides a quieter, calmer neighborhood than an  
13 all-ages neighborhood.

14 The location is extremely convenient and that  
15 allows the future residents to maintain their ties to  
16 family, friends and the rest of their circle, medical  
17 providers, businesses they're used to working with and  
18 still stay in the community.

19 MR. HATCHER: Did the applicant perform any  
20 community outreach related to this application?

21 MR. BURKE: Yes. I contacted the Springfield  
22 Manor and the Oakstone Homeowner's -- Homeowner's

1 Associations since they're the adjacent property  
2 owners. I had virtual meetings with Springfield Manor  
3 on May 24, 2022 and Oakstone on June 23, 2022. I had a  
4 virtual meeting with the Glenn Dale Citizens  
5 Association on April 19, 2022.

6 I had a virtual meeting with the Wingate  
7 Homeowner's Association on November 14, 2022 and at  
8 each meeting I gave my phone number and email address  
9 out and invited the attendees to pass my contact  
10 information along to neighbors who couldn't attend and  
11 in- -- invited them to contact me to discuss the  
12 project further.

13 And also spoke with other residents adjacent  
14 or near the subject property, especially after we sent  
15 pre-application mailings in November, 2022, received  
16 calls from a few folks and spoke with them and emailed  
17 plans to people.

18 MR. HATCHER: Are you familiar with the  
19 technical staff report dated September 20, 2023 as  
20 amended by development review staff's October 4, 2023  
21 supplemental memorandum?

22 MR. BURKE: Yes. September 30, 2023, I think

1 is the date on the technical staff report and as  
2 amended by the supplemental memorandum, yes, I reviewed  
3 them.

4 MR. HATCHER: Do you agree with the analysis  
5 contained in there?

6 MR. BURKE: Yes. I do.

7 MR. HATCHER: At this point, I have no further  
8 questions for Mr. Burke.

9 MS. MCNEIL: Mr. Suhar, do you have any  
10 questions?

11 MR. SUHAR: Yes. I do, just a -- just a couple  
12 questions. Thank you. Morning, Mr. Burke.

13 MR. BURKE: Morning.

14 MR. SUHAR: You said that -- you -- you -- you  
15 -- you testified that there was a need for planned  
16 retirement community in -- in Glenn Dale; is that  
17 correct?

18 MR. BURKE: Yes.

19 MR. SUHAR: Okay. And what -- what -- what's  
20 the basis for your determination?

21 MR. BURKE: The Bowie area has been asking for  
22 more senior housing going back to, again, 20 -- 20



1 years ago when I started in this business. We've heard  
2 from Bowie that they -- they seek more senior housing  
3 and that's right next door to Glenn Dale. There's a --  
4 just an overall housing shortage and a need for senior  
5 housing.

6 Again, I've been working on projects in the  
7 county since 2003 and have seen that there's a -- a  
8 shortage of housing of all types and by adding senior  
9 housing, tho- -- those families who are in the 55-plus  
10 bracket and qualify can move out of their existing  
11 houses, sell those to a younger family and move into an  
12 age-restricted community just increa- -- so even though  
13 it's age-restricted, it helps with the housing stock of  
14 the entire county.

15 MR. SUHAR: Have you conducted surveys?

16 MR. BURKE: No.

17 MR. SUHAR: Okay. So what -- what -- what  
18 basis are you finding -- you said that there's a need  
19 in Bowie. What -- what --

20 MR. HATCHER: Objection; asked and answered.

21 MS. MCNEIL: Give him just a little more  
22 leeway, Mr. Hatcher, overruled.

1 MR. SUHAR: Thank you. So --

2 MR. BURKE: I'm relying on my -- my expertise  
3 as a -- a developer in the county for 20 years that we  
4 know there's a need for houses and we know there's a  
5 need for senior housing in the county. There's a number  
6 of other projects, not a lot, but there are other  
7 senior housing projects that have been selling strongly  
8 to demonstrate that there's a demand for that product  
9 in the county and we're -- we're confident that there's  
10 a need and a demand for these houses at this location.

11 MR. SUHAR: So you -- you -- you just said  
12 that you're -- you're an expert?

13 MR. BURKE: I said I'm relying on my expertise  
14 with my 20 years of experience developing land in  
15 Prince George's County.

16 MR. SUHAR: Okay. Madame Hearing Examiner, I -  
17 - I -- I don't believe that there was any -- any --  
18 that -- that the -- that the witness here was  
19 designated as an expert.

20 MR. BURKE: I'm using expertise with a  
21 lowercase E, I think, not a capital.

22 MR. SUHAR: Oh -- oh, okay. All right. So

1 you're -- you're not an expert then?

2 MR. BURKE: I --

3 MS. MCNEIL: He has not been designated as an  
4 expert witness.

5 MR. HATCHER: Yeah. Yeah. Ob- -- objection.

6 MR. SUHAR: Oh, okay.

7 MR. HATCHER: He has not been qualified as an  
8 expert witness, we didn't proffer him as an expert  
9 witness, he's -- as Mr. Jude said, he is relying on his  
10 expertise of 20 years of work in Prince George's County  
11 on various types of projects throughout the county and  
12 also, he referenced documents approved by the council  
13 relating to the need, particularly as it relates to  
14 Bowie and vicinity.

15 MR. SUHAR: Just for verification purposes, he  
16 said he had expertise. I just wanted to make -- you  
17 know, clarify whether he was an expert and you  
18 clarified it for me. Thank you. So Mr. Burke -- but --  
19 so do -- do you have any -- any -- is there any  
20 documentation that you've relied upon in determining  
21 the need for planned retirement community in Glenn Dale  
22 or even Bowie?

1 MR. BROWN: I'm going to have to object.

2 MR. HATCHER: Yeah. Object. Yeah. Sorry, Mr.  
3 Brown.

4 MR. BROWN: And the reason for this is the  
5 direct examination was somewhat conflating the issue of  
6 whether there is a need for this particular product  
7 versus whether or not the needs of the retirement-aged  
8 community are met. So I want to clarify it, Mr. Burke,  
9 so you understand really what the questions are.

10 Under 27-395 A1A1, the district council shall  
11 find that proposed use will serve the needs of the  
12 retirement-aged community. That was the question that  
13 was asked by your counsel. The other counsel of need  
14 under the same section, Section 3, is in the RA Zone,  
15 there shall be a demonstrated need for the facility.

16 This is not in the RA Zone, it's in the RR  
17 Zone. Therefore, there is not a requirement to show  
18 need in a community for this particular project. So Mr.  
19 Suhar, I say that to you so that maybe you can direct  
20 your questions as it relates to need to 27-395 A1A1  
21 [sic], that is the proposed use will serve the needs of  
22 the retirement-aged community, because that is the

1 testimony, which Mr. Burke was giving on his direct  
2 examination, not need of the actual facility in the  
3 general community.

4 MS. MCNEIL: So I would sustain, but you did  
5 mean there was some conflation in the cross-  
6 examination; right? Because you said direct. I'm just  
7 trying to make sure.

8 MR. BROWN: Actually, in both.

9 MS. MCNEIL: Okay. Okay. Okay. Thank you. So  
10 he's sustained. Do you have other questions, Mr. Suhar?

11 MR. SUHAR: Yeah. So I'll move on, just --  
12 just one other question.

13 MS. MCNEIL: Okay.

14 MR. SUHAR: Mr. Burke, you said that you met  
15 with the Wingate Homeowner's Association on November  
16 14, 2023. I'm sorry, '22.

17 MR. BURKE: I think that's the date -- you --  
18 it was a meeting you were at.

19 MR. SUHAR: Oh, okay. Right.

20 MR. BURKE: The Zoo- -- the Zoom meeting we  
21 had with them, not in person.

22 MR. SUHAR: Right. Okay. And at -- at that --

1 during that meeting, were you proposing the same number  
2 of dwelling units as you're proposing now?

3 MR. BURKE: The -- again, that was a year ago,  
4 the plans were still in address state. I don't remember  
5 for sure exactly what the unit count was at that point,  
6 but I think I was clear that -- at that point, that we  
7 were still working on the plans in the -- the proposal.

8 MR. HATCHER: I object to the relevance of the  
9 question.

10 MS. MCNEIL: Do you have any proffer as to why  
11 you're asking it, Mr. Suhar?

12 MR. SUHAR: Yeah, because he -- he said that  
13 he met with our -- with the community. I was just  
14 wondering if it was the same -- I -- I want to know  
15 from -- from Mr. Burke that it was the same application  
16 as he's submitting today.

17 MR. HATCHER: That's actually a different  
18 question you asked.

19 MS. MCNEIL: Right. He doesn't object to that  
20 one. Go ahead.

21 MR. SUHAR: The same number of dwelling units.  
22 It was -- it was more specific than that, same number

1 of dwelling units, yes or no?

2 MS. MCNEIL: You could answer that, Mr.  
3 Hatcher if he --

4 MR. SUHAR: Or if he doesn't know, that's  
5 fine.

6 MR. BURKE: Again, that -- that was prior to  
7 the actual application going in or -- or being  
8 accepted. And so I'm trying to find the slides I  
9 would've used with your group that night, Mr. Suhar, to  
10 see what my site plan looked like on November 14th and  
11 I found them. So --

12 MS. MCNEIL: Well, while he's doing that, Mr.  
13 Suhar, do you know that there's a -- a different  
14 amount? Could you ask him, isn't it true that it was X  
15 amount? That might help him remember.

16 MR. BURKE: On my -- well, I'm sorry to  
17 interrupt, Ms. Hearing Examiner.

18 MS. MCNEIL: Go ahead. Mm-hmm.

19 MR. SUHAR: Yeah. I -- I thought that it was  
20 over -- over -- over 70, but I'm not recollecting  
21 [inaudible].

22 MR. BURKE: I -- I -- I've definitely never

1 showed that many and I just found my November 14, 2022  
2 slides and it had 57 houses in a layout that's since  
3 been re- -- revised, but -- so we're still showing 57,  
4 but I --

5 MS. MCNEIL: Okay.

6 MR. BURKE: -- I don't think I've had a 70 or  
7 greater unit plan to show anybody on this property.

8 MR. SUHAR: Okay. Thank you. And did -- did  
9 any of the communities that you met with -- did they  
10 approve of the -- of your proposed project here, your  
11 special re- -- request for special exception?

12 MR. BURKE: Nobody took a vote in my presence,  
13 I just showed them our proposal and took questions.

14 MR. SUHAR: Okay. Thank you. No -- no further  
15 questions.

16 MS. MCNEIL: Just before Mr. Brown, there are  
17 a lot of elevations in this file. Do you know, did you  
18 change them over time or are they just different ver- -  
19 - versions? Because 21 and 22 are -- and also, 54, 55,  
20 56, 57, those are talking about the porches, etc. Is  
21 there a reason why we had so many, if you recall?

22 MR. BURKE: They may have been in response to



1 comments from staff during the application and  
2 acceptance process, but I think --

3 MS. MCNEIL: They are pretty similar, I just  
4 wondered --

5 MR. BURKE: -- I think they --

6 MS. MCNEIL: -- so for -- for example, one  
7 second, Ms. Bah [ph], if you could pull up Exhibit 56  
8 just showing him one, I just want to know that --

9 MS. BAH: Sure.

10 MS. MCNEIL: -- is still what you propose as  
11 the elevations.

12 MR. BURKE: Sure. And -- and after the  
13 hearing, I'll make sure that we whittle it down and  
14 say, you know, if there's extras or duplicates, I'll --

15 MS. MCNEIL: Okay.

16 MR. BURKE: -- make sure we can pull those.

17 MS. MCNEIL: So you see this one?

18 MR. BURKE: Yeah.

19 MS. MCNEIL: Okay. Okay. That's good. So  
20 you'll look afterwards and send me what you really  
21 believe to be descriptive of what you might wish to  
22 build there. Okay.

1 MR. BURKE: Yeah. Yes, Your Honor.

2 MS. MCNEIL: Oh, and the square footage is in  
3 Exhibit -- I'm sorry, Exhibit 23 I think. Is that still  
4 accurate? About how large are these homes?

5 MR. BURKE: Let's see, I'm trying to pull up  
6 the binder in all the exhibits.

7 MS. MCNEIL: Or maybe I'm -- thank you, Ms.  
8 Bah. Could you pull up Exhibit 23? That's hard to see,  
9 though. It's several pages of --

10 MS. BAH: Sure. [inaudible] open.

11 MS. MCNEIL: Thank you.

12 MS. BAH: No problem. I can zoom in.

13 MS. MCNEIL: Yeah. So he can sort of -- so you  
14 know this document --

15 MR. HATCHER: Yeah.

16 MS. MCNEIL: -- Mr. Burke?

17 MR. BURKE: Yes.

18 MS. MCNEIL: Okay. So about how many -- how --  
19 what's the square footage of the homes, a range?

20 MR. BURKE: I think on the far right, I think  
21 they're generally in the 1,800 square foot range.

22 MS. MCNEIL: Okay. Because somewhere in the

1 staff report I saw much larger numbers and I was  
2 wondering about that. So you think 1,800 or -- oh --

3 MR. HATCHER: Ma- -- Madame Examiner, if I  
4 may?

5 MS. MCNEIL: Sure.

6 MR. HATCHER: What -- what we plan on doing is  
7 along with what Mr. Jude said, going through the record  
8 and identifying any duplicates for purposes of not only  
9 the record but of your opinion and in that -- in that  
10 document we'll submit, which goes through the -- the --  
11 the -- every -- every exhibit in the record. We'll also  
12 provide the -- the square footage just for clarity  
13 purposes.

14 MS. MCNEIL: Okay. Because I found it like on  
15 Page 5 of the staff report, which I don't think was  
16 revised. Yeah. In the front, it says 2,200 to 3,200  
17 square feet.

18 MR. BURKE: Definitely not that big.

19 MS. MCNEIL: Okay. So I -- I really need that  
20 information. Thank you.

21 MR. BURKE: Yes, ma'am.

22 MS. MCNEIL: Okay. Mr. Brown, I'm sorry.

1 MR. BROWN: I have no questions.

2 MS. MCNEIL: Okay. Oh, now, is there anyone  
3 opposed to this request not represented by Mr. Suhar  
4 that has a question of Mr. Burke?

5 DR. PINE: Hi. This is Pamela Pine. I -- I  
6 pardon, I'm not a lawyer, I'm a homeowner right down  
7 the block that has never been spoken to, nor do I  
8 believe any of my neighbors have been spoken to.

9 MS. MCNEIL: Wait, wait, wait, Ms. Pine --

10 DR. PINE: Uh-huh.

11 MS. MCNEIL: -- state your name and address  
12 and make that a question for him.

13 DR. PINE: Dr. Pamela Pine --

14 MS. MCNEIL: Okay.

15 DR. PINE: -- 8100 Springfield Road, Glenn  
16 Dale, Maryland 20769. And --

17 MS. MCNEIL: Can you come on camera? I'm so  
18 sorry, Dr. Pine.

19 DR. PINE: Sure.

20 MS. MCNEIL: Okay.

21 DR. PINE: So I'm wondering why none of the  
22 neighbors in my area on Springfield Road have ever been

1 addressed or approached with any concerns about our  
2 questions.

3 MS. MCNEIL: So she's wondering isn't it true  
4 that you never addressed any of her neighbors or others  
5 on her street? And then you answer.

6 MR. BURKE: I disagree that I never approached  
7 or spoke with any of the neighbors. We -- I apologize  
8 if I didn't speak with you Ms. -- Dr. Pine. As a person  
9 of record now, you'll be on the list for all future  
10 mailings on this project and we sent notification  
11 letters to everybody on the park and planning list and  
12 I think we've got the certified mail receipts for  
13 those.

14 Did speak on the phone with a couple neighbors  
15 who live slightly closer to the subject property than  
16 Dr. Pine, but I -- I agree, I have not spoken with Dr.  
17 Pine and would be happy to make myself available to her  
18 to -- to show her the project in more detail.

19 DR. PINE: Or Mr. Fendlay or Mr. Hank Alda- --  
20 Aldas [sic] -- Alda- -- Aldag, sorry, Aldag. I don't  
21 think they've been spoken to either. I want -- I also  
22 have a question about whether -- and I know that there

1 are other witnesses coming up, I recognize that, but  
2 have there been any concerns addressed -- any  
3 individuals approached about their concerns about  
4 traffic issues and pollution issues?

5 MR. BURKE: So M- -- Mr. Aldag called me last  
6 week and we spoke for a while and I stopped by to speak  
7 with him yesterday at his house. The other name you  
8 mentioned I don't think I've spoken with, but again,  
9 happy to provide my phone number and email to every- --  
10 everybody out there and come out and meet with you in  
11 person with a set of the plans so we can go over that.

12 I think we're going to cover traffic with my  
13 traffic engineer here later. I -- I think we addressed  
14 the traffic impacts as required by the county.

15 DR. PINE: I -- I have one more question,  
16 please, if I -- if I may, Ms. -- Ms. McNeil, yes,  
17 zoning hearing --

18 MS. MCNEIL: Yes.

19 DR. PINE: -- I'm sorry, I don't know your  
20 full title, I can't see it, zoning hearing  
21 commissioner, is it?

22 MS. MCNEIL: Well, you don't have to say all

1 of that, Ms. -- Ms. McNeil is fine.

2 DR. PINE: Oh, okay.

3 MS. MCNEIL: Go ahead.

4 DR. PINE: Okay. So I'm also wondering, there  
5 had been discussion a few moments ago about the need  
6 for senior housing. I have two questions. Has anybody  
7 considered the fact that there are three senior housing  
8 developments in the nearby area, one which is still  
9 going up that is huge on Enterprise Road and -- and --  
10 and the ability of that to address the need of the  
11 community. That's one question.

12 MS. MCNEIL: Okay. Let him answer that if he  
13 can, Mr. Burke.

14 MR. BURKE: Yes. We're aware of that -- that  
15 project on Enterprise and we have considered that and  
16 we feel there is still going to be a need for more  
17 housing in the area.

18 DR. PINE: And in -- in relation to the  
19 housing itself, people have expressed -- I have  
20 expressed and others have expressed a question about  
21 why if this is planned housing for seniors who are  
22 known to have issues with joints and climbing and

1 breath, why these are multi-story homes.

2 MR. BURKE: The upstairs is generally extra  
3 space, a couple of spare bedrooms and a bathroom or  
4 they don't have to be bedrooms if, you know, visitors -  
5 - if kids or grandkids are visiting or a home office,  
6 but -- but everything that you need day to day is on  
7 that first floor from the owner's suite, kitchen,  
8 dining. Everything's on that first floor.

9 DR. PINE: Including bedrooms, yes?

10 MR. BURKE: The -- the owner's bedroom is on  
11 the first floor. Yes.

12 DR. PINE: Uh-huh. And -- and I would like,  
13 Ms. McNeil, if I could please invite other members of -  
14 - who are on this call like Mr. Aldag to see if he has  
15 any questions, because I know he had a number of  
16 concerns with regard to zoning and with regard to  
17 pollution issues and he's more familiar with those  
18 things than I am.

19 MS. MCNEIL: Ms. Pine, that was going to be my  
20 -- that's my job. I was going to ask the others if they  
21 wanted to speak.

22 DR. PINE: Well, right. I -- I -- I -- it's --



1 it's --

2 MS. MCNEIL: But thank you.

3 DR. PINE: Oh, no -- no problem. It's a  
4 problem I've inherited from my mother.

5 MS. MCNEIL: Okay. So that was Ms. Pine's  
6 question. Anyone else opposed not represented by Mr.  
7 Suhar who have questions of this witness. Questions?  
8 Okay. Mr. Holman.

9 MR. HOLMAN: Yes. Thank you, Madam Hearing  
10 Examiner. I'm Charles Holman, I live at 8306 Driscoll  
11 in Bowie. I'm an adjacent property owner to the  
12 development here just across the stream from where it's  
13 going to go. My questions center on the -- the land on  
14 which this is going to be built, which quite an  
15 incline.

16 It's a steep incline that rises towards  
17 Springfield Road and on the opposite side of the stream  
18 where I live, the land is very flat. So my question to  
19 Mr. Burke is what specifically is the developer going  
20 to do to minimize runoff which will probably be going  
21 into this creek and possibly onto our homes on the  
22 other side of this creek or stream?

1           Because I understand you're going to take out  
2 quite a bit of trees and I don't know whether you're  
3 going to level off the earth or leave it as it is, but  
4 again, my question is about the runoff and the impact  
5 on us as adjacent property owners. Can you address  
6 that, please?

7           MR. BURKE: Yes, sir. Good to see you again,  
8 Mr. Holman. As -- when we walked back there when I came  
9 over to your house last year, the -- the stream itself,  
10 the banks are fairly steep, but the Stewart property  
11 isn't actually all that steep, but the --

12           MR. HOLMAN: Oh, no, it is.

13           MR. BURKE: -- the -- the -- well,  
14 respectfully disagree on that, but the --

15           MR. HOLMAN: I'm looking at it right now.

16           MR. BURKE: -- so the -- the stream has a  
17 buffer and it's protected and we'll -- we'll have  
18 sediment controlled measures in place to keep any  
19 sediment from running into the stream. The -- the --  
20 the -- the ultimate stormwater management condition --  
21 or I guess you were -- you were just asking about  
22 sediment control I think?

1           MR. HOLMAN: Well, I -- maybe you can more  
2 elaborate on what you mean by sediment control, but my  
3 overall concern is all that water which currently goes  
4 into the ground and a lot of it is absorbed by many,  
5 many trees across the Stewart property. What's going to  
6 be done to ensure that adjacent property owners are not  
7 going to be affected by that runoff and I raise all  
8 this, because there is another development just next to  
9 us called Oakcrest, I believe it is, Oak-something.

10           MR. BURKE: Oakstone.

11           MR. HOLMAN: Oakstone, thank you. And when  
12 that was constructed, the homeowners that are across  
13 from that and the development in which I live began to  
14 suffer, basements flooding and a number of water issues  
15 and we just want to make sure that this land which is  
16 even steeper, the -- the Stewart property, that when  
17 it's developed, it's not going to create a serious  
18 problem for those of us on the other side of the  
19 stream.

20           And I'd like you to address all of the things  
21 that you are proposing to do, especially if you're  
22 taking down these trees, that's going to ensure that we

1 don't have a new problem created by this proposed  
2 development.

3 MR. BROWN: Let me interrupt you for a moment,  
4 Mr. Holman. Your question is really beyond the scope of  
5 the direct examination of Mr. Burke. And Mr. Hatcher,  
6 do you have someone else who plans to testify about  
7 topography and stormwater management?

8 MR. HATCHER: Amy Sommer from CPJ will -- will  
9 be testifying as well as Mark Ferguson.

10 MR. BROWN: All right. Mr. Holman, if you can  
11 reserve your questions concerning stormwater management  
12 for the -- Ms. Sommer who plans to testify, which is  
13 later on?

14 MR. HOLMAN: Well, I'd -- I'd prefer not to do  
15 that, because I think M- -- Dr. Pine addressed matters  
16 which were beyond the scope of the direct examination  
17 as well and I'm not here in the capacity as an  
18 attorney, I'm here as a property owner wishing to  
19 direct these questions to the developer of the land and  
20 Mr. Burke and I have had some discussions on this and I  
21 thought this was my opportunity to raise questions with  
22 him.

1           Now, if you want to have additional testimony  
2           from another witness later on, I certainly would like  
3           to hear that, but Madame Hearing Examiner, if you would  
4           just give me the opportunity to hear it from Mr. Burke,  
5           I would appreciate it.

6           MS. MCNEIL: I'm going to give just a little  
7           leeway. People's zoning counsel is correct, although,  
8           the rules of evidence are relaxed, but Mr. Burke,  
9           whatever he says, would not -- the expert witness  
10          that's coming on later is the one that could give you  
11          the most detail. But Mr. Burke, if you can -- if you  
12          can, answer the question.

13          MR. HOLMAN: Thank you.

14          MR. BURKE: Glad to. And a lot of that is  
15          answered by the role of the Department of Permitting,  
16          Inspections and Enforcement and Prince George's Soil  
17          Conservation District. We have to have very detailed  
18          plans through both those agencies for stormwater  
19          management, for sediment control during construction  
20          and the -- we comply with all the state and county  
21          regulations regarding those.

22          So there -- those laws and regulations are in

1 place to protect your property and other downstream  
2 properties. The -- the -- the stormwater management  
3 onsite is going to be submerged gravel wetlands and  
4 micro-bioretenention. The ultimate condition when the  
5 site is built is going to comply with the 2007 Maryland  
6 Stormwater Management Regulations.

7 The -- the goal of those regulations is that  
8 post-development the stormwater management discharge is  
9 the same as if the land was a wooded area in good  
10 condition. So in fact, it's actually more stringent  
11 than whatever's existing prior to construction. The --  
12 the post-construction condition is that it's got to be  
13 the same as a -- a -- a wooded area in good condition.

14 So we're at, I'll maintain the word, improving  
15 the stormwater management discharge off the property.

16 MR. ALDAG: Hello. I was wondering if I could  
17 give a little comment on that if I could?

18 MS. MCNEIL: Wait, wait, wait, wait --

19 MR. ALDAG: Oh -- oh.

20 MS. MCNEIL: -- one second. Mr. Holman, are  
21 you finished? We've going -- we're going one at a time  
22 --

1 MR. HOLMAN: Yes.

2 MS. MCNEIL: -- because we're recording this.  
3 You know, we're making a transcript.

4 MR. HOLMAN: Yes, Madame Hearing Examiner.  
5 Thank you.

6 MS. MCNEIL: Okay. And are you Mr. Aldag?

7 MR. ALDAG: I am. Hi. And --

8 MS. MCNEIL: Okay. State your name and address  
9 and then questions for Mr. Burke.

10 MR. ALDAG: It's actually Howard and Tanya  
11 [ph] Aldag, my wife is here too. We're at 8485  
12 Springfield Road in -- in Glenn Dale, Maryland. We also  
13 own 8465 and then we have another property that is  
14 12001 Lanham Severn Road, which is just at the bottom  
15 of the street on Lanham Severn Road.

16 And we, for the most part, basically have  
17 actually two items that I wanted to actually talk  
18 about. First item is the traffic and --

19 MS. MCNEIL: Wait, wait, wait --

20 MR. ALDAG: -- you know -- okay.

21 MS. MCNEIL: -- I'm so sorry, Mr. Aldag --

22 MR. ALDAG: Yeah.

1 MS. MCNEIL: -- are you going to be able to  
2 stick around? You're not leaving, are you?

3 MR. ALDAG: No. I'm not, but I have the  
4 environment impact of the Newstop Branch conversation  
5 for you.

6 MS. MCNEIL: Okay.

7 MR. ALDAG: I hired an expert to actually help  
8 us look at the environmental that were involved here.

9 MS. MCNEIL: Okay. I hear you, but --

10 MR. ALDAG: Yeah.

11 MS. MCNEIL: -- you're jumping the gun a  
12 little. Right now we can only --

13 MR. ALDAG: Oh.

14 MS. MCNEIL: -- do questions of Mr. Burke. So  
15 do you have any questions?

16 MR. ALDAG: Okay. Actually, you know, he was  
17 talking about, you know, his mitigation of, you know,  
18 the stormwater and how to keep, you know, the  
19 stormwater in good shape and also, you have the Newstop  
20 Branch water that is behind you and we -- yeah.

21 And basically, the Maryland Biological Stream  
22 Survey of 2018 showed that the stream was in good



1 shape, but it required having a certain amount of  
2 forest and certain amount of permeable land. And -- and  
3 so [inaudible] --

4 MS. MCNEIL: [inaudible]. Okay.

5 MR. ALDAG: -- the -- the changes that they're  
6 about ready to make actually, you know, will compromise  
7 a particular branch --

8 MS. MCNEIL: Okay. Hold on --

9 MR. ALDAG: Yeah. [inaudible] record --

10 MS. MCNEIL: -- hold on a second, Mr. Aldag.

11 Mr. Burke, do you know anything about the Newstop  
12 Branch and whether or not it will be impacted by what  
13 you're doing or is this something that you think you  
14 have another witness that can address it?

15 MR. BURKE: I think my engineers, Madame  
16 Examiner, probably are -- are better to speak to that,  
17 but Newstop Branch is the creek that runs kind of on  
18 the back of the property separating the property from  
19 Springfield Manor and Oakstone Subdivisions and --

20 MR. ALDAG: Yeah. And --

21 MR. BURKE: -- we are not actually doing  
22 anything in the stream itself. We've got two minor

1 impacts to the primary management area, the buffer  
2 outside the stream where we're connecting to the  
3 existing storm sewer and doing the discharge for the  
4 submerged gravel wetlands.

5 MR. ALDAG: Yeah. [inaudible] this is for the  
6 record --

7 MS. MCNEIL: Wait, wait, wait, wait a second,  
8 Mr. Aldag.

9 MR. ALDAG: Yeah.

10 MS. MCNEIL: So at this point, I think I am  
11 going to uphold Mr. Brown's objection, because we're  
12 really getting into issues that another witness, maybe  
13 even the next witness, is the one that needs to answer  
14 all of this. So if you could hold on --

15 MR. HOLMAN: Okay. Because --

16 MS. MCNEIL: -- Mr. Aldag for -- for one  
17 second.

18 MR. HOLMAN: -- we did -- yeah. We did a -- a  
19 huge amount of research on it, I hired an expert. So I  
20 do have an ex- -- expert on it and my letter from Hank  
21 and Tonya Aldag on 12/17, if we could have that entered  
22 as part of the record --

1 MS. MCNEIL: I -- I will as soon as I call  
2 you.

3 MR. HOLMAN: Okay. Good. Good. If I --

4 MS. MCNEIL: I've got to follow a little order  
5 here. Okay.

6 MR. HOLMAN: Okay.

7 MS. MCNEIL: So Mr. Burke -- anyone else have  
8 questions of Mr. Burke based on his testimony?

9 MR. HATCHER: May I have redirect?

10 MS. MCNEIL: Wait a minute, I'm looking. I  
11 don't see anyone else. And Mr. Brown, did you have any  
12 questions? Okay. All right, Mr. Hatcher.

13 MR. HATCHER: Just Mr. -- Mr. Burke, I know  
14 you answered this before, but I think it's -- it's  
15 worth just sort of reiterating. In your experience,  
16 will the proposed use meet the needs of the retirement  
17 age community and how?

18 MR. BURKE: Yes. It will. The community will  
19 be a -- just a -- a safe, comfortable environment for  
20 seniors. It'll have the amenities needed to both  
21 provide for them and provide that network with the rest  
22 of the residents there with the meeting space and the

1 amenities on site and the type of architecture will  
2 meet the needs of the senior population.

3 MR. SUHAR: I'm going -- I'm going to object  
4 at this point to this testimony, because Mr. Burke is  
5 not an expert and he's testifying to what I would  
6 consider to be expert testimony.

7 MS. MCNEIL: I recognize that he's not an  
8 expert. So I will give that testimony the weight it  
9 deserves. I mean, that sounded bad, but the weight --

10 MR. BURKE: No offense taken.

11 MS. MCNEIL: -- appropriate weight. I'm sorry,  
12 Mr. Burke.

13 MR. BURKE: No offense taken, Madame Examiner.

14 MS. MCNEIL: And so I'm going to overrule,  
15 although, I -- we all recognize he's not an expert  
16 witness.

17 MR. SUHAR: Okay.

18 MS. MCNEIL: Do you have anything further, Mr.  
19 Hatcher, of this witness?

20 MR. SUHAR: Thank you.

21 MR. HATCHER: No, ma'am.

22 MS. MCNEIL: Okay. Thank you so much, Mr.

1 Burke.

2 MR. BURKE: My pleasure.

3 MS. MCNEIL: Who's your next witness?

4 MR. HATCHER: Ms. Sommer.

5 MS. MCNEIL: So it's not Schumer [sic]? You  
6 were throwing me off.

7 MR. HATCHER: I was. Yeah. Sommer, my  
8 apologies.

9 MS. SOMMER: I'm not [inaudible].

10 MS. MCNEIL: Okay. Ms. Sommer, do you swear or  
11 affirm under the penalties of perjury that the  
12 testimony you shall give will be the truth and nothing  
13 but the truth?

14 MS. SOMMER: Yes.

15 MS. MCNEIL: Okay.

16 MR. HATCHER: Ms. -- Ms. Sommer, can you  
17 please state your full name and business address for  
18 the record?

19 MS. SOMMER: My name is Amy Sommer. Business  
20 address is 1751 Elton Road, Suite 300, Silver Spring,  
21 Maryland.

22 MR. HATCHER: Where are you currently

1 employed?

2 MS. SOMMER: At Charles P. Johnson &  
3 Associates.

4 MR. HATCHER: What is your current position at  
5 CPJ?

6 MS. SOMMER: I am a senior landscape architect  
7 project manager and I'm transitioning right now to the  
8 division manager of the planning department at Charles  
9 P. Johnson & Associates.

10 MR. HATCHER: Does CPJ provide civil  
11 engineering, land planning and survey services to its  
12 clients in the ordinary course of business?

13 MS. SOMMER: Yes. Charles P. Johnson &  
14 Associates provides a full range of civil engineer,  
15 survey and land planning services.

16 MR. HATCHER: Was CPJ retained by the  
17 applicant to provide those services for this property?

18 MS. SOMMER: Yes.

19 MR. HATCHER: Can you briefly go over -- well,  
20 can you go over your -- can you describe your role as  
21 division manager in planning department at CPJ?

22 MS. SOMMER: I manage several projects through

1 the development and entitlement process, also supervise  
2 over a team of about 9 to 10 drafters, landscape  
3 designers, registered landscape architects.

4 MR. HATCHER: Do you have any licenses or  
5 certifications in land planning or landscape  
6 architecture?

7 MS. SOMMER: Yes. I'm a registered landscape  
8 architect in the state of Maryland and New York.

9 MR. HATCHER: Are you familiar with the  
10 property which is the subject of this application?

11 MS. SOMMER: Yes.

12 MR. HATCHER: Did CPJ prepare the site plan  
13 and other plans associated with the special exception?

14 MS. SOMMER: Yes. CPJ prepared the site plan  
15 associated with this special exception.

16 MR. HATCHER: Did CPJ prepare any revisions to  
17 that site plan and other plans associated with the  
18 special exception?

19 MS. SOMMER: Yes. CPJ revised the layouts to  
20 the site plan in August after -- after SDRC reviewed in  
21 order to preserve the specimen trees five through eight  
22 on site and comply with the recommendations from the

1 environmental planning division of --

2 MR. HATCHER: Okay.

3 MS. SOMMER: -- and then CTPC.

4 MR. HATCHER: Did you -- did -- did CPJ submit  
5 an exhibit which describes the revisions and why it was  
6 necessary?

7 MS. SOMMER: Yes.

8 MR. HATCHER: Madame Examiner, People's zoning  
9 counsel, I believe that is listed as Exhibit 94. The --

10 MS. MCNEIL: Admitted.

11 MR. HATCHER: Okay. Can you describe the  
12 content of the exhibit?

13 MS. SOMMER: It's not up on the screen, but it  
14 was a site plan that showed the revisions to the layout  
15 to preserve the specimen trees, as previously  
16 mentioned.

17 MR. HATCHER: Have you reviewed the technical  
18 staff -- staff reported dated September 20, 2023 as  
19 amended by development review staff's October 4, 2023  
20 supplemental memorandum?

21 MS. SOMMER: Yes.

22 MR. HATCHER: Do you agree with the technical



1 staff report and the -- and the associated memorandum?

2 MS. SOMMER: Yes.

3 MR. SUHAR: Objection.

4 MR. HATCHER: Is one of the --

5 MS. MCNEIL: Wait, there's an objection  
6 pending. Why is that, Mr. Suhar?

7 MR. SUHAR: It doesn't matter as to whether  
8 she agrees with the te- -- technical staff report.

9 MS. MCNEIL: Well, it matters for my decision,  
10 because I often state whether applicant objects to any  
11 of the staff report or its recommended conditions. So  
12 I'm going to overrule.

13 MR. SUHAR: Okay. All right.

14 MR. HATCHER: Is one of the plans associated  
15 with the special exception a boundary survey of the  
16 property?

17 MS. SOMMER: Yes. There is a property boundary  
18 survey.

19 MR. HATCHER: Madame Examiner, People's zoning  
20 counsel, I believe that is listed as Exhibit 40. Can  
21 you describe the purposes of the boundary survey?

22 MS. SOMMER: The purpose is to confirm the

1 legal boundaries and the overall size of the subject  
2 property.

3 MR. HATCHER: How many acres is reflected on  
4 the boundary survey -- survey for the property?

5 MS. SOMMER: 12.01 acres.

6 MS. MCNEIL: Ms. -- Ms. Bah, could we pull up  
7 Exhibit 40? Thanks. It should be in the first binder.

8 MR. HATCHER: And just for confirmation  
9 purposes, is this the boundary survey that you were  
10 referencing?

11 MS. SOMMER: Yes.

12 MR. HATCHER: Okay. We can -- we can remove  
13 the boundary survey from the monitor if -- if Madame  
14 Hea- -- Hearing Examiner would like. We would, however,  
15 like the Exhibit 74 be brought up on the monitor and  
16 while that's being brought up on the monitor, is  
17 another one of the plans associated with the special  
18 exception a tree conservation plan type two?

19 MS. SOMMER: Yes.

20 MR. HATCHER: Just waiting for it. There you  
21 go. As amended by the conditions of approval proposed  
22 by technical staff in the staff report, will the site

1 plan be in conformance with the TCP II plan?

2 MS. SOMMER: Yes. It will.

3 MR. HATCHER: Can you describe the location of  
4 the on- -- onsite specimen trees?

5 MS. SOMMER: There are 10 onsite specimen  
6 trees, 3 of them are in the center of the property,  
7 that would be ST 9, 10 and 11. There is 2 towards the  
8 eastern end of the property, ST 3 and 4 and there is a  
9 cluster towards the northeast of the property of trees  
10 5 through 8.

11 MR. HATCHER: Are you familiar with the Prince  
12 George's County Woodland and Wildlife Habitat  
13 Conservation Ordinance?

14 MS. SOMMER: Yes.

15 MR. HATCHER: Did technical staff provide an  
16 analysis and recommendation of a variance to remove  
17 specimen trees?

18 MS. SOMMER: Yes.

19 MR. HATCHER: In the analysis -- in the anal-  
20 -- in analyzing the variance to remove four specimen  
21 trees, did staff analyze the required findings?

22 MS. SOMMER: Yes. They did.

1 MR. HATCHER: Do you agree with technical  
2 staff's recommendation regarding the variance to remove  
3 the specimen trees?

4 MS. SOMMER: Yes.

5 MR. HATCHER: Madame Examiner, if there are no  
6 further questions, you can remove Exhibit 74 from the  
7 monitor. Are you familiar with the Prince George's  
8 County Landscape Manual?

9 MS. SOMMER: Yes.

10 MS. MCNEIL: Oh, so- -- I'm so sorry, I didn't  
11 unmute. We can remove 74, but I did have one question  
12 about the variance. There is a requirement in the law  
13 that notice of any request for a variance shall be  
14 given to the state's department of natural resources  
15 within 15 days of a receipt for a var- -- receipt of a  
16 request for a variance. Do you know if that was done in  
17 this case or do you know if it's the practice of the  
18 county and the state now to not require this?

19 And if you don't know, I need to leave this  
20 record open for you all to address that one provision.  
21 It's in Section 25 -- give me one sec. I know it's in  
22 D, 25-119 D4. So it's not the criteria, it's just below

1 the criteria. Do you know anything about that, Ms.  
2 Sommer?

3 MS. SOMMER: I do not. Not offhand.

4 MS. MCNEIL: Okay. And Mr. Hatcher, I do need  
5 to leave this record open to address -- address that. I  
6 will state for the record that we had a prior case  
7 involving the variance and in that case, park and  
8 planning submitted a letter explaining that the state  
9 no longer wants it, they no longer do it. I need that  
10 kind of information in this record as well. Thank you.  
11 So go ahead, I'm sorry.

12 MR. HATCHER: Thank you, Madame Examiner. Ms.  
13 Sommer, are you familiar with the Prince George's  
14 County Landscape Manual?

15 MS. SOMMER: Yes.

16 MR. HATCHER: Did the technical staff provide  
17 an analysis of an alternative compliance?

18 MS. SOMMER: Yes.

19 MR. HATCHER: Do you agree with technical  
20 staff's recommendation regarding the alternative  
21 compliance?

22 MS. SOMMER: Yes. I do.

1 MR. HATCHER: At this point, we have no  
2 further questions for this -- for this witness.

3 MS. MCNEIL: Mr. Suhar.

4 MR. SUHAR: Thank you, Madame Examiner. Good  
5 morning, Ms. Sommer. I -- you -- you -- you testified  
6 that -- that the specimen trees, you said, 5 through  
7 10, I believe, are being preserved; is that right?

8 MS. SOMMER: No. Five through eight.

9 MR. SUHAR: Five through eight.

10 MS. SOMMER: The total specimen trees on site  
11 being preserved are number 2, 4, 5, six, 7, 8 and then  
12 there are 3 that are off site that are being preserved,  
13 11, 12 and 13.

14 MR. SUHAR: Okay. So how many total specimen  
15 trees are being removed?

16 MS. SOMMER: Four.

17 MR. HATCHER: Okay. And does that comply with  
18 the requirements under -- under the -- oh, gosh, the  
19 2010 Prince George's County Landscape Manual  
20 requirements?

21 MS. SOMMER: That does not address specimen  
22 trees.

1 MR. HATCHER: Yeah. I -- I -- I -- I object to  
2 the question. Can you clarify it?

3 MS. MCNEIL: Mr. Hatcher, I think -- I think  
4 Ms. Sommer can answer.

5 MS. SOMMER: Yes. Okay.

6 MS. MCNEIL: Let her answer first.

7 MS. SOMMER: That landscape manual does not  
8 address specimen trees.

9 MR. SUHAR: Okay. All right. But your -- your  
10 -- your client is asking for a variance so that they  
11 can remove specimen trees -- four specimen trees; is  
12 that right?

13 MS. SOMMER: Yes.

14 MR. SUHAR: Okay. And why is that?

15 MS. SOMMER: They are being removed, because  
16 these four in particular are towards the center of the  
17 site and removal is necessary to get the ne- -- the  
18 necessary grading infrastructure and construction to  
19 develop the site.

20 MR. SUHAR: Okay. Specifically, pursuant to  
21 the technical staff report and -- and you said that you  
22 agree with the tech- -- technical staff report, but the

1 -- the reason is because the applicant will not be able  
2 to satisfy the requirement. Planning staff even goes so  
3 far as to argue that the applicant has provided the  
4 maximum amount of street trees given the space  
5 limitations of the proposed age-restricted housing  
6 development; is that right? Do you agree with that?

7 MS. SOMMER: We have pro- -- we have provided  
8 the maximum number of street trees given the site  
9 constraints.

10 MR. SUHAR: Site constraints. Okay.

11 MS. SOMMER: Yes.

12 MR. SUHAR: And -- and what specifically are  
13 those site constraints?

14 MS. SOMMER: We have front-loaded driveways.  
15 We also have lighting, we have stormwater management,  
16 other ne- -- other necessary infrastructure that in  
17 some places it's in conflict with locations of street  
18 trees. We also have other requirements where we cannot  
19 place street trees too close to driveways, too close to  
20 road intersections.

21 MR. SUHAR: So what your client is -- is  
22 arguing here then is -- is that because of those



1 constraints, that would be justified to remove the four  
2 tree- -- specimen trees?

3 MS. SOMMER: We're talking about two different  
4 things here. We're talking about specimen trees and  
5 you're talking about street trees.

6 MR. SUHAR: Okay. I'm sorry.

7 MS. SOMMER: Those are two different things.

8 MR. SUHAR: All right. So back to the -- back  
9 to the specimen trees, what are -- what are the -- what  
10 are the constraints there? Why -- why -- why is it that  
11 the -- is it the same reason that the -- that the --  
12 that the four specimen trees need to be removed?

13 MS. SOMMER: It would be almost impossible to  
14 develop a site without addressing those -- removal of  
15 those four specimen trees.

16 MR. SUHAR: But develop the site how, with 57  
17 lots? Is that what you're talking about?

18 MS. SOMMER: To develop a planned retirement  
19 community at this location.

20 MR. SUHAR: Okay. Is it possible to pla- --  
21 develop a planned retirement community with less lots  
22 if, you know -- to -- in order to preserve those

1 specimen trees?

2 MS. SOMMER: We would have to do an analysis.  
3 I can't confirm without looking at the full grading of  
4 the site.

5 MR. SUHAR: Was that even considered?

6 MS. SOMMER: We have --

7 MR. HATCHER: Objection; rel- -- if -- in  
8 terms of relevance, what -- what was considered,  
9 whether it was 70 units like Mr. Suhar inferred earlier  
10 or 30 units isn't relevant to the application before  
11 the body.

12 MR. SUHAR: I think it's very relevant.

13 MS. MCNEIL: I would -- I would overrule only  
14 because one of the criteria for the variance is that  
15 it's not based on conditions or circumstances caused by  
16 the applicant. So I mean, we don't have to go on and on  
17 with this, but I think it's a valid question to ask, if  
18 you need the variance, because you want to have 57  
19 homes, but if you had 54 homes, you wouldn't need it  
20 and staff didn't address that either, so I'm going to  
21 allow it.

22 MR. SUHAR: Thank you.

1 MS. SOMMER: Can you repeat the question  
2 again?

3 MR. HATCHER: I'm going to object -- I'm so  
4 sorry. Objection; I think this question's already been  
5 asked and answered and I believe Ms. Sommer indicated  
6 it was for grading-related reasons.

7 MR. SUHAR: With -- with all due respect, Mr.  
8 Hatcher, I don't -- she -- she hasn't answered my  
9 question in regards to whether the -- you know, that --  
10 that -- if -- if it were -- were possible to develop,  
11 you know, less -- less lots or if there were something  
12 that could be done on this property in order to  
13 preserve the four specimen trees.

14 MS. SOMMER: We haven't done the analysis. So  
15 I cannot confirm that. Part of the challenge with these  
16 four trees is that they are in the middle of the site -  
17 -

18 MR. SUHAR: Okay. So my --

19 MS. SOMMER: -- making it hard to -- making it  
20 challenging to do -- manage the infrastructure  
21 necessary for development even if it's less and also  
22 for grading of the site.

1 MR. SUHAR: So back to my question then that  
2 drew the objection, what -- was -- what -- were  
3 alternatives considered so the variance wouldn't be  
4 necessary so that we could -- so that we could, you  
5 know, preserve the four specimen trees?

6 MS. SOMMER: No.

7 MR. SUHAR: Okay. Thank you.

8 MS. SOMMER: Well, the alternative layouts  
9 were examined. We've updated the -- we have revised the  
10 layout in order to preserve an additional four specimen  
11 trees, but those four specimen trees in the middle of  
12 the site were always considered for removal.

13 MR. SUHAR: Okay. So there were alternatives  
14 considered? Is that what you're saying?

15 MS. SOMMER: There were not alternatives  
16 considered to remove those -- to preserve those four  
17 specimen trees.

18 MR. SUHAR: Oh, okay. Thank you. So then the  
19 street trees, the applicant -- pursuant to the  
20 technical staff report, the applicant is -- is asking  
21 for a variance from Section 4.10C, which requires 1  
22 street tree per 35 linear feet of frontage. In this

1 case -- and you -- you -- you agreed with the  
2 recommendations here; isn't that right?

3 MS. SOMMER: Yes.

4 MR. HATCHER: Objection. What variance are you  
5 referring to? Can you just clarify what that is,  
6 variance two?

7 MS. MCNEIL: He's talking about alternative  
8 compliance. Did you all testify to that yet? I'm sorry.

9 MR. SUHAR: That's -- that's what I thought  
10 that they did.

11 MS. MCNEIL: Okay.

12 MR. HATCHER: Yeah. The applicant -- Ms. --  
13 Ms. Sommer did speak to alternative compliance, I just  
14 wasn't entirely sure what the variance Mr. Suhar was  
15 referring to was.

16 MS. MCNEIL: Well, he means variance in the  
17 same way someone else meant expertise, you know, small  
18 V, a change from what's required; is that correct, Mr.  
19 Suhar?

20 MR. SUHAR: Yes. Yeah.

21 MS. MCNEIL: Okay.

22 MR. SUHAR: I'm -- I'm specifically concerned

1 about the -- the technical staff report where it says  
2 that the applicant has provided a maximum amount of  
3 street trees given the space limitations of the  
4 proposed age-restricted housing development.

5 That's concerning and -- and I -- you know, I  
6 -- I -- I just wanted to -- I -- I want to ask the --  
7 the witness here, you know, why -- why -- what space  
8 limitations there are and I think that she's -- she  
9 answered this before, the -- the space limitations were  
10 due to, you know, development, that they -- that they  
11 can't develop the site without -- you know, with the --  
12 with the required number of street trees.

13 MR. HATCHER: I --

14 MS. SOMMER: Go ahead, Chris.

15 MR. HATCHER: -- you know, if that was a  
16 question, can you ask Ms. Sommer a question?

17 MR. SUHAR: Yeah. I did.

18 MS. MCNEIL: Ms. Sommer --

19 MS. SOMMER: The --

20 MS. MCNEIL: -- what are the constraints on  
21 site that limit the number -- limit you to the number --  
22 - what are the constraints on site that made you

1 request alternative compliance?

2 MS. SOMMER: From 4.10, it was the --

3 MS. MCNEIL: As to the street trees. Yes.

4 MS. SOMMER: Yes. As to the street trees,  
5 that's due to the front-loaded, in this case, single-  
6 family detached. Where we have front-loaded we have  
7 limited space between driveways. So it's common for us  
8 to request alternative compliance for that. So part of  
9 it is the -- some of it we need space for lighting,  
10 some of it is it can't be too close to intersections  
11 for visibility and some is due to conflicting  
12 utilities.

13 MR. SUHAR: Okay. And so -- thank you. And so  
14 what -- what's the alternative? Are -- are -- are --  
15 are -- alternative compliance then?

16 MS. SOMMER: We have worked with park and  
17 planning and the alternative compliance review board to  
18 make sure we are providing sufficient number of trees.  
19 So with alternative compliance, we have to make sure  
20 that we are providing an equivalent.

21 So sometimes in many cases, we have trees, not  
22 right on the street but within the right-of-way, but

1 placed on lot or placed in a common park -- open space  
2 so that it's shading the sidewalk. So it serves the  
3 same purposes.

4 MR. SUHAR: But it's in different locations,  
5 is that right, not on the street?

6 MS. SOMMER: It is approximate to the  
7 sidewalk. So it's doing the same thing -- serving the  
8 same purpose of having a shade tree shade the sidewalk  
9 in places where it can't be between the sidewalk and  
10 curb.

11 MR. SUHAR: Okay. Thank you very much. No --  
12 no further questions.

13 MS. MCNEIL: Mr. Brown.

14 MR. BROWN: Yes. Good morning, Ms. Sommer. Two  
15 or three very quick questions. Fatima, would you put  
16 back up on the screen the boundary survey, please?

17 MS. BAH: Sure. What exhibit is it, do you  
18 know?

19 MR. BROWN: I think it's number 40.

20 MS. MCNEIL: Forty.

21 MS. BAH: Thank you.

22 MR. BROWN: Ms. Sommer, would you point us to



1 the prescriptive easement that is on this property?

2 MS. SOMMER: There is an easement towards the  
3 north of the property for -- it's a WSSC easement for  
4 the sanitary sewer.

5 MR. BROWN: All right. So the dash line --  
6 jagged line that I see going from the western boundary  
7 of the property going northeast and then terminating on  
8 the eastern boundary of the property that says WSSC  
9 right-of-way, R-W, that's the prescriptive easement;  
10 correct?

11 MS. SOMMER: That is my understanding.

12 MR. BROWN: And it's an easement that has been  
13 given to WSSC for utilities, but the property or the  
14 easement land area is still owned by Joan M. Stewart;  
15 is that correct?

16 MS. SOMMER: Yes.

17 MR. BROWN: You don't happen to know the  
18 square footage of that easement, do you?

19 MS. SOMMER: No. Not offhand.

20 MR. BROWN: I'm just not concerned, but I  
21 wanted to clarify the issue that staff raises on Page  
22 12 of its report where there's a requirement that

1 subject property shall contain at least 12 contiguous  
2 acres. The easement does not divide the property  
3 because it's an easement, it's not a fee-simple  
4 transfer of property, but the staff goes on and states  
5 in this paragraph, based upon the DPWT confirmation  
6 letter, the property has a land area of 12.01  
7 contiguous acres as a result of the prescriptive  
8 easement.

9 To your knowledge, since you helped to prepare  
10 the boundary survey, does this property have exactly  
11 12.01 acres?

12 MS. SOMMER: To clarify, I did not help to  
13 prepare the boundary survey, that was done by our  
14 surveyor department at CPJ.

15 MR. BROWN: All right. Mr. Hatcher, is the  
16 surveyor planning to testify today?

17 MR. HATCHER: The surveyor is definitely  
18 prepared to testify. He was not one of the people I  
19 listed in the beginning, but he is on this link and  
20 prepared to testify.

21 MR. BROWN: All right. Later on I need him to  
22 testify to the square footage or rather, the acreage

1 for the property. My last question, Ms. Sommer, for you  
2 goes to the street trees.

3 You were asked several questions about site  
4 constraints and site constraints normally deals with  
5 topographical issues related to the property, not  
6 proposed development by the applicant and here on Page  
7 17 of the staff report, the justification given by the  
8 applicant and confirmed by the staff is that the  
9 driveways for single-family attached homes, the narrow  
10 space between driveways, the many short blocks and  
11 intersections and easement constraints limit the number  
12 of tree locations.

13 Mr. Suhar asked a very relevant question, did  
14 you consider alternatives to developing these -- this  
15 property that would avoid driveways for single-family  
16 attached homes in their current locations, that would  
17 consider the narrow space between the driveways and  
18 that would consider the many short blocks and  
19 intersections and the easement constraints?

20 In other words, did you prepare an alternative  
21 plan that avoided these types of developer mandates?  
22 These are not topographical constraints.

1 MS. SOMMER: We did not.

2 MR. BROWN: All right. No other questions.  
3 Thank you.

4 MS. SOMMER: I did want to clarify that this -  
5 - for front-loaded attached single-family, this is a  
6 very common request to -- for alternative compliance  
7 for street trees --

8 MR. BROWN: I mean --

9 MS. SOMMER: -- because of the nature of the  
10 driveways.

11 MR. BROWN: -- whether it's a common request  
12 or not, you are not required to have front-loaded  
13 garages. You could've had side-loaded garages, you  
14 could've had rear-loaded garages or a number of other  
15 alternatives.

16 You didn't have to have garages at all. And so  
17 the question apparent is what are the alternatives to  
18 having a retirement community that does not require  
19 alternative compliance as it relates to street trees?  
20 But there's no other question on the floor. Thank you.

21 MS. MCNEIL: Ms. Bah, could you bring up  
22 Exhibit 35?

1 MS. BAH: Sure.

2 MS. MCNEIL: That's the -- the letter from  
3 DPWT if anyone -- if that is anything you need, Mr.  
4 Brown, about your question or Ms. Sommer may need to  
5 refresh. So again, his question is, will there be less  
6 than 12 acres as a result of all of this? And if -- I  
7 mean, if -- Mr. Hatcher, if you want to make a proffer  
8 as to why [inaudible] or Ms. Sommer can answer, please  
9 do.

10 MR. HATCHER: Yeah. I believe that we plan on  
11 calling Dan Debault [ph] who -- who worked was the  
12 surveyor --

13 MS. MCNEIL: Okay.

14 MR. HATCHER: -- after -- after we call Mr.  
15 Ferguson.

16 MS. MCNEIL: Okay. You can take this exhibit  
17 down, Ms. Bah. Mr. -- I mean, does anyone else have  
18 questions of the witness that's not represented by Mr.  
19 Suhar?

20 MR. HOLMAN: I do. I do, Madame Hearing  
21 Examiner.

22 MS. MCNEIL: Okay. Mr. Holman.

1 MR. HOLMAN: Thank you. Ms. Sommer, you  
2 mentioned a couple of different types of tree -- trees  
3 that would be taken down, specimen trees and street  
4 trees. Do you know what the total number of trees are  
5 that will be removed by this proposed development?

6 MS. SOMMER: To clarify, we are not proposing  
7 removing street trees, we are proposing removing  
8 specimen trees. They are --

9 MR. HOLMAN: Well, my question is what is the  
10 total number of trees that will be removed by this  
11 development?

12 MS. SOMMER: We are proposing the removal of  
13 four specimen trees and we are also proposing the  
14 removal of 3.63 acres of woodland, however, we do not  
15 quantify the total number of trees, as is typical for a  
16 tree conservation plan.

17 MR. HOLMAN: How would we get that  
18 information?

19 MR. ALDAG: I might be able to help you on  
20 that. I -- I have that information.

21 MS. MCNEIL: And what is your -- Mr. Aldag,  
22 when it's time, you can ask that question. Ask her,

1 isn't it true that it's this whatever number that will  
2 be removed; okay?

3 MR. ALDAG: Okay.

4 MS. MCNEIL: But wait one second, let Mr.  
5 Holman finish.

6 MR. ALDAG: Okay.

7 MR. HOLMAN: Yeah. If he can answer, Your  
8 Honor, then that's all I have to ask. Thank you.

9 MS. MCNEIL: Okay. Thank you. Mr. Aldag.

10 MR. ALDAG: Okay. Great. In -- in paragraph  
11 nine of the September 2023 Prince George's County  
12 Planning Department technical staff report, it says  
13 that 3.63 acres of forest on the Stewart property will  
14 be removed, .9 acres will be planted with trees for a  
15 net loss of 3.44 forest acres in the Newstop Branch  
16 Watershed and that we have --

17 You know, basically, with 25.3 percent  
18 existing forest in the 621 acre Newstop Branch  
19 Watershed, as per the 2018, you know, survey, 157.1  
20 acres of forest there, Stewart's property development  
21 would lower the average by 3.44 acres to 153.7 acres in  
22 the watershed. Forest cover will go from 25.3 percent

1 down to 24.7 percent. That should answer the question.

2 MS. MCNEIL: Actually, I think he wanted to  
3 know the actual number of trees versus the acreage --

4 MR. ALDAG: Oh, [inaudible] -- I have --

5 MS. MCNEIL: -- and I guess Ms. Sommer --

6 MR. ALDAG: -- acres. I didn't have trees.

7 MS. SOMMER: We do -- we are not required to  
8 survey -- we're -- we are required as part of the NRI  
9 and conservation laws to survey the acreage of  
10 woodlands but not the individual number of trees unless  
11 they are considered specimen trees. So we do not know  
12 the number of actual trees [inaudible].

13 MR. ALDAG: Right. And the technical staff  
14 report did not have that in it?

15 MS. MCNEIL: I guess because she's not  
16 required to.

17 MR. ALDAG: Yeah.

18 MS. MCNEIL: Okay.

19 MR. ALDAG: Yeah.

20 MS. MCNEIL: All right. Mr. Aldag, did you  
21 have other questions of Ms. Sommer?

22 MR. ALDAG: Regarding that?



1 MS. MCNEIL: No. On her testimony, any of it?

2 MR. ALDAG: Okay. Did you actually test the  
3 soil as part of your landscape design?

4 MS. SOMMER: No.

5 MR. ALDAG: Okay. Because you know, we  
6 basically have mostly D and C type soils from the  
7 hydraulic soil group which in- --

8 MS. SOMMER: Well, hold on, we did not --  
9 there was a geotechnical analysis of the site, to  
10 clarify.

11 MR. ALDAG: Okay. Can you go through that?

12 MS. MCNEIL: Is there someone that will  
13 testify about that, Mr. Hatcher?

14 MR. ALDAG: Because my testimony --

15 MS. MCNEIL: Wait, wait one second, Mr. Aldag.

16 MR. ALDAG: Oh, yeah.

17 MR. HATCHER: I have the geotechnical report.

18 MS. MCNEIL: Mm-hmm. Is there anybody that can  
19 testify about it?

20 MR. HATCHER: We weren't planning on calling  
21 any testimony on the geotechnical support that was --  
22 that was submitted as part of the package.

1 MR. ALDAG: Yeah. And part of my testimony has  
2 that in it.

3 MS. MCNEIL: Okay. Mr. -- then -- then we'll  
4 talk about it with you. Do you have other questions of  
5 Ms. Sommer?

6 MR. ALDAG: On the stormwater management of  
7 which, you know, they basically submitted in the  
8 application an unapproved plan that shows the use of  
9 two submerged gravel wetlands, two micro-bioretenion  
10 facilities and a bio-swell to meet the stormwater  
11 requirement site, but the revised layout in SE-22002 is  
12 not consistent with the layout that was in the  
13 unapproved stormwater management plan that was part of  
14 the technical staff report.

15 But what they did find was the soils that are  
16 there aren't really conducive because of impermeability  
17 to actually improve the quality of the Newstop Branch  
18 water.

19 MR. BROWN: Yeah. As much as -- as -- as much  
20 as I dislike objecting to -- to citizens, I'm not  
21 entirely sure that that's what the staff report says  
22 and if there is an expert that he plans on calling

1 which is going to testify to that, I look forward to  
2 the opportunity to cross-examine him.

3 MR. ALDAG: Well, my -- basically, my  
4 testimony was off of Richard Pine's, you know, research  
5 and he is a technical ex- -- you know, expert --

6 MS. MCNEIL: Okay.

7 MR. ALDAG: -- and the last six pages of my  
8 testimony gives his qualifications.

9 MS. MCNEIL: Okay. Mr. -- Mr. Aldag, then  
10 we're waiting. That's going to be in your direct --

11 MR. ALDAG: Okay.

12 MS. MCNEIL: -- not in her cross --

13 MR. ALDAG: Okay. Okay. Good. Thank you.

14 MS. MCNEIL: -- to be able to bring it.

15 MR. BROWN: Thanks again.

16 MS. MCNEIL: Does anyone else have questions  
17 of Ms. Sommer? Okay. I would like to take a five-minute  
18 break before the next witness if you all don't mind. So  
19 just stay on and we'll be back in five minutes, it's  
20 11:17. Thank you.

21 AUTOMATED VOICE: Recording stopped.

22 [break]

1 MS. MCNEIL: Thank you, all. Before we start,  
2 Ms. Spencer --

3 MS. SPENCER: Yes.

4 MS. MCNEIL: -- I'm seeing a note that you  
5 wanted to ask a question. Was it at least of the last  
6 witness or was it from like 10 minutes ago? I'm so  
7 sorry.

8 MS. SPENCER: Honestly, I am late, because I  
9 couldn't get on first thing this morning and my  
10 question is directly related to traffic flow in the  
11 plan.

12 MS. MCNEIL: Okay. You didn't miss anything  
13 yet then.

14 MS. SPENCER: So I'm not [inaudible]?

15 MS. MCNEIL: They haven't had that witness.

16 MS. SPENCER: I -- I will sit and wait then.

17 MS. MCNEIL: Okay.

18 MS. SPENCER: Thank you.

19 MS. MCNEIL: Thank you. Where is Mr. Hatcher?  
20 Yeah. So if we have new people that have come on, where  
21 we are is the applicant, of course, has the burden and  
22 they're doing their own witnesses first. Listen to it

1 and if you have a question, I'm going to ask if anyone  
2 has questions and that'll be the chance to ask them  
3 questions about their testimony.

4 You're going to have another time for you to  
5 tell me what you want to tell me about the case. And  
6 keep yourself muted and off screen when you're not  
7 testifying, because we're recording this and that just  
8 helps everything. Thank you, all. So Mr. Hatcher, we're  
9 waiting on you.

10 MR. FERGUSON: Just send him a text, Madame  
11 Examiner, I think he was on the phone with Mr. Burke.

12 MS. MCNEIL: Okay. Thank you, Mr. Ferguson.  
13 There he is.

14 MR. HATCHER: Hello.

15 MS. MCNEIL: Hello there. So who's your next  
16 witness?

17 MR. HATCHER: Dave Nelson.

18 MS. MCNEIL: Okay. What number are we at?  
19 Where is Mr. --

20 MR. NELSON: Can you hear me?

21 MS. MCNEIL: I can't see you.

22 MR. NELSON: Good morning.

1 MS. MCNEIL: Is that Mr. Nelson? That's you  
2 that says iPad with no name. Okay.

3 MR. NELSON: Sorry about that, my computer is  
4 [inaudible].

5 MR. SUHAR: Madame Examiner, I'm sorry, this  
6 is Sean Suhar, I had to reconnect. I just wanted to  
7 make sure that you all can hear me.

8 MS. MCNEIL: We can hear you. Yes.

9 MR. SUHAR: Okay. I'll -- I'll -- I'll mute  
10 myself, I just wanted to -- I'm -- I'm now in the car  
11 driving to my next meeting. So --

12 MS. MCNEIL: Okay.

13 MR. SUHAR: All right. Thank you so much.

14 MS. MCNEIL: Oh -- oh, do you need to testify  
15 now or soon?

16 MR. SUHAR: Well, I -- I do. My meeting starts  
17 at noon. So if we could, you know, get through this  
18 witness and then [inaudible].

19 MS. MCNEIL: You know, we'll let you -- we --  
20 Mr. Hatcher doesn't mind, sometimes we take things out  
21 of order, you know, to help folks. So Mr. Suhar, now,  
22 you don't have a witness, so I'm going to have to swear

1 you; okay?

2 MR. SUHAR: You're going to have to swear me?  
3 That's fine, I -- I -- I'm --

4 MS. MCNEIL: If you wanted to be -- are you --  
5 so you -- if you just want to argue -- this is so  
6 weird. If you wa- -- can you come back later or submit  
7 your argument in writing or --

8 MR. SUHAR: Yeah. I could come back -- well,  
9 I'm driving right now. I'm participating in the hearing  
10 for at least for the next half hour. So -- but I -- I --  
11 - I do have comments that I would like to make. Yeah. I  
12 -- I would like to make argument. Yeah.

13 MS. MCNEIL: Okay. If all you want to do is  
14 make argument, I don't have to swear you, but that's  
15 all it will be considered is argument. Okay.

16 MR. SUHAR: Okay.

17 MR. HASANI: Hello.

18 MR. SUHAR: And -- and also to bring -- bring  
19 that map into the evidence as well. So I mean, if you  
20 want to swear me in, that's fine.

21 MS. MCNEIL: Yeah. To bring any evidence in,  
22 you have to be sworn.

1 MR. SUHAR: Okay. That's fine.

2 MR. MARTIN: Okay.

3 MS. MCNEIL: Mr. Hasani [ph], what are you  
4 saying?

5 MS. MARTIN: Yeah. Yeah. While I have time, I  
6 just want to -- I don't know who -- who's going -- who  
7 this question would be for, but as far as like the  
8 flooding, I have a question about the flooding. I  
9 actually live 8204 directly across the street from the  
10 planned development.

11 MS. MCNEIL: Okay. Then the next witness, I  
12 believe, may be able to help you; is that correct, Mr.  
13 Hatcher?

14 MR. HATCHER: Mr. Ferguson --

15 MS. MCNEIL: Mr. Nelson is traffic?

16 MR. HATCHER: -- Mr. Nelson's traffic.

17 MR. MARTIN: Okay.

18 MR. HATCHER: And Mr. Suhar, that's -- that's  
19 pretty bold, I would -- I would never open myself to  
20 cross-examination from opposing counsel.

21 MS. MCNEIL: I'll get him to think about it  
22 for a while.



1 MR. HATCHER: That was the point.

2 MS. MCNEIL: Yeah. Okay. Mr. Suhar, we're  
3 going to go with Mr. Nelson. Are you going to be gone  
4 for the rest of the day?

5 MR. SUHAR: My meeting is supposed to take  
6 probably about a couple hours. So from 12:00 until  
7 about 2:00. Yeah.

8 MS. MCNEIL: I wonder if we'll finish by 2:00.  
9 Let me think about it, let's start with Mr. Nelson,  
10 though.

11 MR. SUHAR: Okay.

12 MS. MCNEIL: And Mr. Hasani, we'll get back to  
13 you. So Mr. Nelson, do you swear or affirm under the  
14 penalties of perjury that the testimony you shall give  
15 will be the truth and nothing but the truth?

16 MR. NELSON: I do.

17 MS. MCNEIL: Okay.

18 MR. HATCHER: Mr. Nelson, can you state your -  
19 - your full name and business address for the record?

20 MR. NELSON: My name is David Nelson. The  
21 business address is 400 Crain Highway Northwest in Glen  
22 Burnie. I work for street traffic studies with their

1 [inaudible] office location.

2 MR. HATCHER: Where -- where -- where are you  
3 currently employed?

4 MR. NELSON: The firm, Street Traffic Studies,  
5 Limited.

6 MR. HATCHER: What is your current position  
7 with Street Traffic Studies -- Street --

8 MR. NELSON: I'm the senior transportation  
9 traffic engineer and I'm also the president of the  
10 firm.

11 MR. HATCHER: Okay. Have you been previously  
12 qualified as an expert in transportation engineering  
13 and transportation planning before the Prince George's  
14 County Zoning and Hearing examiner?

15 MR. NELSON: Yes.

16 MR. HATCHER: At this point, I'd like to --  
17 Exhibit 91 is Mr. Nelson's resume. We can bring it up  
18 if -- if you'd like, Madame Examiner, or People's  
19 zoning counsel or I can just continue.

20 MR. BROWN: Yeah. There's no objection to Mr.  
21 Nelson as an expert.

22 MR. NELSON: Thank you, sir.

1 MR. HATCHER: Okay. Okay. Yeah. Madame  
2 Examiner, at this point --

3 MS. MCNEIL: Mr. -- Mr. Nelson -- Mr. Nelson,  
4 you haven't been rejected as an expert since we've last  
5 seen you, have you?

6 MR. NELSON: No. Actually, never in the last  
7 40 years. So --

8 MS. MCNEIL: Okay. You will be admitted as an  
9 expert in transportation engineering and planning.

10 MR. HATCHER: Okay.

11 MR. NELSON: Thank you.

12 MR. HATCHER: Just to clarify, he has been  
13 admitted as an expert; correct?

14 MS. MCNEIL: Yes, sir.

15 MR. HATCHER: Thank you. Are you familiar with  
16 the property which the subject -- is subject to this  
17 application?

18 MR. NELSON: Yes. I am.

19 MR. HATCHER: Were you retained by the  
20 applicant to evaluate light access and transportation  
21 issues pertaining to the subject property as it relates  
22 to development of a planned retirement community and

1 the subject's special exception application?

2 MR. NELSON: Yes.

3 MR. HATCHER: Are you familiar with the  
4 technical staff report dated September 20, 2023 as  
5 amended by the development of use staff's October 4,  
6 2023 supplemental memorandum?

7 MR. NELSON: Yes. I am.

8 MR. HATCHER: Do you agree with the technical  
9 staff report dated September 20, 2023 as amended by  
10 development review staff's October 4, 2023 supplemental  
11 memorandum?

12 MR. NELSON: Especially as it relates to  
13 traffic and transportation. Yes.

14 MR. HATCHER: Does technical staff establish a  
15 neighborhood in association with this application?

16 MR. NELSON: They did. On Page 4 of the staff  
17 report, the neighborhood with the same access to  
18 Springfield Road but their neighborhood is extended to  
19 the north of Ducatel Road to the east of [inaudible]  
20 Lane south of [inaudible] Road into the west of  
21 Wingate. I would probably extend it just a little bit  
22 north, because I consider [inaudible] Good Luck Road

1 one of the key roads that serves this property too, but  
2 in general, it's -- it's the perfect neighborhood.

3 MR. HATCHER: Okay. With the extension to Good  
4 Luck Road, do you agree with staff's definition?

5 MR. NELSON: Yes.

6 MR. HATCHER: Did you prepare a traffic  
7 statement dated October 26, 2023 as amended by a  
8 revised traffic statement dated December 5, 2023?

9 MR. NELSON: Yes. I did.

10 MR. HATCHER: At this point, Madame Examiner,  
11 we move that the updated traffic statement listed as  
12 December 5, 2023 be entered into the record.

13 MS. MCNEIL: Okay. Ms. -- Ms. Potit [ph], do  
14 you and Ms. Bah have that and do you -- would you give  
15 her the -- the next exhibit number? I guess it would be  
16 101.

17 MS. BAH: Yes. The next exhibit number is 101.

18 MS. MCNEIL: And so it would be the revised --

19 MS. POTIT: And what was the name of the  
20 document, please?

21 MR. HATCHER: It's going to be a traffic  
22 statement originally dated October 26, 2022, but it's

1 going to be amended with the amendment date being  
2 December 5, 2023.

3 MS. MCNEIL: Thank you.

4 MR. HATCHER: Just to clarify, has that been  
5 accepted into the record as Exhibit 101?

6 MS. MCNEIL: It will be as soon as we can see  
7 it. I'm -- I'm trying to -- so it's something you sent  
8 lately?

9 MR. HATCHER: Within the last week.

10 MS. MCNEIL: Okay.

11 MR. HATCHER: It was sent on Monday, December  
12 11th.

13 MS. MCNEIL: I do not believe this, computers  
14 are so -- I do a search and it brings up something from  
15 2020.

16 MR. HATCHER: Just to clarify, Madame  
17 Examiner, we'll just -- we'll just wait until we get an  
18 indication that we should proceed; okay?

19 MS. MCNEIL: Okay. Okay. I found it and I  
20 think I just sent it to Ms. Bah.

21 MR. HATCHER: Okay.

22 MS. BAH: I just got it.

1 MS. MCNEIL: Good. Cool. Is that the exhibit,  
2 Mr. Hatcher?

3 MR. HATCHER: Yes, ma'am. Would you -- would  
4 you like us to proceed with our line of questioning or  
5 you're still coordinating?

6 MS. POTIT: Ma- -- ma'am, can you scroll up on  
7 it so we can read the entirety of the letter?

8 MR. HATCHER: Madame Examiner, how would you  
9 like us to proceed?

10 MS. MCNEIL: As everyone's slowly reading, if  
11 you want to have him explain what's in here, that would  
12 be great.

13 MR. HATCHER: Okay. Dave, can you articulate  
14 the differences between what's on this monitor and this  
15 Exhibit 101 and Exhibit 28, which is the original  
16 traffic statement submitted into the record?

17 MR. NELSON: Yes. On Page 2 of this traffic  
18 statement letter, there's a chart in the middle of the  
19 second page and it was just a typo that while we do a  
20 traffic review for the special exception, the main  
21 focus is the change in -- between what the [inaudible]  
22 use is and what's proposed and on Page 2, we have a

1 table that compares 22 single-family units and what I  
2 ori- -- originally was attached to it is not.

3 So the only change is from a -- in that line  
4 is 22 single-family, it should say, detached houses. So  
5 in the RR Zone, we would expect the houses to be on  
6 their own separate lots. So that's the only change, but  
7 the maps didn't change at all, it was just a matter of  
8 one word.

9 MR. HATCHER: Am I correct to understand that  
10 a formal transporta- -- traffic analysis is not  
11 required for the approval of a special exception for  
12 this property?

13 MR. NELSON: That's correct.

14 MR. HATCHER: At what point in the Prince  
15 George's County development review process is adequacy  
16 a public facilities including adequacy of  
17 transportation facilities formally evaluated and  
18 established?

19 MR. NELSON: That's in the preliminary plan of  
20 subdivision, which would be the next step of this  
21 project assuming it is approved and moves forward.

22 MS. SPENCER: Madame Examiner, this is Rae



1 [ph], I have a question. As stated in this, it states  
2 that they're --

3 MS. MCNEIL: Wait, wait, wait, wait, Ms.  
4 Spencer, your questions are after his direct. We're  
5 sort of like a trial in this proceeding, not just  
6 anyone talking.

7 MS. SPENCER: Thank you, ma'am.

8 MS. MCNEIL: So you will be able to ask  
9 questions; right? Jot things down what he's saying, but  
10 we'll get to you right away. Go ahead, Mr. Hatcher.

11 MR. HATCHER: Yeah. The -- the applicant  
12 respectfully requests that Exhibit 72 be brought up to  
13 the monitor, it's -- it's the site plan.

14 MS. MCNEIL: Okay.

15 MS. BAH: Yes. Just give me one second.

16 MR. HATCHER: Dave, can you please demonstrate  
17 the proposed access point associated with the  
18 application?

19 MS. MCNEIL: Can we make this larger? I know  
20 we can ourselves, I guess.

21 MR. NELSON: So just talk- -- mm-hmm.

22 MS. BAH: Is this good?

1 MR. NELSON: Works for me.

2 MS. BAH: Okay. Thank you.

3 MR. NELSON: So the -- the project development  
4 is located on the east side of Springfield Road, which  
5 is shown going almost in a north-south direction on the  
6 left-hand side of the [inaudible] and about halfway  
7 down it shows that the development, as a retirement  
8 community, will be served by a single driveway to  
9 Springfield Road but then splits into private drives  
10 that serve the community.

11 The -- the access drive is coordinated with  
12 public works. So it will be designed in accordance to  
13 their standards. It provides all the -- the offsets,  
14 there's a bike lane that's to be provided, the  
15 dedication will be required. That'll all be taken care  
16 of at the preliminary plan stage.

17 Unlike traditional RR developments that --  
18 which may actually have lost the front [inaudible] on  
19 Springfield Road, which is allowable condition as a  
20 [inaudible], this entire developer will only have one  
21 driveway in and out to Springfield Road.

22 MR. HATCHER: Okay.

1 MS. MCNEIL: Can we -- Mr. Nelson, if we made  
2 you the -- whatever -- I -- I just need to scroll down  
3 to see the entrance. So we're not looking at the  
4 entrance right now, right, the one single access?

5 MR. NELSON: Well, the entrance is what's  
6 shown on the drawing. It's -- if you look at --

7 MS. MCNEIL: I thought it was a little further  
8 down.

9 MR. NELSON: It's --

10 MS. MCNEIL: What I'm seeing is a -- a private  
11 road.

12 MR. NELSON: Well, yeah. The -- if you look on  
13 the -- the left side of the drawing, it's -- it's not  
14 really easy to see, but the left side of the drawing  
15 going almost in a north-south direction, this is the  
16 existing Springfield Road and you're seeing the right-  
17 of-ways, you're seeing the property lines --

18 MS. MCNEIL: I'm moving it myself, I see. I  
19 see.

20 MR. NELSON: -- and then coming off of that  
21 road is a single -- [inaudible] at a 90-degree angle a  
22 single driveway in and now with a center median

1 dividing the two [inaudible] at the driveway at  
2 Springfield Road and then it goes into the property and  
3 serves kind of a loop around. Does that make sense?

4 MS. MCNEIL: I see it now.

5 MR. NELSON: Okay.

6 MS. MCNEIL: And Mr. Hatcher, I'm sorry, I  
7 just want to ask two questions, because I'm looking at  
8 it now. One is is that -- what are the reasons you  
9 determined that to be the access spot since it seems to  
10 be right across from -- is it right across from  
11 Springfield from someone's home?

12 MR. ALDAG: Yes. It's right across from Mr.  
13 Martin's.

14 MS. MCNEIL: Oh, you know better. Wait a  
15 minute, Mr. Aldag.

16 MR. MARTIN: Right. Yeah. That's -- that's my  
17 home -- that's my home right there, 8204.

18 MS. MCNEIL: Wait, wait. Okay. I guess I  
19 should say the examiner can ask questions anytime,  
20 everyone else has to wait. So Mr. Nelson, is there a  
21 reason why you believe -- I mean, did you prepare the  
22 access? Is there a reason why it's right there?

1 MR. NELSON: I did not do the site design.

2 MS. MCNEIL: Okay.

3 MR. NELSON: We kind of pick up after the  
4 site's designed --

5 MS. MCNEIL: Okay.

6 MR. NELSON: -- and then we evaluate it on the  
7 network. So the -- the civil and the -- the layout  
8 engineers would be the best [inaudible]. I know that  
9 there was a lot of work in locating it and balancing it  
10 with the property, but I was not involved in that.

11 MS. MCNEIL: Okay. Thank you. And one other  
12 thing, so you don't have to do a real traffic analysis  
13 at this point, but do you know if at the time of  
14 preliminary plan they consider projects such as this  
15 one that are in this -- you know, projects that have  
16 been moved to preliminary plan but have done these  
17 statements, is any of that taken into consideration at  
18 preliminary plan when they're looking at you?

19 And I guess to explain it better is there is  
20 an argument that there are other projects in the area  
21 that have not arisen to the requirement of a full  
22 traffic analysis. So they're doing the same thing

1 you're doing, but when you get to subdivision, does  
2 subdivision consider all these other -- other traffic  
3 generated that has not -- proposed for gen- -- proposed  
4 to be generated --

5 MR. NELSON: Mm-hmm.

6 MS. MCNEIL: -- or does subdivision only look  
7 at things that have been built and things that are  
8 ready for subdivision when they're considering traffic  
9 impact? Do you get the question?

10 MR. NELSON: Actually, that's a -- that's a --  
11 that's a good point and I wrote myself a note to make  
12 sure that we end up answering that if it wasn't ans- --  
13 asked. Just -- so at the -- at the special exception  
14 stage, we're basically just evaluating it more globally  
15 is what the difference is, but when you go to the  
16 preliminary plan, that's where they make a finding of  
17 adequacy.

18 And there's a -- there's kind of a  
19 misunderstanding that because we're under 50 trips that  
20 a traffic study is now required, well, the -- the --  
21 the criteria is that the applicant is not required to  
22 prepare a traffic study, but a -- a traffic study is

1 prepared by staff --

2 MS. MCNEIL: Okay.

3 MR. NELSON: -- and an analysis to meet the  
4 APF requirements is conducted. In fact, one of the  
5 requirements in order to make it a little easier for  
6 staff is we already know that they're going to -- we're  
7 go- -- we need to provide them traffic data. So we have  
8 to do counts of [inaudible] Road and Springfield and we  
9 actually have to do a count just [inaudible] of this to  
10 give them the basic -- the -- the data to then conduct  
11 an analysis.

12 And when they do that analysis, they  
13 incorporate all the development activity that's in the  
14 area. So you know, if there were, you know, a major  
15 subdivision, of course they would include it, but if  
16 there -- if you went up and down Springfield Road and  
17 there were other less than 50-trip subdivisions, their  
18 responsibility is to include those also.

19 MS. MCNEIL: Thank you for answering the  
20 question.

21 MR. NELSON: So when the finding -- when --  
22 when the traffic study is done just not by the

1 applicant, they have to include anybody who is further  
2 along in the process, then -- so in the preliminary  
3 plan, they include every approved preliminary plan,  
4 site development plan. They don't have to include  
5 concept plans, but the approved preliminary plan is  
6 included in their analysis.

7 MS. MCNEIL: Thank you. Thank you, sir. Okay.  
8 Back to you, Mr. Hatcher.

9 MR. HATCHER: Does your October 2- -- does  
10 your October 26th traffic statement as amended by  
11 December 5 revised tra- -- traffic statement, analyze  
12 the safety conditions associated with Springfield Road?

13 MR. NELSON: It -- it discusses the fact that,  
14 you know, the Springfield Road is a collector highway.  
15 In fact, most of the roads around here are either  
16 collectors or arterials. So in general, one of the  
17 problems that we get into with -- with [inaudible] if  
18 they go through residential subdivisions.

19 In this case, we're accessing directly to a  
20 collector, which then traffic flows both north-south to  
21 the regional network and again, from a safety  
22 perspective, by consolidating the access, not having



1 multiple access points to Springfield Road, I believe  
2 it is a safer condition than it would be otherwise.

3 MR. HATCHER: All right. Can you please speak  
4 to the trip generation and traffic patterns generally  
5 associated with single-family residential uses as  
6 analyzed in the October 26th traffic statement as  
7 amended by the December 5th revised traffic statement?

8 MR. NELSON: Sure. [inaudible] that we've said  
9 now several times is the purpose of our review at this  
10 stage is to look at what the difference is between what  
11 is a [inaudible] use. In this case, we have a 12-acre  
12 parcel that's zoned RR. In general, we -- we just  
13 assume 2 units per acre, so 12 acres could've been 24  
14 units.

15 When we first started looking at it, we  
16 thought well, [inaudible] some of our [inaudible]  
17 reasons why we may not get up to 24. So we used 22, but  
18 on Page 2 of our re- -- letter report, we show that 22  
19 single-family homes would be expected to generate 17  
20 trips in the morning and 20 in the afternoon.

21 And then the study was then -- went on to  
22 compare what the proposed use is, which is 57 senior

1 housing units and there's a little bit that -- that --  
2 I hope it's not confusing, but when we were going  
3 through the process, the number of units continued to  
4 change and we kept submitting requests to staff for  
5 approval of our scoping.

6 And so instead of continually changing it, we  
7 said, well, what's the most we'll ever get on a site  
8 and that's where the -- the 60 units came from in the -  
9 - in the letter report, but, you know, how [inaudible]  
10 60 units compared to the 22? And -- and it's shown in  
11 the report it generates [inaudible] 4 trips less and a  
12 little more than 4 trips less in the evening and if 60,  
13 you know, units generates less than the 22 units, then  
14 57 would certainly generate even less.

15 And in fact, it generates one less more. So  
16 the purpose of this just showed that if the site were  
17 developed by [inaudible] as single-family units in the  
18 RR Zone, it would generate more traffic than what this  
19 proposed use would and therefore -- well, I'll let you  
20 ask the next question.

21 MR. HATCHER: And I think [inaudible] a good  
22 point, but I just -- how -- how did the trip generation

1 and traffic patterns associated with senior housing  
2 compared to trip associated with all -- all-age single-  
3 family residential uses -- uses?

4 MR. NELSON: Well, in general, there's --  
5 there's a number of studies done and the senior housing  
6 generates about 30 percent of what a traditional non-  
7 age-restricted housing unit would generate. So it's  
8 quite a bit less.

9 MR. HATCHER: How will the proposed planned  
10 retirement community affect the existing transportation  
11 network?

12 MR. NELSON: So again, when the -- when the  
13 transportation network developed and the master plan  
14 was developed, they worked to develop a balance between  
15 land use and the highway network. And so in this case,  
16 when they did that study, they would've looked at the  
17 site with, you know, 22 to 24 units.

18 So then those units would've generated  
19 somewhere in the order of 20 peak hour trips in the  
20 evening. So if we put the senior housing on, it  
21 generates less traffic. So we're in a case where the  
22 proposed special exception would generate less traffic

1 than the by-right use, therefore, it's -- you know,  
2 you're -- it's pretty easy to make the argument that  
3 you're consistent with the transportation, you're not  
4 going to have any adverse effects.

5 MR. HATCHER: Are you familiar with the prior  
6 zoning ordinances required findings for approval of a  
7 special exception?

8 MR. NELSON: Yes.

9 MR. HATCHER: In your expert opinion, will the  
10 granting of this application be consistent with the  
11 standards required in the prior zoning ordinance for  
12 the use in this ques- -- in -- in question?

13 MR. NELSON: Yes. I will -- I don't believe  
14 that this site has proposed in the special exception  
15 would have an adverse effect on the health, safety and  
16 welfare of the community.

17 MR. HATCHER: Okay. In your expert opinion,  
18 will the approval of this application cause any adverse  
19 effects upon the adjacent properties and surrounding  
20 neighborhood?

21 MR. NELSON: No.

22 MR. HATCHER: In your expert opinion, will the

1 approval of this application have any detrimental  
2 effect on the health, safety and welfare of pedestrians  
3 and motorists in the area?

4 MR. NELSON: No. In fact again, comparing the  
5 -- the two uses, which is our job in this case, I  
6 believe this is better than what we would see if it  
7 weren't -- if we were to de- -- develop in a  
8 traditional manner.

9 MR. HATCHER: Madame Examiner, I have no  
10 further questions for this witness.

11 MS. MCNEIL: I have a few. In -- when the  
12 staff revised its report, it removed a requirement that  
13 you show that large vehicles can circulate on site. Do  
14 you know why they did that?

15 MR. NELSON: I saw that too, but again, I  
16 didn't do the site -- internal site layout. And so I  
17 don't know the answer.

18 MS. MCNEIL: Well, as an expert, do you think  
19 it's --

20 MR. NELSON: There will be somebody  
21 [inaudible] that will be able to answer.

22 MS. MCNEIL: -- and as an expert witness, do

1 you think perhaps large vehicles should be allowed to  
2 circulate within the site?

3 MR. NELSON: There are are requirements that,  
4 you know, firetrucks are able to circulate properly.  
5 Yes.

6 MS. MCNEIL: And do you think the right-of-  
7 ways shown on that site plan are sufficient for that?

8 MR. NELSON: I did not test it. So I don't  
9 know.

10 MS. MCNEIL: Okay. And then there was a  
11 question about sidewalks as well, the sidewalks that  
12 were proposed were six feet and they went down to five  
13 feet and do you have any knowledge as to why that  
14 occurred?

15 MR. NELSON: I do not.

16 MS. MCNEIL: Okay. And then the final one was  
17 to show the -- I think it's the bicycle -- there's  
18 something about the bicycles being shown on the site  
19 plan versus them being -- the bicycle lane now will be  
20 along the entire frontage, but before it was going to  
21 be on the special exception site plan. I guess, I think  
22 I understand that one, but do you know anything about

1 that?

2 MR. NELSON: No.

3 MS. MCNEIL: Okay.

4 MR. NELSON: Other than that's required, but  
5 no, I wasn't involved.

6 MS. MCNEIL: Okay. Thank you. Mr. Aldag, I'm  
7 go- -- oh, wait a minute, Mr. Suhar, are you still  
8 around?

9 MR. SUHAR: I -- I am. Yeah. Can you hear me?

10 MS. MCNEIL: Do you have -- do you have any  
11 questions of this witness?

12 MR. SUHAR: Yes, just one. Mr. Nelson, do you  
13 -- you were testifying that -- that the proposed use is  
14 less -- that -- that would -- would -- would generate  
15 less traffic for trip generation than -- than a use,  
16 you know, under by-right on this property; is that  
17 right?

18 MR. NELSON: Yes.

19 MR. SUHAR: Okay. Now, is that -- is your --  
20 your statement there, your opinion, based on the 57  
21 units that would be developed on this property?

22 MR. NELSON: Yes. And up to 6- --

1 MR. SUHAR: Even with 57? I'm sorry, go ahead.

2 MR. NELSON: -- even 60 is le- -- was -- well,  
3 the same conclusion could be drawn --

4 MR. SUHAR: Okay.

5 MR. NELSON: -- but the 57, which is the  
6 proposed, is based on using the trip generation rates  
7 from the park and planning guidelines, which clearly  
8 shows it generates less traffic than -- than the 22 to  
9 24 single-family homes.

10 MR. SUHAR: Okay. All right. No further  
11 questions.

12 MS. MCNEIL: Thank you. Mr. Aldag, do you have  
13 questions?

14 MR. ALDAG: I do. Hi and good afternoon, Mr.  
15 Nelson. Are you aware of the cut-through traffic from  
16 USDA Beltsville Farm? It comes right down Springfield  
17 Road.

18 MR. NELSON: I -- I used to actually live very  
19 close to this and I do -- I know that there is some  
20 traffic that goes to the USDA from here. Yes. I don't -  
21 - I don't have a specific percentage of volume. I don't  
22 know.



1 MR. ALDAG: Well, it was actually, you know,  
2 pretty substantial. You know, I was actually doing, you  
3 know, a count and I was able -- basically, during rush  
4 hour, there were like 300 to 500 cars an hour going at  
5 rush hour. That's like 1 car ever 14 seconds going down  
6 Springfield Road, which is pretty heavy.

7 Then when we actually look at, you know, this  
8 particular project, we went and looked in the master  
9 planned transportation 2035 and the 2022 approved  
10 Bowie-Mitchellville vicinity plan didn't show that  
11 there was a traffic condition report analysis in it,  
12 but we not only have the Stewart property but we have 8  
13 to 10 subdivisions that are actually planned on  
14 Springfield Road and like within, you know, a baseball  
15 throw of Springfield Road.

16 And has there been a particular study with all  
17 of this additional development? They just, above Good  
18 Luck Road, started another 12 -- you know, 12-house  
19 development right now and basically, with the traffic  
20 and the trucks and everything, it's -- we -- we have a  
21 -- a huge issue with the traffic load. But have you  
22 actually looked at everything with all of the load for

1 the construction?

2 MR. NELSON: There were a lot of questions  
3 there. First off, as we mentioned to the examiner, next  
4 -- the next step of the development process there will  
5 be a traffic study conducted. The -- and the purpose of  
6 it is, you know -- is to address the [inaudible]  
7 facilities and by definition, it -- because of the --  
8 we're not required to do it, staff will, but they are  
9 required to include all of the development that --  
10 that's approved along -- in the study area that they'll  
11 define.

12 So that -- that should set up the basis for  
13 the evaluation to make sure that it's not below the  
14 acceptable standards. I have never seen traffic volumes  
15 on Springfield Road -- so I mean, if you have a count,  
16 I'd be interested to look at it. I've never seen the  
17 volumes in the 300 to 400 range in the peak hour on  
18 Springfield Road, but that --

19 MR. ALDAG: I --

20 MR. NELSON: -- that will be the next step to  
21 present that and ana- -- analyze it.

22 MR. ALDAG: Yeah. I actually used a form and

1 all that they use as a standard form, I can send you  
2 that. But we already have a problem on the -- on the  
3 traffic load right now. We're -- we're pinned in our  
4 driveways sometimes for a minute or two minutes until  
5 we can get a break in the traffic to scoot out and  
6 that's before they've had all this going on.

7 And you know, not only do they have the  
8 Stewart property, but right below it they have like two  
9 other properties that are scheduled for subdivisions  
10 too.

11 MR. BROWN: You have to ask a question.

12 MR. ALDAG: Yeah.

13 MR. BROWN: You have to ask a question, you  
14 can't make a statement.

15 MR. ALDAG: Oh, okay. So basically, is it in  
16 the approved Bowie-Mitchellville vicinity plan in the  
17 transportation 202- -- 2035 plan? So it really hasn't  
18 been looked at, has it?

19 MR. NELSON: Well, I think it's -- and again,  
20 for the purpose of what's required at the special  
21 exception stage, you know, the analysis that's  
22 presented is -- is pretty clear. The next step in the

1 process is to do an [inaudible] facilities test, which  
2 would analyze that. The fact that Springfield Road is a  
3 collector highway it is -- and that's its job is to  
4 collect traffic from the development along its length  
5 on both ends and carry it to the next level of road.

6 In this case, it would be [inaudible] Road to  
7 the south, which is an arterial -- actually, it's an  
8 arterial up to Springfield Road and then it becomes a  
9 collector as it goes to the east, but -- so I'm not  
10 sure what -- again, the -- the land use requirements  
11 and the land will -- it should answer your question. I  
12 mean, this is [inaudible] -- you know, stay involved,  
13 you're a person record.

14 When it goes through the public -- you know,  
15 go through the hearing, transportation and planning  
16 should and will be doing the study that says whether  
17 those are adequate roads and the standards, that  
18 they're met or not met and I believe in this case, from  
19 what I know out there, that, you know, it should -- it  
20 should be fine, but it's subject to a test and --

21 MR. ALDAG: Mm-hmm.

22 MR. NELSON: -- but that's not -- that test is

1 not now.

2 MR. ALDAG: Yeah. Now, you were saying that  
3 there are single-family houses that you would, in the  
4 morning, have 17 cars that would basically, you know,  
5 leave that particular area and be on Springfield Road  
6 and --

7 MR. NELSON: It's a -- it's a combination of  
8 1- -- 17 trips, so that would be coming [inaudible] and  
9 going inbound and outbound out of the development, in  
10 the morning, more load going out, but some of them will  
11 be coming in, but that's during the peak hour of the  
12 street. So it's not the total traffic going in and out  
13 of the development, it's just -- in this case, it's the  
14 traffic that was going out between say, 7:45 to 8:45 in  
15 the morning is about 17 trips for 22 units [inaudible].

16 MR. ALDAG: So if you have 57 units and --

17 MR. NELSON: Mm-hmm.

18 MR. ALDAG: -- a third of the whole point --  
19 or 30 percent, you know, re- -- have a -- a .3 of, you  
20 know, your traffic load at that time, that calculates  
21 to 17 plus, you know, trips; right? So it's pretty much  
22 a wash.

1 MR. NELSON: There's -- I think your -- you --  
2 you -- your comparison isn't quite right, because you  
3 would want to -- you would want them to be equal. And  
4 so the answer to your question might be that 57 senior  
5 houses is about the same as 17 single-family. So  
6 they're equal at that point and then you -- then you  
7 would take your reduction from there, but we're saying  
8 that, you know, the -- the 57 units would generate  
9 about 13 trips in the morning, which is --

10 Actually, we're sitting as kind of high,  
11 because the senior housing, the people -- especially  
12 now, I mean, you know, people just don't even leave  
13 anywhere, but they don't have to go anywhere during the  
14 peak hours, so they don't. And so they -- it doesn't  
15 mean that they don't leave, say, at 10:00 o'clock to go  
16 get coffee somewhere or something --

17 MR. ALDAG: Mm-hmm. Well, in the --

18 MR. NELSON: -- but during the [inaudible]  
19 peak is when the -- the traffic tests just developed --

20 MR. ALDAG: Right.

21 MR. NELSON: -- and this basically would be  
22 between, say, 8:00 and 9:00 in the morning and -- and

1 4:00 and 5:00 or 5:00 and 6:00 in the evening. So how  
2 many trips does it generate during that period? And  
3 what we found is that senior housing has a choice,  
4 because they don't have to go to work generally.

5 And so why -- you know, why would they travel  
6 during the period? You know, they don't. So that's why  
7 it's so much more --

8 MR. ALDAG: Are we starting at 55 for the --  
9 the limitation on age; right?

10 MS. MCNEIL: Mm-hmm.

11 MR. NELSON: That's what code is.

12 MR. ALDAG: And most people are still working  
13 at 55 and into their 60s, because, you know, you can't  
14 get social security until 62. A lot of people are  
15 taking it at 65. So you would have a predominant amount  
16 of those people still doing -- you know, when they --  
17 basically, [inaudible] --

18 MS. MCNEIL: Mr. Aldag -- Mr. Aldag --

19 MR. ALDAG: Yeah. Yes.

20 MS. MCNEIL: -- questions.

21 MR. ALDAG: Yeah.

22 MS. MCNEIL: You've got to let him answer

1 questions.

2 MR. ALDAG: Oh -- oh -- oh, okay.

3 MS. MCNEIL: Does his opinion change if he  
4 considers that some of the folks would still be working  
5 at 55?

6 MR. ALDAG: Yeah. Would that -- you know, with  
7 what the retirement age is and what social security is,  
8 would you contend that, you know, people are still  
9 going to be working jobs?

10 MR. NELSON: I'm not saying they are, I'm not  
11 saying some of the people won't, but where the rates  
12 come from -- so basically, what you need to do is back  
13 into where the rates [inaudible] and where the rates  
14 come from is studies were actually done of retirement  
15 communities.

16 So there's different kinds of retirement  
17 communities, anywhere from just age-restricted to, you  
18 know, all the way to, you know, Alzheimer's care where,  
19 you know, of course, they don't drive, but they -- the  
20 agencies have gone out, and these are Prince George's  
21 County rates, and they match up with national rates  
22 where they actually go out and study subdivisions of,



1 you know, different sizes and count the intersections  
2 over a period of time and then they use that to  
3 generate the rates based on per unit numbers.

4 So there's a combination of people. I mean, I  
5 don't know how many people that are in the say, 55  
6 range that -- that -- you know, who still might have  
7 kids. And so, you know, that -- that -- that's not  
8 something really delving into, but, you know, it would  
9 be interesting to see how many people that -- that buy  
10 one of these houses is really 55 or are they 60 to 65,  
11 are they 70?

12 But the real world numbers are what's used as  
13 a basis for these trip generation numbers that actually  
14 count retirement communities for age-restricted and  
15 this is what they find. So we did not conduct those  
16 studies, those are just based on park and planning  
17 rates and national data collection.

18 MR. ALDAG: Okay. Thank you. Are you actually  
19 going to make a traffic study that will, you know, put  
20 all of the construction and the Stewart farm together?

21 MR. NELSON: That's the point that [inaudible]  
22 and maybe it's not clear, but because the Prince

1 George's County has guidelines for preparing traffic  
2 studies at different levels of applications, but in the  
3 preliminary plan stage, one of the criterias is if a  
4 site generates less than 50 peak hour trips, the  
5 applicant is not required to do a study.

6 MR. ALDAG: Mm-hmm.

7 MR. NELSON: So this obviously [inaudible]  
8 we're like 16. So we're a long way from 50.

9 MR. ALDAG: Yeah.

10 MR. NELSON: So the applicant's not required  
11 to do the study. They can, but they -- they're not  
12 required to, but a study is still required, it's just  
13 prepared by staff and in this case, in order to aid  
14 them, one -- we -- we would be required to provide them  
15 with current traffic counts to use as the basis.

16 So you're physically going out and counting  
17 the intersections and passing them on to them.

18 MR. ALDAG: Yeah. You know, it's interesting,  
19 the entrance that goes into this -- you know, into this  
20 property is larger -- is actually -- is wide or wider  
21 than Springfield Road. Are -- are you tak- -- planning  
22 to do anything with Springfield Road that would help,

1 you know, the traffic flow?

2 MR. NELSON: Well, they are required to meet  
3 county requirements and again, when they get to the  
4 preliminary plan stage is when you physically work with  
5 public works and make sure that you're design meets to  
6 the curb radius, the offsets, the site distance, all  
7 those things are met with your design.

8 I think that what makes this look a little bit  
9 wider is that there's a -- a monumental median just to  
10 separate the inbound and the outbound flow, but it's  
11 really -- it's a two-lane road, it's a one- -- one-lane  
12 in, one-lane out and then again, you work with the --  
13 we're required to make frontage improvements along the  
14 entire length. Those are all detailed by public works -  
15 -

16 MR. ALDAG: Okay.

17 MR. NELSON: -- which is also -- it's really  
18 not -- I don't think we're going to get an devia- --  
19 deviations from that at all. So --

20 MR. ALDAG: So as overall development, you  
21 wouldn't expect any road improvements?

22 MR. NELSON: Well, frontage improvements are

1 pretty significant for a development of this size. So  
2 they are making full frontage improvements, but then  
3 offsite where we have to go off the intersections,  
4 again, that's triggered by the [inaudible] facilities.

5 If we do the -- if that study's done, you  
6 know, [inaudible] county and they showed that there's  
7 deficiencies, I mean, there's a criteria that you  
8 follow that levels the surface with the intersections  
9 and if they're not adequate, then the improvements have  
10 to be made --

11 MR. ALDAG: Mm-hmm.

12 MR. NELSON: -- but that study hasn't been  
13 done yet. So it's hard to say.

14 MR. ALDAG: Well, being that there's only one  
15 way in and one way out, would you ever consider having  
16 to put a light there?

17 MR. NELSON: At this driveway?

18 MR. ALDAG: Yeah.

19 MR. NELSON: No. It --

20 MR. ALDAG: Even if they can't get out, they -  
21 - or they're pinned in, you wouldn't consider putting a  
22 light there?

1 MR. NELSON: Well, I mean, none of them  
2 [inaudible]. You can't just put a light in. There's --  
3 there's criteria that -- called the warrants term based  
4 on manual uniform traffic control [inaudible] and it's  
5 this test between volumes to [inaudible] accidents and  
6 this development. So you have to have -- I don't know  
7 if significant is the word, but you have to have a  
8 moderate amount of traffic both on the mainline roads  
9 plus the approaches.

10 That number is usually in the hundreds of cars  
11 and since we're only generating less than 16 total, you  
12 know, which again, is inbound and outbound, we -- we  
13 would never approach the volumes that would justify  
14 [inaudible] and the reason is that there's criteria for  
15 installing them, but when you put in a signal, they can  
16 actually cause accidents and if you approve that you  
17 put a signal in that wasn't supposed to be there, the  
18 attorneys' eyes get really big and you can get sued for  
19 it.

20 So what I'm -- what I'm telling you now is  
21 based on my experience, the volumes of this road would  
22 never approach those that would allow a signal to be

1 put in.

2 MR. ALDAG: Okay. So if they're pinned in, you  
3 basically still would not put a sign up?

4 MR. NELSON: A sign?

5 MR. ALDAG: You know, if they can't get out of  
6 the -- out of the Stewart property, you wouldn't -- you  
7 -- you wouldn't put a sign up -- or excuse me, you  
8 wouldn't put a -- a -- a light up to help that at all  
9 and they would just have to wait is what you're saying?

10 MR. NELSON: They would -- it -- it's going to  
11 be an adequate intersection with a stop sign approach.  
12 So Springfield Road would just, you know, free flow  
13 north-south [inaudible] and they would have to wait to  
14 get out, which is, you know, standard development  
15 intersection in all of the county.

16 And you know, again, the APF, they focus on  
17 the intersections, but staff would also look at the  
18 site access point to show that based on the volumes on  
19 the street plus the other developments that are  
20 approved will -- will meet their requirements. It  
21 doesn't mean it's not different than what it is today,  
22 it just means that there is a level that's considered

1 acceptable versus unacceptable --

2 MR. ALDAG: Okay.

3 MR. NELSON: -- and that's published and it's  
4 all based on the Maryland codes and county zoning  
5 ordinances [inaudible] it's all behind.

6 MR. MARTIN: I have a quick question. 8204  
7 right across the street, Hasani Martin, just -

8 MS. MCNEIL: Excuse me -- excuse me, Mr.  
9 Martin --

10 MR. MARTIN: Yes.

11 MS. MCNEIL: -- are you finished, Mr. Aldag?

12 MR. ALDAG: I am. Thank you.

13 MS. MCNEIL: Okay. Okay. Mr. Martin, go ahead.

14 MR. MARTIN: I'll be quick. I'm -- I'm -- I'm  
15 going to always be quick. Just in your professional  
16 experience, how -- have you ever seen like 57 units  
17 being crammed into 12 acres? Like have you -- like how  
18 -- how common is it? I'm just wondering like in your --  
19 in your professional experience, how common have -- in  
20 -- in a rural area, like how common is this is my main  
21 question?

22 MR. NELSON: I don't think it's uncommon. I

1 think it's -- again, it's different in this case,  
2 because if there were 5- -- again, 57 senior housing  
3 units is very different than 5- -- from a traffic  
4 perspective -- I mean, it's still jammed.

5 From a traffic perspective, 57 senior housing  
6 units is very different than 57 townhouses, I mean,  
7 but, you know, if they were just built as traditional  
8 townhouses, that would be generating, you know, 60  
9 percent more traffic, you know, and then we would be  
10 having discussions on how do the access points work,  
11 whether 1 access point is enough, but again, senior  
12 housing developments are very low trip generators, they  
13 just -- they are.

14 MR. MARTIN: So I -- I don't know, do you deal  
15 with access to public transportation? Is that your  
16 expertise? Because you know, there's no public  
17 transportation on Springfield. There's no sidewalk on  
18 Springfield Road. The bus stop is on Lanham Severn  
19 Road. So you know, they're elderly, so, you know,  
20 they're going to be doing a lot of walking in these  
21 public transportation --

22 MR. NELSON: Yeah. Well, there will be



1 sidewalks on this side when they're done. I mean, I  
2 should've quantified that.

3 MR. MARTIN: I just want to [inaudible] not --  
4 not going all the way up Springfield; right?

5 MR. NELSON: No. But as the developments go  
6 forward and, you know, you get the [inaudible]  
7 development and as the developments go forward, you get  
8 elements of it done and then what happens is the county  
9 comes in and it gets petitioned and then they do a  
10 project that completes it, but, you know, there's --  
11 there's a responsibility of the developer, in this  
12 case, just to do his part and that's what the  
13 [inaudible].

14 MR. MARTIN: Okay. Thank you.

15 MR. NELSON: Mm-hmm.

16 MS. MCNEIL: Does anyone else have questions  
17 of Mr. Nelson?

18 MS. SPENCER: Yes. This is Mary Spencer.

19 MS. MCNEIL: Thank you, Ms. Spencer.

20 MS. SPENCER: [inaudible]. I have a slight  
21 question on multiple, 57 units with roughly [inaudible]  
22 -- Mr. Nelson, can you hear me?

1 MS. MCNEIL: Ma'am --

2 MR. NELSON: You're breaking up a lot.

3 MS. MCNEIL: Yeah.

4 MR. NELSON: All I heard was 57 units.

5 MS. SPENCER: Okay. I'm not going to move to  
6 make sure that you can hear me. Are you able to hear  
7 me?

8 MR. NELSON: Yes.

9 MS. SPENCER: Okay. So currently, the outlet  
10 for this property is 57 units with a plan of only 16 in  
11 and out trips in the morning and evening; correct?

12 MR. NELSON: Thirteen in the morning and 16 in  
13 the evening. Yes.

14 MS. SPENCER: Okay. So the site is --

15 MR. NELSON: There'll be traffic [inaudible]  
16 all day.

17 MS. SPENCER: -- the site is identified for  
18 228 parking spaces whereas if we were to stick to our --  
19 -- our zoning of half-acre per single-family resident,  
20 then it would only be, at max, 24 units; correct?

21 MR. NELSON: Correct.

22 MS. SPENCER: Okay. So within traffic, if we

1 could follow through and approve that 57 units are  
2 going to be placed and then you're stating that that  
3 would be approved first prior to having an adjustment  
4 or assessment on the fact that it's a two-lane road and  
5 as identified in your letter, it states there are  
6 shoulders on each side and there are not, will this not  
7 be addressed prior to approval if this is approved?

8 MR. NELSON: Well, my -- here's my comment on  
9 that, at this point, we're approving the special  
10 exception, we're not approving the actual development  
11 to go in. The next step is a preliminary plan of  
12 subdivision at which point those questions get detailed  
13 and approved.

14 MS. SPENCER: We're approving the special  
15 exception -- I'm going to step outside, so that way I  
16 know you can hear me loud and clear [inaudible]  
17 anything.

18 We're approving the special exception to go to  
19 57 units on the 12 acres of land, which can accommodate  
20 228 vehicles with the access of coming in -- in and out  
21 when PJ County's current employment rate for 55 to 64  
22 years old is 13.13 percent, which is actually higher

1 than the accounted for, 45 to 54-year-olds for PJ  
2 County is 12.83 percent.

3 So I'm -- I'm trying to see if we move in to  
4 accommodate this 57-unit development with 228-vehicle  
5 capability, how does -- do those numbers add up on the  
6 traffic flow when as Mr. Aldag said, we have counted --  
7 I even have cameras on my house to prove that there is  
8 300 to 500 cars and in the morning, the line to turn  
9 onto Lanham Severn Road off of Springfield of vehicles  
10 is all the way past my house.

11 So I'm trying to figure out how this is going  
12 to be accounted for if a traffic evaluation is not  
13 being done prior to approving this 57-unit facility  
14 that is also going to add on to the current 26 houses  
15 that have already been approved and subdivided on  
16 Moriarty Court and Summit Way before you even get to  
17 the Stewart property. Do we have an answer?

18 MR. NELSON: [inaudible]

19 MR. BROWN: Let him answer your question,  
20 ma'am.

21 MS. SPENCER: I'm sorry.

22 MR. NELSON: The answer to your question is

1 that this is -- this is not a zoning request, it's a  
2 use request. So what they're determining is whether  
3 you're allowed -- and maybe the attorney can step in,  
4 make sure I don't say this the wrong way, but is  
5 whether this is an allowable use on this property, but  
6 the development rights are going to come more through  
7 the preliminary plan test in that well, they have to  
8 approve that the roads are adequate to support the  
9 development.

10 That will occur at the next step. That's not a  
11 requirement at this stage and I'm not sure how else to  
12 say it.

13 MS. SPENCER: My next question is will there  
14 be a plan to put in a light at the end of Springfield  
15 Road to change the flow of traffic on the Lanham Severn  
16 to accommodate the amount of added vehicles? Will there  
17 ever be a plan -- is that something that has been  
18 looked at?

19 MR. NELSON: I know historically when we first  
20 began working on this project, one of the questions we  
21 had was have there been [inaudible] studies conducted  
22 for that intersection and that's -- so that's the study

1 that determined whether it's appropriate and Lanham  
2 Severn at Springfield Road is a very different  
3 intersection than the site access to Springfield Road,  
4 but based on the -- the record, there have been studies  
5 where it has found that it wasn't justified at that  
6 time.

7 The community can always request public works,  
8 whose responsibility in this case would be [inaudible],  
9 it would be public works and state highway  
10 administration to conduct a study to determine whether  
11 the traffic control is adequate, completely independent  
12 of this development, but, you know, whether -- you  
13 know, whether that traffic control, which could be a  
14 [inaudible], it could be a traffic signal, it could be,  
15 you know, roundabouts, all kinds of things.

16 One of the other appropriate ones [inaudible]  
17 the community can always address through the agencies  
18 that are out there to make sure that it is safe and  
19 it's their responsibility. Will there be tests by the  
20 pre- -- preliminary plan? Yes, but that's something  
21 that is always available to the community to make sure  
22 that it's adequate.

1 MS. SPENCER: So to clarify --

2 MR. NELSON: So --

3 MS. SPENCER: -- at this time, what we are  
4 determining is whether or not the property is going to  
5 be allowed to build the 57 units versus 24 -- I  
6 apologize, I broke up. Where we are is identifying  
7 whether or not the property for site use is going to be  
8 able to build the 57 units versus 24 and we are not  
9 addressing, in any way, the accommodation of traffic at  
10 this time; is that correct?

11 MR. NELSON: We're addressing traffic to the  
12 level to determine whether this development creates a  
13 burden higher than what could be put on by a right, not  
14 what -- so then the next step -- because there's a --  
15 there's a step process to evaluate the periods of  
16 impact, but right now it's to determine whether the  
17 request creates an adverse condition and then it's  
18 based on the master plan.

19 So it's a very more global level, then you get  
20 to a next step. Every time you come to the development  
21 process, it gets more and more focused on operations,  
22 but right now it's a -- it's the high-level planning

1 review and what we've shown, again, staff's reviewed it  
2 and approved it, but it's pretty clear that this  
3 application, as proposed, will generate less traffic.

4 There's a lot less, though -- it's four trips  
5 less, but again, it's less. So if -- if there were  
6 more, then you may see studies to address what the  
7 incremental [inaudible].

8 MS. SPENCER: How are we -- how are you able  
9 to identify that bringing in 57 units with 228 parking  
10 spaces allotted would generate less traffic with 13  
11 percent being equal to -- in the still percentage of  
12 working where 24 units per household most homes only  
13 have 2 vehicles? If we even looked at how many times  
14 each house was going to go out -- in and out twice a  
15 day, we're looking at 48 vehicles versus 228 with the  
16 possibility for them to leave and come back at a 55 and  
17 over development versus a 65 and over development. How  
18 are you able to account for that based on percentage?

19 MS. MCNEIL: Ms. Spencer --

20 MS. SPENCER: Yes, ma'am.

21 MS. MCNEIL: -- I didn't hear any testimony  
22 from anyone about the percentage of folks that still



1 work at 55.

2 MS. SPENCER: Pghelpzone.org for PG County.

3 MS. MCNEIL: No. No. No. I didn't hear any  
4 testimony.

5 MS. SPENCER: Okay.

6 MS. MCNEIL: So what you're going to have to  
7 do is testify to that. So for his question, you're  
8 asking him to explain, again, why did they find that it  
9 would be --

10 MS. SPENCER: How is it found --

11 MS. MCNEIL: -- or amounts --

12 MS. SPENCER: -- [inaudible].

13 MS. MCNEIL: Right. More -- less trips. Again,  
14 Mr. Nelson, why did you de- -- why is it that there are  
15 less trips for this use than for the 22 homes that  
16 could be built in the zone?

17 MR. NELSON: The Prince George's County  
18 guidelines for transportation studies specifically  
19 includes cri- -- trip generation values for different  
20 land uses, both residential and office and commercial,  
21 but under the residential one in table four of their  
22 guidelines, they list what the expected trips are based

1 on different kinds of residential uses.

2 And the key to this -- my testimony is that  
3 one of them is single-family housing, then we compare  
4 that at 22 lots and the other one is senior housing. So  
5 the data that they used to make these evaluations is  
6 directly out of the guidelines and they're based on  
7 formal studies of different uses throughout the region  
8 where they -- it was all unit-based, it's not parking-  
9 space based and that's basically what we're required to  
10 use.

11 But also, you know, in the number of studies  
12 we've done, the -- the trip rates during the peak hours  
13 for senior housing with our findings are they're very,  
14 very low. You may have people that can buy the house at  
15 a certain age, but it doesn't mean those are the ones  
16 that do buy those houses and [inaudible] --

17 MS. SPENCER: My last question for you --  
18 because I apologize, we could go in circles. So my last  
19 question is based on the research that you've done and  
20 the -- what are the ages of the developments that we  
21 are comparing to? What are the current developments  
22 that we are comparing to?

1           Because this is 55 and over versus 62 and  
2 over, 65 and over from -- so what is the comparison?  
3 What are the development ages?

4           MR. NELSON: I don't know. The -- the trip  
5 rates that are listed within the guidelines of park and  
6 planning simply say senior adult housing, single-  
7 family, senior hou- -- housing mul- -- multifamily. It  
8 doesn't break it down further by age and I don't know.  
9 I just -- I don't know.

10          MS. SPENCER: Okay.

11          MR. SUHAR: Madame Hearing Examiner, I -- I do  
12 have to leave.

13          MS. MCNEIL: Okay.

14          MR. SUHAR: I've got another -- I've got a  
15 conflict here, I do need to step into this -- this  
16 other meeting. Would it be possible for me to -- to  
17 make my statement for the record on another day or -- I  
18 don't know how to address this, because this could keep  
19 going on for hours I think with them.

20          MS. MCNEIL: It could. Mr. Hatcher, do you  
21 have anyone that's going to address soil or water,  
22 those types of things other than Mr. Ferguson who

1 probably does not address those things?

2 MR. HATCHER: We -- we -- we hadn't planned on  
3 bringing somebody up to address the soils, because it's  
4 not necessarily a required finding with special  
5 exception. We certainly can provide that while the  
6 record is still open since we are going -- since the  
7 record is going to remain open at least to receive some  
8 of the materials that -- that -- that you've requested.

9 We certainly can provide some testimony from  
10 the ex- -- the experts to do that. You know, I think if  
11 Mr. Suhar would like, we're -- we'd be more than  
12 willing just since the record is going to remain open,  
13 he can certainly put whatever he was going to say in --  
14 in writing, I'm just not entirely sure --

15 MS. MCNEIL: He did, he mailed it. You have  
16 it.

17 MR. SUHAR: I did. Yeah.

18 MS. MCNEIL: You had a chance to look at it  
19 and have no objection, then -- I didn't --

20 MR. HATCHER: I wasn't entirely sure what  
21 capacity he's -- he's going to be testifying to,  
22 though. Is he -- is he testifying? Is he testifying on

1 behalf of [inaudible]?

2 MS. MCNEIL: Well, he was going to argue I  
3 think.

4 MR. HATCHER: Yeah.

5 MS. MCNEIL: But I don't know if there's any  
6 testimony in the document. I don't know that, Mr.  
7 Suhar, because, you know, I just didn't read it yet,  
8 because I knew I would have you. So is there -- are --  
9 is there testimony in there about your group -- I mean,  
10 maybe we should have one more day for an hour to close  
11 this all up.

12 MR. HATCHER: That would not be the  
13 preference.

14 MR. SUHAR: I wouldn't be opposed to that at  
15 all.

16 MR. HATCHER: That definitely would not be the  
17 preference of the applicant. That definitely would not  
18 be the preference of the applicant, certainly since we  
19 have all our consultants here right now, but if that is  
20 the prerogative of the hearing examiner, we would like  
21 to be able to get the remaining expert witnesses in  
22 while we have everybody here today and again, we don't

1 necessarily want to --

2 Because we think we've -- we've made it -- we  
3 are going to make our case in chief, we don't  
4 necessarily think a continuance is necessary, but  
5 that's squarely within your authority.

6 MS. MCNEIL: If -- if I were thinking of it,  
7 are you all available on the 28th?

8 MR. HATCHER: Of December?

9 MS. MCNEIL: Mm-hmm.

10 MR. SUHAR: Ye- -- yes. I am.

11 MS. MCNEIL: I figure I don't want to be here  
12 for --

13 MR. HATCHER: Counsel will be out of the  
14 country, I [inaudible].

15 MS. MCNEIL: -- it's just -- okay. All right.  
16 We'll get -- you know what, how many more people have  
17 questions of Mr. Nelson, anyone?

18 MR. BROWN: We can move on.

19 MS. MCNEIL: Mr. Hasani, are you saying  
20 something? No. Okay. Okay. Then I -- I want to --

21 MR. BROWN: I said we can move on.

22 MR. ALDAG: We're good.

1 MS. MCNEIL: Who's Tanya [ph]?

2 MR. ALDAG: Tanya is Tanya Aldag.

3 MS. MCNEIL: Oh, that's right, it's Ms. Aldag.  
4 You already had your questions.

5 MR. ALDAG: Yeah. I know, we're good.

6 MS. MCNEIL: Okay. Then you know what, it's  
7 12:32 and I could go forever, but the staff can't. So  
8 Mr. -- we're going to take a -- a 30-minute lunch  
9 break, but Mr. Suhar, Mr. Hatcher and Mr. Brown, I'll --  
10 -- I'll be emailing you all, because I do think I need  
11 one more day and it would be great if you could iron it  
12 out so we can tell everyone on this record. So --

13 MR. HATCHER: Definitely --

14 MS. MCNEIL: -- that'll be Mr. Suhar, you've  
15 got to get that stuff to us from your client and  
16 whatever your document is and it could be that there's  
17 some other folks that won't finish today. So we'll see,  
18 but -- but right now it's lunch, 30 minutes, we'll be  
19 back and I'll email the lawyers. Thank you, everyone.

20 MR. SUHAR: And -- and so you're -- you're --  
21 you're wanting all of us back in a half hour; is that  
22 correct?

1 MS. MCNEIL: No. No. No. No. I'm just emailing  
2 you, you are free to go.

3 MR. SUHAR: Oh, okay. Thank you.

4 MR. HATCHER: Okay.

5 MR. SUHAR: So there's going to be another day  
6 for us to continue then?

7 MS. MCNEIL: Yes, sir.

8 MR. SUHAR: Okay. Thank you so much, Madame  
9 Examiner.

10 MR. HATCHER: If there is indeed -- if there  
11 is indeed another day before Mr. Suhar jumps off, will  
12 it -- will the testimony be just for those who are  
13 speaking on that day, like him?

14 MS. MCNEIL: Yes. Or anybody you don't finish  
15 today, yes, because I don't know if today is going to  
16 6:00 o'clock, but Maurene McNeil can't go to 6:00  
17 o'clock, I apologize. So --

18 MR. SUHAR: I respect that.

19 MS. MCNEIL: So everyone, I'll see you at 1:00  
20 o'clock -- 1:03 and I'll email --

21 MR. SUHAR: All right. Thank you very much.

22 MS. MCNEIL: Okay. Thank you.



1 MR. SUHAR: Thank you. All right. Thank you.  
2 Have a good day.

3 AUTOMATED VOICE: Recording stopped.

4 [break]

5 AUTOMATED VOICE: Recording in progress.

6 MS. MCNEIL: Okay. So welcome back, everyone.  
7 Still didn't pick a date, but I'll get that for you.  
8 Before we start, Mr. Hatcher, who are the additional  
9 people that you might call as witnesses on here? We're  
10 just trying to make sure we have the addresses of  
11 everybody that wants to be a person of record. You're  
12 muted. Okay.

13 MR. HATCHER: Yeah. Dan Debolt [ph] is -- is --  
14 -- his monitor is -- his screen is on. He works at CPJ  
15 with --

16 MS. MCNEIL: No. That's good. We have Mr.  
17 Debolt if somebody were wondering about. Who else do  
18 you have?

19 MR. HATCHER: For today --

20 MS. MCNEIL: Uh-huh.

21 MR. HATCHER: -- Dan Debolt and Mark Ferguson.

22 MS. MCNEIL: Oh, just that. So -- okay. Okay.

1 So we've just got to make sure with Mr. Hughes [ph] and  
2 Ms. Richmond [ph] that we have your addresses, maybe  
3 you can put them in the chat for us, because if we  
4 don't have a home or writ- -- or work address, then you  
5 -- preferably home, you may not be qualified to be a  
6 person of record to appeal this matter. Okay.

7 MS. POTIT: Also, the email addresses. Excuse  
8 me.

9 MS. MCNEIL: Well, we -- we must have them;  
10 right? Or maybe not.

11 MS. POTIT: Not for Mr. Hughes and Ms.  
12 Richmond, they're not on the list.

13 MS. MCNEIL: Okay. Somehow they have it. Okay.  
14 So we need your emails as well, M- -- Mr. Hughes and  
15 Ms. Richmond. Okay. So is Br- -- is Stan back? Who is  
16 your next witness, Mr. Hatcher?

17 MR. HATCHER: Mark Ferguson.

18 MS. MCNEIL: Okay. I know Stan wants to hear  
19 all of that, so let's give him a second.

20 MR. HATCHER: Just a point of clarification,  
21 am I -- are -- are we still on the lookout for an email  
22 for a potential alternative date or are we comfortable

1 proceeding today?

2 MS. MCNEIL: No. We're on the lookout, it's  
3 coming.

4 MR. HATCHER: Hopefully this year?

5 MS. MCNEIL: You are the one -- okay. I'll  
6 tell you what, can you just send some dates to Ms.  
7 Potit and Ms. Rawlings [ph]?

8 MR. HATCHER: Yes.

9 MS. POTIT: I'm sorry, you were saying? I'm --

10 MS. MCNEIL: He's sending some dates to you  
11 all to see if any of them would work for us to continue  
12 this too.

13 MR. HATCHER: Does it have to be on a  
14 Wednesday or could it be on a different day as well?

15 MS. MCNEIL: Only in December can it be on a  
16 different day.

17 MR. HATCHER: Oh, I'm going to give you some  
18 dates.

19 MS. MCNEIL: It may not work, but you can try.  
20 Go ahead. Okay. Where is Mr. Brown? Some -- some  
21 housekeeping, I guess Mr. Ferguson's planning statement  
22 should be Exhibit 102.

1 MR. HATCHER: Two.

2 MS. MCNEIL: And we have to make sure Ms. Bah  
3 has it so she can pull it up if anyone -- I don't know  
4 if you were going to pull it up, but --

5 MR. HATCHER: It certainly was not the  
6 applicant's intention to pull it up, but I think there  
7 are going to be some other things that -- that Mark  
8 might speak to that might need to be pulled up.

9 MS. MCNEIL: Okay. Okay. Well, we can get  
10 started. Mr. Ferguson, do you swear or affirm under the  
11 penalties of perjury that the testimony you shall give  
12 will be the truth and nothing but the truth?

13 MR. FERGUSON: Yes. I do.

14 MR. HATCHER: Mr. Ferguson, can you please  
15 state your full name and business address for the  
16 record?

17 MR. FERGUSON: My name is Mark Ferguson and my  
18 business address is 5407 Water Street, Suite 206 in  
19 Historic Downtown Upper Marlboro, Maryland.

20 MR. HATCHER: Where are you currently  
21 employed?

22 MR. FERGUSON: At Site Design Incorporated as

1 a senior land planner.

2 MR. HATCHER: What is your current position  
3 with RDA/Site Design Incorporated?

4 MR. FERGUSON: I'm sorry, I threw you off, as  
5 senior land planner.

6 MR. HATCHER: Mr. Ferguson, have you ever been  
7 qualified as an expert in land use planning before the  
8 Prince George's County zoning hearing examiner?

9 MR. FERGUSON: Yes. I have, on more than 150  
10 occasions.

11 MR. HATCHER: Is Exhibit 89, which is included  
12 in the ZHE record, a copy of your resume and if -- and  
13 if so, does it accurately reflect your educational  
14 background and professional experience?

15 MR. FERGUSON: Yes. It does.

16 MS. MCNEIL: Mr. Ferguson, have you -- have  
17 you been declined admission as an expert witness since  
18 we last --

19 MR. FERGUSON: Madame Examiner, I have not  
20 been declined. I have only declined in stature as I get  
21 older, I get shorter.

22 MS. MCNEIL: Okay. Mr. Brown, do you have any

1 questions or objections?

2 MR. BROWN: Absolutely none whatsoever.

3 Welcome, Mr. Ferguson.

4 MR. FERGUSON: Thank you, Mr. Brown. It's nice  
5 to see the both of you this morning.

6 MS. MCNEIL: You will be accepted --

7 MR. FERGUSON: Or I beg your pardon, this  
8 afternoon.

9 MS. MCNEIL: This afternoon. You will be expe-  
10 -- accepted as an expert in land use planning.

11 MR. FERGUSON: Thank you, Madame Examiner.

12 MR. HATCHER: Did you prepare a land use  
13 report associated with the subject application?

14 MR. FERGUSON: I did.

15 MR. HATCHER: Madame Examiner, I'd lo- -- it'd  
16 be ideal -- we respectfully respect that the land use  
17 report be -- provided by Mr. Ferguson be included in  
18 the record I think you referenced possibly as Exhibit  
19 102.

20 MS. MCNEIL: It will be Exhibit 102.

21 MR. HATCHER: And do you -- Mark, do you  
22 further incorporate and adopt your testimony here today

1 with your land use report?

2 MR. FERGUSON: I do with one caveat, on Pages  
3 8 and 14 of that report, I indicate incorrectly that  
4 the proposed development will be providing 100-year  
5 stormwater management controls, that was not -- so I  
6 describe it correctly in the description of the  
7 proposed use, but I did not catch those earlier  
8 statements.

9 So if you'd strike the references to 100-year  
10 management on Pages 8 and 14.

11 MR. HATCHER: Okay. Are you familiar with the  
12 property which is the subject of this application?

13 MR. FERGUSON: I am.

14 MR. HATCHER: Are you familiar with the  
15 technical staff report dated September 20, 2023 as  
16 amended by the development review staff's October 4,  
17 2023 supplemental memorandum?

18 MR. FERGUSON: Yes. I am.

19 MR. HATCHER: Do you agree with the technical  
20 staff report dated September, 2023 as amended by  
21 development review staff's October 4, 2023 supplemental  
22 memorandum?

1 MR. FERGUSON: Largely. I have a caveat with  
2 regard to the alternative compliance request, but --  
3 but other than that, yes, I do.

4 MR. HATCHER: Okay. Does technical staff  
5 establish a neighborhood in association with this  
6 application?

7 MR. FERGUSON: Unusually, but to their recent  
8 practice, yes, they do.

9 MR. HATCHER: Do you agree with staff's  
10 definition of the neighborhood?

11 MR. FERGUSON: Unusually, to my past practice,  
12 yes, I do.

13 MR. HATCHER: Are you fam- --

14 MR. FERGUSON: I do. I think Mr. -- Mr.  
15 Nelson's amendment to include Good Luck Road is -- is  
16 an appropriate extension of -- of Duckettown as the  
17 northern border. I agree with that and I think that's  
18 with staff's intent as well.

19 MR. HATCHER: Okay. Are you familiar with the  
20 site plan associated with this --

21 MS. MCNEIL: Oh, ex- -- I'm so sorry. So let  
22 me clarify, the northern boundary will now be Good Luck



1 Road?

2 MR. FERGUSON: Good Luck Road and Duckettown.  
3 So Good Luck Road really dives into Springfield Road  
4 and then takes a little jog, if you will, down  
5 Springfield Road for a moment and then extends over  
6 Good -- Good -- Duckettown Road, which also dives into  
7 Spring- -- Springfield Road.

8 So north of Wingate it's Good Luck Road, north  
9 of the subject property in Spring Hill Manor it's  
10 Duckettown Road and they're roughly -- they're roughly  
11 colinear.

12 MS. MCNEIL: I'm sorry, go ahead, Mr. Hatcher.

13 MR. HATCHER: Okay. Yeah. Are you familiar  
14 with the site plan associated with the special  
15 exception?

16 MR. FERGUSON: I am.

17 MR. HATCHER: Have you reviewed the  
18 applicant's statement of justification?

19 MR. FERGUSON: I have.

20 MR. HATCHER: Do you agree with the statement  
21 of justification?

22 MR. FERGUSON: I do. I do.

1 MR. HATCHER: Does this application seek  
2 approval under the current or prior zoning ordinance?

3 MR. FERGUSON: This is -- this is reviewed  
4 under the provisions of the prior zoning ordinance.

5 MR. HATCHER: Have you reviewed the prior  
6 zoning ordinance applicable regulations for this use?

7 MR. FERGUSON: Yes. I have.

8 MR. HATCHER: What is the subject property's  
9 prior -- prior base zone pursuant to the prior zoning  
10 ordinance?

11 MR. FERGUSON: It was RR, which is depicted  
12 then as R-R. Under the current zoning ordinance, it was  
13 under the -- the -- the re- -- most recent countywide  
14 map amendment. It was transferred into the comparable  
15 RR, no hyphen, Zone.

16 MR. HATCHER: What is the proposed use for the  
17 subject property?

18 MR. FERGUSON: So as you've heard testified,  
19 the proposed use is for a planned retirement community  
20 of 57 attached single-family dwellings -- or single-  
21 family villa-style attached dwellings.

22 MR. HATCHER: Does the pr- -- prior zoning

1 ordinance permit the proposed use, which is planned  
2 retirement community at the subject property?

3 MR. FERGUSON: It -- it does per- -- permit  
4 again the RR Zone. It permits it in less zone -- in  
5 less dense zones as well. So certainly, all the way  
6 down to the RA or one lot per two-acre zone all the way  
7 up through, you know, the -- the -- the most dense  
8 single-family zones, the use is permitted by special  
9 exception.

10 MR. HATCHER: Is the pro- -- is the proposed  
11 planned retirement community use and special exception  
12 site plan in harmony with the purposes of the prior  
13 zoning ordinance?

14 MR. FERGUSON: It is. I do go through that in  
15 Pages 5 through -- still flipping, bear with me, 5  
16 through 13 of my land use report. The vast bulk of that  
17 analysis is related to the purpose to implement the  
18 master plan and the general plan and the functional  
19 master plans, which is also one of the required  
20 findings, I just do most of my discussion under the  
21 purposes, because that comes first.

22 But broadly, the -- the purposes of the

1 ordinance look to provide for development, which will  
2 be carried forth in areas where the facilities are ad-  
3 -- adequate to support it and that will, of course, be  
4 determined, as Mr. Nelson testified, at the next phase  
5 of the approval -- review and approval process should  
6 this -- should this application be approved, then the  
7 development review process would proceed to the  
8 preliminary plan of subdivision where adequacy of  
9 public facility is tested.

10 It looks to promote adequate light, air and  
11 privacy to provide bene- -- beneficial relationship  
12 between uses. These purposes are incorporated into the  
13 more specific regulations of the ordinance, whether  
14 it's the use tables, whether it's the criteria for  
15 approval of a special exception, whether it's the  
16 additional requirements for the approval of -- of a  
17 planned retirement community.

18 So when we go through these, you find that --  
19 that largely these purposes are duplicative of more  
20 specific approval criteria, which we'll go through  
21 shortly.

22 MR. HATCHER: Is the proposed use in

1 conformance with the applicable requirements and  
2 regulations of the prior ordinance?

3 MR. FERGUSON: With -- so I have -- I have  
4 reviewed the -- the natural resources inventory, the  
5 site development concept plan, the -- the special  
6 exception site plan, the landscape plan, the type II  
7 tree conservation plan, some of which are -- are  
8 directly referred to by the zoning ordinance as -- as  
9 direct requirements, some of which are adopted  
10 requirements that plans that address requirements that  
11 are adopted by reference by the zoning ordinance and  
12 some of which merely inform the -- the developability -  
13 - the physical developability of the -- the property  
14 under other regulations.

15 And based on my review of all of those  
16 documents, with the approval of the alternative  
17 compliance that's been requested and the variance for  
18 the removal of the specimen trees, it will be in -- in  
19 conformance with all of the applicable requirements of  
20 the zoning ordinance -- the prior zoning ordinance.

21 MR. HATCHER: Did you review the county's  
22 approved general plan as it relates to the proposed

1 development?

2 MR. FERGUSON: I did.

3 MR. HATCHER: What is the applicable area --  
4 area under the county's approved general plan?

5 MR. FERGUSON: So the -- the -- the area  
6 broadly is classified as established -- the county's  
7 established communities and established communities are  
8 really most of the county that are areas that are --  
9 that are largely developed and what the plan says about  
10 them is that they are the areas outside the county's  
11 heart, it says.

12 And it says, there are areas outside of the  
13 designation centers and it recommends that established  
14 communities are most appropriate for context-sensitive  
15 infill and low to medium density development. Low  
16 density development is generally considered to go up to  
17 three and a half dwelling units per acre.

18 Medium density development is generally  
19 considered to go up to eight dwelling units per acre.  
20 So while special exceptions for planned retirement  
21 communities allow medium density development and allow  
22 densities up to 8 units per acre, as you've heard

1 testified earlier today, only 4.75 units per acre are  
2 proposed for this, which is -- it is medium density  
3 development, but it is only slightly above the upper  
4 end of -- of low density development.

5 MR. HATCHER: So to clarify, do you believe  
6 the proposed development conforms to the general plan?

7 MR. FERGUSON: I do. I do. The general plan  
8 doesn't just talk about land use, it does also talk  
9 about housing and -- and communities and -- and there  
10 was some discussion earlier about need for senior  
11 housing.

12 I agree with Mr. Brown's observation that  
13 except for planned retirement communities in the RA  
14 Zone, there isn't a requirement to determine if there  
15 is a need for development, rather the requirement is to  
16 evaluate whether this design meets the needs of the  
17 retirement-age community, which I believe it does and  
18 we can talk about more in detail later.

19 But certainly, the general plan does identify  
20 that -- that there is a need for specifically the  
21 county's aging population creates additional  
22 opportunities for new compact communities and infill

1 development featuring smaller accessible units where  
2 residents have the option to age in place and that  
3 essentially is what this is.

4 It's a more compact community, admittedly in  
5 the midst of the neighborhood which is typically less  
6 dense and typically single-family development, but  
7 specifically, this is a -- an infill development  
8 featuring smaller accessible units, which is what are  
9 proposed where residents have the options to age in  
10 place and of course, we heard Mr. Burke's testimony  
11 about the character of these units, which provide for  
12 all of the living requirements for the -- for the  
13 senior occupants to be met on the first level while  
14 providing flexibility for visitors or even in-home  
15 caregivers to live in the upstairs space.

16 MR. BROWN: So what about public  
17 transportation --

18 MR. FERGUSON: So this -- this speaks --

19 MR. BROWN: -- access to public tran- --  
20 transportation?

21 MR. FERGUSON: I'm sorry, Mr. Hatcher, that  
22 didn't sound like you.



1 MR. HATCHER: What is the applicable area of  
2 master plan for the subject property?

3 MR. FERGUSON: The -- this property is  
4 governed by the 2022 Bowie-Mitchellville and vicinity  
5 master plan. It is worth noting that this property is  
6 on the very edge of that plan's applicability.

7 Across Springfield Road to the west, it's in  
8 the 2006 East Glenn Dale sector plan, which I could  
9 give you a more precise title of, but I can't spot it,  
10 the 2006 approved sector plan and sectional map amended  
11 for the East Glenn Dale area portions of planning area  
12 70A. So that's -- that's across the street.

13 MR. HATCHER: Have you reviewed the -- the  
14 2002 [sic] Bowie plan?

15 MR. FERGUSON: The 2022 Bowie plan, yes, I  
16 have.

17 MR. HATCHER: Yes. 2022. Yeah.

18 MR. FERGUSON: Yeah.

19 MR. HATCHER: Does the master plan provide for  
20 any applicable recommendations, strategies, policies or  
21 goals for the subject property?

22 MR. FERGUSON: It -- so specifically, no, not

1 -- not a specific discussion of the subject property.  
2 Map 16 recommends residential low land use just like  
3 really all of the surrounding neighborhood, except for  
4 the very, very eastern end by Maple Avenue in Old -- in  
5 Old Town Bowie, but it does contain a number of more  
6 general strategies, some that are applicable to the  
7 entire master plan area, some that are applicable to  
8 the established communities, part of the entire -- of  
9 the master plan area and then some regarding  
10 transportation, some regarding the natural environment  
11 and so on and so forth.

12 And I do go through those on Pages 6 through -  
13 - 6 through 10 of my report. I can go through those in  
14 detail if you'd like, but I think the highlights  
15 really, again, are in the housing and neighborhood  
16 development -- I'm sorry, the housing and  
17 neighborhood's element of the master plan and  
18 specifically, strategy HN-2.2, which is expand  
19 universal design housing choices, including visitable  
20 units, which allow for barrier-free access into the  
21 first floor and to a first floor restroom and that's,  
22 again, exactly what this development seeks to do.

1           The plan speaks, again, to the question of  
2 need even though that's not a standard, it speaks  
3 actually at great length in its existing condition  
4 summary of that element about the substantive growth in  
5 the over 65 population and the number of houses -- and  
6 the number of houses moving out of the Bowie area that  
7 are in the lower -- lower age groups and again, it  
8 seeks for, "seniors and millennials' increasing demand  
9 for dense walkable neighborhoods along with continued  
10 anticipated demand for new single-family detached  
11 housing presents a range of opportunities strengthening  
12 existing those through infill development and creating  
13 healthier communities with increased walkability."

14           So this plan will be addressing the master  
15 plan's identified need for senior housing and  
16 addressing other of the things, like community gardens,  
17 like the bike lanes along Springfield Road, like the  
18 trail networks that are proposed, recreational  
19 opportunities inside the development.

20           Really, almost every one of the features of  
21 this development goes and hits a particular master plan  
22 recommendation.

1 MR. HATCHER: In your expert opinion, will the  
2 proposed use substantially impair the integrity of the  
3 approved master plan?

4 MR. FERGUSON: No. In my -- in my opinion, it  
5 will not at all. It -- it really acts actively to  
6 implement it.

7 MR. HATCHER: Okay. What uses and zones are  
8 located adjacent to the subject property?

9 MR. FERGUSON: For really some distance, the  
10 property is surrounded by single-family detached  
11 dwelling on lots which range from a quarter of an acre  
12 in the Springfield Manor or are cluster up to as large  
13 as two acres roughly in -- in Wingate to the west.

14 MR. HATCHER: Okay.

15 MR. FERGUSON: So Springfield Manor to the --  
16 to the east and north, that's actually a very large  
17 development. Oak- -- what is it, Oakstone to the north  
18 are in the RR Zone. Everything on the west side of  
19 Springfield Road is in the RE Zone, which is slightly -  
20 - it's the one -- one zone less -- less dense and  
21 again, single-family dwellings.

22 There are some subdivisions which have been

1 approved that have not yet been developed in that area  
2 and those zones as well as the -- as well as the  
3 developed parts that are really the predominant part of  
4 the neighborhood, it's already developed.

5 MR. HATCHER: Are any buffering or screening  
6 techniques employed to ensure compatibil- -- compatible  
7 relationships with adjoining land uses?

8 MR. FERGUSON: There are. So certainly, the --  
9 the northern edge of the property, which -- which is  
10 the Stream Valley of Newstop Branch is preserved as  
11 both the stream, its surrounding buffer, an expanded  
12 buffer for the 100-year flood plan that's associated  
13 it, an even larger area that was preserved in order to  
14 accommodate the existence of some specimen trees that  
15 are approximate to but not in that buffer were -- were  
16 preserved.

17 So there really will be a very substantive  
18 buffer between the development proposed on the subject  
19 property and the existing de- -- development to the  
20 north and to the east in Oakview [sic] and Springhill  
21 [sic] -- and Springfield Manor. Now, along the western  
22 boundary, the property has frontage on Springfield

1 Road.

2 What the design does, which I find to be very  
3 nice, is to angle the proposed units so that they slope  
4 away principally from Springfield Road.

5 So right at the entrance there are two units  
6 which are close where there -- which are close to  
7 Springfield Road right-of-way where there's already  
8 some -- you know, the other activity of the road, but  
9 then the -- the -- the units generally step back from --  
10 -- from Springfield Road both to the northwest and to  
11 the southeast, which creates a much larger buffer.

12 So the provisions of the landscape manual call  
13 for a 35-foot buffer between the rear yards of  
14 dwellings and collector roadways, which Springfield  
15 Road is. What this design of the proposed development  
16 does is actually afford an average of 77 or 78 feet of  
17 depth, which can then be in- -- landscaped very, very  
18 substantively.

19 So many of the houses are much further than  
20 that. So the average buffer that's provided is twice  
21 what the landscape manual or more than twice what the  
22 landscape manual provides and of course, as you get

1 further away from the entrance, it -- it exceeds that  
2 even more.

3 So that -- that site design and the  
4 landscaping both in the buffer plannings and in  
5 additional plannings which are proposed beyond the 35-  
6 foot official buffer really provide a -- a substantive  
7 buffer in between the development and Springhill [sic]  
8 -- Springfield Road and the -- the development beyond  
9 it to the west.

10 MR. HATCHER: Okay. In your expert opinion,  
11 will the proposed use adversely affect the health,  
12 safety and welfare of residents and workers in the  
13 area?

14 MR. FERGUSON: In my opinion, it will not. So  
15 certainly, we've heard testimony to that effect from  
16 Mr. Nelson, I -- I agree with his testimony. There have  
17 been questions about stormwater management that have  
18 been -- been raised before.

19 So what the subject property does is number  
20 one, preserve the regulated natural feature of Newstop  
21 Branch, number two, it provides full environmental site  
22 design, which is intended to replicate the con- -- the

1 conditions existing on the property as if it were never  
2 developed. So right now the property has been developed  
3 with, you know, Ms. -- Ms. Stewart's resident, right,  
4 and -- and her outbuildings and the area around her  
5 house.

6 The standard for stormwater management, and I  
7 believe Ms. Sommer testified to this, is that property  
8 needs to be managed such that the water runs off from  
9 it at the rate as if it were woods and it never been --  
10 you know, had never been developed at all.

11 So that will provide for a reduction in the  
12 flows that -- even now with the property only developed  
13 as a single-family house, there will be less runoff  
14 coming off after its development than -- with 57 houses  
15 than there is now even with 1 and some clearing. So  
16 that's -- that's really a substantive -- a substantive  
17 improvement.

18 The environment site design requirements  
19 provide for several things. So they provide for water  
20 quality and cleaning the runoff and that's accomplished  
21 both by infiltration of the water back into the ground  
22 where that's feasible as it is up the front of the



1 property where the hydrologic soils group is -- is  
2 group two and the micro-bioretenion facilities there  
3 will replicate the natural conditions by reinfiltrating  
4 that ground water.

5 And then as the property gets lower, there is  
6 less permeable soils, they're classified as sea soils  
7 and some may -- may not even be that permeable whereas  
8 submerged gravel wetland is the appropriate  
9 environmental site design technique and that manages  
10 water quality by evapotranspiration allowing the plants  
11 that are planted in that facility to metabolize the  
12 nutrients that are in the runoff and preserve water  
13 quality.

14 Groundwater recharges included where it's --  
15 where it is feasible by the soil. So where it can  
16 infiltrate now it will and where it can't it will  
17 continue not to but will still get treatment. And then  
18 finally, there is a requirement for reduction in  
19 quantities so that essentially the streams, like  
20 Newstop Branch, don't erode by not getting the flash of  
21 -- of spikes in runoff associated from impervious  
22 areas.

1           So the water is held back and -- and managed  
2           so that really, you just get -- you just get a genuine  
3           trickle coming out of the facilities into New- --  
4           Newstop Branch. So that protects the water quality, it  
5           also protects the stream bank so that you don't get  
6           sedimentation. To that end, I think there's something  
7           else that's worth mentioning.

8           So Newstop Branch is in -- drains into  
9           Horsepen Branch, drains into the Upper Patuxent. That  
10          is a watershed that has been identified as being  
11          impaired by sediment -- too much -- too much sediment  
12          in the -- in the runoff. And then secondly, it's  
13          classified as a tier two watershed, which means that  
14          notwithstanding the sediment, these are recreational  
15          waters and the state really wants to keep them in -- in  
16          especially good condition.

17          Because of those classifications, this project  
18          will be required to provide a heightened level of  
19          sediment controls during construction. So that means  
20          the upgrading of certain sediment controls to provide  
21          an increased deficiency of -- of sediment filtering. It  
22          also means that the -- the stream buffers are larger.

1           So just that classification, of course, then  
2 branch means this property will provide an enhanced  
3 level of environmental protections in sediment control  
4 as well as in stormwater management.

5           MR. HATCHER: In your expert opinion, will the  
6 proposed use be detrimental to the use or development  
7 of adjacent properties or -- or the general  
8 neighborhood?

9           MR. FERGUSON: In my opinion, no and -- and  
10 for several reasons. So first, there are the buffers  
11 that -- that I just testified to along the northern and  
12 eastern perimeters, along Springfield -- Springfield  
13 Road. Secondly, there is an inward orientation to the  
14 development. This is not an outward-facing development.

15           The -- the modern planning trend is to take  
16 houses and have them make a street for -- along  
17 Springfield Road. Were that the case, this might have a  
18 -- an impact on the character of the development. Now,  
19 that's not the same thing as the use or development,  
20 but character is one of the -- is one of the additional  
21 requirements that I'll discuss in a moment.

22           These units are proposed to be two-story, not

1 a conventional townhouse of three, which is what is  
2 typically contemplated by planned retirement  
3 communities. So these will be lower in -- lower in  
4 height as well.

5 And then of course, we've heard Mr. Nelson's  
6 testimony about how senior housing just statistically  
7 generates lower traffic than -- substantively lower  
8 traffic than a comparable number of unrestricted  
9 single-family dwellings such to the point that if you  
10 did a conservation subdivision on the -- on the subject  
11 property and you got every last bit of permissible  
12 density of 24 units under single-family development.

13 You would be getting fewer trips out of the 57  
14 units of senior housing that are proposed here. So that  
15 -- that, again, is a consequential difference that  
16 speaks to this proposed use not adversely affecting the  
17 use for development of the surrounding properties and  
18 the general neighborhood.

19 And again, I would add that the overwhelming  
20 character of the neighborhood is already developed. The  
21 very few properties that are not are the ones that have  
22 been referenced in earlier questions by the residents

1 along Springfield Road, which have been platted --  
2 recently platted but aren't yet manifested.

3 MR. HATCHER: And to clarify, because I think  
4 you referenced something that is pretty important, in  
5 your expert opinion, do you believe this will change  
6 the character of the neighborhood?

7 MR. FERGUSON: I do not. Again, for the -- for  
8 the reasons that it is inward-facing, it's lower  
9 development, it's -- it's set back a good deal further  
10 than the ordinance requires. No, it will -- it will  
11 not.

12 MR. HATCHER: Okay. Earlier you referenced  
13 that you reviewed the TCP2.

14 MR. FERGUSON: I did.

15 MR. HATCHER: Is that accurate?

16 MR. FERGUSON: It is. Yes.

17 MR. HATCHER: With the amendments contained in  
18 the staff report in the memorandum, in your expert  
19 opinion, is the site plan in conformance with the TCP2?

20 MR. FERGUSON: It is. And one of the  
21 components, of course, of that TCP2 is the variance for  
22 the removal of those four specimen trees. And to expand

1 a little bit on that, so staff did an analysis in the  
2 staff report. I -- I agree with it literally word for  
3 word and I think the important background in -- in  
4 looking at tree variances is that as the ordinance --  
5 the zoning ordinance specific- --

6 Or I'm sorry, Subtitle 25 specifically states,  
7 tree ordinances aren't zoning ordinances and the  
8 standard for their approval is -- is different. So --

9 MR. HATCHER: Clarify, when you say  
10 ordinances, you're referring to variances?

11 MR. FERGUSON: Did I misspeak? Did -- what did  
12 I say? I'm sorry.

13 MR. HATCHER: You said --

14 MS. MCNEIL: You said, tree ordinances are not  
15 zoning ordinan- -- I mean, tree ordinances are not  
16 zoning variances.

17 MR. FERGUSON: That is correct, tree variances  
18 are not zoning variances and the --

19 MS. MCNEIL: Which I wi- -- I wish you all  
20 didn't have to say, because I think you're going to  
21 confuse people more. Why would there be zoning  
22 variances? They're in Subtitle 25.

1 MR. FERGUSON: They are, but many people don't  
2 understand that, Madame Examiner. So it is a -- it is a  
3 different -- it is a different part of the county code  
4 and -- and the -- the standards for tree variances are  
5 based on a different set of presumptions. So what the  
6 special -- I'm sorry, I don't know what the new word  
7 is, but the -- the spec- -- court of special appeals,  
8 what are they now?

9 MS. MCNEIL: The appellate court --

10 MR. FERGUSON: The appellate --

11 MS. MCNEIL: -- and the supreme court.

12 MR. FERGUSON: -- and yes, I remember the  
13 supreme court. I -- I voted against that, but  
14 apparently, I didn't have any -- enough votes, Madame  
15 Examiner. I'm a crusty old man and I don't like things  
16 to change.

17 The -- the appellate court has -- has said  
18 that the applicant has the burden of demonstrating that  
19 without a variance, the applicant would be denied a use  
20 of the property that is both significant and reasonable  
21 and that's generally held to be one that is permitted  
22 by -- you know, permitted by the ordinance.

1           So what we have here is a case where some of  
2           the trees are in the regulated areas, those are not in  
3           any dispute. Some of the trees were proximate to the  
4           regular -- to the regulated areas and those trees were  
5           the sub- -- the subject of some negotiation between the  
6           applicant staff and substantial revision of their plans  
7           to preserve those trees and what everybody has agreed  
8           with is that the four trees that are the subject of the  
9           variance that are before you are really located in the  
10          center of development.

11           They're located right in the midst of the --  
12          the heart of the property, right in the midst of where  
13          the infrastructure needs to be and staff opined and I  
14          think it's actually worth quoting -- well, sorry, I  
15          have a -- bear with me one second, my computer ran out  
16          of memory, fortunately, I did not yet.

17           All right. I'm sorry, I have to go to staff's  
18          back- -- memorandum in the backup, which is --begins on  
19          Page 136 of the backup and this is a memorandum from  
20          Mrs. Anne Nickel [ph] dated August 28th and what she  
21          says on Page 10 of -- of her report is that retention  
22          of the trees, they're somewhat dispersed yet integral



1 to the developable port- -- developable portion of the  
2 site in that they're more centrally located on the  
3 property and not in close proximity to the PMA, which  
4 is to say the buffers around the regulated  
5 environmental features or any REF, which is a regulated  
6 environmental feature.

7 Retention of these trees and protection of  
8 their respect- -- respective CRZs, or Critical Root  
9 Zones, would have a considerable impact on the proposed  
10 development by creating challenges for adequate  
11 circulation and infrastructure through portions of the  
12 site and those are the special conditions that caused  
13 the unwarranted hardship and they would deprive the  
14 applicant of rights commonly enjoyed by others in  
15 similar areas, because the trees are unique to the  
16 subject property and other developments on other  
17 properties are all evaluated under the same criteria.

18 What -- what staff concludes in this case and  
19 in all of the other tree variances that -- that I've  
20 been a part of, which is quite a few is that it is the  
21 location of the trees and other natural resources that  
22 predate the applicant's interest in developing the site

1 that are -- that are -- that are the conditions based  
2 on the request, not so much the -- the applicant's  
3 design.

4 And so looking at alternatives to protect  
5 every individual tree is not what's done in any of the  
6 tree variance reviews. It's only to see are there --  
7 are there reasonable changes that can be made to  
8 protect certain trees? And if so, then those should be  
9 done, as in this case was done with the redesign of the  
10 site to protect the trees to the northwest of the  
11 submerged gravel wetland.

12 MR. HATCHER: Mr. Ferguson, I -- I believe  
13 you've -- you've gone through the criteria of the  
14 variance and to be clear, do you support staff's  
15 recommendation of approval of the variance to remove  
16 four specimen trees?

17 MR. FERGUSON: I do. I agree with their  
18 analysis and I agree with their conclusion.

19 MR. HATCHER: Okay. And since there were some  
20 questions earlier, I think it -- it just makes some  
21 sense just to ask you, in your capacity as an expert in  
22 land planning, is the -- is the -- is the applicant's

1 request for a variance based on conditions or  
2 circumstances which are a result of the actions of the  
3 applicant?

4 MR. FERGUSON: Yeah. And -- and as I -- as I  
5 just testified, you know, no, the -- the request is  
6 based on conditions or circumstances inherent to the  
7 property, namely the location of all of the -- all of  
8 the trees and the four in question being in the middle  
9 of the development area really propose constraints on  
10 development and yielding, in the words of the -- the  
11 appellate court, a substantive and reasonable yield.  
12 Where's my quote sheet?

13 MR. HATCHER: And the [inaudible] --

14 MR. FERGUSON: A significant -- a significant  
15 and reasonable -- significant and reasonable use of the  
16 property.

17 MR. HATCHER: Your full analysis is contained  
18 in -- in your land use report, which is submitted into  
19 the record; correct?

20 MR. FERGUSON: It is.

21 MR. HATCHER: Okay. You also referenced  
22 earlier that you're familiar with the -- the NRI.

1 MR. FERGUSON: I am.

2 MR. HATCHER: Okay. Can you describe where the  
3 -- the -- actually, would it be possible to bring up  
4 Exhibit 38?

5 MS. BAH: Sure. Hold on one second. I'm  
6 [inaudible] -- are you familiar with what's on the  
7 monitor?

8 MR. FERGUSON: I am.

9 MR. HATCHER: Okay. Can you please demonstrate  
10 the proposed location of the regulated environmental  
11 features on site?

12 MR. FERGUSON: So the area on the northern and  
13 eastern boundaries of the subject property is the  
14 Stream Valley of Newstop Branch and an unnamed  
15 tributary actually to the east and you can see a line  
16 that sort of has a bunch of -- of arcs in it that's  
17 probably the darkest line on this exhibit and that's --  
18 if you zoom in, you will -- you would see that that's --  
19 - that's line PMA, line PMA.

20 PMA stands for Primary Management Area and  
21 that reflects a -- a buffer that surrounds the -- the  
22 banks of the stream that can be expanded for contiguous

1 deep slopes, for contiguous nontitle wetland buffers,  
2 for 100-year flood plain and -- and that results in  
3 this -- this line called the -- the PMA.

4 What you can see is that some of the specimen  
5 trees which are dots surrounded by -- this resolution  
6 dot surrounded by faint circles are within the PMA,  
7 then there is a cluster roughly in the center of the  
8 drawing of the four trees, which are the ones that are  
9 also being preserved even though they're not in the  
10 regulated -- in the -- in the PMA or in the -- the  
11 stream buffer and then there are four other trees that  
12 are at further distance, which are the trees that are  
13 the sub- -- subject to the variance request.

14 MR. HATCHER: Have you --

15 MR. FERGUSON: I should note, by the way, that  
16 specimen trees are not regulated natural features,  
17 they're just -- they're just specimen trees. Let the  
18 record show I used air quotes around just. And the --  
19 the regula- -- the regulated natural features are the  
20 streams, they are buffers, 100-year flood plain.

21 MR. HATCHER: Have you reviewed the letter of  
22 justification for impacts to environmental features

1 which is included as Exhibit 77?

2 MR. FERGUSON: I did.

3 MR. HATCHER: Do you agree with the analysis  
4 and conclusions provided in the letter of  
5 justification?

6 MR. FERGUSON: I do. So two -- two impacts  
7 were proposed, both for necessary infrastructure. So  
8 the first is for the sewer outfall, as you could see --  
9 if we were zoomed in a little bit tighter, there is a  
10 sewer main that runs on the property but it is entirely  
11 within the PMA or the -- the regulated natural features  
12 and their buffers.

13 So to provide sewage service to the property,  
14 it's necessary to temporarily go into the buffer,  
15 connect to that sewer and then restore the buffer. The  
16 second request is for a small permanent impact to allow  
17 for the safe discharge of water from one of the  
18 environmental site design measures the submerged gravel  
19 wetland on the eastern part of the site.

20 And so there was a small disturbance that's  
21 considered permanent to provide for rock stabilization  
22 so that you don't get further degradation or

1 degradation of the area that's preserved from  
2 concentrated flows.

3 MR. HATCHER: All right. In your expert  
4 opinion, does the proposed site plan demonstrate the  
5 preservation and/or restoration of regulated  
6 environmental features on site in a natural state to  
7 the fullest extent possible?

8 MR. FERGUSON: To the fullest extent possible,  
9 yes, it does.

10 MR. HATCHER: Does your letter of ju- -- does  
11 your land use report analyze all of those criteria more  
12 fully?

13 MR. FERGUSON: It does.

14 MR. HATCHER: Are you familiar with the 2010  
15 Prince George's County Landscape Manual?

16 MR. FERGUSON: Yes. I am.

17 MR. HATCHER: Has the applicant requested  
18 alternative compliance from the landscape manual?

19 MR. FERGUSON: They did. So there were two  
20 items which were the subject of the request and one of  
21 those items is the subject of the caveat I mentioned at  
22 the beginning of my testimony. So the first -- the

1 first request is to allow the corners of the lots on --  
2 immediately to either side of the entrance project into  
3 the required 35-foot buffer from rear yards to a  
4 collector roadway.

5 One of the criteria for granting -- or for  
6 allowing alternative compliance requests and then  
7 certainly, for granting it is that what is proposed --  
8 an alternative compliance is not a variance, it's not a  
9 special approval, it's a way of saying the way we are  
10 doing it isn't the same as the requirement, but rather,  
11 it's a different way that gives the result that is just  
12 as good, if not better.

13 And so what the applicant has done here is, as  
14 I had discussed earlier by laying out the site such  
15 that the properties step away from Springfield Road,  
16 they are closest to Springfield Road near the -- near  
17 the entrance where there already is an outward reaching  
18 impact, by providing a greater average buffer and then  
19 by providing more planting than what the -- what the  
20 landscape manual would require for standard compliance.

21 What you get is a proposal that's at least as  
22 good or better and in my opinion, a good deal better



1 than what standard -- compliance with the standard, you  
2 know, rule would yield.

3 MR. HATCHER: Do you provide a full analysis  
4 of the alternative compliance in your land -- your land  
5 use report?

6 MR. FERGUSON: I do, but what I would -- what  
7 I would like to do is actually speak in a little bit  
8 more detail about the request for alternative  
9 compliance for Section 4.1, which is the requirement  
10 for street trees along private streets and what staff  
11 cites in their -- in their analysis is that there's a  
12 requirement for 1 tree for every 35 feet of road  
13 frontage, excluding driveways.

14 That's actually not the requirement. What that  
15 is is a -- it's a line on a sample schedule which is  
16 included. What the landscape manual does have is -- is  
17 a requirement in Section 4- -- 4.10c2, which provides  
18 that tree -- shade trees shall be provided at an  
19 average spacing of not less than 25 feet on center nor  
20 greater than 50 feet on center.

21 That's the actual requirement and if you do  
22 the math with that requirement, you find that the 41

1 trees that are proposed meets that requirement. And so  
2 in my opinion, alternative compliance is not necessary.

3 That having been said, staff did analyze the  
4 request in addition to the numerical requirement for  
5 the number of trees, there's a host of about 10  
6 requirements that specify clearances from utilities,  
7 from power poles, from -- utilities, from driveways,  
8 from intersections, street lights so that the trees  
9 don't interfere with the other necessary functioning of  
10 the road.

11 And it's really the confluence of all of those  
12 things conforming to all of those separation  
13 requirements which limit the number of trees that are -  
14 - that are required.

15 Now, what the staff and the applicant agreed  
16 is that to compensate for, punitively at least, being  
17 fewer than the number required of trees required, what  
18 they would do instead was number one, plant larger  
19 trees so that at the time of the initial development,  
20 there would be a greater degree of shade and benefits  
21 from -- from the street trees and then secondly,  
22 recognize the contribution of trees planted on lots and

1 common areas which provide that same shading and visual  
2 function. So that's reflected in the conditions in the  
3 staff report as amended by the memorandum.

4 MR. HATCHER: Are there specific criteria the  
5 proposed development must meet as a planned retirement  
6 community?

7 MR. FERGUSON: There are. Those are provided  
8 in Section 27-395 of the prior zoning ordinance.

9 MR. HATCHER: In your expert opinion, does the  
10 proposed development -- development's use meet those  
11 criteria?

12 MR. FERGUSON: It does. I go through those on  
13 Pages 15 through 19 -- 19 of my report and what those  
14 are, first, and this has been the subject of  
15 conversation earlier, is that the proposed use will  
16 serve the needs of the retirement-age community.

17 So the -- the design of the uses, the  
18 recreational facilities that are provided, the internal  
19 orientation of the development and -- and very  
20 particularly, the kind of buildings that are proposed  
21 are really all oriented towards the needs of the  
22 retirement-age community as opposed to say,

1 conventional attached housing.

2           The second criterium is that the proposed use  
3 will not adversely affect the character of the  
4 surrounding residential community and again, I've  
5 testified to that earlier how the properties' inward  
6 orientation, being surrounded by preserved-regulated  
7 natural features by being provided with enhanced  
8 buffers along Springfield Road by the lower character  
9 of the proposed dwellings really all combine together  
10 to really mitigate the impacts of an attached dwelling  
11 development on the surrounding single-family  
12 neighborhood.

13           And I think it's also worth mentioning here  
14 again that what is presumed to be a valid use here  
15 would be a planned retirement community of eight  
16 dwelling units per acre. Only 4.75 are preserved here.  
17 So the lower density that's proposed by the applicant  
18 also speaks substantively to this criterium for  
19 approval. Should I go on or did you have something that  
20 you wanted to say?

21           MR. HATCHER: Please proceed.

22           MR. FERGUSON: Okay. So the next criterium,

1 again, Mr. Brown spoke to this earlier, is that in the  
2 RA Zone, there shall be a demonstrated need for the  
3 facility and this is an appropriate distinction to draw  
4 between this provision that does require a finding of  
5 need for the use as proposed to the earlier provision  
6 which requires you to demonstrate that the proposed use  
7 will meet the needs of the retirement-age community and  
8 of course, the subject property was not previously  
9 classified in the RA Zone.

10 The next requirement is that the site plan  
11 shall set forth the traffic circulation patterns, which  
12 it does, that the regulations for the development be  
13 provided as a part of and on the special exception site  
14 plan, which they are, that the subject property shall  
15 contain at least 12 contiguous acres and I believe that  
16 Mr. -- I'm sorry, I am blanking on his name, Mr. Debolt  
17 [ph] will testify to the specifics of that following,  
18 the number of dwelling units per acre shall not exceed  
19 8 per -- for the growth tract area and again, 4.75 are  
20 proposed.

21 In the RA Zone, buildings shall not exceed  
22 three stories. Now, we're not in the RA Zone, but we

1 won't even be three stories, let alone exceeding it.  
2 There are specific criteria for properties that were  
3 previously classified in the I3 or CO Zones, which this  
4 isn't.

5 MR. HATCHER: Mr. Ferguson, is all this  
6 detailed in your land use report?

7 MR. FERGUSON: It is.

8 MR. HATCHER: A full analysis of all the  
9 criteria associated with the planned retirement  
10 community?

11 MR. FERGUSON: It is.

12 MR. HATCHER: Okay.

13 MR. FERGUSON: Do you want me to continue or -  
14 - or rest on that?

15 MS. MCNEIL: I want you to go to number four  
16 and then you can rest --

17 MR. FERGUSON: I can, Madame Examiner.

18 MS. MCNEIL: -- because I want to know -- I  
19 want to know why a community center or meeting area is  
20 satisfied with an outdoor pavilion. Is that what you  
21 all usually -- I mean, have you done that in the past  
22 [inaudible] to be enclosed? Go ahead.

1           MR. FERGUSON: The -- this applicant in fact  
2 had a proposal for elderly housing attached dwellings,  
3 which is not the same use; right? That's not a planned  
4 retirement community, but it is -- it will look the  
5 same, you know, if you're -- if you're a resident if  
6 you're driving by and these facilities are very  
7 comparable because of the exercise facilities proposed  
8 here.

9           I think they are greater here than they --  
10 they were there, but the meeting area, while outside,  
11 is substantive in character. So it's a good-sized  
12 pavilion. It's a good-sized plaza beyond that and that  
13 plaza accommodates other things beyond seating and  
14 picnics and of course, you know, the -- the community  
15 gardens, which I think is a pretty cool feature, but  
16 that's not expert opinion.

17           So in -- in my opinion, that -- that outdoor  
18 plaza is the meeting area that -- that -- that speaks  
19 to this -- this provision. And I would -- I would also  
20 say that --

21           MS. MCNEIL: I'm sorry, so more meeting area  
22 than community center? There is as an or there. So

1 that's [inaudible].

2 MR. FERGUSON: There is an or. Correct.

3 MS. MCNEIL: Okay.

4 MR. FERGUSON: Correct. So I wouldn't say it -  
5 - it -- it needs to be a community center. And I think  
6 the second thing that's -- that's sort of appropriate  
7 to bear in mind is that the homeowner's association,  
8 for 57 lots, would have a heck of a burden in carrying  
9 the maintenance, upkeep, conditioning of an enclosed  
10 space.

11 And so I think there does need to be some  
12 recognition of proportionality of what we're, you know,  
13 imposing in terms of an ongoing responsibility and  
14 therefore, cost, right, for HOA fees on these  
15 residents. And so in my view, this outdoor recreation  
16 area is proportionate to the -- to the size of the  
17 development and -- and meets, I think, the intent of  
18 that -- of that subsection.

19 MS. MCNEIL: Thank you. Go ahead, Mr. Hatcher,  
20 I'm sorry.

21 MR. HATCHER: Mm-hmm. At this point, I'd like  
22 to take the -- this exhibit down and put up Exhibit 72,



1 which should be the site plan, we've seen it before.

2 MS. MCNEIL: Oh, while -- while she's doing  
3 that, so the visibility study was supposed to show how  
4 those houses looked from the neighborhood. I meant for  
5 someone to tell me about the visibility. Did you --  
6 it's like Exhibit 75, the visibility exhibit. Is that  
7 what that was for? I'm just --

8 MR. FERGUSON: Madame Examiner, I'm not going  
9 to lie, I'm not actually familiar with Exhibit 75 --

10 MS. MCNEIL: Okay.

11 MR. FERGUSON: -- but of course, I'm not going  
12 to lie, I'm under oath, but I -- I --

13 MS. MCNEIL: Thank you.

14 MR. FERGUSON: -- I am not familiar with  
15 Exhibit 75.

16 MS. MCNEIL: Okay. Okay. Go ahead, Mr.  
17 Hatcher, I'm sorry.

18 MR. HATCHER: To answer the question you just  
19 asked, I think the Exhibit 75 is intended to show what  
20 will be highly visible dwelling units for purposes of  
21 architecture.

22 MS. MCNEIL: From the other neighbors?

1 MR. HATCHER: Yes.

2 MS. MCNEIL: Okay.

3 MR. FERGUSON: Well, I think -- I think what  
4 Mr. Hatcher just said was illustrating which units need  
5 enhanced architecture because of their location in the  
6 development. So Mr. Burke, I think, had testified to  
7 cer- -- certain units will get additional brick, for  
8 instance --

9 MS. MCNEIL: Mm-hmm.

10 MR. FERGUSON: -- and additional architectural  
11 features and I think that's what I understand Mr.  
12 Hatcher is saying that visibility expert -- exhibit  
13 addresses.

14 MR. HATCHER: Yes.

15 MS. MCNEIL: And a fence; right? There's a  
16 fence -- you know what, go with this witness. And is  
17 Mr. Burke -- Mr. Burke's the only one that can testify  
18 to this?

19 MR. HATCHER: I think there are several people  
20 who can testify to it, but he certainly can.

21 MS. MCNEIL: Okay. Then go ahead with Mr.  
22 Ferguson. Thank you.

1 MR. HATCHER: Okay. Can you demonstrate the  
2 location of the recreational facilities we were just  
3 talking about on the site plan?

4 MR. FERGUSON: So there are -- there are  
5 several. So there is a trail network that extends from  
6 Springhill [sic] -- Springfield Road along the very  
7 western boundary out to the end of the private road and  
8 the -- the sidewalk network, the northwestern most  
9 private road.

10 There is a trail which extends up along the  
11 perimeter of the preserved environmental features and  
12 around the submerged gravel wetland and back to the  
13 preserved specimen trees and the sidewalk network to  
14 the northwest of it. And then the -- the -- the meeting  
15 area and the pavilion is along the southern boundary  
16 roughly in the center of it.

17 You can see a darker, looks like a square with  
18 its corner cut off and that is the area with the  
19 pavilion in the center with the tables, picnic and  
20 games scattered around it and then to the east of that  
21 are a series of raised beds for the community garden.

22 MR. HATCHER: Okay. Do you know how age

1 restrictions will be enforced for the proposed senior  
2 community?

3 MR. FERGUSON: They are to be enforced by  
4 covenant as a -- as a requirement for 27-395 and there  
5 is a copy of covenants in the -- in the backup to the  
6 staff report, which specifies not just age restrictions  
7 but also another condition which requires specifying  
8 how the common recreational facilities are going to  
9 maintain -- going to be maintained and that maintenance  
10 provision is part two, I think, of those covenants.

11 MR. HATCHER: Thank you, Mr. Ferguson. I have  
12 no more questions.

13 MR. FERGUSON: Great. Thank you.

14 MS. MCNEIL: So I -- I'm so sorry, there's so  
15 much paper on this desk.

16 MR. FERGUSON: And so many words, I apologize  
17 for that.

18 MS. MCNEIL: So Mr. Ferguson, you just -- you  
19 just described additional -- the onsite active  
20 recreational activities that staff suggested as a  
21 condition, the additional ones?

22 MR. HATCHER: Yes.

1 MS. MCNEIL: It's a condition, I don't know.

2 MR. FERGUSON: It is. That went back and  
3 forth, I'm sorry, I'm frantically scrolling back to the  
4 --

5 MS. MCNEIL: Yeah. I'm looking at the --

6 MR. FERGUSON: -- I'm scrolling back to the  
7 memorandum.

8 MS. MCNEIL: This is in their revised October  
9 4th. So it's not the original conditions, but --

10 MR. FERGUSON: Right. Right.

11 MS. MCNEIL: -- on Page 10 of that document,  
12 it says, providing -- demonstrate conformance to this  
13 section by providing additional onsite active  
14 recreational activities within or adjacent to the  
15 community gathering area.

16 MR. FERGUSON: Right. My understanding, and I  
17 think it's probably best to have Mr. Burke testify to  
18 that, is that those were the -- the exercise equipment  
19 --

20 MS. MCNEIL: Okay.

21 MR. FERGUSON: -- but Mr. -- Mr. Burke can  
22 testify --

1 MS. MCNEIL: I just want to clarify that so  
2 that the community knows what it is so that, you know,  
3 not -- you won't add something really odd. I can't  
4 imagine what it would be, if this were approved.

5 MR. FERGUSON: Yeah.

6 MS. MCNEIL: Okay. So ask Mr. Burke. Okay. Go  
7 -- we were -- we're not finished with Mr. Ferguson, are  
8 we?

9 MR. HATCHER: Yes. We are.

10 MS. MCNEIL: Okay. Mr. Ferguson, I had one  
11 question just to get your expert opinion. If the master  
12 plan says low residential --

13 MR. FERGUSON: Yes.

14 MS. MCNEIL: -- but the zoning ordinance notes  
15 that this use can go up to, what is it, eight --

16 MR. FERGUSON: Up to eight.

17 MS. MCNEIL: Mm-hmm.

18 MR. FERGUSON: -- up to eight if we --

19 MS. MCNEIL: How do you -- how do you find --  
20 how do you find that the master plan does not  
21 substantially --

22 MR. FERGUSON: Impair?

1 MS. MCNEIL: -- impair?

2 MR. FERGUSON: Well, I think the -- the -- the  
3 master plan certainly has to be read as a whole; right?  
4 And so you do need to look at both the land use  
5 recommendation as well as the specific language saying,  
6 hey, we want senior housing in a denser form throughout  
7 -- throughout the area, which includes these -- which  
8 includes these areas.

9 And I think the second thing you also really  
10 need to do is look at the zoning ordinance which says,  
11 this use is an appropriate use by special exception in  
12 zones that range from, as -- as sparse as the RA Zone,  
13 one lot per two acres all the way up to the densest  
14 single-family zones, you know, R- -- R- -- RT even.

15 So I think that the -- that -- that -- that  
16 question also has to be viewed in the -- in the light  
17 of impacts that you expect from a use like this, which  
18 is, we've heard, are much, much lighter than for  
19 conventional residential -- conventional residential  
20 low development, both in terms of traffic and -- and  
21 general levels of activity.

22 So I think when you look at the master plan

1 comprehensively and -- and certainly, the master plan  
2 and the zoning ordinance together which is why we have  
3 protections like those in 27-295 to talk about if we're  
4 going to put this in these places, let's make sure that  
5 it's compatible.

6 MS. MCNEIL: Thank you. Tell me the -- in the  
7 same conditions amended by staff, the sidewalk went  
8 down from six feet, which was in the approved Bowie  
9 master plan to five feet wide. Do you know why that is?

10 MR. FERGUSON: I -- I -- I do. So the -- that  
11 master plan requirement was for particular types of  
12 development, which this is not. So if you give me a  
13 moment, I can -- can get to that recommendation.

14 MS. MCNEIL: Thank you.

15 MR. FERGUSON: Oh, goodness.

16 MR. HATCHER: I believe the recommendation was  
17 for commercial and industrial uses, not --

18 MR. FERGUSON: It -- it -- it was. Yeah. I was  
19 looking to quote the -- I was looking to quote the  
20 exact number, but -- I'm sorry, I'm just flipping  
21 through my master plan, even electronically, as quickly  
22 as I can to find that policy. Yeah. Mr. Hatcher is



1 exactly correct, that is what the -- the condition was  
2 six-foot -- six-foot sidewalks in denser areas.

3 I'm just trying to give you the -- the  
4 specific policy number. Chris, do you -- Mr. Hatcher,  
5 do you recall? Sorry to throw you under the bus there.  
6 We can race to the answer. So minimum 6-foot sidewalk  
7 policy, TM-6.8 along any street that has a bus stop,  
8 which this does not.

9 MS. MCNEIL: Okay. You're just saying it's in  
10 the master plan, I'll find that. [inaudible]

11 MR. FERGUSON: Yeah. It is policy TM-1.3. And  
12 I apologize, I started at the end and worked my way to  
13 the beginning, streets constructed to serve new  
14 commercial multifamily or mixed-use developments should  
15 contain, at a minimum, six- -- six-foot wide sidewalks  
16 on both sides, but this is not multifamily, it's  
17 single-family attached development.

18 MR. HATCHER: Okay. And --

19 MR. FERGUSON: Page -- Page 113.

20 MS. MCNEIL: Thank you. And are -- was your  
21 testimony that the neighborhood is primarily  
22 residential?

1 MR. FERGUSON: It is. It is. Staff did say  
2 it's residential and commercial. There is really one  
3 commercial use in the neighborhood. There's a -- a  
4 vehicle -- a ga- -- a gas station and vehicle repair --

5 MS. MCNEIL: Right.

6 MR. FERGUSON: -- very close to Wingate  
7 entrance on Lanham Severn Road and there are a couple  
8 of churches, but really, this is single-family detached  
9 neighborhood on lots from a quarter of an acre to -- to  
10 two acres. In Old Bowie all the way up towards Maple  
11 Avenue, there's some smaller lots, but --

12 MS. MCNEIL: Okay. So I'm trying to get a  
13 legal -- so do you think that the requested use here  
14 would be more adverse than anywhere else in the  
15 neighborhood?

16 MR. FERGUSON: I do not and -- and I do speak  
17 to that in my -- in my report, but there's -- there's a  
18 number of reasons and again, the -- the presumed valid  
19 use is up to 8, only 4.75 are proposed.

20 The enhanced buffers along Spring- --  
21 Springfield Road at an average of more than twice of  
22 what the landscape manual requires, the inward

1 orientation, the -- the lower nature of the units. You  
2 know, all of -- all of these -- all of these suggest  
3 lower impact, not -- not greater.

4 MS. MCNEIL: I said one question. Okay.  
5 Really, there's one more for now and I'll turn it over.  
6 Is there going to be any kind of sign in the front of  
7 this property and is it shown on the site plan?

8 MR. FERGUSON: I do not recall -- I do not  
9 recall.

10 MS. MCNEIL: Thank you.

11 MR. FERGUSON: You can ask Mr. Burke when he  
12 comes back on.

13 MS. MCNEIL: Thank you. Mr. Brown.

14 MR. BROWN: Yes. I've got a few questions  
15 concerning the prescriptive easement.

16 MR. FERGUSON: Yes, sir.

17 MR. BROWN: Earlier, Mr. Ferguson, I  
18 mistakenly misled Ms. Sommer to believe the  
19 prescriptive easement that was discussed in the May 18,  
20 2022 letter from DPWNT referred to the WSSC easement  
21 and -- and it does not. And so I apologize, Ms. Sommer.  
22 So Fatima, could you pull up what we're going to call

1 People's zoning counsel exhibit? And it's an excerpt of  
2 three pages from the binder. Do you have it up? Okay.  
3 That's it.

4 All right. Now, go back up to the letter  
5 itself. So Mr. Ferguson, looking at Page 12 of the  
6 staff report and the requirement that subject property  
7 shall contain at least 12 contiguous acres.

8 MR. FERGUSON: Yes, sir.

9 MR. BROWN: You see that; correct?

10 MR. FERGUSON: I do. I am familiar with that  
11 requirement. Yes, sir.

12 MR. BROWN: And then read that paragraph, it's  
13 misleading. It seems to conclude that this DPWNT letter  
14 of May 18, 2022 confirms the property has 12 contiguous  
15 acres and it doesn't confirm that and I'm asking --

16 MR. FERGUSON: It doesn't -- it doesn't  
17 directly, Mr. Brown, but I think the highlighted  
18 portion of that letter is -- is really what you're  
19 speaking to.

20 MR. BROWN: Okay.

21 MR. FERGUSON: So because this property is --  
22 has an -- let's say, an old title history, in the old

1 days, it was very common for title ownership to be  
2 described as extending out to the center line of  
3 roadways, that's the case here.

4 MR. BROWN: Right.

5 MR. FERGUSON: And so even though there --  
6 there is a public road leading over, you know, roughly  
7 the -- the first 10 feet of the property boundary along  
8 -- along Springfield Road, which would be the  
9 prescriptive easement that -- that you're referring to,  
10 what DPW has said is that that area has not been  
11 conveyed by deed so that the fee rights still vest in -  
12 - in Mrs. Stewart and in that case, right now the  
13 property has those gross acres.

14 After subdivision, 40 feet from that -- from  
15 that current boundary will be dedicated to public use  
16 and at that point, it will be part of a dedicated  
17 public right-of-way and therefore, ultimately get  
18 subtracted from the gross area, but it is the -- it is  
19 the practice of park and planning uniformly when  
20 dealing with gross to deal with that at the start of  
21 development, not later on.

22 So the approval, whether at the special

1 exception time of -- of review or at the preliminary  
2 plan of subdivision looks at the property's  
3 configuration at the time those properties -- those  
4 processes, excuse me, begin. And so right now because  
5 that property had never been dedicated or conveyed out,  
6 it remains part of the gross.

7 MR. BROWN: All right. And that's what I  
8 wanted to clarify. So Fatima, go down to the next page  
9 that I've attached to this letter. All right. Now, on  
10 this is an excerpt from the record and I've highlighted  
11 all the yellow ones, all four of these pages. The  
12 yellow area there is the prescriptive easement on  
13 Springfield Road; okay?

14 MR. FERGUSON: So I would -- I would disagree  
15 slightly with you, at least -- and M- -- perhaps Mr.  
16 Debolt [ph] will testify differently. My experience of  
17 prescriptive easements is that they're typically  
18 limited just to the area that is used by the public,  
19 which is to say the paved area. Now, many surveyors  
20 will look at an old provision in state law that talks  
21 about presuming --

22 MR. BROWN: We don't -- we don't even -- we

1 don't need to --

2 MR. FERGUSON: -- the -- the right-of way.

3 MR. BROWN: -- we don't need to quibble right  
4 now the exact meets and bounds of the prescriptive  
5 easement --

6 MR. FERGUSON: Okay.

7 MR. BROWN: -- but you can -- prescriptive  
8 easement is determined by use.

9 MR. FERGUSON: Yes.

10 MR. BROWN: And go to the next page, Fatima.  
11 This is also from the record.

12 MR. FERGUSON: Right.

13 MR. BROWN: It also shows the -- what we're  
14 going to say generally is the area of the prescriptive  
15 easement on Springfield Road.

16 MR. FERGUSON: Yeah. So I guess what -- I  
17 guess all I would say, Mr. Brown, is that I would limit  
18 the area that is highlighted to the very bottom part of  
19 what you have highlighted, but I would say that the  
20 area you have highlighted will ultimately be dedicated.

21 MR. BROWN: And I want to make sure you and I  
22 agree on that. And then go down to the next page,

1 Fatima. This also shows prescriptive easement generally  
2 on Springfield Road. Now, this raises the problem of my  
3 critical question.

4 MR. FERGUSON: Yes, sir.

5 MR. BROWN: The staff has concluded that there  
6 are 12.01 acres here --

7 MR. FERGUSON: Yes, sir.

8 MR. BROWN: -- and there's a minimum of 12  
9 contiguous acres that are required.

10 MR. FERGUSON: Yes, sir.

11 MR. BROWN: If you deduct the square footage  
12 of the right-of-way prescriptive easement, would you  
13 have concluded, and I agree, will be deducted in the  
14 future because it must be dedicated as part of  
15 Springfield Road? How much square footage is deducted  
16 from this 12.01 acres and then are you below 12 acres?  
17 I know you probably cannot answer that question right  
18 now, but it's --

19 MR. FERGUSON: I -- I can answer the second  
20 part of the question. And yes, you absolutely would be  
21 below 12 acres post-dedication.

22 MR. BROWN: All right. So that raises the



1 question, do we have a special exception that has 12  
2 contiguous acres when you do not include what is -- not  
3 arguably what is actually a roadway, Springfield Road,  
4 which is actually a prescriptive easement which cannot  
5 be used by the property owner or a special exception or  
6 anything else? We don't have 12 contiguous acres, do  
7 we?

8 MR. FERGUSON: No. I -- I disagree with that.  
9 I think because of the deed, you do have the 12 acres.  
10 So certainly, there are all -- there are other areas of  
11 the property which have already been dedicated as  
12 easements or sewers; right? And those sewer easements  
13 also restrict the use of the property.

14 MR. BROWN: Oh, but, no, that's different.  
15 Sewer easement is an easement that goes underground.  
16 You can still use the property above ground, although,  
17 you can't build upon it.

18 MR. FERGUSON: Right. That -- that -- that --  
19 that matters. That's a -- that's a pretty relevant --  
20 that's a pretty relevant restriction; right?

21 MR. BROWN: A prescriptive easement, you are  
22 actually deducting the square footage of the land so

1 that you -- in other words, if we -- let's just say for  
2 the sake of discussion, the prescriptive easement is  
3 one acre, and I know it's not one acre --

4 MR. FERGUSON: Right.

5 MR. BROWN: -- but for the sake of discussion,  
6 it's one acre --

7 MR. FERGUSON: Right.

8 MR. BROWN: -- in the future, that one acre  
9 must be deducted from this property, it cannot be used  
10 with special exception, it will be used as a roadway.  
11 So --

12 MR. FERGUSON: So -- so I --

13 MR. BROWN: -- let me make an argument, let me  
14 finish.

15 MR. FERGUSON: Sure.

16 MR. BROWN: How do you make the argument that  
17 we are approving a special exception with 12 contiguous  
18 acres and 1 acre, for the sake of discussion, is a  
19 prescriptive easement that cannot be used for a special  
20 exception?

21 MR. FERGUSON: So I guess the -- the -- the  
22 part of your argument that I don't agree with is just

1 simply that last -- that last clause or last phrase is  
2 that the one acre cannot be used for the special  
3 exception. So what -- and -- and this really does go to  
4 the difference between gross and net; right?

5 So certainly, I would agree that there are not  
6 12 net acres, because not only is there a -- a  
7 prescriptive easement along Springhill [sic] Road,  
8 there's also 100-year flood plain, but the ordinance  
9 specifically says gross so that they can say, what does  
10 your deed say? Your deed says 12, great, you can  
11 proceed to develop --

12 MR. BROWN: Well, then [inaudible] --

13 MR. FERGUSON: -- and then you go and do your  
14 development and all of that development will go and  
15 subtract -- it will subtract roads, it will subtract  
16 other things, it might subtract a -- a -- a -- a  
17 mandatory park dedication, for instance, but --

18 MR. BROWN: The ordinance doesn't make a  
19 distinction between gross and net as it relates to the  
20 criterion for the special exception. The criterion is  
21 the subject property shall contain at least 12  
22 contiguous acres.

1 MR. FERGUSON: Right.

2 MR. BROWN: At the time of final approval for  
3 this special exception, it will not contain 12  
4 contiguous acres, because the prescriptive easement  
5 will be deducted.

6 MR. FERGUSON: For -- so certainly, I agree  
7 with that, Mr. Brown. I guess I would say is the  
8 uniform -- my uniform experience in evaluating  
9 development applications, that that evaluation is made  
10 at the beginning of the review process, not at the end  
11 --

12 MR. BROWN: Right.

13 MR. FERGUSON: -- and that's why starting with  
14 12 today --

15 MR. BROWN: Right. I see that.

16 MR. FERGUSON: -- gets you there.

17 MR. BROWN: Taking --

18 MR. FERGUSON: That's my -- that's my  
19 experience.

20 MR. BROWN: -- taking that analogy, if we have  
21 12 acres today and the county has indicated, by  
22 imminent domain, they're going to take 6 acres in 2

1 years, we can approve the special exception even though  
2 we know the county's going to take 6 and that's the  
3 same thing here.

4 MR. FERGUSON: Yes. So -- so assuming that  
5 there's not a -- there's not a -- well, yes, I would  
6 agree with that. I would agree with that and certainly,  
7 I can think of a number of occasions where reserved  
8 property does go and -- and -- and count to development  
9 density and things like that before it's actually  
10 conveyed out.

11 So my -- my -- again, I -- I understand your  
12 argument, I'm just saying that my -- my experience is  
13 that the evaluation is done at the beginning rather  
14 than at the end.

15 MR. HATCHER: A point of clarification, my  
16 understanding is that area is not going to be dedicated  
17 until the plat is ultimately submitted, which is the  
18 very end of the process.

19 MR. FERGUSON: Correct.

20 MS. MCNEIL: But -- but Mr. Brown has a -- a -  
21 - a legal argument that I guess should be addressed,  
22 because he's correct, this may be de- -- deminimis, but

1 what if it was two acres? The issue becomes the use is  
2 not going to be constructed; correct? So we're looking  
3 today and saying, okay, they'll have this, they'll have  
4 that, but if you start taking away the acreage, will  
5 they have that?

6 MR. FERGUSON: Right.

7 MS. MCNEIL: I don't know. So I think --

8 MR. FERGUSON: No. I know. So I think --

9 MS. MCNEIL: -- I think this is --

10 MR. FERGUSON: -- no. I think Mr. Brown -- Mr.  
11 Brown is --

12 MS. MCNEIL: No. But Mr. Ferguson -- excuse  
13 me, one second.

14 MR. FERGUSON: No. [inaudible]

15 MS. MCNEIL: I really think it's more of a  
16 legal that --

17 MR. FERGUSON: No. It is and -- and I would  
18 say it's -- it's even of -- of a greater pointiness  
19 than -- than you've characterized it, because I think  
20 he and I both agree that we are so little above the 12-  
21 acre gross threshold.

22 MR. BROWN: And so --

1 MR. FERGUSON: It's not a matter of one or two  
2 acres or the uncertainties of the development process,  
3 but --

4 MR. BROWN: -- so -- so what we need to have  
5 in the record is --

6 MR. FERGUSON: Yeah.

7 MR. BROWN: -- the actual square footage of  
8 the prescriptive easement in the right-of-way on  
9 Springfield Road. We need to know that.

10 MR. SUHAR: Madame Examiner, I'm -- I'm back,  
11 I -- I just wanted to let you know and -- and I -- I  
12 have to say that I agree with Mr. Brown's -- Stan  
13 Brown's arguments here, that -- that -- that -- that's  
14 concerning and I was not previously aware of this  
15 issue.

16 MR. HATCHER: As -- as -- as a point of  
17 clarification --

18 MS. MCNEIL: And that's Mr. Suhar, excuse me,  
19 for the record and one more, Chr- -- one more, Mr.  
20 Hatcher, I want Mr. Brown's exhibit, even though it's  
21 made up of several pages in the record, to be marked as  
22 Exhibit 103, everybody. Thank you.

1 MR. HATCHER: Right. Right.

2 MS. MCNEIL: Go ahead. Who was speaking, Mr.  
3 Hatcher?

4 MR. HATCHER: This is Chris -- Chris Hatcher.  
5 As a -- as a point of clarification, my understanding  
6 of the development process is that what -- what really  
7 articulates the boundaries of a zoning application is  
8 the zoning sketch map and associated documents that are  
9 ultimately accepted by park and planning, the reviewing  
10 agency.

11 From that, you're always going to have  
12 dedications, whether it's roadway dedications, if the  
13 roads are public or private and -- and candidly, as --  
14 as fee simple lots are sold out, the ownership is  
15 ultimately going to change from each one of those. So  
16 it's all going to be within the geographic boundaries  
17 of the original special exception, which according to  
18 the survey and at least supported by DPWNT is beyond 12  
19 acres.

20 Now, ultimately, what the -- the development  
21 ends up being is -- is largely going to be dependent on  
22 what's approved and what's sold out and what's donated



1 or dedicated to government, but the application at its  
2 initiation, as defined by the zoning sketch map and the  
3 associated plans, is -- is what establishes the overall  
4 acres is my understanding.

5 However, I understand that you may need  
6 additional information, we can certainly provide that  
7 in the record.

8 MR. BROWN: Mr. Hatcher, whatever the staff  
9 accepts from the applicant at the initiation of an  
10 application does not determine whether or not a  
11 particular criteria has been complied with.

12 MR. HATCHER: I agree with that. Yes.

13 MR. FERGUSON: So Mr. Brown, I think there's  
14 something that's probably useful and I'm going to refer  
15 everybody to Section 27-101.1A, 108, which is the  
16 definition of gross tract area, which is the total area  
17 of a tract of land including all area which is to be  
18 conveyed for public facilities.

19 So that -- that really speaks to it. You know,  
20 it's all of that area which is to be conveyed, which  
21 includes the area of Springhill [sic] Road is part of  
22 the gross tract area by definition.

1 MS. MCNEIL: But is gross tract area  
2 equivalent to contiguous acreage? That's what the law  
3 says.

4 MR. FERGUSON: It -- it usually is, Madame  
5 Examiner. There are sometimes when a property is  
6 separated by roadways, that -- that you have a gross  
7 tract area that all of that acreage is not contiguous.  
8 That's not [inaudible].

9 MR. SUHAR: It defeats the purpose of the  
10 rule.

11 MR. BROWN: I -- I'm -- I -- I -- I'm not  
12 going to solve the issue now. I raise it, because it's  
13 problematic. So again, you need to put in the record  
14 what the square footage is of the prescriptive  
15 easement.

16 MR. FERGUSON: Yeah. No. I --

17 MR. SUHAR: I agree with you, Mr. Brown.

18 MR. FERGUSON: -- Mr. Brown, I -- thank you,  
19 Mr. Brown.

20 MR. SUHAR: I think it is problematic.

21 MS. MCNEIL: Let the record reflect that Mr.  
22 Suhar and Mr. Brown agree. I don't see you on the

1 camera, Mr. Suhar.

2 MR. SUHAR: Thank you very much, Madame --  
3 yeah. I'm so sorry, I'm -- I'm coming from a meeting  
4 and -- and should be back in my office here, but I'll --  
5 -- I'll go on camera.

6 MS. MCNEIL: Okay. Well, we've got to give Mr.  
7 Ferguson a slight break before others may have  
8 questions of him and that is the continuance date is  
9 the 20th if I don't hear otherwise from you all.

10 MR. FERGUSON: Twentieth of December, Madame  
11 Examiner?

12 MS. MCNEIL: Of December.

13 MR. FERGUSON: I -- I hope I will be done by  
14 then.

15 MS. MCNEIL: Huh? Excuse me?

16 MR. FERGUSON: I -- I -- I hope I won't be  
17 cross-examined --

18 MS. MCNEIL: Oh, you can't come the 20th?

19 MR. FERGUSON: Okay.

20 MS. MCNEIL: You got me with that one. Okay.  
21 So I didn't hear anything, that's the date. Continue  
22 on, Mr. Hatcher.

1 MR. SUHAR: The -- the 20th I'm available,  
2 just letting you know. Thank you.

3 MS. MCNEIL: Okay. That's great to know. Okay.

4 MR. HATCHER: I'll definitely need to -- to  
5 coordinate with my various consultants to make sure  
6 that works, but I'll get back to you before close of  
7 business today. Well, tomorrow.

8 MS. MCNEIL: Okay. Wait a minute -- wait one  
9 second, I'm sorry, I don't -- no, we were on cross. We  
10 were -- so Mr. Brown, you finished?

11 MR. BROWN: Yes. I was done. Thank you.

12 MR. FERGUSON: Thank you, Mr. Brown.

13 MS. MCNEIL: Okay. Anyone else have questions  
14 of Mr. Ferguson? Questions?

15 MR. HOLMAN: Mr. Brown, do you know how many  
16 trees in total will be removed by this proposed  
17 development?

18 MR. BROWN: Mr. Brown would never know the  
19 answer to that question.

20 MR. HOLMAN: I'm sorry, not Mr. Brown, Mr.  
21 Ferguson. Thank you, Mr. Brown.

22 MR. FERGUSON: I was going to say, who me? Mr.

1 Holman, in -- in terms of the total number of  
2 individual trees, no, I don't -- I don't think anybody  
3 does. What Ms. Sommer testified to is that the -- the  
4 development review process requires you to know  
5 specifically the number of specimen trees, which are  
6 almost always trees larger than 30 inches in diameter,  
7 but once they're smaller, that just becomes generalized  
8 woods.

9 And so the staff report, which is based on the  
10 tree conservation plan numbers reflect the areas of  
11 woodland which generally contains trees that are --  
12 that are smaller than 30 inches in diameter, but as to  
13 the individual numbers, that number isn't known.

14 MR. HOLMAN: Okay. And my second question is  
15 how are the proposed water runoff features that are  
16 being proposed here better in dealing with water runoff  
17 than what is presently there, which is one home of an  
18 elderly person in dense woods on a steep slope?

19 MR. FERGUSON: Sure. So first of all, it's --  
20 at least legislatively, I -- I know you believe it is  
21 steep. According to the county's definitions, it is  
22 not. That requires slopes to be in excess of 15

1 percent, which it only really appears in the -- you  
2 know, the banks of the stream and that's a protected --  
3 a protected area.

4 So what -- what you have is -- is several  
5 things. So right now existing today you have a house  
6 which has a driveway and it has roofs and the  
7 outbuildings have -- have roofs and you have cleared  
8 area which has -- which has grass. All of that, even  
9 though it -- it -- it -- it may be minimal, is still a  
10 greater amount of stormwater runoff than if the  
11 property were entirely wooded.

12 So what the stormwater management regulations  
13 of the state and the county require is that you manage  
14 the stormwater so that the -- the -- the discharge is  
15 equal to or less than what would come off it if the  
16 property were entirely wooded. So -- so the design is  
17 done really to improve the stormwater conditions over  
18 what is there today after you build those 57 houses and  
19 that's done through various means.

20 Micro-bioretenion facilities are sort of like  
21 a constructed swamp, but nicely landscaped that both  
22 allow water to infiltrate into the soil and allows

1 plants to use their -- their roots and their -- and  
2 their living -- you know, living nature to metabolize  
3 the nutrients that are in the runoff. So runoff  
4 rainfall generally absorbs nitro- -- nitrogen and  
5 phosphorus components that come out of principally car  
6 exhaust.

7           And when rainfall -- rain forms, those --  
8 those nitrogen and phosphorus components go into the  
9 rain, drops fall onto the ground and make their way,  
10 you know, in developed areas onto impervious surfaces  
11 and then without management directly into stream  
12 bodies, which cause eutrophication or it causes the  
13 algae to go, hey, fertilizer and eat it all and  
14 multiply and then they use up all the oxygen and then  
15 everything in the water dies.

16           So the idea is metabolize all of that -- all  
17 of those nutrients with plants in micro-bioretenion,  
18 in the submerged gravel wetland before it's discharged  
19 out into the environment and by creating pools, you  
20 also impact the water so that it has time to evap- --  
21 infiltrate into the soil, it has time to be metabolized  
22 by the plants and only trickles out of the facility at

1 low rates, which accom- -- which -- which are designed  
2 to match what the property would be if it had never  
3 been developed, if it wasn't even a single-family house  
4 but rather was entirely wooded.

5 MR. HOLMAN: How many pools?

6 MR. FERGUSON: So two bio-retention facilities  
7 are proposed and then one large what's called a  
8 submerged gravel wetland. And so what the submerged  
9 gravel wetland does is actually, you build a non-title  
10 wetland and you get treatment both through the  
11 metabolization by plants and you get an -- an anaerobic  
12 condition in the -- the -- the -- the base media of the  
13 submerged gravel wetland.

14 And so it effectively acts analogously to a  
15 septic tank and you get anaerobic bacteria me- --  
16 metabolizing nutrients and other pollutants as well and  
17 they work really very, very well. So this is why the  
18 state went to mandate the use of these facilities in  
19 state law beginning in 2007 and then the requirement  
20 was really every project in the county after 2013 that  
21 hadn't had a previously grandfathering.

22 MS. MCNEIL: Anyone else have questions of Mr.



1 Ferguson?

2 MR. ALDAG: I do, Hank Aldag.

3 MS. MCNEIL: Okay.

4 MR. FERGUSON: Hi. Good afternoon, Mr. Aldag.

5 MR. ALDAG: Hi. How are you?

6 MR. FERGUSON: Good.

7 MR. ALDAG: So the soil that is on the Stewart  
8 property there, basically, you have mostly, you know,  
9 A, B and C soils; right?

10 MR. FERGUSON: I'm -- I'm sorry, did you start  
11 by referring to a swale?

12 MR. ALDAG: No. I'm talking about the type of  
13 soil --

14 MR. FERGUSON: Or did you say soil? Soil. Got  
15 it. Yes, sir. Okay.

16 MR. ALDAG: -- which is from the hydrologic  
17 soil group.

18 MR. FERGUSON: You have -- you have A, B -- B  
19 and C. Yes, sir.

20 MR. ALDAG: Yeah. And so the particular --  
21 what you just described where you have the -- the  
22 wetlands -- the gravel wetlands, the -- the two micro

1 bio-retentions and the bioswale, they actually require  
2 --

3 MR. FERGUSON: I don't believe the bio- -- I  
4 don't -- I'm sorry for interrupting, I apologize.

5 MR. ALDAG: No. Yeah.

6 MR. FERGUSON: I'm was just going to say that  
7 the bioswale, I believe, is no longer a part of the  
8 proposal.

9 MR. ALDAG: Okay. Because that was --

10 MR. FERGUSON: [inaudible] defines that  
11 there's maintenance problems with those, so they don't  
12 like to approve those anymore.

13 MR. ALDAG: Yeah, because that was part of the  
14 September, 20- -- 2023 technical staff report, that's  
15 where I got that.

16 MR. FERGUSON: Yeah. I understand.

17 MR. ALDAG: So we're looking at this -- you  
18 know, so we're looking at this and it actually says  
19 that, you know, those things are great, but they don't  
20 actually clean the soil and do what you were just  
21 saying unless you have the proper soil underneath it  
22 and, you know -- so you basically have, you know, more

1 or less the impermeable soil where -- up towards north  
2 where there's a lot of -- of your development and then  
3 you have the permeable down at the bottom.

4 And so there will actually, with your site  
5 plan, be a degradation of the water that actually comes  
6 out of, you know, the Newstop Branch and --

7 MR. FERGUSON: Sure. But -- so that's --  
8 that's a great question and I guess what -- what I  
9 would -- what I would do is -- is -- well, okay. So let  
10 me -- let me sort of rephrase a little bit of what I --  
11 what I said before. There's -- or expand. There's, as I  
12 mentioned, two micro bio-retention facilities and a  
13 submerged gravel wetland.

14 So those two facilities -- two types of  
15 facilities are very different in their -- in their  
16 function. So micro bio-retention facilities are suited  
17 to areas where the soil is permeable and in this -- in  
18 the case of this site, that is the class -- or the type  
19 B hydrologic -- B as in boy, hydrologic soils group  
20 soils --

21 MR. ALDAG: Yeah.

22 MR. FERGUSON: -- which are up towards Spring-

1 -- Springfield Road and that's where those micro bio- -  
2 - micro bio-retention facilities are. So in that case,  
3 they are able to infiltrate and perform the function  
4 that they're supposed to do.

5 On the northern and eastern parts of the site  
6 as you get towards Newstop Branch, then the soil  
7 characterizations change to C and probably as you get  
8 even a little bit more below the -- below the surface  
9 level, D and in that case, those soils are impermeable  
10 or in -- in various degrees.

11 And so the use of micro bio-retention is not  
12 suitable there. So what you do -- where you have that -  
13 - those soil conditions is you use a facility like a  
14 submerged gravel wetland, which is explicitly designed  
15 to treat the water by different means, as I said, some  
16 anaero- -- developing an anaerobic layer in -- below a  
17 -- a local water table that does the treatment and then  
18 you get -- you -- you get discharge of the water as  
19 opposed to infiltration, but you were always getting  
20 that already because of the soils type.

21 So both of those facilities act to maintain  
22 the natural characteristics -- the natural hydrologic

1 characteristics of the site prior to development and  
2 that's -- that's what's proposed here.

3 MR. ALDAG: Right. With the proper soils, that  
4 actually is what's required to make it work.

5 MR. FERGUSON: Right.

6 MR. ALDAG: Would -- would you agree with the  
7 statement that, you know, if you reduce the impervious  
8 surfaces, that that would help, you know, the -- the  
9 runoff and those particular two types of cleaning  
10 mechanisms and --

11 MR. FERGUSON: Not -- not with stormwater  
12 management. No. I mean, I think the -- the -- the point  
13 of doing stormwater management is to provide active  
14 devices. They're not active, they sit there and -- and  
15 do things naturally, but provide advices to  
16 affirmatively treat water rather than passively just  
17 saying, well, we won't do anything and -- and -- and  
18 manage stormwater by lack of activity.

19 So you can certainly say that impervious areas  
20 generate adverse soil -- adverse runoff  
21 characteristics, but that's -- it's not enough to say  
22 that. You have to say, well, are those -- are those

1 adverse characteristics mitigated by stormwater  
2 management measures and that's what's done by  
3 stormwater management design and that's what's done for  
4 this development.

5 So the county certainly and the state have a  
6 substantive interest in protecting the water of Newstop  
7 Branch and below and as I mentioned at the outset of my  
8 testimony, actually, a greater impact -- a greater  
9 interest for that stream in particular --

10 MR. ALDAG: Mm-hmm.

11 MR. FERGUSON: -- because the watershed is a  
12 ty- -- a tier II -- a tier II watershed. And so what  
13 the county does is impose additional requirements to  
14 provide a higher level of protection for Newstop Branch  
15 than it would elsewhere. Across the street in Wingate,  
16 that's actually a completely different watershed.

17 The water there flows to Folly Branch, which  
18 has to make its way all the way to Upper Marlboro  
19 before it -- it comes back into the Patuxent River. I  
20 think that's the -- that's there, it's not a tier II  
21 watershed. I think Horsepen Branch is, but Western  
22 Branch is not. So Wingate -- if this property were

1 being developed in Wingate or in Wingate's watershed,  
2 it would have a lower degree of required protections  
3 than it does, because it's literally on the other side  
4 of the road in Horsepen watershed.

5 MR. ALDAG: Yeah. Yeah. That just think --  
6 helpful I think. And you said you don't have to show  
7 that this requirement is needed, right, in your -- in  
8 your submittal?

9 MR. FERGUSON: The -- the -- in other words,  
10 that there is a public need for the use.

11 MR. ALDAG: Right.

12 MR. FERGUSON: Yes. That's my -- that is my  
13 opinion and that's -- that's drawn out by a distinction  
14 that's made where- -- whereas were this project  
15 classified in the RA Zone instead of the RR Zone, then  
16 yes, there would be a requirement to show that it's  
17 needed. My presumption, and it's just a presumption, is  
18 the district council said, well, look, the RA Zone is a  
19 less dense zone, basically one lot per two acres-based  
20 density as opposed to two lots per acre.

21 MR. ALDAG: Yeah.

22 MR. FERGUSON: So if we're going to have a

1 development which could be as dense as eight units per  
2 acre, we really want to make sure there that we need it  
3 --

4 MR. ALDAG: Yeah.

5 MR. FERGUSON: -- but that -- that requirement  
6 doesn't exist for the RR Zone.

7 MR. ALDAG: So with the two huge projects that  
8 they just have up towards Temple Reed and -- and Green  
9 [inaudible] five miles away --

10 MR. FERGUSON: Mm-hmm.

11 MR. ALDAG: -- they're huge complexes of many,  
12 many, many acres and basically, they haven't, you know,  
13 filled them up or anything yet.

14 MR. FERGUSON: Mm-hmm.

15 MR. ALDAG: So that didn't come into any play  
16 at all whether it's actually needed or not.

17 MR. FERGUSON: Well, I think Mr. -- Mr. Burke  
18 spoke to that earlier. You know, I'm not a -- I'm not a  
19 market analyst. So I can't really opine on need, except  
20 to point you to things that are in my ambit, like the  
21 master plan, which says we need all we can get.

22 MR. ALDAG: Right. Well, you know, with the



1 old -- with the old people, and I'll qualify this, I  
2 actually own an elderly care facility, so I'm very  
3 attuned to this, it is a -- it is a -- it is a small  
4 age range that you have that actually get to a part  
5 where then they can't function in there. So as a part  
6 of the population, it's a very short period and a very  
7 small actual amount of the total population.

8 MR. FERGUSON: Madame Examiner, I need -- my  
9 memory was just tickled, I need to state --

10 MR. ALDAG: Yeah.

11 MR. FERGUSON: -- for the record that I was a  
12 witness for Mr. Aldag of your Bowie Assisted Living  
13 facilities some number of years ago when you did an --  
14 an expansion of that.

15 MR. ALDAG: Right. Yeah.

16 MR. FERGUSON: That does affect my testimony,  
17 Madame Examiner.

18 MR. ALDAG: Yeah. Wow. You do have a memory.

19 MS. MCNEIL: Okay. You're out, that's it.

20 MR. ALDAG: Okay. Actually, I didn't even  
21 remember that. Okay.

22 MR. FERGUSON: Yeah.

1 MR. ALDAG: Okay.

2 MR. SUHAR: I've got a question if Mr. Aldag  
3 is finished --

4 MR. ALDAG: Yeah. Yeah.

5 MR. SUHAR: -- unless you have more questions.

6 MR. ALDAG: Not -- I was going to talk about  
7 the easement that's already in use on Springfield Road  
8 --

9 MR. SUHAR: Go ahead.

10 MR. ALDAG: -- and, you know, that's like, you  
11 know, giving it back and using it twice.

12 MR. FERGUSON: I understand your -- your  
13 argument. I guess the point was it was never given and  
14 what the prescript- -- what -- what the prescriptive  
15 easement means is that it's been taken enough that we  
16 can keep taking it and using it is really what a  
17 prescriptive easement is.

18 So you can't pick us off the land, we've been  
19 using it too long. It's still yours, but you can't let  
20 us -- you know, you can't kick us off from -- from  
21 using it as Springfield Road. So I don't know, Mr.  
22 Brown can --

1 MR. ALDAG: Never underestimate the  
2 government.

3 MR. FERGUSON: Yeah. Mr. Brown could say  
4 whether or not that's relevant.

5 MR. ALDAG: Okay. Yeah. And I'm good. Hey,  
6 thank you very much.

7 MR. FERGUSON: Thank you, Mr. Aldag.

8 MR. ALDAG: Okay.

9 MS. MCNEIL: [inaudible] before Mr. Suhar and  
10 it's just because you've had a long day, no, the  
11 examiner will say what's relevant. What is wrong with  
12 you people? Okay. [inaudible]

13 MR. FERGUSON: I apologize, Madame Examiner, I  
14 -- I -- I apologize. I do know better.

15 MR. SUHAR: Who -- who's up next?

16 MS. MCNEIL: Mr. Suhar.

17 MR. SUHAR: Oh, thank you. Thank you. Yeah.  
18 Just a couple questions, Mr. Ferguson.

19 MR. FERGUSON: Yes, sir.

20 MR. SUHAR: I -- when -- when you testified  
21 that there was no im- -- no adverse impact from this --  
22 this proposed planned retirement community on the

1 neighborhood, I'm wondering how you come to that  
2 conclusion.

3 MR. FERGUSON: Yeah. So that's -- that's --  
4 that's actually a very good question and I think what -  
5 - what I probably need to have done was to have been  
6 specific in the way that I was in the response to  
7 Madame Examiner's question, which is what the legal  
8 standard is. So -- and -- and I shorthanded my answer  
9 improperly.

10 This -- the requirement is not that there is  
11 no adverse impact. Every change in land use has some  
12 kind of impact that could be reviewed in some way as  
13 adverse no matter how -- how minimum. So it really is  
14 incorrect to say there is no adverse impact.

15 So what the -- the law has evolved is to  
16 charge people like me opining on questions like that is  
17 to say is there a greater adverse impact than one would  
18 expect for this use, which is presumed to be valid here  
19 as opposed to generically somewhere else in the same  
20 zone in the county.

21 And so from that perspective, that's really  
22 how you have to view my -- view my answer. So all --

1 MR. SUHAR: Okay. But -- but -- but you said -  
2 -

3 MR. FERGUSON: -- all senior -- I'm sorry, let  
4 me -- let me just --

5 MR. SUHAR: Go ahead. Sure.

6 MR. FERGUSON: -- briefly go on. All -- all  
7 planned retirement communities will have some  
8 additional traffic, for instance. So anybody could look  
9 at -- say if you put two more cars on the street in the  
10 peak hour, that would be an adverse impact, but because  
11 that would prohibit any special exception ever from  
12 being granted, what I have to say is well, you know,  
13 would this provide a greater adverse impact?

14 And -- and in this case, because there were  
15 fewer houses than those that are -- those that are  
16 proposed, they're lower, they're more set back, as I  
17 testified earlier, and you may have been away for that  
18 testimony, I don't know, that -- that the -- the impact  
19 from this development would, in my opinion, be less  
20 than it would be for a generic planned retirement  
21 community, as provided for by the -- the regulations at  
22 -- at sites generically in the RR Zone.

1 MR. SUHAR: Okay. Yeah. I think it was Mr.  
2 Burke that testified that -- that there are -- will be  
3 -- with 57 lots, there's going to be 4.5 lots per acre  
4 and -- and this --

5 MR. FERGUSON: 4.- -- yeah. 4.75 is the --

6 MR. SUHAR: 4.75, I'm sorry.

7 MR. FERGUSON: Yes, sir.

8 MR. SUHAR: 4.75. Yeah. Thank you.

9 MR. FERGUSON: Yes, sir.

10 MR. SUHAR: So -- so what that means, if you --  
11 -- if -- if -- if, you know, the zoning would allow for  
12 two lots per acre without a special exception, then --  
13 then we're talk- -- what we're talking about is more  
14 than double, almost triple the amount of density on  
15 this particular lot and we're not -- when -- when we  
16 say that there are -- you know, the -- the zoning is RR  
17 and RE, that -- that's -- that --

18 When you said there -- you said that there was  
19 -- it was primarily RR and RE Zoning in the  
20 neighborhood, except for one commercial lot or  
21 something. Is that what you said?

22 MR. FERGUSON: Yes, sir.

1 MR. SUHAR: So -- so you know, it -- it's  
2 surprising to me as to how you could come to the  
3 conclusion that there wouldn't be -- well, initially,  
4 you -- you said no impact -- no -- no adverse impact --  
5 or no adverse impact, but that there is really not much  
6 adverse impact.

7 I -- I just -- I'm -- I guess I'm -- I'm  
8 wondering what -- what -- in what case would there be  
9 adverse impact if this -- if this doesn't match and,  
10 you know, it's not as, you know -- if this doesn't  
11 present adverse impact in this case?

12 MR. FERGUSON: I'm sorry, I don't actually  
13 understand what you're asking me. Could you please,  
14 yeah, rephrase or --

15 MS. MCNEIL: And Mr. Suhar, I feel like he  
16 answered, but it's not the answer you wanted. So you're  
17 more in argument. He's saying that he -- the use has  
18 the same impact everywhere in the same zone in the  
19 neighborhood. So that's -- that's what he said.

20 MR. SUHAR: Uh-huh. Yeah, but in this  
21 community -- I'm -- I'm talking about -- the  
22 neighborhood we're talking about now is -- is that

1 we're -- we're -- we're -- we're -- we're -- we're --  
2 we have a community -- there's -- there -- there are no  
3 other uses in this community -- in this neighborhood,  
4 Mr. Ferguson, that are as dense as what the -- the  
5 proposed development is going to be; is that correct?

6 MR. FERGUSON: That is correct.

7 MR. SUHAR: Yeah. And -- and -- and -- but  
8 we're talking about allowing now, through a special  
9 exception, more than double, almost triple the amount  
10 of density.

11 MR. FERGUSON: Yes, sir. And -- and Mr. Burke  
12 could've quadrupled it under the provisions of the --  
13 of the regulations.

14 MR. SUHAR: Okay. All right.

15 MR. FERGUSON: It's what the ordinance  
16 provides for.

17 MR. SUHAR: Okay. So I'm going to move onto  
18 some testimony about WSSC. In the planning technical  
19 sta- -- sta- -- planning staff report, there was a  
20 mention about WSSC not responding -- there was no  
21 response from WSSC to planning staff. Why -- was -- did  
22 WSSC submit a letter of -- of findings in this case and



1 make recommendations as to sewer upgrades -- water and  
2 sewer upgrades?

3 MR. FERGUSON: So I did not testify to that  
4 and I'm not familiar with how far the development has  
5 proceeded towards its water and sewer systems. Maybe  
6 Mr. Burke could testify to that if he were on direct,  
7 but I -- I have no knowledge of -- of their -- their  
8 water and sewer engineering.

9 MR. SUHAR: Okay. Thank you. I -- I don't have  
10 any further questions. Thank you, Madame Examiner.

11 MR. FERGUSON: Thank you, Mr. Suhar.

12 MS. MCNEIL: Thank you. Anyone else have  
13 questions of Mr. Ferguson? Okay.

14 MR. FERGUSON: Okay.

15 MS. MCNEIL: Mr. Hatcher, do you have another  
16 -- thank you, Mr. Ferguson.

17 MR. FERGUSON: Thank you, Madame Examiner.

18 MR. HATCHER: Yeah. And -- and --

19 MS. MCNEIL: Mr. Hatcher --

20 MR. HATCHER: -- in light of the testimony  
21 that -- that we've heard and the questions that we've  
22 had over this prescriptive easement, I think it's

1 probably best to have Mr. Debolt testify at the next  
2 hearing after we've been able to submit into the record  
3 the -- the legal justification that -- that Mr. Brown  
4 was -- was referencing.

5           However, we would like to call Jude Burke back  
6 up, because I believe you had some questions for him,  
7 Madame Examiner.

8           MS. MCNEIL: Okay. What did I have to ask Mr.  
9 Burke? Mr. Burke.

10          MR. BURKE: Yes, ma'am.

11          MS. MCNEIL: There you are. You're still under  
12 oath.

13          MR. BURKE: Yes, ma'am.

14          MS. MCNEIL: What did I have to ask you?

15          MR. BURKE: You asked about a fence.

16          MS. MCNEIL: While I'm thinking, did anyone  
17 else have a question of Mr. Burke?

18          MR. BURKE: Madame Examiner, you had asked me  
19 if there was a fence involved I think.

20          MS. MCNEIL: Oh, right, you were telling me  
21 about the visibility study.

22          MR. BURKE: Right.

1 MS. MCNEIL: Can you explain what that is if  
2 we pull it up and --

3 MR. BURKE: Well -- so that -- whether it's up  
4 or not, it was generally -- the highly visible sides of  
5 the units that have increased architectural el- --  
6 elements to them and most of them you're only going to  
7 see from inside the -- the -- the community itself.

8 MS. MCNEIL: Okay. And -- and one second. One  
9 second. Ms. -- Ms. Bah, could you pull up Exhibit 75?  
10 Because I think your testimony would help me understand  
11 the exhibit too.

12 MS. BAH: Okay.

13 MS. MCNEIL: I didn't see -- let's see what's  
14 going on.

15 MR. HATCHER: And also, Mr. B- -- we're --  
16 we're hoping, Madame Examiner, that the -- the scope of  
17 the -- the questions really relate to things that have  
18 been brought up so he can address them directly as  
19 opposed to any new questions, but I did believe you had  
20 a question related to any signage as well and where  
21 it's [inaudible].

22 MS. MCNEIL: Right. I did. Yeah. If there's a

1 sign and is it showing on the site plan.

2 MR. BURKE: Yes. It is --

3 MS. MCNEIL: Okay.

4 MR. BURKE: -- and it's on the south side of  
5 the entrance, a -- a monument wall with a -- a  
6 community sign on it.

7 MS. MCNEIL: Okay. So this is showing me what?

8 MR. BURKE: So that's -- the highlighting in  
9 red is showing the end units that are particularly  
10 exposed where we're going to have the enhanced  
11 architectural treatments on the ends of those units.

12 MS. MCNEIL: Okay. And on this one, there's  
13 the entrance. Were you also the one that can testify as  
14 to why the entrance -- the access is there? Because Mr.  
15 Nelson could not. Why are we accessing the site right  
16 across from someone's house on the other side?

17 MR. BURKE: There's a lot of different  
18 elements that go into the neighborhood layout. We -- we  
19 didn't intentionally put it right across, I think it's  
20 Mr. Martin's house, but it -- it's fairly centrally  
21 located on the -- the subject property frontage and,  
22 you know, ju- -- just the way that the site plan laid

1 out with the -- the environmental constraints on the  
2 back side of it it -- it just works better there.

3 MS. MCNEIL: Okay. And --

4 MR. HATCHER: [inaudible], I think you had a  
5 question as well.

6 MS. MCNEIL: -- and the quick -- the quick --  
7 there's going to be a fence around --

8 MR. BURKE: Along the southern property line.  
9 Sou- -- south of the property is another single-family  
10 lot. There's a -- a house there now, but it doesn't  
11 look inhabitable, but it is -- it's a single-family  
12 lot. So -- so we're showing a six-foot fence along that  
13 property line.

14 MS. MCNEIL: And -- and this is additional,  
15 but some of your adjacent properties belong to HOAs and  
16 -- and will not be developed? I mean, am I reading that  
17 into it, that it's just their --

18 MR. BURKE: That's correct. Common area -- the  
19 -- so on the -- where -- where the property line  
20 basically goes straight up the page but at an angle  
21 away from Springfield Road, everything to the left of  
22 that is Springfield Manor's --

1           Wait, I'm sorry, that's Oakstone's common area  
2           and then to the -- the -- the north -- northeast  
3           boundary line there, that is Springfield Manor common  
4           area and then that short length of property line that  
5           sort of is angled towards the southeast, that is the  
6           two single-family lots that are part of -- also part of  
7           the Springfield Manor subdivision and then the whole  
8           south titled, but generally south property line, that's  
9           that other single-family lot I referenced that faces  
10          Springfield Road and has a driveway on Springfield but  
11          not part of Springfield Manor.

12           MS. MCNEIL: Okay. I think I have mine. Anyone  
13          else have questions based on mine?

14           MR. BURKE: I can also answer Mr. Suhar's  
15          question about WSSC. We -- we do have a --

16           MS. MCNEIL: Okay.

17           MR. BURKE: -- letter of findings and  
18          hydraulic planning analysis approved from WSSC for the  
19          -- the -- the -- this layout. Yes.

20           MS. MCNEIL: Do we have them in the record?

21           MR. BURKE: No. We just got -- I mean, we had  
22          one for the old layout, then when we did the revisions

1 in August, September, we put in to WSSC for revising it  
2 just to match a new layout and we just got that back, I  
3 think, last night or the night before --

4 MS. MCNEIL: And it's totally up to you --

5 MR. BURKE: -- but I -- I don't need to  
6 [inaudible] --

7 MS. MCNEIL: -- but if you want to put them in  
8 the record, you all may.

9 MR. BURKE: If it's needed for special  
10 exception, great, I think that's more of a preliminary  
11 issue, but I'm going to defer to my counsel and --

12 MS. MCNEIL: Okay.

13 MR. BURKE: -- if it's required, we -- we can  
14 pull it up -- or I mean, send it in.

15 MS. MCNEIL: Okay. And so that's tied to you  
16 getting the right category. I think he was talking  
17 about the -- the fact in the staff report that it says  
18 you need to get category -- the next category before  
19 you can build.

20 MR. BURKE: It's W4S4 right now and I think  
21 that's an administrative step to get to W3S3 as we go  
22 through preliminary plan and final plat and Mr. Hatcher

1 can probably correct me on that if I'm wrong.

2 MS. MCNEIL: So I am finished, but I will turn  
3 to Mr. Suhar, does that answer your question? And Ms.  
4 Bah, you can take the exhibit down. Thanks.

5 MR. SUHAR: Yeah. So long as the findings are  
6 --

7 MS. BAH: Okay.

8 MR. SUHAR: -- are made part of the record.  
9 I'd like them to be, but that's -- I -- I understand it  
10 was pretty recent.

11 MS. MCNEIL: Okay. Do you have any other  
12 questions of the witness based on mine?

13 MR. SUHAR: No. Thank you.

14 MS. MCNEIL: Okay. Does anyone have questions  
15 of the witness based on mine? Okay. Thank you, Mr.  
16 Burke.

17 MR. BURKE: You're welcome.

18 MS. MCNEIL: Oh, so we could turn now -- so  
19 Mr. Hatcher, you only have the other witness for later.  
20 So we could turn to see is anyone here that would like  
21 to be sworn and testified as to their position on this  
22 request? Surely, Mr. -- I was getting ready to say it.



1 MR. ALDAG: Aldag. Yes.

2 MS. MCNEIL: All right. Start with Mr. Aldag.

3 MR. ALDAG: Okay.

4 MS. MCNEIL: Do you swear or affirm under the  
5 penalties of perjury that the testimony you shall give  
6 will be the truth and nothing but the truth?

7 MR. ALDAG: I do.

8 MS. MCNEIL: Okay. And do you want to use that  
9 exhibit -- Mr. Aldag had an exhibit prepared by Mr.  
10 Klein [ph]. Mr. Klein is not here today?

11 MR. ALDAG: No, but I'd like to use it and I'd  
12 like to actually have it part of the record.

13 MS. MCNEIL: Right. So give me one --

14 MR. HATCHER: I would object to the idea that  
15 the expert testimony is being submitted when I haven't  
16 had an opportunity to cross-examine the expert.

17 MR. ALDAG: Well, then I will give my -- I'll  
18 -- I'll give mine a -- you know, what findings I have.

19 MR. HATCHER: Yeah.

20 MR. ALDAG: Okay.

21 MS. MCNEIL: Okay. All right.

22 MR. ALDAG: You know -- and it's -- well, my

1 testimony actually is pretty simple, it covers two  
2 concerns, traffic and environmental. And I'll --  
3 everything okay? I guess. Okay. The residents on  
4 Springfield Road have traffic concerns. That includes  
5 substantial cut-through traffic from U.S.D.A.  
6 Beltsville Agricultural Research Center.

7           The current traffic volume is such that it is  
8 difficult to turn onto Springfield Road from driveways  
9 and intersecting resident streets. Area residents  
10 experience substantial delays in turning from driveways  
11 to Springfield Road and from stop sign-controlled  
12 intersections, such as Springfield Road-Lanham Severn  
13 Road, Springfield Road-Lake Gle- -- Glenn Road, Good  
14 Luck Road-Springfield Road and when turning from  
15 Springfield Road onto Lanham Severn Road.

16           These concerns are valid and could be  
17 exacerbated by the traffic from the Stewart property  
18 plus other future developments affecting the  
19 Springfield area. This added traffic could lead to  
20 significant safety concerns and delay for me and my  
21 neighbors owning property abutting Springfield Road.

22           The Stewart property development will further

1 -- just one moment. Here I go. Well, unfortunately, it  
2 appears that the Stewart property trip generation falls  
3 below the threshold for a full traffic impact study. It  
4 is likely that other development -- other -- or under  
5 construction or proposed for Springfield Road corridor  
6 may also fall below the -- the TIS threshold as a  
7 result in assessment of cumulative impacts for existing  
8 and future traffic volume does not appear to exist.

9 I have counted 300 to 400 cars per hour  
10 passing by the intersection of Good Luck Road and  
11 Springfield Road during rush hour drive times. That is  
12 approximately 1 car every 14 seconds today before the  
13 Stewart property and 8 to 10 other planned subdivisions  
14 are built or abutting -- are built on or abutting  
15 Springfield Road.

16 The cumulative effect will make it impossible  
17 to have reasonable access and travel to our properties  
18 on and in the vicinity of Springfield Road.  
19 Unfortunate- -- it's for this reason that I urge you to  
20 call upon the zoning hearing examiner to withhold  
21 approval of the Stewart property special exception  
22 until a cumulative traffic impact study is completed

1 and shows that safety concerns of the motorists,  
2 cyclists and pedestrians will not be jeopardized and  
3 without causing excessive congestion and delay.

4 And the second part of my testimony is on the  
5 environmental impact for the Newstop Branch. The  
6 Maryland Biological Stream Survey shows that Newstop  
7 Branch was of good quality based on the recent -- most  
8 recent sampling done in 2008, which was about a mile  
9 downstream of the Stewart property site.

10 A good quality stream like Newstop Branch  
11 usually supports an abundance of fish and other  
12 organisms that are sensitive to pollution. A fair  
13 quality stream has usually lost most of the pollution-  
14 sensitive species.

15 At the 2018 MBSS, that's Maryland Biological  
16 Stream Survey, sampling location a mile below the  
17 Stewart property, the Newstop Branch drains .97 square  
18 miles or 6- -- 621-acre watershed that has -- as of  
19 2010 and 2011, has a 25 percent forest cover and 14  
20 percent has coverage by buildings, streets and other  
21 impervious surfaces.

22 Generally, you know, to maintain a good

1 quality stream requires a minimum of 40 percent of the  
2 watershed is a forest and impervious surfaces cover no  
3 more than 10 percent of watershed.

4 Based on the U.S.G.S. Stream Stats Data at 25  
5 percent forest covers nonstop [sic] -- Newstop Branch  
6 is considerably below the good quality threshold and 14  
7 percent pervious cover puts the Newstop watershed above  
8 the 10 percent threshold for good quality usually  
9 declines to fair. In other words, the Newstop Branch is  
10 on the cusp of separating as a stream fit for most  
11 human uses and one where area residents could become  
12 leery of being near these waters.

13 The following -- in the -- the first paragraph  
14 -- let's see. In the first paragraph on Page 9 of the  
15 September 20, 2023 Prince George's County Planning  
16 Department technical staff reports notes that 3.63  
17 acres of the forest on the Stewart property site will  
18 be removed, .19 acres will be planted with trees for a  
19 net loss of 3.44 forest acres in the Newstop Branch  
20 watershed.

21 The 25.3 percent existing forest in the 621-  
22 acre Newstop Branch watershed at the 2018 MBSS sampling

1 point, there were 157.1 acres of forest. Stewart's  
2 property development will lower the forest acreage by  
3 3.44 acres to 153.7 acres, watershed forest cover will  
4 go from an existing 25.3 percent down to 24.7 percent.

5 At an average lot size of .21 acres, the 12.01  
6 acre site could be 38 percent impervious based on Table  
7 2-2A in U.S.D.A. report urban hydrology for small  
8 watersheds. The Stewart property would add 4.56 acres  
9 impervious surface to the Newstop Branch watershed.  
10 Newstop Branch watershed impervious cover acres would  
11 increase from the existing 84.5 acres to 89 acres.

12 The Stewart property development would raise  
13 Newstop Branch watershed impervious cover from 13.6  
14 percent to 14.3. By further reducing the forest cover  
15 and increasing the watershed impervious area, the  
16 Stewart property, as proposed, increases the likelihood  
17 of stream quality declining from good to fair.

18 The following description of the proposed wa-  
19 -- stormwater management measures proposed for the  
20 Stewart property appear on Page 23, second paragraph of  
21 September 20, 2023 technical staff. And in quote, "An  
22 unapproved stormwater management plan was submitted

1 with application."

2 The unapproved plan shows the use of two  
3 submerged gravel wetlands, two micro retention  
4 facilities and a bioswale to meet the stormwater  
5 requirements for the site. The revised layout of the  
6 SE-22002 is not consistent with the layout shown on the  
7 unimproved stormwater management plan.

8 Well, these proposed measurements -- measures  
9 can be highly effective in mitigating impervious  
10 stormwater impacts. The soil on the Stewart property  
11 site is not suitable to obtaining the full benefits of  
12 these highly effective measures. Stormwater measures  
13 are mostly effective when located on [inaudible] to  
14 highly permeable soils.

15 Soil permeability is rated with a system  
16 called hydraulic soil groups, which range from A to D.  
17 The A soils are the most permeable, the D soils are the  
18 least. Maximum benefits are obtained with highly  
19 effective stormwater measures, are located on A and B  
20 soils and more permeable than C soils.

21 The soils on the Stewart property site are  
22 mostly D with some C soils, because the soils are

1 impermeable. The Stewart property development will  
2 further degrade Newstop Branch even with stormwater  
3 measures that are usually highly effective.

4 Further degradation would be reduced if the  
5 density of the proposed housing units was reduced,  
6 which would also reduce impervious surfaces area, the  
7 reduced number of units placed on the portions of the  
8 site which presently lack forest and occupy C soils.

9 The fact presented in these comments should  
10 show that one of the most important environmental  
11 features of the site, the Newstop Branch, will not be  
12 protected by preserving the primary management area and  
13 the proposed stormwater management system.

14 I recommend that you call upon the zoning  
15 hearing examiner to deny the special exception or add  
16 conditions requiring the new impervious surfaces be  
17 restricted to the portions of the site that lack forest  
18 and where runoff from new impervious surfaces can be  
19 directed to highly effective stormwater measureme- --  
20 measures placed within the C soils. And that is my  
21 testimony. Thank you.

22 MS. MCNEIL: Thank you. Can you read the very



1 last sentence again? I'm actually here scribbling. So I  
2 --

3 MR. ALDAG: Oh, okay.

4 MS. MCNEIL: -- have, require new impervious  
5 surfaces to be restricted, keep going.

6 MR. ALDAG: Okay. Portions of the site that  
7 lack forest and where runoff from new impervious  
8 surfaces can be directly to highly effective stormwater  
9 measures placed within the C soils.

10 MS. MCNEIL: Okay.

11 MR. ALDAG: Okay.

12 MS. MCNEIL: Thank you.

13 MR. ALDAG: Thank you.

14 MS. MCNEIL: Mm-hmm. Does anyone have  
15 questions of Mr. Aldag?

16 MR. BROWN: Mr. Aldag, have you submitted --

17 MR. ALDAG: Yes.

18 MR. BROWN: -- that statement for the record?

19 MR. ALDAG: I have. I submitted last Thursday  
20 and asked for it to be part of the record.

21 MR. BROWN: Okay.

22 MS. MCNEIL: The problem is it's -- it's --

1 it's in the form of coming from the expert. So Mr.  
2 Aldag would have to re- --

3 MR. BROWN: Yeah. If you can just redact --

4 MS. MCNEIL: -- change it to coming from you.

5 MR. ALDAG: Okay. I can do that.

6 MR. BROWN: [inaudible] referencing the expert  
7 and resubmit it with your signature.

8 MR. ALDAG: I will.

9 MR. BROWN: Thank you.

10 MR. ALDAG: Okay. And thank you.

11 MS. MCNEIL: Go ahead, Mr. Hatcher, you have  
12 questions?

13 MR. HATCHER: No questions for this witness.

14 MS. MCNEIL: Okay. Thank you, sir. Does  
15 anybody else wish to testify?

16 MR. MARTIN: Okay. I will briefly.

17 MS. MCNEIL: Mr. Martin.

18 MR. MARTIN: Mr. Martin, 8204, across the  
19 street. I'm going to be --

20 MS. MCNEIL: Okay. Do you swear -- do you  
21 swear or affirm under the penalties of perjury that the  
22 testimony you shall give will be the truth and nothing

1 but the truth?

2 MR. MARTIN: Yes. I do, so help me God.

3 MS. MCNEIL: Okay.

4 MR. MARTIN: So -- yeah. So you know, M- --  
5 Mr. Hank Al- -- Al- -- Aldag -- Al- -- Aldag -- or  
6 Aldag, he's -- he's got everything covered. I just want  
7 to just simply put do we really need 5- -- 57 units?  
8 Can we cut it down? And I think that's kind of the  
9 conclusion that everybody's kind of been saying here  
10 for the last nine hours or so -- eight hours is, you  
11 know, as far as the traffic, the stormwater runoff.

12 My personal testimony is of access to public  
13 transportation, there's no -- there's no bus stop  
14 within, I don't know, half a mile -- [inaudible] is  
15 going to be half a mile or so. As far as these elderly  
16 -- you know, I have elderly parents and grandparents  
17 who don't drive. So honestly, I have a few of them that  
18 might even want to move in there, but I'm just  
19 concerned about public transportation.

20 So I just think 57 units is -- is just a  
21 little bit extreme. I just -- from what I've been  
22 hearing, I've been here for -- for the most part all

1 day. What I've been hearing is that the community is  
2 not against development, but just not so many crammed  
3 into one -- one area. So -- and that's -- and that's  
4 pretty much all I have to say.

5 And that's it for me. Thank you for everybody.  
6 Thank you, everybody here for hearing me and hearing  
7 us, I appreciate everybody. And until next time, yes,  
8 I'll be following up and thank you, everybody. And  
9 that's it for me.

10 MS. MCNEIL: Thank you, Mr. -- thank you, Mr.  
11 Martin. Does anyone have questions of Mr. Martin? Okay.  
12 Thank you. Does anyone else have -- wish to testify?

13 MR. SUHAR: Just to clar- -- just to confirm,  
14 Madame Examiner, that my comments will be heard on the  
15 20th; is that right?

16 MS. MCNEIL: Yes.

17 MR. SUHAR: Okay.

18 MS. MCNEIL: And it would be ideal if you had  
19 that other information we requested at that time.

20 MR. SUHAR: I will -- I will try to send that  
21 to you be- -- before then.

22 MS. MCNEIL: Okay.

1 MR. SUHAR: Yeah. Is that going to be at the  
2 same time, 9:30 in the morning; is that right?

3 MS. MCNEIL: Yes.

4 MR. SUHAR: Okay. Excellent.

5 MR. HATCHER: Again, we just want to -- I'm  
6 going to need to just coordinate with -- with some of  
7 my witnesses and my client just to make sure the 20th  
8 works. So if I could just respond more definitively  
9 tomorrow, that would be great, tomorrow a.m. before  
10 10:00.

11 MR. SUHAR: I'm flexible.

12 MS. MCNEIL: The problem becomes if it's not  
13 the 20th, then I have to send out notices.

14 MR. SUHAR: Oh.

15 MS. MCNEIL: I can continue it at this  
16 hearing. So -- so -- and that's fine, it'll just be  
17 beyond the 20th at that point, though.

18 MR. SUHAR: Yeah.

19 MS. MCNEIL: So let's say it's the 20th --

20 MR. HATCHER: Let's say it's the 20th.

21 MS. MCNEIL: -- but if it's not, then I'll be  
22 sending out notices.

1 MR. HATCHER: That works.

2 MS. MCNEIL: Okay.

3 MR. HATCHER: Yes.

4 MR. SUHAR: Thank you.

5 MS. MCNEIL: Okay. Then if no one else wants  
6 to talk to me -- oh-oh --

7 MR. HOLMAN: You've got one more.

8 MS. MCNEIL: Okay. Mr. Holman.

9 MR. HOLMAN: I'm going to be very, very brief.

10 I just want to state at this point, as a homeowner on  
11 the other side of this -- this creek or stream whose  
12 property goes right up to the common area that -- that  
13 goes to the stream, I'm very concerned despite the  
14 testimony today from these so-called experts about  
15 what's going to happen to the water that's going to be  
16 coming down this hill.

17 And we can quibble over the legal definition  
18 of what is a steep hill and what is a hill, but the  
19 fact of the matter is it is a hill.

20 On the other side of the hill where I live,  
21 the land is very flat and I'm just concerned that when  
22 you add all these additional roofs in -- in this new

1 development and the new streets, you're going to have  
2 way more surface that's covered with dwellings than  
3 what you have right now with that single home and its  
4 outer buildings and I don't want to have to face the  
5 possibility down the road of trying to figure out who  
6 it is I have to sue because you've made my property  
7 less valuable and I just -- I think this project needs  
8 to be re-thought and scaled back.

9 MS. MCNEIL: Okay. Thank you, Mr. Holman.  
10 Anyone have questions? Okay. Then I thank everyone for  
11 being here today. We will continue this case until  
12 December 20th. You can -- you -- you can receive the  
13 link to come back, but there won't be any other  
14 testimony unless you have questions of whatever witness  
15 Mr. Hatcher may call.

16 And if -- if it's not going to be on the 20th,  
17 then it'll be at a later date and everyone that's a  
18 person of record, so that's everybody here, will  
19 receive an -- a letter from the ZHE explaining when the  
20 new date will be.

21 MR. SUHAR: Yeah. And -- and -- and I'll be  
22 able to give my comments at that time as well; is that

1 correct?

2 MS. MCNEIL: No. Mm-mm. Yes. Mr. Suhar, you  
3 will give your comments at that time as well.

4 MR. HATCHER: I would like to say on behalf of  
5 the applicant, we really appreciate your time, Madame  
6 Examiner, your time, People's Zoning Counsel Brown --

7 MR. SUHAR: Yes.

8 MR. HATCHER: -- and your time, Mr. Suhar and  
9 -- and all --

10 MR. SUHAR: Thank you very much.

11 MR. HATCHER: -- and -- and all the citizens  
12 who were able to participate, really appreciate your  
13 time.

14 MS. MCNEIL: Thank you.

15 MR. SUHAR: That's very nice of you, Mr.  
16 Hatcher and same to you. And I -- I express the same  
17 appreciation to everyone, including the zoning hearing  
18 examiner and Mr. Brown and everybody you just stated.  
19 So same -- same feelings, thank you.

20 MS. MCNEIL: I'm loving this. Let's end now on  
21 a high note.

22 [laughter]



1                   See you all next week or shortly thereafter.

2                   Thank you.

3                   MR. SUHAR: All right. Sounds great. Thank  
4                   you. Have a good one.

5                   MS. MCNEIL: You too.

6                   AUTOMATED VOICE: Recording stopped.

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CERTIFICATE OF TRANSCRIBER

I, Chris Naaden, a transcriber, hereby declare under penalty of perjury that to the best of my ability from the audio recordings and supporting information; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome, the above 280 pages contain a full, true and correct transcription of the tape-recording that I received regarding the event listed on the caption on page 1.

I further declare that I have no interest in the event of the action.



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December 26, 2023

Chris Naaden

(519340, Hearing for SE-22002 & AC-23008, 12-13-23)

Corrected: 2/20/24

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 Conducted on December 13, 2023

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